APPENDIX A – LIST OF HEARINGS OF THE SELECT SUBCOMMITTEE

February 9, 2023

This hearing examined the politicization of the Federal Bureau of Investigation (FBI) and the Department of Justice (DOJ) and attacks on American civil liberties. Witnesses included:

- Panel I
  - U.S. Senator Charles Grassley, Iowa;
  - U.S. Senator Ron Johnson, Wisconsin;
  - U.S. Representative Jamie Raskin, Maryland;
  - Former U.S. Representative Tulsi Gabbard, Hawaii.
- Panel II
  - Thomas Baker, Former FBI Agent;
  - Jonathan Turley, Professor, George Washington University Law School;
  - Elliot Williams, Principal, The Raben Group; and
  - Nicole Parker, Former FBI Agent.

March 9, 2023

This hearing examined the extent of the Biden-Harris Administration's efforts to coerce social media companies into censoring disfavored content uncovered by the journalists behind the Twitter Files. Witnesses included:

- Matt Taibbi, Journalist; and
- Michael Shellenberger, Author, Co-founder of the Breakthrough Institute and the California Peace Coalition.

March 30, 2023

This hearing examined the *Missouri v. Biden* case challenging the Biden-Harris Administration's violation of the First Amendment by pressuring social media companies to censor and suppress Americans' free speech. Witnesses included:

- U.S. Senator Eric Schmitt, Missouri;
- Attorney General Jeff Landry, Louisiana;
- D. John Sauer, Special Assistant Attorney General, Louisiana Department of Justice; and
- Matthew Seligman, Nonresident Fellow, Stanford Constitutional Law Center.

May 18, 2023

This hearing examined the politicization of the FBI and the FBI's misuse of the security clearance adjudication process to retaliate against whistleblowers. Witnesses included:

- Garret O'Boyle, Whistleblower, FBI Special Agent;
- Steve Friend, Whistleblower, Former FBI Special Agent;

- Marcus Allen, Whistleblower, FBI Staff Operations Specialist; and
- Tristan Leavitt, President, Empower Oversight.

July 20, 2023

This hearing examined the federal government's role in censoring Americans, the *Missouri v. Biden* case, and Big Tech's collusion with executive branch agencies to silence speech. Witnesses included:

- Robert F. Kennedy, Jr., Attorney;
- Emma-Jo Morris, Journalist, Breitbart News;
- D. John Sauer, Special Assistant Attorney General, Louisiana Department of Justice; and
- Maya Wiley, President and CEO, The Leadership Conference on Civil and Human Rights.

November 30, 2023

This hearing examined the federal government's involvement in social media censorship, as well as the attacks on independent journalism and free expression. Witnesses included:

- Matt Taibbi, Journalist;
- Michael Shellenberger, Author, Co-founder of the Breakthrough Institute and the California Peace Coalition;
- Rupa Subramanya, Canada-based Journalist, The Free Press; and
- Olivia Troye, Former Homeland Security Advisor and Counterterrorism Advisor, Office of Vice President Mike Pence.

February 6, 2024

This hearing examined the threat to the First Amendment posed by artificial intelligence and the federal government's role in funding the development of AI-powered censorship and propaganda tools that can be used to monitor and censor speech at scale. Witnesses included:

- Greg Lukianoff, President and CEO, Foundation for Individual Rights and Expression;
- Lee Fang, Investigative Journalist;
- Katelynn Richardson, Supreme Court Reporter, Daily Caller News Foundation; and
- Norman Eisen, Former U.S. Ambassador to the Czech Republic, Senior Fellow at the Brookings Institution.

March 7, 2024

This hearing examined Big Government's collusion with Big Banks to surveil Americans' private financial data. Witnesses included:

- Dr. Jordan Peterson, Psychologist, Author, Professor;

- Brian Knight, Senior Research Fellow and Director of Innovation and Governance, Mercatus Center at George Mason University;
- Jeremy Tedesco, Senior Counsel, Alliance Defending Freedom;
- Norbert Michel, Vice President and Director, Cato Institute's Center for Monetary and Financial Alternatives; and
- Michael Fanone, Former Metropolitan Police Department Officer.

May 1, 2024

This hearing examined the Biden-Harris Administration's censorship regime pressuring social media companies to censor politically disfavored content. Witnesses included:

- Robert Flaherty, Former Assistant to the President and Director of Digital Strategy at the Biden White House;
- Andrew Slavitt, Former Senior Advisor for the Biden White House's COVID-19 Response Team;
- Todd Zywicki, Professor, Antonin Scalia School of Law, George Mason University; and
- Matthew Seligman, Nonresident Fellow, Stanford Constitutional Law Center.

May 15, 2024

This hearing examined the Democrats' use of lawfare tactics to weaponize the rule of law against their political opponents. Witnesses included:

- Robert Costello, Partner, Davidoff Hutcher & Citron LLP;
- James Trusty, Former Federal Prosecutor;
- Gene Hamilton, Executive Director, America First Legal; and
- Jill Wine-Banks, Legal Analyst, MSNBC.

May 22, 2024

This hearing examined the overreach by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) that erodes Americans' trust in the agency. Witnesses included:

- Bud Cummins, Attorney for Bryan Malinowski's family, Former U.S. Attorney;
- Andrew Graham, Former Deputy Assistant Director (DAD) of Enforcement Program Services, ATF;
- Ryan Cleckner, Former Army Ranger, Co-Founder of Gun University LLC, Owner at Law Office of Ryan M. Cleckner; and
- Kelly Sampson, Senior Counsel and Director of Racial Justice, Brady United.

July 9, 2024

This hearing examined the weaponization of the criminal justice system by the New York County District Attorney's Office in pursuit of a politically motivated prosecution of President Donald

Trump. Witnesses included:

- Bradley Smith, Professor, Capital University Law School;
- The Honorable John H. Wilson, Former Judge, Bronx County Civil Court and Kings County Criminal Court;
- Jonathan L. Fahey, Partner, Holtzman Vogel PLLC; and
- Shanlon Wu, Former Federal Prosecutor.

September 25, 2024

This hearing examined the FBI's misuse of its security clearance adjudication process to purge its ranks of conservatives and whistleblowers and unlawfully punish those with views contrary to FBI leadership. Witnesses included:

- The Honorable Michael E. Horowitz, Inspector General, U.S. Department of Justice;
- Tristan Leavitt, President, Empower Oversight;
- Marcus Allen, Whistleblower, Former FBI Staff Operations Specialist; and
- Glenn Kirschner, Former Federal Prosecutor

APPENDIX B – LIST OF LETTERS OF THE SELECT SUBCOMMITTEE

1. January 13, 2023 Letter to Attorney General Merrick Garland on President Biden's mishandling of classified documents

2. January 17, 2023 Letter to White House Chief of Staff Ron Klain for outstanding documents requested during the 117th Congress

3. January 17, 2023 Letter to Attorney General Garland for outstanding documents requested during the 117th Congress

4. January 17, 2023 Letter to FBI Director Christopher Wray for outstanding documents requested during the 117th Congress

5. January 17, 2023 Letter to Education Secretary Miguel Cardona for outstanding documents requested during the 117th Congress

6. January 27, 2023 Letter to FBI ASAC Timothy Thibault requesting a transcribed interview

7. January 27, 2023 Letter to Nina Jankowicz requesting a transcribed interview and outstanding documents requested during the 117th Congress regarding DHS's Disinformation Governance Board

8. January 27, 2023 Letter to FBI EAD Jennifer Leigh Moore following up with request for transcribed interview

9. January 27, 2023 Letter to NSBA CEO Chip Slaven following up with request for transcribed interview

10. January 27, 2023 Letter to NSBA President Viola Garcia following up with request for transcribed interview

11. February 2, 2023 Letter to FBI Director Wray requesting documents and a briefing related to the indictment of former FBI SAC Charles McGonigal

12. February 6, 2023 Letter to Jeremy Bash requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

13. February 6, 2023 Letter to Former Director John Brennan requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

14. February 6, 2023 Letter to Former Director James Clapper requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

15. February 6, 2023 Letter to Thomas Fingar requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

16. February 6, 2023 Letter to Michael Hayden requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

17. February 6, 2023 Letter to Richard Ledgett requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

18. February 6, 2023 Letter to John McLaughlin requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

19. February 6, 2023 Letter to Michael Morell requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

20. February 6, 2023 Letter to Nicholas Rasmussen requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

21. February 6, 2023 Letter to Nick Shapiro requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

22. February 6, 2023 Letter to Russell Travers requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

23. February 6, 2023 Letter to Michael Vickers requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

24. February 8, 2023 Letter to Principal Deputy Assistant Attorney General Brian Boynton requesting documents produced by the Department of Justice during the *Missouri v. Biden* litigation

25. February 13, 2023 Letter to Patty Brandmaier requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

26. February 13, 2023 Letter to James Bruce requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

27. February 13, 2023 Letter to Roger Zane George requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

28. February 13, 2023 Letter to Paul Kolbe requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

29. February 13, 2023 Letter to Former Secretary Leon Panetta requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

30. February 13, 2023 Letter to Larry Pfeiffer requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

31. February 13, 2023 Letter to Marc Polymeropoulos requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

32. February 13, 2023 Letter to Rodney Snyder requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

33. February 13, 2023 Letter to Douglas Wise requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

34. February 13, 2023 Letter to Kristin Wood requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

35. February 16, 2023 Letter to FBI Director Wray requesting documents and information related to the FBI's anti-Catholic memo

36. February 16, 2023 Letter to Nina Jankowicz reiterating outstanding request for documents and a transcribed interview related to DHS's Disinformation Governance Board

37. February 28, 2023 Letter to Attorney General Garland requesting documents related to the appointment of a special counsel to oversee the investigation of Hunter Biden

38. March 1, 2023 Letter to DHS Secretary Mayorkas requesting unredacted copies of documents related to the Disinformation Governance Board

39. March 1, 2023 Letter to Nina Jankowicz reiterating outstanding request for documents and a transcribed interview related to DHS's Disinformation Governance Board

40. March 1, 2023 Letter to Nada Bakos requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

41. March 1, 2023 Letter to David Buckley requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

42. March 1, 2023 Letter to David Cariens requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

43. March 1, 2023 Letter to Janice Cariens requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

44. March 1, 2023 Letter to Peter Corsell requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

45. March 1, 2023 Letter to Brett Davis requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

46. March 1, 2023 Letter to Glenn Gerstell requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

47. March 1, 2023 Letter to Steven Hall requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

48. March 1, 2023 Letter to Kent Harrington requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

49. March 1, 2023 Letter to Don Hepburn requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

50. March 1, 2023 Letter to Timothy Kilbourn requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

51. March 1, 2023 Letter to Andrew Liepman requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

52. March 1, 2023 Letter to Ronald Marks requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

53. March 1, 2023 Letter to Jonna Hiestand Mendez requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

54. March 1, 2023 Letter to John Moseman requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

55. March 1, 2023 Letter to Emile Nakhleh requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

56. March 1, 2023 Letter to Gerald O'Shea requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

57. March 1, 2023 Letter to David Priess requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

58. March 1, 2023 Letter to Pamela Purcilly requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

59. March 1, 2023 Letter to Chris Savos requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

60. March 1, 2023 Letter to John Sipher requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

61. March 1, 2023 Letter to Stephen Slick requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

62. March 1, 2023 Letter to Cynthia Strand requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

63. March 1, 2023 Letter to Greg Tarbell requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

64. March 1, 2023 Letter to David Terry requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

65. March 1, 2023 Letter to Gregory Treverton requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

66. March 1, 2023 Letter to John Tullius requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

67. March 1, 2023 Letter to David Vanell requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

68. March 1, 2023 Letter to Winston Wiley requesting documents and a transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

69. March 3, 2023 Letter to Ranking Member Plaskett regarding the Democrats' attempts to discredit whistleblowers

70. March 3, 2023 Letter to FBI Director Wray renewing request for transcribed interviews with 16 FBI employees

71. March 10, 2023 Letter to FTC Chair Lina Khan requesting documents regarding the FTC's harassment of Twitter after being acquired by Elon Musk

72. March 10, 2023 Letter to David Salvo, Alliance for Securing Democracy, requesting documents regarding the Biden Administration coercing and colluding with third parties to censor speech

73. March 10, 2023 Letter to Jim Pickup, Aspen Institute, requesting documents regarding the Biden Administration coercing and colluding with third parties to censor speech

74. March 10, 2023 Letter to Erika Fisher, Atlassian, requesting documents regarding the Biden Administration coercing and colluding with third parties to censor speech

75. March 10, 2023 Letter to Dr. Kate Starbird, Center for an Informed Public, requesting documents regarding the Biden Administration coercing and colluding with third parties to censor speech

76. March 10, 2023 Letter to Lisa Greene, Center for Internet Security, requesting documents regarding the Biden Administration coercing and colluding with third parties to censor speech

77. March 10, 2023 Letter to Patrick Warren, Clemson University's Watt Family Innovation Center, requesting documents regarding the Biden Administration coercing and colluding with third parties to censor speech

78. March 10, 2023 Letter to Doug Kramer, Cloudfare, requesting documents regarding the Biden Administration coercing and colluding with third parties to censor speech

79. March 10, 2023 Letter to Graham Brookie, Atlantic Council, requesting documents regarding the Biden Administration coercing and colluding with third parties to censor speech

80. March 10, 2023 Letter to Alex Stamos, Election Integrity Partnership, requesting documents regarding the Biden Administration coercing and colluding with third parties to censor speech

81. March 10, 2023 Letter to Tara Flanagan, Trellix, requesting documents regarding the Biden Administration coercing and colluding with third parties to censor speech

82. March 10, 2023 Letter to Daniel Rogers, Global Disinformation Index, requesting documents regarding the Biden Administration coercing and colluding with third parties to censor speech

83. March 10, 2023 Letter to John Kelly, Graphika, requesting documents regarding the Biden Administration coercing and colluding with third parties to censor speech

84. March 10, 2023 Letter to Vidhya Ramalingam, Moonshot, requesting documents regarding the Biden Administration coercing and colluding with third parties to censor speech

85. March 10, 2023 Letter to Sean Gourley, Primer, requesting documents regarding the Biden Administration coercing and colluding with third parties to censor speech

86. March 10, 2023 Letter to Cynthia Brill, NewsGuard, requesting documents regarding the Biden Administration coercing and colluding with third parties to censor speech

87. March 10, 2023 Letter to Marc Tessier-Lavigne, Stanford University, requesting documents regarding the Biden Administration coercing and colluding with third parties to censor speech

88. March 16, 2023 Letter to Air Force Secretary Frank Kendall III requesting documents regarding the improper disclosure of servicemembers' records to political operatives

89. March 17, 2023 Letter to Automattic CEO Matthew Mullenweg requesting documents related to third party involvement in tech censorship

90. March 17, 2023 Letter to Discord CEO Jason Citron requesting documents related to third party involvement in tech censorship

91. March 17, 2023 Letter to Nextdoor Holdings CEO Sarah Friar requesting documents related to third party involvement in tech censorship

92. March 17, 2023 Letter to Pinterest CEO Bill Ready requesting documents related to third party involvement in tech censorship

93. March 17, 2023 Letter to Reddit CEO Steve Huffman requesting documents related third party involvement in tech censorship

94. March 17, 2023 Letter to SmugMug CEO Don MacAskill requesting documents related to third party involvement in tech censorship

95. March 17, 2023 Letter to Snap CEO Evan Spiegel requesting documents related to third party involvement in tech censorship

96. March 17, 2023 Letter to TikTok CEO Shou Zi Chew requesting documents related to third party involvement in tech censorship

97. March 17, 2023 Letter to Wikimedia Foundation CEO Maryana Iskander requesting documents and information regarding third party involvement in tech censorship

98. March 17, 2023 Letter to Yahoo CEO James Lanzone requesting documents regarding third party involvement in tech censorship

99. March 20, 2023 Letter to Manhattan District Attorney Alvin Bragg regarding communications, documents, and testimony related to his investigation of President Trump

100. March 20, 2023 Letter to FBI Director Wray reiterating request for documents on the FBI's anti-Catholic memo

101. March 21, 2023 Letter to CIA Director William Burns requesting documents related to the IC 51 statement regarding Hunter Biden's laptop

102. March 22, 2023 Letter to CDC Director Rochelle Walensky requesting documents related to content moderation with third party groups

103. March 22, 2023 Letter to DHS Cybersecurity and Infrastructure Security Agency Director Jen Easterly requesting documents related to content moderation with third party groups

104. March 22, 2023 Letter to Global Engagement Center Special Envoy and Coordinator James Rubin requesting documents related to content moderation with third party groups

105. March 22, 2023 Letter to Mark Pomerantz requesting documents and transcribed interview related to the Manhattan DA Office's investigation of President Trump

106. March 22, 2023 Letter to Carey Dunne requesting documents and transcribed interview related to the Manhattan DA Office's investigation of President Trump

107. March 25, 2023 Letter to Manhattan District Attorney Alvin Bragg requesting full compliance with the March 20, 2023 letter

108. March 27, 2023 Letter to Treasury Secretary Janet Yellen and IRS Commissioner Daniel Werfel requesting documents and communications related to the IRS targeting journalist Matt Taibbi

109. April 3, 2023 Letter to Alexios Mantzarlis, Google, requesting transcribed interview and documents related to tech censorship

110. April 3, 2023 Letter to Clement Wolf, Google, requesting transcribed interview and documents related to tech censorship

111. April 3, 2023 Letter David Vorhaus, Google, requesting transcribed interview and documents related to tech censorship

112. April 3, 2023 Letter to Stanley Onyimba, CapitalG, requesting transcribed interview and documents related to tech censorship

113. April 3, 2023 Letter to Airton Kamdem, Meta, requesting transcribed interview and documents related to tech censorship

114. April 3, 2023 Letter to Carrie Adams, Meta, requesting transcribed interview and documents related to tech censorship

115. April 3, 2023 Letter to David Agranovich, Meta, requesting transcribed interview and documents related to tech censorship

116. April 3, 2023 Letter to Eva Guidarini, Meta, requesting transcribed interview and documents related to tech censorship

117. April 7, 2023 Letter to Matthew Colangelo requesting transcribed interview and documents related to the Manhattan DA Office's investigation of President Trump

118. April 7, 2023 Letter to Nina Jankowicz responding to letter about her upcoming deposition

119. April 18, 2023 Letter to Secretary of State Antony Blinken requesting documents related to tech censorship

120. April 18, 2023 Letter to Acting Director Hugh Auchincloss, National Institute of Allergy and Infectious Diseases, requesting documents related to tech censorship

121. April 18, 2023 Letter to Secretary of Defense Lloyd Austin requesting documents related to tech censorship

122. April 18, 2023 Letter to HHS Secretary Xavier Becerra requesting documents related to tech censorship

123. April 18, 2023 Letter to CIA Director Burns requesting documents related to tech censorship

124. April 18, 2023 Letter to FDA Commissioner Robert Califf requesting documents related to tech censorship

125. April 18, 2023 Letter to Postmaster General Louis DeJoy requesting documents related to tech censorship

126. April 18, 2023 Letter to Attorney General Garland requesting documents related to tech censorship

127. April 18, 2023 Letter to Director of National Intelligence Avril Haines requesting documents related to tech censorship

128. April 18, 2023 Letter to Election Assistance Commission Chairwoman Christy McCormick requesting documents related to tech censorship

129. April 18, 2023 Letter to Surgeon General Vivek Murthy requesting documents related to tech censorship

130. April 18, 2023 Letter to National Security Agency Director Paul Nakasone requesting documents related to tech censorship

131. April 18, 2023 Letter to U.S. Census Bureau Director Robert Santos requesting documents related to tech censorship

132. April 18, 2023 Letter to National Institutes of Health Acting Director Lawrence Tabak requesting documents related to tech censorship

133. April 18, 2023 Letter to DHS Undersecretary for Intelligence and Analysis Kenneth Wainstein requesting documents related to tech censorship

134. April 18, 2023 Letter to FBI Director Wray requesting documents related to tech censorship

135. April 18, 2023 Letter to Treasury Secretary Yellen requesting documents related to tech censorship

136. April 18, 2023 Letter to White House Chief of Staff Jeffrey Zients requesting documents related to tech censorship

137. April 20, 2023 Letter to Secretary of State Blinken requesting documents related to the IC 51 statement regarding Hunter Biden's laptop

138. May 1, 2023 Letter to National Institute of Standards and Technology Director Laurie Locascio requesting documents related to tech censorship

139. May 1, 2023 Letter to National Science Foundation Director Sethuraman Panchanathan requesting documents related to tech censorship

140. May 2, 2023 Letter to former Assistant Director in Charge Steven D'Antuono requesting transcribed interview related to politicization of FBI's Washington Field Office

141. May 8, 2023 Letter to Alphabet demanding full compliance with subpoena

142. May 8, 2023 Letter to Brian Rice, Meta, requesting transcribed interview and documents related to tech censorship

143. May 8, 2023 Letter to FBI Office of Congressional Affairs Acting Assistant Director Christopher Dunham demanding full compliance with Jennifer Leigh Moore's deposition subpoena

144. May 8, 2023 Letter to Genelle Adrien, Meta, requesting transcribed interview and documents related to tech censorship

145. May 8, 2023 Letter to Joshua Lawson, Meta, requesting transcribed interview and documents related to tech censorship

146. May 8, 2023 Letter to Nathanial Gleicher, Meta, requesting transcribed interview and documents related to tech censorship

147. May 8, 2023 Letter to Payton Iheme, Meta, requesting transcribed interview and documents related to tech censorship

148. May 9, 2023 Letter to Isabella Garcia-Camargo, Stanford Internet Observatory, requesting transcribed interview related to tech censorship

149. May 9, 2023 Letter to National Conference on Citizenship CEO Cameron Hickey requesting documents related to tech censorship

150. May 9, 2023 Letter to Drs. Jonathan Nagler, Joshua Tucker, and Jelena Kovacevic, New York University, requesting documents related to tech censorship

151. May 10, 2023 Letter to FBI Office of Congressional Affairs Acting Assistant Director Dunham rescheduling Jennifer Leigh Moore's deposition

152. May 15, 2023 Letter to Charley Snyder, Google, requesting transcribed interview and documents related to tech censorship

153. May 15, 2023 Letter to Microsoft requesting full subpoena compliance for documents related to tech censorship

154. May 15, 2023 Letter to Harold Chun, Google, requesting transcribed interview and documents related to tech censorship

155. May 15, 2023 Letter to Amazon requesting full subpoena compliance for documents related to tech censorship

156. May 15, 2023 Letter to Lee Hadlow Halloran, Google, requesting transcribed interview and documents related to tech censorship

157. May 15, 2023 Letter to Richard Salgado, Google, requesting transcribed interview and documents related to tech censorship

158. May 15, 2023 Letter to Shane Huntley, Google, requesting transcribed interview and documents related to tech censorship

159. May 16, 2023 Letter to CIA Director Burns reiterating request for documents related to the IC 51 statement regarding Hunter Biden's laptop

160. May 19, 2023 Letter to Meta requesting full subpoena compliance for documents related to tech censorship

161. May 24, 2023 Letter FBI to Director Wray reiterating request for a briefing about the January 6, 2021, pipe bomb investigation

162. May 24, 2023 Letter to IRS Commissioner Werfel requesting transcribed interview with IRS agent and documents related to the IRS targeting journalists

163. May 25, 2023 Letter to Bank of America CEO Brian Moynihan requesting documents related to banks sharing customer lists following January 6, 2021

164. May 25, 2023 Letter to Attorney General Garland requesting documents related to removing IRS whistleblowers from the Hunter Biden case

165. June 1, 2023 Letter to Stanford Internet Observatory requesting full compliance with subpoena for tech censorship

166. June 1, 2023 Letter to Attorney General Garland requesting information about Special Counsel Jack Smith's investigation of President Trump and requesting a briefing from Deputy Attorney General Lisa Monaco

167. June 6, 2023 Letter to Attorney General Garland requesting an unredacted copy of the scope memorandum outlining Special Counsel Jack Smith's investigation into President Trump

168. June 6, 2023 Letter to Attorney General Garland requesting an unredacted copy of the scope memorandum outlining Special Counsel Robert Hur's investigation into President Biden

169. June 6, 2023 Letter to White House Chief of Staff Zients reiterating requests for transcribed interviews and documents related to school boards investigation

170. Juen 7, 2023 Letter to Bradley Benavides requesting transcribed interview related to defensive briefing provided to Senators Grassley and Johnson

171. June 8, 2023 Letter to FTC Chair Khan requesting full compliance with subpoena for documents related to FTC's targeting of Elon Musk and Twitter

172. June 8, 2023 Letter to Attorney General Garland requesting production of the classified appendix to Special Counsel John Durham's report

173. June 9, 2023 Letter to Attorney General Garland reiterating and supplementing requests for documents related to the FBI's raid of Mar-a-Lago

174. June 12, 2023 Letter to U.S. Bancorp CEO Andrew Cecere requesting documents related to banks voluntarily sharing customers' private financial data with the FBI

175. June 12, 2023 Letter PNC CEO William Demchak requesting documents related to banks voluntarily sharing customers' private financial data with the FBI

176. June 12, 2023 Letter to JP Morgan Chase CEO Jamie Dimon requesting documents related to banks voluntarily sharing customers' private financial data with the FBI

177. June 12, 2023 Letter to Citigroup CEO Jane Fraser requesting documents related to banks voluntarily sharing customers' private financial data with the FBI

178. June 12, 2023 Letter Truist CEO William Rogers requesting documents related to banks voluntarily sharing customers' private financial data with the FBI

179. June 12, 2023 Letter to Wells Fargo CEO Charles Scharf requesting documents related to banks voluntarily sharing customers' private financial data with the FBI

180. June 12, 2023 Letter to Secretary of State Blinken reiterating request for documents related to the IC 51 statement regarding Hunter Biden's laptop

181. June 14, 2023 Letter to Attorney General Garland and CIA Director Burns requesting that the classified appendix to Special Counsel John Durham's report be made available to all Committee Members

182. June 14, 2023 Letter to FBI Director Wray reiterating request for documents related to January 6, 2021, pipe bomb investigation

183. June 15, 2023 Letter to White House Chief of Staff Zients reiterating request for documents related to tech censorship

184. June 16, 2023 Letter to IRS Commissioner Werfel requesting documents related to IRS agent's unannounced visit to taxpayer's house

185. June 20, 2023 Letter to DOJ Inspector General Michael Horowitz requesting information related to the Justice Department's retaliation against IRS whistleblowers

186. June 20, 2023 Letter to Treasury Inspector General for Tax Administration Russell George requesting information related to the IRS's retaliation against whistleblowers

187. June 23, 2023 Letter to former White House official Robert Flaherty requesting transcribed interview regarding tech censorship

188. June 29, 2023 Letter to Attorney General Garland requesting DOJ and FBI transcribed interviews related to the handling of the Hunter Biden investigation

189. June 29, 2023 Letter to former White House official Andrew Slavitt requesting transcribed interview regarding tech censorship

190. July 5, 2023 Letter to Special Counsel Henry Kerner requesting a briefing related to retaliation against IRS whistleblowers

191. July 10, 2023 Letter to Attorney General Garland requesting document produced during Special Counsel John Durham's investigation related to the Clinton Foundation

192. July 13, 2023 Letter to FBI Director Wray requesting documents related to subpoenas for personal records from Republican congressional staff

193. July 17, 2023 Letter to DOJ Inspector General Horowitz requesting an update on status of investigation into retaliation against IRS whistleblowers

194. July 17, 2023 Letter to Treasury Inspector General for Tax Administration George requesting an update on status of investigation into whistleblower retaliation

195. July 17, 2023 Letter to Meta CEO Mark Zuckerberg requesting documents responsive to Committee's subpoena to Meta

196. July 17, 2023 Letter to FBI Director Wray threatening contempt for noncompliance with subpoenas regarding school board-related threats and anti-Catholic memo

197. July 18, 2023 Letter to FBI Director Wray offering opportunity to amend hearing testimony regarding censorship

198. July 18, 2023 Letter to Pfizer CEO and Chairman Albert Bourla requesting documents relating to tech censorship

199. July 18, 2023 Letter to Merck CEO and Chairman Robert Davis requesting documents relating to tech censorship

200. July 18, 2023 Letter to Johnson & Johnson CEO and Chairman Joaquin Duato requesting documents relating to tech censorship

201. July 20, 2023 Letter to FBI Director Wray requesting information stemming from FITF Section Chief Laura Dehmlow's testimony on Hunter Biden's laptop and requesting transcribed interviews with FBI employees

202. July 27, 2023 Letter to law firm Ernst & Young requesting documents related to the FTC targeting Twitter

203. July 31, 2023 Letter to Attorney General Garland requesting documents and a briefing on Hunter Biden's plea deal

204. August 3, 2023 Letter to Center for Countering Digital Hate CEO Imran Ahmed requesting documents related to tech censorship

205. August 9, 2023 Letter to FBI Director Wray reiterating request for documents related to anti-Catholic memo

206. August 10, 2023 Letter to Attorney General Garland requesting documents related to geofence warrants for events that occurred on January 6, 2021

207. August 15, 2023 Letter to Meedan CEO Ed Bice requesting documents related to tech censorship

208. August 15, 2023 Letter to the Massachusetts Institute of Technology (MIT) Teaching Systems Lab Director Justin Reich requesting documents related to tech censorship

209. August 15, 2023 Letter to University of Michigan Associate Dean Paul Resnick requesting documents related to tech censorship

210. August 15, 2023 Letter to University of Wisconsin-Madison Director Michael Wagner requesting documents related to tech censorship

211. August 18, 2023 Letter to former CISA Director Christopher Krebs requesting transcribed interview regarding tech censorship

212. August 18, 2023 Letter to Yoel Roth, Twitter, requesting transcribed interview regarding tech censorship

213. August 22, 2023 Letter to DOJ Inspector General Horowitz requesting additional information about the scope of the DOJ OIG investigation into IRS whistleblower retaliation and whether DOJ is limiting DOJ OIG's investigation

214. August 24, 2023 Letter to Fulton County District Attorney Fani Willis requesting documents related to coordination with federal officials on indictment of President Trump

215. August 28, 2023 Letter to Attorney General Garland requesting documents related to the scope of Special Counsel David Weiss's investigation

216. August 29, 2023 Letter to White House Chief of Staff Zients requesting documents and communications related to members of Special Counsel Jack Smith's office meeting with Biden White House officials

217. August 29, 2023 Letter to Attorney General Garland requesting documents and communications related to members of Special Counsel Jack Smith's office meeting with Biden White House officials

218. September 7, 2023 Letter to Special Counsel Jack Smith requesting documents and communications related to alleged prosecutorial misconduct

219. September 12, 2023 Letter to Attorney General Garland requesting documents related to the Justice Department's retaliation against IRS whistleblowers

220. September 15, 2023 Letter to JPMorgan Chase CEO Jamie Dimon reiterating request for documents related to banks providing customers' financial data to FBI

221. September 18, 2023 Letter to Neil Brown and Angie Drobnic Holan, Poynter Institute's International Fact-Checking Network, requesting documents on tech censorship

222. September 18, 2023 Letter to Boston University President Ad Interim Kenneth Freeman requesting documents on tech censorship

223. September 18, 2023 Letter to Harvard University Director Nancy Gibbs requesting documents on tech censorship

224. September 18, 2023 Letter to New Knowledge Co-Founder and CEO Johnathon Morgan requesting documents on tech censorship

225. September 18, 2023 Letter to Park Advisors Director Chistina Nemr requesting documents on tech censorship

226. September 18, 2023 Letter to USAID Administrator Samantha Power requesting documents on tech censorship

227. September 18, 2023 Letter to Consortium for Elections and Political Process Strengthening Senior Director Kira Ribar requesting documents on tech censorship

228. September 18, 2023 Letter to University of Massachusetts Amherst Dean Anna Maria Siega-Riz requesting documents on tech censorship

229. September 18, 2023 Letter to Claire Wardle and Stefanie Friedhoff, Brown University's Information Futures Lab, requesting documents on tech censorship

230. September 18, 2023 Letter to National Endowment for Democracy President and CEO Damon Wilson requesting documents on tech censorship

231. September 18, 2023 Letter to Attorney General Garland requesting transcribed interviews and outstanding documents related to the Hunter Biden investigation

232. September 19, 2023 Letter to FBI Director Wray reiterating request for documents and briefing on investigation into former FBI SAC McGonigal

233. September 19, 2023 Letter to FBI Director Wray requesting documents and a briefing on the use of confidential human sources on January 6, 2021

234. September 20, 2023 Letter to FBI Director Wray relating to ASAC Elvis Chan's deposition

235. September 22, 2023 Deposition Subpoena to former U.S. Attorney for the Western District of Pennsylvania Scott Brady

236. September 27, 2023 Letter to Fulton County District Attorney Fani Willis reiterating request for documents

237. September 29, 2023 Letter to former White House official Robert Flaherty reiterating request for transcribed interview

238. September 29, 2023 Letter to former White House official Andrew Slavitt reiterating request for transcribed interview

239. October 3, 2023 Letter to ASAC Elvis Chan's personal counsel regarding his upcoming deposition

240. October 4, 2023 Letter to Attorney General Garland regarding ASAC Elvis Chan's upcoming deposition

241. October 30, 2023 Letter to D.C. Attorney General Brian Schwalb requesting documents and a briefing related to politically motivated investigation of Leonard Leo and his nonprofit organizations

242. October 31, 2023 Letter to Attorney General Garland requesting documents related to DOJ's subpoenas for private communications from congressional staff members

243. October 31, 2023 Letter to Alphabet CEO Sundar Pichai requesting documents related to DOJ's subpoenas for private communications from congressional staff members

244. October 31, 2023 Letter to Apple CEO Tim Cook requesting documents related to DOJ's subpoenas for private communications from congressional staff members

245. October 31, 2023 Letter to AT&T CEO John Stankey requesting documents related to DOJ's subpoenas for private communications from congressional staff members

246. October 31, 2023 Letter to T-Mobile CEO Mike Sievert requesting documents related to DOJ's subpoenas for private communications from congressional staff members

247. October 31, 2023 Letter to Verizon CEO Hans Vestberg requesting documents related to DOJ's subpoenas for private communications from congressional staff members

248. November 1, 2023 Letter to Director of National Intelligence Haines requesting transcribed interview and documents related to the intelligence community obstructing Senators Grassley's and Johnson's investigation into Hunter Biden

249. November 28, 2023 Letter to Attorney General Garland reiterating request for documents related to congressional staff subpoenas

250. November 30, 2023 Letter to White House Chief of Staff Zients related to deposition subpoenas for former White House officials Andrew Slavitt and Robert Flaherty

251. December 4, 2023 Letter to CIA Director Burns requesting unclassified production of materials related to the IC 51 statement regarding Hunter Biden's laptop

252. December 5, 2023 Letter to Fulton County District Attorney Fani Willis requesting documents and communications with the January 6 Select Committee

253. December 18, 2023 Letter to D.C. Attorney General Brian Schwalb reiterating request for documents regarding the targeting of Leonard Leo and his nonprofit organizations

254. December 18, 2023 Letter to Director of National Intelligence Haines reiterating request for transcribed interview and documents related to the intelligence community obstructing Senators Grassley's and Johnson's investigation

255. December 21, 2023 Letter to Special Counsel Jack Smith requesting information on his politicized investigation of President Trump

256. January 2, 2024 Letter to Del Harvey, Meta, requesting transcribed interview regarding tech censorship

257. January 2, 2024 Letter to Robert Schaul, former CISA official, requesting transcribed interview regarding tech censorship

258. January 2, 2024 Letter to White House Chief of Staff Zients responding to December 22, 2023 letter regarding deposition subpoenas of former White House officials Andrew Slavitt and Robert Flaherty and offering an accommodation

259. January 12, 2024 Letter to Fulton County Special Assistant District Attorney Nathan Wade requesting documents and communications related to politically motivated prosecution of President Trump

260. January 17, 2024 Letter to FBI Director Wray requesting transcribed interview of Peter Sullivan regarding the federal government's financial surveillance

261. January 17, 2024 Letter to Former Director of the Office of Stakeholder Integration and Engagement, FinCEN, requesting transcribed interview regarding the federal government's financial surveillance

262. January 29, 2024 Letter to White House Chief of Staff Zients responding to January 22, 2024 letter regarding deposition subpoenas of former White House officials Andrew Slavitt and Robert Flaherty and asking White House to make any invocation of privilege in writing prior to their appearance

263. January 30, 2024 Letter to FinCEN Director Andrea Gacki requesting a briefing on tracking Americans' firearm purchases

264. February 8, 2024 Letter to Acting Assistant Attorney General Nicole Argentieri requesting documents on IRS leaker's plea deal

265. February 14, 2024 Letter to FTC Chair Khan threatening contempt for failure to comply with subpoena regarding FTC's Twitter investigation

266. February 16, 2024 Letter to Treasury Secretary Yellen requesting documents regarding Bank Secrecy Act filings and Suspicious Activity Reports

267. February 16, 2024 Letter to DOJ Assistant Attorney General Kristen Clarke requesting documents on FACE Act data

268. February 23, 2024 Letter to FTC Chair Khan providing final contempt warning for failure to comply with subpoena regarding FTC's Twitter investigation

269. February 23, 2024 Letter to FBI Director Wray reiterating request for transcribed interview with Peter Sullivan

270. March 1, 2024 Letter to FBI Director Wray requesting documents related to Special Counsel David Weiss's indictment of FBI confidential human source Alexander Smirnov

271. March 2, 2024 Letter to Alphabet stating that the Committee considers information related to the use of AI technology to be within scope of subpoena and requesting transcribed interviews

272. March 4, 2024 Letter to Eventbrite requesting documents related to the federal government's financial surveillance

273. March 4, 2024 Letter to GoFundMe requesting documents related to federal government's financial surveillance

274. March 5, 2024 Letter to Federal Bureau of Prisons Director Colette Peters requesting documents related to the treatment of Hunter Biden's business partner by the Biden-Harris Administration

275. March 5, 2024 Letter to Southern District of New York Assistant U.S. Attorney Negar Tekeei requesting documents related to the treatment of Hunter Biden's business partner by the Biden-Harris Administration

276. March 5, 2024 Letter to DOJ Inspector General Horowitz requesting update on his investigation into whistleblower Marcus Allen's retaliation claim

277. March 6, 2024 Letter to former CIA Chief Operating Officer Andrew Makridis requesting transcribed interview related to the IC 51 statement regarding Hunter Biden's laptop

278. March 7, 2024 Letter to Attorney General Garland regarding the Justice Department's direction to two of its attorneys to not appear at depositions related to the Hunter Biden investigation

279. March 11, 2024 Letter to CIA Director Burns requesting documents related to reports that the intelligence community surveilled President Trump's 2016 presidential campaign

280. March 11, 2024 Letter to FBI Director Wray requesting outstanding documents stemming from FITF Section Chief Laura Dehmlow's testimony

281. March 12, 2024 Letter to U.S. Attorney Matthew Graves requesting documents related to prosecution of Blaze Media journalist for reporting on the events that occurred at the Capitol on January 6, 2021

282. March 14, 2024 Letter to Fulton County District Attorney Fani Willis requesting full compliance with subpoena

283. March 19, 2024 Letter to KeyBank CEO Christopher Gorman requesting documents related to the federal government's financial surveillance

284. March 20, 2024 Letter to Attorney General Garland requesting transcribed interview and documents related to the use of AI to surveil Americans' financial information

285. March 20, 2024 Letter to Treasury Secretary Yellen requesting documents related to the use of AI to surveil Americans' financial information

286. March 20, 2024 Letter to CISA Director Jen Easterly requesting documents related to CISA's partnership with the Pennsylvania Election Threats Task Force

287. March 22, 2024 Letter to DOJ Acting Assistant Attorney General Nicole Argentieri reiterating request for documents related to prosecution of IRS Leaker

288. April 9, 2024 Letter to Alphabet requesting documents responsive to existing subpoena related to the resumption of FITF meetings with social media companies

289. April 9, 2024 Letter to Amazon requesting documents responsive to existing subpoena related to the resumption of FITF meetings with social media companies

290. April 9, 2024 Letter to Apple requesting documents responsive to existing subpoena related to the resumption of FITF meetings with social media companies

291. April 9, 2024 Letter to Meta requesting documents responsive to existing subpoena related to the resumption of FITF meetings with social media companies

292. April 9, 2024 Letter to Microsoft requesting documents responsive to existing subpoena related to the resumption of FITF meetings with social media companies

293. April 9, 2024 Letter to Attorney General Garland requesting documents responsive to existing subpoena related to the resumption of FITF meetings with social media companies

294. April 9, 2024 Letter to FBI Director Wray requesting documents responsive to existing subpoena related to the resumption of FITF meetings with social media companies

295. April 9, 2024 Letter to former White House official Robert Flaherty requesting hearing testimony regarding the Biden-Harris Administration's censorship efforts

296. April 9, 2024 Letter to former White House official Andrew Slavitt requesting hearing testimony regarding the Biden-Harris Administration's censorship efforts

297. April 9, 2024 Letter to former Executive Office of the President official Clarke Humphrey requesting hearing testimony regarding the Biden-Harris Administration's censorship efforts

298. April 17, 2024 Letter to State Department employees Uzra Zeya and Eileen Donahoe requesting documents and a briefing on Brazil censoring X (formerly known as Twitter)

299. April 18, 2024 Letter to former White House official Robert Flaherty reiterating request for hearing testimony

300. April 18, 2024 Letter to former White House official Clarke Humphrey reiterating request for hearing testimony

301. April 18, 2024 Letter to former White House official Andrew Slavitt reiterating request for hearing testimony

302. April 19, 2024 Letter to FBI Assistant Section Chief Dena Perkins requesting transcribed interview regarding the FBI's misuse of the security clearance adjudication process

303. April 22, 2024 Letter to ATF Director Steven Dettelbach requesting documents related to fatal raid

304. April 24, 2024 Letter to Bank of America CEO Brian Moynihan requesting documents related to the federal government's financial surveillance

305. April 24, 2024 Letter to Charles Schwab CEO Walter Bettinger requesting documents related to the federal government's financial surveillance

306. April 24, 2024 Letter to Citibank CEO Sunil Garg requesting documents related to the federal government's financial surveillance

307. April 24, 2024 Letter to HSBC CEO Michael Roberts requesting documents related to the federal government's financial surveillance

308. April 24, 2024 Letter to JPMorgan Chase CEO Jamie Dimon requesting documents related to the federal government's financial surveillance

309. April 24, 2024 Letter to MUFG Bank CEO Kevin Cronin requesting documents related to the federal government's financial surveillance

310. April 24, 2024 Letter to PayPal CEO Alex Chriss requesting documents related to the federal government's financial surveillance

311. April 24, 2024 Letter to Santander Bank CEO Timothy Wennes requesting documents related to the federal government's financial surveillance

312. April 24, 2024 Letter to Standard Chartered Bank CEO Steven Cranwell requesting documents related to the federal government's financial surveillance

313. April 24, 2024 Letter to Treasury Secretary Yellen requesting documents related to the federal government's financial surveillance

314. April 24, 2024 Letter to Truist CEO William Rogers requesting documents related to the federal government's financial surveillance

315. April 24, 2024 Letter to U.S. Bancorp CEO Andrew Cecere requesting documents related to the federal government's financial surveillance

316. April 24, 2024 Letter to Wells Fargo CEO Charles Scharf requesting documents related to the federal government's financial surveillance

317. April 24, 2024 Letter to Western Union CEO Devin McGranahan requesting documents related to the federal government's financial surveillance

318. April 30, 2024 Letter to Attorney General Garland requesting documents related to any coordination with Manhattan District Attorney Bragg on his politicized prosecution of President Trump

319. May 6, 2024 Letter to DOJ Office of Professional Responsibility Counsel Jeffrey Ragsdale requesting documents and communications related to Special Counsel Jack Smith's admission of manipulating evidence seized from Mar-a-Lago

320. May 6, 2024 Letter to FBI Director Wray requesting documents related to the FBI's hiring standards and practices

321. May 8, 2024 Letter to Attorney General Garland requesting investigation into Michael Cohen for lying to Congress

322. May 9, 2024 Letter to Fulton County Special Assistant District Attorney Nathan Wade requesting transcribed interview

323. May 9, 2024 Letter to Federal Bureau of Prisons Warden Sheri Saulsberry requesting transcribed interview related to the treatment of Hunter Biden's business partner by the Biden-Harris Administration

324. May 9, 2024 Letter to Negar Tekeei requesting transcribed interview related to the treatment of Hunter Biden's business partner by the Biden-Harris Administration

325. May 9, 2024 Letter to former Federal Bureau of Prisons Warden M.V. Joseph requesting transcribed interview related to the treatment of Hunter Biden's business partner by the Biden-Harris Administration

326. May 13, 2024 Letter to Acting Treasury Inspector General for Tax Administration Heather Hill requesting documents related to penalties for misconduct by IRS agents

327. May 15, 2024 Letter to New York Attorney General Letitia James requesting documents related to Matthew Colangelo

328. May 15, 2024 Letter to FBI SAC Jeffrey Veltri requesting transcribed interview regarding the FBI's misuse of the security clearance adjudication process

329. May 17, 2024 Letter to Secretary of State Blinken reiterating request for documents related to tech censorship

330. May 21, 2024 Letter to FBI Director Wray requesting documents related to collaboration with Brazil to censor Americans

331. May 24, 2024 Letter to former FBI SSA Sean Clark requesting transcribed interview regarding the FBI's misuse of the security clearance adjudication process

332. May 29, 2024 Letter to Attorney General Garland reiterating request for documents related to Mar-a-Lago Raid

333. May 30, 2024 Letter to Bank of America CEO Brian Moynihan reiterating requests for documents related to the federal government's financial surveillance

334. May 30, 2024 Letter to Charles Schwab CEO Walter Bettinger reiterating requests for documents related to the federal government's financial surveillance

335. May 30, 2024 Letter to JPMorgan Chase CEO Jamie Dimon reiterating requests for documents related to the federal government's financial surveillance

336. May 30, 2024 Letter to MUFG Bank CEO Kevin Cronin reiterating requests for documents related to the federal government's financial surveillance

337. May 30, 2024 Letter to Santander Bank CEO Timothy Wennes reiterating requests for documents related to the federal government's financial surveillance

338. May 30, 2024 Letter to Standard Chartered Bank CEO Steven Cranwell reiterating requests for documents related to the federal government's financial surveillance

339. May 30, 2024 Letter to Truist CEO William Rogers reiterating requests for documents related to the federal government's financial surveillance

340. May 30, 2024 Letter to U.S. Bancorp CEO Andrew Cecere reiterating requests for documents related to the federal government's financial surveillance

341. May 30, 2024 Letter to Western Union CEO Devin McGranahan reiterating requests for documents related to the federal government's financial surveillance

342. May 30, 2024 Letter to FBI Assistant General Counsel Tasha Gibbs requesting transcribed interview regarding the FBI's misuse of the security clearance adjudication process

343. May 31, 2024 Letter to Manhattan District Attorney Bragg requesting hearing testimony

344. May 31, 2024 Letter to Senior Counsel Matthew Colangelo requesting hearing testimony

345. June 3, 2024 Letter to Attorney General Garland requesting a briefing related to January 6, 2021 prosecutions

346. June 6, 2024 Letter to Jay Bratt, senior official on Special Counsel Jack Smith's team, requesting transcribed interview and documents related to ethical failures

347. June 7, 2024 Letter to Dr. Anthony Fauci requesting transcribed interview

348. June 12, 2024 Letter to Arkansas State Police Director Colonel Mike Hager requesting documents related to fatal ATF raid

349. June 17, 2024 Letter to Acting Principal Deputy Special Counsel Karen Gorman requesting briefing on IRS whistleblower retaliation

350. June 18, 2024 Letter to New York Attorney General James reiterating request for documents related to Matthew Colangelo

351. June 18, 2024 Letter to Alphabet requesting documents related to YouTube's Second Amendment content restriction policy

352. June 20, 2024 Letter to DOJ Inspector General Horowitz requesting an investigation into the FBI's collusion with a Democrat Member to attack whistleblowers and the use of the "Trump Questionnaire"

353. June 20, 2024 Letter to FBI Director Wray requesting documents regarding the FBI's collusion with a Democrat Member to attack whistleblowers and the use of the "Trump Questionnaire"

354. June 21, 2024 Letter to Acting Treasury Inspector General for Tax Administration Heather Hill requesting documents regarding an IRS contractor leaking protected taxpayer information

355. June 21, 2024 Letter to FinCEN Director Andrea Gacki requesting documents related to the federal government's financial surveillance

356. June 24, 2024 Letter to John Bellinger requesting information regarding reports that the Stanford Internet Observatory will be discontinued

357. June 26, 2024 Letter to former ATF Special Agent Ashan Benedict requesting transcribed interview related to the January 6, 2021 pipe bomb investigation

358. June 26, 2024 Letter to former Executive Director of the National Capitol Region Threat Intelligence Center Donell Harvin requesting transcribed interview related to the January 6, 2021 pipe bomb investigation

359. June 27, 2024 Letter to Attorney General Garland requesting information related to indictment of Texas Children's Hospital whistleblower

360. July 23, 2024 Letter to Jay Bratt, senior official on Special Counsel Jack Smith's team, requesting transcribed interview and documents related to ethical failures

361. August 1, 2024 Letter to Loren Merchan requesting documents and communications between Authentic Campaigns, the Biden-Harris campaign, and the Democratic National Committee related to the prosecution of President Donald Trump

362. August 1, 2024 Letter to Adidas Group requesting information related to corporate collusion

363. August 1, 2024 Letter to American Express requesting information related to corporate collusion

364. August 1, 2024 Letter to Bayer AG requesting information related to corporate collusion

365. August 1, 2024 Letter to Beiersdorf AG requesting information related to corporate collusion

366. August 1, 2024 Letter to British Petroleum requesting information related to corporate collusion

367. August 1, 2024 Letter to Carhartt requesting information related to corporate collusion

368. August 1, 2024 Letter to Centene Corp. requesting information related to corporate collusion

369. August 1, 2024 Letter to Chanel requesting information related to corporate collusion

370. August 1, 2024 Letter to Colgate-Palmolive requesting information related to corporate collusion

371. August 1, 2024 Letter to CVS Health requesting information related to corporate collusion

372. August 1, 2024 Letter to Dell Technologies requesting information related to corporate collusion

373. August 1, 2024 Letter to Electronic Arts requesting information related to corporate collusion

374. August 1, 2024 Letter to FrieslandCampina requesting information related to corporate collusion

375. August 1, 2024 Letter to General Mills requesting information related to corporate collusion

376. August 1, 2024 Letter to General Motors requesting information related to corporate collusion

377. August 1, 2024 Letter to Goldman Sachs requesting information related to corporate collusion

378. August 1, 2024 Letter to Haleon requesting information related to corporate collusion

379. August 1, 2024 Letter to HP Inc. requesting information related to corporate collusion

380. August 1, 2024 Letter to Ingka Group requesting information related to corporate collusion

381. August 1, 2024 Letter to Johnson & Johnson requesting information related to corporate collusion

382. August 1, 2024 Letter to Kellanova requesting information related to corporate collusion

383. August 1, 2024 Letter to Kenvue Inc. requesting information related to corporate collusion

384. August 1, 2024 Letter to Kimberly-Clark Corp. requesting information related to corporate collusion

385. August 1, 2024 Letter to L'Oreal requesting information related to corporate collusion

386. August 1, 2024 Letter to Louis Vuitton Moet Hennessy requesting information related to corporate collusion

387. August 1, 2024 Letter to Mastercard requesting information related to corporate collusion

388. August 1, 2024 Letter to McDonalds Corp. requesting information related to corporate collusion

389. August 1, 2024 Letter to Merck & Co. Inc. requesting information related to corporate collusion

390. August 1, 2024 Letter to Microsoft Corp. requesting information related to corporate collusion

391. August 1, 2024 Letter to Mondelez International requesting information related to corporate collusion

392. August 1, 2024 Letter to NIKE Inc. requesting information related to corporate collusion

393. August 1, 2024 Letter to PepsiCo requesting information related to corporate collusion

394. August 1, 2024 Letter to Perfetti Van Melle requesting information related to corporate collusion

395. August 1, 2024 Letter to Pernod Ricard requesting information related to corporate collusion

396. August 1, 2024 Letter to Red Bull GmbH requesting information related to corporate collusion

397. August 1, 2024 Letter to Roblox requesting information related to corporate collusion

398. August 1, 2024 Letter to Sanofi requesting information related to corporate collusion

399. August 1, 2024 Letter to Scotiabank requesting information related to corporate collusion

400. August 1, 2024 Letter to Shell requesting information related to corporate collusion

401. August 1, 2024 Letter to Sony Group requesting information related to corporate collusion

402. August 1, 2024 Letter to Suntory Holdings requesting information related to corporate collusion

403. August 1, 2024 Letter to Verizon requesting information related to corporate collusion

404. August 1, 2024 Letter to Volvo Cars requesting information related to corporate collusion

405. August 2, 2024 Letter to DOJ OPR Counsel Ragsdale requesting a briefing and information related to allegations of prosecutorial misconduct by J.P. Cooney, a senior official on Special Counsel Jack Smith's team

406. August 15, 2024 Letter to the European Commission requesting a briefing related to efforts to censor Americans

407. August 15, 2024 Letter to State Department requesting a briefing on the State Department's intended response to the European Commission's attack on free speech in the United States and for responses to subpoena related to tech censorship

408. August 16, 2024 Letter to Authentic Campaigns Founder and CEO Michael Nellis requesting outstanding documents related to the Manhattan DA's prosecution of President Trump

409. August 19, 2024 Letter to FBI Director Wray requesting documents related to his congressional testimony on FACE Act enforcement

410. August 21, 2024 Letter to TSA Administrator David Pekoske requesting documents related to TSA's surveillance of former Representative Tulsi Gabbard through the quiet skies program

411. August 30, 2024 Letter to Attorney General Garland requesting documents related to Special Counsel Jack Smith's superseding indictment of President Trump

412. September 9, 2024 Letter to TSA Administrator Pekoske reiterating request for documents related to TSA's surveillance of former Representative Gabbard through the quiet skies program

413. September 9, 2024 Letter to SEC Chairman Gary Gensler requesting documents related to the SEC's political hiring practices

414. September 10, 2024 Letter to Attorney General Garland requesting briefing related to Google lawyer's role in Vice President Kamala Harris's debate preparation

415. September 10, 2024 Letter to the European Commission requesting a briefing related to efforts to censor Americans

416. September 12, 2024 Letter to Amazon CEO Andy Jassy requesting a briefing on tech censorship and Amazon Alexa

417. September 12, 2024 Letter to DOJ OPR Counsel Ragsdale requesting transcribed interview related to allegations of prosecutorial misconduct by members of Special Counsel Jack Smith's team

418. September 13, 2024 Letter to CISA Director Easterly requesting documents responsive to existing subpoena related to CISA's partnership with Pennsylvania's 2024 Election Threats Task Force

419. September 13, 2024 Letter to CISA Director Easterly requesting transcribed interview related to tech censorship

420. September 17, 2024 Letter to Assistant Section Chief Dena Perkins reiterating request for transcribed interview regarding the FBI's misuse of the security clearance adjudication process

421. September 17, 2024 Letter to Secretary of State Blinken requesting documents stemming from State Department briefing on EU efforts to censor Americans

422. September 20, 2024 Letter to FBI Director Wray requesting a briefing related to Iran hacking President Trump's campaign

423. September 20, 2024 Letter to Federal Bureau of Prisons Director Peters requesting full compliance with subpoena related to the Biden-Harris Administration's treatment of Hunter Biden's business partner

424. September 24, 2024 Letter to CISA Director Easterly reiterating request for transcribed interview

425. September 25, 2024 Letter to Attorney General Garland requesting documents regarding the Justice Department's decision to release a bounty letter produced by an individual who attempted to assassinate President Trump

426. September 25, 2024 Letter to FBI Director Wray reiterating request for transcribed interview of SAC Veltri regarding the FBI's misuse of the security clearance adjudication process

427. September 26, 2024 Letter to FBI analyst requesting transcribed interview related to the FBI's handling of Hunter Biden's laptop

428. September 27, 2024 Letter to Authentic Campaigns requesting supplemental response to subpoena

429. September 30, 2024 Letter to FBI contractor requesting transcribed interview related to use of politicized security clearance questionnaire

430. October 2, 2024 Letter to Attorney General Garland requesting release of DOJ OIG's report on the use of confidential human sources on January 6, 2021

431. October 7, 2024 Letter to Alphabet CEO Sundar Pichai requesting documents and a briefing from Alphabet regarding YouTube's censorship of a video featuring an FBI whistleblower

432. October 8, 2024 Letter to DOJ OPR Counsel Ragsdale reiterating request for a transcribed interview

433. October 10, 2024 Letter to Attorney General Garland and FBI Director Wray requesting the preservation of documents relating to FACE Act cases

434. October 21, 2024 Letter to Assistant Attorney General Kristen Clarke requesting documents regarding the Justice Department's attempt to prevent Ohio from removing noncitizens from its voter rolls

435. October 25, 2024 Letter to FBI Director Wray reiterating request for documents regarding Iran's hack of President Trump's campaign

436. October 28, 2024 Letter to Attorney General Garland reiterating request for documents regarding the Justice Department's decision to release a bounty letter produced by an individual who attempted to assassinate President Trump

437. October 30, 2024 Letter to Alphabet CEO Sundar Pichai requesting Alphabet provide a briefing on YouTube's censorship of Joe Rogan's interview with President Trump and Google's elevation of material critical of the interview

438. October 31, 2024 Letter to Assistant Attorney General Kristen Clarke requesting documents regarding the Justice Department's collusion with left-wing groups in its lawsuits against Alabama and Virginia to prevent those states from removing noncitizens from their voter rolls

439. November 1, 2024 Letter to CISA Director Easterly requesting she comply with her deposition subpoena

440. November 1, 2024 Letter to FBI SAC Veltri requesting he comply with his deposition subpoena

441. November 7, 2024 Letter to Imran Ahmed requesting documents related to the Center for Countering Digital Hate's work with the Executive Branch to censor online speech

442. November 8, 2024 Letter to Special Counsel Jack Smith reiterating requests for information related to the prosecution of President Trump and requesting he preserve all records

443. November 12, 2024 Letter to FBI Director Wray requesting a briefing on software tools used by the FITF to monitor online speech

444. November 12, 2024 Letter to Attorney General Garland requesting continued compliance with all subpoenas during transition to Trump Administration

445. November 13, 2024 Letter to Director of National Intelligence Haines requesting ODNI declassify the agency that provided the intelligence that resulted in a defensive briefing provided to Senators Grassley and Johnson

446. November 21, 2024 Letter to Uzra Zeya and Eileen Donahoe requesting additional documents related to the State Department's intention to engage with the Australian government to address threats to free speech

447. December 4, 2024 Letter to DOJ OPR Counsel Ragsdale following up after staff briefing, reiterating requests for documents and a transcribed interview, and requesting that he preserve all documents related to OPR's investigation into Special Counsel Smith and members of his prosecution team

448. December 4, 2024 Letter to Fulton County District Attorney Fani Willis reiterating requests for documents and communications related to investigative coordination between the DA's office and Special Counsel Smith and the January 6 Select Committee

449. December 5, 2024 Letter to U.S. Attorney Martin Estrada requesting he preserve all records related to the investigation and prosecution of Representative Jeff Fortenberry

APPENDIX C – SUBPOENAS OF THE SELECT SUBCOMMITTEE

1. February 2, 2023 Subpoena to Secretary of Education Miguel Cardona for documents related to the Attorney General's October 2021 school boards memorandum

2. February 2, 2023 Subpoena to Attorney General Merrick Garland for documents related to the Attorney General's October 2021 school boards memorandum

3. February 2, 2023 Subpoena to FBI Director Christopher Wray for documents related to the Attorney General's October 2021 school boards memorandum

4. February 15, 2023 Subpoena to Alphabet CEO Sundar Pichai for tech censorship documents

5. February 15, 2023 Subpoena to Amazon CEO Andy Jassy for tech censorship documents

6. February 15, 2023 Subpoena to Apple CEO Timothy Cook for tech censorship documents

7. February 15, 2023 Subpoena to Meta Platforms CEO Mark Zuckerberg for tech censorship documents

8. February 15, 2023 Subpoena to Microsoft CEO Satya Nadella for tech censorship documents

9. March 6, 2023 Deposition Subpoena to National School Boards Association Interim Executive Director and CEO Chip Slaven

10. March 6, 2023 Deposition Subpoena to former National School Boards Association President Viola Garcia

11. March 6, 2023 Deposition Subpoena to Nina Jankowicz, Disinformation Governance Board Executive Director

12. April 5, 2023 Subpoena to Center for Internet Security President and CEO John Gilligan for tech censorship documents

13. April 5, 2023 Subpoena to Stanford Cyber Policy Center Co-Directors Jeff Hancock and Nathaniel Persily for tech censorship documents

14. April 5, 2023 Subpoena to Atlantic Council President and CEO Frederick Kempe for tech censorship documents

15. April 5, 2023 Subpoena to Trellix CEO Bryan Palma for tech censorship documents

16. April 5, 2023 Subpoena to Aspen Institute President and CEO Daniel Porterfield for tech censorship documents

17. April 5, 2023 Subpoena to Cloudflare CEO Matthew Prince for tech censorship documents

18. April 5, 2023 Subpoena to Disinformation Index for tech censorship documents

19. April 6, 2023 Subpoena to Moonshot CVE USA CEO Ross Frenett for tech censorship documents

20. April 6, 2023 Deposition Subpoena to former New York County Special Assistant District Attorney Mark Pomerantz

21. April 10, 2023 Subpoena to FBI Director Wray for documents related to the FBI's anti-Catholic Memorandum

22. April 12, 2023 Subpoena to Stanford Internet Observatory Director Alex Stamos for tech censorship documents

23. April 12, 2023 Subpoena to FTC Chair Lina Khan for tech censorship documents

24. April 24, 2023 Deposition Subpoena to FBI Human Resources Branch Executive Assistant Director Jennifer Leigh Moore

25. April 28, 2023 Subpoena to Reddit Co-Founder and CEO Steve Huffman for tech censorship documents

26. April 28, 2023 Subpoena to CDC Director Rochelle Walensky for tech censorship documents

27. April 28, 2023 Subpoena to CISA Director Jen Easterly for tech censorship documents

28. April 28, 2023 Subpoena to State Department Global Engagement Center Special Envoy and Coordinator James Rubin for tech censorship documents

29. August 17, 2023 Subpoena to Attorney General Garland for tech censorship documents

30. August 17, 2023 Subpoena to FBI Director Wray for tech censorship documents

31. August 17, 2023 Subpoena to Citibank CEO Sunil Garg for documents related to the federal government's financial surveillance

32. August 21, 2023 Deposition Subpoena to FBI Special Agent Ryeshia Holley

33. August 21, 2023 Deposition Subpoena to FBI Special Agent Thomas Sobocinski

34. August 30, 2023 Subpoena to Center for Countering Digital Hate CEO Imran Ahmed for tech censorship documents

35. September 13, 2023 Subpoena to University of Wisconsin School of Journalism and Mass Communication Director of Graduate Studies Michael Wagner for tech censorship documents

36. September 15, 2023 Deposition Subpoena to FBI San Francisco Field Office Assistant Special Agent in Charge Elvis Chan

37. September 21, 2023 Deposition Subpoena to FBI San Francisco Field Office Assistant Special Agent in Charge Elvis Chan

38. November 16, 2023 Subpoena to Bank of America CEO Brian Moynihan for documents related to the federal government's financial surveillance

39. November 16, 2023 Subpoena to JPMorgan Chase Bank for documents related to the federal government's financial surveillance

40. November 30, 2023 Deposition Subpoena to former White House official Andrew Slavitt

41. November 30, 2023 Deposition Subpoena to former White House official Robert Flaherty

42. December 19, 2023 Deposition Subpoena to former White House official Andrew Slavitt

43. December 19, 2023 Subpoena to Attorney General Garland for documents related to DOJ subpoenas to congressional staff for private communications

44. January 11, 2024 Subpoena to Director of National Intelligence Avril Haines for tech censorship documents

45. February 2, 2024 Subpoena to Fulton County District Attorney Fani Willis for DOJ grants documents

46. February 6, 2024 Subpoena to NSF Director Sethuraman Panchanathan, PhD for tech censorship documents

47. April 12, 2024 Subpoena to X CEO Linda Yaccarino for tech censorship documents

48. April 24, 2024 Subpoena to Rumble CEO and Chairman Chris Pavlovski for tech censorship documents

49. April 26, 2024 Subpoena to Federal Bureau of Prisons Director Colette Peters for additional documents related to the Biden-Harris Administration's treatment of Hunter Biden's business partner

50. April 26, 2024 Subpoena to U.S. Attorney Damian Williams for documents related to unfair treatment of Hunter Biden's business partner

51. June 12, 2024 Subpoena to JPMorgan Chase Bank for additional documents related to the federal government's financial surveillance

52. July 10, 2024 Deposition Subpoena to former Unit Chief of FBI's Security Division Sean Clark

53. August 28, 2024 Subpoena to Authentic Campaigns Founder and CEO Michael Nellis for documents related to Manhattan DA's political prosecution of President Trump

54. September 21, 2024 Deposition Subpoena to Nathan Wade, former Special Assistant District Attorney for Fulton County

55. October 2, 2024 Deposition Subpoena to Nathan Wade, former Special Assistant District Attorney for Fulton County

56. October 2, 2024 Deposition Subpoena to CISA Director Jen Easterly

57. October 11, 2024 Deposition Subpoena to FBI Special Agent in Charge Jeffery Veltri

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States
House of Representatives
COMMITTEE ON THE JUDICIARY
2138 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6216
(202) 225-6906
judiciary.house.gov

February 15, 2023

Mr. Sundar Pichai
Chief Executive Officer
Alphabet
1600 Amphitheatre Parkway
Mountain View, California 94043

Dear Mr. Pichai:

To develop effective legislation, such as the possible enactment of new statutory limits on the Executive Branch's ability to work with Big Tech to restrict the circulation of content and deplatform users, the Committee on the Judiciary must first understand how and to what extent the Executive Branch coerced and colluded with companies and other intermediaries to censor speech. To this end, we have asked for communications between Alphabet and the Executive Branch, internal Alphabet communications discussing communications from the Executive Branch, and Alphabet communications with third parties that may have been working with the Executive Branch, in addition to other key information. Your response without compulsory process has been woefully inadequate.

In contrast to Alphabet, Twitter recently set a benchmark for how transparent Big Tech companies can be about interactions with government over censorship. The Twitter Files have exposed how Big Tech and the federal government have worked hand in hand in ways that undermine First Amendment principles. Numerous internal documents from Twitter reflect the weaponization of the federal government's power to censor speech online. It is necessary for Congress to gauge the extent to which this occurred at Alphabet as well.

Accordingly, please find attached a subpoena.

Sincerely,

Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

ONE HUNDRED EIGHTEENTH CONGRESS

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February 15, 2023

Mr. Andy Jassy
Chief Executive Officer
Amazon
410 Terry Ave N
Seattle 98109, WA

Dear Mr. Jassy:

To develop effective legislation, such as the possible enactment of new statutory limits on the Executive Branch's ability to work with Big Tech to restrict the circulation of content and deplatform users, the Committee on the Judiciary must first understand how and to what extent the Executive Branch coerced and colluded with companies and other intermediaries to censor speech. To this end, we have asked for communications between Amazon and the Executive Branch, internal Amazon communications discussing communications from the Executive Branch, and Amazon communications with third parties that may have been working with the Executive Branch, in addition to other key information. Your response without compulsory process has been woefully inadequate.

In contrast to Amazon, Twitter recently set a benchmark for how transparent Big Tech companies can be about interactions with government over censorship. The Twitter Files have exposed how Big Tech and the federal government have worked hand in hand in ways that undermine First Amendment principles. Numerous internal documents from Twitter reflect the weaponization of the federal government's power to censor speech online. It is necessary for Congress to gauge the extent to which this occurred at Amazon as well.

Accordingly, please find attached a subpoena.

Sincerely,

Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

ONE HUNDRED EIGHTEENTH CONGRESS

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February 15, 2023

Mr. Timothy Cook
Chief Executive Officer
Apple
One Apple Park Way
Cupertino, CA 95014

Dear Mr. Cook:

To develop effective legislation, such as the possible enactment of new statutory limits on the Executive Branch's ability to work with Big Tech to restrict the circulation of content and deplatform users, the Committee on the Judiciary must first understand how and to what extent the Executive Branch coerced and colluded with companies and other intermediaries to censor speech. To this end, we have asked for communications between Apple and the Executive Branch, internal Apple communications discussing communications from the Executive Branch, and Apple communications with third parties that may have been working with the Executive Branch, in addition to other key information. Your response without compulsory process has been woefully inadequate.

In contrast to Apple, Twitter recently set a benchmark for how transparent Big Tech companies can be about interactions with government over censorship. The Twitter Files have exposed how Big Tech and the federal government have worked hand in hand in ways that undermine First Amendment principles. Numerous internal documents from Twitter reflect the weaponization of the federal government's power to censor speech online. It is necessary for Congress to gauge the extent to which this occurred at Apple as well.

Accordingly, please find attached a subpoena.

Sincerely,

Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

ONE HUNDRED EIGHTEENTH CONGRESS

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February 15, 2023

Mr. Mark Zuckerberg
Chief Executive Officer
Meta Platforms
1 Hacker Way
Menlo Park, CA 94025

Dear Mr. Zuckerberg:

To develop effective legislation, such as the possible enactment of new statutory limits on the Executive Branch's ability to work with Big Tech to restrict the circulation of content and deplatform users, the Committee on the Judiciary must first understand how and to what extent the Executive Branch coerced and colluded with companies and other intermediaries to censor speech. To this end, we have asked for communications between Meta and the Executive Branch, internal Meta communications discussing communications from the Executive Branch, and Meta communications with third parties that may have been working with the Executive Branch, in addition to other key information. Your response without compulsory process has been woefully inadequate.

In contrast to Meta, Twitter recently set a benchmark for how transparent Big Tech companies can be about interactions with government over censorship. The Twitter Files have exposed how Big Tech and the federal government have worked hand in hand in ways that undermine First Amendment principles. Numerous internal documents from Twitter reflect the weaponization of the federal government's power to censor speech online. It is necessary for Congress to gauge the extent to which this occurred at Meta as well.

Accordingly, please find attached a subpoena.

Sincerely,

Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

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February 15, 2023

Mr. Satya Nadella
Chief Executive Officer
Microsoft
One Microsoft Way
Redmond, WA 98052-6399 USA

Dear Mr. Nadella:

To develop effective legislation, such as the possible enactment of new statutory limits on the Executive Branch's ability to work with Big Tech to restrict the circulation of content and deplatform users, the Committee on the Judiciary must first understand how and to what extent the Executive Branch coerced and colluded with companies and other intermediaries to censor speech. To this end, we have asked for communications between Microsoft and the Executive Branch, internal Microsoft communications discussing communications from the Executive Branch, and Microsoft communications with third parties that may have been working with the Executive Branch, in addition to other key information. Your response without compulsory process has been woefully inadequate.

In contrast to Microsoft, Twitter recently set a benchmark for how transparent Big Tech companies can be about interactions with government over censorship. The Twitter Files have exposed how Big Tech and the federal government have worked hand in hand in ways that undermine First Amendment principles. Numerous internal documents from Twitter reflect the weaponization of the federal government's power to censor speech online. It is necessary for Congress to gauge the extent to which this occurred at Microsoft as well.

Accordingly, please find attached a subpoena.

Sincerely,

Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

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March 6, 2023

Mr. Chip Slaven
Former Interim Executive Director & CEO
National School Boards Association
1680 Duke St., Floor 2
Alexandria, VA 22314-3493

Dear Mr. Slaven:

The Committee on the Judiciary (Committee) is conducting oversight of the misuse of criminal and counterterrorism resources by the executive branch against concerned parents at local school board meetings and the effect on parents' protected First Amendment activity. On September 29, 2021, as Interim Executive Director and CEO of the National School Boards Association (NSBA), you co-signed a letter to President Biden urging the executive branch to use counterterrorism tools, including the Patriot Act, in response to parents protesting controversial educational curricula and policies.[1] The NSBA letter led to Attorney General Garland issuing a memorandum on October 4, 2021, directing federal law enforcement to investigate parents.[2] Whistleblowers have disclosed that this memorandum resulted in the Federal Bureau of Investigation's (FBI) establishment of a "threat tag" and the Justice Department has confirmed that the FBI investigated at least 25 incidents as a result of the NSBA letter you co-signed.[3]

In a letter dated January 27, 2023, the Committee requested that you appear for a voluntary transcribed interview to provide information about the impetus for the September 29, 2021, letter and related matters.[4] This request remains outstanding.

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[1] Letter from Dr. Viola M. Garcia, President, Nat'l School Board Assoc. & Mr. Chip Slaven, Chief Exec. Officer, Nat'l School Board Assoc., to President Joseph R. Biden, White House (Sept. 29, 2021).
[2] *Oversight of the United States Department of Justice: Hearing Before the H. Comm. on the Judiciary,* 117th Cong. at 68 (2021) (testimony from Hon. Merrick Garland, Atty Gen., U.S. Dep't of Justice).
[3] Letter from Mr. Christopher Dunham, Acting Assistant Dir., Fed. Bureau of Investigation, to Rep. Jim Jordan, Chairman, H. Comm. on Judiciary (Mar. 3, 2023); *see also* Letter from Rep. Jim Jordan, Ranking Member, H. Comm. on the Judiciary, to Hon. Merrick B. Garland, Atty Gen., U.S. Dep't of Justice (May 11, 2022).
[4] *See* Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Mr. Chip Slaven (Jan. 27, 2023); Letter from Rep. Jim Jordan, Ranking Member, H. Comm. on the Judiciary, to Mr. Chip Slaven (Nov. 12, 2021).

The Supreme Court has recognized that Congress has a "broad and indispensable" power to conduct oversight, which "encompasses inquiries into the administration of existing laws, studies of proposed laws, and surveys in our social, economic or political system for the purpose of enabling Congress to remedy them."[5] Pursuant to the Rules of the House of Representatives, the Committee is authorized to conduct oversight of the Justice Department and FBI—including with respect to the agencies' use of law-enforcement and counterterrorism resources and their policies to protect civil liberties—to inform potential legislative reforms.[6] These potential legislative reforms include, among other proposals, legislation to prescribe how federal law-enforcement entities investigate constitutionally protected activity, legislation to educate federal law-enforcement personnel on civil liberty protections, and legislation to prevent the misuse of federal law-enforcement and counterterrorism resources in the future. Based on information in publicly available documents, you have unique information that is relevant and necessary to inform our oversight and potential legislative reforms.[7]

Accordingly, and in light of your disregard of our earlier voluntary requests, please find attached a subpoena compelling your appearance at a deposition.

Sincerely,

Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

[5] *See, e.g., Trump v. Mazars LLP*, No. 19-715 at 11 (U.S. slip op. July 9, 2020) (internal quotation marks and citations omitted).
[6] Rules of the U.S. House of Representatives, R. X (2023).
[7] *Final Report on the Events Surrounding the National School Boards Association's September 29, 2021, Letter to the President*, NATIONAL SCHOOL BOARDS ASSOCIATION (May 20, 2022).

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

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March 6, 2023

Dr. Viola M. Garcia
Trustee
National Assessment Governing Board
800 North Capitol Street, NW, Suite 825
Washington, DC 20002

Dear Dr. Garcia:

The Committee on the Judiciary (Committee) is conducting oversight of the misuse of criminal and counterterrorism resources by the executive branch against concerned parents at local school board meetings and the effect on parents' protected First Amendment activity. On September 29, 2021, as President of the National School Boards Association (NSBA), you co-signed a letter to President Biden urging the executive branch to use counterterrorism tools, including the Patriot Act, in response to parents protesting controversial educational curricula and policies.[1] The NSBA letter led to Attorney General Garland issuing a memorandum on October 4, 2021, directing federal law enforcement to investigate parents.[2] Whistleblowers have disclosed that this memorandum resulted in the Federal Bureau of Investigation's (FBI) establishment of a "threat tag" and the Justice Department has confirmed that the FBI investigated at least 25 incidents as a result of the NSBA letter you co-signed.[3]

In a letter dated January 27, 2023, the Committee requested that you appear for a voluntary transcribed interview to provide information about the impetus for the September 29, 2021, letter and related matters.[4] This request remains outstanding.

The Supreme Court has recognized that Congress has a "broad and indispensable" power to conduct oversight, which "encompasses inquiries into the administration of existing laws,

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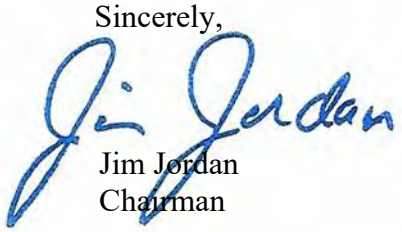
[1] Letter from Dr. Viola M. Garcia, President, Nat'l School Board Assoc. & Mr. Chip Slaven, Chief Exec. Officer, Nat'l School Board Assoc., to President Joseph R. Biden, White House (Sept. 29, 2021).
[2] *Oversight of the United States Department of Justice: Hearing Before the H. Comm. on the Judiciary,* 117th Cong. at 68 (2021) (testimony from Hon. Merrick Garland, Atty Gen., U.S. Dep't of Justice).
[3] Letter from Mr. Christopher Dunham, Acting Assistant Dir., Fed. Bureau of Investigation, to Rep. Jim Jordan, Chairman, H. Comm. on Judiciary (Mar. 3, 2023); *see also* Letter from Rep. Jim Jordan, Ranking Member, H. Comm. on the Judiciary, to Hon. Merrick B. Garland, Atty Gen., U.S. Dep't of Justice (May 11, 2022).
[4] *See* Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Dr. Viola Garcia (Jan. 27, 2023); Letter from Rep. Jim Jordan, Ranking Member, H. Comm. on the Judiciary, to Dr. Viola Garcia (Nov. 12, 2021).

studies of proposed laws, and surveys in our social, economic or political system for the purpose of enabling Congress to remedy them."[5] Pursuant to the Rules of the House of Representatives, the Committee is authorized to conduct oversight of the Justice Department and FBI—including with respect to the agencies' use of law-enforcement and counterterrorism resources and their policies to protect civil liberties—to inform potential legislative reforms.[6] These potential legislative reforms include, among other proposals, legislation to prescribe how federal law-enforcement entities investigate constitutionally protected activity, legislation to educate federal law-enforcement personnel on civil liberty protections, and legislation to prevent the misuse of federal law-enforcement and counterterrorism resources in the future. Based on information in publicly available documents, you have unique information that is relevant and necessary to inform our oversight and potential legislative reforms.[7]

Accordingly, and in light of your disregard of our earlier voluntary requests, please find attached a subpoena compelling your appearance at a deposition.

Sincerely,



Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

[5] *See, e.g., Trump v. Mazars LLP*, No. 19-715 at 11 (U.S. slip op. July 9, 2020) (internal quotation marks and citations omitted).
[6] Rules of the U.S. House of Representatives, R. X (2023).
[7] *Final Report on the Events Surrounding the National School Boards Association's September 29, 2021, Letter to the President*, NATIONAL SCHOOL BOARDS ASSOCIATION (May 20, 2022).

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

ONE HUNDRED EIGHTEENTH CONGRESS

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(202) 225-6906
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March 6, 2023

Ms. Nina Jankowicz
c/o Lawrence & Bundy LLC
1101 17th Street, N.W.
Washington, DC 20036

Dear Ms. Jankowicz:

The Committee on the Judiciary is conducting oversight of the so-called "Disinformation Governance Board" within the Department of Homeland Security (DHS), its creation, its activities, and related matters. We have repeatedly sought information from you concerning your official actions and duties as a DHS employee and former Executive Director of the Board, including how the Board intended to define disinformation, how it planned to collect information and from what sources, how it anticipated countering disinformation, and how it proposed to protect First Amendment rights.

We first wrote to you on May 5, 2022, requesting your voluntary cooperation with our oversight of the Board, its operations, and your work as Executive Director.[1] In a subsequent letter dated December 1, 2022, we again requested that you provide documents and appear for a voluntary transcribed interview with the Committee.[2] We reiterated our request for a voluntary transcribed interview in the 118th Congress in letters dated January 27, 2023, February 16, 2023, and March 1, 2023.[3] To date, however, you have declined to comply voluntarily with our request for a transcribed interview.

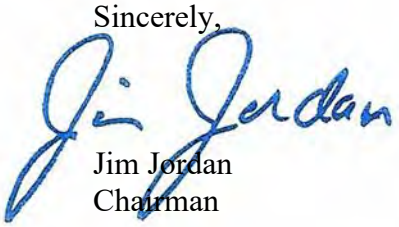
The Supreme Court has recognized that Congress has a "broad and indispensable" power to conduct oversight, which "encompasses inquiries into the administration of existing laws, studies of proposed laws, and surveys in our social, economic or political system for the purpose

[1] Letter from Rep. Jim Jordan, H. Comm. on the Judiciary, et al., to Ms. Nina Jankowicz, Dep't of Homeland Sec. (May 5, 2022).
[2] Letter from Rep. Jim Jordan, H. Comm. on the Judiciary, to Ms. Nina Jankowicz, Dep't of Homeland Sec. (December 1, 2022).
[3] Letter from Rep. Jim Jordan, H. Comm. on the Judiciary, to Ms. Nina Jankowicz (Jan. 27, 2023); Letter from Rep. Jim Jordan, H. Comm. on the Judiciary, to Ms. Nina Jankowicz (Feb. 16, 2023); Letter from Rep. Jim Jordan, H. Comm. on the Judiciary, to Ms. Nina Jankowicz (March 1, 2023).

of enabling Congress to remedy them."[4] Rule X of the Rules of the House of Representatives authorizes the Committee on the Judiciary to conduct oversight of matters involving civil liberties to inform potential legislation.[5] Our oversight of the so-called "Disinformation Governance Board" and its effect on Americans' civil liberties fall squarely within the Committee's jurisdiction and are "subject[s] on which legislation could be had."[6] These potential legislative reforms include the prohibition of such a federal "disinformation" entity, restrictions on the executive branch's authority to collect speech-related information about American citizens, or enhanced protections surrounding civil liberties. As the former Executive Director of the Board, you are uniquely situated to provide information that is relevant and necessary to inform the Committee's oversight and potential legislative reforms.

Accordingly, and in light of your disregard of our earlier voluntary requests, please find attached a subpoena compelling you to appear for a deposition.

Sincerely,



Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

[4] *See, e.g., Trump v. Mazars LLP*, No. 19-715 at 11 (U.S. slip op. July 9, 2020) (internal quotation marks and citations omitted).
[5] Rules of the U.S. House of Representatives, R. X(l)(5) (2023).
[6] *See, e.g., Mazars*, No. 19-715 at 12 (internal quotation marks and citations omitted).

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

ONE HUNDRED EIGHTEENTH CONGRESS

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April 5, 2023

Mr. John M. Gilligan
President and CEO
Center for Internet Security, Inc.
31 Tech Valley Dr
East Greenbush, NY 12061

Dear Mr. Gilligan:

The Committee on the Judiciary is conducting oversight of how and the extent to which the Executive Branch has coerced and colluded with companies and other intermediaries to censor speech.[1] To develop effective legislation, such as the possible enactment of new statutory limits on the Executive Branch's ability to work with social media platforms and other companies to restrict the circulation of content and deplatform users, the Committee on the Judiciary must first understand how and to what extent the Executive Branch coerced and colluded with companies and other intermediaries to censor speech. To this end, we have asked for communications between the Executive Branch and the Center for Internet Security. In addition to other key information, we have also asked for communications between companies including social media companies and the Center for Internet Security, in order to understand, among other things, the extent to which content moderation occurred as a result of the government's influence. Your response without compulsory process has been inadequate.

The Twitter Files and other public reporting have exposed how the federal government, Big Tech, and various intermediaries have worked hand in hand in ways that undermine First Amendment principles. Numerous internal documents made publicly available reflect the weaponization of the federal government's power to censor speech online directly and by proxy. It is necessary for Congress to gauge the extent to which the federal government or one of its proxies worked with or relied upon the Center for Internet Security in order to censor speech. This includes intermediaries who may or may not have had a full understanding of the government's efforts and motivations.

[1] *See generally* Ken Klippenstein & Lee Fang, *Truth Cops: Leaked Documents Outline DHS's Plans to Police Disinformation*, THE INTERCEPT (Oct. 31, 2022); Editorial Board, *The White House and Twitter Censorship*, WALL ST. J. (Aug. 12, 2022); Editorial Board, *How the Feds Coordinate With Facebook on Censorship*, WALL ST. J. (Sept. 9, 2022).

Pursuant to the Rules of the House of Representatives, the Committee on the Judiciary has jurisdiction to conduct oversight of matters concerning "civil liberties" to inform potential legislative reforms.[2] In addition, H. Res. 12 authorized the Committee's Select Subcommittee on the Weaponization of the Federal Government to investigate "issues related to the violation of the civil liberties of citizens of the United States."[3]

Accordingly, please find attached a subpoena.

Sincerely,

Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

[2] Rules of the House of Representatives R. X (2023).
[3] H. Res. 12 § 1(b)(1).

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

ONE HUNDRED EIGHTEENTH CONGRESS

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April 5, 2023

Dr. Jeff Hancock and Dr. Nathaniel Persily
Co-Directors
Stanford Cyber Policy Center
Encina Hall
616 Jane Stanford Way
Stanford University
Stanford, CA 94305

Dear Dr. Hancock and Dr. Persily:

The Committee on the Judiciary is conducting oversight of how and the extent to which the Executive Branch has coerced and colluded with companies and other intermediaries to censor speech.[1] To develop effective legislation, such as the possible enactment of new statutory limits on the Executive Branch's ability to work with social media platforms and other companies to restrict the circulation of content and deplatform users, the Committee on the Judiciary must first understand how and to what extent the Executive Branch coerced and colluded with companies and other intermediaries to censor speech. To this end, we have asked for communications between the Executive Branch and the Stanford Internet Observatory. In addition to other key information, we have also asked for communications between companies including social media companies and the Stanford Internet Observatory, in order to understand, among other things, the extent to which content moderation occurred as a result of the government's influence. Your response without compulsory process has been inadequate.

The Twitter Files and other public reporting have exposed how the federal government, Big Tech, and various intermediaries have worked hand in hand in ways that undermine First Amendment principles. Numerous internal documents made publicly available reflect the weaponization of the federal government's power to censor speech online directly and by proxy. It is necessary for Congress to gauge the extent to which the federal government or one of its proxies worked with or relied upon the Stanford Internet Observatory in order to censor speech.

[1] *See generally* Ken Klippenstein & Lee Fang, *Truth Cops: Leaked Documents Outline DHS's Plans to Police Disinformation*, THE INTERCEPT (Oct. 31, 2022); Editorial Board, *The White House and Twitter Censorship*, WALL ST. J. (Aug. 12, 2022); Editorial Board, *How the Feds Coordinate With Facebook on Censorship*, WALL ST. J. (Sept. 9, 2022).

This includes intermediaries who may or may not have had a full understanding of the government's efforts and motivations.

Pursuant to the Rules of the House of Representatives, the Committee on the Judiciary has jurisdiction to conduct oversight of matters concerning "civil liberties" to inform potential legislative reforms.[2] In addition, H. Res. 12 authorized the Committee's Select Subcommittee on the Weaponization of the Federal Government to investigate "issues related to the violation of the civil liberties of citizens of the United States."[3]

Accordingly, please find attached a subpoena.

Sincerely,

Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

[2] Rules of the House of Representatives R. X (2023).
[3] H. Res. 12 § 1(b)(1).

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

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April 5, 2023

Mr. Frederick Kempe
President and CEO
The Atlantic Council of the United States
1030 15th St NW
12th Floor
Washington, DC 20005

Dear Mr. Kempe:

The Committee on the Judiciary is conducting oversight of how and the extent to which the Executive Branch has coerced and colluded with companies and other intermediaries to censor speech.[1] To develop effective legislation, such as the possible enactment of new statutory limits on the Executive Branch's ability to work with social media platforms and other companies to restrict the circulation of content and deplatform users, the Committee on the Judiciary must first understand how and to what extent the Executive Branch coerced and colluded with companies and other intermediaries to censor speech. To this end, we have asked for communications between the Executive Branch and the Atlantic Council. In addition to other key information, we have also asked for communications between companies including social media companies and the Atlantic Council, in order to understand, among other things, the extent to which content moderation occurred as a result of the government's influence. Your response without compulsory process has been inadequate.

The Twitter Files and other public reporting have exposed how the federal government, Big Tech, and various intermediaries have worked hand in hand in ways that undermine First Amendment principles. Numerous internal documents made publicly available reflect the weaponization of the federal government's power to censor speech online directly and by proxy. It is necessary for Congress to gauge the extent to which the federal government or one of its proxies worked with or relied upon the Atlantic Council in order to censor speech. This includes intermediaries who may or may not have had a full understanding of the government's efforts and motivations.

[1] *See generally* Ken Klippenstein & Lee Fang, *Truth Cops: Leaked Documents Outline DHS's Plans to Police Disinformation*, THE INTERCEPT (Oct. 31, 2022); Editorial Board, *The White House and Twitter Censorship*, WALL ST. J. (Aug. 12, 2022); Editorial Board, *How the Feds Coordinate With Facebook on Censorship*, WALL ST. J. (Sept. 9, 2022).

Pursuant to the Rules of the House of Representatives, the Committee on the Judiciary has jurisdiction to conduct oversight of matters concerning "civil liberties" to inform potential legislative reforms.[2] In addition, H. Res. 12 authorized the Committee's Select Subcommittee on the Weaponization of the Federal Government to investigate "issues related to the violation of the civil liberties of citizens of the United States."[3]

Accordingly, please find attached a subpoena.

Sincerely,

Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

[2] Rules of the House of Representatives R. X (2023).
[3] H. Res. 12 § 1(b)(1).

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States
House of Representatives
COMMITTEE ON THE JUDICIARY
2138 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6216
(202) 225–6906
judiciary.house.gov

April 5, 2023

Mr. Bryan Palma
CEO
Trellix
6220 American Center Dr
San Jose, CA 95002

Dear Mr. Palma:

The Committee on the Judiciary is conducting oversight of how and the extent to which the Executive Branch has coerced and colluded with companies and other intermediaries to censor speech.[1] To develop effective legislation, such as the possible enactment of new statutory limits on the Executive Branch's ability to work with social media platforms and other companies to restrict the circulation of content and deplatform users, the Committee on the Judiciary must first understand how and to what extent the Executive Branch coerced and colluded with companies and other intermediaries to censor speech. To this end, we have asked for communications between the Executive Branch and Trellix. In addition to other key information, we have also asked for communications between companies including social media companies and Trellix, in order to understand, among other things, the extent to which content moderation occurred as a result of the government's influence. Your response without compulsory process has been inadequate.

The Twitter Files and other public reporting have exposed how the federal government, Big Tech, and various intermediaries have worked hand in hand in ways that undermine First Amendment principles. Numerous internal documents made publicly available reflect the weaponization of the federal government's power to censor speech online directly and by proxy. It is necessary for Congress to gauge the extent to which the federal government or one of its proxies worked with or relied upon Trellix in order to censor speech. This includes intermediaries who may or may not have had a full understanding of the government's efforts and motivations.

[1] *See generally* Ken Klippenstein & Lee Fang, *Truth Cops: Leaked Documents Outline DHS's Plans to Police Disinformation*, THE INTERCEPT (Oct. 31, 2022); Editorial Board, *The White House and Twitter Censorship*, WALL ST. J. (Aug. 12, 2022); Editorial Board, *How the Feds Coordinate With Facebook on Censorship*, WALL ST. J. (Sept. 9, 2022).

Pursuant to the Rules of the House of Representatives, the Committee on the Judiciary has jurisdiction to conduct oversight of matters concerning "civil liberties" to inform potential legislative reforms.[2] In addition, H. Res. 12 authorized the Committee's Select Subcommittee on the Weaponization of the Federal Government to investigate "issues related to the violation of the civil liberties of citizens of the United States."[3]

Accordingly, please find attached a subpoena.

Sincerely,

Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

[2] Rules of the House of Representatives R. X (2023).
[3] H. Res. 12 § 1(b)(1).

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

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April 5, 2023

Dr. Daniel R. Porterfield
President and CEO
The Aspen Institute, Inc.
2300 N St NW
Suite 700
Washington, DC 20037

Dear Dr. Porterfield:

The Committee on the Judiciary is conducting oversight of how and the extent to which the Executive Branch has coerced and colluded with companies and other intermediaries to censor speech.[1] To develop effective legislation, such as the possible enactment of new statutory limits on the Executive Branch's ability to work with social media platforms and other companies to restrict the circulation of content and deplatform users, the Committee on the Judiciary must first understand how and to what extent the Executive Branch coerced and colluded with companies and other intermediaries to censor speech. To this end, we have asked for communications between the Executive Branch and the Aspen Institute. In addition to other key information, we have also asked for communications between companies including social media companies and the Aspen Institute, in order to understand, among other things, the extent to which content moderation occurred as a result of the government's influence. Your response without compulsory process has been inadequate.

The Twitter Files and other public reporting have exposed how the federal government, Big Tech, and various intermediaries have worked hand in hand in ways that undermine First Amendment principles. Numerous internal documents made publicly available reflect the weaponization of the federal government's power to censor speech online directly and by proxy. It is necessary for Congress to gauge the extent to which the federal government or one of its proxies worked with or relied upon the Aspen Institute in order to censor speech. This includes

[1] *See generally* Ken Klippenstein & Lee Fang, *Truth Cops: Leaked Documents Outline DHS's Plans to Police Disinformation*, THE INTERCEPT (Oct. 31, 2022); Editorial Board, *The White House and Twitter Censorship*, WALL ST. J. (Aug. 12, 2022); Editorial Board, *How the Feds Coordinate With Facebook on Censorship*, WALL ST. J. (Sept. 9, 2022).

intermediaries who may or may not have had a full understanding of the government's efforts and motivations.

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JIM JORDAN, Ohio
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April 5, 2023

Mr. Matthew Prince
CEO
Cloudflare, Inc.
101 Townsend St
San Francisco, CA 94107

Dear Mr. Prince:

The Committee on the Judiciary is conducting oversight of how and the extent to which the Executive Branch has coerced and colluded with companies and other intermediaries to censor speech.[1] To develop effective legislation, such as the possible enactment of new statutory limits on the Executive Branch's ability to work with social media platforms and other companies to restrict the circulation of content and deplatform users, the Committee on the Judiciary must first understand how and to what extent the Executive Branch coerced and colluded with companies and other intermediaries to censor speech. To this end, we have asked for communications between the Executive Branch and Cloudflare. In addition to other key information, we have also asked for communications between companies including social media companies and Cloudflare, in order to understand, among other things, the extent to which content moderation occurred as a result of the government's influence. Your response without compulsory process has been inadequate.

The Twitter Files and other public reporting have exposed how the federal government, Big Tech, and various intermediaries have worked hand in hand in ways that undermine First Amendment principles. Numerous internal documents made publicly available reflect the weaponization of the federal government's power to censor speech online directly and by proxy. It is necessary for Congress to gauge the extent to which the federal government or one of its proxies worked with or relied upon Cloudflare in order to censor speech. This includes intermediaries who may or may not have had a full understanding of the government's efforts and motivations.

[1] *See generally* Ken Klippenstein & Lee Fang, *Truth Cops: Leaked Documents Outline DHS's Plans to Police Disinformation*, THE INTERCEPT (Oct. 31, 2022); Editorial Board, *The White House and Twitter Censorship*, WALL ST. J. (Aug. 12, 2022); Editorial Board, *How the Feds Coordinate With Facebook on Censorship*, WALL ST. J. (Sept. 9, 2022).

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Accordingly, please find attached a subpoena.

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Jim Jordan
Chairman

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JIM JORDAN, Ohio
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April 5, 2023

Records Custodian
Disinformation Index, Inc.
1209 Orange St
Corporation Trust Center
Wilmington, DE 19801

To Whom It May Concern:

The Committee on the Judiciary is conducting oversight of how and the extent to which the Executive Branch has coerced and colluded with companies and other intermediaries to censor speech.[1] To develop effective legislation, such as the possible enactment of new statutory limits on the Executive Branch's ability to work with social media platforms and other companies to restrict the circulation of content and deplatform users, the Committee on the Judiciary must first understand how and to what extent the Executive Branch coerced and colluded with companies and other intermediaries to censor speech. To this end, we have asked for communications between the Executive Branch and the Disinformation Index. In addition to other key information, we have also asked for communications between companies including social media companies and the Disinformation Index, in order to understand, among other things, the extent to which content moderation occurred as a result of the government's influence. Your response without compulsory process has been inadequate.

The Twitter Files and other public reporting have exposed how the federal government, Big Tech, and various intermediaries have worked hand in hand in ways that undermine First Amendment principles. Numerous internal documents made publicly available reflect the weaponization of the federal government's power to censor speech online directly and by proxy. It is necessary for Congress to gauge the extent to which the federal government or one of its proxies worked with or relied upon the Disinformation Index in order to censor speech. This includes intermediaries who may or may not have had a full understanding of the government's efforts and motivations.

[1] *See generally* Ken Klippenstein & Lee Fang, *Truth Cops: Leaked Documents Outline DHS's Plans to Police Disinformation*, THE INTERCEPT (Oct. 31, 2022); Editorial Board, *The White House and Twitter Censorship*, WALL ST. J. (Aug. 12, 2022); Editorial Board, *How the Feds Coordinate With Facebook on Censorship*, WALL ST. J. (Sept. 9, 2022).

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Jim Jordan
Chairman

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JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

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April 6, 2023

Mr. Ross Frenett
CEO
Moonshot CVE USA, Inc.
1725 I Street NW
Suite 300
Washington, DC 20006

Dear Mr. Frenett:

The Committee on the Judiciary is conducting oversight of how and the extent to which the Executive Branch has coerced and colluded with companies and other intermediaries to censor speech.[1] To develop effective legislation, such as the possible enactment of new statutory limits on the Executive Branch's ability to work with social media platforms and other companies to restrict the circulation of content and deplatform users, the Committee on the Judiciary must first understand how and to what extent the Executive Branch coerced and colluded with companies and other intermediaries to censor speech. To this end, we have asked for communications between the Executive Branch and Moonshot. In addition to other key information, we have also asked for communications between companies including social media companies and Moonshot, in order to understand, among other things, the extent to which content moderation occurred as a result of the government's influence. Your response without compulsory process has been inadequate.

The Twitter Files and other public reporting have exposed how the federal government, Big Tech, and various intermediaries have worked hand in hand in ways that undermine First Amendment principles. Numerous internal documents made publicly available reflect the weaponization of the federal government's power to censor speech online directly and by proxy. It is necessary for Congress to gauge the extent to which the federal government or one of its proxies worked with or relied upon Moonshot in order to censor speech. This includes intermediaries who may or may not have had a full understanding of the government's efforts and motivations.

[1] *See generally* Ken Klippenstein & Lee Fang, *Truth Cops: Leaked Documents Outline DHS's Plans to Police Disinformation*, THE INTERCEPT (Oct. 31, 2022); Editorial Board, *The White House and Twitter Censorship*, WALL ST. J. (Aug. 12, 2022); Editorial Board, *How the Feds Coordinate With Facebook on Censorship*, WALL ST. J. (Sept. 9, 2022).

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Accordingly, please find attached a subpoena.

Sincerely,

Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

[2] Rules of the House of Representatives R. X (2023).
[3] H. Res. 12 § 1(b)(1).

JIM JORDAN, Ohio
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April 6, 2023

Mr. Mark F. Pomerantz
Former New York County Special Assistant District Attorney
Free & Fair Litigation Group
128 E. Broadway, Unit 793
New York, NY 10002

Dear Mr. Pomerantz:

The Committee on the Judiciary is conducting oversight of the New York County District Attorney's unprecedented indictment of a former President of the United States and current declared candidate for that office. On March 22, 2023, we requested that you voluntarily cooperate with our oversight by providing relevant documents and testimony pertaining to your role as a special assistant district attorney leading the investigation into the former President's finances.[1] We received a reply letter dated March 27, 2023, stating that, at the instruction of the New York County District Attorney's Office, you would not cooperate with our oversight.[2] You enclosed a copy of a letter from the New York County District Attorney's Office directing you not to cooperate.[3]

The Supreme Court has recognized that Congress has a "broad and indispensable" power to conduct oversight, which "encompasses inquiries into the administration of existing laws, studies of proposed laws, and surveys in our social, economic or political system for the purpose of enabling Congress to remedy them."[4] Rule X of the Rules of the House of Representatives authorizes the Committee on the Judiciary to conduct oversight of criminal justice matters to inform potential legislation.[5] Congress has a specific and manifestly important interest in preventing politically motivated prosecutions of current and former Presidents by elected state

[1] Letter from Rep. Jim Jordan, H. Comm. on the Judiciary, to Mr. Mark F. Pomerantz, Former N.Y. Co. Special Assistant District Att'y (Mar. 22, 2023).
[2] Letter from Mr. Mark F. Pomerantz, Former N.Y. Co. Special Assistant District Att'y, to Rep. Jim Jordan, H. Comm. on the Judiciary (Mar. 27, 2023).
[3] Letter from Leslie B. Dubeck, Gen. Counsel, N.Y. Co. District Att'y Off., to Mr. Mark F. Pomerantz, Former N.Y. Co. Special Assistant District Att'y (Mar. 25, 2023).
[4] *See, e.g.*, *Trump v. Mazars LLP*, No. 19-715 at 11 (U.S. slip op. July 9, 2020) (internal quotation marks and citations omitted).
[5] Rules of the U.S. House of Representatives, R. X(l)(5) (2023).

and local prosecutors, particularly in jurisdictions—like New York County—where the prosecutor is popularly elected and trial-level judges lack life tenure. Among other things, if state or local prosecutors are able to engage in politically motivated prosecutions of Presidents of the United States (current or former) for personal acts, this could have a profound impact on how Presidents choose to exercise their powers while in office. For example, a President could choose to avoid taking action he believes to be in the national interest because it would negatively impact New York City for fear that he would be subject to a retaliatory prosecution in New York City.

As a result, the New York County District Attorney's unprecedented prosecutorial conduct requires oversight to inform the consideration of potential legislative reforms that would, if enacted, insulate current and former Presidents from such politically motivated state and local prosecutions. These potential legislative reforms may include, among other things, broadening the existing statutory right of removal of certain criminal cases from state court to federal court. The local prosecution of a former President also raises the potential for conflict between the federal law-enforcement officials required by federal law to protect a former President and local law-enforcement officials required to enforce an indictment and exercise control of him throughout his presence in the local criminal justice system. The Committee may consider legislative reforms to address or remedy this potential conflict. In addition, the New York County District Attorney's Office has acknowledged that it used federal forfeiture funds in its investigations of President Trump, including during your tenure in that office and during the time when former President Trump was in office and a candidate for re-election.[6] The Committee may therefore consider legislation to enhance reporting requirements concerning the use of federal forfeiture funds or to prohibit the use of federal forfeiture funds to investigate a current or former President or presidential candidate.

Based on your unique role as a special assistant district attorney leading the investigation into President Trump's finances, you are uniquely situated to provide information that is relevant and necessary to inform the Committee's oversight and potential legislative reforms. Although the New York County District Attorney's Office has directed you not to cooperate with our oversight, you have already discussed many of the topics relevant to our oversight in a book you wrote and published in February 2023,[7] as well as in several public interviews to promote your book.[8] As a result, you have no basis to decline to testify about matters before the Committee that you have already discussed in your book and/or on a prime-time television program with an

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[6] *See* Letter from Leslie B. Dubeck, Gen. Counsel, N.Y. Co. District Att'y Off., to Rep. Jim Jordan, H. Comm. on the Judiciary 4 (Mar. 31, 2023) ("[O]f the federal forfeiture money that the Office helped collect, approximately $5,000 was spent on expenses incurred relating to the investigation of Donald J. Trump or the Trump Organization. These expenses were incurred between October 2019 and August 2021.").

[7] MARK POMERANTZ, PEOPLE VS. DONALD TRUMP: AN INSIDE ACCOUNT (2023).

[8] *See, e.g.*, Rachel Maddow Show, *Trump case 'cried out for federal investigation': Pomerantz*, MSNBC (Feb. 7, 2023) ("As I mentioned in the book, this case cried out for federal investigation . . . . I don't know why there was never an intensive federal investigation of Trump's finances."); 60 Minutes, *Mark Pomerantz on investigating Donald Trump*, CBS NEWS (Feb. 5, 2023) ("[Bragg] did not say to slow down. He never said, 'I don't wanna be rushed. There's not enough time. I need more time to study the facts.' He said, 'Okay. You need a decision? You get a decision.' And the decision was no. 'You're not going forward.'").

audience in the millions, including on the basis of any purported duty of confidentiality or privilege interest.

Your book discloses various details about the New York County District Attorney's Office's investigation of President Trump, including internal deliberations about the investigation. Indeed, you discuss how members of the Office viewed the credibility of a key witness in the case, and you note their concerns about the case's dim prospects. For example, in your book, you recount a "mini-revolt" that occurred following an internal Office meeting on September 21, 2021, about the investigations into President Trump.[9] You offer details about a disagreement between you and the Office's Major Economic Crimes Bureau Chief, Julieta Lozano, about Michael Cohen's credibility as a witness in the investigation.[10] You also complain about concerns expressed by Chris Conroy, the Office's Investigative Division Chief, during a meeting on November 12, 2021.[11] According to you, Conroy "spoke about his misgivings" about the Trump investigation, which stemmed from a recent case involving financial and accounting fraud charges that mirrored the charges that the Office was considering pursuing against President Trump.[12] That case apparently ended poorly for the New York County District Attorney's Office.[13] Like Lozano, Conroy also expressed concerns about Cohen's viability as a witness.[14] You accuse other lawyers of being "relentlessly negative, dwelling on all the difficulties and issues with the case, and refusing to acknowledge the positives" during an internal meeting on December 10, 2021, referring to your former colleagues as "conscientious objectors" merely for opining that the case was "weak" and pointing to its "many fatal flaws."[15] You ultimately dismiss their concerns about the investigation by suggesting that they were either too lazy to do the work, did not know the evidence, or were somehow afraid of bringing charges against President Trump.[16]

Your book, described as a "300-page exercise in score-settling and scorn,"[17] also reveals the extent to which the New York County District Attorney's Office's investigation of President Trump appears to have been politically motivated. Specifically, you describe your eagerness to investigate President Trump, writing that you were "delighted" to join an unpaid group of lawyers advising on the Trump investigations, and joking that salary negotiations had gone "great" because you would have paid to join the investigation.[18] You frivolously compare President Trump to mob boss John Gotti,[19] and claim that the District Attorney's Office was "warranted in throwing the book" at President Trump because, in your view, he "had become a master of breaking the law in ways that were difficult to reach."[20] You explain that this "collective weight" of President Trump's conduct over the years "left no doubt in [your] mind

[9] POMERANTZ, *supra* note 7, at 159.
[10] *Id.*
[11] *Id.* at 171.
[12] *Id.*
[13] *Id.*
[14] *Id.*
[15] *Id.* at 191–92, 194.
[16] *Id.* at 160, 171–72.
[17] Lloyd Green, *People vs Donald Trump review: Mark Pomerantz pummels Manhattan DA*, THE GUARDIAN (Feb. 11, 2023).
[18] POMERANTZ, *supra* note 7, at 6, 21–22.
[19] *Id.* at 108–09.
[20] *Id.* at 112.

that [President] Trump deserved to be prosecuted."[21] In other words, as a special assistant district attorney, you seem, for reasons unrelated to the facts of this particular investigation, to have been searching for any basis on which to bring criminal charges.[22]

Although you claim that you were "able to put aside [your] personal feelings about [President] Trump" during the investigation, the depth of your personal animosity towards him is apparent in your writing. You wrote of President Trump:

> I saw him as a malignant narcissist, and perhaps even a megalomaniac who posed a real danger to the country and the ideals that mattered to me. His behavior made me angry, sad, and even disgusted.[23]

You additionally "marveled at the thought" of being "at the center of what might become one of the most consequential criminal cases ever brought."[24] You reflect on your "only similar experience," which you indicated was the "indictment of Osama bin Laden and other members of al Qaeda for the bombing of the United States embassies in Kenya and Tanzania."[25] Drawing a parallel between these two vastly different matters speaks volumes about the mindset that you brought to the investigation of President Trump.

These perceptions appear to have colored your work as a special assistant district attorney, to the point that you even resigned because the investigation into President Trump was not proceeding fast enough for your liking.[26] In your resignation letter, you prejudged the results of the District Attorney's investigation, writing that "Donald Trump is guilty of numerous felony violations," and vowing not to be a "passive participant" to "a grave failure of justice."[27] Your public resignation reportedly left District Attorney Bragg "deeply stung," and caused him to issue an "unusual" public statement "emphasizing that the investigation into Trump and his business was far from over."[28] Your book also contributed to the "political pressure" on District Attorney Bragg to bring charges against former President Trump.[29]

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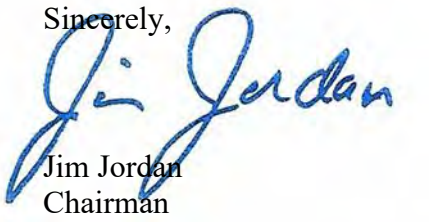
[21] *Id.* at 112–13.
[22] *See also* Rachel Maddow Show, *Watch Rachel Maddow Highlights: Feb. 6*, YOUTUBE (Feb. 6, 2023) ("[W]e were trying to work quickly. Bringing a racketeering case, particularly one that includes [other crimes], it's such a big ball of wax that, ultimately, we decided, you know what, let's focus on a smaller, more contained set of charges. That's when we started to focus on the financial statements.").
[23] POMERANTZ, *supra* note 7, at 176.
[24] *Id.* at 194–95.
[25] *Id.*
[26] *Read the Full Text of Mark Pomerantz's Resignation Letter*, N.Y. TIMES (Mar. 23, 2022).
[27] *Id.*
[28] Mark Berman et al., *The prosecutor, the ex-president and the 'zombie' case that came back to life*, WASH. POST (Mar. 17, 2023).
[29] Luc Cohen, *Trump charges follow criticism of Manhattan prosecutor for not acting sooner*, REUTERS (Mar. 31, 2023).

Accordingly, for these reasons, and in light of your disregard of our earlier voluntary request, please find attached a subpoena compelling your appearance for a deposition.

Sincerely,



Jim Jordan
Chairman

cc: The Honorable Jerrold Nadler, Ranking Member

Enclosure

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

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April 10, 2023

The Honorable Christopher A. Wray
Director
Federal Bureau of Investigation
935 Pennsylvania Avenue, N.W.
Washington, DC 20535

Dear Director Wray:

The Committee on the Judiciary is conducting oversight of the Federal Bureau of Investigation's (FBI) handling of domestic violent extremism investigations against Catholic Americans and its effect on protected First Amendment activity. Based on the limited information produced by the FBI to the Committee, we now know that the FBI relied on at least one undercover agent to produce its analysis, and that the FBI proposed that its agents engage in outreach to Catholic parishes to develop sources among the clergy and church leadership to inform on Americans practicing their faith. This shocking information reinforces our need for all responsive documents, and the Committee is issuing a subpoena to you to compel your full cooperation.

We have repeatedly sought information from the FBI relating to a January 23, 2023 document generated by the Richmond Field Office entitled "Interest of Racially or Ethnically Motivated Violent Extremists in Radical-Traditionalist Catholic Ideology Almost Certainly Presents New Mitigation Opportunities" ("FBI's Richmond document").[1] In this document, the FBI purported to categorize Catholic Americans based on theological distinctions and relied on the Southern Poverty Law Center to suggest that certain kinds of Catholic Americans may be domestic terrorists.[2] On February 16, 2023, we first wrote to you requesting documents and information to inform our oversight.[3] After receiving no response, we reiterated our outstanding requests in a subsequent letter dated March 20, 2023.[4] On March 23, 2023, we received a

[1] Fed. Bureau of Investigation, U.S. Dep't of Justice, Domain Perspective, Interest of Racially or Ethnically Motivated Violent Extremists in Radical-Traditionalist Catholic Ideology Almost Certainly Presents New Mitigation Opportunities (Jan. 23, 2023).
[2] *Id.*
[3] *See*, Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Hon. Christopher A. Wray, Dir., Fed. Bureau of Investigation (Feb. 16, 2023).
[4] *See*, Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Hon. Christopher A. Wray, Dir., Fed. Bureau of Investigation (Mar. 20, 2023).

substandard and partial response consisting of only 18 pages—many with significant redactions of "personally identifiable information" or "specific non-public information about [FBI] investigations, sources, and methods" that prevents the Committee from fully assessing the content and context of the documents and obtaining information requested from the Bureau.[5]

The limited information that was provided to the Committee makes clear that we must possess all responsive material without redactions. From this selective production, we know that the FBI, relying on information derived from at least one undercover employee, sought to use local religious organizations as "new avenues for tripwire and source development."[6] For example, in a section of the document entitled "Opportunities," the FBI wrote:

> In addition to [redaction], engage in outreach to the leadership of other [Society of Saint Pius X] chapels in the FBI Richmond [area of responsibility] to sensitize these congregations to the warning signs of radicalization and **to enlist their assistance to serve as suspicious activity tripwires**.[7]

The FBI similarly noted two other opportunities to engage in outreach with religious institutions in the Richmond area, citing a desire "to sensitize the congregation to the warning signs of radicalization and enlist their assistance to serve as suspicious activity tripwires."[8] This outreach plan even included contacting so-called "mainline Catholic parishes" and the local "diocesan leadership[]."[9] The FBI also expressed an interest in "leverag[ing] existing sources and/or initiat[ing] Type 5 Assessments to develop new sources with the placement and access" to report on suspicious activity.[10]

This information is outrageous and only reinforces the Committee's need for all FBI material responsive to our request. The documents produced to date show how the FBI sought to enlist Catholic houses of worship as potential sources to monitor and report on their parishioners. Americans attend church to worship and congregate for their spiritual and personal betterment. They must be free to exercise their fundamental First Amendment rights without worrying that the FBI may have planted so-called "tripwire" sources or other informants in their houses of worship.

Although the FBI claims to have "numerous" and "rigorous" policies to protect First Amendment rights,[11] the FBI's Richmond document plainly undercuts these assertions. The document itself shows that its contents, including its proposal to develop sources in Catholic churches, were reviewed and approved by two senior intelligence analysts and even the local

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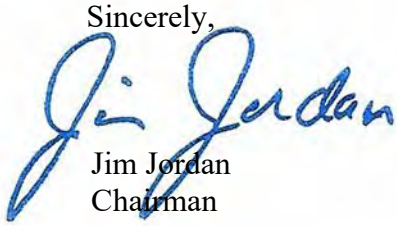
[5] Letter from Christopher Dunham, Acting Asst. Dir., Fed. Bureau of Investigation, to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Mar. 23, 2023).
[6] *Id.* (encl.).
[7] *Id.* (emphasis added).
[8] *Id.*
[9] *Id.*
[10] *Id.*
[11] Letter from Dunham, *supra* note 5.

Chief Division Counsel. We know from whistleblowers that the FBI distributed this document to field offices across the country. It is unclear, however, how many FBI employees explored "new avenues for tripwire and source development" in Catholic houses of worship across the country as a result of the FBI's Richmond document.

The Supreme Court has recognized that Congress has a "broad and indispensable" power to conduct oversight, which "encompasses inquiries into the administration of existing laws, studies of proposed laws, and surveys in our social, economic or political system for the purpose of enabling Congress to remedy them."[12] Pursuant to the Rules of the House of Representatives, the Committee is authorized to conduct oversight of the Justice Department and FBI—including with respect to the agencies' use of law-enforcement and counterterrorism resources and their policies to protect civil liberties—to inform potential legislative reforms.[13] These potential legislative reforms could include, among other proposals, legislation to prescribe how federal law-enforcement entities investigate constitutionally protected activity, legislation to educate federal law-enforcement personnel on civil liberty protections, or legislation to prevent the misuse of federal law-enforcement and counterterrorism resources in the future. The information we have requested about the FBI's Richmond document is necessary to inform such potential legislation.

Accordingly, and in light of your disregard of our earlier voluntary requests, please find attached a subpoena for the requested documents and information.

Sincerely,



Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

Enclosure

[12] *See, e.g.*, *Trump v. Mazars LLP*, No. 19-715 at 11 (U.S. slip op. July 9, 2020) (internal quotation marks and citations omitted).
[13] Rules of the U.S. House of Representatives, R. X (2023).

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States
House of Representatives
COMMITTEE ON THE JUDICIARY
2138 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6216
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judiciary.house.gov

April 12, 2023

Mr. Alex Stamos
Director
Stanford Internet Observatory
Encina Hall
616 Jane Stanford Way
Stanford University
Stanford, CA 94305

Dear Mr. Stamos:

The Committee on the Judiciary is conducting oversight of how and the extent to which the Executive Branch has coerced and colluded with companies and other intermediaries to censor speech.[1] To develop effective legislation, such as the possible enactment of new statutory limits on the Executive Branch's ability to work with social media platforms and other companies to restrict the circulation of content and deplatform users, the Committee on the Judiciary must first understand how and to what extent the Executive Branch coerced and colluded with companies and other intermediaries to censor speech. To this end, we have asked for communications between the Executive Branch and the Stanford Internet Observatory. In addition to other key information, we have also asked for communications between companies including social media companies and the Stanford Internet Observatory, in order to understand, among other things, the extent to which content moderation occurred as a result of the government's influence. Your response without compulsory process has been inadequate.

The Twitter Files and other public reporting have exposed how the federal government, Big Tech, and various intermediaries have worked hand in hand in ways that undermine First Amendment principles. Numerous internal documents made publicly available reflect the weaponization of the federal government's power to censor speech online directly and by proxy. It is necessary for Congress to gauge the extent to which the federal government or one of its proxies worked with or relied upon the Stanford Internet Observatory in order to censor speech.

[1] *See generally* Ken Klippenstein & Lee Fang, *Truth Cops: Leaked Documents Outline DHS's Plans to Police Disinformation*, THE INTERCEPT (Oct. 31, 2022); Editorial Board, *The White House and Twitter Censorship*, WALL ST. J. (Aug. 12, 2022); Editorial Board, *How the Feds Coordinate With Facebook on Censorship*, WALL ST. J. (Sept. 9, 2022).

This includes intermediaries who may or may not have had a full understanding of the government's efforts and motivations.

Pursuant to the Rules of the House of Representatives, the Committee on the Judiciary has jurisdiction to conduct oversight of matters concerning "civil liberties" to inform potential legislative reforms.[2] In addition, H. Res. 12 authorized the Committee's Select Subcommittee on the Weaponization of the Federal Government to investigate "issues related to the violation of the civil liberties of citizens of the United States."[3]

Accordingly, please find attached a subpoena.

Sincerely,

Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

Enclosure

[2] Rules of the House of Representatives R. X (2023).
[3] H. Res. 12 § 1(b)(1).

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

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April 12, 2023

The Honorable Lina Khan
Chair
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, DC 20580

Dear Chair Khan:

The Committee on the Judiciary is conducting oversight of the Federal Trade Commission's (FTC) abuse of its statutory authorities in investigating Twitter. On March 10, 2023, the Committee wrote to you requesting relevant documents and information about the FTC's recent actions against Twitter.[1] To date, your voluntary compliance has been woefully insufficient. Accordingly, the Committee is issuing a subpoena to compel the production of documents necessary to inform our oversight.

On March 7, 2023, the Select Subcommittee on the Weaponization of the Federal Government released a report revealing how the FTC made inappropriate and burdensome demands coinciding with Elon Musk's acquisition of the company.[2] The Select Subcommittee's report revealed how the FTC harassed Twitter in the wake of Mr. Musk's acquisition, demanding, among other things, the identities of the journalists with whom it was engaging and all communications relating to Mr. Musk.[3] Based on the information in this report showing how the FTC had abused it statutory and enforcement authority, the Committee requested information in its March 10 letter to inform our oversight.[4]

On March 27, 2023, you sent a response letter seeking to justify the scope of the FTC's inquiry into Twitter by linking it to the terms of a narrower FTC Order related to Twitter's privacy practices.[5] However, as our March 10 letter outlined—and the Select Subcommittee

[1] *See* Letter from Hon. Jim Jordan, Chair, H. Comm. on the Judic., & Hon. Ted Cruz to Lina Khan, Chair, Fed. Trade Comm'n (Mar. 10, 2023).
[2] H. COMM. ON THE JUDIC. & SEL. SUBCOMM. ON THE WEAPONIZATION OF THE FED. GOV'T, THE WEAPONIZATION OF THE FEDERAL TRADE COMMISSION: AN AGENCY'S OVERREACH TO HARASS ELON MUSK'S TWITTER (Mar. 7, 2023).
[3] *Id.*
[4] Letter from Jordan & Cruz, *supra* note 1.
[5] Letter from Lina Khan, Chair, Fed. Trade Comm'n, to Hon. Jim Jordan, Chair, H. Comm. on the Judic. (Mar. 27, 2023).

report explained in detail—the FTC's requests to Twitter were not limited to the scope of the Order,[6] making the FTC's justification pretextual at best. In addition, your letter addressed only one of the Committee's requests, instead deferring to unspecified "further engagement on [the Committee's] other requests."[7] The FTC also produced none of the requested documents.

The Committee sought to engage with the FTC on its outstanding requests during a hearing of the Committee's Subcommittee on Responsiveness and Accountability to Oversight on March 29, 2023.[8] During this hearing, the Director of the FTC's Office of Congressional Relations testified that she was largely unaware of any progress being made toward satisfying the Committee's requests.[9] For example, the Director did not know which FTC employee was overseeing the FTC's compliance with the Committee's requests,[10] and provided no information as to what information had been gathered or what sources were being reviewed for production, if any.[11] Following the hearing, in an exchange with Committee staff on April 3, 2023, FTC staff confirmed that the FTC had no immediate plans to provide the Committee with the documents and information it had requested.[12]

Based on this information, the Committee has good reason to believe that the FTC will not voluntarily produce the documents requested in our March 10 letter. The FTC's refusal to provide this material is unacceptable. As Subcommittee Chairman Cline explained at the March 29 hearing:

> The absence of a sound and transparent administrative process results in failed and costly Government policies. This is what we are seeing unfold at the FTC under Chair Lina Khan. It is incumbent on Congress to provide oversight to these matters. And such oversight will remain necessary while the FTC continues to take actions on matters its enabling statute does not authorize.[13]

The Supreme Court has recognized that Congress has a "broad and indispensable" power to conduct oversight, which "encompasses inquiries into the administration of existing laws, studies of proposed laws, and surveys in our social, economic or political system for the purpose of enabling Congress to remedy them."[14] Pursuant to the Rules of the House of Representatives, the Committee on the Judiciary is authorized to conduct oversight on matters relating to the

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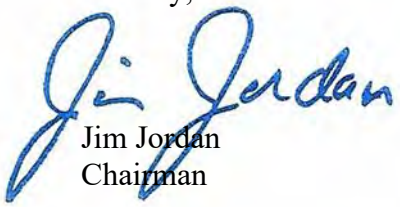
[6] *See* THE WEAPONIZATION OF THE FEDERAL TRADE COMMISSION, *supra* note 2, at 1-2.
[7] Letter from Khan, *supra* note 5.
[8] *"Compliance with Committee Oversight": Hearing before the Subcomm. on Responsiveness & Accountability to Oversight of the H. Comm. on the Judic.*, 118th Cong. (Mar. 29, 2023).
[9] *Id.*
[10] In an email communication following the hearing, FTC staff identified an employee who has oversight of the Bureau of Consumer Protection, but it is unclear whether this employee was actually overseeing or directing any collection of responsive materials.
[11] *"Compliance with Committee Oversight," supra* note 8.
[12] Telephone meeting between FTC Office of Congressional Relations staff and House Committee on the Judiciary staff (Apr. 3, 2023).
[13] *"Compliance with Committee Oversight," supra* note 8.
[14] *See, e.g.*, *Trump v. Mazars LLP*, 140 S. Ct. 2019, 2031 (2020) (internal quotation marks and citations omitted).

"[p]rotection of trade and commerce against unlawful restraints and monopolies" to inform potential legislative reforms.[15] These legislative reforms could include, among other proposals, laws to ensure that the FTC's investigative and enforcement authority is not abused in ways that hurt commerce and competition or harm civil liberties and free speech.

Accordingly, and in light of your disregard of our earlier requests for voluntary compliance, please find attached a subpoena for the requested documents and information.

Sincerely,



Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

Enclosure

[15] Rules of the U.S. House of Representatives, R. X (2023).

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

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April 28, 2023

Mr. Steve Huffman
Co-Founder and CEO
Reddit Inc.
1455 Market Street
San Francisco, CA 94103

Dear Mr. Huffman:

The Committee on the Judiciary is conducting oversight of how and the extent to which the Executive Branch has coerced and colluded with companies and other intermediaries to censor speech.[1] To develop effective legislation, such as the possible enactment of new statutory limits on the Executive Branch's ability to work with social media platforms and other companies to restrict the circulation of content and deplatform users, the Committee on the Judiciary must first understand how and to what extent the Executive Branch coerced and colluded with companies and other intermediaries to censor speech.

The Twitter Files and other public reporting have exposed how the federal government, Big Tech, and various intermediaries have worked hand in hand in ways that undermine First Amendment principles. Numerous internal documents made publicly available reflect the weaponization of the federal government's power to censor speech online directly and by proxy. It is necessary for Congress to gauge the extent to which the federal government or one of its proxies worked with or relied upon Reddit in order to censor speech. The scope of the Committee's investigation includes intermediaries who may or may not have had a full understanding of the government's efforts and motivations.

On March 17, 2023, the Committee wrote to Reddit seeking its voluntary cooperation with our oversight. In particular, we asked for communications between the Executive Branch and Reddit, internal Reddit communications discussing communications from the Executive Branch, and Reddit communications with third parties that may have been working with the

[1] *See generally* Ken Klippenstein & Lee Fang, *Truth Cops: Leaked Documents Outline DHS's Plans to Police Disinformation*, THE INTERCEPT (Oct. 31, 2022); Editorial Board, *The White House and Twitter Censorship*, WALL ST. J. (Aug. 12, 2022); Editorial Board, *How the Feds Coordinate With Facebook on Censorship*, WALL ST. J. (Sept. 9, 2022).

Executive Branch, in addition to other key information. To date, Reddit has not provided the Committee with all requested records.

Pursuant to the Rules of the House of Representatives, the Committee on the Judiciary has jurisdiction to conduct oversight of matters concerning "civil liberties" to inform potential legislative reforms.[2] In addition, H. Res. 12 authorized the Committee's Select Subcommittee on the Weaponization of the Federal Government to investigate "issues related to the violation of the civil liberties of citizens of the United States."[3]

Accordingly, please find attached a subpoena.

Sincerely,

Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

Enclosure

[2] Rules of the House of Representatives R. X (2023).
[3] H. Res. 12 § 1(b)(1).

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

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April 28, 2023

Dr. Rochelle P. Walensky
Director
Centers for Disease Control and Prevention
1600 Clifton Road
Atlanta, GA 30329

Dear Dr. Walensky:

The Committee on the Judiciary is conducting oversight of how and the extent to which the Executive Branch has coerced and colluded with companies and other intermediaries to censor speech.[1] To develop effective legislation, such as the possible enactment of new statutory limits on the Executive Branch's ability to work with social media platforms and other companies to restrict the circulation of content and deplatform users, the Committee on the Judiciary must first understand how and to what extent the Executive Branch coerced and colluded with companies and other intermediaries to censor speech. To this end, we have asked for communications between the Centers for Disease Control and Prevention (CDC), private companies, and other third-party groups such as nonprofit organizations, in addition to other information. Your response without compulsory process has, to date, been inadequate.

The Twitter Files and other public reporting have exposed how the federal government has pressured and colluded with Big Tech and other intermediaries to censor certain viewpoints on social and other media in ways that undermine First Amendment principles. The First Amendment prohibits government officials from imposing viewpoint-based censorship restrictions. State action doctrine stands for the proposition that government officials may not circumvent constitutional strictures by using private actors—whether through coercion, encouragement, entwinement, or joint participation—to accomplish what the government cannot directly.

[1] *See generally* Ken Klippenstein & Lee Fang, *Truth Cops: Leaked Documents Outline DHS's Plans to Police Disinformation*, THE INTERCEPT (Oct. 31, 2022); Editorial Board, *The White House and Twitter Censorship*, WALL ST. J. (Aug. 12, 2022); Editorial Board, *How the Feds Coordinate With Facebook on Censorship*, WALL ST. J. (Sept. 9, 2022).

Numerous documents made publicly available reflect the weaponization of the federal government's power to censor speech online directly and by proxy. It is necessary for Congress to gauge the extent to which the CDC coerced, pressured, worked with, or relied upon social media and other tech companies in order to censor speech. The scope of the Committee's investigation includes understanding the extent and nature of the CDC's involvement in this censorship.

On March 22, 2023, the Committee wrote to the CDC seeking voluntary cooperation with our oversight.[2] Among other things, we asked for communications between the CDC and private companies, internal CDC communications, and communications between the CDC and other third parties discussing content moderation. To date, the CDC has failed to produce any documents responsive to the Committee's request.

Pursuant to the Rules of the House of Representatives, the Committee on the Judiciary has jurisdiction to conduct oversight of matters concerning "civil liberties" to inform potential legislative reforms.[3] In addition, H. Res. 12 authorized the Committee's Select Subcommittee on the Weaponization of the Federal Government to investigate "issues related to the violation of the civil liberties of citizens of the United States."[4]

Accordingly, and due to the CDC's inadequate voluntary compliance, please find attached a subpoena.

Sincerely,

Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

Enclosure

[2] Letter from Hon. Jim Jordan, Chair, H. Comm. on the Judic., to Dr. Rochelle Walensky, Director of CDC (Mar. 22, 2023).
[3] Rules of the House of Representatives R. X (2023).
[4] H. Res. 12 § 1(b)(1).

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

ONE HUNDRED EIGHTEENTH CONGRESS

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judiciary.house.gov

April 28, 2023

The Honorable Jen Easterly
Director
Cybersecurity and Infrastructure Security Agency
U.S. Department of Homeland Security
245 Murray Lane
Washington, DC 20528-0380

Dear Director Easterly:

The Committee on the Judiciary is conducting oversight of how and the extent to which the Executive Branch has coerced and colluded with companies and other intermediaries to censor speech.[1] To develop effective legislation, such as the possible enactment of new statutory limits on the Executive Branch's ability to work with social media platforms and other companies to restrict the circulation of content and deplatform users, the Committee on the Judiciary must first understand how and to what extent the Executive Branch coerced and colluded with companies and other intermediaries to censor speech. To this end, we have asked for communications between the Cybersecurity and Infrastructure Security Agency (CISA), private companies, and other third-party groups such as nonprofit organizations, in addition to other information. Your response without compulsory process has, to date, been inadequate.

The Twitter Files and other public reporting have exposed how the federal government has pressured and colluded with Big Tech and other intermediaries to censor certain viewpoints on social and other media in ways that undermine First Amendment principles. The First Amendment prohibits government officials from imposing viewpoint-based censorship restrictions. State action doctrine stands for the proposition that government officials may not circumvent constitutional strictures by using private actors—whether through coercion, encouragement, entwinement, or joint participation—to accomplish what the government cannot directly.

[1] *See generally* Ken Klippenstein & Lee Fang, *Truth Cops: Leaked Documents Outline DHS's Plans to Police Disinformation*, THE INTERCEPT (Oct. 31, 2022); Editorial Board, *The White House and Twitter Censorship*, WALL ST. J. (Aug. 12, 2022); Editorial Board, *How the Feds Coordinate With Facebook on Censorship*, WALL ST. J. (Sept. 9, 2022).

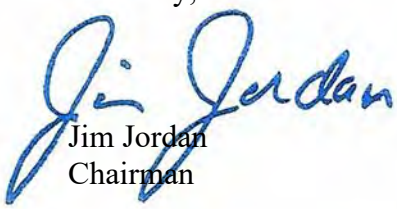
Numerous documents made publicly available reflect the weaponization of the federal government's power to censor speech online directly and by proxy. It is necessary for Congress to gauge the extent to which CISA coerced, pressured, worked with, or relied upon social media and other tech companies in order to censor speech. The scope of the Committee's investigation includes understanding the extent and nature of CISA's involvement in this censorship.

On March 22, 2023, the Committee wrote to CISA seeking voluntary cooperation with our oversight.[2] Among other things, we asked for communications between CISA and private companies, internal CISA communications, and communications between CISA and other third parties discussing content moderation. To date, CISA has failed to respond or to produce any documents responsive to the Committee's request.

Pursuant to the Rules of the House of Representatives, the Committee on the Judiciary has jurisdiction to conduct oversight of matters concerning "civil liberties" to inform potential legislative reforms.[3] In addition, H. Res. 12 authorized the Committee's Select Subcommittee on the Weaponization of the Federal Government to investigate "issues related to the violation of the civil liberties of citizens of the United States."[4]

Accordingly, and due to CISA's inadequate voluntary compliance, please find attached a subpoena.

Sincerely,



Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

Enclosure

[2] Letter from Hon. Jim Jordan, Chair, H. Comm. on the Judic., to Director Jen Easterly of CISA (Mar. 22, 2023).
[3] Rules of the House of Representatives R. X (2023).
[4] H. Res. 12 § 1(b)(1).

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

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judiciary.house.gov

April 28, 2023

Mr. James P. Rubin
Special Envoy and Coordinator
Global Engagement Center
U.S Department of State
2201 C Street NW
Washington, DC 20520

Dear Mr. Rubin:

The Committee on the Judiciary is conducting oversight of how and the extent to which the Executive Branch has coerced and colluded with companies and other intermediaries to censor speech.[1] To develop effective legislation, such as the possible enactment of new statutory limits on the Executive Branch's ability to work with social media platforms and other companies to restrict the circulation of content and deplatform users, the Committee on the Judiciary must first understand how and to what extent the Executive Branch coerced and colluded with companies and other intermediaries to censor speech. To this end, we have asked for communications between the Global Engagement Center (GEC), private companies, and other third-party groups such as nonprofit organizations, in addition to other information. Your response without compulsory process has, to date, been inadequate.

The Twitter Files and other public reporting have exposed how the federal government has pressured and colluded with Big Tech and other intermediaries to censor certain viewpoints on social and other media in ways that undermine First Amendment principles. The First Amendment prohibits government officials from imposing viewpoint-based censorship restrictions. State action doctrine stands for the proposition that government officials may not circumvent constitutional strictures by using private actors—whether through coercion, encouragement, entwinement, or joint participation—to accomplish what the government cannot directly.

[1] *See generally* Ken Klippenstein & Lee Fang, *Truth Cops: Leaked Documents Outline DHS's Plans to Police Disinformation*, THE INTERCEPT (Oct. 31, 2022); Editorial Board, *The White House and Twitter Censorship*, WALL ST. J. (Aug. 12, 2022); Editorial Board, *How the Feds Coordinate With Facebook on Censorship*, WALL ST. J. (Sept. 9, 2022).

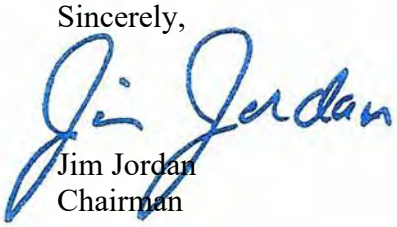
Numerous documents made publicly available reflect the weaponization of the federal government's power to censor speech online directly and by proxy. It is necessary for Congress to gauge the extent to which the GEC coerced, pressured, worked with, or relied upon social media and other tech companies in order to censor speech. The scope of the Committee's investigation includes understanding the extent and nature of the GEC's involvement in this censorship.

On March 22, 2023, the Committee wrote to the GEC seeking voluntary cooperation with our oversight.[2] Among other things, we asked for communications between the GEC and private companies, internal GEC communications, and communications between the GEC and other third parties discussing content moderation. To date, the GEC has failed to respond or to produce any documents responsive to the Committee's request.

Pursuant to the Rules of the House of Representatives, the Committee on the Judiciary has jurisdiction to conduct oversight of matters concerning "civil liberties" to inform potential legislative reforms.[3] In addition, H. Res. 12 authorized the Committee's Select Subcommittee on the Weaponization of the Federal Government to investigate "issues related to the violation of the civil liberties of citizens of the United States."[4]

Accordingly, and due to the GEC's inadequate voluntary compliance, please find attached a subpoena.

Sincerely,



Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

Enclosure

[2] Letter from Hon. Jim Jordan, Chair, H. Comm. on the Judic., to Mr. James P. Rubin of the GEC (Mar. 22, 2023).
[3] Rules of the House of Representatives R. X (2023).
[4] H. Res. 12 § 1(b)(1).

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

ONE HUNDRED EIGHTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON THE JUDICIARY
2138 RAYBURN HOUSE OFFICE BUILDING
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August 17, 2023

The Honorable Merrick Garland
Attorney General
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Garland:

The Committee on the Judiciary (Committee) is conducting oversight of how and the extent to which the Executive Branch has coerced and colluded with companies and other intermediaries to censor speech.[1] To develop effective legislation, such as the possible enactment of new statutory limits on the Executive Branch's ability to work with social media platforms and other companies to restrict the circulation of content and deplatform users, the Committee must first understand the nature of this collusion and coercion. To this end, we have asked for communications between the Department of Justice (DOJ), private companies, and other third-party groups such as nonprofit organizations, in addition to other information.[2] Your response without compulsory process has, to date, been woefully inadequate.

The Committee's investigation, along with other public reporting, and publicized discovery in an ongoing federal court case, *Missouri v. Biden*, have exposed how the federal government has pressured and colluded with Big Tech and other intermediaries to censor certain viewpoints on social and other media in ways that undermine First Amendment principles.[3] The First Amendment prohibits government officials from imposing viewpoint-based censorship restrictions. State action doctrine stands for the proposition that government officials may not circumvent constitutional strictures by using private actors—whether through coercion,

[1] *See* Rep. Jim Jordan (@Jim_Jordan), Twitter (July 27, 2023, 12:03 PM), https://twitter.com/Jim_Jordan/status/1684595375875760128.
[2] Letter from Hon. Jim Jordan, Chair, H. Comm. on the Judic., to Attorney General Garland (Apr. 18, 2023).
[3] *See, e.g.*, Ryan Tracy, *Facebook Bowed to White House Pressure, Removed Covid Posts*, Wall St. J. (July 28, 2023); Rep. Jim Jordan (@Jim_Jordan), Twitter (July 28, 2023, 12:03 PM), https://twitter.com/Jim_Jordan/status/1684957660515328001; Rep. Jim Jordan (@Jim_Jordan), Twitter (Aug. 3, 2023, 11:00 AM), https://twitter.com/Jim_Jordan/status/1687116316073930752

encouragement, entwinement, or joint participation—to accomplish what the government cannot directly.[4]

Numerous documents that have been made publicly available reflect the weaponization of the federal government's power to censor speech online directly and by proxy. It is necessary for Congress to gauge the extent to which DOJ officials have coerced, pressured, worked with, or relied upon social media and other tech companies to censor speech. The scope of the Committee's investigation includes understanding the extent and nature of DOJ's involvement in this censorship.

On April 18, the Committee wrote to you seeking your voluntary cooperation with our oversight.[5] Among other things, we asked for communications between DOJ employees and private companies, internal communications, and communications between DOJ and other third parties discussing content moderation. To date, DOJ has produced only a single document: a publicly available transcript of a civil deposition of Federal Bureau of Investigation Assistant Special Agent in Charge Elvis Chan from *Missouri v. Biden*. Through its investigation, the Committee has uncovered evidence that contradicts several statements in Agent Chan's deposition, particularly as they relate to his communications with social media platforms.[6]

This production is woefully inadequate and omits voluminous responsive material, including communications between DOJ and tech companies, internal communications, and communications between DOJ and other executive branch entities.

Notably, on July 4, the U.S. District Court for the Western District of Louisiana in *Missouri v. Biden* enjoined multiple government defendants from communicating with tech companies for the purpose of influencing their content moderation policies.[7] The court found that government defendants:

> "jointly participated" with the social-media companies to such an extent that [they] have become "pervasively entwined" in the private companies' workings to such an extent as to blur the line between public and private action. Therefore, Plaintiffs are likely to succeed on the merits that the government Defendants are responsible for the private social media companies' decisions to censor protected content on social media platforms.[8]

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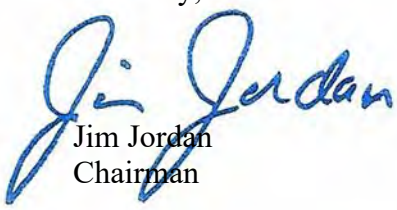
[4] *See Norwood v. Harrison*, 413 U.S. 455, 465 (1973) ("[i]t is … axiomatic that a state may not induce, encourage, or promote private persons to accomplish what it is constitutionally forbidden to accomplish.").
[5] Letter from Hon. Jim Jordan, Chair, H. Comm. on the Judic., to Attorney General Garland.
[6] Rep. Jim Jordan (@Jim_Jordan), Twitter (Aug. 7, 2023, 10:11 AM), https://twitter.com/Jim_Jordan/status/1688553339624042496.
[7] *See Missouri v. Biden*, No. 3:22-cv-01213 (W.D. La. Jul. 4, 2023), Dkt. 294 (order and judgment granting preliminary injunction). While the U.S. Court of Appeals for the Fifth Circuit administratively stayed the injunction, such a ruling is not based on the merits of the case. "Entering temporary administrative stays so that a panel may consider expedited briefing in emergency cases is routine practice in our court." *In re Abbott*, 800 F.App'x 296, 298 (5th Cir. 2020).
[8] *Id.*, Dkt. 293 (memorandum ruling on request for preliminary injunction) at 117.

In other words, a federal judge has found that the communications of various executive branch entities with social media platforms, including the Department of Justice, very likely violated Americans' First Amendment rights.[9] Yet you have produced nothing of substance in response to the Committee's request, which hinders the Committee's ability to fulfill its constitutional oversight obligations. The Committee has engaged with the FBI in identifying the Committee's highest priority documents and information in both letters to you and during calls with Committee staff.[10]

Pursuant to the Rules of the House of Representatives, the Committee has jurisdiction to conduct oversight of matters concerning "civil liberties" to inform potential legislative reforms.[11] In addition, H. Res. 12 authorized the Committee's Select Subcommittee on the Weaponization of the Federal Government to investigate "issues related to the violation of the civil liberties of citizens of the United States."[12]

Accordingly, given DOJ's inadequate voluntary compliance, even after the Committee identified the highest priority documents and information, please find attached a subpoena for the Committee's highest priority documents and information.

Sincerely,



Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

Enclosure

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[9] *Id.* at 106-07.
[10] *See, e.g.*, Letter from Hon. Jim Jordan, Chair, H. Comm. on the Judic., to Director Christopher Wray (July 20, 2023); August 8, 2023 Telephone Call between Committee Staff and FBI & Dep't of Justice Personnel.
[11] Rules of the House of Representatives R. X (2023).
[12] H. Res. 12 § 1(b)(1).

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States
House of Representatives
COMMITTEE ON THE JUDICIARY
2138 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6216
(202) 225-6906
judiciary.house.gov

August 17, 2023

The Honorable Christopher A. Wray
Director
Federal Bureau of Investigation
935 Pennsylvania Avenue, N.W.
Washington, DC 20535

Dear Director Wray:

The Committee on the Judiciary (Committee) is conducting oversight of how and the extent to which the Executive Branch has coerced and colluded with companies and other intermediaries to censor speech.[1] To develop effective legislation, such as the possible enactment of new statutory limits on the Executive Branch's ability to work with social media platforms and other companies to restrict the circulation of content and deplatform users, the Committee on the Judiciary must first understand the nature of this collusion and coercion. To this end, we have asked for communications between the Federal Bureau of Investigation (FBI), private companies, and other third-party groups such as nonprofit organizations, in addition to other information.[2] Your response without compulsory process has, to date, been woefully inadequate.

The Committee's investigation, along with other public reporting, and publicized discovery in an ongoing federal court case, *Missouri v. Biden*, have exposed how the federal government has pressured and colluded with Big Tech and other intermediaries to censor certain viewpoints on social and other media in ways that undermine First Amendment principles.[3] The First Amendment prohibits government officials from imposing viewpoint-based censorship restrictions. State action doctrine stands for the proposition that government officials may not circumvent constitutional strictures by using private actors—whether through coercion,

[1] *See* Rep. Jim Jordan (@Jim_Jordan), Twitter (July 27, 2023, 12:03 PM), https://twitter.com/Jim_Jordan/status/1684595375875760128.
[2] Letter from Hon. Jim Jordan, Chair, H. Comm. on the Judic., to Director Christopher Wray (Apr. 18, 2023).
[3] *See, e.g.*, Ryan Tracy, *Facebook Bowed to White House Pressure, Removed Covid Posts*, Wall St. J. (July 28, 2023); Rep. Jim Jordan (@Jim_Jordan), Twitter (July 28, 2023, 12:03 PM), https://twitter.com/Jim_Jordan/status/1684957660515328001; Rep. Jim Jordan (@Jim_Jordan), Twitter (Aug. 3, 2023, 11:00 AM), https://twitter.com/Jim_Jordan/status/1687116316073930752.

encouragement, entwinement, or joint participation—to accomplish what the government cannot directly.[4]

Numerous documents that have been made publicly available reflect the weaponization of the federal government's power to censor speech online directly and by proxy. It is necessary for Congress to gauge the extent to which FBI agents coerced, pressured, worked with, or relied upon social media and other tech companies in order to censor speech. The scope of the Committee's investigation includes understanding the extent and nature of the FBI's involvement in this censorship.

On April 18, the Committee wrote to you seeking your voluntary cooperation with our oversight.[5] Among other things, we asked for communications between FBI employees and private companies, internal communications, and communications between the FBI and other third parties discussing content moderation. To date, the FBI has produced only a single document: a publicly available transcript of a civil deposition of Federal Bureau of Investigation Assistant Special Agent in Charge Elvis Chan from *Missouri v. Biden*. Through its investigation, the Committee has uncovered evidence that contradicts several statements in Agent Chan's deposition, particularly as they relate to his communications with social media platforms.[6]

This production is woefully inadequate and omits voluminous responsive material, including communications between FBI and tech companies, internal communications, and communications between FBI and other executive branch entities.

Indeed, on July 4, the court in *Missouri v. Biden* enjoined the FBI from communicating with tech companies for the purpose of influencing their content moderation policies.[7] The court found that, along with other government defendants, the FBI, Agent Chan, and Agent Laura Dehmlow:

> "jointly participated" with the social-media companies to such an extent that [they] have become "pervasively entwined" in the private companies' workings to such an extent as to blur the line between public and private action. Therefore, Plaintiffs are likely to succeed on the merits that the government Defendants are responsible for the private social media companies' decisions to censor protected content on social media platforms.[8]

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[4] *See Norwood v. Harrison*, 413 U.S. 455, 465 (1973) ("[i]t is … axiomatic that a state may not induce, encourage, or promote private persons to accomplish what it is constitutionally forbidden to accomplish.").
[5] Letter from Hon. Jim Jordan, Chair, H. Comm. on the Judic., to Director Christopher Wray (Apr. 18, 2023).
[6] Rep. Jim Jordan (@Jim_Jordan), Twitter (Aug. 7, 2023, 10:11 AM), https://twitter.com/Jim_Jordan/status/1688553339624042496.
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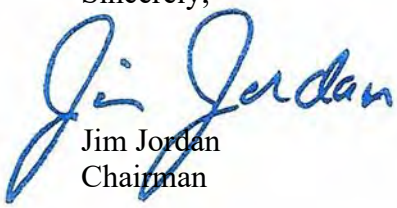
[8] *Id.*, Dkt. 293 (memorandum ruling on request for preliminary injunction) at 117.

In other words, a federal judge has found that the FBI's communications with social media platforms very likely violated Americans' First Amendment rights, including through joint participation and by use of deception.[9] Yet you have produced nothing of substance in response to the Committee's request, which hinders the Committee's ability to fulfill its constitutional oversight obligations. The Committee has engaged with the FBI in identifying the Committee's highest priority documents and information in both letters to you and during calls with Committee staff.[10]

Pursuant to the Rules of the House of Representatives, the Committee has jurisdiction to conduct oversight of matters concerning "civil liberties" to inform potential legislative reforms.[11] In addition, H. Res. 12 authorized the Committee's Select Subcommittee on the Weaponization of the Federal Government to investigate "issues related to the violation of the civil liberties of citizens of the United States."[12]

Accordingly, given the FBI's inadequate voluntary compliance, even after the Committee identified the highest priority documents and information, please find attached a subpoena for the Committee's highest priority documents and information.

Sincerely,



Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

Enclosure

[9] *Id.* at 106-07.
[10] *See, e.g.*, Letter from Hon. Jim Jordan, Chair, H. Comm. on the Judic., to Director Christopher Wray (July 20, 2023); August 8, 2023 Telephone Call between Committee Staff and FBI and Dep't of Justice Personnel.
[11] Rules of the House of Representatives R. X (2023).
[12] H. Res. 12 § 1(b)(1).

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

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Congress of the United States
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COMMITTEE ON THE JUDICIARY
2138 RAYBURN HOUSE OFFICE BUILDING
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August 17, 2023

Mr. Sunil Garg
Chief Executive Officer, Citibank N.A.
c/o Mark G. Eliades
Director & Associate General Counsel
Compliance & Investigations
388 Greenwich Street, 17th Floor
New York, NY 10013

Dear Mr. Garg:

The Committee on the Judiciary and the Select Subcommittee on the Weaponization of the Federal Government are conducting oversight of the Federal Bureau of Investigation (FBI) and its receipt of information about American citizens from private entities. On June 12, 2023, we requested your voluntary cooperation with our oversight to determine the extent to which financial institutions, such as Citibank, have worked with the FBI to collect Americans' financial data.[1] To date, Citibank has declined to comply with our request voluntarily, and counsel has represented that it will only comply pursuant to a subpoena.

The Committee and Select Subcommittee have obtained evidence showing that at least one major financial institution provided the FBI with private financial data without legal process. As first noted in our June 12 letter, testimony from current and former FBI officials shows that Bank of America (BoA) provided the FBI—voluntarily and without any legal process—with a list of individuals who made transactions in the Washington, D.C., metropolitan area with a BoA credit or debit card between January 5 and January 7, 2021.[2] The Committee has also learned that individuals who had previously purchased a firearm with a BoA product were elevated to the

[1] Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Jane Fraser, CEO, Citigroup (Jun. 12, 2023).

[2] Transcribed Interview of Mr. George Hill 74-75 (Feb. 7, 2023) (describing that "Bank of America, with no directive from the FBI, data-mined its customer base. And they data-mined a date range of 5 to 7 January of any BOA customer who used a BOA product"); Transcribed Interview of Mr. Steve Jensen 146 (May 19, 2023) (stating that "one of my unit chiefs . . . advised that a number of leads had gone out regarding Bank of America information of subjects"); Transcribed Interview with Mr. Joseph Bonavolonta 11 (May 4, 2023) ("I am aware of information that was forwarded to us related to a Bank of America lead, yes"); Transcribed Interview of Mr. Steven D'Antuono (Jun. 7, 2023) (recalling that "[he learned that Bank of America provided information] probably through the course of the investigation at some point.").

top of that list, regardless of the time or place of the firearm purchase.[3] Given this concerning testimony, the Committee has written to other major financial institutions, including Citibank, to determine whether those entities were involved in similar conduct.

Documents recently obtained by the Committee and Select Subcommittee have reinforced our concerns. These documents show that the FBI supplied BoA with specific search query terms, indicating that the FBI was "interested in all financial relationships" of BoA customers transacting in Washington D.C. and those customers who had made "ANY historical purchase" of a firearm, or that had purchased a hotel, Airbnb, or airline travel within a given date range.[4]

In addition, the Committee and Select Subcommittee have recently obtained documents that raise new concerns regarding the extent to which financial institutions, including Citibank, may have shared customer information with federal law enforcement despite the customers having no individualized nexus to criminal conduct. In particular, these documents indicate that a Citibank representative was included on emails and Zoom discussions organized by the FBI and the Financial Crimes Enforcement Network (FinCEN) focused on "identifying the best approach to information sharing, both strategic and operational," in the wake of the events of January 6.[5] These documents suggest that the executive branch was brainstorming informal methods—outside of legal process—for obtaining private customer information from financial institutions.

Date: Friday, January 29 2021 08:31 PM
Subject: [EXTERNAL] Capitol Riots Investigations
From: [redacted]@fbi.gov>
[redacted]@jpmchase.com> [redacted]@citi.com>; [redacted]
[redacted]@paypal.com> [redacted]@wellsfargo.com> [redacted]
To: [redacted]@us.hsbc.com>; [redacted]@sc.com>; [redacted]
[redacted]@bofa.com> [redacted]@usbank.com>; [redacted]
[redacted]@barclays.com> [redacted]@jpmchase.com> [redacted]
[redacted]@schwab.com>;
CC: [redacted]@fbi.gov>;

Good afternoon all,

For the past several months I have been working at our Washington Field Office under [redacted], who I believe most of you met while [redacted] was serving as the [redacted]. As the dust begins to settle here after the events of January 6th, [redacted] would like to hold a call with the goal of identifying the best approach to information sharing, both strategic and operational, related to the Capitol Riots. In the hopes of moving forward together quickly, we have set aside time at 2:30pm on Tuesday, February 2nd for this discussion. I will be sending out dial-in information first thing Monday and hope you, or someone from your team, is available to participate.

Thanks and have a great weekend!
Jill

[redacted]
Special Assistant to [redacted]
Federal Bureau of Investigation
Washington Field Office
[redacted]

Federal law enforcement's use of back-channel discussions with financial institutions as a method to investigate and obtain private financial data of Americans is alarming. The documents received to date only bolsters our need for all materials responsive to our request. The

[3] Hill, *supra* note 1 (observing that, "on top of that list, they put anyone who had purchased a firearm during any date.").
[4] BofA-HJUD-0000002 (on file with Committee).
[5] USBANK_HJC_00032 (on file with Committee).

Committee and Select Subcommittee must understand how and to what extent financial institutions, such as Citibank, worked with the FBI—and potentially other executive branch entities—to collect Americans' data without an individualized nexus to criminal conduct.

The Supreme Court has recognized that Congress has a "broad and indispensable" power to conduct oversight, which "encompasses inquiries into the administration of existing laws, studies of proposed laws, and surveys in our social, economic or political system for the purpose of enabling Congress to remedy them."[6] Pursuant to the Rules of the House of Representatives, the Committee is authorized to conduct oversight of matters involving civil liberties and criminal law to inform potential legislative reforms.[7] In addition, H. Res. 12 authorizes the Select Subcommittee to examine "how executive branch agencies work with, obtain information from, and provide information to the private sector . . . to facilitate action against American citizens."[8] The potential legislative reforms could include, among other proposals, legislation to prescribe how federal law-enforcement entities collect or receive private consumer data, legislation to enhance the protections of civil liberties for customers of financial institutions, or legislation to prevent the misuse of Americans' private financial information. The documents and information we have requested from Citibank are necessary to inform such potential legislation.

Accordingly, and in light of your lack of compliance with our earlier voluntary request and the representation from your counsel that Citibank requires a subpoena to comply with our oversight, please find attached a subpoena from the Committee on the Judiciary to compel the production of the requested documents.

Sincerely,

Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member
Mr. Reginald J. Brown, Kirkland & Ellis LLP

Enclosure

[6] *See, e.g., Trump v. Mazars LLP*, No. 19-715 at 11 (U.S. slip op. July 9, 2020) (internal quotation marks and citations omitted).
[7] Rules of the U.S. House of Representatives, R. X (2023).
[8] H. Res. 12, 118th Cong. (2023).

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States
House of Representatives
COMMITTEE ON THE JUDICIARY
2138 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6216
(202) 225–6906
judiciary.house.gov

August 21, 2023

Ms. Ryeshia Holley
Assistant Special Agent in Charge
Baltimore Field Office
Federal Bureau of Investigation
2600 Lord Baltimore Drive
Baltimore, MD 21244

Dear Ms. Holley:

The Committee on the Judiciary is conducting oversight of the Executive Branch's commitment to impartial justice, as well as investigating the veracity of statements made in response to congressional inquiries related to the Department of Justice's investigation of Hunter Biden. As a part of this oversight, the Committee requires testimony from several Department officials, including you, who have first-hand knowledge of the Department's investigation.

In a letter dated June 29, 2023, the Committee, along with the Committees on Ways and Means and Oversight and Accountability, requested transcribed interviews with eleven Department officials, including you.[1] The Department declined the request for voluntary compliance.[2] On July 21, 2023, the three Committees made a second request for voluntary transcribed interviews.[3] Once again, the Department did not agree.[4] As such, the request for information from Department officials remains outstanding.

According to publicly available information, the Department and FBI have been investigating tax and other matters concerning Hunter Biden since at least 2019.[5] The

[1] Letter from Chairmen Jim Jordan, Jason Smith, and James Comer, to Merrick B. Garland, Att'y Gen., U.S. Dep't of Just. (June 29, 2023).
[2] Letter from Carlos Felipe Uriarte, Assistant Att'y Gen., U.S. Dep't of Just., to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (July 13, 2023).
[3] Letter from Chairmen Jim Jordan, Jason Smith, and James Comer, to Merrick B. Garland, Att'y Gen., U.S. Dep't of Just. (July 21, 2023).
[4] Letter from Carlos Felipe Uriarte, Assistant Att'y Gen., U.S. Dep't of Just., to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (July 24, 2023).
[5] Letter from Merrick B. Garland, Att'y Gen., U.S. Dep't of Just., to Sen. Richard J. Durbin, Chair, S. Comm. on the Judiciary, et al. (Aug. 11, 2023). *See also*, Lucien Bruggeman, *What to know about the Hunter Biden federal*

investigation has been led by David Weiss, U.S. Attorney for the District of Delaware, and the FBI's Wilmington Resident Office, part of the Baltimore Field Office. Veteran Internal Revenue Service (IRS) investigators have revealed how the Department deviated from its established practices in this investigation, preventing investigators from speaking to certain witnesses or pursuing certain lines of inquiry. As one investigator explained: "The normal process must be followed. If search warrants or witness interviews or document requests that include the actual subjects' names are not allowed, for example, that is simply a deviation from the normal process that provided preferential treatment, in this case to Hunter Biden."[6]

An FBI supervisory special agent later corroborated these allegations in transcribed testimony, stating that FBI Headquarters preemptively tipped off U.S. Secret Service Headquarters and the Biden transition team about investigators' plan to interview Hunter Biden and other case subjects the following day.[7] Additionally, for the first time in his twenty-year career with the Bureau, this supervisory special agent was told that he had to wait outside the case target's house to arrange an interview with the target after the target first contacted him.[8] The Committee is concerned by these allegations because they illustrate abnormal conduct from federal law enforcement in carrying out its investigative duties.

In May 2023, around the time the whistleblowers first testified to the Committee on Ways and Means about irregularities in the Department's investigation, the Department began negotiating with Hunter Biden's lawyers about potential plea and pretrial diversion agreements.[9] The agreements, reached on June 20, 2023, shifted a broad immunity provision from the plea agreement to the pretrial diversion agreement, which would have benefitted Hunter Biden and prevented the District Court from being able to scrutinize and reject that immunity provision.[10] Additionally, the Department would have given up its ability to bring charges against Hunter Biden at a later date if it concluded that he had breached the pretrial diversion agreement.[11] Rather, the Department would then have to seek District Court's permission to bring charges, even though the District Court normally has no role in overseeing a pretrial diversion agreement in that manner.[12] U.S. Attorney Weiss signed off on this unconventional agreement.

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investigations, ABC NEWS (July 26, 2023); Carrie Johnson, *Garland names special counsel in Hunter Biden investigation*, NPR (Aug. 11, 2023).

[6] Transcribed Interview of Gary Shapley, Supervisory Special Agent, Internal Revenue Serv. at 10 (May 26, 2023) [hereinafter Shapley Interview].

[7] Transcribed Interview of [Redacted], Supervisory Special Agent, Fed. Bureau of Investigation at 32-33 (July 17, 2023).

[8] Transcribed Interview of [Redacted], Supervisory Special Agent, Fed. Bureau of Investigation at 34 (July 17, 2023).

[9] Defendant's Response to the U.S. Motion to Vacate the Court's Briefing Order, *U.S. v. Robert Hunter Biden*, No. 23-mj-274-MN, No. 23-cr-61-MN (D. Del. Aug. 13, 2023). *See also*, Jessica Lynch, *Hunter Biden began negotiating plea deal with DOJ right after IRS whistleblower first came forward, court docs show*, DAILY CALLER (Aug. 14, 2023).

[10] Letter from Chairmen Jim Jordan, Jason Smith, and James Comer, to Merrick B. Garland, Att'y Gen., U.S. Dep't of Just. (July 31, 2023).

[11] *Id.*

[12] *Id. See also*, Transcript of Record at 104, *U.S. v. Robert Hunter Biden*, No. 23-mj-274-MN, No. 23-cr-61-MN (D. Del. July 26, 2023).

On July 26, 2023, Judge Maryellen Noreika of the United States District Court for the District of Delaware declined to accept the Department's unusual plea and pretrial diversion agreements with Hunter Biden.[13] Subsequently, the Department has moved to withdraw the criminal information filed before the District Court in Delaware, stating that plea negotiations were "at an impasse."[14] Although the Department had previously agreed to bring the case in Delaware to allow Hunter Biden to plead guilty, it now has asserted to the Court that the proper venue for Mr. Biden's offenses were in Washington, D.C. or California.[15] With the plea negotiations stalled, the Department has indicated it intends to restart prosecution, believing that "the case will not resolve short of a trial."[16]

The Department's filings came shortly after Attorney General Merrick Garland named U.S. Attorney David Weiss as special counsel.[17] Although both Attorney General Garland and Mr. Weiss had stated that Mr. Weiss had "ultimate authority" over the investigation and prosecution of Hunter Biden, the Attorney General now asserted that special counsel status was necessary to pursue the case. In other words, after roughly four years of investigating and making critical decisions with the FBI, the Department now needs a special counsel due to the "extraordinary circumstances" relating to Mr. Biden's case.[18] The timing of this decision also comes after whistleblowers have raised serious and unchallenged allegations of impropriety in the Department's investigation.[19] The decision to grant Weiss special counsel status, especially in light of his handling of the case to date and his inconsistent statements to Congress about his authority, raises serious questions about the Department's handling of this investigation, and reinforces the Committee's need to speak with individuals with knowledge of the investigation.

The Supreme Court has recognized that Congress has a "broad and indispensable" power to conduct oversight, which "encompasses inquiries into the administration of existing laws, studies of proposed laws, and surveys in our social, economic or political system for the purpose of enabling Congress to remedy them."[20] Pursuant to the Rules of the House of Representatives, the Committee is authorized to conduct oversight of the Department as well as criminal justice matters in the United States to inform potential legislative reforms.[21] In this matter, potential

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[13] Transcript of Record at 108, *U.S. v. Robert Hunter Biden*, No. 23-mj-274-MN, No. 23-cr-61-MN (D. Del. July 26, 2023). *See also,* Glenn Thrush and Michael S. Schmidt, *Judge delays Hunter Biden plea deal*, N.Y. TIMES (July 26, 2023); Perry Stein, Karl Baker, Devlin Barrett, and Matt Viser, *Judge puts Hunter Biden guilty plea on hold for now*, WASH. POST (July 26, 2023); Phil McCausland and Tom Winter, *Hunter Biden pleads not guilty after plea deal is derailed*, NBC NEWS (July 26, 2023).
[14] U.S. Motion to Voluntarily Dismiss Criminal Tax Information Without Prejudice so that Tax Charges Can Be Brought in a District Where Venue Lies, *U.S. v. Robert Hunter Biden*, No. 23-mj-274-MN, No. 23-cr-61-MN (D. Del. Aug. 11, 2023) [hereinafter U.S. Motion to Voluntarily Dismiss]. *See also,* Kaelan Deese, *Hunter Biden investigation: Prosecutors are at 'impasse' on plea and expect a trial*, WASH. EXAMINER (Aug. 11, 2023).
[15] U.S. Motion to Voluntarily Dismiss.
[16] *Id*. *See also,* Erin Doherty, *Plea deal "impasse" exposes Hunter Biden to federal trial*, AXIOS (Aug. 11, 2023).
[17] Off. of the Att'y Gen., Order No. 5730-2023, Appointment of David C. Weiss as Special Counsel (2023). *See also,* Kaelan Deese, *Hunter Biden investigation: Prosecutors are at 'impasse' on plea and expect a trial*, WASH. EXAMINER (Aug. 11, 2023).
[18] *Id*.
[19] *Id*.
[20] *Trump v. Mazars*, 140 S. Ct. 2019, 2031 (2020) (internal quotation marks omitted).
[21] Rules of the U.S. House of Representatives, R. X (2023).

legislation could include, but is not limited to, strengthening laws protecting whistleblowers from retaliation, reforming the "special attorney" statute,[22] codifying the special counsel regulations,[23] and reforming the Department's Tax Division.

The Supreme Court has also recognized that Congress may seek information from the Executive Branch about "corruption, maladministration or inefficiency in agencies of the Government."[24] Here, whistleblowers have brought forward numerous concerns—backed by contemporaneous documentary evidence—of corruption (e.g., preferential treatment for the President's son), maladministration (e.g., retaliation against whistleblowers), and inefficiency (e.g., an investigation so bogged down by delays and micromanagement that the statute of limitations lapsed before prosecutors could file certain charges). These are among the matters about which the Committees require testimony to inform potential legislative reforms.

Based on information provided by whistleblowers and made available to the Committee, you have unique information that is relevant and necessary to inform our oversight and potential legislative reforms.[25] For instance, according to whistleblower testimony, you attended a meeting on October 7, 2022, at which U.S. Attorney David Weiss allegedly said he was "not the deciding official on whether charges are filed" against Hunter Biden.[26] Additionally, as Assistant Special Agent in Charge of the Bureau's Baltimore Field Office, you would have had oversight of the Hunter Biden investigation in the Wilmington Resident Office.[27] The Committee has sought to obtain the Department's voluntary compliance with our request to conduct a transcribed interview with you, and has engaged in good faith with the Department to address the purported reasons why it could not comply. Even still, the Department has not agreed to make you available.

Accordingly, and considering the Department's non-compliance with our earlier voluntary requests, please find attached a subpoena compelling your appearance at a deposition.

Sincerely,

Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

Enclosure

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[22] *See* 28 U.S.C. § 515.
[23] *See* 28 C.F.R. § 600 *et seq.*
[24] *Watkins v. United States*, 354 U.S. 178, 200 n.33 (1957).
[25] *See generally*, Shapley Interview; Transcribed Interview of Joseph Ziegler, Special Agent, Internal Revenue Serv. (June 1, 2023).
[26] Shapley Interview at 178.
[27] *Contact Us*, Fed. Bureau of Investigation, https://www.fbi.gov/contact-us/field-offices/baltimore/about (last visited Aug. 15, 2023).

JIM JORDAN, Ohio
CHAIRMAN

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RANKING MEMBER

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August 21, 2023

Mr. Thomas J. Sobocinski
Special Agent in Charge
Baltimore Field Office
Federal Bureau of Investigation
2600 Lord Baltimore Drive
Baltimore, MD 21244

Dear Mr. Sobocinski:

The Committee on the Judiciary is conducting oversight of the Executive Branch's commitment to impartial justice, as well as investigating the veracity of statements made in response to congressional inquiries related to the Department of Justice's investigation of Hunter Biden. As a part of this oversight, the Committee requires testimony from several Department officials, including you, who have first-hand knowledge of the Department's investigation.

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[2] Letter from Carlos Felipe Uriarte, Assistant Att'y Gen., U.S. Dep't of Just., to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (July 13, 2023).
[3] Letter from Chairmen Jim Jordan, Jason Smith, and James Comer, to Merrick B. Garland, Att'y Gen., U.S. Dep't of Just. (July 21, 2023).
[4] Letter from Carlos Felipe Uriarte, Assistant Att'y Gen., U.S. Dep't of Just., to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (July 24, 2023).
[5] Letter from Merrick B. Garland, Att'y Gen., U.S. Dep't of Just., to Sen. Richard J. Durbin, Chair, S. Comm. on the Judiciary, et al. (Aug. 11, 2023). *See also*, Lucien Bruggeman, *What to know about the Hunter Biden federal*

investigation has been led by David Weiss, U.S. Attorney for the District of Delaware, and the FBI's Wilmington Resident Office, part of the Baltimore Field Office. Veteran Internal Revenue Service (IRS) investigators have revealed how the Department deviated from its established practices in this investigation, preventing investigators from speaking to certain witnesses or pursuing certain lines of inquiry. As one investigator explained: "The normal process must be followed. If search warrants or witness interviews or document requests that include the actual subjects' names are not allowed, for example, that is simply a deviation from the normal process that provided preferential treatment, in this case to Hunter Biden."[6]

An FBI supervisory special agent later corroborated these allegations in transcribed testimony, stating that FBI Headquarters preemptively tipped off U.S. Secret Service Headquarters and the Biden transition team about investigators' plan to interview Hunter Biden and other case subjects the following day.[7] Additionally, for the first time in his twenty-year career with the Bureau, this supervisory special agent was told that he had to wait outside the case target's house to arrange an interview with the target after the target first contacted him.[8] The Committee is concerned by these allegations because they illustrate abnormal conduct from federal law enforcement in carrying out its investigative duties.

In May 2023, around the time the whistleblowers first testified to the Committee on Ways and Means about irregularities in the Department's investigation, the Department began negotiating with Hunter Biden's lawyers about potential plea and pretrial diversion agreements.[9] The agreements, reached on June 20, 2023, shifted a broad immunity provision from the plea agreement to the pretrial diversion agreement, which would have benefitted Hunter Biden and prevented the District Court from being able to scrutinize and reject that immunity provision.[10] Additionally, the Department would have given up its ability to bring charges against Hunter Biden at a later date if it concluded that he had breached the pretrial diversion agreement.[11] Rather, the Department would then have to seek District Court's permission to bring charges, even though the District Court normally has no role in overseeing a pretrial diversion agreement in that manner.[12] U.S. Attorney Weiss signed off on this unconventional agreement.

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investigations, ABC NEWS (July 26, 2023); Carrie Johnson, *Garland names special counsel in Hunter Biden investigation*, NPR (Aug. 11, 2023).

[6] Transcribed Interview of Gary Shapley, Supervisory Special Agent, Internal Revenue Serv. at 10 (May 26, 2023) [hereinafter Shapley Interview].

[7] Transcribed Interview of [Redacted], Supervisory Special Agent, Fed. Bureau of Investigation at 32-33 (July 17, 2023).

[8] Transcribed Interview of [Redacted], Supervisory Special Agent, Fed. Bureau of Investigation at 34 (July 17, 2023).

[9] Defendant's Response to the U.S. Motion to Vacate the Court's Briefing Order, *U.S. v. Robert Hunter Biden*, No. 23-mj-274-MN, No. 23-cr-61-MN (D. Del. Aug. 13, 2023). *See also*, Jessica Lynch, *Hunter Biden began negotiating plea deal with DOJ right after IRS whistleblower first came forward, court docs show*, DAILY CALLER (Aug. 14, 2023).

[10] Letter from Chairmen Jim Jordan, Jason Smith, and James Comer, to Merrick B. Garland, Att'y Gen., U.S. Dep't of Just. (July 31, 2023).

[11] *Id.*

[12] *Id. See also*, Transcript of Record at 104, *U.S. v. Robert Hunter Biden*, No. 23-mj-274-MN, No. 23-cr-61-MN (D. Del. July 26, 2023).

On July 26, 2023, Judge Maryellen Noreika of the United States District Court for the District of Delaware declined to accept the Department's unusual plea and pretrial diversion agreements with Hunter Biden.[13] Subsequently, the Department has moved to withdraw the criminal information filed before the District Court in Delaware, stating that plea negotiations were "at an impasse."[14] Although the Department had previously agreed to bring the case in Delaware to allow Hunter Biden to plead guilty, it now has asserted to the Court that the proper venue for Mr. Biden's offenses lies in Washington, D.C. or California.[15] With plea negotiations stalled, the Department has indicated it intends to restart prosecution, believing that "the case will not resolve short of a trial."[16]

The Department's filings came shortly after Attorney General Merrick Garland named U.S. Attorney David Weiss as special counsel.[17] Although both Attorney General Garland and Mr. Weiss had stated that Mr. Weiss had "ultimate authority" over the investigation and prosecution of Hunter Biden, the Attorney General now asserted that special counsel status was necessary to pursue the case. In other words, after roughly four years of investigating and making critical decisions with the FBI, the Department now needs a special counsel due to the "extraordinary circumstances" relating to Mr. Biden's case.[18] The timing of this decision also comes after whistleblowers have raised serious and unchallenged allegations of impropriety in the Department's investigation.[19] The decision to grant Weiss special counsel status, especially in light of his handling of the case to date and his inconsistent statements to Congress about his authority, raises serious questions about the Department's handling of this investigation, and reinforces the Committee's need to speak with individuals with knowledge of the investigation.

The Supreme Court has recognized that Congress has a "broad and indispensable" power to conduct oversight, which "encompasses inquiries into the administration of existing laws, studies of proposed laws, and surveys in our social, economic or political system for the purpose of enabling Congress to remedy them."[20] Pursuant to the Rules of the House of Representatives, the Committee is authorized to conduct oversight of the Department as well as criminal justice matters in the United States to inform potential legislative reforms.[21] In this matter, potential

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[13] Transcript of Record at 108, *U.S. v. Robert Hunter Biden*, No. 23-mj-274-MN, No. 23-cr-61-MN (D. Del. July 26, 2023). *See also,* Glenn Thrush and Michael S. Schmidt, *Judge delays Hunter Biden plea deal*, N.Y. TIMES (July 26, 2023); Perry Stein, Karl Baker, Devlin Barrett, and Matt Viser, *Judge puts Hunter Biden guilty plea on hold for now*, WASH. POST (July 26, 2023); Phil McCausland and Tom Winter, *Hunter Biden pleads not guilty after plea deal is derailed*, NBC NEWS (July 26, 2023).
[14] U.S. Motion to Voluntarily Dismiss Criminal Tax Information Without Prejudice so that Tax Charges Can Be Brought in a District Where Venue Lies, *U.S. v. Robert Hunter Biden*, No. 23-mj-274-MN, No. 23-cr-61-MN (D. Del. Aug. 11, 2023) [hereinafter U.S. Motion to Voluntarily Dismiss]. *See also,* Kaelan Deese, *Hunter Biden investigation: Prosecutors are at 'impasse' on plea and expect a trial*, WASH. EXAMINER (Aug. 11, 2023).
[15] U.S. Motion to Voluntarily Dismiss.
[16] *Id*. *See also,* Erin Doherty, *Plea deal "impasse" exposes Hunter Biden to federal trial*, AXIOS (Aug. 11, 2023).
[17] Off. of the Att'y Gen., Order No. 5730-2023, Appointment of David C. Weiss as Special Counsel (2023). *See also,* Kaelan Deese, *Hunter Biden investigation: Prosecutors are at 'impasse' on plea and expect a trial*, WASH. EXAMINER (Aug. 11, 2023).
[18] *Id*.
[19] *Id*.
[20] *Trump v. Mazars*, 140 S. Ct. 2019, 2031 (2020) (internal quotation marks omitted).
[21] Rules of the U.S. House of Representatives, R. X (2023).

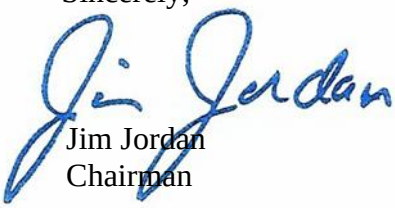
legislation could include, but is not limited to, strengthening laws protecting whistleblowers from retaliation, reforming the "special attorney" statute,[22] codifying the special counsel regulations,[23] and reforming the Department's Tax Division.

The Supreme Court has also recognized that Congress may seek information from the Executive Branch about "corruption, maladministration or inefficiency in agencies of the Government."[24] Here, whistleblowers have brought forward numerous concerns—backed by contemporaneous documentary evidence—of corruption (e.g., preferential treatment for the President's son), maladministration (e.g., retaliation against whistleblowers), and inefficiency (e.g., an investigation so bogged down by delays and micromanagement that the statute of limitations lapsed before prosecutors could file certain charges). These are among the matters about which the Committees require testimony to inform potential legislative reforms.

Based on information provided by whistleblowers and made available to the Committee, you have unique information that is relevant and necessary to inform our oversight and potential legislative reforms.[25] For instance, according to whistleblower testimony, you attended a meeting on October 7, 2022, at which U.S. Attorney David Weiss allegedly said he was "not the deciding official on whether charges are filed" against Hunter Biden.[26] Additionally, as Special Agent in Charge of the Bureau's Baltimore Field Office, you would have had oversight of the Hunter Biden investigation in the Wilmington Resident Office.[27] The Committee has sought to obtain the Department's voluntary compliance with our request to conduct a transcribed interview with you, and has engaged in good faith with the Department to address the purported reasons why it could not comply. Even still, the Department has not agreed to make you available.

Accordingly, and considering the Department's non-compliance with our earlier voluntary requests, please find attached a subpoena compelling your appearance at a deposition.

Sincerely,



Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

Enclosure

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[22] *See* 28 U.S.C. § 515.
[23] *See* 28 C.F.R. § 600 *et seq.*
[24] *Watkins v. United States*, 354 U.S. 178, 200 n.33 (1957).
[25] *See generally*, Shapley Interview; Transcribed Interview of Joseph Ziegler, Special Agent, Internal Revenue Serv. (June 1, 2023).
[26] Shapley Interview at 178.
[27] Press Release, Fed. Bureau of Investigation, Thomas J. Sobocinski Named Special Agent in Charge of the Baltimore Field Office (July 14, 2021).

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States
House of Representatives
COMMITTEE ON THE JUDICIARY
2138 RAYBURN HOUSE OFFICE BUILDING
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August 30, 2023

Mr. Imran Ahmed
Chief Executive Officer
Center for Countering Digital Hate
c/o Andrew D. Herman
Lawrence & Bundy
1101 17th Street, NW
Suite 200
Washington, DC 20036

Dear Mr. Ahmed:

The Committee on the Judiciary is conducting oversight of how and to what extent the Executive Branch has coerced and colluded with companies and other intermediaries to censor speech.[1] To develop effective legislation, such as the possible enactment of new statutory limits on the Executive Branch's ability to work with social media platforms and other companies to restrict the circulation of content and deplatform users, the Committee must first understand the nature of how the Executive Branch coerced and colluded with companies and other intermediates to censor speech. To this end, the Committee asked that the Center for Countering Digital Hate (CCDH) produce communications with the Executive Branch relating to the moderation of content online.[2] In addition, we also asked for communications between companies including social media companies and the CCDH, to understand, among other things, the extent to which content moderation occurred as a result of the government's influence.[3] In response, your counsel has informed the Committee that CCDH will not comply voluntarily with our requests.

The Committee's investigation, along with other public reporting, and publicized discovery in an ongoing federal court case, *Missouri v. Biden*, have exposed how the federal government has pressured and colluded with Big Tech and other intermediaries to censor certain

[1] *See* Ryan Tracy, *Facebook Bowed to White House Pressure, Removed Covid Posts*, WALL ST. J. (July 28, 2023); Rep. Jim Jordan (@Jim_Jordan), TWITTER (July 27, 2023, 12:03 PM), https://twitter.com/Jim_Jordan/status/1684595375875760128.
[2] Letter from Hon. Jim Jordan, Chair, H. Comm. on the Judic., to Mr. Imran Ahmed (Aug. 3, 2023).
[3] *Id*.

viewpoints on social and other media in ways that undermine First Amendment principles.[4] Numerous internal documents made publicly available reflect the weaponization of the federal government's power to censor speech online directly and by proxy. For example, internal Facebook documents, obtained by the Committee, show that the Biden White House repeatedly relied on CCDH's report titled "The Disinformation Dozen," in its unconstitutional pressure campaign against social media platforms[5] to censor Americans, including Robert F. Kennedy Jr., who CCDH maligned as "anti-vaxxers . . . responsible for almost two-thirds of anti-vaccine content circulating on social media platforms."[6]

It is necessary for Congress to gauge the extent to which the federal government or one of its proxies worked with or relied upon CCDH to censor speech. The scope of the Committee's investigation includes intermediaries who may or may not have had a full understanding of the government's efforts and motivations.

On August 3, 2023, the Committee wrote to CCDH seeking its voluntary cooperation with our oversight.[7] In particular, we requested communications between the Executive Branch and CCDH, internal CCDH communications discussing communications from the Executive Branch, and CCDH communications with third parties that may have been working with the Executive Branch, in addition to other key information. To date, CCDH has failed to produce a single document, despite admissions to the Committee and to the press that part of CCDH's work includes directly engaging with the Executive Branch and social media companies.[8] CCDH's counsel informed Committee staff that CCDH does not intend to supplement its perfunctory August 17 response with additional information and that CCDH will not voluntarily produce any documents requested by the Committee.[9] By declining to produce anything of substance in response to the Committee's request, CCDH is hindering the Committee's ability to fulfill its constitutional oversight obligations.

Pursuant to the Rules of the House of Representatives, the Committee has jurisdiction to conduct oversight of matters concerning "civil liberties" to inform potential legislative reforms.[10] In addition, H. Res. 12 authorized the Committee's Select Subcommittee on the Weaponization

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[4] *See, e.g.*, Tracy, *supra* note 1; Rep. Jim Jordan (@Jim_Jordan), Twitter (July 28, 2023, 12:03 PM), https://twitter.com/Jim_Jordan/status/1684957660515328001; Rep. Jim Jordan (@Jim_Jordan), Twitter (Aug. 3, 2023, 11:00 AM), https://twitter.com/Jim_Jordan/status/1687116316073930752; Rep. Jim Jordan (@Jim_Jordan), Twitter (Aug. 7, 2023, 10:11 AM), https://twitter.com/Jim_Jordan/status/1688553339624042496.
[5] *See, e.g.*, *Missouri v. Biden*, No. 23-30445 (5th Cir. 2023), Dkt. 161 (Brief of Representatives Jim Jordan, Kelly Armstrong, Andy Biggs, Dan Bishop, Kat Cammack, Russell Fry, Lance Gooden, Harriet Hageman, Mike Johnson, Thomas Massie, Barry Moore, and Elise Stefanik as *Amici Curiae* Supporting Plaintiffs-Appellees and Affirmance), Exs. 1, 5, 9, 10, 12.
[6] *The Disinformation Dozen: Why platforms must act on twelve leading online anti-vaxxers*, CTR. FOR COUNTERING DIGITAL HATE, https://counterhate.com/research/the-disinformation-dozen/ (last visited July 24, 2023).
[7] Letter from Hon. Jim Jordan, Chair, H. Comm. on the Judic., to Mr. Imran Ahmed (Aug. 3, 2023).
[8] Letter from Andrew D. Herman to Hon. Jim Jordan, Chair, H. Comm. on the Judic. (Aug. 17, 2023); Cristiano Lima, *Under fire from Musk and the GOP, nonprofit chief vows to forge ahead*, WASH. POST (Aug. 15, 2023).
[9] August 21, 2023 Telephone Call between Committee Staff and Andrew D. Herman.
[10] Rules of the House of Representatives R. X (2023).

of the Federal Government to investigate "issues related to the violation of the civil liberties of citizens of the United States."[11]

Accordingly, given CCDH's inadequate voluntary compliance, please find attached a subpoena.

Sincerely,

Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

Enclosure

[11] H. Res. 12 § 1(b)(1).

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

ONE HUNDRED EIGHTEENTH CONGRESS

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September 13, 2023

Dr. Michael Wagner
Director of Graduate Studies
School of Journalism and Mass Communication
University of Wisconsin–Madison
5115 Vilas Hall
821 University Ave.
Madison, WI 53706

Dear Dr. Wagner:

The Committee on the Judiciary is conducting oversight of how and the extent to which the Executive Branch has coerced and colluded with companies and other intermediaries to censor speech.[1] To develop effective legislation, such as the possible enactment of new statutory limits on the Executive Branch's ability to work with social media platforms and other companies to restrict the circulation of content and deplatform users, the Committee on the Judiciary must first understand how and to what extent the Executive Branch coerced and colluded with companies and other intermediaries to censor speech.

The Committee's ongoing investigation has exposed how the federal government, Big Tech, and various intermediaries have worked hand in hand in ways that undermine First Amendment principles.[2] Numerous internal documents made publicly available reflect the weaponization of the federal government's power to censor speech online directly and by proxy. It is necessary for Congress to gauge the extent to which the federal government or one of its proxies worked with or relied upon the University of Wisconsin in order to censor speech. The scope of the Committee's investigation includes intermediaries who may or may not have had a full understanding of the government's efforts and motivations.

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[1] *See, e.g.*, Ryan Tracy, *Facebook Bowed to White House Pressure, Removed Covid Posts*, WALL ST. J. (July 28, 2023).

[2] *See, e.g.*, Rep. Jim Jordan (@Jim_Jordan), TWITTER (July 27, 2023, 12:03 PM), https://twitter.com/Jim_Jordan/status/1684595375875760128; Rep. Jim Jordan (@Jim_Jordan), Twitter (July 28, 2023, 12:03 PM), https://twitter.com/Jim_Jordan/status/1684957660515328001; Rep. Jim Jordan (@Jim_Jordan), Twitter (Aug. 3, 2023, 11:00 AM), https://twitter.com/Jim_Jordan/status/1687116316073930752; Rep. Jim Jordan (@Jim_Jordan), Twitter (Aug. 7, 2023, 10:11 AM), https://twitter.com/Jim_Jordan/status/1688553339624042496; Rep. Jim Jordan (@Jim_Jordan), Twitter (Sept. 5, 2023, 6:17 PM), https://twitter.com/Jim_Jordan/status/1699184930331267539.

On August 15, 2023, the Committee wrote to the University of Wisconsin seeking its voluntary cooperation with our oversight. In particular, we asked for communications between the Executive Branch and the University of Wisconsin, internal communications discussing communications from the Executive Branch, and communications with third parties that may have been working with the Executive Branch, in addition to other key information.

Pursuant to the Rules of the House of Representatives, the Committee on the Judiciary has jurisdiction to conduct oversight of matters concerning "civil liberties" to inform potential legislative reforms.[3] In addition, H. Res. 12 authorized the Committee's Select Subcommittee on the Weaponization of the Federal Government to investigate "issues related to the violation of the civil liberties of citizens of the United States."[4]

Accordingly, please find attached a subpoena.

Sincerely,

Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

Enclosure

[3] Rules of the House of Representatives R. X (2023).
[4] H. Res. 12 § 1(b)(1).

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

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September 15, 2023

Mr. Elvis Chan
Assistant Special Agent in Charge
San Francisco Field Office
Federal Bureau of Investigation
450 Golden Gate Avenue, 13th Floor
San Francisco, CA 94102

Dear Special Agent Chan:

The Committee on the Judiciary is conducting oversight of how and to what extent the Executive Branch has coerced and colluded with companies and other intermediaries to censor speech.[1] To develop effective legislation, such as the possible enactment of new statutory limits on the Executive Branch's ability to work with social media platforms and other companies to restrict the circulation of content and deplatform users, the Committee on the Judiciary must first understand the nature of this collusion and coercion. As the primary liaison between the Federal Bureau of Investigation's (FBI) Foreign Influence Task Force (FITF) and social media companies, you are uniquely positioned to aid the Committee's oversight.[2] On January 17, 2023, and again on March 3, 2023, the Committee requested that you voluntarily appear for a transcribed interview.[3]

The Committee's investigation, along with other public reporting, and publicized discovery in an ongoing federal court case, *Missouri v. Biden*, have exposed how the federal government has pressured and colluded with Big Tech and other intermediaries to censor certain viewpoints on social and other media in ways that undermine First Amendment principles.[4] The

[1] *See* Ryan Tracy, *Facebook Bowed to White House Pressure, Removed Covid Posts*, WALL ST. J. (July 28, 2023); Rep. Jim Jordan (@Jim_Jordan), TWITTER (July 27, 2023, 12:03 PM), https://twitter.com/Jim_Jordan/status/1684595375875760128.
[2] *Missouri v. Biden*, No. 3:22-cv-01213 (W.D. La. Jul. 4, 2023), Dkt. 144-2 (Deposition of Special Agent Elvis Chan), 38:13-39:22.
[3] Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Christopher A. Wray, Fed. Bureau of Investigation (Jan. 17, 2023); Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Christopher A. Wray, Fed. Bureau of Investigation (Mar. 3, 2023).
[4] *See, e.g.*, Tracy, *supra* note 1; Rep. Jim Jordan (@Jim_Jordan), TWITTER (July 28, 2023, 12:03 PM), https://twitter.com/Jim_Jordan/status/1684957660515328001; Rep. Jim Jordan (@Jim_Jordan), TWITTER (Aug. 3, 2023, 11:00 AM), https://twitter.com/Jim_Jordan/status/1687116316073930752.

First Amendment prohibits government officials from imposing viewpoint-based censorship restrictions. State action doctrine stands for the proposition that government officials may not circumvent constitutional strictures by using private actors—whether through coercion, encouragement, entwinement, or joint participation—to accomplish what the government cannot directly.[5]

Numerous documents that have been made publicly available reflect the weaponization of the federal government's power to censor speech online directly and by proxy. It is necessary for Congress to gauge the extent to which FBI agents coerced, pressured, worked with, or relied upon social media and other tech companies to censor speech. The scope of the Committee's investigation includes understanding the extent and nature of the FBI's involvement in this censorship. For example, through its investigation, the Committee has uncovered evidence that appears to contradict several statements in your deposition in *Missouri v. Biden*, particularly as they relate to your communications with social media platforms.[6]

The Committee was ready and willing to proceed with your transcribed interview under the Committee's established protocols. After the Committee repeatedly requested that you voluntarily appear for a transcribed interview, the FBI agreed to schedule your interview for September 15, 2023, with full knowledge of the Committee's longstanding protocol for conducting transcribed interviews.[7] Then, only three days before your scheduled interview, you and the FBI requested special treatment to deviate from this protocol, which the Committee repeatedly and clearly denied. Just one day before your scheduled transcribed interview, you threatened to withdraw your appearance due to this disagreement and today you failed to appear for your interview.[8]

The Constitution affords the House the authority to determine its own rules and procedures.[9] Consistent with this authority, House committees have developed, over both Democrat and Republican majorities, protocols for conducting voluntary transcribed interviews. These protocols, which mirror House rules for conducting a deposition pursuant to a subpoena, include that a witness for a transcribed interview has the choice of being represented by either agency counsel or personal counsel, but not both. The FBI, Department of Justice, and your personal counsel are all well aware of the Committee's protocol—early in the 118th Congress, the Committee notified the Department about this specific protocol—and every other voluntary transcribed interview of FBI employees in the 118th Congress has operated under these protocols without incident.

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[5] *See Norwood v. Harrison*, 413 U.S. 455, 465 (1973) ("[i]t is … axiomatic that a state may not induce, encourage, or promote private persons to accomplish what it is constitutionally forbidden to accomplish.").
[6] Rep. Jim Jordan (@Jim_Jordan), TWITTER (Aug. 7, 2023, 10:11 AM), https://twitter.com/Jim_Jordan/status/1688553339624042496.
[7] *See, e.g.*, Telephone Call between Committee Staff and FBI Personnel (May 22, 2023); Email from Committee Staff to FBI and DOJ Personnel (Jun. 21, 2023, 3:53 PM); Email from Committee Staff to FBI and DOJ Personnel (Jul. 5, 2023, 12:22 PM); Email from Committee Staff to FBI and DOJ Personnel (Aug. 8, 2023, 5:05 PM); Email from Committee Staff to FBI and DOJ Personnel (Aug. 17, 2023, 1:08 PM); Meeting between Committee Staff and FBI Personnel (Aug. 22, 2023); Email from FBI Personnel to Committee Staff (August 30, 2023, 4:00 PM).
[8] Email from Lawrence Berger to Committee Staff (September 14, 2023, 12:03 PM).
[9] U.S. Const. Art. I.

The Committee's right to adopt and insist on its rules and procedures is especially important where, as here, a witness's *personal* interests depart significantly from the *institutional* interests of the agency for which the witness works. The Committee has information that suggests you were not fully candid in your sworn deposition in federal litigation—a deposition during which you were represented by Department counsel and a matter in which you face personal liability in a manner that departs from the FBI's and Department's institutional interests.

The Supreme Court has recognized that Congress has a "broad and indispensable" power to conduct oversight, which "encompasses inquiries into the administration of existing laws, studies of proposed laws, and surveys in our social, economic or political system for the purpose of enabling Congress to remedy them."[10] Pursuant to the Rules of the House of Representatives, the Committee on the Judiciary has jurisdiction to conduct oversight of matters concerning "civil liberties" to inform potential legislative reforms.[11] In addition, H. Res. 12 authorized the Committee's Select Subcommittee on the Weaponization of the Federal Government to investigate "issues related to the violation of the civil liberties of citizens of the United States."[12]

Accordingly, please find attached a subpoena.

Sincerely,

Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

Enclosure

[10] *Trump v. Mazars*, 140 S. Ct. 2019, 2031 (2020) (internal quotation marks omitted).
[11] Rules of the House of Representatives R. X (2023).
[12] H. Res. 12 § 1(b)(1).

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States
House of Representatives
COMMITTEE ON THE JUDICIARY
2138 RAYBURN HOUSE OFFICE BUILDING
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September 21, 2023

Mr. Elvis Chan
Assistant Special Agent in Charge
San Francisco Field Office
Federal Bureau of Investigation
c/o Lawrence Berger, Esq.
Mahon & Berger, Esqs.
70 Glen Street, Suite 249
Glen Cove, New York 11542

Dear Special Agent Chan:

The Committee on the Judiciary is conducting oversight of how and to what extent the Executive Branch has coerced and colluded with companies and other intermediaries to censor speech.[1] To develop effective legislation, such as the possible enactment of new statutory limits on the Executive Branch's ability to work with social media platforms and other companies to restrict the circulation of content and deplatform users, the Committee on the Judiciary must first understand the nature of this collusion and coercion. As the primary liaison between the Federal Bureau of Investigation's (FBI) Foreign Influence Task Force (FITF) and social media companies, you are uniquely positioned to aid the Committee's oversight.[2] After your failure to appear for your scheduled transcribed interview on September 15, 2023, you were issued a deposition subpoena compelling you to appear before the Committee on September 21, 2023.[3] Based on representations that the date of your deposition conflicts with the dates of your official travel, as an accommodation, the Committee is issuing you a new deposition subpoena that compels your appearance on October 5, 2023.

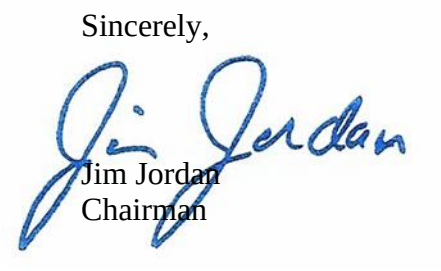
The Supreme Court has recognized that Congress has a "broad and indispensable" power to conduct oversight, which "encompasses inquiries into the administration of existing laws, studies of proposed laws, and surveys in our social, economic or political system for the purpose

[1] *See* Ryan Tracy, *Facebook Bowed to White House Pressure, Removed Covid Posts*, WALL ST. J. (July 28, 2023); Rep. Jim Jordan (@Jim_Jordan), TWITTER (July 27, 2023, 12:03 PM), https://twitter.com/Jim_Jordan/status/1684595375875760128.
[2] *Missouri v. Biden*, No. 3:22-cv-01213 (W.D. La. Jul. 4, 2023), Dkt. 144-2 (Deposition of Special Agent Elvis Chan), 38:13-39:22.
[3] Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Mr. Elvis Chan (September 15, 2023).

of enabling Congress to remedy them."[4] Pursuant to the Rules of the House of Representatives, the Committee on the Judiciary has jurisdiction to conduct oversight of matters concerning "civil liberties" to inform potential legislative reforms.[5] In addition, H. Res. 12 authorized the Committee's Select Subcommittee on the Weaponization of the Federal Government to investigate "issues related to the violation of the civil liberties of citizens of the United States."[6]

Accordingly, please find attached a subpoena.

Sincerely,



Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

Enclosure

[4] *Trump v. Mazars*, 140 S. Ct. 2019, 2031 (2020) (internal quotation marks omitted).
[5] Rules of the House of Representatives R. X (2023).
[6] H. Res. 12 § 1(b)(1).

JIM JORDAN, Ohio
CHAIRMAN

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ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States
House of Representatives
COMMITTEE ON THE JUDICIARY
2138 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6216
(202) 225-6906
judiciary.house.gov

November 16, 2023

Mr. Brian Moynihan
Chief Executive Officer, Bank of America Corporation
c/o Karen Elizabeth Christian
Akin Gump Strauss Hauer & Feld LLP
Robert S. Strauss Tower
2001 K Street, NW
Washington, DC 20006

Dear Mr. Moynihan:

The Committee on the Judiciary and the Select Subcommittee on the Weaponization of the Federal Government are conducting oversight of the Federal Bureau of Investigation's (FBI) receipt of information about American citizens from private entities without legal process. On May 25, 2023, we requested your voluntary cooperation with our oversight efforts to determine the extent to which financial institutions, such as Bank of America Corporation (BoA), worked with the FBI to collect Americans' data.[1] In response, the Committee has received 223 pages of documents responsive to our original requests. However, to date, BoA has refused to provide the Committee and Select Subcommittee with the filing it turned over to the FBI.

In 2021, BoA provided the FBI—voluntarily and without any legal process—with a list of individuals who made transactions in the Washington, D.C., metropolitan area using a BoA credit or debit card between January 5 and January 7, 2021.[2] When that information was brought to the attention of Steven Jensen, the FBI's then-Section Chief of the Domestic Terrorism

[1] Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Mr. Brian Moynihan, Chief Exec. Officer of Bank of Am. Corp. (May 25, 2023).

[2] Transcribed Interview of Mr. George Hill 74-75 (Feb. 7, 2023) (describing that "Bank of America, with no directive from the FBI, data-mined its customer base. And they data-mined a date range of 5 to 7 January of any BOA customer who used a BOA product"); Transcribed Interview of Mr. Steve Jensen 146 (May 19, 2023) (stating that "one of my unit chiefs . . . advised that a number of leads had gone out regarding Bank of America information of subjects"); Transcribed Interview with Mr. Joseph Bonavolonta 11 (May 4, 2023) ("I am aware of information that was forwarded to us related to a Bank of America lead, yes"); Transcribed Interview of Mr. Steven D'Antuono (Jun. 7, 2023) (recalling that "[he learned that Bank of America provided information] probably through the course of the investigation at some point."); Transcribed Interview of Mr. Steven Jensen 147 (May 19, 2023) ("My understanding of that information was, it was certain purchaser transaction records of individuals that Bank of America provided over to the FBI that wasn't requested by the FBI. It was of their own volition.").

Operations Section, he acted to "pull" the BoA information from FBI systems because "the leads lacked allegations of federal criminal conduct."[3] Documents obtained by the Committee and Select Subcommittee show that the FBI also provided BoA with specific search query terms, indicating that the FBI was "interested in all financial relationships" of BoA customers transacting in Washington D.C. and that had made "ANY historical purchase" of a firearm, or those who had purchased a hotel, Airbnb, or airline travel within a given date range.[4]

From: [redacted]@fbi.gov]
Sent: 1/15/2021 12:40:26 PM
To: [redacted]@bofa.com]; [redacted]@bofa.com]
Subject: Re: upcoming SAR product idea/brainstorming and check-in with you both

[redacted]

As always, thanks for the very quick communication/response over the phone this morning.

To recap our morning call, we [FBI] are prepared to action **[immediately]** the following thresholds:

- CTD/SPES/SEU is interested in all financial relationships that meet the following thresholds:
- Customers confirmed as transacting, either through bank account [debit card] or credit card, Washington D.C. purchases between 1/5/21 and 1/6/21, with the additional [identifying] targeting thresholds:
- Purchases made for hotel/airbnb RSVPs in the DMV area [the day before and during Inauguration Day] -----since 1/6/21.
- ANY historical purchase [going back 6 months generally, for weapons or weapons related-vendor purchases].
- Secondarily, purchases made for returns to Washington, D.C. and the surrounding DMV area:
  - With Airline travel to DMV area for Inauguration Day
  - With no identified airline purchases for the DMV.**

**- SEU intends to capture, with its FI-partner concurrence, all customers who might be more strategic in carrying out attacks related to CTD interests; travel with weapons by vehicle and [not by] air, given the current threat and aftermath of the 6 Jan Capitol building incidents. The intention by SEU is to identify all potential networks of threats vs. individual threats to Inauguration Day and beyond.

In its June 22, 2023, letter to the Committee, BoA asserted that its actions "were within a legal process initiated by the United States Department of the Treasury."[5] Contrary to these assertions, however, documents on file with the Committee and Select Subcommittee indicate

From: [redacted] (FBI)[redacted]@fbi.gov]
Sent: 1/15/2021 9:56:49 AM
To: [redacted]@bofa.com]; [redacted]@bofa.com]
Subject: upcoming SAR product idea/brainstorming and check-in with you both

[redacted]

Ahead of next week's inauguration, I wanted to touch base on a couple things.

If either or both of you have time this morning to discuss SARs and a couple ideas, that would be great.

I will be on my cell this morning.

[redacted]

[3] Transcribed Interview of Mr. Steven Jensen 152, 166 (May 19, 2023).
[4] BofA-HJUD-0000002 (on file with Committee).
[5] Letter from Ms. Karen Christian and Mr. Raphael Prober, Legal Counsel for Bank of Am., to Rep. Jim Jordan Chairman, H. Comm. on the Judiciary (June 22, 2023) at 1 (hereinafter "Christian Letter").

that the FBI—not the U.S. Department of the Treasury—initiated contact directly to BoA, and without legal process.[6] As a result, it is unclear what "legal" process permits the FBI or BoA to share the sensitive customer information of potentially thousands of BoA customers and implicate them in a federal law enforcement investigation without any clear criminal nexus. To that end, BoA's letter claimed that certain federal laws—namely, the Anti-Money Laundering Act and the Bank Secrecy Act—permit such an arrangement.[7] However, these laws and corresponding regulations primarily contemplate information-sharing with the U.S. Department of Treasury and its components, not external correspondence with the FBI.[8]

From: [redacted]@bofa.com]
Sent: 1/17/2021 7:54:23 PM
To: [redacted]@fbi.gov' [redacted]@fbi.gov]
CC: [redacted]@bofa.com]; [redacted]@bofa.com]
Subject: RE: [SecMail:] secmail:RE: Follow-up

[redacted] – you should have an email from [redacted]@bofa.com with our filing on the parameters you discussed with [redacted] last week.

Thanks,
[redacted]

Indeed, if such a lawful authority exists, as BoA asserts, for BoA to freely share private financial information without any legal process or specific nexus to criminality, Congress has a responsibility to consider reforms that adequately protect Americans' information. It should not be the case that federal law enforcement has carte blanche access to Americans' financial information by deeming a transaction or class of transactions as "suspicious" or otherwise. For that reason, to inform such legislation, it is critical that the Committee understand the full extent of the information-sharing between BoA and the FBI, including review of BoA's "filing" that it emailed to the FBI.[9]

The Supreme Court has recognized that Congress has a "broad and indispensable" power to conduct oversight, which "encompasses inquiries into the administration of existing laws, studies of proposed laws, and surveys in our social, economic or political system for the purpose of enabling Congress to remedy them."[10] Pursuant to the Rules of the House of Representatives, the Committee is authorized to conduct oversight of matters involving civil liberties and criminal

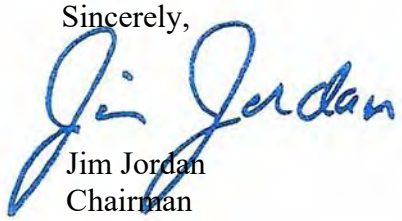
[6] BofA-HJUD-0000001 (on file with Committee).
[7] Christian Letter, *supra* note 5, at 2-3 (discussing the Anti-Money Laundering Act and Bank Secrecy Act).
[8] *See* U.S. GOV'T ACCOUNTABILITY OFFICE HIGHLIGHTS, GAO-19-582, BANK SECRECY ACT: AGENCIES AND FINANCIAL INSTITUTIONS SHARE INFORMATION BUT METRICS AND FEEDBACK NOT REGULARLY PROVIDED (2019) (observing "FinCEN is responsible for administering BSA and has delegated examination responsibility to supervisory agencies."); LIANA ROSEN & RENA MILLER, CONG. RESEARCH SERV., R47255, THE FINANCIAL CRIMES ENFORCEMENT NETWORK (FINCEN): ANTI-MONEY LAUNDERING ACT OF 2020 IMPLEMENTATION AND BEYOND (2022) (noting FinCEN as "the primary federal agency responsible for implementing many of AMLA's provisions.").
[9] BofA-HJUD-00000197.
[10] *See, e.g., Trump v. Mazars LLP*, No. 19-715 at 11 (U.S. slip op. July 9, 2020) (internal quotation marks and citations omitted).

law to inform potential legislative reforms.[11] These potential legislative reforms could include, among other proposals, legislation to prescribe how federal law-enforcement entities collect or receive private customer data, legislation to enhance the protections of civil liberties for customers of financial institutions, or legislation to prevent the misuse of Americans' private financial information. The documents and information we have requested from BoA are necessary to inform such potential legislation.

Accordingly, and in light of your lack of compliance with our earlier voluntary request, please find attached a subpoena from the Committee on the Judiciary to compel the production of the requested documents. To the extent that any responsive documents to the subpoena include information such as customer names, addresses, credit card numbers, birth dates, or social security numbers, the Committee requests that the information be redacted to protect personal identifiable information.

Thank you for your prompt attention to this matter.

Sincerely,



Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

Enclosure

[11] Rules of the U.S. House of Representatives, R. X (2023) (118th Cong.).

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November 16, 2023

JPMorgan Chase Bank, N.A.
c/o Brian Rabbitt
Jones Day
51 Louisiana Avenue, NW
Washington, D.C. 20001

Dear Mr. Rabbitt:

The Committee on the Judiciary and the Select Subcommittee on the Weaponization of the Federal Government are conducting oversight of the Federal Bureau of Investigation (FBI) and its receipt of information about American citizens from private entities. On June 12, 2023, we wrote to your client to request their voluntary cooperation with our oversight efforts to determine the extent to which financial institutions, such as JPMorgan Chase, engaged with the FBI's effort to collect Americans' data.

The Supreme Court has recognized that Congress has a "broad and indispensable" power to conduct oversight, which "encompasses inquiries into the administration of existing laws, studies of proposed laws, and surveys in our social, economic or political system for the purpose of enabling Congress to remedy them."[1] Pursuant to the Rules of the House of Representatives, the Committee is authorized to conduct oversight of matters involving civil liberties and criminal law to inform potential legislative reforms.[2] In addition, H. Res. 12 authorizes the Select Subcommittee to examine "how executive branch agencies work with, obtain information from, and provide information to the private sector . . . to facilitate action against American citizens."[3] These potential legislative reforms could include, among other proposals, legislation to prescribe how federal law-enforcement entities collect or receive private customer data, legislation to enhance the protections of civil liberties for customers of financial institutions, or legislation to prevent the misuse of Americans' private financial information. The documents and information we have requested from JPMorgan Chase are necessary to inform such potential legislation.

[1] *See, e.g., Trump v. Mazars LLP*, No. 19-715 at 11 (U.S. slip op. July 9, 2020) (internal quotation marks and citations omitted).
[2] Rules of the U.S. House of Representatives, R. X (2023).
[3] H. Res. 12, 118th Cong. (2023).

Accordingly, please find attached a subpoena from the Committee on the Judiciary to your client to compel the production of the requested documents. Thank you for your prompt attention to this matter.

Sincerely,

Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

Enclosure

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November 30, 2023

Mr. Andrew Slavitt
c/o Theodore J. Boutrous Jr.
Gibson, Dunn & Crutcher LLP
333 South Grand Avenue
Los Angeles, CA 90071

Dear Mr. Slavitt:

The Committee on the Judiciary is conducting oversight of how and to what extent the Executive Branch has coerced and colluded with companies and other intermediaries to censor speech.[1] To develop effective legislation, such as the possible enactment of new statutory limits on the Executive Branch's ability to work with social media platforms and other companies to restrict the circulation of content and deplatform users, the Committee must first understand the nature of this collusion and coercion. As one of the primary liaisons between the Executive Office of the President (EOP) and social media companies, you are uniquely positioned to advance the Committee's oversight.[2] On June 29, 2023, and again on September 29, 2023, the Committee requested that you voluntarily appear for a transcribed interview.[3] This request remains outstanding.

As detailed in previous correspondence to you and your counsel, the Committee has obtained documents that demonstrate the central role you played in communicating the Biden White House's censorship efforts to social media companies, including the White House's demands to censor true information, memes, satire, and other constitutionally protected forms of expression.[4] As explained, we understand that the information you possess about the White

[1] *See* Ryan Tracy, *Facebook Bowed to White House Pressure, Removed Covid Posts*, WALL ST. J. (July 28, 2023); Rep. Jim Jordan (@Jim_Jordan), TWITTER (July 27, 2023, 12:03 PM), https://twitter.com/Jim_Jordan/status/1684595375875760128.
[2] *See, e.g.*, Rep. Jim Jordan (@Jim_Jordan), TWITTER (July 27, 2023, 12:03 PM), https://twitter.com/Jim_Jordan/status/1684595375875760128; Rep. Jim Jordan (@Jim_Jordan), TWITTER (July 28, 2023, 12:03 PM), https://twitter.com/Jim_Jordan/status/1684957660515328001.
[3] Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Andrew Slavitt (June 29, 2023); Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Anderw Slavitt (Sept. 29, 2023).
[4] *Id.*; *see also* Rep. Jim Jordan (@Jim_Jordan), TWITTER (July 27, 2023, 12:03 PM), https://twitter.com/Jim_Jordan/status/1684595375875760128; Rep. Jim Jordan (@Jim_Jordan), TWITTER (July 28, 2023, 12:03 PM), https://twitter.com/Jim_Jordan/status/1684957660515328001.

House's censorship efforts is specialized and unavailable to the Committee through other means.[5] Your testimony will inform the Committee's legislative reforms aimed at preventing the Executive Branch from wielding its immense power to pressure social media platforms to censor disfavored viewpoints.

The reasons for your noncompliance with our request, as articulated by your attorney, are unpersuasive. In your attorney's July 11, 2023, response to the Committee, he asked that the Committee "contact the White House Counsel's office to address any Executive Branch confidentiality protections that may attend an interview."[6] In our September 29 letter, we informed you that the Committee had "already engaged with the White House" about the topics identified by your attorney and that the White House had declined to engage substantively.[7] As a show of good faith for the White House's asserted position that the Committee must first solicit information from other sources, we notified you that the Committee had "exhausted other options for information, including by issuing document subpoenas to federal agencies, technology companies, and other relevant third parties, as well as interviewing personnel at these entities."[8] We reiterated our request for a transcribed interview and asked that you schedule it promptly.[9]

Despite the Committee's representations, your attorney notified us on October 13, 2023, that you "again respectfully request that the Committee have that discussion with the White House."[10] As we explained, however, the White House has declined to engage substantively on arranging your testimony and instead has asserted without basis that the Committee must first obtain all possible information from other sources before requesting information concerning the EOP.[11] This assertion is inapplicable here for two reasons. First, we are primarily seeking information that is unique to you and not in the possession of other sources. Second, the White House's interpretation of the exhaustion doctrine—to the extent it applies—seems to require that the Committee must *obtain* all responsive material from Executive Branch agencies before it may even *request* information in the custody of the EOP.[12] Because the EOP controls and coordinates the workings of the Executive Branch, the White House's position would allow it to effectively deny the Committee any White House information by delaying indefinitely the compliance of subordinate Executive Branch agencies with the Committee's requests, thereby

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[5] Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Andrew Slavitt (June 29, 2023); Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Anderw Slavitt (Sept. 29, 2023).
[6] Letter from Mr. Theodore J. Boutrous Jr. to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (July 11, 2023).
[7] Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Anderw Slavitt (Sept. 29, 2023).
[8] *Id.*
[9] *Id.*
[10] Letter from Mr. Theodore J. Boutrous, Jr., to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Oct. 13, 2023).
[11] Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Robert Flaherty (Sept. 29, 2023). *See also* Letter from Richard Sauber, Special Counsel to the President, to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Oct. 13, 2023).
[12] Letter from Richard Sauber, Special Counsel to the President, to Rep. Jim Jordan, Chairman of House Comm. on Judiciary 3 (Oct. 13, 2023) ("Given the ongoing production of documents and information and interviews of witnesses from multiple governmental and private entities, the Committee has not yet exhausted other means of obtaining the information you request . . . .").

preventing the Committee from ever obtaining all responsive documents. Such an extreme interpretation of the exhaustion doctrine does not reflect established separation of powers principles and is contrary to the Executive Branch's own guidance set forth by the Justice Department that a committee must only exhaust the "possibility" of obtaining material through other means.[13]

The White House has also asserted a concern about ongoing litigation relating to the matters on which the Committee is conducting oversight.[14] This assertion also lacks merit. In *Sinclair v. United States*, the Supreme Court noted that the pendency of litigation does not impede Congress's ability to conduct oversight, stating:

> It may be conceded that Congress is without authority to compel disclosures for the purpose of aiding the prosecution of pending suits; but the authority of that body, directly or through its committees, to require pertinent disclosures in aid of its own constitutional power is not abridged because the information sought to be elicited may also be of use in such suits.[15]

The Court has further noted that "a congressional committee . . . engaged in legitimate legislative investigation need not grind to a halt whenever responses to its inquiries might potentially be harmful to a witness in some distinct proceeding . . . or when crime or wrongdoing is exposed."[16] In addition, any implication that a federal court has authoritatively protected you from providing testimony in this matter is unfounded.[17] Our oversight authority, which is based in the Constitution, is not the same as civil litigation, and courts have been clear that senior White House officials do not enjoy absolute immunity from congressional testimony.[18]

Your attorney has also raised amorphous "potential confidentiality issues" as a basis to resist the Committee's request.[19] Although the nature and contours of these claim are not apparent from your attorney's letter, the confidential nature of information is not a sufficient

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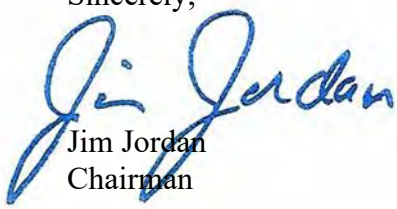
[13] *See Congressional Oversight of the White House*, 45 Op. O.L.C. ___. *41 (expressing the view that a congressional committee must only "exhaust[] the *possibility* of obtaining the necessary information elsewhere" before directing its inquiry to the White House and that when, as is the case here, "the *committee* . . . has determined that the necessary information may be obtained only from the White House," the committee should "direct its inquiry to the White House" (emphases added)).
[14] Letter from Richard Sauber, Special Counsel to the President, to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Oct. 13, 2023).
[15] 279 U.S. 263, 295 (1929).
[16] *Hutcheson v. United States*, 369 U.S. 599, 617 (1962).
[17] Letter from Richard Sauber, Special Counsel to the President, to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Oct. 13, 2023).
[18] *Comm. on Judiciary v. McGahn*, 415 F, Supp. 3d 148, 155 (D.D.C. 2019) (citing *H. Comm. On the Judiciary v. Miers*, 558 F. Supp. 2d 53 (D.D.C. 2008)).
[19] Letter from Mr. Theodore J. Boutrous, Jr., to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Oct. 13, 2023).

basis alone on which to withhold such material from Congress.[20] As such, we find this assertion unpersuasive.

The Supreme Court has recognized that Congress has a "broad and indispensable" power to conduct oversight, which "encompasses inquiries into the administration of existing laws, studies of proposed laws, and surveys in our social, economic or political system for the purpose of enabling Congress to remedy them."[21] Pursuant to the Rules of the House of Representatives, the Committee on the Judiciary has jurisdiction to conduct oversight of matters concerning "civil liberties" to inform potential legislative reforms.[22] In addition, H. Res. 12 authorized the Committee's Select Subcommittee on the Weaponization of the Federal Government to investigate "issues related to the violation of the civil liberties of citizens of the United States."[23]

Accordingly, for all the reasons explained above, please find attached a subpoena for a deposition. The Committee continues to be willing to work in good faith with you—as well as the White House, if it chooses to engage substantively—to address any legitimate Executive Branch equities stemming from your testimony.

Sincerely,



Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

Enclosure

[20] *See, e.g.*, *F.T.C. v. Owens-Corning Fiberglass Corp.*, 626 F.2d 966, 970 (D.C. Cir. 1980) (explaining an entity "may not deny Congress access to confidential documents").
[21] *Trump v. Mazars*, 140 S. Ct. 2019, 2031 (2020) (internal quotation marks omitted).
[22] Rules of the House of Representatives R. X (2023).
[23] H. Res. 12 § 1(b)(1).

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November 30, 2023

Mr. Robert Flaherty
c/o Brandon L. Arnold
Kramer Levin
2000 K St. NW, 4th Floor
Washington, D.C. 20006

Dear Mr. Flaherty:

The Committee on the Judiciary is conducting oversight of how and to what extent the Executive Branch has coerced and colluded with companies and other intermediaries to censor speech.[1] To develop effective legislation, such as the possible enactment of new statutory limits on the Executive Branch's ability to work with social media platforms and other companies to restrict the circulation of content and deplatform users, the Committee must first understand the nature of this collusion and coercion. As one of the primary liaisons between the Executive Office of the President (EOP) and social media companies, you are uniquely positioned to advance the Committee's oversight.[2] On June 23, 2023, and again on September 29, 2023, the Committee requested that you voluntarily appear for a transcribed interview.[3] This request remains outstanding.

As detailed in previous correspondence to you and your counsel, the Committee has obtained documents that demonstrate the central role you played in communicating the Biden White House's censorship efforts to social media companies, including the White House's demands to censor true information, memes, satire, and other constitutionally protected forms of expression.[4] As explained, we understand that the information you possess about the White

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[2] *See, e.g.*, Rep. Jim Jordan (@Jim_Jordan), TWITTER (July 27, 2023, 12:03 PM), https://twitter.com/Jim_Jordan/status/1684595375875760128; Rep. Jim Jordan (@Jim_Jordan), TWITTER (July 28, 2023, 12:03 PM), https://twitter.com/Jim_Jordan/status/1684957660515328001.
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The reasons for your noncompliance with our request, as articulated by your attorney, are unpersuasive. In your attorney's July 7, 2023, letter to the Committee, he asked that the Committee "direct [its] request to the White House in the first instance."[6] In our September 29 letter, we informed you that the Committee had already engaged with the White House about these topics and that the White House had declined to engage substantively.[7] As a show of good faith for the White House's asserted position that the Committee must first solicit information from other sources, we notified you that the Committee had "exhausted other options for information, including by issuing document subpoenas to federal agencies, technology companies, and other relevant third parties, as well as interviewing personnel at these entities."[8] We reiterated our request for a transcribed interview and asked that you schedule it promptly.[9]

Despite the Committee's representations, your attorney notified us on October 13, 2023, that he had forwarded our letter to the White House and indicated that you would be willing "to work collaboratively with the Committee once [the] process of inter-Branch negotiation and compromise concludes."[10] As we explained, however, the White House has declined to engage substantively on arranging your testimony and instead has asserted without basis that the Committee must first obtain all possible information from other sources before requesting information concerning the EOP.[11] This assertion is inapplicable here for two reasons. First, we are primarily seeking information that is unique to you and not in the possession of other sources. Second, the White House's interpretation of the exhaustion doctrine—to the extent it applies—seems to require that the Committee must *obtain* all responsive material from Executive Branch agencies before it may even *request* information in the custody of the EOP.[12] Because the EOP controls and coordinates the workings of the Executive Branch, the White House's position would allow it to effectively deny the Committee any White House information by delaying indefinitely the compliance of subordinate Executive Branch agencies with the Committee's requests, thereby preventing the Committee from ever obtaining all responsive documents. Such an extreme interpretation of the exhaustion doctrine does not reflect established

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[5] Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Robert Flaherty (June 23, 2023); Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Robert Flaherty (Sept. 29, 2023).
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separation of powers principles and is contrary to the Executive Branch's own guidance set forth by the Justice Department that a committee must only exhaust the "possibility" of obtaining material through other means.[13]

The White House has also asserted a concern about ongoing litigation relating to the matters on which the Committee is conducting oversight.[14] This assertion also lacks merit. In *Sinclair v. United States*, the Supreme Court noted that the pendency of litigation does not impede Congress's ability to conduct oversight, stating:

> It may be conceded that Congress is without authority to compel disclosures for the purpose of aiding the prosecution of pending suits; but the authority of that body, directly or through its committees, to require pertinent disclosures in aid of its own constitutional power is not abridged because the information sought to be elicited may also be of use in such suits.[15]

The Court has further noted that "a congressional committee . . . engaged in legitimate legislative investigation need not grind to a halt whenever responses to its inquiries might potentially be harmful to a witness in some distinct proceeding . . . or when crime or wrongdoing is exposed."[16] In addition, any implication that a federal court has authoritatively protected you from providing testimony in this matter is unfounded.[17] Our oversight authority, which is based in the Constitution, is not the same as civil litigation, and courts have been clear that senior White House officials do not enjoy absolute immunity from congressional testimony.[18]

The Supreme Court has recognized that Congress has a "broad and indispensable" power to conduct oversight, which "encompasses inquiries into the administration of existing laws, studies of proposed laws, and surveys in our social, economic or political system for the purpose of enabling Congress to remedy them."[19] Pursuant to the Rules of the House of Representatives, the Committee on the Judiciary has jurisdiction to conduct oversight of matters concerning "civil liberties" to inform potential legislative reforms.[20] In addition, H. Res. 12 authorized the

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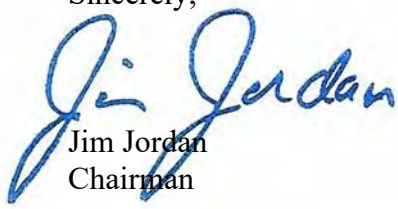
[13] *See Congressional Oversight of the White House*, 45 Op. O.L.C. ___. *41 (expressing the view that a congressional committee must only "exhaust[] the *possibility* of obtaining the necessary information elsewhere" before directing its inquiry to the White House and that when, as is the case here, "the *committee* . . . has determined that the necessary information may be obtained only from the White House," the committee should "direct its inquiry to the White House" (emphases added)).
[14] Letter from Richard Sauber, Special Counsel to the President, to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Oct. 13, 2023).
[15] 279 U.S. 263, 295 (1929).
[16] *Hutcheson v. United States*, 369 U.S. 599, 617 (1962).
[17] Letter from Richard Sauber, Special Counsel to the President, to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Oct. 13, 2023).
[18] *Comm. on Judiciary v. McGahn*, 415 F, Supp. 3d 148, 155 (D.D.C. 2019) (citing *H. Comm. On the Judiciary v. Miers*, 558 F. Supp. 2d 53 (D.D.C. 2008)).
[19] *Trump v. Mazars*, 140 S. Ct. 2019, 2031 (2020) (internal quotation marks omitted).
[20] Rules of the House of Representatives R. X (2023).

Committee's Select Subcommittee on the Weaponization of the Federal Government to investigate "issues related to the violation of the civil liberties of citizens of the United States."[21]

Accordingly, for all the reasons explained above, please find attached a subpoena for a deposition. The Committee continues to be willing to work in good faith with you—as well as the White House, if it chooses to engage substantively—to address any legitimate Executive Branch equities stemming from your testimony.

Sincerely,



Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

Enclosure

[21] H. Res. 12 § 1(b)(1).

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States
House of Representatives
COMMITTEE ON THE JUDICIARY
2138 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6216
(202) 225–6906
judiciary.house.gov

December 19, 2023

Mr. Andrew Slavitt
c/o Michael Bopp
Gibson, Dunn & Crutcher LLP
1050 Connecticut Ave, NW
Washington, DC 20036

Dear Mr. Slavitt:

The Committee on the Judiciary is conducting oversight of how and to what extent the Executive Branch has coerced and colluded with companies and other intermediaries to censor speech.[1] To develop effective legislation, such as the possible enactment of new statutory limits on the Executive Branch's ability to work with social media platforms and other companies to restrict the circulation of content and deplatform users, the Committee must first understand the nature of this collusion and coercion. As one of the primary liaisons between the Executive Office of the President (EOP) and social media companies, you are uniquely positioned to advance the Committee's oversight.[2]

After several, unsuccessful attempts to schedule a voluntary transcribed interview,[3] the Committee issued a deposition subpoena compelling you to appear for a deposition and provide testimony on January 9, 2024.[4] Based on representations from your personal counsel that the date of your deposition conflicted with certain commitments, as an accommodation to you, the Committee has agreed to reschedule your deposition in a good-faith effort to accommodate your schedule.[5]

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[1] *See* Ryan Tracy, *Facebook Bowed to White House Pressure, Removed Covid Posts*, WALL ST. J. (July 28, 2023); Rep. Jim Jordan (@Jim_Jordan), TWITTER (July 27, 2023, 12:03 PM), https://twitter.com/Jim_Jordan/status/1684595375875760128.
[2] *See, e.g.*, Rep. Jim Jordan (@Jim_Jordan), TWITTER (July 27, 2023, 12:03 PM), https://twitter.com/Jim_Jordan/status/1684595375875760128; Rep. Jim Jordan (@Jim_Jordan), TWITTER (July 28, 2023, 12:03 PM), https://twitter.com/Jim_Jordan/status/1684957660515328001.
[3] Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Andrew Slavitt (June 29, 2023); Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Anderw Slavitt (Sept. 29, 2023).
[4] Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Andrew Slavitt (Nov. 30, 2023).
[5] Telephone Call between Committee Staff and Michael Bopp (Dec. 15, 2023); Telephone Call between Committee Staff and Michael Bopp (Dec. 11, 2023).

The Supreme Court has recognized that Congress has a "broad and indispensable" power to conduct oversight, which "encompasses inquiries into the administration of existing laws, studies of proposed laws, and surveys in our social, economic or political system for the purpose of enabling Congress to remedy them."[6] Pursuant to the Rules of the House of Representatives, the Committee on the Judiciary has jurisdiction to conduct oversight of matters concerning "civil liberties" to inform potential legislative reforms.[7] In addition, H. Res. 12 authorized the Committee's Select Subcommittee on the Weaponization of the Federal Government to investigate "issues related to the violation of the civil liberties of citizens of the United States."[8]

Accordingly, please find attached a subpoena reflecting the new date of your deposition. Thank you for your attention to this matter.

Sincerely,

Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

Enclosure

[6] *Trump v. Mazars*, 140 S. Ct. 2019, 2031 (2020) (internal quotation marks omitted).
[7] Rules of the House of Representatives R. X (2023).
[8] H. Res. 12 § 1(b)(1).

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States
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COMMITTEE ON THE JUDICIARY
2138 RAYBURN HOUSE OFFICE BUILDING
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judiciary.house.gov

December 19, 2023

The Honorable Merrick B. Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

Dear Attorney General Garland:

The Committee on the Judiciary is conducting oversight of the Justice Department's use of its law-enforcement authority to obtain the private communications of Members of Congress and congressional staff members.[1] On October 31, 2023, we wrote to you to request information from the Justice Department regarding the Department's subpoenas to obtain private communications of Legislative Branch employees.[2] Due to the Department's inadequate response to date, the Committee must resort to compulsory process.

On November 8, the Department informed the Committee via e-mail of "a change to the Department of Justice's policies and procedures in criminal investigations involving Members of Congress and their staff" that "impose[s] new requirements to consult with, or receive approval from, the Public Integrity Section."[3] This communication, however, provided no update on the status of the Department's response to our October 31 letter. After receiving no subsequent information from the Department, on November 28, 2023, the Committee wrote to you again reiterating our requests and requesting material relating to the Department's policy changes as announced on November 7.[4]

On December 4, 2023, the Department finally provided a response to our letter of October 31, offering a timeline and a brief description of the Department's recent policy changes

[1] *See* Margot Cleveland, *DOJ Subpoenaed Phone And Email Logs Of Hill Staffers Probing Crossfire Hurricane Malfeasance*, THE FEDERALIST (Oct. 25, 2023).
[2] Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Hon. Merrick B. Garland, Att'y Gen., U.S. Dep't of Justice (Oct. 31, 2023).
[3] E-mail from Office of Leg. Affairs, U.S Dep't of Justice, to H. Comm. on the Judiciary (Nov. 8, 2023), *see also* Ben Penn, *DOJ Tightens Rules for Prosecutors When Probing Congress*, BLOOMBERG LAW (Nov. 8, 2023).
[4] Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Hon. Merrick B. Garland, Att'y Gen., U.S. Dep't of Justice (Nov. 28, 2023); *see also* Deputy Attorney General, Policies and Procedures in Criminal Investigations Involving Members of Congress and Staff, U.S. Dep't of Justice (Nov. 7, 2023).

for investigations involving Members of Congress and congressional staff.[5] In response to the Committee's request, the Department provided only two publicly available documents concerning the indictment and guilty plea of a Senate Select Intelligence Committee (SSCI) staff member.[6] The Department produced no other documents responsive to the Committee's requests.

In its letter to the Committee, the Department represented that the legal process used—which reportedly sought the private communications of both Republican and Democrat employees in both the House and the Senate[7]—were related to one investigation "into the unauthorized disclosure of classified information in a national media publication."[8] According to news reports, this investigation centered on FISA warrants obtained by the Justice Department on former Trump campaign associate Carter Page.[9] At the time, the FISA warrant on Mr. Page was the subject of robust Congressional oversight and vigorous debate in Congress.[10] The Justice Department Office of Inspector General later determined that the Department abused its FISA authority to surveil Mr. Page,[11] and the Department admitted there was "insufficient predication" for the warrant.[12]

If the Department's representation is accurate, it indicates that the Executive Branch used its immense law-enforcement authority to gather and search the private communications of multiple Legislative Branch employees who were conducting Constitutional oversight of the Department's investigative actions—actions that were later found to be unlawful. Because the Department has not complied in full with our requests, we cannot independently determine whether the Department sought to alleviate the heightened separation-of-powers sensitivities involved or whether the Department first sought the information through other means before resorting to legal process. The Committee also has concerns that aspects of the Department's investigation may have been a pretext to justify piercing the Legislative Branch's deliberative process and improperly access data from Members and staff involved in conducting oversight of the Department.

The Supreme Court has recognized that Congress has a "broad and indispensable" power to conduct oversight, which "encompasses inquiries into the administration of existing laws, studies of proposed laws, and surveys in our social, economic or political system for the purpose

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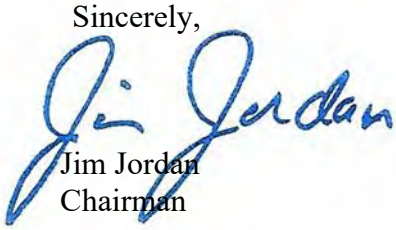
[5] Letter from Carlos Uriarte, Assistant Att'y Gen., U.S. Dep't of Justice, to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Dec. 4, 2023); *see also* E-mail from H. Comm. on the Judiciary to Off. of Legis. Affairs, U.S. Dept' of Justice (Nov. 15, 2023) (discussing the Department's plan for responding to the Committee's request after missing the deadline); E-mail from Off. of Legis. Affairs, U.S. Dept' of Justice, to H. Comm. on the Judiciary (Nov. 17, 2023).
[6] *Id.*
[7] The Editorial Board, *When the Justice Department Spied on Congress*, WALL ST. J. (Oct. 26, 2023).
[8] Letter from Carlos Uriarte, Assistant Att'y Gen., U.S. Dep't of Justice, to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Dec. 4, 2023).
[9] *See, e.g.*, Josh Gerstein, *Ex-Senate aide gets 2 months in prison for lying to FBI*, POLITICO (Dec. 20, 2018).
[10] FOREIGN INTELLIGENCE SURVEILLANCE ACT ABUSES AT THE DEPARTMENT OF JUSTICE AND THE BUREAU OF INVESTIGATION, H. PERMANENT SELECT COMM. ON INTEL. (January 18, 2018); Del Quentin Wilber, *Carter Page Surveillance Documents Set Off New Skirmish*, WALL ST. J (July 22, 2018).
[11] U.S. DEP'T. OF JUSTICE, OFFICE OF INSPECTOR GEN., REVIEW OF FOUR FISA APPLICATIONS AND OTHER ASPECTS OF THE FBI'S CROSSFIRE HURRICANE INVESTIGATION (2019).
[12] *In re Carter W. Page*, Nos. 16-1182, 17-52, 17-375, 17-679 (FISC Jan. 7, 2020).

of enabling Congress to remedy them."[13] Pursuant to the Rules of the House of Representatives, the Committee on the Judiciary has jurisdiction to conduct oversight of the Justice Department to inform potential legislative reforms that protect civil liberties and prevent the Department from misusing its law-enforcement authorities.[14]

Potential legislative reforms the Committee may consider include, among other proposals, establishing certain requirements for the Justice Department to provide appropriate notice when it seeks to access private information belonging to an employee of the Legislative Branch. The Committee may also consider legislative proposals to reform how often the Department may request an extension on a non-disclosure order without providing a compelling justification for the continued secrecy. The information we have requested regarding the Department's use of legal process to obtain the private communications of Members of Congress and congressional staff members is necessary to inform such potential legislation.

Accordingly, please find attached a subpoena for the requested documents and information.

Sincerely,



Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

Enclosure

[13] *See, e.g.*, *Trump v. Mazars LLP*, 140 S. Ct. 2019, 2031 (2020) (internal quotation marks and citations omitted).
[14] Rules of the House of Representatives, R. X, 118th Cong. (2023).

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

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January 11, 2024

The Honorable Avril Haines
Director of National Intelligence
Office of the Director of National Intelligence
1500 Tysons McLean Drive
McLean, VA 22102

Dear Director Haines:

The Committee on the Judiciary (Committee) is conducting oversight of how and to what extent the Executive Branch has coerced and colluded with companies and other intermediaries to censor speech.[1] To develop effective legislation, such as the possible enactment of new statutory limits on the Executive Branch's ability to work with social media platforms and other companies to restrict the circulation of content and deplatform users, the Committee must first understand the nature of this collusion and coercion. To this end, we have asked for communications between the Office of the Director of National Intelligence (ODNI), private companies, and other third-party groups such as nonprofit organizations, in addition to other information.[2] Your response without compulsory process has, to date, been woefully inadequate.

The investigative work performed by the Committee and its Select Subcommittee on the Weaponization of the Federal Government, along with other publicly available information, have revealed how the federal government has pressured and colluded with Big Tech and other intermediaries to censor certain viewpoints on social media in ways that undermine First Amendment principles.[3] The First Amendment prohibits government officials from imposing viewpoint-based restrictions on speech.[4] State action doctrine prohibits government officials from circumventing constitutional strictures by using private actors—whether through coercion,

[1] *See* Rep. Jim Jordan (@Jim_Jordan), TWITTER (July 27, 2023, 12:03 PM), https://twitter.com/Jim_Jordan/status/1684595375875760128.
[2] Letter from Hon. Jim Jordan, Chair, H. Comm. on the Judic., to Hon. Avril Haines, Director of Nat'l Intel. (Apr. 18, 2023).
[3] *See, e.g.*, Ryan Tracy, *Facebook Bowed to White House Pressure, Removed Covid Posts*, WALL ST. J. (July 28, 2023); Rep. Jim Jordan (@Jim_Jordan), TWITTER (July 28, 2023, 12:03 PM), https://twitter.com/Jim_Jordan/status/1684957660515328001; Rep. Jim Jordan (@Jim_Jordan), TWITTER (Aug. 3, 2023, 11:00 AM), https://twitter.com/Jim_Jordan/status/1687116316073930752.
[4] U.S. Const. Amend. I.

encouragement, entwinement, or joint participation—to accomplish what the government cannot directly.[5]

The Committee and Select Subcommittee's investigation has revealed how the Executive Branch has weaponized federal authority to censor speech online directly and by proxy. It is necessary for Congress to gauge the extent to which ODNI officials have coerced, pressured, worked with, or relied upon social media and other tech companies to censor speech. The scope of the Committee's investigation includes understanding the extent and nature of ODNI's involvement in this censorship.

On April 18, 2023, the Committee wrote to you seeking your voluntary cooperation with our oversight.[6] Among other things, we requested communications between ODNI employees and private companies, internal communications, and communications between ODNI and other third parties discussing content moderation on social media. ODNI failed to timely respond to the Committee's request. Committee staff subsequently followed up with ODNI on May 4, May 12, May 24, June 8, and August 15.[7] It was not until August 16, almost four months after the Chairman's initial letter regarding this matter, that ODNI personnel responded to Committee staff.[8]

Despite additional correspondence on September 6, September 8, October 2, October 3, November 7, November 8, November 9, December 11, and December 18, ODNI has yet to produce a single document in response to the Committee's request.[9] ODNI did not provide a formal written response until January 8, 2024, and that response did not include any documents.[10] Publicly available information regarding the ODNI's Foreign Malign Influence Center makes clear that records related to the Center's activities fall within the scope of the Committee's request for documents.[11] Moreover, the Committee is in possession of documents that demonstrate that ODNI personnel were invited to meetings between major social media

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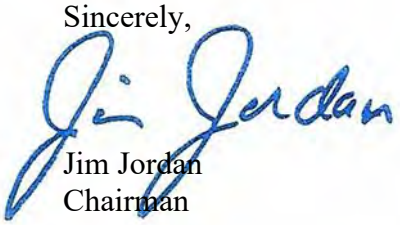
[5] *See* Norwood v. Harrison, 413 U.S. 455, 465 (1973) ("[i]t is … axiomatic that a state may not induce, encourage, or promote private persons to accomplish what it is constitutionally forbidden to accomplish.").
[6] Letter from Hon. Jim Jordan, Chair, H. Comm. on the Judic., to Hon. Avril Haines, Director of Nat'l Intel. (Apr. 18, 2023).
[7] Email from Comm. staff to ODNI personnel (May 4, 2023, 6:36 PM); email from Comm. staff to ODNI personnel (May 12, 2023, 3:04 PM); email from Comm. staff to ODNI personnel (May 24, 2023, 4:39 PM); email from Comm. staff to ODNI personnel (June 8, 2023, 12:02 PM); email from Comm. staff to ODNI personnel (Aug. 15, 2023, 2:49 PM).
[8] Email from ODNI personnel to Comm. staff (Aug. 16, 2023, 2:27 PM).
[9] Email from Comm. staff to ODNI personnel (Sept. 6, 2023, 7:30 PM); email from ODNI personnel to Comm. staff (Sept. 8, 2023, 7:54 AM); email from Comm. staff to ODNI personnel (Oct. 2, 2023, 11:52 AM); email from ODNI personnel to Comm. staff (Oct. 3, 2023, 9:15 AM); email from Comm. staff to ODNI personnel (Nov. 7, 2023, 12:13 PM); email from ODNI personnel to Comm. staff (Nov. 8, 2023, 6:19 PM); email from ODNI personnel to Comm. staff (Nov. 9, 2023, 5:14 PM); email from Comm. staff to ODNI personnel (Dec. 11, 2023, 3:48 PM); email from ODNI personnel to Comm. staff (Dec. 18, 2023, 12:56 PM).
[10] Letter from Assistant Director for Legislative Affairs Matthew Rhoades to Hon. Jim Jordan, Chair, H. Comm. on the Judic. (Jan. 8, 2024).
[11] *See, e.g.,* Ken Klippenstein, *The Government Created a New Disinformation Office to Oversee All the Other Ones*, THE INTERCEPT (May 5, 2023).

companies and federal government agencies, often referred to as "USG-Industry Sync" meetings. ODNI has yet to produce any records related to these or any other meetings.[12]

Pursuant to the Rules of the House of Representatives, the Committee has jurisdiction to conduct oversight of matters concerning "civil liberties" to inform potential legislative reforms.[13] In addition, House Resolution 12 authorizes the Committee's Select Subcommittee on the Weaponization of the Federal Government to investigate "issues related to the violation of the civil liberties of citizens of the United States."[14]

Accordingly, given ODNI's woefully inadequate voluntary compliance, please find attached a subpoena for the Committee's highest priority documents and information.

Sincerely,



Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

Enclosure

[12] *See, e.g.*, email from CISA personnel to FBI, ODNI, CISA, DHS, and DOJ personnel (June 4, 2021, 5:36 PM) (on file with the Comm.); *see also Missouri v. Biden*, No. 3:22-cv-01213 (W.D. La. Jul. 4, 2023), Dkt. 294 (order and judgment granting preliminary injunction), at 59, 61, 69 (discussing ODNI's meeting with social media companies).
[13] Rules of the House of Representatives R. X (2023).
[14] H. Res. 12 § 1(b)(1).

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

ONE HUNDRED EIGHTEENTH CONGRESS

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February 2, 2024

The Honorable Fani T. Willis
District Attorney
Fulton County District Attorney's Office
141 Pryor Street SW
Atlanta, GA 30303

Dear Ms. Willis:

On August 24, 2023, the Committee on the Judiciary wrote to you requesting documents in the custody of the Fulton County District Attorney's Office (FCDAO) relating, in part, to its receipt and use of federal grant funds issued by the U.S. Department of Justice (DOJ).[1] Since that date, we have sent two additional letters, on September 27, 2023,[2] and December 5, 2023,[3] reiterating our requests.[4] To date, you have failed to comply voluntarily with any of our requests.[5]

The Committee's oversight of your office's use of federal grant funds is particularly relevant in light of public whistleblower allegations that it has misused federal funding. According to a recent report, your office unlawfully "planned to use part of a $488,000 federal grant—earmarked for the creation of a Center of Youth Empowerment and Gang Prevention"—to cover frivolous, unrelated expenses.[6] DOJ awarded this grant to the FCDAO for the purpose

[1] Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Dist. Att'y Fani T. Willis, Fulton Cty. Dist. Att'y's Office (Aug. 24, 2023).
[2] Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Dist. Att'y Fani T. Willis, Fulton Cty. Dist. Att'y's Office (Sept. 27, 2023).
[3] Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Dist. Att'y Fani T. Willis, Fulton Cty. Dist. Att'y's Office (Dec. 5, 2023).
[4] In addition, in light of allegations that you improperly used taxpayer dollars to pay a "Special Assistant District Attorney" named Nathan Wade more than $650,000 over the course of two years, we wrote to Mr. Wade to request documents in his possession. *See* Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Nathan J. Wade, Esq. (Jan. 12, 2024).
[5] Your correspondence to this Committee dated September 7, 2023; October 11, 2023; and December 19, 2023—as well as your response dated January 26, 2024, on behalf of Mr. Wade—all dismiss the Committee's requests and demonstrate your unlawful refusal to comply with the Committee's oversight.
[6] Andrew Kerr, *Fani Willis Axed Employee Who Blew Whistle on Misuse of Federal Funds*, WASH. FREE BEACON (Jan. 31, 2024).

of creating the "Fulton County Center of Youth Empowerment and Gang Prevention [to] work with boys and girls ages 12-17. . . ."[7] The Center, through funding by the federal grant, was intended to "establish a community network . . . in Fulton County[] to identify and address service gaps and barriers and create a comprehensive system of service for youth at risk of becoming gang involved or continuing in the gang lifestyle."[8]

According to reporting about the whistleblower's allegations, instead of using these federal grant funds for the intended purpose of helping at-risk youths, your office sought to use the grant funds to "get Macbooks,. . . swag, . . . [and] use it for travel."[9] Moreover, the whistleblower's direct supervisor stated that these planned expenditures "were part of [your] vision."[10] The whistleblower has stated that she warned you that the use of the federal grant funds in this manner was "impossible" because the terms of the grant were "very, very specific."[11] The whistleblower was in charge of "vetting, selecting, and securing [the FCDAO's] grant partnerships" and was "the only contact" DOJ had with FCDAO.[12] Less than two months after receiving this warning, you "abruptly terminated [the whistleblower] and had her escorted out of her office by seven armed investigators."[13] These allegations raise serious concerns about whether you were appropriately supervising the expenditure of federal grant funding allocated to your office and whether you took actions to conceal your office's unlawful use of federal funds.

Our previous letters—in particular, our September 27 letter—explain in detail the Committee's Constitutional authority and jurisdiction for our oversight. To summarize that explanation, the Supreme Court has recognized that Congress has a "broad and indispensable" power to conduct oversight, which "encompasses inquiries into the administration of existing laws, studies of proposed laws, and surveys in our social, economic or political system for the purpose of enabling Congress to remedy them."[14] Pursuant to the Rules of the House of Representatives, the Committee has jurisdiction to conduct oversight of matters concerning DOJ grant programs and criminal justice to inform potential legislative reforms.[15]

Potential legislative reforms the Committee may consider include, among other proposals, establishing clear guidelines outlining the permissible uses of federal grant funds under 34 U.S.C. §§ 10261, *et seq.*, and 12291, *et seq.*, creating penalties for unlawfully misusing federal grant funds under Title 34 of the United States Code, constructing stringent automatic audit requirements for DOJ grant managers, or modifying eligibility requirements pertaining to

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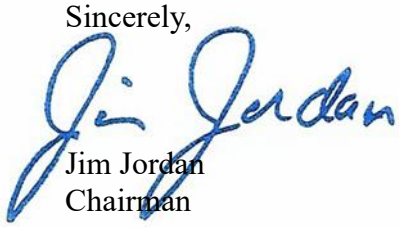
[7] *Gang Prevention in Fulton County*, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION (last accessed Jan. 31, 2024).
[8] *Id.*
[9] Kerr, *supra* note 6.
[10] *Id.*
[11] *Id.*
[12] *Id.* (quoting Email from Whistleblower, Fulton Cty. Dist. Att'y's Office, to Dist. Att'y Fani T. Willis, Fulton Cty. Dist. Att'y's Office (Dec. 7, 2021) (The whistleblower also stated that she "created the [FCDAO's] participant criteria and the [i]ntake process for the grant program[s].")).
[13] *Id.*
[14] *See, e.g., Trump v. Mazars LLP*, No. 19-715 at 11 (U.S. slip op. July 9, 2020) (internal quotation marks and citations omitted).
[15] Rules of the House of Representatives, R. X, 118th Cong. (2023).

grant recipients that misuse federal funds. The information we have requested regarding your office's use of federal grant funds is necessary to inform such potential legislation.

In our prior letters, we requested several categories of material relevant for our oversight. However, in response to the recently disclosed whistleblower allegations and as an accommodation, we are prioritizing the production of documents concerning your office's receipt and use of federal funds.

Accordingly, please find attached a subpoena for the requested documents and information.

Sincerely,



Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

Enclosure

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
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February 6, 2024

The Honorable Sethuraman Panchanathan, PhD
Director
National Science Foundation
2415 Eisenhower Avenue
Alexandria, VA 22314

Dear Dr. Panchanathan:

The Committee on the Judiciary (Committee) is conducting oversight of how and to what extent the Executive Branch has coerced and colluded with companies and other intermediaries to censor speech.[1] To develop effective legislation, such as the possible enactment of new statutory limits on the Executive Branch's ability to work with social media platforms and other companies to restrict the circulation of content and deplatform users, the Committee must first understand the nature of this collusion and coercion. To this end, we have asked for communications between the National Science Foundation (NSF), private companies, and other third-party groups such as nonprofit organizations, in addition to other information.[2] NSF's response without compulsory process has, to date, been woefully inadequate.

The information obtained by the Committee and its Select Subcommittee on the Weaponization of the Federal Government, along with other publicly available information, have revealed how the federal government has pressured and colluded with Big Tech and other intermediaries to censor certain viewpoints on social media in ways that undermine First Amendment principles.[3] The First Amendment prohibits government officials from imposing viewpoint-based restrictions on speech.[4] State action doctrine prohibits government officials from circumventing constitutional strictures by using private actors—whether through coercion,

[1] *See* Rep. Jim Jordan (@Jim_Jordan), TWITTER (July 27, 2023, 12:03 PM), https://twitter.com/Jim_Jordan/status/1684595375875760128.
[2] Letter from Hon. Jim Jordan, Chair, H. Comm. on the Judic., to Dr. Sethuraman Panchanathan, Director of Nat'l Sci. Found. (May 1, 2023).
[3] *See, e.g.*, Ryan Tracy, *Facebook Bowed to White House Pressure, Removed Covid Posts*, WALL ST. J. (July 28, 2023); Rep. Jim Jordan (@Jim_Jordan), TWITTER (July 28, 2023, 12:03 PM), https://twitter.com/Jim_Jordan/status/1684957660515328001; Rep. Jim Jordan (@Jim_Jordan), TWITTER (Aug. 3, 2023, 11:00 AM), https://twitter.com/Jim_Jordan/status/1687116316073930752.
[4] U.S. Const. Amend. I.

encouragement, entwinement, or joint participation—to accomplish what the government cannot directly.[5]

The Committee and Select Subcommittee's investigation has revealed how the Executive Branch has weaponized federal authority to censor speech online directly and by proxy. It is necessary for Congress to gauge the extent to which NSF officials have coerced, pressured, worked with, or relied upon social media and other tech companies and third parties to censor speech. The scope of the Committee's investigation includes understanding the extent and nature of NSF's involvement in this censorship.

On May 1, 2023, the Committee initially sought voluntary cooperation with our oversight.[6] Among other things, we requested communications between NSF employees and private companies, internal communications, and communications between NSF and other third parties discussing content moderation on social media, including those relating to NSF's Convergence Accelerator Track F program, which funded projects aimed at developing advanced tools and techniques "to address issues of trust and authenticity in communication systems, including predicting, preventing, detecting, correcting, and mitigating the spread of inaccurate information" and "misinformation campaigns" online.[7]

NSF failed to timely respond to the Committee's request, responding only with a letter on June 13, 2023, that failed to produce any of the requested documents.[8] Committee staff subsequently followed up with NSF on August 15, 2023, and then, to assist NSF in complying with the request, highlighted the Committee's highest priority documents in a phone call on August 17.[9] On August 25, nearly four months after the Committee issued its initial request for documents, NSF produced four documents totaling only thirteen pages.[10] These documents contained no information or communications relating to NSF's Convergence Accelerator Track F program. Committee staff subsequently followed up with NSF on October 2 and again on December 7.[11] On December 15, NSF produced only another 116 pages, none of which included any internal communications between NSF personnel regarding the Track F program or communications between NSF and Track F grantees.[12] Since NSF's December 15 production,

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[5] *See* Norwood v. Harrison, 413 U.S. 455, 465 (1973) ("[i]t is … axiomatic that a state may not induce, encourage, or promote private persons to accomplish what it is constitutionally forbidden to accomplish.").
[6] Letter from Hon. Jim Jordan, Chair, H. Comm. on the Judic., to Dr. Sethuraman Panchanathan, Director of Nat'l Sci. Found. (May 1, 2023).
[7] *NSF Convergence Accelerator Phases I and II for the 2021 Cohort: Program Solicitation*, NAT. SCI. FOUND., Mar. 18, 2021, at 7, https://nsf-gov-resources.nsf.gov/solicitations/pubs/2021/nsf21572/nsf21572.pdf.
[8] Letter from Dr. Sethuraman Panchanathan, Director of Nat'l Sci. Found., to Hon. Jim Jordan, Chair, H. Comm. on the Judic. (June 13, 2023); email from NSF personnel to Comm. staff (June 16, 2023, 5:20 PM).
[9] Email from Comm. staff to NSF personnel (Aug. 15, 2023, 2:29 PM); phone call between Comm. staff and NSF personnel (Aug. 17, 2023, 11:00 AM). The Committee reiterated its request in subsequent calls. *See*, *e.g.*, phone call between Comm. staff and NSF personnel (Dec. 7, 2023).
[10] Email from NSF personnel to Comm. staff (Aug. 25, 2023, 5:53 PM).
[11] Email from Comm. staff to NSF personnel (Oct. 2, 2023, 11:56 AM); phone call between Comm. staff and NSF personnel (Dec. 7, 2023, 3:00 PM).
[12] Email from NSF personnel to Comm. staff (Dec. 15, 2023, 6:11 PM).

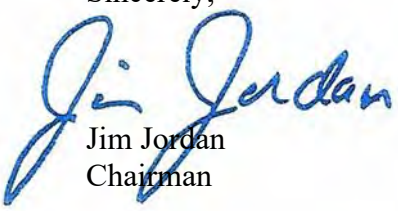
Committee staff has followed up with NSF multiple times.[13] On February 5, 2024, after Committee staff informed NSF that the Committee was considering issuing a document subpoena, NSF produced 27 documents totaling 165 pages, much of which contained already publicly available information and none of which included any internal communications from the Track F program director regarding the Track F program or any communications between NSF and Track F grantees.[14] To date, NSF has not produced the highest priority documents requested by the Committee.

Publicly available information regarding the NSF Convergence Accelerator Track F program makes clear that records related to Track F's activities fall within the scope of the Committee's request for documents.[15] Moreover, the Committee is in possession of documents that demonstrate that NSF personnel regularly interacted and communicated with organizations receiving NSF funds, including for projects that focused on combatting alleged misinformation online.[16] NSF has yet to produce any records related to these communications or any other meetings.

Pursuant to the Rules of the House of Representatives, the Committee has jurisdiction to conduct oversight of matters concerning "civil liberties" to inform potential legislative reforms.[17] In addition, House Resolution 12 authorizes the Committee's Select Subcommittee on the Weaponization of the Federal Government to investigate "issues related to the violation of the civil liberties of citizens of the United States."[18]

Accordingly, given NSF's inadequate voluntary compliance, please find attached a subpoena for the Committee's requested documents and information.

Sincerely,



Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

Enclosure

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[13] Phone call between Comm. staff and NSF personnel (Dec. 19, 2023, 1:00 PM); email from Comm. staff to NSF personnel (Jan. 18, 2024, 9:07 AM); email from Comm. staff to NSF personnel (Jan. 26, 2024, 3:55 PM).
[14] Email from NSF personnel to Comm. staff (Feb. 5, 2024, 11:19 AM).
[15] *See, e.g.,* Katelynn Richardson, *'Serious Threat': The National Science Foundation Has Spent Millions On Projects Combating 'Misinformation'*, THE DAILY CALLER (Feb. 19, 2023).
[16] *See, e.g.*, Slides from "NSF's Convergence Accelerator 2021 Cohort Welcome Kit" (on file with the Comm.); *see also* email from NSF personnel to Track F grantees (Oct. 26, 2021, 2:17 PM) (on file with the Comm.).
[17] Rules of the House of Representatives R. X (2023).
[18] H. Res. 12 § 1(b)(1).

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States
House of Representatives
COMMITTEE ON THE JUDICIARY
2138 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6216
(202) 225–6906
judiciary.house.gov

April 12, 2024

Ms. Linda Yaccarino
Chief Executive Officer
X Corp.
1355 Market Street
Suite 900
San Francisco, CA 94103

C/O CT Corporation
701 S. Carson Street
Suite 200
Carson City, NV 89701

Dear Ms. Yaccarino:

The Committee on the Judiciary and the Select Subcommittee on the Weaponization of the Federal Government are conducting oversight of how and to what extent the Executive Branch has coerced or colluded with companies and other intermediaries to censor lawful speech.[1] To develop effective legislation, such as the possible enactment of new statutory limits on the Executive Branch's ability to work with social media platforms and other companies to restrict the circulation of content and deplatform users, the Judiciary Committee and the Weaponization Select Subcommittee must first understand how and to what extent the federal government has coerced and colluded with companies and other intermediaries to censor speech.

In furtherance of this legislative purpose, the Weaponization Select Subcommittee has examined how other countries' governments, including Brazil's, have sought to censor speech online.[2] This line of inquiry informs the Judiciary Committee's and Weaponization Select

[1] *See* Ryan Tracy, *Facebook Bowed to White House Pressure, Removed Covid Posts*, WALL ST. J. (July 28, 2023).
[2] *See, e.g.*, Hearing on the Weaponization of the Federal Government: Hearing Before the Select Subcomm. on the Weaponization of the Fed. Gov't of the H. Comm. on the Judiciary, 118th Cong. (Nov. 30, 2023) (statement of Rupa Subramanya) ("Across the world right now, governments, in the name of the good, are considering or adopting measures like we have in Canada. In Dublin, they're about to enact a draconian hate-crime bill that poses a dire threat to free speech. In Paris, President Emanuel Macron has called for censoring online speech. In Brussels, the EU's Internal Market Commissioner is calling for a crackdown on "illegal content." **In Brasilia, they're fighting "fake news" and "disinformation" by clamping down on legitimate online speech.** To say nothing of Russia and

Subcommittee's legislative work in addressing the vulnerabilities online speech faces from governments hostile to the freedom of speech.

Recent reporting and public statements from X's Global Government Affairs team have indicated that X is being "forced by court decisions to block certain popular accounts in Brazil" or else face serious consequences, such as incurring large fines, arrests of X employees, and causing X to shut down in Brazil.[3] The Brazilian government has reportedly launched an investigation into Elon Musk for alleged obstruction of justice and other charges because Mr. Musk has refused to acquiesce to the Brazilian court's censorship demands.[4] To that end, the attached subpoena compels you to produce documents and records relating to recent efforts by the Superior Electoral Court in Brazil to compel X—including documents related to orders X received regarding content moderation—to censor popular accounts in the country.

Pursuant to the Rules of the House of Representatives, the Committee on the Judiciary has jurisdiction to conduct oversight of matters concerning "civil liberties" to inform potential legislative reforms.[5] In addition, House Resolution 12 authorizes the Committee's Select Subcommittee on the Weaponization of the Federal Government to investigate "issues related to the violation of the civil liberties of citizens of the United States."[6]

Accordingly, please find the attached subpoena.

Sincerely,

Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

Enclosure

China and Iran. America is so exceptional—indispensable really. Please do not succumb to the same illiberal, the same authoritarianism. Please keep fighting for what you know is right. Canada is watching. The *whole world* is watching.") (bolded emphasis added; italicized emphasis in original).

[3] X Global Government Affairs (@GlobalAffairs), X (Apr. 6, 2024, 5:52 PM), https://twitter.com/GlobalAffairs/status/1776729732970594483; Elon Musk (@elonmusk), X (Apr. 6, 2024, 6:31 PM), https://twitter.com/elonmusk/status/1776739518240170254.

[4] *See* Alex Hern and Tom Phillips, *Elon Musk faces Brazil inquiry after defying X court order*, GUARDIAN (April 8, 2024); *see also* Michael Shellenberger, *Elon Musk Is All That Stands In The Way Of Totalitarianism*, PUBLIC (Apr. 8, 2024); Michael Shellenberger, *Socialist Strategy Behind Brazilian President Lula's War On Free Speech*, PUBLIC (Apr. 11, 2024).

[5] Rules of the House of Representatives R. X (2023).

[6] H. Res. 12 § 1(b)(1).

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States
House of Representatives
COMMITTEE ON THE JUDICIARY
2138 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6216
(202) 225–6906
judiciary.house.gov

April 24, 2024

Mr. Chris Pavlovski
Chief Executive Officer and Chairman
C/O Michael Ellis
General Counsel
Rumble Inc.
444 Gulf of Mexico Drive
Longboat Key, FL 34228

Dear Mr. Pavlovski:

The Committee on the Judiciary and the Select Subcommittee on the Weaponization of the Federal Government are conducting oversight of how and to what extent the Executive Branch has coerced or colluded with companies and other intermediaries to censor lawful speech.[1] To develop effective legislation, such as the possible enactment of new statutory limits on the Executive Branch's ability to work with social media platforms and other companies to restrict the circulation of content and deplatform users, the Judiciary Committee and the Weaponization Select Subcommittee must first understand how and to what extent the federal government has coerced and colluded with companies and other intermediaries to censor speech.

In furtherance of this legislative purpose, the Weaponization Select Subcommittee has examined how other countries' governments, including Brazil's, have sought to censor speech online.[2] This line of inquiry informs the Judiciary Committee's and Weaponization Select

[1] *See* Ryan Tracy, *Facebook Bowed to White House Pressure, Removed Covid Posts*, WALL ST. J. (July 28, 2023).
[2] *See, e.g.*, STAFF OF THE H. COMM. ON THE JUDICIARY AND THE SELECT SUBCOMM. ON THE WEAPONIZATION OF THE FED. GOV'T OF THE H. COMM. ON THE JUDICIARY, 118TH CONG., THE ATTACK ON FREE SPEECH ABROAD AND THE BIDEN ADMINISTRATION'S SILENCE: THE CASE OF BRAZIL (Comm. Print Apr. 17, 2024); Hearing on the Weaponization of the Federal Government: Hearing Before the Select Subcomm. on the Weaponization of the Fed. Gov't of the H. Comm. on the Judiciary, 118th Cong. (Nov. 30, 2023) (statement of Rupa Subramanya) ("Across the world right now, governments, in the name of the good, are considering or adopting measures like we have in Canada. In Dublin, they're about to enact a draconian hate-crime bill that poses a dire threat to free speech. In Paris, President Emanuel Macron has called for censoring online speech. In Brussels, the EU's Internal Market Commissioner is calling for a crackdown on "illegal content." **In Brasilia, they're fighting "fake news" and "disinformation" by clamping down on legitimate online speech.** To say nothing of Russia and China and Iran. America is so exceptional—indispensable really. Please do not succumb to the same illiberal, the same authoritarianism. Please keep fighting for what you know is right. Canada is watching. The *whole world* is watching.") (bolded emphasis added; italicized emphasis in original).

Subcommittee's legislative work in addressing the vulnerabilities online speech faces from governments hostile to the freedom of speech.

Recent reporting has indicated that certain social media platforms are being "forced by court decisions to block certain popular accounts in Brazil" or else face serious consequences, such as incurring large fines, arrests of employees, and causing the platforms to shut down in Brazil.[3] On December 22, 2023, you posted a statement that censorship demands from Brazilian courts required the decision "to disable access to Rumble for users in Brazil."[4] To that end, the attached subpoena compels you to produce documents and records relating to efforts by the Superior Electoral Court in Brazil and/or the Supreme Federal Court in Brazil to compel Rumble—including documents related to orders Rumble received regarding content moderation—to censor certain accounts.

Pursuant to the Rules of the House of Representatives, the Committee on the Judiciary has jurisdiction to conduct oversight of matters concerning "civil liberties" to inform potential legislative reforms.[5] In addition, House Resolution 12 authorizes the Committee's Select Subcommittee on the Weaponization of the Federal Government to investigate "issues related to the violation of the civil liberties of citizens of the United States."[6]

Accordingly, please find the attached subpoena.

Sincerely,

Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

Enclosure

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[3] *See* STAFF OF THE H. COMM. ON THE JUDICIARY AND THE SELECT SUBCOMM. ON THE WEAPONIZATION OF THE FED. GOV'T OF THE H. COMM. ON THE JUDICIARY, 118TH CONG., THE ATTACK ON FREE SPEECH ABROAD AND THE BIDEN ADMINISTRATION'S SILENCE: THE CASE OF BRAZIL (Comm. Print Apr. 17, 2024); *see also* Chris Pavlovski (@chrispavloski), X (Dec. 22, 2023, 4:05 PM), https://twitter.com/chrispavlovski/status/1738304870434631800; X Global Government Affairs (@GlobalAffairs), X (Apr. 6, 2024, 5:52 PM), https://twitter.com/GlobalAffairs/status/1776729732970594483; Elon Musk (@elonmusk), X (Apr. 6, 2024, 6:31 PM), https://twitter.com/elonmusk/status/1776739518240170254.

[4] Chris Pavlovski (@chrispavloski), X (Dec. 22, 2023, 4:05 PM), https://twitter.com/chrispavlovski/status/1738304870434631800; *see also* Michael Shellenberger, *Elon Musk Is All That Stands In The Way Of Totalitarianism*, PUBLIC (Apr. 8, 2024); Michael Shellenberger, *Socialist Strategy Behind Brazilian President Lula's War On Free Speech*, PUBLIC (Apr. 11, 2024).

[5] Rules of the House of Representatives R. X (2023).

[6] H. Res. 12 § 1(b)(1).

Congress of the United States
Washington, DC 20515

April 26, 2024

Colette S. Peters
Director
Federal Bureau of Prisons
320 First St, N.W.
Washington, DC 20534

Dear Director Peters:

On March 5, 2024, pursuant to the House's ongoing impeachment inquiry and our legislative oversight authorities,[1] the Committee on the Judiciary ("Judiciary Committee"), along with the Committee on Oversight and Accountability ("Oversight Committee"), requested a narrow and specific set of materials relating to claims of unfair treatment of Hunter Biden's business associate Jason Galanis.[2] As we explained, Mr. Galanis alleges that he has been targeted for "retribution" to suppress his testimony about the Biden family's influence peddling scheme.[3] To date, you have failed to respond to these requests.

Since Mr. Galanis's transcribed interview earlier this year, the Committees have received additional information that strongly suggests the Bureau of Prisons (BOP) has been retaliating against Mr. Galanis for his cooperation with the Committees' inquiry. On February 4, 2023, Mr. Galanis applied to the BOP for home confinement pursuant to the CARES Act.[4] His application proceeded through the process as normal. In March 2023, the U.S. Probation Office serving the San Diego location of the Southern District of California approved Mr. Galanis's post-confinement residence.[5] The warden of the BOP facility where Mr. Galanis resided at the time, FPC Pensacola, later signed off on the application, and Mr. Galanis's application went on to the Residential Reentry Management (RRM) center in Long Beach, California.[6] On June 9, 2023, the Long Beach RRM approved Mr. Galanis's request for home confinement and reached out to

[1] *See* H. Res. 918, 118th Cong. (2023); Memorandum from Hon. James Comer, Chairman, H. Comm. on Oversight & Accountability, Hon. Jim Jordan, Chairman, H. Comm. on the Judiciary, & Hon. Jason Smith, Chairman, H. Comm. on Ways & Means, to H. Comm. on Oversight & Accountability, H. Comm. on the Judiciary, & H. Comm. on Ways & Means. Re: Impeachment Inquiry (Sept. 27, 2023) (hereinafter Impeachment Inquiry Memorandum); February 12 Letter, *supra* note 1.
[2] Letter from Rep. James Comer, Chairman, H. Comm. on Oversight & Accountability, et al., to Negar Tekeei, Assistant U.S. Attorney, US. District Court of the Southern District of New York (Mar. 5, 2024); Letter from Rep. James Comer, Chairman, H. Comm. on Oversight & Accountability, et al., to Collette S. Peters, Director, Federal Bureau of Prisons (Mar. 5, 2024).
[3] *Id.*
[4] Transcribed Interview with Jason Galanis at 13-14 (Feb. 23, 2024).
[5] *Id.*
[6] Transcribed Interview with Jason Galanis at 13-14 (Feb. 23, 2024).

the U.S. Attorney's Office for the Southern District of New York (SDNY) regarding the application's approval.[7]

On June 12, 2023, the Oversight Committee announced that it had subpoenaed Mr. Galanis's business partner, Devon Archer, to testify about his relationship with Hunter Biden and the Biden family's business activities.[8] Around the same time as the Oversight Committee's announcement, an SDNY Assistant U.S. Attorney, Negar Tekeei, responded to the Long Beach RRM with her "strongest objection," and threatened to go "hard on this" to the BOP Director if Mr. Galanis's application went any further.[9] On June 22, 2023, a BOP official informed Mr. Galanis that his application had been denied on June 13—the day after the Oversight Committee's announcement.[10]

On August 8, 2023, Mr. Galanis appealed the denial of his home confinement to the warden of FPC Pensacola, who subsequently denied his appeal on the erroneous grounds that the "amount of time" he requested on home confinement "was not appropriate." On September 22, 2023, Mr. Galanis appealed the warden's denial to the Southeast Regional RRM and, after receiving no response, he appealed to the BOP Central Office.

On February 8, 2024, the Committees informed BOP that they intended to interview Mr. Galanis at the BOP facility where he presently resides, FPC Montgomery.[11] The next day, the BOP Central Office sent Mr. Galanis its denial of his appeal, which was dated January 4, over a month earlier. In this denial, BOP changed its reasoning from an "inappropriate amount of time" for home confinement to the "CARES Act has expired." This reason, however, is also not a proper basis for denial. Per BOP practice, and consistent with basic due process, anyone who applied for home confinement prior to expiration of the CARES Act—and whose appeal rights have not been exhausted—remained eligible to be considered under the Act.[12] In fact, Mr. Galanis initially applied for home confinement on February 4, 2023, well before the May 31 expiration of the CARES Act.[13] Three days after Mr. Galanis sat for a transcribed interview with the Committees, BOP gave Mr. Galanis its final denial of his home confinement application under the CARES Act.

The documents and testimony requested are directly relevant to both the impeachment inquiry and the Judiciary Committee's legislative oversight of the Department. Mr. Galanis's allegations suggest that the Biden Administration may have politically influenced BOP's internal procedures and decision making. Congress's authority to access information is broadest during

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[7] Transcribed Interview with Jason Galanis at 14 (Feb. 23, 2024).
[8] Letter from Rep. James Comer, Chairman, H. Comm on Oversight and Accountability to Matthew Schwartz, Boies Schiller Flexner (Jun. 12, 2023).
[9] Transcribed Interview with Jason Galanis at 14 (Feb. 23, 2024).
[10] *Id.*
[11] Mr. Galanis transferred to FPC Montgomery in August 2023; Transcribed Interview with Jason Galanis at 15 (Feb. 23, 2024).
[12] Press Release, Final Rule Issued for Home Confinement Under the Coronavirus Aid, Relief and Economic Security (CARES) Act, U.S. Dept. of Justice (Apr. 4, 2023).
[13] Transcribed Interview with Jason Galanis at 14 (Feb. 23, 2024).

an impeachment investigation,[14] a fact which even Presidents and other Executive Branch officials have traditionally recognized.[15] Indeed, conducting an impeachment inquiry based on anything less than all pertinent evidence would be an affront to the Constitution and irreparably damage public faith in the impeachment process.[16]

In addition, pursuant to the Rules of the House of Representatives, the Judiciary Committee has jurisdiction to consider potential legislative reforms to the Department of Justice and national penitentiaries.[17] Such potential legislative reforms may include, among other things, creating additional protections to safeguard the ability of those in BOP custody to cooperate with congressional investigations, ensuring the integrity of BOP's home release and confinement policies, and reforming the BOP's administrative practices.

Accordingly, please find the attached subpoena from the Judiciary Committee for the requested materials.

Sincerely,

Jim Jordan
Chairman
Committee on the Judiciary

James Comer
Chairman
Committee on Oversight and Accountability

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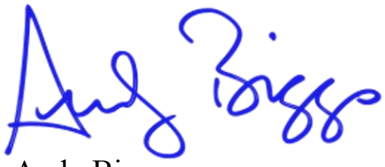
[14] TODD GARVEY, CONG. RSCH. SERV., LSB11083, IMPEACHMENT INVESTIGATIONS, PART II: ACCESS, at 1 (2023) ("[T]here is reason to believe that invocation of the impeachment power could improve the committees' legal claims of access to certain types of evidence relevant to the allegations of misconduct against President Biden."). *See also In re Application of Comm. on the Judiciary*, 414 F. Supp. 3d 129, 176 (D.D.C. 2019) ("[D]enying [the House Judiciary Committee] evidence relevant to an impeachment inquiry could pose constitutional problems."), *aff'd*, 951 F.3d 589 (D.C. Cir. 2020), *vacated and remanded sub nom. on other grounds DOJ v. House Comm. on the Judiciary*, 142 S. Ct. 46 (2021); *In re Request for Access to Grand Jury Materials*, 833 F.2d 1438, 1445 (11th Cir. 1987) (concluding that "limit[ing] the investigatory power of the House in impeachment proceedings . . . would clearly violate separation of powers principles.").

[15] *See* GARVEY, supra note 6, at 2 ("As a historical matter, all three branches have suggested that the House possesses a robust right of access to information when it is investigating for impeachment purposes."); Jonathan David Schaub, *The Executive's Privilege*, 70 DUKE L.J. 1, 87 (2020) ("[P]residents and others have recognized throughout the history of the country that their ability to withhold information from Congress disappears in the context of impeachment.").

[16] *See In re Application of Comm. on the Judiciary*, 414 F. Supp. 3d at 176 ("Impeachment based on anything less than all relevant evidence would compromise the public's faith in the process.*"); In re Request for Access to Grand Jury Materials*, 833 F.2d at 1445 ("Public confidence in a procedure as political and public as impeachment is an important consideration justifying disclosure."); *In re Report and Recommendation of June 5, 1972 Grand Jury*, 370 F. Supp. 1219, 1230 (D.D.C. 1974) ("It would be difficult to conceive of a more compelling need than that of this country for an unswervingly fair [impeachment] inquiry based on all the pertinent information.").

[17] Rules of the House of Representatives, R. X, 118th Cong. (2023).



Andy Biggs
Chairman
Subcommittee on Crime and Federal
Government Surveillance
Committee on the Judiciary

cc: The Honorable Jerrold L. Nadler
Ranking Member
Committee on the Judiciary

The Honorable Jamie B. Raskin
Ranking Member
Committee on Oversight and Accountability

The Honorable Sheila Jackson Lee
Ranking Member
Subcommittee on Crime and Federal Government Surveillance
Committee on the Judiciary

Enclosure

Congress of the United States
Washington, DC 20515

April 26, 2024

The Honorable Damian Williams
United States Attorney
Southern District of New York
26 Federal Plaza, 37th Floor
New York, NY 10278

Dear Mr. Williams:

On March 5, 2024, pursuant to the House's ongoing impeachment inquiry and our legislative oversight authorities,[1] the Committee on the Judiciary ("Judiciary Committee"), along with the Committee on Oversight and Accountability ("Oversight Committee"), requested a narrow and specific set of materials relating to claims of unfair treatment of Hunter Biden's business associate Jason Galanis.[2] As we explained, Mr. Galanis alleges that he has been targeted for "retribution" to suppress his testimony about the Biden family's influence peddling scheme.[3] To date, you have failed to respond to these requests.

Since Mr. Galanis's transcribed interview earlier this year, the Committees have received additional information that strongly suggests the U.S. Attorney's Office for the Southern District of New York (SDNY) has been retaliating against Mr. Galanis for his cooperation with the Committees' inquiry. On February 4, 2023, Mr. Galanis applied to the Bureau of Prisons (BOP) for home confinement pursuant to the CARES Act.[4] His application proceeded through the process as normal. In March 2023, the U.S. Probation Office serving the San Diego location of the Southern District of California approved Mr. Galanis's post-confinement residence.[5] The warden of the BOP facility where Mr. Galanis resided at the time, FPC Pensacola, later signed off on the application, and Mr. Galanis's application went on to the Residential Reentry Management (RRM) center in Long Beach, California.[6] On June 9, 2023, the Long Beach RRM

[1] *See* H. Res. 918, 118th Cong. (2023); Memorandum from Hon. James Comer, Chairman, H. Comm. on Oversight & Accountability, Hon. Jim Jordan, Chairman, H. Comm. on the Judiciary, & Hon. Jason Smith, Chairman, H. Comm. on Ways & Means, to H. Comm. on Oversight & Accountability, H. Comm. on the Judiciary, & H. Comm. on Ways & Means. Re: Impeachment Inquiry (Sept. 27, 2023) (hereinafter Impeachment Inquiry Memorandum); February 12 Letter, *supra* note 1.
[2] Letter from Rep. James Comer, Chairman, H. Comm. on Oversight & Accountability, et al., to Negar Tekeei, Assistant U.S. Attorney, US. District Court of the Southern District of New York (Mar. 5, 2024); Letter from Rep. James Comer, Chairman, H. Comm. on Oversight & Accountability, et al., to Collette S. Peters, Director, Federal Bureau of Prisons (Mar. 5, 2024).
[3] *Id.*
[4] Transcribed Interview with Jason Galanis at 13-14 (Feb. 23, 2024).
[5] *Id.*
[6] Transcribed Interview with Jason Galanis at 13-14 (Feb. 23, 2024).

approved Mr. Galanis's request for home confinement and reached out to SDNY regarding the application's approval.[7]

On June 12, 2023, the Oversight Committee announced that it had subpoenaed Mr. Galanis's business partner, Devon Archer, to testify about his relationship with Hunter Biden and the Biden family's business activities.[8] Around the same time as the Oversight Committee's announcement, an SDNY Assistant U.S. Attorney, Negar Tekeei, responded to the Long Beach RRM with her "strongest objection," and threatened to go "hard on this" to the BOP Director if Mr. Galanis's application went any further.[9] On June 22, 2023, a BOP official informed Mr. Galanis that his application had been denied on June 13—the day after the Oversight Committee's announcement.[10]

On August 8, 2023, Mr. Galanis appealed the denial of his home confinement to the warden of FPC Pensacola, who subsequently denied his appeal on the erroneous grounds that the "amount of time" he requested on home confinement "was not appropriate." On September 22, 2023, Mr. Galanis appealed the warden's denial to the Southeast Regional RRM and, after receiving no response, he appealed to the BOP Central Office.

On February 8, 2024, the Committees informed BOP that they intended to interview Mr. Galanis at the BOP facility where he presently resides, FPC Montgomery.[11] The next day, the BOP Central Office sent Mr. Galanis its denial of his appeal, which was dated January 4, over a month earlier. In this denial, BOP changed its reasoning from an "inappropriate amount of time" for home confinement to the "CARES Act has expired." This reason, however, is also not a proper basis for denial. Per BOP practice, and consistent with basic due process, anyone who applied for home confinement prior to expiration of the CARES Act—and whose appeal rights have not been exhausted—remained eligible to be considered under the Act.[12] In fact, Mr. Galanis initially applied for home confinement on February 4, 2023, well before the May 31 expiration of the CARES Act.[13] Three days after Mr. Galanis sat for a transcribed interview with the Committees, BOP gave Mr. Galanis its final denial of his home confinement application under the CARES Act.

The documents and testimony requested are directly relevant to both the impeachment inquiry and the Judiciary Committee's legislative oversight of the Department. Mr. Galanis's allegations suggest that the Biden Administration may have politically influenced BOP's internal procedures and decision making. Congress's authority to access information is broadest during

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[7] Transcribed Interview with Jason Galanis at 14 (Feb. 23, 2024).
[8] Letter from Rep. James Comer, Chairman, H. Comm on Oversight and Accountability to Matthew Schwartz, Boies Schiller Flexner (Jun. 12, 2023).
[9] Transcribed Interview with Jason Galanis at 14 (Feb. 23, 2024).
[10] *Id.*
[11] Mr. Galanis transferred to FPC Montgomery in August 2023; Transcribed Interview with Jason Galanis at 15 (Feb. 23, 2024).
[12] Press Release, Final Rule Issued for Home Confinement Under the Coronavirus Aid, Relief and Economic Security (CARES) Act, U.S. Dept. of Justice (Apr. 4, 2023).
[13] Transcribed Interview with Jason Galanis at 14 (Feb. 23, 2024).

an impeachment investigation,[14] a fact which even Presidents and other Executive Branch officials have traditionally recognized.[15] Indeed, conducting an impeachment inquiry based on anything less than all pertinent evidence would be an affront to the Constitution and irreparably damage public faith in the impeachment process.[16]

In addition, pursuant to the Rules of the House of Representatives, the Judiciary Committee has jurisdiction to consider potential legislative reforms to the Department of Justice and national penitentiaries.[17] Such potential legislative reforms may include, among other things, creating additional protections to safeguard the ability of those in BOP custody to cooperate with congressional investigations, ensuring the integrity of BOP's home release and confinement policies, and reforming the BOP's administrative practices.

Accordingly, please find the attached subpoena from the Judiciary Committee for the requested materials.

Sincerely,

Jim Jordan
Chairman
Committee on the Judiciary

James Comer
Chairman
Committee on Oversight and Accountability

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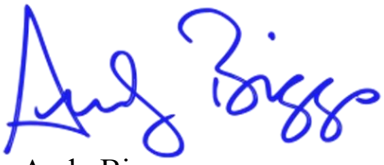
[14] TODD GARVEY, CONG. RSCH. SERV., LSB11083, IMPEACHMENT INVESTIGATIONS, PART II: ACCESS, at 1 (2023) ("[T]here is reason to believe that invocation of the impeachment power could improve the committees' legal claims of access to certain types of evidence relevant to the allegations of misconduct against President Biden."). *See also In re Application of Comm. on the Judiciary*, 414 F. Supp. 3d 129, 176 (D.D.C. 2019) ("[D]enying [the House Judiciary Committee] evidence relevant to an impeachment inquiry could pose constitutional problems."), *aff'd*, 951 F.3d 589 (D.C. Cir. 2020), *vacated and remanded sub nom. on other grounds DOJ v. House Comm. on the Judiciary*, 142 S. Ct. 46 (2021); *In re Request for Access to Grand Jury Materials*, 833 F.2d 1438, 1445 (11th Cir. 1987) (concluding that "limit[ing] the investigatory power of the House in impeachment proceedings . . . would clearly violate separation of powers principles.").

[15] *See* GARVEY, supra note 6, at 2 ("As a historical matter, all three branches have suggested that the House possesses a robust right of access to information when it is investigating for impeachment purposes."); Jonathan David Schaub, *The Executive's Privilege*, 70 DUKE L.J. 1, 87 (2020) ("[P]residents and others have recognized throughout the history of the country that their ability to withhold information from Congress disappears in the context of impeachment.").

[16] *See In re Application of Comm. on the Judiciary*, 414 F. Supp. 3d at 176 ("Impeachment based on anything less than all relevant evidence would compromise the public's faith in the process.*"); In re Request for Access to Grand Jury Materials*, 833 F.2d at 1445 ("Public confidence in a procedure as political and public as impeachment is an important consideration justifying disclosure."); *In re Report and Recommendation of June 5, 1972 Grand Jury*, 370 F. Supp. 1219, 1230 (D.D.C. 1974) ("It would be difficult to conceive of a more compelling need than that of this country for an unswervingly fair [impeachment] inquiry based on all the pertinent information.").

[17] Rules of the House of Representatives, R. X, 118th Cong. (2023).



Andy Biggs
Chairman
Subcommittee on Crime and Federal
Government Surveillance
Committee on the Judiciary

cc: The Honorable Jerrold L. Nadler
Ranking Member
Committee on the Judiciary

The Honorable Jamie B. Raskin
Ranking Member
Committee on Oversight and Accountability

The Honorable Sheila Jackson Lee
Ranking Member
Subcommittee on Crime and Federal Government Surveillance
Committee on the Judiciary

Enclosure

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States
House of Representatives
COMMITTEE ON THE JUDICIARY
2138 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6216
(202) 225–6906
judiciary.house.gov

June 12, 2024

JPMorgan Chase Bank, N.A.
c/o Brian Rabbitt
Jones Day
51 Louisiana Avenue NW
Washington, DC 20001

Dear Mr. Rabbitt:

On April 24, 2024, the Committee on the Judiciary and the Select Subcommittee on the Weaponization of the Federal Government wrote to JPMorgan Chase Bank, N.A. (JPMorgan Chase) requesting additional documents and information regarding federal law enforcement's receipt of financial information about American citizens without legal process and its engagement with the private sector.[1] On May 30, 2024, the Committee and Select Subcommittee wrote to JPMorgan Chase reiterating its request and asking JPMorgan Chase to produce all responsive documents by June 6, 2024.[2] On June 4, 2024, your counsel informed Committee staff that JPMorgan Chase required a subpoena to produce documents responsive to the Committee's and Select Subcommittee's requests.[3]

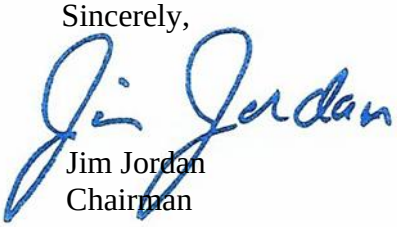
The Supreme Court has recognized that Congress has a "broad and indispensable" power to conduct oversight, which "encompasses inquiries into the administration of existing laws, studies of proposed laws, and surveys in our social, economic or political system for the purpose of enabling Congress to remedy them."[4] Pursuant to the Rules of the House of Representatives, the Committee is authorized to conduct oversight of matters involving civil liberties and criminal law to inform potential legislative reforms.[5] In addition, House Resolution 12 authorizes the Select Subcommittee to examine "how executive branch agencies work with, obtain information from, and provide information to the private sector . . . to facilitate action against American

[1] Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Mr. James Dimon, Chief Exec. Officer of JPMorgan Chase & Co. (Apr. 24, 2024).
[2] Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Mr. James Dimon, Chief Exec. Officer of JPMorgan Chase & Co. (May 30, 2024).
[3] Call with Brian Rabbitt, Legal Counsel for JPMorgan Chase & Co. (June 4, 2024).
[4] *See, e.g., Trump v. Mazars LLP*, No. 19-715 at 11 (U.S. slip op. July 9, 2020) (internal quotation marks and citations omitted).
[5] Rules of the U.S. House of Representatives, R. X (2023).

citizens."[6] These potential legislative reforms could include, among other proposals, legislation to prescribe how federal law-enforcement entities collect or receive private customer data, legislation to enhance the protections of civil liberties for customers of financial institutions, or legislation to prevent the misuse of Americans' private financial information. The documents and information we have requested from JPMorgan Chase are necessary to inform such potential legislation.

Accordingly, please find attached a subpoena compelling the production of the requested documents. Thank you for your prompt attention to this matter.

Sincerely,



Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

Enclosure

[6] H. Res. 12, 118th Cong. (2023).

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States
House of Representatives
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July 10, 2024

Mr. Sean Clark
c/o Lawrence Berger, Esq.
Mahon & Berger, Esqs.
70 Glen Street, Suite 395
Glen Cove, New York 11542

Dear Mr. Clark:

The Committee on the Judiciary and the Select Subcommittee on the Weaponization of the Federal Government are continuing to conduct oversight of the Federal Bureau of Investigation's (FBI) misuse of the security clearance suspension and revocation process.[1] Between August 2021 and August 2023, you served as the Unit Chief in the FBI's Security Division (SecD). The Committee has learned that in this role, you were involved in key decisions with respect to the FBI's adjudication of security clearance matters.[2] From the documents and testimonial information available to the Committee, we believe that you possess information vital to our oversight and inquiry. Your attorney has represented that you require a subpoena to cooperate with our oversight. Accordingly, please find attached a subpoena compelling your appearance for a deposition on August 1, 2024.

The Committee on the Judiciary has legislative and oversight jurisdiction over the FBI pursuant to Rule X of the Rules of the House of Representatives.[3] In addition, House Resolution 12 authorizes the Select Subcommittee to examine how the executive branch "collect[s] information on or otherwise investigate[s] citizens of the United States, including ongoing criminal investigations."[4]

[1] Kerry Picket, FBI agent accuses top brass of retaliation for defending whistleblower, Washington Times, (May 9, 2024)
[2] Kerry Picket, FBI accused of targeting Trump types; agents who served in military deemed 'disloyal', Washington Times (November 10, 2023)
[3] Rules of the U.S. House of Representatives, R. X (2023).
[4] H. Res. 12, 118th Cong. (2023).

Thank you for your prompt attention to this matter.

Sincerely,

Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

Enclosure

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

ONE HUNDRED EIGHTEENTH CONGRESS

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August 28, 2024

Mr. Michael Nellis
Founder and Chief Executive Officer
Authentic Campaigns Inc.
4422 N. Ravenswood Ave., #101
Chicago, IL 60640

Dear Mr. Nellis:

On August 1, 2024, the Committee on the Judiciary wrote to Loren Merchan, the President of Authentic Campaigns, requesting information and documents to advance the Committee's oversight of the Manhattan District Attorney's political prosecution of President Donald J. Trump.[1] You responded on August 13, 2024, declining to comply voluntarily with the Committee's oversight or provide any requested documents.[2] On August 16, 2024, the Committee wrote again to address your articulated concerns and to reiterate its August 1 requests.[3] On August 23, 2024, you again declined to comply with the Committee's oversight and requests.[4] As such, the Committee is left with no choice but to resort to compulsory process.

As we made clear in our August 1 and August 16 letters, the Committee is continuing to conduct oversight of politically motivated prosecutions by state and local officials.[5] Popularly elected prosecutors, such as Manhattan District Attorney Alvin Bragg, have engaged in an unprecedented abuse of authority by prosecuting a former President of the United States and current nominee for that office. Of relevance to the Committee's oversight is the impartiality of Judge Juan Merchan, the presiding trial judge, due to his refusal to recuse himself from the case in light of his apparent conflicts of interest and biases.[6] One such conflict is Ms. Merchan's—daughter of Judge Merchan and President of Authentic Campaigns—work on behalf of President Trump's political adversaries and the possible financial benefit that Ms. Merchan and Authentic Campaigns received from the prosecution and conviction of President Trump.

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[1] *See* Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Loren Merchan (Aug. 1, 2024).
[2] Letter from Michael Nellis to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Aug. 13, 2024).
[3] Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Michael Nellis (Aug. 16, 2024).
[4] Letter from Michael Nellis to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Aug. 23, 2024).
[5] Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Loren Merchan (Aug. 1, 2024); Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Michael Nellis (Aug. 16, 2024).
[6] Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Loren Merchan (Aug. 1, 2024).

Public reporting makes clear that both you and Ms. Merchan have been closely involved in the presidential campaigns of both President Biden and Vice President Harris. Ms. Merchan previously served in then-presidential candidate Harris's campaign in 2019 while remaining employed at Authentic Campaigns.[7] During Ms. Merchan's employment with the Harris campaign, Authentic Campaigns received over $7 million in compensation for its services.[8] You also worked for then-presidential candidate Harris and it appears you continue to do so.[9] Authentic Campaigns conducted work for the 2020 Biden-Harris campaign and, according to public records, was paid just over $2 million in a one-month period for its work.[10]

In your August 13 response to the Committee, you indicated that responsive records existed for at least two of the Committee's requests but later, in your August 23 response, you suggest that records only exist for a single request. Regarding this request, you attempt to evade oversight by arguing that the Committee's request for records related to Authentic Campaigns' work performed as it relates "to the indictment, prosecution, or conviction of President Donald J. Trump"[11] is "irrelevant to any investigation."[12] You also argue that "any content relating to the trial was an extremely small amount . . . ."[13] Such a determination is not yours to make, and in any event, the Committee has explained the relevancy of these records to its oversight and the quantity of responsive documents—even if small—does not create an exception to the Committee's request. Neither does your assertion that "Ms. Merchan had no involvement in any such content . . . ."[14] The Committee's investigation is not limited to Ms. Merchan. Rather, as has been explained, the Committee is investigating "whether Authentic Campaigns services President Trump's political adversaries."[15] As such, your rationales for refusing to provide responsive documents are unpersuasive.

In response to the Committee's other request, you first argued in your August 13 response that "[a]ny communication" that Ms. Merchan may have had with her father, Judge Merchan, regarding the trial would have been "in her personal capacity . . . and entirely unrelated

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[7] Mia Cathell (@MiaCathell), TWITTER (Apr. 4, 2023, 3:13 PM), https://x.com/MiaCathell/status/1643331072069976068.
[8] Vendor/Recipient Profile: Authentic Campaigns for the 2020 Election Cycle, OPEN SECRETS (last visited July 31, 2024); Mia Cathell (@MiaCathell), Twitter (Apr. 4, 2023, 3:13 PM), https://x.com/MiaCathell/status/1643331072069976068.
[9] Mike Nellis (@MikeNellis), TWITTER (Aug. 2, 2024), https://x.com/MikeNellis/status/1819563112741458390 ("I worked for @KamalaHarris for a long time. . . . The VP was the first person to call me when my son was born in the middle of her presidential campaign (I still have the VM). . . .); Craig Wall, *Online fundraisers for Vice President Kamala Harris's presidential campaign raise over $200 million*, ABC 7 (July 30, 2024) ("Chicagoan Mike Nellis, a former Harris campaign senior advisor, helped organize the [White Dudes for Harris] event, which raised $4 million.").
[10] Biden/Harris 2020 Campaign: A Conversational AI Case Study, Authentic (last visited July 31, 2024); Vendor/Recipient Profile: Authentic Campaigns for the 2020 Election Cycle, Open Secrets (last visited Aug. 23, 2024) (The first payment from Biden for President was made on October 8, 2020 and the last payment was made on November 3, 2020.).
[11] Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Loren Merchan (Aug. 1, 2024).
[12] Letter from Michael Nellis to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Aug. 13, 2024).
[13] Letter from Michael Nellis to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Aug. 23, 2024); Letter from Michael Nellis to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Aug. 13, 2024).
[14] Letter from Michael Nellis to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Aug. 23, 2024).
[15] Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Michael Nellis (Aug. 16, 2024).

to Authentic or its clients."[16] You then asserted on August 23 that Authentic Campaigns has no responsive documents or communications at all.[17] This shifting representation raises significant doubt about the accuracy of your assertions. Your first statement on August 13 about the nature of Ms. Merchan's communications with Judge Merchan suggests at least some knowledge about those records such that you could attest that they were all made "in her personal capacity."[18] Notably, in this initial response, you did not assert that Authentic Campaigns possessed no responsive records. Your subsequent, blanket assertion on August 23 that no records exist—made without explaining your basis for this statement—viewed in light of your August 13 response, suggests that you may be artificially narrowing the Committee's request to only records of a non-personal nature. The Committee's request makes no such distinction. If Ms. Merchan used Authentic Campaign accounts, devices, or other electronic communication systems to communicate with Judge Merchan about President Trump's trial, even if the communications were made "in her personal capacity," those records are responsive to the Committee's request.

In your August 23 response, you also argue that the Committee does not have a "valid legislative purpose" and that the Committee does not have "any legitimate reason" to conduct its inquiry.[19] As we have explained twice, the Supreme Court has recognized that Congress has a "broad and indispensable" power to conduct oversight, which "encompasses inquiries into the administration of existing laws, studies of proposed laws, and surveys in our social, economic or political system for the purpose of enabling Congress to remedy them."[20] Early last year, a federal district court judge denied District Attorney Alvin Bragg's attempt to block the enforcement of the Committee's subpoena in this very investigation. Judge Mary Kay Vyskocil held that the Committee's subpoena "was issued with a 'valid legislative purpose' in connection with the 'broad' and 'indispensable' congressional power to 'conduct investigations.'"[21] As Judge Vyskocil explained:

> Jordan and the Committee have identified several valid legislative purposes underlying the subpoena. . . . [The Committee] identif[ies] the possibility of legislative reforms to insulate current and former presidents from state prosecutions, such as by removing criminal actions filed against them from state to federal court. Congress, of course, has authority to consider, and to investigate, this potential legislative reform. And Congress also has authority to investigate legislative reforms to prevent local prosecutions that could potentially interfere with federal elections.[22]

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[16] Letter from Michael Nellis to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Aug. 13, 2024).
[17] Letter from Michael Nellis to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Aug. 23, 2024).
[18] Letter from Michael Nellis to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Aug. 13, 2024).
[19] Letter from Michael Nellis to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Aug. 23, 2024).
[20] *See, e.g.*, *Trump v. Mazars LLP*, No. 19-715 at 11 (U.S. slip op. July 9, 2020) (internal quotation marks and citation marks omitted).
[21] Opinion and Order Denying Temporary Restraining Order, *Bragg v. Jordan*, 1:23-cv-3032 (MKV) (SDNY Apr. 19, 2023).
[22] *Id.* (internal citations omitted).

We have explained the proposed legislative reforms that the Committee and the House have been examining. Judge Merchan's conflicts of interest and biases in the case against President Trump, the Republican nominee in the upcoming 2024 presidential election, implicate serious federal interests.[23] Congress has a specific and manifestly important interest in preventing politically motivated prosecutions of current and former presidents, especially in venues in which real or perceived biases exist. Among other things, if state or local prosecutors are able to engage in politically motivated prosecutions of Presidents of the United States (current or former) for personal acts, this could have a profound effect on how presidents choose to exercise their powers while in office. The requested material will inform the House's consideration of whether to move forward with legislation, informed by the Committee's oversight, which, if adopted, would remedy politically motivated local prosecutions by allowing a current or former president to remove the case to a more neutral forum in federal court.[24] If such a mechanism were in place at the time of DA Bragg's prosecution, Judge Merchan would not have presided over President Trump's trial.

The Committee is charged by the House of Representatives with upholding fundamental American civil liberties and with promoting fairness and consistency in our nation's criminal justice system. Rule X of the Rules of the House of Representatives authorizes the Committee to conduct oversight of criminal justice matters and matters involving civil liberties to inform potential legislation.[25] The records requested from Authentic Campaigns are relevant to the Committee's oversight work. These documents will allow the Committee to better understand and assess the apparent conflicts of interest and bias in the prosecution of a former president by a local elected prosecutor in a local tribunal before a clearly conflicted judge.

Accordingly, in light of Authentic Campaigns' failure to comply with our earlier voluntary requests, please find attached a subpoena compelling the production of the requested documents. As an accommodation, the Committee has limited the scope of this subpoena to two of its initial requests made on August 1. To ensure accuracy and completeness in the Committee's investigation, and based upon the noted inconsistencies in your previous responses, we direct your attention to instruction 19 in the enclosed subpoena schedule requiring a certification about your efforts to identify and produce responsive material. If Authentic Campaigns indeed has no responsive records for the other requests made by the Committee on August 1, as you have asserted, the Committee requests a sworn certification under the penalty of perjury[26] that Authentic Campaigns made a reasonable, diligent, and good faith search for responsive documents and was unable to locate any responsive documents. We also ask that you detail with specificity the steps that you took to conduct this search, including the email account(s), text message(s), and other means of communications that you reviewed. Finally, we

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[23] *See* H. COMM. ON THE JUDICIARY, 118TH CONG., LAWFARE: HOW THE MANHATTAN DISTRICT ATTORNEY'S OFFICE AND A NEW YORK STATE JUDGE VIOLATED THE CONSTITUTIONAL AND LEGAL RIGHTS OF PRESIDENT DONALD J. TRUMP (2024).
[24] H.R. 2553, 118th Cong. (2023).
[25] Rules of the U.S. House of Representatives, R. X(l)(5) (2023).
[26] *See* 18 U.S.C. § 1621.

request that Authentic Campaigns also certify under the penalty of perjury that the attestations contained in your August 13 and 23 letters are completely true and accurate.

If you have any questions about this matter, please contact Committee staff at (202) 225-6906. Thank you for your prompt attention to this matter.

Sincerely,

Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

Enclosure

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States
House of Representatives
COMMITTEE ON THE JUDICIARY
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September 21, 2024

Mr. Nathan Wade
Law Offices of Nathan J. Wade
Building 25
1827 Powers Ferry Road SE, Ste. 100
Atlanta, GA 30339

Dear Mr. Wade:

The Committee on the Judiciary continues to conduct oversight of politically motivated prosecutions by state and local officials, as well as the Fulton County District Attorney's Office's (FCDAO) receipt and use of federal grant funds. As part of our oversight, on May 9, 2024, the Committee requested that you appear for a transcribed interview relating to your work for the FCDAO.[1] To date, you have failed to honor our request, despite the Committee making numerous efforts over the course of many months to obtain your voluntary cooperation. As such, the Committee must resort to compulsory process to obtain your testimony.

After two months of communications following our May 9 letter between your counsel and Committee staff, your counsel informed the Committee on July 19, 2024, that you agreed to appear voluntarily for a transcribed interview on September 18, 2024.[2] In the week preceding the scheduled interview, the Committee contacted your counsel twice via email and did not receive a response.[3] Instead, on September 13—just five days before your scheduled interview—your

[1] Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Mr. Nathan Wade (May 9, 2024) ("May 9 Letter"). In furtherance of our oversight, on January 12, 2024, the Committee initially sent you a letter requesting six specific categories of documents relating to your work as Special Prosecutor for the FCDAO. Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Mr. Nathan Wade (Jan. 12, 2024) ("Jan. 12 Letter"). On January 26, 2024, the Committee received an unsolicited letter from District Attorney Willis responding on your behalf to the Committee's letter that refused to provide the Committee with any responsive documents. Letter from Dist. Att'y Fani T. Willis, Fulton Cty. Dist. Att'y's Off., to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Jan. 26, 2024). News reports indicate that you resigned your employment with the FCDAO on March 15, 2024. Melissa Quinn, et al., *Nathan Wade resigns after judge says Fani Willis and her office can stay on Trump Georgia 2020 election case if he steps aside*, CBS NEWS (Mar. 15, 2024).
[2] Email from Mr. Andrew Evans, Counsel for Mr. Nathan Wade, to Committee Staff, H. Comm. on the Judiciary (July 19, 2024, 12:53 p.m.).
[3] Email from Committee Staff, H. Comm. on the Judiciary, to Mr. Andrew Evans, Counsel for Mr. Nathan Wade (Sept. 9, 2024, 1:26 p.m.); Email from Committee Staff, H. Comm. on the Judiciary, to Mr. Andrew Evans, Counsel for Mr. Nathan Wade (Sept. 13, 2024, 11:40 a.m.).

counsel informed the Committee that, due to an unsolicited letter from Roy Barnes,[4] counsel to Fulton County District Attorney Fani Willis, you had to "postpone" your appearance.[5] Notably, your counsel offered the Committee no alternative date for your testimony.[6] Finally, on September 17, your counsel confirmed that you would not appear for your scheduled interview based on "concerns" raised by the Barnes letter.[7]

The eleventh-hour intervention from District Attorney Willis does not excuse your failure to appear for your transcribed interview. As an initial matter, it is not entirely clear whether Mr. Barnes represents District Attorney Willis in her individual capacity, or in her capacity as the District Attorney for the FCDAO, your former employer.[8] In his letter to you, Mr. Barnes represented his "client" as District Attorney Willis and identified himself as "counsel for Fani Willis, District Attorney of Fulton County."[9] Press reports and public accounts indicate that Ms. Willis retained Mr. Barnes to defend her in a Georgia State Senate proceeding relating to Ms. Willis's political prosecution of President Trump.[10] As such, it is not readily apparent that Mr. Barnes represents the FCDAO.

However, even if Mr. Barnes is authorized to represent the institutional interests of the FCDAO, the concerns he articulated are baseless, unpersuasive, and have already been rejected by a federal court in a similar case. In his letter to you, Mr. Barnes stated that the FCDAO would "demand[] to have a representative present at any interview so that [District Attorney Willis] may assert any necessary privilege objections" to the Committee's questions.[11] In support of this position, Mr. Barnes stated that the FCDAO is entitled to such an accommodation because the "procedure was recently followed in *Bragg v. Jordan*."[12] However, Mr. Barnes misunderstands the *Bragg* litigation and the circumstances concerning the deposition of Mark Pomerantz, a former special prosecutor of the New York County District Attorney's Office (DANY).

In that case, the deposition occurred after DANY unsuccessfully sought to enjoin the Committee's subpoena in the U.S. District Court for the Southern District of New York.[13] Importantly, *Bragg* does not support the idea that the FCDAO must be present to address potential privilege issues; in fact, the court specifically acknowledged that the DANY's concerns

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[4] Letter from Mr. Roy Barnes, Counsel for Fulton Cty. Dist. Att'y Fani T. Willis, to Mr. Andrew Evans, Counsel for Mr. Nathan Wade, at 2 (letter undated) ("Barnes Letter"). Separately, Mr. Barnes transmitted a letter directly to the Committee making certain demands on the Committee. *See* Letter from Roy Barnes, Counsel for Fulton Cty. Dist. Att'y Fani T. Willis, to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (letter undated).
[5] Email from Mr. Andrew Evans, Counsel for Mr. Nathan Wade, to Committee Staff, H. Comm. on the Judiciary (Sept. 13, 2024, 4:18 p.m.) (referencing the Barnes Letter).
[6] *See id.*
[7] Email from Mr. Andrew Evans, Counsel for Mr. Nathan Wade, to Committee Staff, H. Comm. on the Judiciary (Sept. 17, 2024, 1:03 p.m.).
[8] *See* Barnes Letter, *supra* note 4, at 2.
[9] *Id.* at 2-3.
[10] *See, e.g.*, Olivia Rubin, *Fani Willis skips Georgia state Senate hearing seeking her testimony*, ABC NEWS (Sept. 13, 2024).
[11] Barnes Letter, *supra* note 4, at 2.
[12] *Id.* (referencing *Bragg v. Jordan*, 669 F. Supp. 3d 257 (S.D.N.Y. Apr. 19, 2023)).
[13] *Bragg*, 669 F. Supp. 3d.

about protecting privilege were "unpersua[sive]."[14] The court explained that Pomerantz "is a very experienced, sophisticated, and extremely capable attorney . . . [and t]he Court is confident that Pomerantz and his counsel are fully knowledgeable about the privilege and confidentiality obligations he owe to DANY . . . ."[15] The Court concluded:

> [District Attorney] Bragg provides no reason to assume those accomplished lawyers would not also be fully knowledgeable about Pomerantz's ethical obligations with respect to privilege and confidentiality. Accordingly, the deposition should proceed in the normal course, question by question, and Pomerantz is free to object, personally or through his counsel, and decline to answer any questions when (and if) appropriate.[16]

Given that we have no doubt that you are also an "experienced, sophisticated, and extremely capable attorney," represented by effective counsel, who "is free to object, personally or through [your] counsel" as appropriate, there is no reason why a representative of the FCDAO must be present during your testimony.

In addition, according to reports, you have spoken publicly on several occasions about topics relating to your employment with the FCDAO.[17] To the best of our knowledge, the FCDAO has not objected to your interviews or sought to intervene in those settings. One could conclude from your statements—and the FCDAO's apparent failure to intervene—that the FCDAO has waived any potential privilege.

More fundamentally, we must address Mr. Barnes's assertion that you owe a duty of confidentiality to the FCDAO. As an initial matter, there is good reason to believe that the attorney-client privilege does not apply to a prosecutor "because no particular client reveals information to him for the purpose of obtaining legal advice."[18] As the American Bar Association explains in its *Standards on Prosecutorial Investigations*, "[t]he prosecutor's client is the public, not particular government agencies or victims."[19] However, even if his assertion is accurate, the Committee is interested in questioning you about topics that are not subject to the attorney-client privilege—for example, because they are discussions that were not made in confidence or for

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[14] *Id.* at 20.
[15] *Id.* at 20-21.
[16] *Id.* at 21 (internal citation omitted).
[17] *See* Joyce Lupiani, *Ex-Trump special prosecutor defends Fani Willis relationship on the 'Daily* Show', FOX5 ATLANTA (June 20, 2024); *see* Joyce Lupiani, *Nathan Wade's CNN interview interrupted when asked about Fulton DA Fani Willis*, FOX5 ATLANTA (June 13, 2024).
[18] Rita M. Glavin, Note*, Prosecutors Who Disclose Prosecutorial Information for Literary or Media Purposes: What About the Duty of Confidentiality?*, 63 Fordham L. Rev. 1809, 1817 (1995) ("The attorney-client privilege is inapplicable to the prosecutor because no particular client reveals information to him for the purpose of obtaining legal advice.").

purposes other than seeking or obtaining "legal advice."[20] As such, a blanket assertion that your testimony is barred on the basis of the attorney-client privilege is unpersuasive.[21]

As discussed above and in previous letters to you, the Committee is conducting oversight of politically motivated prosecutions by state and local officials, and the FCDAO's use of federal funds.[22] More specifically, the Committee is examining your role in the politically motivated prosecution of a former President of the United States, and whether federal funds were used for this.[23] As explained previously, you have reportedly "profit[ed] significantly" from District Attorney Willis's prosecution, with unsealed court filings showing that you have been paid "almost seven hundred thousand dollars ($700,000) [from the FCDAO] since May of 2022 alone."[24] District Attorney Willis reportedly compensated you and financed her politically motivated prosecution using a mixture of taxpayer funds, possibly including part of the $14.6 million in federal grant funds that her office received from the Department of Justice between 2020 and 2023.[25] While receiving taxpayer funds, you apparently coordinated with Democrats in Washington, D.C.—"quietly me[eting]" with staff from the partisan January 6 Committee, which allowed you to review information it had gathered,[26] and you had two separate meetings with the Biden White House, including with the White House Counsel.[27]

Pursuant to Rule X of the Rules of the House of Representatives, the Committee has jurisdiction over Justice Department programs and criminal justice matters in the United States.[28] Here, Congress has a specific and manifestly important interest in preventing politically motivated prosecutions of current and former presidents, especially in venues in which real or perceived biases exist. Among other things, if state or local prosecutors are able to engage in politically motivated prosecutions of Presidents of the United States (current or former), this could have a profound effect on how presidents choose to exercise their powers while in office. For example, if a President fears post-office criminal prosecution by locally elected prosecutors

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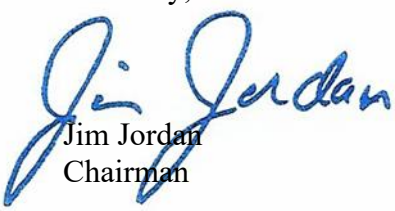
[20] *State v. Ledbetter*, 899 S.E.2d 222, 229 (Ga. 2024) ("The [attorney-client] privilege generally attaches when legal advice is sought from an attorney, and operates to protect from compelled disclosure any communications, made in confidence, relating to the matter on which the client seeks advice.").
[21] *Cf. Comm. on Judiciary v. Miers*, 558 F. Supp. 2d 53, 106 (D.D.C. 2008) (explaining that a subpoena recipient is "not excused from compliance with the Committee's subpoena by virtue of a claim of executive privilege that may ultimately be made. Instead, she must appear before the Committee to provide testimony, and invoke executive privilege where appropriate.").
[22] Jan. 12 Letter, *supra* note 1, at 1-3; May 9 Letter, *supra* note 1, at 1-2.
[23] May 9 Letter, *supra* note 1, at 1.
[24] Defendant's Motion for Temporary Hearing and Motion for Interim Attorney's Fees and Expenses of Litigation, *Nathan Wade v. Jocelyn Wade*, No. 21108166 (Dec. 7, 2023, Cobb Cty. Sup. Ct.) ("While [Mrs. Wade] is currently unemployed after being a stay-at-home mom for the past twenty-six years, [Mr. Wade] is Partner at his own law firm and has also been employed by [the FCDAO] earning almost seven hundred thousand dollars ($700,000.00) since May of 2022 alone.").
[25] Jan. 12 Letter, *supra* note 1 (citing Letter from Dist. Att'y Fani T. Willis, Fulton County Dist. Att'y's Off., to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary at Ex. E (Sept. 7, 2023)).
[26] Betsy Woodruff, et al., *Jan. 6 committee helped guide early days of Georgia Trump probe*, POLITICO (Jan. 10, 2024).
[27] Josh Boswell, *Invoices from lawyer 'lover' hired by Fani Willis to prosecute Donald Trump in election interference case show he had TWO 8-hour meetings with the Biden White House counsel*, DAILYMAIL.COM (Jan. 9, 2024).
[28] Rules of the House of Representatives, R. X, 118th Cong. (2023).

in retaliation for actions and decisions he takes while in office, the President could have an incentive to refrain from making decisions that may be in the national interest, but not in a particular local interest, as a way of guarding against future criminal liability. Your testimony regarding the FDCAO's prosecution will therefore help the Committee to assess whether there is a need for the House to advance legislative reforms to address this problem. For example, it will inform the House's consideration of whether to move forward with legislation, informed by the Committee's oversight, which, if adopted, would remedy politically motivated local prosecutions by allowing a current or former president to remove the case to a more neutral forum in federal court.[29]

The Committee is also considering potential legislative reforms establishing clear guidelines outlining the permissible uses of federal grant funds, under 34 U.S.C. §§ 10261, *et seq*., and 12291, *et seq*., creating penalties for unlawfully misusing federal grant funds under Title 34 of the United States Code, constructing stringent automatic audit requirements for Department grant managers, or modifying eligibility requirements pertaining to grant recipients that misuse federal funds. Your testimony will inform the House's consideration of these legislative reforms.

In light of your continued failure to cooperate with our investigation, please find attached a subpoena compelling your testimony before the Committee on September 26, 2024. Thank you for your prompt attention to this matter.

Sincerely,



Jim Jordan
Chairman

cc: The Honorable Jerrod L. Nadler, Ranking Member

Enclosure

[29] H.R. 2553, 118th Cong. (2023).

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States
House of Representatives
COMMITTEE ON THE JUDICIARY
2138 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6216
(202) 225-6906
judiciary.house.gov

October 2, 2024

Mr. Nathan Wade
Law Offices of Nathan J. Wade
Building 25
1827 Powers Ferry Road SE, Ste. 100
Atlanta, GA 30339

Dear Mr. Wade:

The Committee on the Judiciary continues to conduct oversight of politically motivated prosecutions by state and local officials, as well as the Fulton County District Attorney's Office's (FCDAO) receipt and use of federal grant funds.

As part of our oversight, on May 9, 2024, the Committee requested your voluntary appearance for a transcribed interview relating to your work for the FCDAO.[1] After months of communication, you eventually agreed to appear for a transcribed interview on September 18.[2] Just a few days prior to the transcribed interview, you reversed course and decided not to appear. Consequently, on September 21, the Committee issued a subpoena compelling your testimony at a deposition on September 26.[3] Your attorney declined to accept electronic service of the subpoena on your behalf, requiring the Committee to utilize the U.S. Marshals Service to serve you with the subpoena in person. The U.S. Marshals were unable to locate you for several days, and you did not surface in Georgia until the morning of September 26, the same day that your

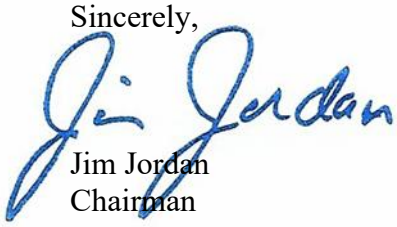
[1] Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Mr. Nathan Wade (May 9, 2024) ("May 9 Letter"). In furtherance of our oversight, on January 12, 2024, the Committee initially sent you a letter requesting six specific categories of documents relating to your work as Special Prosecutor for the FCDAO. Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Mr. Nathan Wade (Jan. 12, 2024) ("Jan. 12 Letter"). On January 26, 2024, the Committee received an unsolicited letter from District Attorney Willis responding on your behalf to the Committee's letter that refused to provide the Committee with any responsive documents. Letter from Dist. Att'y Fani T. Willis, Fulton Cty. Dist. Att'y's Off., to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Jan. 26, 2024). News reports indicate that you resigned your employment with the FCDAO on March 15, 2024. Melissa Quinn, et al., *Nathan Wade resigns after judge says Fani Willis and her office can stay on Trump Georgia 2020 election case if he steps aside*, CBS NEWS (Mar. 15, 2024).
[2] Email from Mr. Andrew Evans, Counsel for Mr. Nathan Wade, to Committee Staff, H. Comm. on the Judiciary (July 19, 2024, 12:53 p.m.).
[3] Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Mr. Nathan Wade (Sept. 21, 2024) (subpoena enclosed with correspondence).

deposition was scheduled to take place in Washington, D.C.[4] As a result, you did not appear for your deposition, and the Committee made a record of your nonappearance.[5]

The Committee has therefore rescheduled your deposition for October 15, 2024. Enclosed is a new subpoena compelling your testimony before the Committee on that date. For your convenience, we have also enclosed—and incorporate herein—the cover letter dated September 21 accompanying the Committee's initial subpoena for your testimony.

Thank you for your prompt attention to this matter.

Sincerely,



Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

Enclosures

[4] *See* Tamar Hallerman, et al., *The U.S. House Judiciary Committee is looking for Nathan Wade. It can't find him*., ATLANTA J. CONST. (Sept. 25, 2024).
[5] *See* Deposition of Mr. Nathan Wade (Sept. 26, 2024) (on file with Committee).

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States
House of Representatives
COMMITTEE ON THE JUDICIARY
2138 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6216
(202) 225–6906
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October 2, 2024

The Honorable Jen Easterly
Director
Cybersecurity and Infrastructure Security Agency
U.S. Department of Homeland Security
245 Murray Lane
Washington, DC 20528-0380

Dear Director Easterly:

The Committee on the Judiciary and the Select Subcommittee on the Weaponization of the Federal Government are conducting oversight of how and to what extent the Executive Branch has coerced or colluded with companies and other intermediaries to censor lawful speech.[1] To develop effective legislation, such as the possible enactment of new statutory limits on the Executive Branch's ability to work with social media platforms and other companies to censor speech, the Committee and Select Subcommittee must first understand the nature of this collusion and coercion.

As the Director of the Cybersecurity and Infrastructure Security Agency (CISA), you are uniquely positioned to aid our oversight, as CISA, under your leadership, has participated in efforts to unconstitutionally monitor and censor Americans' speech on social media platforms.[2] After CISA twice refused to provide your availability for a public hearing regarding your role in CISA's unconstitutional censorship efforts —first in July 2024 and then in September 2024—on

[1] *See* Ryan Tracy, *Facebook Bowed to White House Pressure, Removed Covid Posts*, WALL ST. J. (July 28, 2023).
[2] *See, e.g.*, STAFF OF H. COMM. ON THE JUDICIARY AND SELECT SUBCOMM. ON THE WEAPONIZATION OF THE FED. GOV'T OF THE H. COMM. ON THE JUDICIARY, 118TH CONG., THE WEAPONIZATION OF CISA: HOW A "CYBERSECURITY" AGENCY COLLUDED WITH BIG TECH AND "DISINFORMATION" PARTNERS TO CENSOR AMERICANS (Comm. Print June 26, 2023), at 11-20, 21-27, & 28-35; *see also* Brianna Lyman, *Pennsylvania Partners With DHS, CISA Censors To Target Election Speech It Deems A 'Threat'*, THE FEDERALIST (Mar. 1, 2024); OFFICE OF INSPECTOR GEN., U.S. DEP'T OF HOMELAND SECURITY, OIG-24-52, DHS IMPROVED ELECTION INFRASTRUCTURE SECURITY, BUT ITS ROLE IN COUNTERING DISINFORMATION HAS BEEN REDUCED (Sept. 17, 2024) ("[A]ccording to CISA personnel, the component discontinued its efforts to work directly with social media companies to counter disinformation *after* the 2022 election) (emphasis added); *id*. at 8 ("[The DHS OIG] reported in August 2022 that, as part of its effort to counter disinformation, CISA notified social media platforms of disinformation identified by election officials . . . . CISA program officials stated they stopped communicating directly with social media companies *following* the November 2022 elections.") (emphasis added).

September 13, 2024, we requested that you voluntarily appear for a transcribed interview.[3] On September 24, we offered you a final opportunity to appear for a transcribed interview on October 4.[4] To date, you have refused to schedule your transcribed interview. Accordingly, please find attached a subpoena compelling your appearance for a deposition on October 11, 2024.[5]

The Committee's and Select Subcommittee's investigation has uncovered how the federal government has coerced and colluded with social media companies and other intermediaries to censor American speech.[6] The First Amendment prohibits government officials from imposing viewpoint-based censorship restrictions. State action doctrine stands for the proposition that government officials may not circumvent constitutional strictures by using private actors—whether through coercion, encouragement, entwinement, or joint participation—to accomplish what the government cannot directly.[7]

In addition to the Committee's and Select Subcommittee's oversight, other publicly available documents reflect the weaponization of the federal government's power to censor speech online directly and by proxy.[8] From the information already available to and obtained by the Committee, it is apparent that CISA has played a central role in the Executive Branch's censorship efforts.[9] It is necessary for Congress to gauge the extent to which CISA coerced, pressured, worked with, or relied upon social media and other tech companies to censor speech.

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[3] Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Hon. Jen Easterly, Dir., Cybersecurity and Infrastructure Security Agency (Sept. 13, 2024); *see also* Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Hon. Jen Easterly, Dir., Cybersecurity and Infrastructure Security Agency (July 2, 2024).
[4] Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Hon. Jen Easterly, Dir., Cybersecurity and Infrastructure Security Agency (Sept. 24, 2024).
[5] In providing a new date for your deposition, at CISA's request, the Committee is making an accommodation for you and CISA personnel involved in preparing you for your deposition. *See* Letter from Zephranie Buetow, Assistant Sec'y for Legislative Affairs, Dep't of Homeland Security, to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Sept. 27, 2024), at 3.
[6] *See, e.g.*, STAFF OF H. COMM. ON THE JUDICIARY AND SELECT SUBCOMM. ON THE WEAPONIZATION OF THE FED. GOV'T OF THE H. COMM. ON THE JUDICIARY, 118TH CONG., THE CENSORSHIP INDUSTRIAL COMPLEX: HOW TOP BIDEN WHITE HOUSE OFFICIALS COERCED BIG TECH TO CENSOR AMERICANS, TRUE INFORMATION, AND CRITICS OF THE BIDEN ADMINISTRATION (Comm. Print May 1, 2024); STAFF OF H. COMM ON THE JUDICIARY AND SELECT SUBCOMM. ON THE WEAPONIZATION OF THE FED. GOV'T OF THE H. COMM. ON THE JUDICIARY, 118TH CONG., THE WEAPONIZATION OF "DISINFORMATION" PSEUDO-EXPERTS AND BUREAUCRATS: HOW THE FEDERAL GOVERNMENT PARTNERED WITH UNIVERSITIES TO CENSOR AMERICANS' POLITICAL SPEECH (Comm. Print Nov. 6, 2023).
[7] *See Norwood v. Harrison*, 413 U.S. 455, 465 (1973) ("It is … axiomatic that a state may not induce, encourage, or promote private persons to accomplish what it is constitutionally forbidden to accomplish.").
[8] *See, e.g.*, Lee Fang, *New York Times Backhandedly Acknowledges Getting Censored by DHS*, LEE FANG SUBSTACK (Mar. 26, 2024); Matt Taibbi (@mtaibbi), X, (Nov. 9, 2023, 2:27 PM), https://x.com/mtaibbi/status/1722697367382622412.
[9] *See, e.g.*, *id.*; STAFF OF H. COMM ON THE JUDICIARY AND SELECT SUBCOMM. ON THE WEAPONIZATION OF THE FED. GOV'T OF THE H. COMM. ON THE JUDICIARY, 118TH CONG., THE WEAPONIZATION OF "DISINFORMATION" PSEUDO-EXPERTS AND BUREAUCRATS: HOW THE FEDERAL GOVERNMENT PARTNERED WITH UNIVERSITIES TO CENSOR AMERICANS' POLITICAL SPEECH (Comm. Print Nov. 6, 2023).

The scope of the Committee's and Select Subcommittee's investigation includes understanding the extent and nature of CISA's involvement in this censorship under your tenure.[10]

The Committee and Select Subcommittee have sought your testimony for months. On July 2, 2024, we requested that you testify at a public hearing that the Select Subcommittee had tentatively scheduled for July 31.[11] CISA staff declined to provide information about your availability on that date, insisting instead that the Committee make premature representations about extraneous matters, such as the identity of other potential witnesses.[12] After nearly two weeks of discussions, CISA staff eventually claimed that you were scheduled to be out of town on the date of the hearing.[13]

In an effort to move forward in good faith, and as an accommodation to you, the Committee next offered three potential dates for a public hearing in September 2024 to better accommodate your schedule.[14] Despite several attempts to engage with CISA about the narrow question of your availability—basic information that federal agencies ordinarily share to allow Congressional committees to schedule events during the compact legislative schedule—CISA refused to engage substantively, only to eventually claim you were unavailable on all of the dates offered by the Committee.[15] CISA refused to offer any alternative dates on which you would be able to testify before the Committee.[16] Here again, in these discussions, CISA staff demanded to know specifics about the potential hearing that were irrelevant and extraneous to the narrow question of your availability to provide testimony.[17]

The Committee's typical practice, especially when attempting to schedule the testimony of an Executive Branch official in a public hearing setting, has been to first settle the witness's availability to testify on a date and time that is compatible with the Committee's busy schedule. While we share the purpose of the hearing at this juncture, we often defer on finalizing other hearing details until we secure a date because the witness's availability is the necessary first step in this process and the witness's unavailability may mean the Committee chooses to not proceed or to schedule a hearing on a different topic instead. We attempted to follow our ordinary practice here when seeking to schedule your testimony in a public hearing, and, as we explained

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[10] *See, e.g.*, STAFF OF H. COMM. ON THE JUDICIARY AND SELECT SUBCOMM. ON THE WEAPONIZATION OF THE FED. GOV'T OF THE H. COMM. ON THE JUDICIARY, 118TH CONG., THE WEAPONIZATION OF CISA: HOW A "CYBERSECURITY" AGENCY COLLUDED WITH BIG TECH AND "DISINFORMATION" PARTNERS TO CENSOR AMERICANS (Comm. Print June 26, 2023), at 11-20, 21-27, & 28-35.
[11] Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Hon. Jen Easterly, Dir., Cybersecurity and Infrastructure Security Agency (July 2, 2024).
[12] *See, e.g.*, Email from CISA personnel to Committee staff (July 9, 2024, 12:30 PM).
[13] Email from CISA personnel to Committee staff (July 12, 2024, 1:29 PM).
[14] Email from Committee staff to CISA personnel (July 18, 2024, 1:48 PM).
[15] *See* Email from CISA personnel to Committee staff (Aug. 23, 2024, 4:12 PM); Email from Committee staff to CISA personnel (Aug. 22, 2024, 1:41 PM); Email from Committee staff to CISA personnel (Aug. 13, 2024, 11:53 AM); Email from Committee staff to CISA personnel (Aug. 2, 2024, 3:23 PM); Email from Committee staff to CISA personnel (July 26, 2024, 4:13 PM); Email from Committee staff to CISA personnel (July 24, 2024, 6:49 PM); Email from Committee staff to CISA personnel (July 18, 2024, 1:48 PM).
[16] Email from CISA personnel to Committee staff (Aug. 23, 2024, 4:12 PM).
[17] *See, e.g.*, Email from CISA personnel to Committee staff (Aug. 18, 2024, 4:12 PM).

previously to CISA staff, confirming your availability was the necessary first step.[18] However, we could not proceed with scheduling a public hearing because CISA, for weeks, would not confirm your availability for any of the Committee's proposed dates and declined to offer any alternative dates.

Consequently, and given the importance of your testimony to the Committee's and Select Subcommittee's oversight, on September 13, we requested that you voluntarily appear for a transcribed interview.[19] On September 20, CISA responded via letter, noting concerns with the Committee's and Select Subcommittee's request without indicating your availability to provide testimony.[20] In yet another attempt to obtain your voluntary appearance, the Committee wrote you on September 24, responding to the concerns raised by CISA and reiterating our request that you appear for a voluntary transcribed interview.[21] On September 27, CISA responded claiming that a hearing is the "most appropriate" means for the Committee to obtain for your testimony.[22] Incredibly, CISA made this claim despite twice refusing to work in good faith with the Committee to schedule your testimony at a public hearing.[23] You cannot have it both ways. You cannot dodge invitations to appear at a public hearing and then decline to participate in a transcribed interview because you prefer to appear at a public hearing.

The Committee has made several, repeated attempts over the course of many months to obtain your testimony. We have offered both public hearings and transcribed interview settings. We have offered multiple dates. Each of the Committee's attempts has been met with resistance and a failure to work in good faith toward obtaining your testimony. To date, you have failed to schedule your appearance to testify voluntarily, and it is now necessary to use compulsory process to obtain your testimony.

The Supreme Court has recognized that Congress has a "broad and indispensable" power to conduct oversight, which "encompasses inquiries into the administration of existing laws, studies of proposed laws, and surveys of defects in our social, economic or political system for the purpose of enabling the Congress to remedy them."[24] Pursuant to the Rules of the House of Representatives, the Committee on the Judiciary has jurisdiction to conduct oversight of matters concerning "civil liberties" to inform potential legislative reforms.[25] In addition, House Resolution 12 authorized the Committee's Select Subcommittee on the Weaponization of the

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[18] *See, e.g.*, Email from Committee staff to CISA personnel (Aug. 22, 2024, 1:41 PM), (Committee staff noting that "[T]here are many moving pieces right now, including the number of panels. But the first step is to confirm the Director's availability.").
[19] Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Hon. Jen Easterly, Dir., Cybersecurity and Infrastructure Security Agency (Sept. 13, 2024).
[20] Letter from Charles Abernathy, Acting Dir. of Legislative Affairs, Cybersecurity and Infrastructure Security Agency, to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Sept. 20, 2024).
[21] Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Hon. Jen Easterly, Dir., Cybersecurity and Infrastructure Security Agency (Sept. 24, 2024).
[22] Letter from Zephranie Buetow, Assistant Sec'y for Legislative Affairs, Dep't of Homeland Security, to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (Sept. 27, 2024).
[23] *See* Email from CISA personnel to Committee staff (Aug. 23, 2024, 4:12 PM); Email from CISA personnel to Committee staff (July 12, 2024, 1:29 PM).
[24] *Trump v. Mazars*, 140 S. Ct. 2019, 2031 (2020) (internal quotation marks omitted).
[25] Rules of the House of Representatives R. X (2023).

Federal Government to investigate "issues related to the violation of the civil liberties of citizens of the United States."[26]

Accordingly, please find attached a subpoena.

Sincerely,

Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

Enclosure

[26] H. Res. 12 § 1(b)(1).

JIM JORDAN, Ohio
CHAIRMAN

JERROLD NADLER, New York
RANKING MEMBER

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States
House of Representatives
COMMITTEE ON THE JUDICIARY
2138 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6216
(202) 225–6906
judiciary.house.gov

October 11, 2024

Mr. Jeffrey B. Veltri
Special Agent-in-Charge
Federal Bureau of Investigation
Miami Field Office
2030 SW 145th Avenue
Miramar, FL 33027

Dear Mr. Veltri:

The Committee on the Judiciary and the Select Subcommittee on the Weaponization of the Federal Government are continuing to conduct oversight of the Federal Bureau of Investigation's (FBI) misuse of the security clearance suspension and revocation process. On May 15, 2024, based upon information that you were involved in key decisions regarding the adjudication of security clearance matters by the FBI Security Division (SecD), the Committee requested that you appear for a voluntary transcribed interview.[1] On September 25, 2024, we reiterated our request for a transcribed interview and asked that you schedule the interview by October 9.[2] To date, you have failed to honor this request. As such, the Committee must resort to compulsory process to obtain your testimony.

Recent information received by the Committee and the Select Subcommittee confirms many of the whistleblower disclosures about your conduct at SecD. In September 2024, a nonpartisan whistleblower advocacy group disclosed to the Committee, in detail, the various actions that you took to override due process requirements during the SecD investigation into former FBI Staff Operations Specialist Marcus Allen.[3] For example, whistleblowers disclosed that "rather than sending the information about Mr. Allen to be assessed by [the Clearance Referral Evaluations Unit], SC Veltri cut the normal process short and directed that it go directly to [the Clearance Investigations Unit] to have an investigation opened."[4] According to

[1] See Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Jeffrey Veltri, Special Agent in Charge, Fed. Bureau of Investigation, Mia. Field Off. (May 15, 2024) [hereinafter "May 15 Letter"].
[2] *See* Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Christopher Wray, Director, Fed. Bureau of Investigation, (September 25, 2024) [hereinafter "September 25 Letter"].
[3] *See* Letter from Tristan Leavitt, President, Empower Oversight, to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, at 5 (Sept. 19, 2024) [hereinafter "September 19 Letter"].
[4] *Id.*

whistleblowers, your successor later criticized your actions as a deviation from the process.[5] Whistleblowers have also alleged that although there was "no basis" to suspend Allen's clearance, you ordered it revoked regardless and later went on an "extended rant" about the investigation.[6]

During his testimony to the Select Subcommittee last month, Inspector General Horowitz confirmed that you short-circuited the normal process to quickly open the investigation into Mr. Allen.[7] Specifically, Inspector General Horowitz testified, "[a] SecD management official reviewed the emails [from Mr. Allen], advised FBI [Office of General Counsel] that SecD would be opening a security investigation of Mr. Allen, and then directed SecD subordinates to open a security investigation."[8] A SecD employee told Inspector General Horowitz's office that "the opening of the Allen security investigation was a departure from SecD 'best practices' because SecD management issued a directive to open the investigation, rather than allowing the allegation to follow the normal SecD referral and assessment standard operation procedures."[9] Overall, Inspector General Horowitz concluded that "the handling of Mr. Allen's security clearance investigation and adjudication are concerning."[10]

In addition, the Committee continues to learn new information about the use of a politically motivated questionnaire within SecD to demand inappropriate information about the political and personal views of FBI employees.[11] For instance, SecD investigators, using this questionnaire, quizzed an FBI employee's colleagues about whether the employee ever "vocalize[d] support for President Trump" or "vocalize[d] objection[s] to Covid-19 vaccination."[12] The questionnaire warned these colleagues that if they "refuse[d] to answer or fail[ed] to reply fully and truthfully," they would face potential disciplinary action and loss of their own security clearance.[13] During his testimony, Inspector General Horowitz confirmed that the material in this questionnaire was "highly inappropriate."[14]

For all these reasons, we believe that you possess information vital to our oversight to inform potential legislative reforms. The Committee on the Judiciary has legislative and oversight jurisdiction over the FBI pursuant to Rule X of the Rules of the House of Representatives to consider potential legislative reforms. In addition, House Resolution 12 authorized the Committee's Select Subcommittee on the Weaponization of the Federal

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[5] *Id.*
[6] *Id.*
[7] *See Hearing on the Weaponization of the Federal Government:* Hearing Before the Subcomm. on the Weaponization of the Fed. Gov't of the H. Comm. on the Judiciary, 118th Cong. (Sept. 25, 2024) (Chairman Jordan. "Mr. Horowitz, did Mr. Veltri and the people at the Security Division follow the standard process?" Mr. Horowitz. "They did not." *Id.* at 49.)
[8] *Id.*
[9] *Id.* (written statement of the Hon. Michael E. Horowitz, Inspector Gen., U.S. Dep't of Justice).
[10] *Id.*
[11] *See* September 19 Letter, *supra* note 3, at 10.
[12] Press Release, Empower Oversight, Documents Reveal Political Bias and Abuse of the FBI Security Clearance Process (Jun. 11, 2024).
[13] *Id.*
[14] *See* Horowitz Statement, *supra* note 6, at 3.

Government to investigate the "authority vested in the executive branch to collect information on or otherwise investigate citizens of the United States."[15] These potential legislative reforms could include, among other proposals, legislation to modify the way the FBI conducts security clearance investigations associated with employees engaged in protected whistleblower activity, or legislation to protect FBI employees from whistleblower retaliation.

Accordingly, please find enclosed a subpoena compelling your appearance for a deposition on October 24, 2024. If you have any questions, please contact Committee staff at (202) 225-6909.

Thank you for your prompt attention to this matter.

Sincerely,

Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

Enclosure

[15] H. Res. 12 § 1(b)(1).

APPENDIX D – DEPOSITIONS AND TRANSCRIBED INTERVIEWS OF THE SELECT SUBCOMMITTEE

1. February 1, 2023 Transcribed Interview of Jill Sanborn, Former Executive Assistant Director of the National Security Branch, FBI

2. February 7, 2023 Transcribed Interview of George Hill, Former Supervisory Intelligence Analyst, FBI

3. February 10, 2023 Transcribed Interview of Garret O'Boyle, Special Agent, FBI

4. February 15, 2023 Transcribed Interview of Stephen Friend, Former Special Agent, FBI

5. March 23, 2023 Transcribed Interview of Dr. Viola Garcia, President, National School Boards Association

6. March 27, 2023 Deposition of Chip Slaven, Former Interim Executive Director and CEO, National School Boards Association

7. April 4, 2023 Transcribed Interview of Michael Morell, Former Acting Director and Former Deputy Director, CIA

8. April 5, 2023 Transcribed Interview of Nicholas Shapiro, Former Deputy Chief of Staff and Senior Adviser to the Director, CIA

9. April 10, 2023 Deposition of Nina Jankowicz, Former Executive Director, Disinformation Governance Board, Department of Homeland Security

10. April 17, 2023 Transcribed Interview of Marc Polymeropoulos, Former Senior Operations Officer, CIA

11. April 18, 2023 Transcribed Interview of Timothy Langan, Executive Assistant Director of the Criminal, Cyber, Response, and Services Branch, FBI

12. April 24, 2023 Transcribed Interview of Jennifer Leigh Moore, Executive Assistant Director of the Human Resources Branch, FBI

13. May 4, 2023 Transcribed Interview of Joseph R. Bonavolonta, Special Agent in Charge, Boston Field Office, FBI

14. May 8, 2023 Transcribed Interview of Marcus Allen, Staff Operations Specialist, FBI

15. May 11, 2023 Transcribed Interview of John Brennan, Former Director, CIA

16. May 12, 2023 Deposition of Mark F. Pomerantz, Former Special Assistant District Attorney, Manhattan District Attorney's Office

17. May 15, 2023 Transcribed Interview of Nicholas Rasmussen, Former Director, National Counterterrorism Center

18. May 16, 2023 Transcribed Interview of the Director of Global Threat Disruption, Meta

19. May 16, 2023 Transcribed Interview of Kevin Vorndran, Special Agent in Charge of the Mission Services Division, Washington Field Office, FBI

20. May 17, 2023 Transcribed Interview of James Clapper, Former Director of National Intelligence, ODNI

21. May 18, 2023 Transcribed Interview of Carlton Peeples, Special Agent in Charge, Birmingham Field Office, FBI

22. May 19, 2023 Transcribed Interview of Steve Jensen, Special Agent in Charge, Columbia Field Office, FBI

23. May 22, 2023 Transcribed Interview of the Head of Regional Policy Partnerships, Meta

24. May 23, 2023 Transcribed Interview of the former Federal Partner Manager, Meta

25. May 23, 2023 Transcribed Interview of the Director of Global Elections Integrity, Google

26. May 23, 2023 Transcribed Interview of Kristin Wood, Former Analyst, CIA

27. May 24, 2023 Transcribed Interview of the Trust and Safety Intelligence Team Principal, Google

28. May 31, 2023 Transcribed Interview of the Programs and Partnerships Team Lead, Meta

29. June 1, 2023 Transcribed Interview of the former Strategic Partner Development Manager, Google

30. June 2, 2023 Transcribed Interview of Jennifer Leigh Moore, Executive Assistant Director of the Human Resources Branch, FBI

31. June 6, 2023 Transcribed Interview of Dr. Kate Starbird, Associate Professor, University of Washington

32. June 7, 2023 Transcribed Interview of Steven D'Antuono, Former Assistant Director in Charge, Washington Field Office, FBI

33. June 13, 2023 Transcribed Interview of Charles Dayoub, Special Agent in Charge, Kansas City Field Office, FBI

34. June 14, 2023 Transcribed Interview of the Head of Electoral and Emergent Risk, Meta

35. June 16, 2023 Transcribed Interview of the Director of Health Partnerships, YouTube

36. June 20, 2023 Transcribed Interview of the Vice President for Public Policy, Meta

37. June 21, 2023 Transcribed Interview of the Head of Security Policy, Meta

38. June 22, 2023 Transcribed Interview of the former Senior Director of Law Enforcement and Information Security, Google

39. June 23, 2023 Transcribed Interview of Alexander Stamos, Founder and Director, Stanford Internet Observatory, Stanford University

40. June 23, 2023 Transcribed Interview of the Head of Security Policy, Google

41. June 26, 2023 Transcribed Interview of the Head of Information Quality Strategy, Google

42. June 27, 2023 Transcribed Interview of the former Managing Liaison to Government (Executive Branch), Meta

43. June 28, 2023 Transcribed Interview of the Director of Security/Legal, Google

44. July 6, 2023 Transcribed Interview of Eric Miller, Supervisory Special Agent, Manassas Resident Agency, FBI

45. July 17, 2023 Transcribed Interview of Laura Dehmlow, Section Chief, Foreign Influence Task Force, FBI

46. July 18, 2023 Transcribed Interview of Dr. Marion Gruber, Former Director, Office of Vaccine Research and Review, FDA

47. July 19, 2023 Transcribed Interview of Nikki Floris, Intelligence Analyst in Charge, Washington Field Office, FBI

48. July 19, 2023 Transcribed Interview of the Senior Director of Threat Analysis Group, Google

49. July 21, 2023 Transcribed Interview of Kevin Andrew Chambers, Former Associate Deputy Attorney General, DOJ

50. July 25, 2023 Transcribed Interview of the Content Policy Director, Meta

51. July 26, 2023 Transcribed Interview of the Vice President of Trust and Safety Policy, Meta

52. August 24, 2023 Transcribed Interview of Stanley Meador, Special Agent in Charge, Richmond Field Office, FBI

53. September 7, 2023 Transcribed Interview of Dr. Philip Krause, Former Deputy Director, Office of Vaccines Research & Review, FDA

54. September 7, 2023 Transcribed Interview of Thomas Sobocinski, Special Agent in Charge, Baltimore Field Office, FBI

55. September 11, 2023 Transcribed Interview of Ryeshia Holley, Assistant Special Agent in Charge, Baltimore Field Office, FBI

56. September 12, 2023 Transcribed Interview of Timothy Thibault, Former Assistant Special Agent in Charge, Washington Field Office, FBI

57. September 19, 2023 Transcribed Interview of the Security Engineering Manager, Meta

58. September 26, 2023 Transcribed Interview of Matthew Masterson, Director of Information Integrity within the Democracy Forward Program, Microsoft

59. September 28, 2023 Transcribed Interview of Bradley Benavides, Former Section Chief, Foreign Influence Task Force, FBI

60. October 3, 2023 Transcribed Interview of Matthew Graves, U.S. Attorney for the District of Columbia

61. October 5, 2023 Deposition of Elvis Chan, Assistant Special Agent in Charge, FBI (did not appear)

62. October 11, 2023 Transcribed Interview of Christopher Krebs, Former Director, CISA

63. October 23, 2023 Transcribed Interview of Scott Brady, Former U.S. Attorney for the Western District of Pennsylvania

64. October 24, 2023 Transcribed Interview of Esteban Martin Estrada, U.S. Attorney for the Central District of California

65. October 25, 2023 Transcribed Interview of Stuart Goldberg, Acting Deputy Assistant Attorney General, DOJ Tax Division

66. November 1, 2023 Transcribed Interview of Yoel Roth, Former Head of Trust & Safety, Twitter

67. November 2, 2023 Transcribed Interview of the former Senior Director of Election Security, Center for Internet Security

68. January 31, 2024 Deposition of former White House official Andrew Slavitt (did not appear)

69. February 1, 2024 Transcribed Interview of Geoffrey Hale, Associate Director for Election Security and Resilience, CISA

70. February 12, 2024 Deposition of former White House official Robert Flaherty (did not appear)

71. March 1, 2024 Transcribed Interview of Nick Clegg, President of Global Affairs, Meta

72. March 12, 2024 Transcribed Interview of Michael Pozmantier, Program Director, National Science Foundation

73. March 27, 2024 Transcribed Interview of Shelby Pierson, Former Deputy Director of Source Operations and Management, ODNI

74. April 9, 2024 Transcribed Interview of Peter Sullivan, Senior Private Sector Partner for Outreach, Strategic Partner Engagement Section, FBI

75. April 9, 2024 Transcribed Interview of Shannon Parry, Assistant Director of Information Management Division, FBI

76. April 10, 2024 Transcribed Interview of Andrew Makridis, Former Chief Operating Officer, CIA

77. April 11, 2024 Transcribed Interview of the former AI Principles Operations & Governance Lead, Google

78. April 16, 2024 Transcribed Interview of the Vice President of Public Policy and Community Engagement, Amazon

79. April 24, 2024 Transcribed Interview of the former Assistant Section Chief, Foreign Influence Task Force, FBI

80. April 25, 2024 Transcribed Interview of the former Public Policy Manager, YouTube

81. May 2, 2024 Transcribed Interview of a Supervisory Special Agent, Foreign Influence Task Force, FBI

82. April 14, 2024 Transcribed Interview of the former Director of the Office of Stakeholder Integration and Engagement, FinCEN

83. May 31, 2024 Transcribed Interview of the Senior Director of Product Management, Google

84. June 6, 2024 Transcribed Interview of a Senior Manager, Government Affairs and Public Policy, Google

85. June 11, 2024 Transcribed Interview of a Senior Manager, Government Affairs and Public Policy, Google

86. June 25, 2024 Transcribed Interview of Imran Ahmed, CEO, Center for Countering Digital Hate

87. June 28, 2024 Transcribed Interview of the Director of Public Policy, Google

88. July 11, 2024 Transcribed Interview of David Naggar, Vice President of Books and Kindle Content, Amazon

89. July 18, 2024 Transcribed Interview of Jimmy Kirby, Deputy Director, FinCEN

90. August 1, 2024 Deposition of Sean Clark, Former Unit Chief, Security Division, FBI

91. September 12, 2024 Transcribed Interview of Donell Harvin, Former Chief of Homeland Security and Intelligence, District of Columbia

92. September 12, 2024 Transcribed Interview of Tim Dunham, Executive Assistant Director, Human Resources Branch, FBI

93. September 20, 2024 Transcribed Interview of Dena Perkins, Assistant Section Chief, Security Division, FBI

94. September 26, 2024 Deposition of Nathan Wade, Former Special Prosecutor, Fulton County District Attorney's Office (did not appear)

95. October 11, 2024 Deposition of Jen Easterly, Director, CISA (did not appear)

96. October 15, 2024 Deposition of Nathan Wade, Former Special Prosecutor, Fulton County District Attorney's Office

97. October 23, 2024 Transcribed Interview of an Analytic Attaché, FBI

98. October 11, 2024 Deposition of Special Agent in Charge Jeffery Veltri, FBI (did not appear)

99. November 19, 2024 Transcribed Interview of Jen Easterly, Director, CISA

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: JILL SANBORN

Wednesday, February 1, 2023

Washington, D.C.

The interview in the above matter was held in Room 2237, Rayburn House Office Building, commencing at 10:03 a.m.

Present: Representatives Jordan, Gaetz, and Cicilline.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

[redacted] GENERAL COUNSEL

[redacted] SENIOR ADVISOR

[redacted] DEPUTY CHIEF COUNSEL FOR OVERSIGHT

[redacted] SENIOR COUNSEL

[redacted] MINORITY CHIEF OVERSIGHT COUNSEL

[redacted] MINORITY OVERSIGHT COUNSEL

For JILL SANBORN:

CARTER BURWELL

CHRISTOPHER CARTER

CAMERON WOLFE

DEBEVOISE & PLIMPTON LLP

801 PENNSYLVANIA AVE N.W.

WASHINGTON, DC 20004

[redacted] Good morning, Ms. Sanborn.

This is a transcribed interview of Ms. Jill Sanborn. Chairman Jordan has requested this interview as part of the committee's oversight of the Federal Bureau of Investigation.

Would the witness please state your name for the record?

Ms. Sanborn. Jill Sanborn.

[redacted] On behalf of the committee, I want to thank you for appearing here today to answer our questions. The chairman also appreciates your willingness to appear voluntarily.

My name is [redacted] and I am with Chairman Jordan's staff. I'll now have everyone from the committee who is here at the table introduce themselves.

[redacted] [redacted] also with Mr. Jordan's staff.

[redacted] [redacted] with Mr. Jordan's staff.

[redacted] [redacted] House Judiciary Committee senior adviser.

[redacted] [redacted] with Chairman -- with Ranking Member Nadler's staff.

[redacted] [redacted] I'm the chief counsel for oversight for Chairman -- or for Ranking Member Nadler's staff.

[redacted] I'd like to now go over the ground rules and guidelines that we will follow during today's interview.

Our questions will proceed in rounds. The majority will ask questions for 1 hour, and then the minority will have an opportunity to ask questions for an equal period of time if they choose. We'll alternate back and forth until there are no more questions and the interview is over.

Typically, we take a short break after each hour, but if you need to take a break at any time just please let us know.

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

Do you understand?

Ms. Sanborn. Absolutely.

[redacted] So the court reporter can take down a clear record, we will do our best to limit the number of people directing questions at you during any given hour to just those people on the staff whose turn it is. Please try and speak clearly so the court reporter can understand and so the folks down at the end of the table can hear you as well.

It is important that we don't talk over one another or interrupt each other if we can help it, and that goes for everyone present at today's interview.

We encourage witnesses who appear before the committee to freely consult with counsel if they so choose. And it is my understanding that you are appearing today with personal counsel. Is that correct?

Ms. Sanborn. That is correct.

[redacted] Could counsel please state your name for the record?

Mr. Burwell. Carter Burwell. I work at the law firm of Debevoise & Plimpton. And you kindly let two of my colleagues come today, Chris Carter and Cameron Wolfe, who are down at the other end of the table.

[redacted] Thank you.

We want you to answer our questions in the most complete and truthful manner as possible, so we will take our time. If you have any questions or if you do not understand one of our questions, please just let us know. Our questions will cover a

wide range of topics, so if you need clarification at any point just say so.

If you honestly don't know the answer to the question or do not remember, it is best not to guess. Please give your best recollection. It is okay to tell us if you learned information from someone else, just indicate how you came to know the information. If there are things you don't know or cannot remember, just say so, and please inform us who, to the best of your knowledge, might be able to provide a more complete answer to the question.

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

Ms. Sanborn. I do.

[redacted] This also applies to questions posed by congressional staff in an interview. Do you understand this?

Ms. Sanborn. I do.

[redacted] Witnesses that knowingly provide false testimony could be subject to criminal prosecution or perjury or for making false statements under Title 18, USC 1001. Do you understand this?

Ms. Sanborn. Absolutely.

[redacted] Is there any reason you are unable to provide truthful answers to today's questions?

Ms. Sanborn. No.

[redacted] Finally, I'd like to make note that the content of what we discuss here today is confidential. We ask that you do not speak about what we discuss in this interview to any outside individuals to preserve the integrity of our investigation.

For the same reason, the marked exhibits that we will use today will remain with

the court reporters so that they can go into the official transcript, and any copies of those exhibits will be returned to us when we wrap up.

All right. That is the end of my opening remarks. Is there anything that my colleagues from the minority would like to add?

[redacted] Sure.

Thank you both to [redacted] and you, [redacted] and especially to our witness, Ms. Sanborn.

I want to echo, thank you for agreeing to appear voluntarily today. And I also just want to note thank you for your long and distinguished career in the United States Government.

I do want to note just two things for the record. The organizational meeting for the members of the committee is still ongoing, and the rules package has not yet been voted on. Obviously, this is a transcribed interview so circumstances are a little different, but I did want to note that for the record.

And then I did want to note that, as [redacted] noted, Ms. Sanborn is represented by private counsel. I understand that FBI agency counsel was not permitted to attend today. I understand that FBI's position is that they would be here representing the executive branch equities, not the equities of Ms. Sanborn, and so they do object to being excluded today.

That's all. Thank you.

[redacted] And just for the record, the policy is a witness can appear at the transcribed interview with agency counsel or personal counsel, so it's the witness' choice. So the FBI wasn't excluded. The witness decided to come today with personal counsel.

[redacted] Thank you.

[redacted] The clock now reads 10:09 a.m. We will start our first hour --

[redacted] And I have one more note to make. I'm sorry. The rules have been adopted by the committee, so we're now operating with committee rules, not that that's relevant for a transcribed interview.

[redacted] Thank you. I apologize. I wasn't aware when I came upstairs.

Mr. Burwell. [redacted] I have an opening statement as well. Ms. Sanborn did not. So I'd like to give that if I may.

[redacted] Absolutely.

Mr. Burwell. Thanks for inviting us up here. Now, we're here, as you said, voluntarily, because Ms. Sanborn deeply respects Congress and its oversight authorities, and that's why she responded immediately through counsel to the chairman's request -- sorry, it was then Congressman Jordan's request -- back in August. And, again, I think that's really important. She responded to Congressman Jordan's request back in August of last year, and she's tried to consistently cooperate with then Congressman and now Chairman Jordan's request.

The other thing that I think is important, because we're here today to talk about whistleblower allegations against her, is that Ms. Sanborn deeply respects the whistleblower process. This is not news to you because we've talked about this during this process since we got the letter. But she started her career working with whistleblowers and she acknowledges how important they are, particularly to congressional oversight. And she's going to deny the allegations, but she respects the process.

So that's kind of why she's here voluntarily, of her own free will, to respond to those allegations that were publicly made back in August of 2022.

We've offered to have a less formal interview to talk about broader issues, and the committee has kind of been -- now the committee has been insistent that this should

be a transcribed and just last week now a videotaped interview. So we're extremely mindful of that.

The other thing I think we're mindful of is that Ms. Sanborn does not work for the FBI anymore, and she's deeply conscious that this is the first interview in what will be a host of interviews, and of the letters that the chairman sent out last week asking for FBI to come and respond, that the scope and breadth of this committee's investigation has expanded significantly ever since, well in advance of -- sorry, since August of 2022.

We're grateful that you confirmed last week that the whistleblower allegations against her have not changed materially since that August 2022 letter, and we're grateful for you sharing that with us. And that's another reason why she's here voluntarily to try and address those allegations.

A couple other things just for the record.

We're less concerned about agency counsel stuff, but we did get finally just a couple days ago authorization from the FBI for her to speak. We felt like that's important and it's appropriate, because a lot of these allegations -- sorry, the allegation relates directly to her work as a senior official at the FBI, that there's ongoing requests of the FBI.

And the other thing that I think I want to put on the record, and I think Ms. Sanborn will say, is that we're conscious that this is a path forward for a lot of other FBI officials, former and current, and that she's trying to -- she understands that she's charting that path. And I think you guys recognize that and are appreciative of that.

So she's here to categorically and vigorously deny the allegations against her. She's been retired from the FBI for almost a year, as you know. She hasn't reviewed any documents with the FBI. She hasn't had the benefit -- you're asking for those materials. I think you kindly noted some of that in your opening, but I think it's worth reaffirming.

Because of that and on numerous reasons, she's not an appropriate stand-in for the FBI. She's here to address the personal allegations against her. Probably for the record, they want me to note that she's not here and I'm sure you're not going to ask her about national security information or ongoing investigations of which she hasn't been a part of.

For the record, I've got to note attorney-client privilege, and I know that this is ongoing and evolving, especially because of the Supreme Court's decision. But we're going to hopefully not have to go into any of those details because certainly it doesn't matter to the allegations.

She's prepared. She prepared when she testified before the Senate and the House when she worked for the FBI. And she's prepared to address these allegations today in a videotaped, transcribed interview.

And I appreciate your willingness to let us make this opening statement as well.

[redacted] Okay. And I would just like to add something to that.

Whistleblowers have come forward and expressed objections to what they see is happening at the FBI, and they have identified Ms. Sanborn as potentially a fact witness to those allegations. And so you have set up your remarks that the whistleblowers have made charges against Ms. Sanborn, and I think it's more appropriate to say the whistleblowers have made charges against the FBI and what's happened and that Ms. Sanborn happens to have relevant facts. So --

Mr. Burwell. You know, look, we're happy to be here. You sent a letter -- the then Congressman Jordan sent a letter back in August with a specific allegation against her related to reclassifying figures. That's the only allegation we've heard against her.

[redacted] I understand. But we haven't jumped to any conclusions.

Mr. Burwell. Thank you.

[redacted] We're just moving forward with talking to people that have information relevant.

So now we can start our hour.

[redacted] Okay. The clock now reads 10:16 a.m. We'll start with our first hour of questioning.

EXAMINATION

BY [redacted]

Q Ms. Sanborn, I'd like to start by going through your extensive tenure at the FBI.

When did you retire from the FBI?

A April of 2022.

Q And then you went to Roku. Is that correct?

A That is correct.

Q And are you still the senior director of geopolitical strategy and risk analysis at Roku?

A Yes, ma'am.

Q And when did you take that position?

A A couple weeks after retiring. So it still was April, I don't remember the specific day, but still April of 2022.

Q Okay. And in that position, do you have any interactions with the FBI?

A Not at this point.

Q Okay.

A You're probably very well aware that there's a cooling-off period, and so when executives retire they, for the first year they're retired, should try to separate themselves from the organization. So while I still have friends there that I talk to, I don't

engage them as part of my official duties at Roku, if that's what you mean.

Q Okay. And do you still interact with the FBI in any official capacity?

A I am a member of DSAC, so that's -- I forget what it specifically stands for, but it's an organization for private sector. My boss is the main member of that, and I'm an add-on member. So I am a member of an entity that can receive information in that relationship that private sector has with law enforcement, but that's it.

Q And can you kind of describe what information you might receive through that?

A They put out alerts. Like if there is a cyber attack, they might notify private sector to be aware of a certain vulnerability in software.

There hasn't been a lot in my 10 months so far, so I'm sure there's a wide variety that I might not capture, but that's the flavor of it.

Q Okay. And during your tenure at the FBI, would you say that you specialized in counterterrorism or terrorism cases?

A Yep. Yes, ma'am.

Q And did you work on both foreign and domestic terrorism investigations?

A Yes. However, I would say, if you were going to break it into percentages, probably 90 percent of my career was terrorism, international terrorism focused, and primarily overseas international terrorism.

So I was on what they call extraterritorial assignments where I focused on the foreign terrorists overseas, not necessarily individuals here in the United States acting on their behalf.

Q And when were you appointed the assistant director for Counterterrorism Division?

A It was in 2020, roughly around February. I remember reporting sometime

February, March of 2020.

Q And when did --

A I don't have the specific date, but I could get you that.

Q When did you leave that role?

A So I started transitioning to EAD first couple of months of 2021. The former EAD had advised me that he would soon be retiring and that he had recommended I potentially replace him, and while that was still up to the supervisor. So I started transitioning probably in February-ish of 2021 and officially took over, I believe, the official date is like April of 2021.

Q Okay. And as the assistant director for the Counterterrorism Division, can you generally and briefly describe your roles and responsibilities?

A Yes. So, I mean, roles and responsibilities at headquarters in general would be sort of oversight. So I viewed my role as very similar to what you all do, which is oversight over the field offices, the quality and efficiency of how they work their investigations as it relates to terrorism matters.

Q And was it just field offices that were under your oversight or did you have like squads or divisions within the FBI?

A Yeah. That's a great question.

So I didn't supervise the field offices. The field offices report up to the deputy director.

Q Okay.

A So they were not in my sort of chain of command. I program managed their cases and their work. Under me directly was sections and units when I was AD.

Q Okay. And who was your direct supervisor at the time?

A Yeah, when I was an AD my direct supervisor was EAD John Brown.

Q And was he the EAD for the National Security Division?

A Yes, ma'am.

Q And how many people directly reported to you in your role as AD?

A Directly, like direct reports as AD?

Q Yeah, direct reports.

A Somewhere probably between a dozen to 24 maybe. So I had an executive staff. And then all of the DADs would've reported to me. So I could get you that exact number, but it feels like somewhere between a dozen and 24.

Q And can you kind of help us understand the org chart. So it was EAD John Brown, then you, and then directly below you, you had an executive staff?

A Yes. So it was EAD John Brown; then me, AD; and then directly reporting to me at an executive level would've been three DADs; and then section chiefs under them.

And then I also had an executive staff that would've had a chief of staff, a special assistant, a special assistant, somebody that answered my telephones, about half a dozen people that did sort of administrative duties, helped me prepare for my testimony, those kinds of things.

Q Okay. And they were all primarily also focused on oversight of the field offices?

A So my executive staff was primarily focused on my day-to-day duties and what I needed to accomplish.

Underneath the DADs and the section chiefs are where that oversight program management happens. And so the section chiefs, unit chiefs, and SSAs would be the ones that would be overseeing and communicating with the field about their casework.

Q Okay. And did you work out of headquarters at that time?

A Yes, ma'am.

Q And did you ever do a stint at a field office or primarily worked out of headquarters?

A So when I was AD, primarily at headquarters. In fact, that was during COVID. I'm not even sure I traveled much. As EAD, I had a short period of time where I worked remotely out of the Phoenix, Arizona, office.

Q And in your role as AD, did you have regular --

Mr. Burwell. Can I just jump in?

[redacted] Yeah.

Mr. Burwell. That you were the SAC in charge of an office before you were --

Ms. Sanborn. Oh, yes. I thought she meant was I assigned as an AD somewhere.

Mr. Burwell. Yes.

Ms. Sanborn. I was a special agent in charge of the field office. I don't know if you were --

BY [redacted]

Q Yes.

A Okay.

Q And did you have regular interactions with the FBI director and/or the deputy director when you were AD?

A Yes.

Q And how frequently?

A Daily.

Q Daily. And just for the record, who was the FBI director when you were the AD?

A Director Wray.

Q And the deputy director?

A Initially, when I was the AD, Mr. Bowdich. And then right around the same time I transitioned to EAD, I believe he retired and Deputy Director Paul Abbate took over. I don't remember specifically if I promoted before that transition or quite after, but --

Q And were there regularly scheduled meetings with the director?

A Yes, daily, in the morning.

Q Okay. And just like a check-in meeting?

A Usually updating him on things that are going on, things that he should be worried about, and then also an intelligence portion, us paying attention to the latest intelligence on the threats.

Q And was it all senior leadership at the headquarters --

A Yes.

Q -- that would meet?

A Yes, ma'am.

Q And how regularly did you interface with FBI field offices?

A I didn't have like a cadence. So the question you asked me about the director was more of an established we do this every day cadence; where with the field offices it was more ad hoc, they would call me and want to question or I would call them.

I don't remember, quite honestly, as AD or EAD, that being very frequently. Like I can't -- I think there were some instances where situations required a conversation, but I don't remember it being very frequently.

Q Okay. And so then you said you were starting to go into your role as EAD of the National Security Division February 2021. April 2021 was the kind of the more official start date.

A Yes, ma'am.

Q What were your duties and responsibilities in that role?

A So as the EAD over national security, I also still saw the terrorism program, and that AD then reported to me. But I also oversaw the Counterintelligence Division, and that AD would've reported to me; the Terrorist Screening Center, and that AD would've reported to me; and then the Weapons of Mass Destruction Directorate, and that AD would've reported to me. Also, I had an executive staff up there as well.

Q Okay. So then you were kind of then in John Brown's role?

A Absolutely, correct.

Q So the org chart would kind of look similar to how he set it up?

A Yes.

Q And you were at headquarters then?

A Correct, with the exception of what I told you. There was a period in time where I worked as EAD remotely, some from Arizona.

Q Okay. And did you still have those daily meetings with the director and deputy director?

A Yes.

Q And Director Wray was the FBI director at that time?

A Correct.

Q And how regularly did you interface with FBI field offices when you were EAD?

A Probably less than as AD, and, again, sort of ad hoc as issues came up, not a normal cadence. I think the only sort of normal engagement, both as EAD and AD, and they sort of changed a little bit because of COVID, was we had SAC conferences once or twice a year that we usually are physically together. But other than that, not very

frequently.

Q And when you were EAD, what was your involvement with field investigations or managing individual cases?

A So really the like -- and I think this is a great question. And I think hopefully you asked the Bureau to kind of dive into detail here, because I think they can give you a little bit more granularity probably with walking you through org charts and explaining some of the nuances of program management.

But sort of the day-to-day watching cases, what's going on in the cases, is done at a very junior level at headquarters, GS-14 and 15s. So I didn't have visibility on -- at any given time, there's thousands of cases there. I probably only had visibility on the ones that were getting briefed to me, sort of top of mind for those program managers.

And so not very often was I involved in the cases, period, unless they warranted, hey, this is somebody that's starting to pose an imminent threat or something is going on here that you need to be aware of. So only when the younger and junior executives-slash-leaders felt there was something that warranted briefing-slash-notifying me of. Does that make sense?

Q Yes. And was that the same when you were the assistant director for the Counterterrorism Division, it was the junior staffers who --

A Yes.

Q -- oversaw cases?

A Yes. Yeah, so every -- they're broken up so that they have portions of the country that they supervise. And so those young SSAs are supervising certain field offices and then reporting up what's going on with cases.

Q So if there was a case you needed to know about, those junior staffers would let you know?

A Via the chain of command. So it's a very hierarchical sort of the supervisor would tell the section chief who would then tell the DAD and they would brief me. So usually the briefings were done at a hierarchical level. Does that make sense?

Q Uh-huh.

Mr. Burwell. And for the record, I don't know if "junior staffer" is the best way to describe some of these folks who have been in the field for 20 years --

Ms. Sanborn. Yeah.

Mr. Burwell. -- or --

Ms. Sanborn. "Junior" meaning entry level to headquarters. So you have to spend a minimum amount of time in the field office before you can come to headquarters because probably good case agents make better program managers because they know what they're looking for. So they are new to headquarters in sort of that oversight role. So if that clarifies it.

BY [redacted]

Q Okay. So now I want to turn to how the FBI classifies domestic violent extremism cases, or we'll use DVEs for short.

Are you familiar with how the FBI classifies and categorizes investigations?

A Yes.

Q And those would be into categories such as like DVE or hate crime, et cetera?

A Correct.

Q And at what stage in the investigation are cases given an investigative case classification such as a DVE?

A Yeah. I think -- I think these are -- this is a very important question. I feel a little bit in a tough situation here for a couple reasons. I feel like you deserve the best

answer, and it's a complicated answer, it's a detailed answer. And hopefully, again, FBI gives you the answer to these.

And I also appreciate the point you made, and I did cognizantly choose personal counsel versus FBI counsel because I'm here representing myself, and so I think that's important.

So the answers I give you, because I haven't been involved in the opening cases in a really long time, both as a former executive as well as I went up my role that my role in that was less and less, so I want to be careful to not give you an answer that's incomplete or lacking what the Bureau could give you, if that makes sense.

Q Yeah. So we'll focus on what in your experience.

A Yes.

Q When was a case classified?

A So case classification should be happening simultaneously with openings. So as I get -- as an allegation comes in, evaluating that allegation, the agent and the supervisor should be determining what the classification is, and that happens all in the field office.

Q And you said the agent and the supervising agent?

A Correct.

Q Is that correct?

And so in your experience the one responsible for determining and applying the investigative case classification, when the tip comes in and the case is opened, is the special agent on the case?

A Special agent and supervisor. So all case openings have to be approved by a supervisor.

Q Okay.

A And in domestic violent extremist cases, which is your primary focus here, there's an extra step in that where the chief division counsel in a field office participates in that process.

Q And is headquarters notified at any point, in your experience?

A They are. I don't remember like how soon they're notified, whether it's the day of opening. There's different rules for different types of cases, international terrorism cases, and when that notification happens, domestic. And I'm sure the criminal program has different times when that happens.

So I definitely don't want to misspeak on that. There is notification I believe on all cases as they're opened, but would refer you to FBI to make sure that's correct.

Q And in your experience, was there collaboration between the supervisory agent and the special agent for what the case classification should be?

A It should be.

Q Okay.

A So painting a picture for you, that's the squad that sits in a field office. And so that's typically fairly small, and they should be having very intimate sort of conversations all day long about their casework.

Mr. Burwell. Maybe, how many agents are on a squad?

Ms. Sanborn. It depends. They have to have a minimum of seven, I believe. You can double-check that's still current with the FBI. But I believe you have to have a minimum of seven agents.

BY [redacted]

Q And would the supervisory special agent then give any input for what the case classification, or is that more of the special agent's decision?

A I mean, I would be remiss to give you that answer because I think it's specific

to each style of an agent and a supervisor. I know I had conversations with my supervisor -- my agents when I had the squad at Washington field, so I would assume that that's what -- it's sort of a back-and-forth conversation. But I couldn't give you a specific, because I'm sure probably every agent and supervisor's relationship is probably unique in how they interact.

Q And would the division chief, would they have any input then as well?

A So they definitely have input in the domestic violent extremism cases.

Q Okay. And are those treated differently than other cases when applying the classification?

A No. I think -- yes and no. I don't know of another case type that requires the CDC's participation in that process, and I think that's intentional. And, again, refer you to the FBI to make sure what I think is true.

But I think that that's intentional, because of the complexity and the importance on the domestic violent extremism cases, to make sure that we are not opening cases based on First Amendment-protected activity. So there's an intentional insert of the chief division counsel to advise there.

Mr. Burwell. And when you say "we," you mean the FBI, where you used to work?

Ms. Sanborn. Yeah. I know. Sorry, yes.

BY [redacted]

Q Yeah. So in your experience then, the CDC for DVEs would have some sort of input in the DVE classification?

A Correct.

Q And then when you got to the headquarters level, when you became assistant director, did you have any role in classifying cases?

A No.

Q When you were executive assistant director of the National Security Division, did you play any role in classifying cases?

A None.

Q You wouldn't provide any input on how cases should be classified?

A I can't remember an incident where somebody sought my opinion or that I gave guidance on classifying cases one way or the other. However, if somebody came to me, say a section chief or a DAD came to me and said, hey, we have this case and here are the facts and here's what the allegation is, we think it's this, what do you think, I would've dialogued with them. But I can't remember a specific incident where that specifically happened.

Q And that was both as your time as EAD and AD?

A Correct.

Q And it's not uncommon for cases to cross over multiple threat categories like DVE and hate crime or alike?

A No.

Q Okay. And how often are cases reclassified from one category to another, in your experience?

A I really have no idea. Like as you're -- you could open a case and think that the allegations say this and then as you're investigating find out that it's actually something different.

So case reclassifications do happen. I mean, I remember -- and, again, they have to be approved by a supervisor. I probably remember a handful of times when I had a squad at Washington field where my agents would reclassify a case, but it is documented and approved by a supervisor.

But volume-wise, I think it's just -- just it's dictated by where the investigation leads you, is what it should be.

Q So the supervisory special agent would be notified if a special agent was reclassifying a case?

A My understanding is for a case to change classifications, at a minimum the special agent would be writing something in our database that has all of the documents pertaining to a case and then asking the supervisor to approve their change in case classification.

Q Okay.

A But, again, please double-check that with FBI that that's it, because it's been a long time since I've been a squad supervisor.

Q Yeah. And if a case was being reclassified as a DVE, so then the agent would have to get their supervisor's approval, and then in addition would the CDC weigh in?

A I believe so, but, again, please double-check that with the FBI.

Q Uh-huh. And in your experience, how did the FBI or how did you define a domestic violent extremism investigation when you were at the FBI?

A Yeah. So domestic violent extremism really is defined by the statute, the domestic terrorism statute, which is 2331. I won't probably do it specific justice trying to recite it, but it's basically the case has to be involving an individual who's about ready to do an act that's dangerous to human life, happening in the United States, and with the intent to coerce, intimidate, and there's a couple other things, the United States Government.

Q Okay. And as the assistant director of the Counterterrorism Division, would you receive notice if a full DVE investigation was being opened?

A No.

Q No. Same as EAD?

A Correct. Again, if it was significant, potentially. Like if it was, wow, she really should be aware of this, we're going to let her know. But on an everyday case opening basis, no. I mean, I think the volume wouldn't necessarily afford that.

Q And are you familiar with the letter that Mr. Jordan sent to FBI Director Wray on July 27th, 2022, regarding protected whistleblower disclosures related to the FBI's handling of DVE cases?

A Most likely. I mean, I've seen a lot of those letters in the media, so possibly.

Q I'm going to introduce that to the record.

A Okay.

[Sanborn Exhibit No. 1

Was marked for identification.]

BY [redacted]

Q So I'd like to mark the July 27th, 2022, letter to FBI Director Wray as exhibit No. 1.

A Thank you.

Q Ms. Sanborn, if you could take a minute to review and let me know once you have reviewed.

A Okay.

Q So have you seen this letter before?

A It looks familiar, so, yes, I believe this is one of the ones I've read.

Q And do you know when about you might have become aware of the letter?

A Sometime after August 10th.

Q Okay. I'm going to read the first few sentences on page 2 of the letter in that first paragraph there.

"New whistleblower disclosures made by multiple FBI employees from different field offices indicate that the Biden administration's narrative may be misleading. We have received accusations that FBI agents are bolstering the number of cases of DVEs to satisfy their supervisors. For example --"

Mr. Burwell. Sorry. "Superiors."

BY [redacted]

Q Superiors. Thank you.

"For example, one whistleblower explained that because agents are not finding enough DVE cases, they are encouraged and incentivized to reclassify cases as DVE cases even though there is minimal circumstantial evidence to support the reclassification."

Ms. Sanborn, what is or was your reaction to these allegations?

A I think if individuals are encouraging, asking, pressuring agents to change classification of a case inappropriately is unacceptable. So that was one reaction.

Q And during your time at the FBI, are you aware of any instances where an agent has been told to reclassify a case?

A Not that I can recall, no.

Q Any instance where an FBI agent was pressured to reclassify a case?

A Not that I can recall.

Q During your time at the FBI, do you know if there is an -- was an initiative to prioritize DVE cases?

A Again, I would -- great question to kind of dive into how we do this at the FBI, so please ask this.

But there is a process for prioritizing threats, and I think it's a yearly if not biyearly

process, very mindful process, that takes into account a lot of different things. And it's very intelligence based. It's something that I believe is done well on the heels of the lessons we learned from 9/11 to not base prioritization just on volume of cases.

So when I came in that's how priorities got set in field offices, was the squad that had the most cases. And so I think this process that's rooted in intelligence then gives you how the cases should be ranked -- I mean, how the cases -- how the threats should be ranked.

And going through that process definitely during my time as AD, and I believe I saw some of this as EAD, made the DVE threat fall more elevated on that continuum than it maybe would've been 5 years ago.

Q And is the process you're referring to, is that the Threat Review and Prioritization process, the TRP process?

A Yes, ma'am.

Q And is that separate -- we're hearing that there are different systems, the Threat Review and Prioritization process and then a system to promote and rate FBI officials. Are those the same process or different?

A Completely separate, to my knowledge. Like great question on kind of the promotion-slash-process for the FBI. But I don't ever remember that being discussed during TRP. Does that make sense?

Q Uh-huh.

A They're separate, I believe, completely separate processes.

Q And so sticking with the TRP process, do headquarters operational divisions develop national threat strategies for each threat issued during that process?

A I believe that's correct.

Q And those threat strategies, are they then used to guide, in your experience,

FBI-wide mitigation efforts?

Mr. Burwell. I think I'm just going to object for the purpose of where we started with this is that the FBI is a great witness to talk about how this process works, and it's complicated. The factual allegations that anybody was involved inappropriately I think are really -- is the nature of your August request for her interview.

I think we are voluntarily trying to help guide you, but the FBI is in the best position, and that you've asked the FBI to come and provide detailed information about this complicated process.

BY [redacted]

Q And I think, as Ms. Sanborn alluded to, this TRP process is kind of how they prioritize cases. And as part of the TRP process, are there metrics that have to be hit?

A Again, great question for the FBI, and happy to try to shed some light from my knowledge on this, but I would ask that anything that you take as official please be consulted with the FBI.

I do not remember anything having to do with the TRP process crossing over into performance and performance appraisals and performance plans. Does that make sense?

Q Yeah. And so as part of those performance plans, were there metrics?

A Not that I remember. I do not remember ever reviewing one of my performance plans. Like let's stick with what I remember about me?

Q Yeah.

A I don't ever remember reviewing one of my performance plans and making note of, oh, they're telling me I need to, whether it's case numbers or budget, do X, Y, Z in a specific granular level like that. It was broader categories of business acumen and achieving results.

So, no, I do not remember ever in mine there being a metric, both in the plan or in the appraisal at the end of the year.

Q And so what is your reaction that multiple agents from different field offices have come forward to say that they're being pressured to reclassify cases as DVEs to hit a metric?

A Yeah. I have two reactions to that.

One, which I already sort of said to you, if that kind of behavior is going on, it's inappropriate.

But then the second part is, it's not me. I have never focused on metrics. I've never pressured agents to do anything inappropriate. I believe Mr. Rogers said this in something I read open source today, like I took my role both as an agent and as a leader in the organization to act with integrity, follow the rules, and uphold the law, and everything I did I tried to do that.

So I had two reactions to that. If it's happening, it's inappropriate, but it's definitely not me.

Q And you weren't aware of any of that happening while you were at the FBI?

A Not that I can -- not that I can remember.

Q And so back to how cases are classified and the supervisory special agent. Is that who supervises the special agents then?

A Yes.

Q And so they would have some sort of input on how to classify a case?

A Correct.

Q What about the assistant special agent in charge at any of the field offices?

A Potentially, yeah.

Q And the special agent in charge, would they have a role?

A Again, there is a detailed, complex policy how cases are opened, and so, please, hopefully the FBI will give you this.

I think the two people that are required for every case opening are the agent and the supervisor, and then the CDC for domestic terrorism cases.

That could change based on different threat categories. I don't remember there being a specific need for an ASAC or a SAC to be involved in that. However, in a field office they could be having those conversations all the time.

Like when I was SAC Minnesota, I had weekly staff meetings. Possible that during those weekly staff meetings people would've briefed me on a case they were working, and there could be dialogue based on that, if that makes sense. But they're not -- I don't believe there's a policy where they're inserted specifically in the process.

Q And as the assistant director for the Counterterrorism Division, did you perceive that you had a handle on what the Counterterrorism Division was doing, the cases that the division was handling?

A I guess I would wonder what you mean by handle. Like I felt like I was a good leader and that they put things appropriately on my radar, but I don't know what you mean specifically by handle.

Q Did you have a general understanding of the content of the cases that your subordinates or the agents below you were handling, or was that handled at the level below you?

A Yeah. I probably would've only been aware, like I mentioned earlier, of those cases that rose to a level that they felt to discuss with me.

So at any given time there could be 5,000 cases in a division. I definitely didn't have a handle or a knowledge of all 5,000. I would have sort of the tip of the iceberg of the ones that for whatever reason they felt warranted being on my radar, whether it was

in an IT sense, whether it was somebody who was going to commit an attack, those kinds of things.

Q And as the executive assistant director for the National Security Branch, did you have a general awareness of the cases that were being handled, or was it more high level?

A Same thing. So it would've been a very small number of cases that the ADs would've put on my radar and would've discussed with me.

So as AD, I'd have had this -- a dozen, to just throw out a number, and as EAD I'd have had a dozen but spread across those four divisions that I talked about. Does that make sense?

Q Yeah. And when you were the AD, did any agent or anyone below you on the org chart, did they ever come to you and express that they were overwhelmed by their caseload?

A I mean, I don't know that I would say that they came to me specifically and said they were overwhelmed. I think that the volume of cases in the domestic terrorism section grew pretty quickly, and it started in 2020. And it takes time to then adjust resources to help with that.

So there was a time inside the domestic terrorism section where they felt like they had more cases than people to help program management.

I don't know that they came and, quote/unquote, complained of feeling overwhelmed, but they definitely felt like, hey, we're staffed at a level of cases from a year ago, and now we've got double that cases and need more resources. And so I did spend some of my time trying to figure out how to get more resources to them.

Q And those agents that would come to you, did they ever express that they were under any sort of pressure?

A Not that I remember. And, again, they probably didn't come to me around the chain of command that I remember. I definitely remember the DAD that worked for me explaining how busy the section was and that they could use more resources, but I don't remember a complaint of pressure or anybody going around the chain of command to come to me directly, not that I recall.

Q Okay. And are you familiar with the August 10th, 2022, letter that Representatives Jordan and Johnson sent to you requesting your testimony?

A Yes, ma'am.

[Sanborn Exhibit No. 2

Was marked for identification.]

[redacted] Okay. I'm going to mark that as exhibit No. 2. If you can just take your time to review and let me know once you have.

Ms. Sanborn. This one I know really well, so I think I'm good with this one.

[redacted] Okay. I'll wait for it to be passed.

Okay. I'm going to read the second paragraph of that letter on the first page.

"Whistleblower disclosures made by multiple FBI employees from different field offices suggest that FBI agents are bolstering the number of cases of DVEs to satisfy their supervisors. For example, one whistleblower explained that because agents are not finding enough DVE cases, they are encouraged and incentivized to reclassify cases as DVE cases even though there is minimal, circumstantial evidence to support the reclassification.

"Another whistleblower stated that a field office Counterterrorism Assistant Special Agent in Charge and the FBI's then-assistant Director of the Counterterrorism Division pressured agents to move cases into the DVE category to hit self-created performance metrics. These whistleblowers identified you as one official who exerted

pressure on agents --"

Mr. Burwell. Sorry, just to be clear, it's singular, "This whistleblower."

BY [redacted]

Q Yeah. "This whistleblower identified you as one official who exerted pressure on agents to reclassify cases as DVE matters."

What was your reaction when you learned of these allegations?

A That it wasn't me. Like shocked because this isn't me. And I think we said in the letter back to Mr. Jordan it's counter my leadership and my philosophy of cases.

And I think I have said this to the folks that work for me and probably even to reporters that have shown an interest in me talking about, quote/unquote, case numbers, that for me case numbers are, one, only an allegation. Until proven they are somewhat meaningless. Like I feel like innocent until proven guilty. So I've never focused on case numbers because, believe it or not, case numbers are closed without proof.

Second part of why I've never focused on case numbers is I learned a lot out of 9/11. I was in the Phoenix office, admin agent for the person that wrote the Phoenix Memo, and really took to heart the fact that we needed to be an intelligence-driven organization.

And case numbers are case numbers. They're not looking at things holistically as an intelligence-driven entity. And so for a lot of reasons, I've never thought case numbers were very meaningful.

I think case numbers are important for one thing only, quite honestly, which is you definitely need to work the case to get to the bottom of it. And so volume, squads need people and divisions need people to get to the bottom of the cases in front of them. Like you can't just ever grow the case number and never bring them to resolution, either closing them because the person's innocent or finding enough evidence to charge them.

And so case numbers for me help you decide how many resources to allocate so you can get to the bottom of it, but they're not indicative of the threat, and they're allegations. People are innocent until proven guilty.

Q And when would these case numbers be tabulated, or when would you set case numbers?

A So it depends. Like whenever I would have testimony, always knew that I would potentially get a question about case numbers. And so I definitely paid attention and asked for people to provide me numbers so that when asked by the Senate or the House I would have appropriate answers and data to give them.

They could've come up in the morning meetings. Oftentimes the deputy and the director would ask, how many cases do we have on this? So sometimes a due-out could come from the morning meeting wanting to know how many cases on a certain threat.

So the need to go and look at them and calculate them was sort of at an ad hoc basis based on the request. There wasn't like a standing, hey, every Tuesday at 10 give me an update on the number of cases kind of battle rhythm. Does that answer your question?

Q Yeah. And when you were looking at case numbers to help allocate adequate resources, were those cases that had been opened, or were those possible cases?

A Opened cases.

Q Opened cases. Was there any point in time where it was possible cases that could be opened?

A No, not that I remember.

Q And I want to talk a little bit about the self-created performance metrics. Is that done within the promotion process?

A So this is another one where I hope FBI responds to you, because I am not -- I've never served in the HR portion of the Bureau that would have intimate knowledge of kind of all the things that go into rating somebody and giving them any sort of kudos for their performance. So I'll speak to me and what I remember in my process.

Q Absolutely.

A So, again, I mentioned I don't remember metrics ever being a part of the plan, like, hey, Jill, we hope you achieve this this year, and I don't remember ever having an award or something about me where it then reflected on the same, with one exception.

I received meritoriously the Presidential Rank Award, and there were two references in there, I believe, to case numbers, which one was about the overall case numbers that I oversaw throughout my time in CTD, and then one was a comment about also oversaw the increase in DVE cases.

And so just for context on the Presidential Rank Award, I was nominated for that for my time as AD, nominated in, I believe, March of 2021, for my time as a whole executive.

So I don't remember ever a metric being in my plan, and that's the only time I ever remember in my personal, hey, this is how you did, Jill, being reflected in there.

Q And in your performance plan or performance review, is that done on an annual basis?

A Yes.

Q And what kind of factors can, in your experience, negatively affect your performance review?

A It's a hard one to answer because I don't know that I ever had anything specifically negative.

Q Oh, sure.

A But I would say that how I viewed my plan is they're asking me to do well in these categories. And, again, please get the categories from the FBI. But I remember two of them being business acumen, like managing my budget well, and one being achieving results.

And so I would read my plan and know like, hey, I need to be judicious with my money and balance my budget, and I also need to focus on achieving results and making progress on cases. But I don't remember anything more detailed than that.

Q And can you dig in a little bit more to the achieving results and progressing in your cases? What did that look like?

A For me, it meant that my program managers were making sure that field offices were not missing in investigative technique in their cases, like I said, pushing those cases to some sort of closure. We don't sit on cases and do nothing with them for months and months and months. Like a person is either innocent or they're guilty, like work your cases.

And field offices and supervisors have a battle rhythm of how they're supposed to go through cases. Great follow-up for the FBI. But I believe it's every 90 days you're supposed to sit down with your supervisor and go over the progress on your cases.

For me, business -- achieving results is that divisions in field offices are doing that. They're reviewing cases every 90 days. They're trying to move them to fruition, whether that's closing them because the allegation is false, or gathering evidence, improving the allegation, and taking the person through the justice process.

Q And when the performance review one of the tenets was pushing to close cases, was there a specific number of cases that were supposed to be closed?

A No. No. And nothing that granular is in the performance appraisal. So

there isn't a line in there that says make sure you push cases to closure.

Q Is that done at the supervisory special agent level? Are they telling their special agents to make sure they're closing cases or --

A I wouldn't review it -- I wouldn't put it that way. Like I'll -- back again, I'll try to put my when I was a supervisor at Washington field hat on.

I didn't want my agents to sit on their cases and do nothing. So I would sit down with the case agent and say, tell me what you've done in 90 days on this case. And if it was nothing that's not good. Like you need to dedicate time and energy to getting documents, interviewing people, all the different techniques that they should be doing.

Q And when you were the assistant director for the Counterterrorism Division, did you have any interactions with field offices to close cases?

A No.

Q As executive assistant director of the National Security Branch, did you interface with field offices about cases they should close?

A Not that I remember. I mean, it would be unusual for either an AD or an EAD to be involved in the closure conversation.

Q Is anyone at headquarters involved with these performance reviews?

A What do you mean? Like you mean like an individual performance review?

Q Correct.

A Well, there's definitely a chain of command. So if I was going to -- somebody who reads my performance appraisal, first my supervisor writes it and then the next supervisor over them approves it.

So, for example, when I was AD at CTD, John Brown would've wrote my performance appraisal and then the deputy would've approved it. So there's a rating official and then a reviewing official.

Q Okay. And so the reviewing official, would they have any input in the performance review?

A They could, because even though they are one removed, they do have visibility of that next level down. And so they could have, hey, you forgot that Jill did this or you forgot that Dave did that. So they definitely could have input in the process.

Q And would they be involved with which cases needed to be closed?

A So, again, closure of the cases is at the field office level. There's notification to headquarters on the closure of cases in some instances, and would also ask you to follow up with FBI on this.

But my recollection, for example, is in the international terrorism world, because we want to make sure that they're not closing a case where somebody really poses an imminent threat, like they don't do all their checks and balances to make sure that the threat isn't there, the notice goes to headquarters to make sure that that GS-14 at headquarters that is their program manager approves their closure.

Q Uh-huh. And as you go up through the hierarchy, are the supervisory special agents, are they also given performance reviews from there?

A Yes. Everybody, in my understanding -- and the Bureau could correct me if I'm wrong -- I believe every employee gets a performance appraisal, gets a plan, and then a rating at the end of the year.

Q Yeah. So when you were the assistant director for the Counterterrorism Division, you had a performance review?

A Yes.

Q And that was done by John Brown, then the EAD?

A Correct.

Q So then when you were EAD, you were responsible for the performance

review of the AD?

A Correct.

Q And when you were EAD, did you receive a performance review?

A I'm sure I did. I don't remember it specifically. But, I mean, it would've been part of the requirements in the process.

[11:04 a.m.]

BY [redacted]

Q And so, in your experience, if an agent or supervising agent did not meet one of their performance review's requirements, would that negatively affect whether they were promoted or have any impact on that?

A It could potentially. Again, I would refer you to the Bureau on, quote/unquote, the "promotion process." But I can't imagine that your performance appraisal wouldn't be considered at some point in whether you promote or not.

Q Uh-huh. Okay.

I'm going to let -- Mr. Gaetz has a few questions.

Hello, sir.

Mr. Gaetz. Good morning. My name's Matt Gaetz. I serve on the House Judiciary Committee, and I have a few questions for you.

You mentioned in your testimony that, when you had congressional testimony, that would often trigger a review of the number of DVE cases. Do you recall how many times that occurred?

Ms. Sanborn. I don't remember how many times I testified. I mean, I can remember some of my specific testimonies. So I probably got case numbers before the Rules testimony that I did. I probably got case numbers before -- I definitely got case numbers before one of my last testimonies, which was Senate in January, I think, of 2022.

Mr. Gaetz. Is it fair to say you got DVE case numbers before every instance of your congressional testimony?

Ms. Sanborn. Yes.

Mr. Gaetz. And who helped you assemble that information?

Ms. Sanborn. So usually how it was done is, my staff would ask the section that owns -- so, in this case, it would be the Domestic Terrorism Section -- to provide case numbers.

Mr. Gaetz. Which members of your -- can you name the members of your staff who helped you in that process?

Ms. Sanborn. Yeah. It would've been [redacted], [redacted], [redacted] [redacted], [redacted], [redacted]. And then, when I was EAD, probably would've added in [redacted], [redacted], and maybe [redacted].

Mr. Gaetz. Would you meet with that group of people collectively or individually in conducting this work?

Ms. Sanborn. Usually collectively. Like, my prep would be the staff providing me materials and me talking through the materials that they provided. I don't remember -- I had a special assistant and a chief of staff. Those two people I could've potentially met one- --

Mr. Gaetz. And what were their names?

Ms. Sanborn. [redacted] and [redacted] and [redacted].

Mr. Gaetz. And in conducting those meetings and getting that information back about DVE cases, did you ever reflect on the information they provided you regarding those case numbers, internally?

Ms. Sanborn. What do you mean, "reflect"?

Mr. Gaetz. Well, did you ever say, "Wow, that's a lot of DVE cases," or, "That's fewer than I expected, or "That's along with the trend line I expected"? Did you ever react to the data?

Ms. Sanborn. I'm sure I did. I can't remember a specific -- a specific notice one way or the other, but I'm sure I probably had some sort of reaction to it. I can't imagine

I didn't.

For example, they grew pretty quickly, right? So I'm sure that the first time that the data -- I think when I started as an AD, we might've had around 900 or so cases. And so I would imagine that my first or second testimony, those numbers were probably different. Because, 2020, we grew a lot of cases due to the violence that was going on around the country. So I'm sure my reaction in one of the first ones was, "Wow, that's quite a bit more than the last time."

Mr. Gaetz. Did you ever express your pleasure with that --

Ms. Sanborn. No.

Mr. Gaetz. -- change?

Ms. Sanborn. No.

Mr. Gaetz. Did you ever reflect externally, beyond that team, with friends, family, social acquaintances, about the size of that caseload in DVE?

Ms. Sanborn. Not that I remember. I mean, I think probably the biggest reflection I probably had as AD about the growing case numbers was I felt, as a leader, a responsibility to the section that was working those. Like, I felt like they had a lot on their plate, right? You have a lot of cases; how can I get you more people?

And so, for a while, a part of my energy was spent asking the DADs to maybe temporarily assign people to help them out. Like, I felt like, you know, they woke up one day and they had X number of cases and then the next day they had quite a bit more. And me, as a leader, I owed it to them to try to get them more resources.

Mr. Gaetz. I'm eager to chat about that resourcing process in a moment. But, still, in your preparation of congressional testimony, you mentioned that DVE was always something you wanted to have the data on to be able to respond to questions. Were there other categories where you also --

Ms. Sanborn. Oh, that's a great -- yeah.

Mr. Gaetz. -- made it as part of your regular course and practice to make sure that you always had access to that data?

Ms. Sanborn. Yeah. I think that's a great question, and I would say two things about it.

The majority of my testimonies were DT-related, and so I was interested in that data because the topic of the hearing was typically DT-related.

But I always -- and I can give you an example. I always was also wanting some of those IT numbers, because I think it's fair to try to do some comparison. And so --

Mr. Gaetz. What's IT?

Ms. Sanborn. International terrorism. Sorry.

So I usually had both international terrorism and domestic terrorism data numbers in front of me even if the hearing was specifically about DT.

Mr. Gaetz. Earlier, in response to my colleague's question, you talked about this review process where you would meet with agents and talk about what they had done. And if a term of 90 days had concluded and not much work had been on the case, you said that was not a good thing.

Do you ever recall that dynamic occurring with DVE cases?

Mr. Burwell. Sorry. Just to be clear, she was explaining what supervisors would do with line agents, not when she was AD or EAD.

Mr. Gaetz. Okay. Well, let me clarify that point, because maybe I heard it differently.

Did you ever meet with agents and express displeasure that over some term of days not a sufficient amount of work had been concluded?

Ms. Sanborn. So I think I'll expand the answer a little bit.

When I was a squad supervisor at Washington Field Office, I was in charge of international terrorism cases overseas. There's a requirement in the Bureau that every 90 days a supervisor sit down -- we call it a file review -- sit down and go through the file review with their agents.

I'm sure there were times -- I don't remember a specific one, but I'm sure there were times that, on that squad, I sort of said, hey, you know, whoever the agent is, you haven't done a lot on this in the last 90 days, what are you doing, right? Like --

Mr. Gaetz. When were you --

Mr. Burwell. Just to help, she was a squad supervisor a long time ago, so --

Ms. Sanborn. 2012.

Mr. Gaetz. Yeah. Thank you.

Ms. Sanborn. I didn't have an involvement in that process as AD at all, and wouldn't have.

Mr. Gaetz. When you conducted file reviews, did you ever do that on DVE cases?

Ms. Sanborn. No.

Mr. Gaetz. And when you did a file review, at any point in your career, did you ever utilize that file review meeting to reclassify a case?

Ms. Sanborn. No. Well, not that I remember, right? Like I was explaining -- I don't think you were here when I was explaining it -- in order for a case to be reclassified, an agent would type something in our database that houses all the documents, and then a supervisor would have to review it. On my international terrorism squad, they probably were all the same classification, based on what I was assigned. And so I do not remember during the file review process ever having that specific conversation, but it's possible.

Mr. Gaetz. Thank you.

You talked about performance reviews in your testimony today. When you conducted performance reviews of others in your AD role, did you ever discuss DVE cases?

Ms. Sanborn. I'm sure -- I'm sure I probably did, right? So, when I was an AD, the DAD and the section chief that were responsible for the DT program, I'm sure we talked about the DT program writ large, and it maybe involved a conversation about cases. I wouldn't -- I don't remember a specific conversation.

Mr. Gaetz. So I want to just drill down on that. Can you list for me every Bureau employee for which you were involved in a performance review where DVE cases were discussed?

Ms. Sanborn. Well, it would probably -- two things on that. It would probably just be those two people that I mentioned, so the DAD and the section chief, because of the way the review cycle works. You review it just two levels below you. I do not remember specifically talking about DVE cases in that. But it's possible that when we talked about the performance review that would come up.

It would be uncommon for that to be part of the process, right? The process would probably be at a higher level about their overall performance, right? Are they collaborative, are they managing their budget, those kinds of things, not the granular level of talking about cases. Maybe a specific case, but not case numbers.

Mr. Gaetz. You discussed in the reclassification process that there would be a basis for the reclassification that would be documented.

Ms. Sanborn. Uh-huh.

Mr. Gaetz. Who would typically draft those documents?

Ms. Sanborn. It should be -- and, again, please make sure that this is still true with the FBI, but it should be the case agent. And then that's approved by the

supervisor.

I would imagine, in DT cases, because of the requirement when you open them for the chief division counsel to also be included in that process, that if you change a classification I would imagine that the chief division counsel also gets involved in that process. But I'm not positive, just because I've never -- I was not a supervisor of a DT squad ever, and so I don't have firsthand knowledge of that.

Mr. Gaetz. So you were never involved in the approval or review of the document that established a basis for a reclassification to DVE?

Ms. Sanborn. Correct. The important part of that is on DT cases.

Mr. Gaetz. How many times did you participate in any decision to reclassify a case to a DVE case?

Ms. Sanborn. I do not remember a conversation ever about reclassifying a DVE case.

Mr. Gaetz. Or a case to DVE?

Ms. Sanborn. No.

Mr. Gaetz. You talked about resourcing based on acuity, not volume, earlier -- and that's my word, not yours -- but that, you know, your experience showed that when you simply resource based on volume, that can ignore very serious matters.

Is that a fair way to characterize your testimony?

Ms. Sanborn. I would say yes. I think that how you assign resources, the way that I view it is the resources should be assigned commensurate with the threat and probably the complexity of the case.

So, for example, bank robbers are something that the Bureau works. Working a bank robbery case is different than working an international terrorism case with a FISA. A bank robbery case agent can probably have 20 bank robberies and that caseload be

okay. An international terrorism agent with a FISA wouldn't have 20 cases assigned to them. That would be a volume that they couldn't handle.

And so you're assigning resources based on the severity of the threat, but also taking into account the nature of the case and what it might need. Does that make sense?

Mr. Gaetz. Is there an example you can share where a DVE case would meet that criteria, where there wouldn't be sufficient volume but there'd be such acuity that you had to make a resourcing decision based on it?

Mr. Burwell. That you can remember.

Ms. Sanborn. Yeah, not that I can remember.

Mr. Gaetz. Okay. Well, that seems like a good stopping point.

[redacted] We'll go off the record.

[Recess.]

[redacted] We are back on the record. It is 11:28 in the morning.

I am [redacted] I'm the Democrats' chief oversight counsel. I'm going to actually turn it over to Congressman Cicilline, who is here, to begin our round of questioning.

Mr. Cicilline. Thank you.

Good morning. It's a great honor to meet you.

Ms. Sanborn, I had the chance to review the biography of you that's posted on the National Security Institute website. Are you familiar with this biography?

Ms. Sanborn. Yes, I am.

Mr. Cicilline. And did you write the biography yourself?

Ms. Sanborn. Probably not by myself. I believe people inside the organization before I retired from the FBI probably helped me write the original one, and then I've

continued to update it.

Mr. Cicilline. And did you approve it before it was posted?

Ms. Sanborn. Yes, absolutely.

Mr. Cicilline. And is it a fair representation of your professional background?

Ms. Sanborn. I believe so.

Mr. Cicilline. Thank you.

And I would like this marked and introduced as an exhibit into the record.

[redacted] I believe we're on exhibit 3.

[Sanborn Exhibit No. 3

Was marked for identification.]

Mr. Cicilline. I'm particularly impressed by the note in here that you were the first woman promoted to the position of executive assistant director of the National Security Branch. Is it true that you were the first woman that was promoted to that position?

Ms. Sanborn. Can you tell me where you're at? It should say first woman to the assistant director position.

Mr. Cicilline. Yes.

Ms. Sanborn. Sorry. Not EAD, but assistant director.

Mr. Cicilline. Correct.

Ms. Sanborn. Correct.

Mr. Cicilline. And who selected you for this position?

Ms. Sanborn. I think it was probably a combination of Director Wray and the deputy director.

Mr. Cicilline. And do you know what the criteria was for that position?

Ms. Sanborn. No.

Mr. Cicilline. What are the responsibilities of the executive assistant director of the National Security Branch?

Ms. Sanborn. So the executive assistant director over all national security oversees the Counterterrorism Division, Counterterrorism Division -- counterterrorism, counterintelligence, weapons of mass destruction, and Terrorist Screening Center.

Mr. Cicilline. I also understand that you received a number of awards during your time with the Bureau. Is that correct?

Ms. Sanborn. That is correct.

Mr. Cicilline. And how many awards did you receive, if you know?

Ms. Sanborn. Definitely remember four, potentially five of them.

Mr. Cicilline. And would you describe those awards?

Ms. Sanborn. Yeah. I believe one was when I was a case agent. Back then, we used to call them quality step increases, QSI.

One was an award from the Department of Energy -- I mean Department of Defense, SOCOM specifically.

One was a CIA award for my efforts on international terrorism.

One was an award from the DNI for my efforts on FISA 702 reauthorization.

And then the last one was the Presidential Meritorious Rank Award.

Mr. Cicilline. So, just to be clear, one of the awards you received was a Joint Civilian Service Award for your work in Iraq during the early 2000s?

Ms. Sanborn. Yes, sir.

Mr. Cicilline. And then you received another award, the George H.W. Bush Award, for your work when you were detailed to the CIA in 2010?

Ms. Sanborn. That's correct.

Mr. Cicilline. And then you received the National Intelligence Award from the

Director of National Intelligence in 2018?

Ms. Sanborn. Correct.

Mr. Cicilline. And a Presidential Rank Award for your work as assistant director of the Counterterrorism Division?

Ms. Sanborn. The Presidential Rank Award is supposed to be for the whole time you served as a Senior Executive Service. So, yes, it included my assistant director time, but it would've also included my section chief and my SAC time.

Mr. Cicilline. These are obviously very impressive awards, but I want to particularly note the Presidential Rank Award, because, according to 5 CFR 451, these awards are reserved for the top 1 to 5 percent of Senior Executive Service career employees across the Federal Government.

And with respect to that award, who selected you for that award?

Ms. Sanborn. I'm not sure I know the actual selection process. I know that my leadership nominated me for it. I believe the selection actually gets approved by the Department of Justice, and then, hence the name, I think it goes to the President. But I'm not positive.

Mr. Cicilline. And that selection was made during the administration of former President Donald Trump. Is that correct?

Ms. Sanborn. Correct. I was notified in the first part of 2021 that I had been nominated. So I had -- most of my service, as I mentioned, was when I was section chief, SAC, and 2020, AD.

Mr. Cicilline. And do you remember who told you that you were selected for this award?

Ms. Sanborn. Probably the deputy director, probably Mr. Abbate.

Mr. Cicilline. And do you remember the explanation he provided as to why you

were selected?

Ms. Sanborn. Not that he said anything specifically.

Mr. Cicilline. Do you have with you a commendation document that might refresh your memory as to what he said as to the reason you were selected for this award?

Ms. Sanborn. My attorney does. It's a long write-up.

Mr. Cicilline. Does that refresh your memory as to why you were selected?

Ms. Sanborn. Yes, sir.

Mr. Cicilline. And why were you selected?

Ms. Sanborn. For a variety of things: serving as a section chief in the Counterterrorism Division; serving as a special agent in charge in Minneapolis Field Office; returning to CTD as the assistant director; and being promoted as the executive assistant director of national security. And then it goes on to talk about various aspects of those assignments.

Mr. Cicilline. Thank you.

And I'd just like to conclude by thanking you for your service to our country. It's very clear to me that you've led an exemplary, distinguished career. And I think there's no question that our Nation is substantially safer because of your extensive work fighting terrorism, both here and around the world, and we're grateful for that.

Ms. Sanborn. Thank you.

Mr. Cicilline. And I'll yield to the attorneys the balance of our time.

[redacted] Thank you.

EXAMINATION

BY [redacted]

Q Okay. Ms. Sanborn, I want to just go back to a couple things that came up

in the earlier conversation, and then I have some additional questions about your background.

But you mentioned, in the discussion of the process for opening cases, you said that you had not been involved in this in many years. I just want to get some clarity. How long, about, do you think it's been since you were involved in that?

A So case openings would've been when I was a squad supervisor. I definitely could get you the exact date, but I believe that was 2012 through 2015, so about 2-1/2 years.

Q Okay. So 7 or 8 years since you would've been involved in that?

A Correct.

Q Okay.

You said that the division chief may have input in a case opening, for example, to ensure that the FBI is not opening cases based on First Amendment-protected activity.

Can you elaborate a little bit on that? Why is that an important thing for them to be mindful of?

A Yeah. So I would say a couple things before I answer that, is, I was never a supervisor over domestic violent extremism cases, so my knowledge of it is definitely removed --

Q Understood.

A -- and based on, you know, written policies and procedures primarily.

I think that the intent behind having the CDC involved, chief division counsel, in a field office -- again, this is all happening in a field office -- is to be very mindful that we don't open cases based on First Amendment-protected speech.

Q And why is it important to protect that speech?

A Yeah. I mean, the FBI has a two-part mission: to protect the American

people and to uphold the Constitution. And I think I have said this numerous times in my testimonies: Not one is more important than the other. And no matter how repulsive somebody's beliefs might be, it's our job in the FBI, when I served there, to protect an individual's right to believe what they want to believe, coalesce around their belief, talk about their belief. That's their right, and it's our right to protect it.

Q Thank you for that.

On the question about reclassification, you said that it happens a handful of times, I believe, and that it's dictated -- classification should be dictated by where the investigation leads you.

Can you explain a little bit more what you mean by that and why that's important?

A Yeah. I think, you know, again, I'll probably talk a little bit in sort of a hypothetical, because I haven't been involved in such a long time in the actual hands-on experience.

Q Uh-huh.

A But I would envision you open a case based on an initial set of allegations. The case agents out collecting information, you may find evidence or information as you're collecting on that case that then says, oh, this person isn't actually this threat; they're this threat.

So you probably heard myself and the Director talk a lot about a blending of threats, like, that somebody might at first look like they have an ideology associated with the Boogaloo Boys, and then, as you get into it, you might actually find that they're doing something to support something else, right, like an international terrorist organization or something.

So, as you uncover the facts of a case, it could then warrant the change in a case classification.

Q And why would it be important to classify it correctly?

A So, the case classifications help us understand at least a volume, right? Like, to my point that I made earlier, in and of themselves, by themselves, are kind of somewhat meaningless because they're allegations, but they help you understand a volume of issues that you have at any given time.

And I think it's important, as you're trying to divide up the different threats that we have on our plate, that you're able to divide them correctly, right? You can classify -- use al-Qaida and ISIS, for example. Like, I'm much more familiar with the international terrorism. It's very important to know if the actor is aligning with al-Qaida or ISIS. And so that case classification tells us what is at the root of that case.

Q Thank you.

On the TRP process, you mentioned that -- you referred to the lessons learned from 9/11 and that one of those lessons was not to prioritize based on the number of cases.

Can you explain what you mean by the "lessons learned from 9/11"?

A Well, I learned a lot of lessons from 9/11. And I think I said this earlier: Me, personally, two of the ones that sort of reflect. And probably the most important is to be an intelligence-driven entity and to really look holistically at each individual threat so that we understand the severity of it.

Q Uh-huh.

A And then the other is, because of that, case numbers, again, as allegations only, are only one indication or one factor of that process.

Q And you said that the process is rooted in intelligence, I believe; is that right?

A Correct.

Q Can you explain what you mean by that?

A So I'm trying to think of the best way to explain it. And, again, this is a very complicated process, and I hope that FBI sits down with you --

Q Understood.

A -- and walks you guys through how this is done.

But, as you're talking about a threat, you know, at a very high level, you're thinking about, what is the impact of the threat, and what do we need to mitigate it?

And so asking yourself those kinds of conversations bring in, maybe, intelligence products written by State and local partners, intelligence products written by the United States intelligence community. So it's not just evaluating what we in the Bureau are collecting in our cases but taking a wider view and considering all intelligence on a specific threat.

Q Thank you.

I want to switch gears a little bit here. I want to take you back a little while and talk about how we got here.

So when did you join the FBI?

A 1998.

Q And why? Why did you choose to join the FBI?

A I started out at Los Alamos. I spent 5 years at Los Alamos National Laboratory investigating whistleblower allegations, and so, very familiar. And part of the reason I'm here today is I appreciate and respect and think it's a very important aspect of what we need to have.

So, in that process, a lot of my cases that I worked at Los Alamos National Laboratory I worked closely with the Department of Energy inspector general. And an agent that I worked closely with encouraged me to apply to the FBI as, you know, something I might want to do in the future.

That, combined with the fact that I was fortunate enough when I was 16 years old to come here to the D.C. area and be a congressional page. And so I already knew at a very young age that I wanted to be doing something in public service because of my time here serving Congress. Then add in the encouragement and what I had done at Los Alamos, and chose to apply to the FBI.

Q And can you walk me through your early career experience? You were assigned in Phoenix; is that right?

A Correct, the Phoenix office. In '98, I worked a variety of cases as a new agent, everything from bank fraud to computer intrusions to public corruption.

I had volunteered to go to the international terrorism squad and was actually supposed to report on September 17th of 2001, I believe, but, because of the events of September 11th, reported, obviously, days early.

Q And where were you -- after you reported to the -- I'm sorry, the --

A Phoenix.

Q -- the Phoenix counterterrorism squad, where were you based after that?

A So, primarily, I was based in Phoenix, the metropolitan area, and from 2001 until 2006, I worked international terrorism cases there.

Q Okay. And can you describe broadly your duties in that role?

A Yeah. So, I mean, back then, a large portion of my time, at least in the first early years of my assignment on that squad, was still focused on the attacks of 9/11.

Q Uh-huh.

A Phoenix had very significant connections to the 9/11 hijackers, and so we had a lot of cases that we looked at as a result of that. So a lot of that was spent on investigating allegations of individuals who might be supporting al-Qaida and their intent to harm the United States.

Q And how long were you in that assignment?

A 2001 until 2006.

Q And what happened in 2006?

A In 2006, I came here to D.C. to be a part of the Counterterrorism Division's Fly Team.

While I was in the Phoenix office, I went on temporary assignment to London. And as I was headed back to my job in the Phoenix office, I realized that an important aspect for me professionally, developmental, and to really understand the international terrorism threat, going overseas and being a part of, you know, really learning that would be helpful to my career and my value to the organization to tackle the threat of international terrorism even better.

And I thought the Fly Team was a great way for me to not work terrorism only from the United States but really have a much more holistic view by seeing what's happening overseas and how that is then impacting the threat here in the United States.

Q Thank you.

What's the training process like for the Fly Team, or what was it when you went through the process?

A Yeah, I don't remember specifically, but there's an application -- if I remember correctly for me, there was an application process, and then you get picked to come and try out, and then there's a tryout.

Q And is that a physical tryout? What does that entail?

A Various different things, if I remember correctly. Probably testing how we do under stress and pressure and how we would do overseas. I don't remember specifically.

Q Were you deployed anywhere when you were on the Fly Team?

A Yes. I deployed to London, Iraq, Kenya, Yemen, Pakistan, Saudi Arabia. I think that's it.

Q And when you were deployed to these locations, what were your responsibilities?

A So I worked really closely with the Department of Defense and the CIA [redacted] And, really, the goal of --

Mr. Burwell. Sorry. I just want to be careful that we're --

Ms. Sanborn. I won't go into any classified information.

BY [redacted]

Q Just broadly. Just broadly.

A Yes. Working closely with interagency partners [redacted] knowing that what we went through in 9/11 emanated from overseas, and so trying to work with those entities in those overseas environments to maybe get early indicators and warnings of things that might be potentially putting America in harm's way.

Q And did you receive any awards from your time with the Fly Team?

A Yes. I received the Department of Defense award from SOCOM on the Fly Team. And part of my CIA award would've been for my time on the Fly Team because of my deployments, and then was detailed to the CIA.

Q Thank you. And when were you detailed to the CIA?

A I believe 2010 through 2012.

Q Okay. And can you tell us anything about how, again, without getting into national security information --

A Yeah.

Q -- how you ended up being detailed there?

A Asked to put in for it, I believe, from leadership. And, again, because of my

Fly Team assignments, already sort of embedded in those interagency assignments, I think people mentioned that a detailee assignment over there was open, and I was interested.

So I think a combination of encouragement from my leaders as well as my interest in an opening.

Q Okay.

And, broadly speaking, can you describe what your duties were with the CIA?

A Yeah. The official title I think I had, at one point, was deputy director of law enforcement to the CIA's Counterterrorism Mission Center, and so really acting in a liaison capacity, again, learning some of the lessons from 9/11, which is making sure we're sharing information back and forth --

Q Uh-huh.

A -- so that we are as agile and able to protect, you know, imminent threats from happening. And so most of the duties would've been the sharing of that information and making sure that we each had what we needed to do to protect the United States.

Q And I think you alluded to this earlier, but did you receive any awards during your time at the CIA?

A Yes. I received the George H.W. Bush Award.

Q And are you aware of the criteria for that award?

A I am not aware for the specific criteria, but I was told upon receiving the award that I was one of the first non-CIA employees. I think it's an award typically awarded to members that are employed, you know, actual CIA employees and that I was one of the first non-CIA employees.

Q And did you receive a write-up or anything like that, to your knowledge?

A I think I do have a write-up that came with a medal at my house. I don't remember what it says specifically. Sorry.

Q And you said that you were with the CIA until 2012?

A 2012.

Q And what happened after that?

A Then I went to be a unit chief, where I was in charge of all of overseas international terrorism cases for all of southeast Asia, so the Philippines, Afghanistan, Pakistan.

Q Okay. And what does it mean to be a unit chief? What does it mean to be in charge of those cases?

A Yeah. So a unit chief has a unit under them where the supervisors and analysts assigned have program management oversight over field office cases.

Q Uh-huh. And what type, broadly speaking, of investigations would your teams be responsible for, or the teams that you oversaw?

A Yeah. So, when I was a unit chief, it all, again, was international terrorism cases -- overseas international terrorism cases. So the subject of those cases would have been located overseas.

Q And you referred to southeast Asia. What's the extent of southeast Asia? I'm not familiar with the FBI's geographic --

A Yeah. I don't remember specifically all the different countries, but it would've included, like I said, Malaysia, the Philippines, Afghanistan, Pakistan.

Q Thank you. And how long were you there?

A Probably right around 2 years, if I remember.

Q Do you have any estimate of maybe how many cases you would've handled in that time or your teams would've handled?

A No.

Q Where did you move next?

A From unit chief, I went to be a supervisor at Washington Field Office.

Q And were you a supervisory special agent?

A I was.

Q What does that mean?

A So it's the first level of supervisor in a field office, and I would've supervised a squad with agents on it.

Q And how many agents would have been on that squad?

A It was probably right around seven or so. And it was a squad in charge of all international terrorism cases for Afghanistan and Pakistan.

Q And can you broadly describe your duties as the supervisor of that squad?

A Yeah. So, in general, assisting the case agents with their investigation on particular cases. I would've been responsible for case openings. I would've been -- signing them, approving them.

I would've been responsible for approving, you know, an interview that they did. I would've signed that into the file. So, similar to introducing documents for the record, they would submit things for submission to their case, and I would approve off their work.

Q And how long were you with the Washington Field Office?

A I think it was just slightly over 2 years.

Q Until about?

A 2015 was when I went to -- got promoted from there to Los Angeles.

Q Are you from Los Angeles?

A No.

Q So can you describe how you ended up being assigned to Los Angeles?

A Yeah. So, for me, how I did my promotions is I would see a job opening in, you know, sort of the job database and apply for it. So I saw an assistant special agent opening and applied for it and went through an interview process with the leadership of that field office and got selected.

Q Are you familiar with the criteria for that promotion?

A It changes. I don't remember specifically.

Q What were your responsibilities when you were the assistant special agent in charge?

A So I was the assistant special agent in charge of terrorism. So Los Angeles has their field office broken up by criminal, admin, intel, terrorism. So I was the assistant special agent in charge of terrorism in Orange County, California. So I was responsible for all terrorism cases in Orange County and the Inland Empire, so Santa Ana --

Q Was San Bernardino part of your territory?

A Yeah. So I had been assistant special agent just for a couple of months when the attack on San Bernardino happened.

Q And that was the attack on December 2, 2015, at the Inland Regional Center?

A Yes.

Q And did the investigation into that attack fall under your purview?

A Yes.

Q Can you speak broadly about your role in that?

A So I was the assistant special agent in charge, and so I had squads under me and agents under me that worked that specific attack case.

Q And what would your role have been then?

A I mean, really, it's an oversight role.

Q Uh-huh.

A You know, the agents and the supervisor of the squad have the day-to-day responsibility of the investigative work and approving it and putting it in the file. I think I viewed my role, again, as oversight over what they were doing, making sure they had the resources they needed.

Q And after you were in Los Angeles, were you promoted again after that?

A Yes.

Q To what position were you promoted?

A From there, I was promoted to section chief in the Counterterrorism Division, which oversaw all international terrorism cases overseas. So, again, still international terrorism, and back to being focused on the subjects being located overseas.

Q And where was that located?

A Here in the D.C. area.

Q Just so that we can get a sense of the responsibilities, again, that you handled, could you describe the Counterterrorism Division generally? How many branches does it have?

A Again, great question for the FBI. I think it's got, you know, intelligence operations and support type --

Q Uh-huh.

A -- is how it's broken up. And I would've been in the operations side and just one section under that side.

Q And what were your responsibilities?

A So my responsibilities, again, as section chief were overseeing all

international terrorism cases overseas.

Q Okay. And did you receive any awards from your time there?

A So I received an award during my time as section chief but not for the traditional --

Q Okay.

A -- day-to-day assignments of a section chief. I received an award from the DNI for my participation on an interagency team that worked to educate and get FISA 702 reauthorized.

Q And who's the DN -- who -- can you explain just what "DNI" stands for?

A Oh, Director of National Intelligence, and I don't remember who it was at the time.

Q And how long were you there?

A Section chief, not quite 2 years.

Q Okay. And were you promoted again at the end of that?

A Yeah. So, at the end of my section chief time, I put in for -- again, my promotion has always been, until EAD, a job opening and I apply for it. I saw an opening for SAC Minneapolis, and I put in for that.

Q And why Minneapolis? Was it just there was a position open?

A I grew up in Montana, so I knew I would like the area. Minneapolis has a great reputation for being a good office, good casework.

Q Okay. And what were your responsibilities as head of that field office?

A So, as SAC, I was over the whole office, and the office covers all of Minnesota, all of North Dakota, and all of South Dakota. And, again, like I said, a wide variety of criminal violations in that specific spot. One of the ones of which I hadn't ever been exposed to is they do a lot of Indian Country work.

Q Uh-huh. Would you also have international terrorism --

A Yes. All programs.

Q And domestic terrorism as well?

A Correct.

Q And, in 2020, you were promoted to be the assistant director of the Counterterrorism Division. Is that right?

A Correct.

Q Okay. Who selected you for that promotion?

A So, again, I applied for it, and I was interviewed by the EAD at the time. And then I believe -- I don't think any other interviews. And then that goes before a board, and the board picks you.

Q And do you know what the criteria are for that promotion?

A No.

Q And I think we went through kind of broadly your responsibilities in that earlier. I do want to ask, do you know about how many individuals would have reported up to you at this time?

A As an assistant director?

Q Uh-huh.

A I think it depends on what you mean by "report." Direct?

Q Direct report, direct report.

A So I would've had three DADs, and then I had an executive staff.

Q Okay. And can you talk broadly about the type of cases that would've come through that division at that time?

A All terrorism cases. So international terrorism cases overseas, international terrorism cases here in the United States, domestic terrorism cases.

Q And during that time, is that when you received the Presidential Rank Award?

A Correct.

Q Was the -- did you receive --

A Well, nominated for it.

Q I'm sorry, nominated. Did you receive the Distinguished Senior Professional Award or the Meritorious Senior Professional Award?

A Meritorious.

Q And am I -- I think Congressman Cicilline quoted this earlier, but 5 CFR, part 451, says that Meritorious Senior Professional Awards are limited to 5 percent of the total number of appointees.

Does that sound about right to you?

A That's what I've read, yes.

Q Okay. So it's fair to say that you were recognized as one of the top 5 percent of senior-level employees across the country?

A Yes.

Q In 2021, you were promoted to executive assistant director of the National Security Branch?

A Correct.

Q Who selected you for that promotion?

A Definitely the Director, but I'm sure it was a combination of the deputy and maybe even the former EAD recommending me.

Q How does the EAD position fit into the broader structure of the FBI? Or, at least, how did it at your time there?

A I think that's a great question for the FBI, but there's a handful of EADs that

have certain responsibilities --

Q Uh-huh.

A -- and those EADs report directly to the deputy director. And so, for me, what I was over was counterterrorism, counterintelligence, weapons of mass destruction, and the Counterterrorism Center.

Q Okay.

A Terrorist Screening Center.

Q So, sorry, just to make --

A Terrorist Screening Center.

Q The Counterterrorism Division --

A Counterintelligence.

Q -- counterintelligence, Weapons of Mass Destruction --

A Directorate.

Q -- Directorate, and the interagency Terrorist Screening --

A Terrorist Screening Center.

Q If you know, what's, about, the total volume of the staff for those divisions?

A Probably around 3,000 for all of them combined, I would guess. But, again, I know the FBI could give you a much more accurate number.

Q Did you oversee the Joint Terrorism Task Forces?

A They would've definitely been a part of the Counterterrorism Division, correct.

Q And do you know how many Joint Terrorism Task Forces there are under the NSB's purview?

A So every single field office has one, and some field offices have more than one. So, for example, in California, there are several JTTFs.

Q Uh-huh.

A So I don't remember the specific number.

Q Okay.

When did you retire from the FBI?

A April of 2022.

Q And can you talk broadly about the circumstances surrounding your retirement?

A Sure. In May of 2021, my mom got in a rollover car accident -- sorry -- and my dad had dementia, and so I retired to take care of my parents.

Q Thank you. I'm sorry. I'm sorry to hear that.

I just want to step back to just summing up the career, the long process we just talked through.

Mr. Burwell. Do you need to take a break?

BY [redacted]

Q Do you want to take a break? Do you want to take a minute?

A No.

Q So we went through your time starting in 1998 in Phoenix all the way through your time in Iraq with the FBI. By my count, it looks like you were promoted at least eight times in your career. Does that sound about right to you?

A Supervisor -- well, I was supervisor on the Fly Team. So not only did I serve the Fly Team, but I was also a supervisor on the Fly Team. So a supervisor on the Fly Team, unit chief, field supervisor, assistant special agent, section chief, SAC, AD, EAD. Eight.

Q And you received about four awards, maybe five?

A Correct. The first award I think that we talked about, the Department of

Defense SOCOM award, probably was not when I was in a supervisory role. It was probably for my time as a case agent on the Fly Team.

Q Understood. Understood.

We have a November 29, 2022, letter from Carter Burwell to then-Ranking Member Jordan. Are you familiar with that letter?

A Yes.

Q I'm going to introduce this as exhibit 4.

[Sanborn Exhibit No. 4

Was marked for identification.]

BY [redacted]

Q And who is Carter Burwell?

A My attorney.

Q In the third paragraph, I believe, of this, it states that you spent over two decades serving our country on the front line of the war on terror and oversaw both foreign and domestic national security investigations, which disrupted countless terrorist plots and attacks.

Do you agree with this statement?

A Yes.

Q Do you want to elaborate? Is there anything further you'd like to say about that?

A No.

Q Are you proud of your time at the FBI?

A Yes.

Q During your 23-plus years with the FBI, were you ever subjected to any disciplinary actions?

A Not that I can remember at all, no.

Q And was there ever any substantiated allegation of misconduct against you?

A No.

Q Okay.

This letter also states, in the second-to-last paragraph, that you are known for emphasizing that the nature of the national security threat landscape, rather than the quantity of the individual or ongoing investigations, should guide the FBI's strategic focus and operational resources.

Do you agree with this statement?

A Yes.

Q Could you explain what "the nature of the national security threat landscape" means?

A So, for me, when I say that, it's sort of the complexity of all the different threats that we face and the severity of each one of those. So, as we evaluate the different threats facing us and how severe those threats are.

Q And what do you mean by the nature -- or what does it mean that the nature of this threat landscape should guide the FBI's strategic focus and operational resources?

A I think I've talked a little bit about this earlier, but that how you view each threat is complex and involves numerous different aspects of the threat, right? Like, a lethal threat, the impact of getting that wrong is significant.

And so, as you think about the nature of each threat, asking yourself, like, what's the impact of getting the threat wrong and what do we need to do to mitigate it is different for each threat that you talk about.

Q And when you say "the impact of getting it wrong," what are the type of factors that you might take into account when you're evaluating that?

A Yeah. This is a very, very complex process. And so, you know, as I mentioned earlier, I think it would be great and hopefully the FBI will walk you through this, because, for me, it's something that I'm proud of, feeling like I was a part of the Bureau adopting this process through my time in my different roles.

But there are various things that you -- questions that you ask about each threat. And, again, I think lethality is the most easy for me to kind of describe to you. Like, if we don't prevent this threat, is there going to be significant harm, is there going to be loss of life, those kinds of questions. And you get an answer to that as you're going through the process.

And then you're also asking yourself, do we have the tools to mitigate it, right? Do we have good liaison relationship with the State and local partners where we would get alerted to this potential threat? Do we have sources that collect and advise on this threat? Do we have other partners that collect on this threat that write intelligence products that we're reading?

Q Uh-huh.

A You ask yourself those kinds of questions. And you either feel like, I have a good understanding of this threat or, boy, I'm really dark here, right? There's somewhere on the scale that that comes out. And then those types of questions then help rank each threat.

Q And when you say "rank each threat," would that play a role in, for example, how resources would be devoted to it?

A Yes.

Q And what do we mean by "resources"? Is that human personnel? Is that money? What does that mean?

A Definitely human personnel. I don't know specifically -- I'd defer you to the

Bureau -- like, if money gets divvied up based on the TRP process, I don't know. But it's an effort to focus resources and attention.

Q Okay.

And could it be the case, then, that there may be, you know, 50 cases -- I think you referred to a bank robbery earlier -- that one agent could handle, but then, you know, something that may present a greater lethality threat, for example, might be one case but could demand a greater number of operational resources?

A Yeah. Again, it's a very complex process and very detailed, and slightly frustrating to not have FBI here to be able to maybe help answer that. But, yes, it's a way to focus your resources and your attention on what is believed to be the gravest, most urgent threats that we, the American people, face.

Q And, again, looking at this November 29th letter from Carter Burwell, it states that "the notion that Ms. Sanborn pressured subordinates to manipulate case numbers flies in the face of her well-known skepticism of focusing on that metric."

Do you agree with this statement?

A Yes.

Q "That metric" refers to case numbers?

A Correct.

Q Can you explain why you're skeptical of using case numbers as a metric?

A Yeah. I think I explained this earlier. And, again, it's complicated. But, for me, case numbers are allegations until proven guilty. And so it doesn't adequately describe the severity of the threat, because allegations can be false, right? We do close cases, we close investigations because there's no evidence to prove the allegation.

And so it has never seemed to me like an appropriate way to, by itself, be a gauge for anything. It informs decisions based, you know, on volume, whether you put more

resources toward that. It's definitely part of the conversation, right? If you're seeing an increasing number of allegations in an area, that could be indicative of a growing threat.

Q Uh-huh.

A So it informs the threat, sort of, process. But if you look at it by yourself, you're not doing the threat justice. You're only considering a very myopic part of the threat.

Q And you referenced earlier and again just now the need to close cases, potentially, I guess, if there's no "there" there, if the investigation comes to nothing. Can you explain why that's important?

A I mean, I think that we should be -- when we get an allegation of somebody breaking Federal law or about ready to do something to harm the United States, we should be collecting to prove that one way or the other. And if you're not finding information-slash-evidence that supports that allegation, you should close it.

Q So, from your perspective as a former supervisor and former AD and former EAD, if there is no "there" there and if there is no threat, it is important to close that case.

A Correct.

Q And so, if there is a "there" there, presumably you would --

A I mean, there's --

Q -- pursue that?

A -- lots of cases that warrant being open for a really long time because we're still collecting and we're still trying to get to the bottom of it. Like, I just recently read about progress in Pan Am 103, which was one of my cases, right? Like, there's a reason that case stayed open and you keep working it.

But if you're not gathering and going towards, "Yes, we're getting evidence," it

should be closed.

[redacted] Okay. Thank you.

It is 12:08. We don't have any more affirmative questions right now, so I'm happy to turn it over or take a break.

[redacted] Yeah, we can go off the record.

[Recess.]

Mr. Gaetz. We'll go back on the record.

I'm going to begin asking you a few questions before my colleague takes the reins.

You mentioned the Statute 2331 that helped make these determinations about DVE cases. And I want to understand, practically, how that statute was applied during your time as AD.

When you talk about acts dangerous to human life, how would you assess when someone's online activity reached that threshold?

Ms. Sanborn. Yeah, I think that this is -- again, I really appreciate your interest in wanting to get to the bottom of this. I feel a little bit like I'm not the best witness for you on this for a couple reasons. I've never been responsible for case openings on DVE threat -- on DVE cases. And, as an AD, I wouldn't have been involved in that process.

And so I feel a little like it's hard to separate me from the FBI in some of this. And so I'm trying to give some --

Mr. Gaetz. But you participated in file reviews on --

Ms. Sanborn. No. So I only participated in file reviews on international terrorism cases. So sorry about if I misunder --

Mr. Gaetz. No problem. I appreciate the answer.

Were you aware of any structural changes at the Bureau that aligned some of those terrorism cases that were foreign-directed to more domestic-directed, in terms of

changes of personnel or departments or anything of the like?

Ms. Sanborn. So there definitely -- so, like, for example, as AD, I only control the people in my division. And so I think you and I discussed earlier, I felt obligated to give the agents working overseeing the domestic terrorism cases more people, and so asked my deputy assistant directors to temporarily assign people over to help them. And so there was sort of a temporary assignment, while I was AD, of people to help them work those cases.

Mr. Gaetz. So, as a resource allocation matter, there were circumstances where people who had been working on foreign terrorism cases were reassigned to look at domestic terrorism cases.

Ms. Sanborn. Temporarily. So I think the important -- and it's a really important nuance, and I would ask you guys to definitely follow up with FBI on this -- not completely reallocating them, right? That's a very complicated process that, because of budgetary this and that, probably has specific things you have to do. But they were temporarily assigned over there to help them.

And I'll give you a good example. When I was the ASAC over San Bernardino, temporarily every single squad in my purview worked that attack. And so, for a temporary period, I surged resources to help on the San Bernardino case, very similar to what happened under me as AD. For a temporary period, I surged resources over to help the domestic terrorism agents work cases.

Q Was there any circumstance in which that shift from foreign terrorism to domestic terrorism was permanent for anyone?

A I think that they definitely went through a process of trying to -- for example, reviewing whether or not they needed as many agents as they needed in all of the Terrorism Section and could some of them get permanently reassigned.

I don't know that, quote/unquote, that "whole process" took place before I retired from the FBI, but there definitely was a discussion about, can we look into potentially reallocating on a more permanent basis? Because what they found was, this come-and-go and come-and-go was not good continuity for the case, if that makes sense.

Mr. Gaetz. And when did that discussion occur?

Ms. Sanborn. I don't remember specifically. I think some of it started to occur because of the volume of cases growing in 2020 due to the violence around the country. So I think some of the original, "Hey, we need more people helping us here" started in 2020, and the numbers kept growing, and the need for sort of some relief for them kept being discussed.

Mr. Gaetz. Do you remember who those people were?

Ms. Sanborn. It would've been -- I don't remember specifically, but it definitely would've been my DAD and probably my section chiefs -- DADs, probably all three of them.

Mr. Gaetz. Did it ever trouble you that foreign terrorism assets were being refocused to domestic terrorism?

Ms. Sanborn. I wouldn't necessarily use the word "trouble." I will give you, I think, potentially a concrete example of, I asked for people to consider taking from lower-priority threats to help the domestic terrorism program. But, again, as AD of CT, I only owned my resources, right? And so, rather than let the agents in the DT program not have relief, I did something temporary to help them out.

Mr. Gaetz. What would be an example of one of those lower-priority matters?

Ms. Sanborn. Well, I mean, it could be anything, right? Like, as we talked through that prioritization scale, anything that wasn't in a top, you know, 1 or 2 or 3 banded threat, in my opinion, potentially was a lower threat, less urgent, less imminent,

and could have moved over temporarily to help them.

Mr. Gaetz. During your time, did you ever observe changes made in lines of reporting to help focus on domestic terrorism and extremism instead of terrorism abroad?

Ms. Sanborn. Can you better describe for me what you mean by "lines of reporting"?

Mr. Gaetz. Just who people had as their supervisors and how information had to be transmitted pursuant to the chain of command.

Ms. Sanborn. Not specifically. I mean, it's possible that there was a realignment of, like, "Hey, this unit's now going to report to this section chief and up." I don't remember a specific realignment.

I think some of that started to happen before I got there, if I remember correctly. Like, I believe when I entered as AD of CTD, they talked about a reorganization in the division, but that happened before I got there.

Mr. Gaetz. Did you ever observe circumstances where specific language or expression of political viewpoint or expression of policy goals by someone was designated as a sign of extremism?

Ms. Sanborn. Can you give me, like -- maybe repeat it again.

[12:17 p.m.]

Mr. Gaetz. Sure, sure. Did you ever observe a circumstance where the speech or expression of a political view or expression of policy goals rendered someone extreme or potentially extreme in the eyes of the Bureau?

Ms. Sanborn. Not that I can remember. Again, I think that that process that we described earlier about -- if you're talking about investigations where we talked about the CDC being involved in that, I think that that's part of the reason the CDC is involved in that conversation, if that's what you're talking about.

Mr. Gaetz. Well, did you ever observe a discussion of border policy as an indicator of potential extremism?

Ms. Sanborn. No.

Mr. Gaetz. Did you ever --

Ms. Sanborn. In fact, I don't -- I tried very hard in my testimonies to get this point across, and you bringing up the word "extremism" reminds me of this.

It doesn't matter what the belief is. Period. Right? And it's why I tried very hard to always remind people it's the "v", right, it's the "violence" in that phrase that's important. It doesn't matter the belief because the belief is protected.

Mr. Gaetz. Did you ever observe in any of these DVE matters someone's expression of supporting President Trump being an indicator of extremism?

Ms. Sanborn. No.

Mr. Gaetz. How about an embrace of nationalism?

Ms. Sanborn. No. Not me personally, I don't. No.

Mr. Gaetz. How about the phrase "build the wall," was that ever deemed an indicator of extremism?

Ms. Sanborn. Not that -- I don't ever remember that phrase coming up in any conversations with folks with me.

Mr. Gaetz. In your work as AD, were you familiar with a contractor called Mitre, M-i-t-r-e?

Ms. Sanborn. No.

Mr. Burwell. Miter.

Mr. Gaetz. Miter. I'm sorry.

Ms. Sanborn. No, no.

Mr. Gaetz. Someone's familiar with it. It's not you.

Ms. Sanborn. Not me.

[Laughter.]

Mr. Burwell. It's a big kind of contractor, like I said.

Mr. Gaetz. You never did any work with Miter?

Ms. Sanborn. Not that I'm aware of.

Mr. Gaetz. And any of the people that you supervised weren't involved with that contractor?

Ms. Sanborn. Not that I'm aware of. What do they do? I don't even know what they do.

[Laughter.]

Mr. Gaetz. That's what we're trying to figure out.

Those are all the questions I have. I'm going to yield to my colleague.

[redacted] Okay, Ms. Sanborn. Again, my name is [redacted]

Mr. Burwell. Thanks for coming, Congressman.

Mr. Gaetz. Thank you.

BY [redacted]

Q So Director Wray had said that DVE cases are a priority for the FBI. How does that work functionally? Is that discussed on a daily basis?

A So again, definitely, this is what I have been referring to as the TRP process, and it's very complicated. And I hope that FBI sits down with you and walks you through it.

I think that the threat process actually informs the director. So field offices and divisions walking through that very methodical, thoughtful process actually feeds in and informs him. Does that make sense?

So it's sort of an up process, not a down process. We at headquarters do our process first, and so that feeds into the field office's process. But it's the intel analysts and case agents and supervisors working it that sit down and have that conversation and then go through that metric.

Q So with the TRP process, when you have the top one to three banded threats, and DVE was one of those, would they -- would that threat then be discussed by Director Wray at the daily meetings that you used to have?

A He definitely would be advised of the results of the TRP process. And DVE, just to be clear, is not itself a banded threat. There are the categories within it that are banded threats.

Q Okay. And is it fair to say that field agents may from time to time believe certain types or categories of cases ought to be worked as a priority or instead of other types of cases?

A I don't know. I mean, it's been a long time since I've been a case agent in a field office to speak on behalf of their beliefs. So I'm not exactly sure what you mean. So I think I would be remiss.

Q Yeah. So when you were the AD of the Counterterrorism Division, if a case

fell outside of the top one to three banded threat issues would agents under that purview, would they kind of perceive other cases as not as high of a priority as the DVE cases?

A I don't know. I could send my husband to you to answer that question because he was a GS-13 agent, and he probably has great views on it. But I don't know.

Q And how do you explain or what is your reaction to how field agents have told us they have felt pressured to work DVE cases?

A Again, like I told you before, two reactions to that. Like if that's happening, it's inappropriate, and it's not me.

Q Uh-huh.

A It's inappropriate, right? Like I mentioned earlier, I think Mr. Rogers said, this is something he wrote recently, leaders in the organization should lead with following rules, upholding the law, and integrity. And that would be not following the rules and not integrity.

Q And during your time at the FBI, did senior leadership, Director Wray or deputy director, did they place an emphasis on DVE cases?

A When you ask that question, I'm not exactly sure what you mean. But the whole reason that you do the threat prioritization process is to focus on the higher priority threats. So I don't know that that means, "emphasis," but that process then focuses the Bureau on what is perceived to be the most important threats.

Q So if DVE or domestic terrorism was one of those top threats, would the director then take -- place an emphasis or place a priority on that?

A I don't think it's him exclusively. The whole organization prioritizes and functions because of that threat review process. So I'm not exactly sure what you mean by emphasis specifically from him. But the whole reason that process occurs is so that

the organization as a whole can focus on the higher priority threats.

Again, I think -- and I can't say enough because I'm proud of the process, I think it's a good process, but it's complicated, and, hopefully, they will meet with you and walk you through it.

Q Okay. And in October of 2021, were you the executive assistant director of the National Security Branch?

A Yes.

Q And you were at headquarters?

A So October of 2021 is a blurry a little bit where I was and when I was because of my mom's rollover car accident. So I don't remember specifically where I sat in October because I spent a couple of months on family sick leave, and then I spent a couple of months working remote from Arizona.

Q Are you familiar with Attorney General Garland's October 4th, 2021, school board memorandum?

A Yes.

Q And when did you learn about the Attorney General's memorandum?

A I don't recall specifically. I definitely probably would have been aware of it fairly quickly after it being issued, but I don't recall specifically when I first became aware of the memo.

Q Were you involved in any conversations related to alleged threats or violence at school board meetings?

A So I definitely remember at some point, and again I don't remember where I was or when this was specifically, but I definitely remember one of my assistant directors letting me know that they would be talking or discussing an increase in violence in the next week, and that he would keep me posted kind of email. Like that there had been

an increase and they were going to collaborate-slash-discuss.

Q And who was that assistant director?

A Tim Langan.

Q And did Assistant Director Langan come to you before the October 4th memo was issued or after?

A I definitely think that sort of a concern about what they were seeing was an email to me prior to the issuance, if I remember correctly.

Mr. Burwell. And just again to note for the record, you haven't reviewed any --

Ms. Sanborn. Yes, I think that's -- thank you for that. I have not reviewed any documents having to do with the FBI in well over 10 months. So --

Mr. Burwell. Certainly not her emails --

Ms. Sanborn. Yeah.

Mr. Burwell. -- related to October 2021 or anything.

Ms. Sanborn. Correct.

[redacted] And to you recollection, did you direct Assistant Director Langan to do anything based upon him making you aware?

Ms. Sanborn. Not to my recollection.

Chairman Jordan. If I could, Ms. Sanborn, your conversation with Mr. Langan happened prior to the October 4th memorandum?

Ms. Sanborn. It wasn't a conversation, if I remember. And if I could review my emails or eventually look at them I could better answer this.

But I vaguely remember an email mentioning something to the effect of next week we're going to talk about the increase in violence at school board meetings and I'll keep you posted kind of. So him sort of just putting something on my radar kind of notice. And I definitely feel like I remember that happened prior to the memo.

Chairman Jordan. Okay.

[redacted] And do you know who Assistant Director Langan was going to discuss the increase in violence with?

Ms. Sanborn. Not specifically like an individual, but I believe the sense I got from the email was a discussion with the Department of Justice.

[redacted] The Department of Justice? Do you know which branch or division? Just the Department of Justice in general?

Ms. Sanborn. Like I said, if I'm recalling this correctly and there's an email, it's probably in that email, but I don't recall off the top of my head.

Mr. Burwell. Just do you recall whether that was before or after the memo was released?

Ms. Sanborn. If I remember correctly, I believe it was before, but not like months before. Like I feel as I try to remember it like it was shortly before.

[redacted] Just so you know, the assistant director has testified to HPSCI that he discussed the memo and the initiative before the Attorney General promulgated the memo?

Ms. Sanborn. Discussed? Can you better --

[redacted] He testified to HPSCI that the idea of targeting parents at school board meetings was discussed inside of the FBI before Attorney General's Garland's memo was officially released.

Ms. Sanborn. Yeah. Yeah, I think that would be consistent. Like I don't know if discussed. Define discussed. But I definitely feel like he sent an email to me: Hey, I plan to meet with the Department next week on this topic.

BY [redacted]

Q And do you recall any other discussions or correspondence related to

violence or threats at school board meetings that occurred prior to October 4th?

A No, no.

Q So then the Attorney General's memo comes out on October 4th. Were there any discussions after the October 4th memorandum that you remember of what actions the FBI could take or the FBI's involvement?

A I don't remember me personally being involved in a discussion about what the Bureau could do or not do. It's possible there were other discussions about what guidance, lack of guidance. But I don't remember myself personally being involved in a conversation.

Q And after Assistant Director Langan's discussion with the Department, did he give you any readout of the meeting or how the discussion went?

A If I remember correctly -- and, again, reviewing my documents would be helpful -- I think the time before the memo coming out was so short that I don't -- I'm not sure that the meeting happened. I think that it could have, the email to me could have been like late at the end of the week, and I think the memo came out in the first part of the following week. So I don't remember whether or not a meeting ever even happened.

Q And do you know if the discussion of how the FBI could become involved or any discussion about the FBI's involvement in school board threats, was that just Assistant Director Langan, or do you know how that started?

A No. I mean, I can't piece like a timeline together for you. I mean, I know I was privy to conversations about the fact that it happened. I remember being in -- hearing retired agents talk about it.

Mr. Burwell. "It" in that sentence is what? Is it the issuance of the memo?

Ms. Sanborn. Yes. I remember current and former employees, and probably

more so current because I was married to one, talking about, holy smokes, this memo. Like I think there was a lot of sort of buzz, for lack of a better way, that, hey, this memo came out, were you aware of it? People asking questions about it.

I don't remember ever being a part of like an executive level, me as the EAD, sitting in the conference room, talking with the other EADs and the deputy or the director about the memo and what we should do about it. Does that help?

BY [redacted]

Q Yeah. And what was your personal reaction when the memorandum came out?

A I don't know that I had a specific personal one.

Q Did you think that threats or violence at school board meetings rose to the level of Federal involvement, Federal law enforcement involvement?

A I don't know that -- again, and I don't mean this as an excuse, I don't know that I was that potentially aware of it. And maybe I would have been more so just because of my situation at the time.

So I had spent a couple months completely removed from the organization on family sick leave with my mom and just kind of transitioning back. And so I don't remember being aware before the memo came out of sort of an increase. But that could be because I was slightly disconnected.

Q And in addition to the release of the memorandum, there was also a press release that the Attorney General put out that talked about the creation of a task force on school board threats that would involve other Department of Justice divisions as well as the FBI. Were you involved in the creation of that task force?

A No.

Q Did you attend any meetings of that task force?

A Not that I remember.

I think my biggest involvement in this whole process was probably answering the question in one of my last testimonies about it. And knowing I was going to get a question about it and researching what I could to appropriately answer that question, I think, me personally, my involvement was probably that was the extent of it, the email from my AD telling me that they might meet on this topic and then me knowing I would get questions on this topic and preparing for the question and trying to research.

BY [redacted]

Q Do you remember the background of this memo was the Virginia Governor's race?

A No, I didn't remember.

Q And there was -- at the time there was a lot of commotion going on at school board meetings about wearing masks, about Critical Race Theory. Do you remember that time period?

A I do not. And, again, a large portion of 2021 I sat in Phoenix, Arizona. So while I probably would have been reading news and picked up on that had I been here in Virginia at my home, but I was already working remote from Arizona.

Q Okay. And after the memo came out and it caused some -- I mean, it was quite controversial. And the National School Boards Association subsequently had to withdraw it or apologize.

A Uh-huh.

Q What did you do inside of FBI once that letter was withdrawn, if anything?

A I don't remember anything. I mean, there could have been something done, but I don't recall specifically anything being done once withdrawn.

Q I mean, if an initiative was promulgated by the Attorney General to go look

for parents at school board meetings and target parents? And did that give you any concern whatsoever that this was a little too much, that it was a misuse of Federal law enforcement resources?

A I feel, I think, the same way that I testified about it in January of 2022, the way I would tell you about it today. I did not feel like it changed the Bureau, how we should do our business. Like there are guidelines of how we should open cases. And as we talked about the DVE cases, they have to meet those criteria. It has to rise to a level to be -- to warrant FBI resources for us to even look at it.

And I feel the same way today about that as I did back then, like, memo or no memo, it didn't change the way the Bureau did our business. We have policies and procedures that need to be followed in case openings, and it wasn't required -- nothing in that was going to make us go outside our policies.

Q Were you aware that FBI agents did, in fact, go visit parents?

A I was not aware of any specific --

Q Okay. We've received reports that parents were visited because of comments they made, they believe they were First Amendment-protected comments, were visited by FBI agents.

A Yeah.

Q I mean, does that concern you?

A I mean, as you heard me say earlier, I viewed -- me, Jill Sanborn, right, I'm here representing myself -- I viewed my role, especially as AD and EAD, because that's when I had the DT program, of protecting First Amendment-protected activity. Like Americans have a right, no matter how repulsive their beliefs, to believe, coalesce, and talk about it. Period.

Q I mean, you're the top official at FBI for the National Security Branch at this

point, correct?

A Yes.

Q So if not you, who in FBI would stand up and say, this is going too far?

A I guess, I think, because of what I said in my testimony, I feel was our position. Like we felt like -- I didn't -- I was not aware -- I'm sure I have read in open source since retiring of the incidents that you mentioned about visiting parents.

But I believed that if agents and supervisors and analysts and employees followed our policies and procedures, it didn't matter what the AG put out in a memo, because our policies and procedure would keep us within our guidelines. Like it has to meet that three criteria for it to warrant FBI doing anything with.

Q And do you recall any discussion about whether the Attorney General was going to withdraw his memo?

A No. If there was one, I wasn't involved in it.

Q And was there any discussion about whether the Attorney General ought to withdraw the memo?

A Not that I'm aware of.

Q And did you give any guidance to the field that maybe they ought to pump the brakes on this initiative?

A I did not give any guidance to the field.

Q Okay. And why not?

A I don't know that it -- I felt -- again, like I feel like we have policies and procedures. I did not view that the AG's memo -- like I work for the FBI, the director. I feel like we had our policies and procedures, that if agents did the right thing and followed them, the memo was not going to change how we do business.

Q Are you aware of an official named Carlton Peeples?

A Yes.

Q Who is that?

A I think he was a -- I mean, he's an FBI agent. I can't remember a specific position. I think he was assigned to the Criminal Division, probably section chief DAD level, if I remember.

Mr. Burwell. How do you know -- or where -- how do you know this person?

Ms. Sanborn. That's a complicated answer. I mean, I just -- yes, I know of him.

BY [redacted]

Q Okay.

A I know the name --

Q Was he in your chain of command? Was he in your chain --

A No, absolutely not. He was not in my chain of command.

Q Okay. Because he pushed out an email that was produced to us by a whistleblower about this EDUOFFICIALS threat tag. A threat tag was created in light of the school board initiative in Attorney General Garland's memo.

Are you familiar with the threat tag that was --

A I'm aware of that. I actually talked about it in my testimony in January of 2022.

Q And did you think it was worthwhile to set up that threat tag?

A So I wasn't involved in the decision to do it. Like so hindsight's 20/20. I think what I said in my testimony is what I would say today, which is threat tags do serve a purpose. I don't know that I would have done the same thing. But it's easy for me hindsight to make that decision.

But the threat tag does provide us the ability to give granularity on threats. So, for example, a case classification just tells you IP and DP and it may be a tiny bit more

granular. But often we want to know a much more granular level. So, for example, RMVEs, was it advocating for the superiority of the White race? Or was it Blacks feeling like they are being repressed?

Without that threat tag, you can't get to that granular level of information.

Mr. Gaetz. So what was the granular utility of the threat tag that was used as per these school board matters?

Ms. Sanborn. Yeah, I think -- again, I appreciate your interest in this, and fair question. Having not been involved in either the memo or the email guidance sending it out, I'm definitely not the best positioned.

Mr. Gaetz. Well, you were --

Ms. Sanborn. And I didn't have a conversation about it.

Mr. Gaetz. Well, you were a senior official in this space. As you sit here today, are you able to assess any granular utility to that particular tag?

Ms. Sanborn. I don't remember. I think the best way to potentially answer your question is I do not remember anybody coming and briefing me and saying, hey, here's what I'm briefing you on, and knowing that they were able to use the threat tag to give me that briefing. So --

Mr. Gaetz. So do you have any basis to say that the threat tag was useful as you sit here today?

Ms. Sanborn. Not this specific one. Threat tagging in general. Sorry.

Mr. Gaetz. No, I'm talking about -- yeah, I'm talking, yeah, about the questions pertaining to this tag.

Ms. Sanborn. No. No. No, I do not have a -- I don't have a specific recollection of being briefed where I would have went, oh, that threat tag really helped us out here.

In general, threat tags help us get granular breakdowns. But I don't remember ever anybody coming to me and saying, I'm briefing you on this, and me being able to tie that to the benefit of this threat tag. Is that what you're asking?

Mr. Gaetz. Yes. And did you observe any circumstance where other people questioned the utility of that threat tag?

Ms. Sanborn. Not that I remember.

BY [redacted]

Q And, again, if not you, who in the FBI should have caught this, that this maybe was an overreach?

A I mean, I think that's a fair question. But I think -- but, again, I go back to I don't think that the memo or even the email threat tag put us in a position where we would not follow our policies and procedures, like --

Q But agents in the field, I mean, they're overwhelmed with work, correct?

A Some of them.

Q And there's a -- you know, on any given day, there's a set of cases they can pursue, but they have to follow what their chain of command identifies as the priority.

A Yeah.

Q Correct?

A Correct.

Q And when they get a memo from the Attorney General, and they get email pushed out from an assistant director referring to this new initiative, I mean, isn't it fair to say that cases like this are going to take priority over other cases that maybe didn't get that type of attention from the Attorney General and from senior people at the FBI?

A I mean, I don't -- I don't know. I don't know whether the email that you're referring to went to a granular level of the case agent sitting at the desk or if it went to

SACs. I don't remember the distribution of the email. But --

Q I mean, it's our understanding it went down to the line agent level?

A Yeah. I guess my feeling is, is still follow our rules, uphold the law, and do it with integrity. So my feeling is, is regardless of the email guidance and/or the memo, that we have policies and procedures in place that would have kept us within our authorities correctly.

And I'm not aware of anybody inappropriately doing anything. I was not personally aware of anybody. And I definitely didn't do anything inappropriate related to it.

Chairman Jordan. [redacted] go ahead.

[redacted] Go ahead.

Chairman Jordan. So -- but we are familiar with in times past where the rules and procedures weren't enough. We have inspector general reports after inspector general reports that demonstrate that following the rules and procedures are not.

And then we have this situation where -- and I respect your position that our rules and procedures are going to govern and prevail here. But then you got a memorandum from the Attorney General of the United States. And then 16 days later you got an email from top people at the FBI going out to field agents across the country with this threat tag designation that is going to be put on parents who had been reported on the very apparatus the Attorney General set up.

And you said that threat tag, to your mind, doesn't distinguish in any way, give you any real help. It's just that threat tag.

So it's not just what happened, it's how quickly in time it took place. It was boom, boom, boom, and here we go. And that is our concern, is isn't that going to send a message to agents that this is a priority for the folks in Washington?

Ms. Sanborn. Yeah. I mean, again, I totally appreciate your looking into this. I think it's valid questions that you have. I don't feel like I have firsthand knowledge to give you, I think, anything to help here, because, again, I wasn't involved in a memo. And the only thing I remember being involved in in the email was that one heads-up they were going to discuss an issue, and then being aware of it after the fact.

I totally appreciate your thoughts here. And, hopefully, nobody did anything improper. I take your point about you've seen people do things improper regardless of the rules. Upsets me too. I think Mike Rogers said the same thing in his piece that he put out this week, that people that break the rules in the organization make those of us that don't equally as upset. So I totally understand all your points.

BY [redacted]

Q Is Mr. Langan, do you think, the official at the FBI best positioned to answer our questions on this topic?

A I definitely would refer you to the FBI. I definitely think people that had more firsthand knowledge of it would. And it sounds from what you have pointed out about Carlton Peeples and him, they definitely have more knowledge than me because they were more involved in it than I.

Q Did this ever come up in your, to the best of your recollection, at the morning meetings that you used to have with Director Wray every day?

A Not that I remember. And, again, some of that I was not dialing in every morning because I was in Arizona. So not that I remember.

Q So you don't ever remember it? You don't have any recollection of this topic ever coming up with the director?

A I definitely remember this topic coming up.

Q Okay.

A I remember being at a retired agent event where he got a question to it. Like I definitely remember this being discussed. I don't remember a discussion in a format that I think you're looking for, which is, did they discuss a strategy or what to do? Like I definitely, me included, answered questions about it and tried to respond to it, but I don't ever remember being a part of a discussion about, okay, now what do we do? Do we need a strategy? Do we need to do something different? I don't personally remember being involved in that.

Q Okay. And in hindsight, do you think there's anything you would have done differently? If you could go back in time, and it's now October or the end of September 2021 when this is brewing, what would you have done differently?

A So I think this is why I wanted to talk informally with you all. Like I think there's a lot things that aren't appropriate for this setting, like a transcribed interview isn't a place for Jill Sanborn's opinions. I'm here because, sir, you asked me to come here and talk about whistleblower allegations against me or against the FBI reclassifying cases writ large. I don't know that this is the best forum for Jill Sanborn's hindsight opinions. I'm sorry.

Q Because we have the top official in this space, the National Security Branch, and you here today, and we're asking about this matter that concerns virtually all of our Republican Members of Congress. And we're just going back and we're trying to find out what could have been done differently so this can be prevented in the future. I think asking you what could we do differently is an entirely appropriate question given your experience, given your knowledge of the responsibilities that you had as the EAD.

A Yeah. I don't disagree with you. I think the forum makes me uncomfortable. Like I don't disagree with you that maybe Jill Sanborn someday wants to be a part of solutions, but I don't feel like this setting is the setting for that.

I think I've said on the record in my testimony how I feel about after actions. Like I've never met an after action that I didn't learn something from. I forced my squad to do an after action out of San Bernardino. Everybody thought we ran the San Bernardino case great. But guess what? We learned things that we could have done better. And I told Senator Klobuchar the same thing after the Capitol investigation.

So I'm a big believer in after actions. This makes me uncomfortable for you to ask me in this setting is why I advocated for a more informal conversation, because maybe someday Jill Sanborn can help.

Q Okay. But from a congressional oversight perspective, when something gets fouled up, Congress has a right to ask questions about it.

A That's why I'm here.

Q And you're well suited to answer questions because you were the top official in this space. And so it leads us, I think, to the conclusion that when things go wrong at the FBI there's nothing you can do to fix it, because the agents or the executives with responsibility can't even look back in hindsight and talk about what can be done differently or what can be done to prevent it in the future.

Mr. Burwell. I'll step in for just a moment and say, now, Chairman Jordan sent a letter back in August 2022 about a whistleblower allegation of gross and kind of absurd misconduct about reclassifying cases.

Ms. Sanborn. Me, towards me.

Mr. Burwell. And that's why we're here in a now videotaped transcribed interview, to, as Ms. Sanborn has done repeatedly, dispute, rebut, and reject those allegations. And we're grateful that you've given us that opportunity.

I think there's a lot of broader questions that are related to the FBI that I think she's been generous in responding to and in a way that she has been retired from the FBI for

quite some time and is not prepared to and hasn't reviewed materials and, as we talked about, just hasn't even had the opportunity to review materials because those are in the FBI's hands, and you're asking for them.

[redacted] Are you trying to make a scope limitation here? Is that where we're going?

Mr. Burwell. I'm positing that we're well beyond the scope of the August 2022 letter. But Ms. Sanborn is here voluntarily because she respects Chairman Jordan's investigation --

Chairman Jordan. Okay.

Mr. Burwell. -- and the letter that she got in August of 2022. And as I said at the beginning, and I'm not trying to speechify here, I'm really -- maybe this is a bit of benefit for now Chairman Jordan. She is here because she respects congressional oversight and believes that it's appropriate here and that it's a valid, fair opportunity.

But you did --

Ms. Sanborn. Can I just -- I'm going to interrupt.

I've talked -- you haven't been here -- I've talked about my background in working with similar investigations and my respect. I started my career in public office serving Congress. That's why I'm here. You wrote me a letter and everybody said he's not the chairman, don't show up, make him subpoena you. You wrote me a letter 8 days after my dad passed away. But I respect you, what you're doing, so much to be here.

Chairman Jordan. Sorry for your loss, but I didn't know that.

Mr. Gaetz. Who told you to wait for a subpoena?

Ms. Sanborn. Everybody thinks that any FBI agent that would appear without being subpoenaed probably failed their academy classes, right, like --

Mr. Gaetz. Can you give names?

Ms. Sanborn. No, no names, like opinions. Like everybody thinks that --

Mr. Gaetz. Well, what you said is of interest to me, that there were people that suggested that you not engage in this work.

Ms. Sanborn. Yeah.

Mr. Gaetz. I'm curious who those people are.

Ms. Sanborn. A variety of people. Nobody that you would be interested in. Could I put it that way?

Mr. Gaetz. No, because I don't think you can define the scope of my interest.

Ms. Sanborn. People I golf with. I mean, a lot of people have said, Jill, you went through training where why in the world would you voluntarily show up for an interview on an allegation against you? And it's because I follow the rules, I uphold the Constitution, and I respect the oversight you have. It's irrelevant who said something to me, sir. I understand your question.

Mr. Gaetz. Well, were any of those people that at any point in time worked for the FBI?

Ms. Sanborn. No, no, and that's a very -- I'm glad you asked that. That's a fair question. No --

Mr. Gaetz. Were any of those people any people who at any point worked for the Department of Justice?

Ms. Sanborn. No. That's a very fair question. Can I just finish on that?

Like nobody has prevented me. I made it very clear. I'm married to a combat marine. Like nobody's going to tell me what I can and can't do with my own personal business. I made it very clear when I got your letter, sir, that I was coming, period, and I was talking, period.

So nobody tried to prevent me, nobody was an obstacle. I think people know me

well enough to know that when I make up my mind, I'm going to do it, and that's why I'm here.

I respect your oversight. I respect, even though I think the whistleblower is incredibly wrong about me, I respect that they have a perspective, and I appreciate and applaud them for sharing it, because we won't ever get to the bottom of things if people don't do that. And so that's why I'm here.

Chairman Jordan. I appreciate that.

[redacted] So we'll just bring this back. I mean, we have a top FBI official here in you.

Ms. Sanborn. A former.

[redacted] Or at least former FBI official. And so you'll have to forgive us if we're asking a question that your counsel thinks is outside the scope. But the school boards issue, for example, is one of -- not many -- but it's one of just issues that are just very important to our Members. And so we would be derelict in our duties if we didn't ask you a couple questions. But we are going to move on as [redacted] is going to --

Mr. Burwell. And just to be clear, it wasn't in your August letter.

Ms. Sanborn. Yeah.

Mr. Burwell. But we're here to try and --

[redacted] Right.

Mr. Burwell. -- be a model as you move forward.

[redacted] I mean, just because we don't put something in a letter, I mean, we don't outline every question that we might ask of a potential witness. I mean, I've never --

Mr. Burwell. We're talking past each other. But your August 22nd letter was pretty darn clear. And we've been clear all along that this is what it's about.

But we're here. Ms. Sanborn's here.

Ms. Sanborn. I always want to be the best, most accurate person for you, and I, 10 months retired, not necessarily knowing all the different things we might talk about, I might be convenient today or definitely, like you said, but I'm not necessarily the best, most accurate person for some of this.

[redacted] Sure.

Ms. Sanborn. And you deserve that.

BY [redacted]

Q During your tenure at the FBI, did you work with an agent named Timothy Thibault?

A Yes.

Q And how closely did you work with Agent Thibault?

A During my time as AD of the Counterterrorism Division he oversaw international terrorism cases, so terrorism cases overseas, and would have been three levels below me.

Q Did you speak to him on a daily basis?

A No.

Q And was there a deputy assistant director that kind of was his supervisor that then reported to you?

A Deputy and a section chief. So he was three levels below.

Q Okay. And are you aware of what was Mr. Thibault's position on January 6th, 2021?

A No.

Q Do you know what his job duties entailed at any point in time?

A Just what I told you. I don't -- he was an assistant section chief in the

international terrorism section that covers all terrorism cases overseas.

Mr. Burwell. When you were what?

Ms. Sanborn. Assistant director.

BY [redacted]

Q What were your personal experiences with Agent Thibault? Was he a good agent? Did he seemed biased?

A I wouldn't -- you know, three levels below, I wouldn't even be involved, as we talked earlier this morning, in sort of the rating and reviewing process. So I wouldn't be privy to like his performance appraisal even. Most of my interaction with him would have been him briefing me on -- potentially briefing me on international terrorism cases. So limited interaction.

Q And are you aware of some of the whistleblower allegations regarding Agent Thibault's conduct while at the FBI?

A I'm aware of the one in your thousand-page report.

Q Okay. And are you aware of did Agent Thibault have any involvement or supervision of domestic terrorism investigations?

A In his -- as he was assigned as the assistant special -- as the assistant section chief, no, he would have been in charge of international terrorism cases.

Q And did he work out of the WFO, the Washington Field Office, or headquarters?

A Both. So eventually he left the Counterterrorism Division and went over as assistant special agent in charge at WFO.

Q When he was the ASAC at the Washington Field Office, was he in your chain of command anymore?

A No, completely removed. So as mentioned earlier in the morning, that the

field office reports up through their leader of the field office at WFO. It's an assistant director who then reports to the deputy.

Q And are you generally aware of the allegations that Agent Thibault pressured agents to reclassify cases as DVEs?

A Only as it relates in what you sent me about me in the thousand-page report.

Q Did you have any firsthand knowledge or witness it?

A No.

Q Did any FBI personnel ever disclose to you any impropriety on the part of Agent Thibault?

A No.

Q Did any FBI personnel ever disclose to you that Thibault is pressuring them to reclassify cases?

A Not that I remember.

Q So after the events that occurred here at the Capitol on January 6th, 2021, we've learned from whistleblowers that there may have been some regular conference calls with agents with ASAC Thibault as well as you. Is that correct? Did you take part in --

A I was not involved in any of those field office calls that you're mentioning. I do vaguely remember, I think, that the section and maybe even the division had field office calls. I was not involved in them. I don't even think I sat in on one, let alone on the cadence.

Q Were you ever on any conference calls following January 6th, 2021, with ASAC Thibault?

A Not that I remember. I can vaguely remember -- like this is separate -- but I

can vaguely remember we did critical incident response calls. So we did field office calls in 2020 as it related to all the violence going on around the country.

I don't remember me participating in field office calls with Tim Thibault as it related to the Capitol. But keep in mind, I was transitioning to EAD, so between the transition and then being eventually assigned EAD, I would have been removed from that.

Q And what was your involvement with the investigations surrounding the events at the Capitol on January 6th, 2021?

A So I was definitely there that day, and so part of the beginning of it all unfolding. And then, again, by March, April, transitioning to EAD. So it would have been the AD for a couple months.

Q And were you familiar with how the investigations into particular subjects of January 6th investigations were being run?

A Vaguely, yes.

Q Are you familiar with a letter that Mr. Jordan sent to FBI Director Wray on September 19th, 2022, regarding the WFO's handling of these investigations?

A I vaguely recall reading it online, but not intimately familiar with it.

[Sanborn Exhibit No. 5

Was marked for identification.]

[redacted] We can enter it into the record. I think it'll be No. 5, exhibit No. 5.

[redacted] I can get it. What's the date?

[redacted] September 19th.

BY [redacted]

Q Please take your time to review.

A Okay.

Q Have you had sufficient time to review?

So as the letter states, we received protected whistleblower disclosures that indicate the WFO's handling of DVE investigations diverges from established practice in a way that it overstates the national DVE threat.

During your tenure as assistant director and then executive assistant director of the National Security Branch, how often did you interact with the WFO?

A I can remember only a handful of times probably that I had conversations with the AD over there. So not very frequently.

Q And then following January 6th, 2021, did you have more regular interactions with the WFO?

A Not really, because, again, very shortly, I was moving up to EAD and focused on a wider variety of things than just the counterterrorism mission.

Q So following January 6th, 2021, did the FBI set up a command post or task force at headquarters of the WFO specifically to handle these cases?

A I believe that's correct. But I would definitely refer you to FBI and WFO on what exactly they stood up and when.

Q And to your recollection, since the events occurred in Washington, D.C., was it natural for the WFO to handle the investigations?

A So I think there's -- again, I feel like a convenient answer, not the best answer -- but I think there's precedent in policy for how this is done.

I'll use bank robberies, for example. If a bank robbery occurs in Dallas, Phoenix,

and Washington, D.C., there's probably cases in all of those locations because of the bank robbery. And then if the individual resides in Florida, there might be a case on the actual subjects.

I think it's a very complicated process, and it goes back way before I was even in the Bureau, and you call it like an originating office, like there is an original office that opens an investigation, and then you have other investigations that can feed into that.

So I don't know that it's written in policy or that there is anything different to how this was done. I definitely recall precedent for how this is done based on my time in the Bureau.

Q So how we understand it, and I think just how you explained this, ordinarily the full investigations are labeled according to the originating field office, and then there might be leads cut to other field offices or --

A Not leads, cases.

Q Cases. So other cases could be opened in the other field offices.

A PENTTBOM is a good example. Like the 9/11 investigation was run out of New York. But field offices had, not leads, cases as a result of that.

So me in Phoenix, as a case agent, I had cases that were mine in Phoenix but were part of the 9/11 attack investigation. Everything I wrote on my case, I also then routed into the overarching New York case.

Q So it would look like there was a case open in Phoenix and then in New York as well.

A Well, the overarching case in New York was the whole attack investigation. And then individuals as they popped up as being involved in some form or fashion in 9/11 were separate individual cases run by that field office.

Q Okay. So the full investigation into the events at the Capitol on

January 6th, 2021, would be the Washington Field Office.

A Correct.

Q And then other field offices across the country may have other cases.

A Correct.

Q Did you receive any sort of notification when these cases were opened in the other field offices in your position as AD or EAD?

A No, not that I recall.

Q So turning back to the September 19th letter, I'm going to read the inset portion on page 1 here. It says -- this is from a whistleblower disclosure we received -- it said:

"'Instead, task force members in Washington, D.C., identify 'potential subjects' and possible locations where these individuals reside. The task force disseminates information packets with instructions to open full investigations to [local] Field Offices around the country. As such, if a subject lives in Dallas, the Dallas Field Office is expected to open the case.'

"Although, the local field offices therefore appear to be running the cases on paper, the WFO is directing the field office special agents to just 'open the case' in their geographic area and the WFO is performing and approving 'all of the investigative work and paperwork for the casefile.'"

In your experience and during your tenure at the FBI is this like a normal procedure that's followed for all investigations?

A I mean, like I said, I recall 9/11 being very similar to this in structure, and I'm definitely not associating the Capitol attack to the same as 9/11. I'm talking about just the running of a big case that involves multiple subjects being very similar to this.

Q And so we received whistleblower disclosures that the FBI was not following

the regular procedure. So what are your reactions to those allegations? Do you think the agent is just misunderstanding? Or why do you think there's this impression that these cases are being handled differently?

A I have -- I mean, again, I support the whistleblower process. I don't know why they believe that. I'm not upset that they reported it. You know, if they feel that that's what is -- if something is improper they did and we'll look into it, like you all are. But I have no idea why they would have reported that.

[redacted] Do you guys have any questions?

I think we'll go off the record.

[Recess.]

[redacted] We're back on the record. It's 1:22 in the afternoon. This is again the Democratic staff up for questioning now.

Before we get too far, I do want to introduce as an exhibit -- and [redacted] I apologize, I'm not sure what exhibit number we are on?

[redacted] We are on No. 6.

[Sanborn Exhibit No. 6

Was marked for identification.]

[redacted] No. 6. As exhibit No. 6, the write-up and the listing of the criteria for qualifications per the Presidential Rank Award that was awarded to Ms. Sanborn. And I don't have any further questions about this, but I did want to introduce it for the record.

Mr. Burwell. Thank you.

BY [redacted]

Q Ms. Sanborn, did you agree to appear here voluntarily?

A Yes.

Q And I know we went down this road a fair amount before, but could you sum up real quickly why you agreed to appear voluntarily?

A I think I would sum it up into I appreciate the whistleblower process. I think it's important. I appreciate the congressional oversight I think is in process. It's important.

And I also think my responsibility as a former executive in the FBI is to lead by example and hope that my appearance before you voluntarily may potentially be a good example for people.

So those three things probably sum it up.

Q Thank you.

You said a number of times today that I hope the FBI is here to answer some of these questions, or I hope the FBI will come in, these are outside of the scope of what I feel comfortable talking about today.

You did testify before Congress a number of times in your prior career, correct?

A Correct.

Q Do you know how many times about?

A Less than six, more than two. Somewhere in there.

Q Can you explain why from your perspective you're in a different position now as a private citizen than you were in your professional capacity as an FBI employee?

A Yeah, I think -- I might have alluded to this earlier -- but I always viewed any responsibility when I testified as providing the most accurate and complete answer possible. I think that's what Congress deserves.

I feel as now a former executive, 10 months removed, and really removed, like not engaged with the FBI, I think as we discussed earlier this morning, at all really, especially in this 1-year cooling-off period, that I don't have the ability to do what I pride myself on

doing, which is providing the complete, most accurate answers to some of these questions, and that the FBI or other employees in the FBI would be much more suited to do what I used to do and provide the best, most accurate answer.

Q I have a letter dated January 31st, 2023, from Mr. Carter Burwell to Mr. [redacted] and Ms. [redacted] Are you familiar with this letter?

A Probably, but if I could look at it real quick.

Yeah, I'm familiar with this one.

[Sanborn Exhibit No. 7

Was marked for identification.]

BY [redacted]

Q And I want to -- I'm going to admit this as exhibit No. 7. This letter says:

"For the record, we continue to believe that an informal interview would be more appropriate and beneficial to the Committee, especially because we now understand the Committee intends to videotape the interview and exclude agency counsel."

Starting with the first part of that, can you again explain why an informal interview you believe may have been more appropriate and also beneficial to the committee?

A Yeah, I think you kind of hinted on it a little bit in your first question to me, which is I figured the committee would be interested in talking about my time, but I didn't feel as a former executive that I had the best, most accurate, most current answers. And in a very formal setting that's being videotaped and transcribed, I felt like it would be inappropriate for me to come across like I felt I was the accurate-slash-best answer, because I don't believe that's me anymore.

Q And when did you learn that the committee intended to videotape the interview?

A Last week. I don't remember when specifically, but sometime last week.

Q And when did you learn that they intended to exclude agency counsel?

A Maybe last week, but definitely this week.

Q Earlier in the letter it says:

"As we have repeatedly stated, Ms. Sanborn looks forward to speaking with the Committee and refuting the whistleblower allegation against her, and we appreciate that you recently shared with us that there have been no material change in the scope of these allegations since your August 2022 letter."

Can you explain what your understanding is of the scope that you agreed to appear under?

A Yeah. So I have been under the impression from letters and then conversations that my attorneys had with the committee that definitely an allegation that I might have been personally involved in asking, pressuring agents to reclassify or misclassify cases to DVE, probably a little bit of that in general, was I at least aware of that pressure even if it wasn't me. I probably felt a little bit of that was the scope, and I think that kind of captures.

So my personal involvement and/or my knowledge may be of others doing that as it relates to classifying and/or reclassifying cases.

Q Thank you.

I do want to move on. I want to touch briefly on the school boards memo question. Not going to spend a lot of time on it, but I do have a couple follow-up questions.

A Okay.

Q You referenced that you stated that the memo -- have you read the memo, first of all?

A I don't remember. I would be surprised if I didn't back then, but I do not

remember.

Q Okay. You stated that the memo wouldn't have much of an impact on the day-to-day operations of the Bureau because any case would still have to meet three criteria.

What are those criteria? You might have stated them earlier, but just again for the record,

A That's a good question.

I think at least from my perspective, if a case were going to be opened in the Counterterrorism Division, it would have to meet the three criteria of what's required for domestic terrorism cases, which is -- and, again, make sure I get this right with FBI -- but an act dangerous to life, primarily occurring in the United States, with the intent to coerce or intimidate the government.

And so that would need to be met in order for anything to be open on behalf of the Bureau as it related to any allegation to include allegations regarding school boards.

Q Okay.

A Violence at school boards.

Q I do want to turn to the actual memo itself very briefly. And I have a copy here.

A Okay.

Q If you want to take a look and let me know if you think you've seen it before or --

A Okay.

Q And I do want to -- and now that you've had a chance to look at it, do you recall whether you reviewed it?

A I think so.

[Sanborn Exhibit No. 8

Was marked for identification.]

BY [redacted]

Q Okay. And I am going to admit this as exhibit No. 8.

And I just want to look at the second sentence of that first paragraph. It reads:

"While spirited debate about policy matters is protected under our Constitution, that protection does not extend to threats of violence or efforts to intimidate individuals based on their views."

Did I read that correctly?

A Yeah.

Q Okay. The reference in that, the first clause of that sentence, "spirited debate about policy matters is protected under our Constitution," do you agree with that statement?

A I mean, does it -- I feel a little bit, same as I said earlier today, like I'm not sure that --

Q I can rephrase.

A Yeah.

Q I can rephrase. You said earlier that the First Amendment is taken very seriously, and that in opening any case, agents, supervisors must be mindful of First Amendment concerns. Would that seem to comport with that sentence, with that clause?

A I believe so. I think the two words that jump out at me that seem congruent with what I said is the word "violence." And then that it's not about the views, which I believe I said earlier today, like it doesn't matter the view or the ideology, no matter how repulsive it might be, it's the violence. So not my words, but, yes, it

seems congruent.

Q And are you aware in fall of 2021 whether any other memos were issues by the Attorney General about violence or threats of violence against other groups of people?

A Possibly. I don't want to miscorrect. But potentially against the Asian community, if I'm remembering correctly, but I could be wrong.

Q Do you recall a memo, for example, about threats against election officials?

A No.

Q Do you recall a memo about threats against airline flight crews?

A No, not specifically.

[1:34 p.m.]

BY [redacted]

Q I want to turn to this threat tag question quickly just to clarify the record on a couple points.

What's the actual purpose of a threat tag for the FBI?

A So I think it's important to definitely get their current opinion on it, but I will at least remind you of what I said under testimony prior to retiring, which is: The purpose of it is an administrative tool to be able to look for trends and/or quantify a certain number of allegations in a certain area.

So it's an administrative tool to get a lower level of granularity than a case classification gives you.

Q Does it drive the way that a case is investigated in any way?

A No, which I also said in testimony, right? Like, it didn't change -- it wasn't a particular focus, and it didn't change how we do our business.

Q I believe the majority counsel made a reference to threat tags being put on parents. Are threat tags applied to cases or to individuals?

A Again, would refer you to the FBI, but I believe the application of them, the way I know it, is that it's a tag applied to a case.

Q Um --

A Which, I think what I said in my testimony fits here. It already has to have risen to warranting Federal attention, right? It has to already meet a criteria that we would have jurisdiction-slash-authorities here before you could even apply a tag to it.

Q And may multiple tags be applied to a single case?

A I don't -- I believe so, but, again, check with FBI.

Q All right. I don't think we have any more questions. Thank you.

Mr. Burwell. Thank you.

[Discussion off the record.]

[redacted] We'll go back on the record. The time is now 1:37 p.m.

BY [redacted]

Q Ms. Sanborn, right after you were appointed executive assistant director of the National Security Branch in May 2021, the FBI redesignated the 2017 shooting of congressional Republicans at a baseball field in Alexandria, Virginia, as an act of domestic terrorism carried out by a domestic violent extremist.

Do you remember that happening?

A To the best of my knowledge, I was not aware it was, quote/unquote, "redesignated." I don't know where that came from, but I was not aware that it was redesignated anything.

Q Yeah, it was redesignated in a report that was issued in May of 2021.

Were you involved in the redesignation at all?

A Which report was it in May of 2021?

Q Yeah. I have it with us. Actually, we can enter it as an exhibit if that would be helpful.

Okay. I believe we are on exhibit No. 8 -- 9.

Mr. Burwell. Nine.

[Sanborn Exhibit No. 9

Was marked for identification.]

BY [redacted]

Q This is the FBI-DHS Strategic Intelligence Assessment of May 2021. I'll direct your attention -- let me just make sure I get the right page here.

A Thirty-five of 40.

Q Uh-huh.

So, on page 35, it lists -- says, "An individual with a personalized violent ideology targeted and shot Republican Members of Congress at a baseball field and wounded five people. The subject died as a result of engagement with law enforcement." And it lists the category as domestic violent extremist.

Is that correct?

A That's what I see here, yes.

Q And so one of the times that you testified before Congress was April 29, 2021, before the House Appropriations subcommittee. Do you remember that?

A I do.

Q And do you generally remember the topic you were testifying about?

A I'm sure it was domestic-violent-extremist-related.

Q Uh-huh.

A Was it appropriations?

Q Yes.

A Yeah.

Q Uh-huh. And you were asked a question about the 2017 shooting and was it being considered an act of domestic terrorism. You stated that you were not aware of the rationale for why the case was not being considered as an act of domestic terrorism but that if it were to happen today we would open this as a domestic terrorism case.

That was April 29, 2021. And then it was reclassified when this report was released on May 14th of 2021. To your knowledge, do you know what was occurring during that time period?

A So I think this is -- I would encourage you to do one thing. I don't know

that it wasn't ever listed on a similar report.

Q Uh-huh.

A I think there's two potential topics here: reclassified as a classification in our case system versus inclusion on this.

So I don't know if a version of this report ever existed before and whether it was included or not included, but I would encourage you to at least double-check that.

To my knowledge, prior to my retirement, in our case system, it's never been case change classification like we've talked all day. I don't think there is a document that exists where somebody went in and changed the case classification from one to another.

Q Uh-huh.

A So I think there's two separate issues going on here: this report; and was it ever included before. And I believe that, prior to my departure, it was never changed as a case classification in the system.

Q Okay.

And do you have any knowledge from your tenure as to why the FBI initially classified the shooting as a suicide by cop?

A I mean, I know from hearing people talk about it. I did not have firsthand knowledge. I wasn't involved in -- my role at the time wouldn't have been anything to do with domestic violent extremism or whatever it was categorized in.

Q Uh-huh.

And are you aware that at the time the FBI designated the 2017 shooting as suicide by cop, it contradicted substantial evidence in the shooting and the local prosecutor's conclusion?

A I'm aware of all of that, yes.

Q And is that a normal course of action for the FBI to --

A Again, I would refer you to the FBI. I had nothing to do with this case. I've had to talk about it post- it and why I said, look, if it happened today, it would be considered a domestic terrorism. I was completely removed from this whole thing.

Q Okay.

And switching back to the Washington Field Office, did you ever interact with an individual named Steven D'Antuono, I believe?

A Yes. He is the assistant director in charge of the Washington Field Office.

Q And how often did you interact with him?

A Not very often. Maybe half a dozen to a dozen times during my time as AD and EAD combined.

Q And during your time as AD and EAD, was he always at the Washington Field Office?

A I don't remember. I believe so, but I don't remember if he got promoted before I did or I, him. I don't remember.

Q From your involvement in the January 6th-related investigations, was he also involved?

A He would've been the ADIC in charge of the investigation.

Q And can you describe, from your knowledge and your tenure at the FBI, what the ADIC in charge -- what their responsibilities would've been?

A Very similar. They are the equivalent of a special agent in charge. It's just a larger field office, so it's a larger responsibility, so they call it an assistant director. So he would've been in charge of all investigative activity in the Washington field area of responsibility.

Q So would he have had interactions with special agents as to what cases to open, how to classify the cases?

A He definitely had special agents that reported to him. I can't speak for what his interactions may or may not have been.

Q Uh-huh. And what were your general experiences with D'Antuono? Was he a good agent?

A I don't even really have an opinion, honestly.

Q And during your tenure at the FBI, did you ever get the impression that the FBI was sacrificing other Federal law enforcement cases in order to pursue January 6th cases?

A No.

Q No?

A Not that I'm aware of. Like, if there's an instance out there, not that I'm aware of, especially using the word, quote/unquote, "sacrifice." I'm not sure I know what that means, but -- in this context --

Q Did they direct more resources to January 6th investigations? Did the FBI?

A Well, very similar like I talked with San Bernardino.

Q Uh-huh.

A Again, I'll give an example I know.

Q Absolutely.

A And as I mentioned to you, my whole branch worked the San Bernardino. I can't imagine that the Washington Field Office didn't surge resources to handle that. But I would've been completely removed from their resource decision.

Q Okay.

And during your tenure at the FBI, did you ever have any involvement with the Confidential Human Source Program?

A Different levels, right? Like, as an agent, I had sources; as a supervisor, I

would've approved. So I'm aware of the program.

Q And what was your -- did you have any involvement with the CHS Program when you were assistant director or EAD?

A I think it would depend on what you mean, "involvement," right? Like --

Q Did you have any oversight, know of any cases where CHSes were involved?

A Well, I definitely was aware of CHS use, right, because it would be part of probably what I was briefed on a case, right? "Here's our case, and here's our coverage. We have physical surveillance. We have this surveillance." So I definitely would've been briefed on whether a source was being utilized or something --

Q Okay.

A -- on cases that rose to my attention.

Q And during your experience at the FBI, were confidential human sources used in domestic terrorism or domestic violent extremism investigations?

A I'm sure they were, yeah.

Q And did any FBI employees or CHSes actively participate in the events of January 6, 2021, to your knowledge?

A Well --

Mr. Burwell. I'm going to object to this question as being --

Ms. Sanborn. I think I would just refer to, like -- go ahead.

Mr. Burwell. You've done a wonderful job talking about all sorts of issues, but now this one goes squarely into what I understand to be ongoing investigations. So I will object, although she kind of may have answered a little bit.

BY [redacted]

Q In your role as executive assistant director, you oversaw the FBI's Counterintelligence Division. Is that correct?

A As EAD, I saw --

Q As EAD? Okay. And the Counterintelligence Division houses the Foreign Influence Task Force, correct?

A Correct.

Q And was that ongoing while you were EAD?

A Yes.

Q And what role did you play in overseeing the Foreign Influence Task Force's work?

A Again, of their work, not really, right? Like, I'm removed, right? There's the task force; they probably report to a DAD, who reports to an AD, who reports to me. So --

Q Uh-huh. Were you generally aware of what they were working on, or was it too far removed?

A Only when it rose to the level of something that they put on my radar, right? Like, I would not be involved, you know, three, four levels down on their day-to-day activities.

Q And during your tenure at the FBI, which FBI components or offices were involved in the Foreign Influence Task Force work?

A I'm surprised Carter is not doing this. I feel like this is way beyond what you guys -- like, this has absolutely nothing to do with domestic violent extremism, which at least, if we agree, we had some scope in the letter. This is 180 degrees away from --

[redacted] Look, it's a voluntary interview. If you want to answer the question, answer it; if you don't, don't answer it. But, you know, the scope -- I mean, we -- you know, we're going to ask you other questions.

We've done -- you know, congressional committees have done hundreds of these

transcribed interviews -- hundreds, thousands probably, since they started again back in 2007.

And so, if you want to answer it, answer it. If you're not going to answer it, just you can say it, and we'll move on.

Mr. Burwell. Well, I think it's --

Ms. Sanborn. I don't want to inappropriately answer, right? I've been retired-slash-former-executive for 10 months --

[redacted] That's fine. Then don't answer it.

Mr. Burwell. Well, thanks. And we know you're asking other people from the FBI to come up and talk about this with more direct, immediate, firsthand knowledge. And we appreciate you understanding that she's trying to --

[redacted] Great.

Mr. Burwell. -- provide information.

BY [redacted]

Q So, during your tenure at the FBI when you were EAD, did the Foreign Influence Task Force have any meetings with social media companies that you were aware of?

A Same. I'm not going to -- I feel like, you know, this isn't a conversation about my whole career and everything I had knowledge of. You sent me a letter in August. It was pretty tightly scoped. We've talked way beyond that because I feel like it at least is in the spirit of the scope of your letter.

I don't believe the Counterintelligence Division, what they're doing, is in the spirit of what you asked me to appear before you today. I don't want to be a convenient witness-slash-interview. You deserve the best, and I, 100 percent coming into this blind, don't think that's me today.

Q Uh-huh.

[redacted] Do you have any more questions?

[redacted] Have you worked through everything?

[redacted] Uh-huh.

[redacted] We'll go off the record a second, caucus, and then hopefully we'll be done.

[Recess.]

[redacted] We'll go back on the record.

BY [redacted]

Q I just want to give you a chance to -- voluntary. You can answer these questions or not. But on the content moderation question, if you're willing, we'd like to ask some questions, and you can decide whether you want to answer them or not, or we can end the interview.

A I think I'd start by just saying a couple things to you. And I think I've said one already, which is, you deserve the best, most accurate answer possible. I have absolutely the least, right -- like, I feel uncomfortable not only because I'm not the best and I'm not the most accurate, but the least knowledge in this area, right?

Q Okay.

A Like, I was the AD of CTD and then promoted up. I was never the AD of Counterintelligence Division, so my knowledge here is a sliver.

And so I don't want to go down a road where I even hypothesize on some of these answers, because I'm not the right person for you here.

Q Okay. Was it in your overall portfolio though?

A As an EAD, I supervised this, but, again --

Q Okay.

A -- and I don't mean this as a crutch -- a large portion of my time as EAD I was on family sick leave and in Arizona.

Q Right.

A So, of all the things that I know in my 24 years in the Bureau, this is probably some of the least.

Q Okay. Would it be okay, then, to just sort of ask the question, and if you're unable to answer it, you can just tell us that?

I would hate to -- I'd hate to go back and help our members understand how we asked some of these questions but, you know, we weren't able to get into it. I'd hate to have a situation where somebody wanted to invite you back, so to speak.

A I think my caution here is -- and, you know -- is, I don't want my inability to answer to be perceived as an unwillingness to answer.

Q Okay.

A It's not that I'm necessarily unwilling. It's that you're going to ask me questions where I feel like I'm going to do you a disservice versus any service by answering.

Q Okay. I mean, I think our questions are relatively high-level. Isn't --

Mr. Burwell. Why don't we try, and we'll see how it goes?

[redacted] Okay.

Mr. Burwell. We want to try and be voluntary and cooperative --

[redacted] Okay.

Mr. Burwell. -- with the committee.

[redacted] Great.

BY [redacted]

Q Okay. So I think I asked this question before, but the Foreign Influence

Task Force had meetings with social media companies. Were you aware of that during your time as EAD?

A I don't have any firsthand knowledge of, like, their day-to-day. And so, again, I think, not a great person to answer that question for you.

Q So you were never aware of these meetings?

A I mean, it's hard to separate what I'm, quote/unquote, "aware of" and what I'm not, because I also do read, you know, open source, and so I read a variety of your issues and concerns with various aspects. And so attributing necessarily what I'm knowledgeable of in this space from my expertise in employment versus what I've read in the paper is hard in this area.

Q And other than the Foreign Influence Task Force, are you aware of any other units or task forces under your purview as EAD that worked or work with social media companies on content moderation?

A So this one I feel more comfortable with, because I will at least pivot to CTD.

Q Uh-huh.

A So CT, when I was there, definitely had an entity inside the Counterterrorism Division that did interact with private-sector companies.

Q And this was during your time as assistant director?

A Yes.

Q And can you tell us a little bit more about the meetings with private-sectors?

A I was never involved in them. My understanding from them -- and, again, it would've been a section reporting to a DAD and then me -- is, a lot of it was educating them on the threat that we were experiencing in the terrorism space.

So, like, ISIS's use of the internet, for example, and how that's being used to radicalize and recruit people in the United States was probably a topic, I would imagine.

But I was never personally involved in any of those meetings.

Q And when you say "educating them," was that the FBI educating the social media companies or private sector?

A I'm sure it was some exchange. I mean, they probably see stuff that I'm sure they mentioned.

Q Uh-huh.

A But, again, no firsthand knowledge. Like, wasn't involved in it. So it's really worth you getting more detail from the FBI on that.

Q Okay.

And now I want to turn to how the Foreign Influence Task Force or other components of the FBI, the CTD, worked internally on content moderation.

Which FBI personnel were responsible for assessing online content? Do you have any knowledge?

A I am not aware of how you phrase it there at all.

Q Okay.

And are you able to describe during your tenure at the FBI what the internal process was for monitoring online content?

A So I think I have at least -- I will pivot to at least a testimony I've had about online monitoring and I think what our responsibility is in the FBI.

So we don't passively and persistently monitor things that are out in the open, right? We have to have an authorized purpose to be looking even at publicly available information.

Q Uh-huh. And so would the FBI intake tips or reports of problematic content, from your experience?

A I can't imagine that they don't, right? Like, I'm sure that the tip line

probably has instances of that. But I don't have any firsthand knowledge of an example.

Q And, to your knowledge, were there any differences in the FBI's processes depending on whether it was a U.S. citizen or a non-U.S. citizen?

A I'd again refer you to the FBI on that one.

Q Okay.

And, at the CTD, did you ever have any awareness or oversee how the FBI approached reporting concerns or content to private-sector partners?

A No. Not that I can recall.

Q And so I think you briefly spoke about this a little bit earlier in regards to the CTD section, how they would be educating the private-sector partners. Was it just educating them on what to be aware of, what to be looking for?

A Again, having not been personally involved in that, I would be, I think, remiss in trying to give you an answer, that I'd feel too far removed to give you an answer.

Q Uh-huh.

Mr. Burwell. And is it fair that folks at the FBI would be talking -- "educating" is maybe too one-sided, I think, for what the interaction was.

Ms. Sanborn. Never having been involved, I don't even want to hypothesize on that.

Mr. Burwell. Right. I think there was an exchange, but whether it was one-sided or both-sided, you don't know, and it's not --

Ms. Sanborn. I'm not privy to that.

Mr. Burwell. I think I just want to be careful, given her knowledge is so limited in this space, that I don't want her to suggest that the FBI was educating someone, given what we understand the allegations broadly, that she can't really speak to.

BY [redacted]

Q And while you were EAD or AD, did you ever coordinate with DHS, their Cybersecurity and Infrastructure Security Agency, CISA?

A Oh, I didn't -- no. Me, I never worked with CISA. I'm sure that people in the organization might have, but I did not ever work with CISA.

Q Was there anyone that was one of your direct reports or DADs that was in charge of interfacing with CISA?

A You know, not that I remember. And I do remember a lot of -- especially given what they do, coordination probably is in line with the Cyber Division, which did not fall under me.

Q Uh-huh. And while you were EAD or AD, were you ever aware of the FBI coordinating with any other Federal entities?

A I mean --

Q On content online, I guess, to specify.

A Oh, all of this is content-related?

Q Uh-huh.

A No, I know nothing about content -- especially the way you word it -- moderation at all.

Q Are you generally aware of reporting on a special relationship between the FBI and Facebook?

A Only from watching Director Wray's testimony recently.

Q And what did you learn from that testimony?

A I think he just got questions from somebody about the relationship between the FBI and Facebook.

Q But when you were EAD or AD, you never were aware of any sort of special relationship?

A No. I know -- I mean, I would assume that Facebook is one of the folks that that section that I talked about probably engaged with. But definitely not aware of how you phrased it, "special relationship," at all.

Q Uh-huh.

And during your time as EAD or AD, were you ever aware of agents receiving information from Facebook or any other social media company that was not obtained with user consent or through the legal process?

A Not that I can recall, but, again, I would refer you to the FBI.

Like I said, I can appreciate your interest here, but I don't want to give -- especially -- and I appreciate your frustration with me -- especially because I didn't even give thought to this, right? Like, I'm very mindful and want to make sure that when I give you guys answers that I've at least thought about it. And this isn't one that I've prepared for, thought of. You know, former executive, didn't have firsthand knowledge -- like, there's a lot of reasons where I'm ill-suited to be commenting on this.

[redacted] That's all the questions I have on that.

[redacted] Okay.

BY [redacted]

Q Who should we talk to in this space?

A I mean, I don't have a specific person. I definitely would start with -- you probably do all your requests through Congressional Affairs, and they could get you to the right POC and probably for both divisions. But --

Q Uh-huh. But this was in your purview, so, I mean, you're in a position to know who might know --

A I don't know --

Q -- hopefully.

A I don't know who would be the best person for you.

Q Okay.

A Sorry.

[redacted] We can go off the record.

[Whereupon, at 2:06 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: GEORGE J. HILL

Tuesday, February 7, 2023

Washington, D.C.

The interview in the above matter was held in Room 6480, O'Neill House Office Building, commencing at 10:00 a.m.

Present: Representatives Jordan and Gaetz.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

[redacted] GENERAL COUNSEL

[redacted] PRESS ASSISTANT

[redacted] COUNSEL

[redacted] SENIOR ADVISOR

[redacted] DEPUTY CHIEF COUNSEL FOR OVERSIGHT

[redacted] SENIOR COUNSEL

[redacted] DIGITAL DIRECTOR

[redacted] MINORITY CHIEF OVERSIGHT COUNSEL

[redacted] MINORITY INTERN

[redacted] MINORITY STAFF ASSISTANT

[redacted] MINORITY INTERN

[redacted] MINORITY PROFESSIONAL STAFF MEMBER

For GEORGE J. HILL:

JASON FOSTER

EMPOWER OVERSIGHT

[redacted] It is 10:00 a.m., and I think we can go on the record. Good morning.

Mr. Hill. Morning.

[redacted] This is a transcribed interview of George Hill. Chairman Jordan has requested this interview as part of the committee's oversight of the Federal Bureau of Investigation.

Would the witness please state their name for the record?

Mr. Hill. George J. Hill.

[redacted] On behalf of the committee, I want to thank you for appearing here today to answer our questions. The chairman also appreciates your willingness to appear voluntarily.

My name is [redacted] and I am with Chairman Jordan's staff. I'll now have everyone else in the room introduce themselves as well.

Mr. Foster. I'm Jason Foster, counsel for Mr. Hill.

Mr. Hill. Again?

[redacted] I think so.

Mr. Hill. Okay. George Hill.

[redacted] Good morning. [redacted] I'm the chief oversight counsel for Ranking Member Nadler's staff.

[redacted] I'm [redacted] professional staff member and legislative aide for Ranking Member Nadler.

[redacted] I'm [redacted] I'm an intern with the minority.

[redacted] I'm [redacted] I'm a staff assistant for the minority.

[redacted] [redacted] senior advisor [inaudible].

[redacted] Chairman Jordan's staff.

[redacted] Chairman Jordan's staff.

[redacted] Chairman Jordan's staff.

[redacted] with Mr. Jordan.

[redacted] senior counsel with Mr. Jordan's staff.

[redacted] with Mr. Jordan.

[redacted] I'd now like to go over the rules and guidelines that we will follow during today's interview.

Our questioning will proceed in rounds. The majority will ask questions first for 1 hour, and then the minority will have an opportunity to ask questions for an equal period of time if they choose. We will alternate back and forth until there are no more questions and the interview is over.

Typically, we take a short break at the end of each hour, but if you would like to take a break apart from that, please just let me know.

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

Do you understand?

Mr. Hill. Yes, I do.

[redacted] So the court reporter can take down a clear record, we will do our best to limit the number of people directing questions at you during any given hour to just those people on the staff whose turn it is.

Please try and speak clearly so the court reporter can understand and so the folks down at the end of the table can hear you. It is important that we don't talk over one another or interrupt each other if we can help it, and that goes for everybody present at today's interview.

We encourage witnesses who appear before the committee to freely consult with counsel if they so choose, and it is my understanding that you are appearing today with counsel. Is that correct?

Mr. Hill. Yes.

[redacted] Could you please state your name for the record, counsel?

Mr. Foster. Jason Foster.

[redacted] Thank you.

We want you to answer our questions in the most complete and truthful manner as possible, so we will take our time. If you have any questions or if you do not understand one of our questions, please just let me know. Our questions will cover a wide range of topics, so if you need clarification at any point, just say so.

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

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

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

Mr. Hill. I do.

[redacted] This also applies to questions posed by congressional staff in an interview. Do you understand that?

Mr. Hill. Yes, I do.

[redacted] Witnesses that knowingly provide false testimony could be subject to criminal prosecution for perjury for or for making false statements under 18 U.S.C., 1001. Do you understand that?

Mr. Hill. I do.

[redacted] Is there any reason you are unable to provide truthful answers to today's questions?

Mr. Hill. No, there is not.

[redacted] Finally, I'd like to make note that the content of what we discuss here today is confidential. We ask that you not speak about what we discuss in this interview to any outside individuals to preserve the integrity of our investigation.

For the same reason, the marked exhibits that we may use today will remain with the court reporter so that they can go in the official transcript, and any copies of those exhibits will be returned to us when we wrap up.

That is the end of my preamble. Is there anything that my colleagues from the minority would like to add?

[redacted] We have nothing to add. Just thank you to the witness for appearing today.

[redacted] Okay.

[redacted] And I just want to add one thing about the confidentiality. We just want to avoid the situation where the questions we ask one witness get written down, notes taken, passed on to another witness.

Especially this is a concern when individuals come in from FBI or the Department of Justice or some other government agency. If they come with agency counsel and if agency counsel is making notes and is going to come with additional witnesses, there's an opportunity to help the witnesses understand the types of questions we're asking.

Creates a roadmap.

So we're not trying to imply that there's some sort of 6(e) requirement for this interview, but we do mention the confidentiality, and hopefully everyone can work with us on that.

[redacted] Okay. The clock now reads 10:06. We will start the first hour of questioning.

EXAMINATION

BY [redacted]

Q Mr. Hill, when did you first join the FBI?

A Let's see. I left -- so 2010. But before we start, can I just make a brief statement?

Q Yes.

A Very brief, recognizing --

Q Sure.

A -- everyone's time here is valuable.

Q Yes, certainly.

A In the Hoover Building, there is a plaque with a quote from J. Edgar Hoover. And I'm going by memory, so if I botch it up and offend someone, I apologize, but it basically goes: "It's impossible to do our job without the help of the American public," end quote.

So I'd like to add, especially in my experience during the Boston Marathon bombing and subsequent investigation over 2 years, in the modern age, we rely very heavily on our State and local law enforcement partners.

And my reason for wanting to appear here today, number one, is to be as helpful as possible, because I believe that we all want the same thing, which is a functioning FBI

that engenders the trust of the American public.

So hopefully that wasn't too long.

Q No, I appreciate that.

So you said you joined in 2010?

A I did. I joined in 2010.

Q Okay. And can you briefly tell me a little bit about what you did before joining the FBI?

A Sure. So, for 5 years prior to joining the FBI, I was with the National Security Agency. I was in the Counterterrorism Mission Management Center. It was at the height of the war in Iraq, where -- and we had theaters as well in Afghanistan and Pakistan. And I did what's called "find, fix, finish" operations.

I think anything beyond that goes outside the realm of this briefing in terms of classification level.

Q That's fine. And when did you retire from the FBI?

A I retired officially October 1st of -- let's see, it's 2022, so it's been over a year, so it'd be 2020? Yeah.

Q And what was the title in your last position you held with the FBI?

A So I was the supervisory intelligence analyst, which is a GS-14 position.

My last 2 years there, I had -- when I first joined the FBI, I had all the national security programs -- counterterrorism, counterintelligence, and cyber. And for my last 2 years, I took a new squad, the I-6 squad, and I had the Boston Regional Intelligence Center, the BRIC, as it's referred to, the acronym, and I had an embedded analyst there. And then I had embedded analysts, plural, at the Commonwealth Fusion Center in Maynard, Massachusetts, where we would interface with the members of the Commonwealth Fusion Center. And I was also responsible, dual-hatted, and I ran the

Investigative Support Center, the ISC, for the High Intensity Drug Trafficking Area for the six-State New England area. So I also had three contract analysts. We would 1099 them at the end of each year.

So that was my last tour with the Bureau, which, for someone who spent their entire career in national security matters, was a real eye-opening tour of duty for me. Thoroughly enjoyed it.

Q And how long were you in that?

A Just 2 years.

Q Just -- okay.

A Yeah.

Q Two years. Who was your direct supervisor during that time?

A [redacted]. He's an SSIA, senior supervisory intelligence analyst. He's a GS-15.

Most offices have converted the ASAC, the Assistant Special Agent in Charge, from an 1811 agent to an 0132 job series, and that's what, you know, [redacted] is. He's an intelligence analyst.

Q And who was the SAC, the Special Agent in Charge, at the Boston Field Office?

A Joe Bonavolonta was the SAC. That was not his first time at Boston. He was briefly for a period of time the ASAC in charge of the intelligence program. And then he went to headquarters, and he was -- went to the Counterintelligence Directorate. He was the cleanup man for Peter Strzok.

Q And how many people directly reported to you?

A At the time of my leaving?

Q Uh-huh.

A At one time, when I had the national security programs, plural, and the Boston Marathon Bombing Task Force, I had 26 direct reports. That was the highest number.

Do I need to stop?

Oh, okay.

At the HIDTA, I had -- one, two -- three FBI intelligence analysts, 0132 job series, and three contracted analysts for the HIDTA, so six.

BY [redacted]

Q Going back to the Peter Strzok reference --

A Yes.

Q -- can you help us understand what you meant by the "cleanup man for Peter Strzok"?

A Oh. So I'm using Joe Bonavolonta's words --

Q Uh-huh.

A -- when he first came back to Boston.

He's a very likable, gregarious man. His father was [redacted] handler, so his blood runs FBI blue. So he was quite proud of the work that he did at the Counterintelligence Directorate prior to coming back to Boston.

Q And what do you mean by Peter Strzok's "cleanup man"?

A You'd have to ask Joe Bonavolonta.

Q Okay. What did you understand that to mean?

A That Peter Strzok had left the Counterintelligence Directorate in a less than functional manner.

Q Okay.

A That was my interpretation. If you want --

Q Okay.

BY [redacted]

Q Did you will hold any other positions during your time at the FBI?

A The only time I was dual-hatted, like I said, was when I had the national security programs and I was the co-supervisor on the Boston Marathon Bombing Task Force, which ran 2 years, up until the death penalty portion for Dzhokhar Tsarnaev. So, yeah.

Q Can you tell me a little bit about what you did for that task force, the Boston Marathon bombing one?

A So, eventually, it whittled down, down, down, down, down. So the actual task force itself consisted of myself and an 1811 SSA, and I had -- one, two -- I'm just going to give first names, just for my -- so I can count out loud. So Jamie, Dave, Scott -- so I had three intelligence analysts. And then on the task force there were -- they called them the "killer B's" because their names began with the letter B -- two agents.

And so that was 2 years going back and forth with the U.S. attorney's office over at the Moakley Courthouse -- of course, trial preparation, working with the defense attorneys, numerous meetings with the U.S. attorney, Carmen Ortiz.

So, I mean, the amount of paperwork generated in that 2-year task force, "voluminous" doesn't even come close to it. I don't know how many finished products I worked with my analysts and agents to move forward into the serialization process. There were FISAs, FISA renewals. It was all-encompassing.

Q So would you say during your tenure at the FBI you specialized in terrorism and counterterrorism?

A No. Like I said, I had all three national security -- so counterterrorism,

which when I first joined the Bureau took up a lot of my time, because, like I said, there was ISIS that was on the rise at that time, a lot of homegrown violent extremists.

So I would say, if I had to look at -- supervisors don't TURK their time. And I'm sorry, I don't know what that acronym means. It's T-U-R-K. But supervisors don't TURK their time. But just rule-of-thumbing it, it probably took up 75 percent of my time, terrorism.

Q Terrorism?

A Yeah.

Q Okay.

A And that changed over the, you know, 1, 2, 3, 4 years into the job, whereas counterintelligence and cyber took up the majority of my time.

So it was all national security matters. Yeah.

Q And did you work on both foreign and domestic terrorism cases?

A Oh, yeah.

Q Okay.

A Yeah. Worked very close, especially domestic terrorism, during my time at the Commonwealth Fusion Center.

Q Did you receive any honors or awards during your time in Federal service?

A So I received the ODNI Award for Excellence -- it's a medal -- for my work during the Mumbai attack.

Q Okay.

A And I'm not going to go into any details there. Even when they awarded it, they couldn't go into any details in front of the office.

And then I got the Director's Award, which is kind of a big deal, for the marathon bombing. It's a huge production done here in D.C. The plaque is absolutely gorgeous.

It's cut crystal. It's -- you almost need some upper-body strength to lift it.

Q All right.

I want to talk to you a bit about domestic violent extremism and DVE cases.

Are you a familiar with how the FBI classifies or recategorizes investigations?

A So that can be done as a matter of policy on any case. So, for example, say, for instance, you are working innocent images -- which is the term that we use for what people understand to be child pornography, things of that nature -- and you come across the commission of another crime. Typically, then, you just tag that case, which is a term for SENTINEL, which is the system of record for the FBI.

Q Uh-huh.

A And you would just tag it.

So, say, for example, you're working innocent images and you come across evidence of -- I'm blanking on it -- political corruption, you can just tag it "political corruption."

Now, of course, then, if it becomes during the course of your normal investigation -- you can't ignore it, so if it becomes part of your normal investigation, the supervisor might decide to open up a whole new case on it, maybe reassign an agent to the PC, the public corruption -- yeah, public corruption, I'm sorry, public corruption -- may decide to move that to a different squad.

But, yes, you can tag it. Yes.

Q And at what stage in an investigation are cases given an investigative case classification?

A So the migration, especially for, like, domestic terrorism -- because I think that's why we're all here today -- typically begin as a Guardian lead.

Q Okay. And can you explain what a Guardian lead is?

A Sure.

So Guardians almost exclusively start at the law enforcement level, which means they start at the public level. So people will either call in to the police, call their attention to something, and it is a mechanism whereby local law enforcement can use an unclassified FOUO system, for official use only, and forward that -- I don't want to use the term "lead," because it means something else when we're talking about SENTINEL -- but forward that information to the FBI in the form of a Guardian.

So then those Guardians are handed out to an agent through the Guardian system, and a clock starts ticking. So we would have weekly Guardian meetings, and I forget what day of the week they're on. I think they're on Mondays or Tuesdays. And the supervisor would review only, like, the Guardians that are, like, aging beyond where they should be and trying to gain determination as to whether or not we want to proceed with a full field investigation or close the Guardian out.

And, regarding Tamerlan Tsarnaev, that came in as a Guardian as well, and there was some -- there's a heightened level of concern. People are maybe, not more bound, but concerned to close a Guardian out too soon if they -- you know, they make sure they want to have all their due diligence done before closing it out.

Because most of the Guardians that we get are EDPs, emotionally disturbed persons. And I'm sorry -- just so you know, you know, I've been counseled on 1001, told not to guess. But I'd say it's within the realm of probability that probably about 75 percent of the Guardians we get are EDPs, emotionally disturbed persons. And the FBI is not a social services agency. We start to get into privacy issues. And it's unfortunate, there's not a lot that we can do with those.

Q Who is responsible for determining and applying an investigative case classification or category?

A So it depends on how it comes to our attention. If it comes to our attention during the commission of a crime, say, a cyber intrusion or proprietary information walking out the door from MIT, Massachusetts Institute of Technology, you know, that could be a predication for it.

But, essentially, it comes down to a conversation between the squad supervisor and the agent that it's possibly going to get assigned to. And that's based on not just caseload but also, does that agent have a good background to pursue that? You know, you wouldn't want to give -- I can't think of an example. But you'd want to send in your best player that had some background to go out there, to go after something.

Q So would an agent's supervisor help them determine what classification to give a case then?

A I don't understand what you mean by "classification." Whether it's a domestic terrorism?

Q Right.

A Right. So almost all of your Guardian leads are going to be either DT or IT, domestic terrorism or international terrorism.

Q Okay.

A The majority of Guardian leads are domestic terrorism.

So those discussions are held -- so each CT supervisor will see the Guardians as they come in, and they will pull them out.

So, for example, say I'm the supervisor for CT3, which has Iran. CT3 in Boston, Iran is one of their areas of responsibility. I see a Guardian come in. Clearly, it's domestic terrorism. I'm just going to ignore it.

Q Uh-huh.

A And then the supervisor for CT2 would then pick that up.

Or say, for example, a Guardian came in and it was just unclear, is it DT, is it IT, does this person have any connections to a foreign terrorist organization, an FTO? There would be a discussion that would ensue.

It's not just -- there's no automated fashion to it. This is why, you know, personal relationships are so important.

Q What is the difference between a case classification and a case tag?

A Sure. So a case classification is the primary program-slash-crime that is being investigated. The case tag means that you have -- there may be some connections that we have observed during the course of our investigation.

So, in terms of subordination, a class casifi- -- sorry -- case classification -- English is my first language -- case classification would be primary to a tag.

Q So you would have multiple tags possibly apply to one case?

A Oh, yeah, absolutely. And in the TRP process, they actually encourage you, when you're writing your program notes, to tag -- it's not in SENTINEL; it's in the intelligence program management tool -- to tag crossovers.

So, say, me as the national security intelligence supervisor, I am working or my squad, my analyst, my SOS, staff operations specialist, is working a cyber case, and there is reason that we have to communicate -- maybe the case is tagged with counterintelligence, so I want to capture that in the program note, that these programs are crossing over with one another.

Q And you said the TRP process, which I want to get to in a little bit, encourages that behavior to --

A Oh, yeah. It actually comes out, like, in the field office health measures.

Q Okay.

A So, yeah, it's kind of a big deal.

Q Okay. I want to touch on that more in a bit.

Are you familiar with the threat tag "EDU officials"?

A I am, but that was only after I left the FBI, and I'm not qualified to comment on any of that. I have no firsthand knowledge.

Q Are you familiar with how often cases are reclassified from one category to another? Does that happen often?

A The IPC, the intelligence program coordinator, for each office would have those numbers. I would have to guess, and I don't want to do that.

Q Okay.

So it sounds like it's safe to say you worked on domestic violent extremism cases --

A Oh, yeah.

Q -- during your time at the FBI?

A All the time. Yeah.

Q What percentage of your cases were --

A So my last 2 years, it was all -- it was exclusively DVE. So I would work very closely with the supervisor of CT2 on those cases. And then my two analysts, one at the BRIC and one at the Fusion Center, would also have heavy interaction with both the entities that they support as well as the CT2 supervisor.

Q Were there instances where cases would be classified under one category but given "domestic violent extremism" tags?

A So I know -- I have firsthand knowledge of that occurring. I can't give you the exact number that that happened.

Q Okay.

A But, if I may, I just want to back up a little bit --

Q Okay.

A -- to provide some context as to how that happens.

The Director, Director Wray, puts out weekly his weekly minutes. And so I don't know, ma'am, if you've had the opportunity to look at my resume, but I'm 13 years Marine Corps, 13 years Navy. So there's a thing in the military -- and I don't know if it's this way on Capitol Hill, but they call it commander's intent. So there's a tone that is set by the commander, and people respond to that.

So there was a tone that was set by Director Wray and Assistant Director Sanborn to identify opportunities where cases could be tagged as domestic terrorism threats.

So anyone in pursuit of a smoking gun email or directive, their time would be ill-spent.

Q And those were weekly calls?

A Weekly emails that would come out from the Director, yeah.

Q All right. I want to touch on some more of that later.

First, are you familiar with the letter of then-Ranking Member Jordan sent to FBI Director Wray on July 27, 2022, regarding protected whistleblower disclosures related to the FBI's handling of domestic violent extremism case classifications?

A I am familiar with it. I have read it. But if you're going to ask me specific questions about it, my memory is not that good.

Q That's okay.

I would now like to enter it into the record as exhibit No. 1.

[Hill Exhibit No. 1

Was marked for identification.]

BY [redacted]

Q The letter reads, in part, "New whistleblower disclosures made by multiple FBI employees from different field offices indicate that the Biden administration's

narrative may be misleading. We have received accusations that FBI agents are bolstering the number of cases of DVEs to satisfy their superiors. For example, one whistleblower explained that because agents are not finding enough DVE cases they are encouraged and incentivized to reclassify cases as DVE cases even though there's minimal circumstantial evidence to support the reclassification."

Are you aware of any instances at the FBI where an agent was encouraged to reclassify a case?

A Not specifically, no. Tagging, yes; reclassification, no.

Q So you're aware of instances where agents were encouraged to tag cases?

A Yes.

Q To be DVE?

A Yes, to tag them as DVE, yes. It's kind of, you know --

Mr. Foster. Can I clarify?

Do you mean tag as DVE even though there was insufficient reason in your view to do so?

Mr. Hill. Oh, yeah. Yes. Sorry.

BY [redacted]

Q That was what my next question was.

A But the whole DVE, the whole domestic terrorism/international terrorism construct is kind of awkward, because, for example, when does a red-blooded American who is planning to commit some sort of act of terrorism -- simply because they visit a Wahhabist website, does that make them under the control of a foreign terrorist organization, or are they still a domestic violent extremist? There's some subjectivity here in that construct that one could slip and fall down on.

And I can think of -- I don't remember the details of the case, and we're not

authorized to discuss cases in here anyway. But we had a case, a young man by the name of Faradels (ph), that they insisted was an international terrorist, and, you know, I think today we probably could've easily gotten him declared as a domestic violent extremist.

But, yeah, it's subjective, a lot of the times. And it can be shifted depending upon commander's intent.

Q Okay. So, in your professional opinion, you've seen cases be assigned tags that did not warrant those tags?

A Correct. And I have firsthand knowledge -- I don't know whether we want to get into it -- examples of that happening.

Q Yes, we would like to hear some of those examples, if you feel comfortable sharing them in this forum.

A So probably the most egregious and one of the things that pushed me over the edge was a tirade by Steve Jensen, who was at the time a section chief with the Domestic Terrorism Section.

And on these phone calls that took place beginning on January 7th -- it took place twice daily for a couple of weeks and then went to daily and then eventually went to weekly. But these calls took place over all 56 fusion centers, so -- and anybody could dial into that number.

Q And what were these calls related to?

A I'm sorry?

Q What were they related to, the topic?

A The January 6th events.

Q Right. Okay.

A So there were three individuals that Philadelphia was pushing back on

wanting to open up a case on. And they had done their due diligence. They had --

Q I'm sorry. Pushing back on who?

A Steve Jensen on this conference call with literally thousands of people listening.

Q So Steve Jensen was encouraging --

A I'm getting to that. Sorry.

Q No, that's okay.

A So, you know, this is a conversation that took place almost 2 years ago. But the Philadelphia office said, well, there's no evidence of any kind of, you know, violent leanings or insurrectionist leanings, to which Steve Jensen said, you know, I don't give a blank, they're goddamn terrorists and we're gonna round them all up.

And, you know, so it was that kind of narrative that was not so blatant. I sent that email in April, so 4 months later, so I think that Steve Jensen had pretty much run out of patience by that time. Prior to that, it was much more subtle to get these reclassified as DT cases.

So, essentially, they were case managing with people who were not FBI, from Seattle to Miami, from San Diego to Bangor, with this narrative.

And then there were other instances that I can speak of, when the committee here thinks it's appropriate, regarding things that actually happened in Boston that I was witness to. So you'll have to let me know when you want to go into those.

Q We'll get there. Do any of those instances deal with the reclassifications or --

A No. They have to deal with --

Q Just the tagging?

A No.

Q Okay.

A -- with "you will open up a case on these people."

Q Okay.

A Right.

Q Let me --

Mr. Foster. A criminal case.

Mr. Hill. Yes.

BY [redacted]

Q Okay.

Why do you think there was this, as you called it, commander's intent to push DVE tags? Was it done to bolster numbers or --

A So the TRP process, which is -- really, I mean, hopefully the committee plans on getting Dave Schlendorf in here to testify about the whole TRP process, the genesis of it and how it is so -- it is the construct that everything resides within.

So, when the threat review prioritization takes place at headquarters and they set the national threat priorities and the threat banning levels, that's driven not just by caseload but it's driven also by conversations that take place with our partners throughout the country when you're talking domestic issues, whether it be violent crime, innocent images, public corruption, domestic terrorism, and then our other intelligence community partners, you know, when you're talking matters of counterterrorism, you have the NCTC weighing in on that. So that all is done at headquarters.

But the IPM, by construct, is supposed to be responsive to what our partners are seeing. So, if our partners are seeing a big uptick in domestic violent extremists, then the TRP process needs to reflect that.

Q Uh-huh.

A So one can create that perception -- my MBA is in marketing, so excuse me if I get into that realm. But one has to create that perception, then, that if you want TRP to reflect a rise in domestic terrorism numbers, domestic violent extremist numbers, then you need to -- and I'm not saying this is done, because I don't have any proof of it, I don't sit with Director Wray or the Director of National Intelligence -- but then one would need to create the perception that these cases are all over the country and in numbers that the TRP needs to reflect some sort of mitigation plan attached to it.

Q Okay. I want to ask you some more about that.

First I'd like to enter into the record an October 21, 2022, letter from the FBI to then-Ranking Member Jordan as exhibit No. 2.

[Hill Exhibit No. 2

Was marked for identification.]

BY [redacted]

Q And this letter talks a bit about the TRP process.

A Uh-huh.

Q I won't read it in full, but I'll read an excerpt.

"The FBI uses the Threat Review and Prioritization process as a standardized method for reviewing and prioritizing threats within operational programs to inform threat strategies, mitigation plans, and resource allocation. Headquarters operational divisions use the TRP process to uniformly define threat issues for the organization, determine their prioritization at the national level, establish FBI National Threat Priorities, and develop national threat strategies for those threats to the FBI enterprise. Field Offices then consider the results of the national-level TRP process to prioritize threat issues and create threat strategies to mitigate threats based on the threat landscape of their specific areas of responsibility."

According to the FBI, it conducts the TRP process to prioritize threat issues and create threat strategies on a biennial basis. However, the TRP process may be conducted annually at the discretion of the field office or a headquarters operational division head.

Was that true during your tenure at the FBI?

A Yes, it was true then. And to the best of my knowledge, speaking with friends that are still with the Bureau, that remains the case, yes.

Q Do you know if, as part of the TRP process, headquarters operational divisions develop national threat strategies for each threat issue?

A Well, they -- yeah, they do.

Q Okay.

A But, you know, for example -- so, like, when they do the TRP process, there are just some things that are -- like, this is the FBI term, not my term, but there are offices that have programs called Indian Country, where the FBI has investigative authority to go onto Native American reservations.

Obviously, that's going to be on the TRP. And, you know, there's just basically a line through it for Boston. So sometimes it just doesn't pertain to you. So it rolls out nationally, you know.

So, like --

Q Yeah.

A -- this is funny point. I mean, Boston had the last IRA case, Irish Republican Army case, in the country. Other offices aren't getting IRA cases.

Q So, then, these national threat strategies guide the FBI-wide mitigation efforts?

A Yes.

Q Okay. Can you help us understand a bit how that works in practice?

A Sure.

So this rolls out from headquarters, the TRP. And the IPC, the intelligence program manager, who is an O132, will set up meetings with each ASAC responsible for the program that that falls within.

So, in Boston, one ASAC had both counterintelligence as well as cyber. Then there was a CT ASAC, who had the whole gambit, from domestic terrorism to international terrorism. And then they had the criminal ASACs. I did not participate in those criminal programs, other than what little sight I had on it at the HIDTA.

So those meetings would be held. So everyone would sit down in a conference room probably about the size of this, maybe a little bigger, and they would have the documents in front of them. And they would, you know, give everyone a chance to say, you know, headquarters rates this threat as a, you know, level 4. And I don't remember -- sorry, it's been 2 years since I looked at them, so I don't want to wing it and give wrong information. But they would give it a ranking. And so -- on a national scale.

So then we would say, well, what is it in this office? You know, because clearly there are some issues, like I said, that relate more closely to other offices, say, San Antonio, than they would to Boston. And, okay, in this office, it's only down at number three.

Okay. So what steps do we need to mitigate those? And that's where the FOS, the field office strategic plan, comes into place. You know, how much time and effort and agents, analysts, are we going to spend towards this? And, you know, so what steps are we going to take to mitigate it?

And it was all heuristic, meaning rule of thumb. It was, like, eh, I think we need two finished products and a couple human sources and maybe a Title III and a FISA, you

know, depending on the program, and everybody think that's good? And everybody nods this way.

And it's intentionally low-balled, because at the end of the year or during the course of the year, you know, if you're exceeding those metrics, say, I'm going to write 50 intelligence IIRs, information -- IIR -- what is an IIR? Anyhow, an IIR is an unfinished intelligence product, meaning there's no analysis to it, it's just the facts, it's just a Joe Friday -- I'm going to write 50 IIRs regarding Iranian cyber activity, knowing that I want to get 75, I'm winning.

Q All right.

So did these national threat strategies identify a targeted number of cases under each category that the division sought to open or pursue?

A No. No.

Q Okay.

A No. It was always about the overarching threat and then the steps to mitigate it. Those were the only thing that was part of the TRP process.

Now, the program review manager, which sits in the Intelligence Directorate, has a lot of sway over that.

Q Okay.

A So they would interact with the SSA, the supervisory special agent, saying, you know, we're seeing this level of activity, you know. And there would be a dialog going back and forth, maybe an email, that we want to see, you know, more cases on this, you know. And the SSA might say, well, we don't have predication, or we disagree with the level of activity you're seeing from, you know, international terrorist organizations or domestic terrorist organizations. So there's a dialog that goes back and forth.

So, yes, there is a discussion that takes place between the Intelligence Directorate,

the program manager within the Intelligence Directorate, and the SSA responsible for whether it's international terrorism or domestic terrorism.

Q Okay.

We have learned that the FBI dispenses awards and promotions based upon whether a supervisor hits a specified number of investigations or cases in certain categories.

A Right. So that's all part of the field office health measures.

Q And so you're aware of this system?

A Oh, yeah. Yeah.

Q And the field office health measures, are those separate and distinct from the FOS, the field office strategic --

A They're divided from the FOS, to some degree, yes.

Q Okay.

A Because it encompasses other things, like how many people participated in the employee survey, interactions with State and local partners. There's a whole bunch of measures that are hard to quantify, that are more qualitative measures. But that would be one that could be measured in a quantifiable manner.

Q And how is that system related to the TRP process?

A It is not. It's more related to the SAC's bonus process, the field health measures are.

Q The field health measures --

A Yes.

Q -- are related to the SAC's bonus.

A Structure, yes.

Q Okay.

[redacted] You want to defer to Mr. Gaetz?

Mr. Gaetz. I'm going to jump in for a moment here, sir. My name is Matt Gaetz. I'm a majority member of the House Judiciary Committee.

Is it your testimony today that the threat review prioritization process was improperly manipulated?

Mr. Hill. It's flawed from its inception. And let me explain why I say that, because I think it has to be qualified.

I think most of the people in this room are lawyers. I had a short period of time, in between wars, in the private sector. During that time, I became an ISO 9000 certified auditor, which is the gold standard for performance metrics.

The entire TRP process has no foundation. It's -- if you can create a narrative that feeds the TRP process, then there's no foundation for it. It is a construct out of whole cloth, out of thin air.

Mr. Gaetz. And does that lack of a foundation make the TRP process more susceptible to the subjectivity that you testified to?

Mr. Hill. Oh, 100 percent.

Mr. Gaetz. Would you describe it as highly subjective?

Mr. Hill. That's a good adjective. If I could think of one stronger, I would, but not right now.

Mr. Gaetz. In the follow-on to January 6th, do you believe that the perceived threat was enhanced in order to justify higher prioritization of January 6th-styled cases?

Mr. Hill. Look, I'm going to answer that question, but I need to precede it with the following, because I had direct observation.

The number of CT cases for international terrorism started to decline almost in a linear fashion with the level of activity in Iraq, the implementation of the TSA, the

hardening of aircraft cockpits. CT cases based on international terrorist organizations were largely driven by the rise of ISIS and their presence on the internet, to the point where there were discussions in the TRP process whether or not to reduce the staffing on the squads that handle international terrorism.

There were over 385,000 violent crimes in the United States in 2022 -- 2021. There was no discussion about enhancing the effort there.

So, when we got into these discussions in terms of resources, where they could be shifted, the discussion was domestic terrorism, to the point where, in Boston, during the process of carving out a separate squad, the domestic terrorism squad also handles special operations like DOD explosive ordnance disposal, some other things, and creating a whole new squad for that just so they can focus on domestic terrorism.

Did that answer your question, sir?

Mr. Gaetz. Other witnesses have told us that resources that were outward-focused, looking at terrorism abroad, were, during this time period, shifted for an inward focus. Did you observe that as well?

Mr. Hill. Yeah. I had direct observation of that, from international terrorism to domestic terrorism, at a time -- which would have made sense, because international terrorism has been declining for the last 5 years. But there are other instances, like violent crime, over -- the CDC records, over 100,000 overdose deaths -- there was no redirecting of resources to that.

Mr. Gaetz. Understand.

So, as you observed the threat level abroad lowering --

Mr. Hill. Yes.

Mr. Gaetz. -- and as you observed violent crime in the United States on the rise, did you ever assess the propriety of realigning those previously outward-facing resources

to domestic violent extremism rather than to the violent crime?

Mr. Hill. If I -- I hope -- I want to try to get your question right, because, like I said before when I came here, I want to be helpful. So if I get it wrong, please correct me.

The drop in international terrorism cases should have freed up resources to address the rise in other areas that the FBI is chartered for -- violent crime, gangs, drugs, those things. Instead, those freed resources were moved towards domestic violent extremism.

Does that answer your question, sir?

Mr. Gaetz. And did you assess the propriety of that?

Mr. Hill. In the TRP process, to the SAC and the ASACs and the people seated there, yes.

Mr. Gaetz. So you -- well, I mean, I guess --

Mr. Hill. Because I'm allowed to participate in the TRP process.

Mr. Gaetz. Sure.

Mr. Hill. So I would argue that, because it -- I'm going to botch the word -- it's an iterative process where we discuss, you know, things that are going on, it's supposed to be, you know, a forum where we can have those discussions in terms of shifting of resources.

So, yes, I did raise it during the TRP meetings for years, even before the events of January 6th, and we were seeing declines in other areas and not a shifting of resources into areas where it's increasing.

Mr. Gaetz. Why did that not occur? Why did the shifting of resources not append to the rise in violent crime rather than to the subjective perception of domestic violence extremism?

Mr. Hill. I could only give my opinion on that. I can't give a conversation or present a document to answer that question. If you want my opinion, I can give it. If not --

Mr. Gaetz. Well, you were a part of this process.

Mr. Hill. Yes, sir.

Mr. Gaetz. So I'm trying to understand, as you're observing this TRP process serve this subjective narrative about domestic violent extremism --

Mr. Hill. Right.

Mr. Gaetz. -- rather than serve a need in the actual data for rising violent crime, did you come to any conclusions in your own mind about why that process was serving the subjective narrative rather than the objective rise in domestic violent crime?

Mr. Hill. Right. It was unsupported, the shift that they made, based on the evidence that one would normally look at during the TRP process. So the only thing I could conclude was one of two things: It was either leadership failure, or it was in pursuit of commander's intent, which was, we need more DV cases.

Mr. Gaetz. And it's your testimony today that you believe that Director Wray's weekly minutes that he put out facilitated servicing the subjective narrative around domestic violent extremism rather than resourcing law enforcement assets to address violent crime.

Mr. Hill. Yes, sir. It's pretty clear on his weekly email that he sent out. One doesn't have to be Carnac to interpret his meetings, minute meetings -- or meeting minutes.

Mr. Gaetz. So you described this prioritization process, which I'm sure a lot of Americans want the FBI to get right because we do have limited resources and we have to apply them to the threat. And you described the circumstance where, because of these

minutes from Director Wray and because of this commander's intent, you're seeing resources improperly applied during that TRP process.

Have you ever seen that before in your career? Have you ever seen subjective narrative capture the TRP process in the way you're describing?

Mr. Hill. Oh, no. No. Absolutely. It was always evidence-based, evidence-driven.

Mr. Gaetz. And this is the first time you felt as though there was a departure from an evidence-, data-driven approach to the allocation of these --

Mr. Hill. That's my observation.

The TRP process didn't come into -- and I'm sure Mr. Schlendorf would be able to correct the record here, but I believe it was either 2012 or 2013 the TRP process came into effect. Prior to that, it was called the SAPR, semi-annual program review. And that was something that Director Mueller had kicked off, trying to emulate what Bernie Kerik and Mayor Rudy Giuliani were doing in New York.

Mr. Gaetz. So this unprecedented change in the TRP process that you had not seen before, where we were captive to narrative rather than data, do you believe that that resulted in enhanced DVE tags on cases that agents were working across the country?

Mr. Hill. I think that's a fair assessment, but I would -- using my FBI disciplinary process, I would say -- I would assess with low confidence that that's the case, because I think you need more witnesses and more testimony.

But I would not make that an intelligence gap and say I don't have information to make that assessment. I would say that there's enough information out there to pursue further investigation that, yes, sir, that is the case.

Mr. Gaetz. I want to go back to these calls that began on January 7th with Steve

Jensen. You mentioned that there were thousands of people on these calls. Do I --

Mr. Hill. I'm just doing that by mathematically. I don't know for a fact how many people were on these calls. But there are 56 fusion centers, and in those fusion centers -- and they vary in size. In my particular case, we probably had 10 people in between the fusion center and the BRIC, the Boston Regional Intelligence Center. But you get into places like California and New York, you have hundreds. And --

Mr. Gaetz. So thousands were invited. Is that right?

Mr. Hill. Thousands were invited, right. So --

Mr. Gaetz. And, yeah, I don't expect you to know precisely at this moment how many participated, but --

Mr. Hill. Right.

Mr. Gaetz. -- safe to say a large number from across the country, right?

Mr. Hill. Yes, sir. Thousands.

Mr. Gaetz. And how many of these calls do you think you participated in, ballpark?

Mr. Hill. I sat through them for months. So I finally had reached my limit with Jensen's outburst in April. So they started, I believe, on January 7th, these calls. And they were twice daily for almost 2 weeks -- almost 10 days. And then they went to daily, and then they went to, like, later on, like 6 months out, weekly.

So these were nationwide calls that anybody could dial in if they had that number, and you were automatically muted. That's how they set up the -- so it was -- you know, unless the person conducting the call unmuted you.

So, the instance with the Philadelphia office, you know, when Steve Jensen was essentially telling them, "You're going to open up these three individuals as cases," they could decide if they were going to unmute your microphone.

Mr. Gaetz. So I want to get a good sense -- and we may have to come back to this in the next majority hour, but I want to get a good sense of the types of things that happened on those calls.

So one thing you identified is the direct ordering of opening up cases. Were tags discussed specifically and --

Mr. Hill. Yeah. So that usually would fall under kind of, like, the warm-up act, which was Timothy Thibault. He would kind of set the tone for the call. And --

Mr. Gaetz. And what was that tone?

Mr. Hill. I learned early on in my military career, only panic when human life is at stake, and when human life is at stake, don't panic.

I would characterize Mr. Thibault's tone, sometimes bordering on hysterical. He's speaking to thousands of people, using the bullhorn that is the FBI and its reputation, to drive the narrative that our democracy almost ended on January 6th.

Which would then lead into: We're working with these people, we're working with Silicon Valley, we're working with other law enforcement partners, we're looking at maybe past foreign influence, you know, these are the kinds of things we're doing.

Which is not uncommon for an FBI briefing to have. I would do the same thing on the quarterly JTTF meetings in Boston. Because you want to know -- people need to know what it is you're doing to mitigate it. But it was the hyperbolic manner on a daily basis that he went through this --

Mr. Gaetz. Had you ever observed that type of a tone before on this type of a call?

Mr. Hill. No, never, any kind of call. I mean, it's just not what an intelligence or a law enforcement professional does. You want to engender trust, and the way to engender trust is to convey that you're in control of this situation as opposed to reacting.

Mr. Gaetz. So the calls would start with Mr. Thibault.

Mr. Hill. Right.

Mr. Gaetz. And you would view that as sort of a hysterical --

Mr. Hill. The warm-up.

Mr. Gaetz. -- warm-up. And then what would happen next?

Mr. Hill. And then Steve Jensen would get in and talk about details, what we're seeing in each field office, you know, what they're getting from Capitol Hill Police, so more operationally driven.

[11:01 a.m.]

Mr. Gaetz. Did that include discussion of tags and how to use these DVE --

Mr. Hill. That was usually Steve Jensen's -- not Steve Jensen's. I'm sorry. Thibault's role.

Mr. Gaetz. But did they encourage the use of DVE tags in this case?

Mr. Hill. Yeah, absolutely.

Mr. Gaetz. And was Ms. Sanborn ever a participant --

Mr. Hill. No. I never heard her on the calls.

Mr. Gaetz. Do you know if the calls were ever recorded?

Mr. Hill. I don't know.

Mr. Jordan. You said twice a day for 10 days, once a day for months. How long total?

Mr. Hill. So I'm going by memory, so -- and I know this is sworn testimony -- but to the best of my recollection, yeah, 10 days, twice a day, and then once a day for -- I'd say almost at least until June of that year. So at least six months.

And it was very odd, too, because when the FBI switched over to the new Microsoft Office suite of products, they have this product called OneNote. And for over a week, WFO had a OneNote up there that anybody with access to the FBI UNet system, the unclassified system, could go in and just put in a name for further scrutiny. Highly unusual and kind of -- it was just unusual that they would do that.

Mr. Gaetz. Had you seen that practice before?

Mr. Hill. No, I never saw that before.

Mr. Gaetz. What do you think caused that?

Mr. Hill. I think the hysteria. I really do. I mean, if you're in command, which

Timothy Thibault was -- if I had a commanding officer, a head of a military operation, come out with that level of -- I want to choose the right word, and I don't want to be hyperbolic -- but that level of excitement, it would not engender my trust in their leadership going into that maybe hostile environment.

Mr. Gaetz. I mean, you've been in the military for decades, at NSA, at FBI. As you were observing the leadership cast this vision, engage in this hysteria, did you do that as best law enforcement practice, or did you do that as a deviation from best law enforcement practice?

Mr. Hill. That is as far deviation as one can get. We used to have a saying in the Marine Corps that he or she would not follow that individual out of curiosity to see what they would do next.

Mr. Gaetz. I think that's a good spot for us to maybe hand it to the minority.

[redacted] I'm going to ask just a couple questions.

Mr. Gaetz. Sure.

BY [redacted]

Q So these calls, that started on January 7th?

A Yes. To the best of my recollection, it was the day after.

Q And it involved the whole country?

A Yes.

Q And it seems to me -- and correct me if I'm wrong -- that the entire FBI, the whole country that is represented on these calls, is asked to put things on hold and focus on the events of January 6th?

A Absolutely. That was crystal clear that this is on the scale of 9/11, Pearl Harbor, all hands on deck, everybody grab the rope and pull in the same direction.

Q So the long list of other cases that all the field offices are busy working are essentially put on hold to deal with the events of January 6th?

A That's fair.

Q So drug cases? Gang cases?

A Yeah, I'm not saying they stopped. But like I said, the commander's intent was J6 domestic violent extremists. That's where the focus needs to be.

You said gang cases and drug cases. I just want to deviate for just a second. That is the one portion of the FBI that has stayed ideologically pure to the FBI's mission. And this is based on direct observation. They don't get sucked up into the vortex because they're dealing with some of the worst people on Earth, and they know where the threat is. And they deal with them on a daily basis, and they take some degree of risk.

Q Based on your experience, what types of cases did take a back seat to pursuing these January 6th matters?

A I can't say because I was directly involved with these matters, so I couldn't see where assets were pulled. In my conversations with the domestic terrorism squad's supervisor, I do know that he had offers of help from other agents, but there was nobody being pushed on him and on that squad to work DT cases.

So, like, after the bomb went off on Boylston Street, everybody was working the marathon bombing. That was not the case for January 6th. Not in the Boston office. I can't speak to the other field offices.

[redacted] Okay. I think our time is up.

[redacted] It is.

[redacted] Thank you.

[redacted] We'll let the minority question you for an hour.

Mr. Hill. Okay.

[redacted] Would you like a break?

Mr. Hill. I'm fine. I mean, everybody in here is probably a lot more busy than I am.

[redacted] Okay. We're going to go off the record.

[Recess.]

[redacted] We can go back on the record. It's 11:18 in the morning.

EXAMINATION

BY [redacted]

Q Again, I'm [redacted] I'm the Democrats' chief oversight counsel. And thank you, again, for joining us today.

I want to go back to one thing you mentioned because I think I might have misheard you. When did you retire from the FBI?

A My official retirement date was October 1st of 20- -- this is 2022, so -- I was

there for 10 years. I got there in 2010, April 2010. I was there for a little bit over 10 years. So I guess it would be October 1st of 2021, my official retirement date, yeah.

Q And when you say "official," was there some date before that where you stopped working with the FBI?

A No. No. I mean, I took a lot of leave to burn that up in between. But yeah.

Q Okay. Thank you.

And taking another step back, you talked through your background briefly. I don't know if we ever got to your education. Can you talk through your educational history? Where did you go to school? I know you said you were in the Marine Corps?

A Sure. So let's see. I had just come back from Japan and decided to go and get my bachelor's degree, and that would have been 1984, I think, 1984. So I have a bachelor's -- BSBA, bachelor's of science in business administration with a concentration in finance.

Q Okay.

A And I graduated from East Carolina in May of 1990 even though I had got out of the Marine Corps in November of 1989 because I couldn't meet the reenlistment criteria because I was a single parent.

Q Okay. And I know you said you have an MBA. From --

A Yes. Drexel.

Q And when did you receive that?

A 1996.

Q Okay. Do you have any other degrees?

A No. No. I was thinking of maybe going back for a doctorate. Instead, I got certified as a scuba instructor. It seemed more fun.

Q Maybe that counts as a degree.

Okay. And no degrees in, like, national security studies or anything like that?

A No. No. But I do teach a master's program in homeland security studies. So my students are all master's candidates.

Q You mentioned very early on in the interview Peter Strzok.

A Yes.

Q Did you ever meet Mr. Strzok?

A No, I never did.

Q Did you ever meet Lisa Page?

A No.

Q Did you ever -- were you ever based in Washington, D.C., with your work with the FBI?

A No. I visited numerous times because I was there for either training or conferences or things of that nature, maybe meeting with other law enforcement partners -- I'm sorry -- intelligence community partners. But, no, I never actually went there and clocked in each day and went to work.

Q Okay. And you never based out of the headquarters here?

A No, never.

Q Okay. Did you ever work on Crossfire Hurricane?

A No. Not worked on it, no. I was familiar with it. I read Inspector Horowitz's review of it, which is over 400 pages, which is great if you can't get to sleep.

Q But you never -- you didn't personally work on the case?

A No, no.

Q Did you ever work on Crossfire Razor?

A No.

Q Did you ever do any work on the Midyear Exam investigation?

A I did not. Again, I read all the IG reports on all of those.

Q We talked a little bit about threat tags earlier. Can you just clarify, how does the FBI use threat tags, in your experience?

A So hopefully everybody understands, like, threat tags. So how Sentinel works. But it's just -- we're not talking, like, paper case files. It's just an electronic means of putting, you know, like a Post-It note on something. But it's just, like, you just hit a bubble, and it fills out, you know, domestic terrorism.

So the IPC, the intelligence program coordinator, who is almost always an 0132 GS-14 supervisory intelligence analyst, rolls up those numbers almost quarterly -- I'm sorry -- monthly as to how many cases we've had, how many have been closed, how many have been reclassified, how many have multiple tags and things of that nature.

And as I said in testimony earlier, any time an agent or an analyst is given the opportunity to show cross-programmatic coordination going on is a big plus for the health measure for the office.

Q Is it kind of fair to say that they're used to help gather statistics? Would that be a fair --

A Well, there are statistics. Yes. Yeah. Yeah, absolutely.

Q Okay. And are tags placed on cases, or are they placed on individual people?

A No. They're on cases.

Q Okay.

A Now, those cases, though, are tied to people. Somebody owns it.

Q When you say "somebody owns it," you mean agents?

A Some agent owns it, yeah.

So an analyst, an FBI analyst, cannot open up an investigative case.

Q Okay.

A They can populate it, which they do voluminously, especially, like, in instances like the Boston Marathon bombing, but they do not open cases.

Q You talked about a call that set you off.

A Yes.

Q Can you provide a little more information about that. For example, do you recall what day that was?

A I don't. It was April. Let me see if I have it, if I wrote it down here. Because I sent an email to my own personal account to basically say don't forget this guide.

Jeez. I am so, so sorry. I mean, obviously, I don't have my laptop here. But it was in April of 2021.

Q Do you recall if it was in the morning or the afternoon or what time it was?

A That I sent the email?

Q No, that you were on this call.

A They're always in the morning.

Q Okay.

A Well, there's afternoon calls, which were usually shorter. But by April, we had moved to just one call a day, if not one call a week.

Again, it's a while ago. I don't recall if four months down the road we were at one call a week or one call a month. I would say that it's probably one call a month. I'm sorry. I'm sorry. One call a week at that time.

Q Okay. And can you describe the circumstances that you yourself happened to be on this call?

A It's my job.

Q Were there -- can you talk about that a little bit more? When you say it was your job, was your job to be on these calls?

A So as a supervisor, my number one responsibility -- not my responsibility, but the thing that I think that I personally embrace as a supervisor is, are my analysts making -- it was pretty easy in this case because I was only working with one SSA. Well, actually two. But in terms of DT, just one SSA.

My primary concern at all times was, are my analysts putting a smile on this person's face? Are they doing the kinds of things that they want to help make them successful? So -- I'm so sorry. I lost track of my -- your question.

Q So I was asking how you -- you said it was your job to be on the --

A Oh, why I was on the call. Sure. Yeah. So I want to make sure -- the only way I can do that -- I can't do that by being locked away in my office doing something else. I need to know what the atmosphere is like. And after January 6th, it was Thibault and Jensen who were controlling that atmosphere. So I needed to know firsthand where their -- in this particular case, they were kind of like the commander. So I had to know what their intent was because my SSA that my analysts supported, even though they weren't interacting directly with Thibault and Jensen, they were interacting with people that work for those gentlemen.

So my goal is to make sure that my analysts are responsive to the SSA, who in turn can be responsive to WFO, Washington Field Office.

So you can't do -- one cannot do that by doing something else. So even though I had the HIDTA, the High Intensity Drug Trafficking Area -- I don't want to use too many acronyms so the people are like, you know, what are you talking about?

So even though I had dual responsibility of the HIDTA, you know, HIDTA business

can just wait until that daily phone call or weekly phone call by that time is over so that I don't -- I don't want to get secondhand from one of my analysts what a section chief said. I don't. I want to hear what that person said, where their mind is at, where they're driving towards, so that I can respond to it and meet their expectations.

Q Did anybody instruct you to join these calls or order you to join the calls?

A No, no. It's just the job. I mean, yeah.

Q And were there others from your office on the call? I know you said there were thousands of people.

A Sure. So I had an IA that would participate --

Q I'm sorry. Can you define IA?

A Intelligence analyst. I'm sorry. I just got through saying I'm not going to use all these acronyms.

My intelligence analyst. So they're a 0132 job series. I had one in the BRIC, the Boston Regional Intelligence Center, and another one in the Commonwealth Fusion Center. So two IAs.

And then usually on those calls would be maybe somebody from the BRIC sitting with the IA out there. You know, one or two people from the BRIC depending on their time and availability. And there would be somebody, one or two individuals, from the Commonwealth Fusion Center sitting with the IA on that call.

Q And did that IA, the intelligence analyst, did that person report up to you?

A Yes.

Q And was there anybody who you reported to also on that call directly?

A I didn't report to anybody on the call. My boss, who did not participate in the calls because he has the entire intelligence program -- I had given his name in testimony before, but he's an SSIA, supervisory -- senior supervisory intelligence analyst.

Q And he did not participate on the call?

A I've never -- I've never discussed -- you know, I've never heard him -- I discussed the call -- I briefed him on the calls. He never briefed back to me. So I'm just assuming, for all the danger that that incurs, assuming that he participated in the calls.

Q Okay.

A You don't really participate unless they want you to participate. You basically sit and listen.

Q Okay. You made a comment about case numbers or report numbers, I guess, and you said if you are exceeding your numbers, you get bonuses. Do you recall that?

A No. The only person who gets a bonus is the senior executive. So the only person who is going to get a cash bonus would be the SAC, the supervisor agent in charge of the office. So that's the number one person in most field offices. New York, Los Angeles have SACs, plural, and then they also have ADICs, assistant director in charge, which is senior to an SAC.

Q And can you talk about how you know about the bonus structure? You were not an SAC, correct?

A I know of the bonus structure. It was common knowledge. People speculate as to what that amount is. The SAC has jokened about it. I've had, I don't know, four or five SACs in my time in Boston, and they would joke about their bonuses, I mean. So it was -- it's common knowledge. I'm not speculating. It exists.

Q Did you ever ask anybody what the structure was for the bonuses for the SACs?

A How they get it? It's -- I know that based on -- it's usually done in a jocular manner because it's kind of awkward that the SESs get bonuses. I don't find it awkward.

I think if you are the senior executive in charge of a 400-person field office, I think there should be some sort of recognition of superior performance.

But it's largely derived from the field office health measure and the TRP numbers at the end of the year.

Q And, again, your source for -- how do you know that it's based on the field health --

A From the SAC who gets it.

Q And I'm sorry. Sorry to be -- but the SAC, can you -- did an SAC tell you that?

A They would joke about it in public, make light of it.

I don't know what your optic is on the FBI, but it's not like military. I mean, we joke, and we talk, and we talk about families and things of that nature. And it's not uncommon for an SAC to say, "Oh, I need to" -- just joking around. Like, "Yeah, we need to get those numbers up," or whatever. Yeah. So it's common knowledge.

Q Can you describe a particular time when an SAC might have made a joke about that to you?

A Sure. During the TRP process.

Q When was that?

A We do it every year.

Q Sorry. Could you possibly provide a date for that?

A I don't know when the TRP process is. It's an iterative process that takes place over a period of weeks. I'd have to go back and look at my FBI calendars. But they're unavailable to me.

Q Okay. You referenced -- I think you said a number of violent crime. I think it might have been upwards of 300,000. Do you recall that?

A I think I said 385- or something like that. 385,000. So that's from the Uniform Crime data from the FBI's own website.

Q When did you learn that?

A I looked at before coming in here to make sure I didn't speak out of turn.

Q But that wasn't something you learned when you were on the -- when you were working in the FBI field office?

A I kept abreast of all those numbers.

Q Do you recall the numbers from when you were with the FBI field office?

A No, I do not. No, I do not. Because -- I'll give you another example. One of the things that I argued for -- obviously I'm not an unbiased advocate, but I wanted more resources towards counterintelligence.

So I kept abreast of all -- I argued that we should see less resources in international terrorism.

So you manage numbers. You lead people. In order to lead people, I need to understand the numbers, and I need to manage those numbers.

Q Can you explain a little bit more about what you mean by that?

A I can't move resources and motivate people to do their jobs unless I understand what it is that I'm asking them to do.

So here's George's formula for a happy employee. Do you have the right amount of work? And by that, I mean not too much, not too little. Not so much that you're overwhelmed and not too little that you're bored and finding other things to do that are not directed towards the mission. And is the work that you have intellectually challenging? And that formula has served me well for over four decades in leadership positions.

And so in order to make sure that a person has enough work, I need to understand

the numbers. In order to ensure that a person has intellectually challenging work, they need to be in the right program.

I'll give you an example. I had an intelligence analyst, West Point graduate, practiced law in the city of Chicago. First name Chris. Could do international terrorism in his sleep. Total waste of an intellectual giant.

And it took me -- because you can, if you want to, but I don't think it's a good way to operate. It took me a couple years to move him into counterintelligence. And the first year of him being in counterintelligence was brutally painful for him, me, and the supervisor.

But once he got his feet under him -- because it's far more complex in terrorism matters -- he became a giant at that. And his happiness increased. His desire to stay, to just be an FBI employee and do his job, increased.

But you've got to find that happy -- I know I'm just giving you my opinion. So tell me to shut up if I'm going on too -- but you got to find that happy place for people in order for them to do their job.

It's not that I'm a warm and fuzzy guy. I'm an ex-jarhead. But happy people tend to do their jobs better. And in order to get to that point, you need to identify the right intellect for that job and predilection, and understand the amount of work that's coming in there.

In Chris' case, I had a superior intellect with a dwindling amount of work. It's just a formula for trouble. Next thing I know, I would have had him on a performance improvement plan.

Q You mentioned that you argued for more resources for counterterrorism?

A Counterintelligence.

Q Counterintelligence. I'm sorry. Counterintelligence.

Who did you make that argument to?

A So I made that in the TRP process, and I would make it in performance reviews with my boss. I was a broken record. Anybody who would listen to me.

Q Do you recall if anybody responded to you?

A Yeah, no.

Q In the moment -- so, for example, in a performance review, if you delivered your opinion --

A Right.

Q -- nobody responded to you in that situation?

A Look, I don't want to give you or anybody else the impression that I was not listened to. That is not the case. But they have their jobs. So my SSIA has his job, and he reports to the DSAC who has his job, and they have to strike a balance, you know.

So I think any good supervisor, if they see a disparity between the threats coming in and the amount of resources directed towards those threats, has a moral obligation to raise those concerns to their superiors.

Q And were you ever in the room when the actual resource allocations were made?

A Yes, I was, multiple times throughout 10 years, where people were moved around.

Q So you were part of the discussions on how many agents, for example, would be assigned to a particular --

A Not agents. Analyst intel was my lane. I was not involved, privy to, probably not even -- maybe secondhand information, somebody venting their spleen to me about maybe losing an agent or gaining an agent. But I was never -- it just wasn't my lane.

Q I think earlier there was a question about why shifting of resources did or did not occur, and you said you can only give my opinion. Do you recall that?

A Yes.

Q And why is it that you can only give your opinion?

A Because I don't have firsthand knowledge of discussions that took place.

Q Around the shifting of resources?

A Yes.

Q And who would have had those conversations?

A So what are we talking about here? I want to make sure I answer your -- again, staying with my overarching goal, I want to be helpful, I want to be clear. What is it that you want to -- where are you going? Because I want to answer your question to the best of my ability.

Q Sure. So there was a question about -- I think there was a comment that the drop in certain terrorism cases should have freed up resources to focus on other areas.

A Right. So the drop in international terrorism cases should have freed up agents from the international terrorism squads to go wherever the stronger argument existed to have those agents.

Q And do you believe that occurred?

A No. I do not believe that occurred because the size of the international terrorist squads was the same as when I arrived at Boston as it was when I left.

My opinion is, because I'm not -- no one ever said this to me, so I'm just giving you my opinion -- my opinion is, is people are -- rightly so -- concerned about another 9/11-sized attack on the United States. And that's why people are reticent to pull resources from international terrorism squads and move them anywhere.

Q But you were never in the room when the decisions were made about whether to pull agents and move them or not?

A I don't want my conversations with supervisory special agents overriding my memory of firsthand knowledge. So that's why I'm pausing. I don't think I was ever firsthand knowledge privy to those discussions.

Q Okay. Thank you. We can move on.

We talked a little bit about the TRP process.

A Yes.

Q And you said that you were a part of the TRP process.

Can you explain a little bit more what you mean by part of the TRP process? Were you ever part of the process for determining what the TRP should be?

A So the answer is yes. So when the TRP comes from the intelligence directorate, the intelligence program coordinator will take that. And they print out documents from the IBM tool, an integrative program management tool. And then we all just meet in a room. And we have the criteria attached to the tables with each threat. So the criteria for the ranking and the steps to mitigate.

It's been over two years since I've sat in a room, but I've done multiple of those beginning in -- I think I said it before. I don't remember if it was 2012 or 2013 that that process started.

So let's just go on the low side. So between 2013 and my time of retirement, I participated in -- they were every other year, but you still have to do your FOSP, your field office strategic plan.

So I participated in those for at least seven years, just talking about the FOSP, on mitigation efforts. But that is part of your -- almost your daily routine, making sure that you are moving towards the steps that you articulated at the beginning of the fiscal year

to mitigate the threat.

So even though the meetings take place for the FOSP every year and for the TRP every other year, there are discussions that take place regarding the FOSP and the TRP.

A week never goes by where you're not discussing either with the intelligence program coordinator or my own boss or the supervisory special agent, a week never goes by that you're not looking at, "Hey, this is what I said we were going -- this is what we said we were going to do. Are we doing what we said we were going to do?"

Q You said just now that you would get the criteria. Were you ever part of the discussion about how to set the criteria?

A So there is latitude. So the criteria comes from the director of intelligence. And then there is a mechanism -- so say, for example, the director of intelligence says that -- what do they call them? -- environmental activists are a tier three, let's just say. I'm just picking out things for purposes of this discussion.

So say they say that environmental activists are a tier three and they pose a threat at that level. Well, that might not be the case for Maine if they're putting in a new power line. So we can go back to headquarters and say, we want to -- we discuss it in quorum like this where everybody is together, and we say we want to raise it from a three to a two. So there's a mechanism for that.

So it may come down from headquarters as such, but we have the mechanism to say, "No, it's not a three. It's a two." Or, "No, it's not a two. It's a three. We don't have that kind of activity here in Boston."

We have a little bit of it for, like I said, Irish Republican Army. That might show -- it wouldn't, but I'm just using an example -- it shows up on the Tulsa Field Office that we don't have any IRA people here.

Q You mentioned the need for an evidence- or data-driven approach. In your

opinion, should the TRP process be driven -- or should threats be prioritized based on the number of cases?

A So that would be -- go back to kind of -- that would be more representative of the SAPR, the semiannual program review, that Director Mueller had.

Since you asked me for my opinion, I'll give it. The TRP creates a mechanism of collection without the need to open cases. So we're talking about "Minority Report" levels of law enforcement. And my opinion is, is that the TRP process is only there to support the intelligence program, not so much the investigative effort.

Q And in your opinion -- you mentioned the SAPR process --

A Yes.

Q -- which is more driven by --

A Cases, yes.

Q -- case numbers. Do you have a belief between which one -- in your opinion -- which one was the superior process, the superior method?

A The SAPR process was more reminiscent of law enforcement activity opening up cases based on predication, whereas the TRP process is built on a more amorphous, these are things that are happening, and some people might do those things, so therefore we need to allocate these resources to address these things that people might do. And that probably makes no sense at all, so I'm ready for your follow-on question.

Q I'm just wondering if you have an opinion as to which method -- which is a superior method.

A I think the SAPR is more representative of what a law enforcement agency should be doing, and I think that the -- I would assess that the TRP process is a tool that is rife for abuse.

Q Okay. Thank you.

You mentioned Timothy Thibault -- Thibault?

A Yeah. I mean no disrespect to him. I don't know if that's how he pronounces his name or not.

Q Have you ever met -- did you ever meet him in person?

A I never did, no.

Q Okay. You described his comments as hyperbolic?

A Yes.

Q Can you explain what you mean by hyperbolic?

A So there's a tone that one sets in a leadership environment of calm and serenity in that, "Yes, this happened, this is what we're doing to address it. This is a direction that I'm leading you people in. Follow me."

When you get an increased level of volume and emotion in a voice -- and if I may, just for effect, to try to answer your question, you know, "Our democracy almost ended on January 6th!" -- that is not the kind of tone that a leader would set to engender trust. And not just in that individual, but that what did occur on January 6th would be addressed in a deliberative investigative fashion.

Q Okay. I want to change subjects a little bit.

Do you recall appearing on a podcast called "The Kyle Seraphin Show," which aired on January 9th, 2023?

A Yes.

Q And did you -- you appeared on that podcast?

A Yes, I did.

Q What were the circumstances that led to you appearing on that podcast?

A By circumstances, do you mean, like, the genesis of it? Like, what do you mean?

Q Were you asked to appear? Did you volunteer? Who reached out to you?

A So the first reach-out was on Twitter direct message from me to Kyle Seraphin. He had made a post about the FBI. I don't remember what the post was. And I direct-messaged him back and said that, "Hey, I worked for the FBI, too. I know you have resources to check me out. I'm not some weirdo that" -- you know.

So we talked for, I don't know, probably -- I think this is when he was just kind of getting this whole podcast thing going, which was only a month ago. We talked for about a half an hour. He said, "Yeah, I'd really like to do a long-form interview with you." And I had no idea what a long-form interview was.

So he called me one day, he said, "Hey, I'd like to do that podcast" -- whatever the date was that you just said -- "I'd like to do it at 9 o'clock. How does that work for you?"

And I'm like, it was only -- it was, like, 8:45 in the morning. So I quick reestablished -- I forget what platform, software platform, we used to do the interview.

But, yeah, that was how it came about.

Q On that podcast, you stated, quote, "I don't think we need a domestic intel program." Do you recall saying that?

A I don't recall those exact words, but I do think -- there was a discussion during the 9/11 Commission whether or not to create a domestic intelligence program, and if so, what would it look like? Would it look like the British MI-5 version where you have MI-5 domestic and MI-6 international, so CIA international and the creation of an MI-5?

And it was agreed upon by Members of Congress and the Senate in joint committee that they would create this intelligence capability, domestic intelligence capability, but it would belong to the Director of National Intelligence.

And so the FBI saw an immediate plus-up of over, budget-wise, of over 50 percent. And I gave the wrong number when I talked to Kyle. I think it was about 63 senior executive positions for this new intel capability, all of which were filled by 1811s. Now, that has changed to some degree, who fills those senior executive positions.

But I teach in my class that -- and just, again, we were talking earlier about numbers. The data in terms of international terrorism do not support a -- let me rephrase that.

It's up to Congress to decide, based on feedback from their constituency, whether or not the tradeoff between having a domestic intelligence program is worth the price of even the perception of an erosion of civil liberties.

Q And I don't want to cut you off, but I have another question, so --

Mr. Foster. I was just going to ask. If you're going to be going through various things that you say that he said, do you have a transcript that you can show him?

[redacted] We do have the video we can play, if that would be helpful.

Mr. Foster. So you don't have a transcript?

[redacted] We do have the video, if that would be helpful. I think I did email you yesterday to notify you that I might be going through this.

Did you have a chance to review the video after I -- did your attorney let you know that I --

Mr. Hill. He did, and I did not review it last night.

Mr. Foster. Don't answer questions about conversations with your counsel.

Mr. Hill. Okay.

BY [redacted]

Q I'm going to read a couple more quotes. If you'd like us to play the video, I'm happy to do that.

During the podcast, you stated, "The Congress with the Patriot Act gave them a mission. They gave them a domestic intelligence capability. George Bush challenged Bob Mueller. Bob -- he told Bob Mueller -- he said, 'I know you're going to find the people who did this, the 9/11 attack. What I want to know, Bob, is what are we going to do to stop the next one?'

"And that was the genesis. That was the very beginning of how we got to where we're at today of this 'Minority Report' manner of law enforcement where we're trying to do predictive analysis of when a crime is going to be committed."

Do you recall this?

A It sounds about right.

Q Do you recall what you meant by, "What are you going to do to stop the next one"?

A I didn't say it. President Bush said it.

Q What was your interpretation of what that meant?

A That your mission has changed from investigating the commission of a crime into the prevention of a crime.

Q And what is your opinion of that?

A Prevention of a crime is the role of public safety, which we're talking about law enforcement on the street. The FBI, to my understanding, is the investigative arm of the Department of Justice.

Q Do you believe that the FBI should be involved in what you described as the prediction of crime or the prevention of crime?

A The Congress, in response to 9/11, created that construct. I think it's up to Congress and their constituency to provide them feedback as to whether or not that should continue.

Q Okay. What did you mean by, quote, "We're trying to do predictive analysis of when a crime is going to be committed"?

A That's exactly -- just by --

Q Can you explain what you mean by "predictive analysis"?

A Sure. That's what we do.

So when you write intelligence -- you have intelligence bulletins. You have intelligence notes. And then you have intelligence assessments. Assessments are typically written -- jointly authored by the intelligence director at FBI headquarters and usually an IA, and it takes sometimes nine months to get one through the approval process.

So those bulletins are kind of like more like a heads-up. Those are U//FOUO documents.

Intelligence assessments are based on some sort of intelligence, whether it's electronically collected intelligence or human-collected intelligence, whereby the analyst puts forth an assessment. And in that assessment will be multiple assessments, graded either low, medium, or high, whether or not -- or not whether or not -- but that they would make an assessment -- I'm trying to think of an example that would help this conversation.

Q I think I understand where you were going. We can move on.

A Oh, okay. Go on. I don't even understand.

[Laughter.]

Q During the podcast you also stated, quote, "And people can take a dump on the TSA all they want, but at the end of the day, the bottom line is they are a deterrent, no more different than a set of Jersey barriers in front of the gate causing people to have to zigzag. And that's really how we got to where we're at today from an international

terrorism standpoint. Well, now we have to create a whole nother bogeyman with domestic terrorism because we have to keep this machinery going."

Do you recall saying that?

A That sounds about right.

Q What do you mean by, "We have to create a whole nother bogeyman with domestic terrorism because we have to keep this machinery going"?

A So just staying with our earlier conversation regarding numbers, if you have a precipitous drop in international terrorism numbers, the IT focus -- so we're talking a national apparatus starting at NCTC, CTC at CIA, the counterterrorism folks at NSA. There's a huge mechanism that exists for international terrorism.

If one then takes an objective look at the theaters where these could -- the international terrorists could gestate and come to fruition and pose a threat to the United States, that environment has changed.

But you have this large construct out there that exists for maybe a couple of reasons. They are well-funded kingdoms. And there's also that possibility that, ooh, we might be wrong, there might be something that we missed, which causes another horrific event here. So there's a degree of risk in dialing that down.

Let me give you a good example of this. When Russia invaded Ossetia, I was in the Counterterrorism Mission Management Center, and we walked into the NSA operations floor for what's called the standup with the director. It was on a Monday morning.

And my boss, who was the senior executive, gives me the sharp elbow, and she says, "Who are all these people standing here?" And I said, "These are all the people that were forgotten about on 9/11." These were all people that were older than me, sixties, seventies, all old-school Russian analysts.

And the director started asking these people questions regarding what we had in terms of collection capabilities in the theater. And it was all, "We don't have it. We don't have it. We don't have it. We don't have it."

So I'm pretty adamant in my assertion that if the international terrorism numbers have dropped, which the data supports, that somebody, beginning at the ODNI level, needs to take a look at where these resources are going to be allocated so there's not another situation where it may be apparent to say, "Well, what do we have for resources here?"

Q Continuing on the podcast, you stated, quote, "So we need the money. We need the SES positions. We need the expansion. We need more authorities. We need more cooperation from the FISA Court. And we need some of these shackles moved because," quote, "'No American must die.'"

Do you recall this?

A I don't recall those exact words, but what I did say and what I can speak to is that in my day -- and I'm looking around here, I'm probably the oldest person in this room -- national security met the continuation of the United States and the protection of the Constitution.

On 9/11, that changed. It changed to no American shall die at the hands of a terrorist.

Q And what is your opinion of the "no American must die"?

A So one doesn't want to say, "Well, hey, people died. That happens." So I'm not going to say that.

What I'm saying is, is there's a tradeoff between how much predictive analysis you're going to do and how much you're willing to see an erosion of civil liberties.

Again, not my decision. It's the decision of the constituents that our

congressional and senatorial represents.

Q You said later, "If you think about it, it goes down to what we talked about an hour ago. No Americans shall be harmed.

"When you have a zero-tolerance policy and you have a zealous, supercharged, empowered investigative/intelligence workforce, they're going to get after it."

Can you recall what you meant by "when you have a zero-tolerance policy"?

A Probably the best example that I can give is the zero policies that a lot of schools have for different things. And it doesn't allow for intervention and mitigation.

So if you have a zero -- if that's your standard, you're going to have a zero policy, it doesn't allow a lot of latitude and freedom to address a problem that could maybe mitigate it along the periphery as opposed to, "This cannot be."

Q Is the zero-tolerance policy that you're referring to, does that mean zero tolerance for terrorism? Zero tolerance -- what does that mean?

A No. The policy means that, no, not one single American shall die at the hands of a terrorist. That's what I refer -- that's what I mean by a zero-tolerance policy.

And, look, I've put my life on the line for this country more than once. I've buried friends. I'm still burying friends that are dying of burn pits. I don't want to leave you or anybody else here on the committee that I'm a callous, heartless person. I don't want anybody to die until God decides to call them home.

But life is full of risk, and we have to decide, collectively as a nation, how much risk are we willing to take relative to our level of protection of civil liberties?

Q And thank you for your service, sir.

You stated in the podcast, "There needs to take place a reeducation, and people need to understand that line in the national anthem, 'and the home of the brave,' willing to accept some risk." What did you mean by "there needs to take place a reeducation"?

A Lyndon Johnson ended the civics being taught in schools, I think in 1964, '65, or something of that nature. People don't understand, like, that someone who -- you get in a car, you take a risk. You get in a plane, you take a risk. But we don't think of it because it's in the back of our mind. We go about our daily business taking risk every day.

But I've seen over the course, especially over the last three years, of this desire for zero risk: That no one shall die of terrorism, no one shall die of COVID, no one shall die of whatever. And the simple truth of the matter is, is that people do die, they do get hurt, and we need to take steps to mitigate the possibility of that occurring.

So, like, when I was in the military, both in the Navy and the Marine Corps, we did a RAC, a risk assessment code. And you undertake dangerous things, whether it be the movement of troops or into a combat zone. And then, okay, what are the things we need to do to mitigate the detrimental effects of the operation that we are undertaking?

We've forgotten that as a society, that you put your seat belt on. Maybe you wear a mask or maybe you maintain safe distance or you wash your hands when you leave the bathroom. I mean, this understanding that there are some degree of risk in just being alive.

I went hunting on Saturday. It was 11 degrees and our kayaks were coated with three-quarters of an inch of ice. That hot shower I took at the end of the day was the best shower I think I ever had.

I mean, you take risk, you put yourself out there, and it gives you a deeper appreciation of the nice things that you do have, or going home to see your family or whatever it is. That's what I meant by that. And if I came across as callous, I want to apologize to you and anybody else who saw the video.

Q And I just have one more question on this line, and it's on the embracing risk

that actually you were just talking about. You said people --

Mr. Foster. Is the question, what did you mean by something he said on the podcast?

[redacted] I'm just going to ask the question, if that's okay.

Mr. Foster. Well, I've let this go on for a while. Hang on. I've let this go on for a while. So I'm sure George is flattered that you're interested in his opinions on various things that he said in previous forums.

But the video is out there and speaks for itself. If you want to have him on a podcast and talk about these things you're free to do that.

You have a witness here who actually has factual information about things that he witnessed while working at the FBI. So he's here to help, and it's a voluntary interview, and he'll answer your questions if he wants to. But I think it would be a better use of everybody's time if we focus on factual information that he may have.

[redacted] Thank you for that. This goes to credibility and it goes to his position on various actions that the FBI may be taking. He was a supervisor. So I'm going to ask the question. You know, he's obviously welcome to decline to answer.

Mr. Foster. Of course. What do you mean, it goes to credibility? What question have you asked that goes to credibility?

[redacted] I'm just going to ask the witness. I don't have a ton of time left. So I'm just going to wrap this line up.

BY [redacted]

Q In the podcast, you continued, "People have to learn to start embracing risk, not only in terms of achieving success, but quite frankly there's a little bit of excitement to it."

And you continued on. You talked about snowshoeing in New Hampshire. And

you said, "Zero risk is not a fun life."

Can you explain "zero risk is not a fun life"? What did that mean?

A Sitting at home watching Netflix all day and eating Cheetos.

Q That's zero risk, in your opinion?

A That's what it seems to be, yeah.

Q And why is that not fun?

A Not healthy.

Q Sir, did you have an opportunity to meet former FBI Director Bob Mueller?

A Yes, I did. I got my picture taken with him and everything.

Q What were the circumstances of that?

A He visited our field office. I don't remember why.

Q Okay. Do you remember about when?

A Oh, goodness. So obviously before Comey. So probably 2010, 2011, maybe. Maybe 2011.

Q Okay. On the podcast, you said that when you met Director Mueller you asked him, quote, "Why are there no 0132 SESs?" Do you recall asking Director Mueller about SES positions?

A I do. I was in an audience in front of the whole office.

Q And what is a 0132?

A It's an intelligence analyst.

Q Okay. And why did you ask him that?

A Well, if you have an intelligence -- if I'm having electrical work done, I really don't want a plumber coming in and telling me how the electricity should be installed. If I'm having an intelligence program, I think we should have an intelligence program -- or intelligence professionals running it.

For example, Maureen Baginski, who came from NSA, who Bob Mueller brought on early on after 9/11, was unceremoniously shown the door after less than two years.

Q On the podcast, you said, "They gave the FBI 20 positions, SES positions, all of which were filled by 1811s agents."

A So I was wrong. It's 60-some positions.

Q 60-some positions, not 20 positions?

A Yeah.

Q And what's an 1811?

A An 1811 is a Federal law enforcement officer. So the FBI has 1811s. DEA has 1811s. Secret Service has 1811s. That's what people normally associate with a man or woman with a badge and a gun.

Q And why was it of concern to you that -- or was it of concern to you that the positions were given to the 1811s instead of the 0132s?

A Again, I'm not going to call an electrician to fix my plumbing.

Q Okay. And what was your position?

A At that time?

Q Uh-huh.

A Supervisory intelligence analyst.

Q Was that a 0132?

A Yes.

Q On the podcast, Mr. Seraphin responded by saying, "That's a big deal. So you've opened up basically -- you've opened up people, getting them off the GS scale. They're no longer beholden to the $175,000 or so -- whatever it is -- 158,000 to 175,000 that they're otherwise capped at. SESers are at a higher pay scale, number one. They've got bonus structures, number two. And now that's 20 more FBI agents who can

jump into the senior executive ranks because of this particular thing. So it's about money in this case."

To your knowledge, was Mr. Seraphin correct that SES positions are paid at a higher rate and under a different bonus structure than those on the GS scale?

A GSs can get cash awards. They don't get bonuses. And so there is no bonus structure for a GS.

[12:10 p.m.]

BY [redacted]

Q Did you ever apply for an SES-level position?

A No.

Q Okay. Did you want to apply for an SES-level position?

A No. I'm 26 years enlisted. I'd much rather be a little bit closer to where things are actually happening.

Q Okay.

A I'm not a big vision person.

Q And I think you said this earlier, but can you remind me of what your GS level was at the time that you retired?

A GS-14, step 9.

Q Okay. Are you comfortable telling us what the salary was at that rate?

A I have no idea. I don't remember.

Q Okay.

Getting back to your meeting with Director Mueller, you said on the podcast that Director Mueller responded to your question about the FBI not having 0132 SES-level positions by stating, quote, "'When you show me a 0132 qualified, I'll put him in that position,' and I'm like, 'Well, they'll screw you too, Bob.'"

A That was my internal monologue. I did not say that out loud to the Director of the FBI.

Q But what -- thank you for clarifying. What did you mean by "they'll screw you too" in your internal monologue, understanding it wasn't something you said out loud?

A It was offensive. It was offensive.

I went -- I was -- I don't remember the year. It was at least 5 years ago. I went to Quantico. I volunteered, not too long after the Tsarnaev conviction, the death penalty conviction, to be a field supervisor at the FBI Academy in Quantico. And I was lashed up to -- the FBI trains its agents and its analysts together, and then they break off at different times, but for those first 3 weeks, they're together all the time.

And so I had the opportunity, with my other agent colleagues, who were also field counselors, to have a lunch with Director Comey at the time. And I posed to Director Comey and his entourage some of my concerns about the intel program, which was our hard-and-fast requirement that all intel analysts have a bachelor's degree.

And I said the following, which was: After almost 15 years of war in two theaters, that we have thousands of men and women in the intelligence community that are highly trained, experienced intelligence analysts who are comfortable, who thrive in team environments and are results-oriented as opposed to process-oriented, but, instead, we insist on hiring college graduates with no experience. Can we at least revisit that requirement, to hire already trained and experienced intelligence analysts even if they don't have a college degree?

And no less than three people of his entourage threw me a verbal beat-down in front of everybody.

Q Finishing out the -- and this will be my last question, because we're a little short on time for this session.

A That's my fault. I'm too --

Q Finishing out your Mueller story on the podcast, you stated, quote, "I'm like, 'All right. So, nice meeting you.' And then people asked me, how come you didn't smile when you had your picture taken with the Director? I don't know, 'cause maybe

he's an A-hole. I don't know."

Do you recall this?

A No.

Q Okay. Would it be helpful if we played it for you?

A No.

Q If we play it for you, maybe it will refresh your recollection?

A For the purposes of what?

Mr. Foster. The video speaks for itself. It is whatever it is. People can look at it.

BY [redacted]

Q Do you believe that FBI Director Mueller -- what was your opinion of FBI Director Mueller?

A I was offended by his comment that, "You show me an 0132 that's qualified, I might consider putting him in the position."

Q And can you explain why you were offended?

A Let's see. That would've been, what, 2011, 2012 probably? So, by that time, there were, I don't know, 3,000 combat vet intel professionals out there that -- you know, commissioned officers, former majors, O4s, O5s, O6s, any of whom probably could have stepped into the job.

So it was -- the condescending manner in which he addressed me and dismissed me was offensive.

Q Okay. And, actually -- well, we're at time. I'll --

[redacted] You have a couple minutes left.

[redacted] Okay.

[redacted] You have 4 minutes left, I think.

BY [redacted]

Q Did you ever have the opportunity to meet FBI Director Wray?

A Sure.

Q When?

A He came to our, I think, annual employee -- I think they call it a holiday thing. So we have one event that takes place in the morning in the field office, and then there's usually some sort of social event late in the afternoon, early evening afterwards. So he came and spoke to us.

Q Did you directly engage with him in any way?

A My only engagement with Director Wray has been during the employee surveys.

Q Is that direct, the engagement with him?

A Is that direct? Well, he assures us, both verbally and in writing, that he reads those. So, yes, I have raised concerns with Director Wray.

Q But you've never had an immediate --

A Verbal? No.

Q No. Okay.

A No. It just wasn't that kind of a forum, opportunity, like, "Hey, you got a minute?" It just doesn't work that way.

Q You never had your picture taken with him.

A I did.

Q Okay. So you did have your picture taken with him?

A Yes.

Q Just the two of you, or was it a group photo?

A It was a group photo.

Q Okay.

A I also had my picture taken with Director Comey when I received the Director's Award for the Boston Marathon bombing.

Q What is your opinion of Director Wray?

A I don't know him. I'm sure he has to respond to pressures from various -- I don't like to criticize, in terms of their job performance, people that are above me, because, having been in that position and having had subordinates, they don't understand the balancing act that I'm engaged in, and I don't understand the balancing act that Director Wray is engaged in. Does that make any sense?

Like, he has, you know, the FBI, the DOJ, all the programs. He has political pressures. I just -- abiding by my own rule, I'm not going to criticize up, because I don't know what he has to deal with.

Now, I can criticize Jim Comey for the speech that he gave on July 5th -- I think it was July 5th -- criticize that particular speech. But his overall tenure as FBI Director? I don't know what he was dealing with.

I had a GS-14 -- same pay grade as me, but he rocketed on up; he was on the marathon bombing task force -- come into me, screaming and ranting and raving. And I said, "Don't come back in here again unless you've got two solutions to the problem that you're coming to me with."

And I only share that just to kind of give you an idea of where my head's at --

Q Uh-huh.

A -- in that. I had no idea what Director Wray was dealing with, no idea whatsoever.

Q Okay. Thank you.

Is there anything else you'd like to add?

A No. I think I talked too much. I apologize.

[redacted] We'll end our session now. Thank you.

[Recess.]

[redacted] The time is 12:25, and we're ready to go back on the record.

BY [redacted]

Q Mr. Hill, I want to talk now about your involvement in investigating the events that occurred at the Capitol on January 6th. Could you describe a bit to us what you were doing at the time and how you helped with that investigation?

A Sure.

So, working with my intelligence analysts and the supervisory special agent of CT2, we would get leads, either through Guardian or in the form of emails from WFO saying to investigate this. And those emails would go to the SSA. And then I would, you know, task my analyst in, you know, least intrusive method, you know, looking into what it is that they're asking us to investigate.

And this went on on a pretty regular basis, a trickle. You know, like, we got one Guardian, a woman sent in pictures of her neighbor's truck with a Trump sticker on it and a 2A sticker, and it was, you know -- and the lead that she sent to us saying that the truck was gone on January 3rd and didn't come back until the 7th, and you should investigate this -- you know, silly things like that.

And then there were other, more egregious taskings that came in from WFO, and I don't know -- asking for us to investigate. I don't know if you want to talk about those now or later.

Q I do.

Let me follow up on the truck with the Trump stickers. Was that tasked by someone in the Boston Field Office, or was that sent -- was that a lead that was cut --

A Yeah, that just came directly from someone in the Boston area that sent it right into the tip line.

Q And a Guardian was created on this?

A No. No. It just came in through the tip line. They -- you know, and the -- to his credit, the SSA said, no, we're not opening up a case on a missing truck with inappropriate -- or what the neighbor thinks are inappropriate bumper stickers.

Q Okay. Because it lacked relevant predication?

A There was no crime committed. He moved his truck.

Q Okay.

What are these other examples that --

A So the two things that really jump to mind, the first one being: I believe it was either on January 7th or 8th. The Bank of America, with no directive from the FBI, data-mined its customer base. And they data-mined a date range of 5 to 7 January of any BOA customer who used a BOA product. And by "BOA product," I mean a debit card or a credit card. They compiled that list. And then, on the top of that list, they put anyone who had purchased a firearm during any date.

So it was a huge list. I did not see the list, but I did see the EC that the FBI used it to bring it into the -- into SENTINEL. That list then was then racked and stacked and sent out as leads to the field office in SENTINEL from that case that WFO opened.

The SSA said that there's no predication, there's no crime that was committed by using a BOA product in the District or around the District, and said, you know, no further action required, to which WFO came back on a peer-to-peer level, an SSA to SSA, and said, no, you need to open up cases on these, to which he said, no, we're not going to.

And the SSA and I had already talked about it, and the SSA had already talked to the ASAC about it. WFO said that they were going to have someone call the ASAC to get

CT2 to open up cases on it.

They called the ASAC, who's retired right now, and said, "No, we're not going to open up cases on it."

And they said, "Well, we're going to call your SAC."

And he said, "Well, go ahead." And, to his credit -- and I've already given his name -- Joe Bonavolonta said, "No, we're not going to open up cases based on credit card or debit card activity that took place."

Now, what I don't know and could not give accurate testimony to -- I don't know if WFO, in turn, then, took it upon themselves to open cases.

Q Okay. I want to dig into that a bit more.

Was the list that Bank of America provided targeted just to the D.C. area for those --

A Yes.

Q -- dates?

A Just the District and surrounding area, so, like, the NOVA area.

Q And the surrounding area.

A Yeah.

Q And it's anyone who used a Bank of America either debit or credit card --

A Right.

Q -- to conduct a transaction.

A Any transaction. To buy a hotdog. Doesn't matter.

Q Okay.

And then my understanding is that they created a second list where that first list was prioritized based on individuals that had purchased a firearm?

A They just basically just built on top of it, anybody who committed a -- you

know --

Q A firearm purchase?

A -- these are your priorities, these are your number-one individuals that you need to go after. Not only did they use a BOA product in the District, but they've also purchased a firearm at some point in time, any time.

Q This list was provided then without any legal process to the FBI?

A Correct.

So my understanding of the DIOG and amateur assessment based on law is that, you know, if a citizen sees a crime in commission, there's nothing wrong with injecting that and opening up a case.

But, to my knowledge, you know, using a debit card or a credit card in the District does not provide adequate predication for the investigation of a crime. So there was no legal process either asking for it or -- you know, from the Bureau or from DOJ or anybody.

Mr. Gaetz. Mr. Hill, you described the process by which this Bank of America data pull is lashed to data regarding firearm purchases. What was the geographic envelope for those firearm purchases?

Mr. Hill. They would had to have met both criteria: used a BOA product in the District -- but there was no geographic framework if they had ever, ever bought a firearm.

Mr. Gaetz. What about the firearm purchase as a feature of time? Did --

Mr. Hill. No, there was no time -- there was no --

Mr. Gaetz. So that --

Mr. Hill. That was not in the data range, date.

Mr. Gaetz. So, presumably, if someone had purchased a firearm years earlier in Florida --

Mr. Hill. Right.

Mr. Gaetz. -- and then had an ATM withdrawal at the MGM casino in Maryland, that person would be captured within that criteria, presumably?

Mr. Hill. Yes. But I don't know the mechanism that BOA did the --

Mr. Jordan. As long as the withdrawal was within the timeframe of 5th --

Mr. Hill. Right.

Mr. Jordan. -- to the 7th.

Mr. Hill. Yes.

Mr. Jordan. Correct.

Mr. Gaetz. But the gun purchase could be anywhere --

Mr. Hill. Anywhere, anytime. You could live -- you could be a resident of Iowa, be a BOA customer, purchased a shotgun in 1999, go to the District, use your credit card to pay for a hotel on January 5th and check out. You're going to rise to the top of that list.

Mr. Gaetz. Were there any other criteria, other than the BOA transaction and the firearm purchase, that were prerequisites?

Mr. Hill. No.

Mr. Gaetz. So no review of online activity, just those two things --

Mr. Hill. No. So we were expected to review that online activity when those leads were sent.

So here's who -- BOA took it upon themselves to say, "These are people you, FBI, need to look into," to which the reply from the Boston Field Office was, "No, we're not going to look into it." There were seven people on that list for Boston.

Mr. Gaetz. Thank you.

Mr. Jordan. And it's your understanding this happened in field offices all over the country, a similar process where they were sent these lists in their respective area?

Mr. Hill. My understanding was it was a one-time transmission of the list, and, yes, that went to every field office that had people on that list.

BY [redacted]

Q And let me just ask you: Was the list of people that had B of A transactions?

A Yeah, you had to have had a BOA transaction or purchased an airline ticket to BWI, Dulles, or Reagan.

Q But to get on the list, did you also have to have a firearms purchase?

A No.

Q Okay. So that --

A No. That that was just an additional set of criteria to move you to the top of the list.

Mr. Foster. And was WFO insisting that all of the people on the list, that you open on all of them, whether or not they had had a firearms purchase in the past?

Mr. Hill. The seven names that we got, WFO insisted that we begin at least a PI, preliminary investigation, into. I don't recall whether or not any of those seven people were firearms owners.

Mr. Gaetz. So what were the initial steps of that preliminary investigation upon receiving that list from the Washington Field Office?

Mr. Hill. So they just set a lead in SENTINEL.

So you take a list. You cannot just upload a BOA-generated list into SENTINEL; you have to attach an EC, an electronic communication, to it. And then that list becomes an attachment. So think of it as an email that you're sending to a family member with a picture. The picture would be the list. The email would be the EC in SENTINEL.

So you write an EC, upload it to SENTINEL with the list attached. And then, from there, you can then set leads to individual field offices to come up with --

Mr. Gaetz. And if a field office received that lead, what would be the requisite next step?

Mr. Hill. Either proceed with preliminary investigation, least intrusive means -- so you would look at, you know, online activity, any kind of criminal history, you know, just basic, almost, like, open-source research stuff.

There's another instance that we're going to get to in a little while, but it did not pertain to this particular case.

Mr. Gaetz. All right. I don't want to get ahead of you. Thank you.

BY [redacted]

Q So let me just get this straight. So, if my sister visited me on January 5, 2001, and if she was a Bank of America customer and she made a transaction at the Safeway --

A 2021.

Q 2021.

A Right.

Q -- you're saying that somebody would then get a --

A Yes.

Q -- a tasking, you know, back in the -- she was out in California. So some FBI office back in California is going to be referred because my sister was here?

A Yes.

Q Okay. And do you find that to be outrageous?

A Again, I'm not a lawyer. I'm surrounded by much more better educated, smarter people than myself. But I think it's unlawful.

Q And there's obviously hundreds, if not thousands, of financial institutions in the country, but only B of A customers were subjected to this? B of A --

A Correct. To my knowledge, BOA was the only financial entity that took it upon themselves to data-mine their customers' private financial information and send it to the FBI without --

Q Okay.

A -- anyone asking for it.

Q So it's very conceivable that, in the example I used, somebody like my sister could get a call from the FBI saying, "What were you doing in D.C.?"

A Correct.

Q Okay. That's pretty sad.

[redacted] Yep.

BY [redacted]

Q And I just want to be clear that just because the SAC in Boston refused to do PIs on these seven individuals, that doesn't necessarily mean that an SAC in another field office would decline the opportunity to --

A Correct.

Q -- follow up, correct?

A Correct.

I mean, people have this -- not people in this room, but, you know, some people think the FBI is just this monolithic, homogeneous organization, that we all, automatons, march in lockstep. I mean, that's not the case at all. And I'll call balls and strikes. I'm proud that Boston said no on this.

Q Are you aware of any other field offices that did act on it? Was that anything that you were interacting with other --

A I would only know secondhand.

Q Okay.

A Or not even secondhand. So I just -- I don't want to -- I don't want to -- I don't want to get into that, because I can't support it with anything.

Q Do you know what entity was responsible for uploading that information into SENTINEL? Was it Washington Field Office?

A WFO uploaded it.

Q WFO.

A I -- let me rephrase that. I don't recall. I'd have to look at the opening EC, which that would have been, whether it was DTOS, Domestic Terrorism Operations Center, or when it was moved to WFO. At that early on, it might have been DTOS.

Q Okay.

A But I don't -- I don't know. I don't -- because I can't recall.

Q You mentioned another instance that you wanted to tell us about.

A Yeah. So probably -- I mean, as uncomfortable as that situation was, there were two individuals that organized buses to go down to D.C. for the rally. You know, so let's -- you know, if people -- you know, they think of the unlawful events that took place later on in the day on January 6th, but up until that time, it was a rally. People were, you know, either driving to it, flying to it.

Two individuals in Massachusetts organized buses to go down to the rally. And Boston opened cases on those two individuals because we were shown definitive evidence from WFO of them entering restricted areas in the Capitol. And they were -- I don't know where they are on the prosecutorial timeline, if they've already been charged or not, but they were entered into the legal process because they broke the law. You know, so we did open up cases on those two individuals.

But those two individuals organized these buses, and there were 140 people on those two buses. And WFO wanted us to open up a case on each and every one of those 140 individuals, to which the SSA in Boston said, "They were going to a political rally, which is First Amendment-protected activity. No, we're not starting cases on these people." To which they said, "Well, we're going to call your SAC." And the SSA said, "Go right ahead."

Because, when you're pushing back, you know, you want to make sure that you have your six covered. So the SAC and the ASAC were intimately aware of these kinds of exchanges that were going on. And, again, to his credit, Joe Bonavolonta said, no, we're not opening up cases on people who went to a rally.

And I forgot a key part. The SSA for CT2 said, "Happy to do it. Show us where they were inside the Capitol, and we'll look into it." To which WFO said, "We can't show you those videos unless you can tell us the exact time and place those individuals were inside the Capitol."

To which the SSA responded back -- and I was privy to these conversations firsthand -- "Why can't you show us -- why can't you just send us the -- give us access to the 11,000 hours of video that's available?" "Because there may be" -- may be -- "UCs," undercover officers, "or CHSes," confidential human sources, "on those videos whose identity we need to protect."

Q And you heard this firsthand?

A Yes.

BY [redacted]

Q Any idea how many?

A No.

Q Are we talking tens? Hundreds? Thousands?

A I don't want to guess. I don't know.

Q Okay.

Mr. Jordan. Okay. If you can -- let me just back up.

So Washington Field Office contacts you and says, we want to open up investigations on the two people who organized these two buses --

Mr. Hill. And we did.

Mr. Jordan. -- who were inside the Capitol.

Mr. Hill. Yes.

Mr. Jordan. And you said, fine, because they were inside the Capitol.

Mr. Hill. Because they were able to show us pictures of them inside the Capitol.

Mr. Jordan. Definitive proof they were inside the Capitol.

Mr. Hill. Yes.

Mr. Jordan. So you open up investigations on them.

And then Washington Field Office asked you, we want you to look at everyone who was on the bus who came to the rally?

Mr. Hill. Correct.

Mr. Jordan. You said, show us why --

Mr. Hill. Show us proof they were in the Capitol.

Mr. Jordan. -- and you'd be happy to do it.

Mr. Hill. Yes.

Mr. Jordan. And then they said, we can't show you proof.

Mr. Hill. Correct.

Mr. Jordan. And you asked, "Why can't you show us proof?" Is that correct? "Why can't you show us proof?"

Mr. Hill. Either show us pictures or give us access to the videos, the 11,000

hours of video.

Mr. Jordan. Back up a second. The two who you opened cases up on the initial two --

Mr. Hill. Those came through with pictures.

Mr. Jordan. So they had pictures of them --

Mr. Hill. Yeah.

Mr. Jordan. -- inside the Capitol.

Mr. Hill. In the Capitol, yeah.

Mr. Jordan. Got it.

Mr. Hill. It was clear-cut violation of the law.

Mr. Jordan. Got it. The other 140, they had no evidence, no proof that they had actually violated the law and were inside the Capitol.

Mr. Hill. They may have, but they refused to share it with us.

Mr. Jordan. Refused to share it with you.

And then you said, we're not going to open up an investigation --

Mr. Hill. Right, because all we had was they --

Mr. Jordan. Before you said that, you said, show us the proof, show us the video or pictures, whatever you have. And they said, we can't.

Mr. Hill. Correct.

Mr. Jordan. And the reason they gave you was?

Mr. Hill. There may be UCs, undercovers, or CHSes, confidential human sources, and we need to protect their identities.

Mr. Jordan. Okay. And they said that to you and to the special agent in charge who was -- this is a phone call you were having with him? Or this --

Mr. Hill. The supervisory special agent of CT2.

Mr. Jordan. And who's that?

Mr. Hill. I'd be happy to give his name outside of recorded testimony.

Mr. Jordan. Okay. And then the special agent in charge is the Joe that you've mentioned a couple times.

Mr. Hill. Yes. Joe Bonavolonta.

Mr. Jordan. Bonavolonta. Okay.

Mr. Hill. Yes.

Mr. Jordan. Who got this information? You and the assistant special agent in charge?

Mr. Hill. I'm sorry, sir. What information?

Mr. Jordan. The communication you were having with the Washington Field Office.

Mr. Hill. Right.

Mr. Jordan. When you said, show us why we should open investigations on these 140 --

Mr. Hill. Right.

Mr. Jordan. -- it was just you and the special agent in charge, the name you said --

Mr. Hill. On that conversation. I don't know how the conversation between Joe and whoever called him -- it would had to have been another senior executive, so it had to either be Jensen or Thibault. I don't know how that conversation went.

Alls I know for a fact is that Joe supported us in saying, no, we're not opening an investigation because they took a bus to a political rally.

Mr. Jordan. Okay.

One more question, and I'll turn it back to you.

Who was calling you from the Washington Field Office telling you to open these --

Mr. Hill. I don't remember the name. There were different people calling at different times.

Mr. Jordan. Okay.

BY [redacted]

Q Was it usual to have the Washington Field Office email or call, telling you all to investigate certain --

A It never happened before January 6th.

Q It never happened --

A Never.

Q -- before January 6th?

A No.

Mr. Foster. Clarifying question: Do you know whether or not the Washington Field Office opened up cases on any of the 140 people on those buses and, if so, what happened on those cases?

Mr. Hill. I do not. And before coming here today, I circled back with the SSA in charge of CT2, and he does not, either, know whether WFO opened up any cases on those 140 individuals.

Mr. Gaetz. I'm sorry to belabor the point, and I apologize for the rapid-fire format with multiple people asking you questions, but I want to make sure we get specificity on this.

What can you tell us about the person or persons who said that the basis for not providing additional evidence could be the revealing of UCs or confidential human sources?

Mr. Hill. Other than it was a voice of an SSA on the phone from WFO, I have no --

Mr. Gaetz. Male or female?

Mr. Hill. Male.

Mr. Gaetz. And do you recall if the person identified themselves?

Mr. Hill. Oh, yeah. Absolutely. Yeah, no --

Mr. Gaetz. Would you have notes, or would there be any documents between --

Mr. Hill. The SSA from CT2 may have notes, but typically -- not "typically" -- we're required to keep notes if they're related to a case. So, like, I've been to countless meetings where I've taken notes. If they're not related to a case, I just shred them when they become irrelevant. So I don't know if he would have that information.

Mr. Jordan. Is it --

Mr. Gaetz. Go ahead, Mr. Jordan.

Mr. Jordan. Is it likely the person, this male individual from Washington Field Office who communicated this to you, is that the same person who sent you the seven names of the Bank of America request --

Mr. Hill. I understand the question. I don't know -- because I don't remember -- I don't know the name of the individual who set the lead to Boston, and I don't remember the name of the individual --

Mr. Jordan. That was an electronic communication.

Mr. Hill. Yes.

Mr. Jordan. So there would be some physical --

Mr. Hill. There would be a record of it, yes.

Mr. Jordan. Okay.

Mr. Hill. Hopefully.

BY [redacted]

Q How would you describe the relationship between FBI headquarters, the Washington Field Office, and the Boston Field Office during your time there?

A I know at my level, at the GS-14 level, probably contentious, because we said "no" so many times.

I can speak from experience and direct observation that Joe Bonavolonta is a man of integrity, and I'm sure that he handled this push-and-pull with diplomacy and tact. I don't -- I'm just assuming that based on my observations of him, you know, in the years that he's been there.

Q Is he still employed --

A He's still there. He's still there, yeah.

Q Did you ever feel that WFO micromanaged January 6th investigations of the field office?

A Oh, I know they did, because based on just on those two cases alone, they tried to micromanage it.

Q Do you have -- let me reword this. In your professional opinion, do you have reason to believe that the FBI employed UCs as CHSes on January 6th?

A I don't know, but this is what I do know based on experience of working in the intelligence community for decades, both overseas and domestic and observation of the FBI: The FBI protects UCs and CHSes more aggressively than they protect their own, for the reasons I first stated when I opened up here today, is that the FBI not only needs the support of the American people to do its job but these days it needs the support of our law enforcement partners, whether they be State, local, or Federal.

So, based on how aggressively the FBI has been protecting those CHSes and UCs, I can make assumptions, but I don't want to do it out loud here, and I don't want to do it on the record.

Q Okay. That's all right.

A whistleblower disclosed to the committee that the FBI has not followed regular procedure with respect to the January 6th cases, which should all be led by the WFO and categorized as WFO cases.

I'm now going to enter in a letter for the record that Mr. Jordan sent to FBI Director Wray on September 19, 2022, regarding the Washington Field Office's handling of DVE investigations in the wake of January 6th.

[Hill Exhibit No. 3

Was marked for identification.]

BY [redacted]

Q I'll read an excerpt of this letter that contains the whistleblower disclosure.

It says, "New whistleblower disclosures indicate that the WFO's handling of DVE investigations related to January 6 diverges from established practice in a way that overstates the national DVE threat.

"One whistleblower has described how cases are ordinarily characterized and labeled by the originating field office, with leads cut to other field offices for specific assistance in the geographic location.

"The whistleblower alleged the FBI has not followed regular procedure with respect to January 6 cases, which should all be officially led by the WFO and categorized as WFO cases, explaining:

"Instead, task force members in Washington, D.C., identified potential subjects and possible locations where these individuals reside. The task force disseminates information packets with instructions to open full investigations to local field offices around the country."

And then it goes on to say, "As such, if a subject lives in Dallas, the Dallas Field

Office is expected to open the case."

"Although the local field offices, therefore, appear to be running the cases on paper, the WFO is directing the field office special agents to just open the case in their geographic area, and the WFO is performing and approving all of the investigative work and paperwork for the casefile."

Are you testifying that that was something that you saw during your time at the FBI?

A So there's a couple data points in here. And they're separate and can exist without support from the other.

Number one is that cases are typically investigated where the infraction takes place, but, instead, in regard to January 6, they were set to the various field offices around the country. So that is outside of usual FBI practices.

So, if the violation of law took place in Washington, the case would be executed in Washington, and then they would just set the lead for -- I'm just using my own name -- "George, you need to go out and interview John Smith," and it would be managed out of where the violation of law took place.

Q Okay.

A Does that make sense?

Q Yes.

A So, as far as populating agents' cases, I cannot speak to that, because I have no direct knowledge of that occurring in Boston. So I'm sorry. But --

Mr. Foster. Just to be clear --

Mr. Hill. -- it doesn't mean that one --

Mr. Foster. Just to be clear --

Mr. Hill. -- has to be supportive of the other.

Mr. Foster. Just to be clear, you're not the source of this particular disclosure to the committee?

Mr. Hill. Correct.

BY [redacted]

Q Earlier, you testified it was unusual that the Washington Field Office was calling and emailing, asking you to follow up on various leads, correct?

A Yes.

Q Okay.

A I mean, it just -- it just -- if they had set a lead to us to do something, then -- and we weren't doing anything -- so, say, I got set a lead, "George, go out and interview John Smith," and 3, 4, 5, 6 months goes by and I haven't done anything with it, so I would expect a phone call, you know, like, "Hey, how come you haven't done this?" "Oh, I did. I just forgot" -- it would be unacceptable, but, "Oh, I forgot to upload my EC. I talked to the guy, and he's a quadri/paraplegic, and I think you've got the wrong guy."

So -- shoot, I'm sorry. Could you --

Mr. Foster. Just to clarify here, so just -- you and your people who reported to you were intel analysts.

Mr. Hill. Correct.

Mr. Foster. You're using that as an example. You didn't actually --

Mr. Hill. No. Correct.

Mr. Foster. You and your people didn't go out --

Mr. Hill. No. We don't --

Mr. Foster. -- and interview people. That's what case agents do.

Mr. Hill. Correct. Yes.

So, I'm sorry, could you just refresh my memory just a little bit on your --

BY [redacted]

Q I wanted to know why you think January 6th cases were handled the way they were by WFO, where they were calling and texting and asking --

A Yeah, so that's kind of confusing, why they insisted that all these cases be outside of WFO, because, at the same time, they plussed up their staffing level to handle January 6.

So one could maybe make an argument that we need to farm these out to the various field offices where these individuals reside because we just don't have the manning level here. But they did both. They farmed it out and increased the manning at WFO to handle the events of January -- or the individuals associated with the events of January 6th.

One can only, you know, guess or surmise, and, again, I don't want to do that in sworn testimony. I don't want to take a guess.

Mr. Foster. Just another clarifying procedural question. So, normally, under normal circumstances, the office of origin, whoever is in the FBI system as the office of origin in opening a case, that is the office that has control of that case and determines whether or not it's going to stay open or whether it's going to be closed. Is --

Mr. Hill. Correct.

Mr. Foster. -- that correct?

Mr. Hill. Yep.

Mr. Foster. Right. And so the difference that you were describing earlier between that and setting lead is that, if you set a lead to a field office, as opposed to asking them to be the office of origin, then there's some accountability back to the office that set the lead --

Mr. Hill. Correct.

Mr. Foster. -- that it has to be followed up.

Mr. Hill. Right.

Mr. Foster. But it's your testimony, as I understand it, that what was happening in January 6th cases was that the Washington Field Office was asking the field offices to be the office of origin and yet --

Mr. Hill. Right.

Mr. Foster. -- attempting to control the investigative steps --

Mr. Hill. Right.

Mr. Foster. -- and instructing the investigative steps --

Mr. Hill. Right. Right.

Mr. Foster. -- as opposed to setting leads.

Mr. Hill. Yeah.

And, in some cases, it's being done offline. It would be just an email with a name and, "You need to open up a PI," preliminary investigation, "on this individual." You know, now, granted, you know, that's all captured in the email string.

But, you know, there were multiple channels at Washington Field Office, both through usual channels, even though the requests were unusual, through SENTINEL, or the usual channels through Guardian -- again, not how we usually handle things -- or, "Hey, I sent you an email. You need to open up a case on these individuals."

BY [redacted]

Q Was that latter, for it to be offline, would you consider that unusual?

A Yeah. I mean, it's no different than, like, evidence. You want to have some sort of chain of custody in evidence. You still want to have some sort of communication chain as to why you're doing this --

Mr. Foster. So --

Mr. Hill. -- especially when you're lacking predication.

Mr. Foster. Again, perhaps this will help the committee understand. So, for example, the seven individuals that came from the Bank of America data-mining, that the Washington Field Office wanted the Boston Field Office to open a case on each of those individuals; Boston refused. You said you didn't have any personal knowledge of whether WFO opened a case.

Mr. Hill. Correct.

Mr. Foster. If WFO had opened a case and WFO was the office of origin on those cases, they could have set a lead to the Boston Field Office to instruct a Boston FBI agent --

Mr. Hill. To go out and talk to them.

Mr. Foster. -- to go out and interview those people --

Mr. Hill. Right.

Mr. Foster. -- correct?

Mr. Hill. Yep.

Mr. Foster. Okay. But you don't know that that was ever done?

Mr. Hill. I know from my conversations with the SSA that no lead was ever set by WFO for CT2 to go out and interview one of those seven individuals. That doesn't mean that -- and I'm not saying it happened. I'm just saying the possibility exists, that WFO just didn't send an agent up for a long, you know, 3 days to interview XYZ.

Mr. Foster. Right. WFO could've taken all number of other investigative steps --

Mr. Hill. Yes.

Mr. Foster. -- to examine those seven people.

Mr. Hill. Yep.

Mr. Foster. All right.

BY [redacted]

Q I want to go back to these nationwide calls as it relates to WFO pressuring y'all to open cases.

You said that during one of these calls either Jensen or Thibault pressured the Philadelphia Field Office to open a case on, I think, three individuals? Could you give us some details of what that --

A All right. So Philadelphia was set a lead from WFO on three individuals, and the expectation was -- is that they were going to open up cases on those individuals.

And Jensen took it upon himself to ask on a conference call with maybe hundreds, maybe more, of individuals on there, you know, "Where are we on this?" to which Philadelphia responded, you know, "Yeah, you know, they have some things on their social media posts that may be, you know, pro-2A or, you know, they're anti-abortion, whatever, but that doesn't mean that they're insurrectionists seeking to overturn our democracy," to which Jensen said, "I don't give a blank. They're all bleeping terrorists, and we're going to round them all up."

And I don't remember the exact wording, but I believe they took it offline after that for a little one-on-one conversation.

Q Do you have any awareness of what happened after --

A I don't.

Q -- after --

A I don't.

Q -- that incident?

A I don't. I don't know whether Philadelphia eventually acquiesced and opened up cases or WFO opened up cases. I don't know.

I do know that -- yeah. That's -- sorry. Not very helpful here.

Q No, that's okay.

Are there any other examples that you wanted to provide the committee?

A Those are the only ones that I can actually submit to the committee that, through other interviews or data-pulls out of SENTINEL, that the committee can verify for themselves.

Q Okay.

A There were a lot of uncomfortable conversations that is just, you know, coffee office talk that really has no relevance to the committee and is not a good use of the committee's time. I'm making that decision on my own, obviously, but I only wanted to give things that were helpful.

[Discussion off the record.]

Mr. Hill. Yeah, forgot about that one. There was one other case.

So we had a case that came through normal channels from WFO, set a lead to us, with a picture of an individual inside the Capitol.

We did a full field investigation into the individual. His attorneys produced a video of the bicycle barriers being removed hours before he entered the Capitol. And we closed the case and cited the video as our reason for closing the case, to which WFO was not pleased with our investigative outcome.

Mr. Gaetz. And how were you aware of the Washington Field Office's displeasure with that outcome?

Mr. Hill. Phone call.

Mr. Gaetz. From who?

Mr. Hill. The same entity, individuals that would be interacting with the SSA from CT2.

Mr. Gaetz. And were you the only one that received that phone call, or --

Mr. Hill. No. The SSA from CT2 did and let me know that -- so my information is secondhand.

Mr. Gaetz. Okay. So one of your superiors informed you that they had received a call from the Washington Field Office where someone from the Washington Field Office expressed a displeasure with the result in that matter.

Mr. Hill. That's not entirely accurate.

Mr. Gaetz. Okay.

Mr. Hill. So my peer and, in the interest of full and fair disclosure, personal friend, this supervisor from CT2, got an unpleasant phone call from WFO for closing that case based on that video.

Mr. Gaetz. Okay.

Are you aware of other such matters, where the observance of lower criminal acuity brought ire to the Washington Field Office when cases weren't pursued?

Mr. Hill. Not for Boston, no, I don't. And anything else would be second-, third-, fourth-, fifthhand. I don't -- I don't know.

Mr. Gaetz. So --

Mr. Jordan. What were the facts in the case again? You were sent a lead with a picture --

Mr. Hill. Of this --

Mr. Jordan. -- of this individual inside the Capitol.

Mr. Hill. -- individual inside the Capitol in a restricted area.

Mr. Jordan. Restricted area.

Mr. Hill. Right.

Mr. Jordan. And the individual didn't do any harm or anything like that.

Mr. Hill. No. No interaction with law enforcement. Walking around taking pictures, turned around and left.

His attorneys were able to --

Mr. Jordan. Video of that?

Mr. Hill. Yes. There were pictures of that the WFO provided us.

Mr. Jordan. Not pictures, but video?

Mr. Hill. No. Pictures of --

Mr. Jordan. Pictures.

Mr. Hill. Yeah.

The video came from his attorney that showed that the barrier -- timestamp -- was removed hours before he just followed the crowd into the Capitol.

Mr. Jordan. Okay.

Mr. Foster. So, to be clear, his attorneys are making the argument he had no intent to go to a --

Mr. Hill. Right.

Mr. Foster. -- restricted area.

Mr. Hill. Because there was no indication that it was a restricted area.

Mr. Jordan. And so you guys said, we're not going to pursue this case.

Mr. Hill. Correct.

Mr. Jordan. And then you got the call that Mr. Gaetz was just talking about now.

Mr. Hill. Yes.

Mr. Jordan. Okay.

Mr. Hill. Sorry. I want to be clear. I obviously just failed.

BY [redacted]

Q Going back to also something that you testified about earlier, what did you

mean by the tone set by Wray and Sanborn to identify opportunities to examine domestic violent extremists?

A It's just -- I can't quote verbatim what's in the weekly emails, but the narrative was that, you know, we have a growing segment of our population that is seeking to overturn the democratic process and we need to pursue these individuals aggressively.

You know, I'm just -- I'm synthesizing and paraphrasing. You probably won't find that exact language on the email. But it was clear to the reader that there was a great deal of concern coming out of CTD, Counterterrorism Directorate, and Director Wray's office of a growing domestic violent extremist problem across the country.

Q So were these emails sent in conjunction with one another with Wray and Sanborn on it, or --

A No. She would -- not as frequently as he did, but she would send out her own --

Q Okay.

A -- emails as well.

Again, commander's intent. He sets the tone, and then maybe a day or two later one of his subordinates follows up, maybe sharpens it a little bit, and sends it out.

Q Can you speak to the tone, specifically, if you remember, of Sanborn's emails?

A I wouldn't say it was any louder than Director Wray's or more heightened in terms of concern. I'd say, you know, if we were talking from a musical standpoint, I'd say that she was on the same sheet of music as Director Wray, not any louder or the tempo was any different.

Q Okay. But you said it was sharpened?

A Maybe with a little more granularity of things that we need to do, whether it be, you know, joint tagging cases, looking for areas of crossover, those kinds of things, things that would affect the TRP and that process.

BY [redacted]

Q Some of the people involved with the incursion into the Capitol on January 6th, were they all considered DVE cases, or were they all given the tag "DVE"?

A No, they were all DVE. And then, of course, as investigations ensued, you know, some of those people were attacking law enforcement or stealing or destroying government property, so -- but they all began -- their genesis is domestic violent extremist.

Or, in the case of -- I don't know the details of the migration, how it got to that, in the case of the members of the Proud Boys, were charged with sedition. I don't know if that was the original charge or case that was opened.

Q But you'd agree there's a big difference between --

A Criminal trespass and the domestic violent extremist?

Q Correct.

A Yeah, I would.

Q But even the criminal trespassers were getting the DVEs?

A They would start out as a DVE, sure.

Q And do you think that was fair?

A Well, how else are you going to conduct a Federal investigation? Are you going to conduct a Federal investigation using the full force and power of the DOJ and the FBI for criminal trespass?

Q Well, I think that begs the question, though, of, you know, were resources misplaced here?

A That's not up for me to decide, sir.

Mr. Gaetz. Yeah, but I think what we have to ascertain for our legislative function is, in events like these, whether or not these tagging systems are overutilized and whether or not that overutilization creates a resource shift that puts the country in some other peril.

And you've talked about that --

Mr. Hill. Right.

Mr. Gaetz. -- to great extent today.

Mr. Hill. Right.

Mr. Gaetz. And so what we're trying to ascertain is whether or not you viewed these DVE tags on criminal trespass matters as necessary to pursue criminal trespass.

Mr. Hill. Right. So I would equate using the DVE case designation or tag in a lot of cases, based on the eventual outcome of over 400 cases -- I think we're up to 423 that have been adjudicated by now -- that number may have changed -- the majority of which are criminal trespass, akin to using a backhoe to put in some tomato plants. I mean, it's just not --

Mr. Gaetz. So one could easily have pursued the criminal trespass matters in the absence of the DVE tag, right?

Mr. Hill. Right. But then the question remains: Is that the role of the FBI, to pursue people for criminally trespassing?

Mr. Gaetz. And so could one -- is it your testimony today that, given your full observation of this constellation of facts -- the phone calls, the emails, the commander's intent, the pressure on specific cases that you learned about in both Boston and Philadelphia -- is it your testimony today that the DVE tag was not a necessary law enforcement tool but that it was utilized to direct resources where they were using the

backhoe to plant tomatoes?

Mr. Hill. Yes, that's my assessment. You can't mobilize the full force of the Federal Government law enforcement mechanism to go after criminal trespassers.

[redacted] But that's what happened.

Mr. Hill. Well, based on the case adjudication, yes, that's what's happened, based on what's actually happened. Like I said, over 423. I think they're closing in on around 900 or, like, 500 more out there that are in the process, and WFO's own public press release statements that they expect 900 more by the end of 2023.

Mr. Gaetz. You're a very seasoned national security professional. What are the fail-safes that are supposed to exist in the system so that matters of criminal trespass are uptagged or upcoded by the Washington Field Office or anyone else?

Mr. Hill. So the fail-safes are, beginning at the bottom: obviously, you know, your supervisor, the SAC, to which, in my particular case, the SAC and the ASAC for counterterrorism conducted themselves, I would think, in a law enforcement -- or, I'm sorry -- in a lawful, exemplary fashion.

Having observed that kind of behavior across the country myself, the mechanism that I used was my ability to communicate with Director Wray directly through the employee survey, in which I expressed my concern that we were quite possibly misallocating resources and eroding the trust of the American people.

Mr. Gaetz. Are you aware of any other people who utilized that survey tool --

Mr. Hill. Yes.

Mr. Gaetz. -- to share that perspective?

Mr. Hill. Yes.

Mr. Gaetz. And who are those people?

Mr. Hill. I'd be happy to give the name outside of sworn, videotaped testimony.

Mr. Gaetz. But you weren't the only one that utilized that?

Mr. Hill. Oh, gosh no.

You know, look -- again, I want to call balls and strikes. I don't know how many people turned out to arrest Roger Stone from the Miami office, but it wasn't three or four.

When Director Comey was fired by President Trump, the office became instantly polarized the next day with memes and tchotchkes within days of "Comey is my homie," and it was very clear within days of Comey's firing which side of the equation you were on. And if you didn't have the appropriate tchotchke displayed in your cubicle or office, it was known to everybody that they're not one of us. It's crystal-clear.

Mr. Foster. And is it your view that's a positive or a negative dynamic for what's supposed to be a nonpolitical law enforcement entity?

Mr. Hill. Everybody should check -- it's hard, as human beings, it's hard to check your bias, but there is no room for political bias in a law enforcement organization, zero. It's easier said than done, though. I'm not -- oh, that's where I was going.

There's still a lot of great people in the FBI, and I talk to them on a regular basis. To say that they're brokenhearted doesn't even come close to capturing how bad these people feel. They truly love the country. They love the FBI. I love the FBI.

But, just like a parent, you know, tough love is still love. If you take your child's tablet away or put them in timeout for a reason, it doesn't mean you don't love them anymore. I desperately want to see a highly functioning, apolitical, high-performing FBI.

Mr. Gaetz. After Comey got fired and you described this polarized system where you were either pro-Comey or anti-Comey, had you ever seen the FBI divided like that at any other time in your work in the national security space?

Mr. Hill. Not like that. It was clear. I mean, when the Kavanaugh hearings

were on, there were throngs of people standing in front of the TV sets. Just, the language coming out of people that I'd never heard before was just -- I couldn't believe that they were that polarized.

Mr. Gaetz. Overtly political language?

Mr. Hill. Yes.

Mr. Gaetz. Recall anything from those times that would inform on that?

Mr. Hill. Oh, rapist, you know, why -- you know, lack of judicial prudence. I mean, you know, just -- I just couldn't believe how upset people were.

Mr. Gaetz. [redacted]

BY [redacted]

Q In your experience, did most January 6th-related investigations involve misdemeanor crimes?

A Based on the data from the FBI's website -- I think it was the FBI or the DOJ. That's where I got the 423 number. But when you -- it's multiple, obviously, multiple pages. When you scroll through them, there are -- the majority of them -- and I tried to get a hard number. I asked multiple people, you know, what are the exact metrics as to -- you know, what is the final adjudication on these cases? But, as I scrolled through them heuristically, you know, just looking and reading, the majority of them seem to be criminal trespass and mischief.

Q Do you perceive pulling resources from crimes such as child sexual abuse cases antithetical to the FBI's mission?

A I think it's irresponsible to direct resources to areas that are not existential threats to the democracy or to our Constitution or to American citizens.

So, like I said, there's -- you know, what was the number I gave for violent crime? 358,000 in 2021. 100,000 opioid deaths. You know, there are other areas that

Americans are dying. And yet the threat review program or prioritizations seems to be skewed.

[1:17 p.m.]

BY [redacted]

Q So we've talked about private entities, like Bank of America, working with the FBI. I would like to ask you a few questions about big tech.

During your tenure at the FBI, did the FBI work with social media companies, such as Twitter, Facebook, and Google, on investigations related to January 6th?

A Not to my knowledge. I know how that process works having been involved in investigations. But to my knowledge, direct knowledge, or secondhand, I do not know that the FBI worked with those companies relative to January 6th.

Q So are you aware of reporting on the special relationship between the FBI and Facebook?

A Open source reporting?

Q Uh-huh.

A Yes.

Q Did you --

Mr. Foster. Were there -- I'm sorry.

Were there references on the calls, the big calls with lots of people from around the country, were there references on those calls --

Mr. Hill. So in the warm-up act conducted by Timothy Thibault, he would make reference that we're working with Google, Facebook, Twitter to identify individuals of -- that are seeking to overthrow our government and we're working with them to identify them.

So you put a -- the process would be to put a -- what's it called? Not a restraining order. Where you ask them to freeze the records of -- preservation order.

The legal process is to put a preservation order on each individual. So I don't

know if -- how the flow of information was working, whether the FBI was sending preservation orders to Google, Facebook, Twitter, or Google, Facebook, Twitter was sending stuff in the manner in which BOA sent stuff.

Mr. Foster. Okay. So to be clear -

Mr. Hill. So I don't know.

Mr. Foster. Right. So to be clear, then, all you know about this is what you know from Mr. Thibault talking on those calls?

Mr. Hill. Correct.

Mr. Foster. And what exactly he was referring to, you don't know.

Mr. Hill. Correct, I do not know. So, yeah.

BY [redacted]

Q So you don't know, for instance, Google's involvement with being able to identify or help the FBI be able to identify, you don't know if that was geofencing or who was using their Gmail --

A I only had heard through open source that Google geofenced the District within a certain date and time range. But, again, that's open source, not willing to -- not going to defend it or -- yeah. No.

Q Are you aware of any instances where the FBI requested that a social media company, quote, "take action" on an individual user's account?

A Not without proper predication on cases that I worked prior to January 6th. So I'm not aware of any related to January 6th.

And I do know that, especially for the marathon bombing, we sent preservation orders. We had the U.S. attorneys in the command post with us. It was all done on the up and up.

Q Just back to Thibault briefly. Are you aware of allegations that Thibault

mishandled public corruption investigations?

A I am not.

Q Are you aware of allegations that Thibault was part of a scheme to discredit derogatory information disclosed to the FBI regarding Hunter Biden?

A I am not.

Q Are you familiar with Steven D'Antuono?

A I only know the name from open source reporting. I have no direct knowledge of any interaction between D'Antuono and the Boston office.

Q Are you aware that Biden administration officials have described domestic violent extremism as the greatest threat facing our country?

A I've heard them say it multiple times, and where I would look for evidence of that is in the TRP. And I haven't seen a TRP in a couple years, because I have been gone from the Bureau, but I would want to see where DVEs, domestic violent extremists, rank on the TRP for the FBI, see if it synchs with the -- in this case, the commander's intent coming from the White House.

Q Are you aware that in June 2021, Director Wray stated the FBI had a very, very active domestic terrorism investigation program and that the FBI had, quote, "doubled the amount of domestic terrorism investigations"?

A That's accurate. I am aware, and it is accurate. I think what we're talking about here today is the mechanism by which he got to those numbers.

Q Correct.

Do you believe those statements are misleading since the number was only doubled based on a single event?

A Correct, correct. We're not seeing that. We know -- so when we do TRP, when we start talking about domestic violent extremists, we talk -- we would rank above,

like, neo-Nazis and White supremacists.

In the Boston area, we would rank environmentalist extremist groups above those groups because we see more activity from them. Not more social media posts; more activity.

Q Can you talk about those tags a bit more? Would tags be that granular in terms of what the DVE threat is?

A No, tags are not granular. You would have to then support it with an EC, an electronic communication.

Q Could you give me examples of specific tags that would be assigned?

A Well, any program, whether it be -- it could be VC, violent crime, PC, public corruption. Any tag -- any program that the FBI has you have the opportunity to tag it.

Q Okay. So it wouldn't be, like -- a tag wouldn't be like antifa or Boogaloo?

A No, no.

Q Okay.

A No, not that. Not that --

Q Granular.

A -- granular.

Q Okay.

A So you would have to -- well, first off, there's a narrative out there that antifa is nothing more than an ideology. But if you did not ascribe to that narrative, if you were working an antifa matter, say, as like a RICO -- which we don't -- you would -- it would start out as a domestic violent extremist, and then it would be an EC, and ECs plural, talking about your investigation of antifa and subjects and possible violations of U.S. Code.

[redacted] Thank you.

I have no additional questions.

[redacted] Yeah, we can go off the record.

[redacted] We can go off the record.

[Recess.]

[redacted] It is 2:03. We are back on the record.

BY [redacted]

Q Mr. Hill, we just talked a fair amount about your experience with the January 6th investigations.

I just want to get clarity for the record. How many January 6th cases did you personally handle?

A I don't handle cases.

Q Okay.

A The SSA handles cases. I don't know how many the CT2 supervisor handled.

Q So did you handle -- what did you specifically handle for the January 6th investigations, were you personally involved?

A So my analyst would support CT2, who also has an embedded analyst. So we would primarily liaise with -- we were the communications element between the Boston Regional Intelligence Center and CT2 and the Commonwealth Fusion Center and CT2.

Q Did you handle specific products as part of that intelligence reports or anything like that?

A So each of my analysts is required to write three finished intelligence products a year.

Q Okay.

A So they can write an intelligence note -- three intelligence notes. They can do an intelligence assessment. I'm trying to remember the -- those are probably the big ones. Intelligence notes is usually typically the big one that they go to.

Q Okay.

A And an intelligence assessment is never in support of the case. That's operational intelligence.

Q So you and, I guess, your intelligence analysts were not directly involved in any cases. Is that right?

A My analysts may do research in support of a case, yes, but not interviews. They may respond to a lead from a case, but they're not responsible for the case.

Does that make --

Q It does. I'm trying to get a sense, could you estimate how many cases they may have supported?

A Related to January 6th?

Q Correct.

A I wouldn't say it's a great deal. I'd say less than a dozen.

Q Okay.

A Because as I pointed out in earlier testimony, a lot of the potential cases were shunted off at the SAC -- at the SSA, SAC level and, no, we're not going to do this.

So it could have been 140 more cases, but it wasn't. I don't think it reached a dozen.

Q Okay. And to get clarity on your role, you were the supervisor, then, that would have overseen those intelligence analysts while they were handling that approximately dozen?

A Correct. And if they had written any product, whether it be -- well, they

wouldn't have written an intelligence bulletin, but they may write an EC doing social media searches or whatever. I would review that before -- it would show up in my SENTINEL queue, q-u-e --

Q Okay.

A Is that how you -- I don't think that's how you spell it. Sorry.

Mr. Foster. C-u-e?

Mr. Hill. Yeah, your cue, your line to approve.

BY [redacted]

Q Okay. I want to turn to the Bank of America request that you talked about a little bit ago.

Do you know whether the FBI requested that list?

A They did not request that list.

Q And how do you know that?

A You know what? That's a very good question. Because the narrative was they sent it to us. It wasn't they replied to a request from us. So if we're going to get hung up on language, I'm inferring that it was sent without a request.

If they had responded to a request -- the FBI was founded by lawyers and accountants. They're very specific on language. If they had responded to a request, the SSA would have said they responded to a request for identification.

Q Okay.

Mr. Foster. Can I ask a clarifying question?

So in your role as an intelligence analyst, a supervisory intelligence analyst, if there had been a request, would it be one that you would have been aware of?

Mr. Hill. No, because it would have emanated -- it would have originated out of WFO, Washington Field Office, or, at that earlier stage, out of DTOC, Domestic Terrorism

Operations Center.

BY [redacted]

Q You referred a couple of seconds ago to "the narrative was."

Can you explain what you mean by "the narrative"? Where did that narrative come from? How did you learn about it?

A Well, it was quite clear in Timothy Thibault's opening remarks each day during the phone call that, paraphrasing him, that our government was almost overthrown, our Capitol sacked, we haven't seen anything like this since 1812.

Q Okay.

A That's the kind of narrative I'm referring to.

Q I understand. I understand.

You said that the Bank of America list was provided without any legal process to the FBI. What's your basis for knowledge of that?

A I just said, based on the language used by the SSA, quote, "We received a list from Bank of America," not we reached out to Bank -- the language that would be used -- like, when you are in this line of work, there's a way of speaking that people recognize, wording and phraseology that is familiar to the ear.

So the phraseology that I would have been looking for: We sent a request to BOA for a list of any activity from their customers that occurred on the following date range.

That would have been something that would have been overt, out there, right from the beginning. It probably would have -- it would have been talked about by Timothy Thibault on January 7th.

Q Okay.

A Instead, it was a conversation between two supervisory special agents

saying, "We got a list from Bank of America."

Q Okay. And --

A And so it's kind of like a strain of logic.

Q No, I understand. So you're saying you inferred it from the language. Is that right?

A Correct.

Q Okay.

Mr. Foster. Well, you weren't told of it -- to be more specific --

[redacted] I'm so sorry. This is actually -- these are my questions. I'm happy to give you time afterwards, but --

Mr. Foster. I understand. But I want to make sure the record is clear about what he's saying.

So just to be clear, what you're saying is your basis for that belief is that you weren't told about any legal process or request.

Mr. Hill. Correct.

BY [redacted]

Q You mentioned in that same conversation: We used the word "case," and we also used the term "preliminary investigation."

Can you describe the difference between those?

A So there is a PI, preliminary investigation, and then an FFI, a full field investigation.

A preliminary investigation does have an opening EC, and then the findings of that preliminary investigation then become a full field investigation.

So what you and others refer to as a case could be either one. It could be a preliminary investigation, case closed, or a full field investigation, we're off to the races.

Q And you used the term "least intrusive means."

A Least intrusive methods.

Q Methods. I'm sorry.

A Correct.

Q Can you explain what that is?

A So, for example, say, we had a guardian on someone who was blowing things up in their backyard. Least intrusive methods would be, okay, who is that person? What is their social media profile? Stuff without interrupting people's daily routine. So are there any police records related to this individual? Were there any other reports related to this individual?

So least intrusive means, essentially, you're not disrupting someone else's daily routine.

So then it could escalate from there, which it typically does, especially like on a guardian. You may go and do some door knocking and talk to some neighbors, you know, "Hey, how's Joe Schmuckatelli doing across the hall, you know, across the street? You know, "Oh, no, just checking." You know, heard whatever. Try to make it as innocuous and, again, as unintrusive as possible.

So you escalate the level of intrusivity each time. So least intrusive method as possible, not disrupting anybody's day. Escalating it again, maybe talking to school officials, people in the neighborhood, that sort of thing.

Most intrusive would be, we found something, we're going to go full field investigation. Do we need a Title III, if it's a criminal matter? Do we a FISA if we suspect international terrorist connections?

So that's what I mean by least intrusive.

Q And the initial stage is the least intrusive method?

A Yes, always, default setting, least intrusive. Unless you've got pictures of someone putting an explosive device underneath a transfer station somewhere, then, boom, you're off to the races, full field investigation, least intrusive methods be darned.

Q Okay. I want to turn to the conversation about where you said there was a comment made that there may be CHSs on the video whose identity we need to protect.

A Correct.

Q That conversation, do you remember when that conversation took place?

A No, I don't remember the exact day.

Q Can you recall if it was like January, February, March --

A Oh, no, no, no, no, no. It would have been a couple -- at least 4 to 8 weeks down the line when they were asking us to pursue this.

Q So maybe end of February, early March? Would that be about right?

A That's fair. But, like, please don't marry me to a date because I don't know.

Q Okay. And you -- I think you said you don't know who said that?

A I do not. I don't recall.

Q Okay. But you can remember their words exactly?

A No, I can't remember their exact words.

Q Oh, okay. So that was just a paraphrase that you --

A Yes, yeah.

Q Okay. But you believe the words were "there may be"?

A I know the word "may be" used, may be, quotations, used, yes.

Q Do you believe that there were potentially confidential human sources involved?

Mr. Foster. Just testify to what you know.

Mr. Hill. I don't know that there were potential human sources, CHSs, or UCs. I

don't know that.

BY [redacted]

Q Okay. I think that you were asked if you had any notes, and you said they may have been -- they may have been shredded?

A No. They asked if the CT2 supervisor had any notes.

Q Okay.

A And I said we're required to keep all handwritten notes for any kind of case, but if they're just like notes of the daily routine check with so and so on this, those kinds of things, we usually keep them like in a spiral notebook. And if it's case specific, it will have its own notebook. If it's just day-to-day operations, they're just going to get shredded.

Q Okay. And just to clarify, did you hear this line about the CHSs? Did you hear that directly, or was that told to you?

A No, I heard it directly.

Q You heard it directly.

A Wait, wait, wait, wait, wait, wait. It's over 2 years ago.

Ah. I asked the CT supervisor the same question that he asked the other Washington Field Office supervisor, to which he said... and then he said no, yada, yada, yada. So secondhand from a peer and a personal friend.

Q And I'm sorry. Again, who was that?

A I would be happy to give his name outside the --

Q No, I don't need the name, but his position.

A The CT supervisor, CT3 -- CT2 supervisor, the domestic terrorism squad.

Q And CT2 stands for?

A Counterterrorism 2. So there's CT1, CT2, and CT3, just like we have CI 1, CI

2, CI 3, CI 4, Cyber 1, CY1, CY2, that kind of thing. Nothing fancy or --

Q Okay. I don't know the acronyms, so --

A No. I'm sorry. I said I was going to try to avoid that, and I failed again.

Q There was a comment made -- sorry. I'm trying to read my writing.

With respect to the comment about the bicycle barriers being removed, that case --

A Yes.

Q -- you said that the Washington Field Office was displeased.

Can you state again, how did you know the Washington Field Office was displeased?

A So, again, very similar to the -- oh, the sources. Similar conversation.

And this is -- again, this is just part of the daily routine of me checking with my counterpart. So I was offsite at the Commonwealth Fusion Center. I would go into Boston once a week for my daily ONDCP, Office of National Drug Control Policy, calls.

So I would talk to that CT2 supervisor daily and see him at least once a week, and he was recapping what had happened with the -- like I said, we didn't have many cases, but recapping what happened with the one case where he escaped prosecution because of the video. And he said that, quote -- well, maybe not quote -- but WFO is not happy about that.

Q Okay. And you did hear that secondhand?

A Secondhand, yes.

Q Okay.

A Yeah.

Q And I apologize for jumping back, but back to the Bank of America list that we talked about just a couple of minutes ago. Did you see that list yourself?

A I saw the EC in SENTINEL. I didn't open up the list. It was huge.

Q Okay. And you mentioned the seven names on that list.

A Yes.

Q Did you see those names?

A I did, but I don't remember them.

Q Okay. How did it come about that you were looking and you saw the EC in SENTINEL? Was it part of your regular duties? Did somebody ask you --

A Yeah. No, no. It was just regular coordination with a counterpart.

Q Okay. So it wasn't that somebody said, "We need you to run this down. Can you take a look at this list?"

A It never got to that because the CT2 supervisor said, no, we're not doing this based on that.

Q Okay.

A So there was no request for my squad to do any work on behalf of -- and, quite frankly, with just seven names, he could have had anybody on his squad help out with that.

If one of those -- if during a [inaudible] -- let's say, for instance, let's say they did run down those seven names and they found that one of them had an extensive criminal history in Boston, then I would become more detail involved with the Boston Regional Intelligence Center.

Q Okay. But, in this particular case you just happened to be on SENTINEL and you saw it?

A No, I didn't happen to be on SENTINEL.

Q It was your job to be on SENTINEL?

A Yes.

Q Sorry. I didn't mean to diminish your -- part of your work.

You mentioned -- you were talking about your opinion of the use of the DVE threat tags --

A Yes.

Q -- and that they were -- and the prosecution of the cases -- the January 6th cases -- as misdemeanors.

Are you -- and you're not a lawyer, right?

A Correct.

Q Are you familiar with who would have jurisdiction to prosecute crimes that occur on Federal property?

A The U.S. Attorney's Office, whether it be the AUSA or the U.S. Attorney's Office.

I don't know about the relationship with the Capitol Hill Police and the District of Columbia. I know nothing about that.

Q Okay. So you wouldn't know if the FBI would ordinarily investigate crimes that took place on Capitol Grounds, for example?

A No, I would not.

Q Okay.

A However, the FBI is not investigating all of those crimes that took place on Capitol Grounds in Washington. Those crimes are being investigated around the country by FBI offices in other parts of the country.

So if the FBI does have primacy on investigating crimes that take place within the District, then I will ask you, why weren't those cases then opened up in Washington Field Office?

Q Thank you for that.

The Republican counsel said -- asked you if it was antithetical to pull resources from crimes, such as child sex abuse cases, to investigate the January 6th cases. And I'm paraphrasing, so that's not a direct quote.

Do you know if there were resources pulled from child sex abuse cases to work on January 6th crimes?

A Not in the Boston office. Again, our SAC and ASAC team are hardcore FBI seasoned professionals, married at the hip to the Constitution and the rule of law. We've had women in those positions as well. Utmost integrity -- I mean, they are the embodiment, the physical manifestation of the word "integrity." They stand by their oath.

Q So you have no knowledge of resources being -- any resources being pulled from child sex abuse cases?

A I do not. I do not.

And I had a friend of mine who worked on that squad as a staff operations specialist. At any time -- we used to commute together when we took the train and stuff. So if I went down for a cup of coffee or something like that, I never saw a bunch of empty cubicles.

That's just an observation. I don't look at manning tables or anything like that. But according to her, they were just as busy as ever.

Q Thank you.

I want to turn to -- just staying on the question about January 6th and the cases.

Mr. Hill, where were you on January 6th, 2020?

A In the Commonwealth Fusion Center in Maynard, Massachusetts.

Q And do you -- are you aware that President Trump gave a speech on The Mall that day?

A Yes.

Q And were you aware of that at the time?

A No. I mean, I was just going about my regular daily routine. I mean, keep in mind that I also had the High Intensity Drug Trafficking Area as well, and I can't recall if I were in the middle of any kind of hiring initiatives or anything like that. But I always had a pretty full schedule.

Q Okay. At some point during -- so when did you become aware of that? After the fact, I guess?

A Probably not until I got home -- well, I'm trying to think if there was any traffic on the FBI network. So probably towards the end of the day.

Q Okay.

A And I don't recall the details of that email traffic that was coming out.

Q Did you have any reaction to the email traffic or the news when you learned about it?

A If I had to summarize my reaction in a phrase, it would probably be, "Oh, my God."

Q And can you talk a little bit more about that?

A Just incredulous. I can't believe that this happened, I mean, because I know the security.

So as a national security supervisor, I am responsible for signing off on what's called the threat assessment. And threat assessments are done on, say, the Boston Marathon, on the July 4th stuff, the Super Bowl parade, stuff like that.

I am intimately familiar, because it's my job, with steps that are taken by Federal, State, and local entities to secure public gatherings.

Q Okay.

A So I was, "Oh, my God," incredulous. But I was also mortified, "How the hell did this happen?" having been involved in so many other planning activities regarding threat assessments and the level of detail and work that goes into those.

Q Thank you for that.

So you mentioned that you were incredulous, that you couldn't believe that this had happened, given your prior experience with threat assessments, et cetera.

A Uh-huh.

Q Are you aware that individuals broke windows to enter the Capitol?

A I saw it on TV.

Q Okay. That night?

A Probably, yeah.

Q Okay.

A When I went home.

Q I'm sorry?

A When I went home.

Q Understood.

Reports have indicated that certain individuals entered the Capitol without authorization and they were wearing body armor when they did that.

Are you aware of those reports?

A I have heard those reports, yes.

Q Do you have any reaction to them?

A Not really. I mean -- you know, here's my experience, in decades in this line of work, is that there are idiots throughout every segment of society. And if I got worked up over every stupid thing that every stupid person did, I would be sitting in the corner sucking my thumb unable to take any action on anything of consequence. And

I'm just going to let it go at that.

Q Okay. There's photographic evidence that some of the individuals who entered the Capitol without authorization carried Confederate flags and had clothing on with Nazi emblems.

Are you aware of that report?

A I've seen those pictures, yes.

Q And do you have a reaction to that?

A Again, stupid --

Mr. Foster. Can we stipulate that he's seen all the news coverage of January 6th and is aware of the things that we're all generally aware of and that he has whatever reactions that he has to them?

I mean, he has to drive back to New Jersey tonight and --

Mr. Hill. Delaware.

Mr. Foster. I'm sorry. Delaware tonight. And he's here voluntarily to answer your questions. He's been doing it for -- since 10 o'clock this morning. It's now 2:26.

So can you please like focus on some things that are factually relevant to the committee's inquiry?

[redacted] So I have -- he's welcome to decline to answer questions. I do have 60 minutes. It's a voluntary transcribed interview. He's welcome to decline to answer the questions.

Mr. Hill. Okay.

[redacted] I do have 60 minutes, though, to ask questions.

Mr. Foster. Okay. Well, he's someone who has personal factual knowledge about some matters that are going to be of controversy and examined by the committee. And so if you could ask him about those things, it would be a more productive use of his

time.

[redacted] Thank you for that.

BY [redacted]

Q Some people have described the individuals who entered the Capitol as rioters.

Do you agree with that description?

A After observing the peaceful protests after the George Floyd incident, I'm not so sure what the current definition of the word "riot" means.

Q So you don't know if you would describe the individuals who entered the Capitol as rioters, in your own words?

A As I said, the word has been perverted. I don't know what it means anymore.

Q Is there another term you would use?

A Stupid people doing stupid things.

Q Okay.

A Let's just get this clear for the record. I don't support, under any circumstances, attacking police officers, breaking into restricted areas, destroying of government property, and doing stupid things. Every person that broke the law needs to be identified and prosecuted to the fullest extent.

What I take umbrage with is casting in a sea net covering miles and scooping up everything that they can and the erosion of civil liberties surrounding that.

Okay.

Q Thank you for that.

Are you -- you're aware -- or are you aware that there were recent convictions for seditious conspiracy in Federal court?

A The Proud Boys, yes.

Q Do you have a reaction to that conviction?

A I'm not a trial attorney. I don't know if any of those cases are going to be on appeal. I can only -- and I want to trust the legal system and that all processes were observed and they were charged and prosecuted in accordance with our laws and guidelines.

Q Are you familiar with the death of Ashli Babbitt?

A Yes.

Q Can you tell us, in your own words, what your understanding is of the circumstances surrounding her death?

A She was being pushed by a crowd. She tried to escape that crowd through a broken window.

For the record, I'm a U.S. Concealed Carry Association certified instructor. What I saw was the unlawful use of deadly force by Lieutenant Byrd.

Q And, in your opinion, should Mr. Byrd be prosecuted for that?

A Based on my observation of the shooting and the details that I know, which there may be more that I'm not privy to, but based on what I know, it was not a lawful shoot. It was not a lawful use of deadly force.

Q Are you familiar with the death of Capitol Police Officer Brian Sicknick?

A Yeah. He died a few days of, I believe, was it a brain aneurysm, after the events of January 6th?

Q So that's your understanding of the circumstances surrounding his death?

A Well, he wasn't bludgeoned in the head with a fire extinguisher. I know that.

Mr. Foster. Just to be clear, all the questions, the last several questions, all your

knowledge from all of that is based on the same knowledge that the counsel has from watching news and reading news accounts, correct?

Mr. Hill. Correct. I mean --

Mr. Foster. You have no personal knowledge about any of these?

Mr. Hill. No, no personal resources. I mean, if she --

Mr. Foster. If you want to spend the resources to pay the court reporter to have a discussion about publicly known facts, I mean, that's obviously -- you know, you can do that. I don't know how much more he wants to sit here and do that.

[redacted] That's fine. He's welcome -- like I said, he's welcome to decline to answer the questions.

Mrs. Hill. Well, I don't want to undermine my credibility.

BY [redacted]

Q Mr. Hill, do you have a Twitter account?

A Yes, I do.

Q What is your handle?

A You're welcome to conduct searches. You might already have it.

Q Is it @SeniorChiefEXW?

A Yes, it is.

[redacted] Okay. And I -- how should I do this?

So I'm just going to admit this for the record to make the record of your Twitter account.

Do you know what number we're on?

Mr. Foster. Four.

[redacted] Four.

BY [redacted]

Q So is this your cover page, the header?

A Yes.

Q So 13 years Active-Duty USMC, another 13 years USNR?

A Yes.

Q Retired FBI national security intelligence supervisor, current adjunct professor. And it says you joined August 2021. Is that correct?

A Uh-huh.

Q On January 19th you tweeted an Epoch Times story reading, "New body cam footage boosts interest in release of 14,000 hours of January 6th video and dramatic body cam footage showing protestors doing CPR on the lifeless body of Jan. 6 protestor, Rosanne Boyland," has hats off.

You commented, "I'm disappointed @SpeakerMcCarthy ended the #J6 committee. There needs to be a real investigation. #RosanneBoyland."

Do you recall tweeting that?

A Yes, it's in there.

Q Okay. And I'm going to admit this as exhibit No. 5.

[Hill Exhibit No. 5

Was marked for identification.]

BY [redacted]

Q Who was Rosanne Boyland?

A She was one of the people trampled to death inside the -- what do you call it? -- the tunnel, yeah.

Q And what did you mean by, "There needs to be a real investigation," if you recall?

A You know what? This is First Amendment-protected activity, I'm not going

to go and defend it. You can read it for yourself. You can interpret what I said or misinterpret what I said. It's entirely up to you.

But I'm not going to get in, in this setting, to defending First Amendment-protected activity, no differently than we did with the people that we were getting leads on engaging in First Amendment-protected activity.

Q Understood.

On January 19th, you tweeted a military.com article reading, "3 Active-Duty Marines Who Work in Intelligence Arrested for Alleged Participation in Jan. 6th Riot."

You commented, "#J6Entrapment."

Do you recall that?

A I guess. I don't know. If you have it in front of you.

[Hill Exhibit No. 6

Was marked for identification.]

[redacted] I'm going to mark this as exhibit No. 6.

Here's a copy.

Do you recall what you meant by #J6 entrapment?

Mr. Hill. Again, I'm not --

Mr. Foster. Can I have a copy?

Mr. Hill. Here.

[redacted] There's two copies there.

Mr. Hill. Again, I'm not going to get into defending stuff that you can read for yourself. Again, First Amendment-protected activity.

[redacted] Okay. On January 18th, you tweeted an article from pjmedia.com headlined, "Oops: Joe Biden Just Torpedoed the Left's Entire Jan. 6 'Insurrection' Narrative." And reading: There was no insurrection. It's a massive lie that the left

has constructed in order to discredit and destroy the America-First -- and then it cuts off.

You commented, "#J6."

Do you recall that?

Mr. Hill. No. But, obviously, you have physical evidence of it.

[Hill Exhibit No. 7

Was marked for identification.]

[redacted] And that is being marked as exhibit No. 7.

On January 8th, you retweeted a post from Glenn Beck stating, "It's not just Ray Epps who the government has ignored. @DarrenJBeattie told me he, quote, 'pulled out all the stops' to identify the Jan. 6 rioter 'Scaffold Commander,' but found nothing. If his identity is actually uncovered, it is going to be one of the biggest scandals in the country."

You commented, "Somebody" -- "Someone knows the identity of the #NWScaffoldCommander. Seek #Whistleblower protection and step up. Be a #Patriot."

Do you recall that?

Mr. Hill. Not entirely, but I'm sure you have physical evidence of it.

Mr. Foster. I'm sorry. Before we go on to exhibit -- what I assume you're about to mark as exhibit 8.

[redacted] Yeah.

[Hill Exhibit No. 8

Was marked for identification.]

Mr. Foster. Exhibit 7, I just want to make sure the record is clear. Are those your words, or are those the words of the person who you retweeted?

Mr. Hill. Where?

Mr. Foster. Well, the ones that she read into the record. They appear to be the

same.

Mr. Hill. Yeah. So that would be -- that's just the headline. I just retweeted it with the #J6.

[redacted] So the #J6 is your words?

Mr. Hill. Right.

[redacted] Okay. And in this one, your words are, "Someone knows the identity of #NWScaffoldCommander. Seek #Whistleblower protection and step up. Be a #Patriot."

Do you have any --

Mr. Foster. Could you just give him a minute to look at that?

[redacted] Yes, absolutely.

Mr. Hill. Again, I'm not going to engage in a defense of my First Amendment-protected activity.

[redacted] Okay. On January 6th you tweeted a revolver.com story entitled, "Meet Ray Epps, Part 2: Damning New Details Emerge Exposing" -- and it cuts off.

You commented, "#insurrection #RayEpps #Fedsurrection #J6."

Do you recall this?

Mr. Hill. I know I did read some articles from Revolver. So all I did was add hashtag to it. Okay.

[redacted] Marking that as exhibit --

Mr. Foster. This is 9?

[redacted] No. 9.

[Hill Exhibit No. 9

Was marked for identification.]

BY [redacted]

Q You don't recall what you met by fedsurrection?

A Again, I'm not going to get into defending or explaining First Amendment-protected activity.

Q Okay. On January 6th, you tweeted a photograph of a man with words atop him reading, "Where's Ray Epps? Why has he not been arrested?"

And you commented, "Happy Anniversary Ray Epps, from your friends in The Deep State. Job well done! #J6."

Do you recall that?

A I don't know. I don't know how many Twitter posts I have. I don't recall every single one. But, obviously, this came off my profile.

Q Okay. Marking that as exhibit No. 10.

[Hill Exhibit No. 10

Was marked for identification.]

Mr. Foster. Can you give us an idea of how many more of these you have? I mean, everybody can go look at his Twitter account for themselves and read what's in it.

[redacted] I'm just going to keep going. Thanks.

Mr. Foster. Indefinitely or --

[redacted] I have 60 minutes. So I have 60 minutes to ask, under the agreed-upon rules, anything I'd like.

Mr. Foster. Well, he's here voluntarily, and I'm asking you, is this how you're going to spend the rest of the 60 minutes, is going through every single Twitter -- tweet on his Twitter account?

[redacted] We'll see how far I can get. You're welcome to --

Mr. Foster. So that's your plan?

[redacted] You know I do have 60 minutes. We had agreed upon 60 minutes.

Mr. Foster. Well, you agreed with them. You didn't agree with him.

[redacted] If you don't want to answer the questions or if you want to advise your client not to answer the questions or to end the interview, that's your --

Mr. Foster. Well, I'm trying to manage his time, because he has to drive a considerable amount this afternoon. So he's here to help. He's here to be helpful.

If you're going to give him an inquisition on his political opinions that you don't like or news articles that you don't think he should have retweeted or hashtags that you don't think he should have used, that's not a valuable use of his time.

So I'm trying to get an assessment so he can make an informed decision about whether he wants to remain here.

Mr. Hill. Yeah, I mean, if this is all we're going to do is go over my tweets, the answer is going to be the same each and every time, that this is First Amendment-protected activity. It's the same kind of answer that we gave to guardian leads and other conversations.

So, I mean, if you want to spend the time creating a video, an audio record of me saying this is First Amendment-protected activity, like you said, it's your time.

[redacted] Okay. And I do think, you know, you've talked about your handling of the January 6th cases or your overseeing of it. So I think this just provides something of a fuller picture.

On December 28th, 2022 --

Mr. Foster. Well, it may, it may, but the point of this exercise is supposed to be able for the committee to find out what he knows, to get facts out of his head that's not already available for everybody to look at it themselves on the internet if they want to.

[redacted] I have 60 minutes. Again, you are not obligated to sit here for the 60 minutes. But as long as I have 60 minutes, I'm going to finish out my question line.

Mr. Hill. So is this what it's going to be, about the Twitter tweets for the next 60 minutes?

[redacted] I don't want to preview. It's possible that the question lines could lead us in another direction.

Mr. Foster. Actually, you started at 2:03, so you don't have 60 minutes.

[redacted] I'm sorry. I mean I have 60 minutes total. I have whatever is left in the time frame.

Mr. Hill. I mean, like I said at the very beginning, my goal is to be helpful. If we're going to be killing trees and handing out printouts of Twitter tweets we may be done, I mean, unless you've got --

[redacted] I intend to ask about additional tweets.

Mr. Hill. Okay. Well, I guess it might be time to hit the road if that's all we're going to be doing is reading my Twitter account.

Mr. Foster. Can we go off the record?

[redacted] Yes.

[redacted] Okay. And it's 2:40.

[Discussion off the record.]

[redacted] We're back on the record.

It's 2:45. We just had a 5-minute break.

Mr. Foster. Before you go on with your questioning, George would like to request, respectfully, that given that he has articulated what his answer will be to this entire -- to this repeated, repetitive line of questioning, and that it's not a useful exercise in terms of illuminating any factual questions for the committee, for anybody on either side, he, respectfully, requests that you -- he will stipulate. You've already established this is his Twitter account. Everybody can go look at it and see what's on it. I'm sure

you have copies of everything already. There's not any use in going through each and every one of them and asking him what he meant, because what he meant is what he said. And you can take it for what it says.

So he would, respectfully, ask that you not continue with that line of questioning. If you have factual questions that you would like to get at, where there's actual information that might be useful for the committee that he knows that you could get out of him, that's a perfectly productive use of our time.

[redacted] Thank you for that. I appreciate the request.

I will say, in some cases, the language that he used, it's not clear to me. It's not clear to me what hashtags mean or what particular references mean.

Obviously, he's welcome to decline to answer, and that's completely fine.

Mr. Foster. Well, he's going to give the same answer to every questioning.

I don't know if you -- have you ever taken a deposition or a transcribed interview where someone pled the Fifth?

[redacted] You know, my experience isn't really relevant here. I would like to get through my question line --

Mr. Foster. Well, typically after you go through it multiple times, like it's just polite, especially if the person is here.

[redacted] So is he pleading the Fifth? Is that what you're saying?

Mr. Foster. No, he's not pleading the Fifth. I'm making an analogy. I'm saying he's telling you that there's -- he's going to give you -- that's something that frequently happens. Someone will come in and they'll say, "I'm going to answer this way to every question that you pose." Right? Every question along this line he's going to answer that way. Okay?

So it's a waste of everyone's time, and it's a waste of government resources to

have a court reporter sitting here going through it when all this information is publicly available, anybody can look at it and draw whatever conclusions they want to from it.

So he -- if there's anything that's -- I mean, if there's anything that is genuinely ambiguous and relevant to something that the committee needs to inquire into, he'll consider your question. But if it's just going to be putting tweets before him for the next however minutes you have left, we would, respectfully, ask that you not do that and move on to another area of questioning.

[redacted] I appreciate that.

I have a handful of tweets that I would like to ask about that there are unclear references in. I do appreciate your position --

[redacted] I would just like to reiterate the request, because if we have whistleblowers that are brave enough to come forward and they realize that when they do come forward they get about an hour of substantive questions and then the rest of the time is spent just interrogating their First Amendment activity, that could be a chilling effect, and so --

Mr. Foster. It will absolutely be a chilling effect.

[redacted] So I just don't --

[redacted] And I would note that these are confidential, and the terms of the transcribed interview were that nothing that takes place in this room is to be discussed with anyone else, including, I would presume, with other witnesses.

So I appreciate where you're coming from. I have, I think, about five more tweets now --

Mr. Foster. Well, we all know that they will become public at some point. There's no restriction. Any of you guys can walk out of here, despite what you've asked of us, any one of you can walk out. And despite the position that that puts him in, he's

come here, and he's taken his time, at his own personal expense and his time, to come here and try to help you.

[redacted] I appreciate that.

Mr. Foster. Right. So that's not a very -- it's not a productive use of his time to go through tweet after tweet after tweet.

And at some point those transcripts, if history is any guide, will be public, and that will deter other whistleblowers from coming forward if they think that the reaction from the committee staff is going to be to waste their time.

[redacted] I appreciate that.

You know, I understand that he may not want to talk about these things. I do have questions to ask him. So I'm going to continue on my line. I can tell you I have about five questions left on this line.

Mr. Foster. Thank you. That's what I was asking you before that you wouldn't tell me. I appreciate you now telling me how many more we have to go.

[redacted] On December 28th, 2022, you retweeted a post from @LynneS700 stating that, "Patriots were the only ones trying to stop the fake insurrection violence being committed by implanted antifa. (Pelosi's buddies)."

You commented, "Insurrection my a$$. It was a setup and, sadly, there's no shortage of idiots willing to take the bait."

Do you recall this?

Mr. Hill. I don't recall it exactly. But based on what you've just shown me, it does look like it's my tweet.

[Hill Exhibit No. 11

Was marked for identification.]

[redacted] Okay. We're marking that as exhibit 11 for the record.

On December 22nd --

Mr. Foster. I'm sorry. Could you give me a second to look at the exhibit, please?

[redacted] Uh-huh.

And I would like to note for the record that we did just have about a 4-minute conversation about this, and now Mr. Hill's attorney is taking about a minute to review the tweet.

Mr. Foster. It hasn't been a minute. I'm done.

[redacted] On December 22nd, 2022, you tweeted a Just the News story stating that, quote, "Contemporaneous emails and text messages show Pelosi staff involved in failed security planning ahead of Capitol riot."

You commented, "@SpeakerPelosi and her staff have blood on their hands. #J6."

We're marking this as exhibit 12.

[Hill Exhibit No. 12

Was marked for identification.]

[redacted] Do you recall this?

Mr. Hill. I don't recall it, but it does look like my tweet.

Mr. Foster. Let the record reflect that the witness didn't even look at the exhibit before he said that, so --

[redacted] Would you just take a look and --

Mr. Foster. So he's taking your word for it.

BY [redacted]

Q Please take a look, sir, and then let me know if you --

A That is my ugly mug, and that is my Twitter handle.

Q Okay. Do you recall what you meant by Speaker Pelosi and her staff have blood on their hands?

A Again, First Amendment-protected activity. I'm not going to go into any explanation.

Q Okay. On November 30th, 2022, you retweeted a tweet from Marjorie Taylor Greene reading, "If the FBI had so many informants inside a group, why don't they stop J6 from happening?"

You commented, "The #FBI are the brown shirt enforcers of the @DNC. By the Bureau's own policy, they are obligated to disrupt if innocent lives are at risk. But #Trump supporters aren't ever innocent, are they?"

Do you recall this?

A No, I don't.

Q We are marking this as exhibit 14 --

Voice. 13.

[redacted] 13. I'm sorry.

[Hill Exhibit No. 13

Was marked for identification.]

Mr. Hill. For the record, it looks like my picture and my Twitter handle.

BY [redacted]

Q And do you know what you meant by "brown shirt enforcers"?

A Again, First Amendment-protected speech. I'm not going to explain it.

Q Okay. On November 26th, 2022, you tweeted an Epoch Times article with a picture of now Chairman Jordan. The headline of the article reads, "FBI Waited Over a Year to Fully Investigate Jan. 6 Pipe Bombs: House Judiciary."

You commented, "The reason that bomber is not already in jail is because this is

part of a larger #Democrat plan using their enforcement arm, the #FBI."

Do you recall this?

A I don't.

Q We're marking this as exhibit 14.

[Hill Exhibit No. 14

Was marked for identification.]

Mr. Hill. For the record, that is my Twitter handle.

BY [redacted]

Q Can you tell us what you meant by larger Democratic plan -- larger Democrat plan?

A First Amendment-protected activity. I'm not going to explain it.

Q Okay. On November 6th, 2022, you tweeted an Epoch Times story headlined, quote, "Oath Keepers Trial: Stewart Rhodes Testifies That 2020 Election Was Unconstitutional."

You commented, "Please take a minute to read this."

Do you recall this?

A No.

Q And that's marked as exhibit 15.

[Hill Exhibit No. 15

Was marked for identification.]

Mr. Hill. For the record, that is my Twitter handle.

[redacted] On January 6th of this year, you tweeted a picture of a man and a woman standing next to each other. It reads, "This needs to be posted daily until that SOB is arrested and stands trial."

It says on top, "Michael Byrd murdered Ashli Babbitt January 6th, 2021."

Do you recall this?

Mr. Hill. No. That is my Twitter handle, and those people standing next to each other are Michael Byrd and Ashli Babbitt.

[Hill Exhibit No. 16

Was marked for identification.]

[redacted] We've marked that as exhibit 16.

We have just about, I think, 10 minutes left.

Mr. Foster. But you're done with tweets?

[redacted] We'll see.

Mr. Foster. I think we got to five. That was your magic number.

BY [redacted]

Q I want to turn back to the podcast that you appeared on. On the Kyle Seraphin podcast you stated, "The Republicans are talking about a 21st century, a 2023 version of the Church committee."

You added some comments about English literature. We're happy to play this for you if that would be helpful.

And you continued, "I think what Shakespeare said, if you're going to kill the king, make sure you kill the king. If they're going to go after this new committee, after the intelligence community, they better make sure they get every bit of cancer that's out there, because I can tell you right now it's going to come back, and it'll come back stronger, more vicious than ever."

Do you recall this?

A Yes.

Q And can you tell us what you meant by the committee needing to get every bit of cancer?

A Again, First Amendment-protected activity, not going to get into explaining my comments on a podcast.

I'll be honest with you, you seem to have so many questions about podcasts and tweets. I'd be happy to sit down with you if you ever -- do you have a podcast format or program that maybe you and I can get on, on an informal -- okay. Sorry.

Q And I'm sorry. I do actually have two more tweets.

On November 26th, 2022, you tweeted a Washington Examiner article headlined, quote, "Here are the 24 [sic] Biden administration officials House Republicans have put on notice."

You commented, "Hearings are great. Get it all into the news stream. That the current #DOJ will do nothing should not stop the hearings."

Do you recall this?

A No.

[2:57 p.m.]

[Hill Exhibit No. 17

Was marked for identification.]

BY [redacted]

Q We've marked this as exhibit 17. Are you able to --

A That is my Twitter handle.

Q Okay. Are you able to tell us what you meant by "get it all into the news stream"?

A Again, First Amendment-protected activity. I'm not going to get into explaining it.

Q And can you tell us whether you consider it important to get this information out?

A I think any information that doesn't threaten national security sources and methods always does well in the sunlight.

Q On August 13, 2022, you tweeted, quote, "Wray has never lost a minute's sleep over @ChuckGrassley, @SenTedCruz, or @Jim_Jordan. I'm sorry, but it's true. No one in #DOJ or #FBI has ever paid a price for unlawful conduct and never will. Sad but true."

Do you recall this?

A Was that a tweet?

Q It was a tweet, August 13, 2022.

A I don't know. Can I see it?

Q Sure.

A I don't remember it.

Q And we are marking this as exhibit 18.

[Hill Exhibit No. 18

Was marked for identification.]

Mr. Hill. Yeah. So I don't even know what this tweet was in response to, but that is my Twitter handle.

BY [redacted]

Q Okay. Do you recall what you meant by "no one in DOJ or FBI has ever paid a price for unlawful conduct and never will"?

A Again, First Amendment-protected activity.

Mr. Foster. I just note for the record that the exhibit shows that the tweet that it was in response to appears to have been deleted.

[redacted] That's accurate. And we've admitted the whole tweet for the record, so that will be reflected.

BY [redacted]

Q Okay. I want to talk a little bit about your preparation for this interview.

A Uh-huh.

Q Just some kind of background questions.

And, actually, before we even get into that, Mr. Hill, have you ever been charged with a crime?

A No.

Q Have you ever been involved in any other legal claims or lawsuits?

A No.

Q Have you ever been accused of misconduct at the FBI or in any of your other previous jobs?

A No. Just the opposite. I've been decorated.

Q Okay.

Have you ever received monetary compensation for speaking about the FBI?

A Never.

Q Have you ever engaged in discussions related to the possibility of being paid for relaying your story, such as compensation for --

A No.

Q -- writing a book or article?

A No.

Q Were you compensated for the podcast that you participated --

A No.

Q -- in?

Mr. Foster. Let her finish the question --

Mr. Hill. Oh, sorry.

Mr. Foster. -- so we have a clear record.

Mr. Hill. Sorry.

BY [redacted]

Q How did you prepare for this interview?

A I had conversations with [redacted] [redacted] and another gentleman's name who's blanking on me right now. Probably no less -- maybe about half a dozen conversations with them and probably half a dozen conversations with the gentleman seated to my left, Jason.

Q Did you review any documents in preparation for the interview?

A No documents related to the interview. The only thing I did look at, which I referenced in my interview, is I looked at the uniform crime data so that I spoke accurately, and I went to the CDC site so that I spoke accurately about overdose deaths.

So that was -- as far as any looking at things, that was -- I don't know if that would -- I'm not a lawyer. I don't know if those qualify as documents. I just went to some websites, both government --

Mr. Foster. Public information.

Mr. Hill. Yes.

Mr. Foster. Yeah.

Don't answer any questions about our communications, obviously.

BY [redacted]

Q Do you know a gentleman by the name of Steven Friend?

A I know of him.

Q Okay. And how do you know of him?

A He's in the news.

Q And what do you know of him?

A Not much other than what's in the news. I know -- I don't know if he's retired or still in the -- I think what I'm giving away is I don't really know very much.

Q Okay. Are you aware of any allegations that he might have made?

A I didn't know he made allegations against the FBI.

Q Do you know a gentleman named Garrett O'Boyle?

A Never heard the name.

Q Okay.

A O'Boyle?

Q O'Boyle.

A Never heard the name.

[redacted] I think we are just about at time, so we can go off the record.

[Discussion off the record.]

[redacted] Back on the record.

Mr. Foster. So, just before we close, the minority staff spent a lot of time going through various what I would call political opinions that you have posted since leaving the FBI.

Is it fair to say that those opinions were based on the concerns that you had about what you saw while you were in the FBI as well as public reporting?

Mr. Hill. Yes. Nothing's changed.

I love the FBI. But, like with any parent, I mean -- or if someone calls themself your friend, if they're not willing to say, "Hey, you need to adjust yourself," they're not your friend. If all they do is just say, "Hey, this is great, this is great, this is great, keep going the way you're going," they're truly not your friend and they're not a very good parent.

Nothing's changed. I want the FBI to be successful.

Mr. Foster. So the minority staff also, in the first round of questioning, said that your statements on the podcast went to your -- claimed that they went to your credibility. I didn't hear anything that suggested that you were dishonest in any way, in any form, anywhere, anytime.

Is everything that you testified to today with regard to the facts accurate and truthful, to the best of your knowledge?

Mr. Hill. Regarding fact testimony, yes. Opinions are opinions, and, unfortunately, I probably gave too many of those.

[redacted] And I should clarify. I did say "credibility." I meant to say "bias."

Mr. Hill. Huge difference.

[redacted] And I -- yeah, I did not mean to impugn your credibility, and I do apologize.

Mr. Hill. I -- for the record, I -- quite frankly, I found it offensive.

[redacted] I apologize.

Mr. Hill. I don't know if you've ever been subject to a full-scope lifestyle poly, but it's -- yeah. You went there.

[redacted] And, for the record, it is fair to ask any witness about credibility questions to establish credibility for the record.

Mr. Foster. Of course. But none of your questions went to anything related to any of his truthfulness in any form, anywhere, ever.

[redacted] And, with that, I think we can go -- I would say that was, you know -- as I said, it goes to bias -- and I think we can go off the record.

[Whereupon, at 3:05 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: GARRET JAMES O'BOYLE

Friday, February 10, 2023

Washington, D.C.

The interview in the above matter was held in room 2237, Rayburn House Office Building, commencing at 10:03 a.m.

Present: Representative Gaetz.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

[redacted] GENERAL COUNSEL

[redacted] SENIOR ADVISOR

[redacted] DEPUTY CHIEF COUNSEL FOR OVERSIGHT

[redacted] COUNSEL

[redacted] SPECIAL COUNSEL

[redacted], DIGITAL DIRECTOR

[redacted] MINORITY CHIEF OVERSIGHT COUNSEL

[redacted], MINORITY OVERSIGHT COUNSEL

[redacted], MINORITY INTERN

[redacted], MINORITY COUNSEL

[redacted], MINORITY STAFF ASSISTANT

[redacted], MINORITY INTERN

[redacted], MINORITY PROFESSIONAL STAFF MEMBER

For GARRET JAMES O'BOYLE:

JESSE R. BINNALL

BINNALL LAW GROUP

717 KING STREET, SUITE 200

ALEXANDRIA, VA 22314

[redacted] We'll go on the record.

Good morning. This is a transcribed interview of Mr. Garret O'Boyle. Chairman Jordan has requested this interview as part of the committee's oversight of the Federal Bureau of Investigation.

Would the witness please state your name for the record?

Mr. O'Boyle. Garret James O'Boyle.

[redacted] On behalf the committee, I want to thank you for appearing here today to answer our questions. The chairman also appreciates your willingness to appear voluntarily.

My name is [redacted] and I'm with Chairman Jordan's staff. I'll now have everyone else from the committee who is here at the table introduce themselves as well.

[redacted] [redacted] Judiciary Committee staff.

[redacted] [redacted] with Mr. Jordan.

Mr. Gaetz. Matt Gaetz, majority member of the House Judiciary Committee.

[redacted] [redacted] counsel for Ranking Member Nadler.

[redacted] [redacted] Ranking Member Nadler.

[redacted] [redacted] Ranking Member Nadler.

[redacted] I'd like to now go over the ground rules and guidelines that we will follow during today's interview.

[redacted] We got a couple more officials we need to introduce on the record.

[redacted] Oh, okay.

[redacted] [redacted] intern with the minority.

[redacted] [redacted] Mr. Jordan.

[redacted] [redacted] Mr. Jordan.

[redacted] [redacted] Mr. Jordan.

[redacted] Sorry about that.

I'd now like to go over the ground rules and guidelines that we will follow during today's interview.

Our questioning will proceeds in rounds. The majority will ask questions first for 1 hour, and then the minority will have the opportunity to ask questions for an equal period of time if they so choose.

We will alternate back and forth until there are no more questions and the interview is over.

Typically, we take a short break at the end of each hour, but if you would like to take a break apart from that, please just let us know.

As you can see, there's an official court reporter taking down everything we say to make a written record. So we ask that you give verbal responses to all questions.

Do you understand?

Mr. O'Boyle. Yes.

[redacted] So the court reporter can take down a clear record, we will do our best to limit the number of people directing questions at you during any given hour to just those people on the staff whose turn it is.

Please try and speak clearly so the court reporter can understand and so the folks down at the end of the table can hear you as well.

It is important that we don't talk over one another or interrupt each other if we can help it, and that goes for everybody present at today's interview.

We encourage witnesses who appear before the committee to freely consult with counsel if they so choose.

And it is my understanding that you are appearing today with counsel. Is that correct?

Mr. O'Boyle. Yes, I am.

[redacted] Could counsel please state your name for the record?

Mr. Binnall. Jesse Binnall from the Binnall Law Group.

[redacted] Thank you.

We want you to answer our questions in the most complete and truthful manner as possible, so we will take our time. If you have any questions or if you do not understand one of our questions, please just let us know.

Our questions will cover a wide range of topics. So if you need clarification at any point, just say so.

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

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

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

Do you understand that?

Mr. O'Boyle. I do.

[redacted] This also applies to questions posed by congressional staff in an interview.

Do you understand this?

Mr. O'Boyle. I do.

[redacted] Witnesses that knowingly provide false testimony could be subject to criminal prosecution for perjury or for making false statements under Title 18, USC 1001.

Do you understand this?

Mr. O'Boyle. I do.

[redacted] Is there any reason you are unable to provide truthful answers to today's questions?

Mr. O'Boyle. No.

[redacted] Finally, I'd like to make note that the content of what we discuss here today is confidential. We ask that you not speak about what we discuss in this interview to any outside individuals to preserve the integrity of our investigation.

For the same reason, the marked exhibits that we will use today will remain with the court reporter so that they can go in the official transcript, and any copies of those exhibits will be returned to us.

All right. That's the end of my preamble.

Is there anything that my colleagues from the minority would like to add?

[redacted] We have nothing to add.

[redacted] Okay. The clock now reads 10:07. We'll start the first hour of questioning.

EXAMINATION

BY [redacted]

Q Mr. O'Boyle, I want to start with your tenure at the FBI.

When did you join the FBI?

A I was hired in July of 2018.

Q And what was your key motivation for joining the FBI?

A So prior to becoming an FBI agent, I was a police officer for about 4 years, and before that, I was an infantryman in the Army for about 6 years.

And I've always loved this country. Once I decided I wanted to get into law enforcement, the FBI has always been held up as the pinnacle of that profession.

So once I became a police officer, it kind of became a dream of mine to work for the FBI, and I slowly started working towards that goal.

I never really thought it would be realized, honestly. For the years I did have that badge and those credentials, often when I'd clip that badge on my belt, I thought, wow, I actually did it, I became an FBI agent.

And leading up to that process, while I was a police officer, I ended up going back to school to finish my bachelor's degree, and I finished it at Marquette University, where I graduated cum laude with a degree in criminology and law studies.

Shortly after that, I discussed with my wife my goals and desires to become an FBI agent. I think she thought it was kind of a pipe dream, and she said, yeah, go ahead. And, you know, she later told me that she didn't think it would happen, and I didn't either.

And so I started the application process, and about a year after that, I had made it through everything and got hired and headed off to Quantico.

But the primary motivation is, I want to take care of my fellow citizens in this country and do right by them and uphold the Constitution. It's been a longstanding value of mine. And that's why, in large part, why I joined the military, why I became a police officer, and then eventually why I became an FBI agent.

Q Okay. And let's talk about your service to this country.

You were an infantryman in the Army, correct?

A Correct.

Q And how long were you in the Army?

A Approximately 6 years.

Q And did you deploy with the Army?

A I did. I spent a year in Iraq and a year in Afghanistan.

Q Did you receive any service awards?

A I did. I can't list them off the top of my head. I'd have to reference my DD 214.

Q Yeah. About how many?

A I'm not sure. I mean, I'm thinking of the ribbons on my dress uniform. There are probably somewhere around ten on there, maybe.

Q Okay. And you received an honorable discharge from the military?

A I did.

Q And then you became a police officer, correct?

A Correct.

Q And where were you a police officer?

A At a place called Waukesha, Wisconsin.

Q And how long were you a police officer there?

A Approximately 4 years.

Q Now, going to your position at the FBI, when you started in 2018.

Can you walk us through all of the positions you have held at the FBI?

A Yeah. So initially the FBI has people who are trying to become agents. They're called a new agent trainee, a NAT for short. So that's kind of what you are at Quantico for the 5 months or so that you're there.

And then once you graduate, you're a special agent, sworn into full duty. And after graduation, I was assigned -- well, I guess during Quantico, I was assigned to the

Kansas City Division, and then later on, I was assigned to the Wichita Resident Agency, which is a smaller office, a satellite office for the Kansas City Division in Wichita, Kansas.

So when I got there, I was assigned to the Joint Terrorism Task Force, and that is where I worked up until my suspension, really.

I think I'd been in the FBI for about 2 years, at which point I tried out for the SWAT team, and I got selected for that, which that had been a longstanding goal of mine, was to make SWAT. Initially, it was at the police department, but thankfully it materialized with the FBI, which I don't think there's very many overall, in the history of the FBI, who have made SWAT.

So I think the FBI would probably try to categorize me as a malcontent, but that's -- couldn't be further from the truth. I loved my time in the FBI, it's the best job I've ever had, and I worked hard to attain special positions like SWAT, and also while working on my cases.

So I still remained on the Joint Terrorism Task Force, and then had my additional duties of SWAT. I also was an assistant weapons of mass destruction coordinator for the Resident Agency in Wichita. I'm trying to think what else I've done.

So shortly before I got suspended I tried out for a new position, a new unit that the FBI was creating, and the tryout was held at Quantico. So, again, it wasn't just a position that anybody could take or accept. You had to try out and get picked for it.

So I did that tryout in May of 2022, and then in June I found out that I had been selected for that new unit and that new position, and I accepted those transfer orders in June.

And between June and September, I was working on the transfer and wrapping up some casework in Wichita, also some additional training for the new unit that I was heading to.

And in August we sold our house and closed on our house there. My wife was pregnant at the time. So the FBI knew all this.

And we were living in temporary quarters until the baby was born. She was born on September 8th. And shortly after that, maybe a week or so, we went to Wisconsin where we thought we were just going to be visiting family for a short period before we moved here to -- or not here, but to Virginia.

And on September 23rd, I spoke with who was going to be my new boss at the new unit and told them that I still intended to come to the new unit the following Monday to report, which was Monday, September 26th.

So I did travel at personal expense, which it would've been -- I mean, the FBI would've covered my travel had I not been suspended. So I traveled at personal expense to Virginia to report, and when I tried to report, instead I was suspended, which came as a shock to me at the time and still really is.

So then the next day I headed back to Wisconsin. And that, yeah, I guess that really wraps up my time in the FBI thus far.

Q And so at the Wichita Resident Agency in 2021 and 2022, you were at SWAT team, JTTF, and then the weapons of mass destruction coordinator. Is that correct?

A Correct.

Q And who was your direct supervisor at Wichita?

A Initially it was Supervisory Special Agent Sonia Garcia. And then she later got promoted, and then eventually got promoted again and left the Wichita Resident Agency. And once she got promoted the first time, my supervisory special agent was Sean Fitzgerald.

Q And the new unit you tried out for that would have transferred you to Virginia, what was the name of that unit?

A They were calling it the National Surveillance Team. I don't know if that is still the name or not. It was brand-new, so I would've been one of the first members of that team.

And the plan, my understanding was that that first -- the first people who got picked for it were going to help kind of establish the mission set for it.

Q And who would have been your supervisor on the National Surveillance Team, did you understand?

A Supervisory Special Agent Mark Grado, G-r-a-d-o.

Q And do you know about how many members were going to be on the National Surveillance Team?

A I think there was going to be about 12.

Q Okay. And you said on the first day that you were supposed to report for duty you were walked out of the Virginia office.

Can you tell us a little bit about what happened?

A Sure. So the National Surveillance Team falls under the FBI's CIRG, C-I-R-G, which is the Critical Incident Response Group. And I reported to the CIRG, I guess it would be, like, their admin building. I'm not even entirely sure what it was other than it was where I was told to report.

So I thought I was going to be receiving, like, my security in briefing, but instead once I stepped in, I was ushered off to a different conference room where I think it was FBI special agents, I don't recall for sure, I don't recall them giving me their names or anything like that, and they asked me some questions.

And then eventually I was provided a litany of paperwork and escorted off the premises after my gun, badge, creds, work cell phone, work credit card, access badge were all seized. I've honestly not heard a ton about my suspension in the meantime.

Q Do you know who walked you out?

A No. It was unidentified agents.

Q And were you given any reasons for your suspension at that point in time?

A The reason on my paperwork was that on August 23rd, an unidentified person -- or at least unidentified to me -- made an allegation that I had been making unprotected disclosures to the media.

And even though on that paperwork it said that it was an allegation, the very next sentence said that my actions -- which for an investigative agency like the FBI, kind of strikes me as them not really doing their due diligence where they can leap from an allegation to then assuming it was my actions.

But anyway, the next sentence said that my actions essentially mean that I could no longer -- or I was no longer deemed fit to hold a security clearance.

Q And do you know who signed that paperwork?

A That was from, I think her title was an assistant director. Her name is Jen Moore.

Q And she signed the paperwork that revoked your security clearance -- or suspended it?

A Suspended it, correct.

Q And at that time did you refute the allegations that the FBI -- that you had made an unauthorized disclosure to the media?

A I did.

Mr. Binnall. And I'm going to, real quick, say that he can answer this question, but we are not able to go into any details about the investigation -- the ongoing investigation itself due to confidentiality requirements by the FBI.

[redacted] Okay.

Mr. O'Boyle. The FBI essentially directed me not to discuss in detail what's going on.

But I did refute the allegations, and I told them that I had not made any unprotected disclosures. And at that point, I didn't really know what else to do, so I told them I had been making protected disclosures to Congress.

And they still wouldn't tell me where the allegations came from or anything like that, but they had made up their mind, which, to me, I'll probably never believe otherwise, but it seems clear to me that it's whistleblower retaliation, that they somehow found out that I had been coming to Congress because I had been doing it for nearly a year.

Mr. Binnall. And don't get into detail with your communications on that.

BY [redacted]

Q What was your reaction when you were walked out?

A I was stunned. I think I was in shock about the whole process, them asking me questions about media leaks that I hadn't done and then seizing my badge and gun and everything I had worked so hard for, from my perspective, just trying to do what the FBI's mission is, which is to uphold the Constitution.

And so I just was stunned that that's how they would treat someone who actually meant that oath. I've taken that oath many times, when I was in the military, as a police officer, when I reenlisted in the military, when I became an FBI agent. And so I was stunned that that's what they would do to somebody.

And then without even doing their due diligence to ascertain whoever made this allegation, if that was even true, but just say, good enough for us to suspend him, or suspend his clearance, because that's what they have done, they've weaponized that clearance process.

They know that if they claim national security that they, carte blanche, can do whatever they want. And you have to have a security clearance to work in the FBI. So if they find any reason to strip you of that clearance, they'll do it, and they'll send you packing, and then there's no -- hardly any recourse for you to take because the FBI investigates itself.

So when I say, I didn't do what you're saying I did, they say, okay, well, we're going to conduct an internal investigation. So the FBI's going to investigate the FBI. That doesn't make any sense.

When I was a police officer, if I arrested somebody for burglary and then said, hey, I arrested you for burglary, why don't you do the investigation, that is not reasonable at all, in any -- in anybody's imagination.

But that's what the FBI does. They take it all internal. And it's like a dog chasing its tail. And they say, well, we found that we did no wrongdoing, have a nice life.

And that's, I think, what they're in the middle of doing right now, although I don't know. It's been nearly 180 days, and I've really not heard anything about where the status of my security clearance is or anything regarding that.

Q And you said that you need a security clearance in order to work for the FBI, correct?

A Correct.

Q And so if they revoke or suspend your security clearance, then are you indefinitely suspended?

A Correct.

Q And can you have outside employment?

A So, you can, but they -- so they've essentially fired me, right? Like they've

stripped me of my duty, they've stripped me of my job, my pay, my new position, all of that, and they say, you still have to follow our rules, though. And one of our rules is that if you want to get a job that's not in the FBI, you have to get our permission to get that job.

Now, I haven't even started to look for a job yet because -- this is another interesting aspect of my whole story.

So I'm suspended on September 26th. At that point the FBI essentially rendered me and my family homeless because we sold our house in Kansas and we had not yet closed on the house in Virginia.

While doing our own due diligence, we told our lender, hey, there's been an adverse employment action against me. We don't really know how long it's going to take or what is going to happen. And they said, well, we can't, in good conscience, be your lender for this home loan.

So, again, like I said, we just had a baby. She was about 2 weeks old when this all happened. And then we ended up living in my brother-in-law's RV for, like, a month because we had nowhere else to stay.

And to me, it seems like the FBI did it maliciously knowing how difficult they were going to make it on me. And I thought the FBI was being weaponized against agents or anybody who wanted to step forward and talk about malfeasance inside the agency prior to this. But now, after what has happened to me, I don't think I can ever be convinced that it's anything different than that.

I mean, again, based off this allegation that, as far as I know, is still unsubstantiated, they've done this. And it's -- I mean, I almost have a hard time coming up with the words to describe how beyond the pale it really is, because it's not like they've -- they have said, you're a spy, we're convicting you or arresting you for being a

spy, and now we're going to make you and your family homeless.

It's some internal procedure that someone -- I have my theories -- but someone made this allegation against me, and it's, like, based off of what? Because I told them then and I've told them since, I have not made an unprotected disclosure to the media, I had only gone to Congress, and it's -- they never even had responded to that, because, again, that goes back to the weaponization of the clearance.

In October I had an "opportunity" -- I say opportunity, but I use my finger quotes on that, because it's really just a sham of a process.

They said I could do a written appeal. So I did. And I explained some of -- I didn't explain in detail my protected disclosures, but I, again, said how I had made protected disclosures to Congress, not unprotected to the media.

And then after that -- and I also had seven colleagues write supporter declarations on my behalf, which I probably could've gotten more, but other employees in the FBI are so afraid that the same thing is going to happen to them, even for supporting somebody like me, that people don't want to even say, hey, I worked with that guy and I don't think he would do something like that.

But I still was able to get seven of my former colleagues to write a supporter declaration.

And then after the written portion, there was an oral part of that appeal. And in that oral part, they essentially read a script at me, saying that they couldn't discuss any of the merits of the suspension because it was security-related.

And so I said on that oral portion, I said, well, if we can't discuss the merits, what is even the point?

And then they just went back to the script and said, we're here today to see if you can maintain your duty and pay as an agent, or whatever their script was.

And it's, like, well, if we can't address the security clearance portion, what are we actually addressing with this, because they couldn't even address anything of substance.

So they basically split hairs and say, well, the security thing is separate, and so we're going to suspend your pay and duty because we can't even address the security matter.

And that is essentially the last I've heard from them.

Q And let's talk a bit more about your transfer from Kansas to Virginia. You said that you accepted the position in June and then moved. Your first day was September 26th, I think you said. Is that correct?

A Correct.

Q So during that time, you sold your house in Kansas, correct?

A Correct.

Q And then were your personal belongings moved or shipped to Virginia at some point?

A They were. So after we closed on our house in -- or I guess right before we closed on our house in Kansas, we had a contract -- I mean, they contract through the government to some degree, came to our house, they packed up our stuff, put it in a truck and brought it to Virginia, where it was put in storage. And we were supposed to get that -- those belongings delivered to the new house once we closed on it.

So I'm trying to think of my dates here. So September 26th I get suspended. So between September 26th and November 3rd we're trying to figure out how we can get our stuff. And for the vast majority of that time, we essentially got the runaround from the FBI and the business they contract with on how to release our goods, on if we can get them shipped or not. And I think I have most of that in email.

But essentially we kept being told, oh, they're not going to release your goods,

they're not releasing your goods, we can't give you your stuff.

And then eventually it was certain criteria for me to come get it myself.

And so typically all of this is paid for, it's part of the transfer, and you pay, like, the tax bill on this stuff.

But instead, in my case, they said, you can come and get it, you have to inspect all of your stuff at the warehouse that it's being stored, and then sign off on the paperwork, and see ya.

So at my own expense, again, I rented moving trucks. A friend of mine came with me from Wisconsin. Honestly, I couldn't have done it without him. He has worked in the moving industry for many years. And without his expertise, I don't think my brother and I, who also -- he flew in to help -- would've been able to even pack it up correctly, because they essentially just pull it all out and say, here's your stuff, make sure it's all there.

So we spent the whole day doing that. And, yeah, it cost about $10,000 out of my own expenses to handle that. That doesn't even account for the labor costs that would've been associated with it. And then it's interesting that on that same day is when I was told that my pay was suspended.

And so then --

Q What day were you told your pay was suspended?

A I think that was on November 3rd.

Q Okay.

A So maybe it was November 2nd that we drove down, I don't know, it was, like, right around that date. It was a Friday -- well, we drove down on a Thursday, loaded on a Friday, and started driving back Friday evening and then all day Saturday, right around that date.

Q And when were you say you were getting the runaround on being able to get your personal goods, is that from the FBI?

A Uh-huh.

Q And so for over a month you weren't able to access your personal goods. And can you describe what that includes furniture-wise, what?

A Everything. I mean, it was, yeah, other than, you know, I think our daughters all had, like, a backpack with, like, a toy and some clothes. And then my wife and I, same, had, like, a backpack of clothes and stuff like that.

And we obviously did not anticipate this happening, so when our stuff got packed up in August, we had summer clothes because we thought, oh, by late September, early October, we'll be here, which the climate is much more moderate than in Wisconsin. So in October in Wisconsin it's practically winter and we're -- just give me a minute.

Q Take your time.

A You know, we're begging and borrowing from family for coats for our kids and warm clothes for our baby because the FBI won't let us have our stuff.

Q And so I just want to make sure that we have everything, kind of, the facts straight on this.

So you're notified in June that you make the new unit and you're going to be transferred from Kansas to Virginia, correct?

A Correct.

Q And so to accommodate this transfer, you put your Kansas City home on the market and sell it, correct?

A Our Wichita home.

Q Your Wichita home.

A Well, we lived in a suburb called Derby.

Q And during that time, did you look for housing in Virginia?

A We did. And that's another interesting aspect of it.

So as part of the transfer, you're supposed to get a house-hunting trip, 10 days. I didn't know at the time, but I found out later, that once you accept orders essentially your job is to focus on that transfer and work on that transfer.

Instead, I was directed by my boss to try to finish up some casework that I had. So I didn't even really get to focus on that transfer like I should have.

But I was able to come back to Virginia. I was here, I think, for 9 days or so, for training for that new position. So every night after -- or just about every night after training was over, I would meet with my realtor, and we'd go look at houses.

I think in those evenings over that time span, I think I looked at around 30 or 35 houses. So even though I didn't get the 10-day house-hunting trip or anything like that, I was able to look for housing while I was at that training, which was in August.

Q So then did you put an offer on in a house here?

A We did. My last day of that training, which I think was like either the last day of August or the first day of September, is the last house I looked at, and I was like, oh, this is the one.

And once I got back to Kansas, I talked to my wife about it, showed her pictures and stuff. And we put an offer in on it which was accepted and -- yeah, so we were, like, okay, that part's done, now let's have this baby and then carry on. But obviously that -- it didn't work out as planned.

Q And so you packed up all your belongings in August, and then the FBI moved those belongings to Virginia, correct?

A Correct.

Q So you're now in Virginia, your Kansas City -- or your Wichita house is sold,

and your belongings are in Virginia, and then on the first day at your new job in Virginia, you're walked out, correct?

A Correct.

Q So then you have to wait over a month to retrieve your belongings because, as you've said, the FBI was giving you the runaround, correct?

A Correct.

Q Did you have access to those belongings during that period of time?

A I did not.

Q And did you ask the FBI for access to those belongings?

A We did. We asked if we could come get them and -- because there was really no other way than -- that's when it was just back and forth, back and forth, or then not hearing from them, and then them saying, oh, we're trying to figure out the best way to get you your stuff.

And then at one point, we're, like, well, can you ship them here? Because we're not living in Virginia now.

And then I think at one point they were, like, oh, we might be able to do that, but it's going to cost you $17,000. And we were, like, whoa, no, we -- I'm suspended.

Like, we knew my pay was going to get suspended. It hadn't been suspended yet. But we were, like, no, we're not paying you $17,000 for you to send us our stuff that you took to Virginia.

So then we were able -- they eventually they agreed to let me go and get it. That still cost, like I said, about ten grand, but I guess that beats 17.

Q And the FBI wouldn't -- in the normal course of things, if you're transferred, the FBI pays for those expenses, and then, as you said, you're in charge of the tax bill. Is that correct?

A Correct.

Q So then in order to retrieve your goods after a month of them being held by the FBI, you had to spend over $10,000 of your own money, correct, to retrieve those?

A I would have to do the math, but it's right around ten grand.

Q And in your opinion, do you believe this whole ordeal with recovering your personal goods and having to cover those costs, was that just another episode of retaliation?

A I believe it was. I think every step of the way it just -- the whole process continues to get weaponized. And people are complicit in it because they claim, well, I'm just doing my job and I was told to tell you that I can't let you come get your stuff, or whatever other excuse they can come up with to justify it in their own minds.

Q And you're currently on unpaid, indefinite suspension, correct, from the FBI?

A Correct.

Q Is your security clearance suspended or revoked?

A It's suspended.

[redacted] Would you be willing to -- and you can confer with your counsel -- and supply us the list of names of every person that you interacted with, with the FBI, on this saga?

Mr. O'Boyle. Yes, sir, I should --

[redacted] Not here for today.

Mr. Binnall. Yeah, yeah.

[redacted] Talk to your counsel.

Mr. Binnall. We'll discuss that and see what we can get you.

[redacted] This type of outrageous conduct needs to be fully evaluated, and we need to speak with individuals that are involved with this blatant retaliation.

Mr. O'Boyle. I agree. Thank you.

[redacted] And so I think you alluded to this earlier, but while you're on unpaid, indefinite suspension, you have to seek approval from the FBI to get any outside employment? Is that correct?

Mr. O'Boyle. That's correct. So once I got my notice of indefinite unpaid suspension, they included a form in there. It's an FD -- FD form -- I forget the number after the FD part -- but it's essentially an FBI employee request form for outside employment.

And you have to submit that to your potential employer. And they have to fill out some portions of it. And then you have to submit it back to the FBI. And then they get to approve or deny if you can work somewhere else.

I mentioned earlier my background is in law enforcement. That's all I've done since I got out of the Army. And I thought, okay, well, I guess I'll just go back to being a cop. And one of the few colleagues who is not afraid to speak to me these days told me that they'll never let you be a cop. And I said, why not?

And he would know, he's been in the FBI for over 20 years. He's a lawyer for the FBI as well. And he said, they just won't, they won't let you work for another law enforcement agency, and they'll claim, well, we might investigate them for public corruption someday or it might pose a national security threat to let him work for another law enforcement agency.

Now, I don't know if I finished my answer, but I have not even begun to look for a job yet because I'm, trying to see what my life even looks like and figure out what our family life is looking like, you know, like school.

That's another thing. Our two oldest, just -- yeah, it's been so weaponized that if it wasn't for how oppressive it is, it would be laughable, because you can't even make this

up in your worst dystopian novel.

I mean, we have a 7- and 5-year-old who are in school. Thankfully, we home school them. But even that, with this whole process, we fell way behind because we're trying to figure out all the suspension stuff.

But for people who don't have kids in school -- or who do have kids in school, I mean -- for them to get their life flipped upside down on this, that is just even more of a clear blatant weaponization against people who are trying to do what is right.

Like I said, when I swore that oath for the, I think it was the fourth time, or maybe the fifth by the time I got in the FBI, I meant those words.

Every single American deserves the rights that are provided to us in the Constitution. And every single FBI agent should uphold those rights. And every single FBI agent, when they see that the agency they work for are treading over those rights, they have to speak up. But when you speak up, this is what happens.

I didn't want to -- I don't want to be here. I want to be an FBI agent. That's all I ever wanted to be. And I wanted to take care of America in my little way, the best I knew how.

And speaking up has taken my life from attaining my dream job -- which I had it great because not only was it a dream job, but I got to enforce the laws of this country. I got to uphold the Constitution of this country.

But when you do that and you say, hey, FBI, I think you're taking it too far for these reasons, all the reasons that I've provided to Congress, and the FBI finds out about it, they cancel you.

[redacted] Along those same lines, in 2022, during testimony before the Senate Judiciary Committee, FBI Director Christopher Wray said, quote, "I condemn in the strongest possible terms any prospect of retaliation against whistleblowers."

Given your experience, is that an accurate statement?

Mr. O'Boyle. Given my experience, no, that is not accurate. I think that's just another lie that he's told.

[redacted] I want to make sure I give Congressman Gaetz time to ask questions.

Mr. Gaetz. Mr. O'Boyle, I'd like to start by thanking you for your service to our country.

Can you help us better understand why you made a decision to make protected disclosures to Congress?

Mr. Binnall. And you can explain why. Just don't get in right now to the disclosures that you actually made.

Mr. O'Boyle. Okay.

I think the biggest reason why is my faith. I'm a Christian, and as a tenet of my faith, when we see things that are wrong, that are harmful to people, that are unloving, or that are against the law, it's my duty to speak up.

I can't, in good conscience as a Christian, when I see something that's wrong, just let it go by without addressing it.

There's a verse in James that I put in my written appeal that essentially says, when you know something's wrong and you don't address it, that's a sin for you to do, or not do.

And that's basically what it boils down to for me, is I knew if I didn't address these things that I saw that were wrong, that I would not only be doing the American public a disservice as an FBI agent, I would be sinning against my God.

Mr. Gaetz. So there's a difference between things that are wrong and things that are against the law.

Did you see concerning conduct that fell into both of those categories?

Mr. O'Boyle. I did.

Mr. Gaetz. And why Congress?

Mr. O'Boyle. So every year in the FBI you get an annual whistleblower training, and as part of that training it lays out what are called designated authorities for whistleblowers.

Other designated authorities are, like, my supervisor, for instance, or his supervisor, all the way up to the Director, or the DOJ OIG, and there are other designated authorities too.

But I had brought some concerns to my chain of command -- knowing what I know now, I believe those also were protected disclosures -- and no action was taken.

So at that point, after basically struggling to -- and even sometimes they would agree, or at least to my face would agree with me about things that I brought up, but then no action was taken.

Mr. Gaetz. Help me understand the sequence of that.

Did you first try to utilize the chain of command for protected disclosures?

Mr. O'Boyle. I did in my initial matters that I thought were appropriate to be --

Mr. Gaetz. And I'm not going to ask you about those matters. But can you tell me who you made that initial disclosure to?

Mr. O'Boyle. I initially made it to my first line supervisor Sean Fitzgerald. And then another time, I want to say in September, maybe September or October of 2021, his boss, so Assistant Special Agent in Charge Jeff Berkebile -- I think it's B-e-r-k-e-b-i-l-e, I think that's how you spell it -- and his boss, SAC, so Special Agent in Charge Charles Dayoub, D-a-y-o-u-b, were in Wichita for a meeting with the RA.

And after that meeting, I asked my boss Sean if I could speak to them. And so we did, in his office. I spoke to all three of them and brought up some concerns I had.

And my SAC at the time told me: Wow, I hadn't really thought about it from this perspective. Would you mind giving me your notes, and I can start running this up the chain of command?

And I told them at that time that I was worried about retaliation, so I was going to think about it.

And then the next day, ASAC Jeff Berkebile called me and said: Hey, I really thought it took some courage for you to do what you did yesterday, and I want you to know that I agree with what you talked about and brought up.

But, you know, like I said, nothing happened.

And then fast-forward another month or so, we're into November of '21. I brought up some of those same concerns again, and again nothing happened.

Mr. Gaetz. To whom?

Mr. O'Boyle. So that time it was an email, and it was to my boss, Sean, ASAC Berkebile, SAC Dayoub, as well as the chief division counsel, his name is Bob Stuart, where I included a lot of things that I believed were indicative of a violation of law, rule, or regulation.

Mr. Gaetz. Do you still have that email?

Mr. O'Boyle. I'm not sure if I do. I may have it saved somewhere. I think I might've saved a pdf of it.

Mr. Binnall. We'll talk offline to see if that's something that's available.

Mr. O'Boyle. Otherwise, it should be in the FBI server somewhere.

Mr. Gaetz. Is it -- without getting into the substance of those discussions -- is it safe to say that you presented the same concerns to Fitzgerald, Berkebile, and Dayoub?

Mr. O'Boyle. I did.

Mr. Gaetz. And other than Berkebile, who expressed agreement with some of

your concerns, did you ever get feedback from Fitzgerald or Dayoub regarding whether they thought you were crazy or whether they thought you were on point with your concerns?

Mr. O'Boyle. I would say the feedback from all three was that they thought I was raising valid points. And the points I was raising even included case law and things of that nature that I thought were applicable to that topic.

And then, after that, that's when I started going to Congress, because I was, like, okay, they're not doing anything about this.

And then once I started --

Mr. Gaetz. Did you ever get a response to your email?

Mr. O'Boyle. I did, from the SAC.

Mr. Gaetz. This would be Dayoub?

Mr. O'Boyle. Dayoub. And if I remember correctly, it was like a sentence, and it was, like, thanks for your email and make sure you're sharing this with HRD -- which is the Human Resources Division, which I didn't share with them because it's, like, you're the boss, like, isn't it incumbent on you to do something? But I don't think he thought that it was.

Mr. Gaetz. Well, in your mind, did this strike you as a human resources matter, or did it strike you as a different type of matter?

Mr. O'Boyle. It struck me as a legal matter more than anything, and a legal and civil rights matter probably more than anything.

Mr. Gaetz. So your path to Congress, as I understand it, you utilize the chain of command, you go to your boss, you go to your boss' boss, you have a chance to interact with the special agent in charge. You seek permission to voice these concerns to the special agent in charge. You do. Then one of the people in this chain of command

acknowledges your courage to bring these issues to the forefront.

You send an email encapsulating all of those things. You get a reply that is, in essence, confirming receipt of the email, directing you to HR.

And at that point, is it safe to say that you came to Congress because you had lost confidence that utilizing the chain of command was going to result in addressing these concerns?

Mr. O'Boyle. Yes, that's safe to say.

And then, at that point, I think in a lot of ways I was, like, oh, the FBI's not actually what I thought it was, where you have people who want to serve this great Nation and keep it strong and uphold the Constitution.

Rather, you have people who just do what they're told and want to climb that ladder and get that pension. And those things are more important than doing what's right.

And so in a way, at that time, I would say the scales kind of fell from my eyes.

Then also, right around that time I was, like, okay, every time I see something that I think is a violation of law, rule, or regulation, an abuse of authority, or gross mismanagement -- so those are protected categories for whistleblowers -- every time I think I have a reasonable belief that that's happening, I have to make a protected disclosure, which that's what I then did.

Mr. Gaetz. And from that point forward, you made all of your protected disclosures to Congress exclusively?

Mr. O'Boyle. Correct.

Mr. Gaetz. And did you ever think about utilizing some of the other tools that were part of your whistleblower training, like the inspector general?

Mr. O'Boyle. I thought about it, and I came to the conclusion that if what I was

seeing in the FBI from leaders in the FBI, who, I would say -- so they're all FBI agents, these people, my boss, his boss, his boss. If they can't do what's right when someone says, hey, look at this, this is why I think what we're doing is wrong, if those people can't say, yes, I agree, this is going to be a difficult road, but we have to push forward and do what's right, then how could I trust DOJ OIG or anybody else to do it?

That's the conclusion I arrived at, was, if the FBI won't do what's right, nobody else will. So that's why I went to Congress, because I couldn't trust any of those other avenues.

Mr. Gaetz. As you were working to voice your concerns through the chain of command, did you ever speak with your other colleagues about -- other than those you've named -- about your frustrations and about the violations of law you believed you were observing?

Mr. O'Boyle. I did. In Wichita, it's kind of a small office, and it's broken into two squads. I was on the Joint Terrorism Task Force, so those are the people I worked with every day, and I knew them the most. And I would say we were pretty close-knit and all had similar like-mindedness on a lot of these topics, I would say.

Mr. Gaetz. And give me a sense of how big that group of people was in Wichita in the JTTF?

Mr. O'Boyle. The JTTF was probably anywhere at, depending on staffing or whatever at any given time, I think there were, like, five or six agents and, like, two or three TFOs, which is a task force officer, so like a local partner.

So we had Kansas Highway Patrol, two TFOs from them, and one deputy from Sedgwick County was a TFO. And then we had some support personnel as well, like an analyst. So probably anywhere between, like, 6 and 10.

Mr. Gaetz. I'm particularly interested in that task force and how they were

thinking about these things, and so -- I won't ask you to do it now -- but if later we ask you and your counsel to provide a list of those individuals, is that something you would be able to recall?

Mr. O'Boyle. Yes, sir.

Mr. Gaetz. And when you say that they were like-minded, are we to assume then that they shared your concerns, were sympathetic to your concerns?

Mr. O'Boyle. I would say that's accurate.

I guess, that being said, I don't think any of them were willing to take that next step and try to shine a light on some of the impropriety that we saw almost every day.

Mr. Gaetz. During any time with your work at the FBI, did anyone ever tell you that the reason that they were worried about coming forward and becoming a whistleblower was retaliation?

Mr. O'Boyle. I wouldn't say anybody ever said it that way. I think it was more just like an aura and a sense that you had, because you would see the way people who speak up might get treated or chastised or sent to an assignment that they don't like or whatever.

So with whistleblowing, I mean, I would say that that's an even bigger step in that direction. So I think it -- I think in some ways it's been set up that way by the FBI to say: Hey, you have this whistleblower protection, and we're going to train you on it every year because we have to, but don't do that, otherwise, it's going to go poorly for you.

And I think what is extremely indicative of that is that just this week it's come into the public domain that the FBI has, instead of having those separate annual trainings on something like whistleblowers and insider threat, they've merged those two.

So while I was in the FBI, every year we had an insider threat training and a whistleblower protections training. This year, for some reason, I would say my belief is

that because so many FBI whistleblowers have come to Congress, the FBI is now overtly saying, don't do that, you're an insider threat if you whistleblow.

Mr. Gaetz. And how is that overt message being delivered?

Mr. O'Boyle. I think it's simply by just combining those trainings and saying, here's your annual whistleblower and insider threat training. And it's, like, well, wait a second, a whistleblower is protected, an insider threat is not.

Robert Hanssen was an insider threat. He was a spy. People who are blowing the whistle to Congress or any other designated authority are not insider threats.

But now the FBI has merged those two trainings, and to me, especially as someone who has been retaliated against in the fashion I have, it seems very clear that that's an overt threat to say, don't whistleblow or else.

Mr. Gaetz. Was your assignment to the Joint Terrorism Task Force something that you had a role in manifesting?

Mr. O'Boyle. To some degree I think it was.

So in Quantico, once you get assigned to your division, you fill out like a short bio, and then you get -- you can put, like, what violation you might want to work. And I put JTTF on there.

I had worked traditional criminal matters as a police officer. In college I had written some papers where I touched on things that the JTTF around the Nation has done.

And, you know, harkened back to my time in the military, deploying to Iraq and Afghanistan, that 9/11 was a huge part of why I became, I guess, even on this path to join the military, become a cop, become an FBI agent.

I know it had an impact on every American. For me, it kind of put me on this path of service back to the Nation.

And so that terrorism piece has always been of interest to me, and I thought, if I can do my part on the JTTF to help combat terrorists at home, then that's what I wanted to do.

So I did have some --

Mr. Gaetz. So you were happy with the assignment?

Mr. O'Boyle. Yes, sir, I was.

Mr. Gaetz. And you expected -- I mean, what kind of work did you expect to do on the JTTF?

Mr. O'Boyle. So going to Wichita, I thought, how much terrorism could be there? Like, I guess when I thought of the JTTF, I was thinking more like international type of terrorism, which one of my cases was that to a degree -- or it was under that threshold to a degree. I won't get into details on that.

But then I primarily transitioned into domestic terrorism-related cases, which, I guess in Kansas they're --

Mr. Gaetz. When did that transition occur?

Mr. O'Boyle. It actually kind of started right off the bat.

So initially I was assigned to international terrorism, not a ton of that in Wichita, but my first two cases, one was under that international terrorism banner, and then the other one I got as a relatively new agent was under the domestic terrorism banner. And then I remained --

Mr. Gaetz. I'm sorry. The timing here is very important to us.

So when did you get sort of repositioned from outward looking to international terrorism to inward looking to domestic terrorism?

Mr. O'Boyle. Probably around sometime in 2021, I would say. Even though I was technically assigned to international terrorism, I primarily, my whole time there, I

primarily worked domestic terrorism.

Mr. Gaetz. So it was more a transition in line with the work you were already doing?

Mr. O'Boyle. Yes, sir.

Mr. Gaetz. I only have a few minutes left, and pardon me for asking these questions, but I have to ask them.

You ever take any gifts from the media?

Mr. O'Boyle. No.

Mr. Gaetz. Ever take any sporting tickets?

Mr. O'Boyle. No.

Mr. Gaetz. Ever take any concert tickets?

Mr. O'Boyle. No.

Mr. Gaetz. Were you aware of any of the people you worked with taking gifts from members of the media?

Mr. O'Boyle. No.

Mr. Gaetz. Ever go on any expensive dinners with any reporters?

Mr. O'Boyle. No.

Mr. Gaetz. Ever do any travel with any reporters?

Mr. O'Boyle. No.

Mr. Gaetz. Are you aware of inspector general reports that analyze the extent to which people associated with the FBI were taking gifts from the media?

Mr. O'Boyle. Minimally, to some degree, yes.

[11:03 a.m.]

Mr. Gaetz. I've got a number of other questions, but they sort of go into new vectors of discussion. So, if my colleagues have --

[redacted] Four minutes.

Mr. Gaetz. -- have any other --

[redacted] Yeah, I can ask a few more questions.

BY [redacted]

Q Are you aware that Mr. Jordan and House Judiciary Republicans have sent several letters to the FBI regarding revoking security clearances in whistleblower retaliation?

A I am.

Q And in response to those letters, the FBI has made some statements regarding their approach to whistleblowing. For example, they have said that "employees should feel they can raise their concerns about wrongdoing and, if those concerns are not addressed within their chain of command, take them to an approach place without retaliation."

"The FBI is taking considerable steps to ensure that employees are aware of whistleblower protections and of the whistleblower process. The FBI and the Department have worked and continue to work to improve the process, including educating employees and providing guidance so they know the process."

Given your experience, is that an accurate statement?

A No, not accurate.

Q And the FBI has also stated that "the FBI is committed to addressing misconduct head-on and following the disciplinary process."

Given your experience, is this an accurate statement?

A No, that's not accurate.

Q In other response letters back to Mr. Jordan and other House Judiciary Republicans, the FBI has stated, "The FBI takes very seriously our responsibility to employees who may make protected disclosures under the whistleblower regulations. Whistleblowers play a crucial role in ensuring public trust in government. By coming forward, they ensure public institutions hold themselves accountable and, in doing so, affirm and strengthen the public's trust. FBI employees who report evidence of wrongdoing through a protected disclosure are required to be protected from retaliation. All employees should feel they can raise their concerns and, if they are not addressed at their chain of command, take them an approach place without retaliation."

Given your experience, is this an accurate statement?

A No, it's not accurate.

Q In that same response, the FBI stated, "The FBI does not target or take adverse actions against employees for exercising their First Amendment rights or for their political views."

Given your experience, is this an accurate statement?

A It's not accurate.

Q Culture-wise, is the current FBI the same FBI you signed up to work for?

A Not at all.

Q Why?

A I think the biggest reason is how they have become weaponized against anyone who doesn't just toe the line that they want them to toe. I think I'm a primary example of that. I start shedding light on things, on wrongdoing that is happening in the FBI; I get suspended.

And I know I'm not alone. There are a number of other whistleblowers out there

who are in a similar situation after being suspended. Some of them, after -- it said -- they claim they don't retaliate for First Amendment-protected activity. I know for a fact that they do, because one of my protected disclosures was about that, about the FBI retaliating against employees for engaging in First Amendment-protected activity, and those employees got suspended.

Q Uh-huh. Thank you.

With that, we'll go off the record. Thank you.

[Recess.]

[redacted] Hi, Mr. O'Boyle. How are you doing today?

Mr. O'Boyle. I'm okay. How are you?

[redacted] Good. Thank you for being here. And also thank you for your service.

Again, my name [redacted], and I am going to be asking you some questions about some of things that you just stated a couple minutes ago.

Mr. O'Boyle. Okay.

BY [redacted]

Q So one of the first things that I want to go over was just kind of the timeline of when you came to Congress to initially talk about some of the issues that you were seeing. So was it multiple times?

A It was multiple times.

Q Okay. Let's just start with the first time, and then we can go from there.

Mr. Binnall. And I'm going to instruct him not to talk about specifics of any of his disclosures to Congress --

[redacted] Yeah.

Mr. Binnall. -- because those are confidential.

[redacted] Okay. Yeah.

BY [redacted]

Q So, again, don't talk about any of the substance, but I just want to know the general timeline.

So the first time you came to Congress was when?

A Late November of 2021.

Q Okay. And when you came, did you provide any sort of documentation to Congress? Again, you don't have to say what the substance of it was, but did you disclose any documents?

A I did have documents. I don't know how many they took or copied. And then I sent additional via email.

Q Okay. So you provided some in person when you were here and you also provided some via email.

A Well, I didn't -- I wasn't here.

Q Okay.

A But to my Congressman's office in Kansas.

Q Okay. So when you say you came to Congress, you meant that you were in Kansas; you went to go see your Congressman in Kansas?

A Correct.

Q Okay. And can you tell me the name of that Congressman?

A It was Ron Estes.

Q Okay.

Okay. And so, when you went to go see Congressman Estes, you provided some documents. Did you provide him with a copy of the suspension notice?

A I had not been suspended at that time.

Q Okay.

And you said you went to Congress on another occasion. So can you tell me when that was?

A So I had some back-and-forth, initially, with Congressman Estes's office from, yeah, late November -- I don't know. I talked to them a couple more times, probably, leading into January-February of 2022. And then after that, like, in March, I started going to a different Member of Congress.

Q And this is March 2022?

A Correct.

Q Okay.

So let's go over who you spoke with. Can you give me the names of those individuals that you spoke with?

Mr. Binnall. You can give the individuals. Again, no substance of what you discussed.

Mr. O'Boyle. At Congressman Estes's office, it was Roger Erickson. And then there was another person I spoke with there. I don't remember her name.

BY [redacted]

Q About how long did you speak with them for?

A I was probably there for at least an hour, maybe longer.

Q Okay.

And then for the second time, who did you speak with then? This was during the January-February --

A After the -- so it was mostly with Roger then after that.

Q Okay.

And each time that you spoke with them, it was in person?

A No.

Q Okay.

A Sometimes on the phone. Sometimes email.

Q How many times did you actually go into the physical office?

A Just the one time.

Q Okay. So every other time was over email or on the phone. Okay.

And then did you go a third time? Or did you speak with anyone a third time? Because you said there were two instances. So, the first time, you spoke with Roger. The second time, you spoke with Roger. Was there a third time that you spoke with anyone?

A Not at Congressman Estes's office, but just -- it was with Roger mostly then.

Q Okay. And so there was another Congressman's office that you were in communication with, so --

A Correct.

Q -- can you tell me who that was?

A So, in March, I started going to Congressman Jordan's office.

Q And this was March 2022?

A Correct.

Q Okay. And so did you go into Congressman Jordan's physical office?

A No.

Q Okay. So it was only over the phone?

A Phone and email.

Q Okay. About how many email communications did you exchange back and forth?

A I don't know.

Q Five?

A More than five.

Q Ten?

A More than 10.

Q Twenty?

A More than 20, probably.

Q Okay. Around 40?

A I would have to go back and count.

Q Were you emailing directly with Congressman Jordan, or was it --

A With staff.

Q Okay. Do you remember the staff's names?

A It was [redacted] and [redacted]

Q And did you provide any document productions?

A I did.

Q How many documents in, like, a ballpark range do you believe that you provided?

A I don't know. Ballpark. Not really. I don't know.

Q Fifty?

A Maybe around there. I mean, it's just --

Mr. Binnall. Only answer if you know.

Mr. O'Boyle. I don't know. I don't know. I'd have to count.

BY [redacted]

Q Aside from -- so there was an instance in March 2022 when you spoke with Jim Jordan's staff members, and that was through an email exchange?

A Initially, it was an email.

Q Okay.

A And then later it was over the phone, and --

Q When did you guys speak on the phone?

A The first time was in March.

Q Do you remember an exact date?

A No.

Q Did you have any other communications aside from the email exchange with the initial conversation and then the phone conversation in March? Were there any other communications?

A There were.

Q Okay. Can you tell me about them?

A Not the substance.

Mr. Binnall. Not substance. I mean, if you remember times and dates, you can let her know.

Mr. O'Boyle. I mean, we communicated back and forth multiple times between March and my suspension and even a little bit after. I don't -- I don't have specific --

BY [redacted]

Q And you were suspended in September 2022?

A Correct.

Q Okay.

I want to talk about your suspension notice. So you received it from the FBI when?

A September 26, 2022.

Q Okay. And who gave it to you?

A I don't remember what her name was, but I believe she was the acting

security officer for CIRG.

Q Okay. And can you tell me about the contents of the security -- or, excuse me, the suspension notice that you received?

Mr. Binnall. You can discuss basically what the suspension notice said. You should not go into any detail as to the substance of the investigation afterwards.

Mr. O'Boyle. Like I said in the first round, there was an allegation against me that I had made unprotected disclosures. And then, based on that allegation, they thought that was reason enough to suspend my clearance.

The letter is, like, over a page, so there's other information in there, but that's really the root of the suspension notice.

BY [redacted]

Q Okay. So you received a letter; it was over a page. Can you tell me a bit more about what else was specifically in that letter?

A I mean, not really without pulling it up. But, yeah, they made that allegation, stripping my clearance, and, yeah, to the best of my recollection, that -- that's why.

Q Do you have a copy of that with you today?

A I could probably pull it up.

Q Okay.

Mr. Binnall. No, we're not producing any documents.

BY [redacted]

Q Have you provided anyone else with a copy of that?

A My counsel.

Q Okay. Have you provided it to anyone else's office in Congress?

A I don't know for sure. I may have provided it to Congressman Estes's office,

but I would have to go back and check. Oh, and -- oh, yeah, I provided it to Congressman Jordan's office too.

Q So -- and you talked a little bit about this in the first round. So, upon receiving this notice, what steps did you take to contest your case, if you did at all?

A So --

Mr. Binnall. I'm going to ask to limit that by timeframe and a little bit more detail as to "contest the case," what you mean by that.

BY [redacted]

Q Yeah. So did you provide any written documentation? Did you provide any affidavits? Did you provide written statements? Did you provide an oral presentation? I'm looking for those kind of things.

Mr. Binnall. To who?

BY [redacted]

Q To any board at the FBI? To anyone at the FBI?

Mr. Binnall. Again, you can say whether you produced documents, but do not go into any detail about the substance of the investigation.

Mr. O'Boyle. So I touched on it in the first round. There was a -- I had a chance to do a written appeal, which I did. And then, after that, they had an oral portion that was part of that same process, which I participated in that as well.

BY [redacted]

Q And have you received any type of decision?

A No.

Q Okay. So is it correct to say that the case is still currently under review?

A As far as I know.

So, I guess -- so, if you remember, I was talking about how they, like, split hairs

over the security portion, duty status, and pay portion. So this part that -- the only part that's, like, I guess, complete is the decision on the duty status and pay, where they wouldn't address -- they wouldn't address demerits.

So that's what this written appeal was about, even though in my written appeal I addressed everything. I didn't know that they weren't going to address that until the oral portion happened.

And so I did receive a decision after the oral panel regarding my duty status and pay, which -- that was the decision to suspend my pay.

Q So you're still waiting to hear on the status of your security clearance. Is that correct?

A Correct.

And then I also tried to file an EEO complaint with the FBI. I don't remember the exact date without looking, but I emailed them in early October, shortly after my suspension. And part of that complaint process was going to be for whistleblower retaliation. That's one of the things we can file an EEO complaint over. And they have never responded.

Q And so, when you say they never responded -- so you filed a case with EEO?

A No. So, for the FBI's process, the EEO process, you have to contact the FBI's EEO office. And my understanding is, once you contact them, then they'll assign a counselor, an EEO counselor, to you, and then you'll start that whole process.

So I sent them an email, and I said, "I would like to file an EEO complaint," and I have yet to hear back from them.

Q Who did you send an email to?

A I don't remember the email address off the top of my head, but it's, like, the -- so it's not an individual person; it's the main EEO office for the FBI.

Q Have you followed up with them at all?

A I tried to make a call to an EEO counselor, and they didn't answer. And then I haven't followed up again.

Q And who is the individual that you tried to call that was a counselor?

A Her name's Carrie Ann Reali (ph), R-e-a-l-i.

Q Okay. And when was this?

A Sometime in early October.

Q Okay.

So, during the period that your clearance has been under review, have you -- because I know you mentioned there's a process through which you can seek outside employment. And so is that something that you followed through with that process? I think you said you started maybe doing some of it, but I -- did you complete that process?

A No, I have not.

So I started kind of looking for a job, but it's just been difficult with -- I mean, like, traveling here for instance, you know, if I had just started a job and had to take off work, or, you know, other family situations. Just trying to figure out life, like I said in the first round.

So I haven't, like, obtained any type of employment or gone down that avenue any further.

Q Okay. So you haven't filed any specific request form with the FBI to seek employment outside of the organization.

A Right.

Q Okay. Have you tried to seek any type of unemployment compensation?

A No.

Q Okay. Have you asked if there is an opportunity for you to be able to maybe perform unclassified functions?

A I have not. I don't -- so my understanding is that that's not permitted in the FBI, that to enter an FBI space, an FBI building, you have to have a clearance.

Q Okay.

And you haven't made any requests for leave or anything?

A I did. So that was part of -- once my pay was suspended, part of that, like, document or documents that they sent saying that my pay was suspended, they said I could request annual leave and sick leave, which I requested.

And I don't -- I actually don't really know the status of that. I believe I was getting some of my annual leave. It was being used. But I just checked our -- I don't know if you guys have the same system. Ours, we go on "My EPP." And so I checked my ELS on there, and it said that I still have leave hours.

So then I emailed -- this is, again, it's, like, an overall FBI email, it's not a person, but it was, like, an HR, I think -- or -- I think it was an HR email. And I said, "Hey, I just checked my ELS, and it looks like I still have leave, but the last pay period I was paid for was the one that ended on December 31st." So I was trying to find out why I still have a leave balance if they were going to let me use my leave.

Q Okay.

A And I haven't heard back, as far as I know.

Q Okay.

So, if I'm understanding this correctly, September 2022, your security clearance was suspended, but you still continued to receive compensation, because you said the last time you were paid was December 31st.

A Right. So, initially, they put me on administrative leave until that initial

written appeal we talked about.

Q Uh-huh.

A And then the oral, that was kind of, like, part of that same process.

And then their decision was given to me on November 4th, I think. And that letter, I believe, was dated November 3rd.

And in that letter is when they said that they decided to suspend my pay. And then that's also the same letter where they provided the form for getting outside employment and for using your leave.

Q Okay.

So I want to talk a little bit about -- you referred to whistleblower allegations that you made?

A Uh-huh.

Q And so I want to kind of talk about -- so it seems like you made several complaints to various different people, and so I just want to start with kind of going through it in a sequence.

A Okay.

Q So how many times do you think you raised, like, a complaint?

A Like, including to my supervisors and, like, my --

Q Whatever you think is included within your claims that you're saying count as a whistleblower.

Mr. Binnall. And this is internally to the FBI?

You can answer that question as to number, not substance.

Mr. O'Boyle. To the FBI. Probably around five times, I'd say.

BY [redacted]

Q Okay. And for each of these times, do you recall if you ever went to, let's

say, the Office of Professional Responsibility?

A I didn't -- I did not. I mean, people in my chain of command may have sent my name there, but I don't -- I wouldn't know that.

Q Okay.

What about the FBI Inspection Division, Internal Investigations Section?

A So, shortly before I transferred, Kansas City was under an inspection, and I did make a disclosure to the inspector that I was assigned to. And he told me if I faced any retaliation for that to file an EEO complaint. So, once I was retaliated against, I tried to do that, but then I never heard back from EEO.

Q Okay. So this was when you were in Wichita. You said that you spoke with someone who was from the Inspection Division?

A Uh-huh.

Q Okay. Do you remember that individual's name?

A He was a supervisory special agent. I think his first name's Charles. Wilkes is the last name.

Q Did you provide anything in writing?

A I might have sent him an email. We -- he -- if I didn't send him an email, he sent me one. But it was on our classified email system, so I don't have -- I don't have that.

Q And when was this?

A August. I think it was August of 2022. That's when I first made my complaint to him.

Q For any of the other complaints, did you talk with the FBI Office of Professional Responsibility?

A No.

Q What about anyone from the Inspection Division, Internal Investigations Section?

A No.

Q Director of the FBI?

A No.

Q Deputy Director of the FBI?

A No.

Q The highest-ranking official in the FBI's Wichita office?

A I did -- well, let me think. I did. So that was my first boss, but -- so I raised some of my concerns to her, but I don't know that --

Q And this was Sonia?

A Yes. I don't know if -- well, I don't recall all of those conversations entirely, so I don't know if, you know, she thought they were protected or if I was just raising the concerns and -- yeah, I don't know. I mean, I guess we'd have to ask her what she thought.

Q Okay. And, just to confirm, she was the highest-ranking official in the Wichita --

A Right.

Q Okay.

A So she was my SSA initially, when I first got there. And then maybe, like, 2 years later, she got promoted to what's called an SSRA, which is the senior supervisory resident agent or something like that.

Q Do you have any written documentation of the complaint that you made to Sonia?

Mr. Binnall. You can --

BY [redacted]

Q You don't have to say the substance.

Mr. Binnall. Correct.

Mr. O'Boyle. I don't.

So I think one of the times I made a complaint to her, she had been promoted to ASAC in a different division.

BY [redacted]

Q What does "ASAC" stand for?

A It's assistant special agent in charge.

So she had been promoted, and there had been some things with my supervisory special agent, Sean Fitzgerald, that -- so that -- it's the same subject matter that I ended up telling SSA Wilkes about. So I talked to her about that same topic. I don't know if -- I may have texted her, like, on my work phone, but I don't recall. And I no longer have access to that, so I couldn't say it for sure.

Q Okay.

So, just so I just have this clearly, for any of the times you presented a complaint -- and I think you said it was around five or so times -- at any point in time did you present it in an email format where you laid out the substance of your claims, or was it -- like, did you present any type of written documentation and give it to anyone?

A There has been, yes. Not every time, but there's been certain subject matter that is in email form.

Q Okay. And out of the five, how many would you say are in email form, or written documentation form?

A I guess, including the email that SSA Wilkes sent me as documentation, maybe two or three.

Q So, at any point with these two or three written communications, did you ever receive any response from, like, the Office of Professional Responsibility or anyone else with relation to your claims?

A No.

Q Do you know whether or not there was an investigation that was conducted into any of your complaints?

A I don't know.

Q Did you ever follow up with any of the people that you -- either at the Internal Investigations Division or with Sonia about your complaint?

A No. Like I said, I never went to IED or OPR or OIG.

Q Okay.

A So I don't know -- I mean, my -- based on the whistleblower training we get, our chain of command up to the Director is a designated authority. So I've made disclosures to and through my chain of command, and I've gotten responses from them, like, "Hey, email received," or verbal responses, like, "I see the points you're bringing up." But, to the best of my knowledge, there's been no followup on any of that.

Q Okay.

So your understanding of the whistleblower protections was that you could say anything to anyone who is a status above you, and if you tell them, then that would trigger whistleblower protections for you. Is that correct?

A Right, if it's something that falls into one of the major categories of wrongdoing, which these were.

Q What do you understand those categories to be?

A So I don't know all five off the top of my head, but the main ones that I made disclosures on were violation of any law, rule, or regulation, which is just one category.

And then abuse of authority is one; and gross mismanagement. And I don't know the other two off the top of my head.

Q Okay.

So you stated that you feel you were retaliated against. So I want to talk a bit about why it is the case that you believe that.

A I think I covered --

Mr. Binnall. Let her ask the question.

Mr. O'Boyle. Oh. Okay.

BY [redacted]

Q Strike that.

So I'm going to your security clearance suspension. Have you -- you said you were suspended for making protected disclosures, correct?

A Well, I said that I was suspended for an allegation against me that someone, who I don't know -- or, I mean, maybe I know that person, but their identity hasn't been given to me. But someone made an allegation against me that I had made unprotected disclosures. That was why I was suspended.

Q Did your notice of suspension specify to you the types of disclosures that you were believed to have made?

A No. It just said unprotected to media.

Q Within that suspension notice, did it include any information detailing if your suspension had to do with anything related to your involvement in the Joint Terrorism Task Force?

A No.

Q Did the suspension disclosure provide any information about -- strike that.

So there's nothing that you remember in your suspension disclosure that you can

tell us?

A That's not accurate.

Q Okay. Can you tell me a bit more about what was in that page that you received with respect to a suspension notice?

A I told you the substance of it is that an allege was made against me that I had made unprotected disclosures. So that's the reason given to me in that notice.

Q Did they state where these unprotected disclosures were made?

A No.

Q So it didn't say that these protected disclosures were ones that you made to Congress?

A It didn't state that, no.

Q Okay. So, when you said that it was because you came to Congress, it was more of an assumption. It wasn't the case that was stated in the letter that you received?

A What was stated in the letter was that an allegation was made against me that I made unprotected disclosures. I did not make unprotected disclosures.

BY [redacted]

Q I'm sorry to jump in, but you said that you provided a copy of the suspension order itself to Chairman Jordan's staff?

A Correct.

Q Do you have a copy with you today that you could provide to us?

A I do not.

Q Okay. Would you be willing to provide that to us?

Mr. Binnall. We can talk offline about any document productions, but as of right now, we're not intending to do any document productions.

[redacted] Okay. But a copy's been provided to the majority staff. So if they wanted to share one with us, they could do that.

[redacted] Well, that's not the one way it works. I mean, when we deal with whistleblowers, everything is completely confidential, and anything we do with information we take from the whistleblower, we get their permission. If they give us any materials, we only share it, we only use it if they okay it.

[redacted] Okay. So you're not -- you're not willing to provide us with a copy of the notice. That's fine. I just wanted to get it on --

[redacted] We're not able to provide -- we don't have the authority to provide to you.

[redacted] Have you asked Chairman Jordan's staff if they would be willing to provide us with a copy?

Mr. Binnall. That's something he would have to do in consultation with counsel. And that's not a request that's previously been made, and we're not going to --

[redacted] Okay. Well --

Mr. Binnall. -- we're not going to do it here today.

[redacted] -- we'll make it.

Mr. Binnall. But that's something --

[redacted] So we'll make the request for today. And I understand right now Chairman Jordan's staff is not willing -- or says they're not able to provide it.

Mr. Binnall. Well, they're legally not able to. The request is being made right now, and it's a legal decision that requires confidentiality. It's something that requires legal analysis. It requires any number of different things.

That's something that we can certainly --

[redacted] Okay.

Mr. Binnall. -- go through the correct process to do. But, being that that is not something that's been previously made, we can't give you an off-the-cuff answer --

[redacted] Okay.

Mr. Binnall. -- right now.

[redacted] I understand. But you have provided a copy to Chairman Jordan's staff. And you may have provided a copy to Representative Estes? Is that right?

Mr. Binnall. Yeah. I think his testimony was that he doesn't remember exactly on that.

[redacted] Okay.

Mr. Binnall. But we'll take those -- you know, you just made the request for the first time, and that's something that we can take into consideration.

[redacted] Okay. I appreciate that. I think we had asked the majority staff if they had any documents, and they had said that they weren't able to provide anything to us. So that's why I --

Mr. Binnall. And I think that's probably legally correct.

[redacted] Okay.

BY [redacted]

Q Okay. Mr. O'Boyle, I want to turn to a different subject matter at this point. And so this is going to be dealing with January 6, 2021.

A Okay.

Q Do you recall where you were on January 6, 2021?

A I do.

Q Okay. Where were you?

A Why is this relevant?

[redacted] Wait, what's the question?

[redacted] I asked him where he was on January 6, 2021.

[redacted] Okay. Sorry, I didn't --

BY [redacted]

Q And you asked me why it was relevant.

A Yeah.

Mr. Binnall. So that I can get -- so that I can know how to advise my client on this line, I'm going to ask for a -- ask for a recess.

[redacted] Okay.

[redacted] It is 11:51.

[Recess.]

BY [redacted]

Q So where were you on January 6, 2021?

A I was in Kansas.

Q Okay.

A I can elaborate if you want.

Mr. Binnall. Can you say just where in Kansas?

Mr. O'Boyle. I was standing at my desk, watching the events of the day unfold --

BY [redacted]

Q Okay.

A -- with the rest of my office.

Q So, when you say standing at your desk, you're saying that you were at work --

A Uh-huh.

Q -- at the FBI.

A Correct.

Q Are you aware that President Trump gave his speech that day on the National Mall in Washington, D.C.?

A I'm aware that he spoke. I don't know that I was aware of his location when he spoke.

Q Okay. But were you aware that he was speaking in Washington, D.C.?

A I don't know if I was at the time. I may have found that out after.

Q Okay. So you were aware that he was talking, but you were unclear on where he was talking from, like, the location.

Mr. Binnall. Is there a question there?

BY [redacted]

Q So is it the case that you were aware that President Trump was giving a speech somewhere in the United States of America but you were unclear on the exact location that he was in?

A I don't know if I was aware that he was giving the speech on January 6th. I may have found that out on January 7th or 8th. I'm not entirely sure.

Q So you did not watch any speech at all on January 6, 2021, pertaining to Donald Trump?

A I don't recall if I did. At our office, we typically have the news on, so I recall seeing events of that day unfold. I don't recall a specific speech.

Q When you say "seeing the events of that day unfold," what do you mean by that?

A People -- you can -- I mean, people have used all sorts of words for it, but entering the Capitol Building, and other words have been used as well.

Q What did you think it was that those people were doing?

A It seemed to me like there was some degree of civil unrest happening, some

degree of protest. And -- I'm trying to think back to that specific moment in time.

Q Do you know why people -- you said that it seemed like there was civil unrest, people were -- I don't -- did you say chanting? Are you --

A I didn't say chanting. But there was chanting, sure.

Q Okay. What is your understanding of why people were engaging in civil unrest, as you put it?

Mr. Binnall. I'm going to ask you to clarify which people.

BY [redacted]

Q The people that you said had entered the Capitol. What was your understanding of why they proceeded forth to enter the Capitol --

Mr. Binnall. And you can answer as to what your personal understanding of that is. Don't testify as to anyone else's motives that you don't know.

Mr. O'Boyle. So I don't know every individual's motive.

BY [redacted]

Q Just your personal understanding.

A My personal understanding was that some of those people were upset with the election results and some of those people likely got caught up in the emotion or urging of others at the time with a groupthink-type of mentality.

Q Are you aware that individuals that you mentioned entered the Capitol, some wore body armor?

A I'm aware of that.

Q How did you hear of it?

A I don't know for sure if it's something I saw on the news, but, as you can possibly imagine, or maybe you have knowledge of this, the FBI has worked lots of cases involving January 6th, so I can't say for sure if some of it came from my work or some of it

came from public media.

Q When you say the FBI works cases involving January 6th, are you referring to the prosecutions of individuals that engaged in entering the Capitol on January 6th?

A Sometimes FBI work is congruent with prosecutions of those cases, yes.

Q These people that entered the Capitol are sometimes referred to as "insurrectionists." Do you agree with that term?

Mr. Binnall. You can answer it to the extent you have a personal opinion, but don't give any legal conclusions.

Mr. O'Boyle. Yeah, my personal opinion is that some of them probably did want to start an insurrection, but I don't think that's the case for everybody.

BY [redacted]

Q Just real quickly -- I'm going to diverge a little bit -- how did you get here today?

A An Uber.

Q Thank you for that.

Where are you currently located? Like, where do you live?

A I live in Wisconsin.

Q Okay. How did you get from Wisconsin to Washington, D.C.?

A I flew.

Q Okay. Who paid for that?

A I did.

Q You're not being compensated by anyone else for being here?

A No.

Q Okay.

A Honestly, that's -- it was -- you know, as I think everybody now knows, I'm

unpaid, and I have, aside from myself, five other mouths to feed.

Q Yeah.

A And so, you know, I also said in the first round, I don't want to be here. I would rather not be here. But this is something I have to do, and I think this is something that far more FBI agents should be doing, regardless of where they stand politically or whatever other biases they might have.

So, yeah, I would -- I would not choose to be here. I would have chosen a very different path.

BY [redacted]

Q Is this your first trip to Washington, D.C., in association with this complaint, or this matter?

A Yes.

Q Okay. So you haven't flown up previously to speak with anybody, staff at the Capitol?

A No.

Q Okay.

A So, yeah, I paid for it on my own. And, I mean, even then, it's like, ugh. I'm like -- it's just money always going out. It's just going out, going out, going out, to try to continue to do what I believe is the right thing.

BY [redacted]

Q Do you have knowledge of what "The Suspendables" is?

A I do.

Q Can you tell me what it is?

A So I believe the origin of that came from a New York Times reporter. Alan Feuer, I think, if I'm saying his name right, labeled -- so there are some other

whistleblowers who are in the public domain, and I believe he labeled them that or somehow concluded that they were calling themselves that.

Q Do you identify yourself as a Suspendable?

A I guess I don't really understand what you mean by that.

Q Do you consider yourself to be part of the Suspendable group?

A I mean, I'm suspended, so --

Q So you do consider yourself to be part of this group of employees that call themselves The Suspendables?

Mr. Binnall. I think that's asked and answered.

BY [redacted]

Q You can answer.

A I suppose so, yes.

Q Okay. Have you made any money off of being in this group called The Suspendables?

A No.

Q Okay. Do Suspendables sell any merchandise?

A They do.

Q Have they sold any of that merchandise?

Mr. Binnall. Answer to the extent you know.

Mr. O'Boyle. I know one member had family members that bought some. Other than that, I'm not sure.

BY [redacted]

Q So you have no -- you haven't reaped any of the proceeds?

A No.

Q Okay.

Do you consider the individuals that were involved in January 6th political prisoners, those who were prosecuted?

A I would have to know more about the individual cases, which I don't. I don't know about all of them.

Q Okay.

Do you have a Twitter?

A I do.

Q Okay. Can you tell me what your Twitter handle is?

A It's GOBactual.

Q Do you use Twitter often?

A Not -- I wouldn't say often, no. It's a relatively new account.

Q Do you use Twitter enough to understand how it functions?

A Yes.

Q So you understand, let's say, how to create a tweet?

A Correct.

Q And you understand how to, like, like a tweet?

A Correct.

Q So, on February 5, 2023, Kyle Seraphin posted a tweet, and he said, "We are going to have Chris on the Kyle Seraphin show podcast for Monday. Apparently, his open letter was scrubbed from @FBIWFO's email when the thin skinned executives decided it didn't help them rounding up #J6POLITICALPRISONER types."

This is a tweet that you liked, Mr. O'Boyle.

What do you understand Mr. Seraphin to be referring to when he says #J6POLITICALPRISONERs?

Mr. Binnall. Answer to the extent that you know personally what he means.

Mr. O'Boyle. I don't know what he means. And I wouldn't say that a like is an endorsement of every single aspect of somebody's tweet.

BY [redacted]

Q What did you like about this tweet in particular?

A So I've also spoken with former Agent Gonzales, and I think that his email that he sent out should actually be part of this Weaponization Committee and that hopefully he would be willing to testify as well. So I was glad to see that he was going to have a platform to talk about it further on.

Q Okay. And so, just to clarify for the record, when you say "Agent Gonzales," you mean the Chris that's referenced in this tweet. Is that correct?

A Correct.

Q Okay. Thank you.

Do you think the government should be prosecuting individuals that were involved on January 6th?

A Some of them, yes.

Q So, on January 28, 2023, there's a tweet in which you write -- or, excuse me, you responded to a tweet from Kyle Seraphin. And he said, "I want you to consider the Criminal Complaint is a tool that you use because you don't have time to take your case to a GJ to indict. 'This is of the essence.' @j6patriot's complaint was sworn out on 1/6/23 for a 2 yr old 'crime' but served this week."

I am handing you a copy of what I just read.

It can be marked as exhibit 1.

[O'Boyle Exhibit No. 1

Was marked for identification.]

BY [redacted]

Q And, in response to this, you wrote, "I wonder how many other complaints/warrants/indictments were sworn out on J6...the symbolism is important to sycophants seeking that next promotion."

What did you mean when you were writing this tweet?

Mr. Binnall. Object. It's not the exact words on the page that were just read. But I'll -- to the extent that --

[redacted] I can read it again.

Mr. Binnall. Okay. Yeah, please go ahead and read it again.

[redacted] Which part were you saying was incorrectly read?

Mr. Binnall. I'm just saying that the tweet that you read was not correctly read. That paragraph wasn't.

[redacted] Okay. I'll start from the top.

BY [redacted]

Q Kyle Seraphin: "I want you to consider the Criminal Complaint is a tool you use because you don't have time to take your case to a GJ to indict. 'This is of the essence.'" Strike that. "'Time is of the essence.' @j6patriot's complaint was sworn out on 1/6/23 for a 2 yr old 'crime' but served this week. That makes it theater."

You, in response, wrote, "I wonder how many other complaints/warrants/indictments were sworn out on J6 2023...the symbolism is important to sycophants seeking that next promotion."

So my question was, what did you mean what you were writing this tweet?

A I mean that I think the question is worth asking: How many others were sworn out on that day?

Because part of the problem that I see with the FBI comes from the headquarters area, which oftentimes encompasses WFO because they're so close to nature. And

oftentimes those who are more on the FBI for promotion over for other matters, they will ping-pong back and forth between headquarters and WFO, maybe Baltimore Field Office, and a couple others in the area.

And so I do wonder how many other complaints were sworn out on January 6th, because I think, to people who are seeking that promotion or that feather in their cap instead of just focusing on the work, I think that symbolism does matter to them more than just simply doing the work.

Q And just for the record, what does "sworn out" mean?

A Well, like, when you get an arrest warrant, you have to swear it out in front of a judge, or I guess sometimes we do it over the phone too.

Q Are you familiar with the death of Capitol Police Officer Brian Sicknick?

A To some degree.

Q Can you tell me in your own words what your understanding of his death and the circumstances surrounding that are?

Mr. Binnall. To the extent you have any knowledge of that, you can respond. Don't guess.

Mr. O'Boyle. My understanding is that he died a couple days after the events of January 6th.

BY [redacted]

Q Do you believe that law enforcement officers died as a result of the events on January 6th?

Mr. Binnall. Again, to the extent you have independent knowledge, you can respond and answer, but don't guess.

Mr. O'Boyle. I don't know about that.

BY [redacted]

Q So you're unsure whether officers died as a result of the events on January 6th?

A Correct.

Q Are you familiar with the fact that on January 6th pipe bombs were found outside the headquarters of the Democratic National Convention and the Republican National Committee?

A I am.

Q How'd you become aware of this?

A Through news media sources.

Q Did you have a reaction when you first heard that?

A I probably did. I'm trying to recollect back to that time. I mean, probably something like "holy crap" would be what I would -- first hearing that, what I would -- what my reaction would be.

Q So, on January 6, 2023, an individual named @KanekoaTheGreat tweeted a tweet that you liked. And this person wrote, "Hey @FBI, am I doing it right?" -- you have a copy, so you can read and follow along -- "am I doing it right?" and posted two photos.

So the one on the left says "Peaceful Protester," with an individual standing before what looks like a burning building, and another picture on the right that says in quotation marks "Domestic Terrorist," with a woman holding the flag inside a building.

And you liked this tweet.

So my question is, what is your understanding of this photo?

Mr. Binnall. First of all, it I think assumes facts not in evidence. So I'm going to ask you to ask another question first.

BY [redacted]

Q I'll correct the record that there's no quotation marks around "Domestic

Terrorist."

We're not governed by the Federal Rules of Civil Procedure in this situation --

Mr. Binnall. I understand. I understand, but --

BY [redacted]

Q -- in this proceeding. So I'm going to continue forth with my question, which is, what is your understanding of this photo?

Mr. Binnall. That's a fine question. To the extent you have an understanding, you can answer.

Mr. O'Boyle. My understanding of it is that it's more of, like, a meme than anything else.

And, again, I'll say that my First Amendment-protected activity, such as liking a tweet, is not an endorsement of agreeing with what people say or with what they post. I have liked all sorts of things that I may not --

BY [redacted]

Q Do you often like things that you do not like?

Mr. Binnall. If you understand the question, you can answer.

Mr. O'Boyle. I don't understand the question.

BY [redacted]

Q So you mentioned that you liked this tweet, but, even though it is the case that you liked this tweet, it does not mean that you're endorsing this tweet.

So my question is, do you often like things that you do not like? Because you liked this tweet, so I'm just trying to understand what you're saying here.

Mr. Binnall. Same instruction.

Mr. O'Boyle. So, just because -- are you familiar with how Twitter works?

BY [redacted]

Q You can tell me.

A Okay. So it doesn't give you many options on how to react to whatever's posted. So, when I hit the "like" button on Twitter, it's not necessarily me endorsing what the person tweeted or said or whatever else. Even in a retweet, that might not be the case.

Sometimes I may like something just because of the ironicness of it, such as this photo. To me, it's pretty ironic that, on one side, you have a guy holding his hand in the air with a raging fire behind him and the words "Peaceful Protester" below and then, on the other, you have an elderly woman holding an American flag with the words "Domestic Terrorist" below.

That's ironic to me. And I try to live and act in a way where irony is not lost on me, because I think irony can be interesting from time to time.

Q Do you believe the events of January 6th qualify as domestic terrorism?

Mr. Binnall. I think, to the extent you can answer to your own personal knowledge without making any legal conclusions, you can answer.

Mr. O'Boyle. Based on my own personal knowledge? Again, it would have to be broken down by cases. I don't know if it's correct to characterize everyone that was there as a domestic terrorist.

[12:18 p.m.]

[O'Boyle Exhibit No. 2

Was marked for identification.]

[redacted] I'd like to admit exhibit 2 into the record, please.

[O'Boyle Exhibit No. 3

Was marked for identification.]

[redacted] I would also like to admit the exhibit that we discussed earlier, that had the #J6 political prisoners. We can admit it as exhibit 3.

Mr. O'Boyle, do you believe that the votes in the 2020 election were fairly and accurately counted?

Mr. Binnall. Again, to the extent you have any independent knowledge, you can answer.

[redacted] This is your own personal belief. Do you believe that the votes in the 2020 election were fairly and accurately counted?

Mr. O'Boyle. Based on everything I've seen, yes. That's what we've been told.

[redacted] Okay. On January 7th, 2023, there's another tweet that you liked, and it links to an article that says, "New evidence of election fraud POURS" -- "POURS" in all caps -- "out of Wisconsin."

And you have a copy in front of you there today. And I will mark this as exhibit 4.

[O'Boyle Exhibit No. 4

Was marked for identification.]

[redacted] Do you believe that there was election fraud in Wisconsin during the 2020 election?

Mr. Binnall. Give him a moment to review this tweet.

[redacted] Okay.

Mr. Binnall. Let me know when you're done reviewing it.

Mr. O'Boyle. I'm done.

Mr. Binnall. Okay.

Mr. O'Boyle. I have no personal knowledge that there was. I wasn't living in Wisconsin at the time.

But, again, like I've said, just because I like a tweet doesn't mean that I endorse the contents of that tweet. I do think it's important, as a citizen, to take in various forms of media from all sides so we have the clearest picture on what's happening in our country.

BY [redacted]

Q So why did you like this tweet?

A Well, like I said, I think it's important to take in various forms of media to paint a bigger picture of the occurrences happening in our country.

Q Do you believe that voter fraud impacted the outcome of the 2020 election?

A I don't know.

Q From your own personal perspective, do you believe that voter fraud impacted the outcome of the 2020 election?

Mr. Binnall. Asked and answered. That was from his personal perspective.

If you have any other answer, you can answer.

[redacted] I can move on.

[O'Boyle Exhibit No. 5

Was marked for identification.]

BY [redacted]

Q So I'm showing you what's been marked as exhibit No. 5, and it's a tweet by you dated January 16th, 2023. And I can hand you a copy of it as well.

And so this tweet was in response to President Biden, who wrote, "The battle for the soul of this nation is perennial. It's a constant struggle between hope and fear -- against those who advance racism, extremism, and insurrection. But at our best, the American promise wins out."

In response you write, "It's a constant struggle between truth and fear -- against those who advance lies, half-truths, and destruction. But at our best, the American promise to reject lying politicians wins out. Too bad we've not been at our best for a long time."

Mr. O'Boyle, can you tell me what you mean by, "It's a constant struggle between truth and fear -- against those who advance half-lies [sic], half-truths, and destruction."

A I think, for the most part, this stands on its own as my own First Amendment-protected speech. In some ways, what I mean "between truth and fear" is what I've been doing with whistleblowing, trying to bring the truth to light and having to live in fear since then. And then others who may have been thinking of doing a similar thing are living in fear as well.

And then, as far as "lies, half-truths, and destruction," my own personal opinion is that this country is very divided right now, and it's -- I think we have a long way to go for some cohesion to come back into order.

And I guess, like, half-truths and lies, I would say things, like, have been uncovered with the Twitter Files or other things that are coming out now years after those things were taking place that shows that lies and half-truths have led to some destruction.

Q Who do you see is advancing those half-truths and destruction and lies?

A I mean, it comes from all sorts of places. Media, politicians, other bad actors, sometimes foreign influence. It comes from all over.

Q What specific American politicians do you see as liars?

A It's going to be a long list.

Q Happy to hear them.

A No, I don't know off the top of my head.

I do think that President Biden has lied from time to time. I think that could be said about most Presidents. I think most of them have lied from time to time as well.

Q Can you tell me what you think President Biden lied about?

A Just in this tweet, or --

Q In general.

Can you provide an answer, Mr. O'Boyle?

Mr. Binnall. Take the time you need to. It's a fairly narrow question. Take the time you need to consider it.

[redacted] We do have a clock running, so I do ask that you --

Mr. O'Boyle. I'm thinking about it.

[redacted] -- think about it and provide an answer.

Mr. Binnall. He's not going to be rushed on a question. If you want to withdraw the question and move on, that's fine. But if you want him to answer this question, he needs to take the time as best he can, especially with a broad -- a very, very broad question like this.

Mr. O'Boyle. Yeah. It's broad. I mean, one example that comes to mind for me is his dealings with his son Hunter and all of that. I think that's becoming evident that that's a clear lie.

[redacted] What do you mean by his dealings with his son Hunter?

Mr. O'Boyle. Well --

[redacted] We can withdraw that question. We can withdraw the follow-up question and just leave it at that.

BY [redacted]

Q I want to actually change topics a little bit and get back to your work on the Joint Terrorism Task Force for a minute, if we could.

A Okay. Sure.

Q I know you said you dealt with both international terrorism and then domestic terrorism.

Could you describe, just without getting into any specific cases, what your duties would have been?

A I mean, I guess, broadly speaking, my duties would be to investigate any allegation that could be a -- that I had an articulable, factual basis that there was a potential violation of Federal criminal law.

Q Okay. So you were actually the person on the ground doing the investigation?

A Yeah.

Q Okay. During your -- and, I'm sorry, you started with them in 2018?

A Correct.

Q And you were on the JTTF until you started your transfer process, right?

A Correct. And I still -- even when I was in that transfer process, I still technically was -- I still was working the cases that I had.

Q So, like, summer 2022. Is that right?

A Correct.

Q Okay. During that period, other than -- I know we talked about the shift from -- like, you had one international terrorism case, right? But then there wasn't a lot of international terrorism in Wichita, so you ended up doing more. Am I summarizing that right?

A Correct.

Q Did you witness any other resources shift with the JTTF?

A I did. I would say the biggest -- and, again, Wichita is pretty small. Like, there's not a ton of us there. But after January 6th, we got lots of leads to cover potential violations associated with that.

Q Okay.

A That was a -- I think when I left, there were still some active investigations or leads going on and being covered.

Q And were there additional agents brought in to cover those?

A Not necessarily brought in, but, like, the way it's structured -- so I mentioned TFOs earlier. They essentially have the same job as a special agent.

Q And I'm sorry. Could you state again what a TFO is?

A A TFO is a task force officer.

Q Thank you.

A So they are a local partner that gets basically deputized into the FBI so they can investigate Federal crime.

And so the way the structure was in Wichita, like, I was assigned to domestic terrorism. You had an agent or a TFO assigned to, like, counterintelligence, an agent assigned to international terrorism, the various types of counterterrorism. I guess, broadly speaking, all of those things fall under counterterrorism.

So after January 6th -- so I guess, technically, like, the DT body would be who would get all the January 6th cases because that was considered domestic terrorism by the way the FBI conducts their investigations.

But after January 6th, like, everybody was getting leads because there were so many to cover. So, like, not just the DT agent or TFO would get them.

Q Okay.

A Does that answer --

Q It does. I guess, did you see resources -- like, in your experience, were there other crimes that were not being investigated because of the focus on the January 6th cases?

A I guess I would say yes. But, like, we weren't pulling, like, agents from the other side, the criminal side.

Q Can I give you an example?

A Yeah.

Q Did you ever see an agent pulled, for example, from an investigation on a child sex abuse case, for example, to work on the January 6th cases?

A I never saw that, no.

Q Okay. Did you ever see anybody pulled from working on a case on child sexual abuse material to work on the January 6th cases?

A I didn't see that.

Q Okay. Did you see anybody pulled from violent crime?

A I didn't see that, no.

Q You mentioned -- and I think I only have a couple minutes left. So you mentioned that you had applied for a transfer to the National Surveillance --

[redacted] I think we're done.

[redacted] Okay. I'm sorry about that. We'll follow up on the next. Thank you.

[Recess.]

[redacted] The time is now 12:38 p.m.

BY [redacted]

Q Mr. O'Boyle, I kind of want to ask your perspective about some things.

Are you familiar with the Attorney General's October 4th, 2021, memorandum regarding alleged threats and violence at school board meetings?

A I am to some degree, yes.

Q In October 2021, you were an FBI special agent, correct?

A Correct.

Q Were you at the Wichita Resident Agency at that time?

A I was.

Q And when did you learn about the Attorney General's October 4th, 2021, memorandum?

A I don't remember exactly. We may have gotten that emailed to us. Sometimes we get memos from him or the whole DOJ does. I don't know for sure if that was one of them. But I learned about it probably within the week, at least.

Q What was your reaction when you learned of the memo?

A I was stunned that the highest-ranking law enforcement official in the country would publish something like that to the workforce.

Q And why were you stunned? Were you stunned by the content of the memo?

A The content and then the overall direction it seemed to be leading.

Q And what direction was that?

A To me, it was leading towards targeting parents for speaking up about their children's education.

Q And given your law enforcement background and your work at the FBI, did you perceive threats or violence at local school board meetings to be a matter that required Federal interventions?

A I did not. That was probably what was the most striking at first because, as a traditional police officer, if there was something like that, then whoever is at the school board meeting would call the police.

So I was surprised that it would be coming from such a high-ranking Federal official to be designated as an area for Federal law enforcement to hone in on.

Q And in your office, did agents and employees discuss their reactions to the memo?

A We did. I recall my supervisor, who was Sean Fitzgerald at the time, actually saying we will not be going to school board meetings in this office, which I was grateful that he was willing to state that.

Q To the extent you know, do you know if he communicated that to anyone in his chain of command?

A That, I don't know.

Q Were you involved in any official conversations or correspondence related to how the FBI could help address alleged threats of violence at school board meetings?

A Not that I recall.

Q And to the extent you know, when Sean Fitzgerald said that you would not be going to school board meetings, did he know if other FBI agents were being sent to school board meetings?

A I'm not sure.

Q In the memorandum, the Attorney General required each U.S. Attorney's Office, in conjunction with the FBI, to convene meetings with local law enforcement partners in their judicial district.

Did you ever attend any of these meetings?

A I did not.

Q Did they happen in the judicial district for Wichita?

A Not that I'm aware of.

Q And in your role in Wichita, did you regularly work with local law enforcement?

A I would say it was pretty regular, yeah.

Q Did you have a sense of whether you thought, given your partnership with these local law enforcement agencies, that they could handle any threats of violence at school board meetings?

A I think they would be capable of that, barring maybe some small town that might need some assistance if something went really off the rails. But even then, they would probably not call us. The FBI is a small office in Wichita, so they probably would ask a different local department or sheriff's office for help before even coming to us.

Q And did any of the local law enforcement agencies that you worked with, did any of them ever come to you, or to the extent you know, to any of your colleagues, saying that they needed help with these threats of violence at school board meetings?

A Not that I'm aware of.

Q Are you familiar with an email that was sent by Carlton Peeples, the deputy assistant director of the Criminal Investigative Division for the FBI, on October 20th, 2021?

A I am.

Q And is it your understanding that that email announced the creation of an EDU OFFICIALS threat tag?

A I am aware of that.

Q Did you receive this email?

A I did not. I think how I became aware of it was that it was brought up on

the news.

Q And what was your reaction to seeing this EDU OFFICIALS threat tag on the news?

A Again, it was shock and surprise, especially -- so Carlton Peeples was in charge of the Criminal Investigative Division, but also as part of that email was, I believe, Timothy Langan, who was from the Counterterrorism Division.

And it was already surprising that the FBI's CID would be involved in something like this, but then to have both CID and CTD, the Counterterrorism Division, sign off on a threat tag like that was troubling to say the least.

Q And just like the memorandum, did agents and employees within your office discuss their reaction to hearing the news of the EDU OFFICIALS threat tag?

A It is something we discussed just at the squad level, TFOs and agents, which I would say, in my experience, everybody I talked to about it was -- had a similar reaction as me, like, why are we inserting ourself into this type of matter?

Q Were you involved with any official conversations or correspondence about the creation of the EDU OFFICIALS threat tag?

A No.

Q And given your law enforcement background and your work at the FBI -- or I guess when you were at the FBI -- did you have any knowledge of or participate in any investigations that were labeled with the EDU OFFICIALS threat tag?

A No.

Q Are you generally aware that the FBI did in fact use that threat tag?

A I am.

Q And are you aware that several parents were investigated by the FBI for protected First Amendment activity?

A I am.

Q Given your law enforcement background and your work in the FBI, does this concern you?

A It does.

Q And do you think, given your background, does knowing that you could be investigated by the FBI for speaking up at your child's school board meeting, do you think that would chill parents from exercising their First Amendment right?

A Absolutely.

Q Given your law enforcement background and your work at the FBI, does the EDU OFFICIALS threat tag have any law enforcement utility? Is there any reason to have it?

A I don't believe so.

Mr. Gaetz. If I could ask a question here.

Did anyone -- did any of your coworkers ever advocate for that tag directly to you?

Mr. O'Boyle. No.

Mr. Gaetz. So no one ever -- in these discussions that you described where people were saying, well, this is odd or different than our usual course and function, there were never voices that spoke up and said, no, we really need to be doing this?

Mr. O'Boyle. No, sir, not that I'm aware of. Nobody ever told me that. It was more -- I would say the reactions were similar to mine, like, why is this being created? Why is the Federal Government getting involved with this? And that came from agents and TFOs who we all were like, what's going on here?

Mr. Gaetz. Okay. Thank you.

[redacted] And are you family with a letter that Mr. Jordan and other House Judiciary Republicans sent to the Attorney General on May 11th, 2022, regarding this EDU

OFFICIALS threat tag and its use?

Mr. O'Boyle. I am.

[O'Boyle Exhibit No. 6

Was marked for identification.]

[redacted] I'm going to mark that as exhibit No. 6.

Mr. Binnall. Thank you.

[redacted] I'll give you a minute to review.

Mr. Binnall. Let us know when you're done reading reviewing it.

Mr. O'Boyle. Okay.

BY [redacted]

Q Okay. I'm going to direct your attention to page 2, the bullet point material there.

A Okay.

Q And I'll read for you the first bullet on page 2. And in this context, "you" or "your" refers to Attorney General Merrick Garland.

"In one investigation begun following your directive, the FBI's [redacted] Field Office interviewed a mom for allegedly telling a local school board 'we are coming for you.'

"The complaint, which came into the FBI through the National Threat Operations Center snitch-line, alleged that the mom was a threat because she belonged to a 'right wing mom's group' known as 'Moms For Liberty' and because she 'is a gun owner.'

"When an FBI agent interviewed the mom, she told the agent that she was upset about the school board's mask mandate and that her statement was a warning that her organization would seek to replace the school board with new members through the electoral process."

Mr. O'Boyle, given your law enforcement background and as a former FBI agent, what is your reaction to hearing this?

A As a former FBI agent and police officer and as a parent, it's shocking that a Federal agent would show up at someone's door for that.

Q And why is it shocking that they would show up for that?

A Because, one, if somebody does want to make a complaint about this, why are you referring it to the FBI? Right off the bat, "we are coming for you," that's what they have on a, what, on a -- "telling the local school board 'we are coming for you.'"

Okay. If you have an issue with that statement, you call your local police, and you tell them what you know, and you tell them who said it, what you think they meant, and then the police go and investigate further to find out what the FBI agent eventually ascertained, was that we were going to replace you.

This is not a Federal crime. This is not a Federal matter. But we have FBI agents doing it now.

And that -- not only is it chilling to have a Federal law enforcement officer show up at your door, but I bet that mom is still scared about going to her kid's school board meetings and speaking up because she doesn't want the FBI coming to her door again.

Q In your opinion, is this a proper use of FBI resources?

A No.

Q Moving on to the second bullet.

"The FBI's [redacted] Field Office opened an investigation, subsequent to your directive, into a dad opposed to mask mandates. The complaint came in through the National Threat Operations Center snitch-line and alleged that the dad 'fit the profile of an insurrectionist' because he 'rails against the government,' 'believes all conspiracy theories,' and 'has a lot of guns and threatens to use them.'

"When an FBI agent interviewed the complainant, the complainant admitted that they had 'no specific information or observations of...any crimes or threats,' but they contacted the FBI after learning the Justice Department had a website 'to submit tips to the FBI in regards to any concerning behavior directed toward school boards.'"

Mr. O'Boyle, given your law enforcement background, what's your reaction to hearing this?

A This is a perfect example of how the DOJ and the FBI has become weaponized. This complainant hears that the Justice Department now has an open website for anybody to come and submit tips. So they go on the website to submit tips against someone that, it sounds like, they disagree with ideology, with their ideology. So they submit the tip hoping that the bogeyman, the FBI, will come and handle the situation.

And, again, from a law enforcement perspective, even if this was true -- okay, "fits the profile of an insurrectionist." What does that mean? One. "Rails against the government." That's First Amendment-protected free speech. "Believes all conspiracy theories." That's First Amendment-protected free speech. "Has a lot of guns and threatens to use them."

Okay. Do you have any articulable, factual basis that they are making threats? Because just owning guns is Second Amendment-protected activity.

And then that person who made the complaint admits, I have "no specific information or observations of...any crimes or threats." But they utilize the snitch-line so they can weaponize or have the FBI weaponized against this person that they just disagree with.

Q And in your opinion, was this a proper use of FBI resources?

A Absolutely not.

Q Okay. And on to the third bullet.

"In another case initiated after your directive, the FBI's [redacted] Field Office opened an investigation into Republican state elected officials over allegations from the state Democratic party official that the Republicans 'incited violence' by expressing public displeasure with school districts' vaccine mandates. This complaint also came into the FBI through the National Threat Operations Center snitch-line."

Given your law enforcement background and work at the FBI, what is your reaction to hearing this?

A It's another example of people thinking, oh, we have this open snitch-line, let's go and report it to the Feds.

So even if this complaint that Republicans were inciting violence is substantiated, it's a local law enforcement matter. There's nothing that I know of, based on my training and experience in the FBI, that brings this to a level of Federal concern.

And even if that is the case, you still -- if violence is imminent and it was incited, the FBI is not coming like the police do. You call 911, or you call your police and say, I'm worried about this, I think they're inciting violence, and let them do their investigation.

And if the local department says, this is beyond our scope, or we do think there might be a Federal nexus here -- which I would say at first blush, without additional information, it sounds like there is not any Federal nexus.

So, again, why is the FBI being called? And I think the logical conclusion is because they have been weaponized against parents and others in this country.

Q In your opinion, is this a proper use of FBI resources?

A No.

Q Given your law enforcement background, do you believe the FBI should be using counterterrorism resources to investigate parents for voicing their concerns at local

school board meetings?

A No.

Q Do you believe the FBI should be using criminal investigative resources to investigate parents for voicing their concerns at local school board meetings?

A No. They should be using no resources for voicing opinions.

Q And this should be handled by local law enforcement?

A If there's something that rises to the concern of potential law violation, yes, that's where it should be started.

Q Do you have reason to believe that the FBI is using and creating threat tags in a politicized way?

A I do.

Q Can you tell us a little bit about that?

A Well, aside from the EDU OFFICIALS threat tag -- so the threat tagging process is one that doesn't even get utilized a ton, I don't think. But threat tags do exist. They're kind of like the hashtag in our system. And so you can go on our system and search for that threat tag.

Sometimes if you start typing one up, like, it'll prepopulate what threat tags might start with those initial letters that you started typing with.

Another one -- and I'm sure there are more, but one I can think of off the top of my head, I don't remember the name of it exactly, but it was regarding, like, threats to the Supreme Court officials.

So the name of that threat tag was, like, threats to SCOTUS, which is, like, okay, that seems like a legitimate use because threatening a Supreme Court official is a violation of Federal crime.

But then the guidance regarding that threat tag was -- it shifted and began

focusing in on pro-life adherence. So that threat tag came into existence after the Dobbs decision that reversed Roe v. Wade.

And so when this threat tag came out, it was like, why are you focusing on pro-life people? It's pro-choice people who are the ones protesting or otherwise threatening violence in front of Supreme Court Justices' houses.

But even in that threat tag, which seemed like a legitimate use, the FBI twisted it and said, we want you to focus on pro-life, on pro-lifers. And it's like, they're probably happy about the decision, so why would we focus on them? Didn't make any sense.

So that's just two examples. Like, I don't know any others off the top of my head, but I'm sure there are other threat tags out there that are in this similar bent that are clearly directed towards a certain set of people.

Q And when you say it was -- the guidance focused on pro-life advocates, what do you mean by that?

A If I recall correctly, it was -- I think they wanted us to, like, look into -- oh, what are they called? -- pregnancy -- pregnancy centers. Like, the antithesis to abortion clinics. Whatever those are called. I'm forgetting the verbiage off the top of my head.

And I was like, why would we go and talk to these people about threats when, if somebody is going to be getting threatened, it would be them, because people thought that abortion was suddenly outlawed, which that wasn't the case either. It was just remanded back to the States.

I'd have to pull up or see if I have that guidance about that threat tag. I'm not remembering entirely everything about it. But I remember it struck me as odd at the time.

And then I later even got -- it's called a request for collection, because I had a

confidential human source who was a pro-life person, and I was asked to ask that person a bunch of questions about the threats to the Supreme Court.

And even when I got that, I was like, why would this person know about those threats? He's pro-life. Like, he's not the one going and threatening the Supreme Court Justices.

So it didn't add up at the time. It still doesn't, to me.

Q And so when you were in Wichita, you worked on domestic terrorism, correct?

A Correct.

Q And so are you aware that one of the forms of domestic terrorism is abortion-related violent extremism?

A I am.

Q And so the leak of the Dobbs opinion occurred in May, and then in June, the final decision was released. In between May and current, there's been over a hundred attacks on pro-life facilities and churches, pregnancy resource centers.

Did you ever receive any guidance from the FBI to investigate those incidents?

A I never did, no. Of my own volition, I reached out to a local pro-life clinic or ministry. But, big surprise, they never responded back to me because they probably didn't want to talk to the FBI.

But, no, I -- no, that -- other than that, no.

Q Okay. Let's switch topics a bit.

So committee Republicans released a report in November 2022 that detailed the problems as recounted by whistleblowers and from other public information that undermines the FBI's fundamental law enforcement mission.

So whistleblowers have told committee Republicans that the FBI Washington

hierarchy is, quote, "rotted at its core," end quote, maintains a, quote, "systemic culture of unaccountability," end quote, and full of, quote, "rampant corruption, manipulation, and abuse," end quote.

Do you agree with these statements?

A I do.

Q What is your reaction to hearing these statements?

A It's really one of sadness. The FBI has long been held up as -- I mean, they tell you at Quantico, not only does FBI stand for Federal Bureau of Investigation, it stands for fidelity, bravery, and integrity. And based on things that I have disclosed as well as what other whistleblowers have disclosed, it seems like that couldn't be further from the truth.

And, you know, rank-and-file members of the FBI, I think, by and large, in my experience, try to do what's right. They try to do the right thing. But most of them fall short of that line when they see something that's wrong, most of them don't report it, because they're trying to get to that 20-year mark and get that pension or whatever, whatever is inhibiting them.

I've had people tell me before: I can't do what you've done because I can't risk losing my paycheck. And it's like, well, I really couldn't risk it either, but it had to be done. Because if we aren't going to do it internally, it's never going to change. It's never going to get fixed.

So I hope that more whistleblowers come forward. But I think the only way that that can happen is if this weaponization against whistleblowers and against parents and whoever else, it has to somehow be stopped now. And it doesn't seem like that's happening any time soon.

Q And does it surprise you that FBI employees and agents have made these

characterizations of the hierarchy?

A It does not. After the experience I'm going through right now, it doesn't surprise me one bit.

Q Given your experience with domestic terrorism cases, I want to ask you about some information that the committee has learned regarding domestic terrorism cases and domestic violent extremism.

So we have learned that the Biden administration's narrative about the FBI's work on domestic violent extremism -- abbreviated as DVE -- cases may be misleading. We have received accusations that FBI agents are bolstering the number of cases of DVEs to satisfy their superiors.

For example, one whistleblower claimed that, because agents are not finding enough DVE cases, they are encouraged and incentivized to reclassify cases as DVE cases, even though there's minimal circumstantial evidence to support the reclassification.

Do you have any information regarding the reclassification of cases as DVEs?

A I would have to think about that further because I don't remember exactly where I heard this from.

But in the FBI, we classify our cases -- we call it a TURK code. TURK is, like, time, utilization, and record keeping.

So there's, like, an alphanumeric code for every type of case, every type of investigation you work. Domestic terrorism, for instance, the numeric part all starts with 266, and then there's a letter after the number.

And then, like, for Kansas City, if it's a domestic terrorism case in Kansas City, it's, like, 266, a letter, which indicates what type of domestic terrorism, dash KC, dash a handful of numbers. That's your case code.

And so I don't remember if I learned this at work or if I heard it. I can't recall

exactly, but I learned at some point that FBI agents were being directed to reclassify 170- -- I think it was 176 cases, so that would be domestic cooperation with police -- to reclassify any of those into some type of domestic terrorism case.

But, again, I don't remember if I heard that secondhand or if that was something I learned at work.

I guess along that same line, as a DT agent, I encountered similar stat padding or case bolstering, in that I had a case -- and I'll try not to get into too many details because I think it might still be open, but I don't know. It's a case I was trying to wrap up before my transfer.

And truth be told, it was one case. But the FBI had me open up four different cases because they had me open a case for every individual that I had an articulable, factual basis that there may have been potential Federal law being violated.

And when I first got these cases, I'm like -- because I initially -- they were transferred to me from another agent. And I think it was, like, two at the time. And I asked my boss, I was like, why do I have -- these are the same. Like, everything I wrote, every 302, every 1057, everything I did, I started putting into all four cases because they were really just one case.

Where, like, on a criminal case, say you were working, like, a gang, which this case was, I guess, like, a militia, if you're working, like, a gang, you have a case open on the gang, and you have a subfile for each person in it. Like, John Doe one, two, and three, they would all have their own subfile.

Where in my case, John Doe one, two, three, and four all had their own separate case because then the FBI can -- from my perspective -- the FBI can come back to Congress and say, look at all the domestic terrorism we've investigated. Where, really, I was working one case.

But the FBI can then say, well, he actually had four, and so we need you to give us more money because look at how big of a threat all this domestic terrorism is.

So that's just my personal experience with that.

Q So it was the usual practice that if there were multiple individuals involved with one case, you may open a subfile for each individual? Is that correct?

A If you're working traditional criminal matters, yes. But I believe it's policy on the CTD side to open up all these separate cases, when in reality then that's just -- they're just obscuring the truth and the facts.

Like, all my guys that I was working on were related. They should have just been in one case. But they weren't because --

Mr. Gaetz. Who gave you the directions, Mr. O'Boyle, to open four cases in that matter rather than categorize all that conduct in one case?

Mr. O'Boyle. So, sir, I don't know if anybody even gave me a specific direction. It was more like, this is the policy. Because once --

Mr. Gaetz. Describe that to me.

Mr. O'Boyle. I think my -- I think when I first got the cases -- I don't even remember who my boss was then. I don't know if anybody described it to me, but I believe I may have read it in our policy, because I think I might have asked maybe another agent or something.

I was like, hey, I'm going to open up on these two other guys. Do I need to open up separate cases?

And they were like, yeah.

And I was like, why? Like, it's all related. Can't I just merge it into one?

And they were like, no, you can't.

So then I think I pulled up the policy and read it and was like --

Mr. Gaetz. But you don't recall who that -- who participated in that discussion with you?

Mr. O'Boyle. No.

Mr. Gaetz. And were you aware of other instances where people were opening up more cases than necessary in order to accommodate that policy?

Mr. O'Boyle. I guess the only other one that would be similar, I had an abortion extremism case. So it was a 266 whatever. And then that was also opened up on the criminal side as a potential FACE Act case.

And that one actually had a different case agent assigned to it, but she never worked on the case. I worked on it alone. So even with that one, I would serialize everything I did to my case and to her case.

So optically, it's like, oh, we've got an abortion extremism case, but we also have a FACE Act case. But we really only had one case.

So to me, it seems like it's a clear numbers game, where they can [inaudible] and say, look, look, look, we have all this domestic terrorism or international terrorism or whatever other type of terrorism.

Mr. Gaetz. Did you ever complain about that inefficient use of resources to any superior?

Mr. O'Boyle. I did. To --

Mr. Binnall. Be careful about disclosing any protected disclosures.

Mr. O'Boyle. Okay.

Mr. Binnall. Except to the extent --

Mr. O'Boyle. Oh, I don't know that this was protected, too.

Mr. Binnall. Okay.

Mr. O'Boyle. Like, I discussed it with my boss, Sean, and he agreed. He was

like, yeah, I know it's stupid. That's just the policy. He was like, yeah, I'm fine if you just serialize everything into -- you know, whatever you do, just put it in all of them.

But then, yeah, as a case manager, then you're tracking all these four different cases where it's really just one.

Mr. Gaetz. And when you say Sean, you're speaking about Sean Fitzgerald?

Mr. O'Boyle. Yes, sir.

Mr. Gaetz. So did you express your concern about this before or after you opened up the additional cases?

Mr. O'Boyle. It was after they were all open.

Mr. Gaetz. So you have the initial case. You see that there are these other individuals, which in the normal course of business would be subfiles within that initial case heading.

Among your colleagues and coworkers, you learn from their feedback that, actually, the policy would require this inefficient separate opening of cases.

You then do that, you perform the separate opening of those cases, you serialize all of the content to all of those cases, and then complain to Sean Fitzgerald that this is inefficient.

Fitzgerald then agrees with you that it is inefficient and tells you to do it anyway.

Do I understand that correct?

Mr. O'Boyle. That's correct. I mean, yeah. He was like, yeah, that's just the policy on this side. Because I think he had worked criminal matters earlier, so he knew that.

And then a close friend of mine who worked on the JTTF and SWAT team with me, he eventually transferred to the criminal side. And that, I think, is when I maybe first became more aware of what was happening.

Because he was like, man, it's awesome over here. I've got this case open and, look, I just have subfiles for everybody.

And I was like, what?

And he said, yeah, you don't have to open up all these other cases.

And that's when I started kind of connecting the dots in my head, like, well, why is the FBI doing this, then?

And then it's like, well, look at the budget every year. They push terrorism, and lately it's domestic terrorism.

And, to me, that seems like a logical conclusion to draw, like, oh, that's why.

Mr. Gaetz. Yeah. I want to drill down on that for a moment.

Who, in speaking with you, connected the stat padding with the budgeting and resource allocation process?

Mr. O'Boyle. I don't -- I don't know if anybody -- can you say that again?

Mr. Gaetz. Yeah. You described these circumstances where the stat padding is in service of trying to draw more resources into DVE. But who did you have those discussions with?

Mr. O'Boyle. I mean, I guess just with my squadmates who agreed. You know, they've worked that stuff, too. Sean, my boss, seemed to agree, at least to my face.

Mr. Gaetz. So, again -- sorry to belabor the point, but I want to draw a fine point on it.

In your expression of concern to Mr. Fitzgerald about this practice, you came away from that conversation believing that the reason Mr. Fitzgerald wanted you to do this anyway, even though there wasn't really a law enforcement value, was because there was a budgetary value.

Mr. O'Boyle. I wouldn't say that he characterized it that way. But after talking

with him and him saying, like, that's just the policy or the way it is on this side, I drew those conclusions on my own.

Mr. Gaetz. Great. Thank you.

BY [redacted]

Q Were you ever told that you had to open a certain amount of cases that were tagged or classified a certain way?

A I wouldn't say I was ever told that, like, in an overt fashion like that. But it was often alluded to, like, you got to have cases open, like, so you can justify what you're doing.

And it's like, well -- which one thing that's common, at least in the CTD side, is cases will just stay open for years and years and years. And if you -- as long as you put something to the file -- we call it -- internally, we call it papering the file -- if you just paper the file every 90 days, you're good.

And there's not any real investigative work being done, but, hey, I can run it up the chain of command and say, look, I got these cases open.

And sometimes -- and I would say it was probably more common with international terrorism-type cases or maybe CI ones as well -- they're just opened, like, for years, years and years and years.

And then even sometimes, if you're trying to close it -- like, what, this case has been open for 5 years, here's all the things we've done -- you'll get pushback from headquarters or maybe even your boss or their boss.

And it's like, well, we've done -- we've taken the logical steps in this case, and there's no indication that there's Federal crime occurring -- or at least that we couldn't find -- but there's enough where we can't justify keeping it open. And sometimes you get pushback from headquarters people or even in your own chain of command.

Q So you would get pushback from headquarters that you would need to keep cases open?

A Correct.

Q And then you would just paper the file every 90 days to keep the case open? Is that accurate?

A That is a common practice, yes.

Q We've learned that former counterterrorism Assistant Special Agent in Charge Timothy Thibault and the FBI's former Assistant Director of the Counterterrorism Division Jill Sanborn allegedly pressured agents to move cases into the DVE category to hit self-created performance metrics.

Are you familiar with either Mr. Thibault or Ms. Sanborn?

A I am, but just tangentially.

Q Did you ever interact or work with them?

A No.

Q And are you aware of these self-created performance metrics?

A So to some degree, I am. This is actually another disconcerting aspect of the FBI.

Every SAC -- so every special agent in charge over a specific division -- they can get a monetary bonus at the end of the year if they meet metrics. They have an Excel spreadsheet that has all sorts of things listed in it, and if those metrics are met, then they get their bonus.

And I think a large driving factor in the FBI is to meet those metrics. And I think that raises grave constitutional concerns to be saying to law enforcement officers, you have to go and do X, Y, and Z so the boss gets his bonus.

Nobody comes out and says it that way, but when you get the spreadsheet

where -- or the SAC Excel spreadsheet is red in these categories, we've got to fix it, we've got to do this and that to get it back up to green and then to gold so he gets his bonus. Nobody is saying it that way, but that certainly is what is implied.

Q And what are the metrics?

A There's a wide range of them. I don't even know them all. But it's -- one that I do have personal experience with is -- they're called -- I think they call them, like, enhanced -- enhanced techniques or something to that degree. I'm forgetting now.

But it's, like, Title IIIs, Title III wiretaps, or FISAs, or other sophisticated -- sophisticated techniques. That's what they're called. Things of that nature.

Like, this is just an arbitrary number I'm giving you because I don't know what they are, and they're different for different field offices, but, like, at the beginning of the year the SAC's metric might be, get three Title IIIs.

And it's like, how do you know you're going to get three? And what if you don't get three? Well, then you're not marked gold in that category.

So I think that that leads to a pervasive culture of not letting the case dictate where the investigation goes, but it's the manager or the agent pushing for a certain avenue of where a case goes.

And my personal experience with that is, when I was a new agent, when I wasn't even aware of some of this stuff, my case, a case I had, was going in the direction of getting a Title III.

And me and my co-case agent, a TFO who had been there for years, we had a meeting with my boss. It was Sonia Garcia at the time. And we were talking about this Title III affidavit that I'm writing -- or that me and Chad are writing.

And we wrap up the meeting, and she says, you guys, I really need this Title III.

And it struck me as odd.

So we walked out of the office. And I was like, Chad, can we go to the conference room? And so we went in there and talked. And I was like, what did she mean, like, I really need this Title III? And he started laughing.

And he's like, you'll see. The longer you're here, you'll see. And he told me, like, there are metrics that need to be met, and then your boss or their boss can write to that, oh, while I was the supervisory resident or supervisory special agent, I had a Title III on this case.

And they can write to that on what's called an FD-954, which is, like -- basically like your internal resume that you have to submit when you want to get promoted.

And it's like, oh, she really needed that because it helps her get promoted. And then it also helps the SAC because then he's got a Title III for his Excel spreadsheet. So he's one Title III closer to being gold in that way and then getting his bonus.

And I would say, like, by and large -- I mean, a Title III, you listen to people's phone calls. Like, that's an extreme measure to take. And now with the FBI saying, get this arbitrary number of Title IIIs because then the big boss gets his bonus? Like, that's not how law enforcement should be working.

And I would say the vast majority of Title IIIs come in gang-related cases. So it's like -- mine came in a domestic terrorism investigation, but -- and then once you have it open, you can write them over and over and over to try to keep them going, which hopefully, like, agents are doing their due diligence.

But with that lingering aspect of, oh, if you get the metric, then you're good, like, the boss will leave you alone because you did something that helped that metric. And it's, like, that's not what law enforcement should be in a country that's allegedly free.

Q And so these metrics, they're listed out in a spreadsheet? Is that correct?

A Correct.

Q And do you know who is in charge of updating the spreadsheet or --

A I don't know for sure, but if I remember correctly -- if I had access to my email, I could just pull one up. But I think the administrative officer.

So every office has an AO, an administrative officer. She or he is basically like the secretary, I think, to some degree, for the SAC. So I think she was the one who would send that out, but I don't recall for certain.

Q And did agents within the office, did they have visibility into the spreadsheet to see where you were at with hitting these metrics?

A I think we did to some degree. Like, I'm trying to think. I can't say for certain.

Q And so while there wasn't spoken pressure to hit the metrics, was it felt by all of the agents?

A I think so, yeah.

Q And it was kind of like a commonly held feeling or belief that you had to hit the metric so your SAC could get their bonus?

A Correct.

Q And according to the Biden administration, investigations into domestic violent extremists have increased significantly.

In June 2021, FBI Director Christopher Wray testified before the House Judiciary Committee that the FBI has a, quote, "very, very active domestic terrorism investigation program," end quote, and that the FBI had doubled the amount of domestic terrorism investigations.

Attorney General Garland has repeated this talking point, publicly stating that, quote, "The number of open FBI domestic terrorism investigations this year has increased

significantly," end quote.

Given your background, what is your reaction to hearing these statements?

A I mean, I would say that's probably true on paper because every single January 6th case that I'm aware of was listed as a domestic terrorism case.

I don't think -- I guess I don't know for sure, but I don't think they were labeled as anything else, and the FBI holds that up as the biggest investigation that it's ever had. So if you're categorizing all of them as domestic terrorism cases, yeah, they would double.

But I think it's kind of a misnomer to say that because the vast majority of those, at least in my experience, we would get leads related to those, and we'd work the leads and then send back to WFO, who was running -- kind of running everything, like, hey, this lead, you know, it's unfounded or it is founded.

And then if you had one that you thought there was more to, then you would work that case that was opened in WFO and -- I guess I can't say for certain -- but I think you also would open a case locally.

But everything was basically ran through WFO and the AUSA, who was also coordinating heavily with the AUSA here to determine how to work those cases. So they aren't or weren't always left to the local field office to work how they deemed fit.

Q Do you know, did the WFO pressure other field offices to keep January 6th cases open or open cases?

A I would say they pressured us to open cases to some degree. One example that I have personally -- I made this as one of my protected disclosures, so I'll just touch on it a little bit.

But I received a lead about someone based on an anonymous tip, and in law enforcement anonymous tips don't hold very much weight, especially without evidence that you can corroborate pretty easily.

I wasn't able to corroborate anything they said, even after speaking with the person they alleged potential criminal behavior of.

While I'm trying to figure all that out, I get another lead from the same agent who sent me that lead. And they essentially tried to get me to violate policy or law.

[1:26 p.m.]

BY [redacted]

Q And who was that?

A I forget what her name was. It was an agent who was working the WFO at the -- what did they call it? They didn't call it a task force, but -- WFO set up, like, a unit to help work all the January 6th stuff. And one of my coworkers actually knew that agent. He was like, "Oh, I went to Quantico with her. Let's just give her a call and talk to her about this stuff."

And after talking to her, my mind was blown that she was still trying to get me to do some legal process on the guy that I got the anonymous tip on. Because there was no rational explanation that anybody could come up with, especially with the additional information I had found, that would have permitted me to do legal process even if I wanted to.

And so I ended up writing that all up and denying it. But that was a personal example for me where it was like, okay, this has gone way off the rails here.

Mr. Gaetz. Who was the individual who had gone to Quantico with the female at the Washington Field Office?

Mr. O'Boyle. His name was Ryan Ross.

Mr. Gaetz. And had you complained to Mr. Ross about the pressure you were receiving before that subsequent phone call?

Mr. O'Boyle. I did. I was like -- because he was my training agent too, and he's a lawyer by trade, so I would often pick his brain about things that I thought were amiss. So I was like, "Hey, Ryan, can you come look at this?"

And so he looked at the two leads. I told him some of the additional information I had gathered. And he was like, "This is insane." And he's like, "I know her. Let's

give her a call. I'm sure we can sort it out."

When we got off the phone, I was like, "I'm just going to close this." She still wanted me to do what she wanted me to do in the lead, and I was like, no. I can't. I can't. I mean --

Mr. Gaetz. So, to your knowledge, that case was closed?

Mr. O'Boyle. To my knowledge, yeah.

Mr. Gaetz. Thank you.

BY [redacted]

Q And when you say "legal process," what are you referring to?

A So they were trying to get me to do the grand jury subpoenas, when there was no rational way to conclude that the legal process she wanted was in any way associated with the anonymous tip --

Q Uh-huh.

A -- which -- yeah.

[redacted] We've got 10 minutes left if -- Mr. Gaetz, do you have more questions?

Mr. Gaetz. Yeah, I've got some.

I'm going to go back to some of the retaliation features that we discussed in the first round.

Did the people you worked with at the FBI know you have a family?

Mr. O'Boyle. Yes.

Mr. Gaetz. And how would they have known that?

Mr. O'Boyle. I told them. I had pictures by my desk. They all knew my wife was pregnant. Even my receiving unit, they knew. When I accepted my orders, I told them, like, "My wife's pregnant right now. She's due in September." And they were

like, "We'll work with you on all that."

Mr. Gaetz. So the field office you were leaving knew, the field office you were arriving to knew, and the FBI logistics team facilitating the move knew.

Mr. O'Boyle. As far as I know.

Mr. Gaetz. Who do you believe made the allegation against you, that you had improperly made media disclosures?

Mr. O'Boyle. So I don't know for sure, it's just my theory, but I believe it was my former boss, Sean.

Mr. Gaetz. And what's your basis for that belief?

Mr. O'Boyle. So, in some of the paperwork I received from the FBI, it said that the allegation was made against me on August 23rd. And August 23rd was my travel day for that training in Virginia for my new unit, so I was away from the office. So it gave him time to speak on the phone or openly with whoever he may have spoken to about me.

And that also came on the heels of the protected disclosure I made to SSA Wilkes. So that protected disclosure was about Sean and some things that I believe he had done. And --

Mr. Binnall. Without going into the substance of that.

Mr. O'Boyle. Yeah. I won't go into any further substance about that, but --

Mr. Gaetz. Is it safe to say that the substance of your protected disclosure informed your belief that Sean was the person who had made this allegation?

Mr. O'Boyle. Yes.

Mr. Gaetz. And the timing --

Mr. O'Boyle. The timing.

Mr. Gaetz. -- also is a basis for that belief?

Mr. O'Boyle. Correct.

Mr. Gaetz. Did you ever observe Sean exhibit political bias?

Mr. O'Boyle. I don't think so, no.

Mr. Gaetz. Were you ever presented any evidence regarding the allegations against you, that you had made improper disclosures to the media?

Mr. O'Boyle. No.

Mr. Gaetz. Were you ever told what media entity people believed you had made an improper disclosure to?

Mr. O'Boyle. Not in conjunction with the suspension.

Mr. Binnall. And as far as the substance of the investigation, kind of not answer on that.

Mr. O'Boyle. Okay.

Mr. Gaetz. Just, like, in the broadest sense, who do you believe is doing this to you?

Mr. O'Boyle. I mean, I think -- I think it goes back to the central rot at the core of the FBI, that they found out -- or maybe when Sean or whoever made this allegation, then they started looking, and they're like, oh, this guy's probably making disclosures, protected -- because they -- I'm sure they can pull up things that I downloaded or whatever that would include protected disclosures I made -- and they said, ah, we gotta get rid of him.

So I think, especially in conjunction with other whistleblowers who have been suspended, it -- to me, I don't know if I'll ever be swayed from the position that it's retaliation from the top down.

Mr. Gaetz. What do you mean when you say "the top"?

Mr. O'Boyle. I think the seventh floor of the Hoover Building. And that may

include the Director, I don't know. I don't know how much he's kept in the loop on some of that day-to-day stuff. But at least AD Jen Moore, who signed that letter, and probably other people at that same or similar level who all work in concert at the Hoover Building.

Mr. Gaetz. The retaliation that you've testified to today seems to have an enhanced feature of cruelty to it.

Mr. O'Boyle. I agree. I agree.

Mr. Gaetz. You know, are you and the other whistleblowers, the cases that you're aware of, are there features of such acute cruelty?

Mr. O'Boyle. Not like this. My situation is one that all the other whistleblowers I've talked to are like, "I just can't believe" -- I mean, and they're in a similar situation, they're suspended without pay, and they say, "I can't believe what has happened to you."

You know, earlier, I alluded I went to Iraq and Afghanistan, a year each, as an infantryman. I received the Combat Infantryman Badge for -- I mean, that is awarded to infantrymen who fight the enemy. So I've been shot at. I've had rockets shot at me, IEDs. And it's different, but this, what I'm going through right now, is harder than those deployments.

When I got home from Afghanistan, I knew I was getting out of the Army. I had 10, 11 months left. And I was like -- I had just turned 25, and I was like, "I'm done. The hardest thing I will do in my life, I've done it, and now I can move on."

And then this happened. And it's not war, but it's very war-like, in what it has done to me mentally, what it's doing to me and my family. And I didn't have a family then. You know, I just had my wife. And, you know, yeah, it's just -- it's hard to believe.

Mr. Gaetz. Yeah. And do you know why your matter seems to have -- actually,

strike that.

In these other suspensions, there doesn't seem to be this purposeful manifestation of cruelty to someone's family, to someone's living situation, to someone's ability to secure future employment. Why do you think the acuity of the cruelty is so much higher with you?

Mr. O'Boyle. I wish I knew. I think it probably just goes back to the pervasiveness of how the FBI has deemed -- they've decided they're going to do what they want, on their agenda, on their terms, that they're the law, and they're not going to have someone internally shining a light in the darkness on the bad things that they are doing.

And I think they realized, we have him in the perfect position to completely flip his life upside-down and cause torment to him. Because then they can come back and say, well, look at his mental status, or, you know, he's clearly unstable, he hasn't had a job, or whatever they might try to drum up in the future, which I wouldn't be surprised at anything they try to drum up. But --

Mr. Gaetz. Do you believe they're making an example out of you?

Mr. O'Boyle. I do, yeah. I think it's clear. I mean, and I think that also has a cooling effect on speech, because any FBI employee who hears my story I'm sure would be stunned.

Mr. Gaetz. So you believe that you and your family are being be tortured so that the FBI can send a message to any future whistleblowers that this is what life will be like for you?

Mr. O'Boyle. I do.

Mr. Gaetz. Since your suspension, have you had any communication with former coworkers?

Mr. O'Boyle. Minimally.

So, from one coworker -- from a coworker, he called me shortly after my suspension, and he told me that they were told -- or that Sean, my boss, had a meeting and told them that I was going to be charged and fired and convicted, or indicted, or something. I don't remember now exactly.

And he was really upset about that. And he said, we were -- he said they all had received an email that said to not discuss classified matters with me because my suspension -- because my clearance had been suspended.

But he said, after that meeting, that they were all led to believe, like, that they just couldn't talk to me at all. But he was like, no, I had to call you and see how you were doing, and stuff like that.

And then I heard from another former colleague who knew someone at the new unit I was going to, and he said that they were told, essentially, like, do not have any contact with me or you could have some type of consequence. And I've not heard from any of those people. But --

Mr. Gaetz. So, both at the field office you were leaving and the field office you were going to, what you had heard from others was that they had participated in discussions that smeared you.

Mr. O'Boyle. Correct.

Mr. Gaetz. Do you know when the meeting occurred with Sean and your prior coworkers regarding your status?

Mr. O'Boyle. I would have to look. I think I have the date somewhere. But it was early October.

Mr. Gaetz. And I'm not asking for it now, but if in the future we ask you to provide a list of the people who might have attended that meeting or might know the

substance that was discussed there, is that something you could think about and provide to us?

Mr. Binnall. We can talk about that.

Mr. Gaetz. All right. I think our time has concluded.

[redacted] We'll go off the record.

[Recess.]

[1:57 p.m.]

[redacted] All right. We can go back on the record. It is 1:57 in the afternoon.

Thank you again for joining us.

BY [redacted]

Q I want to go back to the discussion, I think earlier in the hour that just passed, on the school board's letter.

Have you ever met Carlton Peeples or Tim Langan?

A I have. I've met Tim Langan.

Q What was the context of that?

A He was the SAC of the Kansas City Division for maybe, like, a year and a half of my time there.

Q So when would that have been?

A Roughly -- let me think here. I got there in '18. Maybe, like, 2019 through halfway through 2020 maybe.

Q And then he left? Is that right?

A Correct.

Q Did you ever have any conversations with him about anything related to school boards?

A No, not about school boards, no.

Q Okay.

I want to go to the -- did you ever work on any school-board-related cases?

A No.

Q Okay.

And I want to go back to the May 11, 2022, letter. I think it's exhibit 6, if that's

right.

You just walked through a couple of examples --

A Uh-huh.

Q -- in here, the three bullet points.

That first bullet point begins [inaudible] "investigation began following your directive." "Your" refers to Attorney General Garland.

You said, you know, based on your view of this, this is not a Federal crime, it's not a Federal matter.

Was this your case? Did you work this case?

A No.

Q Okay. So do you know if there was ever a criminal case filed in response to this incident?

A Oh, I'd have to have more information than this.

Q Okay. So everything that you said about it is based just on the paragraph that you read?

A Correct.

Q Okay.

What about the following one, "The FBI's [redacted] Field Office opened an investigation"? Was that your case?

A No.

Q Did you have anything to do with it? Did you assist on it in any way?

A No.

Q Okay.

You said -- so everything, every comment you can make about this case is just based on that paragraph in front of you.

A In combination with my training and experience.

Q But you have no knowledge of the facts of the case, beyond what's in front there.

A I have -- right.

Q Okay.

And it looks like the -- one, two, three, four, fifth -- sixth sentence -- sixth line down, it says, "An FBI agent interviewed the complainant."

To your reading, does that refer to the person who made the -- who called in to the National Threat Operations Center or to the actual individual who was the subject of the investigation?

A My understanding of that would be "the complainant" as the person who made the initial tip.

Q Okay. So, based on this, we have no -- we don't know if the FBI ever actually spoke to whoever the alleged person that was the focus of the tip was?

A Correct.

Q Did you ever -- I'm sorry. And just the third one, "in another case initiated after your directive." Was that your case?

A No.

Q Did you have anything to do with that investigation?

A No.

Q Do you have any knowledge of the facts of it beyond what's in this paragraph?

A No.

Q Okay.

In your role with the JTTF or otherwise with the FBI, did you ever have tips from

the tip line referred to you?

A I have.

Q And was it your obligation to investigate those tips?

A To some degree.

Q If they contained a threat of violence, would you be obligated to investigate them?

A To some degree, yes.

Q Okay.

We talked a little bit about threat tags.

A Uh-huh.

Q And I think you said -- well, what's your understanding of what a threat tag is?

A It's part of our mechanism for identifying particular types of incidents that are inside of the FBI's system.

Q And how -- are there many threat tags?

A I guess it would depend on your definition of "many."

Q Are there more than 10?

A Probably, but I don't know how many there are.

Q How many might you have used in your experience with FBI? And just a ballpark.

A I don't recall ever using one, actually.

Q Okay.

A Yeah.

Q And so, to the best of your knowledge, did the use of a threat tag ever drive any investigative techniques?

A Yes.

Q In what way?

A So, once you apply that threat tag, there's a number of -- well, not even just that. Once you get a tip or lead or whatever type of way it might come in, that almost immediately triggers investigative techniques.

Q So, if you -- let's go to the "SCOTUS" threat tag, for example.

A Uh-huh.

Q If somebody tagged something with a "SCOTUS" threat tag, that would lead the FBI to investigate in a different way than it would if it was just an ordinary case of violence?

A Not necessarily, I wouldn't say, but I suppose it could, depending on who initiated the threat tag and why, and who opens that initial information-based tip or whatever, and then, also, what work is done initially on that and then who it gets sent to. Like, in this case, it would be an agent most likely in the field. And that would depend on that agent's internal processes as well as policy as they understand it to drive, like, how that would go forward.

Q Okay.

On your discussion about pregnancy centers, you said that you had -- in your experience, you had some cases related to abortion-related violent extremism.

A Correct.

Q So you're familiar with the FACE Act?

A I am.

Q So can you tell us what your understanding is of the FACE Act?

A So I believe it was enacted in the '90s to protect abortion clinics as well as places of worship or other pregnancy-related centers that people may go for

pregnancy-related counseling or treatment.

Q So your understanding is that it does also apply to pregnancy care centers?

A Correct.

Q Are you aware that in October of last year the Associate Attorney General of -- do you know who Associate Attorney General Vanita Gupta is?

A No.

Q So she is the third-ranking official at the Department of Justice.

A Okay.

Q Are you aware that in October of last year she spoke with representatives from the U.S. Conference of Catholic Bishops and with representatives from pro-life pregnancy care centers to encourage them to come forward to report any FACE Act violations?

A I was not aware of that.

Q Okay.

Are you aware that at the end of January the FBI offered a $25,000 reward for information leading to the arrest of individuals who had vandalized pro-life pregnancy care centers?

A I am aware of that.

Q And are you aware that the FBI, at the end of January again, arrested two individuals in association with attacks on pregnancy care centers?

A I was not aware of that.

Q I wanted to turn back to the discussion about what has been referred to as, quote/unquote, "padding cases."

A Uh-huh.

Q Did you have any role in budgeting decisions?

A No.

Q Did you ever talk to anybody, superiors or others, about how resources were being allocated?

A I have.

Q What were the context of those conversations?

A So the FBI has this -- I don't know. It's like a -- I guess it's kind of how they designate some of the metrics for, like, the next fiscal year, is my understanding of it. It's called a FOSP. So it's a Field Office Strategic Plan, I think is what that stands for.

And then the FBI has another mechanism called the CSG, which is the Consolidated Strategies Guide.

So the FOSP -- the CSG is, like, FBI, like, high-level, these are our threats that we're going to work. And then the FOSP kind of runs congruent to the CSG.

And both the FOSP for your field office and the CSG, both get updated every year with the different types of threats that the FBI will work. And it goes through what the FBI calls, like, a banding process.

So -- are you guys aware of this? I'll skip if you are.

Q I'm aware. I think -- and we can actually -- my question is just, did you have discussions about the way resources were allocated in association with case numbers?

A With case numbers. I guess not. I don't know if I have specifically to that, but I've had discussions to hopefully further help myself understand how and why the FOSP and CSG function the way they do.

Q Who did you have those discussions with?

A I've had those with my previous boss, Sonia, as well as I discussed it with former SAC Langan at one point as well.

Q Okay.

You said that, particularly -- you said that there was encouragement to paper the cases, paper them every -- to keep them open every 90 days, and that this was particularly relevant in international terrorism cases. Do you recall saying that?

A I do.

Q Okay. You said that headquarters pushed people to keep cases open. Do you recall saying that?

A I do.

Q Who at headquarters pushed?

A So I don't know if I can provide you a specific name, but oftentimes -- and this wasn't even always the case with my personal investigations, but could be from other agents I've talked to or just general knowledge of the FBI.

But when you have a case open, it has to go through a certain closing process. And for domestic -- or, for all terrorism-related cases, you have to get headquarters to agree that the case could be closed.

So, when you want to close a case, it starts locally. You know, you compile all the things you've done in that case. And it's easy, like, if you make an arrest and it goes to trial and somebody gets convicted or whatever. Like, that's easy. Then, once evidence and trial and discovery and all that is done, like, then you close it.

But if it's one that just stays open perpetually, it is more difficult to close, because, based on my experience, it seems like the FBI wants to keep those cases open so they can say, look, we are working this matter or that matter to this degree.

And I just don't think that's always the case, because, in my experience again, a lot of those cases, there's very little being done. The case agents are like, "I don't have anything left to do on this case, but I can't close it because headquarters won't let me close it," or "the boss won't let me close it."

Q So it's communicated to you directly from headquarters that the case can't be closed?

A Sometimes, yes.

Q And how is that communicated?

A Either email, phone call. We have Skype messages.

Q So you would get an email, potentially, from headquarters in Washington, D.C., saying, this case needs to stay open?

A You could. Or more like, hey, did you try this method, or that? So --

Q Okay.

A -- I mean, there's a whole range of --

Q Okay. So it could also be suggesting, like, other investigative techniques or something like that?

A Could be. Yep. Yep.

Q Okay.

I want to get to your discussion about the January 6th anonymous tip that you felt you couldn't corroborate.

A Uh-huh.

Q The Washington Field Office agent that communicated with you, was she at your level? Was she a higher level than you?

A She was a special agent just like me.

Q Just like you. Okay. And she encouraged you to take action in this case, and you declined to do so. Is that right?

A I don't think that's accurate.

Q Okay. Could you explain?

A So the initial tip I received from her I did investigate and did due diligence.

Q Right.

A And then the second tip, where then she's asking me to get legal process, when there wasn't a rational link between what she wanted me to get the legal process for from the one tip and associating it with the previous tip she had sent me the day or maybe 2 days prior.

Q Okay. And so you declined, you didn't seek legal process, right?

A Correct.

Q Okay. Were there any punitive actions against you for declining to take that step?

A No, but I think that's only because I think I was very meticulous in how I wrote it up, and after my boss read it, he was like, "Huh."

Q Okay. So, at the end of the day, you exercised your judgment, and you weren't -- there were no consequences for that.

A As far as I know.

Q Okay.

I want to get to the media disclosure piece again. And I feel like, I know we've talked about this a lot, but I just want to make sure I have it exactly right.

The suspension notice that you received, it said that you had made unauthorized media disclosures. Is that right?

A To that effect, yes.

Q Okay. And your testimony is that you never spoke to the media at all?

A I did not provide them any type of unprotected disclosure.

Q Okay. But you did speak to the media?

A Not prior to being suspended, no.

Q Okay. So your testimony is that you never spoke to the media, that it was

entirely false, what was in the suspension notice that you were handed?

A Correct.

Q Okay.

There was a discussion about -- I think Mr. Gaetz was asking you, you know, who was at fault for -- who was the cause of the retaliation action against you, and you said that you believe it was Sean, your supervisor.

And I'm sorry, what was Sean's last name?

A Fitzgerald.

Q But you also said that you believe there's retaliation from the top down by the FBI.

Have you ever met FBI Director Wray?

A I have.

Q When did you meet FBI Director Wray?

A I don't remember exactly. Last -- sometime last spring.

Q Before your suspension notice.

A Correct.

Q Did you ever make any of the whistleblower allegations that you brought to Congress to -- did you ever raise those with Director Wray?

A No.

Q Have you ever met Assistant Director Moore?

A No.

Q Did you ever raise those disclosures with Assistant Director Moore?

A No.

Q Did you ever raise them with anybody in headquarters in D.C.?

A No.

Q Okay.

And then getting back to the claim itself, your belief, as you stated it here, is that you were retaliated against for making a whistleblower claim, effectively protected disclosures to Congress. Is that right?

A Correct.

Q Okay. But you're being -- and you've said that those -- the whistleblower claim contained various allegations of wrongdoing, right?

A Not various. Just the one.

Q One allegation of wrongdoing.

A Yeah.

Q Okay. So all the conversations you had with Ranking Member Jordan -- or, sorry, with Chairman Jordan --

A Oh, I may not have -- can you repeat your question?

Q Sorry. So, backing up, your belief is that you're being retaliated against for making a whistleblower claim to Congress. Is that a fair --

A Yes, that's fair.

Q Okay. And you've said that the whistleblower claim you made to Congress, to Chairman Jordan's staff and to Representative Estes's staff, contained allegations of misconduct, of wrongdoing?

A Correct.

Q Okay. And multiple allegations, you said?

A Correct.

Q Okay. But you're being advised by counsel now not to tell us what the actual allegations were?

Mr. Binnall. Under the statute, that's right. That is confidential by the statute.

And so my advice to him is to not disclose exactly what was disclosed.

[redacted] Okay. And which statute are you referring to?

Mr. Binnall. Oh, I'm sure I can -- I can get you a -- I don't know a citation off the top of my head, but I'm sure I can get that to you.

[redacted] Okay. And is it -- can you tell me the act? What was, like, the --

Mr. Binnall. I'm sure I could get you that information.

[redacted] Okay. I think that'd be helpful for us to have. Have you shared that with the chairman's office?

Mr. Binnall. No. An exact statute number? Not that I'm aware of, but --

[redacted] Okay.

Mr. Binnall. Yeah.

[redacted] I just want to make sure, because you're saying that it's protected, and so I just want to make sure that we have the --

Mr. Binnall. Yeah.

[redacted] Do you think it's not protected?

[redacted] I'm sorry?

[redacted] Do you think it's not protected?

[redacted] I'm actually asking the questions, [redacted]

[redacted] Okay.

[redacted] So I think I'm just trying to get clarity on what the claims are being made right now.

BY [redacted]

Q So you're being advised by counsel not to tell us what the complaint was about. So our position is that you say that you've made a complaint but we're not able to get any information about what that complaint is about. Is that fair?

A For today it is, yes.

Q Okay.

One last question, and then I'll turn it over to my co-counsel here.

We went through earlier how you were able to come out here, that you paid for your ticket out of your own pocket.

How are you -- are you paying your attorney?

A I have a nonprofit that's paying for my legal fees.

Q Okay. What nonprofit is that?

A It's called Fight With Kash.

Q Okay. How did you find out about them?

A Another whistleblower.

Q Okay. Who owns Fight for Kash, or who runs Fight for Kash, if you know?

A I guess I don't know if it's ran by a board or an owner or --

Q Do you know what other -- what other type of claims, or what other type of -- what other type of individuals they might be providing resources to?

A I don't.

Q Okay.

Okay. I'll turn it over.

[redacted] Thank you.

BY [redacted]

Q Hi, Mr. O'Boyle.

I know we've talked a lot about your security clearance. And so are you aware that Title 32, Part 147 of the Code of Federal Regulations establishes adjudicative guidelines for determining eligibility for access to a security clearance?

A I wouldn't say that I'd be able to, like, cite that --

Q Okay.

A -- off the top of my head, but that probably is included, like, in my suspension paperwork and whatnot.

Q Okay. I'll just go through each of the guidelines, and you can just say, yes or no, whether or not you're familiar with it.

A Okay.

Q So allegiance to the United States?

A Yes.

Q Foreign influence?

A Yes.

Q Foreign preference?

A Yes.

Q Sexual behavior?

A Yes.

Q Personal conduct?

A Yes.

Q Financial considerations?

A Yes.

Q Alcohol consumption?

A Yes.

Q Drug involvement?

A Yes.

Q Emotional, mental, and personality disorders?

A Yes.

Q Criminal conduct?

A Yes.

Q Security violations?

A Yes.

Q Outside activities?

A Yes.

Q Misuse of information technology systems?

A Yes.

Q Do you recall if any of these categories that I just listed were cited in the letter that you received regarding your suspension?

A I don't recall. I want to say that that media one, that they claimed that they had some type of internal reference to, but I would have to look at all that paperwork.

Q Okay.

So I know you've mentioned several times how you really loved being an FBI agent and it was something that you were very proud of.

So I'm going to show you an exhibit which is a tweet from December 19, 2022, and I will enter it into the record as exhibit 7.

[O'Boyle Exhibit No. 7

Was marked for identification.]

BY [redacted]

Q And so this is a tweet, again, which you liked. And it's a post by @catturd2.

And this individual writes, "The FBI interfered in the 2016 election. The FBI interfered in Trump's entire Presidency. The FBI interfered in the 2020 election. The FBI interfered in the 2022 election. Where TF is the GOP?"

First, do you understand what "TF" is?

A I do.

Q Can you just state it so we have it for the record?

A It means "the" and then the F word.

Q Thank you.

Do you agree that the FBI interfered in the 2016 election?

A You know, like I said before, when you bring up tweets that I've liked, me liking a tweet is First Amendment-protected activity. It doesn't necessarily endorse the tweet. But the things that are listed here, I think it's good for people to question and ask and wonder about some of the things the FBI has done.

Q Okay. So the reason why you liked the tweet is because you think it's good for people to ask these questions of the FBI?

A I do. In a free and open society, it is good.

Q Okay. So what about Trump's entire Presidency? Do you think the FBI interfered with that?

A Are you familiar with the FBI's Operation Crossfire Hurricane?

Q Mr. O'Boyle, I'm asking the questions today, so I'm just going to ask that you answer them.

So, again, what about Trump's entire Presidency? Do you believe that the FBI interfered in Trump's entire Presidency?

A So I think it's clear that, throughout Trump's Presidency, Operation Crossfire Hurricane, which the FBI was conducting, did interfere with his Presidency. And it has now been proven, even to the point where the FBI has instilled additional training trying to rectify the problems that were caused by the FBI during that Presidency and that investigation. So that's what I'm referring to.

Q And can you just clarify briefly what Operation Crossfire Hurricane is?

A It was an investigation into President Trump and his campaign and alleged foreign interference.

Q Okay.

What about the 2020 election? Did the FBI interfere in the 2020 election?

A So, again, this is my personal opinion, not anything to do with my previous work. But, yeah, I think they did. I think it's clear, with the Hunter Biden laptop interference that the Twitter Files have now brought to the fore, that the FBI did interfere as well in 2020.

Q Okay.

And this tweet also mentions the 2022 election. Do you think that the FBI interfered in the 2022 election?

A So, again, like I said, when I like a tweet, it's not indicative of every part of that tweet. So I'm not aware of any FBI entanglements with the 2022 election.

Q Do you know what it means when this individual says "Where TF is the GOP?"

A Yes.

Q Can you elaborate?

A It means, where the F word is the Grand Old Party?

Q So "GOP," from your interpretation, is the Grand Old Party?

A Correct.

Q What is the Grand Old Party?

A That's the Republican Party.

Q Okay. So what's your understanding of "Where TF is the GOP"?

Mr. Binnall. You can answer to the extent that you have personal knowledge.

Mr. O'Boyle. I don't have personal knowledge of what the original tweeter

means.

BY [redacted]

Q I'm just asking for your understanding when you read it.

Mr. Binnall. Same instruction.

Mr. O'Boyle. My understanding is that they're asking where the Republican Party is.

[redacted] Meaning that the Republican Party should be investigating the allegations above? Is that fair?

Mr. O'Boyle. You would have to ask Catturd.

[redacted] Thank you.

BY [redacted]

Q I'm showing you what is going to be marked as exhibit 7. And this is a tweet, again, you liked on December 19, 2022. And it is a post by @OfficeofMike --

[redacted] I think we're on 8.

The Reporter. It's 8.

[redacted] Oh, excuse me.

[O'Boyle Exhibit No. 8

Was marked for identification.]

BY [redacted]

Q And this reads, "The FBI is a bigger threat to our democracy than Russia ever was. Let that sink in."

Do you believe that the FBI is a threat to our democracy?

A I think, based on my personal experiences and what has happened to me, that it's reasonable for someone to make that allegation.

Q Do you believe the FBI is a bigger threat to our democracy than Russia?

A No, I wouldn't say that.

Q Why did you like this tweet?

A Like I've said before, I think it's good for people to be raising these points and asking these questions, especially as a whistleblower who's been retaliated against by the FBI. It seems very KGB-esque for them to be retaliating against me like they have.

Q So I'm going to show you another tweet. This is from December 22, 2022. And it will be marked as exhibit No. 9, I believe.

[O'Boyle Exhibit No. 9

Was marked for identification.]

BY [redacted]

Q And this is a tweet by @TaraBull808.

And this individual writes, "I might get banned for this, but it's time to dismantle the FBI."

Do you believe that the FBI needs to be dismantled?

A No. I do believe they need massive reform.

Q Why did you like this tweet?

A Again, when I like a tweet, it's not indicative of every aspect of that person's tweet. So, for someone like this tweeter to raise that point in a free and open society, using their First Amendment-protected activity, I think that's good for them to do, and I like when people utilize their First Amendment rights.

Q Okay. I'm going to turn to a different subject area, and this will go over -- it'll be concerning COVID.

And so I'm going to talk about another set of tweets. This one is from January 14, 2023. Alex Berenson tweeted, "I will try not to use the term pureblood anymore. It was necessary when unvaccinated people had to stand together against overwhelming

pressure (I can't believe that actually happened, but it did). But no one is bragging about being jabbed anymore. We won. Let's be grateful."

In response, you tweeted on January 15, 2023, "I'm still using it. It's true. You should never stop speaking the truth. There are still plenty of bragging about being jabbed and still think we are killing people by not."

Can you tell me what "pureblood" means?

Mr. Binnall. And I'm just going to point out that it's not word for word, the tweet that was given.

But to the extent you understand, you can answer.

BY [redacted]

Q Okay. Mr. O'Boyle, can you please read this tweet?

A Mine or Alex?

Q Both of them, please.

A Okay.

"I will try not to use the term pureblood anymore. It was necessary when unvaccinated people had to stand together against overwhelming pressure (I can't believe that actually happened, but it did) but no one is bragging about being jabbed anymore. We won. Let's be graceful."

And then I respond, "I am still using it. It's true. We should never stop speaking the truth. There are still plenty bragging about being jabbed and still think we are killing people by not. Also this."

Q What does the term "pureblood" mean to you?

A So, in meme culture of the internet, some people will use the word "pureblood" as indicative of them not getting that COVID vaccine.

Q And what do you mean when you said "we should never stop speaking the

truth"?

A I think stands for itself. We should all speak the truth.

Q And that truth being pureblood, having not had the vaccine?

A You know, another thing about the internet is, it doesn't always encapsulate a full meaning. But I'm unvaccinated, and there was a tremendous pressure on me, as an FBI employee, to get vaccinated.

And I don't find this coincidental, but every other suspended whistleblower that I know was also unvaccinated. So, in law enforcement, we would call that a pattern, not a coincidence.

Q And so, the last sentence, "There are still plenty of bragging about being jabbed and still think we are killing people by not," can you tell me what you meant by this?

A Yeah. There are people on Twitter and elsewhere who are vaccinated and they brag about it and still think that people who aren't vaccinated are killing people who are.

BY [redacted]

Q Could we take a step back? Just one question.

A Sure.

Q You said that there was tremendous pressure on you to get vaccinated. Can you explain what you meant by that?

A Some of that is part of my protected disclosures, so I don't know how much I can really get into on that.

Q Okay.

You said that you and other -- you've noticed a pattern, that others who have been suspended were also unvaccinated. How do you know that? Have you had

conversations with them about it?

A Sometimes, yes.

Q Are those other individuals in the group that we were talking about earlier The Suspendables group?

A Some of them, yes.

Q Okay. And --

A There are others.

Q -- others, as well, outside of that group?

A Correct.

Q Okay. Thank you.

BY [redacted]

Q At the time you were employed at the FBI, was there a mandatory policy to get vaccinated?

A There was.

Q And you mentioned that you were not -- you are not vaccinated?

A Correct.

Q So you chose to violate that policy?

A That's not correct.

Q Okay. Can you explain to me, if there is a policy and there's a mandatory obligation to do something and you decided not to do that, how that's not violating that policy?

A So the policy was only enacted because of the President's executive order in September of 2021. And then there was various processes you could try to go through to not abide by that mandate, which many in the FBI, including myself, believe were unconstitutional.

And then there was a lawsuit which, as part of that lawsuit, there was an injunction against the executive branch for that executive order. So, once that injunction happened, the FBI's policy was halted.

Q Okay. When did the injunction happen, if you remember?

A I think it was January of 2022? I think.

Q Okay.

Okay. So, on January 9, 2023, in replying to a tweet asking why Democrats voted against vaccinations for people crossing the border, you wrote, "They can't have their new voters dying suddenly."

And this will be marked as exhibit No. 11.

[O'Boyle Exhibit No. 11

Was marked for identification.]

BY [redacted]

Q What did you mean when you said that Democrats can't have their new voters dying suddenly?

A So, to me, that's just an off-color joke about illegal immigrants voting in our elections, combined with the phenomena that we've seen of people dying suddenly.

Q So you believe that the COVID vaccine kills people?

A I believe that it may play a role in some of the sudden deaths we've been seeing.

Q Do you think illegal voters frequently vote in elections?

A No.

Q So I want to show you another tweet, and this was one that you wrote a reply to. And so you're replying to a tweet, which will be marked as exhibit No. 12.

[O'Boyle Exhibit No. 12

Was marked for identification.]

BY [redacted]

Q And then you can just read it when you have it in front of you.

We'll enter this into the record.

You can read it out loud, please.

A Okay.

"Would the U.S. military forces follow an order to attack American civilians?" And then there's a poll.

And then I said, "99% follow an order to harm themselves with mRNA injections. It's a lot easier to follow orders to harm others. Reserve Police Battalion 101 comes to mind."

Q Thank you. So there was a poll. What did the poll say?

A "Would the U.S. military forces follow an order to attack American civilians?"

Q And then what are the percentages down there below?

A Yes, 48.3 percent, and hell no, 51.7 percent.

Q So what did you mean by "99 percent followed an order to harm themselves with mRNA injections"?

A I believe that the vaccines, the mRNA ones, can potentially be harmful, and there's a lot of that starting to come out now, and that the military had the most severe mandates to take those.

Q What did you mean when you said "it's a lot easier to follow orders to harm others"?

A I think there's a multitude of historical examples that has demonstrated that. I mention one there, Reserve Police Battalion 101. So that's all I meant by that.

Q Can you explain the Reserve Police Battalion 101 very briefly, if you can?

A Sure. So my understanding of that is, the Reserve Police Battalion 101 was a reserve police force in Poland during World War II, and they were initially comprised of just normal people -- butchers and carpenters and different other type of people who had normal jobs or other positions. And then, by the end of the war, they were slaughtering -- they were basically engaging in genocide like the rest of the Nazi regime.

Q So why did the Reserve Battalion 101 come to mind when you were asked about U.S. military forces?

A So I think with this tweet I was just trying to raise a broader scope of the discussion. Like, where is the line? When your commander tells you you have to get an injection even if you don't want to, to some people that's not a difficult line to cross. But it seems, with history as our example, that that line just continues to get moved, and eventually you cross a line like the Reserve Police Battalion 101 did, and you don't even know how you got there.

Q So I want to show you another tweet. This is from January 21, 2023. And this will be marked as exhibit No. 13.

[O'Boyle Exhibit No. 13

Was marked for identification.]

BY [redacted]

Q And when you have it in front of you, can you please read it for us out loud?

A "This stuff is scaring the shit out of me. I got vaxxed, two shots, Moderna, because I have asthma. It freaks me out seeing this. I have two young sons who I coach in sports. I want to be around for them. And my wife was hesitant, very hesitant. Damn it."

And then I reply, "I'm glad to see people are waking up to the propaganda we've been fed, not just COVID/vax either but all sorts of topics and for decades. Prayers for

you, your family, and all other vaxxed who are realizing what is happening and for more to see the light."

Q Thank you.

So what did you mean when you wrote "I'm glad to see people are waking up to the propaganda we've been fed, not just COVID/vax either but all sorts of topics"?

A Well, I talked about the Twitter Files a little bit, so that's another one that comes to mind. And, I mean, I'd have to spend some time thinking for others.

[redacted] Can we go off the record a second?

Mr. Binnall. Yeah.

[Discussion off the record.]

[redacted] Okay. We can go back on the record.

BY [redacted]

Q Have you ever faced any disciplinary actions when you were at the FBI?

A The only time I was disciplined was regarding -- so alongside the -- well, actually, this is a protected disclosure I made too. I'll --

Mr. Binnall. Yeah. So you can answer if you were disciplined, but do not get into the substance of any protected disclosures or any ongoing substance of any investigations.

Mr. O'Boyle. All right.

So I was -- I had made a -- this is one of the disclosures I made to my chain of command, that not only was the vaccine mandate reasonably a violation of law, rule, or policy, the FBI then enacted a mandatory testing for only unvaccinated people.

So I had COVID. I recovered. And, at that time, the FDA's rules were that if you had COVID and recovered, you didn't have to test for 90 days. So I stopped taking the tests.

And then eventually somebody found out about it. And my boss, Sean, and his boss, ASAC Berkebile, tried to get me to just take a test. They're like, "Hey, you've taken the test before. Why are you suddenly stopping?"

And I brought up the FDA's guidelines, which is what the FBI was supposed to be going off of, as well as other guidelines. And I said, they're not following the guidelines they're supposed to be following. I think this is another example of a violation of law, rule, or policy.

And they said, "Well, why don't you think about it over the weekend?" and then, you know, "We'll be in touch." And I said, okay. And then they called me over the weekend, and I told them I wasn't going to change my position.

And so, then, the following workday, they told me not to come in, and my boss came to my house and gave me an AWOL paperwork. And so I was placed onto absent without leave, which at the time was a violation of the Safer Federal Workforce Task Force guidelines, which the FBI was supposed to be following, which said that if the person had an outstanding religious exemption, which I did -- I had applied for one of those -- that they were supposed to be placed on administrative leave. But the FBI broke that rule and placed me and others into AWOL status instead.

So I told my boss, okay, "Now that you placed me on AWOL, I'll take a test," and I went back to testing. And then I think I tested one or two more times, and then shortly thereafter the testing stopped.

[2:44 p.m.]

BY [redacted]

Q When you said you applied for a religious exemption -- so you did not have a religious exemption. It was something that you applied for and it was denied. Is that correct?

A It was not denied.

Q Okay.

A I don't know the status of it.

Q Okay.

A I never -- after the injunction, they claimed that they stopped processing them. So I never heard back about that.

Q Okay. So could it still be pending or --

A I have no idea.

Q Okay.

So, Mr. O'Boyle, how did you prepare for this interview today?

Mr. Binnall. You can answer the question, but do not go into any communications that you had with your counsel.

Mr. O'Boyle. With my counsel. That's all.

[redacted] Okay. So your counsel is the only person that you talked to with respect to preparing for this interview?

Mr. O'Boyle. As far as preparation, yeah.

[redacted] Okay. Anything outside of preparation?

Mr. Binnall. Anything else? Can you ask a more specific question?

[redacted] Was there anything -- was there any other topic that you spoke with regarding this interview that did not involve the preparation process with anyone else?

Mr. O'Boyle. That did not involve --

Mr. Binnall. To the extent that you understand the question, you can answer it.

Mr. O'Boyle. I don't know if I understand what you're asking.

[redacted] Did you speak with anyone else, outside of your attorney, about this interview?

Mr. Binnall. Or your wife, or anybody else you had a privileged relationship with?

Mr. O'Boyle. I mean, people knew I was coming here, but --

BY [redacted]

Q Did you speak with Steven Friend?

A I don't know that I spoke to him directly about the interview.

Q Did you speak with George Hill?

A No.

Q So you do know who Steven Friend is, correct?

A I do.

Q How do you guys know each other?

A Because we're both suspended FBI whistleblowers.

Q Did you guys work together at the FBI?

A No.

Q Have you discussed your allegations regarding the FBI with him?

A To some degree.

Q What have you told him?

A I don't know everything I've told him. I mean, we've talked about our situations a little bit.

BY [redacted]

Q Has he spoken with you about his allegations?

A To some degree.

Q And what has he told you?

A I mean, essentially the stuff that he says publicly.

Q Have you spoken with Kyle Seraphin --

A I have.

Q -- about your allegations?

A About, like, my protected disclosures?

Q Uh-huh.

A To some degree.

Q Okay. Has Kyle Seraphin spoken with you about his allegations?

A To some degree.

Q Okay. Who else -- have you spoken with any other suspended FBI employees about your allegations?

A Any other suspended FBI employees?

I'm not sure.

Q Okay. Did you speak with either Kyle Seraphin or Steven Friend -- well, sorry, you already -- did you speak with Kyle Seraphin about your preparations for today's interview?

A No.

Q Did you speak with Steven Friend about your preparation for today's interview?

A No.

BY [redacted]

Q Can you tell us what documents pertaining to this matter you reviewed in

preparation for this interview? You don't have to tell me what was in the documents, just --

A I've looked at some of the stuff I've sent to Congress.

Q And by "to Congress," you mean Congressman Jordan's office?

A Correct.

Q Okay.

BY [redacted]

Q And Congressman Estes' office?

A Maybe some of them. I don't know for sure.

What else?

Q Do you have anything to add?

A I don't think so. I'd have to go back and look.

Q Okay.

I want to get back to the discussion -- and, I'm sorry, we keep going back to this -- the discussion about the nonprofit that's paying for your legal defense.

A Uh-huh.

Q You said it was Fight With Kash. Is that right?

A Correct.

Q How do you spell Kash?

A K-a-s-h.

Q And do you know who -- who is Kash?

A Kash Patel.

Q Okay. Do you know Kash Patel?

A I've spoken with him once or twice.

Q And what has the content of your conversations with the Kash Patel been?

A He asked me how he could help. So I told him a little bit of my situation. And he said that he thinks he could get the nonprofit to help.

Q When did you speak with Mr. Patel?

A I think in November. Maybe December.

Q Okay. How did you learn about Kash Patel? Or, I'm sorry, did you reach out to him, or did he reach out to you?

A I don't recall. I think another whistleblower told me he was expecting my call or that -- I don't recall exactly if I was given his number or if he was given mine.

Q Okay. And you said you may have learned about him from another whistleblower?

A Correct.

Q Okay. And you told him -- and so in November you spoke with him and you told him about your allegations?

A Yeah. I'm not sure exactly when. Late November, sometime in December. Somewhere in there.

Q And you said that he said he thought he could help.

A Correct.

Q What did you understand that to mean?

Mr. Binnall. Again, don't guess at what anybody else meant, but to the extent you have any personal knowledge, you can answer.

Mr. O'Boyle. My understanding was that his nonprofit would try to help me.

BY [redacted]

Q Help you in what way?

A With legal counsel. And his nonprofit sent me and my family some money from the nonprofit. So in those ways.

Q Did his nonprofit or did Kash Patel himself refer you to your legal counsel?

A They did help with that, yeah.

Q Okay. So they identified him, or they paid for him, or in what way did they help?

Mr. Binnall. You can answer to the extent you know.

Mr. O'Boyle. Yeah. Kash said that he thinks he could help me with the legal stuff because I had a previous lawyer who was not --

Mr. Binnall. Don't give any details about current or previous.

Mr. O'Boyle. So, yeah, my understanding was that they could help me find --

BY [redacted]

Q So Mr. Patel identified your attorney for you.

A He helped me find one, yeah.

Q Okay.

And are you -- who -- to your understanding, who is Kash Patel?

A My understanding is that he is a former DOD official who now runs that nonprofit.

Q Are you aware that he's a former Trump administration appointee?

A I am aware of that.

Q And are you aware that he's a former Capitol Hill staffer?

A I don't know if I was aware of that.

Q Are you aware that -- are you familiar with WinRed?

A I don't know if I am.

Q WinRed is the Republican National Committee. It's one of their fundraising platforms?

A Okay.

Q Are you aware that they've been raising money for Kash Patel?

A I was not aware of that.

Q Are you aware that Mr. Patel wrote a book called "The Plot Against the King"?

A I think I was aware of that.

Q Do you know what that book is about?

A I can't say I know entirely.

Q Okay. "The Plot Against the King" has been described as "Hillary's horrible plot against former President Trump."

Are you familiar with the QAnon conspiracy theory?

A To some degree.

Q What is your understanding of it?

A I don't know that I have a great understanding of it, but to the best of my knowledge it's a -- it's people, I guess, I would probably describe them as, like, internet trolls who are on various message boards, like 4Chan maybe, and I think that's where it started.

And they've -- they've come up with an elaborate -- I don't even know how to describe it -- an elaborate idea that some person named -- I think some person named Q is going to come and, like, save them all. I don't know. I don't know entirely.

Q Do you have a personal opinion of QAnon?

A I guess my personal opinion would be I don't really understand entirely what they're into, but it seems a little -- a little far out there.

Q Are you aware that Kash Patel has been linked to the QAnon conspiracy theory?

A I was not aware of that.

Q Okay.

Have you spoken with anyone else at the --

A Can I be linked to the QAnon conspiracy theory now because I'm talking about it?

Q I'm just asking questions to figure out what the extent of your knowledge is.

Have you spoken with anyone else at the Fight With Kash organization?

A I don't believe so.

Q Okay. And just to make sure I'm entirely clear on this, you spoke -- you said you spoke with Mr. Patel maybe once or twice?

A Correct.

Q Have you emailed with him?

A I don't believe I have.

Q Have you sent text messages?

A A messaging platform, yeah.

Q And have those been about your case?

A No, just like, how are you doing? Or, not -- I wouldn't say about my case, no.

Q Have you had any other communications with him through any other devices or any other sources?

A No.

Q Okay. I think we are just about out of time.

[redacted] Can we go off the record?

[Discussion off the record.]

[redacted] We can go back on the record. The time is 2:59 p.m.

Mr. O'Boyle, I wanted to go back to our conversation regarding domestic violent

extremism and our conversation about the DT agent.

There was one time where you had one case, and then you had to open four other cases on individuals related to just that one case. And you said that you had referred to a policy.

Do you remember what the title of that policy was?

Mr. O'Boyle. I think it's the Domestic Terrorism -- oh, what's it called? I think it's just the Domestic Terrorism Operations Guide. But I can't say for certain if I remember that that's exactly right. But it's -- yeah, Domestic Terrorism -- it might be -- it's either Domestic Terrorism Operations Guide or Domestic Terrorism Policy Guide, I think. I think it's one of those.

[redacted] Was that specific to your field office, or was that an enterprise-wide policy?

Mr. O'Boyle. It's FBI-wide for all DT program.

[O'Boyle Exhibit No. 14

Was marked for identification.]

[redacted] I'm going to mark exhibit No. 14 here. Bear with me a moment. This is the letter that Mr. Jordan sent to Director Wray on September 19th, 2022, regarding the WFO's handling of January 6th cases. I'll give you time to review.

[redacted] I'm sorry. What number?

[redacted] 14.

BY [redacted]

Q Are you ready?

A Okay.

Q And I know we briefly spoke about your interactions with the WFO regarding a January 6th case that you were handling. And so I am going to read you a portion of

this letter, and I just kind of want to compare and contrast.

A Okay.

Q This is on page 1.

"New whistleblower disclosures indicate that the WFO's handling of DVE investigations relating to January 6 'diverge[s]' from established practice in a way that overstates the national DVE threat.

"One whistleblower has described how cases are ordinarily characterized and labeled by the originating field office, with leads 'cut' to other field offices for specific assistance in that geographic location.

"The whistleblower alleged, quote, 'The FBI has not followed regular procedure,' end quote, with respect to January 6th cases, which should all be officially led by the WFO and characterized as WFO cases, explaining, quote, 'Instead, task force members in Washington, D.C., identified 'potential subjects' and possible locations where these individuals reside. The task force disseminates information packets with instructions to open full investigations to [local] Field Offices around the country. As such, if a subject lives in Dallas, the Dallas Field Office is expected to open the case,' end quote.

"Although the local field offices, therefore, appear to be running the cases on paper, the WFO is directing the field office special agents to just, quote, 'open the case,' end quote, in their geographic area, and the WFO is performing and approving, quote, 'all of the investigative work and paperwork for the casefile,'" end quote.

Mr. O'Boyle, does that kind of jibe with what you experienced, or is there a difference?

A That does sound mostly accurate, I guess, to the last part, where it says all of the investigative work and paperwork for the case file or that WFO is performing and approving all of the -- actually, that is accurate. So, yeah, that's accurate.

With the case once you got -- if you got cut a lead and then decided there does need to be a full investigation here, and you opened it at the local level, it still was associated with the WFO main file.

And then everything was funneling back to WFO. And that was not even just the FBI, but in the limited experience I had in Wichita with it, it was also coordinated with the AUSA's office in Wichita, who was coordinating everything with AUSAs here.

So that does -- that is accurate based on my experience.

Q And is this how cases are normally handled?

A No. I've never seen that before.

Q Why do you think the FBI is handling the cases in this manner given your experience?

A I think it goes back to making that threat appear larger than it actually is, and then WFO kind of being the -- kind of being at the head of everything to try to ensure, as best they can, how the direction of a particular case will go.

Q And so if the main event occurred in Washington, D.C., and then now there's cases opening across the country, would it then look like there are domestic terrorism cases popping up across the country if this is how the FBI is handling?

A Yes, that is how it would look. I don't know if they make a map to that effect that shows. But there are -- you can pull -- or not -- not just anybody, but program managers or higher level FBI officials can pull however many cases of any type are in the specific field office. So you would be able to see that list.

[O'Boyle Exhibit No. 15

Was marked for identification.]

BY [redacted]

Q And I want to enter one more exhibit. This will be exhibit No. 15. This is a

September 14th, 2022, letter that Mr. Jordan sent to Director Wray.

A All right. I'm ready.

Q Are you familiar with investigating domestic violent extremism cases and militia violent extremism cases?

A I am.

Q And you had experience in that working in the Wichita office? Is that correct?

A Correct.

Q I'm going to read the second paragraph on page 1 of the letter.

"On August 2, 2022, a media organization obtained a copy, which new whistleblower disclosures have authenticated, of the FBI's 'Domestic Terrorism Symbols Guide' on 'Militia Violent Extremists.' The FBI's document included symbols like '2A' and states that 'MVEs justify their existence with the Second Amendment, due to the mention of a 'well-regulated Militia,' as well as the right to bear arms.

"The document also includes 'commonly referenced historical imagery or quotes,' like the 'Betsy Ross Flag' and the 'Gadsden Flag,' as symbols of so-called terrorists.

"Additionally, the FBI document includes a section labeled 'symbols of militia networks some MVEs may identify with," and describes one group, called American Contingency, as '[m]ainstream media, nationwide, mostly online activity, low history of violence.'"

Have you ever seen the symbols guide that this document refers to?

A I have.

Q And what was your reaction when you saw the symbols guide?

A I think initially it was shock and disbelief that the FBI would categorize such symbols of America in the way it did, and then to go further and label a business like that

as -- what does it say? -- "mostly online activity, low history of violence."

I mean, it's appalling, appalling stuff.

Q And are you aware that the FBI then investigated the founder of American Contingency, Mr. Glover?

A I am.

Q I am going to read to you a paragraph on page 2 of the letter.

"The FBI's recent characterization of American Contingency as a DVE organization is striking in light of new whistleblower disclosures that show that the FBI had concluded as recently as 2020 that the group was not a threat.

"According to whistleblower information, in July 2022, an FBI employee in northern Virginia flagged American Contingency as a 'domestic terrorist group' because Glover 'appears to be rallying individuals to 'take action' and 'speaks about his distaste for how the government is handling the current situations in the U.S. and encourages people to 'join' his cause.'

"Notes made in the FBI's e-Guardian incident reporting system, reflected below, show how the FBI rifled through Glover's life -- obtaining his military records, his veteran's disability rating, and even his monthly disability benefit -- before concluding that American Contingency, quote, 'desires to assist Americans in preparing themselves for catastrophic events and not to overthrow the United States Government. A background investigation and review of Glover's social media failed to support the allegation that Glover is a threat to the United States or its citizens,'" end quote.

What is your reaction to this?

A Especially as a veteran, it's frightening that the most powerful law enforcement agency in the country, if not the world, is investigating other veterans like this.

My understanding of Mr. Glover is that he's gone on to start multiple companies, and he served in the special operations community for many years. And then to have this type of allegation lodged against him, and then the FBI to gather a ton of background information like that, it's -- I don't know.

To me, it's scary. And it's, you know, I know people would say, well, who cares if they gather information? It's just, you know, par for the course when we open an investigation.

This is an example of an investigation that should have never been opened. And now the FBI has those records of his, and they're holding them in their system forever. They will be there forever, unless somehow someone orders the FBI to purge them.

And so now the FBI has his disability rating and all sorts of other things that they really shouldn't have had in the first place.

And this is, again, to me, another example of how the FBI has been weaponized.

Thankfully, in this incident where Glover was investigated, that the agent determined that there was no actual threat there. But then for the other FBI employee to make that allegation in the first place based off of some, you know, very loose information, it's like, what is going on in the FBI?

I mean, it just strikes me as out of bounds for any law enforcement agency to be doing. And then to be doing it to veterans like this and then saying his company has a low history of violence.

Well, what does that mean? I mean, as far as I know, that company has no history of violence. But that doesn't sound as good as low history. So that's how the FBI labels it.

Q Do you think it chills First Amendment activity when Americans know that the FBI could come knock on their door for exercising their First Amendment right?

A Absolutely.

Q Changing subjects.

Are you aware of allegations that the FBI is using security clearance revocations as a tool to purge conservatives from its ranks?

A I am.

Q Do you believe that's occurring?

A I do.

Q Do you believe that the FBI has become political?

A I do.

Q Do you think the extent of the politicization at the FBI is a problem that festers within its hierarchy, or is it nationwide, enterprise-wide?

A I think it's encompassed in the hierarchy and then it trickles down throughout the rest of the Bureau. And those who are especially geared towards promoting will adhere themselves to whatever they need to promote.

I think most people out in the field try to avoid that politicization of the agency, which is good. But it's gotten to a point, it seems to me, that it's like a cancerous point where the FBI has let itself become enveloped in this politicization and weaponization that I don't know how to even begin to fix it.

[redacted] Any questions, [redacted]?

We can go off the record. Thank you.

[Recess.]

[redacted] It is 3:23. We can go back on the record.

BY [redacted]

Q Sir, we just talked a little bit about American Contingency in the exhibit marked as No. 15. It's the September 14th letter.

Did you ever investigate American Contingency yourself?

A No.

Q Did you have anything to do with any of the FBI's investigation into it?

A No.

Q Do you know which office investigates American Contingency?

A I think there were multiple that had it associated.

Q Do you know any of them? Did you know any of them?

A Not off the top of my head.

Q Okay. So you made some comments about your opinions on what's in this letter here. But it sounded like you may have learned about it prior to reading this? Is that fair to say?

A I think that's fair, yeah.

Q And can you describe when did you learn about American Contingency?

A So I don't know how much I knew about American Contingency, per se, but I was aware of Mike Glover.

Q Okay. How were you aware of Mike Glover?

A He's a rather prominent figure in, like, the veteran community.

Q Okay. So do you know him personally?

A No.

Q So you had just maybe read about him in media?

A I read about him, YouTube, podcasts. That kind of thing.

Q Okay. Did you know anything about the investigation or what has been described as an investigation into him prior to having this letter put in front of you today?

A I did.

Q And what did you know?

A Pretty much mostly what's in here.

Q And that -- how did you learn that information?

Mr. Binnall. Prior to our previous instructions, you can answer to the extent it's appropriate.

Mr. O'Boyle. This is one of the protected disclosures that I made.

BY [redacted]

Q Okay. And it involves Mr. Glover?

A Uh-huh.

Q But you personally never -- did not -- were not personally involved in any matters involving Mr. Glover in your capacity as an FBI employee?

A Right. I never investigated him.

Q Okay. And what about American Contingency?

A Correct. No.

Q Okay. So you don't have firsthand knowledge of anything that the FBI may have -- may or may not have done?

Mr. Binnall. You can answer to the extent that it doesn't violate my previous instructions.

Mr. O'Boyle. I mean, I guess, in accordance with my work and my protected disclosure, I had some knowledge of what the FBI had done.

Mr. Binnall. And don't go any further than that.

BY [redacted]

Q Okay. But you were not assigned to the case?

A Correct.

Q Okay. And it was not handled out of the Wichita Field Office?

A Correct.

Q All right. I think that's all the questions we have for you. Thank you.

Mr. Binnall. And just real quick on the record.

Mr. O'Boyle does view this as a very important issue, which is why he's here today. He has limited who he has made protected disclosures to, especially to Chairman Jordan, because he does think this is important.

However, he's been limited as to who else he can talk to about this matter on advice of counsel, simply because there's an ongoing employment action regarding [inaudible] at the -- on the advice of counsel.

And, finally, although Mr. O'Boyle was not aware of this directly, his representation by counsel is actually not being paid by anybody because it's pro bono.

[redacted] Okay.

[redacted] Thank you.

We're still on the record. I just want to thank the witness for coming in.

Voice. We'll go off the record?

[redacted] Yes.

[Whereupon, at 3:28 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: STEPHEN FRIEND

Wednesday, February 15, 2023

Washington, D.C.

The interview in the above matter was held in Room 2237, Rayburn House Office Building, commencing at 9:01 a.m.

Present: Representatives Gaetz and Bishop.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

[redacted] GENERAL COUNSEL

[redacted] SPECIAL COUNSEL

[redacted] DEPUTY GENERAL COUNSEL

[redacted] DEPUTY CHIEF COUNSEL FOR OVERSIGHT

[redacted] SPECIAL COUNSEL

[redacted] SENIOR COUNSEL

[redacted] MINORITY CHIEF OVERSIGHT COUNSEL

[redacted] MINORITY OVERSIGHT COUNSEL

[redacted] MINORITY COUNSEL

[redacted] MINORITY PROFESSIONAL STAFF MEMBER

For STEPHEN FRIEND:

JASON FOSTER, EMPOWER OVERSIGHT WHISTLEBLOWERS & RESEARCH

and

DAN MEYER, ESQ.

Tully Rinckey PLLC

2001 L Street NW

Washington, D.C. 20036

[redacted] We'll go on the record.

Good morning. This is a transcribed interview of Mr. Stephen Friend. Chairman Jordan has requested this interview as part of the committee's oversight of the Federal Bureau of Investigation.

Would the witness please state your name for the record?

Mr. Friend. Stephen Friend.

[redacted] On behalf of the committee, I want to thank you for appearing here today to answer our questions. The chairman also appreciates your willingness to appear voluntarily. And we understand that you will be here today until 3:30 p.m.

My name is [redacted] and I'm with Chairman Jordan's staff. I'll now have everyone else from the committee who is here at the table introduce themselves as well.

[redacted] [redacted] with Chairman Jordan's staff.

Mr. Gaetz. Matt Gaetz, majority member of the House Judiciary Committee.

[redacted] [redacted] with Mr. Jordan's staff.

[redacted] [redacted] counsel, Ranking Member Nadler.

[redacted] [redacted] Ranking Member Nadler.

[redacted] [redacted] Ranking Member Nadler.

Mr. Foster. Jason Foster, counsel for Friend.

Mr. Meyer. Dan Meyer, counsel to Stephen Friend.

[redacted] [redacted] with Ranking Member Nadler.

Mr. Bishop. Dan Bishop, majority member of the Judiciary Committee.

[redacted] [redacted] Chairman Jordan.

[redacted] [redacted] Chairman Jordan.

[redacted] [redacted] Chairman Jordan.

[redacted] I'd like to now go over the ground rules and guidelines that we will follow during today's interview.

Our questioning will proceed in rounds. The majority will ask questions first for 1 hour, and then the minority will have an opportunity to ask questions for an equal period of time if they so choose. We will alternate back and forth until there are no more questions and the interview is over.

Typically, we take a short break at the end of each hour, but if you would like to take a break apart from that, please just let us know.

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

Do you understand?

Mr. Friend. Yes.

[redacted] So the court reporter can take down a clear record, we will do our best to limit the number of people directing questions at you during any given hour to just those people on the staff whose turn it is.

Please try and speak clearly so the court reporter can understand and so the folks down at the end of the table can hear you. It is important that we don't talk over one another or interrupt each other if we can help it, and that goes for everybody present at today's interview.

We encourage witnesses who appear before the committee to freely consult with counsel if they so choose. And it is my understanding that you are appearing today with counsel. Is that correct?

Mr. Friend. Yes.

[redacted] Could counsel please state your name for the record?

Mr. Meyer. Dan Meyer, managing partner, Tully Rinckey PLLC, 2001 L Street,

Northwest, Washington, D.C., 20036, duly admitted in the bar of the District of Columbia.

Mr. Foster. Jason Foster with Empower Oversight Whistleblowers & Research.

[redacted] Thank you.

We want you to answer our questions in the most complete and truthful manner as possible, so we will take our time. If you have any questions or if you do not understand one of our questions, please just let us know. Our questions will cover a wide range of topics, so if you need clarification at any point, just say so.

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

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

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

Do you understand that?

Mr. Friend. Yes.

[redacted] This also applies to questions posed by congressional staff in an interview.

Do you understand this?

Mr. Friend. Yes.

[redacted] Witnesses that knowingly provide false testimony could be subject to criminal prosecution for perjury or for making false statements under Title 18 U.S.C. section 1001.

Do you understand this?

Mr. Friend. Yes.

[redacted] Is there any reason you are unable to provide truthful answers to today's questions?

Mr. Friend. No.

[redacted] Finally, I'd like to make note that the content of what we discuss here today is confidential. We ask that you not speak about what we discuss in this interview to any outside individuals to preserve the integrity of our investigation.

For that same reason, the marked exhibits that we will use today will remain with the court reporter so that they can go in the official transcript, and any copies of those exhibits will be returned to us when we wrap up.

All right. That is the end of my preamble. Is there anything that my colleagues from the minority would like to add?

[redacted] We have nothing to add. Thank you.

[redacted] Great.

The clock now reads 9:06. We will start the first hour of questioning.

EXAMINATION

BY [redacted]

Q Mr. Friend, first, I'd like to go over your background and tenure at the FBI. Before you joined the FBI, what did you do for employment?

A I was a police officer.

Q And where were you a police officer at?

A I was a police officer in Savannah, Georgia, and Pooler, Georgia.

Q And when did you join the FBI?

A June 2014.

Q And what was your key motivation for joining the FBI?

A I wanted to work at the highest level of law enforcement.

Q And can you walk us through your positions that you held at the FBI?

A I was a new agent trainee at Quantico, Virginia, for the first 5 months. Then my first assignment was to the Omaha Field Office, the Sioux City Resident Agency. There, I was responsible for investigating violent crimes and major offenses that occurred on Indian reservations in northeastern Nebraska.

I transferred to the Jacksonville Field Office, Daytona Beach Resident Agency in June 2021 to work violent crimes against children and child exploitation and human trafficking investigations and was reassigned to the domestic terrorism task -- or, yeah, Joint Terrorism Task Force to work on domestic terrorism in October of 2021.

Q So your last assignment was at the Daytona Beach Resident Agency, correct?

A Correct.

Q And you said that you became a member of the Joint Terrorism Task Force at the Daytona Beach Resident Agency in October of 2021. Is that correct?

A Yes.

Q Is it correct to say that you were reassigned from investigating child exploitation cases to work on domestic terrorism cases?

A Yes.

Q Were those cases specifically related to January 6th?

A Yes.

Q And how was that communicated to you?

A There was a phone call from the assistant special agent in charge to my supervisor at the time, and he said that the new fiscal year approaching, that they were going to be resourcing manpower differently and that I was going to be reassigned from my current assignment to the JTTF.

My supervisor asked about the investigations that I was working, and the ASAC said that those are to be considered a local issue going forward.

Q Okay. And who was the ASAC that called your supervisor?

A His name was Gilbert Balli.

Q And the name of your supervisor that he called?

A Rob Corley.

Q And were other agents assigned to the JTTF too, or reassigned to the JTTF?

A No one was reassigned. There was already one agent and two task force officers assigned.

Q Uh-huh. So you were the only one that was brought in additionally?

A Yes.

Q Was it communicated to you how to prioritize work on child exploitation cases versus your work on domestic terrorism cases?

A At the time, the supervisor was in an acting capacity, so he told me that as long as I could balance both that he didn't have a problem with it until the permanent replacement arrived.

Q Uh-huh.

A When my permanent replacement arrived in early 2022 he told me that I could continue that. And I did that through -- until my suspension.

Q So who was the supervisor that told you that you could balance the work?

A Greg Federico.

Q Okay. And how was this communicated to you, verbally or in writing?

A Verbally.

Q And were there other agents that were told to prioritize domestic terrorism cases over their regular caseload?

A Not in my office.

Q And so was Federico then your direct supervisor at Daytona Beach?

A Yes.

Q While you were on the JTTF?

A Yes.

Q And did you have any direct reports?

A Direct reports?

Q Like, did any agents report to you directly or --

A Oh. No.

Q Okay.

During your tenure at the FBI, did you ever participate in a review of your performance?

A Yes.

Q Did you generally receive good markings on your performance reviews?

A Yes.

Q Did you ever receive any awards from the FBI?

A Yes.

Q And what were those awards?

A They were performance awards throughout my career for various tasks that I did specifically and then for just overall performance. The most recent one was in, I believe, July of 2022 and was for my performance working child pornography investigations with a local law enforcement partner.

Q Okay.

And I'm going to switch topics to talk more about your handling of January 6th cases.

Are you familiar with the letter that Mr. Jordan sent to FBI Director Wray on September 19, 2022, regarding the Washington Field Office's handling of January 6th investigations?

A Yes.

Q Okay.

I'd like to enter the September 19, 2022, letter from Mr. Jordan to Director Wray as exhibit No. 1.

[Friend Exhibit No. 1

Was marked for identification.]

BY [redacted]

Q Mr. Friend, I'll give you some time to look over the letter, and just let me know when you've reviewed.

A Okay.

Q I'm going to read the second paragraph on page 1.

It states, "New whistleblower disclosures indicate that the WFO's handling of DVE investigations relating to January 6 'diverge[s]' from established practice in a way that overstates the national DVE threat."

"DVE" in the letter stands for domestic violent extremism.

"One whistleblower has described how cases are ordinarily characterized and labeled by the originating field office, with leads 'cut' to other field offices for specific assistance in that geographic location. The whistleblower alleged 'the FBI has not followed regular procedure' with respect to January 6 cases, which should all be officially led by the WFO and categorized as WFO cases."

Mr. Friend, can you describe how FBI policy dictates the regular procedure for how case files should be labeled?

A Yes. The Domestic Investigations and Operations Guide, the DIOG, sets guidance for that in Appendix J.

It essentially says that the originating office is determined by a multitude of factors. It could be the location of an incident; it could be the location of the subject's residence and other reasons. But once the office of origin is determined, the personnel who work for that office are deemed to be the case managers and solely responsible for bringing the case forward and making all the necessary investigative decisions.

Q Uh-huh. So, per policy in the DIOG, or the Domestic Investigations and Operations Guide, is it correct that FBI agents ordinarily label full investigation case files according to the originating field office?

A Yes.

Q And, per that same policy, if the agent needs specific assistance in another geographic area, does that agent cut leads to a different field office?

A Yes.

Q So, if the field office is cut a lead or sent a lead, is that field office then referred to as the lead office under the DIOG?

A Yes.

Q So, for example, if a Federal crime occurs in Texas, would the originating field office be in Texas?

A Yes.

Q And if there is a witness that needs to be interviewed in Florida, would a lead be cut to a field office in Florida?

A Yes.

Q Okay.

And for full investigations opened into the events that occurred at the Capitol on

January 6, 2021, would the originating field office for those investigations be the Washington Field Office?

A Yes.

Q And if investigative actions outside of D.C. are required, would or should the WFO case agent then cut a lead to appropriate FBI field offices?

A Yes.

Q And, following January 6th, to your knowledge, did the FBI set up any kind of task force within headquarters or the WFO to work on January 6th investigations?

A Yes.

Q Can you describe that task force? Was it in headquarters or the WFO?

A The WFO. And it was staffed by employees who worked in WFO as well as TDY, temporary duty agents, from around the Bureau.

Q Do you know who was in charge of the task force?

A I don't.

Q Okay.

And since the events occurred in Washington, D.C., it is natural that the WFO would handle the investigations?

A Yes.

Q During your tenure at the Daytona Beach Resident Agency, were you ever assigned January 6th cases?

A Yes.

Q And during your tenure at the FBI, did the FBI follow this regular procedure with regards to January 6th investigations for labeling cases?

A No.

Q How did the handling of January 6th investigations deviate from the regular

procedure?

A We received leads from headquarters, from the task force working out of Washington, D.C., with directives to carry out certain investigative actions, in assumption that we were going to be opening cases from our office as the originating office.

Then we would perform tasks and send that information back to Washington, D.C., for their approval or for their request for more work to be done and then ultimately for their decision on how to pursue a case, whether or not to prosecute it.

Q So the task force members at the WFO would send out information packets to other offices, correct?

A Yes.

Q And that would be done by the employees from the Washington Field Office and the TDY'd employees?

A Yes.

Q And do you know how many TDY'd employees were at the WFO for January 6th cases?

A I do not know.

Q Rough estimate? Or --

A I know that there was a continuous rolling 30-day TDY request at one point that I was asked if I wanted to participate. I did not, and another person from my division was sent in my stead.

Q Okay. And who from your division was sent instead of you?

A His first name is Nico, but he didn't work in my office. I didn't know him particularly well.

Q Was Nico a special agent?

A Yes.

Q Okay.

So, instead of following the regular case file management procedure, the WFO is directing other field offices to open full investigations, and then the WFO is performing and approving the investigative work.

Is that an accurate characterization?

A Yes.

Q So, if January 6th cases are handled in this manner, does it appear on paper that local field offices instead of the WFO are the originating field offices?

A Yes.

Q And that deviates from the standard practice?

A Yes.

Q And, to your knowledge, is this only happening with January 6th cases?

A Yes.

Q How were your assigned January 6th cases handled? Were they handled in this similar way, where the WFO would tell you what to do and open cases?

A Yes.

Q Were you told or pressured by the WFO to open full investigations?

A We were told to open full investigations and that they would populate them with paperwork or case file work that was pertinent to that particular case.

Q So, if you completed investigative steps, would you have to report back to the WFO on what you had done?

A Yes.

Q And would they tell you if you needed to do more investigating?

A Yes.

Q And what if you didn't believe that there was enough of a predicate to

continue to investigate? Did you still have to investigate?

A I was told that we could push back as much as we wanted but they would continue to send us additional requests to perform more work.

Q And "they" meaning agents at the WFO?

A Yes.

Q Were you ever provided any insight as to why January 6th cases were handled in this manner?

A Yes.

Q And what was that insight that you received?

A I was told that there was a coordination call very early on after January 6th, during which there was representatives from all around the country, and the question was posed as to why this protocol was being followed, and that they were told that it was to get buy-in from the field.

Q And so who provided you with this insight?

A A former supervisor, as well as other members of the JTTF in my office.

Q And who is your former supervisor that gave you that insight?

A Dave Brown.

Q Do you know when this coordination call happened?

A I was told it was in the immediate aftermath, so I was under the belief that it was probably within a week or two.

Q Did you get an understanding of who was on this coordination call?

A Yes. I was told that it was people from all around the Bureau who were going to be charged with primarily investigating the cases.

Q Okay. So it included WFO people and agents from across the country in different field offices?

A Yes.

Q And do you know what the substance -- what was discussed on that call?

A That's the only fact that I know that was discussed on that particular call. But in my inquiries, I was told that these coordination calls were going on quite frequently in the aftermath of January 6th.

Q Do you know if an agent, Timothy Thibault, was on those calls?

A I don't know.

Q Section Chief Steve Jensen?

A No, I don't know.

Q And, to your knowledge, does managing or labeling case files in this way create a false and misleading narrative that domestic violent extremism is increasing around the country?

A Yes.

Q Does this, in turn, give the impression that the threat of DVE is present in jurisdictions around the Nation even though the cases all stem from the same related investigation?

A Yes.

Q I'm going to turn back to the letter from September 19th, on page 2. I'm going the read the inset portion on page 2.

It says, "The manipulative casefile practice creates false and misleading crime statistics. Instead of hundreds of investigations stemming from a single, black swan incident at the Capitol, FBI and DOJ officials point to significant increases in domestic violent extremism and terrorism around the United States."

Do you agree with that statement, Mr. Friend?

A Yes.

Q Do you agree that manipulating the case file system in this way allows the FBI to support Director Wray's December 2019 assertion that the FBI is a, quote, "field-based law enforcement organization," end quote?

A Yes.

Q To your knowledge, is the FBI sacrificing other important Federal law enforcement duties to pursue January 6th investigations?

A Yes.

Q In your experience, do most January 6th-related investigations involve misdemeanor crimes?

A Yes.

Q And do you perceive pulling resources from other traditional law enforcement duties as antithetical to the FBI's mission?

A Yes.

Q During your tenure at the Daytona Beach Resident Agency JTTF, were you ever tasked with executing search and arrest warrants for January 6th investigations or subjects?

A Yes.

Q Was it a regular duty of the JTTF to execute search and arrest warrants?

A Pertaining to January 6th or in general?

Q In general.

A In general, yes.

Q Uh-huh.

And were you ever told or notified that the FBI SWAT team would be used during search and arrest warrants for January 6th subjects?

A Yes.

Q Did that concern you?

A Yes.

Q Why did the plans for the execution of these warrants concern you?

A Because the subject of the arrest warrant had been in communication with the FBI at that point and had expressed a willingness to cooperate with the FBI. And, in my experience in dealing with subjects of crimes and bringing them into custody, the FBI tends to use the least amount of force necessary to do that safely, and I felt that the use of SWAT, and coming from my background of being a SWAT team member, I felt that that was an unnecessary tool to use for that particular individual.

Q So the subject of the warrant that the SWAT team was going to be used for was cooperating with the FBI. Is that your understanding?

A Yes.

Q And had mentioned a willingness to come in voluntarily? Is --

A Yes.

Q -- that correct?

And in your experience working on criminal cases and SWAT teams, you said that the FBI normally uses the least intrusive methods. Is that correct?

A Yes.

Q And is that per FBI or DOJ policy?

A I don't know what policy. I just know that that is the general approach that we always used.

Q Can you explain some of the less intrusive methods that might be used for a subject who is cooperating with the FBI and has said that they're willing to come in?

A You can call the individual and ask them to surrender. You can issue a summons. You can contact their attorney, if they're represented, and ask them to

surrender. You can ask for local law enforcement to execute an arrest warrant. You can use surveillance resources to interdict an individual while they're traveling and away from their home base of operations.

Q And, to your knowledge, none of these were used for the January 6th subjects that you were tasked with executing search and arrest warrants for?

A Not on the individual SWAT was going to be used for, no.

Q Did you raise these concerns to your direct supervisor?

A Yes.

Q When did you do that?

A The week before the operations were scheduled to happen. I believe that was August 19th.

Q Okay. And who was your direct supervisor at the time?

A Greg Federico.

Q And what did you disclose to Mr. Federico?

A I raised my concerns about the use of the SWAT team for the arrest. I also raised my concerns about the departures from the DIOG with regards to how the cases were being managed and told him that I believed that it was to manipulate the crime statistics. And I also said that I believed that we were infringing on individuals' Sixth Amendment rights.

Q And what is Mr. Federico's title?

A He's the SSRA, the special senior resident agent -- I can't remember what the acronym stands for.

Q Sure. So the SSRA?

A Correct.

Q Is SSRA Federico still at the Daytona Beach --

A Yes.

Q -- office? Okay. And does he generally have responsibility over the JTTF?

A Yes. He's the frontline supervisor for all the personnel in the office.

Q Okay. And how did SSRA Federico respond to your concerns?

A He said that -- he agreed that there was not a lot of work to be done on JTTF and that he was actually going to lobby to move me back into working child pornography investigations in the next fiscal year. He told me that he was concerned that he was doing file reviews on cases that none of his people in his -- none of his subordinates were actually doing work on.

And he then suggested that I might want to speak to the employee assistance program for counseling; and then asked me, if he brought my concerns up the chain of command, how they thought -- how I believed that they would respond to that, and said that I had a good reputation and that my career could be in jeopardy if I wanted to beg out of participating in the upcoming arrest and searches.

Q Did you perceive that SSRA Federico shared some of your concerns about how the case files were being handled? I know you mentioned that he was concerned that he was having to, did you say, approve some of the investigative work? Can you explain?

A Yes.

So, every 90 days, there's a file review process in the FBI, so every case needs to be reviewed by a supervisor to make sure that there's progress being made on the case. If there's nothing done, then that brings into question of why the case is even open to begin with or what could be done on it.

He said that there were cases in our office where documents were being put into the case files but his people weren't doing it, they were being done from the task force in

Washington, and that that was a concern to him.

Q Okay. So he was concerned that docs were being put into the file and his people were not doing it; it was the task force at the WFO?

A Yes.

Q And at any time did you tell SSRA Federico that you would not participate in the execution of the search or arrest warrants?

A I told him I didn't want to. And I volunteered to work the wiretap that my office was at that time engaging in. It has to be manned by somebody, and I asked that I have that responsibility for the day.

Q And so is it fair to say that you had two kind of tranches of concerns: You had one about the DIOG violations stemming from how the investigations were being labeled, and then a separate concern about the use of SWAT team for one of the January 6th subjects who had been cooperating with the FBI? Is that correct?

A Yes.

Q And you raised both of those concerns to SSRA Federico?

A Yes.

Q Who did you raise your concerns to next?

A I was contacted by one of the assistant special agents in charge of my office, Colt Markofski, and asked to attend a meeting with him and another ASAC, Sean Ryan. And I was contacted by Colt on August 22nd in the evening, and I went and attended that meeting the following day, on the 23rd.

Q How regularly did you interact with Markofski and Ryan?

A Seldom. They were in Jacksonville, so my interfacing with any sort of leadership was typically with Greg Federico in my office.

Q And ASACs Markofski and Ryan, what were their general roles and

responsibilities that you understood them to be?

A Sean Ryan was the ASAC who was over national security matters. And Colt Markofski was over criminal matters, but he was in an acting capacity. That position had been left, and he was filling it until a permanent replacement could be assigned.

Q And how did ASACs Markofski and Ryan respond to your concerns?

A They pushed back on my concerns. They said that I had the right to raise my concerns, but I had to follow through on the orders that I was given to do.

Q During your conversation with ASACs Markofski and Ryan, did you ever refuse to participate in the warrants?

A I told them that I didn't want to and that, if assigned to, I would have to consider not going, but I would call ahead if that was going to be the case.

Q And did you raise both your concerns about the labeling of the January 6th investigations as well as the use of the SWAT team?

A Yes.

Q And did you ever participate in any of the operations for the executions of the warrants on the January 6th subjects?

A I didn't have the opportunity to.

Q Why didn't you have the opportunity to?

A Following my meeting, I received an email from ASAC Markofski telling me that I was ordered to not come to work the following day and that I was going to be considered absent without leave.

Q So they ordered you to be on AWOL status? Is that correct?

A Yes.

Q How long were you on AWOL status?

A One day, August 24th.

Q And they never gave you the opportunity to come into the office on that day?

A No.

Q When did you go back into the office?

A August 25th. I emailed my supervisor, Greg Federico, in the evening on the 24th and asked him if I could come back the following day, and he said I could.

Q Okay.

And so, following your AWOL status, did you raise your concerns with anyone else?

A Yes.

Q And who was that?

A I spoke to the special agent in charge of the Jacksonville Field Office, Sherri Onks.

Q And what did you tell Special Agent in Charge Onks?

A The same concerns that I had that I had raised with Greg Federico, Sean Ryan, and Colt Markofski.

Q Uh-huh.

A My conversation with her was not as lengthy as it was with the ASACs. I essentially told her that my feelings on the matter were not changed after being placed AWOL and that I had concerns about the constitutionality of what we were doing.

Q And how did she respond to those concerns?

A She told me that I represented a very fringe belief within the FBI and that I needed to question whether or not I wanted to have a future with the agency.

Q Okay.

So let's make sure we have the timeline right here. So you first raise your

concerns to SSRA Federico on August 19th. Is that correct?

A Yes.

Q And then you get a request to speak with ASACs Markofski and Ryan on August 23rd. Is that correct?

A I got the request on the 22nd --

Q Okay.

A -- and did the meeting with them on the 23rd.

Q On the 23rd. And then later that day, you received an order from, was it ASAC Markofski, to be on AWOL status the next day, August 24th?

A Yes.

Q And so, then, how much time passed between you coming back from your AWOL status and speaking with SAC Onks?

A I spoke to her on September 1st, so it was the following week.

Q Uh-huh.

Did any of your other colleagues on the JTTF or in the Daytona Beach Resident Agency share your concerns regarding the policy violations occurring with January 6th investigations?

A Yes.

Q And who were those individuals?

A Todd Myers is a special agent.

Q Uh-huh.

A Brian Howard is a task force officer.

Q Uh-huh.

A Tarek Husami is another task force officer.

Q Uh-huh.

A And that constituted our JTTF.

Q So the whole JTTF had concerns?

A Yes.

Q Did any of these other individuals raise those concerns?

A No.

Q Did any of these individuals participate in the warrants that were going to be executed on the 24th of August?

A Yes.

Q Did they raise those concerns just to you?

A Amongst ourselves. We all worked in the same area, so we would have conversations, the four of us, where all of us were present and those concerns were being raised.

Q And did they share the concerns about how the cases were labeled and that deviated from the DIOG?

A I don't remember them ever expressing that concern.

Q So their concern was mostly about the use of the SWAT team?

A Yes. And I think they had concerns just about use of FBI resources in general for misdemeanor offenses.

Q And what were their concerns about the use of the SWAT team?

A Just that it was too much force needed to bring somebody into custody for an offense, especially when they were cooperating with us, and a large gap of time had elapsed between the last contact with the individual and this pending arrest.

Q Uh-huh.

Do you believe that raising these concerns is what led to your suspension?

A Yes. After my conversation with SAC Onks, at the very conclusion of it, she

told me that she had already brought my -- recommended me for investigation to the Security Division and to the Inspection Division.

Q Uh-huh. And so what's your current status with the FBI?

A I've resigned.

Q And when did you resign?

A This morning.

Q And before that, what was your status?

A I was suspended indefinitely, unpaid.

Q And can you walk us through when that happened and if you were escorted out?

A September 19, 2022, I arrived to work and was met by Greg Federico; the Special Agent in Charge Sherri Onks; Colt Markofski, the ASAC; and James Bache, the chief security officer.

Q Uh-huh.

A They took my badge, credentials, firearm, and all property and suspended me.

They said that -- they issued me a letter from Human Resources Division, signed by Executive Assistant Director Jen Moore, detailing the rationale for suspending my security clearance. And without a security clearance, I can't work in an FBI space and I can't fulfill my duties as a special agent, so I was suspended indefinitely.

I was allowed to exhaust my accrued leave time. And they gave me a mechanism to -- if I wanted to use sick time, it would need justification from a doctor. And I was given paperwork to seek outside employment if I wanted to, and escorted from the building.

Q And what was the rationale that you were provided by Ms. Jen Moore for

suspending your security clearance?

A She detailed my refusal to participate in the August 24th arrest warrant and search warrant operations, as well as my refusal to participate in a security awareness briefing, and the improper accessing of documents from the FBI's classified system.

Q And do you refute these claims?

A Yes.

Q Do you believe that you refused to participate in the execution of the warrants?

A No.

Q And why do you believe that?

A I didn't have the opportunity to. I was told the day prior to the actual event that I was considered absent without leave the following day and to not come to work.

Q Uh-huh.

A I did not refuse to participate in a security awareness briefing. ASAC Markofski called me on the phone and invited me to attend one, and he told me that -- well, I asked -- I'd never heard of it. He used the SAB, S-A-B, acronym, and I was not familiar with it, and I asked him to explain what it was. And he told me that it was, we're going to be doing retraining on use of certain Bureau technology and that they wanted me to be aware of that.

Q Uh-huh.

A And when I asked if I was being singled out for that, he said that I made different decisions than others, good, bad, or indifferent, so there was going to be consequences.

So, at that point, I told him that I felt that it might be a disciplinary matter and that

I wanted to have an attorney present. He told me that I was not allowed to have one. I asked him to provide me some sort of documentation saying that I couldn't have one and I would attend the security awareness briefing. And he said he would do that.

And that was the Thursday before I was suspended -- or, I'm sorry, the Wednesday before. And then the following Monday was when I was suspended. I didn't ever receive any communication back from ASAC Markofski on that matter.

Q So ASAC Markofski invited you to this security awareness training the Wednesday before you were suspended, correct?

A Correct.

Q Okay. And that was after you had disclosed your concerns with the handling of January 6th cases and use of the SWAT team to Federico and your ASACs and the SAC?

A Yes.

Q Okay.

What was your reaction when you were suspended?

A In the immediate aftermath, I called my wife to come pick me up, and that was pretty disturbing for her. She had a tumor removed from her spine a few weeks before that, and she was not actually supposed to be driving. So she had to come and drive me with a back brace on home.

And then, at that point, I started to communicate with my attorneys about, you know, what to do as far as bringing my concerns to the OIG and to the Office of Special Counsel and to Congress. So we drafted a formal complaint and submitted that to all three.

Q And have you had any communication with your colleagues from the Daytona Beach Resident Agency since your suspension?

A I have one friend who is now a former task force officer. He was not assigned to the JTTF. He was assigned to the Safe Streets Task Force. And he and I are friends, and we go to the gun range together.

Q Uh-huh.

A And the secretary of the office, she sends me text messages just of greetings and hello. But nobody else from the office.

Q What was the reaction of your colleagues when they learned that you had been suspended?

A I can only say what my task force friend said, and he said that everybody just kind of went along with whatever the proceedings were but that, in the aftermath, the office has been extremely reticent to do anything. They don't want to draw attention to the office. So the SSRA Federico is sort of nixing anything operational at this point.

Q And when you say that people are hesitant to take actions, what do you mean by that?

A Nobody ever got fired for doing nothing.

Q Uh-huh.

A So it's pretty easy to extend an investigation out long, as opposed to being more aggressive in your investigative tactics that you use, and it's better to let the dust clear and settle around my situation before you draw a spotlight to yourself.

Q And do you believe that you were retaliated against by the FBI for making protected disclosures to Congress?

A Yes.

Q And do you believe some of your colleagues, some of their hesitance is that they're nervous that they will be retaliated against for speaking up?

A Yes.

Q Following being walked out of the FBI, did you have to sit for any interviews with the FBI?

A I did. I sat for a compelled interview with the Security Division in January 25th of 2023.

Q Uh-huh. And did anything come out of that interview? Did the FBI take any additional actions against you?

A After that interview, I was notified of a secondary interview from the Inspection Division. That was sent to me the following morning at 7:32 a.m., to myself and to my attorney, notifying me of their separate investigation. Even though the investigation had been opened about 2 weeks before, the email arrived to my inbox the first day after the Security Division's final investigative action in their process.

Q Okay. So there were two investigations, one by the Security Division and one by the Inspections Division?

A Yes.

Q And the Security Division one has concluded? Is that correct?

A I don't believe it's concluded. They told me that their investigative actions towards me were going to be summarized and given to another, parallel squad to review and that they would make a recommendation to an outside body concerning the revocation or reinstatement of my security clearance.

Q And did the FBI place any restrictions on who you could discuss your suspension with?

A Yes.

Q And what were those restrictions?

A So, in the Inspection Division's email to me, they told me that I was not allowed to speak to members of my family or friends or the media about the existence of

the investigation.

Q Uh-huh. And how long were you on an unpaid suspension? Between --

A So, from September 19th until today is 150 days.

Q Uh-huh.

A But I was able to use my accrued leave for some time in there. So I was receiving a paycheck for the first 7 weeks of my suspension, but it was not for work. It was just exhausting vacation time, essentially.

Q And while on indefinite suspension, were you able to seek -- did you have to seek approval from the FBI to seek outside employment?

A Yes.

Q Did you take any steps to seek outside employment?

A I submitted two FD-331s requesting outside employment. The first one was rejected. And the second one I submitted with also a caveat that I requested my training records, which the FBI has yet to furnish me.

Q So the first form that was rejected, who rejected that?

A I was told that it was rejected by the executive management of the Jacksonville Field Office.

Q Did you get a reason for why it was rejected?

A No.

Q And then you submitted a second form for outside employment and asked for records. What records did you request?

A I'm seeking my firearms training records as well as my training records in general to prove my employment. Both of those are necessary to gain employment from the second outside entity. That's not the first request of those records that I've made either.

Q Uh-huh. And have they given you the requested records?

A No.

Q Do you know why they have not given you the records?

A No, I don't.

Q Who has been denying your request to obtain your records?

A I made a request to the firearms training unit and sent an email to their general counsel. And I sent the second request for outside employment to the chief security officer of Jacksonville Division.

Q Uh-huh. And do you think this is just another episode of retaliation, by not giving you your records?

A Yes.

Q And how has the FBI's retaliation against you affected you and your family?

A Well, it's very unusual. My household, I have two young children, and they have asked, you know, why I'm not going to work and why my FBI vehicle is not in the driveway anymore, and that's sort of complicated to explain to grammar-school children.

Q Uh-huh.

A My wife lost her career shortly after my suspension, and she had to sign a nondisclosure about that, but it was under very suspicious circumstances, and I firmly believe that is related to my situation.

Q Uh-huh.

A So neither one of us are gainfully employed, and that's been a financial burden on us as well as just a stressor, because we lost our health insurance, as well, with her employment termination.

Q And if you had to put an estimate on it, how much has this ordeal cost you both in time and financially?

A Well, I would say, it's difficult to calculate because she received a severance from her prior employer. But myself, you know, being out of work for about 20 weeks, 13 of which unpaid -- you'd have to go back and calculate what my, you know, salary would've been for that time period.

But I don't think you can put a price tag on the stress that it's put on our family. I voiced to my supervisors that working for the FBI was my dream job and that's all I ever wanted to do. So having that opportunity taken away from me earlier than I was expecting has been very disappointing.

And the way that the Bureau has conducted itself against me in the aftermath -- as opposed to actually considering and investigating the righteousness of my complaint, they've chosen to circle the wagons and go after me -- I think is very disappointing and soured me greatly enough that I actually resigned today.

Q Uh-huh.

And I want to make sure that I give Congressmen Gaetz and Bishop time to ask questions.

Mr. Gaetz. And how many -- what's our time? Great.

Well, Mr. Friend, thank you for being here. And as a Floridian, I particularly appreciate the work you've done in my State.

How does one get the on-the-spot financial award?

Mr. Friend. It's -- normally, a frontline supervisor will make a recommendation just based on performance.

Mr. Gaetz. What type of performance?

Mr. Friend. I was working with the Flagler Sheriff's Office. They had one full-time person assigned to work child pornography investigations, and he had heart surgery and was out for a year, so I took on their sheriff's office cases for about 6 months

until a permanent replacement could come on.

Mr. Gaetz. So you received this award in July of '22?

Mr. Friend. Yes.

Mr. Gaetz. And then just a few months later, in August of 2022, they're suspending your clearance, right?

Mr. Friend. Correct.

Mr. Gaetz. Strikes me as a whirlwind few months for you.

Mr. Friend. A precipitous fall from grace.

Mr. Gaetz. Did the Washington Field Office ever pressure folks at the Jacksonville Field Office and its subsidiaries to do, in your opinion, unnecessary law enforcement work?

Mr. Friend. Yes.

Mr. Gaetz. Give me an example.

Mr. Friend. We were investigating individuals who we knew had not done anything violent and were conducting interviews with individuals who -- just for status reasons, who were represented by attorneys. So it was essentially draining them financially to have to pay the attorneys from the meetings.

We were also conducting surveillance operations in order to paper files where we hadn't done any investigative work for a number of months. So, in order to show progress on a case, you have to have paper in your file every 90 days. So we would drive by a subject's home on the way home from work and say that we did physical surveillance on a January 6th subject.

Mr. Gaetz. Do you believe that draining people of their financial resources by conducting otherwise meaningless law enforcement -- or, interviews of meaningless law enforcement value was the point?

Mr. Friend. I think it was a motivating factor, yes.

Mr. Gaetz. And what is your basis for that belief?

Mr. Friend. In my experience and just from my earliest time in the Bureau when I was a brand-new agent approaching a subject saying, "Hey, you're going to have to talk to my attorney," I was told by senior agents, "Call their attorney, because that's going to lead them to have to have a billable hour."

Mr. Gaetz. And so, within the context of the January 6th cases, did you ever hear anyone say or suggest that they were calling someone's attorney or setting up an interview for the purpose of draining that subject's financial resources?

Mr. Friend. I never heard anybody say that, no.

Mr. Gaetz. How many times would you guess you did this unnecessary surveillance?

Mr. Friend. Well, we were doing it at least once a quarter per subject.

Mr. Gaetz. So the surveillance you were doing wasn't tied to any activity of the subject; it was tied to the need to have some marking in the file that something had occurred?

Mr. Friend. Yes.

Mr. Gaetz. And your belief is that that's so that there could be a representation that more January 6th investigative activity was occurring than was really occurring?

Mr. Friend. Yes.

Mr. Gaetz. And the reason they were doing that was so that they could have more files open to justify a constructed threat, in your testimony?

Mr. Friend. Yes.

Mr. Gaetz. How many files -- give me a sense of how many files had this pattern and practice you describe where there was just unnecessary surveillance for the sake of

posturing.

Mr. Friend. In my office, we probably had somewhere in the area of half a dozen cases at that point that were pending, that hadn't been, you know, adjudicated or there had been no arrests made.

I was brought over to the JTTF in October, and the first actual operational thing we were going to be doing was that arrest operation the following August. So in that interim 10 months is when we were sort of sitting in limbo where nothing was going on. We were waiting to hear from Washington about how the cases were going to be handled.

Mr. Gaetz. And it sounds like there was some pushback to the Washington Field Office, right?

Mr. Friend. Yes. Yes.

Mr. Gaetz. How did that manifest?

Mr. Friend. The agent who had been on the JTTF the longest would be on the phone talking to personnel back in Washington about cases and expressing concern or asking for a status update of, you know, how they were going to be proceeding.

Mr. Gaetz. And what would be the substance of that?

Mr. Friend. Just ask if -- are we going to charge this case or is it going to be declined? And the -- he would then -- I mean, we're kind of talking -- he's communicating things that he's hearing on the phone back to me, so I wasn't first party to hearing them. But, in general, he said, they're making a decision. They're still looking at -- there might be additional charges. They said, we're going to go back through the code book and see if we can charge anything else.

Mr. Gaetz. Did these discussions frequently involve you receiving additional evidence on any of these subjects?

Mr. Friend. Evidence? No.

Mr. Gaetz. Any photographs of those people committing crimes in the Capitol?

Mr. Friend. No.

Mr. Gaetz. Any video of them committing crimes in the Capitol?

Mr. Friend. No. That information was provided at the outset of the investigations.

Mr. Gaetz. But, in your experience, there were none of the cases that you were involved in where that evidence was ever augmented by the Washington Field Office from that initial packet?

Mr. Friend. No.

Mr. Gaetz. And were J6 cases the only DVE cases that you worked during your time with the FBI?

Mr. Friend. No. There were other domestic terror cases that came across that were not opened as full investigation but were matters that had to be looked at. I can think of two particular incidents.

Mr. Gaetz. So, outside of the context of J6 cases -- where you've testified you do believe the FBI was padding the stats, right?

Mr. Friend. Yes.

Mr. Gaetz. In those other DVE cases, did you ever see any practices that you believed were padding the stats?

Mr. Friend. Yes.

Mr. Gaetz. And describe that for me.

Mr. Friend. I suppose the one I'm thinking of is actually an international terrorism case. And it was originally brought to us as a concern about an individual overseas who was radicalizing young people on the internet and encouraging them to

participate in school shootings.

That was carried out around the country. There were a number of arrests made. There was an individual who was in our area of responsibility who we contacted and determined that she was not a threat, was mentally disturbed but was under medication.

And in my aftermath to try to close that down, I was told that we were considering opening up an ISIS investigation on that individual. It was not related to anything we were doing originally. And I was part of a briefing where it was explained to us that she'd engaged in conversation on an online format, and another individual in that forum was in a separate forum, and in that secondary forum another individual had posted an ISIS video.

Mr. Gaetz. And you considered that to be an insufficient predicate to open an ISIS investigation.

Mr. Friend. Correct.

Mr. Gaetz. So were there other times you were asked to open investigations without sufficient predicate?

Mr. Friend. No.

Mr. Gaetz. But within -- so that was all discussion outside the context of J6 cases. Now sort of returning to the J6 cases, in those matters, do you believe you were asked to open matters without sufficient predicate for full investigations?

Mr. Friend. We didn't open any January 6th cases when I was brought over to JTTF. Those cases had already been opened, so I was never given a new one to look at. I was given one lead to look at and closed that down for insufficient evidence.

Mr. Gaetz. So why should it -- why did it concern you that the FBI was padding the stats on the J6 cases with this practice you've testified to of keeping matters open without any real law enforcement utility?

Mr. Friend. For two reasons. I was worried that we were violating our rules and individuals' rights, and that could contribute to us essentially losing righteous prosecution against an individual, as well as being violative of their civil liberties.

And, secondly, I believe in the -- I believe that the FBI is supposed to exist for maintaining law and order, and if we are creating the illusion that domestic terrorism is on the rise around the country, it's going to make people nervous, and it's going to contribute to a very toxic environment where we might be shifting the Overton window to the extent that half the country might be cut out of a constructive dialogue.

Mr. Gaetz. There's an opportunity cost too, isn't there?

Mr. Friend. Yes.

Mr. Gaetz. What happened to those child exploitation cases that you were working?

Mr. Friend. Well, it's my understanding that they brought in a temporary agent after my suspension to handle those cases. I don't know the status of them. I know one was probably going to be dismissed due to lack of being able to have a knowledgeable person there. Had a righteous human trafficking case that was opened. I don't know the status of that. But ultimately felt that -- and my supervisor agreed with me -- that child pornography investigations are a righteous use of FBI resources, and that was not going to be happening.

Mr. Gaetz. Are you concerned that because the FBI is padding stats and inflaming the illusion of J6 threat and domestic violent extremism that there are other really important areas for FBI law enforcement that aren't occurring?

Mr. Friend. Yes.

Mr. Gaetz. And why is it a risk to use too much force in arresting somebody, like a SWAT team?

Mr. Friend. I vocalized to my supervisors that, you know, you could have a Ruby Ridge situation, where you essentially show up with a tactical team, and, you know, an individual could be in a rural area and might be taken aback but be coming back from a hunting trip, or something would set up an unnecessary risk, when a phone call would've sufficed to bring that individual into custody.

Mr. Gaetz. So, in your disclosure that you provided to us, you talk about the risk to the individual, to the subject of that SWAT effort at an arrest. But it seems, based on your testimony today, you were also worried about your fellow agents. Is that right?

Mr. Friend. Yes, both.

Mr. Gaetz. And you testified to my colleague's questions about the time that had elapsed in this SWAT arrest between the last contact, and you said it was a lot of time. Do you know about how much that was?

Mr. Friend. I can only speak to my time on the JTTF, so October 1 until August 24th, the following year, where we hadn't taken any investigative action or had any communication with that subject.

Mr. Gaetz. And why did that concern you, that duration of time?

Mr. Friend. Well, I think that if you have somebody -- at least in my investigative experience, if you have somebody that you've voiced that they are under investigation, you need to maintain an open line of communication to them. Otherwise, they're under the assumption that the case was dropped.

And it's my understanding that when they actually did go to some of these individual houses they said, "I thought this was done. I didn't hear from you for so long."

Mr. Gaetz. So, when you showed up in August and were escorted out of the building, you said the Jacksonville special agent in charge had come to the Daytona office

for that?

Mr. Friend. Yes. September.

Mr. Gaetz. How many times in the course of your time in Daytona did the special agent in charge from Jacksonville even show up in the office?

Mr. Friend. She came when she was originally assigned as the new special agent in charge, and she came to have her meeting with me on September 1, and she came to suspend me.

[10:00 a.m.]

BY MR. GAETZ:

Mr. Gaetz. So it wasn't as if she was making frequent visits to check on cases?

Mr. Friend. No, that's never a good sign if the SAC's showing up.

Mr. Gaetz. Do you think she showed up regarding your matters to send a message to the other people in that office that if they became whistleblowers, it was a big deal?

Mr. Friend. I suspect that, and my understanding in talking to my one connection back, she came back again after I was suspended to have a talk with everybody about me being suspended.

Mr. Gaetz. Do you know anything about the substance of that discussion?

Mr. Friend. From what he told me, it was that it was an ongoing investigation and that I could probably be going through a really tough time. So they were going to encourage us to -- people in the office, if they wanted to reach out to me, that they could do that.

Mr. Gaetz. Why did you resign this morning?

Mr. Friend. I put in these requests for outside employment. I'm married and have a wife who doesn't work and two children, and I need to earn an income. And I was offered a position, and I considered taking that so that I could have an income and be a productive citizen.

Mr. Gaetz. We've talked to a number of other whistleblowers who described the type of retaliation that they face when they make protected disclosures.

Do you believe that denying your requests for other employment was to make an example of you?

Mr. Friend. Yes.

Mr. Gaetz. Sometimes cruelty is an offshoot of a process and sometimes it's the point.

Mr. Friend. Yes. I think there is new whistleblower training that's been created in the FBI, too, that commingles it with insider threat training. And from my understanding, from the employees that I'm still friendly with, there is a comment section that has a pretty robust protestation to that, saying that they have been doing that or indicating that whistleblowers might be an insider threat.

Mr. Foster. Steve, could you just clarify for the record, it's not just the denial of your request for outside employment, it's also their refusal to comply with their statutory obligation to give you your firearms training records. Could you sort of connect those two and explain why that's necessary for one of your employment offers?

Mr. Friend. Yes, I need to have a Class C private investigator license, and a G license to carry a statewide firearm in performance of those duties for one particular employer. And in order to get those, without having to go through long, lengthy training as a new person or as an intern, essentially, I would need those records to prove my Federal law enforcement bona fides, and they haven't provided them.

Mr. Gaetz. Do you believe that your clearance was suspended because it was an interim step that the FBI could take to ruin your career in the absence of providing you due process?

Mr. Friend. I think it was a way to immediately remove me from it and, essentially, bypass the Inspection Division process where there was administrative hurdles that they had to go through, and I would, essentially, be able to continue working.

Mr. Gaetz. Do you believe that revoking clearances is a way the FBI accelerates their actions against employees that they want to purge?

Mr. Friend. Revoking and suspending, yes.

Mr. Gaetz. How long was your compelled interview in January?

Mr. Friend. About two and a half hours.

Mr. Gaetz. What seemed to be the concerns of the interviewer?

Mr. Friend. They were concerned about some of the op-eds that I had published. They said that I was inciting violence, and they were unaware that I had requested and received permission to speak to media, and I had to conform to that and --

Mr. Gaetz. So you existed within the construct -- your public statements existed within the construct of permission you'd been given?

Mr. Friend. Yes.

Mr. Gaetz. Who gave you that permission?

Mr. Friend. The Prepublication Review Office from the FBI.

Mr. Gaetz. And when did you receive that?

Mr. Friend. I don't remember the date.

Mr. Gaetz. But it was prior to any of your op-eds?

Mr. Friend. Yes.

Mr. Gaetz. And did any of your op-eds incite violence?

Mr. Friend. I used the phrase, "This is a rhetorical call to arms from my fellow civil servants." And they said that use of the phrase, "this is a call to arms," could be construed as a call -- incitement into violence.

Mr. Gaetz. Was it?

Mr. Friend. No. It's not when it's preceded by the word "rhetorical."

Mr. Gaetz. Because rhetorical means with words, right?

Mr. Friend. Correct.

Mr. Gaetz. So do you want anyone to commit violence against anyone else in

the name of politics?

Mr. Friend. No.

Mr. Gaetz. Do you want anyone to commit violence against anyone else in the name of retaliation?

Mr. Friend. No. That's why I blew the whistle to begin with.

Mr. Gaetz. So I guess my final question is this.

Do you think that the cruelty that you've experienced, that your family has experienced, was on purpose, or do you think it was just a function of the FBI going through the motions to deal with your employment status?

Mr. Friend. I'm convinced that it's been punitive.

Mr. Gaetz. And your basis for that belief is?

Mr. Friend. The denial of getting my records, the denial of a request to earn an income, the illegal gag order that was communicated to me by the Inspection Division. It's just been one after another in this process.

Mr. Gaetz. Great.

Well, our hour has elapsed. I'll have some questions for you later in the day.

[redacted] We'll go off the record.

[Recess.]

[redacted] We can go back on the record. It's 10:14. I'm going to give Mr. Meyer a couple of minutes.

Mr. Meyer. Thank you. And real quick, because this is really my client's time with you to explain the circumstance of the situation.

But in the last hour, there was a discussion on the specifics of this case that involved two broad areas of human resource management within the Bureau. One of those is security clearances and access, and the other one is the care and treatment of

whistleblowers.

I just wanted to highlight, and, you know, as his counsel, I bring to Steve's advice and counsel the experiences of all my FBI clients, even though I can't tell them about the details of my other clients.

But there is a trend across the board, and it is very disturbing, and it's unique to the FBI. It doesn't even exist, for instance, in its sibling, the Secret Service, which is that the FBI has had a traditional challenge with whistleblowing culture. Senator Grassley had to carry them to the baptism almost 20 years ago to actually get a program set up over there.

But the program that is developed within the FBI is protracted, litigious, and very expensive when you compare it to other Federal executive agency -- branch agencies.

So whistleblowers face a very difficult decision, and they are often forced out, and their resignations are often due to financial reasons when they are briefed by counsel of what it would take to actually get their clearance issue resolved.

Significant in that is the Access Review Committee at the FBI, to my knowledge, has not met in almost 4 years, and nobody knows who the chairman is, and that is unheard of.

Even the CIA, which has just an incredibly long process, 4 or 5 years to resolve issues, you know who is in charge over there.

So that's on the security clearance side -- on the whistleblowing side.

On the security clearance side, what really disturbed me in our Sec D interview, and I've sat with Steve in on it, was that I was in a room with four special agents from the FBI. And I didn't expect Steve to understand this nuance because he's relatively young, and he probably hasn't had a lot of exposure on the classified side of things. But I would have thought that the special agents doing the interview would have been able to explain

to him in coherent language the difference between classified information and law enforcement sensitive information.

The FBI and other law enforcement agencies had to develop LES because the classified system didn't give them the leeway they needed for law enforcement operations.

And it occurred to me as we were doing that that part of the problem on this side, and this gets very important with prepublication review, is that I don't think the Bureau really trains its people on the difference between classified and law enforcement sensitive. I think they assume that employees pick it up on the job.

That means that the training standards are all local to individual offices and some special agents in charge or resident agents in charge may not actually do that training.

And that was very important in this situation because I got brought into the team to help him because it was clear that he really didn't have all the knowledge he needed to effectively walk through the situation, the type of knowledge I would have thought he would have gotten from his first line supervisor.

So that's the thought I wanted to put on the record. And thank you for your time -- or not your time.

[redacted] It's now 10:18, and our time will begin now.

Thank you again for sitting here with us today.

EXAMINATION

BY [redacted]

Q I want to take a couple steps back and talk about how we got here.

When did you first reach out to Congress?

A I reached out to Congressman Jordan on -- after my first meeting with my supervisor, Federico.

Q So would that be September?

A August.

Q August?

A August 2022.

Q End of August?

A Yes.

Q Could you put like an approximate date?

A Sorry. So my meeting with Greg was August 19th, and I believe I drafted the letter to send to Congressman Jordan over that weekend, because it was a Friday that I had that meeting with Greg.

Q Okay. And you said it was a letter that you sent?

A Yes.

Q How -- did you have any help preparing that letter?

A No.

Q How did you -- did you transmit that letter?

A Yes.

Q And how did you do that?

A I sent an email to the Congressman's office.

Q Okay. And after that, did you receive any response to that?

A I had staff from the office reach out to me to confirm the details of the letter.

Q Okay.

And, I'm sorry, you said you sent it via email. Was it a form on a website, or was it an actual email that was sent?

A I sent an actual email from my Gmail account with an attached letter, like a

Word document.

Q Okay. And which staff reached out to you?

A [redacted]

Q And when did she reach out to you?

A It was the following week. I don't remember the day.

Q Okay. You said you referred to a document that you attached. Is that a declaration signed by you on September 21st, 2022?

A No, that's the formal document that we submitted to the OIG, special counsel, and then again to Congress, but also to Senators Durbin, Grassley, Johnson, and Congressman Jordan.

Q Okay. The letter or the email that you sent, do you have a copy of that?

A I believe I do.

Q Do we have a copy of that?

Mr. Meyer. Which email was that?

Mr. Friend. The original letter.

Mr. Meyer. We have a copy of the document. I don't know if I have the email that it was attached to, but we can check.

[redacted] So it's actually -- it's the initial email he sent. He said -- so he said he sent an email before he sent the formal document. So the email that was sent over to the majority staff.

Mr. Meyer. I don't have that copy though.

Mr. Friend. The letter?

Mr. Meyer. We have the letter, but we don't have the email.

Mr. Friend. Yeah, I mean, the email would say, like, attached is the letter. There was nothing --

[redacted] But was your declaration attached to it, or was there a letter attached, something else attached to it?

Mr. Friend. It was a letter to Congressman Jordan.

[redacted] Okay. So do you have a copy of that?

Mr. Meyer. We can look for it. We don't have it here.

[redacted] Okay.

Mr. Meyer. And the letter is different than the declaration that was prepared for the special counsel.

[redacted] Yes, I understand that. That's what I'm trying to get, both of them. You don't have a copy with you today?

Mr. Friend. Not in hard copy. I can get a digital copy for you.

[redacted] That's okay. But we would ask you to produce that to us.

BY [redacted]

Q So you spoke with [redacted] Was that in late August?

A Yes.

Q And did you communicate -- was that in person, over the phone, over email?

A Phone.

Q And how long was that conversation?

A Twenty to 30 minutes.

Q And what did you discuss during that conversation?

A She was -- [redacted] and I believe the gentleman named Michael, and we reviewed the contents of the letter that I had sent, and they essentially asked me to vocalize what was in the letter. I didn't provide any additional. It was just coming from my voice. And then they said they would be in touch with me going forward.

Q And did you do anything after that?

A After that, I had my meetings with supervisors at work and all that.

Q I mean further interactions with congressional staff after that.

A I sent a follow-up letter to my Congressman at the time.

Q Who was that?

A Michael Waltz.

Q Okay.

A I've been redistricted at this point. But I sent him also the same letter, and I sent the letter to Senator Cruz.

Q Okay. And did you have any interactions with staff for Congressman Waltz or Senator Cruz about this?

A The district -- I believe the district manager for Senator -- or Congressman Waltz's office, I went in and spoke to him. And --

Q And, I'm sorry, when was that?

A So I spoke to him the day I was suspended. So that was September 19th.

Q Okay.

A And that's -- his name's Ernie.

And then I spoke on the phone with an attorney, and I don't remember his name, from Senator Cruz's office who had taken the letter.

Q And when did you have that conversation?

A So I sent that letter to him late August. It was after I sent the letter to Congressman Jordan.

Q Okay. And you don't recall the name of the attorney you spoke with at Senator Cruz's office?

A I'm sorry, I don't.

Q Okay.

Do you remember what you told -- we'll start with Ernie from Congressman Waltz's office -- do you remember what you told Ernie?

A I detailed the facts that are in the letter that I sent to Congressman Waltz and Senator Cruz and Congressman Jordan, and I did that in the office, in person.

Q Okay. And how long was that conversation?

A I probably spoke to him for 40, 45 minutes.

Q And what was his response?

A He just took my information down. We had just regular personal chat conversation. And he said he would bring it to Congressman Waltz, but that since this is kind being run by Congressman Jordan it was probably going to be -- default to his staff.

Q And did you have any further conversations with anyone from Congressman Waltz's office?

A Not about this. They invited me to attend an event a few weeks ago.

Q Okay. Was the event -- was the invitation a few weeks ago, or was the event a few weeks ago?

A The event was a few weeks ago.

Q And did you go?

A Yes.

Q Did you meet with the Congressman?

A Yes.

Q Did you discuss your claims with him?

A No. No, it just was a handshake and sat next to him at an event where he delivered a speech, along with Congressman Mills and Congressman Jordan, and then he gave me a challenge going on the stage of the event.

Q What was the purpose of that event and what was the --

A It was a fundraiser. It's called the Lincoln Dinner. That was in Volusia County.

Q In Florida?

A Yes.

Q And that was your last contact with Congressman Waltz or his office?

A Yes.

Q Okay. What about Senator Cruz's office? You said you don't remember the name of the attorney. Do you remember when you spoke with that attorney?

A It was that late August, early September time. It was before I was suspended.

Q Okay.

A And that was a short conversation where he was taking the information down. We had more correspondence because I guess he was having -- he kept changing the meeting time because of his travel schedule, but we really didn't talk in any great detail. He just kind of said that he had the letter and information and would be responding back if they had more inquiry.

Q So you had some back and forth but nothing substantive?

A Correct.

Q Okay.

So getting back to your conversations with the majority, you said you spoke with [redacted] at the end of August and Michael -- is it possible Michael Koren?

A Yeah, I don't remember.

Q Okay.

A I just remember Michael.

Q That's fine.

Did you have any further communications with him after that?

A Yes. I've had a number of just check in, status on how I'm doing. And then [redacted] asked if I would be willing to participate in a transcribed interview.

Q Okay. Do you think you had like -- how many interactions with them do you think you had?

A Six, seven.

Q Okay. And were those all via phone, were they via email or a mix?

A Phone, text message. Like, she text messaged my flight itinerary to me. And emails would be like: Are you available for a phone call? So I would say the substantive part of our conversations was on the phone.

Q And how many phone calls do you think you had?

A Probably six to eight, something like that.

Q Okay. And did you ever speak with Congressman Jordan directly?

A At the Lincoln Dinner, he came up to me and shook my hand and said that he would be in touch, and I told him that I had been in communications with [redacted] He said [redacted] was great. And that was the extent of our interaction.

Q And that's the only interaction you've had with him directly?

A Yes.

Q Have you spoken with anybody else in Congressman Jordan's office?

A I don't think so.

Q Okay. And you said you provided a letter at the end of August. And did you also provide a copy of your formal declaration?

A To Congressman Jordan?

Q Uh-huh. Or to anyone else in Congress.

A Yes, to Congressman Jordan, to Senators Durbin, Grassley, and Johnson.

Q Have you provided any other documents to Congress?

A I have sent to Congressman Jordan's office additional information about the updated training on whistleblower being commingled with insider threat training.

Q Okay.

A And I made that as a formal disclosure to their office as well.

Q And was that -- what actually did you send? Was it a copy of the announcement? Was it a description? What did you actually send?

A Slide deck. There's photographs of the slide show that is in the training.

Q And could we have a copy of whatever you sent?

A Yes.

Q Okay.

Mr. Meyer. I'll put that on the list.

BY [redacted]

Q Did you send any other documents?

A I don't think so.

Q Okay. And taking a step back to the slide deck, how did you come into possession of that?

A An individual sent them to me anonymously, not wanting to get himself in trouble.

Q How did you receive them?

A He sent me a Signal message.

Q Okay. So it was a Signal message from a phone number you didn't know?

A No, it's from an individual who I know.

Q Okay.

A And does not want to be brought into it. He has concerns -- he and

she -- he or she has concerns -- and essentially laundered the information to me because I'm burned, and me bringing the information forward doesn't out this individual.

Q Okay. Is the individual an FBI employee?

A Yes.

Q When you spoke with Congressman Jordan's staff or Senator Cruz or Senator Waltz -- or Congressman Waltz's staff, did you suggest other individuals that they should speak with?

A I don't remember. I think I might have just -- because my circle of individuals who I am friendly with, but I believe they already either predated my communication with the office or was coinciding.

Q Okay.

A So maybe just referring to: Well, have you talked to so and so?

Q And do you recall who those people might have been?

A Yes.

Q Could you share their names?

A Kyle Seraphin and Garret O'Boyle. And I think that's it.

Q Okay. I want to move on. I want to make sure I'm clear on the timeline, both for your whole career and then also around the events in question.

So you said you started at the FBI in 2014. Is that right?

A Yes.

Q In Omaha?

A I started in 2014 in Quantico.

Q In Quantico, right.

A And then in November was sent to Sioux City, Iowa, which is a resident agency for the Omaha Division.

Q And you were there until 2021?

A Yes.

Q And June of 2021?

A Yes.

Q And did you ask to be transferred, or how did that come about that you were transferred to Jacksonville?

A I worked on Indian Country violations, and it's tough to slot the field, so they give an exit benefit. So even though I was serendipitously sent to that assignment, to entice people to volunteer to do it, if you work a certain length of time in that position, you can get to transfer somewhere else after a certain length of time elapsed.

So I fulfilled my obligation there and then was able to sort of pick from an array of options to transfer. And we, as a family, elected to go to Daytona.

Q Okay. So you were in Daytona from June until October, primarily doing human trafficking and child sexual abuse cases. Is that right?

A Yes.

Q And were you doing those -- did you work with the local sheriff's office on that, or was that based out of the FBI, or how did that work?

A So I opened FBI cases, but I worked in conjunction with the Volusia County Sheriff's Office, Lake County, Flagler County, and Putnam County Sheriff's Offices. Those are the four counties that we interface with, as well as the Daytona Beach Police Department.

And I worked those cases on paper, on my timesheet, until October. And then, even though I continued to work those cases on my timesheet, I was told that I was working domestic terrorism.

Q And so what were your responsibilities, just again, when you were purely

assigned to those cases or purely working on those cases? What were your responsibilities?

A I mean, assist the local partner as needed. But if we were able to adopt an investigation of possession of child pornography, traveling across State lines to engage in sexual activity with a minor, human trafficking allegations, those -- if there was a Federal nexus to open up a Federal case and bring those to the Federal prosecutor, I would do that.

Q Okay. So they were local cases, but your job was to figure out if there was a Federal crime involved?

A Yes. And then oftentimes there's both. So you had the opportunity to sort of pick what's going to be the better, more strategic option.

And then also, a lot of leads were sent my way to identify victims from other field offices who were kids who, essentially, produced images of themselves at the behest of pedophiles. And we would try to identify them and then bring them forward as victims for those cases in other field offices.

Q And could you estimate about how many cases you handled? Again, just during that time period.

A Yeah. A few dozen.

Q Okay.

And then you said in October you were told that you were going to be put on the Joint Terrorism Task Force. Is that right?

A At the end of September, just before the fiscal year ended on September 30th.

Q Okay. And at that time, how was that communicated to you?

A Gilbert Balli, the ASAC over the resident agencies, called up my acting

supervisor, Rob Corley (ph). It was at the end of the day, and I was in the room with Rob when he called, and he said, "We're going to be moving Steve over to work domestic terrorism on the JTTF."

Q But you said that even after that you continued to work on the human trafficking and child abuse cases that you had previously worked on, right?

A Yes. Rob told me that I could go ahead and do both until the new boss arrived. And then when the new boss arrived, I explained that situation, and he told me that he didn't have a problem with me doing that as long as it didn't interfere with the JTTF work -- because who is going to say no to someone doing more work?

Q And you referred in the earlier line of questioning to an on-the-spot financial award that you received?

A Yes.

Q And that was in association with your performance on behalf of the sheriff's office. Is that right?

A Yes.

Q Which sheriff's office was that?

A Flagler.

Q And you said that you were effectively detailed to that office. Is that a fair way to cover for somebody who was not there?

A I wasn't officially detailed.

Q Okay.

A I just approached them and said, "Look, I will try to keep the ship afloat until you find somebody, until either the person who is assigned here comes back or you find another permanent person."

So I fielded the tips that were sent to them at a local level and then opened up

investigations that I could take Federal.

Q Okay.

A And anything that I wouldn't be able to take Federal but could be a State prosecution, I would bring to the State prosecutor.

Q And you said that was for about a 6-month period?

A So the full-time person started there as a replacement, I would guess, probably July of 2022.

Q Okay.

A So it was shortly after I got my award that they brought on somebody new.

Q Okay. And when did you start doing that work?

A I mean, I started doing that work immediately upon arriving to my office.

Q Okay.

A But I took on that responsibility. I vocalized that to them. I don't remember the time that he went out on medical leave, but it was probably early on in 2022.

Q Okay. So from early 2022 until about July 2022, you were handling all of the leads for the -- I'm sorry. I forgot the name of the sheriff's office.

A Flagler. Yeah, they come through. They're called cyber tips. They come through a database. That gets filtrated and then disseminated to whatever area that they think might have the responsibility for it.

Q Okay.

A So I was given an access to that database that locals would typically have and monitored it and was either closing things down that were not -- couldn't be prosecuted, or if they could be prosecuted, I would open them up.

Q Okay. Do you have an -- could you estimate how many cases or matters

you handled during that time period?

A I brought a couple ahead to prosecution. But then there are so many that you can't prosecute or you can't determine a subject or something. So I would estimate two to three a week would come in that I could close down because it was mistaken or something like that.

Q Okay.

A So whatever time that is, if you extrapolate it out.

Q Okay.

And then during that time, you were also assigned to the JTTF, right?

A Yes.

Q Okay. And then your last day with the JTTF, your last day doing any of that was August 20 --

A September --

Q September --

A 19th --

Q -- 19th, okay.

A -- was the last day because I was suspended that day.

Q Okay. I want to move on to something slightly different.

Your attorney mentioned earlier that you -- the difference between unclassified, classified material -- classified materials and unclassified law enforcement sensitive information.

Do you understand the difference between that, between those things?

A I would say I have a general understanding that comes from some training, but in reality all of my work was unclassified --

Q Okay.

A -- until I was moved over to work on domestic terrorism. So it was not something that I extended a whole lot of brain power to memorizing because everything was unclassified. It wasn't worth the time investment.

Q Did you have a security clearance?

A I did.

Q What was your level?

A It was TS/SCI.

Q Okay. And what kind of training did you receive as part of that clearance?

A You get training in the academy and then you have annual training on classification and protocols that could go into it. It's virtual training.

I received that clearance, though, when I was first assigned to Sioux City, and I was told you're the new guy and you have to be able to go into the SCIF to turn the alarm off if it goes off. So they issued me a TS/SCI clearance.

Q Did you have to turn the alarm off a lot?

A Yes. We had a very old building.

Q So you have received training in classified information.

A Yes.

Q Just it maybe wasn't -- it was virtual.

A Yes. And I've done the polygraph for it as well.

Q Okay. When did you do the polygraph for it?

A I did it towards the end of my tenure. I know it was after 5 years because they are supposed to do it every 5 years, and I thought that that was concerning that they hadn't done mine.

And I did that probably in the 6th year that I was in Sioux City, and the polygrapher asked me if I wanted to even have it, and I told him that I had to turn off the

alarm, so I needed it.

Q Okay. Have you ever been in a position where you've accessed classified information without authorization maybe because you didn't understand it was classified or something like that?

A No, not classified.

Q Okay. Have you ever accessed -- have you ever accessed classified information without authorization?

A Not without authorization.

Q Okay. Have you ever removed classified information from a device without being authorized to do so?

A Classified, no.

Q Have you ever removed information from a classified system that maybe was not classified without being authorized to do so?

A Yes.

Q What were the circumstances?

A My attorney asked me to get him information about the employee handbook and disciplinary processes. So I went and accessed those, as well as a flow chart of the way the Inspection Division works and the OPR process works. And I got copies of the last five OPR quarterlies as a go-by for precedent for punishment for my situation. I was hoping they had some sort of rubric to go by that would be an acceptable punishment.

Q And when was that?

A I got that after I met with my SAC on September 1st. So I believe it was the 3rd or the 4th.

Q Okay. And was the attorney who asked you to do that, was it Mr. Meyer?

A No.

Q Who was that?

A It was Dan Isaacs.

Q Okay. Who -- what -- is Mr. Isaacs with a firm or --

A He is a defense attorney and does other legal matters, and he's in New York City.

Q How did you find Mr. Isaacs?

A My older sister is an attorney, and I called her and asked her if she could recommend that I talk to anybody, and she recommended Mr. Isaacs.

Q Did you pay Mr. Isaacs?

A No. He did everything gratis.

Q So you obtained -- you said you accessed the employee handbook and some disciplinary-related information from the high side system but it was not classified?

A Correct.

Q Okay. And you provided that to your attorney?

A Yes.

Q Do you know if he did anything with that?

A I don't. I emailed it to him, and I assumed that if he had some sort of record keeping system, he did whatever he needed to do with it.

Q Okay.

We talked a little bit ago about the declaration that you submitted, and I'm going to admit that into the record. Exhibit 2. It's dated September 21st, 2022.

[Friend Exhibit No. 2

Was marked for identification.]

BY [redacted]

Q Do you recall writing this?

A Yes.

Q Who prepared this declaration?

A I prepared it in collaboration with Mr. Meyer and Mr. Foster.

Q Mr. Who?

A Mr. Foster.

Q Mr. Foster is Jason Foster sitting there?

A Yes.

Q Okay.

Did you rely on any documents to prepare this?

A Yes.

Q What documents were those?

A The "Domestic Investigations and Operations Guide."

Q I'm going to get back to that in a second, but before we do, paragraph 19 of the declaration references a September 16th, 2022, letter.

Can you explain what that's a reference to?

Mr. Foster. What paragraph?

[redacted] Paragraph 19.

Mr. Friend. I believe that's the letter for -- that's the email that I got from my assistant special agent in charge telling me not to come to work on the 24th.

[redacted] Okay. Have you produced that to anybody in Congress?

Mr. Friend. I don't know. I don't remember. I believe --

Mr. Meyer. I would have to check.

BY [redacted]

Q Could we have --

A I have a copy.

Q Could you produce it to us?

A Yes.

Q Who -- it looks like -- do you know what your attorney did with this --

A This declaration?

Q -- declaration?

A Submitted it to the OIG, the special counsel, and to Congressman Jordan and Senators Grassley, Johnson, and Durbin.

Q Okay. And do you know when he submitted that?

A I believe it was that week. I think it was -- I think we drafted it on Monday, Tuesday of that week. So the 19th, 20th; and 21st, 22nd, somewhere in there, it was submitted. I know we did it forthwith.

Q Okay.

In paragraph nine of this declaration -- and in other places as well -- you cite to the "Domestic Investigations and Operations Guide," I think sometimes also called DIOG.

Can you explain just briefly -- I know we talked about this before, but, again, for the record -- briefly what the DIOG is?

A It's the rule book for the FBI. Like how to do intelligence gathering and investigations.

Q Did you access the DIOG when you were writing this document?

A Yes.

Q And where did you access the DIOG?

A I did get a copy of the DIOG that I sent to my attorney. Because of the disclosure, I went forward and included Appendix J.

Q Where did you get a copy of the DIOG?

A On the FBI system.

Q From the classified system of from the --

A Yes.

Q Okay. So you also removed that from the classified system?

A Yes.

Q Okay.

And do you know which version of the DIOG you accessed?

A I believe it's probably the most up-to-date one, because if you look for DIOG, it comes up pretty quickly because it needs to be at your fingertips.

Q Okay. And when did you access the DIOG?

A The same day I got all the other information. So it was the 3rd or the 4th of September.

Q Okay.

On page 5 of your declaration, there is a long block quote. Do you see that?

Mr. Meyer. What paragraph? Do you have the paragraph?

[redacted] So it's paragraph 9, but the paragraph -- but it's not labeled as nine on that page because it starts on the prior page.

Mr. Friend. Yes.

BY [redacted]

Q Do you see at the beginning it reads: "Anyone in a supervisory role, dot, dot, dot." At the beginning of that, there's some markings that says: "(U//FOUO)."

A Yes.

Q Do you know what that means?

A Unclassified for official use only.

Q And what's your understanding of the term for official use only?

A To my understanding, if you're using it for work-related matters within the FBI.

Q Okay. And I'm not sure if you're aware of this, but the older versions of the DIOG are available on the FBI vault website.

A Yes.

Q So I want to introduce into the record a section from the FBI DIOG. This is the September 17th, 2021, version of the DIOG. And I'm introducing section 2.7.1.

This section reads that:

"A departure from the DIOG is a deliberate deviation from a specific known requirement or action governed by the DIOG?"

"The word 'deliberate' means the employee was aware of the DIOG requirement and affirmatively chose to depart from it for operational reasons before the activity took place.

"Approval of the departure must be based upon a specific circumstance involving a specific administrative or operational need.

"An approval may be for the duration of an investigation or relate to a specific classification, cannot extend beyond the scope of authority of the approving official, and must be approved in accordance with the guidance provided in this subsection."

Were you aware of this paragraph before I read it to you just now?

A In the communications from inspector general, they mentioned the latitude to depart from rules that are spelled out in the DIOG.

Q Okay. Did they cite to this paragraph, if you recall?

A I don't know, but the content of which was very similar.

Q Okay.

Discussing the January 6th -- handling of the January 6th cases, you referred to a

call that took place shortly after January 6th. Do you recall that?

A Yes.

Q Were you on that call?

A No.

Q Who told you about the call?

A Several members of my JTTF, as well as my former supervisor.

Q Do you know if they were on the call?

A Yes.

Q They were on the call.

Did they ask -- did they mention anything about a departure?

A No. My former supervisor told me that the question went out on that call about why they were following this departure, I guess. I don't know if that term "departure" was used. And that's when they got the feedback that it was to get buy-in.

Q Okay. Were you involved in the decision-making process around how January 6th cases would be handled?

A In my office or in general?

Q In general.

A No.

Q Were you -- sorry.

You started with the FBI in 2014. You were a special agent for the entire duration of your time there?

A Yes.

Q Were you ever in a supervisory position?

A Yes.

Q In Daytona?

A No.

Q Okay. And nobody reported up to you?

A No.

Q Okay.

A I mean, there were a day or two where the boss was out and they asked me to be the acting for the day, but never in any sort of permanent slot.

Q Okay. So you weren't in kind of the leadership capacity of the office in any way?

A No.

Q Were you ever based out of Washington, D.C.?

A No.

Q Were you ever based out of the Washington Field Office?

A No.

Q Okay.

In your declaration, you cite to various paragraphs of the DIOG, including 3.5.2.1. This is in paragraph 9, I think on the same page. Approval/Review of Investigative or Collection Activities. And Appendix J: Case File Management and Indexing.

Is that correct?

A Yes.

Q Okay.

And so from your perspective, the cases were being handled under the authority of the DIOG, basically, or they should have been handled under the authority of the DIOG?

A Yes.

Q Okay.

Are you familiar with the FBI's Counter Terrorism Program Guide?

A No.

Q Have you ever read the FBI's Counter Terrorism Program Guide?

A No.

Q Are you aware of whether it's classified or not?

A I don't know.

Q Okay.

Are you familiar with, for example, the FBI Counter Terrorism Program Guide guidelines for managing cases related to a mass event?

A No.

Q Did anybody ever mention the Counter Terrorism Program Guide to you in your office?

A No.

Q Are you aware of whether the Counter Terrorism Program Guide describes permissible procedures akin to those described in your affidavit in which the field office in which the subject resides would open cases but significant investigative steps may be taken elsewhere?

A No.

Q Okay. And so you're not aware of whether the DIOG or the Counter Terrorism Program Guide kind of governed the handling of January 6th cases?

A Multiple cases for the January 6th investigations were criminal cases. So those would have been under the DIOG.

Q Okay. But you weren't involved in any of the decision-making out of Washington, D.C., as to how the cases -- which guide might cover the handling of the cases?

A No. But when I see a case that has a criminal designation number on it, that's my belief, that it's going to be governed by the DIOG.

Q Okay. And nobody said anything otherwise to you in your office?

A No.

Q Okay.

You said that after your clearance was revoked you were essentially without pay for how many weeks?

A So I had about 7 weeks of accrued leave that I was allowed to exhaust, and then since that point I've been unpaid.

Q Okay. And so could you -- do you recall the last time you received a paycheck from the FBI?

A If I -- September 19th, go out 7 weeks from there, it would probably be into early November.

Q Okay. And so you have not received a paycheck since early November?

A Correct.

Q Through today?

A Correct.

Q How did you get here today?

A I was flown.

Q And who paid for that flight?

A I believe the committee or whatever funds were used from -- I know I didn't pay and that [redacted] sent me an itinerary.

Q Okay. So you don't know -- you just got the ticket in your text message, you said?

A She -- well, she texted me the hotel, but she emailed me my flight itinerary.

Q Okay.

[redacted] Just for the record, the committee paid for his trip here and the hotel.

[redacted] Okay. Just getting clarity.

[redacted] And are you -- you're represented by counsel today?

Mr. Friend. Yes.

[redacted] And is that Mr. Meyer?

Mr. Meyer. Yes.

BY [redacted]

Q How did you find Mr. Meyer?

A I was referred to Empower Oversight and Jason Foster when I sent my original letter to Congressman Jordan's office. They said that his organization was charitable, that would -- was intended to assist whistleblowers. And then Mr. Foster retained Mr. Meyer for me through his organization.

Q Okay. So it was Congressman Jordan's office that referred you to Mr. Foster?

A Yes.

Q And do you know who it was that referred you?

A No, I don't. I mean, I know I communicated with [redacted] There might have been somebody else that was in that chain, but my interface has always been with [redacted]

Q Okay. Are you paying Mr. Foster?

A No.

Q Are you paying Mr. Meyer?

A There was an original retainer, and I covered $1,000 of it.

Q And how did you pay for it?

A Through my own personal savings.

Q Okay. Were you still receiving an FBI paycheck at the time?

A At that time, yes.

Q Okay. Do you know if anybody else is compensating either Mr. Foster or Mr. Meyer for your -- for their services at this time?

A I believe Empower Oversight covers some of Mr. Meyer's retainer, and I don't know who pays Jason. I think he kind of runs his own show out of Empower Oversight.

Mr. Meyer. I mean, I can put on the record that the time I put in that's not covered by either Stephen or Jason's organization is just my donation.

Mr. Foster. It far exceeds what we were able to afford.

Mr. Meyer. Yeah, you're at about 200 percent of your retainer right now, chief.

[Laughter.]

BY [redacted]

Q Have you ever heard of GiveSendGo?

A Yes.

Q What is GiveSendGo?

A It's a crowdsourcing mechanism to raise money for various reasons.

Q Okay. How are you familiar with GiveSendGo?

A It's in the public domain. And I am aware of a particular GiveSendGo account that Kyle Seraphin set up to raise money for one of -- for Garret O'Boyle.

Q Okay. And did Kyle Seraphin tell you about that directly?

A Yes. We talked about it.

Q Okay. And, I'm sorry, who did you say -- what did you say the purpose of

that account is?

A We are raising money for Garret O'Boyle.

Q Okay. And how do they go about raising money?

A Whenever we have an opportunity to advertise the existence of the account, we try to encourage individuals who are feeling charitable to donate to that cause.

Q Okay.

I want to introduce the GiveSendGo cover page. We just printed this off of the website I think yesterday at 5:38 p.m. And this is exhibit 4.

[Friend Exhibit No. 4

Was marked for identification.]

Mr. Foster. I'm sorry, exhibit what? Four?

[redacted] Four.

BY [redacted]

Q On the second page of this -- and, again, this is a printout of a website, so it's just used to scroll down on the actual website.

The second full paragraph reads: "This fund will be used to support three whistleblower families who have been suspended without pay and legal bills incurred by Kyle Seraphin, Stephen Friend, and a currently unnamed FBI whistleblower with four young children, including a newborn baby only weeks old."

Do you know, were you -- did I read that correctly?

A Yes.

Q Okay.

Did you -- were you in contact with Kyle when he set this -- with Mr. Seraphin when he set this up?

A I know I was in contact with him starting in September. So I would have to

look back to when he had started, when he actually set it up. I know that he set it up pretty quickly after Garret was suspended, which would have been September 26th.

Q Okay. Has the money derived from this fund been used to support either your legal bills or your personal funds?

A No.

Q Have you received any money from this fundraiser?

A No.

Q So why do you think Mr. Seraphin would list your name here?

A He's offered, as managing it, if I needed any funds from it, and I have refused it, to take money from it, because I want all the money to go to Garret.

Q Okay. Have you received money from any other type of online funders and platform?

A No.

Q Have you received money from any other fundraising or other source not online?

A Kash Patel's organization gifted me $5,000.

Q Okay. Who is Kash Patel?

A He is a former government representative and now runs an outside organization.

Q And what's the name of his organization?

A It's like Winning With Kash.

Q Could it be Win With Kash?

A Or Win With Kash, yes.

Q K-a-s-h?

A Yes.

Q And do you know what his role was prior to what he's doing now?

A I don't know his official title. I know he was high ranking in intelligence, in counterinsurgency.

Q Okay. According to his website, he was the chief of staff to the Department of Defense during the Trump administration.

Have you spoken with Kash Patel?

A Yes.

Q How many times?

A He called me originally and offered to gift me the money through his organization. And then he talked to me as a follow-up for trying to get me in touch with the Center for Renewing America. And then exchanged like text messages or something like that as an acquaintance.

Q And you said he initially contacted you?

A Yes.

Q When was that?

A That was, I believe, before -- somewhere around Thanksgiving. I know I was visiting family because I had to pull away from the dinner table to answer his call.

Q Okay. And when did it come about that he gifted you $5,000?

A He immediately did. So it was in the mail within a week, and I received it at the end -- so in November, I believe, of 2022.

Q And when he reached out to you in November, did he indicate how he had learned about you, how he got your information?

A Well, he's, I know, in touch with Kyle, and Kyle told him about my situation. So that's who shared my contact information to Kash, was Kyle.

Q Okay.

[redacted] I'm going to turn it over to my colleague, [redacted]

BY [redacted]

Q Hi, Mr. Friend. How are you doing today?

A I'm all right.

Q Thank you for being here.

So when you were speaking with Congressman Gaetz, you said that you received permission to make media disclosures. Is that correct?

A Yes.

Q Okay. And who gave you that permission?

A The FBI's Prepublication Review Office.

Q Do you have the name of the specific individual that gave you permission?

A I don't know. I know I received an email, but it was from a general email. But it might have been on the -- do you have it?

Mr. Meyer. Michael G. Seidel.

[redacted] And this is a copy of the permission that was granted that you received from the FBI?

Mr. Meyer. Yes.

[redacted] And I can have a copy of this.

BY [redacted]

Q So can you just tell me what exactly it said in writing with respect to you being able to post media disclosures?

A From my understanding, I could speak to the details of my complaint. And they asked me to not share information about personnel who were not already public, like the special agent in charge or the assistant special agent in charge, because those are on the public website for the FBI.

Q Okay. And so when you say you understood it to allow you to provide information about your complaint, are you referring to the information that you are giving to us today?

A Yes.

Q Okay. And so this was in October 21st, 2022?

A Yes.

Q Okay. Did this letter provide a definition of what constitutes media?

A It may. I'd have to look at it to remember.

Q Okay. What is your understanding of what media is?

A A platform that's used to exchange information publicly and disseminate it.

Q Okay. And so before October 21st, 2022, you never made any type of media disclosures with reference to your complaint?

A No, I made media disclosures before.

Q Okay. So it is the case that you made media disclosures prior to receiving this written permission?

A Yes.

Q Okay. Where did you make those media disclosures?

A I had an appearance on Dan Bongino's Saturday show, and that was October 18th or 17th, somewhere in there. Because I know I received the permission the following Monday. So it predated it by a couple of days.

Q Okay. So the only media disclosure you made prior to this October 21st, 2022, letter was on the Dan Bongino show, which you appeared before on October 17th or 18th. Is that correct?

A I think so, yes.

Q Okay. What is the Dan Bongino show?

A It's a once-a-week cable news show that he -- I believe it's an hour long. I was one segment. I believe it was 7 or 8 minutes that I spoke to him.

Q Okay. And did you appear in person or was this virtual?

A Virtual.

Q Okay. And where did you take this interview from?

A My driveway.

Q Okay. And was it recorded via video, or was it just something that you called in?

A It was recorded on video in a truck, and we recorded it on Friday evening, and it was edited and aired the following night.

Q What did you disclose in this media appearance that you had with Dan Bongino?

A I spoke about the details of my complaint.

Q What specifically did you state in this media disclosure to Dan Bongino?

A Talked about the -- not following the DIOG rules and that my concern about manipulating statistical information to give a false impression that domestic terrorism is around the country when, in fact, it's -- those numbers are being derived from one particular incident.

He asked me -- I think that was around the time that there was a case going on with -- some Russia case, and I didn't really have any knowledge about it. So I didn't currently offer a comment.

Q Okay. And did you provide any type of documents to Dan Bongino before going on the show or after?

A I might have sent him the complaint, but at that point, it was public.

Q And by complaint, do you mean this declaration that you provided that's

dated September 21st, 2022, or are you referring to the letter that you provided to the various Congressmen?

A The declaration.

Q Okay.

A Whatever Congressman -- or Senator Johnson and Grassley published.

Q Okay. And so outside of this declaration that you provided to Dan Bongino, did you give him anything else with respect to your complaint?

A No.

Q Okay. Did you give him anything, any type of information that did not have to do with your complaint that contained any type of FBI files?

A No.

Q Okay.

BY [redacted]

Q Have you engaged in any discussions about the possibility of being paid for relaying your story, such as compensation about writing a book or any articles?

A Yes.

Q And which is it, a book or articles?

A I have never been paid for articles.

Q Okay.

A I have a book that's in pre-sale.

Q Okay. What's the name of your book?

A "True Blue: My Journey From Beat Cop to FBI Whistleblower."

Q And when is that scheduled to be released?

A July 18th, 2023.

Q Okay. So you said it's in pre-sale now. Can you explain what that means?

A You can buy a copy of it now on Amazon, and when it eventually goes to press and published, it will be delivered to you in July.

Q Okay. Have you obtained any income from the pre-sale?

A No.

Q When did it go on pre-sale?

A Two weeks ago.

Q Okay. So it just went on?

A Yes. Yes, I think it was two Mondays ago.

Q Okay.

When did you decide to write a book?

A I was approached by Post Hill Press in -- late September? So it was shortly after my suspension. And I then talked it over with my wife and had nothing but free time. So I typed a book of 60,000 words in 30 days and sent it to them.

Q Okay. And you said it was Post Hill Press?

A Yes.

Q Who from Post Hill Press approached you?

A His name is Anthony, and he has an Italian last name that I just see it and know that it's got lots of Z's and C's.

Q That's fine. Could I ask your attorney to follow up with us on that name?

Mr. Meyer. Sure.

Mr. Friend. And spoke to him. And then after I had the manuscript and communicated back, there was an editor who I've been in communication with going back and forth where they do original edits and then a final proofread and then asked me to submit any blurbs or recommendations from individuals, as well as introduction and prologue and formatting and then that sort of thing.

[11:07 a.m.]

BY [redacted]

Q Did Anthony with the Italian last name -- did he indicate how he'd learned about you?

A Well, he learned about me because my name became in the public sphere when Miranda Devine wrote a story about me in the New York Post. And she wrote a book, "Laptop From Hell," that his company published. So I believe that she facilitated that because she was friends with my attorney, Dan Isaacs, in New York.

Q Okay.

A And, through word of mouth, I was able to communicate with Anthony.

Q Do you have an agent to help you with your book sales or your book discussions?

A No.

Q Okay. Did you receive an advance for your book?

A No.

Q Does your contract include any type of funding for a book tour?

A I believe it's going to be included, yes.

Q Okay. Do you have a copy of the contract for your book?

A Yes, but not on me, but, I mean, that's --

Q Could that be produced to us?

A -- something I could forward to you, yes.

Q Does your book include any co-authors or people who may have written an introduction or a forward?

A Yes. Miranda Devine is doing the introduction, and Terry Turchie is doing the prologue.

Q And who is Ms. Devine?

A She is a columnist for the New York Post and an author.

Q Okay. And I think you said you met her through your attorney. Is that right?

A Yes.

Q And can you describe, did she contact you? How did that --

A I had a phone call with her.

Q Okay. And she called you?

A No. My attorney was there with me. So we did, like, a three-way call.

Q Okay.

Mr. Meyer. And this would be Dan Isaacs.

[redacted] Dan Isaacs, not you. Okay.

Mr. Meyer. Yeah.

BY [redacted]

Q And so this would've been in September, right?

A Yes. It's September, October -- like, late September, early October.

Q Okay.

A Somewhere in there.

Q And under what terms did she agree to write the introduction to your book? So is she being compensated, for example?

A No. She's just doing it out of generosity.

Q Have you edited her forward, or do you know what it says?

A No. She hasn't sent me her copy yet. It's supposed to be in by the end of this month.

Q Okay. And you said somebody else wrote the introduction to your book?

A Terry Turchie.

Q How do you spell that?

A T-e-r-r-y, T-u-r-c-h-i-e.

Q Okay. Who is Mr. Turchie?

A He is a retired FBI agent and an author as well.

Q And --

Mr. Meyer. Can we establish why this is related to the legislative purpose?

[redacted] You know, so, as a preliminary matter, we have 60 minutes; we can ask whatever we want. It's a transcribed interview. There's no rules. As a practical matter, it goes to his motivation for speaking about his situation.

Mr. Meyer. Okay. Okay.

So just remember, it's voluntary.

[redacted] It's voluntary. You can decline to answer any questions.

[redacted] If you're going to ask about his motivation for speaking, why don't you ask him about how he doesn't have any income right now?

[redacted] [redacted] I'm actually asking the questions, so --

[redacted] Well, you said you're interested about the motivation for speaking --

[redacted] I have 60 minutes. I have 60 minutes. And if you don't want me to go down this road, he's welcome to -- he's welcome to --

[redacted] It's a voluntary interview. He can answer whatever he --

[redacted] Okay.

[redacted] -- wants, and he's got some lawyers here. But --

Mr. Foster. I think the concern is, yes, as [redacted] points out and as Dan has pointed out, it's a voluntary interview. This whole line, we've let go on. It's fine. But I think there's a legitimate question as to how this is related to the committee's work and

what your legislative purpose is.

We're spending government time -- you are spending government time and government resources to inquire into his exercise of his First Amendment rights. And I'm just not sure as to what the purpose of the committee -- if that's what your view of the committee's role is, and why is that? What is the legislative purpose?

[redacted] Thank you for that. We are paused right now, and I think it's been 2 minutes.

What I will say -- and are we still on the record? Okay.

What I will say is that, you know, we do have 60 minutes to ask questions. If he doesn't want to answer, he's welcome to decline. But there has been no scoping agreed upon with us. And so I'm going to continue my question line.

Mr. Foster. Right. But what we're asking is for you to -- in order for him to make an informed decision about whether he wants to voluntarily answer your questions about his exercise of his First Amendment rights, in order for him to make that decision, we'd like for you to articulate how this relates to the legislative purpose or oversight purpose of this committee.

[redacted] And thank you --

Mr. Foster. So if you can --

[redacted] -- for that. Thank you --

Mr. Foster. If you're offering that --

[redacted] -- for that. I am not under any obligation to provide that to you.

Mr. Foster. I understand you're --

[redacted] If you'd like to tell your client to decline to answer, that's fine.

Mr. Foster. I understand you're not under obligation. I'm asking you if you could articulate a connection to the legislative purpose of the committee so that he can

make an informed decision about whether he wants to voluntarily answer your questions.

[redacted] I'm just asking him some questions about his sources of compensation. He earlier said that -- he earlier indicated that he had no income.

Mr. Foster. Which he has answered.

[redacted] I would like to continue my question line, and we are -- it is now 11:12. We have been off the record for about 4 minutes. So we are going to go until it's 11:22.

BY [redacted]

Q Who is Mr. Turchie?

A He's a retired FBI agent.

Q Okay. And how did you meet him?

A He reached out to me in support of my predicament after I was suspended.

Q And when was that?

A I was suspended September 19th.

Q Okay. And under what terms did he agree to write an introduction to your book?

A No terms. He's just a really nice guy.

Q Okay. Has he compensated you in any way?

A No.

Q Is he being compensated in any way?

A No.

Q Okay.

Mr. Meyer. And can you just summarize what compensation you've actually received?

Mr. Friend. I have not received any compensation at all.

BY [redacted]

Q For the book?

A Correct.

Q Do you know how much your book is going to be costing, how much a copy of your book will cost?

A No, I don't know. I think they'll probably put it on Amazon for one amount and it'll fluctuate with demand.

Q Okay.

I want to go back to your declaration. On paragraph 16 of your declaration, you say, "At no point was I advised or counseled on where to take my disclosure beyond the reprising officials above. The threatened reprisal constituted a de facto gag on my whistleblowing."

Do you recall writing this?

A Yes.

Q And what did you mean by a "de facto gag"?

A When I sat in a meeting with my supervisors and brought my concerns forward, they said, you have the right to bring that forward to us. And then there was no followup of, maybe we should take this to a third party or another way to do it.

And then, essentially, by ordering me to be AWOL the next day, it kind of separated me from my work colleagues, from the work that I was doing. And then it was one of these situations where nobody wanted to talk to you, and just wait for the smoke to clear on you.

Q Uh-huh.

A So that's -- if I'm making a, at the time, pretty uneducated whistleblower disclosure to a frontline supervisor, I think that they should probably identify that and say

that they're -- you know, go through the processes if it's a, you know, concern of mine that I could -- lay out the avenues for me.

Q Okay.

Did you ever undergo whistleblower training at the FBI?

A Yes.

Q And can you describe that training?

A It's virtual training. Well, now it's co-mingled with threat -- insider --

Q Uh-huh.

A And you click through a PowerPoint and then take a test.

Q And how often is that?

A Once a year.

Q Did you undergo any training when you were in Quantico when you began your career?

A The same training.

Q Just virtual?

A Uh-huh.

Q Okay.

A Yes.

Q Did you ever submit your complaint to the DOJ inspector general?

A Yes.

Q And what were the circumstances of that?

A In the aftermath of my suspension, on September 19, 2022, I drafted the declaration, and my attorneys and I edited it and then submitted it to Office of Special Counsel, Office of Inspector General, Senator Grassley, Senator Johnson, Senator Durbin, and Congressman Jordan.

Mr. Meyer. Do you want me to place on the record what my legal advice was to you on that?

Mr. Friend. Sure.

Mr. Meyer. So, in my experience with the FBI, you can file in one of two places. You can go with OPR, or you can go to DOJ IG. The OPR --

[redacted] And, I'm sorry, is that FBI OPR or DOJ OPR?

Mr. Meyer. FBI OPR.

[redacted] Thank you.

Mr. Meyer. So my experience with FBI OPR -- that office has been in a little bit of a turmoil lately. And, in general, they don't do as good a job as handling it as the DOJ IG, which is expeditious. And one of the things that I advise my clients is that speed is important, because the longer this goes out, the more costly it becomes.

[redacted] Okay.

Mr. Meyer. So it's a standard practice for all my clients, not just Steve, to file with the DOJ IG, and then it goes over to OARM for adjudication.

[redacted] Okay. Thank you for providing that advice that you provided to your client.

Mr. Meyer. Yeah.

BY [redacted]

Q Did the inspector general -- anybody from the inspector general ever contact you about your case?

A I received an email from the Inspector General's Office.

Q When was that?

A I don't know the date. I don't know. I know we received an email that -- and I -- I'm sorry, I had a phone call with them --

Q Okay.

A -- within the first few weeks after my suspension. They were pretty quick in responding. Had a conversation with one of their attorneys about the details of my complaint, then subsequently received an email from them saying that they had declined to pursue the matter.

Q Let's get back to the phone call. When was that phone call?

Mr. Friend. Do you remember?

Mr. Meyer. We'd have to look it up.

BY [redacted]

Q Were you represented by counsel?

A Yes.

Q And how long was that phone call?

A An hour.

Q Do you recall who you spoke with?

A No. It was a female that we were having trouble with, because we had to go on the phone; we were going to do a Zoom.

Mr. Meyer. That's right. We couldn't get the Zoom to come up.

BY [redacted]

Q And so has the inspector general rendered a decision in your case?

A Yes. They've declined to pursue it and recommended that I take it to the Office of Professional Responsibility from the FBI.

Q And that was in November?

Mr. Meyer. December, I think it was.

Mr. Friend. Yeah.

Mr. Meyer. It was early December.

Mr. Foster. To be clear, you're talking about the underlying disclosure, not your claims of retaliation?

Mr. Friend. Correct.

Mr. Foster. The OIG has not rendered a decision as to whether to open or what to do about the claims of retaliation.

Mr. Friend. Correct.

BY [redacted]

Q Have you made a separate filing with respect to the claims of retaliation?

A Yes.

Q And what is the status of that?

A Pending.

Q Okay.

So I want to introduce a January 31, 2023, letter from Empower Oversight regarding a request for records relating to DOJ OIG's decision not to investigate a whistleblower allegation of systemic abuses by the FBI. We'll mark this as exhibit 5.

[Friend Exhibit No. 5

Was marked for identification.]

[redacted] Have you previously produced this to the committee?

Mr. Meyer. No.

Mr. Friend. I don't think so.

Mr. Meyer. We did not submit it to the committee.

BY [redacted]

Q Okay.

So, on page 11 of the letter, it says on December 2, 2022, which is about 2-1/2 months after you filed the complaint, the inspector general informed you that they're

declining to open an investigation into your allegations.

I assume that's the email that you received?

A Yes.

Q Okay. So it was in December of 2022.

Have you -- according to the Empower letter, the OIG recommended that you take your allegations to the FBI's Inspection Division. Is that accurate?

A Yes.

Q And what is the Inspection Division?

A It's essentially an internal affairs mechanism for the agency.

Q Okay. And did you take your allegations to them?

A No.

Q Okay.

Mr. Meyer. They are the one that has the open administrative review, though.

Mr. Friend. Yes. Yeah.

[redacted] But that's separate.

Mr. Friend. Yeah, that's separate.

Mr. Foster. That's a different scope.

BY [redacted]

Q So are you appealing the OIG decision in any way?

A No.

Q Okay.

Are you familiar with the Office of Special Counsel?

A Yes.

Q What is your understanding of what the Office of Special Counsel is?

A It's an investigative arm for any particular government agency that reviews

out --

Q Okay.

A -- righteous allegations against -- of misconduct.

Q Okay. Yeah. According to its website, it's an independent Federal investigative and prosecutorial agency. Its primary mission is to safeguard the merit system by protecting Federal employees and applicants from prohibited personnel practices, especially reprisals for whistleblowing.

Have you had any engagement with the Office of Special Counsel?

A Yes.

Q Can you describe that?

A Submitted the declaration to them --

Q Uh-huh.

A -- and they rendered their decision.

We did not have a conversation with that office?

Mr. Meyer. Not before their decision letter, you're asking?

Mr. Friend. Yeah.

Mr. Meyer. Correct.

Mr. Friend. Yeah.

BY [redacted]

Q Are you familiar with Sharyl Attkisson?

A Yes.

Mr. Foster. Can I just ask a clarifying question before you move on?

So you made a disclosure to OSC. FBI agents -- the OSC does not have jurisdiction to investigate reprisal for FBI agents. So you did not make a reprisal claim to the OSC --

Mr. Meyer. It was the disclosure --

Mr. Friend. Correct.

[redacted] Thank you for that.

BY [redacted]

Q Ms. Attkisson posted on her website a story, "Office of Special Counsel dismisses FBI whistleblower complaint about the agency."

Are you familiar with this?

A No.

Q Okay. I'm going to enter this into the record as exhibit 6.

[Friend Exhibit No. 6

Was marked for identification.]

BY [redacted]

Q Do you know how Ms. Attkisson would have come into possession of this purported letter from the Office of Special Counsel?

A I told her.

Q You provided a copy to her?

A Yes.

Q And were you aware that she had produced this on her website?

A No, but it doesn't surprise me. She's a journalist.

Q Okay.

According to the letter -- and if you want to look through it quickly, does the letter look like it's tracking with the actual letter you received?

A Yep. It looks like she took the letter.

Q Okay.

So, according to the letter, it concludes -- the OSC concluded that, "although we

understand you strongly object to the FBI leadership's decision to depart from the DIOG's guidance for the J6 Task Force casefiles, you were not involved in the decision-making process, and you have not provided specific information to establish that the departure was made improperly. Therefore, we cannot find with a substantial likelihood that the agency has violated a law, rule, or regulation, or has abused its authority. Therefore, we will take no further action in this matter."

Have you attempted to appeal OSC's determination?

A No.

Q Okay. So, at this time, both the OIG and OSC have denied your complaint.

Mr. Meyer. This is the disclosure?

[redacted] The disclosure.

Mr. Meyer. Yes.

BY [redacted]

Q Are you pursuing any other administrative remedies at this time?

A No.

Q Are you pursuing any other legal remedies?

A With regard to my disclosure?

Q Uh-huh.

A Legally, no.

Q Are you pursuing any other --

A Communicating with Congress.

Q Okay.

And you said with regard to your disclosure. Are you pursuing other remedies unrelated to your disclosure?

A Yes.

Q And what is that?

A Speaking about the details of my declaration.

Q Are you pursuing legal remedies -- a court case, for example?

A No.

Q And are you pursuing any administrative remedies?

A For my declaration?

Q For the reprisal that you've described.

A Yes.

Q What are those?

A The inspector general is investigating the reprisal.

Q Okay. And right now that is still open?

A Yes.

Q Okay.

Mr. Foster. He also still has a pending records request that's been made.

[redacted] Thank you for that.

We can go off the record now.

[Recess.]

[redacted] We'll go back on the record.

I believe Mr. Meyer had some comments he wanted to make.

Mr. Meyer. Yes. So three sort of wrap-up things from the last hour.

The first is, as my co-counsel Jason has pointed out, this is a -- there was a disclosure before DOJ IG in the FBI program. They're a part of it. The disclosure is nonappealable unless they decide not to do anything with the disclosure, they're not going to send it on to Congress, whatever they do. And then the reprisal aspect is still sitting there.

They were both embedded in the same document, so it gets confusing, whether you're talking about the disclosure or the whistleblower complaint.

So there is no appeal process for a disclosure. Effectively, this is, okay? He's brought it before Congress, which is the pinnacle of Article 1 of the Constitution. It's 1 for a reason. Congress is the place where sovereignty lies in our Constitution, so that's why he's brought it up here to Congress.

With OSC, the other thing that we brought back to them -- because there was confusion in the record on this -- is what my client has put into the record in the first hour, which is that he was placed in the AWOL status. He did not refuse to participate. He didn't get to that point, and I won't speculate on whether he would have refused, because, frankly, his supervisor stepped in and took him off the line and sent him home and told him to list himself as AWOL.

I don't understand that process. It doesn't seem to make sense to this former Naval officer. I would've never done that with a sailor. But the FBI seems to have a common practice of it.

And then the last thing, which I think is very important, is that, when -- I was the one who said to Stephen, "I love the constitutional references; it's great. But Congressmen can cite to the Constitution. Special agents should be looking for the regulations." And when he called me and said, "Well, I could use the DIOG," I said, "What is it marked?" And the document -- over the phone, he said -- I said, "Is it law-enforcement sensitive?"

This is why the confusion in the Sec D interview really alarmed me, because I'm hearing from agents on both sides of this issue a confusion of FOUO, law-enforcement sensitive, classified information.

And it was just marked FOUO. Well, with FOUO, it's usable for official

government functions. And my position with my client -- and I'll take responsibility for this decision -- is that he can give me an FOUO document if I'm going to use that to accomplish an FBI mission. And the FBI mission, in this case, is the promotion of whistleblowing.

Now, if the current leadership of the FBI does not agree that that's a mission, that's a problem you can take up with them. But whistleblowing is a legitimate Federal mission. Employees are encouraged to do it. And that's why we saw no problem with using FOUO for that.

I would not have the same position if it was marked law-enforcement sensitive, because if it's marked law-enforcement sensitive, there are concerns about prosecution. That's why you control that information -- or protection of sources.

And, again, I'm not hearing, as I go through all my FBI clients -- and I had a whole bucket of these over the last 18 months -- I'm not hearing an understanding of the distinction between the two. I don't know what's going on down at Quantico, but they're not having their operational information in their head.

So that was my --

Mr. Foster. Can I just clarify two quick things very quickly?

So there was questions at the end of the last hour about what is administratively pending or whether things have been appealed.

Not only -- you can't appeal the disclosure to OIG. I also -- my understanding is you can't appeal the disclosure to OSC. So OSC made its decision.

I would note that, if you read through the letter, the OSC does not address the SWAT issue at all, one way or the other. And yet they dismissed -- you know, they didn't proceed with their procedures on what they normally do with disclosures. There's no administrative real process that we can take with that.

[redacted] Okay.

Mr. Meyer. Or just bring it to the Congress. That's what -- yep.

[redacted] Thank you both.

The time is now 11:36, and we'll begin our hour of questioning.

BY [redacted]

Q Mr. Friend, during our first hour, we discussed how the FBI's retaliation against you has affected you financially. Just to clarify, you are currently without a paycheck, correct?

A Correct.

Q No monthly income on your behalf?

A None.

Q And your wife lost her job under suspicious circumstances following your suspension from the FBI, correct?

A Yes.

Q And you said that on the day that she came to pick you up after your suspension she was in a brace from having surgery related to removing a tumor from her spine, correct?

A Yes.

Q Has she had to have any other medical treatments during the period of time when you've been suspended?

A Yes.

Q And after she lost her job, you lost your healthcare coverage, correct?

A Yes.

Q And so all of those medical bills have had to be paid out of your own pocket and savings?

A Yes. I was able to get on the Bureau's plan, whether pulling -- just pulling money from my bank account every month, but there was a gap in there where we were uninsured. And she has several health issues, the spinal tumor being one of them.

Q Uh-huh. Do you mind discussing some of those health conditions?

A She has PKD, which is -- she gets these cysts on her kidney, and it's eventually going to lead to needing a kidney transplant. So that has to be monitored regularly.

Q Uh-huh.

A And then her recovery from the tumor operation was extensive, and it's been -- she's finally cleared for regular activity within the last month or two.

Q Uh-huh.

And even though you have a book coming out in, I think you said, July of this year, you have received no money for that book yet?

A No.

Q Okay.

To jump around a little bit more --

BY [redacted]

Q Just one more question. Did you mention that you have children as well?

A Yes.

Q How many children?

A Two.

Q So you're trying support a family of four --

A Yes.

Q -- on zero income. Is that correct?

A Yes. We had squirrelled away some money in anticipation that, you know, I

might be facing some sort of consequences for my decision. We talked about it ahead of time. And we've been living off of that.

Q Thank you.

BY [redacted]

Q And during our first hour as well, you spoke about a new agent that came on, following your suspension, to take over the child exploitation cases that you are working. Is that correct?

A Yes. Not a new agent, but a temporary agent from Indianapolis came to the Daytona office for a 90-day tenure. She called me with questions on two occasions. And I believe it was sometime around November that she called me. And I helped her, assisted her with those cases, because I believe in those cases that I had opened, and then had never heard from her again.

Q So when did she come on?

A I think that must have been shortly after she came on, because, in reviewing the cases, she probably would have had the questions at that point.

I didn't really discuss her length of tenure. I just know that my one friend said it's a 90-day person that's taking over the child porn cases, which I kind of laughed at because I was told they were a local matter, but I guess --

Q Uh-huh.

A -- now that I was walked out the door, they were going to pay for somebody to fly halfway across the country to live in a hotel for 3 months and work the cases that I was content to work.

Q So did about roughly 2 months pass between your suspension on September 19th and when the agent came on? Is that about right?

A Yes. That's my understanding.

Q So, in those 2 intervening months, was anyone working the child exploitation cases that you were supposed to be working?

A I don't think so.

Q And so then you said you assisted her via phone call. Is that correct?

A Yes.

Q And that was on your own time?

A Yes.

Q And you were suspended, so you weren't working for the FBI, but on your own time you decided to assist her?

A Correct.

BY [redacted]

Q So you were investigating how many potential suspects?

A For child pornography?

Q Yeah.

A At any given time, I probably was carrying 10 cases, let's say.

Q Okay. So there's 10 bad guys out there that you're investigating. And during this 2-1/2-month period, no action was taken by the FBI with respect to these cases. Is that correct?

A I assume none.

Q So these bad guys are presumably out there being child predators, correct?

A Yes.

Q With no interdiction from law enforcement. Is that correct?

A Correct.

Q With no interdiction with the child -- the victim's family. Is that correct?

A Yes. I saw a news report that one subject that I was investigating was

recently arrested by the local law enforcement agency. So I was investigating him in September, and it was probably a month or two ago that he was arrested. So it's a pretty long lapse in time, when I had enough to go and arrest him at that point.

Q Okay.

BY [redacted]

Q We touched on this in the first hour as well, but is it fair to say that the FBI is using the suspension of security clearances and indefinite suspensions as a way to punish or retaliate against FBI agents for their protected whistleblower disclosures to Congress?

A Yes.

Q And are you aware that every Federal employee of the Department of Justice and FBI has an unfettered right to communicate with Congress without the approval, consent, or awareness of the Department or the Bureau?

A Yes.

Q Are you aware that the Federal law protects these disclosures?

A Yes.

Q And that the Federal law prohibits any sort of employment-related activities, known as prohibited personnel practices, from being taken based upon these disclosures?

A Yes.

Q In 2022, during testimony before the Senate Judiciary Committee, FBI Director Christopher Wray said, quote, "I condemn in the strongest possible terms any prospect of retaliation against whistleblowers."

Given your experience, is this an accurate statement?

A No.

Q Are you aware that Mr. Jordan and House Judiciary Republicans have sent several letters to the FBI regarding revoking security clearances and whistleblower

retaliation?

A Yes.

Q In response to those letters, the FBI has made some statements regarding their approach to whistleblowing. And I'm going to read those and then ask you if those are accurate statements.

For example, the FBI has said, quote, "Employees should feel they can raise their concerns about wrongdoing and, if those concerns are not addressed within their chain of command, take them to an appropriate place without retaliation. The FBI is taking considerable steps to ensure that employees are aware of whistleblower protections and of the whistleblower process. The FBI and the Department have worked and continue to work to improve the process, including educating employees and providing guidance so they know the process."

Mr. Friend, given your experience, is this an accurate statement?

A Partially accurate, in that they provide that information, but they do so in a way that is -- creates an impression that it's frowned upon.

Q And the FBI also stated that, quote, "the FBI is committed to addressing misconduct head-on and following the disciplinary process," end quote.

Given your experience, is this an accurate statement?

A Can you read that --

Q The FBI has stated that they are committed to addressing misconduct head-on and following the disciplinary process.

A No, that's not accurate.

Q In another response to letters from House Judiciary Republicans, the FBI stated, quote, "The FBI takes very seriously our responsibility to employees who may make protected disclosures under the whistleblower regulations. Whistleblowers play a

crucial role in ensuring public trust in government. By coming forward, they ensure public institutions hold themselves accountable and, in doing so, affirm and strengthen the public's trust. FBI employees who report evidence of wrongdoing through a protected disclosure are required to be protected from retaliation. All employees should feel they can raise their concerns and, if they are not addressed up their chain of command, take them to an appropriate place without retaliation."

Mr. Friend, given your experience, is this an accurate statement?

A Completely inaccurate.

Q In that same response, the FBI stated, quote, "The FBI does not target or take adverse actions against employees for exercising their First Amendment rights or for their political views," end quote.

Given your experience, is this an accurate statement?

A Exercising your First Amendment rights outside of employment?

Q Uh-huh. It says, "The FBI does not target or take adverse actions against employees for exercising their First Amendment rights or for their political views."

A I would disagree with that.

[redacted] I believe Mr. Gaetz had some questions he wanted to ask next.

Mr. Gaetz. Thank you.

I want to go back to the treatment of these January 6 cases.

You talked about information packets that the Washington Field Office would send out around the country. Could you give me a sense of the categories of evidence that would be included in those packets?

Mr. Friend. It would have information with photographs of surveillance footage tied to social media, facial recognition, to ensure that it matched with the individual's, say, their Facebook profile.

It would be GPS information for the person's phone. And that information was provided by the phone providers to the FBI. And they were able to geolocate -- geo-fence if that phone was in the area.

It included tips that came in through the public at large. In the aftermath of January 6th, there was a large push to get that information, so many, many people made phone calls or provided electronic communications to turn in who they thought were subjects.

It could be anything from -- confidential human sources might be able to provide some information.

So that would all be assembled into a packet and disseminated to the field to pursue investigative -- logical investigative action.

Mr. Gaetz. Were bank records ever included in those packets?

Mr. Friend. I can't say if they were or weren't. I don't remember.

Mr. Gaetz. Do you remember seeing any Bank of America information in any of those packets?

Mr. Friend. No, I don't.

Mr. Gaetz. How did you know facial recognition software had been used?

Mr. Friend. It was included in the very -- Guardian lead that was sent to me. So, in the one particular case I'm thinking of, they told me that it was negative, that there was no facial recognition for the individual who was accused of being there.

Mr. Gaetz. So facial recognition was used to exculpate people as well as implicate people?

Mr. Friend. In that case, it really wasn't considered. They said it was -- they said, no, but go talk to them anyway.

Mr. Gaetz. And just so I understand this, in these packets, you observed

information regarding confidential human sources?

Mr. Friend. Yes.

Mr. Foster. Can you explain what happened when you went and spoke to that individual who there was no facial recognition indicating they were in the Capitol?

Mr. Friend. Yes.

It was an anonymous tip from Rhode Island. Facial recognition was negative. The phone was negative.

At that point, I said, it's probably -- it's not worth resourcing because we can't pursue an investigation, even if the person confesses to being there, because we don't have a complainant on this case. And I was told that, yeah, we got those all the time, especially right after January 6, and you have to go talk to them; otherwise, Washington is going to keep kicking it back to us.

So I went and talked to him and knocked on his door, identified myself, and asked him if he was at the Capitol, and he told me that he wasn't because that was the day of his son's funeral. So I gave him my business card and I left.

Mr. Gaetz. Did you get any other feedback from the Washington Field Office on that matter?

Mr. Friend. No, not on that one.

Mr. Gaetz. You provided in your disclosure testimony that members of the JTTF were pressured to open full investigations.

And in the first hour, we talked about the phone calls from the Washington Field Office that were part of that pressure campaign on the JTTF.

Other than the phone calls, was there anything else that constituted that pressure campaign?

Mr. Friend. Well, I know that there was discussion originally in coordination that

they had to have a predicate to open up, you know, a counterterrorism investigation, and there has to be an ideology associated with that. And it was disseminated that anybody with -- they would consider anybody subscribing to "stop the steal" as having an ideology that warranted a counterterrorism investigation.

The pushback that my colleagues were doing was met with, "We're just going to consider the options." And I know it was multiple times that I heard the agent, who was kind of our most senior one, would get off a phone call and say, "They want us to do surveillance," or, "They're going to go back to the code book and look and see if there's any extra violations." They said that there were --

Mr. Gaetz. I'm sorry. When you say the "code book," what do you mean by that?

Mr. Friend. The U.S. Code book to see if there's any extra laws that had been violated that they could potentially charge.

Mr. Gaetz. And your perception, as someone working the line on these cases, was that that was a way to upcharge people? Or did you view that as part of legitimate law enforcement activity?

Mr. Friend. I mean, in my understanding, in my experience, the violation is pretty clear on its face. You can look through to cull through, but I'm also a believer that -- there's that "Three Felonies a Day" book, where the book is so cumbersome that, you know, everybody is violating laws all the time.

So, in the spirit of going through that and trying to find, it could either be to stack charges on somebody or you don't really have a legitimate charge for what you alleged originally and you're trying to find it as a backup.

Mr. Gaetz. So part of the pressure campaign, as you've testified, were these phone calls. Other than phone calls, was there any other medium in which that

pressure campaign manifested? Emails? Directives? Other information?

Mr. Friend. I didn't receive emails. I know that there was probably Instant Message within the FBI, because he was corresponding with them that way a lot. And there were communications, I know, for one group that they said they wanted surveillance done on them because they had been talking in online forums, so I know they were being monitored. And they wanted us to surveil them to a school board meeting.

Mr. Gaetz. What more can you tell us about that?

Mr. Friend. There was an anticipated very -- going to be a very contentious school board meeting in Flagler County, because there had been some disturbing books that had been found in the library, and a lot of parents were displeased, and some of these individuals were going to go attend the meeting. And we were asked to surveil them to the meeting.

And then, once we arrived, we kind of looked around and said, this looks bad. It was right after the EDU threat tag had emerged. They told us to get out before we were identified as Federal agents.

Mr. Gaetz. Who told you? Who gave you that direction?

Mr. Friend. My acting boss at the time, who was Rob Corley (ph).

Mr. Gaetz. Were there other circumstances where you were asked to surveil parents, or was that the only one?

Mr. Friend. That's the only time I had to.

Mr. Gaetz. You've testified that a subject having a particular ideology would enhance the amount of law enforcement activity that would be directed at that subject, right?

Mr. Friend. Yes. If you have a predicate to open a case, that opens up the toolbox to use a whole slew of other things at your fingertips that you wouldn't have if it

was just an assessment.

Mr. Gaetz. So I want to understand how FBI agents determine whether or not an ideology is dangerous. And you mentioned one feature of that content was if anyone said "stop the steal."

Is there any other content that you can describe to us that would put someone in the dangerous ideology category rather than First Amendment-protected speech as you understood it as an FBI agent at that time?

Mr. Friend. I would be hard-pressed to provide you the information. I know that I asked questions because I was unfamiliar with the national security world a lot. And there was an incident in my office where a police officer was killed by a member of a radical organization, and I was told that that wasn't a predicate, a group, so that we couldn't open up a case on that. So it seemed like sort of a nebulous issue.

I do think that Second Amendment advocacy is something that is viewed as problematic, certainly in light of that recent release about the radical traditional Catholics and the concerns about them being a --

Mr. Gaetz. Well, Mr. Friend, I want to really zero in on where you have personal knowledge where the manifestation of a particular ideology was deemed dangerous by the FBI.

Mr. Friend. Uh-huh.

Mr. Gaetz. Did you ever personally observe, you know, anything at the FBI that would lead you to believe that someone expressing their support for the Second Amendment would increase the acuity of the law enforcement directed at them because of ideology?

Mr. Friend. I would say it would raise the -- it opened up the matrix of use of, like, a SWAT team to apprehend somebody, but not as far as opening up the

investigation.

Mr. Gaetz. What about someone's views on immigration?

Mr. Friend. I can't speak to that.

Mr. Gaetz. What about someone's views on political parties?

Mr. Friend. I think that the "stop the steal" was probably individuals that believed that President Biden didn't win the election. So that would probably be an advocacy for another political party.

Mr. Gaetz. Other whistleblowers have shared with us that if someone said "MAGA" or "build the wall" or "2A," that that would result in supervisors directing frontline agents to give more attention to those matters.

In your personal knowledge, did you ever observe anything like that, other than the "stop the steal," triggering that type of increased law enforcement attention?

Mr. Friend. I didn't see anything that I could speak to authoritatively.

Mr. Gaetz. I want to get to the use -- your allegations regarding the use of your name on files where you believed that that use was inappropriate.

Can you talk to us about that?

Mr. Friend. I thought that the inconsistency following the DIOG's guidance was essentially making me or one of my colleagues a case manager or a case participant on a January 6th investigation when, essentially, we weren't really making the -- calling the shots on how to bring that investigation forward.

Mr. Gaetz. So do you believe that there are internal -- or, strike that. Do you believe there are any documents where your name was used improperly?

Mr. Friend. If you were to print out the opening communication for any one of these cases, it would have my name as a case manager on it when I hadn't performed any work.

Now, I was brought over so late, so, you know, that wouldn't be necessarily a problem. But if the lion's share of the decisions being made on how to investigate a case are not being handled by the case manager or directed from that, that's a problem.

Which was really the gist of -- I said, I'm going to have to go to court and testify, and the defense attorney is going to say, "Agent Friend, are you the case manager?" and I'll say, "Yes," and they'll say, "Did you do anything on this case?" and I'll say, "No, I didn't." And then I might be in a position where the defense attorney is going to have that, and the prosecutor is going to have to impeach me as a witness, and it would put us in a pretty bad predicament in court.

Mr. Gaetz. In how many matters do you believe you were improperly listed as the case manager despite having not managed the case?

Mr. Friend. At the point where I was brought over, there was maybe a half-dozen cases that were in my office. I was either a case manager or a case participant on them; I can't say one or the other. But it would've been -- it gave me access to view the case and to take investigative action on it and approve documents and put anything I wanted into the case.

Mr. Gaetz. But you didn't do those things, did you?

Mr. Friend. No.

Mr. Gaetz. So, if the committee was interested in the cases where you believe your name was improperly listed as the manager, is that something you and your counsel could work on providing to us?

Mr. Foster. He doesn't have access.

Mr. Gaetz. So, no, you don't have access to that?

Mr. Friend. I certainly don't now. My security clearance was suspended, and I'm actually not an employee anymore.

Mr. Gaetz. Are there other people at the FBI who you believe were improperly listed in management roles or other cases where they weren't engaged in management activities?

Mr. Friend. It's my contention that anybody on a case where the case is being run from an office of origin that is not the Washington Field Office could be a potentially improper case manager or participant.

Mr. Gaetz. Yeah, but are you personally aware of other people sharing this concern that their name was improperly used as a case manager when they were not in fact a case manager?

Mr. Friend. The other members of my JTTF.

Mr. Gaetz. And so it would be likely that each member of the JTTF might be listed as a manager, in a similar paradigm that you found yourself in?

Mr. Friend. Yes.

Mr. Gaetz. And are you aware why those specific concerns about the improper use of your name were not deemed valid by the Special -- by the Counsel's Office and by the OIG?

Mr. Friend. They told me I wasn't there for the decision on this departure from Appendix J and that I couldn't speak to it. But if there's a departure, it's my belief that you have to have a justification for that documented somewhere, and I certainly wasn't privy to it.

Mr. Gaetz. You testified that SSRA Federico told you that the FBI plans to prosecute every subject associated with January 6, right?

Mr. Friend. Yes.

Mr. Gaetz. And why did that concern you?

Mr. Friend. He told me that we were expecting another wave of cases to come

out, that this first wave was just getting to its end, and that the new view was going to be anybody standing on the perimeter of the Capitol was going to be charged with a case.

And, at that point, I think if you're standing on the lawn of a building, I'd have to question the legality of some sort of criminal investigation or even if it's a violation of the use of government resources at the Federal level to charge a misdemeanor -- which, I was always told and taught that the FBI is supposed to be for big crimes, and, you know, misdemeanors are not really in our --

Mr. Gaetz. Well, on most matters, every subject doesn't get prosecuted, do they?

Mr. Friend. No.

Mr. Gaetz. Is it unusual to hear a supervisor at the FBI say on a particular matter, the goal is to prosecute every subject?

Mr. Friend. Yes.

Mr. Gaetz. Had you ever heard that before?

Mr. Friend. No. No. But what's unique about this is, it's not one investigation. So it's -- we want to charge the subject of each investigation, but by opening a separate investigation for each subject as opposed to one case, it kind of creates this dynamic that's inconsistent with how we typically do things.

Mr. Gaetz. I want to take you now to the conversations you had with SAC -- is it "Onks"?

Mr. Friend. Onks.

Mr. Gaetz. Onks. And you gave in your disclosure a recollection that she talked about the fear she felt on January 6th.

Mr. Friend. Yes.

Mr. Gaetz. How did she express that to you?

Mr. Friend. She told me that I wasn't there, that she had been on the seventh floor of the J. Edgar Hoover Building the day that the individuals descended on the Capitol and tried to seize our democracy.

Mr. Gaetz. Do you think that personal experience she had was impacting her decision-making on these cases?

Mr. Friend. I think her use of that type of language indicated that she believed in the righteousness of the cases. And that's not really our job. We're supposed to just be fact-finders. So I would argue yes.

Mr. Gaetz. Do you believe she was making good judgments in the use of these law enforcement tools?

Mr. Friend. No.

Mr. Gaetz. And you believe that bad judgment was clouded by her fear?

Mr. Friend. Fear and use of the process to be a punishment for individuals.

Mr. Gaetz. The August 24 warrants that you really objected to, did any of the cases where your name was improperly used result in that series of warrants where you objected to the arrests?

Mr. Friend. Yes.

Mr. Foster. Did you object to the arrests, or did you object to the use of SWAT in the arrests?

Mr. Friend. I objected to -- yeah.

Mr. Gaetz. I'm sorry. Let me strike -- let me clarify. I meant the manner of arrest.

Mr. Friend. Yes. The manner of the arrest. Those were cases that -- using SWAT, even for a felony charge, or even arrest operations where we were deploying teams of agents early in the morning with a show of force, when individuals were in

communication, I thought that was inappropriate.

Mr. Gaetz. Right. And I'm just trying to connect the dots here, that, you know, there are these series of cases where you've given us testimony that you believe your name was improperly used as a manager, and then there are these series of matters where you objected to the manner of arrest. And what you're saying is, there are cases that fit in both of those buckets.

Mr. Friend. Yes.

Mr. Gaetz. I'm going to yield back to my colleagues so that they might ask additional questions.

[redacted] I think Congressman Bishop has some questions.

Mr. Bishop. Mr. Friend, you've testified and your declaration talks about the Domestic Investigations and Operations Guide, the DIOG.

In your experience with the FBI, what exposure did you have or training did you have about the existence of the DIOG?

Mr. Friend. You receive fairly extensive experience about using the DIOG and navigating it in the academy. It's a document that's at your fingertips for any preference going forward.

In my work experience in working on Indian reservations, where you have a high, voluminous caseload, I had opportunity to open up full investigations well beyond what most agents do, so I was rather familiar with the DIOG.

Mr. Bishop. You said that it's the rule book for the FBI, sort of the Bible by how you conduct criminal investigations?

Mr. Friend. Yes.

Mr. Bishop. In the course of your experience or training or your use of the DIOG in the course of being an FBI agent, did you ever receive any training that departures from

the rules were permitted, or under what circumstances?

Mr. Friend. No.

Mr. Bishop. When you first asked questions about departures from the DIOG in these J6 cases, who was your supervisor who answered that question?

Mr. Friend. His name is Dave Brown.

Mr. Bishop. Brown. And he told you about a coordination call? Is that correct?

Mr. Friend. Yes.

Mr. Bishop. And do I understand from your previous testimony that he said that, in that coordination call, a question was raised about this departure, and the answer was that it was, quote, to create buy-in from the field?

Mr. Friend. Yes.

Mr. Bishop. What did you understand that to mean?

Mr. Friend. I had two working theories of that, and they would just be my own opinion. There's no term of "buy-in from the field" that, you know, I could pull up from the FBI.

Mr. Bishop. What theories would you have based on your understanding of it?

Mr. Friend. The first would be, we don't think individuals in the field are going to work hard on these cases unless their name's on it, as opposed to just cutting a lead. But if you ask anybody, you pursue a lead as if it's your own case because you expect that same professional courtesy when you cut a lead. So that struck me as a little bit macabre.

The second one was that we're going to get buy-in by raising the number of cases in the field -- that was going to assist the FBI, each field office, in meeting its predetermined metrics for opening up a certain amount of cases, domestic terrorism

cases, which are difficult to come by, and also going to ensure compensation for the Senior Executive Service members that are running each one of those field offices.

Mr. Bishop. You subsequently had your interaction with SSRA Federico, with Assistant Special Agents in Charge Markofski and Ryan. And you raised in each of those conversations your concern about these departures from the DIOG, correct?

Mr. Friend. Yes.

Mr. Bishop. Did any of them ever explain to you that there was an EC requesting a departure from the DIOG that had been approved in Washington?

Mr. Friend. No.

Mr. Bishop. Did they give you any answer like that, anything to explain that there had been a process and the reasons for a departure such as was described on the exhibit offered by minority counsel in asking you questions earlier?

Mr. Friend. No. The only explanation I got was from Markofski. He said that this was unprecedented.

Mr. Bishop. But he didn't explain the reasons?

Mr. Friend. No.

Mr. Bishop. So the FBI, then, has trained you in its rule book, and then when you asked questions about instructions from higher-up to depart from the rule book, they retaliated against you. Is that your perception?

Mr. Friend. Yes.

Mr. Bishop. And they never offered you any kind of explanation that there had been appropriate process or to disclose to you what the process was for a departure from the DIOG you had been trained to follow, correct?

Mr. Friend. Correct.

Mr. Bishop. Did any supervisor ever explain to you how to reconcile the notion

of your being made a case manager with the fact that you weren't making the investigative decisions -- or, you know, let me withdraw that and ask a different one.

Did anyone ever give you an explanation reconciling your being named case manager with your not exercising the typical role that that entails?

Mr. Friend. No.

Mr. Bishop. What other JTTF members can you name, give us the names of, during your tenure, tenure there in Daytona Beach I guess it is?

Mr. Friend. I listed them earlier. It's Todd Myers. He's a special agent. And then two task force officers, Brian Howard and Tarek Husami.

Mr. Bishop. Do you have personal knowledge that cases would've been opened with them as case agent in the same way, in which they weren't actually acting as case agent in accordance with typical practice?

Mr. Friend. Yes.

Mr. Bishop. All right.

That's all I've got. Thank you.

BY [redacted]

Q I know we briefly touched upon the school board issue, so I'd like to flip to that, if we can.

Are you familiar with the Attorney General's October 4, 2021, memorandum regarding alleged threats and violence at school board meetings?

A Yes.

Q And in October of 2021, you were an FBI special agent at the Daytona Beach Resident Agency, correct?

A Yes.

Q And you were assigned to the JTTF at that point in time?

A Yes.

Q When did you learn of the Attorney General's October 4th memo?

A I think it was disseminated that day.

Q What was your reaction when you learned about the memo?

A I appeared at a school board meeting in September, so I was a little bit humored by the fact that I might be investigating myself.

Q And did it concern you at all that the FBI was going to be investigating other parents who might have showed up at meetings?

A Yes.

Q And, given your experience, did you perceive threats or violence at local school board meetings as a matter for State and local law enforcement?

A Yes.

Q Did colleagues in your office generally have the same reaction that you did to the memo?

A Yes. We didn't take it seriously to the point where we were going to pursue investigations.

Q Were you involved in any official conversations or correspondence related to how the FBI could help address alleged threats or violence at school board meetings?

A Nothing official, no.

Q And, in the memo, the Attorney General required each U.S. attorney's office, in conjunction with the FBI, to hold meetings with local law enforcement partners within their judicial districts.

Did you ever attend any of these meetings that took place in Florida?

A No.

Q Do you know if any meetings took place?

A I don't know. The Middle District of Florida was our area, so I'm not sure.

Q And in your role you said that you regularly interfaced with local law enforcement. Is that correct?

A Yes.

Q Did you get any hint that they might not be able to handle any violence or threats that popped up at school board meetings within their jurisdiction?

A No. They're all professional law enforcement agencies. They're fully capable.

Q And are you familiar with an email that was sent by Carlton Peeples, the Deputy Assistant Director of the Criminal Investigative Division at the time, on October 20, 2021, that announced the creation of an EDU officials threat tag?

A Yes.

Q Did you receive that email?

A I don't think I did.

Q When did you learn of the creation of the EDU officials threat tag?

A When it came into the public sphere. I think Kyle Seraphin released that to the public.

Q And what was your reaction to learning about this threat tag?

A It seemed to me that it was consistent with this "the demand for terrorism vastly outstrips supply, so we're going to try to expand out as much as we can in order to meet the metrics that we have to in order to show that we're a successful agency."

Q So you thought that this was just another way for the FBI to pad the domestic terrorism stats. Is that correct?

A Stats as far as opening on subjects and stats as far as actually creating intelligence products.

Q And what was your understanding of the metrics that needed to be hit?

A Every year, the field offices go -- and the FBI at large goes through a process, the IPM, integrative program management. Begins, there's a threat prioritization, TRP, and that is disseminated to the field offices. And then the field offices come up with their strategic plan, the FOSP, where they make a slew of numbers about what's going to be -- how they're operating successfully. And it can be anything from training to interfacing with local partners, to how many people attend the fitness test. It's all across the board. And included in that are numbers of cases and the outcomes of certain cases.

And it's not just within national security; it's criminal matters as well. So I was certainly familiar with that because, as the fiscal year came to an end, we'd always hear, "Hey, we're short on X. Do you think you're going to be able to get another arrest or an indictment before the end of the fiscal year?" or, "Hey, we already hit that number. Do you think you can delay that indictment until next fiscal year so that we can use it for next year?"

[12:16 p.m.]

BY [redacted]

Q And did headquarters require field offices to create these FOSPs?

A Yes.

Q And so in the process of creating these FOSPs, the field office would set the numbers, is that correct, for how many arrests?

A Yes. Yes. And they did that in coordination and communication with FBI headquarters. It's sort of a negotiation, that they want to show -- they can't keep the number is very low, because obviously that would look like you're trying to set yourself up to be very successful. But headquarters comes back and forth with the field offices where they sort of reach a compromise on what they deem to be an appropriate number for each particular category.

Q So headquarters can negotiate what the number is for the field office. Is that correct?

A Yes.

Q What happens if you don't hit these metrics?

A I don't know. I know that they give a color, gold, green, red, but I didn't dig too much into it. I don't ever think I came across a red number, certainly in the violations that I was working.

Q When you were asked if you could make another arrest before the end of the year, was that regular that you were receiving those kinds of requests or other agents were receiving those types of requests?

A Yes. You would get them throughout the year because the calendar is sort of set and it's a cycle. So when they would be doing status updates 6 months out, I would have an intelligence analyst reach out and say, "We need two or three more

disruptions before the end of the fiscal year. Do you think that you're going to be able to attain those before October?"

Q And it was the intelligence analysts who would make those requests?

A In those situations, yes.

Q Were they directed by any supervisors to make those requests, or was it just the intelligence analysts?

A In the early sort of coordination meetings, intelligence analysts are heavily involved with that. But I know there's other program managers and supervisors that are also into it. But I wasn't really a supervisor, so I wasn't privy to most of those communications.

I had a small interaction with it throughout the year, and then in the 3 months that I was an acting boss I got to see sort of the meetings at the end of the fiscal year were how they kind of transpired. But because I was acting, not very much was asked of me.

Q And as a special agent, when you were asked to either make an arrest or push an arrest off for a couple months, would you describe it as an environment of pressure to hit the metrics?

A Yes. I was told on one instance where there were nine subjects on a case that if I arrested them all in the same day it would count as one disruption statistic. But if I arrested one each day for nine straight days, it would count as nine statistics, so I should space out those arrests.

Q So would you say that the pressure to hit the metrics, did it cause you to make changes to how you were doing your law enforcement duties?

A Yes.

Q So turning back to the school board issue, you mentioned that you were

asked to surveil a school board meeting. Is that correct?

A We were asked to surveil these individuals to the school board meeting, then we parked outside, and then we decided on what to do. And we were given that directive from the acting boss to just -- to leave and go home.

Q And I believe you said that you were told to get out before you could be identified as agents. Who told you that?

A My acting boss.

Q And who was that?

A Rob Corley (ph).

Q And around what time was this? Was this before or after the Attorney General's memo?

A I think it was after, because that was on his mind, certainly all of ours, that we're actually doing this.

And we had these subjects who were January 6th subjects, and trying to connect them to this EDU threat tag seemed troublesome to me.

So essentially we just documented the license plates of the people that were parking at the school board meeting who were January 6th subjects, or people that were in the parking lot with them interacting that we thought could be in their sphere of influence, and then we left.

Q So was it a directive that you received to, as you said, try to connect these January 6th subjects to the EDU officials threat tag?

A I wasn't given that specific of a directive, but they said that we should -- because they were anticipating there could be a more explosive rhetorical environment at the school board meeting that they wanted us to follow along to these guys as they went there. And we communicated with the sheriff's office to let them

know that these individuals were there, that to be on the watch for those guys.

Q And what was the local law enforcement's reaction?

A I talked to one task force officer, and he asked for permission, because it's classified, as to what he could share. And I said just let them know that there could be subject of FBI investigations that are in attendance.

Q And you said that you were told that it was supposed to be a contentious school board meeting because disturbing books were found in the library. What did you understand the disturbing books to be?

A They were arguably pornographic material, and parents were displeased with that.

Q Okay. And I think you already answered this, but given your law enforcement background, does knowing that you could be investigated by the FBI for speaking up at your child's school board meeting chill parents from exercising their First Amendment rights?

A Yes.

Q And you said you had attended a school board meeting and you were nervous that you could be under Federal investigation. Is that correct?

A Yes. My colleagues teased me about it.

Q Okay.

Mr. Gaetz. I'm sorry. I have a clarifying questioning.

You spoke of a circumstance where there were nine subjects and you were told to arrest them on separate days. Could you tell me a little more about that?

Mr. Friend. Yes. So it's a statistic called a disruption, and it is essentially, if there's a criminal organization with multiple individuals, there's certain activities that you could do that would constitute disrupting their activity for the day.

And it's sort of double counting, because if you arrest somebody you count the arrest, but because it's an organized activity, they want to -- that's a very valuable statistic in this FOSP.

Mr. Gaetz. Was this a DVE case?

Mr. Friend. No. This was an Indian Country case that crossed over into public corruption. So essentially both programs got to claim credit for one statistic.

And in my situation, it was a public corruption case that was going to be nine disruptions, and the metric for the year was to get ten disruptions for the entire program. So they obviously wanted me to get 90 percent of their work done if I could.

Mr. Gaetz. I understand. Okay. Thank you for clarifying that.

[redacted] Are you familiar with the letter that Mr. Jordan sent to FBI Director Wray on July 27th, 2022, regarding protected whistleblower disclosures related to the FBI's handling of DVE case classifications?

Mr. Friend. Yes.

[redacted] I'm going to mark this as exhibit -- I think we might be on 7.

[Friend Exhibit No. 7

Was marked for identification.]

BY [redacted]

Q Feel free to take a moment to familiarize yourself with the letter.

A Okay.

Q I'm going to read from the second page of the letter, the first full paragraph.

The letter states: "New whistleblower disclosures made by multiple FBI employees from different field offices indicate that the Biden Administration's narrative may be misleading. We have received accusations that FBI agents are bolstering the number of cases of DVEs to satisfy their superiors. For example, one whistleblower

explained that because agents are not finding enough DVE cases, they are encouraged and incentivized to reclassify cases as DVE cases even though there is minimal circumstantial evidence to support the reclassification."

Then at the bottom of the paragraph, it says: "Every whistleblower has called it an environment of 'pressure' within the FBI."

Mr. Friend, is this similar to the environment of pressure to hit the metrics that you were describing earlier?

A Yes.

Q And do you have any information regarding reclassification of cases as DVEs?

A Not firsthand.

Q And given your law enforcement background and tenure at the FBI, what is your reaction to hearing that FBI agents are being pressured to reclassify cases as DVEs?

A It's par for the course in my experience across the board.

Q And committee Republicans released a report back in November of 2022 that detailed some of the problems as recounted by whistleblowers and other publicly available sources that undermine the FBI's fundamental law enforcement mission.

Whistleblowers told committee Republicans that the FBI's Washington hierarchy is, quote, "rotted at its core," end quote, maintains a, quote, "systemic culture of unaccountability," end quote, and is full of, quote, "rampant corruption, manipulation, and abuse," end quote.

Do you agree with these statements?

A Yes.

Q And what is your reaction to hearing that this is how people characterize the FBI?

A It sounds consistent with just about everybody that I've talked to who has

never gone to headquarters.

Q So it doesn't surprise you that fellow FBI employees and agents are making these characterizations?

A No.

Q According to the Biden administration, investigations into domestic violent extremists have increased "significantly."

In June 2021, FBI Director Christopher Wray testified before the House Judiciary Committee that the FBI has a "very, very active domestic terrorism investigation program" and that the FBI had "doubled the amount of domestic terrorism investigations."

Attorney General Garland has repeated this talking point, publicly stating that, "The number of open FBI domestic terrorism investigations this year has increased significantly."

I believe some of those quotes are on page one of that letter.

Given your law enforcement background and tenure at the FBI, what is your reaction to hearing about this?

A I believe it's justified by the January 6th cases.

Q And justified because they're manipulating the case filing system or --

A By opening a separate case for each individual as opposed to one case with however many subjects are involved, they've turned one case into a thousand cases. And by spreading them to the field they've given the impression that those domestic terror cases are around the country when, in fact, the subjects, if they committed any sort of violation or infraction, they committed a crime at the Capitol on one day as opposed to being a cell that's operating in El Paso or Cleveland.

Q So by manipulating the case files and managing January 6th cases in this

way, they may be able to justify these statements. But do you believe that in reality it's accurate?

A No, it's not accurate.

[redacted] Mr. Gaetz and Mr. Bishop, we have 10 more minutes if you have more questions.

Mr. Gaetz. No.

Mr. Bishop. I've got some.

[redacted] Okay.

Mr. Bishop. So Mr. Corley (ph) directed you to surveil how many people going to the school board meeting?

Mr. Friend. From the group we were watching, we didn't know how many were going to be going, but we set up at -- near one individual's -- the primary subject's house. When he left in a pickup truck we surveilled him to the school board meeting.

And then once we got there, we were in the parking lot, it's a fairly large parking lot, and we were able to kind of look from a distance and see that he was meeting up with other individuals.

Mr. Bishop. Okay. So the person who was driving the truck, he was the subject of an existing open investigation relating to January 6th?

Mr. Friend. Yes.

Mr. Bishop. Did he have people that were accompanying him in his truck to the meeting?

Mr. Friend. I didn't see him arrive. I don't know if there was anybody anything else in the truck with him. But I know that there was a group of people that met up in multiple vehicles around him in the short time that I was there before we left.

Mr. Bishop. So you made a comment that, "We were actually doing this." I

think you quoted or said words to the effect of, "We were actually doing this," came out of the mouth of Mr. Corley?

Mr. Friend. No. No. That was just a thought that I had to myself because --

Mr. Bishop. I see.

Mr. Friend. -- it was in the aftermath of the uproar about this threat tag becoming public.

Mr. Bishop. Okay. Did you -- does that mean that you had misgivings about the propriety of doing it?

Mr. Friend. Yes.

Mr. Bishop. Why?

Mr. Friend. Because attending a school board meeting is your right to do as a citizen. And if there's a security concern that's legitimate, then that's going to be handled by the local law enforcement.

Mr. Bishop. And does the fact that there was an open investigative file on the one subject related to January 6th justify surveilling such an individual at events that are completely unrelated like that?

Mr. Friend. I don't think so.

Mr. Bishop. Is there any guidance in your training or experience at the FBI that would indicate whether that's appropriate or not?

Mr. Friend. I think that conducting surveillance is going to be furthering your investigation to prove somebody's involvement in a particular incident.

So going to a school board meeting isn't going to prove involvement in January 6th. It might prove activity in some sort of domestic violent extremist ongoing investigation, which was the school board threat tag related to it.

So it seemed to me that it was almost like we were trying to link two cases

together that the facts really didn't support.

Mr. Bishop. Was there adequate predication to undertake any surveillance related to school board activities that would suggest it was a -- well, was it an adequately predicated counterterrorism investigation?

Mr. Friend. So there was an open counterterrorism investigation on that individual, so there had to be legitimate predication for it. But in general, for the school board meetings, I think those are just parents expressing their opinions.

Mr. Bishop. Was there any adequate predication to do any surveillance of persons other than that January 6th subject for that school board meeting?

Mr. Friend. None. None that I was aware of.

Mr. Bishop. Yield back.

BY [redacted]

Q I just have a couple questions.

During the last hour, my colleagues on the Democrat side, I was interested, they were asking you questions and it seemed like they were almost investigating your conduct. Is that the way it felt to you?

A Yes.

Q They asked you about interactions you had with your counsel?

A Yes.

Q And you had a second counsel too?

A Yes.

Q And they asked you about interactions with your second counsel?

A Yes.

Q And you didn't claim attorney-client privilege or anything, you just answered the question, didn't you?

A Correct.

Q They asked you how you were referred to your lawyer?

A Yes.

Q Is that correct?

They asked you how you were referred to a whistleblower organization?

A Yes.

Q And you agreed to answer that question. Is that correct?

A Yes.

Q And your communications with congressional staff about your protected whistleblower disclosures, when you made them you were under the presumption that they were privileged and confidential. Is that correct?

A Yes.

Q And did the staff tell you that when you were having those communications with the staff?

A Yes.

Q But nevertheless, here today, when asked about it, despite the fact that it was privileged and confidential, you agreed to answer those questions, didn't you?

A Yes.

Q You were asked about who is paying your legal fees? Is that correct?

A Yes.

Q You were asked whether you have received any money from a GiveSendGo account? Is that correct?

A Yes.

Q And you testified you haven't taken any money from this GiveSendGo account?

A No, I haven't.

Q You were asked about the Kash Patel organization?

A Yes.

Q And did Mr. Patel's organization provide you any money?

A He gave me a $5,000 stipend.

Q You were asked about files that you accessed on the classified system in relation to assisting your attorney with preparing your defense?

A Yes.

Q And you agreed to answer those questions, didn't you?

A Yes.

Q While you were answering those questions, did you feel --

[redacted] Sorry, [redacted] --

[redacted] I'm on the record here, and I'm going to keep going.

[redacted] Okay. That's fine.

BY [redacted]

Q While you were answering these questions, did you feel like your conduct was under review here today?

A Yes.

Q How did that make you feel?

A Like they're investigating me as opposed to the information I'm trying to bring forward voluntarily.

Q Were there any questions about the school board's memo from the Democrat side?

A No.

Q Did the Democrat side ask you about any conduct of the whistleblower

disclosures that you made here today?

A No.

Q Or that you've made historically?

A No.

Q Did it seem like a hundred percent of their questions were all geared towards investigating you?

A Yes.

Q And did you expect that here today?

A Yes.

Mr. Foster. I think a good percentage were aimed at investigating you, [redacted] and your staff.

BY [redacted]

Q And getting back to these nine subjects that the FBI was asking you to -- or your supervisor -- when I say the FBI, I mean your supervisory chain of command was asking you to arrest or disrupt on different days.

I mean, isn't it true, if there's a group of nine people that are in cahoots together and you start arresting them on different days, by the time you get to the sixth, the seventh, the eighth, the ninth guy, they might not be around?

A Yes.

Q Did that ever happen in your experience?

A No. It was a white collar matter and people didn't have the ability to really travel around much, so they deemed that to be a worthwhile risk.

Q Okay.

This statistics-driven focus that you have testified about today, has that always been the case with the FBI since you joined it?

A Yes.

Q And has there been any change since the change in leadership?

A No.

Q And is that something that is primarily locally driven, or is that a national organizational focus?

A It's national. From my understanding, it started around 2012, 2013.

Q Okay.

[redacted] I think we're almost out of time, so --

[redacted] Yeah. We'll go off the record.

[Recess.]

[redacted] It is 12:45. We can go back on the record.

BY [redacted]

Q Mr. Friend, at the end of the last hour you were asked a number of questions about information that you provided during the course of this interview today.

You are represented by counsel today, right?

A Yes.

Q And he's been sitting next to you the whole time?

A Yes.

Q Okay. And do you recall at the beginning of not the last hour but the hour before that, he made some comments about advice he had given to you?

A Yes.

Q Okay. And he did that just of his own accord, correct?

A Yes.

Q Okay. There were some references made to a protected disclosure that you made. Is that a reference to the September 21st, 2022, declaration?

A It might be, or it might be just going to my supervisor on August 19th.

Q Okay. I think protected disclosures to Congress --

A Okay.

Q -- in specific, is that a reference to the declaration?

A Yes.

Q Okay. But other than the letter that we talked about, the initial letter and that disclosure, that that's been the extent of the disclosures that you've made, right?

A I provided additional information about the training on the whistleblower --

Q Right. I'm sorry. You did mention that.

Mr. Foster. Sorry. Is the context of your question to Congress?

[redacted] To Congress. To Congress.

Mr. Foster. Okay.

BY [redacted]

Q I want to get back to what we were discussing about the school board, the surveillance incident.

You said that there was an open counterterrorism investigation into the group, that the individual was a member of the group that you were watching.

What was that group?

A I don't know.

Q Okay.

A I don't remember.

Q You had just been assigned to surveil?

A Yes.

Q Okay. And you said it was related to a January 6th investigation?

A Yes. He was a subject of a January 6th investigation.

Q And do you know if that individual was ever charged?

A I believe so.

Q Do you know his name?

A No, I don't remember.

Q Okay. And when was the date of the -- if you can recall, just --

A It was the August -- one of the people that were arrested on August 24th.

Q Okay. And the surveillance took place in October?

A I believe October 2021. It was in close proximity to the issuance of the Attorney General's memo about the school board.

Q Okay. And who were the individuals arrested on August 24th?

A I don't remember all their names. There was four subjects, I believe, from my office.

Q Okay. And you don't recall what group that they were with?

A No.

Q You don't recall if it was, for example, the Three Percenters?

A It sounds like it. If you refresh my memory, it very well could be.

Q Okay. Okay.

I want to go back to the September 21st, 2022, declaration that you provided to Congress.

Are you aware if this has been made public before?

A Yes.

Q And where has it been made public?

A Congressman Grassley and Johnson issued a letter and attached it as an appendix to that.

Q Okay. Do you know if it's on their website?

Mr. Foster. Senator Johnson put it on his website.

Mr. Friend. I'm sorry.

BY [redacted]

Q Thank you.

In paragraph 12 of your declaration, this discusses your August 22nd, 2022, meeting that's come up earlier in this conversation today. You say -- you say, "I told" -- I think you meant, "I told him," or the ASAC -- "that the irregular case dissemination, labeling, and management processes could be considered exculpatory evidence" -- "that," I think it means -- "must be disclosed to defendants in accordance with the Brady rule."

A Yes.

Q What did you mean by the Brady rule?

A It's we have to hand over everything that's related to a prosecution so that the defendant has that access to that information and can mount a defense.

Q And how do you know about the Brady rule?

A Experience as law enforcement, training as a police officer and as a special agent, and I've been to multiple trials as an agent.

Q Okay. You're not an attorney yourself though?

A No.

Q Okay. So it would be -- you learned about it just through your experience in the field or in the --

A No, we get specific training on the Brady rule in the academy.

Q Okay. Do you know where the term "Brady" comes from?

A It's the case that's precedent.

Q Okay. I want to refer to section 2.5 of the FBI "Domestic Investigations and Operations Guide." It's on page 2-10. And, again, this is all from the September 2021

version, which is publicly available on the FBI's website.

Mr. Foster. So this is an exhibit you're marking. It's one page from that document?

[redacted] Yeah. It's one page from the DIOG, and we're marking it as exhibit 8.

[Friend Exhibit No. 8

Was marked for identification.]

BY [redacted]

Q It says: "The AGG-Dom, this DIOG, and the various operational division PGs are set forth solely for the purpose of creating internal DOJ and FBI guidance. They are not intended to, do not, and may not be relied upon to create any rights, substantive or procedural, enforceable by law by any party in any matter, civil or criminal, nor do they place any limitation on any otherwise lawful investigative and litigative prerogatives of the DOJ and the FBI."

Were you familiar with this paragraph before I read it just now?

A No.

Q Okay. It wasn't cited in any of the communications you received from the inspector general?

A I don't think so.

Q Was it cited in the special counsel letter?

A I don't remember.

Q Okay. Also, in paragraph 12 of your declaration, again, the declaration that was produced to Congress, you state: "I expressed my concerns about violating citizens' Sixth Amendment rights due to overzealous charging by the DOJ and biased jury pools in Washington, D.C."

What's your understanding of the Sixth Amendment?

A It's a due process protection that affords -- is afforded to all American citizens.

Q Okay. So what was your reference to it here? What did you mean by it with your reference to it here?

A It's not pertaining to what you're talking about with the DIOG, but it's my feeling that in monitoring the progress of the cases that are going forward, in my experienced opinion, as having gone to trial and being a law enforcement professional, that it seemed that a lot of the motions that were being put forth were being rejected and people were being convicted at an extremely fast pace that was inconsistent with anything I'd ever seen before in any of my trial experience.

Q Have you received training on the Sixth Amendment?

A Yes.

Q Have you ever tried a case?

A As an attorney?

Q Uh-huh.

A No.

Q And have you ever studied constitutional law?

A Yes.

Q In what context?

A I received constitutional law in the police academy and the FBI Academy.

Q Okay. But you never went to law school, for example?

A No, no degree-issuing --

Q And did you study law in college at all?

A Yes. I studied some -- I had a few undergraduate courses on law, but not

like a degree.

Q Okay.

Mr. Meyer. Can I make a point about definition? And it was in the special counsel's letter, I think you just referenced it, I don't think Steve focused on it, where they cited that language about not relying on rights.

This is a fundamental problem in whistleblower law. I was surprised I --

[redacted] Sir, I'm sorry, can I ask you to hold this until the end? I'm using my time --

Mr. Meyer. Okay.

[redacted] -- and I want to keep going. So I'm happy to get back to you at the end.

[redacted] We're happy to pause the time for you, [redacted]

[redacted] I'd like to keep going. Thanks.

[redacted] Okay.

BY [redacted]

Q You referred to biased jury pools in Washington, D.C., in that same sentence. What did you mean by that?

A So during voir dire there's a process where they try to weed out anybody who could have a particular bias. And in reading about the cases from publicly available information, it seemed to me that there were people being let on the juries that might have had some biases.

Q And why do you say that?

A I think if you had family members that were in the Capitol or you were monitoring the January 6th Committee hearings very closely to think that might contribute to having a biased opinion of and render you incapable of being an unbiased

jury.

Q And you're making these statements though based on information you read in the public, like open source reporting?

A Correct.

Q Were you ever involved in any of the cases in Washington, D.C.?

A No.

Q Have you ever been involved in any case in Washington, D.C.?

A No.

Q So you've never been involved in a jury trial in Washington, D.C.?

A Not in Washington.

Q Okay. And we said earlier, you've never been assigned to FBI headquarters in Washington, D.C.?

A No.

Q You've never been based out of Washington, D.C.?

A No.

Q Okay. You continued on in paragraph 12: "I cautioned about the similarities between Ruby Ridge, the Governor Whitmer kidnapping case, and the J6 investigation."

I think you discussed Ruby Ridge earlier and you said, for example, if an individual is in a rural area that he might have just come back from a hunting trip or something, he might have guns easily accessible.

The August 24th individuals, were they located in a rural area?

A Some of them were, yes.

Q Okay. And what did you mean by the Governor Whitmer kidnapping case?

A I was involved with the arrest operations that happened with the Detroit

Field Office when they arrested the Wolverine Watchmen militia for the alleged crime of wanting to kidnap Gretchen Whitmer and assassinate her.

And in my interactions and my experiences with what went on at the end of that case, I saw an overlap with -- and what transpired afterwards in just following the case -- saw some overlap that I thought was concerning that should probably be brought to the attention of my supervisors consistent with my training.

Q And did you bring that to the attention of your supervisors?

A Yes.

Q Are you aware that four of the individuals in that case were, in fact, convicted?

A I'm aware that there was a mistrial for two and that in the subsequent retrial now all four of them have been convicted.

Q Okay. Your declaration continues: "It is the FBI's job to gather facts, but we are not responsible for determining if an individual should be prosecuted." I'm sorry, that was a quote from your supervisor that you were relaying.

And then you said: "I countered that former FBI Director James Comey's actions indicated this was no longer an FBI practice when he stated that 'no reasonable prosecutor' would bring charges against former Secretary of State Hillary Clinton."

What did you mean with your reference to former FBI Director Comey?

A Just what I said, that Director Comey laid out to me a paradigm shift in the way that the FBI pursues investigations where it essentially has more input into the veracity of an allegation and the worthiness of bringing a case or not bringing a case.

Q Was it a reference to his comments in the summer of 2016?

A Yes.

Q Okay.

A I believe it was the fall. Sorry.

Q Okay. We can check the date on that.

So you felt that Comey's statements gave FBI agents more authority to determine whether to bring charges?

A I would say that it called into question the fact-finding, just-the-facts "Dragnet" approach that I was under the impression was always what we were supposed to do. And it was at the time I said to them, I had a great -- I was very upset that he'd brought that in, and that was solely up to the discretion of the Attorney General.

Q Okay. And so that was 2016. You joined the FBI in 2014?

A Yes.

Q And so between 2016 and August 2022, effectively, did Comey's statements make any impact on the way that you conducted your work?

A No. I tried to present facts to the U.S. Attorney's Offices, and if they wanted to pursue a case, they would; if not, they declined.

Q In paragraph 13 of your declaration, you state that, quote: "ASAC Markovsky unironically asked if I thought that the individuals who, quote, 'killed police officers,' end quote, should be prosecuted."

What did you mean with the use of the term "unironically"?

A He's asked that -- posed that as a legitimate question. It wasn't done tongue in cheek or for sarcasm or hyperbole, no turn of phrase. He said that straightforwardly as a -- or he asked that straightforwardly.

Q Okay. And according to your declaration, you replied to him that "there were no police officers killed on January 6th, 2021."

What did you mean by "there were no police officers killed"?

A No police officers at the Capitol were killed on January 6th, 2021, by the

protesters.

Q Okay. Are you familiar with the death of U.S. Capitol Police Officer Brian Sicknick?

A Yes.

Q What's your understanding of the circumstances surrounding his death?

A He succumbed to a stroke on the following day, and the Department of Justice has rendered that to be a line-of-duty death.

Q And do you have an opinion on that?

A I do.

Q And what is your opinion?

A I don't think my opinion matters to the Congress.

Q Okay. Are you familiar with the death of U.S. Capitol Police Officer Howard Liebengood?

A I'm aware that the ruling was a line-of-duty death.

Q What is your understanding of the circumstances around his death?

A I don't -- I don't remember his circumstances.

Q Okay. Do you have an opinion on his -- on the circumstances around his death?

A I would have to educate myself on that before I formed an opinion.

Q Okay.

Mr. Foster. Your knowledge is secondhand on these issues, right?

Mr. Friend. Yes.

BY [redacted]

Q Are you familiar with the death of Capitol Police Officer Jeffrey Smith?

A No.

Q But, again, you said that, in your opinion, no police officers were killed on January 6th?

A Yes. No officers were killed by protesters on January 6th at the U.S. Capitol.

Q So in your position -- so is it your position that the deaths of Officer Sicknick and Officer Liebengood -- and I understand you aren't familiar with the death of Jeffrey -- Officer Smith -- that they were unconnected to the events of January 6th?

A I can't speak to Liebengood, but it is my understanding from secondhand information that Brian Sicknick died of a stroke.

Q Okay.

I want to introduce into the record exhibit 9?

[Friend Exhibit No. 9

Was marked for identification.]

BY [redacted]

Q This is the cover page and the executive summary from a -- oh, sorry. This is the cover page and pages 27 through 29 of a bipartisan report from the chair and ranking member of the Senate Committee on Homeland Security and Governmental Affairs and the chair and ranking member of the Senate Committee on Rules and Administration. It's a section of that report called "Experience of Law Enforcement Officers."

Page 29 of that document reads: "Three officers lost their lives following the attack. USCP Officer Brian Sicknick, a 13-year veteran and member of the First Responder Unit, was stationed on the West Front of the Capitol where rioters attacked him with bear spray. Officer Sicknick passed away at 9:30 p.m. on January 7th. Officer Howard Liebengood, a 16-year veteran of USCP, died on January 9th. Officer Jeffrey

Smith, a 12-year veteran of MPD, died on January 15th."

Now, the paragraph immediately prior to that reads: "Approximately 140 law enforcement officers reported injuries suffered during the attack. The Capitol Police Labor Committee released a statement recounting some of the more serious injuries. 'I have officers who were not issued helmets prior to the attack who have sustained brain injuries. One officer has two cracked ribs and two smashed spinal discs. One officer is going to lose his eye, and another was stabbed with a metal fence stake.'

"Patrick Burke, executive director of the Washington D.C. Police Foundation, reported that one officer suffered a heart attack after being attacked several times with a stun gun."

Were you familiar with this report before I brought it to your attention today?

A The existence of it, yes, but I haven't read it.

Q You haven't read it. Do you have a reaction to these paragraphs that I just read?

A Sure. The deaths of the -- the untimely deaths of the Capitol Police officers and the Metro police officers did not occur on January 6th.

And my ASAC asked me if I thought that individuals who killed police officers on January 6th should be held accountable, and I said no officers were killed on January 6th by the protesters.

Q Okay. And sorry for jumping around, but I want to go back to paragraph 10. I'm moving on from this.

Mr. Meyer. Paragraph 10 of the disclosure?

[redacted] Paragraph 10 --

Mr. Foster. Of exhibit 2?

[redacted] I'm sorry?

Mr. Foster. Of exhibit 2?

[redacted] Of the December 21st statement, which I believe is -- yeah?

Mr. Foster. Okay.

BY [redacted]

Q And this is about the SWAT -- the arrest of the individuals on the 24th with the SWAT team.

You state in that paragraph that: "During the week of August 15th, 2022, I became aware of imminent arrests of J6 suspects and searches of their respective residences within the FBI's Jacksonville and Tampa Field Office areas of responsibility. Simultaneous takedowns were scheduled to occur on August 24th, 2022."

How did you become aware of the arrests?

A Emails were circulated around my office saying that everybody needed to be available on those days. In a small office, you try to assist others as necessary, so they said be available on August 24th.

Q And who sent those emails?

A My supervisor did.

Q Okay. You said that you have a small office -- it was a small office. How many people worked in your office?

A I believe it's eight special agents and two -- or three full-time task force officers at the time, and there were some part-timers and some assistant staff -- administrative staff.

Q Okay. And you were on the JTTF, but you were also sometimes assigned to the SWAT team?

A Not in Jacksonville. I was in the SWAT team in the Omaha Division.

Q Okay. Were you to be assigned to the SWAT team in -- for the August 24th

arrest?

A No.

Q Okay. So you just received the email saying that people needed to be aware?

A Yeah, we received an email that there were going to be arrest operations happening, SWAT was going to be involved, and I would need to be free on the 24th.

Q Okay. And you were involved -- you were on the SWAT team in Omaha?

A Yes.

Q Did you undergo training for part of that?

A Yes.

Q What type of training?

A You have to -- so for selection on the team, once you get selected to the team there's like in-service training, and then you go to SWAT basic academy where it's a 3-week indoc, where you receive basic operator training.

Q Okay.

A And then afterwards you can go for extra training for specialties.

Q Okay. And you said earlier, I think in the first hour, that you weren't entirely clear on the standards about when a SWAT team would be deployed.

What is your understanding of when a SWAT team would be deployed?

A There's a matrix that is considered and various elements. If they are satisfied then it justifies use of the SWAT team. But it's -- there's a subjective consideration with that between executive management of a field office and the SWAT team supervisor and the SWAT team leader about how to use the SWAT team if it's going to be appropriate.

Q Okay. And you said that you had concerns about the use of the SWAT team

because one of the individuals was cooperating. Do you recall that?

A Yes.

Q Who was that individual?

A Am I authorized to say his name if it's classified or anything? I don't want to share --

Mr. Foster. Well, if it's classified, no. I mean, I don't know if someone's name can be classified.

[redacted] Is it classified?

Mr. Foster. Can we go off the record for a second and discuss it?

[redacted] Sure. It's 1:06.

[Discussion off the record.]

[redacted] It is 1:10. It was about 5 minutes that elapsed, so we will go until 1:50 with our question line.

Mr. Foster. We're back on the record?

[redacted] We're back on the record.

BY [redacted]

Q So you indicated that there was a witness who was cooperating, and because of that you felt that a SWAT -- it was inappropriate to use a SWAT team to arrest that individual.

By "cooperating," can you tell us if you meant that he was agreeing to interviews with the FBI or other law enforcement agencies, or if he was, in your understanding, a cooperating witness with the case?

A It's my understanding that he -- you know, I learned about his willingness to want to cooperate with the FBI on a law enforcement sensitive document, so I'd prefer not to speak to that.

Q Okay. But it is your testimony that he was cooperating and that's why you felt that it was inappropriate to use a SWAT team?

A Yes.

Q Okay. In paragraph 11 of your declaration, you say: "I responded that it was inappropriate to use an FBI SWAT team to arrest a subject for misdemeanor offenses and opined that the subject would likely face extended detainment and biased jury pools in Washington, D.C."

So was the thrust of your concern the misdemeanor offense or was it the cooperating aspect?

Mr. Meyer. Or both?

Mr. Friend. I think both is a reasonable concern. I had dual concerns about potentially using too invasive or too much of a resource that was too strong with somebody who expressed a willingness to cooperate and interpreting the SWAT matrix in a fashion that essentially allows you to use this tool for somebody who was going to be charged with a misdemeanor offense.

BY [redacted]

Q And did you raise the cooperation concern to your supervisor?

A Yes.

Q Okay. But you didn't note that in your declaration, right?

A No.

Q Okay. And was there a reason you didn't note that in your declaration?

A Just oversight.

Q Okay.

I want to introduce the criminal complaint and statement of facts for Tyler Bensch, B-e-n-s-c-h -- this is D.C. case number 1:22-mj-00184 -- into the record. I also want to

introduce a printout of a D.C. U.S. Attorney's Office website page for Mr. Bensch which indicates he was arrested on August 24th, 2022.

So we will mark the complaint and statement of facts as -- we'll mark them as 10. Sorry, we're going to mark the complaint as No. 10, and we're going the mark the statement of facts as No. 11. They're two separate documents.

[redacted] Do you have more copies?

[redacted] Oh. I thought we passed down --

[redacted] We just have one. We need some for our members.

[redacted] I don't have any more copies. I'm sorry.

Mr. Foster. So, I'm sorry, can you be more clear about what you're marking what?

[redacted] So we're marking the complaint as No. 10, the cover page.

Mr. Foster. So that's just the page one?

[redacted] Just that. That's page one. There are two separate documents on the case, so we're marking them separately. So that's No. 10.

[Friend Exhibit No. 10

Was marked for identification.]

[redacted] And the statement of facts is No. 11.

[Friend Exhibit No. 11

Was marked for identification.]

[redacted] Is Mr. Bensch the individual that you were scheduled to arrest with the SWAT team about whom you had concerns?

Mr. Friend. He was one of the individuals. I don't know which individual SWAT was being used for, because I was never privy to the operations plan that was drafted.

[redacted] Okay. I want to turn to the statement of facts that accompanies

the criminal complaint. Page 3.

Mr. Foster. So you're on exhibit 11?

[redacted] This is exhibit 11, yeah.

BY [redacted]

Q Page 3 of the statement of facts reads, quote: "The individuals named herein self-identify as 'three percenters' (AKA '3%ers', 'III%ers', or 'Threepers') based on their adherence to the sub-ideology or common belief known as Three Percenterism."

Did I read that correctly?

A Yes.

Q Are you familiar with the Three Percenters?

A Yes.

Q How did you become familiar with them?

A Just reading about individuals who were arrested for their involvement on January 6th and the predication for a lot of the investigations involving some groups like Three Percenters or Oath Keepers or Proud Boys is that information is circulated within the national security side of things in the FBI.

Q And had you been privy to that information?

A Yeah. If I wanted to research it in more detail, yes, I could.

Q As part of your official responsibilities, would you have researched that information?

A Not -- no, not for this case.

Q Okay. But you could've had access to it?

A Yes.

Q Okay.

There's a footnote on this page, it's footnote number 2. It describes the Three

Percenters as, quote/unquote, "violent extremists."

Do you agree with that term as applied to the Three Percenters?

A I don't have an opinion on it.

Q Okay. So you've not really looked into the Three Percenters?

Mr. Foster. I think he already testified to that.

[redacted] The footnote continues: "Some III%ers" -- and it's the Roman numeral III, the percent sign, e-r-s -- "regard the present day U.S. Government as analogous to British authorities during the Revolution in terms of infringements on civil liberties."

Do you agree with this statement about the Three Percenters?

Mr. Friend. I don't have any opinion, and I don't think my opinion really matters on the Three Percenters. I'm here to talk about malfeasance within the FBI's case management practices.

[redacted] Okay. The paragraph continues: "Many of the individual militia-style organizations" -- I'm sorry, this is up in the actual body of the text.

"Many of the individual militia-style organizations have local chapters and names, such as Georgia Security Force, the Michigan United Patriots, Three Percent, the California Patriots -- D.C. Brigade, and -- in this case -- the Guardians of Freedom."

Mr. Foster. Sorry. Where are you reading from?

[redacted] It is in -- yeah.

BY [redacted]

Q "As explained below, Cole, Preller, Crowley, Rockholt, and Bensch are also self-identified members of a Guardians of Freedom subgroup called B SQUAD."

Are you familiar with the Guardians of Freedom?

A No.

Q Are you familiar with a Guardians of Freedom subgroup called B SQUAD?

A I've heard the name B SQUAD, yes.

Q How have you heard the name B SQUAD?

A That term was associated with the individuals in this case.

Q Okay. And what do you know about the subgroup B SQUAD?

A Just that these guys were characterized as B SQUAD guys.

What you have to understand is, this investigation was done before I was brought onto the Joint Terrorism Task Force.

Q Okay. But you have an opinion on whether a SWAT team should be used even though you haven't actually been involved in the investigation?

A I believe that Cole, Preller, Crowley, Rockholt, and Bensch are American citizens, and they're entitled to due process. And I believe that the FBI was potentially violating their due process rights.

Q Okay. On the following page there's a photograph of a flyer distributed on December 24th, 2020, by this group. It reads: "Remember this, it comes straight from our Declaration of Independence that whenever any form of government becomes destructive, it is the right and duty of the people to alter or abolish it. That is why you are here. For massive change to occur massive action must be taken. Patriots, we are the lifeblood of this great nation, and it's time we prove that."

Do you have an opinion about this statement?

A It seems like First Amendment-protected activity.

Q Okay. On page 9 of the statement of facts it describes members of the B SQUAD attempting to force their way into the Capitol. And it states that: "Tyler Quintin Bensch moved with the other four B SQUAD members and was present when one of the heave-ho pushes against the officers occurred."

Did I read that correctly?

A Yes.

Q And then if we go on to page 14 of the complaint, there's a description of Mr. Bensch. It says that while he was on the Capitol Grounds he was wearing green military fatigues and tan gloves; a military-type helmet and goggles with the brand name strip Smith & White on a black strap; a tactical vest with a patch associated with the "Three Percenters" movement, i.e., "III"; a black gas mask with a green filter; and a drab-colored scarf with a distinct pattern.

There's a picture of Mr. Bensch here. Does that picture appear to match the description that I just read out?

A Yes.

[1:15 p.m.]

BY [redacted]

Q Okay. And then it says, "Bensch also possessed one or more chemical irritant canisters on the front of his tactical vest, a black radio and antenna on his left side, and a GoPro-style camera mounted on his right shoulder."

There's a picture. Does that picture also seem to show the chemical irritant canisters?

A There are canisters. I don't know what they contain.

Q Okay. What about the radio?

A Yep.

Q And GoPro camera?

A Yes.

Q Page 8 -- in your opinion, if an individual is carrying chemical irritants, is that indicative of intent to peacefully enter somewhere?

Mr. Meyer. What page, 18?

[redacted] No, just looking at the picture that we were just talking about on 14.

Mr. Meyer. Oh, this picture here?

[redacted] Yes.

Mr. Meyer. Could you restate the question? I think I stepped on it.

[redacted] Sure.

BY [redacted]

Q So it's a picture of -- there's a picture of a man with the chemical irritants on his vest, and it describes up above what he was wearing and what he was carrying.

In your opinion, if someone is carrying chemical irritants like that, if they have a radio and antenna, do you think that's indicative of intent to peacefully enter a building?

Mr. Foster. I'm not sure that question is relevant to any of your --

[redacted] He's talking about his experience as an FBI officer.

Mr. Foster. Yeah, but --

[redacted] He's talking about whether or not he -- whether or not a SWAT team was appropriately deployed for this person.

So I'm just asking the question. If he wants to decline to answer, that's fine, but we're going to keep asking.

Mr. Foster. But you're asking him questions about things that occurred on January 6th that -- those aren't relevant to --

[redacted] I'm asking about him and his experience as an FBI officer.

BY [redacted]

Q As an FBI officer, if an individual is carrying a canister of chemical irritants --

Mr. Foster. [redacted] can I just speak for a moment? Thank you.

You're asking him questions that seem to imply that he had some problem with whether or not the case against these individuals was a righteous case or not. He has not indicated in any way whatsoever that these people shouldn't have been held accountable for what they did on January 6th.

He had an objection to the safety, about safety concerns related to how the warrant was going to be executed --

[redacted] And I'm getting to --

Mr. Foster. -- which is not relevant to that question.

[redacted] -- what concerns might come up when a SWAT team is deployed.

So it is -- that was a minute. We'll go until 1:56. Back on the clock.

Finally, on page -- sorry -- on page 36 of the statement, it says, "A witness described Bensch posting photos and videos of himself outside the Capitol with a gas

mask, body armor vest, all black or camouflage attire, and an AR-style rifle."

Do you see that description?

Mr. Meyer. What page was that again?

Mr. Friend. Thirty-six.

Mr. Meyer. Thirty-six. All right.

Mr. Friend. Yes.

BY [redacted]

Q Based on this description, could it be reasonable for law enforcement to conclude that Mr. Bensch possessed an AR-style rifle?

A Yes.

Q Okay.

On page 37, the statement states that on December 12, 2020, Bensch posted video on his Facebook account of a rally which resulted in, quote, "violent clashes between Trump supporters and counter-protestors. Open-source videos associated with the event contained images of Bensch based on that individual's helmet, goggles, body armor, military fatigues, drab scarf, and right shoulder camera."

Do you see that?

A Yes.

Q And based on that description, could it be reasonable for law enforcement to conclude that he had previously engaged in acts of violence?

A Yes.

Q Okay.

So your September 2022 affidavit says that you told your supervisor it was inappropriate to use an FBI SWAT team for this arrest. Was this a reference to the arrest of Mr. Bensch?

A I don't know if it was for Mr. Bensch. I don't know who the SWAT team was going to be used for.

Q Okay.

Are you familiar with the February 2, 2021, death of FBI Special Agent Daniel Alfin and Special Agent Laura Schwartzenberger?

A No.

Q Okay. So you're not aware of whether they were part of a SWAT team or whether they were serving a warrant on somebody else who was not deemed needing -- worthy of a SWAT team?

A Are you referring to the Miami ones?

Q Yes.

A Yeah, then I am familiar.

Q Okay. So what's your understanding of the circumstances around their deaths?

A The night before, the squad supervisor was exposed to coronavirus and was unable to be on scene and had to defer to his subordinates, and the takedown was not handled according to how it should've been. And when the child pornography subject engaged in gunfire through his door, they did not get assistance from local law enforcement who was present at the scene.

Q Okay. Thank you.

Mr. Foster. What's your basis for that, for all those facts?

Mr. Friend. I have a relationship with George now, who was the supervisor at the time in Miami.

[redacted] Okay.

I'm going to turn to my colleague Agbe Patty.

[redacted] Thank you.

Thank you again for being here, Mr. Friend.

BY [redacted]

Q So, a couple hours ago, you handed me a copy of your October 21, 2022, letter that you stated included the approval for you to make media disclosures. Is that correct?

A Yes.

Q Do you have another copy for yourself of that October 21, 2022, letter?

Mr. Meyer. I should. Give me a couple minutes to find it.

Mr. Foster. Has that been marked as an exhibit?

[redacted] No, it has not been.

Mr. Meyer. It probably should be at this point.

[redacted] Yeah, we can mark it as an exhibit.

[redacted] If you have a copy, we can mark it.

[redacted] It's exhibit No. 12, I believe.

[Friend Exhibit No. 12

Was marked for identification.]

[redacted] If you have multiple copies, that would be great, if you can pass them around.

Mr. Meyer. I think I just have one other copy. Yeah, here. I have a copy here.

[redacted] Okay.

Mr. Foster. Do we need to defer this until everybody has a copy?

[redacted] Well, I don't -- we were not given this piece of paper until right --

Mr. Foster. I understand, but --

[redacted] -- now, and so I'm going --

[redacted] We're gonna ask the question.

[redacted] -- I'm going to continue forward.

[redacted] Yeah.

[redacted] I'm going to continue forward with my questions about it, because Mr. Friend was kind enough to provide me with a copy.

BY [redacted]

Q So you have a copy in front of yourself? Is that correct, Mr. Friend?

A Yes.

Q Okay. So can you point to me in this letter where it states that you received approval to conduct media disclosures?

A This isn't the letter. This is from Jen Moore.

Q So do you have the October 21, 2022, letter in front of you?

A No, this is September 16th.

Mr. Meyer. Oh. Oh, oh, oh. Sorry about that.

[redacted] Let the record reflect that the witness had the wrong copy in front of him.

Mr. Foster. That's the reason why I suggested perhaps --

[redacted] We can pause and go make copies.

Mr. Foster. Yes.

[redacted] Okay. Why don't we hit pause on the clock.

[redacted] Do you want to go off the record?

[redacted] Yeah, we can go off the record.

[Recess.]

[redacted] Okay. It is now 1:31, and we have about 24 minutes left.

BY [redacted]

Q Okay. Mr. Friend, so you have a copy of this October 21, 2022, letter in front of you that you stated included approval of your media disclosures. Is that correct?

A I don't have it in front of me.

Mr. Meyer. Somehow we lost our copy.

Mr. Foster. Which has been marked exhibit 12?

[redacted] Which has been marked exhibit 12, and we'll enter that into the record.

BY [redacted]

Q Okay. So you have a copy in front of you now, Mr. Friend?

A Yes.

Q Okay. And this is the October 21, 2022, letter that you handed me earlier that you said included approval for your media disclosures. Is that correct?

A Yes.

Q Okay. Can you tell me where in this letter there is approval for you to disclose media -- make media disclosures?

A This was a referral over to the Prepublication Review Office that they sent to me.

Q Okay.

So you'll see in paragraph 1, it says, "Per 1065PG, Section 4.3.3, you are cautioned that disclosure of information by current or former personnel without the appropriate prepublication review may be subject to sanctions, if warranted, based on the content of the disclosure. The FBI cautions that future disclosures involving FBI equities should be cleared by the FBI before publication occurs."

Did you ever receive approval to make media disclosures?

A I did from the Prepublication Review Office.

Q Do you have a copy of that in writing stating that you have approval?

Mr. Meyer. So the email we sent out, they responded and said that they would work with us if the declaration had sensitive information in it. So the declaration is the one that's --

Mr. Foster. Exhibit 2.

Mr. Meyer. -- exhibit 2.

So they came back with that letter, cautioning him on speaking before he had approval, and there was no comment on the declaration.

[redacted] Okay. So just --

Mr. Meyer. And then he took no comment of the declaration as approval to stay within the bounds of the declaration, which had been previously released by Senator --

Mr. Foster. Johnson.

Mr. Meyer. -- Johnson.

[redacted] Okay. Thank you for that.

BY [redacted]

Q Just so I'm clear, within this letter that you received from Michael Seidel, this does not state that you had permission to make media disclosures. Is that correct?

Mr. Meyer. Um --

[redacted] I'm asking Mr. Friend.

Mr. Meyer. Okay.

Mr. Friend. Yes. It refers me over to the FBI prepublication office for matters that I was asking for permission to speak to.

BY [redacted]

Q Okay.

And then you'll see in paragraph 3, at the start, it says, "Compliance with the PRP does not relieve you of the obligation to comply with the standards of ethical conduct for the executive branch and other applicable FBI and Office of Government Ethics regulations or policies."

Did I read that correctly?

A Yes.

Q Okay. So what this is saying is that, even if it is the case that you were given approval for media disclosures, you still have to clear it through more individuals before you're able to release your media disclosures. Is that correct?

A It says I have to comply with the standards of ethical conduct.

Q Okay. Did you consult the standards of ethical conduct for the executive branch or other applicable FBI and government ethics regulations or policies before making media disclosures?

A No.

Q Okay.

And then you'll see the line continues in paragraph 3: "Prior to taking any further action with respect to media contact, consider applicable regulations as set forth in the FBI Ethics and Integrity Program Policy Guide 1120PG, with particular attention to Sections 4.8 and 4.9."

Do you see that?

A Yes.

Q Did I read that correctly?

A Yes.

Q Okay. Did you make sure that your media disclosures were in compliance with FBI Ethics and Integrity Program Policy Guide 1120PG, with particular attention to

Sections 4.8 and 4.9?

A I didn't have access to that policy guide, but when I asked for permission from the Prepublication Review Office, I took on good faith their response to me that they had consulted that before they authorized me to speak to the details of my disclosure.

Q Okay. So, even though it is the case that within this paragraph they are telling you to specifically make your own determination whether or not you are in compliance with these ethics and policy guides, you're saying that you just trusted the Prepublication Review Office to do that for you even though they tell you to do that yourself?

A I was unable to consult that document.

Mr. Meyer. FBI policy requires single point of contact on prepublication review. They don't want the employee contacting multiple offices. I do these every week. So there is one point for the processing of the prepub review.

I'll go on record and say that was the most unprofessional prepub review I've seen from the FBI because it's completely vacuous. When I do these for the DNI, CIA comes back and redacts stuff that's a problem.

We sent the declaration over --

[redacted] Thank you for that, Mr. Meyer.

Mr. Meyer. We sent the declaration over --

[redacted] We're on a time clock. I'm going to ask you to --

Mr. Meyer. We sent the declaration over, and we received it back.

[redacted] -- cease speaking, and we can take this up at another time.

BY [redacted]

Q So, Mr. Friend, you'll see in the third paragraph, that last line, it says, "Please

also ensure that appropriate approval within your chain of command is attained prior to participation when the information relates to your area of expertise within the FBI."

Did you consult your chain of command about media disclosures before you made them?

A In being referred over to the PRO, I took that to mean that's their chain of command and I was --

Q Okay. So, even though it says with your chain of command, you interpreted that to be the PRO's chain of command. Is that correct?

A Yes.

Q Okay.

And just one last question. So do you think it is the case -- when you get approval from PRO to make a media disclosure, is it your interpretation that that's a blanket approval that you just have -- you can make all the media disclosures that you want?

A I didn't ask to. I asked for permission to speak about the declaration.

Q Okay. So, earlier, when you said you were on Dan Bongino's podcast, so you never had any type of pre-approval to go on that show. Is that correct?

A Correct.

Q Okay.

Thank you.

BY [redacted]

Q Going back to your -- sorry, we're jumping around a little bit.

Going back to your declaration, your September declaration, in paragraph 8 of that declaration -- and, again, this is exhibit 2 that we're looking at -- you refer to the January 6, 2021, Capitol Hill protest.

What was that a reference to?

A The individuals going into the Capitol that were being investigated by the FBI.

Q Okay. And why did you use the term "protest" here?

A Would you prefer I use a different word? I think it sort of was a protest that -- I don't know. I don't know why. What other word do you want me to use?

Q I'm just asking you why you chose the word "protest." That's all.

A I felt that it was an adequate noun.

Q Okay. Some have referred to the events of January 6th as a riot, for example. Do you think -- do you agree with that description?

A It depends on the context. Some, yes; why not? Some people have called it the worst thing since the Civil War. So I think it's all kind of up to, you know, interpretation. I used "protest" because I felt that that was an apropos noun to use for this declaration.

Q Okay. And where were you on January 6th? Were you here in D.C.?

A No.

Q Okay. So you weren't here to witness the events yourself?

A No.

Q Okay.

You said that you were put on the JTTF and assigned to handle January 6th-related cases. How many cases, or matters, I guess, did you personally handle?

A How many that my name was on, or how many did I handle?

Q Both.

A My name was attached to probably a half-dozen.

Q Okay.

A I assisted with one that -- I was a scribe for an interview. And then I was sent the lead to go and interview the gentleman whose son had died and he hadn't been there.

Q Okay. So about eight total that you had involvement in, six of which your name was on?

A I think that's fair.

Q Okay. And during that time, you were also doing the work for the sheriff's office, right?

A Yes.

Q Doing the child-sexual-abuse-material-related work?

A And other work as well.

Q I'm just going to ask you some knowledge about -- some questions about your knowledge about the events of January 6th.

You know, there were reports that there were individuals who entered the Capitol without authorization who wore body armor. Are you familiar with those reports?

A Yes.

Q Do you have a reaction to that report?

A Sounds like it's pretty bad guys. I hope we follow due process rules and put them in jail for doing anything illegal.

Q There is photographic evidence that some people who entered the Capitol had Confederate flags and they had Nazi emblems. Are you aware of that?

A No.

Q Okay.

Are you familiar with an organization called the Oath Keepers?

A Yes.

Q Were there any Oath Keepers-related investigations under your purview related to January 6th?

A I don't think so. I think that Oath Keepers cases that stemmed from my office predated my assignment to the JTTF.

Q Okay. Do you have an opinion of the Oath Keepers?

A It's an opinion from reading publicly available information, but I don't know if it's pertinent to bring forward here.

My point is saying, a lot of these guys are bad dudes, and they should go to jail. And we didn't follow our rules, and we set ourselves up to get crushed at trial if we -- or consider ourselves up to lose on appeal. I want to win.

Q Okay. So your concern was the process, not with the people?

A Correct.

Q Okay.

A I told my supervisors I didn't vote for either major political party's candidate for President. I don't have a dog in the fight. My dog in the fight is I want my agency to follow the rules so we can do our job properly.

Q I want to turn to some conversations that you've had. There's been -- we just talked through the media disclosures and some disclosures that you've made publicly. You've been on a number of podcasts, and you've written some articles and things like that, correct?

A Yes.

Q Okay. And you've mentioned before Kyle Seraphin. You mentioned him earlier.

A Yes.

Q Who is Mr. Seraphin?

A He is a friend of mine who is also a whistleblower and an indefinitely suspended FBI agent.

Q Okay. How did you meet Mr. Seraphin?

A He reached out to me when my name was put into the public sphere and contacted me.

Q Over email? Over phone?

A Phone call.

Q And do you know how he got your information?

A I think that he has a pretty extensive network, and maybe a contact of his had a contact with somebody who I knew, but I never really nailed down on actually how he got my phone number.

Q Are you aware of whether he has a podcast?

A Yes.

Q And what's the name of that podcast?

A "The Kyle Seraphin Show."

Q Have you appeared on that podcast?

A Many times.

Q Okay. How many times, do you think?

A I don't know. Eight? Ten? I'm not sure.

Q Okay. And did you receive prior approval before appearing on those podcasts?

A No.

Q Not for any one of them?

A No.

Q Okay. Were you ever compensated for any of your appearances on his

show?

Mr. Foster. Other than the approval that he's already testified about.

BY [redacted]

Q But you didn't specifically go to the FBI before you appeared on the podcast and sought approval?

A No, I did not.

Q Okay. Were you ever compensated for any of your appearances on his show?

A No.

Q Do you know if you ever promoted your -- the online fundraising?

A Yes.

Q Would you do that every show?

A I know we've done it several times. I don't know if we've done it every single time.

Q Okay.

A But, typically, at the end of his show, he will say, you know, "Follow us on a social media, and if you want to contribute to this GiveSendGo, we're raising money for our buddy."

Q Uh-huh.

A And that's what we do.

Q Okay. Have you ever promoted your upcoming book on his show?

A Yes.

Q In what context?

A Last Friday, I was really excited because I got a bump in sales and my publisher contacted me. So I brought that up, that I had gotten to a number-five

ranking on one of the categories on Amazon, and I was pretty excited to share that.

Q Okay. And did that indicate -- what was the bump in sales?

A I don't know.

Q Okay.

A I just know my publisher said, you had a good surge in sales today. And when I -- I don't have any insider access to Amazon, but if you go and click on your book, it says where it ranks on a number of categories, and I saw that it was ranked number five on, like, law enforcement memoirs or something like that.

Q Okay.

Have you ever used the term "The Suspendables" to refer to yourself?

A Yes.

Q What's the meaning of that term?

A It is a -- it began as a tongue-in-cheek reference to ourselves as a -- "The Expendables" trilogy series by Sylvester Stallone. Over the -- so we said that maybe one day we could all form a private investigator business or a MERC business and call ourselves The Suspendables.

And then -- we did it as a joke. And Alan Feuer from The New York Times must have got wind of it and published it. So then we figured, since the paper had recorded it, we should probably take it seriously.

Q Are you aware that Kyle Seraphin sells The Suspendables merchandise on his website?

A Sure. I helped design the merchandise.

Q Okay. Do you know how much of that merchandise has been sold?

A No idea.

Q Okay. Have you received any income from the sale of that merchandise?

A No. That is out of my -- I don't have access to it.

Q Okay.

A The only thing I know is my mom bought a T-shirt.

Q Okay.

Mr. Foster. And Kyle Seraphin got the money?

BY [redacted]

Q And, moving on, you are -- you're familiar with an individual named Jason Foster?

A Uh-huh.

Q Is he here today?

A Yes, I'm familiar with Jason.

Q And you testified earlier that you are not paying him, correct?

A Correct.

Q Okay. Are you paying anyone else associated with Empower Oversight for their work on your behalf?

A Just the retainer that I gave to Mr. Meyer originally. That's the only out-of-pocket.

Q Okay.

Do you have a Truth Social account?

A Yes.

Q What's your handle?

A @Real_SteveFriend.

Q Okay.

On October 26, 2022, you posted, quote, "If you are looking for a worthy charitable cause, please consider donating to Empower Oversight. It's a nonpartisan

charity that helps whistleblowers with legal assistance. They are helping me, and I hope they will be there for others willing to speak out."

We're going to admit this as exhibit 13.

[Friend Exhibit No. 13

Was marked for identification.]

BY [redacted]

Q So what did you mean by "they are helping me"?

A I meant that Empower Oversight was helping me retain an attorney and give me legal counsel.

Mr. Foster. What exhibit is this?

[redacted] This is 13.

BY [redacted]

Q They did not provide you any financial assistance?

A No.

Q But they did help you find your attorney?

A Yes.

Q And you said they provided you legal counsel?

A Yes.

Q Okay. And you promoted them on your Truth Social account?

A Yes.

Q Are you familiar with Sputnik Today?

A Yes.

Q What do you know about Sputnik Today?

A It's a Russian propaganda newspaper.

Q Okay. Are you aware that it's been sanctioned and banned by the

European Union?

A No.

Q Okay. Do you believe me when I say that?

A Sure, I'll take you at --

Q Okay. We can introduce the document otherwise, but --

A -- face value. That's fine.

Q Okay. Have you spoken with anyone associated with Sputnik Today?

A I've never spoken to anybody at Sputnik.

Q Okay. Are you familiar with Ekaterina Blinova?

A That was a reporter who reached out to me on Twitter through a direct message. I've never spoken to him.

Q Did you communicate over Twitter?

A Yes.

Q And how many times did you communicate?

A Once. He asked me for -- he asked me three questions, and I provided him three written responses. And then he sent me the link to the article.

Q And this was all over Twitter, all over DMs, I guess?

A Direct message, correct.

Q Did you have any email communication?

A No.

Q Any Signal communication?

A No.

Q Okay.

So I want to introduce an article entitled "Under Biden Federal Agencies Turned Into Instrument of Intimidation, FBI Whistleblower Says," by Ekaterina Blinova. It was

published on Sputnik Today on January 20, 2023.

And this is exhibit 14.

[Friend Exhibit No. 14

Was marked for identification.]

BY [redacted]

Q Did you review the story after it was published?

A Yes.

Q And what's your impression of it?

A Made sure that he took my quotes and didn't alter them in any way, and he did. And then I didn't read, because I knew the information I provided him. That was all I was concerned about, that it was reported accurately.

Q Okay. So you just looked at the quotes to make sure that they were accurately relayed?

A Yes.

Q You checked them off with the DMs?

A Yes.

Q Are you familiar with Russia Today?

A Yes.

Q What's your understanding of what Russia Today is?

A It's another propaganda arm for the Russian Government.

Q Okay. Do you know if Russia Today ever referenced your comments during its broadcast?

A I did not know until I had my meeting with the Security Division of the FBI, and they accused me of appearing on Russia Today. And I had to inform them that they probably just lifted my appearances from other media sources and replayed them.

Q Okay. But so you are aware that they have -- you've never appeared intentionally, but they've taken your statements and broadcast them?

A I never went looking for it. I'll take what Security Division said on its face as accurate.

Q Are you familiar with the Epoch Times?

A Yes.

Q What is your understanding of what the Epoch Times is?

A I believe it's owned by a Taiwanese company. It is a newspaper, and it has a sister television network.

Q Okay.

Oh -- and, sorry, I just want to back up to the Sputnik Today. Did you receive any kind of clearance from the FBI before speaking to Sputnik Today?

A I had the Prepublication Review Office's permission to speak to the details of my declaration.

Q But you didn't specifically say, "I've had this outreach from Sputnik Today. Am I authorized to speak to them?"

A No.

Q Okay. And sorry for jumping back.

Going back to the Epoch Times, have you spoken with anyone associated with the Epoch Times?

A Yes.

Q Who did you speak with?

A Joe Hanneman is a reporter. And I know that -- I don't remember the acronym for the television network, but they had me appear on there for a couple-minute segment.

Q Okay. What was the segment?

A I don't remember.

Q Do you remember who the host was?

A No. I just knew that they were definitely -- English was a second language, but it was -- they were all Taiwanese.

Q Do you remember when?

A This was pretty shortly after I got permission. So probably October, late October.

Q Okay. And did you get specific clearance from the FBI to -- or approval from the FBI to have this conversation? Like, did you reach out to them and say, "I've been contacted by the Epoch Times. I would like to have a conversation. Am I approved to do so?"

A No. I'd, on each of these, taken my permission from the PRO to mean that I could speak to these details.

Q Okay.

Did you know that Kash Patel also has a column with Epoch Times?

A I did not know that.

Q Okay. Did you know that he discussed you in one of his columns with the Epoch Times?

A No.

Q Okay. I want to introduce into the record -- it's dated September 30, 2022, and this is exhibit 15.

[Friend Exhibit No. 15

Was marked for identification.]

BY [redacted]

Q So have you reviewed -- sorry, I'll let you get a copy.

Have you reviewed these comments prior to just now?

A No.

Q Okay. Let me move on, since you've not reviewed them.

A Correct.

Q Are you familiar with Glenn Beck?

A Yes.

Q Who is Glenn Beck?

A He is a radio and TV show host and author.

Q And have you spoken with him?

A Yes.

Q And what were the circumstances?

A I appeared on a television special with him on TheBlaze, and then I appeared with him on radio, and I have asked him to provide a blurb for my forthcoming book.

Q You have asked him to provide a blurb. Is that going to be another second -- or how do you intend to --

A I hope his staff puts my book in front of him and he reads it, and if he wants to comment on it, that would be much appreciated.

Q Okay. And did he reach out to you or did you reach out to him, initially?

A He never reached out to me. A member of his staff reached out to me.

Q Okay. How did they reach out to you?

A Through social media. Yeah.

Q Twitter? Facebook?

A LinkedIn.

Q Okay. Did they indicate how they had learned about you?

A No. They reached out to me after my name was released into the public, and I think that they were looking to communicate with me shortly after that.

Q Were you compensated for either of your appearances on Glenn Beck's shows?

A They paid for my travel, but I wasn't compensated.

Q And where were they?

A They flew me to Dallas, and I stayed in a hotel, but they didn't give me any per diem or anything like that.

Q Do you recall if you mentioned your fundraising campaigns during that appearance -- either of those appearances?

A I don't remember if I did.

Q And, again, did you get specific approval from the FBI to speak with Glenn Beck?

A No.

Q In total, if you had to estimate, how many podcasts do you think you've appeared on?

A I couldn't tell you. I've made a lot of appearances. It would be irresponsible for me to just throw out a number.

Q Okay. Have you been compensated for any of them?

A Well, the Beck show flew me out, and Brandon House flew me to Memphis --

Q Okay.

A -- and, again, grat'd the hotel stay, but no compensation.

Q Do you know offhand if you've regularly mentioned your fundraising -- the online fundraising platform on those appearances?

A I try to. Whenever I'm asked for people who want to contribute, I try to

mention the GiveSendGo, I try to mention Empower Oversight.

Q Okay.

Mr. Foster. And if he does, how does that affect --

[redacted] I just have one more question, and then we're about out of time.

Mr. Foster. Okay.

BY [redacted]

Q And did you receive specific approval from the FBI for any of these podcast appearances?

A Just the Prepublication Review Office's general response to me that I was able to speak to the details of my declaration.

Q Okay. Thank you.

We are out of time.

[redacted] [redacted] you can go ahead and just keep going.

[redacted] Okay. You don't have any further questions?

[redacted] Not as of right now.

[redacted] Well, we do, but --

[redacted] Not right now.

[redacted] -- I think we'll do it --

[redacted] Well, if you have further questions, I'd rather actually go in the order that's laid out -- 60 minutes, 60 minutes, 60 minutes.

[redacted] Just keep going.

[redacted] So you're not going to have further questions after I go?

[redacted] No, I am, but just keep going.

[redacted] Go ahead. Go.

[redacted] I think she just said she wants to stick with the format that we --

[redacted] Yeah. So, if you don't have questions now, then we can end the interview.

[redacted] Oh, we can end the interview?

Mr. Meyer. Well, I wanted to put my part, my little last piece.

[redacted] Hold on one second.

Mr. Meyer. I wanted to put my little last bit on there. Are we on or off the record?

[redacted] We're still on the record.

Mr. Meyer. We're still on the record. Okay.

You're doing a great job over there, by the way.

[redacted] We don't have any questions.

[redacted] I think we're good, actually. So, if you have questions, I would want time after your questions to potentially respond, but I --

[redacted] Fair enough.

[redacted] -- don't have anything.

[redacted] Of course. So we'll just switch around.

[redacted] We can go off the record.

[Recess.]

[redacted] Okay. We'll go back on the record. It's 1:58.

Mr. Meyer, I believe you had something you wanted to --

Mr. Meyer. Yes. Just in the previous -- so, actually, two sessions ago, there was this discussion about OSC's letter and the definition of a disclosure and whether this was an interpretive policy issue or whether this was a rule. This is about the DIOG, the document in question.

I actually called OSC and said, look, you know, there's no appeal process for

disclosures, but the definition they used was out of bounds, okay?

The bottom line is, the whistleblower laws are written so you're reporting a violation of law, rule, or regulation. And an agency just classifying something as policy doesn't get them off the hook if that policy is really effectively a wolf in sheep's clothing, if it's really a violation of law, rule, or regulation and they're calling it a policy in order to get around the whistleblower laws. And there's a long tradition by agency counsels of telling their bosses to label documents as policy to get around the whistleblower laws.

In this case, you've got to look at the actual DIOG, and when you look at it, that's a set of rules for agents to follow. And, yes, all rules have exceptions, okay? Court rules have exceptions. There's exceptions -- it's part of the way we think in this country.

But the bottom line is, we want the agents to follow the DIOG in the best way they can interpret it at the time, not based on what they're going to be told 3 or 4 months later as somebody goes through [inaudible].

I want that on the record, that you can't go down the track of classifying this as a policy just to get rid of the disclosure.

And the second thing, I just want to clarify on the fundraising in the last session. My client has not taken money from the social media site fundraising. Where he has referenced it, it has been for other FBI agents.

Am I correct on that?

Mr. Friend. Yes.

Mr. Meyer. Yeah.

And those agents -- I have to be -- you know, I can't give too much out of there -- those agents needed that money because they are even in dire straits, one of which had a newborn baby that was sleeping in a drawer of a dresser because the FBI had moved him across the country and then stranded him with no furniture for a 4-month

period.

So I just wanted that on the record just so there was proper context. Thank you.

BY [redacted]

Q Mr. Friend, you testified this morning that there's a number of ways to apprehend a suspect without using a SWAT team.

A Yes.

Q You said you can call their lawyer, I believe?

A Yes.

Q Make an agreement to have the lawyer bring in the suspect?

A Yes.

Q You said you can call the suspect directly and see if the suspect is willing to turn himself in?

A Yes.

Q And I think you went down and identified three or four other options. Local law enforcement I think you mentioned.

A Yes.

Q You said the use of a summons.

A Yes.

Q If the particular suspect in question is a gun owner, does that require the use of a SWAT team?

A It's one of the elements that you can consult in the SWAT matrix and actually use a SWAT team for.

Q But just simply being a gun owner, is that enough to warrant a SWAT team?

A FBI executive management could say that, yes.

Q Okay.

The individuals that you expressed concern about for August 24th, were you aware of any factors that would counsel in favor of a SWAT team?

A I think being a gun owner meets that matrix, and those individuals were. I think that being, you know, accused of a felony is something that can be taken into consideration. And, ultimately, if local law enforcement requests permission to use a SWAT team, then the FBI will do that as well.

Q Okay. But if the individual in question was willing to turn themselves in, then you wouldn't need a SWAT team. Is that right?

A That's my contention, yes.

Q And if the individuals had lawyers that were working with the FBI and agreed to produce the person, then you wouldn't need a SWAT team. Is that correct?

A That's right.

Q And was it your understanding in this instance that was a possibility?

A Yes.

Q Okay.

You also mentioned -- and, again, this is a question you may not feel comfortable answering here on the record -- that her wife lost her position because of what happened to you, or lost her job?

A She lost her position in middle of October.

Q Okay. And who was she employed by, if you don't mind saying on the record here?

A She was employed by a -- I'll give her industry. She was employed in fertilizer logistics.

Q Okay. And do you have any idea why your situation may have negatively impacted her at her job?

A A couple theories, one being perhaps there was a politically minded person in a position to remove her and disagreed with my contentions; secondly being that fertilizer is WMD-adjacent, and there are tripwire communications between the Federal Government and fertilizer importers. So there might've been that. And this is all theoretical.

And the manner in which she was told that she was being dismissed was very unusual. It was in the middle of a pay period, in the middle of a week. Her supervisors told her that she was doing a great job and they had a lot of work coming up and they thought it was best that they parted ways. So that sort of contradiction, to me, was very strange.

And they gave her a 6-month severance, an NDA, and asked her to do 2 more weeks. She asked if she could just use her vacation time for the 2 weeks, and they said that they prefer she didn't because, by using 2 more weeks, it would get her into November and that her family would have insurance for an extra month. So they were trying to arrange for her to leave under the best possible circumstances.

So we believed that they were just not really good at executing the order to execute her from working.

Q Okay. Did she have any followup communications with her employer about you and whether it had anything to do with your work situation?

A Just when she followed up and asked if she could use vacation time, she said, "Does this have anything to do with my husband?" and they said no.

Q Okay.

You testified briefly -- and I just wanted to follow up on this vignette that you offered -- that a tip had came in from Rhode Island after -- I believe it was in November?

A Yes.

Q And you were sent to Palm Coast, Florida?

A Yes.

Q To knock on someone's door? Could you sort of back up and unpack that situation?

A An anonymous tip came into NTOC, essentially the 911 system for the FBI. It came in from Rhode Island; they were able to trace the call there. And the individual said that this person who lived in Palm Coast was one of the folks that is on the most wanted January 6th website list.

The task force in Washington did a check of this individual's cell phone. It came back negative. Did a cross-reference of this individual's driver's license photo and social media with the pictures at the Capitol, and that came back negative. And they sent it to our office for interview, request that we do an interview.

Mr. Foster. What do you mean by "negative"?

Mr. Friend. It means that they couldn't -- his picture did not match with anybody at the Capitol.

BY [redacted]

Q So his picture didn't match. The phone number didn't match. What else didn't match?

A That's it. Then just --

Q But they had no evidence linking this particular person in Palm Coast, Florida, to the tipster, right?

A Correct.

Q And then what happened?

A Well, I asked the other guys on my squad, because they had done these before, what I was supposed to do with it, and they said, you have to go attempt to

interview him, which is a waste of time because there's no complainant and there's no evidence. Even if he confesses to being there, he's not going to get charged.

Q Okay.

A So they said if I didn't go and sent the lead back to Washington without any action on it, that they would continue to ping-pong it back to us.

Q Okay.

A So I drove to Palm Coast and --

Q How long does it take to get to Palm Coast?

A About a 90-minute drive.

Q Okay. So what happened when you went to this gentleman's residence?

A He lived in a large condominium complex, and knocked on his door, identified myself. Was pretty straightforward and asked him if he was at the Capitol on January 6th, because, obviously, the FBI was investigating that. And he said, no, that was the day that my -- of my son's funeral.

So I had to, from my perspective, make the man relive probably the worst day of his life. And he demanded to have a copy of my business card, so I figured, yes, I'll provide that to you. And I kind of hoped that he would complain. And I left.

Q Do you know if he did complain?

A I never -- nothing ever crossed my desk on it.

Q Okay.

So a tip came in. There was no evidence that the tip linked up to this particular individual, but you were sent to Palm Coast, Florida, anyway?

A Yes.

Q Ninety-minute drive?

A Yes.

Q So it took you most of the day to get down to Palm Coast and come back?

A Yes.

Q Subsequently, did any further work happen on this individual at the FBI?

A Not that I'm aware of.

Q So that was the end of the matter?

A Yeah. I wrote up my interaction with him and sent it back and never received anything back from them.

Q Okay.

And I understand your -- getting back to your wife, I had one more question about that, and then I believe I'm done, unless my colleague has anything, or Mr. Gaetz.

I understand your wife has been kicked off Facebook?

A Yes.

Q Could you help us understand that, to the extent you're willing to walk us through that?

A Sure.

The week that I became public, we went to church that Sunday. And she received a message that, after we got done at church, she looked at. It was from a friend of ours who was friends with a woman who's with Moms for Liberty in Volusia County. And they had seen my name and my picture pop up on the news, and they recognized me from having attended a school board meeting. So this woman tracked me down through our friend and said, "What can we do?"

So my wife went on her private Facebook account and sent a private message to this woman and said, "I'm Steve Friend's wife. We really appreciate it. At this point, we're not speaking out, but we would really appreciate if you could share his story with your membership and encourage them to put it on their social media."

Thirty minutes later, her account was suspended for violating community standards. She appealed. And the following day it was permanently revoked.

And I'll note that her account was hacked several months before this happened, so she had to have it restored. And when she restored it, she used her -- my wife's an immigrant from Ukraine, so she used her Ukrainian name and spelling in the Cyrillic alphabet.

Q Uh-huh.

A She didn't put anything up there that identified herself as my wife. She didn't post publicly. She only used it for direct message and looking at pictures.

And I joked that by saying you're Steve Friend's wife, the word "friend," the algorithm probably couldn't catch that. But apparently it did, or her account was being monitored.

Q And has your wife been -- has her Facebook privileges been restored?

A No. She started a different account with a different name and a different birthday.

Q Okay. So what was the outcome of the suspended account? It just remains suspended?

A It's gone, correct. And we got in contact with that -- the lawsuit that's being filed by the attorney generals of Louisiana and Missouri, and I believe we're paragraph 393, 394 of that lawsuit.

Q Oh, okay.

I think that's all the questions we have. I'll turn it back over to --

[redacted] We can go off the record. Thank you.

[Recess.]

[redacted] It's 2:12. We can go back on the record.

BY [redacted]

Q You mentioned the SWAT team matrix. Just one quick question on that. Did you review the SWAT team matrix prior to the August 24th arrest?

A No. Just familiar with it with my experience on the SWAT.

Q On the Palm Coast tip that you followed up on, real quickly, did you actually review the -- sorry, what's the NTOC? You referred to that.

A The National Threat Operations Center.

Q Okay. And did you review the tip that the NTOC sent?

A Yes.

Q And what did it say?

A It said a caller from Rhode Island alleged that this individual in Palm Coast was, in fact, this particular unidentified person on the FBI's list of January 6th subjects who were yet to be identified.

Q Uh-huh. Did it say the most wanted list, like, most wanted --

A I think it says most wanted, but it's got an acronym connected to it.

Q Okay. And how long was your conversation with this individual?

A Maybe a couple minutes.

Q Okay. And so you drove down and you spent a couple minutes talking to him, pretty quickly concluded that he wasn't the person?

A Yes.

Q And then ended it, right?

A Yes.

Q And did you put in a report to that effect?

A Yes.

Q And what did that say?

A It detailed that I'd driven there and asked him that question and that the answer he provided to me was that he wasn't because he was at his son's funeral that day.

Q Okay. And so that would've been related back to the Washington Field Office?

A Yes.

Q And, to your knowledge, no further actions were taken on that case after that?

A To my knowledge, none.

Q Okay.

I think that's all I have. Agbe, did you have anything?

[redacted] Yeah, I just had one quick followup.

BY [redacted]

Q So, with the SWAT matrix, is it tailored to the specific facts of each individual case?

A It's a general matrix where you would consider different features of a particular case and see if it meets --

Q Okay.

A -- that matrix. Kind of like a decision tree.

Q Okay. So it does take into account the facts of a particular case, and then you use the SWAT matrix to make a determination.

A Yes. If it satisfies those components, then you can consider SWAT. And then, even then, it's within your discretion whether or not to use it.

Q Okay.

[redacted] That's the only question that I had, but I did want to -- Mr. Foster, I

know you mentioned earlier that the FBI has a specific statutory obligation to provide firearm records to individuals.

Do you have the name of that specific statute, or the title of it, just for our records?

Mr. Foster. Under the Privacy Act, you have a right to obtain records about yourself from any company.

[redacted] Okay. So it's just the general Privacy Act. There's not a -- we were looking for a firearms-related act. There's nothing to that effect.

Mr. Foster. No, it's not related to firearms. It's records about your own self and your employment that you are entitled to receive under the Privacy Act and under the FOIA.

[redacted] Okay. That answers the question. Thank you.

Mr. Foster. Those requests were made in January, I think, right?

Mr. Friend. Yes.

Mr. Foster. And despite constant assurances both to the inspector general and to us that we would be provided those records so that he could obtain the license he would need in order to work and earn an income, the records have not been forthcoming.

[redacted] And it's still outstanding, effectively. Okay.

All right. That's all we have.

[redacted] do you have anything further?

[redacted] No.

[redacted] Okay. We can go off the record. Thank you.

Mr. Foster. I'm sorry. Can I request to say something at the end here?

[redacted] Okay. Of course.

Mr. Meyer. Can we go back on the record?

[redacted] Sure. We can go back on the record.

Mr. Foster. So I just want to address -- earlier, there were some questions from the minority staff about how Steve Friend came to be referred to me. I don't think those are necessarily appropriate or connected to any legislative purpose of the committee, certainly not necessary in order to understand his disclosures.

I would just point out that our organization is listed on the House Whistleblower Ombudsman website, along with several other organizations that are like-minded across the ideological spectrum that I have worked with cooperatively for many, many years. And it's perfectly appropriate for people to be referred to those organizations, and any insinuation otherwise is not well-taken.

[redacted] Thank you. Anything further?

Okay. We can go off the record then. Thank you.

[Whereupon, at 2:16 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: VIOLA GARCIA

Thursday, March 23, 2023

Washington, D.C.

The interview in the above matter was held in 2237, Rayburn House Office Building, commencing at 9:59 a.m.

Present: Representatives Jordan and Bishop.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

[redacted] GENERAL COUNSEL

[redacted] DEPUTY GENERAL COUNSEL

[redacted] RESEARCH ASSISTANT

[redacted] COUNSEL

[redacted] DEPUTY CHIEF COUNSEL FOR OVERSIGHT

[redacted] SENIOR SPECIAL COUNSEL

[redacted] DIGITAL DIRECTOR

[redacted] MINORITY CHIEF OVERSIGHT COUNSEL

[redacted] MINORITY OVERSIGHT COUNSEL

[redacted] MINORITY INTERN

For VIOLA GARCIA:

AMIT JAIN

SUSANNE SACHSMAN GROOMS

KAPLAN HECKER & FINK LLP

[redacted] Good morning.

This is a transcribed interview of Dr. Viola Garcia. Chairman Jordan has requested this interview as part of the committee's investigation of the Biden administration's misuse of Federal criminal and counterterrorism resources to target concerned parents.

Would the witness please state your name for the record?

Dr. Garcia. Viola Garcia.

[redacted] On behalf of the committee, I want to thank you for appearing here today to answer our questions. The chairman also appreciates your willingness to appear voluntarily.

My name is [redacted] and I am with Chairman Jordan's staff.

I'll now have everyone else from the committee who is here in the room introduce themselves as well.

[redacted] My name is [redacted] and I'm with Chairman Jordan's staff as well.

[redacted] [redacted] with Mr. Jordan's staff.

[redacted] [redacted] I'm the chief oversight counsel for the Democratic staff with Ranking Member Nadler.

[redacted] I'm [redacted] with Ranking Member Nadler.

[redacted] [redacted] for Chairman Jordan.

[redacted] [redacted] [redacted] with Chairman Jordan.

[redacted] [redacted] Chairman Jordan.

[redacted] I'm [redacted] with Nadler.

[redacted] I'm [redacted] with Chairman Jordan.

[redacted] I'd like to now go over the ground rules and guidelines that we will follow during today's interview.

Our questioning will proceed in rounds. The majority will ask questions first for 1 hour, and then the minority will have an opportunity to ask questions for an equal period of time if they so choose.

We will alternate back and forth until there are no more questions and the interview is over.

Typically we take a short break at the end of each hour, but if you would like to take a break apart from that, please just let us know.

As you can see, there's an official court reporter taking down everything we say to make a written record. So we ask that you give verbal responses to all questions.

Do you understand that?

Dr. Garcia. I do.

[redacted] So the court reporter can take down a clear record, we will do our best to limit the number of people directing questions to you during any given hour to just those people on the staff whose turn it is. Please try and speak clearly so the court reporter can understand and so the folks down at the end of the table can hear you as well.

It is important that we don't talk over one another or interrupt each other if we can help it, and that goes for everybody present at today's interview.

We encourage witnesses who appear before the committee to freely consult with counsel if they so choose. And it is my understanding that you are appearing today with counsel.

Is that correct?

Dr. Garcia. It is.

[redacted] Could counsel please state your name for the record?

Ms. Sachsman Grooms. Yes. My name is Susanne Sachsman Grooms. I'm with Kaplan Hecker & Fink.

Mr. Jain. And my name is Amit Jain, also with Kaplan Hecker & Fink.

[redacted] Thank you.

We want you to answer our questions in the most complete and truthful manner as possible. So we will take our time. If you have any questions or if you do not understand one of our questions, please just let us know.

Our questions will cover a wide range of topics. So if you need clarification at any point, just say so. If you honestly don't know the answer to a question or do not remember, it is best not to guess. Please give us your best recollection, and it is okay the tell us if you learned information from someone else. Just indicate how you came to know the information.

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

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

Do you understand that?

Dr. Garcia. I do.

[redacted] This also applies to questions posed by congressional staff in an interview.

Do you understand this?

Dr. Garcia. I do.

[redacted] Witnesses that knowingly provide false testimony could be subject

to criminal prosecution for perjury or for making false statements under 18 USC, Section 1001.

Do you understand this?

Dr. Garcia. I do

[redacted] Is there any reason you are unable to provide truthful answers to today's questions?

Dr. Garcia. There is not.

[redacted] Finally, I'd like to make note that the content of what we discuss here today is confidential. We ask that you not speak about what we discuss in this interview to any outside individuals to preserve the integrity of our investigation.

For that same reason, the marked exhibits that we will use today will remain with the court reporters so they can go in the official transcript and any copies of those exhibits will be returned to us when we wrap up.

All right. That's the end of my opening remarks.

Is there anything that my colleagues from the minority would like to add?

[redacted] We have nothing to add. Thank you.

[redacted] Dr. Garcia, I understand that you have a statement that you would like to give.

Dr. Garcia. I do. Okay.

[redacted] Go ahead.

Dr. Garcia. Well, good morning to everyone.

My name is Viola Garcia, and I'm a lifelong educator dedicated to my local school board and school boards across the Nation. A proud Texan, I received my bachelor's degree from Texas Woman's University and my master's and doctorate in education from the University of Houston.

I have served on the Aldine Independent School District board of trustees as an unpaid volunteer since 1992 and am the past president of the Texas Association of School Boards, one of the largest school boards associations in the country.

I have dedicated much of my career to training future teachers for local school districts at the University of Houston-Downtown where I am now a professor emeritus.

In 2021, I was elected to be president of the board of directors of the National School Boards Association, and I was the first Latina to ever hold that position. I have also previously served as the president of the Mexican American School Board Members Association.

Currently, I volunteer on the National Assessment Governing Board, a nonpartisan board that overseas The Nation's Report Card. I was appointed to that position by Secretary of Education Cardona and serve in the role of the local school board member. I also continue to serve as a volunteer on my local school board.

I have dedicated over 30 years of my life to service and have continued that service into my professional retirement.

I understand that you have questions about a letter that I signed when I was at the National School Boards Association, and I have traveled from Texas to be here today and will try to answer your questions to the best of my ability.

Thank you for your time.

[redacted] Thank you.

The clock now reads 10:06. We'll start the first round of questioning.

EXAMINATION

BY [redacted]

Q Dr. Garcia, when did you join the National School Boards Association?

A It must have been about 8 years before I became president.

Q And when did you become president?

A I don't recall the year.

Q Do you know how long you served as president?

A You serve as president 1 year.

Q One year.

And what were your roles and responsibilities as president of the NSBA?

A To advocate for NSBA, to lead the quarterly board of directors meetings, and to be of service.

Q And you would be considered one of the officers of the NSBA as the president?

A Yes.

Q Okay. And when did you leave your role as NSBA president?

A March? It was in March of 2022.

Q March of 2022?

A Uh-huh.

Q Do you currently have any role with the NSBA?

A I do not.

Q Are you still considered a member of the NSBA?

A I am not. Individuals -- the member -- NSBA's members are State associations, not individuals.

Q And you serve on a school board right now, correct?

A I serve on the -- my local school board, yes.

Q And which school board is that?

A The Aldine Independent School District in the Greater Houston area.

Q And is that school board or the State of Texas a member of the NSBA?

A No. Currently, no.

Q Okay. And how long have you served on your local school board?

A Since 1992.

Q Since 1992. Great.

And you worked in the education field prior to that, you said?

A I did.

Q And what did you do?

A I'm an educator.

Q And what is your understanding of how the NSBA serves local school boards across the country?

A NSBA's members are State school board associations. And those State school board associations serve local school board members within their State. So NSBA is a service organization to the State associations and, therefore, to local school board members.

Q And prior to September 29th, 2021, how many State school board associations were members of the NSBA?

A Forty-nine.

Q Forty-nine.

A As best as I can remember.

Q Yeah.

A Forty-nine.

Q That's fine.

And the NSBA has officers and then a board of directors, correct?

A That's right.

Q And who's the ultimate decision-maker at the NSBA?

A It is a joint responsibility of the board of directors to confer and vote and approve recommendations that come before the board, So ultimately the board of directors.

Q And what role do the officers play?

A The officers are the leaders of the organization elected by the members.

Q And does the NSBA have a staff that runs the day-to-day operations?

A NSBA has a staff, yes.

Q Do you know how many members are on the staff?

A Currently, I do not know.

Q And what role does the NSBA executive director and CEO play?

A The NSBA executive director manages the day-to-day operations of the organization and is the administrator of the organization and staff.

Q So the staff report to the executive director of the NSBA.

A That is right.

Q And as of September 29th, 2021, who were your fellow NSBA officers?

A The officers are considered to be: Past President--At the time that was Charlie Wilson. President-elect was Frank Henderson. And the secretary was Kristi Swett.

Q And how often do the NSBA officers meet?

A We meet quarterly at the quarterly board of directors meetings.

Q Okay. And besides meeting quarterly, do you exchange emails or phone calls or text messages regularly?

A We communicate with the executive director or did at the time communicate with the executive director.

Q And who was the executive director on September 29th 2021?

A There was an interim executive director. Chip Slaven was the interim executive director at that time.

Q And how often did the NSBA board of directors meet?

A Quarterly.

Q Quarterly?

A Four times a year, uh-huh.

Q Okay. And in 2021, the board of directors met quarterly?

A That's right.

Q Okay. Did you attend all of those meetings?

A I did.

Q Did you speak at any of those meetings?

A I did.

Q Do you remember what the content of your remarks were at those meetings?

A I conducted the meeting. I opened the meeting and followed the agenda that had been developed for each of those meetings.

Q Okay. So when would have been the last board meeting before September 29th, 2021?

A I don't recall. Quarterly meetings generally were March, April, January. So it may have been a May meeting.

Q Okay.

A I don't recall.

Q And did you prepare your own communications and agenda for each board meeting?

A No, not alone.

Q Oh, okay. Who had input in those?

A The officers and the executive director and his chief staff.

Q So would you go back and forth on the agenda, sending it, circulating it?

A Yes.

Q And they all provided input?

A Yes.

Q Okay. So when did you become aware that Mr. Slaven was considering requesting Federal intervention at local school board meetings?

A I don't recall the specific -- a specific date.

Q Okay. I'm going to enter as exhibit No. 1 an email from September 8th, 2021, between Mr. Slaven and the board -- the officers. Excuse me.

[Garcia Exhibit No. 1

Was marked for identification.]

BY [redacted]

Q Please take a moment to review.

A Okay.

Q Okay. Do you remember receiving this email, Dr. Garcia?

A I do now that I've read it.

Q Okay. I'm going to direct your attention to the email from Mr. Slaven on Wednesday, September 8th, at 5:47 p.m. I'm going to read that first part.

It says: "Hi, Charlie and officers. I have been very concerned over these issues for several weeks. This rhetoric is troubling and reminds me of similar language during the 1990s after Waco and Ruby Ridge.

"I've been exploring several options to try and address these issues, including contacting the Department of Justice and our Department of Homeland Security and

asking for a threat assessment for school boards and public schools. We are also looking at some best practices to help to manage meetings, but I want to make sure we vet those practices with some experts first."

Did you read this email when you received it?

A Yes, I routinely read email that I received.

Q And did you express any concerns or give Mr. Slaven any feedback about contacting the Department of Justice or Department of Homeland Security?

A I do not recall doing that.

Q So you didn't raise any concerns about the Federal intervention.

A I didn't -- don't recall that.

Q Okay. And did Mr. Slaven, besides this, ever come to you again about the alleged threats and violence at school board meetings and the need for Federal Government intervention?

A I don't recall that either.

Q Okay. When did you become aware that Mr. Slaven was drafting a letter to the President on behalf of the NSBA?

A Shortly before the letter was issued is what I recall.

Q Okay. Were you involved in the drafting process at all?

A Not at all.

Q So you didn't provide any input during the drafting process itself.

A No.

Q Are you aware who actually drafted the letter?

A Not specifically, no.

Q Okay. Do you know what kind of due diligence was performed in conducting research for the letter?

A I do not.

Q I'm going to enter another exhibit, No. 2.

[Garcia Exhibit No. 2

Was marked for identification.]

BY [redacted]

Q This is an October 27th and 26th email chain from Mr. Slaven to the officers. Refresh your recollection. Okay.

A Okay.

Q Okay. I'm going to read from the bottom of that page an email from Mr. Slaven to the officers on September 26th, 2021, at 7:29 p.m.

"Good evening, Viola, Frank, Kristi, and Charlie. I wanted to share with you the letter we plan on sending the President regarding threats to school board members in public schools.

Deborah Rigsby worked on it and did a great job. It is very bold and calls for threat assessments to be conducted by various Federal law enforcement agencies. It also calls out several of the problems that have been publicly reported.

"We will be doing some more editing in the morning, but I wanted to make sure I shared it with you prior to it going out.

"Jason believes this will get some attention. Please let me know if you have any questions or see any necessary edits.

"Thanks, Chip."

And the NSBA letter is attached.

Who is Jason?

A Jason works in the communications staff or worked at that time in the communications staff.

Q And when you received the email on September 26th at 7:29 p.m., did you read the letter that was attached to it?

A Yes, I believe I did.

Q And did you agree with Mr. Slaven that it was a very bold letter?

A Generally speaking, I would say that it addressed the concerns that we had about threats of violence, disruptions, and things that were occurring across the country. Yes.

Q And did you suggest any edits or changes to the letter?

A I did not.

Q Did any of the other officers suggest any edits or changes to the letter?

A I see there's a reference in this email to a change or an edit.

Q And so the email right above from Ms. Swett on the next day, September 27th, at 11:07 a.m., says: "Thank you, Chip. The letter looks good. A bit long but the content is relevant and provides perspective to the issues. I would agree with Charlie. I would like to see Viola's name included, unless she has objections."

Is that the first time you were asked to sign on to the letter?

A From what I can remember, we had had a phone conversation, the officers and Mr. Slaven, and it was brought up then.

Q Okay. And did you do any due diligence to review the alleged violent incidents that were cited in the letter?

A I did not review the incidents, no.

Q And would it surprise you to learn that the vast majority of the incidents cited in the NSBA's letter calling for Federal intervention at school board meetings were nonviolent?

A I have no knowledge of that.

Q And the top email here on the page from Mr. Slaven back to Ms. Swett and the rest of the officers said: "Good morning. Thanks for the great feedback.

"Viola, if you would like to add your name, we can certainly do that for this letter. Please just let me know what you prefer.

"I agree the letter is lengthy, but the White House has been asking me to provide examples of some of the activity. So we thought the letter was an appropriate means to give them that information.

"Charlie, thanks for the copy edit. I will correct the spelling.

"Take care, Chip."

Was it your understanding from Slaven's email that the examples of incidents were included in the letter because the White House asked for the examples?

A I don't recall the specific reason. I don't recall that that was the reason. There had been, as far as I understand, communication, concern that had been expressed by NSBA about the threats of violence that were occurring across the country. And so there had been communication with the Department of Education asking for assistance, resources for board members as we conducted school board meetings across the country.

Q And was the communication from school boards to the Department of Education or was it the other way, Department of Education to school boards?

A As far as I can remember, the communication was to the National School Boards Association staff.

There was an event that occurred. It was a town hall conducted by Secretary Cardona in August inviting school board members to participate in the town hall.

NSBA facilitated that. And so that was an opportunity for individual school board members across the country and State executive directors who managed our members to participate in that town hall, and it included guidance on back-to-school activities.

Q And what occurred at the town hall meeting?

A I remember offering a greeting, welcoming the members. And essentially the Secretary and his staff were responding to individual school board members.

Q And the NSBA report that came out in May stated that some evidence also suggests Secretary Cardona during an August 16th, 2021, town hall with NSBA members and leadership discussed disruptions in local school board meetings and requested additional information to be sent to his office.

Does that match your recollection of what occurred at the town hall?

A Yes. From what I can recall, the concerns were serious and they were expressed to NSBA. NSBA had shared those concerns with the Department of Education. And I'm assuming that through those conversations requests for additional specific examples were requested by the Department staff.

Q And do you know if anyone from the NSBA followed up with additional information as requested by the Secretary?

A I do not have explicit knowledge of that.

Q And do you know if any of the member associations followed up directly with the Department of Education?

A I do not.

Q Did any of the NSBA member associations raise concerns to you that local law enforcement were unable to handle any violence or threats at school board meetings within their jurisdiction?

A I received no specific communication from anyone related to incidents.

Q And did you personally believe that local law enforcement could not handle any violence or threats that occurred at local school board meetings?

A Again, we were concerned. There was concern among the officers, among

the organization members that the threats of violence were serious, that there were national publications, there were incidents that were reported on the news.

And so we were aware generally of threats of violence, of disruptions, of interruptions to school board meetings. So I had that general awareness.

Q And when disruptions occurred at local school board meetings where there were threats of violence directed at school board officials or at the meetings themselves, was that typically something that local law enforcement handled in your experience serving on school boards?

A Typically, NSBA advocates -- and I do, too -- for local control of school boards.

Q By local law enforcement?

A Well, by local school board, there are various resources that various school districts have. They're different across the country. And so they're not all law enforcement. But local control of activities in the jurisdiction is what we advocate for.

Q And can you describe some of those local control measures that school boards have? You said various resources.

A Well, there are -- this is just from personal experience of what occurs at Aldine Independent School District. This is certainly not something that occurs at every school district. But we have monitors out in the hallway. We have greeters to assure that whoever wants to speak is able to speak, signs up to speak. And so from that level to just being generally open to people who are there for school board meetings.

The concern was primarily about school board meetings, but we had also received information that these were generalized activities that were occurring -- threats to teachers, administrators related to masking or not masking, and those sorts of things.

So this was not specific to school board meetings, even though that, obviously, as

a national school board association organization, was the focus of our concern.

Q And when you say you received generalized information, where were you receiving that from?

A From what I can remember those were, as I said, video clips on TV news reports, news print, the organization communication, those sorts of things. That's what I can recall.

Q And during your tenure as a school board member, has there ever been an occasion when local authorities were unable to handle violence or any disruption at one of your meetings?

A Not at our meetings, no.

Q What was your understanding of the need for Federal Government intervention at local school board meetings?

A Again, the concern was -- the essence of the concern was that the disruptions were threats. They were threats of violence. These disruptions produced fear. And these threats caused people to be concerned about their safety. And so we were, as well, concerned about the safety and security of school board members, administrators, staff, students.

Q And was it your opinion that the local authorities who normally handle these threats couldn't handle those threats?

A I didn't have an opinion. I'm not a legal expert or a police officer. And as I said, there are over 50 million students in the country and many, many school districts and each locale is uniquely different. So each one handles its own.

Q And when you were reviewing the letter, the September 29th letter, did you form any sort of opinion or think this is why the Federal Government needs to get involved?

A Well, generally speaking, what we understood was that the threats of violence appeared to come through mail, email, across jurisdictions often. And so that was a concern, that there was some activity that could have been or may have been, I don't know, I don't know the essence of that, but that may have been organized in such a way that perhaps local resources would not be sufficient to get to what was really happening.

Q But during your tenure as a school board member you've never had a situation where local authorities couldn't handle the disruption or any threats that were received.

A Not in my personal local school district, no.

Q Okay. We talked a lot about the September 29th letter. So I'm going to enter it as an exhibit now.

I'm going to mark the September 29th, 2021, letter from the NSBA to President Biden as exhibit No. 3.

[Garcia Exhibit No. 3

Was marked for identification.]

BY [redacted]

Q I'm going to jump to page 2 of the letter, specifically the last paragraph.

A Okay.

Q Dr. Garcia, when you reviewed the letter, did you raise any concerns about the following language? And I'm reading from the last paragraph on that page, first sentence.

"As these acts of malice, violence, and threats against public school officials have increased, the classification of these heinous actions could be the equivalent to a form of domestic terrorism and hate crimes."

Did you agree with the inclusion of this language?

A I agree that there were acts of violence. And from what I can recall, not having read this letter since then, yeah, we were concerned about those threats, yes.

Q Did you think that anything rose to the form of domestic terrorism?

A I'm not an expert in that area. So I cannot comment on that.

Q And do you know why this language was included?

A I do not know the specific reason, no.

Q Did you think critically about the domestic terrorism language in the letter before you signed the letter?

A I read the letter and I responded to the letter. I did not look at that specifically. And as I said, I'm not an expert on domestic terrorism.

Q Did you have any concerns about the inclusion of the domestic terrorism language and how it could be equated to parents raising concerns at school board meetings?

A I am an educator. I dwell in the life of educators. And so that is my focus.

The primary reason for the letter was to express concern about the activities that were occurring and to ask for assistance. And I did not look at the specific things that you're asking about in the way that someone familiar with domestic terrorism would look at it.

Q Do you know if Mr. Slaven did any research into whether any of these incidents that were cited in the letter would raise to the level of domestic terrorism?

A I do not.

Q Did it concern you whether the correct level of due diligence was done prior to the letter being sent?

A I don't recall that we were concerned prior to the letter being sent.

Q And a lot of parents and others have expressed concerns about being equated to domestic terrorists. What is your reaction to that?

A NSBA's stance and State association -- school boards association and local school boards' stance is that parents are an integral part of the education of students in school districts.

Most school board members, I would say, I don't have data, but I would think that about 80 percent or more of school board members across the country are themselves either parents or grandparents.

And so we were concerned about those parents and their ability to interact, collaborate, work with school boards and school districts for the benefit of their students.

Q And further down in that paragraph, with the sentence starting "additionally," it states, the letter states: "Additionally, NSBA requests that such review examine appropriate enforceable actions against these crimes and acts of violence under the Gun-Free School Zones Act, the PATRIOT Act in regards to domestic terrorism, the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act, the Violent Interference with Federally Protected Rights statute, the Conspiracy Against Rights statute, an Executive Order to enforce all applicable federal laws for the protection of students and public school district personnel, and any related measure."

When you reviewed the letter, did you raise any concerns about the inclusion of the PATRIOT Act language?

A Again, I am an educator. That is my expertise. As I've said, I did not write or edit the letter. This was a staff-developed letter. And NSBA officers, as we reviewed this, trusted that the staff had done the due diligence that you're describing.

Q Do you think the staff had an understanding of what the PATRIOT Act can be used for and how it is used in regards to domestic terrorism?

A I do not know the detail. I do not know the level of expertise that they have in each of those areas.

Q Do you know which staff would have been in charge of doing this due diligence?

A I do not know specific staff that would have been involved.

Q Do you know if Mr. Slaven had any understanding of the PATRIOT Act and how it is used in regards to domestic terrorism?

A I do not know that.

Q Did it concern you at all that the PATRIOT Act was being used in this letter and how serious the PATRIOT Act is?

A Again, that is not my expertise. I do not know about the PATRIOT Act in that -- to that depth. I am an educator. I deal primarily with developing future educators.

Q Did the letter follow the normal NSBA procedure for reviewing official correspondence to the administration?

A From what I can recall, NSBA has conducted over decades of its service regular communication with the Department of Education in particular related to education issues from prekindergarten through 12th grade. So regular communication with the Department of Education is not unusual for NSBA.

Q And were you concerned, considering the gravity of the letter and what it was asking for, Federal intervention at local school board meetings, were you concerned about the short period of time you were given to review the letter?

A Not, as I can recall, not at that time.

Q Did you become concerned later on that you weren't given enough time to review it?

A Well, feedback from our members indicated concern that they had. And, of course, if our members are concerned, we were concerned.

Q When you say members, was that member State associations?

A The members of NSBA are the State associations, yes.

Q Okay.

A Uh-huh.

Q And what kind of feedback did you receive from them?

A Some positive and some negative from what I can recall.

Q Okay. And what was some of the positive feedback?

A "Thank you for doing that. Thank you for asking for the help that we have been asking for."

Q What was some of the negative feedback?

A The feedback primarily was that they were responding to the negative outcome that was derived from the letter.

Q And what was the negative outcome?

A There were, as you mentioned, from what I can recall, there was a link between what was stated here and an allegation that this was targeting parents. And, in fact, that is not -- that was not the intent of the letter. The intent of the letter was to seek assistance for the threats of violence that were occurring at school board meetings and for administrators and teachers.

Q And looking back now, can you kind of see how maybe some parents would take it as an attack on parents or to target parents?

A I don't know. I can't speak for parents. I mean, I'm a parent, grandparent myself. And the intent, the reason for asking for the letter was -- not the letter -- for the assistance was sincere. We were sincerely concerned about the threats, the

disruptions, the intimidation, the things that were occurring across the country.

Q And when did the board of directors become aware of the letter?

A From what I can remember, it was the day before it was sent.

Q And did the board get a chance to review the letter?

A That's when the board received it.

Q So they didn't get to review the letter at all?

A They received it before it was sent.

Q Okay. Were they provided a chance to provide any input to change the letter before it went out?

A Not that I can recall, no.

Q And the board, as you said earlier in the interview, voted on matters before the NSBA. Should this have been something that went before the board, a communication to the President?

A Not that I understand the processes of NSBA as they routinely occurred. As I said earlier, NSBA communicated with the administration regarding prekindergarten through 12th grade education issues routinely.

Q Did you receive any negative feedback from the board of directors regarding the letter?

A There were, as I can recall, there were a few directors who were displeased, yes.

Q I'm going to enter what's marked as exhibit 54 in the NSBA report. It's going to be our exhibit No. 4.

[Garcia Exhibit No. 4

Was marked for identification.]

[redacted] Fifty-four. This one.

Ms. Sachsman Grooms. This is a rather long document.

[redacted] I know. It is. There is a particular part. Specifically interested in, on page 3 of the document, or page 209 marked on the exhibit, Dr. Garcia's email.

[redacted] [redacted] I'm sorry. Are you marking this exhibit 4?

[redacted] Yes, ma'am.

Dr. Garcia. Okay.

BY [redacted]

Q Have you had enough time to review?

A Uh-huh.

Q Okay. So on page 3 of the exhibit or page 209 that's on there, in an October 2nd email to the board of directors, in response to the September 29th letter, you stated that, quote: "NSBA has been engaged with the White House and the Department of Education on these and other issues related to the pandemic for several weeks now."

Did you have any contact with the White House prior to the letter being sent on September 29th?

A I did not personally.

Q Do you know who was having the conversations with the White House that you referenced in your email?

A I do not know specifically, no.

Q Why did you write that sentence in your email? Did you know who was in contact or no?

A I did not know specifically. I knew that there was contact. And if you'll recall, I mentioned a little earlier that this was in October, that the month and half before there had been a town hall meeting with the Secretary. And so I was referring to that

communication, seeking resources, seeking assistance primarily.

Q Did someone tell you that they had been in contact with the White House? Is that why you included it in the email?

A No one told me specifically that they -- that I can recall -- no one told me specifically that they had been in communication with the White House.

Q So why did you include the White House in this email?

A From what I can remember, there was assistance to me in writing this.

Q Okay.

A And I was assisted by the NSBA communications staff.

Q Okay. And who was on that communications staff?

A I don't recall names except Jason.

Q Jason, yes.

A Because Jason was listed a minute ago.

Q What did you understand the content of those conversations to include between the White House and the NSBA?

A I recall, to the best of my knowledge, I recall that the conversations were about the concerns that had been expressed and NSBA's interest in assisting the local school board members who were being challenged with threats of violence and disruptions at school board meetings, interruptions, that sort of thing. The communication was about assisting them.

Q And were you aware that Mr. Slaven was communicating with the White House as early as September 9th?

A I was not aware.

Q Are you aware that on September 21st, 2021, Mr. Slaven sent a detailed summary of the contents of the NSBA letter and a list of what was termed, quote,

egregious examples of disruptions at school board meetings to the White House at the White House's request?

A I don't recall that.

Q Did Mr. Slaven ever follow up with you on the White House's feedback on the detailed summary of the contents of the letter?

A I don't recall that either.

Q Did he ever tell you that the White House expressed concerns about the inclusion of the PATRIOT Act language in the letter?

A I do not recall that.

Q Between late August 2021 and September 29th, 2021, how many conversations did you have with officials at the Department of Education?

A None.

Q None?

A I personally never had conversations with anyone at the Department of Education. Was that your question?

Q Yes, ma'am?

A Would you clarify the question?

Q Uh-huh.

A No, I personally didn't have or communicate with any staff members in the Department of Education.

Q So who was having the conversations with the Department of Education that you referenced in your email?

A NSBA staff, as I recall.

Q Do you remember the contents of those discussions? Did you have any awareness of those?

A I was not involved, and I have no awareness of those.

Q Are you aware that as early as July 30th, 2021, Mr. Slaven was engaged with the Department of Education to discuss threats and concerns related to school board members?

A I'm not aware of that.

Q Have you ever had any contact with anyone at the Department of Justice?

A Oh, no. No, thank you.

Ms. Sachsman Grooms. I assume about this issue.

[redacted] Correct, yes.

Dr. Garcia. Oh, okay. All right.

BY [redacted]

Q Yes.

A Well -- okay.

Q Are you aware that as early as September 21st, 2021, Mr. Slaven knew that the White House and Department of Justice were discussing, quote, "any options," end quote, they could pursue in response to Mr. Slaven's request for Federal intervention at school board meetings?

A I'm not aware of that.

Q Did Mr. Slaven ever tell you that the Justice Department expressed concerns about the inclusion of the PATRIOT Act language in the letter?

A I'm not aware of that, no. I have no knowledge of that.

Q Are you aware that DOJ Public Affairs sent Mr. Slaven a copy of the Attorney General's October 4th memorandum prior to its release?

A I'm not aware of that.

Q Did you learn of these communications after the May 2022 NSBA report

came out?

A Yes, I remember reading that. And, specifically, I do not remember what you have just stated. That's been about a year and a half ago that I read that.

Q But you had no awareness of those conversations prior to the report?

A No, not that I recall, no.

Q So to the extent that there were ongoing conversations between Mr. Slaven, other NSBA staff members, and the White House, you were unaware of that?

A As best as I can recall, I was not aware.

Q And to the extent that there were conversations between Mr. Slaven, NSBA staff, and the Department of Justice, you were unaware of those conversations?

A I was unaware, uh-huh.

Q And to the extent there were conversations between Mr. Slaven and NSBA staff and the Department of Education, you were unaware of those conversations except for the town hall that you've discussed?

A Well, no, and as I said earlier, as far as I can recall and remember, NSBA routinely, over decades, it is NSBA's practice to assure that we are supporting school board members across the country.

And so it is not unusual for NSBA staff to engage with the Department of Education about public education matters. So those were routine conversations. There were advocacy issues. There were legislative issues. So those were routine communications.

So to my knowledge there were routine communications with the Department of Education that NSBA had.

[redacted] We're a little low on time.

Congressman Bishop, did you have any questions at this time?

Mr. Bishop. No.

[redacted] Or I can keep going. Okay.

Mr. Bishop. Thank you. Appreciate that.

BY [redacted]

Q When did you become aware of Attorney General Garland's October 4th memorandum?

A I don't recall. It would have -- I don't recall.

Q And have you seen the October 4th memorandum?

A I may have seen it when it came out or shortly after it came out.

Q And Attorney General Garland testified before the House Judiciary Committee on October 21st, 2021, and stated that the NSBA's letter was the basis for his October 4th memorandum. Were you aware of that?

A I have no knowledge of his reasoning or why he did that. No, I have no knowledge.

Q Are you aware of any public reporting that the Attorney General relied upon the NSBA's letter?

A I have no knowledge of that.

Q When did you become aware or were you aware that the Attorney General relied upon the NSBA's letter before today as the basis for his memo?

A Not specifically, no. I don't recall that.

Q Are you aware that the FBI created a threat tag to track school board-related investigations?

A I'm not aware of that, no. I'm not familiar with that.

Q Are you aware that the FBI used these threat tags to investigate parents for protected First Amendment activity?

A I have no knowledge of that. That's not my area of expertise. No, I'm not aware.

Q Did you follow the reporting on the NSBA's September 29th letter after it was released?

A Could you specify? What do you mean by reporting?

Q Like news reports.

A Yes.

Q It got a lot of media attention.

A Yes, yes, yes, I was aware of that.

Q And you did media interviews on the letter, correct?

A Yes.

Q Did you follow any of the reaction, either positive feedback or negative feedback, in reporting?

A From what I can recall, I was assisted by the communications staff again in those responses. And so the point that the NSBA was emphasizing was that NSBA was concerned about the safety and security of school personnel, that we had requested assistance for that purpose.

Q And during your tenure at the NSBA, did the organization ever send out a letter to any government agency and receive such a quick response?

A I don't know.

Q And does it concern you at all as a school board member, parent, grandmother yourself, that the use of these resources via the FBI chills protected First Amendment activity of parents?

A I have no knowledge of that and expertise in that. So I cannot speak to that.

Q Do you think if someone is visited by the FBI after they speak at school board meetings, do you think it will make them want to go back and give another speech at a school board meeting?

A I cannot say. I don't know. I do not know. I've never experienced that. So it's not in my realm of knowledge. So I don't know.

Q But the FBI is a pretty scary bureau or agency. It's pretty scary to be visited by Federal law enforcement. Do you agree with that or --

A I don't know. I don't have -- I have never had that experience, so I don't know.

Q Would it surprise you to learn that, after surveying local law enforcement, U.S. Attorney's Offices reported back to Main Justice that there was no legitimate law enforcement basis for the Attorney General's directive inserting Federal law enforcement into local school board meetings?

A What was the gist of your question? You're asking me whether I agree with that --

Q Yeah.

A -- or what was --

Q So at the directive of the Attorney General, the U.S. Attorney's Offices had to report back to Main Justice, to the Attorney General, the Deputy Attorney General, regarding threats that they knew about in their jurisdictions. And the majority of the U.S. Attorney's Offices surveyed their local law enforcement and found that there were no threats to report.

A I have no --

Q Does that surprise you?

A I have no knowledge of that, so I cannot respond. I don't have any

information about that.

Q Do you think the Attorney General should rescind his memorandum?

A I think the Attorney General should do what the Attorney General needs to do.

Q The NSBA apologized for some of its language in its letter, correct?

A Yes.

Q Were you involved with that apology at all?

A No, that was primarily, as I recall, NSBA engaged a communications group to assist with the negative, hateful language that was being received. And so that was developed with the assistance of the communications group.

Q So the communications group developed the language?

A In collaboration with the NSBA staff, I would assume.

Q You didn't have any involvement in drafting --

A I did not write or edit or engage in that.

Q Okay. I'm going to mark that as an exhibit here, No. 5.

[Garcia Exhibit No. 5

Was marked for identification.]

Ms. Sachsman Grooms. This is exhibit 5?

[redacted] Yes, ma'am.

Dr. Garcia. Okay.

[redacted] I think Mr. Bishop has some questions.

Dr. Garcia. Yes. Good morning.

Mr. Bishop. Good morning. Thank you for being here.

If I understood the thrust of your testimony about how this letter came to pass, it seems that you were passive and others were drafting and deciding what the content of

the letter was, the original letter to the President.

Is that accurate, do I understand that correctly, you were passive and just signed or allowed your signature to be applied but did not review or study the content of the letter yourself?

Dr. Garcia. From what I recall, we received the letter. The officers received the letter from Chip Slaven. I was not involved nor do I believe the officers were involved in writing or editing the letter.

Mr. Bishop. So is it fair to say then that you didn't even read it?

Dr. Garcia. Oh, I read -- I read -- I think I read -- I do remember reading it, yes.

Mr. Bishop. Did you read all of it?

Dr. Garcia. I do remember reading all of it.

Mr. Bishop. Were you concerned, did the language about domestic terrorism concern you?

Dr. Garcia. As I shared a little bit earlier, my expertise is not related to domestic terrorism. I'm not involved. I'm not an attorney. I'm not a -- involved in legal matters. That means something very different specifically to people engaged in that work than to an educator. So the concern that you've raised, I did not have the same concern that you have.

Mr. Bishop. So you knew that that language, that terminology was in a letter that you were signing, and notwithstanding your position of leadership, you were prepared to see that letter go out without any particular understanding of what was being referred to?

Dr. Garcia. From what I remember, the major concern was about the threats of violence, the disruptions that were occurring at school boards.

The specific elements that you're describing were not -- the general gist of the

letter, as we requested or as we understood it, was requesting assistance.

Mr. Bishop. Given the lack of expertise that you've testified to about what domestic terrorism is, does it seem like a significant thing to accuse people of to you?

Dr. Garcia. Well, of course, that term and the use of that term was heightened after this letter. And before that letter, I had a vague understanding and still do about the legal implications of what that is and how things evolve around that.

[10:58 a.m.]

Mr. Bishop. Did it give you any pause when you're reading the letter and you see that there is a description of what's going on as domestic terrorism, that accusation is being made in a letter that will go out over your signature? Did that give you any pause or concern at all?

Dr. Garcia. I don't remember. I have not, no.

Mr. Bishop. You don't have any memory of having it.

As you look at it now, do you regret that you applied your signature to a letter that contained that language?

Dr. Garcia. Well, as I've stated earlier, and as we see here, NSBA offered a letter of apology.

Mr. Bishop. I understand what NSBA has apologized for. I'm asking about you.

Dr. Garcia. Oh, if we --

Mr. Bishop. Does it cause you regret that you applied your signature to a letter that accused people of domestic terrorism?

Dr. Garcia. Yes. Hindsight, absolutely. From what I recall, hindsight is absolutely something that we all wish we had.

And generally speaking, if I were -- we were to participate in a rewriting of the letter, I believe that the intent still would have been true. We were very, very concerned about what was occurring. And perhaps those specific requests that are indicated in the letter could have been generalized and -- yes, and I would agree with that.

Mr. Bishop. Are you aware as you sit here today that the letter and the activity and communication with the White House that occurred in conjunction with the letter is

what precipitated the Attorney General issuing his memorandum? Are you aware of that?

Dr. Garcia. I'm not aware of what the Attorney General did and why he did it, no.

Mr. Bishop. Have you followed anything about the news on this at all in the interim?

Dr. Garcia. Initially.

Mr. Bishop. Okay. I'm saying, did you ever -- and you never learned during that process that the Attorney General -- that the Attorney General's memo was precipitated by the letter that the NSBA sent?

Dr. Garcia. I did not. I never spoke to the Attorney General. I do not know his intent, and I don't know his reason for doing it, no.

Mr. Bishop. All right. If I impart to you now that the Attorney General has testified before a congressional committee that his memo was precipitated by the letter from the NSBA, does that cause you concern?

Dr. Garcia. I can't say because I don't know that that -- I have not read that. I do not know that.

Mr. Bishop. So without reading it or knowing it, if I tell you that, you don't -- that's not of concern to you?

Dr. Garcia. I don't know. I don't know that world and the Attorney General's reasoning. And so I don't know that I can accurately answer your question.

Mr. Bishop. Have you ever felt any compunction about inquiring whether the letter that accused people of domestic terrorism over your signature had the effect of causing the Attorney General to begin his assessment across the country, resulted in threat tags being issued by the FBI, resulted in visits by the FBI to people? Has there

ever been any concern on your part to inquire whether your letter had an effect like that?

Dr. Garcia. I did not write the letter. I did not edit the letter. The letter --

Mr. Bishop. But you did sign it?

Dr. Garcia. The letter was sent with the intent to seek assistance, and that is what I know. I did sign it, yes.

Mr. Bishop. It was sent over your signature.

Dr. Garcia. My signature was on the letter, yes.

Mr. Bishop. And I understand -- you've described that it was something of a passive process from your perspective. You didn't actually get into the details of what domestic terrorism meant and you didn't formulate that language. But you signed it.

Dr. Garcia. I did.

Mr. Bishop. Have you personally had any compunction or misgivings about having done that that causes you to feel that you need to make amends for it?

Dr. Garcia. Well, as I said, this is a letter of apology. NSBA did apologize for the specific request that you've referred to.

And I am a volunteer. I'm not associated with NSBA now. I continue to do service in my community.

You know, this is something that has happened that cannot be undone. And so I -- you know, I -- you know, to answer your question, I have not done what you've suggested.

Mr. Bishop. And you have no opinion, I think you testified, whether the Attorney General should take any step to rescind his memo or otherwise undo any of what's been done?

Dr. Garcia. I do not know enough to answer that. I mean, I don't know.

Mr. Bishop. Well, you do know that -- you are -- you do believe it was the right

action to take for NSBA to apologize for its letter, right, and to retract it?

Dr. Garcia. Yes. I recall that, yes.

Mr. Bishop. Can you think of any reason that if the Attorney General did likewise, did something that similarly was predicated on the letter to affect the First Amendment rights of Americans, is there some reason that he shouldn't likewise apologize and withdraw what he has done?

Dr. Garcia. That is not for me to say. That is for the Attorney General. Honestly, I can't say what the Attorney General should or shouldn't do.

Mr. Bishop. I yield.

[redacted] Okay.

Dr. Garcia. Thank you.

[redacted] We can go off the record. Thanks.

[Recess.]

[redacted] It is 11:17, and we can go back on the record.

EXAMINATION

BY [redacted]

Q Good morning, again, Dr. Garcia. My name is [redacted] I'm with the -- with Chairman -- with Ranking Member Nadler's staff on the House Judiciary Committee. Thank you again for appearing today.

A Uh-huh.

Q Quickly, you're here voluntarily today, right?

A I am.

Q And you took time out of your day, out of your schedule, to come up here?

A I did.

Q And you flew up here at your own expense?

A I did.

Q Thank you for that.

As we get going, I want to turn back to what was marked as exhibit 1 earlier. And this is -- it's exhibit 16 from the NSBA document production. It's an email. And I think we talked about the second email in this chain from Mr. Slaven to Charlie Wilson, to you, to Frank Henderson, and to Kristi Swett.

A Uh-huh.

Q And I think a reference was made earlier to -- the question might have -- was something along the lines of: When did you become aware that Mr. Slaven was considering requesting Federal intervention at school board meetings?

I want to look at this language again. Can you take a look at it? Do you see the word "intervention" in there?

A I do not see the word, no.

Q Thank you.

And he does use the word "threat assessment," right?

A Yes, I see it.

Q And what's your understanding of what an assessment would be?

A An assessment in this case would be, I would think, conducting an analysis of what it is, where it's coming from, why it's coming, and answering a good number of questions about that.

Q Okay. And here it says -- in the actual -- in the next sentence it says: "As for this individual incident, I would recommend contacting law enforcement in Ohio," right? So he actually -- is that correct?

A That's what I read, yes.

Q Okay. So he actually recommended contacting local law enforcement here,

correct?

A Yes, I see that.

Q All right. I want to introduce -- and moving on from that -- I want to introduce into the record a memorandum from the National School Boards Association board of directors and Executive Director and CEO Dr. John Heim to NSBA members, dated February 4th, 2022. The subject line is: "NSBA Launches Independent Review of September 2021 Letter to the Biden Administration."

[Garcia Exhibit No. 6

Was marked for identification.]

Ms. Sachsman Grooms. That is exhibit 6?

[redacted] This would be exhibit 6, correct.

And let me know when you've read it.

Dr. Garcia. Uh-huh.

[redacted] Okay. Were you familiar with this memorandum before I handed it to you?

Dr. Garcia. It was to the board of directors and executive director, so I --

Ms. Sachsman Grooms. It's from --

Dr. Garcia. Oh, it's from. Okay.

Yes. I mean, I --

BY [redacted]

Q Okay.

A That was over a year ago, so -- yes.

Q Do you recall if you participated in drafting this memo or if you reviewed it before it was made public?

A I did not draft it, and I do not recall reviewing it.

Q Okay. I'm going to read from the -- one, two, three, four -- fifth paragraph down. It says: "We are also launching an independent comprehensive review to fully understand the circumstances around the letter sent to the Biden administration.

"The review will be conducted by Philip Kiko, an attorney and the former Chief Administrative Officer of the House of Representatives under two different Speakers, and the law firm Michael Best & Friedrich.

"It will include a review of all relevant policies and procedures relating to the creation, review, approval, and distribution of the September 2021 letter, as well as a review of possible coordination with outside parties.

"The review will seek to address as many questions as possible, and we will share the findings with our members and the Hill as quickly as possible."

Are you familiar with the review process described by that paragraph?

A Yes. I recall, yes.

Q Okay. Were you involved in the process by which the National School Boards Association decided to conduct such a review?

A Yes.

Q And can you describe the process for reaching that decision? Did somebody recommend that NSBA retain outside counsel, for example?

A Yes. So I spoke -- from what I can recall, I spoke earlier about NSBA having engaged a communications firm. NSBA also engaged another firm -- not this particular one -- for advice. And so it was partly a recommendation of that group, who recommended that it would be good if NSBA answered -- was able to answer the questions that the members had.

Q Okay. And to your knowledge, is it accurate that that review was conducted by Mr. Philip Kiko and the Michael Best law firm?

A Yes.

Q Do you know who selected Mr. Kiko?

A I believe that the recommendation came from that firm, advisory firm, and staff.

Q And are you familiar with Mr. Kiko?

A I don't remember.

Q Okay.

A No, I don't.

Q I want to introduce into the record Mr. Kiko's biography, which is posted on the website of his new law firm, which is called Williams and Jensen. And this will be exhibit 7.

[Garcia Exhibit No. 7

Was marked for identification.]

BY [redacted]

Q And I'll give you a minute to review, but I'm actually going to read from a paragraph that's on the second page here.

A Okay.

Q Okay. So on the second page -- and this is a printout from the internet, I should say. So on the internet, it's all one page. But as we print it out, it's on two -- or on three, I guess.

The big paragraph in the middle reads: "Phil's service on the Hill also included high level policy work while serving under Chairman Jim Sensenbrenner, Republican of Wisconsin, as his personal office Chief of Staff, and later Chief of Staff and General Counsel for the House Judiciary Committee and as Deputy Chief of Staff on the House Science Committee. During his tenure at the Judiciary Committee, Phil successful

shepherded more than one hundred bills through the legislative process to the President's desk.

"He also served as Chief of Staff of the House Administration Committee under Chairman Dan Lungren, Republican of California, and under Chairman Trey Gowdy, Republican of South Carolina, as Chief of Staff and General Counsel of the Select Committee on the Events Surrounding the 2012 Terrorist Attack in Benghazi."

Did I read that correctly?

A Yes.

Q Were you aware that Mr. Kiko served as the Republican staff director for the House Judiciary Committee?

A I was not.

Q Were you aware that he was the Republican general counsel on the Benghazi select committee?

A No.

[redacted] For Benghazi, he was the staff director.

[redacted] I'm sorry?

[redacted] For Benghazi, he was the staff director.

Ms. Sachsman Grooms. The staff director and general counsel.

[redacted] He was on the Benghazi committee. He worked on the Benghazi committee.

And you said that you're generally familiar with the review that was conducted by these individuals, but you have not read it recently, right?

Dr. Garcia. No, I have not read it recently.

[redacted] Okay. I'm going to hand you a copy of this report.

Yeah, we will, even though it's going to gum up the record a bit. We're going to

introduce this as exhibit 8, even though it's 56 pages long. And I'm not going to ask you to read it. Don't worry.

[Garcia Exhibit No. 8

Was marked for identification.]

Dr. Garcia. Thank you.

Ms. Sachsman Grooms. We're on 7?

[redacted] This is 8, 8.

Ms. Sachsman Grooms. Eight. Sorry.

BY [redacted]

Q So I'm going to ask you to turn to page 6 here. Under review procedures. The bottom of page 6. Roman numeral III, and then letter A. Scope of review.

A Okay.

Q It says: "The review was conducted independently from the influence of the NSBA, its staff, or the Board of Directors," parentheses, quote, "(NSBA parties)," end quote, end parentheses.

Do you have any reason to disagree with this statement?

A I do not.

Q Okay. Does this generally track with your recollection of the review?

A It does.

Q Okay. It continues: "The NSBA Parties did not impose any constraints on the Review and provided their full cooperation."

Do you have any reason to disagree with this statement?

A I do not.

Q Okay. Does it generally track with your recollection of the review?

A It does.

Q Okay. The next sentence: "The NSBA provided access to all relevant materials Counsel requested."

Do you have any reason to disagree with this statement?

A I do not disagree.

Q And does it track with your recollection of the review?

A It does.

Q Okay. Moving on to page 7. "Counsel was able to request an interview with any individual for any amount of time."

Do you have any reason to disagree with this statement?

A I do not disagree.

Q Does it track with your recollection of the review?

A It does.

Q And did you yourself sit for such an interview?

A I did.

Q Do you recall about how long it lasted?

A I do not recall.

Q Okay. Continuing on that page 7. "Counsel's independent e-discovery vendor was provided with administrative access to NSBA's electronically stored documents and other data."

Do you have any reason to disagree with this statement?

A I do not.

Q Okay. Do you have -- does it track with your recollection of the review?

A It does.

Q Okay. "Counsel further conducted an exhaustive search of publicly available data, documents, and news articles and reports."

Do you have any reason to disagree with this statement?

A I do not.

Q And does it generally track with your recollection of the review?

A It does.

Q Okay. A little further down it reads: "Based on the search parameters above, Counsel received 334,296 files, approximating 155 gigabytes of data, from NSBA's internal Microsoft office platform, including documents, photographs, records, and communications."

Now, you may not have been personally tracking the numbers, but do you have any reason to disagree with this statement as it's written?

A I do not.

Q Okay. And does it generally comport with your recollection that they accessed a lot of data?

A They did access a lot of data.

Q Okay. And then finally, on page 8, it reads: "Counsel also reviewed correspondence from potentially relevant non-custodians who communicated with NSBA staff and executives, including non-custodians from the White House, Department of Justice, Department of Education, and Department of Homeland Security."

Do you have any reason to disagree with this statement?

A I do not disagree.

Q Does it generally track your recollection of the review?

A It does.

Q Okay. So based on the statements that I just -- we just went through a lot of them, I know -- do you agree that Mr. Kiko and the Michael Best law firm conducted a fairly extensive review of the events surrounding the NSBA's September 29th letter?

A Yes.

Q Do you have any reason to dispute the findings that they made?

A I do not.

Q Okay. I'm going to go through just two of those findings now.

A Uh-huh.

Q The first is on page 13. It says: "Counsel's review did not find communications between the Department" -- which refers to the Department of Education -- "and the NSBA that indicated that the Department specifically requested the NSBA to make an official request for aid or federal intervention."

Do you have any reason to dispute this finding?

A I do not.

Q And to your knowledge, did the Department of Education ever ask the NSBA to make an official request for aid or intervention?

A I have no knowledge of that.

Q Okay. The second finding that I want to read is on page 26. It says: "Counsel did not find direct or indirect evidence suggesting that the administration" -- which refers to the Biden administration -- "requested the letter or specified, edited, or otherwise specifically requested that it be written."

Do you have any reason to dispute this finding?

A I do not.

Q And to your personal knowledge, did the Biden administration ever request the letter?

A I have no knowledge of that.

Q And did it ever specify, edit, or otherwise specifically request that it be written?

A I have no knowledge of that either.

Q Okay. I think we went through this in detail, but I just want to make sure I have the timeline down. Moving on.

A Uh-huh. Okay.

Q The majority has asked you a fair amount about the September 29th letter and the timeline and the drafting of it.

Actually, sorry. I'm going to withdraw that.

A Okay.

Q I'll move on even further.

A Okay.

Ms. Sachsman Grooms. Counsel, when you were reading from the conclusion sentence, you didn't read the full sentence. I just wanted to make sure you --

[redacted] Oh, sorry. On which one?

Ms. Sachsman Grooms. Page 26.

[redacted] I might have transcribed that wrong.

BY [redacted]

Q I'm sorry. Let me re-ask that question.

A Okay.

Q "Counsel did not find direct or indirect evidence suggesting the administration requested the letter or specified, edited, or reviewed the contents of the letter before the letter was sent or otherwise specifically requested that it be written."

Did I read that correctly this time around?

A Yes.

Q Do you have any reason to dispute that finding?

A No, I do not.

Q Okay. And do you have any personal, any knowledge or any evidence that the administration did request the letter or specified, edited, or reviewed the contents of the letter before it was sent or otherwise specifically requested that it be written?

A No, I have no knowledge of that.

Q Okay. Thank you.

We talked through a little bit ago in the first hour what interactions you might have had with the executive branch. So I'm going to go through that again with a little more specificity.

A Okay.

Q And so some of it may be repetitive, but I just want to make sure I have everything down correctly.

Are you familiar with an individual named Mary Wall?

A I am not.

Q Okay. Mary Wall was a White House employee. Does that refresh your

recollection at all?

A It does not.

Q Did you ever have any interactions with her?

A I did not.

Q Okay. Are you familiar with an individual named Julie Chavez Rodriguez?

A I'm not familiar.

Q So Ms. Chavez Rodriguez is a senior adviser in the Office of the White House, Office of Governmental Affairs. Does that refresh your recollection at all?

A I do not recall that name.

Q Okay. So the two individuals I just named are both employees of the White House. Do you recall if you ever discussed your work with the National School Boards Association with either one of them?

A I did not.

Q Okay. I'm going to move on to the Justice Department. And I think you said earlier that you never had any communications with the Justice Department, correct?

A That's right.

Q Okay. Are you familiar with an individual named Anthony Coley?

A I'm not.

Q Okay. Mr. Coley was previously the director of the Justice Department's Office of Public Affairs. Does that refresh your recollection?

A I do not recall the name.

Q Okay. Are you familiar with an individual named Alivia Roberts?

A I'm not.

Q So Ms. Roberts was previously the special assistant to Mr. Coley in the

Justice Department's Office of Public Affairs. Does that refresh your recollection at all?

A I do not recall the name.

Q Are you familiar with an individual named Kevin Chambers?

A No.

Q Okay. Kevin Chambers was an Associate Deputy Attorney General with the Department of Justice. Does that refresh your recollection?

A I do not recall the name.

Q Are you familiar with an individual named Myesha Braden?

A No.

Q Ms. Braden was also an Associate Deputy Attorney General. Does that refresh your recollection?

A I do not recall the name.

Q Are you familiar with an individual named Shaylyn Cochran?

A No.

Q Okay. Ms. Cochran is the chief of staff for the Justice Department Civil Rights Division. Does that refresh your recollection?

A I do not recall the name.

Q Okay. So to the best of your knowledge, did you ever communicate with anyone at the Department of Justice in connection with your work with the National School Boards Association?

A I did not.

Q Okay. And I'm not going to go through a list of names for this, but to the best of your knowledge, did you ever communicate with anyone at the Department of Homeland Security regarding your work with the National School Boards Association?

A I did not.

Q Okay. I'm going to move on to the Department of Education.

A Okay.

Q Are you familiar with an individual named Suzanne Goldberg?

A I am not.

Q Okay. Ms. Goldberg was the Deputy Assistant Secretary for Education and Outreach at the Department of Education. Does that refresh your recollection?

A I do not recall the name.

Q Are you familiar with an individual named Aaliyah Samuel?

A No.

Q Okay. Ms. Samuel was previously Deputy Assistant Secretary for Local, State, and National Engagement at the Department of Education. Does that refresh your recollection?

A I do not recall the name.

Q Are you familiar with an individual named Sheila Nix?

A No.

Q Ms. Nix was the chief of staff at the Department of Education. Does that refresh your recollection?

A I do not recall the name.

Q Are you familiar with an individual named Ian Rosenblum?

A No.

Q Mr. Rosenblum was previously Deputy Assistant Secretary for Policy and Programs at the Department of Education. Does that refresh your recollection?

A I do not recall the name.

Q Okay. Are you familiar with an individual named Larry Bowden, B-o-w-d-e-n?

A No.

Q Okay. He was the special assistant in the office of Secretary Cardona at the Department of Education. Does that refresh your recollection at all?

A No.

Q Are you familiar with an individual named Nicholas Simmons?

A No.

Q Mr. Simmons was a senior adviser in the Office of Secretary Cardona at the Department of Education. Does that refresh your recollection?

A No.

Q Okay. Almost done.

A Okay.

Q Are you familiar with an individual named Emma Leheny, L-e-h-n-e-y (sic)?

A No.

Q Okay. Ms. Leheny was previously general counsel at the Department of Education. Does that refresh your recollection?

A No.

Q Okay. And are you familiar with an individual named Scott Sargrad, S-a-r-g-r-a-d?

A No.

Q Okay. Mr. Sargrad was the deputy chief of staff for policy and programs at Education. Does that refresh your recollection?

A No.

Q Okay. Did you ever discuss the September 29th NSBA letter with anyone at the Department of Education?

A No, I did not.

Q And aside from the town hall that you mentioned earlier, did you have any conversations with the Department of Education, to your knowledge?

A To my knowledge, I have not --

Q Okay. In connection with your work at the NSBA?

A No, I did not.

Q Okay. Did you ever discuss threats against school personnel, school administrators, or school board members with anyone at the Department of Education?

A I did not.

Q Okay. You mentioned the town hall.

A Uh-huh.

Q And do you recall when that took place?

A Generally speaking I'm not good at dates. I recall that it was in August.

Q Okay. You participated in that town hall then?

A I did.

Q Okay. Do you know who organized it?

A The Secretary's office organized it.

Q Okay. And I want to introduce --

A As far as I know, the Secretary's office organized it.

Q I'm going to introduce as exhibit 9 a press release from the NSBA entitled: "School Board Leaders Meet With Education Secretary Cardona During Virtual Town Hall Meeting to Discuss Back-to-School Challenges."

[Garcia Exhibit No. 9

Was marked for identification.]

BY [redacted]

Q So this is a press release -- sorry. Let me know when you have read it.

A Okay.

Q Okay. You're quoted in this press release as stating, quote: "Our members greatly appreciate the opportunity to speak with Secretary Cardona about the challenges of creating safe environments for students and educators as they return to school buildings this fall."

Was that a reference to ensuring that students and educators stayed healthy while the COVID-19 public health emergency was still ongoing?

A As I recall, yes. It encompassed the gamut of concerns and activities occurring at the beginning of the school year.

Q And why was it important for your members to have those concerns heard?

A Because there were requests for assistance. How can we do this better? What are the best practices that we can use? Share with us any resources that you might have that would be useful. And that sort of activity.

Q And why was it important for them to have students return safely?

A Well, it's just always important for students to return to school safely. They've been off during the summer. And so it's always a concern. Safety has been a big concern among the school board members and school districts for a good number of years.

Q And you had mentioned earlier that you were an educator and that you had also served on a school board for a long, long time. And you just said again for a good number of years.

For you personally, has prioritizing student and educator safety been a priority?

A Absolutely, yes.

Q And can you say anything more about that?

A Well, I would just say that we understand and know that students work best,

employees, teachers work best, administrators work best, in a safe and secure environment. If there are threats or if there is concern about health, safety, or any issues like that, they're not focused on the primary thing that public schools are intended for, the education of students.

And so school boards across the country, for a good number of years, have emphasized the return to school or the academic year being a safe and secure place for all that come to that setting.

Q Okay. And you said that you're a parent and a grandparent. In your role as a parent and a grandparent, is that something that matters to you, student and educator safety?

A Yes, absolutely.

Q And in your experience as a school board member, did you hear from other parents who were concerned about student and parent safety -- or student and educator safety?

A Yes, particularly during this time. During the pandemic, there was great concern for health and safety of the employees, students, and community, the community that came in and out of the schools.

Q Thank you. Okay. And I apologize. I thought I was done asking about your interactions with the executive branch, and you said you have had none. But I want to go back quickly. I apologize for hopping around.

A Okay.

Q You said that you had basically no communication -- no communication at all with the White House or the Department of Education, with DOJ, with the Department of Homeland Security. But you said that you think others may have at the NSBA.

A Yes.

Q During -- do you have any indication that anyone at the NSBA during those interactions ever mentioned the name Terry McAuliffe?

A I don't recall that name.

Q Do you know who Terry McAuliffe is?

A I do not.

Q Okay. And I want to turn to exhibit -- the NSBA letter, which I think is exhibit 3.

A Okay.

Q You were asked earlier about who at the NSBA had communicated or who may have had communications. Do you know -- there's language in here that NSBA -- the reference to domestic terrorism is at the bottom of page 2. NSBA requests that a review "examine appropriate enforceable actions against these crimes and acts of violence under the Gun-Free Schools Act," and so on and so forth.

Do you have any personal knowledge of anyone at the White House or any of the administrative agencies ever requesting that that language be included?

A No, I have no knowledge of that. I do not recall that.

Q Okay. All right. Staying with this letter -- and I'll give you some time to review it. Can you take a look and let me know if the word "parent" is ever mentioned in this letter, or if you know offhand?

A I have reviewed that previously for that specific purpose, and the word "parent" is not in this letter.

Q Okay. And you said earlier that the focus of the letter was on concerns, not on the actual -- not on parents, right?

A Yes.

Q And the concerns -- you spoke just a couple minutes ago about the concerns

you were hearing from both school boards and then also from parents, potentially, about safety for their children.

Is it fair to say that this letter was written in response to those concerns?

A Yes, I would say that's true.

Q Okay. So to the extent that some people are claiming that this letter asked the White House or Federal agents to use Federal law enforcement tools, quote, unquote, against parents, do you think that's a fair assessment?

A The intent of the letter was to ask for assistance regarding the threats of violence, intimidation, disruptions that were occurring. And so the gist of the letter was to ask for assistance with those threats.

Q And it never actually says the word "parents," right?

A I never did -- I reread it after that statement was made after the letter was released, and the word "parent" is not in this letter.

Q Okay. And I want to introduce as exhibit 10 an October 5th, 2021, article from the Associated Press. It's entitled: "Posts mischaracterize school board organization's letter to Biden."

[Garcia Exhibit No. 10

Was marked for identification.]

BY [redacted]

Q Have you seen this article before?

A I have not.

Q I'll give you a second to read it, if you'd like.

A Okay. Uh-huh.

Do you want me to read the whole thing?

Q I'm going to ask you about the very first couple paragraphs.

A Okay. Go ahead.

Q At the beginning of the article, it says: "CLAIM: The National School Boards Association is asking the Biden administration to label parents who protest school policies domestic terrorists."

And the AP assessment is: "False. The organization -- the NSBA, for short -- is not asking Biden to label parents who protest at school board meetings as terrorists."

Do you agree with that assessment from the AP?

A I agree that the letter, from what I've just seen, does not include the word "parents." And so the focus was not on parents. It was on the safety of those engaged in school-related activities.

Q Okay. And you agree that the intent of the letter was certainly not to label parents who protest at school board meetings as terrorists?

A Yes. I believe I said earlier that it's one of the tenets of local school boards, State associations, NSBA, to engage parents actively in the education of their children.

Q Why is that important?

A It's important because parents are a child's first teacher, and they are very influential and important to the education of children.

Q And that's based on your experience as an educator?

A Educator, mother, school board member. The greater the engagement of parents, the likelier the benefit to the student.

Q Okay. And I also want to introduce as exhibit -- actually, was the Attorney General's memo already introduced?

[redacted] It was not.

[redacted] Okay.

Do you have it? Thank you.

[Garcia Exhibit No. 11

Was marked for identification.]

BY [redacted]

Q So this will be exhibit 11. It's the Attorney General's October 4th memo. And I don't recall if you said that you've reviewed this or not. But I'm going to ask you to take a look and let me know if you see the word "parent" or the word "school" -- the phrase "school board meetings" in this memo anywhere.

A Okay.

Q Do you see the word "parent" in that memo at all?

A I do not.

Q Do you see the phrase "school board meetings" in that memo?

A I do not.

Q Okay. In your experience, are school board administrators such as principals, for example, often parents themselves?

A Yes. I would say so. I would -- yes. Yes.

Q Are teachers often parents themselves?

A Quite often, I would think, yes.

Q And you were a teacher?

A Yes.

Q And you're a parent?

A Yes.

Q In your experience, are school board members often parents themselves?

A I think I stated a little bit earlier that we believe that a good number of school board members are in fact parents or grandparents.

Q And, again, you're a school board member, and you're a parent and a

grandparent.

A Yes.

Q I'm going to introduce two tweets from an individual named Christopher Rufo, who is a senior fellow with an organization called the Manhattan Institute. And actually, it looks like there's three tweets on here, but it's a tweet thread. So it's one tweet up top and one tweet down below. And this is exhibit No. 12.

[Garcia Exhibit No. 12

Was marked for identification.]

BY [redacted]

Q Okay. So Mr. Rufo states, quote: "The NSBA's gambit to label parents 'domestic terrorists' has collapsed."

And then he continues on: "I'm going to explain exactly how we did it."

And then in a tweet below that: "First, when the letter came out, we immediately framed the narrative on social media that the NSBA and AG Garland wanted to, quote, 'label parents'" -- parent -- I think it means parents -- "'domestic terrorists.' My initial tweet did 14 million impressions, sparking a week-long media cycle that exploited their reckless language."

Have you seen this tweet before?

A I have not. I do not follow Twitter necessarily.

Q Are you familiar with Mr. Rufo?

A I am not.

Q Okay. Before I read this tweet to you, were you aware that Mr. Rufo has taken credit for, quote, unquote framing the narrative that the NSBA wanted to, quote, "label parents domestic terrorists"?

A No, I was not aware.

Q Okay. And as you said just a couple minutes ago, the NSBA letter never even used the word "parents," right?

A That's right.

Q And the AP article also found false the claim that the NSBA want to, quote, "label parents domestic terrorists"?

A That's right.

Q Okay. So I want to introduce -- actually, I think it was already introduced as an earlier exhibit. I'm going to refer to a separate section. It's exhibit No. 4.

Ms. Sachsman Grooms. Which one is this?

[redacted] It's the -- so the top -- it's exhibit 54 from the NSBA document -- from the NSBA appendix.

BY [redacted]

Q And I'm going to look at the bottom of page -- what's marked as 208 on here -- I'm sorry, it's confusing because of the different exhibits -- and then the top and the middle of page 209.

So I want to look first at the email on page 208. It's an email from you dated October 2nd, 2021, addressed to a woman named Janine Bay Teske, T-e-s-k-e. I think I'm pronouncing her name right.

Who is Ms. Teske, if you recall?

A Janine Bay Teske served on the board of directors at that time.

Q Okay. This email that you sent responds to one on the following page from Ms. Teske dated October 2nd, 2021. And I want to look at the line -- it is the -- in the second line it says: "Bad words are words that evoke strong negative reactions. The letter is laced with bad words calling parents terrorists, for example."

And then in the email that you sent, the one on the next page, you said: "I think

this is the section of the letter that you reference 'calling parents terrorists.' That's not what the section says, but it is obvious that, quote,

'bad words' create fodder for those intent on misinformation. I appreciate you."

Do you recall what you meant by bad words creating fodder for those intent on misinformation?

A Well, from what I recall, I do remotely remember the email. And from what I recall, Ms. Bay Teske's email to me simply indicated that she had taken a course on messaging, and that in messaging or effective communication one needs to be careful about specific words used.

And so I was just responding that I appreciated her reference to that, and that obviously the bad words that were presented a little bit earlier as well referencing domestic terrorism was flipped -- were flipped to indicate -- or to suggest that the reference was to parents specifically.

Q And Mr. Rufo had said that he, quote, "exploited NSBA's," quote, "reckless language."

Do you think this could be an example of perhaps a choice of words creating, quote, "fodder for those intent on misinformation"?

A Yes, I would agree.

Q Okay. Turning back to Mr. Rufo's tweet, the part I didn't read earlier, the second sentence of his first tweet, it says -- Mr. Rufo states that -- apparently with some level of pride -- that their organization has splintered.

How do you feel about Mr. Rufo claiming kind of victory for splintering the NSBA?

A I have no opinion about Mr. Rufo. I don't know Mr. Rufo, so I have no context to be able to answer your question.

Q Okay. Could you -- and do you need a minute?

A I'm just coughing a bit.

Q Yeah, absolutely. We can pause for a minute or two, too.

A Thank you. Let me just take a large sip of water.

Okay. Thank you.

Q Could you remind me again how long you were a member of the NSBA?

A Oh, I don't know exact number of years, but I would think it would be about eight years.

Q Okay. In your experience, did you and your fellow NSBA members join the organization because you wanted to serve your communities?

A Absolutely, yes.

Q And you were largely volunteers, right?

A It is completely voluntary, almost. Yeah, I think everybody on their local -- to be a member on the National School Boards Association requires that you be a local school board member.

Q Okay.

A And for the most part, most local school board members across the country are volunteers, meaning they are unpaid.

Q Okay.

A And so the same is true for NSBA.

Q Okay. And there was a reference made in the earlier -- the first hour of our discussion today to a negative outcome. Do you think a negative outcome would be, for example, being placed in a political battle?

A Yes. School board positions are nonpartisan. The primary concern of school board members is to educate children and to support the communities and schools that do that work.

Q Okay. And I have just one last set of questions. Then I'm going to turn to my co-counsel.

A Okay.

Q So I'm going to introduce as -- we are out of exhibit -- I think we are at exhibit 13, and I am going to need more labels.

[Garcia Exhibit No. 13

Was marked for identification.]

BY [redacted]

Q All right. This article is from USA Today and it's entitled: "The 'Great Resignation' hits school boards. Only 38 percent of members want to run for reelection."

Looking down at the beginning of this article in the first paragraph, it reads -- the first paragraph after the bullets -- "Long gone are the days when school board members held onto political power. Nearly three-fourths of board members don't plan to run for reelection after their current term, new research shows."

Does the percentage three-fourths of board members not wanting to run for reelection surprise you?

A No, I have no opinion of that. I have no knowledge of this research or related research.

Q Okay. Do you think, just from your general experience, if an individual is the subject of harassment or threats, especially violent threats, they might not want to continue on volunteering in the position?

A It's reasonable to expect that one would want to volunteer in a safe environment and people would be more likely to do it in that way.

Q Okay. Are you aware personally of any school board members who are not

running for reelection because of the treatment that they've received?

A I am not aware of anyone personally.

Q Okay. Have you heard stories of others?

A I have heard stories of others, but I'm not aware of anyone personally.

Q Okay. Okay. I'm going to turn -- actually, we have -- yeah, we have about 15 minutes left. So I'll turn to my co-counsel.

A Okay.

BY [redacted]

Q Hello. My name is [redacted] and I'm also with Ranking Member Nadler.

A Okay.

Q I would like to change topics a bit and go through some of the points about your career and just go over how we got here today.

A Okay.

Q So you received an undergraduate degree in elementary education? Is that correct?

A I did, uh-huh.

Q And where did you get that agree?

A Texas Woman's University.

Q Okay. And when did you graduate from Texas Woman's University?

A In 1971.

Q Okay. Did you receive a master's degree?

A I did.

Q And what was your field of study?

A My field of study there was specialization in reading certification, and

curriculum instruction was the field.

Q Okay. And where was that degree from?

A The University of Houston.

Q Okay. And when did you get that degree?

A In 1974.

Q Okay. And you also have a doctorate in education.

A I do.

Q And where was that degree from?

A That was from the University of Houston.

Q Okay. And could you explain for us your field of study for your doctoral degree?

A The field of study was higher education administration that involved knowledge of and work in that field.

Q And when did you receive that degree?

A Oh, it was either 1999 or 2000. Or maybe close.

Q Okay.

A I believe the defense occurred in -- for the dissertation -- occurred in 1999, and the conferring of the degree occurred in 2000.

Q And could you tell us what your dissertation was on?

A It was on the perception that students that were in developmental classes, entry students into college, their perception of their nature of thinking about their own success with that descriptor entering the university.

Q When did you begin teaching students during your education? Was it after your master's?

A No. I began teaching in 1971 under the -- with a bachelor's degree.

Q And what was your first position in teaching?

A My first position was as a bilingual teacher at Lamar Elementary in the Houston Independent School District.

Q And what grade did you teach there?

A I taught second grade.

Q How long were you teaching there?

A I taught at that school for three years.

Q And what was your next position?

A My next position was as an intern in an administrative preparation program. And so I was an intern under an administrator at Foster Elementary for a year.

Q And after that?

A After that, I was a coordinator of bilingual teacher aides at Travis Elementary.

Q And were you ever promoted to a school principal?

A I was school principal -- I became school principal in 1977 at Helms Elementary in the Houston Independent School District.

Q And how long were you principal there?

A I was principal from 1977 until after the birth of our second daughter. And so I believe that I remember I left under a parent request leave in the spring of 2001.

Q Okay.

A No, no, no. I'm so sorry. When she was one and a half. You're having me recall dates.

[Laughter.]

That was a long time ago, '80 -- no, I'm sorry, that was '81.

Q Okay, 1981.

And then you've also taught at the University of Houston-Downtown. Is that --

A The Downtown campus, yes.

Q Do you still teach there?

A No. I retired.

Q Do you still hold any positions there?

A I am a professor emeritus, which allows me library access and various other resources.

Q And what department did you teach in?

A The Department of Urban Education.

Q And what years were you teaching there?

A I believe -- well, I was at the University of Houston-Downtown prior to being in the Department of Education. It was not created.

I began at the University of Houston-Downtown in 1994 in the English Department as an adjunct instructor in developmental classes and that allowed me to pursue the specific research that I was doing for my dissertation. And so I was in the English Department from 1994 until -- I believe it was 1999 that I began in the Department of Urban Education.

Q And then did you hold any roles within that department?

A Yes. I was a faculty member in the Department of Urban Education. I was the assistant chair of the department for about seven years, and then I became the chair of the department after that.

Q And do you remember what year that was?

A I do not recall the year, specific year.

Q Okay. So moving on to your school board experience.

A Okay.

Q What was your first school board position?

A Member. School board member.

Q And what year was that?

A 1992.

Q How long were you there?

A I'm still a school board member in the Aldine Independent School District.

Q And can you tell us about your work on the Aldine Independent School District board?

A My work involves oversight of policy, budget, direct oversight of the superintendent, hiring, evaluating the superintendent, and working with six other elected school board members on the school board business -- I mean, the school district business.

Q Were you paid -- are you paid for your work on the school board?

A No. It is completely volunteer.

Q Okay. You were also president of the Texas Association of School Boards. Is that correct?

A I was.

Q And what years were you with the Texas Association of School Boards?

A I do not recall the years specifically. I'm sorry. I'm not very good at dates.

Q That's all right. Were you -- did you have any positions other than president with the Texas Association of School Boards?

A I did. I was a director on the board of directors. There are 44 directors on the TASB board. I was one of the directors for a number of years. I don't remember the number of years. And then I applied and served as secretary-treasurer, vice president two years, president-elect, and then finally president of the organization. And

I even served the year after my presidency as past president, worked in collaboration with the officers.

Q And could you describe your work on the Texas Association of School Boards?

A That work involved supporting the over 1,000 school boards in the State of Texas, working with the TASB staff to provide products and services that would be useful to local school boards and administrators in the State.

Q Thank you.

Moving back to your work with the Aldine Independent School District, has the Aldine ISD school board earned any awards during your tenure there?

A Yes. I recall the district was very excited. I do not recall the year. But the district is a large urban district currently serving over 60,000 students. But because it is an urban district, it was identified by the Broad Foundation, and the district's name was submitted for consideration and for -- I believe it was three consecutive years Aldine ISD was a finalist for the Broad Prize for Urban Education. And that provided a monetary award of $250,000 each of those years that Aldine was a finalist for the Broad Prize for Urban Education.

And then finally the district shortly after that actually won the prize for -- the Broad Prize For Urban District and received a prize of $1 million.

Q Congratulations.

A Yes. Well, we would have thought if we kept up with the 250,000 for a good number of years, we may have -- but, anyway. That's another story. That's another story.

[Laughter.]

So, yes, that was quite exciting for the population of students. Aldine ISD is an

urban school district serving the majority of students in need. And so we were quite excited for the students and the community.

Q That's wonderful.

You're the longest serving member of the Aldine ISD school district board, correct?

A Yes. Currently, I am.

Q And is it true that you have an elementary school named after you?

A I do.

Q And what's the name of the school?

A It's a middle school. It's the Dr. Viola M. Garcia Middle School.

Q All right. And where is that located?

A It is in Aldine ISD.

Q Okay.

A Yes.

Q Are you a member of any other education organizations?

A I am a member of the Texas Association of School Boards. I am a member of the Mexican American School Boards Association. Did I say that?

Q Not yet.

A And officially, I'm not a member. I was a member -- as a faculty member, I was a member of higher ed associations related to teacher education. But since I've retired, I'm no longer a member.

Q And do you or did you have leadership roles in those organizations?

A The Mexican American School Boards Association, the Texas Association of School Boards. Those are the ones I recall.

Q So this is a truly impressive resume. And congratulations for all your

success.

A Thank you.

Q I want you to know how much we appreciate your work for children across America.

How long have you been working in education total cumulatively?

A Cumulatively, I began -- actually, I began my work right after high school. I had very little interest in becoming an educator. And shortly after high school, the superintendent of schools selected one of my classmates and I to participate as teacher aides in a Head Start summer program as aides.

It was very beneficial to me personally, to my friend as well, because there was a source of income -- an unexpected source of income -- that was really very, very beneficial to me.

And so I actually began my venture into education and service in that way at that Head Start program. But officially, I became a teacher, a certified teacher, in 1971 and began my first official employment as a teacher in 1971.

[12:15 p.m.]

BY [redacted]

Q And during that time had you won any awards or been otherwise honored for your work since 1971, other than, of course, the middle school?

A I can recall, yes, receiving awards. I can't name them. I remember receiving -- the award that I recall best is at the University of Houston-Downtown.

There are three awards, annual awards, for faculty. One is for teaching, one is for research, and one is for service. And I received the award for service one year while I was at the University of Houston-Downtown.

Q And do you recall receiving the Solo Mujeres Magazine Woman of the Year Award in 2016?

A Now that you said it, I recall it.

[Laughter.]

Q And just to wrap this up, have you been paid for your work in any of these school boards?

A No. The only compensation -- I do recall compensation at NSBA for per diem expenses.

Routinely, the NSBA board of directors holds four board meetings a year, quarterly meetings, and travel costs for directors to attend those meetings is reimbursed.

But when I served as president, there was an additional compensation because the position sometimes required -- it didn't then because of COVID, so there was less travel -- but participating in an additional conference or two, aside from those board meetings. Policy allowed for compensation of $250 a day per diem.

Q So you paid out of your own pocket and then were reimbursed.

A That's right.

[redacted] Okay. Thank you.

[redacted] That's all we have. Thank you so much.

We are off the record.

[Recess.]

[redacted] We'll go back on the record. It's 12:39 p.m.

BY [redacted]

Q Dr. Garcia, we've discussed a lot about the intent of the letter. Can you remind us again what your intent was for sending the September 29th letter?

A Yes. The general intent of the letter was to request assistance regarding threats of violence, interruptions, disruptions that were occurring across the country.

Q Was it your intent that it would lead to the Attorney General's memorandum that marshaled all of the Federal law enforcement agencies to look into what could be done to combat concerned parents and threats and violence at school board meetings?

A I don't remember that the specific intent in the request that we were as concerned about how it would be done as that something be done to assist.

Q Was it your intent that FBI agents would visit parents' homes regarding speeches they gave at school board meetings?

A I'm not aware of that or that happening, but that was not the intent.

Q And so I'm going to mark this as exhibit No. 14.

[Garcia Exhibit No. 14

Was marked for identification.]

BY [redacted]

Q This is more of an example of what happened after the letter.

This is a letter from the U.S. Attorney's Office in Montana. And you'll see the last

few pages of the letter is a list of statutes that could be used to prosecute threats and acts of violence from parents at school board meetings.

A I'm sorry. I'm going to have to ask for clarification in the statement you just made.

Q Definitely.

A So you're specifically asking about threats from parents? Is that your specific question?

Q So this is a list of statutes that the U.S. Attorney's Office from Montana put together in response to the Attorney General's memorandum, and the first line of the letter states: "In response to a nationwide rise in threats and acts of violence against our educational community, Attorney General Garland has directed the FBI and the United States Attorneys to partner with federal, state, local, and tribal leaders to address the problem."

I'm just asking more for using this as an example. Did you reasonably foresee that prosecutors around the country would be studying up on the statutes that could be used to prosecute Federal crimes?

A I do not recall having any idea of what you've just described.

Q I want to go back to the NSBA apology for a minute. I think it was marked as exhibit No. 6.

A Let me organize.

Ms. Sachsman Grooms. Sorry.

Dr. Garcia. The message. Okay.

Ms. Sachsman Grooms. Is it exhibit 5 maybe? Or do I have them mixed up?

[redacted] Sure. It's probably 5. We'll go 5.

Dr. Garcia. Okay.

BY [redacted]

Q And so the memorandum stated: "On behalf of the NSBA, we regret and apologize for the letter. To be clear, the safety of school board members, other public school officials and educators, and students is our top priority, and there remains important work to be done on this issue.

"However, there is no justification for some of the language included in the letter. We should have had a better process in place to allow for consultation on a communication of this significance. We apologize also for the strain and stress the situation has caused you and your organizations."

Dr. Garcia, you had said that this was done by an outside communications group. Is that correct?

A In collaboration. As I recall, there was a communications firm that was hired that worked in collaboration with NSBA staff. So my assumption is that this was a collaborative effort between the communications group and NSBA staff.

Q Do you recall what language was the NSBA referring to in the apology that there was, quote, "no justification for," end quote?

A I don't know the specifics because I was not consulted or involved in the development of this particular memo.

But I believe that the gist of it is that what was intended was that there be a general request for assistance regarding these acts of violence that were occurring and that perhaps the language that's referred to here was that the requests were specific, not a general request, but that there were requests for various agencies to be involved.

And I think that may be -- I'm not -- I don't know. I didn't participate in the writing of the letter, but that would be what I would think occurred.

Q What you say specific requests, what were those specific requests from the

letter?

A That you referred to specific -- from what I recall, you mentioned specific divisions of the Federal Government and their engagement. And I think that that is what is referred to here, that those could have been omitted and a general request for assistance would have been more appropriate.

Q Could the specific references to statutes within the letter have been omitted to make it more generalized? Do you think that's what was --

A I don't know. I don't know that, the answer to that. I don't know.

Q Okay. But you had learned that it was about the specific agencies that were mentioned in the letter.

A I don't know because I was not involved. That is just my assumption, and that is just what I believe occurred during those discussions in preparation of this letter.

Q And a lot of the reaction that you received from the board of directors and those outside of the NSBA organization had to do regarding the domestic terrorism language, correct?

A I believe that that may be true. I don't have an analysis of the responses and how many were about a specific piece or a different piece.

Q So was the NSBA apologizing for the domestic terrorism and PATRIOT Act language in this apology, do you think?

A I do not know. I cannot say.

Q So do you know about when the NSBA decided to issue an apology or that it was warranted?

A I can guess. I don't know. The letter is dated October 22nd, 2021. So my assumption is that it was created, developed in the month preceding that. I don't know the length of time that it took to create this.

Q Do you think it was after the Attorney General issued his memorandum on October 4th?

A I don't know.

Q Did the NSBA receive any feedback that you're aware of from the Biden administration stating that the NSBA should apologize for its letter?

A I don't recall that.

Q Did the Biden administration ever express to the NSBA that there was no justification for some of the language used in the letter?

A I don't recall that.

Q Did you or anyone in the NSBA share the apology with the Biden administration?

A I don't remember that.

Q Did the Biden administration get a preview of the contents of the apology as it did with the September 29th letter?

A I have no knowledge of that.

Q Did you or anyone in the NSBA share the apology with the Justice Department?

A I don't have any knowledge of that.

Q And you received a call from President Biden about the letter after it was published, correct?

A I remember that, yes.

Q And do you know about when it that was you received the call from the President?

A I don't remember the specific date. It was in October, I believe.

Q In October. Do you remember about how long the call was?

A From my recollection, it may have been 12 to 15 minutes. I wasn't timing it. So I don't know.

Q Yeah.

A Yeah.

Q What did you and President Biden discuss?

A President Biden expressed appreciation for school board members across the country. He reminded me -- very gracious -- that his wife is an educator and thanked me for my service as an educator, as a school board member, and acknowledged that school boards across the country were having a difficult time. That's the gist of what I can remember.

Q And the report noted that he may have extended an invitation to you to come to the Oval Office. Did you ever take him up on that offer?

A I did not.

Q And based on your call with President Biden, did you believe he was grateful for the letter?

A I don't know. There wasn't any indication. There was no reference to "thank you for the letter." There was no specific discussion about him having received the letter or NSBA having written the letter that I can recall.

Q Did you two discuss the letter on the phone?

A We did not discuss the letter on the phone, other than the aftermath that was occurring was an outcome, it seemed, from that letter. So --

Q And what do you mean by the aftermath that was occurring?

A The media, the things that we've discussed here this morning, the hate mail that school board members were receiving, that sort of thing. So he understood, it seemed, that school boards were having a difficult time.

Q Did you tell anyone about your call with President Biden?

A I did. My husband was with me. We were having lunch, and so I was interrupted during lunch. Walked away to speak and came back and told my husband. I also told our daughters, and I let Chip Slaven know and the officers of the -- of NSBA.

Q Okay. And I want to turn to the report that my colleague entered into the record, the NSBA report.

A I think that's my phone. I'm sorry. I thought I had turned that off. Sorry.

[redacted] Page 23, Susanne.

Ms. Sachsman Grooms. This is exhibit 8, page 23.

Dr. Garcia. Okay.

BY [redacted]

Q In that first full paragraph, last sentence, it says: "Dr. Garcia confided to Counsel that despite her excitement from President Biden's support, she was reluctant to discuss the call because of the perception that the NSBA was, quote, 'in cahoots essentially with the Biden Administration on this Letter,'" end quotes.

Why were you reluctant to discuss the call with Biden?

A From what I can recall, this was during the interview that was conducted by the firm that was engaged by NSBA to conduct the independent review. And so they had many questions. I don't remember the length of time. And at the end of the interview they had not asked about that call. I volunteered the information and shared it with them, shared the fact that the President had called.

But primarily because of the bad press and the negative response that we were still receiving about the letter and the release of the letter and the misinterpretation, as we've discussed this morning, of the domestic terrorism attributed to parents, there was

still very much negative activity towards NSBA.

And so I felt that this probably would have not assisted. And so, though I volunteered to say this to the interviewer, I knew that that also could be or would be, as the information was shared a little bit earlier -- was it the Twitter person? -- that this also could be the use of bad words or whatever Janine had implied. So --

Q And why did you believe that there was a perception that the NSBA was in cahoots with the administration?

A It was not my perception. It was a perception that was out in the country by some.

Q Yeah. But you now know that the NSBA was talking with the administration before the letter, correct?

A The NSBA communicated with the Department of Education, as it routinely does, and that is very different from what was being shared at that time, which was a suggestion that the NSBA was collaborating with or coordinating with or in cahoots with.

I used a -- there was a bad choice of words on my part in that case. But that was my concern at the time, that backdrop was my concern.

Q Yeah. But the NSBA through Mr. Slaven did share the contents of the letter with the White House before it was sent, about a week before it was sent. Is that correct?

A I do not know.

Q We can look at page 18 of the report.

A Okay.

Q So the last paragraph, I'll just read some of this.

A Okay.

Q "On September 21st, Ms. Wall, who was at the White House, reached out to

Mr. Slaven requesting the 'egregious examples' that Mr. Slaven promised to send to her. Mr. Slaven initially responded to Ms. Wall, indicating that his staff would work to send her 'some of the most egregious examples' by the next day and reminding Ms. Wall that, as he mentioned to her a week earlier, quote, 'NSBA is also planning to send the President a letter requesting federal assistance,' end quote.

"Ms. Wall responded to Mr. Slaven for more information on the planned Letter and the egregious examples because of a planned meeting between White House officials and the Department of Justice the next morning, September 22.

"Specifically, Ms. Wall emailed Mr. Slaven as follows." This is from an email that Ms. Wall sent to Mr. Slaven.

Quote: "'Is there any way we can take a look at the letter in advance of release? In specific, I'm meeting with colleagues from other [White House] offices and [the Department of Justice] tomorrow morning to see if there might be any options we can pursue here. So if you have concrete recommendations in your letter (e.g. the threat assessment you mentioned) would be good to know so I can include in discussions.'

"Based on Ms. Wall's notice of the White House meeting with the Department of Justice, Mr. Slaven sent a copy of NSBA's list of 'egregious examples' prepared by NSBA's research assistant to Ms. Wall with a detailed summary of the Letter's contents and the request for intervention."

Dr. Garcia, did I read that correctly?

A You did.

Q And do you have any information that would dispute that?

A I have no information whatsoever regarding that activity.

Q So based upon our reading of this report, the White House received at their request the contents of the letter before it was sent, correct?

A That's what it reads.

Q And they received the list of egregious examples, which was the list of incidents that were cited in the letter in advance of the letter, correct?

A I don't know why the words "egregious example" are in quotations, so I don't know the context of that. But it is in quotations.

Q I want to turn to your role on the National Assessment Governing Board, if we can.

A Okay.

Q So when did the Department of Education, Secretary Cardona, appoint you to the National Assessment Governing Board?

A My official appointment began on October 1st, 2022. Is that the question you're asking, or are you asking about the notification?

Q I was just asking when was your -- when did you officially start at the National Assessment Governing Board?

A October 1st, 2022. I mean -- well, I'm sorry. '21. I'm sorry. I'm very bad at dates. I apologize.

Q Don't worry.

And what are your roles and responsibilities as a board member?

A As a board member, there are 20-plus directors on the National Assessment Governing Board. The board is composed of committees. And so there is -- the board meets quarterly to work primarily on the future assessments for students across the country as a representative body of a group of students to see how the Nation is doing, how kids are doing in schools. There is also a reporting element.

And so, generally speaking, when the board meets, the board meets with the National Assessment Governing Board staff, as well as staff from the research arm of the

Department of Education.

Q And in your interview for the NSBA review you stated that you first applied for this position in 2019.

Does that sound about correct?

A That's right.

Q And then you had to resubmit your name for reconsideration in 2020 when the position remained vacant. Is that correct?

A That's right.

Q When were you notified that you were a finalist for the position?

A Late summer 2021.

Q Okay. And the appointment was effective October 1st, 2021, I think we discussed, correct?

A Uh-huh. Uh-huh.

Q Were you in communication with the Department of Education regarding your appointment between July and October?

A No. All my communications were with the National Assessment Governing Board staff.

Q And can you tell us the association between the Department of Education and the National Assessment Governing Board?

A One of the committees on the National Assessment Governing Board is a Nominations Committee. The Nominations Committee makes a recommendation to the body of the board of directors of the National Assessment Governing Board recommending who they would submit forward to the Secretary of Education to appoint to the particular seats that may be open.

So the National Assessment Governing Board does the legwork, sending out the

call for applications for the vacant positions. The committee, the nominating committee of the board, makes a recommendation to the board. The board discusses it, approves it. Those recommendations, up to six positions, six people for each of the vacant -- vacancies -- on the NAGB board, go to the Department of Education. Ultimately, the Secretary of Education decides which of those to appoint.

Q And were you notified before October 1st of your pending appointment?

A Yes.

Q And what date was that?

A I don't recall the date, but it was -- I believe it was the beginning of August. To complete the process, the selected appointee or the appointee to be named needed to complete an ethics form declaration, as well as a financial disclosure. So I believe I submitted those -- I don't have a date -- sometime around mid-August.

Q And then you were officially appointed by Secretary Cardona on the 1st of October.

A The appointment -- I received -- I believe I received a letter indicating that I would be appointed. But the official -- you're right, the official appointment, the position, the term begins on October 1st of whatever year someone is appointed.

Q And how long is that term for?

A The term is four years, I believe. I believe four, three or four. I believe it's four. Somebody could correct me. I don't know.

BY [redacted]

Q You said you signed the letter but you didn't write it?

A I did not write it.

Q But you do take responsibility for it, correct?

A For my signature being on the letter, yes.

Q Right. And when you were reading the letter before it was sent, did it give you any pause that NSBA was requesting the assistance of the FBI, Homeland Security, the Secret Service? Did that give you any pause?

A From what I recall at the time that I read it, the crux of the letter and the purpose of the letter, as I understood it, the intent was to seek assistance for the threats of violence, disruptions, and other activities like that, that were occurring. That was my focus when I read that letter. So --

Q So you didn't think it was like going overboard to ask --

A That's not --

Q -- for the FBI and DHS and the Secret Service?

A Yeah. Respectfully, that is not, as I've said, my expertise. And so that, I do not know the difference among those and between those departments. And so my concern was that we, NSBA, was responding to requests for assistance from local entities.

Q If parents go to school board meetings and are cranky about COVID restrictions or they're cranky about other things in their community --

A Sure.

Q -- like, how do you go from that -- and, granted, it was heated during this time period, especially with COVID restrictions and the critical race theory discussion -- how do you go from that to allegations of domestic terrorism?

A I didn't write the letter. I did not --

Q Well, you signed the letter.

A I signed the letter. I cannot answer your question.

Q Did you have any like back and forth with Mr. Slaven or the staff --

A No.

Q -- about that or did you just --

A No, I didn't. There was no communication specific to my editing, writing, composing, or doing the research for the letter at all.

Q Okay. So you don't know if there's any set of facts that would support the inclusion of domestic terrorism in the letter and the referencing of the PATRIOT Act and so forth?

A Specifically, I do not have that knowledge to be able to answer your question.

Q In hindsight, if we were doing this all over again, would that give you pause as you sit here today?

A Yes, I think earlier I said if we had -- in hindsight, if we could think of these things, I believe I've already said that it would be probably more appropriate in a request like that to make a general request for assistance rather than to name specific ways in which assistance could be provided.

Q Okay. Now, the letter goes through, and it cites various incidents that had been occurring during this time period.

Was there any evidence that this was a real Federal issue, that the State and local authorities weren't capable of handling this type of disturbances at the school board meetings?

A Yeah, I personally did not have or did not receive any evidence. But my general understanding of what was occurring at that time was that there were activities that were very, very similar occurring at board meetings across the country that appeared to be orchestrated in some way in a manner that would not have been something that a parent or a group of people in a community were involved in.

Q And what was the evidence of that?

A I didn't have any evidence, as I said. Just that was my understanding of

what was occurring and why perhaps that was included.

Q You've been an educator your whole professional career. That's true?

A That's true.

Q Have you personally ever had a situation where there was an issue at school board meetings you were presiding over or attending?

A No. But I would say that Aldine ISD is a rather unique school district. I'm very proud to serve on that board. And we fortunately have not experienced that in my local district.

Q And in your community, if you had experienced it, would you have been confident in your local law enforcement to support you?

A We happen to be a large urban district. We have over 60,000 students. And in the mid-nineties I believe the Aldine school district created its very own Aldine ISD Police Department. There are very few school districts across the country that have these. Particularly small rural districts do not have these. And, yes, I have confidence in our department to handle Aldine matters.

Q Okay. So from your perspective you don't need the assistance of the FBI to come in and --

A Aldine ISD does not, and I would just say that is a unique situation at Aldine ISD.

Q And turning back to the exhibit that was marked at the top of this round of questions from the U.S. attorney for the District of Montana, did it surprise you, all the different Federal statutes that the U.S. attorney was looking at to potentially prosecute parents? Is this a big list?

A I have only today seen this and I do not have enough knowledge to tell you this is short list or a long list, given that my background is not a legal background. So I

cannot express to you whether I think this is a long list or a short list. It is a list.

Q Okay. Did it surprise you during the time -- during times relevant how quickly DOJ was able to move? I mean, the letter from NSBA came on September 29th and by October 4th, the Justice Department which loves to call itself an elephant, it moves so slowly to do anything, this department that refers to itself, self-identifies, as an elephant, was able to crank out a memo? Did that surprise you at all, how quickly September 29th to October 4th?

Ms. Sachsman Grooms. Let him finish his question, then you go, so the court reporter can get it all.

Dr. Garcia. Okay. Thank you.

Respectfully, I do not have the background or the knowledge to know how quickly or how slowly one in that Department would respond to any sort of letter, whether it's this one or any other.

BY [redacted]

Q But by all accounts, that's a short period of time, correct?

A I don't know the period of time. I don't --

Q September -- all right.

A Okay.

Q September 29th to October 4th?

A About a week.

Q That's pretty quick, right?

A I don't know. I mean, I don't know if that's quick or long. I don't know.

Q Did it surprise you at all that DOJ has had -- has put forth very little evidence that they did any due diligence on the letter?

A I don't -- I can't answer that. I don't know.

Q Okay.

A I have no knowledge of that.

Q So are you aware of anything DOJ did, other than receive the letter?

A I'm not aware of anything other than the letter.

Q Okay. Because it seems to us and it seems to our Members that the letter came in. It was almost like, okay, we're going to direct the whole country, the nationwide Federal law enforcement resources, we're going to realign their priorities to focus on it.

I mean, isn't that -- at any point did you think to yourself or have any conversations with colleagues something to the effect of: "My goodness, what have we done here?"

A Not related to what you've suggested or stated. I didn't have that sort of response, no, because I didn't know any different.

Q In the period of time after the Attorney General's memo, October 4th, and the NSBA apology, what types of communications do you remember having with NSBA officials about what to do? I mean, you're the president of the organization at the time.

A Yes. Yes, we were discussing -- at that time I believe we were discussing the urgent need to communicate effectively. And so we were primarily discussing the engagement of a communications firm to assist us.

Q But were the internal discussions before you hired a PR firm -- I mean, what can you tell us about those communications before you hired the PR firm?

A Well, the internal discussions were about responses that we were attempting to make to the negative press that was rampant.

Q And as the president of NSBA, did you want the apology letter? I mean, was that something that you requested of the PR firm to recommend?

A At the time, initially we had to go through a process of discernment. What is happening? Why is it happening? So if you're asking did I initially believe that we needed to send an apology letter, I don't know -- restate your question so I can understand what you're asking me.

Q But you're the president of the organization. Did you think an apology letter was necessary? And did you instruct the PR firm to look at that opportunity -- that option?

A I would just say that, generally speaking, my leadership on the NSBA board of directors and as an officer of NSBA was a collaborative relationship between the officers and the executives on staff. And so I rarely, I think, would I have made a decision on my own and shared a decision without the collaborative discussion with others in leadership.

Q What conversations were you having at the time with Chip Slaven about this?

A Just I think that the initial conversations were about the responses that were being received.

Q And what do you remember about the context of those conversations?

A Just that what led to the hiring of a communications firm, that we needed to try to do something positive in response to the negative media that was occurring.

Q And in your experience had NSBA done these types of letters before where they reached out to the White House and requested --

A Well --

Q -- a Federal agency to --

A I'm sorry.

Q -- do something -- do something this significant?

A NSBA has an 80-year history of service. So I cannot go back that far, I regret.

But my understanding is, yes, during a turbulent time decades ago there were communications with I don't know who. I don't have specific information.

But as I've shared before, routine communication occurred between NSBA and particularly the Department of Education related to education matters. So that was never -- it's never unusual that that occurs.

Q After the -- or before you signed the letter, did Mr. Slaven give you any indication that, in fact, he was aware that the White House or the Justice Department was going to push an initiative out like this?

A I have no knowledge of that.

Q So you don't know whether the Justice Department was going to react at all to the letter?

A I have no information about the Justice Department before it was sent.

Q And Mr. Slaven didn't give you any prediction about this would be received?

A I don't recall that he did.

Q Did he tell us about his communications with the White House?

A I don't recall that he did.

Q Did you know that he was having communications with the White House, or have you only learned that since the report?

A From what I can remember, I recall that the conversations and the discussions were with the Department of Education.

Q Okay. So it came as a surprise to you that Slaven was working directly with the White House?

A Yes, I think so.

Q And when did you first learn that?

A I believe I learned that after the letter was sent.

Q And did you learn it from him, or did you learn it from somewhere else?

A I don't recall. I really don't recall.

Q Okay. And when the report was prepared, did you read the whole report?

A I -- yes, I attempted to read the whole report.

Q And did the report make any -- did it inform you about Slaven's communications with the White House?

A Not specifically about that. I think that, for me, the gist of the report was that NSBA had work to continue to do and part of that work involved identifying those processes for future communications that would be helpful to modify or change.

Q And a couple of times we've had a discussion that the word "parents" doesn't show up in the letter. But tell us who's going to school board meetings for the most part.

A Well, parents go. But you'd be surprised. In Aldine we have vendors. We have various other people who contract with the district.

Q And are vendors coming to school board meetings and complaining about coronavirus restrictions?

A You didn't ask me that. You just asked me who comes to school board meetings. So I'm sorry.

We have parents, vendors. We have community members, business members, chamber, members of the chambers, the management districts. So it's not an exclusive meeting where parents can attend.

Q But the concerns raised in this letter about incidents at school board meetings, were any vendors at the heart of any of these concerns?

A I have no knowledge of that. I don't know.

Q It's parents, right?

A I can't answer that. I don't know the specific incidents --

Q Okay.

A -- and who was involved in the incidents.

Q Okay. But can we agree that the issue here is parents coming to school board meetings? I mean, the parents are the ones that -- okay. So --

A I don't think that I can agree with, no.

Q No, you can't. Okay.

A Okay.

Q Can you point to one example that didn't involve a parent?

A No, I cannot.

Q One incident that happened at a school board meeting from maybe a vendor or a contractor?

A No one shared specific incidents with me.

Q Okay. Do you think it's reasonable, from reading this letter, to think that parents have been implicated here?

A I can't answer that. I mean, my reasoning is different from somebody else's reasoning. I don't believe I can answer that.

Q But if someone would make that conclusion, I mean, could you understand why they might?

A Well, I can understand if someone made that conclusion because they're an active parent. But I cannot make that conclusion based on information I saw a little bit earlier about an intentional attempt to completely change that to mean that parents are the terrorists.

Q Back in during the coronavirus, the height of the coronavirus restrictions in 2021, I mean, you are aware that parents formed local groups to band together to fight those restrictions, correct?

A Some parents.

Q And they wanted to get their schools open so their kids could have in-person learning, right?

A There were some schools that did that.

Q There were some that were concerned about masks, correct?

A There were some, yes.

Q And they banded together in many cases to bring a united front to the school districts, correct?

A I don't know. I can only speak to my school district.

Q But, I mean, you're the president of the National School Boards Association. Surely you have your pulse on the nationwide -- what's going on nationwide at school board meetings, right?

A I'm also a volunteer, and I have other activities that I engage in. So my pulse is not a daily pulse of what is occurring across the Nation.

Q So I'll represent to you that parent groups were formed nationwide. Parent groups were -- parents were collaborating with one another, making their -- trying to make their voices heard.

And don't you think it's pretty scary that if some of those parents were visited by the FBI, don't you think that would have a chilling effect on future efforts to communicate?

A I can't answer that because I don't have that experience. That did not occur to me personally, so I can't answer that.

Q Okay. But had it occurred, I mean, you're experienced with these matters. I mean, if the FBI comes and visits one parent in a parent group that's concerned about COVID restrictions, don't you think that parent's going to tell all the other parents, "I was visited by the FBI"?

A I can't say that. I don't know.

Q And don't you think that would chill, chill speech and maybe discourage the free flow of complaints and the free flow of communications?

A Yeah, I would just add to that I don't know. I don't know how a parent would react to that.

Q Okay. And having -- I mean, I think earlier today you said if an FBI official shows up at someone's door, you wouldn't concede that that would be a negative experience, a scary experience.

A Well, may I just share a personal experience?

Q Of course.

A We had neighbors in my community, in my home, who the husband was seeking a position that required clearance. So we were visited by someone in the FBI for the purpose of helping his clearance.

Q Of course. Doing a background check.

A So that visit, that was not a scary experience for me.

Q Of course not.

A Well, no. So that's why I cannot answer your question because various FBI --

Q Yeah, but what I'm positing to you is FBI agent coming to somebody's house to inquire about First Amendment-protected activity that they voiced at a school board meeting as a potential act of domestic terrorism. You certainly can concede that that

would be a pretty scary experience, right?

A I don't know because I don't know that that actually happened and I have no knowledge of it. So I'm sorry, I just cannot answer that question adequately.

[redacted] I think that's all I have.

[redacted] That's all I have.

We can go off the record. Thank you.

[Recess.]

[redacted] We will go back on the record. It is 1:22 in the afternoon.

BY [redacted]

Q And thank you for your patience. I think we are almost done.

A Okay.

Q So there's light at the end of the tunnel.

A Okay.

Q I want to go back to something that came up in the very first hour that you might not remember.

A Okay.

Q But you were asked about FBI threat tags.

Do you know what a threat tag is?

A I do not.

Q Okay. Do you know how the FBI uses threat tags?

A I do not.

Q And reference was made to the FBI using threat tags to, quote, "investigate parents." Do you know if the FBI uses threat tags to investigate matters as opposed to, for example, using them to compile statistics?

A I have no knowledge of that.

Q Okay. I want to turn to the apology letter.

A Uh-huh.

Q And I apologize, but I'm not sure what exhibit number. That was.

A Apology letter. We just had it. This is it here.

Q That would be lovely. Thank you. Okay.

You said this was written by an outside group?

A Well, I believe I said, from what I remember, that it was written -- that a communications firm was engaged and that I believe the letter was written in collaboration between the, I think, the communications group and NSBA staff.

Q Okay. But you -- NSBA retained a communications group.

A That's right.

Q And you said -- and you retained the Michael Best law firm, right, to do the review, the --

A The investigation.

Q -- the investigation?

A Yes.

Q And did you say there was another firm that you retained at well, a third one?

A Yes.

Q Who was that?

A I do not recall.

Q Okay. So NSBA retained three -- three firms essentially.

A And I don't even know that the group that I referred to was, in fact, a firm.

Q Okay.

A It may have been a collaborative --

Q I see.

A -- of --

Q I see.

A -- of experts in this area.

Q You don't remember or did you know at the time how much money the NSBA spent on hiring those outside contractors?

A I do not recall.

Q Okay. But they had to spend some money.

A Yes.

Q They were all hired.

A Yes.

Q Nobody was pro bono --

A That's right.

Q -- to your knowledge.

A That's right, uh-huh.

Q Okay. We went over this a little bit. On the apology letter itself, in the middle of that, that second paragraph, it said there was no justification for some of the language included in the letter. And you said that some of the -- that the -- some of the language referred to the specific requests that were made, right?

A That was my understanding --

Q Okay.

A -- about the language.

Q And the line immediately before that is: "To be clear, the safety of school board members, other public school officials, and educators and students is our top priority, and there remains important work to be done on this issue." Right?

A Yes.

Q So the apology letter doesn't actually apologize for like the examples cited. It just apologizes -- and your opinion is that it was meant to apologize for the specific requests that were made.

A I believe -- let me -- if I'm understanding you correctly, my response is I recall it. As you know --

Q Yeah.

A Clear to me was that the language that is referred to here, there was no justification for some of the language included, my interpretation of that is the specific nature of the reference to the particular divisions of the Federal Government that would be involved, and it would have been more appropriate, I believe, if the request had been a general request for assistance.

Q Got it. Okay.

I want to turn to exhibit 14, which is the District of Montana letter.

A Okay.

Q You were asked various questions about this letter, but I want to highlight a couple of lines.

A Okay.

Q At the bottom of the first -- actually, before I do that, could you take a look at this and let me know if this letter says the word "parent" in it?

A I do not see the word "parent" in this letter.

Q Thank you.

And the first paragraph, the last sentence, it reads: "The Attorney General's directive does not seek to hinder anyone's free speech rights under the First Amendment, only to combat lawful threats and other criminal conduct."

Did I read that right?

A You did.

Q And your intent in sending the -- I'm sorry -- the NSBA's intent in writing the September 29th letter, was there any intent to hinder anyone's free speech rights under the First Amendment?

A No, there was not. As a matter of fact, I think the first paragraph of NSBA's letter explicitly refers to something like that, says something like that.

Q Actually let's refer back to that letter, which is exhibit 3. I think what you're referring to is the line: "Local school board members want to hear from their communities on important issues, and that must be at the forefront of good school board governance and promotion of free speech."

A Yes.

Q Right?

A Yes.

Q Okay. So turning back to the District of Montana letter.

A Okay.

Q The last full paragraph, it reads: "The State of Montana has similar criminal laws against threatening and committing acts of violence against members of our educational community. It may be that an investigation and prosecution under those statutes more appropriately addresses individual cases."

Did I read that right?

A You did.

Q Okay. And I want to turn quickly to the actual attachment here. And you're not a lawyer, right?

A No.

Q I'm just going ask you to quickly read through the list in that very first column of, like, the titles of the acts and let me know if any of them refer to domestic terrorism. Do they say domestic terrorism?

A One through nine do not, and in the back one to three do not.

Q Okay. Quick question about the call that you received from the President. You said clearly he didn't mention the letter at all?

A Not the specific letter, not in direct expression of the letter.

Q Right. And he didn't thank you for the letter.

A Not for this specific letter, no.

Q Okay. Did he mention an individual named Terry McAuliffe?

A No. Or not that I recall, no.

Q You were just asked about a situation -- about others who might appear at school board meetings?

A Yes.

[Garcia Exhibit No. 15

Was marked for identification.]

BY [redacted]

Q I'm going to introduce as exhibit 15 an October 12th, 2021, article from the Chapelboro News, which I believe is Chapelboro, North Carolina, but I'm actually not sure about that. It says: "Proud Boys' Presence Leads to Metal Detectors, Deputies at School Board Meetings."

Can you check that?

At the bottom of the second paragraph on that page it says: "At the Orange County Schools in-person board meeting, September 13, a group of parents gathered to protest some of the COVID-related restrictions up for discussions -- such as mask wearing

and spectator limits for events. Those parents, however, weren't the only members of the public in attendance."

Do you see where I said that?

A Yes.

Q And then it quotes: "'There were two men in Proud Boys shirt and hats,' said Chair of the Orange County Schools Board of Education Hillary MacKenzie. 'One wore a stocking over his face, which completely obscured his entire face for the whole meeting. The other one told our board during public comment that someone should tie rocks around our necks and we should throw ourselves in the river.'"

Did I read that correctly?

A You did.

Q And so based on that, does that suggest that there, in fact, were people who were not parents in attendance at school board meetings?

A Yes. And as I've said before, there are oftentimes people at school board meetings who are not parents.

Q Right. And in this particular case there were actually members of the Proud Boys at this school board meeting, according to this article.

A That's what this says.

[redacted] Okay. I'm going to turn it over to my co-counsel.

BY [redacted]

Q Again, I'm [redacted] with Ranking Member Nadler.

A Uh-huh.

Q You mentioned earlier that school boards are nonpartisan and that your school board is nonpartisan.

A Yes.

Q Are school boards, just to clarify, are school board members officially associated with one party or another?

A Not in Texas. I don't know -- I cannot answer about the other States. But I believe not.

Q Thank you.

So in addition to serving on the local Aldine ISD school board, you've also served on the Texas Association of School Boards, as we've discussed, correct?

A Yes, yes.

Q And during your tenure on both, did you work with people who had different political opinions from you?

A Yes, absolutely.

Q Would you agree that people who disagree politically can agree about some education decisions?

A Yes.

Q Is it typical for individuals who work in the education field to work together in spite of their political persuasions?

A Yes.

Q Okay. And then at the State and national level, is that true as well?

A Yes, I would think so. I would, yes.

Q And you said that people, individuals in leadership, work together in spite of their political persuasion.

A That's my opinion, yes.

Q Dr. Garcia, earlier you were asked about your appointment to the National Assessment Governing Board. And I'd like to talk about your timeline for appointment again.

A Okay.

Q And just to clarify, is the board an independent entity?

A Independent meaning?

Q Meaning that it is separate from the government.

A Well, it is an arm or related to the Department of Education, as I understand it.

Q Okay. I would like to show you a document that was produced by the Department of Education in response to one of Chairman Jordan's requests. It is right here.

A Okay.

Q And I'll give you a moment to review the document.

A Okay.

Q I'm going to mark it as exhibit 16.

A January 21.

[Garcia Exhibit No. 16

Was marked for identification.]

BY [redacted]

Q And I'm also going to read it aloud.

A Okay. Go ahead.

Q So this is an email from Lisa Stooksberry to you with the subject line: "Update from the National Assessment Governing Board."

A Uh-huh.

Q It's dated January 21st, 2021. The text reads: "Dear Viola, it has been some time since I have been in touch. It will come as no surprise to you that the continued delay in appointing a local school board member to the Governing Board was a result of the November election and pending change in administration.

"With yesterday's inauguration and the forthcoming appointment of a new Secretary of Education, the Board is preparing for next steps regarding the local school board appointment.

"The Nominations Committee meets at the end of the month, and the local school board appointment is on their agenda. Once they have determined the next steps -- and once a new Secretary is appointed -- I'll be back in touch to let you know what to expect.

"Under separate cover, you and other NSBA leadership will receive a response from our Executive Director, Lesley Muldoon, regarding your letter of November 16, 2020.

"Thank you for your continued patience. Please do not hesitate to let me know what questions have you. Best regards, Lisa, Deputy Executive Director, National

Assessment Governing Board."

Do you remember this email?

A Now that I -- that you've shown it to me, I do.

Q And who is Lisa Stooksberry?

A Lisa Stooksberry is a former employee. Lisa just left the organization a few months ago. She at that time was deputy executive director.

Q Okay. And do you believe -- what do you believe Dr. Stooksberry meant when she said, "It has been some time since I have been in touch"?

A I submitted my application to -- for this position in 2019. And those of us that applied at that time expected an appointment October 1st, 2021 -- no, 2020, I'm sorry, 2020. There were other appointments made for other vacancies but not for the local school board position. And so it had been some time since we had heard -- since I had heard. I don't know about the other finalists.

[1:36 p.m.]

BY [redacted]

Q And so she originally reached out to you in 2019?

A No, she did not reach out to me. I found out about the -- a posting for a call for those interested to submit documents in 2019. I don't remember when I first heard from Lisa. It may have been after receipt of the submission of my documents.

Q And when did you submit those documents?

A In 2019. I don't remember dates. It may have been fall.

Q And the ultimate outcome of that application you said was -- what happened next after you applied?

A After I applied in 2019?

Q Uh-huh.

A Those of us applying in 2019 were applying for positions that were vacated and to be filled by October 1st, 2021.

Q Okay.

A I'm sorry, 2020. I'm sorry.

And that particular seat on the NAGB board, the local school board seat, was not appointed in 2020.

Q Thank you.

Who was Secretary of Education when you first applied and received outreach from Lisa Stooksberry?

A During this time?

Q In 2019.

A In 2019. Secretary DeVos. Secretary DeVos.

Q Thank you.

Ms. Sachsman Grooms. I think she clarified she did not get an outreach from Lisa during that time.

[redacted] I would like to show you a document dated March 12th, 2021. It's another letter from Dr. Stooksberry. And it's part of the same production from the Department of Education. And I am marking it exhibit 17.

[Garcia Exhibit No. 17

Was marked for identification.]

BY [redacted]

Q If you look at the first paragraph, it says: "I am pleased to share the news that you have been selected as a finalist for consideration to serve as a member of the National Assessment Governing Board representing the category of Local School Board.

"For each vacancy, the Governing Board nominates up to six persons who, by reason of their knowledge and expertise, are considered highly qualified to serve. The four-year term for which you have been nominated begins October 1, 2021. Board appointments will be made by The Honorable Miguel Cardona, U.S. Secretary of Education."

This letter is addressed to Dr. Viola Garcia. Do you remember this letter?

A Yes. I have greater recall after seeing it, yes.

Q What is the significance of being a finalist for a position on the National Assessment Governing Board?

A It means -- now that I am on the board, I understand that the Nominations Committee receives the documents, which include a resume, a letter of interest, and supporting letters from others for the position.

And so the compilation of those documents for the finalists are sent to -- for those

recommended by the National Assessment Governing Board -- are sent to the Secretary for his review and his staff's review.

Q Do you know how many other finalists were selected?

A I do know that, in the first round in 2019, I think Lisa explicitly mentioned, if not in this email, that there were five. I do not know how many were submitted in the following year.

Q Okay. I'd like to turn to another document from that same production by the Department of Education. And I'll give you a moment to read that document. I'm marking it exhibit 18.

[Garcia Exhibit No. 18

Was marked for identification.]

Dr. Garcia. August 23. Okay.

BY [redacted]

Q Now, this is an email dated August 23rd, 2021, from Karen Akins. While the addressee is redacted, the text is addressed to you, and it reads: "Dear Dr. Garcia, I am contacting you regarding your interest in serving as an advisory board member for the National Assessment Governing Board (NAGB).

"I am in the office today, Monday, August 23, until 5:00 p.m. and tomorrow through Friday of this week from 7:30 a.m. to 4:00 p.m. Please contact me at your earliest convenience via my office phone number noted in the signature block below.

"Best regards, Karen P. Akins, Committee Management Officer, U.S. Department of Education."

Do you remember this email?

A I remember -- yes, I more clearly remember it now that I see it.

Q Who is Karen Akins?

A Karen Akins? Here it says is committee management officer for the U.S. Department of Education.

Q Did you speak with her in that day or the following day?

A I believe that she called. I believe that she is the one who called me to let me know that I would be receiving information.

Q And what information was that?

A Information that I was considered the nominee, being considered as the nominee.

Q And I'm going to -- I have another document that I'm going to introduce.

A Okay.

Q I'm going to mark this No. 19.

[Garcia Exhibit No. 19

Was marked for identification.]

Dr. Garcia. Okay.

BY [redacted]

Q And this document is dated August 24th, 2021. And it's from you to Karen Akins.

In it you wrote: "Ms. Akins, thank you for letting me know the good news this morning. I am in receipt of information and will begin working on the required disclosure report with plans to submit it by Friday. Regards, Viola."

What does it mean to be nominated to the National Assessment Governing Board?

A It means that the National Assessment Governing Board, the board itself, has made the recommendation and submitted that to the Secretary of Education.

Q Okay. And was it your understanding at this time that, by being nominated, you would likely be appointed to the National Assessment Governing Board?

A I understood that I would be one of five or up to six whose names would be submitted.

Q Okay.

A Okay. Let me see. For clarification, let me reread this.

Q Of course.

A Oh, "as a result of your nomination." So this is from the Department of Education, not from Lisa. Okay. So she's advising me that -- yes, she had already notified me, because I said on August -- at the top of the email trail: "Thank you for letting me know the good news." So the good news was that I had received notice that I would be the nominee.

Q And so there were no other nominees at this time?

A At that point, no. I'm sorry. No. Just me.

Q Okay. And then I would like to turn to one last document from that same production by the Department of Education.

A Okay.

Q And I'm marking this exhibit 20.

[Garcia Exhibit No. 20

Was marked for identification.]

BY [redacted]

Q All right. Now, this is another email from Karen Akins to you with the subject line: "Appointment-National Assessment Governing Board (NAGB)."

It reads: "Dear Dr. Garcia, please be advised the review process for appointment to serve on the National Assessment Governing Board (NAGB) is complete and Secretary Miguel Cardona has appointed you to serve on the NAGB. A copy of your appointment letter is attached, and you will receive the original letter via U.S. Postal mail. Ms. Lesley Muldoon, Executive Director for NAGB, will contact you regarding orientation for new members of NAGB. Best regards, Karen P. Akins."

Now, what is the date of this email?

A This email is dated Tuesday, September 28th, 2021.

Q Okay. And the NSBA letter to Biden was sent on September 29th. Is that correct?

A Yes. As I can recall, yes.

Q So not only did you finalize all of your application materials and in fact were informed that you would be nominated over a month before the NSBA letter was sent, you were actually appointed to it before the letter ever went out. Is that correct?

A Yes. I had completed all of the necessary documents and submitted them for their review.

Q Okay. Thank you. I'm going to turn this over to my -- oh, apologies.

A Okay.

Q I take that back.

A Okay.

Q Turning back to the NSBA report that my colleague referenced earlier, on Page 23, the report finds that "Counsel's Review has not uncovered" -- well, I'll allow you to get to page 23.

A Okay.

Q All right. Everyone all set?

A Yes.

Q The report finds that "Counsel's Review has not uncovered any connection between the Letter" -- meaning the September 29th NSBA letter -- "despite her signature to the Letter and interaction with the President regarding the Letter before her appointment."

Do you agree with this finding that there was no connection between your signature on the September 29th letter and your appointment to the board?

A Yes, I agree.

Q Thank you. And now, I'll turn it over to my co-counsel.

[redacted] I actually think that we are good. It looks like you don't believe me.

Ms. Sachsman Grooms. No. Are we done?

[redacted] I think we are done.

Do you have anything further?

[redacted] No. We can go off the record.

[Whereupon, at 1:47 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

DEPOSITION OF: CHIP SLAVEN

Monday, March 27, 2023

Washington, D.C.

The interview in the above matter was held in 2237, Rayburn House Office Building, commencing at 10:00 a.m.

Present: Representatives Jordan, Bishop, Issa, Biggs, Cammack, Hageman, and Johnson of Georgia.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

[redacted] GENERAL COUNSEL

[redacted], RESEARCH ASSISTANT

[redacted], COUNSEL

[redacted] [redacted] CHIEF COUNSEL FOR OVERSIGHT

[redacted], SENIOR SPECIAL COUNSEL

[redacted], SPECIAL COUNSEL

[redacted], DIGITAL DIRECTOR

[redacted] MINORITY CHIEF OVERSIGHT COUNSEL

[redacted], MINORITY INTERN

[redacted], MINORITY DEPUTY CHIEF COUNSEL

FOR THE CONSTITUTION SUBCOMMITTEE

[redacted], MINORITY INTERN

[redacted], MINORITY PROFESSIONAL STAFF MEMBER

For CHIP SLAVEN:

DAVID C. RYBICKI, PARTNER

SARA HALL, ASSOCIATE

K&L GATES

1601 K STREET NW #1

WASHINGTON, DC 20006

[redacted] We will go on the record.

Good morning.

This is a deposition of Mr. Chip Slaven. Chairman Jordan has requested this deposition as part of the committee's investigation into the Biden administration's misuse of criminal and counterterrorism resources against concerned parents.

On March 6th, 2023, Chairman Jordan issued a subpoena for Mr. Slaven to testify at a deposition on March 17th, 2023. The committee and Mr. Slaven's attorney on his behalf mutually agreed to move Mr. Slaven's deposition to March 27th, 2023.

I'd like to mark the March 6th, 2023, subpoena as exhibit No. 1.

[Slaven Exhibit No. 1

Was marked for identification.]

[redacted] Would the witness please state your name for the record?

The Witness. Chip Slaven, or Stuart Slaven as it's legally known.

[redacted] My name is [redacted] [redacted] and I'm with Chairman Jordan's staff.

I'll now have everyone else from the committee who is here in the room introduce themselves as well.

[redacted] [redacted] with the House Judiciary Committee.

Chairman Jordan. Jim Jordan.

Ms. Hageman. Harriet Hageman, State of Wyoming.

[redacted] [redacted] with the Democratic counsel of the House Judiciary Committee.

[redacted]. [redacted] with the Democratic counsel of the House Judiciary Committee.

[redacted]. [redacted], minority with the Judiciary

Committee.

[redacted]. [redacted] with the minority with the Judiciary Committee.

[redacted]. [redacted] with the House Judiciary Committee.

[redacted]. [redacted] with Chairman Jordan's staff.

[redacted]. [redacted] with Chairman Jordan's staff.

[redacted]. [redacted] with Chairman Jordan's staff.

[redacted]. [redacted] with Chairman Jordan's staff.

[redacted] Thank you.

I would now like to go over the ground rules and guidelines that we will follow during today's deposition.

The committee will conduct today's deposition in accordance with Rule XI of the Committee on the Judiciary's Rules of Procedure for the 118th Congress.

Our questioning will proceed in rounds. The majority will ask questions first for 1 hour, and then the minority will have an opportunity to ask questions for an equal period of time if they so choose. We will alternate back and forth until there are no more questions and the interview is over.

Typically we take a short break at the end of each hour, but if you would like to take a break apart from that, please just let us know.

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

Do you understand that?

The Witness. Yes.

[redacted] So the court reporter can take down a clear record, we will do our best to limit the number of people directing questions at you during any given hour to

just that person on the staff whose turn it is.

Please try and speak clearly so the court reporter can understand and so the folks down at the end of the table can hear you as well. It is important that we don't talk over one another or interrupt each other if we can help it, and that goes for everyone present at today's interview.

We encourage witnesses who appear before the committee to freely consult with counsel if they so choose, and it is my understanding that you are appearing today with personal counsel.

Is that correct?

The Witness. That's correct.

[redacted] Could counsel please state your name for the record?

Mr. Rybicki. Certainly. My name is David Rybicki with K&L Gates.

Ms. Hall. My name is Sara Hall, also with K&L Gates.

[redacted] Thank you.

We want you to answer questions in the most complete and truthful manner as possible, so we will take our time. If you have any questions or if you do not understand one of our questions, please let us know.

Our questions will cover a wide range of topics, so if you honestly don't know the answer to a question or do not remember, it is best not to guess. Please give us your best recollection, and it is okay to tell us if you learned information from someone else. Just indicate how you came to know the information.

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

By law you are required to answer questions from Congress truthfully.

Do you understand that?

The Witness. Yes.

[redacted] This also applies to questions posed by congressional staff.

Do you understand this?

The Witness. Yes.

[redacted] Witnesses that knowingly provide false testimony could be subject to criminal prosecution for perjury.

Do you understand this?

The Witness. Yes.

[redacted] Is there any reason you are unable to provide truthful answers to today's questions?

The Witness. No.

[redacted] Finally, I would like to make note that the content of what we discuss here today is confidential. We ask that you not speak about what we discuss in this interview to any outside individuals to preserve the integrity of our investigation.

For that same reason, the marked exhibits that we will use today will remain with the court reporter so that they can go in the official transcript and any copies of those exhibits will be returned to us when we wrap up.

All right. That is the end of my preamble.

Is there anything that my colleagues from the minority would like to add?

[redacted] We don't. Thank you.

[redacted] Okay. The court reporter will now administer the oath.

The Reporter. Do you solemnly swear or affirm, under the penalty of perjury, that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth?

The Witness. I do.

[redacted] Okay. The clock now reads 10:04 a.m. We will start our first hour of questioning.

EXAMINATION

BY [redacted]

Q Mr. Slaven, I would first like to discuss your professional background.

A Sure.

Q Prior to joining the National School Boards Association staff what did you do?

A I worked from 2010 until 2019 for another education nonprofit called the Alliance for Excellent Education. It's also called All4Ed.

Q Okay. And before that what did you do?

A Before that I spent about two and a half years practicing private law with a firm here in Washington, D.C.; law school before that for 3 years; and then I spent 12 years in various government positions. I was a congressional employee. I was a gubernatorial employee. I also worked on some campaigns.

Q Okay. Have you ever served on a school board?

A No.

Q Okay. What do you currently do for work?

A I'm currently not working.

Q Okay. When did you join the NSBA?

A I joined -- I believe my first day was June the 12th of 2019.

Q And in what role did you start?

A I started, I was the chief advocacy officer.

Q Okay. And what does the chief advocacy officer do?

A Chief advocacy officer runs the Federal advocacy and public policy team. And so we work with Members of Congress. We work with the Federal Government. We advocate on issues important to public schools. We also release objective policy reports as part of that work.

Q And what was your next position that you held at NSBA?

A Starting on July the 10th, I moved into the interim CEO and executive director role. I think I learned about 2 weeks prior to that I was going to -- it was kind of a sudden move -- that I was going to move into that position.

Q And was there a vacancy that needed to be filled?

A What happened was the executive director who hired me had decided to retire. He left in early June of 20 -- early June of 2021 -- or excuse me, 2020 -- and then Anna Chavez came in as the new CEO, and she only stayed about a year, and she left for a position in private business and gave about 2 weeks' notice. And I was very suddenly thrust in the position.

Q And does the CEO and executive director position, is that for a set period of time?

A Well, I mean, I was an interim. So the understanding was I would hold the position until a new permanent director was sought. And I had the option if I wanted to apply for the position I could have, but I had decided pretty early on not to.

Q Okay. And what were your roles and responsibilities as interim CEO and executive director?

A Obviously maintaining -- I went from a small staff to all of the teams within the organization. At the time I don't remember the exact number we were at. It fluctuated over COVID. Around 70, probably.

Q Okay.

A But, again, that's -- I don't remember exactly the number.

And so it was dealing with the day-to-day operations, supervising, obviously, a number of teams. I had been on the executive team. I was an interim. Then we had to move another person into my old role as an interim.

So it was navigating that. It was signing off on various decisions of the organization, holding events, planning for future events, dealing with the COVID situation in terms of our office, and we were all working remotely.

So it was a pretty encompassing job, lots of different -- typical management responsibilities at that level, working with the board obviously, which I knew the board, but I had not been involved with them like I was in that position.

Q And did all 70 employees report directly to you?

A Well, there were underlying managers.

Q Okay.

A So, I mean, technically they did, but there was a line of command that people would jump to.

Q And who were the underlying managers at the time?

A At the time there was -- Francisco Negron was the chief legal officer. Verjeana Jacobs was -- her title was chief -- I think it changed some -- but it was chief transformation officer. She had a lot under her belt.

And then Jane Mellow, I promoted her to the interim -- well, actually, the previous CEO did it for me -- but we made her the interim chief executive -- or chief advocacy officer.

And so for a short time period those were the folks that I dealt with, a small team.

Later, Renee Joe was elevated, when Verjeana went on leave, to take over that role as interim chief transformation officer. And I also moved Elena Carpenter up, who

was a finance person, to act as sort of a chief financial officer, because we had also lost the equivalent of that. We had lost some people, so --

Q Okay. And who is the ultimate decisionmaker for all NSBA actions? Is it the staff, officers, or the board of directors?

A Well, I mean, ultimately, the CEO, according to the Constitution and bylaws, is responsible for the day-to-day operation.

But it depended on what the decision was. There were certainly decisions that other chiefs would make. Typically I would -- they would inform me if it was something that reached a level of importance.

Q Were there any actions that the board of directors would need to approve before they could occur?

A The board approves the budget. They approve -- they hire the CEO. So the CEO really works for the board. They help plan strategy. They do, I mean, typical things that a board of directors would do.

Q And you said that the NSBA had a chief transformation officer. What was their role?

A So that was a position that had been modified when Anna came in. Essentially the chief transformation officer had a bunch of buckets. So she had member services, so working with State associations. She had -- communications and marketing had been moved under her. Events was under her. And I'm probably forgetting -- the Center for Safe Schools, I believe, was under her as well.

So she had a -- she probably had her hand in the most teams in the organization.

Q Okay. And when did you leave the NSBA?

A My last official day I think was December the 3rd.

Q Of what year?

A I'm sorry. Of 2021.

Q 2021. And what position were you in at the time?

A Technically, I guess, I had moved back to my old role, but I was only there less than 2 weeks after that.

Q And your old role was chief advocacy officer?

A Yes, right. A new CEO had come on board.

Q Okay. And who was the new CEO?

A John Heim. He had been the Kansas association executive director before that.

Q Okay. And why did you leave on December 3rd, 2021?

A Mr. Heim decided he wanted to move in a different direction.

Q Okay. So were you asked to resign?

A I was let go.

Q Okay.

Chairman Jordan. When did Mr. Heim -- so on the 3rd of December you were in a different role?

The Witness. Well, yeah. Let me -- what happened -- on November the 23rd, he called, it was just his very first day, and said, "I don't think there's a place for you anymore," and he put me on leave. And then I learned on December the 3rd that they had made it permanent essentially.

Chairman Jordan. But I'm asking, when did you leave the responsibilities of CEO --

The Witness. My last day as CEO --

Mr. Rybicki. Let him finish the question.

Chairman Jordan. When did -- I know you left officially on the 3rd of December.

When did you leave your responsibilities as CEO?

The Witness. November the 22nd would have been my last day.

Chairman Jordan. November 22nd, okay. Thanks.

BY [redacted]

Q Do you currently have any role with the NSBA?

A No.

Q And prior to September 29th, 2021, how many State school board associations were members of the NSBA?

A Sorry. The date again?

Q September 29th, 2021.

A At that time we had 50 members, 49 States and 1 territory, but a number of them hadn't paid their dues yet for the year.

Q Okay.

A So it was somewhat unclear how many we actually had, depending how you look at -- technically, if you don't pay your dues, you can be on suspended status. So we were sort of going through that. I don't remember the exact number, but it was probably at 10 or 11.

Q And why weren't the State associations paying their dues?

A There was a longstanding tension in the organization that had gone back more than a decade. There were various issues with some States had -- were concerned over competition with the national organization, or there were certain policy positions they may not like, on both sides of the issue. It sort of depended -- there were a lot of underlying issues.

Q Okay. And as of September 29th, 2021, who were the NSBA officers at that time?

A The president was Viola Garcia. The president-elect was Frank Henderson, Kristi Swett was the secretary-treasurer, and Charlie Wilson was the immediate past president. Those were --

[redacted] I'm sorry to interrupt, but I think the deposition rules say that only members designated by the committee and committee staff can be in the room. I think we have staffers who are not committee staff who are in the room.

[redacted] Okay.

[redacted] We'll go off the record.

[Discussion off the record.]

[redacted] We'll go back on the record.

BY [redacted]

Q Mr. Slaven, we were discussing the NSBA officers.

A Uh-huh.

Q Can you kind of describe the dynamic between the staff, the officers, and the board of directors? How did everyone fit together?

A Well, as I indicated I think a few minutes ago, I answered directly to the board and the staff answered directly to me. And so my relationship, though, I primarily dealt with the officers. I met with them typically once a week virtually.

Q And then how often did you communicate with the board of directors?

A Directly, it depended, to be honest, on a number of things. So they received communications from the organization regularly through the communications team. On occasion I would send an email to the entire board. It just depended on what it was. But I mostly dealt with the officers --

Q Okay.

A -- during that period of time.

Q And how did you communicate with the officers?

A We'd telephone, email. We usually had a Teams call when we met as a group.

Q Okay. I want to now discuss the origins of the September 29th letter.

In May of 2022, the NSBA released a report regarding its findings on how the letter came about.

Have you read that report?

A Yes, I read it.

Q And the report detailed some of your interactions with the Department of Education and the White House.

And so according to the report, you had a call with Dr. Aaliyah Samuel at the Department of Education.

Do you remember what Dr. Samuel's role was in the Department of Education?

A I can't recite her exact title. But she was -- she typically was the person that did a lot of the engagement with the organizations around education.

Q With outside organizations?

A Yes, interested parties in education in public schools.

Q And do you remember having a phone call with her on July 30th of 2021?

A Yes.

Q Do you remember what you discussed on that call?

A Yeah. She had reached out originally about vaccination issues, and she asked to have a phone call, I think. I think she asked. And we were talking primarily about school reopening and sort of how to deal with that. And in that conversation she -- we came up with an idea to sort of help school board members to better engage on the issue of having essentially a virtual town hall with Secretary Cardona.

And so we discussed how that would work and when it might be and the logistics of it and ultimately decided that it would be our board, the officers for each State association, State association executive directors, and a few key NSBA staff.

Q And do you remember discussing with Dr. Samuel on July 30th, 2021, threats and concerns related to school board members?

A Generally, yes. That was one of the things we talked about.

Q Can you describe what your general conversation was?

A Yeah. As I recall, she mentioned that the Secretary was concerned for how school reopening was going and the intense pressure that educators were under and school board members were under. And I talked a little bit. I was, like, well, we are definitely seeing a lot of pressure obviously. But the threats were very concerning to our members, very serious.

And so we talked about it, but it was just a part of the conversation.

Q And how long would you say your phone call was with Dr. Samuel?

A I don't remember exactly. I would say 15 to 20 minutes.

Q Fifteen to twenty minutes.

A It could have been as long as 30, but it didn't seem like it was.

Q And you said the discussion focused on school reopenings and setting up a town hall, and then you also generally discussed threats, correct?

A Yes.

Q Was anyone else from the Department of Education on the call?

A Not that I was aware of, no.

Q Anyone else from the NSBA?

A No.

Q Were there any follow-ups or to-do items that came out of the call for you to

do?

A There were logistical issues around setting up the actual events. So there were emails and things about setting it up. And that did involve other staff at NSBA.

Q And were there any follow-ups for Dr. Samuel that came out of the call?

A Potentially. I think she probably was involved in some of the emails.

Q And you said that Dr. Samuel was in charge of kind of interacting with the outside organizations that interfaced with the Department of Education.

How often did you interact with Dr. Samuel?

A It's hard to say exactly. Occasionally I think would be. I mean, there were a lot of group communications that typically you would see folks with the Department on, including her at times. So it's hard to say.

And it changed -- my role changed somewhat when I became the interim CEO. I knew her prior to that and dealt with her some. But in the new role I dealt with her a little more. I want to say maybe she and I had two calls or three over time.

Q Okay. And --

A But I don't remember exactly, so --

Chairman Jordan. Could I just ask one clarification?

The Witness. Sure.

Chairman Jordan. Did she call you or did you call her?

The Witness. Mr. Chairman, I can't recall exactly. I think she called me, but I'm not sure of that.

Chairman Jordan. Okay.

The Witness. I think we did arrange to have a time to call. She most likely called.

Chairman Jordan. Okay.

[redacted] And in your role as interim CEO and executive director, just in general, how often did you interface with anyone from the Department of Education? Was it once a month, twice a month, weekly?

The Witness. Again, it depended. I mean, we would get emails that would go routinely to other education groups as well on a pretty regular basis. They would occasionally have a briefing or something where you would get with on the staff. It could be a new CDC guideline coming out or something on a completely different issue.

Oftentimes other groups that met, education leaders -- there's a number of education-related groups that sort of meet together, and sometimes a member of the administration would be asked to join a call like that depending on what it was.

Yes, sir.

Chairman Jordan. Again, most often did those emails come from the Department of Education out to you?

The Witness. They came -- well, they would come to me but also potentially others.

Chairman Jordan. Understand.

The Witness. Yeah. And there also were, obviously, other agencies at times that would reach out, depending on the issue.

Chairman Jordan. Who decided that you were going to discuss threats and concerns related to school board members? Was that coming from Dr. Samuel to you? Did she set the agenda for that call when she called you?

The Witness. No. That was an issue I brought up.

Chairman Jordan. Okay.

BY [redacted]

Q And on that call you discussed the town hall that would be occurring with

Secretary Cardona?

A Uh-huh.

Q Did you participate in the August 16th, 2021, town hall?

A Yes. I actually opened the event up.

Q And did any other Department of Education officials besides the Secretary participate in the town hall?

A I'm sure there were others on the -- I think it was a Zoom format. But I don't recall who they were.

Q Okay. And the NSBA report says that Secretary Cardona during the town hall discussed disruptions in local school board meetings and requested additional information be sent to his office.

Did he bring up the disruptions at school board meetings or did someone from the NSBA?

A I can't recall exactly. I believe, though, that we probably brought it up because it was such a concerning issue at the time. And I think, though, in context of asking for information, I think that was on a whole range of education issues to let us know if there's other issues that we need to be aware of.

Q And when you say "we brought it up," who do you mean?

A NSBA.

Q NSBA.

A Yeah, people on the call, school board members.

The only people that spoke on NSBA's behalf were school board members, other than me. And like I said, I did a very quick introduction. And I do remember Viola Garcia asked the first question, but I don't remember at this point if we made it on threats or the general climate or if it was on something else.

Q Do you remember what the contents of the discussion were related to disruptions at school board meetings at the town hall?

A Not specifically. It was an underlying issue, but it was really -- I want to make one clear point here. It wasn't just school board meetings. It was lots of social interactions and threatening calls and things like that, and then also just the general how are we going to reopen schools.

The focus of the call on the 16th was on a number of issues related to trying to get schools reopened during the pandemic, and we were weeks away at that point. In fact, a few places may have already been open. So we were starting -- they were doing -- school boards were really trying to get kids back in school safely.

Q Did you personally follow up with additional information on disruptions at local school board meetings with Secretary Cardona?

A Not that I recall, no.

Q Did anyone from the NSBA follow up with additional information for the Secretary?

A We may have followed up with additional information in general --

Mr. Rybicki. Chip, just let her finish the question before you answer.

The Witness. Oh, I'm sorry.

BY [redacted]

Q I'll re-ask the question.

Did anyone from the NSBA follow up with additional information for the Secretary?

A We may have, but I don't remember.

Q Did you ever speak with Secretary Cardona one-on-one?

A No.

Q According to the NSBA report, you began considering the notion of requesting Federal involvement or Federal law enforcement intervention at local school board meetings as early as August 2021.

Does that match your recollection?

A I don't remember the exact date. Again, though, it was not just school board meetings. It was much broader than that.

Q I'd like to mark as exhibit No. 2 a September 8th, 2021, email from Mr. Slaven to NSBA officers. It's also NSBA exhibit No. 16.

[Slaven Exhibit No. 2

Was marked for identification.]

The Witness. I can't read this.

[redacted] You can't read it?

The Witness. No.

[redacted] Oh. Are all the exhibits like that?

Mr. Rybicki. The first page is illegible. The second page looks good.

[redacted] We can skip this for now --

Mr. Rybicki. Okay.

[redacted] -- and go back and reprint that.

Mr. Rybicki. Okay.

BY [redacted]

Q Mr. Slaven, do you remember having a conversation with Charlie Wilson about a threat that he sent to you regarding a school board in Ohio?

A I recall an email.

Q An email. And what do you recall about that email?

A It was, I mean, a pretty troubling message. As I recall, it came from an

anonymous source. It was a long -- I think there had been a number of incidents in that school board in particular. It was an example of some of the things we were hearing and seeing, though.

Q Do you remember what you thought about the letter? Did you think that it rose to the level of a criminal threat?

A I --

Mr. Rybicki. I'd like to object to the question because it's calling for a legal conclusion.

[redacted] Okay.

[redacted] Yeah, the only objections really are to preserve a privilege.

So the witness can answer the question.

Mr. Rybicki. Okay.

The Witness. Could you repeat the question?

BY [redacted]

Q Yeah. Do you remember if you thought that it constituted a criminal threat or not?

A As I recall, I thought it constituted something that should have been reported to the police, but I wasn't sure it reached -- if it would reach that level or not. But everything's in context. I thought it should be reported certainly.

Q And to the police, you mean the local authorities, correct?

A Or, yeah, whoever was appropriate.

Q Okay. And when did you first decide to send a letter to the Biden administration requesting Federal assistance at local school board meetings and with threats to school board members?

A The day that I made the decision to send the letter was September the 8th of

2021.

Q Okay.

A And the next day I told a staff member to start the process.

Q And who did you direct to draft the letter?

A Jane Mellow, the chief interim advocacy officer.

Q And do you know, did she draft the letter?

A She emailed a staff member to begin the process. Deborah Rigsby drafted the letter.

Q What was Deborah Rigsby's title?

A I'm going to mess up her exact title.

Q Okay.

A She was essentially the equivalent of our legislative director. I should remember her title, but I don't off the top of my head.

Q And what was her role at the NSBA?

A She had been a long-term employee. She's very experienced. She dealt with a lot of the day-to-day issues on Federal issues that were going on, whether in Congress or with agencies. And she did a lot of our writing. She's a very good writer.

[redacted] Okay. We'll try this again. I'm going to mark as exhibit No. 3 the September 9th, 2021, email regarding drafting the letter. It's also NSBA exhibit 18.

[Slaven Exhibit No. 3

Was marked for identification.]

[redacted] This one looks legible.

Mr. Rybicki. Is this 2 or 3?

[redacted] We're going to go with 3 since I marked the other one.

Take a moment to refresh your recollection, Mr. Slaven.

The Witness. I'm good.

BY [redacted]

Q Mr. Slaven, do you kind of generally remember being cc'd --

A Oh, yes.

Q -- on this email chain?

A I sure do.

Q So according to Ms. Rigsby's email, you initially wanted to send the letter to Attorney General Garland or FBI Director Wray. Is that correct?

A Yeah, potentially, or someone else in the administration. I wasn't -- I had not determined yet who we should send it to.

Q And why were your initial thoughts the Attorney General or the FBI Director?

A Well, because we were dealing with potentially law enforcement issues.

Q And who decided the letter should then go to President Biden?

A That ultimately happened, I think in part, after another organization had already written the President. And when it came back, the letterhead, we just used the President and we just decided to go. It was not particularly thought out, like who we were going to send it to. It just sort of organically happened. In the end we thought, well, the President's already been alerted to this, so we should just write it to him.

Q And what was the name of the other organization who sent a letter?

A The National Association of Secondary School Principals sent a letter, I believe it was 1 week later.

Q And did you generally work with that organization in the NSBA?

A We were on many of the same calls and things.

Q So they were one of the education organizations --

A Yes.

Q -- that kind of interfaced with the --

A Yes. They represent high school and middle school principals. And they also run, I believe, the National Honor Society.

Q Okay. And on September 9th, 2021, according to the NSBA report, you participated in a call involving White House officials.

Do you remember that call?

A Yeah. It was a call organized rather quickly, and it was in reference to -- it was briefing education groups on what was expected to be in the President's speech that evening on the pandemic.

Q So the White House requested that call?

A I think so.

Q Do you know who all participated in that call?

A A number of other education groups. I can't remember all of them. But it was a sizeable number.

Q Did Ms. Mary Wall participate in the call?

A I believe she did, yes.

Q And do you remember what her title was at that time?

A She was involved with COVID-19 efforts. I don't know exactly what her title was.

Q Okay.

A She was a newer name to me at that point, I think.

Q And how often did you communicate with Ms. Wall?

A Unless she was on, like, a bulk or chain email, I had never personally communicated with her prior to that day. She emailed me later that day. That was the first time that I ever communicated with her. I do recall, though, she was one of the

staff members on the call, though.

Q And prior to the September 9th, 2021, call, did you do calls with the White House?

A A few times.

Q And who would you normally interface with if it wasn't Ms. Wall?

A Probably someone in Intergovernmental Affairs.

Q Do you remember a name?

A I don't, to be honest, off the top of my head. There was a group of people.

And we had also -- a White House official had participated in an event we had in early June that we prerecorded. It was a Q&A with our CEO at the time. And so there was a call just to talk about the logistics of that event.

Q Would you have normally interfaced with Julie Rodriguez who was the deputy --

A I believe she ran that --

Mr. Rybicki. Chip, again, please just let her finish the question --

The Witness. I'm sorry.

Mr. Rybicki. -- so we know what the question is first.

The Witness. I'm sorry.

BY [redacted]

Q Would you normally interface with Julie Rodriguez, who is the deputy assistant to the President and director of the Office of Intergovernmental Affairs?

A Potentially.

Q And how regularly did you communicate with the White House?

A Again, I would be speculating how often. It was -- it happened on occasion.

Q And what did you normally communicate with the White House regarding?

A It would have been something like the President's speech, they were preparing a briefing, letting us know about it, or they were sending information around, unless there was something specific NSBA-related which didn't happen that often.

Q But had it happened before, specific NSBA-related --

A Well, I mentioned we invited some of the administration to speak to our members, so that was an example, one example. Our CEO may have had interaction with them at times, too, the previous CEO.

Q Do you remember what White House officials were on the September 9th call?

A I cannot remember that. I'm sorry.

Q What about NSBA officials?

A I believe I was the only one on that call.

Q Okay. Were any other administrative agencies represented on the call besides the White House?

A I do not know. I do not remember.

Q And you said that the call was a briefing regarding COVID-19. Is that correct?

A Yes.

Q What else was discussed on the call?

A It was -- I mean, that was it. It was COVID-19 and the impact, in particular, the sections that we're to talk about in education.

Q Okay. And during the call you directed NSBA staff to work up a statement regarding President Biden's announcement that was being discussed on the call?

A Correct.

Q And on that call you expressed concern to Ms. Wall over the many threats

school board members were receiving and requested the White House's assistance.

Do you remember that?

A Well, that's not entirely accurate.

Q Okay.

A What happened -- and it wasn't to Ms. Wall. It was to everyone on the call.

Q Okay.

A We were all given an opportunity to speak. And, again, this was focused on COVID-19 and how schools were going to reopen.

I expressed concern over misinformation that was getting out around how to properly reopen schools. And in the course of that discussion, I mentioned school board members were getting a lot of threats and pressure on this because of misinformation, so it's very important that we are provided accurate information from the administration. And others on the call agreed with that assessment.

Q What did you view as misinformation?

A Just various things when a school is trying to reopen or not reopen and that they were making decisions and making sure that the guidance they were getting from healthcare officials was the right guidance so they could try and explain it to why they were making the decision. Whether they were making a decision to open with masks or stay closed if there was an epidemic or reopen without masks. Whichever position, they needed to have the best information possible.

So that is where I was coming from on that. But I did mention in the terms of here's the pressure that people are under right now and it's important we have accurate information.

Q Were you worried that the wrong information was getting out?

A I was worried that -- well, there was -- I think there was wrong information

coming from numerous sources.

So when you're -- you know, we're relying on professional health folks in the government, and we want to make sure -- I was just trying to emphasize it's very important you get out the right information and you get it to us accurately as soon as you have it so that we can better prepare school board members and schools to reopen.

Q And did threats to school board members come up on the call? Did you bring it up?

A In the context of hostility, I think I brought it up.

Q Hostility. Can you describe the hostility?

A Well, school board members being -- and other education officials being threatened because of their positions on various issues such as COVID-19.

Q Did any --

A On both sides of the issue, by the way. There were also threats. There were threats, people that didn't want masks, and there were threats of people that did want masks. And there were a whole other range of issues related to that.

Ms. Hageman. Could I ask a real quick question?

When you use the word "threatened," what do you mean by that?

The Witness. Well, if someone -- there's a number of ways to be threatened obviously. Someone threatening in the sense of: We know where you live. You are not going to be able to go out in public.

So outright death threats. Certainly there was some of that going on.

BY [redacted]

Q Did anyone on the call respond to your statement regarding hostility to school board members?

A As I recall, several did, agreeing with my assessment.

Q Several of the education organizations --

A Yes.

Q -- that were on the call? Okay.

And later that evening Ms. Wall reached out to you over email. Is that correct?

A I believe that's right.

Q Okay. I'd like to mark as exhibit No. 4 a September 9th through September 11th email chain between Mr. Slaven and Ms. Wall, which is NSBA exhibit 25.

Please take a moment to review it?

[Slaven Exhibit No. 4

Was marked for identification.]

BY [redacted]

Q Mr. Slaven, do you remember this email chain?

A Yes, I do.

Q Okay. In her email -- this will be on page 1 -- she said -- she asked to catch up in greater depth and said the White House would "love to do anything we can to support members making tough calls on behalf of kids."

Did I read that correctly?

A Well, I think you paraphrased it.

Q Yeah.

A But I think the intent seems correct.

Q And the email chain included the NSBA's press release. Is that correct?

A Yes.

Q And this press release was in response to the announcement that President Biden made that day?

A Correct.

Q And in the top email on page 1, you responded to Ms. Wall: "I appreciate your concern for local school board members. In addition to my concern over public schools and the health of students and staff in general right now, I worry over the many threats school board members are receiving. Anything that you can do to help us better prepare them with information and resources will certainly help. We appreciate what the President and Administration are doing to deal with these tough challenges."

Did I read that correctly?

A Yes. And that was sent out 2 days later, September 11th.

Q Did you have any further communications that day with Ms. Wall or any other White House officials?

A On which day?

Q On the 9th, 10th, or 11th?

A No.

Q And when exactly -- do you remember, was it before the September 9th phone call with the White House that you decided that the letter was going to go to President Biden, or was that made after?

A Again, the decision to send the letter was made on the 8th. I directed it on the 9th. The decision over who to send it to came later.

Q So is it fair to say that on September 9th Ms. Wall knew you were looking for help from the White House regarding threats and hostility toward school board members?

A I don't know that I would say that I was asking for direct help, other than we were asking for help with getting the correct information out. I certainly expressed, though, my concern.

Q And you did say: "Anything that you can do to help us better prepare them

with information and resources will certainly help."

So were you asking for information and resources from the White House there?

A I was asking generally, as all the education groups, to make sure -- I was -- what I said there was I was reemphasizing what I said on the call that day when I said we need to make sure that schools are very well prepared to reopen. So that's specifically what I was talking about.

Q And according to the NSBA report, you had another call with Ms. Wall on September 14th, 2021. Is that correct? Do you remember that?

A Well, let me make a distinction there.

Q Yeah.

A The first call was a call with many other people.

Q Okay.

A The call you're talking about was a one-on-one call, yes.

Q And was that the first one-on-one call you had had with Ms. Wall?

A Yes.

Q And that was on September 14th, correct, to your recollection?

A Yes.

Chairman Jordan. And that call on the 14th is directly related to your statement: "I would love to have a conversation with you to discuss these issues in further detail."

You sent that on the 11th?

The Witness. Yes.

Chairman Jordan. And 3 days later you had the call --

The Witness. Right.

Chairman Jordan. -- directly on this point.

The Witness. Yes.

Chairman Jordan. Okay.

BY [redacted]

Q And on that call, according to the NSBA report, Ms. Wall requested the NSBA's list of examples of threats and disruptions at school board meetings.

Do you remember that?

A She didn't request a list of -- like some prepared list. She just said generally: Well, can you give me an example of some of the threats that are going on?

And I said: Yes.

And then she later followed up and asked for more examples.

Q And so did you provide her with some examples on that phone call?

A I'm sure I did. In reference to an example of some of the threats, I'm sure I did. I don't remember specifically which ones I talked about. It was not a long call.

Q How long would you say the call was?

A Fifteen minutes maybe.

Q Fifteen minutes?

A Yeah.

Q And it was just you and Ms. Wall on the call?

A Yes.

Q And so in the NSBA report it refers to this egregious examples list.

Do you know how the NSBA staff who created that went about creating it, researching it?

A Well, I think the list they're referring to was a document that was produced -- I believe I got it actually on September the 9th. If you look back at the email on -- or excuse me. September 10th I believe is when I received it.

Q Okay.

A September the 9th was the day that Jane sent the email to Deborah. And if you read that email, she references our researcher, that she had asked her to get us some incidents. And she was a very good researcher. She got us -- she did a quick sampling the next day.

Eventually that's what I sent Ms. Wall several weeks later. And it was a list of just incidents and press clippings is really what it was.

Q So the researcher did kind of an open source search --

A Yeah.

Q -- or a Google search, if you will?

A Exactly.

Q Okay. But you did not provide that full document of disruptions to Ms. Wall on the 14th, correct?

A That's correct.

Q What else did you two discuss on the phone call that day?

A I told her that we were considering asking the Federal Government -- again, I didn't specify the President -- but we were thinking about asking for a threat assessment. And that was my way of -- without coming directly out and saying we're sending a letter -- but we may be asking for something.

And a threat assessment, I want to state why that's what I was asking for. If you look at some of the Secret Service documents on schools and threats, they say that threat assessment is essentially the best practice so you can prevent a lot of school violence by knowing in advance what may happen. So that was the reason for that request.

Q And so on September 14th Ms. Wall knew that in some sort of capacity you were going to be requesting at least a threat assessment?

A Potentially, yeah. I can't remember how firm I was. The call was more on

just the situation that was going on. And, again, we talked a little bit more about school reopening.

Q Okay. And when was --

Mr. Biggs. Can I ask a question?

At that time, what did you think a threat assessment was?

The Witness. Well, a threat assessment is you take a sampling of what's going on. You analyze incidents. You analyze threats that are being reported. You look at the general climate.

Again, I would leave that to law enforcement professionals to do that.

Mr. Biggs. So you had had experience with what threat assessments were before?

The Witness. I -- when I was in the -- I worked for the West Virginia Governor's office after -- in the 9/11 time period, and I was the person that was actually responsible for interacting with the Governor and the Federal Government.

And in that role, particularly after 9/11 and the anthrax incident, I was actually put on the State threat management team. And while I'm not a law enforcement official, I was brought in and regularly briefed on threats and sort of what both Federal and State law enforcement considered a threat and what they didn't.

Mr. Biggs. And did you have any specific agencies that you were trying to direct to conduct a threat assessment in mind?

The Witness. You mean at this time?

Mr. Biggs. At that time.

The Witness. I mean, certainly I thought of the FBI, but also the Secret Service. The Secret Service does a lot of threat assessment around schools.

But also just law enforcement in general. Particularly it's very important, I think,

in my experience, for local, State, and Federal law enforcement to work together on certain issues and communicate.

And so I think that's what I was doing. As someone representing school board members, I wanted to know, well, what is -- it seems like it's very bad to me. So I wanted to see what their position was.

Mr. Biggs. Thank you.

Sorry to interrupt.

Mr. Issa. Chairman Jordan, if I may, maybe one more.

Earlier you said that there were threats or possible statements made both for and against masks.

The Witness. Uh-huh.

Mr. Issa. So when you were giving examples, did you give any examples of those people who were demanding masks or those people who were hostile, if you will, to the opposite side?

The Witness. I don't recall defining any threat in that example. In one sense, it didn't matter. A threat is a threat. You shouldn't be making threats. And I think, in fact, that's probably how I put it. I said that in the media, that it doesn't matter where you stand on masks, you shouldn't be threatening people over it.

Mr. Issa. Well, did you ever look in the disinformation field that there were threats coming both from the left and the right of the political spectrum?

The Witness. Oh, yes.

Mr. Issa. Did you relate that to the administration, that you were very concerned about left-wing organizations and/or parents who were liberal in addition to perhaps those who would be the opposite party?

The Witness. Well, I never made reference to parents. I made reference to,

again, to groups or individuals that were making threats. And, again, it didn't matter which political party or ideology they were following. I considered it very serious if you were threatening someone. So I cast it in those terms.

It was a nonpartisan issue, as far as I was concerned. People shouldn't be receiving threats.

Mr. Issa. And when you saw threat assessments come back to you, did you see threat assessments that included, if you will, individuals or groups on all parts of the political spectrum?

The Witness. I didn't receive a threat assessment.

Mr. Issa. So you don't know if the administration ever looked anywhere toward one political side or the other?

The Witness. No. But I would expect them as a Federal law enforcement agency to look -- to not look at it from a partisan view.

Mr. Issa. Lastly, when you were looking at all of these examples and you said threat or harassment or whatever, what's your minimum standard for that? In other words, give me an example or two of things which you think are inappropriate but are the most benign and yet should have been investigated by the administration.

The Witness. Again, if someone is following someone to their car, saying, "We know where you live, you aren't going to be able to go out in public," taking pictures of their license plates -- which could be legal, but it also could be considered threatening, depending on the situation, or menacing -- certainly I would start there.

But certainly someone who says, "We're going to kill you," or, "You should be hung from a tree," and suggesting maybe they might do that, those are definite threats.

Mr. Issa. So showing up at somebody's home or threatening to show up at somebody's home would certainly rise to that.

The Witness. Showing up at someone's home, I don't think it's the best protest, no matter who it is, first of all. It is not necessarily illegal to do that, but if you --

Mr. Issa. But from a threat standpoint --

The Witness. Yeah.

Mr. Issa. -- where you said --

The Witness. Well, It's concerning.

Mr. Issa. -- "We know where you live," would be a threat?

Mr. Rybicki. So there's a clean record, let him ask the question, and then you answer the question.

The Witness. It's concerning I think when people just show up at someone's home.

Mr. Issa. Thank you, Mr. Chairman.

Mr. Biggs. And I'm sorry.

In response to one of Representative Issa's questions, you said that you never made reference to parents. Is that exclusively in the call on September 14th, or are you talking about any of your communications with the White House or --

The Witness. I don't believe I ever referenced that parents were threatening anyone. I referenced individuals were. Because many of the people that were making threats were not necessarily parents. They could be; they could not be. It didn't -- in the sense of what we were talking about, if you're making a threat, it should be investigated.

Mrs. Cammack. Mr. Chairman.

In talking about threats, and it was alluded to that there was a lot of open source Google searches in compiling this list, would you consider commentaries surrounding the election of these school board members, as in, "We're going to run a candidate against

you, you're going to lose your next election," do you consider that a threat?

The Witness. No, not in the sense of a violent threat. It's a threat to try and vote them out of office, which is perfectly acceptable.

Mrs. Cammack. Were any kind of those conversations surrounding the elections of these school board members, was that ever brought up in any of your conversations?

The Witness. The only reference that could have been made to an election is just that the election might be fueling some of the threats, the underlying threats. But in terms of groups running people for school board or opposing someone, that's the American way. That's democracy. That's not what I was talking about.

Mrs. Cammack. Okay.

BY [redacted]

Q Mr. Slaven, when was your next interaction with Ms. Wall at the White House after September 14th?

A The next time I interacted with her was when I copied her on the letter that I sent to the White House on the 29th, I believe it was.

Q Do you remember discussing over email with her on September 21st, 2021, the contents of the letter?

A Uh-huh.

[Slaven Exhibit No. 5

Was marked for identification.]

BY [redacted]

Q I'd like to enter a September 2lst email chain between Mr. Slaven and Ms. Wall as exhibit No. 5.

A Just a point of clarification.

Q Yes.

A I want to make sure I answered that right. You said my interaction after the 2lst, correct?

Q After the 14th.

A Oh, after the 14th. Yeah. So I wanted to make sure I answer that. So there was the series of emails that you're talking about now.

[redacted] Like I said, we'll mark that as exhibit No. 5.

Mr. Rybicki. Thank you.

[redacted] Take a moment to review it, if you need.

BY [redacted]

Q Do you remember this email chain, Mr. Slaven?

A Yes, I do.

Q So I'm going to refer to the email from Ms. Wall on Tuesday, September 2lst, at 9:37 a.m. It's on page 3 or page 101.

A Yes.

Q In that email Ms. Wall asked you again for your list of, quote, "more egregious examples of your members who have faced safety issues and/or reached out to law enforcement without adequate response."

Is that correct?

A Uh-huh. Yes.

Q And at the end of her email, Ms. Wall stated that the list, quote, "Would be helpful as we brainstorm solutions."

Did you take that as the Biden White House was independently looking for ways to help?

A I took it as there was some empathy that she felt for school board members after our call and that she was looking for: Is there something we can do to assist?

Q And when she said "something we can do," did that mean the Biden administration or just her personally?

A The Federal Government.

Q And in your response to her on Tuesday, September 21st at 9 --

Chairman Jordan. Could I interrupt a second, [redacted]

[redacted] Yes.

Chairman Jordan. In that email from Mary Wall, it says: "Members who have faced safety issues or reached out to law enforcement without adequate response."

Did you guys have -- did you have situations that were brought to your attention where there was not adequate response from local law enforcement?

The Witness. We had heard some complaints of that.

Chairman Jordan. From?

The Witness. From various school board members.

Chairman Jordan. Okay. Did you, like, just someone had told you that on the phone, called your office? How did you hear the complaints?

The Witness. Yeah.

Chairman Jordan. Did you hear it from the press or --

The Witness. We had heard it -- the Worthington School Board was one such example --

Chairman Jordan. Mr. Wilson?

The Witness.Well, it was referred to Mr. Wilson or someone else. Yeah, that was one example.

And then later there was rumblings of other places. Later the California School Board Association actually wrote a letter to Governor Newsom about this very issue. I don't remember the exact date it actually went out, I think a couple days before our letter

did, though.

So it was something we were hearing about.

Chairman Jordan. Okay. Thank you.

The Witness. Yeah.

BY [redacted]

Q And in your response email on page 3, page 101, I'm going to read from there. It says: "As I indicated last week, NSBA is also planning to send the President a letter requesting Federal assistance to help school board members and public schools manage these threats."

When exactly did you tell Ms. Wall that you planned to send President Biden the letter? Was that the first time?

A Officially, in my mind, that was the first time. I had made the references to we may ask for the threat assessment. And honestly, I wrote a letter -- I don't remember if I said it -- I may send a letter asking for a threat assessment, or I just said we may ask for a threat assessment. I can't remember the context of that phone call, how I put it. But knowing at this point, I knew we were going to send a letter, and the NAASP [sic] letter had gone out. We were working also on a joint statement with another organization.

And so I thought it was just fair to let her know you're going to be hearing more about this issue.

Q And in this specific email when you said, "Send a letter to President Biden requesting Federal assistance," did that mean just a threat assessment in your mind, or did that mean more than a threat assessment?

A Well, I had seen the draft at this point. So it meant essentially -- most of the final letter was in the very first draft. So it was pointing out -- the Federal asks were

more specific around threat assessment and please involve the following agencies.

Some of the other sections where we cited law, that was as much for our members to just understand there was a Federal nexus at times on threats. If someone puts a stamp on an envelope and sends a threatening letter through the U.S. mail. That is an example of that.

Q And just a little bit below where I read, it says -- you said: "We really appreciate the responsiveness of the administration."

What did you mean by the responsiveness of the administration to that point?

A Well, I think we were generally -- we thought the administration was trying to help schools in a number of ways. So it was the overall situation with the school reopening, and it was her response to my comments.

[redacted] We have about 10 minutes left, so I'm going to turn it over to see if anyone wants to ask a question.

Mr. Issa. Can I ask a question?

The Witness. Sure.

Mr. Issa. You mentioned earlier your time in the Governor's office in West Virginia during the 9/11, post-9/11 hearing. So you're very familiar with threat assessments and so on, and, obviously, familiar with what happened on 9/11.

Are you familiar with the activities that led up to 9/11? In other words, the threats that were seen or the information that should have or could have predicted what happened on 9/11 or something like it.

The Witness. Well, obviously, I'm not an expert or anything, but I actually read the 9/11 report when I was in law school. And so I am aware that there were a number of triggering incidents potentially over the summer.

Mr. Issa. And are you aware of the attempt on the Twin Towers by the blind

cleric before 9/11?

The Witness. I was a young congressional staffer when that happened. I remember it well.

Mr. Issa. Oh, excellent.

So knowing that there was essentially a decade of threat there before the event, when you were looking at threats and relating to the White House, how far back did you go in the history of tumultuous school board meetings and threats that occurred or would be defined as threats? Two years? Four years?

The Witness. I want to make sure I understand your question. You're asking specifically now about school board threats?

Mr. Issa. I'm going back to school boards.

The Witness. Yeah.

Mr. Issa. Knowing that you had a decade to look at, or more, of very specific threats from -- in that case, from ISIS or Al-Qaida as it was --

The Witness. Right.

Mr. Issa. -- how far back did you go in threats at school boards?

The Witness. I would have to look, to be honest, Congressman.

Mr. Issa. Would you say it was more than a year?

The Witness. Over time I think that's probably fair, yeah.

Mr. Issa. Would it be more than 5 years?

The Witness. I don't recall.

Mr. Issa. Okay. In the period that you looked at, 1 year, 2 years, 5 years, did you see a specific escalation that you could mark, or did you see ebbs and flows, or did you see a relatively steady this happens at school boards?

The Witness. Well, as an example, looking back -- and I don't remember the date

exactly, but it was earlier, probably somewhere between 2010 and 2014 or '15. I know there had been a shooting at a school board meeting in Florida. I think it was Panama City, but I'm not sure of that. And that was a very unusual incident. It was someone upset over his wife losing a job.

And so once in a blue moon something like that might happen, or there might be a disturbance at a school board meeting. But we had never seen anything like what sort of started I think when the pandemic hit.

And we were hearing that all the time. School board members were saying: I've never seen anything like this in my life. That was a pretty common occurrence. And the same thing with teachers and principals.

So it was a universally sort of known commodity in education, like, this is really, really a scary time.

Mr. Issa. So it's fair to say that you felt that the closures, COVID, all were essentially a one-time reason that there was high tension and the kind of tumultuous school board meetings that occurred?

The Witness. It seems like certainly that and related elements were spurring a lot of it.

Mr. Issa. So if the cause or a major portion of this spike was all about COVID, school closing, and so on, the stress on parents, the stress, what would there have been for the Federal Government to go after and investigate if, in fact, this was something that was waning, that you were on the tail end of, when you requested help from the administration?

The Witness. Well, I would not agree that it was waning or was likely to wane, because COVID was not the only issue. There were equity issues that were coming up around school boards and public schools. There was escalating tension.

And looking at what's happening now, they seem, in my opinion, we're still seeing heightened incidents.

[10:59 a.m.]

Mr. Issa. So policies that parents or individuals disagreed with and came to school boards are, in fact, escalating, and you're seeing that now, especially the ones you mentioned.

The Witness. I can give you an example.

Mr. Issa. Please.

The Witness. Yeah, so in addition to the issues around COVID, and some of that has changed now, obviously, there were issues around what was being taught in school, what policies were being followed. I know that -- and I may mispronounce it, but I think it's Eau Claire, Wisconsin, for example. A school board member received a threat, through an anonymous email, threatening to kill him, harm his family, come to the school board meeting that night and shoot it up.

It was not apparent who did it. It was someone from another State. He was since arrested by the FBI and has, I believe, pled guilty and is awaiting sentencing. He also made threats to some other organizations, including Webster's Dictionary. But that's just an example of some of the things that happened.

Mr. Issa. I just want to put an end on this. So you believe that there is an ongoing threat as we speak and that those threats will continue and should be investigated by the Federal Government on a regular basis around school Board members and executive staff?

The Witness. Well, public schools in general, I think. Let me just say it's not just school Board members. And you look at last year. At least I've read, research shows it was the deadliest year for school shootings in a long time. And the previous year before that, until then, it had been the worst.

And so you have to think about this, Congressman. The entire climate, you know, we're dealing with the world that I was in. Yes, I'm responsible for school Board members, and I believe when you're in a leadership position and you learn that there is a threat or you're concerned there's a threat, you're obligated to say something about it. And that's what I was attempting to do.

And so you take this entire climate going on, school board members getting threatened, teachers being threatened and assaulted, individuals showing up at an elementary school with zip ties, ostensibly, to arrest, you know, a principal because they didn't agree with the mask policy. I mean, there were so many things going on that had me concerned.

You know, but schools -- you know, seeing kids getting slaughtered in Texas is a good example -- not a good example. It's a horrible example but an example of the types of things we were worried about.

Ms. Hageman. But that isn't what you were focused on. You were focused on the parents.

The Witness. No, that's not true.

Ms. Hageman. Well, but that's what your letter was about.

The Witness. Our letter was not about parents. Parents aren't mentioned in our letter one time. Zero. The word isn't in there. The word parent isn't in there, parents, mother, father.

I'll tell you, there is one word related to a family member that is in there, and it's about a grandmother, and it was simply recounting a student who was trying to talk about his grandmother who had died in a meeting, and he was -- and this is a student. This is a kid -- shot down by an angry crowd, not allowed to finish.

And so we talk about students in the letter. I didn't specifically mention school

shootings, but that should be concerning for all of us, and I think it is. I'm not saying it isn't, but that was very much on my mind.

Mr. Issa. Well, there is a history of local law enforcement working with and the Federal Government having both task forces and direct relations at the local and State level. Why is it you believe, or did you believe, that you had a reason to go directly to the Federal Government and ask for direct top-down assistance?

I'm assuming you were aware that for each of the examples you gave, including school shootings, there are mechanisms with local law enforcement who, by definition, are the first responders, the ones that, in some cases, are even present in the schools.

Why is it, you know -- in other words, we didn't see you asking for training or a policeman to be at school board meetings or other activities. Why look federally to the President and not, in some way, to the historic enforcement and processes that normally work, including if a uniformed law enforcement person is at a school board meeting, people tend to behave differently and so on.

The Witness. Well, you would hope so, but there were a number of instances in which there were uniformed police there and they still, you know, were escorting people out of meetings. There were assaults, et cetera.

But I want to go back to -- this was not just about school board meetings. That's kind of the thing everyone sees, and so, you know, you can point to those and say this is an example of what's happening.

What you're pointing out is absolutely local police or State police are going to be the first responders, but the Federal Government's role or Federal law enforcement's role regularly coordinates on big issues.

I mean, as an example, the FBI typically wouldn't investigate a murder unless there was some Federal nexus that an official has been hurt or a government employee,

but they still get involved in tracking information, monitoring what's happening.

Are there national trends here? I mentioned the school shooting in Florida, and, as I said, I think that was an isolated local incident. But what we were talking about, more somewhat upsetting than, you know, a school closing or who the new football coach is. These were broader issues that covered a national perspective and a national scope. And us being a national organization, I felt it appropriate to make sure that Federal law enforcement was aware of the issue, and if they could help, that's what we wanted them to do.

It was much about coordination levels than anything else. It was not about sending Federal law enforcement to a school board meeting. That's not what it was about.

Mr. Issa. Are you aware of any --

[redacted] Gentlemen, I think we lost our hour here. Our hour is up.

[redacted] If you want to go another 5 to close it up.

Mr. Issa. Just the last question.

The Witness. No, I'm fine.

Mr. Issa. Were you aware of any similar communications with the previous administration? Any concerns that came out of your organization or a sister organization?

The Witness. They hadn't really reached the level yet to trigger that. So, no, but that's because the level -- it wasn't there yet. I didn't really start hearing about this probably until late spring. But it wasn't really until the summer that I started thinking, oh, we're seeing a pattern.

Mr. Issa. Thank you.

The Witness. Thank you.

Mr. Rybicki. Can we take a break?

[redacted] We'll go off the record.

[Recess.]

[redacted] It's 11:18 and we will go back on the record.

EXAMINATION

BY [redacted]

Q Mr. Slaven, good morning again. I'm [redacted] I'm the Democrat's chief oversight counsel.

A Great.

Q Thank you again for being here today.

A Thank you.

Q Real quickly, going back to something that was said earlier, I think there was a reference made to the quote, unquote, "egregious examples list." Did any document that NSBA ever put together, was it ever labeled the egregious examples list to your knowledge?

A I don't know that we titled it that. It doesn't sound like how we would title something. We probably called it incidents or threats or -- but I'm not sure of that.

Q Okay. I just wanted to get clarity on that.

So, again, thank you for joining us. You are -- you mentioned earlier that you are currently not working, right?

A Correct.

Q Did you travel here at your own expense today?

A Yes.

Q Okay. And you're represented by counsel today?

A Yes.

Q And you've had to retain that counsel in response to the majority subpoena, right?

A Yes.

Q And you are taking away time from your everyday life to be here today?

A Yes, absolutely.

Q Reference was made earlier to a report released by the National School Boards Association in May 2022. It's entitled, Final Report on the Events Surrounding the National School Boards Association's September 29, 2021, Letter to the President. And you said you are aware of it?

A [Nonverbal response.]

Q Okay.

I have a couple of copies here. I'm going to introduce it. I'm not actually going to ask you to read the whole thing, because that would take up my entire hour.

A Okay.

Q But we have some pages highlighted --

A Okay.

Q -- that I'm going to refer back and forth to.

Before we get to that, are you aware that the National School Boards Association retained a law firm to conduct an investigation and ultimately draft this report?

A Yes. I voluntarily participated in this investigation, including a 3-hour long interview.

Q And do you recall the name of the law firm that was retained?

A It was an individual lawyer, Philip Kiko, and the Michael Best law firm. So there were actually two law firms.

Q Okay. And can you say again the name of the lead attorney who was

responsible for conducting --

A Philip Kiko or -- I don't want to -- I think it's -- I think it was Kiko.

Q And I would actually like to introduce Mr. Kiko's biography. It's going to be exhibit No. 7.

[Slaven Exhibit No. 7

Was marked for identification.]

BY [redacted]

Q So this is actually a printout of a website, but so it looks like it's three pages long, but on the website it's one continuous page.

So on the second page, as printed --

A Of his?

Q Of his bio.

I'm sorry. Have you reviewed Mr. Kiko's bio before?

A I'm generally aware of his background, but I don't know that I've read this document before.

Q Okay.

Okay. And so he's now with Williams and Jensen law firm.

A Okay.

Q And this is the biography from that website.

So on the second page, it's the -- it looks like it's the -- like, that big paragraph in the middle. It notes that prior to his current position, Mr. Kiko served under Chairman Jim Sensenbrenner, Republican from Wisconsin, as his personal office chief of staff; and later, chief of staff and general counsel for the House Judiciary Committee, and as Deputy chief of staff on the House Science Committee; that he served as chief of staff of the House Administration Committee under Chairman Dan Lungren, Republican of California;

and under Chairman Trey Gowdy, Republican of South Carolina, as Chief of Staff and General Counsel of the Select Committee on the events surrounding the 2012 terrorist attack in Benghazi.

And I believe he is actually the Republican staff director of that committee, although that's not exactly reflected in here.

Were you aware that Mr. Kiko had a long record of working for Republican House Committee chairs, including on investigative committees?

A I knew his background with Mr. Sensenbrenner in particular and that he was, you know, certainly a very experienced person on Capitol Hill.

Q Did Mr. Kiko or anyone working for him ever reach out to you to ask you for information in connection with this investigation?

A They reached out to me, and I don't know if it was Mr. Kiko or one of the other attorneys, in an email. I had legal counsel at the time, and for some reason they didn't reach out to them directly. And so I had my legal counsel reach out to them --

Q Okay.

A -- explaining that I did have personal legal representation, and NSBA knew that.

Q So you actually reached out to him and offered to provide information?

A Well, no, they reached out to us first.

Q Okay.

A My attorney reached out, and then we received the request. I talked it over with my attorney, a different attorney at the time, and we agreed to participate with some rules; namely, that it would be video'd and that it would be transcribed, and I would have an opportunity to have copies of those.

Q Okay. Thank you.

According to page 9 of the final report, you provided a 210-page PDF containing various documents, emails, and text messages.

A Yes.

Q I'll give you a second to find that.

Do you recall doing that?

A Yes. I spent a lot of time working on that.

Q Okay.

And to the best of your recollection, was there anything that Mr. Kiko or anybody else involved with this investigation requested that you did not provide to them?

A I provided everything I thought was relevant to the investigation, and they didn't necessarily ask for some of it. We just offered it.

Q Okay.

Do you know if he had access to all of your emails from your time with the National School Boards Association?

A They should have had access to it. I don't know exactly what was given to them in the end, but they had way more access than I did. I just had certain things that I retained.

Q Okay. And I want to look at page 7 to 8 of the NSBA report. And you were not at the NSBA when this investigation was conducted, right?

A No. I had been gone for a long time.

Q Okay.

So according to page 7 to 8 of the National School Board Association report, Mr. Kiko received, quote, 334,296 files, approximating 155 gigabytes of data from the National School Boards Association, including, quote, "all NSBA Microsoft Outlook data, including calendar files and email correspondence, Microsoft SharePoint data and

documents, Microsoft OneDrive data and documents, and Microsoft Teams data and documents for all 13 custodians."

Do you have any information that would dispute that fact?

A No, no.

Q So to the best of your knowledge, that's accurate?

A Yes.

Q And, Mr. Slaven, you said earlier that you agreed to be interviewed by Mr. Kiko, correct?

A Yes.

Q Okay. Do you recall when that took place?

A It was late April. I don't remember the exact date.

Q Okay.

A It was probably -- I think it was on a Monday. I believe it was the last April -- last Monday in April.

Q Okay. And I think you said earlier that it lasted for about 3 hours?

A Uh-huh

Q To the best of your recollection, did Mr. Kiko ask you any questions that you declined to answer?

A No. I answered every question.

Q Okay. And were you truthful and honest with him?

A Absolutely. In fact, at some point, I'd say if I was under oath, I'd say exactly what I just said.

Q Do you know if he interviewed anybody else as part of his investigation?

A Well, there's a long list of people that they interviewed. So, yes, I'm aware that they interviewed others.

Q Okay. And, actually, I think, according to page 8 of the report, Mr. Kiko interviewed 30 individuals with personal knowledge of the circumstances surrounding the September 29th letter, and many of the interviews lasted between 1 and 3 hours.

So you have no information that would dispute that fact?

A No. No.

I will add there was a 10-minute break in the 3 hours. So I'm counting that in the time.

Q Okay. Thank you for that.

So you've already participated in an extensive investigation regarding the circumstances underlying this letter, including fully cooperating with the investigator conducting that investigation. Is that --

A Yes, that's correct.

Q That's a fair statement?

A Yes.

Q Thank you.

I want to read two findings, just two findings from the final NSBA report now. The first is on page 13, and it says, "counsels review did not find communications between the Department," which means the Department of Education, "and the NSBA that indicated the Department specifically requested the NSBA make an official request for aid or Federal intervention."

Do you have any reason to dispute this finding?

A No. That is correct. The Department of Education had no role in the letter.

Q Okay.

Did the Department of Education ever ask you to make an official request for aid

or Federal intervention?

A No.

Q Okay.

And to the best of your knowledge, did the Department of Education ever ask anyone else associated with the NSBA to make an official request for aid or for Federal intervention?

A Not that I'm aware of.

Q Okay.

The second finding that I want to read is on page 26, and it says: "Counsel did not find direct or indirect evidence suggesting the administration," -- which means the Biden administration -- "requested the letter or specified, edited, or reviewed the contents of the letter before the letter was sent, or otherwise specifically requested that it be written."

Do you have any information to dispute this finding?

A No. The only information that the White House provided was that I mentioned it in an email with a couple of here's what we may be asking for. That's it. So this is I think factually correct.

Q Did anyone in the Biden administration ever specifically ask you to write the September 29th letter?

A No.

Q Okay.

Did anybody, to the best of your knowledge, did anyone in the Biden administration ever ask anyone else associated with the National School Boards Association to write the September 29th letter?

A Not to the best of my knowledge. And I would think if someone had made

that request, as the CEO, I would have been informed.

Q Okay.

And to the best of your knowledge, did anyone in the Biden administration edit this letter or review the actual contents of the letter as they were in the letter before it was sent?

A No. They did not see the letter until it was sent as the final product.

Q Okay.

A And, again, other than I made some descriptions of some things that might be in it.

Q Right, but they didn't see the actual letter --

A They did not see -- in fact, I didn't send it.

Mr. Rybicki. Just let her ask the question first.

What was your question?

BY [redacted]

Q So they didn't see the actual letter?

So you had a draft that was prepared on September 17th, and then the final letter, the final version on the 29th. You never sent the draft to anyone in the administration?

A No.

Q Okay.

And then the actual letter on the 29th was never sent to the administration until it was actually --

A Until it was formally sent that day, that's correct.

Q Okay.

So I'm going to turn a little bit to your work with the National School Boards Association and your knowledge of the National School Boards Association's activities

generally around advocacy.

[Slaven Exhibit No. 8

Was marked for identification.]

BY [redacted]

Q So I want to introduce as exhibit 8 the National School Boards Association About Us page from its website. Could you turn to the third page and read the first -- actually, sorry.

[redacted] can I grab one of those back?

And read the first highlighted statement.

A The Core Purpose section?

Q Yes.

Mr. Rybicki. I'm sorry. Where were you?

[redacted] Page 3.

Mr. Rybicki. Page 3.

[redacted] And, again, this is a website printout.

Mr. Rybicki. Okay.

[redacted] So it's all one page on the website.

BY [redacted]

Q Underneath Core Purpose.

A Yeah. "NSBA's Core Purpose. The core purpose of NSBA is to work exclusively with and through its member State school board associations in carrying out their missions in a full partnership to ensure each student everywhere has access to an excellent and equitable public education where they live, governed by high performing school board leaders."

Q Thank you.

Could you explain your understanding of what the phrase "ensure each student everywhere has access to an excellent and equitable public education where they live" means?

A Yeah, that means that we are working on behalf of our members who are working on behalf of -- I don't know what the current number is, but it used to be around 50 million school kids that were in public schools, to make sure they have access to the facilities they need, that they have access to -- the students with disabilities, that they are receiving, you know, everything they should be under IDEA.

That we're fighting to make sure that kids have broadband when they're home so that they can do their homework, whether fully on remote learning or whether it's just part of their regular in-school activity and when they go home and they're doing homework.

It's making sure there's enough quality teachers. We have a teacher shortage right now. It's about making sure that students in rural areas are being treated fairly, that students in suburban areas are being treated fairly, and urban areas are being treated fairly.

It's essentially about making sure every kid has an opportunity to graduate from high school, hopefully, and that they not only graduate when they walk across that stage, and the school board member, by the way, hands them their diploma, that they're prepared for the next step, whether that's going right into a job or that's undergoing training or going to a junior college or an apprenticeship or on to a 4-year college.

So that's really what we're getting at there. We want to make sure every child in this country has an opportunity to attend a public school and come out on the other end successfully.

Q And would part of access to an excellent and equitable public education, would that include ensuring that students and teachers and school administrators are able to go to school safely?

A Absolutely. You have to be able to go to school in a safe environment and not be -- fear for your life every time you enter a building or you enter a school event. That's why we actually had a center for safe schools that focused on those issues.

Q Thank you.

So a little further down on this exhibit, the NSBA's website states that it will undertake five specific activities to facilitate the mission you just described. Could you read number 4, which is highlighted.

A Sure. Number 4: "Coordinate, facilitate, and implement a united national movement in pursuit of equity and excellence in public education through school board leadership. The association shall focus its efforts on, (a), advocating for and defending high quality public education and school board governance before the executive, legislative, and judicial branches of government; and (b), positively influencing public opinion regarding such matters."

Q Could you explain your understanding of the phrase "advocating for and defending high quality public education," in particular, the use of the term "advocacy"?

A Let me go back. I just want to read it again here.

Yeah, so what we mean by that is -- and the pandemic is a great example -- making sure that the Federal Government is providing enough resources for public schools; that, again, that they are providing funding for students with disabilities. And by the way, they're not doing a good enough job on that.

Again, that the FCC is doing everything they can to make sure schools and libraries have access to high quality broadband. Again, very important for education.

We mean advocating to do more to help teachers, to have more professional development, to recruit more teachers. We're losing teachers at a great rate.

And a number of other issues related to that. Certainly, school safety is a huge component of that. Again, making sure that students have a safe environment. We're seeing too much violence in schools.

I mentioned the school shootings, down to, you know, just incidents in schools. We had a six-year-old recently that shot a teacher. It's very concerning that something like that happens. And so that's what we're talking about there.

Q What forms might this advocacy take?

A We do it in a number of ways. We advocate directly with government officials, both at the executive branch and at the agency level within the executive branch, and with legislative bodies, like Congress is one way. So we'll have meetings. We'll have telephone calls. We'll send emails. We also send official communications, such as letters.

They can come in a number of forms. They can be an individual letter, like the letter to the President, to either him or a cabinet member, whoever the appropriate official is. It can be comments during an official comment period. We do that a lot with the Federal Communication Commission and a number of other agencies, which we would submit some type of official comments on behalf of the organization or under the CEO's name.

And then we would sign on joint letters frequently with other groups that were in a coalition in which you agreed on a certain issue. So that would be the bulk of it.

We also then publicly communicated through press releases and webinars and reports and things that we thought were important. So a whole --a number of ways we would communicate.

We did a public poll, in fact, on public schools to get out the information on what the public thought about public schools. We did a couple of those.

Q Okay. Thank you.

The NSBA was founded in 1940. Does that sound about right?

A I don't know the exact date but that sounds about right.

Q Okay.

Slaven Exhibit No. 9

Was marked for identification.]

BY [redacted]

Q I'm going to introduce as exhibit 9 the history page from the NSBA's website. That will make it clear. So at the top of this it says: "Since its founding in 1940."

A Yes.

Q So the NSBA has been in existence for just about 80 years, or a little bit more than that. Does that sound right?

A That sounds about -- that sounds right.

Q I'm not great in math so.

Could you read the highlighted paragraph, the third paragraph down here?

A Sure. "Passage of the 1965 Elementary and Secondary Education Act, or ESEA, and the subsequent wave of new Federal funds and accompanying regulations prompted NSBA to retool its capabilities to influence Federal policymaking. In 1967, NSBA, based in Illinois, confirmed its commitment to change by opening a legislative branch office in Washington, D.C. In 1976, NSBA moved its offices to Washington, D.C., and in 1984, moved into its current permanent headquarters in Alexandria, Virginia."

Q Thank you.

So according to this paragraph, NSBA first established an advocacy office specifically focused on Federal policy in 1967, right?

A Yes.

Q So that office has been in existence for more than 55 years at this point?

A Yes.

Q And during that time, to the best of your knowledge, the executive branch has been controlled by both Republican and Democratic administrations, correct?

A Yes.

Q And in your experience, I realize you were only there for 2 years, but also based on the historical knowledge of the organization, has NSBA advocated for its members, including engaging with administration officials during both Republican and Democratic administration?

A Yes. That's a regular occurrence.

Q And during the 55 years that the NSBA has had this office specifically devoted to advocacy, Congress, both the House and the Senate, has been under the control of various Republican and Democratic leadership, correct?

A Yes, correct.

Q And in your experience, in particular, your experience as chief advocacy officer, did NSBA advocate for its members before both Republican and Democratic Members of Congress?

A Yes, I did that before both Members, both parties.

Q On what types of issues, for example?

A I mentioned some of them already. One of NSBA's high priority issues was getting increased funding for the Individuals with Disabilities Education Act. There were about 7 million, depending on the year. You're looking at kids that qualify for IDEA.

And the Federal funding, when it was originally passed, I believe could be as high as 40 percent.

And typically, the Federal Government share has been, you know, anywhere from 13 to 15 percent. I think there were a couple of periods where it was higher. And so, that's a huge issue. That's one of our biggest issues.

Q And do you recall specifically advocating in front of Republican Members of Congress, for example?

A Oh, absolutely. In fact, that's an issue that has a lot of bipartisan support, and we were hopeful that we were going to pass something in the House to get an increase over a 10-year period right before the pandemic hit, and that sort of changed a lot of things.

Q And do you recall any Republicans that you might have spoken with as part of that?

A The best example, Senator Grassley has always been a big proponent of IDEA in the Senate, as an example. And there's a number of Republicans, but we supported legislation that had both Republican and Democrat side.

Q And do you recall ever advocating before, for example, the Trump administration on that issue?

A Oh, yes.

Q Including the Department of Education?

A I'm sure we did, yes.

Q Okay.

Including politically appointed officials of the Department of Education?

A I'm sure on occasion. Remember, I was only there for part of the Trump administration. But, yeah, that was a regular talking point for us, a regular advocacy

priority item.

Q I want to introduce into the record as exhibit 10 a letter from the National School Boards Association to Education Secretary DeVos. That's dated March 19, 2020. I'll let you look over it for a second.

Slaven Exhibit No. 10

Was marked for identification.]

BY [redacted]

Q Do you recall this letter?

A I do.

Q Were you involved in drafting this letter?

A Yes. I don't recall if I -- what sections I worked on, but my staff certainly worked on it, and I saw this letter.

Q Okay. And if you recall, what was the purpose of this letter?

A Let me go back and read it.

I believe this was specifically -- there was concern over, again, students with disabilities, or very unique circumstances. So when school went fully online, they had a whole different set of issues. Obviously, some of them could be more vulnerable to something like a virus like COVID, and so there was concern with not putting them in that situation.

But they also oftentimes need in-person help, or assistance in various ways, and we were trying to get clarity on how that was going to work within the scope of the law and the regulations, because you may not be able to do certain things in a pandemic that you would normally do. And so how do we deal with that? That was a tough issue.

And so this letter -- and I haven't read this in a long time, but this letter is walking through various issues related to that, and again, asking for clarity, help, work with us so

that we can figure out how to move forward. And LEA, that's for the local school districts, local educational agencies.

Q And who was the addressee of this letter?

A The Honorable Betsy DeVos, Secretary of Education.

Q And who was she the Secretary of Education under?

A President Trump.

Q Did you advocate before the -- did you ever speak with Secretary DeVos about this letter?

A Not directly, no. But we -- I'm sure that we shared it with her staff at the time.

Q Okay.

A And in that format, which is typically what staff level, what we would do.

Q And do you recall speaking with her staff or with political appointees --

A I recall that our team had conversations. I don't remember on this specific letter, but it would not have been unusual for -- certainly, we're relaying a letter on, you know. So there is communication. And, again, we're in kind of an electronic age now. So I'm sure we emailed. I don't remember who emailed it.

Q Okay.

I want to turn to another letter, and this is -- I'm not going to do a whole bunch of these but --

A That's fine.

Slaven Exhibit No. 11

Was marked for identification.]

BY [redacted]

Q I'll introduce this as exhibit 11. This is an April 17, 2022, letter from the NSBA to Secretary DeVos. Do you recall this letter?

A Yeah, I do recall this letter. I actually remember this one more than that one.

Q Okay. Do you recall drafting this letter?

A Again, it was done on a team effort. I was involved in the process.

Q And can you describe just briefly the purpose of this letter?

A Again, this was, you know, I think building on the letter we just talked about, but focusing on various issues that schools were having in delivering free appropriate public education, particularly to students with disabilities. And again, it was a really difficult and challenging time for everyone.

And so, we were trying to establish what the guideline is going to be. How can you help us? We were asking the Federal Government for help here, no question about it, on behalf of public schools.

Q Okay.

And you said it was a very challenging time?

A Incredibly challenging time for all of us, but particularly for schools.

Q And this -- can you say who this letter was addressed to?

A This letter was also addressed to Betsy DeVos, the Secretary of Education.

Q And to the best of your recollection, did you or did your staff members have conversations with Secretary DeVos or her staff about this?

A Again, we certainly communicated with her staff in various ways.

Q Okay.

In your opinion, is the National School Boards Association's ability to advocate on behalf of its members through letters like this and through the other means that we

discussed earlier an expression of its First Amendment right?

A Sending these letters, as well sending the letter to President Biden, is an absolute protected communication under the First Amendment. They were addressing grievances to an elected official, absolutely.

Q Thank you.

I'm going to turn to some individuals whose names were mentioned in the NSBA report. Some of them we've actually talked through earlier, and you might have engaged with some of these people at the NSBA as part of your advocacy efforts. So I'm going to start with the Department of Education, and I want to talk about that August 16th town hall. I know we talked about this in some detail, but I want to make sure I have the record perfectly clear.

So I want to introduce as exhibit -- actually, did we already -- did we introduce this earlier? No?

Slaven Exhibit No. 12

Was marked for identification.]

BY [redacted]

Q Okay. I want to introduce as exhibit 12 an email between yourself and Aaliyah Samuel dated Sunday, August 1, 2021, which is time-stamped 4:30 p.m. And let me know when you've had a minute to review it.

A Yeah, I basically remember this.

Q Okay. And do you recall this email?

A I recall -- yes, I recall it. Yeah, I recall it. I was -- I think I was flying back that day to Washington. So I'm not sure if I was on a -- right before I got on a plane or if I had just gotten off a plane. But yes, I recall.

Q Okay. And the first paragraph -- sorry. Hold on one second.

Could you -- so this talks about setting up the town hall that eventually took place on August 12th. Could you describe the purpose of the town hall as you understood it when you sent this email?

A Yes. Again, it was to help school board members do their job. It was to give them an opportunity to speak to the Secretary of Education and talk about -- ask questions of him of issues that were concerning around school reopening, and it was an opportunity for him to hear what those concerns are and express back to the members, the school board members, you know, what the Department was trying to do and what his views were. So it was a back-and-forth discussion.

Q And in your opinion, was it appropriate for the Secretary of Education to be concerned about the process of reopening schools?

A Absolutely. That's probably the most important thing the Secretary was dealing with at that time. Absolutely, it was the most important thing, in fact.

Q And was that consistent? You had, obviously, engaged with the Department of Education before, both Republican and Democratic administrations. Was that kind of concern about ensuring that schools were able to operate safely consistent across administrations?

A Yeah. I mean, there may be differences of opinion on things, but yeah, I do believe that both administrations were concerned about getting kids back to school and making sure that it was in a safe environment.

Q So, perhaps, differences of opinions over, for example, the actual process by which to go through, but generally people were in agreement that school should operate safely?

A Yeah. You're dealing with public servants at the Federal level and at the local level. And so everyone should have that goal.

Q Okay.

Turning back to this email again, do you recall -- this discusses setting up a large Zoom call, potentially --

A Yeah.

Q -- as a town hall. Do you recall exactly who was expected to participate in this call?

A By the way, I need to make a correction. I apologize. I was thinking this was on the 14th, and I realized this was a pre-call. So I wasn't getting ready to get on a plane.

But yeah, this is -- I mean, this is an email just trying to set up the logistics, talking about the date, how many people, you know, can we have. Obviously, I need to get other staff involved at some point, but this was -- we had just had the phone call on Friday. So this is really, this is really the extent of the phone call.

Q Okay.

And in paragraph 3, it's at the bottom of one page, on to the top of the next, you suggested involving, quote, the NSBA Board of Directors, all the board of directors members from all 50 of our State association members, which is approximately 1,000 people, members of the NSBA delegate assembly, all 50 State association executive directors, the State association government affairs representatives, the NSBA past presidents, and all the NSBA staff.

Is it fair to say that this would total potentially several thousand people?

A Yeah, that would have been a big group if they all participated.

Q Okay.

And do you recall why you believed it was important to have this wide variety of individuals on the call?

A So that we were giving everyone an opportunity to hear firsthand the information from the Department of Education about how they foresaw schools reopening, what resources may be available, and cutting us out sort of as the middleman communicating it and offering a direct route of communication for our members.

Q And so the goal was to make sure that school board members across the country got the information that they needed --

A Yes.

Q -- to reopen schools safely?

A Yes, that was the goal.

Q Okay. Why would school board members have an interest in this?

A Well, because they are -- school board members, let me just say, generally, most of them are unpaid. They are often called volunteers, but they are really -- it's really an unpaid job for most of them, and many of them work in smaller districts. They don't have resources. They rely on organizations like the National School Boards Association to represent them in Washington, and to make sure that they're getting the very best information.

School board members, the only -- to be honest, the one good thing a school board member gets to do is they get to hand a diploma at a high school graduation. The rest of the time they're dealing with budgets. They're hiring and firing superintendents. They're dealing with issues in the schools.

And the pandemic created such a moment of chaos for public school leaders, again, who were probably off doing other jobs, they're parents, they're grandparents, only a few big districts was it sort of a full-time deal. And so, making sure they have the absolute best information is really, really important.

Q Thank you.

Would it also be in the interest of parents to have schools reopen safely?

A Absolutely. I mean, the national PTA is a very engaged parent group. Their CEO and representatives were regularly on calls that I was on around various education issues.

Q Okay. So in your opinion, would the NSBA members that potentially could have participated in this town hall, would they be representing the interest of those parents as well in having schools reopen safely?

A Yes, absolutely, the parents and also the community members. But parents being involved is particularly important to make sure schools are operating successfully.

Q And in your experience, are school board members often parents themselves as well?

A Not always but definitely often. But a lot of grandparents, too.

Q Was there anything unusual about a call between school board members representing the interest of their communities and of parents in their communities and the Department of Education?

A No. I don't think that was unusual at all. We had had one earlier in the year. It was a smaller group of people, but that was something the new Secretary in particular wanted to make -- he wanted to communicate directly when he could.

Q Okay.

And I think you said that broadly the challenges that school board members were facing was discussed on that call, but the primary purpose was to pass information to them to help them better prepare themselves?

A Yeah, and have a back-and-forth Q&A.

Q Okay.

And was there ever a discussion or a request from anyone on that call for specifically for Federal assistance?

A Not in the terms of the letter. There was, I think, comments or questions around kind of what's going on with public schools and some of the hostility we're facing, and I don't recall exactly that discussion, but no one in that conversation asked the Secretary to do anything directly, like a threat assessment.

And conversely, the Secretary certainly didn't ask us to write a letter or to take any Federal action, or request some type of Federal action in that call.

Q And to the best of your recollection, was there any discussion about Federal law enforcement becoming involved in any way?

A Not that I recall, no.

Q Moving on, and I don't believe this came up earlier, but do you recall participating in a virtual meeting with the Secretary of Education and the Surgeon General on August 26th of 2021?

A I do.

Q Okay. Could you broadly describe the circumstances that led to that meeting?

A Yeah, I can't remember if the Surgeon General or the Department put it together. Someone in the administration put it together. It was yet another opportunity to brief school officials on what we could expect from school reopening, particularly around COVID. So that was the first time I had ever been in a conversation with the Surgeon General, as an example.

And this was -- the participants were other education groups, mostly at the CEO level. There may have been a staff member or two representing a CEO that couldn't participate.

Q Okay. And about how many people do you think were on that call if you had to estimate?

A This is definitely -- I'm guessing, guesstimating, 10 or 15 at least, probably.

Q Okay. And what type of organizations were they from?

A Groups representing high school, middle school, elementary school principals, teachers' organizations, other related -- superintendents were probably on there as well. Sort of the big groups that typically are in the education space that sort of have -- their footprint covers public schools.

And there may have been some others invited on that particular call. I can't remember exactly who all was on it, but it would be that universe of organizations.

Q Did the topic of Federal law enforcement arise during that call?

A No. The only discussion around, sort of, the threatening situation, actually, I brought up, but it was more of a comment. And I don't remember -- I think I directed it to the Surgeon General, who I hadn't been on a call with before. Both he and the Secretary answered.

But what I said was -- and, once again, it was about how can we get good information out. And so, I sort of asked him, like, what can you do to help us -- this is where -- of course, how can you help us get information on the pandemic and on the guidelines and what -- you know, the guidelines occasionally changed. Like, what is the right guideline, and how do we do that?

And I recounted in that conversation, though, that, you know, we are seeing a pattern of really, you know, members are getting threatened and the hostility levels are very high. So getting the information out is very important.

And I described a school board member who I knew who had called me, and I had learned of an incident where his school board meeting with hundreds of people, a person

had shown up with pictures of his children. A mom, mom and dad, their kids were -- pictures were being, I don't know, passed around. They were shown around the room. And these are young parents, and he's a young, energetic school board member. It was very upsetting to him.

And his request to me, though, was we have to get better information out on the pandemic, and why we are requiring certain things that we're requiring. People don't seem to be getting it.

And so, I was recounting that story just to explain why the information was so important.

Q So the goal of your comment was to get information to share with your members?

A Yes. There was no mention of Federal law enforcement or any request like that. It was simply about what can we do to get information out. And the Secretary and the Surgeon General both -- I don't remember who answered first, but their response was we will do whatever we can to get information out, but the most important person in a community is someone local. Find a local doctor. Bring someone from the health department, someone from the State, so they're hearing locally why this is important.

I thought it was an appropriate answer.

Q So other than those couple of interactions that we just talked through, did you have any other interactions with Secretary Cardona directly?

A There were a few other occasions when he would be on, again, briefing a group of CEOs or government affairs folks. I was on, you know, a few times over the summer. I don't remember exactly.

The Learning First Alliance is an organization made up of public school groups. It's a CEO-level organization. I would sit in on it. There was Chief [inaudible] son as

well. I believe the Secretary participated in at least one sort of Zoom-type call there. At least, I know the Department did.

Q Sorry. But those were all before?

A Yes.

Q So nothing after August 26th?

A Yeah, that was the last interaction that I had.

Q And so is it fair to say that all of your interactions with Secretary Cardona were in group settings?

A Yes. I never had, as I stated earlier, I never had an individual conversation. I hoped to at some point, but I never got to that point so.

Q Did the Secretary ever ask you to write a letter to the White House?

A No.

Q Did anyone else at the Department of Education ever ask you to do so?

A No. And I didn't communicate with them directly that we were writing one.

Q Okay.

A Until they were copied on the actual letter.

Q Okay.

Did you tell anyone at the Department of Education that you had been in contact with Mary Wall at the White House?

A No, not that I recall.

Q Okay. So is it fair to say that the first time you told anyone at the Department of Education about the letter is when you actually sent it to the White House copying some Department of Education --

A That is correct.

Q Okay.

And one last question. During all of your interactions with the Department of Education and Department of Education officials, did anyone ever mention the name Terry McAuliffe to you?

A No.

Q I want to turn to your interactions with employees of the White House. So we talked a little earlier about your interactions with Ms. Wall, and I believe that we introduced -- so I want to introduce an email that Ms. Wall sent on September 9th. It's subject line, Sharing the President's COVID-19 Action Report. And this is going to be exhibit 13.

Slaven Exhibit No. 13

Was marked for identification.]

BY [redacted]

Q So according to this email -- sorry. Let me know when you've had a chance to review it.

A Yeah, no, I'm good.

Q Okay.

So I want to look down on the very bottom email here. It's subject line, Sharing the President's COVID-19 Action Plan. It says: "Thank you, kindly, for joining me for a preview call for the President's speech today." And then it attaches the COVID-19 action plan and says: "It has three main goals."

You recall, we talked a little bit earlier, participating in that call?

A Yes.

Q And can you say, just so the record is clear, who was on that call? You've talked of the White House officials, but from the stakeholder organizations and others that were listening in on the call.

A I believe the teacher organizations were both represented. I believe that -- I know that Ronn Nozoe from the National Association of Secondary School Principals was on the call because he weighed in with his concerns over threats after I did in a comment. He didn't ask for Federal assistance, by the way, around that or Federal law enforcement assistance.

And I don't remember the others, but it was not just NSBA, it was multiple organizations. I believe -- now, I can't -- I'm trying to remember everyone that was on it, but it was a well-covered call.

Q Do you think that there were more than 10 people on the call, for example?

A Around 10 probably.

Q Okay, from -- and plus the officials from the White House?

A Yeah, yeah.

Q So maybe 15 people total?

A Yeah. Yeah, and again, there tended to be seven or so groups that were always invited, but they included other groups. Like, I know Gray city schools I believe participated because they referenced an email later about it.

Q And do you recall how long the call went?

A Probably a half hour. It was organized that day, as I recall.

Q Okay.

So Ms. Wall's email says that the COVID-19 action plan had three main goals: Number one, get more people vaccinated; number two, decrease hospitalizations and deaths from COVID-19; and number three, keep schools and our economy open.

Are those goals that the NSBA member organizations generally supported?

A Yes.

Q And in particular, keeping our schools open, is that something that would

have been of importance to NSBA members?

A Yeah. I mean, I would also say safe--open and safe.

Q Okay.

And so, you mentioned that you had the opportunity to speak, and you mentioned, broadly, the challenges that your members were facing, including -- I think you said that you did mention threats that they were facing.

A I did on this call, yes.

Q And were those threats just faced by school board members or by teachers and educators as well?

A It was across the board. So teachers were seeing it; principals were seeing it; superintendents were seeing it; local school board members; State school board members. It was pretty prevalent. And at this point, it was reaching a fever level, which is why I decided to send the letter.

And so, that's what prompted the comment by me and then others, like Ronn, weighing in.

Q Do you recall if you mentioned that -- you referenced earlier death threats that had been received by both board members and others. Do you recall if you mentioned that on the call?

A I'm sure I said violent threats or threats of violence. I don't know if I said death threats or not. I probably did, but I certainly was referencing violent threats.

Q And would those type of threats, in your opinion, pose -- make it difficult for students to return to school safely?

A Oh, absolutely.

Q In what way?

A Well, if you've got school board members trying to plan with the

superintendent to reopen the schools, the superintendent is working with the teachers and the staff to get schools reopened, and while you're trying to deal with actually getting the kids back in the classrooms, you're also dealing with -- you know, worried over someone coming into the school protesting, you know, a mask policy and punching a teacher, which happened in California, I know, or I mentioned earlier the showing up to, you know, attempt to place a principal under citizen's arrest because she's doing her job.

You have probably the most egregious example at that time I can think of. You know, you had the Proud Boys not only showing up at school board meetings, but you had them actually marching on a school in Vancouver, Washington, that forced three schools, according to media accounts, to shut down. You know, I had just learned about that incident, which was really troubling to me.

And so, you had all of these things. So when you have schools locking down -- school was already in at some places at this point. So we were already seeing it. You know, if you have something like that occurring, that is impacting kids' education.

Q During that September 9th call, you mentioned -- you said you talked about the threats people were facing, the violent threats people were facing generally. Did you make any specific requests for Federal assistance or Federal intervention?

A In that call?

Q In that call.

A No. I just was making a comment. Again, the only sort of request I made was we need to make sure we're getting all the information out on COVID and how to respond so that we can have an answer when people were challenged.

Q So you were looking for information to flow from the Federal Government to States --

A Yes.

Q -- to help keep students safe?

A Correct. Directly around the healthcare emergency.

Q Okay.

Did you -- by this point, you said you had made the decision that you were going to send a letter. Did you mention the letter during that call?

A No. And I believe there is an email somewhere in which I said I didn't mention it, in fact. So they had no idea that I was thinking about this.

Q Okay.

And you said that everybody on the call had the opportunity to speak. So it wasn't just you that was speaking up during this call?

A Correct. You could make a comment, or you could ask a question, and I just chose to make a comment.

Q Okay. And you recall that other people did make comments?

A Yes.

Q Okay.

And so after that call, after the President's COVID-19 action plan was released, NSBA decided to release a statement, correct?

A Yes.

Q Okay. And that eventually reached Ms. Wall, and I believe that was introduced earlier. It's exhibit 4. It's NSBA exhibit 5 --

A Got it.

Q -- in your report, but it's exhibit 4 for this new investigation.

And I want to look again as Ms. Wall's email that she sent at 9:56 p.m. So that was after the statement was released after the President's speech, correct?

A Yes, it was afterwards.

Q Okay.

Ms. Wall said, "I often think" -- "I think often about the tough position that school boards are in at a time like now." What do you think that was in reference to?

A I think she was showing empathy for what school board members and other educators were dealing with. She mentioned school boards here because that's who I represented. But, you know, one thing that occurred on that call in particular was not only had I made the comment that others weighed in, it was broad agreement that this is a real problem that we're facing, and it's interfering with us being able to successfully do our job and get kids back in school safely.

Q And she said we would love to do anything we can to support members making tough calls on behalf of kids. What did you understand "support" to mean in that?

A I took it -- again, I took it to mean that she was empathetic. She was concerned over what was happening, and she didn't know exactly probably everything that they could do, and she was asking, I think, or saying she would like to figure out a way to help.

Q And in your response, which is the email directly above, it's dated Saturday -- and her email to you was Thursday, September 9, 2021, 9:56 p.m. You responded on September 11, 2021, at 9 o'clock in the morning.

A Yes, 2 days later.

Q Your response said: "Anything that you can do to help us better prepare them with information and resources will certainly help."

Is that -- do you recall saying that?

A Yes.

Q And what did you mean by information and resources?

A I meant, specifically, she was involved in the COVID-19 response. So I meant, again, it was building on what I had been sort of saying before, getting information out on the pandemic, on why certain actions were being taken, why certain recommendations were being made. And, again, it's communicating. You want to overcommunicate and particularly with people that are busy.

And so, that's what I was referring to, specifically, there.

Slaven Exhibit No. 14

Was marked for identification.]

BY [redacted]

Q I want to introduce as exhibit 14, an email chain from September 30, 2021, and this is an email chain involving officials at the Department of Education. Have you seen this document before today? I'll give you a second to read it.

A Yeah, this is -- I'm sorry. Who is Thomas, Rachel -- or Rachel Thomas?

Q So these are all Department of Education officials.

A Okay. I just wanted -- yeah, I just wanted to make sure.

To my knowledge, I have not seen these, no.

Q Okay.

A Unless they were referenced in the minority report I read last week, but it doesn't look familiar.

Q Are you familiar with Luke Jackson at the Department of Education?

A I don't think so.

Q Okay. Luke Jackson was a communications advisor at the Department of Education.

According to this chain, on September 30th, Mr. Jackson received a press inquiry about threats to educators' safety, including a reference to a press release from NSBA.

Presumably, that was the letter that was sent out on the 29th.

He responded with a link -- list of -- and he was asked for a comment on this by USA Today. He responded with a list of links to publicly available resources and information. Could you take a look? It's the email from him time-stamped 12:41 p.m. The list, those are all hyperlink documents.

Are you familiar with those resources?

A Some of them. I don't know that I specifically remember all of them. I remember particularly things about the American rescue plan. That one I definitely remember. I'm aware of -- there were other documents like this out there. So although I don't necessarily recognize the title of any of the others specifically, you know, they seem like there are a lot of sort of general guidance and things like that that can be shared. They are resources, public resources.

Q And just based on the face of them and the titles, things like Guide for Physical Security, Guide for -- General Guide for School Safety, Guide for Threat Assessment and Reporting, Guide for Developing High-Quality School Emergency Operations Plan, is that the type of information and resources that would have been helpful to your member organizations?

A Yeah, sure. Absolutely.

Q Okay.

After your September 11th email to her, Ms. Wall responded to you and said, I would love to chat. And then you guys went back and forth for a little bit until you landed on September 14th.

We talked about the September 14th call a fair amount. Do you recall how long the call lasted?

A On September 14th? It was probably about 15 minutes. I was actually

with my 88-year-old mother. I was driving her back to West Virginia, and we had spent the night in a hotel, and I did this call right before we left. So she was sleeping in a chair while I talked to Ms. Wall. So it was a relatively short conversation.

Q Okay. When you sat for the interview with Philip Kiko, a transcript was made of that interview. Do you recall reviewing that transcript?

A Yes.

Q Okay. I'm going to show it to you now. I'm not going to introduce it into the record, because I think it's kind of a lousy transcript. The copy --

A It's a little hard to read.

Q It's a little hard to read. It's a little hard to follow, but more just to -- more just to help refresh your recollection a little bit.

I want to look at 1:02:31. And these are timestamps on the transcript. It's 1:02:31 to 1:02:44.

[redacted] I'm sorry, [redacted] Can I --

[redacted] Oh, yeah. Sorry.

[12:13 p.m.]

BY [redacted]

Q So here, I'm actually -- this is the section that I'm hoping you'll look at. It begins at 1015950 and goes down to 1023880, and it's page -- sorry -- page 41.

A And which, I'm sorry, which --

Q So right in the middle, she said -- you said, and -- sorry, Mike Garrison in this, was that your attorney?

A Yes.

Q Your prior attorney?

So when it says Mike Garrison, is that you?

A No. But it looks like they're quoting me, though.

Q Okay.

A So I'm not sure why it's --

Q Do you recall saying these?

Mr. Rybicki. Well, what are you --

BY [redacted]

Q Sorry, beginning at 10159.960 down to 102 -- I'm sorry, 10244.020.

A Yes, okay.

Q Okay. So in your prior interview you said: It's reached the level that we may ask for some type of more formal help, I didn't go into a lot of detail. I think I said we may send a letter.

And then you said: I didn't really get into we're drafting a letter, just, you know, it's in the works. I didn't tell her that. I chose not to. I just sort of said, you know, I wanted her to understand the situation.

Is that -- do you recall saying that in your prior interview?

A Yes.

Q And is it accurate that you chose not to tell Ms. Wall that you were -- about the details of the letter?

A Yes. For example, I did not say we're working on a letter.

Q Okay.

A I made some broad generalizations about how we might ask for Federal help, we might ask for a threat assessment. But I didn't get into the -- she was not informed, oh, there's a letter being written. And it, in fact, was being written. And I chose not to disclose that because I wanted to wait and see, to let it go through -- the letter go through the process.

Q Okay. And do you recall if during this September 14th phone call if you said anything about the Department of Justice?

A I don't know. I don't, to be honest, I don't know. I guess I could've, but I don't recall it specifically.

Q Okay. Did she request specific examples?

A She said: Tell me what -- tell me -- lay out the situation of what's going on. And I -- she may have said: Are there some specific examples? Or she may have just said what I just said: Tell me what's been going on.

And so it was a very generalized conversation, but I expressed, I just said, you know, I'm very concerned. You know, I've sort of been thrust into this new role, and now I'm dealing with all of these issues around schools reopening.

And it's one thing -- it's already a difficult situation, but I am very concerned over the threats, the threatening messages, and the incidents that are occurring around public school board members, but also educators in general.

And, of course, our students attend the schools. So I was concerned about the impact to them as well.

Q And did you tell her that you were concerned about the impact on students and educators, not just school board members?

A I'm sure I did.

Q Okay. Do you recall if you mentioned, for example, death threats on that call?

A I'm sure I said violent threats. I may have said death threats. I probably did. But I know I was talking -- when I say threats, I was not talking about threatening to run someone against someone for a school board seat. I was talking about real threats of physical harm.

[redacted] Okay. Sorry, I'm just checking the time.

I think I'm at a point where we'll continue on in the next hour. So we can go off the record.

Thank you.

[Recess.]

[12:28 p.m.]

[redacted] We can go back on the record. The clock now reads 12:29. We'll start our second round of questioning.

Mr. Slaven, I'd like to direct your attention back to exhibit No. 5. It's your email exchange with Ms. Mary Wall. It has exhibit 27 marked on the top.

The Witness. Twenty-seven?

[redacted] Yeah.

The Witness. Okay.

Mr. Rybicki. You got it?

The Witness. Yeah.

BY [redacted]

Q And I'd like to direct your attention, we kind of left off after your response to Ms. Mary Wall at 9:34 p.m., and then Ms. Wall responds to you on September 21st at 10:10 p.m. That's on page 2 or page 100 of the exhibit.

A 10:10, yes.

Q Ms. Wall's email to you says: "Is there any way we can take a look at the letter in advance of release. In specific, I'm meeting with colleagues from other WH" -- White House -- "offices and DOJ tomorrow morning to see if there might be any options we can pursue here, so if you have concrete recommendations in your letter (e.g., the threat assessment you mentioned) would be good to know so I can include in discussions."

From that email, it appears that the White House was asking for an advanced copy of the NSBA's letter. Did you take that to mean that?

A They wanted to see a draft of what would be in it, yes.

Q Did you provide them with a draft?

A I did not. I chose to just describe some of the issues that were going to be in the letter. And the reason I didn't is we were still -- I was still processing the letter myself, and I wanted to leave myself the option of changing something later.

Q And from that email, did you gather that Ms. Wall wanted to use any advanced information you provided to guide her conversations with White House offices and the Justice Department the following day?

A Well, I didn't have context exactly what the meeting was about. Was it a general meeting they had with the Department or was it specially planned? I didn't really have a lot of context.

But I decided to provide the information because if someone's attempting to help you, you want to make sure you're providing them with what it is you might need or are requesting. So --

Q And just returning back to her email, she said: "In specific, I'm meeting with colleagues from other WH offices and DOJ tomorrow morning to see if there might be any options we can pursue here."

What did you take "any options we can pursue here" to mean?

A I took it to mean is there information, is there -- for my mind, I was asking some very specific things. I think she was not sure what we might be asking.

I took it as: Can you just tell me what it is you really want from us? Very much like, to give you a good example, having been a congressional staffer, the day I would take a phone call or I'd have a meeting with a constituent, and they were saying: I've got a problem. And I'd, like, come back and say: Well, tell me exactly how we could help you. And so I took it like that.

Q And you followed up at -- oh, it doesn't have the time on here -- but you

followed up that day with kind of a detailed summary of the letter and the examples of school board disruptions. Is that correct?

A Yes. It was that evening, I believe. I don't know. There's not a time either. But it was that evening.

Q And did you feel like you needed to provide this information to her for her conversations the next day or -- you followed up pretty quickly, correct?

A Yeah, well, that evening. I think she might've written me originally in the morning.

I wanted to -- I just decided to go ahead. I think I said I'd send her something the next day. And I was still awake, so I just decided to do it, take one thing off my plate for the next day.

So I took a little time and wrote my thoughts. You'll see the first paragraph is a lot of my just opinion on things or things I had learned about. And then I put in -- I did put in the bullets on here the specifics we may be asking for.

And, again, I'm not trying to surprise them. I think it's good practice to let folks know what you may be asking for.

But you can see my concerns over the threats in the first paragraph. I mean, these were real concerns, particularly the Proud Boys references. And that was really the triggering event for me, was learning of the Proud Boys involvements around public schools.

Q And the information inside of the bullet points in your email on page 1 and page 2, those were in the September 29th letter, correct, that information?

A Yes. They may not be quoted exactly the same here, they're close. You know, I think I said, "We may ask," or, "NSBA is considering."

And, again, though, the reason I used that language was I reserved the right, I

might decide to take something out or I might add something.

Q Did Ms. Wall provide any feedback on the contents that you included in here?

A As I recall, she didn't respond at all. So I didn't get a, "This looks great." I didn't get a, "Oh, this is a bad idea." I didn't get an acknowledgement that she even received it. So I never heard from her again.

This gets back to your question earlier about communication. There was the 14th, there was this email thread on the 21st. And then the next time anyone communicated, I copied her on the email in which I sent the actual letter. So 8 days, essentially, went by.

Q And on page 2 of the exhibit, the last bullet point there, I'm going to read that to you.

It says: "Additionally, NSBA is interested in a review of appropriate and forceful actions against these crimes and acts of violence under the Gun-Free School Zones Act, the PATRIOT Act in regards to domestic terrorism, Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act, the Violent Interference with Federally Protected Rights statute, Conspiracy Against Rights statute, an Executive Order to enforce all applicable Federal laws for the protection of students and public school district personnel and any related measure."

So on September 21st, 2021, the White House knew that you might ask for consideration of the PATRIOT Act in regards to domestic terrorism. Is that accurate?

A It's accurate to say that we were asking them to consider Federal laws that were applicable. And we listed some that we thought were applicable.

Q And you listed the PATRIOT Act, correct?

A Yes.

Q Did anyone from the White House or Ms. Wall, between September 21st and September 29th, express concern to you about the inclusion of the PATRIOT Act language in the letter?

A I didn't get any, there was no communication at all. So, no. But there wasn't any positive. There was no communication.

Q Did Ms. Wall ever follow up with you regarding her discussions with the Department of Justice that she had the following day?

A No.

Q Did Ms. Wall ever express to you that the Justice Department expressed concerns to her about the inclusion of the PATRIOT Act language in the letter?

A No. Again, I didn't have a conversation with her, though.

Q And when was the near final draft of the letter completed to the best of your recollection?

A There were copy edits and things going on over the weekend. So we were probably copy editing all the way up to the day before. They were very minor edits at that point. The officers approved it over the weekend. I don't remember the exact, if it was Sunday night or Monday morning, but -- or Tuesday morning -- but it was it was near final.

Q And when did you share the letter with the NSBA officers?

A Again, I can't, without seeing the actual date of the email, I don't recall, but I believe it was over the weekend. And they were -- but they were well aware we were working on it.

Q Well, we can certainly enter that as an exhibit.

I'd like to offer a September 26th and 27th email chain between Mr. Slaven and the NSBA officers as exhibit No. 15.

[Slaven Exhibit No. 15

Was marked for identification.]

The Witness. Sorry, what was the date again?

[redacted] September 26th and 27th.

The Witness. Sounds right, yeah.

[redacted] This was also marked as exhibit 46 in the NSBA report.

The Witness. Thank you.

Mr. Rybicki. This is 15?

[redacted] Fifteen.

Mr. Rybicki. Thank you.

BY [redacted]

Q Can you take a moment to review?

A Yeah, I'm good.

Q Okay. This was kind of just to refresh your recollection that you sent the letter to the officers on the evening of September 26th, 2021. Is that correct?

A That's correct.

Q Did any of the officers suggest any edits or changes to the letter?

A Copy edit. There was a copy edit or two. They also -- there was a request, I don't know if it's in this one or not, but one of the officers suggested that our president should sign this letter, which was unusual. And I think the reason being it would be good to have an actual school board member name on the letter in addition to mine. I wasn't a school board member.

Q Why was it unusual for President Garcia to be on the letter?

A It was unusual because the day-to-day operations were typically left to the CEO and particularly advocacy.

The way it sort of works is, the policies and resolutions are set by a delegate assembly of local school board members. I don't want to get too weedy, but that's who sets the policy. We then, as the organization, under the CEO's direction, advocate for those positions, whatever they are, for or against whatever the issue may be.

The board and the officers were not involved in that on a regular basis. So there would be no -- it's just not something they would do. We wouldn't be able to honestly probably get a lot done if we were always going out trying to have an officer sign something, unless we thought it was important or appropriate.

Q So this was the first time that an officer was signing a letter, to your recollection?

A Now, I don't want to say that, because I don't know the answer to that question. It probably had happened in the past. But not to my recollection had the president directly signed a letter on advocacy before this in my 2 years and few weeks at this point.

Q And to your recollection, it was because they thought a school board member needed to be signing the letter? Is that correct?

A Yeah. And I think it was just -- I think they just thought it was such an important issue we were hearing about that we wanted -- we were trying to show that we were leading on behalf of local school boards. And so it added strength, I think, to the letter.

And if you look back, we had done a statement the week prior with another organization representing superintendents, and we had decided to include their president, who was a local superintendent, and Viola on that as well.

And so it sort of was just building on that. It wasn't my intention to add her name to it, but I had no objection to it.

Q And as the CEO and executive director, did you provide substantial direction to Ms. Rigsby on what should be included in the letter?

A The direction that was provided to Deborah, you read it in the memo from Jane. I wanted incidents and potential Federal options. I wanted it detailed. Because I wanted to be able to answer questions like: Why did you write this letter to our members? Is there a Federal role?

We are an organization that advocates for primarily local control, but we also recognize there is a role for the Federal Government depending on what's happening, particularly around things like resources and investment in education.

But I felt like as much -- I don't think I have to educate the administration as much on -- as I do -- as I did our own members. So that's why we included it, knowing people would read it. And I could've just said laws applicable under Title 18 of the Criminal Code.

Q And did you do any due diligence to review the alleged violent incidents that were cited in the letter?

A As I recall, at the time I went through and checked the footnotes and read through the various incidents.

Q And did you perceive those incidents to be violent?

A I perceived them to be disruptive, some of them to be violent or near violent. Most of them, as I recall, if they weren't calling out an actual assault, the room was cleared by the police, the board had to stop their proceedings. So you're impacting education, you're impacting kids' education, because the board can't meet, they can't get anything done.

And not to mention, the people that are there at the meeting who are there to participate, again, whatever position they may have and whether they're a parent or

another community member who also has a stake in education in their local community, this kind of disruption can prevent a local school board from getting their jobs done.

So we looked at it as it was setting the stage for here's what's happening, you can see the climate that's going on across the Nation.

Q Did it concern you at all that the inclusion of some of the nonviolent incidents as citations in the letter asking for Federal intervention at school board meetings via Federal law enforcement, did that concern you that it would be chilling to parents' First Amendment rights or individuals' First Amendment rights?

A Well, I need to correct something you just said. We did not call for Federal intervention to occur at school board meetings. We asked for Federal intervention to help with threats and incidents. We asked them that they work with local school boards. I mean, I don't think there's anywhere in the letter where I said that, number one.

And number two, if you read my letter -- and I believe I'm the one that added -- there was a line in the first paragraph in which I expressly talk about communicating with your school board and the community is important, obviously, under the First Amendment. And then I added, but the threats are concerning. I'm paraphrasing what I said.

And so I thought about, of course, the First Amendment. Threats of violence are not protected speech. Anything -- you can be mad all you want, and I hope you can be disagreeable and be agreeable about it.

This was about specific concerns that were happening to public schools and educators and the impact also on the students themselves. If you're creating a climate of violence around public schools, that's a really dangerous thing. I mentioned this earlier.

And so that's what we were trying to do. We were just trying to set a stage of incidents that were happening. And some of those incidents we called out why it might just be the meeting was disrupted. That same district -- Clark County is a good example, this wasn't mentioned, I think, in the article -- but their president also announced that she had received death threats and talked about it publicly. Same thing with several other districts that are cited in there.

And so really there is more to it than just we had one bad meeting. It was a pattern of problems.

Q But there were citations in the letter that it was just about one bad meeting or disruptions, because you said individuals, parents who are speaking at school board meetings can be mad all they want, they have a free speech right to do so.

Did that concern you at all that those were included in the letter that asked for help from Federal law enforcement?

A Again, we were setting a stage for the climate occurring in the Nation. You know, it would be very much like you had a rash of crimes occurring or incidents occurring that were troubling that the Federal Government might be interested in getting information out, if nothing else, to local law enforcement. It still may be a local law enforcement issue in the end. But that's one thing the Justice Department tracks, trends in crime.

And so we included the incidents. We were trying to just set the stage, this is disrupting education. And I think all of the clips suggest disruption of education. They didn't all lead in arrests, but that doesn't mean there wasn't a troubling trend going on.

Mr. Bishop. All of the what?

The Witness. Pardon?

Mr. Bishop. You said all of something involved disruption. I didn't get you.

The Witness. Well, I want to make sure I got it right.

What I was trying to say, Congressman --

Mr. Bishop. I just couldn't hear the word, I'm sorry.

The Witness. No, no. No problem. What I was trying to say was that we were just trying to show a pattern of what was going on, that this wasn't a one-off, one school board meeting or one school district over, again, consolidating schools or something like that, which that happens sometimes. This was a whole swath of things.

And so the thing that most people hear about were the disruptions at the meetings. But this is way more than that. I mean, this is social media threats and people pouring -- showing up at people's homes and doing things. That's what we were trying to talk about.

Mr. Rybicki. Did you say "the clips" when the Congressman asked his question? Was it "clips" that you said?

Mr. Bishop. Thank you.

Mr. Rybicki. You were trying to show "the clips"?

The Witness. I might have said that or incidents. I was referring to the incidents in the footnotes.

Mr. Bishop. In your mind, what does "clips" refer to?

The Witness. A media clip. Yeah, just reporting whether -- and it could be a video clip from a TV station or it could be a newspaper article or something else.

[redacted] And, Congressman Bishop, I believe you may have had some related questions. Did you want to go now?

Mr. Bishop. Oh, if that's okay with you, I will. Thank you.

My name's Dan Bishop.

The Witness. Yes, sir.

Mr. Bishop. I'm a Congressman.

The Witness. Nice to meet you.

Mr. Bishop. Nice to meet you, sir.

You're a lawyer, correct?

The Witness. I am.

Mr. Bishop. So you went to law school and you practiced law, I believe --

The Witness. Yes, I did.

Mr. Bishop. -- privately, correct?

And you were, prior to coming to the NASB (sic), you were at the Alliance for Excellent Education?

The Witness. Correct.

Mr. Bishop. Did your work there involve legal activities?

The Witness. I did some legal work there, some general counsel type work when necessary. We weren't big enough to be a full-time general counsel.

Mr. Bishop. Right.

The Witness. And I also did public policy work on education.

Mr. Bishop. How about as chief advocacy officer at the National Association of School Boards, did that involve legal work?

The Witness. I kept, obviously, my legal licenses up, and they're still up to date.

I worked with the chief legal counsel at times on certain issues, depending on what it was. And he had been the interim chief advocacy officer when I went into the job.

So in related areas I did, I suppose, but I was really more focused on legislative activity.

Mr. Bishop. What background do you have in First Amendment law?

The Witness. Well, I have general knowledge. I did take a class in law school focused on the First Amendment. It was Constitutional Law II, we called it. It got into various issues, things like in commercial speech when can you regulate and when you can't. I still remember it was time, place, and manner. That kind of thing. I remember incidents about people being able -- what kind of T-shirt can you wear in a school.

And so I have some knowledge. I would not call myself an expert.

Mr. Bishop. I took a quick look at your LinkedIn account. You have a resume or some stuff written there. It says that you had -- you have experience in private legal practice, focusing on government contracts, government affairs, and extensive work in white collar criminal law and --

The Witness. That's correct.

Mr. Bishop. All right. So you're aware of the concept that law enforcement needs adequate predication before it investigates or assesses it, are you not?

The Witness. Law enforcement should have a predicate before they launch a formal investigation.

Mr. Bishop. Must, right? They must have an adequate predication. Isn't that correct?

The Witness. Based on information at the time.

Mr. Bishop. Correct. That's a yes, right? You know that they need to have that. They can't just go look at a citizen for --

The Witness. Oh, no, yes. You're right, yeah, they're not supposed to go willy-nilly launching an investigation. They need to have a reason for it.

Mr. Bishop. And they couldn't, for example, for the sake of threat assessment, go and assess or investigate citizens who were engaged in political speech --

The Witness. Well, there's a difference between free protected speech and violent threats.

Mr. Bishop. Right.

The Witness. That's when you cross the line.

Mr. Bishop. So only the latter, violent threats, would justify government assessing or examining the conduct of people out in the country, right?

The Witness. Right. And that's what we were asking for.

Mr. Bishop. Are you familiar with the case Mahanoy Area School District v. B.L.?

The Witness. You'd have to provide me the details.

Mr. Bishop. All right. Let me do that a little bit. It was about a case arising out of a Pennsylvania school district. A 14-year-old student named Brandi Levy who made a Snapchat post on a weekend, off campus, using profanity critical of the school and the cheerleading squad. Do you remember that at all?

The Witness. I vaguely remember it. I was not involved in it in any way though. Only when you said the Snapchat. Was she a cheerleader?

Mr. Bishop. She was.

The Witness. Yeah. That's about all I remember about it. But I do remember it. I don't even remember the result.

Mr. Bishop. Are you aware that the National School Boards Association made an amicus brief submission in that case?

The Witness. I'm aware that we were involved in that.

Mr. Bishop. Did you have any involvement whatsoever --

The Witness. No.

Mr. Bishop. -- with the preparation or the fact that that amicus brief was submitted in that case?

The Witness. I had no involvement with the brief.

I don't remember when the brief was submitted. As well in my role as chief advocacy officer, I really wouldn't have had any -- or I might've heard about it.

I recall there was one case that we were interested in writing an amicus brief on, as I recall, when I was CEO, and I cannot remember what it was. So I don't know if it was that one or if it was a different one.

Mr. Bishop. All right. Suffice to say you didn't have any responsibility or involvement in that amicus brief being submitted?

The Witness. Well, I certainly didn't submit it, no.

Mr. Bishop. And you didn't have occasion to read that decision when it was issued by the United States Supreme Court?

The Witness. I don't remember reading it.

Mr. Bishop. So if I refresh your recollection that it came out in June of 2021, about 90 days before the correspondence with the administration that we've been asking you about today, that doesn't refresh your recollection --

The Witness. No, that actually is very helpful. That demonstrates that I was not involved at all.

Mr. Bishop. Okay.

The Witness. So as a CEO, I would've -- if we wanted to take that action, that would've come before me for my approval in the form of a memo. I wouldn't have actually probably seen the brief. I might have.

So that was well before I had taken over. So I'm sure, other than hearing about maybe we were going to do it, I had no role in it.

Mr. Bishop. Okay. And you didn't read -- I take it you didn't read the opinion when --

The Witness. I don't remember.

Mr. Bishop. You don't remember doing so?

The Witness. No. I might've, but I don't remember it.

Mr. Bishop. Okay. Are you familiar with the Supreme Court's decision in Virginia v. Black, 2003?

The Witness. No.

Mr. Bishop. But you are aware, you said -- and you've drawn the distinction a few times today -- of the true threat doctrine, right, which is a threat that puts someone in immediate fear of violence.

The Witness. [Nonverbal response.]

Mr. Bishop. My own paraphrase. Are you aware of that?

The Witness. Well, I'm aware of a violent threat, what that is.

Mr. Bishop. Okay. And so, for example, are you aware that the United States Supreme Court held in that case that even cross burning, if it's a matter of expressing political ideology, is protected by the First Amendment --

The Witness. Well, again --

Mr. Bishop. -- as long as it doesn't -- as long as it's not intended to intimidate a particular person?

The Witness. Again, I didn't read the case --

Mr. Bishop. Yeah.

The Witness. -- and the decision, so I --

Mr. Bishop. Are you aware of that generally?

The Witness. I am generally aware that there is some speech that can be considered hateful that is still legal under the First Amendment.

Mr. Bishop. Let me ask you, if I could, about exhibit 5.

So I understand that exhibit 5 refers to -- is your email correspondence with Ms. Wall --

Mr. Rybicki. Congressman, could you wait one second --

Mr. Bishop. Oh, sure.

Mr. Rybicki. -- while he locates the exhibit, please.

Mr. Bishop. Absolutely.

Mr. Rybicki. It's the big email exhibit.

The Witness. Yeah, okay. Go ahead, sir.

Mr. Bishop. So this is your email correspondence to Mary Wall at the -- she's with the Executive Office of the President? Is that what I understood?

The Witness. Yes.

Mr. Bishop. Is that correct?

The Witness. She's a White House staffer.

Mr. Bishop. Okay. She's a White House staffer, and exhibit 5 is your email with her?

The Witness. Yes.

Mr. Bishop. Okay. And it references, in the second full paragraph, says: "Attached please find an internal NSBA document detailing some of the publicly available information concerning threats to school board members and disruptions of meetings." That attachment doesn't actually appear in this exhibit, though, right?

The Witness. No, I don't see it here.

Mr. Bishop. Okay. But you go on beyond that sentence to list a number of things. Am I correct?

The Witness. You can see the narrative, yes.

Mr. Bishop. For example, you say: "In addition to this summary, I have also

been personally informed about several incidents that are very concerning that I will share with you.

"In West Virginia, an individual showed up at a school board meeting and displayed pictures of a board member's young children taken at a camp in which they were not wearing masks. The individual had gone on to the school board member's personal Facebook page and captured the images of his children."

So that's one incident you relate.

The Witness. Uh-huh.

Mr. Bishop. Do you contend that that sets forth a true threat?

The Witness. I took that as an example of someone in the public attempting to menace and intimidate a school board member. It might be legal. I was just trying to recount, this is the kind of thing that are happening.

That picture, this was a mom and dad, a dad serving on a school board, and their young children are being exploited by a member of the community.

I was trying to point out this is the kind of thing that was happening. I didn't say it was a violent threat, but I considered it concerning behavior.

Mr. Bishop. So, well, in that case then, were you trying to describe illegal conduct or not?

The Witness. I was describing what was happening at school boards.

Mr. Bishop. For the sake of asking the administration to intervene, right?

The Witness. I was trying to make the administration aware of the general ugly climate around school boards. And the reason -- look, the reason I included this particular incident was, one, I had personal knowledge of it.

I did not think it was close to the worst that I heard. But I was trying to set the stage that when you have things like that happening, they can escalate. That was my

real concern, is over the escalation. And the escalation, sir, has continued to this day.

Mr. Bishop. Well, when you answered a moment ago, I understood you to testify that you were mindful of the fact that there are First Amendment rights and it's important to have input to school boards, for example.

The Witness. Of course.

Mr. Bishop. You mention that in the text of your letter, right?

The Witness. Yes.

Mr. Bishop. So you weren't looking to ask the administration to undertake action against people based on their exercising protected First Amendment rights, were you?

The Witness. No. And the letter doesn't state that.

Mr. Bishop. Okay. So wouldn't it then follow that the examples that you would cite would be examples of illegal conduct, not examples of rambunctious or unruly political speech?

The Witness. I cite -- the incident I cited in this email was to explain the ugliness that I was starting to see and explain that it can lead to potentially violent incidents.

Mr. Bishop. So as long as it was ugly, you were asking the administration to intercede based on ugliness, correct?

The Witness. I was -- no, that's not correct. I was asking the administration to help in regards to actual threats that could be a potential Federal law enforcement issue, or it could be a State issue but where the Federal Government could potentially work with local and State police, which they do all the time.

Mr. Bishop. So you did not attempt to limit yourself to reporting incidents that involved illegal conduct, threats, true threats?

The Witness. The incidents that we highlighted --

Mr. Bishop. Well, can you answer my question?

The Witness. Well, I'm trying to --

Mr. Bishop. You didn't attempt to limit yourself -- it's a very specific question -- you did not limit yourself to incidents that involved true threats or illegal conduct. Is that correct?

The Witness. We limited ourselves -- anything that was in the letter I considered an example of what was happening, the climate in the country. I didn't say every single incident in the letter was a violent threat in of itself.

We were trying to show there was a pattern occurring around the Nation. And why the incidents related to school board meetings were important was not that we were asking Federal Government to get involved in school board meetings -- again, we did not ask that.

We asked -- we were trying to point out, this is not a one-off. These things are happening everywhere. And often when you'd have a disturbance at a school board meeting, you would later then have follow-up threats on social media.

I cited earlier, and I can't remember if you were here, Clark County, Nevada, as an example. There was a cite around a school board meeting disruption.

But later I learned that that school board president, for example, had been threatened, and she publicly stated.

And so there was a lot of that undercurrent occurring in many of these situations.

Mr. Bishop. In this particular first example that you reported in the body of your email, where it said -- it describes that they were in West Virginia. Somebody came to a school board meeting with pictures of children of a school board member they had taken off her Facebook account, so apparently public, showing her kids not wearing masks.

Presumably that person was trying to make a point. Doesn't that appear likely to

you?

The Witness. They were making a point, but they were using young, innocent children to make their point.

Mr. Bishop. I understand.

The Witness. And it could be -- it could be, depending on the circumstance, I wasn't at the meeting, but I will tell you the reaction from parents. I learned about it from the school board member, but I also saw it. I saw reactions to it on Facebook. That could certainly be potentially threatening. Again, it depends on the context.

Mr. Bishop. If the person was presenting the images from a Facebook account to say, "Your children aren't wearing masks, why are you imposing mask requirements on my children?" that would be a purely political -- that would be core First Amendment-protected speech, wouldn't it, sir?

The Witness. Again, it would depend on the context. I wasn't at the meeting.

Mr. Bishop. If it were disruptive or unpleasant, if it were political speech, that wouldn't matter, would it?

The Witness. Political speech is protected as long as it doesn't cross a line into threats.

Mr. Bishop. Okay.

The Witness. Violent threats.

Mr. Bishop. The next example you use right here is: "In Ohio, one school board has been facing large crowds attempting to block entry into meetings, screaming and sometimes spitting at the members, and keying their cars."

I see one act in there described that would be unlawful, and that would be keying cars. Isn't that true?

The Witness. There is another when they actually -- the letter that same school

board we cited, it's the Worthington High School Board, and there was other -- were threats sent to them. The FBI, I was told, actually was involved in that case. I was just trying, again, to set the stage here for what we were seeing.

Mr. Bishop. Well, and I'm trying to distinguish in terms of what was in your mind.

If you had an attempt to -- or if you were attempting to communicate information that was illegal or information that was protected First Amendment activity, and I think I understand you're saying that you didn't really distinguish between the two, you were just trying to communicate what the circumstances were. Do I understand you correctly?

The Witness. I was trying to communicate the climate in the Nation at that time.

Mr. Bishop. Okay, a climate. You were asking them to react to a climate.

The Witness. I was asking -- I was setting -- again, I was setting the stage for the actual very serious incidents that were occurring and showing a pattern of disruption.

One of your colleagues earlier was asking me a question related to the first attack on the World Trade Center in the 1990s and the later attack and over the year -- you know, a long period of time. And his question to me was essentially: Isn't this kind of a short-term thing around COVID?

And I guess what we were trying to do was to set the stage that this is a growing threat. A year earlier, I wouldn't have thought of this being an issue, at least a major issue at all. It was just getting worse and worse and worse, and there were assaults going on.

And I will be honest, one of the things I always worry about is someone getting in a meeting, and they have no intention when they went in to do something, but they lose their temper. And we saw this, we saw people grabbing and punching. But what if they have a gun or a knife and they take it a step further?

And then you have someone who might be planning something.

Mr. Bishop. Three sentences on -- and you made reference to this a couple times in your testimony -- you said: "That there are also reports of Proud Boys showing up at various school board meetings and teaming up with anti-maskers."

Now, I'll stop there. The rest of that sentence doesn't end there.

So what were you intending to communicate to the administration in this request for Federal intervention that was precipitated by reports of Proud Boys showing up at various school boards?

The Witness. The triggering event that -- the final event, essentially, in which I decided that I thought we needed to ask for Federal assistance and I directed a letter be sent occurred on September the 8th. And it was a Politico article that I had been interviewed for weeks earlier, and it came out, just happened to come out that day.

And I read that day that there had been an increased police presence in New Hampshire, I don't remember the district, because Proud Boy members had been -- started showing up and people felt intimidated.

I then researched more about -- I found that concerning right off the top because they do have a history of violent activity -- and then I did a little research that day on my own, and I discovered that in Vancouver, Washington, several schools were shut down because a group of Proud Boys marched on the school.

And, fortunately, it didn't lead to violence, it certainly could've, and it disrupted learning for the day and --

Mr. Bishop. You took a First Amendment class in law school?

The Witness. Yes, I did.

Mr. Bishop. Do you remember the case about Skokie, Illinois, and the march of the Ku Klux Klan?

The Witness. Yeah. I don't recall them entering a school though.

Mr. Bishop. Say it again.

The Witness. I don't believe they entered a public school.

Mr. Bishop. This was a school board meeting that you refer to.

The Witness. Okay. Well, this was an email. I'm just referring to the group itself.

Mr. Bishop. Are you under the impression that -- well, if the KKK decided to show up at a school board meeting, would that be cause for Federal law enforcement intervention?

The Witness. Showing up? No.

Mr. Bishop. Okay. Well, why then the Proud Boys if not the KKK?

The Witness. The Proud Boys had marched on a school. The Proud Boys have a long history of violence.

Mr. Bishop. Well, you didn't say that here. You said reports of the Proud Boys showing up at various school board meetings.

The Witness. If they're showing up with the intent to intimidate and harass people, that could be a crime.

Mr. Bishop. Really?

The Witness. Not necessarily every time, but it could be.

Mr. Bishop. How about the next one, meaning the next clause. It says: "QAnon followers now considering running for school board elections and becoming more interested in school boards."

Why did you recite that?

The Witness. Well, they're perfectly welcome to run for school boards, but what was more concerning was that the QAnon movement was starting to focus on schools.

And having been someone that lived down the street from the Comet pizza shop that got shot up a number of years earlier, I worry about certain ideologies getting involved in schools and if someone shows up at a local school thinking they're freeing children, or thinking someone there -- it's just concerning.

There have been a lot of violent threats, unfortunately, committed by some of the believers in that movement.

Mr. Bishop. Who?

The Witness. You'd have to go through the research, but I know there --

Mr. Bishop. When?

The Witness. It's been publicly reported.

Mr. Bishop. If that's so, why didn't you recite that in this paragraph?

The Witness. Because I was writing this to just try and quickly give information to a staffer who had requested some examples.

Mr. Bishop. But as you requested it, you cited the fact that QAnon followers, whoever that is, becoming more interested in school boards and running for school board elections, you included that in a list of what you purported to be grounds for Federal law enforcement intervention in a nationwide -- with a nationwide scope, right?

The Witness. Let me just -- give me a second to review my -- okay, what I said was, if you look up in the beginning of the document, I said: "In addition to this summary, I've also been personally informed about several incidents that are very concerning."

So I didn't ask for Federal law enforcement in this sentence. I was just offering an opinion that I am concerned over the trends that we are seeing.

Again, running for school board, absolutely, they can run for school board if they want. But it concerns me, though, that that movement is -- that, again, has some

violent tendencies.

Mr. Bishop. Well, Mr. Slaven, with all due respect, on the very next page of your email you go on to request quite a lot. You requested a joint expedited review by the U.S. Departments of Justice, Education, and Homeland Security with appropriate training, coordination, investigations, and enforcement mechanisms from the Federal Bureau of Investigation, including any technical assistance necessary from, and state and local coordination with its National Security Branch and Counterterrorism Division, as well as any other federal agency with relevant jurisdictional authority and oversight.

And I haven't even gotten to the good stuff yet. You were asking for -- you were asking for that predicated on stuff like appears in your first full paragraph about these incidents. Isn't that right?

The Witness. I'm asking for help around violent threats.

Let me be very clear. You know, you go to law school, one of the first things you learn in criminal law is what is your intent, what's your mens rea, the Latin term they use.

My intent here was to prevent violence or threats of violence. That was my intent. But that doesn't -- you know, by setting the stage, though, for explaining that things are escalating, potentially. And I think that's what we were attempting to do.

And so my intent -- my intent -- let me -- please let me finish this, it's very important -- was to -- I was simply trying to do my job, sir. And I believe when you are put in a leadership position -- and I was put in the CEO position before they even -- they didn't even ask me if I wanted to serve, they just named me, and I agreed to do it after that.

But I felt great responsibility as someone leading an organization that had school board members who then represented local schools. I think when you learn of potential troubling information, you are obligated to report it. And so that's what I was

attempting to do.

Mr. Bishop. Whether it's lawful or not?

The Witness. I was attempting to ask them to intervene when it was unlawful.

Mr. Bishop. But you reported a lot of stuff that was lawful.

The Witness. Well, if you look at the actual letter, you'll see in the first paragraph that I made it very clear that protected speech was vital and communication was vital between public school boards and the community.

Mr. Bishop. You're not suggesting, are you, sir, that all of the incidents that are footnoted in your September 29th letter constitute true threats?

The Witness. And we didn't say -- we were -- again, we were highlighting incidents that were occurring.

Mr. Bishop. Before I leave this exhibit 5, let me go on to this next paragraph. [redacted] was asking you about it.

It says: "Additionally, NSBA is interested in a review of appropriate enforceable actions against these crimes and acts of violence under the Gun-Free School Zones Act, the PATRIOT Act in regards to domestic terrorism, Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act, Violent Interference with Federally Protected Rights statute, Conspiracy Against Rights statute" -- I'm going to pause there because I want to come back to the executive order later.

What predicate were you suggesting would support an evaluation of the application of the PATRIOT Act in regard to domestic terrorism?

The Witness. This section referred to potential Federal crimes that could be violated. It says, again, if you look, if you read the exact language, it says, "against these crimes." So if there's something recounted in a letter than isn't a crime, we're not talking about that.

Mr. Bishop. Well, which ones, go back and tell me from the front, which ones are a crime that warrant the application of the PATRIOT Act?

The Witness. Well, this isn't the letter, so --

Mr. Bishop. Well, I didn't ask you about the letter. I asked you about this email.

The Witness. Well, I -- and I would have to go back and say potentially the crime of Proud Boys marching on a school could be a crime.

Mr. Bishop. Can you tell me what crime that is?

The Witness. Marching on a school? Entering a school during school operations?

Mr. Bishop. Well, it doesn't mention that anywhere.

The Witness. Well, that was my -- again, you have to understand what my intent was.

Mr. Bishop. So you're asking the White House to engage over this. The conduct that you described as the predicate for that is what you recite in your first full paragraph. I don't know what was listed in the egregious list that was attached to this, of course.

But just looking at the paragraph where you recited specific instances, please testify, tell us, which ones you look at now and say, well, that's what warranted my request for the application of the PATRIOT Act in regards to domestic terrorism.

The Witness. This isn't the request, number one.

Number two --

Mr. Rybicki. What are you referring to?

The Witness. This, this email that you're referring to, this is not the official request. This is an email telling them we may be asking for help. And then it highlights

bullets that, at that point in time, a snapshot of the moment, we were considering.

You will note, I made it very clear, I'll read it just to make sure I get my exact legal writing: "Please bear in mind the letter is not final, and we are still vetting."

And so this was not meant to be a final document. This was meant to say: We may write a letter and it may include some of these things.

And then the above is just me giving some personal observations. I don't claim that there are -- that I'm -- this is it, this is the list.

Mr. Bishop. So right now I'm interested in asking you about your exhibit 5 -- or the exhibit 5, your email. And, again, where I was reading from the second page, it says: "Additionally, NSBA is interested in a review of appropriate enforceable actions against these crimes and acts of violence." And then it lists all the statutes that you believe are applicable.

And what I'm asking you is, these crimes and acts of violence presumably refer what you're talking about in this letter, correct?

The Witness. No, that's not correct. I was referring --

Mr. Bishop. What does it refer to then?

The Witness. It was referring to what was going to be in the actual letter. And it wasn't -- and every incident in the letter, we did not say it was necessarily a crime. Again, I think communicating what we were trying to set is very important.

Mr. Bishop. Let me ask you to look at your letter of September 29th. I think it's marked as exhibit No. 2.

[redacted] No. We're going to enter it as exhibit No. 16.

[Slaven Exhibit No. 16

Was marked for identification.]

Mr. Bishop. No. 16.

Look at page 2 at the first -- the full paragraph at the bottom -- or the paragraph at the bottom of page 2.

It says: "As these acts of malice, violence, and threats against public school officials have increased, the classification of these heinous actions could be the equivalent to a form of domestic terrorism and hate crimes.

"As such, NSBA requests a joint expedited review by the U.S. Departments of Justice, Education, and Homeland Security, along with the appropriate training, coordination, investigations, and enforcement mechanisms from the FBI, including any technical assistance necessary from, and state and local coordination with, its National Security Branch and Counterterrorism Division, as well as any other federal agency with relevant jurisdictional authority and oversight."

I read that correctly, right?

The Witness. I believe so.

Mr. Bishop. And that language is substantially duplicative of the language that's in your exhibit -- that was in exhibit 5.

The Witness. Very similar, yes.

Mr. Bishop. Okay. So whatever became final was very similar to what was listed in -- or what was written in your email.

So refer to either one. Refer to the ones you list in exhibit 5 or refer to any of the footnotes and tell me which one of those things justified the application of the PATRIOT Act with respect to domestic terrorism.

The Witness. The incidents that were recorded in the letter were meant to demonstrate the growing concerns that we had. There were criminal incidents mentioned in the letter, and there were other incidents that were disruptions in the letter.

We were not asking for any Federal intervention that was inappropriate. And you do expect that the Federal law enforcement would know what was appropriate and not appropriate.

We were reporting on publicly available information. We, frankly, probably could've offered even more examples that got more specific.

But the point was we weren't in a vacuum on this, Congressman. This was occurring regularly. Everyone in the education community was seeing these incidents. We were hearing about them.

A death threat to a child should be -- we should all agree that that's inappropriate and is not protected speech. Those types of things were happening.

So they may not all be listed in our letter, but that doesn't mean they didn't not occur.

Mr. Bishop. If there's a death threat to a child, why didn't you list that as your predicate for asking for Federal action?

The Witness. You know, I don't know why we didn't list every incident like that. But the fact that that existed, and our job wasn't to lay out every single incident for the Federal Government. Our job is to point out, we believe --

Mr. Bishop. Of course not.

The Witness. -- we believe, sir, that these incidents are occurring. I'm writing this letter asking you, Federal law enforcement, are we right, are we correct. And if we're correct, then you should -- here are some of the Federal laws that may be applicable. There was probably others as well.

But there's a pivotal word that you really need to make sure you note, and that's the word "could." I didn't say -- I didn't say "all." We didn't say all of the incidents we recounted here. We just -- we used the term that some incidents occurring in the

country could be the equivalent.

Mr. Bishop. Do you think that that is an adequate excuse for having asked the Federal law enforcement across the Federal enterprise to engage over threats to school boards, that you said "could"?

The Witness. The job of Federal law enforcement, or any law enforcement, is to investigate a potential threat. I think that is what we were asking for. And if there was an actual threat that reached the level of Federal involvement, then we were asking for their help.

We were also asking for them to coordinate with local and State police. We were asking them to help local schools. Tell us there isn't a threat. I would -- I mean, if that -- if there really wasn't a threat then -- the threat assessment was the most important thing we were asking for.

Mr. Bishop. Can you -- so, again, I'm going to take you back. You answered a different question than I asked. But I want to ask you again, can you point to all of the incidents, either in your email, exhibit No. 5, or in your September 29th letter, which I think was exhibit 12 -- no -- exhibit --

[redacted] Sixteen.

Mr. Bishop. -- exhibit 16 for the record, can you point to those things that you can say here today involve a true threat or illegal conduct?

The Witness. The Worthington High School Board incident I referred to where the threatening note was sent certainly could've. As I learned later, there was way more to that than just the one communication I had learned about. And I was told -- I don't know this for a fact -- but I was told that the FBI, in fact, was involved in that incident. I don't know what the result was. They oftentimes don't -- they investigate something, and they reach a certain point, and they don't take it any further, or it remains open and

we may never know the result.

Mr. Bishop. What else besides the Worthington, Ohio --

The Witness. That's the best example I can give.

Mr. Bishop. Well, I'd like all of the examples that you can recite.

The Witness. I can't recite every footnote off the top of my head, sir.

Mr. Bishop. You certainly have the -- you can refer to the exhibit. You can refer to -- so you don't have to do it off the top of your head. You've got -- let me ask this question.

Presumably in your final letter, in the September 29th letter, you wouldn't have listed the least egregious incidents, would you?

The Witness. Congressman --

Mr. Bishop. Will you answer my question?

The Witness. Well, I'm trying to answer your question.

What we were trying to do was set a stage and --

Mr. Bishop. Yeah, but you're answering stuff, you're going on --

The Witness. Frankly -- well, I'm getting into the incidents.

Mr. Bishop. Well, hold on just a second. Let me withdraw the question. I'll ask it again or try and ask it differently, making sure it's clear.

You include in your September 29th letter 24 footnotes. Do you remember that?

The Witness. That sounds right.

Mr. Bishop. And you can look at it. Do you have it in front of you?

The Witness. Yes, I have the footnotes.

Mr. Bishop. Will you verify that? There are 24 footnotes.

The Witness. Is this out of order?

Mr. Bishop. Is your copy out of order?

The Witness. Oh, no, wait, I'm sorry. I just couldn't see the last number. It looks like there's 24, yes.

Mr. Bishop. Okay. And most of those -- most of what is cited in footnotes are media reports. Isn't that correct?

The Witness. Many of them are.

Mr. Bishop. Okay. When you compiled this letter or approved its authorship, you were trying to make your case that this warranted the intervention of Federal law enforcement, correct?

The Witness. I was trying to make the case that Federal law enforcement may need to intervene. They certainly needed to be aware of it.

Mr. Bishop. So if you were doing that, it would stand to reason, would it not, that the incidents you would recite in your footnotes were the most egregious that you were aware of.

The Witness. I think at the time that we were putting the letter together I didn't expect the reaction I would get to sort of this parsing of the various incidents to this degree.

And, again, I don't think you were here earlier, I talked about why some of these incidents were included. Part of what we were trying to show, that there were constant disruptions occurring around school boards in which they couldn't do their job, they had to stop meetings, which is bad for everyone.

Mr. Bishop. So are you saying that you would not include the most egregious incidents in your letter?

The Witness. I would include them. But, again, Congressman, this wasn't a book report or a test. We were just trying to give a sampling and say: FBI or Justice Department, please go look further into what's happening across the Nation.

This was not meant to be every incident in the Nation. We were trying to call out bad -- what we thought could be bad activity occurring. We wanted them to investigate.

If they came back and said, "You know what, Chip, you've overreacted in your letter," I would've said, "Well, we were concerned, but thank you." That's not the reaction they gave. And I think that's really an important distinction here.

Mr. Bishop. But you've testified that it was also a concern of yours not to sic law enforcement on people for engaging in protected First Amendment activity.

The Witness. And we didn't ask them to do that.

Mr. Bishop. And that was in your mind, right?

The Witness. It was absolutely not in my mind to do that, and it's not what our letter does, in my opinion. And you can have a different opinion.

Mr. Bishop. So which of the 24 footnotes cite conduct that you believe makes it appropriate to consider application of the PATRIOT Act for domestic terrorism?

The Witness. I'm not going to parse which section of the PATRIOT Act might be appropriate because I haven't read it in a long time.

What I would say, again, is we were trying to set a stage for what we believed may be occurring across the country.

And part of the reason why you would ask Federal or in some cases State law enforcement to get involved is they do have access to information and intelligence-gathering that we don't have at the National School Boards Association.

Mr. Bishop. Well, if you know what's going on across the country were nothing more than First Amendment speech, you agree, wouldn't you, that it would be wrongful for the National Association of School Boards to ask for Federal law enforcement intervention?

A And if you will -- the National School Boards didn't make that request --

Mr. Bishop. Okay.

The Witness. -- around protected speech.

So, yes, I would agree, any -- if it's a legitimate protected speech activity, whether you agree with it or you don't agree with it, you should be -- that's something that is constitutionally protected.

And I said that publicly, by the way, on numerous occasions that summer when we were being asked about all these incidents occurring.

Mr. Bishop. As you look back at your list in the email that is marked as exhibit 5, your list of statutes you thought might be applicable, would you concede at this point that that seems a bit extravagant?

The Witness. Well, I could've just simply said look at Title 19 -- or 18 of the U.S. Criminal Code. The reason they --

Mr. Bishop. No, I didn't ask what you could've said. I asked you, do you look at that list of statutes you specified and legal remedies and would you concede that it is extravagant?

The Witness. I would say it's detailed.

Mr. Bishop. Detailed? You still believe it's an appropriate list of --

The Witness. If there's a crime that's been committed and if applicable under one of those laws, then it's appropriate. If not, then, no, it's not appropriate.

Mr. Bishop. Well, let me ask you this question. You wouldn't call the police department or 911 in your community and report that there may be activity going on that could constitute a crime, you don't know. You call them if you know there's something that's wrong that requires law enforcement attention because it's illegal. Isn't that right?

The Witness. It depends. So if you see activity, like, you could call 911 and report something you think could be a crime, and you could say: I'm not sure. This might be harmless, but I'm concerned. It looks like someone's on my neighbor's property who's not supposed to be there.

And then it turns out it was the neighbor. They just didn't recognize them, they were wearing a hat.

And so you report things -- it's sort of -- I go back to, if you know something, say something. If it turns out you're wrong, you're wrong. If someone honestly thinks there is going to be something bad happening here or could be happening, I think you're obligated to report it.

If law enforcement investigates it and it turns out it's not appropriate, then it's not appropriate, or you were mistaken.

If you intentionally now submit a false statement, then, sure, that's a whole different incident than saying I want you to look at what's happening and you tell us if something is going on.

[1:23 p.m.]

Mr. Bishop. In your interactions with Ms. Wall or anyone else on behalf of the administration about this subject matter, did she or such other person ever explain to you that Federal law enforcement activity would not be appropriate insofar as people are engaged in First Amendment activity?

The Witness. I never spoke with anyone after I sent the letter until I got a call from the Department of Justice telling me that they were sending out a press release and a memo, and that was the extent of the call. Nothing further.

Mr. Bishop. So they never --

The Witness. I didn't know what they were doing. I had no concept of what was going on.

Mr. Bishop. So no one in the administration ever engaged with you to clarify whether you were reporting true threats or people engaging in First Amendment protected activity, correct?

The Witness. Again, I didn't have any communications over the letter from the time I sent it, other than the emails that are available prior to a phone call that I just mentioned. And so, we didn't have discussions one way or another.

And, again, though, we're a private organization, you know, a nonprofit -- education nonprofit. You know, we're allowed, under the First Amendment, by the way -- this letter is very much a protected document as well. You know, I'm allowed to express an opinion. The organization is allowed to express an opinion. You can disagree with it all you want. And again, that's fine. But, you know, I have a right to write a government official without the government official correcting me.

Now, if they later want to say, We disagree with you, they can, or if they agree

with you, they can.

Mr. Bishop. You're actually quite wrong. You do not have a legal right to express -- to report activity that is perfectly legal and request law enforcement activity, but let me --

Mr. Rybicki. Okay. I want to limit this to questions, not conversations.

Mr. Bishop. You're LinkedIn resume says: Moreover, I worked on a successful gubernatorial campaign, four congressional races, and comanaged a successful mayor's race while still in college.

For whose gubernatorial campaign did you work?

The Witness. Bob Wise.

Mr. Bishop. And was he a Democrat or a Republican?

The Witness. He's a Democrat.

Mr. Bishop. What four congressional races did you work on?

The Witness. He was a Member of Congress prior to that.

Mr. Bishop. What four congressional races did you work on?

The Witness. His congressional races.

Mr. Bishop. All right. What other -- oh, all four of his?

The Witness. They were all -- yeah, they were all his. I worked for one Democratic congressman.

Mr. Bishop. All right. And the successful mayor was also him?

The Witness. No.

Mr. Bishop. Who was the successful mayor?

The Witness. Her name was Charlene Marshall. She was an employee at West Virginia University who ran -- she was the first African-American woman in the history of West Virginia to become the mayor. And I was a young college student with a friend of

mine, and we wanted to help her.

Mr. Bishop. Republican or Democrat?

The Witness. She -- I don't believe they ran in a partisan race. Those elections were nonpartisan, municipal races.

Mr. Bishop. Do you know whether she was Republican or Democrat?

The Witness. She -- I believe she is -- well, she's a Democrat. I know that from later elections.

Mr. Bishop. What employment did you have between your undergraduate graduation and law school?

The Witness. I spent 12 years working either in campaigns or as a congressional staffer or on a Governor's race, and then in the Governor's office. It's what -- basically what you just outlined.

Mr. Bishop. In the opinion that the United States Supreme Court issued in Mahanoy Area School District on June 23, 2021, that I made reference to earlier, Justice Breyer wrote this: "Third, the school itself has an interest in protecting a student's unpopular expression, especially when the expression takes place off campus. America's public schools are the nurseries of democracy. Our representative democracy only works if we protect the marketplace of ideas. This free exchange facilitates an informed public opinion which, when transmitted to lawmakers, helps produce laws that reflect the people's will. That protection must include the protection of unpopular ideas, for popular ideas have less need for protection. Thus, schools have a strong interest in ensuring that future generations understand the workings and practice of the well-known aphorism, I disapprove of what you say, but I will defend to the death your right to say it."

Do you agree with the sentiment that Justice Breyer expressed there?

The Witness. Yes.

Mr. Bishop. Do you think that's a value that the National Association of School Boards should embrace as much as concern over threats?

The Witness. Well, the National School Boards Association has their own particular position. You asked my personal opinion. I agree with that.

Mr. Bishop. Do you think the National Association of School Boards in the actions it takes should embrace that sentiment as well?

The Witness. I think free speech should always be embraced.

Mr. Bishop. Thank you.

Chairman Jordan. How much time do we have?

[redacted] One minute.

Chairman Jordan. Mr. Slaven, when is the last time you had communication with Ms. Wall?

The Witness. It was -- I don't remember the exact date, to be perfectly honest. It was sometime after the letter and before I left the NSBA, which I recounted earlier was --

Chairman Jordan. When was that communication?

The Witness. I believe I --

Chairman Jordan. It was after the letter and after --

The Witness. After the letter was submitted, correct, and --

Chairman Jordan. And before the memorandum --

The Witness. -- before I left.

Chairman Jordan. Well, that's a big span.

The Witness. Yeah.

Chairman Jordan. I mean, was it October or November? You left in November,

right?

The Witness. I left in November. I can't remember the specific dates. So I will tell you that she emailed me at some point the week after the letter came out, one or two emails. There were -- we had one or two phone calls that were mostly about other things. There were other pandemic-related things, vaccination issues. We would -- the letter came up a few times.

And then I recall leaving her a voicemail at one point, but I don't think she called me back.

Chairman Jordan. Was that in October or November?

The Witness. I'm not sure. It could have been late October, early November. I don't recall, though.

Chairman Jordan. Are you familiar with the report that Michael Best and Friedrich, LLP, did the final report on the events surrounding the National School Boards Association December 9th letter?

The Witness. Yes.

Chairman Jordan. What did they get out of the report?

The Witness. I thought the underlying conclusion that determined that there was no direct or indirect evidence that the Biden administration had solicited the letter was absolutely correct. There were other issues in the report --

Chairman Jordan. I request to reclaim my time.

The Witness. There were other issues in the report that I didn't necessarily think were the best.

Chairman Jordan. Say again?

The Witness. There were other areas of the report that I didn't think they addressed that accurately.

Chairman Jordan. I'll ask about that next time.

[redacted] We'll go off the record.

[Discussion off the record.]

[Recess.]

[redacted] It is 1:40 in the afternoon, and we can go back on the record.

BY [redacted]

Q All right. Thank you again.

A Thank you.

Q I want to just touch briefly on the conversation that we were just having.

Mr. Slaven, is the -- you said earlier that you were just doing your job, I think, in response to one of the questions.

Is the National School Boards Association a Federal Government agency?

A No, it's not.

Q Is it a State government agency?

A No.

Q Is it a law enforcement agency?

A No.

Q Okay. And you, yourself, are not a Federal official, correct?

A No. I was at one time when I worked for Congress, when I worked for a U.S. Attorney, but that was a long time ago. I'm a private citizen and was then as well.

Q Okay. And you are not and were not representing a Federal agency, right?

A Correct, I was not representing a Federal agency.

Q So you were essentially advocating for the NSBA member organizations, correct?

A That is correct.

Q And you were asking for help?

A That's also correct.

Q And you were asking for help on behalf of those members?

A Yes.

Q And on behalf of the schools that they worked for?

A Yes.

Q And presumably, on behalf of the parents that were sending their children to those schools?

A Absolutely, yes.

Q And the children in those schools as well?

A Also, yes.

Q Okay. Do you think that in your experience when people call the police for assistance, they are always aware that a crime -- what the actual crime is that's been committed or if a crime has been committed?

A I think that often people think a crime is being committed or are concerned one may be committed. It turns out later, no, it wasn't, but they had a reason to call at the time.

Q Okay. And is there -- to your knowledge, is there any constitutional, for example, limit on when somebody may call law enforcement to ask for assistance?

A As long as you're not reporting -- making a false statement, I think, yeah, you can call. And I think they encourage you to call, in fact, even if it turns out not to be anything later.

Q And we went through kind of exhaustively all of the examples listed in the NSBA's letter. Were any of those false? In other words, were any of the items listed in that not true?

A They were all publicly reported media things. So they were all, to the best of my knowledge, true at the time they were printed in the letter.

Q And you were relying on the fact that the media had reported them to say that they were true?

A Yes, that's correct.

Q I mean, as far as you know, they were real incidents?

A Yes.

Q So you didn't submit anything false?

A No.

Q And -- yeah.

I think there was a statement made that you do not have the legal right to raise concerns about legal activity.

Do you agree with that statement?

A I didn't completely understand it at the time, but I believe everything that I said in that letter I had a right to say under the First Amendment.

Q Okay. And you are -- again, you are not a law enforcement official, and you didn't have the ability, for example, to pick up the phone, call, and send in police?

A Right. No, I didn't have that power. I just had the power to point out I had concerns.

Q Okay. I'm going to turn back to the email between you and Ms. Wall.

I'm sorry I have too many exhibits.

Mr. Rybicki. This is exhibit 5?

[redacted] Yeah. Yes, exhibit 5.

BY [redacted]

Q So in her email to you dated September 21, 2021, time stamped

10:10 p.m. -- it's on the second page --

A Yes.

Q -- she said: "I'm meeting with colleagues from other White House offices and DOJ tomorrow morning" --

A Yeah.

Q -- "to see if there might be any options we can pursue here, so if you have any concrete recommendations in your letter (e.g., the threat assessment you mentioned), would be good to know so I can include in discussions."

She said -- she specifically mentioned the threat assessment you mentioned, right?

A Yes.

Q And she didn't mention -- she didn't refer to any particular acts or laws that might come into play, correct?

A Right. She just asked about the threat assessment.

Q And I know we have been over this a couple of times, but can you explain again what your understanding of a threat assessment is?

A A threat assessment is when law enforcement or intelligence potentially, depending on what it is -- could be local, State, or Federal level -- but they look at, you know, a particular situation and gather is there a threat here.

And they sometimes will say, No, we don't think there is. Other times they're like, Well, there is a threat, or somewhere it's in the middle where we're reaching the point where it could become a threat.

So that they can analyze, they use a variety of sources. They reach out to local police and say, Is this happening in your neighborhood? They look at the media. They look at their database to see if they have been having calls coming in.

And so, I think it's a wide ranging -- they ask groups, Are you concerned? And we saw this, I think, with the airline industry when there were a lot of incidents occurring on planes --

Q And the --

A -- as an example. And I know a letter was sent, frankly, then, by one of the organizations, which, frankly, I think spurred this in my mind that maybe we should follow a similar pursuit.

Q So a threat assessment, to your understanding, is not a Federal investigation in terms of it's not -- you know, it's not like the FBI opens a case file on something?

A Correct. There could be case files that impact the threat assessment, of course. But, yeah, is there a potential problem here? That's really what we were -- and that's what we were asking for.

Q Okay. And in this email, this 10:10 p.m. email from Mary Wall, she asks to see -- she said they're looking at options that we can pursue. So it doesn't necessarily -- she doesn't say we will pursue, correct?

A Yeah. To me it sounded like it was going to be brought up in a meeting and they were going to talk about it.

Q Okay. And it said include in -- she said include in discussions. She didn't say that there would be any action item leading off of that?

A That's correct.

Q Okay. So you have this back-and-forth, and you provide -- you sent her your response.

I want to note that, I think, about halfway down, I think this was read out, but the full phrase wasn't set out. So I just want to read it into the record: "In Ohio, one school board has been facing large crowds attempting to block entry into meetings,

screaming and sometimes spitting at the members and keying their cars. That same board has also received a letter sent with a fake address claiming they would be coming after the board and will make them pay dearly.

Did you interpret that as a death threat?

A I interpreted that it could be with additional information. And I think we talked about this earlier. I definitely believe it was something that law enforcement should be reported about, and then maybe it's illegal or maybe it's not, depending on the context. But I considered -- I thought it was very concerning.

Q Okay. So you sent this to Ms. Wall. And after that, you didn't hear anything further from her?

A That's correct. The next time there was any communication was when I copied her on the message, the actual letter.

Q Okay. So prior to the -- so outside of these -- and I think it's a total of three email threads, one group call, and one one-to-one call with her, you didn't have any interactions with anyone at the White House prior to actually hitting send on the letter?

A Not prior to hitting send on the letter, that's correct.

Q And you never specifically discussed the -- I'm sorry.

During those interactions, do you recall if the name "Terry McAuliffe" was ever mentioned by anyone in the executive branch?

A No. And I don't know why it would have been. And, again, Mary Wall is the only person I discussed the letter with, in any way, during this period of time prior to it, again, being formally sent.

Q So I want to take another look at the letter and also the subsequent Attorney General's memo here.

So I want to look back at the September 29th letter again that is -- I'm not sure

what it's marked.

Mr. [redacted]. 16.

BY [redacted]

Q Exhibit 16. Can you take a look through it and let me know if the word "parent" is ever included in that letter.

A Well, I'm glad to look through it, but I've looked many times to make sure. The word "parent" isn't in the letter. The word "parents," plural, is not in the letter. The word "father" or "dad" is not in the letter, and the word "mother" or "mom" is not in the letter. Grandmother is the only reference to a family member. And, again, it was about a student who was verbally attacked while talking about his grandmother who had died.

Q Okay. Does the letter ever use the word "intervention"?

A I've got to go back and look there.

Q Okay.

A Yes. On page 5, bottom paragraph, the last line reads: "However, with such acute threats and actions that are disruptive to our students' well-being, to the safety of public school officials and personnel, and to interstate commerce, we urge the Federal Government's intervention against individuals or hate groups who are targeting our schools and educators."

And preceding that was actually a sentence I think focusing on the importance of transparency and public discourse, which would be free speech protected.

Q Okay. So the only time it uses the word "intervention" is with reference to people who are specifically targeting schools and educators, and it does not say intervention against parents, correct?

A Correct. And we weren't talking about political targeting.

Q Okay.

A We were talking about violent targeting.

Q So to the extent that anyone is claiming that the letter asked the White House or Federal agents or anyone else to intervene and use Federal law enforcement tools against parents, that's somebody else's language, correct?

That's not language that's in the letter?

A That's absolutely correct. And when I first heard the claim about parents, I had to go and say, What did we say about parents? I don't remember talking about parents. They weren't the focus.

Q And, in fact, school board is only mentioned a couple of times of in here, correct?

A I don't remember how many, but several times. We were talking about -- we talked about teachers, as I recall. We talked about students, yeah.

Q It was much broader than school boards and certainly much broader than school board meetings?

A Exactly.

Q Okay.

Mr. Johnson of Georgia. And it was much broader than simply parents at school board meetings?

The Witness. It was, yes, yes, sir. It was individuals who may be causing a problem. Whether they were a parent or not didn't matter.

Mr. Johnson of Georgia. You don't -- you didn't know whether or not all of these threats that were coming in and taking place at meetings were from parents or just individuals from the community?

The Witness. That's absolutely correct. And, in fact, I don't recall people

referring to these as parent protests in any manner. They might have, you know, but I don't recall if that -- it certainly wasn't how I was thinking about it. Because if that was the issue, I would have gone to the National PTA and talked with them about the situation.

Mr. Johnson of Georgia. And I didn't identify myself. I'm sorry. I'm Congressman Hank Johnson.

BY [redacted]

Q I want to introduce into the record as number 17, exhibit 17, an article entitled "Posts Mischaracterize School Board Organization's Letter to Biden." This is a letter dated October 5, 2021.

[Slaven Exhibit No. 17

Was marked for identification.]

BY [redacted]

Q Have you seen this article before?

A I have seen this, yes.

Q Okay. So this article assesses as false the claim that the National School Boards Association asked the Biden administration to label parents who protest at school board meetings as domestic terrorists.

Do you agree with that assessment?

A I absolutely agree with that assessment. That's a false claim.

Q I want to introduce next as exhibit 18, something that's been talked about a little bit but not actually introduced. And this is the Attorney General's October 4, 2021, memorandum.

[Slaven Exhibit No. 18

Was marked for identification.]

BY [redacted]

Q This is entitled "Partnership Among Federal, State, Local, Tribal, and Territorial Law Enforcement to Address Threats Against School Administrators, Board Members, Teachers, and Staff." This is a one-page memorandum that the Attorney General issued on October 4, 2021.

Have you seen this memo before today?

A Yes, I have.

Q Okay. I'll give you a minute to review it, and then I'm going to ask you if the word "parent" appears in the memorandum.

A Well, I've read it before, and I know that the word "parent" doesn't appear in it.

Q Okay. What about the phrase, "school board meetings"?

A Again, I don't see anything about school board meetings. I see a reference to board members, as well as school administrators, teachers, and staff. And it says specifically to facilitate discussion of strategies for addressing threats.

Q Yeah. Do the words "National Security Division" appear in the memo?

A Not that I'm seeing, no.

Q And what about counterterrorism?

A No, I don't see that word in here.

Q Okay. So I want to actually place the September 29th letter and the October 4th memo side by side and go through them a little bit.

A Sure.

Q Your letter asks the administration to conduct a review to examine appropriate enforceable actions against these crimes and acts of violence under the PATRIOT Act in regards to domestic terrorism.

Now, the Attorney General's memo does not refer to the PATRIOT Act, correct?

A That's correct. It does not refer to the PATRIOT Act.

Q Okay. So you were asked earlier if you had gotten any feedback about your letter asking for things that were not able to be delivered. Would you say a memo publicly posted from the Attorney General that does not incorporate your request could be feedback that they did not agree with your suggestion?

A I think it suggests that that's not what they were focused on and -- yeah.

Q Okay. I want to introduce into the record as exhibit 18 -- 19 -- I'm sorry -- the official transcript from the Attorney General's October 2l, 2021 testimony before the House Judiciary Committee. I'm going to include these pages and the first page of the transcript so it's complete. We're not introducing the whole transcript because I think it's 581 pages long, and that seems absurd.

[Slaven Exhibit No. 19

Was marked for identification.]

BY [redacted]

Q Can you turn to page 31, please, and read the highlighted below that which is the Attorney General's response-- that.

A Sure. "And I want to be clear, the Justice Department supports and defends the First Amendment right of parents to complain as vociferously as they wish about the education of their children, about the curriculum taught in the schools.

"That is not what the memorandum is about at all, nor does it use the words 'domestic terrorism' or 'PATRIOT Act.' Like you, I can't imagine any circumstance in which the PATRIOT Act would be used in the circumstances of parents complaining about their children, nor can I imagine a circumstance where they would be labeled as domestic terrorism."

Q So the Attorney General actively declined to pursue the recommendation about the PATRIOT Act, correct?

A In this context, yes, yes. And, again, we were only suggesting that --

Q Right.

A -- there could be an incident --

Q Exactly.

A -- that would lead to --

Q You made a recommendation?

A Yes.

Q And he said he couldn't see a world in which that would apply?

A Yes.

Q So that's feedback to your letter that he didn't agree with your letter?

A Yes. And he's, I believe, talking about protected First Amendment speech, and I would agree with that assessment completely.

Q And he said he couldn't imagine a circumstance in which parental protest would be labeled as domestic terrorism, correct?

A Yes, correct.

Q Okay. I want to introduce pages 9 and 21 from the proquest transcript of the Attorney General's October 27th testimony before the Senate Judiciary Committee. This is October 27, 2021, before the Senate Judiciary Committee, and this is exhibit 20.

[Slaven Exhibit No. 20

Was marked for identification.]

BY [redacted]

Q So on page 9 -- and this is the proquest transcript because the official transcript is not yet available.

On page 9, Senator Grassley notes that the National School Boards Association apologized for the September 29th letter, then asks: "So, you're going to keep your memo going anyway, right? Is that what you're telling me?"

Could you please read the highlighted below that which is the Attorney General's response?

A Yes.

Merrick Garland: "Senator, I have the letter from NSBA that you're referring to. It apologizes for language in the letter, but it continues its concern about the safety of school officials and school staff. The language in the letter that they disavow is language was never included in my memo and never would have been. I did not adopt every concern that they had in their letter.

"I adopted only the concern about violence and threats of violence, and that hasn't changed."

Q So your letter listed a whole lot of incidents, but he specifically said that he only was concerned about the violence, the threats of violence, and actual acts of violence, correct?

A That's correct. And that's what we wanted him to focus on.

Q Okay. So -- and the Attorney General's memo doesn't actually use the term "intervention," correct?

A Not that I saw.

Q Do you want to go back and take a look?

A Well, a very quick read, but, no, I don't see it here.

BY [redacted]

Q Okay. So, in fact, the only actual action item in that Attorney General's memorandum is in the fourth paragraph in which the Attorney General says he is

directing the Federal Bureau of Investigation and U.S. Attorney's offices to, quote, "convene meetings," end quote, with State and local law enforcement and to, quote, "facilitate the discussion of strategies for addressing threats against school administrators, board members, teachers, and staff, and will open dedicated lines of communication for threat reporting assessment and response."

Mr. Slaven, I would like you to turn to page 69 of the House Judiciary testimony, which should be attached as the second page of this.

Mr. Rybicki. So now you're back to exhibit 19?

[redacted] Yeah.

Mr. Rybicki. Okay.

[redacted] And there should be one line highlighted.

[Counsel conferring with witness.]

The Witness. Okay. Go ahead.

BY [redacted]

Q Can you read the highlighted portion aloud.

A Yes. And, again, this is from the Attorney General. Quote: "This is an assessment of whether there is a problem."

Q Okay. So we talked earlier about a threat assessment. Does this appear to ask for an assessment -- to endorse an assessment or actual intervention in your view?

A It's an assessment. It's not an intervention. It's simply asking what really we were asking for. Tell us if we were right in thinking we have a problem.

Q Okay. And now -- and I'm sorry for making you flip back and forth --

A That's okay.

Q -- for you testimony, but back to the Senate testimony on page 21.

A 21?

Q 21. The Attorney General was asked -- page 21.

A Okay. Got it. Thank you for keeping me straight. Got it.

Q He was asked: "How did you determine that intervention by the FBI and the DOJ was necessary, that that was the right approach?"

Could you please read his response?

A Yes. So -- Merrick Garland: "So, the right approach in the letter is to meet with local law enforcement. That's what we have asked for, is to meet, to assess the situation, to see what their needs are to strategize, and to open lines of communication. Now, I'm hopeful that many areas of law enforcement" --

Q I'm sorry. Could you -- many areas of --

A "Now, I'm hopeful that many areas of local law enforcement will be well able to handle this on their own.

"But this is what the Justice Department does every day. We consult with our local and State partners and see whether assistance is necessary.

"And of course, we continue to have our own Federal responsibilities with respect to communications by the internet and on social media and phone and through the mail. But I'm hopeful that we will not be needed in this area that our State and local partners will be able to handle these threats."

Q Okay. So he specifically said that the Justice Department consults with State and local partners every day to see whether assistance is necessary, correct?

A Yes, he does.

Q And he said he didn't foreclose that there might be Federal jurisdiction in certain situations where Federal law applies, but he was hopeful that it would not be needed, correct?

A Yeah. And, again, from my perspective, I would agree with his statement.

Q And he again referenced the need to, quote, assess the situation, correct?

A Correct.

Q Okay. So, again, in your experience -- I think we went down this road again, but -- or before, but are school administrators like principals often parents themselves?

A Yes. More often than not, I would guess.

Q And are teachers often parents themselves?

A Yes.

Q What about school board members, are they parents?

A Often, yes.

Q Okay. And, obviously, the people who are sending their children to school are also parents?

A Yes, as are other school employees, bus drivers, cafeteria workers, teacher's aides.

Q So would it be the case that kind of communication with State and local entities to make sure that they have the resources and the strategies they needed to address any threats to individuals would actually be in the interest of protecting parents?

A Yes, that is correct.

Q And protecting students?

A Correct.

Q Okay. So I think we have gone through and talked a little bit about how the letter and the Attorney General's memo have been mischaracterized. I want to look a little bit about the origins of this kind of false narrative that developed.

And I want to introduce as exhibit 21, two tweets from an individual named Christopher Rufo, who was a senior fellow with an organization called the Manhattan

Institute.

[Slaven Exhibit No. 21

Was marked for identification.]

BY [redacted]

Q The first tweet is dated October 23, 2021, and it's time stamped 1:24 p.m. Are you familiar with Mr. Rufo? Just yes or no.

A Yes.

Q Okay. And are you familiar with the Manhattan Institute?

A Somewhat, yes.

Q Were you aware of these tweets before I put them in front of you?

A I have seen these before.

Q So Mr. Rufo states in the first one, quote, "The NSBA's gambit to label parents, quote, 'domestic terrorists,' end quote, has collapsed. I'm going to explain exactly how we did it."

His reply to that tweet -- his reply to his own tweet then explains: "First, when the letter came out, we immediately framed the narrative on social media that the NSBA and AG Garland wanted to, quote, label parents" -- and I'm adding an S there because I think he had a grammatical issue -- "domestic terrorists. My initial tweet did 14 million impressions, sparking a week-long media cycle that exploited their reckless language."

Again, your letter did not ask the Federal Government to label parents domestic terrorists, correct?

A That's correct. In fact, we didn't ask them to label anyone as domestic terrorists. We just pointed out there could be domestic terrorism potentially.

Q And we just talked through the Attorney General's memorandum never uses the words "parents" or "domestic terrorism"?

A That's correct.

Q Okay. So this language is language that Mr. Rufo developed apparently?

A Yes, and many other advocates. He kept using that same language despite the fact that we weren't talking about parents or intending parents to be involved in this effort at all.

Q Okay. And here, Mr. Rufo takes credit for, quote/unquote, "framing the narrative around this," right?

A Correct.

Q Okay. I want to turn to another organization's efforts to organize protests against the National School Boards Association. And I want to introduce exhibit 23 -- sorry -- 22, an October 12, 2021, press release from an organization called Moms for America -- sorry -- Moms for Liberty, entitled "Moms Respond to NSBA and DOJ."

[Slaven Exhibit No. 22

Was marked for identification.]

Mr. Rybicki. This document says it's from Moms for America, not for Liberty. Is this the right document?

[redacted] Yeah, it's the correct -- I think that's their website address is Moms for America.

Mr. Rybicki. Okay.

The Witness. Yeah, I do know they're two different organizations.

[redacted] So it's Moms for America. Sorry, I apologize. It is Moms for America, not Moms for Liberty.

The Witness. No problem.

BY [redacted]

Q The highlighted portion here says: "The recent letter from the National School Boards Association (NSBA) to the Biden administration and subsequent statement from the Department of Justice likening concerned parents to domestic terrorists is a direct threat to mothers and our constitutionally protected rights."

Do you -- again, do you believe that the reference here to the NSBA letter and the Biden administration and subsequent statement from the Department of Justice likening concerned parents to domestic terrorists is an accurate representation of either the letter or the Attorney General's memorandum?

A That's a false statement regarding both documents.

Q Okay. And do you recall Moms for Liberty organizing a protest outside the NSBA headquarters?

A Yes.

Q Okay. I want to introduce for the record a tweet from a woman named Mercedes Schlapp, dated October 27, 2021. This will be exhibit 23.

[Slaven Exhibit No. 23

Was marked for identification.]

BY [redacted]

Q It's dated October 27, 2021, timestamped 3:33 p.m.

This tweet reads: "MomsforAmerica@CPAC and parents stand together against the corruption and tyrannical behavior of the National School Boards Association."

Were you aware of this tweet before I presented it to you?

A I don't know that I have seen this particular tweet before. I might have.

Q Do you know who Mercedes Schlapp is?

A I do know her name. I know she was at the event in particular. I did know her name from that. I know she is active in a number of political circles.

Q Did you know that she was the director of strategic communications for the Trump White House?

A I knew she had worked in the Trump White House. I was not aware of what her specific position was.

Q Okay. Are you familiar with the NSBA headquarters building?

A Yes, I am.

Q Okay. And does this appear to show -- the picture, does this appear to show the NSBA headquarters?

A It looks like it's kind of between the buildings, but yes.

Q And so Ms. Schlapp's tweet references @CPAC, C-P-A-C.

Do you know what that is in reference to?

A I believe it stands for Conservative Political Action Committee.

Q Okay.

A Correct me if I got that wrong.

Q Do you know which political party it's affiliated with?

A Well, it tends to be very conservative and Republican.

Q Okay. And so, it appears that this was a protest organized outside of NSBA headquarters by somebody who was certainly associated with the Trump White House, and she references the Conservative Political Action Committee, correct?

A Yeah. It clearly was a reference to partisanship.

Q And she refers to the corruption and tyrannical behavior of the National School Boards Association.

Do you think that's a fair description of your work?

A No. And that was political rhetoric.

Q Is the National School Boards Association associated with any political party?

A No. We have staff, Democrat and Republican. We are nonpartisan.

Q But do you have staff who are both -- who are from across the political spectrum?

A Yeah. I hired a Republican on my team, so yes.

Q Okay. So you are not a political organization, but you certainly were targeted by political organizations?

A We were absolutely targeted. We are not a political organization. We do not endorse candidates. We don't even endorse school board members that are running for reelection. We just want to make sure they're able to run safely for reelection.

Q And we talked to you earlier that you had advocated in front of both Republican and Democratic Members of Congress and in front of both Republican and Democratic administrations, correct?

A That is correct.

Q Okay. And that's actually part of the NSBA's mission?

A Right.

Q I want to look at -- taking a step back, I want to take a look at a USA Today article entitled "The 'Great Resignation' hits school boards. Only 38 percent of members want to run for reelection."

[Slaven Exhibit No. 24

Was marked for identification.]

BY [redacted]

Q And we discussed earlier the climate -- I'm sorry. This is a USA Today article. I don't think there's a date on it, but we printed it off.

Sorry. We're actually going to come back to this one.

A Okay.

Q We can keep that marked. We'll come back to it later.

So, Mr. Slaven, according to -- we talked at the very beginning when I was talking with you 2 hours ago about the large amount of documents that you provided to the NSBA.

A Yes.

Q Particularly Philip Kiko?

A Yes.

Q And in that -- those documents were included in the appendix to the National School Boards Association report, correct?

A Correct.

Q Okay. Some of those documents suggest that you received harassment and online abuse following the letter's publication.

I want to introduce into the record as exhibit 25 a post from the message board site Patriots.win, which was formerly known as TheDonald.win. This is a website that was established after the website Reddit shut down the message board subredditr/thedonald for repeated violations of its policies.

[Slaven Exhibit No. 25

Was marked for identification.]

BY [redacted]

Q This post contains a photograph of you, and it reads as follows: This is from -- this was included in the NSBA appendix at page 530-2. And I apologize, because the line I'm going to go through, there's some graphic language. I'm going to try to limit as much as I read.

A That's fine.

Q It says: "This is Chip Slaven. This communist" -- redacted -- "is the CEO of the National School Boards Association. He believes the FBI should target you as domestic terrorists for not wanting your kids in masks at schools."

And I would make note that the post had 16 responses from message board users that included comments referring to you as "looks like king pedo" and "probably a kid" -- redacted.

A Yeah.

Q Are you familiar with this post?

A I have seen this, yes.

Q Can you describe the circumstances around when you became aware of it?

A I can't remember exactly when I found this particular post, but at the time of the letter and in the weeks following, there were numerous things like this occurring. We received emails and text messages and phone calls to the office.

I think I stumbled on this later, because I think there's a few items that were deleted, for whatever reason. So who knows what was said there before. But this was kind of the rhetoric that was going on. I would consider it very menacing, and it's similar to some of the things that school board members were seeing.

Q And just to make the record absolutely clear, this refers to the FBI targeting people as domestic terrorists. You never asked for anybody to be targeted as domestic terrorists?

A Never said it in the letter and never intended it.

Q Okay. And so you, essentially, in your role as the National School Boards Association interim CEO, represented your members, and the reaction to that was this type of online reaction, right?

A Yes, exactly.

Q So I understand you also received private messages through the social media website, LinkedIn. Is that correct?

A I received a few of those, yes.

Q I want to introduce those into the record as exhibit 26. And there's a number difference.

[Slaven Exhibit No. 26

Was marked for identification.]

BY [redacted]

Q I'm not going to actually -- I'm going to wait until everyone has a copy. I'm not going to read these out because the language is fairly vulgar.

So I'm not going to read these out because the language is pretty vulgar. So do you recall receiving these messages?

A Yes. This is just a few of them.

Q And what was your reaction to these messages?

A Well, my first reaction was what was really shocking was it was LinkedIn which is a professional business networking platform. So for people to be taking stands on there like this, I found troubling. It was -- you know, it's concerning to me. And again, what it really demonstrated to me was this is why -- what school board members were going through all the time was behavior like this.

Q I want to introduce a photograph of a handwritten letter postmarked April 22, 2022, exhibit 27.

[Slaven Exhibit No. 27

Was marked for identification.]

BY [redacted]

Q Is this a letter that you received?

A It is not a letter that I received. It is a letter that my brother and his wife received.

Q And I apologize. I'm going to read this out loud. It contains graphic language.

A That's fine.

Q "How does it feel to know that 90 percent of this country all wish each and every one of you was aborted.

"If only the women in your family had swallowed we'd all be better for it.

"You're a family of scumbags, Slaven."

You said your brother received this letter?

A Yes. This was targeted towards my family because I was -- people didn't know my home address. I think they found him. He lived 3-1/2 hours away from me at the time that he received this letter.

Q Okay. What was your -- or his reaction, I guess, to seeing the letter?

A He called me immediately. He was very concerned over it. You know, he couldn't figure out why he got it. The only thing he could think of -- he was a professor, and the only thing that sort of happened in our family was this, and my whole family believed it was very aware of this. And when it came -- and it came, you can see, from New York, New York. He lived in West Virginia. It's got a fake address. They list Jill Biden. And it was clearly meant to menace my family.

Q Okay. So you -- the postmark on the photo is April 14, 2022. That was months after you'd left --

A Oh, yes.

Q -- the NSBA?

A Yes.

Q Are you still receiving anything along these lines?

A I haven't received anything recently, but it's not uncommon if my name appears in a headline somewhere that I might get a Facebook message or a LinkedIn message. But to be honest, it's harder to find me now.

Q Right.

A And I try to screen those things much more carefully now so they don't necessarily last if I get something. I just delete it or turn it in if I think it's appropriate. But no one has my email address anymore.

Q Okay.

A So that has slowed down the responses.

Q So the NSBA letter was released on September 29th. Within about a week, Christopher Rufo, and then within about a month, Moms for America and Mercedes Schlapp and others started to turn the narrative. And then you started to receive some pretty serious harassment, correct?

A I wouldn't say it was a week. I would say it was the day the letter was released probably.

Q Okay.

A So on Thursday, September the 30th, I believe is the first time I heard someone say we had called -- falsely had called parents terrorist or domestic terrorists. And, again, I went -- had to go look at the letter, like figure out what it was. So it was immediate, to be honest. As soon as the national media started covering the story of what was going on, the narrative later that day started.

Q Okay. And you personally started to receive harassment?

A Yeah. To give you an example, that weekend -- that was a Thursday when the letter became public. The next day, I had several members of my staff tell me that

they thought that I should leave town.

Q And why did they say that?

A They didn't think it was safe.

Q Why was that?

A Because of the types of calls and emails that were coming into the office, and I didn't see all of them. Many of them I didn't see. And so, there was a lot of concern for my well-being and concern for other staff as well, concern for our building and whether it was safe. I know that one advocate not only put the address of NSBA, which is a public address, that's fine, but they also took pictures of the building. And, you know, why would you do that? That's -- to me, that's a way to potentially send someone there.

Q Did you receive any, you know, direct threats to your safety?

A I received a lot of messages that were certainly intended to intimidate me or threaten me in general. The one that stands out I remember getting -- and I don't have a copy of it anymore -- it was, I believe, an email came in, and it referred to me as an insect or a cockroach -- I can't remember which it was -- and that when I walked out on the street, I would be squashed like a bug. That's an example.

There were a number of racial attacks also in a lot of the messages that we were receiving. Again, there were phone calls that came in as well. And our policy quickly became we set up a screening process so that staff weren't directly answering the phone. And, when appropriate, we reported it to the Alexandria Police Department and/or the FBI.

Q Okay. And can you talk a little bit more about that? When was it appropriate for you to report it?

A Generally, I had two people, our communications director and the

gentleman that sort of ran our technology in the administration of the office, that would look at things that came in. They often would share them with me. Again, I didn't see everything.

And we would talk about when it reached a certain level of -- and often it may not be -- maybe it wouldn't lead to a crime, but it could be. I know there was one message I was very concerned about, and I don't remember now the full scope of it, but it referenced President Biden. And I remember specifically saying, We need to either call the FBI or the Secret Service about this. Again, they should just be aware of this, of this particular letter.

Q I'm sorry. It was a threat of harm against the President?

A It was -- I can't remember the full -- it was alarming to me, let me put it that way. So it was enough of a -- it was a message that alarmed me to the degree that I thought someone should be aware of it. And I can't remember if it was signed or not by someone or if it was anonymous. We got a lot of anonymous -- I remember getting emails that -- trying to figure out who actually sent it, and they had clearly used -- I mean, not just created like a gmail account, but they had gone to, like, some email services that guarantee you'll never be traced.

Q Okay.

A And so when someone does that, you have to wonder why they're going to that length to do it.

Q And did you go, or did you feel the need to go and check the case law to see if it would qualify as something worthy of law enforcement attention, or was your reaction that you should bring it to the attention of law enforcement?

A It was my reaction, and having worked in government as well.

Q And there's no requirement for you to go and check the case law --

A Right.

Q -- correct?

A I didn't have time to go do that, to be honest. And having -- you know, again, I had worked in government. I had seen troubling messages before and when you should report and when you would not.

I can tell you that when I was in the Governor's office that the State police detail, the executive protection unit always wanted you to tell them about something that bothered you. And then it was up to them to figure out if it was a real threat or not --

Q Right.

A -- or something that eventually they would go back to. It was the trigger -- the start of threatening behavior.

Q So it wasn't your job to figure out if it met the statutory requirements. It was you referred it because you were --

A Right, I wasn't an investigator.

Q And you're not a law enforcement officer?

A That's correct.

Q I want to move on.

We talked in the last round a little bit about some of the incidents cited in the letter, and I think some of these were in the letter and some of them maybe were not in specific detail, but I think it goes to the climate that you were facing.

Do you recall attending an event in Louisville, Kentucky, in August 2021 at which people expressed concern about threats directed toward members of school boards?

A Yes. It was an event, though, that we actually canceled the day before. So there was a smaller group there. I was there with three of the four officers and a couple of other board members.

Q What was the purpose of that event?

A It was a couple of things. So it was going to be the first in-person meeting of the full NSBA, and then it was going to move into something called the Summer Leadership Conference in which other State association officers would be coming in. You know, you would have training sessions and speakers and things like that. But, unfortunately, the COVID spikes hit, and the day before we were forced to cancel. I was already on the plane when we were likely going to cancel.

Q Okay. And can you describe what happened at that meeting?

A We canceled the in-person meeting altogether. We had a virtual board of directors meeting, and we had a virtual delegate assembly. And I mentioned this earlier. This is the local school board members who have been selected to set the policies and beliefs for the organization, and also, they elect officers at a different meeting.

Q Okay. And was there discussion about school board members concerned for their safety at that meeting?

A There was -- the first night that I was there, I had dinner with three of the four officers and the wife of Frank Henderson, who was also there. We talked about it that night at dinner, as I recall. At least, I'm pretty sure we did. I know we talked about it that week.

During the actual NSBA board meeting, I know at least during my time when they were in executive session, I brought up -- I brought up a number of concerns, but I brought up the fact that the climate and the threats were concerning to me. And then I don't remember if I addressed it during the delegate assembly event or not. I might have alluded to it, but I don't have the transcripts from that. I can't remember.

Q I want to introduce as -- moving on -- as exhibit 28 an email chain between you, Charlie Wilson, Viola Garcia, Frank Henderson and Kristi Swett, which was dated

December 8, 2021.

[Slaven Exhibit No. 28

Was marked for identification.]

BY [redacted]

Q Near the bottom of this email chain there's an email from Charlie Wilson on December 8, 2021, forwarding an email from earlier that day.

Who is Charlie Wilson?

A So Charlie Wilson was the past president at the time of the National School Boards Association. His term had ended, and he remains as an officer as a past president. He was also a member of the school board in Worthington District, which is in the Columbus area.

Q Okay. And Mr. Wilson forwarded an email from earlier that day, and in that email, a Dr. Trent Bowers, who's the superintendent of the Worthington School District, says: "We received the attached mail this afternoon. It is addressed to me on the envelope. Addressed to Ms. Hudson inside the letter. My understanding is that Dublin received the same letter addressed to the Superintendent on the envelope and Ms. Hudson on the same letter. You may want to make a report to law enforcement."

Do you recall reviewing the letter that was attached to this email?

A I do.

Q Okay. The letter wasn't actually included in the NSBA's exhibit -- or the NSBA's appendix, but Worthington School Board Member Nikki Hudson posted the letter to her Facebook account on February 7 of 2021, and I would like to introduce that into the record. This is going to be exhibit 28 -- 29. I'm sorry.

[Slaven Exhibit No. 29

Was marked for identification.]

BY [redacted]

Q Can you read the first line of the first paragraph?

A "We are coming after you and all the members on the Washington BoE."

Q I'm sorry. I think maybe it's --

A I thought you said the first paragraph.

Q Sorry. It says Worthington.

Mr. Rybicki. You misread the sentence.

The Witness. Oh, I did? You were talking about right after Ms. Hudson, correct?

BY [redacted]

Q Yeah. I think it says the Worthington Board of Education, not the Washington Board of Education.

A Oh, I'm sorry. Bad eyes. Yes.

"Ms. Hudson, we are coming after you and all the members on the Worthington BoE."

Q And then what's the next sentence?

A "You all should be tried for treason against the people of America."

Q Can you describe your reaction to this letter?

A Well, it was troubling, and that would be an understated assessment of my reaction.

This was the same day I had learned about the Proud Boys' involvement. And so, then I get this and it -- you know, it just bolstered my concerns about what was going on. I was very, very troubled over this letter. It was one of those letters that it's close to crossing the line. It may not have crossed the line, but it was close enough that I recommended that they contact the local police. And I think I said something along the lines of, When I worked in government, I would absolutely be contacting the State police.

[2:30 p.m.]

BY [redacted]

Q And the last line of the first paragraph reads --

A Sure.

Q Go ahead.

A "You are forcing them to wear a mask for no reason in this world other than control and for that you will pay dearly."

Q How did you interpret "pay dearly"?

A I interpreted it as it was making a threat without being specific as to the threat.

Q Okay.

A So, again, I was very concerned about this.

For a school board -- I've seen a governor get a letter like this on occasion. But to see a school board member get a letter like this, it's really concerning.

Q Okay. And you recommended that they contact local law enforcement.

A Yes, I did.

Q Okay. And you didn't check the statute, right, to see if this qualified as a true threat. Your reaction was you should contact law enforcement to see if this is a threat.

A Yes. I believed it was threatening enough that it should at least be reported.

Q Okay.

[redacted] We have about 10 minutes left.

Do you have any questions you would like to ask, sir?

Mr. Johnson of Georgia. Yes.

When you wrote your -- the NSBA letter to President Biden on September 29th, 2021, it was the result of reports from local school boards across the country that you had received which talked about the threats that were incoming from people appearing at local school boards. Is that correct?

The Witness. It was -- it came actually from a variety of sources. So some of it actually came from the media. They were doing a number of stories about school reopening. A lot of reporters off record would say: Are you aware of this? Are you concerned about this? Some of it started there.

We heard about it. I went to Utah for a retreat of all the State association executive directors. We heard about it there. I had a school board member call me about his kids, which I've talked about earlier, that someone passed around a picture of them at a meeting. And then I started looking more myself into the issue overall.

So it was sort of a combination of things that led to it. And I think one of the other really important things was hearing about it from organizations that represented other education leaders. So I was hearing about it from the high school and middle school principals association, elementary school principals, the teachers organizations, and even I believe the PTA was on some of those calls in which it came up.

It was coming up -- it just kept coming up more and more and more and more.

Mr. Johnson of Georgia. In what States do you recall specifically?

The Witness. A number of States. Obviously, we've just talked about Ohio. There were incidents, as I recall, that were very, very troubling in Florida, in California, in Idaho, as I recall, Nevada, Arizona, Pennsylvania. There were a number of troubling issues there. North Carolina.

And I think there were some instances occurring everywhere. It was worse,

obviously, in some places than others.

Mr. Johnson of Georgia. Even in my home State of Georgia.

The Witness. Oh, yes. Actually, Gwinnett County, Georgia. I'm glad you brought that up. We refer to them in our letter to a school board meeting, as I recall, being closed. But what is not in that article is that two of those school board members got significant threats -- and potentially racially motivated -- that occurred after that.

So, yeah, there were definitely problems in Georgia in places.

Mr. Johnson of Georgia. And, of course, this was happening just months after the January 6th insurrection. Is that correct?

The Witness. It was coming in the aftermath of that, yes, sir.

Mr. Johnson of Georgia. As you were getting these reports from various sources about disruptions and threats at local school board meetings in numerous States in the Union, did you have reason to suspect that all of this was unrelated?

The Witness. I believe --

Mr. Johnson of Georgia. Let me --

The Witness. Oh, I'm sorry.

Mr. Johnson of Georgia. Let me fine-tune that question.

Did you believe that the threats coming in to these local school boards were connected in any way, or were they disconnected?

The Witness. I believe they were connected in the sense of some of the issues that were triggering the threats, obviously, were. There was a series of things. I would say there were issues over masks and COVID. There were certainly issues over racial policies in the schools. Critical race theory has come up a lot. Transgender issues.

And what I think you're asking me is did I see some type of coordination potentially around it. And I was concerned about that greatly, yeah.

Mr. Johnson of Georgia. You were aware of various national groups that were behind some of these initiatives, like anti-masking, that kind of thing, critical race theory?

The Witness. Yes, I was aware of that.

Mr. Johnson of Georgia. That there were national groups that were involved in those movements against local school boards?

The Witness. Certainly. There was organizing going on by many groups like that. They, of course, can organize. That's appropriate.

But what we were concerned about was the rhetoric that was being used and creating false narratives and then that would lead someone who may believe it to then do some -- take some drastic action.

Mr. Johnson of Georgia. So did you believe that there could be some coordination between individuals affiliated with various groups?

The Witness. I was concerned that individuals affiliated with groups, such as the Proud Boys, may be organizing around it, and then that's ultimately what -- again, that was the final straw for me, when I learned Proud Boys had started showing up at meetings and then were showing up at a school, marching on the school, forcing a police lockdown.

And that was really concerning to me because of their track record in Charlottesville with the activity there, the activity they undertook in the streets of many cities like Portland, Oregon, where they committed multiple acts of violence, well-documented, and then their role, obviously, we have now seen in the attack on the Capitol on January the 6th.

So I was real concerned about that group in particular.

Mr. Johnson of Georgia. So as the interim director of the National School Boards Association, a private organization, you being a private individual, but you were

advocating for -- and in your capacity as interim director you advocate for policies and practices that benefit children and school systems and their employees. You were concerned about this threat environment that you've just described, which is why you wrote the letter dated September the 29th, 2021, on behalf of the organization to President Biden?

The Witness. That is correct. We were concerned over the school board members, the educators. And, of course, the students are who they represent, and the parents of the students, in fact, I would add.

Mr. Johnson of Georgia. Thank you.

The Witness. Yes, sir. Thank you.

[redacted] Okay. We can break now. We can go off the record.

[Recess.]

[redacted] It's 2:44 p.m. We'll go back on the record.

BY [redacted]

Q Mr. Slaven, was October 4th the first time that you spoke with anyone from the Department of Justice?

A Yes.

Q And that was through the form of Anthony Coley reaching out to you via email. Is that correct?

A Yes, asking if I was available for a call.

Q And did you have a call with Mr. Coley?

A I did.

Q And how long was that call?

A It was fairly short, certainly under 10 minutes. I think probably more like 5 minutes.

Q And did anyone else from the Department of Justice join that call?

A Yes, and her name is escaping me, but there is an email. She's the one that later sent the -- I think the press release and the memo.

Q Alivia Roberts?

A Yes. Thank you. Alivia Roberts. She was also on.

Q And what did Mr. Coley discuss with you on the call?

A Well, obviously, I was quite curious what he was going to say, because I didn't know beforehand. But he indicated that he had been with the Attorney General when he had emailed me and that they wanted to make me and the NSBA aware that he was issuing a memorandum in just a short time to come that afternoon. And he thought we needed to know about it because he knew that we would be asked about it because it was certainly referencing things we had brought up in our letter.

And then he thanked me for my leadership and said that this was an important national issue and that, obviously, they had concerns as well.

Q And Mr. Coley told you that the Attorney General had just been with him, correct? The Attorney General was not on the call?

A No, he was not on the call. I've never spoken to the Attorney General.

Q And so when did you receive the Attorney General's October 4th memo?

A Shortly after the phone call. I don't remember the precise -- when the call came in and when the -- when it was sent. And then I believe it went out publicly a short time after that.

Q And did Mr. Coley and Ms. Roberts discuss with you any of the efforts the Department of Justice was taking in regards to local school board-related investigations?

A What I remember was -- I don't know that he -- he didn't read me -- he generally said, as I recall, they were going to coordinate meetings with the local -- with

the U.S. Attorney's Offices and the FBI and local State police officials to talk about the issue to see if there was a way that they could help.

And he mentioned there was going to be some kind of task force, but I don't think he went into little or much detail about that. And I thanked him and said let us know if we can support the efforts.

Q Did you discuss the substance of the September 29th letter with Ms. Roberts?

A No. No. Not the substance of it, no.

Q Did Mr. Coley or Ms. Roberts ever express to you that the Justice Department had concerns about the inclusion of the PATRIOT Act language in your letter?

A That didn't come up.

Q Okay. And you said that they discussed kind of the substance of the Attorney General's memorandum?

A Well, the general, the gist of the memo, as I read it, was that they were going to have meetings. And I can't remember if the memo mentioned the task force. I think it does or the press release did.

Q And did Mr. Coley or Ms. Roberts discuss with you what due diligence the Justice Department had performed regarding the letter that they received or the Biden administration received?

A No, but there was no reason they would have gone through that with me.

Q And then they told you that they would provide you with an advanced copy of the Attorney General's memorandum. Is that correct?

A They were going to provide me a copy, but they also said it's going out in just a little while. So yeah.

Q Did you also receive the accompanying press release with the --

A I can't remember, to be honest. I might have. I might have received both.

Q Okay. Because there is an email between you and Ms. Roberts that says: "I will" -- or, excuse me, you and NSBA staff after you received the memo from Ms. Roberts saying: "I will forward the press release in just a minute."

A Again, I don't remember if I got that separately or not. I actually learned that it was public a short time later from our communication staff who had seen it. But I don't remember -- I can't remember the complete timeline there. It was a really busy day with everything going on.

Q Just in general with the Attorney General's memorandum, or you just had a busy day at the NSBA?

A Dealing with everything, yes. That was -- the memorandum was just a very small item.

Q Do you have any reason or any evidence to suggest that the Department of Justice did any due diligence?

A Again, we didn't discuss that, but my hope would be that the reason they were taking the action was they were seeing the same trends that we saw and the principals saw and many others saw.

Q Does it concern you at all that your letter came September 29th of 2021 and the Department of Justice was marshaling all of the Federal law enforcement apparatus to look into threats against school board members just a few days later, 5 days later?

A No, because you're missing some very important context.

Q Okay.

A Number one, September the 16th, the National Association of Secondary School Principals wrote a Federal request on this very issue. They actually had their members, by the way, in addition to that, they had an action network where they were

encouraging their members to write the President and Members of Congress on the issue. I don't know how many went, but that's text message blasts and email blasts.

And then if you look at the -- again, we had issued the statement the week earlier, the public statement, with AASA. The Governor of California had been written by the California School Board Association. The North Carolina School Board Association had written a letter to, I believe, the Governor and the legislature on various issues related to it.

And then you tack on to that all of the incidents that were being publicly reported. There was quite a bit that went on. I'm sure our letter helped and contributed to it, but I believe that they had been looking at this for quite a while.

It's what I suspected, having worked in State government, and you're seeing a trend like this, that they're probably talking quietly about it, is there's something happening here.

Q So in your opinion, the Attorney General didn't need to do any other due diligence? It was just okay to rely upon the letters that were sent by educational organizations and public reporting?

A No, that's not what I said. You're kind of putting words in my mouth.

Q Okay.

A What I said was there were a number of things. There were letters. There were press stories. There were accounts that FBI offices may have heard about. There's a whole wide range of information I would expect them to have looked at.

So it wasn't just our letter. Again, it's a fair -- it's fair to consider it as a factor, but certainly it was not the only factor.

Q So you would have expected the Department of Justice and the Attorney General to do some modicum of due diligence before releasing the memo.

A I would expect that they were seeing the same trends we were.

Q And other than the phone call and subsequent emails on October 4th, did you have any other communications with the Department of Justice?

A The only thing that I recall was I think it was 2 days later I actually emailed Anthony Coley. We were really -- the messages we were receiving were becoming very troubling as an organization. We were receiving now the same messages that school board members were receiving.

And I emailed Anthony Coley to sort of ask him if we should be using the same procedure that school board members were using with the FBI. I mentioned that we were contacting, obviously, our local Alexandria police department first. And he responded with what I thought he would: Yes, use the same mechanism.

But I also sent him that message because I wanted them to be very aware the level was increasing on us now as well. And that's why I sent that email. I remember specifically why I sent it.

Q I'd like to mark as exhibit No. 30 the Department of Justice's October 4th press release that accompanied the Attorney General memorandum.

[Slaven Exhibit No. 30

Was marked for identification.]

BY [redacted]

Q Mr. Slaven, have you seen this press release before?

A I haven't seen it in a long time. I think when it came out I probably read it, though.

Q Okay. I want to direct your attention to the third paragraph. During the last hour my colleagues discussed the Attorney General's memo and whether it included the National Security Division or not. So I'll read paragraph 3 to you.

"According to the Attorney General's memorandum, the Justice Department will launch a series of additional efforts in the coming days designed to address the rise in criminal conduct directed towards school personnel.

"These efforts are expected to include the creation of a task force, consisting of representatives from the Department's Criminal Division, National Security Division, Civil Rights Division, the Executive Office for U.S. Attorneys, the FBI, the Community Relations Service and the Office of Justice Programs to determine how federal enforcement tools can be used to prosecute these crimes, and ways to assist state, Tribal, territorial and local law enforcement where threats of violence may not constitute federal crimes."

Does the press release have the word "National Security Division" in it?

A You just read it, yes.

Q And then I want to turn back to some other exhibits that we've kind of been looking at a lot, the email that was marked as exhibit No. 5 and the NSBA September 29th letter marked as exhibit No. 16. I'd refer you to page 2 of both of those exhibits.

A You said the letter?

Q The letter, yes, No. 16 and No. 5.

On page 2 of each, the National School Boards Association requested the inclusion of the National Security Branch. Is that correct?

Mr. Rybicki. Take your time.

The Witness. Well, in the second paragraph we asked for the Department of Justice, the FBI, Department of Homeland Security, U.S. Secret Service and its National Threat Assessment Center, which tracks things related to schools and school boards.

[redacted] And then in the last paragraph on that page?

Mr. Rybicki. What's the question?

The Witness. Yeah, what's the word? I'm sorry. What are you looking for?

BY [redacted]

Q The National Security Branch.

A Oh, yes. It says --

Q Did the letter request --

A Yes. Yes. Technical assistance.

Q From the National Security Branch.

A Yes.

Q Correct? Okay.

Mr. Rybicki. Well, previously, you were asking him about the National Security Division at DOJ.

[redacted] Uh-huh.

Mr. Rybicki. And now you're asking about the National Security Branch of the FBI. They're two different things.

[redacted] But the National Security Branch, correct? The letter asks for the National Security Branch.

Mr. Rybicki. Sure, but you were asking about National Security Division earlier, and you asked about National Security Division about paragraph 2.

[redacted] Okay.

Mr. Rybicki. I just wanted to make the record clear that they're two completely different entities.

BY [redacted]

Q And so the press release then creates this task force with the FBI, which includes the National Security Branch and the National Security Division of the Department of Justice. Is that your understanding of the press release?

A That's what it looks like it says.

Q Okay. Are you aware that the FBI created a threat tag to track school board-related investigations?

A Only through the media.

Q Well, as exhibit No. 31, we will enter the FBI October 20th, 2021, email creating the EDUOFFICIALS threat tag.

[Slaven Exhibit No. 31

Was marked for identification.]

BY [redacted]

Q Are you ready?

A Uh-huh.

Q So I'll read from the third paragraph of this email. It says: "As a result, the Counterterrorism and Criminal Divisions created a threat tag, EDUOFFICIALS, to track instances of related threats."

Mr. Slaven, in your September 21st email and the September 29th letter, did you request the assistance of the Counterterrorism Division of the FBI?

A We requested -- in the bullet I wrote, I included -- it says, "including any technical assistance necessary from, and state and local coordination with, its National Security Branch and Counterterrorism Division, as well as any other federal agency with relevant jurisdictional authority and oversight."

Q And on page 2 of the letter, the bottom paragraph?

A Yeah, it says it there as well.

Q Are you aware that the FBI opened at least 25 investigations using the EDUOFFICIALS threat tag?

A Only through media accounts.

Q And are you aware that the Attorney General testified before the House

Judiciary Committee and Senate Judiciary Committee in October and stated that the NSBA's letter was the basis for his October 4th memorandum?

A He, as I recall -- I don't have his quotes in front of me -- he mentioned that it was a factor, is how I interpreted it.

Q At any time, did you have any concerns that the Attorney General was using the NSB letter as the -- NSBA letter, excuse me -- as the basis for his memorandum?

A No. I considered it a factor along with many other things.

I think the basis for it was it was actually happening, the actual incidents and threats, not the reporting of them, necessarily.

Q Did it concern you at all that the use of the Criminal Division and the Counterterrorism Division of the FBI to investigate individuals and parents that might show up at school board meetings could chill protected First Amendment activity?

A Well, I think the memo and the press release don't call on investigating parents or individuals. The focus, as I understand it, was on actual threats by whoever was making them. And so I didn't have a concern.

Because the memorandum in particular, I think the Attorney General went out of his way to say that's not what they were doing. It's very, very clear. And our letter I think was also clear on First Amendment protection.

Q But the FBI did investigate First Amendment activity. Are you aware of that?

A You'd have -- I don't -- I'm not aware. The FBI doesn't inform me about their investigations. So I couldn't tell you what they're investigating. I would assume that they are not investigating something that's solely a First Amendment-protected activity.

[Slaven Exhibit No. 32

Was marked for identification.]

[redacted] So I'll enter the May 11th, 2022, letter sent by Mr. Jordan to Attorney General Garland as exhibit No. 32. And it's a long letter. I direct you to page 2. I'm going to read from the bullet-pointed material.

Mr. Rybicki. I'm sorry. This was which exhibit?

[redacted] No. 32.

The Witness. And I'm sorry, which bullet?

[redacted] I'm going to read all three of them.

The Witness. Okay.

Mr. Rybicki. Can you give me a second to review this?

[redacted] Please.

Mr. Rybicki. Let us know when you're ready.

The Witness. I'm ready.

[redacted] Okay. So on page 2 of the letter there are a couple or three bullet points of information, and this describes information we received from whistleblowers regarding EDUOFFICIALS threat tags investigations.

The first bullet point reads: "In one investigation begun following your directive, the FBI's [redacted] Field Office interviewed a mom for allegedly telling a local school board, quote, 'We are coming for you,' end quote.

"The complaint, which came into the FBI through the National Threat Operations Center snitch-line, alleged that the mom was a threat because she belonged to a, quote, 'right wing mom's group,' end quote, known as 'Moms for Liberty,' and because she is, quote, 'a gun owner,' end quote.

"When an FBI agent interviewed the mom, she told the agent that she was upset about the school board's mask mandates and that her statement was a warning that her

organization would seek to replace the school board with new members through the electoral process."

Did you intend for the NSBA letter to kind of be the impetus for the FBI investigating this type of activity?

The Witness. Well, there's a lot of context that's not listed here. For example, what else was said in the investigation? What led to it? What were -- you know, the quote here, "We are coming for you," what came before or after it?

So it's very hard to answer a question like that based on this. There could be way more context to it. And so this could simply be an FBI agent interviewing someone, asking about a statement, and then moving on if there is nothing to it would be appropriate.

But this is -- I don't have any context for this. If you can give me more, I'm glad to offe[redacted].

But if she's talking about coming for the board members via the electoral process, is that protected First Amendment activity?

The Witness. If she said that, yes.

Mr. Rybicki. Hold on. You've had several questions now about his opinions about whether something is First Amendment-protected speech. He's here to talk about the -- as you indicate in your letter, you had questions for him about the September 29th letter.

And so I just want us to enter an objection for the record that I think it's inappropriate for you to be asking him about legal conclusions and his opinions about what sp[redacted]or may not be protected by the First Amendment. Okay.

BY [redacted]

Q The next bullet, it says: "The FBI's [redacted] Field Office opened an

investigation, subsequent to your directive, into a dad opposed to mask mandates. The complaint came in through the National Threat Operations Center snitch-line and alleged that the dad 'fit the profile of an insurrectionist'" -- that was in quotes -- "because he, quote 'rails against the government,' end quote, 'believes all conspiracy theories,' and, quote, 'has a lot of guns and threatens to use them,' end quote.

"When an FBI agent interviewed the complainant, the complainant admitted that they had 'no specific information or observations of...any crimes or threats,' but they contacted the FBI after learning the Justice Department had a website to, quote, 'submit tips to the FBI in regards to any concerning behavior directed toward school boards,'" end quote.

Does that concern you, that the FBI is using the NSBA's letter to go after dads?

A You can't make that conclusion from what you just read. This, to me, was someone contacted to make a tip on a potential threat they believed might be a problem. The agent then talked to the complainant, the person who had made it, and then determined there was nothing to it.

So I think this is completely appropriate under those situations -- under these circumstances.

Q But does it concern you at all that the Department of Justice used the NSBA letter to open investigations like this?

A There is no evidence that you just read through that the Attorney General used our letter to open up an investigation.

This is a tip line, by the way, not a snitch line. It's a tip line that's been around for a long time that someone could have submitted a tip prior to this.

So, no, I don't have any concerns over that because I don't believe that's what happened.

Q Even though the Attorney General testified that the NSBA letter was why he issued the October 4th memorandum. Following the October 4th memorandum, the FBI, to effectuate the Attorney General's directive, created a threat tag, EDUOFFICIALS, on October 20th, 2021.

Mr. Rybicki. What was the question? Could you repeat the question?

BY [redacted]

Q Yeah. I'm saying does it concern you that the NSBA's letter was used by the Attorney General and the Department of Justice to open investigations like this? And I was just walking through the timeline.

A Well, again, there's no evidence that our letter was used to open specific investigations. This was someone that gave a tip believing there was a problem.

But I would also point out that the Attorney General testified before the Senate Judiciary Committee several weeks ago. He had an exchange with Senator Kennedy about this issue in which he stated that the NSBA letter was a factor, not the factor.

Q But a factor. Is that correct?

A A factor.

Q And the third bullet: "In another case initiated after your directive" -- the Attorney General's directive -- "the FBI's [redacted] Field Office opened an investigation into Republican state elected officials over allegations from a state Democratic party official that the Republicans 'incited violence' by expressing public displeasure in the school districts' vaccine mandates. This complaint also came into the FBI through the National Threat Operations Center snitch-line."

Should the FBI be investigating political discourse?

A Again, without further context, you're, I think, jumping to conclusions about what happened here. I'm sure there was more to this.

I seem to recall this maybe being in the media. There may have been more to it. But, again, it's the National Threat Operations Center tip line, not snitch-line.

And it doesn't say that there was any action taken to violate that elected official's position. It just says it was a -- someone made a phone call.

You know, if you were suspicious about something, you could call the local police, and they may determine we don't think there is anything to it, or they may think there is something to it.

So just I think this is really out of context to be able to answer a question like that. It's a leading question in my opinion.

Q Did anyone at the NSBA ever raise concerns about the October 4th memo from the Attorney General?

A Not within the organization itself. The only concern that might have been raised was that it upped the attacks on us.

Q On the NSBA?

A Yes. But I took it as a positive development because it was a positive development. It was a good result. It was we're going to talk to local and State law enforcement about this issue. We're going to have meetings. And if it leads to nothing, it leads to nothing. And it's just, again, we're talking with each other, government talking with other entities in the government about what could be a potential problem.

It's like flood mitigation. You take steps to prevent floods so that if there is a flood, the damage isn't as serious. And so that's how I took all of this.

And, again, if you read that memo, it goes out of its way talking about the -- I'm not here to defend it, but I'm just saying it's black and white letter language in the memo itself and in our letter.

Q And in addition to the Department of Justice reaching out following the September 29th letter, the Department of Homeland Security also reached out. Is that correct?

A They had reached out early. They may have reached out as early as the day after the letter went. I can't remember exactly. They reached out, and I think it was a -- they were seeking just let's talk about the issue.

Q And they initiated the conversation between the NSBA. Is that correct?

A Yes.

Q And you directed NSBA's staff to proceed with scheduling a meeting. Is that correct?

A Yes, as I recall.

Q And in the NSBA report, it says that the meeting that was scheduled never took place. Is that your understanding?

A I'm not sure that's accurate.

Q Okay. Tell me more.

A Yeah. And there were a couple things that Homeland Security -- there is one briefing I know that took place, and it was -- but it wasn't just to NSBA. It was to other organizations as well. It occurred probably 2 weeks after our letter had gone, and it was a number of Homeland Security officials. Secret Service was involved.

And it was simply we're going to tell you what we're hearing and seeing around public school threats. And so, as I said, there were other organizations on. There were a number of people from our organization on. We reached out to our State associations and let them know about it. I know that we had a few of our board members on it. I listened. I did not make any comments in it.

And they walked through. They had several speakers. And as I recall, the only

thing that I remember that I think would be important was that one of the officials, I don't remember which one because I don't remember the names of them, but indicated that they had been hearing from local law enforcement that, yes, there was a rise in concerns around public schools and school board members and teachers and principals. So they were seeing exactly what we believed was occurring.

Q And when you say "they", was that the Department of Homeland Security?

A In conjunction with their State and local law enforcement partners they had reached out to. I don't know who all that was.

Q Okay.

A But I remember it was -- once again, it was sort of reaffirming them that, yeah, we were right. We were correct. This is real. This is really happening.

Q And when did that briefing occur?

A I don't remember the date. I'm sorry. It was probably the second full week of October maybe, but I can't remember for sure. So I just want to make sure that's clear. I don't remember exactly when it was.

Q So when was -- when do you think your last communication with the Department of Homeland Security on public school threats was?

A I might have gotten emails and things after that. We -- I believe -- the reason I said I think the report may have been inaccurate saying the meeting never took place is I think that meeting may have eventually taken place. And I only say that because I referenced a meeting that I was getting ready to go on to a Homeland Security call in a text message I shared.

And, again, I can't even remember if I ended up staying on the line for the call. I think I either was waiting and then had to jump off for the call the person was texting me about, which was really important, I had other staff that were going to cover that call; or I

thanked them in the beginning and said: I'm stepping off now, I have staff on the call that'll cover it.

And that's all I remember about it. And, again, I think that was what the reference I made to in my text message.

Q And then following the September 29th, 2021, letter, Dr. Samuel at the Department of Education emailed you on October 6th, 2021. Do you remember that?

A I think if it's the email I think it is. I would have to look at it, but --

Q And in that email, she kind of asked how you were doing. Is that correct?

A Yes.

Q Is that what you recall?

And when was your last communication with Dr. Samuel at the Department of Education?

A I don't remember exactly. That particular communication, though, I took it that she was concerned for my well-being.

Q Okay.

A Because of what I was going through personally.

Q And did you have any further conversations with the Department of Education following the October 6th email regarding the letter?

A We were on communications with the Department of Education on a regular basis. So I can't -- I'm sure there were communications, I can't recall them, and I don't have access to all those emails.

Q Specifically related to school board threats?

A I don't recall any, but there might have been some. Other staff also may have taken them.

Chairman Jordan. I was going to ask the same line of questioning. Is your last

communication with Mary Wall at the White House this email chain?

I don't know what exhibit. If you can find this, [redacted]

[redacted] It's exhibit No. 60. We can enter it.

[Slaven Exhibit No. 33

Was marked for identification.]

Chairman Jordan. Okay.

Is that your last communication, or did you have subsequent communications with Ms. Wall?

Mr. Rybicki. Hold on. Let them show you the email they're talking about first.

The Witness. Yeah, I'm not sure what email we're talking about.

Mr. Rybicki. Make sure we get the right email.

And this is 32?

[redacted] 33.

Mr. Rybicki. 33, sorry.

Chairman Jordan. Let me back up a second, Mr. Slaven.

Did your board support the September 29th letter? Were they in full support of it?

The Witness. The four officers were in full support of it.

Chairman Jordan. Full support? They'd reviewed it?

The Witness. The four officers had, all of them, and they all approved it in email communications. And that was unusual because letters like this typically were not shared with the board, and it wasn't their role to approve letters or communications to the legislative or executive branches. That was the CEO's job.

Chairman Jordan. All four supported it, and Ms. Garcia signed it?

The Witness. Yes.

Chairman Jordan. And she's on the board as well?

The Witness. She's the president.

Chairman Jordan. President of the board. So the two of you signed the letter, if I remember correctly?

The Witness. Yes, our signatures went on the letter.

Chairman Jordan. And is it fair to say that the Biden administration was in support of your letter?

The Witness. At the time we sent it, I didn't know what their position was. I'll be honest, when I sent the letter, I wasn't sure what reaction we would get.

Chairman Jordan. But, I mean, [redacted] just went through a series of questions, and basically they followed what you and Ms. Garcia outlined in that letter that your board supported. They basically did what you requested in the letter. Is that accurate?

The Witness. Well, they undertook, I would say -- I would call it threat assessment. And working with local and State law enforcement, we certainly wanted that to happen.

Chairman Jordan. Yeah. So they were, it seems to me, in pretty strong support. Based on the testimony of the Attorney General in both the House and Senate, it seemed to be -- indicate that it was at least a part, I would argue a big part based on the answer he gave me in a hearing or gave to our committee in a hearing, a big part of why they put together the apparatus they did for threat communication and all this.

Let's go to this exhibit then, if we can. So I think it starts on the 5th. "Hi, Chip. Can I grab a phone number for you and for your president?"

So the White House wants, specifically Mary Wall, wants your number and Ms. Garcia's number. Is that right?

The Witness. That's right and I provided it.

Chairman Jordan. And then you provided it right away. It looks like it was just a few minutes later, about 18 minutes later, you sent an email back with those numbers.

The Witness. Yes.

Chairman Jordan. And the reason they wanted those numbers is because it looks like the next one, that the President was going to call you guys. Is that right?

The Witness. I didn't know if that's what was going to happen. I suspected maybe that could happen. But I also thought it could be Mary Wall wanting to call us both in some regard to what was going on as well.

Chairman Jordan. Okay. So then: "Thank you," she says. And then you say: "Will try to call." No, then she follows up with another email: "Will try to call this afternoon/this evening. Feel free to give Dr. Garcia a heads up as well."

Did you give Dr. Garcia that heads-up?

The Witness. I think I did, and I think I told her I thought Mary Wall was going to call. I think when I saw this next email, I thought maybe this is just Mary is going to call or someone else in the administration.

Chairman Jordan. Okay. So then a couple days later, Ms. Wall sends you another email: "I know I didn't call on Tuesday, but I think Dr. Garcia got a call from someone way better than me." So that was, I assume, a reference to the President.

The Witness. Yes. I had learned that that call had taken place.

Chairman Jordan. Did that happen on the 6th or 7th? Do you remember?

The Witness. The call?

Chairman Jordan. Yeah, the call from the President of the United States to Dr. Garcia.

The Witness. I am not sure, to be honest. I believe it was the day before, but

I'm not sure of that, sir. It might have been that day. So I don't want to give you a wrong answer. I don't recall for sure.

Chairman Jordan. And, again, back to my first question, was this the last communication you had with Ms. Wall?

The Witness. Without access to my emails, I'm not sure.

Chairman Jordan. Could it be the last one?

The Witness. Could it be?

Chairman Jordan. Do you recall any more recent ones?

The Witness. I think it's likely that she emailed me on other issues because she was dealing with a lot of the pandemic-related activities. And, again, I just -- I can't answer because I don't know. I don't remember.

Chairman Jordan. And did Ms. Garcia tell you what the President said to her on the phone call?

The Witness. She said that he thanked her for her leadership and he thanked the organization for the leadership. He discussed --

Chairman Jordan. Leadership in reference --

The Witness. Leadership in leading, in helping public schools.

Chairman Jordan. In general?

The Witness. Yes, general.

And he discussed how concerning things were in the Nation, and he wished we could all work better together and we could tone down the rhetoric. I recall her talking about that.

And then I think he said -- he offered if she was ever in Washington, since she doesn't live there, that she could stop by the White House. And she was actually going to be in town. She and I were speaking at an event later that week, but we were never

able to actually go.

Chairman Jordan. Was he thanking her for what you had brought to their attention, the letter that you and Ms. Garcia had sent to him as well, bringing those issues to his attention?

The Witness. Well, I wasn't on the call. So as I recall, my impression was he was thanking her for her leadership as a school board member, as a leader of a national organization, and in part in response to the attention we were calling around the threats.

Chairman Jordan. So it had something to do with the letter?

The Witness. Well, again, I wasn't on the call. Yeah.

I think he was thanking us for our leadership, and we were -- at the time, we were being very -- obviously, we were suddenly in the public sphere.

Chairman Jordan. Because it got some attention.

The Witness. It was getting attention.

Chairman Jordan. Okay. And then Ms. Wall says: "Please know we have your back."

What does that mean?

The Witness. I think at that point in time it was the rhetoric against us. It had turned on us, the National School Boards Association. And Viola and I in particular were getting a lot of off-the-wall messages and targeted attacks from various sources, and I think she was just saying you did the right thing and we'll support you where we can.

Chairman Jordan. Did they do that?

The Witness. I didn't ask them to do anything specifically to support me. So I don't --

Chairman Jordan. I didn't ask that. I said did they do -- did they have your back?

The Witness. Well, they had my back I guess in the sense of they took action around the issue we were concerned about. Personally, they didn't do anything to help me and I didn't ask them to.

Chairman Jordan. How about your board?

The Witness. What's the question?

Chairman Jordan. Did they have your back?

The Witness. Did my board have my back? In the end, many -- some of them did. In the end, I think the board made some rash decisions.

Chairman Jordan. Like?

The Witness. Like issuing an apology that shouldn't have been issued.

Chairman Jordan. You don't think there should have been an apology?

The Witness. Absolutely not.

Chairman Jordan. I asked you earlier about this final report that this law firm put together and your overall assessment of that.

The Witness. Well, I think where we left off, I had just answered the question about what my overall reaction was and I think they got the discussion on what happened with the Biden administration correct. I point specifically to a sentence that talks about direct and indirect evidence, and you can read it out. I don't remember the full scope of it.

You know, I think they pointed out there wasn't any request from the Secretary of Education, which I pointed out as well when I spoke with them. It was correctly pointed out that I had actually followed the procedures that had always been followed before. It didn't call it out like I would have liked. I think they really soft pedaled that.

And so in that sense --

Chairman Jordan. What about the rest of the report? Did you like that?

The Witness. I believe they left out things they should have covered.

Chairman Jordan. Well, they basically blamed you for everything:

The letter, however, was not authorized.

No one on the board of directors reviewed the draft except you.

The letter was principally directed, reviewed, and approved by Mr. Slaven.

I mean, I go through this -- I went through this the other day.

Inside the NSBA, evidence revealed limited knowledge about the drafting and existence of this letter except for you.

The letter was the result of 20 days of research and drafting by NSBA under the direction of Mr. Slaven.

I mean, everything in here is like you're the guy that -- you're the guy who was responsible for all this. And then they issued an apology.

It's clear Mr. Slaven made the decision to write the letter for the NSBA and to publicly make requests for Federal assistance.

And then in conclusion, I think, they said it just straightforward: Mr. Slaven was behind the letter, both in origin and substance.

So they blamed you for everything.

The Witness. This is where I mentioned I had some reservations or disagreement about the report itself. And here is my main concern with the report in terms of the internal NSBA issues.

The board of directors at NSBA didn't approve letters to the executive branch or the legislative branch ever, at least during my term there.

And they didn't even approve -- if we say, for example, Congressman, we were -- Mr. Chairman, we were commenting with the Federal Communications Commission on an issue. I did that a lot in my role. They didn't even review that kind of communication.

And that's because it was part of the policies and beliefs of the organization as voted upon by a delegate assembly, which were local school board members. It was a separate entity within the organization.

And so when I actually went through this process on this particular letter, I went above and beyond what normally was done by sharing it with the officers. I just decided I should share it. I had been talking about it. I wanted to get their opinion.

And they enthusiastically supported it. That's why -- I mean, they actually asked to put the president's signature on the letter, which didn't happen on letters like this.

Chairman Jordan. Well, then why did they reach this conclusion?

The Witness. Well, I think they --

Chairman Jordan. So here's what I see. Like, so first you talk to the White House and you give them examples. You reference using the Counterterrorism Division, you reference the PATRIOT Act in communications with the White House, even though the report says that the White House didn't sign off on anything or push for it ahead of time. They were getting access to that information ahead of time.

That is exactly the language that gets used in the memorandum from the Attorney General and in the press statement that goes out the same day. That all happens because of your letter that all four of your board members supported. One of them was asked to sign it and did. And the Biden administration says: Good work, we got your back.

And then when everything happens, they all just leave you hanging there. Is that fair?

The Witness. That's fair.

I would say the organization, the pressure, the political pressure that was exerted on the organization caused some of the board members to basically crumble under it.

And it's -- you know, when you're in a, again, you're in a leadership position and you take a stand you are going to sometimes have negative resistance. You know this. You serve in office. It's part of the job.

And one of the biggest mistakes that our board made was when they -- we quit talking about the letter, to be honest. You know, the Attorney General statement came out. We issued a statement that evening. I think there was a little media the next day. And then at some point, either late Tuesday or Wednesday, the officers said: We'd better stop talking about this, we're getting a lot of pressure.

And that created -- again, I couldn't talk about what happened.

Chairman Jordan. Let me ask a little more specific question.

The Witness. Sure.

Chairman Jordan. Did you have any conversation via email or phone or any type of conversation with Ms. Wall on this subject after the communication on Thursday, October 7th?

Mr. Rybicki. I didn't understand what you were referring to by "this subject." You pointed to something.

Chairman Jordan. The subject of the letter, the subject that -- you know, the letter that we're talking about and the subsequent actions.

Because she says on the 7th: "Chip, I know I didn't call on Tuesday, but I think Dr. Garcia got a call from someone better than me. Please know we have your back, and we're exploring every avenue we can. Happy to give you a ring tomorrow or over the weekend if you'd like to discuss further."

Did you have a call with her the next day or over the weekend?

The Witness. Not that I recall. I remember she left me a message to call her. It probably was going into that weekend. And I returned the call and she wasn't there

and we didn't connect over the weekend or on Monday.

My last conversation that I remember having with her was several weeks later, and she called me, and I think she was calling other education leaders on an issue related to COVID-19 and vaccinations.

Chairman Jordan. But not this particular --

The Witness. No. I think we referenced the letter, of course, as you would imagine. I think we talked about how crazy it had gotten.

But, again, I don't remember for sure. I think -- I believe after the apology was issued I tried to call her and probably left her a voice message, but I don't remember when and --

Chairman Jordan. Did she get back to you?

The Witness. No.

Chairman Jordan. She didn't get back to you?

The Witness. No.

Chairman Jordan. Okay. Thank you.

The Witness. And, again, that's what I recall. A lot was going on at that time period.

[Slaven Exhibit No. 34

Was marked for identification.]

BY [redacted]

Q So I want to talk a bit about the October 22nd memorandum. That was the apology. We can enter it as an exhibit, No. 34, so you can have it in front of you.

Are you ready?

A Uh-huh.

Q You said you did not support that apology. Is that correct?

A That is correct.

Q Do you know who drafted the apology?

A So remember I mentioned the Homeland Security call I referenced, and I had to jump off for another call?

Q Yes.

A So it was regarding we had brought on -- the board had brought on a public relations firm to assist with the messaging around all of this. And the first time I ever -- I had a chance to meet them, I was on a call with them, with our president-elect, Frank Henderson, who led this effort with I believe NSBA legal counsel -- I'll just leave it at that -- and with another staff member, Renee Joe, who was helping coordinate our communications efforts.

And in that discussion, we talked about issuing -- we had been --

Mr. Rybicki. So you're not going to talk about any discussion with counsel, right?

The Witness. Right, no. I just mentioned he was on the call. There was nothing protected in this call.

But in that conversation we talked about the fact that we had been silent for weeks at this point. We had lost the narrative completely. And, again, I had disagreed with that decision as well. I believe we needed to be communicating about what was going on.

And there were many false assertions about the letter from the -- you know, we didn't call parents terrorists, but we were being accused of it to that was the week, as I recall, all of a sudden they started saying we had -- the White House had written the letter or asked for the letter, which didn't happen at all.

And then we were dealing with internal questions over did the local school board -- State school boards association, they were denying they were aware a letter was

being sent when, in fact, I had emailed them and said a letter is being sent.

So we were dealing with all these issues, and I wanted a statement clarifying what we asked for in the letter and what happened, and it started out that way.

And I received some pushback from the PR firm when I said something about we have to get the facts out. I remember this very well. He said: Well, the facts just don't matter anymore.

Kind of a shocking statement. I think facts matter.

But they worked on a draft statement. It was not an apology. Some of the language is in there, as I recall. And we went -- I didn't like it, to be honest. I didn't think it was very good. I didn't think it was very strong. And they wrote back and said: We have another idea. We'll get back with you in a little while. This was between about 4:30 and 7 o'clock p.m. time frame.

And that night we were having a board of directors meeting. It was the first full meeting that I was going to be able to go to. It was going to be open, technically publicly. And so there were going to be some State associations on, NSBA staff was going to be on.

And then I didn't hear anything more from the PR firm, and they were going to be introduced as these guys are going to help us with this issue.

And so the meeting was opened, and they introduced the PR firm, and the PR firm says: We have drafted an apology.

And I immediately began texting Frank Henderson, who was leading this particular effort, saying: I can't -- why wasn't I told about this? I was the executive director of the organization and a member of the board, in the sense as a nonvoting member.

And he wrote back: Not enough time, or something like that. It's in the exhibits.

And then I began emailing or texting with the other officers while the meeting was going on, you know, pretty upset over what had happened. You know, I was sabotaged in a meeting in front of my staff, in front of the rest of the board -- who also didn't know about it, by the way.

I think the officers were informed shortly before, maybe the executive committee, but I don't believe many of the board members saw it prior to it showing up in a public meeting. It should have been discussed, at least in an executive session.

And then I read the language, and I thought it was awful. I didn't think it actually was an apology, if we were going to apologize, and I didn't think we had anything to apologize for. Clarify, yes, absolutely.

And I didn't speak during the public portion of the meeting. I waited until we went into an executive session and then I let my feelings be known very strongly.

Chairman Jordan. Who is all in the meeting?

The Witness. Mr. Chairman, it would have been -- so I don't know if all the board was on. Probably the majority of the board of directors.

Chairman Jordan. So those are the four we talked about earlier.

The Witness. Four officers and then there's another 20-plus members.

Chairman Jordan. Okay. From around the country?

The Witness. Yes. I'm on it as a nonvoting member, but I'm on it. There is a representative of the State association, an executive director. She's a nonvoting member.

And then this particular meeting there were other NSBA staff on it. There were also then -- again, there were folks from State school board associations that had been informed about it, executive directors and officers.

I'm not sure everyone that was on it, but it was, I would consider it, a pretty open

meeting. So --

BY [redacted]

Q And you said the PR firm was hired by the board of directors, correct?

A Yes.

Q So is it fair to say that the board of directors via the PR form who wrote the apology were going in a different direction that you would have liked to go?

A I was fine with hiring a PR firm and had made a recommendation I think of one. I think Renee Joe had made a different recommendation, and they went with another one, which was, again, fine.

But, yeah, I felt the direction that we needed to go was to get aggressive again on what we were trying to do and explain, at least to our members, why we did this. And many of our members understood completely why we did it, you know, the idea that everyone was against it isn't really true.

But the pressure, though, built over time, and we were silent. We weren't defending ourselves. And that really lead to -- and I will tell you what I also believed. I believed an apology would only -- I said something in my NSBA interview like it would be like pouring gasoline on a fire, because I didn't think there was any answer that was going to be acceptable based on the false narratives that had been called out by the AP, for example, about what our letter actually said.

People just pushed back and said the AP is lying. They did say parents are terrorists.

Q And in paragraph 2 of the NSBA memorandum, I'll direct your attention there in the exhibit, it says: "On behalf of NSBA, we regret and apologize for the letter. To be clear, the safety of school board members, other public school officials and educators, and students is our top priority, and there remains important work to be done

on this issue.

"However, there was no justification for some of the language included in the letter. We should have had a better process in place to allow for consultation on a communication of this significance. We apologize also for the strain and stress the situation has caused you and your organizations."

Do you have any understanding of what the language was that they were referring to, that there was, quote, "no justification for"?

A It could have been anything in the letter depending on whose interpretation you were asking. I think it was a way to say we apologize without throwing -- completely throwing the school board members under the bus that were receiving threats.

But, again, it was -- that was my -- one of my issues with it. Again, I didn't think an apology should be issued at all. But this was not a very good one. And you'll notice it didn't come from me, and I wrote the letter. I sent the letter.

Q What was your interpretation of what language they thought there was no justification for? You said it was open for interpretation.

A It was open for interpretation. You know, people were complaining over all kinds of things. The incidents weren't right. We heard that earlier today. You know, certainly the legal references. You know, why would the FBI get involved?

Q What do you mean by legal references?

A Well, the laws that you've cited that were cited --

Q The PATRIOT Act?

A The laws that were cited in the letter.

Q Okay. Let's go through the laws that were cited in the letter.

There was the PATRIOT Act, correct?

A There was the hate crimes legislation.

Q There was the hate crimes legislation. There was the James Byrd Act. Is that correct?

A Yes.

Q There was the Gun-Free School Zones Act, correct?

A Yes.

Q And the Violent Interference With Federally Protected Rights statute. Is that correct?

A Yes.

Q And so you thought that maybe some of the legal references in here they were apologizing for.

A Well, again, I think they were just trying to make the situation go away. I don't think there was that much thought put into that section based on -- I was very unimpressed with the work of the public relations firm. And I believed it was going to do the opposite of what they suggested, which would be to inflame a situation, and that's exactly what happened, I might add.

Q And did the Biden administration ever tell you that you needed to apologize for the language or --

A No.

Q No?

Do you know if the NSBA memorandum was shared with the Biden administration in advance of its release?

A Not that I'm aware of, and I don't believe so. It certainly wasn't shared by me. Again, I thought it was a terrible idea.

And, frankly, it wasn't the Biden administration's power to decide one way or the

other what NSBA does. I mean, I think that's really important. If they did come out and say you should apologize, that doesn't mean we're going to apologize. We were not part of the Federal Government.

Q But you were communicating with the Biden administration in advance of the September 29th letter.

A Like a constituent would with their Member of Congress. It's no different.

[redacted] We have 9 minutes left.

Chairman Jordan. Where is your office? Where is the National School Boards Association?

The Witness. It's in Alexandria, Virginia.

Chairman Jordan. It's in Virginia.

Did anyone -- did you or anyone have any communications with the Democrat gubernatorial candidate or their campaign in the course of this?

The Witness. No, sir.

Chairman Jordan. Do you know former Governor McAuliffe?

The Witness. I met him at a National Governors Association meeting once. I knew of him before he was involved as a political figure.

[3:35 p.m.]

Chairman Jordan. Now, when the letter first went out, did anyone from the governor's campaign, Governor McAuliffe's campaign, or anyone from the Democrat Party in Virginia reach out to you?

The Witness. No.

Chairman Jordan. Okay. I think I'm good.

[redacted] We can go off the record.

[Discussion off the record.]

[redacted] We can go back on the record. It's 3:45 in the afternoon.

BY [redacted]

Q All right. I think we're almost there.

In the last hour, you were asked about a couple things that I want to go back over and try and make sure we have the record clear.

You were asked whether DOJ did appropriate due diligence prior to issuing its memo. Did you ever work for the Department of Justice?

A I was a law clerk --

Q When?

A -- for the Southern District U.S. Attorney's office going into my third year of law school, so it was between June or late May and August 1 of 2006.

Q Did you work for the Department of Justice in 2021?

A No.

Q Okay.

A That was my only work with the Department of Justice.

Q So do you have any personal knowledge of what the Department of Justice

did or did not do before it released the Attorney General's memo?

A I have no knowledge of what process they went through.

Q Okay. There was a question earlier that asked something about how your reaction to the Department of Justice, quote, "marshaling all of the Federal law enforcement apparatus to look into the threats." Do you consider the AG's memo to be, quote, "marshaling all of the Federal law enforcement apparatus"?

A No, I don't consider it to have done that at all.

Q Okay. I want to look at this, your memo -- excuse me -- I think it's exhibit 5 -- your email --

A The long email?

Q Yeah. If I can find my own copy.

Thank you.

A I think I have yours.

Mr. Rybicki. Oh, that's right, you have mine.

The Witness. I'll -- let me look for mine. That way you can go ahead and start.

BY [redacted]

Q Okay. I want to look at page 2, that top bullet point. It says, any technical assistance necessary from -- you -- you said you worked in Congress, right?

A Yes, I worked -- I was a district director.

Q What's your understanding of the term "technical assistance"?

A Technical -- it can mean a lot of things, but generally, yeah -- yeah, technical assistance, so let's say the State police were opening an investigation and they believe they needed the expertise of an FBI lab they didn't have, or, they wanted to see, did you hear about an issue like this in another State, or, just generally, do you have any data that would support what we may or may not be hearing. So it's that kind of -- I mean, it's

what it says, it's exactly what it says, it's technical assistance.

Q Okay. And looking at the October 4th press release that accompanied that Attorney General's memorandum which was marked as exhibit 30 --

A Yeah.

Q -- we spent some time on paragraph 3 of this press release.

A Yep, I've got it.

Q And I think the line that was not read of paragraph 3 was that very first line, so I'm going to go ahead and read it out loud. It says, "According to the Attorney General's memorandum, the Justice Department will launch a series of additional efforts in the coming days designed to address the rise in criminal conduct directed towards school personnel." So it specified criminal conduct, correct?

A Yes. It's very, very clear that's what they're talking about.

Q And it says, those efforts are expected to include the creation of a task force. Do you have any personal knowledge about whether a task force was actually created?

A I have heard references that one was created, but I have no knowledge if it actually occurred -- if it actually was created in the end.

Q And do you actually -- do you know if it actually included any of the divisions that are cited after that?

A I don't.

Q Okay. And it says, -- the sentence continues on. It says, to determine how Federal law enforcement tools can be used to prosecute these crimes. It says, "determine how," right? It doesn't say that any law enforcement will actually be deployed in any particular way, correct?

A Yes. I think what it's saying is, if there's a Federal crime, you know, how -- if it's appropriate, how would you prosecute it. I think that's what it -- what it's

saying.

Q And then it says, and ways to assist State, Tribal, Territorial, and local law enforcement where threats of violence may not constitute threats of -- may not constitute Federal crimes, right?

A Yes.

Q So the memo anticipates that not everything is going to be a Federal crime and that in some cases, law enforcement --

A Yeah. That could be the technical assistance.

Q And I'm sorry, I think I said the memo. This is actually the press release.

A The press release, yeah, no, I got it.

Q And this press release was issued by the Office of Public Affairs at the Department of Justice, right?

A That's what it says, yes.

Q And the October 4th memo was actually issued by the Attorney General, right?

A Correct.

Q Do you know who runs the Department of Justice? Is it the Attorney General or the Office of Public Affairs?

A The Attorney General runs all operations within the Department of Justice.

Q You were asked about threat tags, and I want to look at exhibit 31. Have you ever worked for the --

A This one, right?

Q Yeah, that one, yeah.

Have you ever worked for the Federal Bureau of Investigation?

A No.

Q Okay. So do you know what a threat tag is?

A Not precisely. Just general --

Q Okay. Do you have any personal experience with them?

A Not in using a threat tag. I mean --

Q So you don't know what that is?

A I don't recall them. They may have used them when I was doing work in West Virginia, but I don't know that I would've been shared the specific threat tag.

Q Okay. And so you don't know how a threat tag is used, for example?

A Only what I heard described by the Attorney General.

Q Okay. So here it actually says, The purpose of the threat tag. It says, The purpose of the threat tag is to help scope this threat on a national level and provide an opportunity for comprehensive analysis of the threat picture for effective engagement with law enforcement partners at all levels.

So it says that the threat tag is basically used to scope the threat and analyze the threat, correct?

A Yes. And I think it's important to point out in the title, it's actually about edu officials, education officials. So the threat tag seems to me it's about the person getting the threat or reporting a potential threat, and not about anyone else.

Q But, again, you don't have any personal experience with threat tags?

A No, no, I don't.

Q Okay. So this is all just based on what you have in front of you?

A Just what I'm reading right now, yeah.

Q Okay. You were asked about whether the memorandum -- whether the October 29th letter was the basis for the memorandum --

A September 29th.

Q -- sorry -- September 29th letter was the basis for the October 4th memorandum. Did anybody at the Department of Justice ever say, this was it, your letter led the Attorney General to write the memorandum?

A No. They just thanked us for our leadership.

Q Okay.

A And I -- again, I assumed, based on many other things, that it wasn't just our letter. It was a factor, but that's it.

Q Okay. We discussed a DHS meeting that might've taken place after the September 29th letter. That meeting, you said, involved a wide variety of people?

A Yes, the first meeting, yes, correct.

Q Okay. Can you provide examples of who was --

A I'm not sure who all was on the invitation list, but I know there were -- I had callings from other educational organizations on it as well as within NSBA. It was not just our staff. We reached out to State association executive directors, our board members. I know a couple of our board members actually did listen. I know a couple State association executive directors also listened. And so, it was a wide range of people, and then as I mentioned, there were also other education --

Q Yeah.

A -- who were just not affiliated NSBA on that that -- I think it was a Zoom call.

Q Okay. And you said, the topic was public school threats.

A Yes. Generally, yeah.

Q Generally. And so I think you said the only part relevant here was the reference to what people, what they were hearing from local law enforcement. Can you talk, what else was discussed on that call?

A That's -- I mean, that was a big thrust of it. I think they talked about things

to look out for and prevention measures, and, you know, making sure -- there was actually quite a bit focus on making sure you maintained a good relationship with your local law enforcement. And then they talked about the important sort of nexus between Federal, State, and local law enforcement.

And then, just as I remember, the thing that stuck out though was, they said, like, yes, we are hearing from our local partners that there are -- you know, there are trends and rising issues that we're seeing. I don't know that they went through any statistics on that. They just --

Q Right.

A -- educated, yes, we're hearing this too and so are local police.

Q Would you say the purpose of that call was to provide information to you and to other organizations about how to keep your communities safe?

A Yes. I think it was about educating and informing the education community on what they needed to be or not be concerned with.

Q Okay. There was a comment made earlier that the White House or the administration said, good work, we got your back. Did anybody at the White House or the Department of Justice or the Department of Education or anywhere else in the administration ever say "good work" with respect to the letter specifically?

A I don't recall that.

Q Okay.

A Yeah.

Q So that's not language that -- that's language that came up here, but that's not language that --

A Yeah, I'd have to go back and look at exactly what was said, but I don't recall that, so.

Q Okay. Just one second, sorry.

A No problem.

Q I want to walk through your interactions with the Department of Justice on October 4th. So I want to introduce -- I had these in order a second ago. Okay -- introduce as exhibit 35 -- a lot of exhibits for this interview -- a email chain between you and Anthony Coley. You can just pass those down.

[Slaven Exhibit No. 35

Was marked for identification.]

Mr. Rybicki. Did that not make it in yet?

[redacted] Did you introduce the Anthony Coley email chain?

[redacted] No.

Mr. Rybicki. No, No.

The Witness. I don't think so.

[redacted] Okay.

Mr. Rybicki. I'm sorry.

The Witness. I think we talked about it.

[redacted] We talked about it, but I don't think it was actually introduced.

Mr. Rybicki. Thirty-five?

[redacted] Thirty-five.

BY [redacted]

Q Do you know who Anthony Coley is?

A I did not know him before that day. I -- you know, he introduced his title, and I don't know if it was communications director or something along those lines. And I've seen his name pop up since then --

Q Okay.

A -- on other things.

Q So you know that he was the director of the public affairs office?

A At this time, yes, that seemed to be the role he was in.

Q Did you know that he is not an attorney?

A I did not know that. Didn't come up one way or the other.

Q He's not.

A Okay.

Q Do you know who Alivia Roberts is?

A I did not know her prior to this call.

Q Ms. Roberts was the -- Mr. Coley's assistant. Do you know if she was a lawyer?

A I do not know.

Q She was not a lawyer.

So looking at this email chain, Mr. Coley reaches out to you on October 4th, 2021, at 3:19 p.m., asks if you're available to chat. You respond at 3:21 and say, I'm available to call. He responds at 3:41 and says, I'll give you a call within an hour. And you said, Great, I'll look forward to speaking with you.

Does that refresh your recollection as to what time you actually spoke with him?

A It was -- well, it was obviously sometime after his last email, so probably the 4:00 range, give or take, you know, some minutes on either side of 4:00.

Q Okay.

A I think he called me fairly soon after the last email.

Q Okay. So probably 4:00-ish, thereabouts?

A Roughly, yeah, roughly.

[Slaven Exhibit No. 36

Was marked for identification.]

BY [redacted]

Q Okay. So I want to introduce as exhibit 36 an email chain between you and Alivia Roberts, and the timestamp on this, she emails you at 4:58 p.m. So I don't have the attachment that went along with this, but it's -- at 4:58 p.m., she emailed you, copying Anthony Coley and says, it's a pleasure to speak with you, and she said, as promised, I've attached the memo from the Attorney General that will be made public later today. That was 4:58 p.m., correct?

A Correct.

Q Okay. And then I have, sorry, one more email to introduce.

A That's okay.

[Slaven Exhibit No. 37

Was marked for identification.]

BY [redacted]

Q I'm marking this as exhibit 37, and this is the email where she actually provides you with the press release announcing that the memo has gone out.

Do you recall this email?

A I actually don't remember this one --

Q Okay.

A -- but -- yeah, I'm -- yeah, okay.

Q Okay. Sorry. Do you recall the earlier -- the one that I referenced just now?

A I do remember that one because it was the memo itself.

Q Okay.

A I didn't remember if I had received the press release or not from her.

Q Okay. So the press release was sent to Alivia at 6:08 p.m., and so it went public at 6:08 p.m.

A Okay.

Q And she forwarded you the public press release at 6:17 p.m.

So looking at this timeline, you first spoke with Mr. Coley around 4:00.

A Uh-huh.

Q You got a copy of the memo -- of the memo and the press -- of the memo, not the press release, right, just the memo itself -- at around, at 4:58 p.m., and then the whole thing went live at 6:08 p.m., right?

A Yes, that's -- yes.

Q So you saw a copy of the memo roughly an hour and change before it went public?

A Yeah. And I think that's been exaggerated greatly how much notice we had.

Q Right.

A Yes, we got an early copy an hour ahead roughly.

Q Okay. And there was no -- it wasn't sent to you with the idea of, you know, do you want to look at this and make edits or provide any feedback?

A No, no, I didn't make any edits, and it wasn't suggested I could make any edits. It was their document.

Q Okay.

A They were simply informing me this is going to be public soon.

Q And would you describe the outreach that you received from Mr. Coley as a courtesy call?

A Yes. And completely appropriate.

Q Okay.

A And he may have made it to other people too. I don't know who else they shared it with.

Q Okay. Fair. You were asked about the -- or I think maybe you mentioned that you had a subsequent contact with Mr. Coley where you flagged some of the reaction that you had received, some of the alarming reaction you had received, right?

A Yes.

Q Okay. I want to introduce the email chain from that, maybe, if I can get the exhibit sticker off. This is exhibit 38.

[Slaven Exhibit No. 38

Was marked for identification.]

BY [redacted]

Q Okay. So at 2:12 p.m. on October 6th, you emailed Mr. Coley to say, we've reported -- we've -- the phone calls and the emails to NSBA are increasing. We have reported several to the Alexandria Police Department, but I wanted to reach out to see who at the FBI -- sorry -- you recommend we should be communicating with on this issue, just to keep them in the loop if things increase. I'm glad to reach out to the local FBI in the Alexandria area but thought I would check with you first since this has risen to such high levels with NSBA's name being out there.

And Mr. Coley responded to you and said, Your instinct is right, threats of violence may be reported to your local FBI office or to the FBI's National Threat Operations Center via its national tip line and online through the FBI website.

So you reached out to him to ask if there was anywhere else you should go, and he basically directed you to the public channel, correct?

A Yes, correct.

Q Okay. And you referenced the National Threat Operations Center line earlier. You're familiar with that line?

A Do you mean in the letter or --

Q Just writ large, in your personal experience as a citizen.

A Yes, very general, but yes.

Q Okay.

A It deals with threats, yeah.

Q Right. And it's any citizen can call into it, correct?

A Yes. And it's been around, as I understand, a long time.

Q Okay. And did you ultimately report any of the threats to the FBI's tip line?

A I did not personally, but our office may have. Again, I designated some staff to deal with those. There was so much coming in --

Q Yeah.

A -- that it was, to be honest, it was too much, and I think they were protecting me from some of it. So I believe we did, certainly to the Alexandria Police.

And, again, I mentioned a very concerning message that referenced President Biden that I remember specifically saying, you need to let -- I don't know if I -- Secret Service would've been most appropriate, but I might've said FBI, or Secret Service and FBI.

Q Okay.

A And I don't know if that occurred, but I expect they took my directive and did report it.

Q Okay. And that was kind of the four corners, the total amount of your interaction with the Department of Justice, right --

A Yes.

Q -- were these emails that we just walked through?

A Yeah. Unless I received some blanket email on something on, you know, that a lot of people received. But I don't even recall getting anything like that. To my -- to my best of my recollection, it was this series of communications we've talked about.

Q Okay. So your communications were with Mr. Coley and Ms. Roberts, neither one of whom are attorneys, right?

A Correct.

Q Okay. I'm going to walk through some other names at the Department of Justice --

A Sure.

Q -- just to get the record clear.

Are you familiar with an individual named Kevin Chambers?

A No.

Q Okay. Kevin Chambers was previously an associate deputy attorney general with the Department of Justice. Does that refresh your recollection?

A No, not -- it doesn't.

Q Okay. Are you familiar with an individual named Myesha Braden?

A No, I don't believe so.

Q So Myesha Braden is an associate deputy attorney general at the Department of Justice. Does that refresh your recollection?

A The name doesn't sound familiar to me.

Q Okay. And last one, are you familiar with an individual named Shaylyn Cochran?

A Again, I know people named Cochran, but not Shayna Cochran --

Q Shaylyn.

A Shaylyn. Yeah, yeah, obviously I don't know her, yeah.

Q So Ms. Cochran is the chief of staff for the Justice --

A Okay.

Q -- Department's Civil Rights Division --

A Yeah, I don't know --

Q -- does that refresh your recollection?

A -- I don't know any of the three of them, and I wasn't -- we didn't work with the Department of Justice --

Q Okay.

A -- so I just wouldn't know them.

Q Okay. So the only communication you had with the Department of Justice about the September 29th NSBA letter or regarding the October 4th Merrick Garland memo was the phone call with Anthony Coley and Ms. Roberts, and then a handful of email communications?

A To the best of my recollection, that is correct.

Q Okay. In any of those instances, did the name Terry McAuliffe ever come up?

A No.

Q Okay. I'm not going to go through and list a bunch of names, but to the best of your knowledge, did you ever talk one-on-one with anybody at the Department of Homeland Security, putting aside that one phone call --

A I didn't talk to anyone at Homeland Security one-on-one.

Q Okay. And your only interactions were those two?

A The two. And the second one I can't even remember what my -- if I had

any -- I think I thanked them --

Q Okay.

A -- and then hopped off for the call that led to the press statement, so.

Q Did the name Terry McAuliffe ever come up in the context of the limited conversations you had with the --

A No, no.

Q -- Department of Homeland Security?

A No.

Q Okay. I have one more -- no, actually, I don't think I need to do it.

[redacted] All right. I don't think we have anything further.

The Witness. Thank you.

[redacted] We can go off the record.

[Whereupon, at 4:06 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: MICHAEL MORELL

Tuesday, April 4, 2023

Washington, D.C.

The interview in the above matter was held in 2237 Rayburn House Office Building, commencing at 10:01 a.m.

Present: Representatives Jordan and Gaetz.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

[redacted] GENERAL COUNSEL

[redacted] LAW CLERK

[redacted] DEPUTY GENERAL COUNSEL

[redacted] INTERN

[redacted] CHIEF COUNSEL FOR OVERSIGHT

[redacted] SPECIAL COUNSEL

[redacted] SENIOR SPECIAL COUNSEL

[redacted] DIGITAL DIRECTOR

[redacted] MINORITY CHIEF OVERSIGHT COUNSEL

[redacted] MINORITY OVERSIGHT COUNSEL

[redacted] MINORITY INTERN

[redacted] MINORITY COUNSEL

FOR THE CONSTITUTION SUBCOMMITTEE

[redacted] MINORITY INTERN

[redacted] MINORITY PROFESSIONAL STAFF MEMBER

FOR THE PERMANENT SELECT COMMITTEE ON INTELLIGENCE

[redacted] DEPUTY GENERAL COUNSEL

[redacted] COUNSEL

[redacted] MINORITY COUNSEL

For MICHAEL MORELL:

PAUL NATHANSON

CHARLES KLUG

CLAIRE CREIGHTON

Davis Polk

901 15th Street, NW

Washington, D.C. 20005

[redacted] We can go on the record. Good morning. This is a transcribed interview of Mr. Michael Morell. Chairman Jordan and Turner have requested this interview. Would the witness please state your name for the record.

Mr. Morell. Michael Joseph Morell.

[redacted] Could counsel please state your name for the record.

Mr. Nathanson. Sure. Paul Nathanson from Davis Polk for Mr. Morell.

Mr. Klug. Charles Klug from Davis Polk for Mr. Morell.

Ms. Creighton. Claire Creighton from Davis Polk for Mr. Morell.

[redacted] The Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives are conducting oversight of Federal law enforcement in intelligence matters within our respective jurisdictions. This investigation serves to inform potential legislative reforms within the jurisdictions of the committee.

For example, the committees may consider legislative reforms, such as revolving door legislation, for Federal employees with security clearances. These reforms might include allowing Federal employees with security clearances to retain their clearances after employment with the government but limiting their ability to receive access to classified information for some duration after their government employment.

The committees may also consider legislative proposals that would ban or restrict intelligence agencies from engaging in, coordinating, or promoting any political activity related to Federal elections, including candidates for Federal office.

The House Permanent Select Committee on Intelligence staff will be constrained to issues relating to the letter signed by the 51 former intelligence officials. On behalf of the committees, I want to thank you for appearing here today to answer our questions.

The chairmen also appreciate your willingness to appear voluntarily.

My name is [redacted] and I am with Chairman Jordan's staff.

I will now have everyone else from the committees who are here at the table introduce themselves as well.

[redacted] [redacted] House Intelligence.

[redacted] [redacted] with the House Judiciary Committee.

Chairman Jordan. Chairman Jordan.

Mr. Gaetz. Matt Gaetz, majority member of the House Judiciary Committee.

[redacted] [redacted] chief oversight counsel for the House Judiciary Committee Democrat staff.

[redacted] [redacted] minority counsel.

[redacted] [redacted] counsel for the minority.

[redacted] [redacted] with the House Judiciary Committee minority staff.

[redacted] I am [redacted] with the House Judiciary.

[redacted] [redacted] with the Judiciary minority.

[redacted] [redacted] with the Judiciary minority.

[redacted] [redacted] with the Judiciary minority.

[redacted] [redacted] with the House Judiciary Committee.

[redacted] [redacted] House Judiciary --

[redacted] [redacted]

[redacted] [redacted] House Intel Deputy General Counsel for the majority.

[redacted] [redacted] House Judiciary majority.

[redacted] Thank you. I'd like to now go over the ground rules and guidelines that we will follow during today's interview. Our questioning will proceed in rounds. The majority will ask questions first for 1 hour, and then the minority will have an

opportunity to ask questions for an equal period of time if they choose. We will alternate back and forth until there are no more questions, and the interview is over. Typically, we take a short break at the end of each hour, but if you would like to take a break apart from that, please just let us know.

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

Mr. Morell. Yes, I do.

[redacted] So the court reporter can take down a clear record, we will do our best to limit the number of people directing questions at you during any given hour to just those people on the staff whose turn it is. Please try and speak clearly so the court reporter can understand and so the folks down on the end of the table can hear you as well. It is important that we don't talk over one another or interrupt each other, if we can help it, and that goes for everybody present at today's interview.

We want you to answer our questions in the most complete and truthful manner as possible. So we will take our time. If you have any questions or if do not understand one of our questions, please just let us know.

Our questions will cover a wide range of topics. So, if you need clarification at any point, just say so. If you honestly don't know the answer to a question or do not remember, it is best not to guess. Please give your best recollection, and it is okay to tell us if you learned information from someone else. Just indicate how you came to know the information. If there are things you don't know or can't remember, just say so and please inform us who, to the best of your knowledge, might be able to provide a complete answer to the question.

You should also understand that, although this interview is not under oath that by

law you are required to answer questions from Congress truthfully. Do you understand that?

Mr. Morell. Yes, I do.

[redacted] This also applies to questions posed by congressional staff in an interview. Do you understand that?

Mr. Morell. Yes, I do.

[redacted] Witnesses that knowingly provide false testimony could be subject to criminal prosecution for perjury or for making false payments under 18 U.S.C., section 2001. Do you understand this?

Mr. Morell. I do.

[redacted] Is there any reason you are unable to provide truthful answers to today's questions?

Mr. Morell. No.

[redacted] Finally, I would like make not that the content of what we discussed here today is confidential. We ask that you not speak about what we discussed in this interview to any outside individuals to preserve the integrity of our investigation.

For the same reason, the marked exhibits that we will use today will remain with the court reporter so that they can go in the official transcript, and any copies of those exhibits will be returned to us when we wrap up. All right. That is the end of my preamble. Is there anything that my colleagues from the minority would like to add?

[redacted] We don't have anything to add. Thank you.

[redacted] The clock now reads 10:06 a.m. We will start our first hour of questioning.

EXAMINATION

BY [redacted]

Q Mr. Morell, thank you for being here.

A You're welcome. It's good to be here.

Q Could you please tell us a bit about your professional background?

A I grew up in Ohio. When I graduated from college, I got a job at the Central Intelligence Agency. I spent my entire career there. I ended my career as the Deputy Director. Twice during that period, I was Acting Director. I retired in 2013. I have done a number of things since I retired.

Q Well, what do you do now?

A I do a number of things. I work at a consulting firm called Beacon Global Strategies. I used to work at CBS News. I am no longer there. I'm on a couple of boards. I'm on the board of Fortress Investment Group. I'm on the board of a company called Orbis Operations. I do a lot of my own private consulting. I work for Cerberus Capital Management. I work for another private equity firm called iSquared Capital. So that's not the totality of what I do, but that's the biggest chunk of time I just described for you.

Q And, when you retired from the CIA, that was in 2013 you said?

A In September of 2013, yes.

Q You were Deputy Director at the time?

A Yes.

Q And acknowledging that we're in an unclassified setting, can you briefly describe your role and responsibilities as Deputy Director?

A As Deputy Director of CIA, I was responsible for overseeing all of CIA's activities, including analysis and operations, covert action. I was responsible for the health and well-being of the organization and the people who worked there. I was responsible for representing the Agency at the White House, here on the Hill, and with

foreign leaders and the leader of foreign intelligence services.

Q And you were twice Acting Director?

A Yes.

Q Thank you. You were one of 51 former intelligence officials who signed a public statement regarding Hunter Biden's emails, correct?

A Yes.

[redacted] I would like to now enter a document dated October 19, 2020, titled "Public Statement on the Hunter Biden Emails" into the record as exhibit No. 1.

[Morell Exhibit No. 1.

Was marked for identification.]

[redacted] I would also like to enter the Politico article that featured the public statement, dated October 19, 2020, titled "Hunter Biden story is Russian disinfo, dozens of former intel officials say" into the record as exhibit No. 2.

How would you characterize the public statement?

Mr. Morell. I'm not sure what you mean.

[redacted] How would you describe it? What --

[redacted] Politico article.

[redacted] Oh, we're going to strike that from the record. Just one fewer exhibit were going to introduce because that's the statement itself, if that's all right.

[redacted] My apologies.

[redacted] That's okay.

BY [redacted]

A What does it say?

Q Yes. Describe -- what does the statement say?

A The statement says that we are concerned that suspicious -- I think it says

"deeply suspicious" that the Russians played some role in the emergence of these emails at a critical time during the election period.

Q What was the intent of the statement?

A There were two intents. One intent was to share our concern with the American people that the Russians were playing on this issue; and, two, it was two help Vice President Biden.

Q Let me touch on that help President Biden part in a second. In 2020, was the name of one of your Gmail accounts, Michael Gmail New?

A I don't know.

Q Okay.

A I don't know.

Q What was your role in the creation of this statement --

A I think Michael Gmail New is MJM 941958, I think.

Q Okay. That's what I wanted to make sure of --

A -- yeah, I think so. I'm not sure.

Q Okay. What was your role in the creation of the statement?

A I organized it.

Q So you drafted that?

A I did not do the first draft.

Q Okay.

A Marc Polymeropoulos did the first draft. Then I redrafted it. Yeah, I'm the organizer, and I played a major role in drafting it.

Q Okay.

[redacted] I would now like on enter a draft of the statement Michael Morell and Mark Polymeropoulous sent to potential signatories, including a request to sign

dated October 19, 2020, at 1:38 a.m., into the record as exhibit No. 2.

[Morell Exhibit No. 2.

Was marked for identification.]

BY [redacted]

Q That was an email sent from you, correct?

A Yes.

Q Michael Gmail New is --

A Yes, and Michael Gmail New is MJM 941958.

Q Perfect. I just want to make sure it's redacted on one of the copies we have.

A Yep.

Q Now, I would just like to read: Marc, and I drafted the attached because we believed the Russians were involved in some way in the Hunter Biden email issue and because we think Trump will attack Biden on the issue at this week's debate, and we want to give the Vice President, VP, a talking point to use in response.

You said Marc Polymeropoulos held you draft the statement?

BY [redacted]

A He did a first draft.

Q Correct. And we also have texts between you and Mr. Polymeropoulos that I'll enter into the exhibit. You asked him to create some background points for you, I believe?

A Yeah, that's what I saw as the first draft.

Q As the first draft?

A Yes.

Q Okay.

[redacted] I will enter that into the exhibit as exhibit No. 3.

[Morell Exhibit No. 3.

Was marked for identification.]

BY [redacted]

Q And, in these texts, you said -- I believe you're in gray, correct?

A Yes.

Q You said: Just wondering if you think the Russians played in the Hunter Biden email thing.

And he said: Hey, there.

And you said: It kind of feels that way to me.

And he says: It does to me, too. There was a previous Burisma hack. Plus Ruby and the orbit he plays is all dirty.

Then you responded: But a strange way to get the material into the public domain?

Mark responded: They will always look for a dissem mechanism, third party. Yes, this is odd. A blind computer. But I think of it as throwing crap on a wall. Whatever sticks.

And then you say: I'm thinking of writing something that says the FBI is investigating whether there is Russia involvement in this thing, and that makes sense because it has the feel of a Russian op.

It goes on, and you ask if you want to write it together, and then just send you a list of what you see as the hallmarks.

When you said "but the strange way to get the material into the public domain," did you have any doubt about the veracity of the laptop and what was being reported about it and --

A No, I just meant what I said, right? It's a strange way for the Russians to put this information into the public domain. And I wanted to give Marc an out, right? Because I start by saying kind of feels that way to me. I didn't want to leave the witness. So I wanted to give him an opportunity to say, you know, maybe this isn't what we're saying it is. This was somebody who was subordinate to me at the Agency, and I didn't want right my seniority to drive him to a conclusion.

Q And what did Mr. Polymeropoulos come back and tell you?

A He came back and, you know -- he clearly came back and said, he thinks, you know, he shared my suspicions.

Q Did you have a specific strategy in your outreach efforts to the former officials that you were soliciting?

A The strategy was to get people who had served on administrations -- you know, multiple administrations, Republican and Democrat, that was the goal.

Q Yes.

[redacted] I will enter into the record an email that you sent. I would like to enter into the record an email that you sent from Michael Morell to Nick Shapiro, dated October 19th, 2020, at 6:36 a.m., into the record as exhibit No. 4.

[Morell Exhibit No. 4.

Was marked for identification.]

BY [redacted]

Q I will explain tomorrow on the phone how this came to be. I have sent a draft to David Kris and Lisa Monaco but have not yet heard back. They should sign. I'm looking for two things: Pairs of seniors who served in the same position from different administrations -- Hayden and Panetta, Jeh Johnson and Mike Chertoff, Lisa and Ken Wainstein, Clapper and Coats, et cetera, and then a slew of former IC and national

security who worked Russia. Should have something to give to the media through you tomorrow afternoon.

So it looks like there were particular officials that you were hopeful to recruit. And some, such as Lisa Monaco and David Kris, did not sign.

A Correct.

Q What reason did they give you for not signing?

A So, of the people who didn't sign -- and I have to say, I don't know of all of these people who we sent a request to. I don't know if all of these people received a request or not.

Q Okay.

A I don't know that. What I was doing here was just giving examples of pairs.

Q Okay.

A For the people who did not sign, a handful of them said: We're not intelligence officers. We think it's better if this letter come from intelligence officers.

Other people said: I work for a company, and I'm not on the allowed so sign such letters.

Nobody, nobody in making a decision not to sign questioned the judgment --

Q All right.

A -- we were making.

Q Did you task other former officials with roles to promote statement?

A Definition of "promote"?

Q To disseminate it for other signatories to work for the press.

A So, breaking into two pieces here, the first piece is that three of us took responsibility for sending it out to officials to try to get signatories. Myself, Marc Polymeropoulos, and a woman named Kristin Wood. Kristin worked for me at the

Agency. She worked directly for me at the Agency as my aide. We were very close friends. I asked her to do that. She agreed. And then, in terms of getting it to the media, that was entirely Nick Shapiro's responsibility here. So he took that responsibility on.

Q Okay. What --

A I had no interaction with the media.

Q What role did John Brennan play, if any?

A A signatory.

Q A signatory. What about Clapper?

A Signatory. And he asked for a -- he asked for a change. I don't know what change it was, but I know he asked for a change.

Q He made an edit, correct?

A Yes.

Q Going back to this text exchange between you and Marc Polymeropoulos, I read that you said: I'm thinking of writing something that says the FBI is investigating whether there is Russia involvement in this thing, and that makes sense because it has the feel of a Russia op.

Why did you think or how do you know the FBI was already investigating it?

A Because there was the USA Today article saying that the FBI was looking at the very thing that we were suspicious about.

Q The --

A I didn't know that for a fact, right, and we actually said that in a statement. But, you know, that got my attention.

Q Had you had any conversations with officials at the FBI?

A No.

Q Had you been privy to any classified briefings --

A No.

Q -- about this?

A No.

Q We know that the statement that's published is different from the draft that was originally circulated. In particular, the last two paragraphs referencing Vice President Joe Biden taking a private and public stand against the then prosecutor general of Ukraine Viktor Shokin were taken out for being what you described as too political. Why?

A Somebody asked that it come out. I don't know who. And that was the point that that person made. I really don't know who asked. And, you know, I didn't necessarily see it as too political. You know, the whole statement is political at the end of the day. But I didn't see it as too political. But the person who asked that it come out did, so we took it out. It's actually an important paragraph for me. But it came out nonetheless.

Q Why was that an important paragraph for you?

A Because the fundamental charge against the Vice President was that he had conducted U.S. policy toward Ukraine, not with the best interest of the United States of America in mind but with the interest of his son in mind. And I thought and I still believe that that to be an inaccurate charge. At this time, you know, there were several investigations, none of which got to that fundamental charge, none of which proved that fundamental charge. And, as somebody who worked at the most senior levels of the Obama administration, I knew that it was an impossibility for the Vice President to conduct foreign policy on his own. So I knew that charge to be false. It was a charge that continued to be made against the Vice President by President Trump, and that is one

of the reasons why this letter was important to me: to give the Vice President something to push back on that charge.

Q In an email to Nick Shapiro, you said that you would, quote, explain tomorrow on the phone how this came to be, meaning this public statement.

And I will enter in that email into the record so that you can get a copy of it. We have entered this one into the record. That was the previous one. Can you tell us what you said to Mr. Shapiro during that call? How did it --

A Sure. I told him that I had received a call from Tony Blinken, then a senior official on the Biden campaign, asking me if I had seen The New York Post story. If my memory serves then -- you know, I don't know exactly how you want to do this -- but my memory is sketchy, right? This is a long time ago. I believe I said I had not seen it. I believe he summarized it for me, and he asked me if I thought the Russians may have been involved in any way in the emergence of these emails.

Q So that was -- now --

A I should also say I don't know whether he called me or whether he sent me an email.

Q Okay.

A Just to be clear.

Q In the production the committee received, we did not get an email from him --

A Correct.

Q -- initiating that call except -- but for a USA Today article that he forwarded --

A Yes.

Q -- to you? So he had called you before sending you the USA Today article?

A Sure. He either called me or he emailed me.

Q Okay.

A Right. At this time, I was regularly deleting my emails because of something that happened to Director Brennan in late 2015. So all of the emails that I received and sent as part of this, right, some of those emails had been deleted. So it's possible he sent me an email. It's possible he just called me.

Chairman Jordan. There were two separate communications. There was the first call or email, and then there was the subsequent email with the USA Today article?

Mr. Morell. Yes, sir. Yes, sir.

Chairman Jordan. What was the time of the email?

Mr. Morell. So I don't know for sure, Congressman, but I believe he called to ask the question first and then followed up with the email.

Chairman Jordan. Close together?

Mr. Morell. I think -- you know, given the timestamps on here, I feel that, you know, when I say -- Congressman, I say: Just wondering if you guys, if you think the Russians played in the Hunter Biden thing.

That was at 2:16 p.m. on the 17th. He sends me the USA Today article later that night.

Chairman Jordan. Right.

Mr. Morell. Right. I think he called me or sent me an email prior 2:16 p.m. So there's some gap there I think between the first contact and the second.

Chairman Jordan. Okay. That's what I assumed. When you got the USA Today article -- and I believe it was at 10:53 that evening -- was that the first time you had seen USA article.

Mr. Morell. So I referenced the FBI investigation in the early afternoon of the 17th in my conversation with Marc Polymeropoulos. I don't remember whether I saw it.

The first thing I did when Mr. Blinken called me is I did some research. I had not read The New York Post article. I went and read it. I did some internet searches. I did a little bit of research here before I reached out to Marc. It's possible I found it then. It's also possible that, when Mr. Blinken called me, he mentioned it to me. I just don't remember.

Chairman Jordan. In that timeframe, then, you would have got the call from Mr. Blinken prior to 2:16.

Mr. Morell. I believe so, sir.

Mr. Gaetz. Excuse me, Mr. Morell, as part of the research that you did in between the contact with Mr. Blinken and the contact with Marc, did you contact any individuals as a part of that research?

Mr. Morell. I did not.

Mr. Gaetz. So the full sum of that research involved your internet searches?

Mr. Morell. Yes.

Mr. Gaetz. Thank you.

[redacted] I would like to enter into the record an email sent that now Secretary Blinken sent to Michael Morell featuring the USA Today article just to make sure we got a fulsome record.

[Morell Exhibit No. 5.

Was marked for identification.]

BY [redacted]

Q Thank you. And you said now Secretary Blinken was employed by the Biden campaign at the time he sent this email, correct?

A It's my understanding is that he was employed.

Q When he called you, did he direct, suggest, or insinuate in any way that you

should write a letter or statement on this topic?

A My memory is that he did not, right. My memory is that he asked me what I thought.

Q Okay. It wasn't: The campaign could use some help on this; could you --

A He did not say that.

Q -- cook up something that we could use?

A It's not my memory that he said that.

Q Okay. Why do you believe he called you then and asked for your opinion on this?

A You know, Tony and I were fairly close. I mean, I wouldn't say we were close friends, but Tony and I were fairly close. During our time in government when he was the Vice President's National Security Advisor and then when he was President Obama's Deputy National Security Advisor, I would be the person that he would reach out to with those kind of questions. When we saw each other post the Obama administration, we would have conversations about what was going on in the world; he would ask me questions. So it was in part natural, you know, for him to do that. But, you know, he asked me a specific question here. You know, he'll have to tell you what his intent was, right, in asking me. You know, my thinking was that, if I agreed, right, that the Russians were somehow involved, my guess was that he would want that out, but that is a guess, right. I do not know his intent.

Q But, prior to his call, you -- you did not have any intent to write this statement?

A I did not.

Q Okay. So his call triggered --

A It did, yes.

Q -- that intent in you?

A Yes. Absolutely.

Q Okay. And then, in the exhibit I just handed out to you, I see that the email from Secretary Blinken was originally sent to him by Andrew Bates, then director of rapid response from the Biden campaign and current White House deputy, Press Secretary.

Do you know or have any reason to believe Secretary Blinken was directed by the Biden campaign to enlist you to write this statement?

A I don't know that.

Q Did he mention communication with Andrew Bates --

A He did not.

Q -- on the phone with you? Do you believe you were enlisted by the Biden campaign to write this statement?

A I don't -- I can't guess their intent.

Mr. Gaetz. Mr. Morell, are you aware of any other individuals that Mr. Blinken contacted during this time period?

Mr. Morell. I am not. I'm not aware.

Mr. Gaetz. Thank you.

BY [redacted]

Q Do you have any reason to believe the Biden campaign planted the USA Today story titled "A tabloid got a trove of data on Hunter Biden from Rudy Giuliani. Now, the FBI is probing a possible disinformation campaign"? The same article that they sent you?

A I don't -- I don't -- I don't believe they did.

Q Do you know whether Secretary Blinken or Andrew Bates had any contact with USA Today or USA Today journalist Caren Bohan, Kevin Johnson, Matthew Brown, or

Jeff Neiburg?

A So it seems, right, it seems -- it seems that the campaign was asked questions about this by USA Today and provided quite a bit of material. Because you just -- you know, you read it and you see it.

Q Right.

A So I'm sure they did. There's a hundred percent certainty on that.

Q Did the Biden campaign direct your strategy with reporters on the statement?

A So there is an email, which we'll get to, I assume, where I am telling Nick Shapiro that the campaign would like Shane Harris of The Washington Post to be the one to, you know, write a story about this statement.

Q Correct. Let me go ahead and enter that into the record.

A Yeah, go ahead.

[redacted] I would like to now enter an email sent from Michael Morell to Nick Shapiro on October 19th, 2020, at 8:21 p.m., into the record as exhibit No. 6.

[Morell Exhibit No. 6.

Was marked for identification.]

BY [redacted]

Q You write: Between us, the campaign would like Shane Harris to go first. Please share with the campaign when you share with Shane, but by all means, give it to the reporters as well. Why did the Biden campaign ask for Shane Harris to go first?

A So I do not remember a communication with a campaign -- where the campaign said to me they would like Shane Harris to go first. I just don't recall that at all. Really, sorry. I just don't. You know, there's a number of possibilities here, but I don't remember that clearly. I told Nick that. It's right here in front of us.

Q So --

Mr. Gaetz. Mr. Morell, can you list the people in the campaign that you were in contact with during that time period?

Mr. Morell. Mr. Blinken. That's it.

Mr. Gaetz. No one else?

Mr. Morell. No one else, sir.

BY [redacted]

Q And, to be clear, you don't recall Mr. Blinken asking if Shane would go first?

A I don't.

Q Okay.

A I don't.

Q Why did you instruct Mr. Shapiro to share with the campaign when you share with Shane?

A Because I thought it important for them to know what we did. They had not seen it. All right. We didn't coordinate with this with them.

Q So the Biden campaign did not request that you share after it had been sent to the journalist?

A So I don't know again, right --

Q Okay.

A -- because I don't remember that conversation with Tony or with anybody else. But it doesn't sound right from this. It doesn't sound like they had asked, right? This is me saying. Because I thought they should see it.

Q And it is your testimony today that this was not a coordinated effort with the Biden campaign?

A Not beyond the initial phone call that triggered it as you pointed out earlier.

Q Okay. And Nick Shapiro did, in fact, share a copy of the emails he was sending to journalists to the Biden campaign, correct?

A I believe so, but you need to ask him that.

Q Yes. We will. We will enter that into the record as exhibit No. 7, an email sent from Nick Shapiro to Andrew Bates, director of Rapid Response on the Biden campaign on October 19th, 2020, at 11:22 p.m.

[Morell Exhibit No. 7.

Was marked for identification.]

[redacted] And he says: This is what I gave them.

Mr. Morell. Uh-huh.

[redacted] I would like to enter a series of emails Nick Shapiro sent to journalist Julie Pace of the Associated Press, Shane Harris of The Washington Post, and Natasha Bertrand of Politico October 19th, 2020. And, for the record, this is exhibit No. 8.

[Morell Exhibit No. 8.

Was marked for identification.]

BY [redacted]

Q Was the idea to send to Julie Pace of the Associated Press, Natasha Bertrand of Politico, and Shane Harris at The Washington Post yours? How did y'all come up with that?

A Nick came up with -- Nick made the decision about who to reach out to, you know, with the exception of Shane Harris, which was clearly my instruction to him.

Q Okay. So he came up with that universe of journalists?

A Yes.

Q And that email also shows you giving Mr. Shapiro a different instruction on

what to say to those journalists on the record, off the record, on background. Why did you advise Mr. Shapiro on differentiation?

A I'm sorry, I am not following.

Q On exhibit No?

A I'm sorry. I am not numbering them here. I should be.

Q Oh, sorry. Let me make sure you have got this one.

A So these are the same?

Q Yes.

A Okay. Got it. Go ahead. Sorry.

Q Why did you advise Mr. Shapiro to say different things to the press on record?

A Oh, I see what you're saying.

Q On the record --

A So we're looking at this one.

Q -- on background, yes.

A Yes.

Q This is what Mr. Shapiro sent to the reporters. We have another email from you advising --

A Yeah, so I didn't play any role in what Nick said besides the instruction I gave him. Right? In terms of -- in terms of the on the record and off the record, you know, the on the record is clear, right? I wanted people to know that. The off the record in retrospect doesn't make any sense to me. You know, it was really important to me that people not misread what we were saying. And, you know, as you know, the statement clearly says that we're not saying this is disinformation. The statement clearly says we don't know if these emails are real or not. And that was really important to me that that

be said. I don't know why I said off the record. I should have said on the record.

Q And you say: If asked on background from you, why Michael, in talking to people outside of government who he worked with and who know Russia. He was struck by the fact that all of them thought Russia was involved here. Michael thought people should know that. So why Michael is then referring to you --

A Yes.

Q -- having drafted it --

A Yes.

Q -- and put it together?

A Yes. Can I add something here, is that okay?

Q Yes, please.

A So that's actually a very important paragraph, No. 4. It was very important to me that the people who knew Russia best, and Marc was one of those, but a number of the other signatories were as well. Deep Russia experts, Marc was in part a Russia expert, but some of the people other people were deep Russia experts. They had worked on the Soviet Union and Russia their entire careers. It was very important to me that they agreed with what we were saying here. And if any of them had raised their hand and said, "Hey, I think this is wrong," this never would have happened. So that paragraph was very important to me.

Q Are you familiar with the CIA Prepublication Classification Review Board, PCRB?

A Yes, I sure am.

[redacted] In your productions to the committee, we have seen that you provided an email that you had sent to the PCRB, which I would now like to enter it into the record as exhibit No. 9.

[Morell Exhibit No. 9.

Was marked for identification.]

BY [redacted]

Q And this is just a matter of CIA policy, correct?

A It's a matter of a secrecy agreement I signed when I when I first started working for CIA in 1980. It's a lifetime requirement.

Q And, in this, you described -- you described it as a rush job to the officials at the CIA. Why? Were you trying to get it out?

A We were trying to get it out before the debate, yes.

Q Before the debate?

A Yes, ma'am.

Q Okay. And the debate was on October 22nd, correct? This was dated October --

A Yeah, I don't know the date of the debate.

Q Okay.

A But it was close.

Q And was the email the only communication you had with the CIA?

A Yes.

Q You did not speak to any of the officials on the phone?

A I did not. I did not.

Q Okay. Did any -- are you aware of whether any of the officials at the CIA PCRB had any comments or suggestions about the statement?

A They did not. They approved it as written.

Chairman Jordan. How does that typically work? You said you mentioned rush job in the emails. So tell me how -- I assume you've written a lot of things --

Mr. Morell. Yes, sir.

Chairman Jordan. -- you've had to go through that board numerous times.

Mr. Morell. Yes, sir.

Chairman Jordan. So who is on the record? What's the typical timeframe? How does the process work.

Mr. Morell. It is a number of staff officers, not contractors, staff officers who work on this board. This is what they do all day long. When they get something, if it's straightforward, they can do the approval themselves. If it's not straightforward, they will send it to the relevant part of the Agency for comment.

Chairman Jordan. So, on previous things you submitted, what was the turnaround time?

Mr. Morell. So, for op-eds, very fast. Within hours.

Chairman Jordan. Okay.

Mr. Morell. Within hours. For my book, it took them longer to review it than it took me to write it. So I've had experiences at both ends of the spectrum.

Chairman Jordan. Is there a number of people on the board? If it's four people, five people?

Mr. Morell. I don't know. It's a small number, yes, sir.

Chairman Jordan. Okay.

BY [redacted]

Q Mr. Morell, are you aware that CIA staff at the PCRB reportedly promoted the letter by asking former CIA officials to sign onto the letter?

A Excuse me?

Q Are you aware that CIA staff at the PCRB reportedly promoted the letter by asking former CIA officials to sign onto the letter?

A I am not aware of that.

[redacted] I would now like to enter a statement David Cariens provided to the committee in an email dated March 5th, 2023, into the record as exhibit No. 10.

[Morell Exhibit No. 10.

Was marked for identification.]

BY [redacted]

Q Mr. Cariens told me, quote: When the person in charge of reviewing the book called to say it was approved with no changes, I was told about the draft letter. The person asked me if I would be willing to sign. I do not recall the person's name or the exact date of the phone call. After hearing the letter's content and the qualifiers and such as we want to emphasize that we do not know if the emails provided to The New York Post by President Trump's personal attorney Rudy Giuliani are genuine or not and that we do not have evidence of Russian involvement, I agreed to sign. Until now you had --

A I did not know this until this moment.

Q Were you aware of whether any of your fellow signatories would have reached out to the CIA and asked them to --

A I am not aware.

Q -- solicit?

A No, I am not aware.

Q Okay. Does what I just read to you sound like a quid pro quo to you where Mr. Cariens could have been under the impression that, in order to get his book approved by the CIA, he should sign onto the statement?

A I didn't read it that way. I read it in a completely different way. I didn't read that into it.

Q So your testimony today is that you did not coordinate with the CIA --

A I did not coordinate with the CIA. I would have -- had I known this, I would have reacted very negatively to this. This might -- you know, had I known at the time this might have been in the letter, then I certainly would have reported this to then the Director of the Agency.

Mr. Gaetz. And why would you have done this?

Mr. Morell. Because this is inappropriate.

Mr. Gaetz. And why is it inappropriate?

Mr. Morell. It's inappropriate for a currently serving staff officer or contractor to be involved in the political process.

Mr. Gaetz. Do you know the people who were engaged in this review for the CIA?

Mr. Morell. I do not.

Mr. Gaetz. You don't know any of the people who work in that process.

Mr. Morell. I do not, sir.

[redacted] And it's --

Chairman Jordan. How did you get the okay from the letter? Was it a phone call or an email.

Mr. Morell. Email back to me, yes.

Chairman Jordan. Was there a person who you remember?

Mr. Morell. So sometimes -- yeah, so, you know, you usually get the first name. So, if you look at -- what exhibit number is this?

[redacted] This is --

Mr. Morell. Looking at the PCRB response.

[redacted] Nine.

Mr. Morell. Nine. So you'll often know the first name of the person, which in this case is James, because you don't know his last name because of the way they do emails with the Agency. Sometimes the person at the bottom of the note will say -- will put their name. Sometimes not.

BY [redacted]

Q And it is also your testimony that you are not aware whether any of your fellow signatories coordinated with the CIA in promoting lettering?

A I am not aware. And, as I said earlier, I would have reacted very negatively to that.

Q Okay.

Chairman Jordan. One of the documents produced to us from Mr. -- I think from Russ Travers. Oh, no, it's from you, Mr. Morell. That's fine. From Russ Travers back to you responded to you. He says: Hey, Michael, great initiative, happy to sign. Is anyone submitting to ODNI prepub?

Is that the same thing we're referring to here, or is there a different publication?

Mr. Morell. Yeah, so, depending on where you work, right, you have different responsibilities. So, if you worked only at the ODNI, then you need to submit it to that organization, or if you worked at DOD, to that organization, or, you know, at NSA, to that organization?

Chairman Jordan. But this statement, the one signed off 51 was only sent to the prepublication, the CIA board, not to this board?

Mr. Morell. Correct.

Chairman Jordan. Okay.

Mr. Morell. I don't know -- let me be clear, Congressman. I don't know whether individuals who worked for other organizations sent it for review to their

organization or not. Right? It's possible that, when I told Russ Travers no, do not send it to ODNI, that he did on his own. I just don't know.

Chairman Jordan. But you wouldn't need -- even though -- I guess, I'm assuming Mr. Travers worked for ODNI?

Mr. Morell. He worked at NTCT, yes.

Chairman Jordan. Okay. You wouldn't need all -- you wouldn't need approval from all these reviews boards, only the CIA?

Mr. Morell. So the responsibility is an individual one, right? The responsibility is not with regard to a document. The responsibility is an individual one. And so, it's really --

Chairman Jordan. Your responsibility there was the CIA?

Mr. Morell. Yes. My responsibility was the CIA.

Chairman Jordan. But other members -- for all we know Mr. Travers did the same thing. I just wanted to understand.

Mr. Gaetz. I have two questions for you. So you said that -- you testified that what triggered this letter was Mr. Blinken's contact to you --

Mr. Morell. Yes, sir.

Mr. Gaetz. -- regarding the Biden campaign's desire to have it?

Mr. Morell. Yes, sir.

Mr. Gaetz. Okay. And then the goal of the letter was to help Joe Biden, right?

Mr. Morell. Let me just say one thing in response. He asked me if I thought the Russians could be involved in this. As far as I remember, he did not ask me to put out a statement. So, yes, he triggered the statement; he did not ask for it, as far as my memory goes.

Mr. Gaetz. And the goal was to help Joe Biden win the Presidential election.

Mr. Morell. One of two goals, yes, sir.

Mr. Gaetz. And the mechanism that you specifically contemplated with a letter useful in winning that election was the upcoming Presidential debate, right.

Mr. Morell. Yes, sir.

Mr. Gaetz. So how did you decide who to solicit?

Mr. Morell. We wanted -- you know, I'd say three things. Number one -- and I think I mentioned these before. One is we wanted some senior officials. Two is we wanted some balance across the administrations. And three is we wanted some Russia experts. So that's who we targeted.

Mr. Gaetz. Did you target anyone who had not held a security clearance at some point?

Mr. Morell. I don't know. I don't know.

Mr. Gaetz. Is that one of the gating philosophies.

Mr. Morell. No, sir.

Mr. Gaetz. Do you know whether or not any of the people that you solicited didn't at some point have a security clearance?

Mr. Morell. I would have to look at a list and go through it one by one with you.

Mr. Gaetz. You don't have a security clearance now, right?

Mr. Morell. Yes, I do.

Mr. Gaetz. And did all of the people who signed the letter, do they still have them?

Mr. Morell. I don't know sure, sir. Most of them probably do not.

Mr. Gaetz. In this entire process of creating the letter, soliciting signatories to the letter, and then distributing the letter to these media outlets, at any point did you talk to any current government officials --

Mr. Morell. I did not, sir.

Mr. Gaetz. -- other than this prepublication?

Mr. Morell. Yes, other than the prepublication review, which I did not talk to them; it was an email exchange.

Mr. Gaetz. And your method of solicitation, would that be principally through phone calls or emails.

Mr. Morell. It was all through email, sir.

Mr. Gaetz. So did any of those emails germinate in phone conversations that you have with any of those people?

Mr. Morell. I don't believe so.

Mr. Gaetz. Were there text messages?

Mr. Morell. I don't believe so. It might have been text messages between me and Jeremy Bash, but I don't remember that. What I remember are emails.

Mr. Gaetz. Are all of the bases that you have to believe that Russians were involved articulated in the drafts of these letters?

Mr. Morell. I don't know. I can tell you what my concerns were. I'm happy to do that. I think so. But I'd have to go through each of the reasons I was concerned.

Mr. Gaetz. I guess, could you just tell me if there are any reasons, if there were any basis you had for the particulations set forth in the letter that are not in the letter, I would like you to list those.

Mr. Morell. Okay. Let me just list them all because I -- otherwise I would have to read the letter here to remind myself. So one was my knowledge of Russian intelligence capabilities. They are very good. Two was their massive involvement in the 2016 election. Particularly with regard to hacking and dumping of emails and the use of social media to promote discord in the United States of America. Three was the

fact that the U.S. intelligence community had, I believe, in August of 2020 said that the Russians the Chinese and the Iranians were interfering in the election. Four was that I believe --

Chairman Jordan. Excuse me, Mr. Morell. Is that last one what you I cited in your counsel's letter to us August 7, 2020, the Office of the Director of Intelligence --

Mr. Morell. Yes.

Chairman Jordan. -- led by Mr. Ratcliffe. This is a press release stating.

Mr. Morell. Yes, sir. Next was the fact that I think it was in September -- I'm not a hundred percent sure -- and these were the things where I found, right, after Mr. Blinken had called me and I started doing internet searches. These are all the things that started coming to me or I found. And this next one is one of the ones I found. So, in September, the Department of Treasury sanctioned a Ukrainian Parliamentarian for interference in the U.S. election. Mr. Mnuchin put out a press release praising the sanction. Secretary Pompeo did exactly the same thing. This person was identified -- this is Mr. Derkach -- this person was identified by the U.S. government as an agent of Russia. And part of his interference in the election I learned when I did my research was that he was -- he was saying an awful lot about Hunter Biden. One of the things I found that he said was that Hunter Biden had stolen millions of dollars from the Ukrainian people and diverted that money into Biden family accounts.

Mr. Gaetz. Were you able to assess whether that was a true or false statement?

Mr. Morell. I have no idea whether it was true or false, but it was certainly, in this case, a Russian agent interfering in our election. And so, you know, I don't know if that's in here. I don't think it is. But that was concerning to me. And then the fact that, you know, two individuals close to President Trump, the fact that they had played a role in these emails getting from the computer repair shop to The New York Post was also

suspicious to me.

Mr. Gaetz. Mr. Morell, all that is circumstantial evidence, isn't it?

Mr. Morell. Intelligence analysts deal with circumstantial evidence every day, sir.

Mr. Gaetz. I'm sure they do, but everything you just described is circumstantial evidence, isn't it?

Mr. Morell. Yes.

Mr. Gaetz. So you had no direct evidence that Russia was involved in this matter at all, did you.

Mr. Morell. I did not.

Mr. Gaetz. And --

Chairman Jordan. So did the statement put out by the Director of National Intelligence that day or earlier that morning, did that have any influence on your decision with the letter, specifically, what Mr. Ratcliffe said?

Mr. Morell. No.

Chairman Jordan. Even though he said this was not -- the emails were not part of some Russian disinformation operation.

Mr. Morell. It did not because, as a former intelligence officer with much more experience than Mr. Ratcliffe, I don't know how he could have came to that conclusion. How could he know what -- how could he know it wasn't part of Russian disinformation?

Chairman Jordan. And he was good enough to quote in your response to us from August, but 2 months later, when he says he is the guy in government, he is head of ODNI, that had no impact on your decision?

Mr. Morell. Yes, sir. What was in my attorney statement to you was not written by Mr. Ratcliffe; it was written by Mr. Evanina, who was the senior official following --

Chairman Jordan. Indeed, on August 7, 2020, the Office of Director of National Intelligence, led by John Ratcliffe, issued a press release stating in part, and then you quote --

Mr. Morell. Right.

Chairman Jordan. -- from ODNI?

Mr. Morell. But the letter was written by another senior individual.

Chairman Jordan. I'm just asking the statement he put out the morning that you actually put the letter out later, the statement out later that day where he says this is not --

Mr. Morell. Right.

Chairman Jordan. -- what you say it is in the statement had no bearing.

Mr. Morell. No.

Chairman Jordan. You just thought he is wrong?

Mr. Morell. So the first statement was 100 percent the first statement from August?

Chairman Jordan. No, I know he is right in August, but he is wrong in October?

Mr. Morell. One hundred percent consistent with what I know they did 2016 and what I had already heard, right, by reading the media what they were already doing in 2020. So it's fully consistent with that. The statement -- the morning that we put this together -- I know it was the morning, or it was different morning, but --

Chairman Jordan. 8:57 a.m. of October 19th, 2020.

Mr. Morell. Okay. I just could not see how he could come to that conclusion; how you could come to a conclusion that the Russians were not involved in this so quickly. It just did not make any sense to me.

Chairman Jordan. You just thought he was wrong?

Mr. Morell. I don't know if he was wrong or right. I don't know how --

Chairman Jordan. He was obviously right. You thought he was wrong on that day.

Mr. Morell. I didn't know if he was right or wrong. I just thought that was way too quick a judgment to make.

Chairman Jordan. So you were obviously aware of Mr. Ratcliffe's statement that morning before you sent the letter out?

Mr. Morell. Yes.

Mr. Gaetz. And, as you sit here today, do you believe the Russians were involved in the Hunter Biden laptop matter?

Mr. Morell. I don't know. I mean, I still have suspicions, Congressman.

Mr. Gaetz. Would you organize such a letter today knowing what you know now?

Mr. Morell. I would have to write it differently because we now know the emails are authentic, right? So you couldn't say anymore we don't know whether it's information or disinformation. But I still have suspicions about a Russian role in these emails getting to The New York Post.

Mr. Gaetz. Well, it seems Mr. Shapiro made a call on that very matter that you would have to be -- that you would have to have a different approach on the day when deciphering which information to Andrew Bates would be on the record and off the record, right?

Mr. Morell. I'm not tracking you, sir.

Mr. Gaetz. The exhibit that is the Shapiro to Bates letter, it indicates what would be on the record and what would be off the record and what would be on background?

Mr. Morell. Yes, sir.

Mr. Gaetz. Were you involved in deciding what buckets of material were falling into those categories? What would be on the record, what would be off the record, what would be on background?

Mr. Morell. So, yes, to the extent that what Mr. Shapiro did is consistent with the email that I sent him at 8:21 p.m., on October 19th.

Mr. Gaetz. So why did you decide that this matter that we've been discussing for the last several minutes, regarding the authenticity of the material, would be off the record?

Mr. Morell. I don't know. I really don't know.

Mr. Gaetz. So it wasn't a political call you made.

Mr. Morell. No, it was -- there's a somewhere in my review of the materials is an email from me to somebody saying that I'm deeply concerned that people are going to misinterpret this.

Mr. Gaetz. Mr. Morell, doesn't the fact that you're leaving that element off the record making misinterpretation more likely?

Mr. Morell. I don't know what was -- Congressman, I really don't know what was going through my head when I said off the record.

Mr. Gaetz. Mr. Morell, are you really testifying that this email triggered by Mr. Blinken, written for the purpose of helping Joe Biden --

Mr. Morell. This statement.

Mr. Gaetz. I'll take that back. So it's your testimony that this statement, triggered by Mr. Blinken for the purpose of Joe Biden winning the election, for him to use in the debate to get distributed through your hand-selected media, contained an off-the-record element of the communication that signals that you really don't know whether or not the material is authentic, and that's not a political calculus?

Mr. Morell. The statement itself said, the statement itself said we don't know whether the information is accurate or not. It made that perfectly clear in the statement.

[10:59 a.m.]

Mr. Gaetz. So why delineate it separately off the record here?

Mr. Morell. I don't know.

Mr. Gaetz. Was that done at the direction of Mr. Blinken?

Mr. Morell. It was not, sir. For some reason, I did that, and I can't tell you why. But it is -- but the statement --

Mr. Gaetz. But you can tell me it's certainly not a political calculus?

Mr. Morell. It was not a political calculus, because we put it in the statement. The statement is caveated to the ends of the Earth.

Mr. Gaetz. Well, its utilization in the debate certainly makes it caveated. Was it?

Mr. Morell. It was not, sir.

Mr. Gaetz. And the purpose of the letter was to be a tool to use in the debate.

Mr. Morell. Yes, sir.

Mr. Gaetz. I want to travel back. What is your work at Beacon?

Mr. Morell. I am -- my titles are senior counselor -- that's more of a title than a job responsibility -- and I am -- my other title is the global chairman for geopolitical risk.

One hundred percent of what I do for Beacon is brief corporate leadership teams and corporate boards on what is going on in the world and why it matters to them.

Mr. Gaetz. And what's your compensation there?

Mr. Morell. My compensation there is $400,000 a year.

Mr. Gaetz. And is Beacon your largest source of compensation?

Mr. Morell. It is not.

Mr. Gaetz. What is?

Mr. Morell. Cerberus Capital Management.

Mr. Gaetz. And what work do you do for them?

Mr. Morell. The managing partner of Cerberus Capital Management, Steve Feinberg, who was President Trump's head of the President's Intelligence Advisory Board, is the most patriotic person I know in America, and he wants to make investments in firms that make a difference to U.S. national security, and I help him decide what those firms are.

Mr. Gaetz. And what's your compensation there?

Mr. Morell. It varies because I get paid by the day, but it's upwards of $700,000 a year.

Mr. Gaetz. Can you list for me all email addresses that you used in calendar year 2020?

Mr. Morell. Probably not.

Mr. Gaetz. Okay. If we ask your counsel to provide that list, is that something you're willing to provide to augment your testimony?

Mr. Morell. I think -- sure.

Mr. Gaetz. And can you similarly provide us all of the telephone numbers that you would've used in calendar year 2020?

Mr. Morell. Yes. That's easy.

Mr. Gaetz. And who was your cell phone provider?

Mr. Morell. I was using a Beacon cell phone.

Mr. Gaetz. Is part of the mission or function at Beacon to provide a place for people to work in between times in which they're working for the government?

Mr. Morell. No. No. In fact, I don't know of any -- I can't think of any -- let me put it this way -- I can't think of anybody who's left Beacon to go back into the administration. But I don't know that it hasn't happened. But it's certainly not a large

number. If anybody has, it's a very small number.

Mr. Gaetz. But it's not the organizing principle of the entity?

Mr. Morell. It is not the organizing principle. The organizing principle is to make money, like any business.

Mr. Gaetz. Mr. Jordan, did you have another question?

Chairman Jordan. When 51 former intel officials push out a statement, caveated or not, it creates an impression or it creates a belief out there. Would you agree?

Mr. Morell. I think it adds -- I would agree that it adds credibility to the statement, yes, sir.

Chairman Jordan. I mean, that's why you did it, right?

Mr. Morell. Yes.

Chairman Jordan. Yeah.

And, again, you did that in spite of the one individual who does have access to data that you don't, being that he is in government and you're not, to put out a statement that directly contradicted the impression that you provided to the country. Is --

Mr. Morell. Yes.

Chairman Jordan. -- that fair?

Mr. Morell. Yes, it is, sir.

Chairman Jordan. Okay.

Mr. Gaetz. I think we're nearing the end of our hour.

[redacted] We're prepared to go off the record. Thank you.

[Recess.]

[redacted] It is 11:16, and we can go back on the record.

Good morning again, Mr. Morell.

Mr. Morell. Good morning.

[redacted] My name is [redacted] I'm the chief oversight counsel of the Democratic staff on the House Judicial Committee. And thank you again for joining us.

Mr. Morell. You're welcome.

EXAMINATION

BY [redacted]

Q I want to turn back to something that came up in the earlier hour. You were talking about -- you were asked about Mr. Ratcliffe's statement.

In your experience -- well, first of all, were you referring to his determination that it was not a disinformation campaign or that there was no Russian involvement when you said that there was no -- when you were describing his findings?

A Yeah, I should've mentioned this.

So my understanding of what Mr. Ratcliffe said was that the intelligence community, you know, determined that this was not disinformation. He did not say that the Russians were not involved in this in any way. He did not say that. So there's a big difference there, in my mind.

Q And what is that difference?

A You know, we -- the only thing that would've -- had I accepted what the DNI said, what we would've changed in the letter was, you know, to take out the disinformation. But the letter would've still stood in terms of our suspicions about Russian involvement in this in some way.

Q And how long would it ordinarily take for the CIA or for other intelligence agencies to determine if there was Russian involvement in something?

A So, you know, my main reason for questioning the DNI's statement is that it's really tough to prove a negative, really tough to prove a negative, I learned over a very long career, and it can take a very long time to learn about the covert operations of

another country.

You know, one of the best examples that I know of is, in 1972 -- and I know I'm going -- you know, I'm going way back here, and I apologize for that. But in 1972 the left-leaning German Chancellor, Willy Brandt, was up for a no-confidence vote, and the numbers suggested that he should've lost that vote and should have been replaced by a conservative, but he survived. He survived the no-confidence vote in 1972.

And it was not until sometime after 2015, so nearly 50 years later, or 50 years later, that we learned that the Soviet Union had asked the East German intelligence service to bribe German parliamentarians to vote in favor of Mr. Brandt.

So 50 years it took to discover Soviet and East German involvement in the outcome of a no-confidence vote in West Germany. So it can take a very long time.

Q So, in this instance, the laptop was first revealed in, say, early October, and Mr. Ratcliffe's statement came out on October 17th or October 18th, maybe October 19th. That's a matter of a couple weeks. Would it be possible to determine in that period of time if there was Russian involvement?

A I don't believe so.

Q Okay.

And so your statement was not, in your mind, actually inconsistent with Mr. Ratcliffe's statement, because you didn't think that he was -- that he should've --

A So I'd say two things. One, it was not inconsistent in terms of the Russians playing some role here --

Q Right.

A -- because he didn't speak to that. And I thought it was too quick a judgment to make on whether this was disinformation or not.

Q Okay. And just to home in on this, there is no way to prove a negative, in

other words, that it was not a Russian disinformation campaign, in a matter of weeks like that?

A No, not in a matter of weeks.

Q Okay.

I want to turn to the conversation about Mr. Cariens. And we were discussing earlier -- it's marked as exhibit No. 10.

A Uh-huh.

Q Do you know Mr. Cariens?

A You know, I know of him. Maybe he briefed me from time to time. But I did not know him well. I did not know him well.

Q Okay.

And the exhibit 10 that we've been looking at, this is an email dated March 5, 2023, 3:02 p.m., correct?

A Yes, it is.

Q And so that's -- and it's addressed from Mr. Cariens to [redacted]

A Yes.

Q And [redacted] is the counsel sitting down there.

A Yes.

Q So this is -- March 5, 2023, is about 3, 2-1/2 years after the email -- I'm sorry, the public statement was released, correct?

A Yes.

Q Okay. And this is just an email; it's not a sworn statement, correct?

A Correct.

Q Okay.

In this, Mr. --

A But I would hope -- I would hope that, you know, in a letter to this committee that people would be honest. I'm sure you'll agree.

Q But it's not been subject to cross-examination, in other words?

A No.

Q Okay.

In the email, Mr. Cariens says that he retired in 1997.

A Yes.

Q Do you know about how old Mr. Cariens is?

A I do not. I'm sorry.

Q Okay.

He continues on -- so you have no idea if anything in this is accurate. The first time --

A I don't.

Q -- you saw this was today.

A I don't.

Q Okay. And you haven't spoken to Mr. Cariens about his statement.

A No. No.

Q Okay. So you don't know, for example, if he's remembering things correctly. You have no idea.

A I don't. I don't. You're absolutely correct.

Q Okay.

He says in paragraph 1, partway, about three-quarters of the way down, "I agreed to sign," and then his wife agreed to sign as well. He says that the PRB described the letter to him and then he'd agreed to sign.

Are you reading that as he told the PRB individual that he would agree to sign?

A Let me read it, please.

Q Uh-huh.

A So the way I'm reading it is that the person in the PRB explained the letter to him --

Q Okay.

A -- and it was at that moment that he, in his mind at least, agreed to sign. That's the way I'm reading this.

Q So, if there had been -- and your only communication with the PRB was the email we went through in which you asked for clearance and then they came back and said that you were cleared, correct?

A Yes.

Q You never received any communication from the PRB saying that Mr. Cariens and his wife want to join the letter.

A No.

Q To your knowledge, did anybody else who was organizing the letter receive such a contact?

A Not that I know of.

Q Okay.

Do you recall how Mr. Cariens agreed to sign? Do you recall getting an email from him?

A I don't.

Q Okay.

So everything that we know about Mr. Cariens's comments are in the four corners of this letter --

A As far as I know, yes.

Q -- and you have no other information about it?

A As far as I know, yes --

Q Okay.

A No. No, I do not.

Q Okay.

And you produced to the committee any relevant communications that --

A Yes, ma'am.

Q -- you'd had with the PRB? Okay. And, to your knowledge, nobody else had any communications with the PRB?

A To my knowledge, no.

Q Okay.

I want to get back just quickly -- you said earlier that it was your testimony that there was no coordination with the campaign beyond that one email from Mr. Blinken in which he asked if you were aware of this.

A Besides the initial --

Q Right.

A -- contact, right, whether email or phone call --

Q Right.

A -- and then the second email, which was the USA Today article.

Q Okay. And that's based on your -- only with respect to your own personal knowledge, correct?

A Yes, ma'am.

Q Okay.

All right. I'm going to move on. We talked at the very beginning briefly about your background --

A Uh-huh.

Q -- and I want to go into that in a little more detail. And I'm also going to ask you about the background of some of the people that you worked with.

So when did you join the CIA?

A 1980. November of 1980.

Q Okay. And when did you retire?

A September of 2013.

Q So you spent --

A Thirty-three years.

Q Okay. And you said that was your entire career until you retired?

A Yes.

Q Okay. So you would've worked under both Republican and Democratic --

A Yes, ma'am.

Q -- administrations.

A Three of each.

Q Okay. Great. Sorry, let me finish my questions so we can get a clean --

A Oh, sorry.

Q No, you're fine.

A I'm sorry. Sorry.

Q Did you consider yourself a career official?

A Yes.

Q Could you walk me through your early career experience?

A So I started out working on international energy issues. It was the second -- it was the Iran-Iraq War. Oil prices had skyrocketed. It was a big issue.

The Soviet Union was offering to build two natural gas pipelines to Western

Europe. President Reagan was deeply concerned about that. A lot of research and analysis around natural gas demand and supply and how dependent Western Europe would be on Soviet gas. That was the first 3 years or so.

And then I moved to work on East Asia. And I worked on East Asia for the next -- as an analyst and as a manager for the next 13 years or so, working on Southeast Asia, Japan, some China, a lot of North Korea.

Q And at some point you became the head of the team responsible for the President's daily brief, right?

A Right. So my next job after that was the head of that team, yes.

Q Okay. And can you describe the duties of that position?

A So we would get drafts from the offices of pieces that people thought that the President should see, and it was our responsibility to make sure they met the standards that the leadership or the Agency demanded for those pieces.

So we would work with the analysts to make sure that they met those standards, and we would make kind of a first-cut judgment at what should be in the book the next day and present that to the senior leadership for their decision.

Q Okay. And how did it come about that you were named to that position?

A I had worked on East Asia a long time and it was time to do something else, and this was an opportunity that came up. You know, it was seen as an important job. It was something I was interested in. It would broaden my exposure to, you know, not only East Asia but to the entire world. So it was something that was offered to me, and I said yes.

Q And who were the Presidents when you were managing the President's daily briefing?

A President Clinton.

Q Okay. And did you continue on through when President Bush was elected?

A So, no. So I went from being involved in the PDB process to being George Tenet's executive assistant for 2 years -- 1998, 1999. After those 2 years, I went to run the office of East Asia and Latin American analysis.

And at the beginning of President Bush's term, I was asked if I'd be willing to be President Bush's first daily intelligence briefer, which, next to being the head of analysis at CIA, is the best job an analyst could have. So of course I said yes.

Q And in 2006 you became the CIA's Associate Deputy Director, right?

A Yes. Yes.

Q Who selected you for that position?

A Mike Hayden.

Q Okay. And can you broadly describe your duties there?

A So that position has changed names many, many times. It is the number-three in the Agency. The responsibilities are not substantive, they're not analytic, they're not operational; they are running the business of the Agency.

Q Okay.

A So HR, IT, security, those sorts of issues.

Q Uh-huh.

And then in 2008 you were named the Director of Intelligence, correct?

A Yes.

Q And what are the duties of that position?

A You are in charge of all the analysis and all the analysts at CIA.

Q Okay. Who selected you for that position?

A Mike Hayden.

Q Okay.

And you twice served as the Acting -- I'm sorry. In 2010, you became Deputy Director of the CIA?

A Yes.

Q And who selected you for that?

A Leon Panetta.

Q Okay. And can you describe your duties in that role?

A As I explained earlier, I was responsible for everything that the CIA did. My focus was on analysis and operations and, you know, making sure we were doing the best we could do to serve our customers, get the intelligence we need, and get the analysis right.

And I had a significant outside-the-building responsibility in terms of representing the Agency at the White House at Deputies Committee meetings and on the Hill at the two Intelligence Committees and then with a large number of countries overseas, with the leaders of those countries and the heads of the intelligence services of those countries.

Q And then we talked -- you were twice -- sorry, you twice served as Acting Director at CIA?

A Yes.

Q So is it fair to say that during your 33 years with the CIA and these positions of increasing leadership responsibilities you developed extensive experience in assessing and analyzing foreign influence operations?

A Yes.

Q Is it fair to say that you developed extensive experience with Russian influence operations in particular?

A Actually, I wouldn't say that.

Q Okay.

A I'd say, because the Russians -- you know, the Russians, you know, messed around in our elections on the margins until 2016, when they did so on a massive effort. So I was, you know, familiar with it, but I wouldn't call myself a deep, deep expert.

Q Were you familiar with people who were deep, deep experts?

A Yes.

Q Okay. And we'll get back to that in a minute.

Did you receive any awards during your time at the CIA?

A Yes.

Q What were those awards?

A This is embarrassing. Seriously.

I received the Distinguished Career Intelligence Medal when I retired for everything I had done throughout my career.

I received the Distinguished Intelligence Medal, which is one of the highest awards a CIA officer can get, for my role in the Bin Laden operation.

I received a large number of what are called Director Awards. Directors, you know, have this award that's called the Director's Award. They can hand it out on their own -- you know, on their own decision. And I received, you know, at least 10 of those from many different Directors, including, you know, somewhat surprisingly, after I left, Mike Pompeo gave me one.

Q Okay. When was that?

A I received it at my home the day he was sworn in as Secretary of State.

Q And what was the purpose for that award?

A I have spent a lot of time since I left CIA providing advice to Directors and Deputy Directors, and I've done so with every single one. And I spent some time with

Director Pompeo when he was Director, and I take it he was appreciative of that time, and he gave me that award.

Q Okay.

So I want to turn to some of the people that you worked with on this letter. And I think you mentioned the names earlier that I'm going to go through.

Are you familiar with an individual named Marc Poly- --

A Yes.

Q -- -meropoulos? Let me finish my question.

A Oh, yes. Yes.

Q How do you know him?

A I first met Marc when his wife was my executive assistant when I was Deputy Director, and our families became friends. And so I've known him -- actually, let me correct that.

I first met Marc when I was head of analysis and I was on a trip to Amman, Jordan, and he was the deputy chief of station. So that's the first time I met him.

I got to know him when my his wife worked for me on my staff, and we became friends. And I've known him since then.

Q Okay. And what's your understanding of his background?

A So he's worked on many different things in his career, a lot of the Middle East.

The reason I reached out to him in this case is, his last two jobs at the Agency were the deputy chief of operations for the region that covers Russia and then the acting chief of operations for the part of the world that covers Russia, and during that time he lived through the 2016 Russian interference in our election.

Q And why was that important?

A Because he had a -- you know, he had a very good understanding of what the Russians did in 2016, probably the best understanding of anybody that I knew.

Q Okay. Do you consider him an expert in --

A Yes.

Q -- in Russian disinformation?

A Yes.

Q Okay.

According to the biography on his website, Mr. Polymeropoulos is one of the intelligence community's, quote, "most highly decorated field officers."

Do you believe that's an accurate --

A Yes.

Q -- statement? Okay.

Are you familiar with an individual named Nick Shapiro?

A Yes.

Q How do you know him?

A I first met Nick when he worked for John Brennan when John Brennan was at the White House. He was an aide to John Brennan when John was the homeland security advisor to President Obama.

When John Brennan was made Director of CIA, John brought Nick to the Agency with him to be his deputy chief of staff. I got to know Nick during that period of time. We became friends. We stayed friends.

And Nick has been my media advisor pretty much since the time that he left government.

Q Do you consider him honest and trustworthy?

A Yes.

Q Do you believe that he exercises good judgment?

A Yes.

Q Okay.

You mentioned an individual earlier, Kristin Wood?

A Yes.

Q How do you know Ms. Wood?

A Kristin was one of my executive assistants when I was the number-three on the analytic side of the Agency. And then I've kept up with her, you know, ever since. I've been a mentor to her.

When I was Deputy Director, I asked her to take on an extremely difficult job of helping to prepare materials for the Director and Deputy Director for their use at meetings -- talking points, for example.

Q Uh-huh.

A It was a very difficult job because the Director and Deputy Director are never happy with what they get. But she did that job, and she did it extremely well. And I've stayed in touch with her ever since.

Q Okay. And I think you described her earlier -- and I don't have the exact quote, but -- as being extremely reliable?

A Yes.

Q Is that a fair description?

A Yes.

Q And do you believe she is honest and trustworthy?

A Yes.

Q Do you believe that she exercises good judgment?

A Yes.

Q Okay.

So, in the previous hour, we talked about the October 19th letter --

A Yes.

Q -- fairly extensively. I want to walk through it even more closely, if we can. And I think it was introduced as exhibit 1.

So, as written -- putting aside your motivations, but, as written, the letter doesn't actually endorse any particular political candidate, right?

A It does not.

Q Was that an intentional choice?

A Yeah. It was a -- yes. It was important for me to write this letter as if an intelligence officer was writing it.

Q And why was that?

A Because that's what we were, right?

Q Right.

A That's what we were. And we were making an argument about what we saw and what we believed and what I still believe may be true today, that the Russians played some role here.

Q Okay.

The very first sentence of the second paragraph of this letter reads, "We are all also individuals who see Russia as one of our nation's primary adversaries."

Was this an accurate statement at the time that it was written?

A It was an accurate statement at the time it was written, and it's been an accurate statement ever since --

Q Okay.

A -- the Soviet Union ended and Russia began.

Q And do you see Russia as a primary adversary of the United --

A Yes.

Q -- States today, then? Okay. And could you explain that?

A One of Russia's primary objectives is to weaken the United States of America. One of their primary objectives is to weaken the international system that we built so that they can do things on their periphery without the world interfering with them, as we see today in Ukraine.

Q Okay.

And you said that one of Russia's primary roles is to weaken the United States. So, for example, Russia interfered in the 2016 election.

A Massively.

Q Okay. And you think part of their goal in doing that was to weaken the United States?

A Absolutely.

Q Okay.

Are you familiar with reports from summer 2020 that Russian intelligence hacked -- I'm sorry, that a Russian military intelligence unit secretly offered bounties to Taliban-linked militants who killed coalition forces in Afghanistan, including American troops?

A I was aware of that reporting, yes.

Q Do you think that is an example of an action that Russia could take that would make it an adversary of the United States?

A Absolutely.

Q Okay.

A I don't know if that information is true or not. I'd put that caveat out there.

I didn't have access to the intelligence reporting, but --

Q Right.

A -- I certainly was aware. And if it's true, it is absolutely an example of Russia being an adversary, yes.

Q Okay. And I believe that was actually in a June 26, 2020, New York Times article. So that was public information.

Are you familiar with reports from December 2020 that Russian intelligence hacked the SolarWinds software --

A Yes.

Q -- infiltrating the State Department, Department of Homeland Security, and the Pentagon, among other agencies?

A Yes.

Q And do you believe that that's an example of an action that would make Russia an adversary of the United States?

A I think there's -- you know, I think there's norms around intelligence collection, right? We collect intelligence on them; they collect intelligence on us. So I think I've gotta be a little bit careful here.

I think it's their actions that are designed to weaken us that we need to focus on, in terms of them being our adversary.

Q Okay.

And do you think, in 2020, was there widespread agreement among United States intelligence and national security experts that Russia was an adversary of the United States?

A Yes.

Q And do you think that's still true today?

A Yes.

Q Okay.

The final sentence of the October 19th letter reads, "It is high time that Russia stops interfering in our democracy."

Do you remember writing that?

A Yes.

Q And can you explain why you wrote that?

A You know, I don't think there's anybody in this room who would disagree with the idea that Americans should determine the outcome of elections, not foreign countries. I think since the founding of the Republic there has been a belief, a widespread belief, in this country that foreign countries should not interfere in our elections, should not have a say in our elections.

And the Russians had tried to play such a role in 2016, and it was absolutely clear that they were trying again in 2020.

Q Okay. And the goal of that -- would you say the goal of that was to weaken the United States?

A Yes.

Q Okay.

Can you explain how exposing Russian influence operations helps to counter those operations?

A If the American people know what the Russians are doing, then it makes what the Russians are trying to do less effective.

Q How so?

A If you know -- for example, in 2016, one of the issues that the Russians conducted significant information operations on was the division in the country over race.

And if you know, right -- if you're just seeing social media out of nowhere, you know, trying to divide us on that issue, it's one thing if you know the Russians are behind a big chunk of it. It makes it less credible and, therefore, less divisive, in my view.

Q And we've used a couple different terms here today. We've used "disinformation," "misinformation," and then "information" --

A Right.

Q -- operations. Can you explain the difference between a disinformation operation and an information operation?

A Disinformation is when an intelligence service uses false information, and information is when they use accurate information, is the way I think about it.

Q And how do those play out in practice?

A Well, if you're going to use disinformation, you have to come up, right, you have to create it, and then you have to get it into the public domain.

Information operations are actually easier, because the information is usually already in the public domain and you're amplifying it, you're targeting it at specific groups or even specific individuals, as the Russians did in 2016.

So that's how I think about it.

Q So information operations, in other words, could use true information or accurate information --

A It would. That's the definition.

Q Okay.

Do you believe that Russian information, as opposed to disinformation, operations pose a threat to American democracy?

A Yes. Yes.

Q And how is that?

A Because it is a foreign country amplifying, targeting information with political intent, with the intent on influencing the election. And, therefore, you know, it creates a possibility that they could determine the outcome of an election, which is obviously something that nobody wants.

Q So, in other words, the Russians -- or others, I guess -- could use an information operation in order to help elect a particular candidate?

A Try to help elect, yes.

Q Okay.

There are some people who say that both disinformation and information operations are simply foreign individuals exercising their free-speech rights. What do you think about that statement?

A Foreign governments do not have First Amendment rights in the United States.

Q And information operations involve a government hiding its hand or kind of hiding behind plausible deniability, correct?

A So both of them do, right? Both information and disinformation operations, you would want to hide your hand, right? Because if your hand is seen, it's less effective.

Q And how would you hide your hand?

A You know, for example, in 2016 and again in 2020, the Russians used bots on social media to push out both any disinformation they were using and the information they were trying to highlight and target at specific individuals and groups.

Q So I want to introduce as exhibit 11 the indictment --

A Can I just add one thing here? Is --

Q Absolutely.

A -- that okay?

Q Absolutely.

A I just want to say that, you know, I followed closely media reporting on Russian involvement in the 2016 election, but what I considered to be the most exhaustive report written on it was the bipartisan report of the Senate Intelligence Committee, which I read cover to cover.

Q And why do you consider that to be the most --

A Because they did a thorough investigation of every aspect of what the Russians have done, and they did, in my view, a more thorough investigation than anybody else.

Q And I believe that's a thousand pages or thereabouts long. Is that --

A There were five pieces to the report. I don't know their total length.

Q And you consider that, based on your experience, your 33 years of intel, of working for the CIA experience --

A Yes.

Q -- you consider that to be a reliable report --

A Yes, I do. I sure do.

Q -- and assessment of the 2016 --

A Yes.

Q Okay.

I want to introduce as exhibit No. 11 the indictment in United States v. Internet Research Agency et al.

[Morell Exhibit No. 11.

Was marked for identification.]

BY [redacted]

Q And this is getting back to what we were talking about, Russian influence -- information, as opposed to disinformation, operations.

A Yup.

Q Are you familiar with this indictment?

A Peripherally. I mean, I read about it in the media.

Q Okay. Are you familiar with Yevgeny Prigozhin?

A Describe, please.

Q He's the founder of the Wagner Group --

A Yes, that's how I know the name. Yes.

Q Okay. And are you familiar with the Internet Research Agency?

A Yes.

Q Okay. And I believe that was actually mentioned in the --

A Yes.

Q -- Senate report.

A Senate report, yes.

Q So, on paragraph 4 of this -- it's on page 3. It's paragraph 4 of the indictment. It describes the Russian defendants in this case posing as U.S. persons, creating false U.S. personas, operating social media pages and groups designed to attract U.S. audiences.

These groups -- and I'm not reading this precisely, but -- these groups and pages, which addressed divisive U.S. political and social issues, falsely claimed to be controlled by U.S. activists when, in fact, they were controlled by defendants, "defendants" being the Internet Research Agency here.

Defendants also used the stolen identities of real U.S. persons to post on organization-controlled social media accounts. "Organization" refers to the Internet

Research Agency.

Over time, these social media accounts became defendants' means to reach significant numbers of Americans for purposes of interfering with the U.S. political system, including the Presidential election of 2016.

And then much later on, in paragraph 33, the indictment notes that the Internet Research Agency employees, known as "specialists," were, quote, "instructed to write about topics germane to the United States such as U.S. foreign policy and U.S. economic issues. Specialists were directed to create 'political intensity through supporting radical groups, users dissatisfied with [the] social and economic situation and oppositional social movements.'"

I know I just read a long block of text, but, based on your experience, is this consistent with how and why Russia would work to amplify --

A Yes.

Q -- information online?

A Yes.

Q So they do use persons purportedly in the United States or U.S. persons to amplify --

A I mean, one of the things that -- one of the things I noted when I first read it -- I can't tell you when -- was that they actually put people on the ground here to discover what the divisive issues were.

Q Okay. So that --

A That was -- it shows how good they are.

Q And that's a known Russian tactic?

A Yes.

Q Okay.

Turning back to the emails that were the actual subject of the October 19 --

A Yes.

Q -- 2020, letter, putting aside the origin of the emails -- and I think you said earlier that you believe that they are authentic based on subsequent reporting -- would Russia have had incentive to amplify them online?

A Yes.

Q Can you explain that?

A The U.S. intelligence community had made clear in August 2020 that Russia preferred President Trump over Vice President Biden.

The whole Hunter Biden-Vice President Biden issue, you know, was part of the public discussion, perhaps as it should've been -- as it should've been. But the one issue that I focused on was -- as we talked about earlier, the one issue I focused on was the allegation that Vice President Biden, you know, essentially sold his country down the road in his dealings with the Ukrainians, which I did not believe, which I didn't think there was any proof of, and my experience in the Obama administration suggested was not even possible. That had a lot of traction.

And the Russians would absolutely have incentive to amplify that allegation.

Q And can you talk more about the Russian incentive? What was their goal in amplifying, do you believe?

A To get people to believe that the Vice President had made a decision on behalf of his son rather than on behalf of the country, which is where his duty lied.

Q And would the goal of the Russians have been to influence the outcome of the election?

A Yes.

Q Do you believe that they were working to -- that they amplified these emails

in order to support one candidate over another?

A Yes.

But I've got to make something clear here. I don't know that they did that --

Q Right.

A -- right?

Q Right.

A I don't know that they amplified this message --

Q Absolutely.

A -- right? It's certainly possible, likely, but I don't know that.

Q Right. Agreed. And I'm just asking based on your experience --

A I understand.

Q -- and based on your --

A I just want to be clear.

Q I understand.

And Russia also could've amplified them, though, just based on your experience, in order to sow chaos, right?

A In this case, right. I mean, amplifying racial differences, economic differences in the United States, that's more to create -- to undermine our system and, you know, create chaos.

This would be, you know, with a particular political outcome in mind.

Q Okay.

A In my view. In my view.

Q So, in your view, this was --

A If this happened.

Q -- if this was a Russian information, as opposed to disinformation, a Russian

information operation, the goal of it would've been to promote one candidate over another?

A Right.

Q And was that candidate President Trump?

A Yes.

Q Again, in your experience -- and you said earlier, I think we referenced the letter saying that "the Russians need to stop interfering in our elections," is a quote from your letter, or roughly -- is this type of Russian interference -- in other words, a Russian information operation -- equally as concerning as the actual, for example, hacking and leaking of materials or the creation and dissemination of false materials?

A Yes.

Q Why is that?

A Because it's actually more subtle. When you hack John Podesta's emails and you put them in the public domain, everybody kind of knows where it came from, right? So I think it devalues it a little bit, politically.

What you don't see, right, particularly on social media, in terms of amplification and targeting, that's a lot harder to see and, therefore, potentially more effective in affecting people's thinking.

Q In that situation where it's more effective, is it even more useful to bring attention to the fact of what the Russians may be doing?

A I'm sorry?

Q In other words, in a situation -- you said part of the reason that it's more effective, an information operation can be more effective, is because the Russians or anybody who is conducting it can kind of hide what they're doing and give it some additional authenticity or --

A Yeah, what I would say -- what I would say is, based on my experience -- based on my experience watching this, I think that information operations are often more effective than disinformation operations because it's easier to sustain the truth than it is to sustain a falsehood, and it's easier -- because, as I said earlier, to the extent the information is true, it's already out there, usually, and you're simply amplifying and directing. So it's often more effective than disinformation.

Q And can it be an effective tactic to counter that spread of accurate information but for a, you know, purpose of interfering --

A Absolutely.

Q -- can it be a good countermeasure to call attention to it, in other words, to publicly point out, "This is what the Russians are doing," so that Americans understand what is happening?

A Yes.

Q Why is that?

A Again, for the same reasons we talked about, right? To the extent that there is a narrative in the public domain that's not accurate, to the extent that their operations support that narrative, right, it's more difficult --

Q Uh-huh.

A -- it's more difficult for our political system, you know, to get to the truth, right, which is ultimately what we're trying to do here.

Q Okay.

Are you familiar with the declassified version of the 2017 intelligence community assessment --

A Yes.

Q -- that concluded that Russia interfered --

A Yes.

Q -- in the 2016 election? Okay.

We're going to introduce this as exhibit 12.

[Morell Exhibit No. 12.

Was marked for identification.]

BY [redacted]

Q And you said you're familiar with it --

A Yes, I read it.

Q -- but I can give you a minute to look through it.

A No, I read it.

Q Okay.

A It was a long time ago, but I read it.

Q Were you familiar with this warning when it was issued?

I'm sorry, but I'm also going to introduce as exhibit 13 a joint statement from the Department of Homeland Security and the Office of the Director of National Intelligence on election security, warning about influence operations.

A Yes.

[Morell Exhibit No. 13.

Was marked for identification.]

BY [redacted]

Q Are you familiar with this?

A What's the date on it?

Q October 7, 2016.

A Yes.

Q Were you familiar with this warning when it was issued?

A Yes. I'm sure I was.

Q Okay.

A I don't remember exactly.

Q Were you familiar with the warning when you were drafting the letter in 2020?

A When I was -- no, I didn't think about this --

Q Okay.

A -- when I drafted the letter in 2020. What I was thinking about related to 2016 was just what the Russians had done in general in 2016.

Q Okay.

Based on your recollection, do you think that the 2017 assessment has a clearer description of Russian interference than the 2016 warning?

A A clearer?

Q Clearer.

A Yes. Yes.

Q It's -- I think, for one thing, it's --

A Yes.

Q -- many pages longer, right?

A Yes.

Q The warning is only three paragraphs.

A Yes.

I would say that the Senate report -- I would say that, based on the Senate report, even in January of 2017, we did not fully understand the extent of Russian information operations, and it took some time to understand the totality of it.

Which is why I put higher value on the Senate Intelligence Committee report than

I put on this. I'm not saying this is wrong; I'm just saying that's more complete.

Q But to the extent that the October 7, 2016, warning was what was publicly released to Americans to warn them about Russian influence operations or Russian disinformation operations, that pre-election warning was much less thorough and provided much less information than the information that came out after the election?

A Yes.

Q Okay.

You've previously called the response to Russian interference in the 2016 an intelligence failure. Do you recall saying that?

A Uh-huh.

Q Is part of that intelligence failure a failure of the national security community, including the intelligence community, to provide a clear warning of Russian interference in advance -- to provide a clear warning of the Russian interference in advance of the election?

A I'd say two things.

Part of this is on me, right? I was Deputy Director at the time.

The Russians conceived of the 2016 operation back in 2013; actually began it in 2014 --

Q Uh-huh.

A -- the information, you know, piece of it, not the hack-and-dump and not the hacking of our election infrastructure. But it went way back, and the intelligence community did not see it at the time.

So I'd say two things. One was to identify in real-time what the Russians were planning and doing and to warn about it in a way that would've made it easier for policymakers to take action that might have made the operations less effective.

Q Is it important for intelligence analysts to be free from political interference --

A Yes.

Q -- or political pressure?

A Yes.

Q Why is that?

A Because when you put analysis on the table in the Situation Room or in a hearing room up here, right, you don't want anybody to think that you have a political objective or even a policy objective, right, that you are on umpire, you are calling balls and strikes, you are calling it like you see it.

That is beat in to all intelligence officers on day one and then throughout your career. Because you can't be effective if people doubt what you're telling them.

Q In the, kind of, late winter of 2020, were you aware that President Trump was displeased with the intelligence briefings that were being given to Congress about election interference?

A I read that in the media. I don't know if it was true, but I read it in the media.

Q Did that contribute at all to your decision to work with Mr. Polymeropoulos to draft the letter?

A Not really.

Q Okay.

In the spring of 2020, were you aware of allegations that intelligence officials in the Trump administration were putting limitations on what could be said by analysts about Russian election interference?

A Again, I had read that, and, again, I didn't know if it was true.

Q Okay.

A And I wasn't talking to anybody on the inside. But I was aware of it based on the media reports, yes.

Q Did that contribute to your decision to work on the letter?

A Not really.

Q Okay.

And in the summer of 2020, were you aware of allegations that intelligence officials in the Trump administration were putting out statements that drew kind of a false equivalency between Russia, China, and Iran?

A That was a critique that I was aware of from reading the media, and it was my own critique of some of the early statements from the DNI and the DNI staff about interference in the election.

Q Did that contribute to your decision to write the letter at all?

A No, because I was concerned -- I was concerned about not only what the Russians were doing but what the Chinese were doing and what the Iranians were doing as well. What the report from the DNI did not make clear was that Russian involvement was at a scale much, much larger than Chinese involvement or Iranian involvement.

Q And why was that concerning to you?

A It was just something that should have been mentioned, I thought, in the DNI public statement to size these things for the American people.

Q Why would it have mattered for the American people to know that?

A Because the different countries had different outcomes that they were pursuing.

Q Uh-huh.

A The Iranians did not want President Trump to be reelected. The Iranians

wanted Vice President Biden to be elected.

The Chinese -- quite frankly, I was never clear exactly what the Chinese wanted, and they ultimately stood down on their involvement. I think the Chinese were torn, is my own personal view.

But the Russians, you know, it was absolutely clear what the Russian preference was. And because the scale of their activities was so much larger, I just thought that was important to know, given that they had different preferred outcomes.

Q Okay.

Let me move on a little bit right now. We discussed the timing of the letter earlier, and it was noted that the letter was released in advance of the second Presidential debate.

You were a private citizen when the letter was made public on October 19, 2020, correct?

A Yes.

Q And all of the other signatories were as well?

A As far as I know.

Q Okay. And would you agree that as a private citizen you have the right to engage in the political process?

A Yes. Not only the right but, I think, the responsibility.

Q Why do you say the responsibility?

A Because I think, as American citizens, we all have a responsibility to make sure this democracy continues.

Q Okay. And did you feel a particular responsibility because you had 33 years of intelligence experience?

A Yes.

Q And we went through this a little bit earlier, but the letter doesn't actually endorse a political candidate on its face?

A It does not.

Q Okay. And, in fact, the closing line is, "It is high time that Russia stops interfering in our democracy."

A Correct.

Q So is it fair to say that the text of the letter makes it clear that the focus is actually on Russian interference, not on the political candidates?

A It's correct. I would just repeat what I said earlier just to be, you know, totally clear, that there were two intentions here, right? One was to make clear to the American people that the Russians were interfering in the election, and the other was to help Vice President Biden in the debate.

Q So I want to introduce into the record two documents.

The first -- and I'm going to mark it as exhibit 14 -- is a FOX News article dated September 14, 2020, entitled "235 Former Military Leaders Support Trump, Warn 'Our Historic Way of Life is At Stake.'"

[Morell Exhibit No. 14.

Was marked for identification.]

BY [redacted]

Q The second I'll mark as exhibit 15. And it's a letter from 235 former military leaders entitled "Open Letter from Senior Military Leaders."

[Morell Exhibit No. 15.

Was marked for identification.]

BY [redacted]

Q The letter isn't dated, but the FOX News article indicates it was released on

or about September 14, 2020.

A Yes. I remember seeing it.

Q You do remember --

A Yes.

Q -- seeing the letter, or the FOX News article, or both?

A I remember hearing about the endorsement.

Q So have you read this letter, though, before today?

A I have not. I have not read it yet.

Q So I'll give you a second to review it, if you'd like. And the letter is the one actually marked exhibit 15.

A Okay.

Q Okay. So the letter, briefly summarizing it, states that the 2020 election could be the most important election since our country was founded. It argues that the Democrats' opposition to border security, their pledge to return to the disastrous Iran nuclear deal, their antagonism toward the police, and planned cuts to military spending will leave the United States more vulnerable to foreign enemies.

And then it says -- it urges Americans to, quote, "support Donald Trump's reelection."

It's then signed by 235 retired military officials, including, you know, generals and admirals --

A Uh-huh.

Q -- and vice admirals, lieutenant generals, et cetera.

A Uh-huh.

Q Is that a fair description of the letter?

A Yes.

Q And regardless of whether you agree with what the letter says, do you believe these signatories are expressing their First Amendment right?

A Yes. And I believe they're also -- they are not only expressing their right to be involved in the political process but also their responsibility.

Q Okay. And do you agree that, again, regardless of whether you or anyone else agrees with what the letter says, these individuals who signed this letter have the right to exercise their First Amendment right and to participate in the political process?

A I sure do.

Q Okay.

So I also want to introduce as exhibit 16 an excerpt from the first Presidential debate, in 2020, which took place on September 29, 2020.

[Morell Exhibit No. 16.

Was marked for identification.]

BY [redacted]

Q And this isn't the full transcript, because the full transcript was 100-and-some-pages long, but we're -- it's a cover page and then an excerpt from the middle of the debate.

Did you watch the debate?

A Uh-huh.

Q So I'll give you a minute to review this. But --

A I watched the debate, but I don't --

Q Yep.

A -- I don't have a crystal-clear memory.

[12:09 p.m.]

BY [redacted]

Q And I'm going to ask you about the bottom of that page.

A This one?

Q Yes.

A Should I stop reading the rest of it?

Q Whenever you're ready. Sorry. I didn't mean to --

A Okay. Go ahead.

Q So, at the bottom, it's President Donald J. Trump at 28:45 in that block of text.

It reads: As far as the church is concerned and as far as the generals are concerned, we just got the support of 250 military leaders and generals, total support. Law enforcement, almost every law enforcement group in the United States. I have Florida. I have Texas. I have Ohio. I have every -- excuse me, Portland, the sheriff just came out today, and he said, "I support President Trump."

Based on what I just read to you and the review of the letter from the 235 former military leaders, is it accurate to say that senior military leaders' letter in support of Trump was released in advance of the first Presidential debate?

A What was the timing?

Q So it would have been September 14, 2020.

A And the debate was?

Q September 29, 2020.

A Likely.

Q Okay. And is it accurate to say that it played a role in that debate?

A Yes.

Q That it was brought up by President Trump in that debate?

A Yes.

Q Okay. So -- and you agree that these senior military leaders -- they were admirals, generals, lieutenant generals; they're all retired -- they have the right to participate in the political process?

A Yes.

Q And, in fact, their decision to participate did play a role in the political process?

A Yes.

[redacted] Okay. I have about 5 minutes left.

We have about 5 minutes left. I'm going to keep going unless you all -- okay.

BY [redacted]

Q You were asked earlier about an email exchange with Mr. Blinken?

A Yes.

Q And I don't actually remember, I think it was exhibit 5, but we're not going to return to the exhibit.

A Okay.

Q The email was dated October 17, 2020. Correct?

A The email from --

Q From Mr. Blinken to you.

A Yes, yes.

Q And, on October 17, 2020, Mr. Blinken was a private citizen. Correct?

A Yes.

Q You were also a private citizen?

A Yes.

Q And all the other letter signatories were private citizens?

A As far as I know, yes.

Q So this was essentially -- the interaction between you and Mr. Blinken were two private citizens engaged in the political process?

A I didn't see it that way.

Q How did you see it?

A I mean, I saw it as an interaction between me and a senior member of the Biden campaign.

Q But, even as a member of the campaign, he was a private --

A Yes.

Q -- citizen?

A Yes.

Q Okay. And so, to the extent that there has been some suggestion that, you know, your -- that you should not have written this letter or that there was something wrong with you writing the letter, do you agree that that could amount to telling you you should not have participated in the political process?

A Rephrase that again.

Q To the extent there has been the suggestion made either today or in public reporting that you should not have sent that letter --

A Yes.

Q -- that you shouldn't have submitted the public letter, would you agree that that would have the effect of -- if you had not -- that if you had -- that it could have a chilling effect on others' willingness to participate in the political process in the future?

A Yes.

Q And would that be problematic?

A Yes.

Q Why?

A Because you want as much involvement in the political process as possible by American citizens. And it's chilled me, to be honest with you.

Q How so?

A You know, I'm not likely to participate publicly in the political process again.

Q Do you think that's possibly true for the other people who signed this letter?

A I don't know. You would have to ask them.

[redacted] I think we're at a stopping point. So we can break for now.

[redacted] Mr. Morell, would you like a break?

Mr. Morell. Yeah, yeah.

[redacted] How long would you like?

Mr. Morell. Ten minutes?

[redacted] All right. Thank you.

Mr. Morell. Great.

[Recess.]

[redacted] The time is now 12:25, and we can go back on the record.

BY [redacted]

Q Our committees are deeply troubled by the CIA's engagement and what it's -- my understanding you have testified here today is describing its political activity.

[redacted] earlier noted that the statement that Mr. Cariens provided me was not under oath. I did just want to say for the record that we have requested Mr. Cariens to appear for a transcribed interview and are currently working with him and counsel to provide that.

Are you aware whether the statement was sent to any of the other intelligence

agencies? I know you said you weren't sure --

A I don't know.

Q -- if it went to the ODNI?

A I don't know.

Q Okay. And did you speak to any other offices or staff outside of the PCRB at the CIA?

A No.

Q In an email you sent to signatories thanking them for signing on, you described this as, quote, the most important election since 1860 and 1864 when the very existence of the country was on the ballot.

[redacted] And I can enter that into the record, that email, so that we have it for you as exhibit No. 15 -- I believe -- 17.

[Morell Exhibit No. 17.

Was marked for identification.]

[Discussion off the record.]

[redacted] That's all right.

BY [redacted]

Q Do you remember sending an email to that effect?

A Yes.

Q Why did you believe that this was the most important election since 1860 and 1864?

A You know, it's funny, reading the letter from the generals supporting President Trump, I agree with a number of the points that they make. I'm as concerned about the defense budget. I'm a pretty conservative guy when it comes to national security. But I have to tell you that, you know, spending 33 years at CIA and watching

literally hundreds of world leaders during that time, President Trump's personality traits deeply concerned me, what I believed to be deep narcissism, what I believed to be deep paranoia, what I believe to be a type of sadism where you -- not sexually, of course, but a type of sadism where you, you know, are happy when your opponents have been injured in some way -- I'm talking politically -- that those were all traits that I saw in foreign leaders who did significant damage to their country and significant damage to the democracies of their country. I'm thinking -- you know, I'm thinking of Mugabe in Zimbabwe. I'm thinking of Chavez in Venezuela. I'm thinking of Putin in Russia.

So I was deeply concerned about the potential impact of President Trump on our democracy. And, you know, my fear, in my view, was borne out by his failure to act on January 6, 2021.

So that's what I meant when I wrote that. That's what I was thinking.

Q The public statement --

Chairman Jordan. You couldn't have been thinking about January 6, 2021, because --

Mr. Morell. No. I wasn't thinking about January 6th. I was thinking about everything I said up to that point, sir. You're correct.

BY [redacted]

Q The public statement published in Politico reads in part: If we are right, this is Russia trying to influence how Americans vote in this election, and we believe strongly that Americans need to be aware of this.

I'm sure you also appreciate the weight that your name carries with Americans, what Brennan's name carries with Americans, Clapper's name carries with Americans, Hayden's name carries with Americans, your extensive background, the fact that you have had security clearances, continue to have a security clearance, it's my understanding.

Do you appreciate the fact that it was you and your fellow signatories who, in fact, were the ones that influenced how Americans may have voted in the 2020 Presidential election with this statement?

A You know, the nature of politics, right, is people put their ideas into the public domain. And those that do so with political intent, which is what exactly -- which is what I did -- I can't speak for everybody else here -- what is clearly what I did was designed to have an effect.

I don't know how much effect it had at the end of the day. You know, all of those names you just read, by the time this letter came out, you know, most of America was broken into two camps, as you know. And I think, you know, one camp would see the group of people that you just mentioned as people they admire, and the other camp feels just the opposite about them. So, you know, I have no idea, at the end of the day, how much we influenced anybody.

Q Now that you know that some of the materials on the laptop have been verified, have you considered retracting the statement or issuing an apology or anything like that?

A No, I have not. I have not because I still believe that it is possible that the Russians played some role in the information getting to the New York Post. You know, I told the story about the West German elections earlier. You know, we may never know, but it is still possible.

So, if I was going to rewrite it today, I would say the information is accurate but still raise the possibility that the Russians played some role in it ending up in the New York Post.

Mr. Gaetz. Do you have any evidence to suggest that the Russians played a role in this?

Mr. Morell. No, sir, I do not beyond the list that I gave you earlier, which you correctly pointed out was circumstantial evidence.

Mr. Gaetz. Are you aware circumstantially of any other interactions between Russians and the New York Post?

Mr. Morell. I'm not. I'm not, and I'm not saying there were direct interactions between the Russians and the New York Post here. I'm not saying that at all.

Mr. Gaetz. So, if you were going to write the letter today, would you express that you believe that the Russians may have been involved in getting it to the New York Post?

Mr. Morell. Yes, it's possible, absolutely.

Mr. Gaetz. Do you regret publishing this letter?

Mr. Morell. I do not.

Mr. Gaetz. Even though it lacks the obvious caveat that the information is authentic?

Mr. Morell. We didn't know that at the time.

Mr. Gaetz. You just used your experience to surmise it?

Mr. Morell. No. We said we didn't know, sir. The letter is crystal clear in that we don't know.

Mr. Gaetz. Do you regret that those caveats that you seem to be relying on heavily today weren't really part of the public discourse and the political discourse around this letter?

Mr. Morell. I knew they wouldn't be. I knew they wouldn't be, as much as we tried, right? As you guys know better than anybody, right, politics is hyperbole and particularly debates. There's a lot of hyperbole around, a lot of people taking things and taking them a little bit further, right? You know that better than I do.

So I wasn't surprised at all that -- you know, when President Biden -- when Vice President Biden talked about this at the debate that he didn't say, "Hey, I have to put some caveats on this." That's not what happens at debates.

Mr. Gaetz. So you knew when you put this product out with caveats --

Mr. Morell. I was hoping --

Mr. Gaetz. Sorry. Let me finish.

Mr. Morell. Yes, sir, yes, sir.

Mr. Gaetz. The court reporter --

Mr. Morell. Absolutely. My fault.

Mr. Gaetz. So you knew when you put this product out with caveats that its utilization politically likely wouldn't include those caveats?

Mr. Morell. I guessed that politicians would not use the caveats. I was hoping that fact-checkers and I was hoping the media -- disappointed in that regard -- would pay more attention to them.

Mr. Gaetz. But you testified earlier that you were accelerating -- you were requesting an acceleration of the review of this material so it could be used in a debate, right?

Mr. Morell. Yes, sir.

Mr. Gaetz. And you knew in that debate those caveats wouldn't really be referenced?

Mr. Morell. I was hoping that the Vice President, you know, would not say that this was disinformation. All right. I was hoping he was going to say possible Russian role in these emails coming to light, right? That's what I was hoping.

Mr. Gaetz. Would it be fair to characterize the letter that you put out as disinformation?

Mr. Morell. It would not.

Mr. Gaetz. When is the last time you spoke to Tony Blinken?

Mr. Morell. I have not spoken to Tony Blinken in a very long time. I can't remember the last time I spoke to Tony Blinken.

Chairman Jordan. We covered this a little bit in the first hour. Is there a reason that the main caveat, to use the term we've been using, is there a reason why that main caveat was to be presented to the press off the record? Because that's the fundamental issue that you've referred back to several times, and that's the one you wanted presented off the record.

Mr. Morell. Sir, as I said earlier, I do not remember why I said off the record versus on the record versus background. It was in the letter. My intent was not to hide it. I don't know why I said that.

Mr. Gaetz. I want to go back to your communications with Mr. Blinken.

Mr. Morell. Yes, sir.

Mr. Gaetz. So can we drill down on when you recall your last correspondence or communication with him?

Mr. Morell. This may have been it. This may have been it.

Mr. Gaetz. The phone call --

Mr. Morell. The phone call and the email, yes.

Mr. Gaetz. So at no point after the letter's publishing can you recall any correspondence with the Biden --

Mr. Morell. Oh, no. I'm sorry. I'm sorry. Let me correct that.

I did have communication with Mr. Blinken during the transition. I did have communication with him during the transition. I called him to tell him that I was no longer interested in being the Director of CIA.

Mr. Gaetz. Had you previously expressed an interest in that position?

Mr. Morell. Not publicly and not even privately to the campaign, but I knew I was being talked about. I had actually prior -- prior to the campaign, prior to the 2020 campaign, I had actually went to see Tony at WestExec Partners where he worked. And we talked about the election, and I told him I was not interested in being the Director of CIA, but I knew I was being discussed. I was interested, but I remember, you know, losing interest fast as the Democrats came out against me. And I remember calling him and telling him that, hey --

Chairman Jordan. Wait, wait. So when were you -- you said it both ways. When were you interested that you expressed that to him?

Mr. Morell. So I didn't express it to anybody. It was -- it was discussed. I expressed it to people like John Brennan who weren't part of the transition. People would call me up and say, "Hey, are you interested?" But nobody in the transition reached out to me ever to discuss a job.

But, when I was tired of the false allegations being made against me by some Democrats and unable to defend myself against those allegations, I said I'm not interested anymore. I want to end this. And I called Tony --

Chairman Jordan. -- let's go back to you were interested. You were interested. I mean, your background and the awards you've won, I can understand why.

Mr. Morell. Yes, sir.

Chairman Jordan. We appreciate your service, but you were interested back in the summer; is it fair to say?

Mr. Morell. Yes, sir, yes, sir.

Chairman Jordan. Okay.

Mr. Gaetz. Are you aware of any of the other signatories to this letter having any

interest in positions in the Biden administration?

Mr. Morell. Not that I know of.

Mr. Gaetz. No other person on -- who was a signatory contacted you to express any interest?

Mr. Morell. No.

Mr. Gaetz. And you didn't have any other general awareness of that?

Mr. Morell. No. No, I did not, sir.

Mr. Gaetz. Can you make a list of the places where you bank?

Mr. Morell. Where I bank?

Mr. Gaetz. Yeah.

Mr. Morell. Really?

Mr. Nathanson. That seems awfully far afield from the subject matter of the request.

Mr. Gaetz. Well, you heard in the preamble that the committee has an interest in potentially exploring revolving door legislation, and so we may be interested in financial records. It's entirely within the scope of our legislative purpose. If you want to object to it now, we can review a subpoena down the road. It's your call.

Mr. Nathanson. Yeah. Look, respectfully, I'm not quarrelling with the legitimacy of the request. I'm just making clear that Mr. Morell is here voluntarily to answer questions specifically related to the letter. He's indulged a number of questions related to his current employment which is, I think, you know, beyond the scope of what he had agreed to. But I think at this time, you know, we're going to refrain from answering any questions on bank accounts.

Mr. Gaetz. Okay. Yeah, I would state for the record that inherent in our interest in the letter are the positions that the signatories have held in the government,

then their work outside the government for the sake of politics, and what might inform on that work. Someone's financial records would be relevant to that.

You're correct, you're here voluntarily, so you can choose to voluntarily -- you can choose to refuse any question that we ask, but then we, of course, have the tools of compulsory process.

Mr. Morell. And my highest income comes from an individual who was a major financier for President Trump.

Mr. Gaetz. I just asked you to make a list of where you banked.

BY [redacted]

Q You testified that you never had access to classified information regarding the contents of Hunter Biden's laptop. Correct?

A Correct.

Q Okay. Are you aware of whether any of your fellow signatories have had access to classified information regarding the contents on Hunter Biden's laptop?

A I am not.

Q Okay. Did you not knowingly insinuate to the American public that, given you and your fellow signatories' previous access to classified information, you might continue to have special knowledge about the contents on Hunter Biden's laptop?

A I don't -- I didn't think about that, number one. Number two, as I think about it now, I think the answer is no. You know, most of the individuals here I don't believe had clearances. And, quite frankly, the American people don't know who does and who doesn't have a clearance.

Q Now that the contents of Hunter Biden's laptop have been authenticated, including documentation of shady business dealings with Chinese and Ukrainian foreign nationals, do you believe Hunter Biden is a threat to national security?

A I'm not in a position to judge that at this time. I don't have enough information.

Q Who was in charge of compiling and tracking all of the signatories?

A Oh, it was a group effort between myself, Marc, and Kristin.

Q Okay. Thank you.

A As people said yes to one of the three of us, you know, somebody I think would let -- somebody had a master list. Right? I don't know which one of us did. But as individuals said yes, then we would let each other know, and the name would get added.

[redacted] That's all of my questions.

Chairman Jordan. Mr. Morell, Mr. Ratcliffe said on the morning of the 19th -- and I'm going from a news article here -- the laptop, quote, is not part of some Russian disinformation campaign.

At the start of the minority's hour last hour, you were making a distinction there. Can you just refresh me what --

Mr. Morell. Sure.

Chairman Jordan. Because you said you agreed with -- you said something about you agreed with Mr. Ratcliffe, but then I don't -- I don't square with that based on what he said and what you guys ended up doing later.

Mr. Morell. Yeah. So he said -- if you want to read it back to me one more time.

Chairman Jordan. The Biden laptop story is not, quote, is not part of some Russian disinformation campaign. He said this on FOX News that morning, and then this is in a --

Mr. Morell. Yeah.

Chairman Jordan. -- print story later that morning.

Mr. Morell. Yeah, yes, sir.

So I would say two things. One is he made no judgment, right, as to Russian involvement in the information getting from one place to another. He didn't make any judgment about that at all.

Chairman Jordan. So how do you read that phrase, "is not part of some Russian disinformation"?

Mr. Morell. And then, when you look at that phrase, right, I read it as what he said, right, that, in his judgment, it wasn't Russian disinformation.

I think -- if I were the DNI and I was going to speak about that, I'd say we don't have any evidence that it's part of Russian disinformation -- part of a Russian disinformation campaign.

Chairman Jordan. Well, he said that. He said: Let me be clear. The intelligence community doesn't believe that because there's no intelligence that supports that.

He said that as well?

Mr. Morell. Right. But that's different than making a judgment that it's not, period, because there may be information that you don't have. That's why I'm so -- that's why I leaned against, you know, putting a lot of weight in what he said because I don't know how you -- how you know what you don't know. This is something that intelligence officers deal with all the time.

Chairman Jordan. That's why you said earlier, I think when I asked you that, you just felt he was wrong to say those things?

Mr. Morell. Yes, sir, yes, sir.

Chairman Jordan. Okay. So there was no real agreement when -- you made

some distinction between disinformation, misinformation, information. That wasn't -- that's not part of it. You just think he's wrong?

Mr. Morell. Yeah. I think there was a much better way for him to say what he believed.

Chairman Jordan. Okay, okay. What is malinformation?

Mr. Morell. What is what?

Chairman Jordan. Malinformation.

Mr. Morell. I've never heard the term, sir.

Chairman Jordan. Okay. DHS and everyone else is using the term. I just wondered if you knew.

Mr. Morell. Yeah, I don't know.

Chairman Jordan. Okay. Let me -- do you know a guy, Mr. Ricchetti? Do you know him?

Mr. Morell. Ricchetti.

Chairman Jordan. Ricchetti, excuse me.

How do you know him?

Mr. Morell. Well, I first got to know him when he was my son's basketball coach?

Chairman Jordan. Okay.

Mr. Morell. And then I didn't see him for a long time. And then I would run into him occasionally on West Executive Avenue when he was working for the Vice President and I was attending deputies' meetings. And, because he was my son's basketball coach, we would stop and chat with each other.

That's the extent of the relationship.

Chairman Jordan. Did you talk to him at all regarding the statement that you

helped organize and put out?

Mr. Morell. Yes, sir.

Chairman Jordan. When did you talk with him?

Mr. Morell. After the debate -- I think it was after the debate -- in fact, I'm pretty sure it was after the debate -- I got a phone call from Jeremy Bash, who I work with at Beacon and who is active politically. And Jeremy said: Do you have a minute to talk to Steve Ricchetti?

I said: Of course.

He was the head of the Biden campaign at the time. And Jeremy got him on the line, and Steve thanked me for putting the statement out. And that was the extent of the conversation.

Chairman Jordan. Okay. Let me just walk through the dates and the storyline as I see it, and you tell me if we're wrong.

Mr. Morell. Yes, sir.

Chairman Jordan. On the 14th, the New York Post story comes out. Approximately 3 days later, sometime on the 17th, you got a call or an email from Mr. Blinken.

Mr. Morell. So I would say on or before the 17th.

Chairman Jordan. On or before the 17th --

Mr. Morell. Yes, sir.

Chairman Jordan. -- you got a call or an email from Mr. Blinken?

Mr. Morell. Yes, sir.

Chairman Jordan. That day you start this process and put this letter together. You and Mr. Polymeropoulos start to put this statement together. Is that accurate?

Mr. Morell. Sir, the first thing I would say is I get the email or call -- probably a

call. I get the email or call. I do a little bit of my own research, and then I reach out to Mr. Polymeropoulos to say: Hey, what do you think?

Yes, sir.

Chairman Jordan. So it's starting to go?

Mr. Morell. Yes.

Chairman Jordan. Later that day you get -- on the 17th, if I remember, 10:53 p.m., Mr. Blinken sends you the USA Today story?

Mr. Morell. Yes, sir.

Chairman Jordan. And Mr. Bates from the Biden campaign, head of rapid response, had sent it to Mr. Blinken.

Mr. Morell. Yes, sir.

Chairman Jordan. Okay. 18th and 19th, you actually do put it all together. You get the 51 folks to sign it.

Mr. Morell. Yes, sir.

Chairman Jordan. And, on the 19th, you get the okay from the CIA Publication Review Board?

Mr. Morell. Yes, sir.

Chairman Jordan. The 19th, later the statement is published, and you then tell Mr. Shapiro who the Biden campaign wants to get the scoop; i.e. the Harris or --

Mr. Morell. Shane Harris, yes, sir.

Chairman Jordan. The Harris from The Washington Post. And then, sometime after that, the head of the Biden campaign calls to say thank you.

Mr. Morell. Yes, sir.

Chairman Jordan. Was that -- do you know the date of that again?

Mr. Morell. I think it was the following Monday, I think.

Chairman Jordan. The following Monday being what date?

Let me ask you this. Was it before the debate or after the debate?

Mr. Morell. After the debate.

Chairman Jordan. So that was after the debate. I had it before.

So, on the 22nd, Mr. Biden, in fact, uses your statement -- the statement in the debate?

Mr. Morell. Yes, sir.

Chairman Jordan. And then after the debate is when Mr. Ricchetti calls you.

Mr. Morell. That's my memory, sir. That's my memory.

Chairman Jordan. And then we also have a number of emails that have been produced to the committee where the people on -- a number of the people who signed it were sort of congratulating each other for the fact that it was, in fact, used in the debate.

Mr. Morell. Yes, sir.

Chairman Jordan. Okay. And then the one other fact that I think is important that [redacted] asked about earlier is one of the individuals who signed it, when he happened to be -- because he had publication from the CRB, Publication Review Board, he was asked by someone in the government to sign on as well?

Mr. Morell. Sounds that way to me. At least that's what the piece of paper we just saw said.

Chairman Jordan. Okay. Okay.

[redacted] Can I just say something?

Chairman Jordan. Sure.

BY [redacted]

Q Did you get any other signatories via that process?

A Of them --

Q So you reached out to a bunch of people?

A Yeah, yeah.

Q More than 51?

A Yeah, yeah, yes.

Q Tray Johnson said no?

A Yes, yes. Some people didn't respond. Right? Some people just didn't respond.

Q Did you pick up any other signatories, you know, that you didn't have on your list?

A So there's -- at the bottom of the letter, I believe it says that there were a number of people who agreed with the letter but could not sign it, but they wanted it noted that, if they could have signed, they would have.

Q Was Cariens on your list?

A I don't remember. Is he?

Q He signed it.

A He signed the letter.

Q His wife signed it. But you don't remember whether he was on your list?

A I don't.

Q Or whether he came to the letter?

A I think we have that information here, right, who I sent a request to sign the letter.

Q Okay.

A But I don't remember.

[redacted] Okay.

BY [redacted]

Q Would Kristin Wood be someone we should talk about as to how Mr. Cariens came to be on the list?

Mr. Morell. Yeah, I think -- you know, I'm happy to look at the list I sent out and see if he's on my list. Right? But either -- he was either on my list or Marc's or Kristin's, or he reached out to one of us, right, heard about it and reached out to one of us. I think there's a lot of possibilities here, and, you know, I don't want to speculate as to which one it was.

Chairman Jordan. Tell me your definitions again. I think in the last hour you talked about misinformation versus disinformation.

Mr. Morell. Yes.

Chairman Jordan. Tell me the distinction.

Mr. Morell. Oh, I don't make a distinction between misinformation and disinformation.

Chairman Jordan. Okay.

Mr. Morell. They're the same to me; inaccurate, false.

Chairman Jordan. False information versus -- oh, so then what you would define as information is true information?

Mr. Morell. Yes, sir.

Chairman Jordan. Okay. That's what so many people today define as malinformation, true information but somehow true information that they say presented in some context leads to a bad outcome, or whatever, which I think is particularly scary.

What if Americans say something that is true information, maybe has some bad outcome, you would say that that in no way should be censored or limited, if Americans are engaged in speech --

Mr. Morell. Absolutely not.

Chairman Jordan. And so is it fair to say you -- because I know earlier you said you did it to help Biden in the debate.

Mr. Morell. Yes, sir.

Chairman Jordan. I think you had three reasons. You said: We believe Russians were involved -- which wasn't -- is now not accurate I think -- we think Trump will attack Biden on information which is fake, and we want to give the VP a talking point in response.

So those are the three motivations driving the --

Mr. Morell. I think of it as two. I think of it as two motivations. You know, one, let the American people know about what we saw as a deep suspicion of Russian involvement; and then, two, helping the Vice President.

Chairman Jordan. You wanted to help the Vice President why?

Mr. Morell. Because I wanted him to win the election.

Chairman Jordan. You wanted him to win; that's why?

Mr. Morell. Yes, sir.

Chairman Jordan. All right.

Okay. I think I'm fine.

BY [redacted]

Q Now that the story has come out about the origins of the laptop, do you have any different views on it; the fact that it was just a careless act, that it was left, it was abandoned at this Delaware --

A You know, I'm still suspicious about how it got from the repair shop to the New York Post.

Q I mean, there has been some reporting -- I don't know if you're aware of it -- that this individual in Delaware, after some point in time -- and it was back in 2019 --

A Yeah.

Q -- had the laptop and was doing outreach to various parties seeking -- you know, sort of seeking a place to put this information.

Are you aware of that?

A No.

Q Okay.

A No. You know, I've seen this individual interviewed on "60 Minutes," and a lot of questions he doesn't answer very well. Look, and I'm not saying that he knew about Russian involvement. We talked earlier with the minority about the Russians putting people here in 2016, right, as part of their information campaign.

You know, my -- one of my theories about possible Russian involvement here when I signed my name on this letter and when I organized it was that the Russians knew what was on Hunter Biden's laptop, what was in his emails because either they hacked it or they learned it from their Burisma hack or, you know, that they were aware in some way and that, based on their hacking of Hunter Biden's phone or laptop, that they knew where the laptop was and, you know, various possible ways, direct and indirect, for them to suggest that you might want to get this laptop to the right people, and there might be some money in it for you.

And then you add, you know, Rudy Giuliani's involvement here and his interaction with a known Russian agent in Ukraine and Steve Bannon, and it gets suspicious. That's what I was thinking.

Chairman Jordan. Okay.

BY [redacted]

Q Getting back to Shane Harris --

A Yes.

Q -- was that name suggested by --

A So this is -- I talked about this earlier. You know, I had -- when you guys first reached out, right, I started thinking about what's my memory here. Right? And I thought there were only two points of contact with the campaign: The first phone call, you know, or email from Tony and then the call from Steve Ricchetti. I thought those were the only two.

Since then, I've learned, right, that Tony sent me the USA Today thing. I didn't remember that when I first started thinking about this. And I learned that there's this email that I sent to Nick saying, "Hey, the campaign wants Shane Harris to be the guy." I have no memory of that, right? I have no memory of the campaign, having a conversation with the campaign about that.

I can think of possible ways that it could have happened, but I really have no memory. I wish I did. I wish I could tell you.

Q As the laptop story was suppressed by Facebook and --

A So I understand, yes.

Q Did you have any idea going into this that potentially your letter led to that type of -- just a blockade of information?

A Yeah. So I certainly didn't think of that going in, and I don't think our letter had that effect. I believe that the suppression started before our letter came out.

Q Okay. Your letter is certainly a data point that goes into --

A So you would need to talk to Facebook and Twitter, which I'm sure you're going to do, about why they made this decision. I have no insight at all, right, no contact with any of the social media companies over this. Nobody called me and said: Hey, do you really believe this?

Q Okay.

A Right? Never happened.

Q But you're a prestigious person, okay?

A Some don't believe that.

Q You know, these 51 officials, a good chunk of them are well-known people?

A Uh-huh.

Q And so signing the letter with the caveats, without the caveats certainly gives this story a stamp of legitimacy?

A Correct. I don't know -- I have no idea as to why they made the decision they made. Right? I have no idea. I don't know if our letter was part of their decisionmaking or not. I just don't know.

Q I mean, you've testified today that it's important to participate in the political process and people who want to influence the outcome as Americans have a right to engage in that and get their information to the people. Correct?

A Yep.

Q But what happened with the Hunter Biden laptop story was quite the opposite; it was a suppression of information. So a good chunk of, you know, the American people didn't get to consider that as they were deciding who they were going to vote for in the 2020 election. Isn't that true?

A I don't know to what extent it was suppressed, right --

Q Well, you know that --

A -- as part of the story. What we did was put a point of view into the political process, right? Our statement did not result in people stopping the discussion about Hunter Biden and the relationship with his father and decisions his father made as Vice President. This didn't end that, right --

Q I mean, Facebook --

A -- by any stretch of the imagination. Right?

And, again, I have no idea why Facebook and Twitter made those decisions.

Q But Facebook and Twitter basically shut this story down, and anybody that posted about the story was -- I mean, the story was wiped away, and people were kicked off platforms. I mean, it was quite extraordinary. Wouldn't you agree?

A I would agree it's extraordinary, and I agree that you guys are going to talk to them about it, right, and have a conversation with them, just like we're having with me, and I think that conversation is perfectly appropriate. I think the American people deserve insight into why they did what they did.

Q Do you think that the information on the laptop, you know, contains, you know, relevant data points for people as they're considering who they're going to elect President?

A Yes.

Q And so an exploration of what's on the laptop -- and I'm talking about certainly the business dealings going on in Ukraine and China, not some of the other items.

A Yeah. I think that's all appropriate to be in the political process for an election.

Q But that part of the dialogue was shut down and wiped out heading into the 2020 election?

A Yeah. And I would say much, much, much less by our letter and possibly more by, you know -- but I'm not a political scientist to sit here and tell you, you know, the degree of suppression.

[redacted] Right.

Chairman Jordan. Okay.

[redacted] Okay.

[redacted] Mr. Morell, we have no further questions.

Mr. Morell. Thank you.

[redacted] And we appreciate you coming in voluntarily today.

Mr. Morell. You're welcome. I thought it was important that I come in today.

[redacted] We do have some questions.

[redacted] Well, we defer to the minority for their time.

Mr. Morell. Okay.

[redacted] We'll go off the record for a minute.

[Discussion off the record.]

[redacted] We can go back on the record.

BY [redacted]

Q All right. Thank you again. I know this has been a long day, and I think we are close to the finish line --

A You're welcome.

Q -- for what it's worth.

A You're welcome.

You know, just like I said earlier, I think it's important for the American people to know why the social media companies did what they did. I think it's important for the American people to know why I did what I did.

Q Getting back quickly to the timeline that we were just talking through and the supposed suppression, what's been described as the suppression of the story, are you aware that the New York Post article came out on October 14, 2020?

A I think that's the date, yes.

Q Okay. And Twitter stopped distributing it on the 15th, the day after?

A That was my understanding, yes. That's what I meant earlier, yes.

Q And then, within 24 hours, it was unreleased. So, in other words, on the 16th it was no longer --

A Actually, I didn't know that.

Q So your letter actually came out after that. Right?

A Yes.

Q So the timeline would be, the 14th, the story came out; the 15th, Twitter paused the distribution; the 16th, it was unpaused; and 4 or 5 days later, your letter came out?

A I didn't know that they had unpaused the pause.

Q And you said pretty clearly you never had conversations with Twitter?

A I never had conversations with Twitter or Google or Facebook or anybody.

Q Any social media company?

A No.

Q Okay. And did you have any conversations with anybody about social media companies? In other words, did you have any conversations with the Biden campaign about social media companies?

A No, no.

Q Okay. All right.

Okay. There was some comments, discussion earlier about on the record versus off the record. And I wanted to take a look at what the letter expressly said --

A Yep.

Q -- and kind of go through that in detail.

A The statement, our statement?

Q Sorry. The public statement, yeah. It's exhibit 1 here.

So just to make the record clean here, you didn't have any access to any of the supposed emails or to what's been described as the Hunter Biden laptop. Correct?

A Correct.

Q And you didn't have access to any intelligence products or other documents analyzing the laptop or other emails?

A Correct.

Q And you made this clear in the letter. Right?

A Yes.

Q And so you didn't try to suggest that you had access to nonpublic information?

A We did not.

Q Okay. In fact, the fifth paragraph of the letter reads: We want to emphasize that we do not know if the emails provided to the New York Post by President Trump's personal attorney Rudy Giuliani are genuine or not and that we do not have evidence of Russian involvement.

A That's correct.

Q Okay. Did you consider it, when you were writing this, important to plainly state that you didn't know if the emails were genuine?

A Yes.

Q And why is that?

A Because I was trained to say what you know and what you don't know. And, you know, I carry that through everything I do in my life, including writing this letter.

Q And, likewise, did you consider it important to establish plainly on the very first page of the letter that you didn't have direct evidence of Russian involvement?

A Yes.

Q And you did so.

In the second to the last paragraph of the letter, you describe press reports about the FBI opening an investigation into Russian involvement, and then you say: We do not know whether these press reports are accurate.

Do you recall writing that?

A I sure do.

Q So you said earlier -- and just, again, to make the record perfectly clear -- you didn't have any personal interactions with anyone at the FBI --

A I did not.

Q -- regarding reports or investigation?

A I did not.

Q Okay. To your knowledge, did any of the other signatories have conversations with anybody at the FBI?

A Not to my knowledge.

Q Okay. And so you made that clear in the letter?

A Yes.

Q And then the email from you to the PRB, which has been introduced already as exhibit 9, the subject line is: Public Statement for Review.

In the email, you say: We are 100 percent confident in it -- meaning that the letter does not contain classified information. Indeed, it specifically says that we don't know whether the IC or the FBI knows about this.

A Correct.

Q Was that a true and accurate statement?

A Yes.

Q And would that have potentially -- in your view, could that have increased

the speed at which the PRB could process this type of request?

A Yeah. It was designed to let them know that we didn't have any inside information, right? And it was important for them to know that. But, believe me, they wouldn't take our word for it.

Q That they would go through it?

A Yes.

Q But it was a short letter compared to --

A Yes.

Q How long was your book?

A My book was -- I don't know -- a couple hundred -- 200 pages, 250 pages.

Q And this is maybe 11, 12 paragraphs?

A Yes.

Q Okay. So it would make sense for them to be able to process this more quickly --

A Yes.

Q -- than an extensive book?

A Yes. And it was fully consistent with their processing of other op-eds I had written.

Q I want to look in that letter at what you've described as earmarks.

So the October 19th letter says that the arrival on the U.S. political scene of emails has all of the classic earmarks of a Russian information operation.

If you recall, what did you mean by the use of the term "earmarks"?

A The timing, you know, the timing relative to the election and the debate; the fact that these emails had been around for a long time, you know, in one form or another, and all of a sudden, they come out; you know, the fact that the Russians were

already -- we knew from our own intelligence community, led by John Ratcliffe, that the Russians were interfering in this election. We knew from the Treasury Department that a specific Ukrainian was involved in this interference, an agent of Russian intelligence; that we knew that -- and we knew that, you know, two of Trump's most important confidants were somehow involved in this laptop getting from point A to point B.

Q And I'm going to walk through those in a minute. But what's the actual, in your mind, definition of the term "earmark"?

A Example, right, indicator. "Indicator" is the best word.

Q Is it a term of art, or is it --

A No, it's not. It's not.

Q Okay. And, in that paragraph, it says: All the classic earmarks of a Russian information operation.

And you use the term "information operation," not "disinformation operation." Right?

A Correct.

Q Was that an intentional choice?

A Yes. In fact, if you look at the first draft, you know, of what Mr. Polymeropoulos sent me, he used the word "disinformation" all over the place. And, you know, I thought that was a huge mistake, and I wanted to make it clear we didn't know, right? And, to the extent I used the word in here, I chose "information."

Q So you just talked through kind of at a 30,000-foot level the different factors, and I want to go through each one kind of in sequence.

So, in the eighth paragraph of the letter, which is the last paragraph on the bottom of the first page -- I won't make you count them -- it reads: Such an operation -- meaning a Russian operation -- would be consistent with Russian objectives,

as outlined publicly and recently by the intelligence community, to create political chaos in the United States and to deepen divisions here but also to undermine the candidacy of former Vice President Biden and thereby help the candidacy of President Trump."

Why would it have been consistent with Russian objectives to create political chaos in the United States and deepen divisions here?

A Because that was part -- right, they were trying, in my view, and I think in the view of the intelligence community, expressed, you know, both at the time and then in the aftermath, as well as the Senate Intelligence Committee's report, is they really had two goals, right? One was to simply create chaos here with all the interference they did in 2016 and the interference they were doing in 2020 and, in particular, you know, damage former Secretary of State Clinton in the 2016 election and damage former Vice President Biden in the 2020 election. That was their -- those were their two intents.

Q And what was your understanding of why Russia would have had an intent to help President Biden over then candidate Vice President Biden?

A To help President Trump?

Q I'm sorry. Help President Trump, right.

A Yeah. Because the Russians hated Secretary Clinton and hated Vice President Biden --

Q Okay.

A -- for the positions that they took during the Obama administration against Russia.

Q I want to introduce into the record a statement from the then National Counterintelligence and Security Center Director, William or Bill --

A Evanina.

Q -- Evanina. Thank you.

[redacted] It's dated August 7, 2022, and it's entitled "Election Update for the American Public." This is exhibit 17.

[Morell Exhibit No. 17.

Was marked for identification.]

BY [redacted]

Q Are you familiar with this?

A Yes.

Q So can you -- so you're familiar with the National Counterintelligence and Security Center?

A I am.

Q Okay. Can you broadly explain what the mission is of the NCSC?

A Yeah. Their mission is not to do this. Their mission is to make Americans and, in particular, American companies aware of the intelligence efforts of other countries to steal information in the United States, in particular intellectual property, from American countries largely focused on China.

Q Okay. And I know you said it's not their mission to do this, but they did make this evaluation?

A Yes.

Q Do you think this evaluation is reliable?

A Yes, I do.

Q Okay. Could you read the highlighted passage that begins "Russia"?

A "Russia. We assess that Russia is using a range of measures to primarily denigrate former Vice President Biden and what it sees as an anti-Russia 'establishment.' This is consistent with Moscow's public criticism of him when he was Vice President for his role in the Obama Administration's policies on Ukraine and its support for the

anti-Putin opposition inside Russia. For example, pro-Russia Ukrainian Parliamentarian Andriy Derkach is spreading claims about corruption -- including through publicizing leaked phone calls -- to undermine former Vice President Biden's candidacy and the Democratic Party. Some Kremlin-linked actors are also seeking to boost President Trump's candidacy on social media and Russian television."

Q So the statement was released in August 2020, which was 2 months prior to your October 19, 2020, letter?

A Yes.

Q Is this statement from the President Trump appointed head of the National Counterintelligence and Security Center the type of, quote, public and recent reports to which you're referring when you drafted the October letter?

A Yes.

Q Okay. Moving on, the ninth paragraph of the October 19th letter, it's the top of the second page -- sorry -- your letter.

A Oh, sorry.

Q It says: Such an operation would be consistent with some of the key methods Russia has used in its now multiyear operation to interfere with our democracy -- the hacking, via cyber operations, and the dumping of accurate information or the distribution of inaccurate or misinformation. Russia did both of these during the 2016 Presidential election -- judgments shared by the U.S. Intelligence Community, the investigation into Russian activities by Special Counsel Robert Mueller, and the entirety, all Republicans and Democrats, on the current Senate Intelligence Committee.

Do you recall what, quote, judgments shared by the U.S. intelligence Community was a reference to?

A Here we're talking about 2016, so it was the declassified document that you

showed me earlier.

Q Okay. Is that the January 2017 assessment?

A Yes, yes.

Q Okay. And paragraph 9 also refers to the investigation by Special Counsel Robert Mueller which led to the April 2020 release of the report on the investigation into Russian interference in the 2016 Presidential election, sometimes called the Mueller report.

A Volume I, right, of the Mueller report?

Q Yes, Volume I.

A Yes.

Q And this report determined that the Russian government hacked into the computer networks of the Democratic Congressional Campaign Committee and the Democratic National Committee and then released stolen Clinton campaign and DNC documents using various personas in order to interfere with the 2016 Presidential election, correct?

A Yes.

Q Okay. And then, finally, the last part of paragraph 9 refers to the findings of the Senate Intelligence Committee report, which we've discussed earlier?

A Yes.

Q So this is a reference to the Senate Select Committee on Intelligence report on Russian Active Measures campaign.

A Yes.

Q The final version was released in October of 2020.

A Yes.

Q Okay.

[redacted] I want to introduce actually part of that into the record as exhibit 18.

A Okay.

[Morell Exhibit No. 18.

Was marked for identification.]

BY [redacted]

Q This is the cover page in the findings section of that report. It's not the full report.

A Okay.

Q Because, again, I think it's a thousand pages long.

A Okay.

Q On page Roman numeral VII, the first sentence of the section entitled "Hack and Leak" reads: The committee found that Russian President Vladimir Putin ordered the Russian effort to hack computer networks and accounts affiliated with the Democratic Party and leak information damaging to Hillary Clinton and her campaign for President.

Is this consistent with the type of concerns that were expressed in paragraph 9 of the October 19th letter?

A Yes, ma'am.

Q Okay. So paragraph 9 accurately described past methods that Russia has used to interfere in U.S. elections, correct?

A Yes, ma'am.

Q Okay. And you would agree that there's widespread agreement in the intelligence and national security community that Russia did, in fact, engage in these kind of hack-and-dump and other interference?

A Yes, ma'am.

Q Okay. And can you explain how this past interference, the knowledge of what happened in 2016, provided important context for you for what you perceived as possible Russian interference again in 2020?

A You know, because I was so interested in what the Russians had done in 2016, you know, I read the three documents that we just talked about that we referenced in the report, right, the U.S. intelligence community review, Mueller's Volume I, and the Senate Intelligence Committee's Volume I, right, which is on what the Russians did. I read those, you know, as closely as I've ever read anything.

And, you know, part of my suspicion for their involvement in 2020 in the way that we describe in the letter was based absolutely on what they had done in 2016.

Q Because what they had done in 2016 suggested future actions by them?

A Absolutely.

Q Okay. And is that true of how intelligence analysts work? They look at prior actions and use that --

A Sure.

Q -- to assess people?

A Sure. It's part of what they do, right, part of what they look at.

[1:20 p.m.]

BY [redacted]

Q Okay.

The next paragraph, the tenth paragraph, which is the second paragraph on the second page of the October 19th letter, states that "the Russians, according to media reports and cybersecurity experts, targeted Burisma late last year for cyber collection and gained access to emails."

Do you recall the media reports or --

A Yes.

Q -- cybersecurity experts --

A Yes.

Q And can you --

A The media reports about the Burisma hacks, yes.

Q Okay.

I want to introduce as exhibit 19 a January 13, 2020, New York Times article entitled "Russians Hacked Ukrainian Gas Company at Center of Impeachment."

[Morell Exhibit No. 19.

Was marked for identification.]

BY [redacted]

Q This article states that -- I'll give you a second to review it. I'm sorry.

A No, I know the story.

Q The article states that the GRU used phishing emails to target Burisma and gain access to their computers --

A My microphone just fell off.

Q Oh.

A Fell over.

Q Can you tell us what the GRU is?

A It's the Russian military intelligence service.

Q Okay. Is this the type of media report to which you were referring when you drafted this paragraph?

A Yes.

Q Okay. Do you have any reason to doubt the veracity of this reporting?

A No.

Q So that's a true statement in this letter?

A Yes.

Q Okay.

A Yeah.

I'd say something else, though, too, if it's okay. Right? It's not only what we know about what the Russians did, right, hacking Burisma; it's what we don't know. I mean, this is an incredibly sophisticated intelligence service, so there are probably many, many more hacks we don't know about than we do know about.

Q Right. Understood.

That paragraph 10 continues on: "Ukrainian politician and businessman Andriy Derkach, identified and sanctioned by the U.S. Treasury Department for being a 10-year Russian agent interfering in the 2020 election, passed purported materials on Burisma and Hunter Biden to Giuliani."

Sorry, this is in paragraph 10 of the October 19th letter.

A Oh, I'm sorry. I'm sorry, I'm lost. Where am I? I've got too much paper in front of me, guys.

Okay.

Q So the last sentence of the second paragraph on the second page refers to Andrii Derkach being sanctioned --

A Yes.

Q -- for being a 10-year Russian agent. Do you recall how you learned about Mr. Derkach being sanctioned?

A It was after Mr. Blinken called me and I did my internet search. I found the Treasury designation.

Q Okay.

And I am going to introduce that Treasury designation -- or the press release discussing that designation. This is exhibit 20.

[Morell Exhibit No. 20.

Was marked for identification.]

BY [redacted]

Q And this is a September 10, 2020, Treasury Department press release stating, in relevant part, that "Treasury designated Andrii Derkach pursuant to Executive Order 13848 for his efforts to influence the 2020 U.S. presidential election. Derkach, a Member of the Ukrainian Parliament, has been an active Russian agent for over a decade, maintaining close connections with the Russian Intelligence Services. Derkach has directly or indirectly engaged in, sponsored, concealed, or otherwise been complicit in foreign interference in an attempt to undermine the upcoming 2020 U.S. presidential election."

So this statement, this directly supports the statements that you made in your letter about Derkach being sanctioned for being a 10-year Russian agent interfering in the 2020 election --

A Yes.

Q -- correct?

A Yes.

Q So this was a true statement in your letter, an --

A Yes.

Q -- accurate statement?

And Rudy Giuliani was known to associate with Mr. Derkach, correct?

A My understanding from the media, yes.

Q And what's your understanding of who Rudy Giuliani is?

A He was the President's private attorney. I don't know if he is anymore.

Q President Trump?

A President Trump, yes.

Q I want to introduce a -- okay.

In your experience, in your 33 years of intelligence experience and subsequent experience as well, does the Treasury ever sanction individuals as Russian agents for no reason, or do they usually have a pretty strong body of evidence to support that?

A They have a strong body of evidence to support such a judgment.

Q And can you describe what the process might look like to gather -- what type of evidence might be in that and what the process might be like to gather that evidence?

A So I've never worked at Treasury, I've never worked in sanctions office --

Q Yeah.

A -- right? But, you know, I have some insight because Treasury sits at the Deputies Committee national security table.

And so, you know, they gather -- you know, they see things that raise questions. They're on the distribution for all intelligence, right --

Q Uh-huh.

A -- related to what they do. They usually take the first step, in saying, hey, this might be something we want to look at.

Q Yes.

A They pull all the information together. They often come back to the intelligence community with questions.

Q Okay.

A You know, what do you mean by this? Where did this come from? How much confidence do you have in that?

So there's a dialogue back and forth between Treasury and the intelligence community, based on my knowledge of how the process works. But I've never been inside the process.

Q Understood.

So I want to introduce a Daily Beast article which was published on October 17, 2020, entitled "Rudy: Only 50/50 Chance I Worked with a 'Russian Spy' to Dig Dirt on Bidens and Ukraine."

[Morell Exhibit No. 21.

Was marked for identification.]

BY [redacted]

Q So this article is actually a report of an hour-long interview that The Daily Beast did with Mr. Giuliani in which Giuliani said that he, quote, "viewed his latest leak to the New York Post," referring to the Biden laptop leak, quote, "as an extension of his years-long efforts to work with Ukrainians to dig up dirt on the Bidens."

Was it concerning to you or would it have been concerning to you that Rudy Giuliani viewed the leak of the laptop as part of his ongoing work with the Ukrainians to

dig up dirt on the Bidens?

A Yes.

Q Why is that?

A It would've been another data point. I wasn't aware of this at the time. In my mind, it would've been another data point. Still circumstantial, but it would've been another data point.

Q Right. And so you do think it's relevant that Rudy Giuliani described it as part of his --

A Yes.

Q -- ongoing work to dig up dirt?

A Yes. And, in particular, doing so, you know, with a Russian agent.

Q Okay.

And the interview reads, in part, quote, "Derkach for years has tried to pass damaging -- and largely false -- information about the Ukraine government's supposed attempts to undermine Trump, and the Bidens' supposed dirty dealings in Kyiv. Derkach dispatched packets of disinformation about the Obama administration and the Bidens to lawmakers on Capitol Hill throughout 2019 and finally met with Giuliani in December 2019 in Kyiv during the middle of the House impeachment process. Derkach and Giuliani appeared together in an anti-Biden television series produced by the Trumpist network OAN, and Giuliani has interviewed Derkach about the Bidens on his YouTube series Common Sense."

Putting aside the comments about this being part of Giuliani's years-long efforts to dig up dirt with the Ukrainians, is just the fact that he was associating with a known Russian agent of concern to you?

A Yes. It's either concerning because he knew about it and, therefore, he

shouldn't have done it, or it's concerning that he was not warned off, right, that the government didn't say to him, "Hey, you should not be talking to this guy. He's a Russian agent." Either way, it's concerning to me.

Q And Giuliani also was known to have ties to an individual named Andrii Telizhenko, correct?

A I did not -- I don't know that name.

Q Okay.

You said that it was concerning to you that Rudy Giuliani would not have -- either way, he was associating or people knew he was associating and nobody warned him. But the sanctions that we just walked through were issued in mid-September, correct?

A Yeah. And I don't know the timing of Mr. Giuliani's contact with Mr. Derkach.

Q Right. But we know that the Hunter Biden laptop story was in October --

A Yes.

Q -- of 2014.

A Yes.

Q So that would've been after the sanctions.

A Yes, but we don't know when the New York Post acquired the --

Q Right.

A -- hard drive. Right.

Q So the next earmark that the letter -- sorry. Yeah. The next earmark the letter notes -- that the letter notes that, according to the Post, U.S. intelligence agencies warned the White House that Giuliani was the target of an influence operation by Russian intelligence.

I'm going to introduce the Washington Post article that reports that. It was

dated October 15, 2020. It's entitled "White House Was Warned Giuliani Was a Target of Russian Intelligence Operation to Feed Misinformation to Trump."

[Morell Exhibit No. 22.

Was marked for identification.]

BY [redacted]

Q So the article -- I also want to -- so I want to note for the record, this article was issued on October 15, 2020. When it was issued, it said that Giuliani himself was warned that he was a target of an intelligence operation.

A I didn't know that.

Q The Post later issued a correction to that part of the story in May 2021, and they said Giuliani had not been warned directly --

A Okay.

Q -- but the White House had been warned.

A Okay.

Q And, as you said, Giuliani was President Trump's personal --

A Attorney.

Q -- lawyer for the -- so, presumably, any warning could have been passed along to him.

The October 15, 2020, Post article says that "the warnings were based on multiple sources, including intercepted communications, that showed Giuliani was interacting with people tied to Russian intelligence during a December 2019 trip to Ukraine, where he was gathering information that he thought would expose corrupt acts by former vice president Joe Biden and his son Hunter."

"The intelligence raised concerns that Giuliani was being used to feed Russian misinformation to the president, the former officials said, speaking on the condition of

anonymity to discuss sensitive information and conversations."

Was this fact something that added to your concern about the Hunter Biden emails, or the supposed emails, potentially being part of a Russian intent to interfere in the 2020 election?

A I was not aware of this at the time.

Q Okay.

But the statement in the October 19th letter that refers to the Washington Post article -- the Washington Post article was a real article?

A Yes.

Q This statement was not inaccurate in the letter?

A Correct. Correct.

Q Okay.

So we have discussed a number of factors that led you to have concerns about Russia potentially interfering in the 2020 --

A Can we go back and correct something I just said?

Q Sure.

A I was clearly aware of this article, because we cited it here. I don't know if it was something that Marc wrote that I just picked up. I didn't remember the article 2 minutes ago when you asked --

Q Uh-huh.

A -- but, clearly, we cited it. And I either just took it from Mr. Polymeropoulos and trusted him or I went and looked at it myself.

So I just wanted to correct what I said earlier.

Q Okay.

So we've talked through a number of factors that led you to have concerns about

Russian potentially interfering. So I want to actually turn to some evidence that suggests Russia did successfully interfere in the 2020 election.

In particular, I want to introduce a January 7, 2021, intelligence community assessment. It's entitled "Foreign Threats to the 2020 U.S. Federal Elections."

[Morell Exhibit No. 23.

Was marked for identification.]

BY [redacted]

Q Now, this was actually a classified report, but the de- -- it was classified when it was released in January of 2020. I'm introducing the declassified version, which was released I believe in March of that year.

Are you familiar with this?

A Uh-huh.

Q Have you read it before?

A Uh-huh.

The Reporter. Can you say --

Mr. Morell. Oh, I'm sorry, I'm sorry.

Yes, I'm familiar with it, and, yes, I've read it before.

BY [redacted]

Q So I want to turn to the fourth page of the document, which is actually Roman numeral i.

A Uh-huh.

Q I've highlighted Key Judgment 2, which says:

"We assess that Russian President Putin authorized, and a range of Russian government organizations conducted, influence operations aimed at denigrating President Biden's candidacy and the Democratic Party, supporting former President

Trump, undermining public confidence in the electoral process, and exacerbating sociopolitical divisions in the U.S. Unlike in 2016, we did not see persistent Russian cyber efforts to gain access to election infrastructure. We have high confidence in our assessment; Russian state and proxy actors who all serve the Kremlin's interests worked to affect U.S. public perceptions in a consistent manner. A key element of Moscow's strategy this election cycle was its use of proxies linked to Russian intelligence to push influence narratives -- including misleading or unsubstantiated allegations against President Biden -- to U.S. media organizations, U.S. officials, and prominent U.S. individuals, including some close to former President Trump and his administration."

So is this description consistent with the type of concerns about Russian interference that you expressed in the October 19th letter?

A Yes.

Q And based on the Treasury Department sanction, do you believe that Andrii Derkach may have been a Russian intelligence proxy pushing influence narratives?

A I have no doubt about that.

Q Okay.

A I trust the Treasury designation, and it said exactly that.

Q And, to your knowledge, was Rudy Giuliani an individual close to former President Trump and his administration?

A Yes.

Q Okay.

And I just want to clarify one more thing for the record.

A Uh-huh.

Q There was some discussion earlier about the emails being authentic or verified or -- you have not reviewed them?

A No. I'm going on the basis of what seems to be a consistent view on the part of media outlets that they are authentic.

Q Okay. So that's just based on your review of media outlets, and you've not had any conversations with anybody in the intelligence community about them?

A No, I have not.

Q Okay. So purely based on public information?

A Yes.

Q Okay.

A It seems to be an accepted view now that they're authentic.

Q Okay.

Thank you. We don't have any further questions.

We can go off the record. Thank you.

[Whereupon, at 1:35 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

DRAFT

Errata Review Sheet
M. Morell testimony before the House Judiciary Committee

Page	Reads	Should Read
14	I didn't want to **leave**	I didn't want to **lead**
14	people who had served **on** administrations	people who had served **in** administrations
29	Jordan. So who was on the **record**?	Jordan. So who was on the **board**?
31	this might have **been** in the	is might have **done** in the
33	Travers no, **do** not send	Travers no, **I did** not send
36	and these were the things **where** I found**, right,** after Mr.	and these were the things **that** I found **right** after Mr.
38	Morell. So the first statement was 100 percent the first	Morell. So the first statement was 100 percent -- the first
42	debate certainly **makes it** caveated	debate certainly **wasn't** caveated
56	I got to know him when **my his** wife	I got to know him when **his** wife
61	weaken us that we need to focus on, in terms of	weaken us **and** that we need to focus on **them**, in terms of

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COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: NICHOLAS SHAPIRO

Wednesday, April 5, 2023

Washington, D.C.

The interview in the above matter was held in Room 2237, Rayburn House Office Building, commencing at 10:02 a.m.

Present: Representatives Jordan and Gaetz.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

[redacted] GENERAL COUNSEL

[redacted] LAW CLERK

[redacted] COUNSEL

[redacted] DEPUTY GENERAL COUNSEL

[redacted] SENIOR SPECIAL COUNSEL

[redacted] DIGITAL DIRECTOR

[redacted] MINORITY CHIEF OVERSIGHT COUNSEL

[redacted] MINORITY INTERN

[redacted] MINORITY PROFESSIONAL STAFF MEMBER

For the PERMANENT SELECT COMMITTEE ON INTELLIGENCE:

[redacted] DEPUTY GENERAL COUNSEL

[redacted] COUNSEL

[redacted] MINORITY COUNSEL

For NICHOLAS SHAPIRO:

JOHN SANDWEG, ESQ.

TIMOTHY SINI, ESQ.

Nixon Peabody LLP

799 9th Street NW, Suite 500

Washington, D.C. 20001-5327

[redacted] Good morning.

This is a transcribed interview of Mr. Nick Shapiro. Chairman Jordan and Chairman Turner have requested this interview as part of the committee's investigation of Federal law enforcement and intelligence matters within our respective jurisdictions.

This investigation serves to inform potential legislative reforms within the jurisdictions of the committees.

For example, the committees may consider legislative reforms such as revolving-door legislation for Federal employees with security clearances. These reforms might include allowing Federal employees with security clearances to retain their clearances after employment with the government but limiting their ability to receive access to classified information for some duration after their government employment.

The committees may also consider legislative proposals that would ban or restrict intelligence agencies from engaging in, coordinating, or promoting any political activity related to Federal elections, including candidates for Federal office.

The House Permanent Select Committee on Intelligence staff will be constrained today to issues relating to the letter signed by the 51 former intel officials. Judiciary Committee staff may have questions that go slightly beyond that, or the Judiciary Committee members.

On behalf of both committees, I want to thank you for joining us here today voluntarily. My name is [redacted] I'm with Mr. Jordan's Judiciary Committee staff.

And we're going to have the staff here introduce themselves, starting with [redacted] from HPSCI.

[redacted] I'm [redacted] counsel with the House Permanent Select Committee on Intelligence.

[redacted] [redacted] senior special counsel with House Judiciary Committee.

[redacted] I'm [redacted] with Jim Jordan in House Judiciary.

[redacted] [redacted] with the House Judiciary minority.

[redacted] [redacted] House Judiciary majority.

[redacted] [redacted] House Judiciary majority.

Chairman Jordan. Jim Jordan.

[redacted] [redacted] House Intel deputy general counsel, majority.

[redacted] [redacted] I'm the House Judiciary Committee Democratic staff chief oversight counsel.

[redacted] [redacted] counsel for the HPSCI minority.

Mr. Sini. Timothy Sini, partner at Nixon Peabody, counsel for Mr. Shapiro.

Mr. Sandweg. John Sandweg, counsel for Mr. Shapiro.

Mr. Shapiro. Mr. Shapiro. Nick Shapiro. Here to help.

[redacted] [redacted] with Ranking Member Nadler, House Judiciary.

[redacted] Thank you.

I'd like to now go over the ground rules and guidelines that we will follow during today's interview.

Our questioning will proceed in rounds. The majority will ask questions for the first hour, and then the minority will have an opportunity to ask questions for an hour. It will be a -- you know, the hour will be -- you know, the Republicans will go for the first hour, whether it's HPSCI or Judiciary, and then the Democrats will have that hour.

Typically, we'll take a short break at the end of each hour, but if you'd like to take a break apart from that, please let us know.

As you can see, there's an official court reporter taking down everything we say to make a written record. So we ask that you give verbal responses.

Do you understand that?

Mr. Shapiro. Yes.

[redacted] From time to time, we end up talking over one another, so we may need to back up and we may need to restate our question or have you restate your answer, and that's just the product of having a court reporter here.

We'll do our best to limit the number of people directing questions to you at any given point during an hour, just so we keep it tight.

Please try to speak clearly so the reporter can understand everything and so the folks that may not be close to you here in the room can hear you. It's important we don't talk over one another and interrupt each other, which can happen inadvertently. And that goes for everyone here today in the room.

We encourage witnesses who appear before the committee to freely consult with counsel as they so choose. And it's my understanding that you're appearing today with counsel, who's already identified themselves on the record.

We want you to answer our questions in the most complete and truthful manner as possible, so we'll take our time. If you have questions or if you don't understand one of our questions, please let us know. If you have a need to consult with your counsel, just let us know; we can go off the record.

Do you understand that?

Mr. Shapiro. Yes.

[redacted] Our questions will cover a wide range of topics, and if you need clarification, just let us know.

If you don't understand a question or if you don't know the answer and do not

remember, it's best not to guess. Please give us your best recollection. We're not bound by the hearsay rules of the Federal Rules of Evidence, so it's okay to tell us about a communication, even if it was related to you by another person, as long as you just help us understand how you know the information.

You should also understand that, although this interview is not under oath and we're not swearing you in, by law, you're required to answer questions before Congress and congressional staff truthfully. And you understand that, correct?

Mr. Shapiro. Yep.

[redacted] Witnesses that knowingly provide false testimony could be subject to criminal prosecution under 18 United States Code 1001.

You understand that, correct?

Mr. Shapiro. Yes.

[redacted] And is there any reason today you're unable to provide complete and truthful answers?

Mr. Shapiro. No.

[redacted] Finally, I'd like to make a note that the interview today, we're trying to keep this confidential. So, to the extent, after the interview, you can respect that, we'd appreciate it.

For the same reason, the exhibits that we show you here today, whether it's a public document or not a public document, we'll take them back at the end of the interview. Just the fact that we asked you about a particular document, something that, at least for the time being, we're going to just keep here. Even if it's a document that you may have produced to the committee, we will keep it.

That's the end of my welcoming remarks. Please, you know, let me know if you have any questions.

Do the minority staff have any?

[redacted] We don't have anything to add. Thank you.

[redacted] Okay. So we'll --

Mr. Sandweg. Do you have any questions?

Mr. Shapiro. No.

[redacted] Okay. We'll start our hour here.

[redacted] Are you going to keep time?

[redacted] And I'll keep time, yes.

[redacted] Thank you.

[redacted] Thank you.

[redacted] It's 10:09.

EXAMINATION

BY [redacted]

Q Good morning, Mr. Shapiro.

A Morning.

Q Could you please start by telling us a bit about your professional background?

A Sure.

I started my career working at a public relations firm in New Orleans, where I was doing mostly crisis communications.

Then moved to Washington, D.C., and worked on the 2004 Presidential election.

Then worked at Booz Allen Hamilton, where I was a management consultant, doing mostly crisis stuff.

Became a firefighter, a paramedic.

Then joined the Obama campaign, and then was in the White House, then the CIA.

Then worked at Visa, then Airbnb, and then started my own company.

Q And what did you do at the CIA?

A I was the deputy chief of staff and senior advisor to the Director of the CIA.

Q Who was John Brennan at the time, correct?

A Yes.

Q You left the CIA when?

A 2015.

Q Okay.

Acknowledging that we're in an unclassified setting, can you briefly describe your role and responsibilities as deputy chief of staff and senior advisor to the CIA Director?

A Yeah. So my job was basically to make sure the Director of the CIA could do his job.

Q Uh-huh.

A I helped him manage his time, decide what priorities -- he would decide the priorities he wanted to do, and I typically saw everything before he did, and I would make sure that if it was something that was one of his priorities, that we actioned it immediately; if it wasn't, that I would save it for, you know, later in the day or when he had time.

It was my job to ensure when we traveled that everything he needed to happen happened.

And it was often my job to follow up with people in the Agency after meetings to make sure that things that people said they were going to do -- if they had any questions about what the Director might want, that I was the one to help them, to make sure that whatever they produced was something that would be helpful.

Q Thank you.

You were one of 51 former intelligence officials who signed a public statement regarding Hunter Biden's emails, correct?

A Correct.

Q I would now like to enter a document dated October 19, 2020, titled "Public Statement on the Hunter Biden Emails" into the record as exhibit No. 1.

[Shapiro Exhibit No. 1

Was marked for identification.]

BY [redacted]

Q How would you describe the public statement?

A How would I describe the public statement? I would describe it as an opinion of 51 former intelligence officials who worked on -- worked for both -- worked for Republican administrations and Democratic administrations, that was informing the American people that it was our belief that the Russians were interfering in the 2020 election.

Q And what was the intent of the statement?

A To let the American people know that we believe the Russians were, again, interfering with the election.

Q And what was your role in the creation of the statement?

A I did not have a role in creating the statement.

Q You did not participate in the drafting?

A No.

Q And how do you know Michael Morell?

A I first met Michael Morell when I worked in the White House and he was either Deputy or Acting Director of the CIA. He's had both titles numerous times.

Q And what role did Mr. Morell play in the creation of this statement?

A He's the one who told me about it, and I think he was helping get it done, have it be written, and find people to sign it.

Q That's the part I wanted to touch on now, is, what was your role in recruiting other signatories to this statement?

A I did not have any role in recruiting anyone else.

Q Oh, okay.

Did you have any specific strategy for your outreach efforts to other former officials?

A I didn't reach out to any other former officials.

Q Okay.

We are aware that Mr. Morell shopped the statement around to numerous other officials who did not agree to sign on. Do you know what their stated reasons for declining to sign on were?

A No.

Chairman Jordan. When did you talk to Mr. Morell first about the draft statement?

Mr. Shapiro. He emailed it to me, and then I believe we got on the phone, like, the next day, I think.

Chairman Jordan. Do you know what day he emailed it to you?

Mr. Shapiro. Sorry?

Chairman Jordan. What day did he email it to you? Was that the 18th or the 17th?

Mr. Shapiro. I think it's in the emails. I don't remember off the top of my head.

Mr. Sandweg. Mr. Chairman, we could show Mr. Shapiro the email if it's helpful.

Chairman Jordan. Okay.

[redacted] I can introduce it into the record.

Mr. Sandweg. Okay.

[redacted] I would now like to enter an email sent from Michael Morell to Nick Shapiro, dated October 19, 2020, at 6:36 a.m., into the record as exhibit No. 2.

[Shapiro Exhibit No. 2

Was marked for identification.]

BY [redacted]

Q It says, "I will explain tomorrow on the phone how this came to be. I've sent the draft to David Kris and Lisa Monaco but have not yet heard back. They should sign. I'm looking for two things -- pairs of seniors who served in the same position from different administrations (Hayden and Panetta, Jeh Johnson and Mike Chertoff, Lisa and Ken Wainstein, Clapper and Coats, etc) and then a slew of former IC and national security who worked Russia. Should have something to give to the media through you tomorrow afternoon."

I don't believe this was your first communication with Mr. Morell regarding this statement, though, correct?

A Yeah. It looks like below I responded to this statement.

Q Correct. And was that the first -- or is this everything? Like, had he call you or anything like that?

A To my knowledge, no. I believe I got this random email.

Q Okay.

Chairman Jordan. So the email on Sunday, October 18th, 6:38 p.m., is when you first talked to Mr. Morell -- or communicated with -- Mr. Morell communicated with you?

Mr. Shapiro. I believe so, yeah.

Chairman Jordan. Okay.

BY [redacted]

Q So you proactively offered to help with the efforts in the promotion of the statement, correct?

A Yeah. I said I'd send it around to folks if he wanted me to.

Q We know that the statement as published is different from the draft that was originally circulated. In particular, the last two paragraphs, referencing, quote, "Vice President Joe Biden taking a private and public stand against the then-Prosecutor General of Ukraine, Viktor Shokin," were taken out for being what Mr. Morell described as "too political."

Do you know why that was --

A I don't, no.

Q -- taken out?

A No.

Q Okay.

BY [redacted]

Q Did you have a telephone conversation with Mr. Morell?

A I think so, yeah.

Q And can you recollect anything about that call?

A I think he was just telling me that he was doing this. He knows that I know David Kris and Lisa Monaco, so that's why -- when I said I'd send it around to folks if you want me to, those are pretty much the only two people I would know besides John Brennan. So he was telling me that he'd already sent it to them, which is why I didn't send it to anybody.

Q Do you know why they didn't sign the letter?

A I don't.

Q Do you know why anyone on the list here didn't sign the letter? Like, Jeh Johnson didn't sign. Chertoff I don't think signed.

A I didn't talk to any of these people.

Q Okay.

So, as it turned out, you -- you indicated you'd be happy to send it around, but --

A He knew -- that's why he replied, David and Lisa. He knew that that's probably who I was talking about.

Q Okay.

[redacted] Sorry, [redacted] Go ahead.

[redacted] That's fine.

BY [redacted]

Q In the emails Mr. Morell sent out soliciting signatures for the statement with a draft of the statement attached, Mr. Morell wrote, "Marc and I drafted the attached because we believe the Russians were involved in some way in the Hunter Biden email issue and because we think Trump will attack Biden on the issue at this week's debate and we want to give the VP a talking point to use in response."

Was the purpose of this statement, then, to help the Vice President's campaign?

A I think 50 people had probably 50 different reasons. Michael is best to answer why this started. I signed it because I thought the Russians were interfering and was happy to add my name to it.

Q Okay.

Do you know whose idea it was that the statement be drafted?

A Beyond Michael, no.

Q Okay.

Now-Secretary Antony Blinken was employed by the Biden campaign at this time,

correct?

A Maybe. I don't know.

Q Are you aware that --

A I think he was an advisor. I don't know if he was employed or not.

Q Are you aware that Secretary Blinken had called Mr. Morell to discuss this issue with him prior to the statement being drafted?

A I think Michael had mentioned he had chatted with Tony about Russian interference, but --

Q Okay.

A -- he didn't say anything about a statement or link it to that.

Q Okay. So you're --

Chairman Jordan. Let me just interrupt, [redacted] Thanks.

So you get the email from Mr. Morell on the 18th, 6:38 p.m. Then you had a conversation with Mr. Morell after that.

Mr. Shapiro. After the email, yeah.

Chairman Jordan. Sometime that same day.

Mr. Shapiro. I don't remember if it was that day or not, but in that time period, yeah.

Chairman Jordan. Okay. And during that conversation, Mr. Morell related to you that he had spoke to Mr. Blinken.

Mr. Shapiro. About Russian interference.

Chairman Jordan. About Russian interference. But not specifically about the letter? Is --

Mr. Shapiro. Correct.

Chairman Jordan. -- that accurate? Okay.

BY [redacted]

Q I'd like to enter an email sent from Antony Blinken to Michael Morell of a USA Today article titled, "A tabloid got a trove of data on Hunter Biden from Rudy Giuliani. Now, the FBI is probing a possible disinformation campaign," dated October 17, 2020, at 10:53 p.m., into the record as exhibit No. 3.

[Shapiro Exhibit No. 3

Was marked for identification.]

Mr. Sini. Do you have a copy?

[redacted] I have one more copy.

Mr. Sini. Thank you.

BY [redacted]

Q Did you have any discussions with Secretary Blinken?

A No.

Q Do you know if Secretary Blinken directed, suggested, or insinuated in any way that Mr. Morell and Mr. Polymeropoulos should write a letter or statement on this topic?

A No.

Q Why do you believe Secretary Blinken sent Mr. Morell that USA Today article?

A I don't know. I think that Tony and Michael go pretty far back and that if Tony was curious about Russian interference, Michael would be a smart person to talk to.

Q The email from Secretary Blinken was originally sent to him by Andrew Bates, then director of rapid response for the Biden campaign and current White House deputy press secretary.

Do you know whether Secretary Blinken was directed by the Biden campaign to

enlist Mr. Morell to write this statement?

A No.

Q Did you have any communications with Andrew Bates?

A Not until I sent the statement to the media.

Q Okay. And I'll touch on that in a second.

Did you talk to anyone else at the Biden campaign?

A No.

Q Okay.

You have extensive experience in political campaign messaging. Why --

A I was on two campaigns.

Q Okay. Why would Secretary Blinken forward Mr. Morell an email sent from the director of rapid response for the Biden campaign, in your opinion?

A Again, I think if Tony wanted to talk about Russian interference, Michael was a good person to talk to.

Q Do you have any reason to believe the Biden campaign planted the USA Today story titled, "A tabloid got a trove of data on Hunter Biden from Rudy Giuliani. Now, the FBI is probing a possible disinformation campaign," published on October 17, 2020?

A I have no idea.

Q Do you know whether Secretary Blinken or Andrew Bates had any contact with USA Today or USA Today journalists Karen Bowen, Kevin Johnson, Matthew Brown, or Jeff Neiburg?

A No clue.

Q Did you?

A No.

Q Okay.

I would also like to enter an email sent from Michael Morell to Nick Shapiro on October 19, 2020, at 8:21 p.m. into the record as exhibit No. 4.

[Shapiro Exhibit No. 4

Was marked for identification.]

BY [redacted]

Q The first part there reads, "Between us, the campaign would like Shane Harris to go first. Please share with the campaign when you share with Shane. But, by all means, get it to other reporters as well."

Did the Biden campaign direct your strategy with reporters regarding this statement?

A I wouldn't say I even had a strategy. I just did what Michael asked me to do, which was send it to the press and, from this email, to go to Shane Harris first. And it looks like the campaign wanted that.

Q Do you know why the campaign wanted Shane Harris to go first?

A No idea.

Q Mr. Morell never discussed that with you?

A No. Shane's a really good national security reporter though.

Q Why did Mr. Morell instruct you to share with the campaign when you share with Shane?

A My guess is, to make sure the campaign knew what The Washington Post was going to have.

Q Okay. Did the Biden campaign request that, do you know?

A It sounds like that happened with Michael, but not to me.

Q And you did, in fact, share a copy of the emails you were sending to

journalists to the Biden campaign?

A To Andrew Bates, yeah.

Q And did Andrew Bates respond to you?

A Not over email. We did an extensive search through my email. It's possible we had a phone call, but --

Q Do you recall anything from that phone call? What was discussed?

A No. I think if there was a phone call, it was along the lines of, "Thanks, man."

Q Okay.

Chairman Jordan. So the campaign knew that you were the one who was going to do the outreach to the media? They understood that?

Mr. Shapiro. My guess is, from this email, yeah.

Chairman Jordan. Okay.

BY [redacted]

Q And we understand from your productions that there were three journalists that you sent the statement to: Shane Harris of The Washington Post, Julie Pace of the Associated Press, and Natasha Bertrand of Politico?

A Yep.

Q Why those three?

A Shane because I was asked to go to Shane first. And then the AP is a really good outlet you want stories in. And then Politico -- I don't know why I went to Politico after that.

Q Why did Mr. Morell give you different instructions regarding what to say on the record, off the record, and on background?

A So I don't remember, like, having a conversation with him about this. And I

know more about dealing with the press than Michael does, and he'd be the first to tell you that.

But, looking back on this, it makes a lot of sense to me. The thing that Michael was wanting to make sure the press understood was that the letter wasn't saying whether the laptop emails were real or were made up by Russia, just that Russia was involved in it. So he's telling me to make sure reporters know that. And so, when you talk to reporters, unless you want them to quote you, yourself -- like, Nick Shapiro -- you have to say "off the record" so they don't quote me. But I'm impressing upon them the importance to use that in their story that they write, which is, make sure you use that part of the letter that says, we don't know if it's real or not real.

And then "on background" was just, if asked, you know, "Why Michael?" that was going to be the answer. But no one asked me, "Why Michael?" I don't think.

And then the on-the-record quote is just framing what the letter's about.

Q We know that Natasha Bertrand is the one that ultimately ran with the article. Why did Shane Harris and Julie Pace decline to do so?

A I don't remember. I know we -- I'm sure we spoke. But you'd have to ask them. Reporters decline things all the time.

Q Okay. But they did get back to you, I assume, over the phone?

A Yeah.

Q Because we didn't have any of those records and --

A Yeah. I looked back at the emails, and it's clear that I spoke to them before I emailed them, which is normal. When I'm talking to a reporter, I'll call them and say, "Hey, you know, I've got this idea. What do you want to do?" And then, considering it was a letter, I'm sure I said, "I'll follow up and send it to you," which is what I did with each of them.

And then, for each of them, we got back on the phone. And Washington Post and AP said no. And Politico -- I think I probably just reiterated these points to Natasha.

Q Okay.

Mr. Sini. [redacted] just to be clear for the record, there is the one -- we do have some -- we have that one email where the reporter --

[redacted] With the Julie Pace thumbs-up?

Mr. Sini. Right.

[redacted] Got it. Thank you.

Chairman Jordan. Let me ask about "off the record." If it was critical that it be communicated that this was -- that you didn't know, just that you thought this was a Russian disinformation operation, why off the record? Why not have that on the record? It doesn't necessarily have to be attributed to you; it could be attributed to the entire group. But why off the record?

Mr. Shapiro. Mr. Chairman, because it was so important, actually. So it's kind of the opposite. It was on the record in the letter, so I was trying to convince the reporter to make sure that, when they write the story about the letter, to call that part out and put that in the story.

So I'm giving them what's called off-the-record guidance, like, don't --

Chairman Jordan. No, I understand --

Mr. Shapiro. -- say Nick Shapiro says this.

Chairman Jordan. I understand how it works. But it seems to me that that could be emphasized on the record as well.

Mr. Shapiro. Michael has a history of doing this. I've worked with Michael for many years, and he often sends me things like "OTR," and I often have to say to him, that could mean "on the record" or "off the record."

Chairman Jordan. Yeah.

Mr. Shapiro. And so that's a known Michael-Nick problem --

Chairman Jordan. Okay.

Mr. Shapiro. -- that I've dealt with for a long time.

Chairman Jordan. All right. Thanks.

Mr. Shapiro. But he writes "on the record" up top. And me knowing Michael, again, he often confuses that.

Chairman Jordan. Uh-huh.

Mr. Shapiro. No offense to Michael.

BY [redacted]

Q And when you were telling the reporters you were giving them each the statement exclusively, you were waiting to hear back as to whether they wanted to give it to the next one?

A Yeah. I think I said, you can have it first, but just so you know, I'll send it to other people too.

Q Okay.

A And then, after two people said no --

Q Then --

A -- third, and then I didn't send it to anyone else.

Q Okay.

A I was tired of this.

Q All right.

Mr. Shapiro, are you familiar with the CIA's Prepublication Classification Review Board?

A Yes.

Q And this statement was sent and approved by the PCRB?

A I assume so. Michael is pretty good about making sure, if there's anything he's involved with writing, that it gets sent there.

Q It was. And I will now enter an email Michael Morell sent to the CIA's PCRB dated October 19, 2020, at 7:11 a.m. into the record as exhibit No. 5.

[Shapiro Exhibit No. 5

Was marked for identification.]

BY [redacted]

Q Do you know why Mr. Morell described this statement as a, quote, "rush job" to the PCRB?

A I don't. But I assume it's because he wrote it quickly.

Oh, thanks.

You'd best talk to him, but I assume it's because he wrote it quickly.

Q Do you know whether the CIA's PCRB --

A Oh, "rush job," meaning he wants them to rush, because he wanted it back quickly.

Q Yes.

A That would be my guess, yeah.

Q Did the CIA's PCRB make any edits to the statement before it was published that you're aware of?

A I don't know.

Q Or did they make any suggestions or comments?

A No clue.

Q Are you aware that CIA staff at the PCRB reportedly promoted the letter by asking former CIA officials to sign on to the letter?

A No.

Q I would now like to enter a statement David Cariens provided to the committee in an email dated March 5, 2023, into the record as exhibit No. 6.

A You said the PRB's staff was recruiting people to sign the letter?

Q Correct.

A No. That's not what the PRB does, though.

Q We were equally shocked.

A Yeah.

[Shapiro Exhibit No. 6

Was marked for identification.]

Mr. Sandweg. This is 6?

[redacted] No. 6, yeah.

[redacted] It's 6.

BY [redacted]

Q In a written statement to the committee, Mr. Cariens told me, "When the person in charge of reviewing the book" -- he had a book that was before the PCRB --

A Who? Sorry.

Q David Cariens. Are you familiar with him, sir?

A No.

Q Okay.

A Is he a former CIA officer?

Q He was. Correct.

He told me that, "When the person in charge of reviewing the book called to say it was approved with no changes, I was told about the draft letter. The person asked me if I would be willing to sign. (I do not recall the person's name or the exact date of the

phone call.) After hearing the letter's contents, and the qualifiers in it such as, quote, 'We want to emphasize that we do not know if the emails provided to the New York Post by President Trump's personal attorney, Rudy Giuliani, are genuine or not and that we do not have evidence of Russian involvement,' I agreed to sign."

Does that sound like it may have been a quid pro quo to you, that the CIA official on the phone was suggesting that we would approve --

A Oh.

Q -- his book if he signed this statement?

A No. I mean, I have no idea what happened here, to be very -- this is the first I'm hearing of this.

But my guess -- and lawyers would probably tell me not to guess or defend the PRB, but what I could've seen happen is someone in the PRB being inappropriate and asking, hey, are you signing this thing? Which, PRB shouldn't be sharing, like, materials they get from one former with other formers. Like, that shouldn't be.

Because, as a former, if you send something -- I've never sent something, but I know people who have -- you're doing that because you're supposed to, but you're also hoping it stays within confidence. Like, usually, if you're going to send something to the PRB, you're sending it elsewhere, and you don't want the PRB spreading that.

So my guess for this was that it was someone who acted inappropriately and was just stupidly outing it and asking these folks if they were going to sign it.

I can't imagine the PRB trying to get someone to sign it by offering to clear something else. That would be really bad.

[redacted] And, for the record, we are working with Mr. Cariens to bring him in for a transcribed interview to hear more about this.

Mr. Sandweg. But, to be clear, you have no personal knowledge of any of this?

Mr. Shapiro. I don't even know who he is.

Mr. Sandweg. And you had no communications with the PRB or anyone at the CIA?

Mr. Shapiro. No.

BY [redacted]

Q All right. So you did not coordinate with the CIA in promoting this statement?

A No.

Q Okay.

Are you aware of whether any of your fellow signatories coordinated with the CIA in promoting --

A No. This was when Mike Pompeo was CIA Director?

Q -- the statement? Correct.

A I'm sorry, who was --

Q This would've been October -- this was October --

A I was persona non grata during that time, because John Brennan was very much persona non grata during that time.

Q Did you speak to any other offices or staff outside of the PCRB at the CIA regarding this statement?

A No.

Q Do you know whether the statement was sent to any other intelligence agencies for review, such as the ODNI?

A Don't know.

Q Okay.

A Usually, it's only people who write have to send it to their place. So

Michael never worked at any other agency.

Q Okay. So the fact that other signatories may have at some point been on, during their career --

A For just signing it, you wouldn't have to send something.

Q Okay.

A Each agency has its own rules. I only know CIA's, because I was CIA. But, like, I think if you worked at NSA and you wrote something, you're probably supposed to send it to NSA. But, to my knowledge -- or, I know Michael never worked at NSA. And I don't think Marc did.

Q The public statement published in Politico reads, in part, "If we are right, this is Russia trying to influence how Americans vote in this election, and we believe strongly that Americans need to be aware of this."

Do you believe that it was you and your fellow signatories who, in fact, were the ones trying to influence how Americans voted in the 2020 Presidential election?

A No. I think we were telling Americans that Russians are interfering in the election and they should be aware of that.

Q How do you feel now that you know that the contents on the laptop were not Russian disinformation?

A Meaning that they were real?

Q Yes.

A I'm sure glad that we put that in the letter, saying that we don't know if this is real or not.

Q The caveat?

A Yeah.

Q Have you considered issuing an apology to the American public or retracting

the statement, issuing some sort of followup?

A What would we apologize for?

Q Misleading them by saying that --

A By saying we don't know if it's real or fake, and it turned out to be real? No, I don't think so.

I think if we had said it was fake and it turned out to be real, then we probably would've had a problem. But that's why I'm glad we put that caveat in there, because we didn't know.

Q Do you currently hold a security clearance?

A No.

Q Did you hold a security clearance at the time you drafted the statement?

A No. I didn't draft the statement. But I also didn't --

Q Okay.

A -- hold a security clearance.

Q Correct. When you helped give it out to the press, I mean.

A Yep.

Q Have you ever had access to classified information regarding the contents on Hunter Biden's laptop?

A No.

Q Okay. Are you aware of whether any of your fellow signatories have had access to classified information regarding the contents on Hunter Biden's laptop?

A I have no idea. I didn't know who this person even was.

Q Okay.

Chairman Jordan. In one email that we were just on a little bit ago, the last sentence from Mr. Morell says, "This is a rush job, as it needs to get out as soon as

possible."

Why did it need to get out as soon as possible?

Mr. Shapiro. You'd have to ask Michael. But me trying to be helpful to you guys, I'm assuming, considering he was talking about the debate, he wanted it out before the debate.

Chairman Jordan. Okay.

So you said earlier your goal was to get information to the American people. To what end? What was the ultimate goal?

Mr. Shapiro. My personal goal was to make sure the Americans knew -- the American people knew the Russians were interfering again.

Chairman Jordan. And you wanted to get it out early like Mr. Morell so that --

Mr. Shapiro. I didn't care.

Chairman Jordan. -- before the debate?

Mr. Shapiro. I didn't care. That wasn't my role or part.

Chairman Jordan. When we spoke to Mr. Morell, he indicated that he had three objectives. It was to, one, tell people that they thought it was a Russian information operation. Two, they wanted something for Mr. Biden to have during the upcoming debate, which was on the 22nd. And, three, he wanted Joe Biden to win.

Are those fair -- were those the same three goals you had?

Mr. Shapiro. No. I was never going back into politics, never going back into the Federal Government. I wasn't trying to do anything other than, Michael asked me to send this to the media, and I believed in the letter, so --

Chairman Jordan. Were you aware of Mr. Ratcliffe's statement on the morning of the 19th, prior to the letter being sent, where he said in an interview on FOX News that morning that this is not part of the Russian disinformation campaign?

Mr. Shapiro. I don't remember at the time if I was aware. I'm aware of it now. Like, before this interview, I was looking back at the news around then and saw that.

Chairman Jordan. Was Mr. Ratcliffe wrong?

Mr. Shapiro. Did he say information operation or disinformation operation? That's where a lot of this stuff gets ridiculously confused. What did he say?

Chairman Jordan. It "is not part of some Russian disinformation campaign." He said, "The intelligence community doesn't believe that because there is no intelligence that supports that."

He said, "Let me be clear: The intelligence community doesn't believe this is part of a disinformation campaign. The intelligence community doesn't believe that because there is no intelligence that supports that."

Mr. Shapiro. Yeah.

Chairman Jordan. Ratcliffe went on to say that it is simply not true.

Mr. Shapiro. So, when I was going back and looking at all this stuff, I saw that President Trump's head of counterintelligence, Bill Evanina, in August put out a statement saying that the Russians were interfering in the 2020 election and named this guy, Der- -- I don't know how to pronounce his name -- Derkach, as someone who was trying to spread information about corruption.

And then I remember seeing, a month later, the Secretary of Treasury, Steve Mnuchin, putting out a public statement saying the Russians are making up information. There was some news article that we saw saying that he was spreading deceitful and untrue narratives about Biden to hurt Biden about corruption.

And then I saw Rudy Giuliani speaking in the press, right before the letter, saying, "This information could be hacked. It might not be hacked. I don't know. I'm not disclosing where I got the hard drive." Rudy was meeting with this guy, Derkach.

So all of these things tell a pretty clear story that even the Trump administration was saying the Russians are interfering. There was a Russian agent who was trying to spread information to hurt Hunter Biden about corruption.

I don't see our letter as saying anything different than that.

Chairman Jordan. So the August 7th statement came from the Office of the Director of National Intelligence. So --

Mr. Shapiro. I'm talking about Bill Evanina, not the DNI.

Chairman Jordan. Okay. But -- oh, okay. You're talking about --

Mr. Shapiro. He was the head of counterintelligence. He put out a statement in August saying that Russia is -- and he also said, like, China was interfering, and Iran and other countries too.

Chairman Jordan. Yeah. Okay. Fair enough.

There was also a statement from ODNI in August, and, you know, he said he believed the administration in August but he can't believe them on the 19th. And I'm just trying to --

Mr. Shapiro. No. There is a difference between the word -- that's where I was going with this. "Disinformation," "information," "election interference" -- all these things are getting complicated, I think, for a lot of people.

A disinformation operation is creating fake information.

Chairman Jordan. Uh-huh.

Mr. Shapiro. So, if you read what Treasury Department and Bill Evanina said, they were saying the Russians are creating false narratives about corruption. The Trump administration is saying that. The Trump administration is also saying there's not disinformation. So they were saying two different things.

Which is, I think, part of the reason why our letter is not taking a position on

whether it was real or fake. We're just saying what everyone was saying at the time, which is the Russians were interfering in the election.

Chairman Jordan. What's the impression your letter left with the American people?

Mr. Shapiro. That the Russians are interfering with the election.

Chairman Jordan. That's what you think the impression was?

Mr. Shapiro. We are absolutely telling people that Russians are interfering in the election.

Chairman Jordan. Okay.

BY [redacted]

Q I mean, the letter is about the laptop, though.

A That's how they're interfering with the election.

Q Right. But the letter is largely about the laptop, not about the Russians.

A Our letter is saying, the Russians are behind this in some way; we don't know what way.

Q Right. But you acknowledge that it's mostly about the laptop, right?

A Absolutely.

Q Okay.

BY [redacted]

Q Now that the contents of Hunter Biden's laptop have been authenticated, including documentation of shady business dealings with Chinese and Ukrainian foreign nationals, do you believe Hunter Biden is a threat to national security?

A I do not think Hunter Biden is a threat to national security.

Q Why not?

A Because I think the President of the United States doesn't make his decisions

based off of anything Hunter Biden is doing.

Q Do you believe Hunter Biden has been compromised?

A I don't know. I'd have to know a heck of a lot more.

Q Okay.

I have no further questions.

Mr. Sini. Could you repeat that last question? I'm sorry.

[redacted] Do you believe Hunter Biden has been compromised?

Mr. Shapiro. It feels like everything's out in the open. And hard to compromise someone when everything's out in the open.

Chairman Jordan. Did you have any communications with Mr. Ricchetti, the chair of the Biden campaign?

Mr. Shapiro. No.

Chairman Jordan. Okay.

I think [redacted] asked this earlier. Do you regret now that you were part of the effort to get this letter out there -- this statement out there?

Mr. Shapiro. No. But I will say, I am really glad that we have that line in there saying we don't know if it's real or fake, because if it winds up being real or -- if it wound up being real, I would've felt really bad if we hadn't done that.

BY [redacted]

Q Do you have any information about Russian involvement in the laptop situation?

A No. Other than what's in the press, no.

Q What's in the press? Like, what do you understand is the issue with the Russians involved with the laptop?

A Sorry. I was speaking of, like, what Mnuchin and Bill Evanina and everyone

was saying. I have no information about Russian -- I have no evidence or anything about Russian involvement. We have our belief that the Russians were playing a role in spreading it --

Q Okay.

A -- or in some way involved in the laptop.

Q And is your belief supported by any evidence?

A It's supported by what Bill Evanina said, what the Secretary of Treasury said under Trump, what the FBI said right before, what Rudy Giuliani did, and my belief that the Russians are trying --

Q Right, but they didn't say anything about, you know, how it got to the store in Delaware.

A No, but they said that this guy, Derkach, was meeting with Giuliani. And Derkach's out there --

Q Right.

A -- being accused by the Trump administration of creating false information about corruption. The laptop had information about corruption. So --

Q Right.

You're not aware of anything on the laptop that was doctored or inserted by the Russians, correct?

A No. We didn't -- what we were saying was that the Russians are playing a role in some way, and we don't know what way. They could've just been spreading the news story.

Q Okay.

Were you surprised by the censorship effort that was implemented on the laptop story?

A I don't know about "surprised," because the media was doing quite a kick in their own behind after 2016. I know there was a lot of handwringing about whether they should've published a lot of the stories about the hacked emails. So I think they were probably being careful this time.

Q Do you think facts relating to a potential President's family, you know, getting money from foreign countries, potentially foreign adversaries, is a relevant story for the American people to consider leading up to the election?

A Yeah. And I think the media was trying to figure out where that information came from and whether it was credible or not.

Q So, if there's facts that says Hunter Biden is taking money from China, that that's a story the American people ought to consider en route to the election?

A I would assume that would be a press story. And I think it was.

Q And were you surprised, you know, with the effort by Facebook and Twitter to just wipe that story clean off their platforms?

A Yeah. I was surprised by that.

Q And so you'd acknowledge that that's pretty remarkable, looking back on it?

A I think the tech companies -- I'm no expert in this, but I think they're all trying to figure out what role they play in disseminating media, and they haven't figured it out yet.

Q Just going back to, I think it's exhibit 1, relating to David Kris and Lisa Monaco. The draft, as you understand it, was sent to them by Mr. Morell?

A From that email. He said, I sent it to them. Yeah.

Q Okay. And did you ever have any communications with David Kris even after this time period about the letter?

A In more recent times. I know David Kris is happy he's not involved.

Q Okay. And can you just tell us a little bit more about your -- like, when did you talk to David Kris about the letter?

A Oh, I don't know. Over the last couple -- it's been 3 years?

Q Okay.

A But I know he is someone who is an excellent lawyer. He was the head of National Security Division Law. And when you guys first sent me your letter, I sent it to him, being like, "What is this? Like, do I have to do anything? I don't know what's going on."

Q Uh-huh.

A And I think in that conversation he was like, "Oh, man, I'm glad I'm not part of this."

Q Fair enough.

A No offense to David.

Q How about Lisa Monaco? Have you ever had any conversations with her, communications about the letter, you know, either at the time -- which I think you said didn't.

A Not at the time, no. I think in the years past -- Lisa and I are friends -- I think she's probably made a similar remark, but I couldn't even, like, pinpoint when.

Q Okay.

And did you hear from Mr. Morell about why Ken Wainstein didn't sign on? Did he give you any information about why any of the folks didn't sign on --

A No.

Q -- such as --

A My conversations with Morell were all about, "Hey, send this to the media."

Q Okay.

Did you have any -- after the story went, was published in Politico, did you have any followup conversations with Morell about it?

A I put this all out of my mind at that point. I mean, he might've said, "Thanks for sending it."

Q Okay.

A You know, that was pretty much it.

Q And subsequently to the time period, the relevant time period, did you have any discussions with Mr. Morell?

A As of -- again, same with -- the opposite of David and Lisa, Morell was complaining that we were all involved in this now.

Q Okay. Did he ever apologize to you for maybe getting you in this mess?

A He has not.

[redacted] I think we're --

[redacted] I have no further questions at this time.

[redacted] -- done for this hour. We might have more questions.

Mr. Shapiro. Yeah, yeah.

[redacted] But we can go off the record.

[Recess.]

[11:03 a.m.]

EXAMINATION

BY [redacted]

Q It is 11:03 in the morning. And again, I'm [redacted] I am the Democrat's chief oversight counsel in the Judiciary Committee. I am joined by [redacted] with the House Permanent Select Committee on intelligence.

A Great. Nice to meet you.

Q So we -- at the very beginning of the last hour, we talked through your background a little bit. And you mentioned that you were at the CIA, and you talked through your responsibilities there. But, before that, you were actually in a fairly substantive position at the White House as well, right?

A Two.

Q Can you describe those?

A Yeah. I was the chief of staff senior advisor to the head of counterterrorism and homeland security for a couple years. And, in that role, it was for the same person, for John Brennan, and it was the same role I played at the CIA; it was basically helping make sure he had everything he needed to do his job, helping make sure that every decision was teed up to him in the most functional way where he had all of his questions answered. Typically, he would kind of ask me a question. Then I would go work with people across the government to find the answer and get back to him, and ensuring keeping that he's fulfilling his priorities.

Before that, I was assistant press secretary in the White House with national security and homeland security as my portfolio. So I would advise the President of the United States what he should say in matters of homeland security and national security. I would help ensure the rest of the Federal Government was using a consistent message

regarding national security and homeland security, and work with the media to answer their questions about homeland secure and national security.

Q So it's fair to say you developed some amount of expertise in both national security and intelligence matters?

A For sure.

Q Okay. And, in those roles, you -- I believe you probably had exposure to a pretty wide variety of national security and intelligence professionals?

A Absolutely.

Q Did you -- and that's how you crossed paths with Mr. Morell?

A Yes.

Q What was -- in your opinion, when you interacted with him and the period when you're at the White House and the CIA, was he well respected in the intelligence and national security world?

A Absolutely. One of most respected.

Q Can you say more about that?

A I mean, Michael is a legend. He is a career CIA officer, wound up being the head of the analytic branch, was twice Acting Director, Deputy Director for many years, one of the smartest analytical minds I've ever met, and you know, beloved in the intelligence community and the CIA.

Q Okay. So you'd agree that he had the expertise to identify potential threats to American national security?

A 100 percent.

Q Okay. What about Mr. Brennan? Would you -- what's your opinion of him?

A I hold him in the highest regard. He's been like a father to me. He is one

of the most incredible professionals I've ever gotten the honor to work with, and I have learned probably more from him than anyone else in my life.

Q Would you agree that he's well respected in the intelligence and national security communities?

A Absolutely.

Q And can you say any more about that?

A That, you know, John Brennan is, again, one of the best leaders I've ever come in contact with. His moral compass is something that sticks out, I think, in front of him more than almost anybody else and all the service he's given to America.

Q And you would agree that he has the expertise to identify potential threats to American national security?

A Absolutely.

Q And so, the fact that Mr. Morell was drafting this letter and taking lead on this letter, and Mr. Brennan was a signatory, was that important to you?

A Yeah. I think, you know, I would -- I was not afraid to sign my name to something that both of those guys signed onto.

Q Because they're so well respected?

A Absolutely.

Q And because you respect their judgment?

A For sure.

Q Were there any signatories that stood out to you as people that were really meaningful for you that were on the list?

A I need to look at the list to remind myself.

Q Exhibit 1.

A Yeah. The fact that you've got -- first, you've got former CIA Directors who

worked in Republican -- I think Mike Hayden was one of the people on the list. I believe Panetta was on the list. John McLaughlin is also a legendary long-time incredible CIA officer. Mike Vickers is incredible. Nick Rasmussen, Russ Travers, Doug Wise, I mean these guys are heavy weights in the largest sense. Rodney Snyder, guy doesn't have a political bone in his body. He's a career national security official who has done incredible work. Andy Liepman. David Buckley, who is a former inspector general. Steve Hall is a -- was an absolute expert on Russia. It says he was the chief of Russian operations. I worked very closely with Steve when I was at the CIA. He had, I believe, these jobs when I was there in every -- we dealt with lot of stuff with Russia. And Steve was the guy who was always briefing me and talking to John about what was happening. David Priess, absolutely fantastic analyst. All of these folks are incredible.

Q Thank you. Earlier today, there was -- the very beginning, there was some discussion about possible legislation related to security clearances and people who hold security clearances after leaving government. And I can't remember if you said that you had a security clearance or not in 2020?

A I'm not sure what you're talking about, the legislation. I did not have a security clearance in 2020, though.

Q Sorry. I was referring to the introduction. That actually might have been before we were rolling.

A Gotcha.

Q And so you didn't have a security clearance in 2020?

A I left government in 2015, and have never seen, needed to see, or have any access to classified information since then.

Q Okay. And you personally didn't have any access to any of the Hunter Biden emails or the laptop?

A No.

Q Okay. You didn't have access to any intelligence products or documents that were analyzing the laptop or anything like that?

A Just press reports.

Q Okay. And you didn't have any personal interactions with anybody at FBI, for example, regarding whether there was an investigation?

A No.

Q Okay. And, to your knowledge, none of the other signatories had any interactions with the FBI or any access to classified information?

A To my knowledge, no.

Q Okay. So it was kind of irrelevant whether or not you had a security clearance because to your knowledge, nobody actually had access to classified information or even law enforcement sensitive information for that matter?

A Correct.

Q Okay. And you actually made this clear in the text of the letter itself, right?

A Yep.

Q I think there was some discussion earlier about on the record versus off the record and on background and what all of that might mean?

A Yep.

Q But I want to look at the actual Politico article, which I think is the actual record, right?

A Yeah. Yeah. Yeah.

[redacted] Okay. We're going to introduce that as exhibit 7.

[Shapiro Exhibit No. 7

Was marked for identification.]

BY [redacted]

Q And, actually, I'm sorry. Before we get there, I want to look at the public letter again, and then go to the Politico article. So the public letter was exhibit No. 1.

So, in the letter, you -- in the fifth paragraph of that letter, reads: We want to emphasize that we do not know if the emails provided to the New York Post by President Trump's personal attorney, Rudy Giuliani, are genuine or not, and we do not have evidence of Russian involvement.

So this is an example of it being plain on the face of the letter that you didn't have any information about the emails being genuine or not?

A Correct.

Q And the very next sentence begins, quote: If we are right.

Correct?

A Yes.

Q So that suggests that you could, in fact, be incorrect?

A Yes. Yeah.

Q And the following paragraph reads: There are a number of factors that make us suspicious of Russian involvement.

A Yes.

Q And suspicion is different than proof, right?

A Absolutely.

Q On the next page, the third to last paragraph begins with the phrase: Our view is that the Russians are involved -- and you specifically used the phrase "our view," right?

A Yes.

Q So that shows that it's a subjective opinion and not an objective fact?

A For sure.

Q Okay. And then, finally, the second to last paragraph of the letter describes some press reports about the FBI opening an investigation. And then, in the final paragraph, it says: We do not know whether these press reports are accurate, right?

A Yes.

Q So this is another instance this which letter makes clear that this is all based on your understanding of public information, that you have no access, that you're not making a call on it either way if the information is accurate?

A Correct.

Q So we just went through five different instances of that. And would you agree that it makes it -- it's caveated to make it abundantly clear that this was the letter signatories' subjective evaluation of various factors and not an objective --

A One hundred percent. That was the point.

Q Okay. And there's obviously nothing in there that says you had access to nonpublic information?

A Correct. We even say that we didn't, I believe.

Q So let's turn to the Politico article now, which is exhibit 7. And this is a printout. So it's all -- so I'm going to refer to pages, but obviously, on the internet, it's all one giant block.

The very first paragraph of this letter, which is on the top of the next page, the top of the second page as printed, there's a blue hyperlink there to -- signed onto a letter.

Is it your understanding that that links to the actual letter?

A I assume so, yeah.

Q Okay. So anyone reading this article and the very first thing they see is the actual letter, which has all of the caveats we just talked through. They could easily just

click through and see that?

A Yep.

Q And the third paragraph of the Politico article plainly states that the letters signatories presented no new evidence, right?

A Yep.

Q So that's in there as well.

And then, further down, it's the 10th paragraph. So it's -- it's actually on the fourth page as printed. It's right underneath the block of text that says: Politico Dispatch.

It reads: We want to emphasize that we do not know if the emails provided to the New York Post by President Trump's personal attorney, Rudy Giuliani, are genuine or not, and we do not have evidence of Russian involvement.

So you said earlier that your goal was to make sure that that information got into the article?

A Yep.

Q And the information got into the article?

A It did.

Q Okay. Moving on from that, there was some discussion earlier -- and I think you said there was a lot of confusion around information operations versus disinformation operations versus other influence operations.

What is your understanding of the difference between an information operation and disinformation operation?

A Yeah. First, normally what we call them is influence campaigns. Like, you know, covert influence campaigns is what foreign countries do all the time. The difference between information operation and disinformation operation is disinformation

is typically creating fake information and spreading it. And information operation could be as simple as getting access to real information, damaging information, and helping spread it.

Q And so would an example of that be, in 2016, nobody denied that the emails that were hacked from the Democrat Congressional Campaign Committee and the Democratic National Committee were genuine, but the concern was that the emails we being weaponized to sow chaos and influence the election, correct?

A Absolutely.

Q Okay. So is this known as a hack-and-leak or a hack-and-dump operation?

A I've heard the term "hack-and-dump." But it's basically a covert influence campaign where they're taking real information that they've gotten through illegal means, hacking, and then are spreading it.

Q Okay. And, even if there's no hack, it could be just an influence operation to spread information?

A Absolutely, just you know, bots and accounts on social media spreading a story, whether that story is fake or real, is an influence operation.

Q And this actually isn't just -- Russians don't do this just with respect to the United States, right?

A Correct.

Q So, for example, we have -- sorry. Hold on one second.

I'm actually going to move on. So information operations, you described them as covert influence operations. They involve a government hiding its hand entirely or hiding behind someone else, correct?

A At least for some of it.

Q And sorry, what do you mean by that?

A Like sometimes governments also want it to be known they did do it. You know, the hacking was clearly covertly done. The Russians didn't want us to know, the U.S. government, to know they were hacking into a political campaign of someone running for President and then putting it out there. And, at the time, if I remember, they were doing it all covertly, and it took some unraveling to find that it was the Russians.

Q In 2016?

A Yeah.

Q So do you agree that Russian information operations pose a threat to American democracy?

A Absolutely.

Q So there are some who would claim that Americans who participate in disinformation or perhaps are used by Russians in information operations are exercising their free speech rights, and do you agree that it's a problem if Americans got involved in information operations?

A Absolutely.

Q I want to turn back to the text of the letter itself. I think you were asked earlier, you know, you didn't have any evidence to support this, and you said that there was news articles you were relying on. So I want to talk through some of the evidence that was in the public sphere you might have had access to?

A Sure.

Q So the 8th paragraph of the letter itself, the last paragraph on the bottom of page 3 reads: Such an operation, which means the Russian cyber operation or influence operation, would be consistent with Russian objectives as outlined publicly and recently by the intelligence community to create political chaos in the United States and to

deepen divisions here but also to undermine the candidacy of former Vice President Biden and thereby help the candidacy of President Trump?

A Yep.

Q Can you explain, briefly, in your experience why it would have been consistent with Russian objectives to create political chaos in the United States and deepen divisions here?

A Yeah. And that came, I believe, directly from Bill Evanina, who was the head of counterintelligence at that time in the intelligence community. You know, their goal -- Russia sees the world still as a zero sum game with America. So, if they can create division in America, and we're fighting each other, in their opinion, that's a win for them. It shows that democracy is mean and nasty, and they don't like democracy.

[redacted] And I actually want to introduce into the record the statement from Mr. Evanina. This is going to be exhibit 8.

[Shapiro Exhibit No. 8

Was marked for identification.]

BY [redacted]

Q So, on the second page, there's a paragraph highlighted. I'm going to read that into record quickly. It read: We assess that Russia is using a range of measures to primarily denigrate former Vice President Biden and what it sees as an anti-Russia establishment. This is consistent with Moscow's public criticism of him when he was Vice President for his role in the Obama administration's policies on Ukraine and its support for the anti-Putin opposition inside Russia. For example, pro-Russia Ukrainian Parliamentarian Andrii Derkach is spreading claims about corruption, including publicizing leaked phone calls to undermine former Vice President Biden candidacy and the party. Some Kremlin-linked actors are also seeking to boost President Trump's candidacy on

social media and Russian television.

A Yep.

Q So this statement was released in August 2020, August 7th, 2020, and it made clear that this assessment found that Russia was working to denigrate then Vice President Biden, consistent with Russia's prior criticism of him, correct?

A Specifically about corruption.

Q So this is actual evidence of concern in the intelligence community, and actual evidence of, you know, an assessment that that was the case?

A Yep.

Q Okay. And you would agree that this statement is accurate --

A Yeah.

Q -- in your view?

So, moving on, the ninth paragraph of the October 19th letter, and I think it's the top of the next page, top of the second page states that: Such an operation would be consistent with some of the key methods Russia has used in its now multiyear operation to interfere in our democracy, the hacking via cyber operations, and the dumping of accurate information or the distribution of inaccurate or misinformation. Russia did both of these during the 2016 Presidential election, a judgment shared by the U.S. intelligence community, the investigation into Russian activities by Special Counsel Robert Mueller, and the entirety of all Republicans and Democrats on the current Senate Intelligence Committee.

A Yeah.

Q So I'm going to go through those latter assessments one by one.

A Great.

Q Are you familiar with the January 2017 CIA, FBI, and National Security

Agency joint assessment detailing a Russian campaign to influence the 2016 election?

A Vaguely, yeah.

Q Okay. I'm going to introduce as --

A Is this the ICA.

Q Yeah.

[redacted] We'll introduce it as exhibit 9.

[Shapiro Exhibit No. 9

Was marked for identification.]

BY [redacted]

Q We're going to look at -- it's marked as Roman numeral pages II to III of the report, listed as key judgments -- I think it might actually be page 4 of the printed copy. It little Roman numeral -- yeah. Roman numeral II.

So this -- I should say the classified version of this report was released in January. In this setting, we're using the unclassified version, which was released in March of that year publicly, and it's available online.

So the key judgment section on pages -- Roman numeral II to III says that: The intelligence agencies assessed that Russian intelligence conducted cyber operations against targets associated with the 2016 election, including targets associated with both political parties, gained access to the Democratic National Committee computer networks and publicly released materials via WikiLeaks.

So, to the extent that paragraph 9 refers to the U.S. intel community assessments of 2016, this was an accurate assessment. That is what assessment found, right?

A Sure, yeah.

Q And that actually would be evidence that you would -- that's actual hard evidence from the intel community?

A Yep.

Q Okay. Paragraph nine refers to the investigation by Special Counsel Robert Mueller. I'm not going to introduce the entire Mueller Report into the report because it's lengthy.

[redacted] But we're going to introduce as exhibit 10 the cover page, and what's page 36 of volume one, which is the first page of the section entitled "Russian Hacking and Dumping Operations."

[Shapiro Exhibit No. 10

Was marked for identification.]

BY [redacted]

Q Are you familiar with the Mueller Report?

A Yes.

Q So this report determined that the Russian government hacked into the networks of the Democratic Congressional Campaign Committee and the Democratic National Committee and then released stolen Clinton campaign and DNC documents using various personas to interfere in the 2016 election, right?

A Yep.

Q So this is -- this does -- this is supports what you said in the ninth paragraph or what the signatories said in the ninth paragraph of the letter?

A Absolutely.

Q And would you consider this evidence to support your assertions?

A Yep.

Q And, finally, the last assessment in there, it's paragraph 9 refers to the findings of the Senate Intelligence Committee report.

Is this -- to your knowledge, is this a reference to the Senate Select Committee on

Intelligence report on Russian active measures, campaigns, and interference in the 2016 U.S. election?

A Yep.

Q Okay. And the final version of that was released in August of 2020, which would have been two months, roughly, before the October 19th letter?

A Yep.

[redacted] So I want to introduce as exhibit 11 the cover page and just the findings section of that report.

[Shapiro Exhibit No. 11

Was marked for identification.]

BY [redacted]

Q Again, I think the full report is several thousand pages long.

A That was I think the first -- so there had been work in the intelligence community in Mueller. This was the first bipartisan work where everyone could agree the Russians interfered in the election.

Q So just the -- on page Roman numeral VII, I believe it's highlighted, it reads: The committee found that Russian President Vladimir Putin ordered the Russian effort to hack computer networks and accounts affiliated with the Democratic party and leak information damaging to Hillary Clinton and her campaign for President.

A Yep.

Q So this is another assessment mentioned in here -- the letter, and it does -- it is evidence that supports your statement there?

A Yes.

Q Okay. So you would agree that there's widespread evidence -- or widespread agreement, rather, among United States intelligence and national security

experts that Russia did interfere in 2016?

A Absolutely.

Q The 10th paragraph -- going back to the October 19th letter, the 10th paragraph states that: The Russians, according to media reports and cybersecurity experts, targeted Burisma late last year for cyber collection and gained access to its emails.

[redacted] I want to introduce as exhibit 12 a January 13th, 2020, New York Times article entitled "Russians Hacked Ukrainian Gas Company at Center of Impeachment."

[Shapiro Exhibit No. 12

Was marked for identification.]

BY [redacted]

Q Have you seen this before?

A Probably.

Q I'll give you a second to review, if you want?

A Okay.

Q So this article states that: The Russian intelligence director used phishing emails to target Burisma and gain access to their computer systems, right?

A Yep.

Q And do you have any reason to doubt the voracity of this reporting?

A No.

Q Okay. So this tends to also provide evidence to support the statement in paragraph 10 about Burisma being hacked, right?

A Yep.

Q And then, moving on, paragraph 10 also states that: Ukrainian politician

and businessman Andrii Derkach, identified and sanctioned by the U.S. Treasury Department for being a 10-year Russian agent interfering in the 2020 election, passed supportive materials on Burisma and Hunter Biden to Giuliani.

A Yep.

Q Are you familiar with the Treasury Department's sanctions on Mr. Derkach?

A Yep.

[redacted] I'm going to introduce the press release that announces those sanctions.

[Shapiro Exhibit No. 13

Was marked for identification.]

Mr. Shapiro. Great.

BY [redacted]

Q So the in-relevant part of the press release says that: Treasury designated Andrii Derkach, pursuant to Executive Order 13848, for his efforts to influence the 2020 U.S. Presidential election. Derkach, a member of the Ukrainian Parliament has been an active Russian agent for over a decade, maintaining close connections with the Russian intelligence services.

A Yep.

Q Derkach has directly or indirectly engaged in, sponsored, concealed, or otherwise been complicit in foreign interference in an attempt to undermine the upcoming 2020 U.S. Presidential election.

A Yep.

Q Okay. So this directly supports the statements made in the letter that Derkach was sanctioned for being a 10-year Russian agent interfering in the 2020 election, right?

A Yes.

Q And so this was a true statement in the letter?

A Yes.

Q And Rudy Giuliani was known to associate with Mr. Derkach, correct?

A Yep.

Q Who was Rudy Giuliani?

A Besides the former mayor of New York after 9/11, he was a close Trump confidante, advisor, lawyer I think at some point.

[redacted] I want to introduce as exhibit 14 a Daily Beast article that was published on October 17th, 2020. It's entitled "Rudy: Only 50/50 chance I worked with a Russian spy to dig dirt on Bidens and Ukraine."

[Shapiro Exhibit No. 14

Was marked for identification.]

BY [redacted]

Q Have you seen this before?

A I think so, yeah.

Q If you want a minute to scan, I can give that to you.

So this article reports on an hour-long interview that the Daily Beast had with Rudy Giuliani. And, at the top of the last page of the article, Giuliani is described as saying that he, quote: Used his latest leak to the New York Post as an extension of his years-long efforts to work with the Ukrainians to dig up dirt on the Bidens.

A Yep.

Q So there was actual evidence that Giuliani worked to dig up dirt on the Bidens, and he described the laptop leak as an extension of those efforts, right?

A Yep.

Q So this actually is evidence that supports your concerns expressed in the letter?

A Yep.

Q And the article continues that: Derkach has for years -- for years has tried to pass damaging and largely false information about the Ukrainian Government's supposed attempts to undermine Trump and the Bidens' supposed dirty dealings in Kyiv. Derkach dispatched packets of disinformation about the Obama administration and the Bidens to lawmakers on Capitol Hill throughout 2019, and finally met with Giuliani in December 2019 in Kyiv during the middle of the House impeachment process.

A Yep.

Q Derkach and Giuliani appeared together in an anti-Biden television series produced by the Trumpist network OAN, and Giuliani has interviewed Derkach about the Bidens on his YouTube video series "Common Sense."

So this tends to support the concerns raised in the letter about Giuliani's interactions with Derkach, correct?

A Absolutely.

Q Okay. Would you agree that it would be concerning for an individual, Giuliani, who was working at -- would you agree that it would be concerning that Mr. Giuliani, who is an American person, working to influence the election with someone who had deep ties to a Russian agent sanctioned for trying to interfere in the election?

A Absolutely.

Q And is that kind of what you captured -- and why is that?

A Sorry. Why is --

Q Why is it that you find that concerning?

A Because you have a known Russian agent closely working with a Trump

confidante. Everyone is literally saying out in the open that they're trying to dig up dirt on the Bidens. You have Trump's own government saying this guy Derkach is known for creating fake information, pushing false information. You have Derkach and Giuliani together. Giuliani is looking for exactly what Derkach is saying he's providing, and then suddenly you have this laptop story.

Q So we've walked through a number of the factors raised in the letter and kind of talked through the evidence you had to support the statements in there. And you said earlier that there are many ways that the Russians could have interfered here, could have been information, disinformation, pushing out through information, right?

A Yep.

Q So I want to now look at some evidence that suggests that Russia, in fact, did interfere in the 2020 election.

A Great.

[redacted] So I want to introduce a January 7th, 2021, intelligence community assessment. It's entitled "Foreign Threat to the 2020 U.S. Federal Elections." We'll introduce it as exhibit 15, and, again, this was a classified report. We're introducing the unclassified report into the record today.

[Shapiro Exhibit No. 15

Was marked for identification.]

BY [redacted]

Q Have you seen this before?

A I think so, yeah.

Q Okay. So I'm going to ask you to turn to the page -- the fourth page. It's the fourth page of the document. It's Roman numeral I.

Key judgment two, so it's actually -- it's Roman numeral I. It's under key

judgments. There's a section there that says "key judgment two"; you see that?

A Yep.

Q And it says: We assess that Russian President Putin authorized, and a range of Russian Government organizations conducted, influence operations aimed at denigrating President Biden's candidacy and the Democratic Party, supporting former President Trump, undermining public confidence in the electoral process, and exacerbating sociopolitical divisions in the U.S. Unlike in 2016, we did not see persistent Russian cyber efforts to gain access to election infrastructure. We have high confidence in our assessment: Russia state and proxy actors who all serve the Kremlin's interest worked to affect the U.S. public perceptions in a consistent manner. A key element of Moscow's strategy this election cycle was its use of proxies linked to Russian intelligence to push influence narratives, including misleading or unsubstantiated allegations against President Biden, to U.S. media organizations, U.S. officials, and prominent U.S. individuals, including some close to former President Trump and his administration.

Do you agree that this paragraph is consistent with the type of concerns about Russian interference that you Mr. Morell and the others expressed in the October 19th letter?

A Absolutely.

Q And, in fact, the Treasury Department's sanctions specifically found that Andrii Derkach was a Russian intelligence proxy pushing influence narratives, right?

A Specifically to denigrate Biden specifically about corruption.

Q Would you agree that Rudy Giuliani is an individual who is, quote, close to former President Trump and his administration?

A Yes.

Q I want to turn -- what time did we start?

Mr. Sini. 11:05 I have.

BY [redacted]

Q You were asked some of this earlier, but I want to just make sure I have a clean record on it.

A Yeah.

Q You said that you did not have any interaction with any social media company regarding the Hunter Biden emails, correct?

A Correct.

Q To your knowledge, did anybody else who signed the letter have such interactions?

A Not to my knowledge.

Q Okay. Did you have any interactions with any social media company regarding the New York Post story about Hunter Biden's emails?

A Nope.

Q And, to your knowledge, did anyone else who signed the letter have those interactions?

A Nope.

Q You were asked about the Publications Review Board, and you said you never interacted with them about the letter, correct?

A Correct.

Q You don't know if anyone else did other than Mr. Morell you assumed?

A Correct.

Q When the letter was made public -- when it was drafted and made public, October 17th to October 19th, you were a private citizen, correct?

A Yes.

Q And all of the other signatories were private citizens?

A I believe so. Yeah. The point was to be everyone who was a former official.

Q And would you agree that, as a private citizen, you have the right to engage in political process?

A For sure.

Q And to exercise your First Amendment right?

A Yeah.

Q And the letter itself actually doesn't even endorse a candidate on its face, right?

A Correct.

Q In fact, the closing line of the letter states: It is high time Russia stops interfering in our democracy.

A Yep.

Q And you said earlier your goal was to make it clear that Russia needs to stop interfering in our democracy?

A Yep.

Q Why did you feel that it was important to make it clear that Russia could be interfering here?

A Because it's absolutely nuts that we, as America, are sitting here while Russia is interfering with the election. And if we can't get Russia to stop interfering, the American people should know that what they might be seeing or reading might be because the Russians want them to.

Q Would you describe Russia as adversary of the United States?

A Yes.

Q Do you think that by making this information -- making known that Russia is interfering or may be interfering, it could help to counter that influence?

A Yes.

Q And how does that work?

A Well, if people know that they need to be careful because maybe they're reading something that could be because the Russians want them to read it, they should think twice about whether or not it plays a part in how they think about things.

Q You were asked earlier if you have any regrets about signing the letter, and you said you don't have any regrets?

A Correct.

Q But you also said that, you know, you were kind of caught up in this now. What did you mean by that?

A I regret that I had to leave my home, fly across the country away from my clients, which I'm sure they're not happy with. My dog. And I don't like being named in the media for, again, voicing an opinion that everyone across the political spectrum in intelligence community has all shared, which is that Russian is interfering with the election.

Q Do you think that the fact that you are part of this investigation, that you've been named in the media, that your name is out there now, do you think that would chill your willingness to participate in the political process in the future?

A I hate to say it, but probably. You know, I don't want to be someone who doesn't stand up for their values or morals, but I don't want to deal with this.

Q And do you think that, if others see you being treated like this or being investigated, having your name in the media, do you think that might chill others' willingness to participate in the political process?

A Sure. Yeah.

Q I want to turn back to exhibit 6. And this is the email from Mr. Cariens. You said when you were asked about this you don't know who Mr. Cariens is, right?

A Nope.

Q You never had a conversation with him?

A Not to my knowledge.

Q And, in fact, the addressee in this email is [redacted] who's a committee staffer here, right?

A Yes.

Q And this isn't -- it's not a sworn statement. It's just an email, right?

A Yep.

Q It hasn't been subject to cross-examination?

A [Nonverbal response.]

Q I actually want to look at the back of the email, if you turn to the second page. This isn't actually even the complete email chain. Right?

A Yep.

Q If you look at the bottom, it looks like there was one that was cut off. So we don't know --

Mr. Sandweg. Can we pause here? Just say yes.

Mr. Shapiro. Oh, sorry. Yes. Sorry.

BY [redacted]

Q So we don't know what interactions there were prior to 4:51 p.m. on March 1st, 2023?

A Correct.

Q And you don't know how old Mr. Cariens is, do you?

A I don't know him. No.

Q He says that he retired in 1997. So he's been retired for at least -- I can't do math.

A Me either.

Q 28 years. Is that right?

A I'll trust your math.

Q Okay. And he's -- he said he doesn't have security clearances. He hasn't had one since at least 2017.

So you don't -- other than the text, the four corners of what's in this email, you have no knowledge about this?

A Correct.

BY [redacted]

Q Hi. Nice to see you. [redacted] from the House Intelligence Committee. There are kind of a couple of questions I wanted to focus in on in this particular interaction.

A Sure.

Q So, when the majority was asking you about it earlier, the -- when this exhibit was first introduced, they described it as the PCRB reportedly promoting the letter. Do you remember that?

A Do I remember counsel talking to me about it? Yes.

Q The majority. From my observations of you, you reacted with some surprise of that statement. Is that fair?

A Very surprised.

Q Because it would be at least a little surprising for the PCRB to be behaving that way, right?

A Extremely. Yeah.

Q So the -- turning back to exhibit 6. This is, from your review of the exhibit, at least an initial email exchange between the counsel for the majority and Mr. Cariens, correct?

A Uh-huh. Yes.

Q So you have no specific knowledge of whether or not -- excuse me. Let me rephrase.

You have no knowledge of what the PCRB said to Mr. Cariens other than what's presented in this email, correct?

A Correct.

Q And you have no knowledge of what he said to them, correct?

A Correct.

Q And you have no knowledge of the interactions or atmospherics of that call, correct?

A Correct.

Q Did you have any knowledge of this particular interaction before this email was showed to you today?

A No.

Q So your reaction of surprise came from -- and these will be my words, but I'm curious of what you think -- a place of ignorance and first impression; is that fair?

A Yes.

Q That's all I've got. Thanks.

[redacted] I don't think we have any more questions today. Thank you. We might have more questions after the next round.

Off the record at 11:44 a.m.

[Recess.]

[11:50 a.m.]

[redacted] It's 11:15, and we'll go back on the record.

Mr. Gaetz. Mr. Shapiro, my name is Matt Gaetz. I'm a majority member with the House Judiciary Committee, and I have a few questions for you this morning. First, how long have you known Hunter Biden?

Mr. Shapiro. I don't know Hunter Biden.

Mr. Gaetz. Never communicated with him about the substance in the letter?

Mr. Shapiro. I have never communicated with Hunter Biden ever.

Mr. Gaetz. When did you first come to learn of Burisma?

Mr. Shapiro. In the media during all of this probably.

Mr. Gaetz. What time period would you say?

Mr. Shapiro. I have no idea. I tend to follow politics in the news. So, whenever Burisma became a news event, I would say then.

[redacted] Fall of 2019, during the impeachment?

Mr. Shapiro. I --

[redacted] Or before?

Mr. Shapiro. No --

[redacted] You didn't know about it before impeachment?

Mr. Shapiro. I have no idea when I first heard of Burisma, but it was in the media, just following current events. I have no non -- information about that until I started hearing it in the media.

Mr. Gaetz. Did you seek a job in the Biden government?

Mr. Shapiro. No.

Mr. Gaetz. And you never communicated with any of the other signatories to the letter?

Mr. Shapiro. I communicated with Michael Morell -- about the letter.

Mr. Gaetz. Yeah. Other than Mr. Morell?

Mr. Shapiro. No.

Mr. Gaetz. Did you speak to Mr. Brennan about it?

Mr. Shapiro. Not at the letter, no.

Mr. Gaetz. Did anyone reach out to you regarding the letter after they saw your signature on it?

Mr. Shapiro. Not that I can remember, no.

Mr. Gaetz. No people in the Biden campaign? No people in the media?

Mr. Shapiro. Because they saw my signature on it?

Mr. Gaetz. Sure. Somebody may have seen that you signed the letter and wanted to follow up with you regarding basis for signing the letter.

Mr. Shapiro. No. I've have had journalist who have reached out to me since then asking me for a comment on the letter, like whether I wanted to sign it or regretted signing or not.

Mr. Gaetz. Has anyone in the government reached out to you about your signature on the letter?

Mr. Shapiro. No.

Mr. Gaetz. So, in Mr. Morell's testimony to us, I'll represent to you that we learned that a principle reason to have the letter was as a talking point for a Presidential debate. Did the two of you ever discuss that?

Mr. Shapiro. No. He might have mentioned it. I saw it in an email that he sent but didn't have any indepth conversation about that at all.

Mr. Gaetz. How did you react to receiving the email indicating that this would be a tool in Presidential debate?

Mr. Shapiro. Without surprise because that's what campaigns do.

Mr. Gaetz. So you understood the letter to be a tool for the Biden campaign?

Mr. Shapiro. Well, I saw Michael's email saying that that's why he wanted to do it.

Mr. Gaetz. So you understood that to be -- did you understand that to be the purpose of the letter, as far as Mr. Morell was concerned?

Mr. Shapiro. I think that it has dual purpose. I think Morell was doing that for whatever conversations he was having for that time period, but I think if you ask most of the signatories, that they wanted to sign it because they wanted to inform the American people that Russians again are interfering with the election.

Mr. Gaetz. But you had no evidence that Russians were interfering with the election at the time, did you?

Mr. Shapiro. No. There were public reports that Russians were interfering in the election again.

Mr. Gaetz. Okay. Did you have any direct evidence that spoke to the Russians' involvement with this Hunter Biden laptop?

Mr. Shapiro. Not with the laptop specifically, no. Just Russian interference.

Mr. Gaetz. So, because Russians were interfering with the elections, you assumed that the laptop was a feature of that interference?

Mr. Shapiro. I assumed that it could be.

Mr. Gaetz. Right. But you had no evidence that it was?

Mr. Shapiro. Correct.

Mr. Gaetz. Why didn't you investigate that more thoroughly before signing the letter?

Mr. Shapiro. Because the letter very caveated to say: We think Russians could

be involved. We don't know if it's real or fake information that they could potentially be spreading.

And I believed that to be the case.

Mr. Gaetz. And do you believe those caveats were sufficient given the likely realization of this letter as a political device in the Presidential debate?

Mr. Shapiro. Absolutely. I think it makes very clear that we have no access to classified information, makes very clear that we have no evidence about the laptop, makes very clear that our judgement is that the Russians could be involved in some way, but we don't even know how.

Mr. Gaetz. But isn't something that's so caveated irresponsible to put out if you don't have a basis for the underlying claim that this laptop is a feature of a Russian information campaign?

Mr. Shapiro. I don't think so. There was already in the press reports that the FBI was saying that they're looking into whether this was a Russian operation. Rudy Giuliani was already in the press saying: I don't know if this was hacked. It might have been hacked. If it's hacked, I could use it.

So there was certainly enough out there already.

Mr. Gaetz. It sounds like you relied heavily on public press reports to justify your signature on the letter. Is that the case?

Mr. Shapiro. That, and my experience.

Mr. Gaetz. But you didn't have any -- none of your experience indicated that the laptop was a feature of a Russian misinformation campaign, did it?

Mr. Shapiro. No. My experience tells me that Russians are probably interfering with the election, and looking at what was being -- happening, I certainly believed that this could have been a Russian operation, still do.

Mr. Gaetz. Right. But as we discussed, you have no evidence that the Russians had anything to do with this laptop?

Mr. Shapiro. Correct. And I think that the reason I was comfortable signing it is because we said that in the letter, that we have no evidence.

Chairman Jordan. What were classic earmarks then? There was no evidence -- you had no evidence Russians involved. What were the classic earmarks? That was a line that was actually changed from the first draft to the final draft -- went from, I think, it has the feel to it went to it has all of the classic earmarks. So could you define what those classic earmarks are?

Mr. Shapiro. Yeah. I don't know about the change in language. I didn't even know that until you just said that or remember that. But all the classic earmarks of Russian operation are potentially hacking a computer and releasing damaging information, which is what Russians did in 2016. So we thought this totally could be that. Also just spreading negative information that they get their hands on, we thought this could totally be that.

Chairman Jordan. So those generalized, kind of, just broad general techniques are classic earmarks?

Mr. Shapiro. They sure are.

Chairman Jordan. Okay. Pretty general.

Mr. Gaetz. Now that we know more about the authenticity about the information that was on the laptop, do these activities -- do these activities concern you that are reflected on the laptop?

Mr. Shapiro. What activities?

Mr. Gaetz. The coordination between the Biden family and foreign governments?

Mr. Shapiro. I think that the President of the United States is -- has not done anything because of anything his family members have or haven't done.

Mr. Gaetz. What's your basis for that belief?

Mr. Shapiro. That I haven't seen anything tell me that President Biden has made a decision on national security or in any way based on his family?

Mr. Gaetz. Do you know why President Biden dissolved the China Initiative at the Department of Justice?

Mr. Shapiro. I didn't even know he did.

Mr. Gaetz. Right. So, if I represent to you that, on the laptop, Hunter Biden is holding the annual dinner for his investment fund at the Chinese Embassy, does that concern you?

Mr. Shapiro. If the Russians are spreading that information, I want the American people to have that information and also know that the Russians want them to have that information.

Mr. Gaetz. Why? First of all, we've covered it pretty extensively that you don't have any evidence that the Russians are involved in this laptop. So I'm asking you about the substantive information. As a national security professional, does the fact that Hunter Biden is having his investment fund's annual meeting at the Chinese Embassy concern you?

Mr. Shapiro. If the President knows about it and has disclosed it, and the government knows about it, then it's less concerning. If it's a secret that is being held over the President of the United States and the President makes a decision based off of that, then that would concern me.

Mr. Gaetz. And, if Hunter Biden, in order to have access to the Embassy, the Ambassador's residence, has to have a private meeting with the Ambassador beforehand,

does that concern you?

Mr. Shapiro. I think children of any President, President Trump's children, President Biden's children, shouldn't be using their access -- shouldn't be using the fact that their father is President for access to anything.

Mr. Gaetz. So it does concern you?

Mr. Shapiro. No child of a President should abuse their access, whether it's President Biden, President Trump. Fortunately, Sasha and Malia did not do that when I was in the White House.

Mr. Gaetz. I'll concede that point for sure.

But you didn't write a letter about that, right? It seems as though --

Mr. Shapiro. About what? Sorry.

Mr. Gaetz. I'll strike that. I think those are my questions. [redacted] I'll yield to you.

BY [redacted]

Q The -- you would concede that there are a lot of false information regarding the Russians and President Trump, correct?

A I would concede that the Russians are spreading false information on Trump, is that what you're saying?

Q No. That there's a lot of in false information about the Russians' involvement with President Trump, correct?

A I guess I'd ask what do you mean.

Q Like with their Carter Page FISA. You said you followed the news --

A Sure. That there was a FISA -- yeah.

Q FISA that had just a litany of errors --

A I am aware that there was a FISA that should not have been authorized

because there were errors, yeah.

Q And that FISA you know goes onto create this penumbra, this idea that President Trump is colluding with the Russians in advance of 2016 election, correct?

A Yeah.

Q That there's a lot of -- there's a lot of other just elements that, you know, President Trump's political adversaries have tried to tie him to Russia when, in effect, the evidence wasn't there, correct?

A In my opinion, the fact that the Russians keep going out of their way to help President Trump is -- is newsworthy and noteworthy I think. I don't have any evidence of President Trump colluding.

Q But our adversaries do that all the time, correct?

A No. Election interference is something that is a big problem now that was not happening in the past.

Q The Iranians didn't want President Trump to win, correct?

A I don't know. I believe Bill Evanina -- I forgot -- there's a statement in here where Bill Evanina told us who China and Iran and Russia were helping.

Q Right.

A But I don't remember which China and Iran was.

Q I mean, it was represented to us yesterday that the Iranians did not want President Trump to win, that they were big backers of Secretary Clinton and subsequently Vice President Biden --

A Russians are not the only ones interfering in elections. That's for sure. I think other countries saw the benefit after 2016 and said: We should do this too.

Q Right. The Politico story -- I believe it's exhibit 7 -- does the headline concern you?

A Headline is wrong.

Q Did you try to correct it with Ms. Bertrand?

A Not at the time, no.

Q One of the issues with the letter is that 51 former intel officials have this prestige associated with their access to information, their knowledge, their experience. So when 51 former intel officials, especially some of the more marquee names, sign a letter, it creates this impression that they have maybe some inside information; isn't that correct?

A I think that's probably why they went out of their way -- we went out of our way to say we don't have that just in case people thought we did.

Q But the way it works is reporters don't always cover it that way, right?

A Sure. But that's why the letter was the important thing for people to read.

Q Just, I mean, the way Politico presented it isn't -- would you agree it's not consistent with the way the letter read?

A The story is very consistent. The story is a hundred percent accurate. That headline, though, is not. We didn't say disinformation.

[redacted] We're all good.

[redacted] We're good.

[redacted] We'll go off the record at 12:04 p.m.

[Whereupon, at 12:04 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

DEPOSITION OF: NINA JANKOWICZ

Monday, April 10, 2023

Washington, D.C.

The deposition in the above matter was held in Room 2237, Rayburn House Office Building, commencing at 10:02 a.m.

Present: Representatives Jordan, Gaetz, Biggs, Issa, and Ivey.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

[redacted] GENERAL COUNSEL

[redacted] COUNSEL

[redacted], CHIEF COUNSEL FOR OVERSIGHT

[redacted] COUNSEL

[redacted] SPECIAL COUNSEL

[redacted] DIGITAL DIRECTOR

[redacted] MINORITY CHIEF OVERSIGHT COUNSEL

[redacted] MINORITY OVERSIGHT COUNSEL

[redacted] MINORITY INTERN

[redacted] MINORITY STAFF ASSISTANT

For the SUBCOMMITTEE ON THE CONSTITUTION AND LIMITED GOVERNMENT:

[redacted] MINORITY INTERN

[redacted] MINORITY PROFESSIONAL STAFF MEMBER

For the SUBCOMMITTEE ON THE ADMINISTRATIVE STATE,

REGULATORY REFORM, AND ANTITRUST:

[redacted] MINORITY CHIEF OVERSIGHT COUNSEL

For THE WITNESS:

ANDREW HERMAN, ESQ.

Gibson Dunn

1050 Connecticut Avenue, NW

Washington, D.C. 20036-5306

[redacted] Good morning.

This is a deposition of Ms. Nina Jankowicz. Chairman Jordan has requested this deposition as part of the committee's oversight of the Disinformation Governance Board within the Department of Homeland Security.

The committee's oversight of the Disinformation Governance Board and its effect on Americans' civil liberties falls squarely within the committee's jurisdiction and are subjects on which legislation could be had. These potential legislative reforms include the prohibition of such a Federal disinformation entity, restrictions on the executive branch's authority to collect speech-related information about American citizens, or enhanced protections surrounding civil liberties.

As the former Executive Director of the board, Ms. Jankowicz is uniquely situated to provide information that is relevant and necessary to inform the committee's oversight and potential legislative reforms.

On March 6, 2023, Chairman Jordan issued a subpoena for Ms. Jankowicz to testify at a deposition on April 10, 2023. I'd like to mark the March 6, 2023, subpoena as exhibit No. 1.

[Jankowicz Exhibit No. 1

Was marked for identification.]

[redacted] Could the witness please state your name for the record?

The Witness. Nina Jankowicz.

[redacted] Could counsel please state your name for the record?

Mr. Herman. Andrew Herman.

[redacted] My name is [redacted] and I'm with Chairman Jordan's staff.

I'll now have everyone else from the committee who is here at the table and in

the room introduce themselves as well.

[redacted] I'm [redacted] with the majority staff of the House Judiciary Committee.

Mr. Gaetz. Matt Gaetz, majority member of the House Judiciary Committee.

Mr. Biggs. Andy Biggs, majority member of the House Judiciary Committee.

Chairman Jordan. Jim Jordan.

Mr. Ivey. Glenn Ivey, member of the House Judiciary Committee.

[redacted] [redacted] I'm the chief oversight counsel for the House Judiciary Committee, Democratic side.

[redacted] [redacted] chief Democratic counsel for the Antitrust Subcommittee, majority.

[redacted] Minority.

[redacted] Minority. Sorry.

[redacted] I'm [redacted] House Judiciary minority.

[redacted] [redacted] House Judiciary minority.

[redacted] [redacted] Judiciary majority.

[redacted] [redacted] majority.

[redacted] [redacted] majority.

[redacted] [redacted] with the majority.

[redacted] I'm [redacted] with the minority.

[redacted] Thank you.

I'd like to now go over the ground rules and guidelines that we will follow during today's deposition.

The committee will conduct today's deposition in accordance with Rule 11 of the Committee on the Judiciary's Rules of Procedure for the 118th Congress.

Our questioning will proceed in rounds. The majority will ask questions first for 1 hour. Then the minority will have an opportunity to ask questions for an equal period of time if they choose. We will alternate back and forth until there are no more questions and the interview is over.

Typically, we take a short break at the end of each hour, but if you would like to take a break apart from that, please just let us know.

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

Do you understand?

The Witness. Yes, I do.

[redacted] So the court reporter can take down a clear record, we will do our best to limit the number of people directing questions at you during any given hour to just that person on the staff whose turn it is.

Please try and speak clearly so the court reporter can understand and so the folks down at the end of the table can hear you as well.

It is important that we don't talk over one another or interrupt each other if we can help it. And that goes for everybody present at today's interview.

We want you to answer our questions in the most complete and truthful manner as possible, so we will take our time. If you have any questions or if you do not understand one of our questions, please just let us know. Our questions will cover a range of topics, so if you need clarification at any point, just say so.

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

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

By law, you are required to answer questions from Congress truthfully. Do you understand that?

The Witness. I do.

[redacted] This also applies to questions posed by congressional staff in an interview. Do you understand this?

The Witness. I do.

[redacted] Witnesses that knowingly provide false testimony could be subject to criminal prosecution for perjury. Do you understand this?

The Witness. I do.

[redacted] Is there any reason you are unable to provide truthful answers to today's questions?

The Witness. No.

[redacted] Finally, I'd like to make note that the content of what we discuss here today is confidential. We ask that you not speak about what we discuss in this interview to any outside individuals to preserve the integrity of our investigation.

For the same reason, the marked exhibits that we will use today will remain with the court reporter so that they can go in the official transcript, and any copies of those exhibits will be returned to us when we wrap up.

All right. That is the end of my opening remarks. Is there anything that my colleagues from minority would like to add?

[redacted] Just thank the witness for coming today.

[redacted] Thank you.

The court reporter will now swear the witness in.

The Reporter. Would you please raise your right hand?

Do you declare and affirm under the penalty of perjury that the testimony you are about to give in this matter will be the truth, the whole truth, and nothing but the truth?

The Witness. I do.

The Reporter. Thank you.

[redacted] The clock now reads 10:07 a.m. We will start our first round of questioning.

EXAMINATION

BY [redacted]

Q Ms. Jankowicz, prior to being named Executive Director of the Disinformation Governance Board at the Department of Homeland Security, what did you do?

A I was a freelancer, basically. I for a long time held a global fellowship at The Wilson Center, which, as everyone in the room will know, is the Nation's premier nonpartisan policy institution here in D.C.

I worked on issues related to disinformation, including Russian disinformation, disinformation and online abuse against women, and issues pertaining to protection of freedom of expression.

Q And when did you start to work at DHS?

A My first day at DHS was March 2, 2022.

Q And was that always as the Executive Director of the Disinformation Governance Board?

A Yes.

Q And how long did you work at DHS?

A My last day at DHS was May 18, 2022.

Q So March 2nd is when you started and May 18th is when your last day was?

A That's correct.

Q Do you currently have any role with the Department of Homeland Security?

A I do not.

Q In your current positions, do you interact with anyone at the DHS on a regular basis?

A I do not.

Q And what do you currently do for work?

A I am the vice president of the Center for Information Resilience, which is a U.K.-based nonprofit that counters disinformation, documents human-rights abuses, and combats online harms against women and minorities through open-source investigations.

Q And has your work always focused on disinformation?

A Prior to my Fulbright grant in Ukraine in 2016 and 2017, I worked at the National Democratic Institute, a nonprofit here in D.C., focusing on protections of democratic rights for people in Belarus and Russia.

Q Okay.

And when did you first learn of the plans to create the Disinformation Governance Board?

A I did not hear the phrase "Disinformation Governance Board" until mid-January of 2022, just before I was due to receive a job offer from DHS.

Q And prior to that, had you heard of an effort at DHS to work on disinformation?

A In my conversations pertaining to the job for which I was being considered, I learned that individuals within the Department of Homeland Security wanted to do more

to combat disinformation that had a nexus with homeland security, but it didn't necessarily take on the shape of the board.

Q And who did you learn about the creation of the Disinformation Governance Board or the job offer?

A From Under Secretary Rob Silvers.

Q And how did he communicate these plans to you?

A As I said before, just before I received my official job offer, he gave me a call and told me that the Policy Advisor position for which I was being considered was going to shift to the Executive Director role, and he was just informing me of that.

Q And do you know, was it Under Secretary Silvers who came up with the idea of the board or came up with the idea of combating disinformation with a homeland security nexus?

A I don't have knowledge of that.

Q Okay.

And what did you understand was the impetus for the creation of the Disinformation Governance Board?

A I understood the idea to be based on coordination within the Department. As you know, DHS is an extremely large governmental department with many different, disparate entities spread out not only all over D.C. but all over the country. And some DHS entities, like FEMA, had been doing work to counter disinformation for over a decade, and the idea was to share best practices, to bring people together more frequently, and, you know, to share knowledge across the Department, which can often be quite siloed.

Q And when you learned that they were going to create a board and you morphed from a Senior Policy Advisor to the Executive Director of the board, did you

believe that the board was necessary?

A From what I was told, yes, I believed that the board was necessary, again, for the same reasons that I've just laid out, that, you know, this is a large government department, and in my previous research of countries around the world, a single nerve center within government departments to help people share information is always a good thing and, in fact, a best practice in countering disinformation in nations that have, you know, been on the forefront of fighting this threat.

Mr. Gaetz. I've got a few followups just on --

[redacted] Uh-huh.

Mr. Gaetz. When did you first learn of this opportunity?

The Witness. I was first -- well, Congressman, can you be more specific? Of the board or of --

Mr. Gaetz. Sure. When did you first learn of any opportunity to work for DHS?

The Witness. I got an email with a request for a phone call from Under Secretary Silvers in October of 2021.

Mr. Gaetz. And who sent you that email?

The Witness. Under Secretary Silvers.

Mr. Gaetz. Oh, it wasn't from a staff member; it was directly from the Under Secretary?

The Witness. Uh-huh.

Mr. Gaetz. And do you still have that email?

The Witness. Yes, I believe I do.

Mr. Gaetz. Okay. If the committee asked you to produce it, is that something you'd be willing to produce?

The Witness. I'd have to confer my counsel about that.

Mr. Gaetz. Okay. But you're still in possession?

The Witness. I would have to check. It did come to my personal email. All of these are also, you know, something that DHS would have on file, and I would suggest that the committee could look to DHS or White House PPO for anything related to my hiring.

Mr. Gaetz. Did you know Mr. Silvers prior to receiving this email?

The Witness. Mr. Silvers and I became acquainted when we were both volunteers on the Biden campaign's policy advisory groups.

Mr. Gaetz. And roughly when was that?

The Witness. I suppose it was the summer of the election year, 2020.

Mr. Gaetz. Okay. Can you describe the nature of that acquaintance?

The Witness. Sure.

So most Presidential campaigns, as you all know, have policy advisory arms. We were both volunteers within the policy advisory groups. I was on the foreign policy advisory group. I believe Mr. Silvers, although I am not certain, was on the homeland security advisory group. And there was a cross-campaign advisory group related to election interference that we both served on.

Mr. Gaetz. And how many people roughly served on that election interference advisory group?

The Witness. I can't say, Congressman. The policy advisory groups are quite large.

Mr. Gaetz. You --

The Witness. I really can't venture a guess.

Mr. Gaetz. In the dozens?

The Witness. I really can't venture a guess. I wouldn't want to go on the record

with a guess.

Mr. Gaetz. Sure.

Were those meetings that occurred in person or digitally?

The Witness. That was at the height of the pandemic, so they were all digital.

Mr. Gaetz. So had you ever interacted with Mr. Silvers personally prior to receiving the email with the job opportunity?

The Witness. You know, one of the peculiarities of the pandemic is that we all made a lot of relationships where we never people face-to-face, and I had never met Rob face-to-face before actually starting at DHS.

Mr. Gaetz. And so, during your work together as part of the election interference advisory group, what kind of matters did you work with Mr. Silver on?

The Witness. So there were weekly updates to the campaign about foreign interference, primarily. And there was a sort of plan for how DHS and the Federal Government could potentially address disinformation. There were a lot of kind of ideas being circulated, and so I fed back on a couple of those memos, but they were all very notional.

Mr. Gaetz. And, again, I'm trying to get a sense of how you and Mr. Silvers might have worked together. You're on Zoom; lots of people on these Zoom calls. Were there any specific projects that the two of you were on a smaller group setting with or in any other type of partnership with?

The Witness. I don't believe so. I think our primary interaction was my feeding back on a memo that he had written.

Mr. Gaetz. And what was the subject of that memo?

The Witness. It was about how the Federal Government could respond to disinformation.

Mr. Gaetz. In the election space?

The Witness. Broadly. Mostly focused on foreign interference.

Mr. Gaetz. Was it mostly focused on any particular country?

The Witness. I can't recall, Congressman.

Mr. Gaetz. Would you still have that memo if we asked you to search it?

The Witness. No.

Chairman Jordan. When Mr. Silvers contacted you in October of 2021, did he send you any material with that email?

The Witness. He did not.

Chairman Jordan. Are you familiar with a memorandum he issued to the Secretary in the month prior, in September of 2021?

The Witness. I am only familiar with that because of the whistleblower materials and the FOIA materials. I hadn't seen it prior to that.

Chairman Jordan. Okay.

BY [redacted]

Q And during your prior research in your work, had you worked with DHS officials?

A I had not.

Q So, when you were approached by Under Secretary Silvers about this position, that was the first time you were interacting with anyone from DHS?

A I don't -- I think I had interacted with DHS officials during the Trump administration. I served on a panel with Christopher Krebs once. I'm sure I had some kind of tertiary interactions, but I never did any substantive work with DHS prior to joining the Department.

Q And during the discussions about the job opportunity at DHS, did you have

any interactions with the White House?

A I had interactions with White House PPO, yes.

Q And can you describe those interactions?

A As far as I am aware, these were, you know, basic vetting and hiring discussions that every political appointee goes through.

Q And so you were a political appointee in the Biden administration?

A That's correct.

Q And who at the Department of Homeland Security were you in contact with prior to your appointment? Was that just Under Secretary Silvers?

A There were a variety of individuals that I interviewed with, as well as HR officials and the DHS White House Liaison as well.

Q Do you remember who you interviewed with?

A So the substantive interviews on the DHS side were with Samantha Vinograd, Jen Daskal, Rob Silvers -- Under Secretary Silvers, and then finally with Secretary Mayorkas.

Q And was it your understanding that you'd be working closely with Ms. Vinograd, Daskal, and Under Secretary Silvers?

A Yes.

Chairman Jordan. If I could go back a second, [redacted]

[redacted] Uh-huh.

Chairman Jordan. When you were with the election interference policy group with the campaign, I understand, did you guys have any interactions with the Aspen Institute?

The Witness. No, not to my knowledge. I certainly did not.

Chairman Jordan. Okay.

Mr. Biggs. So I don't know if you're going to go into this today. I'm just curious about your interaction with Secretary Mayorkas. Could you describe the extent of that, please? When did it begin? And this is just in the, I guess, pre-startup phase, if we can.

The Witness. So this was in January 2022. It was the last interview before I received a job offer. And it was a short conversation, essentially a meet-and-greet, I would call it.

Mr. Biggs. It wasn't a Zoom; it was actually a face-to-face?

The Witness. No, it was also a -- it was on Microsoft Teams.

Mr. Biggs. Oh, okay.

The Witness. He asked about, you know, the pictures I had in my background.

Mr. Biggs. Okay.

The Witness. And my dog was on the bed behind me.

Mr. Biggs. All right. Thank you.

BY [redacted]

Q And, as Executive Director, what were your roles and responsibilities?

A I like to refer to my job as Executive Director as "lovingly herding government cats," getting people to meetings --

Q Uh-huh.

A -- understanding the work that people all around the DHS were doing, representing DHS at interagency meetings.

And, eventually, although this didn't end up coming to fruition, the idea was that I would also be a kind of point of contact for academic institutions and other nongovernmental institutions for DHS in matters related to countering disinformation.

Q As Executive Director, did you have any employees that reported directly to

you?

A I did not. I was the single employee of the Disinformation Governance Board. I didn't have any direct reports. And anyone else working on the board was not a full-time staffer. They were detailed part-time and had other supervisors.

Mr. Gaetz. Excuse me. When you talked about being the point of contact for other entities, can you describe that with a little more detail for me?

The Witness. Sure. So, again, this relates to the kind of depth and breadth of DHS and its portfolio, which is quite large.

The idea is that, you know, if there were an issue of concern that came up with a homeland security nexus relating to disinformation, that rather than ping-ponging requests around the Department, that an entity could bring that request or, you know, issue of concern to me, and then I could deliver it to the right person so that we could kind of cut out some of the lag in response time or, you know, connect people with the right individuals right away.

Mr. Gaetz. And when you envisioned this role that did not come to fruition, were there specific NGOs or university entities that you thought you'd be dealing with more frequently?

The Witness. No. You know, I really wanted to make sure that the working-level individuals at the Department of Homeland Security kind of were exposed to a wide variety of viewpoints and research on disinformation.

Before Congress, in, you know, my previous testimony, I've always reminded everyone that disinformation is a nonpartisan issue. It affects everyone, no matter your political party. And so I consume and read a lot of different things from a lot of different institutions, and, you know, I would put that before everybody as Executive Director as well.

Mr. Gaetz. And what are some of those premier institutions that you draw from?

The Witness. I mean, it depends on the issue, Congressman. I think, you know, there is really a wide nexus of institutions that do work in this space, primarily academic institutions, also other governments as well. So I --

Mr. Issa. Well, can you name half a dozen?

The Witness. I could rattle off a bunch --

Mr. Issa. Please do.

The Witness. -- right now. Sure.

So, you know, I often refer my students to the U.K. Government's work on countering disinformation. There's a number of institutions here in D.C., from, you know, the Brookings Institution; CSIS; Heritage does work on disinformation; the Center for European Policy Analysis.

But, again, this is quite speculative, and I can't say what I would've distributed to the members of the board, because it never happened. So --

Mr. Gaetz. But was one of the reasons you were hired for this position the thought that you had relationships in this community of entities -- NGOs, universities, think tanks -- and that you could coordinate their interface with DHS?

The Witness. I can't speak to, you know, one of the reasons that I was hired. You'd have to ask DHS about that.

Mr. Gaetz. In any of the discussions you had around your employment, did you ever discuss the work you had done with some of these academic entities and think tanks?

The Witness. No, Congressman. We discussed my body of work, but that was it.

Mr. Gaetz. But did that body of work not include correspondence with these universities and NGOs that you discussed that you would be the point of contact for?

The Witness. It discussed my research.

Mr. Gaetz. Yeah. I guess what I'm having a hard time understanding is, if one of your roles that you understood as the Executive Director was to provide this interface between DHS and those who would present, I believe you testified, issues of concern, the committee's trying to understand where those issues of concern might emanate from.

The Witness. Uh-huh. Well, Congressman, respectfully, I think that's speculative, considering that the board doesn't exist anymore.

So, I mean, again, if you're interested in learning about why I was considered for the role, I would suggest that you speak to DHS and White House PPO.

Mr. Gaetz. Did you ever discuss Clemson University and the work they do on disinformation?

The Witness. No.

Mr. Gaetz. Great.

Thank you, [redacted]

Mr. Biggs. Can I interrupt? Because since we're talking a little bit about the interviewing process, I'm going to tie back just a sec to something that Representative Jordan, Mr. Chairman, referenced as well, and that's that September 13, 2021, memo.

The Witness. Sure.

Mr. Biggs. And you didn't see it, is my understanding from your testimony, until it became subject to a FOIA request or something like that?

The Witness. That's correct.

Mr. Biggs. Okay.

But in the course of the interviews, did any of them ever mention -- you know, I

guess you talked to Mr. Silvers and Ms. Vinograd and -- I can't remember; you mentioned, I think, a third person besides the Secretary. Did any of them mention any of the content of what became known to you as the September 13, 2021, memo?

The Witness. No, Congressman.

Mr. Biggs. Okay. Thank you.

BY [redacted]

Q And, Ms. Jankowicz, you've briefly stated that there were others who worked on the board but they were detailed. Who were those individuals?

A There were three lawyers who were working part-time detailed, two from OGC, the Office of the General Counsel, and one from CISA. I have forgotten the third person's name, because I hadn't worked with him very much. But Andrew Fausett was detailed from OGC, and Sebastian Fischer was detailed from the counsel's office at CISA. And, again, it was part-time for them.

And then there was a Policy detailee, Elizabeth Kozey, who was working with us as well.

Q And they just worked with you part-time, you said?

A That's correct.

Q And what was Ms. Vinograd's role with the board?

A So Ms. Vinograd -- Acting Assistant Secretary Vinograd was my direct supervisor. She signed off on my timesheets and such. And she -- and I always get this acronym wrong, so forgive me. I believe her title is Acting Assistant Secretary for the CTTPLE, Center for Targeted Terrorism Prevention and Law Enforcement, entity within DHS Policy.

Q And how often did you interact with Acting Assistant Secretary Vinograd?

A I mean, pretty much daily. Just, she was a very involved manager.

Q And very involved in the work of the board?

A I would say she was more involved in -- this was my first government service, and so she was helping me navigate the quite impenetrable DHS bureaucracy more than anything.

Q And what was Ms. Daskal's role with the board?

A So Jen Daskal was the co-chair of the board.

Q Okay. And so how often did she work on the board? Was it part-time? Full-time?

A Jen?

Q Uh-huh.

A Well, as Deputy General Counsel of the entire Department, she had quite a busy schedule, so I can't really venture a guess about how much of her time was spent on the board, but it was less frequent than most of her other responsibilities.

Q And if you had a meeting related to the board, would Ms. Daskal attend?

A If she was available, yes.

Q And Under Secretary Silvers, what was his role with the board?

A He was also a co-chair of the board.

Q Okay. And how often did he work on board-related matters?

A Again, he had quite a large portfolio, so, as much as possible, we only took issues to him when they were decisional.

Q And with Under Secretary Silvers, if you had meetings that involved the board or were related to the board's work, did Mr. Silvers attend?

A Usually not. He was -- he and Jen were meant to be kind of the -- as I said, they were the co-chairs. So, if we had a board meeting -- which we never did -- the heads of the components from all DHS entities and Rob and Jen would be there. So they

were at a higher level. I wouldn't say they were at a working level.

Q And who was the ultimate decisionmaker for the board's actions?

A Well, the board never took any actions, so there was no ultimate decisionmaker. I think if we had had a board meeting, there would've been votes --

Q Uh-huh.

A -- and the board would've taken decisions based on those votes. So there was no kind of ultimate decisionmaker.

Q What did you understand the hierarchy of the board -- what would it be?

A How the board would make decisions, do you mean?

Q Correct.

A So, as is laid out in the charter, there are meant to be four quarterly meetings per year that component heads or their designees would attend. And the list of members of the board is in that charter as well. Jen and Rob were the co-chairs.

And issues would be presented before the board. The board would take a vote and make a recommendation. And components could implement that recommendation or not implement it as they saw fit.

Q And what was your role going to be with the board? Would you be a decisionmaker or no?

A I was a nonvoting member. So, again, we never had a meeting, but what I understood was that I would attend the meetings, potentially present issues that we had teed up, and make recommendations for potential decisions.

Q Okay.

I know we've spoken about this September 13, 2021, memorandum from Under Secretary Silvers, and you said you became aware of it following the FOIA request. Is that correct?

A That's true, yeah.

Q I'd like to offer the September 13, 2021, memo as exhibit No. 2.

[Jankowicz Exhibit No. 2

Was marked for identification.]

BY [redacted]

Q Have you had time to review, Ms. Jankowicz?

A Yes.

Q So, on page 4 of the memo, the paragraph directly above Option 3 said that "components would also be responsible for partner engagement in their respective mission spaces, including with the interagency, SLTT authorities, private sector entities, tech platforms, and the general public."

And in some previous questioning with Mr. Gaetz, you discussed some of the private-sector entities and your partner engagement.

Did you have any interactions with any private-sector entities between March 2nd and May 18th?

A Yes.

Q Can you list some of those interactions for us?

A To my knowledge, we had one meeting with the Global Internet Forum to Counter Terrorism.

We had planned meetings or attempted to secure meetings with Twitter -- one meeting with Twitter, which did not take place.

Facebook approached us for a meeting. That meeting never took place.

And I had sent a few inquiry emails to academic institutions to try to convene a roundtable about irregular migration and disinformation surrounding migration.

Q And what were those academic institutions that you reached out to?

A I can't recall.

Q Would they all have been in the space of irregular migration?

A Yes. They were individuals that studied migration.

Q And you said the Global Internet Forum, there was a meeting that you had, correct?

A Yes.

Q And do you remember when about that meeting took place?

A I believe that was in March 2022. It was something that had been arranged prior to my joining the Department.

Q Was it your understanding that the Global Internet Forum reached out to DHS, or did DHS reach out to --

A I don't know.

Q Okay. And who attended the meeting from DHS?

A That would've been Under Secretary Silvers, Jen Daskal, and Sam Vinograd, and myself.

Q And were there any recommendations that came out of the meeting or do-outs that you had to do following the meeting?

A No.

Q And you said that you had secured a meeting with Twitter but it never occurred, correct?

A That's incorrect. We did not secure --

Q Okay.

A -- a meeting with Twitter. We tried to secure a meeting with Twitter, and that did not end up happening.

Q And did DHS reach out to Twitter, or did Twitter reach out to you?

A DHS reached out to Twitter during -- because Under Secretary Silvers was traveling to the Bay Area.

Chairman Jordan. Who did the outreach?

So you get hired in March. You leave in May. You said you reached out to Twitter. Did you do that? And when did you do that?

The Witness. I can't remember, Congressman, if I did the initial outreach and was copied on the email or if -- or, sorry, if I did the initial outreach and copied a colleague on the email or if it was vice versa. That would've been in mid- to late April of 2022.

Chairman Jordan. Okay.

The Witness. And, again, coincided with Under Secretary Silvers' trip to the Bay Area.

Chairman Jordan. Uh-huh.

BY [redacted]

Q And what was to be the focus of that meeting?

A It was a meet-and-greet.

Q Uh-huh.

And you said that Facebook approached DHS, correct?

A Yes.

Q Do you remember when about that was?

A I want to say it was around the same time period, mid- to late April 2022, but I might be mistaken about that.

Q And that meeting never occurred, correct?

A Correct.

Q And on page 2 of the memorandum --

Mr. Gaetz. Before we go there --

[redacted] Yes.

Mr. Gaetz. -- I have some followup questions on the irregular migration meeting.

The Witness. Uh-huh.

Mr. Gaetz. What was the purpose of that meeting?

The Witness. So one of the things, Congressman, as I testified before, that I really wanted to do as Executive Director was bring in subject-matter experts who had really a depth and breadth of knowledge that working-level staffers can't do because of all that's on their plate and kind of allow them to show us what they saw as potential problems in their subject-matter areas.

So, in this case, given the, you know, amount of irregular migration that DHS was seeing and the fact that a lot of it was driven by disinformation, saying that you could get citizenship upon crossing the border, or that, you know, there were human smugglers who were promising wild things to people who were making that journey, we wanted to understand it better. And that's not an issue area that I had experience in. That's not what my research on disinformation has focused on. And so, looking at individuals who have written about disinformation related to irregular migration, the idea was to convene a roundtable and be informed by their research.

Mr. Gaetz. And who are those experts?

The Witness. I can't remember who I reached out to at this point, Congressman.

Mr. Gaetz. Do you know roughly how many?

The Witness. I think it was about five or six.

Mr. Gaetz. Were they people or entities?

The Witness. They were individuals who had published academic research about disinformation relating to migration.

Mr. Gaetz. And your concern was that migrants would be induced by disinformation?

The Witness. Certainly. I think that's a fact, Congressman, that migrants are being lied to about what is available when they come to the United States and how easy the journey will be. And that was of great concern to the Department.

Mr. Gaetz. Were there other features of disinformation that concerned you to work to have that discussion?

The Witness. Related to -- I don't understand your question.

Mr. Gaetz. What's of some interest to me is that, upon taking this role, one of the very first things you do is seek to convene a discussion around irregular migration --

The Witness. Uh-huh.

Mr. Gaetz. -- not -- you could've chosen any topic in the world. You chose this topic.

So I guess I'm trying to understand, why was this the first topic you chose for such a convention of minds?

The Witness. Right. Understood, Congressman. The answer is simple: Because it was of interest to the board co-chairs, Jen Daskal and Rob Silvers in particular.

Mr. Gaetz. Was this the only issue that they expressed this level of interest in?

The Witness. There were three. And I'm having a little bit of a lapse of memory. So the three pillars were irregular migration, foreign election interference, and the third is slipping my mind. And I'm sorry, I can't remember what the third one is right now. You can blame it on my 10-month-old who keeps waking up at 5:00 a.m.

Mr. Gaetz. No problem.

Was there a particular reason you prioritized this pillar?

The Witness. It was of great concern to the Department at the time. And,

frankly, for me, it was an issue that I think cuts across the political noise. It's an issue that matters to all Americans. And I thought it would be, to some degree, low-hanging fruit, that we could convene, you know, nonpartisan researchers about these issues and show kind of proof of concept of the board.

Mr. Gaetz. So you prioritized this pillar, it's safe to say?

The Witness. It was at the direction of Under Secretary Silvers and the three individuals who were kind of my bosses, so to speak.

Mr. Gaetz. And if you consulted with your notes or even your own memory, is developing all three of those pillars and giving the committee a response to what they were, is that something you would do?

The Witness. Can you be more specific, Congressman?

Mr. Gaetz. Sure. I'm trying to understand the direction you received from these co-chairs of the board, and what they were telling you about these pillars seems pretty foundational. You took action on the irregular migration pillar. I think we're going to talk later today about the foreign election interference pillar. And I just wanted to understand what the third one was.

And so I understand you're coming off of low sleep with a 10-month-old, and I don't expect you to remember every single thing. But if it was something you were able to consult your notes on and let the committee know, that would alleviate the need to have another in-person --

The Witness. Right.

Mr. Gaetz. -- get-together.

The Witness. Understood. Congressman, I actually don't have my notebook anymore. I had to give it back to the Department because of some pending legal matters when I left the Department. So they requisitioned everything of mine what I

left. So I can't consult those notes anymore.

Mr. Gaetz. Okay.

Thank you very much.

The Witness. Uh-huh.

Mr. Biggs. Can I -- or you --

Chairman Jordan. Go ahead.

Mr. Biggs. Talking about this partner engagement, I noticed from the memo -- well, you didn't even see it before you -- well, until probably after you left, but it talks extensively about working with private entities, partner engagement, et cetera.

I wanted to know what, in your mind -- it's obvious to me, from your testimony, that you contemplated that, because that's your background; you were going to work with private entities. How extensive was that going to be? What, in your mind, going into the job, did you think this was going to look like, with your engagement with private partners?

The Witness. Congressman, actually, before I went into the job, my understanding was that the majority of my work was going to be intra-DHS coordination. And, certainly, even after I had been in the job for a few weeks, that was the majority of my work.

So I wouldn't even say that that was the priority on my plate. It was one thing that we were attempting to do, but it wasn't the main priority for me as Executive Director of the board.

Mr. Biggs. So were you going to be working, though -- I mean, your first meeting was with irregular migration, and he had a lot of, sounds like, a lot of private entities, NGOs, et cetera, coming in.

I would assume that, dealing with these other pillars, that you were going to have

extensive, again, working -- bringing them in and trying to interface with DHS personnel?

The Witness. Well, so, Congressman, I would kind of -- respectfully, I don't agree with the premise there. So it wasn't extensive. The meeting never went forward. And I think I sent out, again, a couple of informational queries about whether they would be interested in participating in such a roundtable. But we never set a date. Nothing really went forward.

So it's hard for me to speculate about what the activities of the board would've looked like, because it didn't end up going forward. To some degree, you know, this --

Mr. Biggs. But --

The Witness. Go ahead.

Mr. Biggs. Yeah, I don't want to talk over you, but, I mean, whether it's speculative or not, I'm trying to get to your frame of mind when you were going in --

The Witness. Uh-huh.

Mr. Biggs. -- and how it intersected with the expectations according to this memo.

And so I wanted to know primarily what you thought your relationship was going to be, since you're coming in from -- and you testified to a rather extensive network of sources and colleagues that you knew in the world that did this type of thing.

Did you not anticipate working with the private sector, bringing them in, interfacing with DHS so they would get a better understanding, for instance, like, in the irregular migration disinformation space?

The Witness. Sure.

I mean, as I said, Congressman, the majority of the work that I expected to do was intra-DHS coordination. And it took up the majority of my time. As anybody -- as I'm sure you all know -- you have a lot of experience with government -- it's a lot of red tape

and a lot of emails and a lot of, you know, making sure that you get face time with email people so you can build up those equities. And that was all intra-DHS stuff.

The external stuff, as I saw it, was icing on the cake.

And I would also just note that this was not a document I was working from.

Mr. Biggs. Sure.

The Witness. I was working from the charter. And the charter clearly lays out that the majority of the work that the board was to do was intra-DHS coordination.

Mr. Biggs. Okay.

So I just want to sum up what I'm hearing, and you tell me if I'm all right.

The Witness. Sure.

Mr. Biggs. You viewed any exterior -- anything exterior-facing to be just something that was going to be something that would be extra benefit; it was not the primary focus of your job. Is that fair to say?

The Witness. That's correct.

Mr. Biggs. Okay.

Chairman Jordan. The board is recommended on this September 13, 2021, memorandum. The decision to form it happens several months later, February 24, 2022. You get hired the following week, March 2nd. But it's not announced until April 27th, almost a month and a half later.

Is there a reason why that was the case?

The Witness. Yes, Congressman.

I worked for the entire 10 weeks I was in -- well, I suppose 8 weeks before the announcement. I was there trying to get the board announced, trying to get it announced transparently, trying to come up here and brief all of you, trying to get a fact sheet out.

And, unfortunately, my recommendations for how to announce and roll out the board were not taken under consideration. And that's the cause of the delay.

Chairman Jordan. And, again, what were your recommendations for how it should've been rolled out?

The Witness. A fulsome rollout plan that would've encompassed pre-briefs with decisionmakers on Capitol Hill on both sides of the aisle, meet-and-greets across the interagency, releasing a transparent fact sheet about the work that we were meant to do, and potentially doing calls with industry, with think tanks, with academics, with folks around Washington who work on these issues to make them aware of the efforts.

Chairman Jordan. And who made the decision not to follow that plan?

The Witness. Sorry?

Chairman Jordan. Who made the decision not to follow the plan you just articulated?

The Witness. I don't know for sure that it was any one person. Yeah.

Chairman Jordan. It gets announced on the 27th. Did your outreach to Twitter happen prior to the 27th or after the 27th? You told me earlier it was in April.

The Witness. I believe it was prior to the 27th, Congressman.

Chairman Jordan. Okay.

Can I go to the memorandum for a second?

The Witness. Uh-huh.

Chairman Jordan. And I know you now have some familiarity with it.

I want to look at the first -- the very first sentence says, "The spread of disinformation presents a homeland security risk."

The Witness. Sure.

Chairman Jordan. Can you define "disinformation" for me?

The Witness. Well, it's interesting that you bring that up, Congressman, because there's kind of a, I would say -- not necessarily a difference of opinion within DHS of what constitutes disinformation, but CISA has one definition, and one of the things that occurred to me while I was at DHS is that different entities were dealing with different definitions. So that was one of the things that I had hoped to work on.

But, as you can see, the CISA definition is -- well, they haven't footnoted it here, but -- false information that is intentionally or inadvertently injected into the information environment --

Chairman Jordan. But I want to know your definition.

The Witness. My definition?

Chairman Jordan. Yeah. I know what they did. It's the only footnote in the five-page memorandum, and it says that disinformation is anything that they deem false.

The Witness. Okay. That's fair. Yeah. Well -- so --

Chairman Jordan. But we have these -- we have mis-, dis-, mal-. It seems to me, if disinformation is false information, why not just call it -- any false information is what we're concerned with? But that's not what you do -- that's not what they did.

The Witness. Uh-huh.

Chairman Jordan. So tell me how you define it.

The Witness. So the definition that I use in my research -- which, again, is not necessarily a definition that I would've used at DHS, because I wasn't acting in my personal capacity --

Chairman Jordan. Uh-huh.

The Witness. -- is, disinformation is false or misleading information spread with malign intent.

Chairman Jordan. Okay. And then --

The Witness. And that is an agreed-upon academic definition that many researchers use.

Chairman Jordan. Okay.

Then what is misinformation?

The Witness. Misinformation is information that is false or misleading that is not spread with malign intent.

So they might be your crazy aunt or uncle at the Thanksgiving dinner table who likes to traffic in conspiracy theories. That's the example that I usually give. They don't mean any harm.

Chairman Jordan. Okay.

And then what is mal-?

The Witness. Malinformation is information that might be true that is injected into an information environment with ulterior motives.

So a good example is when there are hack-and-leak operations that are created by or perpetrated by a foreign government and that information is released into the information environment with ulterior motives.

Actually, a great example happening right now, with the release of the hacked material from DOD around Ukraine. There is, you know, a question if some of that has been altered. And that I would call malinformation.

Chairman Jordan. So the definition here in the footnote doesn't seem to be accurate, according to what you just described. Is that fair?

The Witness. Well, again, Congressman, I think there's room for disagreement. I did not work off of this memo.

Chairman Jordan. Well, I'm just looking at the -- I'm just looking at the footnote. "The term 'misinformation' will be used to reference mis-, dis-, or malinformation that

refer to false information."

The Witness. Uh-huh.

Chairman Jordan. So it's saying they're all false, and you just told me malinformation is actually true information.

The Witness. I would disagree with the way that this footnote has been phrased, yes.

Chairman Jordan. Okay.

Mr. Issa. So would it be fair to say that DHS wasn't using what you earlier described as agreed on within the research community as definitions?

The Witness. I think that would be fair to say. I think one of the reasons to socialize ideas like this and have roundtables is to kind of hear that variety of views. And at least in this particular instance -- and I can't speak to every use of the term that DHS is using, but I think this is overbroad.

Mr. Issa. During your tenure, did you make efforts to standardize these definitions or educate people in a way that you did here with us today?

The Witness. Yeah, Congressman. One of the things that I really wanted to do was convene a working-level kind of away day or, like, little -- it wouldn't have been away; it would've been at DHS HQ -- but a little meeting with working-level staff to kind of talk through what they viewed as the definition and come to a shared understanding of those issues.

Mr. Issa. Chairman, if it's okay to continue for a second?

Your background in education and research is basically on the Eastern European countries in which Russia had used disinformation --

The Witness. Uh-huh.

Mr. Issa. -- misinformation, malware, and actual cyber attacks to affect elections.

Is that correct?

The Witness. Primarily, yeah.

Mr. Issa. And so, when you came to DHS, did you feel that you were hired to a great extent because of that expertise?

The Witness. I can't really speak to that, Congressman. I --

Mr. Issa. Did you expect to use that background?

The Witness. Well, certainly, given the timing -- I started just a few days after the full-scale invasion of Ukraine -- I thought it was going to be a pretty significant issue during my tenure, yeah.

Mr. Issa. And was it?

The Witness. I can't speak to whether it might've been. During the 10 weeks that I was there, as I testified, my primary objective was to get the board announced, so I was dealing with a lot of bureaucracy.

Mr. Issa. During those first 10 weeks, actual Ukrainian-related, Russian-generated, or other parties on their behalf, disinformation, misinformation, malware -- how much of it did you see? And could you give us some examples of what you saw and reported or worked on either in your individual capacity or as sort of the herder of cats?

The Witness. My cat will be proud, sitting at home today.

So there was an intra-agency -- or, sorry, an interagency Ukraine response group -- it might've been called something else; I am forgetting the exact terminology that we gave it -- that was headquartered at DHS within CISA. And I was a member of that working group that held weekly kind of calls for across the interagency to kind of coordinate the administration's response to the Ukraine crisis and the disinformation that we were seeing.

So I attended those calls and sometimes piped up as a subject-matter expert, but I wasn't spearheading any initiatives -- yeah. That was kind of the only Ukraine-related work that I did during my tenure.

Mr. Issa. And just as you published your book, you did an extensive interview with direct-quote questions and answers, and you opined significantly on the previous administration, the Trump administration, praising Putin, things that were not helpful. Do you remember that?

The Witness. Can you be more specific about the outlet at least? I do a lot of interviews, Congressman. I'm sure you do too.

Mr. Issa. This one was an alumni bulletin from B-r-y-n, M-a-w-r.

The Witness. Oh, Bryn Mawr College.

Mr. Issa. They put it on two different lines for some reason.

The Witness. I don't recall the specifics of that interview, but -- and I'm also not sure how it's pertinent to the subject at hand related to the DGB's activities.

Mr. Issa. Well, you know, you've made a number of statements, and I just want to sort of -- because you characterized a number of statements, you've said things about "premier" and "nonpartisan." For example, the NDI, which you were with, your characterized it as working, and you named Belarus, a couple of Eastern European countries.

The Witness. Uh-huh.

Mr. Issa. Isn't it true the NDI is a global operation, operations in, I don't know, probably 70 countries, 50 countries, something like that?

The Witness. I think NDI, yeah, has field offices around the world.

Mr. Issa. And isn't it a partisan Democrat organization by definition?

The Witness. No, Congressman. And I think NDI would definitely respond to

that in a very prickly way.

Mr. Issa. Well, isn't it an organization that hires executive directors who have been Democrats, as does the Republican equivalent? Because there are two of those organizations, both nonprofit, both doing the same work, but a partisan divide, in that, even though they work together around the world, they are in fact -- their boards and so on are partisan in nature.

The Witness. Congressman, again, I'm not sure about the pertinence of NDI's work to the Disinformation Governance Board.

Mr. Issa. No, no. I asked you a question of, did you know that or --

The Witness. Of course I -- I know that the executive directors are partisans, but the individual staff are not, and the way that the work is carried out is not --

Mr. Issa. No, no. I'm just asking because you characterized -- I didn't characterize it. I was just listening. You said, you know, "nonpartisan organization," et cetera.

You know, I just want to understand -- you've used the word "nonpartisan" and "premier" and, you know, the Wilson Institute, obviously which is by definition a government entity for a former President. And, you know, I accept -- I heard that; I understand it. But, you know, you worked on the campaign of President Biden. That you would characterize, I assume, as a partisan operation?

The Witness. Certainly.

Mr. Issa. Okay. And your appointment was by people who had been chosen by the President who were partisans by definition?

The Witness. Yes.

Mr. Issa. Okay. So you did receive a partisan appointment from people who were partisan, and you have worked in a partisan capacity.

I only ask that because, in your research or background, you've dealt with a lot of facts on the operations of Russia and disinformation, but, at least in some of the online things, including right from your Wikipedia, where that alumni interview is a footnote, you appear to have very strong feelings about President Trump being not helpful, that administration being involved in not dealing with disinformation, by whatever definition. And you came into this administration more than a year into it.

I just wanted your impression of, you know, if you feel that that's just a nonpartisan, objective feeling, that, based on your expertise, Trump is bad and Biden was better?

The Witness. Again, Congressman, I don't think that there is pertinency here related to the activities of the Disinformation Governance Board --

Mr. Issa. We're trying to understand your conduct at the board. We're not just researching some board that barely launched. We're looking at a board that appointed you as a partisan, by a partisan, and began its process -- you know, for example, when you were bringing people together on irregular migration, "irregular migration" is not a term that was broadly used in the previous administration. Some would say it would be highly partisan information.

And when we asked you who you invited, you couldn't name one person, even though you said you researched for the scholars that were the best who had written on it. Can you remember even one of those names now?

The Witness. Congressman, the past year of my life has been a really difficult one. I gave birth a few weeks after I left government, and over the past year I have been subject to threats, stalking, and a number of other really stressful and difficult situations.

So, in addition to the sleep deprivation that I faced, in addition to the emotional

and security threats that I have faced over the past year, a lot of these details are slipping my mind, and I apologize for that.

I would just like to put on the record that the board never had any operational authority. It did not have the intention to arbitrate, oversee, restrict any thoughts. Everything that you've heard about the board related to it being a, quote/unquote, "Ministry of Truth," is a lie.

And, Congressman, I think if you'll look at my scholarship at the Wilson Center, through which I've, by the way, briefed Members of Congress on both sides of the aisle -- I was a witness at the request of Senator Grassley in 2018, so, clearly, some Republicans thought I was getting something right -- my scholarship has been about arming people with truthful information, not taking away their right to free speech. And if that had been part of my job, I never would've taken the job, and I would've spoken out against that.

So I assure you, Congressman, that, whatever my political opinions might be, as I am entitled to as an American, me expressing my First Amendment rights, they would not have come into question during my work at the Department of Homeland Security.

[11:02 a.m.]

Chairman Jordan. When you were hired on March 2, 2022, was there any type of announcement around your hiring?

The Witness. I don't believe so, Congressman. DHS has a lot of internal communications issues. It took a week or so before there was an announcement to the kind of Policy staff.

BY [redacted]

Q Going back to the memo, the Silvers memo, on page 2, the second bullet, it states, "DHS should not attempt to be an all-purpose arbiter of truth in the public arena. It should instead focus its efforts on disinformation impacting DHS core missions."

A Uh-huh.

Q During your tenure at DHS between March and May, what did you understand DHS's core missions to include?

A I understood them to include any issues related to the portfolio of DHS components. So to list them. FEMA, CBP, CISA, et cetera, et cetera -- anything relating to those core components.

Q And during the lead-up to this rollout that you were working on during the weeks that you were at DHS, how were you focusing the efforts of the DGB on the core missions of DHS?

A At that time, I was attempting to understand how the Department was working, so was doing meetings with counterparts across the agency to understand the work that they were doing, if any, related to countering disinformation.

Q Uh-huh.

We have about 4 minutes left, if any members have questions.

Mr. Gaetz. We may have to return to the subject in our next hour, but I wanted

to better understand what you understood the goals to be of the second pillar, the election integrity pillar.

The Witness. Well, Congressman, as I think you'll be aware, the Cyber and Infrastructure Security Agency, CISA, has quite a robust portfolio already, and, as I saw it, I didn't want to touch very much of what they were doing. I think they were doing a good job, work that was started under the Trump administration, and I just wanted to support however I could. And, in that case, it might be sharing best practices between CISA and other entities or --

Mr. Gaetz. Like, what type of other entities?

The Witness. FEMA, for instance. So you might not know this, but FEMA actually was the agency within DHS that started the rumor control program around Hurricane Sandy. So FEMA directors understood that Americans were being lied to about disaster relief or emergency protections and things like that, and so they started piloting this program to get out good, truthful information. That's where CISA got that idea.

So kind of creating those linkages was something that I wanted to do and to make sure that there was information-sharing and kind of resource-sharing across the Department.

Mr. Gaetz. And how would that apply in the enterprise of election integrity?

The Witness. It's hard to speculate, because, as you know, every election is quite different, but -- yeah, I can't really speculate based on --

Mr. Gaetz. Who told you about the second pillar?

The Witness. Again, the three pillars were laid out by Silvers et al.

Mr. Gaetz. Great.

I'm sure we'll have some more questions about that in our next hour, but I think

our time has elapsed.

[redacted] We'll go off the record. Thank you.

[Recess.]

[redacted] We can go back on the record. It is 11:32 in the morning.

Thank you again --

The Witness. Uh-huh.

[redacted] -- for joining us today.

EXAMINATION

BY [redacted]

Q We talked through earlier how the board was structured, the hierarchy. I want to look a little more closely at how the board intended to support DHS components and how it was structured to do that.

A Sure.

Q So I want to turn back to that September 20, 2021, memo, which I think is exhibit 2. And on page 3 through 5, there's a section that's entitled "Models to Structure DHS Counter-Disinformation Efforts," and it provides different options for how to structure these efforts.

And I know you didn't participate in the drafting of this memo, but you've had the chance to review it, and have you had a chance to review these models?

A Yeah.

Q Okay. So Option 1 describes the, quote, "fully federated model." What's your understanding of that model?

A That is how DHS operated prior to the creation of the board and, I suppose, how it operates today, with each of the components executing their missions fully independently.

Q Okay. And so the components would have operational authority over any disinformation-related work and it would just kind of be decentralized?

A Yeah. The decentralization is, I think, the key component there, that there would be no central coordinating body at all.

Q Okay.

And then Option 2 is the governance board model, right?

A Uh-huh.

Q So I want to read just the first couple sentences of that section.

It says, "Execution of DHS counter-disinformation operations would be federated to components, but subject to overarching Department-wide governance requirements to ensure that a common set of issue-agnostic safeguards and oversight tools are employed. PLCY could convene a governance board that would promulgate policy and legal requirements setting forth baseline requirements that all components must meet in their counter-disinformation work, to include protections ensuring compliance with applicable civil rights and civil liberties, privacy, and legal requirements, such as First Amendment and Privacy Act requirements."

A Uh-huh.

Q So can you explain broadly how this model was intended to work?

A Yeah. So the idea, as I understood it -- and, again, I was working from documents, not this one, from later documents -- was that one of the main issues at hand for the board would be to ensure that Americans' civil rights, civil liberties, and privacy were always being respected as a matter of first course during all of the board's work.

That's not to say that that's not happening, but we wanted to put guardrails on so that, for future administrations, for anybody down the road, it was clear, in black and white, about what was potentially -- what was allowed with regard to this stuff.

Because I think, you know, people have concerns, right, about how the government might be operating in this area. And they're right to have those concerns. I understand those concerns. And we wanted to put those concerns to rest.

Q And so those guardrails would actually potentially limit the components, correct?

A That's correct, yes.

Q Okay.

And their use of the word "governance," I think, is maybe mysterious to people and maybe a little misleading. What's your understanding of what governance means?

A Right. Governance is just making sure that people are following rules within DHS. The idea of the board was not to govern the internet. It was to govern components and their decisionmaking around countering disinformation.

Q Okay.

And on the next paragraph of that, it says, "The board's role would not be prescriptive, instead providing components with guidelines and minimum safeguards applicable across disinformation missions."

And it says, "The board could also develop and share with components best practices."

A Uh-huh.

Q What's your understanding of what that says? And, particularly, what does "not be prescriptive" mean?

A Right. So we wouldn't be saying to CISA, here's what you're going to do related to disinformation in the upcoming election. We would be saying things like, you know, best practices around countering disinformation have to do with media literacy, and here's how you build media literacy in a population.

Again, these are speculative, and I wouldn't say that that's necessarily the road that we would've gone down, because the board didn't go forward. But that's the understanding that I had, as an example.

Q Uh-huh.

And you've used the word "best practices" a couple times. Again, for kind of the layman who's not in the academic world, what does "best practices" mean?

A So, to me, that is the tried and true, tested tactics that other governments or institutions have used with success to counter disinformation.

So I would look -- in my research, I have looked to countries in Central and Eastern Europe that are a little bit ahead of us in recognizing the threat of disinformation. They've been dealing with it for many decades. Some countries in the Nordic space have done this as well. As I mentioned before, the U.K. So, like, looking to places that have tried this out.

Looking at organizations that have tried this out as well. Because there are some in kind of the nongovernmental or kind of tertiary space that have done some work in this area that has sometimes failed, right, and we want to make sure that we didn't repeat those mistakes.

Q So, just to put this kind of into my words, the idea behind the best practices would be to gather up examples of how other entities or other nations have successfully countered disinformation and offer those to components who are already doing this work to help them be more effective --

A Yeah.

Q -- or more efficient?

A Precisely.

Q And, again, under at least the board as suggested through this September

memo, which, again, you weren't involved with, that would be -- it would not be prescriptive. It would be suggestions, but not, like, mandatory guidelines?

A Correct. The board had no operational authority.

Q Okay.

So the third paragraph -- and I think this is perhaps confusing to people, so -- says that when a new disinformation threat emerges, the board could determine who within the Department is best positioned to address the threat, make recommendations to the Secretary as to how the new threat should be addressed, and support whichever operational component is taking on the mission in standing up with appropriate governance.

A Uh-huh.

Q Could you explain what that means or what your understanding was of that section?

A Right. So, again, DHS -- big, big agency. Sometimes things might not be as clear-cut as we would like them. So there could be -- again, spit-balling -- a disaster that also affects critical infrastructure, and, in that case, we probably would've tapped FEMA and CISA to respond, right? But just understanding whose portfolio this is within and who needs to then stand up.

Sometimes, as happens with all large Federal agencies, there could be duplication of effort or somebody thinks somebody's doing something but they're actually not and then nothing happens. And the idea here was to make sure that we would be able to respond quickly and with the appropriate resources.

And responding, I should add, doesn't necessarily mean, you know, anything nefarious. It often would just mean putting out good, transparent information from an official source so that people knew where to look.

Q Okay.

And then, moving on in that memo, there's a third option listed, right? I think it's called a Coordinator for Countering Disinformation.

A Uh-huh.

Q And what's your understanding of what that would have entailed?

A Yeah. This is not something I discussed, really, with anybody at DHS, so my knowledge is just what the words on the paper are.

Q Okay. And I think it says that that would have a more centralized role than even the Disinformation Governance Board, right?

A Yes.

Q So the Disinformation Governance Board model was actually, like, the middle of the three options?

A Yeah, as presented here in --

Q Right.

A -- you know, traditional decision-memo style.

Q Right. Exactly. And, again, you didn't have any role, so I --

A Correct.

Q -- think the better person to opine on that would probably be somebody who had a role in that.

A Uh-huh. Uh-huh.

Q Okay.

So we've gone through the memo, which is from September, before I think you were even in conversations about the Department.

A Right.

Q So I want to actually look at the charter establishing the board. Because

you're familiar with that, right?

A Yes. That is the document that really guided my work.

Q Okay. So we're going to introduce this as exhibit No. 3.

[Jankowicz Exhibit No. 3

Was marked for identification.]

BY [redacted]

Q And do you want a minute to look through it again?

A Sure.

Q Okay. So we've talked about operational responses a little bit, and that's mentioned in the first paragraph. It says, "Whereas Department Components will lead on operational responses to MDM in their relevant mission spaces."

A Uh-huh.

Q Can you explain, again, kind of break it down, what is an operational response?

A Sure. So the operational responses are actually doing things.

Policy -- as with every government department, a policy office makes recommendations, sets guidelines, but it's actually the operational components -- in DHS-speak, the CISAs, the CBPs, the FEMAs -- that are doing stuff.

They are communicating with the public. They are, you know, deciding when it's time to take action, whether that is within the counter-disinfo space or otherwise. They are the ones who have decisionmaking authority, and they're the ones who are actually doing the work.

Q Okay.

And Department components, you said, are FEMA and -- and Policy is -- is Policy considered a component of DHS, or is it --

A Technically, I believe it is, but, again, it doesn't have operational authority.

Q And the components that were engaged in operational responses, as you put it, they've been doing that for a long time?

A That's correct.

Q Okay. So this wasn't changing anything in that structure?

A That is correct.

Q Okay.

And it says that the board will ensure that DHS efforts are coordinated, deconflicted, and harmonized.

A Uh-huh.

Q What's the -- can you explain what that means and also what the purpose of that would be?

A Sure.

So, as I mentioned before, a lot of different entities within DHS that don't always talk to one another. I think, you know, on some calls we had folks from FEMA who had never met their counterparts in CISA, for instance.

Q Uh-huh.

A And I keep using those because they are some of the kind of more robust components in the counter-disinformation space. And there is great value in bringing those people together to say, here's what we're working on, here's how we do it, here's how we can help one another. And so that's the coordination.

Deconfliction: We don't want to, you know, have the government doing things that are at cross-purpose. We don't want to have the government, let alone, you know, two components of the same agency, talking to externals and saying different things or, you know, saying the same thing in two different ways, that sort of thing.

And harmonizing: Making sure that we're all marching to the beat of the same drummer, to kind of mix my metaphors a bit.

Q Uh-huh.

And then, on the following page of the charter, so it's -- I don't think it's actually numbered, but it's Section 4 --

A Uh-huh.

Q -- is what we're going to look at. It says, "Board Responsibilities."

A Sure.

Q And I want to go through these one by one and clear up any kind of confusion that might be out there about what the actual responsibilities of the board might be.

A Great.

Q So it says, "The initial responsibilities will include a review of existing MDM governance policies and practices across the board."

And we talked through your understanding of the term "governance" and "governance policies."

To your eye, does this contemplate just solely an internal-facing review?

A Absolutely.

Q And the value of that review would be to examine what all the components were already doing?

A Correct.

Q And figure out exactly all the moving pieces?

A Yes, that's right.

Q Okay.

The second one says, "Based in part on the findings from initial review, the board

will be responsible for developing MDM-related guidance, best practices, and recommendations."

A Uh-huh.

Q And we talked through this in respect to the September 13th memo just a couple minutes ago. But, again, that would be kind of the guardrails that you were describing for the components?

A Yes.

Q And that was to make sure that they were adhering to First Amendment protections, for example?

A Correct.

Q Okay.

And then it says, "The Board will coordinate, deconflict, and harmonize Departmental efforts to address MDM, including by receiving regular and routine updates from components and harmonizing and deconflicting activities."

So the value of this was, again, to put everything under one umbrella?

A Yes.

Q Okay. And that was primarily internal-facing, but it does contemplate some external points of communication.

A Uh-huh.

Q And was that already ongoing? Were there already external stakeholders reaching out to DHS?

A Yes, to my knowledge, there were.

Q And was there sometimes confusion about how that worked?

A Yeah. I think, from what I was told, there was sometimes confusion from external partners about who they should go to if they had a question related to DHS

components and their portfolios.

Similarly, there was sometimes embarrassment from DHS components when somebody internally had approached an external stakeholder when they had already been approached by someone else elsewhere in the Department.

So the idea was that kind of central belly button.

Q Okay.

And then the paragraph references procurement guidelines.

A Uh-huh.

Q So the board was just going to establish guidelines for the components to follow, right? It wasn't going to be doing any procuring?

A That is correct. We did not have a budget.

Q Okay.

So you referenced earlier kind of the -- sorry.

You got a letter from Mr. Jordan on March 1st of this year. Do you recall that?

A I don't recall that specific letter.

Q We're going to introduce it. And this will be exhibit 4.

[Jankowicz Exhibit No. 4

Was marked for identification.]

BY [redacted]

Q Okay. So, on page 2, at the top of this, it asks you to explain how the board would collect information.

Did the board have any authority to collect information from external stakeholders?

A It did not.

Q Okay. And, to the extent you were collecting -- we kind of talked through

the charter just now -- you were looking at existing practices and policies internally, right?

A That's correct.

Q So the sole collection of information was internal-facing, not external-facing?

A That is correct.

Q Okay.

On the -- actually, sorry, taking a step back --

A Uh-huh.

Q -- in the first hour, you made a reference to kind of the "Ministry of Truth" and the allegation that's been tossed around.

What's your understanding of what the "Ministry of Truth" refers to?

A It is a reference to George Orwell's "1984," to my understanding.

Q Okay. And what's your understanding of what the Ministry of Truth does in "1984"?

A It decides for the government and the people what is true and what is false. And, often, that goes against what is true and what is false in reality and is in, you know, the interest of the governing party.

Q Okay. To the extent that that term has been applied to the DGB, do you think that's an accurate description of what the DGB's purpose was?

A It bears no resemblance to the purpose of the Disinformation Governance Board.

Q Okay.

So, for example, as -- and I realize you were only there for a short time, but would the governance board have had any power to declare an internet post true or false?

A It would've had no power whatsoever to do that.

Q Okay. Would it have had the power to compel internet providers to take

any actions?

A No.

Q Okay. What about social media providers? Could it have told Twitter what to do?

A No.

Q Okay. And we've said three or four times it didn't have the authority to make any operational decisions at all?

A That's correct.

Q Okay. And, in fact, we have a lot of documents about the board that emphasize the importance of protecting civil liberties.

A Uh-huh.

Q I think in paragraph 2 of this letter, it says there are concerns that the board would misuse its official authority to censor speech under the pretext of addressing disinformation.

A Uh-huh.

Q I want to introduce as exhibit 5 a memorandum from Under Secretary Silvers to Secretary Mayorkas. And this was the section that governed the -- this was the memo that recommended adoption of the charter.

A Yes.

[Jankowicz Exhibit No. 5

Was marked for identification.]

BY [redacted]

Q Let me know when you're good to go.

A Go ahead.

Q So we highlighted a sentence in the middle that reads, "The Board's primary

roles are to develop and support the implementation of best practices, policies, and protocols that support the identification, assessment, response, and resilience to MDM threats, and that do so in a way that ensures respect for privacy, civil rights, and civil liberties."

A Uh-huh.

Q Can you explain -- the section about "ensures respect for privacy, civil rights, and civil liberties," how did you envision the board carrying that protection out?

A Well, one of the things that I think is pretty remarkable about this policy entity is that it actually included many members on the board itself and then at the leadership that were either lawyers or that worked for the Offices of Privacy, Civil Rights, and Civil Liberties at DHS. So, if you look at the charter, on page 1, the members include representatives from the Privacy Office, CRCL, et cetera.

That was not necessary, right? This was meant to help operational components and support their work. But the idea there is that these components -- Privacy, CRCL -- would be guiding the work to make sure that we were always in compliance, always thinking about those fundamental rights and freedoms that all Americans hold near and dear.

And, again, the big part of our work, as we saw it going forward -- work that was never realized -- was establishing those guardrails, so that when operational components were in the thick of it, they would have something to refer to to say, okay, like, let's think about how to do this to make sure that we are responding to this in a way that doesn't trample any of these rights or liberties.

Q Okay.

And I think you actually said earlier that one of the detailees that was assigned to the board was a Privacy detailee. Is that right?

A No, that's not correct. There were three lawyers -- two from OGC, the Office of the General Counsel, and one from CISA.

Q Okay.

A But three -- three lawyers.

Q Okay.

A Yeah.

Q Turning back to the charter -- and you actually just went through this. So it says, "With respect to each of these lines of efforts, the board will develop and support the implementation of governance, policies, and protocols that, among other issues, protect privacy, civil rights, and civil liberties."

So it's actually written into the charter.

A Yes. Multiple times.

Q Okay. And this is the charter that Secretary Mayorkas signed off on?

A Correct, and the one that governed every day for me at DHS.

Q Okay.

So, in the chairman's March 1st letter, the section I read earlier -- concerns that the board would misuse its official authority to censor speech -- we've talked through how the board wouldn't have had any operational authority whatsoever.

A Uh-huh.

Q Is it your understanding that DHS engages in censorship of speech now?

A DHS does not engage in censorship.

Q Okay.

And you mentioned earlier that sometimes, actually, you know -- well, what's your -- sorry. You said earlier that sometimes the best way to counter disinformation is actually to push out more information.

A Uh-huh.

Q Do you think it's ever appropriate to censor information in order to stop the flow of disinformation?

A I do not. And, in fact, I've written extensively about how we should not play what I call "Whack-A-Troll," which is removing content from online platforms in order to respond to disinformation. It doesn't work. It's proven not to work. And, in fact, we need to add more context, invest in media literacy, invest in the health of our information environment.

Q Okay.

Mr. Ivey. While she's flipping through, let me ask you quickly, still on exhibit 4 --

The Witness. Sure.

Mr. Ivey. -- this language about "misuse of its official authority to censor speech," would you have accepted the position if you thought it had anything to do with censoring speech?

The Witness. No, Congressman, I would not have.

Mr. Ivey. And why is that?

The Witness. Without getting too much into my personal backstory, my grandfather was a refugee from the Soviet Union. His family was deported from Poland to a gulag in 1940 and came to the United States as a refugee from communism to live the American Dream. So my family is very familiar with what it's like to be in an oppressive, authoritarian environment.

And aside from that personal backstory, I have worked for the freedom of expression and freedom of press for people in Russia, Belarus, Ukraine, who, again, have very personal experiences with what it's like to not be able to speak freely.

And I believe that it is one of the main things that sets the United States apart,

that freedom of speech and freedom of the press. And I would never have accepted a job that had anything to do with censorship.

Mr. Ivey. Same with a Ministry of Truth kind of role?

The Witness. Correct.

Mr. Ivey. All right.

[redacted] I don't have anything else, unless you do?

Mr. Ivey. Nothing that can't wait. We can stop now.

[redacted] Okay.

I think we're done for our time right now.

The Witness. Great.

[redacted] Thank you. We may have more questions on the next round.

The Witness. Okay.

[Recess.]

Mr. Gaetz. We'll go back on the record.

Ms. Jankowicz, I wanted to talk to you a little bit more about exhibit 5, the document my colleagues were referencing in their prior questioning.

And in the highlighted portion, it indicates that the board's primary roles would include the implementation of best practices.

The Witness. Uh-huh.

Mr. Gaetz. What are the best practices in countering disinformation?

The Witness. Thanks, Congressman, for that question.

As I testified just a few minutes ago, my view of the best practices in countering disinformation is that it is not extremely productive to fact-check, it is not extremely productive to remove speech.

The best practices, as I see it and that I've written extensively about, have to do

with building media literacy, have to do with communicating effectively and truthfully and making sure that there are official sources of information doing that at all times. And, essentially, that would be it, frankly, from the government point of view.

Mr. Gaetz. So, as I understand it, providing additional contextualizing information and enhancing media literacy.

The Witness. Those are the two primary recommendations that I stand on.

Mr. Gaetz. How does the government enhance media literacy in the information environment?

The Witness. So there are a number of activities that I can point to that the Cyber and Infrastructure Security Agency has engaged in. They have, for instance, I believe, developed games in the past that individuals can play to learn about how social media platforms work and how information gets to them. They have put out educational materials about how to spot bots online, things like that.

Sometimes the government is not the best messenger for these sorts of messages, I suppose, to be repetitive, and so there are instances where you might work with a third party to deliver those messages or give a grant to someone, for instance, to develop programs related to that sort of thing. That's just kind of hypothetical.

Mr. Gaetz. So the entity you work for now, does it receive one of those grants from the government?

The Witness. I'm not sure about the pertinency of that to the activities of the Disinformation Governance Board, Congressman.

Mr. Gaetz. Okay. Are you going to answer my question?

The Witness. Well, I've been advised by my counsel that I should answer questions that are pertinent to today's inquiry, and I'm not sure that that one is pertinent.

Mr. Gaetz. Okay. So, just so that we're clear for the record, you're refusing to

answer my question regarding whether or not the entity you currently work for receives a grant from any government?

The Witness. Well, with respect, Congressman, I understand your position, and upon advice of my counsel, I'm not going to answer that.

Mr. Gaetz. I just have a question, not a position. We'll resolve that later. I just want to make sure we have a clear record.

The Witness. Uh-huh.

Mr. Gaetz. The other feature of this memo is the discussion of policies and protocols that support the identification, assessment, response, and resilience --

The Witness. Uh-huh.

Mr. Gaetz. -- to these threats.

So what are the different ways the government can respond, specifically?

The Witness. Again, Congressman, the primary response that I think was envisioned is the putting out of more information. But that's pretty hypothetical because the board --

Mr. Gaetz. No, that's an answer to the question.

So it was never contemplated in any of the setup or administration of this board, takedown?

The Witness. Takedown is not something that the government can decide, so no.

Mr. Gaetz. And it was never contemplated to advise private entities on takedown practices?

The Witness. I would argue that the government does not do that today.

Mr. Gaetz. Your argument is that CISA doesn't ever encourage any takedown?

The Witness. I think -- again, pertinent to the activities related to the DGB, we

had no intention to take anything down.

Mr. Gaetz. Okay.

And pursuant to your understanding of this role and the work, in this interagency process that you describe in some detail, there was never the talk of how various features of disinformation would achieve reach or would be suppressed in their reach, was there?

The Witness. No, Congressman, there was not.

Mr. Gaetz. You mentioned that there are countries in Europe that are ahead of the United States on disinformation.

The Witness. Uh-huh. Yeah.

Mr. Gaetz. Which are they?

The Witness. Well, I've written pretty extensively about the ways that, let's say, Estonia has achieved more resilience in its society, in part through media literacy, in part through reducing polarization between the ethnic Estonian and ethnic Russian population, through building up their public media environment.

So that's one entity that I've written about pretty extensively --

Mr. Gaetz. When you say "public media," just so I understand the definition, is that government-funded media?

The Witness. In this case, yes. So there is an Estonian TV network called ETV Plus that provides objective information in the Russian language to the Russian-language population prior --

Mr. Gaetz. So you assess that when the government is funding more media that that creates a healthier information environment, in the case of Estonia?

The Witness. In the case of Estonia, but I kind of -- so the premise of your question is not something I necessarily agree with. There have to be safeguards in place to ensure editorial independence from publicly funded media.

Mr. Gaetz. But is public media an antidote or -- strike that. Is public media one of the tools that you're describing as a way to enhance media literacy?

The Witness. I wouldn't say that it's a way to enhance media literacy. It's a way to ensure that there is objective information available to the public.

Mr. Gaetz. But who decides what's objective?

The Witness. Well, Congressman, you know, I think, again, that's something to discuss perhaps with journalists, not with me, and it's not something that had anything to do with the activities of the Disinformation Governance Board. We had nothing to do with media or anything related to that, so I don't -- again, pertinency.

Mr. Gaetz. Well, I've been trying to -- the purpose of our oversight exercise is to understand what animated this interest in the Disinformation Governance Board and to what extent are those authorities still being utilized today. So how you thought about these various forms of resiliency are very important to us.

The Witness. Sure.

Mr. Gaetz. And so, if you think that one of the areas that enhances resiliency is the government engaging in the information space more with objective information, I'm trying to understand how you thought those assessments would be made.

The Witness. Well, again, with respect, Congressman, I don't believe that the government funding or investing in public media has anything to do with the government deciding what is or is not objective truth.

Mr. Gaetz. Who does, then, in public media decide what is objective truth?

Mr. Ivey. You mean in this particular instance or in general?

Mr. Gaetz. Well, in the case of Estonia. How about that?

The Witness. Again, Congressman, pertinency. If you'd like, you can read my book. Put in a little plug there. I don't believe that that's really pertinent, especially

given that DHS had nothing to do with public media. This is just -- you asked me about my personal beliefs, and I've given them to you.

Mr. Gaetz. Other than Estonia, which countries are ahead of us?

The Witness. So Sweden, for instance, has issued a bulletin to all of its citizens that describes how disinformation and informational warfare works. And they sent this out to all of their citizens, describing kind of, without naming Russia, how, you know, Russia has previously interfered in the Swedish information space and what to be aware of in times of crisis and how people manipulate media.

The U.K. has done quite a good job in especially the coordination in the response to disinformation. And that's something that I think certainly more countries could seek to emulate.

Mr. Biggs. Can I just --

Mr. Gaetz. Give me a moment, Andy.

So, wait. Are you a registered foreign agent of the U.K. now?

The Witness. Relevance?

Mr. Gaetz. It's relevant to your testimony.

The Witness. It is not relevant to the activities of the Disinformation Board, Congressman.

Mr. Gaetz. And in Sweden, the bulletins you just described, those are paid for by the government, right?

The Witness. I believe so.

Mr. Gaetz. Okay. So, in Estonia, what you referenced that helps most is public media with objective facts. In Sweden, what you referenced helps most is a government-funded information bulletin.

And you talked about the U.K.'s coordinative efforts. And then I'm asking you if

you're involved in those efforts by the U.K. Government to coordinate their response to disinformation. And you're refusing to answer that question?

The Witness. Congressman, if you want to look that information up, I think it's public record. But, again, I'm advised by my counsel that the committee may require me to answer all questions pertinent to the subject under inquiry, which is the activities of the Disinformation Governance Board.

If we turn to exhibit -- was this exhibit 4? -- this references "statements as a government official," right? So I don't --

Mr. Gaetz. Sure.

The Witness. -- I don't believe that my employment post-May 18th has anything to do with the object under inquiry today.

Mr. Gaetz. And you're here, as I understand it, voluntarily?

[redacted] No.

Mr. Gaetz. No. Oh, here under subpoena. Okay. Very well.

Mr. Biggs. I just want a point of clarification for the U.K. Because you did give an example of Estonia, what they're doing, and you gave an example of Sweden, but you didn't really -- I didn't catch, anyway -- maybe you did and I just didn't catch it -- give us information on what the U.K. is doing and why you think that's so --

The Witness. Yeah.

Mr. Biggs. -- you know, positive and successful.

The Witness. Sure.

So the U.K. has responded to the threat of disinformation in a nonpartisan manner, across political parties, number one.

Number two, they have --

Mr. Biggs. And I don't want to -- I shouldn't say "I don't want to interrupt you."

I do. I want to interrupt you because I just need clarification there.

The Witness. Uh-huh.

Mr. Biggs. Who has responded in a nonpartisan fashion?

The Witness. The U.K. Government. So I would say from the Prime Minister on down through Members of Parliament, but also the civil service in the U.K.

This is something that their government has come together to address and solve. And one of the ways that they've done that is through something called "fusion doctrine" in their National Security Strategy, which says, we're going to have kind of, as I've mentioned before, a belly button within government where we all come together where there's a disinformation issue at hand and we're going to work to solve it.

So an example of that: If you remember, in 2018, the Salisbury poisoning. They all kind of were given the bat signal, so to speak, and they all came together to put to rest the Russian disinformation that was coming out about these guys just being tourists and not there to poison a former double agent.

Mr. Biggs. Okay. So -- all right. Thank you.

The Witness. Uh-huh.

Mr. Biggs. I just wanted to clarify.

I just want to -- I want to go back to something you testified in the first hour.

The Witness. Sure.

Mr. Biggs. And I want to make sure I understand it, because, to be honest with you, it was the first I'd ever heard of it. And I didn't really get the name quite right. The interagency Ukrainian disinformation team -- whatever it was --

The Witness. I don't know what the name was either, Congressman.

Mr. Biggs. Something along -- about --

The Witness. Yeah.

Mr. Biggs. I'd never heard of an interagency -- what was your -- what was your role -- what was the Disinformation Governance Board's role in that? I mean, did you just learn about it because you were on the board? What was that about?

The Witness. That was just a coordination call across government, as I said, I think it was weekly, led by CISA, stood up before I got to DHS. I'm not sure exactly when, if it was directly before or just after the full-scale invasion began. But it was an opportunity for working-level staff to share what their agencies were doing with regard to the Ukraine crisis and share kind of information across government.

Mr. Biggs. And do you know what agencies were involved?

The Witness. It was pretty wide, Congressman, so --

Mr. Biggs. Like, within the Department of Energy, they might have had somebody there because of --

The Witness. I know for certain DHS, State were on the call --

Mr. Biggs. Okay.

The Witness. -- and I'm not sure about others. It was a wide -- again, went out pretty widely, invitation. It was just a Teams call, people phoning in, talking about what they were doing.

And you also -- I neglected to answer your question before about my role. I didn't have any convening role. I was just there as a DHS employee listening to the calls.

Mr. Biggs. Okay.

And then, before I give it back to you, just a couple more questions.

I want to go along the lines of what Mr. Gaetz was asking a little bit, because that -- and I had it exhibit 4, but it must be exhibit 5, so I probably messed up in marking those things.

Mr. Ivey. Is it this?

Mr. Biggs. No, no. I'm talking about this memo for the Secretary dated January 31st. Is that 2?

[redacted] Oh, sorry. That's 5.

The Witness. That's 5.

Mr. Biggs. Okay, 5. So I messed up.

I just want to go over some stuff that Mr. Gaetz was talking about, because I want to make sure I understand this as well. Because the way I read that sentence -- which is a compound sentence, and they probably should've broken it up into two or three sentences.

But, in any event, you testified pretty extensively in the previous hour about the phrase "ensuring respect for privacy, civil rights, and civil liberties." And then Mr. Gaetz asked you a few questions. And I want to make sure that I'm getting down to beyond the 30,000-foot level to make sure I understand what's actually going on there.

The primary role is to develop and set forth implementation of best practices.

The Witness. Uh-huh.

Mr. Biggs. How would you develop that? And then how would you support what those best practices are? And who would you be working with?

The Witness. Sure, Congressman. So I can speak to the 10 weeks I was at the board, in which some of this work did begin.

As is, I think, in the charter -- yeah -- it talks a little bit about initial review. So one of the things, as I testified earlier, that I did was speak extensively to my colleagues across DHS about the work that they were doing and tried to develop some recommendations about where we saw gaps and where individuals could use potentially more support, more training. We spoke a little bit about the lack of unified definitions in DHS, right?

So we were putting together a work plan that never went anywhere, never got approved, that included --

Mr. Biggs. Can I interrupt you for that?

The Witness. Uh-huh.

Mr. Biggs. I'm wondering if you were able to actually develop a work plan within that 10 weeks where you actually had a completed document, an idea.

The Witness. No, Congressman, we were not.

Mr. Biggs. Okay.

And somewhere I was reading some documents that maybe CBP was a little bit further behind in its interpretation of -- what are we calling this -- MDM.

The Witness. Uh-huh.

Mr. Biggs. Is that fair to say?

The Witness. I would say yes. CBP approached the problem as a communications issue, and it's not only a communications issue.

And this is something -- to kind of tie it back to what we were just talking about, other governments understand that it's not an issue of just saying the right thing; you've got to walk the walk and talk the talk.

Mr. Biggs. Okay.

So I -- you went through this, but I just want to, if we can, maybe expand on it just a bit.

You were developing protocols that supported the identification of MDM.

The Witness. We did not develop any protocols supporting the identification of MDM during my time there.

Mr. Biggs. Okay. How did you envision that? I mean, you went in with kind of a vision, some idea of what you would want to do there. How did you envision

establishing those protocols regarding identification of MDM?

The Witness. So, Congressman, that wasn't really at the top of the list for me while I was there. I thought there was some pretty big gaps in terms of the understanding of the concept. And so, to get to identification, you first have to kind of have an agreement about what you're talking about. You can't say that something is a bear if you don't know what a bear looks like. So that's where we were.

Mr. Biggs. So I'm asking you about your vision. I mean, you've talked about, in response to Democrat counsel -- she specifically asked you how did you envision ensuring respect for privacy, civil rights, and civil liberties, and you had a pretty concrete response to that.

So I'm wondering, how did you envision developing -- I mean, developing these protocols regarding identification, assessment, response, and resilience. I mean, so each one of those.

The Witness. Sure. So I think this work, it's important to understand, was going to be iterative, right? So what happened at the first board meeting was going to affect, necessarily, the steps that we took beyond that. And there never was a first board meeting.

Mr. Biggs. Uh-huh.

The Witness. The way that this would work, as was laid out in the charter, would be conversations with relevant components. So, relating to identification, I&A would likely be the -- Intelligence and Analysis would be likely the entity that did that.

In complete transparency, I had the fewest amount of conversations with I&A during my time there. And so we would understand the work that they were doing to do some analysis and identification of potentially harmful disinformation narratives with a nexus to homeland security and make sure that they had those guardrails on that I

mentioned before.

In terms of the other pillars, one was resilience, right? Well, we've talked about that already --

Mr. Biggs. I think that was it, but -- yeah. So we'll get back to this. I'm going to turn it back over.

Mr. Gaetz. You described an interagency process, and so I just want to make sure that my questions aren't stovepiped just to the Disinformation Board.

But in any of these interagency meetings you had or in any communications you had with anyone in the government during your time in the government, did you ever see information targeted that dealt with the origins of COVID-19?

The Witness. No, Congressman.

Mr. Gaetz. Did you ever see any information targeted that dealt with vaccines?

The Witness. No, Congressman.

Mr. Gaetz. Did you ever see any information targeted regarding racial justice?

The Witness. No, Congressman.

Mr. Gaetz. Did you ever see information targeted regarding the U.S. withdrawal from Afghanistan?

The Witness. No.

Mr. Gaetz. Did you ever see any information targeted regarding the nature of U.S. support to Ukraine?

The Witness. It's possible that I saw information related to Ukraine during the interagency working group on Ukraine, yes.

Mr. Gaetz. How often did that working group meet?

The Witness. As I said, that was about once a week. But it wasn't about support for Ukraine per se. It was about sharing information about what individual

departments were doing with relation to Ukraine.

Mr. Gaetz. What can you remember about what those departments were doing?

The Witness. It was very early on in the -- after the full-scale invasion. So, at that juncture, it was a mostly information-sharing working group. And it was stood down before I left DHS. So, didn't meet very frequently and then was stood down.

Mr. Gaetz. What was the reason for it being stood down?

The Witness. At that time, the interagency assessed that there weren't exigent threats to the information space surrounding Ukraine in the United States. So we would just continue on our kind of individual departmental responses. The working group was kind of seen as superfluous.

Mr. Gaetz. Were the meetings recorded?

The Witness. I don't believe so, Congressman.

Mr. Gaetz. Were you aware of if anyone was taking notes during those meetings?

The Witness. I assume someone was, but they were on Teams, so --

Mr. Gaetz. Were there minutes that were --

The Witness. I can't recall, Congressman.

Mr. Gaetz. -- created?

Were you aware during your service in the government of any special portal that DHS had with Facebook --

The Witness. No, Congressman --

Mr. Gaetz. -- or Meta?

The Witness. -- I wasn't aware.

Mr. Gaetz. Did you ever interact with officials from the FBI?

The Witness. FBI officials would have been present on subcommittee meetings of the National Security Council that I attended.

Mr. Gaetz. How many of those meetings did you attend during your 10 weeks?

The Witness. A handful.

Mr. Gaetz. And who from the FBI was present?

The Witness. I can't recall their names, Congressman. They were all on --

Mr. Gaetz. Do you recall the area -- their jurisdictional areas?

The Witness. I can't recall, Congressman. Often, when you're on these NSC meetings, you're all piped in from different individual conference rooms, and everybody is on a tiny little thing on a screen. So I can't even -- I wouldn't be know their faces if I walked by them in the hallway outside.

Mr. Gaetz. Did you ever interact with individuals from the Foreign Influence and Interference Branch of DHS?

The Witness. It's possible they were on these calls, but I didn't have any direct contact with them, to my knowledge.

Mr. Gaetz. And did you ever interact with State election officials?

The Witness. I did not.

Mr. Gaetz. Thank you, [redacted]

BY [redacted]

Q So I'm going to mark as exhibit No. 6 a March 8, 2022, email between you and some other DHS officials.

[Jankowicz Exhibit No. 6

Was marked for identification.]

BY [redacted]

Q And I'll give you time to review it.

A This is 6?

Q Six.

A Okay.

Q And in this email chain, it mentions the steering group for the Disinformation Governance Board. Who were the members of the steering group?

A The members of the steering group were working-level officials of each component.

Q And how often did the steering group meet?

A I believe it was a weekly short Teams call.

Q So would that have been -- during your 10 weeks, would you have had a steering group meeting every week?

A We definitely skipped a couple of weeks, but, yes, there were meetings every week or thereabouts.

Q And what was the purpose of having steering group meetings?

A Well, as it says in the charter, the idea of the steering group was to kind of connect everyone at a working level, representing the perspective of their components, reviewing and discussing any proposals submitted to the board -- although we didn't have any -- and essentially just connecting everyone. It was a good chance for people who had never met, who were working on similar issues, to talk to one another. And that was the main purpose, as I saw them.

Q So what was discussed at those meetings?

A During the time that I was there, I asked individual components to give short, 5-minute presentations about the work that they did regarding countering disinformation, the preexisting work that they did, and to talk about any issues that they had teed up relating to the portfolio that they might want feedback on.

Q Did any component give their 5-minute speech about countering disinformation?

A I believe all of the -- I think all of the components did. Yeah.

Q So what was your understanding of what work was being done to counter disinformation?

A It was quite broad and disparate, like DHS -- you know, lots of different entities at work, lots of different portfolios at work.

So CISA would be the most developed. CBP, probably the least developed. FEMA, obviously in a very different mission space than everybody else, but also pretty robust work being done.

And -- I'm trying to think -- then we also, I believe, got a briefing from I&A about some of the work that they did. But, obviously, in an unclassified space they couldn't share very much.

Q And in the first email here, you said, "I am keen to get the steering group meetings into a regular rhythm and set some goals/metrics to orient me/ourselves toward."

A Uh-huh.

Q What did you mean when you said "goals and metrics"?

A Yeah. Especially since I was going on maternity leave at potentially the end of May, early June, I wanted to make sure that we had something to steer toward, right, and we weren't just kind of existing in a weird subliminal space. And so I wanted to make sure that, you know, I had something to point toward.

So, whether that was work toward the first board meeting to get approved a set of principles, or conduct all of the interviews, the initial review that we talked about before, that was me kind of just understanding the space, and those were kind of the

ideas that I had at that time.

Q Were there any notes or minutes that came out of the steering group meetings?

A I usually would send a recap via email after the steering group meetings.

Q And do you remember any of the individuals that attended the steering group meetings?

A You should have those in the emails that you have. I think they would be on the distro list that the invites go to, so --

Q Did Ms. Vinograd attend?

A Usually, yes.

Q What about Mr. Patch?

A I can't recall if Milton attended. He was a staff assistant.

Q Mr. Snyder?

A I also can't recall. He was a policy advisor. It's possible he attended a few.

Q Did Ms. Daskal?

A If her schedule allowed.

Q And Under Secretary Silvers? Did he ever attend a steering group meeting?

A He did not.

Q And in the email from Ms. Vinograd, on the second page here, in the second little paragraph, it says, "We will start our governance meetings individually with folks ASAP."

Who were the individuals Ms. Vinograd was referring to?

A I think that would refer to -- although I'm missing some of the context here.

Q Uh-huh.

A I think that would refer to working-level individual components for those initial reviews that we talked about, for me to kind of do a meet-and-greet and understand the work that they were doing.

Q So the governance meetings would have been part of the initial review --

A Yes.

Q -- as you understood it?

A Uh-huh.

Q And I know during our first round we discussed how during this time period the charter was in effect February 24, 2022, but then the board wasn't announced until, you know, late April.

A Yeah.

Q And so you had said that you wanted to roll out the board differently. Can you discuss for us again how you wanted to roll out the board?

A I believe that with any counter-disinformation activity, particularly as undertaken by a government, there is going to be, rightly, some scrutiny and skepticism related to these activities.

And my research has pointed to that. In fact, there's an entire chapter in one of my books about how a Czech-disinformation entity fell victim to similar attacks to what we did. And one of the reasons that I thought it was so important to kind of respond transparently and actively, proactively communicate about our work, was because of that research that I had done.

So I put together several communications plans, again, that included components from pre-briefing Congress, speaking to the media, putting out fact sheets or a press release from DHS, and speaking with counterparts outside of government. I guess that's four prongs, four different prongs. And that is how I believed that we should've

communicated about it.

[12:28 p.m.]

BY [redacted]

Q Did you ever anticipate when that rollout would occur?

A I hoped over and over that it was going to be next week, and then the next week, and then the next week, particularly, as I said, because I was going on maternity leave, and because, as somebody who had a public profile before I went into government, particularly as the Ukraine crisis began, I thought that my absence from the wider world would be noted. And I thought that, potentially, there would be some scrutiny into kind of my sudden silence. And I thought, again, that it would be important to get in front of that transparently and proactively.

Q So it kind of sounds like you were working with this assumption that you would be able to help with the rollout. Who told you that you would be able to help with the rollout? Or who kind of gave you the direction to start working on the rollout?

A I brought up the rollout with -- under Secretary Silvers and Assistant Secretary Vinograd during my first meeting with both of them, which I believe was in my second week at DHS. And I emphasized to them the importance of proactively and transparently communicating about our efforts.

Q And when about did you learn that they weren't going to go forward with your rollout plan, so to speak, and not in a way that you thought was transparent?

A It was an iterative process. So I developed a plan. Individuals from the communications staff -- so OPA and, to some extent -- although they were kind of tertiary to all of this -- the Office of Legislative Affairs were brought in. Questions were raised. We went back to the drawing board. I developed another plan. This happened several times in an extremely frustrating way for me.

And it just kept getting pushed back and pushed back and changed. And

eventually, some of the communications advisors thought that less was going to be more. And that's when we got to about April, and they decided to put just this blurb in a newsletter in order to announce the board.

Q Did you ever express concerns that, you know, less was not more?

A Yeah. I was kind of trying to balance my equities as somebody who was brand new to government, brand new to the department, and not particularly high-ranking within the department. So as I'm sure many people in this room have experienced, sometimes you just kind of have to make a compromise. And I thought that these communications advisors might know better in the situation that we were in.

In retrospect, I wish I had absolutely raised more of a stink because, as I mentioned before, it had enormous personal consequences for me.

Q And do you remember who these communications advisors were?

A So the Secretary's top communications counselor is Ricki Seidman. Their names are probably in some of the emails that you have. I'm not going to remember their last names. Isabella Ulloa is one of them. And then KC is her name. Kristie -- I forget her last name right now. But those were three of the communications advisors.

Mr. Issa. You mentioned earlier about the attack that came out of a rollout in the Czech Republic. Do you want to characterize what happened there, what they disclosed, what the attack was like, and then characterize it relative to what you saw happen in this --

The Witness. Sure, Congressman. So the Czech Republic put together something called the Centre For Terrorism and Hybrid -- or Centre Against Terrorism and Hybrid Threats. Excuse me. That was located within the Ministry of Interior. It was announced in early 2017, and was one of the first unilateral counterdisinformation entities that was put together.

They -- they said, you know, we're going to fight Russian fake news, basically, is how they characterized their efforts. And the Czech people didn't take very kindly to this. They, along with their President, had worries that -- this is what they said -- that the Centre was going to turn off the internet. That they had a button to turn off the internet, among other things. That they were going to decide what was true and false.

That's not what the Centre did or does. They had a very narrow remit relating to, again, terrorism and hybrid threats facing the Czech Republic. And most of the work that they do is interior facing. They educate civil servants about how not to be a vulnerable target to disinformation or cyber attacks, things like that. And then in a very limited area, they do do public fact checks. In my book, I conclude that that is not something that is super helpful.

So when I brought this up at the Department, I said, listen. We don't want to -- we don't want to leave a vacuum for somebody else to tell the story of what we're doing. We want to communicate about that transparently, proactively, and kind of put questions that might come up to rest.

Mr. Issa. And one of the questions would be, do you do fact-checking?

The Witness. It could be any number of questions. I think as -- I think you might have been out of the room, Congressman, when I mentioned this to your colleague. But I think Americans are right to question what the government is doing with regard to civil rights and civil liberties. And I viewed it as my job as the executive director of the board to answer those queries truthfully, honestly, proactively. And unfortunately, we didn't meet that standard that I set for myself.

Mr. Issa. And then you used the term you "fell victim to attacks."

The Witness. Uh-huh.

Mr. Issa. Do you want to give us why you felt that you fell victim to attacks

because of how they launched this?

The Witness. So, because we did not provide enough information at the outset, we left a vacuum for people to speculate. And indeed, within hours of the board being announced, the phrase "ministry of truth" -- which, again, the board had nothing to do with being a ministry of truth -- was trending on social media.

By the next day, I was receiving death threats because people believed that I was going to, quote, "show up at people's houses with guns and tell Americans what they could and could not say."

Again, the government -- DHS, from then on -- as is, you know, documented in some of the emails that I think you have -- could not muster a response. And the longer we waited, the bigger the vacuum grew, the more scrutiny -- scrutiny isn't even the right term. The more ire and vitriol was directed at me and my family.

I've had to take out a protective order against a man who has repeatedly doxxed my family. I received mail to my house because my address has been released online. People were looking into my extended family members. I was 9 months pregnant at the time. I was huge. Believe me, there was nothing I wanted more than to waddle up here and talk to all of you about the work that I was trying to do, but I wasn't allowed.

And this has had a continued impact on my life. I continue to be under -- because of all that.

Mr. Issa. You said you were preparing to leave for maternity leave. Did you in fact leave for maternity leave?

The Witness. I did not. I resigned before I was due.

Mr. Issa. Was that resignation you decided, or was that one where you were asked?

The Witness. I was given the opportunity to stay on as a policy advisor. If the

Disinformation Governance Board were to be disbanded -- as you know, it kind of went under review over the summer. And my thinking at that time was -- again, extremely pregnant, about to have my first child -- that perhaps if I resigned, the threats would go away. That they would be redirected at DHS.

Unfortunately, that's not what happened, in part, because people continued to lie about me and still, to this day, continue to lie about me. Still, I believe that I can do good work outside of government, and it was the right decision for me to have made. I also felt that the Department didn't have my back, and I wanted to concentrate on my time with my family over the summer and caring for my new son.

Mr. Issa. Could you elaborate on what actions did you see or not see from DHS that caused you to believe they didn't have your back?

The Witness. Yeah. So --

Mr. Issa. And can I say, were you thrown under the bus a little bit, in your opinion?

The Witness. I do believe I was thrown under the bus to some degree. I believe DHS made the calculation that it was easier to let the work be undermined than steel themselves and get on with something that they thought was important. And I believe that that is, in a way, how the Biden administration has handled this particular issue of countering disinformation.

I, over and over -- and, again, this will be in emails that you have seen at this point -- voiced my concern that we weren't reacting. That we weren't putting any information out there. That the more that we did that, the threats to my family increased. And that fell on deaf ears over and over again.

And I had spent my career and a large portion of my own kind of personal capital doing work that I thought was important for the American people, and I did not want to

risk further damage to that for an agency that clearly didn't have my -- even my safety at heart.

And it was a really tough decision for me because I had spent the entirety of my time since, you know, I was in college -- actually, way before that. I was in Model Congress when I was a kid, right? Public service is something that I have aspired to for a very long time. So it was a decision that I did not take lightly and one that made me very, very upset.

Mr. Issa. Now, you're not personally wealthy, I gather?

The Witness. No.

Mr. Issa. So this was also an economic decision. How did you, on the verge of having a child, deal with resigning?

The Witness. Well, I'm lucky that my husband is employed. And --

Mr. Issa. Only one in government at a time.

The Witness. Yeah. And it has not been easy, Congressman, dealing with the legal implications that have come from my service in government in addition to needing to retain Andrew, who has been great.

Thank you, Andrew.

I've also had to retain several other attorneys in related matters. The protective order, I mentioned. The same gentleman has named me in a civil suit that has cost me a significant amount of money to try to get dismissed that has absolutely no basis in reality.

So, again, in addition to monetary impact, this has affected my family. I get recognized on the street here sometimes by people who wish me harm, and I'm just happy that my son hasn't been with me in those cases.

Mr. Issa. Now, your civil suit was for conduct during the time you were at DHS, I assume?

The Witness. It actually has nothing to do with DHS. He just alleges that I did things that I didn't do, and he's just harassing me through the legal system.

Mr. Issa. So that happened personally --

The Witness. Correct. Yeah.

Mr. Issa. Well, you have not only our sympathy, but from many of us, our empathy on exactly that.

The Witness. Yeah.

Mr. Issa. Thank you.

Mr. Biggs. Can I ask you a question, too, with regard to that? Because I find it interesting.

And I wanted to know where -- did Mr. Silvers and Ms. --

[redacted] Vinograd?

Mr. Biggs. Yeah. Vinograd. Yeah. Yeah. Vinograd.

Did they kind of disappear as this thing began to -- and I don't want to use the term "fall apart," but it seems to -- looking at the timeline, in retrospect, it looks like, at some point, it began to fall apart. They began to -- from reading all the documentation -- kind of pull in their wheels a little bit and leave you kind of as the face of this prospect.

And I want to know about -- did those two disappear? Did Secretary Mayorkas ever consult with you on what was happening? That type of thing.

The Witness. So Rob and Sam and Jen were great during the time. They were very supportive of me as their staffer and someone they knew personally.

The Secretary, I suppose, perhaps -- well, I can't conjecture who told him to do this. But he did give me a call the Friday after the board was announced to just say that, you know -- that he had my back. But that was the last I spoke with him.

And things -- and I can't really say what was going on behind the scenes because there were a lot of conversations, emails, meetings, that I was not involved in. And that frustrated me, right? Because I was the one who was at great personal risk, indeed physical risk. I was told by a private security consultant that I hired at that time to leave my home when I was weeks away from giving birth.

I was frustrated that I wasn't involved in those conversations. That wasn't Rob, Sam, or Jen's fault. I think things evolved to the point that they were above all of their pay grades, if that makes sense. I think it was things happening at S-1 level, and then even potentially at the White House.

I really can't -- I can't say. But I know that I would often ask Rob for guidance, for -- you know, do you know about X, Y, or Z? If, you know, I'll be allowed to speak to the media? If we're going to put a fact sheet out? And his answer was, I don't know. And even once, I do believe he said, this is above my pay grade.

Mr. Biggs. So the Secretary -- other than gave you the last interview, which you said was incredibly brief -- I said -- you didn't say incredibly. You said it was brief. I said incredibly. And then this call after you take the position. But then as this begins to be a lightning rod for public discourse, you don't hear from him again?

The Witness. So he called me on the Friday after the board was announced. So it was announced on a Wednesday. 27, 28, 29 -- it must have been April 29th. That weekend, all of us were all-hands-on-deck putting talking points together for him because he went on the Sunday shows. And, yeah, that was the last that I heard from him. He defended me on the Sunday shows, and that was it.

Mr. Issa. You described yourself as low level here. Do you believe that part of the challenge was that you were seen as the focal point rather than a coordinator for the board?

The Witness. Yes, Congressman. And I think that, in part, is due to the characterization of me as the disinformation czar or the minister of truth, when in reality, I was a GS-15 herding cats in government. Yeah, I had a profile before entering government, and I think that should have spoke to, you know, the way the administration was trying to carefully consider these issues rather than me being someone who was all powerful.

And I have to say, with due respect, there are people in this room who characterized me as somebody who had a lot more power than they did, and that really did lead to a lot of the conjecture and spin and lies and threats about me.

Mr. Issa. You were saying, though, that you were -- I characterized thrown under the bus, and you didn't disagree. To a certain extent, as Members of Congress, was it unreasonable to believe that you were some of the focal point based on what was publicly available?

The Witness. I mean, you're asking the question, Congressman, so I'm going to answer it. I believe that the way I was characterized by certain Members of Congress, by certain media outlets, was reckless. It had no basis in fact. And it put me and my family at great personal risk, to the point where I was going to my prenatal appointments at a weekly basis at that time, and I felt that I had to basically disguise myself. I wore a hat, sunglasses, and a mask because I was on Fox News every hour on the hour, and I was basically a sitting duck.

And that is not what I signed up for as a GS-15. It is not what I envisioned when I was going into public service. And especially given the complete mischaracterization of the board's activities and of my prior statements, it was just -- it was a really sad experience for me.

Mr. Issa. No, I appreciate that. But I just -- the question I asked was slightly

different. And your answer was really good. It's just, my question was more -- you kind of know that there wasn't -- there wasn't a launch of this organization that explained it. The simple launch didn't talk about its power, and it didn't characterize these very significant members of the board who may or may not have attended certain meetings.

So -- and I wasn't one of the people who commented, as far as I know. I'm pretty sure. So given that I don't know anything other than what I'm learning here today, and then what we saw in the beginning, do you believe that the way DHS launched this, it was pretty easy for someone not to know what this organization was going to do, and thus, could have conjecture as to what it could or couldn't do?

The Witness. I believe that DHS did a poor job rolling the board out, but I also believe that it is incumbent on Members of Congress, elected officials, and the media to be very careful about the bully pulpit that you all have, and to understand that words have actions.

So I would have preferred that, you know, this went through normal process before wild speculation unleashed stalkers and all manner of threats on me and my family.

Mr. Issa. And to your recollection, what was the first media that you saw that was incorrect, or maybe even hyperbolic?

The Witness. If we're talking about mainstream media, I believe, by the next morning, there was mischaracterization and lies about the board on Fox News.

Mr. Issa. Thank you.

BY [redacted]

Q I'm going to enter into the record an email chain from April 27th, 2022, with the subject line "FYSA - DGB announcement blowback." It probably has some of the communications you are referencing.

And it's a longer email chain. I'll refer to the Bates numbers on the bottom of the page.

A Okay.

Mr. Herman. Is this exhibit 7?

[redacted] Yeah, exhibit No. 7.

[Jankowicz Exhibit No. 7

Was marked for identification.] .

The Witness. That has the name. I couldn't remember. Kristie Canegallo. Okay.

BY [redacted]

Q So on Page 262 -- and that number is right before the date.

A Yep.

Q You say in here, "However, given tenor of the discourse and those that are sharing it, I wanted to make everyone aware. There is a fair possibility this could escalate and end up on a hostile TV network in the coming days. I would recommend" -- and then DHS has redacted that.

Do you know, were your recommendations ever considered or implemented?

A I don't believe they were ever implemented. I hope someone considered them, but I can't be certain.

Q Can you tell us what you recommended?

A To the best of my recollection, I believe I recommended releasing a fact sheet that we had prepared earlier and going back to my original communications plans that included briefing the Hill, briefing media, and getting third parties on the phone to potentially answer any questions that they had. So folks at think tanks and things like that who ended up speculating a lot about the board in the coming days.

Q And then if we flip over to 260, there is an email from Ms. Erin Waters.

And in that email, she says, "Hi, Nina. Thanks for bringing this to our attention. We are seeing a lot of the traffic on social back end as well. Adding others in OLA on your last message. Sarah/Ruth can advise, but we also have a media inquiry now. We recommend" -- and then that's also redacted.

Who is Ms. Erin Waters?

A I believe -- but I am not certain -- that Erin Waters is an OPA staffer. Office of Public Affairs.

Q How often did you interact with Ms. Waters?

A Given that I can't remember where she was working, I don't believe I interacted with her very much. We were on email chains, but that's it.

Q And do you remember what she recommended in her email?

A I don't.

Q Do you know if those recommendations were ever taken action on or considered?

A I assume, again, they were considered by the people on the email. But given that I don't remember what she recommended and certainly don't think it went forward -- yeah, I don't think it went forward.

Q And then if you flip one more page over to 259, there's an email response to Ms. Waters and her recommendations from you. And in that email on the bottom of the page, you say, "Thank you. That sounds good to me. Let me know how you would like to handle. I have personal relationships with all those highlighted, but happy to follow your lead."

A Okay. So what I think this was was, as I mentioned in my initial kind of recommendations, I had put together a list of third parties that we could inform about

what was going on. And I highlighted individuals with whom I had a personal relationship.

Q Do you remember any of the third parties that you considered?

A Sure. For instance, Christopher Krebs. Somebody who had worked at DHS before and was a Trump appointee. I believe I had noted some individuals across the think thank community at places like CSIS or Brookings, academics. I think I had also noted the congressional staff that I had relationships with from when I testified before Congress. So kind of to reach out and tell them, you know, this is what's going on. Here's what we're actually doing. Please don't be alarmed.

Q Did you ever have any of these briefings or meetings with the third parties?

A No. We did not, unfortunately.

Q And a little bit earlier, you said that you, quote, "weren't allowed to come up to the Hill to discuss." Who told you you couldn't come?

A I think that came from a number of different individuals. I can't remember specifically, but I heard "no" from pretty much every corner. And I repeatedly said, I'm happy to go to the Hill. I'm happy to talk to the media. You know, it's my face they're seeing on TV. I should be out in front, and I'm happy to humanize this effort. But I was never allowed to do that.

Q Do you remember --

Mr. Issa. Did that include DHS's leg affairs person?

The Witness. The leg affairs folks were actually very helpful and supportive of me doing that. So it wasn't OLA that made that decision. I can say that for certain.

BY [redacted]

Q Do you remember what the concern was? If there was a concern of you coming up to the Hill?

A I still don't know what the concern was.

Q And if it wasn't OLA, do you remember what component it was that told you you couldn't come up?

A It wasn't a component. It was probably advisors to the Secretary. So some of the same comms advisors that we mentioned before.

[redacted] Okay.

About 3 minutes, if any of the members have questions.

Chairman Jordan. What's the advisory board that made the recommendation to cancel and stop the Disinformation Governance Board?

The Witness. The homeland security advisory committee.

Chairman Jordan. Homeland Security Advisory Council.

The Witness. Ah, council, yes.

Chairman Jordan. Do you know who those individuals are?

The Witness. I believe the cochairs of it are former DHS Secretary Michael Chertoff, and also Jamie Gorelick. I'm not aware of the further membership, though.

Chairman Jordan. Did you have any interaction with that advisory council prior to them making the decision?

The Witness. I did not.

Chairman Jordan. Okay. I want to do real quick if I can -- I want to just give you something. I just want your reaction.

Can you pass this out? This is a -- we have some copies.

This is an email from the White House on January 23rd, 2021, to Twitter. From Clarke Humphrey to folks at Twitter. I'm just curious. We talked about disinformation, misinformation, malinformation earlier. If you could take a look at that.

And then look at the underlying tweet from Robert F. Kennedy, Jr., if you could.

Mr. Ivey. And this is exhibit 8?

[redacted] Yes. We'll enter this as exhibit 8.

[Jankowicz Exhibit No. 8

Was marked for identification.]

Mr. Ivey. Okay.

Chairman Jordan. So the White House -- I don't know if it is a male or female -- Clarke Humphrey sent this email to Twitter and said, "Hey, folks. Wanted to flag the below tweet and am wondering if we can get moving on the process for having it removed ASAP."

Do you think it's appropriate for the White House to be telling Twitter what should happen on its platform or not?

The Witness. Congressman, this is the first time I'm seeing this, of course. Again, it doesn't relate to the activities of the Disinformation Governance Board. So I'm not sure it's pertinent to the subject at hand.

Chairman Jordan. Can you take a look at the tweet from Mr. Kennedy? From Robert Kennedy, Jr.?

The Witness. Uh-huh.

Chairman Jordan. Is there anything in that tweet that's not accurate?

The Witness. I don't know, sir. Again, I'm not a COVID expert. I'm not an expert -- I don't even remember this happening. So I can't give you an assessment of that.

Chairman Jordan. Hank Aaron is a real person.

The Witness. Yes.

Chairman Jordan. Hank Aaron took the shot. Hank Aaron passed away a few weeks after the shot. That's what the tweet says. It doesn't say cause and effect.

And then we have the White House telling Twitter this tweet needs to be taken down as soon as possible. And this is part of disinformation. In fact, he calls it misinformation, which I think, according to your definition, is false but no malign intent.

Mr. Ivey. Mr. Chairman, I thought she already said that she doesn't know anything about this.

Chairman Jordan. She was going to be the chair of the Disinformation Governance Board..

The Witness. Yeah. My reaction, Congressman, is that I had no ability to be an arbiter of truth. I was not going to be deciding what was true or false online. So my opinion on a tweet that was sent more than a year before I entered government service is irrelevant.

[redacted] Our time is up.

Chairman Jordan. Thank you.

[redacted] We'll go off the record. Thank you.

[Recess.]

[redacted] We can go back on the record.

BY [redacted]

Q Just addressing a couple of things that were raised in the earlier hour.

We talked through some best practices, and you used as examples things that Estonia is doing and things that Sweden is doing, for example. Those are just examples, right?

A Yes.

Q And it wasn't your intent, you know -- going in, it was your intent to gather information. There was no intent necessarily to put into place any kind of, like, recommendation that we follow the Estonian system, right? That was all just examples?

A Yeah. That's correct.

Q Okay. You mentioned the recommendations that you had made to DHS.

A Uh-huh.

Q And you said you don't know if any of your recommendations were put into place. You hoped they were.

I want to introduce as exhibit 9 a fact sheet that was released.

[Jankowicz Exhibit No. 9

Was marked for identification.]

BY [redacted]

Q Are you familiar with this?

A Yes, I am.

Q Okay. And this is dated May 2nd, 2022?

A Uh-huh.

Q Did you have a role in working on this?

A I did.

Q And can you explain how it came to be?

A So one of the fact sheets that we had created prior to the announcement of the board was used as a kind of draft. And with much input from various corners of the Department and communications staff, this is the document that resulted. So you can imagine the sort of commenting process that went through there. But it was a long and drawn-out process.

Q And what about the process for releasing it on May 2nd?

A That was outside of my personal knowledge. So once I inputted on the document, it was then signed off on by various and different entities around DHS, and potentially within the White House as well.

Q Okay. But to your -- so -- but it was actually released?

A Uh-huh.

Q And it was -- did you want this to be released?

A I wanted it to be released when we announced to the board. Not more than 5 days afterward when people were clamoring for information.

Q Okay. Got it. And then just one more question on a separate issue.

We talked a little bit about CISA and some other entities. To your knowledge, what is -- can you explain, actually, what CISA stands for?

A Yeah. CISA is the Cyber and Infrastructure Security Agency.

Q And what is CISA's role within DHS?

A Again, like many DHS entities, it plays a lot of roles. But they deal with the protection of critical infrastructure.

Q Okay. And how did you foresee the DGB interacting with CISA?

A So, as I mentioned before, CISA has a pretty robust portfolio in this area. They are one of the ones that have been working on this issue for a long time. And so, I wanted to give them space to do what they did and support them where they needed support, but not substantively change any of the work that they were doing already.

Q Okay. And are you familiar with a different group called the Center for Internet Security? It's sometimes called CIS.

A I am only familiar with them from what I have seen in the news from last week.

Q Okay. Are you aware that CISA and CIS are different entities?

A I am aware of that, yes.

Q And to your knowledge, is CISA a government entity or a private entity?

A Is CISA?

Q Sorry. CIS.

A CIS, to my knowledge, is a private entity.

Q Okay. But you don't have any personal knowledge of what they do or anything?

A No. I just learned about them last week.

Q But they are different than CISA?

A They are.

Q Okay.

[redacted] All right. That's it. We're good. Thank you.

We can go off the record. It's 1:11.

[Recess.]

[redacted] We'll go back on the record. It's 1:12 p.m.

BY [redacted]

Q Ms. Jankowicz, I want to go back to the charter. I believe it's marked as exhibit No. 3. I'm going to refer to section one, the second paragraph there. And it goes through the lines of effort.

What did you understand cross-functional lines of effort to mean?

A The areas in which DHS was already working.

Q So the first one is identifying MDM. How did you understand DHS was already conducting work in that line of effort?

A This was something that I was seeking to understand better. But to the best of my own knowledge, from my short time in government, I understood that within each operational component, there were individuals working to look at or identify disinformation with a nexus to homeland security.

So FEMA was on the lookout for disinformation about disasters or disaster

benefits. CISA was on the lookout for disinformation about cyber or election infrastructure issues, et cetera.

Q And what was your understanding from the charter and your work within the 10 weeks at the board -- what was your understanding that the role of the board would be in that line of effort?

A Very little. Setting the guardrails, as I mentioned before, for how to do that work with privacy, civil rights, and civil liberties in mind.

Q And what guardrails did you think were necessary?

A It was too soon to say. Again, I was trying to understand where the gaps were and where we needed those guardrails. So that was in a very early stage, and I can't really conjecture where the work might have led.

Q And were you able to identify any of the gaps in DHS's work?

A I would say the gaps that I identified were less related to identification. And, again, as I mentioned before, the work is iterative, right? So I thought we had to start at the ground floor and talk about some of the big-picture ideas before we drilled down into some of the other things. So I can't testify to kind of any gaps in identification because I just didn't get to that granular of a level at that point.

Q Yeah. And understanding that you weren't able to get to a granular level, did you have any concerns about how DHS was identifying MDM at the time?

A No, not from what I learned.

Q And you said that -- one example you used was FEMA. Had they identified any MDM?

A Yeah. So if we refer to Exhibit 9, one of the things that we talked about was Hurricane Sandy, Maria, and Ida. FEMA actually had a really robust mechanism for during hurricane season to kind of track these scams and disinformation about safe places

to take shelter, things like that.

So that was kind of a shining star, in my understanding. And they were able to kind of communicate information out based on their tracking of the broad information space.

Q And during some questioning by Mr. Gaetz, you talked about some of the best practices and how you said something about contextualizing information.

Would that have been an example of when you needed to contextualize the information that was out there?

A With FEMA, I mean, I think that is such a life-or-death situation for people. It's less about contextualizing and more just reaching people that are in harm's way.

But contextualizing -- an example of that could be, you know -- a great example, actually, from the 2020 election. If you recall the joint effort by DOJ and DHS in responding to Iranian disinformation that was attempting to disenfranchise voters, kind of threatening them before going to the polls. And they were able to get out there and do a news conference and say, Actually, we're able to prove that this is coming from Iranians who have targeted you specifically. You shouldn't buy into this. That was really effective. And that's the sort of contextualization that works well.

Q And how would you define contextualization that works well?

A It has to do with adding more information, responding quickly, and doing so from an authoritative source. So the government or, you know, a trusted local organization often -- you know, as I mentioned before, the government is not the best messenger. So that's where, you know, partnerships with State, local, Tribal, and territorial entities could come into play. Just, again, hypothetically.

Q And the second line of effort here is "assessing and analyzing the risk that such MDM poses to homeland security."

What work on that line of effort did you do in your 10 weeks there?

A Again, I would say that the majority of my work had to do with getting the board announced and then conducting these initial review, kind of interviews with people. So in terms of risk assessment, that hadn't really gone forward. Ditto for kind of how we would respond or how we would build resilience.

Q And when you had these steering group meetings where the components kind of talked about the work -- the MDM work that they were doing -- I think you talked about 5-minute speeches -- did they ever mention any of the risk or risk assessments that they had performed?

A Not to my knowledge, no.

Q And number three line of effort is "responding to these MDM threats." Would contextualizing --

A It could be a response, yeah.

Q What other responses did you think?

A Putting more information out there. The sort of educational efforts that I spoke about before that CISA was already engaged with. But again, all pretty hypothetical because we never -- the work didn't continue.

Q And number four, for building resilience to MDM. Did you have the opportunity to work on that line of effort?

A We did have one sub-working group meeting for anybody who was interested in discussing information literacy, and how or if DHS entities might be involved in that. It was just one kind of very basic meeting. And that, I believe, had representation from FEMA and CISA.

Those are the only two I can recall off the top of my head. But it was just, again, kind of a -- what is this thing, and how does it interact with our mission set?

Q And is the working group different from the steering group?

A So this was a sub-steering group.

Q Okay.

A Yeah. So the steering group was working-level people, and this was just a sub-steering group of anybody interested in kind of the information literacy vein of things.

Q And how many subgroups of the steering group were there?

A That was the only one.

Q And you said it just had that one meeting of discussing media literacy?

A That is correct.

Q Okay. And then I'll turn to section four here, "board responsibilities."

The first sentence there says, "Components will lead in MDM-related operational responses and other efforts to counter MDM in their relevant mission spaces."

Can you provide examples of MDM-related operational responses that you are aware of?

A Yeah. I would refer back to the fact sheet that DHS put out. So CBP doing a communications campaign trying to dissuade potential migrants from coming to the U.S. illegally. FEMA getting good information out there about how to access aid and, you know, different emergency responses. And CISA identifying disinformation coming from foreign -- foreign entities.

Q So in the 10 weeks that you spent at DHS working on the board, did you ever have any discussions related to best practices for operational responses?

A The only discussion that I think could be considered barely robust enough to touch on that would be what I just mentioned, the sub-steering group on media literacy. Otherwise, we were just at the very, very beginning of setting things up and getting them

moving.

Q On the last page of the charter, section seven, "relationship to other departmental governance bodies," the second sentence reads, "As such, all DHS-wide or component-specific proposals for funding related to efforts to counter MDM should be appropriately coordinated with the board, including in advance of submitting any final funding proposals."

During your work at the DGB, did you ever discuss funding proposals?

A No.

Q Ever discuss a process for reviewing the funding proposals?

A No.

Q What did you understand that those funding proposals would include? Or what is DHS spending funds on?

A So my understanding was that there would be a central kind of coordination mechanism for grants related to disinformation.

So as an example, the science and technology component, which is -- S&T is a member of the board -- they do research related to disinformation. The idea was that, you know, that component would inform the board and other components about the work that they were doing so that everybody could benefit from it.

Or if there was a grant that was undertaken from CISA to -- I mentioned a game that they developed before -- that other components would be informed so that, if necessary, or if applicable, if warranted, they could potentially use those resources as well. It was meant to ensure that taxpayer funds were being used appropriately and not kind of duplicated, if that makes sense.

Q And during your time at DHS, did you ever kind of get a grasp on what funds were being expended on the countering MDM or --

A I did not.

Q No inside as to the grants that were out there?

A A very top-level insight that that was going to be something that we would look into further as the work developed.

Q What was your top-level insight?

A Like a number?

Q Yeah.

A I have no idea. I don't know.

Q What would you define as top-level insight?

A Kind of understanding the different areas of expenditure. So again, I mentioned most of them. Grants for kind of implementation, grants for research, and then different sorts of software, like FEMA in particular, in order to assess threats in the information space. It had, like, a social listening software, probably similar to what many congressional staff use.

[Jankowicz Exhibit No. 10

Was marked for identification.]

BY [redacted]

Q Okay. I'm going to enter as exhibit No. 10 an April 20th, 2022 email regarding a case study between Ms. Jankowicz and other DHS officials. This is exhibit No. 10.

A Thanks.

Q Take your time to review.

A Okay.

Q Do you recall being on this email chain, sending these emails?

A Vaguely, yeah.

Q So on the first page here, Bates No. 181, in an email on April 20th at 3:44 p.m., you said, "Thanks, Rob. Here's where we stand with the case study."

What was the case study?

A Yeah. This was a series of conversations between I&A, CBP, and policy staff.

That was Siri.

A series of conversations between those three entities to understand how they were responding to disinformation around irregular migration. So part of the kind of review of operations.

Q And then on the next page, 182, at the very top, it says, "In short, however, we have not yet been able to identify a false narrative that meets the threshold for departmental response."

How would you define false narrative?

A In -- so this would be false information that is leading migrants to take the journey to travel to the United States illegally.

Q And what did you think in this email was needed to meet the threshold for departmental response?

A Something that was cut-and-dry false that had no questions about it. In this case, this would be coming from a foreign entity, and that -- the other thing to keep in mind is that, often, when governments attempt to respond to disinformation, sometimes they inadvertently give more oxygen to things that aren't actually a problem.

And so, the idea here is that none of these things were also big enough to push back on, because we didn't want to actually inadvertently amplify them, if that makes sense.

[1:27 p.m.]

BY [redacted]

Q And how would the Department have pushed back?

A Releasing good information, potentially through kind of the preexisting campaigns, like "Say No to the Coyote."

Q So would the board have kind of set guardrails or best practices on how best to assess whether a narrative is true or false, or --

A That was one of the things I had hoped to do in the future, yeah, but it was pretty far away from where we were on April 20th.

Q And so, in order to be a false narrative and meet a departmental response, it would have to be cut-and-dry false? Were you going to set best practices on how to determine if something was false, cut and dry?

A I had hoped to do that, yeah.

Q And what did you think that that would look like? Had you given that any thought?

A That would have been determined in coordination with the rest of the board. It wasn't up to me.

Q And did you have any discussions with the rest of the board about how that would go?

A Nope. Board never met, so I never met any of the members of the board either.

Q And before the board was terminated, it was paused. Do you recall that?

A I do.

Q And do you remember why the board was paused and why it was decided to pause it rather than immediately disband it, if you will?

A It was explained to me that the board would be paused so that it could be reviewed by the Homeland Security Advisory Council, and they would make a decision about how to proceed with the board.

Q Were you involved in any of the conversations surrounding the pause?

A I initially was told that the board would be disbanded and was offered that policy adviser role that I mentioned before. Then I was told actually the board would be paused, did that change my calculus at all about whether I wanted to stay? And it did not, so I still resigned.

Q Were you able to be involved in the discussion, have your voice heard? I know you've mentioned some frustration. Did you feel like your frustrations were heard?

A I did not, and I was not involved in any of those conversations.

Q And when was one of the times that you thought your frustration wasn't heard?

A I repeatedly asked and expressed my willingness to come up to Capitol Hill and talk through the concerns that lawmakers had about the board with them personally.

I repeatedly asked to be allowed to speak on the record about the board's work because it, as you have heard today, is a lot less scary than it was being characterized as. And, as the person who had unfortunately become the object of public derision, I felt that I was owed that opportunity.

I wanted to release materials, fact sheets, press releases, et cetera, about the board's work and the plans that we had. And, in fact, we did have one or two briefings with congressional staff.

And the guidance from up above was that we were to be as vague as possible, which I found very frustrating, because there were things that I have spoken to here

today that I felt that we could elaborate on at that meeting, at those briefings that occurred.

Q And who was telling you to be as vague as possible?

A I think guidance was coming from elsewhere in the building, but it -- Jen Daskal did those briefings with me, and this was her guidance as well.

Q So Jen Daskal gave you that guidance, but it came from someone else. Do you know who that came from?

A I don't.

Q Were you told that it was the Secretary's decision, or advisers around the Secretary?

A I don't know for sure.

Q And how many briefings did you have?

A I believe there was one with House staff and one with Senate staff on related appropriations and authorities committees.

Q And did you ever get a sense of why you were told to be vague?

A No. That didn't make much sense to me, frankly.

Q Did you feel that the whole response from DHS was vague?

A Yes.

Q Did you ask Jen Daskal why?

A I don't believe I did. It was a pretty kind of ad hoc set of days that was very intense. And so it was kind of just what was communicated to me right before getting on the call, and I had to run with it.

Q And do you know, did Ms. Daskal share your concerns about being vague or wanting to share more information?

A I think Jen is a very cautious person. She's also a lawyer. And so she

didn't want to sign us up for anything that we couldn't deliver on potentially. And that was my understanding of how she was approaching it.

I know she was very personally upset for what I went through. And, actually, she and Rob had faced similar threats, but not to the degree that I did. But I think she just had a very different stance toward public communications than I did.

Q And do you know, did anyone else share your frustrations about the rollout, whether it be Under Secretary Silvers or Ms. Vinograd?

A Under Secretary Silvers definitely shared my frustration as well. Yeah, I think he felt really bad for what happened to me.

Q Do you remember what the sum and substance of his concerns were with the rollout, if he was concerned or frustrated?

A I know Rob and I had a couple of conversations about our frustration with not being able to speak to the media. He had also been -- he volunteered himself for some of those interviews, and obviously way outranked me.

But he also was not allowed to speak, to my knowledge, and I think that was frustrating to him. But that was at the point where, as I think I mentioned before, he said, "Well, it's kind of -- it's being decided above my pay grade."

Q And so it's your understanding that Under Secretary Silvers did raise his willingness to speak on the record about the board?

A That is my understanding, yes.

Q And it's your understanding that he was told he could not?

A Yes.

Q And when were you told that the board would be terminated?

A I'm trying to think about dates here. So I resigned on Wednesday, May 18th -- 17th, 16th -- it would have been May 15th, I believe, a Sunday. Jen and Rob

called me and said, "Hey, it looks like this is the way that things are going to be going. We'd like you to stay on. You know, the work is important. You could stay on as a disinformation policy adviser. Let us know what you think."

Q And during the pause in the decision to terminate, were there any efforts to change the mission of the board or restart it, to your knowledge?

A I had no communication with anybody outside of -- or anybody within DHS after May 18th.

Q And so, when you and Under Secretary Silvers were discussing your willingness to come to the Hill or speak publicly, do you know who was telling Mr. Silvers that he couldn't speak?

A I don't know.

Q Do you know who made that decision?

A No.

Q Did he ever tell you who made that decision?

A Nope. It was all a mystery to me.

Q Did you think it was a good idea to terminate the board?

A I did not.

Q And what was your thought process on the termination and the pause?

A It was clear to me during my time at DHS that coordination was something -- more coordination was something that could benefit DHS and something that could benefit the Federal Government.

In fact, I've written papers about this before as well, that coordination mechanisms, as we talked about before with the U.K. Government, are really important to responding to disinformation appropriately and to making sure that the response is effective.

And the conclusion that there was no need for a Disinformation Governance Board was, frankly, in direct contradiction to some of the issue areas that I identified as needing support during my time at DHS.

Q And I just kind of want to go to some of the decisionmakers here.

So do you know who made the ultimate decision to terminate the board?

A I do not.

Q Was it at the level of the Secretary?

A I believe that the Homeland Security Advisory Council made a recommendation to the Secretary, and he took that recommendation on board. But I will caution that I have only read about this in the press, so I know as much as you do.

Q Was there any White House involvement to your understanding?

A I have no idea.

Q And in regards to not pushing more information out publicly, not allowing Under Secretary Silvers or you to come to the Hill, do you think that was a decision made by the Secretary?

A I don't know.

Q If it was above Under Secretary Silvers' pay grade, who would -- who is above him?

A Yeah. The Secretary or potentially somebody at the White House, but I don't know how far above.

Q But it was above Secretary -- or Under Secretary Silvers' pay grade to your understanding?

A That was what he told me.

Q Okay. And how did he communicate that to you?

A In a phone call.

Q Do you remember when about that phone call was?

A It would have been the end of the week before the pause, termination of the board. So mid-May, like May 13th or 12th, maybe.

Q And what do you remember about that call?

A I called Rob because I was extremely frustrated with the continued personal attacks on me, my family, my body of work, the threats that we were under, and statements that had been made on the House floor about me. And I said that I wanted to speak to the media, and if they didn't allow me to, then I was going to consider either leaving or doing it without their sanction.

Q And I know you weren't involved in the conversations to disband the board, as you've mentioned today, but what is your understanding for why the board was disbanded? Why do you think it was disbanded?

A I really can't -- I can't speculate on the reasons that they came to this conclusion, so --

Q Do you think that you could have gotten past the blowback of the rollout of the board and done positive work with the Disinformation Governance Board?

A I think, for as long as DHS let this issue fester, it had clearly become a divining rod in politics based on the false accusations about what the board was meant to be doing. And essentially they were -- they felt that they were forced to give it up, is what my sense of the situation was. Yes.

Q And, when you say the issue, let the issue fester, was that the kind of botched rollout of the board, so to speak?

A The botched rollout and the lack of communications, efficient communications, from there on out.

Q And I know you've testified today that the work of the DGB was to help

coordinate the ongoing MDM efforts at the Department. Are those efforts still ongoing to your knowledge?

A I don't have any knowledge other than what has been reported. I know there have been stories in ProPublica, for example, that have uncovered how a lot of that work has been paused since the disbandment of the board.

Q Do you think it would be wise for the Department of Homeland Security to restart something similar to the Disinformation Governance Board?

A In this political environment?

Look, I believe in efforts like this. I believe in efforts that seek to help government work better on behalf of their citizens. And at its heart that is what this effort was meant to do.

So, yes, if DHS or another Federal entity were to set up a coordinating mechanism to help the government respond to disinformation that makes Americans less safe, I would be in favor of that. I just probably wouldn't give it the name that they gave it.

Q And you don't have any work that involves interactions with DHS, I believe you said at the very start of the deposition?

A I do not.

Q During the 10 weeks that you served as the Executive Director of the board, did you communicate with anyone at the White House?

A I communicated with a few NSC personnel. And I cannot remember their names, unfortunately.

Q What was the context for those interactions?

A It was related to National Security Committee business around disinformation, so -- and I've forgotten. They've got different verticals. I think these folks were on, like, the democracy vertical, team democracy, something like that.

Q And do you remember what issue areas they worked on?

A They worked primarily on countering disinformation and hostile state influence.

Q Did you ever receive any orders or actions that you were supposed to take from the White House?

A No.

Q Did you ever communicate with anyone regarding the work of the board at the White House?

A Yes. So with those same individuals on the NSC, we talked about plans for the board just based on kind of the charter and the things that we've walked through today, kind of how to be a coordinating mechanism and how best to support DHS components.

Q So the plans that you discussed were just around how you would coordinate efforts at DHS?

A Uh-huh.

Q Did you go into any details about what your best practices may look like?

A No, because they weren't determined yet.

Q And did you ever communicate with anyone at the White House regarding MDM generally?

A I was, as I mentioned before, involved in a couple of sub-NSC convenings related to foreign interference primarily.

Q And did the NSC have any role in the Disinformation Governance Board?

A No. Just as -- ideally what would have happened if the board had continued with that would be that the board would be kind of the belly button for NSC input into DHS' counter-MDM efforts. How many buzzwords can you fit into one

sentence?

[Laughter.]

Q And what other government agencies would have been interacting directly with the DGB in the ideal world?

A Anybody who had any sort of counterdisinformation remit within their portfolio.

Q And outside of DHS, did you have any regular meetings with other government agencies?

A Not regular meetings, no, that weren't organized by the NSC. Just those NSC meetings that I mentioned.

Q So were the only other government agencies that you met with at all NSC, or did you meet with other government agencies during your time with the board?

A I met with some State Department officials and someone at ODNI who had come on at a similar time period as me to work in a counterdisinformation function at ODNI.

I'm just trying to think if there was anyone else. I mean, as I mentioned before, at some of those sub-NSC meetings there were individuals from across the interagency, but I didn't have specific meetings with them.

Q And, speaking with ODNI, what did you understand was ODNI's MDM-related work?

A I believe there was some -- I'm not an expert on this, so I'm going to be paraphrasing -- there was a bill that was passed in a previous Congress about setting up a -- some sort of counterdisinformation coordinating cell within ODNI, and that person was working on that, some of that work. But I don't know the details of it.

Q And were you aware of any specific ODNI efforts?

A No.

Q Was that your only interaction with an official from ODNI?

A Yeah. And I would say it was more social than anything else. We had lunch.

Q Did you -- I know that at the top of the deposition you talked about outreach to Twitter, and Facebook reached out to you. Were there other social media companies or tech platforms that reached out to you?

A I got one email from a vice president at Substack, but we never met.

Q And you talked about a Twitter meeting that never occurred. Is that correct?

A Yep.

Q And that was because Under Secretary Silvers was going to be in the bay area?

A That's why we reached out to Twitter, yes.

Q Did he already have meetings set up with Twitter, or why was he going to be in the bay area to your understanding?

A It was unrelated to the board. I can't recall what his travel was based around. But it was a series of public engagements related to another part of his portfolio.

[Jankowicz Exhibit No. 11

Was marked for identification.]

BY [redacted]

Q Okay. I'd like to enter as exhibit No. 11 a Twitter memorandum from April 28th, 2022.

Sort of skipping around here.

A So this is 11?

Q Yes, 11.

A Okay.

Q Okay. And on the last page, page 4, the page numbers are kind of towards the right there.

It says that the staff responsible for briefing memo was Ms. Jankowicz.

So did you draft this memo?

A In coordination with one other staffer who -- I guess it's probably my phone number that's blacked out. But there was another staffer involved.

Q Do you remember who was involved?

A Elizabeth Kozey.

Q And what was Ms. Kozey's role?

A She was the detailee from Policy that I mentioned before that was working to support the board.

Q Was she an attorney?

A She was not an attorney. She was a long-time civil servant from CISA.

Q And when you were kind of working to set this meeting up or interacting with Twitter, what was your understanding of who was planning to attend the meeting?

A Under Secretary Silvers and one staffer, whose name I can't recall, but who was traveling with him to the bay area.

Q One of Under Secretary Silvers' staffers?

A That's correct.

Q And did you have an understanding of who from Twitter's side would attend?

A We were hoping that Nick Pickles and Yoel Roth would attend. But this

request for a meeting really never went beyond initial emails.

Q And on page 1 of the memo, under the background section, it says, "Propose that Twitter become involved in Disinformation Governance Board Analytic Exchanges on Domestic Violent Extremism and Irregular Migration."

A Uh-huh.

Q How would you define analytic exchanges?

A Yeah. So the Analytic Exchange Program is something that has been going on at DHS. It notes that CISA has an analytic exchange program as well.

This is an opportunity for working-level staff at both the industry and government sides of things to talk about things that they're seeing in their particular issue space. It's not about making recommendations of any sort. It is just an exchange of information basically.

Q So Under Secretary Silvers was going to propose that Twitter become involved so that they could be informing DHS what they were seeing? Is that what I'm understanding?

A It goes both ways. The information goes both ways. So Twitter could say, "We've been seeing these coyotes saying X, Y, and Z about smuggling people. These are narratives that you should be informed of to protect the homeland," right? That sort of thing, and vice versa.

Q Were there existing analytic exchanges that you were aware of?

A As it notes here in the memo, Twitter was involved in the CISA analytic exchange program on election security.

Q And do you know who was involved in those analytic exchanges?

A I don't know the exact members, no.

Q But it would be DHS and then the private sector that tracked --

A Outside entities, yeah.

Q Outside entities. And how would you define outside entities? Would that include tech platforms, academics, private sector institutions?

A To my knowledge, each analytic exchange has kind of a memo that governs it, and so each one has different participants. But it could involve any of the entities that you've mentioned.

Q So if the Disinformation Governance Board analytic exchanges kind of got up and running, there would have been a memo? Is that what I'm understanding?

A That's correct.

Q So these analytic exchanges never --

A Not even close.

[Laughter.]

Q Were you working with other individuals to be involved in the analytic exchanges?

A Do you mean within or outside of government?

Q Both.

A So the lawyers who were working with me were responsible for kind of creating the architecture for the analytic exchanges. We were still working on that. It was very nascent at the time.

And then I think the analytic exchanges may have gotten mentioned in very loose terms to the Global Internet Forum to Counter Terrorism. They might have been involved in the DVE-related one. And that will have been it.

Q And what do you mean by that architecture of the analytic exchanges? Can you explain that?

A Yeah. So one of the key things about these exchanges is that they have

rules governing them so that no one misunderstands what they're about. They are simply an exchange of information.

So under no circumstances should there be recommendations issued, especially to the kind of outside-of-government entities. That is, like, enshrined in the rules.

They have very narrow foci. So, like, this DVE exchange, we wouldn't be able to bring up something about election security there and vice versa. That's to make sure that they don't create kind of a snowball effect and create more -- or like the semblance of impropriety where there is none.

Q And then that next bullet, it says, "Ask what types of data or information would be useful for Twitter to receive in Analytic Exchanges or other ways the Department could be helpful to Twitter's counter-MDM efforts."

A Uh-huh.

Q What was your understanding of Twitter's counter-MDM efforts?

A This would be within Twitter's policy shop to identify and respond to disinformation on the platform.

So if we go back to the Iranian example I used before, I think the idea here was to share information and say, "Okay, we've got this Iranian email chain that is trying to disenfranchise voters. Here you go." Right? Like not dictating what any platform should do, but just providing information that we might have that they do not have.

Q And the bullet, the first bullet under the background section, it says, "Note, Nick and Yoel both know DGB Executive Director Nina Jankowicz."

Did you know them from your work prior to the DGB?

A I had met them at conferences, yes.

Q At conferences? And how long had you known them for, would you say?

A I met each of them once. I met Nick Pickles once, in 2018, and Yoel once,

in -- I believe it was 2020. It's in that hazy prepandemic couple of months. I think it was the beginning of 2020. But those were the only interactions we had in person.

Q And did you interact with Yoel and Nick during your time at the board?

A I did not.

Q So you didn't reach out to them regarding this meeting?

A As I testified earlier, I can't recall who sent the initial email, if I was just copied on it or if I sent the initial kind of outreach.

But other than that initial outreach about the meeting, we did not interact. And, again, I'm not even sure that was me. It might have been something that I was copied on or vice versa.

Q And earlier in the deposition you talked about Facebook reaching out in April.

Do you remember kind of who was going to be invited to attend that meeting? Or what stage were you at with that meeting?

A To my knowledge, Nathaniel Gleicher reached out to Under Secretary Silvers, who was unable to take the meeting, so he bounced it to me. And at least Sam Vinograd and Jen Daskal were going to be involved.

It was going to be a virtual meeting, because we were all in different parts of D.C. on that day. And I'm not sure who Facebook intended to bring to the meeting.

Mr. Biggs. Can I go back to that last document you had just real quick before you leave it?

[redacted] Yes, sir.

Mr. Biggs. Sorry. I thought you had more, so I was -- I didn't want to interrupt.

[redacted] That's fine.

Mr. Biggs. But I just didn't want you to leave it.

So I'm looking at the document. And this -- as I understand correctly -- it's 11, whatever it is -- the Twitter document. You prepared that with a colleague. Is that --

The Witness. As most briefing memos, yeah, it was kind of cobbled together from preexisting documents.

Mr. Biggs. Okay. And that's what I wanted to get at.

The Witness. Sure.

Mr. Biggs. Because you actually have -- you don't have policy recs and you don't have operational recs. What you do have, however, are substantive factual statements in here in various places.

So, for instance, under Ukraine, the second bullet point on page 4, it talks about, "Following actions taken by the U.S. and allies, we have seen increased instances of MDM."

And I don't know whether I'm to take it that you put that substantive statement in, that whole paragraph, or you got that from someone else or some other part. So I'm asking for clarification.

The Witness. Sure. Absolutely.

So I would say that, on page 3, the first chunk, where it says, "DHS Efforts on MDM," introduce the DGB, talk about the DGB, that's the only part of the memo that deals with the board.

The rest is talking points for the Under Secretary to update the Twitter colleagues about work that was ongoing at the Department, not something that I was personally involved in, and had been, again, kind of copied over from other briefing memos.

Mr. Biggs. That's what I want to a make sure I understand.

So you must have had interaction with other colleagues and said, "Look, Under Secretary is going to be out there, whoever is going to be out there, and I want to know

what we should hit on."

They said, "We're just going to talk about Ukraine. They're going to talk about DVE."

And so you took their talking points and basically copied and pasted it in here? Is that fair to say?

The Witness. So the staffer that was going to be accompanying him on the visit called me up, said, "Hey, we'd like to set up a meeting with Twitter. Can you put together a notional agenda and talkers for us in case the meeting goes forward? We'd like to introduce the board. We want to talk about public-private partnerships, and we want to talk about current activities." And she listed off a couple.

And then DHS has a SharePoint, so all of the documents are there. I grabbed what I thought was relevant, as did my colleague Liz.

Mr. Biggs. I see. Okay. Thank you very much.

The Witness. Uh-huh.

BY [redacted]

Q And going back to the meeting with Facebook, what did you understand the context of that meeting was going to be?

A It was going to be a meet and greet.

Q Did you know, was there a plan to ask them to get involved with the analytic exchanges as well?

A It was -- I don't even think we had an agenda for the meeting. And it got moved a million times because of competing schedules. So we didn't have a solid plan beyond saying, "Nina is at DHS now. Here is kind of the broad framework for the board. What's up with you?"

Q And you also said that you received an email from Substack. Is that

correct?

A Uh-huh.

Q And they reached out to you?

A That's correct.

Q And do you remember what they wanted to discuss?

A Again, I think it was kind of just a meet and greet, get on the radar sort of situation.

Q Did you ever go forward with the meeting?

A We did not.

Q Did you have -- did you know anyone at Substack?

A I believe the woman who emailed me knew a mutual friend of mine.

Q And do you remember who that mutual friend was?

A The mutual friend?

Q Yeah. Was it like a DHS official, or --

A No. It was a personal friend.

[Jankowicz Exhibit No. 12

Was marked for identification.]

BY [redacted]

Q I'm going to enter an email from May 2nd, 2022, between Under Secretary Silvers; you, Jankowicz; and another DHS official. This will be exhibit No. 12.

Just take your time to review.

A Thanks. Okay.

Q So on May 2nd, 2022, Under Secretary Silvers forwarded you an email from a technology company requesting a meeting to discuss the board.

As part of the forwarding message, he said, quote, "What have you been doing re:

requests from platforms?"

Do you recall receiving this email?

A Yeah, vaguely.

Q Do you know the company that was referred to in this email?

A I mean, looking at it, it looks like it's probably Google, but I don't know for sure.

Q Do you know if the meeting ever took place?

A Not while I was at DHS, it did not.

Q And in the email from the company, which may or may not be Google, it says, "Hi Rob and KelliAnn. I hope that this finds you both well! With the recent announcement of the misinformation, disinformation governance board, we would welcome the opportunity to meet and discuss the goals and how we can be most helpful in achieving them."

What did you understand would be a helpful role for a tech company such as this one?

A It's a good question.

I think, again, especially at these early stages, we were just in the beginnings of meeting and greeting and saying, "This is what we hope to achieve. Would you like to potentially be involved in these analytic exchanges?" if they had gone forward.

But it's very speculative, and so I can't really say what would have been discussed at a meeting with maybe Google.

Q Yeah. And what did you -- why were these tech companies reaching out? You know, Substack reached out. Facebook reached out. This tech company reached out.

Why do you think they were reaching out?

A Speculation. Again, I'm not in their heads, and certainly I've been extremely critical of those tech platforms throughout my career.

But I think there is a degree of reticence about, in particular, foreign disinformation and the ways that foreign disinformation has been allowed to flourish on those platforms, especially back in 2016.

And there is an idea that these exchanges of information between government and social media platforms can help both entities stay ahead of the curve and achieve more together.

Q And with the charter and the work that you were doing with the rollout and getting the board up and running, did you see any sort of relationship between the DGB and tech platforms?

A Well, I think in the context of the analytic exchanges that was what was envisioned. And, again, those would be very narrow, very bounded, and very driven by specific threats that we saw.

Q Would the DGB have put into place any guidelines, or was it contemplated that the DGB would put any guidelines in place regarding content moderation?

A Absolutely not. That was not something that I saw as within the DGB purview. And certainly these platforms are private entities and can enforce their content moderation guidelines and make them as they see fit.

Q And in response to the Under Secretary's message, on the first page here, you say, "I haven't gotten any from the big folks yet."

A Uh-huh.

Q What did you mean by "big folks"?

A Yeah. Facebook, Twitter -- Facebook and Twitter basically.

Q Okay. So to put this in context, this was before the outreach from

Facebook?

A So no. The outreach from Facebook would have been earlier. This is from kind of in the aftermath of the board announcement.

Q Okay.

A I hadn't gotten any outreach from Twitter and Facebook.

Q And you said that that call with this tech company never took place, to your knowledge?

A Correct.

Q Did you interact with any other tech companies while working for the board?

A Not to my knowledge, no.

Q Did you ever interact with any tech companies regarding MDM?

A During my time at the board?

Q Yes.

A Other than the meetings that we have discussed that never occurred, no.

Q To your knowledge, were any other DHS employees that were detailed to work on the board taking meetings with tech companies?

A They were not.

Q Do you know if Under Secretary Silvers or Ms. Daskal or Ms. Vinograd had any meetings?

A Not -- I -- they might have had meetings that weren't related to the board. But if there was a board-related meeting, I would have been there.

Q And to the extent that there were interactions between the DGB and tech companies, as you've said, it would be more of an exchange of information? Is that correct?

A Yes.

Q And that's what you foresaw?

A Uh-huh.

Q That there would be no role for the DGB and telling them what to moderate?

A Absolutely not.

[redacted] We can go off the record.

[Recess.]

[redacted] We can go back on the record. It's 2:07.

BY [redacted]

Q Thank you. Again, I know it's been a long day.

You know, we've been talking a lot about disinformation and DHS' role. And I think there is some kind of baseline things that we never got established. So I want to go back, take a step back.

You've been publicly referred to as an expert in disinformation, right?

A Yes.

Q Okay. And you've published two books on it? Is that right?

A That's correct. Yeah.

Q Okay. And how many articles do you think?

A Probably about a hundred in different formats, yeah.

Q Okay. All right. So you -- I think we can stipulate that you are an expert in this area.

So talk about the analytic exchanges.

Why is DHS concerned about disinformation?

A I think we have seen a number of areas that fall within DHS' portfolio. We've named many of them today -- election security, irregular migration, domestic violent extremism -- which, by the way, is that third pillar I could not remember

before -- DVE, disasters -- that all have elements of disinformation and falsehoods that people are using for -- often for profit, right? The coyotes who are smuggling people are using them for profit. The folks who are trying to scam people out of their disaster relief are doing so because they can make money from it.

And I think that should be pretty anathema to most Americans. And it, frankly, makes Americans less safe. And that is why DHS is concerned.

Q And what about foreign disinformation in particular? Does that also make Americans less safe?

A Yeah. I think not only does it make Americans less safe, it makes us vulnerable to foreign interference. But it also often deprives people of their democratic rights. It either encourages them to stay home and not vote, or it puts false information out there so that they're misled about their decisions at the voting booth.

And I think every American should be concerned about foreign entities that are interfering in our election process. And of course CISA, that's a part of their mandate.

Q And when was CISA created? Do you know?

A CISA was created in the Trump administration, I believe.

Q Okay. And that would have been under Secretary Nielsen?

A Yes. And Christopher Krebs was the first head of CISA.

Q Okay. And do you -- you don't remember when the actual bill passed that established CISA, do you?

A I don't.

Q Okay.

Okay. We talked a fair amount in the first -- or, sorry, in the hour we just went through -- about what's been described as the botched rollout from the DHS perspective.

I want to look a little bit about the external forces that were helping to drive that.

A Uh-huh.

Q And I want to start with April 27th, which was the day that the board was actually rolled out, correct?

A Uh-huh. Yes.

Q So the board was first announced in a April 27th, 2022, Politico Playbook blurb, right?

A Uh-huh, yes.

Q Okay. And I want to actually introduce that blurb into the record.

A Okay.

Q That will be -- oh, we are -- what exhibit are we on? Twelve, maybe?

Mr. Herman. I believe 13.

[redacted] Thirteen.

[redacted] Thirteen.

[Jankowicz Exhibit No. 13

Was marked for identification.]

BY [redacted]

Q And it's on -- this is -- obviously this is, I think, an email newsletter, and so it all appears as one page on the screen. But for our printed off purposes, I'm going to look at page 10. We've actually highlighted the blurb here.

So it says -- and have you -- you saw this -- you've seen this before?

A Yes.

Q Okay. It says, "DHS is standing up a new Disinformation Governance Board to coordinate countering misinformation related to homeland security, focused specifically on irregular migration and Russia. Nina Jankowicz will head the board as Executive Director. She previously was a disinformation fellow at the Wilson Center,

advised the Ukrainian Foreign Ministry as part of the Fulbright Public Policy Fellowship and oversaw Russia and Belarus programs at the National Democratic Institute."

A Uh-huh.

Q In your opinion, was this three-sentence blurb an accurate description of the board?

A It was accurate, if vague.

Q Right.

A Yeah.

Q So it probably could have been -- maybe potentially could have been longer, but there is nothing in here that's inaccurate?

A Correct.

Q Okay. So this was released at 6:58 a.m., and then, I think, updated at 7:39 a.m.

A Uh-huh.

Q Within a few hours that afternoon an individual named Jack Posobiec started tweeting about the board.

A Uh-huh.

Q Are you familiar with Mr. Posobiec?

A I am.

Q Okay. What's your understanding of who he is?

A He is a conservative commentator, is the nicest thing I can say about him.

[Jankowicz Exhibit No. 14

Was marked for identification.]

BY [redacted]

Q Okay. I'm going to introduce as exhibit 14 a June 10th, 2017, New York

Times article entitled "A Pro-Trump Conspiracy Theorist, a False Tweet and a Runaway Story."

So we've highlighted the first couple sentences here, and I'm just going to read them into the record quickly.

It says Mr. Posobiec "had his Twitter sights set on James B. Comey.

"A pro-Trump activist notorious for his amateur sleuthing into red herrings like the 'Pizzagate' hoax and a conspiracy theory involving the murder of a Democratic aide, Mr. Posobiec wrote on May 17th that Mr. Comey, the recently ousted FBI director, had 'said under oath that Trump did not ask him to halt any investigation.'

"It mattered little that Mr. Comey had said no such thing. The tweet quickly ricocheted through the ecosystem of fake news and disinformation on the far right, where Trump partisans like Mr. Posobiec have intensified their efforts to sow doubt about the legitimacy of expanding investigations into Mr. Trump's associates' ties into Russia."

And then the article goes on to describe how Mr. Posobiec's inaccurate and misleading tweet spurred a, quote, "alternative first draft of history" in conservative media about what Mr. Comey said.

A Uh-huh.

Q So this is an example in the past of Mr. Posobiec taking something out of context and spinning it and making it into, quote, "alternative draft of history," right?

A Uh-huh.

Q Okay. And I also want to introduce into the record an exhibit -- as exhibit 15 -- an article from the Southern Poverty Law Center summarizing past anti-Semitic statements and pro-White nationalist statements from Mr. Posobiec.

We actually have two articles. I want to introduce them as 15 and 16?

[Jankowicz Exhibits No. 15 and 16

Were marked for identification.]

BY [redacted]

Q The first one's dated July 8th, 2020. It's entitled "Twitter Gave Free Rein for Jack Posobiec to Publish Anti-Semitic Hate and Disinformation."

The second is dated July 8th, 2020. It's entitled "Jack Posobiec's Rise Tied to the White Supremacist Movement."

And I'll give you a second to look through these, and then I'm going to ask if they're generally consistent with your understanding of his background to the extent that you're familiar with him.

Are those generally consistent with your understanding of his background?

A Yes.

Q Okay. And they're long articles, so I'm not going to read them into the record, but they'll be available as part of the full record.

So Mr. Posobiec tweeted about you several times on April 27th. Are you familiar with those tweets?

A Yes, vaguely.

Q Okay.

A Uh-huh.

Q I'm going to walk through them. And I know they may be a little offensive, so I apologize.

A Yep.

[Jankowicz Exhibit No. 17

Was marked for identification.]

BY [redacted]

Q So his first tweet was posted at 2:13 p.m. on April 27th, 2022. And we will mark this as exhibit 17.

Pretty straightforward. It says, "Breaking: Biden Admin Department of Homeland Security to Create a 'Disinformation Governance Board' dedicated to 'countering misinformation.'"

Were you aware of this when it was posted?

A Yes, I was.

Q So he then moved on to target you directly.

A That's correct.

Q So we're going to introduce as exhibit 18 his 2:20 p.m. tweet. It's a photograph of you appearing on what appears to be an MSNBC show.

[Jankowicz Exhibit No. 18

Was marked for identification.]

BY [redacted]

Q It says, "The DHS board will be headed by Nina Jankowicz, who once claimed militarized Trump supporters would show up at the polls with weapons to intimidate voters."

Are you -- were you familiar with this tweet when it was posted or shortly thereafter?

A Yes.

Q Okay. Was Mr. Posobiec's statement that you "once claimed militarized Trump supporters would show up at the polls with weapons to intimidate voters" accurate?

A No.

Q Okay. And there is a photo in here. It looks like it's showing you on an

appearance at an MSNBC show hosted by Ali Velshi. The caption's a little faded out, so it looks like, "how to lose information," something?

A Uh-huh.

Q Do you recall this appearance?

A I'm not sure what the specific appearance was, but I think the chyron probably says something about my book. That's the titled of my book, "How to Lose the Information War."

Q Okay. And so to the best of your knowledge, and realizing that you might not know the appearance, did it have anything to do with what Mr. Posobiec wrote in his tweet?

A I'm not sure. I'm not sure.

Q Okay. He then posted another tweet at 2:24 p.m., again targeting you. We're going to introduce that as exhibit 19.

[Jankowicz Exhibit No. 19

Was marked for identification.]

BY [redacted]

Q It reads, "Jankowicz is also known for forming a Harry Potter 'wizard rock band' known as The Moaning Myrtles."

A Yes. It's okay.

Q What was your reaction to this tweet?

A I mean, I wasn't sure how what I did when I was a teenager was relevant to my professional career. Clearly Mr. Posobiec was trying to embarrass and undermine me.

Little does he know that people who have backgrounds in musical theater are very hard to embarrass.

[Laughter.]

So it didn't work.

Q But your impression was that he posted this basically as an attempt to embarrass you, you said?

A A gotcha moment, yeah.

Q Okay. He then posted another tweet. He referenced a tweet you posted in October 2020. I'm going to introduce this as exhibit 20.

[Jankowicz Exhibit No. 20

Was marked for identification.]

BY [redacted]

Q He said, "Here is Nina in 2020." And then he posted a tweet that you posted in 2020.

Did he take this out of context?

A He did. So this was during the Presidential -- one of the Presidential debates, and I was live-tweeting the debate. These are the words of both candidates, Biden and Trump, kind of a summary of what the candidates were saying.

So then candidate Biden was talking about the letter that 50 former national security officials signed, and Trump responded: Russia, Russia, Russia.

And then after this happened people believed that I had made some sort of pronouncement about the content of the laptop, when I had done no such thing.

Q And are you aware that he actually just used a screenshot of your tweet, so he didn't actually even link to your tweet so that people could get the context? He just posted this out there?

A Yes.

Q Okay. And so that probably helped propel some of the false narrative,

right?

A To some extent. I don't believe that a lot of people do a lot of research when they're looking around Twitter threads. But yes.

Q So then he posted two more tweets, and we're going to introduce them just to have the full context.

A Uh-huh.

[Jankowicz Exhibits No. 21 and 22

Were marked for identification.]

[redacted] He tweeted at 2:47 p.m. a summary of your biography. And he doesn't actually cite the source. And he says the comment -- he has the comment, "Jankowicz formerly worked as an advisor to the Ukrainian government under a Fulbright-Clinton scholarship (sic)."

And at 3:29 p.m., he tweeted the Politico announcement with the quote, "What could go wrong?"

The Witness. These are exhibits? Were you introducing this?

[redacted] Twenty-one and twenty-two.

Mr. Herman. Twenty-one and twenty-two.

[redacted] Twenty-one and twenty-two, yeah.

So shortly thereafter, Ms. Hemingway -- do you know -- are you familiar with Mollie Hemingway?

The Witness. I'm not.

[redacted] Mollie Hemingway is a -- the editor-in-chief of The Federalist. She's a conservative journalist. And she's the author of the book "Rigged: How the Media, Big Tech, and the Democrats Seized Our Elections."

The Witness. Okay.

[Jankowicz Exhibit No. 23

Was marked for identification.]

BY [redacted]

Q After -- in the middle of Posobiec's tweet thread about you, she posted a comment in response to his very first tweet. It said, "Ministry of Truth."

Have you seen this tweet before?

A I don't believe I have.

Q So we looked back. I think this was the first time that that was -- are you familiar with the words "Ministry of Truth" being used prior to 3:16 p.m. on April 27th, 2022, in regard to the Disinformation Governance Board?

A Not to my knowledge.

Q Okay. So later in that day, just to lay out everything that happened on April 27th, Mr. Posobiec tweeted that Ministry of Truth was the number one trend in the United States after news the Biden admin launched a Homeland Security "Disinformation Board."

This is going to be exhibit 24.

[Jankowicz Exhibit No. 24

Was marked for identification.]

BY [redacted]

Q So we've kind of laid out the story here of how all of this goes down. Could you summarize in your words what was happening on kind of conservative social media on the day of the rollout?

A I would say that a lot of baseless speculation and lying was occurring with an intent to undermine the board effort and also to specifically put me in the crosshairs of individuals who wished me harm.

Q All right. And, in fact, are you aware that the next day Mr. Jordan actually brought up your name during a -- during testimony -- during Secretary Mayorkas' appearance before the Judiciary Committee?

A I am.

Q And are you aware of whether the statements he said that day are accurate or not?

A There have been a lot of statements that Chairman Jordan has made about me, so I'd have to look at those specific statements.

Q But you're aware that he made statements about you?

A Yes.

Q Are you aware that he tweeted about you the next -- that afternoon?

A I am aware. I don't know the content of the tweet. But I know he started to tweet.

Q Was there any effort by Mr. Jordan or his staff to reach out to you that day to verify the facts about the Disinformation Governance Board before he spoke with Mr. Mayorkas or before he tweeted?

A Not to my knowledge.

Q Okay. And so what was out there, though, was this spin in conservative media, right?

A That's correct.

Q Okay. And then, sometime later on, you got a letter from Mr. Jordan, right?

A I believe in May, yes.

Q Okay. And do you know if the statements made in that letter were accurate?

A I believe most of the letters that we received from Congress, from the congressional Republicans, included allegations or misstatements of fact about the board, about my previous statements, and about my work.

Q And are you aware that at some point in May Ms. Boebert, who is a Member of Congress, introduced a bill to dismantle the Disinformation Governance Board?

A I am aware of that.

Q And that was before you -- before the board was actually paused, right?

A Yes.

Q And are you aware that Mr. Jordan was actually at the press conference announcing that bill?

A I was not aware.

Mr. Ivey. Could I ask --

[redacted] Yeah.

Mr. Ivey. -- did the death threats and calls that you started getting start happening at around the time of the Posobiec text messages and Twitter and as well as Mr. Jordan's comments?

The Witness. It was within days, so -- I'm a disinformation researcher, right? It was clear which way this was going by that evening. That evening, my husband and I purchased a security camera for the front of our house.

By the next day, I had engaged a private security consultant, because I didn't believe that DHS was doing the work necessary to look at the dark web and kind of respond to the threats, and I wanted to be aware of them.

And by that Friday -- so the board was announced on a Wednesday -- by that Friday, that private security consultant had told me that I -- it was his estimation that I

should leave my home.

Mr. Ivey. So you called a private security firm on the -- was that the 27th?

The Witness. I think it was the next day, the 28th.

Mr. Ivey. The next day?

The Witness. Yeah.

Mr. Ivey. Okay.

The Witness. So, within that 48-hour period he made the estimation that I should leave my home and go somewhere that was kind of off grid.

Mr. Ivey. I think you testified earlier that sometimes if you -- sometimes statements get made and the government needs to be careful about how it responds, because it could give it a bigger platform and more oxygen.

The Witness. Yeah.

Mr. Ivey. Yeah. Is that your sense about what happened here?

The Witness. I'm not sure, Congressman. I think this was personally -- my estimation is that it was more of a case of the government not being able to respond rapidly.

I think there was a desire to respond. The wagons were circling, and they just kept circling and circling and circling, and there was just not -- nobody -- nobody felt they could -- they could call it and get a response out there. It was less about giving it oxygen.

At this point Mr. Posobiec has millions of Twitter followers. It was clear -- and there is a clear pipeline often between folks like him and cable news networks like FOX. And so I thought it was clear that that was going to be on TV by the next day.

Mr. Ivey. Uh-huh. And so just the timeline -- and I'm looking back for one of these exhibits.

The Witness. Uh-huh.

Mr. Ivey. So the announcement is made by Homeland Security about the board.

The Witness. Uh-huh.

Mr. Ivey. And that's on -- is that the 26th?

The Witness. 27th.

Mr. Ivey. 27th. Later on the same day, Mr. Posobiec starts putting out these statements.

The Witness. Uh-huh.

Mr. Ivey. And was it the 28th that Mr. Jordan made comments at the hearing?

[redacted] April 28th, correct.

Mr. Ivey. April 28th? And then on the -- did you get the home security on the 28th or the 29th?

The Witness. Security camera on the 27th, private consultant on the 28th, yes.

Mr. Ivey. Okay. And then I think the statement of facts is what I'm looking for. Yeah. Fact sheet. That was released on May 2nd.

The Witness. Yep. Took way too long.

Mr. Ivey. Yeah. So the fact sheet came out too late.

The Witness. Yes.

Mr. Ivey. But the fact sheet was necessitated by the false statements that had been made leading up to that point.

The Witness. I would say that the fact sheet should have been released when we made the announcement. I don't -- again, I can't speculate as to why they decided not to release the fact sheet and then we went on a 4-day editing spree after that.

But, yes, they decided to put the fact sheet out, and by that point the vacuum was so large that it barely made a dent in it.

Mr. Ivey. Okay. And the vacuum that they left was filled by Mr. Posobiec and others?

The Witness. And many other commentators, Members of Congress, and influencers.

Mr. Ivey. Okay. And some of the Members of Congress we just talked about, Mr. Jordan and Ms. Boebert, I guess?

The Witness. Yes. And I consulted my notes, and Mr. Issa indeed did make a lot of statements about me despite his memories to the contrary.

Mr. Ivey. And that was during this timeframe?

The Witness. Yes.

Mr. Ivey. All right.

Go ahead.

[redacted] Okay.

[Jankowicz Exhibit No. 25

Was marked for identification.]

BY [redacted]

Q On May 12th Mr. Jordan posted a tweet that I'm going to introduce as exhibit 25, and we're actually introducing an archived copy of this for reasons that I'll explain in a minute.

A Twenty-five?

Q Twenty-five. We just doubled the number of exhibits.

[Laughter.]

Have you seen this tweet before?

A Yes.

Q Okay. And, before we get into discussing it, are you familiar with the

Internet Archive?

A I am.

Q Can you explain briefly what the Internet Archive is, or what your understanding is?

A Sure. The Internet Archive, sometimes known as the Wayback Machine, allows any individual to capture essentially a moment in time on the internet. If that web page is to change in the future, it will have captured it based on that date.

Q Okay. So on the tweet that I just introduced or the exhibit that I just introduced, see in the upper right-hand corner where it says May 12th, 2022, and that's in yellow, highlighted in black?

A Yes.

Q What's your understanding of what that means?

A That this is what this tweet looked like on May 12th, 2022.

Q Okay. So we've introduced the archived version of this because it references a Disclose.tv post --

A Uh-huh.

Q -- which is no longer in existence. So I'm actually going to introduce now the tweet. It's still up, but as it looks now, just so we have a complete record, and we'll introduce this as 26.

Okay. And this will be 26.

[Jankowicz Exhibit No. 26

Was marked for identification.]

BY [redacted]

Q So you can see here that it says the tweet's unavailable. It's been removed. So going back to the version as it existed on May 12th, 2022, Mr. Jordan tweeted,

"1984." And then he has a link to a video on a Disclose.tv lead.

Are you familiar with this video?

A Yes.

Q And can you describe -- it's a -- how long is it, the version in the Disclose.tv link?

A It is one minute long. Would you like me to describe kind of the contents of it?

Q Sure.

A This is a video of me discussing the then nascent Birdwatch program on Twitter. I was asked a question in a discussion that I was appearing in about what Birdwatch is. And now it's known as Community Notes.

This is an entity where -- or a program through which individuals on Twitter can add context to misleading tweets.

I, in order to kind of simplify the concept for the individuals with whom I was speaking, I said that they could edit the tweets.

And this video was stripped of context. It was -- my remarks were cut short. It was stripped of its time in which it took place, which had been earlier. It was way earlier than my joining the board, January 2021.

And it was presented as if it was my current beliefs, not a description of a program that Twitter had put into place, and that it was something that I wanted, when, indeed, actually, further on in the video, I actually criticized the program.

Q So is it fair to say the one-minute video that Mr. Jordan linked to just made it sound that you were endorsing editing tweets?

A Correct. I would refer to it as a manipulated video.

Q Okay. And the actual full context, do you know how long the actual

conversation was it was taken from? Was it more than an hour, for example?

A I believe it was at least an hour long.

Q Okay. And immediately before the section -- so the one minute of you talking about this product, immediately before that, was it clear that somebody had asked you a question that you were responding to?

A It was clear in the longer version of the video, yes.

Q Okay. And what Mr. Jordan posted was manipulated. It removed that section.

A That's correct.

Q Okay. And, in fact, at this point the original host of that video has taken it down?

A Oh, yeah. I'm not aware of that.

Q Okay.

A It's possible that that happened.

Q Yeah. So the current version of the tweet shows that the tweet -- that the video has been taken down.

A Oh, this, yeah.

Q Yeah.

A Okay.

Q So Mr. Jordan relied on this kind of manipulated video to say "1984," right?

A Uh-huh.

Q That's the comment he made.

What's your takeaway from that? Do you think that was an honest assessment of your words at that conference?

A No, I don't believe so. It was an attempt to scaremonger people into

thinking that I wanted to edit their tweets or add context to tweets, and it fit with the narrative that I was going to be an all-purpose arbiter of truth, which couldn't have been farther from the truth.

Q And did anybody on -- from Mr. Jordan's staff ever reach out to you to apologize for posting a manipulated video of you?

A They did not.

[Jankowicz Exhibit No. 27

Was marked for identification.]

BY [redacted]

Q Okay. And I actually, just to close out this line, I want to introduce as exhibit 27 an AP article. It's dated May 14th, 2022, just 2 days after Mr. Jordan posted his tweet. It says, "Old comments by disinformation board director misrepresented online."

I'm going to ask you to review and then ask if this kind of accurately assesses the misstatements in the video -- or the way the video misrepresented what you said, I guess.

Does that accurately represent kind of what we just talked through, the way your words were manipulated?

A It does.

Q Okay.

I want to move on to another tweet, and I apologize for, like, putting you awash in paper here.

A It's okay.

Q Mr. Gaetz posted a tweet on May 16th, 2022, that I'm going to introduce as exhibit 28.

[Jankowicz Exhibit No. 28

Was marked for identification.]

[redacted] And this links to an article that we'll introduce as exhibit 29.

[Jankowicz Exhibit No. 29

Was marked for identification.]

[redacted] Have you seen this tweet before?

[2:37 p.m.]

The Witness. I think I have, yes.

BY [redacted]

Q Okay. And are you familiar with the Revolver article?

A Unfortunately, I am.

Q Okay. So what -- can you summarize briefly what the article, the Revolver article says?

A So it is a conspiracy theory that alleges I have been involved with entities that seek to censor independent thought throughout the West broadly.

Q And --

A Although it's hard to state --

Q Right.

A -- because it's a long and meandering thing.

Q And the article refers to the Integrity Initiative. Do you think that conspiracy theory about the Integrity Initiative is true in your experience?

A It is not true. And I'll just testify under oath that, although my name appears on a spreadsheet, I have never had any sort of interaction with the Integrity Initiative. I happened to be, I guess, on a mailing list.

Q Okay. And that was going to be my question. So the article is not an accurate representation of any work that you've done or any role that you've played?

A Correct.

Q Okay. And -- but Mr. Gaetz linked to this in his tweet, and he posted, Oh, my, as his statement. What's your interpretation of the meaning of that?

A Again, I think this is more scare mongering and incitement against me. And I would say also that the editor-in-chief and kind of, I believe, the author of this article is

someone who has, even prior to my government service, incited pretty severe misogynistic and anti-Semitic hate against me, and I believe he has a relationship with Mr. Gaetz in the past.

Q Okay. And so, what was your reaction to Mr. Gaetz amplifying this -- this misinformation or this -- could we call it misinformation? Is that dis --

A I would say it's disinformation.

Q Okay. What was your reaction to Mr. Gaetz amplifying this disinformation about you online?

A I wasn't surprised, because, again, Mr. Gaetz has had a relationship with Mr. Beattie, who runs Revolver, which is known for the conspiracy theories that they spread. And it was just another conspiracy theory in the very well-stocked quiver that the GOP was using during this time to target me and the work at the board.

Q Okay. So when we talked earlier about kind of the bungled rollout of the plan, it was happening in the environment of these conspiracy theories and the scare mongering being amplified, right?

A Yes.

Q Do you think that had an impact on how DHS was able to respond to, you know, the -- what you -- what we've referred to as the bungled rollout?

A Absolutely. I mean, I still wouldn't excuse the way that DHS chose to respond, but I think the environment was extremely hostile.

[Jankowicz Exhibit No. 30

Was marked for identification.]

BY [redacted]

Q Okay. And the last tweet I'm going to introduce, we'll introduce it as exhibit 30. This is a tweet from Mr. Jordan on May 18, 2022, when the board was

dismantled or after the board was dismantled. It's -- it retweets or reposts a Washington Post reporter -- or, I'm sorry, a FOX News reporter saying that the board has been dismantled, and Mr. Jordan says, huge win for free speech.

Were you aware of this tweet when it was posted?

A Yes.

Q Okay. What was your reaction to this?

A I actually believe that it is not a win for free speech. I think that, you know, without the board and activities to put guardrails on certain activities that are being undertaken in the Federal Government that I -- I'm worried about what a potential other administration might do with powers like those that -- that DHS or other agencies have.

And my -- as I've testified, my desire was to put those guardrails on. So it was sad for me, but it was also not surprising because Chairman Jordan was actually one of the first people to spread disinformation and lie about my past statements, so it was expected that he would react this way.

Q Do you think this was any type of a kind of a claim of victory by Mr. Jordan that his efforts had come to fruition and he'd taken the board down?

A Absolutely. We saw not only Representative Jordan celebrating, but certainly Representative Boebert. I believe she posted a picture of the board dead and buried, which itself is a bit of a dog whistle. And other members of the GOP were also celebrating the dissolution of this working group.

Q Okay.

Mr. Ivey. I was curious, you mentioned earlier about an advisory council?

The Witness. Uh-huh.

Mr. Ivey. And that -- I think you mentioned Jaime Gorelick, and was that Chertoff?

The Witness. Chertoff, yeah.

Mr. Ivey. And what was the context of that? They had a connection with your board in some way?

The Witness. No, no real connection with the board, no. The Homeland Security Advisory Council was -- is, to my knowledge, an advisory council made up of people from different political parties that works with the Secretary to kind of advise him on broad issues. When the uproar about the board began based on these falsehoods, the Secretary and his advisors decided that the advisory council would advise him on the fate of the board. But I never, during my time at DHS, met with anybody on the council.

Mr. Ivey. And is it your understanding that they advised dissolving the board?

The Witness. Yes.

Mr. Ivey. Okay. Did they have any role or decision-making with respect to the board prior to that, to your knowledge?

The Witness. They did not.

Mr. Ivey. Okay. That's it for me.

[redacted] Thank you. We can go off the record.

BY [redacted]

Q We'll go back on the record. It's 2:51 p.m.

Ms. Jankowicz, do you understand that you're here under subpoena?

A Yes.

Q And do you understand that you're required to answer questions today?

A Yes.

Q Where do you currently work?

A I work at the Center for Information Resilience.

Q And what's your position with the Center for Information Resilience?

A I'm the vice president for U.S. operations.

Q And it's been publicly reported that in that position, you have registered under the Foreign Agents Registration Act. Is that true?

A Again, I'm not sure how that is pertinent to the proceedings today.

Q Do you refute the public reporting?

A I am going to stand on my objection and not answer the question.

Q So you're not going to answer the question --

A That's correct.

Q -- even though you're required to answer questions from Congress?

A We're required to answer questions pertinent to the subject of the committee, and I'm not sure how my current employment today is relative to the activities of the disinformation board last year.

Q And are you aware that on the Center for Information Resilience website, it says that the Center receives funding from the U.K. Government, the U.S. State Department, USAID, and Australia's Department for Foreign Affairs? Do you refute that?

A I don't refute, but I also don't understand the pertinence to the inquiry.

Q Are you aware that that's listed on their website?

A Sure.

Q And I am going to enter the May 5, 2022 letter that the House Judiciary Committee GOP sent to you, and that'll be Exhibit Number 31. Take your time to review.

[Jankowicz Exhibit No. 31

Was marked for identification.]

BY [redacted]

Q Ms. Jankowicz, did you ever respond to this letter?

A We drafted responses, but it was up to the Department to send them, and that was not something that I was able to push forward.

Q Do you know if the Department sent those responses?

A I do not.

Q And you said last hour that there were some inaccuracies in the letter?

A Yes.

Q Okay. So we're going to go paragraph by paragraph here. So on April 27, 2022, Homeland Security Secretary Alejandro Mayorkas testified that the Biden administration had established a so-called Disinformation Governance Board to combat alleged disinformation and misinformation.

According to news reports, which you acknowledged on Twitter you will lead the board as its executive director, this board is un-American, undemocratic, and a dangerous escalation of the Biden administration's embrace of government-endorsed censorship. In addition, judging from your past statements, Americans cannot and should not trust you with your new-found authority to act as the Biden administration's arbiter of the truth.

What do you perceive as inaccurate?

A Well, I appreciate the opportunity to lay this out for you. So the board was not un-American, it was not anti-democratic, and it had nothing to do with censorship, as I have testified over and over and over again today. It was a coordination mechanism, within the Department of Homeland Security, to make sure that the Department was doing its work in a way that comported with American civil rights, civil liberties, and privacy.

I had no operational authority or ability to act as an all-purpose arbiter of truth,

and I would not have taken the job if that had been the case. In fact, I would've spoken out against it.

Q And on May 5, 2022, at that time frame we had the May 2, 2022, fact sheet. Is that correct?

A Yes.

Q And you were being told by DHS to be vague in congressional briefings at that time. Is that correct?

A Yes.

Q And you were being told that you couldn't come to the Hill to explain what the board was about. Is that correct?

A That's correct.

Q So the information that we were operating on was the fact sheet. Is that correct?

A The information that you were operating on is the fact sheet, and frankly, the fact sheet refutes a lot of the allegations that are in this letter.

Q And so, the next paragraph is, "The Biden administration has shown that it has, at best, a tenuous relationship with the truth. For example, President Biden has repeatedly and falsely asserted that facts about Hunter Biden's business dealings would correct Ukrainian and Communist Party linked Chinese nationals or Russian disinformation.

"President Biden made these assertions despite an independent Senate investigation substantiating many of the allegations. The New York Post has similarly reported on these dealings for years. And the New York Times and the Washington Post have more recently confirmed much of the original reporting."

Do you refute that the New York Times and Washington Post confirmed the

original reporting?

A I don't know the specific articles that are talking about this, but this is -- has nothing to do with me, so I'm not going to respond to that paragraph.

Q But you responded to tweets from Mr. -- I'm forgetting his name right now -- Mr. Posobiec that were in relation to your October 2020 tweets regarding Hunter Biden last hour. Is that correct?

A I didn't respond to his tweets specifically. I responded to the mischaracterization of my own words.

Q And so, in this paragraph it talks about how on October 22, 2020, the same day as the tweet that was introduced by my colleague last hour, you argued that the laptop story was a fairy tale about the laptop repair shop.

A That's a mischaracterization of my statements. And also, I'm not sure how my statements prior to my appointment as executive director of the board more than a year prior have anything to do with my conduct during the time when I was at the board. And I am searching for somewhere here your letter to us. Where is it? Not this one. Maybe it's this one? No, this is the subpoena.

There is a letter which you said that you would only be asking me about my statements as a government official, and I -- this was, again, more than a year prior to my joining the board, expressing my First Amendment rights, so not sure how it's pertinent.

Q But prior to being named executive director of the Disinformation Governance Board, you worked on disinformation, correct?

A Yeah, that's correct.

Q And so in 2020 you worked on disinformation. Is that correct?

A That is correct.

Q Okay. I'm going to enter as exhibit No. 32 your October 22, 2020, tweet.

A Exhibit?

Mr. Herman. Thirty-two.

[Jankowicz Exhibit No. 32

Was marked for identification.]

BY [redacted]

Q This is number 32. So the tweet states: Not to mention that the emails don't need to be altered to be part of an influence campaign. Voters deserve the context but a fairly tale -- fairy tale -- about a laptop repair shop.

[redacted] I think you misread that. Could you read that again? I think you misread it.

BY [redacted]

Q Yep. Not to mention that the emails don't need to be altered to be part of an influence campaign. Voters deserve that context, not a fairly (sic) tale about a laptop repair shop, correct? And you remember tweeting this?

A Yeah.

Q And then in the next paragraph of the May 5, 2022, letter, it states, "You have also pushed left-wing disinformation about the so-called Steele dossier, the false and tawdry set of allegations about President Trump generated and pushed by Democrat operatives during the 2016 election cycle.

"On April 22, 2020, you promoted the false narrative that the Steele dossier began as a Republican opposition research project. In fact, it was a Hillary Clinton's" -- "it was Hillary Clinton's campaign and the Democratic National Committee that paid Fusion GPS beginning in April 2016 for research that eventually became the basis for the dossier.

"You later promoted an interview with Steele that you described as providing some great historical context about the evolution of disinfo. You also promoted other

theories, for instance, about disclosures made by then-director of national intelligence John Ratcliffe that turned out to be false."

Do you refute that on April 22, 2020, you tweeted about the Steele dossier?

A Once again, pertinence. We agreed ahead of time that we were not going to discuss my statements prior to joining the board.

[redacted] We didn't have that agreement. I mean, we sent you a letter on Friday. I can read it.

Mr. Ivey. I think the line she's referencing is in the March 1 letter?

[redacted] Yeah. But, I mean, we don't -- this committee's letter from Friday, April 7th, says the committee is in receipt of your letter dated March 24th, in which you raise several subjects that you and your client -- this is, of course, directed to your lawyer -- claim were not pertinent to the committee's stated purpose.

As a general practice, the committee does not pre-negotiate or disclose in advance its specific deposition questions. Moreover, the committee does not agree with your assertion that specific subjects addressed in your letter are not relevant to the inquiry.

And these -- I mean, this question flows from, you know, the letters we've written, so clearly, that's, you know -- we've telegraphed it. We have an interest in these things.

Mr. Ivey. Well, let me read this language from the March 1 letter in the second paragraph: The references in that letter to your previous statements pertained to your untested commitment to civil liberties as a governmental official -- which is in italics -- in your then-new role as executive director of the so-called Disinformation Governance Board, and concerns that the board would misuse its official authority to censor speech under the pretext of addressing disinformation. Contrary to your attorney's representation, the committee's interest in obtaining documents and testimony concerns

your actions as a government employee -- in italics -- as we articulated in our letter of February 16, 2023.

[redacted] Right. But these -- you know, the information contained in the tweets and in our letter, I mean, forms the whole backdrop of this matter.

The Witness. And if I may, [redacted] the entire backdrop of this matter is based on lies, as I've testified over and over and over again. The board had nothing to do with arbitrating truth, and therefore, my expressions of my First Amendment rights as an American citizen have nothing to do with the board's activities.

[redacted] Okay. I mean, we'll ask the questions. You can answer them or you cannot, and we'll go forward.

The Witness. Okay.

BY [redacted]

Q On April 22, 2020, did you tweet about the Steele dossier?

A Not pertinent.

Q Did you, in your tweet, say that it began as a Republican opposition research project?

A Not pertinent to the Disinformation Governance Board.

[redacted] So you're refusing to answer the question?

The Witness. The Disinformation Governance Board had no authority to arbitrate or censor American speech. Therefore, my political inclinations have very, very -- in fact, zero pertinence to this investigation.

[redacted] Okay. But just for the record, you're not going to answer that question?

The Witness. I stand on my objection, yes.

[redacted] So you're not going to answer the question?

The Witness. I am not going to answer questions that are not pertinent on the advice of my attorney.

[redacted] Okay.

BY [redacted]

Q And so the Steele dossier that has come to light was the product of Hillary Clinton's campaign and the Democratic National Committee. Do you believe that the Steele dossier was disinformation?

A To be clear and on the record, I never answered any -- I never said anything about the contents of the Steele dossier, and you can look back on that. I never said anything about the contents of the Steele dossier. And actually, Mr. Jordan was one of the first people to spread disinformation about my opinions about the Steele dossier.

Q Do you believe that the Carter Page FISA was disinformation?

A I have no comment about that. I don't even know what you're referring to.

Q What are your views on the Steele dossier?

A Pertinence. There's no reason for me to answer questions that have no purview related to the Disinformation Governance Board. As the Disinformation Governance Board, we wouldn't have touched the Steele dossier with a 100,000-foot pole, so don't understand why we should be talking about it today.

BY [redacted]

Q Right. But we just asked you about it and then you said that we got it wrong, or Mr. Jordan got it wrong. So can you help us -- what -- like, what do you mean by that?

A I never commented on the Steele dossier publicly, and I'm not going to comment on it today.

Q Okay.

A My tweets have been mischaracterized in this -- in this letter. That's all I'm trying to set the record straight on. I don't -- I don't have any interest in commenting on the contents of the Steele dossier, alleged or not.

BY [redacted]

Q And so the April 22, 2020 tweet, we can go ahead and enter that into the record as exhibit No. 33.

[Jankowicz Exhibit No. 33

Was marked for identification.]

BY [redacted]

Q Have you had sufficient time to review?

A Uh-huh.

Q So in the last tweet in the thread there from you it says, and you're probably aware that it began as a Rus -- Republican, excuse me, opposition research project, too. The report covers explains that the inclusion of the Steele dossier didn't influence the conclusions of the ICA. Have a nice day.

A Uh-huh.

Q And in the letter, it says, on April 22, 2020, you provided the false narrative that the Steele dossier, quote, "began as a Republican opposition research project," quote. Is that accurate?

A I -- again, I've been advised to answer questions that are pertinent to the Disinformation Governance Board's activities, and I don't understand how this tweet from almost 2 years before my joining the board has any pertinence over the activities of the board.

Q And so, you were named to be the executive director of the Government Disinformation Board which was to set best practices and guardrails for the whole of DHS

to identify misinformation. And, you know, it -- would you concede that it could make people nervous that you are making these types of assertions on Twitter, and yet, you're supposed to lead this board that's supposed to set best practices and guardrails?

A This is one tweet, less than 240 characters, of bodies of -- my body of work, which includes two books, four congressional testimonies, some at the behest of your Republican colleagues in the Senate. I would suggest that you, if you want to look at my work and my commitment to civil liberties and disinformation, look at the rest of my work and not cherry-picked tweets that have been used to defame me, and frankly have led to significant threats to me and my family because they've been taken out of context and without nuance.

[redacted] We can go off the record. Thank you.

[Recess.]

[redacted] We can go back on the record. It's 3:09 p.m.

[Jankowicz Exhibit No. 34

Was marked for identification.]

BY [redacted]

Q I'm going to introduce as exhibit 34, and I'm not going to ask any questions, but I'm just going to introduce an article from the New York Times. It's dated October 27, 2017, by Ken Vogel and Maggie Haberman, and the title of the article is, "Conservative Website First Funded Anti-Trump Research by Firm That Later Produced Dossier."

[Jankowicz Exhibit No. 35

Was marked for identification.]

BY [redacted]

Q The next document I want to introduce, we'll introduce as exhibit 35. This

is a March 8th Politico article, March 8, 2023, Politico article entitled, "A Surreal Experience: Former Biden Disinfo Chief Details Harassment."

Are you familiar with this article?

A I am.

Q And did you participate in an interview for this article?

A I did.

Q Okay. So the article describes a situation in which you had to go to court to obtain a restraining order against an individual who had been stalking you for a year. We talked about that earlier, right?

A Yes.

Q Okay. On page 3, the article says that when you were 18 months -- I'm sorry, when you were 8 months pregnant strangers online were calling -- calling her, meaning you, a Nazi, ugly, and said that you should die. Is that an accurate description of your experiences?

A That is the sanitized version, yes.

Q Okay. And you did -- you received a lot of death threats as part of --

A I would characterize them in the tens of thousands of death threats, yeah.

Q The article says that a reporter reached out to Mr. Jordan's office to ask about the, quote/unquote, blowback that you encountered and was told by an aide that you had agreed to serve as the board's public face and thus should be held accountable in public. Do you think you have anything to be held accountable for?

A I only took a job in my area of expertise, something, again, that both Republicans and Democrats in this Congress have benefited from over the past 6 years. And to say that anybody, Republican, Democrat, in between, martian, I don't care, should receive death threats, or it should be okay that people are receiving death threats

because they're in public is very concerning to me as an American, and it's concerning for me as someone who hopes that other people won't be dissuaded from going into public service because of what I've been through.

I think we could be losing a lot of, especially women, especially people of intersectional identities and minorities, because they know that it's much worse for us in public -- public service, and being a public figure, and the fact that we have Members of Congress and media who act like it's a game, and that there aren't real consequences to the words that they say is really -- it's disturbing for me as an American.

[redacted] Thank you. We don't have any further questions. We can go off the record. Thank you.

[Whereupon, at 3:15 p.m., the deposition was adjourned.]

Certificate of Deponent

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: MARC POLYMEROPOULOS

Monday, April 17, 2023

Washington, D.C.

The interview in the above matter was held in Room 2237, Rayburn House Office Building, commencing at 10:03 a.m.

Present: Representative Bishop.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

[redacted] GENERAL COUNSEL

[redacted] LAW CLERK

[redacted] PRESS ASSISTANT

[redacted] COUNSEL

[redacted] SENIOR SPECIAL COUNSEL

[redacted] SPECIAL COUNSEL

[redacted] MINORITY CHIEF OVERSIGHT COUNSEL

[redacted] MINORITY OVERSIGHT COUNSEL

[redacted] MINORITY COUNSEL

For the SUBCOMMITTEE ON THE CONSTITUTION AND LIMITED GOVERNMENT:

[redacted] MINORITY INTERN

[redacted] MINORITY PROFESSIONAL STAFF MEMBER

For the PERMANENT SELECT COMMITTEE ON INTELLIGENCE:

[redacted] STAFF DIRECTOR,

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

[redacted] DEPUTY GENERAL COUNSEL

[redacted] COUNSEL

[redacted] MINORITY COUNSEL

For MARC POLYMEROPOULOS:

MARK S. ZAID, ESQ.

MARC S. ZAID, P.C.

1250 CONNECTICUT AVE., NW

SUITE 700

WASHINGTON, DC 20036

[redacted] This is a transcribed interview of Marc Polymeropoulos. Chairman Jordan has requested this interview as part of the committee's investigation into the letter about the Hunter Biden laptop that the 51 former intel officials signed.

The Committee on the Judiciary and the Permanent Select Committee on Intelligence are conducting oversight of Federal law enforcement and intelligence matters within our respective jurisdictions. This investigation serves to inform potential legislative reforms within the jurisdictions of the committees.

For example, we may consider legislative reforms, such as revolving door legislation for Federal employees with security clearances. These reforms might include allowing Federal employees with security clearances to retain their clearances after employment with the government, but limiting their ability to receive access to classified information for some duration after their government service.

The committees may also consider legislative proposals that would ban or restrict intelligence activities -- I'm sorry, intelligence agencies -- from engaging in, coordinating, or promoting any political activity related to Federal elections, including candidates for Federal office.

The HPSCI staff will limit their questions to the letter. The Judiciary staff, we may have a question or two on a couple other topics, and we can deal with that as we go forward.

I want to thank you for appearing here today voluntarily. Also, thank your counsel for facilitating this.

My name is [redacted] I'm with Mr. Jordan's staff. I'll have everyone on the staff introduce themselves for you.

[redacted] with the House Intelligence Committee.

[redacted] House Judiciary Committee.

[redacted] House Judiciary minority.

[redacted] for the Judiciary.

[redacted] House Intel majority.

[redacted] minority Judiciary.

[redacted] chief oversight counsel of the House Judiciary Democrat staff.

[redacted] with the minority.

[redacted] House Judiciary.

[redacted] House Judiciary.

[redacted] House Judiciary.

Mr. Bishop. I'm Dan Bishop, a member of the committee.

[redacted] House Judiciary Minority.

[redacted] House Judiciary minority.

[redacted] I'll go over the ground rules and guidelines that we'll follow during today's interview.

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

We'll take a short break at the end of each hour. If you'd like to take a break apart from that, please let us know, to consult with your counsel or for any other reason.

As you can see, there's an official reporter here taking down everything we say to make a written record. We'll do our best not to speak over one another. Sometimes we do have to stop and go back and say a question because we get talking.

We encourage witnesses who appear before the committees to freely consult with counsel. And it's my understanding that you're here today with Mr. Zaid. Maybe he can introduce himself for the record.

Mr. Zaid. Sure. Mark Zaid for the witness today, Z-a-i-d.

[redacted] We want you to answer our questions in the most complete and truthful manner possible, so we'll take our time. If you have any questions or if you don't understand a question we pose to you, please let us know.

We're not governed by the Federal Rules of Evidence or the Federal Rules of Civil Procedure. So if we do ask you a question and it calls for hearsay, just let us know how you've learned the information, and we can deal with it that way.

If you honestly don't know the answer to a question or do not remember, of course it's best not to guess. Give us your best recollection. And it's okay to tell us if you've learned the information from somebody else. Just indicate how you came to know the information.

If there are things you don't know or can't remember, just say so, and that will be fine. And you can inform us who, to the best of your knowledge, might be able to help us answer that question.

You should also understand that although this interview is not under oath, we're not swearing you in, that by law of course you're required to answer questions before Congress truthfully. And you understand that?

Mr. Polymeropoulos. I do.

[redacted] Witnesses that knowingly provide false testimony could be subject to criminal prosecution for perjury or for making false statements under 18 United States Code 1001. You understand that?

Mr. Polymeropoulos. Yes.

[redacted] And of course is there any other reason that you're unable to provide truthful testimony here today?

Mr. Polymeropoulos. No.

[redacted] Finally, I'll make a note that we aim to keep this information confidential as we go through a number of folks we're interviewing. So to the extent, we ask the courtesy of not sharing the Q&A. As other witnesses come in, we'd hate to have their testimony clouded by any information they may have learned from you.

And along those lines, to the extent we mark exhibits, we'll keep them, even if it's an exhibit that you may have provided us.

Mr. Polymeropoulos. Sure.

[redacted] Just for the sense of keeping the interview as confidential as possible.

That's the end of my welcoming remarks.

Democrat counsel have any?

[redacted] No. Just thanks to the witness taking time out of your schedule for joining us.

[redacted] Mr. Bishop, do you have anything?

Mr. Bishop. No, thanks.

[redacted] Okay. And from time to time, we'll turn around. We'll like to make sure that Mr. Bishop or any of our other members have a full opportunity to ask questions. So sometimes we might just stop in the middle and pivot to Mr. Bishop just to make sure he has an opportunity to get all his questions answered.

All right. I'll turn it over to [redacted] who will lead our questioning today.

[redacted] Okay. The time is 10:09.

EXAMINATION

BY [redacted]

Q Good morning.

A Good morning.

Q I have a few warm-up questions that I do for each individual. But given the nature of the work that you did and that this is an unclassified setting, if anything I'm about to ask you, you don't want to answer, or you can't answer, just feel free to let me know. All right?

A Okay.

Q Could you please tell us a bit about your professional background, Mr. Polymeropoulos?

A So I spent 26 years at CIA. Primarily worked on Middle East counterterrorism in the end of my career, on Europe and Eurasia. That's all in my unclassified bio or cleared bio.

Q When did you retire from the CIA?

A July 2019.

Q Okay. And what do you do now?

A Couple different things. I give talks on leadership. I wrote a book on leadership. I have a contract with MSNBC as an intelligence and national security analyst. And I also work for the Washington Examiner. I write a column for them maybe every two weeks on intelligence and national security.

Q All right.

You were one of 51 former intelligence officials who signed a public statement regarding Hunter Biden's emails, correct?

A Correct.

[redacted] I would now like to enter a document dated October 19th, 2020,

titled "Public Statement on the Hunter Biden Emails" into the record as exhibit No. 1.

[Polymeropoulos Exhibit No. 1

Was marked for identification.]

[redacted] And I would also like to enter the Politico article that featured the public statement dated October 19th, 2020, titled "Hunter Biden Story is Russian disinfo, dozens of former intel officials say" into the record as exhibit No. 2.

[Polymeropoulos Exhibit No. 2

Was marked for identification.]

BY [redacted]

Q What was the intent of the public statement?

A The letter?

Q Yes.

A Well, I think that it was certainly to provide some context, based on my experience and experience of others, on essentially Russian information operations, information warfare, and the possibility that they had once again engaged in such.

Q And what role did Mike Morell play in the creation of the statement?

A I believe this is what we provided to the committee. I think Mike Morell on the -- I think it was on the 17th -- had wrote me a text asking me if I thought there was any -- kind of any Russian involvement in this. I said that I thought that there was, based on my professional background. He asked if I would be willing to write something with him on this. And that's how this began.

Q Okay.

[redacted] I would now like to enter a draft of the statement Michael Morell and Marc Polymeropoulos sent to potential signatories, including a request to sign, dated October 19th, 2020, at 1:38 a.m., into the record as exhibit No. 3.

[Polymeropoulos Exhibit No. 3

Was marked for identification.]

BY [redacted]

Q In this it says, "Marc and I drafted the attached because we believe the Russians were involved in some way in the Hunter Biden email issue and because we think Trump will attack Biden on the issue at this week's debate and we want to give the VP a talking point to use in response."

I'll ask about the use of this letter and the debate at another time, but for now I want to establish a bit of who did what in the creation of it.

A Sure.

Q So Morell asked if you would be willing to co-draft the statement with him, correct?

A Actually, he asked if we would write something together.

Q Okay.

A At first it was -- I wasn't sure what the medium would be, whether it would be an op-ed or not. In fact, I think it was -- that was the -- that was my thinking, it would be an op-ed.

Q All right. And he sought your opinion before drafting the statement?

A That's right.

Q And asked whether you thought, quote, "the Russians played in the Hunter Biden laptop thing."

Why do you believe Mr. Morell asked you that? Do you believe that was him expressing uncertainty over whether the Russians were involved and he wasn't sure and wanted to get a second opinion or have you had a longstanding relationship with him?

A Sure. So we definitely had a relationship, Michael as the Deputy Director

and then the Acting Director. I had briefed him numerous times, knew him quite well from times, whether I worked -- have to be careful -- when I worked in headquarters roles, when I would brief him, and then when I was in the field at field stations when he would come visit.

Prior to that, my wife, who was an Agency officer as well, had been his executive assistant. So we got to know Michael well. You know, he turned into not only a professional colleague, but a friend.

I think he was asking -- based on my last role at the Agency and what I can tell, disclose about it, I was the acting and then -- I was -- I'm sorry, I was the deputy and then acting chief of operations in Europe and Eurasia between early 2017 and then in 2019 when I retired.

And so I had some I wouldn't say expertise, but I certainly had a professional background on Russian active measures. That's why I think he asked me.

Q Okay. That was the last role you had before leaving the CIA, correct?

A That's right.

Q Did you get the sense that he was asking because he was uncertain himself whether the Russians, quote, "played" --

A I don't know. I don't know.

Q Okay. And then you sent Mr. Morell a list of what y'all described as hallmarks that he used to write the first draft, correct?

A Right. I sent him -- and I think that was provided to the committee as well --

Q Yes.

A -- I sent him kind of a backgrounder on just my thoughts. I don't recall if he was going to take exact language from that or not, but he certainly -- that was for him to

draft.

Q And I will enter that into the record as well.

[redacted] I will now enter an email Marc Polymeropoulos sent to Michael Morell dated October 17th, 2020, at 8:01 p.m., into the record as exhibit No. 5.

[Polymeropoulos Exhibit No. 4

Was marked for identification.]

[redacted] I think it's 4.

[redacted] Oh, is this 4? Sorry.

BY [redacted]

Q So we took some time to review the list of hallmarks that you sent. We also now know that the contents on the laptop have been authenticated.

Do you still believe that the Russians played in the laptop thing?

A I don't know.

Q You don't know?

A I think that ultimately that chapter has not been written. I don't know. And even with the understanding that the laptop has been authenticated, that was, I think, part of the thinking involved, that it certainly could be real.

Q Did you have a role in recruiting other signatories to the statement?

A I was asked to provide some email addresses of some other former colleagues. That was certainly not my primary role in this at all.

But I do recall Michael asking, and I think we submitted that as well, to some email addresses of some other colleagues. That was not my responsibility in this. Mine was really the background piece.

Q Did you have a role in outreach to former officials in terms of strategizing who you wanted on the letter with you?

A What I can recall is just the names that I -- there was that text, I think, where I gave some names of individuals. But that wasn't -- that was based on, I think, Michael asking me: Who else do you think would be interested in considering signing?

Q We know that the statement was shopped around to a variety of officials, some of which did not sign on, including, for example, Lisa Monaco.

Do you have any knowledge as to why some officials declined to sign on, including Ms. Monaco?

A No. I was not involved in that. I have no idea.

Q Okay. Did you play any role in tasking other officials that we either intend to speak to or have already spoken to with roles in the creation or the promotion of the statement, such as Kristin Wood? Did you give her any sort of assignments or duties on how to get the word out there?

A I don't recall. I think Kristen's role in this, again, from what I remember, was to do what you're talking about now, is the outreach to others. I don't recall if I gave her any advice on what to do or not. Again, I go back to that, those text messages on individuals who I have their email address.

Q Okay. In regards to the draft itself, did any of the former officials have edits or suggestions to either the input that you provided or initial versions of the draft that went around?

A So the input I provided, I sent this document or I sent only to Michael. And in terms of the drafts and other folks' comments, I was not aware of any of that.

I think there were some emails in which people agreed to sign on. That was part of what we provided. But in terms of the substantive nature of it or if they had any edits, I was not privy to any of that.

Q Okay. We know that the statement as published is different from the draft

that was originally circulated. In particular, the last two paragraphs referencing, quote, "Vice President Joe Biden taking his private and public stand against the then Prosecutor General of Ukraine, Viktor Shokin," were taken out for being what was described as too political.

Do you know why that was?

A I'm not aware of any of that, no.

Q Okay. And you don't know who suggested taking that out?

A No.

Q Okay. In emails Mr. Morell and you sent out soliciting signatures for the statement with a draft of the statement attached, you wrote, "Marc and I drafted the attached because we believe the Russians were involved in some way in the Hunter Biden email issue and because we think Trump will attack Biden on the issue at this week's debate and we want to give the VP a talking point to use in response."

Was the purpose of the statement then to help Vice President's Biden campaign?

A Well, this is Michael's email that he sent out. I didn't -- this is not my language.

Q Okay.

A So obviously I saw it. But the draft, this is Michael's email that he sent out to others. So that statement on giving the Vice President a talking point to use in response, that's not from me. I mean, I think that if you take a look at this, clearly that was the intent when it went to others when they're asking to sign on, but that's not my language.

Q But do you agree with that? Had you also hoped that it would be used in that way?

A Yeah, I think so.

Q Okay. Are you aware that now Secretary of State Antony Blinken called Mr. Morell some time on or about October 17th, 2020, to inquire as to whether Mr. Morell believed Russia might have been involved in the Hunter Biden email story in some way?

A That's the first I heard of that. I was not aware of that at all.

Q Were you aware that Secretary Blinken also sent an article to Mr. Morell from USA Today titled "A tabloid got a trove of data on Hunter Biden from Rudy Giuliani. Now, the FBI is probing a possible disinformation campaign"?

A No.

Q How does it make you feel to know that?

A That's it's a high-level individual. I have to think about that for a bit.

Q Are you aware that Secretary Blinken at the time was employed by the Biden campaign?

A I know he was a -- I don't know. I think obviously he was a supporter of Biden. But I had no contact. I've never even met Blinken or talked to him.

Q I assume the answer is going to be no, but are you also aware that the email from Secretary Blinken was originally sent to him by Andrew Bates, then director of rapid response for the Biden campaign and current White House deputy press secretary, who then sent it to Blinken; Blinken then sent it to Morell?

A No, not aware.

Q Okay. Did you speak to Secretary Blinken at all?

A No.

Q When Mr. Morell spoke to you, he did not bring up the fact that he and Mr. Blinken had been in contact about this issue?

A No.

Q Okay. We are aware that the Biden campaign coordinated with Mr. Morell on a strategy to get the statement to reporters as well. Were you aware of this?

A No.

[redacted] Let me just back up a second.

BY [redacted]

Q Did you say you had a conversation with Mr. Morell?

A About?

Q About this letter. Or was it only over text message?

A So I think from what I recall, two -- a couple things happened. First, he wrote me the text. I then -- I believe he asked, and I looked at my records and I just don't have the exact date, but shortly after that he asked me to come over to his house.

Q Okay.

A And we discussed this there.

I don't recall how it morphed from what I thought was an op-ed into a letter. He did mention to me that someone in the kind of Biden world had asked about doing this.

Q But he didn't --

A He did not tell me who it was, and I did not ask.

Q So you prepared the backgrounder that's exhibit 4.

A Right.

Q Was that before or after you went to Morell's house?

A I believe it was after, but I actually don't recall. I see that text was on the 17th, and I think I sent the backgrounder on the 17th as well. But I actually don't recall if this was before or after.

Q And as you understand it, Mr. Morell took your backgrounder and turned it into the letter?

A That's right.

Q And do you know if any other person helped him do that?

A I don't know.

Q Or whether he did it himself?

A I don't know.

Q How long did you have this discussion with Mr. Morell at his house?

A It was probably over a coffee usually when I went over to see him. It was -- there's other elements that we were discussing.

This was also a time in which I was about -- I had some pretty severe health issues. I had suffered from a traumatic brain injury, I think this is well known, what we call AHIs or Havana Syndrome, from my time in -- trip to Moscow in 2017. And what I had done -- I was actually engaged in quite a long and lengthy battle with the Agency for healthcare.

Q Okay.

A And on the -- within days of this, I think on the 20th was the scheduled -- a scheduled press piece, media piece, by Julia Ioffe about me in GQ, in Gentleman's Quarterly, in which I was going public with my pleas for healthcare because I was in such kind of bad straits.

And so I had a discussion with Michael about this too, and, frankly, the ramifications of doing this. I think he was concerned about kind of the Agency's response.

Q To the Havana Syndrome issue?

A Yeah, to the Havana Syndrome issue.

So the point I'm making is there were a lot of other things on my plate besides this, including what I was talking to him about.

Q Okay. And you don't remember what day that was?

A I can't. I looked in my records. I don't know exactly when I went to see him at his house.

Q Okay.

A I presume it's got to be after, on that 17th, 18th timeframe, I would imagine.

Q So after you prepared this backgrounder and sent it to him --

A Yes.

Q -- did you do anything else related to the letter other than sign it?

A No. I don't recall doing anything else.

Q And do you remember having any other conversations with Mr. Morell about the letter?

A I don't recall.

Q Or it was just at his house?

A Yeah. Other than what he sent when he sent this cover piece on the 19th.

Q Okay. And any -- the cover piece, did it have an attachment?

A It was the letter.

Q The letter was attached?

A Yeah. Yeah.

Q And from your standpoint, that was pretty much the end of it?

A Yes.

Q Did you have any other communications with any of the other 51 officials?

A I don't recall if I did or not. I don't know. I mean, I'm friends with a lot of these people. John Sipher and others are very good friends of mine. So I just don't recall. I'm sure I had communications with them all through this time. It might not have been about this issue.

Again, I was very concerned about the upcoming press piece on -- it was a story on me -- and kind of the reaction that this would entail. So that was my focus.

Q So to the best of your knowledge, the sum total of the communications before the letter went out was the text with Mr. Morell --

A And then --

Q -- the visit with him --

A Right.

Q -- then sharing the backgrounder.

A Yeah.

Q And then you signed on.

A Yeah. That's correct.

[redacted] Okay. I'll go back to [redacted]

BY [redacted]

Q Talking just now to [redacted] you said that when you were at Morell's house someone high in the Biden campaign had, quote, asked for this --

A I don't --

Q -- or about this.

A Right.

Q Do you know if they were asking for it to help the campaign, like they had asked -- was it your impression that they had asked for it?

A I think -- I want to be very careful on exactly my statements because I don't remember. What I recall from that time is that Biden said that someone in that -- and he might have said the campaign, he might have said around the Bidens, something like that -- had asked for this.

[redacted] Morell said that.

Mr. Polymeropoulos. Morell said that to me.

[redacted] Morell?

Mr. Polymeropoulos. Yeah. And he did not give me the name.

[redacted] You said Biden.

Mr. Polymeropoulos. Oh, I apologize. Morell said that to me, that someone from kind of the Biden world had asked for this. And he did not tell me who it was or any of the other kind of details of it.

BY [redacted]

Q And by "asked for this," it sounds like they were hoping to initiate it with Morell to get this, something that could be published?

A I would -- that sounds plausible, sure.

Q Okay.

A And the key piece on that, again, is -- and I don't know when it switched from kind of my thought that this would be an op-ed to a letter signed. I just don't recall. But that was my initial thought, was when he said let's write something together. Him and I had done, I think, one or two pieces before for The Washington Post on other issues.

Q Have you ever had any communications with Andrew Bates?

A I don't know who that is. I'm sorry.

Q Okay. He was the -- at the time of this, he was the director of rapid response for the Biden campaign and is the current White House deputy press secretary --

A No.

Q -- the individual that sent the original USA Today article to Blinken who then forwarded it to Mr. Morell.

A Right.

Q Okay.

A No, and I have not.

Q Did you play any role in the dissemination of the letter to the press?

A No.

Q Okay. Are you familiar with the CIA's Prepublication Classification Review Board, known as the PCRB?

A Very. I talk to them probably once a week.

Q Do you?

A Yep.

Q What does the CIA's PCRB do?

A It ensures that no classified information is published by, I would say, former and even current officers when they write something for the press. And so it's a very simple review process. You send it in. They review it and they get it back to you.

Q And Mr. Morell and you sent the statement to the CIA's PCRB, correct?

A Michael sent it. I did not send it.

Q Okay.

[redacted] And I will enter that into the exhibit mail -- it is an email Michael Morell sent to the CIA's PCRB dated October 19th, 2020, at 7:11 a.m. -- into the record as exhibit No. 5.

[Polymeropoulos Exhibit No. 5

Was marked for identification.]

BY [redacted]

Q At the very end it says, "This is a rush job as it needs to get out as soon as possible."

Do you know why Mr. Morell described the statement as a rush job to the PCRB?

A I don't know.

Q Do you know if the intent was to be able to use that for the debate, which was in just a few days?

A I don't know.

Q Okay. Do you know whether the CIA's PCRB made any edits to the statement before it was published?

A I don't know. I was not on the response.

Q Okay.

A But Michael did say that it was cleared, so I'm assuming he has that in his private.

Q Are you aware that CIA staff at the PCRB reportedly promoted the letter by asking former CIA officials to sign on to the letter?

A No.

[redacted] I would now like to enter a statement David Cariens provided to the committee in an email dated March 5th, 2023, into the record as exhibit No. 6.

[Polymeropoulos Exhibit No. 6

Was marked for identification.]

BY [redacted]

Q Mr. Cariens told me, "When the person in charge of reviewing the book called to say it was approved with no changes, I was told about the draft letter. The person asked me if I would be willing to sign. (I do not recall the person's name or the exact date of the phone call.)

"After hearing the letter's contents, and the qualifiers in it such as, 'We want to emphasize that we do not know if the emails provided to the New York Post by President Trump's personal attorney, Rudy Giuliani, are genuine or not and that we do not have evidence of Russian involvement...' I agreed to sign."

Does what Mr. Cariens described there, that interaction with the PCRB, sound like a quid pro quo to you?

A I can't comment on this. This is -- to me, this is something that the PCRB in my experience would never engage in something like that. They are just straightforward back and forth in terms of approval. The idea they would have a comment on any other thing that they were working on, that to me is not even close to what I've experienced with them.

Q Does that concern you?

A If it's true, it would concern me, for sure. But I just -- I have a hard time believing that occurred. If it did, that's incredibly unprofessional.

Q Do you know David Cariens?

A No.

Q You had no communication with him? Did he reach out to you to ask to sign on or anything like that?

A No. I don't know who that is.

Q Okay. We know that your article that you've mentioned, I think it was in the Rolling Stone, was --

A GQ.

Q GQ. Related to AHI --

A Yeah.

Q -- was published around this time, I think on October 19th?

A It was the 19th or 20th. That's right.

Q Did you talk to anyone who was approving that article about this letter, the statement?

A That article was not approved.

Q Okay.

A So when I, if I write something, the PCRB has to approve it. If I give an interview to someone else, that's not part of the process.

Q Okay. So there was no substantive information that you had to run by the PCRB ahead of time of that GQ article?

A No. No, what I did in terms of the substance of that article and a lot of my kind of writings on the AHI issue, I certainly engaged with them on the AHI issue after. But that's it.

Q Okay. Do you know if any of your fellow signatories coordinated with the CIA in promoting the statement through the PCRB?

A No.

Q Did you have any contact with the PCRB directly about this statement?

A No, Michael's the one who sent it in.

Q Just Mr. Morell?

A Yeah. I think on this he had me CC'd on this. But on their response, I was not on.

Q Okay.

A So this is the only -- he was in charge of dealing with the PCRB on this issue.

Q Did you speak to any other offices or staff outside of the PCRB at the CIA regarding this?

A No.

Q Okay. Do you happen to know whether the statement was sent to any of the other intelligence agencies, such as the ODNI, for approval?

A I don't know.

Q Okay.

A That's not part of our obligations to do so.

Q All right.

A But no.

Q Okay.

BY [redacted]

Q Other signatories of the letter you mentioned had some role in pushing it out, such as Kristin Wood.

What were her responsibilities, as far as you know, with the letter?

A That's what I recall, just that she was going to be involved in finding others to sign.

Q And do you know if she did find others?

A I don't know.

Q And did you have any conversations with her about that?

A I don't recall.

Q So it was just related to you by Mr. Morell?

A That, or there was several occasions in this timeframe over a month where myself and Michael and Kristin met, because we were writing a lot. I can't recall if when I told you that I met with Michael that time, if Kristin was there or not.

Q Okay.

A But Kristin, I think, had written some pieces together, and we had been -- we would meet at Michael's house to kind of discuss just op-eds on totally separate issues.

Q Do you know any of the other signatories, did they have any role or responsibility with regard to the letter?

A Other than signing?

Q Yeah.

A I don't know. Other than -- I think Nick Shapiro signed. So he was, as you know, had been involved in this -- he was involved in this in some fashion.

Q And what was your understanding of his role?

A I think he was the one who was going to kind of push it to the press. That's what I recall.

Q Since the letter has been -- became public, did you have any communications with the other signatories about the fallout for lack of a better word?

A Over the last two and a half years?

Q Yeah.

A Yeah. Sure.

Q And can you just tell us who you've talked with and maybe we can go through some of those conversations?

A Sure. I think that -- I mean, it was more of not even the letter itself, but kind of the, as you say, the fallout.

So I'm very close with John Sipher, Doug Wise, in particular. I think both of them have been in the media commenting on it as well.

I mean, this is over a two and a half year period. So I'm sure I have spoken with them quite a bit on this.

Q Any others?

A Clearly Michael and Nick. Kristin as well, I believe. This is when, again, when this became a very sensitive issue.

And so I think that at a time where it was clear we were going to come down here, I think people were asking about do we need counsel, what is it going to be like, what this is going to entail. So there was plenty of conversations.

Q Were you or any of the folks you spoke with surprised at how effective, for lack of a better word, the letter was in quashing the discussion of the story?

A I don't even know.

Q I mean, the letter had a remarkable effect. Would you agree with that?

A I think the effect of the letter had to do with statements that Vice President Biden made mischaracterizing it.

Q And what were those statements?

A I think it was clear that he called it -- well, I mean, I think not only during the debate, but I think other times too when they said that the -- called it disinformation, which is not what the letter said.

And in a sense at one point, I can't remember where I saw this, even if it was as I was reviewing this, Biden said that the whole laptop issue is false. That's not what we were saying. So it was clearly mischaracterized.

Q And it's been acknowledged now that the contents of the laptop are more or less authentic, correct?

A Correct.

Q So the Russian disinformation aspect, it had the hallmarks of Russian disinformation. Now that you look back on it, do you disagree with that assessment?

A The word "disinformation," sure, because, again, the notion of information operations, information warfare that the Russians have successfully done over the years has been everything from hacking into campaigns, what they did in 2017 with the French Presidential elections, but they will take accurate information and then promulgate it.

The notion, by using the word "disinformation," that's the concept of pushing out something that is false. So that, in that sense, that is not what we said. And I'm not -- I think at the time, particularly when Michael and I talked about this, there was the very real possibility that the laptop was -- had -- at least some aspects of it had authentic information on it.

Q When you were putting the letter together, did you realize that it was a political operation?

A What's that?

Q Or would become a political operation? I mean, it was a device to be used for the -- I mean, ultimately for the campaign.

A Right. So I think it was two.

One, it was a warning, because, again, my sense was that the Russians were doing again what they had done when they hacked into the DNC server, when they hacked into Macron's campaign. But clearly it was going to be designed to be used by the Vice President.

Q And do you think the signatories to the letter all understood that, that it was essentially a political move to help the campaign of --

A I think that Michael's cover letter that he sent out was very explicit on that,

when he said this is designed to help the Vice President.

Q And were you surprised by the censorship that subsequently occurred on social media platforms?

A I wasn't following that. And I say that honestly. I was going through my own -- with that GQ piece that came out, that kind of dominated my life after that. It really did. I was really struggling then.

Censorship issue, I certainly have followed recently, but --

Q But you're aware that the platforms essentially wiped the story --

A Right.

Q -- off their platform?

A With the -- I guess with the notion that this was disinformation, right, yep, which is not what we said in the letter.

Q What do you think about that?

A In terms of?

Q Do you think that was appropriate?

A Of them? That's a much longer conversation.

Q Right.

A I think it's a very legitimate debate on what should be allowed on platforms and not. I think that's very legitimate to have that.

Q Do you think the effect of wiping it off the platforms played a role in the outcome of the election?

A I don't know.

[redacted] Mr. Bishop, do you --

Mr. Bishop. What you just said about platforms, what is it that you think? What should be allowed on platforms? What was your thought there?

Mr. Polymeropoulos. In terms of what is on platforms such as Twitter, Facebook, other places like that?

Mr. Bishop. Things regarding social media platforms.

Mr. Polymeropoulos. Yeah, social media platforms.

Mr. Bishop. What information do you believe should not be allowed on it?

Mr. Polymeropoulos. Well, I think if there's -- if we know something is absolutely false, I think there is a kind of a legitimate debate to be had whether that should be allowed or not. But then you have to counter that with the notion of free speech.

But I think that questions on this, this is a debate that obviously is ongoing now, whether what Twitter did was right or wrong, and I think that it's fair to question what they did in taking it down.

Mr. Bishop. What if it's true? Do you believe it ought to be kept off the platform if it's true?

Mr. Polymeropoulos. No.

Mr. Bishop. Now, your thoughts about this I imagine are most thoroughly or most directly captured in the emails marked as exhibit 4, right? That's your -- you wrote that.

Mr. Polymeropoulos. This is the background piece?

Mr. Bishop. It says at the top on the page I'm looking at, it says from Marc Polymeropoulos, subject, "My thoughts..." dated October 17th, right?

Mr. Polymeropoulos. Yeah. This is the background piece I sent to Michael. Yes.

Mr. Bishop. So you summarized your thinking about what the laptop -- about the laptop in these comments to him, right?

Mr. Polymeropoulos. Yes.

Mr. Bishop. What do you understand disinformation to be?

Mr. Polymeropoulos. So my use of "disinformation" in the backgrounder was incorrect.

Mr. Bishop. What do you understand disinformation to be?

Mr. Polymeropoulos. Disinformation operations are where you take something that's false, where a hostile service takes something that's false and promulgates it out for a desired effect.

Mr. Bishop. I'll just point out to you in the first paragraph, first sentence, that you described your background, and I think Mr. Morell's, in battling the Russians and their covert action disinformation campaign, right?

Mr. Polymeropoulos. Uh-huh.

Mr. Bishop. You need a verbal answer.

Mr. Polymeropoulos. Yes.

Mr. Bishop. And then in paragraph three, it's marked B at the front, third line from the bottom, you talk about "and at times himself promulgate specific SVR and GRU disinformation campaigns," correct?

Mr. Polymeropoulos. You're reading from it. I assume that's correct. I can't follow it.

Mr. Bishop. Well, I'm just saying that you got the words "disinformation campaign" in that portion of your memo. That's all I'm trying to say.

Mr. Polymeropoulos. Yes. That's right.

Mr. Bishop. Okay. And in the next paragraph, the third line down -- and I haven't read the rest, but you guys also have, "one can push disinformation on the cheap." You're talking about Russians doing this.

Mr. Polymeropoulos. Right.

Mr. Bishop. So you -- it's fair to say -- well, I see another one. Down at the bottom of the page, in paragraph F, it talks about platforms "such as Facebook that generally allow for such disinformation to prosper" -- perhaps what you intended there is misspelled -- "have a demonstrated history of pushing Russian disinformation," right?

Mr. Polymeropoulos. Right.

Mr. Bishop. So it's fair to say, isn't it, that the disinformation quality, the falsity of the information, was what was a significant factor in your mind when you put down your initial thoughts?

Mr. Polymeropoulos. I think my initial -- my use of the word "disinformation" here, I should have written "information warfare," because I was -- and as later as obviously the letter that went out it was corrected to write "information operations."

It has to encompass two things. It has to encompass when the Russians push out real, true information and also disinformation, when something is false, what they've made up. There's a long history of them doing that.

Mr. Bishop. But there are several points in there. One is, disinformation was certainly in your mind as of October 17th. Fair?

Mr. Polymeropoulos. Yes.

Mr. Bishop. Okay. And you didn't know whether it was disinformation or not?

Mr. Polymeropoulos. That's right. We weren't sure if the laptop was real, if it was elements were real and elements were altered with, or if it was totally false. So it was the idea of putting --

Mr. Bishop. You said a moment ago if information is true, you believe it should not be prohibited from social media platforms. That's your opinion, right?

Mr. Polymeropoulos. Right.

Mr. Bishop. Would it also be true that if the information is true, you wouldn't

want to be out using your professional background as an intelligence official to attempt to discredit it?

Mr. Polymeropoulos. I'm sorry. I don't understand the question.

Mr. Bishop. If the information is true --

Mr. Polymeropoulos. Right.

Mr. Bishop. -- would you have participated in attempting to discredit it?

Mr. Polymeropoulos. I think it would have been important to put out that the Russians were involved in pushing it out if that was the case.

Mr. Bishop. So if it was from the Russians but true, then you think it would be important to put that out?

Mr. Polymeropoulos. Yes, for the American people to understand that part of it, yes. That is totally separate from the idea of censorship by social media platforms.

Mr. Bishop. You gave your opinion a moment ago that if it was true, you didn't think it -- you don't think it should be banned from social media platforms.

Do I understand that nevertheless, that if it's true, you do believe your role as a former intel official includes letting the American people know of its source?

Mr. Polymeropoulos. That's right. I think that's fair.

Mr. Bishop. I'll come back later. Thank you.

Mr. Polymeropoulos. Sure.

BY [redacted]

Q Do you currently hold a security clearance?

A I don't think so. I think mine has lapsed.

Q Did you hold one at the time you drafted the statement?

A So I think there's two things on it.

One is there's -- I'm not sure -- when you retire from the CIA, I think your

clearances don't lapse for 3 to 5 years. I'm not sure exactly what that was.

And also at the time I had been doing some consulting work for a group down in Florida called Patriot, in which we were -- I was helping train members of Joint Special Operations Command in an unclassified setting, on unclassified issues such as how to operate effectively in an embassy, but Patriot might have held my clearances at that time.

So it's entirely possible I still had them.

Q Had you ever had access to classified information regarding the contents of Hunter Biden's laptop?

A No.

Q Okay. Did you not knowingly insinuate to the American public that, given you and your follow signatories previous access to classified information, you might continue to have special knowledge about the contents on Hunter Biden's laptop?

A No. I don't believe we did that.

Q Now that the contents on Hunter Biden's laptop have been authenticated, including documentation of shady business dealings with Chinese and Ukrainian foreign nationals, do you believe Hunter Biden is a threat to national security?

A I think that an investigation of Hunter Biden, which I understand is ongoing, is legitimate.

Q Have you considered retracting the statement in any way or --

A No, because, as I mentioned at the beginning, I'm not -- the statement itself, I think, is very different from how it was characterized and used. And I still -- I don't -- the final chapter on this, regarding possible Russian involvement or not, I don't think has been written.

But it's entirely possible there's no Russian involvement, but I, of course, am keen to find out at some point.

BY [redacted]

Q How would the Russians have been involved in this, now that we know a little bit more about it?

A I mean, I think it's -- there's -- well, there's a couple different ways. And I think part of the basis for the statement, which caused me a great deal of suspicion, was the role of Rudy Giuliani as the President's lawyer and his contact with Andrii Derkach, who is someone that the Department of Justice has named as a Russian intelligence agent. I believe this -- that contact was back in 2019.

And so as Giuliani was working with someone whom we know was very closely tied with a Russian intelligence source, that to me was very suspect because that's Russian modus operandi on how they would engage with individuals who are either witting or unwitting. And so to me that was something that still to this day is troubling.

Q What was your understanding of Derkach and Giuliani's relationship?

A It was only based on press reports that Giuliani had met him in Ukraine. I believe Derkach was a former parliamentarian and that they were involved in kind of Giuliani's efforts to dig some dirt up on the Bidens.

Q And do you know anything about the -- you mentioned the blind individual at the store.

A Right.

Q What did you know about him other than from press reports?

A Nothing other than press. Nothing.

Q Okay. So the fact that he was blind -- you mentioned in your backgrounder, first paragraph, "No joke, you can't make that up."

A That was a dumb joke on my part. That has nothing to do with -- it's obviously an individual who you wouldn't really be thought would be involved in such

a -- in something. But I don't even know why I wrote that.

Q Did that give you maybe some concern that the Russians were involved, if a blind computer store clerk was pushing out the information?

A The notion that he was blind was silly. I don't think that was any --

Q Okay. Yeah, I'm not trying to be silly here.

A Yeah, I mean, I'm just trying to --

Q I'm just wondering if that --

A Right. Yeah. I just -- the entire affair seemed unusual to me.

Ultimately, what the Russians will use is any kind of dissemination mechanism. I think what everything comes back to for me and my thinking -- and I do recall this -- was that the Giuliani connection was to me, because of his work with Andrii Derkach, that to me made this most suspect.

I think that if this laptop had come from anything other than through the hands of Giuliani, I might have had a different view, because Giuliani's tied to someone who is a Russian intelligence source.

Q In hindsight, there doesn't seem to be facts out there that the laptop was taken to the computer store for any other reason other than genuine reasons, to get it worked on. Is that correct?

A I don't know.

Q And that the laptop -- I mean, you're not aware of any other reason that the laptop was left at the and essentially abandoned at the computer shop, correct?

A Correct. I don't know. No.

Q The contents of the laptop, Hunter Biden's business deals, would you agree that that is information that the American people ought to be aware of heading into a Presidential election?

A You know, I think that's something the Department of Justice should be aware of for sure, whether it's he broke the law or not. Whether it's someone who's the son of a senior official, I don't know.

Q If the son of a senior official running for President is trading on that, on his name --

A Right.

Q -- and getting huge payouts from some of our adversaries --

A I think that's --

Q -- that's certainly an issue --

A That's an issue. Sure.

Q -- that ought to be discussed in a Presidential campaign, correct? And so the quashing of that story presents serious concerns, don't you think?

A Well, I think the quashing of the story is different than the letter that we wrote. The quashing of the story --

Q Fair enough. But as we know, the story was essentially quashed by Facebook and Twitter --

A Right.

Q -- and a lot of news organizations, and that had serious implications on the election. Would you agree with that?

A I can't comment one way or the other. I don't -- I mean, I don't know. I don't know the implications it had on the election.

Q But certainly it's fair to believe that it did have implications if you believe that. I mean, that's certainly a fair belief, isn't it, for a reasonable person to believe that the quashing of the story had a material impact on the election?

A I don't know. I don't know the effect it had on the election at all.

Q But you can understand the concern?

A Sure.

Q And it's a fair concern that a reasonable person would have?

A Sure.

[redacted] You seemed to cast aspersions on the statement David Cariens provided to me in an email. You have no reason to believe that he or any other CIA official, former CIA official, would lie to me, do you?

Mr. Polymeropoulos. I don't know him at all. I just -- I think the idea that the PCRB was advocating folks signing this, I think that -- I find that very implausible.

[redacted] For the record, we have requested Mr. Cariens to come in for a TI like this as well. So we will get to talk to him about that as well.

BY [redacted]

Q So you had no familiarity with Mr. Cariens or his wife?

A I don't know that name, yeah.

Q Of the 51 who did sign the letter, how many of them were you familiar with?

A Easily three quarters of them --

Q Okay.

A -- just from professional -- I mean, some personal. Again, John Sipher and Doug Wise are friends of mine, but others just I knew through my course of duties in government.

Q But there were some in the letter that you had never heard of?

A I'd have to go back and take a look again. I think there's a couple I wasn't -- I didn't know.

Q And Cariens was one of them?

A I don't know him, no.

Mr. Bishop. Who did you say was one?

Mr. Polymeropoulos. I'm sorry?

Mr. Bishop. Who did you say was one of the ones you were unfamiliar with?

[redacted] Mr. Cariens.

Mr. Polymeropoulos. Cariens. Cariens. Yeah.

Mr. Bishop. Could you look through the list and give us the names of the ones you did not know?

Mr. Polymeropoulos. Sure.

[redacted] I think it's No. 2 or No. 1.

Mr. Bishop. Exhibit 1.

Mr. Polymeropoulos. Can I go through it now?

Mr. Bishop. Yes, sir. You can just read through it silently. You don't have to read them all out loud, just pick out the ones as you go that you were not personally --

Mr. Polymeropoulos. Do you want me to read them out. I'm sorry. Should I read them out loud? The one I don't know.

[redacted] The ones that you don't know.

Mr. Polymeropoulos. Thomas Finger, I don't know. Rick Ledgett, I do not know.

Mr. Zaid. Just, do you not know them personally, or you didn't know their names or weren't familiar with them or heard of them?

Mr. Polymeropoulos. Finger and Ledgett, I never heard. I don't know either of them, both personally and even the names I don't recognize.

John Moseman, that name is not familiar to me. David Buckley, not familiar to me. James Bruce, not familiar to me. There's David Cariens, again, not familiar. Janice, same thing. Peter Corsell, not familiar to me. Roger Zane George, not familiar

to me. Tim Kilbourn, not familiar to me. Pam Purcilly, not familiar to me. David Terry, not familiar to me.

That's it.

Mr. Bishop. Thank you.

BY [redacted]

Q So you don't know how those folks got on the letter?

A I don't know.

Q We had a couple questions about some of the health issues you experienced.

A Sure.

Q My colleague [redacted] is going to ask you about some of those, if that's okay?

A Yep.

[redacted] As [redacted] alluded to, Mr. Polymeropoulos, [redacted] Good to see you.

Just a few questions that we think your expertise could really help the committee.

Do you currently suffer from a brain injury?

Mr. Polymeropoulos. Yep.

[redacted] Could you give me some more details on the symptoms and how you've come to that conclusion?

[11:02 a.m.]

Mr. Polymeropoulos. Sure. So, in December of 2017, I was on a temporary duty assignment in Moscow. Something happened that evening where I suffered from an incredible attack of vertigo, a splitting headache, tinnitus. This resulted in really degenerative health issues that has affected me even to this day.

Ultimately, I was treated at Walter Reed's National Intrepid Center of Excellence, and I was diagnosed by the Walter Reed doctors with a traumatic brain injury as well as significant anxiety.

[redacted] What do you believe caused that brain injury?

Mr. Polymeropoulos. I was in Moscow when this attack occurred, so my conclusion is the Russians.

[redacted] What exhibit are we up to?

[redacted] Six.

[Polymeropoulos Exhibit No. 7

Was marked for identification.]

BY [redacted]

Q So this would be 7. Okay.

At this time, I'm entering a Wall Street Journal article by Mary Anastasia O'Grady, dated March 19th, 2023, titled "Havana Syndrome Revisited." I will pass this around.

Mr. Polymeropoulos, are you familiar with this article?

A I am.

Q Have you reviewed it before today?

A I did read it.

Q Who do you believe is responsible for what we call Havana Syndrome?

A My belief is it's the Russians.

Q Now, when you say the Russians, do you believe Vladimir Putin himself has involvement in this syndrome?

A I don't know. I think the Russian intelligence services certainly do.

Nothing much happens in terms of Russian intelligence operations without Vladimir Putin's okay, so I would not be surprised if he certainly was aware.

Q So unpacking that answer, if they don't do anything of which he is not aware, then it's your testimony he is aware of this Havana Syndrome and ultimately inflicting it on others?

A I would think so, yeah.

Q Are you aware that Avril Haines, Director of National Intelligence, said that it's "very unlikely" a foreign adversary is responsible for the brain injuries commonly referred to as Havana Syndrome?

A Yes.

Q What is your view of that?

A I do not agree with her assessment.

Q There's been some reporting in this exhibit and some others that essentially Havana Syndrome is a mass psychogenetic illness. Essentially when people think they're sick they become sick.

What is your view of that as it relates to Havana Syndrome?

A I think that's insulting to the victims. And it also doesn't make much sense for people like myself and other victims that I know who were affected by this, other victims whose children were affected as young as 6 months old. That explanation doesn't fly for me.

Q Would you say that -- is it your opinion that mass psychogenetic illness is not a real condition?

A I think it is a real condition.

Q Well, so then is it your testimony perhaps that Havana Syndrome is, in fact, a mass psychogenetic illness?

A Not at all. But psychogenetic illness is real. But I think it has nothing to do with what happened to my colleagues who were serving.

Q Now, you believe it was the Russians who are perpetrating this Havana Syndrome symptoms on American intelligence officials?

A Well, considering it happened to me in Moscow, yes.

Q But there's been some testimony, or at least been reporting, that it could be the Cubans as well.

A Sure.

Q What is your understanding? How do you make heads or tails of that dichotomy?

A This is my opinion, not based on anything that -- in terms of any kind of classified information. I couldn't talk about it here, but it's not. It's just my assessment that the Russians were involved.

But given the history of the Russian-Cuban relationship, what happened to my colleagues in Havana, I'd be very surprised if the Cuban intelligence services were not involved.

Q So would you agree that sort of making these sort of accusations has serious consequences for American foreign relations?

A In terms of the possible Russian involvement, sure, and it should. I don't make that accusation lightly. I make it based on what I believe has been going on and has affected both myself and my colleagues.

Q Well then, building on that, doesn't it behoove sort of a responsible

characterization to determine whether it's the Cubans or whether it's the Russians before such accusations are made publicly?

A I think there is plenty of evidence out there, not just blindly making accusations, plenty of evidence that the Russians were involved from a history of their work on such weapons programs to what I understand is some solid work going on in the open-source field that has -- that pinpoints Russian involvement in this as well.

Q So, finally, in your opinion, why would the Director of National Intelligence say otherwise?

A This is going down a road of a separate issue, but I think that ultimately my belief in this is that -- two things.

One is, there is concern over potential liability for officers who have been affected.

But more importantly, it's the notion -- and again, this is just my assessment of if we deem officers at risk overseas it's going to be pretty damn hard to get people to go serve in stations and embassies abroad.

So I think there's quite a sense or a need or a requirement for this to be swept under the table.

Q So there's an attempt to say this is essentially not real?

A Right. That's my assessment.

Q Have you seen anything like this before in your career?

A I think what seems familiar to me is the U.S. Government response to things such as Agent Orange, Gulf War syndrome, burn pits, where it took a long time to figure out the health or what was behind some pretty serious health incidents for U.S. servicemen and -women serving abroad.

So to me, kind of the initial U.S. Government response to these kind of health

concerns has always been suspect. It takes a while for the truth to come out.

[redacted] What do you think was going on? Do you think the Russians were just trying to injure you, or were they trying to get your information on your phones or computers?

Mr. Polymeropoulos. No. Well, there's -- well, this is a whole other -- to put it in briefly, I think that it's very likely that these kind of weapons or even collection systems perhaps were revised and improved over time.

Perhaps it started off as a collection mechanism for signals intelligence when people were injured. They realized they could weaponize it, and then they've done so successfully. That's just -- that's certainly my sense for me and for many others.

You know, I was at the top of my game. I was in the Senior Intelligence Service. I had a pretty successful career, spent almost 3 years in our conflict zones, and had done a hell of a lot for the country. And so it's a way to kind of take me and others off the battlefield.

And I think about some of my other colleagues who were affected, and these were the tip of the spear for the U.S. Government. And to take them off the battlefield in almost a nonattributable fashion would be a pretty remarkable feat. But I think that's what the Russians have done.

[redacted] So you think they were trying to injure you, not necessarily collect information?

Mr. Polymeropoulos. I think over time that's what they concluded. Again, just my assessment.

[redacted] Okay. I think our hour is up, so we need to stop here.

[redacted] Thank you.

[redacted] We can go off the record.

[Recess.]

[redacted] We can go back on the record. It's 11:19.

EXAMINATION

BY [redacted]

Q Good morning again. I'm [redacted] I'm the chief oversight counsel for the Democrats on the House Judiciary Committee.

I want to start out circling back to a questioning line that we went through a little earlier.

You were asked about the role or whether your -- whether the October 19th letter played any role in, I think, quote, a decision to censor the laptop story.

Do you believe that your letter played any role in that?

A I have no idea about the --

Q Okay.

A -- the machinations within kind of social media circles, Twitter, Facebook, or others. So I don't know.

Q And do you know the date that Twitter made the decision first to halt distribution of the story?

A I do not.

Q Okay. And do you know the date that Twitter made the decision to release or permit the story to be shared?

A I do not.

[Polymeropoulos Exhibit No. 8

Was marked for identification.]

BY [redacted]

Q Okay. I want to introduce as exhibit 8 a New York Times article from

October 16th, 2020, saying that, "In Reversal, Twitter Is No Longer Blocking New York Post Article." This will be marked as exhibit 8.

So this says that -- have you seen this before?

A No.

Q I can give you a minute to review if you'd like.

A Sure. Okay.

Q Okay. So this article says that on Wednesday, which would've been October 15th, Twitter put a pause on the article, and by the following day, 24 hours later, had unreleased the article.

And so your letter was published October 19th, right?

A Right.

Q So that was after all the decisions involving Twitter, correct?

A Looks that way, yes.

Q So presumably your letter couldn't have played a role, because it actually postdated the time of the Twitter article or the Twitter issues?

A Okay.

Q Do you agree?

A Sure. Yes.

Q Okay. And I want to turn next again to something that came up earlier. You were asked about the use of the term "disinformation" in your email to Mr. Morell, which is dated October 17th, 2020, at 8:01.

A This is the backgrounder?

Q Yeah, that's exhibit 4.

A Right.

Q So I want to look at actually the actual October 19th letter itself, which is

exhibit 1.

A Right.

Q The bottom of the second -- the last sentence of the second paragraph says, "A few of us worked against Russian information operations in the United States in the last several years."

So this letter says "information" not "disinformation"?

A Correct.

Q And the fourth paragraph down, the last sentence -- the last clause of the last sentence says the story, quote, "has all the classic earmarks of a Russian information operation," right?

A Correct.

Q And so the letter that was actually made public used the word "information" not "disinformation."

A That's correct.

Q And to your knowledge, before we discussed it today, before you produced it to the committee, was your email, which is exhibit 4, the backgrounder, was that ever made public?

A No.

Q So your use of the word "disinformation," and I think you've said it was a mistake, that was never part of the public discourse?

A No. It was only for Mr. Morell.

Q Okay. And it didn't make it into the final?

A It did not.

Q Okay. I want to move on and look a little further at exhibit 4 and some of the issues, the items that you highlighted in here.

So what were your hoping, looking at this broadly, what were your hoping to accomplish by sending Mr. Morell this list?

A So I wanted to give him some context in both kind of a history of Russian information warfare and also what I thought would be kind of their goals in this, how they would go about doing it, and of course why I was suspicious of what had occurred.

Q And is it fair to say that this list of hallmarks draws on your background as a CIA operations officer?

A That's correct.

Q Okay. And your experience working -- your experience understanding and working against Russia?

A That's right.

Q Okay. And we just kind of went through this.

Was this draft ever intended for public consumption?

A Not at all. This is just for background and for Michael.

Q Okay. And he actually was the one that wrote the statement, the final --

A That's right.

Q -- the final letter?

A Yes, he did.

Q Okay. In the first paragraph you write, "We need to assess several key traits for covert action and determine if it matches what we have learned over the last week." And you base this on your decades of experience, but without the benefit of being inside the IC at the time -- at this time -- and privy to whatever intelligence the USG has collected.

USG is a reference to U.S. Government?

A That's right.

Q Okay. Is it fair to say that in this analysis you're applying your decades of experience to what's been made publicly available?

A That's right.

Q And you went through it earlier. You didn't have access to any classified information?

A Not at all.

Q And any -- no access to nonpublic information that --

A None.

Q -- may have not been classified?

A That's correct.

Q Okay. In paragraph C of this list, it's about halfway down the page, you write, "One can push disinformation on the cheap. We are likely counting for this operation only a handle of individuals in the Ukraine who are pushing such schemes, a likely hack of the Burisma company server via the Russian intelligence services (as reported by The New York Times) and then perhaps travel costs for Rudy Giuliani on his Kiev adventures."

What were the "Kiev adventures" you were referring to?

A This is when Giuliani was reportedly, as seen in the press, going back and forth traveling throughout the Ukraine trying to dig up dirt on the Bidens.

Q And why would that have been concerning to you?

A He was -- well, first of all, he was meeting with individuals, as noted here, who were tied to Russian intelligence. And so -- and it also is, frankly, in kind of Russia's backyard, where they would have pretty easy access to him. So --

Q And why does your mind go to Rudy Giuliani specifically when you were writing this paragraph?

A It's because of Giuliani's relationship -- again, as reported in the press -- with Andrii Derkach, who was a Russian intelligence agent, as he was indicted or is named by DOJ. And so the idea that the President's lawyer was working with someone who, not a suspect, but is, per DOJ, confirmed as a Russian intelligence asset, is very concerning.

Q And I want to get back to Mr. Derkach in a minute. But in paragraph D of the hallmarks list, you assess whether the Russians would have, quote, "Agents in place."

A Right.

Q And you write this Giuliani is, quote, "at best a nonpaid but witting player."

Why did you write that?

A So when I said "witting," and I think that's key, is that, again, from what I learned from press, is that the Department of Justice had been very clear in warning the White House that Giuliani was -- had a relationship with someone who is tied to Russian intelligence. So presumably, in my mind, Giuliani knew what he was doing. And I think, you know, I guess, my sense was that they were thinking the ends justify the means.

So ultimately this is not something that Giuliani or the White House didn't know was occurring. They were warned that Giuliani had a relationship, some kind of relationship, and digging dirt with someone who was a Russian intelligence asset. That to me is very troubling.

Q And why specifically is that troubling?

A That's classic Russian modus operandi. So they would have their recruited agent, who was Andrii Derkach, and their role would be to find means to promulgate Russian active measures campaigns.

This is a classic -- classically what the Russians would do. Sometimes they would do it via someone witting or unwitting. Either case, they're looking for a dissemination

mechanism. So Derkach working with Giuliani really fit that bill.

Q Do you believe that Russian -- and we talked earlier information versus disinformation operations.

A Right.

Q Do you think that Russian information operations pose a threat to American democracy?

A Absolutely.

Q And can you explain the nature of this threat?

A So it's the idea of, again, hacking into a server, pushing out embarrassing information. They did it with the DNC server hack. Again, looking over -- I'm just trying to find examples that I know have been -- that are out in the public world. Looking what they did to the French election campaigns.

But it's the idea of collecting what they call Kompromat, compromising information, and pushing it out for a goal.

So I do think that in the sense that Russia is an adversary to the United States, if they are doing this, that's something that should be exposed.

Q And do you think the American public have a right to know about that information?

A Absolutely.

Q Do you think there's some duty to inform the American public of that?

A Yes.

Q Okay. I want to introduce into the record an article about an interview with Rudy Giuliani. It was in The Daily Beast. It's entitled "Rudy: Only '50/50' Chance I Worked With a 'Russian Spy' to Dig Dirt on Bidens in Ukraine." We'll introduce this as exhibit 9.

[Polymeropoulos Exhibit No. 9

Was marked for identification.]

BY [redacted]

Q Have you seen this before?

A I don't recall, no.

Q I'll give you a minute to review it.

In the middle of the third page of the article, as printed, I think we actually highlighted it -- yeah, it's on page 3 -- when Rudy Giuliani was told the information on the Hunter Biden laptop might be in some way linked to the Russians, Giuliani replied, "Wouldn't matter. What's the difference?"

Do you agree or do you disagree with this view?

A I disagree. I think that working with an adversary, an enemy of the United States, does make a difference.

Q And would it be concerning to you if an American was participating in disseminating information that was -- that's part of a Russian influence campaign?

A Yes.

Q And why is it concerning to have an American involved in that?

A Well, that's how Russians would do two things. That's how they would promulgate the information. But it's also in a sense hide their hand. It makes it more legitimate.

Q On page 5 of this article, at the top, it reads, "Giuliani said he viewed his latest leak to the New York Post as an extension of his years-long efforts to work with Ukrainians to dig up dirt on the Bidens."

And this, again, is taken from an hour-long interview directly with Mr. Giuliani by The Daily Beast.

Would it be concerning to you if Giuliani apparently viewed his, quote, leak to the Times (sic) as part of his ongoing work with Ukrainians to dig up dirt on the Bidens?

A Sure.

Q And can you explain a little bit further?

A I mean, again, this is unethical. It's working with an adversary. I believe that as an American, the idea that we would work with individuals, with countries that would wish to do us harm is something that should not occur at all.

And that's, at the very least, it should be certainly something that the American people would see, whether it's against U.S. law or not. That's for the Department of Justice to determine.

Q Okay. And this article references Mr. Giuliani working with Andrii Derkach?

A That's right.

Q What's your understanding of who Andrii Derkach is?

A Again, referring to press reports here, former Ukrainian parliamentarian who the Department of Justice has named as an agent of Russian intelligence and, again, someone who certainly does not have the best interests of the United States at heart.

[Polymeropoulos Exhibit No. 10

Was marked for identification.]

BY [redacted]

Q Okay. And I want to introduce into the record the Treasury designation dated September 10th, 2020, designating Mr. Derkach -- sorry, designating -- sanctioning Mr. Derkach for attempting to influence U.S. electoral process.

This reads, "Treasury designated Andrii Derkach, pursuant to Executive Order 13848 for his efforts to influence the 2020 U.S. presidential election. Derkach, a member of the Ukrainian Parliament, has been an active Russian agent for over a decade,

maintaining close connections with the Russian Intelligence Services. Derkach has directly or indirectly engaged in, sponsored, concealed, or otherwise been complicit in foreign interference in an attempt to undermine the upcoming 2020 U.S. presidential election."

A Right.

Q Is this generally consistent with your understanding of who Mr. Derkach was?

A Yes.

Q Do you know if you reviewed this prior to preparing the list of hallmarks that you sent to Mr. Morell?

A Something of that sort. I mean, it was out there in the public sphere.

Q Okay.

A Clearly, everything we had to do on that had to be obviously sourced to open-source, readily available information. So --

Q Okay. And the fact that Mr. Derkach -- or that Treasury determined Mr. Derkach maintained close connections with the Russian intelligence services, is that something of concern --

A Absolutely.

Q -- particularly in relation to his work with Mr. Giuliani?

A This was, to me, my recollection of this, and it remains to this day, kind of center to my concern that Rudy Giuliani, the President's lawyer, was working with an agent of Russian intelligence. That, to me -- and it's a comment that we would -- or a characterization we would make that there's kind of a lot of stink on him, and that means everything that he touches, who he touches, is going to be suspect. And with Giuliani working for him, that was, to me, a glaring signal.

Q And can you say more why was it a glaring signal?

A Because it was the President's lawyer who was digging dirt and was gathering information from a Russian intelligence agent.

Q Okay. Are you familiar with an individual named Telizhenko?

A No, not off the top of my head. Sorry.

Q This article refers to Mr. Giuliani's interactions with him, but if you --

A Okay. Gotcha.

[Polymeropoulos Exhibit No. 11

Was marked for identification.]

BY [redacted]

Q I want to introduce as exhibit 11 a Washington Post article dated October 15th, 2020. It's entitled "White House was warned Giuliani was target of Russian intelligence operation to feed misinformation to Trump."

Are you familiar with this article?

A That must have been one of them that we referred to, yeah.

Q So The Post actually -- this article -- we've printed off the October 15th version just for clarity for the record -- this article says that Mr. Giuliani was warned directly himself. The Post later issued a correction saying that Giuliani was not directly warned, but the White House was warned.

A Right.

Q And so the part I'm going to ask you about is about the White House specifically.

A Okay.

Q So it says, "U.S. intelligence agencies warned the White House that President Trump's personal lawyer, Rudy W. Giuliani, was the target of an influence operation by

Russian intelligence, according to four former officials familiar with the matter."

It says, "The warnings were based on multiple sources, including intercepted communications, that showed Giuliani was interacting with people tied to Russian intelligence during a December 2019 trip to Ukraine, where he was gathering information that he thought would expose corrupt acts by former vice president Joe Biden and his son Hunter.

"The intelligence raised concerns that Giuliani was being used to feed Russian misinformation to the president, the former officials said, speaking on the condition of anonymity to discuss sensitive information and conversations."

The fact that Giuliani was being used -- that may have been being used to feed Russian misinformation to the President, can you explain why that would be concerning to the intelligence community?

A Well, of course -- well, first of all, Giuliani is being used as, again, whether a witting or unwitting collaborator. That's classic Russian modus operandi. It's something that an intelligence service will do. They'll look for kind of dissemination mechanisms, and Giuliani obviously was that.

And I think that ultimately the notion that there was a warning issued and that was ignored, again, that to me is pretty concerning. That shows also a level of complicity on Giuliani's part. Ordinarily, if an American is warned that they're talking to a Russian intelligence asset, they will cease and desist on any activities, particularly if it's someone involved in any kind of U.S. Government affairs.

Q And in this case, even if Mr. Giuliani was not warned directly, if the White House was warned --

A Right.

Q -- and they didn't then subsequently warn Giuliani, would that be

concerning?

A Absolutely.

Q For the same reason?

A Absolutely.

Q Okay. Did the fact that the warning apparently was made but didn't have any impact, did that heighten your -- was that part of the reason -- did that contribute to your decision to write the letter?

A I think it certainly made things more suspect, because ultimately, again, when someone is usually warned, they will stand down. The fact that he didn't care was very disconcerting.

Q And did you believe that the American public had a reason -- had a need to know about that?

A Sure. Yes.

Q And what was the value in informing the American public of that?

A Well, again, it's the notion that -- two things.

One is that Rudy -- that the President's lawyer is willing to work with Russian intelligence. I think that's something that's pretty disturbing.

But, again, it's the notion of what information comes out of that is going to be suspect, whether it's, again -- and, again, it's part of the information warfare aspect. So it can be true information that's part of kind of this notion of compromising information, it can be information that has been true and then somewhat altered, and then total disinformation. It's all part of the Russian playbook.

Q And so is it fair to say that by putting the October 19th letter together and pushing that out you were working to put information into the public sphere to counter those Russian --

A That's right.

Q -- what you understood to be a Russian operation?

A Correct.

Q All right. Just quickly, you were asked earlier if you were aware that Mr. Morell coordinated with the Biden campaign. You have no information about that any way, in any direction?

A My comment was I didn't know who he talked to, but that he did make me aware that he spoke to somebody. But I did not know who. I did not -- he provided no details.

Q Okay. Did you have any interaction directly with any social media company about the Hunter Biden emails?

A No.

Q Okay. And to your knowledge, did any of the other signatories have any interactions with any social media company?

A I don't know. Not to my knowledge, no.

Q Did you have any interaction with any social media company about the New York Post article specifically?

A No.

Q And to your knowledge, did any of the other signatories have any such interactions?

A Not to my knowledge.

Q Okay. On October 19th, 2020, when the article was made public -- or when the letter was made public -- you were a private citizen, correct?

A That's correct.

Q And to your knowledge, were all of the other signatories private citizens

also?

A Yes.

Q Okay. Would you agree that as a private citizen you have a right to engage in the political process?

A Yes.

Q And you have a right to exercise your First Amendment?

A Yes.

Q Okay. And looking at the letter itself, it doesn't actually endorse a political candidate, correct?

A It does not endorse a political candidate, no.

Q Okay. In fact, the closing line of the letter says that, "It is high time that Russia stops interfering in our democracy."

A [Nonverbal response.]

Q Is it fair to say that the letter -- the focus of the letter was actually a concern about Russia as opposed to the Presidential candidates themselves?

A It was certainly a focus on Russia. But, you know -- so, yes, it was a focus on Russia. I mean, the Morell email to everyone did put into play the reviews by the Vice President. There's no doubt about that, though.

Q But on the face of the letter?

A The face of the letter, nothing on politics, no.

Q Okay. And the letter itself, we went through earlier that you didn't have any direct access to any nonpublic information? You didn't have any access at all to any nonpublic information?

A None.

Q Okay. And the letter actually makes it clear, right?

A Very clear.

Q So you didn't -- there's nothing in the letter that suggests any of the signatories had any --

A No.

Q Okay. So the --

A I think that's done on purpose.

Q And can you say that --

A I mean, we have to be very clear on that. You know, we are retired, left government service. We do not have access to that kind of information, nor would it be appropriate to even insinuate that we did, because that just doesn't happen.

Q And why was it important for you to include in the letter so that the American public would know that --

A Because it's just our assessment as retired U.S. Government officials. That's it.

Q Okay. So you didn't intend to imply, in other words, that you had any access to nonpublic information?

A No.

Q And that's actually fairly clear on the face of the email, right?

A Yes.

Q So, for example, the fifth paragraph says, "We want to emphasize that we do not know if the emails, provided to the New York Post by President Trump's personal attorney Rudy Giuliani, are genuine or not," right?

A Right.

Q And then the very following paragraph says, "If we are right," suggesting that you could not be right, right?

A Right.

Q Okay. And then the paragraph after that says, "There are a number of factors that make us suspicious of Russian involvement." It doesn't say that you know that there was Russian involvement?

A Correct.

Q Okay. You were asked earlier about the Mr. David Cariens email.

A Uh-huh.

Q You said you don't know who Mr. Cariens is?

A I do not.

Q And you don't have any personal knowledge of his interactions with the PRB?

A No.

Q Okay. And you said you thought it would be almost unthinkable for the PRB to have done -- or very surprising, I guess?

A I would be very shocked if that is what they did.

Q And I want to look at the actual email quickly. It's exhibit -- majority exhibit 6.

A Okay.

Q And so this email was sent from Mr. Cariens to [redacted] who is the majority counsel. Nothing in here has been subject to cross-examination, right?

A Uh-huh.

Q Okay. And you say you don't have any personal knowledge of the interaction between Mr. Cariens and the PRB. It actually says here that -- let's see, one, two, three, four -- fifth line down in parentheses, "I do not recall the person's name or the exact date of the phone call," right?

A Uh-huh.

Q And so he actually says he can't remember key details, correct?

A Correct.

Q Okay. And the email that's one giant paragraph there, it's not broken out, it's possible that he is misremembering or he wrote the email unclearly, correct?

A Correct. And one other notion on this is, all of my -- in my two and a half -- in all my time since July 2019 when I retired and the numerous times I've engaged with the PRB, over 50 articles I've written for the Washington Examiner, multiple other articles for Just Security, for The Washington Post, others, I never had any contact over the phone. Everything with them is done over email, including approval processes.

You have to have that in writing when something is approved, or if something is denied with the changes you made.

But it's always -- I would never take any kind of approval over the phone. That would mean nothing to me. It would have to be an email for the record. So I just noticed here that he said it was based on a phone call. That doesn't seem plausible.

Q I'm sorry, could you say that again?

A That doesn't seem plausible.

Q How many interactions do you think -- could you estimate you've had with the PRB over your career?

A Probably, in two and a half years, at least 70, 80.

Q Okay. And can you talk, how long does it usually take for the PRB to respond to a request?

A It depends. If I write something with a suspense time of a day or two, they will honor that. When I wrote my book it took them several weeks. But they usually honor kind of a suspense on things. So as long as you're specific on it, they kind of put

that to the top of the pile.

Q So it's not unusual for them to turn around a request quickly?

A No, I've had them turn it around in several hours.

Q Okay.

A But, again, all in writing. I would never take anything verbal from them.

Q And just a couple quick questions to wrap up.

A Sure.

Q And then we can hopefully let you get on with your day.

You mentioned, I think, the fallout of the letter earlier. Has the aftermath of signing the letter, like the fact that you're involved in this investigation, that your name has been in the New York Post, has that impacted you in any way?

A Sure. I've had numerous death threats. The Vienna police are involved. I've sent them kind of the emails that I've received. Have consistent phone calls to my landline, consistent phone calls to my cell phone, people threatening me, threatening me and my family.

Q And your family?

A Yep.

Q Do you have children?

A Yep.

Q The fact that you've participated in writing this letter, which is an exercise of your, as a private citizen, an exercise of your First Amendment rights, participating in the political process, do you think that what you've experienced in the aftermath could chill your willingness to participate in this type of activity in the future?

A I think that -- I think it would -- for myself, no, only because I served 26 years at the CIA. I did operational meetings in the back alleys of conflict zones. So I have a

pretty high tolerance for fear.

I do think, though, that for others, the idea that one would be subject to kind of such vitriol and threats would be -- would certainly be something that would question -- or would cause them questioning into speaking out. No doubt about that.

[redacted] Okay. We don't have anything further. Thank you. We can go off the record.

[redacted] We have no further questions on our side either, so we're prepared to end this and go off the record.

[Whereupon, at 11:49 a.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: TIMOTHY LANGAN

Tuesday, April 18, 2023

Washington, D.C.

The interview in the above matter was held in Room 2237, Rayburn House Office Building, commencing at 10:20 a.m.

Present: Representative Jordan.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

[redacted] GENERAL COUNSEL

[redacted] RESEARCH ASSISTANT

[redacted] COUNSEL

[redacted] COUNSEL

[redacted] CHIEF COUNSEL FOR OVERSIGHT

[redacted] SPECIAL COUNSEL

[redacted] MINORITY CHIEF OVERSIGHT COUNSEL

[redacted] MINORITY OVERSIGHT COUNSEL

For the SUBCOMMITTEE ON THE CONSTITUTION AND LIMITED GOVERNMENT:

[redacted] MINORITY INTERN

[redacted] MINORITY PROFESSIONAL STAFF MEMBER

For the FEDERAL BUREAU OF INVESTIGATION:

[redacted] OFFICE OF THE GENERAL COUNSEL

[redacted] OFFICE OF THE GENERAL COUNSEL

[redacted] Good morning. This is a transcribed interview of Agent Timothy Langan, an Executive Assistant Director at the FBI. Chairman Jordan has requested this interview as part of the committee's oversight of the Bureau.

Would the witness please state your name for the record.

Mr. Langan. Timothy R. Langan, Jr.

[redacted] And I understand you're joined here today by two lawyers from the Bureau. Would you please introduce yourself for the record.

[redacted] Sure. [redacted] from the FBI's Office of General Counsel.

[redacted] [redacted] from the FBI's Office of the General Counsel.

[redacted] On behalf of the committee, I want to thank you and your agency counterparts here today for appearing to answer our questions. We appreciate your willingness to appear voluntarily.

My name is [redacted] I'm with the majority staff, with Mr. Jordan. And I'm going to have everyone here in the room introduce themselves from a staff perspective.

[redacted] [redacted] with Mr. Jordan's staff.

[redacted] [redacted] with Chairman Jordan's staff.

[redacted] [redacted] with Chairman Jim Jordan's staff.

[redacted] [redacted] with Chairman Jim Jordan's staff.

[redacted] [redacted] with Chairman Jordan's staff.

[redacted] [redacted] House Judiciary minority.

[redacted] [redacted] House Judiciary Democratic staff.

[redacted] [redacted] with House Judiciary Democratic staff.

[redacted] [redacted] with Ranking Member Nadler's staff.

[redacted] I'm going to go over the ground rules and guidelines we'll follow

during today's interview. Our questioning will proceed in rounds. The majority will ask questions first for an hour, and then the minority will have an opportunity to ask you questions as well, and we'll go back and forth until we're done. Typically we take a short break at the end of each hour as we switch around, but if you'd like to take a break, break apart from that, let us know.

As you can see, there's an official court reporter here taking down everything we say to make a written record. Accordingly, we will ask you from time to time to give verbal responses if you -- you know, if you have not.

Mr. Langan. Yes.

[redacted] And I'm sure you understand that.

Mr. Langan. Yes.

[redacted] So the reporter can take a clear record, we will do our best to limit the number of people directing questions to you during a 1-hour -- each 1-hour period. For the most part, we'll have one questioner, and if one of us doesn't understand or wants to jump in, we may. And that is sort of how we do that. And the same goes, you know, for the minority -- minority staff.

So please try and speak clearly so the reporter can understand and the folks at the end of the table and around the room can hear you. It's important that we don't talk over one another and interrupt. Usually that's something the questioner tends to do, and we will try to avoid doing that. We want you to answer our questions in the most complete and truthful manner possible, so we will take our time.

If you have any questions or do not understand one of our questions, please let us know. Our questions will cover a wide range of topics, none of which should come as a surprise. We've written letters on, you know, all the topics that we have questions about for the most part. And so, if you don't understand a particular question or don't

remember, it's best not to guess. Of course, you understand this. Give us your best recollection.

It's okay to tell us if you learned information from someone else. The Federal Rules of Evidence aren't applicable here. The hearsay rules aren't. So it's okay to tell us something that isn't your firsthand recollection as long as you help us understand how you learned it.

If you don't know something or you can't remember, just let us know. Some of these things happened a while ago, and no human being can remember everything, and all we're asking today is for your best recollections.

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

Mr. Langan. Yes.

[redacted] As I mentioned, we say that to all witnesses --

Mr. Langan. Yes.

[redacted] -- and mean no disrespect to a decorated FBI agent such as yourself.

Witnesses that knowingly provide false testimony could be subject to criminal prosecution for making false statements under 18 United States Code 1001. You understand that?

Mr. Langan. Yes.

[redacted] Finally, I'd like to make a note that the content of what we discuss today is confidential, and that is so we can bring in other witnesses and get their unvarnished testimony. And so we would ask you, but also FBI counsel, not share the Q&A that we have today with the witness with future witnesses. Is that something you can agree to? I'm asking the FBI counsel.

[redacted] I've never been asked to make a representation on the record --

[redacted] It's what we do when agency counsel comes with witnesses. You know, we -- the questions that we ask today, you know, we might ask a very similar set of questions, and we would ask the agency not to give a roadmap of the types of questions the committee is asking. And we would also ask the agency not to share the testimony of today's witness with potential future witnesses.

[redacted] I can certainly commit to not influencing the testimony of any witnesses. As you know, you have additional witnesses on the same topic.

[redacted] Correct.

[redacted] So I certainly would not disclose the roadmap. But I can imagine that there would be times where I would ask the witnesses some very basic questions that would repeat some of the questions that you're going to ask today, so that's what I just want to be careful of.

[redacted] Okay. Well, we're not asking the FBI to make an extraordinary -- go to extraordinary lengths not to do that. What we're just asking is that you don't walk witnesses through the specific questions we've asked --

[redacted] Sure, of course.

[redacted] -- other witnesses --

[redacted] Of course.

[redacted] -- on the one hand. On the other hand, we're asking you not to share with other witnesses what today's witness provides as testimony.

[redacted] Sure. Understood.

[redacted] The committee's practice is to video record interviews, and we intend to video record future interviews with Department -- current Department personnel. We first requested today's interview, and a number of interviews that we've

asked for going back to 2022, some of them going back to 2021. We sent a letter on -- a set of letters on January 17th and again on March 3rd.

In the March 3rd letter, we asked for 16 witnesses. To date, this is the first witness we've been able to schedule. I understand the Department has characterized its cooperation as being diligent, and they said that they have -- they've told us that they've scheduled these on expedited timeline.

And I would just note for the record that, of the 16 witnesses that we asked for in January and again in March, you know, today is the first one. So it's hard for us to understand that that's diligent or expedited. A number of these have been scheduled, you know, going out into the month of May, and that's almost halfway through the year. So we would just note that frustration for the record.

[redacted] I would note for the record that the committee has not proposed any earlier dates for any of the witnesses and has accepted the dates that were proposed. So we are happy to be here today. We are happy to continue to have additional witnesses before the committee.

In terms of the video, I would just put on the record that the FBI is a component of the Department of Justice, and we are bound by requirements of Department witnesses.

[redacted] And what are the requirements, and where is that articulated?

[redacted] I would refer you to the Department.

[redacted] Okay.

[redacted] Obviously, they're not here today. But I know you've been in communication with counsel from the Department of Justice, and I just want to be clear about that.

[redacted] We have, indeed. The Department hasn't identified any reason other than the nebulous idea of a longstanding policy. The, you know, committees in

the House have been video recording transcribed interviews for the last 3 or 4 years now, and so that's just something that our members have asked us to do.

We've made an accommodation today. We are foregoing the video because we'd like to -- we'd like to engage with the witness. We'd like to get this -- as many facts as we can and get on with our investigation. But we -- we do reserve the right to bring today's witness back for a second interview with the video component. We also reserve the right obviously to bring witnesses in to public hearings.

So that's the end of my remarks. Do the Democrats' staff have any?

[redacted] No.

Thank you to the witness for appearing today.

[redacted] My colleague [redacted] will lead the questions, and we'll get the clock started.

EXAMINATION

BY [redacted]

Q And, again, Agent Langan, my name is [redacted] and I work for Chairman Jordan's staff. I'll start with a line of questioning: When did you join the FBI?

A In 1998.

Q And what position do you currently hold?

A Executive Assistant Director over the Criminal, Cyber, Response, Services Branch.

Q When did you start in this position?

A It was June of 2022.

Q Do you work out of the FBI Headquarters?

A I do.

Q Can you describe your roles and responsibilities in this position?

A I currently lead five divisions in the FBI: Criminal Division, the Cyber Division, the International Operations Division, the Crisis Response Division, and the Victims Services Division.

Q Who is your direct supervisor?

A Direct supervisor is the Deputy Director, Paul Abbate.

Q And how many people directly report to you?

A Between 2,000 and 3,000.

Q During your tenure at the FBI, what positions have you held?

A Do you want me to run through the whole --

Q If you're able to recollect.

A -- the career? Of course, yeah. Do you want me to start from the beginning or start backwards?

Q That would be great.

A Okay. I started in the FBI after my military and police time. In 1998, I was sent to the Dallas division where I was an agent. I worked violent crime and Mexican narcotics organizations. I was on the SWAT team. I transitioned to working counterterrorism.

From there, I took a specialty assignment to protect Attorney General Gonzales and Ashcroft on the Attorney General's protection detail, which the FBI has responsibility for. So I did that for several years, and then I was assigned my first headquarters assignment in the gang unit, in Criminal Investigative Division, focusing on violent crime and gang work. I then took an overseas position in Sofia, Bulgaria, at our Embassy, and I was overseeing our office there that oversees Bulgaria, Macedonia, and Albania. For about 4 years, I was there leading the FBI's work there.

I then took a transfer and promotion to be a supervisory special agent in Nashville

where I worked financial crimes, public corruption, and civil rights. From there, I was promoted to assistant special agent in charge of the Miami Field Office Criminal Enterprise Branch, where I investigated gangs, violent crime, violent crimes against children, transnational organized crime. There I lead the Miami division's response to several mass casualty incidents, one being Marjory Stoneman Parkland massacre, along with a mass killing that happened in the Fort Lauderdale Airport.

From there, I was promoted in, I believe it was 2018, to the Executive Service back to International Operations, where I saw the FBI's operations in Asia, Africa, and the Middle East. From there, I was promoted after about a little over a year to become the special agent in charge of the Kansas City division. While I was in the Kansas City division, I led one of the largest criminal surges, Operation Legend, that focused on violent crime and criminal activity of activities going on in Kansas City.

After serving approximately 2 years, a little less than that, in Kansas City, I took a position as the Assistant Director of Counterterrorism. And so I came back to FBI Headquarters, and I had that position for approximately a year before the position that I'm in now.

Q And can you describe the organizational chart for your office as Executive Assistant Director?

A Sure. So as I mentioned, five divisions that I oversee, those five divisions that I stated previously, and so those all are led by an assistant director with several deputy assistant directors underneath them, and then other senior executives, section chiefs, and then senior -- senior leaders would be unit chiefs underneath them, and then other supervisory position program managers on down to agents and MAPAs, analysts, within those large -- each one of those divisions. It's a very large structure on their own.

Q Of course. And how many deputies? I know you said several.

A Yes.

Q Do you have a number of how many deputies you have?

A In the whole branch --

Q Yes.

A -- right now? I don't. It would be, let's see, if there's five ADs, some of them have up to three DADs, so there's maybe a dozen maybe. I don't -- I'd have to look at the chart of how many DA -- Deputy Assistant Directors there are in the branch.

Q Do you know of the DADs, the -- anyone who you could remember their names and titles, roughly what they're DAD over?

A Sure.

Q Could you list them?

A The DADs in my current branch?

Q Correct.

A Okay. You know this isn't the branch that I was in. It's a different branch. If you want to -- if you want to know about this branch, definitely we'll tell you about it, but this isn't the branch when I was Assistant Director of Terrorism.

Q That's all right.

A Okay.

Q The one that you're in now.

A Okay. Gotcha. Okay.

Q Yeah. Thank you.

A So, then, all right, so starting with -- I'll start with Criminal Division. So the Assistant Director is Luis Quesada, and the Deputy Assistant Directors are Joe Perez, Aaron Tapp, and Cassandra Butler.

Then going to Cyber Division, the Assistant Director is Bryan Vorndran, DAD David

Scott, DAD Cynthia Kaiser, and I think there's an acting DAD Phil Frim.

International Operations, the AD is Ray Duda, the DAD is Jason Beachy, and there's an associate DAD Jenny -- I don't know Jenny's last name.

Then, in the Crisis Response Division, there is AD Paul Haertel, DAD Steven Palmer, and there's one other DAD. He just got named, and I forget his name. It was -- oh, it escapes me, but it was recently.

And then with Victims Services, the Assistant Director is Regina Thompson, and she does not have a DAD, but she -- Kim is her chief executive. But --

Q Thank you. And then, in 2019, you were the special agent in charge of the Kansas City field office, as you mentioned.

A Yes.

Q What were your roles and responsibilities as the special agent in charge?

A So the special agent in charge of a field office is in charge of all investigations operations for that -- for that division. The Kansas City division covers the western district of Missouri, so basically half of Missouri, and the entire State of Kansas.

The agent in charge is responsible for the external relationships, the overall investigative strategies for that division, responsible for the members of the division, responsible for coordinating any major significant exchanges with headquarters, with outside agencies, collaboration with the U.S. Attorney's Office, with other Federal agencies, leads the relationships with other private and public sector entities.

Q And then, as Assistant Director of the Counterterrorism Division, what were your roles and responsibilities in that role?

A In that, you're leading the strategies and program management of the Counterterrorism Division and leading those employees in -- in those areas. They oversee guidance, policies, and program management of the investigations involved in

Counterterrorism Division.

Q And did you take this role from Jill Sanborn?

A I did.

Q What subject matters more specifically did you oversee?

A In Counterterrorism Division?

Q Correct.

A Yes. So Counterterrorism Division covers all aspects of international terrorism, which would include many of the groups that you're familiar with probably, whether it's ISIS, al-Qaida, Al Shabaab, Hezbollah, and others that might be international nexus, includes domestic terrorism as well. Then it also includes kind of hybrid, like nation -- this is not classified, right?

[redacted] No, we're in a nonclassified setting.

Mr. Langan. And this is a nonclassified --

[redacted] Correct.

Mr. Langan. So Iran, as well, as an actor, so --

BY [redacted]

Q And who was your direct supervisor in this role?

A It was Jill Sanborn.

Q And how many people directly reported to you when you were the Assistant Director of Counterterrorism?

A About 1,000.

Q Did you work out of headquarters in this position?

A I did.

Q Did you have regular interactions with the FBI Director and/or Deputy Director?

A Yes, usually morning briefings.

Q What about any other senior leadership from headquarters?

A Yeah. As needed, you'd interact with other assistant directors or other executives, most commonly whether it's International Operations, whether it's the Criminal Division, whether it's Financial Division, our Financial Facilities Division, so, yes.

Q How regularly did you interface with the FBI field offices?

A Kind of as needed. It wouldn't be directly all the time, but sometimes you might have a discussion with an SAC about some type of issue or topic on an as-needed basis.

Q And what was your involvement with field investigations?

A The Counterterrorism Division oversees the investigations but does not have direct control of the investigations. So the program managers -- so there would be program managers that were assigned different regions, and so as far as underneath in the breakdown of Counterterrorism Division. And so certain program managers might oversee one or two offices in their investigations and ensure that those investigations are being conducted appropriately and per policy.

Q And, during your time as Assistant Director of the Counterterrorism Division, how often did you interact with EAD of National Security Branch Jill Sanborn?

A Often.

Q Did you have weekly meetings with her?

A Not always. I didn't always have weekly meetings with her.

Q If you were able to describe how often you met with her, what would be your best guess?

A She was -- she was working outside of the Phoenix office much of the time. So communications would be -- I'd have communications with her very often, whether

they are probably either voice communications or emails or messages, something like that. And then meetings with her, again, probably -- and when she would come back every few weeks maybe.

Q And did you perceive that she had a handle on her area of jurisdiction in that role?

A In Counterterrorism?

Q Yes.

A Yeah, she's -- she's one of the leading experts of counterterrorism, I'd say, in the Bureau at the time.

Q Would you say that she knew what was going on day-to-day?

A I -- I couldn't speak to what she knew of on day-to-day.

Q Did she generally know about the issue areas within the Counterterrorism Division?

A Yeah. If there was a major issue, we would bring it -- we would make sure that we informed her.

Q Now, I'm going to switch topics, be a little bit more specific discussing the National School Boards Association memo. Are you familiar with the National School Boards Association in September 29, 2021, letter to President Biden?

A Yes.

Q Moving forward, I will refer to them as the NSBA, by the way.

A Okay.

[redacted] And I'm going to mark this letter as exhibit 1 for the record.

[Langan Exhibit No. 1

Was marked for identification.]

BY [redacted]

Q When did you learn of the NSBA September 29th letter?

A I believe it was October 2nd.

Q When did you learn that the Justice Department was going to take action related to school board-related threats?

A The discussion started on October 2nd.

Q And why did the Justice Department believe it needed to take action?

A I don't know. You'd have to ask the Justice Department why they felt they needed -- well, the -- the -- the discussion was involving threats to the school -- to members of school boards, so I assume it was because of threats stemming from school boards. But you probably want to refer --

BY [redacted]

Q And who were you discussing that with on October 2nd?

A So I got an email, was the first that I had heard from it, from, I believe it was Steve Jensen, who was a section chief, who was the domestic terrorism operations section chief, that day informing me of a communication that -- sent forward from him from DOJ where there was discussion on wanting to put out some messaging and engage on this letter.

Q So --

Chairman Jordan. Can I -- Mr. Langan, thank you for being here.

Mr. Langan. Mr. Jordan.

Chairman Jordan. Mr. Jordan from Ohio. So, Mr. Jensen, who did he get that communication from?

Mr. Langan. I'd have to refer to the email. I don't remember -- assuming from DOJ.

Chairman Jordan. Okay. We'd like that email.

[redacted] I would just say for the record that the FBI is not asserting a deliberative process privilege. That's obviously something that we would defer to the Department. But he is certainly here to discuss what he knows and communications that he was involved in today.

Chairman Jordan. So I believe October 2nd was a Saturday?

Mr. Langan. Yes.

Chairman Jordan. So, on a Saturday, you get an email from Mr. Jensen?

Mr. Langan. Yes.

Chairman Jordan. Mr. Jensen is -- what's his title again?

Mr. Langan. He's a section chief.

Chairman Jordan. Okay. And, in that email, you remember it being conveyed that he had been contacted by someone from DOJ --

Mr. Langan. Yes.

Chairman Jordan. -- saying that they were going to put out this memorandum?

Mr. Langan. I don't know if it was put out memorandum, looking at engaging, like, you know, the -- looking for either messaging or looking for Bureau engagement on this issue.

Chairman Jordan. Okay. And then -- go ahead. I want to know about these discussions, but go ahead.

BY [redacted]

Q Absolutely.

Now, at a November 3, 2021, hearing before the House Intelligence Committee, you testified that the DOJ and FBI conducted a discussion the weekend before the issuance of the memorandum. Do you remember that testimony?

A Yes.

Q And what were the contents of these discussions that happened that weekend before, to your knowledge?

A So not a lot. It was an email from Steve Jensen describing or sending -- forwarding the email from Justice. I remember asking back, what is this involving, what kind of threat is this, is it -- I forget if I used -- is this a specific threat, what's going on, and then having a phone call with my DAD, then his superior, which would be a DAD named Jim Tarasca, having a phone call with Jim: Do you know what this is coming from? What is -- you know, what's -- what is this, and what's -- what's this involving?

I don't believe Jim knew either, as far as, you know, trying to find out was this a specific threat we're working on, where is this from.

And then like a follow-on email saying: Okay. We'll -- we need to talk about this, so let's talk about it on Monday with more engagement so we can find out exactly what we're dealing with here and maybe engage with people in Justice on Monday.

Chairman Jordan. Was it unusual to get an email on Saturday from Mr. Jensen?

Mr. Langan. No. I -- with Counterterrorism Division, my phone never stopped.

Chairman Jordan. Okay.

BY [redacted]

Q And, to your knowledge, whose idea was it to issue a memorandum?

A I believe it was Justice.

Q And, during your hearing, you testified that the Department was looking to put out some messaging. What did you mean by that?

A Pretty much like I told you now, looking at somehow wanting to, I guess, address what they -- they had information on a -- on a threat that was happening to school boards.

BY [redacted]

Q And you talked about a specific -- looking for a specific threat. What due diligence did you do on the threats?

A Me?

Q Yes.

A On that day?

Q Uh-huh.

A I told my -- I told the team: Hey, let's, you know, drill down, see what they're talking about.

Q And what did your team find?

A I think, it was when we got back together that week, don't know if anything on like Monday, but said: Hey, we'll start looking to see what they're talking about.

And I don't think we got too much further before then DOJ put out an external message, but I don't recall ever being told of any specific threats that they had at that time.

Chairman Jordan. Is that unusual?

Mr. Langan. So one of the reasons -- so -- and again, trying to recall what was told to me on that day, don't remember exactly how things happened, but no -- nothing that was Earth shattering, to my knowledge.

Chairman Jordan. Uh-huh.

Mr. Langan. No, because if -- that's one of the reasons why we then subsequently put a threat tag on this, which, again, wanted to try to clarify this is not a laser designator on a human. This is a card catalog system. Because without a threat tag, it may have come to us as just some type of interstate threat --

Chairman Jordan. I understand that, Mr. Langan.

Mr. Langan. Okay. But --

Chairman Jordan. I'm more interested in the prompting of all this, according to testimony of Attorney General, it was, in fact, the letter from the school board association on the 29th.

Mr. Langan. Right.

Chairman Jordan. So you have a group that puts out a letter on September 29th. Three days later, on a Saturday, you get an email from one of your bosses who says: Hey, we need to start working on this.

Mr. Langan. Yeah.

Chairman Jordan. What exactly were the instructions in that email? What did he specifically want you to do?

[redacted] I just want to clarify, sorry, sir, it was not your boss who sent you the email.

Mr. Langan. No.

Chairman Jordan. You get it from Mr. Jensen.

Mr. Langan. Uh-huh.

Chairman Jordan. What's the relationship between you and Mr. Jensen now?

Mr. Langan. He's two levels below me. He's one of my -- he's a section chief.

Chairman Jordan. Okay. And so you get this email from Mr. Jensen.

Mr. Langan. Yeah.

Chairman Jordan. Again, just 3 days -- on a weekend, 3 days after this group puts out the letter and before the memorandum from the Attorney General --

Mr. Langan. Yes.

Chairman Jordan. -- directing any type of process and scheme to be put in place?

Mr. Langan. Yeah.

Chairman Jordan. Okay. What else -- what did Mr. Jensen's email say exactly then?

Mr. Langan. Had concerns with -- that this is coming out for a quick response. We need to talk about this. I think, you know, had some concerns of what's -- what's this about. We need to -- we need to engage more in this, which I concurred with: Yes, we need to find out what are we talking about. What's the scope of this threat? What are our goals?

Chairman Jordan. Okay. And then the memo comes out on the 4th. Is -- was that unusual that -- and, well, let me back up a second.

Did you know on the 2nd that the Biden administration had received a memo from the School Boards Association? Was that conveyed as the catalyst for this?

Mr. Langan. I believe it was in the email that was forwarded to me, but --

Chairman Jordan. Okay. So the email Mr. Jensen forwards to you has the school boards title.

Mr. Langan. I believe it had this mem -- this in it, this -- I believe that's what was attached to it.

Chairman Jordan. Okay. Okay.

Mr. Langan. But I -- I haven't looked back at that to see if that was -- I knew it was attached, but I think it was this, and -- but it did not -- you know, I don't know if I opened that attachment.

Chairman Jordan. And then, 2 days after this communication on Saturday, the memo goes out. Had you ever seen anything like that before where in a 5 day time span you saw things move that rapidly based on some letter from a political bureau?

Mr. Langan. I think it's hard to look at this differently. I've seen other things move very rapidly but in a different context. As far as a memo from Justice, this was my

first experience. I'd probably been in that position -- you know, I just came from leading the Kansas City field office for 3 months. So this was my first experience with maybe a memo like this coming from DOJ, so I don't have a lot of foundation to base it off of, but --

Chairman Jordan. Okay. I'm going to wait until we get to the -- I think it's exhibit 5.

BY [redacted]

Q Absolutely.

And, during her transcribed interview, former EAD Sanborn stated that, prior to the issuance of the October 4th memorandum, you let her know that you would be discussing an increase in alleged threats or violence at school board meetings and that you would keep her posted. Do you remember this interaction?

A Uh-huh.

Q What -- were these the same discussions that you referred to in your hearing testimony or different conversations?

A That all happened that weekend, yes.

Q Okay. And former EAD Sanborn also testified during her transcribed interview that you had more knowledge on the school boards issue than she did. Specifically, she testified that, you and Carlton Peeples definitely have more knowledge than me because they were more involved in it than I.

Do you agree with that?

A Yes.

Q What was your involvement in the memo roughly?

A What memo? Which one?

Q The Attorney General's memo.

A Nothing.

Q Okay. And what due diligence occurred at the Justice Department, to your knowledge, between the September 29th letter and the October 4th memo?

A My only knowledge is the email communication that came in to Steve Jensen. I was not involved in any of the discussions with anyone from Justice at that point, so I -- I can't say if anything else happened with Justice, but nothing to my knowledge.

Chairman Jordan. And, again, why would -- why would Steve Jensen be the entry point for FBI? Was there a reason?

Mr. Langan. Yeah. So there is -- so as he -- he is a section chief, and he's got his interlocutors, and they contact frequently between the National Security Division from DOJ. So that's a very -- that's very common. I actually as AD kind of sit at a gap to where I didn't have that much direct communication with DOJ that position. The EAD did, and then actually the section chief or DAD below me. They just didn't have that much direct, and so it was not uncommon that they would be talking directly to DOJ and I would not.

Chairman Jordan. Okay.

BY [redacted]

Q Are you aware if the Justice Department looked at any of the incidents cited in the NSBA's letter?

A If they looked at any of them and cited --

Q The incidents cited in NSBA's letter?

A I don't know.

Q Did you personally look into any of the incidents cited in the --

A I did not.

Q Okay. Would it surprise you to --

BY [redacted]

Q Did your team look at any of the incidents cited in the --

A I don't know if they did. And, again, I have a branch, and I told the Deputy Assistant Director: Hey, look into this, see -- see what, you know, see what this is involving.

Q And did the Deputy Assistant Director report back to you?

A I'm sure he did. We would meet constantly. I don't remember anything significant coming out of -- you know, I know what you're trying -- like, I want to answer -- I don't remember any like, yes, this was the big case that started this. I don't recall that.

Q Uh-huh. Okay.

BY [redacted]

Q Would it surprise you to learn that the vast majority of incidents cited in the NSBA's letter calling for Federal intervention at school board meetings and equating parents to domestic terrorists were nonviolent?

A It wouldn't surprise me.

Q And, according to a May 2022 report commissioned by the NSBA, on September 21st of 2021, 8 days before the NSBA sent its letter, the NSBA sent a detailed summary of the contents of its letter and a list of incidents at school board meetings to the White House at its request. Are you aware of those communications?

A Subsequently, I think I've heard about them.

Q In an email to the NSBA, White House official Mary Wall stated: Is there any way we can take a look at the letter in advance of the release? In specific, I'm meeting with colleagues from the -- from other White House offices and DOJ tomorrow

morning to see if there might be any options we can pursue here. So, if you have concrete recommendations in your letter, e.g., the threat assessment you mentioned, would be good to know so I can include in discussions.

Have you ever interacted with Mary Wall?

A No.

Q Did you take part in a discussion that, according to the email, occurred on the morning of September 22nd between the White House and DOJ?

A No.

Q If not, do you know of anyone who did participate in those discussions on September 22nd?

A No.

Q Did you take part in discussions regarding threats and violence related to school board discussion -- related to school boards before September 29th?

A No.

Q If not you, did any FBI officials take part in these discussions, to your knowledge?

A Those discussions related to this or just a general discussion on school boards, not to my knowledge, but they could've happened at a lower level. I don't think anybody was involved with the White House discussion. But I couldn't help -- you know, I couldn't say that at some time someone was in discussion, you know, talking about potential threats that occur. So, again, so 1,000 people, those could've come up. I mean, that's part of what they do is discuss threats, but I'm not aware of it.

Q Thank you. No, I appreciate it.

Now, moving on to the October 4th memo, are you familiar with the Attorney General's October 4, 2021, memorandum regarding alleged threats and violence at local

school board meetings?

A Yes.

[redacted] And I'm going to enter this memorandum into the record as exhibit 2.

[Langan Exhibit No. 2

Was marked for identification.]

BY [redacted]

Q At the time this was published, you were the Assistant Director of the Counterterrorism Division, correct?

A Yes.

Q When did you learn of the Attorney General's October 4, 2021, memorandum?

A On October 4th.

Q Did you have any involvement with drafting the memo at all?

A No.

Q Were you provided the opportunity to weigh in on the substance of the memo previously before it was published?

A I reviewed some previous emails that looked like there was some type of at least knowledge that this was coming out, but I don't remember reviewing a draft. I don't think I would've -- I don't recall reviewing the draft. But her -- somehow there's communications, hey, this is coming out today, and I think that was it.

Chairman Jordan. Did Mr. Jensen review the draft?

Mr. Langan. I don't know if he did or not.

BY [redacted]

Q Do you remember who else was on those emails?

A I think our -- I think our OGC, I think, maybe [redacted] was on the

email there, maybe Jensen, [redacted], you know, I think.

Q Do you remember if anybody else weighed in on the substance of the memo?

A I don't know if -- I think -- I'm trying to recall that.

[redacted] Weighed in with whom?

BY [redacted]

Q Weighed in on the email communications that he's referring to.

A [redacted] might have said something; I'm not sure though. I don't have direct recollection of whether -- what she said. I thought she might have made a comment or something. I'm not sure.

Q That's okay. Thank you.

In the memo, the Attorney General required each of the United States Attorney's Offices in conjunction with the FBI to hold meetings with local law enforcement partners in each judicial district. Was that the impetus behind involving these two entities? Or what was, I'm sorry, the impetus behind involving these two entities, the United States Attorney's Office with -- and the FBI?

A What was the impetus behind him putting that out?

Q The impetus behind him involving the United States Attorney's Offices and FBI with local law enforcement?

A I could assume it was as a relation to the weekend discussions related to the school board threats.

Q Did you think it was appropriate for the FBI to be involved in a local law enforcement matter?

A It's not uncommon for us to be involved in threats. It's -- we do that every day, and whether -- and we -- we work with local law enforcement daily on -- so working

on threat issues is something we do daily.

BY [redacted]

Q What did you understand the Federal nexus to be for FBI's involvement with local school board meetings?

A Well, that would have to be part of the scoping that we alluded to wanting to find out, you know, what exactly -- you know, we're only -- we only want to be engaged in threats if they do involve a Federal nexus, so that could be a threat that occurred via a wire transmission, interstate.

Most threats of direct violence are handled at a local level. If the threats do include an ideology, then that could be a Federal matter if it is -- if it does fall into a domestic terrorism situation, a threat or act of violence. So that's -- that's usually where we would be involved. But there's oftentimes when there's -- there are discussions with local law enforcement daily about things that -- instances that come up, and, hey, is this something that would be Federal or State.

Q So, at the time of the October 4th memorandum, when it was issued, was there an understanding of what the Federal nexus would be or was that to scope?

A No, we didn't -- again, this -- this came out and then it was not -- it was not our messaging. So, at that point, we would be -- we looked at this, as we started to read this, well, let's be responsive to this in what this could possibly mean with local -- other local law enforcement, Federal officials in the area, and we can discuss this.

BY [redacted]

Q Did you ever attend any of those meetings?

A No.

Q And, to your knowledge, did any of these meetings occur in the judicial district in which the FBI Headquarters is located?

A I don't -- no, I -- headquarters in the Washington Field Office. I don't know if Washington Field Office held a meeting on it.

Q Did anyone who worked for you in the Counterterrorism Division attend any meetings?

A No. That the U.S. Attorney's Office would've set up in their districts?

Q Yes.

A No, not to my knowledge.

Q Are you aware that, after these meetings occurred, the United States Attorney's Office reported to Main Justice on what they found?

A I had heard that they did.

Q Would it surprise you to learn that reports back to Main Justice of school board-related threats or violence were almost nonexistent?

A No.

Q In fact, the reports back to Main Justice show that there were no legitimate nationwide law enforcement justification for the Attorney General's directive. And, in the press release accompanying the memo, it announced the creation of a task force consisting of representatives from the Department's Criminal Division, National Security Division, Civil Rights Division, the Executive Office for U.S. Attorneys, the FBI, the Community Relations Service, and the Office of Justice Programs. Did you have any involvement in drafting this press release?

A No.

[redacted] I'd like to enter the press release into the record as exhibit 3.

[Langan Exhibit No. 3

Was marked for identification.]

Chairman Jordan. If the letter comes out on the 29th, you get called 3 days

later -- or you get an email 3 days later from one of your section chiefs on a weekend, and then the memo from the Attorney General of the United States goes out 2 days after that on the 4th, and we find out that there was really nothing going on out there, and your answer to that was you were not surprised.

That's -- your answer surprises me because it seems like the intensity and the sequence and the -- that short timeframe would say like this is -- this is critical. We've got a huge problem. We're doing emails on Saturday, and it's all turned around in 5 days, but yet didn't really find anything.

Mr. Langan. And I think, you know, as far as -- you know, I'm trying to -- with I'm surprised now, would I know that they're -- after we scoped it and had very few incidents and then just not really knowing at the time, I don't recall ever being briefed about a school board threat. So surprised post that there hadn't been that many, it hadn't come up to me.

Now, there are times when emerging threats could be existing. And, you know, I could guess -- I was thinking maybe this is an emerging threat, but since this had not been a significant threat vector that had been briefed to me as the Assistant Director, it wasn't surprising that there was not a plethora of these threats happening.

Chairman Jordan. But that even -- that even concerns me more, as the Assistant Director of Counterterrorism, you weren't briefed on it, but you get the letter on the 29th; 3 days later, you get the email from your -- one of your section chiefs; 2 days after that, there's a memorandum from the Attorney general, and we find there's nothing really there. That's kind of amazing, right? That's probably not how it normally operates in -- I hope that's not how it normally operates.

Mr. Langan. Well, you'd have to ask the Attorney General about putting out, you know, the messaging that the Attorney General wanted to.

Chairman Jordan. Why do you think it functioned that way?

Mr. Langan. Again, I refer you to Justice to ask the Attorney General.

Chairman Jordan. No, but we're asking you because you're the Assistant Director of Counterterrorism.

Mr. Langan. Right.

Chairman Jordan. You were on the press release. You were on the document that went out --

Mr. Langan. Right.

Chairman Jordan. -- later in October. We're asking you, why do you think it happened, that -- that sequence over the weekend like it did?

Mr. Langan. I couldn't guess why it happened. I could just tell you, it didn't change a thing of how we did and operated from that day before to the day after. We continued to address threats that were brought to us. If anything, what we -- when we got this information and we were saying, "Well, what are the signs of this, what is the scope," that's part of our job also to collect data, right, to collect data so our government has an idea of what there might be emerging threats. That's why then we said: Well, let's create a threat tag so we can report and we can identify how many of these are happening so the Bureau can have a scope on it.

Chairman Jordan. Yeah. But I guess, I'm wondering, it seemed like when you read the memo that that had already happened, and you're saying it didn't.

Mr. Langan. What had happened?

Chairman Jordan. That they had already scoped this out and figured out, well, we got a real problem here. The tone of the memo is every school board in the country is having this happen. It just wasn't accurate. It wasn't accurate at all. So that's my concern.

Mr. Langan. The Bureau's findings found that there were minimal -- minimal incidents.

Chairman Jordan. Okay.

BY [redacted]

Q So I think the question becomes how frequently -- I mean, this has the veneer of something that's political, a politically inclined outside organization talks to the White House, conjures up this idea, maybe talks to DOJ, maybe doesn't talk to DOJ, but as soon as the letter is written to the President, the White House takes it to DOJ and, boom, 4 days later, this is all rolled out. Does that concern you as a -- as a nonpolitical FBI official that has very serious responsibilities?

A You know, as the Director said that week, it didn't change a thing in what we do. If anything, again, we scoped an issue. It didn't change how the FBI acts. We continue to do the same identification of threat. So --

Chairman Jordan. And we appreciate that professionally.

BY [redacted]

Q It may not have changed for you --

A Right.

Q -- but the issue is there are so many things to investigate throughout the country, and there are so many agents that they are -- they look for leadership.

A Right.

Q And when directives come down from the Attorney General or they get pushed down from, you know, senior executives at the FBI, they reorient themselves to what the leadership has directed them to.

A But we didn't direct them to reorient to anything.

Q But we have heard from whistleblowers that, in fact, they were -- you know,

they did reorient themselves and --

A So how would they -- that we -- so, if we received a threat involving some type of threat against a member of a school board, they would've -- they would've worked that whether or not this would've happened. So they wouldn't have changed their work assignments. They would still be agents that were responding to threats that came in to our systems. It -- there was no -- there was no shift in strategies. There was no shift of resources.

And, as far as my knowledge is, there was 25 of these incidents. We handle over 100 incidents a day. The fact that 25 -- so it didn't shift a resource -- I -- you know, if you have a specific issue of someone being reassigned or you think where they said they had to focus purely on this, I don't have any information of that.

Q I mean, we've obtained a memo, and maybe we'll show it later, from the Montana -- of the U.S. attorney in Montana, and it was like a long list of like Federal statutes, and that long list of Federal statutes was put together in response to the Attorney General's memorandum.

A Okay.

Q And, you know, that's an example of how the field, whether it be DOJ or FBI, is being reoriented towards this priority.

A There is definitely a clear distinction. The FBI agents in Montana were not redirected by FBI, nor would they have been redirected. The U.S. attorney has the right to put out what they want and would like -- you know, maybe wanted collaboration. But those agents are beholden to those -- that SAC and the strategies and objectives from FBI, not DOJ.

Q Okay. And so maybe we can get into a little bit more fulsome discussion about how these discussions happened inside of the FBI in reaction to the memo --

A Sure.

Q -- because we've heard things --

A Right.

Q -- on both sides of the coin.

A Yeah.

Q We've heard whistleblowers tell us that they stopped working on their work so they could go to, you know, trail people at school board meetings.

A Okay. Yeah.

Q And we've also heard instances where FBI insiders have told us that the FBI thought this memo was a joke and that there was no basis for it and they weren't going to do anything about it; it's simply a political directive. And so we'll be interested as we go on today to get your reaction to those.

A Sure.

BY [redacted]

Q Moving back to the press release that we previously showed you, do you know who was involved in drafting this?

A No.

Q Do you know who came up with the idea for a task force, as mentioned in the press release?

A No.

Q Do you know why it would include the National Security Division?

A Just like the letter that -- the memo that we put out on, I think it was October 20th, there's two divisions that potentially could respond to threats, and this is in general -- general knowledge too, for any type of threats, they really would fall under either the criminal investigative division or the Counterterrorism Division, and given the

nature of the type of threats.

So that's -- I mean, that's why -- and then for the DOJ component, those are two different entities. So it's National Security Division for DOJ and then it would be the Criminal Division for DOJ. So that -- that -- your question is why was NSD on there, National Security Division? If a threat would stem from a national security nexus threat.

Q Thank you. And do you know if the task force has officially been created?

A No.

Q And, to your knowledge, has anyone met regarding this task force?

A Not to my knowledge.

Chairman Jordan. Would you likely be on that task force?

Mr. Langan. Probably not. It would probably be -- again, if I had a little bit better idea of what that was. I'm trying to find the proper level. It could be anywhere from a unit chief, which is still a senior position, a GS-15 position. Doubt it would be an executive. Most likely a lot of the task forces are maybe that level, that mid-level of executives, senior leaders.

BY [redacted]

Q Did you personally believe that the Attorney General's memorandum was appropriate?

A I don't have an opinion on it.

Q In your office, did agents and employees discuss their reaction to the memo?

A I assume.

Q To your knowledge, do you know what the tone of those reactions were?

A The tone from our office was let's scope this issue.

You know, oftentimes things come to our office, whether they're from our policymakers or from Congress or from other avenues, and oftentimes, well, what is the

scope of this, trying to find that information. So our goal there was, well, let's scope this problem.

Chairman Jordan. What exactly does that mean, "scope"? You've used that several times.

Mr. Langan. Scope, just like the extent of it, how often it's occurring, the depth of it. Is it Federal?

Chairman Jordan. It's an investigation, you're investigating?

Mr. Langan. Yes. Who is possibly doing this? Is it a part of efforts? Is this individual actions?

Chairman Jordan. And, based on when you scoped it, you found not much there?

Mr. Langan. So, with the help of the threat tag, we identified that there was -- there was, I believe -- and, again, I haven't reviewed it the last minute, 25 assessments. And so -- and then I believe one of them was then elevated to a full investigation. I don't know the status of that investigation currently. So that's -- I think that's a fair scoping, which means then that, you know, we may have one full investigation. I think the scoping, from my take then, that's an adequately scoped concern --

Chairman Jordan. Yeah.

Mr. Langan. -- from a Federal nexus. Again, this doesn't mean that, you know, it couldn't be things at a State level involving threats or acts of violence or intimidation, from a Federal level.

BY [redacted]

Q And were you involved in any conversations or correspondence related to how the FBI could help address the alleged threats or violence at school board meetings?

A Again, just conversations on the scoping of it, not -- I think -- if -- you know, if there are individuals that are threatening people, we definitely want to, you know, look at mitigating that. That's our business. We don't -- no one should be, you know -- no one should have to suffer threats or acts of violence, so we're always looking at trying to mitigate that.

Q Now, moving to that threat tag that you just previously mentioned --

Chairman Jordan. Let me just go one other quick question. On this press release, fourth paragraph: Justice Department would also create -- will also create specialized training and guidance for school board and school administrators.

Had that been done?

Mr. Langan. I have no idea, sir.

[redacted] And moving back to the threat tag that you mentioned before, I'd like to mark as exhibit 4 the October 20, 2021, EDUOFFICIALS threat tag email.

[Langan Exhibit No. 4

Was marked for identification.]

BY [redacted]

Q And you could take a moment to look at it if you need to.

A I'm good with this one.

Q Okay. The email was sent on your behalf, correct?

A Along with -- my behalf, as the Assistant Director of Counterterrorism Division, along with, I believe it was Carlton Peeples on there, the Assistant Director for Criminal Investigative Division.

Q Did you assist him drafting this email?

A Not drafting.

Q What was your part in the email?

A Final -- final review of it.

Q When did you learn of the creation of the EDUOFFICIALS threat tag?

A Probably -- when reviewing this, when they discussed -- again, so, from the 4th to this goes out on the 20th, discussing guidance of trying to, well, what can we do to scope this issue, and so -- and messaging, what messaging should we put out. So this was the messaging, we agreed on it. This is the scoping that came out. So probably soon after during this time that I said: Oh, we're going to put a threat tag onto this, you know.

So I didn't come up with the idea to threat tag it. It was brought to me in this, like, okay.

Q Do you know who created the threat tag?

A So -- so, when things like this are working, so, again, you've got two massive divisions within the FBI. Is this okay to expound on these things?

[redacted] Uh-huh.

Mr. Langan. Okay. So CID and CTD, and there are dozens of senior employees, analysts, agents working together to discuss how we proceed with anything. So it would've been -- so on -- again, through the CTD side, the angle of threats of acts of violence would've been if those individuals were also acting with an ideology. On the criminal investigative side, it could've been individuals that are conducting threats or acts of violence using an interstate nexus or threats via a wire.

So those two entities are then working together. So it would be the Domestic Terrorism Operations Section from CTD, those would be the ones that were working on this. So that's one section, again, a very large organization. CTD would be the Violent Crimes Section working together, and they often do work together on things, because they collaborate on things and exchange information.

And like, okay, what is the messaging we want to put out? Threats could be either one of us. They came up with this. I couldn't tell you what level. It would work its way up probably from 14s, 15s, program managers, unit chiefs, senior intelligence analysts, up to the section chiefs from -- you know, Jensen is my section chief, their DTAS, whoever the section chief was for Carlton, up to the DADs, up through OGC possibly, and then to me, and like, yes, looks good.

BY [redacted]

Q So it was a collective effort?

A It was a -- yes.

Q And you did not --

A Sorry to explain. I figured it's better to educate you guys on how things happen.

Q No, that's helpful. Thank you.

Were you involved in any official conversations or correspondence about the creation? As you mentioned, I know it worked its way up.

A Yeah.

Q At what point in the process would you have been involved?

A When they're giving me final versions: Here, sir, this is what we're going to be reviewing; this is what we'd like to put out.

BY [redacted]

Q When you referred to messaging, who were you messaging this to?

A This went out to our SACs, our field commanders.

Q So then the SACs would then give it to their agents?

A They would distribute it in their appropriate chain, so with -- again, we didn't tell them what to do, but if I was, you know, the SAC, I can -- so this is speculation, but,

yeah, those in the field office that may have concerns, whether it's their violent crime squads or their domestic terrorism squads and their intelligence components.

Q So what would you have done if you received this when you were the SAC of the Kansas City Field Office?

A Probably, so then they have assistant special agents in charge, right. It's bureaucratic. There's a lot of steps in there. And they would've then met with their -- their command staff, said: Hey, here's the message we got from CTD.

They'd been most likely familiar with the Attorney General's memo.

And: Okay, so if we get -- if we do get any of these threats, we will tag them with this. We will work them appropriately as we always do, but now we have a threat tag.

[11:21 a.m.]

BY [redacted]

Q Did you have any engagement on this threat tag from FBI employees to identify trends, strategies, and best practices?

A I didn't. My subordinates would have. And, again, that kind of is -- that's what the whole thing is. Let's -- it all follows each other, right? So strategies and mitigation efforts and engagements often will follow scoping, right?

So it's hard to develop what is your strategy to mitigate a threat. What is a threat, right? That first we have to scope the threat. Like, as I said before, we have to identify what this is. Then we can talk about who's doing this, where's this coming from, this target. Then we can start working on mitigation efforts.

Q Are you aware that several parents were investigated by the FBI for protected First Amendment activity from this threat tag?

A No. For just First Amendment activity --

Q Correct.

A -- with this threat tag? It's clearly against what we do, that individuals that are conducting only First Amendment activity would be investigated. That is against -- that is one of our bylines of who we are. So I would -- I don't know which one you're referring to. I would be shocked. And if that's happened, I'd --

Q So you'd say this concerns you, as an individual who signed this email?

A If -- if there was no report of any allegation of a threat involving some individual?

Q Correct.

A Yes.

Chairman Jordan. Can I back up just one second? Just tell me how everyone

fits in the organizational chart there. Let's just start with -- we know you, obviously, Mr. Langan, the Counterterrorism Division. Mr. Shivers?

Mr. Langan. Shivers.

Chairman Jordan. Shivers?

Mr. Langan. Yes.

Chairman Jordan. Okay.

Mr. Langan. So he would --

Chairman Jordan. He has your equivalent position over in the Criminal Division?

Mr. Langan. He did, yes.

Chairman Jordan. Then how does Mr. Peeples fit in?

Mr. Langan. He -- I think he -- I think this might have been right when Mr. Shivers was transitioning out, retiring maybe. Mr. Peeples was then the acting. Those two -- Mr. Shivers retired. And so, if Mr. Peeples was on, he was the Acting AD.

Chairman Jordan. Who reported to -- did Shivers report to Peeples or the other way around?

Mr. Langan. Technically, when Shivers was there, Mr. Peeples would have reported to him. But if Mr. Peeples, who was a DAD, became the acting because Mr. Shivers retired, then he wouldn't have reported to him anymore.

Chairman Jordan. Okay. And then the names on the front page, the first page, that were cc'd, Mr. Greenberg.

Mr. Langan. He at the time I believe was a Deputy Assistant Director for CID.

Chairman Jordan. So these are all people who, you know, rather high up in the Criminal or the Counterterrorism?

Mr. Langan. Yes.

Chairman Jordan. All of them. Okay. Thank you.

BY [redacted]

Q And when Attorney General Garland issued his October 4, 2021, memorandum, did you perceive threats or violence at school board meetings as a State and local law enforcement issue?

A It depend -- no. It could be State and local, or it could be Federal, depending. Like I've explained to you, it depends on the type of threat.

Q During your career at the FBI, have you ever interacted with local law enforcement personally?

A Yes.

Q Did you ever get the impression that local law enforcement were ill-equipped to handle any disruptions that occurred at local school board meetings?

A I've never had a conversation with a local law enforcement officer about a school board meeting.

Q What did you believe was the Federal nexus that required FBI involvement at local school board meetings, in your opinion?

A I'll restate the previous answer fully? Okay.

Q If you could.

A So, again, we've got two types of threats or two types of divisions that could handle threats. So, if threats occurred via some type of wire from interstate, that is a Federal violation and could be investigated by the FBI. If threats or violence -- or threats of violence are also included in ideology, then that could also be investigated by the FBI.

Q And would it surprise you to learn that when field offices and the United States Attorney's Offices reached out to local law enforcement, as required by the October 4th memorandum, local officials generally opposed Federal intervention at local school board meetings?

A Could you repeat the question?

Q Of course. Would it surprise you to learn that when field offices of the FBI and the U.S. Attorney's Office reached out to local law enforcement, as required by the memo, local officials generally opposed Federal intervention?

A Okay. You put two things together that I don't think are a known quantity two things. Reaching out to local law enforcement, you put the FBI with the --

Q United States Attorney's Offices.

A Right. Those are two separate entities. So the FBI, to my knowledge, did not reach out to local law enforcement regarding this.

Q Even though they were required to by the October 4th memo?

A They're required to coordinate, as far as our opinion, coordinate with the U.S. Attorney's Office. The U.S. Attorney's Office would be hosting that meeting. They can call the meeting, and we would be -- in accordance with us. We would go there.

Q Okay.

A We did not, to my knowledge, call anyone else to tell them to go.

Q So it's your opinion that the United States Attorney's Offices were the ones that were supposed to --

A Yes.

Q -- reach out?

A Yes. And I believe that was stated also from our Director on a videoconference that subsequent -- the 6th, two days lateral.

Chairman Jordan. That's not how it reads, though. It says: To this end, I'm directing the Federal Bureau of Investigation -- so it says you first -- to this end, I am directing the Federal Bureau of Investigation, working with the United States Attorney, to convene meetings.

So, in this, the way the Attorney General wrote it is the FBI is going to go to the United States Attorney, and you're going to convene the meeting. And you're saying it was the other way around.

Mr. Langan. We didn't, sir. Yeah. And so this was discussed most likely at a level above me, because the FBI Director then on that Wednesday put out a statement saying I believe it was the U.S. Attorney's Office may be calling meetings.

We did not direct our people to coordinate, at least from a Counterterrorism Division, didn't call any SAC Division to coordinate the meetings.

BY [redacted]

Q So is it fair to say you didn't lean in on this? The FBI did not lean in on the Attorney General's memo?

A Describe to me lean in.

Q Lean in, take initiative to engage and follow what the Attorney General asked.

A We -- I think scoping the threat I think was an appropriate reaction.

Q But, as the memo -- as Mr. Jordan just mentioned, the memo directed the FBI to lead this effort.

A We referred it to the U.S. Attorney's Office. We looked at it as the U.S. Attorney's Office to lead that effort.

Q So is it fair to say the FBI didn't lean in, that they deferred to the U.S. Attorney's Office?

A I would say we weren't -- it wasn't for us to lean in.

Q Well, the memo asked you to lean in, I think.

A I think that's terminology, sir. I'll tell you what we did.

Q Okay.

Chairman Jordan. And why do you think that approach was taken? Was it based on maybe this underlying concern that, look, this is probably a local matter, we probably shouldn't be doing this?

Mr. Langan. I wouldn't -- I would have to speculate, but, again, the threats -- so oftentimes, we are very involved in threats, no matter what they are, whether they're school shootings, whether they're -- so I'd say the local -- that's never a clear line or not often a clear line. Unfortunately, there's a lot of threats that we are involved with too.

I think this was generated from the Department of Justice, and the Department of Justice can host these meetings.

Chairman Jordan. A letter comes out on the 29th. You get an email on Saturday from one of your section chiefs 3 days later saying: We got to get working on this.

Two days after that, the memorandum comes out saying there's a disturbing spike. It creates this perception that this is a huge, huge issue.

You're asked to take the lead, but you don't, but you scope it out. And, when you scope it out, you create this threat tag to do it. Through that scoping and use of that threat tag, you investigate 25 cases around the country, and only one --

Mr. Langan. Assessments, 25 assessments.

Chairman Jordan. Even better, 25 assessments, not real investigations. Then you go to one investigation. We don't know what's happened with that. So it seems like a lot, a lot of effort for really nothing.

Mr. Langan. So I would argue how much effort was spent because, like I said, we handle threats all the time. Now, did any of these 25, would they -- would they have happened before the memo? I don't know. But it's not a lot of threats. We handle --

Chairman Jordan. That's my point.

Mr. Langan. Yeah. We handle probably a hundred a day coming in to us, threats that we investigate, along with our 40,000 cases that we investigate.

Chairman Jordan. God bless you, you're doing your work. But what we're saying is there wasn't a big memo from the Attorney General on all those other hundred a day you handle, but there was this huge production over a 5-day timeframe, things we've never seen. Press releases coming out that we -- I mean it's like all that happens quickly. And what do we get? One followup, one real investigation.

Mr. Langan. I would say there was a lot of maybe effort on DOJ. For us, it was business as usual. It didn't really -- other than preparing some memo, a threat tag, we did not -- like I said, we did not shift any resources. We did not shift any strategies. But --

Chairman Jordan. I'm not saying --

Mr. Langan. I'm just trying to answer the question, sir. But --

[redacted] We'll go off the record for this hour.

[Recess.]

[redacted] It is 11:36, and we can go back on the record.

EXAMINATION

BY [redacted]

Q Good morning again. I'm [redacted] I'm with the House Judiciary Committee Democratic side.

A Good morning.

Q I want to take a step back. We began in the earlier hour talking through your background a little bit. Is it fair to say that you've had experience doing everything, serving from the line agent to supervising line agents to serving in leadership positions? So you've seen all layers of the FBI?

A Yes.

Q Okay. So some of my questions going forward are going to ask about your experience at different levels.

A Yes.

Q So I just wanted to lay that out.

A Yes.

Q And I actually want to turn back to something you said in the earlier hour. You commented on that it would be appropriate for the FBI to engage in something, engage in an investigation when it concerned an individual acting with an ideology.

A Uh-huh. Yes.

Q Can you explain what you mean by an ideology?

A The ideology that would be driving the individual to commit violence. So if it -- for example, an ideology of hate crime. So against someone's race, religion, identity.

An ideology of a terroristic nature, which would be, you know, to try to influence or coerce individuals for a -- either a political ideology, a belief ideology, something that is driving the individual to commit that act. Or, if it is targeted against a racially-motivated ideology, if it's a religious-based ideology. So it could be a lot of different ideologies.

When you mix the ideology with the threats or the violence, then you start to get into areas that could be investigated federally and charged federally.

Q So we've heard testimony from individuals who said they were concerned about threats from individuals associated with violent extremists, gangs, or organizations across State lines. Is that the kind of thing that would be appropriate for the FBI to look into?

A Yeah. I mean, really, the threat coming from any individual across State

lines. You know, as far as if it was a gang, you know, a criminal enterprise type thing, you know, possibly, you know.

Q And taking away the State lines, if an individual with -- or individuals associated with violent extremist groups making specific threats, would that be something that it would be at least the FBI would want to look into and see if there's a there there?

A So the groups would -- okay, that's a very -- that's an area that we can expound on, okay. So, if those -- those violent extremist groups are from an international origin, then yes.

Q Okay.

A Because they're known identified groups. There are no -- we don't identify violent extremist groups within the United States. There may be groups, but we don't necessarily -- we are not categorizing American groups as far as being a violent extremist group.

Q Okay.

A Individuals could subscribe to types of actions that individuals of a group may then follow, but not a group. So, if you said, "I'm with the Roosters," you know, that doesn't necessarily mean anything. I mean, it could mean some things, but not necessarily for us to investigate something.

Q Okay. Are you familiar with the FBI's National Threat Operations Center?

A Yes.

Q And how are you familiar with that?

A It's part of one of the major components of how we receive threat information.

Q Okay. Is it sometimes referred to as the NTOC?

A Yes.

Q So --

A Oftentimes NTOC. We say NTOC.

Q I'm going to refer to it as NTOC going forward.

A Yes.

Q Can you explain broadly what NTOC does?

A So NTOC is basically a clearinghouse. It's our receiving entity for receiving tips, complaints, questions, referrals to the FBI. These individuals then diligently go through, receive the information, do some preliminary checks into the information.

And then, if the information they receive warrants being forwarded further on, whether it's a criminal Federal violation, whether it's information that a field office may need, then those individuals would process it and then forward it on to the appropriate entity.

Q And do you know how many employees are assigned to the NTOC?

A I do not, but I know it's a sizable division.

Q Do you think it's a thousand, more than a thousand or --

A I wouldn't know.

Q Okay. It's probably a matter of public record.

A Probably, yes. I'm sure we can give you that answer.

Q Are you familiar with the phone number or the hotline that citizens call to report tips to the NTOC?

A Yeah. When they call FBI Tips or fbi.gov and FBI Tips.Online and 1-800-CALL FBI, yes. And then there's also an IC3 are the main three reporting mechanisms. IC3 is usually for internet complaints as well.

Q And FBI tries to make those sources pretty -- the 1-800-CALL FBI and

tips.fbi.gov, FBI tries to make sure citizens know that information, right?

A Yes. It's a goal. Yes, we want every citizen to know how to reach us if they need us to -- if they have information or want to make complaints, yes.

Q Do you know how many tips the NTOC receives, say, per day?

A We just went over that. It was -- I think it's 4,000. Is it 4,000? Yeah, approximately 4,000 maybe a day.

Q So 4,000 per day. So that's -- I can't do the math in my head. How many would that be per year? Many hundreds of thousands, right?

A Yeah.

Q Is that fair?

A Yeah. I think that's right.

Q And do you have any idea how many tips come in versus on the hotline, the phone number versus the internet?

A I don't have that breakdown. Because the area I work in, though I -- the programs I supervise might stem from the report, I don't oversee that entity nor have I worked in that entity.

Q Okay. Understood. Understood.

Is it your understanding that it's part of NTOC's mission to ensure that every tip that comes in is looked at and addressed in some way?

A Yes.

Q And why is that important?

A It's important because we've got to make -- one, if there is a criminal act that's happened or could happen, we've got to be able to identify that. It helps with mitigation of threats. It helps with remedying individuals that may have been defrauded or wronged.

It's important because information that they may have may help resolve things. So it's crucial that that information is received and appropriately reviewed and accurately then dispersed.

Q And, in your experience, do tips received through NTOC sometimes help, for example, prevent crimes from occurring?

A Definitely.

Q And do they help the FBI to solve crimes?

A Definitely, yes.

Q And what about, for example, lone wolves? Is this an area of concern to the FBI?

A Yes.

Q Can you explain briefly what a lone wolf is?

A Well, a lone -- okay. So a lone wolf is an individual actor that does not conspire or have much communication with other individuals. And, if you're saying a lone wolf that then would like to create -- conduct a violent act, the lone wolf's motivations could be various, various efforts. But a lone wolf, in general, we would refer to -- and, again, we don't usually use the term that much inside. Just it's an individual that is most likely not acting in concert or in coordination, in communication with other entities or another individual.

Q So are tips from the public received through the NTOC tip line, can those be helpful in addressing lone wolves, for example?

A Sure. Yes. Definitely, yes. Because oftentimes we act. It's very difficult -- if an individual is going to commit an act of violence or a threat, it's very difficult to mitigate that threat or try to stop it if a person is set in motion, right?

And so one of the things we ask for is, if you're aware of an individual that might

be exhibiting, you know, patterns, behaviors, if individuals have stated these threats, yeah, we need to know to help because, you know, we don't -- we want to try to mitigate those if we can.

Q So you need tips from the public?

A Yes.

Q To your knowledge, how long has the NTOC been in existence?

A I think the current -- the current evolution of it was generated after the Parkland shooting. So that was, you know, I think around 2017. I think 2018 it was.

Q And, before that, it was known as the public access line, right?

A Public access line, yes.

Q But substantially the similar mission?

A Similar. Less robust, but similar.

Q Okay. So the Attorney General sent his memo on threats to educators on October 4, 2021. Both 1-800-CALL FBI and tips.fbi.gov were in existence long before that date, correct?

A Yes.

Q Do you know when tips.fbi.gov was established?

A I don't know, no.

[redacted] So I actually want to introduce a new story. I think it's a new story from FBI. It's dated June 26, 2009. We'll introduce this as exhibit 5.

[Langan Exhibit No. 5

Was marked for identification.]

BY [redacted]

Q So this is -- sorry. I'll give you a second to read it. I realize it's tiny font.

A That's okay. That's all right.

Q So this is dated 6/26/09.

A Okay.

Q And it says -- in the last paragraph on that first page, there's a bolded section that says: Established immediately after 9/11, the internet tip line has received more than 2 million online tips from the public relating to terrorism, counterintelligence, and criminal matters.

A Uh-huh.

Q So, according to this, the tips.fbi.gov was established in 2001.

A Okay.

Q Is that generally consistent with your understanding?

A It seems so.

Q So it's been a resource for FBI for more than 21 years?

A Yes.

Q Long before the October 4th memo?

A Yes.

Q And what about 1-800-CALL FBI, do you know when that was established?

A I don't. I know, again, probably a significant -- a significant amount of time.

[redacted] So I want to introduce an FBI press release from September 2005. This will be exhibit 6.

[Langan Exhibit No. 6

Was marked for identification.]

BY [redacted]

Q Have you seen this before?

A No. If I did, I don't recall.

Q So, in the very first sentence, it says: Today the FBI launched a tip line,

1-800-CALL FBI or 1-800-225-5324, to collect information and complaints of public corruption and government fraud, in connection with the Hurricane Katrina aftermath.

So this press release was dated September 15, 2005. Is that generally consistent with your understanding of when 1-800-CALL FBI was established?

A Yes.

Q So this has been a resource for FBI for more than 17 years, correct?

A Yes.

Q And it had -- it well predated the Attorney General's October 4th memo?

A Yes.

Q Okay. If a person who calls into the NTOC, either calls in or sends an internet tip into NTOC, reports a threat or reports an issue of concern, if they don't specifically say what motivated their call, so if they don't say, for example, "I'm calling because the Attorney General put out a memo" or "I saw this press release," you'd have no way to know if, in fact, it was motivated by that memo or press release?

A No.

Q Okay. There have been allegations that the Attorney General -- Chairman Jordan has made allegations that the Attorney General, quote, highlighted the FBI's National Threat Operations Center to serve as a snitch line for tips about parents at school board meetings.

I want to turn back to the Attorney General's memorandum, which was previously introduced as exhibit 2, I believe.

Would you mind taking a look at that memo and letting me know if it uses the word "parents."

A I don't believe parents are listed in here.

Q And does it say "school board meetings"?

A I don't see it.

Q Okay. And does the memo itself say anything about the FBI's hotline or the internet tip line?

A No.

Q Okay. So does this memo actually say anything about encouraging people to, quote, snitch on parents at school board meetings?

A Not in the statement.

Q And I will note that fourth paragraph directs the FBI and U.S. Attorney's Offices to convene meetings with State and local officials to, quote, facilitate the discussion of strategies for addressing threats and, quote, open dedicated lines of communication for threat reporting, assessment, and response.

Do you understand this to be a reference to the tip lines or to lines of communication between law enforcement and U.S. Attorney's Offices and FBI? `

A It would be more the coordination of law enforcement, I would assume. But --

Q Your read of it.

A -- I don't think -- yeah. I don't think we had any discussions.

Q It doesn't -- at least doesn't have the tip line information in there.

A Yes.

Q So I also want to look at the press release that we looked at earlier, which was 3, exhibit 3. And I'm going to ask you again if this memorandum uses the word "parents" in it anywhere?

A I don't see it.

Q And it talks about threats targeting school board members, but do you see if it says anything about school board meetings specifically?

A No.

Q There have been reports that school board members and educators and others received threats through, for example, letters sent through the mail.

A Uh-huh.

Q So that would be outside of a school board meeting, right?

A Yes.

Q Okay.

A Yes. To their house.

Q And would something like that sent through the mail potentially be an area for Federal involvement?

A Yes.

Q Now, the press release does, in fact, reference the tip line.

A Uh-huh.

Q It's down I think that last paragraph.

A Uh-huh.

Q We went through this earlier, but just again for the record, in your experience, does the FBI try to make it widely known that citizens can reach out to both 1-800-CALL FBI and tips.fbi.gov?

A Yes.

Q And so does the Bureau regularly include this information in press releases and other documents for the public?

A Yes.

Q And can you say again why that is?

A We very much need the public's partnership and elicit the information that they may have to help us either mitigate and solve crimes and prevent acts of violence or

crimes.

Q So you advertise it broadly?

A Yes.

Q Okay. So getting back to the characterization of NTOC as a, quote/unquote, snitch line, do you agree with that characterization?

A No. It's a reporting mechanism to the FBI to help prevent crimes and identify information that could help -- help mitigate threats against people, help solve crimes that may have occurred to them.

If you look at it like -- it would be like saying the 911 system is a snitch line. It's the Federal version of us to -- though we don't have an immediate response always like 911 police officers, but it is like calling your police department. It's giving information on -- on crimes that have happened. So --

Q And what do you think the possible impact of referring to the NTOC lines as a snitch line could be?

A It's probably negative on individuals that might pursue that.

Q Do you think it might deter citizens from reporting threats, for example?

A I would hope not. I -- it's speculative, but it's a negative connotation that's used in prisons so I --

Q Can you say more about that, how it's used in prison?

A Well, usually "snitch," "snitching" usually involves a term that's involved in the criminal enterprises or criminal entities. Prisons, snitching on individuals for telling authorities what's happening. So it has a negative connotation. And, I mean, I would hope people wouldn't associate this with that.

Q If people perceived the NTOC as a snitch line, you know, if they were discouraged from reporting threats, do you think that would make it harder for FBI to do

its job?

A If it had a discouraging effect, yes.

Q And would that presumably make America less safe in that case?

A Yes. I would assume, yes.

Q I want to look a little more closely at the steps that FBI takes when it gets a tip through the tip line or through any other source, for that matter.

Are there sometimes tips that come into FBI that it's clear on their face that there's no action can be taken?

A At times. We get so many. Usually we would -- we would want -- if it's completely clear that there's no action at all, there's no information, that's part of NTOC's job to -- sometimes they don't get forwarded on.

Q Okay.

A So usually, for the most part, if they get forwarded on to a field office, there would be some validity to it, something, whether it is just inform -- it may not be the extent of: Hey, this is the -- this is the fraud that's happening. This is who's doing it.

But, you know: I think that there may be some fraudulent activity involving this business.

It could be thin, but --

Q Something?

A -- usually it should have something.

Q So something vague like that would still get forwarded on, but --

A Yeah.

Q -- for example, something, aliens are coming to abduct my dog, would that -- the FBI would not do anything with that?

A No.

Q Okay. So what you're saying is if there's any kind of indicia of credibility, the FBI has to at least assess it. Is that fair?

A Yes. NTOC does the best they can, but they also need to be careful not to -- not to limit something that they may not be viewing right then from their location versus the field office, who may have a better view of something that's happening. So yes.

Q So, in that situation, would the FBI create a Guardian?

A It could. We could create a Guardian if then that information most likely, like, okay, this seems like something we need to do another step to. Let's create a Guardian, which is an assessment, and let's see if we can mitigate this, resolve it, or identify an appropriate nexus to investigate it.

Q And can you briefly define what a Guardian is?

A Again, it's our -- our tool, our system for -- it's really just an intake system. It's an intake system that is an assessment. It is what we call our assessments before they move on to a preliminary inquiry, which is a next investigative step, or a full investigation.

It involves the least intrusive methods of investigating to try -- and least, least actions involving the matter to try to be able to resolve it. The goal is, do we have something here or not?

Q Okay. And I want to get back to that in a second, but I'm trying to -- so there is the Guardian system, and then there's a Guardian. So is the Guardian system like the email server and then a Guardian --

A No, no. It would be all in our internal systems.

Q Okay.

A I mean, yes, there is a Guardian system, but it's all on our internal databases.

A Guardian would be one, would be one of these incidents, yes.

Q So a Guardian is like a little -- like an individual --

A It's an individual assessment.

Q Okay. And is there an actual FBI policy that determines when a Guardian, meaning an individual assessment, is created?

A Yes. In -- yes, there are policies on the various types of threats that it could be.

Q Okay. Does the creation of a Guardian mean that the FBI has opened an investigation into something?

A No.

Q So, before we get to that, once a Guardian is created, what's the -- it's put into the system.

A Yes.

Q What's the next step the FBI takes?

A So, if it is a Guardian involving potential criminal activity, then it would be forwarded on to the appropriate field office. I mean, that's always not easy to identify, because sometimes reporting parties are from one place and the crime that occurred might be in another place, but most likely where the event would have happened, it would get forwarded to that field office.

That field office -- I'll just take the next step. The field office would get that, receive that Guardian complaint, identify what program that that threat may be under.

So, if it -- like I said, is this a financial fraud? It would go to one of our financial fraud squads. If this is a criminal narcotics and gang crime reporting, it would go to one of those squads. If it was a violent threat, it might go to a violent crime squad.

And then it gets forwarded on to the squad. Then that squad would assign it

most likely to an agent to then start investigating this assessment.

Q Okay. So how is then an assessment different than an investigation?

A The amount of tools that you're allowed to use.

Q So what type of investigative steps can be taken for an assessment?

A An assessment is usually interviews, some physical surveillance, uses of human sources. And, again, I don't have the policy. Like, there's some details. So to the best of my recollection, but I could -- you could always refer --

Q How long does an assessment take?

A It depends on how quickly they can identify whether or not they want to close the assessment or they want to go on to another step.

Q So the Guardian system is also used to assign tips to State and local, or to forward I guess tips to State and local entities, right?

A Yes. There's also -- we could -- certain tips could also be routed to a Fusion Center, and they might be dual-routed, and it does get kind of complicated. So certain aspects might be sent to us, but then they're also dual-routed to a Fusion Center, where they may be worked locally as well.

Q Okay. I want to take a look at the letter that the FBI's Acting Assistant Director for Congressional Affairs sent to Chairman Jordan on March 1st.

A Okay.

[redacted] We're going to mark this as exhibit 7.

[Langan Exhibit No. 7

Was marked for identification.]

BY [redacted]

Q Have you seen this before?

A No.

Q So I'm going to ask you to look at the top of page 3, and this actually starts on the prior page, and it talks about the 25 Guardians that received the EDUOFFICIALS tag.

A Okay.

Q And then, on the top of page 3, it says: The majority of the 25 Guardians were referred to State and local law enforcement, and the vast majority -- all but one -- have been closed at the FBI level.

Is this consistent with your understanding of how these 25 Guardians were handled?

A Again, I don't have a lot of granularity on the 25.

Q Is it fairly common for Guardians to be relayed to State and local law enforcement?

A Yes.

Q And is that part of the reason the Guardian system was created?

A Definitely one part, to handle -- to appropriately handle things, reports, right, reports from the public. So the public doesn't always know what is a Federal violation, what is not a Federal violation, what should be worked, what -- technically sometimes, you know, what is the illegality of the crime.

So oftentimes the things are reported to us. We do some type of initial assessment, realize, okay, maybe there's nothing here. We quickly eliminate it, right? Oh, there's nothing here. There's no Federal violation. There's no crime at all.

Sometimes, again, hey, there is -- I think we have a little more. We need to do some more investigation. We may have a Federal nexus, may have a crime here. Sometimes, okay, we have what looks to be a crime. We're not seeing any Federal nexus. Let's make sure, though, the locals have this, and they can go ahead and

investigate this as they see fit.

Q And I think you said earlier that 1-800-CALL FBI, tips.fbi.gov, they're kind of the Nation's 911 system, an equivalent to --

A They're just one -- I never want the public to think, though, that it's immediate.

Q Right.

A But yes, it is the national -- it's probably one of the only national crime reporting entities to where, throughout the whole country, they can report things.

Q So individuals maybe don't know the contact for their local PO or police officer or whatever, or they might happen to have tips.fbi.gov as an easy resource, and so they may go there and just send everything there. Then it's the FBI's job to make sure it gets to local law enforcement, if that's appropriate.

A It could be. Yes. Yes. That happens. As far as the exact motivation for everyone, you know, why they wouldn't call the police versus us. But yes, it is definitely a place where we receive a plethora of things that are not always Federal violations.

Q Across the board, not just in the school board range.

A No, no. No, of course, no.

Q So how long -- looking at these assessments, when something gets sent to a State and local law enforcement entity, how long would it usually take an agent to assess a Guardian and determine, oh, that's actually a State or local issue, we need to send that down?

A I mean, that could take any place -- depending on if it's a threat to life where they have a much limited timeframe, within, you know, a day to 2 days -- again, look at the -- versus a nonthreat to life. A threat to life means we think something is happening now.

Q Yeah.

A Not a previous threat. So the file -- you know, every 90 days, you know, Guardians get reviewed, but that is -- we would, you know, take effect much sooner. Within -- if somebody gets a case, probably in a week or two they would -- depending on what the incident was.

Q And, if there's a threat to life, you said there's a timeframe on it?

A Yes. I believe within -- I think it's -- off the top of my head, it's -- I think it's within 24 or 48 hours. I have to refer -- I have to go back to the policy guidelines, but it's very quickly.

Q So, if somebody called in and said, I have concerns that this individual is a firearm owner, and he said he's coming to get you or he's coming to get this person, that would be something that would be quickly?

A It's an immediate -- it's an immediate threat to life. I mean, we would work it immediately, you know, yes.

Q And why is that?

A Because you might -- we might mitigate this potential act of violence that could be ensuing.

Q And the goal is to preserve --

A Preserve, yes, to protect someone from being hurt.

Q Do you know how many Guardians the FBI created last year in total?

A I don't. I don't. I don't have the number.

Q Do you think it's more than 10,000?

A I would -- yeah, I would be comfortable with that. I can give you that number.

Q Do you think it's more than like 25,000?

A Oh, geez. I mean, we -- it's got to be in the tens of thousands. I mean, you know, I think so. I mean, I think we're doing roughly a hundred a day.

Q Okay.

A So --

Q So a hundred a day would be 365,000, right?

A Yes.

Q Right. Or, sorry, 36 -- my math is not good -- 36,000 a year?

A 36,000. Yeah, you know. It's -- yeah.

Q Okay. So -- and, again, the fact that a Guardian is created does not mean that the FBI has opened an actual investigation?

A No.

Q It just means that there's an assessment going on to figure out if there's any there there?

A Yes.

Q I want to look at page 2 of this March 1st letter from the Acting Assistant Director of FBI's Office of Congressional Affairs to Chairman Jordan. There are two columns. The first one reads "preliminary investigation" and the second one reads "full investigation."

A Uh-huh.

Q Can you explain just very broadly what a preliminary investigation is?

A Again, so a preliminary investigation would be the next step after a Guardian. Though you don't necessarily have to go to a P -- we call it a PI and then to a full, but you don't necessarily have to go to a PI to a full.

If there is -- starts to get to where there is some facts that can be articulated with this complaint and where you can identify some of those facts that, yes, this is -- this

is -- we have enough facts to think that there is a Federal violation, you can open up the PI.

Q Can you -- that very first -- the first row here says "predication." Can you define, in layman's terms, what predication means?

A Reason for. The predication of a Federal -- something was there. Something -- enough -- what -- what -- what was the initiation for that.

Q Okay. So, in other words, the justification or the reasons for taking that step. Is that fair?

A Yes, yes.

Q The table says that for a preliminary investigation, there must be information or an allegation indicating the existence of Federal criminal activity or a threat to national security or to protect against such activity or threat.

A Uh-huh.

Q Can you explain what Federal criminal activity means?

A It would be criminal activity that is subject to the Federal Criminal Code.

Q Okay.

A So there would be hundreds, if not thousands, of violations that would fit a criminal violation that Federal -- federally would be investigated.

Q So there has to be a Federal nexus?

A There has to be a Federal nexus.

Q And what about a threat to national security, do you have a very short definition for that?

A A threat to national security would be a threat that would be so grave that it could affect the security or damage the country as a whole.

Q Okay. So, if there's no indication of Federal criminal activity or if there's no

indication of a threat to national security --

A Yes.

Q -- the FBI can't open a preliminary investigation, right?

A No, no.

Q And, if that were the case, if, for example, there were indications of criminal activity but it didn't rise to the Federal level, is that a situation where a Guardian would kind of immediately be referred to State and local law enforcement?

A Yes. If we thought that there was still criminal activity.

Q Right. But there's no Federal nexus?

A But there's no Federal nexus, yes.

Q You've been at the FBI a very long time, 25 years maybe?

A Just about 25, yeah.

Q Has this predication standard been the same throughout your time there?

A It has, yeah.

Q So the FBI was always required to investigate Federal criminal activity or threats to national security, and it was always prohibited from investigating matters if there was no Federal nexus or no threat to national security, right?

A Yes, yes.

Q And this applies to everything the FBI does?

A Yes. We have to have Federal authority, concurrence oftentimes with the U.S. Attorney's Office. We have to have our nexus for -- that kind of defines some of our -- our criminal investigations versus State. So you've got to have that Federal nexus.

Q So the Attorney General's memo didn't do anything to impact these predication -- this predication standard?

A No. As I said before, the FBI didn't do anything differently from any of

these memos.

Q And then the table says that, for a full investigation, the predication is an articulable factual basis that reasonably indicates the existence of Federal criminal activity or a threat to national security, or to protect against such activity or threat.

Can you just briefly explain what an articulable factual basis means?

A You're able to actually describe then what that nexus is. So we're able to then move along and identify what was that violation, what were those -- the conduct, the actions that took place, and then relate them to a specific threat of Federal crime.

Q So, if there is a full investigation opened, it means that there had to have been an articulable factual basis?

A You can least articulate it. Yes. You might still be investigating, hey, what are the extents of this; what happened? But we can articulate these are the facts that happened, and we strongly think that this did involve a Federal violation.

Q So that, later on, the letter says that one of the 25 Guardians did progress to a full investigation. That would have had to have met this predication standard, correct?

A Yes, yes.

Q And, again, this standard has been in existence for a very long time?

A Yes.

Q Okay. So, just to sum up quickly, we said earlier NTOC receives thousands of calls a day. Hundreds of Guardians are opened a day. Every single one of these calls or submissions is addressed following the same policies or procedures?

A Yes.

Q And the AG, the Attorney General's October 4th memo didn't have any impact on that whatsoever?

A No.

Q So I want to -- so this email -- or this letter, I'm sorry, it references the 25 Guardians that were created. You estimated that the FBI creates maybe --

A I think about a hundred.

Q Yeah. We said maybe if it was a hundred a day, it would be 36,000 a year.

A And, again, it's my recollection again and not in this cited, but pretty comfortable with that.

Q Okay. So just extrapolating here --

A Yes.

Q -- assuming it's like 36,000ish.

A Yes, yes.

Q Twenty-five Guardians are like .068 percent of all the Guardians created in a year. So it's less than seven-hundredths of a percent. Does that sound about right?

A Do the math, yes.

Q We can check the math later, but that's --

A I will concede to your math skills.

Q This letter says that 17 of the 25 Guardians were assigned to the Criminal Investigative Division, presumably for assessment purposes.

A Yes.

Q Six were assigned to the Counterterrorism Division.

A Yes.

Q And the remaining two were assigned to the Weapons of Mass Destruction Directorate --

A Okay.

Q -- as they pertained to potential bomb threats.

A Yes.

Q So, of the six assessments that were assigned to criminal -- the Counterterrorism Division, did any of them ever rise to your level? Did you ever become personally aware of them?

A No.

Q Okay. Would you be able to estimate how long the agents actually spent on these six assessments?

A I wouldn't. I don't know.

Q Earlier, there was a reference made to this big production around the memo. The memo is only one page long, right? And the press release is one page long, and your email is a couple paragraphs.

A Yes.

Q Do you agree with the characterization of this as a big production?

A No.

Q If you had --

A From the FBI's standpoint.

Q If you had to estimate from your perspective, how long did you spend personally on these matters, not including the time responding to the chairman's request, but just on the actual preparing your email and I guess any conversations you had with people on your team about it?

A You know, really, probably that weekend, one phone call, a couple emails. Some discussions I imagine on Monday, and then several discussions until we then put out the October 20th. That would be the extent of it --

Q Was it less than --

A -- for me.

Q Less than you spent on your other matters?

A There are matters I spent less time on, and there's matters I spent more time on.

Q If you had to estimate, how long did you spend responding to Mr. Jordan's request on this issue? For example, how long did you spend -- without getting into the substance of your discussions, how long did you spend preparing for your testimony today?

A I spent several hours, yeah.

Q Okay, and did you also spend time assisting on preparing written responses to the chairman?

A No, no.

Q So it was just your testimony and resources?

A Yes, yes.

Q Okay. You were asked a number of questions about the Attorney General's October 4th memo both by me and earlier on. I want to look at these a little more closely --

A Okay.

Q -- as well as your October 20th email. Let's start with the October 4th memo again. We've already walked through the fact that it says nothing about parents. It says nothing about school board meetings.

The title of the memo is actually "Partnerships Among Federal, State, Local, Tribal and Territorial Law Enforcement to Address Threats Against School Administrators, Board Members, Teachers and Staff."

This title says nothing about parents or school board meetings, right?

A Correct.

Q In fact, it's actually focusing on threats that certain individuals are facing, correct?

A Yes, yes.

Q The fourth paragraph discusses the coordinating -- convening meetings with Federal, State, local, Tribal and territorial leaders.

A Uh-huh.

Q From your experience in field offices and in leadership positions now, is it common for the FBI and U.S. Attorney's Offices to coordinate with their local counterparts?

A Yes.

Q And is that beneficial for the local counterparts?

A Yes, and beneficial for us and all parties involved.

Q Can you explain that a little bit?

A So, for example, as I see in Kansas City, right? And so we had countless numbers of coordination meetings with local law enforcement officials. We usually would meet on a routine basis, you know, with the major police chiefs, the other Fed heads they called it, heads of the Federal agencies.

So we would either, on a routine basis, talk about issues, trying -- the threats that are occurring. We would also get together to talk about specific -- some specific actions. For example, like I said, I mentioned before, one of the largest Federal and local coordinations was an operation we called Operation Legend that occurred out in Kansas City.

It was the combination of hundreds of Federal agents along with State agents to try to impact the violent crime rising in Kansas City.

And so, like, we would get together and kind of, you know, talk about the

strategies, how we're going to mitigate this, what each agency can bring to help mitigate things. So yes, very common.

Q And so it wouldn't be surprising, for example, for local law enforcement or State and local law enforcement to get to have this kind of outreach from FBI?

A No, from the FBI or U.S. Attorney's Office.

Q Or the U.S. Attorney's Office, right. It wouldn't be like, oh, this is a big thing; they're reaching out to us. It happens all the time.

A They are often called by the U.S. Attorney's Office, and they often meet with the U.S. Attorney's Office on a routine basis.

Q Okay. I want to look at your email, which is dated October 20th. Does your email say anything about school board meetings?

A I don't believe so.

Q I'm also going to ask you if it says anything about parents?

A I know it doesn't say anything about parents.

Q You said? Sorry.

A I know it does not say anything about parents.

Q Okay.

A There it is. Okay, yes. Yeah.

Q And it does not say anything about school board meetings?

A No, no.

Q Is it fair to say that the actual focus of your email is the threats that were faced by school administrators and board members and teachers and staff?

A Yes, the concern is the individuals receiving threats.

Q And, in your experience, are these individuals often parents themselves?

A The ones receiving threats?

Q Uh-huh. School board members, are they often parents? Are teachers often parents?

A Again, I didn't have a lot of engagement with the school board of any kind of variety before this. So I --

Q So just from your personal experience?

A I have almost none. Okay. I'm a parent, but I don't -- I haven't attended school board. I don't -- so -- and I honestly wouldn't -- I know -- I think subsequently I know a little bit, but before I wouldn't know who's on the school board or not, you know.

Q In paragraph 2 of your email, you say: We share an obligation to ensure all individuals are able to do their jobs without threats of violence or fear for their safety.

The language "we share an obligation," can you explain what that means? Is that part of the FBI's mission?

A Of course.

Q And can you explain what that -- why that's part of your -- why you included that?

A That's part of our main objective, to keep people from harm.

Q In the next sentence, you say: This can only be accomplished with effective coordination internally between relevant divisions and through effective coordination and engagement with our law enforcement partners and the United States Attorney Offices.

What does law enforcement partners refer to?

A Local law enforcement partners, and also Federal law enforcement partners.

Q And so your email made it clear that the goal was coordination. You weren't usurping their jurisdiction in any way?

A No.

Q And, in fact, under the predication standards, you couldn't, right? If there's no Federal nexus, you couldn't have done anything.

A No.

[redacted] I want to introduce as exhibit 8 a document entitled "Weekly ADIC/SAC SVTC HQ-led, October 6, 2021." This will be 8.

[Langan Exhibit No. 8

Was marked for identification.]

BY [redacted]

Q Have you seen this before?

A Yes.

Q Can you explain what this is?

A This looks like it's a transcription of the weekly secure video teleconference meeting that the Director has with his SACs and field commanders.

Q And what does ADIC/SAC SVTC stand for?

A So the ADIC refers to Assistant Director in Charge, and there are three of those offices. That's Washington, New York, and Los Angeles. The rest are SACs, and that's the rest of our field offices. Those three very large offices have a more senior leader.

Q And does SAC stand for special agent in charge?

A Special agent in charge.

Q And what does SVTC stand for?

A Secure video teleconference.

Q Okay. So this was a teleconference meeting with the assistant directors in charge, the special agents in charge, and headquarters?

A Yes. The Director has this really with just some senior members.

Everyone else can plug in.

Q Okay.

A Yes.

Q And do -- so about how many people would have attended this meeting?

A So maybe in person, especially during this timeframe, it could have been a half dozen to a dozen. I'm not sure there. But would have been on the video link hundreds.

Q Hundreds.

A I mean, all your SACs, and then most likely your Assistant Directors, and then any other very senior personnel.

Q Okay. And did you assist in preparing any of the talking points for this document?

A I don't recall.

Q Do you know if you attended this meeting?

A I did attend it, because this one I did a presentation.

Q I want to look at the talking points that begin on page 2. So these are talking points to the Director, right?

A Uh-huh.

Q Okay. So there's a section entitled "Threats against school administrators, board members, teachers and staff" and then a bullet point introducing or describing the Attorney General's October 4th memo.

A Uh-huh,

Q And, immediately below that, there's a bullet point that says: The Attorney General's memo is getting politicized in the media and elsewhere in a way that's certainly not helpful to anyone.

Do you agree that the Attorney General's memo was being characterized inaccurately in the media?

A Yes. I think that once -- especially the discussion, when it turned to targeting parents and targeting people for attending meetings, it was -- it was misrepresented.

Q And that's not what the memo said?

A No.

Q And that's not even what the press release said?

A Yes.

Q On the next page, it says -- at the top of page 3, it says: But bottom line, I'm interpreting the memo as really just underscoring the coordination we're already -- and that's boldfaced -- doing in each and every one of our field offices. We already take specific threats of violence seriously and work with our partners to disrupt or mitigate threats whenever possible - that's certainly not new.

A No.

Q So does the phrase "underscoring the coordination we're already doing in each and every one of our field offices" refer to the coordination we discussed earlier between field offices and State and local partners?

A Yes.

Q So is it accurate that the field offices coordinated with these partners regularly even before the October 4th memo?

A Yes. And, as I've said, there really was nothing differently done in that organization, the FBI, from before or after.

Q And do you agree that FBI already took specific threats of violence seriously even before the October 4th memo?

A Yes.

Q And that's actually part of your mission, right?

A Yes.

Q The next paragraph reads: I am not treating this as some wholesale change in the way we operate. We're going to continue to do our jobs. We're going to continue to work with our partners to identify and disrupt threats, and we're going to do our best to stay in our lane and out of the politics.

I know we've been over this but, once again, do you agree that the October 4th memo did not change the way the FBI operates?

A I agree with that.

Q Do you agree that FBI tried to, quote, stay out of the politics with respect to this issue?

A We do what we've always done. We investigate crimes and threats.

Q Because getting pulled into politics actually makes it harder for you to do your jobs?

A Yes. We do not get involved in the politics of issues. We investigate crimes.

Q Okay. So the following bullet point reads: The AG's memo does not change how we assess threats or do business. What's being asked is that we simply work with U.S. Attorney's Offices to conduct the kind of outreach that we would typically be doing even in the absence of the memo.

A Yes.

Q Is it accurate that the FBI and U.S. Attorney's Offices would have done the type of outreach described in the memo, regardless of any particular directive?

A They would have done continued outreach as they normally do. I don't

know if they would have had certain meetings on this particular threat or not, but they meet all the -- frequently, like I said. As an SAC, we meet at least monthly.

Q So -- and then it goes on, and it has a couple more bullet points on that. We went through you said hundreds of people, including special agents in charge from probably most of the field offices --

A Yeah.

Q -- attended this meeting.

A Uh-huh.

Q So, at least three times over, the Director has told these people this is not changing the way we do business, right?

A Yes.

Q He tried to make that abundantly -- he repeated it in bullet point after bullet point?

A Yes.

Q Okay. And I just want to clarify it. A little further down, it says: HQ presentation. CTD AD Tim Langan -- communicating on CT threats.

Did that have anything to do with the school board or with the October 40th?

A I don't think it did. I think it was -- yeah, I think it was a planned meeting. I can't -- yeah.

Q So it's just coincidence that it happened on this day?

A Yes. I mean, yes.

Q I want to look back at that October 20th email again just very quickly, the exhibit 4.

Near the end of the email, you ask the recipients to keep three factors in mind when they're evaluating threats. Are all of these factors generally consistent with the

factors that apply to every investigation?

A Yes. Every Federal investigation, yeah.

Q So you always have -- so, when you're evaluating something, you always keep in mind if there is a Federal nexus. We went through that earlier.

A Always. It's part of --

Q Okay.

A We can't open a case without a Federal nexus.

Q School officials, any other investigate -- any other assessment, you always keep in mind whether there's a Federal nexus?

A Yes.

Q Nothing special here?

A Yeah.

Q And the same with looking for potential Federal violations, you -- and agents are always to -- are always asked to keep in mind whether there's potential Federal violations, right?

A Yes.

Q And agents are always encouraged to keep in mind the potential motivation behind the criminal activity?

A Yes. But there are also times, if you're talking about some -- some types of crimes, the motivation is not relevant.

Q Okay.

A The fact the sheer act that they -- the sheer act of the crime itself may -- may not --

Q Understood.

A Yeah. We may not need the motivation. Yeah.

Q Understood. But there are certainly crimes where motivation does matter?

A Definitely, yes. And especially with threats of acts of violence for a Federal nexus.

Q I want to turn back to threat tags.

A Okay.

Q And I think you kind of started down this road earlier, but I wanted to give you the opportunity to finish a couple sentences that you started.

So just I'm not sure that this actually was ever made clear on the record. Can you explain for -- just for -- in layman's terms what a threat tag is? Because I think the term "threat tag" can be a little intimidating to people outside of the FBI, for example.

A Yeah. Yeah. No, unfortunately, I think it's been very mischaracterized. It is basically almost like a card catalog system. It's a way we can, without manually, but it's a way that we can retrieve information.

So we work a plethora of investigations. So, if an investigation is a -- whether -- let's say it's a financial fraud. We may not know, though, what the -- we may not be able to tell you exactly, why don't you pull all of the financial frauds that involved statements of loans -- statements of loans from banks in this area or give us individuals that are committing gang activity that involve this specific type of weapon, you know. If we don't -- so at times we -- if we want to try to drill down and identify specific threat occurrences, we need to put a tag on it so we can -- we can scope it more properly or have more information about it.

So, for example, with this threat, so, if these threats occurred and if they were investigated by the FBI, so involving members of the school board or schools, they could be categorized as just a threat over an interstate wire, and we would not know necessarily. We wouldn't be able to pull that information unless we went through every

single one to know that this individual was associated -- the threat against them was associated from their position as an educational official.

With this, we'd be able to collect that information together because then we could run the threat tag and be like, okay, all threats of violence, acts of violence, occurrences that affect these individuals, we can now pull them.

[12:27 p.m.]

BY [redacted]

Q And you mentioned the example of a threat over the interstate wires?

A Yes.

Q Is it possible for something to have -- for us -- I don't know if I should call it a case or an assessment --

A Yeah.

Q -- or a Guardian to have more than one tag applied to it?

A Yes, you could, theoretically, yeah.

Q Okay. How many threat tags does the FBI have?

A I don't know. I don't have that information.

Q Do you think it's more than 100?

A I would -- I would say it's more than 100, yeah.

Q Do you think it's more than 1,000?

A I don't think it's more than 1,000.

Q Okay. What's the process by which threat tags are created?

A It's an intelligence-driven process. So it's not something I have total familiarity with with how it's created, but basically a need has to arise and articulated where we need to identify this specific factor involving an incident to help us retrieve it or identify these threats. And then it is -- and then it's created really administratively to where they could link our systems that have this tag, they can link then that case, they could run it and pull it back through. So it's an intelligence driven.

Q Okay. So you have insight into the threat tags that would be impacting the Counterterrorism Division or the Criminal Division or the things under your purview.

A Yes.

Q But they're also applied in other -- other --

A Yes.

Q So it's not just --

A No, no. Every program has the potential to run a threat tag or to create one.

Q Okay. And, actually, looking at the March 1st letter from the FBI's Office of Congressional Affairs, on page 2, at the end of the first paragraph, it says, the FBI often uses tags for special events such as the Super Bowl or Olympics. Is that accurate?

A Yes.

Q Okay. So these are pretty broadly -- there's a lot of them, and they're pretty broadly applied?

A Yes. Yes.

Q Okay. So the name "threat tag," like I said, I think it's a little intimidating potentially to the outside world because it has the word "threat" in it, but it's -- in reality it is just created for all kinds of purposes and applied to all kinds of cases?

A Yes. Yeah.

Q Okay. So there's nothing sinister there?

A No, there's really nothing sinister we do.

Q Fair. To the extent it's been characterized as such, that would be a mischaracterization?

A For those that we characterize a threat tag for one that applies to a certain individual in that it somehow continues to attract people, which --

Q Okay. When that EDUOFFICIALS threat tag was created, was it applied retroactively?

A I don't think so, and I don't think we have the ability to do that.

Q Okay. So actually --

A I think you would have to go into then -- you'd have to go back and look at violations that you think may have affected that and then put that tag on there.

Q Okay. So, to the extent that there were incoming -- incoming concerns, incoming tips that said "I have this area of concern about a threat to an educator" that predated the October 4th letter, it's possible that those weren't captured by the eduthreats tag -- or the EDUOFFICIALS tag?

A Yeah. If they weren't tagged with that, then they wouldn't have been captured in that poll.

Q So it's possible that 25 is not actually the full universe. It is just what exists based on what was actually tagged?

A Yes, 25 occurrences since the threat tag.

Q Okay. Just a couple more questions and then about out of time. The March 1 letter says that the purpose of the tag was to help the FBI understand the scope of reported threats against school officials on a national level and to provide an opportunity for a comprehensive analysis of the threat picture for effective engagement with law enforcement partners at all levels. Do you agree with that statement?

A Yes.

Q And it actually tracks pretty closely with the language of your October 20th email, which says in the middle of the third paragraph: The purpose of the threat tag is to help scope this threat on a national level and provide an opportunity for comprehensive analysis of the threat picture for effective engagement with law enforcement partners at all levels.

Right?

A Yes.

Q Okay. So what you were saying earlier is that this is primarily a scoping mechanism?

A Uh-huh, a tool, yes.

Q Is a tool.

A Uh-huh, for scoping for -- for -- yes.

Q So there have been allegations that the FBI was using to -- was using the threat tag to, quote, tag parents as domestic terrorists, and I want to go through that allegation step by step. So we've already discussed that neither the memo nor the press release nor your email uses the word "parents," right?

A Uh-huh, yes.

Q Okay. To your knowledge, did any of the 25 Guardians that are referenced in the March letter state whether the tips accused parents of doing anything in particular? Specifically, did they mention the word "parent"?

A I have no idea if they mentioned parents.

Q Okay. Is that ordinarily something that would even be recorded in the Guardian system?

A No. I mean, if a -- if a complaining party could -- if they identified this person and said they could've made it, but it's not -- it's not relevant --

Q Right.

A -- to an invest -- whatever -- parents, no parents, it's not relevant.

Q Because the issue is who is --

A Who is -- the issue is the individual that's being threatened.

Q Right. Are tags applied to people or to assessments or to Guardian case leads or to --

A To incidents.

Q Okay.

A To incidents or -- yeah, incidents.

Q So --

A Special events are not necessarily an incident, but it could be an incident. That's an incident, yeah.

Q So tags are not applied to people?

A No.

Q So there's no case file with somebody's name on it that says this person has been tagged as --

A No.

Q -- such-and-such?

A No.

Q Okay. And did the tag have anything to do with domestic terrorism?

A Not directly, but if one of these Guardians, I think -- Guardians were opened under counterterrorism.

Q But to the extent that the --

A The tag is agnostic.

Q Right.

A No, the tag, no. The tag is just -- no, it's just -- it just attaches to an incident.

Q Right.

A Yeah.

Q So they said that the accusation is that the FBI was tagging parents as domestic terrorists?

A No, there's no connection to parents nor does the tag identify domestic

terrorism.

Q Right. So the tag wouldn't say the person in this --

A No.

Q -- folder is a domestic terrorist?

A Absolutely not.

Q Okay. Why do you think this confusion exists?

A I don't know. We did not -- we didn't say that, so I don't know. I think there is a lot of misinformation out there.

[redacted] Okay. We can go off the record. Thank you.

[Recess.]

[1:20 p.m.]

[redacted] We'll go back on the record. It's 1:20.

BY [redacted]

Q I just wanted to ask you a couple questions before I turn it over to my colleague [redacted] Before the October 4th memorandum went out, there's been some discussion that you -- the weekend before you had some emails or some phone calls?

A Yes.

Q Could you just -- to the extent you can remember what they were, could you just walk us through that?

A Yeah. So it started on Saturday and received the first email from Steve Jensen, who was the section chief, forwarding the emails that started from DOJ talking about wanting the FBI engagement in this response to this letter and asking for FBI engagement but not necessarily specific. Forwarded the email to me, probably for an awareness -- actually, he forwarded it to the senior staff of CTD.

I responded back saying: Steve, is this involving a certain threat or a specific -- I really didn't -- I don't even think I opened the attachment. A lot of times -- again, you know, for it to reach me, like: Hey, what's going on here, give me the -- give me the bluff. Responded back.

And then I don't know if he responded back, but then I did a phone call with his boss, who is my deputy, and that's Jim Tarasca, phone call: Jim, do you know what this is?

Again, this is my best recollection of it.

No, not tracking this, or I forgot if -- Steve -- something from Friday maybe, some conversation. But, again, this is new, like what is this involving, a certain threat? We'll dig into it. And then that was pretty much the end of the conversation. Okay, find out

what this is, what are the threats, you know, what are they looking for for us -- from us.

And then I think just one final email saying: Please just -- we'll talk about this on Monday. We can coordinate and discuss this in further, stay with me on this.

And then the only others were one or two to Jill, my report, saying: Hey, forwarding on, we'll look into this. Not sure what exactly the scope and what this is. We're -- I'll keep you posted. And that was it.

Q Okay. And then, on Monday, did you reconvene or touch base again with those folks?

A I don't have -- you know, we would've had our normal, usually like morning meetings, and I'm sure we -- to the best of my recollection, we have -- we discussed this. Hey, what's going on with this? Let's -- and get back over and like talk to them. And so, again, those levels that are talking to them, see what -- see what we're talking about, see what the frame of this threat is, and let's go on, would've been probably the extent of it.

Q Okay. And then did you have a chance to look at those emails before you came in today?

A Yes.

Q Okay. And just so you know, they haven't been produced to the committee. I mean, the committee has subpoenaed all relevant documents relating to this, and we haven't received those emails. Are you aware of that?

A I -- I'm not aware of what you receive or don't.

Q I understand that's not your decision what the FBI produces to Congress.

A Yes.

Q But --

A We'll then ask anything that -- again, I don't make those decisions, but we'll

take that back with Office of Congressional Affairs.

Q Okay. Just getting back to the weekend email and telephone calls, I mean, anything that comes up on a weekend usually has some significance attached to it, just the temporal --

A No.

Q No?

A My phone, especially, it does not stop ringing, okay --

Q Okay.

A -- still on the weekend. Yes, for it to reach an assistant -- yes, at some level. But the volume that we deal with, it's not unusual then. So it's not -- I don't want to put any kind of: Hey, this is from DOJ. Okay, well, what is this?

Didn't know who it was coming from, so it wasn't -- I don't believe there was anything, this is from the Attorney General, this is coming from somebody at DOJ, okay, what is it? What do they want? I don't even -- you know, I don't know this person.

Q Right.

A So, I mean, it's not unusual though for heavy calls -- the next call could've been like: Hey, we're -- we've got an active CT subject that's in our sight in Philadelphia, you know, in -- you know, what are we going to do?

So it's not unusual for us to be working on highly visible situations, some that don't end up being visual, so it's 24/7.

Q Okay. Going back to exhibit 1, the NSBA letter, I forget whether you said --

A That it's --

Q -- you looked at the letter?

A Yes. I don't recall. I think it was attached to that email that Steve sent me. I don't know if I opened it.

Q Because it, you know, it references the PATRIOT Act. I mean, it gets -- and this is like to get your reaction to this. I mean, isn't that taking things a little too far?

A Again, I don't know if I -- I know I reviewed it at one time. It has been a while though since I read that. This is from a nongovernment agency, right? It's from the --

Q Right.

A -- school board association? You know, honestly, I don't make a lot about what somebody -- they're claiming what the government should do.

Q Right. But it's a little different than that because the Attorney General, lickity split, 5 days later, puts out a memorandum to the whole Department, including the FBI. And then the Attorney General testified about the memo on -- to our committee on October the 20th, I think.

[redacted] 21st.

BY [redacted]

Q 21st, and acknowledged that his one input, his one data point --

A Yeah.

Q -- for this memo --

A Yeah.

Q -- was this, was this letter. So I'm asking you here today, like, at that time, do you remember the Attorney General testifying to that, that this letter was significant for him, perhaps the most significant data point?

A I don't. I don't recall at that point -- whether he testified or not, I wouldn't have been, you know, present for that.

Q So the fact that he testified to that wouldn't cause you to go back and look at the letter --

A I know that after --

Q -- and zero in a little bit more?

A I mean, this definitely became -- yes. Obviously, we knew things became much more engaged with Congress and DOJ, but I can't reflect -- I probably knew there was something, but I wouldn't have been involved in his testimony, and I don't believe I watched it.

Q Okay.

A So --

Q And just, by the way, I just note for the record, the hearing was October 21st. Our first substantive letter on this issue wasn't until the 24th or 25th of October.

A Uh-huh.

Q So, when we go back to Exhibit 8 --

A Yes.

Q -- when the Director is talking about unfortunately, like with so many things these days, the AG's memo is getting politicized. I would just note for the record, we hadn't engaged on this topic.

A Yeah. And, again, I don't know what the Director used for his calculus --

Q Yeah.

A -- on that statement. I don't know if he got some other information --

Q Right.

A -- or where he got it.

Q Right. So, going back to this exhibit, exhibit 8, where the Director's talking to all the special agents in charge around the country --

A Yes.

Q -- it seems to me that the Director is -- I'll give you a chance to find it.

A Got it.

Q I'm looking at, it starts on page 2.

A Uh-huh.

Q It seems to me he's downplaying the FBI's role here. Is that a fair assessment? Am I missing something?

A You know, I wouldn't be able to judge downplaying or -- I think he's just -- he just states the facts.

Q This morning I used the word "leaning in," and you said, well, what does leaning in means?

A Well, I know what leaning in means, but, I mean, in that context of that me leaning in, you know, I think there was some -- leaning in, obviously I know getting involved in something, but --

Q But it's making it a priority. It's --

A But when -- in these matters I think just being more specific would help me with helping you.

On this, I -- you know, he states things very factually, the Director, you know. So I don't -- you know, just in general course of his business, he's not one to, hey, this is -- it's just what it is. I mean, the way you read it is pretty much how it is and how we received it. Okay. This is -- again, we do deal with an area -- you know, we -- a lot of things come across our -- you know, whether they're, you know, threat driven, interest from community, whatever, and so we do address a wide variety of things.

Q Okay. On the -- flipping over -- by the way, do you have any idea what's redacted on page 2?

A Two?

Q The second bullet?

A The second bullet?

Q Yeah.

A No idea.

Q Okay.

A No.

[redacted] I would just ask, you know, counsel if we can have a little bit more information about this particular redaction. We don't like my redactions obviously, but this particular redaction, if you could just like let us know what the reason for that is.

[redacted] Yeah. I don't recall off the top of my head, but we can certainly get back to you.

[redacted] No, I'm not expecting you to recall off the top of your head.

[redacted] Sure.

[redacted] But if you could get back to us, appreciate it.

[redacted] Of course.

BY [redacted]

Q But flipping over to page 3.

A Yep.

Q You know, but bottom line, I'm interpreting the memo as really just underscoring the coordination we're already doing. I mean, isn't that in effect signaling to the field that -- you know, downplaying the memo?

A I wouldn't say downplaying. I wouldn't say up playing. I would just say signaling to the field: Hey, I want you to stay consistent what you're doing.

I think, you know, he's -- and, again, I don't recall exactly the temperature. I'm going to speculate a little bit. But what he may have -- whatever he's referring to and what the information he got what is ever super -- started to charge this issue.

Obviously this issue got charged quickly, right. Whatever calculus he's doing -- and, again, this is a bit of speculation here -- trying to maybe -- I would assume, if there's any speculation on my part, trying to -- this isn't to not supercharge anything. Just keep doing what you're doing. We have a process of doing things. Threats come in. Work threats.

Q Okay. Okay. You know, I'll leave it here. I don't want to belabor the point. But, when the Attorney General puts out a memo to the whole Department, I mean, that is signaling a priority, is it not?

A And, again, I get really specific on "priority." Since we attached -- we have a very significant, deep process for prioritization of our threats, and so that's why -- I don't mean to be --

Q Right.

A -- that I'm trying to be difficult with the answer, but like a priority would actually -- for us to be a priority, like we would designate it through our threat review, this is a priority.

Is this something that now we are -- yes, we addressed this, right. And he mentions it: Hey, this is -- you know, this memo from the Attorney General, making sure you -- maybe some of the SACs hadn't heard of it -- trying -- kept introducing this issue to it, but no adjustment of resources, prioritization on it.

And, you know, exactly what we're trying to do, we want to know the scope of this. What is this? Should this be a priority, or should it not? What's the extent of this --

Q And what do you think was the result? Did this become a priority, or did it not?

A No.

Q It did not become a priority?

A No.

Q Okay.

[redacted] I'm going to flag -- what's our next exhibit 9?

[Langan Exhibit No. 9

Was marked for identification.]

[redacted] Nine.

BY [redacted]

Q I just wanted to -- I referenced this when I was first speaking with you this morning.

A Okay.

Q So I just wanted to --

A Yes, right. Okay.

Q I just wanted to make it part of the record.

A Gotcha.

Q This is the -- this is dated October 14, 2021, so it's before the Attorney General testified, but it's after the October 4th memo. This is from the acting U.S. attorney in Montana.

A Okay.

Q It's just going through all the Federal crimes --

A Yeah.

Q -- that could be potentially implicated from this school board activity.

A Okay.

Q And I wanted to ask you whether -- I mean, the FBI was directed to convene task forces, to convene meetings. And ultimately you said the U.S. attorneys were going

to do the -- were going to take the lead on convening. Is that correct?

A The first part is not. We were not directed to convene task forces.

Q Okay.

A I believe you referred to a DOJ potential task -- we --

Q Participate in task forces, I'm sorry.

A Participate in meetings.

Q Okay.

A I don't -- I don't -- I never recall reading from the Attorney General participate in a task force.

Q Okay. So exhibit 3 --

A Okay.

Q -- the third paragraph --

A Okay. This is the press release?

Q Yeah.

A Okay.

Q So paragraph 3 begins: According to the AG's memorandum, the Department will launch a series of additional efforts in the coming days designed to address the rise in criminal conduct directed towards school personnel.

A Yep.

Q Those efforts are expected to include the creation of a task force --

A Yes.

Q -- consisting of representatives from the Department's Criminal Division, and then it lists a bunch of other components --

A Yep.

Q -- including the FBI. What is your recollection of FBI participation in this?

A None. I never saw anything that went further than -- as far as creating a task force on this matter.

Q Okay. So, to your knowledge, the FBI personnel were not participating in task forces?

A Yes.

Q On this topic.

A On this topic, yes, sir.

Q On this topic, of course.

A Yes. Yes.

Q Okay. So getting back to exhibit 9 --

A Yep. Montana, right?

Q Uh-huh.

A Okay.

Q I just wanted to get your reaction --

A Okay.

Q -- to like all these statutes.

A Yep.

Q I mean, I asked for your reaction on the PATRIOT Act question --

A Right.

Q -- and you didn't really give me much there.

A Yeah.

Q But, you know, it sort of seems to me that the acting U.S. attorney in Montana, I mean, you know, he leaned in here, to use the term we've been using.

A Well, leaned in, he wrote a memo listing a lot of statutes.

Q Right. But this is pretty significant, is it not?

A Listing statutes?

Q Listing statutes that could be used to go after parents at school board meetings?

A You know, what is -- it's a -- well, one, I don't -- the Bureau is not on this.

Q Right. But --

A Right. You referred earlier, this is the one that you -- like the Bureau dictating the Bureau to investigate these or like --

Q No, no, no. This is the U.S. attorney in Montana.

A This is -- yeah.

Q But this is all obviously part of --

A Yeah. I mean --

Q -- the activity --

Reporter. I just need one person to talk at a time.

[redacted] That's my bad.

Mr. Langan. Oh, I'm so sorry.

BY [redacted]

Q But this is all flowing from the Attorney General's memo, correct?

A I could assume that this is what -- I don't know why he would -- does he refer to it in here? The Attorney General's directed -- yeah, so he refers to the memo, yes.

Q So I just wanted to get your reaction that you don't think this is taking things a little too far?

A Honestly, you know, between what a U.S. Attorney's Office -- I'm not going to -- you know, I've seen them do a lot of different things. And so taking it too far by sending a memo out, I would like to see, you know, an action that takes -- you know, some people might feel this way. Listen, it didn't affect -- this didn't affect any type of

work that we were doing, so I don't have any more opinion on this acting U.S. attorney in Montana.

Q Okay. Are you aware of any other initiative like this by other U.S. attorneys --

A I'm --

Q -- to put together a list of statutes?

A I'm not.

Q There's been some discussion about, you know, if you look at the -- the Attorney General's memo, we've been advised --

A Yeah.

Q -- a number of times that the word "parents" are not in here.

A Yes. Right.

Q I think -- what's that?

[redacted] Are we wrong? Is it in there somewhere?

BY [redacted]

Q So my point here is, though, who goes to school board meetings? If we're talking about activities that happened at school board meetings, who are we talking about? I've asked another witness that, and they said, um, vendors. I'm like, okay, we've got vendors. Who else goes to school board meetings besides vendors and parents?

A Well, so, for one, if I could give clarification, I think the threat is directed to people who may be associated with.

Q Right.

A So, again, I think we kind of covered whether or not it happened at a meeting or not.

Q Right.

A So it's individuals that work or are associated with school boards that receive threats.

Q Right.

A So I think that opened -- that's a different point of discussion --

Q Right.

A -- whether or not it -- the threats happened at a school board meeting or not, right.

Q Okay. Fair enough. Like who --

A Okay.

Q Then who were making these threats?

A That's a good question. I guess we could drill into the 25 -- I don't have the information on that.

Q I mean, a lot of these threats are coming out of school board meetings. Isn't that fair to say?

A I don't have that data. I didn't look at those threats, and I wouldn't assume they'd come from -- we can never look at -- for example, if something is targeted at a mosque or a temple or, you know, anything like that, I wouldn't assume that I know who's doing this. So I -- I just -- I think it's an area that we don't get into in the Bureau, like assuming this is going to be the people that do that. We just really deal in a lot of fact-based driven methods.

Q Right. I mean, let's go back to the period in question --

A Okay.

Q -- October 2021.

A Yeah.

Q You know, at that time, things had started to boil over with issues relating to, you know, COVID restrictions, correct, at school board meetings and --

A Again, I've heard subsequently since -- brought attention that there is -- yes, I guess, several issues that concerned people.

Q So it's whether schools are conducting classes in person. It's whether those in-person classes -- you know, the mask requirements. At the same time, I believe critical race theory was a big part of a lot of these concerns. Do you remember any others?

A I don't track nor have I read any information or briefs on anything in the FBI about any reasons for school board meetings.

Q Okay. You mean any of the threats coming up at school board meetings?

A Threats to individuals that occurred, I think there was 25 Guardians created.

Q Right.

A I don't -- as far as what you're describing, issues that could be brought up in a school board meeting, am I correct there?

Q Right.

A I have never read, tracked, been given any information about these are items that are discussed on school boards --

Q Okay. Okay. It just seems slightly hard to believe that -- I mean, you're a senior FBI official.

A Yes.

Q This is like an initiative that the Attorney General discussed.

A Right.

Q And, you know, I'm just offering that some of the topics that were of some controversy back then, critical race theory. It was COVID restrictions. It was

mask -- you know, mask wear --

A But I'd have to tie that in, what is the Federal nexus for a discussion on that, and what is our engage -- where have we engaged on that?

Q Right. But I think that's the whole point of why we're here today.

A No, I think --

Q Is that why is the Federal law enforcement machinery throughout the country being pointed towards something that is not a Federal nexus?

A And, again, I think it's a perception or opinions versus what the FBI did in facts. And the facts -- all we care about are people from anywhere threatening anybody. Now -- and if they are a part of the school board and for individual, whatever, if there was other discussions that brought to that, I mean, theoretically there could be, if we're talking about, again, you know -- I'm trying to think of a threat that it flowed from something, but those discussions, they didn't. And at least I was never a part of them. I mean, if there is somebody at some level that had a discussion of like what is driving people -- I would only assume. I don't --

Q Okay. So, as I understand what you're saying, before the October 4th memo, you had no idea this was something that the FBI needed to be addressing?

A I don't believe that -- I can't recall ever being part of a meeting regarding threats involving educational aspects.

Q Okay. So, from your point of view, there wasn't an uptick and there wasn't a nationwide trend that needed to be addressed by the FBI on this topic?

A To my recollection, not brought up to me, yes.

Q Okay. But, I mean, you're one of the senior people --

A Yeah. Yeah.

Q -- for the relevant divisions of the FBI?

A Right.

Q So, if not you, okay, who would know about it?

A So --

Q Is that a fair question?

A If you want me to -- that is a fair question. And but -- if you want me to speculate, like discussions could've happened in a certain field office, right. Most of the work, all the work really is generated from field offices. Maybe some city had an incident. I don't know. I mean, do you want me to say -- they could've had a discussion with the SAC level.

There could be discussion at the, you know, a senior level that are like, hey, are you guys tracking -- are you starting -- it just didn't like, oh, let's -- we need to tell the executive level about this, because, just like you said, if it affects me, it means that we're going to have to, a lot of times, you know, do we need to shift the priority, or strategy, or resources, and so nothing at that level did.

Q Right. I understand. If everything in exhibit 1 is true, okay, and the Attorney General, you know, puts the memo out -- exhibit 1, I'm sorry, is the NSBA letter, right?

A Yeah.

Q Talking about a, you know, systemic uptick in these concerning incidents.

A Yeah.

Q And, you know, if you take everything there as true and because the Attorney General put a memo out, you have to -- you have to give that some credence. And then we come over to the FBI and we find out that there isn't any -- you know, there isn't that nationwide systemic uptick. Is that fair to say? Would you agree?

A It depends on who gives this credence. So, again, I think I might have read

this once. I don't recall much from this --

Q Well, the Attorney General gives the credence.

A The Attorney General can -- I'm not -- I can't speak for the Attorney General. So -- but as far as giving credence to certain levels of threat, again, what did the FBI see? What is -- so I can only talk about what was brought to us, sir.

Q Fair enough. And I think one of the concerns and many of the concerns our Members have is that before the Attorney General put out his memo, okay, why didn't he ask the FBI first? Is that a fair question?

A I think asking the FBI about threats and what one is seeing, that is -- I think that's appropriate.

Q Before putting out a memo to the whole --

A I don't know about the response there --

Q -- the whole Department.

A -- but as far as, in general, coming to us is always a good opportunity if you're inquiring about threats.

Q Correct. And so, from our Members' perspective, it has a veneer of just a political operation. Somebody gets to the White House. The White House gets to the DOJ. Boom, you get this memo. As it turns out, when we talked to the FBI -- and you're not the first FBI person we've connected with on this topic --

A Right.

Q -- the FBI officials like yourself haven't been able to give us any data to support this original data input to the Attorney General's memo.

A Okay.

Q So I think that's pretty much where, you know, where we want to leave it unless you have anything to add there.

A No, sir.

Q Okay.

BY [redacted]

Q All right. Thank you.

I'll go back to your testimony at the House Intelligence Committee's hearing on November 3rd of 2021. I'll represent to you that in a recording of the hearing Congressman Crawford asked you which FBI Headquarters element had the lead on implementing the mandate from the AG's October 4th memo regarding school board threats, and you said that it was a combination of Criminal Investigative Division along with the Counterterrorism Division.

A Yep.

Q Why would both departments be operationalized on this issue and not one or the other? I think you might have answered that earlier.

A Yeah. You know, I'll go through it again.

Q Yes.

A Do you want me to say them?

Q Yes, if you could.

A Again, so almost all occurrences of threats or violent acts really can boil down to those two divisions. Now, there is a chance that some -- just bombings, which you saw in one of those -- some of those threats -- assessments that they had a bombings. Those can also go through another division. But basically threats of violence are going to fall under those two divisions, so that's --

Q That helps.

A That -- yeah.

Q And Congressman Crawford also asked you who from the FBI field offices

attend -- attended the meetings led by the local U.S. Attorney's Offices across the country following the AG's October 4th memo, and you said that you would get back to him on that information. Were you ever able to find out that information?

A We didn't seek it, and we didn't track it.

Q Okay.

A So I refer questions, after my testimony, to go back to our OCA and to go to DOJ and forward them on to DOJ.

Q So after you pass on the information --

A I give it to OCA, Office of Congressional Affairs, and then I'm done with it.

Q From there, they move with it, okay.

And then Congressman Crawford asked you if the FBI utilized any national intelligence resources or authorities to act on the Attorney General's October 4th memo, and at the time, you said no. Did that change at all following this hearing?

A And what is it again? What did he ask? He asked --

Q He asked if FBI utilized any national intelligence resources or authorities to act on the AG's memo, and at the time, you said no.

A Okay. Yes, because I don't -- when was the date on that testimony? That was --

Q November 3rd of 2021.

A Okay. Drilling down, theoretically intelligence analysts that help try to scope the threat are part of the national intelligence program. So, at the time, since it was pre -- I mean, it's kind of semantic, but if you were looking, are there any resources and subsequently, yes. Obviously there's been -- there was at least six -- six Guardians that were under the counterterrorism nexus. Those are national security. But if they were investigated by a domestic terrorism squad, they are not. I mean, things are

getting really bureaucratic here. So like -- so technically -- so DT investigators are not, but all intelligence analysts are.

Q Okay. Thank you. And so that's what you meant by when they come from the national intelligence program bucket. I just want to make sure I understood that language.

A Yes. That would be -- yes, that's the national intelligence program bucket, and this would be individuals that are either investigating -- it's usually counter -- and if I miss a few, but counterintelligence, counterterrorism, but international terrorism, foreign influence, and cyber, and then all intelligence analysts though, because they plug into that.

Q Okay. And then, lastly, Congressman Crawford asked you whether the FBI had received any updated guidance from the Department of Justice on canceling the mandate for FBI-led meetings, training, and dedicated open lines of threat reporting after the NSBA apologized and recalled their September 29th letter to President Biden's -- President Biden. As of today, has the FBI received such guidance?

A To call back something or --

Q Yeah, to -- or has the FBI received any updated guidance to not, I guess, follow the mandate that was given by the Attorney General?

A We haven't received any further guidance on the issue. I don't know if I'd agree with the, again, the mandate which we took as the U.S. Attorney's Office to lead. But we have not received any further information --

Q Any further instruction?

A -- at all or exchanges, yes, on this. And at least to my knowledge, if something happened at a different level.

Q Okay. And then, finally, Congresswoman Stefanik asked you to provide all

emails related to the issuance of the AG's October 4th memo as well as any emails related to any planning for messaging in the memo.

A Yep.

Q You answered that you would provide what you could legally. Did you produce those requested emails following the hearing?

A Again, same answer. I -- it -- as I was telling the Representative, I will pass on the requests to those that work in OCA and OGA, our general counsel, so I don't know. I don't follow up on that.

Q I understand. Thank you.

A No. Yeah, no, that's fair.

[redacted] I would just, to point out for the record, and this might not be something that the witness is aware of, but we did produce this document that's dated October 20, 2021, from Monte Williams (ph). So, to the extent that that's guidance, I just wanted to make sure we provided that. But you might not be aware of that.

Mr. Langan. No.

[redacted] Thank you. Let's see.

BY [redacted]

Q And if I could just go back to one of [redacted] last questions regarding the retraction of the September 29th letter, are you aware that on October 22nd the NSBA apologized for their letter?

A I think I remember hearing maybe open source about that. I think -- it seems familiar.

Q And what do you mean by open source?

A Like either read about it or heard it on the news or something like that. I don't -- I don't remember having any like official work discussion.

Q Were there any conversations that occurred after October 22nd regarding whether or not the Attorney General should retract the October 4th memorandum?

A I don't recall ever hearing anything like that.

Q And it's your understanding that the Attorney General's October 4, 2021, memorandum is still in effect?

A I assume. But, again, I think, what it -- you know, as far as the Bureau, we -- again, it may affect the DOJ differently. For us, we, again, did a threat tag, scoped the issue, and then -- and we just continue doing what we always do. So I don't know if it -- you know, so as far as recalling affected us, it hasn't affected us.

Q But you're not aware of any conversations that you were involved with or your subordinates were involved with regarding retracting the memo?

A None that I was or none that I know of, yes.

Q Okay. Thank you.

BY [redacted]

Q And, during the last hour of questioning, you were asked about the FBI National Threats Operations Center, or NTOC is how we termed it.

A Yep. Yep.

Q Who oversees that?

A That's another Assistant Director.

Q Do you know what exactly, which Assistant Director?

A Yeah. His name is -- well, and that's a section, but it's Mike Christman is the Assistant Director over -- it's the Criminal Justice Information Center, CJIC, or I think it's -- it's CJIC. Oh, my god. I'm sorry.

Q Fair enough. And then who is the final decisionmaker to pass along a tip that was reported through NTOC?

A That's a great discussion point. So I think, you know, those individuals would be better, but it is a -- it's a team effort of individuals that take the call. They are trained. They're trained intake specialists. They review it. There are then team leaders and including agent personnel that are involved that review it, but that is definitely not an area that I'm -- I'd be able to explain to you as fully as I think you would like.

Q Understood. No, I appreciate it.

And then going into a little bit about your current role --

A Yes.

Q -- over the Cyber Division, what are the current investigative priorities of the FBI's Cyber Division?

A It is -- that's a secret discussion, but I can talk to you in general, generalized.

Q That's fair.

A Okay. And it's -- that's one of the divisions I oversee.

Q Okay.

A Okay. But for Cyber, there's a lot of national security threats. I won't get into them in this forum. And then there's also significant criminal cyber threats.

Q And what are your areas of responsibility within the Cyber Division generally?

A So I oversee them along with the other five divisions. There is an Assistant Director that is the senior executive over Cyber Division. I oversee the branch that's with -- so what I would say is continue to assess resources, strategies, and engagements, and external components, whether it's public and private sector, involving cyber -- the cyber program.

Q Okay. And then, based on those priorities that we generally spoke about,

what are the mandated times to address seized digital media for processing and analysis?

A Okay. Mandated time for seizing --

Q Digital media and for processing and analysis.

A And for -- okay. So how quickly can they process it?

Q Correct.

A Is there a mandate? I don't know if there's a mandate on how quickly -- so if something was seized, a piece of media was seized, how quickly was it processed and -- I don't know if there is a mandate on that.

Q Is there a general guideline?

A It would be evidence -- evidence policy. I mean, we can -- you know, I -- check with -- but I don't -- I don't -- I've not seen that.

Q Okay. And we could maybe assume that those timelines for analysis are ranked by investigative priority. Would that be a correct assumption?

A Yeah. Yeah. I mean, yeah. I think the -- yes. The investigative priority of the -- yeah, the significance of the case, the amount of data, where it was seized, and does that place have the ability to analyze it locally? Do they need to send it to a regional place? Do they need to send it back to the FBI lab? Is there other partners involved? I mean, so it's a -- it's an equation. I don't think there's a policy of this date. There's dates for entering the evidence but not necessarily for the review, to the best of my knowledge.

Q No, that's understandable. And would you be able to assist us after today in obtaining if there is a policy on FBI's current Cyber Division?

A I'll definitely check with OCA, congressional affairs, and pass on your request.

Q Regarding the investigative priorities and the guidance for data analysis?

A I'll definitely pass on your request.

Q Thank you.

[redacted] Connected to the school board memo at all or different topic?

[redacted] I think if there's a general piece, if that includes school boards, but generally.

[redacted] This is connected to his role as Executive Assistant Director.

BY [redacted]

Q During your testimony as the Assistant Director of the Counterterrorism Division before the House Intel Committee on November 3, 2021, Congressman LaHood asked you about the role social media plays in cases identifying lone actors online. And you responded by saying in part that we very much encourage citizens, individuals to come forward when they have information of extreme rhetoric, violence being discussed online.

How does the FBI interact with social media platforms to identify lone actors?

A Again, if there is individuals that -- when you say "lone actors," again, I'm going to take this as an individual that is exhibiting threatening language or behavior. So we would, again, encourage individuals that come across that information to provide it to us.

Q And would the FBI ever reach out to the platforms on their own?

A Yeah, and we would hope the platform would send that to us though --

Q Okay.

A -- you know, because we wouldn't know. And so -- I mean, unless then we had a subpoena; then maybe we would subpoena the platform. Like, so let's say someone said I was on somewhere and I saw this and this is who did it and they're threatening to kill these five people, then we would maybe open up a preliminary inquiry

on this case, then -- because then we'd have the power to then get an order for the provider to get some information, you know. And but so -- so, yes, but it -- or if a social media company saw something that was threatening, we would hope that they would send it to us.

Q Absolutely.

A Yeah.

Q And you then mentioned direct engagement with tech companies in the private sector saying that --

A Yeah.

Q -- we engage with training with them to what to look for, our concerns. There has been several cases that we've worked together to disrupt violent acts before they happen. Can you describe, as best as you can, this direct engagement?

A Yeah. And, without being specific as like, you know, being told, like, hey, on last January we had this, but engagement, so private sector engagement -- and I'll include tech. I just want to give you a broader scope of what we do so you guys have a good understanding. Like, it is embedded throughout what we do as an organization, public and private, because, again, most of our victim entities are going to be private.

Now, some we're thinking very much threat specific on individuals today, but most of the things we work are going to be victims that are either corporations or entities or financial institutions or establishments. And so it's really key that we have really robust private outreach.

So, with that, so training on how to identify threats. Maybe they're insider threats. Maybe they're external threats. Maybe they're threats that are, you know, originating from a foreign actor, so -- maybe it's threats of individuals that are using their -- if they're using, you know, their technology in some way that they come across for

them to recognize it, identify it, report it. So it's kind of general.

Q Okay. And would the FBI intake tips or reports of the problematic content through, as we discussed earlier, the tip line --

A Yes.

Q -- online submissions?

A Yes. But they could also, if they reported back to a field office, they may have some type of, you know: Hey, we know this is San Francisco, and we know who to call in San Francisco, or this is Dallas, we've talked to this agent in Dallas that handles threats and where to call them and tell them. Sometimes that could happen.

Q And did the FBI ever receive reports of online content from State and local governments?

A Yes. Okay. Received information regarding criminal activity that have -- that has occurred -- or believe to be criminal activity occurred online but referred from a State and local government?

Q Correct.

A Yes.

Q And could you describe the FBI's internal processes when it receives those reports about content?

A Okay. So from a law enforcement agency?

Q Correct.

A So most likely those relationships are usually at a local level, okay. So they're usually not going to report them to the tips line. So let's say NYPD, right, they come across something that they've seen online, whether it's a fraud, whether it's a potential threat, and so they see that. Well, one, they're most likely -- and they are, they're part of our terrorism task forces or violent crimes task forces, and so, you know,

they inject that threat information or lead information to that field office directly. So they -- though they could go to the tips line or something, they most likely would inject it directly with the field office that they know.

Q Okay. And let me see, for example, what sort of internal review when it gets to the field office, what would take place within the FBI if they decided to act on such a report?

A So it would be similar to the tip making -- coming from NTOC, right. It still then gets to the field office. So let's say it comes from a detective at New York, compared to NTOC. It's still -- this information needs to -- you know, let's say it's going to be -- it's: We think Steve Smith is going to blow up this building, okay.

All right. So, initially, that field office, then they get it from the detective: Is this legitimate? You know, okay. Where is this -- oh, it's coming from the NYPD. Where did they get this information? Who is the reporting party? Okay. This sounds -- okay, it sounds at least credible to where they got the source of information.

They want to blow up a facility, okay. Is that something we're going to work? Is that a Federal -- yeah, okay. Somebody is going to blow something up, we're going to work that. All right. Is this in New York? Is this our AOR? Should we work it? Do we need to send a lead on? And they would go through that same process.

Okay. Let's start off with the Guardian. They most likely then -- they would open a Guardian from New York instead of a Guardian being sent to them where they have to open it or -- and -- or they may -- if the facts are so specific and articulable, like we talked about, they might go right to a PI or a full, but they could open their case. But, again, it goes through a process of case review, which is for, you know, a case opening or even a Guardian. You have a supervisor involved to review it. And then depending -- then there's all sorts of off sheets, whether or not it's -- they're sensitive

cases or they're certain programs -- different involvement. But basically a supervisor will review it as well, and they'll open up a case, and they'll start working it.

Q Okay. That's helpful. And were there any differences in the FBI's process depending on whether a United States citizen or a non-United States citizen produced the content under review?

A Okay. So, if you're saying a non-U.S. citizen provides us information?

Q Correct.

A If it went -- and so like, what is this, a hypothetical here, it went through the tip line or whatever?

Q Correct. However it was submitted.

A Okay. No. No. I mean, if it's the information, again, I don't think we're looking as much of who's sending it as long as it's not, you know, something that is, you know, someone who's, you know, trying to fraudulently tip information, but sometimes they do, and sometimes we have to rule that out too. But, no, we wouldn't discredit the information because it came from a foreign source.

Q Okay. And then could you describe the FBI's approach to reporting concerns or content to private sector partners like social media companies, kind of what we just discussed before?

A Yeah. The concern -- so --

Q Your approach to reporting the concerns --

A Reporting, same thing. If they -- so, I mean, if they forward us information onto there? We would still then -- then we would go ahead and still do that process. I mean, you know, there is usually -- probably it's a little bit smoother if it's coming from a law enforcement agency, because then a detective may already know a lot of elements of a crime that we may be investigating. But a lot of the private sector companies,

especially tech companies, are pretty well informed as well.

So, if it came in -- but we would still need to do our process, like, okay, thank you tech X, what is the violation here, what are you reporting, does this meet our thresholds for a Guardian, what -- you know, let's start taking the steps. So it would still follow the same process.

Q And would specific usernames or other identifying information get reported?

A Potentially. So, if they said, "Hey, we just came across an individual who wants to kill five people, and they're in Memphis, they're using this username on this platform," yes.

Q And would specific posts with problematic content get reported?

A So problematic or threatening?

Q However you want to classify it, if there's a difference.

A Well, there's a big difference.

Q If you could clarify the difference.

A Well, I don't know what problematic is.

Q Okay.

A I don't -- I've never classified anything as problematic.

Q Okay, then, threatening.

A If something threatening is coming, so if individuals are talking about conducting threats, that's concerning, yes, and this could be reported.

Q Is there a lower threshold than threatening that maybe could rise to the level of threatening that you would maybe flag?

A I mean, we're not flagging anything. We either -- if you're opening a case, a Guardian assessment, it has some type of, again, like we talked about, some type of predication for a potential Federal violation. So, again, I think I can help you here if

we're talking about some speech issues, okay. Very concerned about constitutional rights and not, you know, their hate speech. I mean, I've worked in civil rights a long time. There is, you know, highly, highly volatile, ugly speech out there, but that's not, you know, that is not going to get you to a predicated opening without that threat of violence.

Q Okay. And then are you aware of any instances where the FBI requested that a social media company take action on an individual user's account personally?

A Not to my knowledge to take -- I'd have to see if it was to close an account. I'd have to get a specific detail. I know like -- like, for example, during the synagogue shooting in Dallas, the synagogue was, I believe, putting -- I believe they were streaming -- I don't know if it was FaceTime or not -- or not Face -- yeah, Face -- yeah, I think it was Face -- I'm not sure what they were streaming on. I think it was a Facebook platform. But like there was then trying to, you know, real time, you know, contact with them, trying to determine -- and I don't know if, you know, again, who the subject is -- or, no, that was -- trying to -- if they were trying to stop it or not. I think we wanted to keep going because we needed some value there. But anyway, there was probably some really specific situations, but I think we'd have to get more detail on that.

Q Of course. And are you aware of FBI employees notifying Twitter or any other social media company of accounts which may potentially violate the company's terms of service?

A I don't know specifically. I don't have any details, but I couldn't say that I've been involved in that.

Q And then kind of summarizing the previous questions I just asked, like how normally would the FBI communicate concerns to social media companies about any of these reported instances?

A I mean, we regularly talk. Again, my area has always been in threats, so previously counterterrorism, here violent crime and threats, so those are the areas that I'm familiar with. And so they're not -- you know, not infrequent to talk about, you know, please report threatening aspects if individuals are, you know, conducting this activity online that reaches this, like let us know, let law enforcement know. So it's not --

Q So was it communicated via email or calls or regularly scheduled conferences?

A I've seen a lot of things, you know, whether it's private sector engagements, personal meetings, I'm sure there's -- there could be emails discussion back and forth, and calls, any of the above.

Q And then, in your experience, when the FBI works with a private sector partner, has it ever sought to educate them generally on what partners should be worried about or what they should be looking for?

A Well, so, in the cyber arena, yes, we often tell them about threats that they're -- that they need to be concerned about. I mean, that's one of the things that we do, educate the private sector, yes, these are certain vectors that you might be vulnerable to some type of attacks. These are -- these -- you know, these are the threats we're seeing. So, yeah, that information on potential threats to them is pretty common.

[redacted] Okay.

[redacted] We can go off the record for now. Thank you.

[Recess.]

[2:13 p.m.]

[redacted] It is 2:13. We can go back on the record.

BY [redacted]

Q I want to start out with addressing something that came up in the prior hour. You were asked about the Attorney General's testimony, and it was characterized that the -- or it was said that the AG said that the National School Board Association letter was what prompted the October 4th memo.

You had no involvement in preparing the Attorney General for his testimony?

A No, ma'am.

Q And I want to just introduce pages 45 to 46. It's from the official transcript of the October 21, 2021, House Judiciary Committee hearing.

A Okay.

[redacted] That's going to be exhibit No. 10.

[Langan Exhibit No. 10

Was marked for identification.]

BY [redacted]

Q And I'm guessing you have not seen this before, so I'll give you a minute to review it quickly.

And we've highlighted the relevant section, and this is obviously not highlighted in the official version. We did that.

A Yes.

Q At the bottom of page 45, the Attorney General was asked: When did you first review the data showing this so-called disturbing uptick?

His response was: So I read the letter, and we have been seeing over time threats.

Right? Is that correct? Did I read that correct?

A Yes, ma'am.

Q Okay. So he specifically said: We've been seeing it over time.

Right?

A Yes, ma'am. That's what he said.

Q And then on the next page, he was asked: Is there some study, some effort, some investigation someone did that said there's been a disturbing uptick? Or did you just take the words of the National School Boards Association?

And his response was: When the National School Boards Association, which represents thousands of school boards and school board members, says that there are these kind of threats, when we read in the newspapers reports of threats of violence, and when that is in the context of threats of violence against all -- and then he was cut off, right?

A Yes.

Q So I read that correctly?

A Yes, ma'am. Yes, ma'am.

Q So he actually never said that the School Boards Association memo was the sole impetus for the October 4th memo?

A Yeah. I don't -- I don't see that here.

Q In this specific section?

A In this specific, yes, ma'am.

Q And then, actually, I also want to introduce -- are you familiar with the Attorney General's testimony before the Senate Judiciary Committee on October 27, 2021?

A No, ma'am.

[redacted] Okay. I'm going to introduce an excerpt from that for the record. This will be exhibit No. 11.

[Langan Exhibit No. 11

Was marked for identification.]

BY [redacted]

Q And this -- there's actually not an official hearing transcript out yet, so this is the Proquest version.

A Okay.

Q So, on the last page of this printed excerpt, the -- which is page 21 of the transcript, as formatted by Proquest -- again, it's not an official record, so it is what it is.

But in the third paragraph, the Attorney General was asked: The National School Boards Association, as has been mentioned before, has since withdrawn that memo, and yet you said that was the factual predicate. Given that that was the factual predicate and that it's rescinded the memo, saying there was no justification for some of the language that they used in that letter, will you rescind your memo?

And the Attorney General responded: Senator, I -- best of my recollection, I said that the impetus for the letter -- for my memorandum was that letter and also reports of this kind of activity.

Right?

A Yes.

Q So he pretty clearly said that it was broader than just the letter. And then he continues on: I said, again, at the time that there were news reports that had been published, and I think that some of the other Senators here have described some of those news report. And we've certainly seen, subsequently, more news reports and more statements by board members of threats to kill them.

Correct?

A Yes, ma'am.

Q So the Attorney General -- it's not actually an accurate characterization to say that the Attorney General claimed that the School Boards letter, the National School Boards Association letter was the sole impetus because he actually said it was not the sole impetus, correct?

A Yes. He said here that he received information from other sources.

Q I want to take a look at the -- I think it was introduced as exhibit 9, the Montana letter. So there was a comment -- sorry.

A No, that's okay.

Q I'm drowning you in paper. I apologize.

So, in the prior hour, the comment was made that this was listing statutes to go after parents at school board meetings. And I'm sorry to make you go through this exercise again.

A Yeah.

Q But, once again, does the letter itself, not the statutes but the cover letter, does it say anything about parents or school board meetings?

A I don't see it.

Q And it actually says in the first sentence, "against our educational community," right?

A Yes.

Q So, in other words, it could be teachers. It could be staff. It could be -- the educational community is broader than just school board members, right?

A Yes, ma'am.

Q And, again, this says nothing about meetings of school boards either?

A No, I did not see anything like that. Yep.

Q And then the very last line of that first paragraph, it says: The Attorney General's directive does not seek to hinder anyone's free speech rights under the First Amendment.

Right?

A Yes, ma'am.

Q So that's clear on the very first paragraph of this letter?

A Uh-huh, yes.

Q And then the last paragraph of this letter, the first and second sentence read: The State of Montana has similar criminal laws against threatening and committing acts of violence against members of our educational community. It may be that an investigation and prosecution under those statutes more appropriately addresses individual cases.

Right?

A Uh-huh.

Q So there was no implication here that -- I'm sorry, could you say it for the record?

A Yes, it's stated here. Yes.

Q And so there's no implication here that the U.S. Attorney's Office was usurping any jurisdiction of the State or locals. In fact, they actually said it may be the case that it's more appropriate for a State or local to take the lead here, correct?

A Yes.

Q There was a comment made earlier, there's a reference to the term "operationalizing." Is that a term that has meaning to you? What does that mean to you?

A Yeah. I guess -- yeah. It has -- operationalizing, putting into effect, I think, to act on.

Q Is it an official FBI term?

A I don't think so.

Q Okay.

A That would be my interpretation of operationalization. Yeah.

Q So it's not like there's a policy that says this is when we operationalize something?

A No. I never -- I don't recall that.

Q Okay. There was some discussion earlier about why didn't the Attorney General ask the FBI before releasing the memo or something like that.

A Uh-huh.

Q The memo, you said that the effect of it on the FBI was to lead you to assess the threat, right?

A Yes, the effect of the memo. If it had -- yes, was for to us then identify and try to scope out the threat.

Q Can you talk a little bit about scoping, why that's important for the FBI, how you do it, kind of just talk broadly about scoping?

A Okay. Okay, sure. So, first off, I guess what is the extent of the threat? One, is this a threat that is current? Is it relevant? Is it a Federal violation, as we talked before? Who are the individuals possibly being threatened? What are the means that they're using to threaten individuals? How often is it happening? Is this part of an ongoing trend? Many things that go into the scoping. Basically getting a good full understanding of the threat.

We need that for then how would we engage in this then. So, if from part of the

scoping we deem that a threat is a threat that the Federal Government, the FBI should be engaged in, then -- then we can start -- then we've got to that point. Let's start to -- what is our strategy then going to be to mitigate this?

Can we do this with current resources? Is this isolated? Is this a threat that transcends 56 field offices? How do we need to communicate and message towards engaging with this threat?

There's, you know -- so it is the foundation for us to then go to the next step on how we may come up with a strategy or engage in mitigating it.

Q And it can also be the foundation for determining that there's no need to take the next step, right?

A Yes, yes.

Q So it can be the process by which you determine there's nothing further to do here or there's no -- you know, there's no --

A Yes, yes. Yes, exactly. Yeah.

Q Can the FBI investigate racially motivated extremism?

A Yes.

Q Is that part of your mandate?

A It's -- yes, of course, it's part of the FBI --

Q Under the counterterrorism mission?

A Under the counterterrorism, yes. And also, there's -- racially motivated violent extremism is under a domestic terrorism classification. There's also racially motivated hate crimes that falls under Criminal Investigative Division. So there is kind of a -- it gets specific on a little bit past ideology. Is this individual -- and, again, if you care enough, I'll go into it then.

So, for hate crimes, it may be targeted on this specific individual because of their

race, race or ethnicity or religion. And, on the DT side, if it's part of an ideology that's driven that would like -- that could affect trying to impact the race as a whole or an ideology as a whole, that eradication of a certain race or hurting a certain race as part of that drive.

So, again, two kind of circles of areas where they cross.

Q Okay. But if you get a report of a racially motivated violent extremist --

A Yes.

Q -- making a specific threat, that would be something that the FBI could investigate?

A Yeah, most likely. So, again, it would be a racially motivated threat, right. I mean, if the -- an individual making threats that are racially motivated that may be part of an ideology or hatred, yes.

Q Okay. I want to just take another quick look at the National School Boards Association letter. I know you got a lot of questions on it --

A Okay.

Q -- in the last time. And, actually, I want to look at it with the -- in conjunction with the AG's memo.

There's a reference made that I think was maybe a little confusing, so I just want to clarify the record to the fact that the NSBA letter references the Patriot Act.

A Okay.

Q The Patriot Act is not referenced in the Attorney General's memo, right?

A I did not, no. No, it's not there. I did not see that in there.

Q And it wasn't in the October 20th email that you sent, right?

A No.

Q Okay. So NSBA is an outside independent group, not a governmental

organization, right?

A To my knowledge, yes.

Q And you said in the earlier hour that a group like this might not actually understand the law, right?

A Yes.

Q Is it common for you to get complaints or tips, things like that called in from members of the public who think that a certain law applies, and they're not lawyers or they're not versed in it --

A Yes.

Q -- and so there's no action -- they're not right. They're not correct on that, but there might still be something of concern in what they've reported. Is that a fair --

A Yes.

Q Does that happen?

A Yes, that's fair.

Q So they don't always know the law?

A No, no.

Q And would you say it's kind of your job and DOJ's job to know the law?

A Yes. And people can provide us information and from whatever mechanism or from whatever, you know, they're experiencing. And then that is for us to determine the most appropriate way to determine whether or not there's a nexus and the process we've talked about at length here, yes.

Q Sorry. Hold on one second, because I have too much paper on my desk.

All right. So we talked about -- the Montana letter specifically referenced protection of the First Amendment. The Attorney General's memo references the First Amendment too, right?

A Yes.

Q Not in so many words, but it says --

A Yes.

Q -- speech is protected?

A Yes.

Q The March 1st letter from the Acting Director of the -- of Congressional Affairs, Acting Assistant Director for Congressional Affairs, which is paragraph -- I'm sorry, which is exhibit 5, maybe.

A Okay.

Q Seven, sorry. The third paragraph on the first page says that: The FBI cannot and does not investigate groups or individuals based solely on the exercise of First Amendment activity. Consistent with our mission, the FBI holds sacred the rights of individuals to peacefully exercise their First Amendment freedoms.

Do you agree with that statement?

A Absolutely.

Q And can you say anything further about that?

A It's part of the initial test on opening an assessment or investigation: Is this activity First Amendment activity?

Q And can you describe any type of training that people are -- that agents are given as to how to recognize First Amendment activity?

A I mean, for one, starting off in basic legal instruction with -- at Quantico when they're being trained to be agents go through hours and hours of discussion about what is constitutionally allowed, which is freedom of speech and actions that -- obviously, that don't hurt others, and how individuals are free to exercise their rights. So it's extensively discussed.

Q Okay.

A It is one of the standards by which we conduct ourselves.

Q And so, if it ever -- if you, in your role now or in any of your earlier leadership roles, you know, if you became aware of an investigation that was proceeding or even, you know, something proceeding past the assessment stage, I guess, that impact that was purely First Amendment, you would have stepped in?

A Yes.

Q You wouldn't have let it get any further?

A No.

Q During the assessment stage, is one of the things that is assessed is whether this -- the described activity is purely First Amendment in nature?

A Always. It's always, in any matter.

Q So it's actually part of the purpose of the assessment?

A It's part of -- even -- it might not even make it to an assessment --

Q Okay.

A -- if someone is conducting First Amendment activity. So let's give an -- somebody is just online -- and we get complaints like this all the time. This person is online saying how much they hate this and how much they're against this. That happens all the time.

And some of it gets -- obviously, some of it gets very, very -- very hateful, especially directed at people. But, if it does not involve threats or acts of violence, no, it's not going to make it to an assessment.

Q And that's a hard line?

A Yes.

Q And I'm sorry; I know I'm jumping around.

A No, that's all right.

Q You mentioned that you saw this letter, that you probably didn't open the attachment if it was attached. You're not sure if it was attached.

A I think it was attached. It was a long time ago. I know there was an attachment on that email. I think it was that letter.

Q But you don't think you opened it and --

A I don't think so. I may have from -- I don't think I did, because, again, when I'm getting information like that, I'm like: Hey, what do we have? I don't need to go through and read a bunch of attachments. You know, basically get to me what -- the BLUF. What do we got?

Q Okay. And my -- but you never actually had any communications with the National School Boards --

A No.

Q -- Association directly?

A No.

Q Do you know an individual named Chip Slaven?

A No.

Q You've never heard of that person in your life?

A No.

Q What about Viola Garcia?

A No.

Q Okay. So you never had any conversations with any of them?

A Not to my knowledge. Again, 25 years is a long time. I don't know if I -- but I don't --

Q About this issue.

A No, no.

Q We talked earlier. You've worked as a line agent, as a supervisor of agents, a direct supervisor, and now you're in leadership.

A Yes.

Q Can you talk a little bit about, from your experience, do line agents have visibility into all the layers of the decisionmaking process?

A Not necessarily. It really depends on the decision that's being made.

Q Okay. So, if, for example, headquarters puts in place a policy regarding, I don't know, how a particular spate of investigations should be handled, line agents might not know all the reasons that that policy was put into place, right?

A They may not know all the reasons, but hopefully if it involves an investigation that they would know the policy, yes.

Q They would know the policy --

A Yes, yes.

Q -- but they might not have insight into all the factors?

A No.

Q Okay.

A That's reasonable.

Q Okay. Do line agents necessarily have visibility into decisions made by headquarters about, for example, resources?

A No.

Q Okay. So that's something that maybe in particular instances could filter down, but in general that's not regularly --

A Very seldom.

Q Okay. Are you familiar with calls to defund the FBI?

A I've heard -- I've heard in I think open-source information.

Q What's your opinion of those assertions?

A I think they're hurtful to the country.

Q Do you think that they could impact the morale of FBI agents and supervisors and leadership even?

A Yes.

Q Do you think they could contribute to potentially undermining the legitimacy of the FBI in the public eye?

A Potentially.

[redacted] I'm sorry, one second. I think we're done.

[redacted] Can I state for the record the witness in a prior answer referred to BLUF, B-L-U-F, which is an FBI term of art.

BY [redacted]

Q Could you explain? I'm sorry. That is something. Could you explain what a BLUF is?

A Yeah, bottom line up front. So just -- I mean, usually I'm getting an executive summary. Tell me exactly what's going on, you know, because, like I said, we're on -- especially counterterrorism, dealing with nonspecific threats.

So I'm usually not necessarily even reading the full chain of an email because it's coming up -- you know, it might be forwarded to multiple people.

Q Right.

A And so, if someone sends me, it's going to be another senior leader, and it's going to, you know, hey, what are we looking at here?

Q Got it.

A You know. So is this something I need to engage in right now? Do you

need advice? Are you just giving me this for awareness? What is this?

And so for, like on this example, you know, okay, what do we got here? Is there some specific threat that we're dealing with or something that we need to address now? And that's where we conclude like, okay, it's something coming from DOJ regarding this. All right. Let's talk about this on Monday, and we can start to unpack this.

Q Okay. Thank you for that. That's a helpful clarification. I think -- sorry. This might be a question that you won't be able to answer but take back.

A Okay.

Q There's the reference to the 25 Guardians that have been discussed kind of extensively here.

A Yes.

Q Those are available for committee staff to review in camera, right?

A I would refer to OCA and OGC on that.

Q So, presumably, the staff could go and look at those and see if any of them involve school board meetings, right, if they're available in camera?

A I would -- I will pass the request on to Congressional Affairs.

[redacted] Okay. Thank you. We don't have any further -- sorry. I think we're good. Thank you.

We can go off the record.

[Whereupon, at 2:34 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: JENNIFER LEIGH MOORE

Monday, April 24, 2023

Washington, D.C.

The interview in the above matter was held in Room 2237, Rayburn House Office Building, commencing at 10:03 a.m.

Present: Representatives Jordan and Gaetz.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

[redacted] GENERAL COUNSEL

[redacted] SENIOR PROFESSIONAL STAFF

[redacted] DEPUTY GENERAL COUNSEL

[redacted] DEPUTY DIRECTOR FOR IMMIGRATION

[redacted] COUNSEL

[redacted] CHIEF COUNSEL FOR OVERSIGHT

[redacted] SENIOR PROFESSIONAL STAFF MEMBER

[redacted] MINORITY CHIEF OVERSIGHT COUNSEL

For the SUBCOMMITTEE ON THE CONSTITUTION AND LIMITED GOVERNMENT:

[redacted] MINORITY DEPUTY CHIEF COUNSEL

[redacted] MINORITY INTERN

[redacted] MINORITY PROFESSIONAL STAFF MEMBER

For REPRESENTATIVE GAETZ:

[redacted] General Counsel

For the FEDERAL BUREAU OF INVESTIGATION:

MEGAN L. GREER, ASSISTANT GENERAL COUNSEL, OFFICE OF GENERAL COUNSEL

TASHA V. GIBBS, ASSISTANT GENERAL COUNSEL, OFFICE OF GENERAL COUNSEL

[redacted] Good morning.

This is a transcribed interview of Jennifer Leigh Moore with the FBI. Chairman Jordan has requested this interview as part of the committee's oversight of the FBI and particularly the way the Bureau has retaliated against individuals that have had communications with Congress.

Would the witness please state your name for the record?

Ms. Moore. Jennifer Leigh Moore.

[redacted] And, agency counsel, please state your name for the record.

Ms. Greer. Megan Greer, from the FBI's Office of General Counsel.

Ms. Gibbs. Tasha Gibbs, from the FBI's Office of General Counsel.

[redacted] And before we get started, you understand, Ms. Moore, the FBI counsel represents the FBI, not you individually?

Ms. Moore. I do.

[redacted] And you understand that?

Ms. Moore. Yes, sir.

[redacted] All right.

On behalf of the committee, I want to thank you for appearing here today to answer our questions. The chairman appreciates your willingness to appear here voluntarily.

My name is [redacted] I'm with Mr. Jordan's staff on the House Judiciary Committee. I'll now have the staffers in the room identify themselves.

[redacted] [redacted] with Mr. Jordan's staff.

[redacted] [redacted] with Mr. Jordan's staff.

[redacted] [redacted] Mr. Jordan's staff.

[redacted] [redacted] with Mr. Jordan's staff.

[redacted] [redacted] Mr. Jordan's staff.

[redacted] [redacted] chief oversight counsel for the House Judiciary Committee Democratic staff.

[redacted] [redacted] House Judiciary Democratic staff.

[redacted] I am [redacted] House Judiciary Democratic staff.

[redacted] [redacted] with the committee's minority staff.

[redacted] I'll go over the ground rules and guidelines that we'll follow during today's interview.

Our questioning will proceed in rounds. The majority will ask questions for the first hour. Then we'll turn it over to the Democrats.

You can take a break at any time, if you need to confer with counsel, you need a glass of water, for whatever reason. A lot of times, we do these breaks on the hour.

So the court reporter can take down a clear record, we'll do our best to limit the number of people directing questions to you, and we'll try not to talk over one another. From time to time, we have to go back and repeat a question or repeat an answer.

We want you to answer our questions in the most complete and truthful manner possible. If you have questions or don't understand what we're asking, just let us know.

The Federal Rules of Evidence don't apply, so if we're asking for something that maybe calls for hearsay, you can just go ahead and answer the question. Just tell us how you learned something, even if it's not directly.

As you know, you're required to answer questions truthfully when you appear before Congress and congressional staff. Do you understand that?

Ms. Moore. Yes, sir.

[redacted] 18 United States Code 1001, you know, covers false statements

before Congress, and those that knowingly make false statements can be prosecuted. Do you understand that?

Ms. Moore. Yes, sir.

[redacted] Finally, I'd like to make a note that our interview here today is confidential, so we'd ask that you not take information back to the Bureau and impart that to potentially future witnesses.

Ms. Moore. Okay.

[redacted] And I'd also say the same thing to FBI counsel. We've made an accommodation to allow witnesses to bring agency counsel, and so we ask agency counsel not to take a list of our questions and, you know, use them and use the content of the interviews to prep future witnesses.

Ms. Greer. We understand the committee's request, and certainly, as we discussed last time, not intending to provide a roadmap to any other witness. But, as agency counsel, I'm certainly involved in other witness preparation. So, with that caveat, just want to put that --

[redacted] Well, with witness preparations, I mean, if you're going to tell witnesses the types of questions that we've asked, I mean, I think we have an issue with that. So can you agree that you're not going to be doing that?

Ms. Greer. Again, I have no intention of providing a roadmap. I'm not aware that there are any other witnesses who are appearing on this same --

[redacted] Okay.

Ms. Greer. -- subject matter, unlike other ones.

[redacted] Right.

Ms. Greer. So I don't believe that this is an issue.

[redacted] Okay.

Along the same lines, we'll have some exhibits today and we'll mark them, and we ask that they just remain in the room, even if it's materials that you may have provided.

That's the end of my -- [redacted], do you have any welcoming remarks today?

[redacted] No. Just thank you to the witness for appearing here today.

Ms. Moore. Thank you.

[redacted] All right. We'll go on the clock. It's 10:08, and I'll turn it over to my colleague [redacted]

EXAMINATION

BY [redacted]

Q Good morning, Ms. Moore. Again, my name is [redacted] and I'm with Chairman Jordan's staff.

I want to first talk to you about your professional background. When did you join the FBI?

A 1995.

Q And what was your key motivation for joining the FBI?

A Service to the country.

Q And can you walk us through the positions that you've held at the Bureau?

A Sure.

I entered on duty in 1995 as what was called at the time a support typist.

In 1996, I became a supervisor in the San Diego Field Office.

In 1998, I went to new agents training out of Quantico, Virginia.

In 1999, I reported to the Dallas Field Office.

In 1995, I was promoted to a supervisory special agent overseeing security and personal conduct within the Dallas Field Office.

In -- I have to get this right. What year did -- 1998. I'm so sorry. I'm trying

to do this all here.

Q You take your time.

A Let me start over. So -- golly. I'm so sorry, y'all. I'm a little nervous this morning.

In 1998, I went to the Academy.

In '99, I graduated and went to the Dallas Field Office.

In 2005, I was promoted to a supervisory special agent within the field office.

In 2011, I was promoted to headquarters as a supervisory special agent in our Inspection Division.

In 2012, I went out as a supervisory senior resident agent in the Las Vegas Field Office, overseeing the territories of northern Nevada.

In 2016, I reported to the Louisville Field Office as an assistant special agent in charge over all criminal investigations for the State of Kentucky.

In 2017, I returned to FBI headquarters, where I served as a senior executive within our Security Division.

In 2019, I was promoted to the special agent in charge of the Washington Field Office.

And, in 2021, I returned to FBI headquarters as the assistant director over the Security Division.

And, in 2022, I was promoted to the executive assistant director of our Human Resources Branch, which oversees all of our Training Division, Security Division, and human resources functions, as well as data analytics.

Q And that's your current role at the FBI?

A Yes, ma'am.

Q And can you briefly describe your roles and responsibilities in that position?

A As the executive assistant director, I oversee all of our Training Division, so that's cradle-to-grave training for all FBI employees and task force officers, detailees; our Human Resources Division, which is, again, cradle to grave, from hiring to retirements; and then our Security Division, which oversees security personnel, information, and facilities security for the Bureau; and then our data analytics, which is all of our statistical information regarding employees.

Q And who is your direct supervisor?

A My direct supervisor is Associate Deputy Director Brian Turner.

Q And how many people directly report to you?

A Directly report to me?

Q Uh-huh.

A Approximately 14.

Q And within the divisions that are underneath the Human Resources Branch, are there heads of those divisions?

A There are, yes. Each one has one.

Q Who are those?

A The assistant director of security is Douglas Beidler. The assistant director of Training Division is Timothy Dunham. The assistant director of human resources is Michael Schneider. And the section chief over data analytics is Tanya Tucker.

Q And can you kind of briefly describe the organizational chart within the Human Resources Branch?

A So, further than how it's divided out amongst each --

Q Who are your deputies?

A I don't have a deputy. So the deputies would fall under the assistant director. So --

Q Okay.

A -- the first line under the executive assistant director is an assistant director. And then each of them have respectively a number of deputy assistant directors that serve under that respective division.

Q Uh-huh.

A Under that, you would have your senior executive section chiefs. And then, below that, you would have assistant section chiefs, unit chiefs, program managers.

Q And how long have you worked out of headquarters?

A This term?

Q Uh-huh.

A Since I returned in 2021.

Q And you've had stints at headquarters before, correct?

A I've in total served 5-1/2 years at FBI headquarters. The rest of my 28-year career has been in the field office.

Q And how often do you interact with FBI Director Wray?

A Generally, we do an executive briefing every morning.

Q And what role do you play in the executive briefing each morning?

A If we have a significant event that we need to brief, we brief that. Otherwise, we're in intake mode for anything that might affect our respective oversight.

Q And what is an example of a significant event?

A If we had a mass shooting, if we had a breach of a security facility, any type of those things.

Q And how often do you interact with the Deputy Director at the FBI?

A On a daily basis.

Q And what's your formal training and work experience in the human

resources arena?

A So the human resources arena -- prior to the Bureau, I was in business management. I worked for an international marketing company. And in that capacity, for human resources, I had training within the State of California on employment law, those type of things.

When I came into the Bureau, I was a support supervisor. I mentioned that early on.

Q Uh-huh.

A Again, we had ultimate trainings that are provided through our Human Resources Division. I can't remember all the names of the trainings, but we do all of that, from performance classification to discipline matters.

I spent 10 years in the Dallas Field Office serving as the chief security officer for that AOR. Again, there's a lot of training -- analytical risk management, security adjudicative guidelines, executive order training -- that we receive while in those capacities.

And then just outside trainings that we've had from different departments, things of that nature.

Q And during your tenure at the FBI, have you participated in reviews of your performance?

A Are you saying, like, do I have annual performance reviews?

Q Correct, ma'am.

A Yes, ma'am, I do. Yes.

Q And generally good markings on your --

A I have, yes, ma'am.

Q I want to go through the adjudicative process for misconduct investigations

with you.

Can you briefly kind of give us an overview of the process that the Human Resources Branch uses to investigate and adjudicate misconduct or security risks or other suspensions?

A So the Human Resources Branch strictly investigates regarding to the national security guidelines and misconduct or security risks to national security information. So that's different -- I want to be very clear -- that's very different than just general misconduct of an employee.

Q Uh-huh.

A Like, an insubordination or something would fall under a different branch of our Inspection Division. So we are looking at the adjudicative guidelines in relation to possessing a clearance and handling national security information.

So, if we receive an allegation of misconduct, that goes into our Security Division Intake Unit.

Q Uh-huh.

A They get about 50 of those misconduct reports a week. And I wouldn't say -- "misconduct" isn't actually the right word, but security-type concerns a week. They review those to determine what they'll open.

It then can go into an investigative stage, where they do a full investigation to determine how that conduct relates in regards to handling national security information.

Ultimately, it goes into an adjudication section for a fresh set of eyes to review it. And they'll make a recommendation at some point for a suspension or revocation of a clearance, or it could be a disciplinary action, such as a letter.

Q Okay.

So, going to the very first step, the allegation comes in. How do these allegations

come in?

A They can come in in any number of manners. It can come in through, like, an employee self-report. Like, "I had a law enforcement contact over the weekend" -- I didn't personally, but if you have a law enforcement contact, you can report that yourself through our security reporting system online.

Q Uh-huh.

A You can have a colleague report something that they feel is unusual or out of the norm. You can have a supervisor report it.

Or it could come in through -- we do participate in the Office of Director of National Intelligence mandate continuous vetting. That system can pop a security concern that will also come in through our Intake Unit.

Q And the Intake Unit, how many members are on that staff?

A The staff itself is probably, in Intake -- and I apologize, I don't know if this is the exact number. It's probably, in Intake -- we have about 15 in Intake.

Q Uh-huh. And you said you get about 50 allegations per week?

A Yes, ma'am.

Q And, on average, how many of those go into the investigative stage?

A I don't know that exact number. I can tell you that at any given time over the course of a year we run about 600 active investigations.

Q And who makes the decision on whether an allegation goes into the investigative stage?

A So the initial unit will make that decision if it meets the parameters of concern that rises to a level of an investigation.

Q And the parameters of concern, what are those?

A Those would be in the adjudicative guidelines.

Mr. Gaetz. Excuse me. Just so I understand that, when you say "the initial unit," is that a person? Is that a team of people?

Ms. Moore. It's a team of people. It's that initial 15-ish people.

Mr. Gaetz. So, just so that I understand it, it's not that each of the 15 has a batch of cases where they're able to make individual determinations. The whole team of 15 is evaluating the roughly 50 that show up every week, and then as a group that 15 make a decision?

Ms. Moore. No, that's not --

Mr. Gaetz. Okay.

Ms. Moore. They're each trained on the intake process. So they can each make a recommendation. The unit chief ultimately will decide if it's opened or not. But it goes through a process of review.

Mr. Gaetz. So describe that process.

Ms. Moore. So it -- I'm not sure I quite understand what you're asking.

So it comes in. So someone reads it and looks and makes an evaluation of if it rises to the level of, like, a security concern.

So let's say you report a law enforcement contact. "I had a law enforcement contact that I was speeding. I was going 15 miles per hour over the speed limit." We may say that's not enough to open.

So that unit has that training to determine like, hey, that really doesn't rise to national security concern as it relates to the 13 adjudicative guidelines. And so they'll make a non-recommendation, and it'll be signed off on.

Mr. Gaetz. Right. And what I'm trying to get a granular understanding of is, let's take that example you just laid out where someone may have been 15 miles an hour over the speed limit. Does one of the 15 people on this team assess that that doesn't

rise to the level of needing further investigation, or does some amalgamation of the 15 underneath the unit chief make that decision?

Ms. Moore. It'll go through a series -- so the intake recommender will go through a program manager that will go to the unit chief.

Mr. Gaetz. So it's intake person, program manager, unit chief. And each of the 50 that come in per week follow that process?

Ms. Moore. Yes, sir. Yes.

Mr. Gaetz. Thank you. That's very helpful.

Chairman Jordan. Just to be clear, of those 15 people, only one makes the initial determination, and then it goes through the next two steps?

Ms. Moore. It'll go through all the steps regardless. So it's a "yes" or a "no." So the "yes" or "no" -- I recommend --

Chairman Jordan. I understand, but one person of the 15 is making a determination to send it to the next step?

Ms. Moore. I may not be explaining this very clearly.

So, of the group that works in the Intake Unit, it may come in to -- you may get one this morning, you may get one this morning, and you may get one. Each of you are trained to make that decision --

Chairman Jordan. Right.

Ms. Moore. -- and to move it forward. And so you'll make a recommendation.

So, yes, you're not making the decision; you're making the recommendation --

Chairman Jordan. Gotcha.

Ms. Moore. -- that will be decided upon.

Chairman Jordan. Okay.

BY [redacted]

Q And you spoke about a unit chief. Is there a unit chief over the Intake Unit?

A There is, yes.

Q And what's that person's name?

A It is an acting right now. So we are in the process of hiring someone to that unit. So I apologize, I don't know the acting's name right now. I can ask counsel.

Ms. Greer. I don't know.

Ms. Moore. Okay. I'm sorry.

BY [redacted]

Q That's okay.

And so, as the Intake Unit is evaluating and investigating the allegations to determine if it needs to go to the next step, what process do they use? Are there guidelines that they look at besides the 13 adjudicative guidelines?

A Well, Executive Order 12968 and the adjudicative guidelines are the roadmap to security clearance determinations. So that is what they use.

Q And then when you move to the investigative stage, what happens at that point?

A So the investigative stage, that's where we've decided to open a case. So -- and this is going to get a little confusing here, so I apologize.

But it can go from intake to where they're saying, hey, like, we think this is of such a concern that it needs to bounce over really quickly to the adjudicative stage to see if we need to do a suspension based on separating the risk from national security. So it can go over there.

At any point also during the investigative stage, if it is determined that there is such a risk to national security that a suspension may be necessary as by Executive Order 12968, they'll bounce it over to Adjudications. Adjudications will take a fresh set of eyes

on it and make that recommendation or not.

But while it's in the investigative stage -- so the investigative stage is just that. It is to determine and investigate any and all allegations that are a threat to national security within that incident.

Q And so what are some examples of when it would go from the Intake Unit directly to the adjudicative stage?

A It could do that if you had, again, a threat to national security in a manner that you felt that the individual needed to be separated.

So let's say we get an allegation of someone who has a domestic violence incident over a weekend. They're arrested. They make remarks, a confession or something. That will bounce right over into our adjudicative unit, and they'll make a quick recommendation to separate the individual from national security.

Q And during the investigative stage, what is the office reviewing? What kind of documents or allegations?

A They're reviewing the whole person, so everything -- so we'll go back, if you come into a security investigation, and we'll open back up your initial background investigation to make sure -- and I'll give an example really quickly, if I can.

If you got stopped for a DUI and you were found guilty of an alcohol incident prior to entering on duty, there may have been a whole-person concept that said, "Hey, the time and distance from that incident is such that we feel like, hey, they've moved on, whole person. Otherwise, it's something you can overcome." And so you may be granted initially a security clearance.

You come into the organization. You have another alcohol incident, perhaps a second DUI, in this example. They will go back and reopen that and look at the whole person. So, now, then, I have a pattern of misconduct, and so we're going to investigate

all of that again as the whole person.

We're going to review that initial investigation. We're going to review any other reports of misconduct, any other security concerns, any other security violations. We really look at everything that falls within the parameter of that investigation.

Q So, then, when you end the investigative stage and go to the adjudicative stage, what kind of steps are between them? How do they know that they need to go to the adjudicative stage?

A So it gets signed off on by a unit chief that oversees our investigative stage --

Q And do you know who that unit chief is?

A He just retired, so I'm sorry, we have another acting in there. We're rapidly trying to hire for that, though.

Q Uh-huh.

A So we have a unit chief. It will go into our adjudicative stage. And it's just -- it moves through the process.

So this group and this group are separate so that you have a clean set of eyes. We've found sometimes that if you are the same person and you're investigating something and you interview someone, you might become sympathetic to them or angry at them because you didn't like the way they answered your questions, and that's not fair to the person.

And so we always want it to be fair and impartial, so we stood up a separate Adjudications Unit to be fair and impartial. So it's a fresh set of eyes that's just looking at the facts of what the case found.

Q So, during the investigative stage, does the person who's, like, under scrutiny, I guess, do they get interviewed by the investigators?

A They will at some point during the investigative stage. As a general rule,

that is yes.

Q And so, during the investigative stage, that's before they get the letter suspending their clearance; is that right?

A It depends.

Q Okay.

A Again, if it's such that we need to separate from the organization -- they may have been suspended before they get interviewed. That can happen.

Q Uh-huh.

A So it just depends upon what the nature -- each misconduct -- and by "misconduct," I'm talking security-type misconduct -- allegation stands on its own. So there is no, like, roadmap, cookie cutter. It just unfortunately doesn't work that way. So it doesn't seem as clean as it really is and when it's actually being actioned in that manner. So they may not get noticed and they may not interview until after they're suspended.

Q Okay.

And so, at the end of the investigative stage, the unit chief then makes a decision to suspend the clearance?

A No, no.

Q Okay. Tell us that process.

A So it goes over to the adjudication. The adjudication team will take a look at it. And there are seven processes, right?

So they're going to have the SSA that looks at it, then the program manager, then the unit chief, then an assistant section chief, then a section chief, then the deputy assistant director, then the assistant director. And, ultimately, the recommendation will come to me for final decision. So any of those come to me.

Q And so, at the end of the investigative stage, what is the unit chief signing off on?

A Moving it to the adjudicative side, saying, "Hey, I believe this investigation is complete. It looks like a complete folder. Good work. Good work" -- or, "Thorough work," I should say. And now it goes into -- that's all they're doing. They're just moving it to the adjudicative side. They make no recommendation.

Q Uh-huh. And so, then, at the end of the adjudicative process is when they're deciding whether or not --

A Correct.

Q -- to suspend the clearance?

A Yes.

Q And are you the ultimate decision-maker there?

A I am.

Q And, during any of the process, does your branch involve the employee's direct supervisor, interview the direct supervisor?

A It depends. It can depend upon what type of investigation that we're looking at.

Q And does the employee have a right to appeal the decision to suspend their clearance?

A Not to suspend the clearance.

Q Okay.

A They have a right after revocation. Then they could.

Q And when does the revocation happen?

A At the end of the investigation.

Q Okay.

BY [redacted]

Q When a clearance is suspended, they lose their pay, right?

A They can lose their pay, yes, sir. Depending upon what the suspension could be for, they may be allowed to take leave during that time.

Q But after they consume their leave, their pay is --

A Discontinued.

Q -- gone, right?

A Yes, sir.

BY [redacted]

Q So you have no right to appeal the decision to suspend the clearance until it has been revoked.

A That's correct.

Q And in the interim time period, as [redacted] just said, the employee could be without pay.

A That is correct. And that's the executive order. That's not an FBI policy.

BY [redacted]

Q So, in some cases, it's tantamount to them getting fired.

A It's not the same as being fired, because you still receive --

Q But you --

A -- benefits during that time. You don't lose your health insurance and that type of stuff.

Q -- you lose your paycheck --

A You do lose your --

Q -- right?

A -- paycheck, but you don't lose your benefits, no, sir.

Q Okay. But most people need their paycheck to pay their bills, correct?

A Most people do need their paycheck --

Q Okay. So --

A -- to pay their bills.

Q -- if their security clearance is -- if they lose their security clearance and they lose their paycheck, it's tantamount to getting fired, isn't it?

A It's different than being fired because when you're fired you do not receive benefits such as health and dental.

Q Okay. So they lose their -- they still have their dental insurance. Is that correct?

A And their health insurance --

Q Okay.

A -- yes, sir.

BY [redacted]

Q And during that time period when their clearance is suspended and they may be on indefinite suspension pending the investigation, does the employee that's affected, do they have to seek permission from the FBI to obtain outside employment?

A They do because they're still considered an employee because they're receiving benefits. And so, yes, ma'am, they do still have to file an outside employment form.

Q And can you describe that process to us?

A The outside employment form?

Q Yes, ma'am.

A It comes in through usually their supervisor or their field chief security officer will submit it if they happen to be in a suspended status. Otherwise, an

employee, if they want outside employment, they can file that themselves.

And a decision -- usually their SAC has that decision. Office of Integrity and Compliance will weigh in to make sure that it's not in conflict to their normal duties.

BY [redacted]

Q And how helpful is the FBI with facilitating employment for those that find themselves on suspension?

A Do you mind expanding on that? Are you saying, do we help people find employment?

Q Well, how responsive are you if they seek permission for outside employment and they're suspended?

A I can't speak to the whole of the FBI, so I apologize, because I don't oversee each one of those that come through, because they come through a field office. But I would encourage our people to do that with posthaste, because it is --

Q And do you think that's happening?

A I think that --

Q Do you think the FBI is dragging their feet at all?

A Not intentionally.

Q And if a particular individual needs some FBI records to facilitate that employment, how helpful is the FBI with supplying those records?

A I'm guessing that we're gonna talk about an individual --

Q I'm just asking a question.

A As a general rule, they better be darn responsive.

Q Okay.

A I believe there's been a mistake that has been made. That has been remedied.

Q Right.

A Our employees -- and, fortunately, we don't have a great deal of employees that are suspended on a normal basis, and a lot of our employees don't come in contact with employees that have been suspended.

Q Okay.

A And they get nervous, and they start seeking advice or asking, and sometimes they ask the wrong person, and it delays a process.

Q Okay.

A But we've been very clear now on how that should be handled.

Q Okay. So if they needed their firearms training records --

A Oh, they'll get them timely now, I assure you.

Q "Now."

A Yes, sir.

Q So, in the past, that may not have been happening in a timely way?

A I am aware of one time that I was asked for that and it didn't happen timely --

Q Okay.

A -- in what I would consider timely, which would be posthaste, immediately.

Q Okay.

A That has been fixed.

Q And why does it have to be "posthaste, immediately"?

A Because I think it's not appropriate to delay. But I don't believe anybody does anything with malice in that sense.

Q Okay.

A I believe somebody just simply didn't know what to do. That's -- I will own

that.

Q But if an --

A I will make sure they are trained and everybody is aware.

Q But, really, if an agent has their clearance suspended and they can't come to work and they can't earn a living, they may be in a position where they, without the FBI's indulgence, can't get a second job.

A I don't believe -- indulgence? I wouldn't say that. We have to review our --

Q But if the FBI is dragging their feet, you're going to have an agent that is out of luck.

A The Bureau should not be dragging their feet.

Q They can't get their money from the FBI and they can't get a second job. And don't you think that's a pretty serious situation?

A The FBI should not be dragging their feet.

Q Okay.

A They should be processing those requests for outside employment timely or records timely, absolutely.

Q And what remedy is there for that agent, other than just quitting?

A They can call someone else to ask for it, if they're not getting timely assistance from the individual.

I get emails from different people from time to time. I respond to every single request that anybody makes of me timely.

Q Okay. But you'd acknowledge it's a pretty big deal if somebody is suspended, they've lost their paycheck, they have a family, they need to pay their mortgage, they need to pay, you know, the other necessities in life, and they can't get the

FBI to engage with them on okaying the outside employment? You'd acknowledge that's a pretty serious situation, correct?

A I will acknowledge that the FBI should timely respond to all employees regardless of what status they are in at the time.

Q Okay.

Mr. Gaetz. During your testimony, you said that in the one case you were aware of firearms records not being provided in a timely manner, you found that unacceptable, right?

Ms. Moore. Right.

Mr. Gaetz. And you also testified that you didn't believe that what animated that delay was malice, right?

Ms. Moore. Agreed.

Mr. Gaetz. And what's your basis for the testimony that malice was not a feature of that delay?

Ms. Moore. Because I inquired as to why it happened.

Mr. Gaetz. And to whom did you make that inquiry?

Ms. Moore. All the way down the chain to the person who denied it -- or delayed it, I should say, who didn't know what to do with it initially.

Mr. Gaetz. All right. List the people you inquired to that constituted your basis for the conclusion that malice was not a feature of this delay.

Ms. Moore. The assistant director of Security Division, the assistant director of Training Division, and our counsel.

Mr. Gaetz. Can you provide their names for me?

Ms. Moore. Assistant Director Doug Beidler, Assistant Director Tim Dunham, and then my counsel, Tasha Gibbs --

Mr. Gaetz. And -- and --

Ms. Moore. -- and my executive assistant --

Mr. Gaetz. -- what was the nature of the inquiry to those individuals?

Ms. Moore. And I have an executive assistant, who is Rebecca Vassilakos, and a special assistant, Glenn Booth. All were asked to find out immediately what happened in the situation.

Mr. Gaetz. And help me understand the nature of the inquiry that you made to these people to arrive at the conclusion that malice wasn't a feature of this delay.

Ms. Moore. I said, "Would somebody please help me understand what happened in this situation? And I would like a written timeline of what occurred." And they provided that to me with the reasoning.

Mr. Gaetz. The reasoning was in writing as well?

Ms. Moore. They sent me -- I was briefed on it verbally, and I received a written timeline of it. So I can't tell you exactly what the written timeline had. I don't want to confuse the two, because I know you're trying to nail me down here.

Mr. Gaetz. I'm not trying to --

Ms. Moore. I just -- and I don't want to tell you wrong, by any stretch.

But I can tell you that what I was told was that the unit chief received the request and was unfamiliar on how to deal with a suspended individual. So they reached out to our Records Division, and the Records Division gave them the generic information that, when somebody who's no longer an employee wants their records, they have to file FOIA, which is inappropriate.

The individual was still -- it was a mistake. It was an honest mistake under communication between people not understanding what was happening and what the employee status was, genuinely. It was bad information.

Mr. Gaetz. Shouldn't the unit chief have had training to not have us in this position?

Ms. Moore. I have been in this position now for over a year. I've never had someone ask for their training records in that capacity. It would be ideal if they had known this. Again, we have reached down and I'm trying to make sure that all of our supervisors know how to handle this in the future. I don't want this to happen again.

Mr. Gaetz. So you've updated the training that they receive to mitigate --

Ms. Moore. Their training -- it's not training like you would do records. This would be like, hey, when someone comes on board, make sure they're aware of this.

It's very difficult -- we have very few people suspended. And our employees, when you're talking -- you have 37,000, almost 38,000 employees. They don't often come in contact with suspended employees. And people want to get it right. And so he asked for assistance on how to do it and got wrong advice.

Chairman Jordan. What was the timeframe for when this person asked for the records of this training and was denied and then until you got it and realized there was a problem and are now working to correct that? What was that timeframe?

Ms. Moore. It was resolved before it ever got to me. So -- let me ask my counsel a fast question. I don't --

Mr. Gaetz. Do you want to go off the record?

Ms. Greer. We'll go off the record.

[Discussion off the record.]

[redacted] Let's go back on the record.

Ms. Moore. So, to the best of my recollection, it came in -- about mid-February was the request to the unit chief, and it took 6 weeks for him to get his records, to the best of my recollection. It was either 4 or 6 weeks. Too long.

BY [redacted]

Q So, after the decision to suspend a clearance is made, I assume that the letter to the employee is drafted. And then who gives that letter to the employee saying that their clearance has been suspended by you?

A Usually it is presented by the field office where the employee was working at the time of the suspension.

That is up to a field office's head, how they want to do that. Sometimes the special agent in charge will present it. Sometimes an assistant special agent in charge will present it. Sometimes the chief security officer will present it. That's up to the individual field office, how they want to execute the letter in delivery.

Q So you give the letter to the SAC of the field office. Is that correct?

A That is correct, yes.

Q And then they decide who delivers the letter to --

A Yes.

Q Okay. Because I'll represent to you that we've heard from multiple individuals that when they have received their letter revoking their security clearance or suspending their security clearance and the proposal for indefinite suspension, the person who is in the room with them has not identified themselves or the field office they are coming from.

Have you heard of that?

A I have never heard of that.

Q So it would be up to the SAC of the field office involved who's delivering those letters, correct?

A Yes, ma'am.

Q And so, when the employee receives notice that their clearance is

suspended, does an interview take place at that time?

A No, it does not.

Q Are they provided any information for why their clearance has been suspended at that point in time?

A They get a letter to the suspension.

Q Uh-huh. And so, when they get the letter, the suspension of -- their indefinite suspension? Is that what you're talking about?

A It's just a suspension. I don't know, by "indefinite" -- it's a suspension until a decision is made regarding the security action.

Q And so the underlying documents, are they attached to that letter? Or how do they get the information with regard --

A At the time of the suspension, they're not entitled to any additional documents. They're entitled to a letter that advises them that they've been suspended.

Q And so when are they entitled to the information?

A After the revocation of the clearance decision.

Q And how long does that take?

A It depends. Each case is independent and can take a limited amount of time or a longer amount of time. It depends upon the complexity of the case.

Q So, during that period of time when the person has been -- their clearance has been suspended, they're on indefinite suspension until you decide whether or not to revoke their clearance, they have no idea why their clearance has been suspended?

A They have generally the guideline, what they were suspended under, but, no, ma'am, they're not entitled to anything additional.

Q And so why are they not entitled? Is that in the executive order? In the guidelines?

A It is. It's Executive Order 12968.

Q So it's your understanding that all other agencies follow that?

A Yes.

BY [redacted]

Q Let me ask you a hypothetical. How would you prevent -- let's say there's two agents that don't like one another.

A Okay.

Q And one agent is a Republican and the other is a Democrat. And the Democrat decides that they're gonna get this Republican and they're gonna provide false information through this chain that the Republican is busy talking to Congress as a whistleblower, or maybe talking to the news media. Because that's a basis for suspending a security clearance, correct?

A Not talking to Congress, no, sir.

Q Talking to the news media?

A Can be.

Q It can be. So what happens in this hypothetical if a Democrat, you know, FBI official just wants to get somebody -- just wants to get somebody that he doesn't like, he or she doesn't like, and falsely sends through information that this person that they don't like is talking to the news media?

A So I wouldn't know if they were Democrat or Republican. We refer to that as a poison pen, if you're saying that it's fraudulent information, that they just made it up.

Q Right.

A Unfortunately, we take the information, we would see if there's any validity to it, and depending upon what we can validate, then a decision will be made or a recommendation will be made to suspend/not suspend, and then --

Q But it's possible that person could be suspended if somebody says, "Hey, he gave the Catholic memo out to a reporter."

A Again, each situation would stand on its own. It couldn't just be like --

Q But is it possible that person could, in fact, be suspended?

A For a poison pen? It is possible. But we absolutely do a thorough and complete investigation based off the --

Q Right.

A -- 13 adjudicative guidelines.

Q And the suspended person might come back and say, "I didn't do it. Why am I being suspended?" And that person has no recourse. Is that correct?

A They will have their opportunity to be interviewed during the investigative phase, yes, sir.

Q They'll have an opportunity to be interviewed, but they don't have an opportunity for anything else. They don't get any paperwork. They don't get to determine, like, what evidence was supplied. Correct?

A If a determination is made to revocate the clearance --

Q Yes.

A -- then they'll get all of that.

Q Right. But during the initial time period, before the clearance is revoked, when they're out of money and they're not getting their paycheck, they have no opportunity to get any of that information. Is that correct?

A By Executive Order 12968, you are correct.

Q Okay.

Ms. Greer. Can we take 1 minute?

[redacted] Okay. Let's go off the record.

[Discussion off the record.]

[10:43 a.m.]

[redacted] Ready to go back on the record?

Ms. Moore. Yes, sir.

[redacted] All right.

Ms. Moore. So I want to emphasize that when we get an allegation like that, we do other steps to validate. We don't just take one single word. We will look at systems; we will look at records.

But we take other investigative steps. It's not something that just flies to a suspension of a clearance. We are very thoughtful in the process and judicious in what we do. Again --

BY [redacted]

Q So you have a great process? A great process that has super, great, great integrity?

A We have a very strong process, yes, sir.

Q And you're proud of the process?

A Yes, sir, I am. We are audited by GAO, by the inspector general, by the Office of Director of National Intelligence, and our own Inspection Division, which is a different process than our own. So we take our process very, very seriously.

And right now, like, we have 32 people suspended in the last fiscal year. It's not like we're just willy-nilly out there taking anybody's allegations.

Q All right. All the people talking to us, I guess.

[redacted]?

BY [redacted]

Q I want to talk to you about specific adjudications now. And I know we've

kind of been referring to him already, but are you familiar with a special agent Stephen Friend?

A I am, but I'm not able to talk about his suspension because it's ongoing. The adjudication has not occurred.

Q So, even though he's resigned, the adjudication is still ongoing?

A That's correct. Security clearances do not -- the investigation into someone's ability to maintain a security clearance doesn't end just on the day of their employment. We have an obligation to the intelligence community, if we issued a clearance, to make a determination on the eligibility of that.

[redacted] So what's the -- sorry to interrupt here, but what's the basis that you can't talk about his case?

Ms. Moore. His adjudication has not occurred.

[redacted] Okay. I mean, is this a Privacy Act-based --

Ms. Greer. I can speak. We have several individuals whose adjudication is not complete. We have some individuals who have ongoing parallel proceedings, like, with the MSPB later this week.

[redacted] Okay.

Ms. Greer. And the last thing the FBI wants to do is to say something that interrupts that process, which those individuals --

[redacted] Okay.

Ms. Greer. -- are entitled to have play out in the normal order. She's happy to discuss final decisions that have been made, and, if these other adjudications are finalized --

[redacted] All right.

Ms. Greer. -- happy to revisit and see if there's additional information we can

provide.

[redacted] Okay. I mean, that's not going to -- I don't think that's going to work for us.

So we're going to ask you questions. If you refuse to answer, it's very likely the chairman, who's sitting right here, is going to be required to issue a subpoena to bring you back.

[redacted] Okay.

Ms. Greer. I would say, we're here and happy to provide as much information as we can today. We've certainly flagged that individual security clearance decisions at all are not something that we typically discuss --

[redacted] Well, yeah --

Ms. Greer. -- and we're here to --

[redacted] -- you told us that you need a chairman's letter, and we got something better than a chairman's letter; we have the chairman.

Ms. Gibbs. I think we all have the same goal, in ensuring that these individuals are afforded a fair and impartial process. And we don't want to say anything today that could impede their ability to get a fair and --

[redacted] Okay.

Ms. Gibbs. -- impartial process before other administrative forums.

[redacted] Okay. I mean, Steve Friend has already had such a terrible experience that he's left the FBI. So, you know, I'm quite sure this investigation and determination will be going on for quite some time as a way to circumvent answering our questions.

Mr. Gaetz. Does the FBI ever leave HR matters or security clearance matters pending as a mechanism of punishment?

Ms. Moore. No.

Mr. Gaetz. But you could see why the lack of an adjudication over an extended period of time would hang over someone's life in very significant ways, right?

Ms. Moore. The FBI does not use a suspension as a punitive measure ever.

Mr. Gaetz. What's your basis for that testimony?

Ms. Moore. I'm the executive assistant director that's charged for the organization of signing those. We absolutely do not use a suspension of a security clearance in a punitive manner ever against an employee. It is only utilized in national security matters.

Mr. Gaetz. So your testimony there was really precise, that the suspension itself was never punitive. But what about the delay in the adjudicative and investigative process? Is that a punishment unto itself?

Ms. Moore. It's not a punishment. It's not intended to be punitive. They do a thorough and complete investigation in as timely a manner as possible.

Chairman Jordan. When did you sign the suspension for Mr. Friend?

Ms. Moore. I'm sorry, I don't remember the exact date.

Chairman Jordan. September 2022?

Ms. Moore. Okay. You have it. I'm sorry. Yes, sir, I will concede that it was September of 2022.

Chairman Jordan. So it's been 7 months, and Mr. Friend has terminated his employment, left the FBI, and you still don't have an answer?

Ms. Moore. Not at this time, sir.

Chairman Jordan. Is that normal, a 7-month timeframe?

Ms. Moore. It depends upon -- each case stands on their own, depending upon what has to be investigated.

Chairman Jordan. But you've handled these cases before. Is 7 months normal, and is 7 months normal for someone who's already left the FBI?

Ms. Moore. If they've left the FBI or not is not relevant in --

Chairman Jordan. Okay.

Ms. Moore. -- that case. It depends upon each case and the specificity of what has to be investigated.

Chairman Jordan. Can you give me some examples? Can you give me cases that went longer than 7 months?

Ms. Moore. We have had cases that have court proceedings that attach to them that have taken longer. It does happen, yes, sir. We are driving to get those dates down --

Chairman Jordan. No, I understand, and I appreciate your commitment to do that. But you say it does happen. Does it happen frequently? Does it happen rarely?

We're just kind of -- we're trying to get an idea of what's the normal, if you can say that, what's the normal process here.

Ms. Moore. It takes months to do a thorough investigation.

Chairman Jordan. Okay.

BY [redacted]

Q Do you remember what field office Special Agent Friend worked out of?

A Special Agent Friend worked out of our Jacksonville Field Office.

Q And were you involved in his indefinite suspension?

A I signed the paperwork, yes, ma'am.

Q And are you aware that Mr. Friend had received performance awards throughout his career at the FBI for various tasks as well as for his overall performance?

Ms. Moore. I'm not --

Ms. Greer. We're not going to get into the specifics of information that she learned regarding his security clearance.

BY [redacted]

Q Are you aware that Mr. Friend recently resigned from the FBI so he could earn an income to support his family?

A I'm aware that Mr. Friend recently resigned. Y'all told me that in the course of this room.

Q And do you remember the circumstances surrounding Mr. Friend's suspension of his clearance?

A I won't discuss his suspension at this time until the adjudication is complete, but I'm happy at that time to come back and answer any and all questions.

Q And besides signing the letter that suspended Mr. Friend's clearance, what was your involvement in his suspension?

A I'm the security program manager. I make the final decision in suspension matters for the organization.

Q Of just security clearances?

A Of security clearances.

Q Okay.

I'd like to enter a September 16, 2022, letter from Ms. Moore to Mr. Friend as exhibit No. 1.

[Moore Exhibit No. 1

Was marked for identification.]

BY [redacted]

Q And do you remember signing this letter?

A That is my signature.

Q And was this given to Mr. Friend's special agent in charge to deliver to him?

A As course of process, I sign it; it goes back over to Security Division, and they send it out. They would've sent it to the Jacksonville Field Office.

Q And so it would've gone to Special Agent in Charge Sherri Onks?

A It would've gone to the Jacksonville Field Office. Whether it went in through the chief security officer or directly to the special agent in charge, I can't speak to it. But that would generally be the process, either to the SAC or the chief security officer, who would take it to the SAC.

Q Did you get any readout after Mr. Friend was given the letter about who gave him the letter?

A No.

Q And, in the letter, you stated in the first paragraph there: "The suspension of your security clearance is based on security concerns related to Adjudicative Guideline E - Personal Conduct and Adjudicative Guideline K - Handling Protected Information."

What information did you have to support these security concerns?

A I cannot discuss the ongoing investigation into Mr. Friend's suspension. I'm sorry.

Q Has he been given that information?

A I cannot discuss the ongoing investigation into the suspension of Mr. Friend's security clearance. At the time that it is finally adjudicated, I will be happy to come back and answer any and all questions.

Q So you can't even tell us -- it's been 7 months since this letter was given to Mr. Friend. You can't even tell us if he was given the information of the allegations against him that suspended his clearance?

A I cannot discuss the ongoing investigation into Mr. Friend's security

clearance. At the time it is finally adjudicated I'll be happy to come back and answer any and all questions.

Q And I'm just going to continue to ask my questions. I have a feeling you're gonna say the same answer.

But what materials did the Human Resources Branch rely upon as the basis for suspending Mr. Friend's clearance?

A At this time, I cannot discuss an ongoing security investigation. I will be happy to come back at the conclusion and answer any and all questions.

Q Were witnesses interviewed?

A I cannot answer any questions in regards to the suspended security clearance of Mr. Friend. At the end of the investigation I'll be happy to come back and answer any and all questions.

Q Was Mr. Friend interviewed?

A At the conclusion of the investigation of Mr. Friend's security clearance I will be happy to come back and answer any and all questions.

Q And how did the allegations against Mr. Friend come into your office?

A At this time, I cannot answer any questions regarding an ongoing security investigation. At the conclusion of the investigation I'll be happy to come back and answer any and all questions.

Q In the second paragraph, you stated: "On August 24, 2022, you advised your supervisors of your objection to participating in the court-authorized search and arrest of a criminal subject. During your communications, you espoused beliefs which demonstrate questionable judgment."

How do you define "questionable judgment"?

A At this time, I'm not going to answer any questions --

[redacted] Well, you can answer that question.

[redacted] Yeah. How do you define "questionable judgment"?

Ms. Greer. Can we go off the record for a second?

[Discussion off the record.]

[redacted] Ready to go back on the record? All right.

Ms. Moore. Do you want to ask your question again?

BY [redacted]

Q Yeah.

So, in the second paragraph, you stated: "On August 24, 2022, you advised your supervisors of your objection to participating in the court-authorized search and arrest of a criminal subject. During your communications, you espoused beliefs which demonstrate questionable judgment."

How do you define "questionable judgment"?

A The adjudicative guidelines talk about the 13 different areas that can raise to questionable judgment. That's what we would utilize.

Q And so, then, if we go back to the letter here, you cited Adjudicative Guideline E and Adjudicative Guideline K. What information did you have to support that?

A I cannot talk about an ongoing security investigation at this time.

BY [redacted]

Q And how much more time do you need for this investigation? It's been 7 months. Like, is this, like, a 27-month investigation? Or 37 months? Like, how many months do you need before it's going to be done?

A Until it's thorough and complete and the investigators feel --

Q Based on your experience -- and you run the office -- how many more

months are you gonna need?

A I don't envision this is going to take very much longer.

Q All right.

Mr. Gaetz?

Mr. Gaetz. Did the FBI --

Chairman Jordan. Sorry.

Earlier, [redacted] asked -- when you got this, she asked, how'd you get this information about Agent Friend, and you said you couldn't get into that.

How do you normally get these complaints? What's the normal process, if there is one, where you would receive these concerns that would require you to look into their clearance?

Ms. Moore. We can receive those concerns any number of ways. The employee can self-report. A member of the public can report. A coworker can report --

Chairman Jordan. What's the most common?

Ms. Moore. I don't know that we have necessarily one area over the other. We get a lot of self-reports, actually, that rise to security concerns. Our continuous vetting, which is also a directive of the National Intelligence Agency -- or, ODNI -- hits a lot of things. Like, financial concerns will pop during those.

So they really come in from a myriad of ways. I can get that information and send it to you, if you want the percentage of where we get the allegations from.

Chairman Jordan. All right.

Mr. Gaetz?

Mr. Gaetz. Did the FBI unlawfully retaliate against Steve Friend?

Ms. Moore. Absolutely not.

Mr. Gaetz. So how did the information come in about him?

Ms. Moore. I'm not allowed to discuss an ongoing security investigation at this time.

Mr. Gaetz. And so you're willing to make a conclusory statement, that it's not unlawful retaliation, but if we inquire as to the basis for that conclusion, your answer is that you're not gonna give us that information today.

Ms. Moore. At this time, I'm not allowed to talk about an ongoing security investigation.

Mr. Gaetz. Well, you just did. You said that it wasn't unlawful retaliation, right? You can make that conclusion.

Ms. Moore. The information that I was provided, that I executed the suspension off of, all was lawful.

Mr. Gaetz. And how did you investigate the propriety of that information?

Ms. Moore. I'm not gonna discuss an ongoing security investigation at this time. At the conclusion of the investigation I'll be glad to come back and answer any and all questions.

Mr. Gaetz. Was Steve Friend punished to send a message to chill other potential whistleblowers?

Ms. Moore. I cannot answer any questions regarding an ongoing security investigation.

Mr. Gaetz. Did the FBI encourage anyone to be unhelpful to Steve Friend?

Ms. Greer. Can we go off the record one sec?

[redacted] We'll go off the record.

[Discussion off the record.]

[redacted] We'll go back on the record.

Ms. Moore. I want to address the question two ago.

There is no chance I would sign anything that was retaliatory or intended to send a chilling message. Absolutely anything that I signed, regardless of the employee, is based off of the security adjudicative guidelines and separating an individual from national security risk.

Mr. Gaetz. So you've answered that question in a general sense. But as I specifically posed that question as it related to Steve Friend, would you assert the same --

Ms. Moore. I would not sign any paperwork, regardless of the employee, to send a chilling effect or in retaliation for anything. No.

Mr. Gaetz. Did the FBI encourage anyone to be unhelpful to Steve Friend in any way?

Ms. Moore. Not to my knowledge, no.

Mr. Gaetz. And would your process normally have uncovered any of that type of retaliatory behavior?

Ms. Moore. Our process involves multiple steps, so there's several different steps that come. Mine is independent of the information that is provided to me.

Mr. Gaetz. So your testimony to us today is that you had sufficient predicate to suspend the security clearance of Steve Friend?

Ms. Moore. I won't talk about an ongoing security investigation. For me to sign suspension paperwork, yes, I had to have enough predicate to do it.

Mr. Gaetz. But you won't share with us any of that predicate?

Ms. Moore. Unfortunately, I can't today.

Mr. Gaetz. And you won't share with us any of the basis for the conclusion that this wasn't intended to chill future whistleblowers?

Ms. Moore. Unfortunately, I can't talk about an ongoing security investigation.

Mr. Gaetz. And you won't share any of the basis for your conclusion that this wasn't retaliatory specifically as to Mr. Friend?

Ms. Moore. Unfortunately, I can't talk about the specificity of his investigation. But when this is done I'll be happy to come back and answer any and all questions.

Chairman Jordan. And you can't share with us when you think this is gonna be done?

Ms. Moore. As soon as possible.

I believe Mr. Franken also signed a waiver that would allow me to do it, and I think we offered that in advance. And if he will do it, I'll be happy to talk about it before it's concluded.

[redacted] We don't need the waiver with the chairman's letter. We don't.

Ms. Moore. My counsel has advised me otherwise.

[redacted] Well, yeah, okay. Well --

Mr. Gaetz. In your role, do you oversee whistleblower training?

Ms. Moore. Do I oversee it? No, sir. It doesn't fall under me.

Oh, I'm sorry. Yes, it does, because I'm -- I'm so sorry. I'm getting so caught in the Security Division. I oversee Training Division, which publishes whistleblower training, yes, sir.

Mr. Gaetz. Yeah, so you oversee whistleblower training. Do you also oversee insider threat training?

Ms. Moore. I do, but let me explain how that works.

So our Training Division is responsible for publishing those and ensuring that employees take them. The sponsoring divisions of the trainings are the ones that own it.

Mr. Gaetz. Who makes the decision to conduct whistleblower training and

insider threat training on the same day?

Ms. Moore. It would be out of the Training Division.

Mr. Gaetz. Are you aware that whistleblower training and insider threat training occur on the same day at the FBI?

Ms. Moore. I don't believe it always has. I'm not sure what day it actually publishes. I'm sorry. I don't have that. I can get you that information.

Mr. Gaetz. If I represent to you that folks have testified to the committee that these things occur on the same day, you don't have a basis to disagree with that, right?

Ms. Moore. At this time, I could get you the dates of when it happened and previous years when it occurred.

Mr. Gaetz. Is there a risk that if you conduct whistleblower training and insider threat training on the same day, the message being sent to people throughout the FBI implicitly, or perhaps explicitly, is that whistleblowers are insider threats?

Ms. Moore. I don't believe that.

Mr. Gaetz. You're a senior human resources professional. You don't see any tension on the same day having whistleblower training and insider threat training?

Ms. Moore. No, I don't. I think those are two very different things.

Mr. Gaetz. And your testimony is that you're not concerned that if those two very different things are administered on the same day that someone in the FBI might believe that the message being sent from leadership is that whistleblowers are insider threats?

Ms. Moore. I don't believe that we work to the weakest denominator within the organization, if you don't understand that the two are two separate things.

The FBI takes whistleblowers very seriously. We encourage our employees and actually require them to report waste, fraud, abuse, and misconduct. We absolutely

appreciate a whistleblower.

We also have an obligation to national security information and the protection of that information. And those two are not in conflict.

Mr. Gaetz. And you see no problem administering them on the same day?

Ms. Moore. I do not.

Mr. Gaetz. Does the FBI engage in a process by which if someone wants to write a book after their time at the FBI that the FBI reviews it?

Ms. Moore. There is an editorial review that happens through our Information Management Division.

Mr. Gaetz. Are you in any way involved in that process?

Ms. Moore. I am not.

Mr. Gaetz. Where does that sit within the FBI?

Ms. Moore. That falls within our Information Management Division, which falls under the Associate Deputy Director.

Mr. Gaetz. No part of your report?

Ms. Moore. No, sir.

Mr. Gaetz. Have you ever observed in your role complaints about the politics of employees at the FBI?

Ms. Moore. Will you expand on that a little bit more?

Mr. Gaetz. Yeah. Has anyone ever complained that people's partisan politics was creating a hostile work environment?

Ms. Moore. So we have different advisory groups that come in at different times, and they may say like, hey, we want to make sure the Bureau is not partisan in any way, or we want to make sure this action isn't that.

But I don't get, like, directly someone reporting to me that they've had partisan

politics that have happened with a specificity. If they did, we would take action on that. That's not allowed within our workspace.

Mr. Gaetz. Oh, I fully understand it's not allowed. I'm just trying to understand to what extent, you know, are these 50 cases that show up every week regarding the conduct of agents, to what extent those ever present to you concerns about politics. Can you recall any that have?

Ms. Moore. So let me expand upon the 50 cases.

The Security Division oversees agents, professional staff, task force officers, contractors, and detailees. That's 78,000 different individuals that have a reporting requirement to Security Division.

So those 50-ish that we get every week could fall under any of those. It's not specifically related to agents, no, sir.

Mr. Gaetz. In the broadest possible way I can ask this question: In your role as a senior HR official at the FBI, has anyone ever complained through these reporting systems that you oversee that there was politicization or partisan politics reflected at the FBI?

Ms. Moore. If they have, we would've looked at those appropriately and taken any action necessary.

Mr. Gaetz. I'm not asking --

Ms. Moore. I can't tell you.

Mr. Gaetz. I'm asking, are you aware of any time when that has occurred?

Ms. Moore. Specifically, myself? Not through our reporting system, no, sir.

Mr. Gaetz. How about otherwise, outside of your reporting system?

Ms. Moore. Again, I talked about, like, the agents -- the groups will come in, and they'll be like, hey, we want to make sure this isn't happening. But I have never received

a complaint that has come to me that says, within the parameters of this squad or this field office or this thing, that political rhetoric is being espoused and is creating a hostile work environment.

Mr. Gaetz. I just want -- that was a very couched answer, so pardon --

Ms. Moore. I'm not trying to make it couched.

Mr. Gaetz. Yeah, I'm sorry if I --

Ms. Moore. I'm sorry. Maybe I'm not understanding the question.

Mr. Gaetz. I'm sorry if this is pedantic, but when you say "come to you" in that last response, you mean throughout the enterprise of the reporting system that you oversee, right?

Ms. Moore. Yes. Yes, sir.

Mr. Gaetz. Have you ever --

Ms. Moore. And if it did come in --

Mr. Gaetz. Have you ever heard the phrase, "Comey is my homey"?

Ms. Moore. -- we would investigate it appropriately.

Mr. Gaetz. Have you ever heard the phrase, "Comey is my homey"?

Ms. Moore. I have.

Mr. Gaetz. And in what context did you hear that?

Ms. Moore. That was usually after Mr. Comey was terminated. There was a whole -- like, "Comey is my homey" was a statement that people would make in relation to they liked him as the Director.

Mr. Gaetz. And I'll represent to you that the committee has received testimony that there was pressure for people in the "Comey is my homey" era of the FBI to reflect that slogan in some way or they might face retaliation from their coworkers.

Are you familiar with that dynamic?

Ms. Moore. I am absolutely not familiar with that dynamic.

Mr. Gaetz. So you --

Ms. Moore. Nor would I have been in this position at the time that Mr. Comey was removed as the Director.

Mr. Gaetz. But you were around, right? You were at headquarters?

Ms. Moore. Well, I was definitely in the Bureau.

Mr. Gaetz. Yeah.

Ms. Moore. Mr. Comey was removed in 2017. I was not at headquarters when Mr. Comey was removed.

Mr. Gaetz. Great. Thank you.

BY [redacted]

Q Are you going to be able to answer any questions about Garret O'Boyle's case today?

A I'm not.

Q So, as to his adjudication or --

A It's ongoing.

Q It's still ongoing?

A Again, it should be -- it should be soon that --

Q It's gonna be soon, right?

A -- that one should be finished.

Q As soon as this interview ends, I bet.

A No.

Q How about Marcus Allen?

A I'll come back. If they finish the adjudication and they come to some --

Q Well, you're gonna -- you know, I --

A You're like, "Are we ever gonna see you again?" I'll come back.

Q Yeah, I think we're gonna --

A As soon as they're done, I am happy -- or if you --

Q I mean, I think -- I think -- let's be clear here. I think the chairman is gonna need to send a subpoena.

A Whatever we have to do that lets my legal counsel do it, I'll come back and talk about him. I just have to -- I'm obligated --

Q Yeah. No, I mean, I would anticipate the chairman is gonna wanna send a subpoena in the short term.

A Again, I'll come back. Whenever my general counsel tells me I can talk about something, I will come back. If it's a subpoena, if it's you get release from the employees, or we finish the adjudication, I will come back.

Q How about Marcus Allen?

A I can't talk about him either.

Q Okay.

All right. We're running out of time with our hour. I think we've got 2 minutes left here?

[redacted] Yeah. We'll go off the record. Thanks.

[Recess.]

[11:18 a.m.]

[redacted] All right. It is 11:19. We can go back on the record.

Good morning again. My name is [redacted] I'm the Democrats' chief oversight counsel. Nice to meet you.

Ms. Moore. Nice to meet you.

[redacted] And I'm joined by my co-counsel, [redacted].

[redacted] How are you?

EXAMINATION

BY [redacted]

Q I want to start out just, I think this was referenced earlier, but I want to make sure we have the record clear on it.

How many -- what's the total number of employees that fall under the purview for the review of these clearances? I think you said 78,000.

A It's roughly -- so employees, we have roughly 37-, almost 38,000 FBI employees; that's agent and professional staff and analytical cadre. And then you have your task force officers, your detailees, and your contractors that make up the remainder.

Q And so it's --

A Yeah, about 78,000.

Q And of that -- so it's 78,000 total -- how many individuals are currently suspended, had their clearances suspended?

A Currently on suspension, there's 32.

Q Thirty-two. So 32 --

A In FY '22, there were 32. I'm sorry.

Q Okay. And you don't have the numbers for FY '21 or FY 2020, do you?

A I don't have them, but I can get them for you if you would like.

Q I think that would be helpful for us. Thank you.

A Okay. Sure.

Q And so -- and the -- you said that there are about 50 -- what's the technical term, complaint or --

A About 50 incidents is what we call them, security incidents, that come in a week.

Q And, to your knowledge, has that number been standard for the past several years?

A It pretty much has. We've, at any given time over the last couple years that I've been involved years, there's been roughly about 600 pending investigations at any given time.

Q Okay. And that equals about 50 a week?

A Yes.

Oh, just because it comes in doesn't mean it gets opened, so --

Q Correct. Sorry.

A Yes. I'm sorry.

Q So what I'm looking at is actually the number that come in per week. Has it been roughly 50 per week?

A Yes, it has, yes.

Q Okay. And do you know if that was the same in 2021, for example?

A It has been.

Q And in 2020?

A I don't know 2020. I wasn't in my seat at the time. I'm sorry.

Q So I think it would be helpful for us if we could get those numbers.

A Sure.

Q You talked through the process earlier between the investigative process and the adjudicative process, and I just want to get some clarity around that. At the investigative stage, it comes in to a case agent? Is that the right term?

A Pretty much. A case investigator.

Q Case investigator. And then there's a supervisor level above that individual?

A There's a program manager that runs above that, and then above that would be a unit chief.

Q Okay. So there's three levels there?

A Yes, ma'am.

Q And then they pass the case over to the adjudicative side, correct?

A Correct.

Q And how many individuals are involved on the adjudicative side?

A It's similarly the same. There would be the investigator, the adjudicator there, and then there's the program manager that oversees that adjudicator, and then the unit chief.

And then, from the unit chief, though, if they're making a recommendation for a suspension, a revocation, or a security warning letter, or no action, it goes to the assistant section chief, and then to a section chief, then to a deputy assistant director, to the assistant director, and then to myself, the EAD.

Q Okay. So that's --

A Roughly seven.

Q -- three at the investigative stage and seven, so it's 10 individuals total?

A No, it's about 7 total --

Q Seven total?

A -- because I don't consider the investigator or the adjudicator as one of the stages.

Q Right.

A I consider the rest.

Q Okay. So the adjudicative side is about 7?

A Yes.

Q And the investigative side is about 3?

A Yes, ma'am.

Q Okay. So it's 10 total?

A Oh, yes, ma'am, I'm sorry.

Q And this is just the adjudication of the clearance suspension, correct?

A Yes, ma'am.

Q So there's a whole different process for an actual revocation, correct?

A It's the same process.

Q It's the same process.

A Similarly.

Q Does it go through again though?

A Yes, ma'am.

Q Okay. So it's a full -- so it's different -- a different review for the actual revocation?

A Yes, ma'am.

Q Okay. You previously served as the assistant director of the Security Division, correct?

A I did.

Q And this is the division that's responsible for overseeing the adjudication of security clearances?

A Yes, ma'am.

Q Okay. Can you describe, how many employees does that division have?

A In total? Almost 800.

Q And how many work on the security clearance review?

A Total, there's probably close to 40.

Q Okay. Can you describe the training that those individuals go through?

A They all receive the adjudicative guidelines, the executive order training. They have refresher training to make sure that everything is level set. But I can't tell you, like, if it's -- how many times a year they do it, but they will periodically, if we're making sure everybody is calibrated appropriately, we have our general counsel come in and again teach them all of those steps.

Q Okay. And I think any training materials that you have that could be made available would also be helpful --

A Okay.

Q -- for us to review.

You've referenced a number of times in the earlier session a thorough and complete investigation.

A Yes, ma'am.

Q What does that mean?

A That means that they will run down any information that we possibly can to be -- however it's positive or negative, so that they have a full jacket, so that we're not weighted one way or another. So they run down all leads that are possible.

Q Okay. And is that both to protect the individual involved, to make sure that

they get a fair shake, I guess you could say?

A It's to protect the individual and national security. It's a requirement. You wouldn't want -- this is a very serious process, and we take it very seriously, and so you want to make sure you get it right.

Q Okay. Both for the individual who is suspended or potentially revoked and also for the United States?

A Yes, ma'am.

Q We've referenced earlier executive order -- you referenced earlier Executive Order 12968.

A Yeah.

[redacted] And I think we talked about it a lot, but we didn't actually look at the executive order. So I'd like to introduce that into the record.

[Moore Exhibit No. 2

Was marked for identification.]

Ms. Moore. Okay.

BY [redacted]

Q That will be exhibit No. 2.

A Thank you.

Q And I'll give you a minute to look through this. Let me know when you're ready to continue.

A Yes, ma'am.

Q Okay. You're familiar with this executive order?

A I am.

Q And would you describe yourself as very familiar with this order?

A I am very familiar with the order. I don't know if I can quote it to you by

parts, but yes, ma'am.

Q Okay. And the order is dated August 2, 1995, correct?

A Yes, ma'am.

Q So it's been in effect for nearly 28 years, correct?

A Yes, ma'am.

Q Could you briefly describe what this order does?

A This order talks about who has the authority to have access to classified information, what you're looking to, what the due process is if there's a risk to the organization, what the standards will be.

And then the implementation guide that came with this is the ODNI standards of the adjudication guide, the 13 different standards, so they kind of go together to make one full complete package.

Q You referenced in the earlier session that a suspension is not eligible for review under the order. Is that right?

A Correct.

Q Can you explain how that -- where that is in this or how it would -- I'll give you a minute to --

A Sure. Let me find that, sure.

It will be under part 5.

Q Okay. And can you actually --

A Review of Access Determinations.

Q Okay.

A And it's section 5.1 through 5.2.

Q Okay. And so this section essentially says a suspension is not eligible for review probably because, at that point, it actually is going through the review, correct?

A Correct.

Q Okay. So what happens is, a suspension goes into effect, and at that stage, that's when the investigation continues?

A It can, yes, ma'am.

Q I want to turn back to actually page 1 of this order. I'm sorry. I'm saying page 1. It's page -- this is published in the Federal Register, so it would be page 40245 as printed in the Register.

A Yes, ma'am.

Q In the second and third paragraphs, this order states: Security policies designed to protect classified information must ensure consistent, cost-effective, and efficient protection of our Nation's classified information, while providing fair and equitable treatment to those Americans upon whom we rely for national security.

So that paragraph essentially says that the goal of the order is to balance both the protection of classified information and the -- and ensuring equitable treatment for those who may be eligible to access it, correct?

A Yes, ma'am.

Q Okay. And then the following sentence is: This order establishes a uniform Federal personnel security program for employees who will be considered for initial or continued access to classified information.

So would you agree that the purpose of the order is to establish a uniform standard for assessing Federal employee eligibility to classified information?

A Yes, ma'am. This order is for all Federal agencies across all government entities in the intelligence community that have access to classified information. It's everybody.

Q Okay. So it's the same rules for FBI, for ODNI --

A Yes, ma'am.

Q -- for the CIA?

A Yes, ma'am.

Q For all intelligence agencies?

A Yes, ma'am.

Q And I want to turn to part 3, which is Access Eligibility Standards. It begins on page 40249. That's the fifth page of the document itself.

A Yes, ma'am.

Q At the bottom of that page to the top of the next page, the order says: No employee shall be deemed to be eligible for access to classified information merely by reason of Federal service or as a matter of right or privilege.

A That's correct, yes, ma'am.

Q So the award of a clearance is not automatic, right?

A It's not a -- I mean, it's not a right; it's a privilege, yes, ma'am. There's no -- like, you don't get it just because you're employed by anybody, no, ma'am.

Q And the goal of that is to protect classified information?

A Yes, ma'am.

Q And the national security?

A Yes.

Q Okay. In the following paragraph, which is section 3B -- it's on page 40250 -- I want to go through paragraph B in a bit of detail -- it reads: Eligibility for access to classified information shall be granted only to employees who are United States citizens, for whom an appropriate investigation has been completed, and whose personal and professional history affirmatively indicates loyalty to the United States.

Can you explain your understanding of what "affirmatively indicates loyalty to the

United States" means?

A Right. So there's not like a litmus test on allegiance to the United States. So there's not like a test that you can give that says, "Yes, I am allegiant to the United States," or, no, there's not.

But what we utilize there is there's factors that people display or indicate that could be contrary to an allegiance to the United States. And some of those would be things like illegal activities to overthrow the United States Government, activities that would prevent someone else from executing their First Amendment rights or that would prevent, like, a Federal Government, a State, or a local government from executing their official powers.

Q Thank you for that.

The next sentence describing eligibility requirements lists "strength of character." What's your understanding of what "strength of character" means?

A Strength of character comes down to that whole -- and it goes on here, and it says trustworthiness, but it's more than that. It's like who you are. It's how you act. It's how you execute. We talk about, like, the 13 adjudicative guidelines. So part of that character is, you know, like, alcohol use, or how you behave in whatever situation that you're in, that you're using sound judgment, that you're a good model and image of what you're looking for as a clearance holder.

Q And why is that important?

A Because you're representing the United States Government when you have a clearance, and we need to make sure that these people have good judgment because you're going to be faced, at times, by foreign entities or foreign influence that might want that information, or, you're going to be judged off of where you work, and we want to make sure that you are the right person to have that clearance at all times and that you

make good decisions and don't put national security information at risk unnecessarily.

Q Okay. Skipping ahead a little bit, a little further down, it describes the willingness and ability to abide by regulations governing the use, handling, and protection of classified information. Is this important to the FBI?

A It is very important to the FBI. Sorry.

Q Could you explain why?

A To protect national security information, it's our obligation. I mean, if you disclose national security information, then you put at risk the country. It's not just yourself or your organization, it's the entire United States that comes at risk.

That's why they lay it out, that it's grave consequences if we mishandle national security information. So it's very, very important to us.

Q Okay. And then I want to look at the last sentence, and this came up a little bit in the first hour. So I want to talk through some of the detail.

It says: Eligibility shall be granted only where facts and circumstances indicate access to classified information is clearly consistent with the national security interests of the United States, and any doubt shall be resolved in favor of the national security.

Can you explain what it means for "any doubt to be resolved in favor of the national security"?

A In simplest terms, tie goes to the government. It's like if a lock fails, it fails safe. It is not going to let somebody out of the room. So we're always going to yield to the side of national security.

Q Okay. And can you explain why that is important?

A Again, it's the risk of national security to the Nation as a whole. You give away our secrets, you're not trustworthy, and you can cause grave damage to the United States.

Q So it's not a beyond-a-reasonable-doubt standard?

A No, ma'am.

Q The standard is --

A Always to the national security side. Tie goes to the government. There's no -- no exceptions to it at all.

Q Okay. And, again, this was set in an executive order from 1995?

A That all the intelligence community and anyone issuing a clearance or with anybody that has a clearance holder abides by, yes, ma'am.

Q I want to move on.

[redacted] We've referenced the adjudicative guidelines a couple times, and I also want to introduce those actually. So this will be exhibit No. 3.

[Moore Exhibit No. 3

Was marked for identification.]

Ms. Moore. Thank you.

BY [redacted]

Q And let me know when you've had a minute to look through them.

A Go ahead.

Q So these are the -- this is Security Executive Agent Directive 4, National Security Adjudicative Guidelines, effective 8th of June 2017.

A Yes, ma'am.

Q Are you familiar with these guidelines?

A I am.

Q And is this the current version of them?

A This is the current version, yes, ma'am.

Q Okay. Could you describe your level of familiarity with these guidelines?

A It's what I utilize at any point to make a security clearance adjudicative action at all. It's what's our -- I hate to use the term, like almost a Holy Grail. It's what you go by. It's what the intelligence community directs us to go by.

Q Okay. And could you describe in a few words what these guidelines do?

A They set the left and right lane limits of what we're looking at. They lay out the parameters. There's 13 in here, and you look into each of those when you're looking at considerations for individuals to be granted a clearance, to maintain a clearance.

Q Okay. Now, throughout these guidelines, there's the use of the term "adjudicative."

A Yes.

Q The term "adjudicative" refers to the process for determining whether an individual is eligible to access classified information or to hold a sensitive position, correct?

A Yes, ma'am.

Q And the guidelines also use the term "adjudicator" throughout.

A Correct.

Q And the term "adjudicator" means the actual individuals who make the determination of whether a person is eligible for access to classified information, correct?

A In the term of this, yes, ma'am.

Q Okay. So the adjudicators at the FBI would be the individuals we talked through earlier?

A Correct.

Q Okay. Can you describe, are they trained in these guidelines specifically?

A Absolutely.

Q Can you describe that training?

A That training is conducted by our Office of General Counsel. They come in and they go through all of the SEADs with them because all of the SEADs play a role in different parts of security, but specifically Directive 4, for the security clearances.

They go through a couple-week class. It's all 8 hours a day. There's a testing. But they get this, and they periodically will have refresher training on it as well just to make sure everybody is level set.

Q Thank you.

A And it does include like practices and things of that nature, scenarios.

Q And I know we said this with respect to the executive order, but I'm not sure if we said it with respect to this. What agencies do these adjudicative guidelines apply to?

A All Federal agencies and all intelligence community agencies, anybody that has anybody with a security clearance within them.

Q So is this the same for all intelligence agencies? It is not just for FBI?

A Correct.

Q Okay. The guidelines are issued by the Office of the Director of National Intelligence, correct?

A Correct.

Q The version I just introduced went into effect June 8, 2017, correct?

A Yes, ma'am.

Q And so that was during the prior administration?

A Yeah.

Q I want to turn to appendix A, which contains the actual guidelines, and I want to begin with Section 2, the adjudicative process, paragraph D, which is factors that adjudicators should consider when making an eligibility determination. This begins on

the bottom of page 6 of the document.

A Yes, ma'am.

Q There's a list of factors, 1 through 9, ranging from the nature, extent, and seriousness of the conduct to the frequency and recency of the conduct to the motivation for the conduct.

A Correct.

Q Can you explain how FBI's adjudicators weigh these factors when making eligibility decisions?

A We call this the whole-person concept. We go back and we look at, again, their entry on duty, what they were like then, what they are like now, are there patterns, other considerations, what was intent when an issue occurs.

But this is, like, the meat on the bone of what they do. This is essentially, in nine bullets, what whole-person concept comes down to.

Q Okay. And does any one factor tend to be more important than the others?

A No, they're all equally important.

Q Okay. And, based on what you said earlier -- I think you used the example of an individual that had a DUI prior to entering service -- it sounds like the whole-person concept could mean different things for different people, right?

A Absolutely.

Q So it's the whole person for you as an agent or you as a contractor?

A Correct.

Q Okay. Notwithstanding these factors, the next paragraph on the top of page 7, it's paragraph E, makes it clear that a single criterion may be sufficient to make an unfavorable eligibility determination, correct?

A That is true.

Q And can you explain what that means?

A So a single one of the criteria could be enough just alone, but you can also take them in totality. So it could be, like, one or two that are kind of causing concern can make a totality, or it could be one that is so significant that it stands on its own.

Q And what would be an example of something that could be so significant to stand on its own?

A Usually spying for another country would absolutely, a Hanssen would stand on its own, no doubt.

Q Got it. Paragraph F, which is the following paragraph, provides factors adjudicators should consider when a security concern becomes known about an individual who currently holds a security clearance, correct?

A Yes, ma'am.

Q And, again, can you explain how adjudicators weigh these factors when making eligibility determinations?

A Absolutely. Again, they're part of the whole-person concept, like, did they own it, were they truthful in what they reported, are they forthright, forthcoming, is this a one-time thing. Again, it goes -- everything goes back to that whole person, that you're taking that one solid look at the entire person and the totality of events that are in question.

Q Okay. And so some of these was truthful and complete in responding to questions. So, if an individual declined to appear for an interview, for example, or to discuss alleged misconduct, that could be taken into account.

A It absolutely can, and actually within the security adjudicative guidelines, personal conduct, which is guideline E, states that failure to comply with a security

investigation in and of itself is enough to suspend a security clearance because it raises doubts to the individual's willingness to comply with national security rules and regulations. We take that very seriously.

Q And I want to get back to the -- paragraphs G and H provide alternatives to a clearance revocation, correct?

A Correct.

Q So paragraph G says that an individual can continue to hold a clearance if the specific risk to national security can be managed with appropriate mitigation measures, correct?

A Correct.

Q So is it fair to say that if an individual actually has their clearance suspended, the conduct must be so serious that it can't be mitigated in that moment?

A Correct.

Q Okay. And paragraph H says that an adjudicator can recommend a warning, instead of a denial or a revocation, if the adjudicator decides that the information is not serious enough to warrant a suspension or revocation, correct?

A Again, so you have your security letter warning letters. You have your suspensions and then ultimately the revocation if that's necessary.

Q So is it fair to say that, if an individual has their clearance either suspended or revoked, then the conduct at issue must have been so serious that a warning alone was not sufficient to address it?

A Correct.

Q Okay. And then, finally, paragraph I on that page says that the eligibility determination process relies on individuals being truthful and honest when they provide information to those who are investigating their backgrounds and adjudicating their

individual eligibility.

It continues: Any incident of intentional material falsification or purposeful noncooperation with security processing is of significant concern.

Can you explain why any falsification or noncooperation with security processing is of significant concern?

A Because to, you to be compliant to security processing so that we understand your allegiance to national security and to that protection of national security information. If you're not willing to be cooperative in a security processing process -- a security processing process -- then I have no ability to make a judgment call off of that willingness, so the only thing I can do is noncompliance, and that's not acceptable for handling national security information.

Q And so, if someone engages in, like, a single incident of noncooperation, so say he or she declines to meet with an investigator, could that be sufficient for FBI to determine that the individual is not eligible to hold or to maintain a security clearance?

A Absolutely.

Q Okay. Thank you for that.

I want to go on to the actual guidelines themselves, and we'll start with guideline A, which is allegiance to the United States. It begins on page 8 of the directive.

The first sentence of guideline A states: The willingness to safeguard classified or sensitive information is in doubt if there is any reason to suspect an individual's allegiance to the United States.

Correct?

A Yes, ma'am.

Q Could you please explain your understanding of what, quote, "any reason" means?

A Well, it helps a lot because the guidelines, again, go on and kind of explain that. If you have involvement in, support of, training to commit, or the advocacy of any act of sabotage, treason, or sedition against the United States, association or sympathy with any persons who are attempting to commit or who are committing, again, those activities I have just listed out, any association or sympathies with persons or organizations that advocate, threaten, or use force or violence, or any other illegal or unconstitutional means to overthrow or influence the United States Government or seek -- or any State or local government, to prevent Federal, State, or local government personnel from performing their official duties, to gain retribution for a perceived wrong caused by the Federal, State, or local government, and any attempt to prevent others from executing their rights under the Constitution or laws of the United States, of any State.

Q Okay. And any of those --

A Any of those.

Q Okay. The last sentence of No. 3 under guideline A says: An individual who engages in acts against the United States or provides support or encouragement to those who do has already demonstrated willingness to compromise national security.

Correct?

A It's a very clear statement, yes, ma'am.

Q Okay. So any evidence of that, we said earlier, you know, any doubts would be resolved in the favor of the national --

A Favor of the national security.

Q And so any evidence that this guideline has been violated, it sounds like, would be a pretty strong reason in the FBI's eye in and of itself --

A Yes, ma'am.

Q -- to withhold -- to either suspend or to deny a clearance, correct?

A Yes, ma'am.

Q Okay. So you just talked through the reasons or the conditions that could raise a security concern listed. I want to look at these, break them down one by one. So the first one, I think, is a little self-evident. It says: An individual -- sorry -- involvement in, support of, training to commit, or advocacy of any act of sabotage, espionage, treason, terrorism, or sedition against the United States.

Correct?

A Yes, ma'am.

Q Would such involvement be disqualifying, in and of itself, for purposes of access to classified information?

A It would.

Q Okay. The second condition is: Association or sympathy with persons who are attempting to commit or who are committing any of the above acts, meaning sabotage, espionage, treason, terrorism, and sedition.

Correct?

A Correct.

Q Okay. Could you explain what "association or sympathy" means?

A "Association" would be: I support, I'm espousing that, I believe in that, I think that person is right, I concur, I support their train of thought.

Q Okay. Can you explain why that's problematic?

A Because it's contrary to adjudicative guidelines, and it shows a non-allegiance to the United States and the Constitution, which we're sworn to protect and defend.

Q Okay. How would the FBI determine that an individual has such association

or sympathy?

A Generally, we would do a thorough investigation, and sometimes those individuals, perhaps would espouse that, like, on the office instant messaging system between two employees, and we have the ability to retrieve those, and so we can take a look at all of that. We can look at text messages that they've sent. We can look at documents that they've created or statements that they have made.

Q And so do you look at public statements they've made?

A We can, yes, ma'am.

Q Do you look at social media posts that an individual may have made?

A We can only look at that in the event that it is public social media. We don't engage in going into closed platforms.

Q Okay. But, if somebody has a public Twitter account, you could look at that?

A We could, yes, ma'am.

Q Okay. The third condition is: Association or sympathy with persons or organizations that advocate, threaten, or use force or violence, or use any other illegal or unconstitutional means in an effort to overthrow or influence the U.S. Government or any State or local government.

Correct?

A Yes, ma'am.

Q Why is that problematic?

A Well, because the rule of law of the Constitution says that we are going to abide by it, and so, when you start to overthrow or influence U.S. Government, that's a frowny face; you can't do it. It means you're not allegiant to the United States and to the Constitution, again that we're sworn to protect, and that makes you a risk to national

security.

I don't want to give somebody that doesn't believe in the United States access to information that could cause harm to our Nation.

Q Okay. And so such association or sympathy, it might be perfectly legal though, right, like it might -- you might have the First Amendment right to say whatever you want or to associate with whoever you want?

A Absolutely. But individuals that are clearance holders are held to a higher standard. And so, while -- when everybody came on board, that's what they understood they were held to, and we're very clear about what that standard is, and they have a continuing obligation.

Q Okay. The third condition states that it is also a concern if an individual with access to highly sensitive or secure material -- or classified materials has an association with or sympathy for persons or organizations that use any illegal or unconstitutional means to, quote, prevent Federal, State, or local government personnel from performing their official duties, correct?

A Yes, ma'am.

Q What is your understanding of what prevent such officials from, quote, "performing their official duties," means?

A That would be someone who was trying to interfere with the official functions, votes, whatever it is, of that Federal, State, or local government in an official capacity that they're required to do by law.

Q Okay. And why is it problematic if an individual with access to highly sensitive information is associated with individuals who -- or has sympathy with people, individuals or organizations, that seek to prevent officials from doing their jobs?

A Because information that would be classified could help a foreign

government to overthrow the United States Government in performance of their official duties if necessary, and they release that inappropriately.

It's just -- it's concerning. Again, you wouldn't want to allow someone to see the Nation's most secret secrets if they're not allegiant to the United States and the Constitution.

Q The next condition -- and I'm just going to go through all of these, so light at the end of the tunnel.

A Okay.

Q The next condition states it is also a concern if an individual has an association or sympathy -- association with or sympathy for persons or organizations that use any illegal or unconstitutional means to gain retribution for perceived wrongs caused by Federal, State, or local government.

Could you explain what "gain retribution for perceived wrongs caused by Federal, State, or local government" means?

A This would be where someone in themselves believe that there was a wrong that was caused, and they want to -- in their -- take a revenge-type action against that. And, again, that's contrary to the rule of law, the Constitution, and what the Constitution dictates.

Q Okay. And then that last condition says that it's a concern if an individual has an association with or sympathy for persons or organizations that use any illegal or unconstitutional means to prevent others from exercising their rights under the Constitution or laws of the United States or of any State.

Can you explain what "prevent others from exercising their rights under the Constitution or laws of the United States or any State" means?

A That would be, again, where an example would be if somebody wanted to

vote, and they weren't allowing someone to cross the line to be able to go into vote. You can't do that. Again, our Constitution is very clearly on what we're allowed to do, and so, in support of that, as a Federal Government employee who holds a clearance, you're required to support the Constitution of the United States.

Q And I want to be clear with all of these, the concern in these guidelines is that an individual who has such sympathies would also have access to classified information, correct?

A That is correct.

Q So it's not that they support these groups or organizations, it's that they support -- or are associated with these organizations and they also have a clearance --

A Yes.

Q -- they also have access to --

A Correct.

Q -- classified information?

A That is correct.

Q And that's the actual threat to national security?

A That is.

Q Okay. So the guideline also lists a number of mitigating factors, and it says, for example, if the individual's involvement occurred under such unusual circumstances or so much time has elapsed that it is unlikely to recur, and does not cast doubt on the individual's current reliability, trustworthiness, or allegiance.

So, if an individual's clearance has been denied or revoked under guideline A, or suspended under guideline A, then the FBI has determined that none of these mitigating factors are sufficient to overcome the concerns presented under that section 4 above?

A That is correct.

Q Okay. I want to move on to guideline B, which is foreign influence. Could you broadly explain what "foreign influence" means?

A This is -- again, it lays it out, so I can quite honestly read it to you so it will be pretty clear. It's foreign contacts and interests, including, but not limited to, business, financial, and property interests, are a national security if they result in a divided allegiance. And so that means that they're not more allegiant to the United States than they are to a foreign country. And so that is a concern to us, that they may at some point decide that the foreign influence is more pulling than the United States.

Q And so, just to break this down one step further, why would it be concerning for an individual with access to highly sensitive or classified information to have -- to be under foreign influence?

A If you are under foreign influence, specifically it was an adversary foreign influence country, then you would have access within the confines of national security that might provide information to that foreign country that would provide an advantage economically or tactically against the United States.

Q The last sentence of this concern section says that assessments of foreign contacts and interests should consider the country in which the foreign contact or interest is located, including but not limited to considerations such as whether it is known to target U.S. citizens to obtain classified or sensitive information, correct?

A Correct.

Q Russia has been known to target U.S. citizens to obtain classified or sensitive information, correct?

A That is correct.

Q The second sentence of that concern section states that an individual's foreign contacts may be a national security concern if they create circumstances in which

the individual may be manipulated or induced to help a foreign government, group, organization, or government in a way inconsistent with U.S. interests.

What does "manipulated" mean in this context?

A "Manipulated" can be that they are almost tricked into, taught to believe, encouraged to act in a manner that is in the interest of the foreign government against the United States.

Q Okay. If an individual provides information to a foreign entity such as -- and maybe not classified or sensitive information but information to a foreign entity such as a Russian state-owned media organization, would that create concerns about the risk of them being potentially manipulated or induced to help Russia?

A Absolutely.

Q And that would be problematic for national security purposes, correct?

A Absolutely.

Q Underneath the paragraph describing the concern related to foreign influence, there's a list of conditions that could raise a security concern and could be disqualifying.

A Correct.

Q The third factor is failure to report or fully disclose, when required, association with a foreign person, group, government, or country, correct?

A Yes, ma'am.

Q When is an FBI employee required to report or fully disclose such associations?

A They're -- always have a continuing obligation to report any foreign contacts at any time.

Q Okay. The seventh condition states: Unauthorized association with a

suspected or known agent, associate, or employee of a foreign intelligence entity raises a security concern and may be disqualifying.

Correct?

A Correct.

Q Could you explain what "unauthorized" means here?

A So, again, employees that have security clearances, regardless of the organization, are required to report any foreign contact or any suspicious contact. And so, at times, we may have an individual who works in a LegAt in a threat country that has contact with foreign nationals, they'll report those. But they may be deemed of such innocuous manner that it's approved. But, if they're not an approved association, it would be unauthorized.

Q Okay. And, finally, this guideline lists a number of mitigating factors as well. I think that's on page 10 actually. And I want to look at the fifth one, which is small letter E. It states that a security concern can be mitigated if the individual who has access to highly sensitive information, quote, has promptly complied with existing agency requirements regarding the reporting of contacts, requests, or threats from persons, groups, or organizations from a foreign country, correct?

A That is correct.

Q What is the -- how quickly should an individual report such contacts under this section?

A Immediately. Again, we have individuals that get bumped by foreign countries pretty common, not uncommon at all, and they automatically report those. There's no delay at all.

Q Okay. Is there an actual FBI requirement, like 72 hours?

A I can't tell you the number of hours. It's immediate.

Q Okay.

A Like, there's not a delay that's acceptable in this.

Q So I think we would like to know the actual timeframe --

A Okay.

Q -- what the mandatory time frame for that.

A Okay.

Q How does the FBI ensure that it's employees are aware of this requirement?

A We have training on security requirements every year and what is -- we have an information security and -- we call it InfoSec or OPSEC security training.

Q Okay. And are employees also, in their initial training, so at Quantico, FBI agents --

A Oh, yes. I'm sorry.

Q -- they receive training at that stage as well?

A They do.

Q Okay.

A And we have yearly, again, refresher training on it.

Q Okay.

A All FBI employees -- so let me, I'll go a step back. All of the employees onboard through what we call the One Program, which is to ensure that everybody gets the exact same thing, the exact same training, and they all go to Quantico for it. And we have the same instructors come in, and they teach all of us there the reporting requirements and things during that One training as well.

[11:58 a.m.]

Q Thank you.

I want to turn to page E, which is personal conduct, and I think we referenced this just a little bit ago, but I'm going to go through it in a little more detail. It begins on page 12. Can you explain what "personal conduct" means?

A Again, I'll read it right out of the guideline. It's any conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations which can raise a question about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information.

And, again, of special interest to us is at any time a failure to cooperate and provide truthful and candid answers during national security investigations or the adjudicative process.

Q Can you explain why this concern matters to the FBI?

A It matters. We need our employees to be truthful. If you're not being truthful, you can't trust someone. You don't trust people that aren't honest and forthright. Specifically, if you won't comply when we do a security investigation, I have no means to gather further information from you, and, therefore, I have to make -- assume that you are not willing to comply the answer that I'm -- in relation to your security clearance. I didn't explain that very well.

Q And what about demonstrating good judgment, why is that important to the FBI?

A Well, good judgment prevents most people from getting in trouble. It's a commonsense, you know: You're not supposed to drive a hundred miles an hour on the freeway. It's that commonsense element of good judgment. You don't go

around -- we try to get our agents as well and any employees, like: Hey, don't go out and broadcast who you are because you might inadvertently get bumped by someone and give out information that you shouldn't do.

So we try to teach people to have that good judgment or reinforce that.

Q Okay. Thank you for that.

Going down to the conditions that could raise a security concern and may be disqualifying section here. The third one, which is C, says: Critical adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any single guideline, but which, when considered as a whole, supports a whole-person assessment of questionable judgment.

And then it goes on.

Can you explain what that section means?

A So, again, that's if we have a lot of little concerns that stop -- popping up, we call those indicators. And so, like, maybe it's not quite enough here, but when you compound it over here, it is the whole-person concept, it is the totality of the actions as it relates to an individual that can raise to this personal conduct that can lead to questions about their ability to maintain national security information.

Q You were asked earlier about how information comes in to the FBI, how. You said some people self-report. There's other -- sometimes it's supervisor; sometimes it's through the continuous monitoring.

In a situation where there's many small things that add up, how does the FBI -- and could those come in from different reporters?

A They absolutely can, and we do maintain a database. And so, while we may get, like, one report here, it may be 6 months that another report comes in. You go back, you kind of compare them up, and you're like: Oh, now we've got a little bit more

smoke, not quite there.

And then, you know, lo and behold, something else will come in, and you're like: Okay. Now we've got to look at this; this raises to a level of concern.

It's the whole person; all incidents considered.

Q Okay. So you wait until you have the body of --

A We generally -- we are not going to just take it off of something that doesn't rise independently. We're going to look at the totality.

Q The following condition, which is small letter d, refers to credible adverse information that is not explicitly covered under any other guidelines, and it lists a number of subconsiderations, including the unauthorized release of sensitive corporate or government-protected information.

So it is problematic if an individual with access to classified or highly sensitive information makes an unauthorized release of such information, correct?

A It's indicative. So, even if it's law enforcement-sensitive information, it's still law enforcement-sensitive. It's for official use only. So, if it's FBI information for official use only, and you're not protecting that -- that's our lowest level that you protect, and you can't do that -- why would I give you the Nation's secrets and give you free reign to disclose those.

Q Okay. The second subconsideration is any disruptive, violent, or other inappropriate behavior. What would be included as "other inappropriate behavior"?

A Let me think of an example there. "Other inappropriate" would be that espousing of beliefs that are not in line with the Constitution.

Q Okay. What about, for example, if an individual misuses their service weapon, would that be potentially other inappropriate behavior?

A Oh, yes, absolutely. Definitely. You can -- again, it's the totality of the

situation in bringing it together. We might have -- but definitely if you were not trustworthy with your firearm, again, I'm not going to give you national security information. That becomes frightening.

Q Okay. The third subconsideration is a pattern of dishonesty or rule violations. Can you explain what's meant by "a pattern"?

A That's the totality again. It's where, oh, I -- it starts out, you know: I lost my badge. I lost my cred. I lost my shield. I didn't process an arrestee appropriately.

You start getting all these little things that add up to someone who simply doesn't care enough about the organization to do things the right way, the right time, every single time, and it becomes such a point that you're like I just -- the totality is just too much to tolerate for the organization. It's too great a risk when it comes to national security.

Q And then the last one, the fourth subconsideration is evidence of significant misuse of government or other employer's time or resources. Could you provide examples of what that would mean?

A That's where you're using your, sometimes your government employment, to do things that are not related to the interests of the government or that job as it relates to the United States Government. So you might use your position at some point to order illegal silencers for weapons and have them shipped to an FBI field office. That would be conduct that would exceed your government authority as an employee and waste resources and time.

Q I want to move on to guideline -- we have 15 minutes left -- I want to move on to guideline K, which is handling protected information. It begins on page 21.

So the concern section for this guideline reads: Deliberate or negligent failure to comply with rules and regulations for handling protected information, which includes classified and other sensitive government information and proprietary information, raises

doubt about an individual's trustworthiness, judgment, reliability, or willingness and ability to safeguard such information, and is a serious security concern.

Correct?

A Yes, ma'am.

Q So this concern isn't just limited to classified information but to all sensitive information, correct?

A Correct. It's indicative of how you would handle national security information.

Q And you said FOUO is for --

A Official use only.

Q Okay. And then what other nonclassified, sensitive categories are there?

A So we have unclassified -- you have your official use unclassified but official use only, confidential, secret, and top secret, and then subcompartmented, sensitive compartmented information accesses beyond that.

Q So where would law enforcement-sensitive information fall?

A It would go in -- it's down there at the unclassified and classified law enforcement-sensitive.

Q Okay. So the concern applies to both deliberative and negligent failure, correct?

A Yes, ma'am.

Q Why is negligent failure of concern?

A Because it shows that you're not using good judgment. You're careless. You're not thinking through the actions. And, again, if you can't think through the actions, you're not -- we're not going to give you national security information because you're showing that you're careless. You're not using good judgment in the way you

handle things.

Q The first -- the very first condition under conditions that could raise a national security concern and may be disqualifying is the disclosure of protected to unauthorized persons including to the media, correct?

A That is correct.

Q Why is it of concern if an individual with access to sensitive or classified information discloses it to unauthorized persons including the media?

A It can cause damage to operations. It can put other law enforcement officers at risk, specifically, if it involves the tactics or arrests that are pending, and it, again, can cause harm to the United States Government if it's classified information.

Q Okay. The second condition that could raise a security concern and may be disqualifying is collecting or storing protected information and any -- excuse me -- in any unauthorized location.

So would this include a situation in which an individual removes sensitive information from an FBI computer system and transmits it to a non-FBI computer?

A Absolutely.

Q Or puts it on a non-FBI device?

A Correct.

Q Okay. And the situation I just described would also implicate concern C, I think, which is loading, drafting, editing, modifying, storing, transmitting, or otherwise handling protected information, including images on any unauthorized equipment or medium, correct?

A That's correct.

Q Okay. The sixth condition that could raise a security concern and may be disqualify is little -- small letter f, includes viewing or downloading information from a

secure system when the information is beyond an individual's need to know. What does "need to know" mean in this context?

A In that context, although everyone has a top secret clearance or a secret clearance, or even access to law enforcement-sensitive information, you don't need to know. So you have, like an example would be, you have a big celebrity case or something over here that's super in the news or whatever and you're interested in it; I just want to know the back story to it. You don't have a need to know, so you have no right to go into that case, be it unclassified, classified, law enforcement-sensitive, and how it's marked. You don't have a need to know; you don't get to go look at it.

Q Okay. What's a secure system?

A We use, we call that our Sentinel records, our FBI system. That's our official record, our official system of record. It's where we keep all of our cases, our sources, that type of information.

Q Is the Guardian system part of the Sentinel system?

A It is.

Q Okay. So the Guardian --

A It's a subcomponent of it, yes, ma'am.

Q So the Guardian system would be considered a secure system?

A Yes, ma'am.

Q Okay. The seventh condition that could raise a security concern and may be disqualifying is any failure to comply with rules for the protection of classified or sensitive information.

Does the FBI take particular steps to ensure that its employees are aware of the rules for the protection of classified or sensitive information?

A Absolutely. We have a warning banner that comes up on all of our

systems, be it unclassified or classified systems. We have warnings there, we have posters throughout. Again, we have OPSEC training. We train our employees throughout the year on it. Yes, ma'am.

Q That warning banner that you described, is that when an employee signs on to their computer? When does that appear?

A Soon as you touch your computer, the screen pops up and it gives you the warnings.

Q Okay. Do you have to click through to --

A You do. You have to acknowledge that you understand your warning every single time.

Q Okay.

[redacted] And I want to introduce as exhibit No. 4 FBI form FD889.

[Moore Exhibit No. 4

Was marked for identification.]

Ms. Moore. Thank you.

BY [redacted]

Q This is the FBI information technology and information systems rules of behavior for general users agreement form. This is the version 04-01-2019.

A Yes, ma'am.

Q Are you familiar with this?

A I am.

Q Okay. Is this the current version of it?

A It is.

Q Okay. Does the FBI require all employees to sign this agreement?

A We do.

Q Okay. And, at the bottom of page 4 of this agreement, users certify that they will not remove sensitive or classified media from controlled areas without authorization, correct?

A That is correct.

Q Okay.

[redacted] And I also want to introduce, as exhibit 5, FBI form FD857A, which is the sensitive information nondisclosure agreement.

[Moore Exhibit No. 5

Was marked for identification.]

Ms. Moore. Thank you.

BY [redacted]

Q Are you familiar with this?

A I am.

Q And this has, in the upper left-hand corner, it says 09-09-2016. To your knowledge, is this the most current version of this?

A To my knowledge, yes, ma'am.

Q Okay. Does the FBI require all employees with access to sensitive information to sign this agreement?

A Yes, ma'am.

Q And, in paragraph 3 of this agreement, employees verify that they have been informed of the unauthorized access, disclosure, or retention of sensitive information, or negligent handling of such information, could cause irreparable damages to FBI investigations, correct?

A Yes, ma'am.

Q And, in paragraph 4, employees verify that they have been advised that any

breach of this agreement may result in a termination of their relationship with the FBI and access to FBI facilities, correct?

A Yes, ma'am.

Q Okay. So I want to turn back to the guidelines now, and I actually -- sorry.

Moving on, I'm going to move on to guideline M, which is the use of information technology. It's on page 23. The concern associated with this guideline is that failure to comply with rules, procedures, guidelines, or regulations pertaining to information technology systems may raise security concerns about an individual's reliability and trustworthiness, calling into question the willingness or ability to properly protect sensitive systems, networks, and information, correct?

A Yes, ma'am.

Q Can you explain why it raises a security concern if an individual with access to sensitive or classified information fails to comply with applicable information technology rules and regulations?

A Information technology is where we keep all of our cases, our CHSes, our tips; everything is in there. If you cannot appropriately abide by the guidelines that we've laid out for you, then you're a risk to national security because I don't know that I can trust you to do anything within our systems.

Q Okay. And one mitigating factor, which is on page 24, is that, if the misuse was due to improper or inadequate training or unclear instructions, that could mitigate whether an employee would be held -- would potentially lose access to information under this section.

Could you explain the training that employees go through with respect to the rules associated with information technology systems?

A Sure. Everybody, again, upon entry, goes through the One training at

Quantico, and they're taught exactly how you can use your systems. When they get to the field offices, you're issued an employee badge, which is part of your access and a token to even obtain access to our classified or unclassified information. You have regular trainings, usually within the office, by -- once a year, we have an all-employee conference. And, additionally, we have InfoSec training that's mandatory once a year as well where you re-execute your acknowledgement to understand -- you have to pass the test and acknowledge that you understand how to continue to use systems. And, again, we have the warnings on all of our systems every day.

Q Okay. And do employees know who they can ask if they have a question about proper use?

A They do. Their chief security officer is the -- we have flyers -- InfoSec flyers up in the office, and additionally, if you try to remove something, you get a warning before it removes. Like, if you're going to plug in a thumb drive and you're downloading information or you're trying to downdraft information, you get a warning.

Q And it's a banner that pops up on the computer screen?

A Yeah. You have to override it and say: I'm going to do this.

Q So you have to affirmatively click "I want to override"?

A Uh-huh.

Q Okay. We have just like, I think, couple minutes left. So, before I go on to a completely new area, just a couple of wrap-up questions.

You were asked earlier about insider threat training and whistleblower training.

A Yes, ma'am.

Q Can you clarify what insider threat training is?

A Insider threat is we consider that to be someone who is a threat to the organization. It could be, like, a hostile employee where it's violence on violence from

an employee to an employee that we consider those insider threats.

We consider anybody that's trying to steal information and give it to a foreign country, that type of insider threat. They're very different. It's an entire group upon itself.

Q And I think you said that they were published the same day. Does that mean that employees had to take them the same day?

A I am not sure that they were published on the same day. I'm taking that that must -- somebody has said that they have been, so I should look into that and get the exact dates for you on the last several years of when they were published and how they were published.

No, you don't have to take them on the same day, just because we populate at different quarters how much training you have that quarter that's due.

Q Okay. So, in other words, you, as an employee, have eight trainings that you have to take, and they might pop up on the same day, but that doesn't mean that you're obligated to take them that day?

A Correct. Yeah, each of them have a deadline. It will tell you in your virtual academy when your deadline is, and it will send you reminders to take them.

Q And how long is that deadline usually?

A Usually it's within the quarter. Sometimes it's even with the 6-months period.

Q Okay. So it's like 3 to 6 months essentially?

A Yeah.

Q Okay. So you have these trainings that pop up, but you can take them at any -- at any point?

A At any time, yeah.

Q Okay. And you said earlier, I think your line was "we don't play to the lowest common denominator." Do you think most employees can understand the difference between an insider threat and a whistleblower?

A Absolutely.

Q Okay. And then you were asked earlier about a number of individuals that you said you couldn't talk about in specificity, but you did say that individuals could be -- could provide a waiver, correct?

A Yes, ma'am.

Q And so, to your knowledge, none of these individuals have provided such a waiver to allow you -- that would permit you to talk about it?

A That is correct.

[redacted] Okay. I think we can -- we have about 2 minutes left -- we can go off the record now.

[Recess.]

[12:30 p.m.]

[redacted] We'll go back on the record. It's 12:30 p.m.

BY [redacted]

Q Ms. Moore, I'm going to talk to you again about some specific adjudications.

A Okay.

Q So are you familiar with a staff operations specialist, Marcus Allen?

A I am familiar with Staff Operations Specialist Marcus Allen.

Q Do you know what field office he worked out of?

A I believe he worked out of the Charlotte Field Office.

Q And what is Mr. Allen's current status with the FBI?

A He's currently suspended.

Q And are you aware that Mr. Allen is a combat military veteran who served deployments in Kuwait and Iraq?

A I am.

Q And, according to representations made by Mr. Allen's attorney to the FBI, Mr. Allen has consistently been rated as exceeding expectations during his tenure at the FBI. Is that accurate?

A And, again, I'm not going to get into the specific investigations surrounding suspended employees.

Q According to Mr. Allen's attorney, he also has received annual step increases on the GS pay scale and several awards, including Employee of the Year in 2019 at the Charlotte Field Office. Is that accurate?

A Again, I cannot talk about ongoing investigations.

Q Do you remember the circumstances surrounding Mr. Allen's suspension?

A I unfortunately am not allowed to talk about any pending security investigative matters. At the conclusion I will be happy to come in and answer any and all questions.

[redacted] So is your refusal to answer questions on these matters related to the Privacy Act? Or what's the basis for the refusal?

Ms. Greer. Well, it's both the Privacy Act but also the deliberative privilege for something that is currently undergoing review.

[redacted] Okay. I mean, the committee doesn't recognize nonconstitutional-based privileges. I mean, we've had a long back-and-forth on -- we don't recognize the deliberative process privilege.

I mean, if it's a decision that is going up to the Director, that's a little different than something that hasn't reached the Director.

Ms. Gibbs. So, at this point, these employees have pending investigations, and they should be allowed a fair and impartial process and allow that to proceed to its logical conclusion, both pending before the FBI Security Division and administrative forums.

After she reaches her decision, these individuals can appeal those decisions to third parties, and we want to ensure that those processes are able to proceed impartially and fairly.

[redacted] Okay. But what's the basis for the objection?

Chairman Jordan. Sounds like the Privacy --

[redacted] Is it the Privacy Act?

Chairman Jordan. Sounds like the Privacy --

Ms. Gibbs. That it is a pending investigation. These matters have not been resolved. Once they reach their logical conclusion we are more than happy to --

[redacted] No, I heard you. I mean, that's your desire, right? But what is the

legal basis for not providing that information to Congress?

Ms. Greer. We are here voluntarily today --

[redacted] Okay.

Ms. Greer. -- happy to provide what information we can --

[redacted] Okay.

Ms. Greer. -- under the constraints that --

[redacted] Okay.

Ms. Greer. -- we are under.

[redacted] Yeah. We have a deposition subpoena prepared, and we'll get it to you momentarily, so --

Ms. Greer. To be clear, that's not going to change the position of what we're able to share today, to make sure --

[redacted] The deposition won't be for today. We'll bring you back next week or whenever the date is.

Ms. Gibbs. Okay.

Is there another question?

[redacted] I can keep going.

[redacted] Right. But from the witness's standpoint, what's the reason that you can't answer it? Is it just because your lawyers are telling you not to?

Ms. Moore. Correct.

[redacted] Okay.

BY [redacted]

Q What was your involvement with Mr. Allen's suspension?

A I am the security program manager, so I sign the suspension letters.

Q And on January 10, 2022, you signed a letter to Mr. Allen suspending his

clearance. Do you remember that?

A I don't remember the specific date. I am aware that I am the individual who executed that signature.

Q And, in the letter, do you remember that you said, "The suspension of your security clearance is based on security concerns related to Adjudicative Guideline A, allegiance to the United States"?

What information did you have to support these security concerns?

A Unfortunately, at this time I cannot discuss ongoing security investigations. At the conclusion of the investigation I'll be happy to come back and answer any and all questions.

Q But it must be pretty big if you're questioning the allegiance of a combat military veteran.

A At this time, I'm not allowed to answer any questions regarding a security investigation that is ongoing.

Q What materials did the Human Resources Branch rely upon as the basis for suspending Mr. Allen's clearance?

A At this time, I'm not allowed to discuss any security investigations that are ongoing. At the conclusion of the investigation I'll be happy to come back and answer any and all questions.

[redacted] And earlier -- let me just ask you this again -- did you invite us to get a waiver from these individuals, and if we get a waiver from these individuals, you're able to discuss it?

Ms. Moore. I was advised originally by counsel that that would work, yes, sir.

[redacted] Okay.

BY [redacted]

Q And, in Mr. Allen's case, you've talked about in the beginning this kind of, like, three-step process. The allegation comes into the Intake Unit, there's an investigative stage, and then there's an adjudicative stage. But you said that sometimes it can go from the Intake Unit straight to the adjudicative stage. Is that correct?

A That can -- that can be correct, yes, ma'am.

Q So, in Mr. Allen's case, did it go through this three-step or did it go directly to the adjudicative stage?

A I am unfortunately not able to discuss that at this time as it's an ongoing security investigation.

Q And what information has Mr. Allen been provided between January 10, 2022, and now, April 24, 2023?

A He would've received a suspension letter.

Q And what was included with that suspension letter?

A I'm not -- I cannot discuss anything that goes along with a security investigation. But he received a letter.

Q So it's been over --

Chairman Jordan. Is there --

[redacted] Oh, go ahead, sir.

Chairman Jordan. In these situations, is there typically other information that gets provided to the individual who has received the suspension letter?

Ms. Moore. Generally, within a suspension letter, it will lay out the guidelines that they were suspended under. But that's all that 12968 requires be provided at that point for due process, and so that's what they get, sir.

Chairman Jordan. That's all they get in any type -- in a broad sense, any type of these investigations?

Ms. Moore. In a broad sense, yes, sir.

Chairman Jordan. Okay.

BY [redacted]

Q Has Mr. Allen been interviewed?

A At this time, I cannot discuss ongoing security investigations.

Q And so, in the second paragraph of your letter that you've sent Mr. Allen, you said that "the Security Division has learned you have espoused conspiratorial views both orally and in writing and promoted unreliable information which indicates support for the events of January 6th."

How do you define "conspiratorial views"?

A Are you saying in regards to Mr. Allen or in general?

Q Just in general.

A Conspiratorial views would be views opposite the United States Constitution.

Q So would they be views contrary to the FBI's views on an investigation?

A They would be contrary to the United States Constitution and law.

Q And who determines what is a conspiracy view -- a conspiratorial view?

A It would be what is in conflict to the United States Constitution and law.

Q Who makes that decision? Is it you?

A The United States Constitution defines what's conspiratorial. The --

Q And who --

A -- adjudicative guidelines --

Q -- looks at both documents?

Ms. Gibbs. Could you please let her finish speaking?

Are you finished with your answer?

Ms. Moore. No, I wasn't.

The adjudicative guidelines lay out the parameters, the left- and right-lane limits, specifically in Guideline A, which we talked about, which was allegiance to the United States. That gives you your left- and right-lane limits.

[redacted] Uh-huh.

Ms. Moore. And that's how they are applied.

There are seven layers of our process where individuals do the investigation --

[redacted] Uh-huh.

Ms. Moore. -- up to finally the recommendation to the security program manager.

BY [redacted]

Q And I understand that that's your process. But who looks at those documents and looks at what an individual who's under scrutiny -- the allegations against them, who looks at that and makes that determination, whether it's a conspiracy theory or a conspiratorial view?

A All seven layers will review the investigation or the information provided and make a recommendation.

Q And so, in your letter, you stated, "These allegations raise sufficient concerns about your allegiance to the United States and your judgment to warrant suspension of your clearance pending further investigation."

What facts made you question Mr. Allen's allegiance to the United States?

A At this time, I cannot discuss an ongoing security investigation. At the conclusion of the investigation I'll be happy to come back and answer any and all questions.

Q And did you personally review the information against Mr. Allen? You, personally?

A In any case I review all the information.

Chairman Jordan. Why didn't you just say, "You've expressed views that are unconstitutional" or "not consistent with the Constitution"? I mean, that was your answer you just gave to [redacted]. You said that "you've espoused" -- I think the term you used here, allegiance to the United States. "You espoused conspiratorial views both orally and in writing." Why didn't you just say that "you espoused views that were contrary to the Constitution"?

Because that's how you answered it. When she asked you what conspiratorial views are, you said they're contrary to the Constitution. Why didn't you just say that in your letter then?

Ms. Greer. Do we have a copy of the letter that she might be able to see?

[redacted] We can certainly enter it if you'd like, yeah. We'll enter this as exhibit No. 6, I believe.

[Moore Exhibit No. 6

Was marked for identification.]

[redacted] Here's that.

Ms. Greer. I just wanted to make sure, since we're talking about specific words, she had an opportunity to review.

Ms. Moore. Yes. Will you -- I'm sorry. Will you ask me the question again? It's to the sentence --

Chairman Jordan. I believe -- and we can have the reporter read it back. But I believe when [redacted] asked you about -- the suspension of your security clearance is based on the -- "the Security Division has learned that you've espoused conspiratorial views, both orally and in writing, promoting unreliable information."

And you said -- [redacted] asked you, what are conspiratorial views? And you said,

views contrary to the Constitution. So why didn't you just say it that way in the letter?

Ms. Moore. Choice of wording by the individual who wrote the actual letter.

Chairman Jordan. Okay.

BY [redacted]

Q You didn't write it?

A Do I write this actual letter? No, sir. It's prepared for me in the process of the seven steps. And then I review all the information that comes in, with any suspension letter, and then make a determination based off of that.

Q So you just sign the letter; you don't write it? You don't edit it?

A If I find that it needs to be edited, yes, sir, I can edit it. But I actually don't write the letter myself, no, sir.

Q So sometimes the letter will be different even if it's the same issue?

A Each issue is independent on its own. We've kind of talked about that. And wording can be -- some people like the word "that." Some people like the word "which." So it depends upon sometimes who's writing it. But as long as the meat is there --

Q So you don't edit out the "that"s?

A I could, sir, if I chose to.

Q But you don't?

A The --

Q You just sign it?

A I don't "just sign" anything. I read everything that I sign, and I review all the materials that support that signature.

Q Right. But I'm saying, do you edit it to -- do you like -- do you use the word "that" in letters? Yes or no?

A Do I? No, sir.

Q Okay. So, if you get letters that you're supposed to sign and it has too many "that"s, do you edit them out or do you just sign it?

A It depends. It depends upon -- if it's changing "puppies" to "little dogs," no, sir, I may not, because it's someone else's -- it's just -- it's not material to the document.

Q Okay. And you get --

A I try --

Q -- a lot -- you sign a lot of these letters?

A No, sir.

Q So it's not a time thing? It's a --

A I have a very busy day. If you're asking --

Q Right.

A -- if my days are busy, my days don't just consume of these. I am the executive assistant director. I oversee 37,000 employees within the organization.

Q Okay.

A So I have --

Q All right.

A -- lots of things that happen on a --

Q Okay.

A -- given day. But I take as great a deal of time, read each of these, read the information that comes up supporting them.

Q Okay.

A I don't just sign anything.

Q Okay.

How frequently -- when this type of letter comes to your desk, how much personal

involvement do you have in verifying the underlying file?

A I review it.

Q And do you ask questions of the people that --

A If I have questions, I absolutely will ask questions. I've sent stuff back where I felt like, "Hey, we might've missed an area. I'd like some further expansion on this."

Q Okay.

A Or, "I'd like a verbal brief because I need to really understand the thought process of where we are." Absolutely. I don't ever just sign something.

Q And did you ask for any of that with any of the individuals we've asked you about today?

A I'm not allowed to discuss any of the ongoing investigations.

Q I'm not asking you to tell specifically whether you did that with Mr. Allen's case or Mr. O'Boyle's case or Mr. Friend's case. I'm just saying, generally, with any of the ones we've talked about today, did you ask for any followup?

A I cannot discuss any ongoing investigations, and all the investigations we have talked about today have been ongoing.

Q Uh-huh.

A The only one I believe that y'all have expressed any interest in writing to me about was Kyle Seraphin, and we can talk endlessly about that one because it's completed.

Q Okay.

BY [redacted]

Q And so, on January 13, 2022, Katherine Bordeaux (ph) -- am I pronouncing her last name --

A Bordeaux.

Q Bordeaux? She's the unit chief of the Performance Appraisal Unit. She notified Mr. Allen that, based upon your decision to suspend his clearance, the FBI was proposing to indefinitely suspend him.

Did you have awareness of that?

A Yes.

Q And is Ms. Bordeaux one of your direct reports?

A She is not a direct report to me, no, ma'am. She works within our Human Resources Division.

Q Uh-huh.

A She is a unit chief. She falls under a section chief, who falls under our deputy assistant director, who falls under our assistant director.

Q So does she go through a different process than the security clearance process that you're going through?

A Yes, ma'am.

Q And so what does her process look like? What do you understand it to be?

A The Performance Appraisal Unit --

Q Uh-huh.

A -- process? That is -- it goes, again, through the Human Resources Division up to a deciding for signature for conduct -- you'd have to read me that again. I'm sorry.

Q And does her unit fall within the Human Resources Branch?

A It falls within the branch, yes, ma'am.

Q Okay. And how often do you interact with Ms. Bordeaux?

A I probably see Ms. Bordeaux about every 2 weeks.

Q And what are her roles and responsibilities as you understand them?

A She's a unit chief over our Performance Appraisal and Performance Unit. They make recommendations based off of employee conduct, personnel rankings, those type of things.

Q And, in her letter to Mr. Allen, she kind of walks through some of his rights that he had -- the right to review all of the materials relied upon as the basis for his proposed suspension.

Would that include information that your office was reviewing?

A That would not include any information within Security.

Q So you're running two separate investigations at the same time. Is that correct?

A Those can happen, yes, ma'am. There can be a third or fourth as well. There could be an inspector general investigation into the conduct of an employee. There can also be an Inspection Division misconduct investigation of the employee. There can be multiple going on at one time.

Q So is it your understanding that -- your investigation is still ongoing into Mr. Allen. Is her investigation into Mr. Allen still ongoing?

A Ms. Bordeaux at this time? I can't discuss pending investigative matters. I'm sorry.

Q So, "pending investigative matter." So it's still ongoing?

A I cannot discuss any investigative matters regarding the individual in question.

Q And then on February 17, 2022, Mr. Allen received notice that he was indefinitely suspended. Did you have any role in that decision?

A I would've been the signer, yes, ma'am.

Q And so that would have been --

Ms. Gibbs. I'm sorry. Can you just clarify, which suspension?

Ms. Moore. Yeah, I'm very sorry. I apologize.

Ms. Gibbs. And there are multiple suspensions. Can you just clarify which one --

[redacted] Allen.

Ms. Gibbs. -- we're talking about? Yeah. Right. But the security clearance suspension or something else? I'm not sure --

[redacted] His indefinite suspension.

Ms. Gibbs. Yeah.

She's not talking about the security clearance suspension.

[redacted] The indefinite suspension. So, on -- what date was it? On February 13, 2022, he received the notice that -- the proposal for indefinite suspension. Then, on February 17, 2022, he received notice that he had been indefinitely suspended.

Ms. Gibbs. Do you have a copy of that letter --

Ms. Moore. Yeah.

Ms. Gibbs. -- so she can take a look at it and just to see?

[redacted] Sure. We can enter it.

Ms. Gibbs. Okay.

[redacted] Yeah.

Ms. Gibbs. Okay.

Why don't you just take a minute and look at it?

Ms. Moore. Can I have a moment to chat to counsel too?

[redacted] Uh-huh.

[Discussion off the record.]

[redacted] We'll go back on the record.

I'd like to offer a February 17, 2022, letter from Christine O'Neill, the assistant director of the Human Resources Division, to Mr. Allen as exhibit No. 7.

[Moore Exhibit No. 7

Was marked for identification.]

Ms. Moore. So this is not signed by me. This is effected by the associate director of Human Resources Division. This is separate than the security investigation.

BY [redacted]

Q So they used your decision to suspend Mr. Allen's clearance to inform their investigation? Is that accurate?

A You have to have a clearance as a condition of employment.

Q Uh-huh.

A So they would utilize the suspension, yes, ma'am.

Q And so where does that fall under the Human Resources Division? Is this separate than --

A It's a totally separate process.

Q -- Ms. Bordeaux?

A It's Ms. Bordeaux, yes.

Q Okay.

A But this portion does not come to me. This goes to the assistant director. I would be the appellant. If they should choose to make an appeal to it, they would come to me for that decision.

Q But Ms. O'Neill and Ms. Bordeaux -- I don't know if it's the same person, but --

A Well, they're two different people.

Q Two different people? Okay.

And so their process is separate from yours. But then if Mr. Allen wanted to appeal their decision, he would have to come to you?

A Yes, ma'am.

Q Okay.

Ms. Gibbs. I'm sorry. Can we just go off the record for a second?

[redacted] We'll go off the record.

[Discussion off the record.]

Ms. Moore. Okay. Let's go back on so I can clarify. I'm sorry.

[redacted] We'll go back on the record.

Ms. Moore. All right.

So, to clarify, I have no role in this at all. So this is handled in the Human Resources Division, but I am recused from it because I do serve as the security program manager. So the assistant director of Human Resources is the one that executed on this. So I can't talk to this at all.

BY [redacted]

Q So is the Human Resources Division within the Human Resources Branch?

A It is.

Q So you're the executive assistant director of the Human Resources Branch, correct?

A I am.

Q But you're recused from this process because you are --

A The security programs manager.

Q And then Mr. Allen could appeal the decision about his indefinite suspension to you?

A So, I apologize, I am not involved in this at all.

BY [redacted]

Q Well, you are involved with it, because you suspended the security clearance. And we wouldn't get to this letter without the suspended security clearance.

A But they recused me, and they do only from this one. This is where I was confused --

Q Okay.

A -- on what you were asking initially. I have nothing to do with this part.

Q But saying you have no involvement at all is a little too broad there.

A I think it's -- in any matter that you're recused from, if you say, "I've got a personal interest in the matter, and I'm not going to sign this because I'm recused from it," then there's a wall that's built there.

Q Okay.

BY [redacted]

Q And what's the status of your investigation regarding Mr. Allen?

A I'm sorry. I can't discuss ongoing investigations.

BY [redacted]

Q How long has the investigation been going on?

A I don't know exactly.

BY [redacted]

Q So you suspended his clearance on January 10, 2022. So, if it's still ongoing as of today, that's over a year?

A That would be over a year then.

Q Is that normal?

A It can be, depending upon the complexities of the investigation.

BY [redacted]

Q Is his investigation complex?

A I would say that it depends upon anybody's complexity of an investigation. I would think, if you were looking at a timeline that was a year, I would say, yes, it could be complex.

Q So you think his is complex.

A I would say that any investigation that takes a year would be complex. Criminal investigations can take up to 5 years at times. Some take 6 months.

Q Well, this is not a criminal investigation.

A But it's the same concept. You take criminal codes and put in the adjudicative guidelines. We take it very seriously. We want to get it right.

BY [redacted]

Q And during this time period, has Mr. Allen -- does he have the opportunity to appeal your decision to suspend his clearance?

A He does not have the opportunity -- they do not have an opportunity to appeal a suspended clearance.

Q So he's just supposed to be waiting for over a year for your investigation to conclude while on indefinite suspension, unpaid?

A Per Executive Order 12968. We follow the executive order.

Q Do you think that's fair? In Mr. Allen's case, that he's been waiting over a year, do you --

A I won't --

Q -- personally think that's fair?

A I won't weigh into it personally. I am executed as a security program manager of the organization to follow the executive guidelines. 12968 does not allow me to deviate.

BY [redacted]

Q Are the guidelines fair?

A I find the guidelines to be fair.

Q Okay. So you think it's fair.

BY [redacted]

Q Are you familiar with Special Agent Garret O'Boyle?

A I am familiar with Special Agent Garret O'Boyle.

Q Do you know what field office he worked out of?

A Kansas City, I believe.

Q And what's Mr. O'Boyle's current status with the Bureau?

A Mr. O'Boyle is currently suspended.

Q And are you aware that Mr. O'Boyle is also a combat military veteran?

A I am.

Q Are you aware that on September 23, 2022, you signed a letter that suspended his security clearance?

A I would have to see the letter, but if you're -- I will acquiesce that that was probably the date, since you have it.

Q And what information did you have to support your security concerns against Mr. O'Boyle?

A I'm sorry, but I'm not allowed to discuss any ongoing security investigation. At the time that it is adjudicated, then I will be happy to come back and discuss any and all matters.

Q Did you rely upon witness testimony or emails or documents?

A I'm not allowed to discuss any security investigation that continues to be ongoing. At the conclusion I'll be happy to come back and testify to it.

Q What allegations did you have at the time that raised sufficient concern about Mr. O'Boyle's judgment, trustworthiness, and reliability to suspend his clearance?

A Unfortunately, at this time, I'm not allowed to discuss any ongoing security investigation. At the conclusion of the investigation I'll be happy to come back and discuss all matters.

Q And who made the allegations against Mr. O'Boyle?

A At this time, I'm not allowed to discuss any security ongoing investigations.

Q And did they have any sort of relationship with Mr. O'Boyle? Were they in his chain of command?

A At this time, I cannot discuss any ongoing security violations -- or investigations. Excuse me.

Q What is the status of your investigation into Mr. O'Boyle?

A Mr. O'Boyle's investigation is ongoing at this time.

Q How has the FBI not made a determination as to the veracity of these allegations in 7 months?

A Investigations can take a long amount of time to vet them out. The investigation is ongoing.

Q Is it a complex investigation?

A It can be. Yes, ma'am.

Q And did you or those under your charge do any investigation into whether Mr. O'Boyle was making protected disclosures to Congress?

A No, ma'am.

Q As part of your investigation or evaluation, have you spoken with Mr. O'Boyle's chain of command?

A I cannot discuss ongoing investigations that involve a security clearance.

Q In his testimony to the committee, Mr. O'Boyle testified that he tried to utilize his chain of command to make protected disclosures. Are you aware of this?

A I am not.

Q And are you aware that, under the Federal whistleblower protection statute, a person just must reasonably believe that they have evidence of wrongdoing to avail themselves of those protections?

A I am familiar with the Whistleblower Act, yes, ma'am.

Q And do you have any evidence that shows that what Mr. O'Boyle was reporting to his chain of command, he did not have a reasonable belief that it was evidence of wrongdoing?

A I'm unaware of anything that Mr. O'Boyle was reporting being a security -- or, excuse me, a whistleblower allegation. I've not been briefed on anything regarding that. To my understanding, no one has brought that to my attention. I don't know what his whistleblower disclosure is.

Q Even to his chain of command?

A No, ma'am, I don't.

BY [redacted]

Q What kind of underlying investigation can you do if you don't even know that?

A I'm the security program manager.

Q Yeah.

A I'm not charged with the actual investigation. There's investigators that do that at the line level. So they very well may be aware. I'm not sure of that. But they would --

Q Okay.

A -- not be investigating to find out what a whistleblower allegation was. No, sir. They would be investigating the security concern that was raised around the employee in the situation.

Chairman Jordan. Would they know that the employee in question was functioning under the whistleblower statute?

Ms. Moore. They would not, sir. Not necessarily.

Chairman Jordan. That seems like a pretty important thing to know. If someone's alleging they're bringing forward information that's protected, that Congress has a right to know, and they're functioning as a whistleblower, that seems to me something that should be conveyed to the people investigating and, frankly, should be conveyed to you as the person who signed the letter and doing the suspension.

Ms. Moore. So we aren't told who whistleblowers are. So I'm not aware of who all has even come to you guys and said they're whistleblowers unless they've gone to the media themselves and said, "Hey, I'm a whistleblower." I don't know what their protected disclosures are. Somebody doesn't call me up, as a security program manager, and tell me that or brief me that on any of my employees at all.

Chairman Jordan. But there's an investigation happening of this employee, and then at some point they allege that they're a whistleblower. You don't get that information?

Ms. Moore. No, sir. Not -- no, sir.

But I want to be really clear. Whistleblowers are protected, absolutely, and there is a whistleblower protective act.

There is also the National Security Act that requires protection of national security information --

Chairman Jordan. Uh-huh.

Ms. Moore. -- also based off of a need to know.

Those two do not get to be in conflict. So I am not made aware of who the whistleblowers are, no, sir.

Chairman Jordan. Okay.

Ms. Moore. You -- I'm not, sir. I'm sorry.

BY [redacted]

Q And so, at the time of Mr. O'Boyle's suspension, he had been making whistleblower disclosures to Congress. And, you know, then he gets suspended based upon a dubious allegation that has gone unproven for over 7 months.

Do you see why Mr. O'Boyle's situation looks a lot like whistleblower retaliation?

A I'm not authorized to discuss any ongoing security investigation.

Q And during his testimony before this committee, Mr. O'Boyle detailed the abject cruelty with which the FBI has treated him and his young family.

Are you aware that Mr. O'Boyle was suspended on his first day reporting for a new unit in Virginia?

A I was not aware it was on his first day reporting to a new unit in Virginia.

Q Are you that, in order to accommodate the transfer to this new unit, he had to move from Kansas to Virginia?

A What I'm aware of is that he applied and wanted that promotion and that transfer --

Q Uh-huh.

A -- and then it's up to the employee to execute their transfer upon their timeline within 90 days.

Q And so, during this time period, Mr. O'Boyle and his family sold their house in Kansas. They packed up their belongings in August. The FBI moved these

belongings to Virginia to accommodate the transfer and put them in FBI storage. They contracted with a storage agency, so we understand, that was holding these belongings.

And then the FBI gave Mr. O'Boyle the runaround for over a month, and he was unable to access his personal belongings -- his kids' clothing, their furniture. I think each kid had a backpack of clothes and toys.

Does this surprise you? Did you know about this?

A I am unaware of this.

BY [redacted]

Q Does it concern you?

A In what manner? I'm sorry.

Q In the manner that [redacted] just articulated to you, that he packed up his house, all his belongings, moved to Virginia, and the FBI waited -- the FBI waited until he did all of that, and then they suspend him on his very first day, and then he can't even get his personal effects out of storage without paying $10,000 of his own money.

Does that concern you?

A I do not believe that the way you stated that is how it occurred. So I don't think that is accurate. But --

Q Okay. So what is accurate?

A -- what I will tell you is that I care about every single one of our employees. I take their well-being very seriously. I'm a huge wellness proponent within our organization. And I'm adamant for every employee to be treated fairly and accurately. My whole management principle is around "be kind."

Q Okay.

A So, no matter what we're doing, if we're suspending a clearance, if we're bringing on board an employee, or if we're at a retirement, we are always kind.

When I was over criminal investigations, if we were arresting people, we were fricking kind. Because that's how you do it. You do it --

Q You were what kind? What was the --

A You're kind. You're not nasty, and you're --

Q Did you say "fricking kind"?

A No, sir.

[redacted] Can you read that back?

Ms. Moore. If I did, I'm sorry.

[The reporter read back the record as requested.]

BY [redacted]

Q Okay.

A Because that's how you treat people. So I wouldn't deny someone their ability to get their household goods or their children's toys.

Q Okay.

A I'm not aware that that happened. I can assure you, though, that there was no grand conspiracy to wait --

Q Okay.

A -- until he executed a move --

Q So, if that did happen, then what's the remedy? If that did happen, then what would you do about it?

Ms. Gibbs. Can you just clarify? If what happened?

[redacted] What happened to Mr. Boyle.

Ms. Gibbs. Okay. And can you --

[redacted] O'Boyle.

Ms. Gibbs. Like, specifically why? Are you talking about the suspension?

[redacted] I'm talking about the whole series of events.

Ms. Gibbs. Okay. So if the whole series of events happened -- which ones?

[redacted] Well, it's certainly not kind, and it's certainly not fair. And so I'm asking the witness what you would do about it, since this is an area of your responsibility.

Ms. Moore. And I'm going to disagree with your statement. We absolutely execute fairly. So the investigative steps, the suspension were done fairly based off of the information that was provided to us. That I am confident of.

BY [redacted]

Q Okay.

A It's unfortunate that Mr. O'Boyle was in the process of executing a move that he requested at his own --

Q Right.

A -- tenure. He decided his move date. He decided when he moved. Those were his decisions.

Q Why couldn't you have suspended him before he left Kansas, before he sold his house?

A It depends upon where it was in the process at any given time, sir. I can assure you --

Q Before he packed up all his goods?

A What I can 100 percent assure you of, it wasn't done intentionally.

Q That wasn't done intentionally. What happened to Mr. Friend wasn't done intentionally. These are just all coincidences?

A I'm not sure what you're referring to that happened to Mr. Friend.

Q Mr. Friend, where you denied his firearms training documents. We discussed that in the first hour.

A We did, and I owned that. That was a mistake.

Q Okay.

A Mistakes happen when you have a 37,000-employee organization.

Q Okay.

A Absolutely. And I own that, and I am very sorry that happened to him.

Q Okay.

A And I have taken the measures to ensure it doesn't happen to anyone else.

Q Okay.

Are you sorry, what happened to Mr. O'Boyle?

A In the sense that Mr. O'Boyle was treated fairly in the process of what they have done to the security suspension? I can -- I'm not responsible for the fact that Mr. O'Boyle executed a move. The timing of the suspension occurred when it came through.

BY [redacted]

Q And I'll represent to you that we have heard from a couple of individuals that the Kansas City SAC, Charles Dayoub, knew Mr. O'Boyle was going to be suspended -- his clearance was going to be suspended prior to the O'Boyle family leaving for Virginia.

Is that surprising to you?

A Surprising to me? I would not be able to testify to what Mr. Dayoub knew or did not know. I'm sorry.

Q But you sent the security clearance letter to the field office, correct?

A They should be served when they receive them.

Q And so, if Charles Dayoub knew beforehand that Mr. O'Boyle was going to be suspended, why didn't the FBI suspend him while he was in Kansas, if he was such a big security risk, before he moved to Virginia?

A I would not -- again, we sign the letters when they come through, when it's reviewed. Then I'll execute the letter, and it's served.

Are you saying -- so I may be confused -- that Kansas City intentionally held the letter and didn't serve it to him?

Could we get the date that's on that letter again?

Q The date that's on Mr. O'Boyle's letter? That was --

Chairman Jordan. October 22nd.

Ms. Moore. Yeah. And what day did Mr. O'Boyle execute his actual move?

BY [redacted]

Q His first day was on September 23, 2022.

A And so what was the date of the letter?

Q September 23, 2022.

A Okay. So --

Q So that's just some big coincidence, that it was his first day --

A Absolutely.

Q -- in Virginia?

A It most certainly could be, yes, ma'am.

Q Wow, that's a big coincidence.

A I'm sorry, I didn't hear you?

Q And so what is the current status --

A I'm sorry. I didn't hear what you just said.

Q I said --

[redacted] She said, "Wow, that's a big coincidence."

[redacted] Uh-huh.

Ms. Moore. Okay. Thank you.

BY [redacted]

Q What is the current status of your investigation regarding Mr. O'Boyle?

A It's ongoing.

Q And when can the committee and Mr. O'Boyle expect answers?

A As soon as the adjudication is complete.

Q Why has the FBI kept Mr. O'Boyle languishing on indefinite suspension? Is the goal to get him to resign?

A Absolutely not. That is not a goal of ours at all. It's to do a thorough and accurate and complete investigation.

Q Have you personally been in contact with Mr. O'Boyle?

A I have not.

Q Have any of your direct reports been in contact with Mr. O'Boyle?

A I do not know that answer.

Q Who is the point of contact for Mr. O'Boyle from your office?

A That would be our investigative unit within Security Division.

Q And do you know which specific person within that unit is responsible for Mr. O'Boyle's case?

A I do not.

Q And so, going back to Mr. Friend, that's exhibit No. 1, his security clearance suspension. I think we kind of started on this before our first hour wrapped. But in --

Chairman Jordan. Can I just jump in for a second, [redacted]?

[redacted] Yep.

Chairman Jordan. So it was a mistake not to give Mr. Friend his training records that he requested.

Ms. Moore. Yes, sir.

Chairman Jordan. And it was a coincidence that Mr. O'Boyle was suspended on the very day he moved from the Kansas office to Virginia.

Ms. Gibbs. I think you misstated something that she said in there. He did get his training records.

[redacted] After a long delay.

Ms. Gibbs. Okay. But I just want to be clear, because we have a record. Are you saying it was a mistake that --

Chairman Jordan. I'm saying what she said. She said it was a mistake, the way Mr. Friend was treated when he requested outside employment and his training records.

Ms. Gibbs. Okay. Thank you --

Chairman Jordan. And --

Ms. Gibbs. -- for that clarification.

Chairman Jordan. And you said it was a mistake, right?

Ms. Moore. Yes, sir.

Chairman Jordan. And then you said it was a coincidence that Mr. O'Boyle got notice of suspension the very day he moved to Virginia.

Ms. Moore. You asked me -- or, I was asked if he was targeted and if that was intentional, to cause him some sort of pain or punishment, and it absolutely was not. That is when it came through, when the signature was executed, and it was sent down.

Chairman Jordan. Okay.

Ms. Moore. And I want to say for the record, though, that when people move, they set their move dates way in advance, and then they -- that's between an employee and the move company.

So, again, this was not a targeted thing. This happens when the investigation comes through and I sign it -- or the recommendation for a suspension.

BY [redacted]

Q So, going back to Mr. Friend, the first exhibit that we entered here, in the second paragraph, you stated that "on August 24, 2022, you advised your supervisors of your objection to participating in the court-authorized search and arrest of a criminal subject. During your communications, you espoused beliefs which demonstrate questionable judgment."

And I think during the first hour we kind of had a discussion about what "questionable judgment" was.

But are you aware that Mr. Friend raised his concerns to his chain of command?

A I'm not at liberty to discuss ongoing investigations.

Q And was it individuals within his chain of command that spoke to you about the objections that Mr. Friend raised?

A I'm not allowed to discuss ongoing security investigations.

Q Are you aware that once Mr. Friend spoke with senior leadership at his office he was placed on AWOL status?

A I'm not able to discuss ongoing security investigations.

Q According to Mr. Friend's testimony, he was ordered by his ASAC to go on AWOL status. How often does that happen?

A I'm not able to discuss that. I don't know that answer.

Q If he was ordered not to come into work the next day, how was Mr. Friend to comply with his supervisor's orders?

A I'm not able to discuss that. I'm not Mr. Friend's supervisor.

Q Do you know the special agent in charge of the Jacksonville Field Office, Sherri Onks?

A I am familiar with Sherri Onks.

Q What is your familiarity with Ms. Onks?

A Sherri Onks is a senior executive within the FBI who serves as a special agent in charge. She serves as a mentor to other female executives as well, and I lead that mentorship.

Q So do you know Ms. Onks?

A I do know Sherri.

Q Did she provide any information on Mr. Friend?

A I would not be allowed to -- I am not allowed to discuss any ongoing security investigations.

Q And when did the FBI provide Mr. Friend with the opportunity to review all of the materials relied upon as the basis for his proposed indefinite suspension?

A Individuals are allowed to see documents after an adjudication is complete.

BY [redacted]

Q Some of these adjudications take years, right?

A They can take a long time, yes, sir.

Q So they don't get to see the documents until after the adjudication is over.

A Per Executive Order 12968, yes, sir. I comply with the executive order.

Q And you believe the executive order is fair?

A I believe that I comply with the executive order.

Q Earlier, didn't you say it was fair?

A I believe that the executive order is fair, yes, sir.

Q Okay. So you think it's fair that they don't get access to these documents until their process -- until the process is over.

A I believe that there are reasons for that. Yes, sir.

BY [redacted]

Q And so do you think it was fair for the FBI to keep Mr. Friend suspended for 150 days without a resolution of his case without the approval of outside employment?

A I cannot talk about an ongoing investigation.

Q And Mr. Friend ultimately resigned, correct?

A Mr. Friend did resign.

Q Was that the goal?

A Absolutely not.

Q I want to talk to you about another matter here, as long as any of my colleagues have no other questions on that?

[redacted] Please. Please go on.

[redacted] Okay.

BY [redacted]

Q Are you familiar with Executive Order 14043 mandating the COVID-19 vaccine?

A I'm relatively familiar with it, yes, ma'am.

Q Did you have any role in the Human Resources Branch of, kind of, effectuating that executive order?

A Not when it came out, no, ma'am. I inherited what was the order when I came into the branch, yes, ma'am.

Q And what did you inherit?

A I inherited execution of the executive order.

Q And was the executive order in existence prior to you taking over as executive assistant director?

A Yes, ma'am.

Q And what was the Human Resources Branch's involvement in that?

A We have to effectuate the executive order.

Q And how many reasonable-accommodation requests to Executive Order 14043 mandating the COVID vaccine did you receive?

Did you handle those? Who handled those within the FBI?

A They came in through the Office of EEOA.

Q Uh-huh.

A And HRD had some role in it.

Q What was that role of HRD?

A They review them for signature. So it's a reasonable-accommodation request --

Q Uh-huh.

A -- so they were the ones executing based off of -- I have to think about exactly how they rolled that out, because, I apologize, it's been a little bit ago. I'm just trying to remember.

Q Take your time.

A OEEOA reviewed to make sure that all the documents were present, and then they send it over to HR for the signature.

Q And so does HR do any sort of evaluation?

A They would review the documents, yes, ma'am.

Q And what does the review of the documents look like?

A I can't actually speak to that.

Q Did you oversee that process?

A For a very limited time, because there was an injunction right after I came in. So we didn't actually execute on any of that.

Q Are you aware of how many reasonable-accommodation requests were

made?

A I don't know the exact number, but I believe it was around 700.

Q And does the FBI keep a record of the 700 --

A They would --

Q -- accommodation requests?

A -- have them, yes, ma'am. The OEEOA would have them.

Q And do you know how many requests for religious reasonable accommodations were submitted?

A I don't. I'm sorry. And they may have all been -- when I say that 700 number, I'm not even sure that 700 is exactly right. But they would've all been in there together, so I'm not sure.

I can get you those numbers if you would like them.

Q That'd be great. Thank you.

And of the reasonable-accommodation requests that were made, how many were granted or adjudicated?

A I'm sorry, I don't know that number.

Q Do you know if any were?

A I don't know. I thought there was a court order that came in before all that occurred.

Q And how many requests for medical reasonable accommodations were made to Executive Order 14043?

A I'm not sure. But OEEOA doesn't fall under me, so I'll have to get you those numbers. I can get them for you. Again, I'm happy to do that. I just don't know.

Q And at the time that you became the executive assistant director and before the injunction, do you know how many FBI employees initially complied with the

President's executive order?

A I don't.

Q Do you know how many did not comply?

A I do not.

Q Did the FBI have a way of tracking who was not in compliance with the executive order?

A Per the executive order, we set up -- and through DOJ -- they set up a portal where people could enter their information.

Q So it was on the employee to enter their information?

A It was, yes, ma'am.

Q Were they mandated to do that?

A They were, by the executive order.

Q So do you know if any of these employees were removed from Federal service because they were not in compliance with the executive order?

A I don't know that answer.

Q Do you know if any employees were suspended for not following COVID-19 protocols?

A Could you define "suspended"?

Q Placed on, like, indefinite suspension.

A There was no one placed on indefinite suspension. Everybody had the opportunity every day to comply with the protocols or whatever the mandate was --

Q Uh-huh.

A -- at that moment. So nobody was placed directly on indefinite suspension for COVID-19.

Q So what happened if they didn't comply?

A If they didn't comply --

Q Correct, ma'am.

A -- the requirement at that time, depending upon when we're talking about -- and you're not, like, specifying that -- was that they would be placed on AWOL until they complied.

Q Okay. And so what does that mean, when they're placed on AWOL?

A "Absent without leave" means that they do not have -- they were not allowed to take leave. It wasn't an approved leave event.

Q And so were there specific protocols that had to be followed, you know, during the pandemic, which would've been March 2020 through the executive order? Were there specific protocols that had to be followed?

A There were.

Q And what were those protocols?

A I don't know them off the top of my head right now. I can talk in generality as to what I recall, was, there was a masking protocol for a while --

Q Uh-huh.

A -- and then there was a testing protocol.

Q And did that differ by region in the U.S.?

A Depending upon what phase of the COVID-19 crisis or pandemic that we were in, depending upon the levels. But it all started out differently and then changed.

Q And would it surprise you to know that the vast majority of whistleblowers that we are aware of who have been suspended are also unvaccinated?

A I wouldn't know that directly until you tell me that now, no, ma'am.

Q Okay.

And you said that you were generally aware of the whistleblower statute, correct?

A I am familiar with it, yes, ma'am.

Q And in 2022, during testimony before the Senate Judiciary Committee, FBI Director Christopher Wray said, "I condemn in the strongest possible terms any prospect of retaliation against whistleblowers."

Do you agree with Mr. Wray's statement?

A I do.

Q And how does the Human Resources Division kind of live out his statement?

A What do you mean?

Q How do they make sure that, in the strongest possible terms, that whistleblowers are not retaliated against?

A If we believe there's any retaliation for whistleblowing, it would be referred to the inspector general and our Inspection Division.

[redacted] We can go off the record.

[Recess.]

[redacted] We'll go back on the record. We just have a few more questions for you right now.

BY [redacted]

Q How many agents are indefinitely suspended without pay related to off-duty activity on January 6th?

A I can't discuss any ongoing investigation in security matters, specifically for numbers, unless -- no. I'm sorry.

Q But there were --

Ms. Gibbs. I'm sorry. Can you just -- can you clarify?

Ms. Moore. Yeah.

Ms. Gibbs. Because there was a lot packed into that question.

[redacted] Not really.

Ms. Gibbs. Can you just clarify?

[redacted] Yeah, I can certainly ask the question again.

BY [redacted]

Q How many agents are indefinitely suspended without pay related to off-duty activity on January 6th?

A Oh, I can answer that question. Hang on.

[Discussion off the record.]

Ms. Moore. Zero.

BY [redacted]

Q Zero are indefinitely suspended?

A Zero.

Ms. Gibbs. Yeah. Based on the fact pattern that you just said, yeah.

Ms. Moore. Yeah.

BY [redacted]

Q For off-duty activity on January 6th?

A Zero.

Q And how many agents have had their clearances suspended related to activity on January 6th?

A Zero.

Q And did any of -- or, how many agents have requested approval for outside work while suspended related to January 6th activity?

A I don't have a number. I mean, I'm telling you that there's no agents that are suspended due to January 6 activity. Then that would be zero.

BY [redacted]

Q So you're saying there's no agents that were on the Capitol Grounds that have had their security clearance suspended --

A Correct.

Q -- because they were on the Capitol Grounds on January 6th?

A Correct.

I think what you're doing is confusing the question, so I'll help us out here so we don't all go around in a circle here. There's a difference in our organizations between agents and professional staff.

Q Okay.

A So you're asking me about gun-toting 1811 agents. That answer is none.

We have two employees that are non-1811, non-gun-toting, that are suspended based off of entering into -- okay. I can't --

Ms. Gibbs. Okay.

Ms. Moore. I can't answer. I'm sorry. I'm so sorry.

Ms. Gibbs. That's okay.

BY [redacted]

Q Yeah. So I'll go ahead and just rephrase the questions --

A Okay.

Q -- then.

So how many employees of the FBI are indefinitely suspended without pay related to off-duty activity on January 6th?

A We have no employees that are suspended based off of executing their legal and lawful First Amendment rights in relation to January 6th.

Q But are they indefinitely suspended?

A I have no employees that are suspended for executing lawful and legal First

Amendment rights as it relates to January 6th.

BY [redacted]

Q What are the two people who are suspended -- what were they suspended for?

A In a situation where we would suspend an employee for January 6 activity, it would be that they crossed into restricted areas that were deemed to be unlawful, hypothetically.

Q Okay. What if the individuals in question didn't know that it was unlawful?

A We were --

Q We're not talking about going into the Capitol Building. We're talking about being on the grounds.

A Right. And I think that we all know that even on the grounds there were areas around the Capitol that were clearly marked to stay out, do not trespass, that were very, very plainly marked.

So, in those situations, we would utilize information that we were able to obtain that would determine that they did know where they were.

Q So the two that have been suspended --

A Hypothetically.

Q Not hypothetically. You acknowledge there were two. I mean, let's --

A Then I'm -- then I'm going to -- then I'm going to say that I can't talk about ongoing --

Q Well, I mean, you already --

A -- investigations.

Q -- acknowledged the two. Then they weren't agents, you said. So you're saying they were in clearly marked areas?

A I would say that anybody that would be suspended for any activity that occurred on January 6 would not have been for First Amendment rights and would be for illegally entering restricted areas.

[redacted] Do you have followup on that or --

[redacted] I don't.

[redacted] Okay.

[redacted] We'll go off the record.

[Recess.]

[1:28 p.m.]

[redacted] We can go back on the record. It's 1:28 in the afternoon.

BY [redacted]

Q Again, I'm [redacted] I'm with the Democratic staff.

I want to correct the record on something that was said earlier in the last hour with reference to Mr. O'Boyle. And I know you can't talk about his case, but we were told by the majority counsel that he received his letter on the 23rd of September, I believe, September 23rd, which we don't actually have a copy of that letter, but taking them at their word.

Mr. O'Boyle reported that he actually reported to work the following Monday, on September 26th. So, in fact, the date of the letter and the date that he first reported was not the same.

He also testified that he spoke with his supervisor, presumably at his old office, on the 23rd and said he still intended to report to his unit on the 26th.

So I understand that we can't get into the details, but I wanted to correct the record on that point.

A Okay.

Q There was a fair amount of discussion about fairness and whether decisions were fair. But we're looking at a suspension, correct?

A Yes, ma'am.

Q So the goal of a suspension is to protect national security, right?

A It's to separate the risk from national security, yes, ma'am.

Q And, as we talked earlier, doubts are resolved in favor of the national security, correct?

A Yes, ma'am.

Q We discussed a little bit the whistleblower process.

A Yes.

Q And that's -- I realize that's not your -- that's not under your purview. In fact, the whistleblower process is kept separate from the security clearance review, correct?

A Yes, ma'am.

Q Is that intentional, do you think?

A Yes.

Q Why is that?

A Because what predicates a whistleblower and their absolute right to report waste, fraud, abuse or misconduct is different than what a security investigation will entail regarding safeguarding national security information, and those two can't be in conflict.

Q And, when you say they can't be in conflict, can you explain that any further?

A It means that you always have that priority, right, to protect national security information.

Q Thank you. Quickly, on the questions that you had about the COVID executive order. Is it your understanding that COVID is a highly communicable disease?

A Yes, ma'am.

Q Okay, and FBI agents tend to work in close proximity to each other in a field office, right?

A Yes, ma'am.

Q So, if you're on a joint task force, you may be in breathing distance of each other?

A Yes, ma'am.

Q Would it be a risk to national security if, say, an entire field office came down sick with COVID?

A It would be, yes, ma'am.

Q So is that something that the FBI would be concerned about?

A Yes, ma'am.

Q I want to look at the process for -- the adjudicative process a little further. I know we talked through this in depth, and I'm not going to go back to the guidelines, but I do want to look back at the -- I want to talk through the actual process when some of these clearances actually were revoked.

A Okay.

Q So I want to look at Executive Order 12968 again --

A Yes, ma'am.

Q -- which I don't remember if that was exhibit 2 or 3. Two. And I want to look at Part 5, which is on page 40252, the process and requirements for review proceedings for denials or revocations of eligibility for access.

So this outlines the steps that FBI takes when it actually revokes a clearance, correct?

A Yes, ma'am.

Q And, again, this is an executive order that was issued in 1995, right?

A Yes, ma'am.

Q And it applies to all intelligence agencies, correct?

A Correct.

Q So I want to walk through the requirements listed here. The first requirement -- I'm sorry.

The section 5.2 provides a list of requirements for the process that an agency must make available when an applicant is denied or an employee's clearance is revoked, right?

A Yes, ma'am.

Q So now I'd like to walk through those requirements one by one.

A Okay.

Q No. 1 states that when an agency determines an applicant or employee does not meet the standard for access to classified information, that individual shall be provided as comprehensive and detailed a written explanation of the basis for that conclusion as the national security interests of the United States and other applicable laws permit, right?

A Yes, ma'am.

Q So, when the FBI determines -- and this is final determination -- that an individual does not meet the standard for access to classified information, does it provide them with a complete and thorough -- sorry, a comprehensive and detailed written explanation for the basis?

A Yes, ma'am.

Q Okay. Who prepares that explanation?

A The Security Division, along with our Office of General Counsel, will prepare what is sent out. And it will be essentially all the documents that were relied upon to make that Security Division determination, the security clearance determination.

Q Who reviews -- who reviews it before it's final?

A It will go out through the Assistant Director of Security Division. So the Office of General Counsel and multiple layers underneath that will review it.

Q Could you estimate how many people might be involved in that?

A There's -- five? Usually for the appeal -- I'm trying to think. I'm sorry. Because it's -- the review when it comes up does not -- the whole -- like, if they ask for -- they want to do an appeal and they get the whole file, it would go out under the --

Ms. Gibbs. I think you two are talking about two different things.

Ms. Moore. Oh -- oh, when they get suspended. It goes through seven, yes.

BY [redacted]

Q Sorry. Not with -- sorry. I'm actually talking about the final revocation.

A Oh, it's seven. It's seven layers, yes, ma'am.

Q Seven layers, okay.

And the question about comprehensive and detailed, I know all the records. What about the actual -- is there a document, like a written finding that accompanies it?

A It is. It's many pages long, and it will lay out what the findings were under each of the guidelines and what -- this was what was alleged and this is what was determined by the investigation.

Q Okay. The second requirement in the executive order is that agencies must provide within 30 days any documents, records, and reports upon which a denial or revocation is based, to the extent that that's consistent with what would be provided under the Freedom of Information Act or the Privacy Act.

A Correct.

Q So you said all the documents are actually provided?

A The documents that are used for the determination of the security clearance action, yes, ma'am.

Q They're provided at the time that the letter itself is issued?

A Not all of those. Those they'll get within 30 days. So, if they ask for those, they will get all of those. They'll get a very long detailed letter that explains the

investigation. If they want any of the actual documents, then they request that with FOIA and they get those.

Q And the third requirement is that, when an agency determines an applicant or employee does not meet the standard for access to classified information, the individual must be informed of their right to be represented by counsel.

Does the FBI provide that notice?

A We do.

Q Okay. And they must be informed of their right to request any relevant documents or records. Does the FBI provide that notice?

A We do. We provide a notice on how to do it.

Q And it says they must be provided with information telling them they can request their entire investigative file. Does FBI follow that requirement?

A They do.

Q Is there a process by which you ensure compliance with that requirement? So is there an audit, for example? Have there been audits done?

A So we have been. We've been audited by GAO, the inspector general, the Office of Director of National Intelligence and our own Inspection Division.

Q And I want to get back to all of that in a minute.

The fourth requirement under the executive order is that the FBI must provide an applicant or employee the ability to reply in writing and request a review of the determination that they do not meet the standard for access to classified information.

So this is essentially a written appeal, correct?

A That is correct.

Q Does FBI provide applicants with the ability to file a written appeal?

A We absolutely do.

Q And how does it notify them of that right?

A Again, in that initial letter -- or the final revocation letter or the determination for revocation, it's not the final, but they get all of that information there.

Q And are applicants permitted to be assisted by counsel when they file that written appeal?

A Absolutely.

Q And are often counsel -- or, sorry, are applicants -- I'm saying applicants because I think the guidelines are -- anyway.

Are individuals who are notified of the denial, do they often have counsel assist them?

A Often, yes, they can.

Q Okay. And there's actually particular attorneys that specialize in this, right?

A There are, yes.

Q The fifth item on this list states that, when an applicant or employee files a written appeal, the FBI must provide a written notice of and reasons for the results of the review, the identity of the deciding authority and written notice of the right to the appeal.

Does FBI comply with this requirement?

A We do.

Q And is there like a form document that you use for this, or is it pretty special for each individual case?

A No, it's standardized language that they get.

Q Okay. And who is the deciding authority? It refers to the identity of the deciding authority. Who is the deciding authority?

A The security program manager.

Q Okay. The sixth requirement states that applicants and employees must be provided an opportunity to appeal in writing to a high-level panel appointed by the agency head, who shall -- which shall be comprised of at least three members, two of whom shall be selected from outside the security field.

Does the FBI comply with this requirement?

A We do. That three-letter -- that three-member panel is called the ARC. It's the Access Review Committee. It's by the Department of Justice, and there are three judges assigned to it.

Q And are those judges the same for each case?

A They are.

Q Can you provide --

A I don't know who they are. I'm sorry.

Q Okay. The -- so just so I have this right. So an employee gets the notice that their revocation decision is final. At that stage, they can file a written appeal, and that written appeal goes to the ARC?

A The original appeal?

Q Uh-huh.

A So they get an initial decision for revocation.

Q Yes.

A The initial appeal is administrative. It comes back in to us with any additional information. By "us," I mean the FBI.

Q Okay.

A And to Security Division.

Q And stop you right there. The additional information is information the individual provides?

A Yes.

Q Potentially with the assistance of counsel?

A Correct.

Q Okay.

A And then that information is reviewed against the investigative findings, and that is provided again in a written document to the security program manager to see if it changes the decision for the revocation.

If it does not, at that point, the employee has the right, and they're advised that they can appeal to the ARC, which is the three panel member at the Department of Justice that's made up of judges, completely independent of the Bureau.

Q And who appoints the members of the ARC?

A The Attorney General? I don't actually know who appoints them. I'm so sorry, I don't know that answer.

Q That's a written appeal. Is there also an opportunity to make an oral appeal?

A To the ARC? Yes, ma'am.

Q Okay. So, just to have this -- sorry, to have this process down, because it's a little confusing as laid out in the EO, so the individual files a written appeal to the ARC. Does the ARC sometimes issue just a written determination on that, or does an individual always have the opportunity to make an appearance?

A They can always make an appearance.

Q Okay. And they can be represented by counsel during that appearance?

A Yes, ma'am.

Q And how long does the ARC proceeding go? I mean the actual appearance in front of the ARC. Is that an all-day thing? Is it a 2-hour thing? Is there a time

limit?

A I personally can't answer that. I'd have to refer that to my counsel because I don't -- I don't go to the ARC, in front of the ARC, so I'm not sure how long those take.

Q Okay. No, it's independent of your office, right?

A Yes, ma'am.

Q And that's kind of the point, because it's a whole independent adjudicative body completely outside of you?

A I have no -- I don't know who the judges are. I don't know who appoints them. I have nothing to do with that other than to ensure that our division complies timely with any requests from the ARC for information.

Q So you never speak to the judges on the ARC?

A No, ma'am.

Q They are an independent three judges who make the decision, have no involvement with FBI?

A That is correct.

Q I mean other than you providing them with information upon request.

A Correct.

Q Okay. And then does the ARC issue a written decision or do they issue like an oral decision on the spot, do you know?

A I actually don't know that answer.

Q Okay. If the ARC says, "We overturn, we decide you should have your clearance," what happens then?

A If that were the case, then the employee would be reinitiated to their clearance.

Q Okay.

A To my knowledge. I haven't had that happen. I'm sorry. I don't know. I'm not familiar with that.

Q And, if the ARC determines that the revocation should be upheld, do the individuals then have another opportunity to appeal?

A To my knowledge, no.

Q They can't go to the inspector general?

A Oh, I'm sorry. Yeah, I guess they could. Yes, ma'am. I'm not familiar much beyond that. I'm sorry.

Q If they go to the inspector general, would you discuss that with the inspector general directly, or would that be independent of your office?

A That would be independent of my office as well.

Q So, to get this down, so, after a revocation decision is issued, there's the administrative appeal through your office?

A Correct.

Q Then there's an appeal to the ARC, which is an independent body?

A Correct.

Q Three judges?

A Yes.

Q And then, after that, there's potentially an inspector general appeal as well, correct?

A To my knowledge, yes. I'm not very familiar with that process at all.

Q And then, in some cases, there's also potentially a Merit System Protection Board review, right?

A Yes.

Q For combat veterans, for example?

A Yes.

Q So you don't actually have the last word?

A No, ma'am.

Q And, as we said earlier, the applicable standard here is not beyond a reasonable doubt. The applicable standard is any doubt shall be resolved in favor of national security, correct?

A Yes, ma'am.

Q And, again, this is consistent across all applicable Federal agencies. There's no special FBI standard?

A Correct.

Q You mentioned earlier audits, GAO audits.

A Correct.

Q Can you describe -- go through, again, the type of audits that your division has undergone?

A So the General Accountability Office can come in and review our determinations. We've had the Inspector General come in and review our determinations. We've had our own Inspection Division come in and review our process. And then the Office of Director of National Intelligence also comes in and does an inspection.

Q And I want to go through those one by one.

So, starting with GAO, when was the last GAO audit, if you know?

A I apologize. I don't know that date. I can get it for you, though.

Q Has there been one conducted since you've been there?

A No, ma'am, not that I know.

Q Do you know if there are any open GAO recommendations?

A I don't believe there are.

Q Okay.

A Because we track those. I don't see any of those. But I'll confirm that.

Q What about the Inspector General, when was the last inspector general audit?

A Oh, my gosh. I don't know the exact date of the last one.

Q Okay.

A It's been in recent years.

Q And do you know if there's any open recommendations from the inspector general?

A There is an open recommendation that's in the process of closing regarding polygraphs.

Q Okay. But not regarding the policy -- the procedure for adjudications specifically?

A No, ma'am.

Q Or -- I mean, polygraph is investigation, right?

A Correct.

Q What about INSD, how often does INSD audit?

A They will do it at their random. So it's whenever they randomly select to audit. I asked for an audit when I was named as the security program director. I wanted them to come in and take a review of our adjudication process. So that was in 2021.

Q And is that complete at this time?

A It is.

Q And does the Inspection Division make recommendations?

A They can, yes.

Q Do you know if there's any outstanding recommendations from the Inspection Division?

A There are not. There are not.

Q Okay. And you affirmatively requested that audit, you said?

A I did.

Ms. Greer. I'm sorry, can we take a break for a second?

[Discussion off the record.]

Ms. Greer. Thank you.

BY [redacted]

Q Do you have a clarification?

A No.

Q And the Office of the Director of National Intelligence, what is their auditing process like?

A The same. They'll come in and look at adjudications. They most recently just audited in -- what month are we in now, April?

Q April.

A In the last couple months. So it's probably about 3 months ago they came in and did our adjudication process, but it was specifically as it relates to bringing on board employees.

Q With respect to all of these audits, can you describe what they look for? And if it's different for the different types of audits, you can clarify that.

A They're looking for -- that we are in compliance with Executive Order 12968 and the FIS, the Federal Investigative Standards, and SEAD 4, which is the adjudication guides, all in relation to issuing national security clearances because there's reciprocity

between each agency, and we want to make sure constantly that everybody is doing it the same way.

Because if I'm going to give access to someone, they want to make sure that the Bureau did it in accordance with these standards, so that if my employee goes over to NSA or CIA or wherever to work or to share information or to be part of a task force, that everybody was vetted the exact same way.

Q And so will they look at -- will they have the opportunity to interview the individuals who did the investigations, for example?

A They do, yes, ma'am.

Q Do they have access to all of your files?

A They do.

Q Do you know of any instance in which an auditor requested information that you were not able to produce?

A No.

Q How long do these audits usually take?

A They can be anywhere from 2 weeks to like 4 weeks, depending upon how in depth and what all they're looking at. But usually -- usually, it's 14 days.

Q And do they look at the time that it takes to conduct an investigation?

A They do. The inspector general, when they last audited us, that was one of the complaints was that it took us a long time. Again, we have a lot of investigations and not a whole lot of the investigators to do them.

And so, when I came in, what we did was we -- the decision was made to trifurcate the unit. So it was originally one unit. And so they did cradle to grave within the unit. I didn't like the way that looked, and I also thought it was cumbersome and slowed us down because nobody was really great at anything because they were having to do

everything.

So we divided it into the three separate houses so that somebody would do intake. Clean eyes. That's their profession. They're really, really good at that. Investigators, that's what they do. And then the adjudicators over here.

So everybody could specialize and train, focus on their one area. And it also gave a fresh eye to each section so that nobody again -- I kind of talked about it earlier. When you're doing the interview and building the case and then you also have to do the adjudication, I didn't want it to be unfair. And so it gave a clean set of eyes, and it was always fair because they were just looking at the facts and no personal emotions involved.

Q And, with respect to the -- you said that the IG had one of the complaints, meaning complaints from -- that the IG had been responding to or that the IG had?

A One of the complaints the IG had was that it was taking us too long to do our investigations. They wanted to see us do them quicker.

Q So have you decreased that time since that IG investigation?

A We had, although I know that that's still a complaint that it takes a while. But an investigation, to be thorough and accurate, you can't rush it. You have to do it right.

Q And so there's only a limit -- there's a limit on the lowest level amount of time, right?

A Correct. Yes, ma'am.

Q And, as you said before, it has to be thorough and accurate because it's important to get these right?

A Yes, ma'am.

Q And because to protect the national security, right?

A Correct.

Q And also to ensure that the individuals involved get a fair shake, for lack of a better word?

A Exactly.

[Discussion off the record.]

Ms. Moore. Just two points of clarification going backwards a little bit. So the reviews go through the ARC. The inspector general does not review ARC determinations. They only take it if it's a whistleblower retaliation case.

BY [redacted]

Q Okay.

A And then MSPB only reviews personnel actions in the event of a servicemember, a veteran. So they only review those personnel actions. They don't actually review security investigations.

Q Understood, understood. And so the inspector general does not review the security clearance determinations?

A They don't. They just review in regard to retaliation.

[redacted] I don't think I have anything further. We can go off the record. Thank you.

Ms. Moore. Thank you.

[Recess.]

[redacted] Let's go back on the record.

BY [redacted]

Q Just to clarify, on Mr. O'Boyle, you know, it's our understanding that he did not know he was suspended until he reported for work on September 26 in Virginia.

So the letter is dated September 23rd, but he never received it, he never received

word of it, it's our understanding, until he arrived for work on the 26th.

And so my question is, how are these letters transmitted?

A So they come into my office. I execute and sign them. Then my secretary prints it out. And it goes back to the Security Division, who then packages it up and transmits it to whoever it's going to be served. I would envision in this case they would have had to determine where he was at that time.

Q So, I mean, he testified that, on September 23rd, the date of the letter, he spoke with his new boss at the new unit, and it was never mentioned.

A I would think they wouldn't have talked about it on the phone with him. They would have wanted him -- if they knew that they had it at that moment -- his boss may not have known he had it.

I would assume -- and, again, that's assuming -- that Mr. O'Boyle's boss would have been probably a program manager. And so a program manager would be several layers below an assistant director. So the letter may have either gone to Kansas City or to the unit where -- or the division that he was going to. And then it would have gone down appropriately for them to call him in probably when he reported.

Q So, when he had this telephone conversation, he testified that he was in Wisconsin, I believe at his in-laws. And his new supervisor was aware, presumably was aware of that.

A I'm sorry. I wouldn't know that.

Q So, if that's the case, don't you think his new supervisor should have let him know that this was coming down the pike?

A For security reasons of personnel, we generally bring people in and debrief them in person.

Q So you make them travel all the way to Virginia for doing the suspension

there in person?

A At this time, I don't know that on Friday that his program manager knew that he was -- knew he was getting suspended on Monday. I don't know that answer, sir. I'm sorry.

Q And then the IG investigation that you were mentioning on the last round?

A Yes, sir.

Q What was the date of that?

A I don't know. I'd have to find it.

Q What was the year?

A I don't know. I'd have to find it.

Q What was the decade?

A Well, it would have been in the recent decade. So probably 2017, 2018. I'd have to find it, sir, I'm sorry.

Q 2017 or 2018?

A Uh-huh. I can find it for you.

Q So, obviously, the process hasn't improved at all, right?

A I disagree with that.

Q You think it has improved?

A Absolutely.

Q So what we talked with Mr. O'Boyle and Mr. Friend, you think that's a sufficient amount of time to conduct these investigations?

A I believe we are faster now than we previously were.

Q And is that an acceptable length of time?

A I would like them to be very quick, but, unfortunately, it has to be a thorough and adequate investigation.

[redacted] And, as we mentioned, the chairman has a subpoena for you to return. So I'll just provide this to you.

Ms. Moore. Thank you.

[redacted] I think that's all our questions for today, unless --

[redacted] I have one more.

BY [redacted]

Q I just want to -- I think majority counsel just said that he spoke with the supervisor, and it was never mentioned. I just want to read the paragraph into the record. That's not what it says.

A Okay.

Q It says: And, on September 23rd, I spoke with who was going to be my new boss at the new unit and told them that I still intended to come to the new unit the following Monday to report, which was Monday, September 26th.

And I want to note he said he told them that he said: I told them that I still -- emphasis on the word "still" -- intended to come to the new unit.

Thank you.

And then, quickly, on the thorough process, just to follow up on that, this process may involve interviews with individuals, correct?

A Yes.

Q It may involve gathering documents?

A Yes.

Q It may involve -- sometimes interviews might lead to other interviews?

A Correct.

Q Sometimes documents might lead to other documents?

A Correct.

Q Much like a criminal -- this is not a criminal case, but much the same way a criminal investigation would unfold?

A Absolutely, yes.

Q So, when we say -- when you say a thorough process, that means turning over all of those leaves, correct?

A Absolutely.

[redacted] Thank you. No further questions.

[redacted] Just to be clear here, Mr. O'Boyle, as far as we understand, did not know he was going to be suspended. So I believe, you know, the minority here is reading into the words "still intended" to imply that he knew or that his new supervisor told him on September 23rd that the suspension was coming, and that is not the case.

And I don't know whether "still intended" related to the fact that his wife is pregnant, about to give birth, or some other reason, or whether he was just -- or he was just imprecise here.

But we are aware, with great specificity, the plight of Mr. O'Boyle and when he was suspended and when he learned of his suspension, and he did not learn of it until Monday, September 26th. I'll represent that.

[redacted] And I will just respond that the record does not reflect that directly. Thanks.

We can go off the record. Thank you.

[Whereupon, at 1:57 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: JOSEPH R. BONAVOLONTA

Thursday, May 4, 2023

Washington, D.C.

The interview in the above matter was held in Room 2237, Rayburn House Office Building, commencing at 10:00 a.m.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

[redacted], GENERAL COUNSEL

[redacted], COUNSEL

[redacted], COUNSEL

[redacted], CHIEF COUNSEL FOR OVERSIGHT

[redacted], MINORITY CHIEF OVERSIGHT COUNSEL

[redacted], MINORITY OVERSIGHT COUNSEL

For the SUBCOMMITTEE ON THE CONSTITUTION AND LIMITED GOVERNMENT:

[redacted], MINORITY INTERN

[redacted], MINORITY PROFESSIONAL STAFF MEMBER

For the U.S. DEPARTMENT OF JUSTICE:

[redacted] OFFICE OF LEGISLATIVE AFFAIRS

[redacted]OFFICE OF GENERAL COUNSEL, FEDERAL BUREAU OF INVESTIGATION

[redacted]. Good morning. This is a transcribed interview of Joseph Bonavolonta from the FBI field office in Boston. Chairman Jordan has requested this interview as part of the committee's oversight of the FBI.

Would the witness state your name for the record?

Mr. Bonavolonta. Sure. My official Bureau name is Joseph R. Bonavolonta, B-O-N-A-V-O-L-O-N-T-A.

[redacted] And you're here today with agency counsel, that's correct?

Mr. Bonavolonta. Correct.

[redacted] And can you introduce yourself for the record?

[redacted] Of course. [redacted] from the FBI's Office of General Counsel.

[redacted] And [redacted] with the Department of Justice, Office of Legislative Affairs.

[redacted] And you understand, sir, that agency counsel, you know, their first duty is to represent the agency, not you personally?

Mr. Bonavolonta. Yes.

[redacted] But, still, you're here with them, and you're comfortable with that arrangement?

Mr. Bonavolonta. Yes.

[redacted] On behalf of the committee, I want to thank you for appearing here today voluntarily. The chairman appreciates your willingness to help us with our investigative work.

My name's [redacted] I'm with Chairman Jordan's staff on the House Judiciary Committee. I'm going to have the rest of the staffers here in the room introduce, themselves starting with my colleague [redacted]

[redacted] [redacted] with Chairman Jordan's staff.

[redacted] [redacted] majority staff.

[redacted] [redacted] majority staff.

[redacted] [redacted] with House Judiciary minority staff.

[redacted] [redacted] chief oversight counsel for the House Judiciary and Democrat staff.

[redacted] I am [redacted] House Judiciary Committee minority.

[redacted] [redacted] with House Judiciary.

[redacted] I'll go over the ground rules and guidelines that we'll follow during today's interview. Our questioning will proceed in rounds. Majority will ask questions for up to an hour, and then the minority will have a chance to come and ask questions as well for an hour, and we'll alternate back and forth until we're done. We'll try to get this process moving as quickly as we can so you can get back to your official duties and get back to Boston, I presume.

Mr. Bonavolonta. Yes.

[redacted] Typically, we'll take a break at the end of each hour. You can confer with the lawyers, but it's totally up to you. So you let us know when you're comfortable taking breaks. Same goes for lunch. And, also, if you do need to confer with counsel, you just let us know. We can go off the record. You're here voluntarily. So, if we ask you something, you don't want to answer it, it's a voluntary proceeding so.

So the court reporter can take down a clear record, we will do our best to limit the number of people directing questions to you. We'll try not to talk over your answers. Sometimes we aren't so good at that, and we have to remind ourselves to speak so the court reporter can make the record. We try to make a complete and truthful, you know,

record here, so we'll take our time.

If you don't know the answer to any of our questions or don't remember, just let us know. It's best not to guess or speculate. The Federal Rules of Evidence are not in play here. So, if you do know something that you heard from somebody else, you can just tell us that that's how you came to learn a particular fact.

You understand that providing false testimony to Congress could be subject to criminal prosecution. Is that correct?

Mr. Bonavolonta. Correct.

[redacted] 18 United States Code 1001 is the particular statute. And, of course, there's no reason that you can't provide truthful testimony here today, right?

Mr. Bonavolonta. Correct. Yes.

[redacted] Finally, I would like to make a note that the content of what we discuss we like to keep confidential. So, to the extent you can help us honor that request, we'd appreciate it.

As far as reviewing the transcript, when the transcript does come in, you'll have a chance to review and the agency lawyers can come in and check the transcript. And the purpose of checking the transcript is just to make sure that, you know, the court reporter got it right, and they always do. And, also, just if you, on reflection, you know, realize that you left something out of your testimony or you got something wrong by mistake, you can let us know.

Also, the purpose of the transcript review is an opportunity to flag any proposed redactions. You know, you can recommend if there's something that you said that we ought to redact if we're going to release it publicly, and we can take that into consideration. But the transcript review isn't an opportunity to make notes of everything that's in the transcript. So we, in the past, we've had to counsel the lawyers

coming not to bring in laptops and that type of thing. The purpose is just to make sure the court reporter got it right and make sure your testimony is correct.

So, with that, I'm going to turn it over to my colleague, [redacted] and we'll get going.

EXAMINATION

BY [redacted]

Q The time is now 10:05 a.m. Sir, I'm going to start going through your professional background, if that's okay? When did you first join the FBI?

A In 1996.

Q And what was your main motivation for joining the Bureau?

A Really, just to serve my country, as well as my father was an FBI agent as well so I grew up, you know, in that environment.

Q And what position do you currently hold at the FBI?

A I'm the special agent in charge of the FBI Boston Division.

Q When did you start this special agent in charge Boston Division?

A In January 2019.

Q Can you describe, roughly, your roles and responsibilities in that position?

A Sure. So, as the special agent in charge of FBI Boston, which actually encompasses four States in New England; Maine, New Hampshire, Massachusetts, and Rhode Island, I am, in essence, the chief executive for that entire area of responsibility where I have oversight of all operations and administration of FBI activities in that region.

Q And who's your direct supervisor?

A My direct supervisor would be the Deputy Director of the FBI and the Director of the FBI.

Q And how many people work within the Boston Division?

A So it fluctuates from year to year, but approximately anywhere between 8- and 900 total employees, and that's broken down by full-time FBI professional staff employees, intelligence analysts, special agents, as well as full- and part-time local, State, and Federal task force officers.

Q And do all the 8- to 900 employees, do they report directly to you, or are there never supervisors?

A They report ultimately directly to me, but there are leadership chains within the office.

Q And how many assistant special agents in charge to do you have?

A Five.

Q And do you mind listing their names for us?

A Sure. So --

[redacted] So some of these might be non-SES names. Obviously, to the extent they are public facing, and some of them might be on the website, we wouldn't request those be redacted, but that might be something that we would want to request be redacted if they're not public names.

[redacted] Okay.

Mr. Bonavolonta. So, just to be clear, all of the assistant special agents in charge, I'm the only Senior Executive service member within the FBI Boston Division. So I have --

[redacted] Sir, just to make sure the record is clear, are you all committed to redact the names of the non-SES individuals?

[redacted] We can talk about this later. Let's ask questions.

[redacted] Just trying to make sure he has clear guidance on how he will answer questions today.

[redacted] The witness can answer the questions he wants to answer. He's here voluntarily so.

[redacted] Okay.

Mr. Bonavolonta. Okay. Good. So, just to be clear, there's five special agents in charge, and one SSIA, which is a senior supervisory intelligence analyst, which is the intelligence analyst equivalence of an ASAC, so that's the executive management team in Boston.

The SSIA is Jerry McMahon. Our current Counterterrorism Branch ASAC is Jason Crommarty (ph). Our current Counterintelligence Cyber Branch ASAC is Dave Farrell. Our White Collar Crime, Public Corruption, Civil Rights ASAC is Matt Giacoby (ph). Our Violent Crime and Gangs Branch ASAC is Chris Dimena (ph), and our Administrative Special Operations Branch ASAC is James Green.

BY [redacted]

Q And you have obviously had an extensive career at the FBI. Can you walk us through some of the positions you've held while there?

A Sure. So upon entering the FBI for the first just under 4 years, I entered in an non-agent position as an investigative specialist for the special surveillance group. And then, in May of 2000, I became a special agent. And I was assigned to the New York field office, where I worked Italian organized crime matters, specifically against the Bonanno organized crime family for many years and then became a squad supervisor in the Newark, New Jersey, field office after having gone done to FBI Headquarters for about 18 months where I was in the organized crime section.

And then, upon returning from headquarters, I was promoted to a squad supervisor of the Complex Economic and Financial Crimes Squad in Newark field office. And then, from there, I was promoted to assistant special agent in charge up in the

Boston Field Office where I oversaw the Counterintelligence and Cyber Branch. And then, from there, went back down to headquarters to be a section chief. That's where I entered the Senior Executive Service ranks, and I was the section chief in our Human Resources Division over the Employee Development and Selection Program. Then, as a Deputy Assistant Director in the Counterintelligence Branch, and then promoted up to Boston in January of 2019 to serve as the special agent in charge.

Q So, in 2018, right before you became special agent in charge, you were the Deputy Assistant Director in the Counterintelligence Division. Is that correct?

A For one of the operational branches from March of 2018 to December 2018.

Q And what were your roles and responsibilities in that role?

A Really, to oversee -- really, program manage operations throughout the country with respect to various aspects of the China threat, as well as the Russian threat as well, like Russian intelligence officer driven operations.

Q And you were working out of headquarters for that position?

A For that position, yes.

Q And who was your direct supervisor for that position?

A At that time, the assistant director was Bill Priestap

Q Okay. And so, as the special agent in charge of the Boston Division, would you say that you have general awareness of the cases that your office is working on?

A Yes.

Q And how involved in the day-to-day investigating are you?

A I'm not. It's one of the largest field offices in the country. So, at any given time, we have, you know, literally several hundred, if not more, you know, active and ongoing investigations. So the ones that I have more knowledge on are ones that, you know, rise to the level where there would need to be my involvement or knowledge for a

number of different reasons.

Q And are you aware of whether agents or analysts within the Boston Field Office were asked to work on investigations related to the events that occurred at the U.S. Capitol on January 6th, 2021?

A Yes.

Q And about how many cases?

A I really can't give you a number in terms of the overall number of cases.

Q And was it your understanding that the agents within the Boston Field Office were running the investigations?

A No. The actual cases relative to January 6th were all program managed and generated out of our Washington Field Office. And so, where our involvement would come into play would be if a -- you know, a package with the requisite evidence in it that may have risen to the level of an individual being charged with a certain crime related to January 6th would be sent up to us and then worked in conjunction with an agent in my office, as well as with a -- AUSA within the district of Massachusetts.

But then once -- whether it was -- if it was for instance, an arrest warrant, that arrest would be executed, and then the case would be -- you know, the subject would go down for an appearance in Washington, and then that's where it would be worked from there, whether there was a guilty plea or a trial, it would all be done down in Washington, D.C., not up in Boston.

Q And, when you say program managed out of the Washington Field Office or the WFO, did that mean the WFO was giving your agents direction on what to do?

A I wouldn't necessarily say "direction." It was just more -- it was more a package that would be sent up with the requisite evidence to execute in most cases an arrest warrant, and that was it. It was pretty -- it was very basic.

Q Okay. At any given time, how many agents do you think within the Boston Division are working on January 6th related cases?

A Overall, commensurate with the number of agents we have, not many.

Q Okay. And are you aware of information coming from Bank of America that was sent to the FBI?

A I am, yes.

Q And can you -- are you aware of the existence of that information on the FBI systems?

A I can't tell you where it is housed on FBI systems or what the current status is, but I am aware of information that was forwarded to us related to a Bank of America lead, yes.

Q And can you describe the content of that information that was given?

A Sure. So the knowledge I have on that is not very intricate simply because it was -- after it was sent up to our office, it was brought to my attention by our Joint Terrorism Task Force squad supervisor, our chief division counsel, and, at the time -- he's no longer with the Bureau -- but, at the time, the assistant special agent in charge over our Counterterrorism Branch.

Q And who was the JTTF individual that gave that information to you?

Mr. Bonavolonta. I just want to make sure it's appropriate for me to give that.

[redacted] Can we go off the record for a second?

[redacted] Yes, we can go off the record.

[Discussion off the record.]

[redacted] Back on the record.

[redacted] Just a quick note, my understanding is that the JTTF that he's described is a non-SES person. So it's our preference if we can proceed with the

questions and hopefully you will get the information that you need, and if there's an interest in knowing more about the specifics of somebody's name, we're happy to entertain a followup request.

[redacted] Okay. So I'll just go ahead and ask the question, and if you would like to not answer, just say so.

BY [redacted]

Q Okay. And who was the JTTF individual who brought this information to your attention?

A So I would prefer not to divulge the name.

Q And the chief division counsel?

A It would be the same for that.

Q And assistant special agent in charge?

A Same for that.

Q And why did they bring this information to your attention?

A So they brought the information to my attention, first and foremost, to make me aware that a lead had been sent to our office from a unit within FBI Headquarters that fell under the Office of Private Sector. And the lead, the lead itself, was for informational purposes only. There was no directive in the lead to do anything, you know, from an investigation standpoint.

However, in the body of the lead, there was an information that was provided by Bank of America following a certain number of criteria that in essence aggregated a list of individuals that were supposedly living up in the New England area who, you know, either had potentially made, you know, certain credit card purchases, you know, for hotel reservations or plane tickets, or potential purchases at certain gun stores in and around, you know, January 6th or planned for the inauguration date, like around January 20th,

like in that timeframe.

I'm speaking in generalities just because simply I can't recall the exact nature of the criteria, but it was something to that effect. And so my team brought that to my attention just to make me aware of it and to, you know -- just to see if there was going to be any request to actually, you know, do something from an investigative measure on these individuals. So I reviewed the lead, and it was very clear in the lead that there was not a request to engage with anybody. Or we weren't being directed to do anything.

But what I did on my own was, you know, at the time, I was a co-chair of the SAC Advisory Committee, and I reached out to my colleague who was the SAC out of Springfield, Illinois, who was the chair of the SAC Advisory Committee. So we worked together on that just to see if he had been aware of this.

And then we wound up together proactively communicating with the assistant director of the Counterterrorism Division at headquarters at the time just to make them -- to see if they were aware that this lead had at least been sent to two field offices. And the only knowledge I had at the time, obviously, was that it was sent to Boston, and it had been sent to Springfield. And we just wanted to make Counterterrorism Division aware of that just to let them know that we, based on the information provided in the lead, that you know, we were not planning on doing anything with that information, you know, and just so that Counterterrorism Division could be aware as well if in the event that it had been sent to other field offices, you know, for awareness. And that was really my level of involvement with that particular lead.

Q And why did you feel the need to tell the Assistant Director of the Counterterrorism Division that you weren't planning on taking any action on that lead?

A Simply just because it was -- the way the lead had come in, it just hadn't come in with much information beforehand in terms to, you know, either be prepared to

receive the lead. And it just -- at least the way my team conveyed it to me, it just seemed a little bit odd in terms of the way that information came in and was there going to be an expectation. It was more a question than anything else. And so that's when I took upon myself to reach out to my colleague, you know, and to reach out then to the Assistant Director of Counterterrorism Division just to make them aware of that we were in receipt of this information.

Q And why was it odd? Did the lead come in like during the normal course of business, or did it come in in an unusual manner?

A No. It came in through the standard manner in which a lead would come in. But, once again, it was the way my team had purported it to me was more just, they wanted me to be aware of it if in the event there were to be a request, that we would, let's say, be requested to go and interview some of these individuals, do something beyond just being in receipt of the information in that lead, that there didn't appear to be any surrounding alleged criminal activity.

BY [redacted]

Q Who did the lead come in from?

A The lead came in from our -- I believe, it's the Strategic Engagement Unit. But I can't say for sure if that's the actual name of the unit. But it fell under or falls under the Office of Private Sector, which --

Q Was that in Boston or out of headquarters?

A No. Out of headquarters.

Q Do you know if they solicited the information from Bank of America, or whether Bank of America just offered it up?

A The way it reads in the lead, it was -- they did not solicit the information, that the information was just proactively provided to them.

Q And did anyone in your field office feel that they were supposed to go out and interview Bostonians that had a Bank of America transaction in Washington around the timeframe?

A So I can't say what they felt, but they came to me to make me aware that they were in receipt of this lead.

Q So they hadn't taken investigative --

A No.

Q They came and talked to you?

A Correct.

Q On its face, this sounds somewhat concerning, I mean, if like my sister comes and visits me every year after the New Year, right; so if she came -- she doesn't live in Boston, but if she came and she had a Bank of America transaction on January 6th, 2021, and she got a visit at her house from an FBI agent, I mean, that would be concerning, right?

A Well, I -- once again, I can't speak to that because that's a hypothetical. But what I can speak to is, you know, the way that I run -- I've always run the FBI Boston Division, and you can see by the way the team came to me about this, after having conferred with our legal counsel is, you know, that's what I'm there for, where if anything is brought to me where they have a question about whether or not to do something or whether there may or may not be a concern about something, that's why we have that process set up. And it's really not unique in terms of, you know, just special agents in charge having routine dialogue and engagement with headquarters to talk through a variety of different matters that may come up. That's why we're there running the office.

Q But, presumably, Boston Field Office wasn't the only one that got this

information, correct?

A The only other office that I'm aware of, once again because I reached out to my colleague in Springfield, I can't speak to -- I'm just not aware if, in fact, the lead was sent to other offices.

Q Okay.

BY [redacted]

Q And you described how you were talking with the Assistant Director of the Counterterrorism Division at headquarters and telling them that you were not planning on taking any action. Who was the Assistant Director at the time?

A At the time, it was Jill Sanborn.

Q And how often did you interact with Ms. Sanborn?

A Not often. You know, every now and then when there would be a matter -- you know, obviously specifically related to the counterterrorism program, but I would not say it was often.

Q And what was the content of your discussion with Ms. Sanborn regarding the Bank of America list?

A So -- well, it was myself and the SAC from Springfield, and we just reached out to her together to advise her that this lead had come in, and she was thankful -- her response, in essence, was, you know, we described the nature of the lead, and she was thankful that we had, you know, provided this information to her, and she advised that she would look into it. And so, at that point, in my mind, you know, the matter was handled for the following reasons, simply just because I had advised Counterterrorism Division that this lead had been sent, and I was advising them simply because it had been sent from a different division that was not the Counterterrorism Division, and it was related to January 6th. So I just wanted to make sure they were aware. And then,

secondly, you know, just to convey that, you know, it was an information-only lead and that we would not, you know, be taking any further action on it. And that was it. And then that really -- for that matter, it was closed. There was really nothing else at all that came out from that matter directly to me.

Q And who at the time was the SAC in Springfield?

A Sean Cox.

Q And it has been represented to us that the individuals were included on this list if they used a Bank of America product, either a credit card or a debit card within the D.C. area, including parts of Maryland and Virginia, between January 5th and January 7th. Is that kind of your recollection?

A It's similar to my recollection. I just don't recall exactly what the parameters were.

Q And it was also represented to us that individuals were prioritized on that list if they had a firearms purchase. Does that match your recollection?

A So it -- I don't have any knowledge of anybody being prioritized over a firearm purchase, but in one of the criteria that was in there in terms of Bank of America's data, it was related to purchases that had been made at either gun shops or, you know, stores that would sell firearms, but I can't speak to in terms of if any individual on that list was actually prioritized, or at least that wasn't conveyed to me.

Q And did the gun purchase have to be recent, or could it have been at any time in the past?

A That, I just don't know.

Q And how many individuals were included on that list that were in the jurisdiction of the Boston Division?

A Approximately 6 or 7, or around that number.

Q And your agents didn't take any action on those. Is that correct?

A No. Correct.

Q Were you ever asked by the Washington Field Office to take any investigative action regarding those 6 or 7 individuals?

A No. Once I made that call to the Counterterrorism Division, there was no further calls that were made to me or members of my team to my knowledge from headquarters on that matter.

Q And did you tell others within the Boston Division that you had made the call to the Assistant Director and that you were not going to take any action on the list?

A Yes. I informed the team that had brought that -- the matter to my attention.

Q And the team that brought the matter to your attention, did they have direct reports?

A In -- direct reports in which way?

Q Like the individuals who brought this to your attention, would they have told their direct reports to not take any action on the list?

A I just don't know who they spoke to or what they told. All I know is I advised them what I did, and the matter really was -- at least on our end up in Boston, it was closed.

Q And so no action to date has been taken on that list?

A No.

Q Are you aware an episode involving two individuals from Massachusetts who organized buses to go to the rally for President Trump in D.C. on January 6th, 2021?

A I am, yes.

Q And what can you tell us about that?

A So there are two individuals in particular are, I believe, Mark Sahady and Marianne Ianni. I may be getting that first name wrong. I'm just -- I'm not sure. It's Suzanne or Marianne. I can't recall, but last name Ianni. And so, they -- my Joint Terrorism Task Force squad received, you know, per the normal course the way these kinds of leads and cases were working received a package, you know, from Washington Field Office that, you know, had evidence in it related to conducting an arrest on Sahady and Ianni for their actions on January 6th. And it was actions at the time related to the unlawful entry of the Capitol Building.

And so those arrests were executed on or around, you know, like the January 19th to 20th timeframe of 2021. So after -- those arrests occurred. And then I want to say approximately 3 to 4 weeks, or about a month after that, my Joint Terrorism Task Force supervisor -- once again, the same team, my Joint Terrorism Task Force supervisor, my chief division counsel, and at the time, the assistant special agent in charge of the Counterterrorism Branch up in Boston came to see me about some interactions that were had between primarily at the line supervisory level between my Joint Terrorism Task Force supervisor and headquarters about a request of FBI Boston to interview all of the approximately 150 or so travelers that were on those buses that went down separate and aside from Sahady and Ianni, who had already been arrested.

And there were a couple iterations of phone calls, you know, back and forth between my supervisor and headquarters about him, at least at the time, not believing that we were in receipt of enough information to warrant conducting interviews of those individuals. And so, after a couple of conversations that had occurred, you know, at that line supervisory level, that is when my team came to see me about that matter for a couple reasons. One was just to advise me that there was a possibility that I may receiving a call from somebody more at my level from headquarters, you know,

questioning me about it or asking me about it.

And, number two, just to advise me on the reasons why at the time, you know, they just were not in receipt of enough information that they believed warranted conducting interviews of those individuals. And the way that it was presented to me, once again, we have a very stringent, you know, process in terms of the way that we operate through the DIOG, the Domestic Investigations Operations Guide, and all that. And, you know, it's very clear. And at that time, I concurred with the team that we did not have enough information to conduct interviews and that I would be happy to receive any calls in State such if I did receive any calls from headquarters.

So, throughout -- and once again, this entire matter once again was a very short period of time. It was maybe -- it was no more than like a 24-hour period where my level -- I was engaged in this because I had concurred with my team, and I said: I agree; we're not going to be doing any interviews unless we are in receipt of additional information that would warrant that per our normal tenets of the DIOG.

And so I never -- throughout the entire process, I never received any calls from headquarters on it or anything along those lines. And it turns out that I was advised by my team that subsequent to that -- and I just don't know what the exact timeframe was -- but more additional information was provided to my Joint Terrorism Task Force supervisor that did, in fact, warrant going out and conducting interviews on some of the travelers, you know, based on additional information that had been provided, which met the tenets of the DIOG, and then the team went out and conducted those interviews.

I don't know on whom or how many, but it was a finite number. And that was it. It was -- there was no additional -- there was no contact at all from any other individuals at headquarters to me directly or to my knowledge to my supervisor who runs that squad.

BY [redacted]

Q Do you remember what additional evidence was provided that led your team to believe that they could move forward?

A It had -- I really -- I can't say specifically, but what I do recall was conveyed to me was it was some level of information that was indicative of these individuals potentially being, you know, right in or around the actual Capitol Building, like something along those lines. It was enough of substance to warrant actually just going out and talking to a few individuals.

Q Do you remember if it was pictures or cell phone data?

A I don't. I don't recall.

Q Would it have been enough if it was just cell phone data, like pinpointing the individual to the Capitol Grounds?

A It could have been. It could have been. But I just don't recall which one it was. But what I do recall is the supervisor, and once again the same team that had originally had reservations about the lack of enough information to go out and do the interviews, felt that that additional information that was provided was enough to go out and conduct interviews.

Q What type of information would be enough in that situation?

A Well, it would be -- there's so many different kinds of interviews. I would just hate to speculate on it. But it would be information that would bring it to a level above an individual who was exercising, like, their First Amendment right, you know, the First Amendment rights to protest or do whatever, like any inclination or any type of even reasonable suspicion that an individual could have been involved in criminal activity.

Q So, if you had a witness statement alleging that somebody on this trip had gone inside the Capitol, would that have been enough?

A Potentially, depending on the voracity of that statement, who the witness

was, and if there was any other corroborating information independent of that witness' statement, you know, it would all come into play.

Q Certainly, if there was photographs of the person inside the Capitol, that would be sufficient?

A That would have been sufficient to conduct an interview. Yes.

Q But, as we sit here today, you don't remember specifically what the --

A I don't.

Q What the nature of the evidence was?

A I don't.

Q And you don't remember -- I know you said how many folks this encompassed. Was it 3 or 5 or 10 or 20?

A I don't recall a number. But it was not -- what I do recall the team advising me is it was not -- it was well below the 150-some odd individuals that all traveled down. It was a very finite number, not a large number.

Q Okay. So, just to recap here, the 150 individuals was presented, you know, just because they were on this bus trip, was presented in Boston Field Office, and for lack of a better word, there was some pushback from your office saying: Hey, this isn't enough to go out and conduct field interviews.

Correct?

A Correct.

Q And you said or one of your colleagues in the Boston Field Office said that if you have additional evidence, we will take it, and if it meets the DIOG, we'll go out and interview these people. Is that correct?

A That's correct.

Q And subsequent to that, somebody from Washington came back with some

additional evidence on a specific finite number of individuals and then you proceeded to do investigative work on that finite group?

A Correct.

Q Okay. Thank you.

BY [redacted]

Q And was it your understanding that the January 6th investigations were being run pursuant to the tenets of the DIOG?

A Yes. It was my understanding of that, yes.

Q Do you know if there was any sort of deviation from the DIOG?

A No. I mean, once again, you know, the matters we're speaking about here this morning are the matters that, you know, I had knowledge or involvement in and there was -- as you've heard, we are very stringent in terms of the adherence to the DIOG.

Q And do you know who from the -- from headquarters was talking with your JTTF supervisor?

A I don't. That would have been at his level, and I just don't know who that would have been at the time.

Q I want to kind of go back to your time at headquarters. Are you familiar --

[redacted] Sorry. Can I interrupt? I just want to put something on the record. Mr. Sahady's case, he came up in the prior questioning, is still pending. So we have been careful to try to provide as much information as possible, but just for the record wanted to make sure that you knew that his, in particular, case was still pending before the courts.

[redacted] Let me ask one more follow up.

[redacted] Absolutely.

BY [redacted]

Q Was it Assistant Director Sanborn that you communicated --

A Yes.

Q -- that to? So like the Bank of America information --

A Oh, no. I'm sorry. You're talking about the bus passenger matter?

Q Yeah. Do you remember who?

A No, because I did not -- I actually did not need to make a call down there at all because, when my team brought that matter to my attention, I concurred with them, and I advised them if they -- I would be happy to make a call if needed, but I did not have to intervene on that one, on that matter.

Q Okay.

BY [redacted]

Q Sticking with the bus matter, did your JTTF supervisor, did he say that he had requested additional information from the Washington Field Office or his headquarters counterpart on the 150 passengers?

A He was -- yeah -- in his dialogue with headquarters, he did say: If there is additional information, then we will act accordingly.

Something -- that's not a quote from him, but just something to that effect was his interaction with headquarters.

Q Did headquarters offer any additional information at that time when he was saying that?

A I don't know of the timing. All I know is, subsequent to that, there was additional information that had been forwarded up.

Q During your time at headquarters as the Deputy Assistant Director for the Counterintelligence Division, did you ever interact with a former FBI agent named Peter

Strzok?

A I did not interact with Peter Strzok when I was in the Counterintelligence Division. I had interacted with him very minimally when I was actually a section chief within the Human Resources Division because he had been transferred from his post in the Counterintelligence Division to the Human Resources Division. That's where we had very minimal interaction.

Q And --

BY [redacted]

Q What were his duties in the Human Resources Division?

A I really -- I can't say. I think he was working on certain projects, but that wasn't made clear to me.

Q And he had been relocated to the Human Resources Division as a result of some, you know, news that was reported, correct?

A Well, once again, that would be just speculation on my part because it wasn't spoken about directly to any of us at the time.

Q But, clearly, he was moved to the Human Resources Division after his voluminous text messages with his FBI colleague became public, correct?

A Well, once again, that would just be speculation.

Q No. But temporally, temporally speaking?

A What I can't speak to is the exact reasons behind his transfer.

Q Okay. So he was working with you or for you in the Human Resources Division?

A No. No. Just more -- really neither.

Q Okay. Was he doing anything in the Human Resources Division, or was he just parked there?

A He was working on certain human resources related projects, but I can't really speak to -- because I was in a different -- I was running the Employee Development and Selection Program, which was -- it was just different.

Q Okay.

BY [redacted]

Q And it's been represented to us that you refer to yourself as Strzok's cleanup man. Is that accurate?

A No -- so -- do you have any context behind that at all?

Q Nope. That's it.

A No. I don't recall using that terminology. What I can only surmise that means is -- and, once again, without knowing the context in which it was brought up, the only thing I can think of would be that, when I was asked to go and be the Deputy Assistant Director in one of the ops branches, at the time, we were, based on my extensive criminal investigative background, there was a real push at the time to really help generate and move forward on initiatives related to the Chinese Communist Government's threat.

And so, you know, coming in to that position, you know, in the aftermath of the Peter Strzok tenure, you know, there was obviously some morale issues and things along those lines where my mentality at the time was just to, as it's always been, was to just go back to basics and focus on the work and the operations, especially when you look at the gravity of the China threat and some of the things that we were looking to do operationally along that realm, which, in the 9 or 10 months that I was there, we worked on some very successful initiatives against that threat.

So that's the only thing I can surmise is just bringing a -- you know, a very back to basics operationally driven mentality there. And then, when I was promoted to Boston

as the special agent in charge, when I met with all of the squads initially throughout the entire division -- and it's a very large division, and so that took quite a bit of time -- but -- there's several messages. But one of the messages that I was looking to convey to the workforce up there -- because it was still the Peter Strzok related issues were still very much front and center in the media, and I was surmising that it was something that a lot of members of the workforce were homed in on a little bit.

And so one of the messages I delivered germane to him was just simply that, if we stick to the basics and we stick to what we're charged with doing, which is, you know, a very simple and direct mission statement that the FBI has, then we -- you know, we avoid all of that, you know, the issues that surrounded that one incident. So just do our job. Do it the right way. Good things will happen, and we just disregard any of the other noise that's going on with respect to that. So it was more from a leadership perspective, me utilizing that situation as something to just remind the work force, you know, the way that we go about doing our jobs. That's the only correlation I can really make to that, you know.

Q Okay. And kind of sticking with the China threat, are you familiar with DOJ's former China initiative?

A Yes.

Q And can you briefly describe the initiative?

A Well, really, I mean, I can't recite the exact tenets of it, but it really was just more -- it was more of a way to focus, you know, much more heavily on the myriad of threats emanating and operated by the Chinese Communist Government through a number of different, you know, counterintelligence, criminal, and cyber related means.

Q And, you know, while the China initiative was active in 2020, the Boston Division brought charges against Chinese nationals and a Harvard professor. Is that

correct?

A That's correct.

Q And, while announcing those charges, you stated that, quote: No country poses a greater, more severe, and long-term threat to our national security and economic prosperity than China. China's goal simply put is to replace the United States as the world's leading super power, and they're breaking the law to get there, end quote.

Do you still agree with this statement?

A I do. And the only thing -- I recall that press conference. And I would be surprised if I didn't also clarify somewhere else in my remarks, but, you know, when I refer to the threat emanating from China, it's very specifically focused on the Chinese Communist Government.

Q Yeah.

[redacted] To make the record clear, we can introduce your remarks. Real quick, I will do that as exhibit No. 1. These are the January 28, 2020, remarks delivered by SAC Bonavolonta announcing the charges against a Harvard professor and two Chinese nationals.

[Bonavolonta Exhibit No. 1

Was marked for identification.]

[redacted] I'll say that there's a little scroll bar on the right-hand side, and the only thing not captured on this page is the thank-you at the end. So we'll make sure we get that included.

[redacted] Thank you.

BY [redacted]

Q And, after looking at your remarks, is there anything additional you would like to add for the record?

A No. It's pretty -- I mean it's --

Q And a couple weeks later, there was an op-ed piece that you co-wrote with the U.S. attorney from Massachusetts. Do you remember that?

A I do, yes, Andy Lelling, the former U.S. Attorney. Yeah.

Q In that op-ed, you said, quote: China's assault on U.S. technological know-how is so pervasive that, in November 2018, the Attorney General formed the China Initiative specifically to combat the problem.

Do you remember that?

A I do.

Q And is that assault still ongoing?

A The threat -- the threat is just as pervasive now as it was then, yes.

Q And is it your understanding that the Biden administration has elected to end the China Initiative?

A I don't have -- that, I don't have knowledge of. What I can tell you is that our -- up in FBI Boston, we have -- the level of aggressiveness in which we -- and the resources that we devote to the China threat is the same now as it was then, if not more.

Q And, given your experience in this area, what are some of the risks associated with failing to counter China's economic and espionage and trade secret theft?

A Well, there's a number of risks behind that. I mean, once again, the theft of trade secrets or proprietary information poses significant risks to businesses, corporations, as well as government institutions, and the military, you know. And it, you know, the Chinese Communist Government's activities in terms of trying to steal these secrets is in -- aligned with their continuous efforts within their 5-year plans to at some point surpass the United States as the world's leading economic and military super power.

Q And kind of going back to the January 6th investigations, during the course of the investigations that were being worked on by the Boston Division, did you ever interact with FBI agent named Timothy Thibault?

A I did not, no.

Q Are you aware whether any of your agents interacted with Mr. Thibault?

A No.

Q Are you familiar with Steve Jensen?

A Very -- really only by name. I have not personally had interactions with him.

Q Do you know if he was involved in January 6th investigations as a unit chief?

A Either as a unit chief or a section chief. I'm not sure which role, but I am aware that he was -- he had a role down in that unit or that section.

Q Okay. And did you ever interact with, I believe he was the Assistant Director in charge at the Washington Field Office, Steven D'Antuono?

A I have interacted with him, but not on anything germane to January 6th.

Q What have you interacted with him on?

A Really more just contemporary colleague type, you know, conversations. In my capacity as originally the co-chair, and then I eventually became the chair of SAC Advisory Committee, obviously in that capacity, I would have interaction with all Assistant Directors in charge and SACs across the country, but not to my recollection, nothing direct with Steve related to January 6th.

Q Okay. And I know we've talked about some private sector engagement or leads that were given from the private sector. Can you describe the interactions between the Boston Division and possibly tech companies such as Twitter or Facebook?

A Well, up in -- I mean, really those companies are primarily headquartered -- I

mean, that's more of a Silicon Valley area interaction that I believe would most likely occur from our -- either headquarters or our San Francisco Field Office, so as far as our private sector outreach in Boston, I'm not aware of any significant connectivity or outreach with those companies.

Q Do you ever receive leads from social media companies?

A To my knowledge, no.

Q Are you aware of any interactions between the FBI and social media companies?

A No.

Q I want to talk about a more recent event the FBI, Department of Defense training exercise that occurred in April of this year. Are you familiar with the Boston Field Office's training exercise with the U.S. Army Special Operations Command that took place on April 4th, 2023?

A I am, yes.

Q Can you explain what occurred during that training?

A So I really can't give you much details on that because that has always been and was at that time a Department of Defense generated and run training exercise. But, from time to time, we would assist them in certain components of that exercise.

Q And how often does that normally occur?

A I can't give you a -- you know, an exact timeframe on how often. Although, that wasn't the first exercise of that kind that had been conducted.

Q Can you kind of explain for us why the FBI works with DOD on these training exercises and what the FBI's role is?

A Sure. So, really, the ultimate role of those training exercises on the Department of Defense's side is to try to provide as real-life related training scenarios as

possible in certain environments where their individuals may encounter certain -- you know, certain interactions germane to where they may be assigned at some point.

And so where the FBI comes in with these types of training exercises, which really go on in different cities, is simply just to provide like some realism with respect to if an individual was ever confronted, you know, by an adversary or something along those lines.

Q And, as the SAC, what's your involvement with these exercises or your role?

A Really minimal to none. Only a level of awareness when an exercise is occurring, and that's really it.

Q And who from the Boston Division is normally involved in these exercises?

A It would generally be, you know, special agents assigned within our counterintelligence branch because of the nature of that kind of work.

Q And it has been reported that, unfortunately, an individual was detained that was not an intended role player. Is that your understanding?

A It is, yes.

Q And can you tell us a little bit about that?

A You know, I can't simply just because I would be speaking to the specifics of an exercise that we did not put together or run.

Q Do you know if it was someone from the Boston Division who detained this individual, or was it a member of DOD?

A It was members of the Boston Division.

Q And do you know why it took so long to figure out that this individual was not a role player?

A I -- I do believe there's conflicting reports in terms of the amount of time that it took, but I can't speak to exactly what transpired in there.

Q What do you understand is the amount of time that it took to figure this out?

A Several minutes.

Q Several minutes, like five? Ten?

A I can't say.

Q And it has been reported that it was because of inaccurate information. Do you know how that inaccurate information was provided?

A Well, on that, I would have to refer you to the Department of Defense.

Q And, since then, it's been announced that there may be some additional practices that are put in place to ensure that that this doesn't happen again. Have those been put in place?

A Once again, it's a Department of Defense exercise, and I am aware that they are reviewing -- they are in the process of reviewing the entire incident. As to what other measures may or may not be put in place, I just cannot comment on because that would be their decision to make on that.

BY [redacted]

Q You've been briefed on it, though, correct?

A On?

Q On what happened?

A Yes.

Q And what can you tell us about what your FBI people told you?

A It was -- once again, it was an exercise where inaccurate information was provided to us by the Department of Defense in terms of, you know, the exact room in terms of where the trainee was supposedly staying, and then the rest, which has been widely reported, occurred.

BY [redacted]

Q And is the Boston Division implementing any new measures surrounding these trainings on the FBI side?

A Well, first, I would have to see what measures would be implemented by the Department of Defense, and then, you know, it would be my decision as to whether, you know, these training exercises would continue with our assistance. Or, if so, what measures would be put in place to as much as something like that can be guaranteed that an issue like that wouldn't happen again.

Q And can you help us understand why if it is a DOD training exercise, why was the Boston Division agents, why were they the ones detaining the individual?

A Simply just because of their being counterintelligence agents, their level of expertise in terms of various lines of questioning or mock scenarios, you know, in a potentially adverse environment. They would bring that to the table.

Q And have any additional DOD FBI training exercises taken place within the Boston Division's area of responsibility since then?

A To my knowledge, no.

Q I want to talk to you a little bit about the Attorney General's October 4th, 2021, school board memorandum. Are you familiar with that?

A I am.

Q And when did you learn about the Attorney General's October 4th, 2021, memorandum?

A I can't give you an exact timeframe, but it had to have been right in or around when it was released.

Q And were you involved in any conversations or correspondence that related to how the FBI could help address alleged threats or violation at school board meetings?

A I'm sorry. Can you repeat that?

Q Yeah. Were you involved in any conversations or correspondence with the Department of Justice or within the FBI on how could the FBI help out on this?

A So, after that memo was brought to my attention as well as to the United States Attorneys in my area of responsibility -- and because we cover four States, it's four U.S. attorneys -- and so, when that memo came out, we got -- we -- I spoke to each one of the four United States Attorneys directly, and there was a very immediate mutual agreement that, barring, you know, as we would in any case, barring a direct threat or use of force, you know, by someone, you know, who was operating in the environment of a school board, there was nothing beyond us talking about it and just raising a level of awareness that this memo was out there, that we would act upon. So, ultimately, no FBI Boston special agents nor any members of the United States Attorney's Offices engaged in any manner with any school boards in our area of responsibility.

Q And, in the memorandum, the Attorney General mentioned a disturbing spike in harassments, intimidation, and threats of violence against school boards and staff and employees. Were you seeing that within your area of responsibility?

A To my knowledge, no.

Q Did the Boston Field Office do any sort of assessment for threats against school staff or school board officials?

A To my knowledge, I just can't recall if one was done. I don't recall seeing one.

Q Okay.

[redacted] I'd like to offer a November 1st, 2021, letter from U.S. Attorney Nathaniel Mendell, I believe his name is, as exhibit No. 2.

[Bonavolonta Exhibit No. 2

Was marked for identification.]

BY [redacted]

Q And, in this letter, it describes how meetings took place between the U.S. Attorney's Office and the Fusion Center, local law enforcement. I presume the FBI was involved. Is that correct?

A Correct.

Q And the third paragraph of the letter, it says, quote: During these meetings, representatives from the Fusion Center in the two statewide law enforcement associations stated that there are no known incidents of threats to school staff in the Commonwealth of Massachusetts. This report is consistent with the FBI's Boston Field Office assessment on school threats to staff in the district. Did I read that correctly?

A Yes.

Q And do you know who would have conducted this assessment out of the Boston Field Office?

A So it -- now, what I'm just unsure of is whether his use of the terminology "the FBI Boston Field Office's assessment on school threats" was more just something that was verbally relayed to him and that we were just not in receipt of any known threats to school boards, or if there was, in fact, a written assessment. I just don't know. But, if there was an assessment that was written or provided, it would have been through our Intelligence Branch.

Q Okay.

[redacted] Time's up.

[redacted] Yea. Thank you. We're at our time. Off the record.

[Recess.]

[11:16 a.m.]

[redacted] It is 11:16 in the morning, and we can go back on the record.

[redacted] Before we get started, I'm sorry, there is one item from the last session that the witness just wanted to clarify in terms of communications with social media companies from the field office perspective.

Mr. Bonavolonta. Yeah, so it wasn't on my mind until we ended our session, but I just want to be completely accurate with my responses in that, we do -- "we" meaning FBI Boston -- we do, on occasion, receive leads from various social media companies and platforms who -- who provide what they deem to be potential threat-to-life information through our National Threat Operations Center. And then it gets forwarded, like, to our division as well as other field offices.

For instance, if there was a -- to give an example of a real-life situation that occurred, is, you know, we could be forwarded a one- or two-line report from a social media company that says, There is this individual who, you know, we can identify who has expressed their desire to go out with a gun and kill a bunch of people.

You know, obviously, those are threats and tips that emanate from social media companies that we then have to follow up on, as far as threats to life or anything along those lines.

[redacted] Okay.

Mr. Bonavolonta. Those do come in.

[redacted] Okay.

[redacted] Thank you for that clarification. And thank you again for taking the time out of your schedule to come down here today.

BY [redacted]

Q I want to go back to something you said earlier, a term you used, and get a little more clarity on it. You made a reference to routine dialogue with headquarters. What does "dialogue" mean?

A Well, it can mean, from somebody in my position, it could mean a number of different things. We would have to get more specific on that, but it just, you know, it would just have to be that, you know, if headquarters was asking something of us or if we were asking something of headquarters, every once in a while, it will elevate to my level where I'm the one that would need to work it out and resolve the issue. But it happens. It's just a routine part of the job across all programs.

Q Right. And so that's standard, right, like that's part of how the process works?

A Correct.

Q And in general, would you say headquarters is receptive to feedback from you?

A Yes. I can't recall a time, you know, when I had articulated the facts on a certain issue the right way where they haven't really supported what I've wanted to do or how I felt something needed to be done.

Q Okay. So this is the process working kind of as it's designed --

A Yes.

Q -- would you agree with that?

I want to turn back to the questions that you had earlier about the Bank of America list if we could. You referenced the Office of Private Sector. What is the Office of Private Sector?

A So it's -- it's an entity that's operated and managed out of our headquarters here in Washington, D.C. that is really responsible for overall, like on an enterprise or a

national level, engagement with private sector across a number of different programs, you know, like such as, whether it be cyber, criminal, counterintelligence, things along those lines.

So I mean, the best way I could describe it is just overall proactive outreach to members of the private sector.

Q And it's not unusual for members of the private sector to send information to the Private Sector Office, right?

A To my -- really, that's just not something that I have a high-level awareness in terms of the volume of information that comes in. I just can't speak to that.

Q Okay. But to your knowledge, the Office of Private Sector never requested anything from Bank of America, it was proactively provided by the Bank of America?

A Correct.

Q Okay. But you don't have any personal knowledge of that, it's just based on your understanding of what was told to you?

A Well, no, my understanding of what was actually written in that one lead.

Q Okay. It said in the lead that Bank of America provided this to --

A Yes.

Q -- and that the FBI had not -- and then you inferred from that that the FBI had not requested that?

A Correct.

Q Okay. You referred to it as an information-only lead. What does that mean, what does "information only" mean?

A So "information only" really means just that, that whichever entity is sending that lead up to the field office, is providing the field office information on whatever it may pertain to, but for action deemed appropriate.

Q Okay. And it's to your discretion as the office, and ultimately as the SAC, to decide what's appropriate?

A Yes.

Q Okay. So it's not like, here's this lead, you must do this, you must take an action on it?

A Correct. There are leads like that, but this was not one of them.

Q Those leads that are like that, what are they called?

A Well, those are just action leads.

Q Okay. So there's an action lead and there's an information-only lead?

A Yes.

Q And this was an information only lead?

A Correct.

Q Okay. Are you familiar with warrant requirements generally?

A With?

Q What's required when a warrant is required, to seek to obtain information.

A Yes.

Q Okay. So a third party, like the Bank of America, if they are producing information kind of sua sponte, of their own accord, information from their own files, do they need a warrant to do that?

A I don't believe they do, but once again, I'm not an attorney, so I just --

Q Okay.

A -- I just want to be careful that I'm not espousing something that, you know, I'm not as informed on.

Q Understand. Understand.

You said you brought the information to the assistant director of the

Counterterrorism Division, Jill Sanborn, and can you say again what her reaction was?

A Well, she was -- she was thankful that SAC Sean Cox and I had brought that to her attention when we brought that to her attention. She was not aware of that lead and said that she would inquire within. And -- and that was it.

Q Okay. And after you brought it to her attention, there was no -- nobody came back to you and said, you need to take any action on this?

A No.

Q Okay. And to your knowledge, did anybody go to the special agent in charge of Springfield -- I'm sorry, I think you told us his name, I can't remember it --

A Sean Cox.

Q -- did anybody go to Mr. Cox and tell him he had to take any action on that lead?

A Not that I'm aware of.

Q Okay. And there was no -- you said you told her, you told Ms. Sanborn that you weren't planning to do anything with the information-only lead, and there was no kind of punitive action taken against you or anyone in Boston when you said that, right?

A No, there was not.

Q Okay. So she was receptive to that?

A Yes.

Q Are you familiar with the term "domestic violent extremism"?

A I am.

Q And that's sometimes abbreviated as DVE, correct?

A Correct.

Q Okay. So for the duration of this interview, I am going to refer to it as DVE. You understand that?

A Sure, yeah.

Q Are you familiar with how the FBI defines DVE?

A Loosely, yes. I don't know if I can recite for you the exact definition, but I know what it is, yes.

Q Can you describe your understanding of it?

A Sure. So my understanding of it is that, well, in order for us to even predicate or open up a domestic violent extremism case, there needs to be three basic prongs that we can -- that we can articulate. And really, what it is, is that, it's an individual who is alleged to have committed a Federal crime, who has either threatened the use of force or violence, or committed force or violence, pertaining to a certain kind of ideology. So those three tenets are what we need in order to actually predicate a case.

Q So you can't predicate -- the ideology piece standing alone is not enough predication, right?

A No.

Q And you need to have the additional either actually committed a crime or a threat of a crime?

A Yes.

Q Okay. Are you familiar with the definition -- are you familiar with the term "domestic terrorism"?

A Yes.

Q And that's sometimes abbreviated as DT, right?

A Right.

Q So for the duration of this interview, I might use the initials DT instead of domestic terrorism --

A Okay.

Q -- you'll understand that?

A Yes.

Q Okay. Are you familiar with the statutory definition of DT?

A I am not.

Q Okay.

A Not offhand.

Q Can you -- what's your understanding of when a case would qualify as domestic terrorism?

A Well, just more really the best way that I would delineate it, is more -- compared to -- we have international terrorism and domestic terrorism. And the difference -- they're both, the common denominator with both is that there needs to be some kind of, like, threat or use of force or violence.

On the international terrorism side, it's through the jihadist ideology, something related to that, and on the domestic side, it's somebody who's threatening the use of force or violence related to some kind of, you know, a connection or ideology, you know, within the United States.

Q Okay. And again the threat of violence or use of violence?

A Yes.

Q You're familiar with the events of January 6, 2021?

A I am.

Q Okay. Do you believe the events of January 6th were acts of domestic terrorism?

A Well, you're asking my opinion of -- I can only go by -- I can only go by the nature of the cases that we've had and the arrests that we've made on individuals there

that committed crimes.

Q Okay.

A Yeah.

Q And I think you went through this earlier, but the FBI's Boston Field Office covers the States of Maine, Massachusetts, New Hampshire, and Rhode Island, right?

A Right.

Q Okay. Do you know how many individuals from these States in total have been charged in relation to January 6th?

A Approximately, I think we're up to about 24 or so that have been arrested on charges related to January 6th.

Q Okay. And you mentioned earlier the resources involved with that. You said it was really kind of minimal in relation to the overall number of agents in Boston, correct?

A Correct.

Q Okay. For those 24 or so cases, can you describe the predication level required to open a preliminary investigation into cases like that?

A Well, once again, this was unique in that there were -- there was information in evidence that was being sent up to us, you know, from Washington, D.C., and so, if -- really, it was more just a -- a ready-made package with evidence in it indicative of an individual who had committed a Federal crime down there.

Q Okay.

A On January 6th.

Q But to your knowledge, there was sufficient predication --

A Yes.

Q -- for each one of these?

A Yes.

Q You had no reason to believe there was not?

A No.

Q And how, as a special agent in charge, how would you go about making sure there was sufficient predication?

A Well, it would primarily, it would be the assessment of not only my team that would handle those investigations, but also in coordination with the relevant United States Attorney's Office that would be up in our area of responsibility that would also, they would be working on their parallel track with the United States Attorney's Office from D.C.

Q Okay. And we discussed earlier the situation with the hundred-and-some individuals on the buses. In that instance, I just want to -- I think this was fairly clear earlier, but I just want to have this down to brass tacks -- that, you know, your line supervisor had concerns that there wasn't sufficient evidence to meet the requirements, right?

A Right.

Q And in that case, they said that, and within 24 hours, the Washington Field Office provided additional information. Is that a fair assessment?

A Yes. I can't say whether it was within 24 hours. I'm just not aware of that. I can't recall the timeline, but eventually, yes, they did send up additional information.

Q Do you think it was, like, more than a week that it took, or do you think it was a fairly concise timeline?

A I just don't recall.

Q Okay. But there was no -- and you said it was a limited number of people

that ultimately were interviewed based on that?

A Yes.

Q And is an interview, would that be part of a preliminary investigation or a full investigation?

A It could be an assessment or a preliminary investigation.

Q Okay. And -- okay. So the -- sorry, I'm going to move on. Thank you. You waited until you had sufficient predication to take any steps?

A Yes.

Q And there was no push from Washington Field Office to take any steps that you weren't comfortable taking as, you know, you had authority as in your role as head of the Boston Field Office, and your line agents had authority to take the steps that they deemed appropriate?

A Yes.

Q And they weren't pushed to do anything they weren't -- they didn't deem appropriate?

A No.

Q Okay. Going back to the resource question, are you familiar with Operation Varsity Blues?

A Yes.

Q Can you describe your role in this investigation?

A Sure. So once again, I mean, I was obviously the special agent in charge, you know, ultimately overseeing that entire investigation, and that was the college admissions scandal case.

Q And so when you say you oversaw it, did you oversee the case agents working on that matter?

A Technically, yes, but once again the day-to-day case-related investigative activities were not something that I would be involved in.

Q How many individuals were charged in that investigation if you know?

A Approximately in or around 60.

Q Okay. And have most of them been convicted?

A Yes. Convicted by either guilty plea or at trial, yes.

Q Okay. Can you describe the resources that the Boston Field Office devoted to that investigation?

A A significant amount of resources. I mean, very large case, large number of subjects. It was a very large portion of that investigative squad was tasked with investigating that case.

And then, of course, once a case like that reaches the arrest phase, just because of the sheer volume, scope, and number of individuals, it would be a large number of resources at least devoted on that day.

Q Okay. And so, it was a pretty big undertaking, right?

A Yes.

Q So by contrast, you said the FBI Boston Field Office has charged about 24 people from your -- from your territory in connection with January 6th, right?

A Correct.

Q So would you say there were more resources devoted to Operation Varsity Blues than to the January 6th-related investigations?

A I mean, overall, yes.

Q Okay. On the question about resources devoted to the January 6th, were you ever prevented from pursuing other, for example, terrorism-related investigations because of January 6th investigations?

A No.

Q Were you ever prevented from pursuing other violent crime-related matters because of the resources being devoted to January 6th?

A No.

Q Okay. Did anyone at headquarters ever pressure you to redirect resources to the January 6th investigations?

A No.

Q Did anybody at the Washington Field Office ever pressure you to redirect resources to focus on the January 6th investigations?

A No.

Q Okay. And I want to look at trends in domestic terrorism, writ large. Do you consider domestic terrorism to be a serious threat to our national security?

A Yes.

Q Can you explain why?

A Sure. I mean, anytime there's an activity on behalf of an individual or group of individuals that are looking to plan or carry out acts of violence or other Federal crimes is, you know, is a danger to our national security the same way that on the international terrorism side home-grown violent extremists are a danger to our national security as well.

Q And I want to introduce, as exhibit 3, an article from The Providence Journal which was published on July 7, 2019. It's entitled, "It's not a job, it's a career, it's a way of life." And I'll give you a minute to look it over.

[Bonavolonta Exhibit No. 3.

Was marked for identification.]

BY [redacted]

Q Go ahead.

A I'm just going to go on record as saying, I felt I was wearing a very appropriate suit and tie. I remember that comment there, but anyways, so.

Q Oh, because of the "unflashy suit and tie"?

A Yes, yeah.

Q That's funny.

Do you remember participating in the interview described in this article?

A I do, yes.

Q Okay. On page 2, in response to the first question on the page, the article quotes you as saying -- you're asked about issues specific to Rhode Island. You say, we have robust work within Rhode Island in both of these threats. Counterterrorism, there's really three main threats under that umbrella -- anybody who could be inspired by and committing acts of violence in the name of ISIS.

It goes on, Beyond the ISIS threats, the two main threats we're really focusing on are home-grown violent extremists and the domestic terrorism threat. We've seen a significant amount of that in the last year or so alone.

Do you remember saying that?

A I do.

Q Okay. So as early as 2019, you were seeing an uptick in domestic terrorism threats, correct?

A Correct.

Q And that was based on your experience in the field?

A Yes.

Q And so I think, you know, there's been some discussion about recent increases in domestic terrorism threats, but that was actually, you saw it happening even

as early as 2019?

A Yes.

Q And potentially even before that?

A Yes.

Q A couple of quick questions on the China initiative that came up earlier. I think [redacted] talked you through China -- you still consider China to be a serious threat, right?

A Yes.

Q And has there been any -- and you were at the Boston Field Office during the China initiative, and you've been there throughout since the time it was ended, right?

A Yes.

Q Has there been any change in your focus on China in that time?

A No. It's only -- it's -- I've progressively devoted more resources to it.

Q Okay. Would you say you've devoted more resources since 2021, for example?

A Yes.

Q Okay. And in fact, I think earlier when you were told that the China initiative had ended, you seemed -- did you know that the China initiative had been ended?

A By me, I can only -- it's only what I've seen or read in media reports. But just in terms of the way that I've developed, and my team have developed, the strategies with respect to combating the Chinese Communist Government's activities, no, we've devoted full and ample resources to it.

Q And has FBI Headquarters supported you in that?

A Very much, yes.

Q And can you say any more about that?

A I'm sorry?

Q Can you say anything more about that?

A Well, as was brought up in the previous interview, we've, over the last several years, we've had some very high profile and substantive China-related cases that we've brought up in FBI Boston.

So it's been those kinds of cases require a significant amount of support from program management at headquarters, you know, funding, resources, you know, approvals for various operational activities that we were planning, so things along those lines.

Q Okay. And you said you've been devoting increased resources to dealing with the threat from China. Has anybody at Main Justice, DOJ Main Justice, ever told you to stop devoting those resources?

A No.

Q And nobody at FBI Headquarters has told you that?

A No.

Q Okay. Moving on, we talked a little bit earlier about the definitions of DVE and DT. Have you ever been encouraged or incentivized to reclassify cases as acts of DT?

A I have not.

Q Did you ever encourage or incentivize your subordinates to reclassify cases as DT?

A No.

Q Do you know if Jill Sanborn ever encouraged or incentivized FBI employees to reclassify cases as DT?

A I am not aware that she ever did that with anybody else, but I know she never did that with me.

Q Okay. What about DVE, were you ever encouraged or incentivized to reclassify cases as incidents of DVE?

A No.

Q Did you ever encourage or incentivize your subordinates to reclassify cases as incidents of DVE?

A No.

Q And do you know if Jill Sanborn ever encouraged or incentivized FBI employees to reclassify incidents as -- I'm sorry -- reclassify cases as incidents of DVE?

A No.

Q Okay. As the special agent in charge, are you eligible for a monetary bonus?

A Yes.

Q To your knowledge, is this bonus dependent on the number of DT cases that the Boston Field Office investigates?

A No.

Q Okay. Is the bonus directly tied to metrics like case numbers, to your knowledge?

A No. There's various metrics that go into it, but really, what it boils down to is just overall -- overall performance of the office across the myriad threats that we're charged with mitigating, and that we prioritize each year.

Q Okay. Do you recall ever discussing your bonus structure with your subordinates?

A No.

Q Okay. It's not something that, like office chatter you would talk about? I got to make my bonus this year or something like that?

A No, no.

Q With respect to case numbers, we've heard testimony suggesting that case numbers are actually not a great -- case numbers standing alone are not a great metric of measuring office performance, first, because they're just allegations until they're actually proven, and second, because the number of cases doesn't represent the size of the threat.

So, for example, there might be one case agent working 20 bank robberies, but it might take one case agent -- might have just one international terrorism matter, and that might be all that occupies their time. Do you agree with that assessment?

A Yes.

Q Okay. So the number of cases opened isn't really indicative of the size of the threat that an issue poses. Is that fair?

A No. It's much more geared toward the impact that the office is having against those threats.

Q And on that note, I want to turn to the threat review and prioritization process. Are you familiar with the threat review and prioritization process?

A Yes.

Q And this is sometimes referred to as the TRP process, right?

A Right.

Q Okay. So for the duration of this interview, I'm going to refer to it as the TRP process. You understand that?

A Yes.

Q Okay. As the special agent in charge of the FBI's Boston Field Office, are

you involved in the TRP process?

A Yes.

Q And can you describe your role?

A Sure. So we do it on an annual basis, and the way I run it up in Boston, it's very -- you know, I bring in, you know, several stakeholders from both the operational side and the intelligence branch side to work, you know, together to make sure that the assessments are all uniform in terms of which, you know, for that given year, what are we seeing in terms of trends, what are we seeing in terms of the major threats across all programs that we need to devote the most time, attention, and resources to.

And it's a very -- it's a robust, significant process that we usually run around the summertime in preparation for the upcoming fiscal year, you know, in that upcoming October. So overall, I ultimately, you know, make the final decisions in terms of how we're prioritizing the threats each year.

Q And can we talk with just a little more granularity. The TRP process, it relies on intelligence, right?

A Yes. Well, it relies on -- the way I, once again, I run it up in Boston, is, intelligence informing operations, but you can't have one without the other. Both components have to be operating together to develop a substantive strategy.

Q In your opinion, is the TRP process a reliable way to determine how to prioritize threats?

A Yes.

Q And can you say anything more about that?

A Well, it just -- it enables us, once again, to make sure that we're not missing something significant that's happening, in my case, in Boston's area of responsibility. And by having all of the intelligence analysts representatives, as well as the supervisors of

all of the operational squads coming in together and having these discussions about all the threats across all programs, it gives me confidence that we're not, you know, taking our eye off the ball on a significant threat.

Q Okay. Are you familiar with the Field Office Strategic Plan?

A Yes.

Q And this is sometimes referred to as the FOS plan? Is that right?

A Or the FOSP.

Q The FOSP.

A Yes.

Q The FOSP.

How does the TRP process impact the FOSP?

A Well, the TRP is really the overarching umbrella, if you will, that -- the end product or the final result is the FOSP.

Q Okay. So it starts with the TRP and then it --

A Yes.

Q -- ends with the FOSP?

Okay. Are you familiar with the term "field office health measures"?

A Yes.

Q What does that term refer to?

A So those are -- those are more metrics-related measures that, you know, every field office has, both on the administrative side, as well as on the operational side. It's used in conjunction with qualitative impact information that all comes together, and is used to formulate a field office's end-of-year ratings across all different programs.

Q Okay. But it's separate and distinct from the TRP process and the FOSP, right?

A It's -- well, no, it's actually part of that process in terms of every field office -- every field office needs to come up with certain measures that they feel comfortable that they will be able to attain --

Q Okay.

A -- you know -- you know.

Q Understood.

Are you familiar with the FBI's National Threat Operations Center?

A Yes.

Q It's sometimes referred to as the NTOC, right?

A Yes.

Q Could you broadly explain what the NTOC does?

A Sure. The NTOC is an entity that's operated out of our CJIS facility in Clarksburg, West Virginia, and it's the mechanism with which various kinds of threat-related information, or tips, whether it be from social media companies or just public, you know, citizens, you know, who think there may be -- you know, the ones that get to us quickly are ones where there might be an alleged threat to life, or a threat of violence against somebody or people, along those lines.

Q In your experience, is the NTOC useful for the FBI Boston Field Office?

A Yes.

Q And does it help you, for example, prevent crimes?

A It has before, yes.

Q Can you describe any incidents?

A So there was one in particular up in Maine where a threat that came through NTOC, and it was very ambiguous. It was just a threat directed, you know, that an individual was going to go carry out an act of violence against a member of a specific, you

know, religious faith community.

And our team up there acted on it immediately, and it actually turned into the identification and the arrest of an individual.

Q And sorry, I should've clarified this earlier, but the NTOC -- we've been saying NTOC. That's kind of a term of art for FBI, but the public might know it as 1-800-CALL-FBI, right? Like, that's the hotline associated with NTOC?

A Yes.

Q Okay. And the website is tips.FBI.gov, right?

A Correct.

Q And in your experience, does the FBI try to make it pretty widely known that citizens can reach out to both 1-800-CALL-FBI and tips.FBI.gov to relay information to the FBI?

A Yes.

Q So the Bureau, for example, regularly includes that information in press releases about --

A Yes.

Q -- or in its tweets, for example?

A Yes.

Q Okay. Why is it important for the public to know about these resources?

A Well, so they have a mechanism with which to report alleged crimes so we can act upon them.

Q Okay. I want to introduce -- actually, are you familiar with the recent case in Texas in which an individual murdered four adults and a child?

A I'm familiar with it from media reports.

Q Okay.

A Yeah.

Q I just want to introduce for the record, it's going to be exhibit 4, a tweet from the FBI's Houston field office dated May 2, 2023. It's timestamped 3:40 p.m. And I know you might not be personally familiar with this, but --

[Bonavolonta Exhibit No. 4.

Was marked for identification.]

BY [redacted]

Q So this tweet reads, "digital billboards courtesy of @CCOutdoorNA are now on display across the Houston area reminding drivers there's an $80,000 reward for suspect Francisco Oropesa. Call 1-800-CALL-FBI with any tips big or small. Please retweet."

Did I read that correctly?

A Yes.

Q Okay. And then the tweet immediately following it says, similar billboards will soon be up across the State.

So this is an example from just 3 days -- 2 days ago, of the FBI encouraging people to call the tip line, right?

A Right.

Q And based on your experience, why do you think that the FBI's Houston office would've put the 1-800-CALL-FBI number out there this way?

A Well, as a significant resource multiplier for a couple of reasons, a public safety issue in that an incredibly, you know, violent individual is still out there on the run at the time; and also to solicit, you know, tips in terms of a way to locate him and conduct an arrest.

Q Thank you.

And I want to introduce, as exhibit 5, a May 3, 2023 CNN article. So this is entitled, "Texas massacre suspect is arrested after a tip to the FBI, ending days' long manhunt, officials say."

[Bonavolonta Exhibit No. 5.

Was marked for identification.]

BY [redacted]

Q Have you seen this article before?

A Not this article.

Q Okay. I can give you a second to look through it if you like.

A Okay.

Q Okay. So this article reports on the arrest of Mr. Oropesa, correct?

A Correct.

Q And in the middle of the second page, we've highlighted two paragraphs. Those paragraphs read, "A tip submitted through the FBI's tip line ultimately led authorities to the suspect's location, Assistant Special Agent in Charge Jimmy Paul said. Paul said the tip came in at 5:15 p.m. local time, and Oropesa was arrested at 6:30 p.m. He said, We just want to thank the person who had the courage and bravery to call in the suspect's location, he said."

So this is an example of the tip line providing information that enabled law enforcement to apprehend a suspect in really under 2 hours, right?

A Yes.

Q So the tweet went up at 3:40 p.m. -- presumably the billboards were up a little bit in advance of that -- but later that day, the tip was called in at 5:15 p.m., and within an hour and a half, they made the arrest, right?

A Right.

Q So this is an example of the value of the FBI tip line, right?

A Yes.

Q Some people have referred to the FBI tip line as a snitch line. Have you heard that reference?

A No, I have not.

Q What's your reaction to that?

A Well, I mean, we're -- that's what we -- we're supposed to investigative alleged crimes, and, you know, citizens, you know, citizens calling in, you know, having been witness to or having had knowledge of alleged crimes, I would view as the -- as a, you know, just simply the right thing to do.

Q Do you think the term "snitch line" has a negative connotation?

A I do.

Q Do you think it could potentially kill citizens and prevent them from calling the FBI?

A If that was something that was put out publicly, possibly.

Q Okay. So -- and presumably that could make it harder for you as the SAC of the Boston Field Office to have your agents apprehend suspects, right?

A It could.

Q And it could make it harder to prevent crimes from happening too, right?

A It could.

Q Okay. I want to move on.

Are you familiar with something referred to as threat tags?

A Yes.

Q What does the term "threat tag" mean?

A Once again, I'm not, you know, I'm not as well versed in the actual definition

of them, but generally, what a threat tag was instituted to do was just to -- was to serve as a mechanism to track the way -- to track the way certain cases were opened along the lines of certain programs that we're charged with investigating, so that if at any time there needed to be data run or a data call to aggregate information for a variety of reasons, then we would be able to have access to that data.

Q So it was -- so it's primarily used to gather data? Is that a fair -- or gather statistics? Is that a fair --

A Yes.

Q -- description?

A Yes.

Q Okay. And are threat tags applied to cases? Are they applied to people? In other words, would you apply a -- like, would you say, this person is a threat, or was it, this case is tagged under this threat tag for statistical purposes?

A So to my knowledge, it would really be more program, like threat-based.

Q Okay. So it would be applied to the case?

A Yes.

Q Okay. Who actually applies the threat tags to a matter? Would that be a case agent?

A It could be a combination of a case agent, an operational support technician or like an intelligence analyst, you know, somebody who would have access to the opening -- or have access to the administrative functions of a case.

Q And do threat tags drive any operational decisions in a matter?

A Not -- it has not for me.

Q Okay. So for example, applying a threat tag to a case doesn't impact the level of predication required to open a preliminary investigation?

A No, not in any way.

Q Okay. And it wouldn't then, applying a threat tag to a case wouldn't impact the investigative steps that could be taken in a case, right?

A No.

Q We talked a little bit earlier about Jill Sanborn, and I think you -- she was -- you said you had some interaction with her, not often, but some interaction?

A Yes.

Q What was your opinion of Ms. Sanborn as a manager?

A Well, I mean, always -- always positive in terms of the interactions that I had with her. She was -- I mean, if I ever needed a resource or needed something from her or support from something. And then -- and then, you know, obviously, in my role as the co-chair and the chair of the SAC Advisory Committee, if there was ever any interaction that I needed to have in that capacity, there were never any -- any issues.

Q In your experience with her, was she competent at her job?

A Yes.

Q Did you have any doubts about her abilities?

A No.

Q Okay. In your opinion, was she kind of widely respected at the FBI?

A As far as I knew and from what I had heard from others, yes.

Q Okay. As the SAC of the Boston Field Office, how often do you interact with the Washington Field Office?

A Minimally.

Q Okay. How would you describe the relationship between the Boston Field Office and the Washington Field Office? Is it cordial?

A I'm sorry? Between the Boston and the Washington Field Office?

Q Yes.

A Overall, yes.

Q Okay. Has the Washington Field Office ever pressured or kind of forced the Boston Field Office to take any investigative steps with which the Boston Field Office disagreed?

A To my knowledge, no.

Q Okay. And you said to your knowledge. And if that had happened, it probably would've risen up to your level, right?

A Well, unless -- unless it was resolved below my level, then there's a chance it would not have been raised to me. But if it would've continued, then, yes, it would've been raised to my level.

Q Okay. And to your knowledge, it never -- nothing ever rose to your level?

A No.

Q Okay. Are you familiar with an incident that took place in August 2022 in which a bomb threat was called into Boston Children's Hospital?

A Yes.

Q Could you describe the circumstances around that?

A Well, that is -- that's very much still an active and ongoing investigation, so I'm not sure what I can say in this forum.

[redacted] What's the specific question?

[redacted] I was going to -- you know, we can introduce the indictment and go with the actual -- or go with the affidavit and actually talk about what's been public, if that helps.

Mr. Bonavolonta. Sure.

BY [redacted]

Q Okay. I want to introduce, as exhibit 6, the FBI affidavit accompanying complaint -- criminal complaint in this case. It's -- the case is United States v. Catherine -- I think it's Levy?

A Yes.

[Bonavolonta Exhibit No. 6.

Was marked for identification.]

BY [redacted]

Q And you said this is still an ongoing case. So this individual has not yet been -- this has not yet gone to trial? The individual has not yet pled?

A The case is not fully adjudicated yet.

Q Fully adjudicated.

A Correct.

Q Technical term.

A Yeah.

Q Thank you.

So are you familiar with -- there is a special agent's name on here -- are you familiar with this special agent?

A Brian Gutierrez, yes.

Q And he works at the Boston Field Office, right?

A Yes.

Q Okay. Paragraph 8 of this, it's on the bottom of page 2, on the top of page 3. It reads, "Beginning in August 2022, BCH" -- which I believe refers to Boston Children's Hospital -- "was subjected to a sustained harassment campaign based on the dissemination of information online regarding the services offered by GeMS. Specifically" -- it goes into the allegations, and then it says, "the conduct has included

harassing phone calls and emails, including violent and death threats and threats of mass casualty attacks at BCH.

Is that consistent with as much as what is public regarding this case?

A Yes.

Q And is it accurate that there was an online campaign that contributed to the Boston Children's Hospital being targeted with threats of violence?

A Correct, yes.

Q Okay. Again, realizing that this is still an active matter, can you talk broadly about, this refers to a number of violent and death threats and threats of mass casualty attacks. Can you estimate the number of threats that have been targeted towards this hospital?

A Offhand, I can't, but there's been numerous threats.

Q Okay. Do you think it's more than 10?

A I just, I really don't know the number.

Q Okay. Can you speak to the impact that these threats have had on the hospital?

A Yes. Well, whenever threats of this nature come in, especially to an entity like Boston Children's Hospital, there's processes and procedures that they, meaning the hospital, enact just to ensure that there's going to be no harm to any of the patients or the staff there.

So in some cases, you know, they may have to evacuate certain parts of the hospital or relocate individuals from one part to another, or at a minimum, you know, send warnings out within the hospital that, you know, there's a threat and things along those lines. So it's very -- you know, at the least, it's incredibly disruptive to the operation of the hospital.

Q And do you think that could impact the patients' ability to access care at that hospital if it's a locking-down part of the hospital?

A Potentially.

Q And these patients, of course, are children, right --

A Yes.

Q -- because it's Boston Children's Hospital?

Do you know if children have been diverted to other hospitals because of the threats generated by this online harassment campaign?

A So in this particular instance, I don't recall.

Q Okay. When a threat like this -- you said there's been many, there's been multiple violent threats, multiple death threats directly towards the hospital. The Boston Field Office has to investigate each one of those threats, right?

A Yes.

Q So does that divert your law enforcement officers from other matters that they could be working on?

A Well, we have -- remember, we actually have squads that these kinds of threats or these kinds of activities would fall under that squad, so it's really what they do. It falls under the auspice of what those particular squads would investigate or the types of crimes they would conduct investigations on.

[redacted] Okay. I think we -- it's noon. We can go off the record.

[Discussion off the record.

[redacted] It is 12:07 p.m. We'll go back on the record.

BY [redacted]

Q I just want to go back to the October 4th Attorney General's memo. I believe you told us earlier that you didn't have any involvement -- the Boston Field Office

didn't have any involvement in supplying data points for that memo?

A Yes. You know, but after having reviewed this, it refers in that memo to an assessment. But once again, like I said before, I just can't recall whether there was an assessment that was done on it because of the memo, or simply it was a verbal briefing that was provided. That I just can't recall.

Q But before the memo came out, did the Boston Field Office have any role in providing input for the AG's office?

A Not to my knowledge.

Q And to your knowledge, I believe you told us that there hadn't been an uptick, to your awareness, in threats to individuals at school board meetings?

A Correct.

Q Part of a concern that our members have advanced with the October 4th memo is that it seems like a political operation, right? The National School Boards Association worked at the White House. The School Boards Association official googled a bunch of incidents connected with the White House.

This letter, I believe, went September 29th. You know, 5 days later, if my math's right, is that 5 days -- 5 days later the Attorney General promulgates a memo. And it doesn't seem to us, we haven't been able to find any evidence that before the AG's memo went out, the AG or the Department did outreach on their own to make an assessment of whether what the NSBA was raising in their letter was, in fact, a concern.

And so we ask you about that, if you were aware of any outreach by the Attorney General, by the Justice Department, in advance of the October 4th memo.

A So I was not aware of any prior outreach.

Q Okay. Does it concern you that such a memo was promulgated, and, you know, perhaps it was just a political operation?

A Well, once again, that would be injecting an opinion, and as you can -- hopefully as you can see and tell is, that is just not the way that I operate in the work environment.

And so, the way I would answer that question would be, we can review the way it was handled by me in terms of the interaction I had with the U.S. attorneys and the ultimate resolution to how it was handled.

Q But to the extent you, in fact, may have handled this appropriately, but not every other, you know, FBI office out in the country, you know, not every office acted the way you did. And if they get this memo and they start pointing their law enforcement resources in the various regions to a threat that doesn't really exist, I mean, isn't that a problem?

A Well, once again, I don't -- I really am not aware of what other field offices did or how they acted toward it. All I can really speak to is how we handled it and if -- and just to summarize it again very succinctly is that, if there was -- if we were not going to be in receipt of any kind of a specific threat related to a school-board meeting, then we were not going to be engaged with school boards.

Q Okay. Do you recall any communications with headquarters on the topic of the memo?

A It may have been mentioned during a, you know, like a weekly, we have the directors, civitas. You know, there's like video teleconferences that occur each week where the director and other members of headquarters will just kind of provide updates on that past week, the events of that week, to the SACs across the country.

Q Okay.

A And I -- I recall that the memo itself was mentioned during the civitas, but I just can't recall really much more than that other than that, just making us aware that this

memo was out there and that, you know, we would be engaging or handling this as we saw fit, you know, something very generic along those lines.

Q And the terminology "as we see fit," did you take that to mean that the director was de-emphasizing the importance of the memo?

A No. "As we see fit," that was the terminology that I just used here --

Q Okay.

A -- right now. That's not a quote or anything from the civitas. But, no, the indication that I received from that civitas was just simply, the memo was out, to ensure to review the memo and, you know, and engage appropriately with our U.S. attorneys counterparts because it had emanated from DOJ.

Q Okay. But you didn't feel like there was a request from headquarters to make this a priority to go look for school board-related issues?

A No.

Q Did you get a sense from headquarters, maybe on this video teleconference or some other communication, that the FBI was trying to distance themselves from the memo?

A No. I -- I did not -- I did not -- that's not the indication that I received. It was more just, you know, handle it, you know, appropriately, which is what I did.

Q Okay. In your experience, isn't it remarkable how quickly from the September 29th letter that NSBA wrote to the White House, how much time elapsed before the Attorney General put out his memo?

A I'm sorry?

Q About 5 days.

A Remarkable in --

Q How quick -- how quick the AG acted after this letter came from the School

Boards Association.

A Well, once again, I'm not privy -- I'm just not privy to the decisions that were made at that level or any information they may or may not have been privy to, to formulate the memo.

Q Okay.

A My engagement with this was simply, the memo was released, and I acted upon it appropriately.

Q In your experience though -- you know, you've been with the FBI for over 20 years -- if the September 29th letter was one of the only inputs the Attorney General considered before releasing the October 4th memo, in your experience, would that be a pretty thin record?

A Well, once again, I -- respectfully that seems to just be a little bit of a leading question that I'm not in a position to answer.

Q Okay. But you do acknowledge 5 days is quick?

A I answered the question.

Q Okay. I want to specifically turn back to something we spoke about in the first hour, and that is the bus trip. And I believe you told us that one of your -- one of the people in your office -- maybe it was an ASAC, and maybe you can refresh my memory -- flagged it for you and indicated that you might be hearing from Washington?

A Yes.

Q Okay. And do you remember who that was that flagged that for you?

A So it was really -- it was a combina- -- it was really in totality that same team that I referenced before, it was the --

Q Okay.

A -- the line, the squad -- the JTTF squad supervisor, the -- my chief division

counsel, and at the time, the ASAC of my Counterterrorism Branch.

Q Okay. And so I'm going to -- I'm going to read to you some testimony that we received from Mr. Hill --

A Okay.

Q -- only for the purpose of potentially refreshing your recollection, to see if it, you know, jogs your memory.

Mr. Hill testified -- and this is on page 81 of his transcript -- two individuals in Massachusetts organized buses to go down to the rally, and Boston opened up cases on those two individuals because we were shown definitive evidence from WFO of them entering restricted areas of the Capitol.

On to page 82 of the transcript, But those two individuals organized these buses, and there were 140 people on the buses, on the two buses. And WFO wanted us to open up a case on each and every one of those 140 individuals, to which the SSA in Boston said, They were going to a political rally, which is a First Amendment-protected activity, no, we're not starting cases on these people.

To which they said, meaning WFO, Well, we're going to call your SAC, or your S-A-C, and the SSA said, Go right ahead.

Does that vignette, was that briefed to you?

A So once again, the exact verbiage that came from George Hill there, like, I, that I can't recall if that's exactly how it went down. But, yes, the -- the -- when my team briefed me on that one issue, one of the things they did communicate to me was that because of that initial pushback about not wanting to immediately conduct blanket interviews of all of the 150-some-odd passengers, absent Sahady and Ianni, then, you know, that a comment was made by somebody either out of headquarters or WFO, I don't know which one, that your SAC may be getting a call.

Q Okay.

A But as we spoke about earlier, I never received any such call or outreach.

Q Okay. And do you know who in the WFO would've been making that type of statement?

A So it would have been somebody somewhat commensurate to the line supervisor up in Boston. I just don't know who.

Q Okay. Hill's testimony goes on, on page 82, Because when you're pushing back, you know, you want to make sure that you have your six covered -- I'm not sure what that means, but -- so the SAC and the ASAC were intimately aware of these kinds of exchanges that were going on. And again, to his credit, Joe Bonavolonta said, No, we're not opening up cases on people who went to a rally. And I forgot a key part, the SSA for CT2 said, happy to do it.

So SSA would be supervisory special agent?

A Yes.

Q For CT2, that's counterterrorism?

A Yes. One of the counterterrorism squads, yes.

Q So it would be an SSA for CT2. CT2 is just one of those. How many counterterrorism squads are there?

A So we have four.

Q Okay. So it would be the SSA for --

A So that's the -- so when I refer to the JTTF, or the Joint Terrorism Task Force squad, that's the squad.

Q Okay. I'm not going to ask you for the name on the record --

A Sure.

Q -- but do you know the name of the SSA for CT2 in this instance?

A Yes.

Q Okay. Getting back to what Hill testified to, And I forgot a key part, the SSA for CT2 said, Happy to do it. Show us where they were inside the Capitol, and we'll look into it.

Does that jive with your recollection?

A Not -- once again, just not the -- not the verbiage that's being used or the quotes that are being attributed, but in totality, as I've said before all along, the methodology used by the line supervisor to either headquarters or WFO was simply, if you have additional evidence or information that would -- that would justify us conducting interviews on certain individuals, then provide it to us, and we will do it.

Q Okay.

[redacted] Could I clarify one point? Between the testimony that you've read, which refers to open investigations on individuals -- versus what I believe you testified, is, your understanding of the ask was to conduct interviews?

Mr. Bonavolonta. Yes.

[redacted] Is that correct?

Mr. Bonavolonta. That is correct, yes.

[redacted] There is a difference.

Mr. Bonavolonta. Yeah, so there is a difference. We always start with the -- the lowest level of investigative activity, and so instead of going directly to opening up an investigation or a case, it might start with an assessment --

[redacted] Okay.

Mr. Bonavolonta. -- or something along those lines.

BY [redacted]

Q Okay. So the SSA for CT2 said, happy to do it, show us where they were

inside the Capitol, and we'll look into it?

To which WFO said, We can't show you those videos unless you can tell us the exact time and place those individuals were inside the Capitol.

To which the SSA responded back, And I was privy to these conversations firsthand. Why can't you show us, why can't you just send us, give us access to the 11,000 hours of video that's available.

Because -- and this is WFO then responding -- because there may be, there may be UCs, undercover officers, or CHSs, confidential human sources, on those videos, whose identity we need to protect.

Was that particular vignette briefed to you?

[12:22 p.m.]

Mr. Bonavolonta. Not to that level of specificity.

BY [redacted]

Q Okay. So you were not aware of WFO telling your -- your folks that they can't share a video because there might be confidential human sources or undercovers --

A So I was aware of just the way it was promulgated to me by my team is that there was a back and forth between them and WFO. And we were requesting additional information to see if we could, you know, if we in fact had enough of a predication to either go into an assessment or even to conduct interviews.

As far as the specific things the WFO was saying they had or did not have or could or could not provide us, that was not something that was communicated to me as directly.

Q Okay. So they didn't brief you on the fact that the reason they can't show video is because there was a concern by WFO that there was too many undercovers and too many confidential human sources on the footage?

A Not that I recall, no.

[redacted] And, sir, just so the record is clear, were you reading Mr. Hill's testimony just now, or was that, like, an exhibit or something from his testimony?

[redacted] I was reading his testimony.

[redacted] Okay.

[redacted] On pages 81 and 82.

[redacted] Okay.

Mr. Bonavolonta. One thing I would add to that just to be perfectly clear, and I am not sure of the exact timing, but I don't know at that time -- I am not certain whether George Hill was assigned in the National Security Program anymore within Boston.

He -- prior to his retirement, for quite a while prior to his retirement, he had been assigned up to our HIDTA Task Force as an analyst. So, you know, I am just uncertain as to how he would have that -- you know, that kind of direct access to what was going on at the time. I just don't -- that I am not sure of.

[redacted] Yeah, his testimony was that he was -- he heard it firsthand.

Mr. Bonavolonta. Okay.

BY [redacted]

Q Sticking with going back to the January 6th investigations, were you aware of calls that took place between the WFO and other offices across the country related to January 6th investigations?

A You mean like routine coordination calls?

Q Correct.

A Yes.

Q Do you know how often those occurred?

A No. I don't. I really can't say whether it was weekly or monthly. I just know they were routine enough where they were construed as coordination calls.

Q And are you aware that they may have been weekly at one point but then went to monthly or, you know, every day at some point? Do you think they -- the frequency with which they occurred differed?

A So I was not involved in any of those calls; I just can't say.

Q Were you on any of those calls?

A To my recollection, no.

Q Who from your office would have been on those calls?

A At any given time it would most likely have been the frontline supervisor, you know, the SSA, Supervisory Special Agent. Possibly at times the ASAC, you know,

and then maybe other components of our intelligence program, you know, maybe line level investigators could have listened in. But really the main point of contact for those kinds of calls would generally be the line level supervisor and then, on occasion, the ASAC.

Q And when you say the "SSA," would that have been the SSA of CT-2 (ph)?

A Yes.

Q But, as you say, you never took part in any of these calls?

A No.

Q Do you know who from, like, headquarters or WFO was on those calls?

A I don't.

BY [redacted]

Q Did you ever receive feedback from your team that these calls were taking up a good bit of time?

A No, I mean, nothing -- other than the fact that the calls existed and they were a part of them, nothing really much beyond that.

Q Okay. Did they ever express any frustration to you that they had to track down these cases for WFO where the predication might have been thin?

A Just with respect to the two issues that we have discussed here this morning.

Q Okay.

BY [redacted]

Q And last hour you discussed with my colleague in the minority field office health measures. Can you kind of just remind us what those are?

A So there is a number of different health measures, and they span across every field office really on the administrative side, as well as the operational or threat side. And, in essence, what they are, are just barometers or metrics, if you will, in terms

of goals to -- you know, that the field office is the one that really comes up with those numbers in terms of what the field office believes they can or should attain pertaining to a certain threat. So, you know, one just easy generic example would be if it was -- we were doing the TRP and the FOSP (ph) for our gang program, we would have an idea for that upcoming year potentially how many, you know, undercover operations or how many arrests that we think, you know, we would be able to make there. But those are just guideposts along those lines.

And then there is the other aspect of it, which is must much more qualitative, which is, as the year's going on, notes that we would supply to headquarters' program management that would indicate the actual impact that we are having on the threat. So, for instance, we had an incredibly large robust Latin Kings takedown a couple of years ago up in Boston, a huge takedown. That would obviously be something that we would supply as a qualitative measure for how we are mitigating that threat with respect to that gang.

Q And how are the field office health measures set? Like, who is involved in this process?

A So it is the field office and that relevant headquarters' program, you know, across all programs. And there is an interaction between the two just to settle on what would be an appropriate number, just to make sure in reality that there isn't a field office that is either intentionally, you know, coming up with a number that is lower than what really should be expected against a certain threat or something along those lines.

Q So, to show a healthy field office, if you will, do you have to hit those numbers?

A As far as the actual threat measures go, no. In fact, it is made pretty clear that those actual numerical measures are there just there to serve as a barometer, but

there are many other factors that come into play in terms of the actual impact that we've had against a certain threat. So, for instance, there are many occasions where certain numbers are not hit, but significant impact is made against the threat. And that is all taken into consideration when the end-of-year rating is formulated.

Q Are field office health measures, are they discussed among the field office agents, intelligence analysts?

A I am surmising that they are because we go through that process.

Q So they are aware of what the field office health measures are, what the barometer is for each?

A Yes.

Q Are you aware of the Counterterrorism Policy Guide?

A I am aware of its existence. I don't know how much I can really offer in terms of, you know, the granularity within that policy or that guide.

Q And so the Counterterrorism Policy Guide, that is separate from the DIOG. Correct? Is that your understanding or is it part of the DIOG? What is your understanding?

A Minimal really. There is not much I really would have to offer on that guide.

Q Are you familiar with the policy from the Counterterrorism Guide that says one subject per case?

A No.

Q So you have never heard of that policy?

A One -- vaguely, yes. On the counterterrorism side, each subject is supposed to have -- if there was enough predication to open up a case, then yes, yes.

Q And so are your agents aware of when they should follow the DIOG and

when they should follow the Counterterrorism Policy Guide?

A Well, really, the DIOG, the DIOG is the overarching entity really more from a legal perspective that we have to make sure we are in accordance with. Remember there is a big difference between a guide and an actual policy or something along the lines of the DIOG.

Q And, during your career at the FBI, how often have you worked domestic violence extremism cases?

A How often have I worked them?

Q Correct.

A So I was never an investigative case agent on any of those case. I have always -- I have managed them from leadership positions.

Q And, you know, being in a leadership position and the SAC of the Boston Division, what is your involvement with classifying cases?

A Minimal, really minimal. Minimal to none in terms of the actual classification.

Q Correct.

And so is the case agent who is in charge of that case or the special agent who is in charge of that case, are they the ones that determine the classification, or how is that process done?

A Yes, they would be in accordance with -- if it rises to the level of whether it is a sensitive investigative matter or, you know, beyond just the secret level case, that is also where our Legal Unit and our chief division counsel would get involved if there was any discussion or ambiguity about how to classify a certain case, but they are generally pretty straightforward in terms of the way those kinds of cases on the national security side are classified.

Q I am sorry to jump around, I have one more question on the school board issue.

So, after the Attorney General's memorandum comes out on October 4th, then, you know, there is an email that is sent out to the SAC listserv regarding the creation of the threat tag "edu officials" (ph) and it was on October 20th, 2021. Do you remember that email?

A I don't remember the email. I vaguely remember it being -- that topic being discussed, but I can't say I remember that specific email.

Q And can you tell us about the context of those discussions?

A You know, more just generally I believe at the time it was something that had made its way through the media, and the media was reporting on it. And that is how I remember that being part of discussion. But, internally, once again, threat tagging is a very basic mechanism, and it is simply for either me or any member of my team or any investigative agents or analysts to aggregate data if they are looking to, you know, developing information across any threats or programs.

Q And so was the "edu officials" threat tag, was it widely discussed within the Boston Division, to your knowledge?

A To my knowledge, no.

Q And, during our first hour, we discussed the letter that the U.S. Attorney had sent, and it referenced the Fusion Center. What was your understanding of the Fusion Center's involvement in the meetings that occurred between the U.S. Attorney's Office and local law enforcement and the FBI?

A So we have five separate fusion centers within the FBI Boston territory because we cover four States; so two in Massachusetts and then one in each of the other States. And really the Fusion Centers are simply just a mechanism where, if there needs

to be any kind of a coordination call or dissemination of any kind of information from us or the U.S. Attorney's Office, it is just a -- it is the best mechanism to do that through because the Fusion Centers can bring in, you know, the relevant chiefs or colonels of the local and State law enforcement officers, you know, to hear if there needs to be a briefing or there needs to be a discussion on something.

[redacted] Did the school boards issue after the October 4th memo, did it ever become a real substantive issue where you were getting a lot of threats at the school board meetings that the FBI had to handle in Boston?

Mr. Bonavolonta. No.

[redacted] So it never really materialized?

Mr. Bonavolonta. No.

BY [redacted]

Q And I think, at the beginning of the last hour, we talked about the social media companies and threat to life, that's when you interact with them. Can you kind of discuss those interactions a bit more?

A So I personally don't interact with them because we in fact we -- during the previous hour, we discussed NTOC and how leads and tips come through there. But there are occasions where tips will come in through NTOC from a social media company, you know, simply just to -- if there is a concern that, you know, something that is picked up on on a social media platform may be a threat to life or something related to counterterrorism issue or, you know, or any other significant crime or even fraud along those ends. And then, once it is in the receipt of NTOC, NTOC will review it. And, if it looks like there's a nexus to the Boston Division's AOR, it will be sent to our office, where it will be sent to the appropriate squad or program to work that matter.

Q And so any engagement between the social media company and the FBI,

does that occur just within NTOC?

A Yes. I mean, the initial obviously tip would potentially come in from a social media company. And then, of course, if there is any followup investigative activity that has to occur, we would use legal process to do so, like search warrants or subpoenas, you know, things along those lines, if needed.

Q And it has been reported on that the -- Facebook may be supplying some information to the FBI without user consent or without legal process. Are you aware of any of that?

A I am not.

Q We can go off the record.

[Recess.]

BY [redacted]

Q I think we are almost at the end here, so we will get you out of here soon.

We talked in the last hour about the October 4th Attorney General memo. Have you seen that memo?

A Yes.

Q I want to introduce it for the record.

A Okay.

[redacted] And this will be exhibit 7.

[Bonavolonta Exhibit No. 7.

Was marked for identification.]

BY [redacted]

Q So you've seen this before today. Right?

A I have.

Q Okay. I want to look at the -- generally do you recall how familiar you are

with this memo?

A Not very. I reviewed it when it first came out and really not since then.

Q Okay. I will give you a second to read it, if that'd be helpful.

A Okay.

Q So a couple things, in that first paragraph, the second sentence specifically references a spirited debate about policy, members being protected under the Constitution. Right?

A Yes.

Q So it specifically says that without -- unless there is a threat of violence or actual acts of violence, I guess, there is no -- just the spirited debate alone is not enough to trigger any action on behalf of the FBI or the DOJ. Right?

A Correct.

Q Okay. And then, in the fourth paragraph down, it references coordination with local law enforcement. As the SAC of the Boston Field Office, do you regularly coordinate with local law enforcement?

A Yes.

Q It is kind of part of job. Right?

A It is.

Q Okay. So that paragraph actually directs the recipients of the memo to convene meetings with Federal, State, local, Tribal, and Territorial leaders in each Federal judicial direct. So are those kinds of meeting, would that be unusual for you to meet with State and local leaders or State and local law enforcement?

A No.

Q In fact, is that part of job?

A Yes.

Q And is that -- actually is that helpful for you as the head of Boston Field Office to have those meetings?

A For me and them and the partners as well.

Q And why is it helpful for the partners?

A Well, as I indicated earlier today, we have more than 250 full- or part-time task force officers that are part of local and State departments that are embedded with us. So, from my level, having consistent engagement with the heads of those agencies and departments is very beneficial just to make sure that they are receiving the proper return on investment of the resources they are devoting to the FBI and that we are all on the same page in terms of the priority threats, you know, that we are working together.

Q Okay. So, in essence, this memo is basically building on the process that is already there. You already have the processes and procedures to have regular meetings with State and local entities. Right?

A Correct.

Q So this is -- and, again, this is part of the job?

A Yes.

Q Are you familiar with the FBI's zero-tolerance policy towards terrorism?

A Zero-tolerance policy toward terrorism?

Q Uh-huh.

A Not specifically.

Q Is it the job of the FBI to prevent any American from dying at the hands of a terrorist?

A Oh, yes, yes.

Q Do you consider that kind of an essential part of your role?

A Yes.

Q And would it be concerning to you if an FBI employee said that they don't think that a zero-tolerance policy is appropriate?

A Yes.

Q And why would that be concerning to you?

A Well, if we were in receipt of evidence that a Federal crime was committed germane to whether it be a, you know, homegrown violent extremism or domestic violent extremism matter, than that would have to be handled. It should be handled at the highest priority.

Q And, if somebody is saying that, you know, we think zero-tolerance policy towards terrorism is not appropriate, could that potentially impact the FBI's mission?

A It could.

Q You were asked earlier about George Hill, and you said, you commented on his role. What was your understanding of Mr. Hill's role at the FBI's Boston Field Office?

A He had multiple roles over a period of many years. For several years, he was a supervisory intelligence analyst win the National Security Program. And then ultimately -- and I just cannot recall the exact timeframe or the dates, but he wanted to, you know, broaden his horizons and branch off and do something within the criminal program. And so he was assigned as the SIA up in our HIDTA, which is High Intensity Drug Task Force Area, which, you know, there is a lot of gang and counternarcotics type investigations and activity that occur from that entity. And that is where he was up to his retirement.

Q And is the work that he did with HIDTA, was that his full-time job?

A Yes.

Q So he wasn't, like, dual-hatted; he was working at HIDTA?

A Correct.

Q Okay. Are you familiar with the circumstances surrounding Mr. Hill's retirement?

A No.

Q Okay. To your knowledge -- going back to January 6th, to your knowledge, did the FBI instigate the events of January 6th using confidential human sources or any other means?

A To my knowledge, no.

Q Okay. And, in fact, some have described claims that FBI somehow was behind January 6th as a conspiracy theory. Would you agree with that description?

A No.

Q You don't think think it's a conspiracy theory -- sorry. So the claim is that FBI that it was kind of a deep state effort that the FBI actually caused January 6th. Do you agree with that?

A No.

Q Okay. And that has been described as a conspiracy theory. Do you agree that that is a conspiracy theory?

A I mean, once again, you know, my level of involvement with that has been strictly from the head of the FBI Boston office. But I have never been in receipt of any information that the FBI in any way caused or generated January 6th.

Q Okay. And would it be concerning to you if FBI employees from the Boston Field Office were saying in public that they believed FBI had caused January 6th?

A Yes, it would.

Q Why would that be concerning to you?

A Well, because it undermines the incredibly important mission that I have dedicated my entire adult life to so that would be very concerning to me.

Q Are you familiar with the term "fedsurrection"?

A No.

Q Are you familiar with the term "deep state"?

A Yes.

Q What is your understanding of the term "deep state"?

A Once again, it goes by what I have read and heard in the, like, sort of the media, you know. But it is more, the way it has been defined is more of an ongoing internal conspiracy within certain governmental organizations to carry out a certain, you know, methodology or mentality in terms of the way certain things should be.

Q Is it concerning to you if a current FBI employee describes the FBI as being part of the deep state?

A Yes, that would be concerning to me.

Q Why is that concerning to you?

A Once again, because that has never remotely been anything that I've ever seen, witnessed or being exposed to. And I, you know, the way I have always conducted myself throughout my career, I would take that as a personal affront to the sacrifices that I have made and that my family has made.

Q If an FBI employee who had been assigned to work on January 6th-related matters described the events of January 6th as part of a deep state conspiracy, is that concerning to you?

A Yes, it is.

Q And the fact that that person worked on January 6th-related matters, is that specifically of concern to you?

A It would be.

Q And can you explain why?

A Well, like I have answered before, you know, I can't speak to specific individuals that have made these statements, but from, once again, you know, I have never witnessed or been exposed to anything that would make me think that there was any type of grand conspiracy or deep state activities going on.

Q And Mr. Hill in fact has described the FBI as the brown shirt enforcers of the DNC, meaning the Democratic National Committee. Are you aware of that statement?

A I am not.

Q Do you have a reaction to that statement?

A I am actually quite surprised.

Q Why is that?

A Because from what I've always known of George is that he was -- once again, I -- just from what I have heard and what I have surmised, and, to my knowledge, he was a decorated Marine. And he had worked with the National Security Agency as an analyst before coming over to the FBI working on significant national security matters. And then he had been in Boston for a number of years as an intelligence analyst, you know, working many national security and then subsequently criminal matters throughout. And I, you know, in my in the actions with him, I never once received any indications from him that he would have that type of mentality or opinion of the Bureau.

Q But do you find that opinion concerning?

A I do.

Q And could you explain -- the fact that he was an FBI employee specifically that had that opinion, what is your feeling about that?

A Well, it is upsetting. Because obviously, once again, that is what I devoted my life to, and, you know, I have always tried to do things the right way for the right reasons, in accordance with the law and the Constitution. So that is why that comment

would be, you know, offensive and upsetting to me.

[redacted] We can go off the record. We don't have anything further. Thank you.

[Whereupon, at 12:54 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: MARCUS ALLEN

Monday, May 8, 2023

Washington, D.C.

The interview in the above matter was held in Room 2237, Rayburn House Office Building, commencing at 9:58 a.m.

Present: Representative Gaetz.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

[redacted] SENIOR PROFESSIONAL STAFF

[redacted] CHIEF COUNSEL FOR OVERSIGHT

[redacted] SPECIAL COUNSEL

[redacted] DIGITAL DIRECTOR

For MARCUS ALLEN:

JASON FOSTER, ESQ.

EMPOWER OVERSIGHT

JAMES PETERSON, ESQ.

JUDICIAL WATCH

[redacted] This is a transcribed interview of Mr. Marcus Allen. Chairman Jordan has requested this interview as part of the committee's oversight of the Federal Bureau of Investigation. Would the witness please state your name for the record?

Mr. Allen. My name is Marcus Allen.

[redacted] Would counsel please state your names for the record?

Mr. Foster. Jason Foster from Empower Oversight.

Mr. Peterson. James Peterson, Judicial Watch.

[redacted] Thank you. On behalf of the committee, I want to thank you for appearing here today to answer our questions. The chairman also appreciates your willingness to appear here voluntarily. My name is [redacted] and I am with Chairman Jordan's staff.

I'll now have everyone else from the committee who is here at the table introduce themselves as well.

[redacted] I'm [redacted] also with Chairman Jordan's staff.

[redacted] [redacted] Chairman Jordan.

[redacted] [redacted] Chairman Jordan.

[redacted] I'd like to now go over the ground rules guidelines that we will follow during today's interview. Our questioning will proceed in rounds.

We normally question for an hour, and then take a short break. Since the minority is not participating in today's interview, we can go by our schedule. If you need a break apart from at the end of each hour, just let us know. We are happy to accommodate that. Please feel free to confer with your counsel here today as well.

As you can see, there is an official court reporter taking down everything we say to

make a written record. So we ask that you give verbal responses to all questions, do you understand?

Mr. Allen. I understand.

[redacted] So the court reporter can take down a clear record, we will do our best to limit the number of people directing questions at you during any given hour. Please try and speak clearly so the court reporter can understand, and so the folks down at the end of the table can hear you. It is important that we don't talk over one another or interrupt each other if we can help it, and that goes for everybody present at today's interview.

We want you to answer our questions in the most complete and truthful manner as possible, so we will take our time. If you have any questions or if you do not understand one of our questions, please let us know. Our questions will cover a wide range of topics, so if you need clarification at any point, just say so. If you honestly do not know the answer to a question or do not remember, it is best not to guess. Please give us your best recollection, and it is okay to tell us you learned information from someone else. Just indicate how you came to know the information. If there are things you don't know or can't remember, just say so, and please inform us who, to best of your knowledge, might be able to provide a more complete answer to the question. You should also understand that although this interview is not under oath, that by law you are required to answer questions from Congress truthfully, do you understand that?

Mr. Allen. I understand.

[redacted] This also applies to questions posed by congressional staff in an interview, do you understand this?

Mr. Allen. I understand.

[redacted] Witnesses that knowingly provide false testimony could be subject

to criminal prosecution for perjury, or for making false statements under 18 U.S.C. Section 1001. Do you understand this?

Mr. Allen. I understand.

[redacted] Is there any reason you are unable to provide truthful answers to today's questions?

Mr. Allen. No.

[redacted] Finally, I would like to make note that the content of what we discuss here today is confidential, and we ask that you not speak about what we discuss in this interview to any outside individuals to preserve the integrity of our investigation. For that same reason, the marked exhibits that we will use today will remain with the court reporter, so that they can go in the official transcript, and any copies of those exhibits will be returned to us when we wrap up.

All right. That's the end of my opening remarks. Mr. Allen, I understand that you have a short opening statement that you would like to make. Please, go ahead.

Mr. Allen. While I have agreed to this voluntary transcribed interview to help the committee fulfill its constitutional oversight function, I have concerns about the ability of the committee to protect me from further retaliation and protect confidential information I share during the interview.

I have seen news coverage where excerpts of other FBI whistleblower testimony to this committee has been selectively leaked to fuel deceptive political attacks on those who have cooperated and provided voluntary testimony. That naturally makes me reluctant to subject myself to the same abuse, and that is why I was not comfortable agreeing to testify in a private setting with the same staff who are responsible for the previous leak and smear campaign against other whistleblowers.

I am comfortable testifying to the chairman's staff based on assurances that

confidential information provided during this interview will not be released without my consent and authorization by the chairman. Therefore, I respectfully request that prior to any release, any of the portions of the transcripts that my attorneys and I be allowed to propose redactions of confidential information.

For example, private health and financial information that I might share in this setting would not be appropriate for public release. It has been more than a year since the FBI took my paycheck from me. My family and I have been surviving on early withdrawals from our retirement accounts while the FBI has ignored my request for approval to obtain outside employment during the review of my security clearance. We have lost our Federal health insurance coverage, and there is no end in sight and no due process to challenge the security clearance suspension.

However, I hope that independent scrutiny from Congress and from the Inspector General can help deter the FBI from abusing the security clearance process to retaliate against others the way it has retaliated against me. That is why I filed a whistleblower retaliation complaint with the IG, and why I'm here today to answer your questions. Thank you.

[redacted] Thank you. We have one of the members of the committee here as well.

Mr. Gaetz. I'm Matt Gaetz, a majority Member of the House Judiciary Committee.

Mr. Allen. Nice to meet you, sir.

[redacted] We'll go ahead and start the first round of questioning. The clock now reads 10:04 a.m. I'll turn it over to my colleague, [redacted]

EXAMINATION

BY [redacted]

Q Good morning, Mr. Allen. Thank you for being with us today. And thank you for your statement. Are you currently employed?

A I am currently suspended by the FBI indefinitely without pay. I'm not employed.

Q And what date did that suspension take effect?

A The suspension took effect on January 10th based on a suspension letter from the security division, as well as a letter from HRD dated January 13th.

Q Okay. When did you join the FBI?

A I joined the FBI in -- as an official employee in December of 2015, but my initial experience with the FBI was as a contractor, and I started with them in July of 2008, and worked for a couple of years at that point.

Q Okay. And what was the name of that contractor?

A The name of that contractor was SM Consulting, and then they were bought out by SAIC.

Q And what type of work did you do with SM Consulting?

A I worked as essentially a watchlisting analyst for them on the FBI contract, and so I worked in a unit called the terrorism review and examination unit in that role.

Q And what did your work detail in that role?

A In that role, we reviewed opening-, closing-, and annotation-type electronic communications, which are documents that the Bureau utilizes to communicate information in reference to terrorism watchlisting subjects. They would submit opening ECs to our unit, and we would review the documents to see if they met the watchlisting criteria or not. And we would also process administratively any removals that were submitted to us. So we kind of functioned as like an audit and quality control unit.

Q Okay. So what drew you to work with SM Consulting?

A I applied to SM Consulting after leaving a contract with BAE Systems, and I got on board with them initially working for TSA's office of intelligence. That was the initial contract I worked with SM Consulting on.

Q Okay.

A Yup.

Q So moving forward from that employment to your employment with the FBI, what was your key motivation for joining the Bureau?

A Key motivation was our project manager reached out. A bunch of us were leaving the contract with TSA OI because they were transitioning the contractor positions to full-time government employee positions that was going to entail having a pretty substantial pay cut, which I did not want to take. And so SM Consulting essentially looked at some of their other contracts they had, and they had a Bureau contract available, and they offered that to me, and I accepted the offer.

Q Can you walk us through the positions that you've held at the FBI?

A So the initial position I held with the FBI as a contract as a watchlisting analyst, and I operated in that role as a contractor. And the next position I have held with the FBI is called a staff operations specialist, and also have an ancillary role called a critical incident operations specialist.

Q And what does the critical incident operations specialist do?

A The critical incident operations specialists functions in command posts for the FBI. So if there is any kind of significant events like, for example, like a bombing attack, or like a national security special event, those type of events, the FBI will stand up command posts and CIOSs are trained to function in those type of command post environments and to help facilitate the flow of the command post and help people with their assigned roles and whatnot.

Q Okay. So did you hold that type of title while also holding the SOS title?

A Yes.

Q Okay. And what office were you based out of?

A I'm based out of the FBI Charlotte field office.

Q Okay. And have you worked in any other field offices?

A No. The TREX is the headquarters unit, and so I was assigned under counterterrorism division, and that post was out at NCTC, the Liberty Crossing location in Tysons Corner.

Q Okay. So you were a watchlisting analyst as a contractor. Then you were an SOS and a CIOS. Did you hold any other official positions with the FBI?

A Yes. The initial position I held with the Bureau was in a unit called PACU. It's the Public Access Control Unit, and that, over time, that morphed into the PAL line, the Public Access Line. So I held that position for a short amount of time before the contract position out at LX opened up.

And at the time, between the program manager and the unit chief at PACU, they offered me and another employee there, Hey, do you guys maybe want a shot at going out to NCTC and working in this terrorism review unit, and I jumped at the opportunity to go and do that.

Q Okay. And when was that?

A That would have been in the summer of 2008.

Q Okay. Have you held any other positions with the Bureau?

A Not that I can currently recall at the time. I worked for PACU, Public Access Line. Then, I was a watchlisting analyst out at NCTC. And the other role I've held as staff operations specialist with the FBI Charlotte field office with the ancillary role as a CIOS. That's what I can recall.

Q Okay. So let's talk about your position as SOS. What were your roles and responsibilities doing that?

A Okay. So the staff operations specialist, for all intents and purposes, is essentially like a tactical intelligence analyst. So the FBI program they have within the intelligence program, they have staff operations specialists, and then they have intelligence analysts. The intelligence analyst are called IAs, and then the staff operations specialists are called SOSs. Essentially, there's a lot of overlap between both of the positions. The SOS typically functions at the tactical operational level, and IAs function at the operational strategic level.

So what that entails is typically an SOS, there's multiple units who could be assigned to as an SOS, but in my role there attached with JTTF in Charlotte, I'm attached to an operational squad, but I also respond to the intelligence program. So it's kind of a -- we have multiple bosses. So we have like an operational squad that we're attached to, and there's a supervisory special agent there, but we also fall under the intel program, and I have a supervisory intelligence analyst.

So we're helping operationally, but there's also intelligence program requirements that have to be met. So we do like all-source analysis. We'll research databases. We'll research publicly available information, could be social media, could like looking at academic papers, think tank papers, you know, anything on the open web, you know, that's publicly available. It could be blogs, forums, whatnot. We're essentially combing through all this information to help out with our assessments and cases that the FBI has.

BY [redacted]

Q And so, you do these open-source searches in your role as being attached to the JTTF. Is that correct?

A Correct.

Q What kind of cases does the JTTF handle?

A The JTTF handles international terrorism cases as well as domestic terrorism cases.

Q So you would have been doing open-source research with regards to domestic terrorism cases that the JTTF was handling, correct?

A Correct.

BY [redacted]

Q Did you have any other subject matters that you worked on?

A I worked on international terrorism and domestic terrorism. And then occasionally with the DT threat and sometimes with the IT threat, because there is the foreign adversarial intelligence services, sometimes that would bleed over into the terrorism realm. So there's a little bit of crossover there. Same with like the IRGC from Iran and that sort of thing. So there's a little bit of delving over into the CI realm slightly just because of that. But that would be the most natural realm where we would have some kind of bleedover.

And then sometimes with the DT cases, they have sovereign citizens. And so, sometimes a white-collar crime squad would handle some of the sovereign citizens because they call them paper sovereigns. So they would, you know, go after sheriffs and deputies and stuff like that and just filing these frivolous liens and suits and that sort of thing. And so, a lot of times with the paper sovereigns the white-collar crime squad would handle that more, even though sometimes sovereign citizens would be handled by DT. So it's kind of a wide range what you can handle, depending upon what field office you're at and what they assess your capabilities are, as well as the size of the field office.

So between medium, small, and large field offices, you can be more specialized or

more, like, wide open with what you're handling depending on the size of your field office.

Q Okay. And how big was the Charlotte field office?

A It's rated as a medium-sized field office.

Q Okay. What would some other medium-sized field offices be just for comparison?

A I think Jacksonville is considered a medium-size field office. I'm not 100 percent on that, but I'm pretty sure they are. And then I think I'm not sure about Tampa. Tampa might be considered a large field office now, but off the top of my head within the region, the closest one I can think is Jacksonville.

Q Okay. And how many agents or specialists would be at the Charlotte office?

A In like for just the squad, or are you talking about the entire field office?

Q Let's go the entire field office, and then the squad.

A I don't know the exact number of what that number would be, no.

Q Okay. So can you kind of describe the organizational chart of the Charlotte field office for us? I'm just trying to figure out where the SOS fits in?

A Okay. So the SOS falls within the intelligence program. But how the intelligence program typically works is you'll have intelligence squads. So you'll have, like, a national security squad. You'll have a criminal squad, and then there's what's called, like, a domain-level squad. And that squad is typically producing strategic papers, and they're looking at the data from across the entire field office and generating, you know, could be -- essentially like statistical charts on like our cases and stuff of that nature or any kind of research papers that they might get tasked with from the intel program, the supervisory intelligence analyst.

So it's called a field intelligence group. And so with the field intelligence group, you might have anywhere three to four or more supervisory intelligence analysts, and under each of those supervisory intelligence analysts, you might have anywhere from six to 12 intelligence personnel under each supervisory intelligence analyst. And it will consist of both staff operations specialists and intelligence analysts.

So that is the structure of, you know, how those squads are made up, but we don't ever really sit together as a squad. We're usually farmed out to the operational squads with the investigators, the agents, and the task force officers. So we would get together maybe once a month, just to talk about what we were working on, like on our assigned squads and whatnot, and then talk about meeting the numbers as far as the intelligence programs required. There's a certain amount of products and whatnot that we have to generate, like, reports and assessments and briefings, that sort of thing. There's, like, a threat review process that we have to go through, and then we have to fill out those charts.

So we would get together once a month, but for the most part, we're more with our operational squads than we are with the actual intelligence squads. So I would say just from an identity standpoint, like people probably more so identify with their operational squads than with the overall intelligence program. And then for each operational squad, there's typically one intelligence analyst, and one SOS per threat program.

So for instance, the JTTF works both international terrorism and domestic terrorism, but within the Bureau, those are considered like different threat programs. So they're program managed differently at headquarters. So you could be on a squad, and, like you're, dealing with two different program managers on the squad if you're working both international terrorism and domestic terrorism matters.

And then there's white-collar crime, street gangs, organized crime, public corruption, bank robberies, crimes against children, human trafficking. Those are the different threat programs that the Bureau has, and then there's assigned operational squads typically for each of those threats.

Q Okay. So as a staff operations specialist, did you have any direct reports under you?

A No.

Q Okay. So thinking back and looking at your entire tenure with the Bureau, did you ever participate in a review of your performance?

A Yes.

Q Did you generally receive good markings?

A Yes.

Q Did you have ever have any marks on your record with the FBI?

A No.

Q You were consistently rated as "exceeds fully successful" on your FBI performance evaluations, right?

A Correct. Either that or "fully successful." I can't remember exactly the chart, but I was always rated highly.

Q And how often did you get these ratings?

A They're annual ratings, but there would be, like, quarterly reviews throughout the year where you would just have a quick -- sometimes it was a quick sit down with your supervisor, and sometimes it was almost like a, Hey, you're doing great, you know, and that would be the end of it, you know.

Q And who would you have these meetings with?

A SIA Costanzo.

Q And were they with SIA Costanzo the entire time you were with the FBI?

A No. So I mean, I could go through -- do you want me to?

Q Sure. Yeah. That would be great. Yeah.

A Okay. So as contractor, I reported to my program manager from my contract company, and he consistently told me that the customer was well-pleased with my performance on the contract. And this is in reference to the watchlisting analyst role. And I would occasionally have sit downs with the supervisory special agents there. Steve Hayes. He's retired. Another supervisory special agent named Jennifer May. She's still in the organization. I think she's an SES now. I'm not sure. But I think she's pretty high-ranking now.

And then I would have sit downs with them. They would always say I was doing a good job. There was a unit chief who would occasionally -- who as in charge of TREX -- and he would occasionally talk to me. His name was Stephen Dirito. He's retired. He was very appreciative of my effort there, and appreciated my impact that I had on the unit and the morale and whatnot. And then after that role, at PACU prior to the watchlisting analyst role, the unit chief was Bret Bruchok. And I didn't have any negative remarks from Bret while I was there, and he appreciated the work and the time that I spent there, though it was short. It was only maybe two or three months I was there before I switched over to the watchlisting analyst role.

And then as a staff operations specialist, the first supervisor I reported to was an acting supervisor named Dan Mrak (ph). And I also had another supervisor who was acting. So when I initially got on, there were two acting supervisors. One was Ryan Rode (ph), and then the other one was Dan Mrak. I didn't get any negative feedback from either one of them. And then the permanent SIA who took over was Joseph Szczerba (ph), and I had a good relationship with him, and always got good reviews.

And then SIA Costanzo was the final supervisor.

Q Okay. And throughout, you know, meeting with that list of supervisors, were you ever disciplined at all during your tenure with the FBI?

A No.

Q In fact, you won several awards during your tenure with the FBI, right?

A Yes, I won a couple.

Q You received the Charlotte field office employee of the year award in 2019, right?

A Correct.

Q And you also received a time-off award in 2019, right?

A Correct.

Q Now, what is a time off award?

A A time off award, I guess you could casually say it's almost kind of like an atta-boy type award, where it's like you're doing like a really good job and we appreciate the effort that you're putting into the work. And so, it might be -- depending on how many hours they put on there, it could be like a day or two or more, however many days designate for the time-off award.

Q Do you remember how many days off you got in 2019?

A I don't know exactly. I know at least six.

Q Okay. So we talked a little bit about your employment prior to joining the FBI. I understand you served in the military as a Marine, correct?

A I did.

Q What was your key motivation for joining the Marines?

A Key motivation for me to join the Marine Corps out of high school was I didn't feel like at that time I was ready to go to college right away, but I also didn't want

to be a bum, you know, and just mooch off of my parents and not really do anything, or be a slug in general. So I figured I could join the Marine Corps. There's a buddy of mine in high school who was going into the Marines, and he was talking to me our senior year, and he was like, Man, what are you planning on doing after high school? I was like, I haven't really thought it through too much. He's like, well is it okay if, you know, I send my recruiter to talk to you. And I said sure.

So I talked to his recruiter, and I was impressed enough and I knew I wasn't going to go to college right away, so I figured well this is a good way kind to do some kind of service back to the country, and pay for college at the same time. So I spoke to the recruiter and went through the process and tested into intelligence, which was really cool. No one in the recruiting office had done it, so they couldn't even really give me a full description. So, yeah. I signed up and joined the Marine Corps just for service to the country and to contribute, and also get money for college, you know.

Q Sure. What year did you join the Marine Corps?

A 2000.

Q Okay. And during your time in the Marines, you received several accolades, right?

A Correct.

Q In fact, you were awarded the Navy and Marine Corps commendation medal, and the Navy and Marine Corps' achievement medal, right?

A Correct.

Q And when did you receive those awards?

A That would have been circa 2003 and 2004 timeframe.

Q Okay. And in 2004, you were designated Marine Corps Intelligence Academy runner up for intelligence noncommissioned officer of the year, right?

A Yes. So that's the Marine Corps intelligence activity, and they do a rating for officers and staff NCOs and NCOs in the intelligence field each year. And my staff sergeant and one of the gunnery sergeants told me that I had finished as the runner up, and it was pretty close, but I had finished as the runner up.

Q What was the highest rank you achieved in the Marines?

A Sergeant E5.

Q And during your tenure in the Marine Corps, did you ever participate in performance reviews?

A Yes.

Q Did you receive good markings?

A Yes.

Q Did you ever receive any bad markings?

A No.

Q And you were never disciplined during your time with the Marines, correct?

A No. No.

Q Did you receive an honorable discharge?

A Yes.

Q Okay. So you said you worked with the intelligence arm in the Marines. Did you have ever have any issues acquiring or maintaining your security clearance in the Marine Corps?

A No.

Q So do most Marines -- make sure I have this right -- do most Marines hold a top secret clearance, or just a secret clearance?

A Some Marines -- I don't know exactly -- but I do know that some Marines outside of the intelligence occupational code do hold a secret clearance. I know

Marines with the intelligence occupational codes, which are the O200 series typically will hold a top secret SCI clearance in order to do their jobs.

Q And as a Marine, were you trusted with top secret clearance or just a secret clearance?

A Top secret, SCI.

Q So from your time in the Marines through your time with the FBI, is it fair to say that at the time of your suspension from the FBI, you had maintained a security clearance without issue for more than 20 years?

A I would say approximately 20 years, yes.

Q Okay. Before your suspension from the FBI, did any government official or agency ever question your allegiance to the United States?

A No.

Q So I want to talk more about the actual day of your suspension. I know that might be tough. So can you walk us through what happened that day?

A Yes. So on the actual day of my suspension, I met with the chief security officer, Suzanne Pemelton (ph), as well as assistant special agent in charge, Michael Shirk (ph). The assistant special agents in charge are like the top three or four agents in the office right underneath the special agent in charge who's the chief essentially. And I met with them in a parking lot at a Cracker Barrel off of Carowinds Boulevard in Charlotte.

They met me, and they read off a letter in the parking lot that I was being suspended for conspiratorial views in regards to the events of January 6th, and that my suspension -- the date of the start was January 10th. The day of the meeting was January 19th, and it would be without pay as well.

[redacted] Did they provide any sort of reasoning for why it was effective January 10th, but they were telling on January 19th?

Mr. Allen. No.

BY [redacted]

Q Why did that meeting take place at a Cracker Barrel?

A That was the agreed-upon meeting site that was agreed upon with my supervisor, Mike Costanzo. He had texted me at home, and basically intimated to me that they needed to have a meeting with me at the Cracker Barrel -- or I picked the Cracker Barrel for the meeting site, and then we went, you know, and had a meeting there. Yeah.

Q So that was standard to kind of pick like an off-site meeting location?

A In that scenario, yes, because I was already out of the office because of the Federal mandate. And so, we were having a discussion there in regards to the Federal mandate for COVID-19.

[redacted] So the record's clear, let's enter for the record the January 10th, 2022 letter to Mr. Allen from Jennifer Moore as the acting executive assistant director of the human resources branch. We'll mark that as exhibit No. 1.

[Allen Exhibit No. 1

Was marked for identification.]

[redacted] And then, we'll mark as exhibit No. 2, the January 13th, 2022, letter to Mr. Allen from Katherine Brideau, the unit chief performance appraisal unit of the human resources division. That will be exhibit No. 2.

[Allen Exhibit No. 2

Was marked for identification.]

BY [redacted]

Q Mr. Allen, I want you to take a second and review both of these documents.

Do you recall receiving these documents?

A Yes. I recall receiving the documents.

Q Okay. And exhibit 1, the letter dated January 10th, that's the letter we were just discussing, correct?

A Correct.

Q And you said that this was issued on January 10th, but you didn't find out until January 19th?

A Correct.

Q Okay.

BY [redacted]

Q Let's walk through some of the statements in the letter, the January 10th, 2022, Mr. Allen.

In that first paragraph, the second sentence reads, the suspension of your security clearance was based on security concerns related to adjudicative guideline A, allegiance to the United States of the national security adjudicative guidelines for determining eligibility for access to classified information or eligibility to hold a sensitive position.

So is this first time that your allegiance to the United States had ever been questioned?

A Yes.

Q Were you given any sort of information as to why they were questioning your allegiance to the United States?

A No, other than the letter. This was it.

Q And what did you understand was necessary in order to fall under adjudicative guideline A to question your allegiance?

A I don't understand the question.

Q Did they give you any sort of information at that time for why they were questioning your allegiance?

A No.

Q Okay. And then the second paragraph says, "The security division has learned you have espoused conspiratorial views both orally and in writing, and promoted unreliable information, which indicates support for the events of January 6th. These allegations raise sufficient concerns about your allegiance to the United States and your judgment to warrant a suspension of your clearance pending further investigation."

And a little bit earlier, Mr. Allen, you had testified that the individuals who gave you this letter also said that you were being suspended due to conspiratorial views. Did they ever define what a conspiratorial view was?

A No.

Q Did they ever indicate how the FBI was viewing what you had said, both orally and in writing, that promoted unreliable information?

A No.

Q Did they ever define what was unreliable information to their standards?

A No.

Mr. Foster. Did they cite any document that showed that you had expressed support for the events of January 6th?

Mr. Allen. No, not at the scene.

BY [redacted]

Q And then, on that same day you received the January 13th letter from Ms. Brideau. Had you ever had any contact with Jennifer Moore who signed the January 10th, letter or Katherine Brideau who signed the January 13th letter?

A I've never had any contact with either one of them.

Q Was that all of the information that you were provided on January 19th?

A These two documents were the only information I was provided.

BY [redacted]

Q Do you refute the claims made by the FBI that allegedly warranted your suspension?

A Yes.

Q So when you had this meeting on January 19th, did you ever ask any questions about why this was happening?

A I mean, I was kind of shocked, to be honest with you. I didn't really, you know, know what to say. Yeah. I was really just shocked at the whole process. I didn't really say much, you know. They took my credentials, and you know, my access badges and my cell phone. So it was more of a like hi-and-bye type situation, you know.

[redacted] And speaking of the process concerns, the January 13th letter lays out certain rights that you are to be afforded. It says on the bottom of the first page, you have the right to the following: Review all of the materials relied upon as the basis for this proposed suspension action.

Were you ever provided with those materials?

Mr. Allen. No. I mean, unless these two letters are the materials, no.

[redacted] But the FBI has never provided you additional materials to support their basis for your suspension?

Mr. Allen. No.

BY [redacted]

Q What was the reaction of your colleagues when you were suspended?

A I think shock. I got a couple of text messages from Amanda Shuford, who I worked with on the squad. The text messages from her were earlier in reference to the

mandate, and then it went kind of radio silent. But I mean, after the issuance of the letters, I had contact with a couple of retired, like now retired, agents who just checked in on me periodically, but everyone else kind of ghosted me.

Q So is it fair to say that you've been ostracized?

A Yes.

Q So my colleague a while ago asked if you had had a chance to review the materials relied upon as the basis for your proposed suspension. Were you ever told specifically that you could not go review any documents related to this action?

A No.

[redacted] And then you were formally suspended on February 17th. Is that correct? You received another letter?

Mr. Allen. Yes. I believe -- so because there was something to the effect of because I was a veteran, they were going to have to pay me for 30 days, but at the end of that 30 days, I would not get paid again.

[redacted] So we'll mark as exhibit No. 3, the February 17th, 2022 letter to Mr. Allen from Ms. Christine O'Neill, the assistant director for the human resources division advising you that -- of her decision to indefinitely suspend you from duty and pay effective upon receipt of the letter. That will exhibit No. 3.

[Allen Exhibit No. 3

Was marked for identification.]

BY [redacted]

Q Do you remember when about you received this letter? Was it on February 17th?

A I don't recall the specific date.

Q Do you remember who gave you the letter?

A I do not.

Q Was it given to you via email or in person?

A It may have been via email. There was a point of contact established by the name of Ryan Turner who ended up sending a lot of documents in regards to the situation.

Q And you said this started the clock for your preference eligible veterans pay. Is that correct?

A Right. It was the month of February that I was paid for. Yeah.

Q And then you have been without pay ever since?

A Correct.

[redacted] We'll mark this as Exhibit 4.

[Allen Exhibit No. 4

Was marked for identification].

BY [redacted]

Q Mr. Allen, do you recall sending this email dated July 16th, 2021?

A Yes.

Q And why did you send this email?

A I sent the email for situational awareness in order to facilitate, you know, decisionmaking for the investigators so that they had awareness that, you know, there are some things they need to take into consideration as they proceeded forth on their investigations in regards to, you know, January 6th.

Q And what was located at this link?

A At the link was an article about a case involving an individual out of, I believe, California, who was suing the Bureau.

Q So in deciding whether to send this email, did you ever consider, or think

that this email promulgated some sort of conspiracy theory?

A No.

Q In this email, did you, in any way, endorse any statements or actions or opinions?

A No.

Q Did you direct any of your colleagues to take any certain actions?

A No.

Q Did you ever think this email would prompt the Bureau to question your allegiance to the United States?

A No.

Mr. Gaetz. Mr. Allen, I want to ask you about a specific phrase that you seemed to have taken care to use in your email, and that's where you say "without probable cause." Do you see that in your email?

Mr. Allen. Yes, I see that. It's actually -- so that blurb there, I believe, is a description that I copied from the cite in reference to it. So I --

Mr. Gaetz. You know what probable cause is, right?

Mr. Allen. Yes, sir.

Mr. Gaetz. And you know that probable cause is required to take law enforcement action, right?

Mr. Allen. Yes, sir.

Mr. Gaetz. And so it seems to me -- I guess I should say, was there a reason you ensured that this was included in the message you sent, this reference to probable cause that you copied?

Mr. Allen. No. I just put that into the message so that it would be there for them to see. It was just random.

Mr. Gaetz. And did you copy that from the Yahoo News story?

Mr. Allen. I believe so. Yes, sir.

Mr. Foster. So is it fair to say you included that so that they wouldn't necessarily have to click on the link to get a basic understanding of what was at the link?

Mr. Allen. Yes.

BY [redacted]

Q And Mr. Allen, as of July 16th, 2021, was it your understanding that the FBI was handling January 6th cases as domestic terrorism cases?

A Yes.

Q And was the Charlotte JTTF tasked with handling any January 6th related investigations?

A Yes.

Q And earlier, you testified that you would do open-source searching for your role being attached to the JTTF. is that correct?

A Right.

Q Did you see this as part of your duties?

A Yes.

Q So you saw sending emails for situational awareness with links regarding cases or investigations that the JTTF was handling as part of your duties?

A Yes.

[redacted] I'm going to enter this as exhibit 5.

[Allen Exhibit No. 5

Was marked for identification.]

BY [redacted]

Q Mr. Allen, do you recall sending this email?

A Yes.

Q And why did you send this email?

A I sent it to my colleague, Alexis Cort (ph), who works on the JTTF, with me just for situational awareness in regards to Mr. Rhodes' situation, just for her to peruse it for her own, just situational awareness and just to look through the document.

Q Why did you question why the leader of the Oath Keepers had not been indicted by the DOJ as of the date of this email?

A I questioned it because it looked like perhaps he may have been, you know, playing a primary role within the group, and it just seemed odd that, you know, we weren't looking into the individual. And so, I just wanted to share that with Alexis just as a, like, you know, What's going on with this particular guy who's affiliated with the Oath Keepers. And we were working a lot of leads pertaining to the events at the Capitol on January 6th.

Q And at the time you sent this email, Mr. Rhodes had not even been arrested, correct?

A I don't recall.

Q So some similar questions to the previous article, when you sent this email on July 28, 2021, did you ever consider that it would promulgate some conspiracy theory?

A No.

Q Did you endorse any statements or actions in this article?

A No.

Q Did you direct any of your colleagues to take any action pursuant to this article?

A No.

Q And did you think that this email would prompt the FBI to question your

allegiance to the United States?

A No.

BY [redacted]

Q And in your email, did you ever align yourself with the Oath Keepers?

A No.

Q Did you ever align yourself with the thinking of Mr. Rhodes?

A No.

Q And if I represent to you that it wasn't until at least November of 2022 that Mr. Rhodes was arrested, does that kind of match with your recollection of the events?

A I would say that he was definitely arrested a lot later than there was publicly available information coming out in regards to him. So, I don't recall -- I mean, obviously what you're saying is a fact, but to me it was like -- it was obviously a lot later than publicly available information I'd seen in regards to Mr. Rhodes. The arrest came significantly later.

Q So, in your role being attached to the JTTF, who was working on January 6th-related investigations you were conducting open-source searches, and through this you found information related to Mr. Rhodes that concerned you. Is that correct?

A Yes.

Q And so, you know, as you did per your duties with the JTTF, you sent that to a colleague. Is that correct?

A Correct.

[redacted] I'm going to mark this as exhibit 6.

[Allen Exhibit No. 6

Was marked for identification.]

BY [redacted]

Q Mr. Allen, do you recall sending this email?

A Yes.

Q And what exactly is this email?

A This email is a link to a video featuring a discussion between a reporter by the name of Darren Beattie. And in the video as well is Stephen Bannon, it's his show on Rumble called War Room. And then there's also another reporter by the name of Jack Posobiec, and they're having a discussion about the uniquely poor security that was there on January 6th.

Q And in this email, did you indicate any support or affirmation of any of the contents of this video?

A No.

Q And why exactly did you send this email?

A I sent it just for awareness because the video, to me, indicated potential problems with the investigation as far as informants were concerned, and our organization's potential forthrightness about the utilization of informants there on that day. That might have some impact on our cases and the subjects that we're looking up, and just a general awareness overall for the investigation as a whole, that there might have been some kind of potential Federal involvement with the activities on January 6th, and I thought it was important enough that it like warranted our attention, you know.

Q Is it safe to say that you sending this email was part of your job at the time?

A Yes.

Q Did you direct any of your colleagues to take any action regarding this video?

A No.

Q Are you aware that on June 8th, 2021, the United States Senate Rules

Committee released a 127-page report detailing security failures at the Capitol leading up to and on January 6th, 2021?

A I don't recall.

Mr. Gaetz. Mr. Allen, I want to ask you about the quotes under your signature box. What's the nature of those?

Mr. Allen. They're Bible Scripture verses. I put them in there for inspiration for people. I would see people put stuff in their signature blocks, and so, I intentionally just started putting Scriptural verses into the signature blocks. Because I used to kind of be, like, I would just put my name and something to that effect, but I saw a lot of people starting all kinds of stuff on their, you know, signature lines and whatnot. So I figured, okay, I'll just start putting Scripture in there.

Mr. Gaetz. You've also got a quote from C.S. Lewis, right?

Mr. Allen. Yes.

Mr. Gaetz. And do you -- is there some sort of message in the signature block quotes that you provide that's relative to the substance of the email, or is it just general motivation?

Mr. Allen. It's general motivation, just for, like, you know, purity of heart, purity of spirit, that sort of thing.

Mr. Gaetz. No subtext?

Mr. Allen. No.

Mr. Gaetz. Thanks.

[redacted] I'm going to enter this email as exhibit 7.

[Allen Exhibit No. 7

Was marked for identification.]

BY [redacted]

Q Mr. Allen, do you recall sending this email?

A Yes.

Q And what exactly is this email?

A This email is just an email I sent out that morning for awareness for the squad because I'd seen publicly available information that was kind of painting a very different picture of the kind of the push and the fervor within the organization for pursuing the cases, which we did, but it seemed like there was not a whole lot of fervor for looking at, you know, potentially exonerating information, which I thought was valuable and viable for us in our decisionmaking processes for the cases.

So I just wanted to call out that, you know, it looked like there might be a lack of forthrightness in regards to the events of the day, and what necessarily happened that day, which would necessarily have an impact on American citizens, you know, and the rights of the citizens, you know, their First Amendment rights, their right to protest. It just -- that's what I was trying to call out, that there was a potential that there may have been some government involvement with the day that was not being brought to light that we should very much take into consideration.

Mr. Gaetz. Mr. Allen, in your testimony, you used the word "potential".

And in your writing, you used the phrase "good possibility." Is the committee to take that you haven't made any hard-and-fast certain legal conclusions about any of these matters?

Mr. Allen. Yes.

Mr. Gaetz. That the purpose of this letter was to ascertain the need for investigation?

Mr. Allen. Correct.

Mr. Gaetz. You referenced in the letter the D.C. elements of our organization.

Do you include within the D.C. elements the Washington field office?

Mr. Allen. Yes.

Mr. Gaetz. And do you include within those D.C. elements the leadership at FBI headquarters?

Mr. Allen. Yes, sir.

Mr. Gaetz. Including the Director?

Mr. Allen. Yes, sir.

Mr. Gaetz. And your basis for those concerns about the D.C. elements of the organization, I want to get into that beyond just the video. Describe the interactions you've ever had with the Washington field office regarding the January 6th matter.

Mr. Allen. Regarding the January 6th matter, the interactions from the Washington field office were primarily like secondhand. So on our squad, we were getting all kinds of leads in regards to January 6th. But I was getting, you know, stories from other squad members about they weren't getting the evidence they needed to pursue some of the leads coming out of the Washington field office, but there was a fervor for them to start working on the leads and our personnel were not getting the documents that Washington field office said they were going to send them to fulfill some of the leads.

One example I have is kind of -- it's secondhand, but an agent on our squad, they found out about another agent -- I believe it was the Cincinnati field office, who was I believe swore out on a document, and Washington field had not sent them the documents to back that up. And that ended up, like, turning into a bad situation.

That's the secondhand information that I got from one of the agents on our squad, but they were sufficiently concerned about it that any time they were getting leads, they were very much pressing, Hey, can you give us the supporting documents for this, rather

than us just, like, you know, going hey diddle down the middle on these things, like, well, give us documentary evidence.

Mr. Foster. Just so the transcript is clear, when you say swore out on the documents, you mean the Cincinnati agent swore an affidavit that was submitted in court?

Mr. Allen. An official document that a judge had to sign off on, that was how it was relayed to me, that --

Mr. Foster. He was making representations based on WFO's claim --

Mr. Allen. Based off a claim, and then those documents did not materialize, and that's what I got secondhand.

Mr. Gaetz. I'll represent to you that the committee has received evidence that in other cases, agents were asked to put their names on law enforcement documents around January 6th in the absence of the type of predication that would have made that agent comfortable with utilization of their name. Was that the type of dynamic that you observed from this colleague that had that Cincinnati interaction?

Mr. Allen. Yes. Yes. And then with our personnel as well, there was some apprehension with anything coming out of Washington field. They were pressing back on the leads and, like, sometimes the leads would disappear, and then a week or two later, the leads would get pushed back out again to be worked again.

Mr. Gaetz. Was this a usual part of developing cases?

Mr. Allen. No. This was abnormal. I mean, it seemed -- they were -- essentially, somebody would push back on our squad, and then they were recycling the leads. And it would come back to somebody else, sometimes a couple of days later, sometimes a week or two later, but it was like they were sending the leads out. It had the appearance of they were sending the leads out again to be worked,

because they wanted something more.

Mr. Gaetz. And at times, you were aware of certain circumstances where people sought, you said, additional documents --

Mr. Allen. Yes.

Mr. Gaetz. -- to advance that investigative work, and as you testified, you were aware of frustration where you worked that those documents were not always --

Mr. Allen. Were not always provided.

Mr. Gaetz. Did you ever observe any of your colleagues opine as to why we might find ourselves in this unusual situation where the Washington field office was not providing requisite predication?

Mr. Allen. I mean, it's a work space, so I mean people, I guess, had all kinds of opinions. It was, like, you know, they really want to get these people, or that sort of a, you know, thought was evident. But our stance was, like, if you give us the evidence, like, we're gonna do our job, you know. But if you don't give us the evidence, we're not going to do the job. So I think there was a sense of frustration with leads being shutdown, but then they would show up again several days later.

Mr. Gaetz. I'll represent to you that the committee has received evidence that at another field office, when people weren't receiving the predicate information that they felt they needed to pursue investigations that the Washington field office was pushing, that those agents were told that one of the reasons that the predicate evidence wasn't provided is that it might reveal confidential HUMINT sources and undercovers.

Does that surprise you?

Mr. Allen. No. Based on the publicly available information, I wouldn't be surprised.

Mr. Foster. You mentioned that there were documents that were withheld that

were sought to support leads in investigative activity. Is it true that there was also video, that the video was not being shared with your unit for analysis, or with others in your office for analysis?

Mr. Allen. I would say yes. It was kind of a close hold situation around who had access to the video at the Capitol. And it was essentially like very close hold at Washington field. One of our colleagues got access, but it seemed like the access was very limited as to what you could get. People were concerned, like, Well, how come they can't just give us all the video evidence so that we can pull through the information ourselves?

Mr. Gaetz. I think where counsel is helping me with my inartful question is that the committee is to assume that when you say documents, that doesn't just mean paper, that also might include video records and other things that might predicate the investigations that they wanted to see pursued?

Mr. Allen. Yes.

Mr. Gaetz. Thank you for that. I want to just get to this practice of emailing around open-source news articles. Someone from the outside might look at this and say, Why are Federal agents emailing around the news to one another? Is that something that happens frequently?

Mr. Allen. Yes. Publicly available information, news, a lot of times is like that's like a basic inject point sometimes for investigations and whatnot. We've had, like, cases where it's, like, social media, there's a bomb threat at a high school or something like that. So I mean, the raw data that we get to initially operate off of sometimes is publicly available information.

[10:59 a.m.]

Mr. Gaetz. And so has anyone during your employ at the FBI ever emailed you a news article?

Mr. Allen. Yes. I would say it's a frequent practice.

Mr. Gaetz. And when you receive news articles, did you automatically believe that the sender of the news article believed everything in the article to be true?

Mr. Allen. No. I would -- they're passing it along for information and like a heads-up, like an FYI.

Mr. Gaetz. So any news article that you might have received during your employ in the FBI, you might ascertain, upon looking at it, things that were true and things that were false, right?

Mr. Allen. Yeah.

Mr. Gaetz. And Yahoo News, as a matter of fact, I mean, they were used for FISA warrants, weren't they?

Mr. Allen. I --

Mr. Gaetz. You don't have to answer that if you don't have personal knowledge.

Mr. Allen. I don't have --

Mr. Gaetz. Okay.

Thank you. Appreciate it.

[redacted] I'm going to mark this email as exhibit 8.

[Allen Exhibit No. 8

Was marked for identification.]

[redacted] Let's go off the record. Let's take a short break before we go to this exhibit.

[Recess.]

[redacted] We can go back on the record.

BY [redacted]

Q Mr. Allen, so you sent two emails on September 29, 2021. Is that correct?

A Yes.

Q So the first one had the subject line "6 January Awareness Vid Link." Is that correct?

A Yes.

Q And in that, the link to the video, the reporter, who you identified as Darren Beattie, discussed a New York Times article that was published 4 days earlier alleging that a member of the Proud Boys was an FBI informant who texted real-time updates on the Capitol march to his FBI handler. Is that correct?

A Yes.

Q And then, later that morning, you sent another email, and that one with the subject line "6 January Awareness." Is that correct?

A Yes.

Q And in that, you said, "There's a significant counter-story to the events of 6 January 2021 at the U.S. Capitol. There is a good possibility the D.C. elements of our organization are not being forthright about the events of the day or the influence of government assets."

Is that correct?

A Correct.

Q And you linked to a few different articles. Why did you include those specific articles?

A You're talking about the articles highlighted in blue?

Q Yes, sir.

A Yeah. So I highlighted those specific articles just because of the ambiguity around -- the first one, because of the ambiguity about Mr. Rhodes and how the rest of the individuals associated with that group were being pursued, but it appeared as if Mr. Rhodes was dodging scrutiny, which I thought warranted some type of investigative interest that we should pay attention to. So I linked that for awareness.

And then I linked the other two articles just because it seemed like there was a potential discrepancy in how the January 6th investigations were being pursued versus how the summer-of-2020 investigations were being pursued, and I was just concerned about -- we had equal-application-of-the-law concerns on the squad. That was my concern there. And there were conversations that we also had on the squad where we were concerned about equal application of the law and how we took more of a hands-off approach in 2020, you know, kind of give people space to act, you know, however they wanted to behave. And then, in this case, it was more of a, like, "Hey, down the middle, let's go get them." And so I just -- I thought that was a good publicly available comparison chart for people to take into account.

And then it's interesting that sometimes -- the last link from The Gateway Pundit -- it's interesting that sometimes publicly available information will sometimes be faster than what we get internally, and sometimes we may find out stuff going on, you know, in reference to cases within the Bureau that we may have, you know, some kind of interest in or that sort of thing, we'll find out about it via the press before we find out about it, like, via internal.

And so that was -- essentially, that link was, like, a collection of the folks who were getting rounded up, and they had, like, bio data and that sort of, like, information hooked on to the link. So I linked it there for awareness, because, like, with some of the cases, the people were popping up in publicly available information, like, in the news, and there

were images and information that you would probably want to be interested in if you were the investigator looking at, you know, particular cases. So that's why I put that link in there.

Q And do you remember that, earlier in 2021, March of 2021, the Director testified before the Senate Judiciary Committee?

A Yes, I remember that.

Q And so, at that time, you were finding public reporting later on in September regarding potential informants that were at the Capitol. Is that correct?

A Correct.

Q And I'll represent to you that, during his testimony before the Senate Judiciary Committee, Senator Klobuchar asked him a question and said, you know, if we would have known, if we could have infiltrated this group or found out what they were doing, do you have any of those moments? And she was asking Director Wray to reflect upon, you know, whether or not there could've been better sourcing or better information that was provided.

And Director Wray responded, quote, "So any time there's an attack, especially one that's this horrific, that strikes right at the heart of our system of government, right at the time the transfer of power is being discussed, you can be darn tootin' that we are focused very, very hard on how can we get better sources, better information, better analysis so that we can make sure something like that happened on January 6th never happens again," end quote.

Were you concerned about his testimony?

A I was, in light of the publicly available information that had been released, especially the phrase where it said The New York Times had retained records indicating that there was a back-and-forth relationship between an FBI source and an FBI handler

real-time.

So I thought that was an indicator of, okay, what's going on here? It's a lack of -- you know, a potential lack of forthrightness here in regards to these cases. Like, this is something that's very concerning, that we should take into account, as far as the events of the day are concerned, especially when it comes to First Amendment-protected activities.

Q Uh-huh.

A And, you know, allegedly, it looked like there may have been a source in the Proud Boys who would've been reporting to his handler real-time. And that just seemed like information that, at that point in time, that the Director should have been aware of.

So it concerned me, the perceived lack of forthrightness there in regards to how deeply the Bureau had potentially gotten within the Proud Boys.

Q And so you were conducting these open-source searches pursuant to your role being attached to the JTTF at the Charlotte Field Office. Is that correct?

A Correct. Correct.

Q And did you ever raise this incongruence between the open-source research that you were conducting and what you were finding and the Director's testimony? Did you ever raise that to any of your supervisors?

A I mean, I thought the email, you know, would've been illuminative enough for them to discern that, okay, there's something that needs to be looked at here.

But maybe I'm not understanding the question.

BY MR. FOSTER:

Q To be clear, when you wrote in this email on September 29th, "There is a good possibility the D.C. elements of our organization are not being forthright about the events of the day," et cetera, that was a specific reference to the Director's testimony,

correct?

A Correct.

Q And your supervisors interpreted that as a direct reference to the Director's testimony, correct?

A Yes, correct.

Q So, by you sending this email, you were raising that concern. Your supervisors interpreted it that way. And then what happened after you sent the email?

A After I sent the email, I was speaking to a colleague in our squad area, because we were there early. We were usually the guys that got there kind of early before the rest of the squad was. So we were just kind of over by the break room with, you know, coffee, chitchatting.

And my supervisor, SIA, Supervisor Intelligence Analyst Costanzo -- that's what "SIA" stands for -- he came over, and he just kind of looked, and he said, "Hey, man, you know, when you get a chance, can you come down to my office and talk to me? Like, no rush. Just keep on with your conversation, and when you're done, just come down and talk to me in the office." So I was like, all right. So I talked to my colleague for a few more minutes, and then I went down to the office.

When I walked into the office, my direct supervisor, SIA Costanzo, was in there, but our ASAC, assistant special agent in charge, Jason Kaplan, was also in the room, and he's part of the leadership team for the entire field office. And so it seemed like I was walking into kind of an ominous-type meeting.

And he intimated to me that, you know, we need to talk about this email that you sent out. And he intimated to me -- he was like, "Well, the Director didn't necessarily lie. You know, maybe he misstated" -- something to that effect.

Mr. Gaetz. Mr. Allen, I'm going to pause you right there. Was only the email

marked as exhibit 7 referenced in this discussion?

Mr. Allen. Are you referring to this document?

Mr. Gaetz. Yes.

Mr. Allen. Yes, that was the only email --

Mr. Gaetz. You'd sent other emails, right?

Mr. Allen. Correct.

Mr. Gaetz. And in this discussion that you're about to go into good detail for us on, at no point are the other emails referenced, right? It's just this email?

Mr. Allen. This email, yes, sir.

Mr. Gaetz. Okay. Sorry to interrupt you. Go ahead.

Mr. Allen. No -- yes, sir.

So he confronted me about the email. And he said that Chief Division Counsel John Ireland (ph) had called him, and they were concerned about the email, and they thought the email might be problematic.

And, you know, I just explained to him my position, that, you know, we work for the Department of Justice. I wanted to make sure that all the information that we had in regards to a particular situation we had for our decision-making process, and, you know, that was the intent of my email.

And he indicated to me that it was problematic. And he went into something like, "The Director didn't necessarily lie. He may have misspoke," or something to that effect. And then I just highlighted to him that I'd utilized, you know, analytical language. I was like, you know, "That's why I used the word, you know, 'possibility.'"

And then it seemed like that kind of calmed him down when I pointed out -- I was like, "Well, I utilized the word, you know, 'possibility,' which is an analytical-type word." And when I said that, that kind of calmed him down. He intimated something to the

effect of, "Okay. I understand this now. This is analytical-type language."

Mr. Gaetz. So, Mr. Allen, just so I understand it, initially, in this meeting, Mr. Kaplan felt the need to defend the truthfulness of Director Wray's testimony, in his mind, right?

Mr. Allen. Yes, sir.

Mr. Gaetz. And did he try to convince you that Director Wray wasn't being anything other than fully truthful?

Let me ask that question again. Did Mr. Kaplan try to convince you to view Director Wray's testimony in a particular light?

Mr. Allen. I would say he was saying that, you know, Mr. Wray didn't necessarily lie, or he may have misspoken. And, I mean, it seemed --

Mr. Gaetz. In your entire career at the FBI, had anyone ever called you into a meeting to parse the truthfulness of someone's testimony before the United States Congress before?

Mr. Allen. No.

Mr. Gaetz. Did that strike you as odd?

Mr. Allen. Yes.

Mr. Gaetz. Did you feel like you had to be on defense in this position?

Mr. Allen. I felt like I had to be on defense and explain, like, my position, which was an interest in justice, you know, and that I'd used the word "possibility," you know. And that seemed to quell where he was, you know, I guess, emotionally. And then --

Mr. Gaetz. Was he animated emotionally, Mr. Kaplan?

Mr. Allen. He seemed more aggressive in -- you know, he was kind of leaning forward and that sort of thing. I took it as him being a little bit more leaning in, like, "You shouldn't have sent this email. This is problematic for us," is the message that I got

out of --

Mr. Gaetz. Did he provide any basis for it being problematic other than it didn't comport with his view of Director Wray's testimony?

Mr. Allen. No.

Mr. Gaetz. So the whole reason it was problematic, in this meeting, as expressed to you, is they thought you were being critical of the Director and they were there to defend the Director?

Mr. Allen. Yes.

Mr. Gaetz. Thank you.

BY [redacted]

Q At the time that you're having this meeting with Mr. Kaplan and Costanzo, did you -- when you were disclosing your concerns and that there was a possibility that the Director's testimony wasn't matching up to what you were finding in the public realm, did you reasonably believe that there was a concern or a possibility that the Director wasn't being completely forthcoming?

A I thought it was a pretty good possibility, based on all of the publicly available information that I had seen from the day and then just our organization's seeming-tepid response to it and then -- yeah, it just seemed like I was getting -- it was a tepid response to any of the information that may have painted a different picture of what transpired on that day.

Q And during this meeting with Mr. Costanzo and Mr. Kaplan, did you ever express any sort of alignment with the individuals who were at the Capitol on January 6th?

A No.

Q Did you ever express that the FBI shouldn't be pursuing individuals who

attacked law enforcement on that day?

A No.

Mr. Gaetz. And did anyone tell you that your specific recommendation in this email was problematic?

Mr. Allen. They didn't say anything that the recommendation was problematic.

Mr. Gaetz. I read the recommendation to say, "Exercise extreme caution and discretion in pursuit of any investigative inquiries or leads pertaining to the events of the day."

It strikes me as a pretty good recommendation on any case.

Mr. Allen. Right.

Mr. Gaetz. I mean, is there any case you can think of where caution and discretion wouldn't be appropriate?

Mr. Allen. I mean, it's the appropriate -- you know, I can be pretty, like, meticulous on, you know, the cases and whatnot, but it's just like, "Like, hey, like, pay attention," you know?

Mr. Gaetz. Thank you.

BY MR. FOSTER:

Q You said you were told that the reason for this meeting was that it was initiated by a concern expressed by Chief Division Counsel Ireland, correct?

A Yes.

Q And Chief Division Counsel Ireland was the recipient of your -- original recipient of your email.

A Yes.

Q And he was a frequent recipient of all your previous emails?

A Correct.

Q But he had never expressed any concern about the previous emails being problematic --

A No.

Q -- to your knowledge?

A To my knowledge, no.

Q And he wasn't in this meeting with your ASAC and your supervisor?

A No.

BY [redacted]

Q Did you ever talk to Mr. Ireland about this email?

A I do not recall talking to him about this email.

Q So when you were in this meeting with Mr. Kaplan and Mr. Costanzo, did you feel pressured to not do your job?

A It definitely -- after that, I would say it definitely had a chilling effect. I kind of just -- you know, I just kind of, like, let it go, you know, after that. It was just like, okay, there was a pretty, you know, bad response to this, so I just kind of, you know -- I just -- I mean, I kept doing my job, but it was like it wasn't welcome to, you know, put any information out there that may have been potentially exonerating or at least informative towards what happened on January 6th that was available in the public domain.

Q And so, when you sent this email, again, you, in your mind, you were doing your job?

A Yes.

Q I marked an email with the subject line "Devolution" as exhibit 8 -- and I believe you have it in front of you -- dated October 29, 2021.

What exactly was this link?

A So this link is to a blog that's run by a guy named Jon Herold. And,

essentially, he examines, like, publicly available documents but specifically a lot of government documents, like executive orders and documents of that nature.

And he has this line of thought, like, you know, potentially, our country came under some kind of a catastrophic attack, and there were extraordinary measures that were put into place to try to ensure a continuity of government in, like, a catastrophic security situation.

And so that's essentially, like, what the link was to, was to this guy's blog, where he's talking about continuity of -- potential enactment of continuity-of-government emergency situation in response to a catastrophic attack against our country.

And I work with Felix, and so we talk -- he's the primary DT agent, and so we'll talk about -- it's shop talk, you know, like, what's going on, what do you think about this line of thought, you know, that sort of thing.

Q So, in the previous email we were discussing, exhibit 7, you said the term "possibility" was analytical-type language, right?

A Right. I just -- yep. I mean, the "possibility" -- it's an analytical word, you know.

Q So would you consider this email, exhibit 7, to be an analytical product?

A I wouldn't consider it to be, like -- not, like, a formal product or anything like that. It's more of, like, a "Hey, what do you think of this"-type exchange, you know, between me and Felix.

Like, we have analytical products, which are, like, formal documents and that sort of thing. But this, I just kind of wanted to get Felix's take on what this guy's line of thought was, because we work for a national security organization.

Q So let's move back to exhibit 8. The text of this email says, "Came across this guy's line of thought, and it's an interesting read. He's got several parts to it. Who

knows?"

Is this an analytical product?

A You're referencing --

Q Exhibit 8, yeah, the "Devolution." Do you consider this email an analytical product?

A I wouldn't consider it an analytical product. I would consider it more of maybe, like, an exchange, you know, "What do you think's going on here"-type situation. So more like an analytical exchange, because we would bounce ideas and whatnot off of one another.

Q So the emails that we discussed today, including exhibits 7 and 8, were these emails the world of evidence that the FBI gave you that warranted your suspension?

A They've given me no evidence. Like, we've literally received no evidence.

I mean, I met with them in May of last year, after Congressman Jordan's letter facilitated a meeting with them. Within 24 hours of that going public, the Bureau called my counsel at the time, Sean Bigley, and said they want to meet with you, like, within a week, which we complied with. And I met with two investigators from Security Division.

And then we haven't gotten anything from the Bureau, like, since, like, no official document, no "this is why you've been suspended, and this is what we're presenting," like, nothing. And it's been 16 months, so --

Mr. Foster. Right. So, to be clear, we're talking about these emails because this is the only time you were ever called on the carpet contemporaneously to having sent the emails and asked about them or questioned about them?

Mr. Allen. Yes.

BY [redacted]

Q And in the article that you linked to it, this email from October 29, 2021,

with the subject line "Devolution," did you ever align yourself with any sort of conspiratorial views --

A No.

Q -- in this email?

A No.

Q To your knowledge, did the linked article espouse any conspiratorial views?

A I mean, no. I mean, it was this guy's line of thought that -- he thought it could potentially be an emergency continuity-of-government situation based on his analysis of executive orders. But, I mean, I just consumed it and took it in as like, okay, you know, potential. But we hadn't heard anything internally from any official channels internal, you know.

Q Uh-huh.

And I want to get back to your May interview that you had with the FBI. So, on February 17, 2022, you received the official notice of your indefinite suspension, correct?

A Yep.

Q And so then you did not hear from the FBI until May of 2022, correct?

A Correct.

Q And you had referenced a letter that then-Ranking Member Jordan had sent to the FBI. Is that correct?

A Yes. I spoke with my counsel, and we both believed that we got the meeting with the FBI because of Congressman Jordan's letter and that it went public, it was in the public sphere, you know. And, literally, within 24 hours Sean got a call and they wanted to talk to me. So --

Q So we'll enter this as exhibit No. 9. It's a May 6, 2022, letter to Director Wray from Ranking Member Jordan at the time.

[Allen Exhibit No. 9

Was marked for identification.]

BY [redacted]

Q And the letter does have some redactions because it involves information that we received from whistleblowers, and so it includes a whistleblower's name.

And, Mr. Allen, this letter was not about your specific case, correct?

A No.

Q But you say around this timeframe was when the FBI reached out to you to have a security interview. Is that correct?

A Yes.

Q And so what occurred at the security interview?

A At the security interview, I spoke with two investigators. They both relayed to me that they were retired but then called back in to do the interview. I don't know if they -- I don't recall if they were with BICS or another service, but they were called back in. They had some kind of part-time arrangement where they would come back in and do, I guess, investigative interviews.

And so, at the interview, we sat down, and they had, like -- they had a huge, like, file folder, and it looked like a bunch of printouts of, like, emails or messenger exchanges. And I don't know what the other documents in the folder was, but they talked to me about the nature of the interview and then proceeded to go through, like, some of the documents in the folder during the interview.

And one of the documents that they pulled out was this September 29th email, and they just asked me to go through it with them. And they had pulled out another Skype messenger exchange that I had had with an analyst in the field office who used to work DT matters as well. Her name was Morgan Taylor. So they pulled these

documents out and went through them with me.

And there was also another document visible, which had, like, Revolver News called out and highlighted as, like, an alt-right, extremist-type website. I noticed that on the paper. But they didn't -- it was pulled out, but they didn't talk about the document at all. But it was, like, visible in my sight.

Q And in this Skype messenger exchange, did you ever receive a copy of that messenger exchange?

A I mean, they showed it to me at the interview, but we were not provided with a copy of it to take for ourselves.

Q And in this exchange with Ms. Taylor -- who you said was an intel analyst? Is that correct?

A Intelligence analyst, yes.

Q And what was the content of that discussion? What was it in relation to?

A It was a back-and-forth analytical exchange about, like, what was going on. She used to work DT matters and was, like, pretty passionate about it. And she was reassigned to the HUMINT squad. So she had a natural -- she would still interact with all the squads in that role.

And so we were just talking about, like, the unrest around January 6th and what we thought might be going on in the country security-wise. I would also work command post and that sort of thing. So we generally tried to stay on top of anything that might turn into, like, a conflagration or some kind of, you know, unrest-type event.

So. In the exchange that we had, what the investigators, like, circled in on and kept -- they, like, wanted me to explain it, was, like, Cloward-Piven strategy. They seemed to be focused on that quite a lot.

Q Uh-huh.

A And so I spoke with them, like, about what Cloward-Piven strategy was -- like, essentially, generation of a political crisis to then collapse a society, and then you usher in, essentially, like, a socialist or communistic-type government regime in the wake of the crisis and the chaos.

And so we were just talking about that back and forth because of the events of January 6th and how hot the political climate was at that time.

And I had mentioned -- I'd mentioned, like -- they focused in on, like, "2 percent" and "3 percent" in there. And I was just talking about how, like, in Nazi Germany, the Nazis only constituted roughly about 2 percent of the overall -- that's the popular percentage that's thrown around for the amount of Nazi Party members that were a part of Germany during that period from 1933 to '45.

And I mentioned, like, Three Percenters. And in the conversation, I was basically trying to call out about how, like, a small percentage of people can actually, like, politically move the dial in a country if they want to destabilize it or try to usher in some kind of political unrest or takeover or something to that nature.

So it was an analytical exchange of that nature because of how, you know, unstable things were around the whole January 6th event and just the amount of leads that we were getting and just the political climate in the country at the time. It was just a conversation that we often would have, you know, face to face, but I get a lot of requests, and so, like, sometimes we'll just have Skype messenger analytical exchanges.

Q So you would describe this analytical exchange that you had with Ms. Taylor, who was another colleague, as just a normal part of your job?

A Yes.

Q And in this analytical exchange over Skype messenger, did you ever align yourself with the Three Percenters?

A No.

Q Did you ever align yourself with the individuals who were at the Capitol on January 6th?

A No.

Q Did you ever say that the FBI shouldn't be prosecuting individuals who attacked law enforcement on January 6th?

A No.

Q And, then, there was also another letter that Mr. Jordan sent --

Mr. Foster. Sorry. Before you go on --

[redacted] Yeah.

Mr. Foster. -- just another clarifying question.

So do you know whether Ms. Taylor has been questioned about that same exchange or has had any problems with her security clearance?

Mr. Allen. I do not know.

Mr. Foster. Okay.

BY [redacted]

Q And, then, about a month after the May 6, 2022, letter that you said prompted your security clearance review interview, Mr. Jordan sent another letter, on June 7, 2022, to Director Wray specifically about your case.

Do you remember that?

A I can't recall off the top of my head.

Q We'll mark it as exhibit No. 10.

[Allen Exhibit No. 10

Was marked for identification.]

BY [redacted]

Q And it was redacted in the public realm, but we didn't print the redacted copy for purposes here.

Mr. Allen, I want to turn your attention to the third paragraph of this letter. It says, "In a letter sent to the FBI, Allen's lawyers explained that the FBI's accusations are a 'monumental leap from objective fact' and a 'distortion' of Allen's actions. They argue the security clearance suspension is a 'gross injustice and clear constitutional violation' because the FBI is 'punish[ing]' Allen for 'run[ning] afoul of prevailing agency orthodoxy' while 'exercising his First Amendment right of free speech.'"

Is that accurate?

A Yes.

Q And is that how you feel about this security clearance suspension and your suspension from the FBI?

A Yes.

Q And in the first paragraph, the last sentence says, "Multiple whistleblowers have called it a 'purge' of FBI employees holding conservative views."

Do you agree with that statement? Do you have any sort of knowledge to inform that?

A I don't have any knowledge to inform that specifically.

Q And would it surprise you to learn that multiple whistleblowers to the committee are unvaccinated with the COVID vaccine? Would that surprise you, to learn that?

A I would -- yeah, I would -- I don't think -- that's weird.

Q Uh-huh.

A Yeah.

Q And why is that weird?

A Just, as an intel guy, it's like you look for patterns.

Q Uh-huh.

A And that's an interesting data point, that the majority of whistleblowers, as you say, are unvaccinated.

Q And, to your knowledge, did the FBI track who was unvaccinated?

A To my direct knowledge, no. I have secondhand, like, hearsay that there may have been a compliance list. But that's secondhand hearsay from colleagues in the office, that there may have been a list of those who were compliant versus noncompliant.

Q And, to your knowledge, did FBI employees have to report whether or not they were vaccinated?

A Yes. There was an internal database system in the organization to update your vaccination status.

BY [redacted]

Q Mr. Allen, you testified earlier that you feel that your suspension from the FBI is essentially retaliation for engaging in what the FBI leadership deems, you know, disfavored political speech, right?

A Yes.

Q You filed a lawsuit in the United States District Court for the District of South Carolina against FBI Director Wray in his official capacity in December of 2022, correct?

A Correct.

Q So, without going into any specifics regarding your conversations with your counsel, why did you file this lawsuit?

A The lawsuit was filed to provoke some action in my case, because no action had been conducted to date, and we wanted the case to be adjudicated so we can see the evidence of what they had levied against me.

Q And, instead, the FBI moved to dismiss that suit, correct?

A Yes.

Can I take a quick break?

Q Sure. Absolutely. We can go off the record.

[Recess.]

[redacted] We can go back on the record.

BY [redacted]

Q Mr. Allen, we were talking about your lawsuit very briefly. Along with the motion to dismiss, the FBI also moved the court to stay those proceedings pending resolution of that motion, right?

A Yes.

Q And the court granted that motion to stay, right?

It's okay if you don't -- it's fine if you don't know.

A I can't recall immediately.

Q So I want to move on to ask you about your perspective on certain items that the FBI has undertaken.

Are you familiar with the Attorney General's October 4, 2021, memorandum regarding alleged threats and violence at local school board meetings?

A Can you say that again?

Q Yeah. Are you familiar with the Attorney General's October 4, 2021, memorandum regarding alleged threats and violence at local school board meetings?

A I am aware of it from the public forum, but I don't recall reading it on our internal system.

Q Do you recall receiving it internally?

A I don't recall receiving it internally. I -- I don't recall.

BY [redacted]

Q Do you ever recall in your work as a staff operations specialist or your work with the JTTF, do you ever remember prior to October 4, 2021, receiving any sort of open-search sources or any sort of reporting that would indicate that there was a disturbing spike in harassment and intimidation at school board meetings?

A I don't recall. Publicly available information that I would've seen in regard to it would've been as a private citizen. But I don't recall any -- it does not come to mind, anything like a spike.

Q But prior to the October 4th memo or immediately after the memo, were you ever asked to do any sort of work around a spike of harassment or intimidation at school board meetings and what the FBI could take action on?

A I don't remember any taskings in regard to that.

BY [redacted]

Q Do you recall, subject to this memorandum, an email sent by Carlton Peeples, who was the Deputy Assistant Director of the Criminal Investigative Division, also in October of 2021, to announce the creation of an "EDUOFFICIALS" threat tag?

A I do remember seeing an email about a threat tag having to do with schools. I can't recall if that was the specific threat tag that I saw on the email, but I do remember there being a creation of a threat tag and some people having ire about it in the squad area.

Q When you say some people had ire about it, what do you mean?

A I mean, like, verbal responses like, "What, are we going after, like, people at school -- like, parents at school board meetings now?" Statements to that effect.

Q So, as a staff operations specialist, how did you utilize threat tags such as the one that was set up for these school boards?

A I personally didn't really use the threat tags in my analytical work. There were some things that I just -- I do my own searches within the system. I know some people like to utilize the threat tags and that sort of thing.

The only experience I have professionally within the organization having to do with threat tags is when we generate intelligence products. If we generate a document, there is, like, an automated system that has a menu of options, where we'll go in and we essentially will pick whatever, like, tags are in existence in the system that fit that document.

But I do know, like, some people use those threat tags to just do quick query searches within the assessment system, which is Guardian. And, that way, the -- if you want to find everything having to do with that threat, you can do those type of searches with those threat tags.

But I personally never utilize threat tags like that. My experience is with the production of documents, and if I wrote something having to do with a threat tag, then, you know, by program requirement, they wanted you to do that for, like, collating and, like, data analysis purposes.

BY [redacted]

Q And when you talked about, you know, individuals expressing ire within the JTTF squad area --

A Uh-huh.

Q -- were those individuals special agents? Were they --

A Yes.

Q -- task force members? What were --

A It was a combination of both. People were like, "Like, what is this? Like, this is ridiculous."

Q Did they think it was a waste of FBI resources?

A Yes.

Q Was it your understanding and the understanding that you could tell from the individuals of the JTTF squad -- were they under the impression that this was a local law enforcement issue?

A I don't know what their official, you know, motivation was. I just know that they had ire with the threat tag and comments of the nature of, "What are we doing, going after parents now?" You know, almost like a ridiculousness, you know?

Q Would you say that the reaction among the JTTF squad to the "EDUOFFICIALS" threat tag, was it negative?

A I would say yes.

BY [redacted]

Q Did you share that ire that your colleagues expressed?

A I thought it was concerning. You know, I thought it was very concerning.

Q And did you believe that the FBI should be using counterterrorism resources on this issue?

A No.

Q So, in November of 2022, Republicans on this committee released a report that details the problems that undermine the FBI's fundamental law enforcement mission.

Particularly, whistleblowers have told committee Republicans that the FBI's Washington hierarchy is, quote/unquote, "rotted at its core," maintains a, quote/unquote, "systemic culture of unaccountability," and full of, quote/unquote, "rampant corruption, manipulation, and abuse."

As a former -- or FBI staff operations specialist, what's been your firsthand

observation?

A Firsthand observation in regard to?

Q Do you agree with those sentiments from other whistleblowers?

A I don't have any, like, direct knowledge of any conduct of any specific Senior Executive Service officials and their conduct.

I have seen, like, our OPRs that have been released internally and some of the conduct on the -- I mean, it's the OPR list, so it's misconduct that's listed on the OPRs. And some of the misconduct is highly alarming for a law enforcement agency.

But as far as any direct knowledge of -- you know, firsthand knowledge of misconduct of Senior Executive Service personnel or, you know, even GS-15 personnel, I don't have any direct knowledge in that regard.

Q What particularly did you find alarming in the OPR reports?

A The amount of -- some of -- the outrageousness of some of the reports. Like, one report that came to mind was -- and I think this one was even in the public forum -- where an FBI agent did, like, a back flip on a dance floor and lost his sidearm and it discharged and shot someone in the shin, and then he wasn't forthright about the situation when local law enforcement responded. That's one case that comes to mind. I don't recall the specific rank of that investigator, but that one was shocking.

And there was another incident on an airplane where an FBI agent supervisor -- I don't know what rank -- was unruly on a passenger aircraft and kicked the drink cart and his gun fell out.

So those are just two examples that I know for certain I saw on OPR lists over the years.

Q Do you have any information or firsthand knowledge that the Bureau has abused its law enforcement authorities for political purposes?

A I don't have any direct firsthand knowledge.

Q Okay.

So this committee has learned that the Biden administration's narrative about the FBI's work on domestic violent extremist, DVE, cases might be misleading. We've received accusations that FBI agents are bolstering the number of DVE cases to satisfy their superiors.

For example, one whistleblower explained that, because agents are not finding enough DVE cases, they are encouraged and incentivized to reclassify other cases as DVE even though there's minimal circumstantial evidence to support the reclassification.

Do you have any information about that type of reclassification?

A Not in specific to DVE.

But I do know -- so I don't recall what the acronym stands for, but when we fill out our timesheets, we do this process called TURK. And on TURK, there are specific designators that are assigned based on how many hours you work on these different investigative classification codes. And there's all kinds of different classification codes based on what threat program and whatnot you work.

And what you're supposed to do, to the best of your ability, is to assign the appropriate amount of hours on TURK to what threats you work. So, for example, someone who works domestic terrorism, the designator is typically 266. If you work -- well, I won't say that. But, like, international terrorism cases have a specific code as well. So you're supposed to fill it out to the best of your ability.

I have witnessed in the past where, for our midyear reviews and when we're getting to the end of the year, there are certain numbers that management relays aren't where they need to be. And so they have come down and they have told people working -- and this applies to investigators. I've never done it. I thought it was not

straight-up, like, forthright. I'm like, that's not honest. You need to reflect -- my take of it, you know, justice, what's the real number? So I didn't think it was on the up and up. But they would come down -- and this happened on more than 1 year, where it'd be like, "Everybody, TURK this now."

I didn't do that. I was on the intel program. We just TURKed what we worked, you know. So it was like, if this 2-week cycle I ended up working a specific type of international terrorism, you know, case or threat more than a domestic terrorism threat, well, guess what? I tried, to the best of my ability, to match the hours I worked on that threat with that specific code.

But I do know -- and it was not an uncommon practice towards the end of the fiscal year, oftentimes around -- a lot of times, this centered around the threat review process, because we'd sit down and -- essentially, for the threat review year, what happens is, everybody makes an estimate of how many, like, cases they're going to have on a particular threat. And then it breaks down the chart, like, all the way down to, like, how many arrests, you know, what type of arrests. Like, another category might be raids. There's all kinds of categories, and there are certain numbers they have to hit.

So I've observed in the workplace, like, on more than one year where it's like, someone from management will come down and they'll say, "Everybody, TURK this." And so all the investigators will be like, no matter what case it is, it's like, "Well, I guess we're TURKing this now," and they'll just literally all TURK that number, like, regardless of what they may have really worked on.

It seems to me they're trying to meet whatever the number that's desired is, you know, and if they're short of that, then it's like, "Everybody, from this point forward, TURK this," you know.

BY [redacted]

Q And the desired number that you've mentioned, is that field-office-specific or is that enterprise-wide at the FBI?

A There are enterprise-wide numbers, and there are also field-office-specific numbers.

So, like, as part of the process, there's things that headquarters designates that every field office has to abide by, to a certain extent. And then the field office also has its own plan where they can assess their threats locally.

But they only have so much leeway in that process. Like, if headquarters deems something a higher priority level, then the local field office can only lower that threat so far. They can't, you know, remove it totally from the list or knock it down as far as they would like to if headquarters sets that threat level high.

So there's two, but headquarters very much impacts how the field operates.

Q Uh-huh.

And when you say that management would come down and say you need to TURK a certain category, is that -- would you describe that as pressure, or are you being told to do this?

A It's like a command. It's like an order. And the agents accept it like an order, and they just obey.

Q And that was all in an effort to hit certain numbers. Is that correct?

A Correct.

Q And do you know if -- was management hearing that from headquarters?

A I'm under the impression that they're having constant conversations with the program desks at headquarters, and then the program desks are telling them, this is what it needs to be and this is where y'all are short.

And then the ASACs and the local program managers at our level -- which are

oftentimes times the supervisory special agents on each of the assigned squads. The ASACs will work in conjunction with them to hit whatever the numbers are.

Q And in regards to what we have learned with inflating numbers in relation to DVE investigations, we've also heard that the FBI may be manipulating its case filing system for working January 6th-related investigations, whereby leads are sent throughout the country, the WFO sends the leads out, and then they tell the field office to open cases so that it looks like domestic terrorism cases are populating throughout the country rather than just stemming from one event that took place in Washington.

Earlier in your testimony, you talked about how the Charlotte Field Office was working January 6th-related cases and how the JTTF had received leads. Is that correct?

A Yes.

Q And you had talked about how WFO was pressing agents to open the leads. Is that correct?

A Yes.

Q And then the JTTF agents had pushed back on the Washington Field Office. Is that correct?

A Yes.

Q And then the leads were recycled back to the JTTF squad. Is that correct?

A Yes.

Q Had you ever seen that in any other sort of cases or investigations, where the WFO was telling the Charlotte Field Office to do something and then, when it wasn't being done, recycling the leads to other individuals?

A No.

Q Did that concern you?

A Yes.

BY [redacted]

Q Why did it concern you?

A It had the appearance of: There was an outcome sought after that was not being generated.

Q Mr. Allen, are FBI employees and agents required to have a security clearance?

A Yes.

Q And can you continue to work at the Bureau if your clearance is revoked or suspended?

A No.

Q So, in your experience at the FBI, has revoking a security clearance ever been used as a way to get rid of an employee?

A Not in my experience.

BY [redacted]

Q And while you are on indefinite suspension, are you required to petition the FBI for outside employment?

A Yes.

Q And so, in order to -- while you're suspended without pay, you have to seek approval from the FBI to get outside employment?

A Yes.

Q Have you ever sought their approval for outside employment?

A Yes.

Q Can you expand upon that and tell us when you sought outside employment?

A Yes. I sought outside employment within the past month. I went through

the process. Because of the nature of the employer, I needed to correspond with an ethics attorney, which I did. I explained to him the announcement and the type of job, and we had a correspondence back and forth.

And he relayed to me to go ahead and submit the outside employment form, the 331B, to the chief security officer at the Charlotte Field Office, Suzanne Pemleton, which I did. I reached out to her. I submitted it, and she said she put it within the EPAS.

That employment approval -- there's a 15-business-day response time, and that 15-day response time has been expired for several days, and I've received no correspondence back from the Bureau in its regard.

[12:04 p.m.]

BY [redacted]

Q And so you have received no answer as of today about your outside employment request?

A No.

Q And before that, did you submit to the FBI a prayer journal for prepublication review?

A Yes.

Q And when, about, was that?

A Let's see. That would've been October of 2022.

Q And why did you submit it to the FBI for prepublication review?

A I just wanted to make sure that it was okay; that, you know, I had their okay to go ahead and do it.

Because of the nature of the situation, I conveyed, you know, there is nothing in here referencing my time as an employee for the FBI. You know, there's nothing in reference to the FBI -- like, basically conveying to them that there's nothing there that I'm trying to profit off of my association with the FBI.

And I just want to make sure that I've got the, "Hey, we're good to go. You can go ahead and do whatever you want with your prayer journal."

There was a correspondence back and forth, and then the correspondence dropped off, and I got no response after that.

Q So your goal was to publish the prayer journal. Is that correct?

A Yes.

Q And maybe gain some income, since you weren't earning any income at that point in time?

A Yes.

Q So you're suspended from the FBI February of 2022. Is that correct?

A Yes.

Q And then you get a month of pay due to your service to the country. Is that correct?

A Yes.

Q And then you are without pay from February until today, correct?

A Correct.

Q So you sought prepublication of your prayer journal in October of 2022 to earn some income, and then you never heard back from the FBI as to whether or not you could go ahead and publish it?

A Correct.

Q And then, just this month, you requested outside employment approval. Is that correct?

A Yes.

Q And you have never heard back from the FBI?

A No.

Q So you've been languishing now for over a year on unpaid suspension. Is that correct?

A Correct.

Q And, during that time, you have earned no income. Is that correct?

A Correct.

Q And you've been pulling from retirement prior to being retired, correct?

A Correct. It's my wife's retirement account. Yes.

BY [redacted]

Q Mr. Allen, do you feel that you've been treated fairly?

A No.

Q Do you believe that the FBI has become political?

A Yes.

Q Given your experience, do you see any other recent actions that we haven't discussed today by the Biden administration, DOJ, and the FBI as problematic?

A Problematic? I would say, by appearance, some of the information that's been made available in the public domain about public corruption that on the surface appears to not be being pursued seems problematic, especially in regards of public corruption when it comes from the highest offices in the land.

Q Is it fair to say that you've lost confidence in the FBI's leadership?

A Yes.

Q So the FBI told this committee that it does not target or take adverse action against employees for exercising First Amendment rights or for their political views. So, given your experience, is this accurate?

A Could you restate that?

Q Sure. It says, "The FBI does not target or take adverse actions against employees for exercising First Amendment rights or for their political views." Do you think that's accurate?

A I don't agree with that statement.

Q Okay.

[redacted] Do you have anything else?

[redacted] We'll go off the record for right now.

[Recess.]

[redacted] Okay. We're good.

Mr. Allen. Yes, ma'am.

[Whereupon, at 12:08 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: JOHN BRENNAN

Thursday, May 11, 2023

Washington, D.C.

The interview in the above matter was held in Room 2237, Rayburn House Office Building, commencing at 10:10 a.m.

Present: Representatives Jordan, Gaetz, Johnson of Louisiana, Biggs, Hageman,

Stewart, Armstrong, and Goldman.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

[redacted] GENERAL COUNSEL

[redacted] SENIOR PROFESSIONAL STAFF

[redacted] COMMUNICATIONS DIRECTOR AND COUNSEL

[redacted] DEPUTY GENERAL COUNSEL

[redacted] SENIOR ADVISOR

[redacted] SENIOR ADVISOR

[redacted] DEPUTY COMMUNICATIONS DIRECTOR

[redacted] COUNSEL

[redacted] CHIEF COUNSEL FOR OVERSIGHT

[redacted] SENIOR SPECIAL COUNSEL

[redacted] PROFESSIONAL STAFF MEMBER

[redacted] DIGITAL DIRECTOR

[redacted] MINORITY CHIEF OVERSIGHT COUNSEL

[redacted] MINORITY INTERN

[redacted] MINORITY OVERSIGHT COUNSEL

[redacted] MINORITY COUNSEL

For the SUBCOMMITTEE ON THE CONSTITUTION

AND LIMITED GOVERNMENT:

[redacted] MINORITY PROFESSIONAL STAFF MEMBER

For the PERMANENT SELECT COMMITTEE ON INTELLIGENCE:

[redacted] STAFF DIRECTOR, SUBCOMMITTEE ON OVERSIGHT

AND INVESTIGATIONS

[redacted] GENERAL COUNSEL

[redacted] COUNSEL

For JOHN BRENNAN:

ROBERT LITT, ESQ.

HAYDN FORREST, ESQ.

Morrison & Foerster LLP

2100 L Street NW, Suite 900

Washington, D.C. 20037

[redacted] Good morning.

This is a transcribed interview of former CIA Director John Brennan. Chairman Jordan and Chairman Turner have requested this interview as part of the committee's investigation of Federal law enforcement and intelligence matters within our respective jurisdictions.

Would the witness please state your name for the record?

Mr. Brennan. John Owen Brennan.

[redacted] And you're here with your lawyers. Could your lawyers also identify themselves for the record.

Mr. Litt. Robert Litt from Morrison & Foerster.

Mr. Forrest. Haydn Forrest, also from Morrison & Foerster.

[redacted] Thank you.

This investigation serves to inform potential legislative reforms within the jurisdictions of our committees.

For example, the committees may consider reforms such as revolving-door legislation for Federal employees with security clearances. These reforms might include allowing Federal employees with security clearances to retain clearances after employment with the government, but limiting their ability to receive access to classified information for some duration after their government tenure.

The committees may also consider legislative proposals that would ban or restrict intelligence agencies from engaging in, coordinating, or promoting any political activity related to Federal elections, including candidates for Federal office.

On behalf of the committees, I want to thank you for appearing here today to answer our questions voluntarily. My name is [redacted] I'm a lawyer with the House Judiciary Committee, majority side.

I'd like to have the staffers in the room introduce themselves. The only staffers are staffers with either of the committees. There's no personal office staff. So we'll go around the room, starting with my colleague [redacted]

[redacted] Hi. I'm [redacted] Chairman Jordan's staff.

[redacted] [redacted] chief oversight counsel for the House Judiciary Committee Democratic staff.

[redacted] [redacted] House Intelligence, minority general counsel.

[redacted] [redacted] House Judiciary Committee intern.

[redacted] [redacted] House Judiciary, Democratic staff.

[redacted] [redacted] House Judiciary Democrats.

[redacted] [redacted] with the House Intelligence Committee.

[redacted] [redacted] the HPSCI general counsel.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] [redacted] counsel for Chairman Jordan's staff on House Judiciary.

[redacted] [redacted] oversight and investigations counsel for HPSCI majority.

[redacted] [redacted] senior special counsel, Chairman Jordan's staff.

[redacted] [redacted] with Chairman Jordan.

[redacted] [redacted] with Chairman Jordan.

[redacted] And we are privileged to be joined here to by some of our members. We'll have them introduce themselves.

Chairman Jordan. Jim Jordan.

Mr. Stewart. Chris Stewart.

Mr. Johnson of Louisiana. Mike Johnson of Louisiana.

Mr. Armstrong. Kelly Armstrong.

Mr. Gaetz. Matt Gaetz.

Mr. Biggs. Andy Biggs.

[redacted] I'll go over the ground rules and guidelines that we'll follow during today's interview.

Our questioning will proceed in rounds. The majority will ask questions first for an hour, and then the minority will have an opportunity to ask questions for an equal period of time. We'll alternate back and forth until we are complete.

Typically, we'll take a short break at the end of each hour, but if you'd like to take a break apart from that, just let us know. If you need to confer with your counsel or otherwise break, please, we'd like to extend that courtesy.

As you can see, there's an official court reporter taking down everything we say. So we'll do our best to not talk over one another. From time to time, we might have to back up and restate a question and so forth.

We want you to answer our questions in the most complete and truthful manner possible, so we will take our time.

If you have questions or don't understand one of the questions we've asked you, let us know. Our questions may cover a range of topics, so if you need clarification at any point, just say so.

If you honestly don't know the answer to a question or don't remember, it's best not to guess. Please give us your best recollection. And it's okay to tell us if you learned information from a third party. The Rules of Evidence aren't in play here. Just tell us how you came to know the information.

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

You should understand that, although this interview is not under oath, that by law -- and we go through this with all witnesses -- you're required to answer questions before Congress truthfully.

Do you understand that?

Mr. Brennan. Yes, I do.

[redacted] And there's Federal statutes, such as 18 United States Code, 1001, that deal with those situations. Do you understand that?

Mr. Brennan. Yes, I do.

[redacted] We may have some exhibits here today, and we'll keep them with us and with the court reporter, even if it's a document that you may have provided to the committee.

Do you have any questions before --

Mr. Brennan. No.

Mr. Litt. I do have a short statement I'd like to put on the record.

[redacted] Absolutely.

Mr. Litt. Yeah.

[redacted] Let me just ask my Democrat --

Mr. Litt. Sure.

[redacted] -- counterpart to see if she has any welcoming remarks.

[redacted] No. We thank the witness for joining us, and we believe we will have Democratic members in here as well. We'll let them introduce themselves. I think there's a handful of other committee hearings going on right now.

[redacted] Okay.

And, please, sir.

Mr. Litt. Okay. Thank you.

John Brennan, as you know, has decades of distinguished service to our Nation. He's served under both Republican and Democratic administrations in a variety of national security positions.

He's here today voluntarily in response to a letter dated February 26, 2023, from the chairman of the Judiciary Committee and the chairman of the Permanent Select Committee on Intelligence, which requested that he produce documents and give an interview on the subject of the public statement that he and others signed in October 2020 concerning the New York Post's reporting about Hunter Biden.

By responding to this letter and agreeing to be interviewed, Director Brennan does not in any way concede that this inquiry has any legitimate legislative purpose. Congress has no right of oversight over statements by private citizens on matters of public interest, even if Members disagree with those statements.

As Chairman Jordan said, "the most important right we have as American citizens under the First Amendment is our right to speak, our right to communicate in a political fashion, and not be attacked or harassed for doing so."

So long as they do not disclose classified information, former national security officials have the same First Amendment rights as anyone else.

Thus, as I explained in my letter of March 13, 2023, even under the most expansive view of Congress's authority, there's no basis for this transparent attempt to police political speech and intimidate private citizens into not exercising their constitutional rights.

Nonetheless, and without waiving any rights he has, Director Brennan is prepared

to answer your questions about the statement in question.

[redacted] Okay. Thank you.

And to the extent -- you know, you're here voluntarily, so, you know, from time to time, if we ask a question and you're not willing to answer it, you know, we'll just have to move on.

I will note that, a lot of times, it's easier to just answer, if you can, even if you believe it's outside the scope. We don't normally, and we haven't here, engaged in any scope negotiations.

Mr. Litt. Yes.

[redacted] But it's voluntary. So we're free to ask questions we want, and you're free to tell us to, you know, come back later. Obviously, the coming-back-later questions, you know, gets into bringing you back and using a subpoena and that type of thing, so hopefully we can just -- you can just answer the questions we have.

Mr. Litt. Yeah, but there shouldn't be any problem if we are talking about the Hunter Biden laptop.

[redacted] Okay. Yeah, I mean, it's possible that we may have questions that we consider to be related that might stray from the statement.

And my colleague [redacted] is going to get our questions started here. The time is 10:17.

[redacted] Good morning, Director Brennan.

Mr. Brennan. Good morning.

[redacted] Again, my name is [redacted] I'm with Chairman Jordan's staff.

EXAMINATION

BY [redacted]

Q I want to start by kind of going through a little bit of your professional

background. Would you mind detailing for us some of the senior government positions you've held?

A I joined the CIA in 1980. Senior positions? I was the Director of the National Counterterrorism Center. Before that, I was the Director of the Terrorist Threat Integration Center. I also was the Deputy Executive Director of CIA. I was the chief of staff to Director Tenet. And I was Director of CIA.

In addition, I was President Clinton's daily intelligence briefer. I was chief of station in the Middle East for 3 years. So there was a variety of positions I held during my 33-plus years in government service.

Q And, sir, when did you retire from the CIA?

A I retired the first time in 2005, went into the private sector for 3 years, and then returned during the Obama administration.

During President Obama's first term, I was Assistant to the President for Homeland Security and Counterterrorism and Deputy National Security Advisor. I served in that capacity from January of 2008 until March of 2013, at which time then I was appointed to be Director of CIA.

Q And was the last position you held at the CIA Director?

A Yes, it was.

Q And how long did you hold that position?

A From March the 13th, I believe -- March 8th of 2013 to January 20th of 2017.

Q And what do you do now?

A I am a husband, father, grandfather.

I am a lecturer at my alma maters, Fordham University in New York as well as University of Texas at Austin.

I serve on a number of foundation boards: the Third Option Foundation, which

takes care of former CIA officers who either fell in the line of duty or have been maimed or paralyzed.

I also serve on the Board of Trustees of the International Institute of Strategic Studies, which is London-based.

I serve on the Board of Advisors to FAMIL USA, which tries to take care of Afghan citizens who served in support of CIA and U.S. Government objectives in Afghanistan.

I am a consultant with MSNBC and NBC.

I serve on one public board; that's ImmunityBio, Incorporated.

I serve on the Board of Directors for Treliant, which is a private company.

And there are, you know, other things -- I do consultancy on an infrequent basis. I am a principal in the WestExec Advisors here in Washington, D.C. And I speak at universities regularly.

Q Thank you for that.

And today we're going to speak a lot about the October 19, 2020, public statement that was signed by 51 former intel officials. So I'll go ahead and enter that as exhibit No. 1 today.

[Brennan Exhibit No. 1.

Was marked for identification.]

BY [redacted]

Q Director Brennan, you were one of the 51 former intelligence officials that signed this public statement, correct?

A That's correct.

Q And how would you characterize the public statement?

A It was raising public awareness about the potential for Russia to once again engage in information operations to influence a U.S. Presidential election.

Q And what was the intent of the statement?

A To raise public awareness about how the Russians use our open and free society here with information operations.

Q And I'll get into more of the content a little bit later on but kind of wanted to go through the timeline.

Did you have any role in the creation of the statement?

A No, I did not.

Q Did you draft the statement in any way?

A No, I didn't.

Q Do you know who drafted the statement?

A I have seen press reports saying that it was drafted by Michael Morell and Marc Polymeropoulos, but I don't know that for a fact. I didn't hear that directly from them.

Q And do you currently interact with Mr. Michael Morell?

A Michael has been a friend and a colleague for 40 years, and, yes, I have had interactions with him over the past several years.

Q And how often would you interact with Mr. Marc Polymeropoulos?

A Not often.

Q Did you overlap in any of your roles?

A He, in fact, served at the CIA for a fair amount of time when I was Director of the CIA, as well as previously, so I had interactions with Marc. And he worked in the same Office of Near Eastern and South Asian Analysis many years ago when I was there. I think it was in the 1980s, before he shifted his discipline within the agency.

Q And when did you first learn of the interest of getting former intelligence officials to sign on to a public statement regarding Hunter Biden's emails?

A I believe there was an email that came to me and others a day or two before I agreed to sign that I discarded.

Q Okay.

A I frequently will get requests to sign on to different types of letters, and I didn't take up the opportunity at that time.

It was when Michael, who had served as my deputy of CIA in addition to being a very close colleague over the years, made a request of me, on the 19th of October I think it was, if he could add my name to the list, and I said yes.

Q And do you know, who did the first request come from?

A I don't recall.

Q Do you know if you had worked with them at the CIA?

A I don't recall who it was, so I can't say whether I worked with them at the CIA.

Q And do you know any other individuals who received that same request?

A Well, subsequently, I know a number of the individuals who were on the list of signatories, so I presume that they were recipients of that request, but I don't know.

Q And was it your same understanding that this would be the same public statement that Mr. Morell reached out to you about, or was it a different public statement?

A Repeat that question.

Q So the first request that you received from the individual that you don't remember who it was, was that the same public statement that Mr. Morell reached out to you about signing on to?

A I don't know. I just know that I read the statement that Michael sent me when he was asking me to sign on to it. So I only recall one statement, the one that was

published.

Q Okay.

I'm going to offer as exhibit No. 2, an October 19, 2020, email from Mr. Morell with the subject line "Request to Sign Statement."

[Brennan Exhibit No. 2.

Was marked for identification.]

BY [redacted]

Q And please take a moment to review it, sir.

A Okay.

Mr. Litt. Take a look at the attachment as well.

Mr. Brennan. Oh.

Okay.

BY [redacted]

Q In the first line of the email, Mr. Morell states, "To all," and then in parentheses says, "Everyone is on the bcc line to protect folks' privacy." So we're not entirely sure who all received this email.

Do you remember if you received this specific email from Mr. Morell?

A I don't.

Q In the first paragraph, Mr. Morell stated, "Marc and I drafted the attached because we believe the Russians were involved in some way in the Hunter Biden email issue and because we think Trump will attack Biden on the issue at this week's debate and we want to give the VP a talking point to use in response."

Do you remember reading that paragraph at the time?

A I don't remember this email at all, so I can't remember that sentence.

Q Does it concern you, looking at the email now, that the intent behind the

public statement was to give the VP a talking point to use at the debate?

A That may have been the intent of the drafters of that email, even the drafters of the statement itself. But my intent, as I mentioned, I wanted to bring attention to the potential for Russian interference in the Presidential election once again, because I had firsthand knowledge of their interference in the 2016 Presidential election.

Q Did you have any role in recruiting other signatories to the statement?

A No.

Q Do you know who all conducted outreach as part of the effort to get signatories?

A Well, based on what you just shared with me, I presume it was this email that did that.

Q And we know from testimony and documents that have been produced to the committees that Mr. Morell kind of shopped the statement around to a number of former intelligence officials -- for instance, Lisa Monaco, David Kris, Jeh Johnson, Dan Coats, and Mike Chertoff -- who did not sign on to the statement.

Have you spoken to any of those individuals regarding the public statement?

A No. I don't recall speaking to any of them about it.

Q Do you know what role Ms. Kristin Wood played in the creation and promotion of the statement?

A I don't.

Q Do you interact with Ms. Wood at all?

A Not since she was at the Agency. I haven't had -- I don't recall any interaction with her.

Q Do you know what role Nick Shapiro played in the creation and promotion of the statement?

A My understanding is that Nick brought the statement to the attention of the media.

Q And is it correct that Mr. Shapiro used to work for you?

A Yes. He was deputy press spokesperson in the White House when I was Homeland Security Advisor. And then he came with me to CIA. He was my deputy chief of staff at CIA.

Q And how often do you interact with Mr. Shapiro?

A Nick is a close friend, and so I have, you know, periodic interaction with him now. The last time I saw him was when he came to CIA headquarters for the unveiling of my official portrait a couple months ago. But I have not had a lot of interaction with him recently.

When my memoir was being published, both the initial publication in early October of 2020 as well as the paperback version, Nick helped to arrange interviews with various elements for the publication of that book.

Q Did you speak to Mr. Shapiro at all regarding the public statement?

A You know, back in October of 2020, I had a fair amount of interaction with Nick because I was involved in the publication of my memoir. And so I presume at that time that I did.

Q Do you remember any discussions that you had with Mr. Shapiro regarding the public statement?

A I think I acknowledged that I signed it.

Q Uh-huh.

A And, again, I don't know what I was told at the time about his role in actually helping to send it to the press.

Q So you don't remember any conversations you may have had with him

regarding what he was doing to get the public statement out to the media?

A Again, this is over 2 years ago, and so I -- I was focused on my memoir at the time.

Q Okay.

Do you know what role, if any, Director James Clapper played in the creation or promotion of the statement?

A I do not believe he played any role. I know he is a signatory to it.

Q Do you know if he offered any edits to the statement?

A It's my understanding that there was an edit that Jim had offered.

Q And --

A I don't know what the edit was.

Q So you don't have any understanding of what edit he might've suggested?

A No.

Q Okay. Do you know if it was incorporated into the final letter?

A I don't know.

Q Do you know what role former Director of the National Counterterrorism Center Nick Rasmussen played in the creation of the statement?

A I just know that he is a signatory.

Q Do you interact with Mr. Rasmussen often?

A In his various capacities since he left government, I have had interactions with Nick. He was working at the McCain Institute here in Washington, and I spoke to his students a couple of times. And I had, I think, breakfast with him maybe a year and a half ago or so. So very intermittent contact with Nick.

Q And the version of the statement that's attached to the email that is now exhibit No. 2 has some language that was cut from the final version of the letter. And I'll

just go ahead and read that right now.

It says, "For those who argue that it is important for the truth to come out -- even if it comes at the cost of foreign interference -- let us share our understanding of the what transpired between Vice President Biden and the Ukrainians. It is not what Biden's opponents want Americans to think."

"When the Vice President took a private and public stand against the then Prosecutor General of Ukraine Victor Shokin, he did so as a matter of Obama Administration policy, because Shokin was corrupt, because he was not investigating corruption in Ukraine, and because the Obama Administration wanted a prosecutor who would. This included any corruption at Burisma. Shokin was not investigating Burisma. Biden was not protecting Burisma. Indeed, by arguing that Ukraine needed an aggressive prosecutor, Biden was arguing for just the opposite. The Russians want you to think otherwise."

Do you know why it was removed.

A I don't.

Q Do you know who suggested taking those paragraphs out?

A I don't.

Q Mr. Morell mentioned in some emails that some folks thought the paragraphs were too political. Do you agree that those paragraphs were too political?

A I prefer the letter in its final form, certainly.

Q So you were okay with those paragraphs being removed?

A That's not what I said -- oh, being removed? Yes --

Q Correct.

A -- I was -- yeah. And, as I recall, when I agreed to sign the letter, I don't recall reading that language.

Q And so, had these paragraphs been in the final version of the letter, would you have signed on?

A I do not believe I would have, but that's a hypothetical. And it's hard for me to say what I would've done in October 2020.

Q And can you kind of walk us through your understanding of why you wouldn't have signed on if those paragraphs were still included?

A Because I'm more comfortable without them.

Q You're more comfortable -- why are you --

A I'm not disputing the accuracy of those sentences there. I think it is accurate. But, again, my intent with signing this was to make sure I drew attention -- or, supported the effort to try to draw public attention to Russian information operations. This went beyond -- the language that you just read went beyond the use of information operations by the Russians to interfere in the election. And that was my intent here.

Q So you were not comfortable with these paragraphs. Is that correct?

A Again, I don't recall reading them, so I can't talk to my comfort or discomfort at the time. I am very comfortable with the final version. And, as I said, the language there at the end of that strayed from the Russian-information-operations message that I wanted to make sure the American public was aware of.

Q At any time following the publication of the statement, did you become aware that these paragraphs were removed?

A No. This is the first time that I recall reading them. I don't recall reading them before.

Q And at the time you were asked to sign on by Mr. Morell, did he indicate to you what the purpose -- his purpose for the statement was and why he was seeking other signatories for the letter?

A I think you are in possession of the email exchange that I had with Michael -- I think my counsel provided it to you -- where he asked that I sign on to it. And he said, I'd like to give the -- I forget what the language is exactly.

Mr. Litt. It's okay.

[redacted] We can enter it as exhibit No. 3, sir.

Mr. Gaetz. Before we go to No. 3, just to conclude exhibit 2, there is a part of the email correspondence from Michael and Marc that says, "If you want to agree to sign but make that 'conditional' on seeing who else is going to sign, I'm happy to send you the final list, probably tomorrow, before obtaining your final approval."

So, Director Brennan, were you in the group of people who were willing to sign without seeing the other signatories, or did you want to see the other signatories before signing.

Mr. Brennan. I didn't respond to that email. I only responded to Michael's followup email that went specifically to me.

Mr. Gaetz. Did you at any point desire to see who else was signing the letter before providing your own agreement to sign it?

Mr. Brennan. In the email that Michael sent me, he included the names of some individuals, who I have subsequently learned did not sign that letter.

But I was comfortable, again, with the content of it. My interest was not so much in who else was signing; it was in the content itself that would convey the message about Russian interference in the election.

Mr. Gaetz. So you never asked who else was signing, correct?

Mr. Brennan. I didn't respond to that first email. The email that Michael sent me included the names of other individuals that he said were going to sign.

Mr. Gaetz. Right. That's my question --

Mr. Brennan. And that's when I agreed to sign.

Mr. Gaetz. Yeah. My question is, at any point, before or after that, did you ever ask to see who else was signing before you agreed to sign?

Mr. Brennan. No, I did not.

Mr. Gaetz. Thank you.

[redacted] This will be exhibit No. 3. It's an email exchange between Mr. Morell and Director Brennan.

[Brennan Exhibit No. 3.

Was marked for identification.]

BY [redacted]

Q Feel free to take a moment to review, if you need to, sir.

A Oh, I've seen this.

Q Okay.

So, in the email, you were told that Mr. Morell was, quote, trying to give the campaign, particularly during the debate on Thursday, a "talking point" to push back on Trump on this issue.

Is that correct?

A That's what's included in the email.

Q And you have testified already that that was not your intent, correct?

A My intent was to make sure that the public warning was out about Russian information operations. Yes.

Q Were you worried at all with Mr. Morell's intent for it to be used at the debate?

A My impression was that Michael wanted to make sure that there was going to be language, substance, that was going to accurately portray the concerns about

Russian information operations so that then-candidate Biden would have accurate content to use if the subject came up.

Q So did it ever concern you that this was going to be too political, if it was going to be used at a Presidential debate?

A I think the more factual a debate can be, which is not always the case, I think it makes for a much better debate. And it's better to inform the American public with accurate information, which is what this letter tried to do.

Q And you responded to Mr. Morell by saying, "Ok, Michael, add my name to the list. Good initiative. Thanks for asking me to sign on."

Why did you call this a good initiative?

A Because I think it's important for there to be broader public awareness about these Russian attempts to interfere in the election -- in Presidential elections.

As I said, I was intimately involved and know of Russian information operations in the 2016 election. And, at the time, I think I would've appreciated more professionals in the public domain ringing that bell.

And so, therefore, in the 2020 election, I believed it was worthwhile and important for national security professionals, many of whom had intimate knowledge of Russian intelligence operations, to be able to provide information to the American public about it.

Q And at the time that Mr. Morell emailed you, what information did you have that suggested that the New York Post's reporting on the Hunter Biden laptop and emails was Russian information?

A Didn't say it was. We said that it raised our concerns and our suspicions that this could be -- I think it referenced the emails, Hunter Biden's emails there.

As we said in the letter itself, Russian information operations takes a wide range of

dimensions, to include the amplification of accurate information.

Q Uh-huh. What specifically raised your suspicions?

A Well, several things.

One is that the Counterintelligence Executive, Bill Evanina, in both July and August of 2020 raised publicly the concerns about Russian attempts to interfere in the election as a way to denigrate then-candidate Biden and to help Donald Trump.

My background, again, and knowing what they did in 2016 raised it; the fact that this came on the eve of the Presidential election; the fact that Rudy Giuliani was somehow involved in the obtaining of this -- it had a number of those hallmarks that indicated to me that there is, in fact, a potential that this is part of a broader effort on the part of the Russians to once again interfere in our election.

Q Did you review any type of information regarding the laptop or the emails that rose your suspicions, or was it just based upon your experience?

A I remember seeing the New York Post article at the time, and it was in the press. And so, again, what I saw, which included, you know, salacious photos and those types of things, this is the type of thing that the Russians have excelled at over the years, in terms of pushing out something in order to advance their own objectives and interests.

Q Were you privy to any information outside of the public realm?

A No, I was not.

Q Did you --

A Outside of my previous experience in intelligence -- professional experience working against the Russians --

Chairman Jordan. Director, were you --

Mr. Brennan. -- not in the public domain.

Chairman Jordan. Director, were you aware of what Director of National

Intelligence John Ratcliffe said on the morning of October 19th regarding this Biden laptop story, where he said that it wasn't a Russian disinformation operation?

Mr. Brennan. I don't know if I was aware of it at the time, but I would have dismissed it anyway.

Chairman Jordan. Why would you have dismissed it?

Mr. Brennan. Because I don't think John Ratcliffe was an independent, objective leader of the intelligence community at the time.

Chairman Jordan. So you would dismiss the statement from the Director of National Intelligence -- the Acting -- the Director of National Intelligence at the time, in the administration, getting intelligence in real-time, you would just dismiss that out of hand?

Mr. Brennan. Not out of hand, but I think it was -- a week or two prior to that, there was a selective release of information that included my briefing notes to President Obama in the White House Situation Room that was misrepresenting, in fact, the facts, where it was pushed out in redacted version. And I did think that was a very, very unfortunate, unprofessional, unethical engagement on the part of the Director of National Intelligence in a Presidential election.

Mr. Gaetz. So your dismissing Mr. Ratcliffe was somehow payback for the fact that you thought that your briefing to President Obama had been mischaracterized?

Mr. Brennan. No, that's not what I said.

Mr. Gaetz. Okay. Well, I'm trying to understand how this event that seems to have aggrieved you regarding the briefing to President Obama impacted your view of the Ratcliffe assessment.

Mr. Brennan. It didn't aggrieve me. It just indicated to me that John Ratcliffe was not going to be an independent, nonpartisan, apolitical actor.

And I did take the words of Bill Evanina in the Counterintelligence and Security Center, the Executive, about the determination of the Russians, as well as others, to interfere in the election.

Mr. Gaetz. And what did Mr. Evanina ever say about Hunter Biden's laptop?

Mr. Brennan. I don't know what he said about it or not. I just know that he said very publicly, repeatedly, that the Russians were interfering in the election.

Mr. Gaetz. But he never said there was a laptop that was a feature of that interference, right?

Mr. Brennan. I don't know what he said about the laptop.

Mr. Gaetz. Okay.

So I'm just trying to get the full universe of your basis for signing this letter. One, you say the Evanina analysis. Second, you say the election timing. Third, you say the involvement of Rudy Giuliani. And, fourth, you say the inclusion of salacious photos.

Have I missed anything?

Mr. Brennan. My many years of experience in the intelligence community, my intimate knowledge of Russian information operations in previous elections.

Mr. Gaetz. And what about that experience told you that the laptop was a feature of Russian misinformation?

Mr. Brennan. Again, the language in the letter says that our suspicions are raised that this, in fact, could be a part of a Russian information operation effort.

Mr. Gaetz. Right. And I'm trying to understand your full and complete basis for saying that that was a probability.

Mr. Brennan. And I think I've explained that to you.

Mr. Johnson of Louisiana. Mr. Brennan, just quickly, do you regard yourself as an independent, nonpartisan actor? You said the Director was not. Are you?

Mr. Brennan. Yes, I believe I am.

Mr. Biggs. So --

Mr. Johnson of Louisiana. And -- go ahead.

Mr. Biggs. Yeah.

So I wanted to get back to a couple things you said.

You said that you wanted to ring the bell of Russian interference or potential Russian interference in U.S. elections. Is that a fair characterization of --

Mr. Brennan. Yes.

Mr. Biggs. -- your testimony?

And so I'm looking at the letter, and it substantially talks about Russian interference in the -- potential Russian interference in the election of 2020, okay? But it also hangs its hat, in a large way, on the post of Hunter Biden's laptop, to the extent that it says here, "A 'laptop op' fits the bill, as the publication of the emails are clearly designed to discredit Biden."

And I guess the first question I want to ask you is: If they had not mentioned the Hunter Biden laptop at all but they were ringing the bell about potential Russian interference, would that have been a letter you would've signed?

Mr. Brennan. Well, I agreed to sign this letter with the inclusion of that reference, so I think, by definition, I would've been willing to sign that letter without it.

Mr. Biggs. Okay.

So I guess the followup, then, is: With regard to this specific language that says that the laptop itself -- or, "the emails are clearly designed to discredit Biden," with the laptop having been verified and the emails now having been verified as accurate and real, do you still agree that those emails effectively discredit Joe Biden?

Mr. Brennan. I am unaware of any official determination that the emails on that

laptop are all real, all unredacted, whatever. I don't know -- I know there are various press reports about it. The press has reviewed it. I'm -- I don't know.

Mr. Biggs. Okay. So the fact that --

Mr. Brennan. And I'd -- and even if they are all real, it doesn't mean that the Russians were not involved somehow in the obtaining of the laptop, the dissemination of it, and the exploitation of it, which is part of Russian information operations --

Mr. Biggs. That gets around the question I asked, though. The question I asked you -- and let's frame it with the answer that you just gave. If these are real, if these are verified emails, if they're not Russian disinformation, those emails do discredit Joe Biden and cast him in a very negative way, right?

Mr. Brennan. They are certainly unhelpful, because they can be exploited by partisan actors.

Mr. Biggs. But is that why you think that line was in this, was because they could be exploited by partisan --

Mr. Brennan. I wasn't involved in the drafting of it, so, therefore, I don't know what was the motivation of putting in particular words and particular sentences.

Mr. Biggs. And you weren't interested enough to make queries about those --

Mr. Brennan. I was interested enough to read the contents of it, which I felt were an accurate depiction of the potential of Russian information operations in it.

Mr. Biggs. Thank you.

[redacted] Mr. Stewart?

Mr. Stewart. Director, thank you for coming in. It's good to see you.

I'd like to reference a couple comments that you and your counsel made just for clarity and then ask you a couple other things.

In your opening statement, Counsel, you said -- and there's no doubt we

agree -- that you have the ability to engage as a private citizen in making public statements. No one contends that at all.

But I hope that you would also not deny our responsibility to determine if those statements are true --

Mr. Litt. I would --

Mr. Stewart. -- especially of -- especially of someone as distinguished as you are and the previous positions which you have held, as you've elaborated on today.

And I would ask you, do you think the CIA Director should be a political or a partisan position?

Mr. Litt. Can I -- I would just like to say that, indeed, I do dispute Congress's right to determine whether political statements are true or false in general.

Mr. Stewart. Okay. We can agree to disagree on that.

Mr. Litt. Okay.

Mr. Stewart. I think it's a fundamental --

Mr. Litt. I don't think freedom of speech was conditioned on that.

Mr. Stewart. Okay.

Do you believe that the CIA Director should be a nonpartisan and nonpolitical position?

Mr. Brennan. It's a Senate-confirmed political appointee --

Mr. Stewart. I understand.

Mr. Brennan. -- at this point.

Mr. Stewart. Yeah.

Mr. Brennan. And I do think it's important that the Congress, the Senate, have the ability to confirm the appointments of the senior-most members of the national security --

Mr. Stewart. That's really not what I'm asking you. I'm talking about the individual itself, should that individual be known or reveal themselves as a very partisan, political person? Or would the CIA Director, hopefully, be someone who stood outside of politics and didn't involve themselves in political --

Mr. Brennan. Are you talking about CIA Directors while they're in office?

Mr. Stewart. I'm talking about a current CIA Director while in office.

Mr. Brennan. As a current CIA Director, absolutely.

Mr. Stewart. Would you believe that someone who is a former CIA Director or Chairman of the Joint Chiefs of Staff, someone who is in a position that most Americans consider nonpolitical, again, an organization that should hopefully stand outside of the political debate, that someone who is a former CIA Director would therefore have a responsibility to be professional and nonpartisan in their own conversations or their public statements after they've --

Mr. Brennan. Yes. And I believe that after my departure from the CIA I have maintained that nonpartisan and professional demeanor.

Mr. Stewart. Well -- and I'll read you some of your comments and ask you to respond to that, if you would. And I think we can agree that, given the enormous power and authority that the CIA has to influence events around the world, I think the American people do expect -- and I'm glad you agree with me -- that that Director would stay above politics.

You've indicated so yourself. In an editorial you wrote in Politico, you said, "Many have condemned my public criticism of Trump, arguing that as a former CIA Director I should bite my tongue. My criticism, however, has not been political. I have never been and never will be a partisan."

Do you remember writing that?

Mr. Brennan. It sounds familiar. It sounds like something I would write or say.

Mr. Stewart. Let me read you one of several of your public statements.

March 17, 2018, speaking of President Trump: "When the full extent of your venality, moral turpitude, and political corruption becomes known, you will take your rightful place as a displaced demagogue in the dustbin of history."

Mr. Brennan. I remember writing that, yes.

Mr. Stewart. Does that sound like a nonpolitical statement?

Mr. Brennan. It sounds like somebody who is very concerned and very angry at how Donald Trump abused his office.

Mr. Stewart. Does it sound like a nonpolitical statement?

Mr. Brennan. If -- well, I don't know how you define "nonpolitical."

Mr. Stewart. You've indicated that you have not been political. I am asking you --

Mr. Brennan. That does not mean that I cannot speak about politics and what's going on in the political --

Mr. Stewart. All right.

Mr. Brennan. -- environment here in Washington.

Mr. Stewart. I understand that. I'm just asking, does that sound like a nonpolitical, nonpartisan statement?

Mr. Brennan. That sounds like a very honest judgment on the part of a former Director of the Central Intelligence Agency.

Mr. Stewart. Does it sound nonpartisan to you? Does it sound like something that someone who wasn't partisan would say?

Mr. Brennan. If they felt outraged over the behavior and the actions of an individual, irrespective of their party affiliation, yes, it is nonpartisan.

Mr. Stewart. You think that to call someone a disgraced demagogue, talk about their political corruption, their moral turpitude, you believe that is a nonpartisan statement?

Mr. Brennan. It's a statement directed against an individual, Donald Trump.

Mr. Stewart. Right, that you believe is nonpartisan?

Mr. Brennan. It's a personal judgment on my part about a specific individual.

Mr. Stewart. That's not what I'm asking. I'm asking, yes or no --

Mr. Brennan. That is nonpartisan.

Mr. Stewart. You believe that's nonpartisan?

Mr. Brennan. I do believe it's nonpartisan.

Mr. Stewart. Do you think most Americans would accept that?

Mr. Brennan. I don't know what most Americans will think.

Mr. Stewart. Yeah.

Let me ask you about some others.

As you say, you are nonpartisan. You don't involve yourself in politics. You don't care.

"Donald Trump's press conference performance in Helsinki" -- this is your statement, July 16th -- "rises to & exceeds the threshold of 'high crimes & misdemeanors.' It was nothing short of treasonous."

Mr. Brennan. Uh-huh.

Mr. Stewart. "Not only were President Trump's comments imbecilic, he is wholly in the pocket of Putin."

We've since had -- since that statement, we've had the Russian investigation and Mueller report, two impeachments. Was there ever any charges of treason towards Mr. Trump.

Mr. Brennan. Not that I recall.

Mr. Stewart. Do you believe there should have been?

Mr. Brennan. I believe that what Mr. Trump did while he was in office and at that press conference in Helsinki was disgraceful. Taking the --

Mr. Stewart. Do you think he was treasonous?

Mr. Brennan. Taking the side of Vladimir Putin against the considered view of the intelligence community that was supported by the Mueller investigation, the Senate Intelligence Committee, and others about the Russian interference in the election, I thought that was outrageous.

Mr. Stewart. Do you think it rose to the level of high crimes and misdemeanors for a President to take a view that's opposite of yours?

Mr. Brennan. It wasn't just opposite of mine. It was counter to the considered view --

Mr. Stewart. There were --

Mr. Brennan. -- and judgment of the intelligence community --

Mr. Stewart. There are other --

Mr. Litt. Would you let him finish his answer, please.

Mr. Stewart. Sorry.

Mr. Brennan. I didn't say he committed treason. I said it was treasonous. It's, like, poisonous. It's treacherous. It's all of those features.

Mr. Stewart. You said they are "nothing short of treasonous."

Mr. Brennan. Sir, read that again.

Mr. Stewart. You said, "It was nothing short of treasonous." But you just said right now that it wasn't treason.

Mr. Brennan. "Treasonous" and "treason," I think, are two different things.

Mr. Stewart. Okay. All right. I'd love for you --

Mr. Brennan. But besides --

Mr. Stewart. -- to explain the difference.

Mr. Brennan. -- that, I said it publicly.

Mr. Stewart. That's right. As a nonpartisan --

Mr. Brennan. Jim Jordan likes freedom of speech, right?

Mr. Stewart. As a nonpartisan, by the way, right?

Mr. Brennan. You shouldn't be harassed for speaking out publicly on these issues.

Mr. Stewart. Well, do you feel harassed by this?

Mr. Brennan. Well, I question what this grouping, this committee, whatever it's called, is doing.

Mr. Stewart. Do you feel harassed by this?

Mr. Brennan. No.

Mr. Stewart. We're reading your comments and asking you to respond to them.

Mr. Brennan. Okay, and I'm responding.

Mr. Stewart. You said there's a difference between "treason" and "treasonous." Can you explain that difference?

Mr. Brennan. I used the term "treasonous."

Mr. Stewart. Would you explain the difference?

Mr. Brennan. Well, it's a difference of several letters.

Mr. Stewart. Okay. Other than the spelling, which I think we all understand, is there a difference between "treason" and "treasonous"? You just said there was.

Mr. Brennan. When I was saying "treasonous," I felt that this was a betrayal of his oath of office, a betrayal of the American people, a betrayal of this country, of our

history, and of our laws.

Mr. Stewart. So you believe he committed high crime and misdemeanors?

Mr. Brennan. I believe he betrayed this country.

Mr. Stewart. You believe he committed treason.

Mr. Brennan. I believe he betrayed this country.

Mr. Stewart. You said you believe he committed treason.

Mr. Brennan. I don't know how many times we'll go back and forth.

Mr. Stewart. All right.

If I could, was the Hunter Biden laptop a Russian disinformation campaign?

Mr. Brennan. We never said it was a disinformation campaign. In the letter, I believe it cites a USA Today story that makes reference to it possibly being a part of a smoke bomb of disinformation.

Mr. Stewart. So you never believed it was a disinformation campaign?

Mr. Brennan. I was concerned that it was part of a Russian information operation to influence the outcome of the election, as I stated previously.

Mr. Stewart. But from what we now know, I'm asking you, was the Hunter Biden laptop a Russian disinformation campaign?

Mr. Brennan. I don't know, because I don't have access to intelligence and investigative efforts on this front. I just don't know.

Mr. Stewart. Have you ever seen any information -- because there's been a multitude of reporting on this, as I'm sure you know, from a multitude of sources. Have you seen any information subsequent to your statement that would indicate or prove that it was a Russian disinformation campaign?

Mr. Brennan. I have not been reading closely the reports about this --

Mr. Stewart. Surely you've seen some of them.

Mr. Brennan. Sorry?

Mr. Stewart. Surely you've seen some of them.

Mr. Brennan. I've seen some, yes, but they run the gamut from probably the most specious to the most accurate, and I'm not in a position at this point to determine their accuracy.

Mr. Stewart. Okay. I'm not asking you to determine their accuracy or not. I'm just asking, have you seen any information that would indicate the Hunter Biden laptop was a Russian disinformation campaign?

Mr. Brennan. I may have. I don't know. I don't recall.

Mr. Stewart. You don't recall whether you've seen information that the Hunter Biden laptop was a Russian disinformation campaign?

Mr. Brennan. That's not what we said, and so I'm not in a position to determine that.

Mr. Stewart. Okay. I'm going to ask one more time for clarity. You cannot say now that you have seen any information that would indicate the Russian -- or, the Hunter Biden laptop was Russian disinformation? You have not seen any information that would indicate this?

Mr. Brennan. I do not recall --

Mr. Stewart. I'll take that as a "no."

Mr. Brennan. -- what I have seen on this issue.

Mr. Stewart. One other thing I'd like to come back to that you said. In your previous statement a little while ago, you said you wanted the -- you were hoping that this would provide so that the debate was more factual and that the more facts that are provided in the public debate, the better that is.

I'm just paraphrasing your comment from --

Mr. Brennan. Yes.

Mr. Stewart. -- a few moments ago.

In fact, this letter made the debate less factual, didn't it? Because President Biden was able to say, "That's garbage," and we know that's not true.

So this letter made the debate less factual. It made less information, less accurate information available to the American people, did it not?

Mr. Brennan. This letter never said it was garbage.

Mr. Stewart. Well, that's the President quoting from your letter.

Mr. Brennan. Well, I cannot control what others might do with this letter, like I can't control what this committee does --

Mr. Stewart. I understand --

Mr. Brennan. -- with this letter.

Mr. Stewart. -- that, but the outcome was --

Mr. Litt. Could you -- I don't think he finished his thought.

Mr. Brennan. And so I can't control how it's going to be characterized or mischaracterized by individuals, by press, whatever else. Having worked in the intelligence profession for many, many years, I know that our words are frequently misrepresented and mischaracterized for a variety of purposes --

Mr. Stewart. So for the --

Mr. Brennan. -- including political purposes.

Mr. Stewart. -- President to call the claims that this was an accurate laptop -- that the information is accurate, for him to claim that was garbage, that was inaccurate for the President to say that then?

Mr. Brennan. Again, I'm not going to comment on what --

Mr. Stewart. So let me ask one more time.

Mr. Brennan. -- then-candidate Biden said.

Mr. Stewart. Did the letter and the 51 signatures make the debate more or less accurate?

Mr. Brennan. I don't know.

Mr. Stewart. Well, it clearly made it less accurate, because the President called it garbage. He said that you all had said it was inaccurate, and we know that's not true.

Mr. Brennan. That's not what we said, though.

Mr. Stewart. Well, we can certainly debate that and you can make that claim, but the letter speaks for itself and the intent of the letter speaks for itself.

And I just think it's ironic that you say, well, we wanted the debate to be accurate, and let's provide them something that's inaccurate so he can say something inaccurate.

Mr. Brennan. It wasn't inaccurate. The letter is not inaccurate.

Mr. Stewart. Well, it certainly is.

Mr. Brennan. And how so?

Mr. Stewart. Do you not understand why it's inaccurate? Are you proud you signed that letter? Do you stand --

Mr. Brennan. I am glad I signed the letter, yes.

Mr. Stewart. You stand by the letter?

Mr. Brennan. I do.

Mr. Stewart. If you were to be presented with that letter today, you would sign it again?

Mr. Brennan. I think I probably would make one adjustment to it.

Mr. Stewart. What would that be?

Mr. Brennan. In the letter, on the second page, I believe, this paragraph begins, "Our view that the Russians are involved in the Hunter Biden email issue is consistent

with" -- I would say, "Our view that the Russians might be involved." So I would change that one word, "are," to "might be."

Mr. Stewart. Once again, do you have any information that indicates the Russian were involved?

Mr. Brennan. I don't have any information that they weren't.

Mr. Stewart. Well, that's not my question. We can hypothesize all sorts of thing. Maybe Chile is involved. We have no information that they weren't. Maybe my mom was involved. I have no information that she wasn't.

Mr. Litt. You could ask.

Mr. Stewart. I'm asking, do you have any information that indicates that Russia was involved in this laptop?

Mr. Brennan. No. But, again, I will take the opposite position, which is, I don't -- I cannot say that they weren't.

Mr. Stewart. Well, again, I don't think my mom was either.

Mr. Brennan. We're proud of your mom. That's good.

Mr. Stewart. Yeah. Unfortunately, she's passed, so it would be really remarkable if she was involved.

I have more, but I will yield my time. Thank you.

BY [redacted]

Q Just a couple followups.

Has anyone from the Hunter Biden camp disputed the content of the laptop that you're aware of?

A I don't know.

Q Okay.

And the USA Today article you mentioned, I mean, wasn't that a story planted by

the Biden campaign?

A I have no idea.

Q Okay. But if it was planted by the Biden campaign, would that have changed any of your calculus?

A Again, that's a hypothetical. Had I known that at the time, I -- I am unaware of any involvement of the Biden campaign in the USA Today story.

Q Okay.

And one last question, and I'll turn it back to my colleague [redacted] unless other members have questions.

At this time, was Mr. Morell, who you indicated was a close friend and former colleague, was he trying to position himself to be the Director of the CIA under a Biden administration?

A I know he had aspirations to return to the government. I will leave it to Michael to characterize his interest in such a position.

Q But do you think his involvement with sort of executive-producing this initiative was an effort to gain favor and maybe be appointed --

A I will leave it to Michael to describe exactly his intent.

Q Okay. But, at the time, you said that you had frequent communications with him. I mean, were you working with him to help him position himself as the CIA Director potentially?

A No.

Q Okay. And did you have any conversations with him about his potentially being the CIA Director under a --

A I may have. I don't recall them.

Q Okay.

Chairman Jordan. Mr. Morell said, when he was sitting where you are, Director, that his motivation was he believed Russia was involved; he wanted President Biden, then-candidate Biden, to have something to push back on President Trump when it came up in the October 22nd debate; and he wanted Joe Biden to be the next President.

Do you share those same three objectives -- did you share those same three objectives when you signed the letter?

Mr. Brennan. State them again.

Chairman Jordan. He believed Russia was involved. You said that was your motivation.

Mr. Brennan. Yes.

Chairman Jordan. Mr. Morell said he wanted Biden to have something to push back on against President Trump in the debate, and he wanted Joe Biden to be the next President.

Mr. Brennan. I certainly did not want Donald Trump to be the next President -- to be the President again, be reelected. I wanted Joe Biden to be. But that was not what was motivating me to sign this letter.

Chairman Jordan. So your only motivation was that you thought Russia was somehow involved.

Mr. Brennan. There were basically two motivations.

One, Michael asked me. He's my former deputy, and I have --

Chairman Jordan. Okay.

Mr. Brennan. -- a tremendous amount of respect for his professionalism. I wouldn't have signed it if he didn't ask me directly.

And, two, I did think it's very important to be able to ring the public bell about Russian interference in our political system and especially a Presidential election.

Chairman Jordan. When you signed it, did you believe that Joe Biden would bring it up during the debate?

Mr. Brennan. I didn't know.

Chairman Jordan. You didn't know.

Mr. Brennan. No.

Chairman Jordan. I mean, you're a smart, sophisticated guy. You went to Fordham, you went to Texas, you ran the CIA. You knew how this was gonna be used, didn't you.

Mr. Brennan. I think Michael's letter said he wanted to push back on Trump, so -- and, as I recall, it was Donald Trump who raised it first and then Joe Biden responded. I don't know whether or not Joe Biden would've raised it on his own. I probably doubt that he would have.

Chairman Jordan. Okay.

Mr. Gaetz. You made mention that Mr. Morell asking you to sign the letter was a critical feature of your acquiescence to signing it. If any other person on the planet Earth had asked you to sign the very same letter, would you have?

Mr. Brennan. There are many other people who I have an equal amount of respect for that if they made a plea and if I believed that something was a worthwhile effort and was accurate I would have signed it.

Mr. Gaetz. If every other person had signed this letter other than Mr. Morell and one of the others had asked you to sign it, would you have signed it?

Mr. Brennan. I don't know.

Mr. Gaetz. Well, as you sit here today reviewing the contents of it, you can't answer that question?

Mr. Brennan. I probably would have in response to some of the others. But I

only was asked by Michael, so I could only answer about my willingness to sign for Michael.

Mr. Gaetz. Okay.

[redacted] We've got about 12 minutes left in our round. I want to make sure that any of the members here have an opportunity to use that time.

Mr. Biggs. Can I ask a quick question?

In light of your recent responses, I want to ask, specifically with regard to the last paragraph from page 1 of exhibit 1, the letter -- and you and I have -- I've talked to you about the last sentence before.

But in response to Mr. Jordan, you said that you signed for two reasons: Mr. Morell specifically and directly asked you to sign it, number one; and, number two, you were concerned about Russian interference.

This particular paragraph, though, seems to take a pretty decided political turn, because it's talking about Russia potentially undermining Vice President Biden's campaign and also helping the candidacy of President Trump.

That seems like a pretty direct political statement, especially when you take it in connection with the statements in the last three paragraphs of page 2, which were actually included in the letter as opposed to the two paragraphs that [redacted] mentioned that were cut.

So what I'm suggesting to you -- and I wanted to get your opinion on this. I mean, this paragraph looks like it's designed specifically to foment fear in the public, demonize Trump, aggrandize Vice President Biden. And I'm wondering, what was the necessity of this paragraph?

I know you keep saying, "Well, I didn't write it." But you read it, and you didn't offer any suggestions. What was the purpose of this paragraph if you were really signing

this solely because you wanted to raise concerns about the Russian interference?

Mr. Brennan. That paragraph is pivoting directly off of the explicit language that Bill Evanina published in the July and August timeframes. I think there were two statements that came from the Counterintelligence Executive that said that the Russians were trying to hurt Biden and help Trump.

That came out from a sitting intelligence professional in charge of counterintelligence for the U.S. Government. And so this language is, again, a reflection of that language.

Mr. Biggs. So, two points to that I would ask you about.

Throughout this letter, you refer to references. You cite The Washington Post, USA Today, a number of other media outlets as giving you buttress, giving you foundation, giving you the evidence for including that language.

There is no language in here that provides that, nothing in the public record. So are you relying on some kind of additional intelligence somewhere? You just are relying on something other than public record. Is that fair to say?

Mr. Brennan. No. As I explained to you, Bill Evanina pushed out a press release in July and August where he made explicit reference to Russian efforts to interfere in the election which he said were designed to hurt Biden and help Trump.

RPTR KERR

EDTR ZAMORA

[11:09 a.m.]

Mr. Biggs. But you didn't reference that in here.

Mr. Brennan. No, it's not referenced there, but it is anchored in information in the public domain.

Mr. Biggs. And yet, at the same time, you're citing other references in here. But this one, where you take and you, yourself, use the word "pivot," you're pivoting to -- trying to basically demonize Trump and aggrandize Biden in this, and you didn't provide any citation for that.

And you also, apparently, didn't do your homework with regard to -- and you had no information with regard -- the Biden campaign's influence and how Mr. Morell even came to consider writing the letter. None of that was there. You didn't say, why are we writing this letter? We're just doing this, right?

Mr. Brennan. I didn't hear the question.

Mr. Biggs. You didn't ask Mr. Morell why we're writing this letter. You didn't ask for the objective. You just -- he asked you --

Mr. Brennan. I responded to his email and what he said in the email, and I was, again, motivated by pushing out in public a statement about Russian interference in a Presidential election with information operations.

Mr. Biggs. He also said pushback on Trump, which you mentioned earlier that was a key point for you, was it not?

Mr. Brennan. No, that's something that he wrote. I did not write that.

Mr. Biggs. That's my point. You just are relying -- now, you want to -- you can't have it both ways. You can't say, well, Mr. Morell said this and that and that's why I did

that; but then when he says pushback on Trump, oh, that's what Morell said.

Which is it? Did you buy into what Mr. Morell was selling you or did you not?

Mr. Brennan. I agreed to sign the letter at Michael's request as it was drafted.

Mr. Biggs. As it was redacted. As it was edited. You didn't bother to read the first draft.

Mr. Brennan. I don't recall reading the first draft. I recall reading this one without those paragraphs.

Mr. Biggs. But the point is, you were comfortable with Mr. Morell's approach saying we're going to push back on Trump. You were comfortable with that.

Mr. Brennan. Again, I believed that the statement was an accurate portrayal of Russian information operations and the potential, the possibility that, in fact, what was coming out in the press about this Hunter Biden laptop was, in fact, a part of Russian information operations.

Mr. Biggs. So you were comfortable with Morell's purpose of pushing back on Trump?

Mr. Brennan. I was comfortable with the statement going out publicly.

Mr. Biggs. You were comfortable with Morell's statement that this was done to push back on Trump. You were comfortable with that position.

Mr. Brennan. Again, I can only say what I was comfortable with, which was pushing out the statement publicly.

Ms. Hageman. I just have a quick question, Mr. Brennan. Why did you and the others believe that the contents of the Hunter Biden laptop would pose problems for Mr. Biden?

Mr. Brennan. The way it was being portrayed in the press was in a very negative light, because I knew that partisans, those who were getting involved in the election,

were going to use any opportunity to try to criticize --

Ms. Hageman. Let's talk about the contents --

Mr. Brennan. -- condemn, divide the Biden family --

Mr. Litt. Could you let him finish his answer?

Mr. Brennan. And I know this is typical in the political realm.

Ms. Hageman. Let's talk about the contents. Why did you believe that the contents of the Hunter Biden laptop would pose problems for Mr. Biden?

Mr. Brennan. I didn't know all of the contents in a that laptop. I know that they were starting to come out. Who knows what else would have been coming out.

Ms. Hageman. They were problematic for Mr. Biden. That's why you signed the letter, correct?

Mr. Brennan. No. What I'm saying is that they could have been problematic if, in fact, and, indeed, if the Russians were trying to push this information out in order to further their interest and objectives.

Ms. Hageman. And they could be problematic if they were true, correct?

Mr. Brennan. Again, that's a very hypothetical, because I don't -- didn't know the contents of the laptop that were going to be coming out.

Ms. Hageman. But we know it now, and the contents of that laptop --

Mr. Brennan. Well, you're talking about October --

Ms. Hageman. -- are a problem for Mr. Biden --

Mr. Litt. Let her finish.

Ms. Hageman. -- correct?

Mr. Brennan. Say that again.

Ms. Hageman. The contents of the Hunter Biden laptop are a problem for Mr. Biden, correct?

Mr. Brennan. I don't know the contents of the laptop.

Ms. Hageman. But you signed the letter not knowing the contents of the laptop?

Mr. Brennan. I signed the letter because I was concerned that this was part of a Russian information operation designed to influence the outcome of the 2020 election, just the way they did in 2016, to enhance the prospects of Donald Trump's election.

Ms. Hageman. And why would it be a Russian information campaign? Why would it be negative if the contents of that laptop were not a problem for Mr. Biden?

Mr. Brennan. It's traditional that the Russians will take any opportunity to amplify either accurate information or to try to embarrass candidates that they're trying to defeat in elections.

Ms. Hageman. The contents of the laptop were a problem for the Biden family. I believe that that's what you're saying.

Mr. Brennan. No, that's not what I said. I said I don't know the accuracy of the contents of that laptop. I haven't seen any type of formal government determination about the full contents of that laptop, what was accurate, what wasn't.

BY [redacted]

Q I mean, presumably, if the contents of the laptop were not authentic, the Hunter Biden camp would come out and say this is all fake; this isn't my laptop, right?

A I don't know. Presumably.

Q And you did mention that the contents of the laptop at least weren't helpful for the Biden campaign, correct?

A The way that some of these photos and other things that were plastered across different publications certainly were with the intention to try to discredit the Biden family as a whole and, therefore, undermine the candidacy of Joseph Biden.

Q But there's also emails about his business arrangements and some pretty

staggering business deals he was allowed to be a part of because he's related to the Vice President.

A Hunter Biden was not running for office. It was Joe Biden.

Q But if he's trading on his dad's name, I mean, that is something that is worthwhile for the American people to consider when they're casting their vote for President. Isn't that right?

A Trading on names is something that a lot of people have done in recent administrations as well.

Q But isn't that something the American people ought to consider and ought to have a chance to consider?

A I think they can do that.

Q And don't you think this letter served as an opportunity for Facebook and Twitter and some of the social media platforms to just ban coverage of the story entirely?

A I think that took place prior to the letter, the ban and then the reposting of --

Q But this letter gave it some real authority.

A It was a letter signed by private U.S. citizens.

Q Not just private U.S. citizens, former director of the CIA.

A Private U.S. citizens.

Q But private U.S. citizens with --

A With tremendous background experience on Russian information operations that, again, includes the gamut of activities.

Q But you would agree that there's a coefficient of credibility there on a letter like this, as opposed to a letter that was just put out by a bunch of --

Mr. Stewart. Counsel, should I ask?

BY MR. STEWART:

Q When you signed the letter, did you attach your previous positions to your name?

A I believe they were --

Q Does it say John Brennan --

A I believe they were included in that, yes.

Q -- previous CIA director?

A Yes.

Q And all the other signatures did as well.

You didn't sign it John Brennan nothing or John Brennan private citizen. You signed it John Brennan previous CIA director.

A They added my title, yes, to the letter.

[redacted] It looks like our time is pretty much up.

[redacted] We'll go off the record. Thank you.

[redacted] We'll go off the record.

[Recess.]

[redacted] All right. It is 11:30 in the morning. We can go back on the record.

BY [redacted]

Q Mr. Brennan, good morning again. I'm [redacted] I'm the Democrat chief oversight counsel for the Judiciary Committee, and I'm joined by the general counsel for House Intelligence Committee.

And I also want to note for the record that we do have Mr. Goldman from New York has joined. He was not here at the beginning to introduce himself. He is in the room now.

I want to start out, in the last hour, you were asked about your statements with respect to the Helsinki Summit. Do you recall that?

A Yes, I do.

Q I want to introduce -- actually, could you summarize in your own words what happened at that summit in Helsinki?

A There was a joint press conference with Donald Trump and Vladimir Putin, and there was a question, I believe, that was raised about the intelligence community's assessment about Russian interference in the 2016 Presidential election that was directed to Donald Trump.

And at the time, he said that he -- I don't remember the exact words, but, basically, he believed Vladimir Putin rather than the U.S. intelligence community, that Russia did not interfere in the election.

Q Thank you.

A He said he saw no reason why they would, or something along those lines.

[Brennan Exhibit No. 4.

Was marked for identification.]

BY [redacted]

Q Thank you.

I want to introduce as exhibit 4 a July 16th, 2018, BBC article entitled, Trump sides with Russia against FBI at Helsinki summit.

Do you know if you've seen this article before?

A I might have read it at the time.

Q And I can give you a minute to look it over.

A Okay.

Q Okay. On the second page of this printout, there's a quote from Mr. Trump. About halfway down the page it says: At a news conference after the summit, President Trump was asked if he believed his own intelligence agencies or the Russian

President when it came to the allegations of meddling in the elections.

The quote is: "President Putin says it's not Russia. I don't see any reason why it would be," he replied, correct?

A Correct.

Q And then further on in the article there's criticism. It quotes U.S. House Speaker Paul Ryan. It quotes John McCain, Senator Lindsey Graham, Senator Chuck Schumer, DNI Dan Coats as well, correct, and others, I believe, down there further?

A Yes.

Q So it's fair that -- to say that those statements came under pretty broad bipartisan criticism, correct?

A Correct.

Q Mr. Brennan, also, in the earlier hour, the comment was made that Congress has a role to determine if public statements are true. Do you recall that being said?

A I do recall that being said.

Q Do you have an opinion on that statement?

A Yeah, I believe that I don't know anything in the Constitution that gives the Congress such a responsibility.

Q So you believe it's outside the scope of Congress' duty to --

A Yes. And, clearly, Congress has taken up that crusade over the years, although only selectively on the part of some partisans.

Q Also in the first hour, we discussed fairly extensively the timing of the October 19th, 2020, letter in relation to the Presidential debate. Do you recall that?

A Yes.

Q At the time that the letter was released, to your knowledge, was Mr. Morell a private citizen?

A He was.

Q Were you a private citizen?

A Yes, I was.

Q To your knowledge, were all of the other signatories also private citizens?

A To my knowledge, they were.

Q Would you agree that as a private citizen, you have a right to engage in the political process?

A An absolute right that is anchored in the First Amendment.

Q And do you agree that the First Amendment protected then and continues to protect your right to make statements like those contained in the letter?

A That's my firm belief and hope that it always will protect that right.

Q And do you believe that the other signatories also had a First Amendment right to make the statements that they made in that letter?

A Yes.

[Brennan Exhibit No. 5.

Was marked for identification.]

BY [redacted]

Q Okay. I want to introduce as exhibit 5 a February 7th, 2023, email thread between you and Michael Hayden.

Do you recall sending or participating in this email thread?

A Yes, I do.

Q In your initial response to Mr. Hayden, which is at the top of the second page, you said: I find Mr. Jordan's request for a transcribed interview and documentation related to my decision to sign a public statement, as a private citizen -- and that's boldfaced, italicized, and underlined -- a gross infringement on my

First Amendment right to freedom of speech.

Do you recall writing that?

A Yes, I do.

Q Could you explain what you meant by that?

A I just long believe that's one of the reasons why I served the government for nearly three and a half decades was to protect those freedoms and liberties of American citizens. And after my government tenure, I felt that as a private citizen, I had every right to express my views and to sign on to that letter.

Q You also expressed concern about creating a precedent that he, meaning Mr. Jordan, and others could seek to leverage when making frivolous requests of other former intelligence officials in the future. Could you explain what you meant by that?

A I felt that this was a clear effort to try to intimidate former professionals, either from the intelligence community or law enforcement or somewhere else, from putting forth any type of public commentary or statements that were contrary to the political interest of those individuals who were organizing this inquiry.

Q Do you think the fact that you're sitting here today, that you're being investigated for having participated in the political process by signing this letter as a private citizen could chill your willingness to sign similar letters in the future?

A Yes. And I finished up this email to Mike Hayden by saying: This issue involves a very important principle that potentially affects all former intelligence officials, and, accordingly, I want to proceed thoughtfully.

Because it's not just the former officials who signed this letter; it's all those other former officials, as well as future former officials, whether or not they're going to be intimidated by any efforts on the part of Members of Congress of any political background or stripe to try to get them to not express their personal views and their First

Amendment rights.

Q I want to move on. In the earlier -- in the first hour, there was some discussion of disinformation operations, and you also consistently used the term information operations or influence campaign. Could you explain your understanding of the difference between those two terms?

A Well, disinformation is considered to be the intentional dissemination of knowingly false information; disinformation. So you're trying to convince people of things that are -- that you know not to be true.

Misinformation, which is different than disinformation, is the dissemination of information that one might believe is accurate but, in fact, it is inaccurate.

Information operations on the part of intelligence services, such as the Russians, covers the broad gamut of the types of activities that they could be engaged in. Information operations might involve the propagation of disinformation. It might involve the propagation of information that could be embarrassing to a party that they're trying to discredit. It could involve the intentional efforts to disseminate some information more broadly and raise its profile.

The Russians are expert and adept at doing all of those things. And so sometimes it is -- when they hack into computer systems' networks and they steal emails and they push it out, like we've seen before, they can do that, and it might be, in fact, accurate; it might be inaccurate. They could redact it. They could modify it. They could change it.

So the Russians have engaged over the years, and my personal knowledge of that based on my intelligence background, that they have engaged in all aspects of information operations from amplifying true information, from disseminating information that they want to get out, to pushing out disinformation, fabricating information, in fact,

that they push out, again, to advance their interest.

Q And with respect to the amplification of true information, is that actually what we saw happen in 2016?

A Yes. There was -- when we say true information, they might want to amplify opinion pieces from some individuals who are casting aspersions on one candidate and lauding the credentials and capabilities of another. So it's not as though the content itself is accurate. It's though they're taking information that might have been developed or written on its own, or they might have asked for a piece to be written that was very one-sided and misrepresenting the facts. And what the Russians would do then is actually help the dissemination of propagation of that information.

Q And what's the Russians goal in disseminating or helping the propagation of that information?

A Well, in the U.S. Presidential election in 2016, it certainly was to discredit Hillary Clinton. The Russians believed, in fact, that Hillary Clinton was going to win the election, but then they realized that Donald Trump was going to have a better chance of winning if they helped with their information operations.

And so they were pushing out information that was seemingly to discredit Hillary Clinton and to advocate for Donald Trump. They did that in 2016, and, clearly, they were doing it again, according to Bill Evanina and other counterintelligence professionals, in the 2020 election as well.

Q In the earlier hour, you were asked about your responsibility to remain, I guess, nonpartisan as a former CIA director. Do you believe that in your role as the former director of the CIA, you also have a responsibility to warn the public of potential Russian influence operations?

A I participated in discussions in 2016 about how there could be a public

statement coming out from the executive branch that highlighted the Russian activities to interfere in the election. And so the CIA, as CIA director, I participated in those discussions. There was a statement that came out in October of 2016, that was signed by Homeland Security Secretary Jeh Johnson, as well as Director of National Intelligence Jim Clapper, that was a reflection of that concern. We pushed that out.

I also was the first U.S. official to brace the Russians when I confronted the head of the Russian FSB, the Federal Security Bureau, Alexander Bortnikov in early August of 2016, telling him that we knew what they were up to and they'd better cut it out because all Americans would be outraged by any type of Russian interference in the election.

Clearly, it was not the case because not all Americans were outraged by it. Those that were supportive of, I think, these Russian aims were willing to let it go by.

Q And I think you just referenced the October 2016 warning. I want to introduce that into the record as exhibit 6.

[Brennan Exhibit No. 6.

Was marked for identification.]

BY [redacted]

Q And let me know when you're ready to continue.

A Okay.

Q Is this the warning that you just referenced?

A Yes, it is.

Q Do you believe that this provided a detailed warning to American people about Russian interference in the 2016 election?

A It certainly raised the alarm about it. And this language was very carefully crafted so that it would be as accurate as possible about Russian efforts to interfere. It did -- it stopped short, though, of saying what the Russian basic intentions were.

Q And do you think it was covered by the media enough to disrupt the Russian operations prior to the 2016 election?

A As I recall, this was released on the same day as the, was it Entertainment Tonight release of the videotape of Donald Trump acknowledging that he groped women. So it was, unfortunately, almost overtaken by that.

Q So is it fair to say that this had a warning about Russian operations, but it didn't actually -- was not sufficient enough to stop those operations from impacting the election?

A I don't know to the extent to which they did impact the election, but I know that the information operations were quite intense and determined, and they were directed by Vladimir Putin and, again, designed to help Trump and hurt Clinton. And this statement didn't say they were designed to help Trump and hurt Clinton.

I think there was a real concern on the part of the Obama administration that President Obama, as being the sort of the titular head of the Democratic Party, not be seen as weighing in in any way in a Presidential election in favor of his preferred candidate.

[Brennan Exhibit No. 7.

Was marked for identification.]

BY [redacted]

Q And I want to turn to the 2017 Intelligence Community Assessment that came out in January after the election. I'll introduce this as Exhibit No. 7.

Are you familiar with this assessment?

A I'm quite familiar with it, yes.

Q Would you agree that this assessment has a clearer description of the Russian interference efforts than the October 7th warning did?

A It's a very comprehensive, thoughtful description and analysis of what the Russians were doing in that 2016 Presidential election, yes.

Q And it's certainly much more detailed than the October statement, correct?

A By a great extent, yes.

Q Do you think that that -- if this type of detailed information had been available prior to the 2016 election, that might have had an impact on the election?

A I think it certainly would have gained quite a bit more attention prior to the election. I'm sure the media and the press would have seized upon it and pushed it out, and so I believe the American people would have been much more aware of the full extent of those activities.

Q And why is it important for the American people to be aware of the extent of activities?

A Because I would like to think that Americans do not want any type of foreign entity government party to try to manipulate our system here in order to have a preferred candidate of a foreign power, particularly of an adversary, to be able to be elected President of the United States.

Q And is it fair to say that if the intelligence community doesn't inform them of those efforts, Americans can't have -- can't be aware of what's happening, right?

A I think there needs to be a very professional, legitimate, accurate description of this so that the average American is not confused by the different portrayals of it in the press that run the gamut from the far right to the far left. There needs to be objective, independent, apolitical, nonpartisan representation of the facts. And that's where the CIA, the FBI, the NSA, and the Office of Director of National Intelligence collaborated on this effort.

Q I want to turn to the letter itself and the text of the letter as well. You were

asked fairly extensively in the prior hour about the last paragraph on the first page, the --

A Yes.

Q -- such an operation would be consistent with Russian objectives. And I believe you referred to the Bill Evanina statement, and I want to introduce that for the record.

A Yes.

[Brennan Exhibit No. 8.

Was marked for identification.]

BY [redacted]

Q That's Exhibit No. 8, and I'm going to ask you to look through it. And we've highlighted a paragraph on the second page in particular.

Again, this came out on August 7th, 2020, and I'll read the highlighted paragraph into the record. It says: We assess that Russia is using a range of measures to primarily denigrate former Vice President Biden and what it sees as an anti-Russia establishment. This is consistent with Moscow's public criticism of him when he was Vice President for his role in the Obama administration's policies on Ukraine and its support for the anti-Putin opposition inside Russia. For example, pro-Russia Ukrainian parliamentarian Andrii Derkach is spreading claims about corruption, including through publicizing leaked phone calls, to undermine former Vice President Biden's candidacy and the Democratic Party. Some Kremlin-linked actors are also seeking to boost President Trump's candidacy on social media and Russian television.

Is that the paragraph you were referring to when you said that the Evanina assessment informed your decision to sign the letter?

A Yes.

Q Can you explain why that paragraph impacted your decision to sign the

letter?

A Well, when Michael asked me to sign this in October, I was just recently aware of the New York Post reports, but I had been following what the intelligence community, what the government was saying about Russian interference in the election because I had a personal interest to see whether or not the Russians were going to repeat what they did 4 years prior. And so, therefore, I was well aware of Evanina's comments and the concerns that he expressed on behalf of the counterintelligence executive security side.

Q And I think the comment was made in the earlier hour that there is no evidence to support that this was true. Do you recall that being said?

A I recall it and said that that's when I think I pointed out Mr. Evanina's statement.

Q Right. And I also want to introduce, for the record, the January 2021 assessment that supports this as well.

[Brennan Exhibit No. 9.

Was marked for identification.]

Mr. Goldman. Excuse me, [redacted] can I just follow up real quick?

Mr. Evanina held what position?

Mr. Brennan. He was the intelligence community's senior counterintelligence executive, and I think his title was director of the Counterintelligence and Security Center, which reports to the Director of National Intelligence.

Mr. Goldman. And under which administration was he working when he released this statement?

Mr. Brennan. This was during the Trump administration.

Mr. Goldman. Thank you.

BY [redacted]

Q So turning to what's been marked as Exhibit 9, which is the 2021 -- sorry. It's dated March 10, 2021. This is the unclassified version. I believe the classified version was released in January of that year.

On the Roman numeral II, it's the fourth page of the printout. Again, getting to the accuracy of this statement, the paragraph in the October 19, 2020, letter regarding the goal of the Russian operation to discredit President Biden and promote President Trump --

Mr. Litt. Just to be clear, you're talking about Key Judgment 2 here?

[redacted] Key Judgment 2, correct.

Key Judgment 2 says pretty clearly that: We assess that Russian President Putin authorized, and a range of Russian government organizations conducted, influence operations aimed at denigrating President Biden's candidacy and the Democratic Party, supporting former President Trump, undermining public confidence in the electoral process, and exacerbating sociopolitical divisions in the U.S.

Correct?

A Yes.

Q So, in fact, this came out in March of '21. This supports Mr. Evanina's statement, correct?

A Absolutely, yes.

Q Are you aware of any intelligence community assessments or others that support Mr. Ratcliffe's assessment?

A About the laptop?

Q About the laptop, the assessment we were discussing earlier.

A I am unaware of any.

Q Okay. But the U.S. intelligence community has concluded that President Putin did order operations to interfere with the election to undermine former President Biden, now President Biden, and, thereby, help the candidacy of President Trump, correct?

A Yes. This is a formal U.S. Intelligence Community Assessment.

Q And so this paragraph in the letter was fully accurate, right?

A Yes, I believe so. It was certainly consistent with our concern.

Q The October 19th letter says: There are a number of factors that make us suspicious of Russian involvement.

It says suspicious of Russian involvement, right?

A Uh-huh.

Q And further down, it says: We want to emphasize that we do not know if the emails are true.

Correct?

A Correct.

Q And then, actually, on the very last page, it says: We don't know whether these press reports are accurate.

Right?

A Right.

Q So you were asked earlier about, you know, whether this letter was true and accurate or not, but you caveated it, and you said it actually -- you know, this is based on your assessment as an intelligence professional, but you don't have any nonpublic knowledge, right?

A I made that explicitly clear.

Q Okay.

A It's not just an inference in it. We said we didn't have evidence.

Q Okay. I want to go through a couple more paragraphs in this letter and assess their accuracy, in hindsight. It says at the top of the second page: Such an operation would be consistent with some of the key methods Russia has used in its now multiyear operation to interfere in our democracy.

And then it references hacking and dumping operations.

To your knowledge, is that an accurate statement?

A That is an accurate statement, yes.

Q And can you explain what that was in reference to?

A Over the course of a number of years, the Russians have attempted to interfere in our various elections, not just Presidential elections but others, and as it points out, it reflects a broad array of activities; hacking into systems' networks, databases, and then pushing out emails. So that's the part of the dumping of accurate information or the distribution of inaccurate or misinformation.

So, again, the Russians are quite adept at that type of activity, and I think, again, that was borne out by the Mueller investigation, as well as the assessments that were done by the intelligence community and the Senate Intelligence Committee.

Q Thank you.

And the Senate Intelligence report that you referenced, that was a bipartisan report, correct?

A It was unanimous bipartisan, yes.

Q Okay. And as you said, it did find that the Russians had engaged in a hacking and dumping operation in 2016, correct?

A Yes.

Mr. Goldman. Could I just add one thing?

BY MR. GOLDMAN:

Q Did you read the indictments by the -- the two indictments of -- by Special Counsel Mueller related to both the hacking and dumping operation?

A At the time, I did.

Q And the social media operation?

A Yes.

Q Obviously, indictments are merely allegations, but do you recall that those were several dozen pages each?

A I do recall that they were lengthy.

Q And are you aware that the special counsel's office would have, through law enforcement, unique abilities to investigate cyber operations that are not necessarily available to either Congress or any private citizens?

A Yes.

Q And did you find those indictments to be especially detailed and persuasive?

A I learned a lot more about Russian influence operations as a result of the Mueller report than I even knew during my time at the CIA because of, as you point out, the investigative authorities and procedures that were undertaken that exposed the range and extent and scope of those activities and those actions that warranted law enforcement and judicial investigation.

Q Is there any doubt in your mind that Russia attempted to interfere and influence the 2016 election?

A No doubt whatsoever.

Mr. Goldman. Thanks, Counsel.

[redacted] We are actually going to introduce, just so the record is complete, the indictment that Mr. Goldman was just referring to. This is case number 1:18-cr-32-DLF,

District of Columbia District Court. It's a 2018 case. We're introducing the indictment, which is Document No. 1 from that docket. And that will be Exhibit No. 10.

[Brennan Exhibit No. 10.

Was marked for identification.]

BY [redacted]

Q And I actually don't know that we have questions about this now, but I wanted to introduce it to complete the record in light of Mr. Goldman's questioning.

A As long as I don't have to read it now.

Q We'll let you take it home if you'd like.

Going on, again, looking at the accuracy of the letter as drafted, the second paragraph on the second page says: Such an operation is also consistent with several data points. The Russians, according to media reports and cybersecurity experts, targeted Burisma late last year for cyber collection and gained access to its emails.

Are you familiar with what Burisma is or was?

A Yes, I am.

Q Can you explain that for the record?

A Well, it's a Ukrainian entity that involved in energy.

Q And are you familiar with allegations that Burisma was hacked?

A Yes, I am aware, that it was an effort on the part of the Russians to hack into it to be able to expose information that they felt would be discrediting of their opponents.

Q And why was that a relevant data point to be referenced in this letter?

A At least according to the press reports at the time, there was an effort to discredit candidate Joe Biden by discrediting Hunter Biden and discrediting his role and involvement in Burisma, as well as the role of Joe Biden in the efforts to try to clean up

corruption inside of Ukraine and the ultimate dismissal of the prosecutor over there who was engaged in that corruption.

So, again, I think what the Russians were trying to do was to expose things that were going to support its allegations of wrongdoing.

Q So is it fair to say that by hacking Burisma, the Russians would have been trying to gather information that they could use against now President Biden?

A Yes. It's one of their tried and true methods, which is to go in and see what they can hack into, see what they can find. As I said, they will release information that they believe is discrediting that information, even if it's an inaccurate representation of what email they found. Sometimes they will redact; sometimes they will modify. They will selectively choose things, but they believe by going into people's systems, they can find things that are going to further their ends.

Q The next sentence in this paragraph continues: And Ukrainian politician and businessman Andrii Derkach, identified and sanctioned by the U.S. Treasury Department for being a 10-year Russian agent interfering in the 2020 election, passed purported materials on Burisma and Hunter Biden to Giuliani.

I want to introduce -- I'm sorry. Are you familiar with who Andrii Derkach is?

A Yes.

Q What's your understanding of who Mr. Derkach is?

A As it says here, a 10-year Russian agent who was doing things on behalf of the Russians and had a variety of contacts in the West that he was able to exploit for Russian purposes.

Q Are you aware of the fact that Mr. Derkach was sanctioned by the U.S. Government?

A Yes.

Q And are you aware of when he was sanctioned?

A I don't recall off the top of my head.

[Brennan Exhibit No. 11.

Was marked for identification.]

BY [redacted]

Q We'll introduce as exhibit 11 the Treasury -- the September 10, 2020, release from the U.S. Department of the Treasury entitled, Treasury Sanctions Russia-Linked Election Interference Actors.

We've highlighted a statement in the middle of this paragraph. It says: Treasury designated Andrii Derkach, pursuant to Executive Order, E.O., 13848, for his efforts to influence the 2020 U.S. Presidential election. Derkach, a member of the Ukrainian Parliament, has been an active Russian agent for over a decade, maintaining close connections with the Russian Intelligence Service. Derkach has directly or indirectly engaged in, sponsored, concealed, or otherwise been complicit in foreign interference in an attempt to undermine the upcoming 2020 U.S. Presidential election.

Right?

A Uh-huh.

Q So Mr. Derkach was actually sanctioned in September 2020, over a month before the laptop was in the news, correct?

A Correct.

Q And the sanction in the document actually specifically said that he was sanctioned for trying to influence the 2020 U.S. Presidential election, right?

A Yes.

Q Can you explain -- and the sentence in the October 19th letter says that Mr. Derkach passed purported materials on Burisma and Hunter Biden to Giuliani. Is it

your understanding here that Giuliani is reference to Rudy Giuliani?

A Yes.

Q And who was Mr. Giuliani?

A Former mayor of New York who was an advisor, legal counsel, consigliere to Donald Trump.

Q Why would it have been concerning that Mr. Derkach who had been sanctioned for interfering in the 2020 election had passed information on to Mr. Giuliani?

A Well, obviously, since there was already a determination made that Mr. Derkach was a pawn of the Russians and he was working on their behalf within the Ukrainian Parliament system, that his relationship and passing information to Rudy Giuliani raised concerns. And as we said later in the letter, that there was concern that Rudy Giuliani himself was being targeted by Russia for the various influence operations. And so, therefore, again, this happened a month before this letter, so it stands to reason that the involvement of Mr. Derkach raised some serious, serious red flags about this material.

Q And in your opinion, the American public needed to know about this relationship between Mr. Derkach, who's a sanctioned actor, and Mr. Giuliani?

A That's what this statement tried to do, and that's one of the reasons why I signed onto this letter.

Q Okay. By making that information public, was it your hope that you could, you know, blunt any influence of the Russian efforts to pass information along?

A Yes, because by exposing it, you hope that you're going to help to thwart not only its continued propagation but also any belief in the accuracy of the information.

[Brennan Exhibit No. 12.

Was marked for identification.]

BY [redacted]

Q I want to turn to a Daily Beast article published October 17th, 2020, which is two days before your October 19th letter. It's a -- it relates a 1-hour long interview with Rudy Giuliani. It's entitled, Rudy: Only '50/50' Chance I Worked With a 'Russian Spy' to Dig Dirt on Bidens and Ukraine.

This is Exhibit No. 12. And let me know when you're ready to continue.

A Okay.

Q So we've highlighted a page -- I think it's on the last -- page number -- the last page -- that says: Giuliani viewed his latest leak to the New York Post -- referring to the Biden laptop leak -- as an extension of his years-long efforts to work with Ukrainians to dig up dirt on the Bidens.

Right?

A Yep.

Q So Mr. Giuliani, two days before your letter was made public, actually claimed credit for working with the Ukrainians, presumably Derkach, to leak this information to the Post, correct?

A Correct.

Q Would this information have supported the evidence -- your comments in the letter here about Andrii Derkach passing information along to Giuliani?

A It certainly would have, and did.

Q And would it have been concerning to you if Giuliani viewed the leak of the laptop as part of his ongoing work with Ukrainians to dig up dirt on the Bidens?

A It was, given that there was, even by his own acknowledgment, the 50/50 chance that it was a Russian spy that he was receiving information and material from. And so, again, it was clear that Mr. Giuliani was determined to do whatever he could to

try to dig up dirt on the Bidens as a way to help Mr. Trump, and he didn't care who he worked with, as he said.

Q And as an intelligence professional, is it concerning to you that a close advisor to President Trump was working with a sanctioned individual to dig up dirt in this way?

A Yes. And it has been my experience in the past, whenever the U.S. Government becomes aware of this and they think that a U.S. citizen is being unwittingly exploited or manipulated, that they would provide those citizens with a warning briefing. But it's clear that Mr. Giuliani was determined to, again, work with whomever in Ukraine, as well as, by extension, Russia, to find whatever material he could.

Q And are you aware that the White House actually was warned that Giuliani was a target of a Russian intelligence operation?

A It's my understanding that they were.

Q And do you know if the White House took any action in response to that warning?

A I don't know. I don't know.

Q Would it be concerning to you if the White House knew that and didn't take any action?

A I would like to think that responsible officials in the White House would fulfill their obligations to take some action and to make sure that individuals are warned about that so that they would not just, again, unwittingly be used as a pawn.

Q Are you familiar with an individual named Andriy Telizhenko?

A It's ringing a vague bell.

Q But you don't have -- sitting here today, you don't have any recollection of who he was?

A If you hum a few bars, I might know the song, but other than that, I just don't know.

BY MR. GOLDMAN:

Q Director Brennan, when you wrote -- when you signed onto this letter, you were aware that Rudy Giuliani had been publicly associating himself with Andrii Derkach for the prior year?

A That is my recollection, yes, that I was aware of it since it was no secret at the time.

Q Were you also aware that Andrii Derkach sent information to Republican members of the House Intelligence Committee?

A I don't know if I was aware of that or not.

Q And were you aware that he sent information to Senators Graham, Grassley, and Johnson as well?

A I don't recall being aware of that or when I was.

Q Do you have any knowledge about a similar warning that intelligence officials gave to Rudy Giuliani that was also provided to Senator Johnson?

A I remember reports of this in the press because I wasn't privy to any government information at the time.

Q Based on your understanding of Russian information operations, is it possible or does Russia and their intelligence services have the capability of altering a hard drive of a computer?

A Yes. I know that the Russians are able to navigate into networks and go into infrastructure and do some modifications.

Q So is it possible that they are capable of altering documents that are on a hard drive or creating a different hard drive with altered documents?

A Without getting into classified areas, it is my understanding that, yes, they do have that capability.

Q And they can also add documents to a hard drive?

A Yes, they can do that.

Q So it's quite possible for a hard drive to contain accurate and authentic materials as well as altered or additional materials?

A Yes. It all depends on the circumstances of the providence and the possession of the laptop as well as the laptop's access to WiFi systems and other things. And if it's connected, that connectivity gives Russian intelligence services tremendous capability to do things on that laptop.

Q And so, for example, you could take a hard drive of a laptop, download it, alter the materials, and put it either back on that hard drive or a different hard drive. Is that your understanding of one capability that Russian intelligence has?

A I'm not a technical expert, but, again, it is my appreciation, having worked on some of these issues with the technical experts who understand, in depth, the Russian capabilities, that they can get into computer systems and hard drives and do things to them that will alter, modify, delete the contents on those hard drives.

Q And so when you signed this letter -- let me just summarize what you understand -- understood.

You understood that Andrii Derkach was a longtime Russian agent working for Russian intelligence services, that he had been collaborating with Rudy Giuliani, that Rudy Giuliani was the sole source of the materials that were provided to the New York Post, and -- is that correct?

A Yes.

Q Were you aware at that time that Rudy Giuliani did not want to provide the

hard drive to any other media outlets than the New York Post?

A I don't know if I was aware of it at that time. I just know that it was provided to the Washington Post -- or to the New York Post.

Q And did you subsequently learn that Giuliani said on the record to The New York Times that he did not want anyone to do an analysis of the hard drive prior to its publication in the New York Post?

A I am aware of those reports.

Q So when you say that these emails have all the hallmarks of a Russian information operation, the classic earmarks of a Russian information operation, those were all factors that influenced your -- that -- your conclusion of that. Is that correct?

A Yes. I was very concerned about what might have happened when that laptop was out of the possession of Hunter Biden and who might have had access to it and what they might have done.

Q And just so the record is clear, you're talking about once Hunter Biden -- once the laptop was out of his control. But you are aware that there can be multiple copies of the contents of that laptop that are made. Is that correct?

A Yes.

Q And is it your understanding, then, what Mr. Giuliani possessed was a hard drive copy of the laptop, that he didn't actually possess the laptop itself, which was in the possession of the FBI?

A Again, I don't know what I was aware of at the time when I signed the letter and when the FBI took possession of the actual laptop itself.

Q Are you aware that the source of the laptop has stated that he believes that the hard drive that he provided to Mr. Giuliani may have been altered?

A Yes, I'm aware of that.

Q Are you aware of The Washington Post analysis that was done that indicates that the hard drive has been altered?

A Yes, I'm aware of that.

Q Okay. You had mentioned your familiarity with the hacking of Burisma. That was the subject of an impeachment investigation, or Burisma was, and I'm curious whether you understood, either from the impeachment investigation or anything that happened during your tenure or after, that the effort to -- the effort by President Trump to convince Ukrainian President Zelensky to investigate Burisma was consistent with Russian propaganda and/or intelligence efforts.

A I think they were reinforcing of one another in terms of looking for information that the Trump campaign could use in his reelection, yes, absolutely.

Q And you do recall that President Trump withheld military assistance from Ukraine in an effort to extort President Zelensky and force him to open these investigations. Is that right?

A Yes, I am.

Q Okay. Were you aware of how important that military assistance was to Ukraine in their war at the time against Russia?

A Absolutely. I've worked very closely with the Ukrainians during my tenure, and I knew that it was vital for the Ukrainians to be able to maintain its defenses against Russia.

Q And we have now seen that play out in spades. Is that right?

A Yes.

Mr. Goldman. Okay. I have no more questions. Thank you.

BY [redacted]

Q I just want to go back to the questions about Giuliani quickly. We talked

through the evidence prior to the election suggesting that Giuliani and Derkach were working to interfere in the election. I just want to turn back to the January -- the 2021 Intelligence Community Assessment real quick to close that out.

We talked through the first sentence or the first couple sentences of Key Judgment 1. But the last --

Mr. Litt. Can you hang on for one second?

[redacted] Sorry. I'm sorry. That's Exhibit No. 9.

BY [redacted]

Q The last sentence of that Key Judgment 2 reads: A key element of Moscow's strategy this election cycle was its use of proxies linked to Russian intelligence to push influence narratives, including misleading or unsubstantiated allegations against President Biden, to U.S. media organizations, U.S. officials, and prominent U.S. individuals, including some close to former President Trump and his administration.

We talked through the sanctions against Mr. Derkach. Do you think it's fair to classify Mr. Derkach as a Russian intelligence proxy pushing influence narratives?

[12:20 p.m.]

Mr. Brennan. Yes. "Proxy" is one term, I guess.

BY [redacted]

Q Do you have another that you --

A A "fully recruited asset" is another.

Q And, to your knowledge, was Rudy Giuliani an individual close to former President Trump and his administration?

A That is my understanding.

Q So this last sentence of the assessment actually would fit that fact pattern, correct?

A Correct.

Q Okay.

We only have a couple minutes left.

Director Brennan, did you send this letter or decide to join this letter at the direction of anyone in the intelligence community, meaning in the intelligence community in 2020?

A Absolutely not.

Q Did you have any conversations with anybody then in the intelligence community?

A No.

Q Did you access any classified information?

A No. I was not in good odor with the Trump administration at the time, and they had prohibited me from accessing classified information. So I really had no interaction with the intelligence community.

Q So, to the extent that there have been allegations that you or, I guess, others

who signed the letter somehow colluded with the intelligence community to send this letter, that's not true?

A I certainly had no engagement with them at all.

Q Okay.

And the text of the letter itself doesn't actually endorse any Presidential candidate, correct?

A That's correct.

Q In fact, the closing line says that it's "high time that Russia stops interfering in our democracy," right?

A Yes.

Q And you said earlier that your goal in joining the letter was to make these Russian interference efforts known, correct?

A Expose them, yes.

Q So that line actually directly matches up with your explanation of your reasons for signing the letter, correct?

A Yes.

Q Okay.

I think I have time for about a handful of more questions before our time is up.

You were asked in the earlier hour about social media companies' decision to limit the spread of the New York Post article. Do you recall that?

A Yes.

Q And I think you referenced that happening before you signed the letter?

A That's my recollection.

Q I want to talk through that timeline just in a little bit more detail.

Again, the letter that you joined was published on October 19, 2020, correct?

A Okay.

Q Are you familiar with the date that Twitter -- with the date that Twitter limited the sharing of links to the New York Post story about the laptop?

A It's my understanding that it happened prior to, but I don't know the exact date.

Q Okay.

I'm going to introduce as -- we're out of exhibit stickers -- as exhibit 13 a New York Times story published on October 16, 2020, entitled "In Reversal, Twitter Is No Longer Blocking New York Post Article."

[Brennan Exhibit No. 13.

Was marked for identification.]

BY [redacted]

Q Have you seen this before?

A I'm a subscriber and a reader of The New York Times, so I probably saw it at the time.

Q Okay.

So, according to this article, by October 16th, following pressure from Republicans, Twitter permitted its users to freely share the New York Post story, correct?

A Okay. Yeah, uh-huh.

Q And so that was actually 3 full days before you did anything with the letter, correct?

A Right. Uh-huh.

Q So, to the extent that there was a suggestion made earlier that you joining this letter could've added some gravitas that would've led a social media company to take some steps in regard to it, that actually had happened, come and gone, well before you

signed the letter, correct?

A Yes.

Q Okay.

Mr. Goldman. Director Brennan, I just want to go back to this Daily Beast article, the "50/50"-Rudy article.

Mr. Litt. Can you give him a chance to get it?

Mr. Goldman. Yeah.

So, in the first highlighted piece, it says: Asked whether he was concerned if the materials he obtained might in some way be linked to the hacking of Burisma that was an act attributed to Russian intelligence, Rudy Giuliani said, "Wouldn't matter. What's the difference?"

What's your reaction to seeing that?

Mr. Brennan. I'm not surprised that that was Rudy Giuliani's view, because it was my impression that he was willing to resort to any source or material that would, again, advance his and Donald Trump's interests. I find it outrageous and disgraceful but, again, not surprising.

Mr. Goldman. All right.

And, above, it says that the -- in the first long paragraph -- I will just read it. It says -- well, it -- sorry. At the top, it says: "'The president knows all about this," Giuliani said, adding that he had briefed Trump on the 'general' parameters of the files.

"But the Hunter Biden material, Giuliani also revealed, wasn't just pre-screened with Trump. He also said that top Republicans on Capitol Hill had been looped into the matter. The president's lawyer said the computer store repairman who claims to have received Hunter Biden's laptop in 2019 alerted several lawmakers on Capitol Hill, including Sen. Ron Johnson and others. 'Jim Jordan. People like that,' Giuliani said,

adding that he 'believed' Rep. Devin Nunes had also received the materials."

What's your reaction to the fact that materials that Giuliani had obtained and had been working with a Russian agent also made their way to Members of Congress and the Senate?

Mr. Brennan. It shows the political effort to, again, do whatever they could to get their candidate elected. And, again, I find it unsurprising that things like this are shared among like-minded individuals, including in Congress.

Mr. Goldman. Director Brennan, are you aware of an ongoing investigation by the House majority that is attacking law enforcement and the intelligence community for what they claim to be a violation of the First Amendment by, quote/unquote, "censoring" social media companies?

Mr. Brennan. I seem to be vaguely aware of something along those lines, but I'm not --

Mr. Goldman. Right.

Mr. Brennan. -- tracking it.

Mr. Goldman. Well, just to give you a background -- and I don't think any of my colleagues on the other side of the aisle will dispute it -- there is an ongoing investigation among several committees that asserts that Americans' First Amendment rights are being violated because law enforcement agencies and the intelligence community are trying to prevent the further interference in our elections by foreign actors through social media, just as we have talked about they did in 2016.

And I wonder if, hearing that, you find it ironic that you are here, being hauled before Congress, to testify about a letter that you wrote as a private citizen under your First Amendment rights?

Mr. Brennan. Well, as my counsel said at the opening, he and I have questions

about the legitimate legislative interest in terms of this inquiry. I do believe that there are more worthwhile things for Congress to be doing right now and addressing. And calling me and other former intelligence professionals before this inquiry, I think, does a disservice to the Congress, does a disservice to the intelligence community, and is unnecessary while other matters can and need to be addressed.

Mr. Goldman. Does it do a disservice to the First Amendment?

Mr. Brennan. I believe it does. And as we referenced before, Chairman Jordan made a very impassioned and public defense of the importance of the First Amendment and people being able to express their views. And so that I find a bit ironic.

And so, again, I am doing this voluntarily because I respect the institution of Congress. I think it's critically, critically important for the functioning of our government. But I do take issue with the effort to, again, have this inquiry directed against private citizens who signed on to a letter in their private capacity.

Mr. Goldman. Thank you.

[redacted] And we can go off the record. It's 12:29.

[Recess.]

[redacted] Do you want to go first?

[redacted] Yeah.

BY [redacted]

Q Let's go back to the Daily Beast article, No. 12, exhibit No. 12.

There was a question raised last round that referred to Mr. Jordan.

A Uh-huh.

Q Top of page 3: "But the Hunter Biden material, Giuliani also revealed, wasn't just pre-screened with President Trump. He also said that top Republicans on Capitol Hill had been looped into the matter. The president's lawyer said the computer

store repairman who claims to have received Hunter Biden's laptop in 2019 alerted several lawmakers on Capitol Hill, including Sen. Johnson and others. 'Jim Jordan. People like that.'"

Do you have any awareness of whether that's true?

A No, I do not.

Q Okay. And I'll just represent for the record that, you know, the Jordan office didn't get the laptop. But the fact that the Daily Beast would report this isn't surprising.

BY [redacted]

Q Director Brennan, I want to talk to you about the CIA's Prepublication Classification Review Board.

Are you familiar with the CIA's, we'll call it PCRB, if you're okay with that?

A Yes, I am.

Q And what does the CIA's PCRB do?

A It reviews material to be published for classification review to ensure that no classified information is released into public domain if it has not already been declassified.

Q So, if you release anything publicly, do you personally have to submit items to the PCRB?

A Yes, I have numerous times.

Q How many items do you think you've submitted to the PCRB?

A After my first retirement, I submitted maybe, in 2005, 2008, maybe a half-dozen pieces. Since then, I submitted my manuscript for my memoir as well as the additional chapter for my paperback. And I've had maybe a half-dozen or so op-eds that I have submitted too.

Q And what is the process like for, like, an op-ed review by the PCRB?

A You submit it to the PCRB, and you will frequently say that, you know, I'm planning to submit to this to a publication -- maybe it's a journal or something -- and, you know, I'd like to get it back by next week. Or, if something is particularly timely and topical and you're trying to get it released quickly, you can say, I really would appreciate if it can be reviewed as quickly as possible.

Q And what has been your experience with, for instance, an op-ed -- what's the normal timeframe for that approval?

A I've had reviews done within hours. A lot depends on the contents of it and if there's any reference to classified information in it. But I have submitted op-eds in the morning and gotten it back by the end of the day.

Q Uh-huh. And in all of your experiences with the PCRB, how do you normally communicate and correspond with the PCRB?

A Well, for short pieces, like an op-ed or something, you will submit it via email, and they'll get back to you, saying, "We are in receipt of it, and we'll get back to you as soon as possible."

Q Uh-huh.

A And then you'll hear back from them either with full approval or some type of conditional approval if something is changed or something is taken out.

For a longer piece, like for my memoir, I had several sit-down sessions with the PCRB staff as we reviewed material, and they were raising questions about why did I say this was unclassified, and I was able to bring open-source information about it. And so sometimes there's a negotiation, a debate back and forth.

But, again, it depends on the contents, it depends on the length, in terms of how quickly they turn things around.

Chairman Jordan. How long did it take for your book, for your manuscript, when you first submitted it and then when you got the okay?

Mr. Brennan. Oh, I'd have to get back to you on that, but it was probably --

Chairman Jordan. Months?

Mr. Brennan. It was over a month.

Chairman Jordan. Okay.

Mr. Brennan. Yeah. So I submitted --

Chairman Jordan. How many interim -- so, over a month, how many of those interim discussions during that timeframe did you have with --

Mr. Brennan. I think I had maybe two sit-down sessions and a series of telephone conversations and email exchanges. But, again, my memoir is, you know, 350 pages or so.

Chairman Jordan. Yeah.

Mr. Brennan. It was lengthy.

Chairman Jordan. But -- so a number -- multiple interactions with them as they're approving it or gonna give it the thumbs-up?

Mr. Brennan. Right. But most of my op-eds -- I don't think any of my op-eds that I wrote since my last retirement I had any type of objection to.

Chairman Jordan. Okay.

Mr. Brennan. It was --

Chairman Jordan. What's customary for an op-ed? You said --

Mr. Brennan. It can be the same day. It can be the following day. Or --

Chairman Jordan. What's typical?

Mr. Brennan. Well, again, sometimes you ask for it quickly. Sometimes --

Chairman Jordan. Have you done that? Have you asked for it -- said, this needs

to happen quickly?

Mr. Brennan. Yeah, you can do that.

Chairman Jordan. Have you? I'm asking, have you in some of the op-eds you put together?

Mr. Brennan. I did one, I know, on Saudi Arabia, Mohammed Salman and his -- I think it was the Khashoggi killing or something, that I wanted it to be turned around pretty quickly. So I think that might've been the only one.

Chairman Jordan. And what was the motivation for asking for a quick turnaround?

Mr. Brennan. Because there was interest on the part of the press. I think it was either The Washington Post or The New York Times that, in fact, they asked whether I'd be interested in writing an op-ed on it.

Chairman Jordan. And they had a deadline?

Mr. Brennan. As I recall, there was an interest in getting it done that day or the following day.

Chairman Jordan. Any others that you've requested, that you asked be approved quickly?

Mr. Brennan. I don't recall.

Chairman Jordan. So it's fair to say, one time you asked on an op-ed for it to be done quickly, and the reason you asked for it was because the media outlet that was gonna publish it wanted it done quickly.

Mr. Brennan. Was interested in having it done to go with the news reporting that was --

Chairman Jordan. Okay.

BY [redacted]

Q And are you aware that Mr. Morell sent the public statement to the CIA's PCRB?

A I saw in one of the emails that you provided earlier that you said it was going to be submitted. I've had a conversation with Michael in the past about the PCRB and his experience, because he did a memoir as well.

Q Uh-huh.

A And Michael knowing well the CIA rules and regulations, I was confident that he was going to do it the right way.

Q And so you were confident that the public statement in some form would be sent to the PCRB for prepublication review before it was published?

A Yes.

Q And in his email to the PCRB, Mr. Morell described the statement as a "rush job." Were you aware of that?

A If it was in the email that you showed me earlier, I am now aware of it. I wasn't aware of it at the time.

Q And do you think this was an attempt to get the statement approved quickly?

A Well, I think if he was trying to get it out quickly, that's what he was suggesting there.

Q Uh-huh.

Do you know if the CIA's PCRB made any edits or said something was classified and should be removed?

A I have no idea.

Q Are you aware that CIA staff at the PCRB reportedly promoted the letter by asking former CIA officials to sign on?

A No. I have heard rumors to that effect. I was certainly unaware of it at the time.

Q So you didn't have any conversations with anyone at the CIA or any former officials who said that they were asked to sign on by the PCRB?

A I was not talking to the CIA at that time. They were not talking to me, I should say.

Q Uh-huh.

And it has been represented to us, the committees, by Mr. David Cariens -- do you know who Mr. Cariens is?

A [Nonverbal response.]

Q He told the committee of his interactions with the PCRB in regards to the book that he was seeking to publish. He had sent it to the PCRB for review. And he told us that when the person in charge of reviewing the book from the PCRB called to say it was approved with no changes, he was told about the draft letter, and the person asked him if he would be willing to sign on.

Were you aware of that before --

A No.

Q -- this interview today?

A No.

Q What's your reaction to that?

A I don't know about the context of that conversation, what actually was said on one side or the other. I just have heard what you're saying now.

Q Uh-huh.

A Usually the PCRB will review something purely for classification purposes for the document or manuscript that was submitted and get back to you.

So I don't know whether or not -- this individual's name is "Carens" or --

Q David Cariens, yes.

A Cariens. Okay. If he knew the person in the PCRB, a former colleague, whatever, of his, a separate conversation, I don't know. So I don't want to speculate as to what actually might have been the context for that.

Q Do you think it's appropriate for an active CIA employee to be asking former employees to sign on to a statement that was pretty political to be used in a political debate?

A I don't believe that an active CIA officer should be soliciting support for a public statement that is being signed by former officials.

Q And I believe we discussed during the first hour kind of the process for disseminating the public statement to the media and that Mr. Shapiro was kind of spearheading that effort. Did you play any role in that effort?

A No.

Q Once the statement was released, did you do any press or media interviews regarding the public statement?

A I did not at my initiative at all. I think there were a couple of interviews when I was asked about it. I think there was a Washington Post podcast where David Ignatius asked me about it. But I did nothing as far as tweeting, I did nothing as far as promoting it or raising it in any of the many media interviews that I did.

Q Do you remember any of the context surrounding what you may have said at the podcast with Mr. Ignatius?

A I remember --

Mr. Litt. What kind of context do you mean?

BY [redacted]

Q The context of the content of the discussion on the podcast or what he may have asked you about the statement.

A I have a vague memory of it. And if you want to show me it, I will look at it and respond to it. But I'm not going to guess at what it is that either I said or that he said.

Q And so Politico ultimately ran the story regarding the public statement on October 19th and published an article and the statement. Did you read the Politico article when it came out?

A I might have.

Q Yeah. We'll enter that as exhibit No. 14, I believe.

[Brennan Exhibit No. 14.

Was marked for identification.]

BY [redacted]

Q Have you had sufficient time to review?

A I remember now this article. But, again, your question was whether I read it at the time. I don't know. I was busy with the publication of my memoir.

Q But up to this point you've had a chance to read it. Is that correct?

A Yes. Yes.

Q And so the title of the article -- and this was, just for the record, published on October 19, 2020, at 10:30 p.m. Eastern Time. The title of the article says, "Hunter Biden story is Russian disinfo, dozens of former intel officials say."

What was your reaction to that title?

A I don't know. My reaction now is that that's not what the letter said.

Q Uh-huh.

A It didn't say it was disinformation.

Q Because I know that you've testified here today that the letter does not say that it's Russian disinfo, did it give you any pause that this was the title of the article and this was what was being said and conveyed to the American public?

A Again, this is 2-1/2 years ago. I don't know what my reaction was at the time. I was consumed with other things that were going on. If I read this, I'm certain that I would have thought to myself, that's not what the letter said, because that's not what the letter said.

Q So is it accurate to say that you didn't reach out to Politico to correct the record and say that the letter did not say that it was Russian disinfo?

A That is accurate.

Mr. Gaetz. Mr. Brennan, at this time, were you working for any media outlets?

Mr. Brennan. In 2020? Yes, I believe I was a consultant with NBC and MSNBC. Yes.

Mr. Gaetz. And were those the only networks you appeared on pursuant to your consulting agreement with them?

Mr. Brennan. It's an exclusive consulting agreement with them, but I do have a proviso in the contract that for publications I'm able to appear on other networks as well. And that's why I think at this time I think I appeared on several others -- CNN --

Mr. Gaetz. So you were promoting your memoir?

Mr. Brennan. Yes.

Mr. Gaetz. And so, in the promotion of your memoir, did you ever get questions about your participation in this letter?

Mr. Brennan. I don't recall getting questions about it. Again, I -- and I didn't --

Mr. Gaetz. So you were working for NBC News. This letter comes out. It's one of the biggest stories in the world. Politico is writing about it. And NBC News

never asked you to come on their network and discuss it?

Mr. Brennan. I don't recall ever being invited by them to do this. And I guess it's a matter of record in terms of my public appearances there, but --

Mr. Gaetz. Well, if we asked you to produce any documents with any correspondence with anybody at NBC News discussing the contents of this, would that be something you'd be in possession, custody, or control of?

Mr. Brennan. I may or may not be, because I will delete emails after, you know, some period of time.

Mr. Gaetz. Are your emails set to an auto-delete feature?

Mr. Brennan. No.

Mr. Gaetz. Some are. That's why I ask.

So any emails that are deleted in your system are emails you've manually deleted; they're not emails that just atrophy over some term of days?

Mr. Brennan. Generally. I --

Mr. Gaetz. And who's your email provider?

Mr. Brennan. Gmail.

Mr. Gaetz. Do you have any other email providers other than Google?

Mr. Brennan. No.

Mr. Gaetz. And would you ever receive communications from NBC News via text message?

Mr. Brennan. There have been occasions for a fast appearance on a program, yeah.

Mr. Gaetz. And do you recall if you were ever texted regarding NBC News's desire to have you provide commentary on this letter?

Mr. Brennan. I don't recall ever being asked about it.

Mr. Gaetz. And who is your cell phone provider?

Mr. Brennan. My -- AT&T.

Mr. Gaetz. And you have only one cell phone?

Mr. Gaetz. Yes, I do.

Mr. Gaetz. Thank you.

Thank you, [redacted]

BY [redacted]

Q And I know we've spoken about this before, but days later, after the statement comes out, on October 22nd, is the final Presidential debate between President Trump and then-candidate Biden. And then Biden did, in fact, use the statement as a talking point during the debate.

Do you remember that?

A Yes, I do.

Q Did you watch the debate or read any reporting surrounding the debate?

A I presume I watched the debate as well as read the reporting around it.

Q And, during the debate, Vice President Biden stated, "Look, there are 50 former national intelligence folks who said that what this, he's accusing me of, is a Russian plan. They have said this has all the characteristics -- four -- five former heads of the CIA, both parties, say what he's saying is a bunch of garbage. Nobody believes it except him and his good friend Rudy Giuliani."

Do you kind of remember that that's what Biden said at the debate?

A I do remember reading about that.

Q What did you think of his statement?

A I don't know what I thought of it at the time.

Q What do you think of it now?

A I think it did not fully, accurately represent what we said in the statement.

Q And what was inaccurate about candidate Biden's statement?

A Read it again.

Q It says, "Look, there are 50 former national intelligence folks who said that what this, he's accusing me of, is a Russian plan. They have said that this has all the characteristics -- four -- five former heads of the CIA, both parties, say what he's saying is a bunch of garbage. Nobody believes it except him and his good friend Rudy Giuliani."

A When he says that it has all the characteristics, that was, I think, an accurate reflection of it. But when he said that it is a Russian plan or whatever -- garbage. That's not what we said in there.

Q Did you make any statements at the time to distance yourself from the remarks of candidate Biden?

A No.

Chairman Jordan. Do you feel like you got played?

Mr. Brennan. Chairman Jordan, I have been in Washington for 40-some-odd years. I am used to intelligence and intelligence professionals being used by both sides of the aisle for political, partisan purposes. I have been condemned by both sides of the aisle.

And so, therefore, I am not surprised at all that anything that an intelligence professional does or says is going to be used by one side or the other to advance its political interests.

Mr. Gaetz. But did candidate Biden misuse this letter in the debate?

Mr. Brennan. I'm not going to characterize his use or misuse of it. I'm just saying that what he said was not an accurate reflection of what the statement said.

Mr. Gaetz. And earlier today you testified that one of the very reasons that you

signed this letter was to ensure that the information in the debate would be accurate. Do you recall that testimony?

Mr. Brennan. I recall saying I wanted to make sure that the American public was aware of Russian efforts to interfere in the election with influence operations.

Mr. Gaetz. No, I -- that was a separate basis you had. But in listing out, earlier today, your respective bases for signing this letter, one of the bases was that you wanted the debate to be an environment with the most accurate information, and you thought this letter would advance the accuracy of that discussion.

Do you recall that testimony?

Mr. Brennan. Yes.

Mr. Gaetz. And so, since the manifestation of the letter in the debate, we all now acknowledge, was inaccurate as to the point you just referenced -- then-candidate Biden's claim that the laptop was disinformation -- why did the same motivations that drove you to sign the letter for the sake of accuracy in the debate not similarly motivate you to correct the inaccurate use of this product you had signed?

Mr. Brennan. Because I was not going to get into a proactive effort to try to clarify publicly what it was that candidate Biden and other people said about it. It was out in the public domain; people can do what they want with it. But I was not interested in actually carrying out actions that were going to lead to further discussion, debate on it.

I agreed to sign the letter. That was the extent of my involvement. And I didn't want to follow up with it with any type of, you know, corrective action that I thought was my responsibility, because I didn't think it was my responsibility.

Mr. Gaetz. Do you think it undermines your position that you care so deeply about accuracy in debates, that you then subsequently withdrew from the discussion for

the reasons you just mentioned?

Mr. Brennan. No, I don't think so. I'm sure, Congressman, there have been many times that your words have been misrepresented one way or another. I'm sure that you haven't taken every opportunity to correct it, because that would be a full-time job, I'm sure.

Mr. Gaetz. Well, if anybody ever misrepresented something I said in a Presidential debate, I would probably take that opportunity. It seems like a pretty high-profile moment in our national politics.

Mr. Brennan. And if I was the sitting CIA Director, I certainly would have. I was a private citizen, one of 51, who signed on to this statement.

And, in the past, members of the Cabinet and others have corrected things that have been said by Presidents. But as, again, a private citizen, I just didn't feel that that was my responsibility.

Mr. Gaetz. Isn't the reason you didn't correct it because you wanted Joe Biden to win the election and you didn't want to say anything that was contrary to his commentary in the debate?

Mr. Brennan. Is that a question?

Mr. Gaetz. Yeah.

Mr. Brennan. That's your interpretation.

Mr. Gaetz. No, it's a question. My question is, isn't the reason you chose not to --

Mr. Brennan. I made no conscious decision not to engage in it. It was something -- I was -- I had other things going on at the time, and so I was not going to pursue this.

Mr. Gaetz. You had other things going on when you agreed to sign the letter,

didn't you?

Mr. Brennan. Yes. And I agreed to sign it. That was the extent of my involvement.

Mr. Gaetz. But you are now testifying that it was misused and you felt no obligation because you were retired.

Do you still hold a security clearance?

Mr. Brennan. I have held a security clearance, Top Secret/SCI, ever since August of 1980.

Mr. Gaetz. Do you think that holding that security clearance imposes an obligation on you to not have your statement mischaracterized --

Mr. Brennan. No.

Mr. Gaetz. -- for political purposes?

Mr. Brennan. No, there's no obligation that goes along with your classification, your security clearances.

Mr. Gaetz. No obligation?

Mr. Brennan. No.

Mr. Gaetz. Should -- do you -- strike that.

Mr. Brennan. As a private citizen? No, there's no obligation whatsoever.

And my security clearances are held by the government for the government's benefit, not for mine. I don't use my security clearances for anything.

Mr. Gaetz. You don't think that your media contracts are more valuable to the people paying you because you have a security clearance?

Mr. Brennan. No. I don't access classified information. The only time I do that is when the CIA or the government calls me in to engage in a classified discussion, just the way, when I was the CIA Director, I would call some of my predecessors to say,

"Hey, you dealt with this Russian official. How did you deal with him?" or, "Review this."

There's no benefit to me of my security clearances. It's to the benefit of the government.

Mr. Gaetz. When somebody holds a security clearance and they make a public statement about intelligence and foreign disinformation, interference in elections, do you think the imprimatur of that security clearance imposes a greater duty to the truth than someone who doesn't hold such a clearance?

Mr. Brennan. Yes. And that's why, when I signed this letter, I was a firm believer in the contents of this letter raising the prospect that what we saw related to the Hunter Biden laptop was part of a Russian information operation designed to influence the election.

Mr. Gaetz. Director, we've already plowed that ground. Now we're talking about the misuse of that letter in a Presidential debate.

I'll represent to you that your friend, Mr. Morell, testified or provided information to the committee that he knew that in the debate there would not be nuance. He knew precisely how it would be used.

Did he ever share that with you?

Mr. Brennan. No.

Mr. Gaetz. If he had shared with you that he understood that this would be used in a debate for the very reason Joe Biden used it, would that have deterred you from signing it?

Mr. Brennan. He didn't, and, therefore, it's a hypothetical.

Mr. Gaetz. Yeah. We ask hypotheticals all the time, Director.

Mr. Brennan. Yeah, I know.

Mr. Gaetz. We're in the process of doing an investigation about --

Mr. Brennan. And I know why you're asking a leading question like that, so I would give you an answer that you want or that you could use.

Mr. Gaetz. I just want you to answer truthfully, Mr. Director.

Mr. Brennan. I am.

Mr. Gaetz. If you'll turn to exhibit 7 --

Chairman Jordan. Can I just ask one question --

Mr. Gaetz. Certainly.

Chairman Jordan. -- along the same line as Mr. Gaetz?

So, Director, you said you didn't want to take the proactive step of -- after Mr. Biden used it in a false way in the debate, you didn't want to take the proactive step to correct it.

But you obviously took the proactive step in initiating the letter and getting that into the public debate. I think that's --

Mr. Brennan. I didn't initiate the letter.

Chairman Jordan. No, but you signed the letter. Excuse me. Fair enough.

But you took that proactive step in signing on to the letter. I think that's the contradiction we're concerned about as well.

Mr. Brennan. I was responding to a request to sign it. Again, I didn't initiate it. It wasn't proactive on my part.

Michael showed me the letter. I read it. I believed it was an accurate representation of the concerns about Russian interference in the election with influence operations. That was the extent of my engagement with it.

Mr. Gaetz. In exhibit 7 -- you testified that this document's one of the bases that you had to sign the letter, right?

Mr. Brennan. Which one is this?

Mr. Litt. The ICA.

Mr. Brennan. The ICA. Exhibit 7.

[redacted] Yeah, it's 7, the 2017 one.

Mr. Brennan. Yeah.

Mr. Gaetz. All right. If you'll turn to page 2, there's a subsection with the heading "Determining Attribution in Cyber Incidents."

Mr. Brennan. On page 2? Not Roman numeral ii, regular page 2.

Mr. Litt. It's the second page.

Mr. Gaetz. What's marked as page 2. It's the third page of the exhibit, but --

Mr. Brennan. Oh, yeah. Okay. Yes.

Mr. Gaetz. So there's a section with the subheading "Determining Attribution of Cyber Incidents."

Mr. Brennan. Got it.

Mr. Gaetz. And the second sentence in that subsection reads, "Every kind of cyber operation, malicious or not, leaves a trail."

What trail did the Russians leave regarding the Hunter Biden laptop?

Mr. Brennan. Again, we didn't say definitively that it was.

Mr. Gaetz. Are you aware of any trail that the Hunter Biden --

Mr. Brennan. And this is talking about a cyber operation here, as opposed to an influence information operation.

Mr. Gaetz. Well, sure, but an operation can be both a cyber operation and an influence operation.

Mr. Brennan. Right, but not all information operations are cyber operations.

Mr. Gaetz. Right, but some are.

Mr. Brennan. Yes.

Mr. Gaetz. So my question here is, since the laptop is a laptop -- or, do you have personal knowledge of any trail left by Russians regarding the Hunter Biden laptop?

Mr. Brennan. I don't have access to either intelligence or law enforcement information that might, in fact, reveal that. I've been a private citizen since 2017.

Mr. Gaetz. So am I to take your answer to mean you don't have any personal knowledge of that?

Mr. Brennan. I don't have any specific personal knowledge of that.

Mr. Gaetz. Yeah. And you didn't when you signed the letter, right?

Mr. Brennan. That's right.

Mr. Gaetz. In the prior hour, my colleague, Mr. Goldman, talked to you about the possibility that the laptop might have been hacked or that materials might have been altered or changed on the laptop.

Do you have any personal knowledge of that having happened?

Mr. Brennan. I don't have any personal knowledge of what the review of that laptop might have revealed. I don't know.

Mr. Gaetz. Right. So just as Mr. Goldman -- I'm trying to make the record clear here that just as Mr. Goldman solicited from you that it's a possibility that it could've been altered, you have no evidence of that?

Mr. Brennan. That's correct.

Mr. Gaetz. And no personal knowledge?

Mr. Brennan. I don't.

Mr. Gaetz. Thank you.

BY [redacted]

Q And you're not aware of any statement by the Biden camp that something on the laptop was altered or is fake?

A I don't know if they have any such a statement or not. I don't recollect seeing something.

Q Well, certainly, if something was, they would, in a full-throated manner, identify that, wouldn't they?

A I don't know. I don't know the circumstances of it, whatever.

Q I mean, if something was altered and the Russians planted something on a laptop that wasn't there, don't you think that somebody from Hunter Biden's camp would alert the world to the fact --

Mr. Litt. I think that's a question you ought to ask the Hunter Biden campaign.

Mr. Brennan. I think you should ask the FBI about that, because I don't know whether the Hunter Biden campaign would be aware of any type of altered or modified information.

BY [redacted]

Q Well, most of the laptop's been strewn about the internet.

A Again, I don't know. I'll leave that --

Q Okay. I'm only asking just -- in the last hour, you know, our colleagues on the other side were, you know, asking you questions about whether the laptop was altered and so forth.

A Yeah. Well, again, when you look at the provenance of this laptop, rather curious. And you had people like Derkach, you had Giuliani, and you had this computer shop in Delaware right before the election -- whatever. There were a lot of things that raised concerns and suspicions about the provenance of it and whether or not any of the material that was coming out at that time was part of this Russian information operation.

Mr. Gaetz. I'm sorry. What basis do you have to believe that the computer shop in Delaware was connected to a Russian disinformation operation?

Mr. Brennan. Well, it was -- and I think, as it was stated, the owner of that shop wasn't clear about whether or not some material on that laptop could've been altered. I don't know when it came into that person's possession.

There are a lot of things that are still gaps in my knowledge, certainly -- maybe not in the investigators' knowledge -- about who controlled and who had access to that laptop over the time that it was deposited in that computer repair shop and when it got into the hands of others.

Mr. Gaetz. And what investigation did you do to fill those gaps?

Mr. Brennan. I was not in the government at the time. I wasn't even doing an investigation. That would've been inappropriate, for me to do an investigation, as a former intelligence official, particularly against U.S. citizens.

Mr. Gaetz. Yeah. I guess I'm using "investigation" with a little "I," not a big "I."

So, as you assess these gaps in your knowledge, did you take any steps as a private citizen to try to understand or fill those gaps through research, through discussions with colleagues, or any other way prior to signing the letter?

Mr. Brennan. No. I tapped into my understanding and my knowledge of Russian counterintelligence activities and influence operations and made a determination, at the time when I was asked to sign this letter, whether or not I would agree to sign on to it, which I did.

Mr. Gaetz. You have extensive knowledge regarding Russia that you've mentioned as one of your bases for this.

Do you know what I'm referring to when I mention the Steele dossier?

Mr. Brennan. Yes, I do.

Mr. Gaetz. And what's your understanding of the Steele dossier?

Mr. Brennan. It was a dossier of information that was collected by a former

British intelligence officer, who collected information about Donald Trump, first on behalf of a rival Republican candidate and then in support of the Clinton campaign, that was made available to a variety of media outlets as well as to government officials, the FBI.

The first time I put eyes on the Steele dossier was in December of 2016.

Mr. Gaetz. And the Steele dossier emerged in pretty close proximity to the election in 2016, didn't it?

Mr. Brennan. My understanding is it was available to some folks before the election. I didn't see it.

Mr. Litt. I think we're going well-afield from the Hunter Biden laptop.

If you don't want to answer questions on this, I would say I think you're well within your limits --

Mr. Gaetz. Counselor --

Mr. Litt. -- in not answering those questions.

He came here in response to a specific request, and he testified about a statement about the Hunter Biden laptop. The Steele dossier I don't believe has anything to do with that. If you want to bring him back to ask him about the Steele dossier, that's another matter.

But, again, if he's willing to answer the questions, it's on him. I'm just making my point for the record.

Mr. Gaetz. For the record, Counselor, Director Brennan indicated that there were five bases that he had to sign this letter: the Bill Evanina report, the proximity to the election, the involvement of Rudy Giuliani, the salaciousness of the content, and his extensive history as a Russian spy-hunter or as a person in the intelligence community with great familiarity over Russia.

When he provides those five bases, certainly the inclusion of the fifth allows the

committee to explore what interaction he had with any Russia analysis that informed this opinion.

So the scope into the Steele dossier, Fusion GPS, anyone else that touched Russia, was a door opened by the Director when he said that his experience with Russia was one of the very things that informed his participation in the letter.

So, if he'd like to not answer questions about that, that will be the record and we'll proceed accordingly.

So I return to my question. You testified earlier that one of the indicia of Russian disinformation was the proximity and timing to the election in the emergence of these materials from the Hunter Biden laptop.

My question is, did you similarly view the Steele dossier the same way, since it similarly emerged in close proximity to a Presidential election?

Mr. Brennan. As I said, the first time I put eyes on the dossier was in December, was after the election.

Mr. Gaetz. So you were totally unaware of the Steele dossier prior to the election.

Mr. Brennan. I had heard reports about something that was circulating that included salacious information about Donald Trump.

Mr. Gaetz. There's another commonality, isn't there? Salaciousness in the Hunter Biden laptop, salaciousness in the Steele dossier.

Mr. Brennan. Yeah, right. Yeah. Yeah.

Mr. Gaetz. And, you know, you mentioned in your discussions with my colleague, Mr. Goldman, that Rudy Giuliani's contact with foreign nationals was one of the reasons why you believed his involvement was an indicia of Russian disinformation, right?

Mr. Brennan. With a known pawn of Russian intelligence, yes.

Mr. Gaetz. And Christopher Steele and Glenn Simpson, they had contacts with Russian intelligence too, didn't they?

Mr. Brennan. They had contacts with them, yes, but they would never [inaudible] either a recruited asset or a pawn of them.

Mr. Gaetz. Did Steele not speak to individuals as sub-sources who were, in fact, part of the Russian intelligence network?

Mr. Brennan. I'm sure he did.

Mr. Gaetz. So I guess what we're splicing then is the difference between a pawn and a -- and a --

Mr. Brennan. And a contact.

Mr. Gaetz. -- and a contact.

Mr. Brennan. Yeah, there's a big, big difference between them --

Mr. Gaetz. Well --

Mr. Brennan. -- certainly for intelligence professionals.

Mr. Gaetz. Yeah.

And then you mentioned, in your discussion with Mr. Giuliani, that he wanted dirt and he didn't care who he worked with, and that was one of the concerns you had about his involvement.

So are we to then assume that people like Christopher Steele are more discerning in who they retrieve dirt from?

Mr. Litt. Again, John, you don't need to go here if you don't want to.

Mr. Brennan. I will refer to Rudy Giuliani, who made it very clear who he was trying to get elected -- reelected as President of the United States. He was working on behalf of one of those candidates.

Christopher Steele was somebody, my understanding, who was working on behalf of individuals who were promoting someone, but he was not a partisan. Rudy Giuliani certainly is a partisan.

Mr. Gaetz. All right. So the fact that the DNC was providing the financing for the Steele dossier's development doesn't give you concern that it might be partisan?

Mr. Brennan. Again, that was happening back in 2016. Again -- I understand how you were able to tie this to my reference to my expertise, but I don't see any relevance to the Hunter Biden laptop issue now.

Mr. Gaetz. Well, you said that you signed this letter that we now acknowledge Joe Biden misused in a debate to fool the American public because you're this great Russia expert, so I'm trying to understand your Russia expertise. And you were involved in analyzing this information.

Mr. Brennan. No, I was not involved in analyzing the dossier at all. I said the first time I actually saw it, it was after the election. And the CIA was not involved at all with the dossier. You can direct that to the FBI and to others.

Mr. Gaetz. Were you aware of the FBI's involvement with the dossier?

Mr. Brennan. Yes, because there's an annex in the ICA, the Intelligence Community Assessment, that the Bureau asked to be included in there. It was their purview, their area, not ours at all.

Mr. Gaetz. You testified earlier that the emails on the laptop were unhelpful to the Biden campaign. Do you recall that?

Mr. Brennan. No, I don't recall that exactly. Maybe I said it could've been unhelpful or something along those lines. I don't know the context of my comments.

Mr. Gaetz. Sure. Sure. Was that your greatest concern about the contents of the laptop?

Mr. Brennan. The greatest concern about the contents of the laptop, which were fully unknown at the time, was that this, in fact, could be something that the Russians were using as a way to discredit Joe Biden and help Donald Trump.

There was still time before the election, and I knew from my previous experience that the Russians would use whatever opportunity they had to be able to promote their interests and objectives in the Presidential election.

And so raising the concern at that time, given that there was still, I think, a fair amount of things that were unknown about it, what we were trying to do was just to raise the suspicions that we had that it could, in fact, be a Russian influence operation.

Mr. Gaetz. Raising suspicions is important. Did you ever have the suspicion that the First Family might be compromised?

Mr. Brennan. I don't remember thinking that at all at that time.

Mr. Gaetz. And as the contents of the laptop have become more known, have you become concerned about that?

Mr. Brennan. I have the greatest confidence in Joe Biden's integrity and his honesty.

And you can go after Hunter Biden, and, clearly, he had some chapters of his life that I think he regrets.

But from the standpoint of Joe Biden and how he carries out his responsibilities as President of the United States and as previously Senator and then Vice President, there's no question in my mind that his integrity is uncompromisable.

Mr. Gaetz. And the 14 contacts that Joe Biden had with Hunter Biden's business associates, does that in any way undermine your --

Mr. Brennan. No.

Mr. Gaetz. -- belief in his integrity?

Mr. Brennan. No.

Mr. Gaetz. You think that's an appropriate thing for a --

Mr. Brennan. I don't know what the nature of those was. But, again, I have confidence that he was doing things appropriately.

Mr. Gaetz. Well, is that confidence based in knowing what the things are and believing they're appropriate, or is that --

Mr. Brennan. It's working -- it's based on my experience working closely with Joe Biden during his Vice Presidency and hearing him and seeing him acting with the greatest integrity and on behalf of the American people, that I do not believe that he would do anything at all that was inappropriate in terms of his office.

Again, I'm not going to speak to Hunter Biden. I don't think I've ever met Hunter Biden.

Mr. Gaetz. Are you aware of meetings that then-Vice President Biden had with Hunter Biden's business associates?

Mr. Brennan. I recall hearing reports about them. Their accuracy and the content of any type of discussion that might've been had I am unaware of.

Mr. Gaetz. And are you aware that Hunter Biden brought business associates on Air Force Two to meet with Joe Biden?

Mr. Brennan. I have seen reports about it. Again, I don't know the accuracy of those things.

Mr. Gaetz. So, if I represent to you that it's indeed true that on at least 14 occasions Joe Biden met with Hunter Biden's business associates, does that erode your belief in Joe Biden's integrity?

Mr. Brennan. I have the utmost confidence in Joe Biden's integrity.

Mr. Gaetz. Okay. If any -- well, it seems as though you have great affection for

the man. If any Vice President were to be meeting with business associates of their son who is influence-peddling around the world, would that be an appropriate thing to do?

Mr. Brennan. It all depends on the context and the circumstances and whether or not it was just an interaction that happened as a result of being in the same place at the same time -- but so much depends on what was done or said and the circumstances.

Mr. Gaetz. And if what was done or said was the development of a Vice President's son's business portfolio, would that be inappropriate?

Mr. Brennan. I don't know the content of those discussions, so I'm not going to speculate on any of them.

Mr. Gaetz. Okay. Well, I'm going to have some of the specific emails so that we'll have a chance to review that a little bit later in the day, and maybe that'll bring us out of the hypothetical.

Do you know who Tony Bobulinski is?

Mr. Brennan. No, I don't. I may have heard the name, but I don't recall who he might be.

Mr. Gaetz. You mentioned in the earlier hour that Burisma was a Ukrainian energy company. Is it a corrupt company?

Mr. Brennan. I understand that there were concerns about some of the business practices of Burisma, but I'm not a Burisma expert at all, and I don't recall all that I might have read about them.

Mr. Gaetz. Well, during your time -- strike that.

Have you ever made an individual assessment as to whether or not the company is aboveboard?

Mr. Brennan. No, I didn't -- have not.

Mr. Gaetz. And if a company wasn't aboveboard and the son of a Vice President

was introducing its principals to the Vice President, would that be appropriate?

Mr. Brennan. I'm not going to speculate on that. I'm --

Mr. Gaetz. Why not?

Mr. Brennan. Because, again --

Mr. Gaetz. You speculated in the letter that got us all here today.

Mr. Brennan. That's not speculation. Those were judgments about the potential for Russian interference in the election.

Mr. Gaetz. I'm wondering about the potential for this other interference.

Mr. Brennan. Again, I don't know the circumstances, I don't know the facts there, so I'm not going to --

Mr. Gaetz. But, Mr. Director, you didn't know the facts in the other matter either. You've spent most of the day telling us that it's Mr. Morell's -- your trust in your former deputy that caused you to sign this thing.

So I guess I'm trying to understand -- in understanding why you signed this letter, I have to understand your thought process on how you assessed these claims of foreign disinformation. And it seems pretty disparate, that when it's necessary to help the Bidens, you do it, and if it's critical of the Bidens, you throw your hands up and say, I'm not assessing that.

Mr. Brennan. As a private citizen, I believe it is fully within my rights to decide when I'm going to provide my views on some issue.

Mr. Gaetz. And you don't think it's irresponsible to provide those when it's politically helpful and to withhold them when you know inaccurate information is being provided in a Presidential debate pursuant to a tool that you signed and provided the credibility of your former government service.

Mr. Litt. You don't need to accept his characterizations.

Mr. Brennan. I've given you my response.

BY [redacted]

Q You said you first learned about the Steele dossier in December 2016?

A I saw it for the first time, put eyes on it. I was made aware before that there was some report that was circulating among the media as well as Washington.

Q Had you known who Christopher Steele was at that point?

Mr. Litt. Be careful here about how you answer this question.

Mr. Brennan. I don't know what I knew at the time. I don't remember what I knew at the time.

Chairman Jordan. Who'd you learn it from? How'd you learn about the dossier in December?

Mr. Brennan. I received a copy of it from the FBI when they were wanting to have a summary of that document put into the -- or, attached to the Intelligence Community Assessment that was done.

This was before Jim Comey -- when we went to Trump Tower and briefed Donald Trump, when Jim Comey was going to talk to Donald Trump about the contents of that dossier.

And the CIA was very much opposed to having any reference or inclusion of the Steele dossier in the Intelligence Community Assessment. And so they sent over a copy of the dossier to say that this was going to be separate from the rest of that assessment. And that's when the CIA was given formal access to it.

Chairman Jordan. Refresh my memory, Director. Did you attend the meeting at Trump Tower in early January --

Mr. Brennan. Yes, I did.

Chairman Jordan. -- of 2017 with Director Comey when he briefed

President-elect Trump on the dossier?

Mr. Brennan. There was myself; Jim Clapper, Director of National Intelligence; Jim Comey; as well as Mike Rogers, Director of NSA, who provided a briefing on the Russian interference in the election.

At the conclusion of that briefing, then we left, everybody left, including Trump's advisors. And Jim Comey stayed behind --

Chairman Jordan. Right.

Mr. Brennan. -- with Donald Trump to give him a briefing on that.

BY [redacted]

Q You know, there was some speculation about whether the Steele dossier was alleging that then-candidate Trump was a Russian agent. Do you recall that?

A I recall references to something along those lines. I don't know the exact language that was used in it.

Q Okay. Did any government entity, like the FBI, check with the CIA to see what their information was?

Mr. Litt. Don't reveal anything classified, John.

Mr. Brennan. The FBI and the CIA were working very closely together during this whole episode. Whenever we would get information that involved a U.S. citizen, we would immediately pass it to the FBI, because the CIA has no authority to be following up on that information.

BY [redacted]

Q But you said that the information in the Steele dossier didn't -- you didn't read it until after the election.

A That's right.

Q Okay. So the allegation that he was some sort of Russian asset was never

brought to your attention until --

Mr. Litt. Again, I'd make my two points here, which is, number one, we're far afield from the Hunter Biden laptop.

Number two, I think you need to be cautious about what you talk about, about what was brought to your attention in your capacity as DCIA.

Mr. Brennan. My views are contained in the Intelligence Community Assessments that were issued in January of 2017.

BY [redacted]

Q In the early summer of 2016, it's been reported that the GCHQ chief, Robert Hannigan, flew to the United States to meet with you in person to deliver information.

Did that information that he delivered to you have anything to do with the Steele dossier allegations?

Mr. Litt. John, I don't know that you should be talking about conversations you may have had with Hannigan.

Mr. Brennan. Well, that never took place, so --

Mr. Litt. That makes it easy.

BY [redacted]

Q Okay. So that meeting did not take place?

A I met with Robert Hannigan, but he never passed me any information along those lines.

Q Okay.

A I know it's been reported publicly, like so many other things that are inaccurate.

Q Okay. Fair enough. We talked about some inaccuracies in the Daily Beast article, so --

A Yep.

Q -- understood.

Did you participate in any of the Crossfire Hurricane meetings with Peter Strzok and the FBI in advance of --

A I don't know why we're getting into this right now. I had extensive interaction with the Bureau during 2016 about Russian interference in the election. And so there were a series of meetings that were held at that time with FBI officials.

Q Did that include Mr. Strzok?

A I don't recall.

Q Have you ever met Mr. Strzok before?

A I don't --

Mr. Litt. Can you explain the relevance of Peter Strzok to the Hunter Biden laptop statement in 2020?

[redacted] Well, you know, on one hand --

Mr. Litt. I mean, really, he's here at the request of the committee to talk about a specific area. If you want to --

[redacted] He doesn't have to answer the question.

Mr. Litt. If you want to bring him up --

[redacted] He doesn't have to answer the question.

Mr. Litt. You don't have to ask the question.

[redacted] I asked the question. He doesn't have to answer it.

Mr. Brennan. What was the question?

BY [redacted]

Q I asked you about your interaction with Peter Strzok. Did you know him --

A I don't recall. I really don't.

Mr. Litt. You really don't need to be going into this, John.

Mr. Brennan. I know. I'm trying to be accommodating --

Chairman Jordan. We appreciate that.

Mr. Brennan. -- voluntarily.

Chairman Jordan. Thank you, Director.

[redacted] [redacted] do you want to --

BY [redacted]

Q I want to go back to the statement. And, specifically, Mr. Morell told the committee about how, back in October of 2020, on October 17th, now-Secretary Antony Blinken -- but then he was working for the Biden campaign -- reached out to him via phone prior to his drafting of the public statement.

Are you aware of that interaction at all?

A Only because of press reports that have come out about Michael's interview.

Q Are you aware that the phone call between Secretary Blinken and Mr. Morell was the impetus for Morell to read the New York Post story and start drafting the public statement?

A I know only what is in the media. I haven't talked to Michael or Tony about it.

Q And in addition to a phone call from Secretary Blinken, Mr. Morell also received an email from Blinken forwarding a USA Today article titled "A tabloid got a trove of data on Hunter Biden from Rudy Giuliani. Now, the FBI is probing a possible disinformation campaign." And that USA Today article made its way into the public statement.

Are you aware of that?

A I'm aware of the USA Today article.

Q Would it surprise you to learn that the article was originally sent to Secretary Blinken by Andrew Bates, the Biden campaign's director of rapid response?

A I have no comment on that.

Q Did you have any communications with Andrew Bates? Have you ever spoken with him?

A I don't recall ever having a conversation with him.

Q Did you ever have any conversation with Secretary Blinken when he was working for the Biden campaign?

A I do not recall. I may have seen him in -- this was in 2020, right?

Q Yes, sir.

A There might have been some interaction at some point, but it would've been very, very brief and very superficial.

Q Around the time of the public statement? Or do you not recollect when that interaction was?

A I don't recall having any interaction with Tony at that time for the lead-up -- or during the campaign.

Q Are you --

Chairman Jordan. Director, would it have changed your calculus on whether you decide to sign it or not if you'd have known that what prompted Mr. Morell to begin to put this letter together was the contact by the Biden campaign, specifically Tony Blinken, and the article that was emailed to Mr. Morell from Tony Blinken that was emailed to Mr. Blinken by Mr. Bates with the campaign?

If you'd known that there was that much campaign involvement as the catalyst for this, would you have still signed on?

Mr. Brennan. I don't know. I really don't know.

As I said before, I try to be apolitical and nonpartisan, and I have tried to steer clear of getting involved in partisan politics.

So, at that time, I just knew what Michael had told me. I know that he had in his email saying he was going to be pushed back against. But if I had known it was more directly tied to the campaign, I don't know if I would've signed it.

Chairman Jordan. And then -- I don't know if we've -- but when it was done, when the debate was over, and then-candidate Biden had used it in the debate and used it, at least in part, in an inaccurate fashion, as you testified to earlier, Mr. Morell gets a call from Mr. Ricchetti, the chairman of the Biden campaign, thanking him for the whole deal.

If you'd have known that kind of -- that kind of focus and involvement, would that have changed your calculus as well?

Mr. Brennan. Well, it was after the fact of my signing it.

Chairman Jordan. I understand. I understand. But it kind of played out I think the way the folks all intended it to play out. At least like the way I think Mr. Morell intended it to play out.

Mr. Brennan. Yeah. I mean, it clearly has given individuals such as yourself and others the opportunity to question the basis for our signing it, given that there were contacts with individuals within the campaign.

Again, I can't speak to what motivated others, either in the campaign or other signatories. I can tell you what motivated me to sign it.

Chairman Jordan. Okay.

Mr. Johnson of Louisiana. Can I just ask -- because it's related to this -- do you think that the statement that you signed and these other intel officials signed has in any way diminished the faith that the American people have in our intel community? Do

you think it's done damage now?

Mr. Brennan. I think there are so many things out there in the public domain that have done damage. The repeated references to the "deep state," the disparagement of the intelligence professionals that Donald Trump and others have engaged in -- I think those have had far, far more impact, and negative impact, on the impression that Americans have about those intelligence, law enforcement, other professionals who work night and day around the globe at great risk and sacrifice.

So I do not believe -- unfortunately, this has been given, now, such enhanced profile. And, again, I understand why you're doing this. But I do not believe that it -- I believe it pales in comparison to the damage that is being done by those who continue to question the integrity of the overwhelming number of intelligence professionals.

Mr. Johnson of Louisiana. I appreciate your response. And I will tell you, honestly, we all lament that this --

Mr. Brennan. Uh-huh.

Mr. Johnson of Louisiana. -- faith in the intel community has been diminished.

We're not doing this for partisan, political purposes. I know you think that's true. We're doing this because, listen, we have to restore the people's faith in the intel community. It's essential to us. And I know field agents. I have family members who are field agents who are great patriots.

But I don't know -- sure, you can say and you believe that Donald Trump has diminished -- you know, increased the belief in the deep state and diminished the faith in the intel community. But would you dispute that the controversy surrounding this statement has also contributed to that? And do you regret it?

Mr. Brennan. I regret that it's given fuel to those who want to create this furor over it.

I don't believe -- I certainly did not hype this and highlight it afterward and really keep ringing the bell. I don't believe other signatories did either. What the press or what individuals might have done to leverage it for their own purposes or leadership or whatever, that's up to them.

But, again, I did this as a private citizen. I --

Mr. Johnson of Louisiana. Sure.

Mr. Brennan. -- didn't do it when I was a sitting government official. And, again, the concern about Russian interference in not just our elections but in our daily lives and how they are using the openness of our society and the social media environment and the digital domain. They are exploiting that in order to advance their interests.

And so I felt an obligation on the part, given my background, to sign on to this when Michael asked me to do it.

Mr. Johnson of Louisiana. I take you at your word, and I respect you. And I used to be a First Amendment lawyer, so I understand the right that you have, the fundamental right you have, to speak your mind. You're not in office anymore.

But I wonder how you reconcile in your mind the fact that you're not actually Joe Q citizen, right? You're the former Director of the CIA. So, whether you like it or not, you walk around with sort of an imprimatur, that, you know, when you say something, it's different than when my neighbor next-door says it, right? Because people put faith in you because they know the level of intel that you have, and the credibility you have is just -- should be unimpeachable, right?

And so, when you put your name on a letter, it's different than if my neighbor does. Do you agree with me?

Mr. Brennan. I agree with you. And if we said the Hunter laptop issue is

disinformation and we were categorical about it and we came in very soundly and roundly saying that this was a Russian op, I completely agree with you. And if it said that, I would not have signed it. It is caveated. It is conditioned. It is characterized as a concern that we have that this, in fact, may be.

There can be misreading it. There can be sloppy reading of it. There can be sloppy representations of it that happened afterward. But, again, the intention here was to bring attention to the Russian influence operations that seem to be pervasive in our country.

Mr. Johnson of Louisiana. Well, actually, the intention of it was, as stated in the email, October 19, 2020, was that, quote, we want to give the Vice President a talking point to use in his response.

That was the intent, right?

Mr. Brennan. That was Michael's intent. My intent was to raise the profile and the concern about Russian influence operations. That's what I did in 2016 -- in 2017. That's what I did when I signed this letter.

Mr. Johnson of Louisiana. And then, a little while later that same day, another email, I guess the one between you and he, he said, we're trying to -- quote, we're trying to give the campaign, particularly during the debate on Thursday, a talking point to push back on Trump on this issue. You said this was a "good initiative." "Thanks for asking me to sign on."

I mean, were there other ways, potentially, to highlight what you were concerned about, Russian disinformation, than providing a talking point to one of the Presidential candidates?

Mr. Brennan. There probably would have been or was. This was the one that was presented to me, and so I agreed to sign on to it.

Again, I was not a government official at the time. And so, therefore, this was the opportunity, the only -- the sole opportunity I had to be able to lend my voice to those who were concerned about Russian interference in the election, as we had seen in the previous Presidential election.

Mr. Johnson of Louisiana. I will yield back, but I just want to say that I think you know -- and I understand why you can't admit on the record and won't say it here, but I think you must believe in your heart of hearts -- because I do believe you're a man of integrity -- that some damage has been done by this and that you do have, I believe, a greater responsibility than most citizens, because when your name goes on something, it means a lot.

And I think you must know that. And I understand why you're not -- I understand why you're explaining things the way they are. But I just think the whole sordid tale is so fortunate, because we have done permanent damage to the intel community's credibility with all this.

Mr. Brennan. When you said "we have," I agree with you. When you say "we have," you're referencing you.

Mr. Johnson of Louisiana. Well, I'll say the whole of government, and you're no bit player in that. You have a huge, huge, outsized influence in all this. And that's what is so deeply concerning to us, and that's why you're here today.

Mr. Brennan. Because of the misreading of the letter? Because of the misrepresentations of the letter by others? Is that what you're saying we have done?

Mr. Johnson of Louisiana. Because you provided a talking point to one of the candidates on the stage in a Presidential election. That's the problem. And you want to be apolitical and nonpartisan, but that's not -- that's not what your actions showed. And that's how the people see it.

Mr. Brennan. Well, I think my actions did show it, that I have been apolitical, nonpartisan.

RPTR SINKFIELD

EDTR ZAMORA

[1:35 p.m.]

Mr. Johnson of Louisiana. Sorry, [redacted] I interrupted you. Go ahead.

[redacted] I think we're at the end of our hour. So we will at this point take a pause.

Mr. Brennan. Okay.

[redacted] We'll go off the record.

[Recess.]

[redacted] It's 1:45. We can go back on the record.

BY [redacted]

Q Director Brennan, thank you for your patience today. In the --

Mr. Litt. Just to be clear, he will stay here until -- without a break until we're done.

[redacted] We appreciate that.

BY [redacted]

Q In the prior hour, you were asked about interactions that Tony Blinken may have had with Mr. Morell. You personally were not privy to any of those interactions, correct?

A I haven't been privy to any of them.

Q Okay. And I will represent to you that the transcript in the -- when Mr. Morell testified before this committee earlier this -- or last month, he was specifically asked if Mr. Blinken directed, suggested, or insinuated in any way that Mr. Morell should write a letter or statement on this topic. And Mr. Morell responded: My memory is that he did not, right. My memory is that he asked me, meaning when he called me, he

asked me what I thought.

So I want to correct the record on that piece.

Mr. Blinken was a private citizen at the time, correct?

A Yes.

Q As was Mr. Morell?

A Yes.

Q And so, essentially, they were two private citizens engaged in the political process, correct?

A Correct. As was I.

Q And as every other one of the signatories was, correct?

A Uh-huh.

Q You were asked a fair amount about the Politico article -- this is Exhibit No. 14 -- and whether you had -- you know, whether the headline of that article was accurate or not. You were also asked if you contacted Politico to try to correct the record on the article. Do you remember being asked that?

A I do.

Q And you had actually said that you don't recall if you saw this when it was released, right?

A I don't recall.

Q And so if you hadn't seen it when it's released, you wouldn't have been able to call to correct? You wouldn't have been able to contact anybody to try correct the record because you didn't know it existed, potentially?

A That's correct.

Q Okay. And, actually, if you look at this article on the -- I think it's on page 1, 2, 3 -- on the fourth page.

Mr. Litt. What's at the top of the page?

BY [redacted]

Q It says: But the release of the material. There's a Politico dispatch in the middle. That very next paragraph underneath the little Politico dispatch box says -- it actually quotes directly from the letter, and it says: We want to emphasize that we do not know if the emails provided to the New York Post by President Trump's personal attorney Rudy Giuliani are genuine or not, and that we do not have evidence of Russian involvement.

So it actually quoted directly from the letter, correct?

A Correct.

Q And it made it clear in the body of the email that none of you --

Mr. Litt. Of the article?

BY [redacted]

Q I'm sorry. The body of the article that none of the individuals who signed that letter actually had any information about whether the emails were authentic or not, correct?

A Correct.

Q So putting aside the headline that it said here, you know, in the body of the article, it was abundantly clear what the purpose of the letter was?

A Uh-huh.

Q And this -- and, actually, in the very first paragraph of this article, in the very first sentence of this article, there's a hyperlink. It says: More than 50 former senior intelligence officials have signed onto a letter.

And you see how that's in blue?

A Uh-huh.

Q Is it your understanding that that's a hyperlink?

A Yes, it is.

Q And that's a hyperlink to the text of the letter itself?

A Yes.

Q And so anybody reading this article could easily click on that link and view the letter exactly as you signed it, correct?

A Correct.

Q You were asked earlier about the Publication Review Board. I'm sorry, I lost my page. Thank you.

There was a suggestion made that somebody at the Publications Review Board had potentially promoted the letter. And that was in reference to an email produced by -- sent from David Cariens to majority committee staff.

Do you know David Cariens?

A I might, but the name is not springing to my mind, his face and who he is.

Q Okay. And are you aware that the -- and so you didn't have any interactions with him about this letter?

A No.

Q Okay. And are you aware that the representations the majority made to you is solely based on an email that he sent to majority staff?

A I was unaware of what it was based on.

Q And that in that email he said he couldn't remember who he spoke with or what date he spoke with that person?

A I'm hearing this for the first time.

Q Okay. So it's possible that what the majority has cited to you is based on somebody who actually might have a faulty memory, correct?

A Presumably.

Q And I want to look at some of the evidence that actually doesn't rely on what the majority represented to you.

So earlier, the actual email that Mr. Morell sent to the review board was introduced, I believe. And if not, we can introduce it again. It was not introduced. I'm sorry, we'll introduce it as exhibit 15.

[Brennan Exhibit No. 15.

Was marked for identification.]

BY [redacted]

Q So this is an email from Michael Morell to the PCRB, correct?

A That's what it appears to be.

Q And the PCRB staff?

And this was sent at 6:34 in the morning on October 19th, correct?

A Uh-huh.

Q And the PCRB staff responded at 7:11 in the morning, and they provided a tracking number, saying his request had been received, right?

A Right.

Q And is this tracking number that's provided here, is that consistent with your experience with when you submit something to the PCRB, that's the kind of response you get?

A Yes.

Q And the sole content here, the sole response from the PCRB says: This submission has been received.

Correct?

A And the tracking number is -- correct.

Q And the tracking number. Correct.

And I want to turn next to the PCRB's clearance of this, which we'll introduce as Exhibit No. 16.

[Brennan Exhibit No. 16.

Was marked for identification.]

BY [redacted]

Q So this is dated October 19th, 2020, time stamped 12:44 p.m., correct?

A Uh-huh.

Q And the subject is PCRB submission, then the tracking number, determination-approved, correct?

A Uh-huh. Yes.

Q And the body of the email says it's from PCRB staff, and it says: The Prepublication Classification Review Board has completed its review of your article.

And it clears it, correct?

A Correct.

Q Okay. So this was, what is that, maybe 6 hours approximately after the --

A Yes.

Q -- after the email is sent. Is that inconsistent with how quickly, in your experience, the PCRB can clear something of this nature?

A I know that it can clear things within hours. I've had things cleared, in fact, even maybe faster than this.

Q Okay. And there's nothing in here about David Cariens, correct?

A I don't see anything in here about it.

Q In fact, there's nothing in here about any signatories, correct?

A No. This seems like the standard response when approval is given.

Q Okay. And I want to turn to what we actually do have from Mr. -- contemporaneous email from Mr. Cariens which is where he agreed to sign on to the statement. This is an email from Mr. Cariens to Kristin W, who I'll represent is Kristin Wood, dated October 19th, time stamped 10:36 a.m. We'll introduce this as exhibit 17.

[Brennan Exhibit No. 17.

Was marked for identification.]

BY [redacted]

Q And I know you've probably not reviewed this before, so I'll give you a few minutes to review it.

So in this document in front of you, Kristin W emailed David Cariens and presumably others at 10:27 a.m., correct?

A Yes.

Q And she wrote that all the recipients were bcc'ed to protect privacy?

A Uh-huh.

Q And that means that their email addresses aren't displayed, correct?

A That's usually what it means, yes.

Q And Mr. Cariens replied at 10:35 a.m., which is about 8 minutes later, correct?

A Yes.

Q So assuming these time stamps are accurate for Mr. Cariens to have learned about the letter because the PCRB promoted it, he would have had to learn about it in like the 3 hours between the PCRB's receipt of Mr. Morell's submission and Ms. Wood's email, correct? So like between 7:11 in the morning and 10:27 a.m. on October 19th?

A David Cariens was working in the PCRB at the time?

Q No, no, no. He was not. He was an external.

A He was an external.

Q And as far as we can tell, he learned about this email from Kristin Wood just like everybody else, or about the letter just from Kristin Wood just like everybody else.

A Okay.

Q So this actually tends to show that David Cariens learned about the letter and elected to sign on to the letter solely from Kristin Wood's email, correct? There's no reference to the PCRB here?

A There's no reference to knowing about it from anywhere else.

[Brennan Exhibit No. 18.

Was marked for identification.]

BY [redacted]

Q Okay. And just to round out the story here, we'll actually introduce the email that David Cariens sent to Republican committee staff. This is exhibit 18. And we don't have extra copies of this, I'm sorry. I think you have it, since it was sent to your --

[redacted] That's fine.

BY [redacted]

Q So, again, the second paragraph here says: We have no documents because all of the above was done on a phone call.

But, in fact, we have evidence that he should have documents because he sent an email to Ms. Wood, correct?

A I haven't read this yet.

Q I'm sorry.

A The second part: We have no documents because all of the above was

done in a phone call. Neither my wife nor I have discussed the letter with any of the other signatories or any members of the U.S. policy or intelligence agencies.

Okay.

Q So we just introduced as exhibit 18 -- 17, the email from David Cariens to Kristin Wood, which shows that he actually communicated via email to Ms. Wood, correct?

A Before, yes.

Q So at least one paragraph here, that paragraph number two here saying everything was done in a phone call is not accurate, correct, just based on the record we have in front of us?

A It doesn't appear to be accurate. He may have been, you know, not having remembered it or whatever, but at least the way it's stated here.

Q Correct.

A Although he says we have no documents. I don't know if at the time he didn't have this document.

Q My point being that we don't know what he was thinking when he wrote this email, but at least some of it is plainly contradicted by the evidence that we actually do have, correct?

A There is documentation about his engagements prior to this.

Q Okay. And, again, you don't have any personal acknowledge of this?

A No, I don't.

Q You were asked extensively about this earlier, so -- there was a discussion earlier about the timing of the letter in relation to the second debate. Do you recall that discussion?

A Yes.

[Brennan Exhibit No. 19.

Was marked for identification.]

BY [redacted]

Q I want to introduce into the record as exhibit 19 a FOX News article, which is dated September 14th, 2020. It's entitled, 235 former military leaders support Trump, warn 'our historic way of life is at stake.' I'll give you a minute to review this.

A Okay.

[Brennan Exhibit No. 20.

Was marked for identification.]

BY [redacted]

Q And the second document I am going to introduce we'll mark as exhibit 20, and it's the actual letter from those 235 military leaders which is referenced in the article.

Have you seen this letter before today?

A I might have. I remember that it occurred at the time.

Q Okay. And briefly, this letter says that the 2020 election could be the most important election since our country was founded. And it argues that the Democrats opposition to border security and their pledge to return to the disastrous Iran nuclear deal, their antagonism toward the police and planned cuts to military spending will leave the United States more vulnerable to foreign enemies. And then it goes on, and it urges Americans to support the reelection of President Trump.

Is that a fair summary of what this letter says?

A Yes, I believe so.

Q Okay. So regardless of what you -- of whether you -- and I should say, this letter is not dated, but the FOX News article says that it was released on -- the FOX News article indicates that it was released on or about September 14th, 2020.

And regardless of whether you agree or disagree with the statements that are made in this letter, do you agree that these retired generals and Air Force lieutenants or Air Force --

A Navy admirals.

Q -- admirals -- Navy admirals, do you agree that they had a First Amendment right to say what they said here?

A Absolutely.

Q And that's kind of similar to the letter that you actually submitted, correct?

A Yes.

Q It's fairly common for people to sign public letters in advance during a Presidential election or during any election, correct?

A Yes.

[Brennan Exhibit No. 21.

Was marked for identification.]

BY [redacted]

Q Okay. And closing this out, I want to introduce as exhibit 21 an excerpt from the transcript from the first Presidential debate, which took place on September 29th, 2020. And I should say this is the full transcript of this. It is several hundred pages long, so we're only introducing excerpts here today.

On the -- as printed off, it's page 56 of the full document, but it's the bottom of the second page of what we printed off. We've highlighted some language. This is then President Trump saying: As far as the church is concerned and as far as the generals are concerned, we just got the support of 250 military leaders and generals, total support. Law enforcement, almost every law enforcement group in the United States. I have Florida. I have Texas. I have Ohio.

And it goes on.

Based on what I just read to you, is it accurate to say that the senior military leaders' letter in support of President Trump was released prior to the first Presidential debate?

A Yes.

Q And is it fair to say that that letter played a role at this debate?

A It allowed Donald Trump to reference that letter. Absolutely.

Q And, again, you know, regardless of whether you agree with the statements that are made, do you agree that the senior military leaders, who I should -- can represent were all retired at the time that they signed this letter, had a right to participate in a political process as private citizens?

A Yes.

Q You were asked earlier, again, about allegations that President Biden, the Politico article, and others had mischaracterized the letter. Do you believe that there are Republicans who are mischaracterizing your letter as well?

A There are politicians on a daily basis mischaracterizing the facts and truth, yes.

Q And to your knowledge, have any of them made efforts to correct what they're saying?

A Very rarely.

Q What's the impact on this letter, on the investigation into this letter been on you?

A Well, I've had to procure counsel.

Mr. Litt. Only a benefit.

Mr. Brennan. And I don't like the fact that, again, this is being raised in a, I think,

a partisan manner. And I think it's losing the focus of what Congress should be doing. And so I regret that this furor, this firestorm has been created. But, again, I think the firestorm, the furor has been created responding to the letter as opposed to the letter itself, as I responded to one of the Congressmen earlier. So it's unfortunate that this is taking up all your time, it's taking up my time, and it is, again, further dividing the country.

Clearly, my name is one that has been identified as being rather outspoken against Mr. Trump. It has led to a lot of very vile and hateful commentary, including death threats, just within the past 10 days that I've received from official quarters. And so my concern is that there is, I think, unintended consequences that really could contribute to very untoward and very potentially tragic consequences here, as people are being villainized for, again, exercising their freedom of speech.

BY [redacted]

Q Do you fear for your safety?

A I have concerns about it. I've had concerns about it for quite a while. And to the extent that it has -- this is all in closed doors here, but I know that things are pushed out during this inquiry. But I've had to take some extraordinary measures in the past several years because of the efforts by some to -- I don't mind being discredited or being criticized or condemned, but when it comes to the safety and security of family, that's something that I never thought that over 33 years of government service, working to try to protect the national security of this country, would result in this type of activity and actions that make me very concerned about what we might see in the future.

Q And can you say anything further about your concerns about what we might see in the future, where might this lead?

A Well, we already see that there is this very unfortunate polarization in our country where the fringes are trying to take matters into their own hands and how some

elements resort to violence. And, again, I am aware of the very hateful vitriol and nasty commentary. It's not just directed against me. I get a fair amount of it. And it's not just in the social media realm too. Because for whatever reason, I have been portrayed as this individual who is undermining this country's security when, I thought, after 33 years of government service, I was trying to do the exact opposite.

So it really is quite disheartening, dispiriting that, just like in previous congressional investigations I've been involved in, including where I felt that the other side, the Democratic side of the aisle was not upholding what I thought were the necessary responsibilities. I really feel that this is an effort to get certain people and, again, losing sight of what we should be doing as a society, as a country, and as a government. It's very unfortunate.

Q Thank you.

And you said a couple minutes ago that you've had to take additional efforts to protect your safety. Can you tell us anything more about that?

Mr. Litt. I wouldn't, John.

Mr. Brennan. I don't want to because I'm concerned about what I say here and how it may find its way outside the doors. I'm very, very concerned. And so I have considerations on that front.

[redacted] Okay. I understand. Thank you. We don't have any further questions. We can go off the record. It's 2:09.

[Discussion off the record.]

[redacted] We'll go back on the record. It's 2:11.

BY [redacted]

Q You know, we had some discussion about what the relevance is of the Crossfire Hurricane and the Peter Strzok matter in relative comparison. And I just would

like to, you know, articulate that the letter that was signed and used in the debate has been, you know, demonstrated, I think, fairly that it was nothing but a political operation at the end by some of the individuals that hatched the idea -- maybe not all the signers, but the people that started the letter and tried to get signatories for the letter, it was just a political operation. Can you agree with that?

A No. Might have had some political objectives on it. But if there was real concern on the part of individuals, including those that's familiar with the campaign, that this, in fact, could be part of a Russian effort to discredit President Biden. It was not, as you point out, just a political operation. It was an effort, just like in 2016, to try to highlight the possible Russian involvement in the election.

Q And how do you compare that to some of the, you know, inaccurate information that was loaded into the Carter Page FISA application, which by now everybody appreciates is --

A I had nothing to do with that. FISA didn't come through me.

Q But you did have meetings with the FBI around the timeframe about --

Mr. Litt. Can I suggest, Director Brennan has been here since 10:15.

[redacted] He doesn't have to answer the question.

Mr. Litt. It's 4 hours -- I said I was going to sit.

If you have other questions relating to the Biden laptop, let's get those done so that you can get all of those answers. And then if you want to go into the other stuff, then we can walk out at that point.

[redacted] Okay.

Mr. Brennan. Again, just to reiterate, I had no involvement whatsoever in the FISA process. That's not what the CIA director does.

BY [redacted]

Q So are you aware of Carter Page?

A Yes.

Q Like, did you have any, like, official meetings to discuss the content of the --

Mr. Litt. You don't have to discuss the investigation.

Mr. Brennan. First of all, it's a U.S. person. As I said before, the CIA has no authority over any type of U.S. personal investigation.

Mr. Gaetz. What exhibit number are we on?

[redacted] Twenty-two.

Mr. Gaetz. I would like to introduce an exhibit.

[Brennan Exhibit No. 22.

Was marked for identification.]

Mr. Gaetz. Director Brennan, this is an email from the Hunter Biden laptop. I'll represent to you it's sent by Mark O'Malley to Hunter Biden, copies to Devon Archer and Anne Marie Person. And it reads: Hunt, I'm trying to get the Moscow agreement executed by the end of this week. In an effort to be proactive, I think we should send bank wiring instructions so we're not waiting on a check from Moscow. If you agree, please have someone forward the appropriate banking instructions. Thank you. MSO.

What role did you have in the government when this email was sent?

Mr. Brennan. In December 2010, I was assistant to President Obama for Homeland Security and Counterterrorism at the White House.

Mr. Gaetz. And were you aware of the relationship between Hunter Biden and Moscow at that time?

Mr. Brennan. No.

Mr. Gaetz. You ever seen this email before?

Mr. Brennan. I don't recall ever seeing this before.

Mr. Gaetz. Is it concerning to you that the son of a sitting Vice President was trying to make a financial arrangement with Moscow at this time?

Mr. Brennan. Well, it doesn't say that. So we're not waiting on a check from Moscow, but it could be an American entity within Moscow. It could be anyone. I don't know the entire context. I don't know what this refers to.

Mr. Gaetz. So would someone in a senior national security role typically be concerned if the son of the sitting Vice President is waiting on a check from Moscow when referring to something as the Moscow agreement?

Mr. Brennan. No, because U.S. businesses have had, prior to the invasion of Ukraine, extensive business activities inside of Russia and in Moscow, the Moscow offices, and could be referred to as the Moscow agreement, that a business might have agreed to. So it doesn't mean that there was any type of Russian Government activity involved in this. So, no. And, again, this is Mark O'Malley, a U.S. person; Hunter Biden, a U.S. person; the other ones. So certainly, on the national security side, we wouldn't have any interest in this.

Mr. Gaetz. Have you seen the name Devon Archer before.

Mr. Brennan. I don't recall.

Mr. Gaetz. If I represent to you that Devon Archer is now a convicted felon, does that ring a bell?

Mr. Brennan. No.

Mr. Gaetz. And if this was indeed a measure that had the semblance of sanction from the Russian Government, would that be concerning to a senior national security official?

Mr. Brennan. It all depends, again, on the context. In 2010, there were things that were going on in Russia and some, including that were agreed to by the Russian

Government, involving businesses and other things. So, again, I have no understanding of what this might refer to.

Mr. Gaetz. What would be the questions that you would ask as a senior intelligence official if you had observed the communication like this while you were in government?

Mr. Brennan. Why am I getting this? Why didn't it go to the FBI? I shouldn't be seeing this either as a White House official or the CIA.

It's a personal correspondence from a U.S. citizen who happens to be the son of a sitting Vice President. But there's no earthly reason why this should be brought to my attention. Be the counterintelligence folks inside the FBI. If there's any concern about some type of business activity that was inappropriate, illicit, illegal, or whatever, I certainly would not have had any exposure to it.

Mr. Gaetz. And the subject of the email says patriarch. And it's from a Mark O'Malley to Hunter Biden.

If you were assessing this, would you draw any conclusions from the use of that word?

Mr. Brennan. Again, I don't know if that could have been the code name of some type of business operation that was underway. It could have been any number of things. It could have been the name of a company. I have no idea.

Mr. Gaetz. It also could have been a reference to Joe Biden, the patriarch, the Biden family, right?

Mr. Brennan. You can interpret it that way.

Mr. Gaetz. Do you believe that's a reasonable interpretation?

Mr. Brennan. When you're saying reasonable, then you're narrowing it down. It's an interpretation certainly. But I wouldn't want to go there even with any type of

speculation because of what it implies.

Mr. Gaetz. Hunter Biden engaging in business deals with people who became felons, with this reference to a Moscow agreement, does that in any way flavor the context of the Hunter Biden laptop and your signing of this letter?

Mr. Brennan. There are a lot of American politicians who had business activities with convicted felons, including family members of various senior U.S. Government officials. So, again, I wouldn't want to make any comment on something like this that would be speculative at best.

Mr. Gaetz. What about the Moscow connection? A similar answer?

Mr. Brennan. Again, Moscow is a city. It's a location. It doesn't say anything about what that could be referencing to, whether it be the Russian Government, Russians, who knows. I have no idea what the reference to Moscow refers to.

Mr. Gaetz. When you signed -- or strike that.

Was it before or after you signed the letter that you learned that there were communications on the Hunter Biden laptop between Hunter Biden and folks connected to China?

Mr. Brennan. I don't know when I read about that. I have no recollection at all.

Mr. Gaetz. So you are aware that the laptop contains communications between Hunter Biden and China, right?

Mr. Brennan. I recall reading press reports on that issue, yes. I don't know when I first learned of it or first read those reports.

Mr. Gaetz. And there's no way to refresh your recollection as to whether or not this is before or after you signed?

Mr. Brennan. I don't know. You're taking two and a half years ago.

Mr. Gaetz. Does that concern you, the connections to China?

Mr. Brennan. This is a globalized world, and individuals of all different stripes, business, political, and so on have connections around the globe with Russians, Chinese, some government officials, business enterprises, interests, parastatals, and others. So just because somebody has a contact with something in China does not by any definition mean that it is inappropriate.

Mr. Gaetz. Is it appropriate for the son of the sitting Vice President to hold investment meetings at the Chinese Embassy?

Mr. Brennan. Again, not knowing -- first of all, I don't know about such meetings, if they were held, but again, it would be a -- the context, what was said, what was done, what it was about, I have no knowledge of what it was. But I can -- I could spit out a scenario where having such a conversation in that location was legitimate.

[Brennan Exhibit No. 23.

Was marked for identification.]

Mr. Gaetz. Another exhibit.

[redacted] Is this all one exhibit?

Mr. Gaetz. That's all one exhibit. So I'm just going to reference some features of it, but I want it to be complete for the record.

So if you go to the third page of the exhibit.

Mr. Forrest. Just for the record, this is Exhibit No. 23.

Mr. Litt. Okay. It's the page that has Marvin R. Lang at the top?

Mr. Gaetz. Yes, Marvin R. Lang email. 4:36 p.m., February 28, 2011. And in the email, there's the discussion of this dinner for the annual and -- or funds dinner of Hunter Biden's fund.

Is it appropriate for the son of a sitting Vice President to be raising money for their investment fund at a dinner at the Chinese Embassy?

Mr. Litt. Do you see it?

Mr. Forrest. Just to break in real quick. Can you say -- again, I'm assuming this is also from the Hunter Biden laptop?

Mr. Gaetz. Correct. I'll represent to you it's from the laptop.

Mr. Brennan. Appropriate? The term has -- it's very expansive in terms of what falls under that -- the roof of appropriate.

When U.S. businesspersons and private citizens do things, they have to make sure they're doing it consistent with U.S. law, including the Foreign Agents Registration Act and other types of requirements. And, again, I don't know the nature of the discussion here, the content of it, and whether or not anything was done or said that might have, in fact, been inconsistent with any of those obligations.

Mr. Gaetz. Does it concern you that the son of a sitting Vice President was having a meeting at the Chinese Embassy raising money for his investment fund at their annual dinner? If you don't want to speak to its propriety, perhaps you can speak to whether or not it concerns you.

Mr. Brennan. Not knowing the context, not knowing the nature of the discussion, what was discussed, I am not going to comment on its appropriateness or not.

Mr. Gaetz. So it could be appropriate under some context?

Mr. Brennan. I think, again, appropriate is in the eye of the beholder. I think if, you know, you're looking at it just purely through a political prism, just like you might look at some of the activities of the Trump children and son-in-law through a prism of appropriateness, people might have issues with that. The questions that --

Mr. Gaetz. I'm not asking about them. I'm asking about --

Mr. Brennan. I know. And I am just drawing a comparison that you can have conversations, including in various locations with foreign entities and persons that may be

wholly consistent with U.S. law, U.S. regulations, obligations, that a U.S. citizen can carry out from a business perspective.

Again, I don't know what was discussed. Certainly, there could be things that were inappropriate and things that were appropriate. I have no idea about what was said or done during such meeting.

Mr. Gaetz. Would the CIA ever be concerned about an embassy being used in this way?

Mr. Brennan. If the CIA became aware of a foreign embassy that was being used either for meetings or for communication systems or something else that a U.S. person was involved in, we would immediately refer that information to the FBI for follow-up investigation. But the CIA needs to believe that there is some type of possible criminal activity taking place before they would make that reference.

Mr. Gaetz. And violations of FARA are criminal, right?

Mr. Brennan. Yes.

Mr. Gaetz. So if the son of a sitting Vice President was taking money from the Chinese and then doing their bidding in our country, that would be a violation of FARA, wouldn't it?

Mr. Brennan. I don't know, again, what was done or what was said at these meetings.

Mr. Gaetz. Well, that's what I want to know if it's just concerning to you. I mean, I think most Americans would look at the son of a sitting Vice President raising funds from investors at the Chinese Embassy a concerning event. And it's surprising to me you don't see it that way.

Mr. Brennan. The Chinese Embassy can be a large place. It can be just a venue for a meeting of representatives from different countries, different businesses, from

personal interests across the globe. Again, there's so many different possible scenarios involving this.

Mr. Gaetz. But you didn't know about this meeting and this content of the laptop when you signed the letter?

Mr. Brennan. I don't -- I don't remember being aware of this at all.

Mr. Gaetz. Does this email correspondence have the indicia of Russian disinformation?

Mr. Brennan. I don't know. I haven't looked at it.

Mr. Gaetz. Okay. The email I showed you previously, the prior exhibit, regarding the Moscow deal from Mr. O'Malley to Hunter Biden, subject line patriarch, talking about a Moscow agreement, does that have the indicia of Russian disinformation?

Mr. Brennan. I don't know, and I -- I --

Mr. Gaetz. Well, you knew the laptop did.

Mr. Brennan. No, I said that there was concern about how the laptop might be part of a Russian information operation. I wasn't commenting at all with my signature on any of the individual pieces of information, whether it be emails or others on that laptop.

Mr. Gaetz. Have you ever heard of a company SinoHawk.

Mr. Brennan. It doesn't ring a bell to me.

Mr. Gaetz. If I represent to you that there were communications regarding a SinoHawk business deal on the Hunter Biden laptop, does that ring a bell?

Mr. Brennan. No, no.

[Brennan Exhibit No. 24.

Was marked for identification.]

Mr. Gaetz. I will go to my next exhibit, 24, I believe. I'll represent to you that

these are screenshots from Hunter Biden's contacts from the laptop.

Do you know who Mike Harrington is?

Mr. Brennan. I might know of him, but I don't -- I can't put a face with that. I don't know.

Mr. Gaetz. Do you know any reason why he would be in Hunter Biden's contacts?

Mr. Brennan. Depending on what his responsibilities were within the Bureau, he could have been somebody that a private U.S. citizen was in touch with about a matter.

Mr. Gaetz. I'll skip to the next page of the exhibit, and I'll -- there's the name Bryan Vorndran. Do you know who Bryan Vorndran is?

Mr. Brennan. No.

Mr. Gaetz. Any idea why he would be in Hunter Biden's contacts list?

Mr. Litt. Are you asking him whether somebody he doesn't know -- if he knows why that person would be involved?

Mr. Gaetz. You may know of them and may know some correlation or relation.

Mr. Brennan. I don't know of any these individuals referenced to the FBI. But, again, a lot of U.S. persons who have concerns about maybe what's happening from a counterintelligence perspective or terrorism perspective, whatever, reach out to the FBI to report such things. So that it could have been that these individuals that Hunter Biden for some reason or another had the occasion to reach out to, for what reason, I don't know. But it's not all that unheard of that U.S. businesspersons would have FBI contacts, because a lot of them do.

Mr. Gaetz. I'm not suggesting it's unheard of, Mr. Director. I'm just trying to ascertain whether or not you acknowledge these people or have knowledge as to why they're in here.

Mr. Brennan. No, I don't.

Mr. Gaetz. If you turn to the next page of the exhibit, Louis J.J. Freeh. Do you know who Louis Freeh is?

Mr. Brennan. I do know very well.

Mr. Gaetz. Who's Louis Freeh?

Mr. Brennan. Louis Freeh is a fellow graduate of my high school in New Jersey. Lived down this block from me when we were younger, but he's older than me. He was a FBI director. He was appointed back by George H.W. Bush and was director during Clinton's administration as well.

Mr. Gaetz. Have you ever talked to Louis Freeh about Hunter Biden?

Mr. Brennan. No. I haven't been in touch with Louis in several years.

Mr. Gaetz. Did you have any contact with Louis Freeh about the letter that we've been discussing?

Mr. Brennan. No, I haven't been in touch with Louis Freeh since I left government, I don't think.

Mr. Gaetz. And do you have any knowledge as to why Louis Freeh might be in Hunter Biden's contacts?

Mr. Brennan. Louis Freeh has been involved in quite extensive business activities over the past 20-some odd years. He is very well known in the business community, has a lot of contacts, both domestically and internationally. So it's not surprising that Louis Freeh's contact information shows up in U.S. businessmen's contact list.

Mr. Gaetz. Are you aware of any business that Hunter Biden and Louis Freeh had together?

Mr. Brennan. I'm unaware of it. I don't know.

Mr. Gaetz. Great. I think I'll yield back to my colleagues.

[redacted] Okay.

BY [redacted]

Q Some of the items that Mr. Gaetz presented to you, do you think that that may have been relevant in the runup to the election for the American people to have access to it and consider it as they were making their decision for President?

A I don't know if it was available or not.

Q Well, it was on the laptop.

A Okay.

Q So --

A So the letter didn't say disregard everything there or don't look at it or don't read the reports that are out there.

Q But it had that effect.

A No, it was saying that take everything that you see out there, it was with a grain of salt, because the Russians may, in fact, have some role in this.

Q I mean, that may have been the way you saw it and the way you decided to sign on to the letter thinking that, but that's not the way Politico reported it. That's not the way candidate Biden at the time portrayed it in the course of a debate.

A Okay.

Q Okay. And so signing onto the letter, you know, acted as a major force at keeping all the contents of the laptop out of the public discord. Do you agree with that?

A I don't know how people reacted to this letter at the time. I don't. It was put out there in the public domain. People -- I'm sure a lot of Americans, most Americans never read that letter then or since then. And the letter was picked up by press. That didn't mean that the laptop, though, and Twitter and others did not, would

have information on it. So people -- it was up to them to decide what they wanted to access and how they wanted to think about it.

Q But the letter certainly served the function of chilling the news coverage. I mean, the --

Mr. Litt. Did the Post stop publishing articles about this as a result of this letter?

[redacted] The New York Post?

Mr. Litt. Yeah.

[redacted] Okay. Did you hear -- no. No, they did not.

BY [redacted]

Q So the question is, isn't it fair to say that the letter chilled the press on this topic? Maybe not the New York Post, maybe not certain outlets, but it certainly did The New York Times. It certainly did The Washington Post.

A I don't know how the press reacted to it. I wouldn't say that it chilled them. It, I think, made them look at this issue and wonder whether or not this was a part of a Russian influence operation. And it's up to the press to decide whether or not they were going to take that warning from former intelligence officials or not. But that certainly didn't prevent them from doing what they needed to do in the runup to the election.

Q Don't you think the letter gave news organizations a reason to shut down news coverage on this?

A No, I don't think so.

Q You don't think so?

A No, not to shut down news coverage on it. In fact, if anything, I think maybe that letter sort of raised this a bit, because it was, in fact, pointing out that the laptop --

Chairman Jordan. It certainly didn't raise it with social media companies. In fact, the New York Post was locked out of their account. And it was, I think, part of this concept of social media companies, Silicon Valley companies limiting people's ability to see the story and get access to the story, which is our -- one of our big concerns when it comes to First Amendment -- First Amendment issues.

Mr. Brennan. It's up to the media companies themselves to determine what type of propagation access they want to give to such stories. And I would like to think that responsible outlets would have taken our letter, read it, and read it carefully and clearly and found that we weren't saying it was Russian disinformation or -- there's concern there. So think about it carefully before believing that this, in fact, is whole truth.

Chairman Jordan. And that's all well and good, Director, but that's not what happened. Our government was meeting weekly with social media companies, telling them to be on the lookout for this kind of thing, and then along comes your letter, which is -- I mean, that's the concern, is our government, FBI, Mr. Chan himself was meeting weekly with big tech companies, social media companies in Silicon Valley saying, you got to -- and then along comes your letter used to suppress speech, again, just a couple of weeks before the most important election we had. That is our concern and --

Mr. Brennan. I don't think --

Mr. Litt. Were there any social media companies that took action against the statement after this letter?

Chairman Jordan. We ask the questions and you answer.

Mr. Litt. I understand. I think the answer to that is no.

Chairman Jordan. I think I ask the questions.

Mr. Litt. Yeah. Okay. I'm just putting that on the record.

Mr. Brennan. The intention here was not to suppress speech at all. It was to provide some warning and concerns about what was out there immediately prior to the election.

Mr. Johnson of Louisiana. Well, in fact, that was not the intention, as stated from the email that's in the record here. The intention was to give the Vice President a talking point.

Mr. Brennan. That was the intention of Michael Morell, as stated in his email. As I said before, my intention here was to raise concerns about Russian interference in the 2020 election, just the way they interfered with influence information operations in the 2016 election. That was my purpose in signing onto this letter.

Mr. Johnson of Louisiana. And I apologize for having bumped in and out here today. But it is your position today, you do believe today that, in fact, the laptop was not Russian disinformation? I mean, you know that that's a --

Mr. Brennan. Again, I don't know all the things that were contained on that laptop. I don't know what type of exploitation that has been done, whether the U.S. Government has done a thorough review of all of the contents there, and whether any of this was, in fact, altered, modified, deleted, or whatever, I have no idea.

Mr. Johnson of Louisiana. So as you sit here today, you stand by the veracity of the statement. So you think exactly the same thing today that you -- with regard to that statement as you did when you signed on. Is that right?

Mr. Brennan. The statement we said raising the concerns. And I stand by the statement that said we had no evidence, but we are raising our concerns and the suspicions that, in fact, it might be part of Russian information operations, either in the amplification of accurate information, the propagation or dissemination or whatever. Russian information operations is not limited only to disinformation. There's a lot of

other things that the Russians have done in the U.S. elections.

Mr. Johnson of Louisiana. Have you seen the polls that show that if -- that the 2020 election outcome would have been different if people had believed the Hunter laptop was legitimate and not a Russian disinformation conspiracy.

Mr. Brennan. No, I have not seen those polls.

Mr. Johnson of Louisiana. Well, they exist. If you haven't seen the polls, what impact do you think this had on the election.

Mr. Brennan. I'm sorry. I didn't hear you.

Mr. Johnson of Louisiana. What impact do you think that this statement and the timing of its release before the debate, what impact do you think this had on the election?

Mr. Brennan. I have no idea. I don't know how widely read it was, how much of any influence it had whatsoever. I don't know. I believe that the Russian interference in the 2016 election probably swayed a lot more views and votes in 2016 than that letter ever did in 2020.

Mr. Johnson of Louisiana. Well, I think we have entered into the record today a series of emails showing the signatories celebrating the use of the statement during the Presidential debate. That was pretty big, in fact, wasn't it?

Mr. Brennan. I'm unaware of that email.

Mr. Johnson of Louisiana. Well, we have some emails. I don't know if they're entered in the record yet, but -- I mean, the signatories to the statement were obviously pleased that the President used it as intended, correct?

Mr. Brennan. I can't speak for the others. There are 51 people. I'm sure they have all different views, including political views.

Mr. Johnson of Louisiana. Were you pleased that he used it in the debate.

Mr. Brennan. I don't recall what I felt at the time.

Mr. Johnson of Louisiana. How do you feel now?

Mr. Brennan. I feel that the statement, again, raised consciousness about the Russian influence operations in the States and that candidate Biden at the time pushed back against it. I would not have characterized the statement the way he did in that debate. But, again, I am content with that letter. Again, I regret the furor and the firestorm that it's created since then.

Mr. Gaetz. Mr. Director, what role did you have in the January 2017 post-election Intelligence Community Assessment on Russian activities and intentions in recent elections, the IC?

Mr. Brennan. I was director of the CIA at the time, and so I reviewed it, and participated in the briefings of it to the Obama administration, to both Houses of Congress, and to Donald Trump.

Mr. Gaetz. Who was the primary drafter of that document?

Mr. Litt. You don't need to answer that question.

Mr. Brennan. I forget his name.

Mr. Gaetz. Okay. Did you personally edit the document?

Mr. Brennan. No.

Mr. Gaetz. Were you aware of dissenting opinions regarding the conclusions?

Mr. Brennan. Yes.

Mr. Gaetz. And was one of those dissenting opinions that Moscow preferred Hillary Clinton because it judged that she would work with its leaders, whereas Trump would be too unpredictable?

Mr. Brennan. There were individuals who had read the document within CIA who were not involved in the drafting or the analysis. And so I listened to some of their

concerns, but I deferred to the experts: the Russian, the counterintelligence, the cyber experts, and the analysts who actually drafted this. And so I did not overturn or change any of the judgments and language in that document.

Mr. Gaetz. Who is Andrea Kendall-Taylor?

Mr. Brennan. She is a former CIA analyst who is retired from the government. I don't know if retired or resigned. And she is a current member in WestExec Advisors, of which I'm affiliated with as well.

Mr. Gaetz. So you're currently in business with her in the private sector?

Mr. Brennan. In business. And she's an analyst. She's a part of WestExec. And so I have been in some virtual meetings with her.

Mr. Gaetz. So you both get paid by the same business entity today?

Mr. Brennan. Yes.

Mr. Gaetz. And what role did she have in drafting or approving the ICA?

Mr. Litt. Give me a second here.

[redacted] Off the record.

[Discussion off the record.]

[redacted] Back on the record.

Mr. Gaetz. Yeah. I was wondering what the role was in drafting or approving the ICA we've been discussing.

Mr. Brennan. I do not recall, and I would not identify individuals involved in the drafting of an Intelligence Community Assessment.

Mr. Gaetz. Which is it, is it that you don't recall or that you --

Mr. Brennan. Both.

Mr. Gaetz. Okay. And if I represent to you that there are individuals who claim that you did personally edit a crucial section of the intelligence report to try to diminish

the dissenting views and to try to overcharacterize the extent to which Russia favored President Trump, what would be your reaction to that?

Mr. Brennan. That's wrong. They are mistaken. The assessment was reviewed thoroughly by the Senate Intelligence Committee who had kudos for the integrity of that assessment.

Mr. Gaetz. Thank you.

[redacted] I think we're all done.

[redacted] I'm sorry. Hold on one second. I think we're good, but -- we are good.

[Whereupon, at 2:45 p.m., the interview was adjourned.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

DEPOSITION OF: MARK F. POMERANTZ

Friday, May 12, 2023

Washington, D.C.

The deposition in the above matter was held in room 2141, Rayburn House Office Building, commencing at 10:06 a.m.

Present: Representatives Jordan, Armstrong, Bishop, Gaetz, Hageman, Issa, Stefanik, Goldman, Plaskett, and Schiff.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

[redacted], GENERAL COUNSEL

[redacted], DEPUTY GENERAL COUNSEL

[redacted], SENIOR ADVISOR

[redacted], STAFF DIRECTOR

[redacted], DEPUTY COMMUNICATIONS DIRECTOR

[redacted], COUNSEL

[redacted], CHIEF COUNSEL FOR OVERSIGHT

[redacted], COUNSEL

[redacted], DIGITAL DIRECTOR

[redacted], MINORITY CHIEF OVERSIGHT COUNSEL

[redacted], MINORITY INTERN

[redacted], MINORITY CHIEF COUNSEL

AND DEPUTY STAFF DIRECTOR

[redacted], MINORITY OVERSIGHT COUNSEL

For the SUBCOMMITTEE ON THE CONSTITUTION

AND LIMITED GOVERNMENT:

[redacted], MINORITY PROFESSIONAL STAFF MEMBER

For the DISTRICT ATTORNEY'S OFFICE, NEW YORK COUNTY:

MYLAN L. DENERSTEIN, PARTNER, GIBSON DUNN

LESLIE DUBECK, GENERAL COUNSEL

For the WITNESS:

ROBERTO FINZI, PARTNER

JACOB ROSEN, LITIGATION ASSOCIATE

THEODORE V. WELLS, JR., PARTNER

PAUL, WEISS

1285 AVENUE OF THE AMERICAS

NEW YORK, NY 10019-6064

Mr. [redacted] We'll go on the record now.

Good morning. This is a deposition of Mr. Mark Pomerantz, formerly of the District Attorney's Office of New York County.

Chairman Jordan has requested this as part of the committee's oversight of the unprecedented indictment of a former President of the United States and a current declared candidate for that office.

The committee's oversight of the New York County District Attorney's unprecedented prosecutorial conduct will inform the consideration of potential legislative reforms that would, if enacted, insulate current and former Presidents from politically motivated State and local prosecutions.

These potential reforms may include, among other things, legislation to enhance reporting requirements concerning the use of Federal forfeiture funds or to prohibit the use of Federal funds to investigate a current or former President or current Presidential candidate and broadening the existing statutory right of removal of certain criminal cases from State to Federal court.

Because of Mr. Pomerantz's former role as a Special Assistant District Attorney that led the investigation into President Trump's finances, he is uniquely situated to provide information that is relevant and necessary to inform the committee's oversight and potential legislative reforms.

On April 6th of this year, Chairman Jordan issued a subpoena for Mr. Pomerantz to testify at a deposition. I'd like to mark that as exhibit 1.

[Pomerantz Exhibit No. 1

Was marked for identification.]

Mr. [redacted] Would the witness please state your name for the record, sir?

The Witness. Yes. My name is Mark F. Pomerantz.

Mr. [redacted] And you're joined here today by personal counsel.

Mr. Wells, I'll have you introduce yourself and your colleagues.

Mr. Wells. Yes. My name is Ted Wells. I'm with the Paul, Weiss law firm. I'm here today with my partner, Roberto Finzi, and my associate, Jacob Rosen.

Mr. [redacted]. And we're also joined here today by Ms. Dubeck from the New York County District Attorney's Office. We'll have Ms. Dubeck introduce herself.

Ms. Dubeck. I'm Leslie Dubeck. I'm the general counsel of the New York County District Attorney's Office.

Mr. [redacted] And I understand you're also joined by one of your colleagues?

Ms. Dubeck. Oh, yes. Mylan Denerstein from the Gibson Dunn firm.

Mr. [redacted] My name is [redacted] I'm with Chairman Jordan's House Judiciary Committee staff.

I'm going to have the staffers introduce themselves first, and then we'll allow the members to introduce themselves, starting with my colleague, Ms. [redacted]

Ms. [redacted] [redacted] with Chairman Jordan's committee staff.

Ms. [redacted] [redacted] with Chairman Jordan.

Ms. [redacted] [redacted] chief oversight counsel for the House Judiciary Democratic staff.

Ms. [redacted] [redacted] House Judiciary Democrat staff.

Ms. [redacted] [redacted] with the House Judiciary Democrats.

Mr. [redacted] [redacted] House Judiciary Democrats.

Ms. [redacted] [redacted] with the House Judiciary Committee Democrats.

Mr. [redacted] We're also joined by some of our members. I'll have them introduce themselves as well.

Chairman Jordan. Jim Jordan, Fourth District of Ohio.

Ms. Stefanik. Elise Stefanik, 21st District of New York, House Republican Conference chair.

Mr. Armstrong. Kelly Armstrong, North Dakota.

Mr. Gaetz. Matt Gaetz, First District of Florida.

Mr. Bishop. Dan Bishop, North Carolina.

Mr. [redacted] And some members may come in after the proceedings begin, and depending on where we are, we may or may not have them introduces themselves. But certainly if they're going to ask any questions of you, we'll be sure to have introductions.

I'd like to go over the ground rules and guidelines that we will follow during today's deposition.

The committee will conduct the deposition in accordance with Rule XI of the Committee on the Judiciary's Rules of Procedure of the 118th Congress as well as the House rules.

Our questioning will proceed in rounds. The majority will ask questions first for 1 hour, and then the minority will have an opportunity to ask questions for an equal period of time if they choose. We will alternate back and forth until there are no more questions and the interview is over.

We ordinarily take a short break at the end of each hour, and the provision of breaks is totally up to you, sir. You let us know if you need a break, more breaks or less breaks. And you may also ask us to go off the record so you can confer with your counsel.

As you can see, we have an official reporter here taking down everything to make a written record, so we ask that you give verbal responses to all the questions.

Do you understand that?

The Witness. I do.

Mr. [redacted] Sometimes the court reporters need us to go back because we're talking over one another. Usually it's our fault. So we may have to go back and repeat a question.

We will only have one staffer asking you a question per round. However, the members can jump in. And ordinarily on our side we like to make sure we have at least 15 or 20 minutes of every hour that we turn it to our members.

We want you to answer our questions in the most complete and truthful manner as possible, so we will take our time. If you have any questions or don't understand one of our questions, please let us know. Our questions will cover a cover a wide range of topics, so if you need clarification at any point just say so.

If you don't know the answer to a question or do not remember -- of course, it's best not to guess -- please give us your best recollection. And it's okay to tell us if you learned information from someone else. The Federal Rules of Evidence aren't applicable here. Just indicate how you came to know the information. And if there are things you don't know or can't remember, just say so.

By law you are required to answer questions from Congress truthfully. Do you understand that?

The Witness. I understand that.

Mr. [redacted] Witnesses that knowingly provide false testimony could be subject to criminal prosecution for perjury. Do you understand that?

The Witness. I do.

Mr. [redacted] And, of course, as I indicated before we went on the record, I mean no disrespect by mentioning that. You are a veteran lawyer and somebody who obviously has great understanding of how this process works.

Finally, I'd like to make a note that under the deposition rules, the content of what we discuss here today is confidential. And until the chairman and ranking member sort out what portions of the testimony or all the testimony is going to be released, under the House rules it's confidential. Obviously, you're not a party to the House rules, but I mention that for our members and staff.

At this time the court reporter will swear the witness in.

The Reporter. Please raise your right hand.

Do you solemnly declare and affirm, under the penalty of perjury, that the testimony you're about to give will be the truth, the whole truth, and nothing but the truth?

The Witness. I do.

Mr. [redacted] do you have any welcoming remarks?

Ms. [redacted] We don't have any.

Mr. [redacted] Okay. And before we start our questions, Mr. Wells or Mr. Pomerantz, do you have any remarks you'd like to make to kick things off?

The Witness. I do have a statement.

Mr. [redacted] Okay. Take your time.

The Witness. I am here because I respect the rule of law. I've spent my working life in service to the rule of law. And the rule of law requires a witness to appear for testimony in response to a subpoena. So I am present as required.

What I do not respect is the use of the committee's subpoena power to compel me to participate in an act of political theater.

This deposition is for show. I do not believe for a moment that I am here to assist a genuine effort to enact legislation or to conduct legislative oversight.

We are gathered here because Donald Trump's supporters would like to use these

proceedings to attempt to obstruct and undermine the criminal case pending against him and to harass, intimidate, and discredit anyone who investigates or charges him.

Fortunately, I do not have to cooperate with the cynical histrionics that this deposition represents. Although the rule of law compels me to be here, it does not require that I play a substantive role in a theatrical production. Under the law, I can decline to answer your questions for several reasons.

First, I have been instructed by the Manhattan District Attorney's Office that I should maintain that office's claims of privilege and confidentiality in order to protect the integrity of the pending prosecution and continuing investigation of Donald Trump. I intend to honor the District Attorney's request, and I will not answer questions to which the District Attorney objects.

Although I have written and spoken publicly about the Trump investigation, I did so before any criminal charges were brought against Mr. Trump.

Now that a grand jury has indicted him, the circumstances have changed. With formal charges now pending, the rule of law is best served if the merits of the case against Mr. Trump are litigated before the court that is hearing that case.

This is neither the time nor the place for me to answer questions about the investigation or the pending indictment over the objection of the prosecutors. The charges against Mr. Trump should be heard and decided by a judge and a jury before politicians second-guess their merits or the decision to bring them.

That's how our system works. Those who claim that they respect the rule of law should wait for the courts to do their work.

Second, the rule of law also affords me a personal privilege not to answer your questions. Under the Fifth Amendment to the Constitution, no person may be compelled to be a witness against himself or herself in a possible criminal case.

Shortly before the publication of my book, the District Attorney's Office warned me that I could face criminal liability if, among other things, I disclosed grand jury material or violated a provision of the New York City Charter dealing with the misuse of confidential information.

When we were before the United States District Court on April 19th of this year, a lawyer for the Manhattan District Attorney's Office said that my book, quote, "exposed me to criminal liability," close quote.

While I am certain that I broke no laws, I am not required to answer questions if my answers might be used against me in a criminal prosecution. The Fifth Amendment is a protection for all citizens, including those who have done nothing wrong.

Therefore, and on the advice of counsel, I will invoke my rights under the Fifth Amendment and I will not answer any questions that could conceivably be used against me in a criminal case.

Finally, the rule of law permits me to refuse to answer questions that are not pertinent to a legitimate legislative function or that seek information that is protected by the First Amendment's guarantee of freedom of speech. Under the Due Process Clause of the Fifth Amendment, I cannot be punished for refusing to answer such questions.

There may be other privileges, such as the attorney-client privilege or the work product privilege, that are available to me with respect to certain questions.

For all these reasons, I will not be answering questions that relate to my work in the District Attorney's Office, my book, or public statements I have made in the past.

It gives me no joy to invoke my legal rights, but I am glad that the law allows me not to cooperate with this performance of political theater.

As an American, I am privileged to have the legal rights that I assert today, and I am hopeful that I live in a country that will continue to respect them.

Mr. [redacted] On that note, I would just remark for the record that we, the Congress, recognizes constitutional-based privileges but not common law based-privileges. And as we represented to the Second Circuit, the committee will consider any invocation of privilege and accompanying explanation on an individualized question-by-question basis.

So even though it might get repetitive, we are going to ask for an explanation for each objection and then consider your explanation.

The chairman may rule -- he may overrule the objection, and in that instance we would instruct you to answer the question. At the end of the process, we'll maybe tally up the questions that haven't been answered and offer you a chance to change your mind. And if we do need to bring you back or pursue additional proceedings, we will -- we'll write you a letter, and we'll proceed on that basis.

Mr. Wells. Can I reply?

Mr. [redacted] Certainly, sir.

Mr. Wells. Today is not the day to debate the merits of explanations for asserting privileges. He will assert the privilege, the committee members may rule on the privilege, the record will be made, but we are not going to debate the merits. That is for a court if we ever get in front of a court.

So I have no problem if you're making a ruling. The record will be made and we'll move on to the next question. But we are not going to debate the legitimacy of any particular privilege so the record will be clear with respect to his assertions.

Mr. [redacted] Fair enough sir. I hope I didn't indicate to you that I wanted to have a debate with you on the record.

Mr. Wells. No. I'm responding to the phrase "explanations."

Mr. [redacted] Well, explanation --

Mr. Wells. If I misunderstood what you meant, we can --

Mr. [redacted] I think by explanation, it's the nature of the -- is it based on the Fifth Amendment or is it based on what the District Attorney's Office has told you.

Mr. Wells. That's very common.

Mr. [redacted] That's what we're looking for.

Mr. Wells. Yes, that's very common.

Mr. [redacted] We're not looking for the case citations and so forth.

With that, I'll begin my hour. Hopefully this will be a productive hour and find some questions that you want to answer.

I'll note it's 10:21. I'll be referring, sir, to your book. If you need a copy, we can provide you one.

EXAMINATION

BY MR. [redacted]

Q On page 1 of your book, you state that when you joined the Trump investigation you got countless emails and telephone calls from friends and colleagues urging me to go get him.

Was that statement accurate?

A Mr. [redacted] I acknowledge writing the book, but I'm not going to expand beyond what is contained in the book for the reasons reflected in my opening statement.

Q But surely you can concur that the statement was accurate?

A I think I can concur that you have read accurately from the book, which speaks for itself.

Q Okay.

A I'm not disputing your --

Q But your book's accurate, right?

A I'm not going to expand beyond acknowledging that I wrote this book.

Q But you didn't put anything intentionally false in the book, correct?

A I'm not going to answer your question.

Q Okay. What did you --

A One way or the other.

Q Okay. What did you understand your friends and colleagues to mean when they were urging you to go get him?

A Again, I'm not going to go beyond what is stated in the book, and I assert my rights as reflected in the statement that I made at the outset.

Q And how did you respond to your friends and colleagues when they urged you to go get him?

A I'm not going to answer your questions for the reasons stated.

Chairman Jordan. Did they really say "go get him"?

The Witness. Again, Mr. Chairman, I'm not going to respond beyond what is printed in the book.

Chairman Jordan. Did they not say "go get him"?

The Witness. I'm not going to answer your question.

BY MR. [redacted]

Q What was your opinion of President Trump at the time that you joined the District Attorney's Office?

A I refuse to answer your question on the basis of the rights that are outlined in the statement that I made.

Q What was your opinion of President Trump's actions as President and the policies of the Trump administration at the time you joined the District Attorney's Office?

A For the reasons indicated in my statement, I'm not going to answer your

question.

Q On page 129 of your book it states: "Nor was there any conversation about politics, about the 2020 election, the Stop the Steal shenanigans, or whether Trump needed to be prosecuted because his behavior as President was repugnant to us or others."

Sir, was the behavior of the President repugnant to you?

A Mr. [redacted] I respect your right to ask the question, and I hope you'll respect my right not to answer it for the reasons stated. And I refuse to answer it.

Mr. [redacted] We're marking as exhibit 2 some remarks of Justice Jackson.

[Pomerantz Exhibit No. 2

Was marked for identification.]

BY MR. [redacted]

Q Are you familiar with this speech that the Attorney General at the time and subsequently Supreme Court Justice Jackson made at the Second Annual Conference of U.S. Attorneys in April of 1940?

A I'm confident I wasn't present. But I'm not going to answer your question whether I'm familiar with the speech from having later become aware of it.

Q Okay. Are you aware that it says in the second sentence: "The prosecutor has more control over life, liberty, and reputation than any other person in America. His discretion is tremendous. He can have citizens investigated and, if he is that kind of person, he can have this done to the tune of public statements and veiled or unveiled intimations."

Are you familiar with that?

A I see it in the exhibit that you've handed me.

Q And do you agree with that statement of Justice Jackson?

A I'm not going to answer your question.

Q Justice Jackson -- Attorney General Jackson at the time -- further stated: "While the prosecutor at his best is one of the most beneficial forces in our society, when he acts from malice or other base motives, he is one of the worst."

Do you agree with that statement, sir?

A I'm not going to answer your question, Mr. [redacted] for the reasons indicated in my statement.

Q "There is a most important reason why the prosecutor should have, as nearly as possible, a detached and impartial view of all the groups in his community. Law enforcement is not automatic. It isn't blind. One of the greatest difficulties of the

position is that he must pick his cases, because no prosecutor can even investigate all of the cases in which he receives complaints.

"What every prosecutor is practically required to do is to select the cases for prosecution and to select those in which the offense is the most flagrant, the public harm the greatest, and the proof the most certain.

"If the prosecutor is obliged to choose his cases, it follows that he can choose his defendants. Therein is the most dangerous power of the prosecutor: that he will pick people that he thinks he should get, rather than pick cases that need to be prosecuted."

Are you familiar with that statement from the former Attorney General?

A I see it in the statement, yes.

Q And do you agree with that?

A I'm not going to answer your question.

Q "With the law books filled with a great assortment of crimes, a prosecutor stands a fair chance of finding at least a technical violation of some act on the part of almost anyone. In such a case, it is not a question of discovering the commission of a crime and then looking for the man who has committed it, it's a question of picking the man and then searching the law books, or putting the investigators to work, to pin some offense on him."

Do you agree that's a concern?

A I agree that it is reflected in the statement. Beyond that, I'm not prepared to answer your question.

Q "It is in this realm in which the prosecutor picks some person whom he dislikes or desires to embarrass, or selects some group of unpopular persons and then looks for an offense, that the greatest danger of abuse of prosecuting power lies."

Do you agree with that?

A Again, Mr. [redacted] I see that in the statement, and I'm not prepared to respond to the question whether I agree or disagree with it.

Q Are you familiar with the American Bar Association's Criminal Justice Standards, specifically standard 3-1.6?

A For the reasons indicated in my statement, I'm not going to respond to your question.

Mr. [redacted] Okay. I'd like to mark this for the record.

[Pomerantz Exhibit No. 3

Was marked for identification.]

Mr. Finzi. 3?

Mr. [redacted] The standard --

Mr. Finzi. Sorry. Is it exhibit 3?

Mr. [redacted] Exhibit 3, yes. And we're looking at standard 3-1.6, improper bias prohibited.

Section (a): "The prosecutor should not manifest or exercise, by words or conduct, bias or prejudice based upon the race, sex, religion, national origin, disability, age, sexual orientation, gender identity, or socioeconomic status. A prosecutor should not use other improper considerations, such as partisan or political or personal considerations, in exercising prosecutorial discretion. A prosecutor should strive to eliminate implicit biases, and act to mitigate any improper bias or prejudice when credibly informed that it exists within the scope of the prosecutor's authority."

Is this type of ABA standard something that the New York County District Attorney's Office follows?

Ms. Dubeck. Objection.

The Witness. I'm not going to respond to your question for the reasons

indicated in my statement.

Mr. [redacted] "A prosecutor's office" -- this is section (b) -- "A prosecutor's office should be proactive in efforts to detect, investigate, and eliminate improper biases."

Do you think during your time at the New York County District Attorney's Office you were proactive in your efforts to detect, investigate, and eliminate bias?

Ms. Dubeck. Objection.

The Witness. I'm not going to respond to your question.

Mr. [redacted] Are you familiar with the Department of Justice's --

Chairman Jordan. What is the specific objection here? Is it -- you cited, I think, three in your opening statement. Which one are you asserting?

The Witness. As to this question, I am asserting all of the bases, both the objection of the District Attorney's Office, the rights indicated in the fifth paragraph of my statement, which refer to the Fifth Amendment guarantee against --

Chairman Jordan. You're asserting -- in your opening statement, you referenced the District Attorney's Office and you may have to assert your Fifth Amendment rights. Are you asserting those now?

The Witness. I am asserting those now.

Chairman Jordan. Okay.

Mr. Issa. Could we have that in the future? Because the record is not clear when you just lump them all together. I think we'd like to know whether it's the Fifth Amendment or specific each one, because if it goes to a judge later, the judge is going to say: Which one? We should have that clear on the record if it's one, two, three, or four different ones. I think the record should be clear.

Mr. Wells. That is a fair comment.

Paragraph 4 of the statement refers to the D.A.'s objections. Paragraph 5 refers

to the Fifth Amendment. And paragraph 6 refers to his First Amendment and due process objections.

Mr. Issa. So if you could just --

Mr. Wells. So We will identify.

Mr. Issa. -- state the paragraph each time --

Mr. Wells. We will.

Mr. Issa. -- that would be great.

Mr. Wells. Right.

Mr. Issa. Thank you. The number will be sufficient.

Chairman Jordan. And could we get a copy of the statement?

The Witness. Sure.

Mr. [redacted] And I'll stop briefly. I just want to welcome some of the new members have that have joined us, starting with Mr. Issa.

Do you want to introduce yourself for the record?

Mr. Issa. I'm Congressman Darrell Issa. I have been in a few of these before. I'm from California.

Mr. [redacted] And, Chairman Schiff, down at the end of the table?

Mr. Schiff. I don't have any questions.

Mr. [redacted] No. I'm just introducing you.

Mr. Schiff. Oh, I'm sorry. Adam Schiff from California.

Mr. [redacted] And Ms. Plaskett?

Ms. Plaskett. Good morning. Stacey Plaskett from the Virgin Islands.

Mr. [redacted] And, Mr. Goldman, I'm sorry, sir. How are you?

Mr. Goldman. Dan Goldman, New York.

The Witness. Good morning or afternoon.

Mr. Goldman. Well, it's still morning.

Mr. [redacted] Okay. I'm going to mark as exhibit 4 the Department of Justice -- part of the Justice Department manual -- prosecutor's manual, "Principles of Federal Prosecution."

[Pomerantz Exhibit No. 4

Was marked for identification.]

BY MR. [redacted]

Q Maybe I can get you to answer this question.

You served as a Federal prosecutor, correct?

A I did.

Q And on two separate stints?

A That's correct.

Q Would you be willing to identify for the record when that was?

A Yes. I served as an Assistant United States Attorney from 1978 until 1982, and then I returned to the United States Attorney's Office for the Southern District of New York in 1997 where I served as chief of the Criminal Division until mid-1999.

Q And after your time -- in between your time, you also have served as a partner at the Paul, Weiss law firm. Is that fair?

A It was after my time as chief of the Criminal Division that I was a partner at the Paul, Weiss law firm, from March of 2000 until I withdrew from the partnership at the end of 2012.

Q Okay. And have you been a partner at any other law firm?

A Yes.

Q And would you be able to answer that question?

A I can do my best with that.

I was a partner at a small criminal defense boutique known variously as Fischetti & Pomerantz, Fischetti, Pomerantz & Russo. There was one iteration, I think, Fischetti, Feigus & Pomerantz. I was a partner in that firm from 1984 to 1990.

From 1990 to 1997, I was a partner at a law firm then known as Rogers & Wells in New York City.

And for a period of a few months at the beginning of 2000, I was a partner in what had been the Rogers & Wells firm but was from that point forward, beginning January 1st, known as Clifford Chance -- I think it was known as Clifford, Chance, Rogers & Wells for a short period of time.

And I am now a founding principal of a law firm known as the Free and Fair Litigation Group.

Q And as I understand it, you graduated law school from Harvard? Is that correct?

A No. I graduated --

Q Your undergrad was Harvard?

A I graduated undergrad from Harvard. Then I went to law school at the University of Michigan.

Q Okay. Turning back to exhibit 4. During your time at the Justice Department or since you've been with the District Attorney's Office for New York County, are the "Principles of Federal Prosecution," the U.S. Attorneys' Manual, something that you consult or consider guidelines?

Ms. Dubeck. Objection to the extent you're asking him about his office at the D.A.'s Office.

The Witness. Could I have a moment?

Mr. [redacted] Of course.

We'll go off the record while the witness is conferring with his counsel.

[Discussion off the record.]

Mr. [redacted] Back on the record.

The Witness. Yes. Thank you.

On the advice of counsel, I will continue to assert my privilege, in particular the privilege referenced in the fifth paragraph of my opening statement, which is the privilege against self-incrimination.

Also, I believe there was an objection from Ms. Dubeck with respect to the position of the Manhattan District Attorney's Office. And as I indicated in the statement, I will honor that objection and refuse to answer.

So there are several bases for refusing to answer that question.

BY MR. [redacted]

Q Okay. So one of the bases is your Fifth Amendment against self-incrimination about whether the District Attorney's Office follows or relies on the U.S. Attorneys' Manual as a guideline?

A Yes.

Q Did I get that right?

A You did get that right, yes.

Q Okay.

A Thank you.

Mr. [redacted] And as I understand it, the District Attorney's office has objected to that question, whether the D.A.'s Office considers some of these standards?

Ms. Dubeck. To the extent you're asking about the D.A. Office's considerations, yes.

Mr. [redacted] Okay.

BY MR. [redacted]

Q What was the address of the District Attorney's Office in New York County?

A One Hogan Place, New York, New York.

Q And how frequently did you go to the office when you were a special district attorney? Did you have an office physically at that address?

A The office is located in several buildings around One Hogan Place. It's not all in one contiguous space of offices. There were several office premises.

Having clarified that, I'm not going to answer your question about how often I was physically at the offices of the Manhattan District Attorney.

Q Did you have your own desk there?

A Again, I'm not going to respond to your question.

Q On the basis of what?

A On the basis of the fifth paragraph of my statement. Conveniently, Mr. [redacted] the fifth paragraph relates to the Fifth Amendment.

Q Okay. So really -- so I'm just being clear, and I don't mean to --

A I understand.

Q -- mean any disrespect, but asking the question whether you had a desk at the D.A.'s Office, you're asserting the Fifth Amendment?

Mr. Wells. I think that's what he said.

Mr. [redacted]. Okay. Fair enough. Again, I mean no disrespect, sir.

The Witness. Now I'm sure that that's what I said.

BY MR. [redacted]

Q In the book on page 1, you write: "He was responsible for a grave failure of justice."

Who is the "he" in that sentence?

A Well, the book speaks for itself. I don't think there's any ambiguity of the reference.

Q The reference is to the District Attorney Bragg?

A That's how the book reads.

Q Okay. In your book you go through a rather long list of investigative avenues the New York County District Attorney's Office pursued with respect to President Trump, and you refer to the Stormy Daniels matter as the "Zombie" case? Is that correct?

Ms. Dubeck. Objection.

Mr. [redacted] What's the basis of that objection?

Ms. Dubeck. To me?

Chairman Jordan. You're the one that objected.

Ms. Dubeck. That you are asking about confidential work of the D.A.'s Office.

Mr. [redacted] Well, I'm asking about the book. There's a whole chapter called "The 'Zombie' Case."

The witness can answer the question. I guess you're not going to answer it, but --

A Well, I'm perfectly happy to acknowledge that the book references the Zombie case, and I think you are correct that one of the chapters refers explicitly to the Zombie case. Yeah, chapter 5 and chapter 3. Chapter 3 refers to the Zombie case, and chapter 5 is entitled "The 'Zombie' Case Returns to the Grave."

BY MR. [redacted]

Q Okay.

A I'm not sure if I've answered your question, but the book certainly contains those references.

Q And was that a case, the Stormy Daniels payment, was that something that Robert Mueller looked into, to your knowledge, and considered investigating and prosecuting?

A I'm not going to answer that question.

Q On what basis? That's more of a history question, I think.

A Yes. Let me confer for a moment with counsel.

Mr. [redacted] Okay. We'll go off the record.

[Discussion off the record.]

The Witness. Yes. On the advice of counsel, I will assert my rights under the Fifth Amendment.

BY MR. [redacted]

Q Okay. And the facts of the Zombie case, in your words, were examined by the U.S. Attorney's Office in the Southern District of New York. Is that correct?

A To the extent the book references the facts embodied in your question, I refer you to the book. But I'm not going to elaborate beyond what's stated in the book.

Q Okay.

A I'm not denying what is written in the book obviously. But I'm not going to expand beyond what's written for the reasons indicated in my opening statement.

Q Okay. And do you know why the Southern District of New York's U.S. Attorney's Office decided not to prosecute President Trump on the facts of the Zombie case?

A I'm not going to answer that question on the basis of each of the paragraphs in my statement.

Q And you stated in your book that it was during the time frame of the spring and summer of 2019, is that correct, that the U.S. Attorney's office was examining the

facts of the Zombie case?

A I'm not going to respond to your statement beyond referencing what's in the book.

Q Okay. Are you invoking the Fifth Amendment for that particular one or --

A Yes.

Q And as I understand it, the next --

A I think also the fourth paragraph of my statement.

Q The fourth paragraph. Okay.

A Which references to --

Ms. Dubeck. To the extent you're asking for knowledge he obtained at the D.A.'s Office, I object.

BY MR. [redacted]

Q When did you join the D.A.'s Office? You can tell us that?

A I was sworn in as a special assistant district attorney on February 2nd, 2021.

Q Okay. So the facts I'm asking you about, you know, occurred before you became affiliated with the office?

A I think we can all acknowledge that 2019 occurred before 2021.

Q Right. But did --

A So I'm not taking issue with your statement.

Q Right. But did you learn about the fact that the U.S. Attorney's Office in the Southern District of New York decided -- looked at the Zombie case, the Stormy Daniels payments, and decided not to prosecute? Did you know that information before you came to the New York County District Attorney's Office?

A I'm not going to answer your question.

Q Based on?

A The Fifth Amendment.

Q Okay.

A And the fifth paragraph of my statement.

Q Before your tenure at the District Attorney's Office, in the fall of 2019, you write in your book the office examined the facts of the Zombie case, the Stormy Daniels payment, and commissioned an outside law firm to help the office analyze these questions.

Do you know what law firm that was?

Ms. Dubeck. Objection.

The Witness. Yeah. I refuse to answer on the basis of the fourth paragraph of my statement and the fifth paragraph of my statement.

Mr. [redacted]. Okay.

The Witness. I'm assuming that that's clear and you don't need me to elaborate further since you have the statement.

Mr. [redacted] The fourth iteration of the Zombie case, the Stormy Daniels payment, you were a key player in, am I correct, as I understand your book?

Ms. Dubeck. Objection.

The Witness. Again, I will invoke my rights not to answer the question for the reasons referenced in my statement.

Mr. [redacted] And so the fourth iteration of the Zombie case you studied whether there was a money laundering theory to pursue?

Ms. Dubeck. Objection.

The Witness. Same answer.

Mr. [redacted] Which one is that? Sorry.

The Witness. I was referencing the answer I gave to the just previous question

where I think I referenced both the fourth and fifth paragraph of my opening statement.

Mr. [redacted] And as I understand your book -- and hopefully you can correct me if I get this wrong -- but the legal theory there was President Trump -- I guess he was candidate Trump at this time -- was a victim of extortion. Is that correct?

Ms. Dubeck. Objection.

The Witness. Same answer as to the last question, if that's acceptable.

BY MR. [redacted]

Q Okay. No, but I'm just asking -- I'm just trying to understand this legal theory as you write in your book.

A I understand your question.

Q Okay.

A But for the reasons indicated, I'm not going to go beyond what's stated in the book.

Q Okay. So President Trump, under the fourth iteration of the Zombie case, President Trump as a victim of extortion could be prosecuted for money laundering. Is that -- do I have that understanding right?

Ms. Dubeck. Objection.

Mr. [redacted] Or is that the theory you were pursuing?

Ms. Dubeck. Objection.

The Witness. I'm not going to answer the question.

Chairman Jordan. Well, you say right here in the second paragraph on page 60: "In the Trump case, this meant that Clifford had not committed larceny by extortion until she or her lawyer received the hush money payment that Michael Cohen agreed to pay on Trump's behalf."

So you write it right here in the book, but you won't answer the question when

Mr. [redacted] describes exactly what you wrote in the book?

The Witness. Actually, I don't think [redacted] question embodied what was written in the book. But in any case, I'm asserting my privileges with respect to this question.

Chairman Jordan. Did you really write the book, Mr. Pomerantz?

The Witness. Yes.

Mr. [redacted] And then towards the end of your tenure at the District Attorney's Office, there was a -- as I understand it from your book, and you talk about this on page 61, then page 209 -- another attempt to prosecute the Stormy Daniels Zombie matter at the end of the investigation.

Can you tell us anything about that?

Ms. Dubeck. Objection.

The Witness. I won't answer that question, and I'm relying with respect to this question on all of the rights reflected in the statement.

BY MR. [redacted]

Q So, if I may, I'll just read on page 209. "Because we were now contemplating an indictment that featured false business records, Carey and I" -- and who's Carey, by the way?

A I think the book references Carey as Carey Dunn.

Q Okay. "--- spoke about reviving the hush money allegations, which would bring the 'Zombie' theory back from the dead once again. The thought was to charge as false business records not only the documents relating to the SOFCs" -- which stands for statements of financial condition, is that correct, SOFC?

A I think the book defines SOFC as you've indicated. It's an abbreviation for statement of financial condition.

Q Okay. " -- relating to the SOFCs but also the phony invoices for 'legal services' that had been used to reimburse Michael Cohen for the money he had paid to Stephanie Clifford."

Do you remember that incident or that part of the case during your time at the New York County District Attorney's Office?

Ms. Dubeck. Objection.

The Witness. I refuse to answer your question for the reasons indicated.

Mr. [redacted] Okay. During your time at the District Attorney's Office, you also examined a number of other potential avenues to prosecute President Trump. Is that correct?

Ms. Dubeck. Objection.

The Witness. Same answer, if that's acceptable to you.

Mr. [redacted] You looked at several of President Trump's golf properties, the Briarcliff Golf Club, the Trump National Golf Club, the Jupiter golf course. Is that correct?

Ms. Dubeck. Objection.

The Witness. Again, I will rely on the rights articulated in paragraphs 4, 5, and 6 of my statement.

Mr. [redacted] You examined whether President Trump could be indicted for defrauding Deutsche Bank. Is that correct?

Ms. Dubeck. Objection.

The Witness. Same answer.

Mr. [redacted] Did Deutsche Bank ever indicate to you that they felt like they were a victim of fraud?

Ms. Dubeck. Objection.

The Witness. Same response. Again, I'm relying on the rights referenced in, I believe, paragraphs 4, 5, and 6 of my statement.

Mr. [redacted] You examined whether President Trump could be indicted in New York for papers he submitted to GSA as part of the Old Post Office Hotel that he was attempting to acquire and redevelop. Is that correct?

The Witness. Same answer. I guess same response.

Mr. [redacted] You examined during your time in the New York District Attorney's Office whether President Trump could be prosecuted in New York over the Trump International Hotel and Tower in Chicago?

Ms. Dubeck. Objection.

The Witness. Same response. Again, I'm trying to just save time and energy. If you want me to elaborate, I will do so.

Mr. Gaetz. Mr. Pomerantz, did you violate any person's constitutional rights while you worked at the Manhattan D.A.'s Office?

Ms. Dubeck. Objection.

The Witness. Same answer.

Mr. Gaetz. Mr. Pomerantz, did you violate any person's constitutional rights when you worked on the Trump investigation?

Ms. Dubeck. Objection.

The Witness. I have the same response to your question.

Mr. Gaetz. Did you ever violate any canons of legal ethics while you worked at the Manhattan District Attorney's Office?

Ms. Dubeck. Objection.

The Witness. The same response.

Mr. Gaetz. And did you violate any canons of legal ethics when you were

investigating President Trump?

Ms. Dubeck. Objection.

The Witness. Same response.

Mr. Gaetz. Did you violate any New York State Bar rules while you were working in the Manhattan District Attorney's Office?

Ms. Dubeck. Objection.

The Witness. Same response.

Mr. Gaetz. And did you violate any New York State Bar rules while you were investigating President Trump?

Ms. Dubeck. Objection.

The Witness. Same response.

Mr. Gaetz. Did you misuse any Federal funds while you were working in the Manhattan District Attorney's Office?

The Witness. Same response.

Mr. Gaetz. Did you misuse any Federal funds while investigating President Trump?

The Witness. Same response.

Mr. Gaetz. Did you break any laws when you worked at the Manhattan District Attorney's Office?

Ms. Dubeck. Objection.

Mr. Witness. Same response.

Mr. Gaetz. And did you knowingly break any laws when investigating President Trump?

Ms. Dubeck. Objection.

The Witness. Same response.

Mr. Gaetz. Yield back.

Chairman Jordan. When did you sign the book deal?

The Witness. I'm not going to answer your question, Mr. Chairman, for the reasons indicated.

Chairman Jordan. I'm not asking about what's in it. We already know you're not going to talk about what you said you wrote. I just want to know when you signed the agreement on the book.

The Witness. Yes. And I'm not going to answer that question in reliance on paragraphs 5 and 6 of my statement.

Chairman Jordan. When did you tell the D.A.'s Office you were thinking about writing the book?

The Witness. Likewise, not going to answer that question.

Chairman Jordan. Who's the publisher of the book?

The Witness. Simon & Schuster.

Chairman Jordan. Did they come to you or did you go to them?

The Witness. I'm not going to answer that question sir.

Chairman Jordan. Did you get an advance for the book?

The Witness. I'm also not going to answer that question.

Chairman Jordan. When did you start writing the book?

The Witness. I'm not going to answer that question either, for the reasons indicated, although I'm not referencing paragraph 4 of my statement in that regard. That's paragraphs 5 and 6.

Chairman Jordan. How did you select the title?

The Witness. The same answers.

Mr. Armstrong. In your opening statement, you said the Manhattan D.A.'s Office

warned you, you could face criminal liability.

You're asserting your -- asserting Fifth Amendment privilege.

The Witness. Yes, sir.

Mr. Armstrong. Who in the D.A.'s Office told you that?

The Witness. The reference in my statement to -- the comment that was made in open court on April 19th, I believe, was a reference to statements made by Ms. Dubeck, if I'm not mistaken.

Mr. Armstrong. So when was that? I'm sorry.

The Witness. The statement in paragraph --

Mr. Armstrong. 5?

The Witness. 4. Oh, yes, you're right, paragraph 5, says: "When we were before the United States District Court on April 19th, a lawyer from the Manhattan District Attorney's Office said that my book, quote, 'exposed me to criminal liability.'" I think the "me" should be in brackets, by the way.

That was Ms. Dubeck.

Mr. Armstrong. Has there been any follow-up since then with you directly?

The Witness. I'm not going to answer that question, sir.

Mr. Armstrong. Are you aware of an active investigation?

The Witness. I'm not going to answer that question.

Mr. Armstrong. Are you aware of any similar investigation?

The Witness. Same answer.

Mr. Armstrong. Any convictions?

The Witness. Conviction?

Mr. Armstrong. It's public record. Are you aware of any other similar convictions?

The Witness. Not of me. I can answer that.

Mr. Armstrong. Okay.

The Witness. The reference -- never mind. I'll wait for the next question.

Mr. Armstrong. All right.

Mr. [redacted] You also, while you were at the New York County District Attorney's Office, pursued matters at Mar-a-Lago in Florida for investigation?

Ms. Dubeck. Objection.

Mr. [redacted] Is that correct?

The Witness. I won't answer based on the fourth and fifth paragraphs of my statement.

Mr. [redacted] The Seven Springs property and the easement, conservation easement, you pursued that as an avenue to investigate or indict President Trump? Is that correct?

Ms. Dubeck. Objection.

The Witness. Same answer.

Mr. [redacted] You pursued the Trump property at 40 Wall Street, which is in Manhattan, correct?

The Witness. 40 Wall Street is in Manhattan.

Ms. Dubeck. Objection to the balance of the question.

Mr. [redacted] So the objection is to whether you pursued the 40 Wall Street as an avenue to investigate or prosecute President Trump?

The Witness. Yes. And I'm not going to answer that question.

Mr. [redacted] You also looked at his -- something you referred to as the triplex apartment in Trump Tower as an avenue to potentially indict or prosecute him for overstating the square footage or value of the property. Is that correct?

Ms. Dubeck. Objection.

The Witness. Same response.

Ms. Stefanik. Do you know any of the Members of Congress on this committee?

The Witness. Sorry?

Ms. Stefanik. Do you know any of the Members of Congress on this committee?

The Witness. I do not.

Ms. Stefanik. So you've never had any conversations with Dan Goldman, Adam Schiff, Darrell Issa, Jim Jordan, myself, Kelly Armstrong ever?

The Witness. I believe that's correct.

Ms. Stefanik. How long have you known Cy Vance?

The Witness. Bear with me for one moment, if you would.

Mr. [redacted] Go off the record?

The Witness. Yes. Thank you.

[Discussion off the record.]

The Witness. On the advice of counsel, I'll invoke my right not to answer the question under the fifth paragraph.

Ms. Stefanik. Under the Fifth Amendment?

The Witness. Yes.

Mr. [redacted] Of how well you know Cy Vance? Is that right?

The Witness. Yes.

Ms. [redacted] [redacted] could you wait until the noise in the hallway is gone?

Mr. [redacted] Absolutely. We're off the record here as we're dealing with the sound.

[Discussion off the record.]

Ms. Stefanik. Do you respect Cy Vance?

The Witness. I'm not going to answer that question. Intending no disrespect to either you or Mr. Vance --

Ms. Stefanik. So you do respect Cy Vance?

The Witness. -- I'm refusing to answer.

Ms. Stefanik. You respect Cy Vance, your public comments, your extensive respect for his tenure at the District Attorney's Office.

The Witness. Yes, I won't answer that question.

Ms. Stefanik. Yes, you won't answer it or, yes, you respect Cy Vance?

The Witness. I won't answer the question.

Ms. Stefanik. Do you view Cy Vance as political?

The Witness. I refuse to answer your question.

Ms. Stefanik. Under what basis?

The Witness. On the basis of my privilege against self-incrimination.

Ms. Stefanik. So you're asserting the Fifth Amendment?

The Witness. Yes.

Ms. Stefanik. Do you -- how long have you known Alvin Bragg?

The Witness. Same answer.

Ms. Stefanik. Fifth Amendment?

The Witness. Yes, ma'am.

Ms. Stefanik. Do you respect Alvin Bragg?

The Witness. Same answer.

Ms. Stefanik. Fifth Amendment?

The Witness. Yes.

Ms. Stefanik. Are you keeping track of how many times he has asserted his Fifth?

Do you view Alvin Bragg as political?

The Witness. I have the same response to your question.

Ms. Stefanik. And you are aware in your book you wrote very specifically on page 204 that Alvin Bragg is a political actor? I'm sorry, 264.

The Witness. Yes. The book states: "Like all elected prosecutors, Alvin Bragg is a political actor."

Ms. Stefanik. And the book also states: "He cares deeply about his progressive agenda."

The Witness. I believe you're quoting accurately from the book.

Ms. Stefanik. Quoting accurately from the book that you yourself wrote, as you just said in this deposition.

The Witness. I've acknowledged writing the book.

Ms. Stefanik. Yes.

Do you recall Alvin Bragg's 2021 campaign for District Attorney.

The Witness. Yes, I won't answer that question in reliance upon my constitutional rights as reflected in my statement.

Ms. Stefanik. The fifth paragraph, Fifth Amendment?

The Witness. And the sixth.

Ms. Stefanik. Alvin Bragg --

The Witness. Paragraph, not amendment.

Ms. Stefanik. I understand.

Alvin Bragg's campaign communicated to voters of his involvement in lawsuits targeting President Trump. Is that your recollection as a native New Yorker?

The Witness. Oh. Yeah, I won't answer that question in reliance on my Fifth Amendment rights.

Ms. Stefanik. Did you tell anyone to vote for Alvin Bragg in either the primary or general election?

The Witness. I refuse to answer that question.

Ms. Stefanik. Your book says you did. And the book is true, correct?

The Witness. The book speaks for itself.

Ms. Stefanik. And it's true?

The Witness. I'm not going to go beyond the book.

Ms. Stefanik. So there are no lies in the book? You stand fully behind this publication under your name?

The Witness. That's correct.

Ms. Stefanik. Did you know Alvin Bragg before he became D.A.? Had you ever met him before or worked with him before?

[11:06 a.m.]

The Witness. No.

Ms. Stefanik. What was your assessment of Alvin Bragg as an attorney?

The Witness. I refuse to answer that question.

Ms. Stefanik. Have you always been compensated for your legal services prior to your work for the New York District Attorney's Office.

The Witness. No.

Ms. Stefanik. What example were you not compensated? Just give us a few examples.

The Witness. I did particular matters on a pro bono basis.

Ms. Stefanik. And why did you decide not to be compensated, or not to pursue compensation in the case for the New York District Attorney's Office.

The Witness. No, I won't answer that question on the basis of my Fifth Amendment rights, insofar as it relates to my work at the Manhattan District Attorney's Office.

Ms. Stefanik. How would you describe the culture in the District Attorney's Office under Alvin Bragg.

Ms. Dubeck. Objection.

The Witness. I refuse to answer on the basis of the District Attorney's Office objection and my rights under the Fifth Amendment.

Ms. Stefanik. How would you describe the culture in the District Attorney's Office under Cy Vance.

Ms. Dubeck. Objection.

The Witness. Same answer.

Ms. Stefanik. On page 58 in your book -- which you have said your book is

accurate and factual, "My creative theorizing smacked into District Attorney New York's cautious and conservative culture, as it would several times during my tenure."

So you had challenges working through the culture of the District Attorney's Office?

Ms. Dubeck. Objection.

The Witness. I won't go beyond what is written in the book in responding to your question. I believe you --

Ms. Stefanik. Accurately quoted it?

The Witness. Accurately quoted it, yes.

Chairman Jordan. What about the day one memo? What are your thoughts on that?

The Witness. I refuse to answer that question on the basis of my Fifth Amendment rights.

Mr. Goldman. Sorry. Which rights?

The Witness. My Fifth Amendment rights.

Mr. Goldman. Are you invoking the paragraph six with respect to legislative purpose as well?

The Witness. Yes.

Chairman Jordan. I think it's our hour.

[redacted]

BY MR. [redacted]

Q On page 22 of your book, you referred to President Trump as an "unscrupulous wheeler-dealer. Is that correct?

A Bear with me one moment, if you would.

Did you say page 26?

Q 22.

A 22.

The book indicates, I'm quoting, "I had heard stories 35 years earlier from lawyers who had represented Trump in his business dealings, and I took from those stories that he was an unscrupulous wheeler-dealer."

Q On page 23, you state, "I was not a fan."

A That's a correct -- that line would appear in the book, and you've accurately quoted.

Q On page 98, you refer to the President's "narcissistic personality."

A Correct.

Q On page 99, you state, "Trump was incredibly cheap and completely dishonest."

A That's not correct. The language you are quoting omits the introduction to that --

Q Okay. Fair enough.

A -- verbiage. That is what -- the book indicates that Cohen -- the reference there is to Michael Cohen.

Q Okay.

A Cohen -- again, I'm quoting here, "Cohen also told us that Trump was incredibly cheap and completely dishonest in many of his business dealings."

So in this respect, the book is reciting what information had been relayed by Michael Cohen.

Q On page 103, your book states, "Trump, though, was not just a pathological liar, but a hapless, arrogant, and horrible liar." Is that correct?

A It's correct that that is -- yes, the book -- you've accurately quoted from the

book.

Q On page 109, there's a reference to President Trump being a "bully."

A The book contains that reference, yes, sir.

Q I believe you state -- the sentence says, "He was also a bully who cultivated a reputation as a tough guy."

A You've accurately quoted from the book.

Q On the same page, you go on to compare President Trump to John Gotti, the head of the Gambino organized crime family. Is that correct?

A There is a reference to Mr. Gotti, and the book speaks for itself in that regard.

Q Okay.

Mr. Issa. May I ask a quick question?

Mr. [redacted] Okay.

Mr. Issa. A few minutes ago, the congresswoman asked you, and you answered that you stand fully behind the book. The book is correct. Do you remember saying that?

The Witness. I do.

Mr. Issa. So you didn't take your -- you waived your Fifth Amendment, and answered the question that the book in its entirety is correct.

My only question to you is, will you answer individual questions since you answered that the entire book is correct? You didn't say it speaks for itself. You said it's correct.

So having answered once that the book is correct, could you please answer for the counsel specifics of if something is correct or not correct? I don't understand where the nuance is.

The Witness. Can we have a moment?

Mr. Issa. Yeah.

[Discussion off the record.]

Mr. [redacted] Back on the record?

Mr. Finzi. Is there a question pending?

Mr. [redacted] Mr. Issa asked whether he would -- you said -- you know, you testified today that the book is accurate in response to Ms. Stefanik.

And Mr. Issa just asked -- Mr. Issa can jump in if I --

Mr. Issa. If the book is accurate in its totality, then why are you not answering individual questions about accuracy? Or can we take that the answer in every case is yes, yes, and yes?

Mr. Finzi. With all respect, we indicated at the beginning that we were not going to debate assertions of privilege. We are asserting the privilege. We are not going to debate whether it's appropriate or not.

Mr. Issa. I'm sorry. The Fifth Amendment and it being waived or not waived is fairly clear. If you answer a question related to something, and you've answered it, then a follow-up is based on the waive as to that.

Now, if your client wants to reengage and simply say, I now am in peril having said that the book is correct, and you now want to take the Fifth every other time, we'll understand.

But I just wanted to clarify, because he had answered that every single nuance of this book effectively by saying the book is correct. He's been very careful with his words. I simply wanted to point that out and ask, would he answer questions that the counsel is asking that are a breakdown of Ms. Stefanik's question?

Mr. Wells. So the record is clear, I will direct him not to answer any questions.

There is no intent to waive the Fifth Amendment in any respect. The book speaks for himself. But I understand your -- I understand your argument.

And as we said at the beginning, the time and place to debate the merits of any of these arguments will be if and when we get in front of a court.

Ms. Dubeck. And I think you have restated the question differently than it was asked. But to the extent --

Mr. Issa. Could we have it read back? I think that's worth our time.

Mr. [redacted] Can we go off the record?

[Discussion off the record.]

Mr. [redacted] Okay. Back on the record.

Ms. Dubeck. To the extent that was the import of the question, I object.

Mr. Gaetz. Mr. Pomerantz, do you know --

Mr. Issa. He answered.

Ms. Dubeck. Yes. It's on record.

Mr. Issa. The cat is out of the bag.

Mr. Gaetz. Mr. Pomerantz, do you know what a subject matter waiver is relative to the Fifth Amendment?

The Witness. I'm not going to debate my understanding of the Fifth Amendment with you, sir.

Mr. Gaetz. But you've heard of a subject matter waiver before, right?

The Witness. I'm not going to indicate my knowledge of the Fifth Amendment and its application.

Mr. Gaetz. I yield back.

BY MR. [redacted]

Q Getting back to the John Gotti statement on page 109, you write in your

book -- which you've indicated to Ms. Stefanik as true -- "In my career as a lawyer, I had encountered only one other person who touched all of these bases: John Gotti, the head of the Gambino organized crime family and the so-called Teflon Don."

Is that a fair reading of your book?

A Yes, you read it accurately.

Q On page 112, you refer to the President as "a master of breaking the law." Did I get that correct?

A The full sentence is, "Trump had become a master of breaking the law in ways that were difficult to reach."

Q On page 176 and 177, you write, "I saw him as a malignant narcissist, and perhaps even a megalomaniac who posed a real danger to the country and to the ideals that matter to me. His behavior made me angry, sad, and even disgusted."

Did I read that correctly? Is that what you wrote about President Trump?

A You read it correctly. You omitted the following sentence, which reads that "On a professional level, I could not allow my emotional reaction to Trump to affect my activities. It was completely irrelevant."

Q And is that true? Did your feelings about President Trump affect your work at the New York County District Attorney's Office where you were working for free?

Ms. Dubeck. Objection.

The Witness. I won't go beyond the statement in the book.

BY MR. [redacted]

Q On page 186, you posit the question of whether Former President Trump was suffering from some sort of mental condition that made it impossible for him to distinguish between fact and fiction.

Is there a mental condition that you're aware of that makes it difficult for

individuals that are afflicted with such a mental condition to distinguish between fact and fiction?

A I refuse to answer your question, Mr. [redacted] on the bases indicated in my statement.

Q On page 220 --

Mr. Issa. Are we back to paragraph five again?

The Witness. Paragraph five and paragraph six.

Mr. Issa. Okay.

Mr. Wells. So the record is clear -- and I respect the Congressman's concern -- every objection or refusal to answer today has included paragraph five, the Fifth Amendment. There are some objections where, in addition to the Fifth Amendment, paragraph four, which is the prosecutor's objection, or paragraph six, proper legislative purpose.

But every objection today -- so there's no confusion, so we're all on the same page -- involves paragraph five, an assertion of the Fifth.

Mr. Issa. The only reason I'm asking --

Mr. Wells. Oh, I understand. I actually agree with you.

I would urge my client --

Mr. Issa. If we could assert four, five, six, or five, six, so that we know what we're --

Mr. Wells. You and I are on the same page.

Mr. Issa. I love the shortcut, though.

Mr. Wells. Okay.

BY MR. [redacted]

Q On page 225, you, in your book, write, "I was worried I'd become a Johnny

One Note, always arguing the reasons for prosecuting Trump until I was blue in the face and nobody wanted to hear from me anymore."

Or I'm sorry. I read that incorrectly. "And nobody wanted to hear me anymore."

Did I read that correctly, at least the second time?

A Yes. Yes, sir.

Q And was that true?

Ms. Dubeck. Objection.

Ms. Stefanik. The book is true. He has already answered that the book is true.

The Witness. The book speaks for itself.

Mr. [redacted] Mr. Jordan?

Chairman Jordan. On page 170 of the book, you say, "I thought there might be an argument that Trump" -- and you're referring to President Trump there -- "having assumed an office that required him to take care that the laws be faithfully executed, and having urged the country to trust him to uphold the law, should be held to a higher standard." And the word "higher" is in a different font.

Do you really believe that? Because in the very next paragraph, you say -- you quote our second President, and you say, "We're a Nation of laws and not men," and then "No one is above the law, to the equal treatment of the law."

And I'm trying to figure out which statement do you believe.

The Witness. I am not understanding why you believe there is a tension between those statements.

Mr. [redacted] Let me refer you --

Ms. Stefanik. Why do you believe there's no tension between those statements?

Chairman Jordan. Is it equal treatment under the law, or it Donald Trump held

to a higher standard than everyone else in the county -- every other citizen in the country?

The Witness. I'm not going to go beyond my book. I think the intent of the language is plain.

Mr. Issa. What reason are you not going beyond the statement that you made?

The Witness. Because I'm not required to do so.

Mr. Issa. Under what?

The Witness. Under either the Fifth Amendment or, in my view, the First Amendment and the due process clause of the Fifth Amendment as well, which indicates, as I understand it, that I cannot be punished for refusing to answer questions that are -- that relate to activities and views that are protected by the First Amendment.

BY MR. [redacted]

Q Just to put a final point on what Mr. Jordan was getting at, on page 260, you write, "In my mind, the same evidentiary standard should apply to Presidents and paupers alike."

And I think Mr. Jordan was trying to make the point that, on 170, you wrote, "I thought there might be an argument that Trump, having assumed an office that required him to take care that the laws be faithfully executed, should be held to a higher standard of personal conduct."

Isn't that --

Chairman Jordan. Yep.

Ms. Dubeck. To the extent you're asking about his thinking while he was at the District Attorney's Office, I object.

Chairman Jordan. We're asking about the thinking he articulated in his book.

Mr. Issa. If you don't mind, if you're going to object, will you also instruct the

witness not to answer?

Ms. Dubeck. I was told I am not allowed to instruct the witness --

Mr. [redacted] Yeah, we have an agreement where she is not going to do that.

Mr. Issa. Oh, I apologize. Thank you.

Mr. Finzi. Is there a question pending?

Mr. [redacted] Yes.

Mr. Finzi. What is it?

Mr. [redacted] I was referring, on page 260, he states, "In my mind, the same evidentiary standard should apply to Presidents and paupers alike." But on page 170, he writes that there might be a higher standard of personal conduct for President Trump.

I'm asking the witness to reconcile those two statements.

The Witness. I refuse to answer your question on the basis of the fifth paragraph of my statement and the sixth paragraph.

Mr. [redacted] Okay. I believe our hour is up.

Mr. Finzi. Okay. Is this a good time for a break?

Mr. [redacted] Yes, sir. We'll go off the record.

[Recess.]

Ms. [redacted] Good morning. We can go back on the record. It's 11:46.

Mr. Pomerantz, thank you, again, for joining us.

BY MS. [redacted]

Q In the first hour, you talked through your length of service as a prosecutor prior to joining the Manhattan District Attorney's Office.

Can you remind me again how many years you served as a prosecutor?

A I served 6 years en toto as a Federal prosecutor, one stint for 4 years, and then for just shy of 2 years as criminal division chief.

Q And during that time period, did you ever face discipline for committing any type of prosecutorial misconduct?

A No.

Q Okay. And then after you left public service -- or, I guess, between your public service stints, you were in private practice, right?

A Yes.

Q Did you ever face discipline for violating any provision of the New York State Bar code of ethics?

A No.

Q What about any other bar rules?

A No.

Q For any other jurisdiction?

A I did not.

Q Okay. What day did you resign from the Manhattan District Attorney's Office?

A February 23rd, 2022.

May I have one moment?

Q Sure.

Ms. [redacted] We can go off the record.

[Discussion off the record.]

Ms. [redacted] We can go back on.

The Witness. I understood your question to relate to the period prior to my service at the Manhattan District Attorney's Office?

BY MS. [redacted]

Q Correct. Correct. Prior to your service at the Manhattan District

Attorney's Office.

A Yes. Thank you.

Q And also with respect to the violation of have you violated any provision of the bar code of ethics or any other legal ethics requirements prior to your service with the Manhattan District Attorney's Office.

A Yes, that's how I understood your question.

Q Okay. And I'm sorry. You resigned from the District Attorney's Office on what day?

A February 23rd, 2022.

Q Okay. And before you resigned on February 4th, 2022, you made a presentation to the District Attorney's Office, correct?

Ms. Dubeck. Objection.

The Witness. Yes. I'll refuse to answer on the same basis that I indicated previously.

BY MS. [redacted]

Q Okay. And during that presentation -- this is from page 221 of your book -- you said that you made this presentation to all of the prosecutors involved in this matter, and you, quote, "began by pointing out the fabrication of values in the SOFCs had been pervasive, substantial, and continuous over many years," right?

Ms. Dubeck. Objection.

The Witness. I have the same response --

BY MS. [redacted]

Q Understood.

A Although I acknowledge the statement you read from the book, which reads, "En toto, I began by pointing out that the fabrication of values in the SOFCs had been

pervasive, substantial, and continuous over many years."

Q And we talked through earlier in the first hour and it's clarified in your book that SOFC stands for statements of financial condition, correct?

A That is correct.

Q I want to talk through some examples briefly of the statements of financial condition and the references to -- I'm sorry -- the references of values assigned to Mr. Trump's golf courses.

On page 150 of your book, you say that "Trump had bought the Jupiter golf course" -- which is, I believe, a reference to the Jupiter Florida golf course -- "in December 2012 for 5 million, but it was reflected on the backup materials to the 2013 SOFC as being worth $62 million as of June 30th, 2013," correct?

Ms. Dubeck. Objection.

The Witness. I refuse to answer your question on the basis of the rights referenced in my statement. In this instance, with respect to all of the rights referenced in the statement.

BY MS. [redacted]

Q Understood. You continue on on pages 150 to 151 to describe an accounting scheme, potentially, that Mr. Trump engaged in.

And then on page 151, you say that, through this scheme, Trump was able to claim, quote, "a low value when dealing with the tax assessor, but a vastly higher value in the financial statement that was given to his bankers," correct?

Ms. Dubeck. Objection.

The Witness. Same answer.

BY MS. [redacted]

Q Okay. On the following --

Mr. Goldman. Same answer, meaning it was accurately read from the book, but you're not going to expand on it?

The Witness. That's true, although I note the book makes a reference to, as Michael Cohen had testified, Trump was claiming a low value in dealing with the tax assessor, and then it goes on from there.

BY MS. [redacted]

Q And it says up above that, "The bottom line was that the numbers on Trump's 2013 financial statement included a purported value for the Jupiter golf course of 62 million. Trump had paid only 5 million to buy it just a few months earlier, and he later sued the Palm Beach County tax authorities, arguing that they should have respected the fact that he bought the property in an arm's-length transaction for only $5 million," correct?

Ms. Dubeck. Objection.

The Witness. And I'm refusing to answer that question for the reasons indicated.

BY MS. [redacted]

Q Okay. On the following page, you discuss Trump's triplex apartment.

You say that "Trump's statements of financial condition" -- SOFCs -- "for 2015 and 2016 reported the value of the apartment at $327 million, an amount much higher than the price anyone has ever paid for a private residence in the United States from the beginning of the country through 2021," correct?

Ms. Dubeck. Objection.

The Witness. Same response.

BY MS. [redacted]

Q Okay. And you continue on and say, "The accounting backup for the valuation of Trump's triplex reflected that its value over $300 million was based largely on

its reported size of 30,000 square feet," correct?

Ms. Dubeck. Objection.

The Witness. Same answer.

BY MS. [redacted]

Q Okay. And then you go on and you say that there was an article published in Forbes that reported that the Trump triplex was actually just shy of 11,000 square feet," correct?

Ms. Dubeck. Objection.

A Same response.

BY MS. [redacted]

Q And you say that on the basis of expert valuations, your experts later pegged the actual reasonable value of the triplex at roughly $16 million, correct?

Ms. Dubeck. Objection.

The Witness. Same answer.

BY MS. [redacted]

Q So in these paragraphs, you lay out a scheme where Mr. Trump initially valued his apartment at $327 million and said it was 30,000 square feet, but in fact, you have evidence or you obtained evidence showing that the apartment was actually 10,996 square feet and was valued at roughly $60 million, correct?

Ms. Dubeck. Objection.

The Witness. Same response.

[Discussion off the record.]

The Witness. I should make clear, in respect of these questions where the district attorney has objected, I am asserting rights referenced in both the fourth and the fifth paragraph of my opening statement?

BY MS. [redacted]

Q Understood. You --

A And the sixth paragraph as well.

Q On page 186 of your book, you describe Trump's valuations from Mar-a-Lago, and you say, "Trump's valuations from Mar-a-Lago in the 7 years reviewed in detail by our experts had exceeded the actual reasonable value of the property by an average of more than 1,000 percent per year," correct?

Ms. Dubeck. Objection.

The Witness. Same response.

BY MS. [redacted]

Q Okay. I want to turn back to the discussion about the February 4th meeting, which is on page 221.

You say that "Our experts" -- meaning the experts with the Manhattan District Attorney's Office -- "had put together some charts with yearly statistics on the purchase and sale of golf properties," correct?

Ms. Dubeck. Objection.

BY MS. [redacted]

Q It says, the charts apparently showed that, quote, Trump's valuations with his golf courses were literally off the chart, correct?

The Witness. Same response.

Ms. Dubeck. Objection.

The Witness. I'm sorry. I should have waited for Ms. Dubeck to object. But no harm done.

BY MS. [redacted]

Q You say, "I argued that he had to have known this because he was a real

estate entrepreneur in the business of building, owning, and running golf courses, just as he surely knew that the apartment he built and in which he lived had not contained 30,000 square feet," correct?

Ms. Dubeck. Objection.

The Witness. I refuse to answer for the reasons previous stated.

BY MS. [redacted]

Q And you continue on, "The brazen, pervasive, and outlandish nature of the overvaluations, I argued, was important proof of Trump's intent," correct?

Ms. Dubeck. Objection.

The Witness. Same answer.

BY MS. [redacted]

Q And you say that -- in the February 4th presentation, you continued on, "I then spoke about the evidence tying Trump to the preparation of the financial statements," correct?

Ms. Dubeck. Objection.

The Witness. Same response.

BY MS. [redacted]

Q Okay. You say that "I noted that the SOFCs on their face were directed to Trump, contained language saying that he was responsible for their preparation and presentation, and repeated over and over that the valuations had been, quote, "prepared by Mr. Trump," end quote, working in conjunction with others, correct?

Ms. Dubeck. Objection.

The Witness. Same response.

BY MS. [redacted]

Q "The assets described in the SOFCs were the assets that Trump had spent his

business life to build and acquire. Trump, as a person obsessed with his wealth and net worth, surely had familiarized himself with the SOFCs and how they had been prepared," correct?

Ms. Dubeck. Objection.

The Witness. Same response.

BY MS. [redacted]

Q "And he had certified time and again that the SOFCs had accurately presented his financial condition."

Ms. Dubeck. Objection.

The Witness. I refuse to answer for the reasons stated.

BY MS. [redacted]

Q You continue on, "I next displayed some documents reflecting Trump's review of the financial statements and addressed some witness testimony that we had gathered from the Attorney General or civil case files."

You said, "The testimony established that Weisselberg and Trump had reviewed the SOFCs before they were finalized, and at least some of the valuations had come directly from Trump, though Weisselberg and Jeff McConney, the Trump organization comptroller, had been key players," correct?

Ms. Dubeck. Objection.

The Witness. I refuse to answer.

BY MS. [redacted]

Q You then describe some of the admissions that came out in a defamation case brought against Mr. Trump by an individual named Tim O'Brien. You say, During that defamation case, quote, "Trump did not distance himself from the asset values in the financial statements. On the contrary, he complained that they were too low," correct?

Ms. Dubeck. Objection.

The Witness. Same response.

BY MS. [redacted]

Q You say, "I emphasized Trump's extraordinary control over the Trump organization, financial workings, including his personal signing of checks, close review of expenses, and approval of the financial terms on which every new member joined one of his golf clubs," correct?

Ms. Dubeck. Objection.

The Witness. I refuse to answer your question.

BY MS. [redacted]

Q You continue on, "During the presentation, you next turned to Trump's history of making up facts regarding his wealth. I spoke about the evidence we had received from Jonathan Greenberg, including the John Barron tapes, and Trump's correspondence with the Forbes staff regarding his wealth," correct?

Ms. Dubeck. Objection.

BY MS. [redacted]

Q And the John Barron tapes is a reference to language earlier in your book reporting on an interaction that Trump had had with Jonathan Greenberg, a reporter who worked at Forbes Magazine, correct?

Ms. Dubeck. Objection.

The Witness. I won't answer that question.

BY MS. [redacted]

Q Okay. And the description given in your book is that "Mr. Greenberg had taped a conversation in which Trump had falsely passed himself off as John Barron, a vice president and finance officer working for the Trump family. In fact, there was no John

Barron. Only Trump posing as Mr. Barron," correct?

Ms. Dubeck. Objection.

The Witness. Same response.

BY MS. [redacted]

Q Back to page 223, you say in your presentation, "I also alluded to the information that Forbes had made public regarding Trump's net worth obsession, his admission that he had tried to mislead Forbes about his wealth, and his statement that a high net worth, was quote, "good for financing," end quote, correct?

Ms. Dubeck. Objection.

The Witness. Same response.

BY MS. [redacted]

Q You continue on, "I argued that the back-and-forth that Trump had with Forbes over the years on which the magazine had reported had put Trump on notice that his asset values were unreasonable," correct?

Ms. Dubeck. Objection.

The Witness. Same response.

BY MS. [redacted]

Q And you say, "Yet the pattern continued, and Trump had not taken any of the steps he could have taken if he wanted to ensure their accuracy," correct?

Ms. Dubeck. Objection.

The Witness. I refuse to answer for the reasons indicated.

BY MS. [redacted]

Q You say, "I then turned to Trump's many public statements and tweets about his wealth, noting that those statements helped prove that the size of his net worth was of central importance to Trump's public persona," correct?

Ms. Dubeck. Objection.

The Witness. Same response.

BY MS. [redacted]

Q Okay. So getting back to your February 23rd, 2022 resignation, you wrote a letter before you resigned, correct?

Ms. Dubeck. Objection.

Mr. Goldman. It's a simple fact. It's public.

The Witness. May I have a moment?

Ms. [redacted] Sure.

Ms. Dubeck. Our position was that the letter should not be published. Objection.

The Witness. May I have a moment with counsel?

Ms. [redacted] We can go off the record.

[Discussion off the record.]

Mr. Goldman. Can we go back on the record?

Your position is also that the book shouldn't have been published, but we've acknowledged the existence of the book, and we've discussed the contents of the book as being the same thing for his letter of resignation. The fact of his letter of resignation can't undo the fact of his letter of resignation.

Ms. Dubeck. Submit it to the fact and reask the question.

BY MS. [redacted]

Q Okay. Prior to your resignation, you wrote a resignation letter, correct?

A I wrote a resignation letter.

Q Okay. And that resignation letter is included in your book at pages 248 to 251, correct?

A The book speaks for itself.

Q I want to turn to page 248.

The resignation letter reads, "I write to tender my resignation as a special assistant district attorney and to explain my reasons for resigning. As you know from our recent conversations and presentations, I believe that Donald Trump is guilty of numerous felony violations of the penal law in connection with the preparation and use of his annual statements of financial condition," correct?

Ms. Dubeck. Objection.

The Witness. I'm not sure what the question is. If the question is whether that language was included in the resignation letter which appears in the book, the book speaks for itself, and that language does appear.

As you understand, I hope, I'm not going to go beyond the language reflected in the letter or ask -- answer questions about it. But the letter is set forth in the book, and I acknowledge having written the letter.

BY MS. [redacted]

Q So to clarify for the record, do you believe that Donald Trump is guilty of numerous felony violations of the penal law in connection with the preparation and use of his annual financial statements -- I'm sorry -- his annual statements of financial condition?

Ms. Dubeck. Objection.

The Witness. I'm not going to comment about the letter beyond acknowledging that it was written and it appears in the book.

Mr. Goldman. Can you review the letter and tell us if there's any reference in the letter to a case against Donald Trump related to a charge of falsifying books and records?

[Discussion off the record.]

Ms. Dubeck. I object to the question.

Mr. Goldman. Based on what?

Ms. Dubeck. Asking for words beyond what is in the letter -- the intent behind the letter.

Mr. Goldman. We're just asking whether those words are in the letter or not as he sits here and reads the letter.

The Witness. Are the words "falsifying business records" in the letter?

Mr. Goldman. Yes. Books and records, specifically.

The Witness. The letter referred to financial statements as false. It does not use the language "false books and records."

Mr. Goldman. Does it reference Stormy Daniels or Stephanie Clifford?

The Witness. The letter does not reference Stormy Daniels or Stephanie Clifford.

BY MS. [redacted]

Q And to clarify, your February 4th, 2023 presentation -- nowhere in your book does it say that that presentation referenced Stephanie Clifford or Stormy Daniels, correct?

A Again, I think the book speaks for itself in that regard, and I'm not going to provide editorial comment to it.

Mr. Goldman. It's just a factual question, not an editorial question.

The Witness. As a factual matter, you are correct, sir.

Ma'am. Sorry. Ma'am and sir.

BY MS. [redacted]

Q In your letter, you say that "In fact, Mr. Vance concluded that the facts warranted prosecution, and he directed the team to present evidence to a grand jury and

to seek an indictment of Mr. Trump and other defendants as soon as reasonably possible," correct?

A The letter contains that language, and you've read it accurately.

Q Okay. And the reference to presenting evidence to a grand jury and seeking an indictment of Mr. Trump, that's a reference to the evidence involving inflated property values, correct?

Ms. Dubeck. Objection.

A Well, I won't enlarge on the meaning of what is written in the letter.

BY MS. [redacted]

Q Okay.

A I'm not taking issue with your reading of it, but I'm not going to comment further.

Q Okay. You say that after Mr. Bragg took office, he decided not to pursue that financial -- that inflation of properties case. And you say, "I do not question your authority to make it" -- meaning this decision -- "and I accept that you have made it sincerely. However, a decision made in good faith may nevertheless be wrong," correct?

A That language appears in the letter, and the letter appears in the book.

Q And you continue on, "In my view, the public interest warrants the criminal prosecution of Mr. Trump, and such a prosecution should be brought without any further delay," correct?

Ms. Dubeck. Object to anything beyond what is in the letter, what is printed in the book.

The Witness. And I won't go beyond what is printed in the book and in the letter.

BY MS. [redacted]

Q And then in the second-to-last paragraph on page 250, you say, "To the extent you have raised issues as to the legal and factual sufficiency of our case and the likelihood that a prosecution would succeed, I and others have advised you that we have evidence sufficient to establish Mr. Trump's guilt beyond a reasonable doubt, and we believe that the prosecution would prevail if charges were brought and the matter were tried to an impartial jury," correct?

Ms. Dubeck. Objection.

The Witness. Same response.

BY MS. [redacted]

Q Okay. That, again, was a reference to a criminal -- potential criminal charges based on Mr. Trump's alleged inflation of property values, correct?

Ms. Dubeck. Objection.

The Witness. I won't go -- I won't elaborate beyond the language of the letter as it appears in the book.

BY MS. [redacted]

Q Okay. Mr. Pomerantz, is it accurate that you resigned because District Attorney Bragg would not pursue the case that you believe you had made out?

Ms. Dubeck. Objection.

The Witness. Same answer.

Mr. Goldman. What was the objection?

Ms. Dubeck. That his decision-making and thinking at the time he resigned was based on confidential and privileged information.

The Witness. I think I already responded to that question.

BY MS. [redacted]

Q Okay. We're going to move on from your book, sir.

Are you familiar with Bragg v. Jordan, which is Southern District of New York case number 123-CV-3032-MKV?

A May I have a moment?

Ms. [redacted]. We can go off the record.

[Discussion off the record.]

Ms. [redacted]. We can go back on the record.

The Witness. I am familiar with the lawsuit you referenced in your question.

BY MS. [redacted]

Q Okay. You submitted a declaration in that lawsuit, correct?

A That is correct.

Ms. [redacted] Okay. I want to introduce this as Exhibit No. 5.

Mr. Finzi. Number five?

Ms. [redacted] Number five.

[Pomerantz Exhibit No. 5

Was marked for identification.]

BY MS. [redacted]

Q In paragraph three of this declaration, you state that you were sworn in as a special district attorney in New York County on February 2nd, 2021, correct?

A Yes.

Q And I think you testified earlier that that is the date that you were sworn in, correct?

A That is correct.

Q Okay. And in that same paragraph, you state that you resigned from this position on February 23rd, 2022, correct?

A Yes.

Q Okay. And you testified earlier that that is accurate? You did, in fact, resign on February 23rd, 2022?

A I did, in fact, resign on February 23rd, 2022.

Q District Attorney Bragg took office on January 1st, 2022, correct?

A Yes.

Q So doing the math, this means that your tenure at the District Attorney's Office overlapped with his time there for only about maybe 8 weeks, correct?

A Yes. Our tenures overlapped from January 1st to February 23rd, 2022.

Q And the grand jury indicted Mr. Trump in the case brought by the Manhattan District Attorney's Office on March 30th, 2023, correct?

A I believe that's correct.

Q So that was more than 13 months after you had left the District Attorney's Office, correct?

A Yes, ma'am.

Q Okay. Paragraph four of your statement in your declaration, reads, "I have had no conversations about prosecuting Mr. Trump with the district attorney or any member of the prosecution team following my resignation," correct?

A You've accurately read from my declaration.

Q And is that an accurate statement?

A I'm not going to go beyond the words of the declaration. As you see from the declaration, it was submitted under penalty of perjury.

I'm not suggesting by my answer to you that there's anything in the declaration that was false, but I'm not going to enlarge upon the declaration in answering questions today for the reasons reflected in my statement.

Q Okay.

Mr. Goldman. Mr. Pomerantz, can I just clarify?

The Witness. Yeah.

Mr. Goldman. Because this is obviously long after your tenure in the District Attorney's Office.

The Witness. Right.

Mr. Goldman. So you don't -- you can't opine about whether you've had any conversations with any member of the District Attorney's Office, the prosecutors, after you left the District Attorney's Office?

The Witness. My counsel wants to say something, and I have learned not to disrespect his desire to speak.

Mr. Wells. We are not going to get into discussions about explanations about what he can do and can't do or should do and doesn't do.

You can respond to the question.

The Witness. I no longer have the question in mind. My apologies.

Mr. Goldman. What objection are you asserting?

The Witness. It's been suggested to me that I'm asserting my rights under the Fifth Amendment, and that's what I'll do.

BY MS. [redacted]

Q According to public press reports, the decision to pursue the hush-money case in particular was made in July, 2022, which is approximately 5 months after you left, correct?

A I'm not familiar with that.

Ms. [redacted] Okay. We want to introduce for the record a New York Times article. It's published March 31st, 2023, updated April 4th, 2023. It's entitled, "How

Alvin Bragg resurrected the case against Donald Trump."

[Pomerantz Exhibit No. 6

Was marked for identification.]

BY [redacted]

Q And I'll give you a minute to review. Let me know when you're --

A I got distracted by my photograph. Apologies. I'll keep going.

Yes. What's your question?

Q So the fifth paragraph on the first page, fifth paragraph of the article overall, says that, "But by July" -- referring to July 2022 -- "Mr. Bragg had decided to assign several additional prosecutors to pursue one particular strand that struck him as promising, a hush-money payment made on Mr. Trump's behalf to a porn star during the final days of the 2016 Presidential campaign."

That's what the article says, right?

A Where are you referencing?

Q That is the fifth paragraph on the first page. It begins, "for a time."

A I see it. Yes. Yeah, I see that.

Q So according to this public reporting, Mr. Bragg elected to pursue the hush-money case in July 2022, which was, again, several months after you left the District Attorney's Office, correct?

A I see that referenced in the article, certainly.

Q Okay. So assuming the dates here are correct, that was at least 4 months after you left the District Attorney's Office, right?

A I left in February. This references July of the same year.

Q Okay. You have no nonpublic information about Mr. Bragg's decision to pursue this case after you left the District Attorney's Office, correct?

A I refuse to answer that question.

Mr. Goldman. Based on?

The Witness. Based on my lawyer telling me not to answer the question, which I assume was based on the Fifth Amendment.

Mr. Wells. Correct.

Mr. Goldman. Based on the Fifth Amendment?

Mr. Wells. That's what he said.

Mr. Goldman. No, it's what you said. What is the rationale?

Mr. Finzi. We're not arguing.

Mr. Wells. Same rules for both sides. Today's not the day for explanations. If we ever get to court, we'll explain.

BY MS. [redacted]

Q Mr. Pomerantz, you said you have no public -- no nonpublic -- you declined to answer our question regarding whether you have any nonpublic information about Mr. Bragg's decision to pursue the case.

You have no nonpublic information about what evidence the district attorney may have developed in that investigation in the time since you left his office, correct?

A Same answer.

Q You're objecting to answer?

A Yes.

Q Okay. And you also would have no personal knowledge of the district attorney's use of Federal forfeiture funds, correct?

A Bear with me for one moment.

Ms. [redacted] We can go off the record for a minute.

[Discussion off the record.]

Ms. [redacted] We can go back on the record.

BY MS. [redacted]

Q The question is, you have no personal knowledge of the district attorney's use of any Federal forfeiture funds, correct?

A I have no knowledge one way or the other about the use of Federal forfeiture funds. I know nothing about that.

Q Okay.

Mr. Goldman. Do you have -- do you know the entire universe of evidence in possession of the district attorney that is related to the case that was charged on March 30th?

The Witness. Respectfully, I won't answer that question, Mr. Goldman, on the basis of my Fifth Amendment rights.

Mr. Goldman. Do you have any reason -- are you aware that Mr. Bragg has made public statements that his office developed additional evidence related to the case that he charged after you left the office? Are you aware of public reporting to that effect? Public statements that Mr. Bragg made?

The Witness. Respectfully, I refuse to answer your question.

Mr. Goldman. Do you have any reason to disagree with any public reports and public statements by Mr. Bragg that his office developed additional evidence related to the case that had been charged after you left the office?

The Witness. Same response.

Mr. Goldman. The charge that was brought on March 30th is not the charge that you recommended Mr. Bragg bring in February of 2022. Is that right?

Ms. Dubeck. Objection.

The Witness. Same response. Relying on paragraphs four and five of my

statement.

Mr. Goldman. You talk about your investigation in the book extensively. And as we discussed, that investigation, you stated in your book, relates to the misevaluation of properties in possession of Donald Trump. Is that correct? Is that an accurate statement of what you say in your book?

The Witness. I'm not taking issue with your statement. But respectfully, the book speaks for itself at some length, and I'm not going to characterize or comment on your reading of it.

Mr. Goldman. Sure.

I'll note for the record that the book solely talks about a misevaluation case, not the false books and records case that was charged.

Mr. Pomerantz, you aren't a big fan of Mr. Bragg, are you?

The Witness. I will decline to answer your question.

Mr. Goldman. Which one?

The Witness. Whether I'm a big fan of --

Mr. Goldman. No, which reason?

The Witness. Paragraph five of my response and six.

[12:25 p.m.]

Mr. Goldman. You thought that he should have charged the case that you investigated, correct?

Ms. Dubeck. Objection.

Mr. Goldman. He didn't charge the case you investigated, did he?

Ms. Dubeck. Objection.

The Witness. I think what he charged is a matter of public record, about which I'm not going to comment further.

Mr. Goldman. But that wasn't the case that you investigated, was it?

Ms. Dubeck. Objection.

Mr. Goldman. That wasn't the case you recommended he charge, was it?

Ms. Dubeck. Objection.

The Witness. I won't answer that question.

Ms. [redacted] Turning back to your April 17th declaration. Paragraph 5 of that declaration concludes with this sentence: "Also, answering questions from the Judiciary Committee about my tenure as a prosecutor poses the risk that my testimony could be used to jeopardize or interfere with either the charged criminal case against Trump or other ongoing investigations." Correct?

The Witness. Yes, the declaration contains that language.

Ms. [redacted] Mr. Pomerantz, you were a prosecutor and a defense attorney for many, many years. Can you explain why the risk of interfering in an ongoing investigation is of concern to you?

Ms. Dubeck. To the extent that calls for information based on his tenure at the D.A.'s Office, I object.

Ms. [redacted] Can you speak based on your experience prior to your tenure with the D.A.'s Office?

The Witness. What's the question again? I'm sorry?

Ms. [redacted] Why is the risk of interfering in an ongoing criminal prosecution something that concerns you as a longtime prosecutor and defense attorney?

Mr. Finzi. Do you want to discuss?

Ms. [redacted] We can go off the record for a minute.

[Discussion off the record.]

BY MS. [redacted]

Q We can go back on the record.

A Thank you. Respectfully, I will follow my attorneys' instructions and not go beyond the language that appears in the declaration.

Q I want to move on. I'm going to turn to the April 6th, 2023 letter that you received from Mr. Jordan. That's exhibit 1 in this matter.

A Yes. I have it.

Q We have another copy too, if you need it.

On page 4 of this letter -- and again, this is the letter that was accompanying the service of subpoena on you -- Mr. Jordan claims that you hold a, quote, "personal animosity" towards former President Trump. And then he quotes a paragraph from your book. We've also heard other quotes that you have purportedly made about Mr. Trump here today.

Would you describe the excerpt quoted here and the other statements that have been raised as expressions of your First Amendment right to free speech?

Mr. Finzi. Would you repeat that question?

Ms. [redacted] He was asked fairly extensively about prior statements he's made

about President Trump and about some others as well.

BY MS. [redacted]

Q Would you describe those statements as expressions of your right to free speech? In other words, when you said something, that was exercising your free speech rights, right?

A I intended to exercise my free speech rights at various points, including the statement referenced in Mr. Jordan's letter, which is an excerpt from the book?

Q There was also a letter from Chairman Jordan that you received on March 22nd, correct?

A Yes.

Q Okay. And that letter also accuses you of, quote, "unfairly disparaging" President Trump, correct?

We can introduce that for the record if you don't recall.

A I don't know that it's an accusation. But I recall the letter generally.

Q You don't remember -- you don't recall that particular language?

A I do recall --

Q Yeah, we'll go ahead and introduce it for the record.

A No, I --

Q It's exhibit No. 7.

[Pomerantz Exhibit No. 7

Was marked for identification.]

BY MS. [redacted]

Q And the reference to unfairly disparaging President Trump is on page 3.

A Yes, I see it.

Q Okay. So that was an accusation that was put against you in the March

22nd letter, correct?

A I read it as expressing Representative Jordan's view of my book. I don't know that it's an accusation.

Q Mr. Pomerantz, do you believe that you have a First Amendment right to criticize people?

A I do.

Q Would you agree that to the extent you've been brought here today because you've criticized people, that that's an attack on your exercise of that right?

A I believe what is referenced in my statement, which is that I have the right to refuse to answer questions that would compel me to express opinions that I believe are protected by the First Amendment.

To the extent I have been brought here because I wrote a book that expressed opinions with which people may disagree, I do believe that that implicates First Amendment rights.

Q Do you think if others view you being brought here because you wrote a book that expresses opinions with others -- that others might disagree with -- do you think that could chill other people's willingness to make statements that criticize people in the future?

A I really don't want to get into how people might view the proceedings here today, whether others would be chilled or should be chilled, whether I should have written the book. I am just of the view that being called here, to the extent it is because I wrote a book and the impact of being asked to testify is to discourage that activity, that's unfortunate.

But this is not the place for me to get into a long exegesis about First Amendment rights or whether they've been chilled. I have my views on the matter. But how they

relate to the committee's legislative purpose is a mystery to me.

Mr. Goldman. Let me follow up on that legislative purpose.

We've talked a little bit about the litigation in this case and that you were nominally a defendant in it.

When you make the reference to legitimate legislative purpose, what are you -- why are you making -- why are you referring to that term? What is the relevance of that term?

The Witness. I'm not going to debate the statement in -- I'm not going to debate that portion of my statement which indicates that a person subpoenaed before a congressional committee has the right to refuse to answer questions that are not pertinent to a legitimate legislative purpose, although I believe that to be the law. Nor am I going to debate with you here as a witness the legitimacy of the committee's legislative purpose.

I have my views about it, as expressed in the statement. Whether you agree or disagree is not a matter about which I'm going to have a conversation with you under oath. I just don't think that's the purpose of this proceeding.

Mr. Goldman. Are you familiar with the Mazars case in the Supreme Court?

The Witness. I know whereof you speak?

Mr. Goldman. Have you read it?

The Witness. Yes.

Mr. Goldman. And in the Mazars case I will just note that the Supreme Court lays out the most recent explanation of Congress' investigative jurisdiction, which must be related to a legitimate legislative purpose.

Mr. Pomerantz, are you aware of reports that Mr. Trump or his lawyers communicated a desire for Chairman Jordan and other House Republicans to initiate this

investigation shortly after Mr. Trump came to understand that he would be charged by District Attorney Bragg?

It's a question of whether you've read public reporting.

[Discussion off the record.]

The Witness. I am aware of the press reports that you referenced in your question, sir.

Mr. Goldman. And is the information included in those press reports relevant to your assertion that there is no legitimate legislative purpose for this investigation?

The Witness. I won't expand on the thinking that led me to make the statement I made in my opening statement to you.

Mr. Goldman. Why? You testified in your opening statement about your conclusion that you don't think there's a legitimate legislative purpose. I'm just trying to understand why you don't think that.

Ms. [redacted] We can go off the record.

[Discussion off the record.]

Ms. [redacted] We're back on the record.

The Witness. My belief that there is no legitimate legislative purpose that motivates this deposition is informed by the press reports that you mentioned, but a wide variety of facts and information and circumstances accumulated over an indeterminate period of time. And I'm not going to attempt to psychoanalyze my own belief and provide you with a catalogue of the reasons for reaching the conclusion that I referenced in the statement.

Mr. Goldman. Well, you've been a lawyer for a long time, a very experienced, very accomplished lawyer. Based on your reading of the Mazars case, if Congress initiated an investigation into a specific criminal prosecution against a private citizen,

would that be a legitimate -- in a local District Attorney's Office -- would that be a legitimate legislative purpose, based on your understanding of the Mazars case?

The Witness. I'm not sure I follow that. If you can -- my apologies.

Mr. Goldman. No, that's fine.

If these reports are accurate and this investigation was initiated based on the request of a private citizen to intervene in a prosecution of that private citizen in a local District Attorney's Office, is that a legitimate Federal legislative purpose, based on your reading of the Mazars case?

The Witness. I wish not to get into a lawyers discussion with you about what is or is not a legitimate legislative purpose. While I might agree with your views, I certainly don't wish to get into a debate about this topic when the committee majority has its turn to resume questions. My strong preference would be to simply answer your questions or not answer them based on my legal rights with regard to the facts that led you to ask me to be here today.

Mr. Goldman. Are you -- let's move on.

Are you aware of any other investigation into specific cases in a -- any other congressional investigations into specific cases in a local district attorney's office?

The Witness. That are still pending?

Mr. Goldman. Ever.

The Witness. I'm not.

Mr. Goldman. Do you believe that this investigation is designed to harass and intimidate Mr. Bragg?

The Witness. I do.

Mr. Goldman. Do you think that this investigation would exist if Donald Trump were not the defendant in the People v. Donald Trump in the Manhattan District

Attorney's Office?

The Witness. I don't think it's fair, given that I've come here to assert my rights, among other things, about my political views, I don't want to start holding forth about what is or isn't appropriate as a political matter.

Mr. Goldman. Fair enough.

The Witness. I'll keep my own counsel in that regard.

Mr. Goldman. I just -- I want to switch gears and I'm going to give it back to our counsel.

First, I just want to clarify for the record, because you were asked this in the majority's hour, you and I have never met, correct, until today?

The Witness. That's correct.

Mr. Goldman. We've never spoken?

The Witness. Not that I recall.

Mr. Goldman. We both worked at the Southern District of New York but at different times.

The Witness. That's correct.

Mr. Goldman. When you take an oath as a Federal prosecutor -- and we're not going to talk about your time as a -- well, I'll say, when you take an oath as a Federal prosecutor, do you take an oath to proceed without fear or favor?

The Witness. You know, I'm not sure that's in the oath, but that's certainly in the spirit of what the job requires?

Mr. Goldman. And what does that mean to you?

The Witness. What it meant to me when I was sworn in as a Federal prosecutor, both times I was sworn in as a Federal prosecutor, is that you make decisions in cases without regard to the concern you may have about taking action. You can't be afraid

about the consequences of your actions if you believe that they're well informed and that they are based on the law and the facts and the evidence.

You don't act with favor means that you don't take official action or decline to take official action based on your relationship with a potential subject or because of your personal interests one way or the other. You make decisions that are based on the facts and the law and in the best interests of your client.

In the case you're referencing, my client was the Government of the United States, and I attempted to make decisions that were in the best interest of the government without regard to how they impacted my own circumstances or politics or career or anything else. You make decisions consistent with your obligations to serve the public interest.

Mr. Goldman. And did you use that same approach when you joined the New York County District Attorney's Office?

The Witness. I'm not going to talk about my activities as a Special Assistant District Attorney, respectfully.

Mr. Goldman. Based on your experience as a prosecutor -- well, let me start over.

You're aware of the criminal prosecution against The Trump Organization in the summer of 2022, correct?

The Witness. Am I aware of the prosecution?

Mr. Goldman. Yes.

The Witness. Yes.

Mr. Goldman. Okay. And that was a trial. Is that right?

The Witness. Yes.

Mr. Goldman. And The Trump Organization was convicted --

The Witness. Yes.

Mr. Goldman. -- of 17 crimes?

The Witness. Yes.

Mr. Goldman. Now, in your experience as a prosecutor, do prosecutors and investigators redouble their investigative efforts in advance of trial and in preparation for trial?

The Witness. Can I limit my response to my experience as a Federal prosecutor?

Mr. Goldman. Please.

The Witness. Yes, preparing for trial is always a period when prosecutors and law enforcement agents feverishly go about making sure they have gathered all the facts and are in position to present them.

Mr. Goldman. And is it common during that trial preparation to discover new evidence?

The Witness. Yes.

Ms. [redacted] We're actually out of time.

Do you have any?

We can go off the record.

[Recess.]

Mr. Schiff. Thank you for allowing me to ask questions before you begin your time.

Mr. Pomerantz, I am Adam Schiff from California.

The Witness. Yes, sir.

Mr. Schiff. I appreciate your being here today.

In your opening statement you said that "I do not for a moment believe" -- "I do not believe for a moment that I am here to assist a genuine effort to enact legislation or

to conduct legislative oversight. We are gathered here because Donald Trump's supporters would like to use these proceedings to attempt to obstruct and undermine the criminal case pending against him and to harass, intimidate, and discredit anyone who investigates or charges him."

I quite agree with the sentiments you've expressed. I can discern no legitimate legislative purpose either.

You have a lot of experience, though, as a prosecutor. And I'd like to ask you, in your experience, have you ever seen another situation where a committee of Congress sought to interfere with a specific criminal case in a specific jurisdiction? And what would be the impact if this were to become precedent for the Congress to intervene in other criminal cases in other parts of the country?

The Witness. I have not seen similar proceedings. But, respectfully, I don't want to hold forth and give you personal views on the wisdom or the impact of proceedings like this one.

My hope is to get out of this room as quickly as I can without inviting more debate and colloquy about matters of public policy. I'm not a policy expert. I'm just a lawyer. And we can all have our respective views about the impact of these proceedings, whether that impact is positive or negative.

So, respectfully, I'm going to decline your invitation to express my personal views.

Mr. Schiff. I appreciate that. Let me try one more time.

In your opening statement you also said, "This is neither the time nor the place for me to answer questions about the investigation or the pending indictment over the objection of the prosecutors. The charges against Mr. Trump should be heard and decided by a judge and a jury before politicians second-guess their merits or the decision to bring them. That's how our system works. Those who claim that they respect the

rule of law should wait for the courts to do their work."

If Congress had the power or authority to subpoena witnesses or materials in cases where there's a pending indictment and approaching trial, how might that interfere with a prosecution?

The Witness. I think historically it has been the view of the Department of Justice certainly that pending cases ought to be litigated and that responding to congressional inquiries creates a potential to jeopardize prosecutions, witness security, and so on.

I think that there has not been a deep and rich history of congressional investigations that touch on pending State prosecutions. But I don't see why the circumstances would be different with respect to State prosecutors fearing for the integrity of their prosecutions and investigations.

But, again, I hope you'll understand I'm not here to provide expert testimony or expert views. I don't consider myself an expert on the impact of congressional investigations on pending prosecutions.

I just know, having been a prosecutor, that you want to go about your business and prosecute your cases and have them litigated before the court that has jurisdiction and that responding to outside requests and demands is never something one looks forward to doing.

Mr. Schiff. Last question before I hand it back. Again, Mr. Chairman, I appreciate your indulgence.

It's been publicly reported that Mr. Trump's attorneys reached out to this committee to ask for the committee's help in impacting or through discovery in the Manhattan prosecution against Mr. Trump.

Is there a process in which a defendant in a criminal trial in New York City or

anywhere else can obtain discovery from prosecutors without having to seek Congress to do it for them? Isn't there a process in which defendants are entitled to Brady material where they get it directly from the prosecutor's office and don't require the intercession of Congress to do that?

The Witness. Well, New York has a very liberal criminal discovery regime. And in New York or outside of New York obviously defendants have the ability by way of motion practice to litigate the integrity of the decision to prosecute and to test whether a prosecution was brought for inappropriate reasons.

That opportunity certainly exists under Federal law. It exists under New York law. I'm not going to speak to other jurisdictions.

Mr. Schiff. Thank you, Mr. Chairman. I yield back.

Chairman Jordan. Mr. Pomerantz, do you know who disagrees with Mr. Schiff and your characterization of legislative purpose?

The Witness. Pardon me?

Chairman Jordan. Do you know who disagrees with Mr. Schiff and your characterization of legislative purpose?

The Witness. I don't know, but I can indulge in some guesses.

Chairman Jordan. Who would you guess?

Well, we'll save time. We'll go -- the people who disagree is the court and that's why you're here. Let me just read for the record what the court said.

"The committee is considering legislation to prohibit the use of Federal forfeiture funds to investigate a current or former President. This purpose standing alone is clearly sufficient to justify the subpoena and thereby to end this court's inquiry."

Do you know who else agrees with the court? The lady who's been objecting all morning, Ms. Dubeck. Bragg's counsel conceded that the investigation of the District

Attorney of New York's use of Federal funds is a valid legislative purpose.

But they go on.

"Defendants identify the possibility of legislative reforms to insulate current and former Presidents from State prosecutions such as by removing criminal actions filed against them from State to Federal court. In fact, there's been legislation introduced to do that."

This idea that it's not a legitimate legislative purpose is ridiculous. In fact, I understand it's unusual, but the court spoke to that as well.

Page 14, footnote 7. "Bragg notes that there is 'no prior case in which Congress has attempted to subpoena a State prosecutor for purpose of extracting information about an ongoing State prosecution.'"

Mr. Pomerantz, do you know of any situation where there's a case of a former President of the United States being criminally charged in a State trial court? Do you know of any situation like that?

The Witness. Other than the present one? I do not.

Chairman Jordan. And that's what the court said. "However, there is no prior case in which a former President of the United States has been criminally charged in State trial court, suggesting both parties swim in untested waters."

[Pomerantz Exhibit No. 8

Was marked for identification.]

BY MR. [redacted]

Q Mr. Pomerantz, are you aware of any Federal funds used by the District Attorney's Office in the prosecution of President Trump?

A I have no knowledge whatsoever on that topic.

Q Are you aware of any positions, some Assistant District Attorney positions,

that are funded by the Federal Government in the D.A.'s Office?

A I'm not aware one way or the other.

Q In a March 31st, 2023, letter we received from the District Attorney's Office, the general counsel wrote: "Our review of the office's records reflect that of the Federal forfeiture money that the office helped collect approximately $5,000 was spent on expenses incurred relating to the investigation of President Trump."

Are you aware of that?

A I only was -- I became aware of it when I read the letter to which you refer. I have no other knowledge beyond what is contained --

[Pomerantz Exhibit No. 9

Was marked for identification.]

Mr. [redacted] We're marking this as exhibit 9.

The Witness. Yes, sir.

Mr. [redacted] Exhibit 8 was Judge Vyskocil's opinion Mr. Jordan referenced.

Were you aware before Ms. Dubeck's letter that the D.A.'s Office had used Federal funds in the prosecution of President Trump?

The Witness. I was not.

Mr. [redacted] Did you ever have any discussions while you were at the D.A.'s Office with anyone about the use of Federal funds?

Ms. Dubeck. Objection.

The Witness. I will refuse to answer on the basis of the objection from the District Attorney's Office.

Having said that, I will reaffirm my previous answer to you that I knew absolutely nothing about the use of Federal funds in connection with the Trump investigation.

Mr. [redacted] Did you ever discuss with anyone in the D.A.'s Office the issue of

President Trump's security were he to be indicted or convicted?

Ms. Dubeck. Objection.

The Witness. I decline to answer that question on the basis of the rights referenced in paragraphs 4 and 5 of my opening statement.

Mr. [redacted] Refresh my recollection about what paragraphs 4 and 5 --

Mr. Wells. In the spirit of efficiency, 4 relates to the objections of the D.A., 5 relates to the Self-Incrimination Clause of the Fifth Amendment, and 6 relates to the legislative purpose and First Amendment due process.

Mr. [redacted] Thank you.

So as I understand it, the question was whether you ever had any discussions with anyone in the D.A.'s Office about the issue of President Trump's security were he to be indicted or convicted. And you're invoking the Fifth Amendment on that particular question?

The Witness. Yes. If you'd give me one moment.

Mr. [redacted] Of course.

[Discussion off the record.]

The Witness. I do refuse to answer your question on the basis of my rights as reflected in the statement.

Mr. Wells. He said paragraphs 4 and 6 -- 4 and 5.

The Witness. 4 and 5, yes.

Mr. [redacted] Did you ever discuss with anyone in the D.A.'s Office how the former President's entitlement to lifetime Secret Service protection under Federal law would be accommodated were he to be convicted of a crime or sentenced to prison?

Ms. Dubeck. Objection.

The Witness. Same response, sir.

Mr. [redacted] And that response is?

The Witness. Is not to answer your question on the basis of the District Attorney's position that the information is privileged or confidential and my personal privilege not to be compelled to be a witness against myself.

Mr. [redacted] Mr. Gaetz, did you want to go or did you want me to continue?

Mr. Gaetz. I do have some questions.

Mr. [redacted] Okay.

Mr. Gaetz. Mr. Pomerantz, did the Manhattan D.A. ever issue you a cell phone?

Mr. [redacted] Do you want to go off the record?

Off the record.

[Discussion off the record.]

The Witness. On the advice of counsel, I'm not going to answer that question, sir.

Mr. Gaetz. Asserting what privilege?

The Witness. Privilege against self-incrimination.

Mr. Gaetz. And did the Manhattan's D.A.'s Office ever issue you a laptop?

The Witness. Same answer to that question, sir.

Mr. Gaetz. That you're asserting your Fifth Amendment right not to answer?

The Witness. Yes, sir.

Mr. Gaetz. And did they issue you any other hardware?

The Witness. Same response.

Mr. Gaetz. And were you given a Manhattan D.A. email address during your time there?

Mr. [redacted] Go off the record?

[Discussion off the record.]

Mr. Gaetz. We're back on the record.

The Witness. Yes, I refuse to answer your question on the same basis as I've previously indicated.

Mr. Gaetz. Do you use email now?

The Witness. Pardon me?

Mr. Gaetz. Since you've left the employ of the Manhattan D.A., do you use email as a method of communication?

The Witness. I decline to answer your question.

Mr. Gaetz. And who's your current email provider?

The Witness. I decline to answer that question.

Mr. Gaetz. On Fifth Amendment grounds?

The Witness. Yes, sir.

Mr. Gaetz. And I'm not trying to be pedantic, I'm just trying to make the record clear.

The Witness. No, I understand that. And I appreciate that.

Mr. Gaetz. And who's your current cell phone provider?

The Witness. Likewise, I refuse to answer that question on the basis of my rights under the Fifth Amendment.

Mr. Gaetz. How much money did you make on the book?

The Witness. I refuse to answer that question as well.

Mr. Gaetz. On what basis?

The Witness. That one is on the basis of both my Fifth Amendment rights and the rights articulated and referenced in paragraph 6 in my opening statement.

Mr. Gaetz. I yield back.

BY MR. [redacted]

Q This morning I asked you about the speech that Attorney General Jackson had provided.

A Yes, sir.

Q I also asked you about the ABA standards.

A Yes.

Q And I asked you about the U.S. Attorneys' Manual.

A Yes, sir.

Q And you had declined to answer those questions.

Now, if I rephrase my questions and say, are you familiar from your time as a Federal prosecutor with any of those three authorities about the principles of prosecution, does your answer -- are you able to answer the question?

A I'm able to answer the question, but I refuse to answer the question.

Q Okay.

A Not to parse the language too fine. I don't mean to be cute.

Q And I understand, sir.

During the last hour Mr. Goldman was asking you about there is fear and favor, and you walked through with Mr. Goldman the meaning behind fear and favor and how I believe you represented you were familiar with it from your time as a Federal prosecutor.

How does that differ from my questions?

A I don't want to get into a debate with you about my position with respect to particular questions. I respect your right to challenge my invocation of rights. I hope you don't, but if you do, we will have that discussion, I suppose.

But I believe that I have a fair basis on which to invoke my rights with respect to familiarity with the "Principles of Federal Prosecution," the U.S. Attorneys' Manual, and Justice Jackson's speech.

Mr. Bishop. Mr. Pomerantz, my name is Dan Bishop.

The Witness. Yes, sir.

Mr. Bishop. Just quickly for the sake of the record, I want to make available to you and your counsel that in Mitchell v. United States, a 1999 case in the United States Supreme Court, 526 U.S. 314, Justice Kennedy, writing for the Court, said: "It is well established that a witness, in a single proceeding, may not testify voluntarily about a subject and then invoke the privilege against self-incrimination when questioned about the details. The privilege is waived for the matters to which the witness testifies, and the scope of the 'waiver is determined by the scope of relevant cross-examination.'"

[Pomerantz Exhibit No. 10

Was marked for identification.]

Mr. Bishop. Also, on the same point, in the case of Morgan Art Foundation Limited v. McKenzie from the Southern District of New York, on December 15th, 2021, the Court said: "However, the Fifth Amendment privilege against self-incrimination is not self-executing and may be waived if not invoked. As relevant here, where a witness testifies voluntarily and therefore controls the extent of the disclosure, the privilege is waived for the matters to which the witness testified and the scope of the waiver is determined by the scope of relevant cross-examination."

Now, of course. Your counsel has appropriately said -- and I will be glad to hand a copy to you, if you would like.

The Witness. Yes, please.

Mr. Bishop. And I have got copies for other counsel as well.

[Pomerantz Exhibit No. 11

Was marked for identification.]

Mr. [redacted] I'm sorry, Mr. Bishop. Morgan is the second case you mentioned?

Mr. Bishop. It is.

Mr. [redacted] Okay. So that would be 11.

Mr. Finzi. So there's Mitchell and Morgan?

Mr. [redacted] So Mitchell's No. 10 and Morgan's No. 11. And I apologize, sir.

Mr. Bishop. Good. Thank you, Mr. [redacted] to keep the record clear. That's very helpful.

Mr. Finzi. Mitchell 10, Morgan 11?

Mr. [redacted] Correct.

Mr. Bishop. And of course counsel made the point they didn't want to debate privilege. I'm not. I'm just seeking to lay a record because the assertion of a privilege, of course, needs to have a reasonable basis. You just spoke to that, Mr. Pomerantz.

Earlier in your examination today, Ms. Stefanik of New York said, "So there are no lies in the book? You stand fully behind this publication under your name?" And your answer was, "That's correct."

Mr. Pomerantz, on page 170 of your book you say that -- let me make sure I get the context so that it's complete -- "No one could know exactly what the security dangers might be if we indicted Trump. I assumed that the MAGA crowd would make its presence felt. But we had to trust that our institutions and personnel could be secured no matter how events might unfold."

Sir, what you do mean by the MAGA crowd? What is that?

The Witness. I refuse to answer your question, sir, on the basis of the rights I asserted in the fifth and sixth paragraphs of my statement.

Mr. Bishop. And you continue to assert the right -- those rights, the right of the Fifth Amendment in particular, but notwithstanding of the information I've furnished. Is that correct?

The Witness. That's correct.

Mr. Bishop. On page 192 of the book you wrote: "I explained that I had made a deliberate effort not to think about the damage Trump had done to politics, the rule of law, respect for the truth, or the fabric of our democracy."

What is meant by the damage Trump had done to politics?

The Witness. I don't believe I am required to go beyond the language reflected in my book. And, accordingly, I refuse to answer your question.

Mr. Bishop. On the grounds that you've previously asserted. Is that correct?

The Witness. That's correct.

Mr. Bishop. What did you mean by the damage Trump had done to the rule of law?

The Witness. I take the same position with respect to that question, sir.

Mr. Bishop. What do you mean by the damage Trump had done to respect for the truth?

The Witness. I take the same position with respect to that language and likewise with respect to the fabric of democracy.

Mr. Bishop. What do you mean about the damage Trump had done to the fabric of our democracy?

The Witness. I take the same position and refuse to answer your question for the reason stated.

Mr. Bishop. On page 192 also you wrote: "Indeed I thought there might be an argument that Trump had assumed an office that required him to take care that the laws be faithfully executed and having urged the country to trust him to uphold the law should be held to a higher standard of personal conduct than the average citizen."

What do you mean by that?

Ms. Dubeck. Objection.

The Witness. I refuse to go beyond the language that appears in the book and provide you with a further explanation of what I meant.

Mr. Bishop. [Inaudible] did you not, sir, that for purposes of the prosecutorial action you sought from the office, that Trump should be treated differently than average citizens? Isn't that right?

Ms. Dubeck. Objection.

The Witness. I have nothing to add beyond my prior response.

Mr. Bishop. On page 198 of your book you say: "While it could be argued that the American people generally have been hurt by Trump's deceptions." What do you mean by that?

The Witness. I'm sorry, I missed your question.

Mr. Bishop. I'll repeat it. On page 198 of the book you write: "While it could be argued that the American people generally have been hurt by Trump's deceptions." What do you mean by that?

Ms. Dubeck. If you can pause. I'm not finding the language.

Mr. Bishop. All right. Let me help and I'll read the full sentence. At the bottom of -- the next to last paragraph on 198 it says: "While it could be argued that the American people generally have been hurt by Trump's deceptions, we were speaking about a victim in the legal sense, a person or entity that had received the SOFCs, relied on them to give money to Trump, and then suffered a financial loss." That's the whole sentence.

My question, though, is about the first clause of the sentence. What do you mean that the American people generally have been hurt by Trump's deceptions?

Ms. Dubeck. Objection.

The Witness. Yes, for the reasons stated in the fourth and fifth paragraph of my letter, I will decline to answer that question.

Mr. Bishop. To what deceptions to you refer?

The Witness. I refuse to answer that question for the reasons stated.

Mr. Bishop. In what way do you mean the American people generally have been hurt?

The Witness. Same answer, sir.

Mr. Bishop. At another point in the book, and I didn't note the page reference, perhaps you'll recall it, but you say: "I was haunted by the thought that there were many people everywhere who had been counting on us to hold Trump accountable for crimes that we would never get a chance to prove in court."

My question to you there is, what people?

Ms. Dubeck. Object.

The Witness. I decline to answer your question and believe I am not required to do so for the reasons reflected in my statement.

Mr. Bishop. Would the people include political enemies of Mr. Trump?

The Witness. I won't --

Ms. Dubeck. Objection.

The Witness. Excuse me, sorry.

I won't elaborate on the language that appears in the book and accordingly assert my rights under the fourth and fifth paragraphs of my statement.

Chairman Jordan. Were they the same people who said "go get him" on page 1 of the book?

The Witness. The same answer.

Mr. Bishop. On page -- withdrawn.

At another point you wrote: "Has the target generally been involved in antisocial behavior such that the community needs to be protected from further misbehavior or the target held to account for misdeeds that extend well beyond the particular crime at issue?"

How did that apply to Mr. Trump?

The Witness. I refuse to answer your questions for the reasons reflected in the fifth paragraph of my letter. I'm not certain, I may have answered too quickly before Ms. Dubeck had a chance to object, for which I apologize.

Ms. Dubeck. I lost track of whether he was asking something based on your time at the D.A.'s Office. To the extent he was, I object.

Mr. Bishop. I yield back.

Mr. [redacted] To your knowledge, when was the first time the District Attorney's Office interviewed Michael Cohen?

Ms. Dubeck. Objection.

The Witness. I refuse to answer for reasons previously stated --

Mr. [redacted] Given your experience --

The Witness. -- in paragraphs 4 and 5 of my statement for the record.

Mr. [redacted]. Okay.

Given your experience, how can you possibly believe Michael Cohen is a reliable witness?

Ms. Dubeck. Objection.

The Witness. I decline to answer for the reasons reflected in paragraphs 4, 5 and 6 of my statement.

Mr. [redacted] So you're taking the Fifth Amendment on given your experience how can you possibly believe Michael Cohen is a reliable witness?

The Witness. Yes.

Mr. [redacted] Okay. Are you aware of the shifting information Mr. Cohen has put forward about the Stormy Daniels payments?

Ms. Dubeck. Objection.

The Witness. I decline to answer for the reasons indicated in the answer to your previous question.

BY MR. [redacted]

Q I believe in your book you say that you were following the Michael Cohen testimony when he appeared before Congress. It was the first big hearing of Chairman Cummings' tenure. Mr. Cohen testified back in 2019. I believe in your book that you said you watched that and you were following along. Is that correct?

A I believe that appears in the book, yes.

Q And as you sit here today, do you remember that testimony?

A I decline to answer that question based on my right not to be a witness against myself in a possible criminal proceeding.

Q I'd like to mark as exhibit 12 a letter from Steve Ryan to the Federal Election Commission.

[Pomerantz Exhibit No. 12

Was marked for identification.]

Mr. [redacted] Mr. Ryan is a -- Mr. Ryan was one of Michael Cohen's lawyers at the time.

Mr. Ryan writes: "In a private" -- he's writing on behalf of Michael Cohen to the Federal Election Commission here. "In a private transaction" -- this is the second paragraph" -- "in 2016, before the U.S. presidential election, Mr. Cohen used his own personal funds to facilitate a payment of $130,000 to Ms. Stephanie Clifford. Neither

the Trump Organization nor the Trump campaign was a party to the transaction with Ms. Clifford, and neither was reimbursed by Mr. Cohen" -- or "neither reimbursed Mr. Cohen for the payment directly or indirectly."

Are you familiar with this letter? Have you ever seen this before?

Ms. Dubeck. Objection.

The Witness. I decline to answer.

Mr. [redacted] And as you know, in 2018 Michael Cohen says, through his lawyer, that nobody ever reimbursed him. And then when he showed up before Congress, it was Chairman Cummings' first big hearing in January 2019, he changed his tune and he said he was reimbursed.

Were you aware of that sort of a changing story of Mr. Cohen on that front?

Ms. Dubeck. Objection.

The Witness. I decline to answer your question.

[Pomerantz Exhibit No. 13

Was marked for identification.]

Mr. [redacted] I'd like to mark as exhibit 13 a letter from Mr. Jordan and Mr. Meadows to the Attorney General referring Michael Cohen for perjury for his appearance in February -- I'm sorry, it was February 2019. I think in my last question to you I said it was January 2019, but it was February 27th, 2019, that he appeared, first big hearing of the Democrats' new majority at the time.

And this letter sets forth numerous undeniable facts about Mr. Cohen perjuring himself during his appearance before the committee.

Have you ever seen this letter before?

Ms. Dubeck. Objection.

The Witness. I decline to answer your question, one way or the other, on the

basis of my Fifth Amendment rights.

Mr. [redacted] Okay. The bottom of page 1 it says:

"Several times during his testimony, Mr. Cohen denied committing various fraudulent acts that he pleaded guilty to in federal court. Specifically, Mr. Cohen said, 'I never defrauded any bank.'

"These denials are intentionally false. Mr. Cohen pleaded guilty to five counts of income tax evasion, one count of making false statements to a banking institution, one count of causing an unlawful corporate contribution, one count of excessive campaign contribution, and one count of making false statements to Congress."

In your experience, is there any way that Mr. Cohen could not have committed perjury when he testified one way and he pleaded guilty in an exact opposite fashion to the same set of facts?

Ms. Dubeck. Objection.

The Witness. I decline to answer the question for the reasons previously stated.

Mr. [redacted] When you were at the D.A.'s Office, did you consider this type of unreliability when considering Mr. Cohen as the narrator for the case against President Trump?

[1:43 p.m.]

Ms. Dubeck. Objection.

The Witness. Same response, sir.

BY MR. [redacted]

Q And in your book you did describe Mr. Cohen as a potential narrator for the prosecution against President Trump. Is that correct?

Well, I think this is in the book.

A The book says what it says. I'm not disputing your characterization.

Q Okay. So it's fair to say that in your book you talk about in a prosecution of this type you need a good narrator?

A I think there is a reference to the need for a narrator that appears in the book.

Q And Michael Cohen was considered as that possible narrator?

Ms. Dubeck. Objection.

The Witness. I rest on what's set forth in the book. I'm not taking issue with your characterization.

BY MR. [redacted]

Q Going back to the letter, Mr. Cohen repeatedly testified that he did not seek employment in the White House following President Trump's election. And this is demonstrably material and intentionally false, too.

The testimony is -- that testimony is in indirect conflict with court filings made by the U.S. Attorney's Office in the Southern District of New York which stated: During and after the campaign, Cohen privately told friends and colleagues, including in text messages, that he expected to be given a prominent role and title in the new administration. When that did not materialize, Cohen found a way to monetize his

relationship with and access to the President.

Was that a fact that you were aware of?

Ms. Dubeck. Objection.

The Witness. The same response, sir.

BY MR. [redacted]:

Q At the hearing Mr. Jordan asked Mr. Cohen: You wanted to work in the White House?

And Mr. Cohen said: No, sir.

And that answer, when Mr. Cohen said "no, sir," is expressly contradicted by the text messages that the Southern District of New York used in the case against Mr. Cohen.

With that said, I mean, how is that not perjury before Congress?

Ms. Dubeck. Objection.

The Witness. I refuse to answer the question for the reasons reflected in paragraphs 4 and 5 of my statement.

Mr. Bishop. Mr. Pomerantz, on page 178 your book you have this paragraph. It says: "Carey drafted a lengthy outline of defense arguments. The defense outline claimed that a prosecution would be politically motivated and would violate Trump's constitutional rights. It noted that the district attorney and the Attorney General were Democrat politicians who supposedly were trying to prevent Trump from becoming president again. It detailed some of New York State Attorney General Letitia James's public statements about Trump in reference to Alvin Bragg's campaign statements about having repeatedly sued the Trump administration. It suggested that Trump would move to disqualify the prosecution and seek a transfer of venue out of New York City. It characterized the case as a political vendetta that had wasted vast resources in the hunt for a viable theory of criminal liability after Trump, all at a time when murders and violent

crime were increasing."

I'll stop there. Did I read it accurately?

The Witness. Pardon me? Yes, you read it accurately, of course.

Mr. Bishop. Do you know what the defense of selective or vindictive prosecution is?

The Witness. I decline to answer your questions.

Mr. Bishop. Are you aware that prosecuting someone criminally in retaliation for First Amendment expressive activity or associational activity is unconstitutional?

Ms. Dubeck. Objection.

The Witness. I decline to answer your question. I'll resist the temptation to elaborate on it.

Mr. Bishop. Were any of the factual bases that Carey laid out in his lengthy outline of defense arguments inaccurate?

Ms. Dubeck. Objection.

The Witness. I decline to answer your questions for the reasons reflected in paragraphs 4, 5, and 6 of my statement.

Mr. Bishop. Did you undertake to or did anyone else working with you on the investigation of Mr. Trump undertake to rebut any of the factual bases underlying the outline of this defense argument furnished by Carey?

Ms. Dubeck. Objection.

The Witness. I would like to make the same response to that question as to your previous one, sir.

Mr. Bishop. Which is declining to answer --

The Witness. Yes.

Mr. Bishop. -- on the basis of your asserted privileges?

The Witness. Yes, sir.

Mr. Bishop. Thank you.

BY MR. [redacted]

Q Are you familiar with Bob Costello?

A Yes.

Q And how do you know him?

A We served together in the Office of the United States Attorney for the Southern District of New York during the time I was line assistant between 1978 and 1982. I don't recall for exactly what portion of that period of time Mr. Costello was a prosecutor, but that is one of the ways in which I was familiar with Mr. Costello.

Q Are you aware that Mr. Costello was called to the grand jury -- this most recent grand jury that indicted President Trump?

Ms. Dubeck. Objection.

BY MR. [redacted]

Q Mr. Costello has made a number of TV appearances talking about these types of things. I'm just asking if you're aware of the public reporting on this.

A I saw public reporting.

Chairman Jordan. You said you worked with him in the Southern District of New York, and you said that's one of the ways you were aware of Mr. Costello.

What were the other ways. Was he a friend?

The Witness. I need a moment with counsel.

Mr. [redacted] Of course.

[Discussion off the record.]

Chairman Jordan. I can withdraw the question. I was -- I just was curious. I can withdraw it.

The Witness. Thank you. That's very helpful.

Chairman Jordan. No, I get it. I get it.

You said that the one way -- well, that's fine. I get it.

The Witness. I appreciate that.

BY MR. [redacted]

Q Are you aware that Mr. Costello was representing Mr. Cohen at any point in time?

Ms. Dubeck. Objection.

The Witness. I'm aware of public reports of that type.

BY MR. [redacted]

Q Now, are you aware of reports of what Cohen told Costello was different from what Cohen evidently told Ryan right around the same time period about the Stormy Daniels payments? Are you aware of that public reporting?

A I believe I did see that in public reporting as well.

Q Are you aware that Cohen alleged that somebody dangled a pardon over him, you know, if he cooperates and doesn't say negative things about President Trump?

Ms. Dubeck. Objection.

The Witness. I'm limiting my response to publicly reported materials in the last several months, I guess, and so limited, I don't recall.

BY MR. [redacted]

Q Okay. So Cohen alleged that Costello referenced that, you know, some pardon might be available to him.

Are you aware of that?

Ms. Dubeck. Objection.

The Witness. Again, limiting my response to recent press reports, that sounds

familiar, but I don't recall it with any acuity.

BY MR. [redacted]

Q Okay.

A Yes, but I'm not basing my response on anything having to do with my employment in the D.A.'s Office.

Q And are you aware that the Southern District of New York U.S. Attorney's Office looked at potentially prosecuting President Trump based on the pardon allegation?

Ms. Dubeck. Objection.

Mr. [redacted] Go off the record.

[Discussion off the record.]

The Witness. All right. Respectfully, I decline to answer the question.

BY MR. [redacted]

Q Okay. And did you know the Southern District of New York decided not to prosecute because they decided Cohen was completely unreliable and could not be considered as a legitimate witness at any prosecution?

Ms. Dubeck. Objection.

The Witness. I decline to answer that question as well for the reasons previously given.

BY MR. [redacted]

Q Okay. And do you expect that Michael Cohen will be called as a witness before the New York District Attorney's case that's just been filed?

Ms. Dubeck. Objection.

The Witness. I decline to answer.

BY MR. [redacted]:

Q Returning back to your opening statement --

A Yes, sir.

Q -- what's the basis for your conclusion that you are certain you broke no laws?

A I would be very surprised if a court ruled that I had no privilege to answer that question, and I'm asserting my Fifth Amendment rights with respect to that.

Q Has anyone from the District Attorney's Office explicitly or implicitly threatened to prosecute you if you answer the committee's questions?

A I decline respectfully to answer your question.

Q When did you first hear that the District Attorney's Office was pursuing some potential criminal investigation of you?

A I will take my counsel's advice and refuse to answer that question, sir.

Q When we were with Judge Vyskocil on the 19th --

A Yes, sir.

Q -- the District Attorney's Office, you know, represented that they sent you this letter raising the prospect of a criminal prosecution.

Do you remember that?

A I do.

Q Was that the first time you heard of that?

A The first time I heard of a letter?

Q Right. Like had you -- was that the first time you heard that you were under criminal investigation?

Did it surprise you?

A I'm not going to answer your question with regard to whether I was surprised.

Q On the basis of the Fifth Amendment?

A Fifth Amendment, and also the rights summarized in the sixth paragraph of my statement.

Q What's the sixth paragraph again?

A My position being there the question whether I was surprised by what I heard in open court in January is not, I believe, a matter that's pertinent to your legislative purpose.

Q Don't you think this investigation of you, this purported investigation of you is simply a pretext, simply a pretext to block your testimony here today?

It's not a real investigation, is it?

A I respectfully decline to answer your question.

Q Have you been interviewed by the D.A.'s Office on this topic?

A I respectfully decline to answer your question.

Q Have they asked for any documents from you?

A I respectfully decline to answer your question.

Q Okay.

Chairman Jordan. Mr. Pomerantz --

The Witness. Yes, sir.

Chairman Jordan. -- you resigned in February of 2022.

The Witness. 2022, that's correct.

Chairman Jordan. And did the District Attorney's Office know you were working on a book anytime between February 2022 and February of 2023?

The Witness. I decline to answer your question.

Chairman Jordan. But they didn't put you under notice that you were potentially under criminal investigation until, according to your statement, shortly before the publication of your book?

The Witness. I'm not sure what you're referencing.

Chairman Jordan. I'm referencing your statement, page 2 of your statement. "Shortly before the publication of my book, the District Attorney's office warned me that I could face criminal liability if, among other things, I disclosed grand jury material or violated a provision of the New York City Charter dealing with the misuse of confidential information."

The Witness. Yes, sir, that's accurate.

Chairman Jordan. So the first time you were put on notice?

Mr. [redacted] Off the record.

[Discussion off the record.]

Mr. [redacted] Back on the record.

The Witness. The question again was whether I was on notice of a possible criminal investigation?

Mr. [redacted]. Mr. Jordan asked you the first time you were on notice, and he referenced your statement.

The Witness. The statement references a letter that I received in January of 2023, which I believe you have.

Chairman Jordan. Okay.

Mr. [redacted] Did you need to lodge an objection?

Ms. Dubeck. It didn't sound like quite exactly the same question, so --

Mr. [redacted] Okay.

BY MR. [redacted]:

Q But the letter that you received in January 2023, it's just a pretext, isn't it? I mean, is there a real investigation going on?

A You're asking me?

Q Yes. They're not really going to prosecute you? They're not really investigating you, are they?

A I hope you're right. But I'm not speaking for the District Attorney's Office --

Q That's fair.

A -- in respect of how tangible is the fear of criminal prosecution.

Q Okay. You got the letter in January. Was that the first time the D.A.'s Office communicated with you that they were disappointed you were writing a book or trying to stop the publication of the book?

Mr. Finzi. Could we have a second?

Mr. [redacted] Sure. Go off the record.

[Discussion off the record.]

Mr. [redacted] We'll go back on the record.

BY MR. [redacted]:

Q Your answer, sir?

A I decline to answer your question with respect -- for the reasons indicated.

Q Okay. Can you tell us about all of the communications you've had with the D.A.'s Office since January of this year, other than the ones we've discussed, which was this receiving of the letter?

Ms. Dubeck. Objection.

Mr. [redacted]. Well, I mean, he's no longer with the Office.

Ms. Dubeck. January of this year?

Mr. [redacted] January of this year.

Ms. Dubeck. Withdrawn.

BY MR. [redacted]:

Q What I'm getting at, okay, if I may?

A Yes, sir.

Q What I'm getting at is they didn't try very hard. They didn't try very hard to get you to not publish the book. I mean, they may have written this letter, paper in the file. And if I'm mistaken, if I'm mistaken, please help me understand that I'm wrong.

You got the letter from them. What other -- did they call you on the phone and urge you? Did you have any meetings with them in person?

A Mr. [redacted], I don't believe that I'm required in this context to articulate for you all of the reasons which lead me to invoke my privilege.

Q Fair enough.

And let me just, if I may, articulate why we're asking, okay, just as a courtesy.

We believe that it's possible and worth investigating that this whole, you know, New York District Attorney's Office, you know, so-called investigation is a sham, and it's simply a pretext to prevent you from coming here and talking about your book. And so, because of that, I mean, that could invoke some serious implications. I mean, that could be obstruction of Congress. And so it's worthwhile for us. And so we don't, you know, mean to be pedantic or, you know, any -- don't mean any disrespect by it. But we are trying to understand the volume of communications, the type of effort that the District Attorney's Office, you know, put forth to try to get you to stop the book. And if they did put forth an effort that we don't know about, I mean, that would be great, a great fact to have on the record.

A I would be delighted to hear, Mr. [redacted], that my fear of criminal prosecution is completely baseless and unfounded. I don't believe that to be the case and, therefore, I am invoking my rights as reflected.

Q Okay. And let me just say, I'm not disputing that you believe -- I'm not disputing your belief that you think that they might be actually conducting a criminal

investigation. Because when somebody is faced with a letter saying that there's an investigation, a human being, a normal conclusion is to be concerned about that. Okay. So fair enough. I'm not trying to be disrespectful of that.

A I appreciate that.

Q But from our point of view, okay, from the point of view of the Congress, the record looks pretty thin. And it looks like a pretext to us -- not to you, but to us, and so, consequently, just trying to ask you if you can catalog the efforts that the D.A.'s Office made to get you to stop writing the book.

A I don't think I am or can be required to respond to a question that seeks to probe my good faith invocation of the Fifth. I believe -- I know that I have a good faith basis to invoke my privilege. If your investigation should result in a declaration by the District Attorney's Office that they have no such intent, that criminal prosecution of me is never going to happen, then we will have a different exchange.

Q So if they write you a letter and they say they're declining to take any further action, you might be willing to come back and answer some of our questions?

A I would have a very different conversation with my attorneys.

Q When Mr. Jordan initially --

A It was hard enough for them on the record that we do have.

Q When we initially wrote to you in the earlier part of this year, the first letter --

A Yes.

Q Mr. Jordan sent you two letters, right?

A Yes.

Q He sent you the first letter asking for voluntary cooperation, and then it was followed up with the subpoena.

A Yes, sir.

Q You replied to our first letter -- thank you for that -- and basically said that the D.A.'s Office is telling you not to cooperate.

Can you tell us about the conversation you had with the D.A.'s Office before you wrote us back?

A I referenced and attached, I believe, a letter I received from Ms. Dubeck at the District Attorney's Office.

Q And did you have a telephone conversation with her?

Mr. [redacted] We can go off the record. Sorry.

[Discussion off the record.]

Mr. [redacted] We can go back on the record.

The Witness. Respectfully, I decline to answer your question about communications with the District Attorney's Office.

BY MR. [redacted]:

Q Okay. And then when we sent the subpoena to you --

A And I understand your -- withdrawn. Never mind. I already talked --

Q You can finish. I'm sorry.

A No, it's okay.

Q On our -- the second time we wrote you the letter --

A Yes.

Q -- and we included the subpoena, I emailed you, and you replied back very graciously and very professionally, you indicated that you didn't have a lawyer at that time. Is that correct?

A I think I said that I would be in touch with you after finalizing the arrangements for counsel.

Q And so, is it fair to say that in your conversations that you had with the D.A.'s Office, you weren't represented by counsel?

A I don't think that is fair to say. I don't know what time period you're referring to.

Q So we wrote -- our first letter was dated March 20th, and then the subpoena was April 6th, so -- and when I emailed the subpoena to you, at that time you hadn't engaged Mr. Wells?

Did you have different counsel, or was Mr. --

A I'm not going to get into who represented me when throughout the months preceding this appearance.

Q Okay.

Chairman Jordan. I don't think the question was who. I think the question was, was there anyone representing you in that time frame.

The Witness. I respectfully assert my Fifth Amendment rights in that regard.

BY MR. [redacted]

Q I mean, is it a fair investigative data point that if you didn't have counsel until Mr. Wells, which, you know, Mr. Wells was engaged after the subpoena was sent, and isn't that a fair piece -- good data point or piece of evidence that maybe shows that the interactions that you had had with the D.A.'s Office up until the time that you engaged Mr. Wells -- did you have an attorney is what we're getting to. And if you didn't, isn't it fair for us to conclude that that's a good piece of evidence showing that this might not be a real investigation that they're pursuing?

A I decline to answer your question.

Mr. [redacted] I would like to mark the indictment as exhibit 14, and then the statement of facts as exhibit 15.

[Pomerantz Exhibit Nos. 14 and 15

Were marked for identification.]

BY MR. [redacted]

Q You've read the indictment. Correct?

A The indictment of Donald Trump?

Q Yes.

A Yes.

Q Have you read the statement of facts?

A Yes.

Q Now, the indictment was returned by the grand jury, correct?

A I assume so.

Q But the statement of facts was not?

A I don't know.

Mr. [redacted] Okay. Well, let's -- this is number 14, the indictment.

Do we have the statement of facts one too?

Ms. [redacted] They are both marked.

Mr. [redacted] What's that?

Ms. [redacted] Yes.

Mr. [redacted] So you've got both the statement of facts and the indictment?

Mr. Witness. Yes, sir.

Mr. [redacted] Okay.

Ms. [redacted] Are these separate exhibits?

Mr. [redacted] They are 14 and 15.

Ms. [redacted] And 14 is the indictment?

Mr. [redacted] 14 is the indictment. 15 is the statement of facts.

BY MR. [redacted]:

Q Let me just ask you, what's the difference between utilizing -- based on your experience, utilizing a statement of facts to supplement an indictment versus a speaking indictment?

A I couldn't answer your question. I don't know the answer.

Q Okay. I mean, you were a prosecutor in the Office. Did you -- during your time with the D.A.'s Office, did you -- were you responsible for indicting anyone? Any cases that you worked on land in an indictment?

Ms. Dubeck. Objection to the extent it calls for nonpublic information.

The Witness. You referring to my tenure in the Manhattan District Attorney's Office?

BY MR. [redacted]

Q Correct.

A I respectfully decline to answer.

Q Okay. Could you just help us understand, how does a statement of facts ordinarily get released? What's the process?

A I can't help you understand that. I don't know the answer to that question.

Q Okay. In reading the indictment --

A Yes, sir.

Q -- can you tell us whether the D.A.'s Office found new evidence that you weren't aware of, you know, from your time in the Office?

Ms. Dubeck. Objection.

The Witness. I respectfully decline to answer.

BY MR. [redacted]

Q Okay. Is that based on the Fifth Amendment?

A I think tilting toward the fourth paragraph of my statement, without excluding the fifth.

Q The fourth paragraph, is that --

Mr. Finzi. It's the District Attorney's objections.

Mr. [redacted] Okay.

The Witness. My discipline slips as the day wears on, but I hope you'll make sure that I adequately state on the record the basis for my nonresponse.

BY MR. [redacted]

Q Okay. So there are 34 counts in the indictment that are bootstrapped to an unstated crime to prosecute.

Do you know what that unstated crime is?

Ms. Dubeck. Objection.

Mr. [redacted] Well, I'm just asking if he knows, and he's read the indictment. I think he can answer that question.

The Witness. I decline to answer that question on the basis of the fourth and fifth paragraphs of my statement.

BY MR. [redacted]

Q Okay. And can you help us understand why, in your experience, a prosecutor in this instance might -- like, what's the strategy behind not naming the crime in the indictment?

Ms. Dubeck. Objection.

Mr. [redacted] Well, I'm just asking, you know, his experience, and I'm just trying to better understand why the crime is not in the indictment, just his experience as a lawyer.

I mean, you're a decorated, long-serving lawyer.

The Witness. I don't know how many decorations I got, but I have a long career

as a defense attorney and a prosecutor.

BY MR.[redacted]:

Q So you're in a good position, I think, to help us understand what's the strategy behind not naming the underlying crime.

Ms. Dubeck. Objection.

The Witness. I can't answer, and I decline to answer. Even if I could answer, I wouldn't know the answer.

BY MR. [redacted]

Q Okay.

A And I can't answer, so the state of my knowledge is basically irrelevant.

Q Okay.

Chairman Jordan. Mr. Pomerantz, you gave the District Attorney's Office a year of your life. You worked for free. And before Congress ever got in this picture, they told you they might -- that you might face criminal liability for a book that you wrote.

Does that tick you off?

The Witness. I decline to answer.

BY MR. [redacted]

Q And you didn't just work for free. You gave up your weekends. You gave up your -- you had -- according to your book, you had a month's long -- correct me if I'm wrong. But you had a month's long visit planned in Sonoma so you could be with one of your new grandchildren.

A 2 months.

Q 2 months. I mean, you gave quite a lot to this Office, the District Attorney's Office. Is that not, obviously, correct?

A I decline to answer.

Q I think we're --

A Regretfully.

Mr. [redacted] I think we're at our time.

Ms. [redacted] [redacted], do you have a lot left?

Mr. [redacted] Go off the record, please.

[Discussion off the record.]

[Recess.]

Ms. [redacted] It is 2:44. We can go back on the record.

BY MS. [redacted]

Q Mr. Pomerantz, in the prior hour you were asked about the Southern District of New York's determination about the reliability of Mr. Cohen as a witness.

Do you recall being asked about that?

A Yes.

Q And I believe that you said you couldn't answer -- you declined to answer the question?

A That's correct.

Q In your experience as a prosecutor and defense attorney, though, there are circumstances in which a witness may not be sufficient in one proceeding, but in an unrelated proceeding or a different proceeding there could be, for example, corroborating evidence or other material that might change the circumstances for that, on the witness's reliability, right?

A You're asking me in general terms?

Q In general, in general terms.

Mr. Finzi. Could we go off the record for 1 second?

Ms. [redacted] Sure. Yes, we can go off the record.

[Discussion off the record.]

Ms. [redacted] We can go back on the record.

The Witness. I think the only thing I can say is that, as my own testimony probably indicates, there's no such thing as a perfect witness. Witnesses have flaws and strengths that run the gamut of human behavior.

BY MS. [redacted]

Q You were asked earlier about the -- you know, when you had an attorney --

A Yes.

Q -- in relation to this year. And you recall that?

A Yes.

Q Without getting into who represented you and when, you know, you've now been brought before this committee for a deposition that's run, I don't know, 5 hours and change. Before that, there was a fair amount of letters and motions practice in court even.

Would you agree that anybody who was facing a congressional investigation may want to hire counsel?

A Yes.

Q I want to turn to the January 18th letter, and it was not introduced in the last round, so I am going to introduce it as exhibit 16 now.

Mr. [redacted]. Sorry, what number are we up to?

Ms. [redacted] I think it's 16.

Mr. [redacted]. Yes.

[Pomerantz Exhibit No. 16

Was marked for identification.]

BY MS. [redacted]

Q Do you recall receiving this letter?

A I received this letter.

Q And this was the letter I think that was referenced earlier when reference was made to the January 18, 2023, letter, correct?

A Yes.

Q This letter was sent from Ms. Dubeck, who is sitting at the table today, correct?

A Yes.

Q And it was addressed to you, but also to the general counsel of Simon & Schuster and the executive vice president and general counsel and secretary of Paramount Global, correct?

A Yes.

Q So this was sent to you, but also to attorneys. Correct?

A Yes.

Q And in the first line, the very first sentence of this letter, it says: "This letter is in response to Simon & Schuster's public announcement, on January 11, 2023, of the forthcoming publication of your book," correct?

A Yes.

Q So the announcement of your book -- according to just on the terms of this letter, the announcement of your book happened on January 11, 2023. It was publicized on that date, right?

A That's what the letter says.

Q And within a week of learning of that publication, the District Attorney's Office had written to you, correct?

A The letter reflects on its face having been sent a week after the public

announcement of the publication of the book that I wrote.

Q On the second page of the letter, the second full paragraph says that "Prior to commencing his work with the D.A.'s Office, Mr. Pomerantz acknowledged in writing his understanding that most or all of the information he would have access to regarding the investigation is protected by" -- and it goes on and refers to the grand jury secrecy provisions, correct?

A That's what the letter says.

Q Did you -- is it accurate that you signed a nondisclosure form or some other document prohibiting you from disclosing information that you learned?

A I'm not going to answer that question and assert my constitutional rights as reflected in the fifth paragraph of my statement.

Q In the following paragraph, it says: "In addition, because Mr. Pomerantz has been separated from the D.A.'s Office for nearly a year, he is not capable of making any assessment of whether the disclosures he intends to disseminate in this publication have a substantial likelihood of materially prejudicing an adjudicative proceeding," correct?

A That's what the letter says.

Q So the District Attorney's Office actually put you on notice that with publication of your book, you know, you unilaterally were not capable of determining whether that might prejudice an adjudicative proceeding, correct?

A Well, I'm not going to expand beyond what the letter says on its face. I'm not taking issue with your characterization.

Q Okay. It goes on: "Based on the pre-publication descriptions of the book and the benefit of current knowledge of the matter, but without access to the manuscript, this Office believes there is a meaningful risk that the publication will

materially prejudice ongoing criminal investigations and related adjudicative proceedings," right?

A Yes, that's what's stated in the letter.

Q So it says without access to the manuscript. So the District Attorney's Office, based on the face of this letter, did not have access to your manuscript prior to its publication, correct?

A I'm not going to respond to that question.

Q And then in the following paragraph, it cites to New York City Charter chapter 68, section 2604(d)(5)?

A Yes.

Q And are you familiar with that statute?

A As we sit here today?

Q Yes. We can withdraw it. That's fine.

A Thank you.

Q So the paragraph says that, in relevant part, chapter 68, section 2604(d)(5) provides that no public servant shall, after leaving city service, disclose or use for private advantage any confidential information gained from public service which is not otherwise made available to the public, correct?

A You've accurately stated what the letter contains.

Q And you don't have any reason to believe that this is not an accurate recitation of that code section, correct?

A I have no reason to believe that the letter misstates the language of that chapter of the city charter.

Q And then in the final --

A It doesn't state all of the language of that section of the city charter, but

what is here is contained in the city charter.

Q Thank you.

And then the final sentence of that paragraph reads: "To the extent this book discloses information, Mr. Pomerantz obtained as a public service without this office's approval, Mr. Pomerantz is unlawfully converting confidential government information for his personal advantage," right?

A That's what the letter says.

Q And so, as early as January 18, 2023, which was a week after the announcement that your book would be published, the District Attorney's Office had written to you to say that you were potentially acting unlawfully, correct?

A The letter says -- contains the language that you have referenced and speaks of the unlawful conversion of confidential government information.

Q And then the final sentence, the final paragraph of this letter, which is on page 3, it says: "The Office," referring to the District Attorney's Office, "urges Mr. Pomerantz not to take any further steps that would damage an ongoing criminal investigation," right?

A Yes. That's contained in the letter.

Q So, again, as early as January 18th, the District Attorney's Office had written to you and said, you know, Do not take any further steps that would damage an ongoing criminal investigation, correct?

A The letter says what it says.

Ms. [redacted] All right. Thank you. We don't have any further questions.

The Witness. Thank you.

We can go off the record.

[Discussion off the record.]

Mr. [redacted] Back on the record.

BY MR. [redacted]

Q This morning we were going through some of the investigative matters you were pursuing against former President Trump. I think we left off at the Trump Tower triplex apartment.

The angle there was that he overstated the value of the apartment, or was it that he overstated the square footage? I know Mr. Cohen said that the square footage was exaggerated. But were both subject to the -- were you pursuing both angles as a potential investigative avenue?

Ms. Dubeck. Objection.

The Witness. Once again, I decline to answer your questions for the reasons stated in the fourth and fifth paragraphs of my statement.

BY MR. [redacted]

Q The vignette, the John Baron vignette where he was having communications with the Forbes reporter, was that an avenue of independent investigation, or was that fact pattern going to be used to support a different charge?

Ms. Dubeck. Objection.

The Witness. I decline to answer for the reasons stated. I'm not sure I understand your question, but I'm sure however you meant it, I won't be answering it.

BY MR. [redacted]

Q Okay.

A With apologies. I don't mean to make light, and I intend no disrespect whatsoever.

Q I'm sorry. I'll restate it.

Do you remember the name of the Forbes reporter? I believe his first name was

Jonathan.

A I believe you're referring to Jonathan Greenberg.

Q Yes, sir, yes, sir.

So my question was the allegations that Mr. Greenberg brought forth from his reporting with Forbes was that, if I'm not mistaken, that Mr. Trump was overstating his overall net worth. And my question was whether that was an independent avenue of investigation, or whether that was you considered using the Forbes reporter to support the financial statement -- the statements of financial condition investigation that you were pursuing?

Ms. Dubeck. Objection.

A I decline to answer both because it calls for confidential or privileged information in view of the District Attorney's Office, and for the other reasons referenced in paragraphs 5 and 6 of my statement.

BY MR. [redacted]

Q In your book you talk about investigating the Trump Foundation, aspects of Trump University. And my question is, was there an independent investigation into Trump University that potentially could have been the source of an indictment, or were those facts -- that fact pattern simply going to be used in the enterprise corruption theory case that you were working on?

Ms. Dubeck. Objection.

The Witness. The same response as to the previous question. Same nonresponse, I guess.

BY MR. [redacted]

Q There were various insurance fraud matters that you write about in your book, such as there was tornado damage at one of the Florida golf courses, I believe.

There was some insurance fraud allegations relating to an elevator fire at the --

A I actually think you are incorrect to the extent you're referring to what's written in the book. The book references tornado damage to a golf course in Westchester.

Q Oh, I'm sorry. It was in New York. Okay.

Was there not also a potential insurance matter at one of the golf properties in Florida, or was that just simply the Westchester property?

Ms. Dubeck. Objection.

The Witness. I decline to answer to the extent that it calls for information that goes beyond what's referenced in the book.

BY MR. [redacted]

Q Okay. Do you remember if that was included in the book? Was there an insurance matter relating to a Florida golf course?

Ms. Dubeck. It's only calling for the book, so --

The Witness. I don't believe that appears in the book.

BY MR. [redacted]

Q Okay. On page --

A Perhaps I should have written a shorter book.

Q On page 205, you write regarding the District Attorney, that he was missing the urgency of the situation and underestimating the special needs of the Trump investigation and potential prosecution.

Was that something you ever confronted Mr. Bragg about personally?

Ms. Dubeck. Objection.

BY MR. [redacted]:

Q It's right in the middle of page 205.

A Yes, I see it. I decline to answer for the reasons previously stated. I do see the reference in the book.

Q Okay. On page 213, you had an in-person meeting with the District Attorney. Was that your first in-person meeting with him?

I understand because of the pandemic a lot of the work that you did was remote and meetings happened over Zoom. But at some point, you did have some meetings in person with Mr. Bragg. Is that correct?

Ms. Dubeck. Objection.

BY MR. [redacted]

Q You're reporting in your book you did.

A The book references meetings and conversations, a variety of them.

Q Okay. And do you know how many in-person meetings?

Ms. Dubeck. Objection.

The Witness. Decline to answer beyond what's contained in the book.

BY MR. [redacted]

Q Okay. Which number objection would that one be?

A Oh, the fourth paragraph and the fifth paragraph and the sixth paragraph of my statement.

Q The sixth paragraph, legislative purpose?

A No. The sixth paragraph references the First Amendment.

Q Oh, okay.

A And to the extent you're asking me to elaborate on the facts --

Q Oh, no, I'm sorry, sir. I'm not asking you to elaborate. I'm just wondering how many in-person meetings you had with the District Attorney, because you wrote about them all in the book and I --

Ms. Dubeck. Objection.

The Witness. I have nothing to add beyond the book. In fact. Well, I'll leave it there.

BY MR. [redacted]

Q Anyway, on page 213 towards the bottom, you write: "The discussion degenerated into chaos and confusion. On top of it, Alvin came into the meeting late, spent much of his time looking at his phone, and then left early, saying he just wanted to see the important documents, as though the whole sprawling case could be reduced to a collection of just a few" -- or sorry -- "collection of a few crucial documents, which made no sense."

Did you ever have a chance to communicate that to Mr. Bragg, your frustration?

Ms. Dubeck. Objection.

The Witness. I decline to answer that question for the reasons previously articulated.

BY MR. [redacted]:

Q Later on in the book I think you wrote an email to Mr. Bragg. And did you mention your frustration with him coming in late, looking at the phone, and so forth?

Ms. Dubeck. Objection.

A What is the question, whether I wrote an email to --

BY MR. [redacted]

Q Whether you expressed your frustrations to Mr. Bragg. I mean, if you just remember whether you did or didn't.

Ms. Dubeck. Objection.

The Witness. Well, the issue was not the state of my recollection. It's the application of the privilege that I asserted, which I will rely on?

BY MR. [redacted]

Q Did you spend -- do you think Mr. Bragg was as willing as Mr. Vance to dig into the facts of this case?

Ms. Dubeck. Objection.

The Witness. I refuse to answer that question, Mr. [redacted] respectfully.

BY MR. [redacted]

Q Okay. For the most part in your book, and I think without exception, you refer to Mr. Vance in a very favorable light. Is that a fair assessment?

A I'm not taking issue with your perception, but I have nothing to add to what appears in the book.

Q Okay. On page 264 --

A Yes.

Q -- there's a part of the book that says: "Most plane crashes" -- I'm sorry. "All I know for sure is that the investigation turned into the legal equivalent of a plane crash. Most plane crashes have more than a single cause, and this one also may have had multiple causes. The biggest one, in my opinion, was 'pilot error.' Alvin made the wrong decision about whether to charge the case."

When you wrote the biggest cause of the metaphorical plane crash was pilot error, were you referring to Mr. Bragg as the pilot in that instance?

A I won't go beyond the language that appears in the book. Again, I'm not taking issue with the inference that you draw, but the book speaks for itself. And I object to being compelled to make statements that go beyond what appears in the book.

[3:08 p.m.]

Mr. [redacted] Okay. On page 265, the penultimate paragraph, last sentence.

The Witness. Yes.

Mr. [redacted] "He jumped into very deep water and immediately was in over his head."

Is that a reference to Mr. Bragg?

Ms. Dubeck. Objection.

The Witness. Again, the book speaks for itself.

BY MR. [redacted]

Q Page 218.

A Yes.

Q You write: "As I tossed and turned, I asked myself whether we had done everything we could do to convince Alvin to let us bring our case against Trump. I kept thinking that maybe we were being rash.

"I also thought about Alvin's relative youth and wondered if he was in over his head. From what I knew, he had never run an organization anywhere close to the size of the District Attorney's Office, and he had scant experience in leading or defending high-profile prosecutions."

That view that you expressed about Mr. Bragg, have you since come to a decision to revise that conclusion?

A I decline to answer on the basis of my privilege against self-incrimination.

Q Okay. You know, in several -- you know, you mentioned on page 208 that when you were getting out of law school, Mr. Bragg was a toddler.

A Yes, I recall that sentence.

Q And you, by all accounts, are experienced, but you're not that old.

A At times --

Q And Mr. Bragg is not that young. I mean, he's almost 50.

A At times, I feel very old, Mr. [redacted] and this is one of those times.

Q Fair enough. But at the time, Mr. Bragg -- I mean, he's almost 50 years of age, as far as I understand. I mean, he's not that young.

A He seems younger and younger to me as I get older and older. I notice that with a lot of people.

Q Okay.

A I'm 72 as we speak.

Q Right. So do you think his relative youth played a part in -- like, do you think he's not capable of running the office?

Ms. Dubeck. Objection.

The Witness. I did not say that in the book, and I'm not going to comment on that. And I'm asserting my rights, as my lawyer reminds me.

Mr. [redacted] Were you surprised -- in light of the first day memo and in light of the progressive agenda the District Attorney has advanced -- were you surprised at the resources devoted to the Trump matter as compared to some of the basic crime that most district attorney's offices make a priority?

Ms. Dubeck. Objection.

The Witness. I decline to answer for the reasons indicated.

Mr. [redacted] In 2022, Mr. Bragg's first year as the D.A., crime in New York City rose significantly when compared to the previous year. According to NYPD data, New York City saw a 23 percent surge in major crimes.

Do you think there's different things the office can do to address that crime surge, given your experience with the office?

Ms. Dubeck. Objection, to the extent it calls for information about his experience with the office.

The Witness. What was your question again? Do I think there are different things the office can be doing?

Mr. [redacted]. Yeah. What can the office do differently to deal with this crime epidemic? I mean, they're devoting a lot of resources -- a tremendous amount of resources to the Trump prosecution. And they're doing this, and at the same time, there's just a raging crime epidemic.

The Witness. I'm not necessarily acquiescing in your characterization. Having said that, I have no ability to hold forth on what a district attorney's office can or should do with regard to the problem of street crime and violent crime and thefts and so on.

If I had a view, my lawyer would probably tell me not to share it. And in fact, I don't have the expertise to express a view on that.

Mr. [redacted]. Okay.

Chairman Jordan. You related in your book, Mr. Pomerantz, that -- I believe your son is an officer in the NYPD?

The Witness. My son is a lieutenant in the NYPD.

Chairman Jordan. I appreciate his service.

You related in there an exchange of, I think, text messages and conversations you had with him regarding the day one memo, which seemed to indicate that he did not have a very high regard for what was contained in that memorandum.

The Witness. I respectfully decline to answer your question and do so, in particular, with regard to paragraph 6 of my statement. I really have to object to the notion that my son's views as a New York City police officer, whatever they may be, are germane to your legislative purpose.

Chairman Jordan. With all due respect, Mr. Pomerantz -- and, again, we appreciate your son's service. We appreciate your service.

We have a crime subcommittee on the Judiciary Committee. We are concerned about crime. We are concerned about Federal funds being used in the District Attorney's Office and they're not prosecuting bad guys who do bad things to people. And we know that it's happening in the city of New York. That's why we did a hearing there just a few weeks ago.

So that was the motivation for the question.

The Witness. I understand.

Chairman Jordan. Thank you.

Mr. [redacted] You referenced various outside law firms. Two firms assisted with the so-called Zombie theory?

Ms. Dubeck. Objection.

Mr. [redacted] Was that the same firm or a different firm? Not asking you -- I mean, I'd like to know the name of the firm. Will you tell me the names of the firms?

Ms. Dubeck. Objection.

The Witness. No.

Mr. Wells. It's getting late, guys.

The Witness. I respectfully decline -- well, I did answer your question, I guess, literally speaking. The question was whether I would tell you, and I answered no.

BY MR. [redacted]

Q Okay. Was it the same firm?

The Zombie case, there's a legal theory that -- various legal theories -- that needed to be run to ground. In your book, you talk about how there is an outside law firm helping the D.A.'s Office. And I asked you for the name of that law firm. It's

mentioned at two different points.

In the fall of 2019, before you joined the District Attorney's Office, they commissioned -- and this is on page 40 -- they commissioned an outside firm. And then, when you joined the District Attorney's Office and you were looking at whether the money laundering -- the money laundering idea could be used, you went back, as I understand it, and had the help of on outside law firm.

So my question is, what was the name of those firms, and were they different?

A First, I think your question misstates the facts --

Q Okay.

A -- in the sense that the book does not reference getting an outside counsel's opinion with respect to potential money laundering charges.

Q Okay.

A The book does reference outside opinions with regard to false statement and the predicate acts necessary to elevate a false filing charge from a misdemeanor to a felony.

And you correctly point out that the book references a law firm at one point and also references a law firm at a separate point. And now your question is whether those were the same law firms.

Q Correct.

A And having clarified your question, I refuse to answer it for the reasons indicated in my statement.

Q When you were working on your -- on the SOFC matter in late March, you wrote in your book that, "The District Attorney's Office began ramping up work that our outside consultant, FTI, was doing to parse Trump's tax returns and financial statements."

What was FTI doing for the District Attorney's Office?

Ms. Dubeck. Objection.

The Witness. The question was what was FTI doing for the District Attorney's Office?

BY MR. [redacted]:

Q Right.

A Yeah, I decline to answer that question for the reasons indicated in my statement.

Q And why is it that on one hand you're willing to name FTI in the book but not the law firms?

A I decline to answer your question on the advice of my counsel. Well, I should say, generally, I'm trying to follow the advice of my counsel each and every time I assert my rights.

Q You mention in the book the assistance of lawyers from the Paul, Weiss firm as well as the Davis Polk firm?

A You're referring, I believe, to lawyers described in the book as having been seconded to the District Attorney's Office?

Q Correct. The work that those lawyers were performing, was that the same work as the outside law firms were consulted on, or were they two different subject matters?

Ms. Dubeck. Objection.

The Witness. I decline to answer for the reasons previously stated.

Mr. [redacted] Is there any prohibition from the District Attorney's Office to get free help from outside law firms that you're aware of?

Ms. Dubeck. Objection.

The Witness. I decline to answer the question. I'll leave it there.

Mr.[redacted]. In the congressional context, for example, if a government agency was using the services of a law firm for free, there would be issues because that money is not authorized or appropriated and so forth.

And I'm wondering if there's any companion idea in the District Attorney's Office or is there just no restrictions on how much free help they can get.

Ms. Dubeck. Objection.

The Witness. I decline to answer the question for the reasons stated.

Mr.[redacted] Okay.

Chairman Jordan. Can I?

Mr. Pomerantz, in the letter that Ms. Dubeck sent you as general counsel for the D.A.'s Office -- Ms. Dubeck, who's been here with us this entire time representing the D.A.'s Office -- that she sent to the lawyer for Paramount, I think the parent company for Simon & Schuster, she sent the letter to the general counsel for Simon & Schuster and to you on the 18th. And they make clear in the letter they discovered that you were going to publish a book based on an announcement from your publisher, Simon & Schuster, and then they send you the letter on the 18th.

Did you talk with them, did you try to work it out, when they tell you on the 18th? Because my understanding is the book -- you get this letter on the 18th, and the book is published the next month. Did you have communications with them trying to work this out?

The Witness. The book was published on February 7th, 2023. And I decline to answer whether there were any conversations between the date of the letter and February 7th.

Mr. Wells. Just so the record is clear, that's January? It that the January letter?

Chairman Jordan. January 18th, 2023. It's exhibit 16, the letter from

Ms. Dubeck to Mr. Pomerantz and Simon & Schuster and the parent company.

Did you think about, when you got the letter, did you think about, "Wait a minute, let's put the brakes on this"?

The Witness. I respectfully decline to answer on the grounds of -- on the basis of my Fifth Amendment rights.

Chairman Jordan. Is it fair to say if you would have -- if you'd have held back on publishing the book, that there would have been no need for this letter?

If you told them, "You know what?" -- let's say it this way. If you held back on publishing the book, didn't publish the book, that you wouldn't be facing possible criminal liability?

The Witness. I respectfully decline to answer.

Chairman Jordan. Okay.

Mr. [redacted] But I guess what Mr. Jordan is getting to is, were there any conversations before the letter came that could have resolved the situation?

The Witness. Prior to the letter?

Mr. [redacted] Right.

Chairman Jordan. Between the 11th -- when Simon & Schuster announces "People v. Donald Trump, An Inside Account" by Mark Pomerantz is going to be available at some date -- between the 11th and the 18th, when they send you the letter, did you talk to them?

The Witness. Yes, I decline to answer that question.

Chairman Jordan. Okay.

Mr. [redacted] And am I also correct that you're declining to answer whether you had any communications with them outside of the letter?

The Witness. Yes.

Mr. [redacted] Okay. I think we're done. We'll go off the record.

[Whereupon, at 3:24 p.m., the deposition was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: NICHOLAS RASMUSSEN

Monday, May 15, 2023

Washington, D.C.

The interview in the above matter was held in room 2237, Rayburn House Office Building, commencing at 9:59 a.m.

Present: Representative Gaetz.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

[redacted], GENERAL COUNSEL

[redacted], CHIEF COUNSEL FOR OVERSIGHT

[redacted], COUNSEL

[redacted], SPECIAL COUNSEL

[redacted], SENIOR SPECIAL COUNSEL

[redacted], DIGITAL DIRECTOR

[redacted], MINORITY CHIEF OVERSIGHT COUNSEL

[redacted], MINORITY INTERN

[redacted], MINORITY STAFF ASSISTANT

[redacted], MINORITY INTERN

For the PERMANENT SELECT COMMITTEE ON INTELLIGENCE:

[redacted], STAFF DIRECTOR, SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

[redacted], COUNSEL

[redacted], MINORITY COUNSEL

For NICHOLAS RASMUSSEN:

ROBERT LITT, ESQ.

HAYDN FORREST, ESQ.

Morrison & Foerster LLP

2100 L Street NW, Suite 900

Washington, D.C. 20037

Mr. [redacted]. Good morning. This is a transcribed interview of Mr. Nick Rasmussen, former director of the National Counterterrorism Center. Chairman Jordan and Chairman Turner have requested this interview as part of the committee's investigation of oversight of Federal law enforcement and intelligence matters within our respective jurisdictions.

Could the witness please state your name for the record?

Mr. Rasmussen. Sure. Nicholas "Nick" Rasmussen.

Mr. [redacted]. And you're joined here by counsel. I'll have them introduce themselves as well.

Mr. Litt. Robert Litt from Morrison & Foerster.

Mr. Forrest. Haydn Forrest, also from Morrison Foerster.

Mr. [redacted]. And I'll have the staffers introduce themselves. My name is [redacted]. I'm with Mr. Jordan's staff on the majority of the House Judiciary Committee.

Mr. [redacted]. [redacted], senior special counsel with Mr. Jordan on the House Judiciary Committee.

Mr. [redacted]. [redacted], House majority, Judiciary.

Mr. [redacted]. [redacted], counsel with Chairman Jordan's office.

Mr. [redacted]. And minority staff.

Ms. [redacted]. [redacted], chief oversight counsel for the House Judiciary Committee, Democratic staff.

Mr. [redacted]. [redacted] with the House Intelligence Committee, Mr. Himes, in the minority.

Ms. [redacted]. [redacted], House Judiciary Committee.

Ms. [redacted]. [redacted] with Ranking Member Nadler.

Mr. [redacted]. We're also joined by one of our members.

Mr. Gaetz. Matt Gaetz, House majority, Judiciary.

Mr. Rasmussen. Good to see you, sir.

Mr. [redacted]. This investigation serves to inform potential legislative reforms within our various jurisdictions.

On behalf of the committees, I want to thank you for appearing here today to answer our questions. The chairman also appreciates, of course, your willingness to appear here voluntarily.

I'd like to go over the ground rules that we will follow during today's interview. Our questioning will proceed in rounds. The majority will ask questions first for up to an hour, and then the minority will have a chance to ask questions for an hour as well. We'll alternate back and forth until we're done, and we certainly will do our very best to make this go as quickly as possible.

Mr. Rasmussen. Thank you.

Mr. [redacted]. We do not want to belabor anything.

Typically, we'll take a short break at the end of each hour, but if you'd like to take a break apart from that, just let us know, we're happy to facilitate that.

As you can see, a court reporter is here, taking down everything we say. Sometimes we'll end up talking over one another. Usually that's our bad. And if that's the case, we might have to back up and restate a question, so forth.

We want you to answer our questions in the most complete and truthful manner possible, so we'll take our time. If you have any questions or don't understand what we're asking, just let us know, we'll try to rephrase.

If you honestly don't know the answer to a question or don't remember, it's, of course, best not to guess. Just tell us what you do remember. Federal Rules of Evidence aren't in play here, so there's no hearsay objections or foundation or any of that

kind of material from the Federal Rules of Evidence. So if you learned something from a third party or you overheard a conversation, you can just tell us how you came to learn something.

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

Mr. Rasmussen. Yes, sir.

Mr. [redacted] And 18 United States Code 1001 deals with those issues. You understand that?

Mr. Rasmussen. Yes.

Mr. [redacted]. We try to keep the information we cover confidential, so to the extent you can help us with that, we would appreciate that.

And to the extent we have exhibits that we mark, even if it's material that you've produced, at the end of the interview, we will actually collect the exhibits.

The exhibits we use do serve as somewhat of a roadmap of the types of things we're interested in. So the fact that we're using it becomes -- you know, we believe it's confidential, and we've got to collect that.

Ms. [redacted], do you have anything you want to --

Ms. [redacted]. No. Just thank you to the witness for taking time out of your schedule to come here today.

Mr. Litt. Can I just briefly note that Mr. Rasmussen is currently an official at the Department of Homeland Security.

Mr. [redacted]. Okay.

Mr. Litt. He didn't join DHS until considerably after the events that are the subject of this interview, and his current position has nothing to do with that. I will ask that you not ask him questions about his current duties.

Mr. [redacted]. Okay.

Mr. Litt. And if you want to cover that, just go through the normal oversight processes with the Department.

Mr. [redacted]. Okay. And then one last thing before I turn it over to my colleague, Mr. [redacted].

We do appreciate the letter that was signed, every person that signed it has, you know, First Amendment freedom, and they're free to engage in politics, and they're free to engage in anything, you know, anything they want under the First Amendment, and we do appreciate that.

The concerns that our members have is that when you attach your former titles to a letter of that type, it gives the perception, rightly or wrongly, that the signers are speaking from, you know, a set of information that is unavailable to the public because of the history and the former duties that you've had. So just wanted to put that on the record right away.

Mr. Rasmussen. Okay.

Mr. [redacted]. We appreciate your First Amendment rights, and we're not trying to say that you're, you know, not free to sign these types of letters or engage in politics for any candidate you want.

Mr. Rasmussen. Okay.

Mr. [redacted]. And with that, I'll turn it over to my colleague.

Mr. [redacted]. Thank you, [redacted].

Mr. [redacted]. It's 10:06.

EXAMINATION

BY MR. [redacted]:

Q Mr. Rasmussen, you have a pretty extensive background in

counterterrorism. If you would, please give the committee a brief background of your professional experience.

A I entered government in 1991 and worked the first decade-plus of my career at the State Department on a range of national security issues, to include North Korea nuclear matters, the Arab-Israeli peace process, political military issues in the Persian Gulf region in the aftermath of the first Gulf war.

The time of the 9/11 attacks, my career took kind of a hard right turn into the counterterrorism space more specifically. I accepted a position to work on President Bush's National Security Council staff in the counterterrorism -- what was then the Office of Transnational Threats, in the days immediately after 9/11, working for President Bush's NSC staff. Then, had a period at the National Counterterrorism Center in its early startup days, and then returned to the National Security Council staff under President Bush towards the end of his second term and finished the President Bush's term on the National Security Council staff and focused on counterterrorism.

I was held over into President Obama's National Security Council staff as the senior director for counterterrorism. Remained in that role for a number of years before transitioning to the National Counterterrorism Center, where I was then the deputy director for a period of time and then nominated by President Obama to be the director of the National Counterterrorism Center in 20,000 -- in 20,000 -- 2014, confirmed by the Senate and held the role from 2014 until the end of 2017, at which point I resigned and retired from government service.

Q Why did you resign from government service?

A It was kind of a completion of a 3-year term. There was nothing specified about a 3-year term, but that seemed to me to be a logical and good break point for service in a role like the director of NCTC.

When the Obama administration transitioned to the Trump administration, the Director of National Intelligence -- the incoming Director of National Intelligence, Senator Dan Coats, with whom I had a good, positive working relationship during his service on SSCI, along with one or two other officials in the new administration, urged me to consider staying, and President Trump's team did ask me to stay for a period of time, and I stayed until, as I said, the end of the -- pretty much the end of that first year and then just resigned and retired.

Q Okay. So are you retired, or do you do anything else now?

A I retired as kind of -- I retired from Federal Government service. I held a couple of positions post-government service, but then in November of last year, returned to government service at the Department of Homeland Security where I serve as the coordinator for counterterrorism for Secretary Mayorkas and the Department.

Q Between the time you resigned from the National Counterterrorism Center and your return from government, what, if anything, were you doing?

A I had --

Q Professionally.

A For the first 2-plus years of that period -- it's covering basically about a 4- to 5-year period outside government service. For the first 2-plus years of that, I was a senior director for counterterrorism programs at the McCain Institute, which is affiliated with Arizona State University, located here in Washington but linked to Arizona State University and Phoenix/Tempe.

I subsequently departed that role in the summer of 2020 and took a role with -- as the first executive director of the GIFCT, the Global Internet Forum to Counter Terrorism, which works with technology companies in the effort to prevent terrorists and violent extremists from using online platforms to engage in their work. And I resigned that

position to return to government service.

Q Why did you return to government service?

A The opportunity to continue to resume serving on a set of issues I care deeply about -- counterterrorism, keeping the American people safe from terrorist attack. There were also at least one or two senior officials at DHS with whom I'd had strong previous working relationships, to include Ken Wainstein, the Under Secretary for Intelligence, who was my boss in President Bush's National Security Council staff. Ken was among those who encouraged me to come back to government service.

Q Okay. Now, you were one of the 51 former intelligence officials who signed the public statement regarding Hunter Biden's laptop and emails, correct?

A That's correct.

Q I'd like now to enter a document dated October 19, 2020, titled, Public Statement on Hunter Biden's Emails.

[Rasmussen Exhibit No. 1.

Was marked for identification.]

BY MR. [redacted]:

Q Mr. Rasmussen, are you familiar with this document?

A Yes, I am.

Q Have you reviewed the document before you came in to testify today?

A Yes, I have.

Q When did you review that document?

A When I was in receipt of the chairman's letter requesting that I cooperate with the committee and then subsequent encounters preparing for this session.

Q How would you describe this document?

A I would describe it as a statement by a collection of former national security

and intelligence officials expressing an opinion at a key moment leading into an election season when a -- expressing an opinion on a matter of emerging public policy at a moment leading into an election season.

Q What do you understand the intent of this public statement to be?

A From my perspective, the intent of the statement was to alert the public to the possibility, potentially even the likelihood, that the emergence of information tied to the Hunter Biden laptop was worthy of further scrutiny, that it might be -- could well be a injection by an outside actor, specifically the Russian Government or Russian actors, into an act of election interference.

And so I saw the letter as an opportunity to alert and to urge further scrutiny so that people take it -- not take at face value that which they may read, but may lead them to look more deeply into it.

Q Now, prior to receiving the draft of the public statement, were you aware of the Hunter Biden laptop email story?

A To the best of my recollection, just broad news -- broad news exposure.

Q Did you have any concerns about that information prior to receiving the public statement draft, to your knowledge?

A I cannot recall.

Q When you received the first draft of this statement, did you review it in full?

A I reviewed it, yes.

Q And what were your thoughts, if you can recall?

A I read it. I felt like it was -- the most important thing from my perspective was to focus on the caveating language, because I knew -- at least based on what I knew, that there was not certainty about the providence of the laptop issue. And so I focused in on the paragraph in particular that stated quite clearly that we did not know if the

emails are genuine or not and that we did not have evidence of Russian Government involvement, just that this confluence of events makes us deeply suspicious.

So I wanted to make sure, in my own mind, that I was comfortable with that caveating language because to me that was the critical language.

Q So you were more concerned with the caveat language than the actual thrust of the public statement itself that this could be a Russian information operation?

A I wouldn't say I was more concerned. It's just that's the part I focused in on, because if I was going to attach my name to it, I wanted to be sure that it accurately reflected what was known and what was unknown.

Q What was known prior to your reviewing this public statement draft?

A I can't recall exactly with precision what was known or unknown.

Q Doesn't have to be precise. Best of your recollection.

Mr. Litt. Do you mean about the statement in particular or about -- sorry -- about the laptop in particular or about what's covered by the statement?

Mr. [redacted]. About the laptop in particular, which is ultimately the thrust of the statement.

Mr. Rasmussen. I was broadly aware that the laptop had been found or unearthed and that it contained information on it that was purported to be reflective of various business activities and personal activities that Hunter Biden may have been involved in. A broad -- broad -- that is my recollection of my state of awareness at the time.

BY MR. [redacted]:

Q That's all we're asking.

A Yeah.

Q And included in that, also the potential business dealings or knowledge of

then Vice President Biden, correct?

A Again, that was not where my mind was focused, but --

Q Did you draft this statement in any way?

A I did not.

Q And when did you first become aware of this statement?

A I became aware of it when Michael Morell emailed me, along with -- I was bcc'd on an email that I don't know went to how many other individuals. That was when I became aware of it.

[Rasmussen Exhibit No. 2.

Was marked for identification.]

BY MR. [redacted]:

Q All right. At this time I'd like to enter a draft of the statement that Mr. Morell and Marc Polymeropoulos sent to the potential signatories to the draft statement as exhibit 2. Just take a look at that, Mr. Rasmussen.

A Uh-huh.

Q Are you familiar with this email?

A Broadly speaking, yes.

Q I want to direct your attention to the first paragraph on the first page. The email is from Mr. Morell, and it says: Marc and I drafted the attached because we believe the Russians were involved in some way in the Hunter Biden email issue and because we think Trump will attack Biden on the issue at this week's debate and we want to give the VP a talking point to use in response.

Do you remember -- do you recall reading that email?

A I recall broadly reading that email, but I kind of skipped right to the document, as I recall.

Q But you recall reading that it was for vice -- in part for Vice President Biden to have talking points?

A Yes.

Q How do you know Mr. Morell?

A Through quite a number of years of shared government service, during his period of time in senior CIA roles, my period of time at the White House and at the National Counterterrorism Center.

Q Are you friendly outside of professional interactions?

A Friendly, slash, courteous but not close friends.

Q Okay. How do you know Mr. Marc Polymeropoulos?

A I have much less of a relationship with Marc Polymeropoulos. I was aware, broadly speaking, of who he was from his professional reputation but did not know him quite -- did not know him personally.

Q Why do you think these men reached out to you?

A I don't know with certainty, but I suspect that Michael would've included me in a group of individuals he had known and worked with over an extended period of time in the national security and intelligence communities.

Q Have you spoke to him since this public statement?

A I've spoken to Michael in a couple of different settings but not about this at any point.

Q Have you spoken to him recently?

A Not -- I don't believe I've spoken to him this year or recently at all.

Q As far as you know, what role did Mr. Morell play in the creation of the public statement?

A Because I received the email from Mr. Morell, I assumed or made an

assumption that he was the principal drafter of the letter.

Q And forgive me if I asked this, did you have any role whatsoever in creating this document?

A No.

Q Did you advance any edits to the document?

A I did not.

Q Did you convey any concerns about the language of the public statement?

A I did not.

Q So you were satisfied with it as written?

A I didn't have any concerns that I -- that I felt necessary to raise. I recall asking -- assuming that it would go through an editing process, I asked to see a final draft so that I would see it on the back end of whatever editing process others engaged in before agreeing officially to affix my name to it.

Q Okay. And did you speak with Mr. Morell or Mr. Polymeropoulos at any time on the phone around the time of the creation of the public statement?

A No, I did not.

Q Okay. Were you aware of Mr. Morell's outreach efforts to other former officials -- intel officials?

A Only broadly speaking in that I knew I was bcc'd on an email that went to a larger number of individuals. And then in my response, one of the things I requested was to know who the signatories were before -- before officially agreeing.

Mr. [redacted]. Yeah, that's the one.

Mr. Gaetz. Why was that important to you?

Mr. Rasmussen. I simply wanted to see if my career, background, and experience fit broadly within the experience and range -- and career experience and

expertise of others who were participating in the -- in the effort.

Mr. Gaetz. And how would you describe that band or group of people who ultimately chose to participate, how would you characterize the group?

Mr. Rasmussen. Individuals with significant national security and intelligence experience, including related to -- that related to matters involving Russia, experience gained over a long period of time across multiple decades.

Mr. Gaetz. Are you a Russia expert?

Mr. Rasmussen. I don't consider myself a Russia expert per se.

Mr. Gaetz. Was it important to you that people who were Russia experts were part of the group?

Mr. Rasmussen. I certainly gave credence to the fact that there were individuals in that group who understood the Russia target, the Russia problem set, from a much closer place of professional association.

Mr. Gaetz. And who were those people?

Mr. Rasmussen. I can't recall, you know, exactly who I was thinking of in that regard. But certainly an official like -- like Michael, who had organized the effort, fit into that category, from my perspective.

Mr. Gaetz. Did John Brennan fit into that category?

Mr. Rasmussen. It did, in my judgment, given his time as director of CIA and career background at CIA, yes.

Mr. Gaetz. And did James Clapper fit that category?

Mr. Rasmussen. Yes. For similar reasons.

Mr. Gaetz. And so is it safe to say if Mr. Clapper, Mr. Brennan, and Mr. Morell had not signed the letter, you would not have seen the Russia expertise that you were looking for when you sought to review the names of the signatories?

Mr. Rasmussen. I don't know that.

Mr. Gaetz. Okay. Is there anyone else you can recall that fit -- you know, because the purpose of our exercise today is to go through all the bases you had to sign this letter. So you've testified now that one of the bases is that with this group of people you felt comfortable that there was sufficient Russia expertise, and so I want to probe that with you and understand it thoroughly and completely.

Mr. Rasmussen. I can't recall specific individuals on whose names I keyed in when going through that list. I did take note of individuals who'd had direct responsibility for Russia-related matters, and their inclusion contributed to my sense of confidence.

Mr. Gaetz. Other than assuring that this group of people contained sufficient Russia expertise since Russia was so central to the letter, was there any other criteria that you were looking for from this group of people before you would agree to join them and sign?

Mr. Rasmussen. Not that I recall specifically.

Mr. Gaetz. So the -- I mean, one of the things we're investigating is, upon receiving this message that is exhibit 2, one group of people immediately said they were gung ho to sign the letter. Another group of people said they would like to see what group they were going to be included in.

You've now testified you're in that second group, but the sole reason you sought that review was subject matter expertise over the contents of the letter.

Mr. Rasmussen. That's what I recall.

Mr. Gaetz. Thank you very much. Appreciate that.

Mr. [redacted]. At this point I'd like to enter into the record an email sent from Michael Morell to Nick Shapiro, dated October 19, 2020, at 6:36 a.m., into the record as

exhibit 3.

[Rasmussen Exhibit No. 3.

Was marked for identification.]

BY MR. [redacted]:

Q Mr. Rasmussen, if you'd take a look at that.

Have you had a chance to review that email?

A Yes.

Q Now, do you know Mr. Shapiro?

A I do.

Q How?

A He and I first met when he was a staff member in President Obama's White House National Security Council staff where I was as well, and then he served under John Brennan when John Brennan was director of CIA. I don't know exactly what role he was in, but I know he was part of Director Brennan's team.

Q Were you aware of his role in the propagation of the public statement?

A I don't think I was at the time. I don't recall that I was at the time. Again, the emails -- the email that I received was specifically from Michael.

Q Directing your attention to this email from Mr. Morell to Mr. Shapiro, he indicates on the second paragraph: I've sent a daft to David Kris, Lisa Monaco but have not yet heard back. They should sign.

And then he says: I'm looking for two things, pairs of senior who served in the same position from different administrations -- Hayden and Panetta, Jeh Johnson and Mike Chertoff, Lisa and Ken Wainstein, Clapper and Coats, et cetera -- and then a slew of former IC and national security who worked Russia. Should have something to give to the media through you tomorrow afternoon.

Sitting here today, what is your view having reviewed this email? I presume it's for the first time.

Mr. Litt. What do you mean by what is his view?

Mr. [redacted]. What is his opinion on this email?

Mr. Litt. Do you have an opinion on this email?

Mr. Rasmussen. I don't have an opinion on this email. I haven't spent any time thinking about it, and I don't really have a reason to have an opinion about it at this point.

BY MR. [redacted]:

Q Well, do you have an opinion -- okay, withdrawn.

Were you aware of these outreach efforts as outlined in Mr. Morell's email to Mr. Shapiro?

A No, I was not.

Q But now you are, right?

A In a general way. Again, this is the first I've seen this email, so I don't know what was intended by way of specific next steps with the letter. I was not involved in any of that conversation at the time.

Q Well, let me ask you this. Just given your vast experience, does Mr. Morell's articulation of what he's looking for make sense to you in the context of the promotion of the public statement?

A I think he was seeking to have a broadly representative group of national security officials join the letter-writing effort. That's how I interpret it. How I interpret it now.

Q Okay. Have you spoken with any of the individuals named in this email since the public statement?

Mr. Litt. About the statement or about anything?

Mr. [redacted]. We'll clarify.

BY MR. [redacted]:

Q About the public statement.

A Only with Mr. Wainstein, because I made him aware when I became the subject of this committee's inquiry. He was a colleague of mine at the Department of Homeland Security and, as I said, had played a role in bringing me back into government service. So I wanted him to be aware of this in case there was media attention to it.

But I haven't spoken about the contact -- content of the letter or the process around which the letter happened. Didn't occur to me to do that with Mr. Wainstein.

Q Did you speak verbally or did you email him or text?

A It would've been all verbal.

Q And when was this?

A I see him on a -- I see him on a daily basis.

I don't have a specific recollection. I just informed him earlier this year when I was in receipt of the committee's request for cooperation.

Q Did you have a role in promoting the public statement upon signing it?

A I did not.

Q Did you do any media or press in connection with the public statement?

A I did not.

Q And I think you testified to this, but let me ask again. Did you have any edits or suggestions as to the language of the public statement?

A I did not. I did not offer Michael any edits.

Q Now, I'll represent to you that we know the statement as published is different from the draft that was originally circulated. In particular, the last two paragraphs -- well, withdrawn.

Let me introduce an exhibit.

Thank you.

At this time I'd like to enter an email sent from Michael Morell to Nick Rasmussen, dated October 19, 2020, at 8:41 a.m., into the record as exhibit 4.

[Rasmussen Exhibit No. 4.

Was marked for identification.]

BY MR. [redacted]:

Q Please review that, Mr. Rasmussen.

A Okay.

Q In particular, I direct your attention to the, I guess the third email on page 1 of exhibit 4. On October 19, 2020, at 8:41 -- we just introduced it -- Mr. Morell says: Nick, attached is the current version letter with the signatories so far. FYI: The last two paras are gone, as some folks thought them too political. Just Russia and intel now. Better.

What do you understand Mr. Morell to be talking about there?

A Only that the letter had been tightened up and narrowed in scope and focus during the editing process.

Q Well, that isn't what he says. He says it was too political, right?

Mr. Litt. You asked him what his understanding was. He gave you his understanding.

BY MR. [redacted]:

Q Well, let me ask it again with the direct focus on him calling it too political. Would you in any way view that beyond just tightening it up?

A I didn't -- I don't recall focusing on that element of it at the time.

Q Directing your attention to exhibit 2, which you should have in front of you --

A Is that the actual letter?

Q Yep.

Mr. Litt. That's the first draft of the letter?

Mr. [redacted]. First draft of the letter.

BY MR. [redacted]:

Q Exhibit 2 has an email, and it has the first draft. It should be the third page.

A Uh-huh.

Q Directing your attention to the last two paragraphs of the first draft of the public statement.

For those who argue that it is important for the truth to come out, even if it comes at the cost of foreign interference, let us share our understanding of what transpired between Vice President Biden and the Ukrainians. It is not what Biden's opponents want Americans to think.

Then they go into very particular details of Vice President Biden's interactions or statements with the Prosecutor General of Ukraine, Viktor Shokin.

Is it your view that those last two paragraphs are, in fact, too political to include in this public statement?

A I don't have a view on that. I didn't at the time.

Q You were content to sign this first draft, correct?

A I was content to associate myself with the letter-writing effort. I asked to see an additional draft, and when the draft came, that is what I focused on in reviewing. After the editing process had been completed -- or after the editing process had taken place with others providing edits.

Q Okay. Do you know --

Mr. Gaetz. Just to be clear for the record, you were not one of the people who

sought the removal of these paragraphs, right?

Mr. Rasmussen. No.

Mr. Gaetz. And the condition that you had seemed to have placed on signing the letter wasn't a condition for edits, right?

Mr. Rasmussen. I -- in responding to Michael, I wanted to preserve my flexibility so that I could review the letter again after the editing process --

Mr. Gaetz. Totally understand.

Mr. Rasmussen. -- and then make a judgment and a decision as to whether I was comfortable joining the letter.

Mr. Gaetz. Right. But before these paragraphs that my colleague just identified to you were removed, the only condition you placed upon your willingness to sign it was to see the final edits and to see the final list of people, but you did not condition your signing it on the removal of those paragraphs.

Mr. Rasmussen. Correct.

Mr. Gaetz. And you had indicated, prior to those paragraphs being removed, a willingness to sign it so long as you preserved the flexibility to review the final edits and the final list of signatories?

Mr. Rasmussen. Yes, because I was aware that often in a letter-writing exercise, particularly a group-writing exercise, there can be considerable insertion and deletion of material before something is ready for final review. So that is what I sought to preserve, was my flexibility to make a decision after I had seen that final product.

Mr. Gaetz. Why did these paragraphs not concern you?

Mr. Rasmussen. I don't recall that I had a concern or lack of concern about them at the time. It was a procedural step in my mind to await the next phase of the letter-writing effort before I would render a judgment as to whether I was comfortable

signing or not.

Mr. Gaetz. I thought you'd rendered a judgment that you were okay to sign so long as you saw the final edits and the signatories?

Mr. Rasmussen. Right. And that caveating language that I sent to Michael, you know, in my mind, preserved my flexibility. If the letter were to look very, very different in a way that I was not comfortable with, I could then say, Michael, no, that's not --

Mr. Gaetz. Yeah. I guess I'm trying to understand why you weren't among those pushing for the removal of these references to Shokin.

Mr. Rasmussen. I have no specific recollection of focusing on those paragraphs.

Mr. Gaetz. So those paragraphs didn't strike -- I apologize for speaking over you. I will endeavor --

Mr. Rasmussen. No, I have no specific recollection of focusing on those paragraphs during my initial reading of Michael's initial draft, and then they were absent in the draft that I subsequently reviewed before agreeing, you know, finally to sign the letter.

Mr. Gaetz. So before you saw the final draft, the draft that included these Ukraine references, that didn't seem out of place to you in this letter about Russia?

Mr. Rasmussen. I think I've answered the question. I did not focus on those two paragraphs as standing out in that regard.

Mr. Gaetz. Thank you.

Mr. [redacted]. Alluding to Congressman Gaetz' inquiry, I want to direct your attention to an email -- we're still on exhibit 4 -- email from you, October 19, 2020, at 8:27 a.m. And it looks a little cut off, but I'll -- given the recipient is Michael and Marc, I'll represent --

Mr. Litt. It's actually -- the top half of the cutoff line is on the prior page.

Mr. [redacted]. Yes, page -- just the first page, yeah, it's the header.

BY MR. [redacted]:

Q So an email from you to Michael and Marc, and it states: I'd be happy to sign, but I'd like to take advantage of your offer to have you share a final list before final approval. As you know, I'm not a Russia expert, per se, so I would just like to see where my name/profile fits in with others who are, in fact, signing it, if that makes sense. I'd appreciate your efforts in taking this on.

Is that an email from you?

A It is.

Q Okay. Now, you state you want to ultimately wait and see who was, in fact, signing on. Why?

A Again, I think I answered this earlier. I wanted to ensure that my experience and the nature of my national security and intelligence experience and professional profile fit reasonably well within the list of other signatories.

Q So let me ask you this. It sounds like what you're saying -- correct me if I'm wrong -- you waited to see if there was a sufficient number of Russia experts who ratified this letter before you signed on?

A I wouldn't put it that specifically. This was a feel thing for me. I wanted to see if individuals with whom I had a comfort level with their expertise, their professionalism, their career experience, were also present in this exercise. And before rendering a final judgment to Michael, I wanted to see if I fit within that grouping.

Q Well, were you comfortable with Michael Morell's experience in this regard?

A Yes, I was.

Q Were you comfortable with Marc Polymeropoulos' experience in this regard?

A Less -- less comprehensively because I knew Marc by reputation, not personally.

Q So I'm going to assume that it was just Mike and Marc, Mr. Morell, Mr. Polymeropoulos, signing this letter. Would you have signed on?

A I don't know.

Q Do you -- are you familiar with the other 50 signatories to this letter?

A Not every single one. Certainly a number of them fall into the category of people with whom I had worked or been associated with during the course of my career.

Q But at some point, did you look at all their names?

A Yes. When Michael shared the list.

Q Were there people, as far as you know, who were not Russia experts who signed on to that letter as well?

A There were people who had specific Russia expertise as reflected in their title or responsibilities. There were other individuals who had broad national security and intelligence experience.

Q Is Russ Travers a Russia expert, as far as you know?

A I don't know the full extent of Mr. Travers' expertise and experience.

Q Would you agree that the American people reading this letter, they would assume that everyone who signed is an expert on the content of what's being put forward in the public statement?

A Ask the question again. I'm sorry. I want to be careful in answering your question.

Mr. [redacted] Can I have it read back?

Mr. [redacted]. Can we go off the record here for a second?

Mr. Rasmussen. Yeah.

Mr. [redacted]. Yeah.

[Discussion off the record.]

Mr. [redacted]. Back on the record.

Mr. [redacted]. Back on the record.

No, no, you're fine. Let me ask -- I know the gist of the question.

BY MR. [redacted]:

Q Would you agree that if the American people are reading this letter, they would assume all the people who signed it were Russia experts or had an expertise that validates the thrust of this letter?

A I would assume that anyone reading the letter would look at the list and assume that the signatories had relevant expertise of one form or another.

Q Sufficient to make a judgment about whether or not Hunter Biden's laptop and emails were potentially Russian disinformation?

A Sufficient to offer a recommendation or a plea or -- that scrutiny be attached to this and that there were reasons to -- to be skeptical of the providence of the email.

And again, as I pointed out in other -- in response to other questions, I directed my focus principally to the caveating language for that purpose, where we were clear about what was known and not known at that stage.

Q We'll come back to the caveating.

Are you aware that the Hunter Biden laptop and emails have since been authenticated?

A I'm broadly familiar with public reporting on, you know, the Biden laptop issue.

Q In light of that public reporting, do you still believe that the Russians were somehow involved in disseminating the emails from the laptop?

A I don't know with certainty.

Q Well, given your familiarity with the authentication, do you believe the statement that you and others signed should be retracted?

A I don't have a view on whether it should be retracted or not.

Q Do you have any regrets about signing that statement?

A I don't have regrets about signing the statement, given what was known at the time. I regret that the statement has been drawn into a political controversy and regret that that is so.

Mr. Gaetz. Well, wasn't the whole purpose of the statement political, based on that email that you were bcc'd on?

Mr. Rasmussen. Again, that was part of Michael Morell's stated purpose in preparing the letter.

Mr. Gaetz. Well, you've testified to us that you signed the letter because you believed that Mr. Morell was this enlightened Russia expert. He sent you a letter saying that they were doing this to be used in a political debate, and now you're testifying to us that you regret that it was political?

Mr. Rasmussen. My primary purpose in signing the letter was to bring to the public's attention the possibility that this was an act of Russian interference and to urge that this information be viewed critically.

Mr. Gaetz. Okay. Did you have any other purpose than that which you just expressed?

Mr. Rasmussen. I don't recall having any other purpose other than that.

Mr. Gaetz. Okay. And now I want you to list the things that provided your basis for the belief that this may have been Russian interference.

Mr. Rasmussen. I reached that conclusion in my own mind drawing on three

kind of specific, contextual, you know, pieces of information. One is just the long experience that I'd had in the -- as a consumer in the intelligence community, reading intelligence community analysis of Russian activity aimed at influencing politics in adversary nations, to include the United States.

Also kind of front and center in my mind at this particular period was the recently issued report by the Senate Select Committee on Intelligence, the bipartisan report that had just been issued, I think, in mid, late August of that period, which had concluded, on a bipartisan basis, that there had been Russian efforts to engage in election meddling in the previous election, 2016.

And then I also recall at the time, you know, statements from our intelligence community serving at the time, Bill Evanina, our -- at that time who was the head of the counterintelligence organization in the Office of the Director of National Intelligence -- NCSC, I believe, is the acronym -- who, I can't remember the exact form of words, but came forward with a fairly clear and unequivocal statement that the intelligence community judged the Russians continued to try to engage in meddling.

So that was the backdrop to which -- or the lens through which I looked at the information that was emerging about this and caused me to reach a judgment that this was worthy of scrutiny and deserved to be scrutinized.

Mr. Gaetz. Thank you for laying out those three bases. I want to ask about them individually now.

The Bill Evanina statement, that didn't mention the Hunter Biden at all, did it?

Mr. Rasmussen. I don't recall that it did.

Mr. Gaetz. No. And is there anything about that statement that mentioned anyone in the Biden family at all?

Mr. Rasmussen. I don't recall that it did, no.

Mr. Gaetz. So why did the Evanina statement serve as a basis for your signing this letter?

Mr. Rasmussen. Again, it, in my mind, provided -- it showed to me that our intelligence community still held the view -- held the view that the Russians, in some form or fashion, were continuing to try to engage in election interference in the United States.

Mr. Gaetz. But --

Mr. Rasmussen. That's how I read what he said or interpreted what he said, and, again, that conditioned how I thought about this issue.

Mr. Gaetz. And similarly, the Senate Select Committee report didn't mention anything about the use of --

Mr. Rasmussen. It did not. It did not.

Mr. Gaetz. -- of Hunter Biden's laptop?

Mr. Rasmussen. It did not.

Mr. Litt. You should let him finish the question before you answer.

Mr. Rasmussen. I apologize.

Mr. Gaetz. It's okay. I made the mistake earlier.

Mr. Litt. You're even now.

Mr. Gaetz. And in your long experience as a consumer of intelligence information, did you ever encounter any intelligence regarding the Bidens?

Mr. Litt. You don't have to answer about anything that you learned in a classified context. Not that there necessarily is, but I just want to caution you.

Mr. Rasmussen. Right.

Not that I recall. I have no specific recollection.

Mr. Gaetz. So you never came across anything that you can talk about in this setting where Hunter Biden's foreign activities were scrutinized?

Mr. Rasmussen. Not that I recall, no.

Mr. Gaetz. When you say not that you recall, is it --

Mr. Rasmussen. Again, I'm giving you an honest answer.

Mr. Gaetz. Okay.

Mr. Rasmussen. I have no recollection that I've ever read such a piece of material, ever been exposed to such a piece of material.

Mr. Gaetz. And if -- have you -- are you aware of any materials from the Hunter Biden laptop that have made their way into the public square?

Mr. Rasmussen. Only in the broadest sense, not specifically.

Mr. Gaetz. So have you ever been aware of an entity called SinoHawk?

Mr. Rasmussen. I have no knowledge of -- no -- that name doesn't register with me.

Mr. Gaetz. And are you aware of information from Hunter Biden's laptop becoming public that talked about Hunter Biden engaging in business in Russia?

Mr. Rasmussen. Again, I can remember being broadly familiar with press reporting about this but not with any specificity.

Mr. Gaetz. I mean, if I represent to you that the committee is aware that Hunter Biden was engaged in business deals with Russians, with Ukrainians, does that provide important context for this public statement you signed?

Mr. Rasmussen. At the time I did not have information of that sort available to me.

Mr. Gaetz. If you were aware that Hunter Biden was engaged in business deals with Ukrainians, would you have signed this letter?

Mr. Rasmussen. I don't know because it's a hypothetical, and I don't know what contextual information -- what additional context that information would've provided. I

don't know.

Mr. Gaetz. So same question as to Russia. If you knew that Hunter Biden was involved in business in Russia, would that have given you pause before signing this letter?

Mr. Rasmussen. I don't know. Same answer, because I don't know what the nature of that information might've been.

Mr. Gaetz. You would certainly agree that if Hunter Biden is engaged in influence peddling, whether it's legal or illegal, that would inform on the context of the statement, don't you?

Mr. Rasmussen. I didn't have information to that effect available to me at that time, whether it's accurate or inaccurate. So I can't say as to how that would've informed my decision about signing the letter.

Mr. Gaetz. And Mr. [redacted] was right in his preamble, we don't seek to belabor this point, but that really is the essence of why we're asking you these questions, because we're trying to ascertain what laws may need to be changed so that security clearances aren't deployed politically in order to shape how a Presidential debate occurs.

I mean, as you look -- I believe that you are being honest when you say you did not have access to all the information when you signed this statement that you do as you sit here and respond to questions from me. But do you think that Mr. Morell might've known about the Bidens' foreign activities?

Mr. Rasmussen. I don't know what Mr. Morell would know or not know.

Mr. Gaetz. Well, you testified earlier that you based your signature on this statement on your reliance on the experience and credibility of people like Mr. Morell, Mr. Brennan, and Mr. Clapper. So I'm trying to understand what about that experience you really relied upon to know that this was on the up and up.

Mr. Rasmussen. I stated that because I believe it. I believe them to be credible

interlocutors who have longer and deeper experience with Russia matters than my own.

Mr. Gaetz. And you put that in writing, that you were not a Russia expert and so you wanted to see who was there. And so the question is, like, were you used, were you used as a person with very extensive credentials to make a political point?

Mr. Rasmussen. I don't feel that way.

Mr. Gaetz. Why not?

Mr. Rasmussen. I don't feel that way because, as I've said on a couple of occasions this morning, the focus I had in participating in the letter was to ensure that the information that was emerging be viewed critically, skeptically, and with a close, careful eye as to its providence.

Mr. Gaetz. Well, do you think --

Mr. Litt. Can he finish?

Mr. Gaetz. I'm sorry.

Mr. Rasmussen. I'm finished.

Mr. Gaetz. Do you think that the substance of the laptop's contents should similarly be reviewed critically with concern for our country?

Mr. Rasmussen. I believe that any information that bears on our national security should be reviewed and looked at critically.

Mr. Gaetz. Do you believe your participation in this letter harmed the country's ability to assess the information that emerged off this laptop?

Mr. Rasmussen. I don't have any reason to believe that.

Mr. Gaetz. Well, are you aware that this letter was one of the things that tech companies used to suppress their publication?

Mr. Litt. If you're aware of that as a fact, which I don't believe is the case.

Mr. Rasmussen. I'm aware of allegations to that effect, broadly speaking, and I

have no specific knowledge about the way tech companies did or did not.

Mr. Gaetz. Do you have knowledge -- are you aware that media companies used the statement you signed to shape their coverage of the contents of the laptop?

Mr. Rasmussen. Again, I don't have any specific knowledge about decisions made by specific media companies about how that managed a report on this issue.

Mr. Gaetz. If this statement you signed was used by media companies and tech companies to suppress the contents of this laptop, would that concern you?

Mr. Rasmussen. I don't share your factual predicate, so I can't say if that would concern me or not if I don't have the information that grants your premise.

Mr. Gaetz. Well, now that you are aware of the information that is in the public square regarding the contents of the laptop, what efforts have you undertaken to mitigate the perception -- the false perception that this letter gave?

Mr. Rasmussen. I've not been involved in any efforts in the aftermath of this letter that would bear on that question.

Mr. Gaetz. And you feel no obligation to mitigate the effect of this letter?

Mr. Gaetz. In my view, the media has done significant exploration of this set of issues, and I don't know that I could've added significantly to that with anything that I might contribute to that.

Mr. Gaetz. Are you a disinformation expert?

Mr. Rasmussen. I would not describe myself that way, no.

Mr. Gaetz. Have you done any intelligence work in the disinformation space?

Mr. Rasmussen. Other than being broadly exposed to disinformation -- analysis related to the disinformation efforts of our adversaries, no.

Mr. Gaetz. And when you sought review of the other signatories of this letter before participating in it, was it important to you to assess whether any of them were

disinformation specialists?

Mr. Rasmussen. I don't recall that being part of my thought process at the time.

Mr. Gaetz. Do you believe the laptop was Russian disinformation as you sit here today?

Mr. Rasmussen. I don't fully know.

Mr. [redacted]. Let me ask one.

Mr. [redacted]. Okay.

BY MR. [redacted]:

Q It was fairly well known well before the laptop news came out that Hunter Biden had some business dealings in Ukraine, in China, with Russia. Isn't that correct?

A I believe so.

Q I mean, do you remember the --

A Again, I remember the broad public reporting in newspaper -- or media outlets about that.

Q That he was getting paid a whole lot of money by this Ukrainian consortium of companies, Burisma?

A I recall they were reporting about that, yes.

Q And so when the contents of the laptop came out and started revealing a little bit more about that, did you think that possibly the laptop was authentic, the contents of the laptop?

A Again, as was stated in the draft of the letter, the accuracy or inaccuracy of the contents of the laptop was part of the equation, but in my mind, equally important was the context of injecting information about this at a timely moment in the electoral process.

An information operation, for example, can use -- can use accurate information, but if placed and revealed in such a way as to create, you know, harm or political effect, it can do that. So, again, I had the broad awareness of the Burisma set of issues but not of the laptop's contents.

Q But if somebody's running for President and one of their family members is trading on their name for big money -- big money -- with, you know, at least three of our countries that a lot of national security professionals would describe as adversaries --

Mr. Litt. Are you including Ukraine as an adversary?

BY MR. [redacted]:

Q Well, China, Russia certainly. But there are some elements of the Ukrainian -- you know, there's Russia-aligned elements in Ukraine. And so those Russia-aligned elements in the Ukrainian Government certainly could be described as adversarial.

Don't you think that information is really important for the American people to have in the runup to an election?

A I agree information is relevant for the American people to have. My focus in reviewing the contents of the letter was on the caveating information -- or the caveating statements --

Q Right.

A -- making clear that we did not have all the facts and just urging that careful scrutiny and attention be paid to this with an eye towards the possibility that it may involve Russian interference. That was kind of my core conclusion.

Q The nuance, though, that you offer has a hard time, don't you agree, being, you know, fully understood? Like the Politico article, for example, the headline included disinformation, it's a Russian disinformation operation. The way it was described in the

debate was not nuanced.

A I can't account for how others portray or frame --

Q But wasn't it reasonably foreseeable that this type of letter would get portrayed and not in a nuanced way in today's political environment?

A I don't know what was foreseeable or not foreseeable in that environment.

Q So when Mr. Morell mentioned that it was going to be used for the debate, did it you an indication that this is a political -- just a political operation that you're participating in?

A I certainly understood that there was a political dimension to the letter-writing effort. But, again, as I've stated a number of times, my particular area of focus was on trying to ensure that the information be lifted up, scrutinized, and evaluated critically for the reasons I've described a couple of different occasions.

Q Okay. And I think Mr. Morell has testified, and Mr. Gaetz or my colleagues can correct me if I'm wrong, but he wanted Joe Biden to win, and he thought this was a good tool to use to help Joe Biden, you know, win the election.

If you knew that was Mr. Morell's, you know, main thrust here, would you have signed the letter?

[11:00 a.m.]

Mr. Rasmussen. I certainly understood that Michael was a supporter of President Biden. I don't know how I would characterize -- I don't know how I would answer your question. It's a hypothetical. I don't know.

BY MR. [redacted]:

Q Okay.

Building on this point that my colleagues have drilled down on, you focused on the caveat. Nevertheless, the email soliciting your signature said "want to give VP a talking point for use in response."

You understood this document would ultimately help the Biden campaign, correct?

A I understood that ultimately, if this effort resulted in scrutiny being applied and that premature conclusions not be reached about the provenance of the laptop, that that would be a worthwhile objective.

Q Let's look at the converse. You are testifying as to: People should be aware, be critical of what they're seeing. But the way in which the public statement was weaponized as in Politico, for instance, saying Russian disinformation, the exact opposite happened, right? It was written off as Russian disinformation, nothing to see there, correct?

A I don't necessarily agree with that characterization, but -- I don't know what you're -- I'm sorry, what are you asking me? You're asking me to agree with that characterization?

Q I'm saying the result of the public statement and how it was promulgated to the American people is in opposite to what you're saying your intent was, that the American people should be aware and scrutinize everything that they're seeing.

A I think there certainly continued to be continued scrutiny on the Hunter Biden laptop issue. So I don't think it removed it from public debate or scrutiny.

Q Well, there was plenty of reporting at the time that there's no "there" there. The intelligence community people said: It's Russian disinformation, there's nothing to see here.

Mr. Litt. Is that a question?

Mr. [redacted]. It is.

Mr. Litt. What's the question?

Mr. [redacted]. Let's put a question mark on it.

Mr. Litt. Well --

BY MR. [redacted]:

Q In response to what I just said, how do you account for that?

A I can't account for how investigative journalists or other journalists characterize the information that they have available to them.

Q But as someone focused on the caveats, you must have been in some ways disheartened at the fact that none of those caveats were really being put into the public square.

A I don't recall having a view -- I don't recall actually even tracking carefully the reporting on this in the immediate aftermath.

Q One moment, please.

Were you aware that Tony Blinken was employed by the Biden campaign at the time the public statement was released?

A I knew he was associated with the campaign. I don't know about employment. I just have no specific knowledge.

Q At this time, I'd like to enter a statement from Michael Morell, provided to

the committees by his counsel, dated March 28, 2023, into the record as exhibit 5.

[Rasmussen Exhibit No. 5.

Was marked for identification.]

BY MR. [redacted]:

Q Now, this is a lengthy document, Mr. Rasmussen, so I'm just going to direct your attention to the relevant passage. The "Statement on behalf of Michael Morell" is about two pages after the first statement from counsel.

A Uh-huh.

Q Do you see that?

A I do.

Q I'd direct your attention to the fourth paragraph of the first page of Mr. Morell's statement.

A Yep.

Q "Sometime on or about October 17, 2020, Mr. Morell received a phone call from Antony Blinken -- a friend and former colleague -- inquiring as to whether Mr. Morell believed Russia might have been involved in the Hunter Biden email story in some way."

Were you aware of that at the time that you signed the public statement?

A I was not.

You're asking if I was aware that a phone call had taken place?

Q Yes.

A I was not aware.

Q Were you aware that Mr. Morell was communicating with Mr. Blinken in connection with the public statement?

A I have no knowledge of that.

Q At this time, I'd like to enter into the record an email from Antony Blinken to Mr. Morell that contained a USA Today article titled "A tabloid got a trove of data on Hunter Biden from Rudy Giuliani. Now, the FBI is probing a possible disinformation campaign," dated October 17, 2020, 10:53 p.m., as exhibit 6.

[Rasmussen Exhibit No. 6.

Was marked for identification.]

BY MR. [redacted]:

Q For your review, Mr. Rasmussen.

So this is the first page of the email, if you will, and then the final page.

If you look at page 2 of this exhibit, it says, "Andrew Bates, Director of Rapid Response." Do you know who Andrew Bates is?

A I do not.

Q He was the director of rapid response for the Biden campaign.

And Mr. Blinken forwarded that email to Mr. Morell, which, as Mr. Morell testified, ultimately was the impetus for the entire public statement.

Were you aware of these facts?

A No, I was not.

Q Is this the first time you're seeing these documents?

A That's correct.

Q Is this the first time you're learning that Mr. Blinken and Mr. Morell were coordinating to release this public statement?

A Yes, it is.

Mr. Gaetz. Does that surprise you?

Mr. Rasmussen. I don't really have a reaction to that. I would say I would've expected Tony and Michael to have been in contact with each other through this electoral

period, but, beyond that, I don't know what the nature of their contacts would contain.

Mr. Gaetz. What we're trying to understand is, you were using the imprimatur of your security clearance to --

Mr. Litt. I'm sorry. Can you point to where he's using the imprimatur of his security clearance?

Mr. Gaetz. Sure.

Mr. Litt. This is a statement that's repeatedly made, and I don't believe there's any basis for it.

Mr. Gaetz. Do you have a security clearance?

Mr. Rasmussen. I currently hold a security clearance.

Mr. Gaetz. Did you hold a security clearance at the time of when you signed the letter?

Mr. Rasmussen. I did.

Mr. Gaetz. And when you signed the letter, under your name, it was the former position you held, right?

Mr. Rasmussen. Correct.

Mr. Gaetz. And every person who's held that position has had a security clearance, haven't they?

Mr. Rasmussen. That is correct.

Mr. Gaetz. Thank you.

Mr. Litt. Do you eat potatoes for breakfast occasionally?

Mr. Rasmussen. Yes.

Mr. Litt. Okay.

Mr. Gaetz. I wouldn't. They're carby.

Mr. Rasmussen. Yeah. "More than I should" I guess I should've answered.

Mr. Gaetz. Yeah.

So what we're trying to understand is, as you were using the imprimatur of your security clearance to get this letter into the public space, to what extent were you aware of -- or, to what extent would involvement between the organizer of this letter and a Presidential campaign have precluded or invited your involvement?

Mr. Litt. You don't need to accept his characterizations in the first part of the statement if you don't.

Mr. Rasmussen. I don't know how I would've reacted or evaluated the letter effort had I known now that there was engagement between Mr. Morell and the campaign.

Mr. Gaetz. But as you sit here today, the knowledge of this letter would not have been a red flag that would've driven you off this letter?

Mr. Rasmussen. I just said I don't know how it would've affected my decision-making at that time.

Mr. Gaetz. Time's up, so --

Ms. [redacted]. We'll go off the record.

[Recess.]

Ms. [redacted]. It is 11:16. We can go back on the record. Thank you.

Mr. Rasmussen, good morning again.

Mr. Rasmussen. Good morning.

Ms. [redacted]. And thank you again for coming in and taking time out of your busy schedule today.

EXAMINATION

BY MS. [redacted]:

Q In the first hour, there was some suggestion about the role your security

clearance may have played in your decision to draft the letter.

I know you said you had a security clearance at the time that the letter was drafted, but did you review any classified information in deciding whether to sign the letter?

A I did not.

Q Did you review any non-public information at all?

A I did not.

Q Okay.

And, in fact, I want to turn to the letter itself, which is exhibit No. 1.

A Uh-huh.

Q This says over and over again, right, that there was no access to non-public information. It says, "We want to emphasize that we do not know if the emails...are genuine or not," in the -- one, two, three, four -- fifth paragraph, right?

A Uh-huh. Yes.

Q And it says on page -- I'm sorry. Two paragraphs down, it says, "There are a number of factors that make us suspicious of Russian involvement." It doesn't say that we have evidence of Russian involvement, correct?

A Correct.

Q On the following page, it says in the third paragraph, "Our view that the Russians are involved...." It says "our view," suggesting an opinion, correct?

A Correct.

Q The following paragraph says, "... media reports say...", right?

A Correct.

Q And that's a reference to media reports that are in the public eye, correct?

A Correct.

Q And then in the final paragraph, it says, "We do not know whether these press reports are accurate...", correct?

A Correct.

Q And, presumably, if there had been access to classified information one way or another or non-public information that could've shed light on this, that statement would have been accurate, right?

A That's right.

Q And so the statement, from your perspective, was accurate and you did not know.

A That is correct.

Q Okay.

In the earlier hour, we talked through disinformation versus information or an influence campaign. And I know you said that you're not an expert in disinformation, but would you say that you're familiar with disinformation as opposed to an influence or an information-based campaign?

A I'm aware of the distinction.

Q Okay. And what's your understanding of that distinction?

A To my understanding, in a very basic sense, disinformation is the use of inaccurate or erroneous information, the deployment of which is designed to achieve political effect and to harm an adversary.

Influence or information operations is similarly intended, in that it's the deployment of information to achieve political effect on an adversary, but it can involve information of all kinds -- erroneous information, inaccurate information, or even truthful, accurate information.

Q And the Russian Government, to your knowledge, has, in fact, used both

methods to interfere in elections both here at home and around the world, correct?

A That's my understanding.

Q Okay.

In the case of an information operation, would you agree that Russia tries to hide its hand entirely or hide behind plausible deniability?

A Yes.

Q Do you have any examples of that?

A I don't have any specific examples in my mind that I can think of, but I can remember reading accounts of Russian activity aimed at affecting political developments in nations in their near abroad -- the Baltic states, states of Eastern Europe -- in which the Russian hand was hidden, though ultimately Russian fingerprints were ultimately found to have existed.

Q Are you familiar with a court case which is called -- captioned "United States v. Internet Research Agency et al."?

A Not based on that identifying information.

Q So the court case, it's the United States against Yevgeny Prigozhin, who was the founder of the Wagner Group, regarding his recruitment of Russian troll factories --

A Yes.

Q -- and others to attack the election in 2016.

Are you familiar with it now?

A Broadly familiar with the Justice Department attempt to prosecute.

Q Okay. I'm going to introduce the indictment from that case into the record.

A Okay.

Q That will be exhibit No. 7.

[Rasmussen Exhibit No. 7.

Was marked for identification.]

BY MS. [redacted]:

Q And I'll give you a minute to look it over. We're going to look at paragraph 4 in here.

A Okay. Paragraph 4 on page 3?

Q Correct, paragraph 4 on page 3. And let me know when you've had a minute to review.

A I've had the opportunity to review.

Q Okay.

So paragraph 4 on page 3 of this indictment says that the Russian defendants in this case posed as U.S. persons and created false U.S. personas, operated social media pages and groups designed to attract U.S. audiences.

"These groups and pages, which addressed divisive U.S. political and social issues, falsely claimed to be controlled by U.S. activists when, in fact, they were controlled by Defendants. Defendants also used the stolen identities of real U.S. persons to post on ORGANIZATION-controlled social media accounts. Over time, these social media accounts became Defendants' means to reach significant numbers of Americans for purposes of interfering with the U.S. political system, including the presidential election of 2016."

Did I read that correctly?

A Yes, you did.

Q So this is an example of Russians using true information to interfere in the 2016 election, correct?

A That's correct. That's my understanding.

Q And just based on your experience in this world broadly, is this type of

activity consistent with how and why Russia works to amplify information online?

A Yes, this, in my experience, is characteristic of Russian information operations.

Q Okay.

Again, based on your long experience in intelligence and national security, do you believe that Russian information, as opposed to disinformation, operations pose a threat to American democracy?

A Yes, I do.

Q Would you agree that making sure that Americans know about Russian efforts to interfere in our elections can play an important role in countering that interference?

A Yes, I believe that.

Q And why is that?

A I think that's important because if one of our principal nation-state adversaries is seeking to affect outcomes, political outcomes or social outcomes, inside the United States at a time of significant political divisiveness in our country, the American people should be aware of that so that they can factor that prospect into how they evaluate the information they consume.

Q So, in other words, by putting more information out to the American public, it helps them make better decisions. Is that a fair way to say it?

A Yes, it is.

Q Okay.

There are some people who say that it doesn't matter where information, whether it's true or false, comes from. So, for example, in October 2020, when Rudy Giuliani was told that information on the laptop might in some way be linked to Russian

intelligence hacking, Giuliani replied, "It wouldn't matter. What's the difference?"

Backing up a step, what's your understanding of who Rudy Giuliani is?

A He was -- I understand him to be the former Mayor of New York City, a prominent public figure, who's been associated with various legal efforts to support former President Trump.

Q Okay. Do you agree with the view that he expressed, that "it wouldn't matter, what's the difference" if the information came from Russia?

A I do not agree with that statement.

Q And why do you say that?

A I say that because, again, I think the idea that one of our principal nation-state adversaries could, at the time of their choosing, inject into our political processes information that would have the impact of affecting or impacting those political processes and outcomes is something that every American should be uncomfortable with and look to avoid.

Q Okay.

Do you agree that Russia interfered in the 2016 election?

A That is my belief based on the material -- or, the information that's been provided to me or that I made access to.

Q Okay.

You said just a minute or two ago that it is helpful in the case of Russian information operations, for example, for the American public to have more information so they can make a better assessment, correct?

A That is correct.

Q In your opinion, before the 2016 election, did the United States Government do a sufficient job of warning the American people about Russian election interference?

A I don't know if I could make a judgment on whether we did enough -- the government did enough in this regard, because I was not privy to the discussions over what information to share or not share.

Q But you agree that, ultimately, Russian interference impacted the American election in 2016?

A I believe that it did.

Q Okay.

In the first hour, you mentioned the three bases that you relied on in deciding, you know, whether to sign the letter, whether there was sufficient evidence of Russian involvement to justify signing it. I want to talk through those bases in a little more detail.

A Sure.

Q And I actually want to -- I'm going to do that by going through the letter, kind of, paragraph by paragraph.

A Okay.

Q So, turning back to exhibit 1. And I'm going to talk through these paragraphs and ask you, you know, if you agree that the information is accurate as contained in the letter.

A Uh-huh.

Q So the very first sentence of the second paragraph of the letter says, "We are also all individuals who see Russia as one of our nation's primary adversaries."

Was that an accurate statement at the time the letter was written?

A I believe so.

Q And do you think it's an accurate statement still today?

A Yes.

Q Do you think there's widespread agreement among United States national security and intelligence experts that Russia was and is still an adversary of the United States?

A I believe there's a consensus in that regard.

Q Okay.

The final sentence of the letter says, "It is high time that Russia stops interfering in our democracy."

And is it fair to say that, from your perspective, the letter's primary focus or purpose was on stopping Russian interference in our elections?

A Yes. Yes.

Q Okay.

I'm sorry to be jumping around, but back on the first page, the last paragraph of the first page, so it's the eighth paragraph of the letter overall, it says, "Such an operation," meaning a Russia cyber hacking operation, "would be consistent with Russian objectives, as outlined publicly and recently by the Intelligence Community, to create political chaos in the United States and to deepen political divisions here but also to undermine the candidacy of former Vice President Biden and thereby help the candidacy of President Trump."

Did I read that correctly?

A Yes, you did.

Q You referenced earlier the statement from Bill Evanina.

A Yes.

Q Is that statement what this is a reference to?

A I believe so. I can't remember with specificity what was in Bill's statement. I just remember the public reporting of it that made -- in which he rendered the judgment

that there was an ongoing effort to meddle or interfere in the ongoing election.

Q And I want to go ahead and introduce Mr. Evanina's statement as exhibit No. 8 now.

A Okay.

[Rasmussen Exhibit No. 8.

Was marked for identification.]

BY MS. [redacted]:

Q And I'll give you a minute to review this.

A Okay.

Okay.

Q What's your understanding of who Bill Evanina is or was?

A At the time, I believe he was the senior intelligence community official responsible for issues related to counterintelligence and headed up the NCSC, as I understand it.

Q What's the NCSC? Or, is it correct that the NCSC stands for the National Counterintelligence and Security Center?

A And Security Center, right.

Q And do you consider -- in that role, would Mr. Evanina have had view into the type of intelligence that would permit him to put out a statement of this sort?

A I believe he definitely would've had that access.

Q Okay. Do you believe that -- do you find this statement from him credible?

A I do.

Q Okay.

I want to look at the paragraph that says "RUSSIA." It's on the -- this is printed out from online, but on the printout it's the second page, partway down.

It says, "We assess that Russia is using a range of measures to primarily denigrate former Vice President Biden and what it sees as an anti-Russia 'establishment.' This is consistent with Moscow's public criticism of him when he was Vice President for his role in the Obama Administration's policies on Ukraine and its support for the anti-Putin opposition inside Russia."

Just that first half of that paragraph, that tends to pretty much directly support the statement in the eighth paragraph of the October 19th letter, correct?

A Correct.

Q The letter says that Russia is potentially interfering to create political chaos in the United States to support President Trump and denigrate Biden, correct?

A That is correct.

Q And Evanina's statement says basically exactly that, correct?

A It does.

Q Okay.

Moving on, the ninth paragraph of the October 19th letter -- it's on the top of the next page -- says, "Such an operation," again referring to a Russian information operation, "would be consistent with some of the key methods Russia has used in its now multi-year operation to interfere in our democracy -- the hacking (via cyber operations) and the dumping of accurate information or the distribution of inaccurate or misinformation. Russia did both of these during the 2016 presidential election -- judgments shared by the US Intelligence Community, the investigation into Russian activities by Special Counsel Robert Mueller, and the entirety (all Republicans and Democrats) on the current Senate Intelligence Committee."

Did I read that correctly?

A You did.

Q In the first hour, you referred to the Senate Intelligence Committee assessment as being one of the bases on which you made your judgment to join the letter. What do you recall about that report?

A I recall that the report reached a clear and unequivocal conclusion that there had been Russian activity aimed at impacting the 2016 election.

And I tended to credit that particular report because I had a tremendous amount of personal experience with and direct connection to the members of the Senate Select Committee on Intelligence during my period of government service and their highly professional staff. And so the emergence of a bipartisan report that all members -- as I recall, all members participated in the findings -- was a compelling consensus statement about something, and so I tended to credit it as being highly reliable.

Q And the fact that the Senate Intelligence Committee had reached the conclusion that Russia had interfered using these methods in 2016, why was that important for your assessment of the events of 2020?

A I thought it was important because there was no reason to expect that our Russian adversaries would not continue to use these tactics and techniques in future elections, including the one we were involved with in 2020. Nothing had occurred since 2016 to deter the Russians from engaging in that behavior, and so it was my belief that the Russians were continuing to engage in such behavior.

Q And I think in the first hour you were -- the comment was made, but the Senate intelligence report does not mention the Bidens. And putting aside whether that's accurate -- I think the Senate report is 900-and-some pages long, so I don't want you to commit to anything without reviewing it in its entirety -- the real takeaway from that report for you was that the Russians had interfered before and that they would try to do it again.

Is that fair to say?

A It's fair to say my recollection is that it pointed -- that it was -- that they had interfered before. I cannot remember in my reading of the summary conclusions of the report if it pointed to the 2020 election with specificity.

Q Understood. But your understanding, based on your experience, is that this is evidence that Russians had done this in 2016 and --

A Yes. I just want to be precise about what the report said --

Q Understood.

A -- versus my -- the conclusion I drew from the report's conclusions.

Q Understood. And your conclusion was that the Russians would potentially try to do this again?

A Correct.

Q Okay.

The tenth paragraph, which begins -- it's the second paragraph. It continues, "The Russians, according to media reports and cybersecurity experts, targeted Burisma late last year for cyber collection and gained access to its emails."

Do you know if that's an accurate sentence?

A I don't have any specific recollection -- or, I don't have specific information that would tell me whether it was accurate or -- because it's citing media reports, I'm not sure.

Q So I want to introduce as exhibit 9 one of those media reports.

A Uh-huh.

Q This is a January 13, 2020, New York Times article entitled "Russians hacked Ukrainian gas company at the center of impeachment."

[Rasmussen Exhibit No. 9.

Was marked for identification.]

BY MS. [redacted]

Q And I should say, this article was published on January 13, 2020, but it was then updated on October 19, 2020. I just want to be clear for the record.

And let me know when you've had a minute to look it over.

A Okay.

Q So, having reviewed this, do you agree that this article says that the GRU, which is the Russian intelligence directorate, used phishing emails to target Burisma and gain access to their computer systems?

A Yes.

Q Okay. So this is a media report that directly supports that statement in the letter, correct?

A Correct.

Q Okay. So this letter is accurate with respect to that?

A Correct.

Q Okay.

The next sentence in that paragraph references Andrii Derkach. Are you familiar with who Andrii Derkach is?

A Only broadly.

Q And what's your understanding of who he is?

A He's a longtime Ukrainian politician who is under sanction.

Q Okay. And are you familiar with his relationship with Rudy Giuliani?

A Not specifically, no.

Q Okay. But you understand that he was sanctioned?

A Yes.

Q And what's your understanding of the reason that he was sanctioned?

A I actually don't recall the specific reasons why he was under sanction.

Q We're going to introduce as exhibit 10 the Treasury Department's press release announcing the fact that he was sanctioned.

[Rasmussen Exhibit No. 10.

Was marked for identification.]

BY MS. [redacted]:

Q This is dated September 20, 2020.

A Okay.

Q So this press release says, in relevant part, that "Treasury designated Andrii Derkach pursuant to Executive Order (E.O.) 13848 for his efforts to influence the 2020 U.S. presidential election. Derkach, a Member of the Ukrainian Parliament, has been an active Russian agent for over a decade, maintaining close connections with the Russian Intelligence Services. Derkach has directly or indirectly engaged in, sponsored, concealed, or otherwise been complicit in foreign interference in an attempt to undermine the upcoming 2020 U.S. presidential election."

Did I read that correctly?

A Yes, you did.

Q So this sanction notification directly supports the statement in the October 19th letter that says Derkach was sanctioned "for being a 10-year Russian agent interfering in the 2020 election," correct?

A That is correct.

Q And you said that you are -- are you -- I'm sorry, I don't remember if you said. Are you familiar with Rudy Giuliani's connections with Andrii Derkach?

A Only that there was public reporting that they had had a relationship with

each other.

Q Okay.

I want to introduce as exhibit 11 a Daily Beast article published on October 17, 2020. It's entitled "Rudy: Only 50/50 Chance I Worked With a 'Russian Spy' to Dig Dirt on Bidens and Ukraine."

[Rasmussen Exhibit No. 11.

Was marked for identification.]

Mr. Rasmussen. Okay.

BY MS. [redacted]:

Q Okay. So this article reports on Giuliani's interactions with Andrii Derkach, right?

A Uh-huh.

Q And it says that he worked with Andrii Derkach to try and push out material damaging to the Bidens, correct?

A Yes, it does.

Q Okay. And it says, in fact, he'd been working on this for many, many months, correct?

A It does.

Q Okay.

On the last page, page 5, Giuliani -- and, I should say, this article is a Daily Beast article but it's taken from a 1-hour interview that the Daily Beast had with Mr. Giuliani directly.

On page 5: "[Mr.] Giuliani said he viewed his latest leak to the New York Post," which is a reference to the Hunter Biden laptop story, "as an extension of his years-long efforts to work with Ukrainians to dig up dirt on the Bidens," correct?

A Correct.

Q Do you think it's concerning that Giuliani seemingly viewed the leak of the laptop as part of his ongoing work with Ukrainians to dig up dirt on the Bidens?

A It certainly contributes to the narrative that the emergence of the Hunter Biden laptop at that particular point in time, in the runup to the election, needed to be scrutinized and understood better.

Q And, in fact, this article came out on October 17, 2020, which is 2 days before the October 19 letter that you signed, correct?

A It was certainly part of that context.

Q So this narrative was out there from Rudy Giuliani himself, correct?

A That's correct.

Q Okay.

Are you aware that the White House was warned that Rudy Giuliani was a target of a Russian intelligence operation to feed misinformation to Trump?

A I'm only vaguely aware of that through public reporting.

Q Okay. To the extent you are aware of that, is that something that would've added to your concern about the Hunter Biden emails potentially being part of a broader Russian effort to interfere in the 2020 election?

A The idea that any Americans would be used -- any Americans with positions of influence would be used by Russian intelligence organizations or Russian operatives to try to advance their work would be a source of concern to me.

Q Okay.

So we've talked through the factors in the letter that led you to decide to sign it that suggest that, in fact, based on what was known at the time, this very well could have been a Russian misinformation operation.

I want to move on to some factors that suggest that Russia actually did, in fact, interfere in the 2020 election.

And, in particular, I want to turn to the January 2021 Intelligence Community Assessment. Do you know offhand if you're familiar with this?

A I don't have specific familiarity with it right now.

Q Okay. We'll go ahead and --

A I would've read it at the time, or certainly the summary at the time.

Q Yep. We're going to introduce it as exhibit 12.

[Rasmussen Exhibit No. 12.

Was marked for identification.]

BY MS. [redacted]:

Q And I can tell you, we're going to focus on Key Judgment 2, which is on the fourth page. But take as long as you need to review the whole thing.

A Okay.

Q Key Judgment 2 reads, "We assess that Russian President Putin authorized, and a range of Russian government organizations conducted, influence operations aimed at denigrating President Biden's candidacy and the Democratic Party, supporting former President Trump, undermining public confidence in the electoral process, and exacerbating sociopolitical divisions in the US. Unlike in 2016, we did not see persistent Russian cyber efforts to gain access to election infrastructure. We have high confidence in our assessment; Russian state and proxy actors who all serve the Kremlin's interests worked to affect US public perceptions in a consistent manner. A key element of Moscow's strategy this election cycle was its use of proxies linked to Russian intelligence to push influence narratives -- including misleading or unsubstantiated allegations against President Biden -- to US media organizations, US officials, and prominent US individuals,

including some close to former President Trump and his administration."

Did I read that correctly?

A You did.

Q What's your understanding of what "high confidence" means?

A "High confidence" is a term of art used in the intelligence community to signify that there is a significant amount of underlying intelligence information that would support the conclusion being drawn.

And so the consumer -- or, the reader, the consumer of the intelligence analysis should have high confidence that the picture being portrayed is an accurate one because of the body of underlying intelligence that supports that conclusion.

Q Okay.

This report comes from the National Intelligence Council, and on the front page it says, "It was drafted by the National Intelligence Council and CIA, DHS, FBI, INR, and NSA, and coordinated with CIA, DHS, FBI, INR, Treasury and NSA."

What's the National Intelligence Council?

A The National Intelligence Council serves under the auspices of the DNI, the Director of National Intelligence, for the purpose of bringing together all of the analytic judgments and conclusions of all of the intelligence agencies spread across our government and coordinating a community-wide judgment or assessment to support decision-makers.

Q And "CIA" here is a reference to the Central Intelligence Agency?

A That's correct.

Q "DHS" is the Department of Homeland Security?

A Yes.

Q "FBI" is the Federal Bureau of Investigation?

A Yes.

Q What's "INR" a reference to?

A The Bureau of Intelligence and Research that sits within the State Department.

Q And "NSA" is the National Security Agency?

A Correct.

Q And "Treasury" here is a reference to the Department of Treasury, correct?

A Correct.

Q So, when this report says that these entities have high confidence in our assessment, that means all of these agencies have high confidence, right?

A Yes. Typically, if any of the agencies did not share the analytic view as drafted, there would be a separate bit of language describing the dissenting view or the contrasting view of one of the other agencies.

Q Understood.

So, going back to the language of Key Judgment 2, the reference to Moscow's strategy being the use of misleading or unsubstantiated allegations and producing those to U.S. media organizations, U.S. officials, and prominent U.S. individuals, is that consistent with the concerns that you expressed in the October 19th letter?

A Yes, it was -- yes, it is.

Q We just talked through the Treasury Department sanctions. This references the use of sanctioned individuals. Was Andrii Derkach an individual who was sanctioned by the United States?

A Yes. Based on the Treasury Department announcement that you shared with me, yes.

Q And the key judgment, made with high confidence, says that some people

close to former President Trump and his administration were involved in the efforts to push out this information.

Is it fair to describe Rudy Giuliani as an individual close to former President Trump and his administration?

A I believe that's a fair description.

Q Okay. Thank you.

We're going to move on a little bit, unless -- did you have further comments?

A No.

Q You made a statement in the first hour that -- you were asked if you regret the letter, and you said that you regret that the statement has been drawn into political controversy. Do you remember saying that?

A I do.

Q Okay.

When the letter was made public on October 19, 2020, you were a private citizen, correct?

A I was.

Q Was Mr. Morell a private citizen?

A He was.

Q Was former CIA Director Brennan a private citizen at that time?

A Yes, he was.

Q What about Mr. Clapper?

A He was, yes, a private citizen.

Q Tony Blinken?

A A private citizen.

Q To your knowledge, were all of the signatories of the letter private citizens at

the time that it was signed?

A Yes, to my knowledge.

Q Okay. Would you agree that, as a private citizen, you have the right to engage in the political process?

A Yes.

Q Would you agree that the First Amendment protected and continues to protect your right to make statements such as those contained in the public letter?

A Yes, I believe that.

Q And do you think all the other signatories also have that First Amendment right?

A I believe that as well.

Q Okay.

To the extent that there's been some suggestion made today that you should have censored your statements or should have, you know, not included your title in signing, do you agree that that's not consistent with your understanding of the First Amendment?

A No, I don't believe it is.

Q It's not consistent with your understanding?

A Right.

Q Okay.

I'm going to briefly introduce two documents that I think you probably have not seen before.

A Okay.

Q Or maybe you have. The first we'll mark as exhibit 13, and the second will be exhibit 14.

The second one is a letter from 235 former military leaders. It's entitled "Open

Letter from Senior Military Leaders." It's not dated.

But I'm also going to introduce a FOX News article that dates it as September 14, 2020. So that's why we're introducing the two of them together.

A Okay.

Q We'll introduce the letter as exhibit 13, and we'll introduce the FOX News article as exhibit 14.

[Rasmussen Exhibit No. 13.

Was marked for identification.]

[Rasmussen Exhibit No. 14.

Was marked for identification.]

Ms. [redacted]. [redacted], so you said that the letter was 13, article was 14?

Ms. [redacted]. Yes. I'm making sure everybody stays awake. Sorry. I said it the opposite way the first time around.

Mr. Rasmussen. Okay.

BY MS. [redacted]:

Q Okay.

So the letter from the 235 signatories, it's titled "Open Letter from Senior Military Leaders." This says that the 2020 election could be, quote, "the most important election since our country was founded."

And it argues that, quote, "The Democrats' opposition to border security, their pledge to return to the disastrous Iran nuclear deal, their antagonism towards the police and planned cuts to military spending will leave the United States more vulnerable to foreign enemies."

Did I read that correctly?

A You did.

Q And according to the FOX News article that we introduced alongside it, this letter was published on or around September 14, 2020, correct?

A That's what the news report indicates.

Q Okay.

So who are the signatories of this letter?

A They appear to be a group of retired U.S. military officers at the flag or general officer rank or level.

Q Okay. So, to the extent that they're commenting on potential policy actions under a Democratic administration, do you agree that a reader could view that as thinking, "These individuals have experience in national security, they have experience in defense, they must understand what it means if such cuts were to happen"?

A I would infer that, yes.

Q Okay.

Regardless of whether you agree with what the letter says, do you agree that these signatories, who, again, signed using their titles and using their positions, had a First Amendment right to express their opinions?

A Yes, I believe that.

Q Okay.

There was a comment made earlier that the October 19th letter that you joined was used as a talking point at the second Presidential debate. Do you remember that?

A I do.

Q Okay.

I want to introduce as exhibit 15 the transcript from the first Presidential debate. And I think the full transcript was, like, 90 pages long, so we're just going to introduce the excerpted parts that we're going to reference.

A Okay.

Q This will be exhibit 15.

[Rasmussen Exhibit No. 15.

Was marked for identification.]

Mr. Litt. Can we go off the record for half a second?

Ms. [redacted]. Uh-huh.

[Discussion off the record.]

BY MS. [redacted]:

Q Sorry. Before we -- you -- sorry. Quickly, back to the letter from the senior military leaders that we talked through, do you know -- you said a number of them were flag officers. Do flag officers generally have a security clearance when they're working as flag officers, to your knowledge?

A Yes, they do.

Q They do. And do they sometimes maintain that after leaving service?

A Depending on the nature of their post-military activities, yes.

Q Okay.

And back to the transcript from the second debate -- the first debate, I'm sorry. From the bottom of the second page, there's a sentence, "As far as the church is concerned and as far as the generals are concerned, we just got the support of 250 military leaders and generals, total support. Law enforcement, almost every law enforcement group in the United States. I have Florida. I have Texas. I have Ohio. I have every...Excuse me, Portland, the sheriff just came out today and he said, 'I support President Trump.'"

Based on what I just read to you, is it accurate to say that the letter from the senior military leaders was not just released prior to the first Presidential debate but

actually played a role at that debate?

A It appears the President used it as a talking point, yes.

Q Okay. And, again, you agree that the senior military leaders had the right to participate in the political process as private citizens?

A Yes.

Q To your knowledge, are these committees investigating the bases on which these 250 military leaders signed and sent this letter?

A Not that I am aware of, no.

Q Okay.

Turning back to the letter that you did sign, the letter doesn't actually endorse a Presidential candidate, right?

A No, it doesn't.

Q Okay. In your opinion, was the letter true and accurate?

A Yes, based on the information we had available to us at the time.

Q Okay.

Has the aftermath of signing the letter, such as the fact that you're subject to a public investigation by this committee, negatively impacted you in any way?

A It's negatively impacted me in that I'm drawn into an investigation when I wish that wasn't so. So I guess that'd be my answer.

Q And I think your name's been in the New York Post, right?

A Yes.

Q Has that had an impact on you?

A It certainly has drawn attention to my name in a way that I would prefer not happen.

Q And why is that?

A I worry about the way that individuals who consume certain news sources might act on or draw conclusions about me or -- draw conclusions about me based on things they may read in media and, therefore, have that play into certain either conspiracy theories that they might have or narratives that might lead them to want to engage in violence.

Q And do you have concerns for your safety?

A I don't have any specific threat information that has, you know, emerged that has given me concern, but I worry about that as an ultimate, you know, possibility --

Q Okay -- go ahead.

A -- if you're cast in a certain light by media activity.

Q Do you think the fact that you're being investigated for having participated in the political process as a private citizen could chill your willingness to sign a letter like this in the future?

A Yes. It would certainly cause me to think carefully about how any expression of political view that I might choose to make would be seen by others or characterized by -- mischaracterized by others.

Q And do you think it's fair to say that somebody watching this investigation from the outside might also think about this when deciding whether or not to sign a letter like this and it could chill their participation as well?

A I believe that, yes.

Q Okay.

We have about 10 minutes left. I want to move on to a line that -- there was a comment made in the first hour about the impact of the letter on social media companies --

A Uh-huh.

Q -- and their decision on how to deal with the letter.

A Okay.

Q The letter was published on October 19, 2020, correct?

A That's correct.

Q And are you familiar with the date of the New York Post story about the Hunter Biden laptop?

A Not specifically unless reminded.

Q Okay. It was October 14, 2020, and we'll go ahead and introduce that.

A Okay.

Q So we'll go ahead and introduce this as exhibit 16, just to establish the fact that it was published on October 14th.

A Uh-huh.

[Rasmussen Exhibit No. 16.

Was marked for identification.]

BY MS. [redacted]:

Q And this is just the first page of the article. It kind of printed off weird, so rather than having half of it be spam, we just printed the first page.

A Yep.

Q So you agree that this article was published on -- the New York Post article was published on October 14th?

A Yes.

Q Okay. That was 5 days before your October 19th letter, correct?

A Yes.

Q Okay.

Are you aware of the date that Twitter limited the sharing of links to the laptop

story?

A I don't have specific recollection or knowledge of that.

Q Okay.

I'm going to introduce as exhibit 17 a New York Times story, published on October 16, 2020, entitled "In Reversal, Twitter is No Longer Blocking New York Post Article."

[Rasmussen Exhibit No. 17.

Was marked for identification.]

BY MS. [redacted]:

Q Have you seen this before?

A Yes.

Q Okay. According to this article, by October 16th, which was 3 days before your letter was published, following pressure from Republicans, Twitter permitted its users to freely share the New York Post story, correct?

A That's what the article states.

Q So, if that took place 3 days before your letter was even published, your letter couldn't have had any impact on Twitter's decision, correct?

A No.

Q Sorry, is it correct?

A It's correct that it could not have had that impact.

Q Okay.

And I also want to introduce as exhibit 18 an October 15, 2020, article from Business Insider entitled "The New York Post's dubious Hunter Biden article was shared 300,000 times on Facebook even after the company said it limited its reach."

[Rasmussen Exhibit No. 18.

Was marked for identification.]

Mr. Rasmussen. Okay.

BY MS. [redacted]:

Q Have you seen this before?

A Not until now.

Q Okay. Do you agree that this article says that Facebook first addressed whether to limit the distribution of the article on October 14, 2020?

A Yes.

Q So, again, that was 5 days before your October 19th letter was made public, right?

A Correct.

Q And in the last paragraph on page 4, the Business Insider article also says that Facebook's approach was consistent with the policy it actually implemented in 2019, correct?

A Correct.

Q And, overall, the article says that, even despite Facebook's attempt to limit the article, it actually still continued to be shared, correct?

A That's correct.

Q So, putting aside whether Facebook's efforts were effective, if Facebook made its decision on October 14th, 5 days before your letter was signed, your letter couldn't have had any impact on Facebook's decision, right?

A That seems right.

Q Okay.

Sorry, just one second.

We can go off the record.

A Okay.

[Recess.]

[12:16 p.m.]

Mr. [redacted]. On the record. It's 12:16.

BY MR. [redacted]:

Q Mr. Rasmussen, I want to sort of pick up where my questioning left off on the previous hour.

A Okay.

Q Are you aware that Mr. Morrell had not even read the New York Post story regarding Hunter Biden's laptop and emails?

A I'm not aware of that.

Q Does that surprise you given how involved he was in the public statement?

A I don't -- I'm not surprised or -- I don't know -- I don't know how to answer that question.

Q Since we last -- since we last spoke, have you had time to think about the fact that Secretary Blinken or Tony Blinken, campaign adviser to the Biden campaign, was involved with Mr. Morrell and ultimately this public statement being drafted and promulgated?

A Again, I was not aware of that at the time the email exchanges that I had with Michael were carried out, something I've only learned subsequently in the context of this investigation.

Q Do you think that's something Mr. Morrell should have informed you of before he solicited your signature on the public statement?

A I don't have a view on that.

Q Well, you don't have a personal opinion one way or the other if he should have informed you of all the facts?

A I always welcome additional context.

Q And you did not get it in this case?

A Not on that matter, no.

Q You'd agree that's a pretty significant matter?

A I don't have a view.

Q Did you ever speak to Mr. Blinken about the public statement?

A I have not.

Q Have you had any communications with Andrew Bates from the Biden campaign?

A No, never.

Q It is a fair characterization, in your view, given that Mr. Blinken sent -- forwarded an email from Andrew Bates to Mr. Morrell, that Mr. Morrell was writing this public statement on behalf of the Biden campaign?

A Again, I don't have the full context around which to reach conclusions about the interact -- you know, interactions between third and fourth parties, so --

Q But just given what you know, what is your sense of it?

A I don't have a sense to share. I don't have a -- I haven't given it any thought. I don't have an opinion to offer.

Q And you indicated you did not speak with any journalists in connection with this public statement?

A Not to my recollection.

[Rasmussen Exhibit No. 19.

Was marked for identification.]

BY MR. [redacted]:

Q I'm going to enter into the record as exhibit 19 an email from Michael Morell to Nick Shapiro on October 19, 2020, at 8:21 p.m.

Take a look at that, Mr. Rasmussen.

Mr. [redacted]. What number is this?

Mr. [redacted]. Nineteen.

Mr. Rasmussen. Okay.

BY MR. [redacted]:

Q You've had a chance to review this?

A Yes.

Q So this email from Mike Morell to Nick Shapiro, directing your attention to the first paragraph -- no. Well, paragraph 1 --

A Yeah.

Q -- as it's marked.

Between us, the campaign would like Shane Harris to go first. Please share with the campaign when you share with Shane. But, by all means, get it to other reporters as well.

What is your understanding of the between us language, between Morell and Shapiro, having reviewed this document?

A I read -- I take between us at face value that Michael is saying to Nick, Don't share this information forward -- any further.

Q Okay.

A Just mechanically.

Q Do you have any idea if the Biden campaign requested that Shane Harris go first?

A I have no knowledge about that.

Q Given that Mr. Morell had not been candid with you about the origins of the public statement, do you review this paragraph "between us" as further keeping you in

the dark about it?

Mr. Litt. You don't need to accept his characterizations.

Mr. Rasmussen. I didn't have any conversations or exchanges related to dissemination of the letter. And I don't share your characterization.

Mr. [redacted]. Are you aware that Nick Shapiro did, in fact, share a copy of the email he was sending to journalists with the Biden campaign?

Mr. Rasmussen. I was not aware of that, or I'm not aware of that.

Mr. [redacted]. I'm going to enter into the record an email --

Mr. Litt. Before you do, I'm just wondering, is there a reason you're not reading the third paragraph of -- paragraph No. 3 into the record here?

Mr. [redacted]. Well, it's in the record. The exhibit's in the record.

Mr. Litt. Okay.

Mr. [redacted]. I've -- I'll decide what I read and do not read.

Mr. Litt. Okay.

[Rasmussen Exhibit No. 20.

Was marked for identification.]

BY MR. [redacted]:

Q Here we are.

A Okay.

Q Mr. Rasmussen, this is an email from Nick Shapiro to Andrew Bates, who was the director of rapid response for the Biden campaign. And it's an indication of what Mr. Shapiro sent to the reporters covering the public statement.

Have you reviewed this?

A I have just now.

Q And Nick Shapiro tells Bates, This is what I gave them.

Mr. Litt. Sorry. Oh, got it. Thank you.

Mr. [redacted]. Yeah.

BY MR. [redacted]:

Q I understand you're hearing about all of this for the first time today.

A Correct.

Q That's part of why we're doing this, right? That's part of why we're asking questions, what do people know and when.

Given what you've seen today, this is -- you would agree this is pretty extensive coordination between Morell, Shapiro, and the Biden campaign?

A It's clearly communication between Morell and the Biden campaign.

Q You wouldn't describe this as coordination?

A I described it as I just did. Obviously you can use the word "coordination" as well.

Q Well, then that wouldn't be an unfair reading of this, correct?

A That's correct.

Q Okay. And just for the record, you had no coordination with the media in connection with this statement?

A That's correct.

Q Do you have an obligation as a former National Counterterrorism Center director to have things that you write preapproved by the Director of National Intelligence?

A Yes.

Q Did you have that obligation at the time you signed onto the public statement?

A Yes.

Q Did you submit the public statement to the DNI for prepublication review?

A I did not, as I -- my interpretation or my understanding of my obligations and responsibilities is to do so if I am the drafter of said material, and that wasn't the case in this instance.

Q Do you know if Russ Travers submitted the public statement for review to the DNI?

A I don't have any information about that.

[Rasmussen Exhibit No. 21.

Was marked for identification.]

BY MR. [redacted]:

Q I'm going to enter into the record an email from Russ Travers to Mike Morell dated October 19, 2020, at 7:52 a.m., as exhibit 21.

If you would review that, Mr. Rasmussen.

A Okay.

Q Mr. Travers writes to Mr. Morell: Hi Michael. Great initiative. Happy to sign -- is anyone submitting to ODNY prepub. I can, tho the bureaucracy slow rolled me on my last piece.

Did Russ Travers have an obligation to submit the statement to ODNI for prepublication clearance?

A I don't know. Again, I -- I described what I understood my obligations to be.

Q In the event you are required to submit the public statement for prepublication review, what, if any, consequences would befall you for not doing so?

A As I understand it, if I failed to comply with requirements associated with prepublication review, continued holding of my security clearance could be placed in

jeopardy.

Q But it's your testimony you had no obligation to submit this for review to them, correct?

A It's my testimony that I -- my understanding of my obligations was that I had no obligation to do so.

Q As you sit here today, are you aware in the -- are you aware if the ODNY approved this statement --

Mr. Litt. ODNI.

Mr. [redacted]. ODNI approved this statement for publication?

Mr. Rasmussen. I'm not aware.

Mr. [redacted]. One moment.

[Discussion off the record.]

Mr. [redacted]. Ready?

Mr. Litt. Yeah.

Mr. Rasmussen. Yes.

BY MR. [redacted]:

Q Mr. Rasmussen, direct your attention to the public statement. It should be exhibit 1.

A Uh-huh.

Q Paragraph 6, page 1: If we are right, this is Russia trying to influence how Americans vote in this election, and we believe strongly that Americans need to be aware of this.

Is it fair to say, given all we know, that the only people trying to influence the election with respect to this public statement are the people who signed onto it?

A I wouldn't share your characterization. I think, based on other source

material we've discussed today, it's clear to me that Russia was, in fact, trying to influence how Americans voted in the 2016 and 2020 elections. And I continue to believe that Americans need to be made aware of this.

Q But you've mentioned the word "context" before. It's a good word. Let's look at the context of the public statement.

The principal drafter, Mike Morell, said he did this to help Vice President Biden win the Presidency, correct?

A I don't know what Michael said.

Q Well, I'll represent to you he said that.

A Okay. I wasn't present for his --

Q Fair enough.

A -- testimony or -- testimony is not the right word -- conversation.

Q Okay. So isn't, by nature, him disseminating this public statement designed, from his intent, to influence the 2020 Presidential election?

Mr. Litt. You're asking him what Michael's intent was?

Mr. [redacted]. Based on Michael Morell's testimony, yes.

Mr. Rasmussen. I -- I can't speak fully and completely to Michael's intent, having only snippets of his words played back to me. I can tell you what my intent was, and my intent was very much to ensure that this information be surfaced and evaluated and scrutinized because of the significant likelihood or possibility that it might be connected to a Russian influence operation. That was my intent.

BY MR. [redacted]:

Q Well, let me ask you this. And I won't belabor this. Just looking at the public statement and looking at the -- the content of the public statement -- that is, Hunter Biden's laptop and emails -- is it more likely than not to help the Biden campaign

than to hurt it if people think it's part of a Russian information operation?

A That may be the ultimate impact, but that's not what motivated my participation in the letter. I was, as I mentioned, pretty squarely focused on the need to surface the idea that the Russians might be again attempting to influence a U.S. Presidential election.

Q Speaking of the Presidential election, did you watch the October 22, 2020, debate between Vice President Joe Biden and then-President Trump?

A I did not.

Q Did you read about it at any point?

A I have no specific recollection, but I almost certainly read about media accounts in the aftermath or watched broadcast media commentary about it.

[Rasmussen Exhibit No. 22.

Was marked for identification.]

BY MR. [redacted]:

Q At this time I'm going to enter into the record as exhibit 22 the first page of the transcript of the Presidential debate between Joe Biden and Donald Trump, and the second page will have the relevant portion that we'll be discussing.

A Okay.

Q Please take a look at that.

I'm not going to ask you to read the entire thing, Mr. Rasmussen. I'm going to direct you to the second page.

A Uh-huh.

Q I'd say if you go down to Welker in bold, about halfway down the page where it says: President Trump, I want to stay on the issue of race. We're talking about the issue --

Do you see that?

A Yes.

Q And then President Trump says: It's the laptop from hell.

And the moderator says: President Trump, we're talking about race right now and I don't -- I do want to stay on the issue of race. President Trump --

Vice President Biden says: Nobody -- Kristen, I have to respond to that.

The moderator says: Please, very quickly.

And then Vice President Biden says: Look, there are 50 former national intelligence folks who said that what this, he's accusing me of is a Russian plan. They have said that this has all the characteristics -- four -- five former heads of the CIA, both parties, say what he's saying is a bunch of garbage. Nobody believes it except him and his good friend Rudy Giuliani.

To which Mr. Trump responds: You mean the laptop is now another Russia, Russia, Russia hoax? You gotta be --

And then Vice President Biden says: That's exactly what -- that's exactly what --

Vice President Biden was, in fact, talking about Hunter Biden's laptop and emails, correct?

A I believe so.

Q Okay. Would you agree with his characterization of your public statement?

A No, I wouldn't agree -- I mean, certainly not a complete explanation of our public statement. Presented in this form in the context of a political debate, it does not provide the full context of the statement.

Q Is this the first you're hearing of that?

A The first I'm hearing of --

Q The first you're hearing that Vice President Biden relied on the public

statement in the Presidential debate -- the final Presidential debate?

A No. I can't remember when I became aware of that, but it's in my -- I was aware of it before today. I don't know exactly when I became aware.

Q And you became aware of how he framed the public statement that you signed onto at some point?

A You know, I don't know that I've ever looked at the words, but, yes, I was aware that he referenced this in the debate.

Q Okay. And you -- and your reaction to this today?

A I don't have a specific reaction.

Q You're not surprised?

A I answered the question. I don't have a specific reaction.

Q Were you aware of some of the other signators to the statement, their desire to help Vice President Biden become President?

A I can't recall any specific knowledge, as I look down the roster of individuals, knowing who was particularly involved in politics at the moment or not. I'm sorry. I don't have specific --

Q Have you spoken with any of those former intel officials since the public statement was released?

Mr. Litt. About the public statement?

Mr. [redacted]. About the public statement.

Mr. Rasmussen. Not about the public statement. It just never came up.

Mr. [redacted]. Have you spoken with them about the election -- about Vice President Biden being elected President?

Mr. Rasmussen. Certainly talked about broad national political developments.

Mr. [redacted]. Okay. I'm entering into the record as exhibit No. 16 an email --

Mr. Litt. Sorry. Which --

Mr. [redacted]. Excuse me. Withdrawn. Twenty-three. Thank you for correcting.

[Rasmussen Exhibit No. 23.

Was marked for identification.]

BY MR. [redacted]:

Q I'm entering into the record exhibit No. 23. This is an email from Kristin Wood on October 23rd, 2020, at 3:02 a.m., to Gregory Tarbell and others cc'd.

Mr. Rasmussen, in particular, I direct your attention to the email prior to her response from Gregory Tarbell.

A Okay.

Q Mr. Tarbell writes, October 22nd, 2020, at 10:25 p.m.: TP worked well during the debate. Great idea guys.

And Kristin Wood responds: That was really cool. I hope you are well, Mr. Tarbell.

Do you have any reaction to the fact that some of your fellow signators to the public statement were celebrating how Vice President Biden used the public statement at the debate?

A I don't have any reaction.

Q Are you surprised?

A I don't have any reaction. I don't know Mr. Tarbell or Ms. Wood, so I don't have a reaction.

Q There was some discussion prior about your security clearance, correct?

A That's correct.

Q And you held a security clearance at the time you drafted the -- excuse

me -- withdrawn.

You held a security clearance at the time you signed onto the public statement, correct?

A That's correct.

Q And I'd like -- I think you alluded to this, but in the interest of having a complete record, have you ever had any access to classified information regarding the contents of Hunter Biden's laptop?

A I don't believe so, no.

Q Are you aware if any of your fellow signatories had access to classified information at the time they signed on --

A I'm not aware --

Q -- to the public statement?

A -- of any.

Q Given you and your fellow signatories' prior access as intelligence officials with security clearance, is it fair to say the American people reading the public might have assumed you had access to that information in respect to your public statement?

A I don't think it's fair to assume that because, again, we were clearly listed as former officials. So this was a current issue. And so I think most discerning readers would have assumed these people are out of office now and don't have access to that kind of information.

Q So, then, why sign it as a former intelligence official since you were all out of office?

A Because we would -- we cited our background because our background gave us a basis on which to make analytic judgments about the nature of Russian behavior when it came to Russian involvement in the election. You'll recall, though, that I've said

a number of times that the caveating language was important to me, and so that's the part of it -- the letter that I zeroed in on the most directly, because I wanted to make sure it was clear what we -- that we are, you know, upfront about what was known and not known at that time. But with respect to the question of our clearances, I don't think that was front and center.

Q But you'd agree, by virtue of 51 former, many high-ranking, intelligence officials putting this statement out there prior to the Presidential election, the American people are going to give deference to that -- those judgments and even with the caveats, of course?

A Some segment of the American population may well give deference and may credit the expertise and background of those signing the letter and have that shape their reaction to the information.

Q Let me just ask this. As indicated, the Hunter Biden laptop and email have since been authenticated. Do you have any concerns about whether or not Hunter Biden, given his access to the President, is a national security threat today?

A I don't have any -- any such concerns. I have no basis for having such concerns at this point, and it's not relevant to my -- it's not something I'm thinking about or considering.

Q So given everything you know, you don't have an opinion on this --

A No.

Q -- given your deep experience?

A I don't.

[Rasmussen Exhibit No. 24.

Was marked for identification.]

BY MR. [redacted]:

Q At this time I'm entering into the record a email from Mike Morell to Mike Hayden and a number of others, including yourself, Mr. Rasmussen, dated February 7, 2023, at 1:39 p.m. And it is an email chain, and I will --

A Uh-huh.

Q -- direct your attention to specific emails, but please review it now in its entirety.

A Yes, I'm familiar with it.

Q I'm directing your attention to the third page of this exhibit, email from John Brennan at -- on February 7, 2023, at 14:18.

A Uh-huh.

Q Mike, thanks for your query. Like you, I'm weighing my options.

And then Mr. Brennan writes: Although I have not yet received any of Mr. Jordan's letters, I find his requests for a transcribed interview and documentation related to my decision to sign a public statement as a private citizen -- italicized in bold -- a gross infringement of my First Amendment right to freedom of speech.

Did John Brennan sign the public statement and write, John Brennan, private citizen, if you know?

A I don't -- I don't believe so.

Q Okay. Did you sign the public statement as Nick Rasmussen, comma, private citizen?

A No, I did not.

Q In fact, you affixed your title to it, Nick Rasmussen, former director, National Counterterrorism Center, correct?

A Yes.

Q Okay. And the theory behind that is, given your deep experience in

counterterrorism, national security, you're somebody the American people should listen to on this topic?

A I'm not saying who they should listen to. I'm -- I believe I have relevant experience and expertise that allowed me to make an informed judgment, and that was offered in the letter.

Q And, in part, you affixed your title to the public statement for the same reasons you waited to see who was going to sign it, right? You wanted to see what level of expertise with respect to Russian information was going to inform -- was going to inform the content of the letter and how it'd be perceived by the American people, correct?

A Again, as I've mentioned earlier, it was important to me in asking to review the list of ultimate finalists of signatories that I -- that my experience and expertise be appropriately placed within that cohort, I guess is the best way to put it.

Q Previously, the minority staff asked you about a number of former military officials who endorsed President Trump for President.

A That's correct.

Q Was that the 2016 or 2020?

A I believe 2020.

Q Okay. As far as their endorsement and what they had to say or write about it, there was, as far as you know, nothing said about potential Russian interference in the election or any other interference?

A I don't believe so, no.

Q And if I understood the line of questioning, the idea was sort of an equivalence, right, between former military people endorsing Trump and the 51 signers saying, Hey, this could be Russian disin -- this could be a Russian information operation,

right before the election?

Mr. Litt. Are you asking him why minority counsel asked him a question?

Mr. [redacted]. I'm asking him if it's his view that there is an equivalence between former military people endorsing a Presidential candidate, upfront and open, and what the signers of the -- 51 signers of the public statement did when they released their document before the Presidential election.

Mr. Rasmussen. I believe those are -- that the two letter efforts -- letter-writing efforts are comparable expressions of free speech drawing on the experience and background of the individuals who engaged in that free speech. So they're comparable in that regard.

BY MR. [redacted]:

Q Mr. Rasmussen, given everything we know, why not just indicate in that letter that this is to help -- that this is to help the Biden for President campaign?

A I don't have an answer to that question. I don't --

Q Well, in retrospect, do you think that would have been advisable?

A I haven't spent a great deal of time in retrospect parsing through decisions I made with the information presented to me at the time, so I -- I don't have an answer to the question. I just don't.

Mr. [redacted]. Nothing further.

Mr. Rasmussen. Thank you.

Ms. [redacted]. Are we going to go off the record?

Mr. [redacted]. Off the record.

[Recess.]

Ms. [redacted]. All right. It's 12:48. We can go back on the record.

Mr. Rasmussen. Okay.

BY MS. [redacted]:

Q In the prior hour, at the very end of that, you were asked about why wouldn't you just write in the letter that it was an endorsement of President Biden.

Do you think anybody reading the letter would have had any question as to which candidate the letter writers likely supported?

A I suspect not, but it's hard to really know what people read into letters.

Q Right. Right. It would just be an assumption --

A Right.

Q -- but, at the end of the day, it certainly was not an endorsement of Trump, right?

A That's correct.

Q And it would have been more likely to be favoring Biden, correct?

A Correct.

Q Okay. The -- and, in fact, when it was -- it was brought up by Biden, as we just talked through, right?

A Yes.

Q Okay. I want to clarify one statement that was made earlier. You were asked about Mr. Blinken's interactions with Mr. Morell.

A Uh-huh.

Q You had no firsthand knowledge of that, right?

A I had none.

Q So we actually have Mr. Morell's testimony here, and I think the reference was made that Blinken was the cause of the letter or something like that.

Mr. Morell said pretty clearly: He -- meaning Tony Blinken -- asked me if I thought the Russians could be involved in this. As far as I remember, he did not ask me

to put out a statement. So, yes, he triggered the statement. He did not ask for it, as far as my memory goes.

I want to make that memory -- that --

A Okay. I have no knowledge --

Q -- clear.

A -- as I said, of the --

Q Right.

A -- engagement between the two, so --

Q Right. But that wasn't -- that wasn't --

A Right.

Q -- explained in the earlier hour, right, that context?

A Okay.

Q You were also asked about Mr. Shapiro's interactions with Andrew Bates. Do you recall that?

A I recall.

Q And you said you have no knowledge of that, right?

A That's correct.

Q So Mr. Shapiro actually said on the record that he sent the email to Mr. Bates, may have had one phone call, he couldn't remember, and that was the extent of their interactions.

Were you aware of that?

A I was not.

Q Okay. So when it was described as extensive interactions between Mr. Bates and Mr. Shapiro, does one email and possibly a phone call sound like extensive interactions to you?

A Probably not, but, again, I have no --

Q Okay.

A -- awareness of or knowledge of Nick Shapiro's engagements with any of the actors in this --

Q Right. No, but that wasn't made clear --

A Right.

Q -- in the earlier hour, right?

A Okay.

Q And then, finally, you were asked about the question of on the record versus off the record in the email exchange between Mr. Morell and Mr. Shapiro.

A Right.

Q And, again, you weren't privy to that email, right?

A I was not.

Q You're not a custodian of the email. You're not cc'd on it?

A Correct.

Q Okay. So during his testimony before the committee, Mr. Shapiro said: Michael has a history of doing this. I've often -- I worked with Michael for many years, and he often sends me things like, quote, "OTR," end quote, and I often have to say to him, that could mean, quote, "on the record," or, quote, "off the record."

And then he continues on: And so that's a known Michael-Nick problem that I've dealt with for a long time.

Again, you weren't present for this, but I wanted to make the record clear.

A That's correct. And I myself sometimes stumble over whether OTR means on the record or off the record.

Q Understood. Understood.

Mr. Litt. I try to get people I work with to avoid the use of acronyms so I have --

BY MS. [redacted]:

Q I want to turn to the comment about the -- the quotes from the first President -- the second Presidential debate.

A Right.

Q And that's exhibit No. 22, I think, unless I marked it down wrong.

A Okay.

Q Okay. So majority counsel read through this section at the bottom of the second page here.

A Uh-huh.

Q And you said that Biden's remarks didn't capture directly -- it could have -- it didn't capture the nuance of what your letter said.

Do you recall saying that?

A Capture fully the -- the nature --

Q Right.

A -- of the statement. That's what I believe.

Q But he did say, They have said this has all the characteristics, which is something that your letter said, right?

A Yes.

Q Right. So he didn't capture the nuance, but he didn't get it completely wrong?

A Right. He paraphrased the one sentence from the letter that speaks to all the hallmarks. He used the word --

Q Right.

A -- "characteristics," but he -- he did use that.

Q Right. And then, in the following sentence, President Trump said: The laptop is now another Russia, Russia, Russia hoax.

What's your understanding of the phrase "Russia, Russia, Russia hoax"?

A Again, I did not watch the debate, so this is my first reading of this statement by former President Trump, but I take this to mean that he's characterizing the Vice President's Biden view of the Hunter -- of the Hunter Biden laptop issue as akin to other so-called Russia, Russia, Russia hoaxes that the President -- that former President Trump believes are unwarranted.

Q And do you think the reference to Russia, Russia, Russia hoax could be a reference to his belief that the Russians did not interfere in the 2016 election?

A It could, but I find it hard to infer --

Q Okay.

A -- what President Trump might have meant there.

Q But to the extent that President Trump has used the phrase "Russia hoax" to refer to allegations of Russian interference in the 2016 election, that's not an accurate statement about what happened in 2016, right? The Russians -- in other words, the Russians did interfere in the 2016 election?

A Yes. Our intelligence community has concluded that the Russians did interfere in that election, and it's also true that the President repeatedly refers to this as a hoax.

Ms. [redacted]. Okay. Just one second. I think we're almost done.

Okay. We can go off the record.

[Whereupon, at 12:54 p.m., the interview was adjourned.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

Rasmussen Errata

p. 11 last line, should be “provenance” not “providence.”

p. 45, 2d question – from context it seems like it should read “would not have been accurate.”

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: KEVIN VORNDRAN

Tuesday, May 16, 2023

Washington, D.C.

The interview in the above matter was held in room 164, Cannon House Office Building, commencing at 10:02 a.m.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

[redacted] GENERAL COUNSEL

[redacted] DEPUTY GENERAL COUNSEL

[redacted] SENIOR ADVISOR

[redacted] COUNSEL

[redacted] SENIOR ADVISOR

[redacted] COUNSEL

[redacted] MINORITY CHIEF OVERSIGHT COUNSEL

[redacted] MINORITY COUNSEL

For the SUBCOMMITTEE ON THE CONSTITUTION

AND LIMITED GOVERNMENT:

[redacted], MINORITY PROFESSIONAL STAFF MEMBER

For the U.S. DEPARTMENT OF JUSTICE:

[redacted] OFFICE OF LEGISLATIVE AFFAIRS

For the FEDERAL BUREAU OF INVESTIGATION:

[redacted] OFFICE OF GENERAL COUNSEL

[redacted] Good morning. This is a transcribed interview of Special Agent in Charge Kevin Vorndran of the FBI. Chairman Jordan has requested this interview as part of the committee's oversight of the FBI.

Would the witness please state your name for the record?

Mr. Vorndran. Kevin Vorndran.

[redacted] And I understand you're here today with agency counsel, not personal counsel.

Could agency counsel please state their name for the record?

[redacted] [redacted] FBI Office of the General Counsel.

[redacted] [redacted] Department of Justice. Office of Legislative Affairs.

[redacted] And you understand, sir, your agency counsel has a primary attorney-client relationship with the Bureau and the Justice Department, not you personally. You appreciate that distinction?

Mr. Vorndran. I do.

[redacted] On behalf of the committee, I want to thank you for appearing here today to answer our questions. We certainly appreciate you coming in voluntarily.

My name is [redacted] I'm with Mr. Jordan's House Judiciary Committee staff.

Now I'll have the staffers in the room introduce themselves, starting with my colleague, [redacted]

[redacted] Good morning. I'm [redacted] with Chairman Jordan's staff.

[redacted] [redacted] with Chairman Jordan's staff.

[redacted] [redacted] with Chairman Jordan's staff.

[redacted] [redacted] Chairman Jordan.

[redacted] [redacted] with Chairman Jordan's staff.

[redacted] [redacted] Democratic counsel.

[redacted] [redacted] chief oversight counsel for the House Judiciary Committee, minority staff.

[redacted] [redacted] with the House Judiciary Democratic staff.

[redacted] I'll go over the procedures here that we'll follow, and if you have any questions, please let me know.

The majority will ask questions for 1 hour, and then the Democratic staff will have a chance to come around and ask questions for an hour as well. We'll rotate until we're done. And we will do our best to get you out of here as quickly as possible. We don't want to have you here any longer. We understand you have important duties that you're missing.

Typically, we'll take a short break at the end of each hour, but if you'd like to take a break apart from that, let us know.

As you can see, there's a court reporter taking down everything we say. We'll do our best not to talk over one another. Occasionally we'll have to go back and repeat a question or repeat an answer, so if you'll bear with us for that.

We're going to do our best to limit the number of people asking you questions during each hour just so you're not taking fire from too many different points of view.

Please try to speak clearly so the court reporter can hear you and everyone in the room.

We want you to answer our questions in the most complete and truthful manner possible. We'll take our time. If you don't understand a question, let us know. If you don't know the answer to a question, that's okay to tell us you don't know or your don't remember. If you do remember, just tell us, or if you learn something from a third

party, it's okay to tell us about that conversation even though that might be hearsay in a court proceeding. Just tell us how you came to learn that information.

You should also understand that although this interview is not under oath, that by law you're required to answer questions from Congress truthfully. You understand that. 18 United States Code 1001 covers those that intentionally provide false statements to Congress. You understand that as well?

Mr. Vorndran. I do.

[redacted] Thank you.

We like to make the -- the content of what we discuss we like to keep it confidential just -- as we bring in other witnesses. We would like to avoid having the contents of your testimony out there as a roadmap for other witnesses, so we ask you to keep that in mind. And for the same reason, any exhibits we provide today, even if it's something that you have provided, we'll collect them at the end of the day. Just the fact that we presented materials to you could present a roadmap for future witnesses.

Mr. Vorndran. Understood.

[redacted] And, [redacted] do you have anything you'd like to say?

[redacted] No. Just thanks to the witness for taking time out of your busy calendar to be here today.

Mr. Vorndran. You're welcome.

[redacted] That's all I have. It's 10:07. I'll turn it over to my colleague, [redacted]

EXAMINATION

BY [redacted]

Q Good morning, Mr. Vorndran.

A Good morning.

Q Again, I'm [redacted] and we'll get started.

Starting first with your professional background, when did you first join the FBI?

A I joined as a new agent in April of 2004.

Q And what position do you currently hold?

A I currently hold the position of special agent in charge at the Washington Field Office of the Mission Services Division.

Q And when did you start this position?

A Approximately mid-January 2023.

Q Do you currently ever work out of headquarters aside from the Washington Field Office?

A I do not.

Q Can you describe your roles and responsibilities in this position?

A Sure. So in the position of special agent in charge at the Washington Field Office, there's an assistant director in charge, and then there are five additional executives: four special agents in charge and one intelligence analyst in charge. So I hold one of the SAC jobs.

The Mission Services Division covers a majority of the functions of the Washington Field Office, including some crisis response. And I'll go into a little bit of detail if it's helpful.

Q Yes.

A So it's broken up into four branches that report to me. There's a total of seven direct reports. The four main branches have a GS-15 over them.

The first branch is primarily focused on personal and physical security, along with background investigations for clearances, applicant matters. The second branch is primarily focused on information technology, some law enforcement sensitive technical

work and finance. The third branch is primarily the human resources functions of the Washington Field Office. And the fourth branch is the crisis response and critical incident branch for the Washington Field Office with all the specialty teams.

Three other direct reports: a GS-13 who handles internal audit matters, a GS-14 who handles professional responsibility, and a GS-14 who handles strategic engagement.

Q Okay. So you mentioned you have three people that directly report to you, like, just three?

A I have seven.

Q Seven. Okay. And who's your direct supervisor?

A The assistant director in charge of the Washington Field Office.

Q Okay. And during your tenure at the FBI, what positions have you held up to this point?

A Sure. Would it be beneficial to go from the beginning?

Q Yeah, that'd be great.

A Okay. So in April 2004, I started with the FBI Baltimore Field Office, worked there for approximately 5 years, working violent crime and public corruption matters, along with some white collar work. Then I transferred to the Philadelphia Field Office, where I continued public corruption work. Took a year and deployed to Bagdad, Iraq, on behalf of the FBI, and lived in Bagdad for most of 2010, as an assistant legal attache. Returned to the Philadelphia Field Office for a period of slightly less than 2 years to continue public corruption work.

At that point, I transferred to headquarters in the Counterterrorism Division, mostly focused on the Continent of Africa in international terrorism. From there I went back to the Baltimore Field Office and worked on the counterintelligence program with a focus mostly on China and our national security. From there I took the legal attache job

in Ottawa, Canada, for approximately 2.5 years, where I had the responsibility for all the FBI equities in Canada with our Canadian partners.

After that I returned to Washington for my first go through WFO as an assistant special agent in charge, where I had some of the criminal white collar work, and then went back to the Counterterrorism Division as an executive, as a section chief executive, doing some -- probably not appropriate for an unclassified environment, but some sensitive work that did to benefit the field. And then became a deputy assistant director in the Counterterrorism Division in approximately May of 2021.

Q And when you went back to headquarters, as you mentioned, as a section chief --

A Uh-huh.

Q -- that was in 2020, roughly?

A June of 2020.

Q Okay. And when did you move on to the job after that, the role you mentioned after that?

A May of 2021.

Q Okay. Now, as chief of the human intelligence section, what were your roles and responsibilities?

A So in that section I had, I believe, seven direct units who were managed by two assistant section chiefs. So that's a level of leadership between the executive and the units. And those units primarily focused on different work. Some of it I can't -- I'll give you a broader review, but a lot of it is pretty sensitive in terms of some of the work that was done.

There was a group focused on how we utilized online sources in international terrorism, a similar group that focused on how we used online sources in domestic

terrorism. We had a group that focused on completely classified matters with certain field offices on international terrorism. We had a group who worked on international terrorism with a focus on training human sources.

Let me see. I feel like I may be missing one on you. It just skips my memory right now. But, broadly speaking, that's the core work of that section.

Q Perfect. And if anything comes to you --

A Sure.

Q -- throughout the questioning, feel free to go back.

A Yeah.

Q And who was your direct supervisor in that role?

A He is now retired. So it was Pat Reddan. He was my deputy assistant director at that time.

Q And you had mentioned you had two assistant section chiefs. Were those your only two direct reports?

A They were.

Q And in addition to those two managing the seven units, is there any other way you can describe the organizational chart in your office while you were in this role?

A Yeah. Predominantly, one of those assistant section chiefs focused on online matters and one focused on in-person matters, if that distinction helps.

Q How many individuals would you say reported to you when you were in this role, if you were -- not just your direct?

A In the overall field section?

Q Correct.

A If I could give you a rough number, approximately 110.

Q Now, as deputy assistant director of the support branch of the

Counterterrorism Division, what were your roles and responsibilities in that position?

A Sure. So in that assignment I had three main sections, and so I had three FBI executives reporting to me. Each one ran a particular section. And I'll kind of walk through the sections for you.

The first section was called strategic partnership and engagement. A couple core functions there. One, all of the FBI's interagency detailees to other Federal agencies. So our detailees to Langley, DHS, they all reported through that section. We had a unit in there that did strategic engagement, so they handled core private sector relationships that the Counterterrorism Division maintained to benefit the FBI's mission around counterterrorism. The National Joint Terrorism Task Force was in that section, and then the Counterterrorism Watch Center, which is the CTD's 24/7, you know, operations center. That was the strategic partnership and engagement section.

The second section was technology and data innovation. They have predominantly now relocated to Huntsville at our new campus there. So the executive for that sat in Alabama, reported up to me in Washington, D.C. They handled technology and data projects that were important to the Counterterrorism Division. Some of them were projects we worked on unilaterally. Some of them were projects we worked jointly with other divisions in the FBI.

And then the third section was the resource management section; predominantly, the human resources functions of the Counterterrorism Division. Four main units: financial management, security, training, and -- there's a fourth. It'll come to me.

Q I understand.

A Yeah.

Q Other than those sections you described, can you explain the organizational chart in your office when you were in this role with the folks that worked under you?

A Can you give me -- go back on the question and make sure I understand.

Q Absolutely. Like, how many people were resourced to maybe each section? What did that look like?

A Oh. Yeah, I would say, in total, the -- we called that -- the deputy assistant director called that branch 2 of the Counterterrorism Division, and it was known as the support branch for the obvious reasons of kind of what went on there. I would say around 250 to 300 people total. That doesn't include contractors, which was always a number that moved around a little bit, but that's a rough number.

The smallest of the sections was probably strategic partnership engagement, and middle size was resource management, and the largest was technology and data innovation.

Q Now, during your time in this role, did you ever interact with former executive assistant director of the National Security Branch, Jill Sanborn?

A I did.

Q Did you have meetings with her often?

A So at the time I was the deputy assistant director, Jill Sanborn was no longer the assistant director. She was, at that time, the executive assistant director. If my timeline is correct, she would have left the Counterterrorism Division in late March or April of 2021, and I got there -- but in my former section chief role, I did have interactions with her. And if you want me to talk about that, I'm happy to.

Q Yes, while she was assistant director of the Counterterrorism Division.

A Yes.

Q Yes.

A Just not as -- I want to be clear, like, the interactions I had with her I was not a direct subordinate with her. There was a layer in between her as the assistant director

and me as the section chief.

So I came into CTD in June of 2020, and AD Sanborn was -- I think she had reported by that point from her former job in Minneapolis.

Listen, my impressions of AD Sanborn were positive. She had a reputation of a counterterrorism expert, based on her long career in the FBI, many tours in the Counterterrorism Division, her work in Los Angeles. She was a subject matter expert for the agency.

Q Did you perceive that she had a handle on her area of jurisdiction in counterterrorism during those couple of months, roughly?

A When you say area of jurisdiction, do you mean like -- can you just tell me what those words means?

Q The counterterrorism section as a whole --

A Am I confident that she knew what was going on in the Counterterrorism Division?

Q Yes.

A Yes.

Q Okay. Did she generally know about the issue or areas of major cases that were going on during the time that you interacted with her?

A Yes.

Q Now, switching gears a little bit, have you ever received any honors or awards from the FBI during your time there?

A I'm sure back in my new agent time I got some time-off awards or cash awards. Nothing then up until my executive time in the bonus structure. Those would be the most recent ones.

Q Okay. And during your tenure with the FBI, have you ever participated in a

review of your performance?

A Sure.

Q Do you generally receive good markings on your performance reviews?

A I do.

Q And what was your key motivation for joining the FBI?

A That's a long story. Are you ready for it?

Q Sure.

A Okay. So before I joined the Bureau, I have -- I have an engineering degree by trade. I worked with a large probably Fortune 100 company, had a tremendous experience, great company to work for, excellent opportunities, and I knew where my next assignments were going to be. They were going to be international. And then after that I would probably go back through corporate headquarters.

And at that time it was about not quite a year after 9/11, and I kind of knew what my path looked like in the private sector and started thinking about what would a different path look like.

And through a lot of just personal reflection on what I liked about my corporate assignment and what I didn't, I made a decision to apply to the Bureau. As you're probably aware, it takes quite a bit of time. And it was a journey kind of through that process to really get to know the people that were doing the intake at the FBI, from applicants to the polygraph program. And it's been an excellent experience, over 19 years now. Don't ever look back with any regrets on that decision.

Q That's great. Now we're going to focus in and switch gears on part of the reason that we wanted to call you in and discuss some topics with you today.

Are you familiar with the National School Board Association's September 29, 2021, letter to President Biden? I'll refer to that as the NSBA probably moving forward.

A So I've actually never read that letter, but I'm familiar with it through the memo that came in from DOJ.

Q I am going to enter that letter in as an exhibit. And I'll give you a copy to take a look at.

A Sure. Thank you.

[Vorndran Exhibit No. 1

Was marked for identification.]

BY [redacted]

Q Now, when did you learn generally of the NSBA's September 29th letter?

A I would have learned generally of that letter sometime in early October of 2021.

Q When did you learn that the Justice Department was going to take action related to school board related threats?

A I believe the first indication I had of any communication or messaging from DOJ would have been on or around October 2nd, 2021.

Q And do you know why the Justice Department believed it needed to take any action?

A I do not. I'd refer that question to DOJ.

Q I will represent to you that in a November 3rd, 2021, hearing before the House Intelligence Committee and during this transcribed interview, that Executive Assistant Director Timothy Langan testified that the DOJ and FBI conducted a discussion the weekend before the issuance of the memorandum, which is probably that October 2nd, 2021, date you referred to.

A Okay.

Q Did you take part in these conversations?

A I did not.

Q If so, what were the contents of these discussions? You said you did not. Do you know who took part in any of these discussions?

A I do not.

Q Do you know whose idea it was to issue a memorandum?

A I do not.

Q What due diligence occurred at the Justice Department, to your knowledge, between September 29th and the October 4th memo?

A Again, I would refer that to DOJ. I have no knowledge.

Q Do you know if the Justice Department looked at any of the incidents cited in the NSBA letter? And if you'd like to take a peak at it, you can.

A I would have no way of knowing what they deliberated on.

Q Did you personally look into any of the incidents that were referred to in the NSBA's letter?

A I did not.

Q Would it surprise you to learn that the vast majority of the incidents cited in the NSBA's letter calling for Federal intervention at the school board meetings and equating parents as domestic terrorists were nonviolent?

A Say that again.

Q Would it surprise you to learn that the vast majority of the incidents referred to in the NSBA's letter calling for Federal intervention at school board meetings and equating parents to domestic terrorists were nonviolent?

A I haven't read the memo, so it's impossible for me to comment on it.

Q According to a May 2022 report commissioned by the NSBA on September 21 of 2021, 8 days before the NSBA sent its letter, the NSBA sent a detailed

summary of the content of its letter and lists of incidents at school board meetings to the White House at its request.

Are you aware of this?

A I am not.

Q I'm going to show you an email chain between former executive director Chip Slaven and a White House advisor. I'm going to enter this as an exhibit. Sorry. If you want to take a peak at that.

[redacted] I'm going to mark this as exhibit 2. If you would like to take a moment to check it out.

[Vorndran Exhibit No. 2

Was marked for identification.]

BY [redacted]

Q While I know you mentioned you were generally unaware of these discussions prior to the memo coming out, as you can see in this email thread, in an email to the NSBA, White House official Mary Wall stated: Is there any way we can take a look at the letter in advance of its release? In specific, I'm meeting with colleagues from other White House offices and DOJ tomorrow morning to see if there might be any options we can pursue here, so if you have any concrete recommendations in your letter, e.g. the threat assessment you mentioned, would be good to know so I can include in discussions.

Have you ever interacted with Mary Wall?

A I have not.

Q Did you take part in a discussion, according to the email, that occurred on the morning of September 22 between the White House and DOJ?

A I did not.

Q Do you know if anyone at the FBI raised any concerns about the inclusion of the PATRIOT Act language in this letter?

A I didn't hear of any references to that because I didn't see the memo.

[redacted] But did you have any communications with your colleagues about it?

Mr. Vorndran. No, did not.

BY [redacted]

Q Do you know if any other FBI officials took part in those discussions?

A I don't know.

Q And are you familiar with the Attorney General's October 4, 2021, memo regarding alleged threats and violence at local school board meetings?

A I am.

[redacted] I am going to enter into the record the Attorney General's October 4, 2021, memo. I will mark this as exhibit 3.

[Vorndran Exhibit No. 3

Was marked for identification.]

BY [redacted]

Q Now, at the time, you were deputy assistant director of the support branch of the Counterterrorism Division, correct?

A Yes.

Q And when did you learn of the Attorney General's October 4, 2021, memorandum?

A I think the final memo, I would have learned about it on October 4th. Like I previously testified, I think that my first indication that there was a memo coming was probably on or about October 2nd.

Q Okay. Did you have any involvement in drafting the memo?

A I did not.

Q Were you provided the opportunity to weigh in on the substance of the memo prior to October 4?

A I was not.

Q Now, in the memo, the Attorney General required each U.S. attorney's office, in conjunction with the FBI, to hold meetings with local law enforcement partners in each judicial district.

Do you know why these two entities were involved?

A So the U.S. attorney's offices are the coordinating element of all Federal law enforcement in the respective jurisdictions, and I think that's why they were led to kind of centralize the effort. But then on all issues and threats, we work with our partners. And so the Bureau, DEA, ATF, State, local partners, we would normally come together on any of these larger centralized and coordinated requests.

Q Do you think it was appropriate for the FBI to be involved in this local law enforcement matter?

A I think the memo came with very clear guidance and expectations of what we were supposed to do, and that was, you know, my job at the time as a DAD. I didn't even have any leads in the jurisdictions. I'm in Washington, D.C., trying to manage a big within the Counterterrorism Division and a lot of responsibility. So it was just another item that we had to execute and work on at the request of the Department.

Q I think you said clear instruction and expectations. What in the memo did you feel was the clear instruction and expectation?

A To sit down and have a meeting with our partners.

Q Did you ever attend any of the meetings?

A I did not.

Q To your knowledge, did any of these meetings occur in the judicial district in which the FBI headquarters sits?

A I don't know that.

Q Did anyone who worked for you in the Counterterrorism Division attend these meetings?

A Not to my knowledge.

Q Are you aware that after these meetings occurred, the U.S. attorney's office reported to Main Justice on what they had found?

A No.

Q Would it surprise you to learn that reports back to Main Justice of school board related violence or threats were almost nonexistent?

A I don't have that information in front of me, so whatever the reporting that went back to the Department from the districts, I haven't seen that.

Q In fact, the reports back to Main Justice showed that there were no legitimate nationwide law enforcement justification for the Attorney General's directive.

Are you aware of that?

A No.

Q In the press release accompanying the memo, it announced the creation of a task force consisting of representatives from the Department's Criminal Division, National Security Division, Civil Rights Division, the Executive Office for U.S. Attorneys, the FBI, the Community Relations Service, and the Office of Justice Programs.

Did you have any involvement in drafting the press release?

A I did not.

BY [redacted] I'm going to enter that DOJ press release into the record. I will mark this as exhibit 4.

[Vorndran Exhibit No. 4

Was marked for identification.]

BY [redacted]

Q You can take a moment and look at this if you need to.

And now, you mentioned you weren't involved in drafting the press release, but do you know who was involved?

A I don't.

Q Do you know who came up with the idea for the task force?

A I do not.

Q Would that normally be something that would be under your branch, as you mentioned you have partnerships as part of your -- or you did have partnerships as part of your role in --

A So the partnership piece is kind of broken down into two layers. One is private sector, so that wouldn't be relevant to this. The other is interagency detailees. We don't have an interagency detailee in the Counterterrorism Division. Detail to DOJ, it's really DHS, CIA, those kind of places that we work closely with our internal partners.

Q Do you know why this would include the National Security Division?

A I don't.

Q Do you know if the task force has actually been created?

A I do not.

Q Do you believe that the Attorney General's memorandum was appropriate?

A Like I testified, the memo came in. It was clear on what the Counterterrorism Division needed to work on with our field offices, and that was in partnership with the Criminal Investigative Division, and that's what we did.

In the fall of 2021, there was and there continues to be a lot going on in the

counterterrorism mission. If you look back at that time, we were on the back end of the Afghanistan evacuation in the summer of 2021. We had an elevated HVE threat in international terrorism. The RMVE threat in domestic terrorism continued to trend with lethality. And I think, as everyone's aware, we now have a complaint on an IRGC Quds Force member trying to plot lethal operations on U.S. soil.

So in context, there was a lot going on in the fall of 2021 with an elevated threat picture across everything CTD worked on.

Q So in this instance with the school boards, though, did that play into the "a lot" that was going on in your mind? Do you think that was appropriate, in your personal opinion?

A Again, it was just another piece of CTD's work that was required to be done. That's how we looked at it.

And it wasn't -- you know, it wasn't uncommon where we would have engagements with DOJ on these, like all kinds of operational matters on a routine basis. I mean, the pace of operations in that division is pretty high, nights and weekends, and to my point, it just -- it was one more piece of something we were going to work on.

Q So in your office, did agents and employees discuss their reaction to this memo?

A Not to my knowledge. I had some -- I had an exchange with the DTOS section chief at the time, so the Domestic Terrorism Operations Section, about what charges DOJ might contemplate should there be an investigation or other charges. That was really the extent of my recollection of the conversation.

Q What were the contents of that conversation?

A Yeah. It was, you know, typically on threat cases where we're focused on investigating violence and threats of violence. It's quite common that we would see a

charge of 18 U.S.C. 875, which is interstate communication of a threat. That doesn't deal with in-person threats. They have to cross State lines, so whether it's via wire, via email, telephone, voicemail. That would have been the context of that conversation, because it was a charge that we've seen the districts use previously in threat and threats of violence cases.

Q And do you know when this conversation took place?

A It would have been right around this time, like early October.

Q And what was the name of that DTOS section chief?

A Steve Jensen.

Q And what was his reaction to the memo, that you recall?

A Similar to mine, just it was guidance that came in from DOJ that was work we were going to work on. And Steve was very well versed in 875 from his experience in the Domestic Terrorism Operations Section, and we had talked about that statute historically on other matters.

Q Now, were you involved in any conversations or correspondence related to how the FBI could help address alleged threats or violence at school board meetings?

A Can you restate that, please?

Q In addition to that conversation that you had with Mr. Jensen, were you involved in any other communications and conversations related to how the FBI could help address alleged threats or violence at school board meetings?

A Not to my knowledge.

Q Are you aware -- are you familiar with an email sent by Carlton Peeples, the deputy assistant director of the Criminal Investigative Division, on October 20th of 2021, that announced the creation of an EDUOFFICIALS threat tag?

A Yes.

[redacted] I'm going to enter that threat tag email into the record, and I will mark it as exhibit 5.

[Vorndran Exhibit No. 5

Was marked for identification.]

BY [redacted]

Q And you can take a moment and check this out if you need to.

A I'm familiar with it.

Q Oh, okay. So you were copied on this email, correct?

A Yes.

Q And do you know why Deputy Assistant Director Peeples copied you on it?

A So as memory serves, now SAC Peeples was the acting assistant director over the Criminal Investigative Division at the time, and this was a joint message from CID and CTD to SACs. And it was commonplace that the other executives in those respective divisions would be copied on those emails.

Q Did you assist in drafting this memo?

A I did not.

Q When did you learn of the creation of the EDUOFFICIALS threat tag?

A I think by title "EDUOFFICIALS", probably on or about this time, but I was aware that a tag was in process because there was a procedure that has to be followed to set it up. Whether that's in this case or, you know, for working an NSSE event and we need a threat tag for the NSSE, we have to work with our National Threat Operations Center to get that tag set up.

So probably somewhere shortly before that was I aware that a threat tag was being created, but it would have been on or about this date that I learned that was the title of the actual tag.

Q So did you create the threat tag?

A No.

Q How long does that process take to create a threat tag?

A It's short. A day or two.

Q Were you involved in any official correspondence or conversations about the creation of it before it was officially created by title?

A Again, like, I would have been aware that Domestic Terrorism Operations section was moving forward with the creation of it. But, like, I wasn't involved in the negotiations of creating it or the mechanics. I just would have been aware, if that helps.

Q And did you have any engagement on this threat tag with FBI employees to identify trends, strategies, and best practices?

A No.

Q As the deputy assistant director of the support branch of the Counterterrorism Division, did you have any knowledge or participate in any investigations that were labeled with the EDUOFFICIALS threat tag?

A No.

Q Are you generally aware of cases in which the FBI used the EDUOFFICIALS threat tag?

A I'm aware that it was applied to assessments, yes.

Q They generally -- the FBI opened at least 25 cases using the EDUOFFICIALS threat tag. Are you aware of this?

A I think the FBI opened at least 25 assessments, not cases. There's a difference between an assessment and a case.

Q And what's your understanding of that difference?

A An assessment really falls under the parlance of what we call a Guardian,

and it's the least intrusive set of checks the FBI can conduct to determine if information warrants further investigation.

Q Are you aware that several parents were investigated by the FBI for protected First Amendment activity from this threat tag?

A I am not.

Q But if I represent to you that there were, as an individual who signed this email, does this concern you?

A Well, I would disagree with signing the email. I don't think -- I was copied on the email. And without the information in front of me to look at the assessments you're referencing, it's impossible for me to answer that question based on fact.

The reality is, when we open assessments, we look at them to make an assessment if it warrants further investigation, at which point it would be predicated to a preliminary or a full investigation.

We take very seriously our obligation to protect and safeguard First Amendment protected activity and speech, and that didn't change with anything on this memo and the EDUOFFICIALS threat tag. That tag was applied to the assessments for tracking purposes so we could understand the scope and nature of the threat if it existed.

Q In your personal opinion, does knowing that you could be investigated by the FBI for speaking up at your child's school board meeting chill parents from exercising their First Amendment rights?

A The FBI didn't investigate people for exercising their First Amendment rights.

Q But as an assessment -- you said that's the least intrusive means, but is that technically investigating?

A We can look at an investiga -- look at an assessment and make a determination based on checks to see if it gets referred to State and locals. Many of

them get closed as information only with no additional investigation after that is done.

And so I think the Attorney General's memo talks specifically about the importance of safeguarding First Amendment protected activity, but recognizing that those protections don't extend when people are threatening violence or threatening someone's life based on their job, regardless of what that job is. So I think the memo speaks for itself in the way those words were written.

Q Do you personally know of any instances where that needed to be applied, though? It sounds like your understanding of the memo itself, you think that there was an issue that this needed to be applied to. Do you personally know of any instances where parents needed to be investigated by the FBI for potential threats?

A I'm not aware of any.

Q Does the EDUOFFICIALS threat tag have any law enforcement utility?

A What do you mean by law enforcement utility?

Q If it serves any law enforcement purposes.

A It's a tracking mechanism internal to our databases.

Q Now, when the Attorney General issued his October 4, 2021, memorandum, did you perceive threats or violence at school board meetings as a State and local law enforcement issue primarily?

A The guidance was clear about asking field offices to assess if there was a Federal nexus and what Federal crimes might be investigated. And that is not at all uncommon with the intake process for tips, whether they're email tips, phone tips that come into our National Threat Operations Center. You have a cadre of FBI employees who sit there, intake that information, provide it to the relevant field offices, and the field offices are making the decision whether it warrants additional checks or investigation, or if it's something passed to State and local partners, or if it's closed as no further action

required. That's just how the process works. It didn't differ because of this EDUOFFICIALS tag.

Q What did you believe was the Federal nexus that required the FBI to get involved in local school board meetings?

A Let me go back to my prior testimony. If there was an investigation that was required to be conducted to look at interstate communication of threats, that was the most common statute we have seen used for threats of violence, communication of threats.

Q Did you get the impression that local law enforcement were ill equipped to handle any disruptions that occurred at local school board meetings in person?

A I didn't have that impression.

BY [redacted]

Q What type of information did the Attorney General's office collect from the FBI prior to promulgating this memo?

A I'm not aware of any information the Attorney General's office collected from the FBI.

Q Okay. Were you aware of any series of threats to school board members or people attending school board meetings that had a Federal nexus prior to the memo?

A I was aware of media reporting of threats and -- well, I was aware of media reporting of school board meetings that were being reflected in the media as threatening. That's what I was aware of at the time.

Q And do you know if those reports had any Federal nexus, or was it mostly State and local?

A I don't know.

BY [redacted]

Q I will then move on a little bit further.

Moving into DVE investigations, how familiar are you with how the FBI classifies or categorizes investigations?

A I'm familiar with how we classify domestic terrorism investigations.

Q Now, on October 2lst of 2022, the FBI had responded to a letter to Chairman Jordan. And I will represent to you in the response: While investigative case classifications, or categories, help the FBI better understand the criminal actors we pursue, we recognize actors' motivations vary, are nuanced, and sometimes are derived from a blend of sociopolitical goals or personal grievances. Regardless of case classification, the FBI follows the individualized facts and evidence of each case to carry out our investigations.

Do you believe that necessarily to be true with the school board issue and investigations that were getting referred to the FBI?

A That was a long passage. Can you -- I'm not familiar with it. Would you mind reading it back to me?

Q Of course. I will enter it into the record.

A Okay.

[Vorndran Exhibit No. 6

Was marked for identification.]

Mr. Vorndran. Which paragraph were you on?

BY [redacted]

Q I was referring to in -- I don't have it marked.

A Might be paragraph 2 on the front page.

Q Yes, that's correct.

A Okay. What was your question?

Q Oh, sorry. At what stage in the investigation are cases given an investigative case classification?

A So for sure when they go to a preliminary or full investigation they are given a case classification. It's been a long time since I was in case management. There may -- it may attach, once an assessment is moved to a full Guardian, that a threat tag is selected, but I would have to check that information.

Q And to your knowledge, did this happen properly in the process with the school board investigations?

A If it's part of the process in our case management system, then yes.

Q And can a case fall under more than one classification?

A It can.

Q Who is responsible for determining and applying an investigative case classification or category?

A In general, the agent who opens the investigation would make that decision, and then it goes through a -- depending on what kind of case it is, it goes through different levels of approval to verify and authenticate.

Q Is that a field agent?

A Yes.

Q Is there any input provided by that agent's supervisors?

A I think that -- so the reason I hesitate, there's certainly -- within the field offices, there are different priorities that are worked. So, for example, if -- if I go back to my white collar public corruption days, if I could open something as a wire fraud case or it was wire fraud involving an elected official and I could open it as a public corruption case, I would open it as a public corruption case. And that would be a conversation with a supervisor because that would have been a higher priority investigation to work for the

FBI.

So it's a bit of a nuance of an answer, but hopefully that provides a little context of how that field agent-supervisor discussion would look.

Q Would any input be provided by division heads or headquarters officials?

A No, not to my knowledge.

Q Would an agent go through more than one supervisor, or would it just be one person that they would ask?

A So back to your earlier question if a case could be classified as two things, in that scenario, it could go through two supervisors for approval, because you might have -- we can just stick with the example I used. You might have a wire fraud case that involves an elected official, so you might have a white collar case opened on financial institution fraud and an elected official case. They in many field offices would be different supervisors, and so would be -- in terms of everybody being synced up and aware of what was going on, there would be two supervisors involved in those conversations.

Q Now, during your tenure as the deputy assistant director, what role did you have in classifying cases?

A I had no role.

Q How often are cases reclassified from one category to another?

A That's a very difficult question to answer. I mean, how often? I don't know to give you what we know. If we have thousands of cases, I don't know how to answer that question productively. It does happen that they're reclassified, but to give you perspective on volume is really difficult.

Q Do certain criteria have to be met for a case to be reclassified?

A Sure.

Q Can you briefly talk about what that criteria could be?

A Yeah. So we'll just stay with the example I brought up. If you have a wire fraud, financial institution fraud case being worked by the white collar squad and there's a, what we would call dual caption -- that's the word we use -- case, a public corruption of an elected official who's engaged in that wire fraud or financial institution fraud, there could become a time where it makes more sense, from the efficient use of resources, that that case would transfer to one squad over another.

So, for example, if the elected officials -- if there's exculpatory information and there's no longer a belief that elected official engaged, that case would float back to a traditional white collar case and be reviewed by that squad. At that point it would be reclassified to remove the elected official public corruption component, and it would just be white collar.

We also see it at times in hate crimes where we don't know what it is up front, and so you would get reclassification within the hate crime context of -- you know, whether color of law or traditional hate crime, so you'll see it there at times too.

Q So I know you said that it'll switch from one classification to another.

A Uh-huh.

Q Is there still somewhere in that case's history that it was classified as the other thing first?

A I'm not an expert on the logging within our case management system, but my recollection is it does require a -- like a change case request. Without verifying it, I have to -- you know, we have to take that back and get you an answer, but -- so I don't know, but I do think it's probably logged.

Q And the FBI contends that case classifications can only change if supported by the facts and circumstances of the investigation. Is that true in practice, to your

knowledge?

A Yes.

Q And who makes the determination to reclassify?

A That would be a field office decision between the field agent and the supervisor.

Q Are you familiar with domestic violent extremism investigations at the FBI?

A I am.

Q Are you familiar with how the FBI defines domestic violent extremists?

A Yes.

Q What's your definition of how that term is applied?

A Well, so the way we look at domestic terrorism in aggregate -- and domestic violent extremism cuts across different threat categories. So you have racially and ethnically motivated violent extremism, anti-government, anti-authority, anarchist violent extremism. So DVE is an umbrella term that cuts across those.

But when we look at those investigations, there's three key prongs that we look for before we predicate investigation, and those are violation -- alleged allegation of criminal activity in violation of a Federal law in furtherance of ideology.

And the ideologies kind of fall into some of those categories. I talked about anti-government, racial and ethnically motivated violent extremism, anarchist violent extremism. So there's ideologies enumerated and explained, and you have to have each of those three addressed in a communication to predicate a domestic terrorism investigation.

Q And have you worked on any DVE cases while at the FBI?

A Like as a field agent?

Q At any time while you've been at the FBI.

A No.

Q What criteria must be met in order for an investigation to be reclassified as such?

A Those three things.

Q Those three things?

A Yes.

[redacted] We'll go off the record for a moment.

[Discussion off the record.]

[redacted] All right. We'll go back on the record.

BY [redacted]

Q Now, according to the FBI, the opening of a full investigation must be approved by a supervisory special agent and notice must be given to the headquarters unit within 15 days.

As the deputy assistant director of the Counterterrorism Division, would you receive notice for every full DVE investigation that was opened?

A No.

Q Did you have to sign off on opening full investigations in any respect?

A I did not.

Q Okay. Was there ever any opportunity for you to provide input or object to the opening of an investigation?

A No.

Q Are you familiar with the letter Representative Jordan sent to the FBI Director, Director Wray, on July 27th of 2022, regarding protected whistleblower disclosures related to the FBI's handling of DVE cases classifications?

A I have not read the letter.

Q Well, I will show it to you. I will mark it as exhibit 7.

[redacted] [redacted], while we're doing that, let me jump in for a quick question.

[redacted] Of course.

[redacted] Kevin, thanks for coming in. I know you have a big job, and, obviously, you know I understand the Bureau pretty well after 23 years. I do appreciate your taking the time.

My only question regarding the threat tag -- and it's a fairly simple one -- in your role as DAD of CTD's branch 2, did you recall any specific operational guidance that went out to the field through traditional mechanisms, you know, as to how to process or operationalize the AG's memo?

Mr. Vorndran. The only guidance I'm aware of is the exhibit you showed me, the memo from now SAC Peeples. That's the only guidance I'm aware of [inaudible] on how to apply that tag and the questions considered.

[redacted] Being a former Joint Terrorism Task Force supervisor myself, I understand that mechanism well. So I wasn't sure if the National Joint Terrorism Task Force would have been, you know, a logical mechanism to kind of --

Mr. Vorndran. They would not. I mean, the JTTF predominantly focuses on the training of the TFOs sitting on the JTTF. They provide funding to the airport liaison officers. They didn't have any role, to my knowledge, in this.

[redacted] Okay. Thank you.

Mr. Vorndran. Yeah, sure thing.

[Vorndran Exhibit No. 7

Was marked for identification.]

BY [redacted]

Q Now I'm going to go back to exhibit 7 here for a few minutes.

Can you please read the first sentence on page 2 of the letter? If you would mind reading that out loud.

A "New whistleblower disclosures made by multiple FBI employees from different field offices indicate that the Biden administration's narrative may be misleading."

Q And can you please read the next two sentences as well?

A "We have received accusations that FBI agents are bolstering the number of cases of DVEs to satisfy their superiors. For example, one whistleblower explained that because agents are not finding enough DVE cases, they're encouraged and incentivized to reclassify cases as DVE cases even though there is minimal, circumstantial evidence to support the reclassification."

Q Are you aware that, according to the FBI's counterterrorism policy guide, agents are required to open one case per subject?

A If you have that passage, I'll be happy to look at it. That is my understanding, but it is generally one case per subject.

Q Do you know when the policy was enacted?

A I do not.

Q Do you know how this policy compares to the DIOG?

[redacted] DIOG.

A Oh, no.

[11:01 a.m.]

BY [redacted]

Q And for non-counterterrorism investigations, is the policy still one case per subject, or can you have one case with multiple subjects?

A So general practice is one case per subject. There are, much like we would have across different threats, cases of conspiracies that will have multiple subjects into one investigation. So, for example, if we -- taking a different, like, side of this, if you have a Hobbs Act case, like an armed car robbery, and there's three individuals involved and we don't know who they are, we would open that investigation on the armored car robbery with three unknown subjects, and as we identify them, there would be three people involved in that investigation.

Depending on what the investigation shows, those subjects could be written into their own case or not. It's a little bit fact-dependent on what we have.

Q And in your experience as the SAC of the Washington field office, how do agents know when to follow the DIOG for an investigation or the counterterrorism policy guide?

A Okay. I got there in January of 2023. I don't know.

Q To your knowledge, is this how the Bureau handled domestic terrorism investigations during the 2020 riots?

A The one -- is the question did the Bureau handle one case, one subject for the 2020 riots? To my knowledge, yes.

Q Are you aware of any instances where a case was reclassified even if there was insufficient facts and circumstances to support the new classification?

A I am not.

Q Are you aware of any instances during your tenure at the FBI where an agent

was pressured to bolster the number of case classifications by reclassifying a case?

A No.

Q And following the events that occurred at the U.S. Capitol on January 6, 2021, are you aware of weekly emails that were sent out by Director Wray and Assistant Director Sanborn?

A What was the timing?

Q Following January 6th of 2021, are you aware of weekly emails that were sent out by Director Wray and Assistant Director Sanborn?

A I am not.

Q Did you ever have any opportunity to identify or open domestic terrorism investigations following the January 6, 2021 --

A I did not.

Q -- event?

We have been told about a practice at the FBI that several agents have referred to -- that several agents have referred to as papering the file to keep a case open. Are you aware of this practice?

A No.

Q Agents have said that even when they have taken all logical investigative steps and there is no indication that there is a Federal crime occurring, they cannot justify keeping a case open, they sometimes get pushback from a headquarters or their chain of command to keep the case open, so they paper the file.

Are you aware that agents feel pressured by headquarters to keep certain types of cases open, and in order to do that, they have to paper the file every 90 days?

A I'm not aware of those.

Q And it was described to us as a common practice.

As a senior leader in the FBI, can you describe for us the law enforcement utility of keeping a case file open by providing initial documents and papering the file?

A So, in general, the times we'll keep a case file open with limited activity are specific to evidence that remains not closed out. So we have requirements to dispose of all evidence before investigations are closed.

You could have a period of inactivity while the district is making decisions on charging. I think you're aware that we'll conduct our investigations. We will develop the evidence wherever that evidence comes from, and then we'll present that evidence to the prosecuting district. And sometimes those charging decisions, whether there's going to be charges brought or not, can take a period of time, and so, there can be latency in the file.

So there are times that cases are kept open with limited activity, but I'm not aware of the concept used of paper the file on DVE cases.

Q You've never heard any agents ever use that term?

A I've heard agents use paper the file, sure, but not in the context of DVE cases.

Q And during your tenure at the FBI, you have held several supervisory positions, correct?

A Yes.

Q And do you generally have insight into the cases your direct reports were working on?

A As a field supervisor, which is the frontline supervisor, absolutely. The requirements on a field supervisor are file reviews every 90 days. You have obligations on human intelligence to go through files. That is the closest in terms of a supervisory role to complete knowledge.

As an assistant special agent in charge, which is kind of like a senior leader but not an executive, you will -- ASACs will see case files, but the level of rigor that they are gone through is less than a frontline supervisor would make.

[redacted] We're going to go off the record. That will conclude our first hour.

[Recess.]

[redacted] It is 11:16, and we're going on the record.

BY [redacted]

Q Good afternoon, Mr. Vorndran. How are you doing today?

A I'm good. Thank you.

Q Thank you so much for being here.

My name is [redacted] I am counsel for the Democratic House Judiciary Committee. I'm going to be asking you some questions with respect to some issues that the majority has brought up, in addition to some other areas that I want to explore. Does that sound good?

A Sure.

Q So you're familiar with the domestic investigations and operations guide, correct?

A Yes.

Q And it's referred to as the DIOG, correct?

A Yes.

Q And the DIOG has been in effect since 2008?

A Sounds about right.

Q So that's about 15 years?

A Uh-huh.

Q Who does the DIOG apply to?

A Everyone in the FBI.

Q Okay. So every single employee in the FBI has to follow the DIOG?

A Yes.

Q And does the DIOG apply to all domestic investigative activities conducted by the FBI?

A Yes, it does.

Q Does it also apply to all domestic intelligence collection activities conducted by the FBI?

A To my knowledge, yes.

Q So what is the purpose of the DIOG?

A To provide standard operating procedures to how FBI employees go about conducting their intelligence and investigative operations.

Q And so, it's to ensure consistency across the board when people are conducting investigations?

A That's correct.

Q And so according to the DIOG, the FBI has four broad general authorities. I want to walk through each of those with you, and to make that helpful, I want to introduce an excerpt of section 2.2 of the DIOG, which discusses each of the four authorities, and I'll be marking that as exhibit 8.

[Vorndran Exhibit No. 8

Was marked for identification.]

BY [redacted]

Q So in section 2.2.1, the title says, Conduct Investigations and Collect Intelligence and Evidence. And the first sentence reads: The FBI is authorized to collect intelligence and to conduct investigations to detect, obtain information about, and

prevent and protect against Federal crimes and threats to the national security and to collect foreign intelligence, as provided in the DIOG.

Did I read that sentence correctly?

A Yes.

Q What do you understand that sentence to mean?

A It outlines our authorities to conduct our investigations and how we're supposed to do it, and what we're permitted to do under our investigative authority. So it kind of outlines the scope of capability.

Q And what do you understand collect intelligence to mean?

A The collect intelligence could refer -- it cuts across a swath of activity. So that could be human intelligence. It could be other mechanisms in the classified world that would be considered intelligence, but it is to collect intelligence and information to inform our investigations.

Q And so, would you say it's correct to state that conducting investigations and collecting intelligence is how the FBI scopes an issue?

A I would say it's how we look at our investigations and intelligence operations. I'm not sure about how we scope, but, like, to collect intelligence and conduct investigations is the core work of the FBI.

Q And so, I want to take a look at section 2.2.2, and this is titled Provide Investigative Assistance. This sentence states that the FBI is authorized to provide investigative assistance to other Federal, State, local, or Tribal agencies, and foreign agencies as provided in section 12 of the DIOG.

So to make this helpful, I'll be introducing an excerpt of section 12 of the DIOG, which I'll be marking as exhibit 9.

[Vorndran Exhibit No. 9

Was marked for identification.]

BY [redacted]

Q And so, the first sentence of the second paragraph of section 12.1 states the following: Section 12 specifically addresses those situations in which the FBI has been requested, or is seeking to provide assistance to other agencies and does not have an open substantive assessment or predicated investigation.

What do you understand this sentence to mean?

A So I'll give you an example. That applies to investigative matters of criminal conduct that do not rise to the Federal level. So, we see this quite frequently in active shooters. So if you have an active shooter who murders five or six people, and there is no Federal statute that's been violated in terms of how the weapon was acquired, it is simply a State and local homicide matter, the Bureau will frequently be pulled into those investigations to provide assistance. It could be shooter reconstruction, evidence recovery, victim assistance.

So that is where we see that broadly used.

Q That's helpful, thank you.

And I'd also like to look at section 12.2.1(f). And this is a subpart (f) that appears at the top of page 12-2.

And so this section states that the FBI personnel can provide investigative assistance to State, local, or Tribal agencies in the investigation of matters that may involve Federal crimes or threats to national security, or for such other purposes as may be legally authorized.

So the sentence explicitly states that the FBI can provide investigative assistance to State, local, or Tribal agencies in the investigation of matters that may potentially involve Federal crimes or threats to national security. Does this mean that the FBI does

not need to be certain that a Federal nexus exists before providing assistance to State and local partners?

A If I understand the question correctly, we can be involved in investigations with State and local partners to assess if there is Federal crimes that are committed. We don't need to know that there was a Federal crime committed to be involved.

Q Thank you for that.

Okay. So the third general category concerns the FBI's authority to conduct intelligence analysis and planning, and this will be exhibit 10.

[Vorndran Exhibit No. 10

Was marked for identification.]

BY [redacted]

Q And so section 2.2.3 states: The FBI is authorized to conduct intelligence analysis and planning as provided in section 15 of the DIOG.

And to make this easier, I would also like to introduce an excerpt of section 15 of the DIOG, and this will be marked as exhibit 11 -- oh, 10 is 15.

[Vorndran Exhibit No. 11

Was marked for identification.]

BY [redacted]

Q Okay. Can you take a moment to review section 15.2.1 entitled Functions Authorized?

A Uh-huh. Okay.

Q And so, what do you understand this portion to mean?

A This outlines what intelligence analysis is authorized for FBI threats that the FBI is focused on. It broadly breaks it down there into some more particular categories of the development of overviews and analysis, research and analysis, and facilitate and

support analysis through investigations. So it just outlines how intelligence analysis can be utilized.

Q Perfect. Thank you for that.

I now want to look at section 2.2.4, which is the fourth general authority. And so, this relates to information sharing, and I will introduce this as exhibit number -- oh, excuse me. Okay, exhibit 8. So can you please take a moment to review section 2.2.4, and let me know when you're ready to proceed.

A I'm ready.

Q Okay. So what do you understand this section to mean?

A So it refers back to sections 12 and 14 and the -- kind of the provisions and guidelines of how we can retain and share information under the DIOG.

Q Okay. And so this would also -- section 12 discusses assistance of State, local, and Tribal agencies.

A Uh-huh.

Q And so this would be talking about information sharing with those State and local partners?

A That's right.

Q So I now want to shift our discussion to discuss some of the FBI's core values, and so I'm going to be handing you what's been marked as exhibit 11, and so, this will be an excerpt of section 3.1 of the DIOG.

And so you'll see here in section 3.1, the FBI's core values are listed in A through H. Do you mind reading aloud each of the core values that are listed under A through H.

A Uh-huh.

Rigorous obedience to the Constitution of the United States; respect for the dignity of all those we protect; compassion; fairness; uncompromising personal integrity

and institutional integrity; accountability by accepting responsibility for our actions and decisions and their consequences; leadership, by example, both personal and professional, diversity.

Q And do you agree with these core values?

A Yes.

Q And so, as someone with 19 years of experience in the FBI, do you believe that these core values, as quoted in section 3.1, are "fully understood, practiced, shared, vigorously defended, and preserved," closed quotation mark?

A I do.

Q Can you read the second sentence of the next paragraph that starts with the word, our individual and institutional rigorous obedience. This is in the second paragraph, that second --

A Our individual and institutional rigorous obedience to constitutional principles and guarantees is more important than the outcome of any single interview, search for evidence, or investigation.

Q So what do you understand that to mean?

A The fact that the importance to the agency is our commitment to the American people to uphold the Constitution and not one investigation or collection of evidence usurps that overarching principle and the oath we take on day one of the Bureau.

Q And do you agree with this sentence?

A Yeah.

Q And so I want to look at the last paragraph of section 3.1, and it reads: We who enforce the law must not merely obey it. We have an obligation to set a moral example that those whom we protect can follow. Because the FBI's success in

accomplishing its mission is directly related to the support and cooperation of those we protect, these core values are the fiber that holds together the vitality of our institution.

Do you agree that these core values that we just went through in A through H are the fiber that holds the FBI together?

A I do.

Q So I also briefly want to touch on compliance, and so this appears in section 3.1.1. Can you take a moment to just review that one paragraph, and let me know when you're ready to proceed.

A Okay. Okay.

Q So the third to last sentence of this paragraph states: Under no circumstance will expediency justify disregard for the law.

And I think this is something similar that we just discussed with the above section, but given your 19 years of experience at the FBI, is it accurate to say that under no circumstance does expediency justify disregard for the law?

A I agree with that.

Q Thank you.

And so this paragraph also states that the FBI must provide sufficient training to affected personnel and ensure that appropriate oversight monitoring mechanisms are in place.

What type of oversight monitoring mechanisms are in place at the FBI?

A So as it relates to investigation, I'll go back to my earlier testimony of the requirements of frontline supervisors to look at case files, and there's differences depending on how long an employee has been with the FBI. So there is more strict and more -- let me say this, more frequent meetings with people who are under 2 years as case agents, and then that extends to 90 days when you're past your 2-year mark to look

at the file reviews.

And that is the compliance component of what is going on in the field. And then there is a secondary review conducted by the second-level manager on a 90-day basis.

Q And so I now want to talk a bit about the First Amendment, and so to that extent, I want to take a look at a letter that the FBI's acting assistant director for congressional affairs sent to Chairman Jordan on March 1st, 2023, and I would like to enter that as an exhibit, No. 12.

[Vorndran Exhibit No. 12

Was marked for identification.]

BY [redacted]

Q And you can just take a moment to review this letter, and let me know when you're ready to proceed.

A I haven't read this before. So let me just take a moment if I could.

Q Take your time.

A Okay. I've scanned it.

Q Okay. Thank you.

So the third paragraph on page 1 states that, quotation mark, "the FBI cannot and does not investigate groups or individuals based solely on the exercise of First Amendment activity. Consistent with our mission, the FBI holds sacred the rights of individuals to peacefully exercise their First Amendment freedoms."

Do you agree with this statement?

A Yes.

Q And is it correct to say that the FBI takes First Amendment protections very seriously?

A Absolutely.

Q Yeah, and I counted and there are at least 80 instances in the DIOG that reference the need to protect the First Amendment, and one such example is in section 4.2 of the DIOG entitled Protection of First Amendment Rights, which I would like to introduce an excerpt of as exhibit 13.

[Vorndran Exhibit No. 13

Was marked for identification.]

BY [redacted]

Q And so if you can take a moment to review on the second page -- I don't think there is highlighted language, but if you look on the second page, there is some italicized text. If you can read that portion and a little bit below.

A Okay.

Q So you'll see on the second page that the First Amendment is directly quoted, and that's in the italics, and then the following paragraph goes on to state: Although the amendment appears literally to apply only to Congress, the Supreme Court made it clear long ago that it also applies to activities of the executive branch, including law enforcement agencies, closed quote, like the FBI.

Why do you think this clarifying information was included?

A So that it's clear to FBI employees that the language extends to all law enforcement activity we conduct.

Q And so, this is just further demonstration of how seriously the FBI takes First Amendment protected activities?

A Yes.

Q Thank you.

So I now want to switch gears a bit and discuss the October 4th, 2021, memorandum, which was introduced as exhibit No. 3. So if you can pull that out for me.

And can you read the title of the memorandum out loud under the subject?

A Under the subject? Is that what you said?

Q Yeah.

A It says: Partnership among Federal, State, local, Tribal, and territorial law enforcement to address threats against school administrators, board members, teachers, and staff.

Q Thank you.

Does the title say anything about parents?

A It does not.

Q Does the title say anything about school board meetings?

A It does not.

Q Does the title say anything about preventing forms of speech?

A It does not.

Q Does the title say anything about preventing parents from going to school board meetings?

A No.

Q Does the title say anything about preventing parents from speaking at school board meetings?

A No.

Q Thank you.

So I want to move on to the first paragraph. So can you please take a moment to review the first paragraph, and let me know when you're finished.

A I've read it before.

Q Okay. Thank you.

And so the first sentence of this paragraph underscores the issue of harassment,

intimidation, and threats of violence against school administrators, board members, teachers, and staff, correct?

A Yes.

Q And the last sentence of this paragraph highlights that the Constitution protects spirited policy debates, correct?

A It specifically says: While spirited debate about policy matter is protected under our Constitution.

Q Thank you.

And do you understand this to be in reference to First Amendment protections?

A I do.

Q And is it reasonable to assert that FBI employees reading this statement will interpret that to be a reference to First Amendment protections?

A Yes.

Q Okay.

And so the last sentence of this paragraph notes that the Constitution -- constitutional protections do not extend to threats of violence or efforts to intimidate individuals based on their views, correct?

A Yes.

Q What do you understand this to mean?

A Well, similar to what I talked about earlier. Like, when we have investigations or assessments that cross into violence and threats of violence, we're past the point of protected First Amendment activity, and law enforcement will be involved at that point.

Q Does the first paragraph of this memorandum make any reference to parents?

A No.

Q Does it make any reference to school board meetings?

A No.

Q Does the first paragraph of this memorandum say anything about preventing parents from attending school board meetings?

A No.

Q Does this paragraph say anything about preventing parents from speaking at school board meetings?

A No.

Q So I want to move on to the second paragraph. And so this paragraph states that threats against public servants are illegal, and emphasizes that school board administrators, board members, teachers, and staff should be able to do their work without fear for their safety.

Does the second paragraph say anything about parents?

A No.

Q Does it say anything about school board meetings?

A No.

Q Does it say anything about censoring First Amendment-protected speech?

A No.

Q Are threats against public servants something that should be taken seriously?

A Yes.

Q Why is that?

A Everybody should be free to do their job in a safe environment, regardless of elected officials, teachers, law enforcement. Whatever your job is, you should be able

to do your job free of threats of violence.

Q And so I want to now turn to the third paragraph. And so the first sentence of the third paragraph states that the Department takes these incidents seriously and is committed to using its authority and resources to discourage these threats, identity them when they occur, and prosecute them when appropriate.

Do you understand the phrase "when appropriate" to mean under proper circumstances?

A Yes.

Q So the sentence is not saying that the Justice Department will prosecute every case relating to this matter, only those that are appropriate for prosecution, correct?

A Yeah, that's consistent with my experience and my FBI time. All those engagements of evidence being provided and prosecutors making prosecutorial decisions, not every case gets charged. It's when it's deemed appropriate.

Q And so the last sentence of this paragraph says that the Department will announce a series of measures designed to address the threat and criminal conduct directed toward school personnel.

Do you know whether the DOJ announced any of these measures?

A I do not.

Q As a former deputy assistant director of the counterterrorism division, would you have been made aware if they did make any of these measures?

A Potentially, yeah.

Q Okay.

So I now want to move on to the fourth paragraph. And so here AG Garland is directing the FBI, working together with each U.S. Attorney's Office, to meet with Federal,

State, local, Tribal, and territorial leaders in each Federal jurisdiction. And the stated purpose of these meetings is to, quote, "facilitate the discussion of strategies for addressing threats against school administrators, board members, teachers, and staff, and to open dedicated lines of communication for threat reporting, assessment, and response."

Does the word "prosecute" appear anywhere in this paragraph?

A No.

Q What do you understand the phrase open dedicated lines of communication for threat reporting, assessment, and response to mean as it relates to State, local, Tribal, and territorial leaders?

A To me, that simply means that we are coming together as a law enforcement community to talk about threats.

Q And it's common for the FBI to work together with State and local partners?

A Every day.

Q And so during your career, have you engaged in discussions with State and local partners to address threats?

A Sure. I mean, as a case agent, in my time in Baltimore and Philadelphia, I sat on what we would consider task forces, which are colocated State and local deputized officers. And so, yeah, throughout my career, I've had those conversations and sat with those folks.

Q And is it unusual for the FBI to discuss strategies with State and local partners concerning matters that may not result in Federal prosecution?

A Unusual is a hard word to answer to. We have plenty of conversations at the State, local, Federal level of work we're going to do. Some of them end up in prosecution; some of them do not. You know, it's just the course of business.

Q And so why is it important for the FBI to work together with State and local partners?

A There's too much work, number one, for the FBI to do alone. There are authorities that our State and local partners bring us under our provisions of sharing information that we can rely on to carry out effective law enforcement activity.

Q And so the memorandum finishes off with the following sentence: The Department is steadfast in its commitment to protect all people in the United States from violence, threats of violence, and other forms of intimidation and harassment.

Does this sentence use the word "parents"?

A No.

Q Does this sentence mention anything about censoring the speech of parents?

A No.

Q Does this sentence say anything about school board meetings?

A No.

Q Does this sentence say anything about preventing parents from attending school board meetings?

A No.

Q Does this sentence say anything about preventing parents from speaking at school board meetings?

A No.

Q So based on our review of this memorandum, is it correct to say that nowhere in the text is the word "parent" mentioned?

A I believe that is correct.

Q And is it correct to say that nowhere in the text are school board meetings

mentioned?

A Yes.

Q Is it correct to say that nowhere in the text does it discuss censoring the constitutionally protected speech of individuals?

A That's correct.

Q Is it correct to say that nowhere in the text does it mention preventing parents from attending school board meetings?

A That's correct.

Q Is it correct to say that nowhere in the text does it mention preventing parents from speaking at school board meetings?

A That's correct.

Q And so, the memorandum notes that the Justice Department protects all people in the United States from violence, threats of violence, and other forms of intimidation and harassment. And you mentioned briefly, but why do you feel it's important to protect people from these type of situations?

A Everyone deserves the privilege to do their job free of violence and threats of violence. I mean, it's pretty simple.

Q And so, is it accurate to state that this memorandum deals with threats targeting school board members, teachers, and workers?

A Can you please ask that again?

Q Yeah.

So at this point, we've reviewed every paragraph of the memorandum, and so, is it accurate to say that the purpose of this memorandum was to deal with threats targeting school board members, teachers, and workers?

A Yes.

Q Thank you.

And another quick question. I know earlier counsel from the majority had mentioned that the Patriot Act was referenced in this October 4th memorandum. Is the Patriot Act referenced anywhere in this memorandum?

A No.

Q Thank you.

Okay. So I now would like to look at the DOJ press release, which was previously introduced as exhibit 4. And so, we'll go through a similar review of this letter, and so can you just read the title out loud, please?

A Justice department addresses violent threats against school officials and teachers.

Q Does the title say anything about parents?

A No.

Q Does the title say anything about school board meetings?

A No.

Q Does the title say anything about preventing parents from going to school board meetings?

A No.

Q Does the title say anything about preventing parents from speaking at school board meetings?

A No.

Q Does the title say anything about censoring speech?

A No.

Q So I now want to turn to the first paragraph, and if you want to take a moment to review it, please let me know when you're ready.

A Okay.

Q So does the first paragraph make any reference to parents?

A No.

Q Does the first paragraph say anything about school board meetings?

A No.

Q Does the first paragraph say anything about preventing parents from attending school board meetings?

A No.

Q Does the first paragraph say anything about preventing parents from speaking at school board meetings?

A No.

Q Does the first paragraph say anything about censoring speech?

A No.

Q Let's move on to the second paragraph. You can take a moment to review, and let me know when you're ready.

A Okay.

Q Does the second paragraph make any reference to parents?

A No.

Q Does the second paragraph say anything about school board meetings?

A No.

Q Does the second paragraph say anything about preventing parents from attending school board meetings?

A No.

Q Does the second paragraph say anything about preventing parents from speaking at school board meetings?

A No.

Q Does the second paragraph say anything about censoring the constitutionally protected speech?

A No.

Q I realize I talk very quickly, so I will slow down a bit.

So I do want to take a look at the third paragraph now, and so let me know when you are ready to proceed.

A Okay.

Q Does the third paragraph make any reference to parents?

A No.

Q Does the third paragraph make any reference to school board meetings?

A No.

Q Does the third paragraph say anything about preventing parents from attending school board meetings?

A No.

Q Does the third paragraph say anything about preventing parents from speaking at school board meetings?

A No.

Q Does the third paragraph say anything about censoring constitutionally protected speech?

A No.

Q Okay. So the second sentence of the third paragraph states that the Justice Department's efforts to address the rise in criminal conduct directed toward school personnel is, quotation mark, "expected to include the creation of a task force," closed quote; open quote, "to determine how Federal enforcement tools can be used prosecute

these crimes, and ways to assist State, Tribal, territorial and local law enforcement where threats of violence may not constitute Federal crimes.

And I believe you said earlier that you weren't aware of what this task force was created, correct?

A I am not.

Q And you also mentioned earlier that the FBI often works with U.S. Attorneys' Offices in the prosecution of crimes?

A We do.

Q And so is it unusual for the FBI to be involved in discussions involving how Federal enforcement tools can be used?

A No.

Q Okay.

And we previously discussed that the FBI often works in partnership with State and local partners, and so, is it unusual for the FBI to assist State and local partners where threats of violence may not constitute Federal crimes? We talked about this before.

A It is not unusual.

Q Okay. Can you please take a moment to review the fourth paragraph, and let me know when you're ready to proceed.

A Okay.

Q Does the fourth paragraph make any reference to parents?

A No.

Q Does it make any reference to school board meetings?

A No.

Q Does it say anything about preventing parents from going to school board meetings?

A No.

Q Does it say anything about preventing parents from speaking at school board meetings?

A No.

Q Does it say anything about censoring constitutionally protected speech?

A No.

Q And so the second sentence of this paragraph states that specialized training and guidance, quotation mark, will help school board members and other potential victims understand the type of behavior that constitutes threats, how to report threatening conduct to the appropriate law enforcement agencies, and how to capture and preserve evidence of threatening conduct to aid in the investigation and prosecution of these crimes.

Do you think it's important for individuals to understand the type of behavior that constitutes threats?

A Yes.

Q Why is that so?

A So I'll take it in the hate-crime context. We have a lot of experience where hate crimes are underreported, because people don't understand, when they are the victims, what constitutes a hate crime, and the mechanism to report those. And so it is important when -- for victims to understand what constitutes the criminal activity and how to report it.

Q And so providing individuals with this type of information to help them understand the types of behavior that constitutes threats, how to report that type of threatening conduct to the appropriate law enforcement officials, and how to capture and preserve evidence, do you think that that aids in the investigation and prosecution of

these crimes?

A Sure, because if we don't know about it, we can't work it.

Q And so can you please take a moment to read the fifth paragraph, which is the last one. Let me know when you're ready to proceed.

A Okay.

Q So does the fifth paragraph make any reference to parents?

A No.

Q Does it make any reference to school board meetings?

A No.

Q Does it say anything about preventing parents from attending school board meetings?

A No.

Q Does it say anything about preventing parents from speaking at school board meetings?

A No.

Q Does it say anything about censoring constitutionally protected speech?

A No.

Q And so, this paragraph provides the public with information about reporting tips, quotation mark -- or tips through, quotation marks, "the FBI's National Threat Operations Center, parentheses (NTOC) closed parentheses, via its national tip line, parentheses 1-800-CALL-FBI, closed parentheses, and online through the FBI's website, which lists the FBI website as www.fbi.gov/tips."

In your experience, has the FBI tried to make it widely known that these two resources are available to the public?

A Yes.

Q And why is that?

A Well, similar to my earlier statement. If we don't know about allegations of criminal activity, we have no way to assess if there is a role for the FBI, and in many cases, where there's no role for the FBI, those tips are not reported to State and locals. So it's another avenue for society to provide tips of criminal activity. And even if we can't deal with it at the Federal level, we certainly have the relationships with State and locals to make sure they receive the same information.

Q Thank you.

And so, the last sentence of this paragraph states that reporting threats of violence through NTOC will help the Federal Government identify increased threats in specific jurisdictions, as well as coordinated widespread efforts to intimidate educators and education workers.

And just as a general matter, and you spoke a little bit about this, do you agree that through -- that NTOC helps the Federal Government identify increased threats in specific jurisdictions?

A What we would call NTOC is the place to report information so the FBI has access to see if there is actual criminal activity going on. So we do report it widely for that reason, and they have relationships with the field offices, once they make decisions to intake tips, and then send them on to the field.

Q And so at this point, we've exhaustively reviewed the press release, and so, we've gone through each paragraph. Is it accurate to State that this press release deals with targeting -- deals with threats targeting school board members, teachers, and workers?

A Yes.

Q And based on our exhaustive review of this press release, is it accurate to

State that this press release does not say anything about parents, school board meetings, or censoring constitutionally protected speech?

A Yes.

Q And so I now want to switch gears and talk a bit about NTOC, which is the National Threat Operations Center, correct?

A Yes.

Q And so we can call it NTOC for short today.

And so is it your understanding that NTOC works 24 hours a day, 7 days a week, 365 days a year?

A They do.

Q So I'd like to introduce an excerpt of a 2020 report released by the DOJ office of privacy and civil liberties, and this report is titled "Federal Bureau of Investigation Privacy Impact Assessment for the Threat Intake Processing System." And this will be marked as exhibit 14.

[Vorndran Exhibit No. 14

Was marked for identification.]

So on page 2, the first sentence of section 1(a) defines the purpose of NTOC, stating that it, quotation marks, "serves as a central intake point in the FBI for the general public and other government agencies to provide information about potential or ongoing crimes, threats to life, parentheses (TLL), closed parentheses, and national security threats," closed quote.

Is this an accurate description of NTOC's purpose?

A Yes.

Q And you went over this briefly, but how do you feel NTOC serves as a central intake point for the FBI?

A Can you reframe that question a little bit?

Q Yeah.

So in this sentence that I just read, it states that NTOC serves as a central intake point in the FBI for the general public and other government agencies to provide information about potential or ongoing crimes.

A Uh-huh.

Q And so I'm just asking: In your opinion, do you think that NTOC serves as a central intake point for the FBI of threats of crimes or crimes that are being reported?

A I do. Yeah, they do serve as the central point of intake, and that's enabled the FBI to standardize process, as opposed to doing it in 56 separate field offices, which is how many field offices we have; and so it is a much more consistent SOP and application of that.

Q And just for the record, SOP is standard operating procedure?

A Correct.

Q Thank you.

A Sorry.

Q No, that's fine.

Do you know how long NTOC has been in existence?

A I don't.

Q And so on page 2, the third sentence in the Executive Summary states that, quotation mark, "NTOC receives information verbally over the phone and also receives electronic information, parentheses (E-Tips), closed parentheses, that is submitted by the public to the FBI through a web form, interactions with the FBI's official social media website, or via email," closed quote.

Is this an accurate description of how individuals can report tips through NTOC?

A Yes.

Q And we've established previously that 1-800-CALL-FBI is the NTOC phone number that individuals can call to provide information verbally?

A Yes.

Q And the website is tips.fbi.gov, correct?

A That sounds right.

Q Do you have a sense of how many tips NTOC receives per day?

A I don't know.

Q Okay. So I just, to refresh your recollection, want to introduce a tweet by FBI Chicago, and this will be exhibit No. 15. And so in this tweet, it says: The National Threat Operations Center receives 3,100 tips from the public every day.

Does this sound like, roughly, an accurate number?

A I have no way of knowing, but if it's on an official FBI Twitter account, my assumption would be yes.

Q Okay.

And is it correct that individuals who work to collect information at NTOC are referred to as threat intake examiners?

A They are.

Q And so if you can just turn back to the private impact assessment.

A Okay.

Q And so on page 2, the first sentence of the second paragraph, it says that NTOC is a key component in the FBI's initiative to provide timely and direct notification of every TLL received by NTOC to the appropriate FBI field office operation center.

And I will submit for the record that TLL is defined in footnote one as threat to life tips containing information about a threat to human life, serious bodily injury, or

significant violent actions.

So do you agree that NTOC is a key component in the FBI's initiative to provide timely and direct notification of every threat to life received by NTOC?

A Yes.

Q Okay. And you've talked a bit about this, but in your view, how does it function as a key component?

A So for threat-to-life investigations, time is of the essence, and when we have a threat to someone's health and welfare, the FBI is under an obligation to take immediate action on that, whether that is us directly or through our partners, to make sure we're dealing with those potential victims and the subjects of those investigations with haste.

[redacted] So is it fair to say that NTOC and the existence of NTOC, the threat -- the 1-800-FBI and, as you said, fbi.gov, help FBI to ensure that threats to life are addressed as quickly as possible?

Mr. Vorndran. Yeah, they're the key intake point, and they appropriately tag something as a threat to life, which, as a frontline supervisor, they see that tag. The call it a tag of a threat to life, which indicates immediate action is necessary.

[redacted] Thank you.

BY [redacted]

Q Okay. And so on page 2, the third sentence of the third paragraph states that threat intake examiners, quotation mark, "receive, analyze, and disseminate information pertaining to potential and actual emergencies and national security situations through the use of probing questions to determine the existence of a threat or crime," closed quote.

Does this sound like an accurate description of what threat intake examiners do?

A Yes.

Q Okay.

And so the paragraph continues on stating that threat intake examiners are, quotation mark, "supervised by supervisory special agents, office services supervisors, and lead TIES, which is short for threat intake examiners, who are trained to triage threats to national security and emergency situations, such as cyber threats, bomb threats, active shooter incidents, and hostage situations; take appropriate actions, and follow guidelines and policies to ensure timely communication of actionable leads."

And so according to this sentence, threat intake examiners receive specialized training and also have various levels of oversight to ensure threats are properly analyzed and appropriate action is taken.

Do you have any reason to believe that this is an incorrect description of the threat intake examiner process?

A I do not.

Q Okay.

And so the second to last sentence of the second paragraph on page 2 states the following: Quotation mark, "Prior to dissemination, TIEs, which is threat intake examiners, build subject profiles and then refer the information to the appropriate FBI entity or other appropriate Federal, State, local, and/or Tribal partners," closed quote.

And so, based on this sentence, NTOC also refers tips, as appropriate, to State, local, and Tribal partners. Is that consistent with your understanding?

A It is.

Q Okay.

Mr. Vorndran. Can we take a quick bathroom break?

[redacted] Sure. We can go off the record.

[Recess.]

[redacted] It is 12:08, and we are back on the record.

[redacted] And we have about 12 minutes left.

[redacted] We have about 12 minutes left.

BY [redacted]

Q So I'd like to introduce a transcript of a video from the FBI's website that details some information about NTOC, and the title of this video is called Inside the FBI's National Threat Operations Center, and this will be marked as exhibit No. 16.

[Vorndran Exhibit No. 16

Was marked for identification.]

BY [redacted]

Q And I apologize for the very small print. We'll manage.

A I should have brought my reading glasses.

Q So I was actually going to have you read the fifth paragraph, but given the size of the print, I will do the honors.

So the fifth paragraph is a quote from Greg Nelsen, who was then section chief of NTOC. He states, quotation mark, "NTOC is extremely important in protecting the American people. They cover all of our threats. They touch on counterterrorism, criminal counterintelligence, domestic terrorism-type threats. They touch all of our program priorities and they're responsible for making the decisions from the start and getting that information where it needs to go quickly so the field offices can action that information," closed quote.

Do you agree with Mr. Nelsen that NTOC is extremely important in protecting the American people?

A I do.

Q And how so?

A Back to my earlier comments, when information comes into NTOC, it's the first effort to understand the nature of the threat, who the potential victim of the threat is, who the potential subject is. And if that is done correctly, the field office where that information gets passed on to conduct an investigation is leveraged in a positive way to have a complete investigation.

If that process breaks down, the quality of the information going is less, and so it's absolutely integral to the quality of our investigations and our work with our partners.

Q So do you believe that tips received through NTOC help prevent crimes from occurring?

A It's hard for me to say if they help prevent crimes from occurring. They certainly help us understand if there is potential criminal activity.

Q Do tips received through NTOC help to resolve crimes?

A Yes.

Q And do tips received through NTOC help to save lives?

A Yes.

Q How so?

A If you go back to the threat-to-life matters, I mean, if that is appropriately handled upon receipt of information, and we have reason to believe there is a threat to someone's life and we can mitigate or disrupt that threat, it saves lives.

Q And do tips received through NTOC help prevent national security threats from being actualized?

A Yes.

Q So during your 19-year career with the FBI, have you relied on NTOC for information about potential crimes?

A Nineteen years ago we didn't have NTOC. We had complaint duty in field offices, which all of us did, and so that was our mechanism to speak with the public. We have, of course, evolved quite a bit, and NTOC provides an enormous and valuable service to the FBI to intake threat reporting and potential criminal activity.

Q And so, in the second sentence of the 10th paragraph, and I'll read this sentence aloud, given the size of the font. This is Greg Nelsen who, as I mentioned, was the former section chief of NTOC. In here he states, quotation mark, "If the general public knew how we handled incoming tips, they'd be very proud of our employees. They'd be proud of the process, and they would have a lot of confidence in what we do here," closed quote.

Do you agree with this statement?

A I do.

Q So you have confidence in the work of NTOC employees?

A I do.

Q And are you proud of NTOC's process?

A I have never worked in NTOC. So I can't speak particularly to their standard operating procedures, but the consistency of which they do their job I'm aware of, and they do good work.

Q So I want to continue discussing a bit more about NTOC, and so this March, Chairman Jordan's staff put out a report, which said, in part, that the attorney general, quotation mark, "highlighted the FBI's National Threat Operations Center to serve as a snitch line for tips about parents at school board meetings," closed quote. So I just want to unpack this sentence a bit.

So we went over the AG's memorandum, the October 4th memorandum, quite extensively, and as we went over very extensively, that memorandum does not say

anything about parents, correct?

A Correct.

Q And it didn't mention anything about school board meetings, correct?

A Correct.

Q Did the memorandum say anything about, quotation mark, "snitching," quotation mark, on parents at school board meetings?

A No.

Q And so we also went over the DOJ's press release very exhaustively, and so, as we discussed, the press release doesn't mention anything about parents, correct?

A No.

Q Okay. It also doesn't say anything about school board meetings?

A No.

Q Okay.

And the press release did mention the FBI's National Threat Operations Center in the last paragraph, but in referencing NTOC, did the press release encourage people to, quote, "snitch," closed quote, on parents at school board meetings?

A It did not.

Q Okay.

Do you know when 1-800-CALL-FBI was established?

A I don't know.

Q Just to refresh your recollection, I would like to introduce an FBI press release from September 2005, and this will be marked as exhibit No. 17.

[Vorndran Exhibit No. 17

Was marked for identification.]

BY [redacted]

Q And so in this press release, it announced that the FBI had launched 1-800-CALL-FBI, "to collect information and complaints of public corruption and government fraud in connection with the Hurricane Katrina aftermath," closed quote.

And so this would imply that 1-800 FBI was established in September of 2005, correct?

A Based on what I'm seeing here, yes.

Q Okay. So that would mean this phone number has been a resource for the FBI for more than 17 years, correct?

A Yeah, if the date of this is accurate when it started, that's right.

Q Okay.

Do you know when tips.fbi.gov was established?

A I don't know.

Q Okay. To help refresh your recollection, I'd like to introduce as exhibit 18 a news story from the FBI that's dated June 26, 2009.

[Vorndran Exhibit No. 18

Was marked for identification.]

BY [redacted]

Q And in the last paragraph on the first page, the bolded sentence explains that tips.fbi.gov was established immediately after 9/11, and at that time, it had received more than 2 million online tips.

Do you have any reason to doubt the date of the website being created in 2009?

A I don't.

Q Okay.

[12:15 p.m.]

BY [redacted]

Q So the website has been a resource for the FBI for more than 21 years, correct?

A You said 2009?

Q Yeah.

A So 14 years.

Q Oh, excuse me. It was created after 9/11. My apologies.

So the news story was dated 2009.

A Okay.

Q The actual website was created after 9/11.

A Okay.

Q So that would be 21 years?

A That's right.

Q Okay. Thank you.

So the Attorney General sent his memorandum on October 4th. The press release was issued that same day. And as we've just discussed, both the 1-800-CALLFBI and tips.fbi.gov were in existence long before that date, correct?

A Correct.

Q So neither 1-800-CALLFBI or tips.gov were established in response to the Attorney General's memorandum or the DOJ press release?

A Correct.

Q Okay. So according to the FBI privacy impact assessment that we went over -- it's exhibit 14. And so this report states that all information provided to NTOC is voluntary.

Is that consistent with your understanding?

A Yes.

Q Okay. And so because all of the information provided in a tip to NTOC is voluntary, unless the person reporting the tip specifically stated that he or she was doing so because of the AG's memorandum, it would be fairly difficult to know if that was the case, right?

A That's right.

Q Okay. So you have exhibit 14 in front of you. If you don't mind turning to page 14.

So the second sentence of section 3.2 states the following: Information from the public is essential for the FBI to successfully deter and investigate crime. NTOC supports the FBI's mission by providing consistent and accessible means for the public to provide information that, in turn, permits FBI agents and analysts to follow up on legitimate leads.

Do you agree that information from the public is essential for the FBI to successfully deter and investigate crime?

A Yeah. Let me give you a quick example, the Boston bombing. Without the public submitting photographs and tips, the identification of Tsarnaev would have been much more difficult, not to say it wouldn't happen, but that's an immediate example that comes to mind of the importance of the relationship with the public.

Q And I just have one more question, and then we'll wrap it up.

In your opinion, is it harmful to refer to NTOC as a snitch line?

A I don't want to comment on what other people have said. National Threat Operations Center serves as a keynote to the FBI intake threat reporting, and they do a good job at it.

[redacted] Okay. Thank you so much.

That would conclude our hour.

[redacted] We'll go off the record.

[Recess.]

[redacted] It's 12:28. Back on the record.

BY [redacted]

Q I want to go back to exhibit 1, the NSBA letter, page 2.

And I would just note, we've talked to some folks on the NSBA side of things, and, you know, they represented that they came up with the vignettes or the incidents of threats to school board folks, they came up with them for their letter by googling them. Okay. So the NSBA in putting this letter together, working with the White House, just googled a bunch of stuff. And it also occurred -- and I want to ask you if you were aware that this went down against the backdrop of the Virginia gubernatorial election?

A I was not aware.

Q Okay. So the Virginia gubernatorial election in 2021 -- they have off-year elections -- Terry McAuliffe was running against -- was running for that office.

Were you aware of that?

A I'm aware that he was a candidate, yes.

Q Right. And against now Governor Youngkin.

And do you recall that, during that timeframe, some of these school board related issues were at the heart of that political campaign?

A I do not.

Q Okay. For example, critical race theory --

A Okay.

Q -- do you remember that being a hot button topic --

A I do not.

Q -- in that timeframe?

Mask mandates for individuals at schools?

A That I do.

Q And remote learning?

A Yes.

Q And so a lot of the heated discussions that were occurring nationwide at school board meetings, is it fair to say, related to those types of topics?

A Certainly I'm aware from the media report on the mask mandates and virtual learning given COVID, yes, they were key topics.

Q And former Governor McAuliffe, during one of the debates, had a major blunder where he said something along the lines of, you know, parents don't have the right to interact for, you know, their kids' education.

Were you aware of that news story?

A I'm not aware of that quote.

Q So let me turn to the exhibit 1, the September 29th letter from NSBA to the White House.

On page 2, the last paragraph, I'm going to just read the second sentence: As such, NSBA requests joint expedited review by the U.S. Departments of Justice, Education, and Homeland Security, along with the appropriate training, coordination, investigations, and enforcement mechanisms from the FBI, including any technical assistance necessary from, State and local coordination with, its National Security Branch and Counterterrorism Division, as well as any other Federal agency with relevant jurisdictional authority and oversight. Additionally, NSBA request that such review examine appropriate enforceable actions against these crimes and acts of violence under the Gun-Free School Zones Act, the PATRIOT Act in regard to domestic terrorism --

And then it goes on.

Was this the first time you'd heard the PATRIOT Act being mentioned in the context of a school board's -- you know, the violence at school boards?

A Well, as I testified earlier, I hadn't read this letter until right now.

Q And since this letter, until now, have there been any, you know, incidents where you think the PATRIOT Act was applicable as an investigative tool for school boards?

A I'm not aware of the PATRIOT Act or any of its, you know, stipulations being nuanced.

Q And when the Attorney General's October 4th memo was promulgated, what types of conversations were going on inside the FBI about this, that you remember?

A I'm not aware of any conversations related to this paragraph you just read.

Q Uh-huh.

A I do, as I reflected earlier in my testimony, some of the conversations I heard with the DTOS section chief regarding potential Federal statutes that would apply if there were ever charges to be brought that met those elements of that crime, that was really the nature of the conversation within the Counterterrorism Division.

Q And I think I asked you during our first round, but we're trying to understand what type of information the FBI had that may have supported the Attorney General's October 4th memo.

Are you aware of any information the FBI had, you know, indicating that this was a -- there was an uptick in incidents at school board meetings that needed to be addressed with an Attorney General's memo?

A The only thing I testified about was my knowledge from the media reporting of that information, but nothing that I'm aware of inside the FBI.

Q And at the time you were a counterterrorism official, correct?

A Yes.

Q And is that also fair to say about Mr. Peeples? He --

A It is not.

Q Okay. He was the -- I'm sorry. He was in the Criminal Investigative Division?

A That's right.

Q But Mr. Langan was the assistant director at the time of the Counterterrorism Division?

A Assistant Director Langan was my boss.

Q And Assistant Director Shivers was Mr. Peeples' boss. Is that your understanding?

A Assistant Director Shivers was the long-term assistant director of the Criminal Investigative Division. He was out at that period.

Q Okay.

A So Acting Assistant Director Peeples was, to my knowledge, the one who sent that email.

Q It's exhibit 5.

A Uh-huh.

Q Prior to sending this email, was there any type of of off -- I mean, was there any type of communication that occurred before this email went out between Mr. Langan, Shivers, Peeples, that you're aware of?

A I don't know.

Q So you're cc'd on it.

A Uh-huh.

Q You're not an author of it, I recognize that. But did you have any awareness this was coming down the pike before it was sent?

A I would have known there was joint messaging coming out to the SACs in the field, but I was not, you know, the author, as you appropriately pointed out.

Q Okay. And just getting back to the McAuliffe statement, just because I didn't have it memorized, but I've called it up. He said, "I don't think parents should be telling schools what they should teach." And then that sort of turned into a little bit of a flash point in that debate or in the runup to the election.

Do you happen to remember that?

A I do not.

Q Okay. So turning to the Attorney General's memo, I think it's exhibit 3. How frequently does the Attorney General promulgate memos of this type indicating, you know, a new priority shift like this?

A I can't answer your question on frequency. I can answer the question in terms of my time in the Counterterrorism Division where I would have known something came in.

Q Uh-huh.

A This was the one instance I'm aware of during my time as deputy assistant director, but I would not be aware of other memos that came into the Counterintelligence Division or Cyber Division, just because this one affected the Counterterrorism Division.

Q Okay. So somewhat of a rare occurrence. Is that right?

A Can't say rare. I'm just telling you, in my time there, this was the only one.

Q Well, how long were you there, again?

A I was there from May of 2021 until January of 2023.

Q Okay. So just short of 2 years or a year and a half. Is that --

A A year and 7 months.

Q Okay. So in a year and 7 months, is this the only Attorney General's memo that you remember?

A In the Counterterrorism Division, yes.

Q Okay. So it's fair to say these don't come out weekly, they don't come out monthly?

A They do not.

Q Okay. Are you aware of any data inputs the Attorney General had before publishing this memo?

A I am not.

Q Okay. He testified in October of 2021, October 20th of 2021, before our committee, and we asked him about that. And for the most part, he could not identify any inputs that he reviewed and he thought about before promulgating the October 4th memo, other than this September 29th letter from NSBA.

Does that strike you as unusual?

A I can't comment on the Attorney General's mindset or how that decision was made.

Q Okay.

A Like I testified to earlier, sir, this memo came in, and I've been very clear about the role that both the Counterterrorism Division and the Criminal Investigative Division took, and that is the work we did. In a threat picture, that was busy at the time in the fall of 2021.

Q Fair enough. But in the course of your time in the Counterterrorism Division almost a year and a half, you can remember one memo. And we had a chance

to ask the Attorney General about it, and he told us largely it was, you know, his data point was this letter from NSBA, which is largely at the time a political, you know, organization. And the letter came 4 days before his memo, 4 or 5 -- 5 days before his memo.

Doesn't that seem to you to be a quick turnaround?

A Again, that's a question for DOJ, right? This memo is what I saw at the time, and that's the work we did.

Q Okay. Looking at the memo, exhibit 3, the first paragraph: In recent months, there's been a disturbing spike in harassment, intimidation, and threats of violence against school administrators, board members, teachers, and staff who participate in the vital work of running our Nation's public schools.

I'm just going to ask you again, was there discussion among your colleagues in the Counterterrorism Division about a spike in incidents against school administrators and so forth?

A None that I was involved in.

Q Okay. Do you know if the folks in the Counterterrorism Division had communications with the folks in the Criminal Division about these disturbance spikes?

A I'm not aware of any.

Q In the fourth paragraph that begins with "Coordination and partnership," I'm going to read the second sentence: To this end, I'm directing the Federal Bureau of Investigation -- and again, I'll say that again. "To this end, I am directing the Federal Bureau of Investigation, working with each United States Attorney, to convene meetings with Federal, State, local, Tribal, and territorial leaders in each Federal judicial district within 30 days of the issuance of this memorandum."

So the Attorney General -- and correct me if I have this wrong or I don't

understand DOJ speak -- but the Attorney General is directing the FBI to take the lead on this initiative. Is that a fair reading?

A That is clearly how it reads. There's -- I'm aware of separate guidance, I believe, from EOUSA that further clarifies that statement --

Q Okay.

A -- to direct the U.S. Attorney's office in coordination with the FBI --

Q Okay.

A -- to conduct these meetings. But as you said, as written on October 4th, you read it correctly.

Q And were you aware of any inside chatter at the FBI where this memo may have been downplayed by the director?

A I'm not.

Q Or, you know, any FBI officials that said, Ah, look, this is just a DOJ thing. We'll just continue doing our job?

A I'm not, but I think I would be surprised to find that being the case, given the relationship we have with DOJ as an agency --

Q Okay.

A -- and the work we do together.

Q Okay. I'm going to turn to exhibit 4, which is the press release.

The third paragraph talking about the series of additional efforts, second sentence: Those efforts are expected to include the creation of a task force, consisting of representatives from the Department's Criminal, National Security Division, Civil Rights Division, and the Executive Office for the U.S. Attorneys, the FBI -- and so forth.

Were you aware of any task forces that were created pursuant to this?

A I am not.

Q And are you -- I guess, then, you're not aware of any involvement of the folks from the National Security Division in this initiative?

A I am not.

Q Okay. To your knowledge, what initiatives were taken pursuant to the Attorney General's memorandum?

A The only initiative I'm directly aware of was the threat tag that CID and CTD pushed out to SACs to appropriately tag any investigative matters that came in to scope the threat to see what existed. I'm not aware of anything else that went on in the field office regarding particular meetings or engagements.

Q Okay. And once the threat tag was assigned and you're able to track these types of threats, how many threats came in, to your knowledge?

A I think it was shared with me in a question before, approximately 25.

Q Okay. And did that ratify, do you think, the fact that this was a nationwide -- a surge of nationwide incidents that needed to be corralled by the FBI?

A I don't think we looked at it that way. I think the facts are what they are and the numbers are what they represent based on the intake we have through NTOC. And if the number, as represented, was 25, that was 25 pieces of information that came in that we had to make assessments on and determine if it warranted onward investigative activity.

Q Okay. You know, you said that there was maybe one Attorney General's memo evincing new priority during your time in the Counterterrorism Division, and that led to, as far as you know, a threat tag was the only thing that you're aware of that flowed out of this memo. And what flowed out of that threat tag was, did you say 25?

A That's what someone said to me.

Q Okay. Does that, do you think, ratify the fact that this is something that

needed to be addressed?

A I think like I testified earlier, sir, the work in CTD at the time was a host of threat information across ITDT nation-state sponsored. This was another component of the work we were asked to do.

Q Okay.

A And that's what we did.

Q If it turns out that the NSBA memo and maybe considerations that no one's going to testify to on the record about the Virginia Governor's election, if they were the only considerations going into the memo, would that give you a concern, just as a career FBI person?

A Again, I didn't have that information. What I had in front of me was the memo to do the work from.

Q Okay. But if it turns out that this was simply a political operation --

A The CTD has never focused on political operations. CTD is focused on violence and threats of violence, and that's how we predicate our domestic terrorism cases, along with a host of other violations.

Q Right. Yeah, I'm not -- you know, in my questioning here, I'm not suggesting CTD was responding to anything political. What I'm suggesting is that the leadership of the Justice Department, perhaps the White House, was pursuing a political operation using the FBI, using the officials in CTD, to pursue things simply for political purposes. If that were the case, you certainly would agree that would be inappropriate, correct?

A But I have no information to suggest that is or is not the case. What I have is the information in front of me that came into the Counterterrorism Division. You're asking me for my opinion on things I wasn't a part of. I'm here, I get the Attorney

General's memo, and that's the work we do.

Q Okay. And so other than the creation of the threat tag and -- I think that was the only thing that you said you were aware that flowed from this initiative?

A And I also described having conversations regarding potential statutory considerations under Title 18, U.S.C., Section 875, but those are the main discussions I recall.

[redacted] Okay. [redacted]

BY [redacted]

Q Going back directly to that conversation you referenced with Mr. Jensen, can you elaborate a little bit more? You said you discussed statutory repercussions as to what would be related or what could stem out of the Attorney General's memo that could be used in implementing the threat tag. Or can you clarify a little bit more what your conversation was with Mr. Jensen?

A Yeah. I think those are completely separate issues, the threat tag and statutory matters, right.

Q Okay.

A The conversation I would have had with then Section Chief Jensen would have been, in the event we have a threat of violence or violence carried out at one of these meetings, what is the most likely Federal statute to be applied should the Department decide to press charges. And the answer to that question is likely Title 18, U.S.C., 875, the interstate communication of threats or threats of violence.

That would have been the conversation with Section Chief Jensen, because he and I had been through CTD around the same time, but we had that conversation in a similar vein on other cases. And so it was a very familiar conversation for us to have.

Q Other than the interstate communication that you had just mentioned, was

there any other defined Federal nexus that you could find for the FBI to be helping investigate incidents at school boards?

A That's the only one I recall speaking about.

Q To your knowledge, was there a request for local, county, or State officials for assistance for these school board incidents?

A Not to my knowledge.

Q And short of that, would any other law enforcement agency be better suited to handle these incidents with school board meetings?

A I think that's -- we had this conversation earlier today about the importance of whoever receives the information and the potential allegation of criminal activity, we would sit among law enforcement partners and make that appropriate assessment if it is better worked by State and local authorities.

Q Okay. Now switching gears a little bit, finishing up my line of questioning from earlier. As the deputy assistant director for the Counterterrorism Division, did you perceive that you had a handle on what was going on in the Counterterrorism Division in the cases that the division was handling?

A So, yeah, I was aware of the threat picture across the different threat accounts CTD was responsible, what we call program manage. I want to be careful. CTD is not running investigations. Investigations are run in the field offices. But on topics of particular importance, CTD was aware of cases being worked in the field, and that's how I would become aware of what that looks like.

Q And during your time in that role, did any agents ever come to you and express that they were overwhelmed by their caseload? I know that you said that primarily happened at the field office level --

A Uh-huh.

Q -- but did anybody ever approach you or make you aware of that?

A They did not.

Q Has any agent ever expressed to you, while you're in that role, that they were under pressure?

A They did not.

Q And as the special agent in charge of the Mission Services Division at the Washington Field Office, do you perceive that you have a handle on what the branch is doing and the cases that the branch is handling?

A My particular division doesn't have any involvement in casework.

[redacted] Okay. I'm going to kick it over to my colleague, [redacted] --

[redacted] Let me --

[redacted] Go ahead.

BY [redacted]

Q There was some discussion earlier about do you see the word "parents" in this sentence, and so forth. And I just wanted to ask you, as far as you know, who's going to school board meetings?

A Parents, administrators, teachers.

Q And these alleged acts of violence, who is allegedly involved?

A I think that's the point of the assessment, is to figure out who is involved.

Q But certainly not the school administrators, right?

A I would agree with that.

Q Not the teachers, right?

A Right.

Q I think we had a witness answer one of these questions as vendors. Vendors go to school board meetings, okay. Contractors. I don't think vendors are

committing acts of violence or alleged to have committed acts of violence at school board meetings, correct?

A Not to my knowledge.

Q Is there anyone else in the universe, other than parents, that are alleged to be involved with these acts of violence?

A I'm not aware of the actual assessments that were opened.

Q Uh-huh.

A But of the 25, certainly it would seem the parents were the nature of the information that came into the FBI.

Q So the parents were the ones tagged with a threat tag?

A The parents weren't tagged.

Q Okay. The threats relating to the EDUOFFICIALS?

A Threats are tagged.

Q Yeah, threats are tagged. And that related to parents?

A Well, it's the same thing as saying a tag -- like, I could say when we work the inauguration for the FBI with all of our partners, there's a threat tag for the inauguration.

Q Right.

A The inauguration isn't tagged. The assessment's being worked --

Q Right.

A -- regarding threats to the inauguration are tagged. We're not tagging parents.

Q Okay. But are you aware of any of the 25 threats that didn't involve parents?

A I'm not aware of the mechanics of any of the 25 threats, period --

Q Okay.

A -- and who they involved or didn't involve.

Q Okay. And are you aware of anyone other than parents that are speaking at school board meetings that would, you know, be saying things of concern?

A I didn't follow the school board meetings and who said what, when, and where. So it's a very difficult question for me to provide you a good answer on. I'm not personally aware of who said what at what meeting. And so you're asking me to identify who those individuals are. I'm not aware of that context.

Q Fair enough. You aware of any FBI agents going to school board meetings?

A I am not.

Q Are you aware of any FBI agents going and sitting in parking lots at school board meetings?

A I am not.

Q Are you aware of any FBI agents following particular people to see if they're going to school board meetings?

A I am not.

[redacted] Okay. [redacted]

BY [redacted]

Q Okay. We're going to take a slight twist here. We're going to go back in a way back time as seen to your time as ASAC in the Washington Field Office.

A Okay.

Q That was 2019 and 2020, I believe, timeframe, roughly.

A Yes.

Q Does that sound about right?

A That's right.

Q At that time did you have oversight over the public corruption program?

A I did.

Q That would include Squad CR-15, correct?

A It does.

Q During that timeframe, was Tim Thibault the supervisory special agent of Squad CR-15?

A He was not.

Q Who was the supervisory special agent of squad CR-15?

A That's a line-level employee. I'm not sure I'm authorized to provide a nonexecutive name at this point.

Q Okay. While in that role as the ASAC of squad CR-15, was Tim Thibault a special agent on Squad CR-15?

A He was not.

Q He was not. Did you know that he was posting politically charged posts on LinkedIn and Twitter?

A I did not.

Q Did he ever make any politically partisan comments to you?

A I had no interactions with Mr. Thibault.

Q Would it be reasonable to assume the FBI investigates a comparable percentage of cases targeting both Democrats as it does Republicans, with justice being blind and all? I mean, would that have any way, shape, or form or color the predicate what was being decided to be opened by Washington Field Squad CR-15, during your tenure as ASAC?

A During my tenure as ASAC, the policy guidance on predicated public corruption cases is very clear.

Q There's definitely information that has been provided to this committee that,

in fact, there has been a gross disparity between the percentages of certain cases being opened and not opened. If officially requested from my attorney friends here, could the Bureau provide a breakdown of cases by party only, not subject information, for both SAC Vorndran and Tim Thibault's time as ASAC?

[redacted] We'll get back to you with that.

[redacted] And we will provide that in an official request of course.

BY [redacted]

Q Back to SAC Vorndran. When did you first become aware that the law firm of Perkins & Coie and the Hillary Clinton campaign were behind the Russia collusion, Alpha Bank, and Steele dossier allegations?

A I had no involvement in anything related to that, so I can't give you a timeline.

Q But did you become aware of what I just mentioned in the question? The timeline wasn't important. I understand your role may have been different, but I'm asking if, in fact, during your time as ASAC you became aware of what I just stated?

A So the question is during my time as ASAC --

Q -- did you become aware that Perkins & Coie and the Hillary Clinton campaign were, in fact, behind the Russia collusion, Alpha Bank, and Steele dossier allegations? That's the question.

A I don't recall.

Q Did you review the Alpha Bank investigation?

A I'm familiar with the term "Alpha Bank." Whether or not I reviewed an investigation, I don't remember.

Q Okay. So John Durham, who will be speaking to the committee very shortly, revealed the case opening for the Alpha Bank investigation was based on

allegations from the Department of Justice, as we all know, and an anonymous source. Neither of these were true as James Baker received the Alpha Bank allegations from Hillary Clinton attorney, Michael Sussmann.

Do you know if James Baker and other FBI executives who knew the source of the Alpha Bank allegations signed off on the false opening of this case targeting President Trump?

A I don't know.

Q In order to open an investigation on the President of the United States, I would assume -- and you know that I know -- the case opening required signature of the FBI Director and the Attorney General.

Did the FBI Director and/or the Attorney General sign off on the Alpha Bank case opening?

A I don't know.

Q Did they know that James Baker had received the Alpha Bank allegations from Hillary Clinton's attorney?

A I don't know.

Q Do you know if James Baker and other FBI executives, including Peter Strzok -- whom I also know -- signed the case opening knowing fully well that Alpha Bank allegations were from the Clinton campaign and not, in fact, from the DOJ?

A I don't know.

Q I understand that to open an FBI Federal public corruption case, the FBI seeks concurrence with our DOJ partners.

Have you ever taken part in the discussion with prosecutors from either the DOJ Public Integrity Section or from the U.S. Attorney's office, District of Columbia, about a case opening, case support, prosecution, or sentencing decision that were made in a

partisan manner?

A No.

Q During your time as WFO ASAC, who was in the leadership team of the FBI's Foreign Influence Task Force, the FITF? Or do you know, in fairness?

A I don't know. I know who it is now. But, again, that's a line-level employee and would have come in shortly before my departure from my ASAC role.

Q And I'm very familiar with Ms. Dehmlow.

Are you aware of any FBI or DOJ employee having ever engaged in an attempt to intimidate or otherwise prevent a witness or investigator from bringing forth derogatory information about a political figure?

A No.

Q Have you spoken with Tim Thibault about the whistleblower statements about him?

A No.

Q Have you engaged in any discussions that involved conversations relating to outing, doxing, or otherwise intimidating an FBI whistleblower?

A No.

Q Do you know if Tim Thibault has a relationship with any reporter from The New York Times or The Washington Post?

A I don't know.

Q Are you aware of any instances where an FBI or DOJ employee engaged in a media leak related to an ongoing investigation?

A I'm not.

[redacted] All right. I'll turn it back over.

BY [redacted]

Q Now, going back to your time as section chief of the Human Intelligence Section in the Counterterrorism Division at headquarters, were you in this position in November of 2020 when the FBI Detroit Field Office, in conjunction with the Department of Justice, filed a criminal complaint against six men for an alleged plot to kidnap Michigan Governor Gretchen Whitmer?

A I was in that job in November of 2020.

Q According to evidence presented at trial, the FBI's unsuccessful case involved at least 12 confidential human sources, or CHSs, as well as undercover employees, the UCEs.

Is that an accurate assessment?

A Without documentation from you, I don't know.

Q In your position as section chief over the Counterterrorism Division's Human Intelligence Section, would you have had ultimate FBI headquarters oversight and accountability for those CHSs? Is that correct?

A That's incorrect.

Q That's not correct. Can you provide me with the correct information?

A Yes. So the work that went on in terms of my section chief assignment was on the confidential human sources and the focus on personal interaction. So I want to differentiate here between engaged online through Facebook Messenger vice you and I are meeting in person somewhere.

The overwhelming majority of that work in 2020 was international terrorism focused. The taskings on domestic terrorism, which is your reference to the case in Detroit, would have been managed at the field office level.

Q According to defense attorneys in this case, the FBI agents actively planned and coordinated their efforts to induce the defendants to engage in incriminating

behavior and statements, even going as far as designing the objective and structural components of the conspiracy alleged in the indictment, and court documents detailed text message communications between the sources and their FBI handlers that showed the FBI pushed for the defendants' alleged criminal behavior.

Is the use of FBI informants to encourage criminal behavior a hallmark of the FBI's domestic terrorism program?

A The FBI is very focused on mitigating threats, especially we're very aware of the concept of entrapment and how that crosses over on confidential human sources and undercover operations. And so that is our focus. We do not want to entrap someone because then there's taxpayer dollars going into investigations, and that's a logical defense. And so we work very hard to make sure that does not happen.

Q And were you in the same position during the events that occurred at the U.S. Capitol on January 6, 2021?

A I was.

Q How aware was FBI headquarters about the planned protests in and around the Capitol on January 6, 2021?

A So while I was in my role, I had no role in any lead-up to the planned protest on January 6th.

Q Did the FBI open any investigations prior to January 6th of 2021?

A Regarding January 6th?

Q Yes.

A I don't -- I have no way of knowing that.

Q If there was intelligence received prior to January 6th, 2021, did FBI headquarters or any FBI field offices initiate investigative activities to cover this event, to your knowledge?

A Not to my knowledge. But if there was any threat reporting or information that warranted investigation, we would do that. I mean, that's what I think people would expect the FBI to do. If there's threat information, whether it's related to activities in Washington, D.C., or elsewhere, we're going to conduct investigations.

Q And I know you mentioned that you didn't necessarily have direct oversight and accountability for the CHSs, but in this particular instance with January 6th, 2021, did you know of any investigative activities that were initiated with CHSs?

A I did not.

Q Were FBI CHSs proactively deployed to the Capitol on January 6th of 2021?

A Not to my knowledge.

Q Do you know how many field offices responded to what was going on at the Capitol on January 6, 2021, and how many CHSs were sent to the event after the reporting of the event took place?

A I don't know.

Q Do you know if there was any discussion in the FBI about the January 6, 2021, event being a sensitive investigative matter, or SIM, since it involved investigative activity in and around the First Amendment protected activity?

A I'm not aware of any investigative activity that occurred at January 6th during the planned protest, as you framed your earlier question.

Q Do you know if there was any discussion in the FBI about limiting the scope of the investigative activities to ensure First Amendment rights were protected?

A Again, back to what I just said, right, leading up to January 6th, I was not aware of any investigative activity that was happening at the planned protest on January 6th.

Q Do you know if the FBI coordinated with any other Federal agencies about

the January 6th protest before, during, or after January 6th?

A Not in my role in CTD.

[redacted] I'm going to kick it back over to my colleague, [redacted]

BY [redacted]

Q I imagine this will be fairly quick here, Kevin. This is going back to your FBI headquarters counterterrorism DAD role.

A Uh-huh.

Q With respect to that, were you familiar with a Federal Air Marshals, FAMs, program called Quiet Skies in that capacity?

A No.

Q So you didn't have any direct familiarity with that program or the use of that program?

A I mean, if you give me more context, [redacted] regarding what the program was, perhaps I can give you a better answer. I'm not familiar with that term.

Q Sure. I think that -- in essence, the way I understand it, Federal Air Marshals have sort of repackaged and rebranded in order to show a little more resilience and return on investment for their mission, and so they were flying what they called special missions, you know, and they were -- as we know from our past, when we put somebody on the terrorist watch list or, you know U.S. TSC, whatever, to have that subject, they would then fly a special mission on that particular subject. So the overarching umbrella program that they called it happened to be Quiet Skies. Hence, the question.

A Okay.

Q I didn't know if you had perhaps heard that or had any familiarity with how the Bureau may have utilized that program following the events on the Capitol on January

6th.

A No.

[redacted] Okay. I won't bore you with the rest of these questions then. I'll spare you.

Mr. Vorndran. Okay.

[redacted] All right. All set?

[redacted] Yeah. We can go off the record.

[Recess.]

[redacted] It is 11:11, and we're going back on the record. Oh, 1:11. Excuse me.

[Vorndran Exhibit No. 19

Was marked for identification.]

BY [redacted]

Q Thanks again so much for being here.

There have been a lot of statements today about how there really were no threats against school officials, and so I want to go through some examples that occurred prior to the issuance of AG Garland's October 4, 2021, memorandum. And so I want to hand you what's been marked as Exhibit No. 19. And this is a Reuters news article, and it's titled, "School boards get death threats amid rage over race, gender, mask policies."

And so if you can just take a moment to look over that. Let me know when you're ready to discuss it.

A Yes.

Q Okay. So this article documents threats of violence against educators and school officials from 2020 and 2021. And so I'd like to direct your attention to the first two paragraphs of the news article. And I'll just directly read from there. And it states

the following, quotation marks: The letter came to the home of Brenda Sheridan, a Loudoun County, Virginia, school board member, addressed to one of her adult children. It threatened to kill them both unless she left the board.

"It is too bad that your mother is an ugly communist whore," said the hand-scrawled note, which the family read just after Christmas. "If she doesn't quit or resign before the end of the year, we will kill her, but first, we will kill you!"

Do you think this message could be interpreted as containing threatening language?

A Yes.

Q Okay. Do you think this message could be interpreted as containing violent language?

A Yes.

Q Okay. Do you find this message to be concerning?

A This is something that would meet our thresholds in the FBI to conduct further investigation of based on the threat of violence or violence.

Q And just really quickly, just to refresh everyone's recollection, you've mentioned 18 U.S.C. 1875, correct?

A That's right -- no. I'm sorry. 875 not 1875.

Q Yes, U.S.C. 875. Can you just briefly state again what that provision is?

A Without the statute in front of me, I don't want to misquote, but effectively it's the interstate communication of threats or threats of violence.

Q Okay. So essentially if a threat, let's say an email, is sent from New York to a school board member in Virginia, would that be something that would fall within the realm of 18 U.S.C. 875?

A It would warrant more understanding of the internet protocols and where

they bounce off of across State lines, but generally, yes, that would be a wire transmission.

Q And so I just want to read the next two paragraphs. And so it says: School board members across the United States have endured a rash of terroristic threats and hostile messages ignited by rolling controversies over policies on curtailing the coronavirus, bathroom access for transgender students, and the teaching of America's racial history.

Reuters documented the intimidation through contacts and interviews with 33 board members across 15 States and a review of threatening and harassing messages obtained from the officials or through public records requests. The news organization found more than 220 such examples in this sampling of districts. School officials or parents in 15 different counties received or witnessed threats they considered serious enough to report to the police.

Did I read that correctly?

A Yes.

Q And so I also want to look at the next sentence in that next paragraph, just the first sentence. It says: While school controversies are traditionally local, these threats often come from people out of State with no connection to the districts involved.

So with this sentence talking about how sometimes the threats come from people with no connection to the districts involved, would that be a potential area that might implicate 18 U.S.C. 875?

A Only if the nature of the threat crossed State lines and met the elements of the crime.

Q And so on the second page, in the second full paragraph that starts with "In June," it says: In June, she received a threat saying: "Brenda, I'm going to gut you like

the fat f---ing" -- which is a swear word -- "pig you are when I find you."

Do you believe this message contains threatening language?

A Yes.

Q Okay. Do you believe this message contains violent language?

A Yes.

Q Okay. If a tip of this type of threat was reported to NTOC, would this be something that the FBI might look into a bit more?

A If it came in just as stated here, yes. There's all kinds of context that could be missing from this quote. But as written here, yes, the FBI would pass that on to the appropriate field office.

Q And I also want to go to the fourth full paragraph on the second page that starts with, "Board members in Pennsylvania's."

A Uh-huh.

Q So this one states: Board members in Pennsylvania's Pennsbury School District received racist and anti-Semitic emails from around the country from people angry over the district's diversity efforts. One said: This is why Hitler threw you C--TS -- which is a reference to the c-word -- in a gas chamber, close quote.

Did I read that correctly?

A Yes.

Q What do you understand this sentence to mean?

A It's a reference to the Holocaust, and it would be considered threatening language.

Q Okay. Thank you for that.

Okay. I also want to describe an incident that occurred September 2021, and this was in Arizona. And this was where a principal received an email that threatened:

The next time it will be a barrel pointed at your Nazi face. Following the guidance you say? The Nazis were just following orders too. Guess we will have to see what side you choose: The Americans or the Nazis. Remember Tucson is a small community, and you have a target on your back for enforcing unlawful orders.

Do you believe this message could be interpreted as containing threatening language?

[1:19 p.m.]

Mr. Vorndran. Yes.

BY [redacted]

Q Okay. Do you believe it could be interpreted as containing violent language?

A Yes.

Q Okay.

And let's say if this information, just what I just read, was provided to NTOC, will this be something potentially that the FBI would look a bit more into?

A Yes.

Q So I do want to talk a bit about some of the situations that actually escalated to violence, and so I want to introduce another news article, and this will be marked as tab 22 -- exhibit 20, excuse me.

[Vorndran Exhibit No. 20

Was marked for identification.]

BY [redacted]

Q And so this is an August 2021 news article, and it describes a situation where an individual in California struck a teacher in the face when the teacher attempted to intervene in a confrontation between that individual and the school principal over COVID policies.

And so, if you want to take a moment just to quickly review this article, and you can let me know when you're done.

A Okay.

Q So as highlighted in the article, the teacher was left bleeding with, quotation marks, "lacerations on his face, some bruising on his neck, and a pretty good knot on the

back of his head," closed quote. And the article also mentions that the teacher went to the hospital to seek treatment.

Do you believe that striking someone in the face constitutes violent behavior?

A Yes.

Q Okay. And in this situation, do you believe that the first -- that First Amendment protections allow this individual to strike the teacher because he or she disagreed with COVID policies?

A First Amendment protections, simply stated, don't extend to violence.

Q Okay.

So I want to switch gears and talk a little bit about assessments, preliminary investigations, and full investigations. And you've talked briefly about all three of those, and so I just want to go a little bit more into detail.

So what is the purpose of an assessment?

A I don't have the definition in front of me as written in the DIOG, but it's the least intrusive mechanism for the FBI to gather information to make an assessment if it warrants further investigation.

Q Are you aware of how assessments are supposed to be documented?

A I think I need more from the question to give you a good answer.

Q So is there any type of system that's put in place that documents when assessments are open, when assessments are closed?

A Yes.

Q Okay. Can you speak a little bit about that?

A Yeah, it's called the guardian system, and that is the case management system that handles assessments.

Q Okay. So do all assessments need to have a guardian?

A Yeah, that's the way we track them and understand what needs to be worked.

Q And so, if an FBI employee opens up an assessment, is there any type of process that they have to go through with respect to explaining to their supervisor why it is the case in making an assessment should be open or provided some type of reasoning behind why they took that step?

A There is. There's a section that requires a detailed summary of the allegation of information, and I think we need to discriminate it a little bit here. In the channel of information flow from NTOC, NTOC would largely be writing up that detailed information about the tip or the allegation. That would be forwarded to a supervisor in the field. That supervisor then has a period of time to do baseline checks in databases to make a decision if there will be an onboard investigation and when it will be assigned.

That's a little bit different than if I'm a case agent in the field and someone walks into the field office and gives me information, then I would be the one entering that information on my own and having that dialogue with my supervisor. So the intake can be different depending on the channel.

Q Okay.

BY [redacted]

Q You just referenced intake -- or NTOC receiving information from the public and sending it along to a field office. NTOC can also get information from the public, create a guardian, and send it to State or local entities, right?

A They can.

Q So it can go through the guardian system and no assessment is ever opened in that case, right?

A I don't know about the mechanics of open or not, but they can refer --

Q But it can go straight to State and local without touching the field office?

A Yes.

Q Thank you.

BY [redacted]

Q Is there any type of -- and I think you might have answered this already with respect to the mechanisms of oversight when a case agent wants to move forward with an assessment and they want to explain themselves. Is there any process for ensuring that assessments are not pursued for frivolous or improper reasons?

A Sure. I mean, supervisors are going to look at that information to assess if we're within our authorities to conduct that assessment, and so, that is the approval level that is required to move forward.

Q Okay. And that approval level would likely also look into whether any First Amendment protections are implicated?

A For sure.

Q Is the FBI able to conduct assessments in order to detect and prevent criminal activities in the early stages?

A I'm not sure I understand.

Q So is the FBI able to conduct an assessment for a potential crime?

A If the FBI receives information alleging a crime or alleging a plot to commit a crime, then, yes, we can conduct that investigation.

Q Okay. So, essentially, proactive steps can be taken?

A Yeah, I reflect back on early in my career, working bank robberies. I had a person walk in off the street and say -- it was in December. I remember because it was close to Christmas -- I'm aware of an individual who is plotting to kill a State attorney because she is prosecuting him on gun charges. I don't want to see anybody get hurt.

So nothing has happened. There has been no act of violence that has been carried out, but, like, that becomes an FBI investigation appropriately to make sure no one gets hurt.

Q Did the AG's October 4th memorandum change anything about how the FBI processes assessments?

A It did not.

Q So I now want to move on to preliminary investigations. So what is a preliminary investigation?

A Preliminary investigation carries approvals for review that is not a full investigation to determine -- and I don't have the policy in front of me, but you can only be in a preliminary investigation for so long to gather intelligence and evidence before you have to either convert to a full or a closed. So it's a step in between.

Q Is it correct that 90 days -- that preliminary investigations are reviewed every 90 days?

A I think they would be reviewed consistent with the rule of final review, which is every 90 days. I don't know what the policy says about specifics on PIs.

Q And so going back to what we were just discussing with the FBI being able to take proactive measures, let's say, if there's a threat to life, with preliminary investigations, can those be undertaken to -- can those be undertaken proactively if you get information that a potential crime will occur, like in the bank-robber situation you were describing?

A Yes. But in that situation, that would go right to a full investigation.

Q Okay.

Do you know what type of investigative steps are permitted when one is conducting a preliminary investigation?

A I don't have it in front of me, but within DIOG, it enumerates what is permitted under a guardian assessment, a PI, and an FI, but without that in front of me, I can't tell you.

Q In your opinion, did the AG's October 4th memorandum change anything about the process for preliminary investigations?

A It did not.

[redacted] Did the AG's October 4th memo change anything about the type of investigative steps that can be taken under an assessment, a preliminary investigation, or full investigation?

Mr. Vorndran. No, because those are enumerated policy agnostic of the threat.

[redacted] Thank you.

BY [redacted]

Q And so we can now go on to full investigations, and you've spoken a little bit about this. So what is a full investigation?

A A full investigation is every authority we've been granted can be deployed in that investigation, and it cuts across a swath of sensitive techniques and nonsensitive techniques.

Q And is there an internal review process to ensure that full investigations are being conducted in accordance with the Constitution and FBI policies and procedures?

A Yeah, certainly I think -- it's been a while since I looked at the file review, but I believe there's a component in there that forces a supervisor to look at compliance matters with the policy.

Q And are you aware of the types of investigative steps that can be undertaken when going through a full investigation?

A I am.

Q Can you speak a little bit about that?

A Again, like, it cuts everything from Title III to undercover operations on the sophisticated end, grand jury subpoenas on the legal process. Anything that the FBI can deploy on national security or criminal investigations is available. The only carve out here, I would say, is when we get into sensitive investigative matters. There's much more oversight on what techniques will be utilized.

Q And what are -- what is considered a sensitive investigative matter?

A Those are simply the most sensitive investigations the FBI would work on. So elected officials, members of the media, academics, clergy.

Q Okay.

And did the AG's memo change the way that full investigations are conducted at the FBI?

A It did not.

Q So now I want to discuss a bit more about threat tags. I know you've talked a bit about that in the last hour. Just for clarification purposes, what is a threat tag?

A A threat tag is a set of characters that are applied to assessments associated with a particular threat. So we would have one for when we work the Super Bowl. We would have one when we work the inauguration. And it's a statistical component to aggregate those assessments into how many assessments have been opened, how many tips have been received.

Q So a threat tag can be applied to all sorts of situations?

A They can.

Q Okay. And so, it kind of serves as like a cataloging system of the cases that the FBI is working on?

A I would say it's a way for us to organize, yeah.

Q Okay.

And so, what type of information is typically included in a threat tag?

A I've never set one up on my own. So I've only seen the characters that come out of those tags. So I don't know what information goes into actually create them.

Q Okay. So I was going to ask if you know the process by which threat tags are created --

A I don't.

Q -- but I assume that's a no.

A I believe there's engagement with the National Threat Operations Center, but the mechanics of what details have to be provided and who approves it, I don't know.

Q Okay.

And so who would be responsible for applying a threat tag to a particular matter? Would it be the special agent working on the case, or would it be the supervisor who is the one that would identify the tag?

A Typically, for threats that come in through NTOC, they would apply them at the intake, and then -- so not so much on the supervisors, especially for tips, whether from email or that flow through NTOC.

Q Okay.

A Certainly, if I can just build out a little more context, there certainly could be a scenario that a tipper comes into NTOC. It is not tagged. And then it gets to a field office, and through engagement and further investigation, they understand it is related to, like, a Super Bowl threat, and they can go back and retroactively do it. But my assessment is a lot of it happens at intake and NTOC.

Q And so applying a threat tag to a case, that would not impact the

investigative steps that the FBI takes, correct?

A It has no impact.

Q Okay. And just for clarification, so it wouldn't impact the predication that's required for a preliminary investigation or full investigation?

A It does not.

Q Do you know a rough estimate of how many threat tags were created during your time as a deputy assistant director of the counterterrorism --

A I don't know.

Q Okay.

So I want to look at the March 1 letter, which I believe is identified as exhibit 12, I believe. So let me know when you have it.

A I have it.

Q Okay. So the March 1 letter states on page 2 that any internal tagging of threats, harassment, or violence against school officials for review and reporting does not change the longstanding requirements for opening an investigation, whether by the criminal counterterrorism or any other FBI division, nor does it represent a shift in how the FBI prioritizes threats.

Do you agree with this sentence with respect to the AG's October 4th memorandum?

A Yeah. There was no change, to my knowledge, of how we predicated investigations based on the memo.

Q Okay. So according to the March 1 letter, it states that the EDUOFFICIALS tag was created on October 14, 2021. Is that consistent with your knowledge, if any, of when that threat tag was created?

A It is. I would have thought, based on recollection, it was a little closer to

the 20th, but certainly the 14th is reasonable.

Q And so, according to footnote two at the bottom of page 2, the letter states: Four Guardians that were open in advance of the Attorney General's memorandum subsequently received the EDUOFFICIALS tag. And so you talked a bit earlier about how tags can be applied retroactively. Does this represent an example of a tag that was applied retroactively to a case?

A On its surface, it would seem so. Without the details in front of me, it's hard to say. But yes, that's an example of Guardians that came in that predated the EDUOFFICIALS tag that were subsequently applied with that tag.

Q Okay.

Do you know how exhaustive of a search the FBI did to identify other potential Guardians prior to the October 4th memorandum that should have received the threat tag?

A I don't know.

Q Okay.

So the March 1 letter states in the last sentence of the second paragraph, and this is on page 2, the purpose of the tag was to help the FBI understand the scope of reported threats against school officials on a national level and to provide an opportunity for comprehensive analysis of the threat picture for effective engagement with law enforcement partners at all levels.

Do you agree with this statement?

A I do.

Q Okay. So is there anything unusual about using threat tags in this way?

A There is not.

Q Okay. And does the reference to law enforcement partners at all levels,

does that just mean State, local, or Tribal agencies?

A That would be inclusive of Federal, State, local, Tribal, territorial partners.

Q Okay. So we talked about Guardians. We talked about assessments. We talked about preliminary and full investigations, as well as threat tags. And so I just want to take a look at the particular 25 assessments in this situation that we're in today.

And so I want to turn to the paragraph on the bottom of page 2 of the March 1 letter, and this is exhibit 12. And so this paragraph states that the FBI assigned the EDUOFFICIALS tag to 25 Guardians. So if this was -- the EDUOFFICIALS tag was assigned to 25 Guardians, does that mean that investigations were open into these 25 Guardians?

A I think it's a reference to the fact that the Guardian is the process for the Bureau to understand whether there is a nexus to criminal activity --

Q Okay.

A -- is how I would frame that.

Q Okay. So it doesn't mean that these were 25 investigations?

A As written, that's right.

Q Okay.

And at the top of page 3, it reads: The majority of the 25 Guardians refer to State and local law enforcement.

To the extent you are aware, is this consistent with your understanding of how the 25 Guardians were handled?

A I'm not aware. So I can't comment.

Q Okay. Just as a general matter, is it fairly common for Guardians to be referred to local and State authorities?

A Based on my experience working on violent crime task force and JTTF, yes.

Q Okay.

And based on your experience, how long does it typically take for an agent to assess a Guardian and then refer it to the appropriate State or local entity?

A That's a really difficult question to answer because all of these -- if we talk more corporately about Guardians, they are not all created equal, and so, there could be, you know, emergency disclosure requests that are pending to identify IP logs so we know where to start looking. It really cuts across the swath.

The ones we can be more clear about are the TTLs, because there's a policy obligation of how quickly they are assessed and worked, and that's a matter of, like, days.

Q Okay.

A That's very short. I believe -- I don't have the policy in front of me. There's almost a 24-hour obligation to have eyes on it and make an assessment of what needs to be done.

Q Okay. And just for the record, TTL is threat to life, right?

A That's right.

Q Okay.

So on page 3, the second to last sentence at the top of the paragraph reads: 17 of the 25 Guardians were assigned to the criminal investigative division, six were assigned to the counterterrorism division, and the remaining two were assigned to the weapons of mass destruction directorate, as it pertains to potential bomb threats.

And I believe you answered this question previously, but just for the record, were you ever personally aware of the six assessments that were assigned to the counterterrorism division?

A I was not.

Q Do you have any insight into how long agents worked on those six assessments?

A I have no way of knowing.

Q Does the fact that a Guardian was assigned to the counterterrorism division mean that the counterterrorism division then opened a preliminary investigation based on that Guardian?

A It does not.

Q And is that the same for a full investigation? It doesn't mean that the full investigation was opened?

A Can you reframe that?

Q Yeah.

So does the fact that a Guardian was assigned to the counterterrorism division mean that the counterterrorism division opened a full investigation into that Guardian?

A So the counterterrorism division doesn't open investigations. They're opened by the field.

Q Okay.

A They would be program managed by the counterterrorism division. But no, the fact that there is a Guardian opened, there's no direct correlation to how many full investigations were opened at the field level.

Q Okay.

BY [redacted]

Q All right. We're going to switch gears and quickly go back.

You were asked in the earlier hour about -- I'm sorry -- actually, the very first hour about what's been marked as exhibit 7.

A Okay.

Q And it's the July 27, 2022, letter from Chairman Jordan, then Ranking Member Jordan to Director Wray.

A Okay.

Q And you were asked about this in the context of allegations about kind of padding DVE statistics or changing case classifications to build up case numbers.

A Uh-huh.

Q I want to look at the top paragraph on page 2.

A Okay.

Q At the end of that paragraph, it says that a field office counterterrorism special agent in charge and the FBI's Director of the counterterrorism division have pressured agents to move cases into the DVE category to hit self-created performance metrics.

Are you familiar with that allegation, or are you familiar with any of the actions that are described there?

A I'm not familiar with any of the actions described.

Q To the extent there's a reference to self-created performance metrics, are there performance metrics based on case numbers?

A No.

Q And then the next sentence says: According to whistleblowers, the FBI uses these metrics to dispense awards and promotions.

To your knowledge, are awards and promotions dispensed based on case numbers?

A Not to my knowledge. I mean, listen, if you look at cases, they're not all created equal, and so if you look at overall impact of a three- or four-time rule of Title III, the work that goes into that by a group of individuals far outpaces an embezzlement case of a bank teller. So looking at case numbers is an ineffective metric to assess performance.

Q Okay. And so -- and thank you for that.

And so, I think you just referenced Title III?

A Uh-huh.

Q What is that?

A Title III is just the wiretap statute, to permit, you know, through court authorized orders, listening to phone calls and reading content of email.

Q Okay, thank you.

And so just to sum up, there could be one matter that is one case that takes a lot of work and a lot of effort, and that could be a pretty big situation, and there could be five bank robbery cases that would be -- you know, one person could potentially work five bank robbery cases and it wouldn't -- the fact that one person has one case that's a lot of work and one person has five cases that are less work, like, that means that's not a good -- case numbers alone are not a good metric?

A Right. That's right. As a field supervisor, when I was assigning cases, I didn't look at how many cases somebody had. I knew the cases well enough to know, from a content and work perspective, how much work it took, and that's how I made those decisions.

Q Thank you.

[redacted] We're good. We can go off the record. Thank you.

[Recess.]

[redacted] Sorry. We can go back on the record.

[redacted] So you're all done?

[redacted] Unless I have to follow up on yours.

BY [redacted]

Q Just one quick question, sir. Sorry, I didn't get it when I was around here

the last time.

Did you have any involvement with the Hunter Biden investigation?

A I did not.

Q Were you aware that the laptop, the Hunter Biden laptop has a telephone entry for a Vorndran?

A I am not.

Q Bryan Vorndran?

A I am not.

Q And do you know who Bryan Vorndran is?

A I do.

Q And who is that?

A My brother.

Q Okay. And so you have no awareness of why your brother would be in Hunter Biden's laptop contacts?

A I have no knowledge.

[redacted] That's it. Thank you.

[redacted] Thanks. We can go off the record now.

[Whereupon, at 1:48 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: [redacted]

Tuesday, May 16, 2023

Washington, D.C.

The interview in the above matter was held in room 2237, Rayburn House Office Building, commencing at 9:59 a.m.

Present: Representatives Jordan and Gaetz.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

[redacted] COUNSEL

[redacted] PRESS ASSISTANT

[redacted] CHIEF COUNSEL FOR ADMINISTRATIVE LAW

[redacted] CHIEF COUNSEL FOR POLICY AND STRATEGY

[redacted] CHIEF COUNSEL FOR OVERSIGHT

[redacted] RESEARCH ASSISTANT

[redacted] DIGITAL DIRECTOR

[redacted] SENIOR SPECIAL COUNSEL

[redacted] COUNSEL

[redacted] MINORITY INTERN

[redacted] MINORITY FELLOW

[redacted] MINORITY DEPUTY CHIEF COUNSEL FOR THE SUBCOMMITTEE ON CRIME AND FEDERAL GOVERNMENT SURVEILLANCE

[redacted] MINORITY CHIEF COUNSEL FOR THE SUBCOMMITTEE ON CRIME AND FEDERAL GOVERNMENT SURVEILLANCE

[redacted] MINORITY STAFF ASSISTANT

For [redacted]

[redacted]

[redacted]

Kirkland & Ellis

1301 Pennsylvania Avenue, N.W.

Washington, D.C. 20004

[redacted] We'll go on the record.

This is a transcribed interview of [redacted]. Chairman Jordan has requested this interview as part of the committee's investigation of how and the extent to which the executive branch has coerced and colluded with companies and other intermediaries to censor speech.

Would the witness please state his name for the record.

[redacted] [redacted].

[redacted] On behalf of the committee, I want to thank you for appearing here today to answer our questions. The chairman also appreciates your willingness to appear voluntarily.

My name is [redacted] and I'm with Chairman Jordan's staff.

I will now have everyone else from the committee who is here at the table introduce themselves as well.

[redacted] [redacted] counsel for Chairman Jordan's staff.

[redacted] [redacted] with Chairman Jordan's staff.

[redacted] [redacted] with Chair Nadler's staff.

[redacted] [redacted] with Mr. Nadler's staff.

[redacted] [redacted] with Ranking Member Nadler.

[redacted] [redacted] Jim Jordan's staff.

[redacted] [redacted] with Chairman Jordan's staff.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] [redacted] majority.

[redacted]. I'm [redacted] with Kirkland & Ellis.

[redacted] [redacted]. [redacted] -- [redacted] for Kirkland & Ellis for the witness and

Meta.

As discussed with the staff previously, [redacted] worked in the intelligence community in a variety of roles before joining Meta, including in a nonpublic capacity. His last government job was as a director for intelligence with the National Security Council during the Trump administration.

While we do not object to a comprehensive transcript of his interview by a qualified stenographer, we are concerned that the decision to videotape a member of the intelligence community at his level could restrict [redacted]'s ability to assume certain professional intelligence-related roles in the future.

Accordingly, we will respectfully request that the interview not be videotaped or that, at a minimum, we be provided a notice and an opportunity to be heard in the event the committee decides to make any portion of the video from [redacted]'s interview public.

We are not aware of any legislative purpose that would be served by publicizing via video the appearance of a former career level employee of the intelligence community and believe that sticking with a transcription would be a reasonable accommodation.

So I just wanted to make sure we noted that for the record. And I also noticed a couple of additional people came in the room.

[redacted] Yeah. If the folks who came in would state their name for the record.

Mr. Gaetz. Matt Gaetz, majority member of the House Judiciary Committee.

[redacted] [redacted] majority.

[redacted] Thank you. I'd like to --

[redacted] If I can ask for you all to speak up a little bit. I'm having a little

bit of trouble hearing you.

[redacted] Sure.

I'd like to now go over the ground rules and guidelines that we'll follow during today's interview.

Our questioning will proceed in rounds. The majority will ask questions first for 1 hour, and then the minority will have an opportunity to ask questions for an equal period of time if they choose. We will alternate back and forth until there are no more questions and the interview is over.

Typically, we take a short break at the end of each hour, but if you would like to take a break apart from that, please just let us know.

As you can see, there are official court reporters taking down everything we say to make a written record, so we ask that you give verbal responses to all questions.

Do you understand?

[redacted] Yes.

[redacted] So the court reporters can take down a clear record, we will do our best to limit the number of people directing questions at you during any given hour to just those people on the staff whose turn it is. Please try and speak clearly so the court reporter can understand and so the folks down at the end of the table can hear you.

It's important that we don't talk over one another or interrupt each other if we can help it, and that goes for everybody present at today's interview.

We encourage witnesses who appear before the committee to freely consult with counsel if they so choose. It is my understanding that you are appearing today with counsel. Is that correct?

[redacted] That is correct.

[redacted] Could counsel please state your name for the record.

[redacted] We have already done that. [redacted] Kirkland & Ellis.

[redacted] [redacted] Kirkland & Ellis.

[redacted] Thank you.

We want you to answer our questions in the most complete and truthful manner as possible, so we will take our time. If you have any questions or if you do not understand one of our questions, please let us know.

Our questions will cover a wide range of topics, so if you need clarification at any point, just say so. If you honestly don't know the answer to a question or do not remember, it's best not to guess. Please give us your best recollection, and it's okay to tell us if you learned information from someone else. Just indicate how you came to know the information.

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

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

Do you understand that?

[redacted] Yes.

[redacted] This also applies to questions posed by congressional staff in an interview.

Do you understand that as well?

[redacted] I do.

[redacted] Witnesses that knowingly provide false testimony could be subject to criminal prosecution for perjury or for making false statements under 18 U.S.C., section 1001.

Do you understand this?

[redacted] I do.

[redacted] Is there any reason you are unable to provide truthful answers to today's questions?

[redacted] No.

[redacted] Finally, I'd like to make note that the content of what we discuss here today is confidential. We ask that you not speak about what we discuss in this interview to any outside individuals to preserve the integrity of our investigation.

For the same reason, the marked exhibits that we will use today will remain with the court reporters so that they can go in the official transcript, and any copies of those exhibits will be returned to us when we wrap up.

All right. That's the end of my preamble. Is there anything that my colleagues --

[redacted] [redacted] someone else came into the room. I just want to make sure we get names.

[redacted] Hi. I'm [redacted] I'm with the House Judiciary minority.

[redacted] I'm sorry?

[redacted] [redacted]

[redacted] [redacted]

[redacted] Is there anything my colleagues from the minority would like to add?

[redacted] No, thank you.

[redacted] Okay. The clock now reads 10:06. We'll start the first hour of questioning.

[redacted] Great.

EXAMINATION

BY [redacted]

Q Thank you, [redacted]

Could you state your full name, please.

A Yes. My full name is [redacted]

Q And where's your current place of employment?

A I currently work at Meta.

Q Okay. What's your current title?

A I'm Meta's director for global threat disruption.

Q All right. And, beginning with college, can you state your education history briefly, please.

[redacted] I'm sorry. We can't hear you.

[redacted] We can't hear you.

BY [redacted]

Q Beginning with college, could you please state your education history.

A Yes. So I went and did my undergraduate education at the Ohio State University in Columbus, Ohio. I studied political science, international security studies, Russian, and Spanish. That is the extent of my education history.

Q Okay. Great. Your counsel started to provide some of this. At a high level, could you provide your employment history?

A Yes. So I currently work at Meta as Meta's director for global threat disruption. And I joined the company as Meta's global threat disruption lead.

Prior to joining Meta, I was a director at the National Security Council on the intelligence program staff from 2017 until mid- to late 2018 during the Trump administration.

Prior to joining the NSC staff, I was employed in a variety of roles at the

Department of Defense.

And then, prior to joining the Department of Defense, I worked as a researcher at the Woodrow Wilson International Center for Scholars conducting research on illicit finance in Russia.

Q Was that your first position after graduation of college?

A It was.

Q Can you explain at a high level some of your responsibilities when working for the government?

A In my role at the National Security Council, I was responsible for oversight and management of the U.S. Government's technical intelligence programs as well as coordinating President Trump's national security strategy, specifically on foreign and malign influence. So kind of coordinating amongst the various departments and agencies to try and create a cohesive government strategy around how to handle Chinese, Iranian, and, like, foreign influence targeting the United States.

Prior to that, I primarily worked on issues around Russia.

Q And when approximately did you leave the government for Facebook?

A I left the government in -- at the end of August 2018.

Q Your first title, you said, at Facebook was global threat disruption lead. Is that correct?

A That's correct.

Q What does that title mean, and what were your responsibilities?

A So, as global threat disruption lead, I joined the company to work on countering what we call coordinated inauthentic behavior.

Q Okay. And what was your day-to-day responsibilities?

A So the work around countering coordinated inauthentic behavior, which is

our policy around coordinated networks and fake accounts, functionally, that trying to mislead people on the platform. My job was to evaluate cases against that policy to try and determine whether, for example, there was in fact a network of coordinated inauthentic accounts deceiving people and to ensure that we were applying that policy in an appropriate way.

Q Okay. Who did you report to at that time?

A I reported to Meta's head of security policy.

Q And who was that?

A [redacted].

Q Okay. Did you have people that reported to you?

A I did not.

Q Did you have an assistant or deputy or anybody?

A No.

Q No?

So how big was your team overall? Was it just you and your supervisor?

A That's correct.

Q Which office were you in?

A Which office physically?

Q Yeah.

A Like, where was I located?

I worked out of the Menlo Park office.

Q And then your next position is the one you hold now?

A That's correct.

Q Okay. And that is director of global threat disruption?

A That's correct.

Q Okay. And is that a promotion? What is the difference between the roles and responsibilities?

A It was a promotion. And, in addition to working on coordinated inauthentic behavior issues, I also work now on cyber espionage. So that would be efforts by hacking groups to target users on our platforms, steal their credentials, for example, or deploy malware to try and hack their devices, their mobile devices, that kind of thing, as well as kind of spam- and scam-type activity on the platform and how to identify and counter that type of activity.

Q And who do you report to now?

A I still report to Meta's head of security policy.

Q And who is that?

A [redacted].

Q And do you have team members now? Is there anyone that reports to you?

A I do have team members now.

Q And who are they?

A So I have -- let's see. I'd be happy to provide a list to the committee after this conversation, if that would be useful.

Q Okay. How many team members approximately?

A Four.

Q Four. And are they your peers in the hierarchy? Do they report to you?

A They report to me.

BY [redacted]

Q And what are their roles and responsibilities?

A Those folks work on kind of the areas I mentioned. So coordinated

inauthentic behavior, influence operations activity, countering cyber espionage activity, and then spam and scams and fraud activity.

Q Do they each work on one of those categories?

A That's correct.

BY [redacted]

Q Which other teams or divisions at Meta do you work most closely with?

A Let's see. So I work most closely with our legal teams, our comms teams, and investigative teams.

Q Do you work at all with personnel who are involved with public policy or government relations?

A On some occasions, yes.

Q And who from those teams do you work with?

A So we work with public policy teams kind of around the world whenever we have a case -- for example, an influence operations case that we're going to be releasing a report about --

[redacted] I'm sorry, [redacted] I can't hear you.

[redacted] Sorry about that.

[redacted] I know it's frustrating.

[redacted] So we'll work with public policy teams at the company, for example, if we're releasing a report on an influence operations network or a hacking network that might affect their country.

BY [redacted]

Q Okay. And when did your team become -- like, you mentioned -- when folks were hired?

A That's a good question. Let me think about that one.

Just a couple of years ago.

Q Okay. And was it all at once, or did it expand slowly?

A Slowly over time as we started to work on other security-related issues.

Q Okay. And what necessitated the need for a bigger team?

A I think we had seen the success of trying to counter adversarial threat actors in the influence operations base. For example, there were a number of Iranian networks that targeted the U.S. in 2018. There were Chinese operations, for example, targeting the U.S.

And the model that we had used to counter those operations -- so investigating their activity on the platform, sharing information about those operations with other platforms that might be active on sharing information publicly, threat reporting -- seemed to be having an effect on the effectiveness of those campaigns, in that they seemed to be avoiding using our platform as much. And we felt it would be useful to apply that model to other threat areas.

So cyber espionage and hacking is something that we saw the platform not necessarily being used to directly try and hack someone's account, but we might see a threat actor -- for example, an advanced persistent threat group from Iran -- using the platform to try and trick someone into clicking a link to go to a website containing malware active from their laptop.

And so we started trying to use that model on those types of threats, and we saw some success there as well. In particular -- I'm using Iran in particular because we've seen both a number of Iranian operations, and we've seen those operations be very responsive to particularly our public reporting on their activity in that they seem to avoid our platform quite a bit.

And then that model we also wanted to apply to other problem areas. So spam,

scams, and fraud, which directly affect our users. It seemed like an area that we could apply a similar approach.

Q You mentioned you work for [redacted]. Am I saying his last name correctly?

A Yes.

Q Who else reports to him in addition to you, and what teams are they a part of?

A So security policy organization works on -- so the threat disruption area that I manage as well as more traditional kind of account security issues. So two-factor authentication, making sure that people have a means to recover hacked accounts, as well as what we call threat ideation.

So that's thinking through ways that -- for example, when we do takedowns of these influ-ops networks, how might they change their tactics to try to get around our enforcement. So that's generally the area that [redacted]'s organization covers.

Q You mentioned that you work with the legal team. At a high level, can you discuss what sort of issues cause you to have to consult with the legal department?

[redacted] I instruct the witness not to answer questions about the legal department.

[redacted] My colleague [redacted] may ask some questions, and if you can just restate your objection to the questions.

[redacted] Sure. Calls for privileged information.

[redacted] Thanks.

BY [redacted]

Q Do you know which teams at Meta deal with misinformation?

A I'm aware that there is a misinformation team at Meta that works on the

misinformation problem set.

Q And do you know who heads that team?

A I'm not actually sure who heads the team at the moment.

Q And you don't have interactions in your current role with them?

A I don't. We somewhat deliberately -- the head of my team works specifically on the disinformation problem set, which just definitionally for us would be deceptive behaviors, right? So fake accounts, posting what might be true or might be false, but the fact that they're lying about their identity. And we separate that out kind of with a pretty clear bright line for misinformation work, which could be posted by any number of users on the platform.

Q Am I understanding you correctly that disinformation you view as intentional and misinformation is not? Can you clarify the difference?

A Happy to.

So disinformation in our world -- and we kind of -- the way we operationalize the word "disinformation" is our coordinated inauthentic behavior policy, which I wouldn't say is about intention, but rather is about the user that is actually posting on the platform.

So our coordinated inauthentic behavior policy is content-agnostic. We don't evaluate truth, the falsity, or the appropriateness of the content that a network is posting. What we care about is whether the accounts that are part of that network are who they say they are. Are they fake accounts pretending to be from country X when they're actually from country Y, or are they actually authentically the person they're saying that they are?

And, if they are lying about who they are or where they're coming from, then that would be kind of our policy course for action because we want people on the platform to

be able to trust who they're talking to.

Q Are you familiar with the term "malinformation"?

A I've heard the term "malinformation" in the past. It's not one that we use on our teams.

Q Okay. You've spoken a couple times about coordinated inauthentic behavior. There are also terms in the space such as "foreign malign influence campaign."

Is that a type of coordinated inauthentic behavior? Do you understand those to be related?

A So we avoid using the term "foreign malign influence," although it's a term I'm familiar with from my time in government. Generally, our coordinated inauthentic behavior campaigns can be foreign influence operations, although I understand the term "foreign malign influence" as a bit broader in that it can also cover, for example, overt activity by state actors or off-internet activity by state actors.

Q For issues related to hack-and-leak operation, would that fall under your team's responsibility?

A So portions of hack-and-leak activity would. My team works specifically on a policy we call the hack-and-leak policy. And so I'd be happy to answer any questions you have about that.

Q We'll in just a moment get into that.

At a high level, Facebook has community standards. Is that appropriately understood as Facebook's content moderation policy? Is there --

A That's my understanding of the community standards, yes.

Q And is there a different policy for Instagram as opposed to Facebook?

A My understanding is that Instagram does have terms of service that are

complementary to and incorporate aspects of the community standards, but it's not an area I work directly on.

Q And your responsibility, is it only for Facebook?

A No. So the policies that my team works on -- coordinated inauthentic behavior and the cybersecurity policy, which is what we do our cyber espionage work under -- apply to both Facebook and Instagram.

Q Okay. Are there any other platforms that fall under Meta space that you are responsible for? I'm thinking WhatsApp, for instance. If there's --

A So we do share information about our investigations with the WhatsApp team, but we don't work directly on WhatsApp as a platform.

Q Okay. So Facebook and Instagram is the scope of your responsibility.

As part of your job responsibility, do you have familiarity with Facebook's community standards?

A Passing familiarity, but I wouldn't call myself an expert on the vast majority of the policies in the community standards.

Q And what about those that relate to coordinated inauthentic behavior?

A Yes. So the coordinated inauthentic behavior policy; the inauthentic behavior policy, which it sits under in the community standards; as well as the cybersecurity policy, which addresses kind of theft of credentials and hacking of accounts. Those three are all in the community standards, the publicly-facing community standards, and are policies that we work on.

Q Okay. Did you play a role in developing those policies?

A Yes.

Q You mentioned earlier that, when it comes to coordinated inauthentic behavior, I believe your phrase was that you're "content-agnostic."

Can you describe a little bit more what that means, and has that always been the case?

A Yeah, I'd be happy to.

It has always been the case. And what I mean by that is, what we have found is that, as a platform company, evaluating the content posted by a coordinated inauthentic behavior operation is both a very low-fidelity signal about whether that operation is or isn't deceptive and also not the most efficient way for us to investigate those networks. I can talk a bit about what both of those things mean.

When I say it's a low-fidelity signal, what I mean is that if you look at the more than 200 coordinated inauthentic behavior operations that Meta has taken down in the 4 and a half years or so I've been there, a huge number of those operations posted what people would consider to be pretty benign content. And by "benign," I mean pictures of puppies, pictures of kittens, the type of thing people might want to click on or follow a page about to build an audience. We generally see that as the first phase of an influence operation. It's an audience-building phase.

So, if we were looking for an influence operation by using content signals, we would have a very high false positive rate. We'd keep finding actual people who like puppies and kittens.

And then, secondly, what we generally find is that influence operations also reuse content from other parts of the internet or other parts of our platforms consistently. Why? Because if you are functionally operating as a clandestine digital marketer, it is a lot cheaper and easier to find content that is already popular, ideally in the language that you might not speak very well, than trying to create it yourself.

But what that means from an investigative perspective is that, if we're simply trying to match content to find an Iranian influence operation, for example, we're also

going to find a bunch of other people that aren't involved. And so, instead, our policy is predicated on deceptive behaviors and deceptive identity in particular because that is the core of kind of the harm we're trying to protect people on the platform from.

We don't want to police what people can say under that policy. We just want to make sure that, if you're a user on Facebook, that you can trust the person that's talking to you to be who they say they are and not to be, for example, a foreign actor trying to manipulate what you're seeing.

And so that's why the policy is written the way that it is and why we apply it in the way that we do around kind of signal or deceptive behavior and identity rather than content-related signals.

Q And I'm sorry. If you could, again, go over the difference between an influence operation and coordinated inauthentic behavior.

A Yes. So an influence operation can be overt or clandestine and also can be much -- often is much broader than a single social media platform or internet website, whereas coordinated inauthentic behavior -- as a platform company, we have to take the big definition of influence operation and turn it into something repeatable and appliable. And so the coordinated inauthentic behavior policy was created to kind of identify what are the tests that we can apply to what could be a clandestine influence operation to determine whether we can take enforcement action against it.

And so the policy is more specific, right? It says a network, if it is coordinated -- so multiple users from multiple accounts working together -- if it is inauthentic in that it is essentially manipulative about its identity or where it's coming from, using fake accounts, then that network is something we can take action under, whereas -- if we simply -- just kind of the definition of an influence operation, it would be too expansive.

Q And so, if an influence operation is overt, does that mean the company can't take action, or is it just no longer under your team's scope?

A A subset of overt influence operations -- so, for example, state-controlled media entities -- Press TV from Iran is a good example, or CGTN, a Chinese state-controlled media entity. For those entities, we -- there is a policy that my team had worked on around state-controlled media labels.

[redacted] I'm sorry. Could you repeat that?

[redacted] Yes.

[redacted] There's a policy that my team had worked on to develop around labeling state-controlled media entities. And so we do label state-controlled media entities on the platform from a number of countries, and -- but it is a separate policy from our coordinated inauthentic behavior policy.

I'd also note there are -- the "influence operations" definition more broadly. Just drawing from my time in government, these operations do tend to have kind of off-platform aspects to them, whether that is illicit finance or traditional intelligence activity. And so those are naturally areas that we wouldn't work on. It is just outside the purview of the company.

BY [redacted]

Q And who first identifies whether accounts are inauthentic? How do you determine if an account is inauthentic?

A So we would determine whether an account is inauthentic based on a combination of behavioral and technical signals. So whether they are, for example, misleading people about where they're located, claiming to be in one country but actually being in another country, and whether they might be, for example, using a profile photo that was generated by an AI system, for example, to try and look like someone else.

Those types of signals taken together would be a good indicator of inauthenticity.

Q And so is this information that Meta can find internally?

A Yes.

Q Has anyone outside of Meta identified inauthentic accounts for you?

A So people do frequently, I think, generally flag things that they find suspicious on the platform. But something that we're very careful to do is -- people are welcome to send us leads about potential suspicious activity.

We'll never take an enforcement action against whatever is being sent to us purely because someone sends us information about it. We'll always conduct kind of our own independent internal investigation into that activity. And if it meets our evidentiary threshold for enforcement, we might take the appropriate enforcement action, but that would be the process by which something like that would be evaluated.

Q Who are some of the people that will provide these leads? Are they users? Are they researchers?

A Both of those are good examples. Users, members of the public. People might report things in products, right, through our own reporting flows. And so there's any number of kind of people that could potentially report things to us.

Q Does the U.S. Government?

A The U.S. Government has, on occasion, flagged suspicious activity to us, yes.

Q Which agencies?

A Let me think. So the FBI's Foreign Influence Task Force and the State Department's Global Engagement Center.

Q We'll engage in those in a moment.

A Sure.

Q Taking one step back, you mentioned you get a lead. If it meets an

evidentiary threshold, you might take action. Can you say a little bit more? What is the evidentiary threshold?

A So, in a coordinated inauthentic behavior space, for example, what we would need to see are indications of coordination that the accounts in question, for example, are in fact connected to each other working together to do something, and that the something that they're doing is misleading users about who they are or what they're doing so they're inauthentic accounts and specifically that there is a core network of fake accounts at the heart of whatever that activity is, right? These aren't just a bunch of real people working together to do something that's just political work.

And so those would be kind of the core signals that we would rely on to determine if something was a CIB network.

Q And when you say "we" would do this, is this referring to you? Who else is involved with this determination?

A This would be the investigative team.

Q Okay. And who's on the investigative team?

A A number of folks on the investigative team. I don't know who all of them are.

Q Okay. How many?

A I'm actually not sure how many folks total there are on the investigative team either.

Q Can you provide a ballpark figure?

A I wouldn't want to speculate.

Q Are we talking over 50?

A Again, I wouldn't want to speculate. I just don't know the actual number.

Q So your team is only four people. So we're talking about a number of

people who are not part of your team. Is that --

A That's correct, yes.

Q But you are one of the people that would partake in this investigation?

A That's right. We would work with the investigative team to make that final determination on whether something met our policy standards.

Q Okay. And who makes the final determination?

A So we evaluate -- so, for example, I would evaluate the outcome of a case against our policy standards and then make a recommendation as to whether it meets our standards.

Q And who are you making the recommendation to?

A Generally, I'll make that recommendation to my manager.

Q [redacted]?

A That's correct.

Q And does he make the final decision, then?

A Yes. Yes.

Q Okay. Can you say a little bit more? Where -- so the other folks who are on this investigative team, where do they fit within the company structure?

A So our investigative organization is kind of its own organization, and they work on kind of the same issues I had mentioned as well as a number of others that my team doesn't work on directly.

Q Okay. Are they contractors? Are they full-time employees?

A They are full-time employees.

Q Once you determine that an account is inauthentic, what remedies -- what are the options available to Meta besides a takedown?

A So, if we find that a network meets our coordinated inauthentic behavior

policy threshold, that's a pretty severe violation of our community standards, right? That's not someone accidentally changing their name. It's a number of fake accounts that we've determined through, you know, a manual investigation are working together to mislead people.

And so the action that we take is removal of that entire network, the fake account network, any assets that that network controlled on the platform, for example, pages or groups, as well as accounts of the people who are running the fake account networks that might include authentic accounts.

If an account is suspected to be, for example, a fake account because they have a name that looks suspicious, for example, there's what we would call checkpoints and product checkpoints that we can use to allow someone to functionally either change their name or provide additional information to ensure that their account isn't incorrectly taken down.

Q Okay. Do you notify the account in advance, then?

A In advance of what?

Q Before any action is taken. Or is it only for -- sorry to cut you off -- you said there were two buckets. One is just an individual account, and one is what's believed to be a network of accounts. Am I correct in understanding?

A In cases --

[redacted] Sorry. Go ahead.

[redacted] Sorry. I was trying to let him finish the question.

[redacted] In cases where we find a coordinated inauthentic behavior network, we do not notify the accounts in advance. These are adversarial operations. So, if we were to notify them, they would likely just change their behavior to avoid our detection. And so we'll take those accounts down. The users who control those

accounts do receive a notification after the account has been taken down.

Mr. Gaetz. Before we go deeper into enforcement, I want to ask a few questions about how the investigative team reports to you.

As I understand your testimony, users, groups, the government, can flag what they believe to be coordinated inauthentic activity. There's then this investigation period. The investigative team works with you to develop those facts based on the criteria you've laid out, and then you make a recommendation based on what you get from the investigative team. Have I understood that to be correct?

[redacted] Partly. One thing I want to clarify is -- so users, for example, could flag things to us. The majority of our investigations and takedowns are from what we call proactive leads. So our own investigative team is looking for operations from any number of foreign government actors.

Mr. Gaetz. And, for the sake of these questions, I'm going to ask -- I'm particularly interested in the government entities that are the genesis of these investigations.

And, as I understand your testimony, there's only two government entities that have ever flagged or initiated an investigation you've been a part of or you've given a recommendation on regarding coordinated inauthentic activity, and those are the Global Engagement Center at the Department of State and the Foreign Influence Task Force at the FBI.

Is there anyone else that we need to have on that list?

[redacted] That is -- so, to the best of my recollection, those are the U.S. Government agencies that I remember flagging things to us about coordinated inauthentic behavior operations.

Mr. Gaetz. And it seems as though, based on where you are in this decision

pyramid, if there were any other government entities that were involved -- would be involved, you would probably know that, right?

[redacted] Meta is a large company. So I wouldn't want to presume that I would know for sure.

Mr. Gaetz. Well, for the sake of the committee's investigation, around coordinated inauthentic activity, if you aren't the one ultimately making the decision with the investigative team for a recommendation, who is?

[redacted] Ah, I see. I don't think there would be anyone else who is. But I also wouldn't want to assume that I -- that I know everything that's happening at the entire company.

Mr. Gaetz. No, I'm specifically asking about your portfolio --

[redacted] Understood.

Mr. Gaetz. -- of coordinated inauthentic activity.

And so, as I understand it, there would have to be -- there's this three-part test on the evidentiary threshold. It's coordination, one.

[redacted] Yes.

Mr. Gaetz. Two, about something around the concealing of identity. And then, three, that it involves a core network of fake accounts.

Are there any other features of that test? I want to fully understand it.

[redacted] So those are the three parts of the test. So it's coordination, is there a network there, inauthenticity, and specifically, are the accounts misleading about who they are and what they're doing, and is there a core network of fake accounts as part of that network? That's correct.

Mr. Gaetz. So, when the investigative team concludes their -- are they briefing you on these things during the pendency of their investigation, or does the investigation

conclude, and then they bring their findings to you?

[redacted] The investigation concludes, and then they'll present those findings to me.

Mr. Gaetz. And walk me through how that presentation occurs.

[redacted] Happy to.

So the presentation is structured, as you can imagine, around kind of those three tests, as well as a fourth question, which is, can we attribute the activity that we're seeing to a particular threat actor? Why? Because we release public reports on our coordinated inauthentic behavior takedowns, and so we want to understand whether we understand who is actually behind it; and if so, what our level of specificity and confidence in that attribution might be.

And so we'll essentially go through those questions. You know, what is the evidence of coordination, and what -- how would we -- how do we understand that coordination to have taken place? What is the evidence of inauthenticity? Where is the core deceptiveness here? And, you know, what does the fake account activity look like within this network? And then, finally, who do we think is behind it, and how confident are we in that attribution?

Oftentimes, that attribution might just be geographic. So we think that the operation originated in Iran. We have a number of takedowns that are just geographically attributed in that way.

Mr. Gaetz. And does this presentation occur in writing? In an oral briefing? With a deck?

[redacted] It depends. Generally, these are kind of an oral briefing to myself and the folks on my team who we talked about earlier where they'll walk through those findings that they have.

Mr. Gaetz. Is there any paper that a company has had a briefing?

[redacted] Not in the sense of, you know, signing a preread or something like that. That's not as common.

Mr. Gaetz. Well, I was wondering -- you know, oftentimes in large companies, there are forms that constitute the infrastructure for these types of reports.

Were there ever any forms that the investigative team would typically use to address these criteria?

[redacted] Yes. There's a -- so we had given them a template, functionally, of the core questions that we care about.

Mr. Gaetz. And, if the committee sought those templates, is that something that you could provide?

[redacted] Can we take a break?

Mr. Gaetz. Sure. We'll go off the record.

[Discussion off the record.]

[redacted] Are we back on the record?

Mr. Gaetz. Yeah, we're back on the record.

[redacted] Thank you. Sorry.

So, to your question, I'm happy to look into those documents and see what we can provide.

Mr. Gaetz. And I'm just trying to get a sense, like, of the frequent -- so, if there are these forms and these templates, and then there's this oral briefing, in more or less than half the cases, does that -- does a written response in that template accompany that oral briefing?

[redacted] Yes.

Mr. Gaetz. More or less than half is my question.

[redacted] More than half, I would say.

Mr. Gaetz. So that would be more or less than three out of every four times?

[redacted] I'd say the majority of the time, we would have some sort of template that accompanies the oral briefing.

Mr. Gaetz. And Meta maintains those records?

[redacted] I'm not sure to what extent.

Mr. Gaetz. Do you maintain those records?

[redacted] I would imagine so, yeah.

Mr. Gaetz. And who gives the oral briefing? Is it the same person, or do different people give the briefings?

[redacted] Different folks would give the briefings.

Mr. Gaetz. And when they would give those briefings, would it typically be one person giving the briefing to you on behalf of the entire investigative team, or would multiple members of the team participate in that briefing?

[redacted] Generally, it's one person presenting the investigative case.

Mr. Gaetz. So it would be one person meeting with you?

[redacted] Sorry. No. It would be one person presenting that case to myself and the members of my team who work on a particular issue. It's kind of the group that works on these issues.

Mr. Gaetz. And so you testified in response to my colleague's question that the four people who work for you are stovepiped in the particular areas that are in your portfolio.

So would you typically just have the one person with you from your team to receive that briefing, or would the five of you sit as a group to receive that briefing?

[redacted] It depends, I think, on the topic of the briefing.

Mr. Gaetz. And, when you receive those briefings, give me a sense of the frequency of volume. Is it something you are involved in daily? Weekly? Monthly?

[redacted] These briefings generally were weekly, unless there was nothing to talk about, and then they wouldn't happen.

Mr. Gaetz. Was it a, like, a set time for a stand-up to receive these briefings, or did it oscillate?

[redacted] It would often kind of move around.

Mr. Gaetz. But it was a weekly meeting? Every week, you expected it if there was material? So you would receive -- would you receive briefings on all the matters that had accrued during that time period during that one briefing?

[redacted] That's correct. So, if there were -- however many cases were ready and complete enough to be briefed at that week, then that would be what we would cover that week.

Mr. Gaetz. And then how should I understand the process -- after you've received that briefing usually with a written form provided to you, an oral component, and then you've got an obligation to make a recommendation to your supervisor, walk me through the things that you would do during that process other than, obviously, reflect on the briefing you received.

[redacted] Happy to.

So, generally, the briefing itself, right, was the core component of the decisionmaking process. So evaluating the information contained in the briefing against the tests that we had discussed earlier. Determining whether the information from the briefing met the bar for evidentiary standards that we talked about.

And then, at that point, I think, determine whether -- first off, the exigency of enforcement on that particular network, right? For example, if an operation -- a foreign

government operation was targeting an election, and that election was coming up in the future, then there would be -- there's obviously a lot of exigency around enforcing on that type of an operation.

And then making a recommendation on enforcement to, as I mentioned, my manager.

Mr. Gaetz. Would the investigative team recommend a specific enforcement tool or action, or would they simply recommend that this was the type of matter that would require some enforcement?

[redacted] Because the enforcement under our CIB policies is relatively straightforward -- if it's CIB, we'd remove it from the platform -- the investigative team is really just recommending this case to meet that standard for enforcement or not.

Mr. Gaetz. So the investigative team's function is a binary one, as I understand it, right? It's either they're recommending for you to take an enforcement action or not, and then, in the process of you making your recommendation to your supervisor, you and your team members are not only making some judgment on that binary decision, but then you're also making recommendations as to the nature of the enforcement action?

[redacted] Maybe the way I would describe it is maybe a little bit different.

So the investigative team's responsibility was to aggregate their evidence and their assessment as to whether an operation should or should not meet the bar for coming to this review; ergo, the assumption was if it came to that review, the investigators at least felt that it met the bar for enforcement.

Our role was to ensure that that case actually met the bar for enforcement, so it fit the policy definition; that the evidence was sufficient in our estimation to apply the policy; and then to make the recommendation that, yes, no, this is a case that we should enforce against; and to flag any of those exigent circumstances as well.

Mr. Gaetz. But what I'm trying to understand is whether or not the job of the investigative team is to inform on the different enforcement tools that you would have at your disposal or if that's your part of the process.

[redacted] Understood. And I guess the reason I was answering the way I was is, in CIB, the coordinated inauthentic behavior, space, there's really one tool, which is removal of the network. And so I don't think we do as much of the informing on the best tool for enforcement just because --

Mr. Gaetz. There is but one enforcement action?

[redacted] Functionally, in the CIB space, that's correct.

Mr. Gaetz. Do you ever disagree with the recommendation from the investigative team during your time at Meta?

[redacted] I'm sure I have, yeah.

Mr. Gaetz. What would you say the batting average was with you?

[redacted] The investigative teams, I think, were very good at their jobs. And so for a case to reach kind of the review phase, it was generally a very strong case. There weren't a ton of cases that didn't meet that standard.

Mr. Gaetz. Is it fair for the committee to understand that 90 percent of the cases that you reviewed or more met that standard?

[redacted] I wouldn't want to guess. Off the top of my head, I don't know what the proportion would be.

Mr. Gaetz. During the process -- well, were there ever any reports at Meta regarding frequency with which the investigative team's recommendations were taken or not taken by you?

[redacted] Not to my knowledge.

Mr. Gaetz. You never participated in the assembly of any central points?

[redacted] That's correct.

Mr. Gaetz. In determining whether or not to take the recommendation of the investigative team, did you ever consult with anyone at Meta outside of your direct reports?

[redacted] I believe I occasionally would consult with our legal team.

Mr. Gaetz. I'm not going to ask you any questions about the substance of that.

[redacted] Appreciate that.

Mr. Gaetz. I can see your counsel fired up. He's doing his job. I understand.

Did you ever consult with anyone in the government as you were making a decision regarding whether to take action?

[redacted] Not that I recall.

Mr. Gaetz. Any of your former colleagues -- I mean, you worked a pretty high-level role at the National Security Council. I'm sure you interacted with a lot of folks who were pretty smart on a lot of these things.

Ever, while you were at Meta, did you seek any advice or counsel from any of your former government colleagues?

[redacted] So I spoke with some of my former government colleagues about a broad policy, kind of how to approach different aspects of the problem area around influence operations, but never, to my recollection, on any specific cases.

Mr. Gaetz. Yeah. And on those policy matters, who were those folks whose counsel you sought for advice?

[redacted] So let me see if I can remember who these people were. So the -- let's see.

I think most of the folks that I'm thinking of are former government officials at this point. Folks like [redacted] at Stanford, who used to work on cybersecurity issues in, I

think, both the last two administrations.

I'm trying to think if there is anyone else that immediately jumps to mind. I think that's the only government folks that I have spoken with.

Mr. Gaetz. And [redacted], is he affiliated with any entity at Stanford that has a portfolio around --

[redacted] I believe he's a professor at Stanford on cybersecurity issues, at least to the best of my understanding.

Mr. Gaetz. And did he have that role when you reached out to him?

[redacted] I'm not sure what he was teaching at that point. That was relatively early in my time at the company.

Mr. Gaetz. Do you have any idea when that communication may have occurred?

[redacted] Not precisely, no. Again, probably early at my time in the company.

Mr. Gaetz. Okay. And what was the policy matter you reached out to him to discuss?

[redacted] I'm digging way back. I believe that I reached out to him to discuss kind of the broad sense of how to narrow from the big influence operation definition we talked about earlier to something more operational and specific, particularly because in that early -- you know, late 2018 but early for me at Meta period -- there wasn't any clear consensus. I mean, I wouldn't argue there's consensus now, but there wasn't clear consensus around what permissible inauthentic behavior, for example, would look like, right, and how you draw a line between acceptable and unacceptable activity.

And so part of the coordinated inauthentic behavior policy, right -- the goal was to be really narrow, right, to fake account activity specifically, right? There's other ways

people can accept it, but we wanted to make sure that we were biasing ourselves towards kind of the worst-of-the-worst activity.

Mr. Gaetz. Is it fair for the committee to understand that to be defined in the doctrine around the enforcement of some of these coordinated inauthentic activity endeavors?

[redacted] I might even -- I might even put it a bit more gently as understanding kind of the context. So how other people were thinking about this problem. You know, recognizing I was coming from government, so I had a perspective on the problem. But, you know, I was coming into a relatively new field for me, which was tech.

Mr. Gaetz. Thanks for answering my questions about the investigative process. I think my colleague has more questions about the enforcement --

[redacted] Can we take a break real quick? On one of your questions, I want to make sure we're giving you a fulsome answer.

Mr. Gaetz. We can go off the record.

[Discussion off the record.]

[redacted] We can go back on the record. Thanks.

[redacted] Thank you for the reminder.

So, on your question about consulting the government, I think there are other instances where I might have asked, for example, the government -- we mentioned FBI and GEC before -- for context on, for example, insights they might have into foreign activity or, you know, things that are happening out there in the world that might have a bearing on coordinated inauthentic behavior activity but not on specific cases that we are investigating.

Mr. Gaetz. Well, I want to make sure I understand that clarification.

[redacted] Sure.

Mr. Gaetz. So what entities of the government did you consult with for that purpose?

[redacted] So what I -- the entities that I can recollect interacting with, again, the Foreign Influence Task Force with the FBI, the Global Engagement Center at State, and then DHS' CISA agency, and the Office of the Director of National Intelligence. Those four entities were the ones that I, you know, recollect interacting with directly.

Mr. Gaetz. Great. I think that my colleague is going to ask you about each of those four with a little more particularity as we move forward.

BY [redacted]

Q If we could stay a little bit longer on the investigations subject.

You mentioned that you would receive leads from a number of people, researchers, people outside of Meta. What happens when you receive a lead? Do you send it to the investigations team? Is that something that you handle directly?

A It's not really something I handle directly.

Q Do people contact you directly, though?

A Some folks do, certainly. People manage to guess my email address every once in a while.

Q And, when that occurs, do you forward it to the investigation -- what happens outside of you handling the request?

A Gotcha. So, generally, I'll forward it to the investigative folks to review.

Q Do you have a sense of how -- to use the Congressman's term -- what batting average the folks outside of Meta have when they forward either a network or account that they suspect to be inauthentic?

A I don't know off the top of my head kind of a sense of how accurate or

inaccurate outside leads are.

Q Presumably less than your internal team?

A I think that's a fair estimate, yeah.

Q Do they follow up with you when they make that request?

A Some folks do, certainly, follow up.

Q And, in terms of the interactions you've had with different government agencies, you identified the Foreign Influence Task Force and the GEC as two that would send you leads.

Did CISA or ODNI also send you leads?

A Not to my recollection, no.

Q Okay. How frequently would either the Foreign Influence Task Force or GEC send you a lead?

A I don't know if there was a terribly regular cadence to that. It would kind of be ad hoc flagging if there was -- my sense is if there was a specific issue that either of those organizations was aware of or tracking.

Q Do you have a sense of how frequently, though, they might occur ad hoc?

A A couple months, maybe.

Q One every couple months? Is that correct?

A Yeah, something to that effect. But, again, it's hard to estimate exactly.

Q And, when it's the government providing this lead as opposed to a researcher or someone outside of Meta, is that paid -- is that treated any differently? Do you follow up on that request?

A My team will handle that kind of the same way we would handle a lead from an external researcher. So forward it along for review, and if our own kind of independent investigation were to find that the activity violated our policies, enforce

against that activity.

[10:59 a.m.]

[redacted] And do you know approximately how successful the government's leads were?

[redacted] I don't know off the top of my head, no.

[redacted] Did it strike you as more or less than your internal team?

[redacted] I think our internal teams have reasonably high fidelity in their own investigations, naturally, because they have visibility into the platform. So I would imagine less.

Mr. Gaetz. Can you recall any circumstance in which a government lead did not meet the criteria you've laid out for an enforcement action?

[redacted] I can't recall a specific case.

Mr. Gaetz. So in every case you can recall, what the government sought, the government got.

[redacted] No. I know that not every case met the bar. It's just I can't remember, like, a specific case where that would have been.

Mr. Gaetz. So if we ask for all of these reports and records of these meetings that occurred where you were briefed from the investigative team and from the government, I'm not -- we're not particular -- we're not as interested as when nongovernment entities are involved.

But when the government is presenting a lead, we would like to know how those turned out from Meta's standpoint. Is that something Meta can provide the committee?

[redacted] Again, happy to look into that and see.

Mr. Gaetz. Do you maintain records that would evidence in each circumstance in which there was a government-generated lead that that lead resulted in an enforcement

action?

[redacted] I'm not sure. But, again, happy to look into that to see if it's something --

Mr. Gaetz. You're not sure that you maintain records that would show the trajectory of these government leads?

[redacted] Again, I'm not sure the extent of what records we maintain. But I'm happy to look into it and get back to the committee on it.

BY [redacted]

Q When there is false positives, if that's the proper term, what is the most common reason why that an outsider thinks this is inauthentic behavior but Meta internally determines that it's not?

A Most commonly outside entities tend to make two mistakes. Addressing -- identifying content that matches with other previously identified influence operations and then using that content to say that something else is part of that operation.

We discussed a bit earlier how that can cause problems, particularly as operations tend to reuse content from other places.

And the second one would just be kind of identifying accounts as fake because they exhibit signals that may look externally suspicious but in reality the accounts are not fake. It's very common with, for example, activists in less democratic countries tend to want to obscure their activity by some degree.

Q You mentioned earlier that you consulted with former government officials and folks from the government regarding Meta's policy at a high level.

A Uh-huh.

Q And that had to do with looking at influence operations and kind of

condensing that down to coordinated inauthentic behavior.

A Uh-huh.

Q Were there other policies that you consulted with the government on?

A Not that I can recall. Yeah, not that I can recall.

Q You said that hack-and-leak concerns, hack-and-leak operations, that would fall under your team's purview.

A The hack-and-leak policy specifically would fall under our team's purview.

Q Is that a policy you worked on directly?

A Yes.

Q How has it changed since you first joined Meta?

A The hack-and-leak, as you can imagine, hack-and-leak has been an issue that security teams, not just ours but across industry and government, have been focused on for several years now.

There were hack-and-leak operations that were identified going back to 2016, linked to Russian military intelligence services. There were hack-and-leak operations targeting the Macron election in France after that. And then there have been a number of hack-and-leak operations linked to a number of different foreign intelligence actors in countries all over the world since then.

So, naturally, hack-and-leak was one of the various threat factors that we were focused on and wanted to make sure that we were both keeping abreast of and being cautious to make sure we weren't allowing the platform to be manipulated in any way.

And so the hack-and-leak policy which we had developed functionally focused on three main areas.

So, first, determining whether the material that we were evaluating was obtained by a hacked, from a hacked source; i.e., was it obtained by someone with authorization to

access that material?

Second was the material being disseminated with an intent to deceive? And that functionally on our platform, what that would mean is, is there indicia of deception, is there fake account usage or fake accounts being used to disseminate the material?

And then, third, was the material being disseminated on behalf of or at the direction of a foreign government influence operation?

And so that's the three-part test of the hack-and-leak policy, and that's functionally what the policy was in my time at Meta.

Q And was that -- so that was the case when you first started back in 2018 to today? When did this three-part test come into being?

A To the best of my recollection, the policy was developed in early to mid-2020.

Q And what was --

[redacted] I'm sorry? When?

[redacted] In early to mid-2020?

BY [redacted]

Q And what was the policy before then?

A I understand there are other policies at the company that can apply to hacked materials. They're not policies that I work on, but I know that those existed prior to the hack-and-leak policy being developed.

Q And did you ever consult with the government regarding your -- or regarding Meta's hack-and-leak policy?

A I recollect that we discussed the fact of us working on hack-and-leak issues in meetings with the government, but I don't believe we consulted with the government on the policy itself.

Q Okay. Did the government ever contact you to comment on your hack-and-leak policy?

A Not to my recollection.

[redacted] Do you know where we are on time?

[redacted] You have about a minute.

[redacted] You have about a minute and 37 seconds left.

BY [redacted]

Q When did those meetings occur?

A Which meetings?

Q The meetings you just referenced where there was a discussion of Meta's hack-and-leak policy with the government?

A I believe the summer of 2020.

Q And which entities were those discussions happening with?

A That would be the Foreign Influence Task Force, DHS, CISA, and ODNI.

[redacted] Were these one-on-one meetings or were other companies invited as well?

[redacted] These meetings, these were multiple companies, and then the government agencies I mentioned.

[redacted] Do you remember who instigated these meetings? Was it on the government end, or was it from industry's end?

[redacted] I don't know who instigated the meetings.

[redacted] We're at time. I was wondering if we could take a break off the record. Thanks.

[Recess.]

[redacted] We're ready to go back on the record.

EXAMINATION

BY [redacted]

Q And, [redacted], my name's [redacted] I'm counsel for the minority. And on behalf of the minority, we want to thank you for appearing here voluntarily today.

I want to ask you some follow-up questions about your background, and I will preface that by saying that everything I'm asking you is based on what's on your LinkedIn. So I'm not going to be asking you anything -- for you to reveal any confidential or classified information.

A Uh-huh.

Q So your first job with the government was at the Department of Defense?

A That's correct.

Q And you worked there as an analyst?

A That's correct.

Q And you focused on Russian counterintelligence?

A In the course of my work at the Department of Defense, that was one of the areas that I focused on, yes.

Q Okay. And the other areas were cybersecurity?

A That's correct. And briefly counternarcotics.

Q Counternarcotics. Okay. Thank you.

And you started working there in 2012?

A That's correct.

Q And when did you leave the Department of Defense?

A I left the Department of Defense in August of 2018.

Q Okay. So you worked at the Department of Defense through two Presidential administrations, correct?

A That's correct.

Q You worked there under former President Obama.

A That's right.

Q And former President Trump.

A Uh-huh.

Q And in addition to working as an analyst, you served on former President Trump's transition team, correct?

A So I served on the Department's transition team, supporting the campaigns during the election.

Q And I'm sorry, his transition team, supporting the Department's transition team.

A Correct. Yes. I was still a government Federal employee, supporting kind of questions that would come to us from the campaigns.

Q And you were the National Security Council's engagement lead for that transition team.

A That's correct.

Q And you began that work in 2016.

A That's correct.

Q And in 2017 -- or was it 2017 or 2018 that you went to work at the White House?

A 2017.

Q Okay. 2017.

And specifically you were the Director for Intelligence at the National Security Council.

A That's correct.

Q And, again, that was under President Trump.

A That's correct.

Q And there you oversaw the White House's efforts to improve the U.S. Government cybersecurity?

A Yes. That was one of the areas of my portfolio.

Q Okay. And remind me what the other areas of your portfolio were, please.

A So the U.S. Government's technical collection programs and the administration's foreign malign influence strategy, which was a part of the National Security Strategy process.

Q Okay. And when you say foreign malign influence, can you explain what you mean by that?

A Yes. At the time we were concerned about foreign governments attempting to influence people in the United States, clandestinely and overtly, as well as attempting to kind of challenge American national interests around the world. And so we were working to kind of create a holistic U.S. Government strategy to essentially counter that type of activity.

Q Okay. Can you explain why that type of activity, why foreign influence, we'll start with in the United States, is harmful?

A Happy to.

So we were working on the issue, one, to continue to preserve kind of America's ability to operate commercially and to maintain our diplomatic relationships around the world, many of those relationships which were being targeted by some of these countries that wanted to, for example, undermine our relationship with our partners in Europe.

Inside of the United States we also wanted to ensure that foreign government intelligence services, for example, couldn't operate with impunity or couldn't target

Americans, particularly on our soil. And so we wanted to ensure that departments and agencies were working together appropriately to enable that kind of countering mission.

Q Based on your extensive experience with those issues and the national security, can you explain how foreign governments, particularly the ones you dealt with, Russia, Iran, and I assume China as well --

A That's correct.

Q -- used social media platforms like Facebook and Instagram to exert influence in the United States?

A So we will see -- influence operations, let's start with clandestine influence activity, from the countries you mentioned, as well as a number of others around the world, will often leverage a number of different, say, services.

So one of those might be social media platforms. Another would be internet properties like websites, file sharing services, chat capabilities like Telegram, for example, as well as off-platform activity.

So you could see that as, for example, covert or illicit finance, so economic activity targeting a particular country or region of the world, and traditional intelligence tradecraft, so recruiting sources to act as agents of influence in countries around the world.

Specifically on the social media piece, there are a couple of ways that a foreign government might attempt to take action on a social media platform.

One would be through the use of fake accounts designed to enable intelligence activity. And so that could look like what we call this kind cyber espionage cycle. So identifying potential targets for hacking based on their publicly facing personas or socially engineering a target to visit a malicious link, download a malicious chat application, compromise their devices in one way or another.

The second way that we could see a foreign government try to use a social media platform would be through clandestine influence activity. And that can look like one of two things.

It could look like a network of fake accounts engaged in coordinated inauthentic behavior where the goal is to try and target people on that platform with some sort of narrative that they're trying to push.

It can also look like using one platform to enable activity on another platform. As, for example, my team at Meta has been aggressively going after these types of influence operations. What we've seen is a migration to target other platforms on the internet where they might try to create fake accounts on Facebook, for example.

They don't really do much but serve as a backstop to functionally provide a little more credibility to an identity that might be active somewhere else on the internet.

Q And is it fair to say that foreign governments also use social media platforms like Facebook and Instagram to interfere in elections in this country and around the world?

A I think it's fair to say we've seen foreign governments engage in clandestine influence activity around elections, both in the U.S. and around the world.

I think something interesting from many of these investigations is that the influence activity often both predates the election itself and may intensify around an election. An election may be a particular time of interest. But operations were rarely just an election-specific, for example.

Q Okay. Fair enough.

And this happens not just in the United States but in other democratic countries as well, that hold elections.

A That's correct.

Q And engaging in or claiming to engage in foreign or government interference violates Meta's community standards, correct?

A That's correct.

Q And the community standards might be known as terms of service at other companies.

A That's fair to say, yes.

Q Okay. And based on your experience, if your team did not work to combat foreign influence through combating CIB, what type of content would you expect to appear on your platform? How would the platform look different if you weren't shutting down these networks?

A So --

Q I should say platforms. Sorry.

A I think at its core, one of the -- we do this work for a number of reasons. So we want to protect people on the platform. We want to protect kind of the authenticity of debate on the platform.

It's also an important part of our business. People want to join communities that they feel comfortable being themselves in. They want to interact with people that they feel -- they can feel a degree of confidence are who they say they are.

And so one of the important reasons we do this work is because we need to ensure that operations like these aren't undermining the trust of users in our platforms.

And I do think the work is very important in particular because these operations -- the threat actors behind these operations are often inherently adversarial.

Q Can I ask, adversarial in what way? What do you mean by that?

A What I mean by that is when we take an enforcement action, publish a blog post, for example, detailing our findings in an investigation, we see the threat actors

aggressively try to reconstitute their activity on our platforms and change their tactics, techniques, procedures, TTPs, to try and avoid our detection.

And so, though our enforcement kind of encompasses the on-platform investigations we do and the takedowns that we do, attempts to improve our products, the investigative work is really important because it's how we try to stay ahead of the way that these adversarial actors evolve.

Q And when -- I want to go back a little bit to your -- the definition of coordinated inauthentic behavior. We talked about how it is three-prong attack. The first is coordination, as the name would imply.

A Right.

Q The second is some sort of inauthentic behavior, correct? It's not necessarily limited to concealing identity. Is that correct?

A I would describe it as attempts to mislead users about who they are and what they're doing, is I think the way we've described it, as well, in some of our clarifying blog posts.

Q So it could include misleading users about what country they're operating from.

A Yes.

Q Okay. So somebody poses as a news organization in the United States but they're really Russian operatives, working on behalf of the Russian Government.

A That would be a hypothetical example, but yes.

Q Exactly. Okay.

And as you just explained, Meta has its own, fair to say, business interest in fighting this type of behavior so that users can trust the content that they find on your platforms.

A That's right.

Q Now, I want to talk a little bit about some of the government agencies and groups that you discussed earlier.

You talked about the FBI's Foreign Influence Task Force.

A Uh-huh.

Q Is Meta's participation in the task force voluntary?

A So just to clarify, so the task force, my understanding, is an organization within the FBI. Our interactions with the task force are voluntary to my knowledge.

Q Okay. Thank you. And I appreciate that clarification.

A You're welcome.

Q Did anyone from the FBI or any other government agency ever tell Meta that it was required to meet with the task force or engage with them in any way?

A Not to my knowledge.

Q Why does Meta interact with the task force?

A As I mentioned, we have a core business interest in countering this type of activity.

And I think something you'd also referenced earlier is these operations are often inherently cross-platform and inherently off-platform, and our visibility as a technology platform company is, I think reasonably should be, cabins to activity on our platforms.

And so other entities -- the FBI is a good example of that -- may have more insight into aspects of these operations as they occur off of our platform or on other parts of the internet.

And so it is in our interest to have that line of communication to find out more about an operation that might -- maybe it didn't attack Facebook but is trying to target Facebook where we just wouldn't have that visibility ourselves.

Q Okay. So it helps Meta and Facebook to ensure the security of your platforms to participate in these relationships.

A That's correct.

[redacted] Okay. And if we could have just a minute.

[Discussion off the record.]

BY [redacted]

Q So you stated earlier that when Meta receives information about accounts that potentially violate its CIB policy, it never takes action without conducting its own investigation, correct?

A To my knowledge, in the areas I work on, that's our process, yes.

Q Okay. And if you receive a tip from a government agency, such as the FBI or the State Department, it's Meta that determines whether or not an enforcement action is going to be taken, not the government, correct?

A That's correct, yes, pursuant to our own internal investigative findings.

Q And sometimes, as you discussed, Meta does conclude that the account that was flagged for them by the FBI or the State Department is in violation of its CIB policy and it will remove that network.

A That's correct.

Q And when that happens, again, that's Meta's decision, not the government's.

A That's correct, based on our own internal investigative findings.

Q Okay. And you were asked if you can remember specific examples of instances where you, Meta, received a tip from a government agency that Meta determined did not rise to the level of CIB.

And if I recall correctly, you were not able to remember specifics but you do know that that did happen, that there were instances when it happened. You just can't

remember the specifics of the investigation.

A That is correct, yes.

Q Okay. And, again, in those instances, it would be Meta making its own determination that the tip did not produce evidence sufficient to conclude that a network or a group of accounts were engaged in CIB.

A That's correct, yes.

Q And if there's no violation, then Meta takes no action against the account, even if it's been flagged for you, if there's no violation of your terms of service or your community standards.

A That would be correct, yes.

Q To your knowledge, has anyone in the FBI or the State Department or any other government agency ordered Meta to take down an account, page, or other content?

A Not to my knowledge.

Q And to your knowledge, has anyone in the FBI or any other government agency tried to coerce or pressure Meta into taking an account down or other content?

A Again, not to my knowledge.

Q And there are limits to Meta's willingness to cooperate with the government, correct?

So, for example, if the government requests information from Meta or from your team that requires legal process to provide, Meta will not provide that information unless it receives the correct legal process, correct?

A That would be my understanding, yes.

Q Okay. And Meta will not share the methods and the algorithms it uses to detect CIB in its internal investigations with the government, correct?

A Yes, that's my understanding, yes.

Q That's proprietary information that Meta is unwilling to share.

A I wouldn't know the specific reason why, but my understanding is we wouldn't share that information.

Q Fair enough.

And you spoke earlier about how Meta's CIB policy is -- I believe the phrase you used was "content agnostic." Is that another way of saying it's content neutral?

A The reason I say "content agnostic" is because contents isn't a factor in our investigation.

Q Okay.

A It's not something we spend time reviewing or assessing to make the policy determination.

Q And I believe you made this clear, but CIB networks can be engaged in this coordinated inauthentic behavior even if the content that their accounts are posting is accurate.

A That -- well, that's correct, right. The content can be benign, right, something completely unrelated.

Q Like puppies or kittens.

A Correct. But if the network itself is engaged in deceptive behavior then yeah.

Q Okay. And, again, you target -- so you target the deceptive behavior of hiding the identity or the location of who's running that account.

A That's correct.

Q Regardless of what they're posting.

A That's correct.

Q And Meta's CIB policy was developed in around 2019? Is that right?

A I think the policy was developed before then. I believe the policy actually predates my time at the company.

Q Okay. And so it was developed during the Trump administration.

A That's correct.

Q Now, you talked about how when Meta determines or when you determine that a group of accounts constitutes a CIB network, there's only one enforcement action, right? And that enforcement action is removing all the networks associated with that account, correct?

A That's correct, all the assets.

Q All the assets. Okay.

And there are some deceptive behaviors on your platforms that don't rise to the level of CIB. Is that correct?

A So we have a policy we call inauthentic behavior, which CIB is part of. That includes some other behaviors. That is correct.

Q Okay. And can you explain what some of them are?

A Sure. The inauthentic behavior policy is designed to get at a number of other behaviors. Many of these are behaviors that you see commonly from spam operations or scam operations and generally revolve around attempting to artificially increase the distribution of content or evade our spam detection systems.

Naturally, like most platforms, Meta has limits on how often a single account can do certain things like share a link, post content, what have you, to try to limit spam activity. And we'll frequently see spam actors, for example, creating multiple accounts to try and evade those limitations.

That would be, I think, maybe the most salient example of one of the types of

inauthentic behavior.

Q And for those types of inauthentic behavior that are less sophisticated than your typical CIB network, there are more scaled enforcement measures than just removal. Is that correct?

A That's correct.

Q Okay. And that includes warnings?

A It does.

Q In an attempt to remediate the behavior?

A Correct, yes, to essentially make sure that the user in question understands that the behavior they're engaged in violates our policies and give them an opportunity to remediate that behavior.

Q And it also includes down rankings or making sure the content doesn't appear on people's feeds as often?

A That is one of the levers, as well, so that if a spam network is attempting to essentially get more distribution, to ensure that that spam content isn't getting pushed to too many people.

Q So for some forms of inauthentic behavior, removal is not automatic.

A That's correct.

Q But for CIB, it is.

A Correct.

Q And can you explain again why, why that's the case, why such an extreme measure for CIB?

A Happy to.

So the reason why our approach to CIB is functionally binary, right, remove or don't remove, is because coordinated inauthentic behavior operations are not just

adversarial. They're a very serious violation of our platform in terms of community standards and the trust of our users and the degree of deception.

So the core use of a network of fake accounts to try and mislead users is something we take extremely seriously. We don't want people on the platform to be subjected to a network of fake accounts trying to mislead them. And so we kind of take a definitive action to remove that entire network.

In the inauthentic behavior space, it is possible for an overzealous or particularly active user to come up against some of our spam thresholds. And we wouldn't want to take a -- for example, remove someone's account who did not know that their activity was approaching one of those thresholds, if it was truly kind of an honest mistake.

So giving them an opportunity to remediate by giving them a warning and then giving them an opportunity to remediate by, for example, limiting their ability to post links as frequently for a period of time gives people an off-ramp to avoid removal, losing their account over activity they may not have known violated our policies.

Q And one of the reasons why CIB is just removal of all assets is because the very nature of CIB is that it's not something you can engage in by mistake.

A That's correct, yes.

Q Right? Okay.

Now, CIB is not just a problem in the United States, correct?

A That's correct.

Q Meta has encountered CIB networks that originate in other countries?

A Yes.

Q And you've encountered CIB networks that target other countries.

A Yes.

Q And you coauthored a report about CIB on your platforms between 2017

and 2020, correct?

A Yes.

Q And in that report you found that of the top five sources -- source countries of CIB networks, Russia had the most CIB networks during that time period?

A Yes.

Q Followed by Iran.

A Yes.

Q And then Myanmar?

A That's correct.

Q And then the U.S. was fourth.

A Yes.

Q And China is also a major source of CIB networks?

A We have had -- we haven't seen a ton of operations from China. I believe we've seen three. And those -- part of the reason why -- we talked about this a bit in that paper -- is that our platforms are not accessible to users in China.

And we generally have seen Chinese operations targeting either the domestic population in China or countries immediately neighboring China. And given the inaccessibility of our platforms, our assessment at least is that it seems like a less viable vector to reach their target audiences.

Q That makes sense. And it brings up a point I was just about to ask.

So some CIB networks target audiences in the country in which they're based, correct?

A Yes.

Q So Russian CIB networks would target Russia audiences.

A That's correct.

Q And some CIB networks target audiences in other countries.

A That's correct.

Q So Russian CIB networks might target audiences here in the United States.

A Yes.

Q As well as in other countries.

A Yes.

Q So this isn't a particularly American phenomenon.

A Yes. I think that's a fair characterization.

Q So just as some examples. In December of 2020, back when the company was called Facebook, it removed three separate CIB networks in France and Russia for violating its policy against foreign interference.

A Yes.

Q And those campaigns targeted countries in North Africa and the Middle East.

A I believe you if you say so. It was a little bit ago.

Q Fair enough. Fair enough. The point being that there are many examples of networks you've taken down that don't involve activity in the United States at all.

A That's correct. I think something else in the white paper from 2020 was that the majority of the operations that we saw were from outside the United States.

Q In effect, during that period from 2017 to 2020 Facebook removed only nine CIB networks in the United States.

Does that sound right?

A I don't remember the exact number, but yeah.

Q Now, Meta does not try to hide its CIB enforcement actions from the public, does it?

A That's correct. We're public about our enforcements.

Q And you're public by publishing regular reports about CIB takedowns, correct?

A That's correct.

Q And do you publish them monthly?

A We publish them quarterly now.

Q Quarterly now. Was it monthly at some point?

A It was monthly at some point and then ad hoc prior to that point.

Q And there are some circumstances where Meta will publish reports of CIB enforcement actions -- and, by that, I mean removal of a CIB network -- at the time of the action, correct?

A That's correct, yes.

Q And that happens when the activity is related to a civic event?

A Generally, yes.

Q Or if it poses -- if the activity, the CIB activity, poses imminent harm?

A Yes, that's correct.

Q Or if it involves a new technique or a new significant bad actor.

A That's right.

Q And those are all circumstances under which at the time you take down the network you will publish a report letting the public all over the world know, hey, look, we took down this network.

A That's correct.

Q And in those reports you describe where the network was based?

A Uh-huh.

Q If you've been able to attribute it to a particular either government entity or private entity, you will describe that.

A That's correct.

Q And you'll describe the tactics that they use.

A That's correct, yes.

Q And you will at least in a broad level describe how Meta was able to identify the network as a CIB network.

A That's correct.

Q The connections between --

A Essentially the tactic, the TTPs that they use that also generally meet our policy thresholds. That's right.

Q And Meta reports these takedowns publicly because transparency helps build trust in your enforcement strategy, correct?

A That's part of the reason. We also report them publicly because clandestine operations generally want to remain clandestine.

And by publicizing their activity, we also are hoping to inform users on our platform of what to look out for, to inform other folks in the industry whose platforms might be targeted by this activity what to look out for.

And also I think increasingly importantly to ensure that there is kind of authoritative analysis of these operations to counterbalance the claims that we'll even see some of the operations make about their own effectiveness. Frequently, info ops will claim to be much more effective than they were. So by uncovering that helps.

Q Is that what you refer to in some of your papers as perception hacking?

A That's correct.

Q So that's when an influence operation claims, oh, we've been able to target this many people or we're going to be able to sway such-and-such election when, in fact, they don't have --

A That's right.

Q -- nearly that type of reach.

A Yes. Or claims to have -- to exist, right, claims to have a bunch of fake account or assets somewhere on the internet when in reality they don't.

Q Okay. And because Meta reports its CIB takedowns publicly and includes all the information that you just discussed, others, like members of this committee, can review all of your enforcement actions.

A That's correct.

Q Now, you spoke briefly about Meta's hack-and-leak policy, and I wanted to clarify a couple of things about that briefly.

First, you stated, I believe, that the policy was developed in early to mid-2020, to the best of your recollection?

A To the best of my recollection, yes.

Q And was there a hack-and-leak policy specifically at Meta before then?

A Not that I recall.

Q And I believe you stated that the policy was developed, at least in part, in response to hack-and-leak activities that were observed during the 2016 election.

A Yes. And I think in responses to the broader context around hack-and-leak that hack-and-leak had been an issue that had come up in several elections at that point and an issue that was, I think, particularly in the public space, being discussed as a potential threat ahead of the 2020 elections.

Q And it was an issue that I believe you stated you discussed in some of your meetings with government agencies.

A That's correct.

Q Okay. And to be clear, you discussed the hack-and-leak context generally

and the need to guard against hack-and-leak.

A That's my recollection, in particular the need for the broader society, industry, government to be aware of the risk of hack-and-leak operations.

Q Okay. And to be clear, you did not discuss with the government what Meta's hack-and-leak policy should be.

A That's correct.

[redacted] Okay. If I can take just a moment.

All right. That's it for me for now. I might have, depending on what happens in the next round, might have some more for you.

But we can go ahead -- I don't know if you folks want to take another break.

[redacted] We'll go off the record.

[Recess.]

[12:32 p.m.]

[redacted] On the record, please.

BY [redacted]

Q Do you recall who hired you at Meta? Was [redacted] [redacted] involved?

A Yes. It was [redacted].

Q And was he familiar with your background, your experience with DOD and at the White House?

A Yes, I imagine he was.

Q And would that include your experience working with Russian counterintelligence-related issues?

A That's correct.

Q And would you consider yourself to be an expert on those sorts of issues?

A I would.

Q How many people at Meta have your level of expertise?

A I wouldn't want to guess.

Q Can you provide a ballpark figure?

A I can't. Quite a number of employees.

Q Do you think it's many?

A Again, I don't know.

Q Would you describe your boss as having that level of expertise?

A On what particular issues?

Q Issues related to Russian counterintelligence.

A I would.

Q What about the four members of your team? Is that an issue that you -- an experience that you looked for when determining whether to hire them or not?

A Experience with Russian counterintelligence issues, no, it wasn't a particular issue I was looking for.

[redacted] I'm sorry. I'm going have to ask again.

[redacted] I'm sorry. I'll speak up a bit.

[redacted] If there were an issue related to Russian counterintelligence or coordinated inauthentic behavior believed to be originating from Russia, who is someone at Meta that you would contact to discuss that issue?

[redacted] Generally, I would involve our investigative teams and whoever on my team works on that particular issue.

[redacted] Do any of your former colleagues from DOD or the NSC work with you at Meta now?

[redacted] I don't believe so.

[redacted] Are you familiar with Mark Zuckerberg's interview with Joe Rogan from August of 2022?

[redacted] I know that he did an interview with Joe Rogan. I haven't watched the entire interview.

[redacted] During that interview, Mark Zuckerberg stated that the -- well, let me take a step back.

Are you familiar with the Hunter Biden laptop story from October of 2020?

[redacted] Can we just note the Congressman has joined the room? So we've got an additional person here.

[redacted] Sorry. Can you restate it one more time?

[redacted] Are you familiar with the October 2020 New York Post story regarding Hunter Biden's laptop?

[redacted] Yes, I am familiar with the story.

[redacted] Are you familiar with the -- during the August 2022 interview with Mr. Zuckerberg, he says that Meta, then Facebook, reduced how many people could see the story for a period of roughly five to seven days?

[redacted] Before you answer, another individual's entered the room, I think on the minority staff.

[redacted] [redacted]

[redacted] Thanks a lot.

[redacted] I'm sorry. If you could repeat the question. I didn't hear it.

[redacted] Sure.

Are you familiar that during the August 2022 interview, Mr. Zuckerberg discusses the steps that Meta, now Facebook -- excuse me -- Meta, then Facebook, took regarding the October 2020 New York Post story involving Hunter Biden's laptop?

[redacted] I'm not. I didn't listen to the entire interview.

[redacted] During the interview, Mr. Zuckerberg stated that it was about a period for seven -- quote, "five to seven days."

[redacted] Are you quoting from something? Could you give it to us?

[redacted] Yeah, we can introduce the transcript as an exhibit.

[[redacted] Exhibit No. 1

Was marked for identification.]

[redacted] This is -- who transcribed -- is this your representation that this is a full transcript of the audio?

[redacted] It is.

[redacted] Because it's not -- it looks like something that you-all might have typed up. And it's excerpted, not the entire transcript.

[redacted] Yes.

[redacted] So it's not actually a transcript. It's an excerpted transcript.

[redacted] This is an excerpted transcript.

Mr. [redacted] Okay. Great.

[redacted] So if I can call your attention to the 6:08 mark. Mr. Zuckerberg states: "For the I think it was five or seven days when it was basically being, being determined whether it was false, the distribution on Facebook was decreased but people were still allowed to share it, so you could still share it; you could still consume it."

Joe Rogan states: "When you say the distribution has decreased --"

Mark Zuckerberg states: "It got shared --"

Joe Rogan says: "How does that work?"

Mark Zuckerberg: "Basically, the ranking in news feed was a little bit less. So, fewer people saw it than would have otherwise, so it definitely --"

Joe Rogan states: "By what percentage?"

Mark Zuckerberg: "I don't know off the top of my head, but it's, it's, it's meaningful."

To the extent of your knowledge, is Mr. Zuckerberg's characterization of the response Facebook took true?

[redacted] And I want to just object to the introduction, since I don't know that this is actually what the real transcript says. But we're going to take your word for it.

And you can answer the question if you know.

[redacted] So the issues that Mr. Zuckerberg is describing here are not issues that I work on directly at the company. So I wouldn't want to speculate on what other actions were or weren't taken.

[redacted] Okay. What is the term at Meta to describe the type of action taken? Would it be throttling the story? De-amplification? What terminology within Meta

would that be referring to?

[redacted] So, again, I, because I didn't work on this particular aspect of our content policies, I am not sure what the term would be.

[redacted] Okay. If, stepping outside from this particular example, if someone wanted to reduce a story on the news feed, the terminology within Meta, understanding that this is outside your team's scope, but you don't know the term that would be used by Meta to describe what's occurring?

[redacted] I don't know the precise term that would be used to describe this type of, I guess -- what was the wording he used -- decrease in distribution, again, because it's a different set of policies and enforcements than what I cover.

[redacted] Who would be in charge of those policies and enforcement?

[redacted] So that would generally fall within our misinformation work, but I don't know who would be in charge of that specific program.

[redacted] Is there a specific team at Facebook that's involved with misinformation?

[redacted] We have a misinformation policy team.

BY [redacted]

Q When did you first learn that Facebook took action with respect to the story?

A So I first -- we first learned about the story when it came out the morning of the 14th of October.

And, I mean, so my reaction was we had been aware of the potential risks around, for example, hack-and-leak going all the way back to the 2016 election, the 2018 election, the Macron elections, and the broader public discussion around hack-and-leak as a risk.

And so my primary concern was, one, make sure that we're being cautious, evaluating the information that we had before we could make a determination under the hack-and-leak policy, which was within my remit, and that we were acting responsibly to ensure that our platform wasn't being misused in some way.

So I think that's kind of when at least my awareness of the story began.

Q Okay. So the story, as you said, came out early in the morning on October 14th.

A Right.

Q Walk me through. You go to work. Who first puts the story on your radar? Are you instructed to take a look into it, or is this something that you did on your own initiative?

A My recollection was -- so this was still during the COVID period, so I was working from home at that time.

My recollection is that I saw the story in the press, like most people did, and that, again, my initial reaction was make sure we're being cautious here but we're also being responsible, making sure the platform isn't being misused in some way.

And so I don't recall whether I independently started -- decided to look into this or not. But I knew that it was something that we needed to make sure we were trying to get right.

Q And how many people did you have on your team at this time? You mentioned that your team was growing.

A I believe I had five direct reports at that point.

Q And who did you -- when you say you've taken a look, are you doing this independently? Are you working with your team members?

[redacted] Can we ask him one question at a time? Because that way it's easier for him to answer.

[redacted] Sure.

BY [redacted]

Q In the morning, who else were you working with on this issue?

A When the story first appeared, I was working with our legal team, our investigators, and our comms partner.

Q And what were the initial steps that you took?

A So my work relevant to the story was really cabined to that hack-and-leak policy. And so the goal was to try to understand what we knew relative to those three kind of prongs of the hack-and-leak policy. Was the material obtained from a hacked source? Was it being disseminated on the platform through deceptive means? Was it being disseminated on behalf of or at the direction of a foreign government influence operation?

Naturally, right when the story first came out, there wasn't a lot of information accessible to answer those three questions.

As far as whether this story met any of the -- whether this story was the result of a

hack, for example, the information accessible at the time was what was in the story itself, which wasn't clear whether or not the information was obtained in an unauthorized manner or not.

And we began looking into whether there was deceptive dissemination on the platform and tried to ascertain whether anything that we could uncover in our investigation would help answer whether there was a foreign government influence operation linked to the dissemination of the story.

Q If I could take one step back.

A Sure.

Q You mentioned earlier, with coordinated inauthentic behavior, there had to be an evidentiary threshold before Meta would take action.

A Uh-huh.

Q Did a simpler -- did a similar process apply with respect to your hack-and-leak policy where action would only be taken if an evidentiary threshold was met?

A Yes, in that those three factors would have to be present for us to take an enforcement action.

Q If there were -- let me ask. What is the evidentiary standard? So I'm sure it's not 100 percent proof.

A We would need to have evidence for those three factors that we could kind of validate ourselves. Our on-platform evidence is obviously the strongest evidence we would have that we could be highly confident in, which is an analytic estimate of language. And there's always going to be some difficulty in defining analytic estimate of language.

Q If we could walk through each of those elements.

A Sure.

Q First, whether it was hacked. On the morning of the 14th, what information did you have available and what determination was made with respect to that first element?

A On the first element, from what I recall, the information that was available was what was in the New York Post story itself. So the claims that the laptop was obtained from a third party who had access to it from a computer repair store, I think.

And the determination, I think, was your second question. The determination at the time was that we did not have sufficient evidence to make an assessment one way or another about whether the information was obtained in an unauthorized manner.

Q Once you've made a determination, do you still examine the other elements?

A Yes.

Q Okay.

A But, again, we weren't able to make a determination one way or another.

Q Okay. With respect to the first element?

A Correct.

Q Same question with the second element. What information did you have available the morning of the 14th?

A The morning of the 14th. So the second element, was the information being disseminated in a deceptive, you know, with deceptive means? What that generally means on platform is whether we see, for example, fake accounts being used to disseminate the story.

When the story first appeared, naturally we didn't have a lot of -- I mean, we had to commence an investigation to answer the question about whether we saw fake

accounts, for example, being used to push the story. And, again, on that first day the story came out we weren't able to make a determination that there was indicia of deception in the way the story was being shared on Facebook.

Q And with respect to the third element, what information did you have available the morning of the 14th?

A So the third element being whether there's -- the information was disseminated on behalf of or at the direction of a foreign government influence operation.

Again, when the story first came out we didn't have much to go on beyond the story itself and had commenced an investigation into whether there was additional evidence we could uncover on the platform. But we weren't able to make a determination under that third prong either with respect to the hack-and-leak policy.

Q And you mentioned that you consulted with other teams, communications, others. Those teams don't have the investigative experience of your investigative team or perhaps you. When you're saying, "We were looking into this information," who is doing the actual analysis?

A So these would be my team and our investigative team, trying to understand how that policy would apply.

Q And how quickly were you able to make these three determinations?

A So at no point did we determine that we had met the standard to apply the policy, the hack-and-leak policy, to the New York Post story, which is why we didn't remove the New York Post story from the platform. The enforcement under the hack-and-leak policy would be removing the content that derived from the hack-and-leak activity.

Q Okay. And so what was your recommendation?

A My recommendation was that the hack-and-leak policy would not apply to the story, ergo we should not enforce under the hack-and-leak policy against the story.

Q Did any of your team members disagree?

A Not that I recall.

Q What other teams were looking at the story?

A I don't know the extent of what other teams at the company were looking at a story. I know there were other folks looking at it.

What I do know is that folks were particularly concerned about being kind of cautious and responsible in how they were approaching the story and were trying to get it right.

Q Do you recall the recommendations from the other teams that were looking at it under their policies?

A I do not.

Q When did you know that some action would be taken?

A I don't recall when I was aware that some action was going to be taken.

Q Were you aware that other platforms were taking action?

A In a general sense I know some other platforms took enforcement actions related to the story.

[12:51 p.m.]

[redacted] When did you become aware that Twitter was taking an action against the story?

[redacted] I don't recall exactly when I --

[redacted] Just for the record, the handsome gentleman with the beard has come into the room, also known as our chairman. Oh, he didn't have a beard. It just looks like it from a distance.

Chairman Jordan. Good to see you, sir.

[redacted] Sorry. Can you repeat that question?

BY [redacted]

Q When did you first learn that Twitter was taking an action against the story?

A I don't recall exactly when I learned that Twitter was taking an enforcement action on the story.

Q Was it your understanding once you did learn that Twitter was taking an action based off the belief that it was hacked material?

A I don't recall the exact -- the justification that was given for Twitter's enforcement action.

Q Did anyone from Twitter contact you?

A I don't recall outreach from the Twitter folks to me about the story.

Q What about from other companies?

A I don't recall being in contact with other companies about the story either.

Q Do you know who made the ultimate decision at Facebook to take action against the story?

A I don't.

Q Who would be -- who is the boss of [redacted]?

A [redacted] reports to our vice president for trust and safety.

Q And who is that?

A That's [redacted].

Q Do you know if [redacted] was involved in the decisionmaking?

A I don't know if he was involved in the decision-making.

Q Do you know when the restrictions were removed from the story?

A On our platforms?

Q Yeah.

A I don't know when they were removed on our platforms.

Q Okay. And do you know what the ultimate basis was for taking action against the story?

A I don't. Again, I know that analysis and the policies that any action was taken under were outside of my purview.

Q Okay.

Mr. Gaetz. The decisionmaking process to not enforce under the hack-and-leak policy, was that decision ever reduced to any writing to your knowledge?

[redacted] I don't know if the decision was memorialized in writing.

Mr. Gaetz. But you made that decision, right?

[redacted] Uh-huh. A recommendation.

Mr. Gaetz. Okay. So, when you made that recommendation, who did you make it to?

[redacted] I made that recommendation to my manager.

Mr. Gaetz. And you made it orally?

[redacted] I don't recall exactly how I made that recommendation.

Mr. Gaetz. It's real important to the committee to understand, you know -- I

mean, you've been very fulsome in describing these elements that you apply these facts to. We appreciate that. But it comes to a decision point at some level.

And so what can you share with us about the duration, manner, and format that your recommendation took to not utilize the hack-and-leak policy of Facebook against this Hunter Biden laptop story?

[redacted] Can we go off the record for a minute?

Mr. Gaetz. Sure.

[redacted] Yeah, we can go off the record.

[Discussion off the record.]

Mr. Gaetz. Back on the record.

[redacted] Would you mind repeating that last question?

Mr. Gaetz. Yeah, sure.

I mean, I'm asking you to provide the most fulsome description of the manner and duration of the recommendation you made to not apply Facebook's hack-and-leak policy to the Hunter Biden laptop story.

[redacted] Gotcha. Right.

So maybe just to pull back a bit to what we were discussing a bit earlier. So we had the three prongs to the policy, right? And in the course of -- you know, from the point that story was published throughout the period where we were investigating it, at no point did I make a recommendation that we should enforce under the hack-and-leak policy. At no point did we meet that bar for those three principles in the policy to apply. And to my knowledge, at no point did we enforce under the hack-and-leak policy, right? The story wasn't removed for being part of a hack-and-leak operation.

And in the interest -- in the interest of providing the most fulsome recollection -- so we conducted our internal investigation. We weren't able to

substantiate those three prongs enough where we would take an enforcement action. And to my knowledge, I believe someone did reach out at one point to the FBI to inquire about whether there was more information available about the story, and there wasn't. And no one was able to give us additional context on the story itself.

And so that was our recommendation consistently throughout the time that we were evaluating the story, and as far as I know, that held throughout as well.

Mr. Gaetz. I apologize if these questions seem pedantic.

[redacted] It's all right.

Mr. Gaetz. But there is a difference between not recommending enforcement under the policy and recommending to not enforce under the policy. And so I just wanted to make sure I understand which of those it was.

This recommendation that you made, do you -- is the committee to understand that you affirmatively said this policy should not be applied?

[redacted] Affirmatively said that we -- that the policy would not apply to this story. We did not have sufficient evidence to apply the policy; ergo, we should not enforce under this policy.

Mr. Gaetz. Okay. Great. So that meeting -- and you testified you don't recall if there was a writing that appends to that meeting?

[redacted] That's right.

Mr. Gaetz. In the normal course of the keeping of your notes, is there a way you would have maintained any type of writing that would accompany that meeting in your normal course of business?

[redacted] I don't believe I would have memorialized that conversation.

Mr. Gaetz. Okay. It wouldn't have been your normal practice to create a writing to append to that recommendation?

[redacted] I would have normally memorialized our findings, but not the recommendation itself.

Mr. Gaetz. How am I to understand the difference between the findings and the recommendations? It would seem as though the findings is this -- what you have just gone through with my colleague, the application of the facts, these criteria. Is that what the findings are?

[redacted] Yes. Right. So the findings would be those three prongs and what is functionally our assessment of whether the policy would apply or not apply.

Mr. Gaetz. I'm having a hard time divorcing the findings from the recommendation.

[redacted] Understood. And I guess what I mean is I don't know whether I would have memorialized communicating that recommendation. The assessment, though, of whether the policy would apply would have been memorialized.

Mr. Gaetz. This is very helpful.

And, in your normal course of business, do you maintain those assessments on a computer or a shared drive or a paper form?

[redacted] Those are normally maintained as an electronic document.

Mr. Gaetz. And, again, I apologize for how tedious these questions are.

But is it maintained electronically on a computer hardware system that is in your possession, custody, and control?

[redacted] No. Shared drive.

Mr. Gaetz. Shared drive. Great.

You mentioned that -- or I'm sorry. Let's go back to that.

That oral meeting where you shared the recommendations, do you recall the duration of that meeting?

[redacted] I don't.

Mr. Gaetz. Is that the type of meeting that -- I'm trying to understand.

Is this a 5-minute-type standup, or is this a 90-minute discussion about your application of these facts to these standards? Is there anything you can tell me about how the committee ought to think about that?

[redacted] I just don't recall the details of that conversation.

Mr. Gaetz. Do you recall any feedback that you were given when you presented these recommendations?

[redacted] No. No -- yeah, no feedback on the recommendations.

[redacted] Who else was on the call?

[redacted] Just to be clear, he didn't say there was a call.

[redacted] Yeah.

BY [redacted]

Q Who else was in the discussion?

A I don't recall exactly who all would have been part of that conversation. I know I communicated that recommendation to my manager, though.

Q Do you recall if [redacted] was part of that discussion?

A I don't --

Mr. Gaetz. And did the meeting occur in person?

[redacted] No, because we were all working from home at that point.

Mr. Gaetz. So was it a Zoom call?

[redacted] Possibly. It's possible. I'm just not sure.

Mr. Gaetz. Does your company use a particular interface system for these discussions?

[redacted] I think -- I believe Meta uses a number of different videocalling

providers.

Mr. Gaetz. Sometimes video calls I have with my colleagues where I work are recorded. Are these recorded?

[redacted] Not to my knowledge.

Mr. Gaetz. And is the committee to understand that, when you presented these findings and recommendations, that there was agreement with the audience that had received them?

[redacted] That was my understanding, yes.

Mr. Gaetz. And, as you testified here before us today, you don't recall any pushback you got to that?

[redacted] I don't.

Mr. Gaetz. You said someone did reach out to the FBI to understand better context. Who was that?

[redacted] I don't recall exactly who reached out to the FBI, but I know that a colleague had reached out to them, functionally just to ask if there was more to share about the story.

Mr. Gaetz. And how did you come to learn that?

[redacted] I don't recall exactly what -- like, how I was made aware of it. I know that I was aware, though, that outreach had happened and that there wasn't any additional information that they shared with us about the story or its prominence.

Mr. Gaetz. Do you recall when that outreach occurred?

[redacted] In the days following the story initially appearing in the press.

Mr. Gaetz. And is that when you became aware of the outreach as well?

[redacted] Yes, I believe so.

Mr. Gaetz. And there's nothing you can share with the committee about how

you came to be aware of that outreach?

[redacted] I just can't recall precisely how I was informed of it. But I knew that we had -- that that outreach had occurred and that there wasn't anything, you know, that was shared, in part because, again, our assessment was predicated on what we knew at the time.

Mr. Gaetz. And, when you say the FBI, is the committee to understand that you knew that to be the Foreign Influence Task Force at the FBI?

[redacted] That was my understanding.

Mr. Gaetz. Thank you very much.

[redacted] You mentioned that no one from Twitter reached out to you during this time. Did I understand that correct?

[redacted] He said he didn't recall.

[redacted] Yeah, I don't recall outreach from anyone at Twitter about the story.

BY [redacted]

Q Did you reach out to anyone at Twitter to share your findings?

A I don't recall reaching out to anyone at Twitter either about the story.

Q Okay. Any other company?

A I don't recall reaching out to any other companies either about the story.

Q Okay. Did you reach out to any researchers?

A I don't recall reaching out to researchers either about the story.

Q Did any researchers reach out to you?

A I don't recall outreach from researchers to me about the story either.

Q At any point -- or I should say, when did you learn the basis for why Meta restricted the story?

A To my best recollection, it was when Meta made public statements about what actions the company was taking around the story.

Q Are you familiar with the statement from 51 former intelligence officers that was issued about 5 days after the story came out?

A I'm aware of it, yes.

Q Okay. At the time that statement was released, did you agree with it?

A I don't recall exactly when the statement was released, but I was not involved in it being put out and learned of it in the press. Again, we were conducting our own assessment of the story and its prominence. And, at the time and as we continued to, we didn't find that our policy applied.

Q Okay. So, when you made an initial determination that there was not enough for the hack-and-leak policy to apply, that was on the 14th?

A Our initial determination was on the 14th, and we continued to update our assessment, but at no time did we find that the policy applied.

Q And so that would have been 5 days later as well. How long did you continue to assess?

A I don't recall exactly when we stopped updating that assessment. Yeah.

Q Did you know any of the signers of the 51 former intelligence officers?

A I don't actually know who all the signers were. So I don't know if I did or didn't know any of them.

Q And you said none of them reached out to you?

A That's correct. I hadn't received any outreach from them.

Q Okay. Do you know if they reached out to anyone at your company?

A I don't know if they did or didn't.

Q Okay. The statement said that it bore, quote, all the classic earmarks of a

Russian information --

[redacted] You're quoting from something we don't have. Do you want to give us the document?

[redacted] Yeah. We can introduce it.

We'll mark that as exhibit 2.

[[redacted] Exhibit No. 2

Was marked for identification.]

[redacted] Thank you.

[redacted] Is this a reproduction of a document that you all made, or is this the document itself?

[redacted] This is the document itself that was included with the article.

[redacted] Okay. Thanks.

BY [redacted]

Q So you took a moment to review?

A Yes, thanks.

Q Were there any names in the signature that were colleagues of yours during your time in government?

A The only individual that I see listed here who I had worked with was Rick Ledgett, who was the Deputy Director of the National Security Agency when I was working at the DOD and at the White House.

Q And did he reach out to you?

A No.

Q Did you reach out to him?

A No.

Q Okay. Within Meta, if someone wanted to make a determination about

whether something was a Russian disinformation operation, would you be the best person at Meta to handle that inquiry?

A I think we would have to rely on both the investigative team, myself, and my team to make that determination.

Q Okay. Sorry to ask one more time.

A No worries.

Q Did anyone from the government reach out to you -- let me rephrase this.

Did you receive any information regarding the authenticity of the laptop in the days following the New York Post story?

A Any information? Not that I recall.

[redacted] Do you want a break?

[redacted] Yeah. Can we take a break?

[redacted] We can go off the record.

[Discussion off the record.]

[redacted] We can go back on the record.

BY [redacted]

Q In the days following the New York Post story's publication, did you receive any information regarding the authenticity of the laptop?

A So the only information I recall receiving, as I noted to Representative Gaetz, is that the U.S. Government didn't have anything more to share about the story than what was already publicly available.

[redacted] Do you have any further questions?

BY [redacted]

Q So you mentioned that you were in contact with a few government agencies through the course of your job.

When those communications took place, were they over meetings? In person? Over Zoom?

A These were generally meetings. And it would depend, I think, on the time period if in person or Zoom.

Q When communicating with the government, was this over email?

A Some communications over email, yes.

Q What about signal?

A No. One -- there was, I think, one signal channel that existed for kind of government to broadcast to a number of companies.

Q And which government agency was on that channel?

A So DHS and FBI, to my knowledge.

Q And who from industry?

A A number of companies. I don't know the exhaustive list of which companies were involved.

Q Okay. Over Slack?

A No. We didn't use Slack.

Q Telegram?

A Don't use Telegram.

Q Did you receive Teleporter messages?

A Not to my knowledge. I'm not familiar with Teleporter.

Q Following a meeting with the government, what was your typical process? Did you take notes during the meetings?

A I did not, no.

Q Did anyone else attending from Meta typically take notes?

A I'm not sure if anyone else had taken notes or not.

Q Would you send out a debrief or a summary to --

A I wouldn't, no.

Q Were meeting minutes ever circulated among those on the call within the government from someone else?

A Not that I recall.

[redacted] [redacted] if it's helpful, we did provide the committee with agendas for those meetings, where we had them, as well as the invites. And I'm happy to go through that if that's useful.

[redacted] Yeah. We can start with that.

Can we pull document Meta 2758?

This is exhibit 3.

[[redacted] Exhibit No. 3

Was marked for identification.]

[redacted] Thank you.

[redacted] So this is exhibit 3?

[redacted] Yes.

BY [redacted]

Q Okay. Do you recognize this invite?

A I recognize the format of this as a calendar invite, yeah.

Q Okay. This is an invite for -- it says "hold for FITF." Would that be the Foreign Influence Task Force?

A That would make sense, yeah.

Q Okay. And who is [redacted]?

A I believe [redacted] is a member of our law enforcement outreach team.

Q Okay. Who is [redacted]?

A [redacted] is one of our attorneys.

Q Who is [redacted]?

A [redacted] is also an attorney.

Q Who is [redacted]?

A [redacted] is a member of our investigative team.

Q Okay. Who is [redacted]?

A [redacted] is also a member of the investigative team.

Q Okay. Who is [redacted]?

A [redacted] is an attorney.

Q Okay. Who is [redacted]?

A [redacted], she is a member of our policy team. My team.

Q I'm sorry?

A She's a member of my team.

Q Okay. And the policy team?

A Correct. My team lives within our policy organization.

Q Gotcha. Who is [redacted]?

A [redacted] is a member of the investigative team.

Q Okay. Who is [redacted]?

A [redacted] is a member of the investigative team as well.

Q Who is [redacted]?

A [redacted] is also a member of the investigative team.

Q Who is [redacted]?

A [redacted], also a member of the investigative team.

Q Who is [redacted]?

A [redacted], also a member of the investigative team.

Q Okay. And do you recognize this FBI email address? The [redacted]?

A I believe that's Special Agent Elvis Chan.

Q Okay. You mentioned several members from your investigative team. Earlier, you said it sounded like a very large team.

How were these individuals selected to participate?

A I don't know precisely why these investigators were included on this invite.

Q Did it change from meeting to meeting?

A I'm not sure if or how that selection of people would have changed meeting to meeting.

Q Okay. When did you first meet with the Foreign Influence Task Force?

A I don't remember when the first meeting was with the FITF.

Q Was it before 2021?

A I know that those meetings began at least in early 2020, but I don't know when the first one actually was.

Q Okay. Do you remember who first invited you to join these meetings?

A I don't.

Q Do you know if it was the government or if it was Meta that first organized these meetings?

A I don't.

Q How frequently did they occur?

A My recollection is that the meetings with the FITF occurred on kind of a roughly monthly cadence.

Q Did that frequency change?

A Not to my knowledge.

Q Okay. Are these meetings ongoing?

A Yes, they are.

Q Okay. And is it still at a monthly cadence?

A That's my understanding, yes.

Q Is Special Agent Elvis Chan still the point of contact for the Foreign Influence Task Force?

A I don't know. I'm not sure who are the folks we talk to directly on the FITF.

Q When was the last FITF meeting that you attended?

A I don't recall when the last one I actually attended was.

Q Was it before your most recent leave?

A It would have been prior to my parental leave.

Q Or excuse me. Has there been any time since after your --

A I have not attended one since my parental leave.

Q Okay. When did you begin your leave?

A Beginning of January this year.

Q Okay. Great.

What was the purpose of these meetings?

A So these meetings were for the Foreign Influence Task Force to flag specific actionable information about foreign influence threats, mainly from our Russia, China, Iran-type of threat actors, and for us to flag enforcement actions that we were taking around the same foreign influence threats, often from the same types of threat actors.

Q Okay. So, after a meeting concludes and if they provided -- if they flag something, what are the next steps at the end of the meeting?

A So, if something was flagged in that meeting by the FITF to our teams, we would generally pass that along to the investigative team, or if they were on that team, then their responsibility was to, you know, again, conduct our own internal independent

investigation, understand whether there was any threat actor activity on our platform, evaluate it against our policies, and then take action as appropriate.

Q Okay. Do you recall instances where you didn't take action?

A I'm certain there were instances where we didn't take action.

Q Did you tell the government whether you took action?

A In cases where we were enforcing against, for example, a CIB operation or a cyber espionage activity by an APT group, we would generally inform folks at the FITF if they had provided that lead initially once we had completed our assessment and conducted our enforcement. That's correct, yeah.

Chairman Jordan. Were there times when you took action that wasn't prompted by the government that you then told the government you took that action?

[redacted] Yes. In fact, when we would do these enforcement actions on CIB or on cyber espionage activity, we would generally do a couple of things. So we would inform folks at the FITF. We would also share information about those enforcements with congressional committees. So House Intelligence and Senate Intelligence committees. And we would generally share information about those -- that activity as well with the public via our public reporting.

Chairman Jordan. I just want to understand.

So if -- you weren't prompted by the government to take some type of action, but if you did, you would share it with the Foreign Influence Task Force, you would share it with Senate Intel, and House Intel?

[redacted] That's correct. And sometimes other agencies within the U.S. Government.

Chairman Jordan. DHS?

[redacted] Sometimes DHS, CISA.

Chairman Jordan. CIA?

[redacted] Not to my knowledge.

Chairman Jordan. Okay. And when did that -- maybe you can comb this through.

But when did that start? When would be the first time you can recall when what you just described took place?

[redacted] Sharing that information with U.S. Government entities, including congressional committees, was something that I recall us doing even when I had first started at the company and we were doing these kind of public enforcements on CIB networks.

Chairman Jordan. Can you give me a timeframe? Give me a date.

[redacted] Sorry. So I joined the company in September of 2018. There were a number of CIB foreign influence networks that we had enforced against in the months after I joined the company.

Chairman Jordan. So, from 2018 to present, that is still the pattern?

[redacted] That is still our standard practice with these enforcements. And the reason, right, is oftentimes these operations might be active on Facebook, but they will have aspects of the operation that might be active on other platforms. There might be activity that occurs off platform, like traditional intelligence recruitment, spotting, and assessment activity.

And we felt that it was valuable, particularly for Members of Congress or their staff, to understand what we were seeing in the broader threat space and what the trends from Iranian, Chinese, Russian actors and the like.

Chairman Jordan. Maybe we're going to get there.

So let's say that you get prompted by CISA, FBI, some entity from the government

that -- we need you to look at this, and you look at it, and it's not something that should be -- some action should be taken on.

Do you get back with them and tell them that you didn't take action?

[redacted] So generally the way that they would flag these things to us -- it was maybe a little less directional, right? They would say: Here's some threat actor activity that we are aware of in the ecosystem; we felt you should be aware of.

We would then conduct our investigation. Sometimes it would violate our policies. Sometimes we wouldn't substantiate that activity on our platform. In some cases, we would provide that feedback as well, just that we didn't see any activity on the platform.

Chairman Jordan. Okay. Thanks.

[redacted] We have about 10 minutes left. So are there any questions?

Congressman?

Mr. Gaetz. I had a question.

When describing the misinformation team, you described it as a misinformation policy team. And I took from the tone of your voice you emphasized the word "policy."

Is there a misinformation enforcement team that is separate and distinct from the misinformation policy team?

[redacted] I understand there is a product team that works with the policy team that implements enforcements and such. I don't know the details of how those teams are structured very well, though.

Mr. Gaetz. Well, I guess I'm trying to understand their duties.

Is the policy team's objective to establish the doctrine, or is their job to hunt misinformation?

[redacted] So, again, I don't work on the team. So I don't know the

extent of their responsibilities. As a policy team, they would write the policies, though.

Mr. Gaetz. I guess I'm trying to understand, then, who does the enforcement work around misinformation if it's not you.

[redacted] So it wouldn't be me, not because we're a policy team but because our team doesn't work on the misinformation problem set. We're pretty exclusively focused on, I guess, disinformation or the kind of deceptive networks, regardless of whether they're posting misinformation or not. They could be posting something else entirely.

Mr. Gaetz. It's astonishing that you're the disinformation team, and then there's a misinformation team, and you act as though these are ships passing in the night.

[redacted] I think to some degree, we have deliberately done that because the disinformation problem area -- we're often dealing with foreign intelligence actors or proxies of foreign governments who may be posting content that ranges from benign to politically-charged but where the content is pretty much immaterial to our policy assessment.

So we wouldn't -- we try hard not to conflate the two to avoid, quite frankly, the folks thinking that we're taking down, for example, an Iranian operation posing as American political activists because of what they're saying, when we're really taking them down because they're Iranian Government proxies pretending to be those Americans.

[redacted] Not to go against your time, but [redacted] and [redacted] at the company lead these functions. And we'd be happy to have them come in and spend as long as you want talking to you to explain exactly how all the pieces fit. They would have a holistic view of the operations. And [redacted] is sort of a top person, and [redacted] is her principal deputy.

So, in addition to the other people you've asked for, if you would like a briefing,

we'd be happy to arrange that, and they'll stay as long as you want.

Mr. Gaetz. Yeah. I thoroughly appreciate that. As I think you can get the sense from today, we're largely trying to map out the decision-making structure here.

[redacted] I understand. Happy to help.

Mr. Gaetz. How the decisions -- orally in writing and under what paradigm, doctrine, and then enforcement regime. So thank you for that offer. I'm sure the chairman will consider it thoroughly.

Are you still meeting with the Foreign Influence Task Force?

[redacted] Yes. My understanding is those meetings are ongoing.

Mr. Gaetz. And you're still participating in them?

[redacted] So I haven't participated since my parental leave back in January.

Mr. Gaetz. But you expect to resume those meetings?

[redacted] Yes.

Mr. Gaetz. Has anything changed about them following the Hunter Biden laptop episode?

[redacted] Not to my knowledge.

Mr. Gaetz. Same people?

[redacted] Again, as best as I know, yes. But I'm not -- I generally don't examine the invite list quite as closely.

Mr. Gaetz. Thank you, [redacted]

[redacted] How are we doing on time?

[redacted] We have 7 more minutes.

[redacted] I'd like to introduce this as exhibit 4.

[redacted] Exhibit No. 4

Was marked for identification.]

[redacted] And these are two screenshots from a conference you gave. This was posted back in October of 2020. The conference name is EU DisinfoLab 2020 Virtual Conference.

Do you recall speaking at this conference?

[redacted] Can we have a minute to look at the document?

This is something you all pulled down from the internet? Not an exhibit that was provided to you by the company, right?

[redacted] That's correct.

[redacted] Okay.

And there's no date on the document. Can you tell us what the date of this was?

[redacted] Yes. It was October 12th, 2020. That's the date it was posted on YouTube.

[redacted] YouTube. Okay. Thank you.

BY [redacted]

Q If I could call your attention to the second page.

A Sure.

Q So there's a slide up. Is that you in the upper right-hand corner?

A Yes. I didn't have much of a wall decoration in my house during COVID.

Q The first bullet point says: Removal of COVID-related misinformation. Was that part of your responsibility at the time?

A It was not.

Q Who did you speak with at Meta prior to presenting at this conference?

A Prior to presenting at the conference? Our comms team would have approved my presentation. That's the extent of who I remember speaking with.

[redacted] I'm sorry. I'm going to ask you to repeat that. I couldn't hear it.

[redacted] Sorry. So our comms team would have reviewed my presentation, but that's the extent of who I remember speaking with prior to this conference.

BY [redacted]

Q Okay. And how did you end up speaking about something that's outside of your job responsibility?

A So this was -- do you happen to know the date of when this conference occurred? I know it was in 2020 from the --

Q The video is posted October 12th.

A Okay. So sometime in 2020. The height of the pandemic. And this first bullet point, from my recollection, was pulled from a public blog post that Facebook put out about our work around COVID-19. So, knowing that that would be a question at the conference, it was something that we included in the presentation.

Q And when you were preparing for this conference, you spoke to the comms team?

A Correct.

Q Did you speak to anyone who works on removing COVID misinformation?

A Not that I recall.

Q So you essentially were adjusting whatever the comms team was telling you?

A And our public statements. At this point, the company had put out a public blog post on our COVID-19 response.

Q At any point, has removing misinformation been a part of your job

responsibility?

A No, aside from when we take down a network that might have posted misinformation, but that wasn't the reason we took it down.

Chairman Jordan. Excuse me. Is this the name of the conference, the EU DisinfoLab? I'm wondering if that was the name of the conference.

[redacted] Yes.

BY [redacted]

Q Who invited you to attend that conference?

A I don't recall specifically who. EU DisinfoLab is an organization, as I understand, in Europe.

Q Do you plan to attend the next Foreign Influence Task Force meeting?

A I'm not aware of when the next one is or if I've been invited to it. So I don't know.

Q Do you know who attended in your place while you were on leave?

A I don't.

Q Does [redacted] attend these meetings ever?

A I don't know if he's ever attended them.

Q How many government representatives typically are on these meetings?

A I don't know an exact number.

Q Have they always taken place over Zoom?

A As I recall, they've been -- they were virtual for the vast majority of the time I was at the company. I don't know if there have been in-person meetings.

Q There were a number of invites to personnel at Meta.

Did most of the invites typically attend? How many representatives from Meta would be on an average call?

A Again, I don't know the exact number of how many people would generally attend. It was made somewhat more complicated by Zoom calls. You can't always tell who's there.

Q How long do they last typically?

A 30 minutes to an hour.

Q And, when the government was flagging information for you -- you said these happen at a regular cadence -- would they -- if there was nothing to report, would the meeting get canceled?

A That's my recollection, that if there was nothing to discuss, the meetings was generally canceled.

Q Did that cadence ever increase?

A The cadence of these FITF meetings?

Q Yeah.

A I'm not sure.

[redacted] I think we are at time.

But, before we go off the record, we've provided you with all of the invites for all the FITF meetings that we are aware of, and so you could reconstruct the cadence from that. Also note that, on the invites, [redacted] is listed as an optional attendee.

[redacted] We'll go off the record.

[Recess.]

[redacted] Can we go back on the record, please.

BY [redacted]

Q So you mentioned earlier that the Global Engagement Center was one of the government agencies that you were in contact with.

Can you first provide us at a high level your understanding of what the Global

Engagement Center was and is?

A Yes. So the Global Engagement Center -- its existence predates my time at Meta and [inaudible] also worked on at the White House. My understanding is the Global Engagement Center was initially founded to work on countering violent extremism issues, kind of messaging around terrorism around the world.

Over time, their mandate changed to include countering the influence operations issues around the world, specifically from kind of foreign messaging targeting the U.S., and then the U.S.'s messaging abroad.

Q And who at the Global Engagement Center were you in contact with?

A I was in contact with their kind of liaison with the private sector.

Q Do you remember his or her name?

A [redacted], I believe, is who is currently in that role.

Q Do you recall being in contact with [redacted]?

A Yes. I do remember a [redacted]. I think he goes by [redacted].

Q Okay. And what were your interactions with [redacted]?

A What I recall my interactions with [redacted] was -- initially, I think he was mostly -- we were corresponding about trying to set up an initial conversation with the Global Engagement Center for a little while there. And then primarily logistical conversations about getting those meetings set up.

Q You mentioned that both the Foreign Influence Task Force and the GEC would provide leads from time to time.

Do you recall if one provided leads more frequently than the other?

A Foreign Influence Task Force conversations, I think, by nature of those conversations, were more focused on providing kind of actionable and useful information about threat actors.

[redacted] I'm sorry. I'm having trouble hearing.

[redacted] Sorry. So the Foreign Influence Task Force conversations, because of the nature of what the Foreign Influence Task Force does, were more focused on providing actionable specific information about threat actors.

BY [redacted]

Q Regarding whether Meta ultimately took action based off these leads, do you remember if either agency was better or worse than the other with respect to accurately identifying either coordinated inauthentic behavior, inauthentic accounts, or other influence operations?

A I wouldn't want to speculate on the accuracy between the two. I can't remember quite exactly.

Q Did you have any contacts or any communications with the White House, specifically the National Security Council?

A Yes.

Q And what was the nature of those interactions?

A Interactions with the National Security Council on coordinated inauthentic behavior networks targeting the United States as well as some of our cyber espionage work, particularly around what we would call surveillance for hired companies. These are private companies that sell surveillance capabilities. An example would be NSO Group.

The investigations we were doing into companies like that targeting our users as well as actions that we were taking around those companies and recommendations we had for how the government could effectively work to counter abusive spyware activity and the CIB program more broadly.

Q Were there any other offices in the White House that you were in contact

with?

A Outside of the NSC, you mean?

Q Outside, yes.

A Not to my knowledge.

[Discussion off the record.]

BY [redacted]

Q So you mentioned DHS.

A I keep kicking your table. I'm so sorry.

Q You mentioned that DHS was another agency that you were in contact with and specifically -- is it CISA or CISA? We've heard both.

A I'm honestly not sure what the right pronunciation is, but I say CISA. It was CISA.

Q Okay. And could you state what that acronym stands for?

A My recollection is it stands for the Cybersecurity and Infrastructure Security Agency.

Q Okay. Did you have contacts with DHS outside of CISA?

A Not to my knowledge.

Q Okay. What was the nature of your interactions with CISA?

A Interactions with CISA were generally on issues that CISA covers. So critical infrastructure and election infrastructure, the process by which elections and voting are conducted, that type of thing. So what we would, you know, discuss with them would be situations where we might see targeting of the U.S. or critical infrastructure in the U.S.

Q Okay. CISA has a self-described MDM team. MDM refers to misinformation, disinformation, and malinformation.

Are you familiar with that office within CISA?

A I'm familiar that the office exists. I don't know much else about their work beyond that.

Q Do you recall interacting with that office?

A Not to my knowledge.

Q Do you recall the purpose of that knowledge -- or purpose of that team?

A I don't, no.

Q Did you ever interact with someone named Brian Scully who was at CISA?

A Yes, I believe so.

Q Do you recall the nature of those interactions?

A Brian Scully joined some of the meetings between the U.S. Government -- the U.S. Government meetings I had mentioned already. The CISA, FITF, ODNI meetings, and Meta.

Q You mentioned this earlier that the U.S. Government would meet with industry.

A Yes.

Q Do you recall what the purpose of those meetings were?

A Those meetings were more general, for example, than the FITF meetings. They focused more on the U.S. Government departments and agencies in question, kind of updating on issues that were relevant to their mandate. For example, CISA providing updates on key election dates, any concerns about infrastructure around polling locations, for example, updates on foreign influence threats from FITF, and then an opportunity for companies to provide updates on kind of work that they were doing in that space. For example, if the company was going to be announcing a new product around voting, there would be a venue where they might do something like -- provide an update on something like that.

Q Do you recall who most frequently attended those meetings from Meta?

A I generally attended those meetings, and I know there were a number of other Meta employees. I don't recall exactly who, though.

Q Okay. Following these meetings, were there similar due-outs with respect to the FITF meetings where the government might flag something? Was there a similar process following these sets of meetings?

A My recollection is that these meetings generally didn't focus on kind of specific threat indicator-type information. So I'm not aware of a similar type of process given that the topics were somewhat different.

Q Okay. Do you recall how frequently these meetings occurred?

A I don't recall the exact cadence. I think it changed over time as well.

[redacted] Okay. If we can introduce 25248 from Meta just as exhibit 5.

[[redacted] Exhibit No. 5

Was marked for identification.]

[2:00 p.m.]

[redacted] Exhibit 5.

BY [redacted]

Q Do you recognize this meeting invite?

A Yes.

Q And what is it?

A It's an invite to the USG Industry Calls that we were just discussing.

Q Looking at the "to" line, [redacted], is that your boss that we were discussing earlier?

A [redacted] is my manager, yes.

Q And did he frequently attend these meetings, as well?

A Yes, he generally attended these meetings.

Q Was there anyone else at Meta who would regularly attend these meetings?

A So I would regularly attend these meetings. And -- sorry. Just reviewing the document one more time.

My recollection is the rest of the folks on these invites would occasionally attend these meetings. I just don't know the cadence that they would or wouldn't attend.

Q And were there members from your investigative team that would attend?

A The only member of our investigative team -- yes, I believe so.

Q Okay. During the course of your work, you mentioned that you would sometimes communicate with government officials via Signal?

A Uh-huh.

[redacted] It's not what he said. He said that he received broadcasts from the government. He did not say he communicated.

[redacted] Correct.

BY [redacted]

Q You received communications from the government via Signal channel. Is that correct?

A Yes.

Q Do you recall how many of these channels there were?

A I only recall one channel.

Q Which channel was that?

A It was a channel related to the USG Industry syncs with the same kind of U.S. Government agency representation.

Q Do you still have these Signal chats?

A I'm not sure if I do.

Q Okay. Do you know what the company's policy is with respect to communications with the government?

A I personally don't know the policies around record retention and the like.

Q Okay. Do you know what the government's policy was with respect to retaining records?

A I don't know.

[redacted] If we could introduce Yahoo15308. This will be exhibit 6.

[[redacted] Exhibit No. 6

Was marked for identification.]

BY [redacted]

Q Do you recognize this group chat?

A I recognize the title of the group chat. It's the channel that we were discussing previously.

Q And it has individuals from industry and from government on it.

A That's correct.

Q What was the purpose of this channel?

A So the purpose of this channel was as a broadcast channel for the U.S. Government departments and agencies I mentioned previously to share information, specifically kind of actionable and timely threat-related information related to the election.

Q And do you remember who first instigated, created the group?

A I do not, no.

Q And was this a byproduct of the USG Industry meetings we were discussing previously?

A Yes, my recollection is that it was.

Q Did you need a clearance or anything similar to join this group?

A No, you did not.

Q As far as you know, anyone within the group could add someone?

A That was my understanding.

Q Okay. Besides the Facebook personnel in this group chat, who else at Facebook knew about the existence of this channel?

A I don't know the extent to which other folks at Facebook knew about the existence of the channel.

Q If we could turn to page 2, the Bates number is 15039.

A Okay.

Q There's someone with the name [redacted].

A Uh-huh.

Q Do you know who that might be?

A That would be [redacted] from Google.

Q There's reference to a [redacted] Do you know who that might be?

A I don't.

Q Okay. There was an [redacted] from Twitter. Does that sound -- is that consistent with your recollection who participated?

A This far, yes, it is.

Q Then under [redacted]: "Hey, y'all, [redacted] from The Facebook."

A That would be me.

Q Do you recall joining this channel?

A I do.

Q Okay. Do you recall who played the central role in facilitating these interactions between the government and industry?

A No, I don't.

Q Do you know if one company took the lead or if it was one government agency?

A My recollection was that it kind of rotated between different companies. I'm not sure how the government agencies handled it on their side.

Q If we turn to page 5, the Bates number is 15402.

A 402?

Q Yes.

A Okay.

Q There's a message from the FBI San Francisco Command Post. Do you recall the FBI joining this channel?

A Yes.

Q Okay. Do you remember how you verified whether the phone number, in

fact, belonged to the FBI?

A I don't recall how we verified it was the FBI's phone number.

Q Do you recall who operated the FBI's account?

A I don't recall who operated their account.

Q Okay. Do you recall who from the FBI attended most frequently the USG Industry monthly meetings?

A I don't remember the names of who from FBI attended.

Q Okay. So in this channel the FBI San Francisco Command Post would share information about particular foreign threats? Is that right?

A That's correct.

Q If we can turn to page 10, which is Bates number 15047. There's a message near the top from Yoel Roth -- that would be Yoel Roth from Twitter -- saying: "Hi all. I'll shortly be adding a number of contacts from DHS-CISA to this group."

Is that in reference to the agency, the Cybersecurity Infrastructure and Security Agency?

A Yes.

Q If we look at the same page, just a little bit lower, he adds three contacts, [redacted] from CISA, [redacted], and [redacted].

Is [redacted] [redacted], [redacted]?

A I don't know, to be honest.

Q Do you recognize the name [redacted] or [redacted]?

A I don't recognize either of those names.

Q Okay. If we could turn to the next page, at the bottom, this would be page 11, Bates number 15048. Yoel Roth adds [redacted].

Do you know who [redacted] is?

A I do not.

Q If we could turn the page to page 12, Bates number 15049, there's a message from [redacted] from CISA.

Is this message consistent with information that would be delivered to you in the USG Industry monthly meetings?

A This message strikes me as more tactical than the type of information discussed at the USG Industry meetings, which are generally more higher level, for example.

[redacted] Sorry. What are you referring to on this page? There's a link, but you can't click through here. And then there's something underneath. Is that -- which part are you referring to?

[redacted] The first message with the picture, a link, and then a statement.

[redacted] The statement below the -- is the statement here from the Twitter link or not? We can't click through on it. So I'm trying to ask you whether this is -- are you representing that this is what the Twitter link says or is this something different?

[redacted] We are representing this is what is in the Signal channel.

[redacted] So it's in the Signal channel, not -- okay. Got it.

BY [redacted]

Q These types of messages you said is more tactical. Would that be consistent with messages that were conveyed in your meetings with the Foreign Influence Task Force?

A Sorry. Could you maybe rephrase what you mean by that question?

Q Sure. So you mentioned that the USG Industry meetings was kind of higher level --

A Uh-huh.

Q -- more so than the meetings with the Foreign Influence Task Force. This appears to be a reference to a specific post, in this case on Twitter.

When you were receiving information from the FBI and the Foreign Influence Task Force meetings, was it this level of specificity or was it a degree higher? Just trying to get a sense of the nature of the information that was conveyed during those meetings.

A I would describe it as fundamentally different. So this is a single post about at least what they claim to be misinformation. The information shared with us by the Foreign Influence Task Force was generally focused on specific threat actors and their activity on the platform and not an individual post.

Q Okay. You mentioned that your team is content agnostic. And would a specific reference to a post such as this, there's a reference -- this is quoting in the Signal channel: "This is incorrect."

Would this type of information, would you expect it to be shared with the misinformation team at Meta?

A I wouldn't -- I'm not -- I don't recall what would have happened from information in this channel with respect to misinformation-related evaluation.

Q So if you receive information regarding a foreign threat actor, potential coordinated inauthentic behavior, you have your team. You know what the right steps are.

If there was a -- if the government or some third party were to provide you information that falls within the misinformation space, who would you direct that information to?

A If we were to receive information from one of these government organizations that fell within misinformation space, we would generally kind of flag that to the misinformation team rather than doing anything with it ourselves.

Q And who would be your point of contact on the misinformation team?

A From what I recall, we would generally just kind of forward that along to the, like, the entire group on the misinfo team.

Q Okay. Is there an email listserv? Is that the --

A My recollection is that we could just kind of email them collectively.

Q Okay.

A Yeah.

Q And what's the -- I supposed the follow-up question would be, okay, but, like, when you are -- are you sending this, let's say, via email?

A Uh-huh.

Q To which address are sending this?

A Some sort of a misinfo team kind of collective address.

Q All right. If we could turn to page -- it will start on page 13, which is Bates number 15050, going on to page 14, which is Bates number 15051. There's another communication from [redacted] of CISA. There is a -- if you go down maybe a half dozen lines, there's an email address that says misinformation@cisecurity.org.

Are you familiar with the Center for Internet Security?

A Heard the name. Don't know anything about them.

Q Do you recall having any other interactions with the Center for Internet Security?

A I don't.

Q Do you know who at Meta would have interactions?

A I don't.

Q If we could turn to page 27, which is Bates number 15064. There is a post from Yoel Roth dated January 9th, 2021, about the middle of the page, then a series of

posts from Mr. Roth on to page 29, which is Bates number 15066.

At the top of page 15 -- or excuse me -- at the top of page 29, Mr. Roth says: "My error. Wrong channel."

Do you know which channel he would have intended to share these posts on?

A I don't know.

Q Okay. Were there other channels with the government?

A Not that I was aware of.

Q Were there channels without the government?

A Again, not that I was aware of.

Q In addition to the meetings over Zoom, the email communications, and the Signal chats, what other forms did you have communications with the government?

[redacted]. Did he receive?

BY [redacted]

Q Or did you receive information from the government?

A Can you repeat the list of that, the forms again.

Q Sure. So in addition to emails, meetings over video or Zoom or phone, and this Signal channel, how else did you receive information from the government?

A Yeah, the only other form I could think of is regular old telephone calls. That's probably the extent of options. I guess maybe some limited in-person interactions after COVID.

Q Okay. If we could introduce exhibit 16072. That's exhibit 7.

[[redacted] Exhibit No. 7

Was marked for identification.]

[redacted] The last document you gave us was not a Meta document. It was a Yahoo document. Is this also a Yahoo document?

[redacted] Yes.

[redacted] Okay. Thank you.

BY [redacted]

Q Do you recognize this Signal channel?

A Honestly, I don't recall this Signal channel. So, no, I'm not sure.

Q Okay. Do you know who [redacted] is?

A [redacted] is Google's head of Threat Analysis Group.

Q Do you recall having industry-only communications while -- let me -- let me -- strike that.

Do you recall having industry-only communications in relation to industry's meeting with the government?

A Yes.

Q And what form did those communications take place?

A Logistical coordination ahead of the industry government syncs about when, timing for the meeting, that kind of thing.

Q Did this take place over email? Over Signal?

A Over email.

Q Okay. Reviewing the document, did it refresh you at all participating in this channel?

A I can't remember participating in this channel.

[redacted] If we could introduce exhibit 16073.

Oh. Excuse me. This is this exhibit. Sorry.

[redacted] Oh, is it?

BY [redacted]

Q Yeah, turn to page 2. This is Bates number 16073.

Yoel Roth writes "Assuming" -- this is on -- halfway down the bottom: "Assuming you all got the same info from the Bureau that we did regarding Iran. Wanted to flag that we have identified a number (small so far) of accounts engaged in this activity."

Is "the Bureau" referring to the FBI?

A I don't know. Again, I'm not -- I don't recall if I was part of this group or not. I wouldn't want to speculate on what the Twitter folks you're talking about here.

Q Would the FBI send information like this to you directly?

A Like what type of information?

Q Messages similar to what Mr. Roth flagged, saying there are, you know, "accounts engaged in this activity."

Would the FBI flag particular accounts and send that to you directly?

A So it sounds like there's two questions there.

[redacted] Well, wait. Which question?

[redacted] Yeah.

[redacted] This note says something about information re: Iran. So are you asking him whether or not the FBI sent him information about Iran or something else?

BY [redacted]

Q Did the FBI send you information regarding specific accounts?

A The FBI would sometimes send us information about specific accounts.

Q Okay. And how was that communicated to you?

A So that was generally not communicated to me. I believe they shared that information with our legal teams.

Q Was it ever communicated to you?

A I can't recall if it was ever communicated to me.

BY [redacted]

Q Do you remember being in some sort of group called the Industry Election Integrity WG?

A I don't remember being in this group.

Q So if you're looking at the participants in this group up at the top here on page 16072, do any of those individuals look familiar?

A Some of these names are familiar.

Q From interacting or working with them?

A From other companies that also worked in the security space and were part of the USG Industry meetings.

[redacted] Which names are familiar to you?

[redacted] So you'd asked me about [redacted] and [redacted] earlier. Yoel Roth is at Twitter. I think those are the names that are familiar to me.

[redacted] If we could introduce exhibit -- well, hold on before I say it too soon. I'm sorry.

If we could introduce the next exhibit. This is Bates number 16076. This is will be exhibit 8.

[[redacted] Exhibit No. 8

Was marked for identification.]

[redacted] Thank you.

[redacted] I'm sorry. What is this? It's one page of a 136-page document. And if you're going ask him to comment on it, can you tell him what it is?

[redacted] Yeah. This is the excerpt of the same Signal channel, the Industry Election Integrity WG.

[redacted] Can we see the prior exhibit? Thanks.

[redacted] About a third of the way down, there's a message from [redacted],

saying: "Anyone else want to jump in after ?"

Do you know if this would be ?

I don't speculate on it since there's just a first name. So I don't know.

You mentioned that you recognized some of the names at the -- starting in the previous exhibit and that they participated in the USG Industry call. participated in those calls as well. Is that right?

He did.

Okay. If we could introduce the next exhibit, 16079.

Are we done with this Signal chat so we can give you these back, or are you going to keep going through the Signal chats?

We'll keep going through them.

Okay. We'll hold on to these.

Yeah.

Thank you.

This will be exhibit 9.

Exhibit No. 9

Was marked for identification.]

So this is the same chat?

Yes.

Page 8? So you skip pages 6 and 7? Is that correct?

We have provided different excerpts. That's correct.

Okay. Thank you.

All right. If I could call your attention to Mr. Roth's statement about two thirds of the way down. He says: "Yep. We can touch a bit on the QAnon stuff

we've enforced on and foot stomp the lack of foreign interference aspect."

Do you know what Mr. Roth meant by saying to "foot stomp the lack of a foreign interference aspect"?

[redacted] I don't know. I'm not sure specifically what he's talking about there.

[redacted] And in your communications with the government, when they would identify something, would they identify where it originated from?

[redacted] Can I just pause? You're talking about the entire government or a particular government agency?

[redacted] Sure. In your communications with the Foreign Influence Task Force or with the Global Engagement Center or with CISA.

[redacted] All three at once?

[redacted] We can work through this tediously then.

BY [redacted]

Q In your experience with the Foreign Influence Task Force, when they identified inauthentic accounts or otherwise shared information with you, did they identify where they believed the activity originated from?

A In some cases they would.

Q Was it always foreign?

A To my best recollection, yes.

Q You've got no recollection of it ever being domestic.

A That's correct.

Q Okay. Do you recall from your team, when they would conduct their analysis -- this is in reference to your investigative team --

A Uh-huh.

Q -- that that would turn out to be incorrect, that it originated from the U.S. as opposed to somewhere outside?

A I can't recall any specific cases that meet that description.

[redacted] Could we have just a second to chat?

[redacted] We'll go off the record.

[Discussion off the record.]

[redacted] We can go back on.

[redacted] We're on the record.

[redacted] Could you repeat that last question again?

BY [redacted]

Q Yes. So when the Foreign Influence Task Force has identified inauthentic accounts or other information that they're communicating to you --

A Yeah.

Q -- you said that you have your investigative team take that information, go through the process, as they would otherwise. Was it ever the case that your team determined that those accounts were U.S.-based?

A So I can only recall one instance where the FBI flagged information to -- accounts to us for review that turned out to be U.S.-based, yeah.

Q Do you recall when that was?

A That would have been -- I don't recall specifically when that was. It would have been -- yeah, I don't recall exactly when.

Q Do you recall who from the FBI shared that information?

A I don't.

Q Do you recall how many accounts it was?

A I don't recall a specific number of accounts.

Q Did you share these findings with the FBI?

A Yes.

Q And was that in the context of a Foreign Influence Task Force meeting?

A No.

Q Was it -- how was it communicated?

A I'm not sure specifically how it was communicated back to them.

Q There will be a similar set of questions but this is with respect to the Global Engagement Center.

[redacted] Can we go off the record?

[redacted] If we can go off the record.

[Discussion off the record.]

[redacted] On the record, please.

If we could turn to exhibit 16121.

[redacted] That's a new exhibit that you're going to be reading?

[redacted] Yes.

[[redacted] Exhibit No. 10

Was marked for identification.]

BY [redacted]

Q So just to clarify, this is exhibit 10. The Bates number is 16121.

There's a [redacted] who posts a few messages. This is another excerpt of the same Signal channel.

A Uh-huh.

Q Is [redacted] you?

A I believe so.

Q Do you recall sending these messages?

A I recall sending these messages.

Q Okay. About three posts down there's a post from [redacted]. In this context, do you believe that to be [redacted], your manager?

A Again, I don't want to guess if that's my manager [redacted] or any other folks in the chat.

Q [redacted] writes: "If we end up having to use MDM, I may just quit. I'm not sure I can take it."

In the context of your work, did [redacted], your supervisor, your manager, ever discuss MDM? Which I will say, did he ever discuss misinformation, disinformation, and malinformation in the context of interactions with the government?

A As topics or as a term?

Q Both. We'll say first as topics.

A As topics, disinformation was a core part of our work, so yes.

Q Okay. And what about the term MDM?

A Also yes.

Q Okay. And what was the context for those conversations?

A A quintessential challenge in the disinformation space is blending of definitions and terms. MDM I think was one of several new iterations of trying to describe the problem that often injected more confusion than it did clarity.

Q And who was trying to inject the term MDM?

A I'm not sure exactly where MDM originated. It was just something that kind of started bubbling up as people were discussing the disinformation space.

Q Okay. But in this context between industry and government, was it the government that was pushing the term MDM? Is it outside the context?

A So lacking the context of the messages that preceded these messages, I'm

not sure what the context it's being used in here is or with what it's referring to.

Q Did you ever have conversations with your manager regarding the government's use of the term MDM?

A I recall that I was critical of it.

Q You recall? Sorry?

A I recall that I was critical of use of the term MDM.

Q And why was that?

A There were already a lot of different words that people used just to try and define the problem area.

Q Do you recall if it was a preferred term by the government?

A I don't know if it was their preferred term or not.

Q Okay. What sort of problems does that terminology introduce?

A I think that the disinformation space is one where clarity about, for example, platform policies and the reason for enforcement actions is really important.

In the course of our conversation today, you probably noticed I've been careful to try and draw a very clear distinction between disinformation, work, the policies that underlie it, our investigations, misinformation.

And terms like MDM inherently blend those different and I think quite distinct areas of work.

Q Do you think your industry colleagues followed that distinction as carefully?

A I can't really speak for them. I imagine they have their own policies and procedures.

Q Did the government actors that you interface with, did they follow that same distinction?

A Again, I can't speak for them. I imagine they also have their own policies

about how they handle these problems.

Q When you were receiving communications from the government, did you ever receive communications that fell more, to use your dividing line, on the misinformation side?

A Yes.

Q How frequently did that occur?

A I can't really put a number on it. Occasionally.

Q Do you recall which government agencies provided communications that fell as what you would describe as misinformation?

A The two that I can recall would be the Global Engagement Center at times flagging issues that would be more in the misinformation area and CISA around election misinformation.

Q What context did the GEC communications arise in?

A What context? In the course of our meetings with the GEC.

Q Do you remember the content that was identified as misinformation?

A I don't remember the specific content.

Q For CISA, you mentioned that it was election misinformation. Do you remember any other subject areas?

A Just so specifically on election information, the general topics of where to vote, how to vote, and things like safety, security, threats to polling places. Those types of things would be the general gist.

Q And how did CISA communicate this information to you?

A From my recollection, that would be one of the topics that could come up in those USG Industry meetings.

Q Do you remember what Meta did next following that meeting?

A So to be clear, I'm not referring to any specific USG Industry meeting. This is more generally the type of thing that CISA might talk to in those meetings.

Q Sure. But do you recall in one of those meetings that election -- at least one of those meetings -- election misinformation was raised --

A Uh-huh.

Q -- by a CISA official? Is that correct?

A That's correct.

Q Okay. Do you recall, maybe not after one specific meeting, but regarding that issue, did someone from Meta take action?

A I don't know if someone from Meta took action. Again, that would have fallen outside of my area of responsibility.

Q Was there someone from the misinformation team on these meetings?

A Not to my recollection.

Q How was it communicated to the misinformation team?

A I don't know how or if it was communicated to the misinformation team.

Q Okay. When misinformation was communicated either by the Global Engagement Center or by CISA, did they identify where the misinformation originated from?

A Not to my recollection.

Q Did they make a distinction about whether it was foreign or domestic?

A Not that I recall.

Q Did your manager work at all in the misinformation space?

A [redacted]?

Q Yes.

A I don't believe so.

Q Do you recall [redacted] ever raising the issue of the distinction between misinformation originating from a domestic source as opposed to a foreign source?

A Can you maybe clarify what you mean by raise the issue of?

Q Did he ever discuss it with you?

A Not to my -- not -- I don't recall any conversation about that.

Q Do you recall that issue ever being discussed in these industry U.S. Government meetings?

A Which issue again?

Q Where misinformation originated from.

A I don't recall that being a topic of discussion in these meetings.

Q And is that true for your interactions with the Global Engagement Center?

A I don't recall that topic specifically coming up with the Global Engagement Center.

[redacted] We've been at it for about an hour. I think we'd like to take a break.

[redacted] Sure. This is a good stopping point.

[redacted] We'll go off the record. Thank you.

[Recess.]

[redacted] We're back on the record.

BY [redacted]

Q [redacted], we've spent about the last hour going through Signal chats about misinformation. Just to clarify, you work on disinformation with a "d," correct?

A That's correct.

Q And as you explained earlier, disinformation, as that term -- as you're using that term and as it's used at Meta, refers to activities conducted by people who are being

deceptive about their identities or their location or what it is they're doing, correct?

A That is correct.

Q And it's not concerned with the factual accuracy of content they might post or anything like that. It's purely deception about who the actor is and why they're doing what they're doing.

A That is correct.

Q As opposed to misinformation which, as I understand that that term is used, to refer to information itself that is false or is alleged to be false.

A That is my understanding, as well.

Q And you don't deal with the misinformation space.

A That is correct.

Q And you don't -- as you've said before, you're not even -- you can't even answer how many people at Meta do deal with that space.

A That's correct.

Q Or who's in charge of that.

A That's right.

Q Okay. And so that's why you're having trouble answering some of the questions about these chats, correct?

A That's correct.

[redacted] Okay. Thank you.

[redacted] Wait.

[redacted] One more? Okay.

Give me one second.

[Discussion off the record.]

[redacted] And just to clarify, [redacted], when you receive a lead that's

about misinformation and it doesn't have a disinformation or a CIB component to it, you pass it on to the group email for the misinformation team.

[redacted] That's right, to the best of my recollection. Again, I want to be as helpful as I can here. But a lot of these events happened several years ago.

[redacted] Thank you.

And that's it for me -- for now.

Chairman Jordan. [redacted], was the letter -- you're familiar with the letter from the 51 former intel officials that [redacted] referenced earlier today?

[redacted] Yes, sir, I am.

Chairman Jordan. Was that disinformation?

[redacted] So my team hasn't evaluated that letter. It wasn't, to my knowledge, posted on our platform. So I wouldn't want to speculate.

Chairman Jordan. I'm just getting your thoughts as an expert. Was it disinformation? I mean, it was presented as if it was organic. It came from -- these 51 former intelligence officials just got together and said we're going to put this letter together and put it out there in the public 2 weeks before the Presidential election.

We now know, after our deposition or our transcribed interview of former Acting Director Mike Morell, that what prompted him to put it together was the Biden campaign, and that they worked with the Biden campaign, so much so that the Biden campaign told them where -- what media outlets to give the letter to first, what sequence to do.

I'm just asking, is that a disinformation effort?

[redacted] So what I can speak to, in our actions on the platform, our policies, we focus on deceptive identity, whether someone is [inaudible]. And without evaluating if there was activity on our platform here, I wouldn't want to speak for where

it would fall.

Chairman Jordan. But wasn't it deceptive?

[redacted] The way that we define deceptive identity is whether there are fake accounts involved, fake identities involved in disseminating something on our platform.

I'm not aware of the letter being disseminated on our platform by real or fake accounts. So best of my knowledge, I don't.

Chairman Jordan. You don't think your letter was ever shared on Facebook with anyone?

[redacted] Just not to my knowledge if it was shared and by whom it was shared, if it was.

Chairman Jordan. Whether it was shared or not, I guess I'm just asking a more general question. Is it disinformation when the letter is presented as if it was organic when, in fact, it wasn't?

[redacted] I think the -- one of the reasons we're so careful about our coordinated inauthentic behavior policies is that there are a bunch of different ways that people might represent themselves and different ways that may be or may not be acceptable ways of representing themselves in public. I'm concerned with what they're doing on our platform.

Chairman Jordan. Okay.

BY [redacted]

Q Great.

If we can circle back. And, again, appreciate the time you're taking to be here with us today.

A Of course.

Q We've discussed several sets of meetings with the government. That includes with the Foreign Influence Task Force, the Global Engagement Center, CISA.

We also discussed your hack-and-leak policy and that the policy -- you shared the aspects of your policy with the government in the course of communications.

Did that occur in the meetings with the Foreign Influence Task Force?

A To the best of my recollection, those occurred in the meetings, the USG Industry meetings, the broader meetings.

Q Okay. Was there -- in the course of these meetings, you mentioned that sometimes it was -- I think "tactical" is one word you used. There were specific posts that were raised in the Signal chats we looked at earlier. You mentioned in the USG Industry meetings there was high-level information that was conveyed.

At any point was there information provided by the government regarding efforts from a foreign actor to use a hack-and-leak operation to try to influence an American election?

A It's my recollection, again, right, there was this both history of hack-and-leak operations, right, that occurred from 2016 through the French elections. There's also the public statements that I remember the U.S. Government had made I believe earlier in 2020, sometime in the summer, around the risk of hack-and-leak operations targeting the election.

I recall that in these USG Industry syncs, in the USG Industry syncs, the risk of hack-and-leak operations as a potential threat vector was also raised earlier in the summer of 2020. And I believe that the U.S. Treasury Department also publicly released information about the activities of a Ukrainian member -- former member of Parliament, Andrii Derkach, and potential targeting of I think both the U.S. and the Ukrainian Government.

[redacted] I think we produced a document, if you have it -- it may take us a while to find it -- where hack-and-leak is on the agenda from the sync meeting. So just -- and there may have been others as well. So just want to flag that.

[redacted] Thank you.

BY [redacted]

Q Do you recall how frequently hack-and-leak was raised during these USG Industry sync meetings?

A How frequently? I know it came up once or twice.

Q Do you recall who from the government raised the issue?

A I believe in the summer, that summer USG Industry sync meeting I had mentioned, it was raised by the FBI's Foreign Influence Task Force. I don't recall who else had raised it.

Q Were there ever industry-only meetings to discuss either hack-and-leak policy or information that was being communicated by the government?

A I recall that there were industry-only conversations kind of in advance of those USG Industry syncs. Generally those were focused on timing of the meeting, who was going to attend, that kind of thing.

Q To circle back to one of the things we touched on earlier in the day, your investigative team looked at the Hunter Biden laptop story on October 14th, continuing to look at it in the days that followed.

Based off the information we have today, your team's determination that it was not the product of a hack-and-leak was ultimately proven correct. Is that right?

A I might be a little more precise and say, based on the evidence that we have access to, our assessment is that the hack-and-leak policy, in those specific three tests, we didn't meet the threshold to apply that policy to the Hunter Biden laptop story.

[3:09 p.m.]

BY [redacted]

Q During these USG industry sync meetings, when you're discussing your hack-and-leak policy, did other companies also share what their analogous policy was?

A I can't recall if other companies did or didn't share that information.

Q Okay. Are you familiar with the Aspen Institute?

A I'm familiar -- I know they exist.

Q Okay. Are you familiar that they hosted a hack-and-leak tabletop exercise?

A I'm aware that the exercise occurred, yes.

Q Okay. And do you know if anyone from Meta attended?

A I believe Meta folks did attend, yes.

Q And who do you believe from Meta was there?

A I believe my manager attended.

Q Okay.

A And someone on my team.

Q Did they discuss the tabletop exercise with you?

A I can't recall discussing it with them in any degree of detail.

Q Okay. At a high level?

A At a high level, I knew it was happening. Naturally, I had to approve travel for my teammates.

Q But you didn't attend?

A That's correct. I did not attend.

Q Are you familiar with the Election Integrity Partnership?

A Yes, I'm familiar with it. I know it exists.

Q Okay. Have you ever worked with them?

A I've never worked with them. They correspond with us.

Q Okay. And what are the -- what's the subject matter of the correspondence?

A I can't recall specific topics that we corresponded on.

Q Who was your point of contact at the EIP?

A I didn't have a point of contact with EIP.

Q Okay. Who from Meta was interacting with --

A I'm not sure what our primary -- like, I don't know who our point of contact was with EIP on either end of that relationship.

Q Do you know who Alex Stamos is?

A Yes, I know who Alex Stamos is.

Q Do you work with Alex Stamos?

A I've never worked with Alex. He left Meta or Facebook before I joined the company.

Q Okay. Have you worked with -- let me rephrase that.

Have you been in contact with Alex Stamos regarding your work?

A At Facebook?

Q Excuse me. At Facebook, yes.

A Yes.

Q Okay. And what was the nature of those conversations?

A Generally trying to understand -- so I was in contact with Alex shortly after I joined the company to try and understand the context around the work that I was going to be doing. As I noted, some of the policies predated my joining the company.

Q And he's at Stanford now --

A That's my understanding.

Q -- in the Stanford Internet Observatory?

A I'm familiar with the Stanford Internet Observatory.

Q Have you been in contact with Alex Stamos with respect to his work at the Stanford Internet Observatory?

A Yes.

Q And what was the nature of those communications?

A The nature of those communications were around establishing an information-sharing agreement with the Stanford Internet Observatory around coordinated inauthentic behavior networks and then coordinated inauthentic behavior takedowns we had already conducted.

Q Okay. And you discussed previously that Meta will publicize when it takes down a coordinated inauthentic behavior network of accounts.

What information is being -- are you sharing with the Stanford Internet Observatory?

A So the information we share around coordinated inauthentic behavior takedowns. So the -- functionally, the content that the networks were posting for independent analysis.

Q Okay. Who else do you share that information with?

A We share that information with a number of kind of academic and open-source research organizations.

Q Are you familiar with whether Meta shares information outside of coordinated inauthentic behavior or foreign influence operations with Alex Stamos?

A I've shared some information with Alex Stamos.

[redacted] Was your question about him, or was it about Meta?

BY [redacted]

Q I'll ask first of you.

A Okay. On cyber espionage-related issues. So advanced persistent threat groups and hacking activity.

Q And what about Meta?

A I don't know the extent to which anyone else at Meta might be in contact with Alex.

Q Do you know if the misinformation team has shared information either with Alex Stamos or the Stanford Internet Observatory?

A I don't know if they have or haven't.

Q Okay. You said there were a number.

Is Graphika a company that you share information with?

A Yes.

Q And how long have you had a point of contact with them?

A I don't know precisely when we started sharing information with Graphika.

Q Okay. And what is the subject matter of the information being shared?

A So the information we share with Graphika is content related to CIB takedowns as well as information about the CIB takedowns once we've conducted them.

BY [redacted]

Q And anything else other than those two categories?

A That's the extent of my knowledge of what we share, but I can't speak to if anyone else shares things with them.

BY [redacted]

Q Are you familiar with a Dr. Warren or Dr. Linvill from Clemson University?

A Familiar with their names, yes.

[redacted] If we could introduce 11012.

[redacted] After that, could we take a break and go off the record?

[redacted] Yeah. Off the record.

[Discussion off the record.]

[redacted] Back on the record please.

This will be exhibit 11.

[[redacted] Exhibit No. 11

Was marked for identification.]

Mr. [redacted] Thank you.

[redacted] Can you tell us the source of this?

[redacted] This is an email between professors at Clemson and personnel at Meta.

BY [redacted]

Q Do you recognize this email exchange?

A I don't recall the specific email exchange. Yeah, I don't recall. I think it was about a year ago, it looks like.

Q Okay. You mentioned earlier that your team would be provided leads from researchers, third-party groups.

Is this email exchange consistent with what you had in mind?

A This would be an example of the type of information outside researchers might send to us.

[redacted] Okay. If we could introduce 322 as an exhibit.

[redacted] Do we give this one back, or is it related?

[redacted] Yeah, you can give it back.

This will be exhibit 12.

[[redacted] Exhibit No. 12

Was marked for identification.]

[redacted] Thank you.

BY [redacted]

Q Do you recognize this email exchange?

A I don't recognize this specific email, no.

Q If I could call your attention to three paragraphs down.

Dr. Linvill writes: [redacted] shared several accounts with your team two weeks which seem very clearly connected with this ongoing campaign and continue to engage in pro-Russian disinformation related to Ukraine. I understand your team thoroughly examined this accounts and found them to be authentic.

Is this -- well, first, let me back up.

Do you recall the accounts that Dr. Linvill sent to you to examine?

A I don't.

Q Okay.

A And, to be clear, I think what he's saying is that someone else had sent them 2 weeks prior. That [redacted] had sent them 2 weeks prior.

Q Okay. That's correct. Thank you.

And you don't recall why you found the accounts to be --

A I don't recall the specific case or the investigations around it.

Q Okay. You mentioned there were two reasons that sometimes outside groups or the government will misidentify authentic accounts as inauthentic.

Do you recall why the researchers were more likely to make one error or the other?

A I think the error that researchers were most likely to make was actually around attribution. It was when there were efforts to identify an operation as linked to

a particular country or a threat actor. Outside research groups often struggled to make that attribution with a high degree of fidelity because they lacked visibility into the underlying technical data they would need to make that attribution.

[redacted] If we could have exhibit 421.

We can take those back.

[redacted] Okay. Cool.

[redacted] This will be exhibit 13.

[redacted] Exhibit No. 13

Was marked for identification.]

[redacted] Thank you.

[redacted] And this is exhibit 13, just to clarify?

[redacted] Yes. 13.

BY [redacted]

Q Are you familiar with this email exchange?

A I don't recall this specific email.

Q Okay. He references reporting, including reporting from The New York Times.

Does your team -- is your team aware of reporting from mainstream media outlets, such as New York Times, regarding coordinated inauthentic behavior or networks of these inauthentic accounts?

A Generally, we'll remain abreast to the news.

Q Has there been instances where a manager has ever mentioned the news reports?

A A manager at --

Q At Meta. Excuse me.

A A manager. News reports have certainly been flagged for review to see whether they comport with the activity on the platform.

Q Okay. So, if there's reporting on something, that might be sufficient to trigger your investigative team to take a look. Is that what you're saying?

A In some cases, external reporting might be the genesis of an internal investigation to try and understand whether that activity is in fact occurring on the platform.

[redacted] If we can do exhibit 923.

And we can take these back. Thank you.

This will be exhibit 14.

[[redacted] Exhibit No. 14

Was marked for identification.]

[redacted] Thank you.

[Discussion off the record.]

BY [redacted]

Q Do you recognize this email exchange?

A I don't remember this specific email exchange, no.

Q If I could call your attention -- this will be the third sentence in the first paragraph: At the time, the network, which shared specific persona across networks, had been suspended by both TikTok and Twitter. Since March, I've also worked with Google to have a number of very large YouTube accounts suspended, which were also clearly part of the same network. Next week, the Kyiv Post will be doing a piece on these accounts, so I wanted to reach out to you one final time to try to understand why these accounts have been suspended by TikTok, Twitter, and YouTube, but remain active on Instagram.

Do you recall this complaint being raised to your team?

A I don't. And I'm not certain if I ever replied to these emails either.

Q Do you know how frequently Dr. Linvill reached out to you?

A I don't know off the top of my head how often he emailed me.

Q Did you receive a number of communications like this from other researchers?

A This is generally consistent with the type of inbound we might receive from external researchers.

Q If you receive a message from a researcher that mentions a number of other networks that have taken down a post, is that factored into your team's analysis?

A It's not. So our content policies around coordinated inauthentic behavior are specific to behavior on Facebook. And so we would need to see policy-violating activity on Facebook that met our evidentiary threshold.

Q Are there -- is it your understanding whether other platforms have a higher or lower threshold than Meta?

A I don't know. I wouldn't want to speculate on their policy adjudication process as I don't have visibility into it.

Q Have you had a contact with Dr. Kate Starbird with the Center for an Informed Public? Is she one of the researchers that you share information on?

A So she -- two questions. Which one do you want me to start with?

Q I'll start with, do you know who Dr. Kate Starbird is?

A I do know who she is, yes.

Q And have you had communications with her?

A I have met her, I think, once or twice.

Q And do you share information with her or her organization with the

University of Washington?

A I don't recall sharing information with her or the University of Washington about CIB work.

Q You did not?

A I don't recall.

Q Oh, sorry.

[redacted] He said he didn't recall.

[redacted] Yeah.

Do you have any further questions?

[redacted] No. I think we're good.

[redacted] No further questions.

We can go off the record.

[Whereupon, at 3:28 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

Transcribed Interview Transcript Errata Form

Interviewee	[redacted] – META
Date of Interview	MAY 16, 2023
Date of Review	JUNE 10, 2024
Name of Reviewer	[redacted] – KIRKLAND & ELLIS
Signature of Reviewer	[redacted]

Page	[redacted]	[redacted]ed Correction
9		capitalize witness' title
10		↓ same
11		↓ same re: [redacted]
12		↓ same

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: JAMES CLAPPER

Wednesday, May 17, 2023

Washington, D.C.

The interview in the above matter was held in room 2237, Rayburn House Office Building, commencing at 10:02 a.m.

Present: Representatives Jordan, Gaetz, Hageman, Johnson of Louisiana, Spartz,

Stewart, and Goldman.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

[redacted], GENERAL COUNSEL

[redacted], PRESS ASSISTANT

[redacted], COUNSEL

[redacted], CHIEF COUNSEL FOR OVERSIGHT

[redacted], SPECIAL COUNSEL

[redacted], SENIOR SPECIAL COUNSEL

[redacted], PROFESSIONAL STAFF MEMBER

[redacted], DIGITAL DIRECTOR

[redacted], MINORITY CHIEF OVERSIGHT COUNSEL

[redacted], MINORITY INTERN

[redacted], MINORITY COUNSEL

[redacted], MINORITY STAFF ASSISTANT

[redacted], MINORITY OVERSIGHT COUNSEL

For the PERMANENT SELECT COMMITTEE ON INTELLIGENCE:

[redacted], STAFF DIRECTOR,

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

[redacted], STAFF DIRECTOR,

SUBCOMMITTEE ON THE CENTRAL INTELLIGENCE AGENCY

[redacted], SENIOR COUNSEL

For JAMES CLAPPER:

HAYDN FORREST

ROBERT S. LITT

MORRISON FOERSTER

2100 L STREET NW

SUITE 900

WASHINGTON, DC 20037

Mr. [redacted]. Good morning. This is a transcribed interview of former Director of National Intelligence James Clapper. Chairman Jordan and Chairman Turner have requested this interview as part of the committee's investigation of Federal law enforcement and intelligence matters within our respective jurisdictions.

Would the witness please state your name for the record?

Mr. Clapper. James Clapper.

Mr. [redacted]. I understand you're here with two of your lawyers. Could they please introduce themselves for the record?

Mr. Litt. Robert Litt from Morrison and Foerster.

Mr. Forrest. Haydn Forrest, also Morrison Foerster.

Mr. [redacted]. This investigation serves to inform potential legislative reforms within the jurisdictions of our respective committees.

On behalf of both chairmen, I want to thank you for appearing here today to answer our questions, especially that you're here voluntarily.

My name is [redacted] with Mr. Jordan's House Judiciary Committee staff. I'm now going to have the staffers in the room introduce themselves, starting with my colleague, Ms. [redacted].

Ms. [redacted]. [redacted], counsel with House Intelligence.

Mr. [redacted]. [redacted], senior special counsel, House Judiciary Committee, Mr. Jordan.

Ms. [redacted] [redacted], counsel for the majority staff, House Judiciary Committee.

Mr. [redacted] [redacted], special counsel for the House Judiciary majority, Chairman Jordan.

Mr. [redacted]. [redacted], staff for the Judiciary majority.

Mr. [redacted]. Ms. [redacted]?

Ms. [redacted]. [redacted], chief oversight counsel for the House Judiciary Committee Democratic staff.

Mr. [redacted]. [redacted], House Intel minority general counsel.

Ms. [redacted]. [redacted], counsel for the Judiciary Committee Democrats.

Ms. [redacted]. [redacted], House Judiciary minority.

Ms. [redacted]. [redacted], House Judiciary minority.

Mr. [redacted]. [redacted], with the majority on House Intelligence.

Mr. [redacted]. [redacted], subcommittee staff director, CIA Subcommittee, House Intelligence Committee.

Mr. [redacted]. We have some of our members here today. I'll have them introduce themselves as well.

Chairman Jordan. Jim Jordan.

Mr. Gaetz. Matt Gaetz.

Mr. Biggs. Andy Biggs.

Mrs. Spartz. Victoria Spartz.

Mr. [redacted]. I'll go over the ground rules and guidelines that we'll follow during today's interview.

Our questioning will proceed in rounds. The majority staff and members will ask questions first for one hour, and then the minority will have an opportunity, both their staff and their members, to ask questions for an hour as well.

We'll alternate back and forth. The staff will physically move around, so we're close to the court reporter. And we can take a short break at the end of each hour. If you'd like to take additional breaks, that's fine too. Please let us know.

Certainly, if you need to confer with your counsel, we'll go off the record and you

can do that whenever you want. You can also go to the other parts of the room if that's interesting or necessary.

As you can see, there's an official court reporter here taking down everything we say to make a written record. We ask that you give verbal responses to our questions. Do you understand that?

Mr. Clapper. Yes.

Mr. [redacted]. So the court reporter can capture a complete record, we will do our best to limit the number of people directing questions at you at any given point. From time to time, we will inevitably talk over one another, so we may have to go back and restate a question for you, and we'll try to avoid that.

We want you to answer our questions in the most complete and truthful manner as possible, so we will take our time. If you have any questions or if do not understand one of our questions, please let us know. Our questions will cover a wide range of topics, so if you need a clarification, just say so.

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

The Federal Rules of Evidence aren't applicable here. So if you have some hearsay information, you can tell us, and just tell us how you came to understand that.

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

Mr. Clapper. Yes, I do.

Mr. [redacted]. Okay. And along those lines, 18 United States Code 1001, the false statements statute, relates to that. Do you understand that as well?

Mr. Clapper. Yes.

Mr. [redacted]. And, sir, we mean no disrespect by mentioning that. It's part of our standard welcoming remarks. So thank you.

We'll probably have exhibits here today, and at the end of the process we will collect them, even if they happen to be an exhibit that is a document that you've provided. We would just like to keep the proceedings as confidential as we can.

Ms. [redacted], do you have any opening remarks on your end?

Ms. [redacted]. No. Just thank you to the witness for joining us today and taking time out of your schedule.

Mr. [redacted]. And, Mr. Litt, do you have a --

Mr. Litt. Yes, I do have a short statement. Thank you.

Mr. [redacted] Please.

Mr. Litt. I do want to make clear that we continue to believe that this inquiry has no legitimate legislative purpose. Congress has no right of oversight over statements by private citizens on matters of public interest, even if the members may disagree with those statements.

As Chairman Jordan has said, and I have said this before, but I'll repeat it, the most important right we have as American citizens under the First Amendment is our right to speak, our right to communicate in a political fashion, and not be attacked, harassed for doing so.

So long as they do not disclose classified information, former national security officials or individuals with security clearances have the same First Amendment rights as the rest of us. Indeed, the public is entitled to have the benefit of their decades of expertise on matters touching on our national security.

Nonetheless, and without waiving any rights he has, General Clapper is prepared

to answer your questions about the statement he signed in October 2020 concerning the New York Post's reporting about Hunter Biden as requested in the committee's letter of February 26th, 2020 -- sorry, February 6th, 2023.

I do want to mention that General Clapper is a bit hard of hearing because of numerous reconnaissance flights he took in planes without soundproofing. So I would ask that you speak clearly and loudly and understand that he may ask you to repeat questions.

Mr. [redacted]. Fair enough.

EXAMINATION

BY MR. [redacted]:

Q Director, what was the tenure that you served as the Director of National Intelligence?

A From August of 2010 to January 20th of 2017, six and a half years.

Q And what have you been doing since then?

A Well, I'm retired. I've done speeches. CNN. I have a contract with them. It's about to run out. Appearances at colleges and universities. Consulting. Typical things that retired geezers do.

Q Okay. Going to mark as exhibit 1 the public statement on the Hunter Biden laptop.

[Clapper Exhibit No. 1

Was marked for identification.]

BY MR. [redacted]:

Q Did you have any role in creating this statement?

A No. I suggested one minor edit, but I didn't draft it.

Q Okay. Do you know who did draft the statement?

A Michael Morell, I believe, led the effort. I think there were others involved, but principally Michael.

Q And how often do you interact with Mr. Morell?

A Aperiodically. Not frequently.

Q Do you know what --

A We are longstanding colleagues, when we both served in the intelligence community.

Q Okay. Do you know what role Marc Polymeropoulos played in the creation of the statement?

A I do not.

Q What was your reason for agreeing to sign on to the letter?

A For my part, it was simply to sound a warning that the Russians could possibly be involved, and that's all.

Q Okay. Did you have any knowledge that the Russians were involved?

A No, and I believe the letter said that. The statement said that. It just said the characteristics of this episode certainly lend themselves to the potential for the Russians to have been involved. And I say that after living up close and personal in their interference in the election in 2016.

Q But you had no knowledge that the Russians were involved?

A No.

Q Did you have any knowledge of whether the contents of the laptop were authentic?

A No.

Q Since you signed the statement, have you come to learn that the contents of the laptop are authentic?

A Well, some of them are, yes.

Q And some of them are not?

A And I say that -- I've not seen any official pronouncement on -- from the government, DOJ, FBI, or anyone else of an investigatory body about what the content of the -- the laptop's contents are.

Q And have you heard any official pronouncement from the Hunter Biden camp that anything on the laptop is not authentic?

A No, I don't believe I have.

Q If there were inauthentic materials on the laptop and the Biden camp -- Hunter Biden camp -- knew that, don't you think they would point that out publicly?

A I suppose so.

Q I'm going to refer you to the fourth paragraph of the statement.

A Uh-huh.

Q "It is for all these reasons that we write to say that the arrival on the U.S. political scene of emails purportedly belonging to Vice President Biden's son Hunter, much of it related to his time serving on the Board of the Ukrainian gas company Burisma, has all the classic earmarks of a Russian information operation."

Why do you think it had the classic earmarks of a Russia information operation?

A Well, the thing you think about is the capability, intent, the timing, the involvement of Rudy Giuliani, and this Ukrainian businessman who had connections with Russian intelligence services. Certainly the timing just before the election is certainly reminiscent of what I saw the Russians do in the run-up to the election in 2016.

And it was for that reason I signed on to the letter as -- which for me was a warning that the dark hand of the Russians could be involved here.

Q Did you have any communications with any of the signatories of the letter about signing the letter?

A Other than Michael Morell, no.

Q And you just had one email with him? Or how many emails do you recall having?

A Half a dozen or so back and forth.

[Clapper Exhibit No. 2

Was marked for identification.]

Mr. [redacted]. This is exhibit No. 2.

BY MR. [redacted]:

Q I want to call your attention to your email, it's the second one down in this document, from Sunday, October 18th.

"Michael, I'll gladly sign on. I said as much on CNN Friday evening. I have one editorial suggestion for the letter: I think it would strengthen the verbiage if you say this has all the classic earmarks of a Soviet/Russian information operation rather than the 'feel' of a Russian operation."

Can you help us understand why you suggested that edit?

A I just thought it was better wording.

Q Okay. And did you -- were you -- could you tell us your understanding of the difference between an information operation and a disinformation operation?

A Well, I think that's kind of an arcane definition, for me at least. I think it's any time the Russians or any other adversary nation-state attempt to manipulate data, obtain it, slant it, in the interest of their own -- pursuing their own national interest, that is a form of Russian information operations.

Q And how about disinformation? What would that be?

A Well, to me it's somewhat of a distinction without a difference. I think it's the same general business of manipulating or of tainting, slanting information with a view towards changing opinion.

Q Okay. Going back to the statement, the next paragraph down.

"We want to emphasize that we do not know if the emails provided to the New York Post by President Trump's personal attorney, Rudy Giuliani, are genuine or not, and that we do not have evidence of Russian involvement. Just that our experience makes us deeply suspicious that the Russian Government played a significant role in this case."

I want to ask you about the use of the word 'significant.' Why did you think the Russian Government played a significant role?

A Again, I don't ascribe a whole lot of gradation to that term. If the Russians were involved at all, that's significant. If a foreign government is involved in our election process or attempting to be involved in the election process, that in itself, in my mind, is significant.

Q Sitting here today, though, we don't have any evidence that the Russians were involved in this, do we?

A Not to my knowledge.

Q Okay. The use of "President Trump's personal attorney, Rudy Giuliani," in this paragraph, do you know if that was used in a pejorative way?

Mr. Litt. What do you mean by pejorative?

Mr. Clapper. Yeah. What do you mean by --

BY MR. [redacted]:

Q Were they trying to draw attention that because this is a Trump ally that --

A Well, who had been involved with the Ukrainians, et cetera, yeah. I think that probably raised concerns on the part of many in the group that signed the

statement.

Q And what's your awareness of Mr. Giuliani's involvement with Ukrainians?

A Well, he was in and out of Ukraine. And as I understand it, what I took away from what I read after I left the government, was looking for dirt on political opponents.

Q Were you aware of Hunter Biden's Burisma involvement before this letter was presented to you?

A Not really.

Q Do you recall back in the fall of 2019 news came to light during the impeachment proceedings that Hunter Biden had been placed on the board of Burisma and was paid quite a hefty amount of money to serve on the board? Were you aware of that?

A I think I recall that, yeah.

Q And during that time period it came to light that the duties he was performing on the board weren't specified, and it didn't seem that he was doing anything for that money. Do you remember that?

A No, I don't. And if that's -- I don't know if that --

Mr. Litt. "No, I don't" is enough.

Mr. Clapper. -- is necessarily illegal. But I don't know the specifics of what he did.

BY MR. [redacted]:

Q So if the son of a Presidential candidate is being paid a boatload of money for doing nothing, is that something that ought to be fair game for discussing during a Presidential election?

A Well, I guess it depends. I don't know.

Q If a son of a -- or daughter of a Presidential candidate is trading on their parent's name, taking in boatloads of money, I mean, isn't that a problem?

A Well, it could be.

Q It's certainly something worth examining, correct, by the voters?

A I suppose.

Q When the New York Post story first came out identifying the laptop, did you read the story?

A I think I did, yes.

Q And were you -- did you have any other awareness of the story other than the New York Post telling of it?

A I don't think so. Well, other than other media that echoed it.

Q Did you have any communications with anyone outside of the emails that you produced about the Hunter Biden laptop, not specifically about the statement, but about the authenticity of the contents on the laptop?

A I don't recall any such dialogue.

Q Did you do any Google searches, or did you try to educate yourself, research on the issue before deciding to sign on?

A Not other than what I had read in -- I do read a lot of media each day. But I didn't do a Google search, no.

Chairman Jordan. What did you base your -- you said that the Friday before this Sunday email where you agree to sign the letter, you said, you said as much as what was in the letter in an interview on CNN. What did you base that on, just the fact that you read this story?

Mr. Clapper. Well, what I'd -- yes, what I'd read of the story. And I was on Erin Burnett, I think, on CNN the previous Friday for a pretty short interview.

Chairman Jordan. And you said in that interview you thought this was a Russian information operation?

Mr. Clapper. Yes, I did.

Chairman Jordan. Okay.

BY MR. [redacted]:

Q Did you have any role in collecting signatories for the letter?

A No.

Q Did you have any communications with Mr. Morell about who would be signing and who ought to be signing?

A Not that I remember specifically. I don't recall pulsing him, asking him about that.

Q Were you aware before Mr. Morell put this plan into place he had received a communication from Tony Blinken?

A Not contemporaneously. I learned that many months later.

Q And at the time, Mr. Blinken was associated with the Biden campaign?

A That's right.

Chairman Jordan. "Many months later," meaning when, Director?

Mr. Clapper. Huh?

Chairman Jordan. "Many months later," meaning when?

Mr. Clapper. Oh, I don't remember, Mr. Jordan, but it was at least a year after.

Chairman Jordan. But prior to the investigation we've been doing where it's become public that Mr. Morell had communicated with Secretary Blinken?

Mr. Clapper. Yeah, I had learned before it became public, yes.

Chairman Jordan. And how did you learn that?

Mr. Clapper. John Brennan told me.

Chairman Jordan. So more than a year ago, Mr. Brennan told you that --

Mr. Clapper. No, I don't -- I'd say it was more than a year after the letter. I don't remember the exact date when he told me that.

Chairman Jordan. Okay.

Mr. Clapper. It was a matter of months ago, I guess. But I don't remember the date, but it was well after.

Chairman Jordan. And what did Mr. Brennan tell you at the time?

Mr. Clapper. He just told me that Tony Bliken had reached out to Michael about putting together a public statement.

BY MR. [redacted]:

Q I want to go to exhibit 2 and flip to the second page. And this is the email from Morell and Polymeropoulous. I'll read it.

"Mark and I drafted the attached because we believe the Russians were involved in some way in the Hunter Biden email issue and because we think Trump will attack Biden on the issue at this week's debate and we want to give the VP a talking point to use in response."

Do you remember that as being one of the reasons you decided to sign on?

A It wasn't one of the reasons. My reason was purely a warning about Russian involvement. And that, I guess, goes to my long experience as a Cold War warrior and again witnessing what they did in 2016. It had nothing to do with talking points.

Q Okay. But you certainly are not a -- are not or were not a supporter of President Trump. Is that correct?

A That's correct.

Q And you were a supporter of then Vice President or the candidate Biden?

A Yes, I was.

Q Okay. So it certainly was a positive thing in your mind, was it not, to give the Vice President a talking point in the debate?

A I didn't seize on that point. I just didn't dwell on it.

Q Were you aware that after the article was published and after the Vice President had that talking point for the debate, a senior campaign official, Mr. Ricchetti, reached out to Morell to thank him?

A Was I aware of that?

Q Yes.

A No.

Q So what we've come to learn is that what Mr. Morell put in place had all the classic earmarks of a classic political operation. Is that a fair characterization, looking back on things?

A Well, it depends on your definition of political, I guess. Was there something wrong with that?

Q Not saying there is. I'm just asking your views on that, whether you think, looking back, this was a political operation.

A I don't have a view on that.

Q Going back to exhibit 1, the statement. The first paragraph sort of establishes the credentials of the signatories. It says, "We are all individuals who devoted significant portions of our lives to national security. Some of us served in senior positions in policy departments and agencies, and some of us served in senior positions in the Intelligence Community. Some of us were political appointees, and some were career officials. Many of us worked for presidents of both parties."

This introduction clearly -- and correct me if I'm wrong -- is trying to make the case

that the signatories have spent significant portions of their careers in national security and have an expertise in identifying things like Russian information operations. Is that fair to say?

A Yes.

Q And is it also fair to say that the list of signatories certainly contains some big names. I mean, yourself, obviously, very well-known individual, former Director of National Intelligence. Former Director of the CIA Mr. Hayden, also very well known. Same with former Director Panetta, former Director Brennan, and Mr. Morell. There's sort of a long list of people here that have well-known and well-understood credentials. Is that fair to say?

A Yes.

Q So when they sign their name to a statement, isn't it also fair to say that readers of this ought to trust them?

A Well, I guess that's the implicit hope.

Q That what they're saying in the statement isn't just likely true, but it's very likely to be true and accurate given their experience?

A All we said, in my mind, was watch out, the Russians could be involved here.

Q The third to last paragraph on the first page of the exhibit 1, "If we are right," it states, "this is Russia trying to influence how Americans vote in this election. And we believe strongly that Americans need to be aware of this."

But as it turns out, you were not right. Is that fair to say?

A Well, from the evidence I have now, that's a fair statement. But again, I have not seen or heard the official outcome of a forensic -- a legitimate forensic analysis of the laptop.

Q Flipping over to the second page, again this is the third to last paragraph

before your signature -- and you're listed first on the letter, aren't you?

A Yes.

Q Third to last paragraph states, "Our view that the Russians are involved in the Hunter Biden email issue is consistent with two other significant data points. According to the Washington Post, citing four sources, 'Intelligence agencies were warned the White House last year that Giuliani was a target of influence operations by Russian intelligence.'"

Mr. Litt. Just to be clear, it says intelligence agencies warned the White House, not were warned.

Mr. [redacted]. My apologies.

Mr. Litt. It makes a difference.

Mr. [redacted]. That was unintentional.

Mr. Litt. I know.

BY MR. [redacted]:

Q Did you share that view, when it said "our view"?

A Yeah, I did.

Q And why did you share that view?

A Well, again, just the general appearance here and the fact that Giuliani was alleged to be a target of influence operations by the Russians. That would be very consistent with what the Russians try to do.

Q Did you have any awareness of how the press operation was going to work from -- I understand that Mr. Shapiro had a role in taking the statement and shopping it to various news outlets?

A No, I did not.

Q Did you have any -- you have no information on that?

A I did not.

Q So you didn't know that he was instructed or suggested by Mr. Morell to go to a particular reporter --

A No.

Q -- at The Washington Post?

Mr. Litt. Let him finish the question.

Mr. Clapper. No, I didn't.

Mr. [redacted]. And, ultimately, that reporter at The Washington Post that was referred by Mr. Morell through the campaign decided not to report on it. Did you know that?

Mr. Clapper. No, I did not.

Mr. [redacted]. Ultimately, Politico did run the story.

Do we have that?

Mr. Biggs. While you're getting it, can I ask a question --

Mr. [redacted]. Of course.

Mr. Biggs. -- of Mr. Clapper about that, the quote that [redacted] just read to you?

"According to The Washington Post, citing four sources, quote, 'U.S. intelligence agencies warned the White House last year.'"

Did you have any independent knowledge that U.S. intelligence agencies had warned the White House?

Mr. Clapper. No, sir, I didn't.

Mr. Biggs. Okay.

[Clapper Exhibit No. 3

Was marked for identification.]

BY MR. [redacted]:

Q Here's the Politico story. And this is only -- among the reporters that Mr. Shapiro is trying to shop the letter to, this is the outlet that he had success with. And the headline is interesting, and a lot of the witnesses that we've spoken to have said -- have disputed the headline. So I wanted to get your reaction to the headline.

The headline reads, "Hunter Biden story is Russian disinfo, dozens of former intel officials say." I wanted to get your reaction on that.

A Well, that was -- the headline was precisely my problem with this article. The article itself -- the content of the article is pretty good. But the definitive statement, "is Russian disinformation," was not -- does not comport with what I thought the intent of the letter was, which was to say they could be. Big difference.

Q And there was also -- and correct me if I'm wrong -- it was could be a Russian information operation as opposed to disinformation?

A Well, whatever floats your boat on the definition, yeah.

Q Well, you certainly are a respected enough person in this terrain to have a view on the difference between disinformation and information. What some witnesses have represented to us is that disinformation is false or bad or manipulated information that's pushed out, where information may be accurate information that is pushed out by maybe a bad actor.

Mr. Litt. I think he gave you his understanding of the difference before.

Mr. [redacted]. Do you have anything to add?

Mr. Clapper. No, I don't.

Mr. [redacted]. Okay. Mr. Stewart, I wanted to give you an opportunity to ask.

Mr. Stewart. Just very briefly along these lines of questioning. After -- well, within the last month or so, you said -- and I'm quoting here, I believe -- "Politico deliberately distorted what we said." Is that your belief?

Mr. Clapper. No. That's the headline. That's what I was referring to.

Mr. Stewart. Did that bother you?

Mr. Clapper. Well, sure.

Mr. Stewart. So you felt it misrepresented the intent of the letter?

Mr. Clapper. The headline did, yeah. Not the article itself.

Mr. Stewart. Did you ever make any public comment to try to correct that?

Mr. Clapper. No.

Mr. Stewart. You knew it was picked up by dozens, perhaps hundreds of other media outlets. Again, did you ever try to correct the record on the Politico headline?

Mr. Clapper. No, I did not.

Mr. Stewart. Did you watch the Presidential debate that took place a few days after the release of your letter?

Mr. Clapper. I did not actually see that debate. No, sir.

Mr. Stewart. You've surely seen reference to it or clips of it, I would imagine, when President Biden --

Mr. Clapper. Yes.

Mr. Stewart. He said, referring to your letter, your letter gave him the credibility to say that the Hunter Biden laptop story was, quote, "a bunch of garage, a Russian plan, a smear campaign."

Did you ever try to correct the record that that wasn't accurate either?

Mr. Clapper. No, I did not.

Mr. Stewart. How come?

Mr. Clapper. I just -- well, if I were to spend my time correcting headlines in the news, I'd be spending a lot of time doing that.

Mr. Stewart. But this is a headline directly attributable to your and your efforts.

It reflected your view on things, and you didn't feel it was accurate. And it clearly had a political intent or purpose or an outcome to it. Why would you not correct in that case?

Mr. Clapper. I just didn't, Mr. Stewart. I just didn't.

Mr. Stewart. But I'm asking why.

Mr. Clapper. I don't have an explanation. I just didn't bother.

Mr. Stewart. Did you feel -- were you pleased that the President could call the Hunter Biden laptop story a bunch of garbage and a Russian plan? Was that, did you feel, a benefit?

Mr. Clapper. Well, I think the Politico article misrepresented -- I think there was some misrepresentation in there too. Again, the definitive statement is quite different from the import -- the intent that I had, at least, which was they could be involved.

Mr. Stewart. Okay. Just a couple of things I'd like to follow up on.

Earlier in your comments here, you said you believe there were some things on the laptop that were actually authentic. Do you have examples of that?

Mr. Clapper. I'm sorry?

Mr. Stewart. Unless I misheard you, I think you said that you believe there were some things on the laptop that were actually authentic, some information was actually authentic.

Mr. Clapper. I don't have any way of assessing what's on the laptop and whether it's valid or not. I never had access to the laptop. Never seen a case report or statement about it.

Mr. Stewart. I just want to make sure I understand what you're saying. Maybe I misheard, or maybe you misspoke.

So you don't believe you have any evidence or examples of anything on the laptop that's actually proven to be authentic?

Mr. Clapper. No, I don't, one way or the other, either valid or invalid.

Mr. Stewart. Okay. You've spoken at great length and referenced here a couple times about your experience, which is, I have no question or doubt about, in Russian interference and their malicious intent.

In particular in 2016, in the U.S. election, give us an example of something Russia did to interfere with the U.S. election in 2016.

Mr. Clapper. Well, they had a very aggressive and in-depth campaign to influence opinion to sow doubt, discord, and distrust among the American people. And I believe they clearly favored one candidate, Mr. Trump, and wanted to do all they could to help him win, and they disfavored the other candidate, Hillary Clinton, and wanted to do all they could to hurt her.

And the intelligence information, as you know, from our intelligence community assessment, I thought laid it out fairly well, particularly the highly classified version?

Mr. Stewart. Okay. So one thing. The ICA has been cast into doubt. I'm sure you know that. But putting that aside, because we can't discuss that here, I'm asking if you have examples, specific things that Russia did to interfere in our 2016 election?

Mr. Clapper. Well, they had -- the efforts they made to influence opinion and to cast doubt on the efficacy of the election to discourage people from voting, and they focused on three key States where the margin was, like, 80 votes. And they did a very good job of analyzing and assessing our political landscape and tried to exploit it.

Mr. Stewart. What did they do in those three key States?

Mr. Clapper. Well, they tried to discourage minority voting.

Mr. Stewart. How?

Mr. Clapper. By casting doubt on the sanctity of the election process and

discouraging people from voting.

Mr. Stewart. But how?

Mr. Clapper. By putting out social media. They're very good at it.

Mr. Stewart. Do you know how much Russia spent on social media, the IC's assessment on how much Russia spent on social media?

Mr. Clapper. I don't recall. I don't know if we had a number --

Mr. Stewart. Would it surprise you if I told you that out of a campaign that spent more than a billion dollars, the entire Russian budget on social media across the entire country, across the entire campaign, was less than $180,000?

Mr. Clapper. Well, they were very effective.

Mr. Stewart. So in a billion-dollar budget, you would argue that $180,000 persuaded 80,000 people to change their vote?

Mr. Litt. I don't think he said that.

Mr. Clapper. I don't believe I said that.

Mr. Stewart. That's a question. I'm not saying you said that. It's a question.

Mr. Clapper. Well, there's no way to know that, the answer to that, unless we go back and query, interrogate the 80,000 voters --

Mr. Stewart. There is no way to know that.

Mr. Clapper. -- [crosstalk] affected your vote? And there's no way to do that.

Mr. Stewart. You're right. I agree with you. There is no way to know that. But you said in a statement, again, about the time, "I would call my informed opinion that, given the massive effort the Russians made, and the number of citizens that they touched, and the variety of multidimensional aspects," of which we've only been able to name one and that's a social media campaign, of which they spent some tiny fraction of 1 percent.

Mr. Clapper. Well, they --

Mr. Stewart. If I could just complete your statement.

"And given the fact that it turned on less than 80,000 votes in three States, to me it just exceeds logic and credulity that they didn't affect the outcome. And it's my belief they actually turned" the outcome.

But you just said a minute ago that you didn't believe we could know that.

Mr. Clapper. That's my opinion, but I can't prove it empirically.

Mr. Stewart. All right. Last question.

Do you believe to this day that the Russian -- it was a Russian disinformation campaign to affect the election, that they tried to do that through the Hunter Biden laptop and release the information on it?

Mr. Clapper. I believe they could have.

Mr. Stewart. But do you believe they did?

Mr. Clapper. Well, I don't know. I'd just say -- all I was suggesting and the reason I signed on the letter is just to introduce the possibility.

Mr. Stewart. But again, I'm not asking a reference to the time you signed the letter. We can understand there was confusion at times. I'm asking, with what you know now and the information you've surely read and been exposed to in the last 2 years, do you believe that this was a Russian disinformation campaign?

Mr. Clapper. I don't know, Congressman. I honestly don't.

Mr. Stewart. You can't make a conclusion about that?

Mr. Clapper. No, I can't.

Mr. Stewart. So you have -- and I want to say this gently and respectfully -- but you have cited your background and your experience in Russian disinformation, you've had 2 years to evaluate the evidence, and you still have no conclusion as to whether this

was a Russian disinformation campaign?

Mr. Clapper. I have not had access to the laptop, myself, and I don't know any results of a legitimate forensic analysis of it. Again, all I was suggesting of the possibility that Russians could be involved. I didn't say they were.

Mr. Stewart. So at this point, you would think it would be valid for us to continue to investigate the Hunter Biden laptop as possible Russian disinformation?

Mr. Clapper. Certainly.

Mr. Stewart. Okay. And do you regret signing the letter?

Mr. Clapper. No.

Mr. Stewart. Still not. With all the information available to you now, you still don't regret it?

Mr. Clapper. No. This is two and a half years ago.

Mr. Stewart. But with the information available to you now, do you wish you could go back and say, you know, I wish I wouldn't --.

Mr. Clapper. No, I don't. I do wish we added a statement in the letter that said something along the lines of, "We will of course abide by the results of a legitimate forensic analysis of the laptop." I think that would have strengthened the letter.

Mr. Stewart. Okay. I'll conclude.

You were the Director of National Intelligence, DIA, and others. You had to make decisions about the authenticity of information and intelligence every single day. And I got to tell you, it stuns me that you won't make an analysis or a conclusion on two years of being able to evaluate this information --

Mr. Clapper. I don't have any way of making an analysis, Congressman. I don't have any inside baseball access to that.

Mr. Stewart. I yield, Mr. Chairman.

Mr. [redacted]. Mr. Biggs, sir.

Mr. Biggs. Before we leave the Politico article, if I understand you right, the problem that you had with the article was that the Hunter Biden story is Russian disinfo, and you thought that was too direct and emphatic.

Mr. Clapper. That's right.

Mr. Biggs. And did that make you comfortable with the rest of the article?

Mr. Clapper. Well, I thought it was pretty good.

Mr. Biggs. And so I'm just asking for clarification, I'm not trying to put you on the spot, except for the second to the last paragraph of this article, which talks about Biden advisers during his vice presidency who said that basically they've rejected the suggestion that Biden ever met with a representative of Burisma in 2015 or has otherwise been involved in Hunter Biden's business interests.

Mr. Clapper. I'm sorry, sir, which --

Mr. Biggs. The second to last paragraph.

Mr. Clapper. Okay.

Mr. Litt. Take a second to read it.

Mr. Biggs. I'll let you read it.

Mr. Litt. Just read that paragraph to yourself.

Mr. Clapper. Okay.

Mr. Biggs. Yeah. So I guess my question is, you didn't have any direct evidence as a former intelligence official about Biden going to Burisma at all in the -- I mean, going to Ukraine at all in 2015 and meeting with Burisma? You had no intel information about that at all? You had nothing corroborating or --

Mr. Clapper. In 2015 you're talking about?

Mr. Biggs. Yeah, at all, ever.

Mr. Clapper. No.

Mr. Biggs. Okay. And you were comfortable with this paragraph?

Mr. Clapper. No information one way or the other.

Mr. Biggs. Okay.

Mrs. Spartz. So the Hunter and Burisma situation never was brought up to you as the Director of National Intelligence, never brought up internally --

Mr. Clapper. I can't hear her.

Mr. Litt. She's asking you whether the Hunter Biden Burisma situation was never brought to your attention when you were Director of National Intelligence.

Mr. Clapper. No.

Mrs. Spartz. Have you ever actually noticed that Natasha Bertrand, were you aware, was actually the same person who planted the Steele Dossier, which happened to be a hoax? Were you aware of that, the same reporter?

Mr. Clapper. The same?

Mrs. Spartz. Natasha Bertrand.

Mr. Clapper. I apologize for the hearing.

Mr. Litt. She's asking you whether you knew that Natasha Bertrand of Politico, who wrote this story here, was the same reporter who broke the story about the Steele Dossier.

Is that what you were asking?

Mrs. Spartz. Yes.

Mr. Clapper. No, I didn't know that.

Mrs. Spartz. So you wanted to strengthen the verbiage, use the credibility of your office. What kind of due diligence did you do?

Mr. Litt. On what?

Mr. Clapper. On what?

Mrs. Spartz. Signing this letter. What due diligence did you do at all?

Mr. Clapper. Well, the only due diligence I could do was what I was aware of in the media and my concerns that the Russians could be involved.

Mrs. Spartz. So you never checked anything? What you did? Did you google something? Did you do anything?

Mr. Clapper. I'm sorry.

Mrs. Spartz. What type of diligence? You put your name on the letter.

Mr. Litt. She's asking what kind of due diligence you did before signing the letter. Fair?

Mrs. Spartz. Yeah.

Mr. Clapper. Well, I thought that the letter was a fair warning of potential Russian involvement. That's all it was.

Mrs. Spartz. So you did none?

Mr. Clapper. Well, I didn't present it, nor did I think it was a fact that the Russians were involved. I was just concerned that they might have been. I don't know how much due diligence you need to do for that. It certainly rang familiar bells for me from what I saw them do in 2016.

So I simply wanted to join in the warning that, watch out, this could be the dark hand of the Russians. That's all it was for me.

Mr. Gaetz. Mr. Director, you specifically drafted the language that the Hunter Biden laptop endeavor had all the classic earmarks of Soviet Russian information operations. Would you list those earmarks for the committee?

Mr. Clapper. Would I what?

Mr. Gaetz. Will you list those earmarks?

Mr. Clapper. Well, again, starting with Russian capability, intent, experience, what they did in 2020 to influence the outcome of our election.

Mr. Gaetz. I'm sorry, sir. Did you mean 2020 or 2016?

Mr. Clapper. 2016, excuse me.

Mr. Gaetz. There's what they did in 2016. What's the next one?

Mr. Clapper. The timing.

Mr. Gaetz. Okay.

Mr. Clapper. The involvement of -- what's the Ukrainian businessman's name, slips my mind right now, with Rudy Giuliani, who was the subject of Russian information operations influence.

So I thought there was enough there. And based on the long history of the Russians' involvement -- attempts to involve themselves in our elections, I thought it was fair to warn people about it.

Mr. Gaetz. Just so the committee fully understands how you think about the classic earmarks of a Russian information operation, would you consider the Steele Dossier a Russian information operation?

Mr. Clapper. Could have been, yes. That's why we didn't use it in our intelligence community assessment.

Mr. Gaetz. So, I mean, the Steele Dossier had similar timing to the Hunter Biden laptop with proximity to an election.

Mr. Clapper. Well, again, some thought that the Steele Dossier was a valid source. So there's always a debate about the fidelity and history of such documents.

Mr. Gaetz. Mr. Director, I appreciate your eagerness to answer my questions, but it makes it hard for the court reporter if we talk over each other. So I'm going to give you a chance to respond, and I just want a chance to get my questions out.

But I want to take these three criteria that you've laid out -- prior activity of the Russians, timing of the information, and involvement of shady characters who are the target of Russian intelligence operations -- I'm going to take those three criteria that you've applied to this letter in thinking about classic Russian information operations, and I'm going to apply each of those to the Steele Dossier and test whether or not your criteria are applied equally to everything or whether maybe you applied them differently based on the intent of the operation.

So as to timing, is it safe to say that the Steele Dossier merges with a similar proximity to a Presidential election as the Hunter Biden laptop?

Mr. Clapper. I think the difference, Mr. Gaetz, is I was in a responsible position at the time and had access to classified information and other information that helped us judge the credibility of the Steele Dossier.

I'm a private citizen now. I didn't have any access to classified information, which I did have at the time of the Steele Dossier when that was an issue as to whether we should draw on it or not as a valid intelligence source, and the judgment was not to. But that was a different context than this.

Mr. Gaetz. But that's an answer --

Mr. Clapper. I was out of the government for 6 years when -- or 4 years, I guess -- when this came up.

Mr. Gaetz. Mr. Director, that was an answer to a question, just not mine. My question is for you to help me delineate the distinction between the timing of the emergence of the Steele Dossier and the Hunter Biden laptop.

Mr. Clapper. Well, they're very similar.

Mr. Gaetz. Okay. Very similar.

Mr. Clapper. Yeah.

Mr. Gaetz. I appreciate that.

You made mention of also the involvement of entities that are the targets of Russian intelligence. You're aware that the subsources for the Steele Dossier were, in fact, targets of Russian intelligence, right?

Mr. Clapper. Yes, I did know that.

Mr. Gaetz. So another similarity.

Mr. Clapper. Yeah. I didn't know that in this case. I didn't know any inside baseball, any classified information whatsoever with respect to this matter.

Mr. Gaetz. You hold a --

Mr. Clapper. I did in the case of the Steele Dossier.

Mr. Gaetz. You hold a security clearance now, correct?

Mr. Clapper. I do.

Mr. Gaetz. And you held a security clearance when you signed the Hunter Biden letter, right?

Mr. Clapper. I'm sorry?

Mr. Gaetz. And you held a security clearance when you signed the Hunter Biden letter, right?

Mr. Clapper. Yes.

Mr. Gaetz. So how is the public -- I mean, I appreciate here, as you're sharing information to the committee, well, you signed the Hunter Biden laptop when you were just a private citizen holding a security clearance, but when the Steele Dossier, the basis of the Russia hoax, you were on the inside, so you had this whole different suite of information available to you.

Don't you think it's misleading to the public that 51 people who hold or have held security clearances sign a document in the throes of a Presidential contest with the

imprimatur of those clearances, isn't that confusing to the public?

Mr. Clapper. Well, I think the fact that people had extensive backgrounds in national security and some had clearances, some didn't, that sure, that would carry weight with the American public.

The fact that I or other formers have clearances doesn't mean we have access, day-to-day access, which we don't. It's used as -- if currently serving officials care to draw on our experience, which has happened to me occasionally, not very often, since I left government.

Mr. Gaetz. You work for CNN now?

Mr. Clapper. I do.

Mr. Gaetz. How long have you worked for CNN?

Mr. Clapper. I'm sorry?

Mr. Gaetz. How long have you worked for CNN?

Mr. Clapper. Since 2017.

Mr. Gaetz. So you understand the media, it's safe to say?

Mr. Clapper. Yeah. Yeah. I do now.

Mr. Gaetz. Well, would a reasonable person understand that this letter would be used in the media to try to get the public to believe that this was a Russian disinformation campaign regarding the Hunter laptop?

Mr. Clapper. My purpose was to warn the public that the Russians could be involved, a big difference. I didn't say they were. I said they could be.

Mr. Gaetz. And several of my colleagues have asked you whether or not, as you sit here today, you believe the Russians were involved, and you testified that you don't know because you have not seen an official pronouncement. Is that a correct understanding of your testimony?

Mr. Clapper. Well, I don't know that.

Mr. Gaetz. What type of official pronouncement --

Mr. Clapper. Well, if the --

Mr. Litt. Let him finish his question.

Mr. Gaetz. What is an official pronouncement?

Mr. Clapper. Well, if the Department of Justice or the FBI or some other legitimate credible source of -- who had done a credible forensic analysis -- certainly I would accept that. That's why I suggested that would be a good -- would have been a good fix -- a good addition to the letter had we said that.

Mr. Gaetz. Are you aware of Director Ratcliffe, the DNI at the time, contradicting the thrust of this letter you signed?

Mr. Clapper. Well, okay. He said that statement before, I think, an investigation had begun of the laptop. So I don't know where he's coming from making a statement like that.

Mr. Gaetz. Well, wait a second. Does there -- you defined an official pronouncement as a statement coming from the government. So why --

Mr. Litt. I think he said --

Mr. Clapper. Credible source.

Mr. Litt. I think he said more than that.

Mr. Gaetz. Okay. Let me ask the question this way.

Why was the statement from DNI Ratcliffe, someone who held the position that you previously held, insufficient to be an official pronouncement?

Mr. Clapper. Well, I don't consider him a credible source, a credible authority on intelligence matters.

Mr. Gaetz. Even though he was the Director of National Intelligence?

Mr. Clapper. That right.

Mr. Gaetz. Even though he held the same position you did?

Mr. Clapper. That's right.

Mr. Gaetz. And so an official pronouncement, according to James Clapper, is a statement from a government official who you put credibility in, not just a statement from a government official who held the position you held? Is that how we are to understand it?

Mr. Litt. You're mischaracterizing what he said before because he also talked about after a credible investigation as part of what he meant by an authoritative statement.

Mr. Gaetz. I'm trying to understand, Director Clapper, how you go about formulating what is sufficiently official. And so what is the test you use to determine whether or not something is official?

Mr. Clapper. Well, the credibility of the source. And I would consider an actual investigatory body, such as the FBI, who can do forensic analysis of computers and laptops, which the DNI cannot, I can attest. I would consider that credible.

Mr. Gaetz. So the credibility of the source is how you view it? Don't you think it's confusing when 51 presumably credible sources sign a letter saying something that we now have no evidence to --

Mr. Clapper. All we said was, in my view, that the Russians could -- again, in October of 2020 -- beware, the Russians could be involved here. That's all the letter was to me.

Mr. Gaetz. Well, wasn't the assembly of these 51 people the attempt to try to present a credible source to try to give Joe Biden a talking point in a debate?

Mr. Clapper. Well, that wasn't my intent. My intent was simply to warn of

potential Russian involvement.

Mr. Gaetz. You made mention --

Mr. Clapper. It wasn't to give anybody a talking point.

Mr. Gaetz. I'm sorry. You made mention earlier of a discussion you had with Secretary Blinken regarding the assembly of this letter?

Mr. Clapper. No, I didn't have any discussion with --

Mr. Gaetz. With John Brennan.

Mr. Clapper. Well, he -- John told me much later of the contact between Tony Bliken and Michael Morell.

Mr. Gaetz. Okay. And was that a phone conversation?

Mr. Clapper. Yes.

Mr. Gaetz. And who's your cell phone provider?

Mr. Clapper. I'm sorry?

Mr. Gaetz. Who's your cell phone provider?

Mr. Clapper. What?

Mr. Litt. Who is your cell phone provider, he wants to know.

Mr. Clapper. AT&T.

Mr. Gaetz. And how was the duration of that call?

Mr. Litt. If you recall.

Mr. Clapper. I don't remember. It wasn't very long.

Chairman Jordan. Do you know what prompted Mr. Brennan to tell you a year after this letter, to tell you the involvement of Tony Blinken and the Biden campaign with the assembling of the letter?

Mr. Clapper. I'm sorry, sir?

Chairman Jordan. What prompted Mr. Brennan to call you up and tell you that:

Hey, you know that letter we signed a year ago? Tony Blinken and the Biden campaign were involved in putting that together.

Mr. Clapper. Well, your interest and the letters you sent out, I think is what prompted.

Chairman Jordan. Oh, so that wasn't -- that wasn't -- that first happened here a couple months back.

Mr. Clapper. Yeah.

Chairman Jordan. Okay.

Mr. Biggs. Sir, can I ask a question? I want to link what Mr. Stewart asked you about and also what Mr. Gaetz asked you about.

Mr. Stewart was asking you about what happened in 2016, what were the experiences that led you to understand Russian interference. And what you specifically iterated was that there was 185,000, something like that, dollars in social media, and you really emphasized social media. Is that fair to say?

Mr. Clapper. Yeah. I don't remember that number, a dollar number being ascribed to the magnitude of the Russian effort in social media.

They also had a very aggressive campaign in RT, the radio/television network they run, which has a wide following in the United States.

Mr. Biggs. Okay. So -- but when you answered Mr. Stewart, you didn't mention RT. You mentioned social media.

Mr. Litt. I think Mr. Stewart asked him for an example and he gave an example. I don't think he was asked to exhaustively go over every fact that he relied upon. If you want him to do that, he can do the best he can several years later.

Mr. Biggs. I think he did ask that, and what he came up with was social media. So you and I can differ, and we'll go back on that.

But I'm curious about the social media vis-a-vis a laptop that has come into the hands of the Federal Government. How are those even remotely --

Mr. Clapper. Well --

Mr. Biggs. -- the same to your indicia of Russian interference?

Mr. Clapper. What I had in mind was potential manipulation of data, either infiltrating or exfiltrating data onto the laptop if the Russians had either direct or indirect access to it. It wasn't necessarily a social media thing.

Mr. Biggs. Okay. So you then undertook no action whatsoever, you didn't use any of the authorities that you have to do research, you didn't do any background research, and you've said that.

Mr. Clapper. Other than what I normally read day to day, and I try to stay up on current events. But I didn't specifically do a Google search, if that's what you mean.

Mr. Biggs. Or beyond, you didn't do anything more than a Google search.

Mr. Clapper. No.

Mr. Stewart. Can I follow up on that?

You have your classification, your security clearance still.

Mr. Clapper. I'm sorry?

Mr. Stewart. You still have your security clearance, you've already said.

Mr. Clapper. I believe so.

Mr. Stewart. If you had, previous to signing this letter, called any official who had access to classified information and said, "I'm considering signing a letter which says this is Russian disinformation, will you brief me on whether that is true or not?" do you think they would have briefed you?

Mr. Clapper. I don't know.

Mr. Stewart. Did you ever think about asking them?

Mr. Clapper. No, I did not.

Mr. Stewart. Why not?

Mr. Clapper. Because I didn't -- I wanted to do this strictly based on what I had seen in open -- open source, open media, and I didn't think it was appropriate, frankly, to do that.

[11:02 a.m.]

Mr. Stewart. Well, you're the former Director of National Intelligence, who's about to make a very public statement about a very specific thing that you were claiming is likely Russian disinformation, you had the clearance.

You could have requested a briefing on it. Why did you not even consider doing that?

Mr. Clapper. I didn't do it because I didn't think it was appropriate.

Mr. Stewart. Why?

Mr. Clapper. Because I didn't want to be tainted by or -- this, in any way, involved access to classified information.

Mr. Stewart. But why would it be tainted to try to find the truth before you signed --

Mr. Clapper. Bad choice of words. I didn't want -- I wanted only to go on what I had seen publicly. That's all. I didn't want any connection with classified information in any -- in any way.

Mr. Stewart. Well, it confuses me why you would be willing to sign a letter like this, and you had access to agencies who could have clarified it, and you didn't consider even nor make an effort to find out if what you were about to say was true or not.

Mr. Clapper. I thought it was proper and appropriate to sound a warning that the Russians could be involved. That's all.

Ms. Hageman. Can I ask a few questions?

Mr. [redacted]. Ms. Hageman.

Ms. Hageman. Yes. Mr. Clapper, you're aware that Hunter has conceded that the laptop is his, aren't you?

Mr. Clapper. Yes.

Ms. Hageman. And you're also aware that he's never denied that the information included on that laptop is his.

Mr. Clapper. Well, some of it, yeah, is his.

Ms. Hageman. What isn't his?

Mr. Clapper. I don't know. I don't know that I've seen the statement that says everything on the laptop is his.

Ms. Hageman. So in terms of this statement about you would need to see a report, say, from the FBI to conclude that it wasn't Russian misinformation --

Mr. Clapper. Well, if --

Ms. Hageman. -- we have -- we have the information from Hunter Biden pretty much confirms that, don't we?

Mr. Clapper. Okay.

Ms. Hageman. Okay. Why did you believe that the Hunter Biden laptop would pose a problem for Joe Biden in his quest to become President?

Mr. Clapper. I, frankly, didn't consider that.

Ms. Hageman. You didn't consider the contents of the laptop?

Mr. Clapper. No, I didn't, not in the content -- in connection with the campaign.

Ms. Hageman. Okay. There's a lot of information on that laptop that's very damaging to the Bidens, isn't it?

Mr. Clapper. I gather.

Ms. Hageman. Yeah. So if they there were heart emojis and photographs of tulips and skies and ponies and things like that, you probably wouldn't have bothered signing the letter with these other 50 folks who signed that letter, would you?

Mr. Clapper. Well, unless the possibility, I suppose, that Russians could have inserted some of this.

Ms. Hageman. So what you were concerned about, and the other 50 folks who signed that letter, you were concerned about the contents of the laptop and how that would affect Joe Biden as he was running for President.

Mr. Clapper. No.

Ms. Hageman. Isn't that right?

Mr. Clapper. No, that's not right.

Ms. Hageman. Okay. So if it just did heart emojis and a few things like that, you would -- you still would have signed the letter, claiming it was Russian misinformation?

Mr. Clapper. I'm sorry?

Ms. Hageman. If it had heart emojis and photographs of ponies and a few things like that, you still would have signed the letter, claiming that it was Russian misinformation?

Mr. Clapper. Well, it could have been.

Ms. Hageman. But would you have signed the letter? That's the question that I have.

Mr. Clapper. Yes, I would have.

Ms. Hageman. Okay. Interesting.

You now know and you've had an opportunity to review some of the materials that were included on that laptop, haven't you?

Mr. Clapper. Well, not in depth.

Ms. Hageman. I didn't ask in depth. I asked if you were aware of some of the information that's included on that laptop.

Mr. Clapper. I'm aware of what has been reported in the media about it, yes.

Ms. Hageman. Okay. And that information that has been reported in the

media is pretty damaging to the Biden family, isn't it?

Mr. Clapper. I would guess.

Ms. Hageman. You're not guessing. It, in fact, is a problem for the Biden family, isn't it?

Mr. Clapper. I suppose.

Ms. Hageman. Okay. Do you -- you have indicated you know Rick Grenell.

Or do you know Rick Grenell, who he is, Rick Grenell?

Mr. Clapper. No, I don't.

Ms. Hageman. Do you know who he is?

Mr. Clapper. Well, he served briefly as the Director of National Intelligence, former Ambassador to Germany.

Ms. Hageman. Okay. And you know who John Ratcliffe is.

Mr. Clapper. I do.

Ms. Hageman. Do you think that either one of them should have engaged in any activities that could have interfered with the 2020 election?

Mr. Litt. Do you mean when they were in office?

Ms. Hageman. In office or out of office, either one.

Do you believe that either one of them should have engaged in any activities that would be considered to be interference in the 2020 election? Do you think they should have done something like that?

Mr. Litt. I'm sorry. I have to ask again. What do you mean by interference?

Mr. Clapper. I don't understand the question.

Ms. Hageman. If they took any position, if they issued any letters, if they made any public statements that could have been considered interference in the 2020 election? Do you think they should have engaged in any behavior that could be considered

interference in the 2020 election?

Mr. Clapper. I don't understand the question. I'm sorry.

Ms. Hageman. Okay.

Mr. Litt. Well, you have to explain what you mean by interference. Are you asking about whether they could make any political statement relating to the election?

Ms. Hageman. Sure.

Mr. Litt. Do you think it's --

Mr. Clapper. Well, they probably shouldn't.

Ms. Hageman. They probably shouldn't.

They shouldn't have engaged in activities that could be considered interference in the 2020 election, right?

Mr. Clapper. Right.

Ms. Hageman. So then why did you do it 1234.

Mr. Clapper. Because I wasn't active.

Ms. Hageman. So it was okay --

Mr. Clapper. I was -- I was a former.

Ms. Hageman. So --

Mr. Clapper. They were in a position. Big difference.

Ms. Hageman. Okay. So it was okay for you to interfere in the 2020 election because you were a former head of the NDI. Is that your answer?

Mr. Clapper. No. What's your definition of "interference"?

Ms. Hageman. Exactly what you, did signing the letter with 50 other --

Mr. Clapper. That's not interference.

Ms. Hageman. Okay.

Mr. Clapper. I was exercising my First Amendment rights.

Ms. Hageman. So it was okay for you to interfere in the 2020 election.

Mr. Clapper. I don't subscribe to interfering.

Ms. Hageman. You did no independent investigation into the laptop.

Mr. Clapper. No, nor could I.

Ms. Hageman. You did no independent investigation to determine whether the laptop was accurate, whether it was Hunter Biden's, or the information contained on there.

Mr. Clapper. No, I did not.

Ms. Hageman. Okay.

Mr. Clapper. I simply was concerned about the Russian potential for Russian involvement. That's all.

Mr. Jordan. Director, did you know that you were going to be the very first signature on the letter before you signed it?

Mr. Clapper. No.

Mr. Jordan. Okay.

Mrs. Spartz. Was the timing of this letter pretty strange to you, right before the debate? Did you ever consider that it's strange to you, the timing? Talk about timing, right before the debate.

Mr. Litt. She's asking whether you thought it was strange that the timing of the letter was right before the debate?

By the letter, you mean the statement?

Mrs. Spartz. Yeah, the letter that you signed.

Mr. Clapper. The revelation about the laptop, that same timing.

Mrs. Spartz. So it didn't appear to you as strange?

Mr. Clapper. I'm sorry?

Mrs. Spartz. No?

Mr. Litt. So, it -- I'm sorry. What didn't appear strange?

Mrs. Spartz. To release your letter and statement right before the Presidential debate --

Mr. Clapper. Well --

Mrs. Spartz. -- so close.

Mr. Clapper. I --

Mr. Litt. She wants to know whether you thought it was strange to release this letter --

Mr. Clapper. No, it wasn't strange.

Mr. Litt. -- just before the debate.

Mrs. Spartz. It wasn't strange at all?

You're now working for CNN and Natasha Bertrand, too. Did you have any conversation with her about this letter and her --

Mr. Clapper. Not that I recall.

Mrs. Spartz. Not that you recall. Okay.

Did you have any discussions with anyone to be potential nominee for CIA director?

Mr. Clapper. Can you --

Mr. Litt. Did you --

Mrs. Spartz. During the time of what was happening, did you have any discussion on that and be a potential nominee as the CIA director?

Mr. Litt. I'm sorry. I don't understand the question. Are you saying did he have any discussion about --

Mrs. Spartz. Yeah, the campaign, that you could maybe be potential nominee for

CIA Director?

Mr. Litt. Did you have any discussion --

Mrs. Spartz. By Biden.

Mr. Litt. -- that you could be a potential nominee for CIA Director by Biden?

Mr. Clapper. Who? Me?

Mrs. Spartz. Yes.

Mr. Clapper. No.

Mrs. Spartz. For Presidential nominee.

Did you have any communications, private, with active FBI or CIA agents at that time?

Mr. Litt. About this?

Mrs. Spartz. Yes, about --

Mr. Litt. Did have you any conversations with active CIA or FBI agents around this time about this?

Mr. Clapper. No.

Mr. [redacted]. All right. Thank you. Our hour's up.

Say we can take a little break.

We'll go off the record, please.

[Discussion off the record.]

Ms. [redacted]. It is 11:22 a.m., and we can go back on the record.

BY MS. [redacted]:

Q General Clapper, thank you again for appearing before the committee today.

I want to take a few steps back and walk through some points about your background and walk through how we got here today.

So way back, you've spent most of your career in government service. Isn't that

right?

A Yeah, about 50 years.

Q Okay. And you actually started by serving in the U.S. Armed Forces, starting in 1961, correct?

A That's correct.

Q Can you talk us through broadly your service in the Armed Services?

A I enlisted in the Marine Corps in February in 1961, in the Marine Corps Reserve, and ended up in the Air Force ROTC. I graduated from University of Maryland, 1963, and went immediately into intelligence. Spent 32 years in the Air Force, all intelligence jobs.

I was a J-2 Director of Intelligence for three combatant commands and served as intel -- I was Chief of Air Force Intelligence during Desert Storm. My last job was Director of DIA, Defense Intelligence Agency, for 4 years. I retired in September of '95.

Was out of the government for 6 years but working for the intelligence community as a contractor and serving on various boards. And I was on the NSA Advisory Board for 4 years, for example. Served on commissions.

Came back to the government 2 days after 9/11 and became director of what was NIMA, the National Imagery and Mapping Agency, which became National Geospatial-Intelligence Agency. Did that for about 5 years. Was out for a couple months.

I was asked to come back to the government by Secretary of Defense Gates to be the Under Secretary of Defense for Intelligence, which I did for 3-1/2 years and, then following that, 6-1/2 years as the Director of National Intelligence.

Q Thank you for that.

And when you were in the military, you received a couple of awards, didn't you?

A A couple.

Mr. [redacted]. Can you talk to us about the Air Medal you earned with an oak leaf cluster?

Mr. Clapper. I flew -- I was commander of 100-man Signal Intelligence detachment that flew on the back end of EC-47s. The basic mission was to fly reconnaissance missions over Laos and Cambodia and try to locate Viet Cong or North Vietnamese army formations, and I flew 73 missions, doing that, while I was the commander of the detachment for a year.

BY MS. [redacted]:

Q Thank you for that.

Looking at your career holistically, you've spent most of your time in intelligence work. Is that fair to say?

A Virtually all of it.

Q Okay. Is it fair to say that you are an expert in national security matters?

A Well, some might say that.

Q Is it fair to say --

A The previous group didn't think so, but --

Q Is it fair to say that you're an expert in intelligence?

A Well, I guess you could say that. I've lived through a lot of it, yeah.

Q Thank you for that.

We walked through the October 19th letter a little bit in the last hour. And I want to, again, walk through it with a little different eye this time.

The very first sentence of the second paragraph of that letter -- and that's exhibit No. 1, I believe. It says: We are also individuals who see Russia as one of our Nation's primary adversaries.

Was this an accurate statement at the time that the letter was written?

A Oh, yeah.

Q And --

A Still is.

Q That was my next question. And you believe that's still an accurate statement today?

A Yes.

Q And so, again, based on your long career in intelligence, can you explain why you believe Russia is a primary adversary of the United States?

A Well, Russia and, before it, the Soviet Union is bent on instruction by one form or another of the United States and everything for which it stands.

And that was the nature of the Cold War, the ideological struggle that I lived through for about 30 years. And from an intelligence perspective, you know, learned a lot about the Russians. Dealt with Russians a good bit during the course of my career.

And I'm extremely suspicious of anything the Russians do. They are out to get us. They're out to destroy the United States and our system.

Q Would you agree that there is widespread agreement among intelligence and national security professionals that Russia is, as you say, an adversary of the United States, it's out to get us?

A Absolutely. And they are a mortal enemy of the United States. They can wreak more havoc and destruction and kill more people than any other Nation.

Q Okay. In 2017, you appeared on -- for an interview on Meet the Press.

Do you recall that?

A I do.

Q And during that interview, you were asked about Russian interference in the

2016 election.

A Right.

Q And you said, quote: "If you put that in context with everything else we knew the Russians were doing to interfere with the election and just the historical practices of Russians" -- "of the Russians, who typically are almost genetically driven to co-opt, penetrate, gain favor, whatever, which is a typical Russian technique, so we were concerned, meaning we, the intelligence community, was concerned in 2016."

Do you recall saying that?

A I think I said something like that, yeah.

Q Okay. If you recall, what did you mean when you used the terms co-opt, penetrate, gain favor?

A Well, if they can influence -- if they can recruit someone whom they can influence either to be sympathetic or to provide them information, they will. And they look for every opportunity to do that.

Q The final sentence of the October 19th, 2020, letter reads, quote: It is high time that Russia stops interfering in our democracy.

Is it fair to say that the primary focus or purpose of the letter was on stopping Russian interference in our elections?

A Absolutely.

Q And just for the record, again, could you explain why, based on your long career, you believed it was so important that people know that the Russians were attempting to interfere in the 2020 elections?

A Let me put it this way: In the 50-plus years I spent in the government in one intelligence capacity or another, I saw a lot of bad stuff. Nothing that bothered me viscerally as much as what I saw the Russians do in 2016, what they did to our political

system, and how they influenced public opinion in this country.

And I vowed then that I would do my little part after I left the government, whatever bully pulpit I could occupy, to try to educate people, the public about the threat posed by the Russians.

Q And you --

A If you want to say I'm consumed with it, yeah.

Q Thank you for that.

You referenced what happened in 2016. Is that a reference to Russia hacking the emails of the Clinton campaign and Democratic political organizations and then leaking them?

A Yes, thanks for the question, as I used to say on the Hill.

I forgot to mention that in the earlier session about some of the other things they did, which, you know, the hacks, the WikiLeaks, and the Russians are extremely clever and they very -- have a very sophisticated understanding of our political landscape in order to exploit it.

And that's what -- that concern is what prompted me to sign onto the letter which I considered simply a warning to people that watch out. You know, the Russians don't give up. And they could -- they could be involved here, as well.

Q And you just said a minute ago that nothing has bothered you as viscerally as what happened in 2016.

Why was that so troublesome to you?

A Because of what the Russians were doing to attempt to destroy our very political system. Institutionally, they were attacking us. And the reason is because all the other manifold weaknesses they have, this is a way they can compensate for their weaknesses, by exploiting our weaknesses.

And, unfortunately, the United States is a ripe target for exploiting the distrust and doubt about the institutions of this country. And I was very concerned they were going continue to try to do that in 2020.

Q And speaking of 2020, Russians, the Russians, sometimes they do manipulate information. And sometimes they also take information that's authentic, which is has happened in 2016 with the hacked emails, right, and they amplify it and try to put a spin on it, correct?

A That's right, amplify it, distort it, slant it, whatever they can to gain their ends, yes.

Q And is that referred to as a Russian information operation?

A I guess so, yeah.

Q Okay. Do you think that making sure that Americans know that the Russians are attempting to do this is a key way to help counteract Russians' effectiveness in doing so?

A Yes. In fact, I think it's crucial that the public be as well-versed and well-educated about what the Russians will attempt to do, what their tactics, techniques are, and what their goals and objectives are. I think it's very important that people be educated about that.

Q There are some people who have said that it doesn't really matter where information comes from, whether it's true or it's false. It's that, for example, in October 2020, Rudy Giuliani was told that information on the laptop might be linked to Russian intelligence hacking.

And his response was, quote: It wouldn't matter. What's the difference?

A It does matter. It makes all the difference if the Russians are involved and are trying to manipulate data and information. So it's hugely important.

Q And why is that?

A Well, it's the Russians are generating information or -- either generating it or taking information and manipulating it that's already published or already out there, and trying to put a different spin on it and, again, to sow doubt, discord in this country, which these days is pretty easy.

And so I think that's extremely important, because that's an insidious threat to this country. It's, you know, bad for our democracy.

Q Thank you.

The October 19th letter says, quote: There are a number of factors that make us suspicious of Russian involvement.

And I want to go through the factors as they're laid out in the letter and understand why each was concerning and also talk about the evidence that supports the facts as laid out in the letter.

Does that sound okay?

The eighth paragraph of the letter, which is the last paragraph on the bottom of this letter --

Mr. Litt. On the bottom of the first page?

Ms. [redacted]. On the first page. Sorry.

BY MS. [redacted]:

Q It says: Such an operation, meaning a Russia cyber hacking operation, would be consistent with Russian objectives, as outlined publicly and recently by the intelligence community, to create political chaos in the United States, and to deepen divisions here, but also to undermine the candidacy of former Vice President Biden and thereby help the candidacy of President Trump.

Did I read that correctly?

A Uh-huh.

Q Could you explain why based on your experience it would have been consistent with Russian objectives to, quote: "Create political chaos in the United States and deepen divisions here"?

A Well, it's exactly what they did in 2016 and, again, I -- which I saw pretty intensely, watched what they did over the course -- well, '15 and '16, leading up to the election. And they were trying to undermine in that, in the '16 election, undermine Hillary Clinton. They did all they could to hurt her candidacy.

And they wanted -- they made a conscious judgment, once Mr. Trump became the nominee of the Republican Party, wanted to do all they could to help him because they saw him as a better choice.

Q And --

A And my concern was a reprise of that in 2020.

Q Why do you -- why do you say that the Russians saw Donald Trump as the better choice?

A Well, I think they thought he was business guy, wouldn't beat them up for human rights abuses, easier to deal with. And there was a very strong animus, starting with Putin himself, about the Clintons, and particularly Hillary Clinton, whom he held responsible for fomenting a Cold War revolution in 2011.

Q Are you familiar with who Bill Evanina is?

A I am.

Q Okay.

A He's an appointee of mine.

Q Could you explain for the record who he is?

A He was the Director of the National Counterintelligence and Security Center,

which is a subordinate organization of the Office of Director of National Intelligence. Bill was the director of it. He's an FBI employee but on rotation to the DNI.

Ms. [redacted]. Thank you.

I want to introduce for the record as exhibit 4 -- sorry. I want to introduce into the record as exhibit 4, a statement from Mr. Evanina. It's dated August 7th, 2020. And it's entitled: Election Threat Update for the American Public.

[Clapper Exhibit No. 4

Was marked for identification.]

BY MS. [redacted]:

Q And I'm going ask you about -- there's a paragraph in the middle of the second page that starts "Russia" in boldface, all caps.

A Just see it here?

Q Yeah. And let me know when you're ready to continue.

A I read it.

Q Okay. So the paragraph that's in the middle of the second page, begins all caps, boldfaced, Russia, it reads:

We assess that Russia is using a range of measures to primarily denigrate former Vice President Biden and what it sees as an anti-Russia establishment. This is consistent with Moscow's public criticism of him, when he was Vice President, for his role in the Obama administration's policies on Ukraine, and its support for the anti-Putin opposition inside Russia.

For example, pro-Russia Ukrainian parliament taken Andrii Derkach is spreading claims about corruption, including through publicizing leaked phone calls to undermine former Vice President Biden's candidacy and the Democratic Party. Some Kremlin-linked actors are also seeking to boost President Trump's candidacy on social

media and on Russian television.

Did I read that correctly?

A Uh-huh, yes.

Q Is this statement from Bill Evanina consistent with the concerns that are expressed in the October 19th letter?

A Yes.

Q And do you -- do you find the statement to be reliable?

A I do.

Q And do you believe that Mr. Evanina is a reliable source for this type of statement?

A Yes.

Q Okay. And this was released in August 2020, which was actually 2 months before the October 19th, 2020, letter, correct?

A Yes.

Q Okay. So moving on, the ninth paragraph, which is -- sorry -- the ninth paragraph of the October 19th letter, yeah, it's exhibit No. 1, the ninth paragraph is at the top page of -- the top paragraph on the second page.

This paragraph says that a Russian cyber operation would be consistent with some of the key methods Russia has used in its now multiyear operation to interfere in our democracy, the hacking via cyber operations, and the dumping of accurate information or the distribution of inaccurate or misinformation.

So that sentence refers to what we were talking about a couple minutes ago, right --

A Yes.

Q -- the 2016 efforts. So this sentence is a fully accurate sentence in this

letter, correct?

A I believe it is.

Q Okay. And then it continues on:

Russia did both of these during the 2016 Presidential election -- judgments shared by the U.S. intelligence community, the investigation into Russian activities by Special Counsel Robert Mueller, and the entirety, all (Republicans and Democrats) on the current Senate Intelligence Committee, right?

A Uh-huh, yes.

Q So to your knowledge, does the report by Special Counsel Robert Mueller support the idea that the Russians did interfere in the 2016 election?

A Yes, absolutely. In fact, I was taken aback by the degree of technical detail that was included in the Mueller report, which we did not include in the Intelligence Community Assessment in 2016. But it certainly buttressed in a big way what the Russians did.

Q And what about the Senate Intelligence Committee report? Are you familiar with that?

A I am.

Q And what's your opinion of that report?

A Well, I -- actually I liked it. It validated the findings of the Intelligence Community Assessment. I think it took them 16 months for something we did in 2 weeks. But they validated the Intelligence Community Assessment findings, as well as the tradecraft underlying those findings. And that was on a bipartisan basis, unlike the House Permanent Select Committee for Intelligence.

Q So to the extent there were comments raised in the earlier hour, suggesting that the Russians maybe did not interfere in 2016, do you think there's actually broad

consensus among the intelligence community that the Russians did interfere in 2016?

A Absolutely.

Q Okay. The next paragraph in the October 19th letter, it says: Such an operation is consistent with several data points.

And it says: The Russians, according to media reports and cybersecurity experts, targeted Burisma late last year for cyber collection and gained access to its emails.

Do you recall hearing about reports that the Russians had hacked Burisma and gained access to its emails?

A I did, only through the media, yeah.

Ms. [redacted]. I'm going go ahead and introduce a media article to that effect. We'll introduce it as exhibit 5.

[Clapper Exhibit No. 5

Was marked for identification.]

BY MS. [redacted]:

Q This is a January 13th, 2020, New York Times article. It was updated on October 19th, 2020. And it's entitled, "Russians Hacked Ukrainian Gas Company At Center of Impeachment."

And I'll give you a minute to look it over.

A You want me to read the whole thing?

Q No. If -- do you recall seeing this before? Is this the type of --

A I don't specifically recall this article.

Q If you want to skim it, go ahead.

A Okay.

Q Okay. So this article does tend to support the statement in the letter that the Russians did hack Burisma and gained access to its emails, correct?

A Yes.

Q So that's another statement in the letter that's fully accurate. Fair to say?

A Well, it's accurate based on --

Q Right.

A -- other media reports, yes.

Q And I think the statement actually says the Russians, according to media reports and cybersecurity experts.

So and then that paragraph continues on and it references Ukrainian politician and businessman Andrii Derkach, who's been identified and sanctioned by the U.S. Treasury department for being a 10-year Russian agent, interfering in the 2020 election, passed purported materials on Burisma and Hunter Biden to Giuliani.

I think you referenced in the prior hour a Ukrainian businessman. Is that -- was that a reference to Andrii Derkach?

A Yes.

Q What's your understanding of who he is?

A Well, pretty much as you described him. That's about, you know, based on what I'm told, my knowledge of him, other than a longtime contact with Russian intelligence services.

Q And I want to -- are you familiar with the fact that he was sanctioned by the Treasury Department?

A By virtue of the media reporting, yes.

Q And I want to introduce into the record the actual document sanctioning him.

A Okay.

Ms. [redacted]. Or -- sorry. I shouldn't say the -- it's the Treasury Department press

release, reporting on the sanctions.

[Clapper Exhibit No. 6

Was marked for identification.]

Mr. Clapper. Yeah, I have not seen this previously.

BY MS. [redacted]:

Q Okay. This is dated September 10th, 2020. And I said -- I know you said you've not seen this document previously. But you're familiar with the fact that Derkach had been sanctioned. Right?

A Uh-huh.

Q And according this document, he was actually sanctioned specifically for attempting to -- I'm sorry. He was directly or indirectly engaged in, sponsored, concealed, or otherwise been complicit in foreign interference in an attempt to undermine the upcoming 2020 U.S. Presidential election.

Why would it have been concerning that Mr. Giuliani was working with Andrii Derkach at this time?

A Well, I think it's fairly obvious that this guy's a known Russian agent. And trying to engage Rudy Giuliani, the personal attorney for Donald Trump, I think that -- that would raise a concern.

Q And why would it be concerning specifically --

A Well --

Q -- that he targeted the personal attorney?

A Again, to try to influence -- either indirectly influence Trump or try to plant information or feed it -- feed Giuliani bad information, that would, you know, make the Bidens look bad, for example.

Q And the fact that Derkach was sanctioned and that the sanctioning

document says that he has had close connections with the Russian intelligence services, would that suggest that, in fact, Derkach's efforts could be part of a Russian intelligence plot?

A Oh, I think so. I think clearly trying to influence, trying to gain influence with Giuliani, use him either wittingly or unwittingly as a tool.

Q Are you familiar with the fact that Rudy Giuliani claimed that the leak of the laptop was, quote, "an extent of his years' long efforts to work with Ukrainians to dig up dirt on the Bidens?

A I heard that, or read it, but I don't remember when. I can't -- I don't remember a date connected with that.

Ms. [redacted]. I want to introduce the article that reports on that. It will be exhibit No. 7.

[Clapper Exhibit No. 7

Was marked for identification.]

BY MS. [redacted]:

Q This is a October 17th, 2020, Daily Beast article. It's reporting on an hour-long interview the Daily Beast had with Mr. Giuliani. It's entitled, "Rudy, only 50/50 Chance I Worked With a Russian Spy to Dig Dirt on Bidens and Ukraine."

A Okay.

Q And the language that we're going to be looking at is highlighted on the last two pages of the article.

A Only a 50/50 chance, huh? I guess that makes it better.

Q And in this article, it does say directly that Giuliani said he viewed his latest leak on The New York Post as an extension of his years' long effort to work with Ukrainians to dig up dirt on the Bidens.

Mr. Litt. Last page. On the last page.

Ms. [redacted]. Next page.

Mr. Litt. Very last page.

Mr. Clapper. Am I supposed to read this whole thing?

Ms. [redacted]. No.

Mr. Litt. She's reading you just the top sentence there.

Mr. Clapper. Okay.

BY MS. [redacted]:

Q So this came out on October 17th, 2020. The New York Post article was published on October 14th, 2020. So within 3 days of the publication of that -- of that article, Rudy Giuliani said that he was responsible for it and it was part of his efforts to dig up dirt on the Bidens, correct?

A Yeah.

Q Would that have been something of concern to you as --

A It sure would have.

Q And why was it concerning that Giuliani specifically viewed this leak as part of his ongoing efforts to dig up dirt?

A The appearance, if not the substance, is that he was either wittingly or unwittingly a participant in a Russian information operation because clearly the Russians would see this as in their best interests and in their favor.

Q And the October 19th letter refers to a Washington Post article that says: U.S. intelligence agencies warned the White House last year that Giuliani was the target of an influence operation by Russian intelligence.

Is it also concerning to you that the White House was apparently warned about Giuliani being used in this way and apparently took no action?

A Well, yeah. I mean, intelligence agencies, again, based on the immediate, did the right thing by conveying their concern to the White House. If the White House chose not to do it -- do anything about it, that's -- policymakers always have the prerogative of ignoring what they're told by intelligence.

Q But in this situation the policymakers were told by intelligence that Rudy Giuliani had this connection to Russian intelligence and did nothing about it?

A Well, that's -- from an intelligence perspective, speaking as an intelligence, a career-long intelligence officer, that's bad. Should -- you know, to ignore information like that is potentially quite dangerous.

Q And dangerous to our national security?

A Yes.

Q Why is that?

A Well, you have Giuliani, essentially, acting as a foreign agent, apparently attempting to influence the outcome of the U.S. election on behalf of the Russians.

Mr. Goldman. You said unwittingly or wittingly.

If you learned that Giuliani was provided with a defensive briefing about Andrii Derkach and his association with him, and continued to engage with Mr. Derkach, would that inform your view about whether it was witting or unwitting?

Mr. Clapper. It was -- it would appear it was wittingly in that case. If he were given a defensive briefing specifically about this character and chose to engage with him, because of his apparent intent or desire to obtain dirt on the Bidens, that would make it witting clearly.

Mr. Goldman. And so, just to summarize, if Mr. Giuliani was, for over a year, coordinating and working with a known Russian agent, who he knew to be a Russian agent, to try to influence the election in 2020, would that, in your view, make Mr. Giuliani

the equivalent of a Russian agent?

Mr. Clapper. Yes.

Ms. [redacted]. So we just walked through a number of the factors that led to the concerns that led to the October 19th letter.

I want to move on to evidence that suggests that Russia, in fact, did interfere in the 2020 election.

And I think in the earlier hour the comment was made that there's been no official pronouncement on that.

I want to introduce into the record a January 7th Intelligence Community Assessment -- sorry -- 2021 Intelligence Community Assessment entitled, "Foreign Threats to the 2020 U.S. Federal Elections."

And I should say the classified version was released in January 2021. We're introducing the unclassified version which was unclassified on March 15th, 2021.

This will be exhibit 8.

[Clapper Exhibit No. 8

Was marked for identification.]

BY MS. [redacted]:

Q And I'm going to ask you to turn to the fourth page of the document. It's Roman Numeral, small Roman Numeral I. And we're going to look at Key Judgement 2 on that page.

Mr. Litt. This is the right page.

Mr. Clapper. What?

Mr. Litt. This is the page right here.

Mr. Clapper. She said the last page.

Mr. Litt. No, she didn't.

Mr. Clapper. Okay.

BY MS. [redacted]:

Q Are you ready to continue?

Key Judgement 2 reads: We assess that Russian President Putin authorized, and a range of Russian Government organizations conducted, influence operations aimed at denigrating President Biden's candidacy and the Democratic Party, supporting former President Trump, undermining public confidence in the electoral process, and exacerbating sociopolitical divisions in the U.S.

Unlike in 2016, we did not see persistent Russian cyber efforts to gain access to election infrastructure.

We have high confidence in our assessment. Russian state and proxy actors, who all serve the Kremlin's interests, worked to affect U.S. public perceptions in a consistent manner. A key element of Moscow's strategy, this election cycle was its use of proxies linked to Russian intelligence to push influence narratives, including misleading or unsubstantiated allegations against President Biden to U.S. media organizations, U.S. officials, and prominent U.S. individuals, including some close to former President Trump and his administration.

Did I read that correctly?

A It's almost a reprise of the Intelligence Community Assessment from 2016.

Q Interesting.

In the middle of this paragraph, it says: We have high confidence in our assessment.

What does "high confidence" mean in this context?

A High confidence means that the -- the analysts who prepared this, as well as in this instance, since this is a NIC document that would have been approved, IC-wide,

that if you're ascribing numerical ascription, it would be, like, 90 percent sure that what they're saying is accurate and correct.

Q Does the --

A So that's -- that's -- that's pretty -- you could, you know, you can trust that, I think --

Q Okay.

A -- with an expression of high confidence.

Q The intelligence community doesn't use the level "high confidence" lightly. Is that fair to say?

A No, it doesn't. And it's typically because of multiple sources that they're drawing on to reach that conclusion that are pretty much internally corroborative.

Q This report, just looking at the very front page of it, the cover page of it, it says: The -- this Intelligence Community Assessment was prepared by the National Intelligence Council under the auspices of the National Intelligence Officer (NIO) for Cyber. It was drafted by the National Intelligence Council and the CIA, which is the Central Intelligence Agency, correct?

A Yes.

Q The DHS, which is the Department of Homeland Security, correct?

A Correct.

Q FBI, which is the Federal Bureau of Investigation, correct?

A Yep.

Q INR which can you remind me what INR is?

A That the Bureau of Intelligence and Research in the Department of State.

Q And NSA which is the National Security Agency, correct?

A Correct.

Q And coordinated with CIA, again, the Central Intelligence Agency, DHS, Department of Homeland Security, FBI, the Federal Bureau of Investigations, INR, the Intelligence and Research Agency.

A As well as the Department of Treasury apparently, apparently according to the logo.

Q Yeah, Treasury Department and the National Security Agency.

So if this report was prepared in coordination with all of those entities and it says that they have high confidence in that assessment, that means every agency listed that I just read off had high confidence in this assessment, right?

A Yes.

Q And there's nothing in here --

A In the --

Q Yeah.

A -- absence of any dissent and I don't see any.

Q Right. Right. There's no -- no dissent is listed here, right?

A Right.

Q So the Key Judgment 2, this is pretty consistent with the concerns that were the outlined in the October 19th letter, isn't it?

A Yes.

Q And the last sentence of the --

A These are the concerns, as all of this doesn't obviously specifically address the laptop.

Q Right.

A It's just that, because of these factors, that's why I believe such a high number of national security officials signed onto that letter, for exactly those factors, that

the Russian dark hand could be involved here in the case of the laptop, ergo, a warning.

Q And the warning to make the American public aware, correct?

A Of the potential for Russian involvement, given their history and their practice.

Q And again, the goal of making Americans aware was to help counteract the Russians efforts, correct?

A Exactly.

Q Okay. The intelligence -- the Key Judgement 2 specifically references proxies linked to Russian intelligence. We just talked through Andrii Derkach having been sanctioned. Would you agree that he is a Russian intelligence proxy who was pushing an influence narrative?

A I would.

Q And then the sentence says that: These Russian intelligence proxies pushed these unsubstantiated allegations with the help of -- I'm sorry -- to U.S. media organizations, U.S. officials, and prominent U.S. individuals including some close to former President Trump and his administration.

Would you agree that Rudy Giuliani is an individual who was close to former President Trump and to his administration?

A Yes.

Q Okay. So this actually does fit the narrative of Rudy Giuliani working with Derkach to push out misinformation.

A It does.

Q Okay. So to the extent that you were asked earlier about there being no official pronouncement about Russian interference, this is pretty close to an official pronouncement.

A Well, yeah, it is. And I, frankly, wasn't aware of this but it certainly substantiates the letter.

Q Thank you.

A The public statement.

Q Okay. Move on a little bit.

You were asked earlier about the -- your maintaining a security clearance and what kind of access you had. The letter makes it abundantly clear that you didn't have access to any nonpublic information, right?

A That's correct.

Q And you didn't access any classified information.

A I did not.

Q And just going through the letter briefly, at the -- the very last paragraph says, pretty straightforwardly -- I'm sorry. It's not the last paragraph. It's the -- the fifth paragraph on the front page says that:

We want to emphasize that we do not know if the emails are genuine or not.

Right?

A Right.

Q So you didn't try to hide the fact that you didn't have any inside information.

A Absolutely.

Q Okay. And then the very last paragraph says: We do not know whether these press reports are accurate.

Right? So, again, you said -- I'm sorry. You have to say "yes" for this court reporter.

A Yes. We didn't know.

Q And the very last paragraph of the letter itself says: We do not know

whether these press reports are accurate.

Right?

A Correct.

Q And so, again, you didn't suggest that you had any inside information or nonpublic information.

A That's correct.

Q And you certainly didn't suggest that you had access to any classified information.

A That's correct.

Q And it says actually under your signature line -- it was pointed out that you were the first signatory here. It says former Director of National Intelligence.

A Correct.

Q And former Under Secretary of Defense for Intelligence, right?

A Yes.

Q And former Director of the National Geospatial-Intelligence Agency and former Director of the Defense Intelligence Agency, correct?

A Correct.

Q So you didn't hold yourself out as having any -- you had obviously qualifications but you didn't have any access to anything that any -- to any material that anybody --

A No, I did not.

Q -- else didn't have. Okay.

A I didn't have a need-to-know, which is why I wouldn't have sought access to classified information. They wouldn't give it to me. The Agency wouldn't.

Q We discussed the timing of the letter earlier, the having it come out before

the first debate, or the second debate, rather. And we just talked through it again.

You were a private citizen when the letter was made public on October 19th, 2020, correct?

A Correct.

Q And Tony Blinken was a private citizen at that time, correct?

A Correct.

Q Mr. Morell was also a private citizen?

A Correct.

Q To your knowledge, was every other signatory of this letter a private citizen?

A Yes, at the time.

Q Okay. Would you agree that as a private citizen, you have the right to engage in the political process?

A I certainly do.

Q And do you agree that the First Amendment protected back then and continues to protect your right to make statements?

A It's supposed to, yes.

Q And it also protects the right of every other signatory to make those statements.

A Exactly.

Q So I think the comment was made earlier that your decision to sign this letter was an act of election interference.

Do you think that was a fair assessment of your actions?

A No.

Q Do you want to say anything further about that?

A I think it's exactly as your question characterized it. It was an exercise of

my First Amendment rights for me as a former, several times in the intelligence community, to wave a red flag here that the dark hand of the Russians could be involved in this.

And I felt that was not only appropriate but it is my duty to do that.

Q And when you say it was your duty, why do you say you feel it was your duty?

A Well, I invested a lot of my life in the intelligence community, you know, defending this country. I served two combat tours in Southeast Asia for the same reason.

And in accordance with that, I guess, almost instinct, I felt the need to join in a warning, particularly based on my experience in the 2016 election, when I was serving as the Director of National Intelligence --

Q Thank you.

A -- and did have access to classified, a lot of classified information about it, which I did not have in this case.

Q Has the aftermath of signing the letter, in particular, the fact you're involved in this investigation, that your name has been in the New York Post, things like that, have that -- has that negatively impacted you in anyway?

A Well, I could -- I could do without it. Put it that way.

Q Do you think the fact that you're a subject of this public investigation could chill your willingness to sign a letter like this in the future?

A Well, possibly, but I think it's more important for future formers. I think it -- this investigation has the potential to chill future formers from expressing concerns about adversaries of the United States.

Mr. Goldman. Could we let the record reflect he put air quotes around

"investigation."

Mr. Clapper. This is an assault on my First Amendment rights. I'll be blunt.

Ms. [redacted]. Thank you.

Mr. Goldman. Using the authority of Congress to call you in for questioning about your First Amendment rights as a private citizen to express concerns related to your prior work and an election?

Mr. Clapper. Yeah, exactly. Particularly given my own personal experience. As I said, I saw a lot of bad stuff in 50 years in intelligence. But nothing had bothered me as much as what I understood fully what the Russians did in 2016 in that election.

Mr. Goldman. Are you aware of any efforts by the majority of this committee to call in for questioning Rudy Giuliani, who you said was acting as a Russian agent in an effort to interfere in the 2020 election?

Mr. Clapper. No, I'm not. And nor am I aware of any effort on the part of this committee to call in any of the 215 flag officers who signed the letter in support of President Trump. They don't seen to be investigated.

Mr. Litt. He's front-running you.

Mr. Clapper. I did what?

Ms. [redacted]. You referenced the letter from the flag officers. I want to introduce that into the record. That will be exhibit No. 9.

[Clapper Exhibit No. 9

Was marked for identification.]

Mr. Clapper. I say that, respecting their rights to exercise their First Amendment rights.

BY MS. [redacted]:

Q So this is an open letter from senior military leaders. It's not dated. I'll

represent to you that Fox -- we have a Fox News article that dates it as being published on September 14th, 2020.

A Uh-huh.

Q You've seen this before?

A I have, and I know many of these officers.

Q And this letter says: The Democrats' opposition to border security, their pledge to return to the disastrous Iran nuclear deal, their antagonism towards the police, and planned cuts to military spending will leave the United States more vulnerable to foreign enemies.

Correct? And this is signed -- I'm sorry. You have to say "yes" for the court reporter. You have to say "yes" for the court reporter.

A Yes.

What was the question? I'm sorry.

[12:12 p.m.]

BY MS. [redacted]:

Q The letter says that -- reading directly from the letter -- "The Democrats' opposition to border security, their pledge to return to the disastrous Iran nuclear deal, their antagonism towards the police and planned cuts to military spending will leave the United States more vulnerable to foreign enemies," correct? Did I read that correctly?

A And your question is?

Q Did I read that correctly?

A Yes.

Q That's what it says?

A Yes.

Q That language, from 235 flag officers, that could suggest to the American public that, based on their experience, long experience in the military, that they believe that if President Biden is elected, that could have impacts on our national security, correct?

A Yes.

Q And do flag officers typically hold security clearances?

A Some may.

Q So it's entirely possible that somebody reading this, seeing these individuals who signed it, could think these people have inside information that --

A Yes.

Q -- led them to reach this conclusion?

A They could, yes.

Q And as you said, you believe they had the First Amendment right to make these statements, right?

A Yes. Absolutely.

Q And they had the First Amendment right -- they had the right to participate in the political process?

A Yes.

Q And this committee is not investigating them, is it?

A Not to my knowledge.

Q Okay. In the earlier hour, you --

Mr. Goldman. Are you done with this letter?

Ms. [redacted]. Yeah, go ahead.

Mr. Goldman. I just want to ask a question, because this letter from senior military leaders directly attacks Democrats.

Does the letter that you signed attack either Democrats, Republicans, or either candidate for President?

Mr. Clapper. No.

Mr. Goldman. It is focused on, as you say, waving the red flag about Russia's efforts to interfere in our election.

Mr. Clapper. That's correct.

Mr. Goldman. So between the two, in your reading of it, which letter is more overtly political?

Mr. Clapper. Well, I'd have to say the open letter from senior military leaders is probably the more "overtly political" -- I'll put that in air quotes -- than is our letter, the public statement.

Mr. Goldman. And while we're on this topic, are you aware of whether or not Hunter Biden has ever held public office?

Mr. Clapper. I don't believe he has.

Mr. Goldman. And was he running for President in 2020?

Mr. Clapper. No, he was not.

Mr. Goldman. Okay. I yield back.

BY MS. [redacted]:

Q There was a discussion earlier suggesting that your letter may have been the reason that the laptop story didn't get traction publicly.

I want to look a little more at the environment or the atmosphere around the New York Post story.

So the New York Post story was published on October 14th, correct?

A I think so.

Q Okay. Are you aware that before the New York Post published the story, Rudy Giuliani actually first approached FOX News and asked them to report on the laptop?

A No, I'm not.

Ms. [redacted]. Okay. I want to introduce as exhibit 10 an October 19th, 2020, story. This was published at 11:42 in the morning, so it would have been published before your letter. It's entitled "Exclusive: Fox News passed on Hunter Biden laptop story over credibility concerns."

Mr. Clapper. This is FOX News saying that?

Ms. [redacted]. FOX News.

Mr. Clapper. Okay.

Ms. [redacted]. I'll withdraw that. We'll do that in the next hour.

How much time do we have? We have -- let's see -- we have about 5 minutes. Couple quick questions about John Ratcliffe, and then I think we can wrap our hour.

You were asked about the DNI Ratcliffe statements. Do you recall that?

A Uh-huh.

Q And Mr. Ratcliffe said that there was no intelligence to support allegations of Russian involvement, correct?

A Yes.

Q Ratcliffe made those remarks on Monday, October 19th, correct? Does that sound right?

A I don't know the date when. I'll accept that, if that's when it was, but I don't know.

Q We can introduce -- we'll introduce this as exhibit -- this will be exhibit 10.

[Clapper Exhibit No. 10

Was marked for identification.]

BY MS. [redacted]:

Q It's an article reporting on Ratcliffe's remarks, and it's dated October 19th, 2020, 1:49 p.m. And we're just introducing it for the fact of the date.

The New York Post story in question was released on October 14th, correct?

A Yes.

Q So that would have been 5 days before Ratcliffe made his remarks?

A Right.

Q And I think you said earlier he couldn't have even begun an investigation in that time period. Is that correct?

A Correct.

Q And can you explain what you mean by that?

A Well, I don't know how -- what his basis for making that statement is when the laptop itself hasn't been investigated.

The DNI, Office of the Director National Intelligence, has no organic forensic

analysis capability at all. So they're dependent on other components of the intelligence community, in this case the FBI, to render such a judgment, which hadn't been rendered. So I don't know how he could make that statement.

Q Okay. And even assuming that Ratcliffe -- sorry. Withdraw that.

And he made these remarks on October 19th, which was the day before the second debate, correct? The second Presidential debate was the 20th.

A Uh-huh.

Q So isn't it possible that Ratcliffe also made his remarks in the hope that they would impact the debate?

A Well, one could conclude that, yes.

Q Okay. And are you aware that on -- the comment was made -- question was -- I don't know if it was a question or a comment made earlier, but would it have been wrong for Ratcliffe to attempt to interfere in the election. Do you recall that coming up?

A Well, yes. Hard to judge, in fairness here, what the motivation was, but certainly from a timing standpoint, it raises the question as to whether this is aiding a political effort.

Q And are you aware that on September 29th, 2020 -- so 2 weeks before the events in question -- Mr. Ratcliffe also released information about Hillary Clinton that had been widely acknowledged to be Russian disinformation? It's acknowledged to be Russian disinformation by both the Special Counsel Mueller and the --

A No, I don't recall that.

Q Okay. I want to introduce as exhibit 11 a New York Times article entitled "Top Intelligence Official Releases Unverified, Previously Rejected Russia Information."

[Clapper Exhibit No. 11

Was marked for identification.]

BY MS. [redacted]:

Q Have you seen this article before?

A I don't recall it.

Q Okay. I'm just going to read the first sentence. It says, "President's Trump's top intelligence official on Tuesday released unverified information about the 2016 campaign that appeared to be a bid to help Mr. Trump politically and was said to be disclosed over the objections of career intelligence officials who were concerned that the material could be Russian disinformation."

Did I read that correctly?

A Yes, you did. And I do recall this now, about the "Russian intelligence acquired information that Mrs. Clinton had approved a plan for her 2016 campaign to 'stir up a scandal.'" I remember that now.

Q So Mr. Ratcliffe actually had released damaging information that could help Trump --

A Yes.

Q -- and presumably damage Vice President Biden just 35 days before the November 3rd election, correct?

A Yes.

Q And are you aware that September 29th, which is the day he released the information, was also the day of the first Presidential debate?

A I don't recall the dates of the Presidential debates, no.

Q And I'll represent to you that Mr. Ratcliffe actually released this information just a couple hours before that debate.

To your knowledge, is this committee investigating whether -- Mr. Ratcliffe's

decision to release that information in advance of the debate?

A Not to my knowledge.

Mr. Goldman. If could just ask one question on that?

Is there a difference if a sitting intelligence official is using his position of authority to influence a political election as opposed to former intelligence committee -- intelligence community officials who are exercising their First Amendment rights?

Mr. Clapper. Well, sir, I think there's a big difference. When he's doing that as a sitting active official in performing the duties of that position as the Director of National Intelligence, I mean this has the -- can't prove it, I guess -- but certainly has the earmarks of engaging in the political process, which from my standpoint as the former incumbent is inappropriate.

Ms. [redacted]. Thank you.

We're about out of time. So I think we can go off the record. Thank you.

[Recess.]

Mr. [redacted]. We'll go back on the record. It's 12:33.

Mrs. Spartz.

Mrs. Spartz. Thank you.

Mr. Clapper, you mentioned earlier that you have a strong mission to fight Russian disinformation and what Russia is doing. And it sounds to me also you have very strong feelings about President Trump, is that correct, based on your statements, which as any American you have a right to do.

Mr. Clapper. Yes.

Mrs. Spartz. So my question is for you, when you signed on to the letter, do you believe you using your former office brought more credibility to this unverified information?

Mr. Clapper. I suppose, yes.

Mrs. Spartz. So why did you do that?

Mr. Clapper. I think that's why all the titles were included.

Mrs. Spartz. There were titles to endorse something --

Mr. Clapper. The title includes the word "former."

Mr. Litt. Let her finish.

Mrs. Spartz. Right. I get it. But there are a lot of officers that did endorsement for President Trump but also for President Biden. But this is a different situation where you actually tried to discredit something and, as you mentioned, on unverified information because you didn't know that. You had no access to intelligence, you have no access to anything to make the statement except your feeling, but want to make sure that there are strong statements. So why did you use your former title, not just as private citizen?

Mr. Clapper. Because I felt, as did all the others who listed their titles as former

this or former that, that that would ascribe some credibility to what we were saying.

Mrs. Spartz. So generally you wanted to bring credibility to this issue without doing due diligence to verify the legitimacy of that.

Mr. Clapper. We were simply expressing our concern about the possibility of Russian involvement. That's all.

Mrs. Spartz. Right. But using the former title with unverified information.

Mr. Clapper. Well, based on our experience with the Russians, as the letter said.

Mrs. Spartz. So based on your experience [inaudible] to anything that was happening there and not understanding, you put credibility of your former titles to bring this unverified information more credibility to use, correct?

Mr. Clapper. Well, yes.

Mrs. Spartz. Why did you do that?

Mr. Clapper. Because I felt that was -- there was an important message here to be conveyed to the American public, warning them of the potential for Russian involvement. And based on -- I didn't think it inappropriate that my association in the intelligence community, I didn't think that was inappropriate.

Mrs. Spartz. Do you think situations like that really could be at issue when we have the involvement of people with prior positions, connections with the media, printing this article could really undermine democratic institutions and our election processes, use of such situations in our country really weakens our democracy?

Mr. Clapper. To the contrary. I think it helps protect the democracy when people like us speak up.

Mrs. Spartz. But when you use the titles of your former positions, not like as an individual, but do you think using the titles, position of something that is not verified, you're just feeling and think what you might be, but putting the title, it actually does

cause this -- you bring credibility and you become intervention in elections in the way how it is can be perceived?

Mr. Clapper. It wasn't intervening in the election. It was sounding a warning about the potential for Russian involvement in our election. That's all it was.

Mrs. Spartz. Without knowing that, correct? You didn't know that, you just had feelings, correct?

Mr. Clapper. No. I had experience with -- hard experience with the Russians over many years.

Mrs. Spartz. Right. But in this specific situation, it was just your feelings and assumptions?

Mr. Clapper. Because of what I observed and what I read in the media. In the absence of any classified information, I felt that a warning was merited.

BY MR. [redacted]:

Q The New York Post story was published on October 14th, and subsequently Facebook's founder, Mark Zuckerberg, has acknowledged that they throttled that story, meaning that they took affirmative measures to limit the dissemination of that story. Are you aware of that?

A No, I'm not. I don't do social media, so I'm not -- I don't know that. I don't -- and I don't -- I'm not sure there's a cause-and-effect relationship between the statement and whatever actions that he or other media -- social media companies took.

Q And Twitter banned the story too. If somebody on Twitter tried to forward the story, Twitter took that post down. Are you aware of that?

A No.

Q In fact, some congressional offices posted the text of the New York Post story on their websites, and then Twitter had a -- had tried to take those down too.

Were you aware of that?

A No.

Q And that lasted from October 14th to October 19th. And then the letter from -- that we're talking about here today with the 51 former intel officials -- went October 20th.

Do you think your letter further added so-called credibility that this was a nonstory or a false story, the Biden laptop?

A I'm not sure I understand your question in relation to social media.

Q Well, the New York Post publishes their story detailing what's on the laptop, which arguably, and I think we discussed earlier today, is fair game to discuss in an election, right?

A Sure.

Q Whether the son or daughter of a President is getting paid for doing nothing is certainly something that the electorate ought to have a chance to analyze on their own and make a decision.

A Sure.

Q But that story was shut down by the social media companies, Facebook and Twitter, for a period of time. And then, when it was opened up, the letter from the 51 intel officials rolls out, adding further difficulties to getting that story out. Do you see the problem with that?

Mr. Litt. Do you --

Mr. Clapper. No, I can't -- I think you're relating two events that are not necessarily connected.

Mr. [redacted]. So at no point prior to the 2020 election was the story fairly shared and portrayed as true when, in fact, it was true. Doesn't that present a problem?

Mr. Clapper. I don't know.

Mr. Litt. When you say you don't know, do you mean you don't know whether it's a problem or you don't know whether what he said is accurate?

Mr. Clapper. Both.

BY MR. [redacted]:

Q We've established --

A I guess you're trying to suggest that the public statement we made somehow suppressed the media coverage? Is that what you're suggesting?

Q Well, it added a coefficient of negative credibility to the story.

A Okay. That's your formulation.

Q What Biden, Vice President Biden, said at the debate is: "Look, there are 50 former national former intelligence folks who said that what this, he's accusing me of, is a Russian plan." Is that accurate or not?

A Not exactly. It's somewhat akin to the Politico headline. If he had said "could have" or "may have," that would comport with what the intent as I felt it was of the public statement, not a definitive statement, this was Russian interference.

Q The Vice President at the time continued -- or candidate Biden: "They have said that this has all the characteristics -- four -- five former heads of the CIA -- both parties -- say what he's saying is a bunch of garbage. Nobody believes it except him and his good friend, Rudy Giuliani."

Now, that's not true, is it?

A I think that's somewhat of an overstatement, yes.

Q In the Politico article, there's a paragraph on -- relating to Director Ratcliffe?

Mr. Litt. Give me a second, and I'll get it for him.

Mr. [redacted]. Of course. Of course.

Mr. Clapper. Which paragraph?

Mr. [redacted]. It's on the third page, and it's the penultimate paragraph.

"Director of National Intelligence John Ratcliffe said on Monday that the information on Biden's laptop 'is not part of some Russian disinformation campaign.'"

Mr. Litt. Could you read the rest of the sentence?

Mr. [redacted]. "Though the FBI is reportedly conducting an ongoing investigation into whether Russia was involved."

BY MR. [redacted]:

Q You've cast some doubt today on the DNI's statement that it's not Russian disinformation. Is that true?

A Yes.

Q But we've since learned that, in fact, it wasn't Russian disinformation.

A We didn't know it then. And he makes the statement when an investigation by the FBI is still ongoing.

Q But you know better than any of us, when you're the Director of National Intelligence, you have at your fingertips a lot of resources to make determinations.

A Well, there's a very fine line between the access that the Office of the Director of National Intelligence has to investigatory and prosecutorial matters by the FBI or DOJ. So he, from my own experience, may not have had, probably didn't have direct access to that kind of data.

Q Were you aware that subsequently Attorney General Barr followed up and said he agreed with Director Ratcliffe?

A No, I don't recall that.

Q Okay.

A I'm sure he did, but I don't remember.

Q Okay. Does that change the situation?

A Not really.

Q Why not?

A It just doesn't change it.

Q A minute ago, you said that --

A I'm talking about this statement at the time it was given, and I have serious credibility issues with Ratcliffe as DNI, had all of 5 months experience in intelligence.

Q Okay. But a moment ago you said the reason the Ratcliffe statement was a problem is because the FBI and DOJ hadn't weighed in yet, correct?

A Right.

Q But then the Attorney General did weigh in right in the same timeframe?

A When was that?

Mr. [redacted]. Go off the record for a second.

[Discussion off the record.]

BY MR. [redacted]:

Q We've had some discussion about Russia's involvement in the 2016 election, and you've stated that it was your belief that they did interfere in the 2016 election. Is that correct?

A Yes.

Q Now, that is different from whether you had evidence that the Trump campaign or some associate of President Trump, then candidate Trump, was working with Russians. Isn't that correct?

A Well, I've testified to that effect, that contemporaneously we didn't see any -- I didn't see any intelligence information about that.

Q That indicated that the campaign was colluding with Russia.

A Well, if you think -- if you don't think Paul Manafort sharing election analysis data is not collusion, okay.

Q But you testified before the House Intelligence Committee --

A Yeah.

Q -- that you didn't have any.

A That's right, we didn't have any intelligence information. This was information that came to light later, in the course of the Mueller investigation, which we

didn't have access to obviously at the time.

Q Okay. So now it's your position that, based on the Paul Manafort information, that the Trump campaign was colluding with --

Mr. Litt. I really think we're not talking about the Hunter Biden laptop here. You don't need to answer the question.

Mr. [redacted]. I'm just trying to clarify what he said.

Mr. Litt. You don't need to answer that question.

I should have jumped in on the last question.

Mr. [redacted]. Okay.

Mr. Litt. We're not here to talk about the Mueller investigation or the --

Mr. [redacted]. I'm just trying to understand, like, what he said.

Mr. Litt. I understand.

Mr. [redacted]. So I don't know how you want to move forward with that.

Mr. Litt. We can just go on to the next question.

Mr. [redacted]. Okay.

Mrs. Spartz. Can I ask a question?

Mr. [redacted]. Of course.

Mrs. Spartz. Do you believe situations like yours and others really significantly undermine the credibility of our intelligence community with the American people?

Mr. Clapper. Do what?

Mrs. Spartz. Do situations like yours and some other situations maybe you cited does not now really significantly undermine the credibility of the intelligence community and FBI with the American people?

Mr. Clapper. No, not necessarily.

Mrs. Spartz. So you believe it's okay to have all of this different mingling of CIA

and FBI and former and this writing letters, do different things, and you don't think the American people would not lose trust from all -- looking at these letters and looking at dossiers that turn out not to be true, do you think it's not undermining it?

Mr. Clapper. No more than the 215 or so flag officers who signed a letter in support of President Trump whom you're not investigating. That doesn't undermine -- I respect their First Amendment rights. I don't think that undermines confidence in the Flag Officer Corps of the Armed Forces of the United States.

Mrs. Spartz. Well, but that's a different --

Mr. Clapper. No, it isn't different.

Mrs. Spartz. We're talking about a situation where you endorse someone and have someone say someone is supporting of that.

Mr. Clapper. I beg to differ.

Mrs. Spartz. Which is different when you try to look into ongoing investigations and try to make opinion to cause doubt and undermine credibility. It's very different involvement of this title of that versus just say, I like someone even if you use some title. Don't you think there is a difference?

Mr. Clapper. No.

Mrs. Spartz. There is no difference?

Mr. Clapper. No. You have your opinion. I have mine.

Mrs. Spartz. I think as an American we see a lot of credibility that is lost in this community when see it on the ground. But that's --

Mr. Clapper. That's your opinion?

Mrs. Spartz. That's my opinion. That's right.

Mr. Clapper. That's right. And you're free to have it in this country.

Mrs. Spartz. Of course. You are too. But I think -- I'm not using my titles too.

There's a difference to use your former titles to put your personal opinions and undermine information versus just express it. I think it's a difference.

Mr. Litt. I don't think there is a question there.

Mrs. Spartz. The gentleman believes there is not. I believe it is.

BY MR. [redacted]:

Q You do see a difference between the open letter from the senior military leaders and the letter that you signed, though?

A Yes, I do see a difference.

Q I mean, the difference is that at the time there was a question and controversy whether this laptop story was legitimate and authentic. Your letter basically weighed in and said it was not, when in fact it was.

A That isn't -- we said watch out. It's a warning. The Russians could be involved. Don't read into it something it isn't.

Q But it certainly had a different effect. I mean, the Politico story mischaracterized it.

A That's correct.

Q The Vice President mischaracterized it in the debate.

A That's correct.

Q And we have testimony from Mr. Morell that he knew that would happen. And so in light of that, isn't there -- isn't the distinction pretty stark?

A The distinction with what?

Q Between the two letters. I mean, this was a letter that was used to discredit a story --

A Well --

Mr. Litt. Let him finish.

Mr. [redacted]. -- used to discredit a story that, in fact, was true, whereas the open letter from senior military leaders is just a, you know, it's just a -- essentially an endorsement.

Mr. Clapper. It's a political statement. That's right. That's right. And it cast doubt on the Democrats.

Mr. Litt. Just to be clear, when you say it's a political statement, you're talking about the military leader statement?

Mr. Clapper. Yes. Exactly.

BY MR. [redacted]:

Q As we sit here today, does it give you any concern that there was a subset of the signers of the letter that were surely pursuing a political operation by using this letter?

A Well, I don't know, and nor did I seek to understand what the motivations were of the various other signatories, of whom I was not aware anyway who the other signatories were.

Q So before you agreed to sign on, you didn't -- or before the letter was published, you didn't get a list of the folks that were joining the letter?

A No, I don't think I did. I think it was afterwards.

Q Do you believe Mr. Morell was trying to help the campaign here so he could become the Director of the CIA?

A I don't know that.

Q At the time, did you have discussions with Mr. Morell about whether he was interested in being the CIA Director?

A No.

Q Do you believe the Biden campaign and Mr. Morell were trying to capitalize

on your credentials -- you know, you're the first person listed on the letter -- to quash this negative reporting?

A Well, I don't think -- I wouldn't agree with the characterization that the intent was to quash negative reporting. I think the intent on my part, at least, I can't speak for the other 50, my part was simply to sign to signal a warning of the potential Russian involvement.

Q But you can acknowledge the Biden campaign was eager to have you sign on because of the credentials that you bring to the letter?

A I suppose, yeah.

Q And so in hindsight, does it give you pause that the Biden campaign may have been using you and using your credentials to quash this negative story?

A Well, I did not know contemporaneously of the campaign connection with Michael Morell. I did not know that. So I don't know whether that would have affected the decision to sign it or not.

Q I mean, one of the classic earmarks of former intel officials, I think, in many respects, and you can disagree with this or agree with it, is that for the most part you are viewed as a nonpartisan career official.

A During my time of service, yes.

Q And so when you're a former official, your name and the other former heads of the CIA bring to bear the fact that they're not a partisan political operative. Don't you think that was valuable for the Biden campaign?

A I suppose.

Q And --

A I don't know.

Q And if you had to do it again, would you opt out of the letter, or would you

agree to participate in it, if you knew it was a political campaign?

A Well, given the fact I'm being investigated for signing it, I'd probably think twice, yeah, in the exercise of my First Amendment rights.

Q In fact, we have some emails -- and I wanted to ask whether you are aware that following the debate there were some email exchanges between some of the people that signed the letter saying such things as, "TP worked well at the debate. Great idea guys." Were you aware of that?

A No.

Q And that was from Gregory Tarbell. Do you know who that is?

A No.

Q To Kristin Wood. Do you know who Kristin Wood is?

A I know of her. I don't know her.

Q And Ms. Wood responded to Mr. Tarbell, "That was really cool."

Does it give you any concern that some of the signatories of the letter were celebrating sort of the political aspects of it?

A No.

Mr. [redacted]. What number are we up to?

Mr. [redacted]. 12.

Mr. [redacted]. 12?

[Clapper Exhibit No. 12

Was marked for identification.]

Mr. [redacted]. Just introducing the exhibit that I referenced between Ms. Wood and Mr. Tarbell.

BY MR. [redacted]:

Q Earlier today we had a little bit of a discussion about the Steele Dossier.

When did you first learn of the Steele Dossier?

A I think it was in mid-December -- around December 15th of 2016.

Q And do you remember how you learned about it?

A I had a call from John Brennan to inform me -- asking me was I aware of it, and I was not.

Q And at that point, did you -- were you able to make an assessment of whether the Steele Dossier was authentic information -- contained authentic information?

A Not at that very instant, no.

Q At any point in time, did you come to make an assessment of the content of the Steele Dossier?

A Well, the community assessment was -- the team that put together the intelligence community assessment was not to draw on it as a source for the intelligence community assessment. So you won't find a footnote using the dossier as a source.

Q What do you recall of that communication you had with Director Brennan at the time?

A He just called me up and said, "Are you aware of this dossier that has some damming information about candidate Trump?" and I said no.

Q Did he send it to you?

A No. I got it from the FBI.

Q Do you remember who at the FBI sent it to you?

Mr. Litt. Are we going to tie this back to the Hunter Biden laptop in some respect? I really don't think this is the forum to be litigating the Steele Dossier.

Mr. [redacted]. Just asking some questions. You're here voluntarily. If he doesn't want to answer them --

Mr. Litt. I understand you're asking questions. If you have a question about the Biden laptop statement, we can deal with that.

But I don't think you should be answering these questions about --

Mr. [redacted]. Well, part of the problem with the Steele Dossier is that it was classic disinformation, where the Hunter Biden laptop was not.

Mr. Clapper. Well --

Mr. Litt. That's not a question to you.

Mr. [redacted]. Don't you agree?

Mr. [redacted]. Don't I agree with what?

Mr. [redacted]. That on one hand, the Hunter Biden laptop information was not disinformation, but the Steele Dossier was. It was false --

Mr. Clapper. Not in its entirety. Some of what was in the 35 separate memos that compose the Steele Dossier was corroborated from separate sources. Much of it was not.

Mr. [redacted]. Okay.

Mr. Gaetz. But didn't the Steele Dossier have all the features of a Russian disinformation operation? Didn't you testify to that earlier?

Mr. Clapper. Well, it had some, I suppose, but bear in mind that at least the FBI considered that the initial sourcing, which was Robert Steele, was credible. He'd been a credible -- what they regard as a credible source for about 3 years. The issue was with the second and third order assets which Steele drew on which we could not corroborate.

Mr. Gaetz. And by Robert Steele, do you mean Christopher Steele?

Mr. Clapper. So I don't see a direct parallel.

Mr. Gaetz. We went through this earlier. For the record, I'm going to assert that the basis for these questions about the Steele Dossier emerged from Director

Clapper claiming that his extensive experience analyzing Russia informed on his basis to sign the Hunter Biden letter.

So one cannot simultaneously say my basis is all this experience I have analyzing that which is or isn't a Russian information operation, and then say you're not going to talk about that analysis through the lens of the Hunter Biden letter.

So I understand you take exception to that. We have done this with a number of witnesses. But if we proceed with a contempt proceeding, I at least wanted the basis to be reflected.

Mr. Litt. Just to be clear, I have not interposed any objections to questions such as you were just talking about, comparing the Steele Dossier to the Biden laptop.

What I did start to object to was discussions about how he learned about the dossier, what his communications with John Brennan were, who he obtained the dossier from, which I don't think is within the scope.

I have no problem with your asking the kinds of questions you were talking about, sir.

Mr. Gaetz. Yeah. And as to Mr. Castor's question, the committee's position, I believe, will be that when Director Clapper references the full suite of his experience, then the full suite of his Russia experience becomes probative to this inquiry.

But as Mr. [redacted] has said, you could choose to answer or not answer any questions you want because you're here voluntarily.

Mrs. Spartz. But which earmarks? You said that this Biden laptop had all earmarks of Russian disinformation, but the Steele Dossier didn't have all. Which one it didn't have from your perspective?

Mr. Clapper. Well, the difference was the primary source of the Steele document was Robert Steele, who --

Mr. Litt. Christopher.

Mr. Clapper. I'm sorry?

Mr. Litt. Christopher Steele.

Mr. Clapper. Oh, Christopher Steele, excuse me, was a career-long professional British intelligence officer who was an expert on Russia. So he was considered credible.

The issue was the second and third order assets that he drew on to compile the Steele -- this dossier, which most of which we could not corroborate.

Mrs. Spartz. So what do you believe --

Mr. Clapper. And of course, difference, the big difference here is I was in a position to have access to classified information to make inquiries about it, which I was not in the case of the laptop.

Mrs. Spartz. So do you believe you were used by the Biden campaign for their political reasons?

Mr. Clapper. No, I don't feel used.

Mrs. Spartz. So how would you -- since you didn't know, but they used your credential to use in the elections and write this letter, how would you --

Mr. Clapper. Well, I can't --

Mrs. Spartz. -- classify that?

Mr. Clapper. I can't comment on that. My purpose was simply to sound a warning, as I've said many times before this morning, that there is the potential for Russian involvement. That's all.

Mrs. Spartz. Did you cite it in any other situation before?

Mr. Clapper. What?

Mrs. Spartz. In any other situation, do you have circumstances where you cited the warning in any other -- during your career after that it could be potentially Russian

involvement? Have you had any other situation when you made the same warning, or this is the only time that you made that statement?

Mr. Clapper. I mean, since the I left the government?

Mrs. Spartz. Since you left or during that, have you made statements, have you issued that warning ever before, or this is the first time?

Mr. Litt. I'm sorry. Are you asking about while he was in the government or just after?

Mrs. Spartz. While or after. Did you ever --

Mr. Clapper. I sounded a warning immediately -- in fact, that's why I wanted to go public, to express my concern about the Russians after the 2016 election.

Mrs. Spartz. But a specific case, that was the first time you publicly issued the warning?

Mr. Clapper. No, it was not. I issued it on "Meet the Press" in 2017.

Mrs. Spartz. And what was that warning?

Mr. Clapper. About the Russian involvement. I talked about the Russian interference in our election in 2016. And I'm sure there are other appearances I made on CNN where I spoke to it.

Mrs. Spartz. But why would you think that anything like that, why would the Russian involvement and that would be discredited, why would you think Russians wouldn't want to have Hunter and Mr. Biden? Why do you think they would not actually try to do something on purpose to have Biden? Why do you think they would not want to support him?

Mr. Clapper. I don't understand the question.

Mrs. Spartz. Why would you think that when you look at this disinformation and why do you think that potentially maybe the Russians had a different idea when they

interfere and maybe they had no problems with President Biden?

Mr. Clapper. Well, that didn't occur to me. I just again thought that the public should know of the potential for Russian involvement.

Mrs. Spartz. So in your mind, you always had this in your mind, Trump and Russian connection, even though a lot of things never were proved to be true, that there was no specific connection, but you still made these assessments --

Mr. Clapper. Well, I don't know that yet for sure. I think at the time that the potential for Russian involvement was real and that I thought it was appropriate that the American public be warned of it. That was the whole purpose.

Mrs. Spartz. So you thought there could be connection between Trump campaign and Russian Government?

Mr. Clapper. What?

Mrs. Spartz. You thought in your mind there could be connection between Trump campaign and Russian Government?

Mr. Clapper. What's the question?

Mr. Litt. She's asking whether what you're saying is you thought there could be a connection between the Trump campaign and the Russian Government.

Mr. Clapper. Yes, I did. When President Trump publicly solicited Russian assistance in finding the Russian emails, or the missing Hillary Clinton emails, 5 hours later the Russian Intelligence Service, specifically the GRU, went to work to just -- to do just that.

Mrs. Spartz. How did he solicit when you say that?

Mr. Clapper. How did I what?

Mrs. Spartz. How did he solicit that?

Mr. Clapper. Solicit?

Mr. Litt. How did he solicit the Russian assistance?

Mrs. Spartz. Yeah, how did he do that?

Mr. Clapper. He made it in a rally speech.

Mrs. Spartz. You can do rally speeches. We do a lot of different things. He didn't spend any --

Mr. Clapper. Well, the point is, the intelligence showed that the Russians reacted.

Mrs. Spartz. What about what intelligence did on the information that Clinton campaign and Jake Sullivan, current National Security Advisor, gave to intelligence services, you think that's a problem, how it was more credible when Clinton campaign give information?

Mr. Clapper. What are we talking about here?

Mr. Litt. I'm not sure what she -- she's talking about something about Jake Sullivan.

Mrs. Spartz. And Hillary Clinton campaign giving information to intelligence services, which became more credible.

Mr. Clapper. I don't know what you're talking about with Jake Sullivan.

Mrs. Spartz. As part of Clinton -- when Clinton campaign provided information also to intelligence services, is that credibility, was that a question?

Mr. Clapper. Well, there's some doubt about that.

Mr. [redacted]. I'm going to return to the information I was talking about, Attorney General Barr. We have an exhibit that will be No. 13.

[Clapper Exhibit No. 13

Was marked for identification.]

Mr. [redacted]. Look over that.

First of all, the title of this story from Blaze Media is, "Bill Barr says suppressing Hunter Biden laptop story 'definitely made an impact on the election.'"

"Barr recalled when a letter signed by more than 50 former senior U.S. intelligence officials -- including former DNI James Clapper -- claimed the allegations regarding a laptop purportedly owned by President Joe Biden's son 'had all the classic earmarks of a Russian information operation' was released in October 2020."

And then here's a quote: "As soon as this letter came out from the so-called intelligence specialists, the DNI, John Ratcliffe at the time, and the FBI -- which worked for me -- both came out and said this was not the result of Russian disinformation,' Barr said during a Thursday appearance on 'Jesse Watters Primetime.' 'The media ignored that completely and just kept going on with the disinformation lie.'"

So my question is, did you not know that Barr had come out and ratified what Director Ratcliffe had said?

Mr. Litt. What's the date of this article?

Mr. [redacted]. March 18th, 2022.

Mr. Litt. Okay.

Mr. Clapper. Well, this is a little bit after the letter, the public statement.

Mr. [redacted]. No, but the Attorney General's talking about what he did at the time.

Mr. Litt. I'm sorry. Where does he say anything about what he did at the time?

Mr. [redacted]. He said the FBI, which works for me.

Mr. Forrest. Do you have the FBI statement?

Mr. [redacted]. We do. We have that ready for you.

Mr. Litt. Okay. Why don't we deal with that then.

Mr. Clapper. This is in 2022.

Mr. Litt. Yeah.

[Clapper Exhibit No. 14

Was marked for identification.]

BY MR. [redacted]:

Q The concluding sentence, the penultimate paragraph, "Therefore, the FBI cannot provide any additional information in response to the enumerated questions to your letter. We have nothing to add at this time to the October 19th public statement by the Director of National Intelligence about the available actionable intelligence on Hunter Biden's laptops and emails."

And I'm just wondering whether you were aware of that?

A This?

Q Yes.

A No, I've never seen this letter before.

Q Okay. And the date on this is October 20th, 2020.

A How would I have seen this letter?

Q I don't know how you would or how you wouldn't. I'm sure it was published in the news, discussed in the news.

A Oh, was it? Okay.

Q Okay. You mentioned the Steele Dossier had 35 chapters or 35 components?

A 35, as I recall, or so documents, separate documents that comprised what was called the dossier.

Q And did you ever have access to all 35?

A Yes.

Q And did you ever disseminate them?

Mr. Litt. What do you mean by disseminate?

Mr. [redacted]. Give to anybody.

Mr. Litt. He gave it to me.

Mr. Clapper. I gave him a copy and gave my deputy a copy.

BY MR. [redacted]:

Q And did you give it to any news organizations?

A No.

Q At any point did you use the Steele Dossier to -- did you talk about the Steele Dossier in a positive way on any of your television appearances?

A No, other than -- well --

Q Giving it credibility?

A No. I always made the point that we didn't use it for the intelligence community assessment, we didn't draw on it.

Mr. [redacted]. We have about 20 minutes left in our hour.

Mr. Litt. Don't feel compelled to use it.

Mr. [redacted]. I'm not. I'm seeing if anybody has -- Mrs. Spartz or Mr. Gaetz?

Mr. Gaetz. Director, were you aware of any of the contents on the Hunter Biden laptop when you signed this letter?

Mr. Clapper. No. No, I was not.

Mr. Gaetz. And have you subsequently become aware of any of the contents of the laptop?

Mr. Clapper. Well, I've read media reports, yes.

Mr. Gaetz. Do any of the contents of the laptop concern you as you sit here today?

Mr. Clapper. Well, sure. I mean, yes, it would be of concern.

Mr. [redacted]. Can we go off the record for a second?

[Discussion off the record.]

Mr. [redacted]. Back on the record.

Mr. Gaetz. You indicated that the contents of the laptop, as you now understand them, concern you, and I'd like to know why.

Mr. Clapper. Well, again, I'm going based on only what I've read in the media, but there certainly is the potential for compromise, I suppose. But, again, I'm not authoritative on the actual content, how much of it -- do we know was any of that inserted by somebody else? I don't know.

Mr. Gaetz. You don't have any basis to believe any information is inauthentic today, do you?

Mr. Clapper. Well, I don't have any basis for saying it's authentic or unauthentic, other than what I read in the media.

Mr. Gaetz. Yeah. Well, Mr. Clapper, one basis for presuming it might be authentic is that Hunter Biden's authenticated it, right?

Mr. Clapper. He's apparently said it is his laptop and that at least some of what's on it is his --

Mr. Gaetz. Has he said any of it is not --

Mr. Clapper. -- as I understand what's been in the media.

Mr. Gaetz. These are really predicate questions. I don't mean to go back and belabor them. But you've testified earlier to us that you're unaware of any effort by Hunter Biden to say that this isn't authentic, that you suppose --

Mr. Clapper. That's why I was saying I don't have a basis for saying --

Mr. Gaetz. Mr. Director, you've got to let me finish the question.

Mr. Clapper. Yeah. I apologize. Sorry.

Mr. Gaetz. You've testified earlier today that you have no basis to believe it's not authentic, that you're aware that Hunter Biden has authenticated some of it, and that you suppose -- your words -- that if there was anything inauthentic, that someone from Hunter Biden's team would say so.

Have I misunderstood any part of what we've discussed?

Mr. Clapper. Well, I think that's right.

Mr. Gaetz. Okay. Back to the predication. And now we're talking about the contents of the laptop. I'm trying to understand from you why the contents don't concern you more.

Mr. Litt. More than what?

Mr. Clapper. Well, I don't know what the contents actually are.

Mr. Gaetz. Okay. Are you aware of --

Mr. Clapper. I didn't know that much about it certainly in October 2020.

Mr. Gaetz. Moments ago -- and that's actually what I'm trying to probe here, is how your understanding of the context have changed from when you signed the letter to now, because that might inform on the committee's legislative work --

Mr. Clapper. Well, again, all I know --

Mr. Litt. Let him finish.

Mr. Gaetz. That may inform on the committee's legislative work regarding how to constrain some security clearances for former folks. So that is our basis for asking the question.

So in 2020, when you signed the letter, you were unaware of any contents, correct?

Mr. Clapper. Other than what the New York Post reported.

Mr. Gaetz. And today you're aware of more contents of the laptop?

Mr. Clapper. Well, there's been more publicity about it, yeah.

Mr. Gaetz. Sure. And that understanding has now developed within you a concern over potential compromise. Isn't that right?

Mr. Clapper. Well, I suppose, yeah. You can -- I guess you could spin a web to say that there's potential for compromise, yeah.

Mr. Gaetz. These aren't trick questions. I'm citing your testimony back to you.

And had you known when you signed the letter what you know now, would you similarly have been concerned about comprise of the First Family.

Mr. Clapper. Well, probably. But my greater concern, my overriding concern was the potential for Russian involvement. That's why I signed the letter, the release.

Mr. Gaetz. Why were you more concerned about Russian involvement than compromise of the First Family?

Mr. Litt. You mean why would he have been more concerned if he had known at the time?

Mr. Gaetz. Well, that's not my question.

As you sit here today, why are you more concerned about the Russian interference features of this operation and not as much the compromise?

Mr. Clapper. I can't quantify how much I'm concerned about compromise of the First Family versus -- I can't quantify that to say one is more or less. I'm concerned -- the issue for me was what did I think in 2020, October 2020, two and a half years ago.

Mr. Gaetz. And if you would have known in 2020 what you know now about the potential for compromise, would that have stopped you from signing the letter?

Mr. Clapper. I don't know. I will say, I'll repeat what I said earlier, the letter would have been better had we added a sentence something to the effect that we will abide by the results of a competent, legitimate forensic analysis of the laptop and its

content. I think that would have strengthened the statement when we made it in October of 2020.

Mr. Gaetz. And there are other ways to authentic contents other than a forensic analysis, right?

Mr. Clapper. Well, I suppose. But that's what I would ascribe the most credibility to.

Mr. Gaetz. If Hunter Biden stood up and said, "That is my laptop and those contents are authentic," would that have been sufficient for you?

Mr. Clapper. I don't know.

Mr. Gaetz. How could that have been insufficient?

Mr. Clapper. If the content of the laptop had been manipulated in such a way that he wasn't aware of it, you have to -- there's that possibility. The Russians are pretty skillful at this stuff.

Mr. Gaetz. And as we sit here today, you have no basis to believe that that alteration has, in fact, occurred, right?

Mr. Clapper. I don't know that, no.

Mr. Gaetz. If you were aware of contents of the laptop wherein Hunter Biden was engaged in business deals in Russia, would that have factored into your decision to sign or not sign the letter?

Mr. Clapper. Well, it's not illegal for people to have -- at least it wasn't then -- business deals in Russia or China.

[1:22 p.m.]

Mr. Gaetz. I'm not suggesting it's illegal. I'm trying to --

Mr. Clapper. Well, there's the potential for a national security implication there, yes. But I don't know enough about that to say definitively one way or the other whether there was.

Mr. Gaetz. And I'm not trying to assert that you have a definitive understanding of everything on the laptop.

What I'm trying to understand, had you had more visibility into the contents, which of these various things from the laptop may have caused you pause, or may have been forthright in the consideration of your decision to sign or not sign?

Mr. Clapper. Had someone said in a position of authority, not just the Biden family, or Hunter Biden himself, but if a competent investigatory body had done a forensic analysis, could definitively say there's no evidence of Russian interference here, clearly that would have affected my decision whether or not to sign the letter or not, had I known that contemporaneously. I didn't know that.

Mr. Gaetz. Yeah, you've been very clear about that.

But a separate and distinct question from whether or not an independent analysis would have authenticated the laptop is whether or not the contents themselves would have motivated you in any particular way. So let me ask you another -- about another vertical there. Are -- as you sit here today, are you aware of SinoHawk as business entity?

Mr. Clapper. As what?

Mr. Gaetz. SinoHawk.

Mr. Clapper. I don't know what you're referring to.

Mr. Gaetz. Okay. Have you ever heard of Tony Bobulinski?

Mr. Clapper. I've heard the name. I don't know -- can't -- I can't go much beyond that.

Mr. Gaetz. And as you sit here today, are you aware of contents the laptop had evidence a number of connections with the Chinese and Hunter Biden?

Mr. Clapper. I'll accept that. I don't -- I don't -- I didn't know that for sure.

Mr. Gaetz. Yeah, I'm not asking you to accept my premise. I'm asking -- I'm trying to probe your awareness of these things.

Mr. Clapper. I was not aware of any Chinese connection in October of 2020 on the laptop, no.

Mr. Gaetz. And are you aware of such a connection today?

Mr. Clapper. That's what I've read.

Mr. Gaetz. And do you believe what you've read on that?

Mr. Clapper. Well, I -- I -- I don't know.

Mr. Gaetz. Mr. Director, the reason I'm asking this, some things that John Ratcliffe writes -- John Ratcliffe writes, you don't believe. Some things that others write, you do believe. So I'm trying to understand what goes into your decision calculus here.

So the things you read today about Chinese connections between the Biden family that have emerged off of this laptop, do you have -- do you have any basis with your wealth of specific to assess the veracity of those claims?

Mr. Clapper. Well, I accept the claims. I -- but I don't know what the specifics of the claims are.

Mr. Gaetz. Um --

Mr. Clapper. So, yes, you're always concerned if there are interactions with entities in an adversary's nation-state like China or Russia.

Mr. Gaetz. China does --

Mr. Clapper. That's always a concern, but it may not be anything nefarious or certainly illegal.

Mr. Gaetz. Yeah, and I --

Mr. Clapper. I mean, all kinds of people have business dealings with China.

Mr. Gaetz. Sure. And I'm not suggesting every one of them is illegal. I'm wondering to what extent knowledge of those interactions would inform on signing a letter such as the subject of our discussion today in the course of a Presidential campaign. So --

Mr. Clapper. Well, these are all --

Mr. Gaetz. -- as it relates to China -- excuse me, Director.

As it relates to China, China does try to compromise powerful Americans, don't they?

Mr. Clapper. China what?

Mr. Gaetz. Does try to compromise powerful Americans, don't they?

Mr. Clapper. Well, they have, yes.

Mr. Gaetz. And they try to compromise American politicians, right?

Mr. Clapper. They have attempted, yes.

Mr. Gaetz. They've succeeded in some cases.

Mr. Clapper. Well, I can't speak to that. Well, I was privy to certain investigations when I was DNI, but I don't think I should speak to --

Mr. Gaetz. Okay. That's an important -- so I'm to understand your objection to the question to be that it calls upon to you discuss classified information, not that you're just unwilling to speak about it generally.

Mr. Clapper. Yeah, okay.

Mr. Gaetz. The -- are you aware of content on Hunter Biden's laptop wherein

Hunter Biden organizes the annual meeting of his investment fund at the Chinese Embassy?

Mr. Clapper. No.

Mr. Gaetz. Had you been aware of that, would that have concerned you?

Mr. Clapper. Perhaps. There could be -- there could be security implication or not. I don't know enough about it.

Mr. Gaetz. And if that meeting of Hunter Biden investment fund, if the opportunity to have that at the Chinese Embassy was predicated on Hunter Biden's willingness to have a one-on-one meeting with the Chinese Ambassador, while his father was Vice President, would that increase or decrease your concern about such an interaction?

Mr. Clapper. It would depend on the nature of the conversation.

Mr. Gaetz. Do you think it's proper for the son of a sitting Vice President to be holding investment meetings at the Chinese Embassy and having one-on-one meetings with the ambassador?

Mr. Clapper. I can't say.

Mr. Gaetz. Does anything about that concern you?

Mr. Clapper. Were there national security implications there? I don't know.

Mr. Gaetz. Had you known that there were arrangements to have such a meeting for Hunter Biden at the Chinese Embassy predicated on Hunter Biden before that meeting, having a one-on-one discussion with the ambassador, would that have impacted your decision to sign the letter?

Mr. Clapper. I don't know. I mean, you're -- this is hypothetical questions you're asking. But 2-1/2 years ago and whether that would have impacted the decision I might have made to sign one or not, I don't know.

Mr. Gaetz. Well, shouldn't it have?

Mr. Clapper. Possibly, had I -- if I knew more detail about the nature of the conversations. Was there a national security implication here, or was this just a business dealing?

Mr. Gaetz. Prior to signing the letter, can you list for me the steps you took to understand the contents of the laptop?

Mr. Clapper. I'm sorry?

Mr. Gaetz. Prior to signing the letter, can you list for me the steps you took to understand what the contents the laptop were?

Mr. Clapper. I wasn't in a position to garner information or insight about the contents of the laptop. All I had to go on was what was in the media at the time.

Mr. Gaetz. Why did you assess that the contents of the laptop weren't relevant to assessing these indicia of Russian disinformation?

Mr. Clapper. Because I was concerned about potential Russian involvement in inserting content.

Mr. Gaetz. Wouldn't your concern about any potential inserted content necessitate some investigation or discovery or inquiry on your part as to those contents?

Mr. Clapper. No --

Mr. Gaetz. Why not?

Mr. Clapper. -- Congressman. I simply was concerned about potential Russian involvement. I don't know how many times I have to say that.

Mr. Gaetz. We hear you loud and clear that that was a concern. But we have to decide how to legislate around the fact that 51 former intelligence officials went and said something that the media portrayed as a falsity, and then it was used in a Presidential debate and it harms the credibility of our intelligence entity.

So that legislative endeavor necessitates understanding when a person in your position with your active security clearance puts their name on such a letter: What things do you investigate? What things do you review? What things do you research? What experiences do you draw on?

And so you can -- you can come and say in each one, in response to all of our questions, that you just thought the public ought to be warned. But that's not fulsome when we're trying to ascertain the process you went through.

And so -- so I'll go into some more granular detail.

Did you speak to anybody currently in the government before you signed the Hunter Biden letter?

Mr. Clapper. No.

Mr. Gaetz. Did you speak to anyone other than the signatories to the letter who had left government but had previously held positions in the government before signing the letter?

Mr. Clapper. Other than the ones that were in the email exchange.

Mr. Gaetz. Yeah, I -- I understand those -- for a moment, I'm going to carve out signatories to the letter. But is there any human being who is not a signatory to the letter that you discussed the letter with prior to signing?

Mr. Clapper. No.

Mr. Gaetz. Okay. Which of the signatories to the letter did you have a discussion with about the letter?

Mr. Clapper. Other than my email exchanges with Michael Morell, none.

Mr. Gaetz. So you didn't speak to Mr. Morell on the phone?

Mr. Clapper. No.

Mr. Gaetz. Mr. Polymeropoulos?

Mr. Clapper. No.

Mr. Gaetz. Mr. Brennan?

Mr. Clapper. No.

Mr. Gaetz. Did you review any files or materials in your possession, custody, or control, prior to signing the letter?

Mr. Clapper. No, other than the media reporting which is publicly available.

Mr. Gaetz. But no other notes you've taken, briefs you've written?

Mr. Clapper. No.

Mr. Gaetz. And the public, do you recall --

Mr. Clapper. On the specific subject of the laptop?

Mr. Gaetz. Yes, sir.

Mr. Clapper. No.

Mr. Gaetz. And when you say that you reviewed media reports, can you list for me which reports those were?

Mr. Clapper. Well, The New York Post.

Mr. Gaetz. Okay. Any others?

Mr. Clapper. Not that I remember contemporaneously, no. I don't remember any others.

Mr. Gaetz. So upon reading one media report, you agreed to sign this letter.

Mr. Clapper. Well, I suppose there was other -- other media outlets that spoke about the reporting originally generated by The New York Post. I can't tell you, recite for that for you who that was in October of 2020.

Mr. Gaetz. And did you review The New York Post story on a digital device?

Mr. Clapper. On what?

Mr. Gaetz. On a digital device?

Mr. Clapper. I don't remember where I -- I suppose on -- I would have read it on my computer, yeah.

Mr. Gaetz. And --

Mr. Clapper. It wasn't the original article. It was others, you know, reporting on The New York Post article.

Mr. Gaetz. And who's your internet service provider?

Mr. Litt. Really?

Go ahead. You can answer the question.

Mr. Clapper. What?

Mr. Gaetz. Who's your internet service provider?

Mr. Clapper. Verizon.

What's that for?

Mr. Litt. He doesn't have to tell you that. He can ask any question he wants.

Mr. Gaetz. That's correct. I believe I've asked them.

Mrs. Spartz. I have a quick question for you.

Just, you know, you mentioned about the potential compromise of the First Family and concern.

Do you believe -- you know, from your professional opinion which, you know, you've been in this for a long time, you know, seeing what's happened with Hunter Biden and the corruption prosecutor, with Burisma, with information that right now current Amos Hochstein, who's actually current advisor, energy advisor to President Biden and there is, you know, ex-CEO of Naftogaz oil gas under investigation with the corruption prosecutor, is this something, this issue could be potentially, you know, a problem because he had his family and his current employee involved in some anticorruption investigation in Ukraine?

And I think this is really -- I think that we should be looking very carefully because that potential could compromise our First Family.

So ex-CEO of Naftogaz right now, anticorruption prosecutor of Ukraine opened a case for him and the current advisor to President, Amos Hochstein, who is the one who advised the ones that now is under investigation, you know, by this anticorruption prosecutor. So we have the same situation where his family, his employees involved in some advisory dealings with money in Ukraine, which is pretty corrupt country, as you know, and there is a lot of work to do there.

Do you think this is pause -- causes you pause, you know, to start thinking about what is really happening in, you know, in our intelligence community? Are we doing our job?

Mr. Clapper. I'm not sure I understand what you're getting at here.

Mrs. Spartz. You know, do you believe all of the situation involvements of President Biden's son, President Biden's current employees when a lot of oil business in Ukraine --

Mr. Clapper. Uh-huh.

Mrs. Spartz. -- could potentially compromise the First Family?

Mr. Clapper. In the absence of information, more information than is available to me, I don't know. I suppose it could be but I -- I don't know enough to answer that.

Mrs. Spartz. So if you -- but if you would see similar concern, you'd be willing to make the same strong statements that you just made about some concerns that you had in the letter that you sent related to the laptop situation. Would you -- you still would be --

Mr. Clapper. I'm not --

Mrs. Spartz. -- impartial --

Mr. Clapper. I'm --

Mrs. Spartz. -- to do that.

Mr. Clapper. I'm afraid I'm not following you here.

Mrs. Spartz. But you would be impartial to do, this your statements, you know, if you in that -- in the similar situation with -- that you just did about Hunter Biden laptop. Would you -- using your professional knowledge or you only feel like you need to do it only if it's related to anti-Trump?

Mr. Clapper. I'm sorry. I'm missing the point here.

Can you help me, Bob?

Mr. Litt. No.

Mrs. Spartz. But you believe the potential, from what you know, that First Family could be compromised. Is that correct?

Mr. Clapper. Well, I suppose that's possible. But I don't know that. I don't know enough facts to make a judgement.

Mrs. Spartz. But it's concerning, what you've seen in your professional opinion, what you've heard and seen about laptop and other things. Is it concerning?

Mr. Clapper. Well, I don't know enough about it to say whether -- it could be, you know. Anything's possible, but I don't know enough to answer that question.

Mrs. Spartz. But you did know enough or you just made an assumption last time when you did put your signature on that letter. What did you know?

Mr. Clapper. What I know -- what I knew of is about 30-plus years of experience with the Russians and the experience I had in the election of 2016. That yes, I was very concerned about that.

Mrs. Spartz. But you're not concerned about what's happening now?

Mr. Clapper. Well, I'd have to know more facts.

Mrs. Spartz. Okay.

Mr. [redacted]. Thank you.

Mr. Clapper. This is history I haven't lived. I lived a lot of history with the Russians.

Mr. [redacted]. Thank you.

Ms. [redacted]. We can go off the record.

[Discussion off the record.]

Ms. [redacted]. We can go back on the record. It is 1:45 in the afternoon.

EXAMINATION

BY MS. [redacted]:

Q General Clapper, I want to turn back to I think it's exhibit 14, but I'm not sure if I marked it down right. It's the letter from the FBI that's dated October 20th, 2020.

Is that exhibit 14? Is that what you have it as?

Mr. [redacted]. Yes.

Ms. [redacted]. Okay.

BY MS. [redacted]:

Q The FBI cannot provide any additional information in response to the enumerated questions in your letter. I want to just state for the record what that full paragraph reads. The full paragraph reads that:

Finally, as the FBI advised the committee in its letter dated October 5th, 2020, consistent with longstanding Department of Justice department policy and practice, the FBI can neither confirm nor deny the existence of any ongoing investigation or persons or entities under investigation, including to Members of Congress.

It explains that the IG has laid out the rationale for that decision. And then it says:

Therefore, the FBI cannot provide any additional information in response to the enumerated questions in your letter?

So, and I know you said you've never seen this letter before, right?

A Right.

Q But it's pretty clear there that to the extent the FBI cannot provide any further information, it's because they cannot provide information about potential or ongoing investigations, correct?

A Right, that's typical.

Q Okay. And that's standard.

A That's what?

Q Thank you. I want -- that's standard. That's standard.

A Yes.

Q The FBI can't provide --

A Yes.

Q -- that type of information.

A Yes.

Q Okay. Thank you. I just wanted to clarify the record on that, and we can move on from that exhibit.

There's also been a fair amount of discussion about the -- whether the laptop has been authenticated or not. And I think you said that you don't know, right, that there's no official statement to that effect?

A Yeah, I don't know.

Q Are you familiar with the type of investigation that the government would do to authenticate something like that?

A Well, generally. I would say the government would be, at least for me, the

FBI would do that sort of thing.

Q Okay. And they would -- it would take them some time to do that, correct?

A Yeah, it would depend on the complexity of the --

Q Okay.

A -- what they're looking at.

Q And, to date, the FBI has not released any official analysis?

A Not to my knowledge.

Q Okay. And sometimes, the FBI might have done something, but for various reasons it might not release it, perhaps because there's indictments under seal or for any variety of reasons.

A Right.

Q Right? Okay.

Ms. [redacted]. I do want to introduce into the record as -- I have no idea what exhibit number we're on --

Mr. Litt. 15.

Ms. [redacted]. -- as exhibit 15, a Washington Post article. It's entitled, "Here's how The Post analyzed Hunter Biden's laptop," and I'm just going to read briefly from it?

[Clapper Exhibit No. 15

Was marked for identification.]

BY MS. [redacted]:

Q And I'll give you a minute to review it. We're not going to go through the whole thing. We're actually just going to look at the first page of it.

A Yeah, I recall.

Q Okay.

A I recall --

Q Okay.

A I recall this article.

Q Okay. So according to this article, it states that, while some of the emails from the laptop, quote -- and this is in the Washington Post analysis, I should say. This is not a government analysis. But according to The Washington Post analysis: While some the emails from the laptop, quote, "are authentic communications that can be verified through cryptographic signatures," end quote, those emails, quote, "are a small fraction of 217 gigabytes of data provided to The Post on a portable hard drive by Republican activist Jack Maxey," end quote.

Then it goes on, and it says: And, in fact, quote, the vast majority of the data and most of the nearly 129,000 emails it contained could not be verified by either of the two security experts who reviewed the data for The Post, end quote.

And then it says: quote, "The security experts who examined the data for The Post struggled to reach definitive conclusions about the laptop as a whole, including whether all of it originated from a single computer or could have been assembled from files from multiple computers and put on a portable drive," end quote.

So this article at least suggests that based on The Washington Post analysis, there are legitimate questions about the authenticity the laptop, correct?

A Yes, there are.

Q Okay. So to the extent that it was stated earlier that the emails are authentic or the laptop is authentic, that's actually not been proven, correct?

A Right.

Q Okay.

A Which is why I couldn't say one way or the other about the con -- anything about the content.

Q Thank you. And just one final line, final set of questions here.

You were asked earlier about the social media companies' activities with respect to the laptop. Do you remember that? Or --

A Yes.

Q -- with respect to The New York Post story, I should say.

Are you aware of the date that the social media companies took action?

A No.

Q Okay. I'll represent to you that The New York Times article was -- I'm sorry -- the New York Post article was published on the 14th.

[Clapper Exhibit No. 16

Was marked for identification.]

BY MS. [redacted]:

Q And I want to introduce as exhibit 16, a New York Times story published on October 16th that says, "In Reversal Twitter Noise Longer Blocking the New York Post Article."

A And that was on what date?

Q October 16th.

A Oh, okay.

Q And I'll give you a minute to review the article.

But the point is that if the emails were -- if the story was being freely shared by October 16th, your letter on the 19th couldn't have had an impact on it, right?

A Correct.

Q So do you agree that this article says that by October 16th, Twitter was permitting the articles to be freely shared?

A Yes.

Q So your email or your letter couldn't have had an impact on it.

[Clapper Exhibit No. 17

Was marked for identification.]

Ms. [redacted]. And now I also want to introduce as exhibit 17th -- 17, an October 15th, 2020, article from Business Insider. It's entitled, "The New York Post's dubious Hunter Biden article was shared 300,000 times on Facebook, even after the company said it limited its reach."

This is exhibit No. 17, and the date of this article is October 15th, 2020.

Mr. Clapper. Before the statement, yes.

BY MS. [redacted]:

Q So according to this article, Facebook first began to limit the -- attempted to limit the distribution of the article on Wednesday, October 14th.

Your letter was dated October 19th, correct?

A Correct.

Q So your letter could not have impacted the Facebook decision --

A Correct.

Q -- correct? And actually, the letter says that Facebook attempted to limit the distribution but it was not -- whatever attempt it made was not successful, for the record.

Mr. Litt. You mean the article.

Ms. [redacted]. The article, sorry.

And it still was shared many hundreds of thousands of times, for the record.

BY MS. [redacted]:

Q Okay. Now with respect to media coverage more broadly, as we said in the earlier hour, Rudy Giuliani actually first approached Fox News, and asked them to report

on the Hunter Biden laptop. And you said you weren't aware of that.

Do you recall that?

A Correct.

Ms. [redacted]. So I want to introduce as exhibit 18 the article reporting on the New York -- the Fox News decision.

[Clapper Exhibit No. 18

Was marked for identification.]

BY MS. [redacted]:

Q So according to this article, Rudy Giuliani approached Fox News with the story even before he approached Fox News, but Fox News's -- news division of Fox News declined to run the story, correct?

A Correct.

Q And it said it's because they couldn't properly -- they refused to run the story unless or until the sourcing and veracity of the emails could be properly vetted --

A Correct.

Q -- correct?

A Yes.

Q So, again, this article was published the 19th. But if The New York Post article was published on the 14th of October, Rudy Giuliani would have had to approach Fox News before the 14th of October, right?

A Right.

Q So once again, the public letter you signed could not have impacted the Fox News decision.

A Correct.

Ms. [redacted]. All right. And one more article and then I think we're done.

I want to introduce as exhibit 19 an October 15th, 2020, article entitled, "Bret Baier Calls Out Dubious Sourcing of Alleged Hunter Biden Emails: Let's Not Sugarcoat It, This Whole Thing is Sketchy."

[Clapper Exhibit No. 19

Was marked for identification.]

BY MS. [redacted]:

Q Are you familiar with Mr. Baier's comments?

A No.

Q Are you familiar with who Mr. Baier is?

A Yes.

Q Who is he?

A He's an anchor, commentator on Fox News.

Q Okay. And according to the article, this is what Bret Baier said about the laptop story on October 15th, 2020. He said: Let's say, just not sugarcoat it. This whole thing is sketchy. You couldn't write this script in 19 days from an election.

I believe that's on the second page. Do you see where it says that?

A I'm sorry?

Q Do you see where it says that on the second page?

A Yes, I -- yes.

Q So a Fox News anchor described -- a Fox News anchor described this story as sketchy on October 15th, which was 4 days before your letter was published --

A Right.

Q -- correct? And to your knowledge, are your committees -- are these committees investigating Bret Baier's reasons for making the statement that the laptop story was sketchy?

A Not to my knowledge.

Ms. [redacted]. Okay. Thank you. We can go off the record.

[Whereupon, at 1:59 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

Clapper Errata

p. 8, next to last paragraph, the reference to Chairman Jordan's statement should be in quotation marks, i.e. As Chairman Jordan said, "the most . . . doing so."

p. 25, fifth line from bottom, should be "80,000 votes" not "80 votes." I don't know whether Clapper misspoke or it was misstranscribed but the context is clear.

p. 52, 4th answer, should be "destruction" not "instruction."

p. 64, first full question, should be "extension" not "extent."

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: CARLTON PEEPLES

Thursday, May 18, 2023

Washington, D.C.

The interview in the above matter was held in room 164, Cannon House Office Building, commencing at 10:01 a.m.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

[redacted], DEPUTY GENERAL COUNSEL

[redacted], RESEARCH ASSISTANT

[redacted], COUNSEL

[redacted], SENIOR ADVISOR

[redacted], SENIOR PROFESSIONAL STAFF MEMBER

[redacted], MINORITY CHIEF OVERSIGHT COUNSEL

[redacted], MINORITY INTERN

[redacted], MINORITY STAFF ASSISTANT

[redacted], MINORITY OVERSIGHT COUNSEL

For the SUBCOMMITTEE ON THE CONSTITUTION

AND LIMITED GOVERNMENT:

[redacted], MINORITY DEPUTY CHIEF COUNSEL

[redacted], MINORITY COUNSEL

For the U.S. DEPARTMENT OF JUSTICE:

[redacted], OFFICE OF LEGISLATIVE AFFAIRS

For the FEDERAL BUREAU OF INVESTIGATION:

[redacted], OFFICE OF GENERAL COUNSEL

[redacted] We'll go on the record.

This is a transcribed interview of Special Agent in Charge Carlton Peeples. Chairman Jordan has requested this interview as part of the committee's oversight of the FBI.

Would the witness please state his name for the record.

Mr. Peeples. Carlton Peeples.

[redacted]. And could the agency counsel please state their names for the record.

[redacted]. [redacted], FBI, Office of the General Counsel.

[redacted]. [redacted], Department of Justice, Office of Legislative Affairs.

[redacted]. On behalf of the committee, I want to thank you for appearing voluntarily here today to answer our questions. The chairman also appreciates your willingness to appear voluntarily.

My name is [redacted], and I'm with Chairman Jordan's staff.

I'll now have everyone else in the committee who is here in the room introduce themselves as well.

[redacted] I'm [redacted]. I'm with Chairman Jordan's staff.

[redacted] [redacted], Chairman Jordan's staff.

[redacted] [redacted], Chairman Jordan.

[redacted] [redacted], Chairman Jordan.

[redacted] [redacted], chief oversight counsel for the House Judiciary Committee Democratic staff.

[redacted]. [redacted], House Judiciary Committee Democratic staff.

[redacted] [redacted], House Judiciary Democratic staff.

[redacted]. And, Mr. Peeples, we have agency counsel with us today, and we just want to make you aware that agency counsel's first duty is to represent the agency and not you personally. Do you understand that?

Mr. Peeples. Yes.

[redacted]. Now, I'd like to go over the ground rules and guidelines that we will follow during today's interview.

Our questioning will proceed in rounds. The majority will ask questions first for 1 hour, and then the minority will have an opportunity to ask questions for an equal period of time if they choose. We'll alternate back and forth until there are no more questions and the interview is over.

We typically take a short break at the end of each hour, but if you would like a break apart from that, just let us know. We're happy to accommodate. If you want a lunch break, like I said, just let us know. We're happy to do what you'd like.

And as you can see, there's an official court reporter here taking down everything we say to make a written record, so we ask that you give a verbal response to all questions asked. Do you understand that?

Mr. Peeples. Yes.

[redacted]. And so the court reporter can take down a clear record, we'll do our best to limit the number of people directing questions to you during a given hour just to the people on staff.

So please try to speak clearly so the court reporter can understand you and so folks down at the end of the table can hear you. It's also important that we don't talk over one another or interrupt each other if we can help it. So that goes for everyone present at today's interview.

We also want you to answer our questions in the most complete and truthful manner as possible, so we'll take our time. If you have any questions or you don't understand one of our questions, just let us know. We're going to cover a wide range of topics here today, so if you need clarification at any point, just let us know.

And, if you honestly don't know the answer to a question or you don't remember, it's best not to guess. Please give us your best recollection, and it's okay to tell us if you learned the information from someone else. Just please indicate how you came to know the information.

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

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

Mr. Peeples. Yes.

[redacted]. This also applies to questions posed by congressional staff in an interview. Do you understand that?

Mr. Peeples. Yes.

[redacted]. Witnesses also that knowingly provide false testimony could be subject to criminal prosecution for perjury or for making false statements under 18 U.S.C 1001. Do you understand this?

Mr. Peeples. Yes.

[redacted]. And, finally, I'd like to make note that the content of what we discuss here today is confidential, so we ask that you not speak about the contents of this interview to any outside individuals so we can preserve the integrity of our investigation.

For the same reason, we might mark some exhibits here today that we'll use, and those will remain with the court reporter so they can go in the official transcript, and any copies of those exhibits we are going to take back after the interview wraps up.

That is the end of our intro and our preamble.

[redacted]

[redacted] Just thank you to the witness for taking time out of your busy schedule to come in today.

[redacted]. So the clock reads 10:05, and we'll start the first round of questions.

EXAMINATION

BY [redacted]:

Q Good morning, Mr. Peeples. As I said before, my name is [redacted] and I am counsel with the committee. We'll get started.

My first question is, when did you first join the FBI?

A February 1998.

Q And what was your key motivation for joining the FBI?

A I knew I wanted to be a part of law enforcement, so this was one of the areas that I took a look into.

Q And what did you do before joining the FBI?

A Prior to joining the FBI, I was in the military for 3 years. And, between the military time and the FBI, I worked for a package company as a manager for 8 years.

Q Thank you for your service.

Did you ever deploy while you were in the military?

A What do you mean "deploy"?

Q Deploy -- like, served time out of the country going to serve in another

country?

A No.

Q Did you receive any service awards?

A I did, but I can't recall what they were.

Q Can you walk us through all of the positions you've held at the FBI?

A Yeah. Yes. I started in 1998 at Washington Field Office working counterintelligence from 1998 to 2000- -- sometime in 2001. Later in 2001 through 2003, I was working civil rights investigations. From 2003 to 2005, I was on the Safe Streets Gang Task Force as well as the FBI's WFO SWAT team.

From 2005 to 2007, I got transferred over to Washington Headquarters, and I was the program manager for civil rights in the southeast region from 2005 to 2007. Then I later became the chief of the Civil Rights Unit from 2007 to 2008. I took a supervisory desk in Atlanta for the Macon and Athens resident agencies from 2008 to 2014.

Then I took a temporary duty as an Inspection Division team leader from 2014 to 2016 for 18 months. Then ASAC Jacksonville from 2016 to 2019, and I had Crim/Cyber administrative financial security in the SWAT team in Jacksonville. An inspector back in D.C. from 2019 to 2023.

During that time, from June -- from February to May of 2021, I was acting special agent in charge of Pittsburgh. And then, from September to December of 2021, I was Acting DAD in the Criminal Division. And then, from June to November of 2022, I was acting chief inspector in the Inspection Division, and I was promoted to SAC Birmingham in November and reported in January of 2023.

Q You said, after being Acting SAC in Pittsburgh, what was your next role?

A I was Acting Deputy Assistant Director in the Criminal Division from September to December of 2021.

Q Okay. And you were in headquarters or the Washington Field Office? Sorry. I missed that.

A For which position?

Q For Acting Deputy Assistant Director.

A At the FBI Headquarters.

Q Okay. And your current position currently is special agent in charge in Birmingham. Is that correct?

A Correct.

Q Can you describe your roles and responsibilities in this position?

A Basically lead people, manage work, lead change, and I'm responsible for the Birmingham Field Office and four resident agencies out of Tuscaloosa, Huntsville, Gadsden, and Florence.

Q Can you describe the organizational chart for your office?

A I have a special agent in charge, which is me. Then I have two assistant special agents in charge and an administrative officer and a chief division counsel, which makes up my executive management team. Then I have several criminal squads, national security squads, and administrative squads that make up the rest of the team, including supervisors in Gadsden Resident Agency, Huntsville, Florence, and Tuscaloosa.

Q And does the Birmingham division have a standalone domestic terrorism squad?

A It's a combination of domestic terrorism and international terrorism.

Q And does your office have any January 6 investigations?

A I don't know.

Q Who is your direct supervisor?

A Deputy Director Paul Abbate.

Q What was their name? Sorry.

A Deputy Director Paul Abbate.

Q And how many people would you say directly report to you? You can estimate, or if you know the number.

A Just a little over 200.

Q How often do you interact with the FBI Director in this role?

A Very infrequently.

Q In what manner do you interact with him?

A If he ever comes to Huntsville or anywhere in my AOR, I will engage with him. Or if we're here at a SAC conference like we were at the beginning of May, I may see him. But there's no certainty that I will engage with him.

Q How often do you interact with the FBI Deputy Director?

A Very infrequently. I assume it would be -- since I've only been in this position for 3 months, I assume it would be doing performance evals or if he wants to call and talk about anything else.

Q How often do you interact with headquarters generally?

A Again, for me, very infrequently. But I'm sure my staff interacts with them more than I do.

Q And who would you interact with at headquarters when and if you'd need to in the future?

A It depends on the scenario and the situation.

Q Do you interact with Main Justice?

A No.

Q What about the Attorney General's Office?

A No.

Q And, during your tenure at the FBI, have you participated in a review of your performance?

A Yes.

Q I'm going to shift gears a little.

Are you familiar with the National School Board Association's September 29th, 2021, letter to President Biden?

A Not directly.

Q Not directly.

[redacted] I'm going to mark the NSBA September 29th, 2021, letter to President Biden as exhibit 1.

[Peeples Exhibit No. 1

Was marked for identification.]

BY [redacted]

Q I'll give you a copy too, sir. You can take a moment to look at it, if you'd like.

When did you learn of the NSBA's September 29th letter?

A I don't recall learning of the letter directly or what time or date I became aware of the background of the letter, so.

Q Could you say roughly, like, you know, time of year? Was it -- when it happened, roughly?

A Sometime between my time in the Criminal Investigative Division as the Acting DAD between October and December of 2021.

Q And when did you learn that the Justice Department was going to take action related to school board-related threats?

A Again, I don't recall a specific date and time.

Q Do you know why the Justice Department believed it needed to take action?

A That's a question for the Justice Department.

Q Former Executive Assistant Director Jill Sanborn testified during her transcribed interview that you had more knowledge on the school board issue than she did. Specifically, she said that you and Timothy Langan definitely have more knowledge than me because they were more involved in it than I. That's her quote.

Do you agree with that?

A I don't know her knowledge to assess if I had more knowledge or less knowledge than she does.

Q Do you know why she would say that, then?

A I don't know.

Q Did you ever work directly with Ms. Sanborn on this or any other issue?

A Directly with Ms. Sanborn on this particular matter?

Q Yes.

A No.

Q During that timeframe, did you work with her on any other issue --

A No.

Q -- around the end of 2021?

What due diligence occurred at the Justice Department between the September 29th letter and the October 4th memo, to your knowledge?

A You would have to ask the Justice Department.

Q Do you know if the Justice Department looked at any incidents cited in the NSBA letter?

A That would be a better question for the Justice Department.

Q Did you personally look into any of the incidents cited in the NSBA letter --

A No.

Q -- after the fact?

Would it surprise you to learn that the vast majority of incidents cited in the NSBA letter calling for Federal intervention at school board meetings and equating parents to domestic terrorists were nonviolent?

A I have no opinion either way.

Q Well, according to a May 2022 report commissioned by the NSBA, on September 21 of 2021, 8 days before the NSBA sent its letter, the NSBA sent a detailed summary of the contents of its letter and a list of incidents at school board meetings to the White House at its request.

Are you aware of this?

A No.

[redacted]. I'm going to mark a document here as exhibit 2. It is the September 21st, 2021, email chain between Mr. Chip Slaven and Mary Wall.

[Peeples Exhibit No. 2

Was marked for identification.]

BY [redacted]:

Q If you'd like to take a peek at this email chain here. More specifically, the second email in the chain.

You'll see in an email to the NSBA, White House official Mary Wall stated: Is there any way we can take a look at the letter in advance of release? In specific, I'm meeting with colleagues from other White House offices and DOJ tomorrow morning to see if there might be any options we can pursue here, so if you have concrete recommendations in your letter -- e.g., the threat assessment you mentioned -- would be good to know so I can include in discussions.

Have you ever interacted with Mary Wall before?

A No. I don't know who Mary Wall is.

Q Did you take part in a discussion that, according to the email, occurred on the morning of September 22nd between the White House and DOJ?

A I don't recall.

BY [redacted]:

[redacted]. Do you know anyone that might have taken part in that conversation?

Mr. Peeples. No, I don't recall.

BY [redacted]:

Q Did you take part in any discussions regarding threats and violence related to school boards before September 29th?

A No, I don't recall.

Q Are you familiar with the Attorney General's October 4th, 2021, memorandum regarding alleged threats and violence at local school board meetings?

A Yes.

[redacted]. I am now going to mark that memorandum as exhibit 3.

[Peeples Exhibit No. 3

Was marked for identification.]

BY [redacted]:

Q Now, what was your role in the FBI at this time?

A Assistant -- Deputy Assistant Director for the Criminal Division. I'm sorry. Acting Deputy Assistant Director for the Criminal Division.

Q And when did you learn of the AG's memo?

A I don't recall the exact date and time.

Q The committee has learned the discussions took place between DOJ and FBI the weekend prior to the release of the memo.

Did you take part in those discussions?

A No.

Q Are you aware of Timothy Langan's involvement?

A No.

Q Are you aware of Steve Jensen's involvement?

A No.

[redacted]. Do you know anyone who might have taken part in those discussions?

Mr. Peeples. No.

BY [redacted]:

Q Did you have any involvement with drafting the memo?

A Which memo?

Q The Attorney General's memo.

A No.

Q Were you provided the opportunity to weigh in on the substance of it?

A No.

Q In the memo, the Attorney General required each U.S. Attorney's Office in conjunction with the FBI to hold meetings with local law enforcement partners in each judicial district.

What was the impetus behind involving these two entities, to your knowledge?

A Better question suited for the Attorney General.

Q Did you personally think it was appropriate for the FBI to be involved in a local law enforcement matter?

A I have no opinion either way.

Q Was there threat information to support the FBI getting involved in what is normally a local law enforcement matter?

A Again, I don't have an answer to that.

Q Did the FBI receive a request from local county or State law enforcement asking for assistance with this issue?

A I don't know.

Q Is that normally the case how this would work?

A I don't know.

Q To your knowledge, did any of these meetings that were set forth in this memo occur in the judicial district in which the FBI Headquarters is located?

A I don't know the answer to that.

Q Did anyone who worked for you attend these meetings?

A I don't know.

Q Are you aware that, after these meetings occurred, the U.S. Attorney's Office reported to Main Justice what they found?

A Again, I'm not aware of the meetings, so I'm not aware of any findings.

Q Would it surprise you to learn, though, that the reports back to Main Justice of school board-related violence or threats were almost nonexistent? In fact, the reports back to Main Justice showed that there were no legitimate nationwide law enforcement justification for the Attorney General's directive?

A I have no opinion either way.

Q In the press release accompanying the memo, it announced the creation of a task force consisting of representatives from the Department's Criminal Division, National Security Division, Civil Rights Division, the Executive Office for U.S. Attorneys, the FBI, the

Community Relations Service, and the Office of Justice Programs.

Did you have any involvement in drafting the press release?

A No.

[redacted]. I am going to mark that press release as exhibit 4.

[Peeples Exhibit No. 4

Was marked for identification.]

BY [redacted]:

Q Do you know who was involved in drafting the press release?

A No.

Q Do you know who came up with the idea for a task force?

A No.

Q Do you know if the task force has actually ever been created?

A I do think there is a task force created because we assigned someone from the Criminal Investigative Division to it.

Q Would that person have been from headquarters or from a specific field office?

A It would have been from headquarters, the Violent Crimes Section.

Q Do you know if it has met yet?

A I do know they met once, and that's per following up with the individual that I assigned to attend.

Q And who was that individual?

A He was a unit chief over in the Violent Crimes Section.

BY [redacted]:

Q Do you know when the task force was created or met?

A I don't know the exact date, but it was sometime between October and

December during my tenure as the Acting DAD.

Q Do you know if it's still in existence today, the task force?

A No, I don't know if it's still in existence.

Q Do you know how many times it met between October and December of 2021?

A No.

BY [redacted]:

Q Do you know generally who attends the meetings?

A No.

Q Do you know if the task force has made any recommendations, formal or informal?

A No.

Q So, to your knowledge, you know that it's met once, but it could be more?

A To my knowledge, through second party, I know that they met once.

Q Okay. Thank you.

Did you personally believe that the Attorney General's memo was appropriate?

A I have no opinion.

Q To your knowledge, did agents and/or employees in your office discuss their reaction to the memo?

A I don't recall.

Q Do you know if there was any general tone in reaction to the memo?

A Again, I have no opinion. I don't recall.

Q Were you involved in any conversations or correspondence related to how the FBI could help address alleged threats or violence at school board meetings?

A Yes.

Q Could you tell us a little bit about those discussions?

A Well, part of my job as the Acting Deputy Assistant Director is to provide guidance and direction to the field to address the criminal threats that we face as a whole, and that was what led to the memo that we drafted and I forwarded to all SACs with the approval of, at the time, AD Langan out of the Counterterrorism Division, and Acting Assistant Director Jay Greenberg, and later, Acting Assistant Director Calvin Shivers.

Q How many conversations did you have about this?

A I don't recall.

Q Were they in person or over the phone or in email?

A I don't recall.

Q Do you know when those conversations started?

A Not specifically.

BY [redacted]:

Q Is it fair to say they probably started after October 4th but prior to the email that you sent on the 20th of October, correct?

A Yes.

Q So it's probably, like, a 2-week timeframe.

Can you approximate how many conversations you had in that 2-week timeframe?

A No.

BY [redacted]:

Q Now, you mentioned before -- and I just want to make sure I've got it clear for the record and in my line of questions -- that you were the Acting Deputy Assistant Director for the Criminal Investigative Division.

How long? And what was that window, again, that you were in that role?

A From September to December of 2021.

Q And why were you selected for this position on an acting basis and not permanently? Just out of curiosity.

A Because I didn't apply for the job permanently.

Q Why were you awarded this job on an acting basis, then?

A That's something you'd have to ask the Acting Director who asked me to fill the position.

Q Who was that Director?

A Calvin Shivers was the Director.

Q Who preceded you in this role?

A I think they promoted Chad Yarbrough as the prior position for the Deputy Assistant Director of the Criminal Division.

Q Is he still in that role, to your knowledge?

A No. He's SAC of Dallas at this point.

Q Who was your supervisor while you were Acting DAD? Just refresh my memory.

A Acting AD Jay Greenberg.

[redacted]. As [redacted] indicated briefly a little bit ago that there was an email you had sent on Wednesday, October 20th, 2021, with the subject: Guidance: Threat to violence against school administrators, unclassified.

I'm going to mark that as exhibit 5 at this time.

[Peeples Exhibit No. 5

Was marked for identification.]

BY [redacted]:

Q Did you draft this email yourself?

A No. It was in coordination with Section Chief Steve Jensen and DAD Kevin Vorndran.

Q So it was the three of you that drafted this email?

A It was the three of us that came up with the language for the email, yes.

Q What was your involvement in the decisionmaking behind the threat tag EDUOFFICIALS mentioned in this email?

A In what aspect?

Q Was the tag your idea?

A No.

Q Whose was it?

A I think it was recommended to me by Steve Jensen.

BY [redacted]:

Q Was it Steve Jensen's idea for the email, or did that direction come from someone else?

A It was all of our direction -- all of our responsibility to provide guidance and direction from the field. So I can't recall specifically who suggested that we send out an email, but I'm sure I supported it since that's our responsibility.

Q So you don't know if it was, like, your direct supervisor or --

A I don't recall specifically.

Q It didn't come from Main Justice at all, the direction?

A No.

Q So it came from within the FBI?

A Yes.

BY [redacted]:

Q Did you feel that this tag was necessary, personally?

A I have no opinion on it.

Q What information was used to justify the creation of this tag, to your knowledge?

A The whole idea of the tag is to scope the threat and the situation, where after we scope the threat, we can do a comprehensive analysis to determine the veracity of the threat if there is one.

Q Do you still feel like this tag is necessary?

A I don't have an opinion on that either. I'm not the Acting DAD in Criminal Division anymore.

Q Do your agents in Birmingham currently use this tag?

A I don't know.

Q Do you know if they ever used this tag before you started there?

A I've been there 3 months. I don't know.

Q Do you currently have open investigations into parents for incidents that would fall under the purview of the Attorney General's October 4th memo in the Birmingham area?

A I don't know.

Q When sending out this email, your email was listed as "INSD" and not "CID." Why is that, from a technical standpoint?

A Because I was temporarily assigned to the Criminal Investigative Division as the Acting DAD, but I'm still an INSD body, an inspector body. So until you accept a new position permanently, they're still utilizing the -- where your assigned email tag right now. Mine would say Birmingham --

Q Thank you for explaining that.

This email was cosigned by Assistant Director Timothy Langan of the

Counterterrorism Division and Assistant Director Calvin A. Shivers of the Criminal Division.

You had mentioned he was the Acting Assistant Director of CID. Is that correct?

A No. Calvin is the actual --

Q Oh, he's the actual.

A -- Associate Director of the Criminal Division. Jay Greenberg was the Acting Associate Director of the Criminal Division. Calvin was out of country for a lot of that time period but returned shortly before I left.

Q Do you know what Mr. Shivers' role was in the decisionmaking process in creating the threat tag while he was out of the country?

A No.

Q What was Mr. Langan's role in the decisionmaking process in creating the threat tag?

A I don't know.

Q Do you know why they had you, as an Acting Deputy Assistant Director, send the email versus Mr. Langan or Mr. Shivers or Mr. Greenberg?

A Because it was in the responsibility as the Acting DAD to provide guidance and direction to the field.

Q So it was the norm for the Deputy Assistant Director to send these emails to the field with those others either signed off or copied?

A It's the norm for the Deputy Assistant Director for the Criminal Division to provide guidance and direction regarding criminal threats to the field. And, as you can see, this was a joint memo with both the Criminal Investigative Division and the Counterterrorism Division; hence both the signatures of and approval of Timothy Langan and Calvin Shivers, who lead both of those divisions.

Q So you mentioned Assistant Director Shivers was out of the office, out of the

country.

Why -- what knowledge would he have had at the time to sign off on the email?

A That's something that you would have to cover with Acting AD Jay Greenberg. They were in constant communication. He was out for a medical issue. So they were discussing. So I don't know what his knowledge was.

Q So he would have been kept apprised of this information, though?

A I can't confirm or deny that.

Q Okay.

[redacted]. But he would have been kept apprised by Jay Greenberg?

Mr. Peeples. I can't confirm or deny that.

[redacted]. Okay.

BY [redacted]:

Q And the email is also copying a Mr. Brian Cohen of CID.

Who is he?

A Brian works in our -- one of our units on CID. Oh, Brian is the DAD -- at the time, he was the DAD over our Intelligence Section.

Q Do you know what his involvement was in the creation of the threat tag EDUOFFICIALS?

A No.

Q And do you know if Mr. Greenberg had any involvement in the creation of the threat tag EDUOFFICIALS?

A Anything that I did was approved by Acting AD Greenberg.

Q Do you know if Mr. Greenberg had any involvement in that creation of the tag, though?

A I don't know.

Q Did you have any engagement on this threat tag from FBI employees to identify trends, strategies, and best practices?

A Did I have any engagement with --

Q FBI employees to identify trends, strategies, and best practices using this tag?

A I don't know what you mean by "engagement." Outside of sending the letter?

BY [redacted]:

Q Did you have any followup conversations after you sent this email with anyone on the FBI staff? You know, how to implement the email?

A Yes. As the Acting DAD, they hold quarterly meetings with assistant special agents in charge. That's over criminal threats out in the field. And this email came up just to provide guidance and direction to answer any questions that they may have.

Q So did one of those quarterly meetings follow the issuance of this email?

A It did.

Q Okay. And what did you discuss at the quarterly meeting regarding the email?

A The email.

Q Just the contents of the email?

A Yes.

Q Did you ever provide any specific guidance?

A No. The guidance and direction is already located in the email.

Q So whatever you talked about was within the confines of this email?

A Correct.

Q Okay.

[redacted] And you had mentioned you had a meeting.

Did you have multiple meetings regarding this topic?

Mr. Peeples. I only recall one. So, again, they occur monthly. I think I was gone sometime in December. So I don't recall having one in December.

[redacted]. Do you remember the date of that quarterly meeting or approximately?

Mr. Peeples. No. It would just be sometime in November.

BY [redacted]:

Q Did you have any knowledge of or participate in any of the investigations that were labeled with the EDUOFFICIALS threat tag --

A No.

Q -- during your time as -- in CID?

A No.

Q Are you generally aware of cases in which the FBI used the EDUOFFICIALS threat tag?

A No.

Q So then are you generally aware or unaware that the FBI opened at least 25 Guardian assessments using the EDUOFFICIALS threat tag?

A I'm not aware of the number.

Q Are you aware that several parents were investigated by the FBI for protected First Amendment activity from this threat tag?

A I have no opinion on that. I don't think we would have done that in terms of -- the purpose of this is to address the threat of violence or actual use of violence.

Q But knowing that that did happen for protected First Amendment activity, as an individual who signed this email, does this concern you?

A I have no opinion. The purpose of the email was for the threats or the actual use of violence.

Q But if you don't have an opinion on it now, would it concern you, as someone who was formerly the chief of the Civil Rights Unit of the FBI, that First Amendment-protected activity was violated for parents?

A The purpose of the email was to address the threat or the actual use of violence.

Q Given your civil rights background, does knowing that you could be investigated by the FBI for speaking up at your child's school board meeting chill parents from exercising their First Amendment rights?

A I have no opinion because I don't know the totality of the circumstances that you are speaking about.

Q Does the EDUOFFICIALS threat tag have any useful law enforcement purpose?

A The useful law enforcement purpose is outlined in the email to scope the threat and to assess it.

Q When Attorney General Garland issued his October 4th, 2021, memorandum, did you perceive threats or violence at school board meetings as a State and local law enforcement issue?

A I have no opinion.

Q Did you have one then?

A No.

Q During your career at the FBI, have you ever interacted with local law enforcement?

A Yes.

Q Did you ever get the impression that local law enforcement were ill-equipped to handle any disruptions that occurred at local school board meetings?

A I don't have an opinion of local law enforcement or State law enforcement's capabilities.

Q What did you believe was the Federal nexus that required the FBI to get involved at local school board meetings?

A That was the purpose of the -- of the email, to scope the threat. And I think it says it directly in the email: Is there a Federal nexus? And are there potential Federal violations that would be investigated and charged?

Q So you would investigate where you would open using the threat tag but not be sure whether there was a Federal nexus at the beginning of opening that assessment?

A That's the purpose of a Guardian. There's an FBI case management system for handling initial information for subjects or incidents related to all our programs, which this falls into the criminal and the counterterrorism program.

Q Would it surprise you to learn that, when field offices and U.S. attorney's offices reached out to local law enforcement, as required by the October 4th memorandum, that local officials generally opposed Federal intervention at local school board meetings?

A I have no opinion on that.

Q Given your civil rights background, do you believe that the FBI should be using counterterrorism resources to investigate parents for voicing their concerns at local school board meetings?

A I have no opinion on that.

Q Do you have reason to believe that the FBI is using and creating threat tags in a politicized way?

A No.

Q At the time, did you consider parents speaking out and advocating for their children at their local school board meetings to be First Amendment-protected activity?

A Not if it involves a threat and/or use of violence.

Q Were you aware of any circumstances where that actually happened, where there was threats and use of violence?

A I don't recall.

Q Do you consider that be First Amendment-protected activity now?

A Not if there's a threat or use of violence.

BY [redacted]:

Q But, if a parent is at a school board meeting expressing concerns about the mask mandate or, you know, the COVID policies -- if you recall, at the time that the email was sent around, it was a very volatile time regarding COVID-19 policies and things like that.

So, I mean, parents, I think, were just at school board meetings expressing concerns about their children's education. It also came at the heels of a hotly contested gubernatorial election here in Virginia.

So can you see how the use of this threat tag in the contents of school board meetings where parents are merely expressing First Amendment concerns about how their children are receiving education in schools might give people pause that this is targeting protected First Amendment activity?

A Not if it involves a threat or use of violence.

Q Sure. But sometimes these parents -- they're literally just stating their opinion, right? Trying to direct the curriculum that their children are receiving at these schools.

A Are you asking me to speak as a parent that was in that meeting?

Q No.

A Okay. So my question -- the answer to your question is not if it involves a threat or use of violence.

Q Okay.

BY [redacted]:

Q Can you explain the FBI's process in determining whether something is First Amendment-protected activity or not when deciding to open an investigation?

A We have DIOG requirements in terms of opening a Guardian or a preliminary or full investigation, and all those things are taken into consideration before approval of opening any type of investigation.

Q And how long would that process take?

A It depends on the -- when the information is received and assessed.

Q To your knowledge, did the FBI ever consider any parents who advocated for their children at school board meetings to be lone actors or small cells that the FBI needed to focus on for potential acts of terrorism?

A Not that I'm aware.

Q In your opinion, were a lot of resources, like agents or time, shifted towards local school board meetings after the Attorney General's October 4th memo was published?

A I can't speak to how resources were moved in the field.

Q Not within the Criminal Division?

A No. No one moved in the Criminal Division during September through December of 2021.

BY [redacted]:

Q Before we move on, I just have a few more questions about the email.

So you mentioned that it was Mr. Jensen and Mr. Vorndran and yourself that created the contents of this email, correct?

A Correct.

Q Who took the first pen in drafting the email?

A Do you mean in terms of sending it out?

Q Who took the first draft in drafting the contents of the email?

A I don't recall who took the first draft.

Q Okay. Was it a collaborative process amongst the three drafting the email?

A Yes.

Q Prior to this email being sent out, did it have to go up a chain for approval? A supervisor?

A Yes.

Q Okay. And, again, who was your supervisor at the time? Mr. Greenberg?

A Yes.

Q Okay. What was that approval process like for this email?

A What do you mean, what was it like?

Q Prior to sending out the email, you said that it went to Mr. Greenberg for his approval?

A It goes out to Acting AD Greenberg, and he assesses it, reviews it, and decides and approves of the language, yes or no.

Q Okay. And did he have any suggestions to the contents of the email prior to it being sent out?

A I don't recall.

Q Okay. Did anyone else besides Mr. Greenberg review the email?

A I'm assuming the counterterrorism supervisory, whether it's Steve Jensen, Kevin Vorndran, or AD Langan, would also review the email.

Q Do you know if they had any specific suggestions to the content of the email?

A No.

[redacted]. Did anybody else at DOJ review this email before it went out?

Mr. Peeples. I don't know.

BY [redacted]:

Q Just to go over the timeline, Attorney General Garland issued his memorandum on October 4th, and then this email was sent on October 20th.

And you previously -- my colleague -- in exhibit 1, I'm turning to, is a letter from the NSBA, and that's dated September 29th, 2021. So there was about a 5-day period prior to the NSBA sending this letter to the President and then the issuance of the Attorney General's memorandum.

Were you involved in any conversations between September 29th and October 4th regarding the Attorney General's memorandum?

A No.

Q And then, after the memorandum was issued on October 4th, in between that and the issuance of the email October 20th, do you recall when you became aware of this letter from the NSBA?

A No.

Q Okay. And I believe you testified about this earlier, but I just want to seek clarification.

Did you review this letter prior to writing the email that was sent on October 20th?

A I don't recall.

Q Okay. So you don't recall the contents of the letter or what was in it?

A No.

Q Okay. Do you know if the Attorney General -- what he reviewed or what, you know, data inputs he considered prior to issuing that October 4th, 2021, memorandum?

A That's a question for the Attorney General.

Q Okay.

BY [redacted]:

Q What material and contents did you use and go off of in drafting the email on October 20th? If you think you may or may not have reviewed the NSBA's letter.

A I guess this would be exhibit 3 that you forwarded me, the letter from the Attorney General's Office.

Q That's what you reviewed before drafting the email in exhibit 5?

A Yes.

Q Do you recall if there is anything else you reviewed?

A No.

BY [redacted]:

Q Were you aware of any information that the FBI had regarding whether there had been an uptick in school board related-incidences?

A I don't recall.

Q You've been in the FBI for a long time.

How often does the Attorney General issue a memorandum like the October 4th one?

A Although I've been at the FBI for a long time, I haven't been in the position

to the determine or assess how often the Attorney General issues memorandums.

Q Okay. So you don't recall the last time he issued a memorandum like this?

A I don't recall where I've been in the chain of command where I've received a memorandum prior to this one.

Q Or that you've been aware of?

A Yep.

BY [redacted]:

Q Okay. Switching gears.

Are you familiar with how the FBI classifies or categorizes investigations?

A Yes.

Q Can you explain to me your understanding and knowledge of how they classify or categorize investigations?

A In what aspect?

Q Within a case, whether it's criminal or counterterrorism, domestic violence, extremism cases.

A You look at the facts that are brought in by a complaint or that we receive, and you assess which threat that it addresses, and then it's assigned to that particular threat.

Q At what stage in the investigation are cases given an investigative case classification?

A At the very beginning where they get a Guardian or a preliminary or full investigation, which has a potential classification number associated with it.

Q Can a case fall under more than one classification?

A Initially, yes.

Q And who is responsible for determining and applying an investigative case

classification or category?

A The management personnel in the field.

Q What would that title be?

A It can be anywhere from the supervisory special agent to the assistant special agent in charge.

Q Does the field agent working that case assist in making that determination?

A Yes.

Q Is there any input provided by division heads or headquarters officials?

A It's a field case.

Q So headquarters has no involvement in classifying?

A I'm not aware of headquarters having direct involvement, but it's a -- primarily a field responsibility. So, if they do, I'm not aware of it.

Q During your tenure as Acting DAD of the Criminal Investigative Division, what role did you have in classifying cases? You said that you might not have had any role in that, or did you?

A It's a field responsibility.

Q Did you have any role in classifying cases as an inspector in the Inspection Division at headquarters?

A No.

Q How often are cases reclassified from one category to another?

A That's a question -- I can't answer how often cases are classified.

Q Best guess or estimate?

A I don't have one.

Q Do certain criteria have to be met for a case to be reclassified?

A I would assume so. We have a domestic operations guide. So I would

assume there are policies and procedures that would address the reclassification of cases.

Q Now, as you mentioned -- and also the FBI contends -- that case classifications can only change if supported by the facts and circumstances of the investigation.

Is that true in practice, from your experience?

A I don't know what you're referencing.

Q That a case classification can only change if facts support that certain change or the circumstances of the investigation evolve.

Would that be true in practice?

A Are you telling me this, or are you asking me?

Q I'm asking you.

A And I don't know what you're referencing.

Q The FBI has contended to us that the case classification can only change if supported by the facts and circumstances of the investigation.

A So whoever represented that to you would probably be the best person to answer that question.

Q But would it be true in practice, from your background?

A Whoever represented it to you would probably be the best person to answer that question.

Q Who makes the determination to reclassify in the field?

A I don't know. I'd have to assess and read the DIOG to make that determination.

Q In your current role as Birmingham special agent in charge, would you have a role in determining the reclassification of a case?

A No. That's for my assistant special agents in charge and supervisors to

make that determination.

Q Are you familiar with domestic violent extremism investigations at the FBI?

A Yes.

Q Have you worked on DVE cases while at the FBI?

A Directly, no.

Q But indirectly you have?

A I've been a supervisor over cases that involve a threat.

Q How long were you in that role?

A For 6 years as a supervisor in the Atlanta division.

Q What criteria must be met in order for an investigation to be classified as such, to your knowledge?

A I don't have that specific guidance in front of me right now to answer that question directly or correctly.

Q According to the FBI, the opening of a full investigation must be approved by a supervisory special agent and notice must be given to the headquarters unit within 15 days.

As the Acting DAD of the Criminal Investigative Division, would you receive notice for every full DVE investigation that was open?

A No, because a DVE is not a criminal investigation.

Q Is it counterterrorism?

A It's a counterterrorism investigation.

Q And you never had any experience in that division?

A Not directly.

Q Are you familiar with the letter that Representative Jordan sent to the FBI Director Wray on July 27th of 2022 regarding protected whistleblower disclosures related

to the FBI's handling of DVE case classifications?

A No.

[redacted]. I am going to mark that letter as exhibit 6.

[Peeples Exhibit No. 6

Was marked for identification.]

BY [redacted]

Q We can take a moment and look at this exhibit.

Specifically, at the top of page 2, the letter states: New whistle-blower disclosures made by multiple FBI employees from different field offices indicate that the Biden administration's narrative may be misleading. We have received accusations that FBI agents are bolstering the number of cases to DVEs to satisfy their superiors. For example, one whistleblower explained that, because agents are not finding enough DVE cases, they are encouraged and incentivized to reclassify cases as DVE cases even though there is minimal circumstantial evidence to support the reclassification.

Are you aware of these allegations?

A No.

Q Are you aware that, according to the FBI's counterterrorism policy guide, agents are required to open one case per subject?

A No.

Q Do you know how the counterterrorism policy guide would compare to the DIOG?

A No.

Q For noncounterterrorism investigations, is the policy still one case for subject, or can you have one case with multiple subjects?

A I didn't know there was a policy for either.

[redacted]. What do you typically do in your practice?

Mr. Peeples. What's your question?

[redacted]. Do you have one case, one subject?

Mr. Peeples. There could be one case with multiple subjects.

BY [redacted]:

Q In your experience as the special agent in charge of the Birmingham Field Office, do agents know when to follow the DIOG for an investigation or the counterterrorism policy guide?

A Are you asking me to speak for agents? I can't speak for agents. I know I know how to follow the DIOG and the policy guide.

Q Do you know if your agents receive that training to know the difference?

A I don't know.

Q To your knowledge, do you know if this is how the Bureau handled domestic terrorism investigations during the 2020 riots?

A I can't speak for the FBI in its entirety regarding the 2020 riots.

Q Are you aware of any instances where a case was reclassified even if there was insufficient facts and circumstances to support the new reclassification?

A No.

Q Are you aware of any instances during your tenure at the FBI where an agent was pressured to bolster the number of case classifications by reclassifying a case?

A No.

Q We have been told about a practice at the FBI that several agents have referred to as "papering the file" to keep a case open.

Are you aware of this practice?

A No.

Q Agents have said that, even when they have taken all logical investigative steps and there is no indication that there is a Federal crime occurring and they cannot justify keeping the case open, they sometimes get pushback from headquarters or their chain of chain of command to keep the case open, so they paper the file.

Are you aware that agents feel pressured by headquarters to keep certain types of cases open, and in order to do so, they paper the file every 90 days to keep the case open?

A No.

Q It was described to us as a common practice.

As a senior leader in the FBI, can you describe for us the law enforcement utility of keeping a file open by papering it every 90 days?

A I'm not aware of the practice, so I can't describe the -- what you're asking.

Q Can you describe how the FBI knows to keep the case file open? How often do they check on it or provide additional documents to it?

A Supervisors have to do file reviews for each case every 90 days. But, in terms of what you're asking, I'm not aware of the practice, so I can't elaborate on your question any further.

Q Have you been someone in that supervisory position to go and review the case files?

A Yes.

BY [redacted]:

Q What does a case file review usually entail?

A What specifically are you asking?

Q When you do a 90-day file review.

A You're referring to all aspects of a case from opening into any procedures

that is taking place?

Q Is there paperwork associated with it?

A Yes.

[redacted]. Other than paperwork, does that also include meetings with the agents assigned to the case?

Mr. Peeples. It does at some point in time during the midyear and end-of-the-year reviews.

[redacted]. Would that be review of the cases or of the agents?

Mr. Peeples. Both.

[redacted]. During that review, do you ever make a decision to close a file?

Mr. Peeples. If we assess that all the investigative activity has been completed, then, yes, we will recommend the case be closed.

[redacted]. And when you've been in this supervisory position to review these files, roughly how many agents have you met with?

Mr. Peeples. I don't know that number.

[redacted]. But you would meet with them in the mid- and end-of-year review? Is that right? Or is that during the 90-day time period when you would do the file review?

Mr. Peeples. You do the file reviews every 90 days, and you can assess if a case needs to be closed. And that means you have an individual conversation with that particular agent to ask them what steps are necessary to move forward, and you can have those conversations.

But we have midyear and end-of-year evaluations, and part of that is taking a look at their cases and providing guidance and direction on how to move forward on them.

[11:01 a.m.]

[redacted]. Counsel, just for Mr. Peeples' clarity, can you specify who or what division from the FBI made these representations for you? Is this whistleblower testimony? Because it's hard for Mr. Peeples to respond to these allegations related to policy in a vacuum without the excerpts of the DIOG in front of him.

[redacted]. I can say based on just information that we've got from letters we've sent to the FBI as well as from whistleblower sources.

[redacted]. Just for purpose of the record, I would like to flag that Mr. Peeples has not reviewed those letters from Mr. Jordan.

[redacted]. One is in front of him.

[redacted]. Yes, one of them is in front of Mr. Peeples.

If you'd like to take a moment, we can take a break if you'd like to review it.

Mr. Peeples. I'm fine. Go ahead.

BY [redacted]:

Q Now, other than the 90-day file review that you would do on each of these cases, did you generally feel like you had insight into the cases your direct reports were working on at any given moment in time?

A Depending on what role I was in.

Q As the special agent in charge of the Birmingham Field Office, do you perceive that you have a handle on what the field office is doing in the cases in Birmingham?

A I have a handle on my primary job responsibilities.

Q Has any agent in your field office expressed to you that they're under pressure?

A No.

[redacted]. We'll go off the record. We can switch now.

[Recess.]

[redacted]. It is 11:18, and we are now on the record.

Good afternoon, Mr. Peeples. How are you doing today?

Mr. Peeples. Good afternoon.

[redacted]. So thank you so much for being here today, first. And, second, thank you for your 25 years of service in the FBI.

So, as I mentioned earlier, my name is [redacted], and I am Democratic counsel for the House Judiciary Committee. I'm going to be asking you some questions with respect to some of the issues that the majority has brought up, in addition to some other topics that I want to go over with you.

Does that sound good?

Mr. Peeples. Okay.

EXAMINATION

BY [redacted]:

Q So, before we start off, I do want to correct the record with respect to some things that [redacted] said earlier.

And so, earlier, counsel said that the FBI conducted investigations of parents based solely on First Amendment activities. I'd like to clarify for the record that no evidence supports that assertion and it's mere speculation.

Second, earlier, [redacted] asked if your division in Birmingham is investigating parents. I want to clarify that the FBI doesn't target people, right?

A Correct.

Q Okay. So, if an individual is of interest to the FBI, it's because they've either

committed a potential Federal crime or they are a threat to national security, correct?

A Correct.

Q Okay. Thank you.

And so, Mr. Peeples, are you familiar with the DIOG?

A Yes.

Q Okay. And it also goes by "Domestic Investigations and Operations Guide."

So is it correct that the DIOG applies to all FBI employees?

A Yes.

Q Okay. And the DIOG applies to all domestic investigative activities, correct?

A Yes.

Q Okay. And it also applies to all domestic intelligence collection activities?

A I mean, I would have to confirm that. I'm really not an intelligence person. But I do know that it applies to our investigative activities.

Q Okay. And so is the purpose of the DIOG meant to ensure that there is consistency across the FBI with respect to the different divisions and sections that are conducting work at the FBI?

A Yes.

Q And so I want to introduce an excerpt of Section 2.2 of the DIOG, and I will be marking this as exhibit 7.

[Peeples Exhibit No. 7

Was marked for identification.]

BY [redacted]:

Q And this goes through each of the four investigative authorities of the FBI. And so I just want to briefly touch on some of those.

Okay. So, in Section 2.2.1, it's titled "Conduct Investigations and Collect

Intelligence and Evidence." If you can just review the highlighted language and let me know when you're ready to proceed.

A Okay.

Q And so what's your understanding of this section?

A In what aspect?

Q Just how it relates to the FBI's ability to conduct investigations and collect intelligence.

A I mean, I don't understand your question when you say what's my understanding.

Q Yeah. So this section talks about the authority of the FBI to conduct investigations and collect intelligence. And so my question is, what is your understanding of the FBI's ability? Are they able to collect intelligence in order to detect or obtain information about and prevent crime? What is the FBI essentially doing when they're conducting this sort of collection?

A I mean, it states it in the document that you provided me. The FBI is authorized to collect intelligence and to conduct investigations to detect, obtain information about.

Q Okay, perfect. So you have no reason to disagree with this as written?

A No.

Q Okay.

And so I want to now look at Section 2.2.2, which is "Provide Investigative Assistance."

And so this section discusses that the FBI is authorized to provide investigative assistance to other Federal, State, local, or Tribal agencies and foreign agencies as provided in Section 12 of the DIOG.

And I will submit for the record that Section 12 of the DIOG goes over the ability of the FBI to work in conjunction with State and local partners and also provide them with investigative assistance.

And so, based on your reading of this highlighted language, is it correct that the FBI can provide investigative assistance to State and local partners?

A I haven't reviewed Section 12 to corroborate that that's accurate. But based off of what you've told me, the FBI is authorized to provide investigative assistance to other Federal, State, and local or Tribal agencies. And if Section 12 refers to that, then yes.

Q And so, based on your experience in the FBI, is it important that State and local partners, in addition to the FBI, can work together?

A Yes.

Q And why is that important?

A We may share threats of commonality across boundaries or lines. So, yes, if there's an opportunity for us to work and address the threats together, it's important to do so.

Q Thank you.

And so, in Section 2.2.3, which is the next section, it's called "Conduct Intelligence Analysis and Planning." And so this section discusses the ability of the FBI to conduct intelligence analysis and planning, and it refers to Section 15 of the DIOG.

And I will submit that Section 15 of the DIOG, in quotation marks, "authorizes the FBI to engage in intelligence analysis and planning to facilitate and support investigative activities and other authorized activities." And this also applies to State and local partners.

Do you have any reason to disagree with what I just read about this section?

A No.

Q Okay.

And then the last portion is Section 2.2.4, and this is the fourth general authority of the FBI, which relates to information-sharing. And this section discusses the ability of the FBI to retain and share information obtained as provided in Sections 12 and 14 of the DIOG.

I will submit for the record that Section 12 of the DIOG goes over the ability of the FBI to work together with State and local partners.

And so is it important for the FBI to be able to retain and share information with State and local partners?

A Yes.

Q Okay. And is that because of some of the reasons you listed earlier about the importance of being able to kind of collaborate on threats?

A Yes.

Q Okay. Thank you.

And so I now want to touch on the FBI's core values. And so I want to hand you what's going to be marked as exhibit 8. And this is an excerpt from Section 3.1 of the DIOG which goes over the core values of the FBI.

[Peeples Exhibit No. 8

Was marked for identification.]

BY [redacted]:

Q Okay. So, in Sections A through H, it states that the core values of the FBI are: rigorous obedience to the Constitution of the United States; respect for the dignity of all those we protect; compassion; fairness; uncompromising personal integrity and institutional integrity; accountability by accepting responsibility for our actions and

decisions and their consequences; leadership by example, both personal and professional; and diversity.

Do you agree with these core values?

A Yes.

Q Okay. And so, as someone with 25 years of experience in the FBI, do you believe that these core values are, as quoted, "fully understood, practiced, shared, vigorously defended, and preserved" at the FBI?

A I can't speak to the FBI as a whole. I can only speak to my belief in the core values.

Q Okay.

And so you'll see that the second sentence of the next paragraph states the following: "Our individual and institutional rigorous obedience to constitutional principles and guarantees is more important than the outcome of any single interview, search for evidence, or investigation."

Did I read that correctly?

A Yes.

Q Okay. And what do you understand this sentence to mean?

A Exactly what it states. I mean, it's more important that we abide by the Constitution than any single investigation or search for evidence may provide.

Q Thank you.

And so I want to look at the next highlighted language, which says that -- this is the last paragraph.

It says, "We who enforce the law must not merely obey it. We have an obligation to set a moral example that those whom we protect can follow. Because the FBI's success in accomplishing its mission is directly related to the support and

cooperation of those we protect, these core values are the fiber that holds together the vitality of our institution."

Do you agree that these core values that we just went over in list A through H are, quotation marks, "the fiber that holds," quotation mark, the FBI together?

A You're asking me to speak to an institution. I can't speak to an institution. I can speak to the oath that I took.

Q Uh-huh.

A And these core values are part of that for me. So I can speak to my core values.

Q Okay.

A I can't speak for an entire institution.

Q Yeah. No, that's fair. So, in your opinion, it is the fiber that holds together the FBI, based on your experience in the FBI itself, but you're not speaking on behalf of the FBI; you're just speaking to your own experience.

A I don't have an opinion either way.

Q Okay.

So I now want to switch gears a little bit and talk about the FBI's commitment to First Amendment protections.

And so, in a letter that the FBI's Acting Assistant Director for Congressional Affairs sent to Jim Jordan on March 1, 2023 -- and I will enter that as an exhibit. This will be exhibit 9.

[Peeples Exhibit No. 9

Was marked for identification.]

BY [redacted]:

Q Okay. And if you can just take a moment to look over this letter and let me

know when you're ready to proceed.

A I'm ready.

Q So I want to look, in particular, at the third paragraph on page 1. And, in particular, it states in the first sentence, "The FBI cannot and does not investigate groups or individuals based solely on the exercise of First Amendment activity. Consistent with our mission, the FBI holds sacred the rights of individuals to peacefully exercise their First Amendment freedoms."

Do you agree with that statement?

A Yes.

Q Okay. And so, in your opinion, do you think the FBI takes First Amendment protection seriously?

A Yes.

Q Okay.

And so, earlier, the majority counsel brought up Attorney General Garland's October 4th memorandum, which was identified as exhibit 3. If you can just pull that up, if you have that handy.

So, in the first hour, you had mentioned that this was one of the documents that you consulted with when you and some of the other individuals at the FBI drafted the October 20, 2021, email. And so, for our purposes, I just want to go a little bit through this October 4th memorandum.

And so you'll see the title of the memorandum, which is to the right of "Subject." Do you mind reading that title out loud?

A The title in this letter dated October the 4th states, "Partnership Among Federal, State, Local, Tribal, and Territorial Law Enforcement to Address Threats Against School Administrators, Board Members, Teachers, and Staff."

Q Thank you very much. Does this title say anything about parents at school board meetings?

A No.

Q Okay. Does it say anything about preventing forms of speech?

A No.

Q Does it say anything about preventing parents from going to school board meetings or attending or speaking at school board meetings?

A No.

Q Okay. Thank you.

So I now want to move on to the first paragraph of this October 4th memorandum. Can you just take a moment to review it and let me know when you're ready to proceed?

A All right.

Q Okay. So you'll see that the first sentence of this paragraph underscores the issue of "harassment, intimidation, and threats of violence against school administrators, board members, teachers, and staff," correct?

A Correct.

Q Okay.

And in the last sentence of this paragraph, it notes that, "While spirited debate about policy matters is protected under our Constitution, that protection does not extend to threats of violence or efforts to intimidate individuals based on their views."

Do you understand AG Garland to be referencing the First Amendment protections here?

A I don't want to pretend to speak or try to understand what AG Garland meant. So, if it's not specifically mentioned here, then it's hard for me to say that.

Q Okay. But, based on the reading that it says "spirited debate about policy matters is protected under our Constitution," you understand that to be a right that is protected under the Constitution that he's discussing?

A I understand free speech is a right that's protected.

Q Thank you.

And so, in this first paragraph, is there any reference to parents or school board meetings?

A No.

Q Okay. And does the first paragraph say anything about preventing parents from attending or speaking at school board meetings?

A No.

Q Okay.

And so I want to look at the second paragraph. You can take a quick moment to review that, and let me know when you're finished.

A Okay.

Q Okay. So this paragraph states that threats against public servants are illegal and emphasizes that school administrators, board members, teachers, and staff should be able to do their work without fear for their safety.

In your opinion, are threats against public servants something that should be taken seriously?

A Yes.

Q And why is that?

A Because it's a threat.

Q And it could potentially endanger someone's life or put them in harm's way. Is that correct?

A Because it's a threat, yes.

Q Thank you.

And so does the second paragraph make any reference to parents or school board meetings?

A No.

Q Does it say anything about preventing parents from attending or speaking at school board meetings?

A No.

Q Okay.

So I want to look at the third paragraph here. Can you take a moment to review that and let me know when you're finished?

A Okay.

Q Okay. And so the first sentence of this paragraph states, "The Department takes these incidents seriously and is committed to using its authority and resources to discourage these threats, identify them when they occur, and prosecute them when appropriate."

Do you understand the phrase "when appropriate" to mean in the proper circumstance?

A When it crosses the threshold for prosecution. Yes, in the proper circumstance.

Q Yeah. So this sentence is not saying that the Justice Department will prosecute every case relating to this matter; rather, only those that cross the threshold and reach that level of being worthy of being prosecuted.

A Is there a question?

Q Is that correct?

A Can you repeat the question again?

Q Yeah. So this sentence is not saying that the Justice Department is going to prosecute every single case that relates to this matter; rather, it will be only those cases that cross the threshold to be federally prosecuted.

A This letter states that it takes the incidents seriously and is committed to using its authority and resources to discourage these threats, identify them when they occur, and prosecute them when they're appropriate -- when appropriate.

Q So does the third paragraph make any reference to parents or school board meetings?

A No.

Q Does it say anything about preventing parents from speaking at or attending school board meetings?

A No.

Q Okay.

Now I'd like to move on to the fourth paragraph, if you can review that and let me know when you're ready.

A Okay.

Q So, here, AG Garland is directing the FBI, working together with each U.S. attorney's office, to meet with Federal, State, local, Tribal, and territorial leaders in each Federal jurisdiction.

The stated purpose of these meetings is to facilitate the discussion of strategies for addressing threats against school administrators, board members, teachers, and staff and to open dedicated lines of communication for threat reporting, assessment, and response.

What do you understand the phrase "open dedicated lines of communication for

threat reporting, assessment, and response" to mean as it relates to State, local, Tribal, and territorial leaders?

A It's to open lines of communication to address any threats or the use of violence.

Q And so is that a way in which State and local partners, as well as Federal partners, can work together in order to kind of assess what is going on with respect to threats against school officials?

A Yes.

Q Okay. And so, as we previously talked, it is common for the FBI to work together with State and local partners, correct?

A Yes.

Q Okay.

Does the fourth paragraph make any reference to parents or school board meetings?

A No.

Q Does it say anything about preventing parents from speaking at or attending school board meetings?

A No.

Q Okay.

And so the memorandum finishes off with the following sentence: "The Department is steadfast in its commitment to protect all people in the United States from violence, threats of violence, and other forms of intimidation and harassment."

Why is it important to protect people from violence, threats of violence, and other forms of intimidation and harassment?

A It's our responsibility.

Q Does this sentence use the word "parents" or "school boards"?

A No.

Q Does it say anything about preventing parents from attending school board meetings?

A No.

Q Does it say anything about preventing parents from speaking at school board meetings?

A No.

Q Okay.

So I'd also like to go over the press release that was discussed earlier, and it was identified as exhibit 4, if you can pull that out and let me know when it's in front of you.

You can just let me know when you're ready to proceed.

A I'm ready.

Q Okay. So the title of this press release is "Justice Department Addresses Violent Threats Against School Officials and Teachers."

Does this title say anything about parents or school board meetings?

A No.

Q Okay. Does it say anything about preventing parents from going to or speaking at school board meetings?

A No.

Q Okay.

Can you take a look at the first paragraph and let me know when you're done?

A Okay.

Q Does the first paragraph make any reference to parents or school board meetings?

A No.

Q Does it say anything about preventing parents from speaking at or attending school board meetings?

A No.

Q Okay.

Now, can you look at the second and third paragraph and let me know when you're finished?

A Okay.

Q Does the second or third paragraph make any reference to parents or school board meetings?

A No.

Q Does the second or third paragraph say anything about preventing parents from attending or speaking at school board meetings?

A No.

Q Okay.

Can you review the fourth and fifth paragraph and let me know when you're ready to proceed?

A Okay.

Q Does the fourth or fifth paragraph make any reference to parents or school board meetings?

A No.

Q Does the fourth or fifth paragraph say anything about preventing parents from attending or speaking at school board meetings?

A No.

Q Okay.

So the fifth paragraph does provide the public with information about reporting tips through the FBI's National Threat Operations Center via its national tip line, which is 1-800-CALL-FBI, and online through the website, the FBI website, which is fbi.gov/tips.

In your experience, does the FBI try to make it widely known that citizens can reach out to both 1-800-CALL-FBI and fbi.gov/tips in order to provide information to the FBI?

A I think both of these avenues are widely publicized on our internet sites.

Q And, in your opinion, why is it the case that you think both of these, the website and the number, are widely publicized?

A To report any crimes of violence.

Q And so is it important for the FBI to be able to get information from the public with respect to incidents that occur?

A Yes. Not only from the public, but from law enforcement, private sector.

Q And so I want to switch gears a little bit and talk about what was referenced in that fifth paragraph, which is the FBI's National Threat Operations Center.

Are you familiar with NTOC, which is what it's sometimes referred to as?

A Yeah. Yes, I'm familiar with it.

Q Okay. And is it accurate that individuals that work at NTOC, they work 24 hours a day, 7 days a week, 365 days a year?

A I mean, I would have to look at their -- I'm not familiar with their --

Q That's fine.

A -- setup in terms of work hours.

Q So, in a 2020 report released by the DOJ Office of Privacy and Civil Liberties that's titled "Federal Bureau of Investigation Privacy Impact Assessment for Threat Intake Processing System," it discusses NTOC and some of the procedures behind the

employees' workflow.

And so, in a section of the report, it defines the purpose of NTOC, stating that it serves as a central intake point in the FBI for the general public and other government agencies to provide information about potential or ongoing crimes, threats to life, and national security threats.

Is this an accurate description of your understanding of NTOC's purpose?

A Yes.

Q Can you describe, in your opinion, how NTOC serves as a central intake point for the FBI?

A I don't want to -- I'm not in a position to speak about NTOC and their responsibilities --

Q Uh-huh.

A -- and roles. I understand the general purpose of NTOC, which we just covered. So to go any more in depth than that, I don't think it's appropriate for me to answer that question.

Q That's fine.

In your experience, whether it was when you were in the field as a special agent -- have you ever used tips that came in through NTOC to open an assessment or a Guardian or look further into a matter?

A Me personally?

Q Uh-huh.

A No.

Q Okay.

BY [redacted]:

Q As a supervisor of case agents, for example, in your role as special agent in

charge or in your earlier roles, you know, did you see tips come in through NTOC that were useful for your case agents' cases?

A As the SAC of Birmingham, I am on a line addressed if we get any NTOC assessments that come through. So I am on that receiving line.

Q And would you say that tips from the public received through NTOC, for example, or through other means are helpful for your agents in pursuing investigations?

A I think they're the starting point to pursuing investigations.

Q Okay. Thank you.

BY [redacted]:

Q So I know we briefly talked about assessment and Guardians in the first hour, and so I want to dig a little bit more into that process, in addition to the other investigative processes at the FBI, which I understand to be preliminary investigations and full investigations.

But before we dig into that, Section 4.4 of the DIOG requires FBI employees to use the least intrusive means or methods possible to obtain intelligence or evidence.

Are you familiar with the "least intrusive means or methods"?

A Yes.

Q And can you describe what that means?

A Exactly what it states. We would use the least intrusive investigative method to address the threat.

Q Okay. And so does this apply to assessments, preliminary investigations, and full investigations?

A It applies to all investigations.

Q Okay.

And so I want to introduce an excerpt of Section 5 of the DIOG titled

"Assessments," which I will be marking as exhibit 10.

[Peeples Exhibit No. 10

Was marked for identification.]

BY [redacted]:

Q And if you can just take a moment to review this section and let me know when you're ready to proceed.

A Yeah, I'm ready.

Q Okay. And so, according to Section 5.1 of the DIOG, "Assessments may be carried out to detect, obtain information about, or prevent or protect against Federal crimes or threats to the national security or to collect foreign intelligence."

Is this consistent with your understanding of the purpose of assessments?

A Yes.

Q And you spoke about this briefly in the first hour: Who has authority to carry out assessments?

A In what capacity? In what role?

Q Yeah. So let's say a tip comes in through NTOC and the information contained within it is something that needs to be looked further into, so an agent wants to open an assessment or a supervisor wants to open an assessment.

So my question is, who has the authority to go forward and open that assessment? Is it the field agent? Is it the supervisor? Is it someone else at the FBI?

A An agent can present the assessment to the supervisor. The supervisor is the --

Q Okay. So the --

A -- approving authority for it.

Q Okay. So the supervisor would act as an approving authority for the

assessment to then be taken.

A Correct.

Q Okay. So it's not the case that an individual can just decide on their own that they want to go forward with an assessment; it has to go through an approval process.

A An approval process, yes.

Q Okay.

And is it correct that assessments cannot be based solely on First Amendment activity?

A Yes.

Q Okay.

Are you aware of how long assessments can stay open?

A Not without reviewing the current -- it's not something that's in my purview right now.

Q Do you know how assessments are closed?

A Again, it would be closed through supervisor approval.

Q Okay. And if an assessment is closed, do you know what happens to the information that's contained within that assessment?

A No, not directly.

Q Okay.

And based on your experience when you were the former Acting Assistant Director of the Criminal Investigative Division, did anything about the AG's October 4, 2021, memorandum change anything about the way in which assessments are conducted?

A No.

Q Okay.

BY [redacted]:

Q Did anything about the Attorney General's October 4, 2021, memo change anything about the predication needed to open an assessment?

A No.

Q Thank you.

BY [redacted]:

Q Okay. So I now want to go into preliminary investigations. And so I want to hand you what's going to be marked as exhibit No. 11, and this will be an excerpt from Section 6 of the DIOG, titled "Preliminary Investigations."

[Peeples Exhibit No. 11

Was marked for identification.]

BY [redacted]:

Q And if you can just take a moment to look this over and let me know when you're ready to proceed.

A Okay.

Q Okay. So, if you can turn to Section 6.5, which is just on the third page, it states -- this is predication for an assessment. It states that, "A Preliminary" -- or, a preliminary investigation. Excuse me.

"A Preliminary Investigation may be opened on the basis of 'information or an allegation' indicating the existence of circumstances" as described in subparts A and B.

And so subpart A states the following: "An activity constituting a federal crime or a threat to the national security has or may have occurred, is or may be occurring, or will or may occur and the investigation may obtain information or intelligence relating to the activity or the involvement or role of an individual, group, or organization in such

activity."

Did I read that correctly?

A Yes.

Q Okay.

And then I want to also read subpart B. And so this is another circumstance in which a preliminary investigation may be opened.

"An individual, group, organization, entity, information, property, or activity is or may be a target of attack, victimization, acquisition, infiltration, or recruitment in connection with criminal activity in violation of federal law or a threat to the national security and the investigation may obtain information or intelligence that would help to protect against such activity or threat."

Did I read that correctly?

A Yes.

Q Okay.

So my understanding of these prongs is that a preliminary investigation can be opened based on potential Federal crimes or potential national security threats. Is that correct?

A I mean, that's your understanding. I mean, to me, I will just go by what's here on the DIOG sheet of why and the basis of opening a preliminary investigation.

Q Okay. So you have no reason to disagree with subparts A or B as to when a preliminary investigation can be opened?

A No.

Q Okay.

And so you talked briefly about this in the first hour when you were talking about case file review. So is it correct that a preliminary investigation has to be reviewed

every 90 calendar days?

A Yes.

Q Okay. And why is that the case?

A To ensure we're providing appropriate guidance and direction in the case.

Q And are you aware of the process for closing a preliminary investigation?

A In what aspect?

Q So, if a preliminary investigation has been opened, it's been looked into, and decided to not proceed forward, and so now the preliminary investigation needs to be closed out, is there a particular process that's in place to close the preliminary investigation? Does it have to go through levels of supervisor approval? Does it have to be, like, overviewed by someone else?

A It has to go through levels of supervisor approval.

Q Okay. Do you know how many levels of approval?

A Not specifically. I think it may depend on the type of investigation that may have been opened.

Q Okay. And when a preliminary investigation is closed, do you know what happens to the information that was contained within that preliminary investigation file?

A No, not specifically.

Q Okay.

And based on your time as the Acting Assistant Deputy Director of the Criminal Investigation Division, did the AG's October 4, 2021, memorandum change anything about the way in which preliminary investigations are conducted?

A Not that I'm aware of.

Q Okay. Did it change anything about the level of predication that's required for opening a preliminary investigation?

A No, not that I'm aware of.

Q Okay.

And so I now want to go on to full investigations. And so I'm handing you what's going to be marked as exhibit 12, and this is an excerpt from Section 7 of the DIOG, titled "Full Investigations."

[Peeples Exhibit No. 12

Was marked for identification.]

BY [redacted]:

Q And if you can just take a moment to look it over and let me know when you're ready to proceed.

A Okay.

Q Do you know when a full investigation can be opened?

A According to Section 7.2 of this DIOG, "A Full Investigation may be opened to detect, obtain information about, or prevent or protect against federal crimes or threats to the national security or to collect foreign intelligence."

Q Thank you.

In Section 7.5, which is on the third page, it says under "Predication," "A Full Investigation may be opened if there is an 'articulable factual basis' that reasonably indicates one of the following circumstances." Then it goes on to describe parts A, B, and C.

Do you know what an articulable factual basis is?

A Yes, I understand what articulable factual basis is.

Q Okay. And can you just briefly describe what it is?

A It's the ability to be able to assess the fact pattern and determine if it meets the threshold to open a full investigation.

Q Okay. And so is there an approval process for opening a full investigation?

A Yes.

Q Okay. And can you describe what that is?

A Again, it will start at a supervisory level, and it may have multiple approval levels, depending on the type of investigation.

Q Okay. And is it similar to the preliminary investigation, that it has to be reviewed every 90 calendar days?

A Yes.

Q Okay. And are you aware of the process for closing a full investigation?

A Yes.

Q Okay. And can you describe that?

A Similar. Will require a supervisory level. May be multilevel approvals required to close an investigation.

Q And if a full investigation is closed, do you know what happens to the information that's collected as part of that investigation?

A I think you've asked me that question three times about records. And I think the appropriate people to address the records and where they go would be from our records personnel. So how they are stored --

Q Okay.

A -- at the completion of investigations would be probably appropriate for them to answer.

Q Okay.

And in your experience as the Acting Assistant Deputy Director of the Criminal Investigative Division, did the AG's October 4, 2021, memorandum change anything about the way in which full investigations are conducted?

A Not that I'm aware of.

Q Okay. Did it change anything about the level of predication required for opening a full investigation?

A Not that I'm aware of.

Q Okay.

BY [redacted]:

Q Real quick, on the -- we discussed threat tags earlier. Do you recall that?

A Uh-huh.

Q The threat tags are primarily for internal FBI use only, correct?

A I can't speak to their full usage. So --

Q In your experience, does the FBI publicize when it's created a threat tag?

A I'm not aware --

Q Your email --

A -- if they --

Q Oh, go ahead.

A I'm not aware if they've done that.

Q The email that you referenced -- what was it? Exhibit 5. This email was sent -- it's exhibit 5. This email was directed only to internal FBI employees, correct?

A Correct.

Q So the comment was made that -- the question was asked -- I don't know if it was a question or comment, I'm sorry. But the point was made earlier that the threat tags could have a chilling effect on parents.

In fact, if threat tags are not publicly known outside of the FBI, it'd be impossible for them to have a chilling impact, right?

A I have no comment on that question.

Q Okay. But you certainly -- you didn't do anything to make the "EDUOFFICIALS" threat tag -- to share that with the outside world beyond internal FBI employees, correct?

A That memo was sent to internal FBI employees only.

Q And you never forwarded it to anybody in the outside world, correct?

A Correct.

Q And, to your knowledge, it wasn't shared with anybody in the outside world?

A Correct.

[redacted]. You can go ahead.

[redacted]. Okay.

BY [redacted]:

Q Mr. Peeples, would you agree that the FBI has historically used task forces on a variety of subjects for the purpose of addressing or assessing issues of concern that may be to both Federal law enforcement and also local and State?

A Yes.

Q And the activities of these task forces, would you agree, they include things like sharing resources among the various agencies, sharing manpower, intelligence, and other information in order to assist local law enforcement or State law enforcement?

A I think it's used to assist all law enforcement entities that are participating in that task force.

Q And I guess the emphasis of that question is that the purpose there is information-sharing, or at least that's one of the main purposes of a task force, is to share information among the various law enforcement agencies.

A Yes.

Q And also one purpose might be to promote public awareness in communities

of issues of concern to the various law enforcement agencies. Is that right?

A That could be a role of the task force.

Q Now, the task force creation that we've discussed here today or any task force creation, that doesn't change the predication requirements for any kind of assessment, preliminary investigation, or full investigation. Is that correct?

A Not that I'm aware.

Q The creation itself really is about communication. Is that fair to say?

A I think the creation had more than one role. Communication could be one of those roles.

Q But I guess the point is, it doesn't change anything about what the FBI can investigate and how they would proceed in their investigations. The fact that the task force is created isn't going to make something more likely to be prosecuted than not, for example, because it's not going to change your predication requirements. Is that right?

A The creation of the task force doesn't change --

Q That was --

A -- the predication.

Q -- my question. That's it. Thank you.

BY [redacted]:

Q We're almost done.

I want to turn back to the July 27, 2022, letter from then-Ranking Member Jordan to Director Wray that's marked as exhibit No. 6. And I want to look at the top paragraph on page 2.

A Okay.

Q The last couple of sentences in this paragraph, I'm just going to read them out loud.

It says: A whistleblower "stated that a field office Counterterrorism Assistant Special Agent in Charge and the FBI's Director of the Counterterrorism Division have pressured agents to move cases into the DVE category to hit self-created performance metrics."

Do you have any knowledge of this taking place?

A No.

Q To your knowledge, are there performance metrics based on case numbers in the DVE category?

A No.

Q Okay.

The next sentence says that, "According to whistleblowers, the FBI uses these metrics to dispense awards and promotions."

Then it goes on that, "Every whistleblower has called it an environment of 'pressure.'" I think we've talked about that aspect.

But on the specific sentence, "According to whistleblowers, the FBI uses these metrics to dispense awards and promotions," to your knowledge, does the FBI dispense awards and promotions on the basis of DVE case numbers?

A Not that I'm aware of.

Q Okay. And you said earlier that you personally have not handled any DVE cases, right?

A Correct.

Q Because that's not under your purview?

A Correct.

Q How many times have you been promoted since 2020?

A Once.

Q Okay. And you were also at one point the Acting Director -- Deputy -- sorry, what were -- Acting Deputy Assistant Director of the Criminal Division, correct?

A If you're counting the acting positions, I've been promoted four times: one as an Acting SAC in Pittsburgh, one as an Acting Deputy Assistant Director of the Criminal Division, and one as an Acting Chief Inspector, and then the official promotion to Special Agent in Charge of Birmingham.

Q Thank you. And throughout that time, you didn't handle any DVE matters, correct, directly?

A Correct.

Q Thank you.

We don't have any further questions.

[Recess.]

[redacted]. We'll go on the record.

BY [redacted]:

Q Mr. Peeples, I wanted to follow up on a couple questions I have related to our exhibits.

Looking back at exhibit 1, page 2, the NSBA letter, the last paragraph down at the bottom, the second sentence starts with: "As such, NSBA requests a joint expedited review by the U.S. Departments of Justice, Education, and Homeland Security, along with the appropriate training, coordination, investigations, and enforcement mechanisms from the FBI, including any technical assistance necessary from, and state and local coordination with, its National Security Branch and Counterterrorism Division, as well as any other federal agency with relevant jurisdictional authority and oversight. Additionally, NSBA requests that such review examine appropriate enforceable actions

against these crimes and acts of violence under the Gun-Free School Zones Act, the PATRIOT Act in regards to domestic terrorism," and some others.

Was this the first time you heard of the PATRIOT Act being mentioned in regard to incidents that occurred at school board meetings?

A This is the first time that I'm seeing this, period.

Q And maybe not regarding the NSBA letter but then subsequently with the DOJ memo that came out 4 days later, was this the first time you had ever heard of some of these Federal statutes being applied to school board meetings?

A This is the first time that I'm hearing of it, period.

Q And since this letter, have there been any incidents where you think the PATRIOT Act was applicable as an investigative tool for school boards?

A Again, I -- you keep referencing the PATRIOT Act. I'm telling you this is the first time I'm hearing that the PATRIOT Act referenced school boards.

Q Are you aware of any information the FBI had indicating that there was an uptick in incidents at school board meetings that needed to be addressed with the Attorney General's memo?

A Can you say that question again, please?

Q Are you aware of any information that the FBI had indicating that there was an uptick in incidents at school board meetings that needed to be addressed by the Attorney General's memo?

A Not that I'm aware of.

Q Now, going back to -- I know we discussed this earlier -- former Executive Assistant Director Sanborn and her statement that she made about you and Mr. Langan definitely having more knowledge than her because "they were more involved in it than I," what is your interpretation as to what she meant by that?

A You would have to ask her.

Q But your personal interpretation. Why would she --

A I don't have one.

Q Do you -- what was your involvement in the school board issue at this time?

A Providing guidance and direction to the field to address it through that memo.

Q And is that -- you're referencing your October 20th email. Is that correct?

A If that's the date on it.

[redacted]. I think that's exhibit No. 5.

Mr. Peeples. Yes.

BY [redacted]:

Q So, outside of that email, you're saying that you had no other knowledge on the school boards issue around this time.

A Correct.

BY [redacted]:

Q Other than the October 4th memorandum from the Attorney General.

A Which is the practices of drafting this --

Q Okay. Did you consider anything else before drafting the email other than the October 4th memorandum from the Attorney General?

A As I mentioned, it was a coordinated effort between the three of us. So my consideration was primarily the --

Q Through, was it Mr. Langan, Mr. Jensen, or Mr. Vorndran?

A Mr. Vorndran, Mr. Jensen, and myself.

Q In those discussions, did you discuss anything other than the October 4, 2021, memorandum from the Attorney General?

A I don't recall discussing anything else.

BY [redacted]:

Q What was the input that they provided when you drafted that email?

A I don't recall specific input.

Q But you did it in coordination with those two specifically, Mr. Jensen and Mr. Vorndran?

A Yes.

Q Would their input have been provided by email or by in-person discussion or by telephone?

A I don't recall the method of participation.

Q Do you recall if one of them was more involved than the other?

A No.

BY [redacted]:

Q Prior to sending the email like the one you sent on October 20th, would it be common practice to email your colleagues about the draft of the email, you know, going back and forth about what the substance of the email should be?

A What was the question in that?

Q Would it be common practice for you to, like, email your colleagues prior to the issuance of an email like this, going back and forth about the contents of the email, what to include in it?

A It would be common practice to have that conversation. And it could've been verbal, it could've been via Skype, or it could've been via email, and I can't recall which or any of all that we participated in.

Q Okay.

BY [redacted]:

Q And because the memo came out on October 4th and this email guidance came out October 20th, why was there that long of a period between when the memo came out and that email guidance came out? Can you explain that timeframe?

A That's the time for coordination and approval that it took to get it out.

BY [redacted]:

Q Do you recall how far in advance you drafted, like, an initial draft of the October 20th email prior to it being sent out on the 20th?

A No.

[12:22 p.m.]

BY [redacted]:

Q You don't recall how long the approval process took?

A No.

Q Do you recall speaking with Mr. Vorndran or Mr. Simpson about any spike in incidences related to school board meetings prior to sending this email?

A I don't recall.

Q What about after you sent the email, did anyone respond to you after you sent this email for guidance or instruction?

A I don't recall specific responses, but I do recall providing guidance and direction during the meeting with the assistant special agents in charge.

Q When was that meeting?

A Sometime after this email went out.

Q And where was that meeting held?

A It was held -- I was in my office, and they were around the country.

Q So a phone call?

A Skype.

Q Skype?

A Yeah.

Q What did you discuss on that Skype call?

A This email.

[redacted]. And you said "they" were around the country. Was it multiple folks, or was it one person?

Mr. Peeples. It's for assistants -- we have 56 field offices, and we have

special -- assistant special agents in charge in all 56 who attended. I didn't keep an attendance record of who all attended.

BY [redacted]:

Q And people asked questions during that call?

A Yes.

Q What sort of guidance were you giving?

A The memo.

Q Within the parameters of this email?

A Yes.

Q Besides that call, did anyone else follow up with you regarding any questions?

A I don't recall specifically.

BY [redacted]:

Q Do you know if any of the other co-signers or individuals copied on that email received any questions?

A No.

Q And, other than coordinating to draft that email with Mr. Jensen and Mr. Vorndran, did you have any followup discussions with either of them regarding this issue?

A No.

Q So that was the last time the three of you had worked together to provide guidance on the school board issue?

A Yes. I wasn't there too much longer after that time frame.

[redacted]. Did you have any followup discussions about this email with Mr. Langan or Mr. Shivers?

Mr. Peeples. Outside of getting the signature, no.

BY [redacted]:

Q What about any follow-up discussions with Acting Assistant Director Jay Greenberg?

A Again, approval and signature authority. That was it.

Q And you had mentioned earlier, I believe, that it was Mr. Jensen's idea to implement the EDUOFFICIALS threat tag. Is that correct?

A I believe I mentioned that he was the one that suggested the threat tag. I don't know if the name -- where the name came, but I think he suggested the threat tag.

Q Now, switching gears a tiny bit to the memo itself, going back to exhibit 3.

A Exhibit 3.

Q Going to the fourth paragraph down, it begins with "coordination and partnership." The second sentence says: To this end, I am directing the Federal Bureau of Investigation, working with each United States attorney, to convene meetings with Federal, State, local, Tribal, and Territorial leaders in each Federal judicial district within 30 days of the issuance of this memorandum.

Now, based on that reading, is it your interpretation that the Attorney General is directing the FBI to take the lead on this initiative?

A My interpretation is logged into my memorandum where it says: The memorandum directed each United States attorney, in coordination with the FBI, to convene meetings with Federal, State, local, Tribal, and Territorial leaders.

So my understanding is this is to be led by United States attorney's office.

Q And then who gave the final say on that interpretation?

A AD Tim Langan and AD Calvin Shivers.

Q Were you given any additional guidance or separate guidance on what the

Attorney General meant by that instruction?

A No.

Q So, when you drafted that email, in addition to Assistant Director Langan and Assistant Director Shivers, there was no additional guidance provided as to the interpretation of what the agent meant. Is that correct?

A I didn't receive any additional guidance.

Q Were you aware of any inside discussions at the FBI where this memo may have been downplayed?

A No.

Q And other than the threat tag, are you aware of any other initiatives taken by the FBI pursuant to the Attorney General's memo?

A To this memo?

Q Yes.

A No.

Q And I know [redacted] walked you through the Attorney General's memo and not seeing the word "parents" mentioned in it, but to your knowledge, who attends school board meetings?

A I don't know.

Q Your best guess?

A I don't have a guess.

Q Would you agree with me that generally it's parents that attend school board meetings?

A I agree that's your interpretation of who attends.

[redacted]. So you don't have any opinion on who may or may not attend a school board meeting?

Mr. Peeples. I don't.

BY [redacted]:

Q What about the alleged threats of violence, do you know, based on the incidents and the reason that the October 4th memorandum went out, who those incidents involved?

A No.

Q Did you provide any additional guidance to the field agents regarding this memorandum?

A The only additional guidance was during the meeting with the assistant special agents in charge sometime after this memo was sent.

BY [redacted]:

Q Did you have any involvement with the EDUOFFICIALS threat tag after you left in December 2021?

A No.

Q You also mentioned in our first hour that the purpose of this email was to scope the threat. Can you just explain what you mean by that?

A Well, it's kind of mentioned in the memo itself: To scope the threat to determine if there's a Federal nexus, are there potential Federal violations that can be investigated and charged, and what's the motivation behind the criminal activity.

Q So, after you issued this email on the 20th, did you have the opportunity to assess, you know, what the scope of the threat was?

A No. I left shortly afterwards.

[redacted] You mentioned before too that you had met once with the task force that was created -- or individuals who were included in the task force. There was one followup with the unit chief over the violent crime unit. Do you remember who that is?

[redacted]. I'm going to just object. We're not going to talk about non-SCS personnel names in this setting.

[redacted]. What's the basis of the objection?

[redacted]. Longstanding Department of Justice and FBI policy regarding personnel safety.

[redacted]. Okay. You can -- he's here voluntarily. You can respond if you like.

Mr. Peeples. No response.

[redacted] Are you able to indicate if that person is still in this role?

Mr. Peeples. I don't know.

[redacted]. And also earlier you were asked last hour by [redacted] about the FBI's core values. I believe that was -- it was one of their earlier exhibits.

[redacted]. Exhibit 8.

[redacted] Exhibit 8, thank you. Do you personally agree with these values?

Mr. Peeples. Do we have exhibit 8?

Yes. I think I mentioned earlier that I agree with them.

BY [redacted]:

Q Sorry. It was a little difficult to hear down there. But do you personally think that the FBI follows these values?

A And, as I mentioned earlier, I'm not going to speak on behalf of the FBI.

Q Do you have an opinion on it?

A No.

Q Switching gears a little bit again, what was your official title with the FBI on January 6th of 2021?

A Inspector, Inspection Division.

Q And can you explain to us a little bit what your roles and responsibilities were in that position?

A Basically the FBI, we're responsible for holding the FBI accountable in a consistent and transparent manner, through the evaluation of our investigative, intelligence, and administrative programs.

Q So is that all-encompassing, not one specific division but all of them?

A Yes. I mean, we go out and we look at the 56 field offices, a certain amount of them each year, and we assess their investigative, intelligence, and administrative programs.

Q And how often would you do that?

A They were -- they're probably scheduled anywhere from 8 to 12 a year. COVID played a role where we shut down for 6 months and didn't travel.

Q Was that in 2020 or in any time in 2021?

A It was a combination of both.

Q Do you remember roughly that 6-month timeframe?

A It may have been January through July in '20, and then we started back up in January of -- again, in January of '22. Yes, January of '22, so.

Q So were you out investigating the field offices again in January of 2021?

A I think we -- I can't recall the dates, if we were out there investigating or not. I have to look at the dates of when we were out there.

Q But you said there was a 6-month timeframe somewhere between 2020 and possibly 2022, where there weren't in-person investigations in the field offices. Is that correct?

A Somewhere between March -- January of 2020 and 2021, there was a 6-month time where we didn't go out and investigate or evaluate the field offices.

Q Was there any substitute to that?

A No.

Q And, going back to the January 6, 2021, question, were you interviewed by anyone on the select committee for the January 6, 2021, events?

A No.

Q Do you remember what you were doing on January 6, 2021? Were you at a field office, or were you still at headquarters?

A I was still at headquarters.

Q What was your awareness of threat levels before or on January 6th of 2021?

A It wouldn't have been in my purview. I was in Inspection Division.

Q When had you switched back over to Inspection, do you recall?

A I started off in Inspection in September of 2019, and I was there at Inspection until May of '21 -- somewhere in May -- April or May of '21, when I went to be acting special agent in charge of Pittsburgh.

Q Did you attend any in-person or SVT staff meetings on or after January 6th regarding the events of that day?

A No.

Q Following the events that occurred at the U.S. Capitol on January 6, 2021, are you aware of the weekly emails that were sent out by Director Wray and Assistant Director Sanborn?

A No. It wouldn't have been in my purview.

Q Do you know if there was any initiative to identify opportunities to open domestic terrorism investigations?

A Again, it wouldn't have been -- it wouldn't have been in my purview.

Q As part of your purview, would it be to inspect those particular investigations

at that time?

A If we went out and did a field office inspection, we will look at every single case regardless of the classification.

Q What does an inspection entail, if you could describe generally what is involved?

A The assessment and evaluation of investigative, intelligence, and administrative programs.

Q So is it fair to say that it's almost like checking the special agent in charge's work over their review of a case, or is that a completely separate interpretation?

A A special agent in charge is not over a specific case that's assigned to him. A case agent who is over a particular case, what we do is we go out and assess, are the cases that were open -- are within policy, are they closed within policy, are they addressed appropriately, have the appropriate guidance and direction been applied from an investigative and administrative and intelligence standpoint.

Q And I think you mentioned earlier that part of the role in having a 90-day review, which I think you'd mentioned a 90-day review of a file is done by the special agent in charge, or is that an assistant special agent in charge? Who is the person that would be --

A It's done by the first line supervisor.

Q The first line supervisor.

So, as an inspector, you would inspect their work of their 90-day file review? Is that right?

A We would look at every file review.

Q And when there's a file review, does that include assessments --

A Yes.

Q -- or is that just an open investigation?

A We look at every Guardian, every preliminary, and every full investigation.

Q And upon which you would decide if a case needs to stay open or closed or if it's been properly maintained to be open or properly closed?

A We assess if they follow the proper procedures to address the threat.

Q And how often would you go back to one particular field office for an inspection?

A We do anywhere from 8 to 12 a year. So, depending on the rotation, it could be anywhere from 4 to 5 years before you're back at the field office again, unless there's a reason to move them up.

Q What would a reason be to move them up?

A That's up to the seventh floor to make that decision.

Q And, during 2021, do you recall which field offices you went to visit to do your inspections until you were transferred in May of 2021?

A I -- during my total time there, I did four field offices -- Tampa, Las Vegas, Louisville -- one more. Those are the three that I can recall right now, Tampa, Las Vegas, and Louisville.

Q And then, after you had your assignment to Pittsburgh and then you were back from there to headquarters to be the Acting Deputy Assistant Director of CID, you subsequently -- I think you mentioned you either had one more role or you went back to being an inspector with the Inspection Division. What was that timeframe again?

A After I left being the assistant -- Acting Deputy Assistant Director for CID in December, I did an inspection of Tampa Division in January. I returned from that inspection, then I was named Acting Chief Inspector.

Q And, as we noted earlier, some whistleblowers have reported that they were

encouraged -- or they were told to reclassify cases to the DVE classification to increase the domestic terrorism program. We also indicated, you know, we learned, from Bureau-wide, just that most domestic terrorism programs struggle to find some meaningful or legitimate casework, and this can be an issue when an Inspection Division arrives every few years to a field office inspection.

Have you seen domestic terrorism squads or assistant -- or ASACs covering those programs and engaging in reclassifying cases to domestic terrorism classifications to increase the number of cases in preparation for an FBI Headquarters visit?

A No.

Q Can you describe the domestic terrorism work in the Birmingham Division?

A No. I'm still assessing it. I think I've been there about 3 months. Half of that has been back and forth up here, so, no.

Q Do you know if the Birmingham division has reclassified cases to domestic terrorism classifications before or after you've arrived?

A No.

Q Going back once more briefly to January 6th, do you know a Mr. Tim Thibault?

A Yes.

Q What work did you do with him?

A Tim and I were assigned on the same squad probably back in 2001 or 2002.

Q And that's the only time you worked with him?

A Yes.

Q What program did he work in, that you worked with him in?

A I worked civil rights, I know, and we were on a civil rights and public corruption squad, but what he worked on I don't know.

Q Did he ever engage in a discussion of his political views with you?

A No.

Q Do you personally think that in some cases there were people overcharged for their January 6th participation?

A I have no opinion.

[redacted]. Have you had any interaction with Mr. Thibault since 2001 and 2002 in the work capacity?

Mr. Peeples. No.

[redacted]. Have you engaged any further, after this email -- I think I briefly touched on this -- that you had sent out to the field offices, with Mr. Jensen at all outside of the school board issue? Have you worked with Mr. Jensen anymore?

Mr. Peeples. Have I seen him or worked with him?

[redacted] Worked with him.

Mr. Peeples. No, I haven't worked with him.

[redacted]. Can we go off the record for just a moment.

[Discussion off the record.]

[redacted]. We can go back on the record.

And, prior to sending out your email on October 20, 2021, did you have any conversations with anyone at DOJ prior to sending out that email?

Mr. Peeples. No.

[redacted]. Do you know if anyone at DOJ reviewed that email before it got sent out?

Mr. Peeples. I don't.

[redacted]. Have you and Mr. Vorndran had any conversations with anyone at DOJ?

Mr. Peeples. No. I don't know if he had. You'd have to ask Mr. Vorndran.

[redacted]. Do you know if Mr. Jensen had any conversations with anyone at DOJ?

Mr. Peeples. You'd have to ask Mr. Jensen.

[redacted]. And do you know if beyond Mr. Greenberg and Mr. Langan, there was anyone else in senior leadership at FBI that reviewed that email?

Mr. Peeples. Not that I'm aware.

[redacted]. Okay. We can go off the record.

[Recess.]

[redacted]. It is 12:47. We can go back on the record.

BY [redacted]:

Q I want to just get clarity, Mr. Peeples, on something I think you said just now, and I couldn't hear it down at the end of the table.

Did you say that you conducted an inspection of Tampa in, would it be early 2021?

A It would be early 2022.

Q Early 2022.

A January of 2022.

Q Do you recall if, when you did that inspection, if there were any concerns raised about Tampa's handling of January 6th-related cases?

A No.

Q There were no concerns raised, or you don't recall?

A I don't recall if there were any concerns raised.

Q Okay. Do you recall if there were any concerns with -- major concerns with Tampa overall that came out of your inspection?

A No. Tampa was accomplishing the mission in all aspects.

Q I'm sorry; could you say that again?

A Tampa was accomplishing the mission in all aspects of the investigative, intelligence, and administrative programs.

Q Thank you. Another thing I couldn't quite catch down at the end of the table. You started at Birmingham 3 months ago, you said?

A End of January, yeah.

Q End of January. And you were asked about certain cases in Birmingham and whatnot, and I think you said you had spent half of the time in that 3 months coming up here. Is that -- or preparing for this. Is that fair?

A No. Just in terms of traveling --

Q Yeah.

A -- for multiple reasons to come up here --

Q Okay.

A -- as well as other parts of the country for work-related --

Q Okay.

A -- entities.

Q Okay. Understood. Just wanted to clarify the record, and then one last question. Do you know who Terry McAuliffe is?

A No.

Q Okay. And the name Terry McAuliffe was never mentioned at FBI with regard to any of the school boards -- or the October 4th memo?

A I never heard of Terry McAuliffe, so I don't know if he was mentioned by anybody else throughout the Bureau.

Q Okay. But to your knowledge, he was never mentioned?

A I've never heard of Terry McAuliffe.

Q And, actually, sorry, couple more questions.

You mentioned Tim Thibault. You were on the same squad as him in the early 2000s. Is that right?

A Yes.

Q Do you recall, did you have any concerns about Mr. Thibault's competency?

A No. But we were also located in two different locations. I was at headquarters, and he was located in Virginia.

Q Okay.

A So, although we were on the same squad, we investigated two different programs, and the civil rights program was in D.C. He was working out of Virginia, so -- and we were both on the squad team.

Q Understood. But, from the limited interaction you had, did you have any concerns about his fitness or his competency?

A No.

Q Did you have any concerns about his temperament?

A I wasn't around him enough to know.

Q Understood. Okay. No further questions.

A Okay.

[redacted]. We can go off the record.

[Whereupon, at 12:49 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: STEVE JENSEN

Friday, May 19, 2023

Washington, D.C.

The interview in the above matter was held in room 2237, Rayburn House Office Building, commencing at 10:02 a.m.

Present: Representatives Jordan, Gaetz, and Biggs.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

[redacted], GENERAL COUNSEL

[redacted], DEPUTY GENERAL COUNSEL

[redacted], COUNSEL

[redacted], COUNSEL

[redacted], CHIEF COUNSEL FOR OVERSIGHT

[redacted], MINORITY CHIEF OVERSIGHT COUNSEL

[redacted], MINORITY INTERN

[redacted], MINORITY OVERSIGHT COUNSEL

[redacted], MINORITY PROFESSIONAL STAFF MEMBER

For the U.S. DEPARTMENT OF JUSTICE:

[redacted], SPECIAL COUNSEL,

OFFICE OF LEGISLATIVE AFFAIRS

For the FEDERAL BUREAU OF INVESTIGATION:

[redacted], ASSISTANT GENERAL COUNSEL,

OFFICE OF GENERAL COUNSEL

[redacted]. Good morning. This is a transcribed interview of Steve Jensen with the FBI. Chairman Jordan has requested this interview as part of the committee's oversight of the FBI.

Would the witness please state your name for the record and your current FBI title?

Mr. Jensen. Absolutely. My name is Steven John Jensen, and my current position is Special Agent in Charge of the Columbia Field Office, FBI.

[redacted]. And you're here today with lawyers from DOJ and the FBI; is that correct?

Mr. Jensen. That's correct.

[redacted]. And you understand that agency counsel, their first obligation is to represent the Bureau and the Department, not you individually.

Mr. Jensen. Yes, sir.

[redacted]. We'll have the agency lawyers introduce themselves for the record.

[redacted]. [redacted] from the FBI's Office of General Counsel.

[redacted]. [redacted] from the Department of Justice, office of legal affairs.

[redacted]. My name is [redacted]. I'm with Mr. Jordan's House Judiciary Committee staff. I'll have the rest of the staffers introduce themselves.

[redacted]. [redacted] with Chairman Jordan's staff.

[redacted]. [redacted] with Chairman Jordan's staff.

[redacted]. [redacted], Chairman Jordan's staff.

[redacted]. [redacted], Chairman Jordan's staff.

[redacted]. [redacted], chief oversight counsel for the House Judiciary

Committee Democratic staff.

[redacted] [redacted], counsel for the House Judiciary Committee Democratic staff.

[redacted] [redacted], with House Judiciary Democrats.

[redacted] [redacted], House Judiciary Democrats.

[redacted]. We're also joined by three of our Members, Mr. Biggs --

Mr. Jordan. Jim Jordan, Ohio.

Mr. Gaetz. Matt Gaetz, Florida.

Mr. Biggs. Andy Biggs, Arizona.

[redacted]. I'll go over the ground rules and guidelines that we'll follow in today's interview. Our questioning will proceed in rounds. The majority will ask questions first for one hour, and then the minority will have an opportunity to also ask you questions for one hour. And we'll rotate back and forth until we're done.

Ordinarily, we'll take a short break at the end of each hour, but if you'd like to take a break a part of that, please let us know. As you can see, there is an official court reporter taking down everything we say. Sometimes, that requires us to repeat a question because we're talking over one another, and so we'll do our best not to foul up the record on that front. We want you to answer our questions in the most complete and truthful manner possible, so we'll take our time.

If you have questions and don't understand one of our questions, please let us know. If you honestly don't remember the answer to a question, it's of course best not to guess. Give us what recollections you do have, and it's okay to tell us if you learned information from somebody else. The Federal Rules of Evidence and the hearsay rules aren't applicable. So, if you have some secondhand information, you can just tell us as long as you just tell us how you came to possess that information.

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

Mr. Jensen. I do.

[redacted]. 18 United States Code, 1001, the false statements statute, is applicable for those that intentionally provide false information to Congress, you understand that as well?

Mr. Jensen. I do.

[redacted]. We like to keep the information that we cover here today confidential to the extent we can. Accordingly, if we have some exhibits, and they may be an exhibit that the FBI provided or you provided through official channels, we will -- even though you provided it, we'll keep it here in the room because the exhibits we show the witnesses, as I'm sure you can appreciate, form a roadmap of our questions and things we're interested in. So we will collect any exhibits that we used on the record.

[redacted], do you have any welcoming remarks?

[redacted]. No. Just thank you for the witness taking time out of your schedule to come up here today.

Mr. Jensen. Yes, ma'am.

[redacted]. And do you have any welcoming remarks of your own or introductory?

Mr. Jensen. No. I want to thank the committee. I appreciate the opportunity to represent the FBI and my time of service in the FBI and answer your questions to the best of my ability.

[redacted]. We do appreciate your service. I'm going to turn it over to [redacted], and she'll do most of your questions here. It's 10:07 for the record.

EXAMINATION

BY [redacted]:

Q Good morning, sir. I want to begin with your professional background. When did you join the FBI?

A In 2006.

Q And what was your key motivation for joining the FBI?

A The mission of the FBI. And, if I could for background, I was a police officer in Colorado Springs prior to joining the FBI. I come from a legacy -- a family legacy of law enforcement in New York, and so it's kind of the family profession. And I had the opportunity to work with Federal agencies on task forces in Colorado Springs, and the mission of the FBI in my particular background I thought I served best in that broad-based mission of the FBI. And so it drew me, and I was very proud to be selected.

Q And can you walk us through some of the positions you held at the Bureau?

A Absolutely. So, in 2006, I entered on duty April 30th, 2006, at Quantico, Virginia, as a new agent trainee. My first office of assignment was the New York field office. I was assigned there first on applicant matters, and then I was assigned to healthcare fraud, domestic terrorism, and then Asian organized crime, three subsequent squads that I served with.

I was also a SWAT team member. I served as a firearms instructor, and a defensive tactics instructor. That parlayed into an assignment as an instructor at Quantico, Virginia, teaching new agent trainees in firearms. I did that approximately since 2012 through 2014. At which time, I was promoted to supervisory senior resident agent of a resident agency in Chicago, Illinois.

I served in that capacity for approximately 3 years, from 2014 until 2017, when I was promoted as assistant special agent in charge of the Jackson Field Office where I

served both as the criminal and administrative ASAC and, subsequently to that, as the national security ASAC. In 2020, I was promoted to section chief under Counterterrorism Division at FBI Headquarters as the Domestic Terrorism Operations Section chief.

I served in that capacity from April of 2020 through October of 2021, where I was again promoted as Deputy Assistant Director of the Training Division at Quantico. I served in that capacity from October of 2021 until my promotion as special agent in charge in March of 2023.

Q Okay. So I just want to make sure we have the dates right here. So, April 2020 through October 2021, you were the section chief within the Counterterrorism Division for the Domestic Terrorism Operations Section; is that correct?

A Yes, ma'am.

Q And then you were at the Training Division from October of 2021 until when was your promotion?

A It was March, officially transferred March of 2023. And, in that time period, 17-plus years with the FBI, there were several TDYs to different details, right, different temporary duty assignments, notable but not permanent.

Q And, when you were at the Domestic Terrorism Operations Section, were you stationed at headquarters? Did you work out of headquarters?

A I was. I was in the J. Edgar Hoover building.

Q And how many other times have you worked out of headquarters?

A So the first time was the -- as an instructor at Quantico. That is technically a headquarters billet. But it's down at Quantico, Virginia, outside of headquarters property.

Q And you are now currently the special agent in charge of the Columbia Field

Office, correct?

A Yes, ma'am.

Q And who's your direct supervisor now?

A That would be the Deputy Director, Mr. Abbate.

Q And how many people directly report to you?

A It's more than 200.

Q And how would you characterize the size of the field office? Is it like a medium size or large size field office?

A It's considered a small field office.

Q Small. Okay. Great. And how often do you interact with the FBI Director?

A Currently?

Q Correct.

A Infrequently.

Q Okay. When you were at the Domestic Terrorism Operations Section, did you interact with the FBI Director?

A Yes.

Q And how frequently did you interact with the FBI Director in that position?

A At times, it was daily. Generally, weekly.

Q And when were your daily interactions with the Director? Like what time period was that?

A It could have been in the general meetings that started about 8 o'clock in the morning. Those are the briefings from all the assistant directors and executive assistant directors to the deputy. I was often in those meetings, giving updates on domestic terrorism operations. And the Director was present for those. There were also times

that we were helping him prep for briefings to Congress or conversations with the Attorney General or meetings over at the White House. And I was key on those conversations as well.

Q And, when you were helping the Director prep for briefings for Congress, what were those briefings normally? What was the subject matter of those briefings?

A They varied. They could have been -- you said to the Attorney General, right?

Q To the Director, excuse me.

A Right. Director in preparation for the Attorney General?

Q Correct.

A Yes. So those were often specific about domestic terrorism operation cases. They could have been specific cases that were underway and posed operational risk; in other words, we were about to do multi-jurisdictional takedown using SWAT teams or HRT, our hostage rescue team, so higher risk operations. And it also included status updates of various activities in field offices, opening cases related to civil unrest from the summer of 2020, the status of some of those investigations or updates related to travel and support of riot activities and things of that nature, as well as intelligence briefings -- what are we seeing related to the pending election, are we seeing threats coming in against elected officials -- and then, obviously, with January 6th occurring, numerous briefings about status updates, investigative strategy and updates on arrests as they were occurring.

Q And, when you were section chief, can you kind describe for us the organizational chart? Did you have people who reported to you?

A I did. So Domestic Operations Section consisted of three units when I first arrived -- correction four units when I first arrived. And those units were led by a unit

chief. That's a GS-15 employee. Has oversight over supervisory special agents, imbedded intel analysts, and other personnel. They primarily are responsible for oversight of any domestic terrorism investigations that are opened in the field offices.

They provide policy guidance to the field. They provide support to the field for operations, whether it's funding for sources, travel expenses for operational expenses, and then across field offices, because many of these cases bleed over across multiple jurisdictions, operational awareness of what one field office is doing so there's no unilateral action that negatively impacts other field offices' investigations, right? And so there is a coordination piece that we provided from Domestic Terrorism Operations Section.

Those units were comprised of about 26 or so special agents that are supervisory special agents, about 12 intel analysts, and a handful of other professional staff. During my tenure there, based on the environment that we faced and the surge of cases being opened, there was a flow of temporary duty agents from other branches of the FBI to support our work in supporting field offices.

And that ebbed and flowed over time. And that was to either fill vacant positions that I was unable to fill from the field offices because they were tasked with working investigations in the field offices or to help on special cases, critical incidents, or cases that required specific attention, and we didn't have the personnel on hand to dedicate to it. So they would surge temporary resources to me.

Q About how many temporary duty employees were in the section at any given time?

A It truly ebbed and flowed. This was also during COVID, and I'm remiss to say, during my tenure there, I never met my full staff. There just wasn't opportunity to meet my entire staff. So I had many people working for me that I never met in person

or never had conversations with. In total, at one point, I think I had about 60 total FBI personnel temporarily assigned to my section. I think that was maximum. I think it was sustained for about 30 days.

Q And what time period was that for the 60?

A Well, that probably would have been the summer of 2020, just with the number of field offices that required additional support; not only were they temporarily assigned to me, but we were also deploying personnel out to those field offices to support them in their command posts in responding to the various crimes that were being committed, which cases could we reasonably open with the Federal nexus, and which cases do we need to support State and local partners. So the bulk of that would have been 2020.

We also had surge across multiple divisions to develop a strategy and implement a strategy for January 6th investigations. They weren't necessarily TDY'd to me, but they fell under my purview as my role as the -- for lack of a better term -- the headquarters on scene commander for a unified response to January 6th. So multiple divisions had personnel contributing to that mission.

Q And so you spoke about four units, and those were each headed by a unit chief; is that correct?

A That's correct.

Q And did each unit have a subject matter area that they worked on, or was it just everyone worked on everything?

A No, ma'am. So, in the section, we all were responsible for the primary threats of domestic terrorism as the FBI defines them, as well as some of the additional investigative matters that we were responsible for, program managing all of those cases. The way our -- that we broke up those units was by region. So we had an Eastern

Region, field offices that fell in the eastern region in the United States, a Central Region, and a Western Region. And then the fourth unit when I arrived was the Hate Crimes Fusion Cell that had been stood up prior to my tenure, and that was to look at the corollary or the overlap of domestic terrorism investigations and hate crimes. And are we dual-captioning, are we coordinating, and are we leveraging hate crimes charges where appropriate on DT subjects.

Q Okay. I want to kind of focus in on your time as the section chief, specifically surrounding the time of the October 4th memorandum that the Attorney General issued. Are you familiar with the National School Boards Association letter to President Biden?

A I became aware of it. Yes, ma'am.

Q And when did your first learn of that letter?

A I learned of that letter based on communications I had with the Department of Justice. That would have been around October 1st. I had a conversation with a counterpart in Counterterrorism Section, National Security Division of DOJ. And there was a request for him and I to collaborate together: What is the Federal response on three particular measures? And I could generalize those measures or requests from DOJ.

Q That would be great.

A The first was, where, if there were threats received or made against school boards or elected officials, does it rise to a Federal nexus, specifically regarding domestic terrorism? Two, can the FBI assist in serving as a clearinghouse for any threats that were received? And, three, how would we best coordinate with State and local partners to use enforcement action where appropriate so whether it was a State or local authorities or Federal authorities?

Chairman Jordan. -- that request October 1st. Who did the request come from?

Mr. Jensen. That came from ODAG office, an email to myself, and I believe it was Tom Brzozowski of the Department of Justice, CTS.

Chairman Jordan. So the email came from Tom, say the last name.

Mr. Jensen. Brzozowski. Common spelling. I wish I could spell it for you, but I can't, sir.

Chairman Jordan. Mr. Brzozowski emailed you on October 1st?

Mr. Jensen. No, sir. It was, oh, Kevin Chambers would have sent the initial email.

Chairman Jordan. And what's Mr. Chambers' title?

Mr. Jensen. I don't know his title, but he is from ODAG's office.

Chairman Jordan. Thank you.

Mr. Jensen. Yes. And I'm sorry; just for clarification, that email that he sent was to myself and Mr. Brzozowski to coordinate, and it was not uncommon for Mr. Brzozowski and I or other members of CTS to coordinate on issues. I had a standing meeting with CTS regarding domestic terrorism operations and cases and potential prosecutions.

BY [redacted]:

Q Was that the only outreach you received from DOJ regarding the September 29th letter?

A That was the initial outreach.

Q The initial outreach?

A Yes, ma'am. That was the initial request for coordination, and how would we respond to this? And that was a telephone call that I received from Mr. Brzozowski

because I was working in a secure facility. I didn't have my phone, my cell phone, and it happened after normal business hours, which was also not uncommon because of the pace that we were maintaining. We would often do post business hours meet-ups.

Q And when was the phone call from Mr. Brzozowski?

A It was after five o'clock, but the specific time I don't no.

Q Was it on October 1st?

A I believe so. That was Friday, October 1st, I believe, if my memory serves.

Q Yes. That would be right. So October 1st -- did you receive the phone call Mr. Brzozowski first, or did you receive the email from Mr. Chambers first?

A So the email hit my inbox first, and I believe I forwarded it to my immediate supervisor, Deputy Assistant Director Jim Tarasca, but I didn't have any comments on my email to him. It was just kind of like: Hey, I received this. I don't have time for this right now.

But it's for his awareness.

Chairman Jordan. Can you describe that email? What did Mr. Chambers say? Was there urgency in the email? What -- give me the tone.

Mr. Jensen. It's hard to describe tone from an email. I didn't sense, like, we need a response right now. It was a request for Mr. Brzozowski and I to review those three requests, right, and how would we best respond to that. Based on my conversation with Mr. Brzozowski, my request of him was we need more time, right? I don't know at this time, does the FBI have any threats relative to this letter that was sent or responsive to ODAG's question. I would need to get in touch with the National Threat Operations Center at CJIS and ask for them to pull information, do we have anything relative to this, and then coordinate with my counter -- Criminal Investigative Division.

Chairman Jordan. Did Mr. Chambers say what prompted him? Did he reference the letter from the National School Board Association?

Mr. Jensen. The National School Board Association letter was attached for reference. And so it was part of the email for me to review.

Chairman Jordan. Okay.

BY [redacted]:

Q Did Mr. Chambers mention anything else in the email besides the letter that was kind of prompting this discussion?

A Without the particular email in front of me, it would be a hard for me to say. I think there was -- there were two or three separate paragraphs in the email, very short, kind of saying: This is the request that's attached. This is how it came in. This is what we're looking to do, right. Can you guys coordinate on these three things?

It was very simple. And really the summary was: Based on this letter that alleges threats against their members, other public officials at schools, can we do these three things, and how would we best do these three things?

Q And when were you and Mr. Brzozowski able to start working on the three things that Mr. Chambers had asked to collaborate on?

A So, on that phone call, we talked about those three things and pretty much went through them in order. I unfortunately didn't have that email in front of me then. He called me, cold-called me, referenced the email and the SBA letter, and so I was able to pull it up on my computer, and we talked through it. It wasn't a lengthy conversation. It was essentially: I understand what's being asked. There are other parts of the FBI that should be involved in this, NTOC for one, to determine do we have anything currently in our holdings relative to these types of threats?

And I wasn't aware of any, but I didn't want to give bad information back to DOJ.

Two, it's not simply a domestic terrorism matter, and most of these, from my awareness of what was occurring and being broadcast in the media at the time, specifically Loudoun County, they appeared to be State and local matters. And I believe that was also highlighted in Mr. Chambers' email to us, saying: While I recognize many of this -- much of this would be a state or local matter, how could we engage on these? Right. Using Federal authorities, could we engage on these?

That was one of the questions, right?

And so my response to Tom was: First, we would need to talk to NTOC and pull some data. We would also need to bring in my partners over in Criminal Investigation Division because many of these would come in as generic threats, threats against public officials would largely be worked out of the Violent Crime Section in CID, and there should coordination with them as well. And they need to be brought in, but it's after 5 o'clock, and I'm not sure they're in right now. Right. So we would have to reconvene on Monday to answer these questions a little bit better. And he agreed more time was necessary, and we would reconvene on Monday.

Mr. Biggs. Can I just ask for clarification?

Mr. Jensen. Yes, sir.

Mr. Biggs. Because you said Chambers asked, how could we or could we?

Mr. Jensen. So those are my words, right? His email was very definitive, and I don't have that email in front of me.

Mr. Biggs. The reason I say is "how could we" sounds like "how do we shoehorn ourselves into it," and "could we" sounds more like, you know, "is it permissible, do we have authorities?"

Mr. Jensen. Yes.

Mr. Biggs. That's what I'm trying to get at. Which one is he saying?

Mr. Jensen. So I don't want to put words on the email because they are in black and white. My interpretation of it is "could we," right? I had concerns about the initial SBA letter, right, that came from a private organization and some of the things that they wrote in their letter. I think they had concerns about threats against their members. And we're claiming certain authorities that they believed we could use that, not appropriate for us to use on U.S. citizens, okay?

But then a blanket statement of "if it rises to counterterrorism, domestic terrorism," that was concerning to me too, and I was adamant during my entire tenure, still adamant today, and even when I was an agent working investigations in domestic terrorism, that we focus on individuals for violent conduct, not on groups or associations of people. And it's often misconstrued, and it's something that I constantly had to remind people of, even our own agent personnel. Mere association does not warrant predication. We also don't assign labels, right, broadly that you're a domestic terrorist because you are an associate of this. It's specific based on conduct that meets the statutory definition. And that was very, very important to me to clarify on that call.

Mr. Biggs. So, when you talked about authorities just in your answer, what were the authorities that you thought the FBI might have to investigate what seemed to many to be local and State issues?

Mr. Jensen. Right. So my concern about in-person meetings in particular and asking "are there -- or how could the Federal Government, FBI in particular, engage in those" is they're happening in person. There's no indication that a Federal facility was used in the commission of a crime, threat by wire, threat my communication device. These -- if there were threats, it appeared based on media, right -- I don't have personal knowledge of it, but just what I was seeing in the news, it appeared that they were happening in person and would be a local harassment or threatening communication in

person if somebody filed a complaint. And that would be handled at the local level.

Mr. Biggs. So but you mentioned that maybe there were Federal authorities. What would those Federal authorities have been to investigate to determine whether it's credible or not?

Mr. Jensen. If we received a credible tip -- and that was the part I wasn't aware of, right? That's why I wanted to talk to NTOC. If we received from the public, from a member of a school board, from anybody really a tip that alleged a potential Federal violation, that would give us authority to look into that and determine, was this a true threat, and do we need to investigate further or pass it along to our State and local partners? And that's consistent with how we triage all threats that we receive. And then, once we determine if there is a Federal violation and it warrants the opening of an investigation, then additional lawful authorities would connect.

Mr. Gaetz. Thank you for being here. Good morning. I want to draw a fine point on this testimony you've just given about predication functioning as a feature of conduct rather than a feature of association.

Mr. Jensen. Yes, sir.

Mr. Gaetz. Is that a proper understanding of your testimony?

Mr. Jensen. Conduct, criminal conduct.

Mr. Gaetz. Right. There are those who believe that predication occurs based on one's conduct, and there are those who believe that predication can occur based on one's association, and your testimony today is that you found that to be often misconstrued?

Mr. Jensen. So I should clarify. I did mention that, even with some of our own agents as they're opening cases, they would misconstrue like this person is also associated with, and we would correct that, right? It's their violent conduct, and they

had predication for that. This person was alleged to have been engaged in violent conduct, or was willing to engage in violent conduct, but that is our predicating statement for domestic terrorism investigations.

Where I found the confusion was often when I talked to people outside of the FBI about how we conduct domestic terrorism operations versus their understanding of international terrorism operations. Mere association, affiliation with a foreign terrorist organization, whether it's material support or otherwise, does give us authorities to investigate.

Mr. Gaetz. I thought your testimony was that, even among FBI personnel, that this distinction between association and conduct was misconstrued as a feature of predication. Did I understand that correctly?

Mr. Jensen. So, at times, yes. And that is often with somebody who has never worked domestic terrorism before, a new agent trainee, somebody who has not opened a case before. And where the predication exists, it's making sure that predicating statement is at the front side, that the association is not the predicating statement.

Mr. Gaetz. And this confusion regarding associations versus conduct on predication, did you ever see that arise as it related to school board meetings and people associated with those who attend them?

Mr. Jensen. So I did not, but the timing of this is important too. So I noted in my brief resume, that in October of 2021 is when I left Counterterrorism Division and went down to Training Division. And so I stepped out of my role as Domestic Terrorism section chief around the time that that joint message from CID and CTD went out to the workforce about how to triage those investigative leads that come in and what our response was, right? So I was part of the conversations leading up to that, but I was not there for any resulting tips or guardians that might have been developed in response to

that.

Mr. Gaetz. But it seems to be that, based on this communication from Chambers, that you were part of -- you were tasked to come up with the doctrine on how these school board threats or associations would be analyzed. And you seem to have laid out this three-part test in developing that doctrine: the existence of a Federal nexus, the FBI having -- being a clearinghouse for the threats, and then coordination where appropriate with State and local. Is that --

Mr. Jensen. Those three were outlined. And, again, those are my -- it's my summary of what was in the email, right, my recollection of what those three taskers were. As far as a doctrine for the memo, I don't believe I was a part of creating a doctrine, but what are our authorities inside the FBI to respond to, if at all?

Mr. Gaetz. Well, that may just be our difference in semantics. But drawing a finer point on what my colleague Mr. Biggs was asking you about: When you say, like, when analyzing the Federal nexus to these matters, did you observe any FBI personnel wanting the exercise of jurisdiction to be the outcome of that nexus?

Mr. Jensen. So, again, the timing is important. I didn't -- to the first part of your question, I didn't do any analysis on tips that might have come in during that time because I had left after the threat tag had been created. I'm sorry. I left before that threat tag had been created and implemented. I didn't have any purview or oversight of any of those tips or Guardians that would have come in. And I am not aware, based on my experience working with the agents and the analysts, that there was any impetus other than, do we have a lawful authority to investigate?

Mr. Gaetz. Was it a quest to acquire that lawful authority during your time there?

Mr. Jensen. No, sir.

Chairman Jordan. Was the request of October 1st, was that typical?

Mr. Jensen. So it was unique. It was not atypical to get direct communications from ODAG's office.

Chairman Jordan. No, but -- I understand that. I assume they reach out to you. But was this specific one -- you said unique. Was it unique?

Mr. Jensen. It was unique in that it came -- the method in which it came and the specific letter from the SBA. I had not received --

Chairman Jordan. Okay. So that was unique. An attachment from some outside organization, that was unique.

Mr. Jensen. During my tenure, that was unique.

Chairman Jordan. Okay. And was the time unique? So the letter is dated September 29th; 2 days later, you get it attached to something from the offices of the -- Attorney General's Office, Deputy Attorney General's Office. Was that unique?

Mr. Jensen. The timing didn't stand out to me, sir.

Chairman Jordan. Okay. You said you went to Quantico sometime between when the memo was released on the 4th and the 20th when the FBI sent out the guidelines on how they were going to put this all together with the threat tag and everything else. Is that right?

Mr. Jensen. Yes, sir.

Chairman Jordan. What date did you go to Quantico.

Mr. Jensen. It was mid-October. I'd have to get back to you on the specific date. I know I had --

Chairman Jordan. Before the 20th?

Mr. Jensen. It was. I had a procedure -- a stress-related procedure, unfortunately, an angiogram, which came back clear, but it was on the 16th.

Chairman Jordan. -- okay -- what did you do between when you got the request on the 1st and the 4th when the memorandum was issued from the Attorney General?

Mr. Jensen. I'm sorry. Can you repeat that, sir?

Chairman Jordan. So you get the request on the 1st, and then the memorandum goes out on the 4th. What type of communication and what happened between the 1st and the 4th between your office and the Attorney General's Office?

Mr. Jensen. Yes, sir. So there was a series of email exchanges that I was copied on. DOJ, various officials in DOJ updating their comments towards what was described as a media release, which, in my initial conversation with Mr. Brzozowski, I was not aware of potential media release, just that this request had come in for us to coordinate. And we, myself and Mr. Brzozowski -- I don't want to speak for him, but he summarized our conversation back up to Mr. Chambers in ODAG's office, and it was thorough. He missed the one part that I had chimed in about a clearinghouse could exist in NTOC if it needed to be used because it's already set up to receive tips and distribute those tips to State and local partners. That was an important part for me so we didn't duplicate efforts or resources or recreate the wheel, but that was a minor part.

The communication that I was copied on referenced 18 U.S.C. 2331, which clearly defines international terrorism and domestic terrorism. That was referenced in one email communication, and I was copied on that. And it also referenced that there would be a media release. When I received that email, started a separate chain of email's internal to the FBI.

Chairman Jordan. Is the that unusual to be referencing talking about a media release?

Mr. Jensen. No, sir.

Chairman Jordan. Okay.

Mr. Jensen. No, sir. My concern was broadly applying a statutory definition, specifically of domestic terrorism, to a broad-based population. Like I said before, we predicate on individuals for their individual conduct. And a broad application of a statutory definition can be very misleading, and that's what I flagged internally to FBI chain of command inside of CTD. And my request in flagging that was that they engage with DOJ because I felt, with a pending media release, we needed higher level of engagement. And so I had a conversation on Saturday -- and I do remember this very well, because Saturday we had a large group of kids coming over my house for a -- like a fall party. And I was trying to finish the construction of a fire pit because we promised them s'mores.

So I was in the middle of working on that project, trying to get it done before everybody was arriving, and I was getting email traffic and phone calls, right? And it was taking away -- which was not atypical either, right. I worked around the clock and often answering on weekends. But the timing of this one was rough. So I remember the conversations, and I remember the emails.

I had a conversation with the DADs, forwarded the email traffic internal to FBI only, just for their awareness, briefed my DAD, Deputy Assistant Director, on my conversation with Tom the night prior, what my concern was in a media statement that might use the term "domestic terrorism," and that we still didn't know are we even looking at -- do we have any tips, do we have anything in our current holdings Guardian-wise that references threats against school boards, or is this strictly a state and local matter?

Mr. Biggs. Can I just get on that because that's really what I want to get at is, from this October 1st to October 4th, is it fair to say -- because you mentioned the Federal nexus, you and I have talked about the authorities, you didn't actually even know

whether there was anything coming in that had a Federal nexus, which I think --

Mr. Jensen. I didn't.

Mr. Biggs. Yeah.

Mr. Jensen. And that was a key point for me is I wanted to know; do we have something --

Chairman Jordan. You expressed that concern multiple times in the correspondence back and forth with folks who work in the FBI and folks who work in the Justice Department?

Mr. Jensen. So I know Tom and I spoke, Mr. Brzozowski and I spoke about that directly, right? We needed to see specifically is there even something to scope here.

Chairman Jordan. And did you -- but what I want to know is, did you communicate that to the Attorney General's Office via email?

Mr. Jensen. I did not. I did not.

Chairman Jordan. Okay.

Mr. Jensen. I communicated that internal to the FBI, that my concern was a broad application of the term "domestic terrorism," where we're not clear if there is a Federal nexus for us to even be attached to it. There was internal communication back stating, you know, without a Federal violation, a clear Federal violation, it would be hard for us to engage on the criminal side, let alone on the counterterrorism side.

Chairman Jordan. And that was an email back to you guys?

Mr. Jensen. That was back to me from my Deputy Assistant Director, one of the Deputy Assistant Directors.

Chairman Jordan. Okay.

Mr. Jensen. So there was shared concern. But, again, this is -- it's not uncommon in communications with DOJ of what intent is and what we're capable of and

making sure there's enough time to coordinate to make sure we're married up in what our abilities are, our lawful authorities are, and what the intent is, and trying to marry those up. With the pending media release, it seemed we were getting ahead of ourselves on the coordination piece, and that was my bigger concern.

Chairman Jordan. Are you confident that your concerns were made clear to the Department of Justice about no Federal nexus here?

Mr. Jensen. I was.

Chairman Jordan. Okay.

[redacted]. You said -- you had a -- go ahead.

Mr. Jensen. I'm sorry. Uncertainty about a Federal nexus, right, because I didn't even know if we had anything at this point.

Chairman Jordan. Fair enough.

BY :

Q And prior to that time, had you been aware or any of your FBI colleagues been aware that domestic terrorism at school board meetings was something coming down the pike?

A No, sir.

Q And did you provide any feedback to the Justice Department or the ODAG officials that the FBI wasn't aware that there was a domestic terrorism issue at school board meetings?

A No. It would have been that early conversation with Mr. Brzozowski about assuming it's domestic terrorism, right, that it needs to be scoped properly. Much of it, again, would have been State or local. Where it potential implicates a Federal violation, it might still best be handled at State or local because it's happening there, but that, if those threats did come in, it probably implied Criminal Investigative more so than DT, and

we needed to bring them in.

Q As far as the potential incidents happening at school board meetings? Who goes to school board meetings? Like what was the concern? What types of people?

A I don't believe that came up. Are you asking me who goes to school board meetings, or are you --

Q Right. What types of people go to school board meetings?

A Generally parents and people who are concerned about what's being taught in the schools, or what's about to be implemented by the school board.

Q Right. And the incidents you are aware of that have happened at school board meetings that the FBI either looked at and decided to investigate or looked at and decided not to investigate, did most of those involve parents?

A So, again, I'm not aware directly. I know more than 20 Guardians came in, but that's just from a briefing that I received. I didn't have direct oversight, and so I don't know the details of any of the investigative efforts.

Q So you don't know if any of those 20 or so Guardians involved anyone other than parents?

A I couldn't tell you. I would assume, but I've also been told that assumption is one of the mothers of all mistakes, right? And so I don't have direct knowledge.

Q Right. Did you have any awareness that the National School Boards Association was working with the White House on this initiative before their letter was published?

A No, I didn't know.

Q And were you aware at the time there was a Governor's election in Virginia going on?

A I was aware of the Governor's election. I was a resident of Virginia at the

time.

Q And some of these school board related topics were very politically sensitive at the time?

A So they received a lot of media attention around the Governor's election and for the school board meetings themselves.

Q Right. Was there ever any discussion that this letter from the National School Boards Association to the White House might have just been a political move to get more attention on those political issues to advantage Governor --

A No discussion that I was a part of.

Q Did that raise any concerns that maybe this letter was, you know, introduced, you know, September 29th -- the Attorney General's memo was October 4th. Did anyone on your end express concerns that, you know, maybe this was getting a little too political?

A Not on my end. The speed at which the memo came out was concerning because we didn't have an opportunity to fully coordinate internal to the FBI. I never drew connections between elections, external politics, and a complaint by a private organization that we ultimately received alleging violent threats against some of their members, right? And so, that's what I was focused on, is: Are there credible threats? Do we have a duty to look into this, and if we did receive any of those threats, are we dealing with them appropriately, either passing them off to State and local partners for action, or if it was done through a Federal facility, are we investigating it appropriately?

Q The officials at NSBA that we've spoken to have represented to us that they googled things. They googled things when writing their letter, okay? So, if you had known that, would that have given you any pause? This wasn't a set of incidents that had been brought to NSBA's attention from their constituency, okay? This was NSBA

officials googling things to create the predicate for their letter to the White House. If you had known that, would that have given you any concerns?

A No more concern than I had of what was contained in that document. It appeared to be written by somebody who didn't fully understand the implications of what they were asking us to do versus what we're capable of doing. And that's just ill-informed. But we receive a lot of that in the FBI. We receive complaints from ill-informed people, well-intended but ill-formed, and some of the allegations require us to look deeper into it.

Chairman Jordan. If it was so ill-informed, why was it attached to a request from the Justice Department to you guys?

Mr. Jensen. So I can't say they were fully ill-formed, but it appeared to be ill-informed on what authorities we actually have, right? "Misinformed" is a better word.

Chairman Jordan. Which is the key component.

Mr. Jensen. Yes, sir.

Chairman Jordan. Why would the Justice Department attach that and send it to you guys and say: How do we set this up?

Mr. Jensen. So I can't speak to why other than the potential allegations of the threat of violence or the actual use of violence against officials, school board, or otherwise or people attending large gatherings in those school board meetings, and the concern being, do we have a duty to look into these? Do we have an authority to look into these if they are occurring broader than what we see in media on Loudoun County, and that's how I interpreted it.

Chairman Jordan. Okay.

BY :

Q And nobody disputes that, if somebody goes to a school board meeting, a parent or a vendor -- somebody suggested vendors go to school board meetings. I'm not sure they have been involved in any of these incidents, but if somebody is at a school board meeting, nobody is suggesting on our end that, if they do a bad thing and they threaten someone, they shouldn't be handled. But that I think you would agree is a local matter, correct, the local sheriff or the local police would deal with an assault or a verbal threat, correct?

A So, broadly, right, I try to be very specific, but broadly, if a threat occurs in person, it would be a State or local matter generally speaking.

Q Now, if it were an interstate conspiracy to disrupt, you know, a school board member or a school board meeting, then perhaps the FBI has a bigger role, correct?

A So a big jump. An individual who uses a telecommunication device, who uses the internet, social media account, or otherwise who makes a threat against a U.S. citizen or an elected official, regardless of their position, rank, or authority, they've used the facility to engage in interstate commerce, and it could imply 18 U.S.C. 875, which is threat over wire communications.

Regardless of conspiracy or otherwise, individual threats that are a true threat, versus just speaking broadly about "somebody should do this," or "I'm going to do this against this person," that requires us to look into it. And that doesn't mean we are going to specifically going to investigate. It might mean we pass it off to the State and local authority that has jurisdiction where that individual lives. Maybe we'll partner with that State or local jurisdiction, but we need to determine, is that a credible threat, does it pose injury or harm to that individual or others, and can we mitigate that threat?

Q Did you believe, during the October 1st to October 4th timeframe, that there was a necessary predicate to involve the domestic terrorism resources of the FBI into this

issue?

A I still didn't know. My concern in the way it was being discussed was a broad statement that it's domestic terrorism or could be domestic terrorism if it meets the statute, and my language was "dangerous to broadly apply a statement like that." It's because of the implications it carries of broadly assigning a label when that's not how we operate. That was my bigger concern. I still needed to look at or the Bureau largely needed to look at: Do we have tips coming in? Is this truly a big problem, or is this a letter that is highlighting a potential problem? And we just didn't know that at the time. So I couldn't speak to our scoping or authority at that point.

Q In hindsight, do you think it was a stretch that the NSBA folks cited the PATRIOT Act? I mean, I think that's how the whole domestic terrorism angle was introduced to this conversation? Do you think that was a bit of a stretch?

A That's where I go back to the misinformed. I know I said "ill-informed," but "misinformed" is probably -- they are aware that there are certain authorities the FBI can use but not fully aware of how those can be implemented.

Q But using the PATRIOT Act for cranky parents at school board meetings is probably a little bit of an overreaction, correct?

A So, again, without seeing the letter specifically, I don't think they used the term "cranky parents." I think they used the term "people making threats," right. Broadly speaking, people making threats against officials, my statement back to the DOJ and internal to the FBI is that's not a broad statement of domestic terrorism, right? They might view it as terroristic threats on the receiving end, but we have to make an independent assessment of how we're going to conduct our operations.

Q Did you find it remarkable that the entire might of DOJ was operationalized to deal with this so quickly?

A Can you describe "might"?

Q Well, the Attorney General promulgated a memo. The Office of the Deputy Attorney General had her staff communicating with the FBI. It was instructed that U.S. attorneys nationwide and FBI nationwide, you know, examine this issue. Was that -- do you think that's remarkable in hindsight that it happened so quickly?

A So the speed without what I viewed as better coordination, better information from the FBI to scope it, how the FBI could respond in the coordination piece, I would have preferred more time. That's my preference at a much lower level than the Attorney General, but I can't speak to what was his rationale or the motivation. He's in charge of the Department of Justice, and he picked his timing.

Q Fair enough. The speed with which the letter, you know, came to fruition -- and I think you represented and other witnesses have told us that there were maybe 25 Guardians that resulted from this. Is that a good number?

A Again, I didn't have oversight over this, but from a briefing that I was privy to, I believe more than 20 Guardians actually came into the system and were generated with that specific tag.

Q Right. As you sit here today, is that more or less than you would have expected given the high level priority that was placed on it?

A So I don't know that I had a quantitative analysis going into this. I didn't know, right? That's a very fair statement for me. I just didn't know were we already dealing with this, and how big of a problem nationally was this? And I think as a result of the limited number, my understanding is that it's, from October of 2021 until January of 2023, that number is a valid number, is only about 20 or more than 20 Guardians came in. That's relatively good job of scoping. This wasn't as endemic of a problem as was suspected. And so it didn't take a lot of effort or resources to do that. It took time.

And I think, in retrospect, the way that it was implemented internal to the FBI once that memo was released gave us the ability to scope it appropriately.

Q Okay.

BY :

Q And so you get the communication from Mr. Chambers October 1st. You said you had some more email traffic on October 2nd, and then Monday --

A I'm sorry. So October 1st evening, and then October 2nd as well.

Q And then you said that you went into reconvene with Mr. Brzozowski on Monday, which would have been October 4th. Were you able to reconvene with him?

A No.

Q And were you able to do any of the, kind of, the due diligence on the three things that you were asked to do by Mr. Chambers before the memo came out on October 4th?

A Aside from coordinating with Mr. Brzozowski, no.

Q And so the only coordination you had with Mr. Brzozowski would have been on the 1st, or did you have some sort of coordination on 4th?

A No. The only one I recall, and I recall most of them because of the circumstances, was on the 1st.

Q So, in the memorandum the Attorney General released, he described the threats and harassment that were going on at school board meetings or against teachers and staff as a disturbing spike. Were you able to determine if there had been a disturbing spike before the memo was released?

A No.

Q Do you know where the Attorney General got that information --

A I don't.

Q -- that there had been disturbing spike? It wasn't from the FBI, you don't think?

A I can't speak to that. I don't know where it originated.

Q And so, after the memorandum came out, there was an email that created a threat tag. Did you have any involvement in the discussions surrounding the creation of the threat tag?

A I did.

Q Can you describe those communications?

A So, generally, it was my position early on that this request coming in from DOJ, we would need to coordinate with CID. I can tell you the memo being released on Monday the 4th, immediately after that, so, on Wednesday the 6th, the Director and the Deputy Director held a video teleconference with all SACs. And often, in those conferences, the ASACs of the various field offices attend as well. And they responded internally to that AG memo.

And, specifically, I'm present in that room when that happened, but specifically addressed the response of the FBI: What are the expectations of our response? And it's to be a good partner to the U.S. attorneys who were directed to lead in their various districts, more than 70 districts, with State and local partners, any response from law enforcement necessary to address threats against school boards, threats against the elected officials, or anybody else participating, that we were going to partner with the U.S. Attorney's Office, but we were not directing it, and any leads or tips that came in would be assessed as we normally do.

This was not a change in behavior for the FBI, and it would not be a change in how we operate. That was very, very clear. And then, on the heels of that, the Deputy Director, I believe, said that both Criminal Investigative Division and Counterterrorism

Division would send out a unified message about how we were going to capture information or report information relative to the Attorney General's memo.

Shortly thereafter, I believe I talked to Acting Deputy Assistant Director Mr. Peoples from Criminal Investigative Division, what is our best way to gather information for tips that might come in responsive to the Attorney General's media statement. If we ask the media or if we ask the public to provide information, they're, post-911, very good at providing information. And not all of it is actionable information, and we have to weed through that. But, when we have campaigned for the better part of 20 years "if you see something, say something," generally the public has gotten very good about providing information.

And so we needed a way to capture that data across all the various field offices to provide credible information to those districts if those meetings occurred about in this particular area how much of a problem is represented. And so that tag was created to attach to any complaints that came in, specific to threats against school board officials, school officials or anybody else that would have participated in those school board meetings. So the EDU official tag was created for that purpose.

Q You said, on the FBI side, those that were involved in that discussion of the creation of the tag was you and Mr. Peoples. Is that correct?

A So, to the best of my recollection, right, we oversaw the two branches or sections that were most responsive to it. I think we ultimately coordinated on it. We might have gotten input on it from our intel sections. That's generally how I operate. I seek information, what is the best way so it doesn't confuse people? The tag has to be very clear. We don't want miscellaneous information going in there. So I would have gone through my normal process. I can't speak to his process, but ultimately he's the one who pushed out the final email about coordination across the two divisions, the

threat tag usage, and the expectations.

Q Was there any approval required for the creation of the threat tag?

A I've been part of creation of numerous threat tags. Usually, it's at the division level, that: Yes, we concur this a threat tag.

I believe, in this case, it was briefed up to the Deputy Director, I believe.

Q Okay. So, before the tag was created, you believe that it was briefed up to the Deputy Director?

A I do believe that. I know the email that went out with that tag had the two Assistant Directors from Criminal Investigation and CTD, ultimately, as the authorities for that joint message. Although, pushed out by Mr. Peoples as the Acting Deputy Assistant Director, it was representative of both their reviews and approval for that threat tag. Because it implied multiple equities, it wasn't just one division of the FBI; it would have gone up higher than just the ADs.

Q And so, after you and Mr. Peoples discussed the creation of the threat tag, you then were transferred to the Training Division. Is that correct?

A So I was already under orders. I was cleaning up what my responsibilities were inside our Counterterrorism Division, and then, shortly thereafter, yes, I left and went down to Quantico.

Q So you left before the email was sent out. Is that correct?

A I believe so, yes.

Q And, when the Attorney General released the memorandum, there was also a press release that accompanied the memorandum that created a task force. Did you have any knowledge of the task force?

A Only what was in the press release.

Q No involvement with the task force. Do you know if it was stood up?

A I don't.

Chairman Jordan. I want to go back for a second. Back to the beginning here. October 1st, you get this email communication from ODAG's office, Mr. Chambers, sent to you. And did you get -- between the 1st and the 4th when the memo comes out, did you communicate anything back to -- directly to the Attorney General's Office?

[11:02 a.m.]

Mr. Jensen. I don't believe so.

Chairman Jordan. So -- and the email, again, on October 1st asked you for your thoughts on how we would do this.

Mr. Jensen. So that's a good correction. It asked for me to coordinate with Mr. Brzozowski on how we could implement these three things, right? Mr. Brzozowski summarized our telephone conversation the night of October 1st and copied me --

Chairman Jordan. To who?

Mr. Jensen. To his boss and chain of command inside of DOJ, Mr. Chambers in particular.

I responded to Mr. Brzozowski's email, and I had a point of clarification. Yes, you summarized our communication very well, but this is a key point that I want to highlight that we talked about and was not included in that email. So I did have one email, to my knowledge, directly back to DOJ.

Mr. Biggs. What was the key point?

Mr. Jensen. It was that NTOC CJIS already exists, would be collecting information and tips from the public, and that we should tap into them to determine, is this already being reported? And if we are going to use FBI resources as a clearinghouse, they already exist for that purpose of receiving information and disseminating it broadly, related to threats or actionable intelligence.

Mr. Biggs. And did Mr. Brzozowski's -- I don't even know if I'm saying that right, but did he -- did his communication back to his superior indicate your concerns that you expressed with regard to the Federal nexus?

Mr. Jensen. I would have to double-check the content of that. I don't want to

speak for Mr. Brzozowski. He did emphasis that we agreed we needed more time to coordinate internal to the FBI and across the Department to better address those three items.

My recollection of our conversation is, we both agreed we didn't have enough information at our fingertips on that evening of Friday to answer those questions sufficiently and we needed to regroup on Monday. And that's what he communicated.

Mr. Biggs. Previously, in our discussions, you talked specifically about a concern you had with the authorities and nexus. And I just want to make sure that -- did you feel that Mr. Brzozowski -- the gentleman had adequately communicated it to his supervisor?

Mr. Jensen. If I recall the email from Mr. Chambers correctly, I think he highlighted in one of those paragraphs that, while most of these would be occurring at their State or local level -- and I think that was fronted in his email, recognizing that --

Mr. Biggs. Okay.

Mr. Jensen. -- these events were already happening at the State or local level -- are there authorities, right? Those three lines that I've already talked about.

So I think it was put in up front from DOJ.

Mr. Biggs. So you didn't feel that you needed to further emphasize that in your communication via Mr. Brzozowski?

Mr. Jensen. I didn't, because on the front of it, it was already emphasized, right? We recognize this, but, given that, is there a way we can do these things?

BY :

Q And I know you had said that you weren't able to get back with Mr. Brzozowski before the memo came out on October 4th. But were you and Mr. Brzozowski ever able to reconvene on the three things that were asked of you by Mr. Chambers at any point in time?

A Not to my knowledge.

And I should note, it's not that I couldn't get back in touch with him. I probably could've called him at any point and he would've taken my call.

Q Uh-huh.

A It's that I elevated this inside my own chain of command, because I felt a higher level of engagement, especially with a pending media release and the implications of additional FBI equities or concerns -- I don't like talking like a bureaucrat too much, but -- you understand what I'm saying. It implied more on the FBI side than I felt we were able to answer on my limited conversation. And so I wanted higher-level engagement.

And once I did that, I didn't feel it was my role to have lower-level conversations without engaging my bosses who were already talking about this.

Q And do you know if your bosses were engaging with the DOJ on this?

A So I was told by my DAD that both he and the AD were engaging on this, and it wasn't my job to question him further, and if they wanted to share something with me, they would have. I didn't get anything from them.

Q And was the AD Timothy Langan?

A It was.

Q And the DAD you've been referring to was?

A So there were three.

Q Uh-huh.

A And I included all of them.

Q Okay.

A But the primary one was Jim Tarasca.

Q Okay.

A And he was my principal DAD.

Q Okay.

I think we're out of time, so we'll go off the record.

[Recess.]

. All right. It is 11:15 -- 11:16. I'm sorry. We can go back on the record.

. Before you jump in, just --

. Yeah?

. -- real quick, on the record, I just want to make sure that we get an opportunity to review and propose errata on this and the other transcripts. I know we've had several of these TIs this week and this month, and so I just want to make sure we get a chance to review and provide errata before any other transcript is used publicly or, you know, used in any way.

. Right. And the transcript review procedure, the witness and the two individuals in the interview, okay -- so that would be Megan and you, Matt, or Ms. Greer and Mr. Hanson -- can come review the transcript, and you can check the transcript for accuracy. If the witness believes that one of our court reporters -- and this never happens -- got something wrong, flag that, or if the witness decides that he, upon reflection, wants to correct something. That's the purpose for the review.

At that time, you can also suggest proposed redactions in the event the committee wants to release the transcript.

. Okay. Yep. Appreciate that. I know that's a little different than the process has been in the past, because there hasn't been a limitation around who is able to go and look at the transcript. So I'm happy to discuss the mechanics of the process offline.

[redacted]. Yeah. I mean, we never contemplated that we would have people from the Department who weren't in the interview come to review the transcript and just bring their laptops and start, like, typing up notes. So that's why we went back to, you know, our old rules about guidelines for reviewing transcripts.

[redacted]. Okay. Again, happy to discuss the mechanics of transcript review offline, but the requirements we've discussed here are a little different than the process that has already been underway for other transcripts for TIs that have been done in the last couple months.

[redacted]. Shouldn't have been, but --

[redacted]. So I'm happy to discuss that offline.

[redacted]. -- that's the process. It's not really open to negotiation or debate. That's the process, so --

[redacted]. I'm happy to talk further offline.

[redacted] And, sorry, before we start our question time, you were referring -- did you say we went back to the rules the way they were before as you knew them?

[redacted]. Yes.

[redacted]. I'm kind of new here. What rules were those? What was the era, or what was the --

[redacted]. The rules we've always had with transcripts when we've been in the majority.

[redacted]. Okay. So it's from when you were in the majority in '17? '18?

[redacted]. We were in the majority in 2018.

[redacted]. Okay.

[redacted]. I mean, we've been in the majority during this -- you know, we've

been -- at least since I've been here, I've been in the majority for some -- at least 10 years where we've had transcript interviews, and that's always been the process.

[redacted]. That's been the process.

[redacted]. The witness and the witness's lawyer. I don't think that was different with the limited number of transcribed interviews the previous majority conducted.

[redacted]. Okay. Like I said, I wasn't here, so I'm just trying to get clarity on which --

[redacted]. Yeah.

[redacted]. -- set of policies or procedures we're following. Okay.

[redacted]. Would you like it a different way? I mean --

[redacted]. No. I just -- I feel like I'm trying to get a sense on -- because I do think that there were situations where some witnesses that have appeared before us this year, their attorneys did get copies of the transcripts --

[redacted]. That never happened.

[redacted]. -- external. And so I think -- we can talk offline about it. But I think, to the extent that there's changing practices, I just want to be clear on what the policies are. I don't know if they're written down. I assume they are probably not. But if they are, that'd be great.

[redacted]. Yeah, that would be interesting. I mean, the Department and I don't believe the Bureau have been given access -- like, been given copies of these transcripts. So that --

[redacted]. Yeah, we never give -- we never give the -- we never give the transcripts to the executive branch.

[redacted]. Okay.

[redacted]. Oh. But they are given to private counsel. Is that what --

[redacted] What's that?

[redacted] -- you're saying? But they've been given to private counsel? Is that the difference?

[redacted]. Well, I mean -- you know, when you're conducting an investigation, it's not, I don't think, appropriate for the integrity of the investigation to ship transcripts out to a party that's going to have future witnesses coming in. So --

[redacted]. To counsel for the parties that have testified as witnesses? It's not appropriate for them to have the transcripts?

[redacted]. When they're represented by agency counsel, that's correct.

But let's just go forward --

[redacted]. Okay. Because I think --

[redacted]. -- with the questioning.

[redacted]. -- like, Jill Sanborn, I think her attorney got the transcript, right?

[redacted]. He did not.

[redacted] He didn't? Did George Hill? Or Steven Friend?

[redacted]. George Hill has not been sent the transcript. Steven Friend has not been sent the transcript.

But let's just go on the record here, and we can deal with this --

[redacted]. Okay. Yeah, I think we want to --

[redacted]. -- after we --

[redacted]. I think we just want to get clarity on what the rules are; that is all. Because I don't know that I know the policies. I don't know if they've ever been expressed to me. So that's all.

It's 11:21, and we can start our questioning now.

EXAMINATION

BY [redacted]:

Q Mr. Jensen, thank you again for taking the time out of your schedule to join us today.

A Of course.

Q At the very beginning of the last hour, we were talking about DTOS and the structure and the organization. Do you recall that?

A Uh-huh.

Q And you made the point that there had been up to a max of 60 individuals under your command. Is that fair?

A So, influx of 60 additional to what my normal FSL would be.

Q Okay. And that max was in the summer of 2020?

A To the best of my recollection, directly reporting in my section, yes.

Q Okay. So that was in response to the civil unrest in the summer of 2020?

A Yes.

Q Okay. Can you talk a little bit about why you needed increased resources during that time?

A The -- it's multiple parts, because the increase of resources that we received wasn't just program managers, supervisory special agents, but it was intel analysts and other tactical analysts.

The reason we needed that additional help is the volume of additional work that my section was undertaking in response to cities like Portland and Kenosha, Louisville; even New York and elsewhere where they didn't experience large riots consecutive nights in a row but they had some spillover or bleed-over of directed threats against government facilities or projected acts of violence that were about to occur.

And not only were we program-managing a direct increase of domestic terrorism investigations, traditionally investigated by us, but also an increase in other categories of investigations managed by Domestic Terrorism Operations Section. And those are our anti-riot statute cases and civil unrest or civil disturbance cases, which, in the history, you know, last 30 years, not often utilized, and there wasn't really good memory in the Bureau for how to conduct those investigations.

And so we needed routine guidance to the field on what our authorities were, given the circumstances. In some cases, it required very specific authority from the Attorney General to collect intelligence because it was viewed as a -- although a civil disturbance, in the guise of a First Amendment-protected activity. And that's a very, very fine line, and we don't want to surveil solely on First Amendment activity.

On the other hand, you have statutes that clearly outline that it's a Federal violation to engage or travel in interstate commerce or use a facility engaged in interstate commerce in furtherance of a riot. And that's a very specific statute that gives us authority, if violated or alleged to have been violated, that we could conduct those investigations broadly.

And the number of cases that we saw increasing required more direct program management.

Q Okay.

A And so it was a direct correlation.

Q And I think you said you also assisted or supported State and locals in the summer of 2020. Is that right?

A We did. So, through the local field offices, we would if they were experiencing -- and Portland is a prime example of that; Seattle also -- multiple consecutive nights and weeks of direct violent activity against Federal facilities, against

State and local facilities, often overwhelming State and local police departments.

And so, providing assistance to conduct investigations, collect evidence where appropriate, try and identify subjects who were either instigating, providing resources for rioting, or directly assaulting Federal police officers, and trying to bring them to justice.

And that was whole of FBI. So there were criminal investigative bodies, there were WMD bodies for SABTs -- special agent bomb technicians -- and domestic terrorism, counterterrorism bodies going out and helping that overall effort.

Q And so wouldn't that have been the case that there might not have been a Federal nexus to prosecute in those cases but the State and locals needed extra assistance on the ground?

A So, oftentimes, in routine investigations, State and locals need additional assistance. And while there is a Federal nexus, right -- it could potentially be a violation of a Federal law -- the better prosecution lies with the State, and so we will support them. And in the summer of 2020, that was often the case.

Q Okay. Thank you.

There was a comment made earlier, some discussion, about how agents sometimes, I wrote down, "misconstrued" domestic terrorism, that there was concern about charging domestic terrorism based on an individual's association with a group as opposed to a criminal act.

Do you recall that?

A So, I think, a point of clarification.

Q Yep.

A The word "charging" domestic terrorism, right? There is no charge for domestic terrorism. It's a --

Q Good point.

A -- statutory definition. And I was referring to the predication or predicate offenses inside of a case opening.

Q Understood.

A And just a little further clarification.

Q Uh-huh?

A Upon receipt of an allegation, we use the information we have at the time, right? It's not probable cause. It is an allegation of a potential Federal violation, which might lend itself towards opening of a domestic terrorism investigation.

But, oftentimes, as we conduct that lawful investigation, we find there are other statutes at play or other motivations that might cause us to change that initial classification away from domestic terrorism, or from criminal investigation to domestic terrorism.

We often see that with somebody who is manufacturing explosive devices. Their simply placing a pipe bomb somewhere doesn't imply ideology. It's a device intended to harm people, and until we identify who the subject is, we don't know what the ideology was, unless it's clearly littered around the area, right?

But, often, that's opened as a manufacturing-of-an-explosive-device case, and once the subject or subjects are identified and they have ideology, it would be converted back over to a domestic terrorism case.

So proper predication is important on this.

Q Understood.

On the specific question of ensuring that agents understand proper predication -- and I think you referred to training agents, for example, sometimes listing, as part of the predication, association with a group -- it's your job, as a supervisor, right, to ensure that no investigations are opened on the basis of improper predication, right?

A So, as a direct supervisor responsible for approving the opening of an investigation, it is the primary responsibility.

Q Okay. So there's a check and balance to make sure that that does not happen?

A There is.

Q Is it fair to say that in your time as the section chief of DTOS that you are confident that no cases -- or no investigations, I should say, were opened based on improper predication?

A Yeah, it's -- there's -- yes, but there's a nuance there, right? Because often the predicating statement wasn't what we would expect it to be. The nuances of domestic terrorism is such that we often start with legal caveats, right? We don't investigate solely based on First Amendment-protected activity. We don't investigate based on mere association to a group. Or -- and there's, like, three caveats that almost every single DTOS document starts with.

Q Right.

A And that's to prevent some of that from happening.

But, oftentimes, we will see that first paragraph of a predicating EC talk about group affiliation -- a militia violent extremist group that this person is associated with who is now espousing violent conduct. The group association is not the leading statement, right?

Q Right.

A It shouldn't be, and we would have to reverse that.

Q Okay.

A Put the specific instances of the subject. So the predication existed; it was just out of order.

Q Understood. So it was more how the agent was documenting it.

A Correct.

Q Not the concern with the actual predication. Is that fair to say?

A It is fair to say.

Q And is it fair to say that that concern existed in the summer of 2020, for example, when you were looking at potential investigations or cases there?

A So I think it always exists, but yes from the DT perspective, no from the full Bureau perspective, because we had so many cases being opened in the summer of 2020, across all of our divisions, trying to help our State and locals and bring to justice people who were engaged in violent acts.

Q Thank you.

We had some discussion earlier about the 20-plus Guardians related to the October 4th memo. Do you recall that?

A I'm sorry. Can you repeat the first part?

Q There was some discussion earlier about the 20 or more than 20 Guardians that were opened --

A Yes.

Q -- based on the memo. Do you recall that?

A Uh-huh.

Q Okay. The comment was made that, I think -- I didn't write it down precisely, but -- that the Guardians related to disruptions at school board meetings. Do you recall that?

A So I believe a question was asked, and I said I'm not aware of the particular details --

Q Right.

A -- or the outcomes because it was no longer in domestic terrorism.

Q And that's what I was going to ask.

A Okay.

Q So we actually, based on -- there were representations made here today, but, actually, we don't know if it's accurate or not, because they don't have the documents in front of us, whether the Guardians referenced anything about school boards at all.

A I don't have that information.

Q And it's entirely possible that the Guardians, in fact, referenced threats transmitted through email or through the mail, correct?

A Again, I don't know.

Q Right. Or it's possible the Guardians involved threats transmitted over the phone, correct?

A Yeah, I don't know.

Q We don't know. We don't have --

A Right.

Q -- that information here.

A The only thing I can say, based on the briefing I received, is that those Guardians' tips and complaints had that tag.

Q Right. That's all we know --

A That's what I know.

Q -- is that they had the tag --

A Yes, ma'am.

Q -- but we don't know -- and the tag was just "EDUOFFICIALS," correct?

A Correct.

Q It wasn't "SCHOOLBOARDOFFICIALS"?

A It was "EDUOFFICIALS."

Q And it wasn't "SCHOOLBOARDMEETINGS"?

A No, ma'am.

Q Okay.

There was a discussion earlier about who attends school board meetings. And putting aside the question of whether the Guardians actually involved anything about school boards, the comment was made that mostly it's parents who attend school board meetings. Do you recall that?

A I do.

Q And that's based on your own experience?

A So I've never been to a school board meeting, and we homeschool.

Q Okay. So you don't know?

A I don't know.

Q It's just your assumption.

A There's an assumption. And I'm cautious about making assumptions.

Q Okay.

I want to introduce as exhibit No. 1 -- that's really -- you guys didn't do any exhibits? You didn't, did you?

Okay, exhibit No. 1. That's unusual.

I'm going to introduce this as exhibit No. 1. This is a -- we don't have the date on this, do we?

Sorry. Can we go off the record for just a second?

[Discussion off the record.]

[redacted]. We can go back on the record.

BY [redacted]:

Q I want to introduce an article, and I'll represent to you that this is dated October 12, 2021. We don't have a copy with the date on it right now. We're going to fix that before the next round of questioning --

A Okay.

Q -- but I don't want to hold up our questioning now.

This is entitled "Proud Boys' Presence Leads to Metal Detectors, Deputies at School Board Meetings."

[Jensen Exhibit No. 1

Was marked for identification.]

BY [redacted]:

Q And I want to put aside -- so I want to look at the third paragraph down.

It says, "'There were two men in Proud Boys shirts and hats,' said chair of the Orange County Schools Board of Education Hillary MacKenzie. 'One wore a stocking over his face which completely obscured his entire face for the whole meeting. The other one told our board during public comment that someone should tie rocks around our necks and we should throw ourselves in a river.'"

Do you see where I read that?

A Uh-huh.

Q Just based on the face of this article, we don't know -- I guess these men in Proud Boys shirts and hats could very well have been parents. We don't know that. But is it fair to say that these individuals don't appear to have been there because they were concerned about their children's education?

A I honestly couldn't opine why they were there.

Q Yeah. And if somebody is wearing a stocking over their face, it might

actually be even harder to tell if they're a parent or not, correct?

A I think somebody claiming to be a parent would be dispositive of them being a parent --

Q Right.

A -- not what they're wearing.

Q Right. But my point is just that, if somebody is showing up at a meeting with a stocking over their face, you know, that's not traditionally what you think of when you think of a parent at a school board meeting, correct? Parents don't usually put stockings over their face to go to a school board meeting to talk about their kid's educations?

A Is there a question?

Q Is that -- do you agree with that statement?

A So it's hard for me to agree wholly with that statement, because in recent events we've seen all kinds of people showing up wearing various garb --

Q Yeah.

A -- right? And I think, generally, school board meetings are open to the public --

Q Uh-huh. Right.

A -- because taxpayers are feeding into the school board and what's being taught at those -- so I don't believe it's restricted to just parents.

And I would be very, very cautious about making any assumptions about what somebody wears demonstrating who they are as a parent and what they're representing at a school board without direct knowledge.

Q Understood. Understood. But my point is just that it's not just parents who attend school board meetings, correct?

A I would assume, as an open hearing, it's open to anybody who has standing to be there.

Q Okay.

I want to introduce as exhibit No. 2 an article from Oregon Public Broadcasting entitled "3 Vancouver schools placed on lockdown after Proud Boys try to enter during masks protest." And this is dated October 3, 2021 -- I'm sorry, September 3, 2021.

[Jensen Exhibit No. 2

Was marked for identification.]

BY [redacted]:

Q So on the -- I'm going to refer to the first paragraph. The article describes an incident in Vancouver, Washington, which is a suburb of Portland, Oregon. And the very first paragraph says that "Vancouver Public Schools confirmed on Friday that the Skyview High School, Alki Middle School and Chinook Elementary were put in lockdown after members of the far-right Proud Boys tried to gain access to school grounds, according to witnesses."

Did I read that correctly?

A Uh-huh.

Q Can you understand why a school would have concerns if the Proud Boys were trying to gain access to its grounds?

A Broadly speaking about the Proud Boys, no. And that's based on my understanding of the organization. They're not a criminal organization, to my knowledge. They're not designated -- because we don't designate domestic groups as terrorist organizations.

Q Okay.

A But the notoriety around the Proud Boys, I could see why somebody would

affiliate concern, right -- have concerns about members of the Proud Boys showing up. But that is a determination made by a school official based on whatever they observed at the time.

Q Uh-huh.

A And I would hope it would be more than just what somebody was wearing.

Q Fair. Fair.

All right. There was some comment or discussion -- did you have that statute written out?

[Discussion off the record.]

BY [redacted]:

Q We had some --

A And -- I'm sorry.

Q Uh-huh?

A If I could, like, with the Proud Boys, I understand there's media attention around them. They wear certain colors and identify themselves pretty proudly as Proud Boy members. But there is a lot of swirl around them about mere association to the group. And that's why I'm trying to be very clear --

Q Understood.

A -- about my understanding of the Proud Boys and membership of the Proud Boys --

Q Yeah.

A -- versus my knowledge of specific acts of violence or threats of violence by members of a group who would attach an official response from me --

Q Understood. But --

A -- right? So broadly speaking about them is difficult because I'm here

representing the FBI -- in particular, the Domestic Terrorism Operations Section.

Q I appreciate where you're coming from.

We discussed earlier the National School Boards Association letter that was sent.

A Yes.

Q Do you recall -- and you said you recalled receiving it?

A Yes.

Q And we actually didn't introduce it into the record, so I want to introduce it as exhibit No. 3.

[Jensen Exhibit No. 3

Was marked for identification.]

BY [redacted]:

Q Before we get there, are you familiar with 18 U.S.C. 875?

A Yes.

Q What does that say?

A In summary, it is a statute that has a criminal penalty for making threats via wire or other communication devices.

Q So it's interstate threats?

A Yes.

Q Okay.

On page 5 of this letter -- and have you -- I'm sorry. Have you reviewed this letter before, do you recall? Has it been a while?

A It's been a while.

Q So I'm going to ask you to read the first couple sentences of the second -- the giant para- -- yes, that paragraph.

A In the middle, starting, "In Ohio"?

Q "In Ohio," correct.

A And starting at the beginning?

Q And not read it aloud. I just want you to read it and familiarize yourself with it.

A Oh. Sure. I was going to put on my best reading voice.

Q Are you ready to continue?

A Sure.

Q So the very first two sentences describe a letter mailed to a school board member. And it says, "We are coming after you and all the members on the Board of Education." It continues, "You are forcing them to wear masks for no reason in this world other than control, and for that you will pay dearly."

Now, if that threat was mailed across State lines -- and I know we don't have that information here, but if that threat was actually sent across State lines, could that potentially meet the statutory definition of 18 U.S.C. 875?

A So a little more particular than that. If it used the U.S. postal system, there is potential for Federal violations there, to include 875.

There is still the Brandenburg test that has to be applied. It's a Supreme Court case, Brandenburg v. Ohio. And that's where we have to assess whether it's a true threat or a mere advocacy of violence. And so, while somebody might've felt threatened by this, it does not automatically imply that it's a true threat. And that's a determination that has to be made.

Q And you would make that -- you would look into it further, correct, to look into that?

A If we received this, there would be an obligation to look into it either at our level or with State and local partners.

Q Okay.

Are you familiar with 18 U.S.C. 245?

A Yes, but I would need to be reminded of what it is.

Q It's violent interference with federally protected rights.

A Okay.

Q And I think -- so subsection (e) says -- sorry. Whoever, whether or not -- sorry. 18 U.S.C. 245, small section (b): Whoever, whether or not acting under color of law, by force, or threat of force, willfully injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with any person because he is or has been, in order to intimidate such person or any other person or any class of persons from" -- and then this is subsection large letter (E) -- "participating in or enjoying the benefits of any program or activity receiving Federal financial assistance."

Does that generally track with your understanding?

A Yes. I believe, in summary, it's our color-of-law --

Q Correct.

A -- statute. Somebody acting in their official capacity who violates somebody else's rights.

[redacted]. Or not under color of law.

BY [redacted]:

Q Or not -- not in official capacity. It just says anyone --

A Under color of law.

Q Right. Anyone acting -- yeah.

So, on page 3 of this letter, the bottom paragraph says, "An individual was arrested in Illinois for aggravated battery and disorderly conduct during a school board meeting."

Would you agree that that's a violent action, just based on the face of it, realizing you don't -- it could be a violent action?

A It has potential to be, yes.

Q Okay. And if that interfered with the exercise of individuals' rights at a school board meeting, could that, in fact, implicate 18 U.S.C. 245?

A I'd -- I'd be hesitant.

Q Okay.

A Because color-of-law violations require higher level, we usually engage with civil rights attorneys at DOJ --

Q Okay.

A -- to ensure that the application of that statute in particular, as well as hate crime statutes, are appropriately applied.

Q So you'd need to look into it further?

A I would need to look into it further.

Q But it could warrant further investigation --

A It would be a conversation, without a doubt.

Q Okay. I'm sorry, could you say that again?

A It would be a conversation with DOJ attorneys of what statutes would apply.

Q Okay.

And then, on the next page, on page 4, it says, "In Virginia, an individual was arrested and another man ticketed for trespassing and a third person was hurt during a school board meeting discussion distinguishing current curricula from critical race theory and regarding equity issues."

If an individual was hurt -- realizing there's not a lot of information here, but if an individual was hurt, you know, due to the fault of another, that potentially could be an

act of violence, correct?

A It could be.

Q And, again, that could be something that implicated section 245? We don't have enough information here, but it could be?

A It's possible. I mean, one of the issues I see here is it references arrests, which are allegations from the incident that occurred, right? I mean, without the specific details, to your point, it's hard to determine what assessment would be made beyond that.

Typically, if it's handled at the State and local level, there wouldn't be a need for further review by us --

Q Understood.

A -- because the situation was remedied, appropriately charged, and then ultimately charges from a district or State's attorney would be levied.

And so it's hard to review this and say anything beyond what the black-and-white is.

Q Okay.

If you look at footnote 19 on that page, on page 4 -- and, again, there's not a ton of information here, but the subject of the -- it cites to an article, and the article is entitled "If you give one more shot," which I believe refers to a COVID shot, "you yourself will be executed."

Would that potentially qualify as a true threat?

A So the words that are used -- and this is where it gets really difficult, and we often have contentious discussions with people about this, right?

Mere advocacy for violence -- "you yourself will be executed," it's a threat, right? But is it somebody who's saying, "It's going to happen," versus them saying, "I'm going to

do this"? Right? That would be more of the action verbs, "I'm going to do this," true threat, versus, "It's going to happen at some point" --

Q Right.

A -- right? "People are talking about it. I'm in favor of it, but I'm not willing to do it myself."

We get these a lot inside the FBI, and determining what is a true threat versus what is people --

Q Right.

A -- for lack of a better term, blowing off steam. And I don't, by any means, condone this behavior.

Q Uh-huh.

A But this statement, if it was received by the FBI, would warrant further, but it would probably be handled by the Criminal Investigative Division for potential threats.

Q Right. But it would get -- it would get a -- it would get a second look, correct?

A It would be reviewed -- if we received it in our system, it would be reviewed and then probably handed off to the appropriate State or local agency. After that, I couldn't tell you whether agents would go out and participate.

Q Right.

A It depends on the threat matrix and what they're looking at.

Q Okay. But it wouldn't be improper for you to look into it and see if it was, you know, an actual true threat, to see if there was a "there" there?

A In fact, if we received it, we have an obligation to look at it and --

Q And why is that?

A -- to action it.

Because once we receive the information and it implies potential threatening communications or it implies a potential violation of State or Federal law, we have to make sure we get it in the hands of the people who can action that. Even if it means it's closed because it doesn't represent a threat --

Q Uh-huh.

A -- at least it was handled appropriately and we're not sitting on potential threatening communications.

Q Thank you.

I want to turn to the discussion of threat tags that we had earlier. I think we started it near the end of the last hour.

Can you generally explain what a threat tag is?

A The term "threat tag" I think is often misconstrued. It's a tag in a system of record when we receive information in order to track that information.

And, in this case, the threat tag implies complaints, tips, allegations from the general public, the private sector, about, in particular, threats directed at public officials, school board meetings in general, or any officials involved in the business operations of school boards, of education.

And it's attached to the threat, the various types of threats that could come into the FBI. It doesn't attach to a specific group or a specific individual. The key there is, we're not tracking one group or one association or a general group of people, targeting a subset of society.

We're responsible for the threat information that we receive as an agency and, in this case, how much have we received. And a tag in a system that we can do a quick grab from, a quick keyword search or, through an algorithm, pull that information very quickly and see a snapshot in time across all 56 field offices --

Q Uh-huh.

A -- how much information did we actually receive relative to this particular event.

And it's a very common tool used around special events where -- we know the Super Bowl is going to happen every year. It's a multiagency event. It usually receives a high threat rating from the Secret Service and others, DHS, and requires a unified presence. And we are, domestically, one of the agencies that will receive domestic threats, and we want to make sure we're sharing that as early as possible so that the security posture can be appropriate.

Creating a tag in advance of that event allows us to take information and say, these are the types of threats that we're seeing across the United States related to that specific event, even though the event hasn't occurred yet. It's preparatory.

Q Okay. So is it fair to say that the purpose of a tag is to help scope something?

A In some cases, yes.

Q And, in this case, the purpose was to scope the threat of -- scope the size of the threat against education officials. Is that fair to say?

A That was definitely the intent.

Q Okay. And the purpose of scoping -- just to break this down, the purpose of scoping is to assess whether there is something for FBI to do, correct?

A In part, yes.

Q Okay. So, in this case, Kevin Chambers, DOJ, contacted you. He said that most of these incidents appear to be State and local, correct?

A It's a summary, but yes.

Q And then -- but can you scope this, effectively, and see if there is something

for Federal engagement?

A Yes, in summary.

Q Okay.

When the "EDUOFFICIALS" threat tag was created, do you know if it was applied retroactively?

A It wouldn't surprise me if it was. I think, given the nature of our organization and the diligence of our intelligence cadre, if there was a pre-created Guardian, a threat that came in, that would apply to that tag.

And in the system, when a new tag is created, there will be a banner in our system of record that will say: This tag exists. If you see this, it should apply.

And so, as there's a periodic review, I could see our intel cadre applying it retroactively. But it would probably be very limited, given that only a little more than 20 total Guardians existed.

Q Uh-huh.

I want to introduce a March 1st letter from FBI's Office of Congressional Affairs to Mr. Jordan. We'll mark this as exhibit 4.

[Jensen Exhibit No. 4

Was marked for identification.]

BY [redacted]:

Q And I'll give you a minute to look this over if you've not seen it before.

A I see they used the Super Bowl example also.

Q Ready to continue?

A Yes, ma'am.

Q Okay.

So footnote 2, which is on the bottom of page 2, so the lead-in to that, the

sentence in the actual body of the text says that, between October 14, 2021, and January 2023, approximately 25 Guardians received the "EDUOFFICIALS" tag, based on the information reported to the FBI.

And then the footnote number 2 says: In addition, four Guardians that were open in advance of the Attorney General's memorandum subsequently received the "EDUOFFICIALS" tag.

So, looking at the four Guardians that were open in advance of the Attorney General's memorandum, if they were open before the memorandum ever got issued, the memorandum couldn't have been the impetus for people reporting those threats to NTOC, correct?

A That would stand to reason.

Q Okay.

Do you know the extent of FBI's look-back to determine how many prior Guardians or how many prior threats had been called in that might need to be applied -- that the "EDUOFFICIALS" tag would be appropriate for?

A I don't.

Q Okay. So there actually might have been even more than four, because we don't know how far back the look-back was, correct?

A I honestly couldn't answer that.

Q Okay. And so it's entirely possible that there were more tips; we just don't know that. Is that fair?

A It is possible, but, again, I don't know. We didn't, while I was there, conduct a retroactive review, and the threat tag hadn't been created while --

Q Right.

A -- in my remaining days there.

Q Right. And so you left before -- you left mid-October, you said?

A Uh-huh.

Q Okay. So you wouldn't know.

A That's correct.

Q We don't have that information, yeah.

A I just --

Q Okay.

The March 1st letter from the Office of Congressional Affairs says, in the last paragraph -- I'm sorry, the last sentence of the second paragraph on page 2, it says, "The purpose of the tag was to help the FBI understand the scope of reported threats against school officials on a national level and to provide an opportunity for a comprehensive analysis of the threat picture for effective engagement of law enforcement partners at all levels."

Did I read that correctly?

A Yes, ma'am.

Q Do you agree with that statement?

A I do.

Q And is that an accurate explanation of the threat tag's purpose?

A Yes.

Q And so why is it important for the FBI to understand the scope of the threat?

A Well, I think there's multiple reasons that's important.

One, and not the primary, but it's in response to the request from DOJ to help put in context this issue; I think it was referred to as a "spate of threats" against school boards. Can we put in context, from our holdings and in coordination with State and local officials, how much are we actually seeing across the Nation. And I think, with that

tag, we were uniquely positioned to do that in a system and in a structure that already existed.

Also, in the summer of 2020, our own eyes could tell us that there was a need to surge resources towards a growing threat of civil unrest, civil disturbances, riot activities, and directed violence against police officers, Federal agents, and Federal facilities. Without that specific information, collecting information to help us scope the problem would help us determine, do we need additional resources in specific areas? And in the whole of the country this might not be a problem, but in a particular area of the country we might see a need to surge some resources to support State and locals or to support a local field office.

So that's a secondary part of scoping. Where does the problem exist, and how do we address it?

And then, third, grabbing that information from our system as the complaints are coming in and being able to ascertain very quickly, are these threats that are reported to us, one, credible; two, implicating a potential Federal violation, giving us a nexus to either engage on our own authorities or participate with State and locals.

And I think later in the letter it describes the number. Seventeen of them were Criminal Investigative. The majority of them were sent to State and local partners. And only one resulted in an FBI investigation. So it did help accomplish those objectives.

Q Okay.

And, actually, the language of that sentence that I read earlier, in that second paragraph on the second page, I want to look at that language, "law enforcement partners at all levels."

Is that "at all levels" a reference to State and local law enforcement, do you believe?

A It would include it.

Q Uh-huh.

A And I think it's an easier way of saying what we typically say in the Bureau, which is "State, local, Federal, and Tribal partners."

Q Okay. So it's just a shorter way to --

A A shorter way.

Q Okay. So part of the goal here was to ensure that you could effectively aid State and locals in their work. Is that fair to say?

A Can you restate that?

Q Was part of the goal of the threat tag and of scoping to ensure that if State and local authorities needed more resources or needed assistance from you, you knew that, and you could direct the resources appropriately?

A Yes. I think it's a good distinction of, we can't fully provide resources to State and local partners; we can provide assistance, and usually of a technical nature or an investigative nature, where we can apply a Federal nexus, right? That does help us scope that.

Q Okay.

There have been allegations that the FBI was using the threat tag to, quote, "tag" parents as domestic terrorists. Have you heard these allegations?

A I've heard it in the media.

Q Okay. So, to your knowledge -- sorry.

Are tags applied to people, or to investigations and to cases?

A So, in this case in particular, these tags are applied before investigations are opened up, oftentimes irrespective of a known subject.

Q Right.

A It's applied to a threat.

Q Okay.

A And it doesn't attach to the tipster, and it doesn't attach if a named subject or a potential suspect is listed. It attaches to the type of threat that came in.

Q Okay. And you said sometimes you might not even know the subject, because you're trying to figure that out through your investigation.

A There are many ways that a subject could be anonymous. Social media platforms often provide a screen-handle but not the actual identity of the subject.

Q Right.

I want to look at the October 4th memo itself, because I think we've talked a lot about it but we've not gone -- we haven't introduced it, we haven't set eyes on it yet. So I want to turn to that.

And we'll introduce that as exhibit 5.

[Jensen Exhibit No. 5

Was marked for identification.]

BY [redacted]:

Q And let me know when you've had a minute to look it over.

A All set.

Q Okay.

So we discussed earlier an exchange of emails and some conversations that took place before this memo was issued. Do you recall if, in those emails, there was ever a reference to parents?

A I don't recall that.

Q Okay. Do you know if disruptions at school board meetings were mentioned in the emails?

A Not -- not specifically, but without the emails, I don't want to understate or overstate what I recall.

Q Understand. And I'm hopeful that we'll get those emails. But, right now, you don't recall that language being in there?

A I don't.

Q Okay.

Looking at the text of this memo itself, is there any reference to parents in here?

A In my quick review of it, having just read it, I don't see specific verbiage about parents.

Q And can you take a look and let me know if you see anything at all in here about school board meetings?

A I don't see that.

Q Okay. And so there's actually no reference in here to disruptions at school board meetings either, correct?

A I don't see that either.

Q Okay. Now, the memo does use the word "threats," correct?

A It does.

Q And it says -- it also uses reference to actual violence, right?

A It references threats of violence --

Q Uh-huh.

A -- two times that I see in the first paragraph, the second sentence and last sentence.

Q And it also references the Department being steadfast in protecting the people of the United States from actual violence. It says "violence," not "actual violence," but --

A Yes.

Q Okay.

So is it fair to say that the focus of this memo is actually on threats? It's not on who's making the threats; it's on the actual existence of the threats, correct?

A So it is on threats directed against certain officials.

Q Uh-huh.

A But it is specific about violent threats that run counter, according to the verbiage here, and are illegal.

Q Yep. And it specifically says those threats that are made against not just -- it says school board members, but it also says school administrators and teachers and staff as well, correct?

A It does.

Q Okay. So it's not even just limited to school board members; it's education officials writ large?

A That's how it reads.

Q Okay.

I want to look at the very first paragraph here. The very first sentence of this paragraph references harassment, intimidation, and threats of violence against school administrators, board members, teachers, and staff, correct?

A Yes.

Q And, again, this paragraph doesn't say anything about school board meetings at all, right?

A It does not.

Q The last sentence of this paragraph notes that, "while spirited debate about policy matters is protected under our Constitution, that protection does not extend to

threats of violence or efforts to intimidate individuals based on their views."

Do you understand the phrase "spirited debate about policy matters is protected under our Constitution" to be a reference to the First Amendment protections?

A That is how I read it also.

Q Okay. In your experience, does the FBI take First Amendment protections fairly seriously?

A Very seriously.

Q Do you want to say anything more about that?

A I've already stated that, especially in domestic terrorism investigations, we start with legal caveats that specifically address: We do not open investigations based solely on First Amendment-protected activity.

We often go further in our threat assessment and make an assumption that U.S. citizens are exercising First Amendment rights and apply that Brandenburg test to determine, is it violating the law in that speech? And that's a requirement based on Supreme Court case law.

Q Okay.

That sentence continues, though, "That protection does not extend to threats of violence or efforts to intimidate individuals based on their views," right?

A That's what it says.

Q And is it accurate that the First Amendment does not protect true threats of violence or actual violence?

A It does not.

Q Okay. So if somebody says, "I am going to kill you tomorrow," that's a true threat, right?

A It could be a true threat.

Q And that would not be protected by the First Amendment?

A Correct.

Q Okay.

And, actually, if these threats are being issued against people, such as teachers or educators, because they are expressing their views, wouldn't those threats actually be infringing on --

A Could we go back?

Q Sure.

A I apologize. So the hypothetical, "I'm going to kill you tomorrow," it's not an uncommon one, right, especially in the workplace. And coworkers get angry at each other and will often say, "I could kill you," right, or, "I'm so angry, I could do X to you," right?

Q Right.

A That person who received that perceives a threat.

One of the determinations of local law enforcement -- I can speak to that because I was one -- is the ability to carry out that threat. Were they truly angry with intent to carry out that threat? Action verbs.

Q Uh-huh.

A Versus a statement uttered -- I don't want to say "under duress," but -- in the heat of the moment that there was no intention behind.

Q Uh-huh.

A And that is part of the analysis of a true threat. And it's very tricky, right?

So I don't want to simplify too much by answering your question directly --

Q I understand.

A -- but I want to put it in context of, yes, on its face, but there is -- there's the

human element to this --

Q Right.

A -- right? And I just want to make sure that, in all of these instances, our agents and local law enforcement are making those determinations.

Q Right. But it's not improper for them, if those words were issued or something along those lines, to at least look into it to see if there is the ability to carry out that threat, correct?

A I think, once we receive from the offended party, the harassed person, the victim who felt like they were threatened, we have an obligation to look into it to ensure that it is not a true threat, right? And where it is, to take action appropriately to mitigate that threat.

Q Because you're obligated to investigate all threats to life, correct?

A We serve U.S. citizens and, in particular, victims, trying to prevent victims of crimes.

And I'm sorry, I threw you off your question, but I felt that was important.

Q No, you're fine.

I want to move on to the fourth paragraph of this memo. It says, "Coordination and partnership with local law enforcement is critical to implementing these measures for the benefit of our nation's nearly 14,000 public school districts. To this end, I am directing the Federal Bureau of Investigation, working with each United States Attorney, to convene meetings with federal, state, local, tribal, and territorial leaders in each federal judicial district within 30 days of the issuance of this memorandum. These meetings will facilitate the discussion of strategies for addressing threats against school administrators, board members, teachers, and staff, and will open dedicated lines of communication for threat reporting, assessment, and response."

Did I read that correctly?

A You did.

Q Okay. So this paragraph directs the FBI, working with the United States Attorney's Office, to meet with various State and local leaders, correct?

A It does.

Q Okay. And the stated purpose is to facilitate discussion with them and to open lines of communication?

A Yes.

Q Is it common for the FBI to work together with State, local, Tribal, and territorial partners on matters?

A It is integral to how we operate.

Q Okay. Can you explain what you mean by "integral to how you operate"?

A So, not only do we operate numerous -- I think it's over 400 -- joint terrorism task forces on the threat against terrorism, both domestic and international, we operate counterintelligence task forces and cyber task forces and violent crime task forces, organized crime task forces. I mean, if we're working a violation, there's probably a task force that includes State and local law enforcement participation.

There's a quote on one of our walls at the Hoover Building that says, "The greatest tool in combating crime is cooperation." Right? And that is a principle of how the FBI operates. Our greatest partners are our State and local law enforcement partners.

Q And you referenced task forces. Does the FBI also engage with State and locals outside of task forces?

A We do.

Q And can you say anything about that?

A Routinely.

We hold coordination meetings with our State and local partners. In my capacity as a special agent in charge, I attend sheriff's meetings and I attend meetings of all of the, like, Federal agency heads or State and local law enforcement heads where they're talking about crime problems, they're talking about community engagement issues, and how can law enforcement engage together to better serve their community. And so those are forward-looking or responsive to a growing crime trend, in addition to the engagement on task forces.

Q Okay.

How often do you think -- in your role as special agent in charge, how often do you think you meet with State and local entities?

A They would say not enough. But most sheriffs run a monthly meeting.

Q Okay.

A And then various other entities have also monthly meetings.

And being able to engage, that's where delegation comes in. So, at all levels of -- my field office, in particular, we will assign people to attend different meetings so we're represented, so they know the FBI is engaged, we're part of that community.

Q Uh-huh.

A We're engaged not to overstep our authority and do what the State and local cops should be doing, but to engage with them when it should rise to a Federal investigation.

Q Okay.

A And then also just being good partners with them, addressing crimes that have already occurred, and communicating to the community in a unified response that their local law enforcement is together on this.

Q Okay.

A And very important to do that.

[12:11 p.m.]

BY [redacted]:

Q Okay. So if there's nothing unusual -- and, in fact, it's pretty common for you to meet with State and local entities?

A It is.

Q And it's beneficial to them, it sounds like?

A It's beneficial to us as well.

Q Okay. The memorandum finishes off with the line, the Department is steadfast in its commitment to protect all people in the United States from violence, threats of violence, and other forms of intimidation and harassment. Do you see that?

A I do.

Q Do you agree that it's part of the FBI's mission to protect all people in the United States from violence and threats of violence and other forms of intimidation and harassment?

A I do. And we often say our mission is dual and simultaneous to uphold the Constitution and protect the American people.

Q And what does that mean to you?

A It means we have a no-fail mission on both fronts, always uphold the Constitution, without exception, and proactively protect the United States citizenry. And you can't sacrifice one for the other.

Q Okay. There was some discussion earlier that you said you had expressed -- in your conversations prior to October 4th, so October 1st, the email and maybe a couple phone calls after that, you had expressed concern about the use of the term, "domestic terrorism" with respect to the discussion about threats to school officials. Do you remember that?

A I do.

Q Does this memorandum reference domestic terrorism at all?

A It does not.

Q Okay. So to the extent you expressed concerns, I don't know what the memorandum looked like before, but those -- it appears that that was either taken into account or maybe it was never -- they never intended to -- you -- reference domestic terrorism at all, correct?

A My conversation about the use of the term "domestic terrorism" was with one line assistant over --

Q Right.

A -- I shouldn't say line assistant, a DOJ attorney NCTS.

Q Understood.

A I couldn't speak to what broader intention was versus what was pushed out. I can only speak to what was actually pushed out.

Q And what was pushed out does not use the --

A A memo -- I'm sorry. I thought that was a question.

Q And what was pushed out does not use the term "domestic terrorism," right?

A It does not.

Q And it actually doesn't say anything about all about operations. It just says, We're directing meetings?

A Yes.

Q Okay. I want to turn to the press release that accompanied this. Have you seen that before?

A I think I saw it when it came out.

Q Okay. We'll introduce that as exhibit No. 6. And I'll give you a minute to review it as well, and let me know when you're good to continue.

[Pause.]

[Jensen Exhibit No. 6

Was marked for identification.]

BY [redacted]:

Q Okay. Are you good to continue?

A Yes, ma'am.

Q Okay. So I want to look at -- so, sorry, before we look at specific paragraphs, there's nothing in this memo that says anything about parents, correct?

A That's correct.

Q And it doesn't reference either school board meetings or disruptions at school board meetings, correct?

A It talks about school board members, but it does not use those terms you referenced.

Q Okay. So it doesn't -- it's not about school board -- disruptions at school boards, it's about threats. Is that fair to say?

A Yes.

Q And those threats could be conveyed through the mail. They could be conveyed in person. It's not specified here.

A It doesn't opine on the types of threats, just threats of violence.

Q Okay. And the first paragraph here discusses -- it references the direction for the FBI and U.S. Attorneys' Offices to meet with Federal and State and -- sorry, State, Tribal, territorial, and local law enforcement, right?

A It does.

Q And it says to open dedicated lines of communication for threat reporting, assessment, and response, correct?

A Yes.

Q Okay. And then that's echoed again in the third paragraph, right? That also talks about holding meetings?

A I believe it does.

Q So -- and it says that part of the purpose is to discuss ways to assist State and local -- State, Tribal, territorial, and local law enforcement, correct?

A It says that.

Q And it says, ways to assist State, Tribal, territorial, and local law enforcement where threats of violence may not constitute Federal crimes, correct?

A Yes.

Q So, again, one of the primary purposes of these meetings was to contact State and local law enforcement and ensure that they had what they needed from the Federal government, correct?

A Yes.

Q Again, there's -- there's no reference in here at all to domestic terrorism, correct?

A No, there's not.

Q Okay. So whatever discussion there was about domestic terrorism shouldn't be mentioned in here, there's no reference to domestic terrorism in here?

A There is not.

Q Okay. At the bottom paragraph, the -- the press release references the National Threat Operations Center via its national tip line and online through the FBI website. Are you familiar with the National Threat Operations Center?

A I am.

Q What does it do?

A It does exactly what's described here. It's -- it's established a 24/7 tip line for the public and others to provide information to the FBI about potential crimes, and then it serves as a -- it serves as a center to dispatch credible threats or threats that require additional review. And I use that term "threats" very, very broadly right now. Tips and complaints are probably a better way of describing.

When NTOC receives a tip or a complaint, they'll gather as much information as they possibly can, and then they'll ship that tip or complaint out to the responsive field office, either based on where the complainant is located, or if they can resolve where a potential subject might be located. And then there's additional review that's required at the field office level.

Q And do tips that come into NTOC sometimes also get sent straight to State and local law enforcement?

A They do.

Q And can you say anything about that?

A That that was a recent addition to NTOC's capabilities in the last 5 years or so, to engage State and local law enforcement through a portal to provide real-time tips, so there was no delay of getting the information to the person best to actuate those threats.

Q And I think you used the term earlier of NTOC acting as a "clearinghouse." Do you recall that?

A It was a term used initially by DOJ, can the FBI serve as a clearinghouse for these tips.

Q Okay. And in your opinion, NTOC would've been the proper entity to

potentially do that?

A It's already -- yes, it's already established to intake large volumes of tips and complaints and provide it out or disseminate it out to the responsible parties.

Q Okay. And so this press release actually references NTOC, correct?

A It does.

Q And it directs people to go to NTOC?

A It does, with any information it might have, responsive to this.

Q Okay. Do you agree that NTOC provides the FBI with an essential service?

A I do agree.

Q And why is that?

A It serves as a conduit between either concerned citizens, aggrieved parties, potential victims of providing information on a day-to-day basis of potential actionable information. And we do that through the 1-800-CALL-FBI, and also through the tip line that's set up for email communications or online tips.

Q Okay.

A But more specifically, where I found tremendous value in them is the ability to cull through during specific critical incident responses, volumes and volumes of tips from the public, whether it's social media grabs or video taken from bystanders or others who had information, providing that to the FBI in a condensed way that can be used to further an investigation.

Q Okay. In your experience, do tips received through NTOC sometimes help to prevent crimes from occurring?

A They do.

Q Do you have any examples of that?

A Preventing crimes, off the top of my head, not prepared for that. They're

numerous, but a specific example I couldn't. A more recent example, I think because it was public, NTOC received a tip about the location of the alleged shooter from Houston, who allegedly killed five people in the neighbor's house. He was on the run. Law enforcement was largely looking for him, big man hunt. And a tip that came through the NTOC line helped identify the location and resulted in his successful arrest.

I think that's an example of a win, potentially preventing future violence by that subject, definitely eliminating a threat to society while he's on the run, but helping us further an investigation.

[redacted]. Okay. We're out of time so we can go off the record. Thank you.

[redacted]. It's 12:29. We'll go back on the record.

BY [redacted]:

Q So throughout the interview you've discussed some of the civil unrest and the rise in threats against police officers during the summer of 2020 that kind of required a surge in resources. And you were section chief at that time of domestic terrorism?

A I was.

Q And so, in that position as section chief, what kind of rise in threats against law enforcement were you seeing?

A So there's general threats online reported, you know, through some of our partner agencies, seeing it on social media accounts. And then there were specific in-person threats against law enforcement, what some described as standoffs, although not necessarily a traditional standoff.

There was a time when we saw protest activity in State capitals of being ascribing to a Second Amendment philosophy, right, in favor of Second Amendment rights, and showing up to State capitals armed. It was concerning to some of our State and local partners. In most cases, it was well within State laws, you know, no violations were

observed in those protests, but increased rhetoric about enforcement activities from State and local law enforcement, and then in certain cases, threats in online platforms directed against law enforcement.

In specific instances during civil unrest where riots occurred after police protected activities, right, so maybe protests during the day, but at night in Portland, almost every night, we saw riots. A lot of the animosity and direct violent activity was first against the police department in Portland, their headquarters, and then against other government facilities to include the Federal courthouse in Portland.

Direct attacks on law enforcement officers, regardless of who they were with, with launchable commercial grade fireworks directed at law enforcement personnel, the use of green lasers into the eyes of law enforcement personnel, in addition to Molotov cocktails being thrown, not only at law enforcement vehicles, but at law enforcement buildings where it was occupied by law enforcement personnel, both sworn law enforcement and civilian law enforcement. It was indiscriminate.

We also saw, in Minneapolis, directed action against the Third Precinct of the Minneapolis Police Department where it was subject to arson, and the police department was, in one description, almost overwhelmed. Thirty rounds from an AK-47 were fired at that building while it was occupied, and while police officers were trying to help rescue a rioter who succumbed to injuries because of the riot.

So lots of activity directed not only against law enforcement, against private sector companies, rampant crime occurring on the streets of multiple cities, which necessitated both a surge of personnel inside of headquarters under my section, but also to field offices to support ongoing investigations related to that activity. Where we could get Federal prosecution, we sought Federal prosecution; where we could collect evidence in furtherance of investigation and get it to our laboratory for processing we

did; and where we could just provide assistance to the State and locals to maintain order to the best of their abilities, we did that as well.

Q And you've discussed Minneapolis and Portland as areas where you needed to surge resources. Were there other areas?

A There were. Louisville stands out to me. I had numerous conversations with the then-SAC at the time. That was not only in response to riot activities anticipating outcomes from a high-profile investigation that was occurring at the State level, but also in Rochester, New York, in Kenosha, Wisconsin, and then in various other cities.

And then that's not to negate direct activity that was occurring in places like Phoenix where we proactively identified a small group of individuals who were targeting electric grid infrastructure and intended to blow it up. And so we still had our proactive investigations and a responsibility to be diligent on those to prevent actions, and in some cases, terrorist actions, plots from occurring while responding to unprecedented -- and I know that term is used often to describe 2020, but violence in the streets of our city.

Q And in your role as section chief of the Domestic Terrorism Operations Section, what was the Federal nexus there for some of the unrest in like Portland, in Minneapolis?

A So there's a statute, that -- it's an antiriot statute. I believe it's 18 USC 2101. It was contested in one of the districts. There was a charge at one time and it was before the court, and so it wasn't an often-charged statute at that time pending the decision of that court, of whether the language in that statute was constitutional or not. But it still allowed us, because it's a statute on the books, lawful authority to investigate individuals who crossed State lines in furtherance of riot activities, or used a facility in interstate commerce to engage in riot activities.

So that was one way. Molotov cocktails by nature are against Federal law, possession of them, creating them, or using them to cause arson. I should note, other agencies have primary jurisdiction over certain crimes to include arson, and that was partnering with the Alcohol, Tobacco, and Firearms, and Explosives Agency. I believe they actually had the lead on the Minneapolis Third Precinct arson.

It was a unified approach across DOJ components as well as some of our other partners in other branches of the Federal government to provide support in response to those riots. And in cases where we didn't have Federal authority, it was providing support either through our laboratory or, in some cases, providing our -- like in Kenosha, I know for a fact we used our SWAT vehicle to use -- to move into a hostile area and recover some of the local police officers to protect them during those riot activities. Their own agency couldn't get to them so we did.

We used every lawful authority that we had to support our State and locals and investigate crimes that rose to a Federal level.

BY [redacted]:

Q Do you know how many crimes were investigated?

A I'm sorry?

Q Do you know how many -- what the number of crimes investigated in the summer of 2020?

A No. And there was an effort -- a request, and I can't remember who gave it, to try and -- and codify that. And the sheer volume from NYPD alone, we couldn't codify it on a nightly basis.

Q Right.

A We didn't keep track of State and local records. We did keep track of the surge of open investigations internal to the FBI. And I can tell you, I think from public

testimony of the director at the time, it was more than 500 domestic terrorism-related cases were opened, in addition to --

Q Do you know how many prosecutions?

A I don't. I mean, the last time I looked at those numbers, I think it was more than 60, but a lot of those cases were ongoing pending evidence review and waiting for judicial process.

Q Right. And why do you think -- and these incidents were happening all over the country --

A They were.

Q -- especially out west at some of the Federal courthouses and other Federal properties.

A Uh-huh.

Q Why do you think the events of January 6th received so much more attention? And you know, there's obviously more than 60 prosecutions for January 6th.

A It's a great question. And there's a number, if I can walk through it. A lot of the -- the issues we faced, Portland as a prime example, a lot of the later riot activity was directed against the Federal courthouse in Portland. But what we saw in the nights during those riots was large-scale, what used to be called black-block protest activity. That's individuals dressed in black gear from head to toe, obfuscating their face.

We saw them starting to use umbrella shields. Individuals behind those umbrella shields, or umbrella walls, would launch these fireworks into the Federal facility, and they were occluded from either the surveillance cameras that had already been damaged, or the ones that were replaced were damaged in the process, but under cover of darkness, cover of black, full, head-to-toe gear, obfuscating their identities, and so making it very difficult to attribute a particular subject to the crime that was committed.

So a case opened up, trying to resolve it, and really good police work with our State and locals in many areas to identify subjects responsible for those activities, but very complicated work.

Mr. Gaetz. Is geofencing one mechanism to resolve who was in a particular area?

Mr. Jensen. It could be. Geofence, through lawful means, getting a warrant to establish a geofence with particular parameters of why we would do that.

Mr. Gaetz. That happened --

Mr. Jensen. It could be used --

Mr. Gaetz. That happened on January 6th, correct?

Mr. Jensen. It did.

Mr. Gaetz. So if you could geofence the D.C. area on -- as a consequence of the January 6th investigations, why couldn't one geofence the area around the Portland courthouse?

Mr. Jensen. It's a good question, and it could be done. I don't know if it was done.

Mr. Gaetz. If it wasn't done, doesn't that seem to indicate disparate utilization of tools for a riot event?

Mr. Jensen. It's one conclusion that could be drawn. There could be a number of other reasons why a tool was or wasn't used, and I -- I can't speak to it because I don't know if it was used. I wasn't briefed on it. And I don't know, of the vast array of tools and number of investigations that were conducted, whether that tool was implemented or not.

Mr. Gaetz. Okay. Well, I'm sorry, I didn't know if in response to Mr. Castor's question you wanted to give other basis other than the black block protest feature as to

why the riots in summer of 2020 were treated differently than the riot on January 6th.

Mr. Jensen. So I want to be careful about adding any credence to -- from my perspective, that we treated them differently. There was a --

Mr. Gaetz. We just went over one way you treated them differently. You used a geofence in one and not the other.

Mr. Jensen. Well, it's a tool that's available based on an affidavit submitted before a judge to establish probable cause that that tool can be used. It doesn't mean in all cases it should be used, and I can't speak to whether or not they did use it.

Mr. Gaetz. What are the reasons why geofencing should not have been used in Portland or in Minneapolis surrounding the riots events there close to the Federal property? List those reasons.

Mr. Jensen. I don't know that I could at this juncture.

Mr. Gaetz. Okay. So back to Mr. Castor's question, what, other than the black block protest dynamic of the 2020 riots, would serve as a basis for disparate treatment?

Mr. Jensen. So, again, I don't know that there was disparate treatment in how we conducted or opened investigations. We pursued --

Mr. Gaetz. Well, we just went over it. Don't --

Mr. Jensen. -- logical investigations where we had a Federal nexus, where tools or implements rose to the level of Federal investigative activity. There were a lot of crimes committed, and I wish there was a broad brush that could've been used to arrest people that were committing those crimes, specifically against local law enforcement that didn't have the tools to do that and suffered grievous injuries during many of those nights.

BY [redacted]:

Q But you'd agree that 60 prosecutions over the course of the entire, you

know, summer of 2020 --

A At the Federal level.

Q At the Federal level.

A Yes.

Q I mean, there were incidents in Portland all over the country, in Philadelphia, in New York, in Washington, D.C., and 60 Federal cases compared to what happened on, you know, January 6th.

A So --

Q It's just a remarkable discrepancies.

A So one major difference is everything that occurred on January 6th happened on Federal property in a Federal-protected area. Typically, crimes committed there would be investigated by the U.S. Capitol Police, whether it's against Members of Congress, or on the property itself. U.S. Capitol Police was largely overwhelmed and, in some cases, the victim of that very event, and so the FBI came in to conduct those investigations.

But everything that occurred in this building was, in fact, a Federal crime. It happened during daylight, which is one difference, but it also happened with people who didn't obfuscate their identities. Many of them posted on social media their presence inside the Capitol and were captured on internal surveillance cameras of the U.S. Capitol Building. But we started with the premise that everybody who entered the Capitol was trespassing and is in violation of Federal law.

Q Do you think the incidents that happened --

A I'm sorry, could I make one --

Q Of course.

A -- clarification? My recollection of 60 prosecutions is a moment in time,

right. That was from one of the briefings I had conducted shortly after the new fiscal year, October 1 of 2021, right. And so, that's a number that stands out to me. I hope that number has grown since then. But overwhelmingly, the number of cases that we opened were also jointly worked with State and locals and led to State prosecutions.

And I don't have those numbers in front of me, but State venue often served as a viable venue to prosecute these cases. Although using Federal investigative tools or laboratory resources to identify these subjects, we did get them prosecuted through the State system.

Q Right. A lot of the riots that happened happened on television --

A It did.

Q -- in the summer of 2020. And so it just seems that with the use of video technology, you'd come up with more than 60 cases if --

A So we did have more than 60 cases.

Q No, 60 prosecutions, I'm sorry.

A Right. And I wish I had the number of our investigative activities that led to State and local prosecutions --

Q Right.

A -- but I don't have that number.

Q Okay.

Mr. Gaetz. I want to better understand how Washington communicated with field offices around the country during these riots in the summer of 2020. Can you give us an understanding of just how that communication occurred? Was it through emailed bulletins, regular conference calls? Help us understand.

Mr. Jensen. So it was both. And in some cases, there were joint communications secure teleconferences that were conducted with myself, weapons of

mass destruction directorate. Because of the implications of the use of Molotov cocktails and the fireworks, they had an investigative equity there and then criminal investigative division.

There were -- in those coordination calls, or SVTC, as we describe them, we would provide guidance of this is what we're seeing as field offices are reporting to us. We typically had a running command post at the Strategic Information and Operations Center, or NCCC as it's called now, National Communication and Coordination Center. It's a headquarters command post to funnel all information from the field for a standard operating picture.

And field offices that had their own command post would feed into that for what threats are they seeing, and then there were a couple means or mechanisms by providing information back to the field, one was the SVTC. This is what we're seeing, specific direction from counterterrorism, specific direction for WMD and CID cases, addressing any issues that might have been brought to our attention.

And the rapidity of those, or repeatability of those was probably a biweekly call, so it was more as-needed to address specific changes in strategy, or nuances of a new city facing issues.

Mr. Gaetz. When you say biweekly, you mean every other week?

Mr. Jensen. Every other week, sir. That's to the best of my recollection. We had daily coordination with SACs and ASACs that knew they were going to have more riots that night, and what did we learn from this field office who just had it last night, how can they better prepare, and we would share best practices prepositioning agents at detention facilities, when State and locals were arresting people, will they voluntarily submit to interviews and provide us information about coordination activities or why they were there, where did they travel from, answering some of those investigative questions.

And so as we learned from one city, we would share that across the multiple cities and field offices so that they could be better prepared and then inform their State and local partners of how to better prepare and hopefully prevent some of the actions that we saw early on in Portland from manifesting in these other districts.

Mr. Gaetz. Other than the tactical features that you just described, was there a feature of these teleconferences that outlined the doctrine for determining a Federal nexus to charge someone, for example, whether that be harm to a Federal law enforcement officer, damage to a Federal building? I mean, was that part of the directive, the charging doctrine?

Mr. Jensen. So not a directive but guidance.

Mr. Gaetz. Okay.

Mr. Jensen. And I know it's nuance, but --

Mr. Gaetz. No, I appreciate that distinction.

Mr. Jensen. Right. Like I learned and appreciate very much so now in my current capacity, but very preeminently as a section chief, that I can't direct an SAC to do anything, right. I can give guidance based on my overall awareness of what's going on, and that's what I tried to do. I also know that the deputy director provided specific guidance on how to establish command post posture with our State and locals. I was not privy to that because I was managing other matters, and he talked directly with the SACs.

But in my capacity, to answer your question, we did provide statutes in coordination with DOJ that might be viable for Federal prosecution, that if we see these, these are statutes that could apply and would aid in the opening of an investigation. We also gave them additional tools for predicating cases, that it doesn't have to be traditional domestic terrorism. You can open a WMD case if you find a Molotov cocktail

somewhere, or pipe bombs or other devices. We're not looking for program specificity. We're trying to address the problems that are happening.

So this wasn't about programs, this was about conducting investigations with lawful purpose, and then figure out who did it. And part of that was providing the statutes that would apply, part of it was applying DIOG, so our Domestic Investigations Operations Guide, and policy determinations from our lawyers about where our lawful authorities attach, when and where can we collect intelligence, because we know oftentimes, projected in 2020, peaceful protest activity often led to violent activity at night. They weren't always connected, but they were definitely capitalized on, and how can we use forecasting from our State and local partners or DHS or other entities that are also looking in this space to better inform not only us, but a security apparatus with our State and local partners. So we were very much in preventative, and if something happened, how do we investigate, and what are our lawful authorities, based on statute and based on policy.

Mr. Gaetz. And --

Mr. Jensen. And I'm sorry, one other.

Mr. Gaetz. Sure. Please.

Mr. Jensen. I apologize. We did follow up with email communications, that this is what we said on the call, here it is in black and white, so that CDC's chief division counsels and field offices could look at it, make sure they're comfortable with it, that we're not directing you must but you can. These are permissible by policy and by law, and it gives you authority to attach.

Mr. Gaetz. I suspect the committee will have some interest in those emails. Are they stored on a shared drive? Are they part of a Microsoft Outlook system? How are they maintained?

Mr. Jensen. Those would've been probably both, Microsoft Outlook. I can't remember which system of record we sent it out through, but I do know we have previously provided them to Congress, maybe not this board itself but -- or committee itself, but they have been the subject of other interest, and it's largely internal communication given, rules of the road, if you will.

Mr. Gaetz. Thank you.

BY [redacted]:

Q And so kind of shifting to the events of January 6th, at what point as section chief did you get involved?

A That's a very good question. So, obviously, January 6th didn't happen until January 6th, but we knew leading up to the certification hearing that was happening in Congress, that on that same day, there was going to be a rally, and that it would be a widely attended gathering of multiple people, both to hear the speakers that were projected to be there as well as to potentially protest, and that was telegraphed by certain online platforms that there would likely be a protest over at the Capitol.

My team -- so the timing of this is unique. My wife was pregnant and delivered baby number eight, December 21st, and so I was off on leave for that baby, and then obviously Nashville bombing happened on December 25th. We had lots of resources dedicated to that, and the rhetoric around known predicated domestic terrorism subjects who would be traveling to D.C. on January 6th was starting to increase.

And so, I ended my leave early and came back to work on January 4th. Immediately, on January 4th, we had a meeting of section chiefs across WMD, CID, and myself, and the commander for NCCC, our Strategic Information and Operations Center. It was determined at that point, based on reporting that we already had, and the known predicated subjects, previously existing predicated subjects in Domestic Terrorism

Operations Section, who intended to travel to D.C. that day, that I would take the lead role in coordinating events in SIOC across the multiple field offices. And --

Mr. Gaetz. How many of those previously predicated subjects were there?

Mr. Jensen. So, sir, that's a -- that's a question that I was asked multiple times, and it changed almost hourly, as we were able to either mitigate the travel of some -- so on January 4th I believe it was twelve. By January 6th, it had fluctuated upwards of 21, but we had mitigated the travel of a number of them, and those please take as round numbers, my best recollection.

Mr. Gaetz. How do you mitigate the travel of someone?

Mr. Jensen. So it's tricky, because all of our subjects in domestic terrorism are U.S. citizens, and they're free to travel unless they've been restricted because they committed a crime and we arrested them. And up to this point, there had been no crime committed. They're under investigation for potential crimes or threats of force or violence, which is a requirement of any domestic terrorism case.

So all of our subjects have that threat of force of violence or intended use at some point for force or violence in furtherance of their ideology. So it's concerning that they would want to attend this, and what's their purpose behind it, but they're not prohibited from doing that. And we can't blanket put a stop in front of them and prevent their travel, because now we're infringing on other rights that they have.

And so various means that we're able to do that is through CTD policy, when we have a subject, we're required to get either sources or undercovers to connect with these subjects. Can we have sources monitor either their online accounts, what are they posting online? Can we have conversations about what they intend to do? Or undercovers that are already in place, convince people to agree not to travel, like, Hey, this isn't a good idea, there's going to be a lot.

I know of one case where we were able to do a probation violation. So the probation officer found out that the subject had traveled out of State, and issued a warrant for them, and they were able to be picked up on a probation violation. And so mitigating the travel through lawful means, and that's what we had to do. Many subjects could not be mitigated.

And so, we were informing Washington Field Office that we do know from various field offices there would be travel of subjects into your AOR likely to attend this rally. We don't have any specific threat reporting that they intend to do something, but for awareness, they will be here. And in some cases, the local field office where they originated either had a surveillance platform up to the border of Washington Field Office and Washington Field Office would take over from there, or we had communication devices that would tell us where that subject was.

Mr. Gaetz. So the tool of mitigating travel written a UC would convince someone to not engage in travel, do you know of any circumstances where that mitigation tool was successful?

Mr. Jensen. I know of -- I know of one, and you'll have to forgive me, but I believe these two subjects who were engaged with this UC are still under active investigation. I don't recall their names, nor would I be able to give them to you, but it's -- it's conversational of, Hey, look, I don't think I'm going to travel. I think it's going to be too hot down there. There's going to be too many law enforcement actions, they're going to be looking for this, I think it's a better idea if I stay back, what do you guys think?

It's not -- not ever intended to be direct influence of don't travel, right, threatening or intimidating. It is convincing somebody of their own mind --

Mr. Gaetz. Yeah, what you're describing is coercion. You just said "you guys,"

so am I to assume that in that matter it was a group of people?

Mr. Jensen. There was a group of people intending to travel. Two of them were predicated subjects, and I believe one of them said, I'm not going to travel, and I think one of them still came.

[redacted]. Can you remind me, you're talking about situations where there's still an ongoing investigation?

Mr. Jensen. That's correct.

[redacted]. Okay. So can you answer two questions that you would avoid discussing matters that are still ongoing?

Mr. Jensen. Yes.

[redacted]. Okay. Thank you.

Mr. Jensen. Yes. Yes. And this was generally, right, but this case, in particular, is, I believe, still under active investigation. But it's a tool that was used to try and help prevent DT subjects who were known to us from traveling to event and potentially causing harm at that event.

Mr. Gaetz. You mentioned moments ago the digital monitoring of these subjects that had entered into the Washington AOR. Was that by virtue of their cell phone?

Mr. Jensen. It could've been. And, again, if that -- if that was a tool that was being used, it would've been through lawful process, and it would've been like ping orders or something like that.

Mr. Gaetz. Not suggesting it was unlawful. I'm just trying to get an understanding of how Federal law enforcement was working to mitigate a January 6th threat in the days leading up to January 6th, and I'm trying to understand if one of those tools was to monitor cell phones specifically as they were moving about the country and into the AOR.

Mr. Jensen. So I'd be hard pressed to tell you of one specific instance where it was, but it was a tool that was available -- actually, I do remember one. Ping authorization was available on that subject, but that was not a tool to mitigate his travel. It was where is the subject.

Mr. Gaetz. It was a monitoring tool?

Mr. Jensen. It was.

Mr. Gaetz. Great. Thank you.

BY [redacted]:

Q And you said as of January 4th you came back and you took the lead role in the SIOC. Is that right?

A That's correct. So --

Q Can you -- what's the SIOC?

A It's Strategic Information and Operations Center.

Q Okay.

A It's where we run or conduct national command posts. It's now more commonly known as NCCC, National Command Coordination Center, I believe is what it's termed. That's where during 2020, summer of 2020, we ran multiple command posts in support of field offices and provided resources to them, either from an intel perspective or a legal perspective when we stand up a command post at headquarters. And it was determined that on Monday, the 4th, in the afternoon, we would stand up the command post and communicate to the field offices, but Washington Field Office in particular, that we would have a support footprint at headquarters. And we invited partners from DOJ as well as other agency partners to participate and be present so they had an operating awareness of what was happening across the country, but in particular what was happening in D.C.

It was a mirror of what Washington Field Office stood up at their field office. And every 2 hours -- if I recall correctly, it was every 2 hours, upon initiation of the command post we did joint briefings between Washington Field Office and headquarters. Any threat intelligence reporting that was coming in, either about the rally, about specific individuals, or arrests that had been made by State and locals, and any intelligence gathered from those and then vice versa, from a national perspective, any updates to known or suspected DT travelers, and then new tips that were coming into field offices about people making direct threats against politicians, and saying they were going to travel to D.C. to get -- the one I remember is heads on a pike, right, and what actions are being taken by that field office as those guardians are coming in.

Q And when did the every 2-hour joint briefing start? Did that start on January 4th?

A So I believe the construct was put in place on January 4th. I think the first 2-hour briefing would've been the 8:00 on January 5th.

Q 8:00 a.m.?

A I believe so.

Q Okay. And then did those continue January 5th and January 6th?

A They did, up until -- up until we realized that there was a breach of the Capitol. When the first barrier was down and the crowd was surging in and officers were being assaulted, and then ultimately when the doors and the windows of the Capitol were physically breached, the shift changed from coordination to mobilization.

And there were entities at headquarters led by the deputy director at the time for a response to the Capitol, and then my team oft on another side working with DOJ, what is an investigative response? What's the strategy and what's the scope based on the size of the crowd? Is this a Metropolitan Police issue? Is this a Federal Bureau of

Investigation investigation -- investigative matter upon entry into the Capitol? What are the statutes? What are the things that we can potentially do? And how do we go about with this large volume of people, who once it was over and done with, very quickly realizing nobody was really arrested in the moment. So now we have to identify and hold accountable those who were responsible.

And numerous investigative questions hung in the air: Was this a pre-planned event? Was it coordinated? If so, how was it coordinated? Was this a mob mentality? All of those questions are -- were viable at the time, and how do we form a strategy around that and get that out to the multiple field offices?

Because very quickly, knowing that people were coming in from multiple field offices, we realized these field offices are going to be integral in the investigation of these subjects, and how do we message this in a unified manner of not only commanders' intent, but what occurred that day to limit confusion or unilateral investigative efforts so that it's a coordinated effort around that one event.

Complicating that, we also learned that there were two pipe bombs placed in proximity to the Capitol but over at the RNC and DNC, if memory serves. That took resources away from the Capitol and had a separate law enforcement response. It was fortunate that those didn't explode, they didn't detonate and hurt anybody, but that was a live and viable investigation based on components and who could've placed it complicated by the large group of people that were there that day.

And so that's when it shifted from a coordination center to we're now leading an investigation as soon as we have fidelity back over at the Capitol, and then it was starting to message that.

Q And so knowing that there were going to be multiple DT subjects that were coming to the area for the rally, what resources did you kind of delve out for that?

A So it's not unusual. It's actually more commonplace when there's a projected rally across the United States. Gettysburg comes to mind, right. Every year at Gettysburg there's a rally that's projected, and we become aware of known DT subjects that are going to travel. We make notification to Philadelphia AOR, but typically, it's a peaceful rally. Some groups will do a banner drop and say we were here, and whatever they're supporting they support.

We typically will set up surveillance, because they're known DT subjects. But it's not uncommon. And so to hear that DT subjects would be traveling for this rally was also not uncommon, but it was a larger number than we would typically see. And given what occurred in the summer of 2020 puts in context a large frame of mind for what we were preparing for, and what the intel was preparing us for, which was conflicts across competing ideologies.

Small groups of individuals in as recent of December before -- December of 2020, we had small-scale rallies that resulted in violence on the street between opposing ideologues resulting in some members getting stabbed, a State or local matter but something that still rose to our attention once people were arrested for it.

There was a large anticipation based on the size of the crowd that there would be larger-scale fights. And the concern there was, in 2020, we saw one of the first lethal attacks from an antigovernment violent extremist in more than 20 years, and so the mindset of these traditional threat actors had shifted, and they were using more violent tactics against opposing ideologues, which made this a very volatile situation.

And so that's what many of our State and local partners were preparing for, and the concern of our known DT subjects, even though they didn't know each other or weren't part of the same affiliations, presented a threat that we needed to be aware of, right. And so that was our concern is what in the mix do these represent as

opportunists in a big rally like this.

Q And so, you spoke about setting up surveillance. Did you set up surveillance for the January 6th event?

A No. On individuals, right. So the January 6th event that we were aware of was a rally, and then a potential protest. The people who established the rally, to my knowledge, had permits and did everything according to law for National Park Service Police, Metropolitan Police. They were well aware of those rallies, and they didn't have concerns about the organization of the rally. They had concerns about the aftermath.

And then for the protest we also believe that was First Amendment protected, and so we cannot establish surveillance on First-Amendment-protected activity. But where we have known subjects, predicated subjects coming into the territory who are infiltrating otherwise peaceful activity, we can set up, in limited circumstances, where it's feasible for the safety of our agents to do so to establish surveillance on them.

And what we found in many of those instances, as soon as subjects arrived, it wasn't really feasible to maintain surveillance on them because of the size and scope of the crowd. And once they were in the AOR it was a known thing that they were there. In some cases, I do believe we had surveillance, but I don't know to what depth of surveillance we were able to maintain.

[redacted]. When you say known that they were there, known to whom, to WFO?

Mr. Jensen. Known -- right. So we knew based on the travel status that the subject arrived and that had been from the case agents that were responsible for the investigation of that subject passing that information off to WFO. And in some cases, Washington Field Office was aware the subject had arrived before headquarters was because of the coordination they had with the local field office agents.

BY [redacted]:

Q And so immediately after the events that occurred at the Capitol on January 6, 2021, what was your impression that you got from headquarters about pursuing investigations into these events?

A So I didn't -- I didn't get an impression from headquarters. I -- I was a leading member of headquarters, and we knew that there was a clear violation of Federal law. We knew that there was a responsibility to hold those individuals accountable, and that it would be a massive effort to start identifying and getting these subjects in custody.

We did briefings in the aftermath of January 6th, because we also had the inauguration coming up. And now that this occurred on January 6th, what -- what are the concerns, the implications of individuals involved in January 6th who might go unidentified, or if we can't identify and disrupt them, what -- and this is in the moment thinking ahead to inauguration, is there a persistent threat posed to the inauguration, right.

And so wrapping our minds around that; how do we prioritize and start identifying, triaging, and arresting subjects who illegally entered the Capitol; assaulted Federal officers; damaged property; stole material from inside the Capitol; assaults on media members; like lots of different crimes were committed that day under one overarching umbrella from the FBI with unified guidance on how we would pursue this.

Q And so did you give any direction on how to pursue cases?

A We did.

Q And what direction did you give?

A So it was determined very early on, because I was the lead section chief for the lead-up to January 6th that I would maintain that lead over our response and coordination efforts, not only with WFO, Washington Field Office, but with the numerous

other field offices that would be engaged on this.

We gave guidance through daily secure telephone conferences, or computer calls, establishing the parameters of what occurred that day, what is our lawful authority for conducting investigations, what is the clear line that gives us that lawful authority, what we are doing and what we're not doing, especially in those early days.

And those calls were established with initially the national security branches of the 56 field offices and their intel components. In the very early days, it quickly grew to include the chief division counsels, their associate division counsels, and other leadership members, especially in resident agencies who were not connected to the headquarter city office, to ensure that everybody had the same information at the same time on a unified coordination call as those investigative strategies developed, matured or changed based on prosecutorial efforts.

So this was -- this was something we had never in the FBI tackled before, the size and scope, a very, very small amount of evidence, right, usually digital, large number of people implicated in criminal conduct. And typically, in a critical incident, it's a very small number of subjects, large volume of evidence, and a small digital footprint, right, and it was the reverse.

And so this took a whole-of-FBI approach from our operational technology branch to establish a mechanism for reviewing video surveillance, for identifying subjects or comparative analysis, to positively identify subjects where they were in the Capitol and what movements they had, to increasing bandwidth of our systems, so information technology, getting people certified to review digital evidence, numerous, numerous parts of the FBI mobilized to facilitate this type of investigation.

All of that was centralized, or I should say, focused around a strategy that I was trying to implement and needed correction from time to time, right, like we didn't get it

right the first time, it was iterative, but a centralized communication strategy with decentralized execution. Fifty-six field offices had equities in conducting these investigations, but on a centralized communication plan, and those were those daily coordination calls.

With that came the guidance from DOJ. CTS attorneys, counterterrorism section attorneys from national security division sat next to me on those calls. They provided their review of what potential violations DOJ would consider for January 6th, and what the clear factors were to submit prosecution packets through the U.S. Attorney's Office in the District of Columbia. The District of Columbia was early designated as the prosecuting office, and everything would flow through them for prosecution determinations.

Clear lines were very early established. FBI would investigate. All referrals from those investigations would go through a team of attorneys over at the district, in D.C., for review for prosecutorial merit. In no case were we in a position to say this person should or should not be prosecuted. It was these are the facts of the investigation. We found this tip that came from January 6th; prosecutor, what say you; and they would be in charge of prioritizing which cases would be prosecuted and in what matter those cases would be prosecuted, ultimately which charges would go.

That was established very early on. And then the strategy of Washington Field Office owning the incident. The incident occurred here at the Capitol. It happened in their AOR. Working with the Capitol Police on evidence review, triaging the tips that were coming in through the National Threat Operations Center, and evaluating them based on merit to send out to the field offices for further investigation, and if warranted, predication into a full investigation of that subject, not only for their involvement in the crimes committed on January 6th, but for any future threats posed, if any, by that

subject.

Q And on the coordination calls, did those ever change in frequency?

A It did.

Q And what was that frequency?

A So I believe up until the Inauguration Day, they were daily.

Q Okay.

A Post inauguration, we were able to scale it back. And I can't remember if we went to twice a week and then very quickly to once a week. And then with time, distance, and cover from the actual event and people getting more into a routine of how to process these things, the need for daily updates diminished and we went to monthly.

Q And you said you were maintaining the lead in the response in coordination with the WFO. Who was lead for the WFO?

A My main counterpart -- excuse me -- my main counterpart at Washington Field Office was an assistant special agent in charge who was designated to lead a couple different teams established directly for the January 6th investigation, which included -- excuse me, again -- the pipe bomb investigation.

Q Okay. And who was that ASAC?

A That was assistant special agent in charge -- good Lord, I have talked to him every day. Give me a second.

[redacted]. You can go back to it.

Mr. Jensen. Yeah, can I come back to that?

BY [redacted]:

Q Yeah. Would it have been assistant special agent in charge Timothy Tebow?

A No.

Q No?

A No.

Q Okay. And a little bit earlier you said you needed to get individuals certified to review digital evidence. What kind of -- what's involved with that?

A There's a certification process of getting access to the system that's owned and operated by operational technology division. Typically in a field office, you have a limited number based on a need to access the system. It's to limit overloading the bandwidth or capability of the system itself. But in this case, with every field office having to conduct routine and almost iterative reviews of the same information, we needed batches of people from every field office as well as supporting elements at headquarters to have access to the system.

So OTD put on special almost link-and-learn sessions that certified these individuals, gave them access in volume where normally they would limit the access. But here, because of the size and scope, we needed lots of people to have access on a 24-hour basis. They just increased what they would normally certify.

Q And going to the pipe bomb investigation, when did you become aware of the pipe bombs that were placed by the RNC and DNC?

A It was shortly after the first police officers responded. It's a little bit of a blur as to whether it occurred around the same time the first barriers were removed, but around -- around the same time I heard that Washington Field Office was responding with Metropolitan Police and I believe some elements of Capitol Police to the area for one pipe bomb and then two. And then shortly on the heels of that, that not only were the barriers down, but there were assaults occurring and then ultimately what we saw happened on TV was the breach of the Capitol.

Q And to your knowledge, when did the Bureau become involved with the pipe

bomb investigation?

A So my understanding, one of the special agents in charge at the time responded immediately with his team, and I believe he was on site at one of the pipe bombs from the very beginning.

[1:17 p.m.]

BY [redacted]:

Q Was that with the WFO?

A Yes.

Q And do you know what divisions or sections of the FBI were involved with the pipe bomb investigation?

A So I know Washington Field Office and that SAC led the Counterterrorism Division in Washington Field Office. I would imagine -- I don't know for a fact -- that their SABTs, special agent bomb technicians, responded as well. That's a normal response. That would also imply from engagement from Weapons of Mass Destruction. But Weapons of Mass Destruction Directorate was sitting in SIOC with me at the time. So we were all aware of these events at the same time.

[redacted] How quickly was the FBI able to determine the pipe bombs were inoperable?

[redacted]. I want to be careful on this, given that this is an open and ongoing investigation. There's certainly some information that's been publicly released, but I want to be careful not to go beyond that at this point.

Mr. Jensen. So I was actually going to ask the same thing. I do know they're open investigations, and certain details, like she said, we shouldn't get into.

BY [redacted]:

Q Is it fair to say, though, that the FBI had agents examine the bombs as soon as they were recovered?

A So, again, I assumed our SABTs arrived. I don't know who did the examination. I know that information was shared up through headquarters about the status of the device and then components of the device as the investigation unfolded.

And we were involved in it from the beginning. The times and details about the specific analysis of that, I couldn't tell you.

Q There's been reporting that they tracked an individual to a metro spot out in northern Virginia. Are you aware of that reporting?

A So, again, I want to be cautious because it's part of an active investigation, and I don't know that a subject has been identified or eliminated as a potential subject.

Q Okay. Are you aware of that reporting, though, that they had an individual, and they tracked him out, and they knew the metro card he was using and so forth?

A So I am aware that there was specific details about an individual who used a metro card, that there were other leads that they investigated similarly. But, again, it's part of A continuing investigation.

Q There was a whistleblower that came to our office in 2022 that reported to us that a year after the January 6th incident, on February 7th, 2022, the FBI issued a nationwide search for information throughout all their field offices for all confidential HUMINT sources that might have information relating to that. Are you aware of that?

A So I'm not aware of that specifically, but it doesn't surprise me.

Q Okay. What surprised us and what surprised the whistleblower who came to us, was that it happened a year after. Is that unusual in your experience?

A No.

Q And why would something like that take a year before being sent to all the field offices?

A So, in context, I've worked a number of explosive device investigations. Not all of them immediately have an apparent subject. Some of them take time, and I'm aware of some from New York City that are still open that happened over a decade ago. Case agents will periodically review the information, like a cold case homicide, and

determine: We should refresh this. Let's send out a new request for information. Somebody might know something now.

So it doesn't surprise me that that, if it did go out, it's a normal practice to try and refresh new leads into a case.

Q Okay.

[redacted] [redacted]?

[redacted] We have 9 minutes, sir, if you have any questions?

Mr. Gaetz. I want to go to your testimony where you said that Washington Field Office owns the incident on January 6th.

Mr. Jensen. Yes, sir.

Mr. Gaetz. What does that mean?

Mr. Jensen. It means the incident occurred in their area of responsibility. They had responsibility not only to respond in the capacity that they could but to essentially process evidence, identify subjects, and action that for either leads or investigations to other field offices.

Mr. Gaetz. I'll represent to you that whistleblowers shared with us that they felt pressure to open investigations into subjects with insufficient predication. Did you ever observe that type of pressure from the Washington Field Office?

Mr. Jensen. No, sir.

Mr. Gaetz. What would be your reaction to those who believed that pressure emanated out of the Washington Field Office?

Mr. Jensen. So I've heard this circulating around, and I can tell you, in my capacity as section chief, I addressed concerns from field offices, ASACs and SACs, when they're talking to their partners, similar to questions that you asked me before, the difference between 2020 and January 6th. Why is there a push to open all of these

cases where it didn't happen? And some of it's educational. Some of it is starting with the fundamental principle that all these subjects who entered the Capitol that day at a baseline were in violation of trespass. It doesn't mean they're going to be charged with that, but we have a duty to further investigate.

Leads that went out through our Sentinel Crisis System for that incident were sent to the field office for further action. Where they met certain standards and criteria, they were directed by myself and others to open an investigation, that it met the predication authorities to open investigations. They were not directed on which type of case to open up. Based on the individual investigations in the field offices, they could determine this person is a DT subject qualifying under the statute and our policies, an 89 bravo as we call it, which is an assault on a Federal police officer, or a general rioter, which would fall under that 176 classification. But, if they met that standard of having trespassed unlawfully inside the Capitol, it met a basic element of our predication of a Federal law was violated, and there's reason to believe that this person committed that crime?

Mr. Gaetz. How many cases did you direct to be opened?

Mr. Jensen. I couldn't tell you because it was voluminous, right? It was a general operating picture of: Here's how we're going to conduct the investigation. Washington Field Office is responsible not only for the triage of the evidence and pushing their leads out based on what they're receiving from NTOC but also from internal surveillance footage, other tips that are coming in, but to be actioned and owned from the independent field offices based on their own review or tip of that allegation.

Mr. Gaetz. I thought you said just moments ago the Washington Field Office owns the incident?

Mr. Jensen. They own the incident.

Mr. Gaetz. Not the investigation?

Mr. Jensen. So the independent investigations of each subjects follows counterterrorism policy, where there's one subject, one investigation, and that's applicable regardless of what critical incident occurred. If it falls under counterterrorism program management responsibilities, every subject receives its own case file. Now, there were certain --

Mr. Gaetz. Why do those case files emanate out of the Washington Field Office rather than out of their field offices around the country?

Mr. Jensen. It's a great question. It goes towards where the subject resides versus where the incident occurred. So, while Washington Field Office owns the critical incident and the response to that incident to include the victim responsibilities and the evidence processing responsibilities, the field offices who identify the subjects -- or, in coordination Washington Field Office, identified subjects in their AOR have a duty and responsibility not only to verify inculpatory or exculpatory information related to that subject but the ongoing or persistent threat that subject may pose to society.

And, in some cases, it was very quickly determined that there is no persistent threat, it's a trespasser, or this person actually has an ideology and poses a threat, and there are additional tools that we would need to use in the normal course of a counterterrorism investigation.

Mr. Gaetz. Was it hundreds of cases you directed to be opened?

Mr. Jensen. There were hundreds of subjects initially identified in the aftermath of January 6th, which warranted further review and investigation.

Mr. Gaetz. That's not my question. My question is, was it hundreds of cases that you directed to be opened?

Mr. Jensen. Yes, in that general guidance, absolutely.

Mr. Gaetz. And that direction was to special agents in charge in field offices?

Mr. Jensen. That direction was -- I want to be careful because, while we directed the ability to open the cases, I never directed a field office to open a particular case because they still have to conduct an independent review based on the predicating factors around each subject.

Mr. Gaetz. I guess, I know I'm drawing near the end of my time, but on the summer of 2020, you said: We don't direct; we give guidance.

Mr. Jensen. We provided guidance.

Mr. Gaetz. And then you testified that these folks following January 6th were directed. You didn't use the word "guidance." You used the word "directed." So I guess I'm trying to understand why in one case it's guidance, do what you will; and then, in the January 6th case, it seems to be a bit more compulsory.

Mr. Jensen. So it could be my misuse of the term "directive." It was --

Mr. Gaetz. You were real precise in that term earlier.

Mr. Jensen. And I try to be very precise in my term. I'm not trying to split hairs with you or couch my intention here. It was directive in nature. We have a violation of Federal law that was committed, but it doesn't take away the independent review of each field office to find predication authorities to determine what crime was committed.

Mr. Gaetz. It's the opposite, sir. It's that field offices are telling us that they felt there was insufficient predicate, and then they felt pressure from WFO to take action in the absence of predicate. So it's not like: Here are the tools to go find a predicate.

It's: Hey, we don't believe there's predicate, and we feel pressure from Washington Field Office.

You see how those are different?

Mr. Jensen. So I do understand that. In my conversations with the

management teams and field offices, they never expressed there was insufficient predication. It was, what additional resources do we have that show the details of what the subject --

Mr. Gaetz. -- no one ever told you there was insufficient predication? You never heard that once from any field office ever?

Mr. Jensen. I did not. What I had was concerns that the only thing we're given is that this person's cell phone and now the name associated with that cell phone because the geofence you referenced before was inside the Capitol. Sometimes that's all we had. If it referenced --

Mr. Gaetz. The geofence can get that tight to the Capitol Grounds as opposed to if somebody was walking down Independence Avenue?

Mr. Jensen. There was tight geofences inside the Capitol.

Mr. Gaetz. All the more reason to wonder why those tight geofences weren't used other times. I have many more questions on this line, but it seems we're out of time.

[redacted]. We'll go off the record. Thank you.

[Recess.]

[1:36 p.m.]

[redacted]. It is 1:36. We can go back on the record.

I want to start out correcting the record on something. You were asked about geofencing in the summer of 2020. Do you recall that?

Mr. Jensen. I do.

[redacted]. I'm going to introduce as exhibit 7 an article, dated August 31st, 2021, says -- the title is "Google dragnets harvested phone data across 13 Kenosha protests, acts of arson," and it says that the -- there were -- geofencing was in fact used during the summer of 2020 in Kenosha, Wisconsin.

[Jensen Exhibit No. 7

Was marked for identification.]

[redacted]. Is that accurate?

Mr. Jensen. I wouldn't dispute it.

[redacted]. Yeah. And then I want to introduce as Exhibit No. 8 another article. It's dated February 6th, 2021, "Minneapolis Police tapped Google to identify George Floyd protestors."

[Jensen Exhibit No. 8

Was marked for identification.]

BY [redacted]:

Q This comments on Minneapolis' Police use of geofencing during the summer of 2020. So this -- go ahead.

A I was going to say I wouldn't dispute what the article says, but I don't have direct knowledge of it.

Q Right. So, at least in two cases, we do have evidence of geofencing being used in the summer of 2020. You just don't have personal knowledge of it. Is that fair

to say?

A It is. And I think was, to my broader point, is it's a tool available, but I was not aware of it being used. Doesn't mean it wasn't. I just can't speak to it.

Q Okay. You just can't speak to it, but --

Mr. Gaetz. [redacted], what exhibit numbers are these?

[redacted]. These are Nos. 7 and 8. I think 7 is the Kenosha article, and 8 is the Minneapolis article.

Mr. Gaetz. Thank you.

BY [redacted]:

Q Are you familiar with the FBI's Domestic Investigations and Operations Guide?

A Yes.

Q And that's also referred to as the DIOG, right?

A It is.

Q Okay. So I'm going to call it the DIOG -- I'm going to refer to it as the DIOG for the rest of today, okay?

A Absolutely.

Q So the DIOG has been in effect since about 2008, correct?

A I believe so.

Q And it applies to all FBI employees and task force officers and all other individuals operating under FBI authority. Is that right?

A Yes.

Q Okay. It also applies to all domestic investigative activities conducted by the FBI, correct?

A It does.

Q And what's your -- and it applies to all domestic intelligence collection as well, correct?

A It does.

Q What's your understanding of the purpose of the DIOG?

A It's to give guidance and establish policy on the conduct of various types of investigative activities and intelligence collection requirements that the FBI has.

[redacted]. I'm going to hand you what we're going to mark as exhibit 9.

[Jensen Exhibit No. 9

Was marked for identification.]

BY [redacted]:

Q So this is an excerpt from section 3.1 of the DIOG, and it's lists the FBI's core values. Could you please read the core values A through H aloud?

A Yes. This is under 3.1 FBI core values: A is rigorous obedience to the Constitution of United States. B is respect for the dignity of all those protect. C is compassion. D is fairness. E is uncompromising personal integrity and institutional integrity. F is accountability by accepting responsibility for our actions and decisions and their consequences. G is leadership by example, both personal and professional. And H is diversity.

Q Were you familiar with these before you read these?

A Yes.

Q Throughout your career, have you worked to ensure that all of your actions as an FBI employee have adhered to these core values?

A I've tried to exemplify these to the best of my ability.

Q Do you work to ensure that your subordinates also embody these?

A Yes.

Q In your 17 -- is that right -- years of experience at the FBI, have you witnessed a similar commitment from FBI management?

A I have.

Q Is it fair to say that you, as someone with 17 years of experience in the FBI, believe that these FBI core values as we just went through them are fully understood, practiced, shared, rigorously defended, and preserved throughout the FBI?

A I do.

Q The second sentence that we have highlighted in the following paragraph says that: Our individual and institutional rigorous obedience to constitutional principles and guarantees is more important than the outcome of any single interview, search for evidence, or investigation.

Did I read that correctly?

A You did.

Q What does that sentence mean to you?

A It means what I referenced earlier about our mission, dual and simultaneous, upholding the Constitution, and protecting the United States citizens, neither can be sacrificed for the other. I mean, in this case, the goals and objectives in any one particular case can't come above our rigorous obedience to the Constitution and the protections of the United States citizens by extension.

Q Okay. In your practice as an FBI employee, how do you put that into practice in your work as an FBI employee?

A I mean, we always weigh our steps, investigative strategies against the Constitution first and foremost. And every single progress in an investigation, the strategy of the case if you will, is -- it's codified in the DIOG, but it's also in practice of least intrusive means possible to obtain an objective, and always through lawful means if

we go into higher level authorities or higher levels of intrusiveness to obtain an objective on a case. There's no side skirting the requirements under the law or the requirements limiting the government against U.S. citizens by the Constitution.

Q And then that last paragraph right above compliance, it says: We who enforce the law must not merely obey it. We have an obligation to set a moral example that those whom we protect can follow. Because the FBI's success in accomplishing its mission is directly related to the support and cooperation of those we protect, these core values are the fiber that holds together the vitality of our institution.

What do you understand this paragraph to mean?

A It's: We don't just follow it; we set an example of it, how to live it. In our professional lives, we exemplify adherence to the rule of law.

Q And, in your experience, again, the 17 years at the FBI, is that something that you've witnessed on a regular basis in your work?

A It's not only something that I've ascribed to accomplish but been motivated by the people around me to do it to a higher degree because of the example they set.

Q Thank you. Are you familiar with the term "domestic violent extremism"?

A I am.

Q It's sometimes abbreviated as DVE, correct?

A Correct.

Q I'm going to refer to it mostly as DVE going forward. How does FBI define DVE?

A Broadly speaking, a domestic violent extremist is an individual who meets the statutory definition of 18 U.S.C. 231, clearly defines what a domestic terrorist or a terrorist incident is, is motivated by a particular ideology, social or political in nature, intends to coerce or change the actions of the U.S. Government or local governments or

the social body in particular, the citizenry, and does so through force or threats of force or violence, and primarily lives with or resides in the jurisdiction of the United States' boundaries.

Q Okay. Is there a difference between a domestic terrorism case and a domestic terrorism event?

A There can be. You can open up a domestic terrorism case, traditionally a 266, on an incident, but it's not typical to do that.

Q Okay. I guess what I'm getting at is, you know, is it possible for an event such as January 6th to be seen as a domestic terrorism event, but then individual cases resulting from that might not have been domestic terrorism cases?

A Yes.

Q And can you explain how that works?

A Yes, I can. There's limited examples of it where, because of the nature of DVEs, they don't -- they typically radicalize in isolated environments and carry out an attack on their own, very low influence or support from any larger group, right? Unlike in international terrorism where you see material support either by or from a foreign terrorist organization, or they're motivated or inspired by that same terrorist organization. In DVEs, it's usually radicalized in isolation through their own personal belief system, encouraged by others, but the actions they take are of their own volition.

In some cases, you will see groups coalesce around an ideology, and they would still be investigated individually, but in the case of January 6th, where we had this large-scale incident labeled as a domestic terrorism event directed against the U.S. Government, the legislative body of the U.S. Government in session, the event itself was categorized and run by Domestic Terrorism Operations Section.

The numerous investigations that responded from that could be captured

individual conduct of every subject that was identified, and that's how we predicate all of our cases, especially in domestic terrorism. Individuals identified for allegation of Federal violations and then their specific individual conduct or ideologies where they used force or violence in furtherance of that.

Q Okay. And so you just said that the FBI does consider the events of January 6th to be a domestic terrorism event, correct?

A Yes, and I believe that was stated publicly also.

Q Who made that determination?

A I believe the Director of the FBI stated that.

Q What's your understanding of why he classified it in that way?

A So I think it was based -- again, I can't state the specific reasons why he said it other than the event that day of a large group of individuals directing numerous crimes, both violent and somewhat passive crimes of trespassing directly against the legislative body of the U.S. Government.

Q You keep saying the "legislative body of the U.S. Government." Is that important here?

A It's the United States Capitol, but in particular, a portion of that body was in session that day to certify the election results. And so they were conducting the business of the people that day. It was a hearing to certify the election, and the disruptive nature of what occurred that day stalled, at a minimum, definitely caused the disruption in the execution of their duties as that legislative branch.

Q And so, it's -- so you would agree that the fact that Congress was in session, that Congress was certifying the vote, was a specific factor in the reason that this was a domestic terrorism event?

A I think it plays a role in that because actions of individuals who participated

in criminal conduct that day, to be determined through individual investigations, motivated to stop the certification process, and in fact, large groups of individuals were actually chanting to that effect "stop the steal" or specifically targeting individuals of Members of Congress that day, in some cases the Vice President that day, to prevent them from carrying out their specific duties under the Constitution.

[redacted]. I want to introduce as exhibit No. 10 a statement that the FBI Director released on January 7th, 2021.

[Jensen Exhibit No. 10

Was marked for identification.]

BY [redacted]:

Q Have you seen this before?

A I can't say that I have.

Q I'll give you a minute to look through it.

The very first sentence of this reads: The violence and destruction of property at the U.S. Capitol Building yesterday showed a blatant and appalling disregard for our institutions of government and the orderly administration of the democratic process.

Correct?

A Yes.

Q Do you agree that the attack on the Capitol on January 6th showed a blatant and appalling disregard for institutions of government and the orderly administration of the democratic process?

A I do.

Q Do you think that it was appropriate for the FBI to be very concerned about that?

A Yes.

Q The next sentence reads: As we've said consistently, we do not tolerate violent agitators and extremists who use the guise of First Amendment protected activity to incite violence and wreak havoc. Such behavior betrays the value of our democracy.

Did I read that correctly?

A You did.

Q In my prior hour of questioning, we talked through the First Amendment protections, and you confirmed that the FBI cannot and will not open cases based solely on first amendment activity, correct?

A That's correct.

Q But, again, the First Amendment does not apply to acts of violence, correct?

A Correct.

Q And it doesn't apply to criminal conduct, correct?

A Correct.

Q So somebody trespassing, for example, you know, we've heard allegations that people that were just walking around in the Capitol were just exercising their First Amendment rights. Do you have a response to that?

A I do have a response. Known or unknown to individuals that day, depending on when they entered the Capitol, it was a restricted area, originally protected by Capitol Police and other law enforcement agents. I'm not aware of any time in recent history where general citizens can just walk into the Capitol unescorted and not be charged with trespass. And, on that day in particular, the large number of people who entered through broken facilities to gain access into the Capitol demonstrates criminal conduct occurred at least leading up to that event and then, by mere presence in the Capitol, was, in fact, trespassing by nature. And that's where we started, was anybody who entered the Capitol that day at a minimum had been in violation of trespass on the

U.S. Capitol.

Q The second paragraph of the FBI Director's January 7th statement reads: Let me assure the American people the FBI has deployed our full investigative resources and is working closely with our Federal, State, and local partners to aggressively pursue those involved in criminal activity during the events of January 6th.

Correct?

A Yes.

Q In your opinion, did FBI leadership take the events of January 6th pretty seriously?

A Very seriously.

Q Why do you think that was?

A At the time, it was viewed as a direct attack against a branch of our Federal Government, particularly disrupting a hearing that was in session certifying the election results of the most recent Presidential election, and the potential implications it had for the pending inauguration and other unrest that might result if it went unaddressed.

Q In your opinion, was the response proportional to what happened on January 6th?

A It was proportional and scalable to what occurred.

Q What do you mean by scalable?

A Meaning, based on the large number of individuals that entered the Capitol at least at a minimum in violation of trespass but implicated in other potential crimes, the need to surge resources not only at headquarters but at Washington Field Office to triage the volume of evidence to identify any one individual responsible but also scalable in our personnel in particular to identify those individuals responsible for any coordination, preplanning, or instigating that particular act against the U.S. Capitol that day, and in

more egregious conduct the assaults on the Federal police officers that day.

[redacted]. I want to introduce as exhibit 11 a March 3rd, 2023, letter from the FBI's Office of Congressional Affairs to Mr. Jordan, and I'll give you a minute to review it.

[Jensen Exhibit No. 11

Was marked for identification.]

BY [redacted]:

Q You're ready to continue?

A Uh-huh.

Q The letter references the Counterterrorism Program Guide. Are you familiar with the Counterterrorism Program Guide?

A I am.

Q It's sometimes abbreviated as the CTPG, correct?

A Yes.

Q Does the CTPG provide guidance for how domestic terrorism investigations should be managed?

A It does.

Q Okay. Does the DIOG also apply to those investigations?

A It does. The DIOG is an umbrella. The Counterterrorism Guide is a subset of the DIOG.

Q Okay. So, for example, the DIOG lays out predication levels for an assessment, a preliminary investigation, or a full investigation, correct?

A Yes.

Q So the predication levels, when an agent in the field is determining whether to open an assessment or whether to pursue a higher preliminary investigation or full investigation, they follow the predication levels laid out in the DIOG, right?

A They do.

Q Okay. And the DIOG also provides guidance on what investigative methods are permissible at different stages of an investigation, correct?

A That's correct.

Q Okay. So is it fair to say that both the DIOG and the CTPG are in play for investigations such as those related to January 6th?

A Yes. And, in particular, the DIOG gives general rules of operating when you have a full investigation or when you have a preliminary assessment, type one and two, or other matter. CTD program guide gets more specific, and in particular for domestic terrorism investigations, what constitutes a DT case classification and then how to conduct investigations from there inside of the CT program guide.

Q So I think we've talked through that not all the cases coming out of January 6th were CT cases, right; some of them were just criminal cases?

A Some of them were initially just criminal cases. What we encouraged field offices to do, in cases where Washington Field Office identified a subject for, say, assault on a Federal officer, and that subject was positively identified, in certain instances the Washington Field Office sent a lead for the arrest of that subject. We still encouraged field offices, even though that instant was investigated and the arrest was effected, the field office conduct additional investigative actions on what else that subject did that day because we knew they committed a crime against a police officer; we didn't know what else they were involved in: Were there known associates that needed to be investigated? What role and responsibility did this individual play in the overall attack on the Capitol, let alone just the significant incident against that one police officer?

Q And why was it important to do that for that broader investigation?

A The broader investigation paints the overall picture of what happened that

day. Clearly, determines for us from an intel perspective of what were we dealing with leading up to January 6th. If we treated each subject as a separate criminal incident identified by Washington Field Office, positively identified, getting an indictment or a complaint, and then sent out for an arrest, we would miss certain connectiveness across certain subjects.

The large group of people that entered the Capitol that day were singular offenders that entered the Capitol and were charged with trespass and, through thorough investigation, determined they didn't have connections in conspiracies. But there were those who were positively identified, both outside the Capitol who assaulted police officers and those inside the Capitol who benefited each other through precoordination, communication, and planning, and were ultimately charged with conspiracy. And, if not for the method of identifying each subject, fully investigating them for complete roles related to January 6th, and then communicating that back to Washington Field Office, we may have missed certain connectiveness across subjects.

Q Thank you.

The paragraph at the bottom of page 2 of this letter says that: The broad geographic spread of January 6th subjects in corresponding cases has necessitated substantial coordination and information sharing among the FBI's 56 field offices.

Based on your experience, is this an accurate statement?

A Yes. I'm sorry. Can you direct me to the paragraph?

Q It's the bottom of page 2.

A I got it. Yes. That is accurate.

Q Okay. So what was the geographical spread of January 6th subjects?

A I mean, one of the first subjects positively identified and arrested was taken at the airport by FBI personnel and a local police department in Hawaii. And that was

within a day or two after January 6th. So very quickly we realized all 56 field offices are going to have a role in this, not only in conducting arrests but the thorough investigations that were required.

Q Given that broad geographic spread, why was coordination among the field offices so -- for example, through these regular calls -- why was coordination so important?

A From my perspective, coordination was important because I've been part of critical incident responses before where I've only received a lead, and I've answered the lead, but I didn't have full context of what was occurring, and I can accomplish the objective, but I can probably accomplish much more with my fellow FBI agents if I knew more about the incident.

Being in charge of our response to this incident, that centralized communication strategy, ensuring that all field office management at a minimum and chief division counsel's offices were aware of the most recent updates that we had as this investigation unfolded and as our strategy progressed, evolved, that they knew the most recent updates so they could respond accordingly with their personnel. That centralized communication plan was the only way I saw conducting thorough and effective investigations on every subject that was implicated in January 6th to give that common operating picture of what actually occurred that day: Was this truly a mob mentality? Was this a combination of various things that contributed to it that day? And were there broader conspiracies at play? A lot of that in those early moments were unknown.

Q And so it was your job to try and disentangle it, correct?

A I think it was my job to help create a platform for that disentanglement. The thorough investigations provide that that. And that's why that common operating picture was so important.

Q So the paragraph at the bottom of page 2 of this letter continues that the FBI received more than 200,000 digital media tips from the public after January 6th, constituting some of the highest daily tip volume in the FBI's history. Is this consistent with your knowledge of the tips received after January 6th?

A It is.

Q Okay. And that refers just to digital media clips. Did FBI also receive a substantial amount of tips via phone?

A We did. We received tips via phone. Field offices received separate that didn't go to NTOC. And these are just digital media clips that came in, video clips or screen grabs from internet sleuths and concerned citizens that were trying to help identify people that conducted crime on that day.

Q Would you describe this as a substantial volume of tips?

A I mean, to this report, it is the highest daily tip volumes in FBI's history.

Q Did this volume of incoming tips and presumably other evidence that you were collecting also make it important for FBI to ensure that the field offices were coordinating effectively?

A It necessitated it. We recognized very early on that the digital media evidence was paramount to identifying subjects responsible for certain criminal activity. Having processes in place, not only for identifying the subjects, collecting that evidence that was pertinent to that subject, but the inevitable discovery implications across multiple defendants, needed to be thought about and actioned at the onset, and that was important for that common operating picture as well, thinking long term about the inevitable prosecutions.

Q When you say it had to be -- I'm sorry. You said at the onset, it has to be addressed at the onset. Is that what you just said?

A Right. So the digital media evidence where one individual was seen in certain corridors of the Capitol positively identified, there could be any number of other defendants that are ultimately in that same area, and we needed an ability to provide discovery through the U.S. Attorney's Office to potentially multiple defense attorneys. And the implications of that environment of digital media was tremendous. So how can we narrow it down to make sure that it is specific to that subject but also implicating -- I shouldn't say "implicating" -- if it had any additional information, whether inculpatory or exculpatory for other defendants, that it was available to them as well. And the reason is early defendants identified, arrested, and prosecuted, whether they pled out or went to trial, had access to certain information. By the time we get all the way down the road in, let's say, the last defendants identified, arrested, and prosecuted, they had the benefit of the total volume, and we needed that total volume for everybody.

Q Okay. So part of this is actually to ensure that defendants had access to evidence that was appropriate for their case?

A And we knew everything that was reasonably available to us at the time the defendant was identified was taken into account.

Q We talked a little bit about the coordination calls earlier. Mr. Jensen, do you recall ever saying anything along the lines of, you know, "I don't give a blank, these people are goddamn terrorists, we're going to round them up"?

A No.

Q Is that something you ever would have said?

A No.

Q Do you swear?

A I don't.

Q There have been allegations that January 6th was, quote, an inside job

conducted by the FBI. Do you have a reaction to that?

A I have numerous reactions to that. The one that I will stand by is the test of time when all of the cases are fully adjudicated, in the light of day of all the evidence, the American public will know that we did the right thing for the right reason in the right manner, not only to uphold our system of government but to protect the institutions that were put in place for the United States citizens. The FBI wouldn't be part of criminal conduct. We don't support it. We investigate it.

Q Over the course of your career, have you been in personal danger through your work ever?

A I have.

Q Do you find it insulting at all that people would suggest that January 6th might be an inside job?

A Personally, I have opinions. Professionally, I have thick skin, and no matter what insults are thrown at us, we do the job that we were tasked with.

Q I want to turn briefly to the conversation at the end of the last hour about field offices being directed to open cases or providing guidance on opening cases. You would agree that, if the FBI has knowledge that an individual has committed an actual crime, has strong evidence that an individual has committed a crime, the FBI is obligated to open a case on that individual?

A It's a little tricky.

Q Okay.

A We have an obligation to conduct an analysis of that, right?

Q Yup.

A There are times when we know or suspect an individual, there's a strong allegation that an individual conducted a crime, but we would defer to a State or local

partner. In the case of January 6th, all of those crimes were Federal in nature. They were solely the responsibility of FBI. We were the ones tasked with investigating and presenting them for prosecution through the U.S. Attorney's Office. So we did have an obligation as the Federal Bureau of Investigation across all 56 offices to respond in a uniformed manner.

Q Why was it important to respond in a uniformed manner?

A Consistency in how each subject was treated, consistency of process that there weren't a difference -- excuse me, there wasn't a different in actioning certain leads in one field office versus another, that everybody, every lead, every piece of information was treated the same so that it would stand the test of time, not only in front of a court but ultimately for what we do in support of the American people.

Q Did you ever pressure any field office to take any investigative steps that they weren't comfortable taking?

A No.

Q Did you ever threaten any kind of retaliation against a field office if they didn't take investigative steps they weren't comfortable taking?

A No, and I'm not sure what kind of retaliation would have been available to me.

Q Okay. You didn't, for example -- well, I won't give a hypothetical. Did you ever witness FBI management, so any of your superiors, pressuring any field office to take any investigative steps they weren't comfortable with?

A No.

Q Did you ever witness anybody at the Washington Field Office pressuring another field office take investigative steps they weren't comfortable taking?

A No.

Q Okay. To your knowledge, did any FBI management -- anyone in FBI management ever threaten to, for example, demote a special agent in charge if they didn't -- if their field office didn't take a particular investigative step?

A Not to my knowledge.

Q We'll move on.

A I can add this, if you have a minute?

Q Sure.

A Any time there's a multiple jurisdictional investigation, meaning there's investigators from multiple field offices, there's going to be, just by nature, disagreements on strategy on an investigation. The FBI I grew up in and the one that I currently see encourages discourse about strategy. The old adage that as iron sharpens iron, so one sharpens another, right? We encourage that kind of discourse in our agency where time allows.

Outside of critical incident response and having to take lifesaving measures, we often have the luxury of challenging assumptions inside of our organization to make sure we have the best investigative strategy possible. That's why CDCs and ADCs are often engaged on the onset of an investigative strategy. So it's not uncommon in these coordination -- I don't want to say these coordination calls for January 6th because those were different -- in coordination across multiple jurisdictional investigations, for field offices to have disagreements over timing of arrests, the next investigative strategy because they have interest in the subject that they're responsible for, and there are still steps that they want to take and might not be ready for a takedown. Our role in headquarters is to help level that across those field offices and ensure no unilateral action is taken that unnecessarily jeopardizes one investigation over the other or potentially puts any of our people or partners in harm's way, right?

And so we handle those coordinations across field offices. It's usually at the special agent, analyst, and supervisor level. Occasionally, it will rise up to the assistant special agent in charge level for a better understanding of what the overall picture and intent is designed to be, and then how do we get that objective. But these are not -- they're not contentious, in my opinion. They're normal standard operating business for clarification purposes and for next steps purposes.

Q So it would be the case, right, that part of your role at FBI Headquarters, you have visibility across all 56 field offices and I guess across different headquarters components as well, right?

A I did.

Q When you were in the position as DTOC section chief, and it may be the case that an individual who is maybe a line agent or a case agent in a field office wouldn't have that visibility, correct?

A It is safe to say a line agent wouldn't have the same perspective that I had overseeing numerous cases versus the one case they're working on.

Q So you're able to look at a variety of cases and ensure consistency and ensure that standards are being met in a way that somebody who is focused solely on one case in a field office might not be able to, correct?

A It is correct by extension of my team managing those cases, right, and informing me --

Q Right.

A But, yes, ultimately, that is correct.

Q And this is the kind of dialogue, is that a fair way to describe it, that you just explained, conversations?

A Uh-huh.

Q That dialogue is standard operating procedure in all cases, right?

A In most cases, especially where you have subjects in multiple field offices striving towards a common objective of a disruption, an arrest, or search warrants and timing of search warrants so that the subject doesn't get tipped off. Those investigative steps and strategies need to be coordinated, and not everybody agrees, but ultimately we find a way to press forward and come up with a reasonable compromise in those cases.

Q I want to switch gears a little bit and talk about the Threat Review and Prioritization Process. Are you familiar be that?

A I am.

Q It's sometimes referred to as the TRP Process, correct?

A Yes.

Q In your roll as DTOC section chief, were you involved in the Threat Review and Prioritization Process?

A At headquarters and in giving review to field offices.

Q Okay. The TRP Process relies on intelligence, right?

A It does.

Q Can you talk through how the TRP Process works?

A So it's multifaceted, but typically, at a field office level, the intel components will conduct a review of various factors to include open cases, outcomes of cases, raw intelligence, and refined intelligence that paint a threat picture, and how present, persistent is that threat in the AOR.

The report that's drafted by intel will give a domain assessment; so, in that area of responsibility, what are the implications of that threat to that field office and then ultimately a recommendation of how the field office should respond to that threat. So, in an emerging threat situation, does the field office need to maintain a persistent status

because we're already addressing the threat but keep it consistent so we don't lose effort on that threat, or do we need to surge resources on a known persistent threat, but an uptick of the threat reporting, do we need to have any response to that? And, vice versa, if the threat is diminishing, are we having the right impact on that threat, and should we continue to pursue it until it's gone?

Q In your opinion, is the TRP Process a reliable way to assess the size of a threat?

A I think it is reliable. It's a valuable tool in informing me as a manager of the field office, also in the role of Domestic Terrorism section chief, broadly how increased of a threat picture we're dealing with.

[redacted]. We can go off the record.

[Recess.]

[2:21 p.m.]

Mr. Gaetz. We're back on the record. I want to go back to some of the geofence capabilities we talked about during the majority's last hour, and I think what you said is that the technology is so precise that one can determine whether or not a digital device was literally on the Capitol Grounds. Am I understanding your testimony correctly?

Mr. Jensen. Yes. It was precise within a couple -- I don't want to say meters or feet, but it was close.

Mr. Gaetz. That's what I'm trying to figure out. If someone was walking up Independence Avenue, that's only a few feet from Federal property. So how would one know whether or not they had committed a violation of Federal law based on geofencing alone?

Mr. Jensen. So it's an indicator; it's not a predicator by itself. So it warrants additional review, but there were certain cases, many cases, where it's very much inside the restricted area of the Capitol, internal to the Capitol Building itself, very clear in those cases. But still I think it's important to note, and I don't mean to eat up your time, but it's important to note the presence of the device doesn't automatically imply the person who owns the device was there. We still need to put an end user to that device that was hitting inside the geofence.

Mr. Gaetz. You testified in the last hour of the majority's time that sometimes that digital information was the only predication sent to a field office, right?

Mr. Jensen. The initial tip. Yes, sir.

Mr. Gaetz. So, if you're saying now it's not predication by itself, but sometimes it was the only evidence that existed, why would that be the basis of you directing someone in a field office to open an investigation?

Mr. Jensen. Yeah. And so it's a great point of clarification. I appreciate the opportunity. The direction provided is not: On that alone, open an investigation.

Where there's sufficient evidence to support the fact that an individual person -- that's why I wanted to clarify the device itself does not imply the person was there until we can definitively say so. So it's individual conduct for the crime that was committed. And, once we have that, then we should predicate a full investigation and use broader resources to fully investigate that individual.

Mr. Gaetz. Just so I understand it completely then, in the hundreds of cases that you directed to be opened, were any of those cases directed to be opened solely based on digital geofenced information?

Mr. Jensen. Yeah. And, again, I'm married to that term "directed." It's the term that I used, and I'll stick to it. The reality of the situation from the evidence gathered was tips and leads were going out to the field offices for action to evaluate: Did this device or individual identified participate in criminal conduct? And, if so, then open these types of cases. These are the options you have, but a case should be opened and provided to the U.S. Attorney's Office.

That's the directive part. We are doing this.

But not directing specific "you must on this limited piece of information," and that's still discretionary to the individual field office who receives that tip or lead to fully evaluate that information against the other knowns and determine what individual, if any, entered the Capitol and under what circumstances.

Mr. Gaetz. Is intent an element of criminal trespassing?

Mr. Jensen. I would have to check the actual statute and review it.

Mr. Gaetz. That's some kind of mens rea, right?

Mr. Jensen. There are certain crimes that are prima facia, and I would have to

check the statute to give you a direct answer on that one.

Mr. Gaetz. Well, it seems like -- I mean, if you were -- if you were indicating that every person that was in the Capitol had committed a violation of Federal criminal law, it seems as though you made that determination in the absence of an evaluation of intent. Is that fair?

Mr. Jensen. It's not fully fair. Yes, the assumption being made that the Federal violation that we would investigate at a minimum was trespass for entering a federally protected facility. Whether or not that would ultimately be charged, but that gives us the Federal violation that is alleged to have occurred to open an investigations.

Mr. Gaetz. Right. But to evaluate whether or not that violation has occurred, don't you have to know the elements of the violation?

Mr. Jensen. You do.

Mr. Gaetz. Do you know them?

Mr. Jensen. I'm sure that I did in providing guidance out to the field, but right now I haven't reviewed that statute in support of this testimony, and I wouldn't want to speak incorrectly without reviewing that statute.

Mr. Gaetz. Did you ever give direction to any field offices to evaluate the intent of people who might have been on the Capitol Grounds?

Mr. Jensen. Well, it's normal course -- I did not, to answer your question, but it's a normal course of investigative activity to determine what role they had there, and that was guidance that I provided to the field. And every case that we opened to evaluate those individuals for additional conduct, where they were working in coordination or conspiratorially with others.

Mr. Gaetz. Were you ever involved in any discussions with the FBI where the nature of people's intent to commit a violation of Federal law was discussed?

Mr. Jensen. Related to January 6th?

Mr. Gaetz. Yes.

Mr. Jensen. None that come to mind directly, sir.

Mr. Gaetz. Are you aware that, on January 6th, before some people had arrived on Capitol Grounds, barriers that were previously erected had been removed?

Mr. Jensen. I'm not aware.

Mr. Gaetz. So you haven't seen the videos of --

Mr. Jensen. I'm sorry. You mean, before the crowd moved up, the barriers were removed, or before they entered the Capitol?

Mr. Gaetz. I'll represent to you that, as the group of people were walking from the Ellipse to the Capitol, that some of the initial people who arrived removed barriers. I'll further represent to you that barriers were moved at times by Capitol Police. Is that news to you?

Mr. Jensen. It is not. I am aware of that, sir.

Mr. Gaetz. Okay. So how did you evaluate the removal of those barriers in the determination as to whether or not a particular individual intended to break the law?

Mr. Jensen. That was a clear point of discussion between myself and DOJ, especially as we were providing that early guidance to the field about what potential statutes would apply. And, for me, there needed to be a bright line. And that bright line for me was the walls of the Capitol, the doors of the Capitol, the windows of the Capitol that were clearly breached and not open to the general public.

Anybody who entered the Grounds of the Capitol in that restricted area might not have known that it was restricted by the time they got there, and I fully understood that and recognized the backside of the crowd might not have had any idea. But that backside of the crowd, if they entered the Capitol that day, still should have known it's off

limits to the general public. But is not evidence of a crime in and of itself. It needs to be further evaluated if they entered the Capitol that day and investigated by that local field office. That's the direction that was provided, and where criminal culpability was established, a full investigation to evaluate in totality the circumstances.

[2:28 p.m.]

Mr. Gaetz. Were any Americans charged for violations of Federal criminal law on January 6th who did not enter the Capitol?

Mr. Jensen. Yes.

Mr. Gaetz. And were any of those people who were charged not engaged in violence?

Mr. Jensen. That I'm not sure about. To my knowledge, the ones that specifically were charged outside of the Capitol were engaged in assaults on police officers or damage to property of the Capitol grounds. And so, by that, it might not be considered violent, but it was criminal in nature.

[redacted]. Do you have a specific understanding of all the January 6th cases that have been charged since the time you left --

Mr. Jensen. I don't.

[redacted]. -- DTOS?

Mr. Jensen. I don't.

Mr. Gaetz. But if someone were on the Capitol grounds, committed no other criminal act other than technically being on grounds that might have been previously barricaded, you wouldn't give direction in those matters to pursue criminal process to field offices, would you?

Mr. Jensen. So, like I said, the clear, bright line agreed upon between myself, the FBI, and DOJ was individuals or their devices identified inside of the Capitol was action to field offices for further investigation.

Outside of the Capitol, barring what was considered plus-up factors by the Department of Justice -- assaults on Federal officers, assault on media members, damage to specific property on Capitol grounds -- if they didn't have any of those additional

factors, we weren't investigating those people.

Mr. Gaetz. Who developed that bright line? Who were the people involved in the discussion to set that as the bright line?

Mr. Jensen. So that would've been myself, in consultation with Assistant Director Jill Sanborn and DOJ CTS attorneys. And at the time, sir, I believe it was Matt Blue who was my direct counterpart, but there could've been other attorneys that were present.

Mr. Gaetz. How did the FBI work with Bank of America in this investigation?

Mr. Jensen. We maintain partnerships with the private sector, to include Bank of America, and I'm aware that they provided information to the FBI. Outside of that, I didn't have any direct knowledge or interaction with Bank of America.

Mr. Gaetz. How did you become aware that they had provided information to the FBI?

Mr. Jensen. I became aware through one of my unit chiefs, who advised that a number of leads had gone out regarding Bank of America information of subjects -- I shouldn't say "subjects" -- of individuals identified in those leads who had certain purchase histories flagged by Bank of America to the FBI.

Mr. Gaetz. And who was that unit chief?

[redacted]. You can give the unit but not the name.

Mr. Jensen. Okay.

There was no unit at the time, because he was in charge of our headquarters' presence over Strategic Information and Operations Center.

Mr. Gaetz. Wait a second. Why can't the committee learn who gave the witness information in its Bank of America relationship?

[redacted]. As is standard practice, we're not putting names of non-SES

individuals on the record. But happy to, if the committee has additional questions of this individual, take that back and see if we can get additional information.

Mr. Gaetz. Thank you.

Did the FBI ask for this information from Bank of America?

Mr. Jensen. Not to my knowledge.

Mr. Gaetz. And do you have knowledge as to how Bank of America provided that information, the medium that they used?

Mr. Jensen. No, I don't.

Mr. Gaetz. And did you evaluate any of the Bank of America information in sending leads out to field offices?

Mr. Jensen. No.

Mr. Gaetz. What was the Bank of America information that was provided?

Mr. Jensen. My understanding -- and, again, I didn't see the information directly. I was made aware of certain leads that were sent out to field offices. I don't recall how many.

My understanding of that information was, it was certain purchaser transaction records of individuals that Bank of America provided over to the FBI that wasn't requested by the FBI. It was of their own volition.

Mr. Gaetz. So you have personal knowledge that there wasn't an FBI request?

Mr. Jensen. To my knowledge, there was not.

Mr. Gaetz. Did the FBI engage in this type of partnership with any other financial institutions as part of the January 6th investigation?

Mr. Jensen. Not to my knowledge.

Mr. Gaetz. Did Capital One provide any records to the FBI?

Mr. Jensen. That sounds very specific, but not to my knowledge.

Mr. Gaetz. So both the lead -- you do have knowledge of these Bank of America leads that went out to the field office but not any other institution.

Mr. Jensen. That's correct.

Mr. Gaetz. Okay.

What about telecommunication companies?

Mr. Jensen. We do have relationships with telecommunication companies. There's law enforcement liaisons at most telecommunication companies that deal with legal process or subpoenas issued by FBI or other law enforcement agencies.

Mr. Gaetz. And was information from telecommunication companies part of the January 6th investigation?

Mr. Jensen. I'm sure that it was. On a granular level, each individual investigation? Probably. But these are assumptions on my part, and I don't want to be misleading.

Mr. Gaetz. Yeah. I want to know as to what you have personal knowledge about.

Mr. Jensen. Yeah.

Mr. Gaetz. And so do you have personal knowledge of any telecommunications companies, of their own volition, providing data to the FBI as part of this investigation?

Mr. Jensen. No, sir.

Mr. Gaetz. And do you have any personal knowledge of the FBI requesting data from telecommunication companies as a part of this investigation?

Mr. Jensen. Yes. I mean, we had the geofence data set up. Google is a telecommunications company.

[redacted]. Are you asking outside of legal process?

Mr. Gaetz. I'm asking it in the broadest sense possible.

Mr. Jensen. I mean, I took it, in our lawful authorities for legal process. Those are the ones I'm aware of.

Mr. Gaetz. Are you aware of any field offices providing pushback to some of the Bank of America-generated leads?

Mr. Jensen. I've become aware of it, but at the time I was not.

Mr. Gaetz. And what have you become aware of?

Mr. Jensen. I've become aware of some public statements from a former FBI employee who categorized interactions between a field office and headquarters about certain leads.

Mr. Gaetz. And is that former employee George Hill?

Mr. Jensen. Yes.

Mr. Gaetz. At the time of the investigation, were you aware of the Boston Field Office's concern about the inclusion of the Bank of America records in this investigation?

Mr. Jensen. No, sir.

Mr. Gaetz. Is that normally something you would've been aware of?

Mr. Jensen. I think it would've come to my attention through the normal course of business. If Boston was truly concerned and they didn't get resolution at a lower level, it would've been flagged for my attention.

But, as I noted, one of my employees made me aware of it, and we took -- I didn't get to this part, but we took immediate action to pull those leads out of our system.

Mr. Gaetz. When was that?

Mr. Jensen. It was immediate upon finding out that those leads existed. I don't know the date. It was a verbal briefing that I received.

Mr. Gaetz. From who?

Mr. Jensen. From one of my unit chiefs.

And my concern being, conflating information of leads going out through the normal process that we established for January 6th investigations and then a separate stream of information provided separately, right, but going out to a field office purporting to be January 6th and taking action on those as though they were part of the overarching investigation.

I didn't know how we had obtained the data at the time. I didn't --

Mr. Gaetz. Bank of America data?

Mr. Jensen. Correct. And I was concerned where it originated. So there were unknown --

Mr. Gaetz. And why did that concern you?

Mr. Jensen. Just because it wasn't coming from the normal case that we were operating under. So I wanted to know, where did it originate, how did we get our hands on it, the process that was issued to get that information.

I came to find out it was provided by Bank of America directly to us without any process being issued. It was them providing it to a law enforcement agency. And those leads were cut by another unit that were not directly involved in the oversight and management of January 6th.

Mr. Gaetz. And which unit was that?

Mr. Jensen. There's a -- it's a unit in a section. The section was the Strategic Partner Engagement Section of Counterterrorism Division.

Mr. Gaetz. Have you ever seen anything like that before, where a large financial institution provided huge swaths of data without being asked?

Mr. Jensen. I couldn't categorize the amount of data because I didn't see it, didn't analyze it.

I have not been a part of that where it's been voluntarily provided, but I don't

know if it's happened before or not.

Mr. Gaetz. Have you ever had to pull back leads in the way that you did regarding the Bank of America data before?

Mr. Jensen. No, not in that nature.

Mr. Gaetz. How many leads did you pull back?

Mr. Jensen. I don't know. I just asked that all the leads relative to the Bank of America get pulled back and be further evaluated and that, additionally, any unit that thought they had information relative to January 6th coordinate with Washington Field Office and the headquarters entities responsible for it.

We couldn't be requesting field offices be unified in the strategy and then ourselves at headquarters not be unified.

Mr. Gaetz. The committee is interested in the volume and scope of these Bank of America leads.

Mr. Jensen. Uh-huh.

Mr. Gaetz. So, if we sought from the FBI how many went out, how many were pulled back, is that data somewhere in the FBI's possession, custody, and control?

Mr. Jensen. I would imagine it is. When a lead is sent through our system of record, there's a permanent record of it.

Mr. Gaetz. Thank you.

[redacted]?

[redacted]. Can I just --

[redacted]. Sure.

BY [redacted]:

Q You would agree that if someone was exercising their First Amendment rights and they were on the Ellipse, they maybe walked down to the Capitol but didn't

approach the Capitol grounds, there's no predication for an FBI visit? Is that correct?

A I mean, as a general rule, anybody engaged in First Amendment activity is protected.

Q Right.

A Yes.

Q And if somebody engaged purely in First Amendment activity and you got a visit from an FBI agent, that would be chilling, wouldn't it?

A Not necessarily. The manner in which the engagement occurs -- and it wouldn't be out of the realm of possibility -- we're speaking hypothetically, but based on my knowledge and experience, if somebody is a bystander engaged in First Amendment activity of a broader construct and potentially was in a position to see something, it wouldn't be chilling for me to go ask them what they saw, because I'm trying to conduct an investigation of other criminal conduct. It doesn't mean they have to engage with me, but it's not focused on them; it's focused on conduct observed.

Q If an individual was identified because they used their Bank of America debit card in Washington, D.C, on January 6th, but that's all you have, you would agree that that's not enough information to go speak with that person about their role in illegal activities on January 6th?

A My concern in those instances where Bank of America data was used to initiate leads is that the leads lacked allegations of Federal criminal conduct. Contact by an FBI agent can be consensual at any time, right, but sending leads out based solely on information of purchase history that have no attachment of potential crimes or criminal conduct is what was concerning to me.

Q Are you aware of the allegation that the Boston Field Office pushed back on the Washington Field Office's request that they open up at least a preliminary

investigation on a number of Bostonians that had traveled by bus from Boston to Washington?

A Yes, sir.

Q And what can you tell us about that?

A So it surrounds a number of individuals that are affiliated with a group, and I know the name of the group has been out there, but that's not the focal point of anything I was interested in. There were known predicated subjects that traveled on that bus, and there were other known and unknown subjects that were believed to have participated in criminal conduct on January 6th at the U.S. Capitol.

There were a couple requests that went to Boston Field Office -- first and foremost, on the predicated subjects, further investigation into their activities and coordination with Washington Field Office on those activities; the known or unknown subjects, based on either cell phone data from the geofence or other means of identifying -- social media and other means -- of passengers on that bus, to conduct additional investigative efforts to identify them and determine whether it warranted a full investigation. So those were tips and leads.

And, then, as for the other passengers on the bus, assess them for their conduct on that day. Did they witness something that would be beneficial to our overall investigation -- in other words, they were witnesses and could be interviewed? Or was there other indications that more people on those bus rides participated in criminal conduct?

Q So you think it would be perfectly appropriate to go interview some of the bus passengers that you had no other information on other than they simply took the bus trip?

A Potentially. Proximity to the known subjects; proximity to some of the

other subjects that might've been identified for participation in criminal conduct. Whether they overheard conversations or they had information relative to our ongoing investigations, those are viable interviews.

Q What's your reaction, then, to the Boston Field Office pushing back and said, no, we're not going to go interview everyone on that bus unless there is a valid predicate?

A Again, the communications between field offices is normal on large-scale investigations. And for one office to say, for whatever reason -- resource allocation or time and intensity for people that are not involved -- it's not an investigative step worthwhile, that's wholly up to the investigating field office and appropriate, unless there's additional context that can be provided from other perspectives that they're not aware of.

Q Uh-huh.

A And, in this case, I don't believe there was. And so it was proper communication at the right levels to say, this is what we can and will do --

Q Uh-huh.

A -- and this is too far, based on our personnel or other reasons.

Q Okay. So you're fine with Bonavolonta, or whoever the special agent in charge was in Boston, agreeing with his personnel that we're not going to go and talk to everybody on the bus?

A I think that's an investigative call and determined, if it was by Bonavolonta, appropriately based on his assessment.

Q Okay.

BY [redacted]:

Q During your tenure working at headquarters and interacting with the WFO, did you ever have occasion to interact with Assistant Special Agent in Charge Timothy

Thibault?

A I did.

Q And how often would you interact?

A Mr. Thibault was an assistant section chief in Counterterrorism Division at the time, though not one of mine. He was in a different section. And I had occasional interaction with him.

Q Uh-huh.

A I believe he was in charge of International Terrorism Operations Section II, which handled most extraterritorial investigations for International Terrorism.

There were certain instances where we had case overlap between domestic terrorism operations and travelers going overseas. And those were my interactions with him -- just coordination of our efforts in foreign countries.

Q And did you ever interact with him when he was an assistant special agent in charge at the WFO?

A Not to my recollection.

Q And are you aware of allegations that ASAC Thibault used his official title on social media to make some political posts?

A I am.

Q And what is your reaction to that?

A I don't know that I have a reaction to that. He made some choices -- and, in my opinion, made choices that I wouldn't make -- blending personal life and professional life.

Q And are you aware of allegations that ASAC Thibault let his political leanings seep into how he conducted public corruption investigations?

A I'm aware of the allegations.

Q And when you had occasion to interact with him, did you view him as unbiased?

A I viewed him as a consummate professional, very well tenured in the FBI, knowledgeable over the programs that he was responsible for.

Q Uh-huh.

A And I say "professional" in the sense that he was always measured in his responses when working with me on joint matters. And that was the extent of my communications with him.

Q And during your tenure at headquarters and interaction with the WFO, did you ever have occasion to interact with Assistant Director Steven D'Antuono?

A Yes.

Q And how often did you interact with him?

A So I believe his first day was also around January 4th, maybe just before that. Shortly after January 6th, we had daily link-up calls between myself, him, some of his executive staff, and the U.S. Attorney's Office criminal chief.

Q What did you understand his role in the January 6th investigations to be?

A Well, he was the division head over Washington Field Office and oversaw the personnel allocation towards the main effort; some of the additional investigations, like the pipe bomb investigations, of staffing; and continuing to operate Washington Field Office on a day-to-day basis.

Q Uh-huh. And how closely would you say that he interacted with headquarters and your -- the Domestic Terrorism Operations Section as well?

A In my observations, I measured it as daily. Many of my interactions with executive management on the seventh floor of headquarters, the Deputy Director or Director, were often in coordination with Mr. D'Antuono.

Q Okay.

Mr. Gaetz, any more questions?

Mr. Gaetz. Yes.

You testified about Mr. Thibault's blending of personal life and political life. What did you mean by that?

Mr. Jensen. I think the allegation she asked if I was aware of, where certain -- using his title on social media posts that implied certain political opinions.

Mr. Gaetz. Other than using his title in social media posts, did you ever observe any other way in which Mr. Thibault blended political life with professional life?

Mr. Jensen. No, sir.

Mr. Gaetz. That was the only one?

Mr. Jensen. That's the only one, and because it was made public.

Mr. Gaetz. Do you follow Mr. Thibault on Twitter?

Mr. Jensen. I don't have Twitter.

Mr. Gaetz. But you're aware of these tweets, based on media reports?

Mr. Jensen. Yes, sir.

Mr. Gaetz. Are you aware of any other Twitter accounts that Mr. Thibault uses?

Mr. Jensen. No, sir.

Mr. Gaetz. And are you aware of Mr. Thibault utilizing the Twitter accounts of friends and others to get information into the public?

Mr. Jensen. No, sir.

Mr. Gaetz. Would that surprise you?

Mr. Jensen. I'd like to say it would surprise me, but not much surprises me these days.

Mr. Gaetz. What a lovely place for me to end.

BY [redacted]:

Q Mr. Thibault's -- you know, there have been allegations that he was instructing his personnel to limit activity on certain politically charged cases. Do you have any awareness of that?

A I don't.

Q Have you ever heard that allegation?

A Only, I believe, what was made public to me.

Q How well did you know Mr. Thibault?

A Not well.

Q So you just had occasional interaction with him?

A Professional contact.

Q Right. Okay.

Going back to the Boston --

A And, I'm sorry, I think also physical locations. I was at headquarters; he was at an offsite in McLean, Virginia --

Q Okay.

A -- right? So proximity is also a limiting factor in our interactions.

Q Okay.

Going back to the Boston Field Office --

A Yes, sir.

Q -- topic, we had a witness tell us when they were discussing the bus trip -- it was related to us that the Boston Field Office related to the Washington Field Office, "Hey, if you've got photos, if you've got video of any of these bus passengers in the Capitol, send them to us, and we will open up an investigation."

Were you aware of that level of detail?

A I've become aware of that. I was not at the time.

It is also a common request that we got from field offices. "I've got this limited lead. Do you have more?" And the system that we put in place, if they followed the instructions, allowed them to access that information.

Q Okay. And you came to learn that just from press reports?

A I believe so, yes, sir.

Q And it was related to us that Washington Field Office told the Boston Field Office personnel that, we can't do that, we can't give you photos or video, because there could be undercovers captured in the footage.

Are you familiar with that?

A I'm not, outside of what was made known to me recently.

Q And the implication was that there were enough undercovers in the Capitol that any amount of footage that you shared, you know, could compromise an undercover, that there's a high volume of undercovers in the Capitol.

Are you aware of the volume of undercovers or confidential human sources that were in the Capitol?

A No, sir.

Q Is it a big number?

A Well, I'm not aware.

Q So you're not -- you don't know if it's 1 or 100?

A It's not something that I was ever made aware of in setting up the video system. And I didn't set it up, but I was part of making it available.

One of the limiting factors of that video system, based on the internal workings of the surveillance system of the Capitol, is the number of angles on any given corridor or doorway. Without a known specific point of entry of a subject or a potential location

inside the Capitol, an individual investigator might have to look through several thousand hours of video without a direct timestamp.

And so, if we could narrow that down --

Q Right.

A -- working with the Capitol Police, Washington Field Office could direct them to the specific locations of the video feeds to look for their subject and then go backwards and forwards and determine all the movements of their subject in the Capitol.

That's my understanding of limitations on that system that was put in place, but not for other reasons.

Q Okay.

Are you familiar with the Ray Epps saga?

A I am familiar based on media reporting, sir.

Q So the only thing you know about Ray Epps is what you've heard from media reports?

A That's correct. And then, I believe, a statement publicly made by the FBI officially about Ray Epps. But I don't have any additional outside of that.

Q Do you know what the FBI public pronouncement was?

A I didn't see it, and I don't have a copy of it, sir.

Q Do you know if Mr. Epps was a confidential human source for the FBI?

A I don't know, and if I did, I wouldn't be in a position to make a comment outside of what was already provided.

Q And so you also don't know or won't tell us whether Mr. Epps was an undercover FBI asset?

A Again, I'm fortunately in a position where I don't know.

Q Okay.

A But, again, not in a position to talk about sources, undercovers, or techniques --

Q Okay.

A -- for security reasons.

Q Well, if you don't know, that covers it.

Mr. Gaetz. How did the FBI use FISA in the January 6th investigation?

Mr. Jensen. I'm not aware that FISA was used in January 6th.

Mr. Gaetz. So raw foreign intelligence wasn't searched by the FBI?

Mr. Jensen. So I'm aware of a couple isolated incidents where an individual was searching records and searched FISA information, but I don't believe it was an intentional search for information of FISA material against January 6th subjects.

Mr. Gaetz. Tell me what you know about that incident.

Mr. Jensen. Outside of what I just described, I don't -- I don't recall the details. I couldn't tell you which field office it was. But it was flagged for my awareness.

Mr. Gaetz. So you only know of one case in the entire January 6th investigation where someone searched information that had been collected pursuant to 702 FISA, correct?

Mr. Jensen. So I should be clear: I'm not sure if it was a case or if it was a subject that they were looking for additional information on -- database queries that are authorized under our various policies. But I'm aware of one instance where a search was conducted and it implied FISA information, but I don't believe, based on the circumstances, that it was an intentional search of FISA records for that record.

Mr. Gaetz. In the scope of your January 6th investigation, did you investigate whether or not foreign entities had inspired or coordinated features of the riot?

Mr. Jensen. That's where I would direct you to the Foreign Influence Task Force.

They were run out of Counterterrorism Division. They were established for that purpose. And we had an imbedded analyst on the task force.

There were meetings and coordinations with the FITF, as we call it. But they were primarily responsible for any foreign influence related to subjects or threat streams related to January 6th.

Mr. Gaetz. How often did you meet with the FITF in the January 6th investigation?

Mr. Jensen. It was infrequent, and I would say probably a monthly briefing. But we typically met on a monthly basis in normal course of business.

Mr. Gaetz. And did you ever come to believe that the FITF may have been searching information collected pursuant to 702 FISA authorities?

Mr. Jensen. That I wouldn't know, sir.

Mr. Gaetz. Are you aware of the searching of information collected pursuant to 702 FISA authorities in the investigations of the violence surrounding the summer of 2020?

Mr. Jensen. No, sir.

Mr. Gaetz. So if I represent to you that, while we've been sitting here today, a court has been quite critical of the FBI's searching of information collected to 702 FISA authorities as to the January 6th investigation and the summer-of-2020 investigations, that would come as news to you?

Mr. Jensen. Outside of the incident that I already described to you. That's one that I'm aware of.

Mr. Gaetz. Would it be concerning if there were searches of information collected pursuant to 702 FISA authority on Americans that became a part of the January 6th investigation?

Mr. Jensen. So it is concerning, because we don't collect using FISA or 702 specifically, which is foreign-facing, on U.S. citizens. And knowing the processes that we have in place, I would be surprised to learn that it was intentional, versus an inadvertent search. But I don't know to the extent of what searches were conducted outside of the one that I referenced. I also don't know how voluminous that search was, whether it was one individual or multiple. But it's a precaution that we have in place on our systems now where it's an overt check in order to search -- positively search FISA systems.

[redacted]. But you can still -- if an agent or other employee is checking this database, they can still check "yes" and get the information, right?

Mr. Jensen. If you have access to the system, you can run searches on it.

Mr. Gaetz. And how many FBI employees have access to that system?

Mr. Jensen. I'm not in a position to have that number.

Mr. Gaetz. It wouldn't surprise you, though, if it was more than 10,000, would it?

Mr. Jensen. I couldn't tell you.

Mr. Gaetz. What guardrails were put into place to ensure that 702 material wasn't improperly searched, as it related to the January 6th investigation?

Mr. Jensen. That's a question I'm just not prepared for in totality. I would definitely have to get back to you on that.

Mr. Gaetz. You didn't put any guardrails in place?

Mr. Jensen. No, sir.

Mr. Gaetz. And are you aware of any of the information gathered from the searches you are aware of being used to develop any leads?

Mr. Jensen. No, sir.

Mr. Gaetz. Do --

Mr. Jensen. But I also don't know details of it. So, while I'm not aware of it, I don't know how it was used or if it was used.

Mr. Gaetz. Yeah, I'm not -- this isn't a trick question. I'm just trying to understand if you know. And --

Mr. Jensen. No, I don't.

Mr. Gaetz. -- if the answer is you don't know if it was used or not, you just know that it happened, that would suffice.

Mr. Jensen. Yes, sir.

[redacted]. We can go off the record. Thank you.

[Recess.]

[redacted]. All right. We can go back on the record. It is 3:01 p.m.

Thank you again. I know it's been a long day and you have a flight to catch.

Mr. Jensen. It's okay.

BY [redacted]:

Q Mr. Jensen, what's a voluntary interview?

A It's a consensual encounter between a law enforcement agent or officer and a citizen. And it implies that the citizen can walk away at any time and not engage in that encounter.

Q And those are sometimes conducted potentially because somebody is of interest, but also because they might have been a witness to something, correct?

A They are. And sometimes they're conducted because we're approached to conduct an interview. Somebody has information, they want to provide it, and it leads to an interview.

Q Okay. What's the level of predication that you need to conduct a voluntary interview?

A None.

Q Okay. So it's voluntary, it's the lowest level, basically?

A Yeah. It's completely at the discretion of the individual that's approached.

Q Okay.

We talked about these buses of individuals. Is it fair to say that it would've been within the FBI's authority to conduct voluntary interviews, because you conduct voluntary interviews of anybody?

A It is.

Q Okay. And some of the purpose of interviewing some of those suspects may have been just, "You might have witnessed something; tell us if you saw anything," right?

A That's absolutely true. One of the key things that I reminded the field offices about on those coordination calls is, we're still looking for a subject related to the placement of those pipe bombs. And anybody who had information and anybody that we contact who was there that day could potentially have information relative to that, outside of the actual siege on the Capitol that day.

Q So it doesn't mean that the people on those buses were necessarily predicated subjects; they might've just been witnesses to crimes.

A Very possible.

Q Okay.

There was a question about additional information and the request for additional information. Additional information actually was provided to the Boston Field Office, right?

A In regards to?

Q In regards to the individuals on the buses.

A I think additional information was provided on some of the passengers, not all the passengers.

Q Right. So Boston asked for additional information, and where you had it, you provided it to them. Is that correct?

A I believe so, yes.

Q Okay.

With respect to the Bank of America list, do you have any knowledge of any field offices actually taking any action based on that list?

A I don't.

Q Okay. So you don't know if any field office actually went out and interviewed anybody based on that list?

A I don't.

Q Okay.

How quickly -- I want to get a better sense of the timeframe here. So you learned about the list from a unit chief, you said?

A Correct.

Q And did you immediately act to pull it back?

A As soon as I was briefed on it, my request was that the unit who sent it out pull all the leads back --

Q Okay.

A -- relative to Bank of America, and I was informed that that was already in process.

Q Oh, okay.

A My team anticipated my response and had already started to pull those back.

Q Okay. So you don't know how long the list was circulating, but as soon as your team learned about it, they immediately took action to pull it back?

A Correct.

Q And that was in accordance with what you would've wanted?

A Yes.

Q Okay.

Are you familiar with the difference between an assessment, a preliminary investigation, and a full investigation?

A I am. I often consult the DIOG for clarification, but, yes, I am.

Q Okay. What's your understanding of the level of predication required for an assessment?

A It's a factual basis indicating somebody may have been involved in criminal activity.

Q Okay. What investigative steps can be taken?

A They're limited. And we have a flowchart --

Q Yep.

A -- that goes through what process is. To be specific, I would want to consult the DIOG and give that to you, but it is very limited, what you can do.

Typically, in those three categories, outside of a full investigation, you can conduct a consensual interview; you can potentially do limited surveillance to develop a pattern of life or other means. But unless there is additional levels of predication, you can't engage in more intrusive investigative techniques.

Q Okay.

In the case of January 6th, was the DIOG guidance regarding predication for an assessment followed in all cases, to the best of your knowledge?

A Yes.

Q Was the DIOG guidance regarding the investigative steps that are permissible for an assessment followed in all cases, to the best of your knowledge?

A To the best of my knowledge.

Q Okay.

What's the level of predication for a preliminary investigation?

A I would have to consult the DIOG, if you have it --

Q We have it. We can refresh --

A -- to differentiate.

Q And, actually, turning back real quick to assessments, to the best of your knowledge, did the Attorney General's October 4th memorandum change anything about the level of predication required for an assessment?

A The October 4th memo?

Q Uh-huh.

A Regarding the threats?

Q Regarding violence against educators.

A No, it did not.

Q Okay. That's set by the DIOG, right?

A Yes.

Q And it's not -- no individual memo from the AG would change that?

A Correct.

Q Okay.

All right. Preliminary investigations. You know, I'm actually just going to use this to refresh your recollection. I don't need to introduce it into the record.

A Okay.

Q I think predication is actually on this. It's 6.5.

A For the PI?

Q Yeah, for preliminary investigation.

A So, reviewing this, predication for a preliminary investigation includes activity constituting a Federal crime or a threat to national security which has or may have occurred, may be occurring, or will or may occur, and the investigation may obtain information or intelligence relating to the activity or involvement or role of an individual, group, or organization in such activity.

A subsection of that: An individual, group, organization, entity, information, property, or activity is or may be a target of attack, victimization, acquisition, infiltration, or recruitment in connection with criminal activity in violation of Federal law or a threat to national security, and the investigation may obtain information or intelligence that would help to protect against such activity or threat.

Q So that's the level of predication that's laid out in the DIOG for a preliminary investigation, correct?

A That's correct.

Q To the best of your knowledge, did the FBI adhere to this requirement before opening any preliminary investigation with respect to the January 6th investigations?

A To the best of my knowledge, yes.

Q Okay.

Are you familiar with the level of predication required for a full investigation?

A I am. Again, if you have --

Q Would you like to --

A -- a copy --

Q Yes.

A -- I'd like to read it.

Q And we're not going to enter this into the record. It's solely to refresh your recollection. And I believe predication is section 7.5.

A It is.

So predication for formal investigations, this is where the articulable factual basis that reasonably indicates one of the following circumstances exists: activity constituting a Federal crime or threat to national security, similar to what I already read, and then an individual, group, organization, entity, information, property, or activity is or may be a target of an attack.

Q So the key phrase here is "articulable factual basis," correct?

A Uh-huh.

Q Okay. To the best of your knowledge, did the FBI adhere to the predication standards prior to opening any full investigation related to the January 6th suspects?

A Yes. And I think it's an important note, just looking at the predication differences, like, information or allegation would be commensurable to a tip that an individual may have participated in criminal conduct.

Q Right.

A The articulable factual basis is, based on that initial tip, other information and then specific identification of that subject, that he was or she was, in fact, present inside the Capitol and did X, Y, or Z.

Q Right.

So, essentially, FBI had to build these cases. They didn't just open preliminary investigations or full investigations on a single tip. Is that fair to say?

A That is generally fair to say, yes, ma'am.

Q Okay. And, to the best of your knowledge, that was the structure that you adhered to with respect to January 6th investigations?

A It is.

Q Okay.

A Even in tips where, on its face, it lended itself to articulable factual basis.

Q Uh-huh.

A We received numerous tips that this is the individual identified; he was here on this location. That's that 200,000 --

Q Yeah.

A What do they call it? Social media grabs or --

Q Digital media?

A Digital media tips.

Like, even where it lent itself to the articulable factual basis, we still need to corroborate it.

Q Uh-huh.

A Separately corroborated information that lends us to make that assertion. Not just what somebody else told us.

Q Does the FBI have oversight mechanisms in place to make sure that all case agents are following that requirement?

A We have a couple layers, yes.

Q Can you describe those?

A So, first and foremost, an agent would receive a tip, information, or allegation; determine what, if any, steps needed to be taken -- an assessment, a PI, or a full investigation. They would submit paperwork to their supervisor, who would review it.

In the case of a domestic terrorism investigation, there's an additional layer, which is the CDC has to review all case openings or assessments.

And then there's a secondary layer at headquarters, where program managers would review case openings. So the field already initiated the case; now the PM is going to review it and ensure that it meets all the policy requirements for reporting to DOJ, meeting the Counterterrorism Policy Guide, in our case, or other policy guides that would have been in effect.

Q And all of those steps are documented in the case file, correct?

A There are either notes in the case file or there's an indication that it was reviewed.

Q And if there was ever a situation where certain standards were not met or where a certain supervisor is not clear on something and somehow a case got through and made it to actual trial, that information would be provided to a defense attorney, right, because it would be exculpatory, potentially?

A I mean, anything in our case file is potentially discoverable.

Q Right.

A I'm not aware of a specific instance like that, but if it's in our case file and it's deemed discoverable, it would be provided.

Q Okay.

You were asked earlier about Timothy Thibault --

A I was.

Q -- and you were asked about some allegations. I want to be abundantly clear: You don't have any personal knowledge of these allegations, correct?

A I do not.

Q So this is solely based on media reporting?

A It's on media reporting that I was made aware of.

Q Okay. And so, to the extent that you were asked, you know, "Does this surprise you?" and you said, "Not much surprises me" -- but that was solely a reaction to what you were told in this room, right?

A Correct, and the things that I've experienced in my career.

Q Right. Right. But --

A Expect the unexpected.

Q But you didn't have any knowledge of that allegation before it was told to you today?

A I did not.

Q Okay. So we don't have any knowledge now if it's true or not, correct?

A I don't.

Q Okay.

A And I'm aware that there are allegations.

Q Okay.

And one last question. You were asked about the FISA 702 opinion that apparently came out when we were sitting here. You were asked if there were any guardrails in place on the searching of FISA information related to January 6th, and you said you had not put in any place, but you didn't know if there were others in place by somebody else.

I just want to ask, did you put any guardrails in place with respect to the ability to search FISA information regarding the summer 2020 incidents?

A I did not.

And I might've misunderstood Mr. Gaetz's question about the guardrails in place. I thought, in my understanding of the question, what guardrails were put in place, versus

did I put specific guardrails in place, right? And I don't have authority to put guardrails in place.

In our systems, there are automatic guardrails, checking boxes of which systems you're going to search. And I did not specifically anticipate or put any additional layers of guardrails, as you described it, in place, whether we were conducting searches from 2020 or any time after that.

Q Okay.

Thank you. We can go off the record.

[Whereupon, at 3:14 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: [redacted]

Monday, May 22, 2023

Washington, D.C.

The interview in the above matter was held in Room 2237, Rayburn House Office Building, commencing at 10:00 a.m.

Present: Representative Gaetz.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

[redacted] COUNSEL

[redacted] CHIEF COUNSEL FOR ANTITRUST,

[redacted] CHIEF COUNSEL FOR OVERSIGHT

[redacted] RESEARCH ASSISTANT

[redacted] DIGITAL DIRECTOR

[redacted] COUNSEL

[redacted] MINORITY CHIEF OVERSIGHT COUNSEL

[redacted] MINORITY INTERN

[redacted] MINORITY STAFF ASSISTANT

[redacted] MINORITY OVERSIGHT COUNSEL

For the SUBCOMMITTEE ON CRIME AND FEDERAL GOVERNMENT SURVEILLANCE:

[redacted] MINORITY DETAILEE

[redacted] MINORITY DEPUTY CHIEF COUNSEL

For the SUBCOMMITTEE ON THE ADMINISTRATIVE STATE,

REGULATORY REFORM, AND ANTITRUST:

[redacted] MINORITY CHIEF OVERSIGHT COUNSEL

For [redacted]:

[redacted], ESQ.

[redacted], ESQ.

Kirkland & Ellis LLP

1301 Pennsylvania Avenue NW

Washington, D.C. 20004

[redacted] Let's go on the record. Thanks.

This is a transcribed interview of [redacted]. Chairman Jordan has requested this interview as part of the committee's investigation of how and the extent to which the executive branch has coerced and colluded with companies and other intermediaries to censor speech.

Would the witness please state her name for the record?

[redacted]. [redacted].

[redacted] On behalf of the committee, I want to thank you for your appearing here today to answer our questions. The chairman also appreciates your willingness to appear voluntarily.

My name is [redacted] and I'm with Chairman Jordan's staff. I'll now have everyone else from the committee who's here at the table introduce themselves as well.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] [redacted] Mr. Nadler's staff.

[redacted] [redacted] Democratic chief counsel for oversight.

[redacted] [redacted] Jerry Nadler's staff.

[redacted] [redacted] counsel for Democrats, Judiciary Committee.

[redacted] [redacted] minority on the Judiciary Committee.

[redacted] [redacted] Ranking Member Nadler.

[redacted] [redacted] committee staffer, Jerry Nadler.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] Thank you.

I'd like to now go over the ground rules and guidelines that we will follow during today's interview.

Our questioning will proceed in rounds. The majority will ask questions first for 1 hour, and then the minority will have an opportunity to ask questions for an equal period of time if they choose. We'll alternate back and forth until there are no more questions and the interview is over.

Typically we take a short break at the end of each hour, but if you would like to take a break apart from that, please just let us know.

As you can see, there are official court reporters taking down everything we say to make a written record, so we ask that you give verbal responses to all questions.

Do you understand?

[redacted]. I do.

[redacted] So the court reporters can take down a clear record, we will do our best to limit the number of people directing questions at you during any given hour to just those people on the staff whose turn it is.

Please try and speak clearly so the court reporter can understand and so the folks down at the end of the table can hear you. It's important that we don't talk over one another or interrupt each other if we can help it, and that goes for everybody present at today's interview.

We encourage witnesses who appear before the committee to freely consult with counsel if they so choose. And it's my understanding that you are appearing here today with counsel. Is that right?

[redacted]. Yes.

[redacted] Could counsel please state their names for the record?

[redacted]. [redacted], Kirkland & Ellis.

[redacted]. [redacted], Kirkland & Ellis.

[redacted] Thank you.

We want you to answer our questions in the most complete and truthful manner possible, so we will take our time.

If you have any questions or if you do not understand one of our questions, please let us know. Our questions will cover a wide range of topics, so if you need clarification at any point, just so say.

If you honestly don't know the answer to a question or don't remember, it's best not to guess; please just give us your best recollection. And it is okay to tell us if you learned information from someone else. Just indicate how you came to know the information.

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

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

[redacted]. I do.

[redacted] This also applies to questions posed by congressional staff in an interview. Do you understand this?

[redacted] I do.

[redacted] Witnesses that knowingly provide false testimony could be subject to criminal prosecution for perjury or for making false statements under 18 U.S.C. 1001. Do you understand this?

[redacted]. Yes.

[redacted] Is there any reason you are unable to provide truthful answers to today's questions?

[redacted]. No.

[redacted] Finally, I'd like to make note that the content of what we discuss here today will be confidential. We ask that you not speak about what we discuss in this interview to any outside individuals to preserve the integrity of the investigation.

For the same reason, the marked exhibits that we will use today will remain with the court reporters so that they can go in the official transcript. Any copies of those exhibits will be returned to us when we wrap up.

All right. That's the end to my preamble here.

Is there anything that my colleagues from the minority would like to add?

[redacted] Just thank you to the witness for taking time out of your day to come here today.

[redacted]. Can we take one break off the record?

[redacted] Yeah. Off the record.

[redacted]. Thanks.

[Discussion off the record.]

[redacted] We can go back on the record.

Mr. Gaetz, would you introduce yourself for the record?

Mr. Gaetz. Matt Gaetz, majority member, House Judiciary.

[redacted] Very good.

The clock now reads 10:05. We'll start the first hour of questioning.

EXAMINATION

BY [redacted]

Q Thank you again for appearing voluntarily.

Could you state your full name again for the record, please?

A [redacted].

Q And where is your current place of employment?

A Meta.

Q And what's your current title?

A Head of regional policy partnerships.

Q Okay. And beginning with college, can you provide your educational background, please?

A Yes. I have an undergraduate degree.

Q And where'd you graduate from?

A Harvard.

Q And when was that?

A 2015.

Q Starting with college, what's your employment history?

A I had several internships in college. The first was at The Winston Group here in D.C. And then I was -- I worked on Harvard's Summer in Washington Program. And then I worked on Rick Snyder's reelect campaign.

Q And after college?

A After college, my first job was as the assistant to the chief operating officer on Carly Fiorina's Presidential campaign.

Q And what were your responsibilities in that role?

A Primarily booking cars for Carly Fiorina's Presidential campaign and other, sort of, travel booking.

Q What were the dates for that employment?

A I was in that role for a couple of months, not long. It started the summer of 2015.

Q And when, approximately, did it end?

A I don't remember the exact point I transitioned to being her policy -- like, a policy coordinator on the team. And then that role ended when she dropped out of the race.

Q Okay. And when was that, approximately?

A That was spring of '16.

Q Okay. And what were your responsibilities as policy coordinator?

A It was primarily research on events and engagements she was going to and background research for debate prep.

Q And what was your next position after that?

A I returned to The Winston Group for a couple of months.

Q And what was your role there?

A Primarily polling data analysis.

Q And what was your position after The Winston Group?

A I was a contractor for PRO Unlimited, working for Meta.

Q Okay.

A Or, Facebook at the time.

Q And when did that begin?

A That began in May of 2016.

Q Okay. And what were your responsibilities in that role?

A I was providing platform support to House Republicans and House Republican candidates.

Q And how long were you in this position for?

A About a year.

Q And what was your next position after that?

A After that, I got a full-time job with Meta, so moved from PRO Unlimited to working for Meta officially.

Q So this would've been about May 2017?

A Correct, yes.

Q And what was your first full-time position with Meta?

A It was a little bit of the former role, but then I started to pick up State and local government portfolios. Still the platform support, but providing it for State and local government.

Q Okay. And how long were you in this position for?

A Over the next 5 years, I transitioned sort of more fully to covering just State and local government and building out that team.

Q Okay. What were your day-to-day responsibilities for the State and local team?

A They changed a lot over time, but at the beginning it was -- I was sort of the front line of defense of platform support. So if the Governor got locked out of his Instagram account, I'd be the person they would call to get back in. If a statehouse caucus wanted a best-practices training on how to use Instagram to reach constituents with update letters or things like that, I'd be the one who would fly out to the statehouse and provide that sort of thing.

Q Okay. Who did you report to?

A [redacted].

Q And was it [redacted] the entire time?

A I've always reported to [redacted].

Q How big was your team?

A When I started at the company, I was the only person on [redacted]'s team.

Q Okay. So it was just the two of you.

A Yeah.

Q And did it grow over time?

A It did.

Q And when, approximately, did it begin to expand?

A I think just slowly over time we just added people. There was no, like, point of explosive growth.

Q Okay. And how big is that team now?

A The team has morphed and changed a lot, but I believe that [redacted] has around 20 reports at this point -- or, 20 reports I worked with.

Q And do you still report to [redacted] today?

A I do.

Q And what's [redacted]'s title?

A [redacted] is the director of external affairs at Meta.

Q Okay. Are there other teams that fall underneath [redacted]'s responsibility?

A Yes.

Q And what are those other teams?

A So I run sort of our regional team. There's also a team that focuses on Federal-level work and a team that focuses on, sort of, central programming.

Q What does the central programming team do?

A It's still a fairly new team, but they do things like manage our contract with our events vendor, help put on certain events for the team, things like that.

Q Okay. Who leads the Federal team?

A [redacted].

Q And how big is that team?

A Four or five people.

Q And do you work with them closely?

A I work with them -- yeah, some. We report to the same manager. But we're dealing -- we deal with similar topics but different partner sets.

Q Gotcha. And is your focus -- so you were with State and local; now you're with the regional team. Is this all U.S.-focused?

A Yes. Well, when I first started in the role, I also did some work in Canada, but now I'm just U.S.-focused.

Q Okay. And which team was involved with work in Canada?

A The Politics and Government Outreach team.

Q Okay. Does any of [redacted]'s teams deal with anyone outside of the U.S.?

A I believe some of the Federal team still does some work in Canada.

Q Okay.

Who reports to you now, if anyone?

A Yeah. I have a handful of -- so I have -- in terms of -- I have a direct reporting team that covers California, and then I have two other people who run a regional team for the rest of the country.

Q Okay. And who are these people?

A [redacted] runs my team on the eastern half of the U.S. [redacted] runs my team on the western half of the U.S. And then I directly manage our California team.

Q And when did you begin working with -- I believe it says [redacted] and [redacted]?

A Yes. I hired [redacted], I believe, in 2018 and [redacted] in 2020.

Q Okay. And what do your day-to-day responsibilities look like in your current role?

A So, in my current role, I do a lot of support and backfill for my team as they need me. So my team is a regionally divided team; they each own a section of the country. Still in charge of the same platform support -- training, education, sort of relationship-building components at the State and local level. So I help them where they need help with that and then support and backfill them when they're out of the office or need other things.

Q Okay. And is your role in your team, is this just for Facebook? Is this also for Meta's other platforms?

A It's for all platforms -- all Meta platforms.

Q So that includes Instagram?

A It does.

Q Does that include WhatsApp?

A It does.

Q How does your position work with respect to WhatsApp?

A Exactly the same as it does with the other platforms. If a State or local government official is having a problem using WhatsApp, we will, you know, provide platform support just like we would with Facebook or Instagram or answer a question or do a training.

Q Okay. And for all the teams underneath [redacted]'s purview, are they all for all Meta platforms -- Instagram, WhatsApp, Facebook?

A Yes.

Q Do issues -- let me ask this first. Are you familiar with the terms

"misinformation," "disinformation," and "malinformation"?

A Yes.

Q Okay. Can you define those terms the way they're used by Meta personnel?

A We've got, sort of, in-depth definitions of how we reference those terms in our community standards, which are available on the website.

Q To your understanding, what's the difference between misinformation and disinformation?

A Again, we define it all on the website. Our Community Standards Team is our experts on this, and they're the right people to talk to, sort of, on the nuances of those policies and definitions.

Q Does Meta's misinformation policy fall within the scope of your team's purview?

A Again, you can see that policy on the website, but my team's purview is supporting State and local governments. So, if they were to report something to us, we would pass it on to a team that would review it and then let us know what the answer is. But making decisions about what does and does not violate our policies is not in my team's purview.

Q Okay. If it's a misinformation report from a State or local official, who do you pass that information along to?

A Our Community Standards Team is who would pass along any, sort of, ask of platform review.

Q Okay. And who leads that team?

A [redacted].

Q Okay. Do you know how big that team is?

A I do not know how big that team is.

Q Who do you work with most closely on that team?

A [redacted].

Q And who is he?

A He's a member of the Community Standards Team.

Q Do you know what his title is?

A I do not know what his title is.

Q Okay.

Does disinformation -- is it a similar issue where, if you receive a report of disinformation from --

A Any report I receive from State and local government, regardless of what it is, would pass on to those teams to review.

Q Okay. Are disinformation reports passed along to the same team?

A Again, it's the same process for every report. They pass it on to Community Escalations Team, which then, if it needed to be reviewed against our community standards, would go to Content Policy.

Q Okay. And when you say pass it along, is this just via email?

A Via email.

Q Okay.

Are you familiar with [redacted]?

A I am.

Q And who is he?

A He works on [redacted]'s team.

Q And who's [redacted]?

A He heads up our security policy work.

Q Do you work with either of them?

A I do.

Q And what's the context of your interactions with them?

A Primarily, my interactions with them are around platform security. We've done a lot of work to try to get government officials and government accounts to turn on two-factor authentication on their personal accounts. Their team has done a lot of work with our Facebook Protect program. So that two-factor authentication is the primary way in which I've worked with them and my partners.

Q Have you worked with them with respect to coordinated inauthentic behavior?

A I have brought them in to talk to my partners about coordinated inauthentic behavior takedowns, but I do not work on those.

Q And when you say your partners, who are you referring to?

A State and local government officials.

Q Are you familiar with Facebook's community standards?

A Generally. But I'm not an expert in our community standards.

Q Are there some aspects that you're more familiar with than others?

A I would say I'm generally familiar across the board.

Q Have you played any role in shaping these policies?

A I do not write our community standards.

Q And do you play any role in enforcing the policies?

A I do not.

Q If something is identified as misinformation and it's passed along to your team by a State and local official, you pass it along to the misinformation team. Do you know if they conduct the investigation?

A I don't know exactly what the process is, no.

Q Okay. Do they report back to you?

A The escalations team who we send the report to sends a report -- sends the decision back to my team, yes.

Q Okay. And how is that communicated to your team?

A Email.

Q Okay. And then do you share the decision with the State and local official that flagged it?

A I do.

Q Okay.

A If the report came in to me, I would be the one that would share it back via email. If the report came in to a member of my team, they would be the one that would check back. So, sorry, the person who the report comes in to would be the one who would share it back. That is not always me --

Q Uh-huh.

A -- or even usually me.

Q Okay.

[redacted] Would each member of your team also be communicating with [redacted], or would they all have their own contacts?

[redacted]. We would each -- each member of my team would send the report through to, like, a central reporting email address.

[redacted] Okay. And what is that central reporting email address?

[redacted]. [redacted]@FB (ph) or, I think now, Meta.

[redacted] I'm sorry. Could you repeat that? I couldn't --

[redacted]. Yes. [redacted]@meta.com (ph) now, I believe.

[redacted] Okay. Thanks.

[redacted] Could I ask you spell that?

That's okay.

[redacted]. It auto-populates.

[redacted] Fair enough. Don't worry about it. That's okay.

BY [redacted]

Q Do you know if most instances of misinformation are coming from fake or real accounts?

A That's a very broad question. I do not know the answer.

Q Okay.

Do you recall serving on a panel called Protecting New York Summit that took place on July 17, 2018, at Baruch College?

A Where did it take place again?

Q At Baruch College.

[redacted]. And what year?

BY [redacted]

Q This was back in 2018, July 17th.

A Where is Baruch College?

Q I don't know its exact location. I believe New York.

A I believe I generally recall. I don't -- I'm sorry, I don't recall this.

Q On the panel, you spoke about misinformation, how Meta's fact-checking program works.

I guess it's a leading question. Sitting here today, are you familiar with how Meta's fact-checking program works at a high level?

A I'm generally familiar with the fact-checking program, yes.

Q Okay. Do you know how many fact-checkers Meta has?

A I do not know the exact number, no.

Q Okay. You mentioned Pointer International. Are you familiar with that organization?

[redacted]. I'm sorry. She mentioned that when?

[redacted] During this panel.

BY [redacted]

Q Are you familiar with Pointer International?

[redacted]. We don't have this, so do you have it? Could you share it with us, or no?

[redacted] We have the video link.

[redacted]. So you're just representing that she said this, and --

[redacted] Yes.

[redacted]. Okay.

BY [redacted]

Q Are you familiar with Pointer International?

A The name is familiar, but no.

Q Okay.

Do you know if Facebook's fact-checkers have changed over time?

A I'm not sure if they change over time.

Q Do you interact with Facebook's fact-checkers in your current role?

A I have never directly interacted with Meta fact-checkers.

Q Including in your previous roles?

A At Meta, no, not that I recall.

Q Do you know who at Meta interacts with the fact-checkers?

A I believe there is a team who, like, manages partnerships with fact-checkers.

Q And do you know the name of that team?

A I don't. They used to sit in our news org, but that has been reorg'd a bunch and so I'm not sure.

Q When you say they used to sit within the news org, when approximately was that?

A I think, like, generally in my background with the company, that's where I remember interacting with them, but I don't -- I don't have dates for you.

Q So more than a couple years ago? Is that fair to say?

A I don't recall the dates.

Q Okay.

Are you familiar with the term "downrank"?

A Generally.

Q Is that a term used by Meta personnel?

A I think I would need, like, a specific instance, but --

Q Sure. If there's a post that involves misinformation and someone wants to reduce how frequently it occurs in the news feed, would saying that the post was downranked -- is that an appropriate use of the term, as you understand it?

A If something is fact-checked, it would use the word "downrank" to apply what happened to it in feed.

Q Are there any other similar terms that Meta personnel use to describe that action?

A Not that I recall.

Q If something is identified as misinformation, is it your understanding that it is always downranked as opposed to removed, or are either an option?

A Again, our policies are sort of complex, and you can see the sort of full range of them and how we treat certain actions on the website, but that's not my area of expertise.

Q When you receive an escalation report returned from that team and it says -- well, let me stop there. What does the report say? Is it concerning only whether it is misinformation or not?

A It is an answer to the question that we've asked them.

Q What is an example of the type of question you would ask them?

A "Can you review this piece of content and see if it violates any of our policies?"

Q So the report will say it either doesn't violate any policies or it does violate a policy and it's this policy?

A Correct. Generally.

Q Okay. Does it include what enforcement action will be taken?

A Sometimes.

Q Okay. And would that include removal or downranking?

A I recall seeing removal generally as the -- if something does violate.

Q Do you know if there's different degrees of downranking?

A I do not.

Q Do you know how the process works in terms of communicating -- once Meta has decided that a post should be downranked, do you know the process of communicating that to Meta's engineers or whoever's responsible for actually implementing the downranking?

A I do not.

Q You don't know which teams would be responsible for that?

A I don't.

Q As a general rule, let's say there's a post in question that comes from a State and local official; they identify this post as misinformation. Does Meta downrank it until it's verified, or do you wait until the escalations report comes back and then an action is taken?

A We would send the report to our escalations team, and then they'll let us know what the action is that will be taken.

Q And in that interim period, is the post left as is? Is there any action taken against it?

A Not that I know of.

Q And throughout this whole process, is this all taking place over email?

A Generally, yes.

Q What other forms of communication?

A On some occasions I might get a phone call from a partner, or someone on my team might get a phone call from a partner, and we might provide an update over the phone. But, generally speaking, the practice -- our, like, general practice is email.

Q Okay. What about Slack?

A No.

Q Okay. Text message?

A No.

Q So you identified -- you know, you mentioned that State and local officials will identify forms of misinformation. Do you know who else will identify forms of misinformation that might come to your team?

A My team just works with State and local, the full range of State and local government, so government officials.

[redacted]. Could we take a break?

[redacted] Could we go off the record, please?

[Discussion off the record.]

[redacted] You can go back on. Thanks.

[redacted]. So, just -- sorry -- clarifying that, while my team deals with reports from State and local election officials, sometimes -- or State and local governments, sometimes those reports would come through to us -- while the ultimate report is still from the State or local institution, it would come through to us from a Federal Government entity, like CISA.

BY [redacted]

Q Okay. And what is CISA?

A My understanding is that they're a branch of DHS.

Q And what are the contexts of your interactions with CISA?

A They would, during election cycles, pass on reports from people and my partners at State and local government officials to me and my team.

Q In which election cycles are -- which election cycles has CISA passed along reports to you or your team?

A To the best of my recollection, '18, '20, and '22.

Q Do you know if there are plans for that same process to apply for the 2024 election?

A I do not.

Q Are you in communications with any CISA officials right now?

A I am not.

Q Who from CISA were you in contact with?

A I worked primarily with [redacted] and Brian Scully.

Q And who's [redacted]?

A [redacted] was a former Ohio election official who worked at DHS.

Q And do you know where he is currently employed?

A I believe Microsoft.

Q And what about Brian Scully? Who is that?

A Brian Scully was a point of contact our team had at DHS, but that's all I know.

Q You don't know what his title was?

A I do not.

Q Who else from your team was in contact with CISA?

A They would pass reports directly on to the regional point of contact on my team. So anyone in my reporting chain.

Q Okay. So, like, [redacted] and [redacted].

And you said the 2018 election was the first election cycle that communications with CISA began occurring? Did I hear that right?

A What I recall is that they passed some reports on to the team that worked directly with them at Meta in 2018, and then they passed those reports on to us.

Q Okay. Do you know if other teams for Meta are in contact with CISA?

A There are teams at Meta whose job it is to manage the Federal Government, and so I believe they're in contact -- or, they were in contact when I was working with them.

Q And which teams are those?

A It would be our Federal Policy Team.

Q Okay. And who leads the Federal Policy Team?

A [redacted].

Q Do you work with anyone on that team?

A I worked occasionally with some folks on that team.

Q Who did you work with specifically?

A I worked -- when I started at the company and my job was providing platform support for House Republicans, I worked closely with [redacted], who was our House Republican lobbyist, who would oftentimes pass requests on to me.

Q When a State or local official provides a report of misinformation and -- some of the time, is it true the escalations team would recommend no action be taken?

A Yes.

Q When that's communicated to the State and local official, did they ever ask why or for a debriefing of why it didn't apply to Meta's policy?

A Yes.

Q And who would provide that briefing?

A It would depend.

Q What would it depend on?

A Oftentimes there wasn't -- you know, it was a simple -- it was -- the information was all provided to them, usually.

Q In the form of -- in written form?

A Yeah.

Q And if they wanted to have a followup discussion, did that ever occur?

A I'm trying to think. Sorry. It's been a lot of election cycles.

I believe so, yes.

Q During the different election cycles, were you ever the primary person to provide that explanation on a call?

A Yes.

Q You mentioned that you didn't draft Meta's policies. Who from Meta briefed you on how Meta's policies would be applied or enforced?

A [redacted].

Q And were you in frequent contact with him on this issue?

A Yes.

Q Do you know if he played a role in drafting the policies?

A I do not.

Q Do you know who did?

A I do not.

Q Are you familiar with how the misinformation policy has evolved since you first began at Meta?

A Again, I'm broadly aware of the policy, but I'm not an expert or steeped in the details.

Q Okay. Are there any major changes that you recall?

A I was there when we instituted our fact-checking program. That's a fairly major change that I remember. But --

Q When was the fact-checking program instituted?

A I don't remember the year.

Q Do you remember who else you worked with?

A Sorry?

Q So, with respect to the fact-checking program being instituted, who else at Meta did you work with?

A I didn't work to institute the fact-checking program.

Q Okay. But you --

A I just recall it being announced --

Q Gotcha.

A -- while I worked at the company.

Q Okay.

Are you familiar with the Center for Internet Security?

A I am.

Q And we'll call that C-I-S. I don't know if there's another --

A CIS.

Q CIS. What is CIS?

A My broad understanding is that they were a group working to organize or bring in reports from State and local election officials, is the context in which I've worked with them. I'm not aware of their, sort of, broader position or contacts.

Q Uh-huh. And when you first start working with CIS?

A To the best of my recollection, the 2020 cycle.

Q Okay. And does CIS work with CISA?

A I'm not aware. Or I don't recall.

Q Who from CIS did you work with?

Mr. Gaetz. Wait. I'm sorry. Can you strike that question?

Just on the last response, when you say you're not aware or you don't recall, can you specify which of those it is?

[redacted]. I don't recall.

Mr. Gaetz. Okay. Thank you.

My apologies.

BY [redacted]

Q Who did you work with at CIS?

A [redacted] is the name I recall.

Q Would that be [redacted]?

A [redacted] is the name I recall. Sorry.

Q Did you ever work with Aaron Wilson?

A The name sounds familiar, but I can't recall.

Q Did you work with them -- with CIS, I should say. Did you work with CIS with respect to a misinformation reporting portal?

A I believe they were working to create one.

Q Do you know if it was created?

A I don't actually know if the portal itself ever got created.

Q Was something used in its place in the meantime?

A Yes.

Q And what was that?

A Email.

Q Do you know what the acronym "EI-ISAC" is?

A I don't believe so.

Q All right.

I'm going to introduce two exhibits. The first is going to be an email chain. The second is a Word document that's attached to the email chain. So I'll introduce the email chain first, give everyone a chance to review, and then we'll go over the Word document.

[redacted]. Sure.

[redacted] I have Meta 26485.

So the email chain will be exhibit 1.

[[redacted] Exhibit No. 1

Was marked for identification.]

[redacted]. Thank you.

[redacted]. Do you want to help us out here? It's eight pages --

[redacted] Sure.

[redacted]. -- in really small font, so --

[redacted] We're going to be focusing on a series of questions that are posed by Facebook, beginning on Bates numbers 26489 --

[redacted]. Okay.

[redacted] -- and continues on to the next page, 26490.

[redacted]. I'm done reading it. Thank you.

BY [redacted]

Q Could I have you turn to Bates number 26490? So, halfway down the page, it's the end of the questioning, and then there's a set of email addresses. If we could just run through those names and see which ones you remember working with.

So, first, Aaron Wilson. Looks like he has a signature at the bottom of the page, "Senior Director of Election Security." Do you have any recollections of working with him?

A I do not. I do not recall working with Aaron Wilson.

Q What about [redacted]?

A I do not.

Q Do you recognize the other Facebook personnel included on the email?

[redacted]. Don't mark on there.

[redacted]. I do.

BY [redacted]

Q And who are they?

A [redacted] was on our Federal Policy Team. [redacted], I believe, was on our

Security Policy Team. [redacted] is on Legal. [redacted] was an administrative assistant.

Q Okay. Do you know what the email address -- I'm looking at [redacted]. She's at sso.org.

A Yes.

Q Do you know what organization that is?

A [redacted] is the communications director for the National Association of Secretaries of State.

Q And what is that?

A It is, like, a membership organization for secretaries of state.

Q Do you know if each State's secretary of state is a member?

A I do not.

Q Did you work with them frequently -- or, do you work with them frequently?

A I did.

Q And what's the context of your interactions with them?

A Secretaries of state are State election officials. My team supports State election officials.

Q Would that include -- would you receive misinformation reports from them from time to time?

A I do not recall [redacted] directly sending me a report, but I do recall [redacted] connecting me with people in a State office.

Q There's an email address at nased.org. Do you know which organization that's affiliated with?

A It's the National Association of State Election Directors.

Q And what is that?

A A membership organization for State election directors.

Q Is it similar to the previous organization?

A It is.

Q Is your relationship with them similar to your relationship with the previous organization?

A It is.

Q Okay.

There are a couple DHS CISA individuals. There is [redacted], who you identified before. Do you know who Geoffrey Hale is?

A I don't recall who Geoffrey is.

Q What about [redacted]?

A Same thing, I don't recall.

Q Who is [redacted]?

A I apologize. There's another Meta address. [redacted] is on our policy team.

Q Do you remember working with CIS during the summer of 2020 to potentially set up a reporting portal?

A I generally recall, yeah.

Q And do you recall who worked on this issue, other than the Facebook personnel on this email chain?

A This is the group I recall working on it.

Q Okay. And what was your role in these efforts?

A My team represented State and local election departments, and so we were there to make sure that this felt like a system that would work for them and for our processes.

Q Uh-huh. Do you recall who first initiated this collaboration?

A I do not recall.

Q Before interacting with Facebook, do you know if CIS and -- excuse me -- if CIS and CISA had a preexisting relationship or working partnership?

A I do not know.

Q If we could introduce -- this will be CIS 1864. This is exhibit 2.

[Exhibit No. 2

Was marked for identification.]

. Thank you.

BY

Q And this document was attached to this email chain and provides responses --

. I'm sorry. This -- the Bates stamp says this is from CIS, so it wasn't attached to -- so this is not our production.

It's not from your production, but this document is what was included with this email chain from CIS, so --

. It was attached to which of these emails?

The email, it begins at the very bottom of 26488 of exhibit 1. It is an email from Facebook, dated July 16, 2020, sent to several personnel, including several personnel from the Center for Internet Security.

The questions begin on Bates number 26489. There are 22 questions posed on this July 16th email. This document is responses to questions provided by Facebook on July 16th.

. Okay. Thank you.

BY

Q So I'll give you a moment to review.

[redacted]. We're ready.

BY [redacted]

Q Did you work on preparing these answers?

[redacted]. These are responses to questions that are supplied by somebody else, not answers from Meta.

BY [redacted]

Q Do you recall if you worked on providing these questions?

A I don't recall, no.

Q If I could call your attention to the first question. This is Bates number 1864, exhibit 2. Facebook asks about a quality control concern.

Do you recall if there were any quality control concerns with your interactions with CIS?

A Not that -- I don't recall, no.

Q You mentioned that the portal didn't come into being, or at least not right away, and email interactions were used. How frequently did you have email interactions with CIS?

A I don't recall the specific numbers. I don't recall the specific numbers.

Q Was this a year-round form of communication, or was it only in election season?

A My recollection is that it was election-season-focused.

Q And in the lead-up to the election, do you recall if it was every day? Every week?

A I don't recall the volume. Sorry. It's been a long time since 2020.

Q All right. Was there anything similar for the 2022 election?

A Yes. I believe we similarly took in reports via email in that cycle.

Q And when you say "we," who are you referring to?

A My team and I took reports from State and local election offices.

Q Directly or through CIS?

A Both.

Q Okay. And is it every member of your team that's receiving reports?

A Yes.

Q In the 2022 election cycle, how frequently were you receiving reports from CIS?

A I was not on all the reports, so I don't know the frequency.

Q On the reports you were on, how frequently did those occur?

A I did not directly manage any State and local officials, I believe, in 2022, so I would only get it if I was, like, on an out of office. And I got a handful throughout the cycle.

Q Okay. When CIS is forwarding a report from a State and local official, who are they directing it to? Do you know?

A The regional point of contact. So my team -- each person on my team owns a set of States. So we forward it to that person who owned that set of States.

Q Okay. And you said you were responsible for California; is that right?

A In my role now, I directly manage our California team. That is a role -- a new role, has not gone through an election cycle yet.

Q All right. And can you provide again the names of the folks on your team who directly manage either the regions or the States?

A Yes. Which election cycle?

Q For 2022.

A For 2022, [redacted], [redacted], [redacted], [redacted], [redacted]

[redacted].

Q And what about for 2020?

A For 2020, [redacted] and [redacted], [redacted], [redacted], and -- I'm not quite sure when the transition point was, so [redacted] possibly could've done some, as well, early in the cycle.

Q If I could call your attention to question 3 from exhibit 2 -- it's on Bates number 1864 -- Facebook poses a question about what visibility the U.S. Government will have.

Do you recall Facebook having concerns about the U.S. Government having visibility --

A I don't --

Q -- on question creation?

A I don't recall this question creation.

Q Sure. It just says an issue, though. Do you recall --

A It's not a concern I recall having, no.

Q Do you recall anyone on your team having that concern?

A I don't.

Q Do you recall any of your managers ever raising a concern?

A I don't.

Q Turning your attention to question 6 -- this is on the next page, Bates number 1865 -- Facebook asked about data retention. Do you know if CIS retained the data that it was sharing with Facebook and other platforms?

A I do not know that.

Q And these communications -- when Meta receives these communications, you said it's via email?

A Yes.

Q Was there any other form from CIS?

A Not that I recall.

Q I'd call your attention to question 8. This is on the same page, 1865. Facebook asked a question about whether CIS will be properly sorting information. Do you know if CIS played a role in sorting information?

A Not that I recall. Again, what I recall is they would just forward on an email from the State or local election office.

[10:58 a.m.]

[redacted] Did any -- at any point, have any of your team members raised an issue that CIS was forwarding reported misinformation reports that were not serious or duplicative or burdensome?

[redacted]. Which?

BY [redacted]

Q We'll start with burdensome.

A I do not recall that.

Q What about duplicative requests?

A Yes.

Q How frequent was that complaint raised?

A I don't recall the frequency.

Q Do you recall which election cycle it was first raised in?

A I believe 2020. To the best of my recollection, 2020.

Q Do you recall who from your team raised that issue?

A I do not.

Q Did any team member ever complain or raise the issue that posts that are less serious, are of less serious concern than others, were being forwarded by CIS?

A Not that I recall.

Q When CIS is passing along this information, do you know whether there's any sort of indication provided about the seriousness or urgency of that request, or are they all treated equally?

A Not that I recall. No, it would just be a forward on.

Q If I could turn your attention to question 12. This is on the next page of exhibit 2, 1866. "Facebook poses a question about whether the portal will be used to

surface trends and patterns across platforms."

You mentioned earlier the portal didn't come into being during the election cycles we've been discussing.

A I don't recall if the portal came into being during the election cycle.

Q Okay.

A I don't recall this document.

Q Sure. Do you know if Meta ever received email communications, regarding trends and patterns, from CIS?

A Not that I recall.

Q Did you ever receive email communications regarding trends and patterns from CISA?

A Not that I recall.

[redacted] Can we go off the record, please.

[redacted] We can go off the record, please.

[redacted] We're back on the record.

BY [redacted]

Q And, [redacted], I want to thank you on behalf of the minority for coming here today. I know it's not easy. I want to talk to you a little bit, just some follow-up questions about your background.

You mentioned that you worked for Governor Rick Snyder's reelection campaign?

A I did.

Q And what was in Michigan, correct?

A It was.

Q And Rick Snyder was a Republican governor?

A He was.

Q And you worked for Carly Fiorina's Presidential campaign?

A I did.

Q And you were a policy coordinator at one point?

A I was.

Q And she was a Republican candidate for President?

A She was.

Q And then you stated that when you were working as a contractor for Meta, you provided platform support for House Republican Members of Congress?

A That's correct.

Q And also House -- Republican House candidates?

A Correct.

Q And so Meta obviously was aware of your experience working with various Republican candidates at various levels when they hired you to work for them?

A It was on my resume and a component of my interview.

Q Okay, thank you.

And when your position was as the State and local government politics outreach manager, you would help elected officials' campaigns, and State and local governments use Facebook and other platforms that -- for the company that now Meta has, to better connect with voters and constituents?

A Correct.

Q And you would also help them with account security for their own official accounts?

A Correct.

Q And you currently oversee folks doing the same work at Meta?

A That's correct.

Q And in your current position and in your previous position, you provided these services for State and local officials regardless of which party they were affiliated with, correct?

A Correct. My State and local team is not partisan. We don't have a partisan divide. We have a regional divide.

Q And you also mentioned that you played no role in determining whether a post violated Meta's community standards, correct?

A Correct. We would get a report. We would pass it on to a team who would make that determination.

Q And I believe you said that was the Community Standards Team?

A Yes. Content policy, community standards, I'm not sure what the official name is, but --

Q Okay. I believe you were asked a question about whether you sent it on to the misinformation team. Was there a specific team for misinformation as opposed to other types of reports, or was there just a content moderation team that you would send it on to?

A My team would send everything to Co-Press, and then they would triage appropriately.

Q Okay, thank you.

And so your role with respect to those reports, was simply as a go-between?

A Correct.

Q Okay. And you're aware that your attorneys have informed counsel for the majority that that was your role with respect to content moderation?

A Yes.

Q And you're aware that your attorneys have informed counsel for the

majority of the names of the individuals who actually make the content moderation decision?

A I was not aware of that.

Q Okay. But it is your understanding today that despite knowing that you played no role in those decisions, if you did not appear voluntarily, you might ultimately be subpoenaed?

A That's my understanding.

Q You stated that your -- well, actually, strike that. Sorry.

You were asked several questions about your interactions with CISA at DHS, and my understanding is that your interactions were primarily receiving reports that they would forward you from State and local election officials about complaints of posts or other content that they thought violated Meta's community standards.

A That's correct, but also just requests for platform support generally, like, locked out of their account or something like that.

Q So those reports would sometimes come through CISA as well?

[The reporter read back the record as requested?

[redacted]. Yes.

BY [redacted]

Q And just to clarify, when you talked about concerns about account access, you were talking about the actual State and local officials having access to their own accounts, not CISA having access --

A Correct.

Q -- to their account? Okay.

A Like, let's say you got a new phone and your two-factor code was delivering to your old phone, and so you needed support getting back into your own account.

[redacted] And that would sometimes come through CISA to you?

[redacted]. It -- on occasion, yes.

[redacted] Thank you.

BY [redacted]

Q And you were asked about your interactions with the CIS, or the Center for Internet Security?

A Yes.

Q And you're aware from your interactions with both CISA and CIS that they are, in fact, two different entities, correct?

A I am aware of that, yes.

Q And your understanding is that CISA is part of the Department of Homeland Security?

A Correct. When I started to work with them, it was under Chad Wolf's Department of -- Secretary Wolf's Department of Homeland Security.

Q Thank you.

And CIS was a private organization?

A That's my broad understanding, but, again, I'm not familiar broadly. I only worked for them in this one small slice of their work.

Q Fair enough.

And when someone from CISA, whether it was Brian Scully or [redacted], would pass on a request from a State or local official about a post that they believed violated Meta's community standards, CISA did not specifically ask for you to remove the content, correct?

A Not that I recall, no.

Q Reports would typically be, Please see the attached report from X person in

X State, something to that effect?

A My recollection is, it was mostly just a forward of the email they received.

Q And they would simply ask you to send it on to the appropriate person?

A Yes.

Q To your knowledge, has any Federal official or agency ordered Meta, or Facebook, when it was known as Facebook, to remove an account, page, or any other content?

A Not to my recollection.

Q And to your recollection, has any official or agency ever tried to coerce or pressure Meta, or then, Facebook, into removing a page, account, or other content?

A Not to my recollection.

Q And to your knowledge, has any Federal official threatened Meta with any adverse consequences, or Facebook -- I'm sorry -- if it did not remove a page, account, or other content?

A Not to my recollection.

Q And have you ever personally felt pressured by any Federal officials or agencies to remove content on Meta or then Facebook's platforms?

A I have not, no.

Q Okay. A couple of clarifying questions from the last hour. You were asked about whether CIS would sometimes forward you duplicative requests --

A Yes.

Q -- correct?

And you said that they would occasionally?

A Yes.

Q And by "duplicative requests," do you mean requests to take the same post

by the same person down, or do you mean content has been flagged as violating Meta's policies and then that content is shared by a different poster, and so it's duplicative in that sense?

A The instances I remember were ones where the State or local entity had reported the content directly to someone on my team, and then we got -- and they also reported it --

Q I see.

A -- to CIS who then sent it on to us, so it was same reporter, same content.

Q Okay. So duplicative in the sense that you were receiving it from two different sources?

A Correct.

Q Okay. Thank you for that clarification. Just give me 1 minute.

[redacted] And that's it for me, for now. Depending on what happens, you might hear a lot more from me, but maybe not.

[Discussion off the record.]

[redacted] We'll go on the record, please.

This will be exhibit 3.

[[redacted] Exhibit No. 3.

Was marked for identification.]

[redacted]. Thank you.

[redacted]. So this document does not have a Bates stamp --

[redacted] Is this a new exhibit?

[redacted] Yes.

[redacted]. -- does not have a Bates stamp on it at all. Can you tell us what the source is?

[redacted] Yeah. This has been a document that was produced pursuant to a FOIA request by an organization called Judicial Watch.

[redacted]. Okay.

[redacted] I'm sorry. Looks like these are two separate email chains, unrelated. Are you introducing them both as the same exhibit?

[redacted] Yeah, just one exhibit.

[redacted] So they're both exhibit --

[redacted]. I'm ready.

BY [redacted]

Q Do you recall this email exchange?

A I do not recall this email exchange.

[redacted] I'm sorry. That was a "do not"?

[redacted]. I do not.

[redacted] Thank you.

[redacted]. I'm sorry. Which one are you referring to?

[redacted] Oh, sorry. On the first page, there is a request to remove a profile posing as Secretary of State --

[redacted]. Thank you.

BY [redacted]

Q -- and it appears that the post is removed. If I could call your attention, at the very top of the first page. There's an email, it looks like it's someone from the Secretary of State's office in California, asking, can you add this link and the outcome to our tracking grid.

Do you know if Meta had a tracking grid for posts like this?

[redacted]. I'm sorry. I'm just looking at it. Where do you see Meta on this?

Meta's on a thread below that. The thread above --

[redacted] That's right.

[redacted]. -- which only includes people -- it's blurred because there's a double line there, but it's between somebody at the Secretary of State's office and somebody named [redacted] or [redacted] -- no -- [redacted]. But I don't see any reference to Meta.

[redacted] Yeah, no, I'm asking if Meta has a similar tracking grid.

[redacted]. Okay.

[redacted]. Not to my knowledge.

BY [redacted]

Q Okay. Do you know if CIS had a similar tracking grid?

A I do not know.

Q Did different Secretaries of State offices ever mention a tracking grid to you?

A Not to my recollection.

Q Okay. We can take this exhibit back. Thank you.

At your time at Meta, have you ever worked with the Election Integrity Partnership?

A I am not familiar with the Election Integrity Partnership.

Q Have you ever worked with anyone from Stanford University?

[redacted]. Meaning, they went to Stanford or was that --

[redacted] Anyone who's employed by Stanford.

[redacted]. Okay.

[redacted]. Not that I recall, but I -- not that I recall.

BY [redacted]

Q Starting obviously in 2020, did you ever play a role in shaping Meta's misinformation policy with respect to COVID?

[redacted] I'm sorry. I didn't hear that last part. The door was opening.

BY [redacted]

Q Starting in 2020, did you play any role in shaping Meta's misinformation policy with respect to COVID?

A I don't -- I don't play a role in writing our policies.

Q When receiving reports from State and local officials, did they ever flag posts that were related to COVID misinformation?

A Yes.

Q And who would you send those reports to?

A Very similar process to elections. We would send it to our Co-Press channel, again, have the appropriate team review and then pass that information back on.

Q So regardless of the content, the subject matter of the content, it was forwarded to the same account?

A Correct.

Q Do you know which -- do you know who was on the team at Meta that is triaging these requests?

A Sorry, can you re --

Q Sure.

A Which team are you referring to?

Q When you forward a post along --

A Uh-huh.

Q -- you mentioned there's a team that then is responsible for directing it to the right team at Meta. Is that a correct understanding?

A Yes.

Q Okay. On that intermediary team who is making the decision about who to pass along, whether it's COVID-related misinformation or election-related misinformation, do you know who is on that intermediary team?

A It's a -- sorry -- an operations team, so in our broader operations org.

Q And do you know who's on that team?

A I do not know everyone who's on the team, no.

Q Okay. Do you know who leads that team?

A I am not sure who the team manager is.

Q Do you have a point of contact on that team?

A I don't have a single point of contact, no.

Q Do you recall any names that you have used as a point of contact?

A I have used [redacted] and [redacted] -- I only recall the first name.

Q And since you began at Meta, has there always been a group listserv? Was there ever a time where it was not using that group listserv to pass along reports?

A That's a good question. I've been here for a very long time. I believe it's always been the group listserv.

Q Do you know if the name has changed over time?

A I don't believe so.

Q Do you know who [redacted] is at Meta?

A Yes.

Q And who is she?

A [redacted] worked for me for a short period of time.

Q And what was the context of that?

A She was my California person.

Q Okay. And when was this?

A I recall it was during the pandemic because I know I never met her in person, but I don't -- I don't know the exact dates.

Q And did she join your team from somewhere else within Meta, or did you hire her from outside?

A I hired her from outside the company.

Q Okay. You said she was with you only a short time. Do you know where she went next?

A I believe she went to the Department of Education.

Q Was her stint with you the only time she was with Meta?

A To the best of my knowledge, yes.

[redacted] This will be exhibit 4.

[redacted]. Thank you.

I've reviewed it.

[[redacted] Exhibit No. 4.

Was marked for identification.]

BY [redacted]

Q Okay, good. Thank you.

Do you recognize this email from [redacted]?

A I don't recall the email, no.

Q Okay. Would she send an email like this without your approval?

A My team does not run their emails through me.

Q If I could call your attention to -- there's a series of bullet points at the bottom half of the page. The second bullet point begins in bold, Doing more to reduce the spread of misinformation.

The last sentence says, We will also attach an informational label to content that

seeks to delegitimize the outcome of the election or discuss the legitimacy of voting methods, for example, by claiming that lawful methods of voting will lead to fraud.

Do you know if [redacted] worked on Facebook's content moderation policy.

A No. [redacted] was on my team, so [redacted] didn't support -- this, if it's a helpful clarification, this looks like one of a set of sort of standard form emails that our communications team would've given us to pass on to partners, so.

Q Okay. So this language would have been prepared by Facebook's communications team?

A Again, I don't recall this email, but based on the way it's structured.

Q Who is your point of contact with Facebook's communications team?

A I have many points of contact on the communications team.

Q Is there a point of contact for Facebook's content moderation policy?

A For -- on the communications team, specifically not one that I know.

Q Okay. Who did you work with most closely on Facebook's communications team?

A When?

[redacted]. What's the relevance of this to the legislative inquiry that we're focused on?

[redacted] We're in the fact-finding stage of determining who at Meta was involved with shaping the company's content moderation policies, and if there are personnel involved in --

[redacted]. But the company's content moderation policies are not the scope of the inquiry, right? It's about collusion and collaboration, and I'm just trying to understand how far we're going to go down this path.

[redacted] Yeah, and this all plays into it. And, [redacted], as you know, this is a

voluntary interview, so if the witness does not want to answer, she cannot answer, but my colleague, [redacted] is going to go ahead and ask the questions.

Go ahead, [redacted]

BY [redacted]

Q Okay. Who did you work most closely with at -- on Facebook's communications team?

A Again, I am going to need a lot more specifics to answer that question accurately.

Q How many personnel are we talking roughly would you interact with, with Facebook's communications team?

A I have worked with dozens of folks across the communications team.

Q Do you know who leads that team?

A I mean, overall our communications team all report up to Nick Clegg.

Q If I could call your attention to the third bullet point, there's a phrase, it begins in bold, Preventing misrepresentations or threats about voting.

The next sentence says, We're expanding our voter suppression policies to include implicit misrepresentations about voting. Do you know what [redacted] meant by this language here -- implicit misrepresentations about voting?

A I don't. I didn't write this email.

Q Have you seen that phrase used elsewhere?

A I don't recall the phrase specifically, no.

Q Sitting here today, do you know what it would mean?

A I don't.

Q We can take these exhibits back.

Do you know what Meta's 3PFC fact-checking team is? And that is the number 3,

P as in Patrick, F as in Frank, C as in cat.

A I understand 3PFC to mean third party fact-checker.

Q Okay. Do you know whether Meta ever moderated content for content that was shared on Facebook Messenger?

A I do not recall the specifics, but I do know I have had instances where there have been, like --

[redacted] Can we go off the record, please.

[Discussion off the record.]

[redacted] Can we go back on the record. Thank you.

[redacted]. Sorry. Would you mind asking the question again?

BY [redacted]

Q Sure. Has Meta ever moderated content in Facebook Messenger?

A What I generally recall is instances of, like, threats being delivered via Messenger coming down. I don't recall the specifics or the partner, but I recall that generally happening in the course of my time at the company.

Q Do you recall it ever happening in the context of a message that contained misinformation?

A I do not recall that, no.

Q Okay. Do you know whether Meta moderates nonpublic groups?

A Sorry, can you clarify the question?

Q It's all right.

Do you know whether Meta moderates content posted in nonpublic groups?

[redacted]. You can answer the question, but I'd like a sustained objection to asking her about content moderation policies when she said that she doesn't do it, she doesn't implement them at all. So I just feel like we're --

[redacted] She receives requests for content moderation.

[redacted]. We're spending a lot of time -- so does anybody else that is in an intermediary role at the company. And it's very stressful for people to have to come and sit through this. We offered to make the people who do this work available to answer your questions, and so far, you all have not been willing to take us up on that.

But you can answer the question.

[redacted]. My broad understanding is that we enforce our policies across the platform, but, again, I don't know the specifics.

BY [redacted]

Q Did you ever attend a series of meetings called USG industry call meetings?

A I did.

Q Okay. And what was the purpose of those meetings?

A I was brought into those meetings around election cycles in case concerns came up from election officials. So I'm not familiar with sort of the broader context of the meetings. I was brought in sort of for a very specific role.

Q Do you recall when you first joined one of these meetings?

A I do not recall the date, no.

Q Do you recall how many you attended?

A I also do not recall that.

Q Do you recall whether you took notes during these meetings?

A I don't believe I took notes.

Q Do you recall who else from Meta was on these calls?

A I don't know the full list, but I know some of the folks.

Q What names do you remember?

A [redacted], [redacted] were the two that I primarily remember.

Q Do you know what CrowdTangle is?

A I do.

Q Can you explain that to me?

A My best description of CrowdTangle is that it's sort of like a tweet deck for Facebook.

Q Okay.

A And Instagram. I think it -- I think it has Instagram content now.

Q And who can use CrowdTangle?

A I'm not aware of the full set of folks who have access to CrowdTangle.

Q Okay. Who are you aware of that has used CrowdTangle?

A I'm aware that State election offices were able to use CrowdTangle.

Q And for what purpose would they use it for?

A To -- to monitor public elections content from their States.

Q Do you know when this tool was first developed?

A The CrowdTangle tool?

Q Yeah.

A I do not know when it was first developed.

Q Were you part of the team that helped to develop this tool?

A No.

Q Do you know who -- which team was responsible?

A I don't -- I do -- I recall using it when I started at the company, and it was a separate company.

Q Okay. And did Facebook, at some point, acquire the company?

A I believe so.

Q Do you recall when that was?

A I do not.

Q You said that the tool would allow election officials to keep track of content in a certain area. Was this done independently or in collaboration with your team?

A My team set up trainings for State election officials to, like, help them learn how to use the tool like our other platforms.

Q And then once they're trained, whatever it is they use the tool for, is that outside your team's scope?

A Correct.

[redacted] This will be exhibit 5.

[[redacted] Exhibit No. 5.

Was marked for identification.]

Ms. [redacted]. Thank you. I've reviewed it.

BY [redacted]

Q Okay. Great.

Do you recall this specific email exchange?

A I do not.

Q Is this email exchange consistent with your interactions with State and local officials when they would pass along a request for removal?

A It looks generally consistent.

Q And when you received the bottom half of the email, where someone's flagged the post, asked for it to be removed, again, this would be forwarded to your -- the email distribution list you've discussed previously?

A Correct.

Q At the top, you say, It doesn't violate our community standards. Would you just be conveying whatever the escalations team had conveyed to you?

A Again, I don't remember this specific email, but generally speaking, yes, I would be passing that along.

Q And if it was a difficult call, or if you received pushback from the State or local official, would you receive a briefing on Meta's misinformation policy in order to communicate that, or would you put the State and local election official in touch with someone else?

A Generally speaking, I would be their point of contact.

Q Okay. We can take these back. Thank you.

During your time at Meta, do you recall having any interactions with the FBI's Foreign Influence Task Force?

A I do not specifically recall that task force, no.

Q In your time at Meta, do you recall having interactions with the State Department's Global Engagement Center?

A I do not recall that either.

Q This will be exhibit 6.

[[redacted] Exhibit No. 6.

Was marked for identification.]

Ms. [redacted]. Thank you. It's just the one page?

BY [redacted]

Q Just the one page.

A I've reviewed it.

Q Okay, great.

Do you recognize this meeting invite?

A I don't recall this meeting invite, no.

Q Do you know what the subject line DHS/Industry Sync regarding U.S. 2020

Voter Information, do you recall interacting with DHS on this set of issues?

A We discussed this earlier, but in 2020, under Secretary Wolf, we worked with CISA under DHS, and they passed the reports from State and local election offices.

Q Okay.

A Yeah.

Q Do you recall, did you have a regular set of meetings, or is this maybe a one-off meeting?

A I did not regularly meet with DHS.

Q Okay. In your role at Meta, have you attended tabletop exercises with government officials?

A I recall attending one.

Q And which one was that?

A It was hosted by the Bipartisan Policy Center in the '22 cycle.

Q And what is the Bipartisan Policy Center?

A It's a think-tank.

Q And I'm sorry, you said it was 2022 or 2020?

A '22 cycle.

Q Do you remember when in the cycle it took place?

A I don't.

Q Do you remember who was invited?

A I recall there being State and local election officials there and other industry peers.

Q And you attended?

A I attended.

Q Did anyone else from Meta attend with you?

A My colleague [redacted] attended with me.

Q And what was the exercise or purpose of the meeting?

A I believe I was only there for half a day, and I think it was, like, a scenario of something bad going on in an election and how the groups would work together to address it. I don't remember the specific scenario.

Q Okay. Do you remember who from the government attended?

A I don't.

Q Do you know if there were Federal Government personnel in addition to State and local?

A I don't recall.

[redacted] Can we go off the record, please.

[12:30 p.m.]

[redacted] We'll go back on the record.

BY [redacted]

Q Do you know if the other tech companies such as -- we'll start with Twitter -- has an analogous position to your team?

A Historically, I worked with somebody at Twitter who had, I think, a fairly similar role, yes.

Q Okay. And who was that?

A [redacted].

Q Okay. And how long was your -- the extent of your interactions with her?

A It was, like, conference interactions. Like, we would both be at the National Conference of State Legislatures or something like that. We would, you know, talk briefly there.

Q Yeah. Was there a similar point of contact at Google?

A Not that I had, no.

Q Okay. What about TikTok?

A Also no.

Q Do you know if at Twitter -- if they had a similar team to how your team functions? Did that ever come up with your discussions?

A It didn't. We would -- occasionally, I would get an email asking, like, if somebody could get Twitter verified, and I would pass that on to [redacted], and likewise, she would pass something back to my team, or I. So it's somewhat similar, I imagine, but I don't know the full scope.

Q Okay. What about Microsoft?

A I -- no, I don't know.

Q Amazon?

A I don't know how it is done there.

Q Okay. Anyone from Apple?

A No.

BY [redacted]

Q Were those communications where [redacted] was passing something along to you -- do you recall the types of requests that she was passing along?

A I don't. I do recall -- it would be, like -- it would be things where we would be confused easily. Usually a verification.

Q Okay. A verification of someone's identity?

A That's what I recall passing on to her. Like, a blue badge. Like, you are who you say you are.

Q Got it.

BY [redacted]

Q We've gone through a few examples of posts that were flagged for you or your team. A lot of impersonation requests, support for if someone is locked out of their account. You mentioned that previously.

Do you have a sense of what the most common request was or what -- you know, how frequently these different types of requests would come up?

A I'm not sure what the single most common is. The most common set would be verifications, account lockouts, username changes. I'm trying to think of other super common -- oftentimes, just like -- like, where to find something in the settings. I walked a lot of election officials through how to find a link on the telephone. Like, any sort of use of platform, confusion using the app, sort of where things are placed, that sort of stuff.

Q Okay. If we could turn back to -- you gave us a series of names of team members that you worked with during the 2020 and 2022 Election. And you mentioned that your team is divided based upon region?

A Correct.

Q If you could identify for each person which region they worked with, at least that you recall.

A Okay.

Q So we'll start with the 2020 Election cycle.

You mentioned [redacted]. Do you know which area was his responsibility?

A New England.

Q Okay.

A Or the Northeast.

Q And what about [redacted]?

A Midwest. And I think she helped with the Southeast in that cycle, too.

Sorry. I'm trying to remember. We had some transitioning staff. I think she was just the Midwest in the 2020 cycle.

Q Okay. [redacted]?

A She was the Southeast in the '20 cycle.

Q [redacted]?

A Southwest.

Q And [redacted]?

A California and the Pacific Northwest.

Q For the 2022 Election cycle, [redacted] was involved for that one as well?

A Still Northeast.

Q Okay. And [redacted]?

A Still Midwest.

Q Last name was [redacted]?

A [redacted]. Southeast.

Q Okay. And then -- sorry. Another last name.

[redacted]?

A Southwest.

Q And do you remember that person's first name?

A Oh, sorry. [redacted].

Q [redacted]. Great.

And then [redacted], I think you said, was --

A [redacted] was California and the Pacific Northwest.

Q Great.

Do you know if the Federal team had a similar -- obviously, Federal elections operate a bit differently -- but if they had regional divides?

A Our Federal team is party- and chamber-divided.

Q Okay. Great.

[redacted] Can you explain that a bit for us, the party and chamber divide?

[redacted]. Yes. There's somebody who supports, like, House Democrats, somebody who supports House Republicans, and so on.

[redacted] All right.

Anything?

[redacted] I think we're good.

[redacted] No further questions. Thank you for your time.

[redacted] We'll go off the record.

[Recess.]

[redacted] We're back on the record.

BY [redacted]

Q [redacted], you mentioned earlier that you -- and we saw some examples of requests from State officials flagging content for you to review, correct?

A Yes.

Q Do you recall exchanges that you had with an attorney for the Connecticut Secretary of State's Office about misinformation posts?

A Do you have a name?

Q I do. It's [redacted].

A Yes. I generally recall having interactions with [redacted]. I'd obviously have to see something specific.

Q Okay. I'm about to show you -- it's a fairly long thread, but I'm not going to ask you super detailed questions about it. But I'll ask you to take a few minutes to review.

A Great.

[redacted] I'm sorry. What number are we on?

[redacted] We are on seven.

[redacted] Seven. That's what I thought.

[[redacted] Exhibit No. 7.

Was marked for identification.]

Ms. [redacted]. I've reviewed it.

BY [redacted]

Q Thank you.

So between November 2020 and January 2021, you and your colleague, [redacted], received several emails from the Office of the Connecticut Secretary of State,

correct?

A Yes, that's -- I don't recall these specific reports, but based on what I'm looking at, that does seem to be right.

Q And that official was flagging posts that alleged false claims of vote hacking in Connecticut?

A Can you point out to me where you're --

Q Sure. On the last page. 16789.

A I see that he's written "vote hacking" there. Again, I don't recall these posts specifically, so I can't tell you if that's what they actually showed. But I do see him writing those words.

Q Fair enough.

And do you remember from -- or you see from your review of this chain that he also flagged as misinformation comments that the State of Connecticut used voting machines from Dominion Voting?

A I -- yeah, I see him say that, but I -- again, I don't recall the posts themselves.

Q Fair enough.

And do you see that both you and [redacted] responded to him that those posts that he was asking to be removed did not violate Meta's community standards?

A I do see that, yes.

Q And you told him that Meta only removes misinformation that directly interferes with the right to vote, or a person's ability to vote?

A I'm just reviewing what I wrote.

Yes. I see that I wrote that our policies are focused on misrepresentations that would directly interfere with the vote.

Q And so those would be misrepresentations about, for example, the time or

place of an election?

A Correct. I mean, again, I'm not an expert on our community standards, but they generally focus on incorrect information about when, where, and how to vote.

Q Okay. Thank you.

And if people on the content moderation team determine that a post or a comment falls under that policy, a misrepresentation about when, where, and how to vote, then that content would be removed? Is that your understanding?

A That is my understanding.

Q Okay. And despite repeated requests from this official in Connecticut, Meta did not remove the posts that were flagged?

A Yes. Again, I don't recall the email exchange, but I do see that [redacted] and I consistently confirmed that.

Q And as you mentioned earlier, your team's role is nonpartisan, right?

A It is.

Q And so you would receive requests from whatever officials were in the region that you worked with or that you had contacts with?

A Correct.

Q And you would forward them on regardless of what party they were from?

A Yep. The process was exactly the same regardless of the party of the reporter.

Q And regardless of the content of the post or content that was flagged --

A Correct.

Q -- regardless of the political leaning?

A Yeah. The political leaning of the content would not influence how the factions are.

Q And so you were sometimes asked to review or to forward for review content that appeared to be targeting progressive voters?

A I don't think I recall anything like that specifically. Like, I know I was forwarded content from Republican State election officials for us to review it.

Q Okay. As well as Democratic State officials?

A As well as Democratic State officials.

Q And your understanding was -- and you were told by your content team that it's not about the partisan nature of the comments, it's whether it violates Meta's community standards about misinformation about when, where, and how to vote?

A Again, my team would take a report that came in. We would pen it on to our Community Standards Team. That process is the same regardless of the reporting party. What we did is the same each time.

[redacted] Okay. Thank you very much.

And that's it for me.

[redacted] Are you guys done?

We can go off the record. Thank you.

[Whereupon, at 12:46 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

Transcribed Interview Transcript Errata Form

Interviewee	[redacted] - META
Date of Interview	MAY 22, 2023
Date of Review	JULY 10, 2024
Name of Reviewer	[redacted] - KIRKLAND & ELLIS
Signature of Reviewer	

Page	Line	Suggested Correction
8	9	capitalize Regional Policy Partnerships
11	17	capitalize Director of External Affairs
17		COPRES C not copresk
18		"Q" & "A" transposed for a portion
19		Poynter not Pointer
40		COPRESC not copress
35	3	[redacted] not [redacted]

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: [redacted]

Tuesday, May 23, 2023

Washington, D.C.

The interview in the above matter was held in Room 6400, O'Neill House Office Building, commencing at 9:58 a.m.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

[redacted] LAW CLERK

[redacted] DEPUTY GENERAL COUNSEL

[redacted] LAW CLERK

[redacted] COUNSEL

[redacted] SPECIAL COUNSEL

[redacted] COUNSEL

[redacted] MINORITY OVERSIGHT COUNSEL

For the SUBCOMMITTEE ON CRIME AND FEDERAL GOVERNMENT SURVEILLANCE:

[redacted] MINORITY DETAILEE

For [redacted]:

MICHAEL D. BOPP, ESQ.

Gibson Dunn

1050 Connecticut Avenue NW

Washington, D.C. 20036-5306

For ALPHABET:

DANIEL T. DONOVAN, ESQ.

Kirkland & Ellis LLP

1301 Pennsylvania Avenue NW

Washington, D.C. 20004

[redacted] This is a transcribed interview of [redacted].

Chairman Jordan has requested this interview as part of the committee's investigation of how and the extent to which the executive branch has coerced and colluded with companies and other intermediaries to censor speech.

Would the witness please state his name for the record?

[redacted]. [redacted].

[redacted] On behalf of the committee, I would like to thank you for appearing here today to answer our questions. The chairman also appreciates your willingness to appear voluntarily.

My name is [redacted] and I'm with Chairman Jordan's staff. I'll now have everyone else from the committee who is here at the table introduce themselves as well.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] [redacted] Ranking Member Nadler's staff.

[redacted] [redacted] House Judiciary Democrats.

[redacted] I'll have counsel introduce themselves for the record.

Mr. Donovan. Daniel Donovan, on behalf of Alphabet.

Mr. Bopp. Michael Bopp, representing [redacted].

[redacted] I'd like to go over the ground rules and guidelines that we'll follow during today's interview.

Our questioning is going to proceed in rounds. The majority will ask questions

first for 1 hour, and then the minority will have an opportunity to ask questions for an equal period of time if they choose. We will alternate back and forth until there are no more questions and the interview is over.

We typically take a short break at the end of each hour, but if you'd like a break apart from that, just let us know. We're happy to accommodate you.

And, as you can see, there's an official court reporter here taking down everything we say to make a written record, so we ask that you give verbal responses to all questions. Do you understand that?

[redacted]. Yes, I do.

[redacted] And so the court reporter can take down a clear record, we will do our best to limit the number of people directing questions to you during any given hour just to those people on the staff whose turn it is.

So please try and speak clearly for the court reporters so they can understand you and so the folks down at the end of the table can understand you and hear you. It's a small room, so I don't think we'll have that problem.

[redacted]. I've got a loud voice too.

[redacted] Yeah. Good.

It is important that we also don't talk over one another or interrupt each other if we can help it, and that goes for everyone present at today's interview.

We also encourage our witnesses who appear before the committee to freely consult with their counsel if they choose.

We also want you to answer our questions in the most complete and truthful manner as possible, so we're going to take our time today. If you have any questions or you don't understand one of our questions, just let us know. We're happy to clarify for you. We're going to cover a wide range of topics, so if you need additional clarification,

just let us know.

And if you honestly don't know the answer to a question or do not remember, it's best not to guess; please give us your best recollection. And it's okay to tell us if you learned the information from somewhere else. Please just let us know how you came to know that information. And if there are things you don't know or can't remember, just say so, and please inform us who, to the best of your knowledge, might be able to provide a more complete answer to the question.

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

[redacted]. Yes, I do.

[redacted] This also applies to questions posed by congressional staff in an interview. Do you understand that?

[redacted]. Yes, I do.

[redacted] And witnesses that knowingly provide false testimony could be subject to criminal prosecution for perjury or making false statements under 18 U.S.C. 1001. Do you understand this?

[redacted]. Yes, I do.

[redacted] Finally, I'd like to make note that the content of what we discuss here today is confidential. We ask that you not speak about what we discuss in the interview with anyone else or any outside individuals so we can preserve the integrity of our investigation.

For the same reason -- we are going to be using some exhibits today. Those marked exhibits will remain with the court reporter so that they can be part of the transcript and the transcript's record, and any copies of these exhibits will be returned to

us when we wrap up the interview.

So that's the end of my intro and preamble. Is there anything the minority would like to add?

[redacted] No, thank you.

[redacted] Okay.

My colleague [redacted] will be asking questions today. The time is 10:02, and we can begin the first hour of questioning.

EXAMINATION

BY [redacted]

Q [redacted], thank you again for appearing here voluntarily.

Could you state your full fume again for the record, please?

A Sure. [redacted].

Q And where are you currently employed?

A I work for Google.

Q And what's your current title?

A My current title is director of global elections integrity.

Q What is your educational background, beginning with college?

A So I have a B.A., Bachelor of Arts, from the University of Pennsylvania in political science and history.

Q Okay. And what is your employment history postdating college?

A Sure. Would you like me to go starting from most current backwards or earliest forwards?

Q Let's start earliest forwards, so first position out of college.

A Sure.

So, out of college, I worked at a telecommunications consulting firm called the

Yankee Group, and in that capacity I focused on broadband infrastructure. I worked there from 2006 to 2009.

After that, I worked for the Federal Communications Commission for a period of about 9 months or so, also focused on broadband infrastructure.

After that, I worked in the Executive Office of the President. I worked within the EOP from 2010 to 2017 in a variety of roles.

And then, after my time in the EOP, I worked for a private philanthropic organization called Schmidt Futures. I worked there from 2017 through 2020.

And then I started at Google in 2020, and I've been at Google since then.

Q Okay. We will get to your Google position in a moment. Can you say, just at a high level, your responsibilities when you were working in EOP?

A Sure.

So I had a number of roles when I worked in the EOP. At the beginning of my time there, I worked in the Office of Management and Budget, where I was a career Federal official working within the Office of Federal Financial Management on a variety of issues. I worked in that role for a period of time.

I also worked on other manners -- other matters, I should say, within the, kind of, management half of OMB. I imagine most folks here are familiar with OMB, so on the Evans side of OMB. So I worked there for a period of time.

After my time at OMB, I worked in the White House Chief of Staff's Office, where I had a variety of responsibilities. I was focused on, sort of, effective implementation of Federal programs, so typically dealing with Federal agencies on, sort of, the implementation of large operational challenges.

Q Okay. And you said your next position was with Schmidt Futures?

A Yes.

Q Yeah. And that's a nonprofit?

A Yes, it is a not-for-profit.

Q Okay. Does it have any affiliation with Alphabet?

A No. When it was founded, Eric Schmidt was still the executive chairman of Alphabet, though was no longer the chief executive officer. He stepped down from the board -- I don't remember exactly when, but during the period of time that I was at Schmidt Futures. But even when he was there, there was no affiliation between the two.

Q And then you said you joined Google in 2020?

A Correct.

Q Do you remember which month?

A February.

Q All right. Was this before remote work began at Google?

A It was, shortly before. I started in February of 2020. I believe Google went to remote work because of COVID in the middle of March.

Q Okay. And what was your role when you first joined Google?

A Sure. My title when I first joined, I believe, was global head -- or maybe just head of global elections integrity.

Q Okay. And remind me what your current title is.

A Director of global elections integrity.

Q Okay. And when did you change positions?

A I got promoted to a director in November of this past year.

Q Okay. In your first position at Google, what were your day-to-day responsibilities?

A Sure. So my role was to lead the global elections integrity team, which was

a team that was established prior to the time I joined Google. So there's a variety of things that the team does, which I'm sure we can get into, but my job was to lead a small team focused on elections-related work that Google was doing all around the world.

Q When you first started, who did you report to?

A The person I reported to was the director of emerging trends and risk management within Google's trust and safety organization.

Q And who led that team?

A The woman's name was [redacted].

Q Do you recall who led the trust and safety team at the start of 2020?

A Yes. The person who was the head of trust and safety at that time was a woman named [redacted].

Q And just one point of clarification: So, when you're working at Google and you have this title, is this for all of Alphabet? Alphabet obviously has multiple entities. Does this include YouTube, other Google companies? What was the scope of your team's --

A Sure.

Q -- responsibility?

A So, broadly speaking, the mandate of the team is focused across the whole organization, across all of Alphabet. In reality, the YouTube team, in particular, has within it a separate trust and safety organization that we partnered closely with but was somewhat of a separate operation.

Q And has that always been the case during your time at Alphabet?

A Sorry. That is, that --

Q That YouTube had its own trust and --

A Yes. During my entire time there, YouTube has had its own trust and safety

function.

Q In your current role, who do you report to right now?

A So my manager is the senior director of strategic preparedness and response within the trust and safety organization.

Q Okay. And who is that?

A His name is [redacted].

Q How big is your team?

A So my immediate team is seven people.

Q Okay. And what was the size of your team when you first joined Google?

A When I first joined, it was five individuals, including me.

Q For the current members on your team -- you said there were seven -- are their responsibilities divided based off subject area? Region? How is the team structured?

A So a little bit of both. We have some people on the team that are based regionally whose responsibilities are specific to supporting elections in given regions. And then we have some people who work on particular types of issues and work on elections more globally across the full landscape. So it varies.

Q Okay. For the regions, what are the regional divides?

A Generally, Americas, EMEA, and APAC.

Q Okay. Is there someone who has a focus on U.S. elections in particular?

A On the current team?

Q Yes.

A Yes, there is.

Q And who is that?

A The person who's currently on the team focused specifically on the U.S.

elections, his name is [redacted].

Q And then you said there are individuals who have a focus on particular issues. What are those issues?

A So it varies. The responsibilities of the team are somewhat varied and broad.

So there are folks whose responsibility is specifically around, like, data infrastructure.

There's somebody whose responsibility is specifically around the risk mitigation.

Folks whose responsibility is around, kind of, identifying factors where we should -- let me say it this way: like, factors for how Google should support various elections around the world. Obviously, there are, you know, tens, if not up to three digits, of elections in the world per year. And so Google does different things in different elections depending on a variety of factors, and there are folks on my team that take a look at that.

So there's a lot of responsibilities on the team.

Q Okay.

Before we get any further, are you familiar with the terms "misinformation," "disinformation," and "malinformation"?

A I'm familiar with the terms "misinformation" and "disinformation." I've always been a little bit sketchy on the distinction with "malinformation." But, generally, yes.

Q And does Google use a misinformation and disinformation -- what is the distinction between those terms, as you understand them?

A Sure. So, I mean, I'm not an expert, but my understanding is that misinformation is generally considered information that is false or misleading in some

fashion but without necessarily an underlying intent ascribed to it, whereas disinformation is information that is out there that is a more active attempt to mislead for some end.

Q Okay. Do these issues fall within the scope of your team's responsibility?

A So, broadly speaking, my team does work that touches on these topics, though our responsibility is not to engage in things like content moderation for misinformation related to elections.

Q Okay. And which team is responsible for content moderation for misinformation?

A So there are a number of teams and a number of products, obviously, across all of Google. Broadly speaking, we have policy teams that set our product policies for every product across the spectrum, and those policies cover the full range of topics from spam content or child sexual abuse material or, you know, gore content or what have you; for most products, do also include, usually, topics around, like, false claims or factual accuracy or things like that, which one could consider to be misinformation depending on context.

So there are policy teams that are charged with essentially setting those product policies. And then there are enforcement teams that are charged with enforcing those policies across the various products.

Q You mentioned several areas of content -- CSAM, misinformation. Are these teams divided based upon that subject matter or, as you said, divided based upon Google product?

A So it's kind of like, in the first instance, the latter; and, in the second instance, the former.

Q Okay.

A So there are -- and this is probably an oversimplification, but the general structure is that policy and enforcement teams are segmented in the first instance by the product in question. So there is a dedicated team for, you know, Geo; there is a dedicated team for Search or what have you. And then, within that, sometimes they are further subdivided by topic area, though that varies by team.

Q Does Search have a team dedicated to fact-checking misinformation-related issues?

A I don't believe that they have a specific team that just deals with misinformation. I think it's one of those things that probably touches on a bunch of different topics in some fashion because it can be a broadly defined team.

Q Which team within Google Search do you think handles these issues?

A Sorry. That handles misinformation?

Q Yes.

A Do you mean from a policy perspective? Do you mean from an enforcement perspective?

Q Just policy, to start.

A Just policy? So there is a team -- there's a team within the policy team that specifically does search policy. And I imagine many people on that team deal with issues in this area.

Q Do you know who leads that team?

A The director of -- so the director of the search policy team is a woman named [redacted].

Q Okay. How do you spell that last name?

A [redacted].

Q And do you know which team for Google Search is in charge of enforcement

of misinformation-related issues?

A Yes, I do.

Q And who is that?

A So there is a -- similar to the way that the policy teams are structured, there is enforcement teams for each product area or each grouping of product areas. And there is a team that specifically covers Search, who, to answer what I assume is your next question, is led by a woman named [redacted].

Q With respect to Google products, does YouTube have its own division with respect to developing policies and enforcing policies?

A Yes, they do. Yes, they do.

Q Okay. Do you know the name of the YouTube team responsible for developing YouTube's policies?

A I don't know the specific name of the team. We just refer to them as the "YouTube policy team."

Q Okay.

A That may be their name; they may have a more formalized team.

Q Do you know who leads that team?

A I believe the lead on that team is a person named Michael Grosack.

Mr. Bopp. That's for enforcement?

[redacted]. Policy.

Mr. Bopp. Policy.

BY [redacted]

Q So same question for YouTube with respect to enforcement. Do you know the name of that team?

A I don't. I don't know the specific name of the team.

Q Do you know who leads it?

A No. I don't -- I'm trying to think. I don't think I actually know who leads the, like, enforcement-specific function within YouTube these days.

Q Uh-huh. Do you have a point of contact on that team?

A I do. I don't know if they do just enforcement. They may do other things as well.

Q Okay. And who is that?

A It's a woman named [redacted].

Q Okay.

So we covered Search, YouTube. What are some of the other Google products that your team works most closely with?

A So, generally, our role is to work across the whole organization. When we think about elections in particular, we work -- we focus on Play; Geo, which is Google Maps; Workspace; as well as the, like, apps, the monetized team.

Q Do you work with -- I believe it's owned by Alphabet at this point -- a company named Mandiant?

A I have had a couple of occasions to engage with folks with Mandiant, but I don't work with them on a regular basis.

Q When it comes to misinformation, someone or an organization is the first to flag an issue of, you know, the accuracy of content.

Starting with the YouTube space, do you know how misinformation is first flagged with respect to YouTube videos?

A So I guess the first thing I would just want to sort of reiterate is that, like, this is not my team's role.

Q Uh-huh.

A We don't engage in content moderation.

My understanding is that content, both for YouTube as well as for other products, can be flagged from a variety of sources -- so from individuals internally within Google noticing that content may be harmful or violative of our policies, public reporting, somebody externally, press reporting. So there's a variety of ways that content can get flagged for teams.

Q And understanding this is not your team's responsibility, but do you know if these content-moderator-related teams use third-party fact-checkers?

A I don't believe so for the purposes of -- for the purposes of making decisions on content moderation. But, again, that's not really my role.

Q What about just for assessing the accuracy of a claim?

A I candidly don't know.

Q Okay. If you were asked this question from a partner you work with, who would be a good point of contact to ask?

A The question of whether teams use fact-checkers to engage in content moderation? I'm honestly not sure.

Q Yeah. Is there anyone that you can think of who might know this information?

A I'm honestly not sure.

Q For issues related to inauthentic accounts and behavior, is there a team devoted to that within Alphabet?

A So there are a few teams that deal with inauthentic accounts or behavior. The one that I think most directly does is called the Threat Analysis Group.

Q And where is that group housed within Alphabet's structure?

A It's part of Core, which is, like, an overarching organization that handles, sort

of, like, some core technological infrastructure within Google, as well as, like, things like security.

Q Am I right in understanding, then, there are these different silos for Google products, and Core is outside of one of those silos? Or above?

A It's not above. Generally, like -- this is an oversimplification, but there is generally kind of, like, two categories of macro teams at Google; there's products and there's functions. And Core is considered function.

Q Do you know who leads the threat analysis team?

A Yes. A gentleman named [redacted].

Q And do you know who leads the Core team, if there is a leader of the Core team?

A Yes. It's a woman named [redacted].

Q Would this be the team primarily responsible for concerns related to a foreign malign influence campaign?

A So there's a few teams or there's a number of people that would touch on that topic from various angles, including public policy teams and others. But this would be one of the primary teams focused on investigation of whether there was such a campaign.

Q Do you know if these investigations take place in-house or if Google relies on third parties?

A I don't know. I don't know the way that TAG does their work.

Q Okay. Which other teams would play a role with respect to issues related to foreign malign influence campaigns?

A So there are intel teams in various other parts of the organization. None of them, I think, have a mandate that is as specific around, sort of, inauthentic behavior

from both foreign and domestic actors as the Threat Analysis Group, but other intel teams, I'm sure, touch on that topic in some form or fashion.

Q Does your team handle these issues at all?

A We don't.

Q Do you know which team would have primary responsibility for issues related to a potential hack-and-leak operation?

A So it depends on from what angle. If it's from a determination of whether such an action occurred, it would probably be from a security-focused team. If it was a determination about implications on a given product, it would probably be the relevant product teams.

Q Turning back to the different teams divided by product, are there any other products that you can think of that have a team dedicated to misinformation, fact-checking-related issues?

A Not that I can recall. Not that I can recall. I think a lot of teams have people that touch on it in some form or fashion as part of their duties.

Q As part of your current responsibilities, do you play a role in enforcing content moderation policies for YouTube, Google Search, or any other Google product?

A I don't. That's done by the enforcement teams.

Q Okay. Are you familiar with YouTube's community guidelines?

A I'm not an expert in them. I have a broad familiarity with them.

Q Are there some sections that you're more familiar with than others?

A Like I said, I have a broad familiarity. I would say that, in particular, on stuff related to elections, I have more of a familiarity, but I'm still by no means an expert on them.

Q And if you wanted to consult with an expert on them, who would be your

best point of contact at Google?

A For questions about YouTube's community guidelines specifically with respect to elections?

Q Yes.

A Probably [redacted], who leads their policy team.

Q All right.

I'm going to introduce an exhibit. It's a transcript of an interview you gave a few years back. So we'll pass this around and try to get more context. So this will be exhibit 1.

[[redacted] Exhibit No. 1

Was marked for identification.]

BY [redacted]

Q So we'll give you a few moments to review, but the interview took place on August 12, 2020. This was an organization called the Committee for Economic Development. We've provided a link. This exhibit is a transcript that recreates this interview.

Mr. Bopp. Did you guys -- did you create this transcript?

[redacted] We did. It was generated, and staff reviewed it to make sure it's consistent with the video.

Mr. Bopp. Who is [redacted] with?

[redacted] We believe he's with the Committee for Economic Development. He is the moderator asking questions of [redacted].

BY [redacted]

Q Are you ready?

A I am, but --

Mr. Bopp. Just 1 minute, please.

[redacted] Sure.

BY [redacted]

Q [redacted] --

A Yep.

Q -- do you recall participating in this interview?

A Yes, I do.

Q And what was the context of why you were invited?

A They reached out to me. The individual that's interviewing me, Devin O'Connor, is somebody that I know personally, and so was in this role and knew what I did and thought it would be useful for me to speak about it to the group.

Q If I could call your attention to the answer you give at the bottom of page 1.

A Uh-huh.

Q Kind of at the outset, you draw a distinction between two big buckets, whether Google is using the conduct of an election and whether Google is using the process of an election. And for the first one, you said it's a bit rare, it doesn't happen too frequently. You provided the Nevada Democratic Caucus as one example.

Are there any other examples of, we'll say, U.S. Federal elections that Google products have been involved in?

A Not that I'm aware of. Not that I can recall.

Q So then you spend the rest of the interview really digging into this other bucket. And you identify three ways that Google is involved with election-related information and process-related concerns.

And this is, again, the same answer at the bottom of page 1. Your answer continues on to page 2, and that includes the top paragraph. You're briefly interrupted

by [redacted]. And then you finish your answer in that second paragraph.

And you provide three categories. The first is provide information, how to vote. The second is helping campaigns reach voters and keep campaign accounts secure, things like that. And then the third category is preventing abuse and harm, including misleading voters.

Is that still how your team views -- or, let me strike that. Is that still how you view that second bucket of how Google is related in process-related issues?

A Sorry, just the middle bucket of those three? Or you mean -- oh, sorry. You mean the -- I see what you're saying.

So, broadly speaking, those three categories -- helping voters, equipping campaigns or other election-related entities, and protecting users from harm -- are still the, sort of, three broad categories that we think about. Not just the work of my team, but broadly what Google does to support elections.

Q Great. That was going to be my next question.

Which teams at Google, in addition to yours, touch upon that third bucket?

A So there are a number of teams that focus on protecting users from harm. Generally speaking, the primary mandate for that kind of work rests within the trust and safety teams -- both the Google trust and safety team as well as the YouTube trust and safety team.

Q And when you say the Google trust and safety team, is that Google Search? Is that other Google products?

A Yeah. So this, I think, may be too general of a characterization, but, as a general matter, the trust and safety functions for Google products across the board are housed within a single trust and safety team, with the exception of YouTube, which has its own trust and safety team.

Q And when you mentioned enforcement teams earlier, are those enforcement teams housed within the trust and safety team?

A Yes. Yes, they are.

Q And do you have a sense of how big the enforcement team is for YouTube's trust and safety team?

A No, I don't.

Q Do you know which team is bigger, the enforcement team within YouTube or the enforcement team we'll just broadly call Google?

A No, I don't.

Q Okay.

Turning back to the interview, you then focus -- so there were two buckets. The second one had three categories. The third category, you then delve into a bit more detail. This starts on the last paragraph of page 2.

A Uh-huh.

Q And you say there are, sort of, six big categories of risk, and then you go through and list six items. And that includes domestic misinformation, foreign interference, social engineering, manipulating media, targeted attacks, and then unanticipated challenges. You put COVID-19 in that bucket. And this is on page 2. The sixth category is listed on the top of page 3.

First, let me ask: Is this, to your recollection, an accurate description of how you viewed these categories of risk in the summer of 2020?

A I think those six categories were generally the way that we talked about, broadly, the category of risks that we were thinking about, not just for the U.S. elections but globally. Yeah.

Q And when you say "we," are you referring to your team? Google as a

whole?

A Principally my team, when we were describing our work internally.

[redacted] Can I just clarify, are you asking him when he uses "we" now or when he used "we" in the interview?

[redacted] "We" now, but thank you.

BY [redacted]

Q Sitting here today, 2023, does your team still view the categories of risk in these six buckets?

A I don't think that we have refreshed that particular framing since 2020. Sitting here right now, I think I probably would not have the same six categories, necessarily, and describe them the exact same way. But I'd need to give some thought to the appropriate way to bucket things in the current environment.

Q Is there anything in particular that stands out that you would revise?

A So, again, I think that I would need to give some considered thought to, like, what a new categorization would look like.

You know, to give you one example, I would imagine that, in any similar analysis right now, we would be taking a hard look at artificial intelligence, in particular generative AI, and the ways in which that might intersect with elections integrity on our products, which is, you know, somewhat nested in the category of manipulated media in this construct but, obviously, looks different in 2023 than it did in 2020.

Q If I could turn your attention -- this is about the middle of the last paragraph on page 2. You say, "The first is domestic disinformation or misinformation. So, actor-based, inauthentic networks that are designed to spread disinformation as well as content-based disinformation that either harms users or interferes in the election in some fashion."

First, can you provide, just at a high level, your understanding of the difference between actor-based and content-based mis- and disinformation?

A Sure.

So actor-based would be an instance where there is potentially a known actor that is, in some cases, to our conversation earlier about inauthentic behavior, trying to conceal their identity or conceal the provenance of the information that they are putting out there on a consistent and repeated basis.

A content-based sort of instance would be one where, just based on the four walls of the content, regardless of the source, there's potential content that might violate our policies and be harmful to users.

Q And does both actor-based and content-based misinformation touch upon your team's work?

A So, again, in both instances, our team is not engaged in content moderation. So, whether it's moderation actions that are taken at the actor level or at the content level, that's not something that our team is engaged in.

Q So, understanding that your team isn't responsible for executing YouTube's content moderation policy or Google's content moderation policy for other Google products, is your team involved in that process at all, so identifying misinformation or providing analysis on an actor or a piece of content?

A So, generally speaking, no. Our team's role is principally one of coordination. So those efforts are happening across a variety of teams across the organization, and our team's role is to help coordinate those efforts. But we, you know, are not doing analyses of specific type of content or specific actors.

Q If you could turn to page 3, you're asked about Google's response to misinformation. And you provide, again, three categories as you walk through your

answer -- transparency, policy, and enforcement.

Building off what we covered earlier in the hour, are you communicating things --

Mr. Bopp. Where are you?

[redacted] Sure, sure. Sorry. So, on the middle paragraph on page 3 --

Mr. Bopp. Uh-huh.

[redacted] -- [redacted] begins his answer. It's about five or six lines down. He brings up the first thing; he says, transparency. "There's, you know, things that we do around transparency, there's things that we do around policy and there's things that we do around enforcement."

And then his answer for transparency finishes in that paragraph. The next paragraph covers policy and enforcement.

BY [redacted]

Q Going back to what we touched upon earlier, you mentioned there are a number of policy-related teams, a number of enforcement-related teams. When you were delivering this answer -- or, let me ask you this.

You've had a moment to review. Is what you're conveying those same set of teams? So, with respect to policy, you're referring to actions done by the policy team; with respect to enforcement, work done by the enforcement teams. Or is there conduct that your team conducted you're referencing in here?

A Sure. So, appreciate the opportunity to clarify this.

So I remember doing this interview. I don't remember my answers. But, in reviewing this, I am quite confident that what I'm doing here is speaking broadly on behalf of the work that the company does. So this is not necessarily work that is housed within my team, but, rather, more broadly, what the company is focused on.

Q If I could turn your attention to the start of your answer at the last

paragraph on page 3, where you begin discussing policy.

You say, "On the policy side of things, you know, there's a number of things that we do across individual product areas to prohibit and prohibit sort of what we call -- to reduce misrepresentative content at one end of the spectrum and demonstrably false content on the other end of the spectrum."

A little bit later, you say, "Folks get a little bit too focused on just what is prohibited on platforms, and that's important, but one of the things we can also do is use our tools to make sure that even if content is not necessarily violative in a way that it can be removed from a platform, we can reduce that content in favor of elevating more authoritative content."

When you're referring to either reducing content or elevating content, which Google products does that step apply to?

A So there's a variety of products that have tools to sort of elevate more authoritative content to make sure that that high-quality content is what users encounter in the first instance, though still retain access to any content that they would like to have.

Certainly YouTube has those tools. Those are available for certain Search products, depending on the product. Those are the ones that I'm most aware of.

Q And when you say "certain Search products," would that include Google News?

A I'm not familiar with exactly the levers that Google News uses. I believe that they have those kind of tools. That's also stuff that is housed outside the trust and safety organization.

Q Okay.

When you say "Search products," when someone goes to Google and types in a search, what is the Search product name for that?

A Sure. So it's all Search -- if you'll give me a second to explain. So it's all Search, but there's different things that appear. So there's, like, what, you know, I think many of us remember from the early days of Google, what we call the 10 blue links, which we generally refer to now as "organic search." There's that content.

There's also, you know, when you search for something on Google now, a number of other things that you will see. You will see what are called "web answers." You'll see sometimes what's called a "knowledge panel." So if you're searching for a particular person or entity, you might see something on the right-hand side of the search page that has information from an authoritative source with basic information about that person or entity.

So there's, like -- and there's others. So there are -- you know, there's images sometimes that you'll see at the time, or videos sometimes that you'll see at the top.

So the Search page is a kind of, like, macro product, and then there are a number of, you know, products or features that exist within that. And they're treated differently.

Q You mentioned that there was a trust and safety team specific to YouTube and that there was, kind of, this broader bucket, with the caveat there might be some differences that weren't gone into yet.

Is there a trust and safety team devoted to Search products?

A Yes, there is. It's within the Google trust and safety team, but there is a specific policy team that focuses on Search. Within the Google trust and safety team, there's a specific enforcement team that also focuses on Search.

Q Okay.

A And I should say that the team is largely organized around Search as well as Assistant, Google Assistant.

Q Okay. And when you say that, is there someone in charge of Google Search, someone in charge of Google Assistant, and then there's a team leader on top of that?

A I'm honestly not sure of the organizational structure, whether that's the way that they're divided or not.

Q And I think I asked this already, but just to clarify again, who leads the Google search policy team?

A The director of the Google search -- the trust and safety -- Google trust and safety search policy team is under [redacted].

Q Do you know, as a practical matter, how reductions are executed with either respect to YouTube or the Google Search?

And by that, I mean: There is an issue that is flagged with certain content; let's say it's because it's misinformation. Right? And a policy team has identified that. It has been determined that this content should be reduced. How is that then actually, as a practical matter, executed so that it comes up fewer times in search results?

A I don't have direct knowledge of that. I'm not familiar with the tooling or the underlying algorithms that are at play there.

Q Okay. Do you know which team, whether it's an engineering team or someone with more technical expertise, would be responsible for executing that?

A You mean specifically with regards to reducing content?

Q Uh-huh.

A Typically, it would be an engineering team.

Q When it comes to reducing content, do you know if -- and this applies -- let me ask first for YouTube. Are there different degrees that are available when YouTube decides to reduce content?

A I don't know. I'm not familiar with the reducing mechanisms with YouTube.

Q And for Google Search?

A Similarly, yeah, I'm not familiar with them.

Q When content is reduced, do you know if the account is notified -- the YouTube account is notified?

A I don't know.

Q Okay. And who would be best to answer that question?

A I'm not sure. Potentially somebody from the relevant engineering team or from the YouTube public policy team, but I don't know.

Q All right.

If I could turn your attention -- we'll turn to page 6 of exhibit 1. And if you look at your answer -- it's one big paragraph in the middle --

A Uh-huh.

Q -- of the page. It's about maybe a half-dozen lines down. You talk about the challenge of domestic disinformation campaigns.

And you say, "It's become increasingly germane in this election cycle" -- again, this is referring to 2020 -- "and is going to sort of be the biggest thing that, that to focus on going forward."

Going on to the next sentence, "In terms of the way that Google's adapted, we've obviously changed a lot since 2016 as well."

So the first question is: From the company's perspective, has domestic disinformation continued to be an issue that Google has focused on?

A Yes. I think both domestic and foreign misinformation and disinformation, in all categories of content, are still things that the company is very focused on, protecting user -- user harm.

Q And in terms of focusing on a particular set of risks, or prioritizing focus on a certain set of risks, has domestic disinformation -- has the attention from the company changed at all from 2020 to today?

A Sorry. Can you clarify what you mean by "the attention from the company" there?

Q Sure. Let me actually back up a little bit.

You say, "We've obviously changed a lot since 2016." And you said this in 2020. In what ways are you referring to? What changes has Google made from 2016 to 2020?

A So, I mean, important to note, I wasn't at Google in 2016. So, in this instance, I'm speaking on behalf of the company broadly and my understanding of what had changed.

I think there was a lot of additional focus not just from 2016 but from elections that happened around the world during that intervening period. There were major elections in the European Union, in France, in India, and others where users turned to Google very heavily for assistance. And I think there was a recognition that the company as a whole could be doing more to help support election integrity everywhere around the world.

Q And do you know what steps Google took in particular to help support those efforts?

A I don't know specifically. Like I said, it was before my time at Google. I mean, certainly one of the things that did happen is they created the Google elections integrity team during that period that you're describing.

Q Okay. Do you know when the team was created?

A My understanding was it was created in the fall or early winter of 2019.

Q With respect to election integrity, what steps has Google taken since

December of 2020 to today?

A Sorry. That's different from the approach in 2020 versus the approach now?

Q Yes.

Mr. Bopp. Wait, wait. You're asking with respect to the team itself?

[redacted] Well, for the company. It sounds like the team has primary responsibility in this realm, but [redacted] identified a couple of the steps that Google took with respect to from 2016 into 2020, including the creation of his team.

BY [redacted]

Q Well, let me ask, did these efforts stop, or have they continued into 2023?

A So, generally speaking, I think those efforts have continued. I think, in terms of what has changed, I guess what I would say is that we've spent a lot of time and effort focusing on standardizing the way in which we support elections everywhere around the world.

You know, like I said, the team was stood up in 2019, and there were elections that we were supporting over the course of 2019 and 2020, but, in some ways, it was kind of a building-the-plane-as-you're-flying-it situation. And over the course of time, I think, as the team has matured, we've done a lot to standardize process so that we kind of understand what to do when we are approaching a given global election, rather than kind of approaching each election anew.

Q Great.

We've reached the hour mark, so I'll allow the minority to ask questions. If we could take the exhibits back, and if we need them, we'll bring them again in the next round.

[redacted] We'll go off the record.

[Recess.]

[11:15 a.m.]

[redacted] We're back on the record.

EXAMINATION

BY [redacted]

Q [redacted], on behalf of the minority, we'd also like to thank you for coming here today. We appreciate you taking the time.

So I want to ask you just a few quick questions about the work that you do and that you don't do for Google. Your work focuses on democratic processes and participation in elections generally speaking, correct?

A Yes. Broadly.

Q And you worked to ensure that Google's internal processes help voters have the ability to participate in free and fair elections around the world?

A As -- yeah. As I said before, our team's role is largely a coordination role. So we help kind of coordinate and gather the efforts towards that end that are being done from across the company.

Q And, as you said, I believe several times, it's -- you do not engage in content moderation, correct?

A Yes. Correct.

Q And that has never part of your job?

A Yes. That's correct.

Q And what that means is that you do not determine whether a piece of content violates Google's policies or YouTube's community guidelines?

A Yes. That's correct.

Q And neither does anyone on your team, correct?

A Yes. That's correct.

Q And you do not determine whether a piece of content on any of Google's platforms contains misinformation?

A No, I do not.

Q And I believe you were asked who the person to contact to ask about misinformation would be, and your answer was you didn't know?

A Yeah. Misinformation is a relatively broad topic, so it touches upon a number of teams depending upon the specific type of content in question.

Q And so you were also asked about the interview that you gave to the Committee for Economic Development. And, in that interview, a few times you said things like "we reduce misinformation." When you made those comments, the "we" referred to Google as a company, not you personally, correct?

A Correct. I'm speaking on behalf of the company in this context.

Q And you did not engage in fact-checking?

A No, I do not.

Q And neither does anyone on your team?

A No, they do not.

Q And are you aware that Google's counsel -- and I'm not sure if your own counsel has done this as well -- have informed counsel for the majority that you do not and have not engaged in content moderation?

A I actually don't know whether they've been informed as such.

Q You were asked a lot of questions today about who -- about the structure of Google's organization, who was on what team, who played what roles. Would you have been willing to answer those questions in writing rather than have to come here in D.C and give this interview?

A Yes. Though, I'm also happy to be here.

Q And is it your understanding that, if you did not appear here today voluntarily, that you would be subpoenaed?

A I don't have any understanding of what would have happened if I wasn't to appear today. But I'm happy to be here.

Q Can you explain -- and, if you can't, it's fine, but do you have an understanding of why Google, as a company, why it's important to Google to protect the integrity of elections around the world?

A Sure. So I appreciate the question. You know, at base, Google's overall mission is to organize the world's information and make it helpful to our users. And our users -- one of the things that users frequently come to Google for is information about civic processes around the world, and information about what their governments are doing and what is happening in the world. And so we have -- we, you know, we have a responsibility to help provide them accurate and useful information about those the topics. And that's what we try to do with respect to elections.

Q And so, in addition to the sense of civic responsibility that you just described, does Google also have a business interest in protecting the integrity of elections or election-related information on its platform?

A Yes, I think so. I mean, fundamentally, people come to Google because they find the information to be helpful, and if we were not providing helpful information in this or any other area -- there are a number of other areas -- presumably less people would be interested in coming to Google for their information.

Q Thank you. I appreciate that. So I want to talk about some of the issues that you discussed in the interview. For example, you explain that Google provides tools to help voters participate in information like how to register to vote, correct?

A Yes. That's correct.

Q Okay. And so -- and you explain that, if you go to Google and you look for that information, it will be tailored to you based on your location and where you can go to register to vote, correct?

A Yes, presuming that the user in question has the appropriate settlings enabled, but yes. They -- one of the things that we do -- one of the things that the company does that is most visible with respect to elections are features on the search page, as we were discussing earlier, the search page has a number of things on it around elections that will provide specific helpful information on topics related to how to vote or how to register to vote, et cetera.

Q And you provide that information around the world -- for elections around the world?

A We do. We don't provide it for every election around the world, but we do -- it is provided for a number of elections around the world.

Q And you provide that information regardless of the political leanings of the State, the locality, or country that you are -- that the election is taking place in?

A Yes. The considerations about the local or national political dynamics in any market are never part of the decision about whether to launch such a feature in that market. Typically, those decisions are made based on whether there is a reliable, authoritative data partner that can provide that information because none of the information that we provide in this context for these types of features is Google's information. It is information from a third party authoritative source.

Q So, for example, in the United States, that might be the Secretary of State's Office for a particular State?

A Yes. So -- yes. That's correct.

Q Okay. And that's the type of authoritative source that you refer to when

you talk about elevating content from authoritative sources?

A Yes. That's correct.

Q Because if a user, like me for example, googles "where can I register to vote, what's my deadline to register to vote," you want to make sure I'm getting authoritative information rather than information that might be posted by, say, a malign foreign actor?

A Yes. That's exactly right. Our goal is, for queries like that, to make sure that users have access to high-quality information that is easily accessible and also that comes from the authoritative source on that information that you described. How to vote, for example, like there's an authority on that subject, and so that is the most helpful information to that user.

Q Because you don't want a user go on Google, search for "what's my voter registration deadline," get incorrect information, and then miss the opportunity to register to vote?

A Yes. That's an outcome that we would try to avoid.

Q Now, you also mentioned that, in addition to helping voters, Google helps campaigns and other entities that help to drive the democratic process, for example, by helping them use tools on your platform to reach voters, correct?

A Yes.

Q And Google does that regardless of the party affiliation of the campaign or the candidate?

A Yes. That's correct. And, as I was saying earlier, those are efforts that happen all around the world, and across the political spectrum in every country.

Q And fair to say that your work is nonpartisan and your team's work is nonpartisan?

A Yes. I -- all the work that myself and my team do is nonpartisan and

apolitical in nature.

Q And, as you just said, you approach your work without regard to the political viewpoint of the campaigns or whoever it is relating to elections that's looking to use your tools?

A Yes. That's correct.

Q And it would be against Google's business interests in addition to its civic responsibility to prioritize one viewpoint over another?

A Yes. That's correct. It would be contrary to our -- contrary to our goals as a business, contrary to the goals of our team. It would also be not helpful to users, which is our overall goal.

[redacted] Give me one minute. I think that might be it for now. Yeah. That was quick. That's it for me for now. Thank you. Off the record.

[Recess.]

[11:35 a.m.]

[redacted] On the record.

BY [redacted]

Q Do you still have a copy of exhibit 1?

A I do, yes.

Q If I could turn your attention again to page 6, the last page? It looks about three lines up from the bottom, you say we have new intel desks. What are the intel desks that you're referring to?

A I'm trying to think what would have been new in -- at this time in 2020. I think the Trust and Safety Intel Team in particular was relatively new at that stage. There was an intel team specifically within Trust and Safety.

Q At a broad level, other similar Intel Teams at Google, are these all full-time Google employees, or are these contractors, third party entities?

A So I'm not familiar with all the various Intel Teams. My understanding is that they are the teams -- the teams are typically full-time employees but oftentimes work with third-party intel providers to provide information. That's my understanding.

Q Do you know who -- what any of those third-party providers are?

A No, I don't think I know any specific providers.

Q If you look -- and this is same paragraph, same answer, a few more lines up, you mention the hack of the Democratic National Committee in 2016. And, in the first hour, we talked about Google's hack and leak policy. When you started with Google February 2020, was the hack and leak policy already in place?

A So there's no -- there's no kind of like universal what we refer to as hacked political materials policy. Different product policy teams worked on policies in that space. I don't believe any of them were finalized before 2020. But I'm not positive on

that point.

Q So, if I'm understanding you correctly, as of the summer of 2020, they were still being developed?

A I believe by the summer, at least some products that were looking at policies in the space had finalized their policy approach.

Q Do you know which products had?

A The ones -- the ones that I can recall that had a specific policy in this space were YouTube and ads. There may have been others. I'm not sure.

Q Do you know what motivated this change, and how YouTube approached hacked materials?

Mr. Bopp. You mean motivated the creation of a policy?

BY [redacted]

Q Correct me if I'm wrong; there was no policy before, and this was a new policy or a revision of an existing policy?

A Yeah. So I don't know -- I don't -- it's a distinction mostly without a difference. I don't know, whether in either the YouTube case or the ads case, whether they were constructed as new policies or like new subpieces of a broader policy that mostly matters for the way it like appears on, you know, like the help center externally. But in terms of -- sorry your question was why were they created is that?

Q Uh-huh. Yes.

A So I was obviously not in charge of creating these policies. My understanding was that this was an area of user harm that had been seen in the recent past. I referenced DNC here. There was also an instance with -- that I vaguely recall with emails from Emmanuel Macron in France that were obtained in a hacked fashion. So I think it was a recognition that this was an area of user harm that merited some

exploration in terms of policy coverage.

Q Okay. With respect to the various policy and enforcement teams that we discussed earlier, there was teams for YouTube, you mentioned teams in other buckets. Do you know if any Google product had a team devoted specifically to COVID-related misinformation?

A I know that there were individuals across various policy teams and enforcement teams that were focused on COVID related issues in general. I don't -- I don't know of any specific teams that were stood up just around the topic of COVID misinformation.

Q In your role -- and this question's both for you and your about 17 members, you're interfacing with election officials on a regular basis, is that accurate to say?

A So, generally, my team's role is internal facing. So we don't interface with election officials or other election-related -- external election-related entities on a regular basis. We have done that on an occasional basis, usually arranged through our government affairs and public policy team.

Q Going back to the -- very early on in the interview, you mentioned there was kind of a product section of teams and a function set of teams. For government affairs and public policy, where do they fall within Alphabet's hire?

A They're a function. They're one of what we call our cross functional teams.

Q Is that two teams, government affairs and public policy, or is that one --

A No. It's one team. It's called the GAPP team, G-A-P-P.

Q Do you know who loads that team?

A The global head of government affairs and public policy is [redacted] -- [redacted] last name is escaping me. It starts with a [redacted]

Q Do you have a point of contact on that team?

A So, yes. Our team works with individuals from government affairs and public policy on -- all around the world. So it's a globally distributed team. So there are individuals that we work with on the GAPP team in the United States for U.S. elections. There's also, you know, folks that we work with in Turkiye for the Turkish elections that are happening right now. So in every country.

Q Within GAPP's team, is there a team devoted to U.S. elections?

A So my understanding -- and I'm not in GAPP, so I can't speak definitively on their org structure -- my understanding is that they do have a team that is specific to the U.S. and Canada, but it's not specific to elections. It's all public policy matters in both the U.S. and Canada.

Q Who do you work with most closely with the U.S. and Canada team?

A Do you mean currently, or in 2020? Or --

Q Start with directly.

A So currently?

Q [Nonverbal response.]

A There are a few people that I work with closely. So a person named [redacted] is on the GAPP team. [redacted]. [redacted].

Q And what are the context of your interactions with these three?

A So it depends. You know, sometimes it's discussions about a relevant public policy issue, you know, legislation that's being considered or, you know, public discussion on an issue related to Google that typically the GAPP team is until the lead on. Sometimes, it's about engagements with external entities, so it can be on a variety of topics, and different individuals handle different portfolios for the team.

Q With respect to if there's a new change in YouTube's policies with respect to election misinformation, who would brief you on those changes? You said that you

aren't responsible for drafting them, preparing them, enforcing them. Does someone from Google brief you on changes that are made to the policy?

A From YouTube?

Q Yes.

A So there's not -- nobody sort of like affirmatively will necessarily brief me. You know, I don't oversee that area or anything of that nature. You know, I communicate with the Google policy team, and the Google policy team also communicates with the YouTube policy team. So sometimes it will be through that channel. Sometimes it will be from others at YouTube. But there's no kind of like formal briefing process.

Q You mentioned you're primarily internal facing. In your current role, do you interface with the Federal Government?

A As a general matter, I don't. There are select occasions where I have, but for the most part, I don't have direct interactions with the Federal Government. That's not one of my core sort of day-to-day responsibilities.

Q And what are some of those interactions?

A So the primary one is that I'm -- along with a couple of other individuals from Google, I join a somewhat regular sync that's held between a number of USG officials from security agencies principally and technology platforms. And so I participate in those calls.

Q Is this in the context of the Joint Cyber Defense Collaborative?

A I don't believe so. Though, the JCDC is an entity that Google interacts with, principally I think led by the Public Affairs and Public Policy Team. I don't recall having any direct interactions with the JCDC.

Q You mentioned that there were -- to go back to the answer before

that -- security-related agencies from the U.S. Government when you occasionally interact, it tends to be folks from there. Which agencies?

A So I don't know all of the agencies that are on those calls. I know the acronym for CISA is going to elude me, but DHS, CISA is on there. I believe DNI is on there. I believe FBI is on there. There might be other parts of DHS that are on there as well. I'm not sure of various agencies that are on those calls.

Q And CISA, would that be the Cybersecurity Infrastructure and Security Agency?

A Yes. Thank you.

Q For the FBI, is that a task force within the FBI? Do you know which office?

A I don't know.

[redacted] [redacted] if we could grab Meta 25249. This will be exhibit 2.

[[redacted] Exhibit No. 2

Was marked for identification.]

BY [redacted]

Q Do you recognize this document?

A Yes, I do.

Q What is it?

A It's a calendar invite for one of the -- one of the U.S. Government industry meetings that I was referring to earlier and then a reply all to that calendar invite with two attachments.

Q So, just to clarify, this USG industry call is the call you had in mind with the example you gave?

A Yes. Yes.

Q Okay. If we could look at the "to" line on the top of page 1, and go down

about four lines, there are some email addresses with a Google domain. Do you recognize who those email addresses belong to?

A Yes, I do.

Q Who are they?

A So shuntley is [redacted], who I mentioned earlier leads the Threat Analysis Group, and [redacted] is [redacted], who was -- I don't know his title. He was a lawyer within the YouTube team.

Q There's an email address at the very bottom of the "to" section, [redacted]@google.com. Do you know who email address belongs to?

A I believe it is [redacted] (ph), who is a member of the Google legal team.

Q Do you recall how many of these meetings you attended?

A I'm -- not exactly, like I would say probably somewhere between like 6 and 12, something like that. They were held on a somewhat regular basis.

Q Do you recall when you first began attending these meetings?

A I first -- I don't know the exact month, but I first started attending these sometime in the middle of 2022.

Q Are they ongoing?

A They are, though, they are less frequent than they were in 2022. But they continue to be on the calendar and occasionally occur.

Q Why do you think the frequency's reduced this year?

A You know, I can't say for sure. My instinct is that, because we are not in the immediate runup to an election right now, there's potentially less relevant information for industry and government to share about particular trends or what-have-you related to election integrity.

Q Do you recall who first initiated these meetings?

A I don't. They were initiated before I started joining them.

Q Do you typically take notes during the meeting?

A No, not typically.

Q Do you know if anyone else from Google does?

A I don't know.

Q Are there ever meeting minutes circulated after one of these meetings?

A Not to my knowledge.

Q Do you know who Brian Scully is? He's at the top on the from line.

A I know the name. I'm not confident I could match the name with the person, but he's someone that I recognized in this context as somebody that is on these meetings.

Q Do you recall interacting with him outside of the context of these meetings?

A No, I don't.

Q In the industry -- so there's other companies' email addresses on here. Microsoft, Twitter. Do you know if these companies have teams that are similar to yours?

A I don't know whether they have teams that are sort of directly analogous. I do know that these other companies also focus on elections integrity. So I imagine they have individuals that perform functions. Whether they're organized the same as Google, I don't know.

Q For elections-integrity-related issues, do you have a point of contact at Meta?

A No, I don't specifically.

Q Does anyone on your team, or --

A Not on my team, no.

Mr. Bopp. To the best of your knowledge.

[redacted]. Yeah. To the best of my knowledge.

BY [redacted]

Q What about your manager --

A No.

Q -- if that's the right word?

A To the best of my knowledge, he does not have a point of contact or counterpart that he works with at Meta.

Q Is that true also for Twitter?

A Yes. Sorry, with respect to my manager?

Q Sorry. We'll start with you first.

A Yes. I don't have a dedicated counterpart that I work with at Twitter, nor, to the best of my knowledge, does my manager.

Q Well, I'll frame this question just to the extent of your knowledge: For Google, for Alphabet, do they have a point of contact at Microsoft for elections-integrity-related issues?

A So I certainly don't. To the best of my knowledge, Google does not have a single point of contact there either.

Q Do you know of any --

A Not specifically. I mean, I think there's probably folks -- I imagine some of the folks that are on here from Microsoft are also the folks that focus on similar issues, which is why they're on here, but I don't specifically know.

Q Have you ever worked with the State Department's Global Engagement Center?

A No, not to my recollection.

[redacted] [redacted] can you grab Google document 41? And we can take these back.

[[redacted] Exhibit No. 3

Was marked for identification.]

BY [redacted]

Q Do you recognize this document?

A I do. I know this was -- I reviewed it in advance of this session because I know that it was a document that was produced to the committee.

Q Great. And what is this document? What is it showing?

A It appears to be a calendar invite sent to a broad number of people for a meeting regarding a biweekly meeting with JCDC -- on JCDC elections security, cyber defense planning.

Q And again, what does JCDC mean as referred to here?

A I'm bad with acronyms. Joint Cyber Defense command.

Q Collaborative.

A Collaborative. Right.

Q What was the purpose of this meeting?

A So I don't recall this meeting. It appears to be a recurring calendar invite. It's possible that I joined this meeting, but I don't recall ever joining this conversation.

Q So do you know if it was a one-off meeting or if there were multiple?

A I don't. Again, it appears to be a biweekly that will be canceled as needed based on the language at the top of the second page. But I don't know.

Q So this is, several lines down, it looks like it's about five lines above the CC line, so this is in "to" category.

A Okay.

Q There's an email address, [redacted]@google.com, and before it, it says [redacted]

A Yeah.

Q Who's [redacted]?

A I don't know. That's not a name I'm familiar with.

Q Okay. Does the email address [redacted]@google.com, is that one that you recognize?

A It's not.

[redacted] We can take these back. [redacted] can you grab --

Just to clarify for the record, that previous one was exhibit 3. This will be exhibit 4.

[[redacted] Exhibit No. 4

Was marked for identification.]

BY [redacted]

Q Ready?

A Yeah.

Q Do you recognize this document?

A Yes, similarly to the last document, I reviewed it in advance of this session.

Q Okay. And what is it?

A It appears to be a calendar invite for a sync between Google and JCDC around elections webinars.

Q Okay. Do you recall this invitation?

A I do because I reviewed it in advance of coming here. I don't recall the meeting. And, in fact, in one of the other documents that I think we produced, it looks like I had declined this meeting invite.

Q Do you know if the meeting took place?

A I don't know.

Q If I could call your attention this is in the to line, the second line down at the end, there's an email address by [redacted] @google.com. Is that the email address for [redacted]

A Yes, it is.

Q And who is she?

A [redacted] is -- [redacted] works on our -- on the partnerships team, I believe, specifically around account security partnerships. So my understanding is that she works with external entities that help in some cases distribute or help explain, I guess, publicly some of Google's account security tools.

Q And what is the Partnerships Team?

A So broadly, the Partnerships Team -- I have a passing understanding, but they're the team that has responsibility for any external partnerships that Google has across, you know, whatever the topic area is. So it's a very widely ranging team.

Q And, going back to that kind of product versus function, would this be a team that falls under the function category?

A I believe so. I don't -- they're not a product team. I think that they are actually nested within the Global Business Organization, which is like the sales organization essentially, which I think is considered a functional team, a crossfunctional team, but I'm not positive on that. They're certainly not a product team.

Q Do you work with [redacted] in your current role?

A Yes, I do. I work with [redacted] on various things that Google does from an account security perspective related to elections.

Q Do you work with anyone else on her team?

A Yes. There's a woman who reports to [redacted] whose name I can't recall but that I've worked with.

Q The email, this invitation is from [redacted]. [redacted] has CISA email domain. Do you know who that is?

A No, I don't.

Q Have you worked with [redacted] in a different context?

A Not to my knowledge.

Q What about the other names from CISA in the "to" line?

A No, I don't recall having worked with any of these individuals.

Q Outside of the subject itself, the title, do you know what the purpose of the meeting was?

A I don't. Like I said, I don't recall the meeting. I believe I didn't attend the meeting, based on the document that I reviewed. So all I know is what's here in the meeting objective.

[redacted] We can take these back. [redacted] can you grab Google 60?

[redacted] Exhibit 5.

[[redacted] Exhibit No. 5

Was marked for identification.]

BY [redacted]

Q Do you recognize this document?

A Yes, I do.

Q What is it?

A It appears to be an email basically making calendar arrangements for an elections security briefing with DHS.

Q Okay. And what was the purpose of this meeting?

A So, to the best of my recollection, the purpose of the meeting was to brief officials at DHS, it looks like both CISA as well as potentially elsewhere with the DHS -- on what Google -- what Google observed and experienced during the course of the 2022 midterms. So this meeting looks like occurred in January and was arranged in December. So I think the purpose was to do a little bit of a retrospective on what we saw.

Q And do you know if this meeting took place?

A Yes, it did take place.

Q Did you attend?

A Yes, I did.

Q Did you present at the meeting?

A Yes. My recollection is that I did present at this meeting.

Q Do you recall what you presented?

A So I don't recall specifically. I do recall broadly that I talked about overall like a refresher on what our objectives are in the elections integrity space as an organization, the kind of like three pillars of helping voters, protecting campaigns, and other election-related entities, and protecting users from harmful or abusive content that I talked about earlier. So I recall talking about that. And then, specifically, what we -- what we did in each of those categories or what we observed in the course of the midterms.

Q At a high level, do you recall, you know, what some of those observations were with respect to the 2022 election?

A I don't recall all of them. I mean, I think, generally speaking, I recall that we saw -- we saw a little bit -- we were prepared for potentially a lot of content that was harmful to our users in some fashion, whether that be misinformation content or

otherwise, and I think our lived experience from the midterms was that we ended up seeing less of that than was expected. So I imagine we discussed that. That's kind of in the third bucket.

In the middle bucket, I recall that there were -- there was some work that we did -- and here I'm using "we" in the broad sense of the company -- around making sure that election workers in particular had knowledge of Google's various account security tools to the extent that they had security issues during the course of the midterms. I think I recall speaking about that. And, in the first category, you know, I imagine we reminded DHS about some of our voter-facing features like the how-to-vote feature that we talked about earlier.

Q So, with respect to the work you did -- thank you for clarifying using "we" in the sense of Google. Right before you started to give that part of the answer, you said, "We were prepared." Was that "we" in reference to your team or to the company?

A To the company. Sorry.

Q Was your team involved in those preparation efforts?

A So, like I said, my team at base is responsible for coordination. So we were certainly part of coordinating overall efforts that were happening at the company, but it was not my team's role to sort of like be -- be the ones that were particularly monitoring for any particular content.

Q In your role, you know, serving as coordinating function, are you aware of what content the other teams are anticipating could be an issue leading into an election?

A The content that they're anticipating being an issue?

Q [Nonverbal response.]

A It depends on the team in question or the product area in question, but as a general matter, we work closely with all of the product teams. So we have a general

understanding of the sort of risk areas that they are most focused on I would say.

Q And, again, understanding that your team is playing coordinating function at a high level for the 2022 election, what is your understanding that -- what some of those risk areas were?

A So I think there -- some of them are similar to the sort of categorization of risks that I had offered back in 2020. And I -- you know, some other stuff I know that we were focused on in the course of the midterms, there was a specific -- there was a specific desire to make sure that we were prepared for potentially harmful content in non-English language, whether it -- that be Spanish or other languages. So I know that that was something that we were particularly attuned to in the course of that. I mentioned the example of security risks with respect to election workers. I recall that being something that we were specifically attune to in the course of the midterms as well.

Q Do you recall if there was a focus or a concern on content related to the method of voting?

A Do you mean like with regards to mail-in voting? Can you explain a little bit what you mean?

Q Sure. Mail-in balloting would be one method of voting.

Mr. Bopp. And these are concerns that [redacted] would have been aware of because they are raised by somebody else at Google?

[redacted] Correct.

[redacted]. Not specific to the midterms. Like we have -- there are -- there are somewhat longstanding policies in place around demonstratively false content about things like voting procedures. I don't recall that being a concern that was like particularly acute in the midterms vis-à-vis, you know, 2020 or other elections that we've dealt with around the world.

BY [redacted]

Q Are there any other issues from -- with respect to the 2022 election that you recall in this category, to use a phrase you used, harmful content that you recall the other teams having on their radar?

A That were sort of specific to the midterms?

Q Yes.

A No, nothing else that comes to mind that's unique to the midterms.

Q Okay. With respect to the 2022 U.S. election, was there a similar internal dynamic in place where your team is serving a kind of coordinating function?

A Yes.

Q And, in the lead up to the 2020 election, does your team have some sort of visibility into the categories of harmful content that are on the radar of other teams?

A So, like I said before, that -- it varies by team and, in this case, varies temporally. But, as a general matter, we have visibility into a lot of various teams and what they were focused on.

Q Do you remember any specific topics from the 2020 election?

A Obviously, it's, you know, all 3 years ago, so I can't be certain. But my expectation was that like those six categories that I described earlier, while that was principally a construct that our team used, was probably a pretty good encapsulation of what other teams were focused on as well.

Q Do you recall if methods of voting, if that was an issue in the lead up to the 2020 election?

A So I think -- I think that that was a focus area in 2020. I think the main reason that I recall teams focusing on it during the course of 2020 was that -- and I think I explained this a little bit in the interview as I was reading it through, that facts about the

methods of voting were changing, and there was a somewhat dynamic information environment around those topics during the course of 2020 as a result of COVID with more jurisdictions expanding mail-in voting, for example, or remote voting options. So I do recall there being a desire to make sure that we were providing helpful and accurate information to voters on those topics, particularly when the facts on the ground were evolving in real time due to COVID.

Q Do you recall which personnel at Google were most involved in this space? And by "this space," let me clarify, with respect to analyzing and enforcing content related to methods of voting.

A I'm not sure I recall specific individuals, but it would be, you know, the relevant policy teams and policy leads for those products and topics, as well as the relevant enforcement teams. So, if you're talking about search, it's the relevant search policy leads and the relevant search enforcement leads.

Q With respect to, again, going back to your team serving in this coordinating role, you have some visibility into what's on the radar of these other teams within the company. In the lead up to the 2020 election, do you remember concerns about hack and leak operation being on the radar of some teams?

A So I would say, I mean, as we discussed earlier, there was -- there was certain policy work that was done in that space, presumably like I said -- I don't necessarily have firsthand knowledge of that -- but presumably in response to some recent events or -- so I do recall there being policy work in that space.

[12:24 p.m.]

BY [redacted]

Q And with respect to this recollection, similar to how for the 2022 election you mentioned there was concern with respect to poll workers, was this an issue that was raised, that was anticipated to be an issue in the lead-up to the 2020 election?

Mr. Bopp. Let me make sure I understand the question. You're asking whether there was a concern about poll workers that [redacted] was aware of leading up to the 2020 elections?

[redacted] No. No. Sorry. Let me clarify.

BY [redacted]

Q And if my summary of your previous testimony is incorrect, please correct me. But you gave poll workers as an example for 2022 as something that the company anticipated could be an issue, right?

I guess as just a point of clarification for your recollection, this is referring now to the lead-up of the 2020 election with respect to, like, a hack-and-leak operation, when you say it's on the radar of these other teams, is that because they've seen evidence of a hack-and-leak or they're anticipating there is a risk of a hack-and-leak operation?

A I mean, I can't speak on behalf of the other teams. I guess my best sense is that it's probably some bit of both, which is that there was some recent experience where there were instances of that type of activity and potentially the spread of content derived from that type of operation on our platforms that was harmful to our users, as well as an expectation that something like that could occur again in the future.

I don't know whether -- I don't know the likelihood that individual teams ascribed to the possibility of that happening again, but, presumably, if there were policy solutions being explored, it's because there was an anticipation that something like that could

happen again.

Q Yeah. And to the best of your understanding and recollection, where did this expectation come from?

A I don't think I know where those teams derived that expectation from at that time.

Q You mentioned there was some recent experience in this issue. Are there any examples that you recall in particular?

A Sure. So, I mean, as we mentioned before, there was the experience of the hack-and-leak operation with respect to the Democratic National Committee in 2016, I guess it was. I can recall also that there was an experience with emails that had been obtained via hack from President Macron of France. Those are the two that come to mind at the moment.

Q Okay.

Do you know if these other teams were receiving briefings from the government on this issue?

A I don't know.

Q Turning back to the initial exhibit just very quickly --

A Okay.

Q -- the first message -- this is about a third of the way down, second sentence. There's a reference from the Senator, saying, "Apologies for missing Project Zero."

Do you know what Project Zero is?

A No, I don't.

Q Do you recall who else from Google attended this meeting?

A The -- sorry. The meeting referred to here, not whatever Project Zero is?

Q Yes. Yes.

A Yeah. So my recollection was, I attended, [redacted] attended. I believe -- I mentioned [redacted] earlier from the Government Affairs and Public Policy team. I believe he attended.

I don't recall anybody else. There may well have been other people from Google there, but I don't recall whether anybody else specifically was there.

Q Yeah. And for [redacted], what's his title with the company?

A I do not know his specific title. He's within the Government Affairs and Public Policy team. He generally interfaces with a number of third-party groups.

Q Okay. Do you know if he has any other responsibilities that are within his scope?

A I don't. He generally focuses on -- or, he also has focused on U.S.-election issues in the past. I don't know whether that's part of his formal scope or not.

Q Okay.

So, again, you mentioned you serve in this coordinating function; you have some visibility into what other teams are seeing, what they have on their radar.

Once the election itself is taking place, once we're in the full swings of the selection season, are you also being looped in on what the teams actually do end up seeing? When they provide briefings to other teams or to other people, is your team looped in on those discussions?

Mr. Bopp. Just so I understand what you're saying, when you say "what the other teams actually do end up seeing," you mean in terms of --

[redacted] With respect to content.

Mr. Bopp. -- election integrity problems or --

[redacted] Sure. With respect to election-related content.

BY [redacted]

Q So we identified a few categories that there was an anticipation of what might occur. Does your team have visibility into what these teams see with respect to what content actually is discussed?

A So my team is -- not across the board, but in a few cases, in a number of cases, we will be copied on individual escalations for awareness. So we have broad visibility on what is happening. It's never our role to, like, act on any of those escalations, but we do have visibility into them in some cases.

Q Do you recall having visibility with respect to these content-related issues as they're arising in the lead-up to the 2020 election?

A Yes, in the lead-up to the 2020 election, we had general visibility into some subset of election-related, what we call, escalations internally or individual content issues that might be looked at by policy or enforcement teams.

Q And when you're having this visibility, when you're being looped in, are these summaries of trends and patterns? Are they with respect to a specific story? Or, we'll say, you know -- I don't want to say factual piece of information -- a wrong piece of information? How granular does it get?

A So it can vary. Sometimes it will be, you know, broad topic area things or trend-related things like, you know, a news article about this particular trend or, you know, a piece of intel that the intel team is providing about something. And, in some cases, it will be a more specific escalation that is about, you know, someone has reported or flagged a particular thing that the reporter believes may in some way violate our policies and so is being triaged for review to the appropriate -- either policy or enforcement team.

Q Are you familiar with the October 2020 New York Post story on Hunter Biden's laptop?

A I am. I don't recall the specifics, but I am broadly familiar with it.

Q Do you recall if that story or any issues related to it were elevated to one of these discussions that your team is having visibility into?

A So I do recall there being a few escalations with respect to both the story as well as the underlying content in the story that we had visibility into.

Q And do you know what steps YouTube took -- we'll start with YouTube -- with respect to this story or any of the underlying content?

A I don't. I don't recall what YouTube did at the time.

Q Do you recall if YouTube took an action of any kind?

A No, I don't.

I -- let me be specific. I recall one instance of an ad on YouTube that discussed the story. For organization reasons that I'm happy to explain, but the monetization part of YouTube exists within the Google trust and safety team as distinct from organic YouTube content. And because it was an ad, like, it was monetization. And, generally speaking, myself and my team had more visibility on issues that were traveling through the Google trust and safety team as opposed to the YouTube trust and safety team, which is why I recall that instance.

Q And what about with respect to Google Search?

A I don't recall specific escalations with respect to Google Search. In that story, there may well have been them, but I don't recall.

Q Yeah. Do you know whether any sort of action was taken at any point?

A Specific to Search?

Q Yeah.

A I don't.

Q What about with respect to any other Google product?

A So, also in the category of "it was a long time ago," I have a general recollection of there being some escalations on Geo, I think with regards to the, like, actual location of the, like, laptop repair shop. Like, I think that they were getting, like, spammy reviews or something like that.

I also have a general recollection -- though, again, I couldn't tell you the specifics, or I don't recall the specifics -- of escalations on Google Drive with respect to sharing some of the underlying content -- I don't think the story itself, but the underlying content. So I recall some escalations on Drive as well.

[redacted] We've reached the hour mark, so I think we'll go off the record, please.

[Recess.]

[1:35 p.m.]

[redacted] Okay. We are back on the record.

BY [redacted]

Q And, [redacted], just a couple questions.

You were talking before the break about elevations of the Hunter Biden story that you recall being aware of.

A Yes, escalations.

Q Escalations. Sorry. Escalations.

A That's the term we use internally.

Q You were not involved in those escalations.

A I was aware of them. I wasn't involved in the decision-making around them.

Q You played no role in the decision-making around them.

A Yes, that's correct.

Q And neither did anybody on your team.

A Yes, that's correct.

Q Okay.

You spoke also about the meetings that you went to with the U.S. Government-industry working group, correct?

A Yes.

Q And you did not start participating in those until, you believe, sometime in the middle of 2022?

A Yes, that's correct.

Q And you mentioned that you reviewed several emails that were shown to you by the majority in preparation for today's interview.

A Yes, I reviewed a set of emails that I believe were produced to the committee.

Q And in those emails there were calendar invites for several U.S. industry working group meetings that ended up being canceled. Do you recall seeing those?

A Yes, I do.

Q Okay. Do you recall seeing that the meeting that was scheduled for November 2, 2022, was canceled?

A I don't specifically recall taking note of that in one of the documents, though I do recall that that meeting was canceled.

Q And that was the last meeting before the 2022 election, correct?

A I believe, yes. I don't believe there were any meetings of that group subsequent to November 2nd -- or, I guess, on November 2nd.

Q Okay. And in those few meetings that you did attend of the U.S. industry working group, did any government official ever ask you or anyone else at Google to remove a piece of content from your platforms?

A No, not to the best of my recollection.

Q And did any government official ask you to demote a piece of content or reduce its distribution?

A No, not to the best of my recollection.

Q And, to your knowledge, has any Federal official or agency ordered Google or Alphabet to remove any content from its platform, other than in the context of through legal process?

A Yeah, I'm not familiar with the law enforcement process, but I'm not personally aware of any instances where Google has been ordered to remove content by any Federal entity or --

Q And are you aware of Google being pressured to remove content by any Federal entity?

A No, not to the best of my recollection.

Q And given that you do not engage in removing content, I assume you personally have never felt pressured or coerced into removing content by a government or Federal agency?

A No, I've never felt personally pressured to take any action on any individual content, which, as you noted, would not be my role anyways.

Q And that's it for me. Thank you. Hopefully that's it for me for good --

A Okay.

Q -- depending on what happens in the next hour.

Do you need to go off the record to do musical chairs?

[redacted] We can go off the record briefly.

[Recess.]

[redacted] We can go back on the record, please.

BY [redacted]

Q [redacted], before we broke for lunch and then in this most recent round of questioning, you referenced escalations with respect to analysis being done with the Hunter Biden laptop story.

Is that in reference to a team? Is there an escalations team? Or is it a process?

A So escalations generally are the nomenclature that we use internally for any issues that need some sort of resolution, where they may be -- whether it be content moderation or otherwise. Like, we will refer to escalating issues up the chain. So it's a quasi term of art within Google.

Q We'll start with in this context, again, since you have an understanding.

When this is being escalated, you know, I guess, what is point A and what is point B?

[redacted] I'm sorry. Could you clarify what you mean by "this"?

[redacted] Sure.

BY [redacted]

Q Whatever analysis is being done that requires a resolution. We'll use the Hunter Biden story as an example.

A Sure.

Q What is the starting point? And you said it's being escalated. Escalated to whom?

A Sure.

So it will vary based on the content in question and the particulars of the situation. But, generally speaking, there are a variety of internal tools that Google uses to manage escalations.

And so, usually, though not always, what will happen is that somebody will file what's called a bug. This is, like -- I think the terminology on that dates back to kind of, like, early Google. But somebody will file a bug, either somebody who's reporting an issue directly or will file it on behalf of somebody else that's being reported externally or what have you.

And then, again, usually, there will be some sort of incident management team that will triage the issue. And depending on the type of issue, that triage may go to a policy team, to an enforcement team, to a product engineering team. It would depend on the specifics.

Q Okay. When you say that someone may file a bug, is that a ticket in the same context of, like, an IT help --

A Yes. Yeah, it's similar in concept to an IT ticket.

Q And is this bug communicated via email?

A So I think it depends a little bit on the particular tool. There's not one universal tool within Google, to my understanding, that is used, but there's the common ones. For the one that I'm most familiar with, which is a tool called Buganizer, if you are subscribed to the bug in question, it would also send you an email.

Q Okay. So if you're subscribed to it, you receive email notifications related to the bug, to this ticket. Is that correct?

A Yes, that's my understanding.

Q But this tool, the one -- Buganizer, is that right?

A Yes.

Q Is that, like, a project management software tool? What is that?

A I don't know the best categorization of it. Like, it's a task management tool, I guess I would say.

Q Uh-huh. And is this a tool that Google has purchased, or is it developed internally?

A I don't know. I don't know whether it's internally developed or purchased.

Q Do you know if records are kept?

A I don't. I don't.

Q Are you ever subscribed to one of these?

Mr. Bopp. You mean has he ever subscribed to a bug?

[redacted] Well, let me -- if I could ask a clarifying question too.

Mr. Bopp. Go ahead.

BY [redacted]

Q I used the passive voice. I was trying to reflect what you say. Do Google personnel choose to subscribe to a bug, or does someone assign them? What do you

mean by "subscribe"?

A Yeah. So that's a good question, and I appreciate the opportunity to clarify on that point.

So it can be either. Either, you know, the person who is originating the bug will oftentimes add people to it, subscribe people to it, or people can add themselves. Other people can add other people.

It's, like, conceptually not dissimilar from, like, an email chain, basically, where, like, whoever originates it will send it to a couple people; those people sometimes will add other people to the chain. It's generally similar to that.

Q Is there a repository of these tickets? Can someone, of their own initiative, add themselves to it? Or is it like an email, where you can only be added by someone who's already on the chain?

A I'm honestly not sure. I think -- some bugs are access-controlled, and some aren't. For ones that are access-controlled, I think you have to be affirmatively given access to it. For ones that are not, presumably anybody can add themselves.

And I think it actually happens in an automated fashion. Like, if you were to comment on a bug, you would then be added to it by default.

Q Have you ever originated a bug?

A Not that I can recall.

Q How frequently are you added to bugs?

A So I personally am not added particularly frequently. I would say it happens on occasion.

My team -- like, our team alias is oftentimes added to bugs as sort of for awareness. There's a sort of -- for some products, the sort of standard operating procedure is that, when there is a bug that is related to elections -- or, in elections

integrity in some form or fashion, regardless of the particular type of issue, the incident management team will -- excuse me. In addition to doing their normal triage, they'll CC some people on the bug, and usually my team alias is one of those things that will be CC'd.

Q And what was the term again you used? The insta-management team?

A The incident management team.

Q Incident management team.

A Yeah.

Q Okay. And that's the team responsible for triaging?

A Yes.

Q Okay. And do you know how the process works? Every time a bug is created, it goes to that team, and then they can add folks?

A So it doesn't go -- the bug doesn't go anywhere -- and this is to the best of my understanding, because I'm by no means an expert in the incident management process, nor in this specific tool, Buganizer, that I'm most familiar with. My understanding, though, is that the bug doesn't by default go to any place. You have to specify who it goes to.

I think, generally speaking, teams are encouraged, or reporters of bugs, whoever they may be, are encouraged to leverage incident management teams that may exist across the organization to help with that initial triage. Because whoever is reporting the bug may not be familiar with all of the right pathways to get something in front of the right people to review a particular escalation.

Q Okay. Do you know how many incident management teams there are?

A I don't. There's multiple. I don't know how many.

Q Okay.

Do you know if a bug was created with respect to the Hunter Biden story?

A So my recollection was that there were probably multiple bugs related to discrete issues. So, you know, I think I referenced earlier that I had a general recollection of, like, Maps-related issues or Drive-related issues.

I don't recall where there were bugs specifically. General standard operating procedure would be to create separate bugs for each of those discrete things that needed to be looked at.

Q Do you recall if there were -- with respect to the Hunter Biden story, if there were concerns that it was possibly the product of Russian disinformation or a hack-and-leak operation?

Mr. Bopp. Concerns by whom? On whose part?

BY [redacted]

Q Going back to our previous hour of questioning, you mentioned there were multiple teams that have issues on their radar. This story arose. Just broadly speaking, concerns raised by anyone within the company.

A My recollection is that there were questions internally as to whether or not the provenance of the content that was underlying the story was clear. And I think, you know, that is relevant particularly for some of our product policies, because, you know, as we talked about before, there are policies with respect to hackable materials or policies with respect to what we call coordinated deceptive practices.

So I do recall a conversation occurring internally, if that's your question.

Q Do you know if there was a bug created specifically for those issues -- hacked material, the -- I forget what the second example you gave was potentially.

A Coordinated deceptive practices.

Q Coordinated, right.

A Not to my recollection. But, usually, I think, in this case, a bug would be created with respect to a particular piece of content -- so, like, an example of a spammy review on Geo or, you know, a particular Drive file, or something like that -- as opposed to a broader, like, policy question that covered multiple different potential topics -- or multiple different potential pieces of content.

Q In a previous round of questioning, you mentioned -- in one of your responses, you said that you weren't one of the decision-makers with respect to the Hunter Biden story but that your team had visibility.

Do you recall who the decision-makers were?

A So it would depend upon the particular piece of content in question. Again, I don't have specific recollection of the individual instances, but let's just say that, you know, we talked about -- I do have a vague recollection of something on Maps, for example. In that case, under normal practice, the decision-makers would be the relevant enforcement teams responsible for Maps, potentially in consult with the policy team.

Q You said in normal cases. Do you recall if the normal protocol was not followed in this case?

Mr. Bopp. You're talking about the Hunter Biden case still?

[redacted] Yes.

Mr. Bopp. Okay.

[redacted]. No. My recollection was that standard protocols were followed in all matters in the 2020 election. I don't recall any deviation there. I mean, of course, you know, for certain situations, whether they be particularly -- whether they're gray cases that are maybe, sort of, there needs to be an examination of whether or not it violates our policy, things can get further escalated up the chain, but that's also all part of

the standard practice.

BY [redacted]

Q So, under standard practice, for cases that do require being escalated up the chain, to whom are these cases escalated up the chain to?

A So, typically, you know, they would go up the respective leadership chains of the relevant players. So, you know, if it was an issue that was within the province of trust and safety, for example, it would go up through the leadership chain at trust and safety, potentially the leadership chain within the relevant product. It would depend on the specifics. But, you know, it would travel up the chain for the trust and safety organization, potentially the product organization, any other teams that might have equities, whether that be, you know, legal, for example, or what have you.

Q And do you recall with respect to the Hunter Biden story or any of the underlying content that those, the Hunter Biden story or any underlying content, required further escalation than under, to use your words, the normal process?

Mr. Bopp. Do you understand the question? I'm not sure I do, but if you do, you can feel free to answer it.

[redacted]. Let me see if I can repeat it back to you and see if I understand.

In the case of the Hunter Biden-related content, are there any examples that I can recall where issues were escalated up the chain consistent with normal practice?

BY [redacted]

Q Yeah. Let me -- I'll add a clarifying point here.

So, as I understood you, under your standard operating procedures, there are many cases that don't require, we'll say, further escalation. They could escalate it to a policy team or enforcement team, but it's routine, maybe.

A Uh-huh.

Q And then still within these standard operating procedures, there's a smaller category that require further escalation.

Do you recall the Hunter Biden story or any of the underlying content falling into that smaller second category that required further escalation, consistent with the company's standard operating procedures?

A Okay. I think I understand your question. I appreciate that clarification.

So I don't have perfect recollection here. There may be others -- there is one case that I do recall where it was sort of further escalated up, which was the one I mentioned earlier, that there was an ad that was running on YouTube. And I recall, like, that being escalated up the chain, consistent with standard operating procedure. I don't know whether there were others.

Q Going back to the bug, and with respect to the Hunter Biden story, you said that if there were likely multiple bugs, that it was likely to be split by product, if I understood you correctly, so the Maps would have their own bug.

Am I accurately summarizing your description?

A Yeah, so -- so, appreciate the opportunity to clarify that.

I think that's right, but also it's possible -- stepping out of the Hunter Biden example for a second, because I don't recall specific bugs there, but you could have multiple bugs even within the same product.

So, to take the Drive example, if there were multiple discrete files that were being reviewed on Drive, normal procedure, I think, would be that there would be a separate bug for each of those.

Q Stepping out of the Hunter Biden example, just with respect to, again, kind of standard procedures, if there was a concern with respect to content on, say, a YouTube video, is YouTube its own separate product, such that it would be different from a bug

related to Maps? Or is YouTube further divided?

A Sorry. Let me just make sure I understand you. So the question is whether YouTube -- a review of a YouTube video would be on the same bug as a potential review of a -- what we call a point of interest on Maps?

Q Yes. Yes.

A Typically speaking, those would be in separate bugs.

Q And then, within YouTube, are there multiple, for lack of a better word, silos within YouTube that a bug would be placed in, categorized in? Or is YouTube its own category?

A That I don't know. I don't know YouTube's internal, kind of, incident management process, which was somewhat separate from our process.

Q Okay.

And remind me, does Maps fall underneath the Google Search umbrella?

A It's not -- so what we call Maps internally is Geo -- is not part of the Search organization, but it is part of a broader umbrella that's called Knowledge and Information.

So one of the main product units within Google is called Knowledge and Information, which includes Search but also includes Geo. It includes ads. I think it also includes, like, payments. So they're part of the same macro organization.

Q Okay.

Going back to the line of questioning from the previous hour, before lunch, you mentioned your team has visibility into what other teams are anticipating and then also what they're seeing with respect to content.

Are these discussions occurring in in-person meetings? Is this over email? Is this all in connection to a bug ticket? What context do these communications take place in?

A So it can vary. I guess I would say that it could be all of those things. Like, information is shared internally at Google principally either -- well, if we're talking about 2020, not in person, but over video conference. Sometimes in the course of a bug, they'll -- typically the discussion in a given bug is about an individual escalation. And if that's a content-related escalation, as I said, our team has visibility but is not necessarily engaged in the decision-making. Or over email or chat.

Q Okay. Do you recall within the Hunter Biden context what context those communications occurred? Or how they were --

A Sorry --

Q -- communicated? Sorry.

A Like, any -- your question is, any communications with respect to bugs or issues related to the Hunter Biden story, how those were discussed internally?

Q Yes.

A I don't specifically. My expectation would be that it would be a combination of the things that we just discussed -- in-person meetings, video conferences, email, and chat.

Q When these meetings are taking place, these email communications, again, you mentioned your team has visibility of what's going on and that your team is not originating any of the analysis. But is your team actively participating? Are you sharing what other teams have seen? Or what is your team's role in these communications?

Mr. Bopp. The analysis you're talking about is, what analysis?

[redacted] We'll say content-related analysis.

Mr. Bopp. Okay.

[redacted]. So, as a general matter, it would not be my team's role to weigh in

on, like, specific content parameters or interpretation of policy or something like that. I would say -- you know, we talked earlier about the key portion of my team's role is around coordination. And so, occasionally, there will be information that we have visibility into that might be useful to others that are reviewing an individual escalation.

So, you know, to give an example, or to give a hypothetical example, like, you know, if somebody on the Search team is reviewing a piece of content and we have seen a similar instance of that kind of content on another Google platform, YouTube or what have you, you know, we might make sure those dots are connected so that the folks that are looking at the content on Search have the benefit of understanding other services that it might be appearing on.

But, as I said, the role there is principally one of coordination and making connections across teams.

BY [redacted]

Q When your team is serving in this coordinating role, are you the most likely person to be serving in that role? Do multiple team members?

A I would say multiple team members. Like, generally, folks on the team play different roles, a number of different roles. So, depending on the topic area, it might be a different person on the team, depending on what the issue is. So it could be other.

Q But, to your recollection, you were one of your team's individuals to be on these calls, meetings -- I know you don't have a specific recollection, but with respect to the Hunter Biden story, you were one of the team members to attend?

A I guess maybe I'm not totally understanding. You're asking if I attended a particular meeting? Or --

Q So you've shared some recollections that your team had visibility into, among other things, the Hunter Biden story and some underlying issues, that there were

discussions within the company that took place.

A Uh-huh.

Q Let me reframe it this way. Is it your recollection that you learned this information by attending these meetings or discussions, or that someone else on your team attended these meetings and discussions and shared them with you?

A I see. I appreciate that clarification.

Mr. Bopp. Right. Or if there's another alternative that --

[redacted] Yeah.

Mr. Bopp. -- happens to be true, right?

[redacted]. Yeah.

To the best of my recollection, we learned and I learned about any and all issues related to the Hunter Biden situation from various bugs that had been filed by teams, is what I expect. I don't recall being, either myself or my team, being in specific meetings where teams were raising new issues with respect to the issue at hand.

BY [redacted]

Q With the exception of the ad that was escalated, do you recall any other bugs being escalated in a similar manner?

A Specifically with respect to the Hunter Biden story?

Q Yes.

A Not that I can recall. Not that I can recall.

Q Do you know whether YouTube took any action with respect to the Hunter Biden story or any information related to it?

A I don't recall -- I don't recall specific -- I don't recall what YouTube did on the organic side with respect to content about either the story or the underlying content in the story.

I do recall -- you know, I mentioned there's the, sort of, distinction of monetized content on YouTube. I do recall that the ad in question was allowed to run.

Q And the same question with respect to Google Search.

A I don't recall any specific escalations with respect to Search. There may have been some, but not that I can recall.

Q Okay. And do you know whether Google Search in any way moderated the Hunter Biden laptop story or related content?

A I don't recall.

Q Sitting here today, do you know whether Google Search took any steps to moderate the Hunter Biden story or related content?

A No, not that I -- I don't recall either way.

Q Okay.

Sorry. Just to clarify, it's your testimony that you don't know whether any action was taken, not that you know that no action was taken?

A Yeah --

Mr. Bopp. I believe he said he didn't recall whether any action --

[redacted]. Yeah. Let me -- let me -- let me -- yeah.

I don't recall whether Google Search did or did not take any action on any content related to the Hunter Biden story. I don't recall either way.

BY [redacted]

Q Okay. And sitting here today, you don't know the answer of whether they did or did not?

A No, sitting here today, I do not recall whether Google Search did or did not take any particular action with respect to the Hunter Biden story.

Q Sorry. The point there to clarify was not, when you're using the word

"recall," to try to recall what occurred in 2020. Just, at any point in time, have you since learned what steps were taken, if any?

A No, I don't -- I don't -- I don't know --

Q Okay.

A -- sitting here today, what occurred -- what Search did or did not do in 2020.

Q Okay.

I can reintroduce exhibit 1 if needed, but if not -- let me ask the question first, and if you think the context would be helpful, we'll reintroduce the exhibit.

You had mentioned at the very end of the interview that Google had worked with third parties related to misinformation, content-related concerns.

You know, first question: Based off everything you've told us today, I assume that you were testifying on behalf of the company -- not "testifying," that's the wrong word -- you were delivering that answer in the interview on behalf of the company, not with respect to your team?

A Yes, that's correct. My understanding from that interview was I was speaking -- when I was saying "we," I was speaking on behalf of Google as a company, as opposed to myself and my team.

Q Yeah. Sure.

Just to make sure you have a chance to take a look, this is on the last page, page 6, the third line up from the bottom. And it says, "We've developed new partnerships with third parties to protect campaigns."

Do you know which third parties you had in mind?

Mr. Bopp. Can you hold on for 1 second? It's the third line up from the bottom?

[redacted] From the bottom.

Mr. Bopp. "Partnerships with third parties to protect campaigns," that part?

BY [redacted]

Q Yes.

A So I'm not positive what I would've been referring to at the time. You know, an example of this is, we partner closely with an organization called Defending Digital Campaigns. I think that may have originated around that time, though I'm not sure. So it's possible that's what I'm referring to there.

Q Okay.

Do you know if Google has -- let me strike that.

Are you familiar with the Election Integrity Partnership?

A Yes, I am generally familiar with them.

Q Okay. And what's your understanding of what they do?

A So I've never interacted with them directly. My understanding of what they do is, they identify content across various technology platforms -- I think just technology platforms, though I'm not actually sure -- that they think might violate, based on their understanding, those platforms' product policies, and will share them for visibility and investigation.

Q And is it your understanding that one of those companies, tech companies, is Alphabet?

A Yes, my understanding is that they look at Alphabet products.

Q Do you know who from Alphabet is in contact with the Election Integrity Partnership?

A Do you mean who is in contact with them currently?

Q Or at any point.

A So my understanding -- but, again, I've not been in any of these

conversations directly -- is that, in 2022, in this most recent cycle, the person who worked with them directly -- or a person that worked with them directly -- there may have been multiple -- the one that I'm aware of is [redacted] from the Government Affairs and Public Policy team, who we spoke about earlier.

Q For the 2022 cycle, is there anyone else that comes to mind?

A For 2022? No, not that I can recall. There may have been somebody from the YouTube side, but I don't -- not that I can recall.

Q And do you recall who from the company may have been in touch with the Election Integrity Partnership with respect to the 2020 election cycle?

A So my recollection -- but, again, I wasn't directly in these conversations with the Election Integrity Partnership -- was the person from Google that was in touch with them was somebody else from the Government Affairs and Public Policy team, [redacted] and a woman from YouTube whose first name is [redacted] and whose last name is escaping me.

Q Okay.

Have you ever been in contact with anyone from the Stanford Internet Observatory?

A No. To my recollection, I've not been in contact with anybody there directly.

Q Do you know if anyone from Google has been in contact with the Stanford Internet Observatory outside of the context of the Election Integrity Partnership?

A Not to my knowledge.

Q Okay.

Have you ever worked with a company called Graphica?

A I know some of our intel teams work with Graphica and are consumers of

their intel analysis. I don't recall, it is possible that I have, like, participated in a briefing with them -- them briefing us, not us briefing them -- but I don't recall specifically.

Q In your time at Google, have you ever participated in a tabletop exercise?

A Yes. So various teams across Google, my team included, will somewhat frequently conduct tabletop exercises. So I've participated in those, yes.

Q Okay. Setting aside tabletop exercises that include only Google personnel, have you ever participated in any tabletop exercises that included individuals from the Federal Government?

A No, not to my recollection.

[2:18 p.m.]

BY [redacted]

Q Okay. And what about with respect to any third parties outside of Google?

A No, not to my recollection. I think that I've perhaps been invited to some. I can't recall exactly where, but I do recall that I feel like I've been invited to some third-party tabletop exercises. I don't recall ever participating in one.

Q Is there an organization you think may have invited you to a tabletop exercise?

A I think -- I think I was invited to one by the Bipartisan Policy Center at one point. If my memory of that is correct, I don't recall attending it. There may be -- there may be others that I'm not recalling.

Q In your time at Google, have you ever worked with the Global Disinformation Index?

A No. I don't believe I've ever worked with the Global Disinformation Index directly.

Q Have you ever -- during your time at Google, have you ever worked with an organization called the Alliance for Securing Democracy?

A No, not that I can recall. I think I'm on a distribution list of theirs. Like, I get emails from them. I don't believe I've ever interacted with them directly.

Q All right. You mentioned having just a small familiarity with the Election Integrity Partnership. Are you familiar with the Virality Project?

[redacted] I'm sorry? What? I didn't hear that.

[redacted] I'll repeat the question.

BY [redacted]

Q Do you have familiarity with the Virality Project?

A No. I don't know what the Virality Project is.

Q Okay. In your time at Google, have you had any or have you worked with the University of Washington?

A No. To my recollection, I've never worked with University of Washington at Google.

Q Okay. If we could just circle back just very briefly on the Hunter Biden Bugs that were created and escalated. You mentioned that there was an ad-related one in particular.

Do you recall who the final decisionmaker was in that case?

A I don't -- so I don't recall specifically there being one individual that made the call. My recollection is that there was -- in -- in 2020, there was stood up something called the Political Ads Review Committee, which included leaders from various parts of the organization that had equities in political ads, and -- excuse me -- my recollection was that that ad in question was escalated to that committee, and the committee, I assume, collectively made the decision that the ad did not violate our product policies and, therefore, would -- was permitted to run.

Q Again, with the understanding that your team is not making these content-related decisions, do you have a sense of the average timeline from when a Bug is created to when the issue is resolved?

A So my best understanding is it varies widely depending upon the nature of the issue. I do know that Incident Management Teams typically have SLAs for particular turnaround times, but usually those are about the time from receipt of issue to triage.

I think some teams probably have time -- what we call TTR, or time-to-resolution, benchmarks as well, but I -- I don't know what those are.

Q Whether this occurred in the context of discussions or information that is visible on the Bug that you or your team can see, in the context of the Hunter Biden story or any underlying content, do you recall anyone bringing up information that had been shared from the government with respect to that -- this issue?

Mr. Bopp. I didn't hear you. Bringing up information --

[redacted] From the government --

Mr. Bopp. That --

[redacted] Related to this issue.

Mr. Bopp. Okay.

[redacted] Provided information related to this issue.

[redacted]. I can't recall any instances where it was discussed about specific information provided from the government. I -- I do have a recollection that -- you know, we were talking before about -- you asked a question about whether there were discussions about the origin of the content. And I do recall, like, there being -- it being noted that, at least at the beginning, that the FBI had not made any sort of determination to that -- to that -- to that effect. But that's the only thing that I can recall being mentioned. And I don't think that was based on information that was provided directly.

BY [redacted]

Q Do you recall, when these Bugs are first created, to the best of your recollection, were they created the day the story came out?

A I don't recall. Standard process would be that we would try to -- that they would be created shortly -- as soon as issues were spotted. So I suspect that they were created around that time, but I -- I don't recall specifically.

Q Are you familiar with a letter that was issued about 5 days later by 51 former intelligence officials that raised the concern that the story may be the product of Russian

disinformation?

A I'm familiar with it now because I'm broadly familiar with some of the work that the committee has done on that topic. I'm -- I was not -- I don't recall being familiar with it at the time.

Q And you don't recall that letter being raised in the context of the Bug and discussions surrounding the Hunter Biden story?

A No, not to my recollection.

Q With respect to the -- actually, let me take a step back.

Again, with the understanding that your team doesn't make content-based decisions, when there are Bugs that are related to issues of misinformation or other content-related concerns, does Google ever consult with other tech platforms, like Facebook or Twitter?

A So my understanding, but I'm not -- I'm not engaged in these conversations myself. My understanding is that we will consult with other tech platforms for the purposes of sharing broad trends or sometimes for the purposes of lead generation but that we do not consult on particular content moderation decisions. That's my -- that's my understanding.

Q Do you recall, with respect to the Hunter Biden story and the underlying content, whether anyone from Google consulted with anyone at other social media platforms?

A No. I don't -- I don't recall any such consultations.

Q Do you recall if anyone from Google was reporting what was publicly reported, other social media platforms -- what steps other social media platforms were taking with respect to the Hunter Biden story?

A Not specifically. That sounds like something that may have occurred just in

the process of being aware of the news, but I don't -- I don't recall specifically a discussion on that point.

Q And do you have a sense for how long discussions continued related to the Hunter Biden story or any of the underlying content?

A No. I don't -- I don't -- I don't know how long those -- those conversations were ongoing.

Q Okay. Do you recall if it was more than one day?

[redacted] I think he said he doesn't know.

[redacted] You can answer the question.

[redacted]. I don't recall specifically. It was likely more than one day, but I just don't -- I don't recall specifically.

[redacted] Do you have any other questions?

We'll break there. If we can go off the record, please.

[Whereupon, at 2:29 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

Transcribed Interview Transcript Errata Form

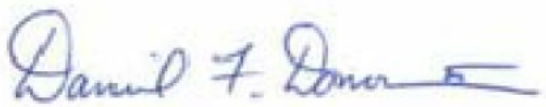
Interviewee	[redacted]
Date of Interview	May 23, 2023
Date of Review	July 19, 2023
Name of Reviewer	Read Mills - King + Spalding LLP
Signature of Reviewer	[signature]

Page	Line	Suggested Correction
1	8	Firm name for Dan Donovan should be King + Spalding, not Kirkland + Ellis
12	22	"And does Google use ~~a~~ misinformation ...." Remove "a"
13	14	"... for most products, we do also include..." Add "we"
14	5	"... subdivided by topic area, although that varies..." Add "al" to "though"
15	4-5	"... terms are structured, there are ~~is~~ enforcement teams..." Replace "is" with "are."
17	5	"... violative of our policies, public reporting, somebody externally, or press reporting..." → Add "or"
25	23	"... are not doing analyses of specific types of content..." → Pluralize "type."
26	7	"He brings up the first thing; he says, on transparency: ..." Add "on" and change punctuation to ":"
26	20	"Sure. So I appreciate the opportunity to clarify this." Add "I"
30	25	"... very focused on, protecting users -- from user harm." Pluralize "user" and add "from."

Page	Line	Suggested Correction
34	19	"And that has never been part of your job?" Add "been".
37	4	"... has the appropriate ~~settlings~~ settings enabled...." settlings → settings
37	7	"... page. As we were discussing earlier, ..." Replace comma with period, capitalize "as."
38	23	"And is it fair to say that ...." Add "is it".
40	20-21	"When you started with Google in February 2020..." Add "in".
41	23	"I referenced the DNC here." Add "the"
42	3	"... discussed earlier, there ~~was~~ were teams..." was → were
43	21	"... typically the GAPP team is ~~until~~ usually the lead on." until → usually
46	9	"Do you know whose email address this belongs to?" Make "who" possessive and add "this".
51	3	"... this is in the "to" line..." Place "to" in quotes.
53	2	"... both CISA as well as potentially ~~elsewhere~~ others ~~with the~~ within DHS..." elsewhere → others | with the → within
53	4	"... looks like it occurred in January..." Add "it".
55	2	"... your team is playing a coordinating function..." Add "a".
55	12	"... that we were specifically attuned to ...." Add "d" to "attune."

Page	Line	Suggested Correction
57	17	"... and leak operations being on the radar" Make "operations" plural.
60	16	"... the full swings of the selection season..." swings → swing \ selection → election
74	2	"... category that requires further escalation." Pluralize "require".
77	17	"So it could be others." Pluralize "other".

Transcribed Interview Transcript Errata Form

Interviewee	Director of Global Elections Integrity, Google
Date of Interview	May 23, 2023
Date of Review	December 16, 2024
Name of Reviewer	Daniel Donovan
Signature of Reviewer	

Page	Line	Suggested Correction
3	11	"DANIEL T. DONOVAN" should be "DANIEL F. DONOVAN"
3	12	"Kirkland & Ellis LLP" should be "King & Spalding LLP"
3	13	"1301 Pennsylvania Avenue NW" should be "1700 Pennsylvania Avenue NW #900"
3	14	"20004" should be "20006"
7	11	"fume" should be "name"
8	19	"Evans side" should be "the Management side"
13	14	"you; for most" should be "you; most"

Transcribed Interview Transcript Errata Form

15	5	"is" should be "are"
18	6-7	"there's products and there's functions." should be "there are products and there are functions."

Page	Line	Suggested Correction
25	23	"type" should be "types"
27	15	"though still" should be "though users still"
28	12	"time" should be "top"
35	17	"Google's" should be "Alphabet's"
36	13	"them accurate" should be "them with accurate"
37	4	"settlings" should be "settings"
37	7	"earlier the" should be "earlier. The"
40	14	"Intel Teams" should be "intel teams"

Transcribed Interview Transcript Errata Form

41	17	"broader policy that" should be "broader policy. That"
41	22	"that had been" should be "that was"
43	21	"is until the" should be "is the"
44	23	"Public Affairs" should be "Government Affairs"
45	4	"DHS, CISA is on there" should be "DHS CISA is on there"
45	6	"of various" should be "of the various"

Page	Line	Suggested Correction
47	19	"perform functions" should be "perform these functions"
49	21	"will" should be "would"
53	14	"talked about overall" should be "talked overall"
53	16	"campaigns, and" should be "campaigns and"
55	12	"attune" should be "attuned"

Transcribed Interview Transcript Errata Form

60	17	“selection” should be “election”
74	21	“Drive, normal” should be “Drive, the normal”
75	14	“is not” should be “it is not”
77	18	“other.” should be “others.”
82	24	“Graphica” should be “Graphika”
82	25	“Graphica” should be “Graphika”
85	5	“Washington at” should be “Washington while at”
85	12	“there was stood up something” should be “there was something stood up”

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: [redacted]

Tuesday, May 23, 2023

Washington, D.C.

The interview in the above matter was held in room 164, Cannon House Office Building, commencing at 10:00 a.m.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

[redacted] COUNSEL

[redacted] CHIEF COUNSEL FOR ANTITRUST,

[redacted] DIGITAL ASSISTANT

[redacted] CHIEF COUNSEL FOR OVERSIGHT

[redacted] RESEARCH ASSISTANT

[redacted] LAW INTERN

[redacted] DIGITAL DIRECTOR

[redacted] SENIOR SPECIAL COUNSEL

For the SUBCOMMITTEE ON CRIME AND

FEDERAL GOVERNMENT SURVEILLANCE:

[redacted] MINORITY DEPUTY CHIEF COUNSEL

For the SUBCOMMITTEE ON THE ADMINISTRATIVE STATE,

REGULATORY REFORM, AND ANTITRUST:

[redacted] MINORITY CHIEF OVERSIGHT COUNSEL

For [redacted]:

[redacted]

[redacted]

Kirkland & Ellis

[redacted] This is a transcribed interview of [redacted]. Chairman Jordan has requested this interview as part of the committee's investigation of how and the extent to which the executive branch has coerced and colluded with companies and other intermediaries to censor speech.

Would the witness please state his name for the record?

[redacted]. [redacted].

[redacted] Thanks. On behalf of the committee, I want to thank you for appearing here today to answer our questions. The chairman also appreciates your willingness to appear voluntarily.

My name is [redacted] and I am with Chairman Jordan's staff. I'll now have everyone else from the committee who's here at the table introduce themselves as well.

[redacted] Chairman Jordan's staff.

[redacted] Chairman Jordan's staff.

[redacted] Jerry Nadler's staff.

[redacted] Jerry Nadler's staff.

[redacted] Chairman Jordan's staff.

[redacted] Chairman Jordan's staff.

[redacted] Chairman Jordan's staff.

[redacted] Chairman Jordan's staff.

[redacted] Thanks. I'd like to now go over the ground rules and guidelines that we'll follow during today's interview.

Our questioning will proceed in rounds. The majority will ask questions first for 1 hour, and then the minority will have an opportunity to ask questions for an equal period of time if they choose. We'll alternate back and forth until there are no more questions

and the interview is over.

Typically we take a short break at the end of each hour, but if you'd like to take a break apart from that, please just let us know.

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

[redacted]. I do.

[redacted] So the court reporter can take down a clear record, we'll do our best to limit the number of people directing questions to you, during any given hour, to just those people on the staff whose turn it is.

Please try and speak clearly so the court reporter can understand and so the folks down at the end of the table can hear you.

It's important that we don't talk over one another or interrupt each other, if we can help it, and that goes for everybody present at today's interview.

We encourage witnesses who appear before the committee to freely consult with counsel if they so choose, and it's my understanding that you are appearing with counsel today. Is that correct?

[redacted]. Yes.

[redacted] Could counsel please state their names for the record?

[redacted]. [redacted], Kirkland & Ellis.

[redacted]. [redacted], Kirkland & Ellis.

[redacted] Thank you.

We want you to answer our questions in the most complete and truthful manner possible, so we'll take our time. If you have any questions or if you do not understand any of our questions, please let us know. Our questions will cover a wide range of

topics, so if you need clarification at any point, just say so.

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

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

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

[redacted]. I do.

[redacted] This also applies to questions posed by congressional staff in an interview. Do you understand this?

[redacted]. I do.

[redacted] Witnesses that knowingly provide false testimony could be subject to criminal prosecution for perjury or for making false statements under 18 U.S.C. 1001. Do you understand this?

[redacted]. I do.

[redacted] Is there any reason you are unable to provide truthful answers to today's questions?

[redacted]. No.

[redacted] Thanks. Finally, I'd like to make note that the content of what we discuss here today is confidential. We ask that you not speak about what we discuss in this interview to any outside individuals to preserve the integrity of our investigation.

For the same reason, the marked exhibits that we will use today will remain with

the court reporters so that they can go in the official transcript, and any copies of those exhibits will be returned to us when we wrap up.

All right. That's the end of my preamble.

Is there anything that my colleagues from the minority would like to add?

[redacted] No, thank you.

[redacted] Okay. The clock now reads 10:03. We'll start the first hour of questioning.

EXAMINATION

BY [redacted]

Q You gave us your name, but can you just restate it, your full name, for the record?

A [redacted].

Q What's your current job title, and where do you work now?

A Data analyst, Qapital.

Q And where's that located?

A It's a Swedish company.

Q Oh, okay. And can you give us your educational background, beginning with college? You don't have to do before college.

A Yeah. I did undergrad at Georgetown, and I'm working for a master's right now with -- with Northwestern.

Q Sorry, I didn't catch that.

A I'm working for a master's right now.

Q What's the master's in?

A Data science.

Q And what's your employment history?

A So a year at Qapital. Prior to that, I spent time working at Meta. Yeah.

Q Can you give us the years you were at Meta and the positions that you held, which specific positions?

A I was at Meta from 20- -- January 2018 to October 2021, so 3 years and 10 months. First 2 years was as an account manager, and the -- the latter year and 10 months was as a department manager.

Q And what divisions -- I don't really know that much about how Meta's set up -- what divisions or departments are those? Are they the same or are they different?

A I -- as an account manager, I was on their global marketing solutions team, and my -- both jobs were technically under that same -- same umbrella.

Q Okay. And what locations did you work in -- or location?

A Yeah. I started out working in Austin, Texas.

Q Oh, okay.

A And then in Washington, D.C.

Q Okay. And did you deal with misinformation, disinformation, malinformation while you were at Meta?

A That was not the core part of any of the jobs that I held at Meta.

Q But it was -- it was part of it or --

A It wasn't part of my job.

Q Okay. Did you interact with divisions or departments that did deal with those things -- misinformation and disinformation?

A There were third parties that dealt with that kind of stuff, folks I worked with that dealt did that.

Q Which third parties?

A Just folks concerned that dealt with that. But my job, for the most part, I

was a customer service agent.

Q Okay. And so Meta encompasses a few different, I don't know what exactly you call them, subcomponents, like Facebook and WhatsApp, right, and Instagram? Do they -- do you do each -- sorry. Do they each operate independently or do they work with each other? Like, was your work solely for Facebook or --

A Yeah. I mean, the way internally, my job internally, I was a customer service guy, so I would answer questions or field requests that had to do with anything that folks that I was assigned to had questions on. So sometimes it would be on Instagram, sometimes it would be on Facebook.

Q I see. And can you explain what you did on a day-to-day basis as an account manager at Meta?

A I'm sorry. Could you repeat that?

Q What did you do on a day-to-day basis, like, what was your sort of typical tasks?

A As an account manager, my day-to-day was essentially I had a -- call it kind of a book of -- book of business of folks that we work with. And for the most part, I would answer emails, field them to the right parties, send them along, and redirect them to the right places if they needed additional assistance. But I was essentially just kind of the, you know, the best person, so I always just kind of taking those questions and helping folks get to where they needed to get.

Q You mean -- can you clarify a little bit, like, taking requests for -- about what sort of thing?

A Yeah. So somebody might reach out and say, Hey, my ads aren't spending, or, the platform seems to be broken for whatever reason, and then there are more technical folks that could handle that. I just catalog that in that order. So essentially

it's like that's not the best personnel to substantiate shepherding a lot of those kinds of requests.

Q I see. Okay. And how about as a Federal partner manager, how is that different?

A Very similar job.

Q Okay. Was that a promotion or was it --

A Very lateral move. It was not a promotion.

[redacted] I'm sorry, what was that?

[redacted]. It wasn't -- it wasn't a promotion. It was not a promotion.

BY [redacted]

Q So, I mean, presumably it was a little bit different, right, or you wouldn't have had a different title?

A I don't know exactly how they determined the title of jobs. From -- my day to day was pretty much the same, some of the type of tasks that I would handle. You know, it was very much, I had this set of clients, and I had a different set of clients, and I was just a front-facing customer service person handling requests.

Q What was the Federal, what did that pertain to? Did that mean you were dealing more with the Federal Government?

A Yeah. There are different verticals as, you know, some folks work with hotels, some folks work with e-commerce, some folks work with Federal.

Q So did that mean that you dealt more with the government in the second position?

A In the second position I was in [inaudible].

Q Yeah, I see. Okay. And who did you report to in that position?

A My direct manager was [redacted].

Q Okay. And do you know what her title was -- or is?

A Actually don't remember.

Q And did anyone report to you?

A No. No.

Q And how many people were on your team, approximately?

A I'm sorry, I don't remember the exact number, and I don't want to guess.

Q Okay. Can you give us some of their names?

A Let's see, [redacted], I think was -- she was someone that I worked with at the time. Who else? [redacted] would've been another one that I worked with at the time.

Q Did your team stay around the same size while you were there or did it expand or get smaller or anything?

[redacted]. I'm sorry, could you just clarify for us what you mean when you say team?

[redacted] Well, the people that he was sort of working with, you know, regularly to do their projects or whatever they were doing.

[redacted]. Go ahead.

[redacted]. Yeah, I don't remember my team expanding in a noticeable way.

[redacted] Are you still in contact with anyone there professionally or personally or --

[redacted]. No.

BY [redacted]

Q [redacted], you've talked about sets of clients. Can you describe those clients for us?

A Is there anything you're -- it's a little broad. Can you narrow it down for

me?

Q Yeah. When you talked about that you did day-to-day tasks and you had a set of clients, what were those clients? Were those customers that were reaching out to you? What did that look like?

A Yes. I was a customer service guy. So they're effectively customers, people that used Facebook for whatever purpose that they deem necessary, and if things didn't work as they wanted it to and they needed somebody to help field requests, I would be the person they would go to to start that process.

Q And the other Federal partner managers, did they also have sets of clients that they were responsible for that differed from yours?

A They also -- yeah, we each had our own set of clients.

Q And can you describe some of the other sets of clients? Did someone handle like businesses? Did others handle, like, government officials? How did that look?

A So, yeah, I can speak more clearly about my own and the folks that I worked with. But, yeah, I just had the Federal set of clients, so a lot of kind of the folks that tend to be more around the Federal Government. But, again, there were different verticals, and so you had folks in different areas doing different things. So the examples I mentioned earlier, you had folks doing e-commerce, you had folks doing hotels, travel. I was doing some Federal clients, so there's -- you know, that's kind of the way it was categorized, from what I remember.

[redacted] You mean it was categorized by subject matter?

[redacted]. I don't know the exact methodology of how they devised these. I can tell you what mine was and some of the different ones that I do remember seeing.

[redacted] In your resume, you described part of your role as a partner

manager as boosting national awareness of credible --

[redacted]. I'm sorry, are you referring to a document?

[redacted] Yeah.

[redacted]. Can we see the document?

[[redacted] Exhibit No. 1.

Was marked for identification.]

[redacted] And so the record is clear, my colleague has marked [redacted]'s resume as exhibit No. 1.

[redacted]. This was not produced by us, so wondering, can you tell me what the source of this is?

[redacted] Yeah. I believe it's available online.

[redacted]. You got this on the internet?

[redacted] From his website.

[redacted]. Okay.

BY [redacted]

Q Is this your resume?

A Yeah.

Q So under the Federal --

A Sorry, quick -- this is not the current resume.

Q Oh, okay. But it was at one point?

A At some point, yeah.

Q Under your partner manager -- Federal partner manager subheading, when you describe yourself -- part of your role as "boosting national awareness of credible health information and vaccination rates," how do you determine -- how did you determine what's credible health information?

A Yeah. That -- that determining the information wasn't my responsibility. I was -- in this case, the part that I was focused on was advertising, so helping folks put out whatever message they already had.

Q So who made that deter -- so someone else made the determination and you promoted that or you --

A I didn't personally promote anything. My role here was to just help folks that had something they wanted to use Facebook to amplify and make sure that the platform was working for them.

Q So do you mean that somebody at Meta made the determination about who was credible -- about what was credible or that it's credible according to the person who wanted to run the ad?

A No, that's not what I mean. Any person can start a Facebook ads manager account and put out messaging and -- but they need to bind it (ph). I happen to be one of the folks that if they have issues with that, they would reach out to instead of -- to make sure Facebook worked for them.

Q I see. And did you work with entities other than U.S. agencies in this position or just U.S. agencies as Federal partner manager?

A Mostly U.S. agencies. Mostly U.S. agencies. At some point, I did work with nonprofits as well.

Q Can you tell us the agencies and the nonprofits as well, which ones specifically?

A Some of the ones that I remember on the nonprofit side were Mayo Clinic, the Alzheimer's Association, the Ad Council.

Q And which agencies did you work with?

A Some of the ones I remember, they were CDC, HHS, IRS, some of those.

BY [redacted]

Q I had a quick question. It's about three lines down from Meta Platforms, Inc., and then partner manager/Federal. This reads: Strategic digital advertising consultant for U.S. Federal agencies -- CDC, DHS, State Department -- during the COVID-19 pandemic, guiding each partner and 5-plus cross-functional teams.

Would you be willing to go into a bit more detail about what those cross-functional teams were, what your interface with them looked like?

A Yeah. So as the kind of the -- you know, the customer-facing area of it, there's like just a cross-functional network of folks that are all much more experienced than I am and much more well versed in this topic than I am. So as I would get requests from some of these partners, I would field that and tap the network of folks to make sure that they could answer anything that was much more substantive.

Q Could you give an example of an instance where you might've needed to reach out to one of those cross-functional teams?

A We sometimes interfaced with a marketing science expert, for example. So if a client that I was talking to had questions around marketing science, understanding how an ads are performing, I would capture that, understand what exactly they're asking, and then bring in the right folks that are relevant there.

Q Got it. So marketing science. What are some of the other teams?

A Marketing science would've been one of them. There were -- there were folks on the policy side as well.

Q What's an example of an instance where you would need to reach out to someone on the policy side?

A I'm having a hard time coming up with an exact specific example here. It's been -- it's been almost 2 years and I'm doing something completely different. But

I -- anything that's really beyond the, you know, standard and basic "how does the platform work advertising," beyond anything that just has -- you know, ask any question that might include even the word "policy" in it, sometimes I would just reach out to somebody that kind of understood that a lot better than I did.

Q Thanks. And then so marketing science policy. What other teams do you recall?

A Those are the main two that I remember at this point, but there is a lot of -- this was a long time ago. Sorry.

BY [redacted]

Q If we can just go back to your resume for a second. So you mentioned a couple of agencies, specifically, CDC, DHS, and State Department. Who did you work with at CDC, if you recall?

A I don't remember the names of folks that I worked with there.

Q Okay. Do you remember sort of how you worked with CDC?

A Yeah. So it's similar to kind of what I've been saying, is if they had a question about the platform, if there was something that we could help them with, I would take the -- you know, they would email me, I would take the request and try to categorize what type of help we might need there, and then find the right people internally to make sure we address that and just -- yeah, I was just there essentially to face -- customer-facing side of it.

Q Can you be a little bit more specific? Do you mean like if they were requesting to run ads, or was there more to it?

A Yeah. It's the -- because I was on the customer-facing side, the request could be, it really -- reaching out to a company like Facebook is so big and there's so many different issues that folks don't often know really, you know, how to navigate sometimes.

So they -- I just -- a lot of those requests would first come through me, and from there -- it's hard to say every single thing at this point, it's been so long, but -- so any question that folks would have, they would just -- just try it through me first and then see if I could point them in the right direction.

Q And how about the Department of State, do you know anyone you worked with specifically there?

A I don't remember any names there. Sorry.

Q At DHS?

A I wouldn't remember any names at this point.

Q And Census?

A I don't remember any names, no.

[redacted] But for each of those, the kind of interface you described would be very similar?

[redacted]. Sorry. Could you repeat that?

[redacted] Sure. So for each of those agencies, the interface would be similar to what you just described?

[redacted]. Yeah, I would say so. I would say so.

[redacted] Did you consider it part of your job to grow sales of advertising space for the government? Like, were you trying to get them to buy more?

[redacted]. I wouldn't -- no, I wouldn't consider that -- I did not -- I wouldn't say that was part of my job, from what I remember.

[redacted] Okay. And do you have any idea how much each agency spent on advertising? You know, what was sort of a typical amount when you were dealing with a request?

[redacted]. I don't remember the exact numbers, but some of them spent in

the millions for sure, but I don't remember -- I don't remember the exact numbers.

BY [redacted]

Q Your resume, kind of similar to where you were looking before, right in the middle. At the last line of that first bullet under partner manager/Federal, mentions securing, planning, and measuring over $50 million in media to support the company and national priority.

Could you unpack what that part of the resume means a little bit?

A Yeah. So in this case, this just means that the folks I was working with were spending that much money, so rich folks. And I essentially helped to make sure that, as they were spending, that they didn't run into any issues and that it worked effectively.

Q Okay. And for folks you were working with meaning -- that means the client, agencies that you were --

A Yeah.

Q -- the mix of --

A These different folks.

Q Thank you.

[redacted]. Just to be clear here, when [redacted]'s talking about the 50 million, that may include ad credits in addition, so dollar value isn't actual cash from the government to Meta. So I just wanted to make sure that, you know --

[redacted] [redacted], do you want to make --

[redacted]. -- if you want to make that distinction.

[redacted]. That -- that includes ad credits.

[redacted] Okay. Thanks.

[redacted] That includes what?

[redacted]. Ad credits.

BY [redacted]

Q What are ad credits exactly?

A Another -- another word you could use is maybe coupon. It's -- yeah, it's -- it's just -- it's money to spend on ads.

Q I see. Do you mean that Meta sometimes gave that to the agencies or they bought it and then they got credits to use it?

A I was really only involved in helping them spend it. I'm not sure how -- I can't speak too much around how some of these were decided or acquired. I just helped -- once they were in place, I helped them make sure that it was working for them.

Q Did Meta run any ads that organizations paid -- you know, the government or anyone else paid for, or did they make determinations about what they wanted to run based on content?

A I don't remember that.

Q Okay. Do you have any idea who might know?

A I'm sorry, I don't remember.

Q Did Facebook/Meta give agencies or other government entities free ad space?

A This might fall into the ad credits piece here. This -- yeah, that's -- yeah, this might fall into the ad credits piece here, but I don't really -- I don't want to guess here, so I'm just -- I don't know.

Q Okay. Can we -- this is --

[redacted] Exhibit 2.

[redacted] -- exhibit 2, yeah.

[[redacted] Exhibit No. 2.

Was marked for identification.]

[redacted]. You guys want the resume back at this point or are you going to keep coming back to it?

[redacted] You can hang on to it.

[redacted]. Hang on to it?

[redacted] You can hang on to exhibit 1. Thanks.

BY [redacted]

Q If you can just take a look at the emails on the first page there.

Well, maybe the whole thing, actually.

Do you recognize that? Do you recognize the --

A Yeah. Yeah, this looks familiar.

Q Can you just briefly explain what it is?

A This just looks like an exchange I had with HHS.

Q So it looks as though HHS was getting ad space in the form of coupons or something. Does that -- was that given for free by Meta, to your knowledge?

A I don't know how any of the billing situation would've worked here. From what I can see here and recall, my involvement was just to try to administer these and make sure that things were working effectively for them.

Q So did you then consult someone? Like when HHS was asking for this, would you, you know, ask someone and they would give you an answer and you would respond that --

A Yes, yeah, I would've likely consulted somebody here.

Q Do you know who that would have been?

A It would've probably been my direct manager.

Q Which is?

A My direct manager?

Q Who was that?

A That was [redacted].

Q Okay. Thank you.

On the first email there on the top page, you referred to the close partnership around COVID messaging. Can you give us a few examples or an example of what exactly you meant by that?

A I mean, as far as my role was concerned, it just meant that -- what they were doing was COVID messaging, and as far as I was concerned here, it was just to make sure that they didn't have any issues as they -- they were doing that.

BY [redacted]

Q Can I just make sure I'm understanding how the coupon just worked or your understanding of the coupon system? So the second email from the top is a request from [redacted]: Hi, [redacted], I wanted to follow up and see if we could possibly get 200,000 for this month's coupon. We feel the mental health content will garner huge engagement given the status of things as it relates to COVID-19.

Is requesting -- can you explain to me how requesting $200,000 for that month's coupon fits in terms of the types of services you would provide to your client?

A Yeah. My role here is very narrow.

Q Yeah.

A So when a question like this comes forward, I'll pass this on to somebody who can actually navigate the details of it. My role here is to, you know, once we can -- you know, as I'm hearing this question is, you know, can you help us navigate this, figure out somebody to -- who can help us with this, and then from here, help us make sure that we are advertising effectively and that the platform is working for us.

Q Got it. So the reference to the coupon, is that a reference to a request for

additional funds in the account that were not paid for? Is that how you'd read that as you think about where to route the request?

A I don't really remember here. In this case, I would've passed this on to somebody else internally. And then my role would have been, again, just -- narrowly just to focus on, once they had the account and they have what they need and they're advertising on their own, just to make sure that they're doing that effectively.

[redacted]. Can we take a break, please? Off the record?

[redacted] We'll go off the record.

[Discussion off the record.]

[redacted] On the record.

[[redacted] Exhibit No. 3.

Was marked for identification.]

BY [redacted]

Q This is exhibit 3. If you can take a look at this, please.

Do you recognize this?

A Some of it, yeah.

Q Can you tell us what it is?

A It -- it looks like a series of exchanges with the -- the CDC team around, yeah, ad credits and measurement, I think.

Q On the fourth page from the top, stamped 14285, there's a reference in your email to $300,000 in ad credits to CDC. Do you know exactly what that meant? Again, was that free ad credits or -- to the best of your knowledge?

A I don't know. My role here, again, I just -- I sent this -- this email was actually copy and pasted. It wasn't --

Q So you would've consulted with somebody else and they would've --

A Yeah, I didn't write this. This was copy and pasted.

Q Okay. Thank you.

So you mentioned Ad Council a little earlier, or it was mentioned, which is on your resume. Can you tell us a little bit more about your work with Ad Council?

A Ad Council is a, yeah, it's -- they work with nonprofits. They're a nonprofit. So my work there was to -- they have a lot of different causes that they do every year, from fighting, you know, vaping in kids to heart -- to heart health of Black women --

[redacted] Sorry, could you repeat that?

[redacted]. They do campaigns that -- around things like, you know, preventing teenagers from vaping and raising awareness about heart health for Black women or underserved communities. That's the type of stuff that they run, and that's also what I would help with.

BY [redacted]

Q So they're a nonprofit, but they run ads about health-related issues. Is that correct or --

A That's -- one of their causes was around, as I remember, was around raising awareness around heart health in underserved communities and vaping with teenagers.

Q Okay. Do you recall what you worked with them on when you were at Meta?

A Those two were two -- I remember interfacing with them about those two and probably a couple other things, but I don't remember everything.

Q Do you recall working with them on COVID-related issues?

A That was -- yeah, I think I did work with them on that.

Q Do you have any specific recollections of how -- or exactly what kind of stuff you were doing with that?

A I don't remember much of the details there. Again, I would've been the customer service guy for them as well.

Q Okay. So Facebook and CDC held a lot of weekly sync meetings. Is that correct?

A I remember having syncs with them. I don't remember the exact cadence. I'm not sure if this is -- but I remember having just, yeah, meetings with them.

Q Did you attend those meetings?

A I attended, yeah. I attended some of those meetings, yes.

Q Do you recall when they started holding them?

A I don't remember. I'm sorry.

Q Do you recall the purpose of the meetings, like, sort of general purpose?

A It's -- I think it would've -- I don't remember the exact details, but it would've been a check-in, just a, Hey, how are things working, are there any issues, that kind of -- that's what I would remember around like the general --

Q Issues with what?

A Just things that might come up. Are you able -- do you have any issues with the platform, something broken, or anything like that.

Q Okay. Were those meetings that started during the pandemic or did they precede the pandemic?

A I don't remember the exact timeline. Yeah, my -- my role as a partner manager for Federal would've been January 2020 forward, depending, like, I think, kicked off in March at that time. So I wouldn't -- I definitely wouldn't be able to say anything prior to January. But, yeah, I don't remember the exact timeline.

[[redacted] Exhibit No. 4.

Was marked for identification.]

BY [redacted]

Q Okay. This is exhibit 4. Can you -- do you recognize this, first of all?

A I -- I -- I don't remember this specific document, but I recognize that it's a meeting of sorts.

Q Can you tell us what the subject is in the -- described in the subject line?

[redacted]. You're asking him to read it to you?

[redacted] Yeah. Or I can read it.

[redacted]. Okay.

BY [redacted]

Q Facebook weekly sync with CDC, CDC to invite other agencies as needed. Do you recall if you were on this meeting?

A I don't remember this meeting. It says here I'm actually optional, so I'm not sure if I would've joined or not.

Q Okay. But you may have?

A Possible, but I don't remember.

Q These topics that were discussed -- CDC needs and misinfo collab status -- do you know what that means based on your --

A I'm sorry. I didn't write this email. I'm not -- I'm not entirely sure what actually would've been in this context here.

Q Do you recall those things being discussed at any of those meetings and what that meant?

A Again, substantively here, I'm not sure if I have much to add outside these documents. From my role, even if at the time I would've attended these meetings, was more so to point to the right folks, and anything on the ad side that might've been broken and needed assistance, I would occasionally jump into that.

BY [redacted]

Q [redacted], in your role, you've described it as being customer service representative. Is that correct?

A That's correct.

Q And so in that role, would you receive outreach from agencies such as the CDC?

A What do you mean by outreach? Just --

Q Would they ask questions of you?

A Yeah. Yeah, in the same way you would write an email. If you have problems with Verizon, you call somebody there.

Q And can you describe some of those questions that the CDC reached out to you about?

A Very broad. Again, they -- Meta's a big company. It's not practical for any average person who would've come to the platform to reach out to everybody, so they need to start at a starting point. And that was my role there, customer-facing person. So questions, you know, there's a bug, could you help us figure out what's going on here, or, we -- yeah, we're not sure how to use the specific ad product, is there something you can point us to here, a resource.

So a lot of times, actually, I would just -- we have resources online already that are public, so I would just send around links that we already had that were public that they probably didn't know already. Just point them to the right resources so they're -- I designed the resources, and I would just make sure to point them to the right resources from there.

Q And so if there wasn't information that was already publicly available, as the customer service representative that was kind of the first point of contact interface with

the CDC, would you then kind of help to point those individuals in the right direction or would you connect them with the right individuals? How did that work?

A Yeah. If there were substantive matters that I wasn't, you know, privy to or aware of, as it was usually the case, I would just point them to somebody else.

Q And would you connect them over email with those individuals or would you reach out independently to the correct individuals and see how they could help the CDC?

A In most cases, it would've been email, I think.

BY [redacted]

Q So, I mean, I understand if you don't recall who was in any specific meeting, but do you remember who was typically at these meetings?

A Outside of some of the ones here, I'm not sure if I -- I don't remember anything else.

Q Okay. Do you know if misinformation was discussed in meetings? Or disinformation?

A I don't want to guess here. It was a long time ago. I --

Q I mean, even if you just remember one email occasion or if you --

A It likely came up at some point. It's -- I don't remember. I can't give you too much context around that, but it likely came up at some point.

Q Okay.

[redacted]. I'm sorry. When you said "it," misinfo or disinfo or both?

[redacted]. The topic of misinformation, I believe, is what she was referring to.

[redacted] Sorry.

[redacted] Yeah. I think -- so the invite says "misinfo collab status." Do you see that down at the bottom? It's in the middle of the page, bottom of the substantive

part of the exhibit. Does that phrase have any meaning to you?

[redacted]. I don't know what "misinfo collab status" means.

[redacted] Okay.

[redacted]. [redacted] what I was getting at was, I think the question was whether misinformation or disinformation came up, and his response was "it" came up, and I was asking him to clarify for you which of the two.

[redacted]. Yeah. I would say misinformation likely came up at some point.

[redacted] Can you recall the context or what was discussed?

[redacted]. I'm sorry, I cannot. I don't remember the details there.

[[redacted] Exhibit No. 5.

Was marked for identification.]

[redacted] Okay. This is exhibit 5.

[redacted]. So this document doesn't have a Bates label that suggests that it's from Meta. Can you tell me the source for the document?

[redacted] Yeah. It was produced in FOIA litigation by America First Legal.

[redacted]. Yeah.

BY [redacted]

Q Do you recognize this?

A I don't remember this document.

Q Do you have any idea if you attended this call that it's organizing on March 11th, 2021?

A I don't remember if I attended or not.

Q Do you know who the [redacted] and [redacted] are mentioned in the email on the first page, the second round from [redacted]?

A I don't remember who [redacted] and [redacted] were.

Q Do you know what they meant by the WhatsApp project?

A I don't want to guess here. I don't remember what this is referring to.

Q Okay. Do you know who [redacted] is?

A Sorry, I'm not sure I -- nothing really -- I don't know.

Q Okay.

A I don't remember. I don't remember who that is outside of what I'm seeing here in this document.

Q Okay.

[11:00 a.m.]

[Exhibit No. 6.

Was marked for identification.]

This is exhibit 6.

. Which exhibit are we up to?

Six.

. Oh, we're ready.

Oh, you're ready? Okay.

BY

Q Do you recognize this?

A I don't remember this document.

Q Do you know who is with the --

A I don't remember who that is.

Q Okay. You don't -- so you don't recall if you participated on the call?

A I don't remember.

Q Okay.

A I don't remember.

Q All right. How about ?

A I do not remember who that is.

Q Okay.

BY

Q And, , in the email you see at the top there, the "Hi Facebook team," it starts, in there is asking about is such segmentation possible.

If you would have received a question like that, who would you have referred that question to?

A Yeah, this -- this looks pretty substantive --

Q Uh-huh.

A -- and detail oriented. I don't remember the exact team I reached out to, but this is something I would definitely needed support on.

Q Support on. Would you have used one of the cross-functional teams for that?

A Somebody in that network, yeah.

Q In the marketing science team?

A I don't remember if that would have been it.

Q The policy team?

A For something like this, I -- probably not, but I don't want to guess. I just --

Q Uh-huh.

A This was a while ago.

Q Would anyone on the email that was with Facebook, would they have been able to answer that question, or would this, in effect, go to someone else?

A I'm not entirely sure. Even if it started here, it's possible that it was an even larger team effort to understand and field this.

[redacted] Okay.

[[redacted] Exhibit No. 7.

Was marked for identification.]

[redacted] This is exhibit 7.

[redacted]. Thank you.

One more?

[redacted] Oh, sure.

[redacted]. Thank you.

We're ready.

[redacted] Yeah. Oh, you guys are ready? Okay.

BY [redacted]

Q Do you recall this document, do you recognize it?

A It's familiar.

Q Can you describe what -- what it is?

A It looks like somebody from the CDC reached out about -- let me see -- a graphic that was making the rounds, and I just confirmed and thanked them for sending an email to us.

Q They were saying it contained misinformation, right? That was the -- someone from the CDC?

A Yes, that looks like that's what they're saying.

Q So I assume you passed this on, right?

A I likely passed this on. Yeah, I definitely passed this on.

Q Do you know who you would've passed it on to?

A I don't remember who I would've passed it on to.

[redacted] Do you remember what team you would have passed it on to?

[redacted]. I don't want to guess here, but this is content related, so something on the content or ad -- or policy side.

[redacted] Policy side.

[redacted]. Did you say content or policy side?

[redacted] Content or policy side.

Can you describe what you mean by the content side? You mentioned in terms of the cross-functional teams, marketing, science -- pardon me -- policy. Was there a content cross-functional team?

[redacted]. Sorry. I don't -- I don't necessarily remember the details around that specifically. That's just my -- my -- my -- I would have passed this on to somebody else, somebody that probably deals with that. I don't know if there's a specific team that deals with that. I just know I passed it on to somebody that deals with that.

[redacted] Do you know if you got these kind of requests frequently?

[redacted]. I don't remember the frequency. I don't think so, but I don't recall the frequency of these kinds of requests.

[redacted] Okay.

[redacted] But it's certainly possible that other kinds of requests about misinformation came to you in the first instance and then you routed them?

[redacted]. If they came to me, I would've sent them to somebody that would have had more experience there, yeah, somebody, yeah, who was -- yeah.

[redacted] Do you know which agencies you got such requests from, in addition to CDC?

[redacted]. Yeah. I don't remember getting a request from anybody else around -- that was of this nature. But, again, if I did get such a request, I would have just passed it on to somebody else.

[redacted] Okay.

[redacted] When you're -- in the email, when you say, "please don't hesitate to reach out if your team ever notices any issues on this end," what does that -- what is "on this end" referring to?

[redacted]. It means if you get -- if you have issues, please reach out to me.

[redacted] Okay. Issues with respect to the products you've asked for?

[redacted]. Yeah, this is -- I mean, I'm just being a good customer service guy. Just trying to be nice.

[redacted] All right. We're about time. We're at the hour mark. So we're off the record.

[Recess.]

[redacted]. We're ready whenever you are.

[redacted] Ready? Okay.

EXAMINATION

BY [redacted]

Q I guess it's still morning, so good morning. I am [redacted] as you probably heard, and I am counsel for the minority. And just wanted to say that we appreciate you coming here and being willing to sit down and talk to us.

I have seated next to me [redacted] She is also counsel with the Judiciary Committee under Mr. Nadler, the minority. Okay?

A Okay.

Q So, first, let's start or go back to what you're doing now. I believe you said that you're getting your master's.

A I am.

Q Is that correct?

What are you getting your master's in?

A Data science.

Q Data science? What exactly is data science?

A It's applied math, essentially.

Q I was going to say keep it simple for --

A Yes.

Q -- us nonmath people.

Okay. And so you're studying at Northwestern?

A I am.

Q And that's in Evanston, Illinois?

A Yes. Northwestern is based in Evanston, Illinois.

Q Thank you. And that program is how long, 3 years?

A It kind of varies depending on the pace you take it.

Q Okay.

A So you can go as fast or as -- or slow as you need to.

Q Okay. And when do you expect to finish?

A Right now I'm expecting to finish in December.

Q In December. Okay. Great.

And right now are you in finals or have you finished finals?

A I have a final coming up next week.

Q Next week?

A Yeah.

Q Is that your last one?

A For this quarter, yes.

Q Okay. And did you have finals before you came here today?

A I've been in the process of preparing for them for the past couple of weeks, yes.

Q Okay. At the same time that you were preparing to come here and talk to us, right?

And when is that final that you had, the last one?

A It's a -- it's a project that's due at the end of next week.

Q Okay. And so you had to stop working on your project to come here and testify?

A I did.

Q Or to sit for the interview?

A Yeah.

Q And so you would much rather be working on that project, right?

A I needed time for the project.

Q Right. What kind of project was it -- or is it? Sorry.

A Yeah, it's just -- I'm just building models with a team, just coding, doing standard statistical models.

Q Okay. Excellent.

And in your -- well, first, let me ask you: Do you think that the job that you did for Facebook is related to the -- your expertise right now that you're studying to get your master's for?

A It is not.

Q Okay. And so was that a job that you just worked to get some money while you were going to school or to get ready to go to school?

A Yeah. The -- what I was really interested in doing is what I'm studying now.

Q Uh-huh.

A I just needed a job at the time, and that's the job that I happened to fall into.

Q Okay. And you said you did that for about, was it, 20 -- no, 3 years and some months, right?

A The -- I think the job in question here was a year and 10 months.

Q Okay. But you started with Facebook in 20 --

A '18.

Q -- 18? And when did you start your master's program?

A I started taking classes at a slow pace even as I was working at Facebook.

Q Okay. And so while you were at Facebook, Donald Trump was the President first for like half of your time at Facebook?

A He was.

Q Right. And I believe President Biden was inaugurated January 2021, right?

A He was.

Q And you left Facebook October of 2021.

A Yes. That was when I left.

Q And did you go -- did you get another job or did you just start your studies full time?

A After leaving, I focused on studying full time.

Q Okay. All right. So now -- and I guess I'll refer to the company as Facebook, because for the entirety of the time you worked for the company it was called Facebook, right?

A I believe so.

Q Okay. It didn't become Meta until around the same time that you left, October of 2021?

A I don't remember the exact time, but as I remember it, it was Facebook.

Q When you worked there.

A When I was there.

Q Okay. And so you said first that you were an account manager in global marketing. Is that correct?

A That's correct.

Q And that was where you focused on sales and marketing of ads. Was that in markets outside of the United States or did it include the United States?

A Sorry. As I remember it, my -- most of the folks that I worked with were

based in the U.S.

Q Okay. And I believe you described your duties or your responsibilities as akin to a customer service representative, right?

A That's correct.

Q Okay. And you felt that the job that you took on in your second role at Facebook was akin to customer service as well, right?

A It was also customer service, yes.

Q Okay. And that was you fielded questions from governmental agencies, staffers, and helping them find somebody who could help them.

A Yes. I answered emails and directed them to somebody that could help them with whatever substantive matter needed it.

Q And I'm sorry, I forgot to ask you about the work that you have done since you left there.

You have a Medium page, right?

A I do.

Q Okay. And on your Medium page you post studies that you have conducted within your field of data science.

A Yes, I've posted papers on there.

Q Okay. And so you have four papers on there right now.

A I believe so.

Q And they would be "ADA & Gradient Boosting in Machine Learning" is one. Another is "Decision Trees: You can get with this, or you can get with that."

A Yeah.

Q That's a Black Sheep reference.

A Yeah.

Q I got it.

You also have "Regularization in Neural Net"?

A That sounds right.

Q Okay. And then, lastly, you have "Modeling the Signal, Regularization in Machine Learning."

A That sounds right.

Q Okay. Of these four studies that you posted, would any of them apply to the work that you were doing at Facebook?

A No.

Q All right. And so I don't understand that, so I'm not going to ask you anything else about it. Okay?

So let's break this down a bit because -- would you say that your job involved one providing general instruction to these governmental staffers that asked you questions?

A Again, what I would say is they would reach out if they had issues. I would try to understand what they were asking for. And in the vast majority of cases I would reach out to somebody who had more experience on the matter to help address.

Q Okay. And sometimes that involved guiding them through the ad process.

A Sometimes that involved the ad process.

Q And you said you would connect those staffers with the right people, and that meant the people that could help them address an issue.

A Yeah, sometimes I would connect them with folks that could help, depending on the substance, yes.

Q Okay. And you referred to something as other verticals. You said that your vertical was the Federal Government?

A That was, yeah, by -- by verticals, essentially my area of focus or the type of

people that I'm servicing as a customer service guy.

Q Okay. And so, then, there were other verticals similar to you who focused on other sectors, such as e-commerce.

A Yes, there are others. There's e-commerce, travel.

Q Okay. And did they have similar titles like yours? I think you were an account manager -- excuse me -- partner manager/Federal. Would they have been partner manager/e-commerce?

A In -- it's a big company. I don't know everybody's -- it's hard to say what everybody's title's going to be. But account manager and partner manager are some of the titles there that are pretty common.

Q You mean like a subset of --

A Yeah, department manager and account manager are pretty common in the -- in the space.

Q Okay. And each of them dealt with different arenas, or you called them verticals.

A Verticals.

Q Okay. Could we call them also categories?

A You could.

Q Okay.

A You could.

Q But, like, vertical, that's a term of art within Facebook.

A Yeah, it's a -- it's a term that -- it's one of the ways that we describe the different categories there, as you --

Q Right.

A -- mentioned.

Q Similar to what you were calling the coupons.

And what were you calling the coupons?

A I think another word there would have been ad credits.

Q Ad credits. Okay.

And you said you don't know how the agencies received those coupons. You just knew that they had them.

A Yes. My role there was very narrow. When it came down to actually the execution and making sure that things worked for them, that's where I would step in.

Q Okay. And you don't know what those different agencies had to do to get those coupons?

A I do not.

Q So you were shown several emails. And thinking back to what you saw or you reviewed, in many cases when you responded, you used "we," right?

I think exhibit 7, you say: Thank you for flagging. We're making note of this.

And exhibit 2, you say on the front page: Our marketing team has identified some pieces of your creative that they would like to showcase in our creative gallery.

And then you go on to say: Here's a specific creative they have identified.

So when you are responding to these emails and you're talking about "we," you mean collectively the different teams that you have referenced or spoken to to get these answers.

A So when I'm referring to "we," it's a big network of teams that are working through, and I just happened to be the one relaying the message.

Q Right. And exhibit 6, they -- you were asked some questions about -- let's see -- [redacted]. And I think you said you didn't know her, right?

A I don't remember [redacted].

Q Okay. But isn't it true that this particular email, you are just cc'd on this email?

A If --

Q And I can show it to you again if you want to see it.

A Yes. Could I see that again?

Q Sure.

A Yes. It looks like I was just cc'd there.

Q Okay. And at no point do you respond or say anything or is anything directed to you in that series of emails?

A It doesn't look like I was directly addressed in this area of the email.

Q Okay. And then I think it was exhibit 7 where you are speaking to [redacted] of the CDC, and [redacted] was letting you know about some false information that he flagged.

And this is an employee of the CDC, right? Do you recall? Or I can show it to you again.

A Thank you.

Q Uh-huh.

A It looks like [redacted] is the CDC employee.

Q Okay. And he's flagging for you some -- what he believes is misinformation.

A It looks like he is, yes.

Q Okay. And you said that what you would do in that case is pass that along to the appropriate team to evaluate what should be done next.

A Yes. I believe that's what I'm saying here is we are making note of this.

Q Right. Okay. And what is the date on that email?

The first one, you can start with what -- where [redacted] sent it to you.

A Yes. [redacted] sent it on May 23rd.

Q Of what year?

A 2020.

Q And you responded?

A I responded on May 24th of 2020.

Q And who was the President at the time?

A This would have been Donald Trump.

Q Okay. And I believe you said that content evaluation was not your job, correct?

A It was not my job.

Q Identifying or determining whether or not something was misinformation was not your job either?

A It was not my job.

Q And I think there was also -- I wanted to go back to number 6 again, where I said that that was a conversation that didn't involve you. That is the one where you were asked what you would do in that situation, right?

A If I can re -- if I remember correctly.

Q Okay. But you weren't asked to do anything in that email, were you?

A It doesn't look like I was.

Q Okay. So let me ask you a little bit about the ad process, and you can tell me whether or not you know this or not.

The ads that were submitted to Facebook, they had to comply with -- and like I say, you can let me know if you don't know. But at the time that you were working at Facebook, advertisers, including governmental agencies, had to comply with community standards, right?

A I don't want to guess here. I don't remember --

Q Okay.

A -- specific details here.

Q And so it was not within your purview to determine whether or not the ads complied with community standards if you didn't even know what they were?

A It was not my job.

Q Okay. And it was not your job to determine whether or not the ads complied with Meta advertising standards either?

A That would not have been in my role description.

Q But if someone had a problem where they thought that something had happened or gone wrong with their submission of an ad, they might come to you with that?

A I might be the first person they reached out to to complain or --

Q Right.

A -- say something is wrong.

Q Because from what you understand, when these people become clients of Facebook or get -- the partnership is put -- you -- they come together, they are given your name or somebody else's name as someone they can contact if they have a problem?

A If they have a problem.

[redacted]. Can we go off the record for a second?

[Recess.]

[redacted] We're good.

Do you want to go back on the record?

[redacted] Yep.

[redacted] Great. We're back on the record.

[redacted] All right. Thank you.

BY [redacted]

Q So I'll try to pick up from where we left off.

You said at one point that sometimes you would refer the people who contacted you via email to put them in contact with somebody who could help them with an issue that you couldn't help them with.

A Sometimes, yes.

Q Okay. And sometimes would you provide an answer rather than connecting them? Would you say, this is what we found or this is what we're going to do?

A As far as I remember, most substantive matters, I would pass it on to somebody else or -- yeah, I would just pass it on.

Q Okay. And I believe in one -- the -- exhibit 3, you said that you -- your response was copy, pasted. I'm going to show you exhibit 3 again.

Is that the one that you identified as something that you copied and pasted?

A Yes, I copied and pasted this. I did.

Q Okay. And that is like a string of instructions with some links in it, right?

A Yes, they're links there.

Q A description of the coupons and what they -- what rules apply to those coupons.

A Yes. Those look like the rules that are applying to these coupons.

Q Okay. And from what you see that you copied and pasted, that would be they were subject to the Facebook terms of service, Facebook's commercial terms, Facebook's advertising policies.

A From what I --

Q From what you've written here.

A -- here, it looks like that's the case.

Q Right. But none of those three things were within your job description.

A No.

Q Okay. And that would be that you weren't the one who determined whether or not the coupons were used in the proper manner.

A I was not the one that made that determination.

Q All right. And -- sorry. This coupon is dated -- or this coupon discussion is dated between May and June of 2020. Or is it -- tell me what --

A It -- I see --

Q September. Sorry.

A September.

Q August and September. I was looking at the wrong one.

A Yeah, I see September and August.

Q Okay. And you were asked about the amount of money. You said you don't know, but you read from the email that there was somewhere around $300,000 or half a million dollars.

A That's what the email says, I believe.

Q Uh-huh. And that was a conversation with staff from the CDC, correct?

A Looks like the CDC was on the email.

Q All right. And that would be the CDC under the Trump administration, based on the date?

A Given the timing, it would have been the Trump administration.

Q Okay. So if they were given money or provided with coupons or ad credits, whatever the term would be, that would be under the Trump administration at the CDC?

A Given the timing, I believe it's the Trump administration, yeah.

[redacted] Okay. Give me 1 minute. I'm sorry.

[Discussion off the record.]

[redacted] We don't have anything else. Appreciate your time. And depending on what happens in this next round, we may or may not have any followup.

[redacted]. Thank you.

[redacted] Thank you.

[redacted] Thank you.

[redacted] Everybody ready? Okay. Great.

We'll go back on.

[[redacted] Exhibit No. 8.

Was marked for identification.]

[redacted] This is exhibit 8.

If you'll just let us know when you're ready.

[redacted]. We're ready.

[redacted] Ready?

BY [redacted]

Q All right. Do you remember this document, recognize it?

A I don't remember this document.

Q Do you have any idea why you were cc'd, why you were cc'd?

A I don't remember why I was cc'd on this document.

Q Who is [redacted]?

A Um --

Q Who wrote the email, for the record.

A [redacted] would have been somebody else that worked on the teams that supported here. I don't -- I don't know [redacted].

Q You don't know her.

A I don't remember [redacted].

Q Do you know why this email was sent to the General Services Administration, the people there?

A I don't want to guess here. I don't know. I don't remember why it was sent.

Q Okay. So the email discusses how Meta worked with election officials to identify misinformation. Do you know how Meta worked with -- in order to do that?

A This, I -- no, I don't -- I don't know. I don't know this.

Q And [redacted] also referred to on an issue with WhatsApp earlier this year. Do you have -- do you know what that means?

[redacted]. So where are you referring?

[redacted] It's on 4730, I believe. Yeah, so the last page.

[redacted]. Where on the page?

[redacted] It's the second bullet point under "Additional actions we're taking to protect the U.S. elections."

[redacted]. Again, I don't -- I don't recall this. It looks like there's a link here which would have probably been to some public resource.

[redacted] Okay.

BY [redacted]

Q [redacted], in your role which you have described here today as being a customer service representative, would companies or clients or U.S. agencies have reached out to you regarding questions about the 2020 election?

A I don't remember if they did or did not, but that's -- out of the collection of random questions that I got, that would have at some point have probably came up.

Q Could you have been included on this email for awareness purposes so you knew who to coordinate with regarding these types of questions?

A I could have been included on this for awareness. I'm not sure to what extent, I would remember to what extent, but I probably could have been included just for awareness.

Q And do you remember ever receiving any outreach from your clients regarding questions about the 2020 election, whether it be ad buying or just general platform questions?

A I don't remember anything there specifically.

[redacted] On the first email, on the first page, there's a reference in [redacted] [redacted]'s email to removing 120,000 pieces of content on Facebook and Instagram for violating voter interference policies.

Do you know how such determinations were made?

[redacted]. Sorry, where on the page is this?

[redacted] The first page. So it's at the very bottom.

[redacted] I'm sorry. Could you repeat the question?

[redacted] Does he know how -- who would have removed those pieces of content and who made those decisions?

[redacted]. I don't know who would have made that decision. I don't recall or know who would have made that decision.

[redacted] Okay. There's also on the next bullet point, so if you flip the page, there's a bullet point about: Displayed warnings on more than 150 million pieces of content viewed on Facebook from the U.S. that was debunked by one of our third-party fact checkers.

Do you know who those fact checkers were?

[redacted]. I don't know or remember who this would have been.

[redacted] Okay. The -- okay.

[[redacted] Exhibit No. 9.

Was marked for identification.]

[redacted] This is exhibit 9.

[redacted] We're ready.

[redacted] Okay. Great.

BY [redacted]

Q Do you recognize this?

A I don't remember this.

Q Okay. Do you know why you were cc'd?

A I'm not sure why I was cc'd here.

Q Did you work with the CFPB, which this email is from, in other capacities or did you work with them typically?

A I had some exchanges with the CFPB.

Q About what?

A Again, just customer service stuff. If they had questions, I was one of the people that sometimes they would reach out to.

[redacted] How did the CFPB know to contact you?

[redacted]. I don't know how they had my email. I'm not sure how they got my email. I just -- I dealt with what came into my inbox.

[redacted] Was the CFPB one of the clients that you serviced? You mentioned having different --

[redacted]. Yeah, yeah. If they needed to reach out to somebody, I would have been one of the people that they probably -- they reached out to.

[redacted]. Just for accuracy, he's on the "To" line, not on the -- there's no "cc" line.

[redacted] Oh, right.

[redacted]. There's a bunch of people on the "To" line --

[redacted] Sorry.

[redacted]. -- including his supervisor.

[redacted] Right.

[redacted] Do you think of the CFPB in the same category as the other agency clients that we talked about at the beginning of the interview? You mentioned DHS, State, Census.

[redacted]. In the sense that if they had a customer service request they would reach out to me, then in that way they were similar.

[redacted] Do you recall facilitating, providing any credits or coupons to the CFPB as you did for other agencies?

[redacted]. I don't remember if I did or did not facilitate anything with them specifically.

[redacted] On the second page, there's an email from [redacted] with CFPB to [redacted], you, and some other people. And the body of the email says: The purpose of this call is to identify any possible areas of collaboration or partnership between the CFPB and Facebook on getting reliable, trustworthy information to Americans, and/or to help stop misinformation, scams, and fraud.

Do you know what that collaboration and partnership was about?

[redacted]. I don't remember. I don't remember.

BY [redacted]

Q Who would on the list of folks who were receiving this? So you received

the email. Would anyone else have been a key point of contact for that question?

A It looks like they're mentioning [redacted] as a possible lead. I'm not sure if I can produce anything outside of what's in the document.

Q Sorry?

A It looks like they're -- they're -- the email looks they're saying the policy lead is [redacted]. But I'm not sure if I can give any answer outside of what's already in the document here.

Q So just to make sure I'm understanding. So would [redacted] have had any role in helping field that kind of question? She's on -- so I'm on page 2. And then the email, May 18th at 4:47 p.m., there's a -- in the "To" line there's [redacted].

A She may have been relevant here.

Q Uh-huh.

A I don't remember this exchange.

Q Uh-huh.

A Um --

[redacted] Do you know who [redacted] was or is?

[redacted]. Her signature says she was on Policy and Government Outreach.

[redacted] But you didn't work with her.

[redacted]. I -- I had some exchanges with her.

[redacted] This is exhibit 10.

[[redacted] Exhibit No. 10.

Was marked for identification.]

[redacted] Are you all set?

[redacted]. Yep.

BY [redacted]

Q Do you recognize this?

A I don't remember this exchange in particular, no.

Q It looks like it's setting up a meeting between Facebook and the CFPB to discuss misinformation and other related topics.

Do you know if you attended that meeting on May 21st of 2020?

A I don't remember if I attended or not.

Q Do you know why you would have --

[redacted]. There's a series of emails, and the topics change from emails to --

[redacted] Yeah.

[redacted]. -- to emails. So are you referring to --

[redacted] I'm referring to the ones on the last -- beginning on the last page.

[redacted]. Okay. Fair enough.

[redacted] Yeah, sorry about that.

Do you know why you would have been invited?

[redacted]. It looks like there's mention here, advertising. And that's something that I supported on. So I'm assuming that's -- that's where they would have added me in.

[redacted] Okay. I think -- I think we're all set then. We'll go off the record.

Thank you. Yeah, thank you.

[redacted] I don't have anything.

Well, actually, I have just one question.

Are we still on the record?

[redacted] We can go back on.

[redacted] I can do it from here.

BY [redacted]

Q With regard to exhibit No. 9, there was a question posed to you that said something about whether or not you provided coupons. And I think your response was you facilitated coupons, correct?

A Facilitated, yeah.

Q You did not provide coupons to any agency related to Facebook ads?

A That was -- that was not my role.

[redacted] All right. Thank you. That's it.

[redacted] We'll go off the record. Thank you.

[Whereupon, at 12:33 p.m., the interview was adjourned.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

Transcribed Interview Transcript Errata Form

Interviewee	[redacted]
Date of Interview	5/23/23
Date of Review	7/18/23
Name of Reviewer	[redacted]
Signature of Reviewer	[redacted]

Page	Line	Suggested Correction
8	6	"department manager" to "partner manager"
9	22	"Spending" to "spending"
10	1-2	"it's like that's not the best personnel to substantiate" → check audio
14	13	"bind it" to "buy it"
~~[illegible]~~	~~[illegible]~~	~~"[illegible]" to "[illegible]"~~
18	4-5	"company are national priority" to "country and national priorities"
18	8	"rich" to "which"
21	9	"doing that" to "doing ads"
26	20-21	"I designed the resources" to "folks designed the resources"
40	12	department manager to partner manager

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: KRISTIN WOOD

Tuesday, May 23, 2023

Washington, D.C.

The interview in the above matter was held in room 2237, Rayburn House Office Building, commencing at 9:59 a.m.

Present: Jordan, Gaetz, Bishop, Massie, Spartz, and Biggs.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

[redacted], GENERAL COUNSEL

[redacted], COMMUNICATIONS DIRECTOR AND COUNSEL

[redacted], COUNSEL

[redacted], COUNSEL

[redacted], CLERK

[redacted], SENIOR SPECIAL COUNSEL

[redacted], PROFESSIONAL STAFF MEMBER

[redacted], DIGITAL DIRECTOR

For the PERMANENT SELECT COMMITTEE ON INTELLIGENCE:

[redacted], STAFF DIRECTOR, SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

[redacted], SENIOR COUNSEL

For KRISTIN WOOD:

D.E. ("ED") WILSON , JR.

Venable LLP

600 Massachusetts Ave., NW

Washington, D.C. 20001

V. THOMAS LANKFORD, JR.

Lankford & Reed, P.L.L.C.

120 North Saint Asaph St.

Alexandria, VA 22314

Mr. [redacted]. This is a transcribed interview of former CIA officer Kristin Wood. Chairman Jordan and Chairman Turner have requested this interview as part of the committees' investigation of Federal law enforcement and intelligence matters within our respective jurisdictions.

Would you please state your name for the record?

Ms. Wood. Kristin Wood.

[Discussion off the record.]

Mr. [redacted]. Would counsel please state your names for the record?

Mr. Wilson. Ed Wilson.

Mr. Lankford. Tom Lankford.

Mr. [redacted]. This investigation serves to inform potential legislative reforms within the jurisdictions of the committees. For example, the committees may consider legislative reform such as revolving-door legislation for Federal employees with security clearances. These reforms might include allowing Federal employees with security clearances to retain their clearance after employment with the government, but limiting their ability to receive access to classified information for some duration after their government employment.

The committees may also consider legislative proposals that would ban or restrict intelligence agencies from engaging in, coordinating, or promoting any political activity related to Federal elections, including candidates for Federal office.

The House Permanent Select Committee on Intelligence staff will be constrained today to issues relating to the letter signed by the 51 former intel officials.

On behalf of the committees, I want to thank you for appearing here today and for answering our questions. The chairman also appreciates your willingness to appear today voluntarily.

My name is [redacted], and I am with Chairman Jordan's staff on the House Judiciary Committee. I'll now have everyone else from the committees who are here at the table introduce themselves for the record as well.

Mr. [redacted]. Good morning. [redacted] with the Judiciary staff.

Ms. [redacted]. [redacted], counsel with House Permanent Select Committee on Intelligence.

Ms. [redacted]. [redacted], oversight counsel for the Judiciary Committee Democrats.

Ms. [redacted]. [redacted], chief oversight counsel, House Judiciary Committee Democrats.

Mr. [redacted]. [redacted], House Intelligence minority general counsel.

Ms. [redacted]. [redacted], Chairman Jordan's staff, House Judiciary Committee.

Mr. Wilson. Can you guys speak up a little bit?

Ms. [redacted]. [redacted], law clerk for House Judiciary.

Mr. [redacted]. I'm [redacted], counsel for Chairman Jordan.

Mr. [redacted]. [redacted] at the House Intelligence.

Mr. [redacted]. [redacted], professional staff for the majority for Chairman Jordan.

Mr. Bishop. And I'm Dan Bishop, House Judiciary Committee.

Mr. [redacted]. I'd like now to go over the ground rules and guidelines that we'll follow during today's interview.

Our questioning will proceed in rounds. The majority will ask questions first for 1 hour, and then the minority will have the opportunity to ask those questions for an equal period of time if they choose. We will alternate back and forth until there are no more

questions and the interview is complete.

Typically, we take a short break at the end of each hour, but if you'd like to take a break before that or if you need to speak to your lawyer, just let us know, and that's fine.

As you can see, there's an official court reporter taking down everything we say so that there is a written record, so we ask that you give a verbal response to all questions. She cannot record you shaking your head, nodding, or the always "uh-huh" answer we might give when we get comfortable. So we do need a verbal answer to each question. Do you understand?

Ms. Wood. Yes.

Mr. [redacted]. Okay. You passed the first question.

Ms. Wood. Excellent.

Mr. [redacted]. So the court reporter can take down a clear record, we do limit the number of people directing questions at you during any given hour. Please try and speak clearly so the court reporter can understand, and so the folks down at the end of the table can hear you as well.

It is important that we do not talk over one another or interrupt each other if we can help it, and that goes for everybody at the table. It may be in the course of this interview that I'll begin asking you a question and you probably know where I'm going, and then given -- you think, oh, I'll just answer it, but I would ask that you let me finish the question so that the court reporter can take it all down.

We want you to answer our questions in the most complete and truthful manner as possible, so we will take our time. You should also take your time answering if you're thinking about how best to respond.

If you have any questions or you do not understand one of our questions, please let us know. Our questions will cover a wide range of topics, so if you need clarification

at any point, just say so.

If you do not know the answer to a question or do not remember, it's best not to guess, unless we ask you to guess, but that should not be the case. Please give us your best recollection.

I'm just making sure everyone is awake.

Please give us your best recollection, and it's okay to tell us if you learned it from somewhere else. Just indicate how you came to know the information.

If there are things you don't know or cannot remember, just say so, and please inform us who, to your knowledge, may have answers to those questions. There's a lot -- I'm throwing a lot at you now, so forgive me.

You should also understand that although this interview is not under oath, by law, you are required to answer all questions from Congress truthfully, and the same goes for congressional staff. Do you understand that?

Ms. Wood. Yes.

Mr. [redacted]. Witnesses that knowingly provide false testimony could be subject to criminal prosecution for perjury or for making false statements under 18 U.S.C. 1001. Do you understand this?

Ms. Wood. Yes.

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

Ms. Wood. No.

Mr. [redacted]. Finally, I'd like to make a note that the content of what we discuss here today is confidential. We ask that you not speak about what we discuss in this interview to any outside individuals to preserve the integrity of the committees' investigation. For the same reasons, the marked exhibits that we will use today will

remain with the court reporter, and although we will give out copies, we will collect them at the end of the interview.

Is there anything that my colleagues from the minority would like to add?

Ms. [redacted]. We just thank the witness for taking time out of your day to join us today.

Mr. [redacted]. The clock now reads 10:06 a.m., and we will start questioning.

EXAMINATION

BY MR. [redacted]:

Q Could you please tell us a bit about your professional background, Ms. Wood?

A So I spent 20 years at CIA, beginning in 1989. I spent 5 years -- the first 5 years an imagery analyst, the next 11 or so as an all-source analyst working a variety of problems in war zones, and then a few years as a PDB briefer for Vice President Cheney and Scooter Libby, and then moved over to run the counterterrorism team that was looking at whether Saddam Hussein had a role in 9/11.

And after that, I went out to the Sherman Kent School to build the advanced analyst program for experienced analysts. And then I moved over to operations where I stood up as the deputy in the new Middle East operations division.

So just a question. This is open, right? So unclassified?

Ms. [redacted]. Unclassified.

Ms. Wood. Okay. So the new Middle East division.

And then from there, I left the agency for 6 years. I really needed to spend some time and focus on my sons.

And then I came back where I was the director's analytic support chief, so preparing him for all the meetings on the Hill and congressional testimony and many

other things. And then the last few years, I've spent in the Open Source Center running innovation and technology. Since then, I've had my own consulting company.

BY MR. [redacted]:

Q That's what I was going to say.

What do you do now? Consulting?

A Yeah. So right now, I just finished a full-time position, the last 2 years as the CEO of a startup that is a commercial data platform. And that ended in late January, and I'm taking a break.

Q Are you on any boards?

A Yes.

Q Okay. Let's move into the focus of the inquiry.

You were one of the 51 former intelligence officials who signed the public statement regarding Hunter Biden's emails, correct?

A Yes.

Q I'm entering into the record a document dated October 19, 2020, a public statement on the Hunter Biden emails, as exhibit No. 1.

[Wood Exhibit No. 1

Was marked for identification.]

BY MR. [redacted]:

Q I'm passing around copies for your review and your counsel.

A Thank you.

Q Are you familiar with this document?

A I am.

Q Okay. How would you describe the public statement?

A It was a warning that we were really concerned that the Russians, as we

were seeing pervasively throughout the 2016 and then in the lead-up to the 2020 Election, were also interfering in the process and that, for me, this was -- the most important thing is, let the FBI do their work. We're still -- there's a rush to judgment. Let's let the FBI do their work because we're really concerned that one of our near-peer adversaries is -- does have a role in this.

Q You're saying does have a role in this, or you are assuming --

A We were concerned they had a role in it.

Q What was your understanding of the intent of the statement?

A So my intent was exactly as I described.

Q Do you think Mr. Morell shared that intent as well?

A I know you've spoken to him, and I've read his transcripts. He clearly had additional purposes.

Q What do you understand those purposes to be?

A From your transcripts, it sounds like he also had contacts with the Biden administration or the Biden campaign at the time.

Q So it's fair to say he was looking to help President Biden during the -- Vice President Biden during --

A Yeah. I wouldn't want to speculate. I think you have the record, and you spoke with him about it. But it's pretty clear from what he wrote that that was a part of things.

Q Did you share his desire to help Vice President Biden during the Presidential debate?

A No.

Mrs. Spartz. Did you have some concerns that it was very close to the debate? Did you have some concerns that it was very interestingly close right before the debate,

and the statement was trying to be hurried out to be issued?

Ms. Wood. So I think, in hindsight, that may be something that you focus on. For me, what was going on in my role is I had just gotten news the afternoon before that my son had some pretty profound health diagnoses, and I was traveling in an area that was pretty remote, in and out of cell phone access. So whatever was happening on the national stage wasn't in my job jar or in my mental state at the time.

Mrs. Spartz. So you didn't even know the debate was happening, or you didn't think about it?

Ms. Wood. Probably I knew it was happening, but it wasn't anything I was concerned about.

Mr. Massie. Given those distractions, did you have time to vet this idea that it could be Russian disinformation?

Ms. Wood. Well, so, I think from the 2016 Election, we had seen that. We had seen SSCIs, what, five-volume report on this. We had the Obama administration talk about an executive order concerned about Russian interference. And then we saw it -- as an open-source person, you see it everywhere.

So for me, it was the kind of thing we had seen -- and the IC reported consistently on -- this could be yet another venue for that. And my concern, as always, was, how are the Russians trying to take away and undermine our democracy and faith in our democracy.

Mrs. Spartz. So did you do any due diligence before you put your signature with your former title?

Ms. Wood. I read the letter and I agreed with its contents.

Mrs. Spartz. But you didn't do due diligence to verify or not verify any incident in that letter?

Ms. Wood. So which part would you --

Mrs. Spartz. Just in general. Did you do any research? Any due diligence? Did you contact anyone? Who did you contact?

Ms. Wood. No.

Mrs. Spartz. No? You just pretty much read it and said --

Ms. Wood. And I agreed with it.

BY MR. [redacted]:

Q Are you a Russia expert?

A So my degree was in U.S. -- my degree was in political science with an emphasis on U.S.-Soviet relations. That tells you how long ago it was. I spent a fair amount of time seeing that in government most -- really since I left the government in 2015. Most of the things I've seen and witnessed have been in the open-source world.

Q So -- well, I'll come back to that.

Let me ask you, what was your initial reaction when you first read the statement?

A I don't remember. I agreed with it.

Q But you didn't -- did you conceive of the idea to issue a public statement in this regard?

A No.

Q Okay. I would ask you to let me finish the question.

A Sorry. I thought you were done.

Q Did you have any role in drafting the statement?

A No.

Q And when did you first become aware of the public statement?

A So Michael sent me an email.

Q By Michael, you mean Michael Morell?

A Yes.

Q Did he call you at any time to discuss the public statement?

A Not that I recall, but it would have been something he might have done to say, I have a letter. You know, would you take a look at it?

Q But you don't recall if that happened?

A No.

Mr. Lankford. I'm sorry. I didn't hear that.

Did you hear his comment? Or was it a question?

Mr. [redacted]. I said, you don't recall?

Mr. Lankford. Oh, I'm sorry.

Ms. Wood. And I agreed with him. I don't.

Mr. Lankford. Yep.

Ms. Wood. Thank you.

BY MR. [redacted]:

Q I'm entering an email from Michael Morell to Kristin Wood dated October 18th, 2020, at 6:06 p.m. into the record as exhibit 2, for you and your counsel.

A Thank you.

[Wood Exhibit No. 2

Was marked for identification.]

BY MR. [redacted]:

Q Have you seen this email before, Ms. Wood?

A I have.

Q Was this the email when you first learned of the public statement?

A Yes.

Q If you recall, what did you think upon seeing this particular email at the

time?

A Can you ask the question in a different way?

Q Do you recall your thoughts upon first receiving this email and reading it?

A I don't recall my thoughts other than agreeing with the letter.

Q And do you know Mark Polymeropoulos?

A I do.

Q How do you know him?

A I met him through Michael after our agency careers.

Q Are you two -- would you describe -- how would you describe your relationship with him?

A He's an acquaintance.

Q Okay. And what about Mr. Morell, how do you know him?

A I was his executive assistant more than 20 years ago. It appears to be a life sentence.

So I've known him for a long time. We were briefers together with the George Bush administration.

Q So what do you think -- why do you think he reached out to you to take on this task with respect to the public statement?

A It's something that happened, not uncommonly, after we were in government, everything from how do you use Twitter to, you know, do you know somebody who is an analyst or whatever.

Q Okay. Did you have any role -- and if I've asked this already, I apologize -- in the creation of the statement?

Mr. Wilson. Asked and answered.

Ms. Wood. No.

BY MR. [redacted]:

Q No.

Mrs. Spartz. Did you have any concerns putting your former title with information that you didn't verify? You know, you just did it from public sources, but you used your prior title to give more credibility to your statement..

Did you have any concerns and thoughts about that?

Ms. Wood. So I saw that that had been a question that has been asked before.

Mrs. Spartz. I want to get your view.

Ms. Wood. Right. So it's what I've seen various national security -- letters written by various former national security officials over the last, whatever, 5, 6, 7, 8, 9, 10 years. It's common practice. It's because you're saying, this is why we are concerned. This is the insight we have based on monitoring intelligence and Russia in particular for many years.

Mrs. Spartz. But you didn't have insight in that specific situation, did you?

Ms. Wood. Certainly based on what the IC was reporting and had reported in the 2016 election and my role in open source just seeing what was happening in social media and elsewhere. As an analyst with deep experience on looking at how -- the origination of things, this was right in lockstep with the other things we saw that were consistent with what was happening with Russian interference in our elections.

Mrs. Spartz. Did you try to contact any current, at that time, FBI or CIA employees?

Ms. Wood. No.

Mrs. Spartz. So this was just purely on your prior judgment?

Ms. Wood. Yes.

Mrs. Spartz. But do you think this stuff actually undermines the credibility of

agents when you have -- your signature was tied to unverified information? What are your thoughts on that?

Ms. Wood. So I disagree with the characterization.

Mrs. Spartz. How would you characterize it?

Ms. Wood. So it is -- it was my analytic judgment that the Russians were interfering with our 2020 election, as they had our 2016 election, as well documented in executive orders and intelligence community assessments and the SSCI's reporting. And this kind of activity was consistent with the kinds of things we saw happening during that time. So it was very much in line with the work that we saw. I did not feel like it was a leap of faith to say, Let the FBI do their work, and let's see what's real here.

BY MR. [redacted]:

Q I'm entering into the record as exhibit 3 an email from Mike Morell to Nick Shapiro dated October 19, 2020, at 6:36 a.m. if you would review that, Ms. Wood.

[Wood Exhibit No. 3

Was marked for identification.]

Mr. Lankford. Take your time. He wants to make sure you read the entire document.

Mr. [redacted]. Yeah. You can look up when you're finished.

Mr. Lankford. Thank you.

Mr. Wilson. Is this the entire document?

Mr. [redacted]. This is the email that we're -- we're only concerned with the top portion.

Ms. Wood. Oh, you're only concerned --

BY MR. [redacted]:

Q Yeah. The rest is the standard email that Mr. Morell sent to everyone.

A Okay.

Q Have you seen this email before?

A I think you have it in your interim report.

Q Okay. So, yes?

A Yes.

Q What are your views of this, of Mr. Morell's efforts in this regard?

A So it looks to me like he's organizing logistics for people to sign the letter.

Q Wasn't that your role, though, in the promotion of the public statement?

A So he asked me to help. There was a whole set of conversations or emails that happened that I wasn't privy to, and this would be one of them.

Q Now, when you say you weren't privy to them, is that a conclusion you came to recently having looked at the report, or did you know beforehand he was doing other outreach?

A I presume someone was, because I didn't speak to General Clapper or Director Brennan or a lot of the seniors whose names are on the letter.

Q Why do you think it was important to Mr. Morell that he wanted two things, "pairs of senior who served in the same position from different administrations"?

A I think -- speculation.

Q I'm asking you to speculate.

Mr. Wilson. And I would be very careful about speculating on things you don't know anything about.

Ms. Wood. I mean, to me, it looks like you're trying to create a balanced view. It's not just Democrats who think this or Republicans who think this, but people who served in both administrations who would have both sets of insights.

BY MR. [redacted]:

Q Why would a balanced view be important?

A I think that's something that we strive for in intelligence analysis in general. You want to be impartial and unbiased.

Q But this is a public statement on the eve of the Presidential election. So you're not briefing policymakers who are in office, right? So that same set of considerations probably doesn't apply?

A Well, I would actually think you would be more rigorous.

Q Why is that?

A Well, I mean, if there's the context that you're talking about, why wouldn't you want to make sure that you're having all voices represented?

Q But if this is a public statement that's going out to the American people, is the idea that it will be more convincing to them if it was a more balanced document?

A I don't know that.

Mrs. Spartz. Was it concerning to you that this information will be used, and your titles that you used to have in all of this letter in a political campaign? Was it concerning to you?

Ms. Wood. It wasn't in a political campaign. It was in a public statement.

Mrs. Spartz. Right. But it would be -- but you're aware that it was going to be used in a political campaign?

Ms. Wood. So my focus was, again, on warning about Russia and its interference in our elections. And this whole thing about using our former titles is the practice that's been in national security records and in letters for at least a decade when I went back and looked. This is standard practice.

Mrs. Spartz. But this letter -- you knew that this letter will be used in a campaign, correct?

Mr. Lankford. Object to the question. How would she ever know that?

Mrs. Spartz. Okay. Well, you had an email from Michael that said, "The campaign will be thrilled."

You received that email, correct?

Ms. Wood. So I sent that in to all of you because I found it, but I don't remember even seeing it. Like I said, this was not my biggest concern in life. My biggest concern in life was something happening with my son that was profound and the fact I was in and out of cell phone service where I needed talk to doctors and other things.

So I did a favor for Michael, as I've done many times. I was not involved in the rest of it. I don't -- I was not focused on the political piece of this.

Mr. Bishop. Ms. Wood, do you continue to believe at this point that the letter was entirely appropriate?

Ms. Wood. So if I were to say -- I would say things a little bit differently.

Mr. Bishop. Explain.

Ms. Wood. So I'm always for a little bit longer and a little more explanation because -- analyst. It's just part of our practice.

But I think putting more context about the environment we were in at the time, where we had the reporting from the IC, we had the executive order already from President Obama, we had the SSCI. I don't know if their first volume had been published by then or not, but I think at least one of the two of them had. So I think much more time on that context was important.

And then I think there was some sentence in there that said, you know, "if we are right," da-da-da-da. I don't think that was the right thing. It should have said, If the Russians were involved, and then the rest of the sentence.

Mr. Bishop. You testified a moment ago -- or you said a few times that this is

common practice for intelligence officials to -- former intelligence officials to issue statements like this. Is that right?

Ms. Wood. A little bit different than that. Thank you for clarifying.

Mr. Bishop. Can you clarify that?

Ms. Wood. Yeah. Absolutely.

So two things: One is, there have been, I don't know, 10 times that I found in a quick search where national security professionals, so whether that's former Members of Congress, former National Security Council members, former IC members, former members of the military -- would come together when they thought the moment -- there was a really important moment happening where they needed to take -- they felt like they needed to make a statement.

Mr. Bishop. Do you believe that when those statements occur, there's an expectation that the public will rely on the expertise, experience, and knowledge of those persons in forming conclusions?

Ms. Wood. Can you repeat the question?

Mr. Bishop. Yeah. Let me state it more simply.

Isn't the point of that that those persons expect the public to rely on them because of their -- what they've done?

Ms. Wood. I think that's fair.

Mr. Bishop. And if your former intel officials -- if you put yourself in the mind of the public, wouldn't you expect them possibly to rely on what you know that the public doesn't know?

Ms. Wood. So I think what I would say is, if you have observed something for 20 years, or you've been in the military and then in the IC, or you've been in the IC and then the open source, you have a broad perspective of knowledge that is part of what we do as

national security officials -- is share that. As formers, we're able to share an insight that maybe is useful to the public.

Mr. Bishop. You also have access -- I'm sorry.

Ms. Wood. Go ahead.

Mr. Bishop. No, I didn't mean to cut off your answer.

Ms. Wood. I probably lost it. Not much coffee.

Mr. Bishop. I apologize for that. Let me see if I can pursue it this way.

You also have had access to secret intelligence information, correct?

Ms. Wood. Not since 2015.

Mr. Bishop. Okay. As a group, those officials have had, during the course of their careers, access to secret information, fair?

Ms. Wood. Yes.

Mr. Bishop. And if you're issuing a letter stating your posture as having been former intel officials, you know that the public is going to be aware of that. Fair?

Ms. Wood. Yes.

Mr. Bishop. Do you think it's possible for that position and knowledge to be exploited by intel -- former intel officials to interfere with an election?

Ms. Wood. So your-- that would be a hypothetical.

Mr. Bishop. I'm asking your opinion.

Ms. Wood. So in my opinion, this letter -- the sole purpose for me, and the primary purpose for most of us -- and I haven't spoken to everybody -- was to warn about -- let the FBI do their work here. Let us see what is at the bottom of all of this because it's happening in the context of Russian interference in our election system.

Mr. Bishop. So the people should rely on the FBI and not the leaks of information. Is that -- exclusively. Is that what you mean?

Ms. Wood. For knowing what the facts are related to this laptop, the FBI needed to go do their work.

Mr. Bishop. To this date, is the public, to your knowledge, aware of any conclusion by the FBI about that information?

Ms. Wood. I don't know the answer to that.

Mr. Bishop. Do you believe -- when you say that you should let the FBI do their job, are you talking about the public should not know the answer, or what the information revealed until and unless the FBI decided to tell them?

Ms. Wood. So I do believe that we want to know the truth. We want to know what happened, right? And so speculation and allegations and sensationalism doesn't serve anybody. I think we all want to get to the truth of what happened. And if a forensic investigation takes however long it takes, it just does.

Mr. Bishop. In your opinion, would that also apply to, say, the Pentagon Papers?

Ms. Wood. I'm sorry. I don't know --

Mr. Bishop. You don't know what they are? Okay.

How about COINTELPRO, the release of information from COINTELPRO? Do you know what that is?

Ms. Wood. I don't.

Mr. Bishop. I yield.

BY MR. [redacted]:

Q Ms. Wood, I want to talk about the outreach efforts you took.

In addition to who Mr. Morell may have contacted, it's a fair characterization that you were responsible for obtaining signatures for the public statement, correct?

A I sent out the letter to numerous people to sign to see if they wanted to sign it.

Q Okay. So first, how did you decide whom to send that public statement to?

A It was probably -- so on my phone driving through a rural part of Maine, anyone whose phone number or email address I had in my phone who I knew was a former who might have insight into the topic.

Q Did you send -- well, let me ask you this:

To your recollection, who did you send the public statement to?

A I think I sent the list of that to you, right?

Q We have documents from your counsel.

A Yeah.

Q So thank you for that.

But now I'm asking you, as to your recollection today, who do you recall sending the public statement to?

A I won't remember all of the times off the top of my head.

Q Having said that, who do you -- as you sit here today, who do you recall sending it to?

A Nada Bakos, Cynthia Strand, Tim Kilbourn, Dave Vanell, Dave Terry, Brett Davis, Patty Brandmaier.

Q Is that it, that you can recall today?

A That's all that I can recall.

Q As far as you recall, did everyone that you communicated with or requested review of the statement and sign respond to you?

A I don't recall if everyone responded.

Q Do you recall if anyone responded to you after the public statement was released?

A I don't recall.

Q Did you reach out to any individuals who then later told you they would not sign the public statement?

A No.

Q Now, when you say "no," you just have no recollection of anyone telling you, I will not sign?

A Right. I have no recollection of that.

Q As far as your recollection goes, did everyone you sent the public statement to -- withdrawn.

Did anyone give you reasons for why -- withdrawn there as well.

You produced documents to the committee, correct?

A Correct.

Q Have you made a full production of all documents related to the committee's inquiries?

A Yes.

Q Some of the formers have come in and said they have a practice of deleting emails for a variety of reasons.

Do you have a similar personal policy with respect to your emails?

A I would love to say it's like a philosophy, but it's more these are old documents, and I need to stop having 14,000 emails. So I delete -- I don't keep things. It's rare for me to keep things.

Q But you kept these emails that you produced?

A I have some of them, yeah.

Q Okay. Is it your view that there may be emails we did not receive that you sent out to intel --

A 100 percent.

Q Okay. And is that maybe because you deleted those emails?

A Over time.

Q Okay.

A But not after the chairman's letter.

Q Thank you for clarifying.

With respect to these particular emails -- rather with respect to your personal way of which you delete emails or retain them, do you actually review them before you hit delete?

A Rarely. If it's something I got in 2018 and I haven't read it, I probably don't care about whatever it was.

Q Okay. Since the public statement was released, have you spoken to any of the signatories about the public statement?

A Several.

Q Okay. Who?

A Tim Kilbourn, Dave Vanell, Michael Morell, Cynthia Strand, Patty Brandmaier, Brett Davis.

Q What did you speak to Mr. Morell about with respect to the public statement?

A So we've spoken several times about things that are not related to this, but he told me -- I think a couple weeks before he came in -- that some administration official -- or sorry. I keep saying administration. Campaign -- he had spoken to some campaign officials.

Q Okay. Anything else beyond that?

A Not related to the letter.

Q And when do you think this conversation started? Happened, rather?

A A few months ago.

Q Showing you what I am marking as exhibit 4. It is an email from you to Stephen Slick dated October 19, 2020, at 12:14 p.m.

A Okay.

[Wood Exhibit No. 4

Was marked for identification.]

BY MR. [redacted]:

Q So you'll see it says, "Just need your CIA/OSC role, nothing from private sector."

We've touched on this a bit. Why was it important not to include the signatory's private sector information?

A I just thought the letter would get -- I mean, it was what the guidance was, number one. And number two, people do all sorts of things in the private sector from volunteer work to working at 501(c)(3)s, and it wasn't germane to the topic at hand.

Q So some of the people who have come to -- I'll represent to you some of the people who have come to testify before the committee have said, Look, I was doing this in my capacity as a private citizen. You keep talking about my title. I'm entitled to engage in First Amendment activity, which, of course, the committees do not dispute.

But I guess the question we're trying to figure out is, if it's just sort of First Amendment private activity and participation in the political process, why was it just so important to have those government titles?

A As I've said, I've reviewed many, many letters that have been written by former national security officials, including former Members of Congress, and they include their titles to say this is why we know -- why we have insight to what it is we're talking about.

Q So then by that logic, it would seem to be more convincing to the average reader if they look at the credentials and bona fides of the individuals making the public statement?

A I would think it would get to credibility.

Q So it would be more credible?

A [Nonverbal response.]

Q So if you're saying that Hunter Biden's laptop is potentially a Russian information operation, that's going to carry more weight coming from the 51 former intelligence officials than coming from someone off the street?

A Perhaps.

Q Well, I mean, what is your opinion?

A So I think you have 51 people who care very much about this country and its national security, and between us, have more than 1,000 years of experience on the mission. And if you have people who are willing to be public -- which is a rarity for most of us and especially for most of the 51 -- that they're that concerned about it, I would think the question is, you know, would you not want people who see this coming to offer warning? I think it's really important to offer warning when you see danger to the country.

Q In that context, then, and given the experience of you all and the indication of former credentials and titles, you would agree, to the average American, that this could suggest you have access to information that the rest of us do not?

A So it's really very important to know that all of us have an obligation to go through our various publication review processes regardless of where we're from to make sure there's no classified information in the document, and that process was followed in this letter.

Q Fair enough.

But again, from a perception matter, to the average American who says, Wow, 51 former intel officials say Hunter Biden's laptop could be part of a Russian information operation, it would be reasonable for them to conclude, they must know something we don't?

A So I think, again, we go back to context, right?

Q Yeah.

A As we're seeing this happen across the space with key players who are involved in this story, too. We have formal IC assessments dating back from 2017, and we have current work going on in the Senate, the SSCI, probably elsewhere that I'm just unaware of, as well as executive orders warning about this -- it was and is a profound threat to our elections.

And so in the context of all this, it's important to say, let's just let the FBI do their work. We didn't have insights into whether it was true or not. But in the context of this space and the context of what was happening elsewhere, it's really important. Let's get to whatever the truth is, and that's the FBI's job.

Q And to that -- and I'll ask this one more time.

In your opinion, is it fair to conclude or posit that the average American reading the public statement would say, these individuals have access to information, perhaps classified, that the rest of us do not, and therefore, what they're saying is more credible?

A I think what I would say is they have experience dealing with these kinds of things, so they have a perspective that maybe others don't have.

Q And it could just as easily be what I suggested, right?

A I'm much more comfortable with what I've said, right? They have the experience and time on mission dealing with this situation. So they have exposure to a

long history of things that happened, and so they have insights to offer.

Q Fair enough.

Can you tell us a bit more about your role in promoting the statement?

A What do you mean by promotion?

Q Did you simply just email the individuals in your phone that you were discussing, or was there any other efforts you've taken? Maybe phone calls to individuals? Text messages? Anything like that?

A The email is the thing I sent out. I sent out one email. If you recall reading it, it was some kind of a fast turnaround. I don't remember the details exactly. And that was it.

Q That was -- okay.

What did you understand -- do you know Nick Shapiro?

A I do.

Q How do you know Nick Shapiro?

A He was Director Brennan's staffer when I was the Director's analytics support chief.

Q Are you aware of his involvement in the -- of his involvement with the creation or promotion of the public statement?

A I am.

Q Okay. What is your understanding of his role?

A I think he does public relations professionally now and was working on a media piece of it.

Q What is the media piece of it?

A Getting the letter out.

Q To the media?

A [Nonverbal response.]

Q Did you have any --

Mr. Wilson. Answer the question orally.

Ms. Wood. Oh, sorry. What was the question again? Getting the letter out? Yes. Sorry.

Mr. Wilson. No head nods.

Ms. Wood. Sorry.

BY MR. [redacted]:

Q Right. So he was in charge of disseminating the statement to the media outlets, correct?

A Yes.

Q And do you know if Director John Brennan played a role in creating or promoting the public statement?

A I have no knowledge of that.

Q Do you know if Director James Clapper played a role in creating or promoting the statement?

A I have no knowledge of that.

Q Are you aware of whether Director Clapper suggested any changes to the letter?

A I think in one of the documents you guys have, there was something -- an editorial change he suggested.

Q I believe the editorial suggestion was to strengthen the verbiage -- and I'll represent to you that this is what the document states.

From the feel of Russian information to the, quote, "It would strengthen the verbiage if you say this has all the classic earmarks of a Soviet Russia information."

Do you recall that?

A I recall reading it in your interim report.

Q What is your opinion of Director Clapper's editorial change?

A He's putting it in the context of what was happening in the bigger picture.

Mr. Bishop. Ms. Wood, could I explore something with you for just a moment further?

Ms. Wood. Certainly.

Mr. Bishop. I was thinking about your answer earlier. I was looking at the letter. You may recognize this phrase, "if we are right," in this italicized paragraph --

Ms. Wood. Yes.

Mr. Bishop. -- three paragraphs from the bottom of the first page.

Ms. Wood. Right.

Mr. Bishop. The full sentence reads, "If we are right, this is Russia trying to influence how Americans vote in this election, and we believe strongly that Americans need to be aware of this."

Did I read that accurately?

Ms. Wood. You did.

Mr. Bishop. And you said -- looking back at it, I was asking, I think, what you believe was entirely proper, and you said that you would rephrase that, right?

And I think what you said is you would rephrase it to be -- well, maybe I can get you to just clarify what it was rather than my trying to remember.

Ms. Wood. Sure. And if my English isn't great in fitting in the sentence, forgive me. But the concept will be --

Mr. Bishop. We're improvising on the fly, and I want to get your sense of it.

Ms. Wood. Yeah. Thank you.

I would have suggested changing it to, if Russia is involved in this.

Mr. Bishop. At this point in time, do you have any more --

Mr. Wilson. Sir, may I ask, which point in time?

Mr. Bishop. Now. Now. Right now.

Mr. Wilson. Now. Okay.

Mr. Bishop. Yes, sir. Yes, ma'am.

Do you have -- do you know whether Russia was involved or not?

Ms. Wood. So I think the F- -- as you alluded to earlier, I don't think we have the FBI report, do we?

Mr. Bishop. Well, let me just get your answer to it. It could be that you're saying you don't know. Is that what you're saying?

Ms. Wood. Yeah. I'm saying I don't know.

Mr. Bishop. So you don't know.

And are you aware of any evidence that has emerged since the issuance of this letter that would say whether Russia was involved or not?

Ms. Wood. So it would get into what I would say are the reasons to be cautious, is the all sorts of allegations of the Russians coming after senior administration officials, coming after those in the Trump ecosystem to try to influence them. The storyline about corruption in Ukraine all fits the narrative that the IC assessment and SSCI reports reported on.

So what, to me, it looks like is there are a lot of work that needs to be done to determine the origination of the content on the laptop. And I'm hoping that that's the forensic analysis that's happening now.

Mr. Bishop. Are you aware that multiple media outlets have now reported -- including New York Times, Washington Post, others -- that significant parts, at

least, of the Hunter Biden laptop are authentic? Meaning they were --

Ms. Wood. So I read the Washington Post report that you have in the interim report, the source that's on the first page. And in reading the actual article, it says that the forensic experts they hired could confirm that less than 10 percent of the emails were verified and that they were not able to determine, because so many people had been in and out of the hard drives, the origination of most of them. And so that's why I really think there's -- the big story, the 90 percent, is -- what is that?

Interestingly, The New York Times also said that some of the contents, the big folders about the big guy or something else, had been added to the external hard drives that existed outside of FBI hands, and had been added after the FBI took it into custody.

So to me, there's something happening there where someone is creating a story, and it makes me all the more convinced that we need to see what the FBI's forensic work comes up with.

Mr. Bishop. So do I understand, then, that you believe, since there's -- let me, first of all, see if I understand that correctly.

So what you're saying is, you believe there remain issues, as indicated in the news reporting, about whether some portions are authentic or not. Is that correct?

Ms. Wood. Correct.

Mr. Bishop. Okay. And you believe, furthermore, that -- it's your opinion, is it fair to say, that the American people should await the judgment of the FBI before being informed about the whole thing?

Ms. Wood. I do. I believe that.

Mr. Bishop. Okay. I yield back.

Mrs. Spartz. Just quick --

Mr. Gaetz. I have a few questions.

Good morning. My name is Matt Gaetz. I'm a majority member of the House Judiciary Committee.

Ms. Wood. Nice to meet you.

Mr. Gaetz. Nice to meet you.

Can you list for me all the basis you had to sign this letter?

Ms. Wood. The basis?

Mr. Gaetz. B-a-s-i-s.

Ms. Wood. So on the intelligence community's assessment of interference in the 2016 election -- I think it was 2017 published. I have a list of them if you want them. But that, and then the SSCI's report. There's five volumes. I'm not sure which of those volumes had been published by that time. Then we have the executive order signed by President Obama. Yeah.

Then there's the Countering American Adversaries Through Sanctions Act signed in 2017 by both Houses, 419 to 3 in the House and 98 to 2 in the Senate, mandating such sanctions against Russia to be considered in response to Russian election interference of 2016. So those were just a few. And then --

Mr. Gaetz. Hold on. Before we move on, I just want to get all of the basis that you had.

Ms. Wood. So did you --

Mr. Gaetz. Yeah. Is that an exhaustive list? You mentioned at the end of that testimony that that was just a few. I want to get an exhaustive list.

Ms. Wood. And then seeing what is out in open source, where we have reporting from the Institute For the Study of War, American Enterprise Institute, so many other think tanks, nonprofits, who were doing really remarkable work in this space as well as some academic institutions.

Mr. Gaetz. And then can you list for me all the people you talked to regarding your decision to sign that statement?

Ms. Wood. Do you mean who did I talk to in deciding to sign it myself?

Mr. Gaetz. My question is to list all the people with whom you communicated regarding the statement.

Ms. Wood. Is that the same --

Mr. Wilson. We've been through this before, if that's right.

Mr. Gaetz. Okay. I just want to make sure we had a complete list. I just wanted to make sure it was a fulsome and complete list.

Ms. Wood. So off the top of my head, I offered the ones I could remember.

Mr. Gaetz. Are there any others?

Ms. Wood. Probably. I just -- I sent it out to probably 20 or 30 people. I just don't remember off the top of my head.

Mr. Gaetz. Okay. And can you list all the purposes you had to sign this statement?

Ms. Wood. To warn of Russian interference in the election.

Mr. Gaetz. So the debate was not --

Ms. Wood. Potential.

So as I was saying, perhaps before you arrived, this was not high on my list of things that I was focused on. My son had just been diagnosed with something profound the afternoon before.

Mr. Gaetz. I was here for that. I just want to make sure I have a fulsome list of every objective you had in signing the letter.

Ms. Wood. Right.

Mr. Gaetz. If the sole objective was to warn of Russian interference, that's a

complete answer. But if there were other things that animated your desire to sign the letter, I just want to know them.

Ms. Wood. Perfect. Thank you.

Mr. Gaetz. That is it?

Ms. Wood. That is it.

Mr. Gaetz. Great.

You said you might have spoken to Mr. Morell on the phone. If that had occurred, do you know what the timeframe of that would have been?

Ms. Wood. Probably that day or the night before, if he gave me a heads-up about it. Sometimes he does, sometimes he doesn't.

Mr. Gaetz. Do you two text?

Ms. Wood. Occasionally.

Mr. Gaetz. Do you text more frequently than you chat on the phone?

Ms. Wood. We don't really text. It's mostly email.

Mr. Gaetz. And who's your email provider?

Ms. Wood. Google.

Mr. Gaetz. And who's your cell phone provider?

Ms. Wood. My son set it up. I think it's Verizon.

Mr. Lankford. Honest answer.

Mr. Gaetz. I think I'll have some questions for you in our other hours.

Mrs. Spartz. Just quickly, you said you thought it would be a danger to the country not to know about potential interference. Have you thought it could be potential danger to the country not to know of potential involvement of Hunter Biden's company that does a lot of business with Russians and Ukrainians? Have you thought about that?

Ms. Wood. So I really, really firmly believe in the rule of law, and I really believe in due process. And I think the allegations are out there, and I don't know if they're true or not. And I've seen some of the more salacious ones, and I don't know anything about that.

What I do believe is that we need to go through the process that we have used in callous investigations that have done by Congress, by the IC, by inspectors general, and let's get to what the facts are. And I don't feel like we are to the point where we have the facts.

Mrs. Spartz. What about your statement? Would you believe that your statement would discredit the potential connections and really bring legitimacy to something that is potentially -- you know, that may be happening, right? You legitimate with signatures and really would bring legs to bring credibility to this information.

Do you think it was a danger -- if that had turned out to be true and there was something and you didn't know anything about it because you just used your judgment, it's potential, it could be also bad for the public not to know a danger to the country not to know. Have you thought about it?

Ms. Wood. So I would say it a little bit differently. I would say that this is very much still obviously under active investigation because we haven't heard it publicly, and there's a danger in characterizing it either way, which is why we said we don't know.

But let us look at it within -- I mean, it deserves thorough investigation. Is it all true? I don't know. Is it all false? I don't know. But I think we all, as Americans, deserve the courtesy of -- let's get to the truth of what it is.

BY MS. [redacted]:

Q Ms. Wood, did anyone at the CIA send you a list of potential signatories?

A No.

Q Did you discuss the statement with anyone at the CIA?

A No.

Q How did you obtain a list of signatories?

A It's people who I had their email addresses on my phone.

Q Okay.

BY MR. [redacted]:

Q Ms. Wood, I'm going to enter into the record an email from Michael Morell to himself -- but we understand it's blind carbon-copied to a number of the signatories -- as exhibit Number 5, an email dated October 19, 2020, 1:38 a.m., and it contains the first draft of the public statement.

[Wood Exhibit No. 5

Was marked for identification.]

Mr. Wilson. Is this five or six?

Mr. [redacted]. It should be exhibit 5.

Ms. Wood. Sorry. I have to get my glasses.

Mr. [redacted]. Sure.

BY MR. [redacted]:

Q I want to direct your attention to the last two paragraphs. It's page 3 of exhibit 5. The last two paragraphs of the first draft of the public statement. If you can review those and look up when you're finished.

A Okay.

Q Do you recall reading those paragraphs at the time that Mr. Morell sent them to you?

A No.

Q But you agreed to sign the public statement with those two paragraphs

contained in it?

A I don't remember the sequencing. Is this the one I received that I sent you?

Q It's unclear at this moment whether or not it is. So I'll just ask you on the record as to your best recollection.

A I just don't remember seeing these sentences.

Q Okay. What are your views of these two paragraphs contained in the public statement?

A So this --

Mr. Lankford. I'm sorry. Could you repeat that question?

Mr. [redacted]. I just asked your client what her views were of these last two paragraphs.

Mr. Lankford. Okay.

Ms. Wood. For me, it looks explanatory of what he believed, I guess, that Vice President was doing.

BY MR. [redacted]:

Q Well, as you sit here today, would you have any objection to signing the public statement with these two paragraphs?

A I wouldn't sign it with those in it.

Q Okay. Why is that?

A Because, to me, it's defensive, and it becomes -- it really takes the focus off the Russians, and that was my focus. The politics of it are just not something I'm a political person in terms of playing in politics. It's really about what the national security goal here was, and that was for me to warn about Russian interference. I think this would have been distracting.

Q Okay. Because it sort of exculpates Vice President Biden from any criticism

as to his dealings with the Ukrainians and Burisma?

A So the Ukrainians and Burisma story, I know, is a deep, deep -- I mean, it's a deep, deep substantive area that I'm just not an expert in. I wouldn't have been comfortable with this because I don't know the facts. But the point of the letter was to warn of Russian interference in the campaign. I think this would have been distracting and, you know, perhaps look a little apologetic.

Q Well, perhaps the point of these paragraphs would be to help Joe Biden become President of the United States?

A You'd have to ask Michael about that.

Q Okay. And we'd have to ask Michael about that because one of his objectives was to help Vice President Biden in the debate with President Trump?

A Again, you'd have to ask Michael about that.

[10:58 a.m.]

BY MR. [redacted]:

Q But that's your understanding, correct?

A Based on what you have in your testimony.

Q Okay. Showing you what we will mark as exhibit 6.

[Wood exhibit No. 6

Was marked for identification.]

BY MR. [redacted]:

Q An email --

A That was 5, right?

Q That was 5. An email from Nick Rasmussen to Michael Morell dated October 19, 2020, at 11:44 a.m. Here you go. And I'd like to direct you to the bottom half of the first page where it says, October 19, 2020, 8:41 a.m., Michael Morell wrote. Do you see that?

A Yep.

Q And that says, "Nick, attached is the current version letter with signatories so far. FYI: The last 2 paras are gone, as some folks thought them too political. Just Russia and intel now. Better."

Have you seen that email before?

A I have.

Q Okay. And at the time that you received the email, what did you think of it?

A No, I saw it I think as part of your process.

Q So recently was --

A Yeah.

Q -- is what you're saying, not contemporaneously.

Well, let me ask you, do you view those two paragraphs, having now read them, as too political?

A I think they're distracting. I mean, they are political. They're political statements about one of the candidates, and the point really needs to be Russia and intel.

Q Okay. Well, let me ask you this, the political statement as it was disseminated, is that a political document as well?

Mr. Wilson. I'm sorry, you said the political statement as disseminated. Did you mean the letter as disseminated?

BY MR. [redacted]:

Q Thank you for clarifying. The public statement as disseminated, is it fair to call that a political document?

A I would call it a warning.

Q So it would be unfair to call it a political document?

A I didn't say that. I mean, people can interpret anything anyway. I would say it was intended as a warning.

Q But representing to you that Mr. Morell intended to help Vice President Biden become President Biden, it's fair to call it a political document?

Mr. Wilson. Don't speculate.

Ms. Wood. Yeah.

Mrs. Spartz. Do you think you would use political reasons?

Ms. Wood. So I didn't know about all the backstory that we have subsequently learned of, and I did talk to Michael about it. I just said, it wasn't fair to the rest of us to not know that.

Mrs. Spartz. So now looking back, you think you were used?

Ms. Wood. I don't -- I would not say that.

Mrs. Spartz. So how would you?

Ms. Wood. So there's two -- I don't know, I haven't spoken to everybody, but most of us, our purpose was to warn about Russian interference in the election. And that was the reason that so many people who have never written or signed anything signed on to it.

To know that there was an additional purpose, we should have known that in the calculation to sign, because for us, it's not that we're shy necessarily, but we don't like to be in the spotlight at all. And so for people who have had decades and decades of career in service, to make the extraordinary step of signing the letter, it is -- it is --

Mrs. Spartz. So you think --

Ms. Wood. It is really important to know the full story.

Mrs. Spartz. So you think it was disservice to your community if you look back?

Ms. Wood. I would just say, we needed to know. We needed to know that story too.

BY MR. [redacted]:

Q When you confronted Mr. Morell and said it was unfair, what did he say in response?

A He apologized.

Q Did he say anything else?

A (Nonverbal response.)

Q As far as you know, did any of the other signatories confront Mr. Morell --

A I don't --

Q -- on their lack of knowledge?

A I don't know.

Q Other than his apology, did he have anything else to say about keeping you in the dark?

A (Nonverbal response.)

Q Well, let me ask you this, you're pretty close with Mr. Morell?

Mr. Wilson. Say yes or no.

Mr. Lankford. Answer.

Ms. Wood. Oh, sorry. Can you ask the question again? I forgot if it was a yes or no.

BY MR. [redacted]:

Q Other than his apology --

A Thank you.

Q -- did he say anything else --

A No.

Q I'll finish the question. Did he say anything else about keeping you or anyone else in the dark as to the impetus of the letter?

A He did not.

Q He did not. Did you inquire with him about the impetus of the letter?

A Before? Before this, no.

Q When did he -- when did he tell you -- when did -- when was his conversation in which he apologized?

A Recently.

Q After the committee's report that you reviewed?

A After his testimony. I don't remember the timing of the testimony and the report.

Q Okay. We just have a little bit of time left. Do you know if anyone else

expressed similar concerns to Mr. Morell as you did about being kept in the dark?

Mr. Wilson. She answered that question already. The answer was no.

Ms. Wood. I do not.

Mr. [redacted]. Okay.

Ms. Wood. But I waited until the end of the question, so --

Mr. [redacted]. Thank you.

Mr. Lankford. Well done.

Mr. Bishop. Ms. Wood, you testified a couple times that this has been common practice for former officials to issue statements like this, and you said you identified a number of examples. Could you tell us what examples you identified for our context?

Ms. Wood. Yeah. Yeah. Absolutely. I think you have that.

Mr. Wilson. This one?

Ms. Wood. No.

Mr. Wilson. That's one of them.

Ms. Wood. Thank you.

So August 2016, a letter signed by Republican former national security officials. Undersigned individuals have all served in senior national security and are --

Mr. Bishop. Let me interject. Since you're reading that from something, do you have copies of it? How would you feel about marking one of those and --

Mr. Wilson. I'd be glad to as long as -- we don't -- we only have to that copy, if you all would like to make copies.

Mr. Bishop. Oh, okay. I'm sorry. I beg your pardon. I thought you were going off it. So if you would begin again, ma'am, and read it slowly.

Mr. Wilson. We're about to hit a break. We'd be glad to have copies made during the break.

Mr. Bishop. That may be the best idea. I'll yield now, and we'll come back to it.

Ms. Wood. I'm sorry?

Ms. [redacted]. Is it the statement?

Ms. Wood. Oh. I didn't have a statement.

Ms. [redacted]. Sorry. Go ahead.

Ms. Wood. I said I made a statement before I was asleep.

Ms. [redacted] I lost the thread.

Ms. Wood. Oh, it's okay.

Yes, we can make a copy.

Mr. Bishop. Then I'll yield for now and see if they have another question too before the break.

Mr. [redacted]. I think we only have about 7 seconds left so it's probably best to adjourn.

[Recess.]

Ms. [redacted]. It's 11:18 in the morning. We can go back on the record.

EXAMINATION:

BY MS. [redacted]:

Q Ms. Wood, good morning again. I'm [redacted]. I'm the Democrat's chief oversight counsel. Thank you for taking the time to be with us today.

A No, thank you. Happy to be here.

Q In the prior hour you were asked fairly extensively about whether the use of titles in signing the letter might convey something -- or what that might convey, I guess, to the American public. And I actually want to turn to the letter itself and some of the language that's in there, so that was introduced as exhibit 1.

A Uh-huh.

Q And actually, before we do that, in 2020, you did not have a security clearance, correct?

A Correct.

Q And you personally did not access any non-public information in --

A Correct.

Q -- deciding whether to sign this letter?

A Correct.

Q And you didn't access any classified information in deciding whether to sign this letter, correct?

A Correct.

Q Okay. And you personally didn't have access to any of the supposed emails or what's been referred to as the Hunter Biden laptop, correct?

A Correct.

Q Okay. And you didn't have access to any intelligence products or any other documents that would have analyzed the supposed laptop or its emails, correct?

A Correct.

Q Okay. And the letter actually makes this fairly clear, correct?

A Correct.

Q And I want to walk through some points in here where it says that.

A Sure.

Q So in the fifth paragraph it says, we want to emphasize that we do not know if the emails are genuine or not. Right?

Mr. Lankford. Answer verbally.

Ms. Wood. Yes. Sorry. I was reading. That's correct.

Mr. Wilson. Take your time. Read it and then answer.

BY MS. [redacted]:

Q And I know we talked about the if we are right language and whether you would've phrased it differently, but it does say if we are right, which suggests you might not have been right --

A Yes.

Q -- correct? Sorry. Just let me finish the question, if you would.

On the following page, which is page two, the third paragraph says, our view, correct?

A Yes.

Q And the use -- the term "our view" suggests that it's your subjective opinion, correct?

A Correct.

Q And it doesn't say that it's factual or that you've reviewed any non-public information to get there?

A Correct.

Q The next paragraph down refers to media reports, right?

A Yes.

Q And those would be public media reports, correct?

A Correct.

Q And so you -- again, you didn't suggest you had access to any non-public information. These are public media reports, right?

A Correct.

Q Okay. And then in the very next paragraph it says, we do not know whether these press reports are accurate, correct?

A Correct.

Q And so, again, you said you don't know if they're accurate or not, but relying on their face this is what your impression of them is, right?

A Correct.

Q And then it goes on to say, they do suggest concern without -- within executive branch departments and agencies that mirror ours. It says they suggest concern not that you have any actual knowledge of such concern in executive branch departments or agencies, right?

A Correct.

Q And then I want to look at the actual signatures. If you look at Mr. Clapper, it says former director of national intelligence, former under secretary of defense and so on, right?

A Yes.

Q And the same with Mr. Hayden, it says former director of Central Intelligence Agency, former director of National Security Agency, correct?

A Yes.

Q And, in fact, every single signatory signed these in his or her capacity as a former official, right?

A Correct.

Q So there's no implication here that anybody was an active agent who -- or an active official who had any access to non-public information, right?

A Correct.

Q Okay. And, in fact, I think you said earlier that the use of your titles was to convey that you have certain experience, right?

A Correct.

Q Why do you think that's important for the American public to know?

A Because to comment on something like this needs the context of a bigger picture of the overall view of Russian interference in election -- in this election in the United States, but also broader view of looking at over 20, 30-year career for many of us, and bringing all of that context to bear on this tactical issue.

Q So is it fair to say that in the context of a 20 or 30-year career, you do have some expertise in Russian information operations?

A Correct.

Q And to the extent that people are suggesting that you should kind of put that in a shelf and act like it doesn't exist, do you think that's a fair request to make of you?

A I don't.

Q And why is that?

A Because I think one of the most important roles we can serve is to provide warning to the American people when something very dangerous is happening in the country, in this particular case, in the broader scope, Russian and other foreign malign influence but Russian interference in the election campaigns. And as formers, we did this because we continued to be concerned about national security regardless of whether we have a current title to our names or not.

Q Okay. You've taken an oath to protect and defend the Constitution against all enemies foreign and domestic, right?

A Yes, correct.

Q How many times have you taken that oath?

A Three or four.

Q Okay. When you were thinking about this project or when you're -- when you approached these issues more generally, do you have that oath in mind?

A Always.

Q How does that -- how did that contribute to your decision to sign this letter?

A So I think for us it really is we swear an oath to the Constitution, and it is a profound responsibility, all of us feel. It's a lifetime responsibility whether we are in government or not, and when we see something happening that is as dangerous as it is to the -- to our democracy and its future, we felt like we had a need to comment on it and provide some context around it.

Q Thank you.

I want to move on. You were asked in the earlier hour also about your efforts to obtain signatories for the letter. Do you recall that?

A I do.

Q The majority introduced as exhibit -- sorry. Give me one second -- as exhibit 4 an email chain involving you and Steven Slick.

A Yes.

Q And can you remind me who Steven Slick is?

A He was a former agency officer. I think he worked at the National Security Council for a while. I don't know him very well.

Q Was he one of the names in your phone?

A I don't remember if he got it directly from me or he was forwarded it by someone else.

Q Okay. So I actually want to introduce the full email chain because the majority only introduced the latter two emails.

A Okay.

Q So we'll introduce that as exhibit 7.

A Thank you.

[Wood exhibit No. 7

Was marked for identification.]

Ms. [redacted]. And the emails that the majority did not include are at the very back of this production.

Mr. Lankford. Am I right that this is three pages long?

Ms. [redacted]. It is three pages long, and I think it was actually produced -- we have the originals as produced by Ms. Wood. I think it was produced in a weird format so we put it into a Word doc. But if you would like the originals, we have them on hand.

Mr. Wilson. I think the answer is, this is not the same format we produced.

Ms. [redacted]. Yeah.

Ms. Wood. Yes.

BY MS. [redacted]:

Q Okay. You've had a moment to review?

A Yes.

Q Who is Roger George?

A He was a former national intelligence officer. He worked a lot of European issues. I think he's currently a political science professor at Occidental College, which is my alma mater.

Q Okay. And you know Mr. George?

A I do.

Q What's your relationship with him?

A I've spoken in his class.

Q Okay. Would you have his number in your phone, for example?

A I would.

Q Would you have his email address?

A I would.

Q Okay. So based on this email chain, looking at the email -- and I should say, it appears that Mr. George lives in Pasadena, California, based on this email chain. Is that accurate?

A It is.

Q So I think some of the timestamps may reflect Pacific Time and some may reflect Eastern Time. So I'm going to refer to them by the timestamp that's listed here with the understanding that it's not clear on this if that's Pacific Time or Eastern Time in some of that. There may be some confusion in that.

A That's fine.

Q So if you have clarity, feel free to shed it, but I think we just -- we might not be able to unravel that.

A Perfect. Thank you.

Q So it appears that at 7:27 a.m., on Monday, October 19, 2020, you sent this to a list of recipients who may have been bcc'd, and among them was Roger George. Does that -- does that track with --

A Yes.

Q -- your recollection?

A Yes.

Q Okay. And it appears that at 10:33 a.m., on October 19, 2020, Roger George forwarded this to Steven Slick.

A Yes.

Q Okay. And then Steven Slick responded to Mr. George and to you. He said, thank you, Roger. This sounds like a sensible approach to these highly suspect communications. Kristin, please feel free to add my name and signature to the list of folks endorsing this statement. And then he provides his signature block, right?

A Yes.

Q Then you responded to him at 11:37 a.m. saying, thanks, Steve, will do. And then after that there was some more back and forth with Mr. Slick, in between Mr. Slick and you copying, I think -- actually, not -- Roger George is not copied in the later communications. Is that correct?

A Correct.

Q Okay. So you actually didn't list Roger George in the first hour when you were asked about people that you sent this to, but this is an example of somebody that you sent it to that maybe you didn't recall, because you sent it to a number of people, right?

A Correct.

Q Okay. Do you know if Roger George forwarded the email to anybody else?

A I do not.

Q Okay. I want to introduce another email exchange. I'm sorry, before I do that, are you familiar with a man named David Cariens?

A Yes.

Q How do you know Mr. Cariens?

A He was in an analytic company that provided services to others that I -- we were both in the same company as 1099s, so not employees but people who came in and taught analytic classes.

Q Okay.

A And then he worked with, I think, several other folks I knew, so I knew his name.

Q Okay. I want to introduce an email from Mr. Cariens to you. We'll introduce this as exhibit Number 8.

A Great.

[Wood exhibit No. 8

Was marked for identification.]

BY MS. [redacted]:

Q And I'll give you a minute to review it.

And, again, as with the other email, I think this was produced in a different format. It was on a couple different pages, and it was a little hard to track, so we put it into one. But we have the originals if you'd like to see them.

A Okay.

Q Okay. Do you recall this email exchange?

A Yes.

Q So in this email exchange it appears that the email was sent from you to Mr. Cariens who agreed to sign. Is that -- that's what this reflects?

A Yes.

Q Do you recall that exchange now that you've had a chance to review it?

A Yes.

Q Okay. So did you send Mr. Morell's -- the draft statement to Mr. Cariens?

A I must have.

Q Okay. And Mr. Cariens responded to you, yes, I want to sign. As for signing, just do David Cariens, former CIA intelligence analyst, over 50 years working in U.S. intelligence community, correct?

A Correct.

Q And then you added him to the list?

A Correct.

Q Do you recall where you would've gotten Mr. Cariens' name?

A He -- again, we were both working for a company where you had just 1099s, right, so you keep your personal email addresses. And so when the company would send out email blasts they would send it to all of us. So when I was looking up folks on my email, David -- well, David Terry and David Cariens, and I think there might have been another David too.

Q Okay. And I believe Mr. Cariens has a wife named Janice --

A She does -- he does.

Q -- who signed as well?

Did you -- do you recall if you sent the same statement to Janice Cariens as well?

A I do not believe I did.

Q Okay. So it might have been that he shared it with her?

A Yes.

Q Okay. Did you -- and you said earlier that you had no contact with the CIA's prepublication classification review board?

A Over this, correct.

Q Okay. And you never received any emails from them?

A No.

Q They never sent you any lists of names of individuals who wanted to sign --

A No.

Q -- on to the letter, correct?

A Correct.

Q Okay. We can move on.

A Okay.

Q You said in the first hour that your primary reason for signing the letter was because you wanted to make people aware that the Russians could be interfering in the

election and to let the FBI do its job, correct?

A Correct.

Q Okay. I want to talk a little bit about why you were concerned about the Russians interfering in the election. The very first sentence of the October 19th statement -- of -- sorry, the very first sentence of the second paragraph of the October 19th letter reads, we are also individuals who see Russia as one of our Nation's primary adversaries. Do you see where it says that?

A Yes.

Q Was this an accurate statement with respect to your view at the time the letter was written?

A It is.

Q Do you still see Russia as a primary adversary of the United States?

A Absolutely.

Q Could you explain why you believe Russia is an adversary of the United States?

A Well, as it has been over watching -- a career of more than 25 years of watching them come against us in all sorts of ways, and the ability to interfere in our elections, while they might have aspirational over many decades, social media, media, the ability to move information and create bot farms has transformed their ability to be successful.

And so I think those of us who signed the letter, those of us who monitor this involvement are deeply, deeply concerned that we want Americans to go to the polls because of what they believe and what their views are based on what they have learned themselves, what they care about themselves and not be directed by any adversary.

Q And I think you said in the first hour that you have a degree in political

science focused on U.S.-Soviet relations. Is that right?

A Yes.

Q Do you believe that Russia has a goal of harming the United States?

A 100 percent.

Q And can you say anything more about that?

A Well, we've seen it over so many decades where they're doing what they can to counter us, whether that's proxy wars, you know, dating -- long before the Cuban missile crisis, but I think they view us as in their way and our democracy experiment definitely flies in the face of theirs with communism. And I think as long as we are successful and we are leading the world in so many ways, technology, innovation, deep thinking, advancing, deep science, we are a threat to their story of their nation as they're facing corruption and shrinking populations.

And so this is not only pervasive as we're seeing that they're attacking Ukraine, right, the ongoing war there, but the war against us is profound in terms of how they're coming against us, how many people they have focused against us, and I worry about the damage it's doing not only to our election process but to our body politic, to our political dialogue amongst each other. I mean, if we're angry with each other, fine, but I don't want it to be because the Russians are -- the Russians or the Chinese, the Iranians, or anyone are stoking that anger.

Q Okay. Thank you for that.

The first sentence -- the final sentence of the October 19, 2020, letter reads, it is high time that Russia stops interfering in our democracy. And I think just now you said that, you know, Russia is trying to get people to vote based on what they're pushing out not based on what's actually -- the actual issues that America is facing.

Can you explain why you believed it was important to make it -- to make the

public aware of Russian interference in particular?

A I think it's -- it has a profound effect on how people see each other and political candidates. And, I mean, it's race relations, it's societal relations, and so the schisms it's creating between us are profound. And to provide warning on that, the context of this is enormous. And it's rare to have now three executive orders, two intelligence community assessments, five volumes from the SSCI, and more all warning about the profound effects of this. So Russia is going to keep doing this to us until we stop them, and so the warning is we've got to stop them.

Q And do you believe that public statements such as the one you put out, making the public aware of what the Russians are doing can be a helpful way to counteract the Russians' efforts to interfere?

A I believe it's -- yes, I believe it's a public service.

Q And why do you believe that making the public aware of Russian efforts specifically can help to counteract their efforts to interfere?

A Because I think absent it the dramatic, sensational becomes fact as it runs away on Twitter or other social media, and that can swing -- regardless of the truth of the matter, it swings to the narrative they find is most destructive to the United States. There is in no circumstance in which they're advocating something that's for the greater good of the United States, and so providing warning of that and just having us all take a deep breath and see what's happening, actually let's do the investigations, let's do the hard work to see what the real story is.

Q In the first hour you said that you felt that Mr. Morell should have let people know about his secondary purpose regarding -- his political purpose in addition to the warning, but does that purpose in your mind diminish your purpose, which was to make sure the American public knew about election interference by the Russians or potential

election interference by the Russians?

A It doesn't for me, does not for me.

Q Okay. So you still felt that it was important for the American --

A I do.

Q -- public to have this warning?

A I do.

Q And you still felt the need, a strong need, I think I can say, to counteract the Russian efforts to interfere. Is that fair to say?

A Yes, absolutely.

Q Okay. You've mentioned a couple times the products that the intelligence community has put out, and I think in the first hour you were asked to go through and list the bases on which you relied. I want to talk through some of those products now --

A Okay.

Q -- in some detail, and we'll introduce some of them into the record as well.

A Okay.

Q So the October -- and I think -- sorry. It's exhibit 1. So we're going to talk through exhibit 1, which is the letter itself, and then we'll introduce some of the intelligence products that support that letter as we go. So I don't think they've been introduced so far.

A Perfect.

Q So the October 19th letter says, there are a number of factors that make us suspicious of Russian involvement. And the eighth paragraph of the letter, which is the bottom paragraph -- the last paragraph in the bottom of the first page, it reads, such an operation, which refers to a Russian cyber hacking operation, would be consistent with Russian objectives as outlined publicly and recently by the intelligence community to

create political chaos in the United States and to deepen divisions here but also to undermine the candidacy of former Vice President Biden and thereby help the candidacy of President Trump.

Do you see where it says that?

A I do.

Q Okay. Can you explain why based on your experience it would've been consistent with Russian objectives to create political chaos in the United States and to deepen divisions here?

A So among their worst nightmares is a vibrant, functioning democracy where people have the ability to speak freely and exchange their views and, you know, through the process of voting come up with, you know, the majority view of who should be the next President. And it is not in Russia's interest for that dialogue to be free and fair. It is not in Russia's interest for the U.S. election process to be seen as rigorous and well controlled and unbiased.

And so it is something we've seen over dozens and dozens and dozens of intelligence reports, well before social media became a thing, but since then, I mean, this is as established fact as you can get in the world of intelligence.

Q Okay. I want to introduce as exhibit 9.

[Wood exhibit No. 9

Was marked for identification.]

BY MS. [redacted]:

Q A statement from then-National Counterintelligence and Security Center Director William, or Bill, Evanina, which is dated August 7, 2020. It's entitled, "Election Threat Update for the American Public." And I'll give you a minute to review that.

A Okay.

Q Now that you've had a chance to review this, do you recall if you reviewed this in 2020, or if you were aware of it in 2020?

A I don't recall.

Q Okay. We've highlighted a paragraph on the second page that begins, and it's -- I should say, this is a print-off. So on the website it's all one giant page, but as printed it's the second page. It's all caps, Russia, and I'm going to read it into the record.

It says, We assess that Russia is using a range of measures to primarily denigrate former Vice President Biden and what it cease as an anti-Russia, quote, establishment. This is consistent with Moscow's public criticism of him when he was Vice President for his role in the Obama administration's policies on Ukraine and its support for the anti-Putin opposition inside Russia. For example, pro-Russian -- pro-Russia Ukrainian parliamentarian Andriy Derkach is spreading claims about corruption -- including through publicizing leaked phone calls -- to undermine former Vice President's Biden's candidacy and the Democratic Party. Some Kremlin-linked actors are also seeking to boost President Trump's candidacy on social media and Russian television.

Did I read that correctly?

A Yes.

Q Okay. So this statement -- to summarize, this statement says that the NCSC assesses that Russia is using a range of measures to denigrate former Vice President Biden and to support then-President Trump, correct?

A Correct.

Q So that is actually directly consistent with the statement, that first sentence of that eighth paragraph in the October 19th letter, correct?

A Correct.

Q Are you familiar with the NCSC?

A Yes.

Q Can you describe what they do?

A So -- and then under Bill Evanina, I mean, it's been kind of a remarkable evolution of how it's progressed as an entity. I think at ODNI they do a ton of work to kind of make sure that we have the best information we can on issues that also might be of domestic concern.

Q Okay. On the second page, it says, "The intelligence assessments above" -- which include this discussion of Russia that I just mentioned -- "represent the most current, accurate, and objective election threat information the IC has to offer in an unclassified setting at this time." Do you agree that, just based on your review of this, that this appears to be current, accurate, and objective?

A I do. And I would just add the following sentence, "Providing objective intelligence analysis is the solemn duty of the men and women of the IC, who work day and night around the world, often at great personal risk to safeguard our Nation."

Q And why is that important?

A That's important because that is the ethos from which we all come, the 51 of us, and we believe it's the solemn duty whether we're in office or we're in government or not.

Q Okay. And this press release -- it is a press release that was published August 7, 2020. This was publicly available to you and any other member of the public, right?

A Yes.

Q Okay. Continuing on, the ninth paragraph of the October 19th letter, which is the first paragraph on the second page, the top paragraph on the second page, it states, such an operation would be consistent with some of the key methods Russia has used in

its now multi-year operation to interfere in our democracy, the hacking via cyber operations and the dumping of accurate information or the distribution of inaccurate or misinformation.

Russia did both of these during the 2016 presidential election. Judgments shared by the U.S. intelligence community, the investigation into Russian activities by Special Counsel Robert Mueller and the entirety, parentheses, all Republicans and Democrats, end parentheses, on the current Senate Intelligence Committee.

Did I read that correctly?

A You did.

Q Do you recall what, quote, judgments shared by the U.S. intelligence community, end quote, was a reference to?

A It would've been the 2017 intelligence community assessment.

Q Okay. I'm going to introduce that into the record as exhibit Number 10.

[Wood exhibit No. 10

Was marked for identification.]

Mr. Lankford. Is that 10?

Ms. [redacted]. Ten.

BY MS. [redacted]:

Q Have you seen this before?

A I have.

Q Okay. So on -- this is a joint assessment by the Central Intelligence Agency, the Federal Bureau of Investigation, and the National Security Agency, correct?

A Yes.

Q Okay. And this is a joint product they released that details a Russian campaign to influence the 2016 election, correct?

A Yes.

Q Okay. So according to pages two to three of the summary -- sorry, it's Roman numeral two to three. There's a background section on top, so we're actually looking at Roman numeral two to three, which is -- yeah, sorry.

A What page?

Q So it's -- yeah. Sorry, it's confusing because of the way it was printed. I apologize.

Mr. Wilson. So the page starting "Scope" or the page after that?

Ms. Wood. "Scope and Sourcing"?

BY MS. [redacted]:

Q No, it starts "Key Judgments." So it's Roman numeral two. There we go, key judgments.

A Got it. I'm with you.

Q So I can give you a minute to review this, but briefly, this says that, "We assess Russian President Vladimir Putin ordered an influence campaign in 2016 aimed at the U.S. presidential election. Russia's goals were to undermine public faith in the U.S. democratic process, denigrate Secretary Clinton, and harm her electability and potential presidency. We further assess Putin and the Russian Government developed a clear preference for President-elect Trump Trump." Did I read that correctly?

A You did.

Q So this, in fact, supports that statement in the ninth paragraph of the October 19th letter, correct?

A It does.

Q Do you consider this a reliable assessment?

A Absolutely.

Q Why do you say absolutely?

A Because it's the considered view of key elements of the intelligence community responsible for this.

Q Okay. And it says -- under the first bullet point it says, we also assess Putin and the Russian Government helped to -- aspired to help President-elect Trump's election chances when possible by discrediting Secretary Clinton and publicly contrasting her unfavorably to him. All three agencies agree with this judgment. CIA and FBI have confident -- high confidence in this judgment. NSA has moderate confidence.

So when it says all three agencies agree with this judgment, what does that mean to you as an intelligence professional?

A As you know from reading many intelligence assessments, that's a rarity for all three agencies to be able to say something so direct. So to me, that even with the moderate confidence judgment from NSA, it says that they believe that this -- the Russian Government was aspiring to help President-elect Trump's chances.

So -- and it's something that is a pretty -- this is something that takes a long time to do. There is a lot of sourcing. There is a lot of background. There is so much work underpinning even these few pages that it's a really powerful -- how do I say this best -- for the IC to do something like this, it expresses profound concern and that they could do it in such a way, all three agencies agree, say that they're aligned in what the warning is.

Q Okay. So you consider this pretty conclusive evidence that the Russians did interfere in the 2016 election.

A I do.

Q Is that fair to say?

A Yes.

Q The October 19th letter also references the Mueller report. Are you familiar with the Mueller report?

A I haven't read it recently, but, yes, I'm familiar with it.

Q What's your understanding of what the Mueller report says with respect to Russian interference in the 2016 election?

A I won't recall the details.

Q Okay. We can introduce -- we're going to introduce the cover page from the Mueller report and page 36 of volume one of the Mueller report. We're not introducing the whole thing because I think it's like 500 pages long, and that would gum up the record.

Mr. Lankford. Thank you.

Mr. Wilson. Thank you.

Ms. [redacted]. You're welcome. And this is exhibit Number 11.

Ms. Wood. Okay.

[Wood exhibit No. 11

Was marked for identification.]

BY MS. [redacted]:

Q So and, again, this is -- we're only going to -- we're only introducing one page of a very long document. But is it fair to say that on this page the Mueller report concludes that the Russians engaged in a hacking and leaking operation designed to interfere in the 2016 U.S. presidential election and undermine the Clinton campaign?

A It does.

Q Okay. And do you consider this to be a reliable assessment of what happened in 2016?

A I do.

Q Okay. And, again, turning back to the ninth paragraph of that October 19th letter, the last source it references in that paragraph is the current -- the report issued by the entirety, all Republicans and Democrats, on the current Senate Intelligence Committee. Do you recall what that was a reference to?

A I don't know which volume of the report it referred to, but among the five volumes that have been published by SSCI related to Russian interference.

Q Okay. We're going to introduce that into the record. That will be exhibit Number 12. And --

[Wood exhibit No. 12

Was marked for identification.]

Mr. Wilson. What's exhibit 12, please? I'm sorry. Slow down.

BY MS. [redacted]:

Q So this is the Senate -- it's an excerpt from the Senate Select Committee on Intelligence report on Russian interference in the 2016 election. And this is from volume five.

A I saw one of them. It was almost 1,000 pages, so I was thinking there were a lot of trees that were going to die.

Q So we're introducing the report and the findings section of volume five. We're actually just going to talk about the findings, the headline of the findings section, but the primary topic.

A Okay.

Q Oh, I'm sorry, we're actually going to look at Roman numeral seven. I haven't looked at this exhibit in a couple days.

A No worries.

Q So we've highlighted a section in there.

A I don't have a Roman numeral, but I do have a --

Q It's Roman numeral seven.

A Perfect.

Q So on Roman numeral seven of the findings section, it says, under "Hack and Leak" it says, "The committee found that Russian President Vladimir Putin ordered the Russian effort to hack computer networks and accounts affiliated with the Democratic Party and leak information damaging to Hillary Clinton and her campaign for President."

And then it continues on, "Moscow's intent was to harm the Clinton campaign, tarnish an expected Clinton presidential administration, help the Trump campaign after Trump became the presumptive Republican nominee, and undermine the U.S. democratic process."

Did I read that correctly?

A You did.

Q So this is another assessment which supports the -- that paragraph in the October 19th letter, correct?

A It does.

Q And you've actually mentioned the Senate Intelligence report a couple times in your testimony today.

A Yeah.

Q Do you consider this to be a particularly reliable finding?

A Yes, I do.

Q And why is that?

A The SSCI's reports, when they put the effort into doing these massive undertakings, are just remarkable in terms of the breadth and scope and the research done and generally very, very high quality work, excellent in analytic judgment and

sourcing.

Q Okay. And the October 19th letter references the fact that all members of the Senate Intelligence Committee, both Republicans and Democrats, joined this report. Was that something that was important to you?

A Hearing that now -- I did not realize that before -- I think it's a sign of the unified view of the threat to our democracy.

Q Okay. Do you think it's fair to say that there's a widespread agreement amongst intelligence professionals that Russia did interfere in 2016?

A Yes.

Q Okay. The -- going back to the letter, the tenth paragraph, which is the second paragraph on the second page, it says that the Russians, according to media reports and cybersecurity experts, targeted Burisma late last year for cyber collection and gained access to its emails.

Do you recall the media reports or cybersecurity experts to which this sentence refers?

A I don't.

Q Okay. We'll introduce as exhibit 13.

[Wood exhibit No. 13

Was marked for identification.]

BY MS. [redacted]:

Q A New York Times article entitled, "Russians Hacked Ukrainian Gas Company At the Center of Impeachment." And I'll give you a minute to review it.

A Thank you.

Q And we've highlighted the paragraph we're going to --

A And this is exhibit --

Q This is 13.

A Okay.

Q Okay. Do you recall if you've seen this article before?

A A long time ago.

Q Okay. So just to summarize, this article says that the GRU, which is the Russian intelligence unit, or the Russian intelligence directorate rather, used phishing emails to target Burisma and gain access to their computer systems. Is that a fair summary?

A Yes.

Q Okay. And that is pretty much exactly what the October 19th letter says, correct?

A It is.

Q So that sentence in the letter was supported by publicly available media reports, correct?

A Correct.

Q Okay. Paragraph 10 of the letter also says that Ukrainian politician and businessman Andriy Derkach, identified and sanctioned by the U.S. Treasury Department for being a 10-year Russian agent interfering in the 2020 election, passed purported materials on Burisma and Hunter Biden to Giuliani.

What is your understanding of who Giuliani is, first of all?

A Adviser to then-President Trump.

Q Okay. And what's your understanding of who Andriy Derkach is?

A I don't know him as well.

Q Okay. Are you aware with the fact that Mr. Derkach was sanctioned by the Treasury Department?

A Yes.

Q And what's your understanding of that?

A I think for influence, if I recall correctly, trying to influence election by all people.

Q Okay. And you referenced in the earlier hour an executive order. I believe it might have been the executive order sanctioning him. It's Executive Order 13848.

A Okay.

Q And I want to introduce into the record the Treasury Department press release, which references that executive order and references and announces the sanctions put on Mr. Derkach for interfering in the election.

A Thank you.

Q And this will be number 14.

[Wood exhibit No. 14

Was marked for identification.]

BY MS. [redacted]:

Q And we're just going to look at the highlighted paragraph here.

A Okay.

Q So this says that Treasury designated Andriy Derkach pursuant to Executive Order 13848 for his efforts to influence the 2020 U.S. presidential election. Derkach, a member of the Ukrainian parliament, has been an active Russian agent for over a decade, maintaining close connections with the Russian Intelligence Services. Derkach has directly or indirectly engaged in, sponsored, concealed, or otherwise been complicit in foreign interference in an attempt to undermine the upcoming 2020 U.S. presidential election. Right?

A Yes.

Q So this directly supports the statements made in that October 19th letter regarding the interactions with the Russian agent, correct?

A It does.

Q Okay. And as far as you know, Treasury's conclusion -- are you aware of whether Treasury's sanctions are still in effect?

A I'm not aware.

Q Okay. I'll represent to you that they are in effect today.

A Okay.

Q We talked just a minute ago about who Rudy Giuliani is. Are you aware that Mr. Giuliani worked with Andriy Derkach throughout 2020 in an attempt to influence the election?

A I've read press reports that say that.

Q Okay. Do you recall any specific press reports?

A New York Times wrote a long article that was summarizing -- and Washington Post as well, that was summarizing that relationship and Mr. Giuliani's trips to Ukraine to seek dirt on the Biden family.

Q Are you familiar with a Daily Beast article, which is a report on a one-hour interview that they had with Mr. Giuliani?

A I'm not.

Q Okay. We're going to introduce that into the record, because it is a one-on-one interview with him.

A Great.

Q Or it's a report on that. The title of this article -- it's dated October 17, 2020, which was 2 days before your letter was released. The title of the article is, "Rudy:

Only 50/50 Chance I Worked With a 'Russian Spy' to Dig Dirt on Bidens and Ukraine."

This will be introduced as number -- as 15.

[Wood exhibit No. 15

Was marked for identification.]

BY MS. [redacted]:

Q And we are going to focus on actually language on page five, which discusses the laptop issue specifically. But take as long as you need to review it.

A Okay.

Q So, sorry, I think we actually have a couple highlighted sentences. We are going to look at the one on page five, which is the last page of the -- so we've highlighted a paragraph -- a sentence here that said, "Giuliani said he viewed his latest leak to the New York Post as an extension of his years-long efforts to work with Ukrainians to dig up dirt on the Bidens." And the latest leak to the New York Post refers to the Biden laptop leak.

Would it have been concerning to you if Giuliani seemingly viewed the leak of the laptop as part of his ongoing work with the Ukrainians to, quote, dig up dirt on the Bidens?

A It would.

Q Why would that be concerning?

A Because it gets to the heart of the issue, whether this is something that has been propped up by the Russians to the disadvantage of the free and fair U.S. elections. So him saying that directly is a pretty profound statement.

Q Are you aware that the White House has warned that Rudy Giuliani was a target of a Russian intelligence operation to feed misinformation --

A I am.

Q -- to President Trump?

Do you recall why you're aware of that?

A There was a New York Times article and a Washington Post article that discussed multiple intelligence officers warning the Trump administration of the targeting of Mr. Giuliani.

Q Is that concerning to you that the Trump administration was warned about Mr. Giuliani being a target of Russian influence operations?

A The warning is something I think has happened in multiple administrations. If you're trying to be -- if someone is being manipulated by adversaries, you would want them to know. That continued is of concern.

Q And why is it a concern that it continued? And when you say it continued, that Mr. Giuliani continued to have interactions with the Russian --

A Yes.

Q -- with the Ukrainians and the Russians? Is that what you're referring to?

A Yes.

Q And why is that a concern?

A Again, it comes back to the fundamental view that U.S. elections needed to be decided by Americans voting their conscience, voting the things that they care about, and not being swayed by allegations prompted by any adversary.

Q So we've talked through some of the factors and some of the evidence that supports what's in the letter. In the earlier hour you were asked if you were aware of any evidence suggesting that the Russians were involved. And I want to turn to some evidence that suggests the Russians may have been involved.

So I want to introduce -- and we have about 10 minutes left. I want to introduce a January 7, 2021, intelligence community assessment. It's entitled, "Foreign Threats to

the 2020 U.S. Federal Elections." This will be exhibit 16.

[Wood exhibit No. 16

Was marked for identification.]

BY MS. [redacted]:

Q Have you seen this before?

A I have.

Q Okay. Do you want a minute to review it?

A No.

Q Okay. Can you please turn to, it's the fourth page. As printed, it's Roman numeral one, small one. It's headlined, "Foreign Threats to the 2020 U.S. Federal Elections."

A Okay.

Q There's a highlighted section on there.

Okay. We've highlighted key judgment two, and I'm going read it into the record. It says, we assess that Russian President Putin authorized, and a range of Russian Government organizations conducted, influence operations aimed at denigrating President Biden's candidacy and the Democratic Party, supporting former President Trump, undermining public confidence in the electoral process, and exacerbating sociopolitical divisions in the U.S.

Unlike in 2016, we did not see persistent Russian cyber efforts to gain access to election infrastructure. We have high confidence in this assess -- in our assessment; Russian state and proxy actors who all serve the Kremlin's interests worked to affect U.S. public perceptions in a consistent manner.

A key element of Moscow's strategy, this election cycle was its use of proxies linked to Russian intelligence to push influence narratives -- including misleading or

unsubstantiated allegations against President Biden -- to U.S. media organizations, U.S. officials, and prominent U.S. individuals, including some close to former President Trump and his administration.

Did I read that correctly?

A You did.

Q As an intelligence professional, what does high assessment -- high confidence in our assessment mean?

A That is as good as it gets in the world of intelligence to have a high-confidence judgment.

Q So does that mean that the agencies who contributed to this report have a firm belief that this is likely true?

A Yes.

Q Okay. Can you flip to the cover page. And this is in small print, but at the bottom it says, this intelligence community assessment was prepared by the National Intelligence Council under the auspices of the National Intelligence Officer, parenthesis, NIO, for cyber. It was drafted by the National Intelligence Council and CIA -- which is a reference to the Central Intelligence Agency, correct?

A Yes.

Q DHS, which is the Department of Homeland Security, correct?

A Yes.

Q FBI, which is the Federal Bureau of Investigation, correct?

A Yes.

Q INR, which can you remind me what INR is?

A Oh, that's really good. Intelligence and research.

Mr. Wilson. That's right.

Ms. Wood. Yeah.

BY MS. [redacted]:

Q And NSA, which is the national security administration, correct?

A National Security Agency, yes.

Q Agency, I'm sorry. Agency.

A No problem. Acronym soup.

Q And coordinated with CIA, again, the Central Intelligence Agency, correct?

A Yes.

Q DHS, the Department of Homeland Security, correct?

A Yes.

Q FBI, the Federal Bureau of Investigation, correct?

A Yes.

Q INR, which is intelligence and research, correct?

A Yes.

Q Treasury, which is the Treasury Department, correct?

A Yes.

Q And NSA, which is the National Security Agency, correct?

A Yes.

Q So if all of these agencies contributed to this and they all have -- would this reference here to high confidence mean that all of these agencies have high confidence in this assessment?

A It does, otherwise they would've taken a footnote.

Q Right. And there's no dissent here noted, correct?

A Correct.

Q Okay. So is it fair to say that every intelligence agency we just talked

through has high confidence that Russian President Putin authorized, and that the Russians conducted, a range of influence operations in 2016?

A Yes.

Q Okay. That last sentence of that paragraph -- of that judgment, it says, a key element of Moscow's strategy this election cycle was its use of proxies linked to Russian intelligence to push influence narratives.

Based on what we just talked through, would you agree that Andriy Derkach was a proxy linked to Russian intelligence?

A Yes.

Q Okay. It says including misleading or unsubstantiated allegations against President Biden to U.S. media organizations.

Would you agree that the New York Post is a U.S. media organization?

A I would.

Q U.S. officials and prominent U.S. individuals, including some close to former President Trump and his administration.

Would you agree that Rudy Giuliani is an individual close to former President Trump and his administration?

A Yes, as I understand it.

Q So on its face, do you agree that this assessment as written, in fact, could support a narrative that Rudy Giuliani colluded with the Ukrainians to leak information potentially including the laptop information to the New York Post?

A It could absolutely be the case that's exactly how it happened, and I still want the FBI to do their work --

Q Understood.

A -- right. So I think this gets to the profound concern that we had though,

right, is people in this space, including some of the actors involved, both in support of Russia and Russian goals, as well as U.S. officials, have been involved in a variety of other elements of election interference, which is why the laptop became such an issue for us.

Was there a laptop? Yes. Did it belong to Hunter Biden? Yes. It's all the story of what's on it. We don't know and we're still waiting for the FBI to tell us. But it's -- this whole context that you've offered is exactly why we were so concerned. It's the bigger picture.

Q And we had -- we've heard testimony from another individual who said that he thinks the story has not been completely written yet on this issue. Would you agree with that assessment?

A I would agree with that.

Q Okay. And we have -- we can go off the record.

[12:24 p.m.]

BY MR. [redacted]:

Q Back on the record, 12:24 p.m. Ms. Wood, before the -- well, when the Republicans staff and Members of Congress concluded their questions, you had indicated that you spoke to Mr. Morell, and he gave you an apology for keeping you in the dark about his interactions with the Biden campaign. Is that correct?

A Yes.

Q Specifically, why did you view that as unfair, keeping you and others in the dark about those interactions?

A I think for me, I won't speak for others, but for me, this was really about the sanctity of our elections. And that's what the piece was about, from my perspective. And having the testimony that he offered indicate conversations with others, whether they generated or not, I don't know, it just -- there was an additional factor there that we needed to be aware of in making a decision.

Q Now, when you say, "we need to be aware of him making a decision," do you mean the signatories to the public statement or the American people?

A So for me, the number one issue, again, is Russian interference in elections. And if there was other calculations involved in it, it would have been good to know, and for the other signatories.

Q Okay. So why would it have been vented out?

A Because it has a political element to it that it doesn't otherwise.

Q You're a sophisticated, a former CIA officer?

Mr. Wilson. Ooh.

Ms. Wood. Hey.

Mr. [redacted]. He said it, not me.

Mr. Wilson. Oh, boy.

BY MR. [redacted]:

Q Look, notwithstanding what you eventually learned about Mr. Morell's involvement with the Biden campaign, you recognize there was a political element in this public statement, particularly, given the timing in which it was released, correct?

A So I think you're very focused on the timing. To me, it was, this is the moment this is happening, not whatever else is happening in the political debate. Right, this is the moment the laptop was coming out. There were salacious allegations all over the place. And the whole thing for me is, let's see what the facts are.

Q Well, if -- well, let me ask you this: If we wanted to see what the facts are, in a public statement that cast question upon Hunter Biden's emails and laptop, that contributed to suppression of that story.

Mr. Lankford. Objection. That's an answer to questions she hasn't been asked. And I don't know. It might be --

Mr. Bishop. I don't know. It might be a leading question, but I don't know. Objections to form are appropriate here.

BY MR. [redacted]

A Sir, can you ask the question again?

Q Yeah, I mean, did you read the committee's report before coming to the interview?

A The interim report?

Q The interim report.

A Yeah.

Q So you read it in its entirety?

A Yes.

Q Is that when you learned that Mr. Morell had dealings with the Biden campaign prior to giving you the call --

A I think he had a press release or something, or before the interim report went out, there was something that was released separately about it.

Q But did you read the actual report?

A Yes.

Q But did you read the actual staff report interim?

A I did.

Q The staff report concludes that there's a direct line between the public statement and the continued suppression of the Hunter Biden laptop and email story, including the underlying allegations in those emails, i.e., that Hunter Biden was influenced peddling perhaps with knowledge of his father. I'll represent to you, based on that report, the conclusions reached in the interim are that the public statement that you helped disseminate contributed to the suppression of that story. Is that your understanding?

A You have represented it to me, so that's coming right back to you. I'm saying to me, if our caution was let's -- I mean, there's a story that running wildfire may be, perhaps, aided by the Russians. Ninety percent of the emails can't be verified. Why not say, Let's let the FBI do their work? It doesn't matter what the public -- I mean, out in the public, it should be what is true. Where are we with facts?

Mr. Bishop. Ms. Wood, let me interject on that point. And you've testified a number of times the notion that you believe the public ought to defer to the FBI to determine what was true about this information concerning Hunter Biden. Why not also apply that to yourselves? Isn't it true that Director Ratcliffe, the Director of National Intelligence, said on the same day your letter came out, that there was no

evidence of Russian involvement?

Ms. Wood. He did.

Mr. Bishop. So why not apply our own rule, and you all defer to the officials at the intelligence community?

Ms. Wood. So he said there's no evidence of it. They haven't found it. I did not find that credible.

Mr. Bishop. Well, so I hear you. And I think that's -- but what I'm asking about is, I'm trying to get at the appropriateness of your and your colleagues' involvement. You said that the American people should be content to await the FBI's official version, but you weren't prepared to accept the official version from the intelligence community. Isn't that correct?

Ms. Wood. So, I think what I would say in response to that is that the letter -- the purpose of the letter was to say, Let's not rush to judgment. Everyone, regardless of who they are as Americans, deserves due process. Let's let the FBI do their work. And when DNI Ratcliffe said that -- so as you have seen from all of these investigations, right, they take a very long time to do, to do the considered judgment of 17 or 18 intelligence agencies, and to come up with that to do the exhaustive search of asking new sources, of pulling in every bit of signals intelligence, there's just no way that's possible to have been done in the timeframe in which that statement was made.

So our whole point was to say, Be careful here. Let us -- we don't know if this is all real. We don't know if all the emails are real, and we don't know if this is tied to the Russians. Let's let the process work.

Mr. Bishop. Let me ask you about the list that you provided. You've testified a number of times today that it's commonplace for former national security professionals to make public statements. Do you have a copy of the document that we had copies

made during the break in front of you?

Ms. Wood. I do.

Mr. Bishop. Just, first of all, it begins with a question -- isn't that just an allegation? -- in bold text at the top. And then after a paragraph, it has another boldfaced sentence that says: Give us some examples of other letters written by former national security professionals. Forgive my ignorance, it may be very clear to others sitting here, but what's the origin of this? What is this question and answer?

Ms. Wood. This is me being prepared for today.

Mr. Bishop. So you just did an internal preparation contemplating what the subject matter would be?

Ms. Wood. Yeah, I'm sharing my notes with you.

Mr. Lankford. It was for us really.

Mr. Bishop. Well, I appreciate you. I didn't know whether, perhaps, the committee staff had posed a question to you that you had answered.

Ms. Wood. No, no, no. But I do want to touch on something you said that is commonplace. I would not say it's commonplace.

Mr. Wilson. Maybe the same question. How would you characterize the word she used?

Mr. Bishop. Yeah, what are your words? And what bearing does this have on the subject matter --

Ms. Wood. So, I think --

Mr. Bishop. -- in your view?

Ms. Wood. Yeah, so it's -- and I won't characterize all the letters this way, because there's no way that I looked at all the letters. But the ones that I reviewed that are listed here, it is in an inflection point where someone who has served long and hard in

some of these positions says we have to be careful. Like all of the living former Secretaries of Defense weren't even involving the military in election disputes in January 2020. In June, 89 former defense officials. Military must never be used to violate constitutional rights. And while I just didn't kill all the trees, I have links to all of these articles. And it has them by name and then whatever their former title was.

And so it goes with the others as well. And so I wouldn't say it's commonplace, but when you have a moment and inflection point related to national security, at times, national security professionals, whether they're from the military, the intelligence community, former Members of Congress, former national security officials, et cetera, former diplomats will do letters like this.

Mr. Bishop. And the ones that you have offered, I'll suggest to you that one of them is misdated. I've looked up each of them myself. The very last one says, January 2021, a statement by more than 100 former national security officials. That goes on to say: We believe that President Trump's refusal to concede the election constitutes a serious threat to America's democratic process. It appears to me that that was issued November 3rd -- or not November 3rd, but in November of 2020.

Ms. Wood. Okay.

Mr. Bishop. Is that possible?

Ms. Wood. Yeah, what's this one? Let's see. It's a different one. Yeah. It's absolutely possible.

Mr. Bishop. Okay. But in any event -- and again, the reason I even get at that is the timeframe covered by the examples you've chosen is 5 years, right?

Ms. Wood. 2016 is the first one. But I just didn't go back further.

Mr. Bishop. And every one of them -- is it coincidental that every one of them is antagonistic to President Trump?

Ms. Wood. Yeah, I don't --

Mr. Bishop. Did your lawyer whisper something to you there? I didn't --

Mr. Wilson. Well, we went through these in some length. For instance, here is a copy of one that's signed by Republicans.

Mr. Bishop. Now, I understand it's not a partisan thing.

Mr. Wilson. Correct.

Mr. Bishop. And I have taken a look at every one of them. My question is still to you, is it a coincidence that they're all antagonistic to President Trump?

Ms. Wood. These are the ones that have been done most recently.

Mr. Bishop. Can you think of any examples, similar examples that are not ones that are antagonistic to President Trump?

Mr. Wilson. Congressman, give us leave, we'll be glad to supplement the record. They go back generations after.

Mr. Bishop. I would like to get her answer, if you don't mind.

Ms. Wood. Yeah, I'd be happy --

Mr. Wilson. Would you give us leave?

Mr. Bishop. I would be delighted to get whatever else you might want to identity. I just want to know if you can identify, in your mind, any examples. You've closed your participation in the thing, the letter that is the subject matter of this inquiry by saying, essentially -- and I don't know what your words are to get it exactly right, but this happens from time to time. This is common or this -- other examples exist. As if to say, I think to validate it, it seems to me to be what you're saying. Insofar as that's true, every example you have given appears to be something where former officials were taking a position antagonistic to President Trump --

Ms. Wood. So --

Mr. Bishop. -- as far as it goes. But I just wanted to for your understanding, or the sense that this is something that happens as a regular occurrence, and can you think of other examples that aren't antagonistic to President Trump?

Ms. Wood. I can absolutely go back and look. These are some of the most recent --

Mr. Bishop. I yield.

BY MR. [redacted]:

Q Ms. Wood, just to -- and we'll come back to Director Ratcliffe's public statement that was released prior to the statement you all put out. But just to sort of conclude with Mr. Morell's apology to you, I'm hearing everything you're saying. This political aspect that we should have known about it, perhaps the American people should have known about it, I think, it's fair to say -- but to that point, if he kept you in the dark, someone with whom he's had this very close relationship all these years, and the majority of the other signatories to the public statement -- he kept the American people in the dark. Is that fair to say?

A I don't know. I think his purpose, his two-fold purpose, right, as he has testified. One is to warn of the election interference, and the second one was to support President Biden. And the second one damages the first one.

Q Why is that?

A Because it creates an impression that isn't inaccurate.

Q The impression is you all want to help Joe Biden become President of the United States?

A Right.

Q But that is Michael Morell's intent?

A I'm sure if you ask all 51 of us, we would largely aligned around Russian

interference, but we might have had other intents as well.

Q Well, that raises the question, why not just put that in a letter so the American people can evaluate, Wow, okay, this is interesting, but to help Joe Biden become President. That would have been a more honest statement to the American people. Fair to say?

A I can understand why you would say that; it's just not true for us.

Q Not true for you?

A Not true for me.

Q True for Mr. Morell?

A According to his testimony.

Q Mr. Morell drafted the statement in part with Mr. Polymeropoulos, correct?

A Uh-huh.

Q You did not make any additions to that letter, correct?

A No, I didn't. I made it --

Q Sorry, please. No, no.

A I'm interrupting you. I'm trying to learn.

Q But you had no objections to the letter as written, correct?

A Correct.

Q As you sit here today, do you think the letter should have included a caveat that says, This is to help Vice President Biden become President of the United States?

A It's an interesting question.

Q I'm hoping for an interesting answer.

A I would like a little time to think about that during this hour. Let's come back to it --

Q Sure.

A -- because it's a new thought in my brain, and it's not percolating as fast as it needs to.

Q Okay. We'll come back to it. I'm sure your counsel will remind us if we don't get to it. But in that vein --

Mr. Bishop. Maybe not. I don't think so. You have to remind yourself.

Mr. Lankford. This is a hypothetical one. I think she has a right to mull it over and decide what the right answer is. We want to be correct here and --

Mr. [redacted]. I think we have said as much.

BY MR. [redacted]:

Q In that vein, would you have signed the public statement as written then today?

A I don't know.

Q Putting into the record as exhibit 17, the article from Fox News dated October 19, 2020, Ratcliffe says: Hunter Biden laptop email is not part of some Russian disinformation campaign. Here you are. And this is the statement I believe that Congressman Bishop had alluded to moments ago. If you can just review that, the first page in particular. Have you reviewed the first page?

A Yes.

[Wood exhibit No. 17

Was marked for identification.]

BY MR. [redacted]:

Q I'm going to direct your attention to specific passages in the interest of time.

A Okay.

Q Now this particular copy doesn't indicate it, but we know that the article came out at 8:57 a.m. on October 19, 2020, based upon Director Ratcliffe's appearance

on a Fox News program earlier that day?

A The letter or the --

Q No, this article, excuse me. Thank you for clarifying.

A Yes.

Q So this is at least released publicly 12 hours before the public statement that you signed was released in Politico. So the first question: Were you aware of Director Ratcliffe's statement that Hunter Biden's laptop and email was not part of some Russian disinformation campaign prior to the publication of the public statement that you signed?

A No.

Q So on October 19th, 2020, you were unaware that Director Ratcliffe said the Hunter Biden email laptops are not part of some Russian information campaign?

A That's correct.

Q Had you known -- well, withdrawn. Directing your attention to paragraph 4, page 1 of this exhibit. He, meaning Director Ratcliffe, who was at that time the Director of National Intelligence stated: Let me be clear, the intelligence community doesn't believe that because there is no intelligence that supports that. And we have shared no intelligence with Adam Schiff, or any Member of Congress. This is my mistake. I should have went one paragraph up.

So directing your attention to the prior paragraph. Quote: It's funny that some of the people who complain the most about intelligence being politicized are the ones politicizing intelligence, Ratcliffe said. Unfortunately, it is Adam Schiff who said the intelligence community believes Hunter Biden laptop and emails on it are part of a Russian disinformation campaign.

And then if you go down to the fifth paragraph on page 1. Quote: Hunter Biden's laptop is not part of some Russian disinformation campaign, Ratcliffe said, adding,

again, that quote: This is not part of some Russian disinformation campaign.

Now, as far as you know, neither you nor any of the other signatories were privy to classified information about Hunter Biden's laptop and emails at the time you all signed the letter, correct?

A As far as I know.

Q As far as you know. Okay. Now, Director Ratcliffe, who was in government at the time, right, and we know the FBI had possession of Hunter Biden's laptop and emails from at least December 2019, were you aware of that?

A I did not know the date, but I few they were in possession of it.

Q At the time the public statement was released?

A Yes.

Q Okay. So sitting here today, because you did not know about this statement at the time, would you have signed the public statement knowing that the government has said that it was not part of any Russian disinformation operation?

A I would not have found this statement credible.

Q Okay. Why?

A The simplest reason is that the FBI is still doing its forensic evaluation, so we don't know the answer yet.

Q Are you aware that the following day the FBI released a statement saying they had nothing to add to Director Ratcliffe's public statement about Hunter Biden's laptop and emails? Is that a yes or no?

A So, no, I'm not aware of that, but I do believe they're still doing their forensic evaluation of it.

Mr. Bishop. What is your basis for belief that the FBI is conducting a forensic evaluation?

Ms. Wood. Whether it would be part of the Russian interference in that campaign in the elections, or on the basis of individuals who may have been involved wittingly or unwittingly and spreading mis- and disinformation, or for the fact of knowing that there's something happening here that's corrupt or not in the interest of the United States Government.

Mr. Bishop. For those reasons, you expect that the FBI would be conducting a forensic evaluation?

Ms. Wood. I would expect.

Mr. Bishop. But beyond expectation based on those premises, you don't any way to know one way or the other?

Ms. Wood. I do not.

Mr. Bishop. If, in fact, the FBI has not conducted a forensic investigation, or has conducted a forensic investigation and has suppressed the results, should the American people continue to defer to the FBI?

Ms. Wood. I think that would be an excellent question to ask the FBI as part of this investigation.

Mr. Bishop. As far as you're concerned the American people, before an election, ought to defer to the FBI, correct?

Ms. Wood. I think even said more simply is I believe that the American people should make their decisions based on facts; should be able to make their decisions based on facts.

Mr. Bishop. But should be deprived -- well -- but you do believe that information that comes out of unknown problems, unknown origin, should be discredited to the end that the American people distrust it, correct, and instead would rely on the FBI?

Ms. Wood. So could you ask that maybe another way?

Mr. Bishop. I think I might have asked that --

Ms. Wood. I got a little lost.

Mr. Bishop. I think it's maybe a little asked and answered, and I am just -- well, let me just make sure I try to get at it in case I haven't before. Do you think the American people should make their elections decision based on facts? That was your statement just a moment ago, correct?

Ms. Wood. Uh-huh.

Mr. Bishop. In order to decide what facts are, you need information, fair?

Ms. Wood. Fair.

Mr. Bishop. And as to this information, the information that came out in the media concerning Hunter Biden's laptop, do you believe that that should be discredited?

Ms. Wood. So did you say "this" or "dis" information? I didn't quite hear it.

Mr. Bishop. This information.

Ms. Wood. This information.

Mr. Bishop. This information should be discredited. You engaged in an effort with other former intel officials to discredit him. Isn't that fair?

Ms. Wood. I think I wouldn't say discredited. I would say, Hold your horses. We don't know. And I think what the letter says: We do not know. But --

Mr. Bishop. But you suggested the possibl --

Ms. Wood. Let the FBI do their work. Because why is it -- how do I ask this? We would all want the American people to make their choices based on their preferences and their beliefs and whatever the facts are in front of them. And we wouldn't want any adversary helping promote facts or invent facts that influence the American people. And I think our purpose in this letter was to say, let's wait until we see what the facts are.

Mr. Bishop. Here's the concern as policymakers: If a body of former

intelligence officials use their credibility to discredit, or even suggest disbelief or temporary suspension of belief in information, that may be relevant to an election, that's interference as much as a foreign power sending info through that is spewing information into the process. Would you agree?

Ms. Wood. I would be sorry you feel that way.

Mr. Bishop. Let me ask about that. Are you aware that under precedent of the United States Supreme Court in 1965, that the American people have a constitutional right of access under the First Amendment to foreign propaganda?

Ms. Wood. No.

Mr. Bishop. Do you believe that information, truthful information originates from a foreign power, that the government should prevent its access by the American people?

Ms. Wood. I think government -- I mean, I think truthful information should make it in the hands of the American people regardless of its providence.

Mr. Bishop. Okay. All right. I think I've explored that as far as I can. Thank you.

Ms. Wood. Thank you, sir.

Mr. Wilson. Does that case involve the Foreign Agent Registration Act?

Mr. Bishop. No. It's Lamont v. Postmaster General, 1965. It says that communist propaganda --

Mr. Wilson. I know the case, and it led to the Foreign Agents Registration Act. It said, you can say what you want, but you have to say it on whose behalf you're saying it.

Mr. Bishop. It didn't lead to it in the sense of Foreign Acts Registration Act was enacted in the forties.

Mr. Wilson. The first time.

Mr. Bishop. In 1965. They actually softened, took out the language of propaganda in the mid-1990s.

Mr. Wilson. But you still have to say on whose behalf you're saying it.

Mr. Bishop. Correct.

Mr. Wilson. Okay. I think that's the difference.

Mr. Bishop. But you still can't take this information out of the possession of American people.

Mr. Wilson. That's not -- I am not disputing that. I am saying you have to say on whose behalf you're saying it.

Mr. Bishop. All right, sir. I yield.

Mr. Wilson. Thank you, sir.

BY MR. [redacted]:

Q Ms. Wood, you've testified quite a bit about the importance of the integrity of the American elections, the importance of all the facts getting out. But the concern here, in part, is that by virtue of the issuance of this public statement and the credibility of those who signed it, including their prior credentials and all of their experience, an extremely consequential fact was if not outright suppressed, minimized, marginalized, ignored, that emanated from Hunter Biden's laptop, which is that he works for Burisma, he is making a ton of money, and there's an explosive email that essentially strongly implies he's doing so because of who his father is.

When the letter comes out and casts doubt and makes that quantum of information that the American people should know, don't you believe more harm than good was done with the public statement for the election?

A So I don't -- I haven't read all of the emails in Hunter Biden's laptop. I hope

to God no one ever gives me that job because it just sounds awful. So I don't -- I'm not aware of the contents or the one you are specifically referring to. And I'm also not aware of whether that is part of the forensic evaluation is one of the ones that is considered, in that 10 percent, that would be able to be verified. So I wouldn't feel comfortable commenting on that.

Q Why not let the American people decide for themselves whether or not the email is authentic or not?

A Why wouldn't we want them to know whether it is or not because it's gone through a rigorous process.

Q No one is suggesting they shouldn't, but the question becomes, if you all put this out and said, we don't have this information, but it's our strong suspicion that the Russians may be involved, right? And if the so-called fourth estate, the media, is to do its job, right, report on every -- all the facts, or all the alleged facts, or all the information for the American people, and your public statement helped to suppress the vetting of a major Presidential candidate's potential knowledge of influence peddling by his son with a foreign power, why does that not give you pause with respect to your involvement in the public statement?

A So I got a little bit lost in the question.

Q So did I.

A So maybe just --

Q Would you agree that the American people should know if Hunter Biden is working for a foreign company, he is getting paid exorbitant amounts of money, and he is trading it, or he is getting paid because of who his father is; that is a concern for the American people, correct?

A I would agree.

Q That is something they should consider before they opt to elect Hunter Biden's father President of the United States, correct?

A I think that that has to be a factor.

Q Okay.

A And I think the question for me is you characterize news media as being responsible for putting all the information out there, whether it's fact or not.

Q In part.

A Meaning if it's disinformation, if it's misinformation, if it's allegation, if it's supposition, if it's invented propaganda, it's not their job to slice and dice it, I get that. But it is the job of the intelligence community and the Bureau and others to look through all of that. And it takes time to know -- I mean, the considered judgment of the intelligence community came out almost 6 months after the 2016 election, right? So it takes time to do this and to do it properly. And if there is a story there that indicates wrongdoing, if there is crimes that have been committed that absolutely should be prosecuted, but I believe everyone deserved to be processed. Everyone.

Q No one's disputing that, but given the rigor you just said the intelligence community uses to come to judgment, sensible reasonable judgments, surely, you see the committee's concern where a large battery of former intelligence officials, using their title, issue a public statement that cast doubt on this information that the American people should have to evaluate before voting for the next U.S. President. Do you not see that connection?

A So I see it as a caution flag and a runaway story where we didn't have facts. And I think that's what it says in the -- hold on, let me pull up the letter. Third paragraph: Perhaps, most importantly, each of us believes deeply that American citizens should determine the outcome of elections and not foreign governments. And

then we want to emphasize -- we do not know if the emails provided to The New York Post by President Trump's personal attorney, Rudy Giuliani, are genuine or not. And that we do not have evidence of Russian involvement, just that our experience makes us deeply suspicious that the Russian Government played a significant role in this case. So I would characterize it as a caution flag.

Q Are you aware of how -- did you read the Politico article that disseminated the public statement?

A Not contemporaneously.

Q But have you since read it?

A Probably.

Mrs. Spartz. So you were not aware of this article that came out before the debate using your letter?

Ms. Wood. I was in and out of cell phone coverage on travel and then dealing with something that was more important to me at the time.

Mrs. Spartz. When did you see that article the first time?

Ms. Wood. I don't remember.

[Wood exhibit No. 18

Was marked for identification.]

BY MR. [redacted]:

Q Okay. I'm entering into the record the Politico article dated October 19, 2020, titled, "Hunter Biden Story is Russian Disinfo, Dozens of Former Intel Officials Say," as exhibit 18. I guess I'll pass this around. Now, Ms. Wood, have you seen this article before?

A I am just going to reread it. It's been a while.

Q Well, I'll tell you that our time is somewhat limited. So I'm introducing it

solely for the purpose of the headline. I'm not going to comment one way or the other on the underlying reporting.

A Okay.

Q It reads: Hunter Biden's story is Russian disinfo, dozens of former intel officials say. And the subheading is, More than 50 former intelligence officials signed a letter casting doubt on the providence of a New York Post story on the former Vice President's son. My first question is, is that what you all did?

A Which part?

Q You cast doubt on the New York Post story involving --

A I say they drew a caution flag.

Q Okay. And you would agree with this headline, Hunter Biden's Story is Russian Disinfo. Is that correct?

A No, I would not agree with that.

Q Why not?

A Because in this letter it did not say that. It just said it could be.

Q Did you take any -- well, what is your opinion on this headline. Is it accurate?

A It's not accurate.

Q Okay. Would you say it's dishonest?

A I think it's leading. And I think to your point earlier about media needs to say whatever is out there, this is that school of thought. It's make it dramatic, make it salacious, make headlines.

Q Did you take any measures to correct this headline?

A No.

Mr. Wilson. Were you aware of the headline when it came out?

Ms. Wood. Not at the time. And, I mean, I was dealing with a pretty profound issue in my family, and this was not on my list of things that I was going to be able to focus on.

BY MR. [redacted]:

Q And I want to be very respectful of that. So accepting your answer. Had you known at the time, would you have made any efforts to correct this headline?

A I would have talked to Michael about it.

Q Okay. Why?

A So I tend to be a bit politically naive. I'm really focused on being a national security professional. And the politics of things, I don't always get. The Hunter Biden story is Russian Disinformation, I think, there would be a lot to go back and say it's concerned about Russian disinformation to want to characterize it that way. Because I think accuracy is always better.

Q You can understand the concern, though, that this headline, right, it's popping up on all types of people's cell phones, people reading about the election. It's only days before the debate between Vice President Biden and President Trump. You can understand the concern that people will just use this as shorthand to say, Ah, the Hunter Biden laptop, emails, and the allegations against his dad, that's disinfo. We don't have to consider that. Is that a sensible conclusion that some people would reach given this article?

A So I think a little bit it feels like you want to have it both ways, right? People need to have complete access to what's out there. However, it gets spun in the media, however it does, whether it's disinformation, whether it's Russian information operations, they sit -- sit until it filters out for themselves. I don't think adding -- I don't agree with that in principal, and then this is another good example of why it's

not -- doesn't serve the interest of the American public. And I think accuracy and being more judicious and careful is really important.

Chairman Jordan. That is the point, Ms. Wood. They didn't have it both ways. This article got to circulate and move, shared likes with the whole country. And because of your letter, the other one got suppressed in many ways. That's the concern that I think the committee has. Can I go back for a second?

Mr. [redacted]. Of course, sir.

Chairman Jordan. You were aware of Mr. Ratcliffe's statement on that morning. Is that right?

Ms. Wood. No. Sometime afterwards.

Chairman Jordan. So you didn't know about it beforehand. Do you agree with what Mr. Ratcliffe had to say on the morning of October 19th, 2020?

Ms. Wood. I didn't find it credible.

Chairman Jordan. And why didn't you find the statement from the Director of National Intelligence credible?

Ms. Wood. As you may know from maddening experience, it can take quite a long time for the intelligence community to come to a considered judgment on a big issue like this. And that time just hadn't happened yet.

Chairman Jordan. Do you know what Mr. Ratcliffe, what intel he may have had in front of him?

Ms. Wood. I do not.

Chairman Jordan. So you're just completely guessing that he didn't have any information that would allow him to make that -- to reach the conclusion he reached and tell the country which turned out to be accurate?

Ms. Wood. So survey in the intelligence community takes weeks, in and of itself,

to find out do we have information like this. Then the Politico -- the process of doing a document like this and making a statement like that takes a lot longer than something that's happening so quickly. So that's why --

Chairman Jordan. How long would it take? Months, you said?

Ms. Wood. It depends upon how big the topic is. It can take weeks at most. At weeks, very fewest, and months if more. Are you going to task sources? Are you going to ask questions of people who might have knowledge about it? So that would take longer.

Chairman Jordan. And you don't think that could have happened?

Ms. Wood. There wasn't enough time.

Chairman Jordan. Even though you had the laptop, the FBI had the laptop 10 months prior?

Ms. Wood. So I don't think the -- the FBI, I don't know when they published their findings. When that process -- right, if there's a classified finding, I'm not aware of. But, there's some --

Chairman Jordan. Well, I'm just making the point. The government had the laptop almost a year before Mr. Ratcliffe made his statement. And you said there's no way he could have known, but you have nothing to base that on. And they actually had access to the laptop itself.

Ms. Wood. So the Bureau would have had access to it, right? It took them some time to do the forensic analysis. Maybe it's been done, and it's been classified, and it's released, I don't know. But there's some period in that 10-month time that that was involved in. Then you've got to have the intelligence community, national security, and all the community react to that.

Chairman Jordan. Could that have happened in 10 months?

Ms. Wood. Oh, perhaps.

Chairman Jordan. Well, you just --

Ms. Woods. It would have given --

Chairman Jordan. It could be as short as a few weeks, it can be as long as months. And I am just saying, could it have happened in 10 months?

Ms. Wood. On this issue, I don't believe so.

Chairman Jordan. You don't believe so?

Ms. Wood. Huh-uh

Chairman Jordan. Even though they had it in the report 10 months beforehand?

Mr. Lankford. Has the FBI issued a report on the analysis of the computer? I don't think they still have, have they? At least I have tried to track it.

Chairman Jordan. Well --

Mr. Lankford. We could all agree that that's an abysmal commentary on the FBI, but it hasn't happened.

Chairman Jordan. But that wasn't my question. I asked the question, and she should respond.

Mr. Lankford. Well, yes, she is saying, you know, we don't have a final result. That's what she is saying. Bottom line.

Chairman Jordan. But we don't know what Mr. Ratcliffe knew what he had access to after the government having the laptop for 10 months.

Are you aware of any protests by Hunter Biden or his lawyers suggesting anything on the laptop was fake?

Ms. Wood. No. No, I'm not aware.

Chairman Jordan. Okay.

BY MR. [redacted]:

Q Why did you find Director Ratcliffe's -- now that you're aware of his statement -- why was that not credible, because it's Director Ratcliffe?

A No, I just explained to the chairman.

Q Well, I say this because we are getting -- I'll represent to you that this has been a consistent theme, nobody found it credible. If it was Director Clapper who issued the same statement that the email laptops were not Russian disinformation, would you please find that credible?

A So what I would have expected, what is normal course for any senior leader to talk about any topic is here is our judgment, and here is what it's based on. And there's oftentimes some pros and cons with higher or lower competence. But blanket statements, I don't recall ever seeing one that's a simple blanket statement like that.

Q So if Director Clapper made the same statement, you would find it not credible?

A If he made that statement, yes.

Q Okay. Okay. I'm entering into the record partial transcript of the Presidential debate of October 22nd, 2020, between Vice President Biden and President Trump as exhibit No. 19. I'm going to direct your attention to the second page, Ms. Wood. Nine up from the bottom. And I'll read for the record.

[Wood exhibit No. 19

Was marked for identification.]

Ms. [redacted]. Do you have extra exhibits?

Mr. [redacted]. Sorry. That's my fault.

Ms. Wood. Which one is it?

Mr. [redacted]. The second page, nine up from the bottom.

Mr. Wilson. Nine lines up?

Mr. [redacted]. Say it again?

Mr. Wilson. Nine lines up?

Mr. [redacted]. When I say nine, let's call these paragraphs where they have the names bolded. And let's say nine up from the bottom. It says: Trump: It's the laptop from hell. Are we all on the same page, so to speak? Okay.

BY MR. [redacted]:

Q So I'll read that.

"Trump: It's the laptop from hell. Welker --" who is presumably the moderator" -- President Trump, we're talking about race right now, and I do not to -- I do want to stay on the issue of race, President Trump. Biden: Nobody -- Kristin, I have to respond to that. Welker: Please, very quickly. Biden: Quote, look, there are 50 former national intelligence folks who said that what this, he's accusing me of is a Russian plan. They have said that this has all the characteristics for five former heads of the CIA. Both parties say what he's saying is a bunch of garbage. Nobody believes it except him and his good friend, Rudy Giuliani." End quote.

Do you understand that to reference the public statement that you and the 50 other former intelligence officials signed?

A I do.

Q Okay. So was that an accurate characterization of the public statement that you signed?

A No.

Q Why not?

A Because what we said was it could be part of the broader Russian disinformation campaign we saw happening in the 2020 election.

Q Do you have a critique of what Vice President Biden said beyond that?

A Well, so this is where intelligence analysts are kind of pains in the butt because, you know, characterizing as the laptop from hell, or characterizing it the way either candidate did isn't accurate, right? So --

Q Well, the laptop is not from hell, right, presumably?

A Presumably.

Q But focusing on President Biden's characterization.

A Yeah, so this is a political translation of an intelligence judgment.

Q But it's inaccurate. Is that fair to say?

A It is.

Q So then it's also fair to say that Vice President Biden took the public statement that you and 50 others signed and mischaracterized it to the American people only days before the 2020 Presidential election, correct?

A So you're saying that, and I absolutely agree with that comment.

Q Okay.

A And, you know, just as candidate Trump said it's the laptop from hell, mischaracterizing it to the American public.

Q So I'll ask now, having reviewed this, do you have any regrets about signing the public statement as you sit here today?

A So about what has become, yes. Right? When this was at the time, 2-1/2 years ago, it was a letter to say, Let the FBI do their work, which to me seemed as obvious as the sun rises to throw a caution flag to say, Let's not rush to judgment in any way, shape, or form. But what I have been through personally as a result of this, the personal attacks, the threats, the harassment that has happened as part of this, it's horrific. And it gets to this polarization of all of us, in part, directed by our adversaries. And so, it's a yes with a whole bunch of explanation as to why.

Chairman Jordan. It was used exactly as Mr. Morell intended it to be used, though, wasn't it?

Ms. Wood. I can't answer that for him.

Chairman Jordan. Well, you said earlier when you had a conversation with him that he apologized to you for the political nature of it. I assume you accepted that apology. But this is exactly how he intended it to be used in a political fashion. At the debate, he wanted to give President Biden a talking point against President Trump. Isn't that accurate?

Ms. Wood. I can't comment on that.

Chairman Jordan. That's what he said in his email.

Ms. Wood. You'd have to ask him.

Chairman Jordan. And I know you said you talked to him about the political nature of the statement that you all signed, and that he apologized to you for not letting you know how political it was. That was my read on what you said earlier today.

Ms. Wood. That is what I said.

Chairman Jordan. You referenced the forensic evaluation by the FBI. When it comes to matters relating to President Trump, should Americans trust the FBI?

Ms. Wood. I think it should trust the FBI period.

Chairman Jordan. Even in light of what Mr. Durham's report said last week?

Ms. Wood. So I read Mr. Durham's report. But, I mean, I read the Iraq, SSCI's Iraq post war, prewar intelligence review that led to a fundamental transformation of how the IC does its work. I think we can always do better. Absolutely always do better in Federal institutions. And not knowing the specifics of the Durham report, it sounds like it's a call to be better. Because --

Chairman Jordan. It sure is. Yeah, it sure is. So you still have no problem

trusting the FBI when it comes to matters like this, headquarters related to this kind of thing involving Presidential candidates, you have no problem trusting them?

Ms. Wood. Their forensic work is just outstanding. And so, I believe if that is part of what their working on, that they will come up with whatever the data is there and whatever is truthful or not. I would just expect it would be a larger conversation with the Hill and elsewhere to get to the bottom of it.

Chairman Jordan. Okay. We'll have that conversation.

Mr. Lankford. Counting on you.

Ms. Wood. No, I mean, really, we have to do this, right, because this whole thing created a huge schism in 2016 and 2020. And we -- I hate to see our adversaries getting the upper hand and -- you know, if I had a chance to see President Putin, I would love to --

Chairman Jordan. Well, I hate to see this country so divided. I share that concern.

BY MR. [redacted]:

Q Ms. Wood, directing your attention back to the debate, did you watch it?

A I did not.

Q Okay. Did you read reports about it at the time?

A No, I mean, I was in Maine, and I was in mountains. And I probably read something later, but not contemporaneously.

Q Okay. I'm putting into the record an email from Kristin W to Gregory Tarbell dated October 23, 2020, at 3:02:06 a.m.

Mr. Wilson. Is this exhibit 20?

Mr. [redacted]. 10/23/2020.

Mr. Wilson. Is this exhibit 20?

Mr. [redacted]. This is exhibit 20, excuse me.

[Wood exhibit No. 20

Was marked for identification.]

BY MR. [redacted]:

Q I would ask you to read the entire page, Ms. Wood.

A Uh-huh, okay.

Q So is this an email that you sent to Gregory Tarbell?

A It is.

Q So the prior email from Mr. Tarbell says: TP worked well during the debate. Great idea, guys. Is that correct?

A It does.

Q And it looks like you responded: That was really cool, correct?

A Yes.

Q Okay. What did -- well, first, did you write that?

A I wrote that.

Q Okay. What was really cool and why?

A Throwaway line.

Q Meaning?

A Meaning I'm in the middle of other things, that was really cool.

Q Well, as to your recollection, were you aware that Vice President Biden referenced the letter and then characterized it as he did when you responded to Mr. Tarbell's email?

A Yeah.

Q Okay.

A But I hadn't read the content.

Q The content of what?

A The debate.

Q Of what Biden said?

A Yeah.

Q So I just want to be clear for the record. So when you said, that was really cool, it was -- you weren't commenting on the substance that he referenced the letter that you all participated in issuing?

A It was a throwaway line like I'm just responding to him.

Q Okay. But you could see how reading it today it looks like --

A I absolutely see that.

Q -- right. It looks, Hey, you were like excited that they -- he mischaracterized your letter, and he got the upper hand on this point. I mean, that's a fair reading looking at with all the evidence the committee has before it.

A I would disagree with it.

Mr. Lankford. Objection. That's your opinion.

Ms. Wood. It is your opinion.

Mr. Lankford. It's not hers.

BY MR. [redacted]:

Q And your opinion is what?

A My opinion is I was in the middle of dealing with something with my son, and I'm on my phone in Maine. And, you know, responding to something that's innocuous that I hadn't even got involved in.

Mrs. Spartz. But at that time you realized that it was politically used, that letter, correct?

Ms. Wood. No.

Mrs. Spartz. So TP worked well during that debate. You said, until recently you

had no idea that that actual letter's been used in the debate in any way? When did you learn about that then?

Ms. Wood. So I think it was several days. I don't remember what it was. But Michael sent a note out. He sent this note out. I think he said something else. I said very cool, too. Like, I'm just kind of trying to make this go away because I've got other stuff to do. This isn't a job, this was a favor.

Mrs. Spartz. But when did you learn that it was politically used?

Ms. Wood. I don't remember.

Mrs. Spartz. I mean, it was within a few days after this debate, or within a few months, or after the election?

Ms. Wood. It definitely wasn't after the election before then.

Mrs. Spartz. Or have you talked to and then brought that issue to people that prepared this letter and raised an issue with that?

Ms. Wood. I have not.

Mrs. Spartz. So you didn't have concerns until recently that it was politically used?

Ms. Wood. It just didn't register. It just didn't register with me at the time. I was so profoundly concerned about my son that I just -- I mean, like all this stuff just had to go away. And so throwing away a throwaway line that people stopped bothering me -- very cool, that was cool, just, like, leave me alone.

BY MR. [redacted]:

Q I want to direct your attention to the same exhibit email from Mr. Morell?

A Uh-huh.

Q The last paragraph.

A Uh-huh.

Q I think this is the most important election since 1860 and 1864 when the very existence of the country was on the ballot. Now, it is our democracy and the Constitution that are on the ballots. We all, of course, took an oath to preserve, protect, and defend the Constitution. I think all of you did that yesterday by signing the letter. Thank you. Do you recall receiving that email?

A I do.

Q Okay. Do you share Mr. Morell's opinion on the importance of the 2020 election?

A I think it was very important. I actually think all of our elections are very important.

Q Okay. Okay. Excuse me. Well, let be me very clear. Do you share his view that the election of 2020 is the most important since 1860 and 1864 during the Civil War?

A I am sorry, but I am not an election historian. Like I haven't studied U.S. election history, so I wouldn't feel qualified to comment.

Q That's fair enough as it goes. But you recognize the timeframe as the American Civil War, correct?

A Uh-huh.

Q And we're just trying to completely understand everyone's motivation as to how they came to this public statement, what their intentions were. Clearly, you're saying their intent was different from Mr. Morell's as it relates to making Joe Biden become the next Presidential candidate. So when we read something like this, we're just trying to get a sense of where everyone stood. It just helps the committee have a full record. Do you share this view?

A I think it was an enormously consequential election. I think I have seen

many of them. And I wildly agree we took an oath to preserve and protect to defend the Constitution, right? So it's this idea that we all get due process.

Q Okay. Were you pleased with the results, the outcome of the 2020 election?

Mr. Wilson. That's a private -- she doesn't have to answer that question.

Mr. [redacted]. It's voluntary. She doesn't have to answer the question.

BY MR. [redacted]:

Q Is it fair to say you did not want President Trump to become President?

Mr. Wilson. You don't have to answer that question.

Mr. [redacted]. Okay. Well, certainly Mr. Morell answered that question. He was coordinating with the Biden campaign.

Mr. Wilson. Well, then ask Mr. Morell.

BY MR. [redacted]:

Q Ultimately, were you satisfied that the public -- well, let me ask you this: In your view, did the public statement you and others signed help contribute to the election of Joe Biden to be President of the United States?

A No. I don't think it was that important.

Q Are you aware that former Attorney General Bill Barr stated that he believes that the election was so close that public statement may have very well got Joe Biden elected President?

A I am not aware of that.

Chairman Jordan. Let me go back, Ms. Wood, to your response. You said, That was really cool. And I understand understood what you said. We certainly appreciate the situation you're dealing with in your family. But what does "that" reference?

Ms. Wood. I have no idea.

Chairman Jordan. So what --

Ms. Wood. I mean, it looks like it's a reference to the below. All I could say is I'm trying to get these people to leave me alone. Like coordinating or sending notes out as a favor for a friend in the middle of lots of other things in my life, I just needed it to stop.

Chairman Jordan. Fair enough. But I would say most people would have said, Thank you. I hope you are well, Mr. Tarbell. You didn't say that. You said "that," in reference I would assume to what he sent you, which is talking points work well during the debate. And you said, "That was really cool." And I am just asking what ask is "that"? The word "that" refer to? Does it refer to what I think anyone looking at this exchange would conclude it refers to or doesn't it?

Mr. Lankford. Object to the form of the question; testifying.

Chairman Jordan. Does it refer to your point --

Mr. Lankford. Do you remember?

Ms. Wood. I don't. I just don't remember.

Mr. Lankford. Thank you.

Chairman Jordan. Okay.

Mrs. Spartz. Within this here in this email, you know, it says: Politico did a nice job getting out the story of our letter. Here is a link to the article for those who have not seen it. Have you looked at the title of that article?

Ms. Wood. I don't recall that I was on -- in and out of WiFi for days. This just wasn't on my list of after action. Like it didn't matter to me.

Mrs. Spartz. But when you looked at it, did you see the report and Natasha Bertrand, are you familiar with her?

Ms. Wood. I don't know who she is.

Mrs. Spartz. You never heard about in The Washington Post story that he bootstraps [inaudible] on MSNBC, you are not aware about her?

Ms. Wood. I don't know who she is.

Mrs. Spartz. You never talked to her?

Ms. Wood. No.

Mrs. Spartz. So you generally learned about the article later and didn't give any significance to anything?

Mr. Lankford. She remembers the threats she has gotten. Do you want to ask her about those?

Mrs. Spartz. No, I'm just about, specifically, the article. You didn't think much of it?

Ms. Wood. Which article?

Mrs. Spartz. You know, the Politico article. You did care that it was used and how it was at all. Like, you just wrote the letter, article, debate -- you don't care at all. You put your name with your credential to information that you didn't really check, and the people say you discuss, and you generally say, Well, too bad, I don't have time, but I still was putting my time on there. Is that kind of how you can characterize?

Ms. Wood. No, I don't. I would not characterize it that way at all. I think I don't -- I would not characterize this that way at all. I think that's wildly unfair.

Mrs. Spartz. How would you characterize your not doing due diligence, not looking how it was used with the debate, and --

Ms. Wood. So there were 51 people who signed this letter, many of them what I call what we call seniors, right, and former leaders of organizations. And my job was logistics. The thing I did was send it out for other people to sign. I didn't write it. I didn't edit it. Like the politics of this were not my thing. I don't -- I'm just not that

good at a political thing. The whole point for me was to get the message out that we needed to be cautious on this because it was yet another -- potentially yet another way that Russians were interfering in our elections. And so, the outcome afterwards, whatever, it didn't matter to me.

Mrs. Spartz. But did you learn about the politics before or after the election that it was politics involved in this?

Ms. Wood. After the election, more recently, and contemporaneous with all of this.

Mrs. Spartz. So you truly believe it was just pure, not political before no one raised to you that it could have been politically used?

Ms. Wood. It just wouldn't be a way -- we don't -- I mean, as national security professionals, it's very rare of CIA in any way to talk about politics in any way.

Mrs. Spartz. Okay.

Mr. [redacted]. I think that's our time. Off the record.

[Discussion off the record.]

[1:34 p.m.]

Ms. [redacted]. We're back on the record.

BY MS. [redacted]:

Q All right. So I want to start out by cleaning up some misrepresentations that were made in the last hour.

With respect to what Mr. Morell's purpose may or may not have been -- or his impetus for writing the letter, you said you learned about that from the majority's report, correct?

A [Nonverbal response.]

Q Okay. Are you aware that the majority's --

Mr. Wilson. Say "yes" or "no."

Ms. Wood. Oh, sorry. Yes.

BY MS. [redacted]:

Q Sorry. I should have caught that as well.

Are you aware that the majority's report did not fully quote Mr. Morell?

A No.

Q Okay. So I want to read into the record the full statement. So I believe the majority's report quoted Mr. Morell as saying that he had received an email from Mr. Blinken -- who was, at that time, a member of the campaign -- who had provided him with a link to the laptop story or sent him the laptop story.

Mr. Morell said repeatedly that Mr. Blinken -- nobody -- neither Mr. Blinken nor anyone else from the campaign actually asked him to write the letter. And here's the language. The question was asked, actually, by majority counsel during his interview.

"When he called you," meaning Mr. Blinken, "did he direct, suggest, or insinuate in any way that you should write a letter or statement on this topic?"

And Mr. Morell responded, "My memory is that he did not, right? My memory is that he asked me what I thought."

The question then was, "Okay. It wasn't. The campaign could use some help on this. Could you" --

Mr. Morell answered, "He did not say that."

The question was asked continuing, "Could you cook up something that we could use?"

Mr. Morell answered, "It's not my memory that he said that."

The question was asked, "Why do you believe he called you, then, and asked for your opinion on this?"

Mr. Morell said, "You know, Tony and I were fairly close. I mean, I wouldn't say we were close friends, but Tony and I were fairly close. During our time in government when he was the Vice President's national security advisor and then when he was President Obama's national security advisor, I would be the person he would reach out to with those kind of questions. When we saw each other post the Obama administration, we would have conversations about what was going on in the world. He would ask me questions. So it was, in part, natural, you know, for him to do that. But, you know, he asked me a specific question here. You know, he'll have to tell you what his intent was, right, in asking me."

So I just wanted to correct the record on that. Was that information available to you before I read it to you just now?

A Huh-uh.

Q Okay. Can you say "yes" or "no" for the record?

A No.

Q Thank you.

On the question of keeping you in the dark -- and I realize you had a lot going on at this time, but I do want to just look at two exhibits where he did make that -- potentially make this information available to people that received the email.

So do you want to turn to exhibit Number 5? And this is the email from Michael Gmail New, which I'll represent to you is Mr. Morell's email address, to Mark Polymeropoulos, and then others were bcc'd.

A Uh-huh.

Q The second -- I guess it's the first full paragraph after the "to all." It reads, "Marc and I drafted the attached" -- which is a reference to the attached statement -- "because we believe the Russians were involved in some way in the Hunter Biden email issue and because we think Trump will attack Biden on the issue at this week's debate, and we want to give the VP a talking point to use in response." Did I read that correctly?

A You did.

Q So recognizing, again, you had a lot going on. You maybe had not read this clearly. Maybe you didn't receive this directly.

But he did make that clear to at least some of the recipients of the letter, correct?

A Uh-huh.

Q Okay. And then if you can turn to exhibit -- sorry. Which exhibit? Exhibit 7. Sorry.

This is the email chain between you and Mr. Slick -- you and Mr. George that was then forwarded to Mr. Slick.

A Got it.

Q So the last email -- and this is the version that we introduced, the complete chain.

A Okay.

Q The last email, which is on the last page, you forwarded the email along, and you forwarded that language from Mr. Morell saying, "We think Trump will attack Biden on this issue at this week's debate, and we want to offer perspectives on this from Russia watchers and other seasoned experts."

So the fact that it was potentially going to come up in the debate, it was known -- and, again, I realize you had a lot going on, but it was -- Mr. Morell wasn't trying to hide the ball on that necessarily. Is that fair to put it that way?

A I would put it that he said this, right?

Q Uh-huh.

A "Offer perspectives on this from Russia watchers and other seasoned experts."

Q Okay.

A That's the part I remember.

Q Okay. But he wasn't hiding the fact that it was coming up in the context of the debate. Is that fair to say?

A True.

Q Okay. Okay. I'm going to move on to the Politico article that was discussed. And when the majority brought it up, they said they just wanted to focus on the headline. I actually want to look at the rest of the article.

A Okay.

Q So if you'll turn the page away from the headline. The very first paragraph, you see that it says, "More than 50 former senior intelligence officials have signed on to a letter outlining their belief that the recent disclosure of emails allegedly belonging to Joe Biden's son, quote, "has all the classic earmarks of a Russian information operation," end

quote.

Do you see where "signed on to a letter" is written in blue?

A It is.

Q I'll represent to you that that's a link to the -- a hyperlink to the actual letter.

A Uh-huh.

Q So in the text of this article, the very first line actually links to the letter that said exactly what you said. It didn't have any commentary. It was the letter itself. Is that fair to say?

A If you are representing that that's the link, then yes.

Q Okay. And then it quotes you as saying, "It has all the classic earmarks of a Russian information operation," not that it was an actual Russian information operation.

A Yes.

Q Is that fair to say?

A Yes.

Q If you'll turn the page. So this is page 3 out of 7 as this article is printed out. The paragraph right in the middle begins, "Director of National Intelligence John Ratcliffe."

A Uh-huh.

Q That references John Ratcliffe's statement, right? It says, "Director of National Intelligence John Ratcliffe said on Monday that the information on Biden's laptop is not part of some Russian disinformation campaign, though the FBI is reportedly conducting an ongoing investigation into whether Russia was involved," right?

A [Nonverbal response.]

Q Sorry. For the record.

A Yes.

Q So this actually says -- it actually directly references John Ratcliffe's statement in the text of the article. Is that fair to say?

A Yes.

Q And I will represent to you that the hyperlink to "said on Monday" is a link to Mr. Ratcliffe's remarks themselves, just the way there's a link earlier to your letter itself.

A Uh-huh. Okay.

Q And then if you'll turn the page again, in the middle of the -- sorry. It looks like you have --

A No. Is the hyperlink, "FBI is reportedly conducting an ongoing investigation" --

Q It's a hyperlink to a Politico article about the FBI conducting an ongoing investigation.

A Okay.

Mr. Lankford. And that demonstrates my point that the FBI reached no conclusion.

BY MS. [redacted]:

Q As far as -- I mean, I think we had testimony earlier that the story is still being written on that. So I think it's fair to say, if you'll agree, that the FBI, to my knowledge, has not put out anything public, and you've testified that, to your knowledge, the FBI has not put out anything public.

A That's correct.

Q If you'll turn the page, on page 4 of 7, which is -- let's see. That paragraph right in the middle. It says, "We want to emphasize that we do not know if the emails provided to the New York Post by President Trump's personal attorney Rudy Giuliani are genuine or not, and that we do not have evidence of Russian involvement," the letter

reads.

So that directly quotes to the portion of your letter where you say you don't have -- you don't know if the emails are authentic or not, correct?

A Yes.

Q Okay. So whatever the headline of this article says, the body of the article references both John Ratcliffe's statement, correct?

A Yes.

Q And it references the text of your letter that explains that you don't have access to nonpublic information. Is that correct?

A Yes.

Q Okay. I want to talk about -- we talked about John Ratcliffe fairly extensively in the prior hour, and I want to touch on him again briefly.

You said that you did not find his statement credible in part because it was released 5 days after the New York Post story, correct?

A Uh-huh. Yes.

Q And it was released -- we walked through the Fox News article on October 19th, 2020, correct?

A Yes.

Q Which was actually the day before the second debate, correct?

A Yes.

Q Did Mr. Ratcliffe's statement have any disclaimer in it that it was being released in advance of the debate?

A No.

Q Did he say that publicly that he was doing that to give President Trump a talking point to use at the debate?

A No.

Q And Trump, in fact, did reference the, quote, laptop from hell at the debate, correct?

A Yes.

Q Okay. So it's entirely possible that Ratcliffe made his remarks in the hope that they would impact the debate. Is that fair to say?

A I wouldn't speculate.

Q But it's possible?

A It's possible.

Q Okay. Are you aware that on September 29th, 2020, Mr. Ratcliffe also released information about Hillary Clinton that has been widely acknowledged to be Russian disinformation by both Special Counsel Mueller and the then Republican-led Senate Intelligence Committee?

A I am not.

Q Okay. I am going to introduce as exhibit 21 -- is that right -- a New York Times article entitled, "Top intelligence official releases unverified, previously rejected Russia information." And we are going to look at the very first paragraph of this article.

A Okay.

[Wood exhibit No. 21

Was marked for identification.]

BY MS. [redacted]

Q And let me know when you're ready.

A Is there a particular part?

Q So I'm going to look at the very -- we're going to look at the very first two paragraphs.

A Okay.

Q I'm sorry. Actually, the first three paragraphs.

Are you ready to continue?

A Yes.

Q So according to this article, on September 29th, Mr. Ratcliffe, who was then the Director of National Intelligence, released unverified information about the 2016 campaign that was said to be disclosed over the objections of career intelligence officials, who were concerned that the material could be Russian disinformation. Is that fair to say?

A That's what the sentence says.

Q And according to this article -- are you aware that September 29th, 2020, was just 35 days before the November 3rd, 2020 election?

A No.

Q Okay. And are you aware that September 29th was also the day of the first Presidential debate?

A No.

Q Okay. So according to this article, Mr. Ratcliffe actually released this information, which appeared to be a bid to help Mr. Trump, hours in advance of that Presidential debate? Do you have any reason to doubt the veracity of this article?

A So that information was released. I don't doubt that. So this is where I get to the content, right? My concern would be over the objections of career intelligence officials.

Q Uh-huh. Understood.

But it's without a question that he did release information designed to impact the election hours before the first debate, right?

A Yes.

Q Okay. Mr. Ratcliffe was the Director of National Intelligence in September 2020, correct?

A He was.

Q Would you agree that it's inappropriate for the Director of National Intelligence to be engaging in partisan activities or trying to impact the election while sitting in his office? I mean, while an active official?

A I would say it's unprecedented, to my knowledge, and not having -- where I'm reluctant to comment is not having access to the backstory of how this came about. But in general, when these kinds of things come out, timing isn't considered. It's, you know, when do I need to say what. So the timing is quite suspicious, and I'd want to know more.

Q Okay. And I can tell you that our members would also like to know more.

To your knowledge, is this committee or the House Intelligence Committee investigating Mr. Ratcliffe's actions?

A I do not know.

Q Okay. And I can represent to you that they are not.

I want to move on. There was a lot of discussion earlier about suppression and the suppression of the New York Post story.

The majority's report -- have you read the majority's report or their interim report?

A I have.

Q So you're aware that their interim report references --

Ms. Wood. I said I have. I said it out loud.

Mr. Wilson. Okay. It sounded pretty mumbled over here.

Ms. Wood. Sorry.

BY MS. [redacted]:

Q So are you aware that the majority's reference to suppression is a reference to social media companies' reaction to the New York Post story?

A I assumed that's what they meant.

Q Okay. Sorry. One moment.

So your letter was published on October 19th, 2020, correct?

A Yes.

Q Okay. Are you familiar with the date of the New York Post story?

A No.

Q Okay. I'll represent to you that it was October 14th, 2020.

Are you familiar with the date that Twitter suppressed the story?

A No.

Q Okay. We're going to introduce as exhibit 22 a New York Times story, which was published on October 16th, 2020, and it's entitled, "In reversal, Twitter is no longer blocking New York Post article."

[Wood exhibit No. 22

Was marked for identification.]

Mr. Lankford. When you say "your letter," I assume we all know --

Ms. [redacted]. Sorry. The October 19th public letter. Thank you. I should be more specific.

BY MS. [redacted]:

Q Have you seen this before?

A I have not.

Q Okay. Do you want a minute to review it?

A Sure.

Q Okay.

You ready to continue?

A Uh-huh.

Q So according to this article, by October 16th, 2020, Twitter was no longer doing anything to prevent the sharing of the New York Post story. Is that correct?

A That's what the article says, yes.

Q So if the public letter that you signed was released on October 19th, 2020, there's no way it could have had any impact on Twitter's decision regarding the story either way, correct?

A Correct.

Q Okay. Are you familiar with the day that Facebook took steps to limit sharing of the story?

A No.

Q Okay. I'm going to introduce as exhibit 23 an October 15th, 2022 article from Business Insider.

[Wood exhibit No. 23

Was marked for identification.]

BY MS. [redacted]:

Q It's entitled, "The New York Post's dubious Hunter Biden article was shared 300,000 times on Facebook even after the company said it limited its reach." And I'll give you a minute to read through this?

A Okay.

Q Okay. So according to this article, Facebook made the decision to attempt to limit the sharing of this article at least by October 15th, 2020. And I think it says it

was on Wednesday morning, which would have been the 14th. Is that accurate?

A Yes, that's what it says.

Q So, again, if the letter that you signed was published on October 19th, there is no way that it could have impacted Facebook's decision to limit sharing of that article, correct?

A That's correct.

Q And in fact, on page 4 -- the last paragraph on this page -- it says that Facebook's approach was in accordance with a policy it implemented in late 2019, correct?

A Yes.

Q So it was not in reaction to your article, correct?

A Yes.

Q Or the letter you signed, correct?

A Yes.

Q Okay. Now, with respect to media companies more broadly, are you aware that Rudy Giuliani actually first approached Fox News and asked them to report on the alleged laptop?

A No.

Q And are you aware that Fox News declined to run the story because it had credibility concerns with that story?

A No.

Q Okay. We'll introduce as exhibit 24 an October 19th, 2020 story entitled "Exclusive: Fox News passed on Hunter Biden laptop story over credibility concerns."

[Wood exhibit No. 24

Was marked for identification.]

BY MS. [redacted]:

Q I actually want to note not just the date of this article but the time stamp of this article. The time stamp on this article is 11:42 a.m.

A Okay.

Okay.

Q Okay. So according to this article, Giuliani approached Fox News with the story, and Fox News had concerns both about the lack of authentication of the laptop and established concerns about Giuliani as potentially not being a reliable source, right?

A That's what it says, yes.

Q So Fox News had passed on the story. Again, we don't know when that was, but we know this article was published at 11:42 in the morning on October 19th, 2020.

The Politico article, which published your letter publicly -- the October 19th letter publicly -- was published at 10:30 p.m. EDT on the 19th, correct?

A Yes.

Q So if your article -- if the letter that you signed came out after this article was even published, Fox News must have passed on the story well before your public letter was made public, correct?

A Yes, correct.

Q So it could not have impacted the Fox News decision?

A Correct.

Q And in fact, a number of Fox News anchors are cited in here as saying, for example, let's not -- let's say just not sugarcoat it. This whole thing is sketchy.

That's a quote from Bret Baier, correct?

A That's what it says, yes.

Q And Chris Wallace called the story suspicious and said, "I can understand the concern about the story. It is completely unverified, and frankly, Rudy Giuliani is not the most reliable source anymore. I hate to say it, but it's just true," correct?

A Yes.

Q So clearly, a number of -- a number of Fox News anchors had expressed concerns about the story well before any letter from you or anyone -- from you or any of your cosigners had come out?

A Yes.

Q Okay. All right. All right.

We've discussed the timing of the letter fairly extensively.

A Uh-huh.

Q On October 19th, 2020, you were a private citizen, correct?

A That's right.

Q Mr. Morell was a private citizen?

A Yes.

Q Even Mr. Blinken was a private citizen, correct?

A I --

Q He was a member of the Biden campaign?

A Yes.

Q Okay. And to your knowledge, were all of the signatories of the October 19th letter private citizens?

A Yes.

Q Would you agree that, as a private citizen, you have a right to sign a public letter like that?

A A First Amendment right.

Q Okay. And would you agree that the First Amendment protects and continues to protect -- protected then and continues to protect now your right to make statements such as those contained in the public letter?

A I would.

Q Okay. To the extent that there has been some suggestion made today that you do not have the right to engage in that type of political speech or that you do not have the right to use your title when engaging in that political speech, do you agree that would amount to potentially censoring your ability to make public comments?

A That's a great way to describe it.

Q Okay. You talked through earlier -- you had presented a list of public -- other public letters that had made statements?

A Uh-huh.

Q And actually, I was going to introduce it into the record, but I'm not sure we have copies for everybody. But the comment was made that all of those letters were in support of Biden or, I guess, opposing President Trump.

I want to introduce two exhibits now. They're going in together because the first is a public letter from 235 former military leaders entitled, "Open letter from senior military leaders," which is in support of President Trump. It's not dated, but I'm going to introduce along with it a Fox News article that dates it at on or about September 14th, 2020. So the whole purpose of the Fox News article is to provide dates to that article --

A Perfect.

Q -- that letter.

So we'll introduce the letter itself as exhibit 25 and then the Fox News article, to place the date on it, as exhibit 26. The sole purpose of the article is to date the letter.

[Wood exhibit Nos. 25 and 26

Were marked for identification.]

Ms. [redacted]. If you want to read it, feel free, but --

Ms. Wood. I'm good.

Mr. [redacted]. Is this part of 25?

Ms. [redacted]. The open letter is 25 and the Fox News article is 26. They're just two different documents. So to keep it clean, we're going to introduce them separately.

Ms. Wood. Okay.

BY MS. [redacted]:

Q Okay. Have you seen this letter before today?

A I have not.

Q Okay. So the -- briefly, this letter says that the 2020 Election could be the most important election since our country was founded, and it argues that the Democrats' opposition to border security, their pledge to return to the disastrous Iran nuclear deal, their antagonism toward the police, and planned cuts to military spending will leave the United States more vulnerable to foreign enemies. And it then goes on to urge Americans to support the reelection of Donald Trump.

Is that a fair summary?

A It is.

Q Okay. The signatories to this letter are all retired Air Force and Navy and other flag officers, right?

A Yeah. Army as well.

Q Okay. And Army?

A Yes.

Q And they signed this using their official titles, correct?

A Yes.

Q In your experience, do flag officers often have security clearances while they are active officers?

A Yes.

Q Okay. Regardless of whether you agree with the contents of this letter, would you agree that these 235 military leaders had a right to express their opinions in this letter?

A Absolutely.

Q And to publicly sign this letter?

A Absolutely.

Q Okay. I'm going to introduce a transcript from the first Presidential debate. This is going to be exhibit Number 27, and this is just an excerpt.

[Wood exhibit No. 27

Was marked for identification.]

BY MS. [redacted]:

Q Again, the full transcript, I think, is several hundred pages -- or it's, like, 90 pages long. So we're introducing an excerpt. This is 27.

A Uh-huh. The part in yellow?

Q Uh-huh.

So during the first Presidential debate, President Trump said, "As far as the church is concerned, and as far as the generals are concerned, we just got the support of 250 military leaders and generals. Total support. Law enforcement -- almost every law enforcement group in the United States. I have Florida. I have Texas. I have Ohio."

Based on what I just read to you, is it accurate to say that the senior military leaders' letter in support of Trump was released prior to the first Presidential debate and that -- go ahead.

A Yes.

Q And that the letter from the military leaders, in fact, played a role at that debate?

A It was a talking point.

Q Okay. And I realize we just said that the senior military leaders -- that you agree the senior military leaders had a right to participate in the political process?

A 100 percent, yes.

Q To your knowledge, is the committee investigating the reasons that these leaders signed this letter?

A Not to my knowledge.

Q Okay. And I'll represent to you that they're not.

Turning back to the letter, the October 19th letter that you did sign, the closing line states that, "It is high time that Russia stops interfering in our democracy."

Is it fair to say that the focus of the letter was actually a concern about Russia and not the Presidential candidates themselves?

A Yes.

Q Okay. In your opinion, was the letter true and accurate?

A Yes.

Q Okay. We talked about this a little bit in the prior hour. I want to find out a couple more details from you.

Has the aftermath of signing this letter, such as the fact that you're involved in this investigation, that your name has been in the New York Post -- has that negatively impacted you in any way?

A Oh, yes. Absolutely.

Q How so?

A Several ways. First of all, I've received death threats. I've received vicious calls, texts, emails from all sorts of random people. Mike Flynn -- General Flynn posted on Telegram all of our names and said, you know, let them know how we feel. It unleashed this viciousness that had several other folks calling the police, calling the Threat Management Unit at CIA, to let them know what was happening.

And so for the first time ever, I looked at getting a gun and getting a concealed carry permit because it's not just that people have been mean or say horrific things, but we've seen them take action. And so that feeling of vulnerability for speaking, exercising a First Amendment right, and for saying what I thought was as obvious as there's air in -- there's air. Let's just let the FBI do their work.

It has a profound effect on health as well. I've been to the emergency room for stress because of all of this. And so when you ask would I do this again, I would insist on a little more precision of language. But it has the effect of censoring people who have more than a thousand years of experience in this topic. And I would think the focus would be on stopping Russia and not on what feels like persecution.

Mr. Wilson. I want to add, one of our other clients has gone completely anonymous because of the amount of threats she's gotten. They've changed their email -- their snail mail address. You cannot mail them directly, you cannot find them, solely because of the threats resulting from being -- signing that letter and being named in this investigation. After General Flynn put out his missive, it jumped off the chart.

Ms. Wood. And then the New York Post "Spies who lie."

Mr. Wilson. Yeah.

Ms. Wood. And so we're, by nature, measured, careful, judicious, and we aren't prone to being in the public. Like -- so that this has happened has a profound effect on my life. So when you ask, would I do it again, the calculation isn't the politics. It's the

personal safety.

BY MS. [redacted]:

Q Okay. And you feel that you are in fact -- your personal safety has been threatened?

A Absolutely. And I'm dreading this, whatever leaks out of this or comes out of this, because it will start all over again.

Q Do you think the fact that you and the others who have signed the letter are being so publicly investigated and have been the subject of the New York Post article and other -- Mr. Flynn's Telegram post, as you referenced -- do you think that could have a chilling effect on others -- perhaps in, for example, the 2024 Election -- others who may be considering making public statements about the election?

A 100 percent.

Mr. Lankford. It takes away the voice of a lot of people who have experience and backgrounds that we need in service of the American Nation. And that's what is so repulsive. It chills them. And I think Ms. Wood has really said it quite well.

Ms. Wood. I just think we all took risks. When you're overseas, you're in a war zone, you're in harm's way. Some ops officers are doing the most amazing, brave things. And to come back to this country and have some of the greatest threats come to us from the fellow Americans and allegations that are pumped up by all of this is just really -- it's really disheartening.

Ms. [redacted]. Thank you. We can go off the record.

[Recess.]

Mr. [redacted]. On the record.

BY MR. [redacted]:

Q Ms. Wood, I think you've sort of -- if not alluded to this, you've sort of

answered this question.

But did you have any discussions with the Biden campaign in relation to the public statement at the time that you signed it?

A No.

Q Okay. So no discussions with Tony Blinken?

A Nobody.

Q Okay. Have you had any subsequent conversations with anyone from the Biden campaign?

A No.

Q Okay.

A Nor the Biden administration.

Q Okay. Did you have any role in disseminating the public statement to the press?

A No.

Q Okay. Did you do any press in connection with the public statement?

A No.

Q Any media hits? Anything like that?

A No.

Q Okay. Were you asked to do any media in connection with it?

A No.

Q Okay. Now, if you've read the report, then you're probably familiar with --

Mr. Wilson. The report?

Mr. [redacted]. I'm sorry. The interim staff report that the House Judiciary Committee released in connection with this investigation.

Mr. Wilson. Thank you.

Mr. [redacted]. Thank you.

BY MR. [redacted]:

Q You're probably familiar with information that David Cariens provided to the committee. Specifically, he indicated that someone at the PCRB, the preclassification review board at the CIA, read the letter to him and asked him if he would sign. Are you familiar with this claim that Mr. Cariens has made?

A I've only seen it through the document that is part of the interim report.

Q Given that representation he's made, what are your views on that?

A I would be shocked if it was true.

Q Okay. Do you know Mr. Cariens?

A In passing.

Q Okay. Have you had dealings with the PCRB in the past?

A Many.

Q Okay. And what -- could you explain?

A Right. So in writing articles, op-eds, podcasts, things like that. We have a lifelong duty to have them review anything we do to check for classified information. So over the course of the 7 or 8 years since I left government, I've probably sent two, three dozen pieces to them in writing, and they always respond in writing.

Q Okay. So email communications?

A Yes.

Q Okay. You've never had verbal interactions with anyone at PCRB?

A Not related to publications.

Q Okay. So do you write op-eds regularly?

A I wouldn't say regularly, but I have.

Q Okay. And what is the turnaround usually if you have, say, an 800-word

op-ed?

A A day, 2 days. It depends on how busy they are and then if you give them a deadline. So if you say this is urgent for tomorrow, then it gets done pretty quickly. If you say, I'm fine, it's going to be a couple -- I don't need this for a couple weeks, they'll take a little bit longer.

Q Have you had sufficient time to think about the question I posed to you earlier?

A If you can reframe it because I'm a little muddled in my head.

Q Yeah. Let's hope I get this right.

It was to the effect of, given everything you know -- Mr. Morell's coordination with the Biden campaign, et cetera -- do you believe the public statement should have had a caveat that this was done on behalf of Joe Biden's candidacy?

A I don't think so. And I think, as the last hour -- the expansion of his testimony was that he didn't -- wasn't directed to do it. And I do think -- and one of the important things here is, as former national security officials, we have great insight into this area of focus. So providing that insight is really important, and doing it in a fair and balanced way is really important.

Q Would it be fair and balanced to indicate that Morell was in contact with the Biden campaign to disseminate the public statement?

A Is that what the testimony said? I didn't --

Mr. Wilson. You have no knowledge of that.

Ms. Wood. I don't have knowledge. I don't know.

BY MR. [redacted]:

Q But you know -- you did say it was unfair, right? Mr. Morell ultimately keeping you in the dark about his communications with the Biden campaign?

A I just said we should have known.

Q Okay. And you should have known because it would have been an important fact to consider in whether or not you signed the letter, correct?

A So I think the bigger fact for me is what we just talked about, which is the consequences and the threats and the way life has become so much more difficult after the targeting from whatever kind of extremists you want to call them against me and others who have signed the letter. So my greater hesitation is much more related to not wanting to put myself and my family through that.

Q Understanding all of those concerns are very important, as they are.

My specific question is, given everything you now know about how the public statement came into fruition with Mr. Morell and his communications with the Biden campaign, it is not your view that the American public should have been informed as to that relationship with respect to --

A It's a double negative.

Mr. Wilson. I got lost in the negatives. I'm sorry.

Ms. Wood. I do not think --

Mr. Wilson. Let's let him rephrase.

BY MR. [redacted]:

Q I'll rephrase it. At the end -- this isn't really a trick question, even if I'm unartfully asking it.

You should have known that Mr. Morell did this in part to help Joe Biden become President. Why is it not equally true the American people should have known that motivation? That's my question to you.

A I think you can be both things. So if I'm correctly paraphrasing the testimony and, you know, that's an if, he said he had two reasons. One is that the

Russians -- he was very concerned that the story was a misinformation, information operations, whatever label you want to get it. Part of that broader concern with Russians involved in our election.

And then the second thing is he said he has supported President Biden in the election. And I think those two things can exist.

Q Right. But the letter only speaks to one of those things, not the second part.

Mr. Wilson. I deny the premise there.

Mr. [redacted]. Okay. Fair enough. Your denial is noted.

BY MR. [redacted]:

Q So given your considered view, the letter speaks of one. Why not speak of the other? Again, if the concern is letting the American people know all of the facts --

A Because the purpose of that letter was to let people know that this could be a Russian -- part of a Russian disinformation campaign. Part of the ongoing Russian disinformation campaign. And that was the broader purpose of the letter.

Q And it could also be to help Joe Biden become President. Fair?

A That may have been Michael's purpose, but you'd have to ask him. I don't have the testimony exactly.

Mr. [redacted]. Okay. We'll go off the record.

[Whereupon, at 2:24 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: [redacted]

Wednesday, May 24, 2023

Washington, D.C.

The interview in the above matter was held in room 2237, Rayburn House Office Building, commencing at 10:01 a.m.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

[redacted] LAW CLERK

[redacted] CHIEF COUNSEL FOR ANTITRUST,

COMMERCIAL, AND ADMINISTRATIVE LAW

[redacted] DIGITAL ASSISTANT

[redacted] SPECIAL COUNSEL

[redacted] INTERN

[redacted] RESEARCH ASSISTANT

[redacted] DIGITAL DIRECTOR

[redacted] PROFESSIONAL STAFF MEMBER

[redacted] SENIOR SPECIAL COUNSEL

[redacted] COUNSEL

[redacted] MINORITY CHIEF OVERSIGHT COUNSEL

For the SUBCOMMITTEE ON CRIME AND

FEDERAL GOVERNMENT SURVEILLANCE:

[redacted] MINORITY DETAILEE

[redacted] MINORITY DEPUTY CHIEF COUNSEL

For the SUBCOMMITTEE ON IMMIGRATION INTEGRITY,

SECURITY, AND ENFORCEMENT:

[redacted] MINORITY CHIEF COUNSEL

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For ALPHABET:

DANIEL F. DONOVAN

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1700 PENNSYLVANIA AVENUE NW

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For [redacted]:

MICHAEL D. BOPP, ESQ.

GIBSON DUNN

1050 CONNECTICUT AVENUE NW

WASHINGTON, DC 20036-5306

[redacted] This is a transcribed interview of [redacted]. Chairman Jordan has requested this interview as part of the committee's investigation of how and the extent to which the executive branch has coerced and colluded with companies and other intermediaries to censor speech.

Would the witness please state his name for the record?

[redacted]. Yeah. My name is [redacted].

[redacted] Thank you.

On behalf of the committee, I want to thank you for appearing here today to answer our questions. The chairman also appreciates your willingness to appear voluntarily.

My name is [redacted] and I'm with Chairman Jordan's staff.

I'll now have everyone else from the committee who's here at the table introduce themselves as well.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] [redacted] Ranking Member Nadler's staff.

[redacted] [redacted] Chief Oversight Counsel for the Judiciary Committee Democratic staff.

Mr. Donovan. Daniel Donovan, King & Spalding, on behalf of Alphabet.

Mr. Bopp. Michael Bopp, Gibson Dunn, representing [redacted]

[redacted] I'd like to now go over the ground rules --

Mr. Bopp. Can't we introduce others in the room?

[redacted] Sure.

Mr. Bopp. Thank you.

[redacted] I'm [redacted] just observing today. I'm on Chairman Nadler's staff -- or, sorry, Ranking Member Nadler's staff.

[redacted] [redacted] I'm the chief counsel for the Immigration Subcommittee.

[redacted] [redacted] also of Jerry Nadler's staff.

[redacted] [redacted] I'm an intern for the House Judiciary Committee, majority.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] Thanks.

I'd like to now go over the ground rules and guidelines that we'll follow during today's interview.

Our questioning will proceed in rounds. The majority will ask questions first for one hour, and then the minority will have an opportunity to ask questions for an equal period of time if they choose. We'll alternate back and forth until there are no more questions and then the interview is over.

Typically, we take a short break at the end of the hour, but if you would like to take a break apart from that, please just let us know.

As you can see, there are official court reporters taking down everything that we say to make a written record. So we ask that you give verbal responses to all questions.

Do you understand?

[redacted]. Yes.

[redacted] So the court reporters can take down a clear record, we'll do our best

to limit the number of people directing questions to you during any given hour to just those people on the staff whose turn it is.

Please try and speak clearly so the court reporter can understand and so the folks down at the end of the table can hear you. It's important that we don't talk over one another or interrupt each other if we can help it, and that goes for everybody present at today's interview.

We encourage witnesses who appear before the committee to freely consult with counsel if they so choose. And it's my understanding you are appearing today with counsel. Is that correct?

[redacted]. Yes.

[redacted] And counsel has already identified themselves. Thank you.

We want you to answer our questions in the most complete and truthful manner as possible, so we will take our time. If you have any questions, or if you do not understand one of our questions, please let us know. Our questions will cover a wide range of topics. So if you need clarification at any point, just say so.

If you honestly don't know the answer to a question or do not remember, it's best not to guess. Just give us your best recollection. And it's okay to tell us if you've learned information from someone else. Just indicate how you came to know the information.

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

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

[redacted]. Yes.

[redacted] This also applies to questions posed by congressional staff during the interview. Do you understand this?

[redacted]. Yes.

[redacted] Witnesses that knowingly provide false testimony could be subject to criminal prosecution for perjury or for making false statements under 18 U.S.C. section 1001. Do you understand this?

[redacted]. Uh-huh, yes.

[redacted] Is there any reason you are unable to provide truthful answers to today's questions?

[redacted]. I don't -- no, I don't think so.

[redacted] Thank you.

Finally, I'd like to make note that the content of what we discuss here today is confidential. We ask that you not speak about what we discuss in this interview to any outside individuals to preserve the integrity of our investigation.

For the same reason, the marked exhibits that we will use today will remain with the court reporters so that they can go in the official transcript, and any copies of those exhibits will be returned to us when we wrap up.

That's the end of my preamble.

Is there anything my colleagues from the minority would like to add?

Ms. [redacted] Not at this time.

Mr. Bopp. One question. What is the transcript review policy?

[redacted] Sure. After we get the transcript, we'll let you know. You can come and take a look for errata

Mr. Bopp. Okay. We have to come in to review it? You can't send us a copy?

[redacted] That's right.

Mr. Bopp. All right.

And how about the video? Can we review that as well?

[redacted] We have not been making the video available to folks.

Are you ready to begin?

Mr. Bopp. Uh-huh.

[redacted] The time is now 10:06. We'll start the first hour of questioning.

EXAMINATION

BY [redacted]

Q [redacted] can you give us your educational background, beginning with college?

A Yes, sure. I studied philosophy, politics, and economics at the University of York in the United Kingdom. And then I hold a double degree from the Universities of Bocconi in Milan and Sciences Po in Paris.

Q And in what?

A Economics and management from Bocconi and international European Affairs from Sciences Po.

Q And can you give us your employment history, starting from the beginning?

A Yes. My very first job was at the U.N. Non-Governmental Liaison Service.

Following that, I worked for a consulting firm called the European House-Ambrosetti in Milan.

Following that, I worked for the United Nations Development Programme in New York City.

Following that, I worked for the Office of the Italian Prime Minister Mario Monti.

Following that, I was the editor of the Italian fact-checking site Pagella Politica, after which I was hired as the founding director of the International Fact-Checking

Network at Poynter Institute for Media Studies in Florida.

I held a three-month position as a researcher at TED Talks in New York City, after which I joined Google in August 2019.

Q Can you tell us which positions you've held at Google --

A Yeah.

Q -- and from what years?

A Yeah. So my first position was as News Credibility Lead at the Google News Lab. I was in that position for about two years. I think I changed roles in April '21.

I was then the product policy manager for Google Search until the end of February of this year, when I was hired as a principal on the Trust and Safety Intelligence team.

Q Okay. And before we go on, can you define misinformation, disinformation, and malinformation the way that you would define them?

Ms. [redacted] And beforehand, can I just ask, [redacted], if you could just slow down a little bit.

[redacted]. Yes.

Ms. [redacted] And I am also a fast talker, so I appreciate it. But it's hard to take notes.

[redacted]. Yes. No, my apologies. I'll do my best.

[redacted] Misinformation, disinformation, and malinformation, the way you define them.

[redacted]. Yeah --

Mr. Bopp. So you're asking for how he thinks of those terms --

[redacted] Yeah.

Mr. Bopp. -- not how --

[redacted] Well --

Mr. Bopp. -- the Google definition of those terms?

[redacted] You can give Google's definition. That's fine.

Mr. Bopp. Well, actually, I mean, I'm not sure he can give Google's definition.

If you are comfortable explaining how you think of each of those terms, then please go ahead.

[redacted]. Yeah. So the question, Google doesn't define misinformation or the others.

Misinformation is inaccurate information. Typically, in the industry parlance, disinformation is inaccurate information spread on purpose.

BY [redacted]

Q So you would say misinformation is not purposeful spreading of misinformation -- or of incorrect information.

A That is a kind of a generally agreed interpretation. But honestly, we spent a lot of time, and these terms get used interchangeably. So it's not a kind of hard-and-fast rule.

Q And what about malinformation? Are you familiar with that term?

A I've heard it used but not really used it myself.

Q Okay.

Just to sort of start, towards the beginning of your career, can you tell us about your work at the Pagella -- I don't know how to pronounce that -- Politica, the Italian?

A Yeah, yeah. It was a fact-checking site. So we would review claims in the public domain against primary sources for their accuracy.

Q I see. So you would review them and put them online? Is that right?

A Correct, via the website.

Q I see. Okay.

There was something about virus talk show. I was curious about that.

A Yeah, we also -- I also presented in a weekly talk show our fact-checks.

Q Okay. And what kind of topics did you fact check?

A The gamut, as the title of the website suggests. It was often claims made by elected officials.

Q Oh, okay. So it tended to be about politics rather than, say, science or something or --

A It tended to be claims by elected officials, what elected officials speak about.

Q Okay. True. That's true. Fair enough.

Can you tell us a little bit more about the International Fact-Checking Network at the Poynter Institute and your work there?

A Sure. So around the 2016, 2017 -- or the 2014, 2015 -- there was a first conference, a meeting of fact-checkers around the world, and the Poynter Institute School for Journalism decided to set up kind of a center to help train, inform, connect these publishers from around the world.

Q I see. And how does fact-checking work? Can you tell us a little bit? Like, how do you decide what's an authoritative source? How do you go about that process?

A Yeah. I mean, obviously I'm no longer a fact-checker, so just to be clear.

Q Yeah.

A Okay.

As part of my then role as a fact-checker, you would consult experts, find authoritative sources on a specific topic, ideally primary sources, sources that explain their data-collection process.

And then -- and I think the crucial part here is point to those sources. Fact-checking really is about this claim may or may not be accurate based on these sources, so that the user themselves can make an informed understanding of whether the evidence does or does not prove the claim they had.

Q I see. Okay.

And does the International Fact-Checking Network, do they work for particular organizations, or do they have their own -- how does that work exactly?

A So it was housed at the Poynter Institute for Media Studies, but it was meant to be an umbrella organization, almost like a convener.

Q Okay. Did you work with Facebook while you were there, or for Facebook?

A So in 2016, Facebook decided to launch a third-party fact-checking program, and a condition to be part of it was to be a verified signatory of the IFCN.

Mr. Bopp. You said a condition to be part of it was what?

[redacted]. To be a verified signatory of the International Fact-Checking Network. Sorry.

BY [redacted]

Q And did you work for particular teams there at Meta -- or Facebook, I guess, at the time?

A So I kind of want to clarify. Like, "work" is a slippery term, right. What --

Q Yeah. I mean, who did you work -- do you recall who you worked with there or --

A I would have had conversations with kind of product managers or people working on that topic. But, no, I don't remember their exact names.

Q Okay. So I guess back to Google -- or we'll go to Google now. I just want to understand a little bit more about the structure.

So Alphabet encompasses Google and YouTube. Is that right? That's the sort of bigger company, and those two are within it?

A Yeah. I mean, I'm not an expert of our org structure, but, yes, I assume that's correct.

Q Are there any other sort of social media companies -- or are there other subcomponents of Alphabet?

A I believe there are --

Q Okay.

A -- bodies of Alphabet, but I'm not -- I don't know all of them.

Q Okay. Do you know how the content moderation teams work there? Like, does Google have one content moderation policy team or --

Mr. Bopp. Let me just make sure I understand your question.

So your first question was, how does the content moderation work there. But then your more specific question is, does Google have a content moderation team?

[redacted] Yeah. Well, I'm asking first about the structure, not the sort of content of how they operate.

Mr. Bopp. Okay. Well, why don't we back up and maybe ask the first question first.

[redacted] Sure.

BY [redacted]

Q Does Google have a content moderation team?

A Yeah. I mean, I think what is called content moderation is typically the work of Trust and Safety. So yes, there is a Trust and Safety team, uh-huh.

Q Okay. And is there a difference between policy, like the people who do policy stuff, and the people who do enforcement?

A Trust and Safety is composed of various kind of subcomponents. There is a product policy team, an Enforcement team. There are other teams. Yeah.

Q Okay. And you're on Trust and Safety now, right?

A I am currently on the Trust and Safety Intelligence team. I was previously on the Trust and Safety product policy team.

Q I see. Okay.

[redacted] What is the difference between those two teams.

[redacted]. Intelligence and product policy?

[redacted] Yeah.

[redacted]. Product policy helps write and manage the kind of the content rules. To clarify, just to make sure, I was on the product policy team for Search specifically. The Intelligence team provides kind of insights for our leadership as to what may -- what content risks there might be out there.

BY [redacted]

Q So you said for Search specifically. Are there multiple product policy teams within the Trust and Safety umbrella?

A Yes, there are.

Q And how many are there, approximately?

A I don't know, but like, large products like Search, like YouTube, like Gmail, or Workspace will have different teams.

Q So there is one team dedicated to Search, one team dedicated to YouTube, one team dedicated to Workplace. Am I understanding you correctly?

A Yes. Uh-huh.

Q And this is all -- I guess, taking one step back, is there one Trust and Safety team for Alphabet as an entity?

A I don't know how to answer that because there are -- I think that it's correct to say there is one Trust and Safety team for Google because I am not familiar with some of the other, so I don't know if individually they have different Trust and Safety teams within them.

[redacted] So your work wouldn't be used for YouTube?

[redacted]. Correct. When I was --

Mr. Bopp. Wait.

[redacted]. Sorry.

Mr. Bopp. "Your work." You mean when he was on product policy? You're

asking whether that work would have been -- whether he would have worked for YouTube at the time?

[redacted] Well, whatever he did, would that be applied to YouTube's content policy or whatever?

Mr. Bopp. I see. Okay.

[redacted]. No. The product policy team I worked on was Search.

BY [redacted]

Q I see. Okay.

And how large is your team right now?

A I'm sorry. Is that the product policy team or Trust and Safety writ large?

Q Sorry. Trust and Safety, yeah.

A I don't have the precise number, but I think it's probably in the 1,000, 2,000 full-time employees.

Q And what about the product policy team?

A Again, kind of take my numbers to the best of my recollection. I think there are probably 150, 200 people.

Q Okay.

[redacted] Specifically for Search?

[redacted]. For product policy.

[redacted] So any -- so just to clarify, your answer was 150, 200 for product policy for Search or product policy across the different product policy teams?

[redacted]. Across the Google product policy team.

BY [redacted]

Q So can you tell us what you do sort of day-to-day now, what your job is, to laypeople?

A In the current job in Trust and Safety Intelligence?

Q Yeah. In Trust and Safety, yeah.

A So as an intel analyst, we look at open source intelligence, internal kind of reporting of things that may have been critical, broken in our various products, to flag potential risks that are more than like a single incident.

So maybe there is a war somewhere around the world, or maybe there is a mass civil protests, and there is content related to that. Maybe it is hateful in nature. We would kind of note that maybe this has happened offline, but that there is a risk that it shows up on our platforms.

Q So you're trying to make sure that it doesn't show up on your platforms. Is that --

A No. I think intel really is upstream of that. It's more a question of this is the universe of risks. It's not our role to make kind of any kind of decision.

Q Okay. So you assess what the risks are and then you report them to another team that takes it from there? Is that --

A Yeah, we serve the broader Trust and Safety organization with kind of alerts about what's happening.

Q Okay. So who would you -- if you say we think this, whatever, war is a problem and maybe we don't want the information -- people to be exposed to that information, who would you bring that to?

A Yeah, we have a variety of internal processes, including kind of a maybe inter-Trust and Safety review fora, and so we would bring those, kind of with a regular cadence, to those fora.

Q So can you tell us the names of anybody that you would bring that to?

Mr. Bopp. Just let's be clear about this. When you say "bring that to," if we can

just be a little bit more specific about "that."

[redacted] The information that they're concerned about.

Mr. Bopp. So the intelligence information?

[redacted] Yeah.

Mr. Bopp. Who would [redacted] communicate that to?

[redacted] Exactly.

BY [redacted]

Q Like, what would be the next step? What would you do, and who would you --

A Yeah, I mean, this directors forum will have maybe 20 to 30 invitees, and they typically are the directors of enforcement, Trust and Safety enforcement for PAs -- sorry, for product areas such as Search, et cetera.

Q And do you know what steps would be taken after that?

A Typically, this information cascades to their teams, and they can maybe see if any of this harmful content has potentially showed up, or if there are any -- yeah, any risks associated to it.

Q So how do you determine what harmful content is? What factors go into that assessment?

A Yeah. We have, even across product areas, a relative set of agreed-upon kind of harmful content type, such as child sexual content, violent and gory content. And so there are these categories, -- phishing, malware -- these are categories that we kind of keep an eye out for.

Q Okay. And excuse my ignorance. I don't understand how these things work that well.

But so you would want to prevent people who are searching terms, for instance,

from coming across this type of --

A So, no. And so I realize that my changing jobs is also not helpful to the purposes of this conversation.

Q I mean, feel free to talk about the previous one, too.

A No, what I mean is like the intel service is for all product areas.

Q Okay.

A And it is never -- Trust and Safety is not -- it isn't -- your question was, is the purpose to avoid people finding this content?

Q Yeah.

A It's more the purpose is to make sure that our teams know whether this content is there and whether it violates existing policies or not. Like, whether we're fine with it being there because of the rules we have set out. It's not kind of a -- yeah.

Q Okay. Do you know -- can you describe what the policies are that are in place?

Mr. Bopp. Which policies?

[redacted] With the policy he just referred to, that he wants to make sure the -- sorry, that they want to make sure the content doesn't violate the policies.

BY [redacted]

Q Can you describe what the policies are?

A I mean, every product area has maybe 15, 20 different policy sets, most of which are public. I can, perhaps, speak to some of the Search policies in my previous role.

But, yeah, I mean, there would be sexually explicit content showing up in a highly elevated structure for Search would be something we wouldn't want to show.

Q What else? Can you give some other examples?

A Sure. Harassing content. Violent content.

Q What about during COVID? Were there any, say, vaccine misinformation content? Was that a category?

A So Search does have a health content policy, yes.

Q And do you know what that is?

A Yes. And just to take a step back again to my previous role to clarify.

So my role in Search was specifically to -- so when you search for a query, most of the results will be blue links, a link out to the type of content you want, a short blurb or just a blue link.

Some of the results will be a box highlighted with bold. Or say you search: What movies are on Netflix right now? You will have something pulled up that is a little bit further than your usual blue links.

Say you search for a person. You'll have like almost like a baseball card representation of that person with their bio and their photo.

Those are the results where the policy I worked on applied, and all that we would do if something was violative of those policies, including health content policy, is deactivate that feature, and the result would return to a blue link.

So it was never my role to remove kind of a link altogether. That's the type of -- that's the features I worked on.

Q But someone's role would be to remove the links altogether?

A To the best of my knowledge, it is a rare case, and it is a legal case rather than a policy case. I think there are certain legal obligations, including around the world, on what can make it -- especially around the world, I believe -- on what can be removed.

Q I see. Do you know what team -- like, who worked on that?

A I believe there is a legal removals team that would be responsible for those.

Q I see.

BY [redacted]

Q Was there an option to downrank content, as opposed to remove it?

A No. This feature, deactivation, was the type of policy lever, enforcement lever that we had in my team.

Q And is this option, is it a binary option? Either it's violative and it's removed? Am I understanding you correctly?

A Typically, yes.

Q And how big was your -- you said you were with the Trust and Safety team for Search. How big was your team?

A Yeah. So I was a manager on the Search product policy team. My manager had about 18 -- somewhere -- maybe 12 -- somewhere there, between 10 and 20. I had three reports.

BY [redacted]

Q This is your current role?

A No. This is my product policy role.

Q Product policy, okay.

How about your current role? How many people report to you?

A None.

Q Oh, none. Okay.

Who do you report to?

A I report to the head of Trust and Safety intel analysis, and then there's a director for intel.

Q Who are those people?

A You want their names?

Q Yeah, please.

A My manager is [redacted], and my director is [redacted].

Q Can you spell [redacted] last name?

A Yeah. It's [redacted]

Q Thank you so much.

So in your previous role of product policy manager, can you tell us a little bit more about that and how it differs from your current role?

A Yes, uh-huh. Yeah, the product policy team is responsible for writing, keeping updated the content policy rules that are, in my case, for Search features. So if you search for Search feature content policies, you'll find a list, and those are the ones that we would be responsible for.

Q I see.

[redacted] When you say writing the policies, so it's your team that's developing the policies that are on YouTube's guidelines that are available to the public now? Am I understanding you correctly?

Mr. Bopp. You're using the present tense. This is what he used to do.

[redacted] Sure.

BY [redacted]

Q In your previous role, when you said that your team was responsible for writing the policies, what did you mean by that?

A Yeah, at the time -- and, right, like, especially Google Search is a pretty mature product. So the vast majority of policies were already there. I don't want to overestimate what I did. But, yes, we would kind of help define what violative content would look like.

Q And during your time, do you recall any significant changes to Search's policy?

A So I was working for Search product policy during the -- I mean, it's still ongoing -- but the Russian invasion of Ukraine. So we did take significant policy action in that context.

Q I guess a point of clarification. Is your team involved with both writing the policies and -- you said taking action. Would executing or enforcing the policies, does that fall -- both of those responsibilities falls under your team, your previous team's role?

A Yeah, thank you. That's a -- I appreciate continuing to make that clarification.

There is a division, product policy and enforcement, and so product policy does not have access to the actual tools that manually would block a result. Enforcement does that. And it is, in part, a sense of there needing to be also this good kind of checks and balance in having multiple folks on any one decision.

Q And what's the name of that enforcement team?

A The enforcement team.

[Laughter.]

Q Appropriately named.

And are there -- you mentioned there were multiple of your -- and this is referring to your previous role -- of the policy teams. There is one for Search. There is one for YouTube. Is there an analogous enforcement team for Search and for YouTube?

A So we, at the product policy team for Search, had an enforcement team for Search that we interfaced with, yes. And largely, to my best recollection, this kind of pairing applies across products.

BY [redacted]

Q You mentioned doing a policy response to the Russian invasion of Ukraine. Can you elaborate on that a little bit more?

A Yeah, yeah. As I mentioned, there are blue links and then there's a variety of other elevated, structured, highlighted places in Search. Maybe it's the top news carousel. Maybe it's the highlighted images. Maybe it's -- there's a lot of features that are turned on when we think they're particularly relevant to a users group.

In the instance of the invasion of Ukraine, we determined that we would no longer show any Russian state media in any of those elevated surfaces.

Q So it was only Russian state media? It wasn't, for instance, different opinions on the subject from American media or --

A This was exclusively tied to Russian state media.

Q Okay.

Mr. Bopp. Make sure you wait until the question is --

[redacted]. Yes.

Mr. Bopp. -- complete before you answer.

BY [redacted]

Q One quick clarification point. What falls underneath the Search umbrella? Again, this is going back to your previous role. You mentioned images. When you pull up Google, there's a number of tabs. There's news, images. Is that all under the Search team's purview?

A Yes.

Q And what other subcategories are there?

A When you search for a query and there's a completion, that is a Search product, the Discover feed on Android.

Q And images, just to clarify?

A Uh-huh, yes.

Q Okay.

BY [redacted]

Q Are there other policies you can talk about that you worked on? Like, you gave us one topic was Russia-Ukraine, but are there others?

A You asked me about like a big policy that was --

Q Yeah.

A A big policy.

Q Yeah, yeah. Okay. But there weren't any other subjects where you sort of did similar things?

A Where we wrote a new policy? No.

Q Okay. And how are those decisions made? So if you decide to make sure that Russian state media doesn't appear in those boxes, who decides that? Who do you consult with?

A Yeah. I should note that this was a big moment. So we would consult up our ladder and would also consult with the product team, so the Search features they are responsible for, these parts of Search.

Q Did you consult with outside sources, sources outside of Google in developing those?

A I did not. Not to my recollection, no.

Q Okay. So you didn't -- there was no government involvement in that? You didn't consult with anyone in government?

A I do not.

Q Okay. Do you know if anybody at Google did?

A I don't know.

[redacted] We'll use the Russia example, the decision to not have Russian state media in Search. Who is the final decision-maker in that decision?

Mr. Bopp. And the decision is to change the policy?

[redacted] Yes.

Mr. Bopp. Okay.

[redacted]. And just to clarify, this still didn't remove Russian state media from Search to core, right? You can in the blue links, find them, and there is reasons to be able to find them. What we did was deactivate their capacity from showing up in the elevated structure features.

Sorry to belabor this, but it's just -- there's like a big difference, and we feel strongly about that, too.

In this case, my -- the VP of Trust and Safety and the VP in Search would have approved the policy before we launched it.

[redacted] And when your team is analyzing this issue initially, do you bring a recommendation to your managers? Is that a fair assessment?

You described earlier that the choice for your Search team is binary. Do you just provide the facts and analysis? Or what is your team's role with respect to your team's leadership?

Mr. Bopp. You're asking what actually happened or what -- sort of the usual practice?

[redacted] The usual practice.

[redacted]. So, once again, in my previous role in product policy, we would typically provide a few options for executives to review, yeah.

[redacted] And when this is being communicated to them, is this via email?

[redacted]. Yes, I would imagine. Yes.

BY [redacted]

Q So there were no other topics that you dealt with in your role? There were no other circumstances in which you suggested that certain types of media or stories be downgraded or the results not appear at the top?

A We didn't -- I didn't -- in those two years, I did not write new policy.

Q Okay. So just the Russia one.

A Again, let me reclarify that. There would have been updates on other policies. I remember one. I was mentioning before those knowledge panels, those baseball cards that people can -- where you have -- there is structured experience about someone. Users can actually claim them and request certain things be edited.

So one of my roles was updating the types of attributes that they could ask be removed from those knowledge panels.

Q Can you explain that more? I'm sorry. I'm not sure I understand.

A Yeah. I mean, say you are a notable individual, and there is this box about you and name, a little bio, maybe your date of birth or the school you attended or who you're married to. You can claim this knowledge panel and say, this is me -- I believe, yeah -- and you can request certain things be blocked.

These are very -- all we did was expand to allow, I think, removing your spouse if you didn't want them to be publicly that far up.

But, again, all about this highlighted structured experience, as well as then removing any content about you from Search altogether. All this stuff is still findable. It's just if we have put it in this kind of neat little experience for a user because we think it's helpful, then that's where we will have these policies that I was responsible for.

Q I see.

Are you familiar with the Great Barrington Declaration?

Mr. Bopp. You said the Great Barrington?

[redacted] Declaration.

[redacted]. I seem to recollect it was something about COVID vaccines?

[redacted] No. Actually, it was written by a few epidemiologists who thought that lockdowns were a bad idea and they recommended against them for the good of society.

[redacted] [redacted] can you answer again. When you were with the product policy team, what were the start and end dates of your tenure in that position?

[redacted]. Yeah. I believe my start date was sometime in April 2021, and my end date would have been February 27th, or something around there, 2023.

[redacted] Thank you.

[[redacted] Exhibit No. 1

Was marked for identification.]

[redacted] This is exhibit 1. This is an article about how the Great Barrington Declaration was censored on Google so it's very difficult for people to find it. I was wondering if you didn't -- weren't involved in that yourself, if you would know who might have been involved in that.

Mr. Bopp. We'll need a minute to look at this.

[redacted] Sure, sure. Just let us know when you're ready, please.

[redacted] I'm sorry. Could you tell us the sources for this?

[redacted] It's spiked-online. It's a British newspaper.

[redacted] Oh, I'm sorry. I didn't see it on the actual document. So it's spiked.com? Is that the website?

[redacted] I think so. I can double check that. I'm pretty sure. It's actually spiked-online.com.

[redacted] So s-p-i-k-e-d-online.com?

[redacted] Yes.

[redacted]. I am not -- yeah, I'm not accustomed to American air conditioning.

[Laughter.]

[redacted] Yeah.

Ms. [redacted] Neither am I.

[redacted] Me neither.

BY [redacted]

Q I understand this might not have been your area, but do you know anything about it? Do you know who might know about it?

A So I see this is October 2020. I was not in role at the time. So I wouldn't have had anything to do with this, no.

Q Okay. And you don't know who would have had anything to do with it?

A No. No. Also, it's unclear to me what the precise accusation is, so, no.

Q Well, it's just -- the idea is that Google was downgrading things that, in its opinion, were counter to good policy on COVID and making it difficult to find.

BY [redacted]

Q On the policy team, you mentioned working on the issue with the Ukraine-Russia war, for a subject matter like that, is the whole team working on the subject matter, or do only certain individuals focus on creating a new policy for the Russian invasion and other folks are working on other issues?

A Yeah, there would be some form of a kind of division of labor.

Q Okay. And we'll stick with the Russian invasion example. Do you recall how many people were working on that issue in addition -- it sounds like in addition to

yourself?

A Yeah. So I would have been the primary point of contact for Search, obviously, working with my manager and director and onwards. And then other -- for a decision this big, we would have spoken to Search product engineering folks, as well as other Trust and Safety product areas.

Q And you said you started that policy position April of 2021? Did I --

A Yes.

Q -- understand you correctly?

A Yes.

Q Okay. Certainly that was still in the midst of the pandemic. Do you recall who on your team was the primary point of contact for updating policies with respect to COVID or vaccines?

A Yeah. So our health content policy is the closest to the topic. I believe in September of that year it would have been my responsibility.

Q In September of 2021?

A Starting in September '21, I think I picked it up. Someone left. That's to the best of my recollection, more or less.

Q Do you remember who left that was previously responsible?

A I do not, honestly. There was quite a lot of --

Q In September of 2021, when you're adopting this new responsibility, were there others on the team that you shared this responsibility with?

A I mean, I think everything we do, everything we used to do was like collegial in nature. So we would check with others, but there was a portfolio lead.

Q And you were the portfolio lead?

A In that case, yes.

Q You mentioned that there were policy teams for Search and for YouTube and other products across the company. To the extent you have knowledge, do you know if these other policy teams similarly had these divisions of labor where there was a portfolio lead for health-related content?

A I mean, I can't speak to every team, but some specialization is probable.

Q And did you have a point of contact -- actually, let me back up one question.

Was there an effort from your policy team to ensure consistency with Search's policy -- ensure that Search's policies are consistent with, say, YouTube's policy or the policies of other Alphabet products?

A I don't know that consistency is necessarily the term. These are different, very different products, if you think of how you search, versus YouTube. So there is definitely no like -- I think back to the Russia-Ukraine. Like, we would check what the others were doing, but there wouldn't be any kind of requirement to be aligned.

Q We can stick with the Russian invasion example. Am I understanding you correctly that the Russian invasion occurs, that triggers this response from your team to create this new policy. As part of your responsibilities, you would -- I don't know if consult is the right word, but at least communicate with other policy teams for other Alphabet products. Is that correct?

A In the context of Russia-Ukraine, yes.

Q And is that true also for the health-related content? Do you recall communicating or consulting with other policy teams for other Alphabet products?

A So, I want to draw a distinction because whereas the Russian state media policy was kind of new, health content was a policy that was around prior to me. So there wasn't really that much equivalent work to do or necessity to check. So I don't -- I definitely don't recall that much of a broad consultation on health content.

[redacted] So, I mean, when you started that role in 2020 -- September of 2021, did you -- I assume you changed some policies or did something, right? I mean, can you tell us what you --

Mr. Bopp. Is the question what did he do in that role --

[redacted] Yeah, what did he do specifically.

Mr. Bopp. -- once he took over in September -- once he changed -- once he picked up the health policy portfolio in September of 2021, the question is what did he do?

[redacted] Exactly.

[redacted]. I don't recall kind of making any major edits to the health content policy to the best of my -- honestly, it's been a while. I think what would have -- there may have been kind of edge cases that come up from enforcement on occasion where you are being asked whether or not the policy applies to something. But that's kind of a one-off occasion.

BY [redacted]

Q Was there -- I mean, there was a COVID policy, I assume, within that?

A So the health content policy -- and don't quote me precisely, but it is public in -- for Search features -- says that if something -- we may take -- we may block one of those highlighted structured features that I was mentioning, not the blue links, if content contradicts clear medical consensus.

Q I see. And how do you determine what's the medical consensus?

A Yeah, I mean, we would consult a variety of sources.

Q Like what sources?

A You know, internal and external medical experts.

Q And how do you decide on which experts?

A You know, there are markers of expertise in this field and those would be --

Q So if something is a minority view, let's say it's held by a scientist who works at Harvard, would that be considered outside of the consensus and it could be -- it would be considered misinformation under the policy?

Mr. Bopp. You are asking a hypothetical, like if there were a minority view from a Harvard professor, how would that be handled by the policy team?

[redacted] Sure. I mean, that's a hypothetical but it's also happened.

Mr. Bopp. I mean, if you want to ask the question of what happened. I think we'd prefer to answer a question that's not a hypothetical, but so if you have a question that's not, maybe you can pose that.

[redacted] Well, I mean, when -- so consensus, you're basing it on the numbers, right? Is that --

[redacted]. I think the times where it came up would have been numbers, authorities, institutions, a combination of factors that would potentially vary claim by claim because some claims have a lot of historical precedent and the science may be, more or less, settled.

I want to be clear that, again, we would consult experts who would help us even determine, understand consensus rather than make that.

[redacted] You say you consult. You said "we." Is that your team? Is that you? Who is interfacing with the experts who are conducting this analysis?

[redacted]. Yeah. I mean, I thought I was being asked about my role. So in this case, me.

[redacted] Well, okay. As far as a concrete example, I understand that you weren't there when the Great Barrington Declaration was written and this story was. But this is a real world example where there were three scientists from Harvard, Stanford,

and Oxford who disagreed with the consensus about the proper approach to mitigating COVID.

Was that something that you might, if you had been there at that time, you might have recommended be censored or downgraded?

[redacted]. I'm sorry. I really don't know.

[redacted] I have a question about that process you just described for consultation.

Would that process of consulting with internal and external experts occur for other types of topic areas or policy areas that you would have been responsible for?

[redacted]. Yeah, thank you. And I appreciate that also you're continuing to make a clarification on kind of what consultation looks like.

We do have medical staff at Google, and so in that case, we might have asked them on health content what to do or what the consensus was looking like, shaping up to be. But I wouldn't -- consult in the external sense, was, like, look at external sources rather than actually actively engage with anyone.

And to your original question, I don't recall something similar for other policies that I worked on, but, yeah, it's not impossible.

[redacted] Okay.

BY [redacted]

Q You used the phrase "edge cases" earlier. Did I hear you correctly?

A I mean, we have a transcript. Maybe, yeah.

Q Okay. And I guess the first thing, what is an edge case? You said it comes from the enforcement team?

A Yeah. So when a user sends feedback because a piece of content may be problematic in their view, it would be -- the intake is handled by the enforcement team.

They will review policies and decide whether it's violative or not.

In some cases, a small percentage of it, the policy may not have kind of made that line clear for a piece of claim like that, and so those are what I was referring to, alleged cases that may have been then brought up to product policy teams for a second opinion or third or fourth.

Q And in these instances, does your team then analyze the claim and provide a recommendation back to the enforcement team?

A Yes. So when I was in product policy, the role would be to provide kind of guidance as to whether this would have been in scope of that policy or not.

Q And is this -- when you're communicating back to the enforcement team, this is a recommendation or a direction? Is the enforcement team required to follow whatever is being given to them?

Mr. Bopp. By [redacted] team?

[redacted] Yes.

Mr. Bopp. Okay.

[redacted]. I think typically these really are like this is a difficult point. What do we do? So it's more of a collegial shared kind of poring over the policy guidelines and understanding whether we think it fits. But, yeah.

BY [redacted]

Q You mentioned earlier that at least within the Search umbrella was kind of this binary option ultimately, and you have to go one way or the other. And certainly appreciate that there is this collegial relationship, it sounds like, between your team and -- referring to your policy team -- and the enforcement team.

But if it is an edge case and it's not clear exactly how the policy decides, and there are two different views, who gets the ultimate say in what the decision is?

A Yeah. I mean, I think, obviously, it varies case by case, but if the product policy lead is confident or clear about application, I would go there. Sometimes it would be escalated up, kind of direct to VP. But, yes.

Q Does the VP oversee both the -- that you're referring to in your answer -- oversee both the policy team and the enforcement team, or do they have separate leadership?

A So there is a VP for product policy and a VP for enforcement.

Q Do you know at what point in the hierarchy someone oversees both?

A Yeah, the head of Trust and Safety oversees both.

Q When there is an edge case, is that one of the ways that will trigger your team to consider revising the policy or updating the policy?

A Yeah, it is possible that a new type of harm might emerge, and that's kind of one signal.

Q And you mentioned the Russian invasion as one example. Obviously, that was unexpected, triggers wanting to create a new policy. You mentioned edge cases.

What else would motivate or catalyze your team to consider revising a policy or updating a policy section?

A Yeah, I really think this is the primary path where kind of the signals, the understanding we get from what users are submitting as feedback and what may or may not be violative policy kind of informs potential uncovered topics.

But as I mentioned, Search is a relatively mature product area. So there wasn't all that much major updating in the two years I was there.

Q In September 2021, when you adopted the responsibility to start handling the health-related content, at that point the pandemic is about a year and a half in, things have settled down somewhat. But similar to the Russian invasion, there's new facts

coming in. It's developing. Were there -- let me ask the question this way.

With respect to the health-related content, when the policy is being revised, in your experience, was it typically reactive, in the sense that it's in response to an edge case that the policy previously didn't cover, or is it proactive, where as part of your responsibilities you're trying to understand what the medical consensus is, seeing what the consensus is, changing and trying to preemptively change the policy before it's unable to address an edge case?

Mr. Bopp. You're asking him for his actual experience with policy changes?

[redacted] Yes.

[redacted]. I mean, I think it varied, but I think primarily it would have been reactive with some space for proactive.

[redacted] So when something was found to violate the health content policy, what would happen to it? I mean, are you talking about what you were discussing earlier where it's not in the blue boxes at the top, or does it become impossible to find, or what exactly?

[redacted]. Yes. Health content policy applies only to Search features, which is kind of how we name all these things that aren't kind of the core search, blue links. And so, yes, it would be potentially blocked from the top answer in bold but would still be available and searchable and obtainable through the same queries and blue links.

[redacted] So there is no circumstance in which something would be completely blocked, the link would be completely blocked just because it didn't -- you know, it wasn't in line with the consensus as Google saw it?

Mr. Bopp. You're asking about, again, [redacted] experience or just hypothetically?

[redacted] No, his experience.

Mr. Bopp. Okay.

[redacted]. So in health content specifically, in my time at Search product policy, no, there wouldn't have been a full-on blocking of a link from Search.

BY [redacted]

Q Do you recall any of the edge cases related to the health content?

A Hazily, I want to say that there was something maybe about Ayurdevic medicine in India at one point. I remember the discussion. I honestly don't remember the types of specific content.

Q When there is this sort of edge case, is there a ticket of some sort that everyone can work on? Is it described to you in an email? How is an edge case communicated to you and your team?

A Yeah. So issues are documented through an internal tracking workflow so as to kind of follow it from kind of user feedback to the ultimate decision.

Q And what is that workflow's internal name?

A Primarily, we use a tool called buganizer, but that's for Search, for the work I did.

Q How does that work? Tell us more about it.

Mr. Bopp. Buganizer?

[redacted] Yeah.

Mr. Bopp. You're asking how does buganizer work?

[redacted]. It really is like kind of a tasking workflow whereas someone opens an issue, and it can be a product policy issue, it can be the second "o" on Google for some reason today is fluorescent pink. And so either through an external feedback, internal, whatever, something, that gets opened and gets assigned to someone, product, engineering, policy, based on what it is.

BY [redacted]

Q And sorry, just to clarify. When you say someone. So like users could report it or also employees or --

A So a lot of search has the feedback button.

Q Oh, okay.

A And, obviously, they don't -- that doesn't open for them the internal tool, but that ticket will eventually flow into buganizer.

Q I see.

[11:00 a.m.]

BY [redacted]

Q You said this is a task-flow tool; is that right? Is there email traffic, or do you have to -- I guess what I'm trying to get at is, is this a tool that facilitates communication?

Mr. Bopp. Can you be a little more specific?

[redacted] Sure.

Mr. Bopp. It facilitates communication --

BY [redacted]

Q So there's multiple team members, you know, working on -- at the very least, there's someone from the enforcement team and someone from your team. Are you communicating -- I'm just trying to better sense of how this tool operates.

Do you leave -- I don't know if you guys use Outlook for email, but are you communicating via email, and there's this ticket that's independent of that? Is it something that operates within Outlook, as an add-on or something like that?

Can you just say a little bit more about how this ticket works and how you're communicating when resolving an issue?

A Yeah. So it's a stand-alone site, internal. You can leave comments on the ticket, and so there is an exchange possible. You can -- yeah, so that's how it works.

Q And let's say there's an edge case and you have a similar one a couple weeks later. Is there a way to go back and reference what was discussed with the previous ticket?

A There is, yes.

Q Yeah. And that paper trail, is that housed within the tool? Do you receive

a, I don't know, for lack of a better word, a transcript later? Where are those records available?

A So, A, you know, I don't own the architecture of Buganizer, but you can search Buganizer to find past cases.

Q Uh-huh.

A I think you can subscribe by email too, but -- yeah.

[redacted] Do you have a sense of what percentage of cases, in your experience, are edge cases versus other types of issues that have been dealt with in the past?

Ms. [redacted] Well, the hour's up, so --

[redacted] I have 5- --

Ms. [redacted] Oh, wow, look at you. I guess we started later than I thought. Go for it.

[redacted]. So you're asking me --

Mr. Bopp. Yeah, maybe we can restate the question here. Now I've forgotten.

BY [redacted]

Q Sure. The question was, what percentage of cases, in your experience, are edge cases versus other types? Or is that -- maybe I should say, is that measured?

A Yeah. Thank you. I would say, you know, "edge cases" was my term. It's not kind of a formal term.

Q Right.

A I think what I can approximate, to your question, is that, in my experience, maybe under 5 percent of, kind of, enforcement decisions, something like that, may have been raised to product policy. But the vast majority of decisions are, yeah, taken and point to enforcement.

Q Is there a way to distinguish between the type of user that is submitting or

flagging a problem or potential problem? Is the identity of the individual or organization that is submitting a concern, is that known?

A No. I believe -- again, the architecture is not my responsibility. But by the time it gets to product policy, there's no, kind of, personally identifiable information associated to, kind of, the user who submitted the feedback.

Q So the focus internally is solely on the substance of the feedback, not the nature of the individual or entity submitting it?

A It would be content versus policy, rather than any other -- yes, it would be, kind of, analyzing the content based on the policy rather than the, yeah, submitter.

BY [redacted]

Q You've mentioned that, on your policy team, like, in December 2021, you became the portfolio lead for health-related content. Does the enforcement team have a similar division of labor, where there is a lead for health-related --

A I'm trying to remember with health specifically.

Because of the nature of Google as being global, we -- and enforcement having much higher volumes than us, typically the responsibility is also shared regionally and across time zones. So there would've been, probably, people who are health-specific but also region-specific based on the time zone, because that job, unlike mine, was a, kind of, always-on-call job.

Q And how big a -- at least for your enforcement counterpart team, how big was that team, do you recall?

A Not precisely, but I think maybe three to four times larger than ours, something like that.

[redacted] Thanks. So we're at the hour.

[redacted] We can go off the record.

[Recess.]

Ms. [redacted] All right.

[redacted], thank you on behalf of the minority for coming here today.

EXAMINATION

BY MS. [redacted]

Q I want to first start -- since the purpose of this investigation is to determine whether Google and other companies colluded with or were coerced by the government to censor information, I just want to ask, when you -- in your current position as a principal of the trust and safety team, you do not interact with the Federal Government at all, correct?

A I do not.

Q Okay. And when you were the product policy manager for Search, you did not interact with the Federal Government at all?

A I did not, not to the best of my recollection.

Q And when you were the news and information credibility lead for Google News Lab, you did not interact with the Federal Government?

A To the best of my recollection, no.

Q Okay. So, in your entire time at Google, you had no contact that you can recall with Federal officials related to your work?

A Could you define "Federal officials" just to make sure?

Q Members of the Federal Government -- FBI, Homeland Security, the White House.

A Yeah, no, none of those organizations.

Q Okay. Was there any organization that you're thinking of, or agency?

A I'm trying to think whether there were WHO, World Health

Organization-affiliated bodies that in my very first role I may have interacted with.

Q Okay. But that's it? Nobody from --

A Yeah, that's -- that's, yeah, what I can remember.

Q -- from Congress, anything like that?

A No. No.

Mr. Bopp. How about any other health-related organizations? You just need to be clear here.

[redacted]. Yeah.

Mr. Bopp. If you remember anything --

[redacted]. Yeah.

Mr. Bopp. -- you should state it.

[redacted]. There -- I'm trying to remember whether, again, in the first role, there was someone at the CDC, in the very first role I had at Google, but this was 4 years ago, so --

BY MS. [redacted]

Q Okay. And do you remember the nature of those interactions?

A In that role, it was mostly, like, events, right, public events. And so there may have been, kind of, invites to speak about things, stuff like that.

Q Okay. Nothing about content moderation?

A No.

Q Okay. Thank you.

So I want to talk a little bit about and get some clarity -- because we've been talking -- you spent most of the first hour talking about your work on the Search team.

A Uh-huh.

Q And I want to make sure I understand the difference between the

Search -- some of the Search features that you were talking about and the blue links.

A Uh-huh.

Q And I think we're going to give you some examples about that.

So I'm going to show you -- I'm going to introduce as -- I think this is just exhibit 2, right? That's where we are?

A Thanks.

Q This is just a search that was, you can see, run this morning as an example of the type of search that I'm talking about.

[[redacted] Exhibit No. 2

Was marked for identification.]

BY MS. [redacted]

Q Did everybody who needs one get one? Okay.

So, on the top, where it says "Brad Pitt, American actor," and then it says, "Overview, Movies, Videos," and then there are some images, one with Taylor Swift that is confusing, is that the baseball card that you were referring to?

A Yes. This is a desktop version, a newer look, but yes, generally speaking, this is a Search feature, and that's the type of content I was referring to earlier.

Q And is there a technical term that Google uses to refer to that particular Search feature?

A Internally, it's called a visual entity. Externally, I think we just call it a knowledge-graph-powered feature. But, writ large, all of these top features are Search features.

Q Okay. And the "About" panel, is that the knowledge panel that you were discussing earlier?

A Correct, yes.

Q On the right side of the page?

A Uh-huh.

Q Okay. And so you mentioned, for example, how users could claim their Search features if they were people of note or if there was incorrect information.

A Exclusively the knowledge panel, so this --

Q The knowledge panel. Okay.

A -- little bit here they can claim.

Q Okay. So if Brad Pitt decided he did not want his children's names appearing on the knowledge panel, he could ask Google to remove it from the knowledge panel.

A Yes, he could make that request.

Q Okay. But that wouldn't stop me, if I googled "Who are Brad Pitt's children," from finding that information through Google Search?

A Correct. It looks like there's a Wikipedia link just underneath, and you would probably find the same information there.

Q Okay.

And what does the phrase "structured experience" mean with respect to Search?

A Yeah, and I think if I use that term, it's not a -- I think the Google term is "structured Search features."

Q Search features.

A That's the term we use for all of these. Basically it's a catch-all for anything that isn't -- you see there, below, there's a lot of these blue links, which are kind of your classic Search results. And so it's a way to differentiate between those and the more immersive, kind of -- you see these even have a slighter different color and they're at the top.

So it's just to differentiate something that we think is particularly relevant to a query. Which, in this case, right, you searched for Brad Pitt, and you get this experience that you probably wouldn't get if you searched for -- I don't know -- well, me.

Q Okay. Thank you. Fair enough.

And so you mentioned earlier that -- and we'll go back to the Russia-Ukraine invasion -- that the policy change was to not include Russian state media in the Search features, correct? So any content that came from Russian state media would not show up on, basically, the knowledge panel or this top page if I googled "Russia invasion of Ukraine," correct?

A That is correct, yeah, you wouldn't get Russian state media content here.

Q Sure. So I'm going to give a second example that is about Ukraine as exhibit 3.

A Thank you.

[[redacted] Exhibit No. 3

Was marked for identification.]

BY MS. [redacted]

Q So, for this example, where it says "Top stories," is that part of the Search feature?

A It is.

Q Okay. And "About" is the knowledge panel, also a Search feature?

A It is.

Q Okay. And so is it fair to say that Search features are -- or, they include content and links that Google has decided to highlight?

A So I'm not a ranking engineer, but, generally speaking, they are content that our classifiers have determined to be particularly relevant or helpful or appropriate for

the query that the user made.

Q Okay.

And you were asked by counsel for the majority several times -- I believe the term "downgraded" was used. Is that a term that Google uses when it refers to not including certain sources of content in its Search features?

A I don't know that we would have a specific term. I think we would just maybe block that feature so that it's not -- yeah.

Q And when you say "block that feature," what you mean is, it doesn't show up in these curated experiences, these Search features, but it still would show up on the blue links that are on the next page?

A Correct. Yes.

Q So users could still click on links that took them directly to Russian state media?

A Yes. Users in the United States, yes. I think there may be some legislations around the world where that is different.

Q And I appreciate that distinction. Thank you.

And your work for Google is global, correct?

A Correct.

Q And it has been for each of your three positions?

A Yes.

Q Okay.

So -- I'm sorry. Give me a moment, please.

Can you explain, going back to that decision to remove Russian state media from the Search features, why was Russian state media information about the Russian invasion of Ukraine something that Google did not want to include in the Search features?

A Yeah. I think the concern was that at the time of the invasion there could be extensive violent content, misleading content, content that could potentially harm users in Ukraine, outside Ukraine, and that, as a internationally denounced aggressor state, there was a risk that that content could -- it would be best to not have that content. There was such a high risk that that content could violate our policies on violence, on other gory stuff, that we decide to remove it from up there.

Q Okay. That makes sense.

BY [redacted]

Q And just to clarify, and I know we've gone down this road a couple times, but that was removed from the highlighted Search features, not the blue link Search features, correct?

A Yes, I appreciate that. Yes, it would be still available, you know --

Q Right.

A -- further down.

Q And just to be clear, because I want to make sure the transcript shows this, when we're referring to the "blue links" that's on, for example, the third page of the Bakhmut exhibit, that's, you know, the title of a page highlighted in blue, and that's a hyperlink that leads to the actual article or the actual website, correct?

A That is correct, yes.

Q Okay. Thank you.

BY MS. [redacted]

Q And I believe you explained earlier that actually removing content from showing up as a blue link under the Search result, that's a decision that has to be -- there's a legal process for that.

A Yes, to --

Q Okay.

A -- the best of my knowledge. But, again, my responsibility was for the Search features, so --

Q Okay.

A -- I don't know if there was any exceptions there.

Q And this is a more broad question, but just based on your experience and your understanding: Even if such a link were removed from Google Search results, the information is not taken down from the internet? I mean, Google does not have the ability to remove content from --

A Correct.

Q -- the internet itself?

A Yes. Yes. The content is still -- you can type it in or find it on another search engine.

Q I want to back up a minute and just talk about Google's mission generally and how the policies you've talked about, about preventing harmful content, like the sort of violent content you just mentioned, further Google's mission.

Is it fair to say that Google's core mission is to make sure that people around the world find the information that they're looking for? Or how would you describe it?

A Yeah. I mean --

Q I don't want to put words in your mouth.

A -- our mission is to -- and sorry to sound like an automaton, but I think it's helpful. It's to organize the world's information and make it universally accessible and useful. So, yes, uh-huh, we are.

Q Okay. So why is it important to Google to combat misinformation, as you understand that phrase, or disinformation?

A Users are looking for information that helps them in their everyday life. And so, generally speaking, we have this concept of expertise, authority, and trustworthiness that informs our classifiers -- which is not what I work on, but just -- and that's kind of a core value, though, that things should be helpful to the user.

Q And so, if there is information -- well, let me rephrase that.

In addition to wanting to be helpful to users, does Google have a business interest in preventing harmful information, like the type that you described, and not just misinformation but child sexual material, the violent and gory material that you describe -- the type of material that your policies prohibit, may be more a clear --

A Yeah. I mean, it is in our interest to set certain boundaries that users are aware of and, kind of, enforce those boundaries so users aren't shocked or find content that could harm them.

Q And can you explain why? Why is it in your interest for that?

A I don't know that -- I don't have, like, a business side to it, so I think just users will keep returning to Search and find it useful and use it more.

Q Be- --

[redacted] Go ahead.

Ms. [redacted] No, go ahead.

[redacted] So, I guess, just to clarify, is the concern that if Google's results return results that are not helpful to users, then they might go to another search engine?

[redacted]. Yeah, absolutely.

[redacted] Okay.

BY MS. [redacted]

Q And not rely on Google's other products as much as well?

A I -- again, I don't --

Q You know what? You don't have to --

A -- know about these conversations, but, generally speaking, yeah, like, Search, using Search.

Q Fair enough. And if I ask you -- which I might, but I'll try not to -- about other products that you don't work on or that you don't know about --

A Yeah.

Q -- feel free to tell me, "I don't know about that."

A Yeah.

Q Because I think that it's easy to talk about Google generally and assume that you have familiarity with other aspects of Google's products that you do not have.

You were asked earlier about the distinction between who was asking for certain material to be reviewed for compliance with your policies.

Google has a transparency center on its site that anyone in the public can access, correct?

A Yeah, I believe so, uh-huh.

Q And that transparency center publishes a variety of different reports about Google's products and activities?

A Yes.

Q And that includes reports about some of its enforcement activities?

A Yeah, I don't, kind of, collate those reports, but, yes, there are information on takedowns that are public.

Q Okay.

And if you're familiar with this, you can answer, and if not, just tell me. But YouTube specifically publishes reports about the content, because YouTube is so much more user-generated content. They publish quarterly reports about content that's

removed. Are you aware of that?

A I believe they have a separate transparency report.

Q Okay. And are you familiar with what's in those reports?

A I am not.

Q No? Okay.

Just a moment.

That is it for me for now. So, depending on what happens, I might have some more for you --

A Thank you.

Q -- in the next round, but we can go off the record.

[Recess.]

[redacted] On the record, please.

BY [redacted]

Q Just to go back a little bit to the experts you consulted with in your previous role, can you tell us a little bit more? You said you consulted with internal and external experts. Can you tell us who they were or anything more about them?

A So this is in the product policy role for Search.

Q Yeah.

A And I think I kind of made this clarification a little to your colleague earlier. "Consulted" would've also meant just, like, read stuff.

But, internally, we do have health experts at Google, and so I would've, for the health content policy specifically, on the rare occasion where there was an edge case, reached out to them.

Q Who are those? Do you know their names?

A There is a clinical team within Google Health. I think I would've probably

opened a ticket, actually, to get someone assigned to it for a question.

Q I see. And those people, is that their full-time job or is it something they do on the side, typically?

A I don't think that it is their full-time job, but it is a different function, so I think they probably have allocated some amount of time to that.

Q Do you know how Google finds those experts?

A I do not, no.

Q Okay.

[redacted] Do you know how big that team is?

[redacted]. I do not, no.

[redacted] Do you know where they're housed within the company?

[redacted]. I believe, on this, you know, our company changes structures with some regularity. They would have been in Google Health, which is, I think, the external name for, like, our health-related stuff.

BY [redacted]

Q And that's separate, obviously, from your team.

A From trust and safety?

Q Yeah.

A Yes, that's a different team.

Q That's an entirely --

A It's a different team.

Q Okay. And what else do they do?

A I am not certain. I think -- I believe we own Fitbit. Maybe there's things related to --

Q Oh.

A Yeah, I don't want to -- it's really not my topic there. Like, what they do, I don't --

Q Oh, okay.

And this pertains to both your current role and the product policy one. Is that U.S.-specific or global? Like, are you doing stuff for the entire world or just the United States?

A Product policy rules are global in nature.

Q Okay.

A And the policy itself is global in nature.

Q I see.

[redacted] Do you have team members that are devoted to U.S.-specific issues?

[redacted]. No, we would've been too small to do that for every country.

BY [redacted]

Q And do the policies change? Like, if you're searching in the United States, could that be different than what's happening if you're searching in Germany based on German law or whatever?

A Yeah, that's a great question. So the policy for Search features, which I was responsible for, is global in nature. Legal requirements do vary --

Q Yeah.

A -- so there may well be differences. I believe Thailand has a very strict rule around content about the monarch. So there may be legal content differences but not, kind of, product policy for Search feature differences globally.

Q I see.

[redacted] To your knowledge, do you know if the enforcement team had individuals that had a focus on U.S.-specific issues for the United States?

[redacted]. To the best of my understanding, it really is a time zone, rather than strictly geographic, division of labor, just so that if something requires action at a certain hour of the day, there's always someone on.

BY [redacted]

Q Can you talk a little bit about your first role at Google, the news and information credibility lead? And, also, what's the Google News Lab?

A Yeah. So the News Lab is part of the Google News Initiative, which was a, I believe, when it was announced in 2015 or around there, a $300 million investment from Google for helping the news ecosystem globally kind of adapt to the digital age through new tools, new business models, et cetera. And so the News Lab had some part of responsibility for some of this funding and some training.

Q I see. When was that developed? Do you know?

A I think it was somewhere around 2015 that the GNI launched.

Q I see. And so the Google News Lab, I assume, is completely different from, like, the trust and safety --

A Correct, entirely different.

Q I see. And how big was your -- was that team?

A I believe the News Lab may have been 20 or 30 people, something like that.

Q Oh, okay. So a lot smaller than the --

A Yeah.

Q And who did you report to there?

A I reported to a, kind of, head of News Lab.

Q Okay. Do you know their name?

A Yes. [redacted].

Q Okay. And did anyone report to you?

A No.

Q And so what did you do sort of on a day-to-day basis in that role?

A Yeah. A lot of it was, like, public engagement on the topic of verifying contents. Or, like, we have a lot of tools, like Reverse Image Search, that you can use to find if an image that you just got that told you if something that's happening right now actually appeared on the internet a long time ago; or Google Earth, if someone is saying that they're in a specific location, you can use it to see what that location looks like and if that doesn't quite match up.

So a big part of it was, kind of, training on what tools we had available for users and journalists who wanted to verify content.

Q All right. So how do you make those determinations?

A What do you mean? Sorry.

Q Like, about whether -- about when you try to verify something to see if it is real.

A I mean, it wasn't my role to verify anything --

Q Oh.

A -- at all, to be clear.

Q Oh, okay.

A And I appreciate that. It was really just to -- and these are public courses, by the way. It was, like, to users, to journalists --

Q Oh.

A -- to citizen journalists around the world, "Here's what you can use from Google to do your verification path." Yeah, we did not do any of that ourselves.

Q I see. Okay. And so what format was that? Like, the Google -- I mean, were you putting out --

Mr. Bopp. Go ahead.

BY [redacted]

Q Were you putting out articles? Or are these videos? Or how does that work?

Mr. Bopp. Yeah, so you're doing this well, but make sure you let her finish the question.

And then, here, for this question, when you said "do that," I know we're sort of down the line of questions, but if we can be a little bit more clear about what it is you're asking him.

BY [redacted]

Q So how did you convey that information to the public?

A So there was -- I think there still is a training center, I think, online that's available.

Q I see. Okay. I wasn't aware of that. Sorry.

And in your description of the job on your website, you mentioned fact-checking the ecosystem's response to the COVID-19 infodemic, you know, as one of your duties in that job position. Can you elaborate on that a little bit more, what that means?

A Yeah. So --

Q And what's an infodemic? I'm sorry. That's a term we're not familiar with.

A I believe "infodemic" may have been a term for the trove of information on pandemic that emerged from it eventually, but I don't exactly remember, but I think that's it.

Okay. We would train fact-checkers, as we would reporters, journalists, et cetera. So that's one part of it.

And, as I mentioned, there was a funding component too. And so the GNI administered some funds that provided support to the ecosystem.

Q Okay. Wait. So who funded that? I'm sorry. I don't quite --

A So the Google News Initiative --

Q Yeah.

A -- as I mentioned before, had these open funds to update business models, update tools, just adapt to the digital age. And it administered funds that organizations could apply to for that purpose.

Q I see. Okay.

BY [redacted]

Q I have one kind of followup question based on the minority's questioning. I think in one of your answers you mentioned the term "ranking engineer." Could you talk more about that term? And -- could you talk more about that term?

A Yeah. And I am not a software engineer myself, so --

Q Yeah.

A -- just with that pretty major caveat on how well I will portray this.

Q Yeah.

A Obviously, our algorithms, our classifiers do their best to understand what content to return against any specific query. And that takes a lot of smart people to try and understand what a query is about, you know, even just, like, what common typos are, so if you search for the name slightly different, you still get those content. And so engineers who work on ranking would, kind of, work on these types of classifiers.

Q Where are ranking engineers housed or situated within Google Search's structure?

A There is a Search engineering team, and they're one of the functions.

Q Uh-huh. Thank you.

[Exhibit No. 4

Was marked for identification.]

BY

Q This is exhibit 4. Can you just take a look and let us know when you've had a chance to read it?

Sorry, is this 5?

Is it?

Ms. I think it's 4.

Four. Are we all certain, is it 4?

Yeah.

Yes, exhibit 4.

Are you set?

Mr. Bopp. Yeah.

BY

Q Do you remember these emails?

A Yeah, now I do, uh-huh.

Q The ones you were on, at least. I know the last couple you're not.

Do you know who Elisabeth Wilhelm is?

A I do, yes.

Q Who is she?

A I believe she was a consultant at the CDC on the topic of immunization.

Q Okay. How did you come to know her?

A I believe we met in a previous role at TED where we were looking at crowdsourced content moderation as a possible path, and we were discussing, I think,

measles at the time. And I can't remember how we were introduced, but I think I met her then.

Q So you were both working at TED?

A No, no.

Q Oh, oh.

A I think she was still at CDC at the time.

Q Oh, okay. I see. But you were --

A We were not --

Q Yeah, yeah, yeah, yeah, yeah.

And, actually, what were you doing at TED? I don't think we really talked about that.

A Yeah. It was a 3-month, kind of, research stint to see whether there was a new model for crowdsourced content moderation.

Q Okay.

And do you know Elisabeth in her -- sorry -- the June 5th email, which would be the last -- it's the one on the last pages. She refers to a social inoculation implementation research. Do you know what that means?

Mr. Bopp. Wait, where are we?

[redacted] That would be -- it's the last email. It's, like, the first email chronologically in time but on the last page, so it's the June 5, 2020, email.

Mr. Bopp. Oh, okay. And what you're asking about where she --

[redacted] She refers to -- so I'm just asking if he knows what she means by that, "social inoculation implementation research."

[redacted]. I don't, no.

BY [redacted]

Q Okay.

And in your response to her, I believe the following day, you referred to Question Hub, which is something that Google was working on with the CDC.

A I'm sorry. I'm seeing on the next day I replied about the job.

Q It might be --

A Oh, sorry. I think it's on --

Q It's on -- yeah. It's the Saturday, June --

A Yeah.

Q Yeah.

A Uh-huh?

Q Can you -- I mean, it doesn't say anything about it other than it's something Google is working on with the CDC. Can you tell us more about that?

A Yeah. So, to the extent that I recall -- and, obviously, here, even in the email, I said "I believe," so I'm not --

Q Yeah.

A -- hedging. I probably had this secondhand at the time too.

Question Hub is -- was? -- not sure it's still around -- a public tool that Google provided to online publishers who had access to the Google Console, so who could, you know, publish on Google sites, to see what questions users were reporting did not have enough answers about.

And so it was just a instrument for publishers who were looking to understand online appetite for information. Yeah.

Q And what was the CDC's -- I mean, you said the CDC was working --

A Yeah. I honestly -- again, even then I was unclear, and I'm certainly unaware of whether they did anything in the end or what the nature of it was.

Q Okay.

In the same email, the last paragraph other than -- above "Take good care," when you discuss "spinning down the COVID specific to focus primarily on the election, but the two are inevitably related," can you explain a little bit more what you meant by that, how they're related?

A I mean, I'm saying this in June 2020, so --

Q Yeah.

A -- the pandemic was front and center of, kind of, discussions. So I think, yeah, that probably COVID would continue to be a topic I worked on.

Q But, I mean, how were the two inevitably related, the election and COVID?

A Because it was a central topic of the election.

Q Oh, I see.

A I think.

Q Okay. You weren't -- so, okay. I see.

A little bit later on, so on June 11th, you responded to -- sorry. On June 11th, Elisabeth wrote to you and invited you to a conference on infodemiology.

Do you recall if you attended that conference? It was a virtual conference, I believe.

A I don't recall. To the best of my knowledge, I did not attend, but I'm not sure.

Q Okay. So, I guess, since you don't remember, you wouldn't know who was there?

A Yeah.

Q And, in your response, you referred to "Wardle." Do you know who that is, whose full name?

A I'm assuming this is -- in fact, it would've been Claire Wardle.

Q Do you know where Ms. Wardle works and what she does?

A Claire Wardle is currently at Brown University.

Q And what does she do there?

A I think she's a professor in public health, communication, something like that.

Q Okay.

A I'm not certain of what her title is.

Q Okay. Do you know how you knew her?

A Yes. I met Claire in a previous role, as she is an expert in online communications and the spread of online information.

Q I see. Does she deal with misinformation?

A Yeah. Yeah. She, I think, published a pretty seminal report for The Council of Europe on, kind of, maybe 2014-2015 stuff.

Q Okay.

Do you have any idea what "masterplan" is? A number of people emailed in a subsequent email, which you're not actually on -- so you were removed at that point -- have "masterplan" addresses. I'm just curious.

Mr. Bopp. Do you have a copy of that?

[redacted] It's here.

Mr. Bopp. Where is it?

[redacted] The chain continues without him on it for some reason. It's the third page. They discuss him a little bit, but --

[redacted]. So I'm not certain, but, from context, it might be an event-planning company --

[redacted] Oh, okay.

[redacted]. -- given that they're discussing a conference.

[redacted] Okay.

BY [redacted]

Q [redacted] can you remind me again, when did you work for Poynter?

A Yes. I think I joined in December-2015-ish and then left in February-2019-ish.

Q And did you have the same position from 2015 to 2019, or did you change roles?

A I had the same position.

Q And can you remind us again what that position was?

A I was the director of the International Fact-Checking Network.

BY [redacted]

Q Is Poynter a bigger -- is IFCN within Poynter? Is that correct? Or --

A Yeah. And I think maybe the precise nature has changed now; maybe it's a fiscal sponsor. But, at the time, it was just a -- essentially a unit, you know, that was housed in the Poynter Institute.

Q I see. And so Poynter -- what's Poynter's broader purpose?

A So the Poynter Institute is sort of like a continuous education center for journalism.

Q Oh, okay. I see.

BY [redacted]

Q There's reference online that Poynter had a code of principles. And I think you mentioned it earlier in one of your answers with respect to Meta -- Meta's own fact-checkers had signed on or joined a particular document.

Can you say a bit more? What is the code of principles, if I'm using the term correctly?

Mr. Bopp. This is the Poynter code of principles? Or what code are you referring to?

BY [redacted]

Q Yeah. There's a -- first off, is "code of principles," is that a term -- am I using that term correctly?

A So I think you're referring to the International Fact-Checking Network's code of principles, which was a set of guidelines that the International Fact-Checking Network's community from around the world put together as kind of a set of best practices for fact-checking organizations. It's a code of ethics of sorts.

Q Okay. And, in your role, did you work on that?

A I did. Yeah.

Q How big was your team at Poynter?

A I think the most we were, full-time, at Poynter, there were three of us.

Q Okay.

And you referenced contributions from people from elsewhere. Are these -- just at a high level, is it universities? Media organizations? What sort of entities are providing input?

A Yeah, I mean, the intention of it was, it was supposed to be kind of almost a, quote/unquote, "trade body," right, of and for the fact-checking publishers. So, you know, while in this country fact-checkers are often affiliated to large media outlets, in many parts of the world, especially where there are authoritarian regimes, these may be nonprofits. So it varied a little bit, but it would've been publishers who, you know, typically online would publish content verifying claims.

Q Are you familiar with PolitiFact?

A I am familiar with PolitiFact.

Q And did you work with them during your time at Poynter?

A I would have, as I did with -- I think there were 50-plus other members of the IFCN.

Q Okay. And did Poynter at some point acquire PolitiFact?

A So the precise nature there is something that I am not fully clear, but, to the best of my understanding, Poynter Institute had some sort of ownership status over the Tampa Bay Times, something like that. Or -- anyway, you can find this and have it explained better by people other than me.

So I think what happened, or more or less what happened, was PolitiFact moved from, kind of, the Tampa Bay Times to the Poynter Institute.

Q And what was the nature of your interactions with PolitiFact in your role?

A You know, checking whether they were available for our annual conference, hearing any best practices they were taking on, new formats or new tools, that kind of stuff.

Q Okay. As part of your role, did you ever get into something as granular as an individual post by PolitiFact?

A No. It was not my responsibility, nor my interest, frankly.

Q You referenced earlier about how Meta would only work with fact-checkers that agreed to abide by these guidelines, this code of principles, put out by the -- IFCN? Is that acronym accurate?

A Yes.

Q Do you recall how that relationship between Meta and Poynter first started?

A Of sorts. I think this is now 6, 7 years ago.

I believe fact-checkers, as others, had kind of published concern about the viral fakes on the platform, and I think there was an open letter that summer that the IFCN kind of helped write.

Q And -- yeah, go on.

A No, I also wanted to clarify one thing you said, a condition. I just want to make sure that -- it was a necessary but not sufficient condition, right? Meta chose its own partners --

Q Uh-huh.

A -- but they, as a floor -- and I can't speak to, obviously, their cause -- but, as a floor, the partners needed to be signatories of the code.

Q Understanding this is Meta who's putting these conditions, do you recall what some of the other conditions were?

A I don't, honestly, no. I don't think they were available in all markets, for instance, or all over the world, so --

Q Were you the one interfacing with Meta personnel, or, at the time, Facebook personnel?

A I had some meetings, but there was no -- the partnership that continued was then, like, one-to-one between the fact-checkers and Meta. It was never with the IFCN or Poynter.

Q Uh-huh. And what was the nature of your interactions? Were you facilitating other third-party fact-checkers and introducing them to Meta personnel, Facebook personnel?

A Yeah, I mean, in the nature of the role as a convener and representative of them, I would say I typically expressed the community's preferences or opinions.

Q Yeah. And did others on your team share this responsibility of introducing

third-party fact-checkers to Facebook?

A And I also want to be clear, it's not like there was, like, a formal, "Hi, Facebook Representative. This is Fact-Checker X."

Q Uh-huh.

A You know, maybe there was some -- there was a meeting that summer or something like that. That's the type of event.

Q Do you remember who your point of contact was at Facebook?

A There were a few. I think one person was [redacted], maybe.

Q Once a third-party fact-checker has been introduced to Facebook, did you or your team play any further role? Were you looped in to further communications? Or once the introduction or whatever was made complete, your role was done?

A Yeah, the role of the IFCN remained the same as before, which was to help verify with respect to this code. We did not intervene in the contractual relationship between the fact-checkers and Facebook.

[redacted] Did you work with other social -- or, you know, play the same role with other social media companies, or just Facebook?

[redacted]. There is, to my knowledge, nothing quite equivalent to what Facebook did. I believe there would've been conversations with other platforms around what could be done, but nothing of this form, no.

[redacted] Do you know which platforms?

[redacted]. I'd imagine I would've spoken at the time with Google and with Twitter, but I'm -- yeah. I don't remember the nature of those conversations.

BY [redacted]

Q Do you recall if Meta, or personnel from Facebook -- let me take a step back. You mentioned that third-party fact-checkers agreed to abide by these guidelines,

this code of principles, as a necessary but not sufficient condition.

For the other conditions that Facebook had in mind -- and recognizing you don't recall what those specific conditions were, but -- when Facebook is conducting its analysis, assessment, of whether those other conditions are met, do you recall if Facebook personnel were consulting you or your team?

Mr. Bopp. Do you understand the question?

[redacted]. I think I'm being asked, did anyone at Meta ever discuss the program with me? And if so, yes. But there was no -- yeah.

BY [redacted]

Q Yes. And I appreciate the response.

With respect to Facebook, they're out looking to develop something -- and this is, again, how Facebook has presented it publicly -- find third-party fact-checkers that are legitimate, that do good work, whatever it might be. And, as you said, if they're willing to abide by a set of principles, that's a good starting point. That's a necessary but not sufficient condition.

Did anyone from Facebook reach out to you or your team for help in identifying or assessing the legitimacy of other third-party fact-checking organizations?

Ms. [redacted] I'm sorry. If you could repeat that, just the tail end. I'm so sorry.

[redacted] Assessing other third-party fact-checking organizations.

Ms. [redacted] Thank you.

[redacted]. I remember having conversations with folks at Facebook about the program, about how the code works. It was a big item in the news, especially for a sleepy journalism center in Florida. So, like, we would've had conversations around how the code works, what it takes to meet the conditions.

BY [redacted]

Q Similar to PolitiFact -- you said at some point it became housed within Poynter -- are there any other similar organizations that you recall that were owned or operated by Poynter during your time there?

A I don't -- no, I don't think so. But I -- yeah, I'm not necessarily an expert on it.

Q Fair enough.

During your time at Google, have you ever worked with someone named [redacted]?

A Yes.

Q Do you know who she is?

A She is the director of Search, Assistant, and Geo policy for Google.

Q And --

A Product policy, I should say.

Q Okay. And did you report to her?

A She was my director for the period of time that we referred to quite often, when I was a product policy manager.

Q Great. And that started in 2021?

A Correct.

Q Okay. Do you know if she's still in that role?

A She is still in that role.

Q Do you know who [redacted] (ph) is?

A I do.

Q And who is that?

A She would be, roughly speaking, the director for enforcement for Search,

Assistant, and Geo.

Q And was she in that role -- understanding this is a different team than yours --

A Yeah.

Q -- was she in that role when you were with the product policy team?

A I believe so, yeah. That's my recollection.

Q And do you know what her current role is?

A I believe she's in a similar role now.

Q Did you ever work with [redacted] (ph)?

A I don't think so, no.

Q Okay.

During your time at Google, have you worked with the Government Affairs and Public Policy team?

A Yeah, it will have happened. Uh-huh.

Q And what were the context of those interactions?

A Generally speaking, with the new policy launches, there maybe consultative roles for other functions within Google, where they don't approve or disapprove or reject something but they can express their opinion. And so that's the type of a relationship we might've had.

Q So they are communicating to you and your team a point of view?

A Right. Like, say there was a policy proposal. Before launching it, you might go kind of around, and there may be something that they know that we didn't, and so we'd get that piece of advice too.

Q Who was your point of contact on that team? Or did you have multiple points of contact?

A Yeah. I think -- and I think the director of the team changed in between, so there would've been different people in the GAPP team.

[12:17 p.m.]

BY [redacted]

Q Do you recall who the director of the team was when you started with the product policy team?

A I think he had a three-letter name. But we did not have that many interactions, so no, I don't. Sorry.

Q You mentioned if there's a new development, again, you communicate this to other teams at Google. For a situation where you're looping in this Government Affairs and Public Policy team, let's take a specific example. You mentioned the Russian invasion caused, you know, catalyzed your team to develop a new set of policies with respect to that.

For that issue, did you brief or communicate that to the Government Affairs and Public Policy team?

A I would have, yes.

Q And did were they providing any input to your team?

A In an advisory function --

Mr. Bopp. Just again, were they providing -- are you asking about specific -- some sort of specific instance of them providing input or just generally?

[redacted] So we'll start with the specific example with the Russian invasion. You said you're sharing information with them. Are they sharing information or something back with you?

[redacted]. I mean, to be clear on sharing information, what they would have done is simply reviewed a draft policy doc and said this looks unclear or change this maybe in an advisory role. We were not under obligation to follow their advice.

[redacted] Were there other teams you would have consulted with similarly?

[redacted]. The legal team, potentially the comms team on how we would describe it on the public language. The product team's responsible for actually if there was a change. The enforcement team of course. Yeah. I think I've covered most of the functions.

BY [redacted]

Q And the Russian invasion example, that's an example of a new policy. But for policies that are being revised or updated, would that also trigger something similar where you'd be sharing that with the Government Affairs and Public Policy team?

A Within like a hard and fast rule. But more often than not, they'd at least get an FYI that something was coming so that if they were then asked about something that changed they could explain it to their interlocutors.

Q Are there any other topics that you recall during your time that you briefed the Government Affairs and Public Policy team on?

A So at my -- I think that I recall in those two years obviously Russia-Ukraine would have been a big one. I believe we updated the policy for our hotline on Box. When you do suicide seeking queries, we trigger a hotline at the top with a help line and information. So we would have consulted them with that. Yeah.

There would have been others, but this is what I can remember right now.

Q Earlier, you had mentioned that you became the portfolio lead for health-related issues in I think it was September of 2021. Do you recall if there was anyone on your team responsible for election-related content?

A Yes. Although we don't have an elections policy to the same way that we have a health content policy.

Q Do you recall who worked on these election-related --

A It would have been one of my reports.

Q And do you recall who that was?

A Yes.

Q And who was it?

A You want her name?

Q Yes, please.

A [redacted] (ph).

BY [redacted]

Q What other topics did you have specific policies about? You had health content. What else?

A We had for the Knowledge Graph and for featured snippets, so these boxes, et cetera, that I mentioned, an incorrect information policy. And so writ large under that portfolio.

Q So you mean the health would fall under --

A No. Health content was a separate policy.

Q Okay. So since it didn't fall under the incorrect info, did that mean that the health content was not necessarily incorrect or if it's a separate policy? I'm trying to understand that. Why wouldn't that fall within the category of incorrect input?

A Yeah. I mean, some of this is very kind of organizational structure, boring stuff of which features are fully covered by the incorrect information, which is a subset of the features that are covered by health content.

To some extent, health content publicly is about kind of understanding medical consensus, whereas incorrect information is often more just like zero, one.

Q I see. And were there like subcategories of incorrect information like different topics, or that was just one, kind of there was no separation?

A Generally speaking, we would -- policy would provide grounds for action on public interest verticals. So if, say, you googled what did the Italy score -- what was the Italy score yesterday, and we got it wrong, policy wouldn't manually intervene to fix that or block that. But we would, if it said, "What is the election day?" and it was the wrong day.

Q I see. And so health content is the only other category, or are there other categories too?

Mr. Bopp. Categories of what?

[redacted] What he's -- things that would be corrected or --

[redacted]. I mean, there are 20-odd public policies that apply to Search features, I think -- 15 -- I can't. And so harassing content. Hateful content. Sexually explicit content. Health content. Deceptive behaviors, which is when someone claims to be a publisher from Denver but is actually based in Kaliningrad. So there's a broad set of policies.

[redacted] Do you remember any other specific ones other than those you mentioned?

[redacted]. No. Just -- I mean, there's -- I mean, I could list them, but those are kind of the main ones.

BY [redacted]

Q During your -- let me strike that.

Are you familiar with the Election Integrity Partnership?

A I have heard their name.

Q Okay. And what's your understanding of what they are?

A I think they're an academic group set up to monitor information about the election.

Q And do you know if anyone from Google is in contact with the Election Integrity Partnership?

A I don't know.

Q In your role as a product policy -- for the product policy teams, you mentioned at least with the health content space that you would look to see external experts that included open source research. Is that correct?

A Yeah. I mean, generally speaking, if there was some form of manifestation of scientific consensus, we would take it into account.

Q In terms of your work bandwidth, once you took the responsibility of health-related content, what percent of your bandwidth was devoted to that? Was it a hundred percent health related? Was it a fraction?

A It would have been a fraction.

Q So can you say roughly?

A I mean, it would have -- may have varied. But 20 percent. I don't know. Something like that.

Q And so you're still working on a number of other areas during this time?

A Correct.

Q Yeah. Did you -- would you reach out to -- outside of the health content space, other areas -- reach out to sources outside of Google for information, expertise, support?

A No. Product policy was quite insular and inward looking in that sense. We did not have any [inaudible] collection, but general practice outside contacts.

Q Okay.

[redacted] Off the record.

[Recess.]

[12:28 p.m.]

Ms. [redacted] We're back on the record?

BY MS. [redacted]

Q I want to go back and talk just a couple quick questions about Google News Lab.

So you described it offered online classes or training that journalists or news organizations could use to help them sort of up their game, and it was basically just a suite of resources for news organizations. Is that accurate?

A Correct.

Q Okay. And it's available to any news organization that wants to take advantage of it?

A Yes. I think there were just the notification. We may have done kind of in-person trainings as well. But those two kind of aimed at being as open and public as possible.

Q So news organizations from all over the political spectrum could take advantage of it?

A All over the world. Yeah.

Q So geographic -- no limitations geographic except some might that be based on the laws of whatever country?

A No, not even that. I mean, I think we would allow -- the goal really was to empower journalists and others to use our tools.

Q Okay. So the Google News Lab was completely nonpartisan?

A A thousand percent.

Q And I want to talk to you a little bit about the code of principles at the

International Fact-Checking Network that we talked about earlier.

That code of principles was something that you helped to develop, correct?

A Yes.

Q Okay. And organizations that have status as international -- I'm going to refer to the acronym -- the IFCN signatories, they have to agree to abide by those principles, correct?

A Yes.

Q And the first of those principles is a commitment to nonpartisanship and fairness, correct?

A Correct.

Q And as part of that principle, fact-checkers are not allowed to let their own personal viewpoints affect their fact-checking, correct?

A Yeah. I don't remember the exact formulation, but, yes, that would have been.

Q And signatories to the IFCN do not advocate or take policy positions on the issues that they fact-check?

A That sounds like what's in the code, yes.

Q Okay. And a signatory cannot be an organization that's affiliated with or shows support for any party or affiliation or politician?

A Once again, that sounds familiar. I don't remember the code verbatim, but, yes.

Q Fair enough. And I'll just really quickly list out the other principles just in the interest of completion.

The second principle in the code of principles is a commitment to standards of transparency and sources?

A That sounds right.

Q And the third principle is commitment to transparency of funding?

A That also sounds right.

Q And the fourth is commitment to standards and transparency of fact-checking methodology?

A I believe that's right.

BY [redacted]

Q I want to talk through those principles just briefly a little bit in more depth.

The commitment to nonpartisanship and fairness, do you recall why it was important for that to be included in the code?

A Yeah. I mean, I think the view of fact-checking at the time and now is kind of a fair umpire, as a referee would be affected if it -- if they were also a player, so to speak. So when making assertions about the veracity of a claim, they can't actually be interested in where that claim is going.

Q And did you have any policies or best practices for how to ensure that an entity maintained a nonpartisan viewpoint?

A So this was 7 years ago. The way that the -- so the code requirements are all public. And so each one of these principles has like four or five, I think, conditions.

These conditions may have included making sure that no members of the reporting team are registered with a party, that kind of stuff, they haven't taken public positions. I don't remember, again, exactly. But, yes.

And it's important to note that they would also have been verified by an external journalism expert. So those commitments would have been reviewed by someone before being submitted to the IFCN.

Q What about the commitment to standards of transparency and sources?

Why was it important for that to be included in the code?

A Yeah. I mean, fact-checking journalism is a different type of journalism, which promises to a viewer there is not to conceal sources and to be honest and transparent about how it reached a claim -- a conclusion about a claim.

And so including the sources helps the users themselves fact-check. In fact, the most important thing about fact-checking is this, letting users make their own understanding of what facts are out there.

Q So would that mean, for example, on a web page that has a fact-checking determination on it, under, at the bottom of it, it might say we relied on X, Y, and Z sources to reach this conclusion?

A Yeah. Typically it would be either in a dedicated section or hyperlinks.

Q Okay. And it would be -- and it's a best practice to include it on that web page itself so the user can easily find it?

A Yeah. Just as a note, obviously you know this, but this was my understanding of things back then --

Q I understand, completely understand.

A -- maybe the ecosystem was involved. But, yes.

Q Completely understand. We're relying on your memory from 7 years ago and what it was at the time.

A Yes.

Q What about the commitment to transparency of funding and organization, why was that important to be included in the code?

A Yeah --

Mr. Bopp. Just to be clear, are you asking for [redacted] view as just his view as a person and somebody who has worked in this area, or in his position when he was

working for the Poynter Institute?

[redacted] Understood.

BY [redacted]

Q So you said you helped to develop the code, correct?

A [Nonverbal response.]

Q So when you were developing the code, commitment to transparency of funding an organization was one of the elements that you included in the code, correct?

A Yes.

Q Do you recall why you chose to include that particular element in the code?

A I mean, again, at the time, it's somewhat tied to even the nonpartisanship requirements, that being funded perhaps by overtly political groups would have been potentially an issue, and just being open about who funds you is a helpful way for users once again to fact-check the fact-checkers, so to speak.

Q Okay. And so, to be clear, transparency meant it should be publicly noted, not that somebody couldn't be funded, because everybody gets funding from somewhere, just has to be noted publicly. Is that fair to say?

A Yes. The sole exception -- again, because this was a global network -- I believe there were fact-checkers in Iran where some of this would have been physically dangerous, so there was an exception for that. But generally speaking -- and we needed a local expert to confirm that it was dangerous -- but generally speaking, the requirement was publish [inaudible].

Q Okay. And then finally, the commitment to standards and transparency of methodology.

Can you explain, again based on 7 years ago when you were drafting the code or helping to come up with the code, what does commitment to standards and transparency and methodology mean, or what did it mean to you when you helped to draft the code?

A Yeah. I mean, I think it was a way to help users, readers, understand what fact-checking is and isn't, how things are found, determined, et cetera, once again with a view to, like, enabling users, readers, to make their own assessment of whether what they're reading looks and sounds right.

Q Great.

Ms. [redacted] And is part of the goal so that a user can essentially trace the fact-checker's step and go through the same research process to see all the same information that the fact-checker did?

[redacted]. In an ideal world, yes, the time that a fact-checker spends finding the PDF that's a hundred pages long would be shortened and the user could access it directly.

Ms. [redacted] Great. Thank you so much.

[redacted] Thank you.

We can go off the record.

[Whereupon, at 12:36 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

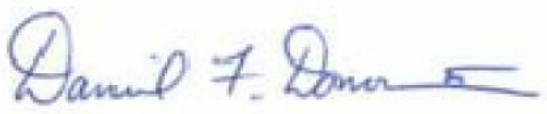
Date

Transcribed Interview Transcript Errata Form

Interviewee	[redacted]
Date of Interview	May 24, 2023
Date of Review	July 19, 2023
Name of Reviewer	Read Mills
Signature of Reviewer	

Page	Line	Suggested Correction

Transcribed Interview Transcript Errata Form

Interviewee	Principal, Trust & Safety Intelligence Team
Date of Interview	May 24, 2024
Date of Review	December 16, 2024
Name of Reviewer	Daniel Donovan
Signature of Reviewer	

Page	Line	Suggested Correction
9	8	“April '21” should be “April 2021”
11	17	“about virus talk show” should be “about the Virus talk show”
14	18	“Enforcement” should be “enforcement”
15	13	“Workplace” should be “Workspace”
17	7	“protests” should be “protest”
23	8	“falls” should be “fall”

Transcribed Interview Transcript Errata Form

25	23	“I do not” should be “I did not”
26	7	“there is reasons” should be “there are reasons”
31	12	“back to the Russia-Ukraine” should be “back to Russia-Ukraine”

Page	Line	Suggested Correction
35	3	“piece of claim” should be “piece of a claim”
36	25	“there's new facts” should be “there are new facts”
38	6	“Ayurdevic” should be “Ayurvedic”
40	12	“trying to better sense” should be “trying to get a better sense”
43	9	“trust and safety” should be “Trust and Safety”
50	5	“was any exceptions” should be “were any exceptions”
52	20	“there are information” should be “there is information”

Transcribed Interview Transcript Errata Form

54	17	"trust and safety" should be "Trust and Safety"
56	15	"trust and safety" should be "Trust and Safety
57	3-4	"verifying contents" should be "verifying content"
59	21	"get those content" should be "get that content"
72	14	"it will have happened" should be "it would have happened"
72	16	"there maybe consultative" should be "there may be consultative"
Page	**Line**	**Suggested Correction**
74	15	"And did were they providing" should be "And were they providing"
79	12	"there were just the notification" should be "there were just the notifications"
82	3	"promises to a viewer there is not to conceal" should be "promises to a viewer not to conceal"
85	7	"fact-checker's step" should be "fact-checker's steps"

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: [redacted]

Wednesday, May 31, 2023

Washington, D.C.

The interview in the above matter was held in room 2237, Rayburn House Office Building, commencing at 10:00 a.m.

Present: Representative Jordan.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

[redacted] GENERAL COUNSEL

[redacted] COUNSEL

[redacted] DEPUTY GENERAL COUNSEL

[redacted] CHIEF COUNSEL FOR ANTITRUST,

COMMERCIAL, AND ADMINISTRATIVE LAW

[redacted] DIGITAL ASSISTANT

[redacted] RESEARCH ASSISTANT

[redacted] DIGITAL DIRECTOR

[redacted] SENIOR SPECIAL COUNSEL

[redacted] COUNSEL

[redacted] MINORITY CHIEF OVERSIGHT COUNSEL

[redacted] MINORITY INTERN

[redacted] MINORITY STAFF ASSISTANT

[redacted] MINORITY PROFESSIONAL STAFF MEMBER

For the SUBCOMMITTEE ON CRIME AND

FEDERAL GOVERNMENT SURVEILLANCE:

[redacted] MINORITY DETAILEE

[redacted] MINORITY DEPUTY CHIEF COUNSEL

For the SUBCOMMITTEE ON THE ADMINISTRATIVE STATE,

REGULATORY REFORM, AND ANTITRUST:

[redacted] MINORITY CHIEF OVERSIGHT COUNSEL

For [redacted]:

[redacted]

[redacted]

Kirkland & Ellis

1301 Pennsylvania Avenue NW

Washington, D.C. 20004

[redacted] This is a transcribed interview of [redacted]. Chairman Jordan has requested that this interview -- has requested this interview as part of the committee's investigation of how and the extent to which the executive branch has coerced and colluded with companies and other intermediaries to censor speech.

Would the witness please state your name for the record?

[redacted] [redacted].

[redacted] On behalf of the committee, I want to thank you for appearing here today to answer our questions. The chairman also appreciates your willingness to appear voluntarily.

My name is [redacted] and I'm with Chairman Jordan's staff.

I'll have everyone else from the committee who is here at the table and in the room introduce themselves as well.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] [redacted] with Chairman Jordan's staff.

[redacted] [redacted] with Ranking Member Nadler's staff.

[redacted] [redacted] for Ranking Member Nadler.

[redacted] [redacted] for Ranking Member Nadler.

[redacted] [redacted] for Ranking Member Nadler.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] I'd like to now go over the grounds rules and guidelines that we will follow during today's interview.

Our questioning will proceed in rounds. The majority will ask questions first for one hour, and then the minority will have an opportunity to ask questions for an equal period of time if they choose. We will alternate back and forth until there are no more questions and the interview is over.

Typically we take a short break at the end of each hour, but if you would like to take a break apart from that, please just let us know.

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

Do you understand?

[redacted] Yes.

[redacted] So the court reporter can take down a clear record, we will do our best to limit the number of people directing questions at you during any given hour to just those people on the staff whose turn it is.

Please try and speak clearly so the court reporter can understand and so the folks down at the end of the table can hear you. It is important that we don't talk over one another or interrupt each other if we can help it, and that goes or everybody present at today's interview.

We encourage the witnesses who appear before the committee to freely consult with counsel if they so choose. And it is my understanding that you are appearing today with counsel. Is that correct?

[redacted] Yes.

[redacted] Could counsel please state your name for the record?

[redacted] Sure. [redacted], Kirkland & Ellis.

[redacted] [redacted], Kirkland & Ellis.

[redacted] Okay. We've had a couple others enter the room.

Mr. Jordan. Hi, [redacted].

[redacted] Please introduce yourselves for the record.

Mr. Jordan. Jim Jordan, RM.

[redacted] [redacted] for the majority staff.

[redacted] Thank you.

We want to answer your questions -- we want you to answer our questions in the most complete and truthful manner as possible, so we will take our time. If you have any questions or if you do not understand one of our questions, please let us know. Our questions will cover a wide range of topics, so if you need clarification at any point, just say so.

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

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

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

Do you understand that?

[redacted] Yes.

[redacted] This also applies to questions posed by congressional staff in the interview.

Do you understand this?

[redacted] Yes.

[redacted] Witnesses that knowingly provide false testimony could be subject to criminal prosecution for perjury or for making false statements under 18 U.S.C. 1001.

Do you understand this?

[redacted] Yes.

[redacted] Is there any reason you are unable to provide truthful answers to today's questions?

[redacted] No.

[redacted] Finally, I'd like to make a note that the content of what we discuss here today is confidential. We ask that you not speak about what we discuss in this interview to any outside individuals to preserve the integrity of our investigation.

For the same reason, the marked exhibits that we will use today will remain with the court reporter so that they can go in the official transcript, and any copies of those exhibits will be returned to us when we wrap up.

That is the end of my preamble.

Is there anything that my colleagues from the minority would like to add?

[redacted] No, thank you.

[redacted] Great. The clock now reads 10:04. We will start the first hour of questioning.

EXAMINATION

BY [redacted]

Q [redacted], can you give us your current job title and tell us where you work?

A I work at Meta. My current job title is programs and partnerships team lead.

Q And is that for -- is there a geographical area that you work in, or --

A North America.

Q And can you give us your educational background, starting with college?

A I graduated from the College of William and Mary with an undergraduate degree and a master's degree from the George Washington University.

Q Can you tell us what those degrees were in?

A My undergraduate degree is in government. My graduate degree is in political management with a focus in crisis communications.

Q Can you tell us your employment history?

A After college, I did some odd jobs and went to graduate school. And, after that, a few odd jobs again. I came to Congress in 2013 and left Congress in 2018.

Q Who did you work for in Congress?

A Several Members. Chronologically --

Q If you can, that would be great.

A -- Congresswoman Barbara Lee of California; the House Committee on Rules and the ranking member, Louise Slaughter, from New York; then-Minority Leader Nancy Pelosi of California; and, finally, then-Minority Leader Chuck Schumer of New York.

Q Can you tell us what positions you held at Meta prior to the one you have now, if any?

A My original title was politics and government outreach manager.

Q And when did you begin that?

A 2018.

Q Okay. And when did you finish that position and move to the next one?

A My current title began in November of 2022.

Q So do you mean just the title changed but not your responsibilities, or --

A That's a fair assessment, yes.

Q Okay. And can you describe what --

[Discussion off the record.]

[redacted] As a clarification, I did add a few more people to my team that I directly managed, but my responsibilities stayed very similar.

BY [redacted]

Q I see. And when did you add those people to your team?

A In November of 2022.

Q Okay. Do you know why?

A We had a reorg on our team.

Q Okay. Can you describe what you do, did in each position, or --

A Sure. I served as a resource to Members of Congress relevant to the Meta family of apps, and I run the North American team of partner managers who do similar work.

Q So you're on the public policy team, and so what do they -- what do they do in general? What's their purview?

A The public policy team at Meta works much like any other public policy team. We have a Federal team and a State and local team.

Q And what do those teams do? Can you give us sort of specific examples?

A Portions of the team are subject-matter experts on topics relevant to the company. Some colleagues directly advocate for legislation. Others are programmatic.

Q Okay. And, just to clarify, Meta has different products, right, like Facebook, WhatsApp, Instagram. Do you work with all of those products, or just Facebook or --

A I cover our whole family of apps.

Q Okay. And how large is the public policy team approximately?

[Discussion off the record.]

[redacted] I will clarify the previous question.

While I cover the full family of apps, I do have colleagues that are subject-matter experts in specific apps?

BY [redacted]

Q I see.

A So, should I need their expertise, I have them available.

Q I see. Okay.

And what would be an example of something where you might need the expertise of a particular --

A A good example would be a rarely used tool that I'm not familiar with.

Q I see. Okay.

And where in the chain of command are you? Do you report to people, they report to you?

A I'm managed by [redacted].

Q Who is above him? Do you know?

A Currently, he reports to [redacted].

Q Do you know who she reports to?

A She reports to [redacted].

Q And then do you know who he reports to?

A He reports to Joel Kaplan.

Q How about above Joel Kaplan?

A I don't know.

Q Okay.

Mr. Jordan. What are the titles of each of those people in that report -- order or sequence you just gave?

[redacted]'s title?

[redacted] His title is programs and partnerships director.

Mr. Jordan. Uh-huh. How about Ms. -- was it -- I think you said [redacted]. What was her title?

[redacted] I believe her title is VP of external affairs.

Mr. Jordan. Okay. And [redacted] and Mr. Kaplan?

[redacted] [redacted], I believe his title is vice president of public policy. I'm not sure what Joel's formal title is, and I wouldn't want to get it wrong.

Mr. Jordan. Okay.

BY [redacted]

Q So who reports to you, and how many people?

A I manage a team of --

[Discussion off the record.]

[redacted] To be precise, from 2018 to November of 2022, I managed a team of one, not including me -- team of two including me. And, in 2022, I manage a team of five including me.

BY [redacted]

Q Okay. And what do those people do on a daily basis?

A They are partner managers as well.

Q Can you tell us their names, please?

A From 2018 to 2022, I managed a man named [redacted]. And, currently, my team consists of [redacted]; [redacted]; [redacted], who has just recently been married -- you may see her name as [redacted]; and [redacted]

[redacted].

Q Okay. Thank you.

[Discussion off the record.]

[redacted] As a point of clarification, that larger team that I began managing in 2022, some of those team members are no longer with the company due to a reduction in force that came last week.

BY [redacted]

Q Oh, okay. So very recent?

A Yes.

Q Okay. So does Meta have a content moderation policy or policies?

A Yes.

Q And do you work on those policies?

A No.

Q Not at all?

A No.

Q Okay. Do you have any idea who comes up with the content moderation policies?

A There are lots of teams that weigh into that set of policies.

Q Can you tell us what they are?

A The one that is responsible for the content policies is organic content policy.

Q Do you know who works on those?

A That has changed over time.

Q Can you tell us, like, as far back as you remember, as many people as you remember?

A With turnover and reorgs, I don't want to misrepresent who worked where,

when, so I want to be precise for you. But the -- the head of that team, which stayed stable over time, is [redacted].

Q Okay. So do you work -- does your work at Meta involve enforcing the content moderation policies or applying them however --

A I don't enforce on content, or -- I also don't work on applying penalties on content, no.

Q But you discuss -- you discuss misinformation, correct, and the -- that issue on social media?

[redacted]. Discuss with who? I'm just trying to understand the question.

[redacted] Well, various people.

BY [redacted]

Q For instance, I mean, you've discussed misinformation with the CDC; [redacted], for example. How do you -- like, what would you call that work?

A It's not my area of expertise, but misinformation is one of many topics that my partners focus on.

Q Which partners?

A Over time, it changes. You mentioned the CDC.

Q Yeah.

A That's certainly one of them.

Q Or the White House, for instance?

A I have discussed misinformation with the White House.

Q So, just to be clear, what would you call that -- I may not be using the right term, so that's why we might be talking past each other a little bit, but what would you call that work?

[Discussion off the record.]

[redacted] I'm not on organic content policy. It's not my area of expertise. My area of expertise is to ensure that my partners know how to use the tools, and so they're -- I'm not sure where the disconnect is.

BY [redacted]

Q Okay. So, when you say your partners, who -- who do you mean by that?

A That's changed over time as well.

Q Can you tell us who it was in the past, who it is now, anyone you can remember?

A In 2018, my partners included the Senate and a few private entities. And, in 2022, it included the House of Representatives and a few private entities, and the White House in 2021.

[Discussion off the record.]

[redacted] In the spring of 2021, I also added the health portfolio of the United States Government.

BY [redacted]

Q Okay. So, in 2018, when you worked with the Senate, who in the Senate?

A Any Senator in the Democratic Caucus or who caucused with Democrats.

Q Can you give us any specific ones, like who you worked with more often than others, say?

[redacted] Can I just -- I want to be careful about, like, specific, like, clients. She said she had all of the Senate Democrats. If we're going to get into specific Members of Congress and the like, it would just be helpful to know what the legislative, like, angle is on that.

[redacted] Okay. That's fine.

[redacted] We just want to be respectful of all the Members and their privacy --

[redacted] Sure.

[redacted] -- interests. Yeah.

BY [redacted]

Q So you said, in 2018, you also worked with a few private entities. Can you tell us what those entities were?

A The campaign corollaries.

Q I see. Okay. And how about in 2022? I'll stay away from the House Members, but the private entities?

A That included the DNC.

Q Okay.

A As a point of clarification, in 2018, I also did have the DNC.

Q Okay. And, when you said the spring of 2021, the health -- you mentioned the health portfolio. Can you explain that a little bit more?

A That encompasses the Centers for Disease Control, the National Institutes of Health, U.S. Department of Health and Human Services.

Q And can you tell us a little bit more about what -- how you worked with them, like what that looked like?

A It was very similar to what I mentioned prior. As a resource to them to ensure they knew how to use our tools and family of apps.

Q Which tools do you mean?

A Facebook, Instagram, WhatsApp, et cetera, et cetera.

Q Oh, okay. I see.

So do you know what Meta's enforcement of misinformation policy is?

A I'm certainly not an expert in those policies. It's outside of my area of expertise.

Q Can you tell us to the best of your ability, understanding you might not have it totally correct?

A In an effort to be precise --

[redacted] Can you repeat the question? I just want to understand.

[redacted] How does Meta deal with enforcement of its misinformation policies?

[redacted] Okay.

[redacted] I wouldn't want to overstep the specifics of that because it's -- it's just not my area of expertise.

BY [redacted]

Q Okay. And do you know what categories of misinformation are subject to some kind of penalty or removal of the post or other ways of sort of decreasing the visibility?

A That question might be better answered by a colleague who has an expertise in that area.

Q Do you know which colleague might be able to do that?

[Discussion off the record.]

[redacted] I will note that our policies are public and online in the community standards.

BY [redacted]

Q Okay. But Meta does have a health misinformation policy, though. Is that correct?

A Yes.

Q Okay.

Mr. Jordan. Can I just interrupt for a second?

[redacted], earlier, you mentioned partners. You said that you and your team worked with partners, and then you said those partners were, if I get this right, Democrats in the House and Senate. And then you mentioned the DNC. And then you also mentioned that you had discussions with the White House about misinformation.

I mean, so you categorize all those folks as partners?

[redacted] Yes. That's a fair characterization.

Mr. Jordan. Okay.

[Discussion off the record.]

BY [redacted]

Q And, just going off of that for a second, in 2018 --

[redacted] Oh, I'm sorry.

[redacted] No, go ahead.

[redacted] As a point of clarification, Mr. Jordan, to your question, I have analogs that also manage those Republican counterparts, so Republicans in the Senate, Republicans in the House. It encompasses both parties.

Mr. Jordan. Okay.

[redacted] Okay. And including the RNC.

Mr. Jordan. Okay.

BY [redacted]

Q In 2018, you mentioned you worked with the DNC along with some other partners. Who else did you work with?

A At the --

Q The private entities?

A Oh, that includes, as I mentioned, the DSCC, the Democratic Senatorial Campaign Committee.

Q And then the DNC?

A Yes.

Q Anyone else?

A No.

[redacted] Okay.

BY [redacted]

Q You said you took the --

[redacted] Just what's the timeframe that you're looking at, because that's --

[redacted] 2018.

[redacted] Just in 2018, or --

[redacted] Correct. For right now.

[redacted] Okay.

[Discussion off the record.]

[redacted] To make sure that the chronological clarity is there --

[redacted] Sure.

[redacted] -- in -- I'm not sure what the time stamps are, if it was early 2019 or late 2018, but, as anyone declared their candidacy for President as a Democrat, they became my partner.

BY [redacted]

Q Okay. So a Democratic potential candidate became your partners?

A Right. So, in my recollection, I'm not sure. Maybe one or two of them declared in late 2018, but I want to make sure that's precise for you.

[Discussion off the record.]

[redacted] It also included, in that -- with the corollaries, the campaign corollaries -- bless you --

Mr. Jordan. Thanks.

[redacted] -- as folks declared candidacy for the Senate as well, through the Senate campaigns and the campaign arm, as well as the DNC and those entities running for President.

BY [redacted]

Q And what would be your job duties as it relates to those partners?

A Principally to be a resource for tools to ensure they, "they" being my partners, knew how to use them effectively, and my corollary on the Republican side did as well.

Q Okay. You mentioned the tools for, like, the apps. That would be WhatsApp, Instagram, Facebook?

A Uh-huh. Yes.

Q Can you provide an example of how you might work with the partner to make sure they knew how to use an application correctly?

A Yes. A good example would be we had a program rolled out called Facebook Protect, which was -- is an advanced security feature. And my colleagues and I ensured that our partners knew how to enroll and what the features of that program were.

Q And what did that program do specifically?

A It helped civic actors, users in the government and political realm, ensure that they had two-factor authentication on, strong passwords. It's a security program.

Q Besides that program, can you recall any other programs that you might have interfaced with some of these private entities on how to use correctly?

A One common tool that comes up a lot with my partners and my colleagues' partners is our Insights tool, how to track how content is doing on the platform, read your

comments, reply to comments, administrative features of the platform. That comes up a lot.

Q And how often would you say, on a weekly basis, would you be interfacing with the partners?

A With any given partner, or --

Q Sure. Any --

A Just for point of clarification.

Q Any given partner.

A Over time, it can change.

[Discussion off the record.]

[redacted] Oh, my book of business or my set of partners is quite large, so it feels like every day.

BY [redacted]

Q Would you be primarily communicating with them over email?

A Yes.

Q Would you ever have phone calls with them?

A Occasionally.

Q And you mentioned, in 2020, you had another set of private entities that were your partners, including the DNC. Who else would be kind of grouped in that, in your partners category for the 2020 cycle?

A That -- that covers it.

Q Covers it? Okay.

A Pardon me.

Q And you mentioned, in 2021, the White House came on board as a partner?

A Yes.

Q What were your interactions with the White House like?

[redacted] Can we go you have at record for a second?

[redacted] Sure.

[Discussion off the record.]

BY [redacted]

A In 2021, I added the White House to my set of partners. And, at the beginning of administration -- an administration -- excuse me -- they set up all of their Facebook accounts, Instagram accounts, and I worked with my Republican colleague and the National Records association to ensure that the data and content of the Trump administration was appropriately captured and that the handles of, say, for instance, facebook.com/whitehouse were transferred over to the Biden administration.

[Discussion off the record.]

[redacted] Oh, yes. I'm sorry. What's the full title of that administration?

[Discussion off the record.]

[redacted] NARA.

BY [redacted]

Q NARA?

A Yeah.

Q Got it.

A Excuse me. Administration, not association.

So that was a big one at the beginning.

Q Okay. And who would you -- who was your point of contact for, I guess, the Biden administration in 2021?

A The head of the Office of Digital Strategy at the White House is Rob Flaherty.

[redacted] And who was your point of contact with the other agencies that

you mentioned? You mentioned CDC, NIH, I think and HHS.

[redacted] Can we do them one at a time?

[redacted] Sure.

BY [redacted]

Q CDC.

A Sure. CDC, as you mentioned, Carol Crawford was a consistent contact.

Q And HHS?

A It changed over time, but, at the beginning, a woman named Georgeta Dragoiu, which I wouldn't be -- want to be imprecise in the spelling of that.

Q I actually think I have it, so -- and what about NIH?

A NIH, principally a woman named Shuly Babitz.

Q And what were most of those interactions about, or what were the interactions about?

A I don't know that I can broadly characterize in one way what those interactions were. If there is something more specific --

Q Can you give an example of, you know, what you were doing for the CDC or with the CDC?

A I, again, ensured that they knew how to use the tools. I have given presentations to their distributed communications teams about the tools. I -- that's -- that's one that sort of broadly comes to mind.

BY [redacted]

Q You said you took over the health portfolio in 2021. Is that correct?

A Yes.

Q Who did -- was there someone who was previously responsible for the health portfolio before you took over?

[Discussion off the record.]

[redacted] In the spring, I picked that up due to a parental leave, so there was an opening on the team.

[Discussion off the record.]

[redacted] My predecessor was [redacted].

BY [redacted]

Q And how long did you have the health portfolio as part of your set of responsibilities?

A I still have the health portfolio today.

Q Okay. And do you know how long [redacted] had that as part of her portfolio?

A I don't know the time stamp on that.

Q You mentioned --

A I --

Q Oh, sorry. Please.

A I do know that she covered the health portfolio in the Trump administration as well as into 2021, but I'm not sure on the date that she began that portion.

Q Okay. You mentioned, within the policy team, there is Republican counterparts to your role and similar roles. For the health portfolio, is there also a Democratic and Republican counterpart, or is there one health portfolio lead?

A For the wide variety of Federal agencies -- excuse me -- we split the portfolio dependent on who is on the team, sort of zone defense versus man to man.

[Discussion off the record.]

[redacted]. There is -- because of that dynamic, there is no partisan affiliation for that.

BY [redacted]

Q What are some of the other subject matters that the team is divided? So you mentioned health is one. Are there are analogous --

A My colleague, [redacted], has -- a clear example -- excuse me -- [redacted] holds the defense portfolio -- veterans affairs, Department of Defense, all the branches of the military. We try to group them by topic. That's -- that's the clearest set, I think, analogous to the health portfolio.

BY [redacted]

Q So the health portfolio would be just various agencies that were -- whose purview is health? So you mentioned NIH, CDC, HHS. Are there others, like FDA, NAID?

A Those are included, yes.

Q Okay. Any others that come to mind that you haven't mentioned?

A For the health portfolio?

Q Yeah. Health, yeah.

A Oh, that covers it.

Q Okay. And I'm aware you may not know the answer to this, but, once someone is -- was identified as having spread or posted misinformation, did Meta have a policy of trying to get them off -- say they did it on Facebook -- try to get them off Instagram or --

A That's --

[redacted]. Can you -- what -- are you talking about anywhere on the -- are you talking about a particular -- like, what are you focused on? Just --

[redacted] Well, I mean, were there efforts to sort of coordinate the platforms so that, if someone had posted something that was deemed misinformation on one platform, they would be removed from another platform so that they would be unable to

use any of them?

[redacted]. Okay.

[redacted]. That level of specificity is outside my expertise.

BY [redacted]

Q Do you know who might deal with that sort of thing?

[Discussion off the record.]

[redacted]. [redacted] would --

[redacted] Okay.

[redacted]. -- know.

[redacted] Thank you.

[redacted] Can I --

Mr. Jordan. Earlier you said, [redacted], you dealt with NARA. That's National Archives?

[redacted] Yes.

Mr. Jordan. Who did you deal with there? And this is during the transition?

[redacted] Yes.

Mr. Jordan. Okay.

[redacted] I don't have her name coming to mind.

[redacted] We'll get you a name.

[redacted] We can certainly --

[redacted] Sure.

Mr. Jordan. And tell me again the interaction you dealt with -- what were the concerns or the issues there with Meta and NARA were working together during the transition? Can you talk some things relative to the Trump administration?

[redacted] Uh-huh. In my understanding of NARA's purview --

Mr. Jordan. Uh-huh.

[redacted] -- they archive the Facebook pages and related Instagram accounts for each administration, I believe starting in the Obama administration, so that they have appropriate records of the content.

Mr. Jordan. Okay. And then, when you worked with the various partners, which you discussed earlier and you talked about security concerns, how to better use the apps, did you also, like, recommend, like, "here is ways that you can increase your reach, here is ways that you can better -- dealing with the DNC as an example -- here is methods that we think would help you increase fundraising" or whatever?

Was that part of your portfolio as well?

[redacted] We have a core principle on our team that we work with the tools, not the topic. So we certainly would illustrate the capability of a tool but not with strategic advice. I think that answers your question.

Mr. Jordan. Okay. And then you mentioned, at the White House, you dealt with Rob Flaherty. And then you said earlier this morning that you talked to the White House about misinformation.

Was that the individual you talked to about misinformation?

[redacted] He is one of them, yes.

Mr. Jordan. And who would the others be?

[redacted] Another that comes to mind is Andy Slavitt.

Mr. Jordan. Okay.

BY [redacted]

Q Are there any others?

A I do recall another instance related to misinformation with Brenna Parker in Vice President Harris' office.

Mr. Jordan. And, when you talked about misinformation with these individuals, was it largely related to your health portfolio?

[redacted] For the first two I mentioned, Mr. Flaherty and Mr. Slavitt, yes.

Mr. Jordan. Okay. And then the other was relative to what?

[redacted] It was relative to a tranche of comments on White House Instagram accounts after the invasion of Ukraine.

Mr. Jordan. Okay.

[redacted] This is exhibit 1. If you could just take a look at these and let me know when you've had a chance -- it's really the -- just the first page.

[[redacted] Exhibit No. 1

Was marked for identification.]

[redacted] Read the whole thing.

[redacted] Uh-huh.

BY [redacted]

Q This is an email from you to -- well, the second one is an email from you to Catherine Jamal at CDC, is that right, on September 7th, 2021?

A Yes.

Q And you mentioned you had a request from your policy counterparts for a meeting to discuss long-term vaccine policy. Can you -- who would your policy counterparts be that you mentioned there?

A That -- that's referencing my colleague, [redacted], who is listed in the cc line.

Q Okay. And it appears to me that you're quoting an email or something from someone else. You, like, copied and pasted that. Is that -- in that paragraph starting with -- the topic is vaccine misinformation. Is that a correct understanding of --

A Yes.

Q Okay. Do you know who wrote that, who you were quoting?

A My recollection is that is from [redacted].

Q Okay. And it looks like a meeting was arranged to discuss vaccine misinformation between the CDC and Facebook. Do you recall if that meeting took place?

A I don't recall.

Q Okay. Did you ever attend meetings with the CDC?

A Yes.

Q Okay. Do you -- what -- can you tell us what those meetings were about? I understand there might not be one topic, but --

A Yeah. In the pandemic, so many meetings were Zoom, just the same squares over and over. It's hard to pick one out. We certainly had meetings that would include conversations like this.

Q Okay. And what was the purpose of the conversations?

A We wanted to ensure that our policies were keeping up with the authoritative science. The science in the pandemic changed over time a lot, the known science, and we wanted to ensure that our policies were keeping up with that.

Q So, when you say your policies were keeping up with it, what do you mean by that? Do you mean in terms of removing posts that you thought were inconsistent with the authoritative information, or --

A Noting, again, outside of my area of expertise, but that's a good example.

Q Okay. Who usually attended those meetings, to the best of your recollection, from both Facebook and the CDC and anyone else who would have attended?

A [redacted] was certainly regularly attending. Carol Crawford, as I mentioned, attended regularly. And Catherine Jamal, listed here as CDC/OD/OADC, is a familiar one.

Q Did you take notes at these meetings or keep a record?

[Discussion off the record.]

[redacted] The specifics of these meetings were in [redacted]'s wheelhouse, so any of the relevant notes would have been her purview.

BY [redacted]

Q I see. And how often did these meetings take place?

A That varied. A good estimate would be maybe once every 2 weeks on average. I --

Q Okay. Are those all be-on-the-lookout meetings, or were there different categories of meetings with the CDC?

A This is different than a be-on-the-lookout meeting.

Q Okay. What were the -- what was this called, then?

A I don't think it had a formal title.

Q Okay. And a couple of the people at Facebook on the email and that who are included on the invite, [redacted], do you know who she is, what her title is?

A I don't recall what her title is.

Q Okay. Does -- do you know what team she works on, or what her group --

A I don't recall that.

Q How about [redacted]?

A I don't know her title either --

Q Okay.

A -- or don't recall her title.

Q Okay. Can you describe a little bit more, like, what was -- what these meetings were about, what was discussed, and who led them?

A These were collaborative meetings. I'm not sure what you mean by lead them.

Q Well, I mean, presumably someone sort of organized and, you know, was in charge of making sure the topics were covered or --

A Facilitated?

Q Yeah. That -- you can use that word.

A I facilitated the scheduling and the communications to schedule, [redacted] facilitated the technical policy points being discussed, and we leaned on CDC's subject-matter experts to facilitate their portion of that discussion.

Q I see. And how did these meetings differ from the be-on-the-lookout meetings, like in terms of substance?

A Be-on-the-lookout meetings were initiated by the CDC, and -- in my understanding, and included other tech companies.

Q I see. Okay. Did you attend those?

A I attended a few of them, yes.

Q Okay. Do you know how often they were held?

A It changed over the pandemic. I recall them maybe monthly.

Q Okay. Do you mean it changed, like they weren't held at all during the pandemic, or they increased during the pandemic, or they increased throughout the pandemic?

[redacted] I'm sorry, but can we break it into --

[redacted] Sure.

[redacted] -- one question at a time --

[redacted] Yes.

[redacted] -- because I don't want her to give you an answer to some --

[redacted] Yes.

[redacted] -- part, and it's not clear.

[redacted] Not a problem.

BY [redacted]

Q So were these meetings -- to your knowledge, were these meetings held prior to COVID?

A I don't know.

Q Okay. Did they increase throughout COVID in frequency?

A I can't speak to the frequency before I held that portion of the portfolio.

Q Okay.

A It was outside of my scope.

Q Okay. During your -- during that time?

A During --

Q Did they increase in frequency?

A So --

[redacted] During what --

[redacted] During what period?

[redacted] While you held that portion of the portfolio.

[redacted] Oh, no.

BY [redacted]

Q Okay. And who -- who was usually at those meetings?

A I don't know. I recall joining over the phone.

Q Okay. So they were phone rather than Zoom?

A I recall myself joining by phone. Hard to track who -- who joined.

Q Yeah. Yeah. Did you keep notes of those meetings?

A I did not, no.

Q Do you know who may have kept records?

[Discussions off the record.]

[redacted] I don't know that I can speak to somebody else's notes-taking cadence, so I wouldn't want to overstep that.

BY [redacted]

Q Okay. Was there any process during meetings with CDC? Would there typically have been someone at Facebook who took notes? I'm sorry. Meta.

A I don't know.

Q Okay. What about meetings in general? Was there someone who usually took notes or recorded what happened?

[redacted] Can I just -- can you clarify that a little bit? What about meetings in general? Like, are you talking about meetings with the government? Are you talking about internal -- there -- I mean, the range there is really --

[redacted] Anything.

[redacted] -- a broad topic. I don't know what you're focused on.

[redacted] Anything.

BY [redacted]

Q I mean, did Meta usually have a policy of keeping written notes or other forms of recordings of meetings -- any meetings?

A I don't know of any policy regarding that, no.

Q Okay. So were -- would notes -- what about with government? Would there be a policy regarding meetings with government?

A I don't know of any policy that would cover that.

Q Okay.

Mr. Jordan. Whether there was a policy or not, was that recorded in some way, memorialized in some way?

[redacted] Can you clarify that?

Mr. Jordan. Those meetings. Those meetings --

[redacted] Oh.

Mr. Jordan. -- you referenced, you said there is no policy on -- to your knowledge, there is no policy on recording what took place in these meetings. But the question was: Meetings you had with the government, is there -- do you know if there is any memorialization of those conversations and meetings?

[redacted] It's possible. I don't recall any formalized notetaking.

Mr. Jordan. I'm not asking that. I'm not asking if it's formalized or a policy. I'm asking: Did it happen?

[redacted] I don't know.

Mr. Jordan. Okay.

BY [redacted]

Q You mentioned that [redacted] would facilitate some of the substance of the policy. You were facilitating more with scheduling.

A Uh-huh.

Q Did you and [redacted] -- would you coordinate beforehand? Would she tell you what would be on the agenda for one of these meetings?

A As noted here in the email, she would give me a topic, and I would ensure that the CDC brought the appropriate subject-matter experts to that meeting. So there was a -- there was communication beforehand, yes.

Q And would that typically take place over email?

A No.

Q How would it typically take place?

A I don't know that typically it was -- I don't know that "typically" is a good word for it. Regularly over chat.

Q Okay. And, by "chat," do you mean an internal chatting system, or --

A Yes.

Q -- talking to her?

A Thank you. An internal chat system.

Q Okay. And what's that system called?

A We use a product called Workplace.

Q Okay.

BY [redacted]

Q You said something about bringing the appropriate subject-matter experts. Subject-matter experts from where?

A From the CDC.

Q From CDC?

A Yes.

Q Okay.

BY [redacted]

Q Can you remind us, what is [redacted]'s title?

A I don't know what her formal title is.

Q Do you know which team she works with?

A She is on -- in -- in an effort to be precise there, I don't know. I wouldn't want to misstate her team.

Q What other interactions have you had with [redacted] outside of prepping for meetings with the CDC?

A That covers our interactions.

Q So these -- your only interactions with [redacted] were with respect to preparing for meetings with the CDC?

A Or other related health agencies --

Q Okay.

A -- yes.

BY [redacted]

Q And Carol Crawford at the CDC, what did she do exactly in her -- in her capacity with Meta?

A She is on the communications team.

Q At CDC?

A Yes.

Q And so she didn't provide information about, you know, health issues herself. She was just conveying that to subject-matter experts? Is that correct?

A That's a fair assessment, yes.

Q Okay.

A Yeah.

[redacted] Can we go off the record?

[Recess.]

[11:22 a.m.]

[redacted] Okay. It's 11:22, and we are back on the record.

[redacted], my name's [redacted] and I'm counsel for the minority. And I want to thank you on behalf of the minority for coming here today.

EXAMINATION

BY [redacted]

Q You were asked several questions earlier about Meta and Facebook's content moderation policies. And I believe you said that you did not work on those policies, correct?

A That's correct.

Q And that means that you did not help create their content moderation policies?

A No.

Q Okay. And those policies -- you were asked some specifics about how Meta handles certain pieces of violative content or misinformation. Those policies and the answers to those questions are all available online, correct?

A Our policies are available online, correct.

Q And so, your policies relating to misinformation?

A Yes.

Q And your policies relating to other types of violative content, correct?

A Yes.

Q And so misinformation is not the only type of content that violates Meta's policies, correct?

A That's correct.

Q There's also policies surrounding nudity?

A Yes.

Q Hate speech?

A Yes.

Q Bullying?

A Yes.

Q There's a whole range, and it's pretty broad. Fair to say?

A Yes.

Q Okay.

And just as you did not play a role in writing those policies, it was not your role to determine whether a piece of content violated Meta's community standards?

A That's correct. Yes.

Q So, if somebody in the government, for example, at CDC or the White House, flagged a piece of content that they thought might violate Meta's community standards and they sent that to you, what would you do?

A I would pass that content along to my internal colleagues who are subject-matter experts and who would review that content against our policies.

Q And when you say "subject-matter experts," do you mean experts in the policies?

A Yes.

Q Okay.

So you mentioned during questioning, you remembered an exchange with Brenna Parker at the First Lady's office -- I'm sorry, the Vice President's office --

A Yes.

Q -- correct? Okay. And that was about comments on the White House Instagram post. Do you remember that?

A On several different posts. Yes.

Q On their account. Thank you. And I misspoke.

[[redacted] Exhibit No. 2

Was marked for identification.]

BY [redacted]

Q Have you had enough time?

A Yes. Thank you.

Q Okay.

So, in March of 2022, Ms. Parker emailed you and your colleague, [redacted] -- I'm not sure if I'm pronouncing that correctly -- and said that she noticed that White House accounts and four principals were having a surge of pro-Russia and -Putin comments in their Instagram comments.

A Yes.

Q And she did not ask you to take any action with respect to those comments in that email.

A No.

Q She just flagged it for you and then said, "Looking forward to hearing from you."

A Yes.

Q Okay. And then you responded a couple of days later.

A Yes.

Q And you explained that "we did a review of the 1.2 million comments on all of your Instagram accounts" --

A Yes.

Q -- and that about 1 percent of them were looked at closely due to being

flagged as engagement bait or in Cyrillic, correct?

A Yes.

Q And when you said "we," did you mean you personally or did you mean Meta generally?

A "We" refers to colleagues at Meta.

Q Okay.

And you said, "We dug into the content, behavior, and accounts and found no automated behavior, no bots, no inauthentic accounts," correct?

A Yes.

Q And you also said that we found "no violating content, no Foreign Inauthentic Behavior, or Coordinated Inauthentic Behavior."

A Yes.

Q Okay.

Now, you were not the person that made those determinations, correct?

A That's correct.

Q Okay. Others at Meta made those determinations, and you, as a liaison for the executive branch, or for the Democratic members of the executive branch, you conveyed those decisions to Ms. Parker.

A Yes.

Q And as far as you're aware, Meta did not remove any of those comments that were flagged, the pro-Russia, pro-Putin comments.

A Yes.

Q And that's because they were not violating any of Meta's community standards.

A Yes.

Q Thank you.

Now, you were on Meta's politics and government outreach team for nearly 5 years, correct? Four or 5 years? My math --

A Four and a half.

Q Sorry. Thank you. And you stated earlier that your primary responsibility was to help your partners use Meta's tools.

A Yes.

Q So you would help them with issues such as account verification?

A Yes.

Q Getting the blue check on Instagram?

A Yes.

Q And account security?

A Yes.

Q So, if an official who was somebody you worked with got locked out of their account, you would help -- you would work with others at Meta to help them regain access?

A Yes.

Q And you also would help Federal officials when people were impersonating them on Meta's platforms, correct?

A Yes.

Q Okay. For example, you received reports from Health and Human Services that there were hundreds of accounts impersonating a top HHS official, correct? Do you recall that?

A I recall that being a topic of conversation with HHS.

Q Do you recall that there were accounts that HHS said were pretending to be

one of their officials and using those accounts to try to fraudulently obtain money from Meta's users?

A Yes.

Q Okay. And you were not the person who decided how to handle those reports, correct?

A That's correct.

Q You passed that on to the appropriate team at Meta?

A Yes.

Q And they made a decision about what to do with those imposter accounts?

A Yes.

Q And then you would inform the person at HHS who brought it to your attention what the decision was?

A Yes.

Q And that was part of your role as a liaison?

A Yes.

Q In your 4-1/2 years in that position of the politics and government outreach team, did you at some point have to go on medical leave?

A I did, yes.

Q Okay. And I'm sorry to get personal, but I do think it's important to help understand and contextualize your testimony today. Can you explain to us why?

A I went on medical leave in 2020 to have and recover from a brain surgery.

Q So how long were you out for?

A About 8 weeks.

Q Okay. So you had brain surgery during your time at Meta?

A I did, yes.

Q And when in 2020 was that?

A Summer of 2020.

Q So during the pandemic.

A Yes.

Q And it was almost a year later that you picked up [redacted]'s health portfolio when she went on parental leave, correct? Or it was the following spring?

A Yes. Yes.

Q And you stated earlier that Meta wanted to make sure that you were keeping up with the authoritative science relating to the pandemic, correct?

A Yes.

Q As best as you understand it, why was that the case? Why did Meta care about having accurate and authoritative information about COVID-19 on its platforms?

A Noting that I wasn't the one to make that decision, my understanding is we had a shared sense of urgency about the health of the country, and we wanted to ensure that we made our best efforts to get it right.

Q Okay. And when you refer to the health of the country, you don't mean, like, the body politic; you're referring to the physical health of the millions and millions of people who used Meta's platforms, correct?

A Yes.

Q Okay.

[redacted] Can we go off the record for a second?

[redacted] Of course.

[Discussion off the record.]

[redacted] We can go back on.

[redacted] Sure. Apologies for stepping in in the middle here. I'm [redacted]

[redacted] the Democrats' chief oversight counsel.

BY [redacted]

Q And was there also a concern that it could be problematic for Meta, or, I guess, then Facebook, when the pandemic started if people received inaccurate information and then got sick or even died as a result from your platforms?

A Yes.

Q And was this something that you personally cared about as well?

A As I mentioned, having had a major surgery in the pandemic, I was medically fragile for quite a long time of the pandemic, and it wasn't lost on me how many other people could be similarly fragile. It was important to me personally, yes.

Q Okay. And, for the record, I did ask because I imagined that since you had to go through surgery at a very fraught time that this must have been a particularly resonant topic with you.

A My -- another reason -- my partner is a doctor --

Q It's okay.

[redacted] Do you want to take a break?

Let's take a break.

[Recess.]

[11:42 a.m.]

[redacted] What I was mentioning before is that my partner is a doctor and, for a long portion of the pandemic, was working in COVID wards, and his patients were dying faster than he could learn their names.

And I took it very seriously, the addition of the health portfolio to my book of business.

BY [redacted]

Q And so it wasn't just Meta as a company, but also you personally wanted to ensure that you were providing Meta's users with the most authoritative information possible about COVID?

A I took and take the job very seriously.

Q And I think that's very clear.

Thank you. I appreciate it. And I'm sorry to ask questions that are emotional, but it's -- we're trying to make sure all of the facts come out. Thank you. We appreciate your cooperation.

And that's it for me for now.

A Thank you.

[Recess.]

[12:35 p.m.]

[redacted] On the record.

BY [redacted]

Q During the last line of questioning, we talked a little bit -- or, you talked a little bit about the authoritative science. Can you -- how did Meta decide what the authoritative science is?

A I don't know.

Q You don't know who was consulted in making determinations about what the authoritative science was?

A I don't recall any conversations about that topic.

Q Okay.

This is exhibit 2.

[redacted] This will be exhibit 3.

[redacted] Oh.

[redacted] Exhibit 2 was Meta 16280.

[redacted] Oh, sorry. Exhibit 3. Sorry about that.

[[redacted] Exhibit No. 3

Was marked for identification.]

BY [redacted]

Q Can you just read the emails and let me know when you've had a chance to finish?

A Before I dive in to read the email, I will, as a point of clarification, say: I don't know who decided which health body would have been the authoritative source, but that's how I understood your question.

Q Yeah. Okay.

I think the emails actually go in reverse order.

A Long thread. Sorry.

Q I know.

A Okay.

Q So, just for the record, this is an email thread between you, [redacted] of Facebook, Tegan O'Neill at the White House, Rob Flaherty at the White House, and [redacted] at the White House. The subject line is "Follow up on WH questions." And these emails were sent in July and August of 2021.

You wrote an email that's on the first page here, August 2, 2021, addressed to, apparently, Flaherty and Christian at the White House, with the others mentioned CC'd. And you mentioned the aggressive steps taken to reduce the spread of vaccine hesitancy and vaccine misinformation on our platforms and deploying technology to do so.

Can you describe what those steps were? What steps did you take? "Aggressive steps."

A The technological specifics of those steps is outside of my expertise.

Q Whose expertise would that be?

A Organic content policy.

Q Who's [redacted], by the way -- sorry -- just to back up, from Facebook?

A [redacted] was my colleague at Instagram. If you'll see, his name has an "IG" next to it.

Q Do you know what his title was?

A I don't.

Q Do you know what his role was there?

A You'll recall earlier in questioning when I mentioned I cover all the family of apps but if I need a subject-matter expert on one of those apps to rely on more nuanced

or detailed tooling or policies, this would've been one of those cases -- [redacted], being from Instagram.

Q So, when you say "policies," can you explain what you mean by that? Like, when you say "Instagram's policies," can you give an example?

A [redacted]'s purview was tooling-specific, product-specific, not policy.

Q Okay. So you mean you would be asking him, sort of, how should this be implemented on Instagram to be effective?

A Can you clarify what you mean of "this" implemented?

Q Well, if you're trying to take aggressive steps to reduce vaccine hesitancy, for instance.

A The specifics of that policy and implementation is not in his purview.

Q So, if you weren't involved in, you know, these aggressive steps, were you simply reporting what someone else was doing?

A Yes.

Q So you have no idea what they meant -- so someone told you "we're implementing these aggressive steps," but you have no idea what those steps are?

A I leaned on my colleagues for their expertise.

Q So who would've told you "we're taking aggressive steps" that would've prompted you to write an email telling Rob Flaherty and Tegan O'Neill that you were taking aggressive steps?

A I don't recall.

Chairman Jordan. [redacted], the very first sentence, you said, "Per my and Christian's phone call last Tuesday, I gathered more details for you and your team." Next sentence, you say, and "we take aggressive steps to reduce the spread of vaccine hesitancy and vaccine misinformation."

Who did you gather the details from, and what were the specific aggressive steps?

[redacted] I don't recall who I spoke with to draft this paragraph.

Chairman Jordan. Did Christian give you the details? You reference his name, or her name, in the very first sentence.

[redacted] Christian works at the White House.

Chairman Jordan. Oh, I see. Excuse me.

[redacted] Uh-huh.

Chairman Jordan. So you tell the folks at the White House you gathered more details, but you don't know who you gathered them from?

[redacted] I don't recall this specific paragraph, no.

Chairman Jordan. And then you tell them, "As you know" -- so somehow that had already been conveyed to them, and you knew that it had been conveyed to them -- "we take aggressive steps," but you don't know what those steps are?

[redacted] The technical specification of those aggressive steps, those specifications are --

Chairman Jordan. I'm not asking about -- I'm not asking about the technical. I'm asking -- "As you know, we take aggressive steps that reduce the spread of vaccine hesitancy and vaccine misinformation" -- what are those steps? Not in a technological sense. What do those steps involve? Does it involve filtering what gets posted, what gets shared, what gets moved on your platform?

[redacted] The policy details of those steps sit with organic content policy, not with my team.

[redacted] Mr. Jordan, we, I think, have offered to try to get [redacted] in to meet with you all to go through this. And we're happy to get the right people in a room.

The requests that we've gotten so far are for people that are really the process people. But, on the substance, there is an answer to that, and we're happy to get the right people to share that with you.

Chairman Jordan. Well, I appreciate that, and we thank you for that.

But, I mean, again, this email is like, "As you know." Somehow that's been conveyed to the person you're sending the email to at the White House. You say, "We take aggressive steps," and the idea that you don't know anything about those aggressive steps I find interesting.

But we appreciate your offer to let us talk to the people who do know what those aggressive steps are.

[Discussion off the record.]

[redacted] Go ahead.

[redacted] My recollection of this interaction is that this paragraph was drafted by one of my SMEs -- excuse me, subject-matter experts --

Chairman Jordan. Uh-huh.

[redacted] -- and I don't recall making any edits to that. So I did lean heavily on this colleague for that paragraph.

BY [redacted]

Q What's the name of the colleague?

A I don't recall who that was.

Q What about the following sentence, where you say, "We have measures to help ensure we don't recommend people follow accounts that promote vaccine hesitancy at scale"? What are those measures?

A The person who's best equipped to answer that is not me.

Q Who is best equipped to answer that?

A [redacted].

BY [redacted]

Q The colleague you mentioned that you relied on, is that one of the individuals that reports directly to you, or is that just "colleague" in a more general sense, someone at --

A "Colleague" in a general sense.

Q Okay. Do you recall which team that colleague would've been a member of?

A They would have been on an Instagram team.

Q Do you know which team within Instagram they would've been affiliated with?

A I don't recall that.

Q When you're engaging with your partners, whether it's the White House or whoever, and you receive a question that's outside of your expertise, I understand that you consult with the expertise at Meta. Do you facilitate direct communications between that other colleague at Meta and the partner? Or do they communicate what they need to you, and then you deliver that message directly to the partner?

A It depends on the partner and the topic, and has changed over time.

Q Is it your recollection, then, that you at times would connect other Meta colleagues directly with a partner?

A There have been a few cases of that, yes.

Q And are there cases where you're just receiving information from another colleague at Meta and communicating, delivering that message to your partner?

A Yes. And this is a good example of that.

Q Okay.

In your role today, if you were to receive a request from a partner with respect to, to use an example here, the spread of vaccine hesitancy and vaccine misinformation -- in an earlier answer, you said that's out of your expertise. If you were to receive a request today, who at Meta would you contact for assistance for that issue?

A As we mentioned before, [redacted] would be the person I would lean on for that expertise.

Q And, again, do you recall which team [redacted] is with?

[redacted]. I can tell you. [redacted] is on the policy team. We gave you her name. We also have given you her documents.

Chairman Jordan. [redacted], just to be clear again, I just want to go through the email here.

You say, "I've gathered more details for you and your team." You say, "We take aggressive steps to reduce the spread of vaccine misinformation." And you say, "We have measures to help ensure that we don't recommend...accounts that promote vaccine hesitancy."

So you say you've gathered details, you take aggressive steps, and we have measures, but you can't tell us any of the specifics about any of those three things. You can't tell us any specifics about the details of the call; any of the aggressive steps, what they are; or any of the measures that you put in place to deal with vaccine hesitancy.

Is that an accurate summary of what you've said?

[redacted] I'm not the best person to answer the specifics.

Chairman Jordan. Even though you said "I've gathered more details," you can't tell us what the details are?

[redacted] I don't recall the specific details.

Chairman Jordan. And then you said, "We take aggressive steps," and you don't

know what those aggressive steps are?

[redacted] I don't recall the specific details for the category of aggressive steps.

Chairman Jordan. And you said, "We have measures to help ensure we don't recommend people follow accounts that promote vaccine hesitancy," and you don't know what the measures are?

[redacted] I don't recall the specifics regarding the measures written.

Chairman Jordan. Okay. Thank you.

BY [redacted]

Q When you're communicating with [redacted] in the example we were referring to earlier, what forms of communication would that take?

A Email, certainly. A lot of Zoom calls. It was in the pandemic, so no hallway run-ins. Principally those.

Q And what about -- you mentioned Meta had an internal messaging system. I think you said it was Workplace?

A Occasionally.

Q And when there was a request like this that came in, was there a, I don't know, database or some repository to track what the status was with the request? Or was it just you'd communicate whatever you needed to to [redacted] and you'd wait until you heard a response back?

A I don't know that I understand the question.

Q Sure.

You interact with a number of partners, right?

A Yes.

Q And it sounds like you receive a number of requests that are outside your expertise.

For those types of requests that are outside your expertise, is there any sort of internal tracking program or tool? Or are you just reaching out to the best person at Meta and waiting for a response back?

A I don't know of any tool that would cover what you're asking, no.

[redacted] Can we go off the record for a second?

[redacted] Sure.

[Discussion off the record.]

[redacted] We can go back on.

[redacted] This is exhibit 4.

[[redacted] Exhibit No. 4

Was marked for identification.]

BY [redacted]

Q You can just take a look, and let us know when you're done.

A Okay.

Q So this is an email you wrote on February 8, 2021, to a number of people at the White House, including Rob Flaherty and Christian Tom and Clarke Humphrey, with the subject line "COVID Updates."

Do you know what prompted this email?

A We published the bulk of this email on our Newsroom website. And it goes into a lot of detail that we thought could be relevant, and so I highlighted it for them.

Q Had the White House asked you to provide it with updates about your misinformation policy on COVID?

A Is -- do you have a specific timeline in mind?

Q Well, any time, but --

A We certainly --

Q -- but certainly when the email was written. Yeah.

A We did have conversations with the White House about our misinformation policies.

Q And the White House asked you to keep it updated about what your policies were?

A Yes.

Q Did the White House ever ask you to change your policies?

A I certainly recall pushback and criticism of our policies and enforcement. I don't recall a specific moment where a single person said, change this X to Y. I don't recall anything like that.

Q Do you remember -- can you give an example of what -- in what way did the White House consider the enforcement or the policies to be inadequate or insufficient or --

[redacted] Can we break that up? There's three different things there.

[redacted] Sure.

Chairman Jordan. Do you mind if I -- first of all, did the White House want to know what your policy was? Did they initiate the outreach?

[redacted] In this instance --

Chairman Jordan. No. This is 1 month into the administration -- not even a month. This is 3 weeks into the administration. So did the White House say, what's Facebook policy on information about COVID and vaccines? Or did you just out of the goodness of your heart say, we're going to tell you what our policy is?

[redacted] In this instance --

Chairman Jordan. I'm not even asking about this instance. I'm asking, did the White House initiate, what's COVID's policy about vaccine information, COVID

information?

[redacted] I'm sorry. Is there a specific timeline in mind? I want to make sure I'm being accurate.

Chairman Jordan. The Biden administration.

[redacted] Yes.

Chairman Jordan. They had reached out to you, "What's your policy?"

[redacted] Yes.

Chairman Jordan. Okay. And this email is in response to that?

[redacted] This instance I recall being proactive.

Chairman Jordan. Oh. You decided you were going to tell the White House, here's what we're doing?

[redacted] When large announcements like this come out, it's standard practice for my team and others to send it to our partners to ensure they see it.

Chairman Jordan. Fair enough. All right. So you decided to do this. But before this, they had reached out to you and wanted to know what your policy was.

[Discussion off the record.]

[redacted] To delineate a few things as well --

Chairman Jordan. Uh-huh.

[redacted] -- at this time, my purview was only the White House and not the COVID agencies. I didn't pick up that portion until later.

Chairman Jordan. Fine.

[redacted] Okay.

Chairman Jordan. But sometime between January 20, 2021, and February 8, 2021, the White House had reached out to Meta and said, what are your policies regarding COVID and COVID-19 vaccines?

[redacted] I don't recall in that specific timeline.

Chairman Jordan. So it may have been after this.

[redacted] Maybe.

Chairman Jordan. Okay.

[redacted] Or it wasn't her.

[redacted] Or it wasn't me.

Chairman Jordan. Fair enough.

And then you issued this statement on the 8th because you're rolling out a, kind of, new plan and process here?

[redacted] I highlighted this. I did not roll it out.

Chairman Jordan. I understand.

[redacted] Okay.

Chairman Jordan. I understand.

In the very first sentence, you say, "We will be running the largest worldwide campaign to promote authoritative COVID-19 vaccine" -- what's -- who's the authority?

[redacted] In this case, this reference to "authoritative vaccine information" would have been the Centers for Disease Control.

Chairman Jordan. Okay. So the "authoritative" is -- you wrote this -- is a direct reference to CDC?

[redacted] The citations in these links may be different. But in the United States -- in the United States, the Centers for Disease Control. Elsewhere in the world, we used the World Health Organization as an authoritative source of information.

Chairman Jordan. Is it fair to say, when you say "authoritative COVID-19 vaccine information," you're referencing -- those authorities are CDC and WHO?

[redacted] We -- this is also in reference to a module on Facebook and

Instagram called the COVID Information Center.

Chairman Jordan. Uh-huh.

[redacted] And that information, in the United States, was sourced from the CDC. Elsewhere, it was sourced from the World Health Organization.

Chairman Jordan. So CDC and WHO.

[redacted] Yes.

BY [redacted]

Q So when you next say that you're expanding your efforts to remove false claims on Facebook and Instagram about COVID, how are false claims evaluated?

A We have an independent, third-party fact-checking program. This would be a reference to that.

Q What is that third-party fact-checking program?

A We -- excuse me. We have a collection of news outlets that have been certified by an independent body of fact-checkers. And all of this is public on our Community Standards website. And that would've been in reference to that.

Q So the fact-checkers identify the false claims?

A I don't know the technical aspects of how they are surfaced for the third-party fact-checkers.

Q Did the fact-checkers work with any particular organization that you know of?

A The details of that program are not in my purview.

Q And whose purview would they be?

A Those policies would roll up to [redacted].

Q Okay.

Just going back to what we were talking about earlier, you mentioned there were

some contentious exchanges with the White House, or there were --

[redacted] She did not --

[redacted] Sorry.

[redacted] -- use the word "contentious."

[redacted] I can't remember the exact word she used.

[redacted] She said she recalled pushback and criticism of --

[redacted] Pushback and criticism.

[redacted] -- policies and enforcement.

BY [redacted]

Q Who launched that criticism?

A Rob Flaherty certainly had some criticisms.

Q And did he voice those criticisms over email? In what form?

A Email, Zoom meetings.

Q Can you recall any specific Zoom meetings on the subject?

A We had meetings to give context, to answer questions, to take feedback, to be communicative with the White House, and -- but the cadence changed.

Q What do you mean, "the cadence changed"?

A There wasn't a regular cadence, such as the BOLO meetings we mentioned before.

Q Oh. In terms of frequency.

A Correct.

Q I see. Who was present at these meetings typically?

A From Meta?

Q Both Meta and the White House and anyone else who was present from anywhere else.

A From Meta, I was present. [redacted] was a frequent addition. The two of us were principally --

Q And then who from the White House?

A Rob Flaherty.

[Discussion off the record.]

[redacted] Another would be Andy Slavitt.

BY [redacted]

Q Oh, okay. Can you recall what Mr. Flaherty and Mr. Slavitt said at these meetings?

A I don't know how specific -- is there a specific -- I'm not sure how to answer that.

Q Well, in terms of vaccine misinformation, what was the general -- what was generally being said?

A In general, the themes were how our policies were changing as the pandemic was changing; our enforcement practices. Those are two big things that come to mind.

Q Were Flaherty and Slavitt trying to get Meta to change its policies in response to --

A I don't recall a specific instance, as I mentioned, of a specific policy that they advocated for or wanted to change.

Q Did they complain that there wasn't enough removal of vaccine misinformation?

A They communicated that they would like to see more removal, yes.

Q How did they communicate that? What did they say?

A I don't know that I can give you specifics.

Q Did they have specific ideas about how Meta should be changing its policies in order to deal with this issue, the issue of vaccine misinformation?

[redacted] I want to pause. She just told you that she didn't have any specific recollection of them saying, change the policy. And then you just asked her the same thing.

So that's not what she said. She said that they were complaining about -- they wanted to see more removals. That's different than changing policies.

[redacted] Well, that would be changing the policy, presumably, to accomplish more removals.

[redacted] That would be an enforcement issue.

[redacted] That's actually right. Why don't you say what you just said?

[redacted] That would be more focused on enforcement of an existing policy.

BY [redacted]

Q Okay. So they weren't suggesting that the policy should be expanded to encapsulate more misinformation?

A I don't have a specific recollection of that type of request, no.

Q And how did they suggest that Meta escalate enforcement of misinformation removal?

A Their not knowing the specifics of the internal work, it was clear that just broadly they would want the enforcement to be more precise.

Q But they had no suggestions about how that should occur?

A No.

Q Did they ever ask for removal of content that was true but they thought stoked vaccine hesitancy?

A We have policies -- had policies on what we would call "borderline content"

that they expressed concern that maybe it wasn't aggressive enough.

Q What's borderline content?

A Content that could be interpreted as an opinion or as a personal anecdote, which we did allow.

Q And so they wanted you to not allow it? Or --

A It's hard to talk about hypothetical pieces of content, but -- so I don't want to get over my skis there.

Q Well, did they make suggestions about how borderline content should be dealt with that, in their opinion, stoked vaccine hesitancy?

A I don't recall a specific conversation that encompassed exactly that.

BY [redacted]

Q Do you recall, during these meetings with Mr. Flaherty and Mr. Slavitt, would they bring examples of content to you, either over a call or via email?

A No.

Q Regarding the subject matter where you mentioned pushback and criticism, did that ever involve content that didn't involve health-related information?

A Can you ask your question again?

Q Sure.

So you mentioned pushback and criticism from a couple individuals from the White House. We've discussed a few examples with respect to content that touches upon health broadly. Do you recall, with respect to your earlier answer, pushback and criticism from the White House on subject areas other than health?

A The previous exhibit is a good example of criticism.

Q With reference to vaccines?

[redacted] Can you give it back to us?

[redacted] I'm sorry?

[redacted] Can you give it back to us so we can point it out to you?

[redacted] Sure.

[redacted] Thank you. Yeah.

The previous exhibit includes criticism and strong language on audience growth, technical issues, optimization techniques, and would -- it provides a good example.

BY [redacted]

Q With respect to concerns related to misinformation, so you mentioned -- let me frame the question better.

With respect to the pushback and criticism received from the White House with respect to misinformation, was there pushback and criticism with respect to misinformation on subject areas other than those related to health?

A There was another previous exhibit of a conversation about concerns of misinformation regarding Russia that would provide a good example.

Q Do you recall any other subject areas?

A No.

Q Do you recall receiving pushback or criticism with respect to misinformation relating to elections?

[redacted] From who?

[redacted] From the White House.

[redacted] No.

[redacted] I'd just pause. I really want to -- on the "who," like, I think you're talking about the Biden administration. They weren't in the White House at the time of the election.

So I want to be real clear that if you're talking about Biden, she can give you an

answer. If you're talking about Trump, she didn't manage the relationship during that time period.

[redacted] Sure.

BY [redacted]

Q So, to clarify, the previous question was in reference to Rob Flaherty and Andy Slavitt, I guess, as a point of clarification.

Are there any other personnel in the Biden White House that you recall that communicated some form of pushback or criticism to Meta?

A On a specific topic?

Q Yeah. With respect to enforcement of Meta's policies related to misinformation.

A No.

[1:20 p.m.]

BY [redacted]

Q You mentioned that borderline content was an issue with respect to an area of pushback or criticism received by Meta with respect from Mr. Flaherty and Mr. Slavitt. What was your understanding of why they were communicating the pushback or the criticism, if you could say?

A I don't know that I can speak to somebody else's intentions or motivations.

Q Yeah. Let me reframe. Not so much intentions and motivations. What was your understanding of what their position was? What was the -- when communicating this pushback or criticism on borderline content with respect to enforcement, was the request -- what was your understanding of what the White House's position was? What were they attempting to communicate to you and your team?

A In my estimation and in my experience in the meetings, my interpretation is that they wanted our policies to encompass more and for us to take down more.

Q So it was your understanding that it was both a concern with respect to the scope of Meta's policies and with respect to how Meta was enforcing its existing policies?

A That's a good -- that's a good way to say it, yes.

Q And what was your understanding of what they disagreed with with respect to the scope of Meta's policies?

A I don't have a recollection of a specific point of pushback. I don't recall a specific.

Q At a general level, was it your understanding that the White House's position was that Meta's policies did not go far enough?

A Yes.

[redacted] After you had meetings like that with the White House --

[Discussion off the record.]

[redacted] Can we take a break? Thanks.

[redacted] Can we go off the record, please.

[Discussion off the record.]

[redacted] We can go back on the record, please.

[redacted] What was the sort of tone of these meetings like with the White House?

[redacted] I'm sorry, when you say "these meetings," which ones are you talking about?

[redacted] Well, the meetings about vaccine misinformation.

[redacted] Okay.

[redacted] They ranged. And I don't want to paint too broad a brush. They ranged from collaborative to critical.

BY [redacted]

Q When you say "critical," can you give an example of something that might have been said that was critical?

A I don't have a specific sentence in mind that could illustrate that.

Q Okay. From the -- one of the exhibits we looked at, which is 4209 is the Bates number, there's an email from Rob Flaherty: Are you guys fucking serious? I want an answer on what happened here today and I want -- happened here, and I want it today.

Is that the kind of thing that would be said?

A Let me make sure I've got the right one in front of me.

I don't recall this type of language in meetings, and it's not language that I would have used in writing.

Q What about the part from the language, the demand, the demanding tone, "this is what I want today"?

A There were instances where there would be a request for more information that they understood could take time to find, collate, and represent and present. I don't recall an instance over Zoom that had a similar tone.

BY [redacted]

Q You mentioned borderline content in an earlier response, and you gave an opinion, an anecdote as a couple of examples of things that might fall into this category of borderline content. Can you provide a -- what --

A I don't know that that's a good representation --

Q Sure.

A -- of the scope of borderline, but because that's not my expertise, I want to make sure that those are coupled properly. Those were separately discussions, but I want to make sure that's clear.

Q I guess just more a question of point of clarification, when you were referring to borderline content, is that borderline with respect to Meta's terms of service?

A In regards to community standards --

Q Okay.

A -- which are different than terms of service, and those are published publicly with tracked changes, how they change over time.

Q Sure. And so, again, just to clarify and make sure I'm understanding the term correctly, with respect to borderline content, is this content where it's a close call about whether it violates the community guidelines?

A Knowing that that's not my expertise, that is a good generalization.

Q You mentioned earlier that when communicating with your partners

sometimes you're communicating directly. There were instances where you'd bring in a subject-matter expert. You also mentioned that the scope of Meta's policies came up in these meetings with Mr. Flaherty, Mr. Slavitt, and I think you've represented to us that understanding the community guidelines is outside of your expertise. Do you recall if you brought in any subject-matter experts for Meta for these communications with Mr. Flaherty and Mr. Slavitt?

A I recall a meeting where we -- we, [redacted] and I, brought [redacted] to give better detail or give more detail.

Q Do you remember what the catalyst of this meeting was, what was the issue that required Meta to bring in [redacted]?

A I don't recall that.

BY [redacted]

Q Do you know when the meeting occurred?

A I don't recall a date.

Q Do you remember if it was about vaccine misinformation?

A I don't recall the specific topic.

BY [redacted]

Q With respect to the pushback and criticism you referenced from Mr. Flaherty and Mr. Slavitt, do you recall the timeline of how long this pushback and criticism was communicated to your team? Was it a one-off instance? Do you recall there being multiple meetings?

A There were -- excuse me. There were multiple meetings.

BY [redacted]

Q Do these meetings still take place?

A No.

Q Do you know when they stopped?

A I don't recall a stop date. Like I mentioned, they weren't -- there was no formal cadence.

Q Right, right, right. So someone just stopped calling?

A One meeting was the last meeting.

Q Yeah, yeah.

BY [redacted]

Q With respect to the borderline content, do you recall -- you mentioned, again, with the understanding that this was not your expertise, but you mentioned opinions, anecdotes. Do you remember at a more specific detail what Mr. Flaherty and/or Mr. Slavitt, what their concerns were with respect to borderline content?

A As a generalization, the concern in my interpretation of their criticism was that that type of content could contribute to vaccine hesitancy.

Q Do you recall in these meetings if they, let me be specific, Mr. Flaherty and/or Mr. Slavitt, communicated -- whether the positions they were communicating to you and [redacted] were shared by others at the White House?

A I -- I don't know.

BY [redacted]

Q After you had these meetings with the White House, who would you take that back to, report back to?

A It would vary depending on the topic.

Q So, if it was vaccine misinformation, who would you take it to?

A Certainly, [redacted] would be a person that I would have talked to.

BY [redacted]

Q You mentioned the circumstances in which [redacted] joined a meeting, and

that was, again, with respect to the scope of Meta's policies. You had mentioned a separate bucket, the enforcement of Meta's existing policies. Did [redacted] speak on that issue as well; do you recall?

A I don't recall the specifics.

Q Okay. With respect to --

[redacted] [redacted] just to be clear, I don't think she said that it was about scope, the [redacted] meeting.

[redacted] Well, the leadup to the question was that the scope of content is outside of her expertise, and a previous answer she said that the pushback and the criticism concerned both the scope of content and enforcement of policy.

[redacted] She said it wasn't her area of expertise. She brought in subject-matter experts. She recalled the meeting when they brought in [redacted] to give better, more detail about what those policies were. So I just want to be clear as to -- I mean, the transcript is the transcript, but I don't want to -- I don't want her to be laboring under the assumption she said something she didn't say.

BY [redacted]

Q It sounds like you were saying similar to what I was conveying. So I'm happy to run through some -- or we're up against time, but to clarify what your answer was.

A Can you ask it again?

Q Sure. With respect to that meeting that [redacted] attended, where you and [redacted] brought in to the meeting with Mr. Flaherty and Mr. Slavitt with respect to content, what was -- let me ask it this way: Why was [redacted] brought for that meeting?

A [redacted] is the expert in those policies.

Q And is that with respect to the scope of the policies or how the policies were enforced?

A I wouldn't want to speak to what is in his personal purview. I don't want to get it wrong for his portfolio.

[redacted] I think we're out of time. Thank you. Off the record.

[Recess.]

BY [redacted]

Q Okay. So we're back on the record. And, [redacted], I want to ask you just a couple quick questions about exhibit 4, which is the email that you sent to some officials in the White House about announcing Facebook's campaign about authoritative COVID-19 vaccine information.

You were asked what the source of that authoritative information was, and I believe you said, in the United States, it was the CDC, the Centers for Disease Control, correct?

A Yes, that's correct.

Q Okay. If you look at the bottom on the last page -- I'm sorry, not the last page, the bottom of the first page, the last sentence, it says: Since December, we have removed false claims about COVID-19 vaccines that have been debunked by public health experts.

This reference to claims that have been debunked by public health experts, those public health experts were in the Centers for Disease Control, correct, with respect to claims in the United States?

A The phrase used here, "public health experts," includes the CDC, yes.

Q So you would ask the CDC if a claim had been debunked or not?

A We got input from the CDC about different misinformation claims, and they

would provide clarification or citation or data to clarify or debunk claims.

Q Okay. Thank you.

And now turning to -- turning to exhibit 3, which is the email chain involving Rob Flaherty and others about the internal technical glitch, you were asked if Mr. Flaherty used language like "are you guys fucking serious, I want an answer on what happened here and I want it today" during meetings, and I believe you said, no, that this was as aggressive as it got?

A I don't recall language like this used in meetings; that's correct.

Q Okay. And you don't recall any other emails where this language was used?

A No.

Q Okay. And, just to be clear, the subject of that email from him was about an internal technical issue that affected a number of followers of the @POTUS account, correct? And you can take a look at the email if you don't remember.

A Yes, this email was about audience growth and the performance of the @POTUS account on Instagram.

Q Okay. This exchange was not about COVID, the "are you serious?"

A The issue at heart of this discussion was about account performance.

Q Okay. Thank you. And either you or your colleagues several times -- well, let me just ask what's in the email. So Tegan O'Niell, and I'm looking at page 4209, which I believe is the second page of the exhibit --

A Yes.

Q -- asked what the technical issues were, and [redacted] responded: It's an internal technical issue and we can't get into it.

Correct?

A I just want to make sure I'm on the right line. Yes.

Q And that's what prompted the response from Mr. Flaherty?

A I will note that the rest of my colleague's sentence reads: But it's now resolved and should not happen again.

Q Yes.

A Yes.

Q Thank you. And then, on the first page, in your response, you said: Per your request for remediation, while we cannot boost your account in our recommendations, we are always happy to help with content strategy, best practices, and further opportunities to collaborate.

Correct?

A Yes.

Q So there was a request for Facebook or Instagram to remediate this technical issue by boosting the White House's account?

A Yes.

Q And that request was denied?

A Yes, we declined to that.

Q Declined that. And that wasn't your decision?

A No. That's -- that's a policy that is -- I'll say, I did not make that decision, no.

Q But you conveyed it?

A I did convey that decision.

Q And that decision was made despite the language that Mr. Flaherty used --

A Yes.

Q -- in his email?

And you mentioned earlier that you -- the way you characterized the pushback that you received from the White House was that they wanted Facebook's policies to encompass more types of misinformation and for Facebook to take down more content, correct?

A That is a good generalization, yes.

Q Did Facebook take any actions in response to those criticisms? Did Facebook say, "Okay, we'll take down more content or we'll change our policies"?

A I don't recall any instance in which we changed our policies due to those conversations.

Q And did anyone at the White House ever order you or, to your knowledge, anyone at Facebook, now Meta, to remove a particular post or account from Meta's platforms?

A There is an instance that I recall from Clarke Humphrey requesting review of an impersonating account of Dr. Fauci.

Q But he did not issue an order, like as "on behalf of the President, you must take this down"?

A No.

Q Okay. And Meta investigated whether or not that wasn't, in fact, an unauthentic account?

A I referred it to my internal colleagues for review. That account was found violating of our impersonation policies. I will note, our impersonation policies allow for satire. They allow for criticism of public figures. This account was found to be violating of those policies, and it was eventually taken down.

Q And, again, it was taken down -- I know that this might seem obvious --

[Discussion off the record.]

A Pardon?

Q It was taken down because it violated your policies, your policies regarding inauthentic accounts?

A We make independent decisions. My colleagues, who are the subject-matter experts, reviewed the account against our policies, and in this instance, the account that I mentioned was found violating, yes.

Q And the nature of the violation was that somebody was pretending to be Dr. Fauci when they were not Dr. Fauci?

A Yes, that's correct.

Q And it was not in a satirical -- a satirical context?

A That's correct.

Q But did anyone at the White House ever order you or try to coerce you into taking down content based on the nature of the content itself, not who posted it? And I'm talking about a particular piece of content.

A I don't recall anything like that happening.

Q And did anyone at the CDC ever try to coerce you into taking down a particular piece of content?

A No, I don't recall anything like that happening.

Q And what about with HHS?

A No.

Q Now, we've talked a lot today about the concept of misinformation and vaccine hesitancy and those types of issues. I want to talk to you about some of the posts that -- that were popular on Facebook during the time period of the pandemic, and particularly when you were working on the health portfolio. Can you explain what CrowdTangle is?

A CrowdTangle is a third-party metrics platform.

Q And CrowdTangle prepared, for a period of time, in the fall of 2021, regular reports analyzing COVID-related posts that received high engagement on Facebook's platforms, correct?

A Yes.

Q And many of those posts were from individuals who expressed vaccine hesitancy?

A I don't have a compendium of those reports in front of me.

Q Fair enough. I'm going to show you a few emails regarding those reports. And let me back up by saying, one of your colleagues, I believe it was [redacted], would sometimes email those reports around to a group of people, correct?

A Yes.

Q And you were cc'd on many of those emails?

A Yes.

Q Okay.

[redacted] And we're on number 5, correct? Exhibit 5?

[[redacted] Exhibit No. 5

Was marked for identification.]

[redacted] Yep.

[redacted] And you can let me know when you're -- once you've had a chance to read it.

[redacted] Can I ask, this doesn't appear to be the whole exhibit. Does it -- it breaks off at the end of the sentence.

[redacted] Yeah. I'm just going to be asking her about this particular email, the September --

[redacted] Do you have the whole document?

[redacted] I can get it for you. It's very long. It's all of the report. It's all of the emails in the report. So, if -- here's a suggestion, why don't -- why don't I ask the questions, and then, once I get through the questions --

[redacted] That's fair.

[redacted] -- if you want to follow up on that.

[redacted] Yeah, I just -- in general, like to have the whole document so the person can read it and make sure they understand the context.

[redacted] Yeah. In the interest of efficiency, because of the length of the way it was produced, it's a very long chain of emails back and forth.

[redacted] We'll proceed and reserve the objection.

[redacted] Okay.

BY [redacted]

Q Okay. So this is an email from your colleague [redacted] that you were cc'd on, correct?

A Yes.

Q And it's an email summarizing the CrowdTangle content insights reports for the period of September 8th to September 21st, and that's in the year 2021, right?

[redacted] Just -- I'm sorry to be a stickler about it, but I want to be consistent. It says that there's something attached, and the attachment is not there. So it says that attached is the CrowdTangle insights report, but we do not have the attachment. So any questions about the accuracy of the summary are limited by the fact that we don't actually have the attachment.

[redacted] And I understand that. I'm simply going to be asking her what is reflected in the email.

[redacted] Okay.

BY [redacted]

Q So, according to your colleague: Highly engaged COVID vaccine-related content across Pages feature posts from politicians and political influencers condemning the Federal vaccine mandates recently announced by the Biden administration.

Correct?

A That's written here in the second paragraph, yes.

Q And the report also explored, according to your colleague, highly engaged content with the following themes, and then there are three themes listed?

A Yes, there are three themes listed.

Q One of those was Federal COVID vaccine mandates?

A Yes.

Q COVID-19 mandates, excuse me.

And it says that many of the most engaged posts show support for lawsuits filed against the Federal government to counter the mandates, correct?

A Yes, that's written in the last sentence.

Q One of the subjects was celebrities and COVID-19?

A Yes.

Q And it mentioned some celebrities who have made headlines for their positions on COVID-19 mandates and vaccines, correct?

A Yes.

Q And it states that the most engaged posts found in the search feature reports of Nicki Minaj skipping the Met Gala due to vaccine hesitancy?

A Yes, that's the last sentence in the second point.

Q And the third topic was COVID-19 vaccines for children?

A Yes.

Q And you do not recall any of these types of posts, posts about Nicki Minaj skipping the Met Gala or posts showing support for lawsuits against the government for vaccine mandates being removed by Meta, do you?

A I can't speak to a specific post if it was removed or not. I -- I'm not sure I understand the scope of the question.

Q Fair enough. But the purpose of the CrowdTangle reports was to provide Facebook with information about what posts were receiving the most engagement?

A Yes.

Q Okay. And, for the period of September 8th to September 21, those posts included posts about vaccine hesitancy and criticisms of vaccine mandates?

[redacted] Objection. We don't have the report.

[redacted] I -- it's hard to speak to specific pieces of content because I don't have the report, but I trust that these -- I don't have it in front of me. It's hard to say.

BY [redacted]

Q Fair enough. But, in your experience, has this colleague of yours misrepresented the nature of the contents of a report in any of the emails?

A I don't have a -- any recollection of that.

Q When you were asked a question earlier about the tone of the meetings, I believe it was the in-person meetings that you had -- or maybe they were on Zoom.

A They were on Zoom.

Q Fair enough. Thank you. I hope they were. With the White House. You mentioned when I was questioning earlier about a sense of urgency that Meta felt regarding protecting the health and safety of Americans from COVID-19. Did you have an understanding of whether that sense of urgency was shared by the White House when

you were in meetings with White House officials?

A I -- in my estimation, in my personal opinion, I do think we had a shared sense of urgency, yes.

Q And that shared sense of urgency was to save lives?

A To protect the health and well-being of our citizens, our country, yes.

Q And when you say "we," you mean Meta and the White House?

A Yes, thank you.

[redacted] Thank you. We're done.

[redacted] Can we go off the record?

[redacted] Yes, we can go off the record.

[Recess.]

[2:27 p.m.]

BY [redacted]

Q You just answered a question about whether or not the White House's demands ever led to policy changes. And is it fair to say that you didn't make those decisions so you might not be aware if that did happen?

A There is certainly a possibility of conversations happening that I didn't know about.

Q Did you make decisions about policy changes?

A No.

Q And conversations could've taken place in your absence?

A Yes.

Q Okay. Just clarifying.

Do you recall what COVID Insight Reports are?

A Yes.

Q How often were these reports -- well, first, tell us what they are. Sorry. Let's start there.

A COVID Insight Reports were reports that we, Meta, provided to the White House in an effort to be transparent and communicative.

Q About what?

A About content on our platforms.

Q Can you be specific? Can you give, like, an example of something that would be in these reports?

A I recall a category of the top 100 posts and discussion of how many of them encompassed vaccine hesitancy or things like that.

Q What was the purpose of the reports?

A The White House had questions that we thought that the report was a good way to answer those questions.

Q Was it the White House's idea for you to make these reports -- for Meta to make these reports, not you specifically?

A I don't recall a specific ask or answer, but -- I don't recall a specific time.

Q Do you know how frequently these reports were made?

A It varied. It could be -- in my recollection, it was maybe every 2 weeks, sometimes longer. It was meant to show --

[redacted] I believe we produced all of this, so you can figure out the dates.

[redacted] Okay.

[redacted] If she remembers, she can answer.

[redacted] What I was about to finish was, it was just meant to be broad. So it wasn't every day; it was a longer time period.

BY [redacted]

Q Who at Meta made those reports?

A Internal teams with data expertise.

Q Do you know which teams?

A I don't recall the specific team. I don't recall the specific team name.

[redacted] Okay.

No. 5, I think.

[redacted] We're up to 6.

[redacted] Yeah.

[redacted] This is exhibit 6.

[[redacted] Exhibit No. 6

Was marked for identification.]

[redacted] It's a hefty one.

BY [redacted]

Q Yeah. I don't know if you need to read the whole thing, but it's just a -- these are COVID Insight Reports. I just wanted to refresh your recollection a little bit.

The first two emails -- well, chronologically, they're actually the last, but the ones on pages 1 and 2 from [redacted] on January 24, 2022, and January 8, 2022, they're reports about how many posts were deleted for violating COVID and vaccine policies, or labeled and demoted.

Do you know what is meant by "labeled and demoted"?

A I'm not on this last email thread.

Q That's -- oh, that's true. You're on the -- we can go to the second email then, from January 8th, if you want, which you're on.

A Oh. And -- oh, in the bullet points?

Q Yeah.

A Okay. The phrase "labeled and demoted" by third-party fact-checkers, that's the purview of the independent fact-checkers. "Labeled" refers to the labels that third-party fact-checkers can apply to content with their ratings of falsity.

Q "Demoted" would imply, though, that something is being done with the post, correct?

A In some instances. And there are lots of permutations of what type of content and what type of action, so I wouldn't want to speak to any specific or hypothetical post here. But, in my understanding, one action that can be taken associated with a post that has been labeled in a certain way, one of those options could be demotion.

Q And what does demotion entail? When you use that word -- is that equivalent to shadow-banning?

A I'm not sure what you mean by shadow-banning.

Q Well, I understand shadow-banning to be sort of a -- you know, rather than removing a post or suspending the user, it sort of downgrades it so the algorithm makes it appear less. So it's sort of effectively censored but it's not as obvious. That's my understanding of shadow-banning. I'm not sure if "demoted" means the same thing.

A "Shadow-banning" isn't a term that we have --

Q Okay.

A -- internally or that I'm familiar with.

Q So how does demoting work then?

A I would defer the specifics of demoting to technical teams.

Q Okay. Do you know who at the technical team might be able to answer that?

A That's policy. Again, would sift to [redacted] -- would ladder up, excuse me, to [redacted].

Q Okay.

And the second part of that bullet point says, "Both [posts] were suggesting natural immunity by COVID-19 infection is superior to immunity by the COVID-19 vaccine."

Did Facebook typically censor things like that about which there is sort of a scientific debate?

A I don't know about the word you're using, "typically." Can you rephrase that?

Q Well, I think that this is -- you know, this isn't a claim about, say, microchips

in the vaccine. Natural immunity was something that was debated pretty extensively by people, you know, experts in epidemiology and immunology. So this is a claim that didn't really have a clear true or false answer but is being demoted by Facebook.

Is that something that happened in other circumstances?

A That's outside of my --

[redacted] Go ahead.

[redacted] That's outside of my scope. I don't -- I wouldn't want to give specifics on that.

BY [redacted]

Q Whose --

[Discussion off the record.]

[redacted] Let's go off the record.

[Discussion off the record.]

[redacted] We're ready to go back on.

[redacted] All right.

BY [redacted]

Q Just one final question on this email. Do you know why reports about posts being removed or demoted were being made to people in the White House, such as Courtney Rowe?

A I didn't write this email, so I wouldn't want to speak to the motivation of my colleague, [redacted].

Q Okay.

BY [redacted]

Q How frequently did you work with [redacted]?

A We work together frequently. Yeah.

Q And in what context?

A He is the VP of public policy for the executive branch, and I cover the executive branch for the programs and partnerships team, so we have a communicative, collaborative relationship.

[redacted] This is exhibit 7.

[[redacted] Exhibit No. 7

Was marked for identification.]

[redacted] Thank you.

[redacted] Let us know when you've had a chance to look at it.

[redacted] Could I ask what the second document or the second part of this is? It doesn't look like it's the -- in fact, it's not the next document in the sequence, so it looks like you don't have the whole document.

[redacted] Yeah. We kept some of it out because it was very long. But it was all --

[redacted] Do you have the whole document?

[redacted] Well --

[redacted] It's the same concern I had with the --

[redacted] We don't have that --

[redacted] -- questions from the --

[redacted] -- with us.

[redacted] Okay.

[redacted] It is from you guys, but --

[redacted] No, no, no. We produced the entire document.

[redacted] Yeah.

[redacted] I'm sure of that, because I can see the Bates numbers. It jumps

from 6462 to 6471.

[redacted] Yeah.

[redacted] So the other documents were actually produced.

[redacted] Yeah. We just didn't want to, you know, burden everybody with huge amounts of paper.

[redacted] Then my client can't see the whole document, is the concern.

[redacted] Okay.

[redacted] It's the same concern we had with the Democrats just recently about that. So if you have the whole thing, we'd like to see it.

[redacted] Well, like we did the last hour, how about [redacted] ask her questions, and --

[redacted] Yeah.

[redacted] -- if she's inclined to answer based on what's in front of her, great. If not, we can go from there.

[redacted] Sure. We'll --

[redacted] I mean, I can describe it. It was all basically -- well, it's --

[redacted] I think I know the document. I just --

[redacted] Yeah.

[redacted] We don't have the whole thing for her to look at, and I just don't want her to be prejudiced by that.

[redacted] Yeah. Sure.

Are you all set?

[redacted] Yes.

[redacted] Okay.

BY [redacted]

Q So it looks like this is a -- well, the first page is an email sent to several people at the CDC and Reingold.

By the way, what's Reingold?

A In my understanding, they are a consulting firm that the CDC hired.

Q Do you know what they were hired to consult on?

A I don't know the scope of that.

Q Do you know, like, any subject area they were consulting on?

A I don't know the scope of their work.

Q Okay.

So maybe you won't be able to answer this because we didn't include the whole thing, but it appeared to me that this was a PowerPoint presentation. But do you know if it was given as a PowerPoint presentation, or it was just given as a document that was attached to the --

[redacted] For the record, you guys have given us 6471, 6474, 6475, and 6484.

[redacted] Yeah.

[redacted] So there's a bunch of pages --

[redacted] Yeah. There were, like --

[redacted] -- missing at the beginning and at the middle of this. And so, you know, if you have the whole document, we're happy to go through it, but --

[redacted] Well, we didn't need to go through the whole thing. We just had questions about these pages. But, I mean, if there's a problem, we can skip the questions if she can't answer them. I mean, if --

[Discussion off the record.]

[redacted] I didn't produce the document --

[redacted] Okay.

[redacted] -- either.

BY [redacted]

Q Yeah. I was going to ask you that as well. Do you know who did?

A These are only a few pages of the full document, but there were several teams involved in -- so I don't know --

Q Okay.

A -- how to answer that.

Q Sure.

On 6471, the title of that slide -- I don't know if that's the correct way to call it, but -- page is "Who we work with," and then there is "At Facebook" and "Outside of Facebook."

Can you tell us -- there are, sort of, various categories outside of Facebook, the first of which is academic researchers. Do you know any particular academic researchers Facebook worked with?

A I didn't create this doc, and those partnerships are out of my scope.

Q Okay. So you just sent the document. You didn't --

A In this instance, yes.

Q Okay.

[redacted] Absent this document, do you know if Meta partnered with academic researchers?

[redacted] My portfolio is U.S. government and politicians. I can't speak to other teams.

BY [redacted]

Q What about law enforcement, which is listed here but also outside of --

A I would also say, again, outside of my scope.

Q On the email at the beginning that you wrote, it says, "Making sure everyone who has been whitelisted to our misinfo claims portal has all the info they need."

What's the misinfo claims portal?

A The misinfo claims portal is a website that was created before I took over this portfolio. This is right at the beginning of my time with them. And it was intended to be a place where the CDC could submit pieces of content.

In my memory, this portal was used very few times. And, throughout the pandemic, we tried a lot of things, some of which worked and some of which didn't. And, in my understanding, the portal was used very infrequently.

Q And it was only for the CDC, or other agencies as well?

A For COVID misinfo claims, this portal was for CDC.

Q Okay. And so, just so that I kind of understand this, they would put in a claim of a specific post that they thought was misinfo --

A Yes.

Q -- and they were reporting to you?

A Yes.

Q Do you know what would happen with the post then?

A As I mentioned, the setup and the structure of it was solidified before I took it over --

Q Yeah.

A -- but, in my understanding, if the CDC flagged a piece of content through this portal, it would then be referred to subject-matter experts to review the content against our policies.

Q When you say "took it over," do you mean you administered it or you --

A I'm sorry. The portfolio. That was my --

Q Okay.

A -- fault for not being precise.

Q Thank you.

A As a reminder, what we discussed before is I took this over due to a parental leave --

Q Yeah.

A -- which was happening right at this time period.

Q I see.

A And so the person best equipped to answer the specific questions would have been my predecessor.

Q I see. Okay.

[redacted] And is that [redacted]?

[redacted] Yes.

BY [redacted]

Q When you say "making sure everyone who has been whitelisted," what does that mean?

A We onboarded specific email aliases to the portal.

Q Specific email aliases of CDC employees only?

A I would have to go back and check the whole list, but I do recall at least one Reingold email alias. But I would have to go back and check.

Q I see. By "whitelist," you just mean given access to? Or --

A Yes.

Q Okay.

And on the last page, 6484 --

[redacted] It's the last page you provided. It's --

[redacted] Yes. Correct.

[redacted] -- not necessarily the last page.

[redacted] The last page we provided.

BY [redacted]

Q The "Facebook Content Request System, Government Reporting System," is that different from the misinfo claims portal, or is that the same thing?

A It's the same thing.

Q The same thing. Okay.

BY [redacted]

Q With respect to the misinfo claims portal, do you know how records were transmitted via this portal or if they were retained?

A I don't know about the document retention of this portal.

Q Okay. How were -- just as a functional question, this portal, is this a tool outside of email transmissions?

A The rest of the document has specifics, and I don't have the document in front of me, so I don't know how best to answer that question.

Q Okay. So this is the full email itself, though.

A Yes.

Q The attachment.

A Yes.

Q There's an excerpt copy provided.

But, absent this document, just in general -- and the misinfo claims portal, you referenced it was used on a few occasions.

A Yeah.

Q On those few occasions, again, what's your understanding of how those

claims were submitted? In what form is Meta receiving the claim?

A It's a website.

Q Okay. And is there an output that's created on the website?

You said it was sent to subject-matter experts, so let me ask first, are those internal Meta subject-matter experts?

A Yes.

Q Okay. And how are they receiving these reports?

A I don't know the specifics of the document retention of that portal.

Q You mentioned your predecessor, [redacted]. Would she have been receiving these reports? Or was she playing a, you know, facilitating role between the experts and the CDC?

A I don't know the specifics of her involvement.

Q Okay.

And when you reference Meta's internal subject-matter experts, what's the name of that team in Meta?

A Organic content policy.

Q Okay.

During an earlier response, you mentioned that -- you said: We've tried, you know, multiple things. The portal was used very few times.

What alternatives were tried besides the portal?

A A good example was listed on a previous exhibit, profile frames to encourage vaccine uptake. So, when I say we tried a few things, that encompasses tools, tactics, policies, the whole breadth of tactics that we used throughout the pandemic, not specifically for a portal or something like that.

Q Were there other means that were tried in order to facilitate CDC to

communicate issues related to misinformation?

A Not to my knowledge, no.

Q Okay. Not just via email, for example?

A Maybe I misinterpreted your question. The BOLO meetings were certainly -- but those were initiated by the CDC, so I wouldn't consider that to be part of that, in my interpretation of your question, so maybe we could rephrase it --

Q Sure.

A -- so I could be most precise.

Q Yeah. Was it your understanding that the misinfo claims portal was created with the goal to provide a means for the CDC to send information to Meta about misinformation related to COVID, vaccine, health-related information?

A Noting again that I was not on this portfolio when this was created, that's my understanding of its intention.

Q Okay. And what other avenues were tried by Meta and the CDC to facilitate this type of communication?

A Email, Zoom meetings, phone calls.

Q Do you know if there's a similar portal that Meta has created in a different context?

A There have been different contexts with similar tooling, yes.

Q And what are some of those?

A I did not hold the portfolio, and so I want to be clear about that again. It's my understanding that under the Trump administration the Census had an analogous portal. That's one that comes to mind.

Q And so, obviously, Census is a bureau; the CDC is an agency. Are you aware of analogous portals that were used with nongovernment entities?

A I'm not aware of anything like that.

Q Okay.

[redacted] This is exhibit 8.

[[redacted] Exhibit No. 8

Was marked for identification.]

[redacted] If you can just take a look and let us know when you're done.

[redacted] This is exhibit 8?

[redacted] Yes.

BY [redacted]

Q I know you didn't write these emails. It's [redacted] to Carol Crawford, but you were CC'd. They appear to be updates about Meta's COVID misinformation and harm policy to CDC.

Do you know how often these reports were made?

A I do not know.

Q Did you ever communicate these updates yourself to CDC?

A Can you be more specific on "these updates"?

Q Well, I guess I should ask, was this something that was done regularly, in your experience, that Meta reported its updates on its policy to the CDC?

A I don't know.

Q Okay.

[redacted] Are you done with this document, or --

[redacted] Yeah. We can take the documents back.

[redacted] Thank you.

BY [redacted]

Q In the first hour, you had mentioned that you had five individuals that

reported to you. Is that correct?

A Yes. Five including me. Four individuals that --

Q Gotcha.

A Yeah.

Q And how were the team's responsibilities divided?

[redacted] Can I just clarify as to timing, when you had four people reporting to you?

[redacted] That team structure started in November of 2022, so -- is that the time period you're referencing?

[redacted] Yeah.

[redacted] Yep. I, as we've discussed, managed the Federal Democratic portfolio. My colleague, [redacted], nee [redacted], manages the Republican Federal portfolio. My colleague, [redacted], manages political organizations, civic influencers on the political right. My colleague, [redacted], political influencers, civic influencers, et cetera, on the left. And [redacted] manages a portion of the Federal Government.

A few more Federal agencies are -- we spread them out, there are so many. [redacted], as I mentioned, covers the defense portfolio. [redacted], her portfolio has changed as we've had a lot of maternity and paternity leaves over the pandemic. And I also have, again, a little bit of the Federal Government. So there's a little bit of a mix.

BY [redacted]

Q And so, if I'm understanding you correctly, some team members are assigned a political responsibility, a Democratic- or Republican-leaning responsibility, and some are apolitical, agency-focused? I don't want to mischaracterize the division of responsibilities.

A They've all changed over time so many times. Sometimes folks will pick up a portfolio, and then if there's a medical leave, then those relationships move to the next person.

And it also includes the Government of Canada, so it's a North American team. And that point person has been [redacted], it has been [redacted].

So, not knowing a specific time period, it's hard to be precise about that portfolio.

Q Okay.

A I will say, the job itself is not partisan. The partners are political and partisan, so the portfolio is partisan.

Q And, to take one example, so you said that you took on the health portfolio starting in the summer of 2021. Is that correct?

A Late spring of 2021, yep.

Q And you mentioned a team member had to take leave. When that occurred, were you just wearing two hats at that point? You had, it sounded like, an existing portfolio of the White House and other, I'll say, political entities. Did you at that point have both your previous responsibilities and this new health portfolio?

A The health portfolio was added on top of my existing responsibilities.

Q Okay.

[redacted] We can go off the record.

[Whereupon, at 3:05 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

Transcribed Interview Transcript Errata Form

Interviewee	[redacted]
Date of Interview	5/31/23
Date of Review	7/18/23
Name of Reviewer	[redacted]
Signature of Reviewer	[redacted]

Page	Line	Suggested Correction
6	3	RM → Chairman
[redacted] 21	[redacted] 1	Can we go off the record for a second
22	14	They were very different
24	3	Veterans Affairs
63	Bottom	White Space in transcript
65	19-21	Add quotes "Are... today"
72	6-9	Add quotes "Per... collaborate"
2	Appearances	Believe [redacted] & [redacted] were also present

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: [redacted]

Thursday, June 1, 2023

Washington, D.C.

The interview in the above matter was held in Room 2237, Rayburn House Office Building, commencing at 10:00 a.m.

Present: Representative Jordan.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

[redacted] LAW CLERK

[redacted] LAW CLERK

[redacted] CHIEF COUNSEL FOR ANTITRUST, COMMERCIAL, AND ADMINISTRATIVE LAW

[redacted] DIGITAL ASSISTANT

[redacted] SPECIAL COUNSEL

[redacted] RESEARCH ASSISTANT

[redacted] DIGITAL DIRECTOR

[redacted] SENIOR SPECIAL COUNSEL

[redacted] COUNSEL

[redacted] MINORITY STAFF ASSISTANT

For the SUBCOMMITTEE ON CRIME AND FEDERAL GOVERNMENT SURVEILLANCE:

[redacted] MINORITY DETAILEE

[redacted] MINORITY DEPUTY CHIEF COUNSEL

For ALPHABET:

DANIEL F. DONOVAN, ESQ.

King & Spalding

1700 Pennsylvania Avenue NW, Suite 900

Washington, D.C. 20006

For [redacted]:

MICHAEL D. BOPP, ESQ.

Gibson Dunn

1050 Connecticut Avenue, NW

Washington, D.C. 20036-5306

[redacted] We'll go on the record.

This is a transcribed interview of [redacted]. Chairman Jordan has requested this interview as part of the committee's investigation of how and the extent to which the executive branch has coerced and colluded with companies and other intermediaries to censor speech.

Would the witness please state your name for the record?

[redacted]. [redacted].

[redacted] On behalf of the committee, I want to thank you for appearing here today to answer our questions. The chairman also appreciates your willingness to appear voluntarily.

My name is [redacted] and I am with Chairman Jordan's staff. I'll now have everyone else from the committee who is here at the table introduce themselves as well.

[redacted] Chairman Jordan's staff.

[redacted] Chairman Jordan's staff.

[redacted] Ranking Member Nadler's staff.

[redacted] Ranking Member Nadler's.

[redacted] Chairman Jordan's staff.

[redacted] Chairman Jordan's staff.

[redacted] Chairman Jordan's staff.

[redacted] Chairman Jordan's staff.

[redacted] Chairman Jordan's staff.

Mr. Donovan. Daniel Donovan, on behalf of Alphabet, with King & Spalding.

Mr. Bopp. Michael Bopp, Gibson Dunn, representing [redacted]

[redacted] I'd like to now go over the ground rules and guidelines that we will

follow during today's interview.

Our questioning will proceed in rounds. The majority will ask questions first for 1 hour, and then the minority will have an opportunity to ask questions for an equal period of time if they choose. We will alternate back and forth until there are no more questions and the interview is over.

Typically, we take a short break at the end of each hour, but if you would like to take a break apart from that, please just let us know.

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

[redacted]. Yes, I do.

[redacted] So the court reporter can take down a clear record, we will do our best to limit the number of people directing questions at you during any given hour to just those people on the staff whose turn it is.

Please try and speak clearly so the court reporter can understand and so the folks down at the end of the table can hear you. It is important that we don't talk over one another or interrupt each other if we can help it, and that goes for everybody present at today's interview.

We encourage witnesses who appear before the committee to freely consult with counsel if they so choose. And it is my understanding that you are appearing today with counsel. Is that correct?

[redacted]. That is correct.

[redacted] And counsel has stated their names for the record. Thank you.

We want you to answer our questions in the most complete and truthful manner possible, so we will take our time. If you have any questions or if you do not understand

one of our questions, please just let us know. Our questions will cover a wide range of topics, so if you need clarification at any point, just say so.

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

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

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

[redacted] Yes, I do.

[redacted] This also applies to questions posed by congressional staff in an interview. Do you understand this?

[redacted]. Yes.

[redacted] Witnesses that knowingly provide false testimony could be subject to criminal prosecution for perjury or for making false statements under 18 U.S.C. 1001. Do you understand this?

[redacted]. Yes.

[redacted] Is there any reason you are unable to provide truthful answers to today's questions?

[redacted]. No.

[redacted] Finally, I'd like to make a note that the content of what we discuss here today is confidential. We ask that you not speak about what we discuss in this interview to any outside individuals to preserve the integrity of our investigation.

For the same reason, the marked exhibits that we use today will remain with the court reporter so that they can go in the official transcript, and any copies of those exhibits will be returned to us when we wrap up.

That is the end of my preamble. Is there anything that my colleagues from the minority would like to add?

[redacted] No, thank you.

[redacted] The clock now reads 10:04 a.m. We will start the first hour of questioning.

EXAMINATION

BY [redacted]

Q Thank you again for appearing here voluntarily.

Can you state your full name again for the record?

A [redacted].

Q Great. And what is your current place of employment?

A CapitalG.

Q And what's your current title?

A I'm a vice president.

Q What's your educational background, beginning with college?

A I went to Carnegie Mellon University.

Q And what did you receive there?

A A Bachelor of Science in business.

Q And what's your employment history following college?

A I worked for Goldman Sachs, and then McMaster-Carr, and then SeamlessDocs, and then Google, and now CapitalG.

Q Okay. And when did you first join Google?

A In 2015.

Q And what was your position when you first joined?

A I was a financial analyst.

Q And how long were you in that position for?

A About 2-1/2 years or so.

Q So sometime in 2017? 2018?

A 2018, beginning of '18.

Q Okay. And what was your next position?

A I was a founder in Area 120.

Q And how long were you in that position for?

A About a year.

Q Okay. Do you recall when you left that position?

A I want to say February of 2019.

Q Okay. And what was your next position after that?

A Product Partnerships.

Q And what was your title with the Product Partnerships team?

A I was a strategic partner development manager.

Q And how long were you in that position for?

A From 2019 to the beginning of 2022.

Q And what was your position after that?

A CapitalG.

Q Oh.

A Yeah.

Q In the Product Partnerships team, did you have the title of "manager" throughout that entire period?

A Yes.

Q With your first position at Google in 2015 as a financial analyst, which team was that with?

A With the People Operations team.

Q And what were your responsibilities in that role?

A It was a financial planning and analysis role, so budgeting, forecasting.

Q Who did you report to at the time?

A At the time, I had a few different managers. The first was [redacted].

Q You said your next position was founder of Area 120. Is that correct?

A Founder in Area 120. It's Google's internal accelerator. So I had an opportunity to pitch an idea and then work on it.

Q Okay. Can you say a little bit more of the function of that team within Google?

A It's an accelerator. So Googlers can pitch an idea, get funding and head count and basically build out their own startup within Google.

Q Okay. And whatever is being created, is it ultimately the property of Google or of the individual?

A It's the property of Google.

Q Just at a high level, what sort of issues were you working on -- or, what products were you working on during that time period?

A It was a platform to connect emerging market entrepreneurs and tech startups with funding and expertise.

Q Okay.

And you recalled joining the Product Partnerships team in February of 2019. Is that right?

A Yes.

Q And what is the Product Partnerships team?

A The Product Partnerships team, you know, in my experience, my role was to work with our product managers, our engineers, to understand their product roadmaps and the data or content needs for the products that they were looking to build, and then to work with the outside ecosystem to understand where that data and content might live, and then acquire it for the products.

Q Okay.

And within -- let me actually take a step back. Product Partnerships, is this for all of Alphabet, or is this more granular than that?

A This is for Google Search. And Health Search, specifically, was my role.

Q So, as it was specific to Google Search, it would've been outside your team's responsibility with respect to products related to YouTube?

A Yes, primarily. And then, when COVID-19 came about, I played a bit of a coordinator role with the U.S. Government and coordinated some communications with teams outside of Search.

Q Are there analogous teams -- so you referenced the Search teams. Are there analogous teams for the YouTube division within Alphabet?

A Yes. There are -- Partnerships is a very large organization, and each product has, in some cases, several Partnerships teams. So YouTube has their own Partnerships team, Maps/Geo have their own Partnerships team, and so on.

Q Are there others that you recall, in addition to Search, YouTube, Maps?

A I believe most Google products that require any type of partnerships would likely have a Partnerships team.

Q Okay.

Outside of Search, you referenced serving a coordination role. Which of the Google products did you serve a coordination function with?

A So the role of coordinating was more about engagement with the U.S. Government and the product needs. So it wasn't necessarily specific to every single product. It was more if a team needed information from a U.S. Government agency or, you know, needed to interact in some way, I would help facilitate that interaction.

Q Okay.

Do you recall which teams -- let me start with a more precise question. In your coordinating role, was the YouTube team one of the teams that you would coordinate communications with?

A Yes, YouTube was one of the teams.

Q Okay. Do you recall which other teams you served this purpose for?

A The Geo, or Maps, team.

Q Any others?

A The Google Health team.

Q Is the Google Health team separate from the Health Search team that you referenced earlier?

A It is technically separate, but Google Health Search and Google Health work closely together because there are clinicians within Google Health that Google Health Search consults.

Q And, within Google Search, is -- Google Health Search is housed within that?

A To the best of my recollection, Google Health was its own entity. Google's Health Search was within Google Search.

Q Okay. How many teams were there within Google Search?

A I couldn't say exactly. There were a number of different teams within

Google Search.

Q Were there other teams that were divided by subject matter, such as Health being one?

A Yes. To the best of my recollection, there were a number of teams that were verticalized. So Sports was a team, Media, and so on.

Q Do you recall if elections was a subject matter that had its own team?

A Elections was another separate area.

Q During your time with the Product Partnerships team, who did you report to?

A I reported to [redacted].

Q Was that your entire time during the role?

A No. I initially reported in to [redacted].

Q And for [redacted] and [redacted], what were their titles?

A I'm not sure exactly. [redacted] is a director. And [redacted] I'm not sure exactly what his title was, but he was a manager and team lead.

Q During your time with the Product Partnerships team, did you have a team that reported to you?

A I did not.

Q Did you have a team of people that were equivalent to being your peers within the Google Health Search team?

A Yes, I did.

Q And how big was that team?

A Initially, the Google Health Search team was, to the best of my recollection, about four to five people globally. And then, when COVID-19 came about, there were up to 190 different Partnerships folks who worked in some capacity on COVID-19-related

products.

Q Before COVID hit, the four to five, was there an individual that had responsibility for the United States in particular?

A Yes. I was responsible for the United States.

Q And once the team expanded significantly post-COVID, was there a division or a group of individuals in charge of the United States specifically?

A From a partnerships standpoint or from a product standpoint? Would you mind clarifying?

Q Sure. We'll start with from a partnerships standpoint.

A Sure. So, in the U.S., I played the primary point-of-contact role for COVID-19-related partnerships for Search and then the coordinator role.

Q And once the team expands, do you have people reporting to you at this point?

A I did not.

Q Okay.

You mentioned a number of partnerships and that you were in a coordinator function with the government. Which government agencies?

A The agencies that come to mind are the CDC, the FDA, and the HHS.

Q And when you're serving in this role as coordinator, are these responsibilities primarily on you, or were there others within the Google Search team that could fill this role?

A Would you mind just clarifying the question?

Q Sure. I just -- were you the primary point of contact? Or were there, say, a group of three people or more than one person that was primarily involved in these coordination efforts between -- connecting government agencies with the appropriate

team or division within YouTube -- or, within Alphabet?

A Within the United States, [redacted], on the Government Affairs and Public Policy team, also played a similar coordinator role with me. I was the point of contact from a Partnerships standpoint. And then we had a similar setup of Partnerships and GAPP for over 190 different countries and territories.

Q Okay. And what was [redacted] title during this time?

A I'm not sure exactly what [redacted] title was, but I do know she was a part of the Government Affairs and Public Policy team.

Q Okay.

During your time at Google, who else from the Government Affairs and Public Policy team did you work with?

A [redacted] manager, [redacted].

Q And what was the context of your interactions with [redacted]

A I primarily worked with [redacted] but at times we would connect with [redacted] on just updates. Nothing in particular comes to mind.

Q In serving this coordination role, did you have to have a familiarity with YouTube's content guidelines?

A So, to the best of my recollection, each product area had their own Partnerships point of contact and GAPP point of contact. And YouTube's internal coordinator would play the role of understanding the product roadmap and the product need and then communicate that to myself and [redacted] and then we would then pass along the request or feedback or whatever they needed. I was not personally familiar with YouTube's policies.

Q Do you recall who served that role at YouTube?

Mr. Bopp. What role are you talking about?

BY [redacted]

Q The role responsible -- we'll start with the development of YouTube's content moderation policies.

A I'm not familiar with YouTube's team structure.

Q Okay. If you received a question from a government partner regarding YouTube's policies or the enforcement of YouTube's policies, to whom at the company would you refer that question to?

A I would most likely have passed it along to my counterpart in YouTube from a Partnerships standpoint to help navigate to the right internal teams at YouTube, and perhaps the YouTube Government Affairs point of contact.

Q Okay. And who was your counterpart at YouTube?

A [redacted] from Partnerships.

Q Did you work closely with [redacted]

A We were in touch fairly regularly during COVID. Pre-COVID, didn't work as much with any other product areas.

Q And were you with the Health Search team before COVID as well?

A Yes, I was with the Health Search team pre-COVID.

Q And pre-COVID, what were some of the issues that you worked on?

A The topics that we covered were primarily medical conditions. So Google has about a thousand knowledge panels about different medical conditions.

Q Okay. And just so we're on the same page, what is a knowledge panel?

A A knowledge panel is a structured experience that comes up on specific queries. For example, if you googled "migraine," you would see, most likely to the right-hand side, a medical illustration of someone with head pain and a migraine, some type of statistics around how common that condition is, and then a condition description

of the migraine itself, and then potentially another tab that has symptoms information or treatment information.

Q Okay.

A It's completely separate from the 10 blue links. So, to be clear, my role the entire time in the role had nothing to do with content moderation or the 10 blue links, which are algorithmically sourced.

Q Which team at Google handles the 10 blue links and how they come up?

A There's a Search Ranking team within Google. However, just to be clear, the ordering of, you know, the 10 blue links is algorithm-based. So, to my knowledge, there's not a team that does manual intervention.

Q During your time at Google, were you ever required to consult with this team about what factors should be considered by the algorithm?

A I do not recall working with the team on algorithmic ranking, as it was not a part of my role. My role was primarily focused on the structured experiences, like knowledge panels.

Q Do you recall working with the Search Ranking team in any other context?

A I do not recall working with the Search Ranking team.

Q Who led the Search Ranking team during your time at Google?

A I'm not sure who led the team.

Q Okay.

With respect to the knowledge panels, does the knowledge panel ever feature a blue link?

A So the structured experiences are completely separate from the blue links. There are many different components to a Search page, and, you know, sometimes you'll see ads, which are separate from blue links and separate from structured experiences.

There might be structured experiences. Structured experiences might link out to another source, but they're completely separate from the 10 blue links.

Q And if there is a link provided or some mechanism to link out, that would fall under your team's purview? Is that right?

A If there were a link out within a structured experience on Search for health specifically, then attributing to the appropriate partner would be within my team's purview.

Q When in 2022 did you leave Google?

A I believe it was in the beginning of April.

Q Okay. And do you know who took over your responsibilities?

A I'm not sure.

Q Do you know who [redacted] is?

A [redacted]. She might've been the person who was hired after me, but I was on paternity leave, so I wasn't really a part of the process.

Mr. Bopp. When you say "she might've been," do you have any reason to believe that? I mean, do you have any recollection of her being hired to replace you?

[redacted] She was hired when I was out, so I don't know precisely.

Mr. Bopp. Okay.

Go ahead. Sorry.

BY [redacted]

Q Other individuals at Google have shared information that there's a tool at Google called the Buginator. Do you have familiarity with that tool?

A The Buganizer? I'm --

Q Oh, excuse me. Yes.

A -- vaguely familiar with the Buganizer, yes.

Q Okay. And what's your understanding of what that tool is?

A That is a tool that, in my experience, was primarily used by Engineering and other teams. I didn't really use it much in my role. But it's a way to identify a bug or a concern or an error or a fix and address it.

Q On the occasions that you were involved one way or another, what was the context of when you or your team would be involved with a bug or an issue ticket?

A I don't recall specifically. It just wasn't a big part of my role.

Q Okay.

So you mentioned CDC was one of the agencies you coordinated with, would serve a coordinating function with. Do you recall who at the CDC you worked with?

A Primarily [redacted] and [redacted].

Q Okay. And who is [redacted]?

A She was, I want to say, the team lead or manager for digital content at the CDC. I could be wrong on the exact title.

Q And who is [redacted]?

A [redacted] reported to [redacted]

Q Once COVID hits, how frequently were you interacting with -- we'll start with Carol Crawford?

A It varied. In the very beginning of COVID, the engagement may have been more frequent, and then towards the end of the time in the role, less frequent. But it could've been anywhere from, you know, weekly to biweekly to daily. It really varied.

Q Okay. And what was the nature of your working relationship?

A It was similar to the working relationship with any other partner pre-COVID or during COVID. It was to communicate the data or content needs of the products and features we were launching and understand how you could acquire that content and then

provide feedback to our internal product and engineering teams.

Q So when you say -- what do you mean by "acquire content"?

A So acquiring content could mean any number of different ways of getting information from one source into Google's products. In some cases, there are content licensing agreements. In other cases, information is publicly available, so, you know, it might mean our engineering teams going to a GitHub repository and ingesting that information.

Q What is a GitHub repository, just so we're on the same page?

A My understanding at eye level is that it's a public database of content or data.

Q Okay.

In addition to acquiring content, what were some of the purposes of your other interactions with the CDC?

A The other types of engagements could include this coordination role that I mentioned, so connecting them with other teams within Google or, you know, facilitating an introduction.

Q Okay. Do you recall which teams at Google you facilitated an introduction to with respect to the CDC?

A YouTube comes to mind.

Q Do you recall who from YouTube you introduced to the CDC?

A Lee Hadlow comes to mind. There may have been other folks as well.

Q When I asked about acquiring content, you mentioned that there could be different types of agreements. Did Google have an agreement with the CDC?

A Google had executed a trademark agreement to use the CDC's logo for some campaigns.

Q Okay. Do you recall when that agreement was entered into?

A I do not recall exactly when it was entered into.

Q Would it have been after COVID had started?

A Yes, it was after COVID had started, but I don't know exactly when.

Chairman Jordan. Before 2021?

[redacted]. I believe so, but I'm not entirely sure.

Chairman Jordan. Thanks.

BY [redacted]

Q Were there any other agreements Google had with the CDC?

A Not to my knowledge.

Q Were there any analogous agreements that Google had with other government agencies?

A I'm not entirely sure, because we had other Partnerships and Government Affairs contacts within Google who worked with governments outside the U.S.

Q Okay.

You mentioned a few government agencies. Did you serve a similar coordination role with respect to the White House?

A Yes, I did.

Q And who at the White House did you interact with?

A I don't recall specific names, but I do recall working with, I want to say, the U.S. Digital Services department or the White House COVID Task Force.

Q Do you recall if you worked with a gentleman by the name of Rob Flaherty?

A Rob Flaherty. I recall seeing his last name in preparing for this interview.

Q What was the context of your interactions with the White House?

A To the best of my recollection, my engagement with the White House

was -- what comes to mind is the vaccine appointments availability effort.

Q And what was the vaccine appointment availability effort?

A To the best of my recollection, the White House was looking for a way to help the U.S. population find vaccine appointments and got together a group of retail pharmacies and invited some other companies like Google and search engines to think about a way to surface these appointment availability slots so that people can book their appointments and get vaccinated.

Q Do you recall which other companies were invited?

A I believe CVS, perhaps Walgreen's, perhaps Kroger's. Microsoft was part of it. There were others, but those are the ones that come to mind.

Q And do you recall when this effort was taking place?

A I don't recall exactly, but it would've been after vaccines became available.

Q Is it your understanding that would've been maybe winter to spring 2021?

A When did vaccines start to roll out? It could have started as early as winter 2020 or beginning of 2021. I'm not entirely sure.

Q Other than the vaccine appointment effort, joint effort that you referenced, what other interactions did you have with the White House?

A I recall having, I think, a meeting just generally sharing what Google was doing on COVID-19.

Q Do you recall when that meeting took place?

A I do not.

Q Okay. When you say "generally what Google was doing with respect to COVID-19," what do you mean by that?

A So my engagement was to just share the Health Search products that were out there, so the structured experiences around COVID-19 that I worked on.

Q Do you recall if Google initiated this meeting or if the White House or someone else did?

A I do not recall.

Q Okay. Do you recall if anyone from the White House during any of these meetings raised concerns regarding misinformation?

A I do not recall. Misinformation was not really a part of my role. So my role was purely to talk about the structured products on Search.

Q Okay. If someone from the government did have a question about misinformation, who at the company would you refer that question to?

A I likely would've referred them to someone on our Government Affairs and Public Policy team, who then could've helped route it appropriately.

Q Do you know if there's a team -- we'll start within Search -- if there's a team within Search that has primary responsibility with respect to misinformation?

A Search has Trust and Safety and Government Affairs and Public Policy teams, so I'm not entirely sure of the scope of each team, but I would assume that one of those two would be a good starting point.

Q Who led the Trust and Safety team for Search?

A I'm not sure who led the team.

Q Did YouTube have an analogous Trust and Safety team?

A I believe so.

Q And do you know who led that team?

A I'm not sure.

Q This will be exhibit 1.

[[redacted] Exhibit No. 1

Was marked for identification.]

BY [redacted]

Q Do you recall this document?

A I do not recall this document.

Q Do you recall whether you attended a meeting with the White House -- this would've been February 2021?

A I do not recall if I attended this specific meeting.

Q Okay.

Looking at the top of page 1, on the "To" line, the first email address is [redacted]. Who is that?

A [redacted] was a director in Google Health.

Q Okay.

A Or is a director.

Q And, to clarify, Google Health is a team separate from your Google Health Search team?

A That is correct.

Q Okay. How big is the team that [redacted] leads?

A I'm not sure if [redacted] had direct report at the time.

Q Okay.

Still on the "To" line, there's your email address, and then there's a gentleman by the name of [redacted]. Do you know who that is?

A I'm not sure who [redacted] is.

Q Okay.

Looking down, two-thirds down the page, there's a set of email addresses of individuals who are invited. There are some government emails. There's Rob Flaherty, who was mentioned earlier. Do you recall what his position was with the White House?

A I do not.

Q Okay. What about Benjamin Wakana?

A I do not recall Benjamin Wakana's role either.

Q Okay. For any of the four names that are there -- Flaherty, Wakana, Clarke Humphrey, and Courtney Rowe -- do you recall working with any of those individuals in your role as serving that coordinating function between agencies, the White House, and teams at Alphabet?

A I don't recall specifically working with the names mentioned here.

Q Okay.

Did you ever work with Andy Slavitt at the White House?

A His name is familiar. I'm not sure if I had direct engagement with him, but I may have been on some emails with him.

Q Okay.

Do you recall attending a meeting at any point in time, whether February 2021 or otherwise, with personnel from the White House regarding vaccine misinformation?

A I don't recall a specific meeting on vaccine misinformation.

Q Do you recall a meeting where the issue of vaccine misinformation was raised?

A Perhaps? I don't have a clear recollection of vaccine misinformation. My role was primarily on the structured experiences in Search, so that was my focus.

Q Okay.

Do you recall other government agencies -- do you recall having meetings with any other government agency where the issue of vaccine misinformation was raised during the meeting?

A Vaccine misinformation. I don't recall any specific meetings. There may

have been comments or, you know, questions that have come up, but I wouldn't have been the person to speak to them.

Q Okay.

Turning back to the White House specifically, it looks like there's a Zoom link here. Do you recall, in the meetings with the White House you attended, were they all over Zoom or a video conference function of some kind?

A To the best of my recollection, I believe the White House did use Zoom. At Google, we try to use Google Meet, but different agencies have different policies.

Q In your meetings with the White House, would you take notes?

A Perhaps. There was usually someone on most meetings that would either take a note of action items, if there were any, or general feedback.

Q And when you say there was someone, do you mean someone from Google or anyone on the call?

A It depends. If it was a general sharing out and we were just sharing what we were working on, there might not be a need to share notes or take down notes. If it was a meeting that required some type of followup or decision point, then there may have been notes taken.

Mr. Donovan. [redacted] do you have a specific recollection of someone taking notes?

[redacted]. Not a specific recollection.

Mr. Donovan. Okay.

BY [redacted]

Q Do you recall internal Google email correspondence or internal conferring following a meeting?

A Do you have a specific example?

Q With reference to meetings with the White House, you said if there was a

do-out or something to do, do you have a recollection of an internal Google meeting following a meeting with the White House regarding next steps?

A I don't recall a specific meeting about next steps with the White House. As a part of the role, we generally had internal meetings, so I'm not sure if we had any specific to the White House.

Q Okay. As a general practice with respect to meetings with the White House or with meetings with other government agencies, would you attend internal Google meetings in advance to prepare for a meeting with a government agency or with the White House?

Mr. Bopp. You're asking if, as a general practice, he would have a meeting with his colleagues at Google to prepare for a meeting with the White House?

[redacted] Yes.

Mr. Bopp. Okay.

[redacted]. I would say, as a general practice, we try to be prepared for any meeting, regardless of the partner type, whether it's government or nongovernment. So, if there are, you know, a number of different teams involved in the conversation, making sure that everyone knows the agenda and the purpose of the call and the goals.

So there may have been either an email or meeting or some kind of coordination about an upcoming meeting. I don't recall any specific prep sessions for a meeting with the White House.

BY [redacted]

Q Besides email, what forms of communication are used internally among workers at Google?

A GChat and virtual meetings.

Q What is GChat?

A It's just a chat feature on G Suite Google products.

Q Okay. And is GChat a feature that's available to the public, or is this specific to personnel at Google?

A I believe it's available to the public. Anyone who has a Gmail account can have that chat feature.

Q I can take these exhibits back now.

This will be exhibit 2.

[[redacted] Exhibit No. 2

Was marked for identification.]

Mr. Bopp. Hey, can we take just a very quick break?

[redacted] Sure.

Can we go off the record, please?

[Recess.]

[redacted] We can go back on the record, please.

Mr. Bopp. Are you ready?

[redacted]. Yeah.

BY [redacted]

Q Do you recognize this email chain?

A I recall seeing this email as part of the prep.

Q Okay. Having since prepped and seeing the document now, do you recall the context in which you are engaging in this email communication with the White House?

Mr. Bopp. When you say "the context," can you give us a little bit more detail of what you're asking [redacted], just so we know?

[redacted] Sure.

BY [redacted]

Q Do you recall sending these emails?

A I do not recall sending these emails specifically. And it looks like the thread originated without me on it, so I don't recall the other interactions here.

Q Sure. But there are a few emails where you're the sender. Is that correct?

A Yes.

Q Okay. Do you recall interacting with the White House in -- this would've been in May of 2021?

A Generally, yes.

Q And exhibit 1 was from February 2021. Exhibit 2 here is from May 2021. Do you recall how frequently you were in contact with the White House during that time period?

A I do not recall how frequently.

Q Okay.

You mentioned the vaccine appointment joint effort as one interaction. Do you recall what other interactions you had with the White House during this time period?

Mr. Bopp. When you say "time period," you mean February through May of 2021?

[redacted] Yes.

[redacted]. No specific interactions come to mind. I do know that we were in touch with them, but I don't have a specific example in mind.

BY [redacted]

Q Okay.

Who is Mina from the White House? Do you recall who that is?

A I believe Mina was a part of the vaccine appointment availability effort. I'm not sure what her exact title was.

Q During this period of February to May 2021, do you recall who in the White House you worked most closely with?

A Mina's name seems more familiar here.

Q Do you remember which contexts you had interactions with Mina?

A Primarily what comes to mind is the vaccine appointment availability.

Q Anything else?

A Nothing specific.

Q Okay.

The previous exhibit mentioned vaccine misinformation. Do you recall who at the White House raised that issue?

Mr. Bopp. Raised the issue with [redacted]

BY [redacted]

Q Raised the issue with [redacted] or with anyone at Google that you have knowledge of?

A Are you referring to this specific exhibit or --

Q Just in general.

A I'm not entirely sure who else had interactions. I know Karen DeSalvo had some communications with government officials.

Q Okay. And who is Karen?

A Karen is the head of Google Health and Google's chief health officer or chief medical officer.

Q Okay.

If I could call your attention -- this is exhibit 2. Starting on page 774, there's an

email, and its last couple lines end on 775, but the bulk of it is on 774. There's an email from you to Mina. And at the start of the email, about three lines down of the first main paragraph, there's a reference to "combating misinformation."

Do you recall the context in which Google was providing an answer with respect to combating misinformation?

A So my role as coordinator, I guess, with the U.S. Government would be to take summaries, at times, of what other teams are working on and share them with external partners.

So, in this case, I don't have a specific, you know, recollection of the context for a misinformation effort, but I can say that I do recall sharing the structured experiences on Search that I worked on.

[11:04 A.M.]

[redacted] So, understanding that you're serving this coordinator function, if I understand you correctly, you're not the one developing Google's policies or developing a response. Who at Google would you consult with for issues related to misinformation?

Mr. Bopp. Is the question would or who did he consult with?

BY [redacted]

Q We'll frame or start as who did you consult with?

You mentioned that other team members were ultimately responsible. So who did you consult with in order to serve your coordinating role?

A So, just to clarify, my role wasn't specific to misinformation. It was more specific to structured experiences on Google search. So I don't recall consulting other teams necessarily on misinformation topics.

There were other teams like Trust and Safety and other policy teams that did focus on misinformation. So those would be the types of teams.

Q Okay. And do you recall -- we'll use this email as an example with the understanding that this appears to not be within the scope of your responsibility -- who you would need to consult with, discuss with, receive a briefing by in order to be able to communicate and send this email to the White House? Would Trust and Safety be the primary team?

A I'm not entirely sure who the team would be, per se. It really depends on the specific topic. Like I mentioned, there are cross-functional teams with each product area. So, if it was a YouTube-specific topic, it would go to a different team. If it was a Map-specific topic, it would go to a different team, and so on.

Q Okay.

And, for YouTube, do you recall who your point of contact would have been?

A I don't recall a specific Trust and Safety contact. Depending on the request, I may have looped in [redacted], just to have navigate YouTube.

Q So on exhibit 1, there's a reference to misinformation, February 2021. There is a reference here. This is May 2021. Do you recall how long the issue of misinformation was raised by personnel at the White House to individuals at Google?

Mr. Bopp. Do you understand the question? I'm not -- I'm not certain I do, but if you do, go ahead and answer it.

[redacted]. Would you mind just rephrasing or repeating the question?

[redacted] Sure, sure.

BY [redacted]

Q Do you recall how late into 2021, personnel at the White House were raising concerns related to misinformation to individuals at Google?

A I don't recall specific issues of, you know, the White House raising concerns about misinformation because that was outside of my primary scope. But what I can say is that we worked with White House officials, you know, across 2020 and 2021.

Q Okay. Do you recall what issues, what topics of misinformation were of most concern to the White House?

A I couldn't say what was of most concern to the White House.

Q Do you recall the White House ever communicating questions related to what a Google Product's content moderation policies were?

A I do not recall the White House specifically asking about Google's content moderation policies nor was content moderation a part of my role. So nothing comes to mind.

Q Do you recall -- maybe I have time for one more.

Do you recall receiving requests from any other government agency? I shouldn't say request. Do you recall having interaction with any other government agency with respect to misinformation?

A Again, the scope of my role was more about understanding the product roadmap for health search and then going out and acquiring that specific content. So misinformation topics weren't top of mind for me, but nothing specifically comes to mind. But I can tell you that we worked with other government agencies, like the CDC, FDA, and HHS.

[redacted] Okay. The hour is up. So we can take those exhibits back, and we can go off the record.

[Recess.]

[redacted] We're back on the record at 11:23.

And, [redacted], my name is [redacted] again, and thank you very much on behalf of the minority for appearing here today.

EXAMINATION

BY [redacted]

Q You've already covered this with respect to one of your roles, but I just want to be clear. When you were working at Global Product Partnerships, you had no role in content moderation, correct?

A That is correct.

Q And no role in shaping or writing Google's content moderation policies?

A That's correct.

Q And that is also true when you were working at area -- was it Area 120?

A Yes, correct.

Q And I assume that that was true as well, that you had no role in content

moderation or in shaping Google's policies when you were working as a financial analyst?

A Yes. I had no role in content moderation or shaping policies and any role prior or present at Google.

Q Okay. Thank you very much.

Now, you talked during the last hour about structured experiences on Google search and knowledge panel. I want to show you an exhibit so we can make sure that we all understand exactly what you're talking about.

[[redacted] Exhibit No. 3

Was marked for identification.]

[redacted] We're on three?

[redacted] Yes.

[redacted] This is my first time so.

Mr. Bopp. No problem.

[redacted] Luckily we don't -- we only have to put the sticker on one copy.

BY [redacted]

Q This is an example of a Google search we ran. And for the record, we are not in the habit of googling "Brad Pitt" every day. We did this for another witness.

So can you explain a little bit of what a structured experience is? And then talk us through which parts of this Google search, and it goes on to the other side, are structured experiences and what they're called?

A Sure. So structured experiences generally are just a way to provide a user experience or a design to help people digest information. They are separate from the 10 blue links. So, if you move over to the back of the page, there are different links from people -- or [redacted]. These are all 10 blue links. They're algorithmically sourced. They're not structured experiences.

On the first page, the movie carousel beneath the picture of Brad Pitt that has Bullet Train and others, that's an example of a structured experience. I didn't work on movies. So I'm not sure exactly how this carousel works, but that's an example of a structured experience.

Q And is the blue -- the images and the link to the CinemaBlend article and the age and spouse on top, is that what's known as a search feature, that blue section?

A The top section, that is a search product. Again, I'm not as familiar with movies, as I worked on health.

Q Fair enough.

And the knowledge panel is where it says "about" on this slide. Is that correct?

A Right. So on the right-hand side --

Q Thank you.

A -- this is an example of a knowledge panel, per se. I'm not sure exactly how this content was sourced, but this is an example on the right-hand side of a knowledge panel.

Q So, for a knowledge panel with respect to health, how would content be sourced?

A It varied. We worked with -- or Google worked with medical illustrators for the medical image components of the knowledge panel. Some of the pieces of information were algorithmically sourced, like how common a specific condition was. And then Google worked with partners like the Mayo Clinic for the condition's descriptions.

Q Okay. And so the structured experiences, like the knowledge panels, consisted of information that Google chose to highlight for its users before the users would see the 10 blue links?

A Just one point of clarification. Structured experiences, like in this case, can appear to the right or above or in another placement, not necessarily always on top of the 10 blue links, and not all queries have structured experiences associated with them. So you might type in a phrase into the search bar and only get 10 blue links.

Q But is it fair to say that when there is a structured experience, that's information that Google is curating for the user who is searching? With respect to, say, medical information, if I Google "heart disease," then I'm going to get a structured experience that contains information that Google has sourced from the Mayo Clinic or other similar sources and, perhaps, medical illustrators with an image of a heart?

A Yes, and the knowledge panels and structured experiences.

Q Okay. And so a knowledge panel is separate from a structured experience?

A Yes.

Q I just want to make sure I'm using the Google terminology correctly?

A When I say "structured experience," it could be a knowledge panel as an example. It could be something else, like a banner or some other type of designed experience that is separate from the 10 blue links and separate from ads.

Q And, when you say "designed experience," you mean it's designed by employees of Google?

A Yes, designed by engineers, product managers, UX designers, a number of different cross-functional teams.

Q Okay. Thank you.

Is it analogous to, when you walk into, say -- let's take it out of the digital world. You walk into a book store, and there's a table of, you know, recommended mysteries or new and hot best sellers, but the books -- the rest of the books that the store sells are still available to whoever wants them?

A So I wouldn't necessarily say that what's in a structured experience is being recommended by Google. My understanding is that the purpose of a structured experience is to help users digest information in a useful way.

Q Okay. And, if information is not in a structured experience, so if I search for something and Google has not chosen to include a link or an illustration, I'm still going to find, if it exists, blue links that relate to that information?

A You will find, you know, blue links and relevant websites depending on your query.

Q Okay. Thank you.

So when you were working in Global Product Partnerships, as you mentioned, you worked with employees at various Federal agencies, correct? And you mentioned that you worked with White House employees in 2020?

A Yes, I believe so.

Q And that was when COVID first started?

A Correct.

Q And so that would have been White House officials in the Trump administration, correct?

A Yes, that's correct.

Q Okay.

And then those communications with White House officials continued when the administrations changed in 2021?

A Yes. My role remained the same across administrations, and the way that I approached my job is nonpartisan and was pretty consistent.

Q And in that vein, when you would communicate with employees at the CDC, like Carol Crawford and Fred Smith, you would communicate with them -- or you did

communicate with them, excuse me, in 2020 as well, correct?

A That's correct.

Q And that was, again, when former President Trump was in office?

A Yes.

Q And if you don't know the answer to this, that's fine, but given that Ms. Crawford and Mr. Smith were working at CDC across both administrations, is it your understanding that they're career CDC officials? They are not political appointees?

A That is my understanding. They were consistent throughout my time in the role.

Q And you also worked with employees at Health and Human Services?

A Yes.

Q And you did that in 2020?

A Yes.

Q And you did that in 2021?

A That's correct.

Q So, again, that work spanned both administrations.

And that's with respect to COVID as well, not just general health issues, correct?

A Yes, and respect to COVID.

Q But, even after COVID appeared on the scene, your work for Google health search did not just deal with COVID, correct?

A During COVID, my primary focus was COVID-19 itself.

Q But occasionally you would work on things like kidney awareness month or heart health awareness month or things like that?

Mr. Bopp. During what time period are we asking [redacted] about?

BY [redacted]

Q In 2021, if you recall.

A I recall the vast majority of my role during the pandemic being related to COVID-19, and occasionally, there might have been something that was not COVID related within the health search space that needed to be maintained or addressed, but the primary focus was COVID.

Q And, when you say "maintained," that's because, as you mentioned earlier, before COVID, Google health search was still a product that Google had, and it was just focused on the thousands of other medical conditions that humans deal with?

A Yes, that's correct.

Q Okay. Thank you.

Now, you mentioned a moment ago that -- and I believe you said it earlier, that with respect to the blue links, those are algorithmically decided?

A Yes.

Q And there's no human action taken to alter the order of the links or what shows up on the links?

A That is my understanding.

Q That's your understanding. Okay.

[redacted] Is that number four?

[redacted] Yep.

[[redacted] Exhibit No. 4

Was marked for identification.]

BY [redacted]

Q So you mentioned that a lot of your work, once COVID started and certainly once the vaccines became available, related to making sure -- or to working on making vaccine appointments available or helping people find access to vaccines. Is that

correct?

A That's correct.

Q Okay. And that was something you discussed with Carol Crawford at CDC?

A I don't recall if Carol was a part of the vaccine appointment scheduling effort.

Q Okay.

I'm going to ask you to take a look at this email. And on February 25, 2021, Carol wanted to point your attention to a new webpage that the CDC posted about vaccine finder. Do you see that?

A Yes.

Q And then she said: It would be great if this could come up higher in results instead of our provider page.

And then she pointed out, she also just wanted you to see it in case you found it helpful in any way, correct? And your response was -- well, first you thanked her for sharing, very polite, and then you said: As a reminder, we do not alter organic search results or have influence of ranking in any way.

That was a very gentle way of saying, no, we're not going to -- we're not going to make that come up higher?

A Yes. We do not alter organic search results in any way; "we," being Google, and this is just reinforcing that policy.

Q And you don't do that even if a government official says it would be great if you would?

A Google approaches it the same way whether it's a government or a nongovernment partner or, you know, a user. We get feedback from users, from millions of users all the time, and, you know, in some cases, if something violates Google's

policy, then Google will act. In other cases, it's feedback that isn't acted upon. And, in this case, it was feedback that wasn't acted upon.

Q Thank you.

And you said that, once COVID hit, that was the vast majority of the work that you were doing for Google. What was Google's interest in -- well, let me back up.

Google's primary function is to provide access to and to organize information for folks who want to find it on the internet, correct?

A Yes. Google's mission is to organize the world of information and make it universally accessible and useful.

Q And, with respect to health information, you said that Google partners, certainly by the middle of the pandemic, were, I think you said, 190 organizations across the world?

A We worked with a number of partners. I would say hundreds of partners. Google looked to governments around the world for public health guidance, and so each country or territory has its own public health authority, and there would be a contact within Google that would work with them for public health guidance that was locally relevant for their region.

Q And that's because people all over the world use Google to search for health information?

A Yes, that's correct.

Q Okay.

And was it -- well, let me ask it differently.

What's your understanding of why you had to spend so much of your time working on COVID-19 and what Google's interest was in providing information about COVID-19 to people around the world?

A My understanding of why the vast majority of my role centered on COVID-19 was because I was working on health product partnerships prior to the pandemic, and COVID-19 was the most important and relevant health topic at the time.

Q And why was it important to Google to make structured experiences like with vaccine appointments or something like that to -- for its users? Why was it important for Google to have its users have easily accessible information about COVID-19 and ways that they could protect themselves from it?

A My understanding is that Google is looking to help organize information and serve users, and users wanted to know the most accurate, relevant, and up-to-date information about COVID-19.

Q Okay. Thank you very much.

[redacted] And I think that might be it for now. Just give me one moment. Yep, good for now?

[redacted] Yeah, that was good.

[redacted] For now that is it. So up to you guys if you want to take a break or go right into the next hour.

Mr. Bopp. Do you want to stretch for a minute, or do you want to just go right in?

[redacted]. We can stretch for a minute.

Mr. Bopp. Let's just take one minute while you guys switch sides here.

[Recess.]

[redacted] We can go back on the record.

This is exhibit 5.

[[redacted] Exhibit No. 5

Was marked for identification.]

Mr. Bopp. We're ready.

[redacted] Great.

BY [redacted]

Q Do you recognize this document?

A I do recognize this document from the prep.

Q Okay. And what is it?

A It's an email from Sheila Walsh.

Q And who is Sheila Walsh?

A I believe she was with the HHS.

Q Okay.

If I can call your attention to the first sentence of Sheila's email, it says: We are glad to hear that the box below has been moved up higher on search result pages. And she includes a screenshot, and, admittedly, an incomplete screenshot of the whole page.

In the -- with the questions with the minority, you were discussing the differences between the blue links and then, you know, what is presented above, sometimes to the right, sometimes to the above. Is it your understanding that here Sheila is referring to that ladder category?

Mr. Bopp. You mean when she says -- refers to the box below? You're asking if that's the boxes of a structured product?

[redacted] Yes.

[redacted]. This box in particular, the getting the vaccine, with the statement and register at vaccines.gov link, that is a structured experience.

BY [redacted]

Q Okay. And --

A Or part of a structured experience. There are many different components

to structured experiences, and they display dynamically depending on your query.

Q And was your team responsible for deciding what the layout of this structured experience would be?

A Could you clarify what you mean by the layout?

Q Sure. So we -- the exhibit introduced by the minority involved an actor, and movies were displayed. Yours was in health products. You verbally described examples where there's -- that symptoms are identified for different diseases.

In terms of just the visual layout when you pull up -- you run a search, whether something comes up on the top or the right, which team at Google is responsible for determining how that layout will appear?

A So my understanding is that the actual display is dynamic, and depending on your query, different components of the structured experience may surface above or below. So, if you search for, let's say, "getting the vaccine," specifically, you might see this part of the structured experience first, followed by other COVID-19-related information.

Q Okay. And which team is responsible for implementing these structured experiences?

A The product teams, the UX design teams actually create the layout or, you know, user interface is what we call it. And then the engineering teams actually implement the code on the back end and launch it. There are a number of different teams that are involved.

And then, again, the entire page is dynamic. So it may look different if you're looking at it on mobile versus desktop, if you query, you know, the same type of phrase but with different words. So it really depends.

Q Okay. But, as far as, understanding that there are teams that are

responsible for the coding, technical aspects, as at least is relevant to this request here, which team would be responsible for deciding where, take this for example, this box would appear in the structured experience?

A Again, it really is dynamic. So the appearance will vary depending on the query, but if you're asking, you know, which team works on what this specific experience or component looks like, that would be the teams that I mentioned, the product, UX design, and other teams.

Q Okay. Again, not to beat a dead horse, but where it appears, it seemed that Sheila ran a search. The box appeared somewhere. She ran a search again later. Appears to be happier now that it's in a different location. Is that just because there was different dynamics involved that happened to pop up later, or is there an element to the layout of a box is more frequently likely to come up for these searches?

A So I'm not sure why Sheila says that the box moved up higher or if that's true or not. The positioning of this specific component could have varied depending on factors like if she was looking at it on mobile one day, desktop another day, if she queried differently, like if slightly different words. So I'm not sure how the initial search was done and if it actually changed at all.

Q Do you recall receiving similar requests from other personnel at the government related to how the structured experience was displaying? We'll say with respect to COVID-19.

A Similar -- would you mind rephrasing the question?

Q Sure.

So there was an exhibit that was introduced in the previous round of questioning regarding organic search results and the order they came up in, and there was a response provided by you saying we don't adjust organic search results.

Setting that category of requests aside, do you recall receiving requests how the structured experience appeared to users?

A I don't recall specific examples of requests to change the layout of a structured experience. My interaction with partners generally was more about the data or content.

So, in this example, you know, just like with any other partner, we'd want to make sure, because we are attributing to them or linking out to their websites, that the information we're showing is accurate and reflects what is available online. So, if the guidance changed, then we'd want to reflect the most current guidance in the product.

Q In the previous round of questioning, there was a discussion about the algorithm. Do you know -- let me take one step back.

Can you state again which team is responsible for handling the algorithm that determines how organic search results appear?

A I'm not entirely sure which team is responsible for the search algorithm or if it's even one team or multiple teams. I can say there is a search ranking team, but I'm not sure exactly if they are fully responsible for the search algorithm.

Q But you never worked on that team. Is that right?

A That's correct, yes.

Q And you never interacted with another team that may have worked on search results?

A That may have worked on search results?

Q Let me clarify that question.

You're aware of at least one team that has at least some responsibility for determining how search results appear. You said there may be other teams. To the extent there are other teams, you did not work with those other teams on how search

results appear?

A Are you referring to the 10 blue links? Are you referring to structured experience?

Q Referring to blue links.

A Sure. So my role did not include work on the algorithmically sourced organic search results. My scope was around the structured health search experiences.

Q And understanding that, and you did not have any interactions that were outside -- did you have any interactions that were outside the stated scope and responsibilities of your team and your team's role regarding how organic search links appear?

A I don't recall working with other teams on nonstructured experiences.

Q Do you know if Google has changed the algorithm that determines how search results appear?

A I'm not a software engineer or a ranking expert. So I couldn't say what goes into it or if it's changed or not.

Q Okay.

[redacted] We can take these exhibits back. Thank you.

This will be exhibit 6.

[[redacted] Exhibit No. 6

Was marked for identification.]

BY [redacted]

Q Do you recognize this document?

A I may have seen this as part of prep.

Q Do you know what it is?

A I don't recall exactly what this email or invite is about.

Q Do you know what the acronym BOLO refers to? It's in the subject line.

A According to Carol's email, it's "be on the lookout."

Q And do you recall attending meetings, these be-on-the-lookout meetings with the CDC?

A I do not recall attending be on the lookout meetings.

Q Okay. Do you know if anyone at Google attended be on the lookout meetings with the CDC?

A I don't know if anyone from Google attended.

[redacted] Who might know that?

[redacted]. I'm not sure who would know.

BY [redacted]

Q If we can call your attention to the "to" line, there, in addition to an email from Carol Crawford and CDC, there are email addresses with the census.gov domain. During your time at Google, did you work with the Census?

A I don't recall working with the Census.

Q Do you recognize any of the names in the "to" line for this meeting invite?

A I only recognize my own name.

Q Do you know whether the Census and the CDC were working together on any issues?

A I'm not sure if the CDC or Census worked together.

Q There's an email address with a Twitter domain. Do you recall attending meetings that were attended by other tech companies? Let me clarify. Do you recall attending meetings with the government that were also attended by other tech companies?

A I recall Microsoft being on a call about vaccine appointment availability.

Q Do you recall who from Microsoft that was?

A I don't recall the person's name.

Q Did you have counterparts at the other tech companies as part of your role?

A We didn't rely on other tech companies much in my experience for COVID-19. So I may have been on email threads like this with other tech companies, but I don't recall working directly with other tech companies outside of the vaccine appointment effort that I mentioned before.

Q Okay.

Did you attend any be-on-the-lookout meetings with any other government agencies?

A I don't recall attending be-on-the-lookout meetings.

Q Was that a term you were familiar with before prepping today?

A No, not that I recall.

[redacted] We can take these back.

BY [redacted]

Q Do you recognize this email chain -- actually, we're on it. So let me rephrase that question.

Do you recall attending a meeting in February of 2021, with personnel from the Census Bureau?

A I do not recall attending a meeting with the Census.

Q Do you recall being asked by someone at Google to attend a meeting with the Census Bureau?

A I do not recall being asked.

Q In your coordination role in interacting with different government agencies, do you recall any of these interactions that had personnel from the Census Bureau either

on meetings or making communications to you directly?

A I do not recall being on threads with the Census specifically. As part of the coordination role, I was cc'd on a number of emails with different government agencies, along with [redacted]. So this may have been one that she participated in or drove. I'm not sure who sent the emails, but it's a google.com email address.

Q Okay.

[redacted] We can take these exhibits back.

This is exhibit 8.

[[redacted] Exhibit No. 8

Was marked for identification.]

BY [redacted]

Q Do you recall this email exchange -- meeting invite? Sorry.

A I do not recall this specific email exchange or meeting invite.

Q Do you recall being on meetings with personnel from HHS?

A Yes, I do.

Q And how frequently did those meetings occur?

A It varied. At one point, I believe we had a biweekly, and then I stopped joining those at some point, and I'm not sure if they continued regularly.

Q Do you know who from Google attended after you stopped attending?

A [redacted] and I joined most meetings together, and she may have, but I'm not sure.

Q If I can call your attention to -- this will be the second page. 464 is the bates number.

A Okay.

Q At the bottom, there's a message from [redacted] She says: Hi team.

And then it says she won't be able to attend the meeting, can you please send out meeting minutes.

Do you recall if there were meeting minutes that were circulated after these meetings with HHS?

A I don't recall if there were meeting minutes for this meeting.

Q And, just as a point of clarification, not for semantics, you don't recall one way or another, not that you recall there not being meeting minutes?

A I don't recall if there were meetings -- meeting minutes.

[redacted] Okay. We can take these exhibits back.

BY [redacted]

Q So we discussed that you served a coordinating function, among other roles, and there would be times where there was a request or an issue that was outside your team's responsibility, and you would, in one way or another, communicate that to someone else within Alphabet.

When that was the situation, when there was an issue that was outside your team's request, were there instances where you would directly connect the appropriate individual at Alphabet with the government personnel who had made the request?

A So, just to clarify, it was a two-way communication. So, at times, it might be initiated by a Google team, or it might be initiated by a partner, government or nongovernment. I can say that there were times when I would directly introduce a partner to the right team internally. So, yes, sometimes.

Q Do you recall which nongovernmental partners you worked with during your time with the Product Partnerships Team?

A We worked with a number of different nongovernment partners depending on the product.

Q Just as a class of entities? Do you recall what types of nongovernmental entities you were in communications with?

A It varied from nonprofit to companies.

Q Would it include universities?

A Yes, at times.

Q Did you have any interactions -- actually, strike that.

Are you familiar with something called the Virality Project?

A I'm not familiar with the Virality Project.

Q Did you have interactions with Stanford University?

A I don't recall specific examples of interaction with Stanford.

Q Do you recall interactions with the University of Washington?

A I don't recall interactions with the University of Washington.

[redacted] We can go off the record.

[Whereupon, at 12:22 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

Transcribed Interview Transcript Errata Form

Interviewee	[redacted]
Date of Interview	6/1/2023
Date of Review	7/19/2023
Name of Reviewer	Theodore Kristek
Signature of Reviewer	Ted Kristek

Page	Line	Suggested Correction
32	3	"[redacted]" should become "[redacted]"

Transcribed Interview Transcript Errata Form

Interviewee	Vice President, CapitalG
Date of Interview	June 1, 2023
Date of Review	December 16, 2024
Name of Reviewer	Daniel Donovan
Signature of Reviewer	

Page	Line	Suggested Correction
14	21	“then we would then pass along” should be “then we would pass along”
16	4	“my role the entire time in the role” should be “my responsibilities the entire time in the role”
18	25	“how you could” should be “how Google could”
18	25	“that content and then” should be “that content, and then”
21	9	“Walgreen’s” should be “Walgreens”
21	9	“Kroger’s” should be “Kroger”

Transcribed Interview Transcript Errata Form

25	16	“followup” should be “follow-up”
32	3	“have” should be “help”
33	5	“health search” should be “Health Search”
Page	**Line**	**Suggested Correction**
38	18	“and respect” should be “and with respect”
39	4	“health search” should be “Health Search”
47	6	“health search” should be “Health Search”
48	20	“CDC or Census” should “CDC and Census”

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: JENNIFER LEIGH MOORE

Friday, June 2, 2023

Washington, D.C.

The interview in the above matter was held in room 2237, Rayburn House Office Building, commencing at 10:05 a.m.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

[redacted] GENERAL COUNSEL

[redacted] SENIOR ADVISOR

[redacted] SENIOR ADVISOR

[redacted] COUNSEL

[redacted] CHIEF COUNSEL FOR OVERSIGHT

[redacted] SENIOR PROFESSIONAL STAFF MEMBER

[redacted] CLERK

[redacted] MINORITY CHIEF OVERSIGHT COUNSEL

[redacted], MINORITY INTERN

[redacted] MINORITY OVERSIGHT COUNSEL

[redacted] MINORITY INTERN

[redacted] MINORITY STAFF ASSISTANT

[redacted] MINORITY OVERSIGHT COUNSEL

For the FEDERAL BUREAU OF INVESTIGATION:

TASHA V. GIBBS, ASSISTANT GENERAL COUNSEL,

OFFICE OF GENERAL COUNSEL

MEGAN L. GREER, ASSISTANT GENERAL COUNSEL,

OFFICE OF GENERAL COUNSEL

[redacted] Good morning. This is a transcribed interview of Ms. Jennifer Leigh Moore of the FBI.

Chairman Jordan has requested this interview as part of the committee's oversight of the FBI.

Would the witness please state your name for the record?

Ms. Moore. I'm Jennifer Moore.

[redacted] And you're here with agency counsel today.

Would the agency lawyers identify themselves?

Ms. Greer. Megan Greer from the FBI's Office of General Counsel.

Ms. Gibbs. Tasha Gibbs, FBI's Office of General Counsel.

[redacted] And, Ms. Moore, you understand that agency counsel has a primary fiduciary duty to the agency, to the Bureau, and not to you individually?

Ms. Moore. I do.

[redacted] But, yet, you'd like to continue with agency counsel?

Ms. Moore. Correct.

[redacted] On behalf of the committee, I want to thank you for appearing here again today to answer all our questions. The chairman appreciates your willingness to appear voluntarily.

My name is [redacted]. I'm with Mr. Jordan's House Judiciary Committee staff.

I'll now have the staffers that are here in the room identify themselves.

[redacted] [redacted], Chairman Jordan's staff.

[redacted] [redacted], oversight counsel for the Judiciary Committee Democrats.

[redacted] [redacted], chief oversight counsel, House Judiciary Committee Democrat staff.

[redacted] I'm [redacted], House Judiciary Democrats.

[redacted] [redacted], Chairman Jordan's staff.

[redacted] [redacted], Chairman Jordan's staff.

[redacted] [redacted], law clerk for Chairman Jordan's staff.

[redacted] [redacted], Chairman Jordan's staff.

[redacted] [redacted], Chairman Jordan's staff.

[redacted] I'll go through the ground rules and guidelines that we will follow during today's interview.

Our questioning will proceed in rounds. The majority will ask questions first for 1 hour. Then the minority will have an opportunity to also ask questions for an hour. We'll alternate back and forth until there are no more questions and the interview is over.

We'll do our best to go as quickly as we can. We understand that you and your agency counsel would much rather not be here, much rather be back at work or performing your duties.

Typically we'll take a break at the end of each hour, but if you'd like to take a break apart from that, please let us know. As you can see, there is an official House reporter taking down everything we say to make the written record. So we'll try not to talk over one another.

We want you to answer our questions in the most complete and truthful manner as possible, so we'll take our time. If you have any questions or don't understand one of our questions, please let us know.

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

You also understand that, by law, you're required to answer questions before Congress truthfully?

Ms. Moore. Yes.

[redacted] And that applies to interviews with congressional staffers as well?

Ms. Moore. Yes.

[redacted] Witnesses that knowingly provide false testimony could be subject to criminal prosecution for false statements under 18 United States Code 1001.

Do you understand that?

Ms. Moore. Yes.

[redacted] I'd like to make a note that the content of what we discuss today is confidential. Some of the information we're discussing were brought forward from whistleblowers who had the courage to come to the committee. And, while fair-minded people might disagree about the content of the whistleblower disclosures and what it means, we ought to all support the right of whistleblowers to come to Congress. And, consequently, we ask that this information today is kept confidential.

Along the same lines, the marked exhibits that we use today will remain with the court reporter so they can go in the official transcript. And we'll collect any copies to maintain the integrity of our work.

That's the end of my preamble.

[redacted], do you have anything?

[redacted] No. We just thank the witness for coming in again and --

Ms. Moore. Thank you.

[redacted] -- taking time out of your schedule to join us today.

[redacted] I'll turn it over to my colleague, [redacted].

[redacted] It's 10:09. We'll start our first hour of questioning.

EXAMINATION

BY [redacted]:

Q Ms. Moore, thank you for being here again today.

At the time of your transcribed interview on April 24th, you were the Executive Assistant Director of the Human Resources Branch. Is that still your title?

A It is.

Q And do you continue to work out of headquarters?

A I do.

Q Do you have plans to retire?

A I do.

Q And what date is your retirement date?

A June 3rd.

Q June 3rd. Is today your last day with the FBI?

A Tomorrow will be my last day with the FBI.

Q Was this a planned retirement?

A It was.

Q And how far in advance had the retirement been planned?

A You want to specify your question?

Q Yeah. Had it been a series of months that you had planned to retire, or when did you put in your paperwork for retirement?

A I was eligible to retire on my 50th birthday, which was 2.5 years ago.

Q Uh-huh. And so you had been planning 2.5 years ago to retire?

A Yeah.

Q Okay. And, during your transcribed interview, you testified that you have participated in reviews of your performance. Is that correct?

A I have.

Q And you've generally received good markings?

A I have.

Q Have you ever been the subject of an EEO complaint?

A I have.

Q And what was the resolution of that complaint?

A I have been the named official in EEOs as I represent, much like I'm here today before the committee, because I'm the signing official for the Bureau.

Q Have you ever been the subject of an EEO complaint? Has someone filed an EEO complaint against you?

A I have.

Q And what was the resolution of that complaint?

A Because of my duties, again -- can I talk to agency counsel?

[redacted] Yeah.

[redacted] Go off the record.

[redacted] We'll go off the record.

[Discussion off the record.]

[redacted] We'll go back on the record.

Ms. Moore. Do you want to repeat the question?

BY [redacted]

Q Have you ever been the subject of an EEO complaint?

A I have.

Q Okay. And what was the content of that complaint?

A I've been the subject of many because of my official duties, and, with supervisory responsibility, I'm always the named official. I've had no findings of

misconduct against me.

Q And the committee has received information from a whistleblower that you were the subject of an EEO complaint that they filed against you in 2016 that resulted in a cash settlement. Is that accurate?

A I wouldn't know about the government's cash settlement with someone. There was no finding against me. At times, the government will choose perhaps to settle because it's just less expensive than going through legal.

Q And what was the misconduct alleged in that complaint?

A I would need to know specifically what you're asking about. Again, I've had multiple EEOs filed due to the positions that I've held.

Q The one that was in 2016. Did you have multiple filed against you in 2016?

A I'll need you to tell me what the details were. I'm sorry.

Q Yeah. It's a whistleblower representation to us, so they said that they filed an EEO complaint against you that resulted in a cash settlement. Any awareness of that?

Ms. Moore. I don't know what --

Ms. Gibbs. If you don't remember, then --

Ms. Greer. Then don't.

Ms. Gibbs. Yeah.

Ms. Greer. Then don't.

Ms. Gibbs. If you don't remember, then you don't --

Ms. Moore. Can you give me any specificity around that?

[redacted] We can go back to that subject.

BY [redacted]:

Q But, during your transcribed interview, you described how the security

clearance adjudicative process was a two-step or a three-step process -- excuse me -- is that correct?

A It's an intake, an investigation, and adjudication, yes, ma'am.

Q And you testified that the allegation comes into the intake unit, step No. 1; there is an investigative stage, step No. 2; and then there is an adjudicative stage, step No. 3. Is that correct?

A Yes, ma'am.

Q And you said that sometimes the allegation can go directly from the intake unit to the adjudicative stage; it can sometimes bypass the investigative stage. Is that correct?

A It can, yes, ma'am.

Q And, during your transcribed interview, you described how the initial unit makes the decision whether security allegations meet the parameters for the investigative stage. Is that accurate?

A Yes, ma'am.

Q And who is on that intake unit?

A It has analysts, agents, and security specialists.

Q And who leads the intake unit?

A It has a unit chief over it.

Q And who is the unit chief over that?

A I don't know the unit chief's name.

Q How often do you interact with that unit chief at the intake unit?

A Never.

Q Never? Okay.

A If I do, it would be rarely ever. I, like -- I can't think of the last time I have.

Q And you described the parameters that the intake unit uses to determine whether to go to the investigative stage is the adjudicative guidelines. Is that correct?

A Yes, ma'am.

Q And who is the ultimate decisionmaker when it comes to suspending a security clearance?

A That rests with the security program manager, and I currently hold that position.

Q When deciding to suspend a security clearance, do you as the security program manager involve the employee's direct supervisor?

A Ask that again.

Q When --

A When I'm making a decision, do I involve the employee's direct supervisor as -- could you clarify what you're asking?

Q Correct. So you just stated that you're the ultimate decisionmaker for whether or not to suspend a security clearance. Is that correct?

A That is correct.

Q When you are making that decision, do you involve the individuals whose clearance will be suspended -- do you involve their direct supervisor?

A No.

Q Does the employee have a right to appeal the suspension decision?

A No.

Q When does the employee have a right to appeal any sort of decision that you have made?

A After a revocation decision is made.

Q And can you describe that revocation -- after the revocation decision, what

the appeal process is like?

A The individual has the ability then to receive the investigative file and to file an appeal for reconsideration of the revocation.

Q And who decides that appeal?

A The revocation reconsideration initially comes in, again, to the security program manager.

Q Uh-huh.

A After that, they can appeal to the ARC.

Q And what's the ARC?

A That is a panel of judges that make, or attorneys that make a decision that's located within the Department of Justice.

Q And what unit is the ARC in? Like, where did the attorneys come from for the ARC?

A I'm sorry. I don't know that answer.

Q Okay. So, once a employee's security clearance is suspended, the employee can no longer fulfill their duties as an FBI employee. Is that correct?

A Clearance is required to be an FBI employee, because our facilities are considered a legal minimum secret.

Q So, after security clearance is suspended, the employee is then indefinitely suspended without pay. Is that correct?

A Yes, ma'am.

Q You testified at your transcribed interview that, once you signed the security clearance suspension letter, it is given promptly to the employee. Is that correct?

A Yes, ma'am.

Q And you testified that you did not have any knowledge of who actually

delivers those letters to the employee.

A I do not.

Q Is that correct?

A No, ma'am.

Q What is the average time for a security clearance investigation to determine whether or not an individual's clearance should be revoked?

A It does range. The average can be anywhere from 30 days to 1,300 days roughly.

Q Does the FBI have any data on the average amount of days that it takes to do a security clearance --

A We do, yes, ma'am.

Q -- investigation?

And what's that? What's that number? What's the average?

A I gave you the ranges it can be. We can provide you the average if you would like that. I don't know the number off the top of my head.

Q Yeah. We would like that. Thank you.

What's the average time for an investigation to determine whether or not to suspend a security clearance?

A Those are roughly the same. I can get you the exact number. I don't know the exact number, again, off my head to give you an exact number.

Q And, once the Security Division has revoked an employee's security clearance, what happens for the employee?

A Once they revoke the clearance, then they have the right to appeal.

Q Uh-huh. And is the employee still indefinitely suspended at that point?

A Once they're revoked?

Q The security clearance is revoked.

A Well, they cannot work for the Bureau if they do not have a security clearance, so they would eventually be removed from the rolls of the FBI.

Q And what's that process entail?

A To remove them from the rolls of the FBI?

Q Uh-huh. Is there an -- is there another investigation that's done after the revocation of the security clearance --

A No, ma'am.

Q -- or is the individual just terminated from the FBI?

A There is not an additional investigation.

Q Okay. So is the individual then just terminated from the FBI?

A Then an HR action is required to remove them, yes, ma'am.

Q And what is the HR action that is required to remove the employee?

A I don't know what the name of the HR action is. I know that, once a revocation occurs and the individual no longer has a clearance, they cannot longer -- they can no longer be an FBI employee. So then they are removed from the rolls of the FBI. I'm not sure exactly what that process is called. I'm sorry.

Q And is that process housed within the Human Resources Branch?

A It is.

Q Is there an individual who is responsible for that process?

A There would probably be a multiple of two individuals. That would probably -- that's at a different level. I'm sorry. I'm -- I'm not able to tell you who those individuals are. A notification goes from Security Division to Human Resources Division, and then the outprocessing of that paperwork occurs.

Q And those divisions are both within the Human Resources Branch -- is that

correct --

A Yes.

Q -- that you oversee?

A I do.

Q Okay. And so you have no idea what kind of process the Human Resources Branch conducts to do the -- or the Human Resources Division conducts to terminate the employee?

A I think I need you to be more specific. I'm not exactly sure what you're asking me. Like, am I aware that it occurs? Yes.

Q Uh-huh.

A If you're asking me what form it happens, who exactly executes it and what that happens, I can't tell you exactly how that happens, no, ma'am. It comes out of our Performance Appraisal Unit, but beyond that; I'm sorry.

Q And who would know what that process is like?

A Well, the Assistant Director of Human Resources could speak probably more indepth to it.

Q And who is the Assistant Director?

A Michael Schneider.

Q Okay. And how often do you interact with Michael Schneider?

A On a daily basis.

Q Do you two discuss the termination of employees?

A Not usually -- no. It's usually already happened, and so those --

Q Uh-huh.

A Those mechanisms are happening below that. No, ma'am.

Q At what point does the FBI provide the employee whose security clearance

has been revoked with the materials that the Security Division relied upon to make the revocation decision?

A After the revocation decision is made and they ask to appeal that decision.

Q So, after the employee asks to appeal the decision, then they can get the materials?

A Yes, ma'am.

Q At what point is the individual who's the subject of a security clearance revocation interviewed by the FBI?

A Generally, it occurs between suspension and revocation.

Q Uh-huh.

A Sometimes they'll not be interviewed if they just determine that the interview is not necessary due to the egregiousness of the behavior.

Q And can you give us an example of when an interview wouldn't be necessary because of egregious behavior?

A If an individual was arrested for child pornography or assaulting a child and they enter a guilty plea, we generally don't have a need to interview that employee.

Q And would that be one of the cases where it would go directly from the intake unit to the adjudicative process?

A It could.

Q Is that correct?

A It could.

[redacted] I'd like to offer as exhibit No. 1 a May 17th, 2022 -- excuse me -- 2023, letter from Mr. Christopher Dunham to the committee.

[Moore Exhibit No. 1

Was marked for identification.]

BY [redacted]:

Q I'll give you a moment to review this, ma'am.

Are you good?

A I'm familiar with the document.

Q Oh, okay. Ms. Moore, have you seen this letter before?

A I have.

Q And who wrote the letter?

A Chris Dunham.

Q Did the Human Resources Branch play any role in drafting the letter?

A We provided information on the statistical documents at the beginning.

Q And who from your team was involved in preparing the statistical information?

A This would have been the Security Division.

Q Okay. And who leads the Security Division?

A Douglas Beidler.

Q And do you know if Mr. Beidler was involved directly in getting the information prepared for Mr. Dunham?

A I would imagine that tasking for the information would have gone into Mr. Beidler's office, and then it would have come out of his office down to the team to ask them to gather the information.

Q And, besides the statistical data in the letter, did the Human Resources Branch provide any information on the security clearance revocations mentioned in the letter?

A Yes. They would have been the authors of those.

Q The Security Division was the author of those?

A Yes, ma'am.

Q Okay. Did you have any role in preparing the letter?

A I did not.

Q Did you review the letter prior to its transmittal to Congress?

A I got it about, I believe, the same time it was transmitted.

Q Did -- do you know if anyone from the Security Division was able to review the letter before it was transmitted to Congress?

A I believe the general counsel assigned to the Security Division would have reviewed the letter before it was transmitted to Congress.

Q And who is the general counsel assigned to the Security Division?

A Tasha Gibbs.

Q And do you know whose idea it was to send the May 17th letter?

A I do not.

Q How often do you interact with Mr. Dunham?

A I don't interact with him on a daily basis. I see him in our morning briefs.

Q Uh-huh.

A But I don't necessarily speak to him on a daily basis.

[redacted] Let me just ask one.

BY [redacted]:

Q You said Mr. Dunham wrote this letter?

A Mr. Dunham is the signature on it.

Q He signed it, right? Who wrote it? Who drafted it?

A I'm not 100 percent sure who drafted it.

Q Okay.

A I believe that the general counsel for Security Division helped draft it for

sure.

Q Okay.

A It would make sense.

BY [redacted]:

Q And are you aware that this May 17th letter was sent in response to your deposition subpoena?

A I am.

Q And so you had no role in preparing this letter in response to the subpoena you received?

A No, ma'am.

Q Do you know when the letter was finalized?

A I don't know when that letter was finalized.

Q And, to go through some of the specifics in the letter, on page 2 of the letter, the first draft there, the FBI provided information detailing the number of referrals for security incidents and security investigations.

Can you explain the steady rise in referrals? What have you been seeing?

A The steady rise in referrals? It's actually going down.

Q But, for fiscal year 2023 -- we're not done with fiscal year 2023, correct?

A Correct.

Q So --

A The rise is people become -- as we become more -- the Security Division has -- and I'm trying to think what year they started it -- probably about 2019 --

Q Uh-huh.

A -- 2018 -- really emphasizing operation securities throughout the organization. We do monthly newsletters, and they have posters that go up throughout

the office, and people better understand the process. People were more likely to report. It's across the board. We see it, I believe, also in our internal investigation referrals.

Q Has there been an increased focus on encouraging third-party reports or employees to report information on other employees to the Security Division?

A It's an operational security campaign. It's anybody can report anything that's of concern.

Q And what's involved in the operational security campaign? Are, like, emails sent out?

A Just like I said. We send out, like, newsletters, emails, and they have posters that go up. The security officers in the different field offices may have different emphasis.

Q Uh-huh. And then I want to direct you to the footnote on page 2 there. It says: The Security Division receives referrals from different sources, including employee self-reports, third-party reports, other FBI divisions, and other government agencies.

Do you have a breakdown of how many of the referrals came from each of those sources? Does the FBI track that?

A I don't.

Q Do you know if the FBI tracks that at all?

A I -- we don't track it as something that's ever been reported to me in that capacity. I'm not sure that we have the ability to tag that in our systems.

Q Uh-huh.

A If that's something you're looking for, again, we'd have to get you that information.

Q And you said that the Security Division pulled this information for inclusion

in the letter?

A That would be where that would come from, correct.

Q And how is this statistical information normally collected and memorialized in the FBI system?

A It would be in the database for intake.

Q Uh-huh. So the intake unit is in charge of memorializing this information?

A So memorializing it, I'm -- when you asked for it, we had them pull it.

Q Uh-huh.

A I won't say that we've been memorializing it on an annual basis before that.

Q But is it --

A I'm just not sure. So I'm not sure about that answer.

Q Is it kept and maintained on FBI's systems from year to year?

A It would be, yes.

Q Okay. Then the third graph on page 2 there, the FBI detailed the number of cases the Security Division has opened since 2020. Can you explain the difference between their -- the chart about cases opened on page 2 and then, on page 3, the total number of active security clearance investigations?

The numbers differ there. Is there, like, an -- does the active number carryover from year to year?

A It can, absolutely.

Q And do you know about how many cases carry over from the previous year?

A I don't.

Q And so, on page 4 of the letter, the chart at the top of the page details the number of suspensions and revocations by the Security Division since 2020.

If an individual is going to have their security clearance revoked, does it first have

to be suspended, or can it just be revoked automatically?

A It could go to revocation. I'm not sure I've seen any of those since I've been -- as the security program manager, I could be wrong, but I don't recall any. It could.

Q Uh-huh. And so, on the graph, the security clearance suspensions are lower than the security clearance revocations. What accounts for that difference?

A That's the carryover. So there was a -- at one point, the concept was, if the person retired or resigned from service with the FBI, they just put the investigation in abeyance. So it's set to the side.

An obligation to the Intelligence Community and C4, we're obligated to follow those investigations to conclusion. So, when I came back in, we had discovered that this was not what was occurring, and so they had to go back and open up cases that were not fully adjudicated and complete those investigations. So they're carrying quite a lot of load that they're still trying to clear.

Q And, of the 17 security clearances that were suspended in fiscal year 2020, are any of those still awaiting resolution, final adjudication?

A I don't know that information as we sit here. I'm sorry.

Q What about the 26 security clearances from fiscal year 2021? Are any of those still awaiting adjudication?

A I won't be able to answer that. I don't know.

Q For fiscal year 2022, of the 45 security clearances that were suspended, are any of those individuals still awaiting adjudication?

A I don't know specifically the number. I would believe that, since we're still early in '23, it's possible, yes. But I don't know that number.

Q And I believe you said the average length of an investigation for revocation

was anywhere between 30 days and 1,300 days. Is that correct?

A It could be anywhere in there. I don't know those numbers specifically. I know that's a range of it.

Q Uh-huh. And, in between 2021 and 2022, there was 20 more revocations. What accounts for the increase in revocations of security clearances?

A We talked a lot of time that, when we came in, we bifurcated or trifurcated our investigative group into three difference parts, and we increased the staffing in there. And that allowed them to have a faster throughput.

Q A faster throughput, meaning revocation investigations happen quicker?

A Meaning that the suspension investigations would happen quicker, correctly.

Q And, just below the graph there, it talks about the COVID-19 vaccination requirements and the reasonable accommodation requests.

The FBI stated that it received 2,878 reasonable accommodation requests, and the FBI issued 104 decisions.

What was the process for determining making final decisions on the reasonable accommodation requests?

A The office -- OEOA would make a recommendation and send it over to the Human Resources Division. It was then reviewed in Human Resources Division, and a decision was made by the -- I believe the Deputy Assistant Director.

Q And who was in charge of the review process within the Human Resources Division?

A Ultimately, it would be the Assistant Director of Human Resources who is in charge of it and responsible party. Who the actual individual that would have done it would have fallen under a section chief and a Deputy Assistant Director.

Q And do you know why there are only 104 decisions issued?

A I believe it is because an injunction occurred.

Q And did you have any involvement in the reasonable accommodation request process?

A I did not sign those, no, ma'am.

Q Who signed the decisions?

A Again, those were made, I believe, at the Deputy Assistant Director level. There may have been a section chief.

Q Were any employees suspended without pay for not complying with executive order 1000, or one thousand -- 4043?

A Which executive order is that?

Q It's the executive order mandating the COVID vaccine.

A Were any -- yes.

Q Individuals were suspended without pay for not complying with that executive order?

A I believe they were put on absent without leave was the direction at the time.

Q And so, once the injunction occurred, were those individuals restored to their normal duties?

A They should have been.

Q Do you know for certain?

A I wouldn't be able to testify to every single one of them, but that would have been the direction if the executive order went to an injunction.

Q And do you know how many employees were put on AWOL status?

A I do not.

Q Do you know if any personnel actions were taken against them because they

were on AWOL status?

A Not specifically because of the COVID-19 vaccination, no, ma'am.

Q Were actions taken against individuals who were on AWOL status for the COVID-19 vaccine -- if they had personnel actions taken against them, what were the cause of those personnel actions if it wasn't the vaccine?

A I know that we had one individual who did not come back to work after the injunction occurred, so they had been on AWOL. And then, when they didn't come back to work and they were asked to come back to work, they continued to be on AWOL. And, after a certain number of days of AWOL, the individual can be removed from the rolls.

I know we had one of those.

Q Okay. Have you ever spoken to a journalist?

A Me?

Q Yes.

A Yeah.

Q When have you spoken with a journalist?

A In conjunction with my official duties.

Q Let's start, yes, there. In connection with your official duties, what have you spoken to reporters about?

A Bank robberies, kidnappings, criminal conduct, that type of thing.

Q Have you ever given any personal information regarding an FBI employee to a journalist?

A Never.

Q Shortly after the letter was transmitted to the committee on May 17th, The New York Times and The Washington Post had stories written and published the full text

of the letter. You know, the committee majority didn't give it to the press. Are you aware of whether someone at the FBI gave it to the press?

A To my knowledge, no one at the FBI did that.

Q To your knowledge, who else had access to the letter?

A Our Office of General Counsel.

Q And so, to your awareness, it wasn't the FBI who gave it to the press?

A To my knowledge, it was not the FBI that provided that information.

Q And, during your transcribed interview on April 24th, you testified that you were familiar with Mr. Marcus Allen, knew of his combat veteran status, and knew that he was currently suspended. Is that correct?

A Will you repeat the question? I'm sorry.

Q During your transcribed interview, you testified that you were familiar with Marcus Allen, knew of his combat veteran status, and knew that he was currently suspended. Is that accurate?

A Yes.

Q And, according to representations made by Mr. Allen's attorney to the FBI, Mr. Allen has consistently been rated as exceeding expectations during his tenure at the FBI. Is that -- does that match your recollection?

A I don't know that for a fact.

Q According to Mr. Allen's attorney, he also has received annual step increases on the GS pay scale and several awards, including Employee of the Year in 2019 at the Charlotte Field Office. Were you aware of that?

A I know that he was nominated for or received the award for 2019 Employee of the Year at the Charlotte Field Office. I'm not sure about the rest.

Q And, during your transcribed interview, you confirmed that you were aware

that you signed the January 10th, 2022, letter suspending Mr. Allen's security clearance. Is that correct?

A That is correct.

Q Between April 24th and today, have you had time to examine the documents particular to Mr. Allen's case?

A I have looked at the suspension letters and the revocation letter, yes.

Q And, during your transcribed interview, you refused to answer questions regarding Mr. Allen's suspension because it was an ongoing investigation. Is that correct?

A I did, yes, ma'am.

Q What investigative work occurred between April 24th and May 3rd, when his clearance was revoked?

A The finish of the adjudicative process occurred.

Q And can you describe the finish of the adjudicative process?

A The adjudicative EC would have been finished making a recommendation for reinstatement of clearance, a letter for suspension, or revocation of the clearance.

Q And what's involved with finishing the EC for the revocation?

A Taking the facts and putting it into a summarized document.

Q And so I want particulars here. So what happened between April 24th and May 3rd? What investigative steps --

A An individual -- an individual finished the revocation document by finishing documenting the investigation, the facts of the investigation, and summarizing a recommendation.

Q So --

BY [redacted]:

Q Which individual?

A I don't know the individual's name.

Q Does the individual work for you?

A There would be a -- there would be a supervisory special agent, yes.

Q All right. And who is that?

A I don't know the specific individual on this case. If you would like the specific individual on the case -- and I'm sorry. I didn't know you --

Q So we had you come back to talk about -- and we gave you a couple names, right? So we're not talking about thousands of matters you worked on. Mr. Allen's is one of them. We gave you a couple other -- Mr. Friend's, Mr. O'Boyle -- and you're telling us you don't know who worked on the revocation of Mr. Allen's --

A On the specific investigator, no, sir, I'm sorry, I don't remember it.

Q And this person works for you?

A Yes, sir, as do almost --

Q And you don't know the name?

A I have almost 2,000 employees --

Q Okay.

A -- that work for me in the HRB branch. I don't know all their names.

Q Okay.

A I did review the documents. I just can't tell you --

Q Okay.

A -- which investigator specifically did this one off the top of my head. I'm sorry.

Q Okay.

BY [redacted]:

Q Did you review the EC prior to the interview today?

A I did.

Q And how long was the EC? Was the summary bulky? Was there a lot of information included in the summary?

A It was multiple pages.

BY [redacted]:

Q How many pages?

A I don't know exactly how many pages it was.

Q Was it 5 pages, 10 pages, 20 pages, a hundred pages?

A I don't remember exactly how many pages it was. It was several pages.

Q Right. I'm just asking. Was it a hundred pages? Was it less than 50?

A It was less than 50.

Q Was it less than five?

A It was less than 50.

Q Was it less than five?

A I don't remember that.

Q Was it more than ten?

A I don't remember, sir.

Q Was it more than 20?

A I do not remember exactly --

Q When did you last see it?

A -- how many pages it was.

Yesterday.

Q Okay. So you can't tell us whether it was five pages or 20 pages?

A I read a lot of documents yesterday.

Q All right.

A So I'm sorry. I don't know the exact page numbers.

Q All right. And you don't know the name of the -- that the staffers that worked on this?

A Not the specific staffer on a specific case.

Q Do you know any staffer that worked on it?

A I know that the unit chief is Julie Halferty.

Q Okay.

BY [redacted]:

Q And so all that occurred between April 24th and May 3rd, to your knowledge, is the EC was finished, the summary was compiled, and then the revocation letter was drafted. Is that correct?

A That would be correct.

Q What was your involvement in Mr. Allen's case?

A I am the security program manager, so I'm the final review that signs recommendation for the organization.

Q Uh-huh. Mr. Allen's case was included in the May 17th, 2023, letter to the committee. Is that correct?

A This letter that you're referring to here?

Q Yes, ma'am.

A Yes, ma'am.

Q And so we're going to talk about Mr. Allen for a bit. So we'll turn to his section of the letter, which is page 7.

BY [redacted]:

Q And, just to go back to this letter, so you're saying that you weren't

responsible for sending this to The Washington Post, to The New York Times?

A Absolutely not.

Q And you don't believe anyone at the FBI was?

A I do not.

Q Okay. So the universe of people that had this letter would be the FBI -- did DOJ get a copy?

A I was told they did, yes, sir.

Q Okay. Do you think they leaked it to the press?

A I don't know, sir.

Q Okay. Did you -- when you saw the reports --

A What I can testify to here --

Q Let me ask questions.

Ms. Greer. Let the witness finish, please.

[redacted] Yeah, I don't think I had a question pending.

Ms. Moore. I wasn't finished answering my last question.

[redacted] All right.

Ms. Moore. What I can testify to is what I did in my actions and what I know. I know I did not leak that document in any capacity. I have no reason to believe that anyone at the FBI leaked that document in any capacity.

Beyond that, I have no information.

BY [redacted]:

Q Okay. Did you see it published in the newspapers?

A The document.

Q Did you see the public reports?

A I saw a public report, yes, sir.

Q Okay. Did it give you concern that the information was published in the newspaper?

A It surprised me.

Q Did you try to investigate whether anyone at the FBI was responsible for that?

A Did I personally?

Q Yes.

A No, sir.

Q Did you contact DOJ to see if they were responsible for it?

A No, sir. I don't have direct contact with DOJ.

Q Okay. Did you ask your -- anyone at your General Counsel's Office if they need to look into this leak?

A I asked specifically my General Counsel's Office did they send it, and I was assured absolutely not.

Q Okay. Do you know if the Inspections Division is doing an investigation of the leak?

A I don't know that answer. I'm sorry.

Q Okay. Well, if they were, they probably would contact you, certainly before your last day at work, right?

A Not necessarily, sir.

Q So the universe of recipients of this letter would be the Justice Department?

A I was told that it came to the -- the committee here --

Q Right.

A -- and the Justice Department got a copy of it.

Q Okay. So it went to the --

A And, beyond that, I have no control over the distribution.

Q So it went to Mr. Jordan, and then the minority as well?

A I don't know that it went to minority. I'm sorry. I just thought it came in to the committee. I'm sorry.

Does it say? I'm so sorry.

Q Yeah. The ranking member's copied here.

A Okay. So then I would believe that's who it went to. I'm sorry. I didn't -- I wasn't involved in that.

Q Okay. Do you know if it was sent to the Senate Judiciary Committee?

A I don't actually know who it was sent to. I know I was told that it was sent to the committee and that the Department of Justice got a copy.

Q Okay. So the universe of people that may have leaked this would be the FBI, DOJ, or the committee. Is that right?

A That's what I would relatively have to believe, yes, sir.

Q All right.

BY [redacted]:

Q So, on page 7 of the letter, it discusses Mr. Allen's case. Who drafted this section of the letter? You said it came from the Security Division, but who individually drafted this section?

A I do not know who individually drafted that section.

Q Would it have been the investigator responsible for Mr. Allen's case that you can't remember their name?

A I don't know who -- who drafted this section of this letter.

Q Do you know who was involved with putting together the information on the individuals discussed in the letter?

A Only the Office of General Counsel attorney was involved.

Q Okay. And who's the Office of General Counsel attorney that was involved?

A Tasha Gibbs.

Q Okay. Who approved the inclusion of Mr. Allen's section in the letter?

A I don't know who approved that.

Q Did you have any role in drafting or approving this section of the letter?

A I did not.

Q Did you have any conversations with the Office of Congressional Affairs regarding Mr. Allen's case prior to the letter's transmittal?

A Absolutely. We discussed it because, at one point, I was preparing to come to testify, and I was counseled. So we have many different discussions about Mr. Allen.

Q And what did you discuss about Mr. Allen?

A The facts surrounding his case --

Q Uh-huh.

A -- what questions we thought I might be asked in preparation since we didn't receive a list of topics.

Q Uh-huh.

A That type of thing.

Q This was prior to your April 24th transcribed interview?

A No. We would -- we do what is called prep, where we go back through, because I see a lot of documents in the course of my duties, and so we try to determine what I'm going to be asked about and what that logically would be.

Q And this occurred prior to your April 24th transcribed interview, or was this before the interview today?

A This document didn't exist before April 24th, I don't believe, dated May 17th.

Q Uh-huh.

A And so I remember I was supposed to come before the 18th. You all ordered me to appear, but I was out of town.

Q Yep.

A So we would have prepped before that, so we would have had those same similar discussions.

Q Yeah. I'm just trying to understand the world of discussions that you had with the Office of Congressional Affairs, because you said you discussed a lot about Mr. Allen's case, so I wanted to know, did you discuss it with the Office of Congressional Affairs prior to your April 24th transcribed interview?

A Let me recite. I discussed it with the attorney from the Office of --

Q Okay.

A -- public -- of Congressional Affairs.

Q Okay. And so, then, before your transcribed interview that was scheduled prior to the transmittal of the May 17th letter, did you have discussions with the Office of Congressional Affairs?

A The attorney within there, we would have, yes, ma'am.

Q And did you have discussions with the Office of Congressional Affairs specifically regarding the content regarding Marcus Allen in this letter?

A We would have talked about the situation surrounding his revocation recommendation, yes, ma'am.

Q And did you speak directly to Mr. Dunham, or did you speak to someone else in the office?

A I did not speak to Mr. Dunham. I spoke to someone else in the office.

Q Who did you speak to in the office?

A Megan Greer.

Q Megan Greer. Okay.

On page 7 of the letter, under the heading Mr. Allen's Security Clearance Suspension, it states: The Security Division opened a security investigation regarding Mr. Allen in October 2021 after receiving a referral from the FBI's Charlotte Field Office.

Do you know who submitted the referral?

A Into the -- it came from the field office.

Q Do you know who submitted the referral?

A I don't remember who it was signed out by.

Q Do you know what their role at the Charlotte Field Office was?

A It would have been in management at the role. I'm not sure if it was a signed out by their SAC or their ASAC or their chief division counsel or their CSO. One of the individuals would have been the author that sent in the referral.

Q Okay. So let's go through those titles again. It could have been the CDC, you said?

A Sure.

Q Could have been the SAC? Did you say SAC?

A Could have been the SAC. Could have been an ASAC.

Q Okay.

A Could have been the CSO. I can't -- I don't remember exactly who authored the document that came in. I'm sorry.

Q Are those the individuals at field offices that normally submit these types of referrals?

A That normally would, but, again, I would harken back to our earlier discussion. Anybody can.

Q And what leads you to believe that it was an individual at the management level at the Charlotte Field Office?

A Well, I did review the documents. I just don't remember exactly which one -- who sent this one in specifically on the authoring line. That wasn't what I was studying. I'm sorry.

Q And what were the allegations included in the referral?

A The allegations that there was a concern on statements that he had made and emails that he had sent.

Q And, with their referral, was there any documentation attached?

A I believe there were copies of the emails he had sent at that time.

BY [redacted]:

Q Were these public statements or just internal?

A Are you -- by "public," you mean in the newspaper, or -- do you mind --

Q Well, what were the statements in question?

A It would be statements that he made in a threat review prioritization meeting, and he had sent some emails, and he had some personal pontification in those emails. So it would be those.

Q Okay. What did he say in the meeting?

A In -- oh, God, what is it? He had -- I'm trying to remember exactly what he said in the meeting.

I'm sorry. I don't remember his exact words from the meeting, but it caused concern that his supervisor had to express to him that it was inappropriate in that platform.

BY [redacted]:

Q Do you remember what the supervisor was concerned about?

A That it did not sound appropriate in the sense that it sounded almost like a rhetoric -- an anti-Jan 6 rhetoric.

Q And did the supervisor describe for you what they saw as an anti-Jan 6 rhetoric?

A I believe they provided the statement in the write-up.

Q Okay. Do you remember what the statement was?

A I've already testified that I don't.

Q Okay. And the letter, in the next sentence there, it states: On January 19th, 2022, Mr. Allen's security clearance was suspended based on security concerns pursuant to National Security Adjudicative Guideline A, allegiance to the United States.

What investigative work occurred at the Security Division between October 2021, when the allegation was received, and the security clearance suspension on January 19th?

A At this point, they would have gathered documents, done some workups on computer access, instant messaging, text messages, emails, and reviewed those.

Q Do you know what documents were gathered in that period of time between October --

A It would have been the things I mentioned here.

Q Okay. Do you know what analysis of computer access was performed?

A Do you want to clarify that a little more?

Q You described how they would have looked at computer access. What did they look at regarding computer access between October 2021 and January 19th, 2022?

A In a general sense, that is a review of what kind of cases they were accessing, were they into anything that they shouldn't have been into, that type of thing.

Q And so they performed that sort of investigative work regarding Mr. Allen, to your knowledge, in that time period?

A To my knowledge, yes.

Q Did they pull instant messages?

A As a general rule, they would, yes.

Q And text messages?

A Correct.

Q And then emails? And those would all have been on Mr. Allen's FBI --

A System, correct.

Q -- systems. Okay.

Did the Security Division conduct any interviews during that period of time?

A I don't recall that they did.

Q Do you know if they've conducted interviews at any juncture in the investigation regarding --

A Absolutely.

Q -- Mr. Allen?

A Yes.

Q Do you know who they interviewed?

A I can't name every single person that they interviewed. I know they interviewed a lot of his squad mates, his supervisor, the CDC, the ASAC, some task force officers.

Q Do you know if they -- if one of the individuals interviewed was Mr. Allen's direct supervisor?

A They would have interviewed him, yes, ma'am.

Q Do you know who Mr. Allen's direct supervisor is?

A I don't know his name. I'm sorry.

Q Do you know what his position is?

A He would have been a supervisory intelligence analyst.

Q Okay.

[redacted] And I'll enter as exhibit No. 2 the January 10th, 2022, letter you sent Mr. Allen regarding his security clearance suspension.

[Moore Exhibit No. 2

Was marked for identification.]

BY [redacted]:

Q Have you had sufficient time to review?

A I'm familiar with the letter.

Q Okay. So the letter is dated January 10th, 2022. Is that correct?

A Yes, ma'am.

Q Do you remember if you signed the letter on that exact date?

A The letters are dated on the day I sign them, yes, ma'am.

Q Okay. And, in the May 17th letter, which is exhibit No. 1, it states that Mr. Allen's security clearance was suspended on January 19th, 2022.

What's the 9-day delay there? Do you remember there being a delay?

A I would believe that -- and I am now making a hypothesis --

Q Uh-huh.

A -- that, because I had signed it on the 10th, they still have to prepare the package and send it to the field office, and then it has to be served. So there would have been a Federal holiday in there.

Q Uh-huh.

A And I would believe that would be the first logical time they most likely

had -- so I can sign the letter --

Q Uh-huh.

A -- effectuating it. The actual action takes effect when they serve the employee.

Q And when is the individual who receives the package and the letter -- when are they notified that you've signed the letter? Are they notified when you sign the letter? Are they notified when they receive the package?

A Are you talking about the person in a field office?

Q Correct.

A I sign the letter, and then it's transmitted back to Security Division.

Q Uh-huh?

A I have the requirement the division contact the executive management to let them know that a suspension package is inbound or a revocation package --

Q Okay.

A -- or just any type of letter is inbound so that the office doesn't just get it in their -- one day and be like, what is this; that they have an awareness that it is coming and to expect it.

Q So it would have been your understanding that, on January 10th, after you signed the letter regarding Mr. Allen, the Charlotte Field Office executive management would have been told that this package was incoming. Is that correct?

A Yes, ma'am.

Q And are you -- what's involved in the package that the Security Division puts together? What's all in that package?

A I don't create the packages myself.

Q Uh-huh.

A But, having been a chief security officer, generally you get the suspension letter.

Q Okay.

A And then usually any human resource documentation that would go with that regarding their status as a suspended employee.

Q Okay. Is any of the information regarding the referral included in that package?

A They get the letter.

Q So the letter is all they get regarding the substance of why the security clearance is being suspended?

A For suspension, correct.

Q Okay. Are you aware of who delivered your January 10th suspension letter and the Security Division's package to Mr. Allen?

A I am not.

Q On page 7 of the May 17th letter, exhibit 1, it states: Specifically, the Security Division found Mr. Allen espoused alternative theories to coworkers verbally and in emails and instant messages sent to the FBI's systems in apparent attempts to hinder investigative work.

How does the Security Division define alternative theories in this context?

A In this context, it would be theories that do not support the January 6 investigations, that the -- I think it's common knowledge that, at that time, we consider the acts of January 6 to have been criminal in nature, and so we're pursuing those as criminal investigations.

So it would be that the government was behind January 6, something along those lines, or that -- that January 6 didn't occur as it is being portrayed.

Q So how does the Security Division determine if an individual is making statements that do not support the FBI's working investigations regarding January 6th?

A Do you want to repeat that again?

Q So you said that the alternative theories they did not support the January 6th investigations that the FBI was pursuing; how did you determine if Mr. Allen's statements did not support those investigations?

A So, for the suspension of his clearance --

Q Uh-huh.

A -- we would have taken, like, individual statements that he sent. I mentioned that he sent some emails --

Q Uh-huh.

A -- that were links to stories that were contrary to facts that occurred at the Capitol that we knew.

Q Uh-huh.

A And then he espoused in them, like: Hey, you should be aware of this, be very cautious in your investigations going forward, because -- essentially that the government wasn't being forthright in what had occurred.

Q And the Security Division determined that those were alternative theories, then?

A That, at this point, there was concern, yes, ma'am.

Q And, when you say "at this point, there was concern," what was the concern?

A That the individual's trying to influence investigations positively or negatively.

Q And how did the Security Division determine that these were attempts on

Mr. Allen's part to hinder investigative activity?

A Because he sent them in emails to his colleagues and coworkers.

Q So what was the act that hindered the investigative activity? Was it just --

A He's trying to --

Q -- sending an email?

A He's trying to influence through his words and the information he provided.

BY [redacted]:

Q And did it influence anyone?

A Ultimately, his actions did, yes, sir.

Q Who did it influence?

A His ultimate actions that led to the revocation --

Q Uh-huh.

A -- were that he failed to provide information when asked to search a subject of January 6th, and he -- he failed to provide open-source information indicating the individual was involved in criminal activity.

Q Okay.

A It caused the agent to close the lead and not open the case and pursue it any further.

Q Okay.

BY [redacted]:

Q And the letter continues: Mr. Allen's supervisor admonished him to stop circulating these materials on multiple occasions.

Who is Mr. Allen's supervisor?

A I don't know his name.

Q And you said that the supervisor was interviewed by the Security Division.

Is that correct?

A He was.

Q What information did the supervisor provide to the Security Division?

A That Mr. Allen had been a good employee but that they had started raising concerns that, after approximately -- over the course of the last year-plus, that his behavior had changed some, and that they were concerned based off of statements that he had made in that TRP meeting, and that these emails that he had sent regarding the links to some different theories and his statements in support of those theories.

Q Was it only the supervisor that was concerned, or did the others raise concern as well?

A Others raised concerns during the interviews.

Q And who were those individuals that were interviewed that raised concerns?

A I can't tell you by name, but I know that the totality was that some of his coworkers, obviously the agent that closed the case or closed the lead out without pursuing the case, and then the ASAC and the CDC also had concerns.

Q And they -- were they all concerned just about the emails, or the TRP process comments? What were they concerned about?

A The totality of the actions.

Q Okay. And the totality of the actions were the emails and the statement made in the TRP process? Is that your understanding, or is there more?

A Again, when we did the interviews, in the course of the investigation, there was more that was found. Specifically, the influence placed upon the case where the information was not appropriately provided in the search.

Q And when did these interviews occur?

A From the time that the case was open, I don't believe they did any

interviews before the suspension, but from the suspension to the revocation period.

Q Were there a cluster of interviews? Did they happen over time? What was the frequency of the interviews?

A Over time.

Q Over time? So was it, like, one a month?

A I don't know that answer. I'm sorry.

Q And when was Mr. Allen interviewed by the Security Division?

A Between the time of suspension and revocation.

Q What was the date of his interview?

A I don't know the date of his interview.

Q Was that in the materials that you reviewed prior to your transcribed interview this morning?

A It would have been on the document of his 302, but I don't remember the date.

Q And did you read the content of the interview?

A I read generally the content of the interview in preparation for this, yes.

BY [redacted]:

Q Did you read the 302?

A Yes.

Q How long was it?

A It was on an electronics computer screen.

Q Okay.

A So I had to scroll.

Q Okay. If we're going to request the information relating to Mr. Allen, how would you recommend we characterize our request so that we capture everything?

Ms. Moore. Let me ask my counsel.

[redacted] We'll go off the record.

[Discussion off the record.]

[redacted] Back on the record.

Ms. Moore. Do you want to ask me that question again? I'm sorry.

[redacted] Yeah.

BY [redacted]:

Q If we're going to ask for all the documents referring or relating to Mr. Allen's security clearance suspension and revocation, how would we -- how would we ask for that? What would you recommend we ask for so that we don't miss anything and we get every -- all the relevant documents?

A I think you just stated it best, is that you would ask for any and all documents relative to the security decision regarding Mr. Allen.

Q Okay. Thank you.

[redacted] I'd like to enter as exhibit No. 3 a September 29th, 2021, email from Mr. Allen with the subject line 6 Jan Awareness. It was sent at 7:52 a.m.

[Moore Exhibit No. 3

Was marked for identification.]

BY [redacted]:

Q Ms. Moore, was this part of the referral that was made on Mr. Allen from the Charlotte Field Office to your knowledge?

A Yes, ma'am.

Q And have you seen this email before today?

A Yes, ma'am.

Q Did you review this prior to your transcribed interview this morning?

A I did.

Q Okay. And the -- the email includes -- was sent to multiple of his colleagues and contained leaks to websites. That was the characterization that was made in the May 17th letter.

The email started out with: There is a significant counterstory to the events of January 6th, 2021, at the U.S. Capitol.

The email recommended at the bottom there -- it said: Recommendation, exercise extreme caution and discretion in pursuit of any investigative inquiries or leads pertaining to the events of the day.

During the interviews that you conducted with Mr. Allen's colleagues, or the Security Division conducted, did this email come up in those interviews?

A It did.

Q Did anyone take action upon Mr. Allen's recommendation?

A In what regards?

Q Did they take action on his recommendation that they exercise extreme caution and discretion?

A To my knowledge, I think that most of them thought this was an unusual email, and they continued their investigations.

Q Why did they think it was an unusual email?

A Because it's pontificating that there's a counter story to the events that we know to have happened on January 6th.

Q And what did you understand Mr. Allen's role to be as a staff operations specialist?

A He's a support clerk.

Q And do you know what kind of job duties he's supposed to perform?

A He does -- when asked, he does open-source searches. He can cover leads. He can serve a subpoena if it's administrative in nature.

[11:05 a.m.]

BY [redacted]:

Q So, during his role as a staff operations specialist, are you aware of whether or not he would send news articles, other open-source materials to individuals on the JTTF?

A He might, yes.

Q Did you -- as part of the investigation, did the Security Division look into what his job responsibilities were and what he normally did?

A Yes.

Q Okay. And was this email reviewed prior to the suspension of Mr. Allen's clearance on January 10th?

A I believe that the Security Division used this as part of that, yes.

Q What else did the Security Division use?

A It would have been any other emails that he sent, any information that they were able to glean from, like I said, the review of his accesses online, that type of thing.

Q And how many emails of Mr. Allen's did the Security Division review?

A I am not sure exactly.

Q How many -- are you aware of how many were reviewed prior to you signing the January 10th letter?

A I am not.

Q How many emails of Mr. Allen's did you review prior to signing the January 10th letter?

A I don't review the emails prior to signing the letters. I are review the summary document as provided to me.

Q So you did not look at this email prior to signing the January 10th letter?

A I did not.

BY [redacted]:

Q And were you aware that he was the 2019 Employee of the Year at the Charlotte Field Office at this time?

A At which time?

Q When you signed the letter.

A For the suspension?

Q Yes.

A I don't remember that I do.

Q Okay. And at any point in the process did you come to learn that?

A I did.

Q Okay. You know, evidently, if he was the 2019 Employee of the Year for the field office, a certain set of folks thought he was doing a great job at some point. Correct?

A Correct.

Q And did you ever try to reconcile the fact that he has an exemplary record?

A That would have been part of the investigative steps. Yes, sir.

Q But did you sort of ask anyone, "What is going on here? This fellow was highly regarded and received GS pay scale increases, was named the 2019 Employee of the Year for the field office, and now we are essentially getting rid of him because he sent some email links here?"

A Are you talking about for the suspension or the revocation?

Q Oh, either.

A So, prior to the suspension, I did not have conversation. I utilized the

documents that were sent to me. And then we had conversations. I asked for a brief on this one because it was different than I had seen previously.

Q Right.

A And I received a brief on it. But did I specifically go, "Hey, he was Employee of the Year in 2019; justify why now you think he may not be so great"?

Q Right.

A I would have asked, "Could you please provide me the facts surrounding your recommendation," but not necessarily would I have said that he is Employee of the Year. No, sir.

Q Okay. So did you make an attempt to reconcile the fact that he's got a remarkable personnel record leading up to this when he sent a couple of links here?

A I would have looked at the totality of information provided to me and made my judgment and decision off of that.

Q Okay. So --

A The investigators would have taken all things into consideration.

Q And did they?

A And, in our adjudicative documents, it will talk about their career, the awards they received, what kind of any other disciplinary actions that of would occurred. So those are considered, yes, sir.

Q Okay. Do you know if he had any disciplinary actions?

A I don't believe he had any, no, sir.

BY [redacted]:

Q You said that you asked for a brief on Mr. Allen's case prior to signing the January 10th letter, and you received the brief. Is that correct?

A I cannot exactly when he did. I have definitely received a brief on Mr.

Allen, yes.

Q And who did you receive that brief from?

A It would have been from the Security Division.

Q Who from the Security Division?

A And I can't remember that name. Usually I communicate with the Assistant Director, who is Doug Beidler, and Mr. Beidler will set that up for me.

Q And how was the brief done? Was it in person, over email?

A Usually over link.

Q Okay.

A So they will be -- because they are not housed in the same building I am in, we will do it by video.

Q So what was the content of that brief? Did they discuss the specifics of Mr. Allen's case?

A They would have talked specifics of the case. Yes, ma'am.

Q And do you remember your reaction leaving the brief?

A I remember believing that it was compelling enough that I needed to sign the document. Yes, ma'am.

Q And how far ahead of the January 10th document did the brief occur?

A I don't remember. I am sorry. I just know I had one on this one because it was different.

Q And the allegations originally came in October 2021 and then you signed on January 10th, 2022. Do you know if it was still back in 2021 that you received the brief?

A I am sorry, I don't.

Q Okay.

[redacted] We will go off the record. We are at the end of our hour.

[Recess.]

EXAMINATION

BY [redacted]:

Q Ms. Moore, I am [redacted] with the Democratic staff. Thank you again for joining us. It is 11:21. We are going back on the record.

Ms. Moore, I just want to first of all thank you again for returning for a second transcribed interview. And I want to go over with you briefly some of the context how we got here today.

You appeared voluntarily before this committee on April 24th, 2023, for a transcribed interview. Is that correct?

A It is.

Q And, during that interview, you were asked a series of questions about the process used by the Security Division when deciding whether to suspend or revoke an FBI employee's security clearance. Correct?

A Yes, ma'am.

Q In response to these questions, you described in significant detail the process used by your organization in making these decision. Correct?

A Yes, ma'am.

Q You explained that the Human Resources Branch only investigates allegations and information that relates to national security risks and does not consider general misconduct allegations, which instead are handled by different branch within the FBI's Inspection Division. Correct?

A Yes, ma'am.

Q You explained that decisions involving the suspension or revocation of security clearances are made with reference to the Adjudicative Guidelines. Correct?

A Yes, ma'am.

Q And this refers to the Security Executive Agent Directive for National Security Adjudicative Guidelines effective June 8, 2017. Is that correct?

A Yes, ma'am.

[redacted] And I am just going to mark that one as exhibit 4 so we have it.

[Moore Exhibit No. 4

Was marked for identification.]

BY [redacted]:

Q Are you familiar with these guidelines?

A I am.

Q I am going to refer to them with some of my questions. But right now I am going to continue with a little bit of background. At the time of your interview in April, you were not able to answer questions about individual employees' security clearances revocations because the review process had not yet been completed in those cases. Correct?

A Yes, ma'am.

Q You've returned today because the revocation review process for three relevant FBI employees -- Brett Gloss, Marcus Allen, and Stephen Friend -- are now complete. Correct?

A Yes, ma'am.

Q Now, on May 17, 2023, Acting Assistant Director Christopher Dunham sent a letter to Chairman Jordan in response to the committee's deposition subpoena, which was authorized on April 24th, 2023. And this letter described in further detail the reasons for the FBI decision to suspend and eventually revoke the security clearances of the three employees that I just mentioned. The majority has marked that letter already

in the record. It is exhibit 1.

With respect to each of these employees for the subject of today's interview, were the investigative, adjudicative and review steps that you described in your April 24, 2023, interview followed?

A Yes, ma'am.

Q You were also asked during your previous transcribed interview whether the FBI uses security clearance suspension decisions to retaliate against or punish any employee by essentially forcing them into a situation where they cannot work for the FBI on an active duty paid status while their clearance is suspended, but they also cannot appeal their suspension while the final revocation decision is pending. Do you recall these questions?

A I do recall the questions.

Q And you answered emphatically on April 24th that the FBI does not suspend clearances or of employees in a punitive or retaliatory fashion. Correct?

A That is correct.

Q Do you stand by that answer today?

A I do.

Q You explained that the sole focus of the FBI's decision whether to suspend or revoke an employee's security clearance is to determine whether, based on the considerations enumerated in the Adjudicative Guidelines, the employee's continued possession of a security clearance giving them access to classified information would pose a threat to national security. Correct?

A Yes, ma'am.

Q Do you stand by that answer today?

A I do.

Q Are you confident that the FBI's decision to revoke the security clearance of Brett Gloss was not punitive or retaliatory in any way?

A Correct.

Q Are you confident the FBI's decision to revoke the security clearance ever Marcus Allen was not punitive or retaliatory in any way?

A I am.

Q Are you confident that the FBI's decision to revoke the security clearance of Stephen Friend was not punitive or retaliatory in any way?

A I am.

Q And are you confident that the FBI's decisions to suspend and eventually revoke the security clearances of these three FBI employees was instead lawful and based on a fair and impartial consideration of the evidence and the factors set forth in the Adjudicative Guidelines?

A I am.

Q Okay. Let's talk about Mr. Allen since we spoke of him earlier. And I think we have already had the letter marked exhibit 2 in this record; the January 10th letter that you signed and sent to Mr. Allen has already been entered into the record.

There was a letter of revocation, a permanent letter of revocation. Is that correct?

A Yes.

Q Okay. And that is not exhibit 2. That will be a different exhibit.

A Yes, ma'am.

[redacted] That one I am going to mark that as exhibit 5.

[Moore Exhibit No. 5

Was marked for identification.]

BY [redacted]:

Q It has got two pages. Sorry to confuse you.

A It is okay.

Q So exhibit 5 in front of you know now, Ms. Moore, is the security revocation or the notice of security clearance revocation for Marcus Allen. Is that correct?

A Yes, ma'am.

Q Okay. And, according to that letter and your recollection, is it true that Marcus Allen's security clearance was revoked by the FBI on May 3rd, 2023?

A I executed the letter on May 3rd. Yes, ma'am.

Q Okay. And I guess you explained earlier that there is some process after that by which the employee would be notified or sent a package regarding --

A Correct. Yes, ma'am.

Q And did that happen in this case?

A Yes, ma'am.

Q With resect to Mr. Allen, the Security Division opened a security investigation regarding him on October 21 after receiving a referral from the FBI's Charlotte Field Office. Is that correct?

A That is correct.

Q And Allen's clearance was initially suspended on January 19 based on security concerns under Adjudicative Guideline A, which is allegiance to the United States. Is that correct?

A Yes, ma'am.

Q The specific security concerns that resulted in the initial suspension of Mr. Allen's security clearance stem from evidence he espoused conspiracy theories to coworkers verbally, in emails and instant messages sent on FBI systems in attempts to

hinder lawful FBI investigations. Is that correct?

A Yes, ma'am.

Q For example, and we have seen this in this record exhibit No. 3, which shared an email that Mr. Allen sent on September 29th. Do you have that in front of you?

A I do, yes, ma'am.

Q So the investigation revealed that, on September 29, 2021, Mr. Allen send an email using his official FBI email account to multiple colleagues within the FBI that contained links to conspiracy websites and urged recipients to, quote, exercise extreme caution and discretion in pursuit of any investigation inquiries or leads pertaining to the events of January 6th.

Is that correct?

A That is correct.

Q Now this email was not the only email that was the subject of the security review for Mr. Allen. Is that correct?

A That is correct.

Q In fact, there were multiple emails. Correct?

A Yes, to my knowledge. Yes, to my recollection.

Q Okay. In addition to emails, there were multiple statements made by Mr. Allen of the same sort to colleagues within the FBI. Is that correct?

A That is correct.

Q Okay. The investigation also revealed that, on another occasion, Mr. Allen sent an email from his FBI account with a link to a conspiracy website that wrongly asserted, quote, "Now it's clear that Federal law enforcement had some degree of infiltration among the crowds gathered at the Capitol on January 6th," end quote, to

which Mr. Allen commented, quote, "brings up some serious concerns about USG participation," end quote.

Is that your understanding of some of the evidence underlying Mr. Allen's security clearance suspension?

A Yes, ma'am.

Q Are you familiar with claims that the FBI, quote, infiltrated the crowd on January 6th and somehow orchestrated the event as a false flag operation to implicate Trump supporters?

A I have heard that this is a conspiracy theory. Yes, ma'am.

Q Are you aware of any evidence that would support this false flag theory?

A Absolutely not.

Q Why is it concerning when FBI employees like Mr. Allen use their official FBI email address to espouse baseless conspiracy views that falsely accuse the FBI of improper conduct?

A It begins to cause concern as to their ability to effect investigations that are lawful and thorough and unbiased in nature.

Q And, in Mr. Allen's case, what evidence, if any, have you seen that his actions and espousal of these views actually did interfere with lawful FBI investigations?

A Mr. Allen was given a lead, which is a request to run open-source information on an individual who is a potential subject of a January 6th investigation. He did not provide any information back, stating instead that he found no evidence of criminal activity or unlawful behavior. The agent at that time, they enclosed the lead, marked it of no value, and no case was opened.

Subsequently, additional information came forward out of another office that was again forwarded back to the Charlotte Field Office where they were asked to relook at

this lead. When they opened it back up, the agent asked a different analytical entity to run the exact same open-source information, and that information brought back positive results that lead to the opening of a case against a January 6th subject.

Q Okay. And that -- pardon me?

[redacted] So is it accurate to say that the information Mr. Allen provided in the first place stating that there was no evidence of wrongful activity was in fact a false statement?

Ms. Moore. That would be correct.

[redacted] Thank you.

BY [redacted]:

Q And that investigation that was reopened, the case of the January 6th subject, in that case, after the other employee had found information that should have been found by Mr. Allen because it was publicly available, the FBI learned that the subject had actually physically assaulted U.S. Capitol Police Officers on January 6th. Is that correct?

A Correct.

Q And that was the nature of the criminal offense that the FBI was investigating in that case?

A That is correct.

Q The information that that second FBI employee found was readily available in public sources and should have been discovered by Mr. Allen when he was previously asked to do an open-source research on that subject. Is that correct?

A Absolutely. Specific if someone had been named 2019 Employee of the Year, I expect a lot more.

Q Well, there was some discussion of that earlier, Ms. Moore, about Mr.

Allen's performance. Is it fair to say that it's possible you can have an employee in the FBI who is both a high performer in terms of his duties generally but also a security risk?

A Robert Hansen was promoted to a supervisory level.

Q And can you explain how that is an example of somebody who is both a security risk and a high performer?

A Robert Hansen was trading information to the Soviets, who was absolutely not aligned to the United States' best interest. And it's very possible for someone to, again, admit one thing while being someone else.

Q And, as the security manager in your position, is it your job to evaluate someone's general performance as an FBI employee?

A I -- as a security manager, it's not my job to evaluate their general performance. It's my job to evaluate if their actions and their performance pose a risk to national security.

Q And that's your foremost concern in that position -- -

A Always.

Q -- correct, national -- the interest of preserving the national security?

A Yes, ma'am.

Q Now, in the end, with respect to Mr. Allen, the Security Division investigators determined that Mr. Allen had obstructed the FBI's lawful investigation of the criminal subject that we mentioned earlier. Correct?

A Yes, ma'am.

Q And did you agree with this determination?

A I did.

Q Why is it a concern that Mr. Allen obstructed a lawful FBI investigation of a criminal subject?

A The FBI is charged with investigating criminal activity. His actions caused an individual who had intended to do harm to the United States Government not to be appropriately investigated in a timely manner.

Q Okay. Now we mentioned it was a letter revoking Mr. Allen's clearance -- mentions Adjudicative Guideline A, which is allegiance to the United States. It also mentions Adjudicative Guideline E. Is that correct?

A Yes, ma'am.

Q And E refers to personal conduct. Is that correct?

A Yes, ma'am.

Q Are you familiar with Guideline E?

A I am. Yes, ma'am.

Q Guideline E states, in significant, relevant respect: Conduct involving questionable judgment, lack of candor, dishonestly, or unwillingness to comply with rules and regulations, can raise questions about an individual's reliability, trustworthiness and ability to protect classified or sensitive information.

The guideline goes on to say: Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.

Are you familiar with this aspect of Guideline E?

A I am.

Q Do you believe that Guideline E supports the decision to suspend Allen's security clearance?

A Absolutely.

Q And why is that?

A Because his actions were intentional in nature and they were intended to

impede an investigation.

Q Now the Security Division conducted a thorough investigation before finally revoking Mr. Allen's security clearance. Is that correct?

A That is correct.

Q And, during that investigation, the division reviewed documents, interviewed witnesses, and ultimately interviewed Mr. Allen himself. Is that correct?

A Yes, ma'am.

Q When you signed off on the revocation decision with respect to Mr. Allen, did you review all of that information in totality?

A What I review it is a summary document that I am provided that summarizes the entire investigation. Investigations are very long. There's lots of interviews, and so it's summarized down to me. I base my information off of that.

Q Is there any one single thing that you focused on or did you consider everything in its totality?

A I am charged by the United States Government at looking at the whole person. So that's all the positive and all the negative information that is found. I use a whole-person concept when rendering a decision as a security program manager.

Q And, in Mr. Allen's case, did you look at him under that whole-person standard?

A Yes, ma'am.

Q All right. The Security Division investigation revealed that Mr. Allen expressed sympathy for persons or organizations that advocate, threaten, or use force or violence or other illegal means to prevent the Federal Government personnel from performing their official duties. Is that correct?

A Yes, ma'am.

Q The division concluded that Mr. Allen's sympathies influenced his work product and resulted in him failing to provide relevant information to an FBI employee that impacted the FBI's ability to accomplish its mission. Correct?

A Yes, ma'am.

Q In light of this conclusion and the evidence underlying it, do you believe that the suspension and revocation of Mr. Allen's security clearance was motivated by animus?

A No.

Q Was it done to punish him for his political or ideological beliefs?

A Absolutely not.

Q What was the motivation behind the FBI's decision to suspend and revoke Mr. Allen's security clearance?

A Protection of national security information.

Q As you have stated -- actually you haven't.

[Discussion off the record.]

BY [redacted]:

Q Ms. Moore, with respect to -- was it exhibit 1 -- the letter from Mr. Dunham, May 17, 2023, you indicated that you personally did not pull together the information in this letter. Correct?

A No, ma'am.

Q But you reviewed it before coming here today. Is that right?

A Yes, ma'am.

Q And, on page 2, 3 and 4, there are some charts that offer visuals for some of the data that the FBI pulled. Is that correct?

A Yes, ma'am.

Q And the majority asked you a couple of questions suggesting that there was a trend or some significant increase in cases as time has gone on. Do you recall those questions?

A Yes, ma'am.

Q Now, how many employees does the FBI have?

A 38,222.

Q Okay. So, on page -- and how many contractors?

A Roughly 4 0,000, contractors, detailees, and task force officers.

Q Okay. And all of those people would potentially be subject to security review if there was an issue with their clearance?

A They absolutely are.

Q And their cases would be included in these statistics?

A Yes, ma'am.

Q Okay. So let's look, for example, on page 4 of exhibit 1. This is the fiscal year suspensions and revocations.

A Yes, ma'am.

Q Do you have that in front of you?

A Yes, ma'am.

Q So this chart shows, for example, that, in fiscal year 2021, there were 37 revocations. Correct?

A Yes, ma'am.

Q And, in fiscal year 2022, there were 57 revocations. Correct?

A Yes, ma'am.

Q So that is an increase of how many cases?

A I don't like to do math in public, but it's 20.

Q I have confidence that you can answer that question. I think you are right. It's 20. So 20 cases out of, again, how many employees?

A 38,222 employees and an additional roughly 40,000 detailees, contractors, or task force officers.

Q Okay. So is that 20 a significant number in light of the number of people that are the subject potentially of those investigations?

A It's not. Additionally we get -- we get probably about 1,400 complaints that we might receive that we sort through in a given year. And so it's not that many cases that fall that way. No, ma'am.

Q Okay.

BY [redacted]:

Q You were asked earlier some questions about whether you remember certain people or whether you knew who worked on certain matters. And, just to make this clear for the record, how many employees total do you directly oversee?

A It is roughly -- it's close to 2,000.

Q Okay?

A That are in my branches. Yes, ma'am.

Q And could you estimate about how many documents you look through in a day, roughly?

A A lot.

Q Maybe what percentage of your time, maybe that is a better way to phrase it, what percentage of your time you spend looking at documents?

A A lot. Probably half my day reviewing documents, reading documents. I oversee a lot of different things from training, human resources, security, and then all of our business analytics and statistics. And so, between those four groups, I spend a lot of

time. I also oversee disciplinary appeal reviews. So it's a lot. It's just a lot.

Q Okay. And you said that tomorrow is your last day with the agency. Correct?

A Yes, ma'am.

Q So is it possible that, in recent days, you have had to actually review even more documents because you are trying to wrap things up?

A Yes, ma'am.

Q Okay. You were also asked a number of questions about the timing of the May 17th letter?

A Yes, ma'am.

Q And what processes might have taken place after the FBI -- after it sent by the FBI. You had no role in the transmittal of the letter? Correct?

A No, ma'am, I did not.

Q And you didn't have any role in the drafting of the letter? Correct?

A No, ma'am.

Q You appeared for a transcribed interview in April. Correct?

A Yes, ma'am.

Q And the majority actually asked you to come back for a deposition on May 10th. Correct?

A Yes, ma'am.

Q And is it accurate that they threatened to subpoena you and hold you in contempt if you didn't appear on the 10th?

A That is correct.

Q And you in fact had a personal conflict. Correct?

A I did. Yes, ma'am.

Q And you had a personal conflict that was scheduled to continue for a number of days. Correct?

A Yes, ma'am.

Q Is it accurate that you offered to change your personal travel to appear on the 17th?

A I did offer to change, and I did change in hopes that we would come to an agreement.

Q Okay. So you were willing to appear in person on May 17th?

A Yes, ma'am.

Q And the majority didn't take you up on that. Correct?

A That is correct.

Q Even though they had threatened to hold you in contempt if you didn't appear the week before?

A That is correct. Yes, ma'am.

[redacted] All right. We can go off the record.

[Discussion off the record.]

BY [redacted]:

Q The time is 11:45 a.m.

Ms. Moore, when we wrapped up the first hour of questioning, we were discussing exhibit No. 3, which was the September 29th email from Mr. Allen.

A Yes, ma'am.

Q As part of the Security Division's review of this email, did they look at the articles that were linked?

A Ma'am, I am not 100 percent sure. But I would believe by logical investigation that would be yes.

Q Have you ever reviewed the --

A I --

Q Have you ever reviewed the articles that were linked in this email?

A Not myself, no, ma'am.

Q And do you know if it was the email itself or the articles that lead the Security Division to believe that Mr. Allen was espousing alternative theories?

A It would have been the totality of everything that they had in front of them, not just one email and not just one statement.

Q Okay. And so alternative theories came from the May 17th letter in that last paragraph there. It says: Specifically, the Security Division found Mr. Allen espoused alternative theories to coworkers verbally and in emails.

Ms. Gibbs. Which page are you on, may I ask?

[redacted] Page 7.

Ms. Gibbs. Okay.

Ms. Moore. Yes, ma'am, what about page 7?

BY [redacted]:

Q On page 7, that last paragraph there it says: Specifically, the Security Division found Mr. Allen espoused alternative theories to coworkers verbally and in emails and instant message sent on the FBI systems in apparent attempts to hinder investigative activity.

Did I read that correctly?

A Yes, ma'am.

Q And then, in exhibit No. 2, which is the January 10th suspension letter.

A Yes, ma'am.

Q Second paragraph, it says: The Security Division has learned you have

espoused conspiratorial views both orally and in writing and promoted unreliable information which indicates support for the events of January 6th.

A Yes, ma'am.

Q So, on January 10th, it was referred to conspiratorial views, and in the May 17th letter, it was alternative theories. Why wasn't conspiratorial views mentioned in the --

A I don't know, ma'am. That would be the writer's wording.

Q And what information did the Security Division have at the time of the January 10 letter that he was espousing conspiratorial views?

A Again, it's the same thing we have discussed right there. It's emails. It's statements that he made orally and in writing and instant messages.

Q And, in your April 24th transcribed interview, we kind of discussed your review process of these letters, and you might make some suggestions, but they may differ based on who wrote the letter. Is that correct?

A Yes, ma'am.

Q And do you know how the individual author of this particular letter, how they defined "conspiratorial views"?

A Not the individual author, but I understand the totality of what they were writing there.

Q Okay. And what did you understand their definition of "conspiratorial views" to include?

A Alternate views to what was known as public knowledge of the events of January 6th.

Q And, at the time of the drafting of this email, going back to the email exhibit 3, the second sentence says: There is a good possibility the D.C. elements of our

organization are not being forthright about the events of the day or the influence of government assets.

Do you know if, in his interview with the Security Division, was Mr. Allen asked about this sentence?

A He was asked about the document, yes, ma'am.

Q And do you know if he was asked about this specific statement in the email?

A He was asked about the document, so that would cover all statements made in the email. Yes, ma'am.

Q And do you know what the content of his testimony was regarding --

A I believe he was asked about why he distributed this. And he said that the Holy Spirit called upon him to do it.

Q Okay. And are you aware that, during Mr. Allen's transcribed interview with the committee, he said that, when he wrote this email and this sentence, he was referring to the veracity of Director Wray's testimony before the Senate Judiciary Committee?

A I don't have his testimony in front of me. I am sorry.

Q And do you know if he spoke about that in his interview with the Security Division?

A I don't remember specifically. I am sorry. I would have to rereview the document. Do you want to ask me that again?

Q Are you aware of whether, during his interview with the Security Division, whether it came up that Mr. Allen was questioning the veracity of Director Wray's testimony?

A I do believe he mentioned that during the interview. Yes, ma'am.

Q Do you remember what the content of the discussion -- within the interview

was?

A I believe he thought that Director Wray had lied in a statement that he made.

Q And are you aware that his supervisor at the time when this email was sent September 29th, are you aware that his supervisor called him into his office?

A I am aware that his supervisor counseled him.

Q And what do you remember the content of that counseling to be?

A I don't. I know that he was counseled in regard to statements he made at a TRP. And I know that his supervisor had counseled him in regards to the appropriateness of the messages that he was sending.

Q And, according to Mr. Allen's testimony before the committee, during this meeting that took place, his supervisors felt that they had to defend the Director's testimony. Are you aware of that?

A I have never heard that.

Q And that Mr. Allen was put into a position where he had to explain the content of the email. Are you aware of that occurring in that meeting?

A I believe he would have to explain the content of the email because there was concern around the basis behind the email regarding the D.C. elements to our organization are not being forthright. So I think there was some concern that we have factual information that happened on January 6th. What he was putting out was contrary to the factual information that the public has on January 6th, and they wanted to confirm what he was doing here.

Q And are you aware that, in the Revolver News article that he included here in the email, it mentioned a New York Times article that had just been published that found that there was an informant within one of the groups of Proud Boys that was texting or

communicating with his FBI handler real-time updates. Are you aware of that?

A I haven't read those articles. No, ma'am.

Q And he was questioning Director Wray's testimony regarding whether or not the FBI had assets or sources, informants within the crowd at the events that occurred at the Capitol.

A I know that he --

Q Are you aware of that?

A I know that he personally questioned if Director Wray was honest in his testimony.

Q Are FBI employees able to question the veracity of the Director's testimony?

A Of course.

Q But he was being called into his supervisor's office regarding this email that questioned the veracity of the testimony?

A I don't believe that's exactly what this email says.

Q What do you believe the email says?

A I believe this email says that the D.C. elements for our organization are not being forthright about the elements of the day. I think we are conflating the issue here. Again, the security suspension is not based off of one statement or one act. It is the totality and the whole person.

Q Because Mr. Allen said that, during his security interview, there was this email and then some Skype instant messages that were exchanged that were shown to him in the security clearance interview. So, to Mr. Allen, this was the totality of what the Security Division was investigating regarding his alleged misconduct. Are you aware of that?

A According to Mr. Allen, that's what he was shown. I'm not aware of that,

but --

Q Do you know what he was shown in the interview?

The Reporter. You have to go one at a time, please.

BY [redacted]:

Q Are you aware of what Mr. Allen was shown in his Security Division interview?

A Not specifically. No, I am not.

Q Would that have been recorded anywhere?

A They record the results of the interview in the FD-302, which is the results of investigation interview.

Q And you said you had reviewed the 302 prior to your testimony?

A I had -- but I can't -- it doesn't specifically say he was shown this and this and this. So I am sorry.

Q Did you review the 302 prior to your testimony today?

A I did read the 302, yes, ma'am.

Q And when did you review the 302?

A Yesterday.

Q So, in your review yesterday, did you notice in the 302 what documents were shown to Mr. Allen?

A I didn't specifically. No, ma'am. I knew that they had included the emails -- some emails that he had sent, and then the IM exchanges, instant messages exchange from system, I knew that was mentioned. But I can't tell you exactly verbatim what they gave him. I am sorry.

Q And, according to Mr. Allen's testimony before this committee, he explained his use of the word "possibility" in the September 29th email to his supervisor. Are you

aware of any sort of conversations regarding the use of the word "possibility" in this email?

A I am not. Not to my recollection right now.

Ms. Gibbs. I'm sorry. When you say "his testimony to the committee," what testimony are you referring to?

[redacted] Mr. Allen sat for a transcribed interview with the committee.

Ms. Gibbs. Okay. So it's --

Ms. Moore. I don't have that --

Ms. Gibbs. It's not something she would have --

Ms. Moore. I said that earlier. I don't have that.

BY [redacted]:

Q And I am just representing to you what he said in a transcribed interview. He described how the exchange with his supervisor, how they went through the email, and he describes that he used the word "possibility" as analytical language, and that seemed to calm his supervisor, calm his -- he called it emotions but kind of calmed his demeanor against Mr. Allen. Are you aware of any sorts of these conversations?

A No, ma'am.

Q Do you know if the supervisor mentioned during his interview that the use of certain words in the email came up when he was counseling?

A I don't. No, ma'am.

Q Did the supervisor let the Security Division know that he had canceled Mr. Allen on that day?

A The supervisor was interviewed, and in his interview, I remember that he stated that he had provided counseling. I don't know the specific day or right after this was sent or anything along those lines, no, ma'am.

Q So it wasn't specifically mentioned, to your recollection, in the interview of the supervisor that he counseled Mr. Allen on September 29th?

A Not on the specific date. Again, I know that he was counseled again on the TRP and the emails that he had sent and some statements that he had made. I don't know exactly what date he was counseled on.

Q And, during the last round you discussed with my colleagues, the incident where, on page 8 of the May 17th letter, reading from the last full paragraph, it says: The FBI found that Mr. Allen failed to provide relevant information to an FBI special agent regarding subjects who were allegedly involved in criminal activity at the U.S. Capitol on January 6th, 2021. Was this special agent interviewed by the Security Division?

A Yes, ma'am.

Q And when did the special agent notify the Security Division that this incident had occurred with Mr. Allen?

A When she was interviewed.

Q So it was after the suspension of Mr. Allen's security clearance?

A That is correct.

Q What was the date of the incident?

A I don't know the date of the incident.

Q Was it mentioned in the 302 from the interview?

A It would have been.

Q Did you review that 302 prior to --

A I don't remember the date.

Q Did you review the 302 from the interview with the special agent prior to your testimony today?

A I did.

Q And you remember that the date was mentioned in the 302, or do you have a recollection?

A I remember her discussing in her 302 this incident. I don't remember a specific date. No, ma'am. If she said it in the 302, I don't remember.

Q In the interview with the Security Division with this special agent in question, did she say that she raised this issue with her supervisor?

A I don't remember her saying that in this document. At the time, I don't believe she thought it was a concern.

Q Do you know if she mentioned it to Mr. Allen?

A To my knowledge, she didn't state that.

Q Okay, because when Mr. Allen testified before the committee at the public hearing on May 18th, he said that he had no awareness of this incident. Are you aware of that?

A I don't have the testimony from the committee. I am sorry.

Q Would it surprise you to learn that Mr. Allen had no awareness of this incident?

A I would be surprised that Mr. Allen didn't have any awareness since he ran the lead. He marked it as no criminal activity so he clearly covered it.

Q But did the special agent ever bring it to his attention that he missed something?

A To my knowledge, the special agent didn't interview and state that she had, no.

Q Okay. And so do you know the range of time when the special agent asked Mr. Allen to look into this individual, he gave his reporting back to the special agent, and then the special agent asked another FBI employee to do open-source searches, do you

know what time elapsed between those two?

A I don't.

Q And, as I mentioned earlier, according to Mr. Allen, the documents that were shown to him in the security interview by the Security Division was the May 29th email that we have been referring to today and then an exchange of Skype instant messages. Have you reviewed those instant messages?

A I didn't read them in their totality, I reviewed them.

Q Okay. Can you describe the content of those instant messages, what you understand them to be?

A They were him and another coworker talking about everything from the environment to family to thoughts.

Q And you said environment, family and thoughts. Just their thoughts in general or thoughts about specific --

A I reviewed them; I didn't study them. It was conversations between two individuals.

Q Okay. Did you review the instant messages prior to signing the January 10th suspension letter?

A No, ma'am.

Q Did you just review them prior to today's interview?

A Again, I'm the security program manager, I review the recommendation that came to me and the facts that are put forth. So, in preparation for this, I tried to refamiliarize myself because I knew that y'all would ask certain -- not knew, but I suspected you were going to ask me more questions, and I wanted to be able to be as forthright in disclosing as we possibly could because that was the agreement that I had made with you the last time I was here. But I don't know all these things by heart. I

wasn't the investigator on the case; that's not my job. I make the ultimately decision based off the recommendation that's put forward.

Q By the time that you signed Mr. Allen's revocation letter on May 3rd, had you read the instant message exchanges?

A No.

Q No. Okay. So, before you revoked Mr. Allen's clearance, you had not read the instant messages?

A No.

Q Okay. And, according to Mr. Allen's testimony at his transcribed interview before the committee, he described the instant message exchanges between him and another colleague where they discuss the events of January 6th how hot the political climate was at the time and how a small percentage of the people can politically move the dial in the country.

Is this what you remember the instant messages to include?

A I can remember they included some of those statements.

Q And do you know if the individual who was communicating with Mr. Allen in these instant messages, are they also under investigation?

A I wouldn't be able to discuss about anyone else's investigative status.

Q Do you know if they are --

A I am not going to discuss anybody else's investigative status.

Q Would it be odd if the other person wasn't under investigation and Mr. Allen was under investigation?

A Not necessarily, if the other person's comments were benign in nature and that one individual in a two-sided conversation was much more vocal or opinionated.

Q And were Mr. Allen's comments in this exchange not benign?

A I would not describe his comments as I recollect them to have been benign. I remember they were cause of concern. And the other employee was providing different information than he was. Like: I don't see it that way. I don't think you are right. Have you really thought this through?

Those would be less concerning statements.

Q And can you describe some of the content of Mr. Allen's statements that you found concerning or problematic?

A Again, they were -- you kind of went down that road you stated it earlier. And I cannot -- I wouldn't be able to quote any of them. It was just the rhetoric of them about there being -- like not being forthright with what was being provided, there being this alternate story that wasn't being provided.

Q Okay. And, going back to page 8 of the May 17th letter, at the bottom of page, the letter states: Mr. Allen expressed sympathy for persons or organizations that advocate, threaten, or use force or violence, or use any other illegal or unconstitutional means in an effort to prevent Federal Government personnel from performing their official duties.

What information did the Security Division have that provided that these, that he had expressed sympathy for persons or organizations that advocate or threaten to use force?

A So it's the totality of the actions. Again, we have talked about this. Right? So it's the rhetoric that he espoused. It's the instant messages. It's the actions that he took that prevented an agent from following thoroughly through on a lead of an individual that had assaulted a law enforcement officer and caused that individual not to forward through that case. So those are the type of actions he intentionally influenced an investigation.

Q And how did the Security Division determine that he intentionally influenced the investigation?

A The totality of his actions, when you layer them upon each other.

Q Describe the totality of his actions.

A I just did.

Q Can you redescribe them?

A The totality of his --

Q Let me finish the question first for Penny.

A I'm sorry.

Q The totality of his actions that lead the Security Division to conclude that he had espoused sympathies for individuals, what information led them to that?

A So, again, we use a whole-person concept for review. We do all positive and all negatives. They would have looked at his performance record. They would have looked at his emails. They would have taken into consideration interviews with colleagues and coworkers. They would have looked at his instant messages. All of those things, his work product, all of those things are taken into consideration for a whole-person concept that led them to this conclusion.

Q Okay. And, taking some of those individually, the emails that he sent, where in his emails did he express sympathy for these individuals?

A It's the totality of the actions.

Q Were there specific statements that Mr. Allen made that led the Security Division to believe this?

A When Mr. Allen stated that there was no criminal activity that was found in an open source for an individual that we were considering a subject who had assaulted law enforcement actions, that would be an action.

Q And was Mr. Allen asked about this at his Security Division interview?

A Those were found after his interview.

Q Has Mr. Allen ever been asked by the FBI prior to the revocation of his security clearance about that matter?

A About the specific of the PASMI search?

Q Yes, ma'am.

A No.

Q So Mr. Allen, as I said earlier, had no knowledge of this when he testified before the committee, you said that the special agent never brought it to his attention, never told that special agent supervisor. Is that correct?

A To my knowledge, I am it not aware of that.

Q So the first time that the FBI was aware of this was at the special agent's Security Division interview regarding Mr. Allen?

A Correct.

Q Okay. And, during Mr. Allen's Security Division interview, was he asked about these alleged sympathies these that he professed?

A I am sorry; ask me that again.

Q During Mr. Allen's Security Division interview, was he asked about these alleged sympathies that he was espousing?

A He was asked about his actions that led to the interview. Yes, ma'am.

Q And what was Mr. Allen's response to those allegations?

A Mr. Allen's response was that he believed that the Holy Spirit had called him to share this with the individuals on his squad in the field office.

Q Did he ever say that he aligned himself with the individuals who participated in the events at the Capitol on January 6th?

A He emphasized a sympathy to the individuals.

Q When you say "emphasized a sympathy," what do you mean by that?

A That, again, when you take in totality everything that was provided, to include his interview, it evolved into an allegiance concern.

Q Okay.

A In his interview, it became clear that he was struggling between friend and foe, like he couldn't figure out what was truth and what wasn't.

Q And what you do mean by what was truth and what wasn't?

A There is facts regarding January 6th that are facts. He doesn't align to those facts. He does not believe that the United States Government is honest in those facts.

Q And did Mr. Allen, in his interview, was he ever asked if he aligned himself with the individuals who participated in the events at the Capitol on January 6th?

A I am sorry; I don't remember that specifically being asked of him or not asked of him.

Q Did Mr. Allen in his interview with the Security Division ever explicitly state that he aligned himself with the individuals who participated in the events at the Capitol on January 6th?

A I don't specifically remember what he stated in regards to his interview. But our decision to revocate his clearance is not based off of one interview or one statement that he makes in an interview. It's based off the totality of the facts. At times when we interview individuals, they are less than forthright with us.

Q And do you know -- I talked about this meeting that occurred between Mr. Allen and his supervisor, and I believe the CDC may have been there as well on September 29th, after he sent the email where they were defending the Director's

testimony, according to Mr. Allen, and he was, you know, stating the reasons for, including certain statements in his email. Was the supervisor mad that he was questioning the Director's testimony?

A I am sorry; I wasn't there that day. I don't know.

Q Did the supervisor represent in his Security Division meeting the content of I think he used the word "counseling" that he provided Mr. Allen?

A I think it was because Mr. Allen's comments were concerning in regards to the email that he was putting out and the rhetoric that was contrary to known facts regarding January 6th.

Q Even though The New York Times had put out a news story at that point in time that there was at least one informant in the crowd that was reporting back to their FBI handler?

A Again, I haven't read The New York Times article. I can't provide any information on that.

Q Okay. Are you aware of whether Mr. Allen submitted a request for outside employment?

A I believe y'all asked me about this previously -- or I've heard that.

Q And did he submit?

A I don't know that personally.

Q Are you aware that, when he testified before this committee, he had still not heard back from the FBI on his request for outside employment?

A I don't have the transcripts of his appearance in front of the committee.

Q And how long does the FBI have to respond to an individual's request for outside employment?

A I don't believe there is actually a set number of days.

Q Okay. What's the average time period in which the FBI responds?

A I would say usually within 2 weeks.

Q Within 2 weeks?

A But it can be longer.

Q Okay. And I will represent to you it had been more than 2 weeks at that point in time.

Are you aware if the FBI has resolved Mr. Allen's outside employment request?

A Mr. Allen's outside employment request doesn't come to me. It would go to his field office.

Q Okay.

A And so I have never seen anything regarding Mr. Allen's outside employment request.

Q Who at the field office is in change of outside employment requests?

A Usually they go through the chief security officer, but then they are reviewed by the Office of Integrity and Compliance.

Q And Office of Integrity and Compliance is separate from the Human Resources?

A Yes, ma'am.

Q Okay. And, prior to the submission of the outside employment request, Mr. Allen submitted a prayer journal in October 2022 for prepublication review but never heard back from the FBI. Were you aware of this?

A I heard that he had done this. I know that you all have asked about this. Unfortunately, I don't have anything to do with prepublication review. That falls outside my branch.

Q Was the Security Division aware of his request to publish a prayer journal?

A I am not sure. I am sorry, I don't know.

Q Does the Security Division normally get information regarding outside employment requests or prepublication review requests while an individual's clearance is suspended and they are undergoing an investigation?

A They usually -- prepublication requests, again, don't come through Security Division. That is a whole different group within the organization. Outside employment requests generally would go from the field office into Security Division, but they are reviewed by our Office of Integrity and Compliance. The Security Division is the archival receptacle for holding them. We don't approve them or deny them.

Q So how did you become aware of the prayer journal, was it just from representations by the committee or --

A It's either here or something that I have heard subsequently in prep, but I am not familiar with that at all.

Q During your --

A As far as my -- it hasn't come in front of me. I wasn't asked for it. I wasn't asked to approve it. I wasn't asked to intervene in anything with it. No, ma'am.

Q During your preparation for your transcribed interview this morning, did you look into any outside employment requests that Mr. Allen may have made?

A I did not.

Q Did you review the facts surrounding the submission of the prayer journal?

A I did not.

Q What is Mr. Allen's current status with the Bureau?

A His clearance has been revocated, and I believe we are in the 30-day window of his response to if he would like to be appeal the revocation.

Q Has Mr. Allen responded yet?

A I am not aware that he has.

Q Okay.

A But I wouldn't be briefed at that at this point.

Q When do you get briefed?

A I usually would get it once of revocation would be -- once the appeal is in and they are pushing the revocation package through to -- for reconsideration.

Q And what is included in the revocation reconsideration package?

A It would be any mitigating information that the individual provides.

Q Okay. And you are the official that reviews the mitigating evidence. Or who reviews the mitigating evidence?

A The mitigating evidence will be reviewed within the Adjudications Unit and then provided to me.

Q And then you make the final decision on the appeal. Is that correct?

A Yes, ma'am.

Q And then the individual also has an appeal to judges or lawyers at DOJ. Is that correct?

A The ARC, yes, ma'am.

Q Yes, okay. What was the date of the Bureau's last communication with Mr. Allen?

A I'm sorry; I don't know that.

Q Do you know if it was the revocation letter?

A I don't know.

Q Has the Bureau provided Mr. Allen with the opportunity to review all of the materials relied upon as the basis for his security clearances revocation?

A Generally the process would be they would come in and say, "Hey, I want to

repeal this revocation," and then you begin the redaction process, and then they get all the documents.

Q How long does the redaction process normally take?

A It depends. I don't do redaction either. That's done through a different group.

Q And what is redacted when it goes to the individual whose clearance has been revoked?

A Sometimes it's identifying information of individuals that have provided information that have requested confidentiality.

Q Okay. If the individual has not requested confidentiality, is their named released?

A I am not sure. I don't do the redactions, and I don't oversee them.

Q So what all is provided? What all would be provided to Mr. Allen after he appeals the decision for the revocation? Are the 302s provided to Mr. Allen?

A Any information utilized in the decisionmaking towards the revocation will be provided to him, any and all.

Q Any and all. So that would be the emails --

A Anything that has been used for the revocation decision he will get.

Q So I want to be specific about the materials. So the 302s, would he get access to those if they were relied upon?

A And I am going to end up answering the same thing over and over again. If it was the 302 that was relied upon for the revocation, absolutely, yes.

Q Okay. And if it was an instant message relied upon?

A Yes, ma'am.

Q And the emails relied upon?

A Yes, ma'am.

Q Okay. Did the FBI unlawfully retaliate against Mr. Allen for raising concerns about the veracity of Director Wray's testimony?

A The FBI absolutely did not retaliate against.

[12:15 p.m.]

BY [redacted]:

Q And what's the basis for your conclusion?

A That I use the whole person concept regarding security clearances. I'm not involved in any type of retaliation or anything. I take my job very seriously.

Q Uh-huh.

A I'm very loyal to this country --

Q Uh-huh.

A -- myself. And I've been charged with making unbiased decisions.

Q Uh-huh.

A His investigation has nothing to do with the statement that he made about the director at all.

Q Does it raise any concerns that this whole security process was kicked off by a September 29th email that questioned the veracity of the director's testimony?

Ms. Gibbs. I think you're misstating the email.

[redacted] Okay.

Ms. Moore. Yeah, absolutely.

Ms. Gibbs. Let's take a look at the email.

[redacted] Uh-huh.

Ms. Moore. This email doesn't say anything about the director's testimony at all.

BY [redacted]:

Q Okay.

A None. Zero.

Q We'll read this. It says: There is a good possibility the D.C. elements of our organization are not being forthright about the events of the day or the influence of

government assets.

And with that, Mr. Allen said he was referring to the director's testimony.

A But that's not what this email says. So when my intake --

Q Uh-huh.

A -- unit gets it, that's not what they're looking at. They're looking at the facts that come in. It had nothing to do about Director Wray's testimony.

Q Uh-huh.

A It had to do with the fact that his allegiance seemed to be off.

Q And did Mr. Allen describe how he was questioning Director Wray's testimony with this statement in his Security Division interview?

A I can't remember exactly what he said, if it related specifically to this. What he said --

Q Uh-huh.

A -- that I do remember specifically from his interview was the reason he shared this --

Q Uh-huh.

A -- was because the Holy Spirit told him to.

Q Okay. Do you know if he mentioned --

A I don't know if the Holy Spirit told him that the director --

Q Uh-huh.

A -- lied. I don't know. He said he shared this stuff because of that.

Q Uh-huh.

A What I remember reading didn't specifically relate one to the other.

Q Do you know if he ever brought up the director's testimony in his Security Division interview?

A I do believe in his Security Division interview he discussed that, yes.

Q So if that is why he sent this email or used the wording "there's a good possibility the D.C. elements of our organization are not being forthright about the events of the day or the influence of government assets," and that was a reference to the director's testimony, does it concern you that this is the email that kicked off the Security Division investigation of Mr. Allen?

A Mr. Allen's Security Division investigation was --

Q Uh-huh.

A -- based off of information provided by the Charlotte division. It was not because he questioned the veracity of the director of the FBI. It was the totality of his actions. And all suspensions and revocations have been reviewed under the whole person concept in totality of all of his actions, not a statement.

Q Uh-huh. And this is the email that was shown to Mr. Allen at his security interview. Is that correct?

A I know that he saw this one. I'm not sure what else --

Q Okay.

A -- he was shown.

Q And so Mr. Allen was suspended on January 19th, 2022. And then his revocation was official on May 3rd, 2023, so roughly a year and a half. Is that correct?

A That would sound -- monthwise, yes, ma'am.

Q Is that a normal time period for these investigations, a year and a half?

A Investigations can take a very short period of time -- I kind of talked about them -- sometimes as little as 20 days, even less, and sometimes up in the thousands of days.

Q Okay.

A So his is not outside the norm, no, ma'am.

Q Okay. And is, like, the investigative file that the Security Division reviewed for Mr. Allen, is that a bulky file?

A It would be, yes, ma'am.

Q Okay. I want to move to discussing Mr. Steve Friend. During your transcribed interview on April 24th, you testified that you were familiar with Mr. Friend, knew of his suspension, and knew he ultimately resigned. Is that correct?

A Yes, ma'am.

Q Are you aware that Mr. Friend had received performance awards throughout his career at the FBI for various tasks, as well as for his overall performance?

A That would have been part of his final write-up, yes, ma'am.

Q And during your transcribed interview, you confirmed that you were aware that you signed the September 16th, 2022, letter, suspending his security clearance. Is that correct?

A I did, yes, ma'am.

Q Between April 24th and today, have you had time to examine the documents particular to Mr. Friend's case?

A I have reviewed them.

Q And you've reviewed all of the 302s or emails that would have been involved in Mr. Friend's case?

A I read most of them, yes, ma'am.

Q And when did you read those?

A Yesterday.

Q Yesterday. Okay. And during your transcribed interview, you refused to answer questions regarding Mr. Friend's suspension because it was an ongoing

investigation. Is that correct?

A Yes, ma'am.

Q What investigative work occurred between April 24th and May 16th when his clearance was revoked?

A It would have been the logical investigative steps where they interview individuals, we look at computer access, those type of logical steps. I cannot tell you every single step that was taken because I don't know every single step. I wasn't the investigator.

Q So after April 24th, 2023, the Security Division was still interviewing individuals in Mr. Friend's case?

A I apologize. Would you ask your first question again? I must have misunderstood --

Q Yeah.

A -- what you asked me.

Q What investigative work occurred between April 24th, 2023, and May 16th, 2023?

A From April -- my understanding was, in April, that that case had been moved to the Adjudications Unit. If you'll remember --

Q Uh-huh.

A -- when we talked, I said that I would come back after the adjudication was complete --

Q Uh-huh.

A -- because I did know at that point that it had probably been moved over to adjudications and it would be imminently forthcoming.

Q Okay.

A I knew those were close. So my -- at that point it would be the Summary EC being done, all the facts checked and double checked and put into a document for my review.

Q Okay. And so do you know when it moved over to the adjudicative stage?

A I'm sorry, I don't know the date it did.

Q And do you know -- we were just talking about Mr. Allen. Was his case in the adjudicative stage when you testified here before the committee?

A From what I remember, yes, ma'am, it was.

Q Okay. Have you read the Summary EC?

A For?

Q Mr. Friend.

A Yes, I have.

Q And how long was that Summary EC?

A It was many -- it was multiple pages.

Q Multiple pages? More than 10?

A I can't tell you how many pages. I read it on a computer. So I don't know exactly how many pages. I'm --

Q Did --

A -- scrolling.

Q Did you have to scroll a lot?

A I had to scroll.

Q Okay. And who wrote the Summary EC?

A I don't remember who the investigator was that wrote it.

Q Do you remember any of the investigators on Mr. Friend's case?

A Not specifically I don't, no, ma'am. I know, again, Julie Halferty was the

unit chief. It would have gone from her through Dena Perkins. It would have gone through our legal, Tasha Gibbs --

Q Uh-huh.

A -- and then up through the section chief, the deputy assistant director, the assistant director, and then to me.

Q And I'm sorry, I can't remember if you said Julie or Julia. But Julie?

A It -- it's Julie Halferty.

Q Okay.

A Don't ask me how to spell it. I'm sorry. I don't know.

Q We'll just call her Ms. Julie.

A It could be -- it's Julie, I think.

Q Okay. Did she sign off on the Summary EC or --

A She did.

Q Okay.

A They would have, yes.

Q So she would have to approve every --

A And I'm going to be honest with you.

Q Yep.

A I'm so sorry if I --

Q Uh-huh.

A -- misstate this, so --

Q Okay.

A I'm trying to be really careful.

Julie would normally be the unit chief. I didn't check to see who actually signed it. There could have been an acting --

Q Uh-huh.

A -- on the desk that day. But by all typical processes, whomever was the unit chief on that specific day --

Q Uh-huh.

A -- would have signed it, which is Julie at this time.

Q Okay.

A And was then, unless she was out.

Q And what was your involvement in Mr. Friend's case?

A I'm, again, the security program manager.

Q Did you perform any investigative work?

A I did not.

Q You reviewed all the investigative material, though, correct?

A In preparation for today, I went through the file. I didn't review every 1A in everything, but I tried to get a good overview of the file so we could discuss it.

Q And prior to signing the September 16th, 2022, suspension letter, what documents had you reviewed regarding Mr. Friend's case?

A For that I review what came up for me, which is the recommendation for suspension.

Q Okay. And did that include a package of information?

A It would include a document, a summary document of the reason, yes, ma'am, along with the actual suspension letter that's served to the employee.

Q And do you know who prepared that summary document?

A I don't know who the investigator is, no, ma'am.

Q And would that investigator have also authored the suspension letter?

A More likely than not, yes, ma'am, it's usually the same person, unless they've

transferred or it's been transferred.

Q And I'm assuming you don't remember who --

A I don't.

Q -- authored the letter?

A I didn't look at that part. I'm sorry.

Q And you signed the May 16th, 2023, revocation letter for Mr. Friend?

A I did, yes, ma'am.

Q What documents did you review prior to signing the revocation letter?

A Again, I would have reviewed the summary document that came with it.

Q How long was the summary document?

A It was pages. I had to scroll.

Q Pages. You had to scroll. Okay.

And Mr. Friend's case was included in the May 17th, 2023, letter to the committee, correct?

A Yes, ma'am.

Q And it's on page 9. Sorry. We'll flip --

A It's the date.

Q -- to page 9 now.

A I get --

Q Yeah. Do you know who provided the information for this section of the letter?

A The information, it looks like it's contingent upon Security Division investigation. So it would have come somewhere within Security Division would have provided the document. I know that the Office of General Counsel, Tasha Gibbs, who is assigned to Security Division, would have reviewed this.

Q And who authored this section?

A I don't know that answer.

Q And Ms. Gibbs would have reviewed this section --

A Yes, ma'am.

Q -- as written?

A Yes, ma'am.

Q And then it would have been sent to Mr. Dunham for inclusion?

A Yes, ma'am.

Q Okay.

A That's how I believe it worked.

Q Did you have any role in drafting or approving this section?

A I didn't, no, ma'am.

Q Did you have any conversations with the Office of Congressional Affairs regarding Mr. Friend prior to the letter's transmittal?

A We discussed it because I have the general counsel that signed to --

Q Uh-huh.

A -- OCA as preparation for that, yes, ma'am.

Q And did you discuss Mr. Friend's case with the Office of Congressional Affairs prior to your testimony today?

A I did. In regards to prepping for my testimony, which I didn't clearly state on the last thing, I talked to them about Mr. Friend not in relation to the letter but in relation to my prep for coming over.

Q Okay. On page 9 of the letter, in the first paragraph under Mr. Friend's security clearance suspension, it states: The Security Division opened a security investigation regarding Mr. Friend in September 2022, after receiving a referral from the

FBI's Jacksonville Field Office.

Do you remember who submitted the referral?

A It came through their management, and I believe their chief security officer and ASAC and the SAC -- oh, wait, wait, wait, wait. Hold on.

No. That's not how it happened in this one.

Q Okay.

A This came in to us -- what was -- how we opened it, the information came from our Insider Threats Office.

Q Okay.

A I'm so sorry.

Q And who from the Insider Threats Office?

A I don't know the individual within there that sent it over. There's a process that if something rises to their concern, they'll send it over to us. So I'm sorry.

Q And what rose to the level of concern for the Insider Threat in this case?

A That it was the totality of the actions that had been reported to us to date. Mr. Friend had plugged in an unauthorized --

Q Uh-huh.

A -- unregistered, what we would find out was a personally owned thumb drive into an FBI secure system --

Q Uh-huh.

A -- and downloaded a significant number of documents.

Q Okay.

A That gets flagged.

Q Uh-huh.

A We had received a referral prior to that from the Jacksonville Field Office.

Q Okay.

A In the totality, that's what opened the case.

Q And the referral specifically from the Jacksonville Field Office --

A Was not opened initially.

Q -- who did that come --

A I don't know. I didn't look at that part of the referral. I'm sorry.

Q And it wasn't opened initially. Why wasn't it opened initially?

A Initially it looked like misconduct.

Q Okay.

A Just employee misconduct. It wasn't until we had the security concern that it really fell into our lane.

Q And what type of misconduct?

A It was refusal to participate in a -- as a transport agent in a lawful arrest.

Q As a transport agent, is that what you said?

A Yes, ma'am.

Q And what's a transport agent?

A It's the individual that drives the car after the person's arrested over to the United States Marshals Office and checks them in.

Q So was it your understanding that Mr. Friend was supposed to be the transport agent that day?

A Yes, ma'am.

Q And are you aware that he raised concerns to his chain of command regarding the use of the SWAT team for this particular arrest warrant?

A Subsequently I'd be made aware of that, yes, ma'am.

Q And are you aware that he first went to his ASACs?

A I thought he went to his supervisor.

Q You're right. He did go -- so he went to his supervisor and then he went to the ASACs. Is that your understanding?

A I don't believe he went to the ASACs. I believe he was called in by the ASACs.

Q Okay. And what do you understand the chain of events to be there?

A That there was concern --

Q Uh-huh.

A -- because it was a lawful warrant --

Q Okay.

A -- and that he had not read any of the documents surrounding it.

Q Uh-huh.

A He was just refusing to go.

Q And who told you that he was refusing to go?

A Well, I subsequently read it in the file.

Q Okay. And who made the representations that Mr. Friend refused to go?

A I believe the special agent in charge or one of the ASACs.

Q Okay. And do you know who the special agent in charge of the Jacksonville Field Office is?

A It's Sherri Onks, O-n-k-s.

Q And are you aware that after his meeting with the ASACs, they ordered him to take AWOL status on the day of the raid?

A I subsequently read that, yes, ma'am.

Q Okay. And are you aware of whether or not he was ordered to go on AWOL prior to the day he was supposed to be AWOL?

A I wasn't part of those conversations. I've been -- I've -- somewhere I've been briefed that along the way, yes, ma'am.

Q That he was ordered to go AWOL status?

A I think there was, from what I was briefed --

Q Uh-huh.

A -- that I remember -- this is not my firsthand recollection.

Q Uh-huh.

A I was not in the room.

Q Uh-huh.

A -- was that because we needed to know who was going to be on the arrest, who was going to be on the transport, we couldn't have someone just not show up or call out at the last minute. You'd like to preplan that, so for the safety of all involved and to --

Q Uh-huh.

A -- make sure there's no confusion.

And so I think at that point, because he refused to participate, he didn't want to read the affidavit, he was put out on AWOL.

Q Okay. And Mr. Friend has represented to the committee that he never refused to participate in the raid. Are you aware of that?

A I'm not.

Q Did he discuss that in his Security Division interview?

A I don't remember that, no, ma'am.

Q Okay. And so, obviously, if he's ordered to take AWOL status, he cannot show up to participate in the search and arrest warrant, correct?

A Correct. And so and, again, I think I've talked about that initially. When

that came in, that doesn't fall under Security Division.

Q Uh-huh.

A That's a misconduct concern, and that goes in a different stream, not ours.

Q But this was considered as part of his security clearance investigation?

A It was in the totality of the person --

Q Uh-huh.

A -- because remember we talked about --

Q Uh-huh.

A -- I look at all their awards, their behavior, any disciplinary, and any actions that occur that we find during the course of the investigation, because we look at the whole person --

Q Uh-huh.

A -- not just one incident.

Q And how did the Security Division determine that it was misconduct if Mr. Friend was ordered to go on AWOL status?

A Again, we don't look --

Q Uh-huh.

A -- or -- I'm sorry. Ask me that again. I'm not sure what --

Q Because you initially said the referral that came from the Jacksonville Field Office appeared to be misconduct. Is that correct?

A It did.

Q And how does that determination that it appears to be misconduct get made?

A The intake unit makes the decision on does this rise to the level of something that is a risk to national security.

Q Uh-huh.

A So someone who doesn't want to go do something doesn't necessarily rise to a level of national security. So it's misconduct, like, hey, that's between you and your employee. That's going to have to go down the inspection, internal investigation route.

Q Uh-huh.

A That's not us.

Q And there's a difference between refusing to go do something and being ordered to take AWOL status.

Was Mr. Friend ever able to refuse to participate in the raid?

A I'm not part of those conversations, and I can't testify to that.

Q Okay. Do you know if those conversations occurred within the Security Division? Were they aware of those conversations?

A I am aware that, what you have told me today, that there was a conversation -- and I don't know if it's Friend that has said this or if I've read it somewhere -- was that he was ordered to take AWOL and so he didn't participate.

Q Okay.

A I know that originally he refused to participate.

Q Okay. And on May 7 -- in the May 17th, 2023, letter, at the bottom of the page there, it says: On September 3rd, 2022, Mr. Friend entered FBI space and downloaded documents from FBI computer systems to an unauthorized removal flash drive. The FBI then required Mr. Friend to attend a security awareness briefing regarding his actions, but he refused to do so.

Did I read that correctly?

A Which page are you on?

Q On page 9, at the very bottom.

A Okay. Which one -- okay. You started there. Okay.

Q Okay. Yeah. Would you like me to reread?

A No. That's okay. No, that's what it says. You can read.

Q Okay. According to Mr. Friend's testimony, he did not refuse to attend the security awareness briefing. Are you aware of that testimony?

A I am not aware of that testimony, no, ma'am.

Q After learning from his supervisors that the training was a disciplinary action, he requested to have an attorney present. Are you aware of his request?

A I'm not.

Q Friend testified that his supervisor said he was not allowed to have an attorney present and he was -- he asked to have documentation provided as for why he could not have an attorney present. And that was never provided to him, even though his supervisor said that they would.

A Somewhere in here I'm going to have to stop you, because --

Q Yeah.

A You've lost me now.

Q Okay.

A So he did not attend a security awareness briefing.

Q Correct.

A That, I know for a fact.

Q Okay.

A He was scheduled to come and attend --

Q Uh-huh.

A -- a security awareness briefing. So all the other, like, he wants an attorney --

Q Yep.

A -- and -- none of that has to do with me. He didn't attend the security awareness briefing.

Q Do you know if the fact that he asked to have an attorney present, was that ever considered by the Security Division?

A That would not have been considered by the Security Division, nor are attorneys allowed to be present during security awareness briefings.

Q Okay. And were the facts, as Mr. Friend has presented the facts, that his supervisor said that he would get back to him on that, was that ever considered by the Security Division?

Ms. Gibbs. When you say presented the facts, to who?

[redacted] To the committee.

Ms. Moore. Okay.

Ms. Gibbs. I just want to make sure we're --

Ms. Moore. I'm not aware of his testimony to the committee.

BY [redacted]:

Q And he never received further communication from his supervisor on whether or not he could have an attorney present. Are you aware of that fact?

A I'm not aware of that fact, no, ma'am.

Q Okay. And that was why he did not attend the training. Are you aware of that?

A What I'm aware of is that --

Q Uh-huh.

A -- Mr. Friend did not attend the training -- or attend the security awareness briefing.

Q Uh-huh. Okay. And on May 16th, 2023, the FBI revoked Mr. Friend's clearance. Is that correct?

A That is correct.

Q And you signed that communication?

A Yes, ma'am.

Q Do you know when Mr. Friend received that communication?

A I don't.

Q And -- but Mr. Friend had already resigned at that point in time. Is that correct?

A Yes, ma'am. We discussed earlier that some of this backlog and why it's --

Q Uh-huh.

A -- so many days is because we are obligated with the security -- the community of the intel -- intelligence community to follow through on misconduct invest -- not misconduct but security investigations as it relates to an individual's suitability to hold a clearance.

Q Okay. And on page 10 of the letter, under the inset portions of the guidelines there, it says: In addition to the security concerns that resulted in the suspension of Mr. Friend's security clearance, the investigation yielded evidence of additional security concerns.

What investigative steps led to the new evidence?

A Interviews, searches of publicly available social media inform -- PASMI, review of computer access, those same things that we've discussed previously.

Q And who was interviewed for Mr. Friend's investigation?

A It would have been his colleagues, his coworkers, his supervisors.

Q Do you know specific individuals who were interviewed?

A I can't give you specifically the names outside of I know the special in agent in charge was, the ASAC was.

Q Uh-huh.

A I don't know his supervisor's name. And then many of his colleagues, task force officers were all interviewed.

Q And was a 302 produced for every single interview?

A Yes, ma'am.

Q Did you review all those 302s prior to today?

A I read through most of them. I didn't review them in detail.

Q Okay. And when was Mr. Friend interviewed by the Security Division?

A I don't know the date, but it was between his suspension and revocation.

Q Okay. And his clearance was suspended on September 16th, 2022, and then it was revoked on May 16th, 2023.

Do you remember if it was in 2022 that he was interviewed?

A I don't remember specifically.

Q Okay. And then directly below the paragraph that I just read from, it states: Mr. Friend participated in multiple, unapproved media interviews, including an interview with a Russian Government news agency.

Did you review those media interviews?

A I didn't review them myself, no, ma'am.

Q What did you review regarding the interviews?

A I read through his file, but I didn't specifically read that. I read about -- I know that this was in there. It was summarized for me.

Q Uh-huh.

A But I didn't read the interviews themselves, no, ma'am.

Q Okay. And Mr. Friend learned about some of the these media interviews when -- during his Security Division interview. Are you aware of that?

A He would have been asked about them, yes, ma'am.

Q And he only became aware that a portion of an interview he gave appeared on Russia Today in that Security Division interview. Are you aware of that?

A I am aware that he stated that one of the interviews he didn't know was Russian.

Q Okay. And so you're aware that he disputes that he appeared on Russia Today?

A There were more than one interview with a foreign news organization.

Q Uh-huh.

A He disputes one of the interviews that he believes was compiled from another.

Q And did those -- did those facts get considered by the Security Division?

A Of course. We consider the whole person. We consider all good things that they've done and all actions that have been taken.

Q Uh-huh.

A Absolutely.

Q And during your transcribed interview on the 24th, you were asked about Mr. Friend's request for outside employment. Do you remember that?

A I do.

Q And do you remember how many times Mr. Friend sought approval for outside employment?

A I don't know specifically how many times. I know specifically the one we asked -- were asked about.

Q Okay. Would it surprise you that he had sought approval for outside employment twice before?

A No.

Q Okay. And Mr. Friend's first request for outside employment was denied. Did you review the denial --

A I did not.

Q -- of the request?

A No, ma'am.

Q Do you know who denied the first request?

A I don't.

Q And then the second request for outside employment, he also included a request for his firearms training records. Do you remember that?

A I am very familiar with that one, yes, ma'am.

Q And you said it was a mistake that his firearms records were not provided to him. Do you remember that?

A They were provided to him.

Q Okay.

A They were not provided him in a timely manner.

Q Okay. And you described a mistake that occurred at the Bureau regarding the firearms records.

A Yes.

Q Between the time of April 24th and now, have you discovered who was responsible for that mistake?

A Again, we talked about it in my last transcribed interview.

Q Uh-huh.

A He sent in his request for his firearms records to the Firearms Training Unit.

Q Uh-huh.

A The Firearms Training Unit --

Q Uh-huh --

A -- when they didn't know how to give him the records, called Information Management Division.

Q Uh-huh.

A When -- we've talked about this. We -- for out of 38,000 FBI employees, we have very few that are ever suspended.

Q Uh-huh.

A And a general employee may not come in contact with a suspended employee. So the supervisor in the Firearms Training Unit gets a call from an individual who is suspended.

Q Uh-huh.

A He doesn't -- most general employees don't even understand the difference between suspension and revocation.

Q Uh-huh.

A It's just not just something they come across. And so he's like, I don't know how to provide this information. So it gets referred over to Information Management Division, who then misunderstand it to be a terminated employee. And they're like, oh, in order for terminated employees to get their training records, they have to file a Freedom of Information Act.

Q Uh-huh.

A So that is what gets relayed to him, which was wrong.

Q Uh-huh.

A We could have gotten him those records sooner.

Q Uh-huh.

A But it got convoluted. And by the time we finally figured out or it was brought to our attention --

Q Uh-huh.

A -- that's when I'm like, get him the records.

Q Uh-huh.

A But it wasn't intentional by anybody. It was a convolution of his status.

Q And has any new training or newsletters or emails been sent out about how to deal with these sorts of requests?

A So the individuals in that chain obviously --

Q Uh-huh.

A -- were counseled and said, hey --

Q Okay.

A -- here's the difference. Here's that.

So I can assure you they won't make that mistake again. But for our entire --

Q Okay.

A -- population of 38,000 employees, no.

Q And Mr. Friend also testified about how individuals at the FBI leaked his personal medical records to a New York Times reporter. Do you have any awareness about this?

A No.

Q And who's the custodian at the FBI of medical records? What unit or division is that held within?

A Those are held within medical, which falls under HRB, but I'm not sure if

those are stored at IMD or if they're maintained strictly within the medical group.

Q Okay. So you don't have any awareness of this allegation by Mr. Friend?

A I know he's alleged this.

Q Okay.

A I have no idea what he's referring to or what medical records he has -- he's talking about at all.

Q When you heard about this allegation from Mr. Friend, did you do any sort of investigating?

A No. I heard about it yesterday.

Q Okay. Between yesterday and today --

A No.

Q -- have you done anything?

A No.

Q Do you plan to take any actions on this?

A No.

Q Do you -- the individual who takes over in your role after June 3rd, will this be part of the brief to them to look into whether or not medical records were inappropriately released to a reporter?

A If Mr. Friend would like to write us a letter --

Q Uh-huh.

A -- alleging what it was and what information it was --

Q Uh-huh.

A -- that was released and who it was released to --

Q Uh-huh.

A -- that will be reviewed.

Q Okay.

A But just general things that are said out in the universe, we don't necessarily follow through on them, no.

Q Has Mr. Friend been provided with all the materials relied upon for his security clearance adjudication?

A He will if he asks for reconsideration of the revocation.

Q And it's your understanding that he hasn't asked for that yet?

A I don't know if he has or not, no, ma'am.

[redacted] Okay.

We'll go off the record. We're at the end of our time.

[Discussion off the record.]

[redacted] We'll go back on the record.

BY [redacted]:

Q Who's going to be taking your job now?

A They have not named my successor at this time.

Q Is there going to be an interim?

A Yes, sir, there will be. His name is Timothy Dunham.

Q And have you had some transition meetings with Mr. Dunham?

A Not really. We've met today. We met -- this morning for about 15 minutes.

Q Okay.

A And we met yesterday for about 30.

Q Okay. That's the totality of your transition?

A At the moment.

Q And today's your last day at the FBI?

A Yes, sir.

Q So you don't plan any future --

A I will be available for any and all contact that's needed. Mr. Dunham has served in my absence before.

Q Uh-huh.

A I think, as we know, I've unfortunately had a family issue that I've been out for the last couple of months on, and he has filled in in that. So he's largely up to speed.

Q Okay.

A He's my primary fill-in.

Q Okay. And is he up to speed with all the information on Mr. Friend's case?

A No, sir.

Q Is he up to speed with all the information on Mr. O'Boyle's case?

A No, sir.

Q Is he up to speed with all the information on Mr. Allen's case?

A No, sir. People who are not directly related to these would not be briefed on them until the time it was necessary. So when he comes in as the acting, if this is something that he gets called to testify on or he has to lay in on, so if the revocation reconsideration comes in, then he will.

Q Outside of your --

A So we just don't brief random people.

Q Well, he's not a random person. He's taking your job.

A He's coming in --

Q He's your deputy.

A He -- but not right at this moment. He wouldn't --

Q Okay. Well, he's not a random person. That's a ridiculous

characterization.

A I'm sorry. I'm just trying to --

Ms. Moore. I'm so sorry.

[redacted] I said that's a ridiculous characterization. He is the number two official in your organization.

Ms. Moore. I apologize. As a general rule, we only discuss the stuff, again, with need-to-know. And until he is actually my acting or signing something, he has no need to know about it.

[redacted] Okay. In your opinion, I guess.

[redacted] Okay. We'll go off the record. Thank you.

[Recess.]

[redacted] Back on the record, please.

BY [redacted]:

Q Ms. Moore, let's just return briefly to Mr. Allen's security revocation decision, if we could. There was discussion in the last hour about the fact that one particular email that he sent on September 29th was the initial basis for his referral.

Do you recall those questions?

A I do recall those questions. It was one of the items, yes, ma'am.

Q Right. And you made very clear, I think, over and over that it was not just one thing, it was many things, correct?

A Yes, ma'am.

Q But with respect to the beliefs that he expressed in that email, regardless of how you characterize them, whether he's talking about Director Wray's testimony or not, is it fair to say that it's not clear on the face of the email what he's referring to?

A That would be correct.

Q Because he doesn't mention Director Wray by name at all, correct?

A That is correct.

Q Regardless, suppose, if you would, that Mr. Allen had sent that same email from his personal email account and to individuals that he knew outside of the FBI. Would that have been a concern to you in your position as security manager?

A We wouldn't look at what he did from his personal email to a friend, no, ma'am.

Q So what's the difference? Why does it matter that he sent it from his FBI email to FBI colleagues?

A It appears that he is attempting to influence their decision and thought-making process.

Q And is it fair to say that he's trying to influence them specifically with respect to a lawful mission of the FBI, which in this case was the investigation of crimes occurring at the U.S. Capitol on January 6th?

A Yes, ma'am.

Q Okay. Now, referring to exhibit No. 1, that May 17th letter --

A Yes, ma'am.

Q -- from Mr. Dunham, there is a footnote that was included. It's footnote 4, and I think it's on page 6.

A Yes, ma'am.

Q Okay. Could you take a look at that and let me know when you've had a chance to review it?

A Yes, ma'am.

Q Okay.

A I'm good. Yes, ma'am.

Q Oh, excellent. Would you mind reading that footnote?

A It is important to distinguish between criminal conduct and an individual who is engaged in First Amendment protected activity. Other FBI employees who attended events on January 6, 2021 -- but who did not commit criminal conduct, such as trespass into a restricted zone -- did not receive security clearance suspensions or revocations.

Q Now, I understand that that footnote was dropped in a discussion of a different employee, Mr. Gloss. But the footnote states clearly that the Security Division and the FBI was aware that other FBI employees had attended January 6th events in protest, presumably, protected First Amendment activities. Correct?

A Yes, ma'am.

Q And those people were not subject to security investigations and review. Is that correct?

A That's correct.

Q And why weren't they subjected to security investigations based on First Amendment protected activities?

A Because we don't review people's conduct based off of First Amendment protected activities. FBI employees are entitled to those.

Q Now, isn't it fair to say that what distinguishes these other FBI employees, say the ones who went to demonstrations, you know, peaceful demonstrations on January 6th but did not engage in crimes, what distinguishes them from Mr. Allen is the fact that Mr. Allen obstructed a lawful FBI investigation and used his official position and his FBI email account to promote views of disinformation about the FBI and to discourage other FBI employees from doing their work?

A That would be correct, yes, ma'am.

Q I'm going to move to Mr. -- discussion of Mr. Friend.

Now, Mr. Friend's security clearance was revoked by the FBI on May 16th, 2023, correct?

A Yes, ma'am.

[redacted] Do we already have that as an exhibit?

[redacted] I don't believe we do.

Ms. Moore. I don't have his revocation letter, no, ma'am.

[redacted] So that revocation letter I'm going to mark as exhibit 6.

[Moore Exhibit No. 6

Was marked for identification.]

BY [redacted]:

Q Okay. And we also have exhibit 1 still which discusses the same process.

A Yes, ma'am.

Q The Security Division opened a security investigation regarding Mr. Friend in September 2022, after receiving referral from the FBI's Jacksonville Field Office, correct?

A Yes, ma'am -- or -- I'm sorry. We opened our investigation based off of a referral from the Insider Threat Office.

Q You indicated that before. Thank you.

A Yes, ma'am.

Q And where is Insider Threat Office?

A It's located in Huntsville, Alabama.

Q Okay. So it's not a part of the FBI headquarters?

A It's conceived -- our Huntsville, Alabama, is like our HQ2 location. So it's a campus that's just located in Huntsville. Our technology entities are going to be located there.

Q Mr. Friend's clearance was initially suspended on September 16th, 2022, based on concerns under Adjudicative Guidelines E, personal conduct; and K, handling protected information. Is that correct?

A Yes, ma'am.

Q Okay. And the specific concern that resulted in this initial suspension was stemming from an incident that occurred in August of '22, correct?

A Yes, ma'am.

Q And that incident, we spoke of it a little bit in the last hour. I'm going to get into it in a little more depth.

That -- in that incident, Mr. Friend refused to participate in the execution of a court-authorized arrest of a criminal subject. Is that correct?

A So Mr. Friend did that. I want to be really clear just to specify. We opened our case based off of the referral from Insider Threat where he put an unauthorized thumb drive into an FBI-controlled access system, a secret system, and began downloading a bulk of information.

Q Okay. You said that too.

A I'm sorry.

Q That's fine.

A I want to make sure we're really clear. Like, his refusal --

Q Yeah.

A -- was not the opening of our investigation.

Q Okay. So the initial referral from the Insider Threat Office, that's under Adjudicative Guideline K, handling protected information, correct?

A Yes, ma'am.

Q And the fact that he put an unauthorized flash drive into an FBI system is just

automatically a security trigger that no one would have the discretion of ignoring initially. Is that correct?

A That is correct.

Q And that's because you don't know at that stage how serious a threat that kind of thing could be. But given the top secret information that's kept in FBI systems, you could imagine a serious problem if you don't investigate, correct?

A Yes, ma'am.

Q And so you looked into it, right?

A Yes, ma'am.

Q All right. And during that initial investigation is when you learned of this other incident which occurred in August '22 regarding the refusal to participate in the arrest?

A Sort of, yes, ma'am. So originally we had been made aware of the August refusal to participate in the lawful transport of the subject. We did not open off of that one. When we got the Insider Threat, we opened off of that. And then you begin combining all the information to make a whole person review, yes, ma'am.

Q Okay. And I guess you might have said this earlier too, but when he initially stuck the unauthorized flash drive in the FBI system and downloaded the documents, that's what triggered the order or the request that he attend the security briefing, correct?

A Yes, ma'am. That is our standard procedure for initially -- some people plug in, like, a phone and they want to charge their phone, how you can do that with a cord. Well, you used to could do that in our system. And so that will also, because you can download information, so it triggers it.

So what we ask is that the employee must come in and have a security awareness

briefing. They must surrender the device to us so we can review the device to determine if any classified information was inappropriately placed on it, and they must acknowledge to never do this action again.

Q And that requirement that he attend a security access briefing, that's a requirement that would have happened in any case if any employee had done what he'd done, correct?

A Yes, ma'am.

Q And his response to that request was to not attend, correct?

A That's correct.

Q And there was some discussion earlier that he thought he could have an attorney. Do you recall that discussion?

A I don't rem -- I remember that being asked about it, yes, ma'am.

Q Do you recall, during the investigation of his case, anyone telling you that he was requesting an attorney?

A No, ma'am.

Q And does an employee have a right to counsel when he attends a security access briefing at the FBI?

A They do not.

Q So if he did make that request, he was simply mistaken, correct?

A That is correct. As a condition of your employment, you're required to participate in internal investigations and, additionally, security investigations.

Q And that requirement of your employment is made clear to FBI agents from the beginning of their employment. Isn't that right?

A It's clear to all FBI employees, yes, ma'am.

Q And also with respect to your clearance generally, Federal employees are not

given any right to hold a security clearance. Is that right?

A That is correct.

Q It's rather a privilege. Is that right?

A Yes, ma'am.

Q And in the process of reviewing security clearances, you're guided by an executive order that tells you you need to -- you need make your decisions with the utmost concern being national security, correct?

A That's what my obligation is to, yes, ma'am.

Q And there's no reasonable doubt standard as there is in the criminal context, correct?

A That's correct. Any doubt has to go to national security.

Q Very well. So in this case, when he chose not to attend the security briefing, the FBI was required to follow the guidelines under Guideline K, correct?

A Yes, ma'am.

Q And essentially to draw an adverse inference about his ability to protect classified information. Is that right?

A Yes, ma'am.

Q Okay. Now, beyond that, his investigation continued to reveal more security concerns. Is that right?

A Yes, ma'am.

Q And so now we're getting to the August '22 incident. Is that right?

A Yes, ma'am.

Q Okay. So in August of '22, Mr. Friend was given an order from a superior to participate, I think you said, as the driver in a court-ordered arrest of a January 6 criminal suspect. Is that right?

A Yes, ma'am.

Q And Mr. Friend resisted that request. Is that right?

A Yes, ma'am.

Q And, in fact, he refused to participate in the execution of that court-authorized search and arrest of the suspect, right?

A Yes, ma'am.

Q And there was discussion earlier about whether you could really characterize his actions as a refusal.

Do you recall that discussion?

A I do, yes, ma'am.

Q Are you aware that Mr. Friend gave a declaration essentially under oath under 28 U.S.C. Section 1746 about these events? And this was a declaration that he made on September 21st, '22.

I'm going to mark it as exhibit 7.

[Moore Exhibit No. 7

Was marked for identification.]

BY [redacted]:

Q First, are you aware of that declaration?

A I'm not personally aware of it.

Q Okay.

A I'm sorry.

Q That doesn't surprise me.

It includes a cover page that was faxed to the IG.

A Okay.

Q But -- I'm going to hand you this. And, honestly, the only thing you really

need to focus on right here is page -- there are no page numbers. Sorry.

A Okay.

Q But if you flip to -- that will be one, two, three, four -- the sixth page. So it might be kind of like page 3 on the back, I think. And there should be like a numbered paragraph 11 on that page.

A Yes, ma'am.

Q Okay. So directing your attention to that paragraph -- and this would be down near the bottom. I think it's the -- it's the second to last sentence, full sentence. It starts --

A Okay.

Q -- "I told him." Let me know when you've located that sentence.

A "I told him." I've got it or -- you want the full sentence?

Q In just one second. I just want to make sure you have where I'm talking about, because I know I'm giving you --

A I have a half.

Q -- a long document.

A I have a sentence that's started, "I told him that." And that's a half a sentence, yes, ma'am.

Q Sorry.

A Yes, that's half a sentence. But, yes, ma'am, because I think it starts up that, He has stated that he wished I just.

Q Yes, yes.

A Yes, ma'am.

Q Okay. So to be fair, let me have you take just a moment to look at that paragraph so you understand the context. I don't want you to ask -- I don't want to ask

about something that you don't --

A Okay.

Q If you don't mind starting just with paragraph 11. And I know paragraph 11 continues --

A Yes, ma'am.

Q -- to the next page, but you don't have to keep turning. Just --

A I'm good. Yes, ma'am.

Q Okay. So fair to say that paragraph 11, in that paragraph, Stephen Friend is discussing this August incident where he refused to participate in the arrest of the J6 suspect. Is that right?

A Yes, ma'am.

Q Okay. And I guess my whole point here is to notice that he says, he admits in the declaration, quote: I told him -- meaning his superior -- that I was going to refuse to participate in any J6 cases.

Do you see that statement?

A Yes, ma'am.

Q So is there any doubt that what he was doing was refusing to participate?

A No, ma'am.

Q Okay. This incident itself involved the use of a FBI SWAT team to execute the arrest, correct?

A Yes, ma'am.

Q And I -- you were a line agent at one point in your career. Is that right?

A Yes, ma'am. I was also part of the SWAT team.

Q Oh, excellent. So you understand the SWAT matrix and how that works. Is that right?

A Yes, ma'am.

Q All right. In this case, Mr. Friend was not part of that SWAT team. Is that correct?

A He was a member of SWAT previously, but at this time he was not, no, ma'am.

Q Was he familiar with the SWAT matrix in this case?

A He -- in this case, I don't believe he reviewed any of the documents in this case. I think he refused to also review any documents as they tried to help him understand the parameters of the arrest, and he refused to do that. So I would say, no, he was not.

Q Okay. And just briefly -- I don't need to get into details here. But when the FBI decides to use a SWAT team, is it fair to say that they do that because of danger to the agents who are executing the warrant, maybe the suspect is particularly dangerous, or a risk there would be flight or damage to evidence? Is that the kind of thing that you consider when you decide whether or not to use a SWAT team?

A We actually -- partially, yes, ma'am. So we will use a SWAT team if the situation calls for it. And so we do have a matrix. And it will say if they've previously been convicted of a crime that involved a handgun or a weapon, have they ever assaulted a law enforcement officer, are there violent dogs on the premises, are there excessive cameras, those type of things.

And so, again, it's much like building a cake we talked about. You start looking at those, and then it rises to the level of a SWAT team. We use agents a lot for different arrests. We use SWAT teams when very specific elements are hit.

Q Okay. And one of those is danger to the officers who are executing the warrant. Is that right?

A Absolutely. Our agents are very valuable to us.

Q And in the case here that Mr. Friend was objecting to, the SWAT team was charged with arresting a suspect named Tyler Bensch, B-e-n-s-c-h. Is that correct?

A Yes, ma'am.

Q And Mr. Bensch was a member of the right wing militia group, the Three Percenters, correct?

A Yes, ma'am.

Q And Mr. Bensch had posted videos of himself out outside the Capitol on January 6th, wearing body armor, a gas mask, and holding an AR-15 style weapon. Is that correct?

A Yes, ma'am.

Q And this was information that he posted and was publicly available for people to see, correct?

A Yes, ma'am.

Q And this information was known to the FBI when they decided to use the SWAT team in this case, correct?

A Yes, ma'am.

Q Did anyone explain that to Mr. Friend?

A My understanding was that they attempted to explain this to him, along with showing him the lawful court-authorized warrants. And he did not want to hear any of the information.

Q Okay. And I don't recall this for sure, So I'm just going to ask you. Around that time there was a high-profile incident in which one or maybe two FBI agents had been killed executing an arrest warrant. I believe it was in Miami.

Do you recall that incident?

A I'm very familiar with that.

Q Do you know when that happened in relation to this incident?

A It happened in February.

Q And this -- so the previous February. Is that right?

A It happened in -- this is '23. '22. February of 2021.

Q And it was a female officer. Is that right?

A It was. Laura.

Q Yes. Do you think Mr. Friend was aware of that incident?

A He absolutely was.

Q And were the people who made the decision to use the SWAT team to protect those officers aware of that decision?

A Absolutely.

Q I'm sorry if it's --

A We're fine.

Q Let me know --

A We're good.

Q Okay. All right. Just stepping outside a little bit. Are FBI agents allowed to declare themselves conscientious objectors with respect to certain kinds of criminal cases that the FBI is lawfully investigating?

A No, ma'am.

Q And what would happen if they did?

A That would go down a misconduct avenue to review that individual to determine if they're still suitable for work.

Q Okay. In this case -- and I think it was apparent in that declaration that you just looked at -- some of the things that Mr. Friend objected to with respect to January

6th cases included his belief that uniformly defendants who are charged in the District of Columbia are subjected to extended pretrial detention.

Are you familiar with that claim?

A I am familiar with that.

Q Do you believe that's true?

A I do not.

Q If it were true that some defendants were subjected to unfair or extended pretrial detention, isn't it true that that claim could be raised by the defendant to a magistrate judge in the district?

A Absolutely.

Q But it wouldn't be raised by -- to a Federal -- to a FBI agent. Is that right?

A That is correct.

Q In fact, FBI agents are not trained on constitutional issues as they apply to detention because that process happens after the FBI agent's role in the process is over. It happens when the case is already in a court and a Federal magistrate or a Federal judge is monitoring that process. Is that right?

A That is correct.

Q The other issue that Mr. Friend raised with his superiors and others, as he objected to January 6 cases, regarded jury composition. Do you recall that complaint on his part?

A I do.

Q And I believe that he said he believed that anyone charged in the District of Columbia would be subjected to an -- a biased or impartial jury. Do you recall that claim?

A I do.

Q Do you think that that is true?

A I do not.

Q Again, if a person, a defendant in a criminal case, had a concern about jury bias, they'd be able to raise that issue in -- after arraignment when his case was in front of a Federal judge or magistrate. Is that right?

A It would not be to the FBI. It would be later, yes, ma'am.

Q All right. And FBI agents are not trained on constitutional issues under the Sixth Amendment regarding jury composition. Is that right?

A Yes, ma'am.

Q Okay. All right. So that's the August 22nd incident.

He letter marked as exhibit 1, the May 17th Durham -- or Dunham -- sorry -- Dunham letter also says that one of the bases for Mr. Friend's suspension of his security clearance was that he was espousing to superiors an alternative narrative about the crimes that occurred at the Capitol on January 6th. Is that right?

A It was, yes, ma'am.

Q And the nature of those alternative views are basically what we just described regarding pretrial detention and jury composition. Is that right?

A Yes, ma'am.

Q Why was this behavior of concern to the FBI?

A Again, it goes to his general conduct and his ability to carry out the duties of his job.

Q And if he had espoused his views privately and they didn't interfere with the execution of his professional obligations as an FBI agent, would the Security Division have been as concerned?

A No.

Q Would they have been concerned at all?

A If it had come to our attention, perhaps. But that's a First Amendment right. Not solo. You can pontificate that as a First Amendment right, so no.

Q So the main concern, fair to say, is that it was interfering with his work and, in this case, actually culminated in his refusal to participate in a court-authorized arrest. Is that right?

A That is correct.

Q Okay. In addition to what we've described already, the security investigation of Mr. Friend revealed that on September 3rd, '22 -- I'm sorry. That -- this says that he entered the workspace and downloaded documents from a system. This is the initial incident. Is that right?

A Yes, ma'am.

Q Okay. So disregard that.

A That's okay.

Q Okay. I'm sorry.

All right. I just want to note one thing about Guideline E in the Adjudicative Guidelines. You're familiar with Guideline E. Is that right?

A Yes, ma'am.

Q And that section of the guidelines specifically says that when an employee is directed and fails to participate in a security process, like a security access briefing, the guideline says, quote: Will normally result in an unfavorable -- and then ellipses -- security clearance action.

Are you familiar with that part of Guideline E?

A I am.

Q And can you explain a little bit about what that means while you're doing the

security review?

A Sure. You have to be an active part of a security review; otherwise, you're an obstacle to it. And so, again, as part of that ability to have a clearance, you must comply with security investigations or security briefings or any aspect of that.

So his refusal to come in is an indication to us that he no longer cares about security.

Q And is it fair to say that the guideline is directing security managers like yourself to exercise less discretion in this context? Like, it's --

A Yes.

Q -- it's more significant --

A It is.

Q -- in your security analysis.

A It is.

Q And that's because it directly relates to security and his willingness to --

A To comply.

Q -- abide by your rules. Is that correct?

A People make mistakes. Like we kind of mentioned earlier that sometimes people will plug in an iPhone to charge it because it's the most convenient thing at their desk and they don't have any receptacles or something along those lines. That's an accident.

They come in. I'm really sorry, I didn't mean to do this. I won't do that again. Here's my phone, whatever you need to do to clean it up, or whatever that is.

That wasn't the case. When they refuse to come in, then it's an obstinance factor, and it begins to weigh into their ability to follow all security guidelines.

Q And that's your ultimate objective, right, is to determine whether this person

is willing to keep national secrets safe? Is that right?

A Yes, ma'am.

Q Everything that you look at is meant to go ultimately to that conclusion when you decide whether or not this is a safe risk for the --

A Yes, ma'am.

Q -- for the United States. Is that right?

A Yes, ma'am.

Q All right. Ultimately, the FBI determined, pursuant to the guidelines, including Guideline E, that it had to mitigate its security concerns by suspending Mr. Friend's clearance. Is that right?

A Yes, ma'am.

Q And then after a thorough review, the FBI concluded that it had to revoke his clearance. Is that right?

A Yes, ma'am.

Q Do you agree with the decision to suspend Mr. Friend's security clearance?

A I do. We had to at that time remove the threat to national security. You're required to distance the two. So the suspension was necessary.

Q And do you agree that the ultimate decision to revoke his clearance was necessary?

A Yes, ma'am.

Q For the same reasons?

A Yes, ma'am.

Q Was this decision to suspend and later revoke his security clearance consistent with the guidelines provided in the SEAD, National Security Adjudicative Guidelines?

A Yes, ma'am.

Q Okay. You answered a lot of these questions. I'm just going to skip ahead.

A Okay.

Q We talked a little bit about this, but the evidence in the investigation showed that Mr. Friend participated in multiple unapproved media interviews. Is that right?

A Yes, ma'am.

Q And there was some discussion about whether he didn't know that one of the media interviews was a Russian news agency. Do you recall discussion?

A I do, yes, ma'am.

Q And I believe that your answer in response to that was that there was multiple foreign media interviews. Is that right?

A There was more than one, yes, ma'am.

Q Can you explain what your recollection is with respect to that?

A I remember there were two that were from an adversarial country. One, he stated that he knew he did. And, two, the second one was that it was a conglomeration of other interviews that he had done that someone put together. And so he said that one wasn't his.

But, again, it's not a single action or a single interview. It was the totality, and it just wasn't those two. There were U.S. domestic ones where he disclosed information that, again, was not authorized publicly.

Q So there was an unauthorized disclosure of information. That was one concern, right?

A Yes, ma'am.

Q But also, he was supposed to have gotten approval -- I guess it's -- I'm sorry.

What office is it that would have given him approval for a media interview?

A Office of Public Affairs.

Q Oh, right. OPA?

A Yes, ma'am.

Q So he at one point told investigators that he had obtained approval from OPA. Is that right?

A Yes, ma'am. That would be untrue.

Q And how did you discover that that was not true?

A We interviewed the Office of Public Affairs, the individual who is authorized to approve media. And they didn't do it.

Q So in this case, there was the unauthorized discussion with the media and also a lack of candor with respect to this lie. Is that right?

A That would be true.

Q And did that lack of candor or lie cause additional security concerns?

A It does, yes, ma'am.

Q And why is that?

A It goes under general conduct. Again, now you're -- not only have you intentionally violated a security rule by refusing to comply, you're now in other areas not being forthright and truthful. And so it becomes, what are you being forthright and truthful with?

Q Right. And also -- so Mr. Friend in that case lied to investigators about whether he'd received approval for these media interviews. But on the other hand, he admitted that he publicly released sensitive FBI information on his personal social media accounts without authorization.

Do you recall that admission?

A Yes, ma'am.

Q Okay. And was that part of your security review?

A It was, yes, ma'am.

Q Did this conduct raise additional security concerns for the FBI?

A It absolutely does. He readily admitted that he disclosed information that he was not authorized to disclose.

Q And what kind of harm could come from that kind of disclosure?

A You could harm future investigations, the reputation of the organization, reputation of other agents. It just undermines the entire organization and puts individuals at risk.

Q Are FBI agents in Mr. Friend's position aware that they need to have approval before they speak with media and reveal information?

A They are. We have media training every year.

Q All right. Finally, the evidence in the investigation of Mr. Friend showed that he secretly recorded a meeting with FBI management in apparent violation of Florida law. Is that correct?

A Yes, ma'am.

[1:22 p.m.]

BY [redacted]:

Q And this triggered an additional concern under Adjudicative Guideline J, I believe, criminal conduct. Is that correct?

A Yes, ma'am.

Q Why is it a concern if an FBI agent commits a violation of State law?

A Because we expect our employees -- all employees to abide by all rules and regulations of the State or Federal Government.

Q I mean, to be a law enforcement officer, you might be expected to follow the law. Is that right?

A You would be expected to, yes, ma'am.

Q All right. In the end, the Security Division investigators determined that security concerns under guidelines E, personal conduct; J, criminal conduct; K, handling of protected information; and M, use of information technology, together warranted the revocation of Mr. Friend's security clearance. Is that right?

A Yes, ma'am.

Q And taken in its totality, do you agree with that determination?

A Yes, ma'am. We do the whole person review, as we've discussed numerous times. We take into all the accolades, all the behavior, all any prior awards or disciplinary actions, and then the actions of the investigation.

Q Was the suspension or revocation of Mr. Friend's security clearance motivated by animus?

A No.

Q Was it done to punish him for his political or ideological beliefs?

A No.

Q What was the motivation behind the FBI's decision to suspend and later revoke Mr. Friend's security clearance?

A Separate a risk from national security.

Q All right. Wasn't the FBI's true motive to protect the national security of the United States against a potential serious risk posed by Mr. Friend's continued access to top secret information?

A Yes, ma'am.

Q All right. And as you've stated before, there were other FBI employees who had expressed political and ideological views similar to Mr. Friend's who were not subject to security clearance review by the FBI. Is that right?

A That is true.

Q And isn't it fair to say that what distinguishes these other FBI employees from Mr. Friend is the fact that Mr. Friend refused to participate in the execution of a court-authorized search and arrest of a criminal suspect; he mishandled protected FBI information -- information systems -- excuse me -- then refused to participate in remedial security training; he engaged in unauthorized media interviews, including with a news agency of an adverse nation, and then lied to investigators about first obtaining authorization to participate in the interviews; and, finally, that he engaged in criminal conduct in violation of Florida State law?

A Yes, ma'am.

[redacted] Okay. One second. Off the record.

[Discussion off the record.]

BY [redacted]:

Q Ms. Moore, can you remind me, how long have you been with the FBI?

A Twenty-eight years.

Q And you've been promoted a number of times, correct?

A Yes, ma'am.

Q Okay. There was some discussion in the earlier hour about whether certain individuals had received performance awards or positive performance reviews. You've participated in a number of performance reviews for yourself, correct?

A Yes, ma'am.

Q Have you ever had a negative performance review?

A I have not.

Q Have you received any performance awards?

A Yes, ma'am.

Q Can you tell us about any of those?

A I've received sustained performance, outstanding performance awards, which are -- it's a medal --

Q Uh-huh.

A -- for being selected as one of the highest performers in the office. I've received those multiple times. Incentive awards, again, for being one of the top 15 performers; on-the-spot awards; time-off awards. I received a multitude. I've been very fortunate.

Q I appreciate it.

[redacted] All right. Thank you.

We can go off the record.

[Recess.]

[redacted] We'll go back on the record. It's 1:41 p.m.

BY [redacted]:

Q Ms. Moore, last round, you were discussing Mr. Friend's case and the use of

the SWAT matrix, correct?

A Yes, ma'am.

Q And you're familiar with the SWAT matrix?

A I am.

Q And would it concern you if an individual was cooperating with an investigation, willing to turn themselves in? How does that factor in to the SWAT matrix?

A It can factor in, but, again, we'll take the totality of the person and the situation.

Q So it doesn't matter if the person is cooperating or is willing to turn themself in?

A It depends.

Q Okay. What does it depend upon?

A If we believe them to be truthful and truly cooperating and in the best interests of the government.

Q If the individual's attorney had represented that they were willing to turn themselves in, do you take that as a truthful representation?

A I wouldn't know. I wasn't part of that investigation.

Q Okay. I want to turn to Special Agent Garrett O'Boyle. Are you familiar with his case?

A I am familiar with Garrett O'Boyle.

Q What is the status of Mr. O'Boyle's security clearance investigation?

A Mr. O'Boyle's security clearance investigation -- he is under suspension, and it is in -- currently, I am aware that it is in adjudication.

Q Adjudication?

How long do you foresee the adjudication process taking?

A That part, I don't know. I did ask, because I had hoped that it would come out before we came here so we'd be fully able to talk about everything. So I'm not sure.

Q Do you think it'll be soon?

A I think it'll be in the next -- within the month, I would think.

Q Okay. Uh-huh. And what investigative steps has your office taken -- the Security Division taken regarding Mr. O'Boyle's security clearance investigation between the transcribed interview on April 24th and today?

A I can't talk about the specific steps. I can talk about everything up to the suspension that I personally signed, because I won't be the one in seat to sign the revocation. I can tell you that I'm aware that he did not comply with the deadline for an interview, which currently is viewed as failure to cooperate.

Q And --

Ms. Greer. I would -- sorry. If I could just put something on the record.

It has obviously been the FBI and the department's position that we prefer that all of the clearance adjudications continue to their full adjudication before discussing them with the committee. That has been sort of longstanding executive branch position.

But in an effort to provide the committee additional information and given the fact that EAD Moore will no longer be the security program manager who will sign off on the adjudication -- on the final adjudication of Garrett O'Boyle, and recognizing the committee's specific interest in pursuing this information, she is prepared to discuss what information that she has about Mr. O'Boyle's suspension today.

[redacted] Okay.

BY [redacted]:

Q And --

[redacted] Let me just add something.

[redacted] Yep.

[redacted] Megan, you just said the adjudication process, but Ms. Moore said the revocation papers, like it's already a foregone conclusion that Mr. O'Boyle --

Ms. Gibbs. I'm not sure.

Can you just read back what she said about that? I just want to make sure that we all the have the same understanding.

[redacted] Can we go off the record?

[Discussion off the record.]

BY [redacted]:

Q I thought I heard you say that you will not be signing the revocation papers. Is it your understanding that Mr. O'Boyle's -- ultimately will have his security clearance revoked permanently?

A I don't know, because I don't know what the recommendation will actually come up as, and I apologize if I stated that. It's a recommendation either for a security awareness briefing, a letter, or a revocation, or no action.

Q Okay. Have you discussed any of these cases -- Mr. Friend, Mr. O'Boyle, Mr. Allen -- with anyone outside of your group? Like, who in the FBI have you discussed these cases with?

A Office of General Counsel, the deputy director, and the assistant director of Security Division.

Q Okay. So you have spoke -- you have communicated with the deputy director about these cases?

A Not in detail.

Q Okay.

A He knows I'm here today. He knows I'm testifying. He walked past yesterday when I -- they were looking for me to sign some other paperwork, and I was in a prep for this.

Q Okay.

A He clearly knows those things.

Q Okay. And what can you tell us about the nature of your conversations with the deputy director about these three individuals?

A We haven't talked about them in detail in sense of like -- like we have today or any of that. I'll tell him that, hey, I know that that one is over in adjudication. I really had hoped it would come out so we could talk about it fully. That type of stuff, but not specific details.

Q Okay. So there's been no coordinated understanding that these individuals will have their, you know, security clearances revoked permanently?

A Absolutely not, no. Oh, and I've also talked about it with the associate deputy director, who sits above me.

Q Okay.

BY [redacted]:

Q And you briefly mentioned that Mr. O'Boyle was failing to cooperate with the investigation. Is that correct?

A My understanding was he was given a date to have an interview done, and he did not comply with that date or respond to us in a manner.

Q And do you know when that date was?

A I don't.

Q Okay. Was that supposed to be after your April 24th?

A It was.

Q Okay. And so what other steps have been taken by the Security Division between April 24th and today?

A I can't talk about those.

Q But you just spoke about --

A I told you the one thing that I do know.

Q -- a interview that was supposed to --

A Because I asked specifically, is this an adjudication? Was there any chance this will be done? And I --

Q So you don't know what other investigative steps have been taken or you can't talk about those?

A Both.

Q Both. Okay. But you could talk about how he hasn't -- failed to cooperate with the investigation?

A I can tell you that, yes.

Q Okay. So you can't tell us any other investigative steps that the Security Division has taken?

A From suspension to current, no, I can't.

Q Okay.

A I can talk about anything before the suspension.

Q Okay. Do you remember signing Mr. O'Boyle's September 23rd, 2022, letter?

A I know that I signed it on that date, yes, ma'am.

Q We'll enter that as exhibit No. 8.

[Moore Exhibit No. 8

Was marked for identification.]

BY [redacted]:

Q Have you had sufficient time to review, Ms. Moore?

A I'm familiar with it, yes, ma'am.

Q Okay. So in the letter, you wrote, the second sentence: The suspension of your security clearance is based on security concerns related to Adjudicative Guideline K, handling protected information; and Guideline M, use of information technology of the National Security Adjudicative Guidelines for determining eligibility for access to classified information or eligibility to hold a sensitive position.

What information did you have to support these security concerns at that time?

A We received a referral from our Insider Threat Office that there had been an individual who had leaked information on an FBI criminal investigation.

Q And what was the context of the individual leaking?

A The individual leaked investigative information that compromised the case and had been interviewed apparently, like, behind a shield. And so that had opened up a leak case. It had come in as a referral.

They had done a workup on the case. They can see who all's accessed a case, what subfiles were accessed, if something was downloaded, if a snipping tool was used to snip out certain pieces of the case and drop it into another file.

And so through their independent investigation, they had determined that Garrett O'Boyle was the individual who was inappropriately accessing the file.

Similarly, at the same time, the investigative field office had conducted a review of the case file, because as a case agent, you can see who's accessing your file, you can run an audit report. They also ran an audit report of every individual that had accessed the case file. They ran a spreadsheet. They took out everyone who was authorized to be in the case, everyone who was a participant or had covered a lead at any point in the

case, and they too independently came up with Garrett O'Boyle was inappropriately accessing the case file.

Q And the criminal investigative case file, what did it pertain to?

A I'm not -- because it's an ongoing still criminal matter --

Q Uh-huh.

A -- I've been asked not to discuss it.

Q And were there other individuals on the audit that the office flagged?

A There were not other individuals specifically, because the individual had provided an interview. And in the course of that interview, they spoke about very specific information within the file and very specific information within very specific subfiles of the case.

Garrett O'Boyle was the only one who accessed all of those things that were discussed in there, and nobody else did it. So there were other people that had gone into the file to cover a lead or you -- but no one else had accessed actually the exact same things that were discussed in that interview.

Q And you said the individual in the interview was covered by a shield. Is that correct?

A It was.

Q And how did the FBI determine that it was Mr. O'Boyle behind that shield?

A At the time, the belief that it was Mr. O'Boyle was the one behind the shield based off of the leak information that we could tell who had accessed information, what specific information they had said, and what had been done at that point.

Does that make sense?

Q Yes. And what information does the FBI have now that it was Mr. O'Boyle behind the shield?

A I can't talk about that.

Q Okay. Does the FBI still --

A Because that comes after the suspension.

Q Does the FBI still believe that it was Mr. O'Boyle behind the shield?

A I can't talk about that. Our basis for the suspension up to that point was that it was Mr. O'Boyle that was in that case file --

Q Okay.

A -- and that downloaded information, that snipped information out of the case file, and that removed it from the system unauthorized.

Q So is that the only information received in the referral?

A For the suspension.

Q Okay. And then has there been additional information within the referral or was it just the --

A That was the information we received in the referral.

Q Okay. And so was that the sole basis for his suspension?

A That was what led to it, from what I reviewed, because I can't -- I can only go up to the suspension. That was the result, suspension, as we were looking to remove, again, the threat to national security. And at that moment, Mr. O'Boyle appeared to be a threat to national security.

Ms. Greer. Sorry. Could we go off the record for just 1 minute?

[redacted] Off the record.

[Discussion off the record.]

[redacted] We can go back on the record.

BY [redacted]:

Q Please continue.

A I apologize. There was additional information.

Q Okay.

A When they were doing the workup on Mr. O'Boyle, the Insider Threat Office additionally looked at other things that he had accessed, and they determined that he had accessed multiple Guardian investigations of January 6 subjects that he was not -- have any part into, no lead value into. He had accessed and downloaded that information without authorization.

Q Okay. And so those were the only two allegations referred to in the referral?

A Yes, ma'am.

Q Okay. Has additional information been found?

A I can't talk about anything from the suspension beyond.

Q Okay. And what's the -- why are we stopping at the suspension?

A Because that's what I signed.

Q Okay.

A So for a revocation or a letter or no action or a counseling, I won't be the one to review those, and so I did not review all of that, because I wasn't authorized by the agency. I can only authorize to talk about my own personal actions at that time.

Q Have you been involved at all in the investigation?

A No, ma'am.

Q Have you had any briefs on the investigation?

A Let me think about that one second, because it's hard to -- because we get briefs -- I was briefed on this initially when it came in, because it was a huge concern to us to have that type of information.

I don't think -- oh, I have been briefed on Mr. O'Boyle, because you all asked about

the timeline. So I have been briefed on the timeline subsequently to that, yes, ma'am --

Q Okay.

A -- as to how we got there. I've been briefed on what happened in his move, because you all were interested in that, and those pieces, but not about the investigation.

Q Okay. And have you discussed the investigation with the Office of Congressional Affairs in regards to your interview today?

A In prep for this.

Q Okay.

A I want to clarify one other little piece.

Q Uh-huh.

A In hypothetical, if one case touches another case, I may be briefed on another case that gives some information to this, but I made the decision on that, but not -- and I may know --

Q Okay.

A -- it because of that, but not this.

Q Okay.

A Does that -- are you tracking what I'm saying there?

Q Uh-huh.

A Okay.

Q And so what did you discuss with the particulars of the investigation with the Office of Congressional Affairs prior to today's interview?

A Just exactly what my parameters were that I would be allowed to discuss.

Q Have you reviewed any documentation regarding Mr. O'Boyle's case prior to today's interview?

A I interviewed the stuff at the suspension.

Q Okay. So you reviewed the suspension letter?

A Yes, ma'am.

Q Did you review the suspension packet?

A I went -- yes, ma'am. That would be -- so the letter is attached to like a packet. And so I went back and reread the packet, yes, ma'am. And then I asked for clarifying details if there were any I needed.

Q Okay. Has the FBI conducted -- Security Division conducted any interviews of witnesses in regards to Mr. O'Boyle's case?

A That would have followed after the suspension. I'm sorry. I can't discuss that.

Q Okay. But you could discuss that they wanted to interview Mr. O'Boyle?

A I could tell you that they would, yes, ma'am.

Q Okay. Are there any other individuals that they wanted to interview?

A In a course of any normal investigation, we would interview any and all individuals that we would believe would be pertinent into that investigation. We would run instant messages. We would look for text messages, emails. All of those things we've talked about in the other case, those would be things that would, again, continue on after suspension. But I can't talk specifically about what they're doing in Mr. O'Boyle's case.

Q Prior to the suspension, did the Security Division have any interaction with Mr. O'Boyle's chain of command?

A Yes. They would have told him that the -- it was inbound, that a suspension was coming, yes.

Q Did they discuss any particulars about why the suspension was occurring

with --

A They would have, yes, ma'am.

Q Okay. And at the time, as you know, Mr. O'Boyle was between moves. He was moving from Kansas to Virginia.

Which chain of command did the packet go to and the suspension letter go to?

A The suspension letter would ultimately go to his Virginia -- what would have been his Virginia chain of command. But it's very specific to know that Security Division opened the investigation on August 1st.

Q Uh-huh.

A He applied for the job that he received in March and was selected for it in May and accepted transfer orders in June. He had already scheduled to have his house packed up. It was packed up and moved on August 10th.

So there was very -- we did not know, like, he was packing up his house or any of those things. We knew that he was -- had been accepted for a new job. As part of the package, we would understand that when we were looking. But as part of that course, that was the timeline we were working with.

Q Okay. So then the -- the suspension package would have gone to his new office, you stated, correct?

A Yes, ma'am.

Q And why was the decision to send it to the new office?

A Because he had already left his old office.

Q Okay. And when was your understanding of when his last day was with the Wichita resident agency?

A We were trying to determine that, because there is some gray in there in the sense of he had his house packed up on August 10th, 11th, and the 12th, if I'm not

mistaken, but he didn't take any leave for that. And that's unusual, because generally you have to be there when your house is packed up. Perhaps his wife with three kids --

Q Yeah.

A -- or two kids covered it for him. I'm not sure. So the first lead that I could find was in September.

Q Okay.

A So it started like -- I'm not going to get -- but it was very -- it was very soon, and it was all maternity leave. He had started with --

Q Yep.

A -- a biological birth leave, and it looked like he took about a week of that. And then he started admin leave that you're entitled to when you move. And I don't know why he switched, because he could have done biological birth leave for 12 weeks. And then he took admin leave, and then he reported to the office.

Q Okay. And so did the Wichita resident agency have any awareness as to whether or not Mr. O'Boyle was going to have his security clearance suspended?

A They would have been briefed on it, yes, ma'am --

Q Okay.

A -- that we've got that -- because we were trying to locate exactly where he was at that point.

Q When was the Wichita resident agency or Kansas City field office briefed?

A I'm not going to be able to tell you exactly. I will tell you that there were conversations, because once he came on our radar and we realized that he had downloaded the documents and we were looking that he still was actively accessing cases, it then becomes a concern like, how do I stop this as quick as possible?

He was out on leave already, and so the determination was we will just go ahead

and cut that access since he's not in the office. And so that gave us some breathing room to get everything in order to do the documents.

Remember we talked about it's like that seven-step chain of --

Q Uh-huh.

A Well, you've got holidays in there, and you've got weekends in there, and you've got people on leave in that chain, and so that we would have time to appropriately route it through all the -- the approval process.

Q Okay. And so at your transcribed interview on April 24th, we discussed Mr. O'Boyle's move and how his personal belongings were packed up, as you just mentioned, August 10th, 11th, and 12th, that shipped to Virginia. And then he came here. He gets suspended on his first day at the office, and he's unable to access his personal belongings.

Between August 24th and today, have you looked into why the FBI failed to provide Mr. O'Boyle with access to his belongings?

A His belongings were moved by a professional moving company. The moving company is the one that he has to access his belongings to. The FBI didn't deny him access to his belongings.

Q And according to Mr. O'Boyle, he tried numerous times with the -- I don't know if it was like a storage facility, but the moving company. He tried to get access with the FBI, and they were going back and forth with one another.

Did you see any of those conversations or any correspondence?

A I got briefed on it to some to degree, because I was trying to, again, determine whether his household goods goes in. I didn't see this correspondence he has. I don't have that, because that would be with him and a private company, so I don't have the private moving company.

But the Bureau paid for the move to go to Virginia. For him to then -- what he asked us, my understanding is he asked us then to move his goods back to Kansas City, and we're not going to do that. But that he could pay -- I think the company said that -- all right. Excuse me. He didn't ask us. He asked the company to move his goods back to Kansas City, and they said, Sure, but this is how much it's going to cost you, and he didn't want to pay that fee for them to move it back. We wouldn't move it back at that point.

Q Was there any -- did you see any correspondence between Mr. O'Boyle and the FBI regarding obtaining access to his goods?

A I didn't see any correspondence regarding that, no, ma'am.

Q Okay. In regards to the allegations that came in via the referral about Mr. O'Boyle being behind that screen in the media interview that we spoke about earlier, has the FBI made any sort of determination about the veracity of those allegations?

A I'm going to break this down because I don't think I quite understand your question.

So, again, there was an individual who was behind a screen that provided an interview. The interview that he provided was very detailed and discussed very specific things from a case file.

The suspension is based off of the access of that case file and that very, very specific information that was provided. Regardless of who was standing behind that screen, the only way that person got that information from our investigation was Garrett O'Boyle's access, other than individuals who have a right to be in the case that were case file agents who did not leak that information. Garrett O'Boyle was the flaming gun for us.

Q Okay. And have those other individuals who were the case agents been

interviewed regarding their access?

A They have.

Q And they all definitively stated they did not?

A They did not leak the information. They're the ones that brought it, again, to the attention that their case had been leaked.

Q In between the date that the allegations were received and the suspension, was Mr. O'Boyle asked about this interview?

A I'm sorry. From the date that -- no.

Q No, he wasn't asked --

A No.

Q -- between --

A That date? No. And the suspension? No. We moved to suspend to remove the threat from the national security. So, no, he was not interviewed prior to suspension.

Q So prior to suspension, he wasn't asked if he leaked the information?

A No.

Q And he wasn't asked if he was the individual who was behind the screen in the --

A No.

Q -- media interview? Okay.

And you said it's -- his case is now in the adjudicative process. Is that correct?

A Yes, ma'am.

Q You said hopefully soon?

A Yes, ma'am.

Q And once the adjudicative process happens, will Mr. O'Boyle have access to

all of the information relied upon by the FBI in making these decisions?

A If he asks for reconsideration, yes, ma'am, he will.

Q Okay.

Ms. Greer. If he's revoked.

Ms. Moore. If he's -- I'm so sorry. Yes. If he is revoked, yes. I'm sorry.

BY [redacted]:

Q Do you know if Mr. O'Boyle has requested outside employment?

A I don't know that, no, ma'am.

Q Okay. And do you know if Mr. O'Boyle submitted a leave election form once his pay was suspended?

A Not that I'm -- I don't know anything about that, no, ma'am.

Q Okay.

A I'm not saying he didn't. I just am not aware of it.

Q So during the transcribed interview on April 24th, my colleagues entered as an exhibit, which we can enter as an exhibit now, the FD-889, the FBI Information Technology and Information Systems Rules of Behavior for General Users Agreement Form.

A Okay.

Q That will be exhibit No. 9.

[Moore Exhibit No. 9

Was marked for identification.]

Ms. Moore. Do you want me to read the whole thing or do you want to direct me --

[redacted] No. I'm sorry.

Ms. Moore. This I recall is more than five pages.

BY [redacted]:

Q Are you generally familiar with this document?

A I'm generally familiar, yes, ma'am. I cannot quote it to you.

Q And on page -- I think it's 8 of 9 here -- there's an acknowledgement. Have you signed this as an employee of the FBI, the acknowledgement?

A I have, yes, ma'am.

Q Okay. And can you just generally describe what's in this, the rules of behavior?

A I can give you a general overview, but if you're going --

Q That's great.

A -- to get specific, we're going to -- it's going to talk about what you can and cannot do when accessing government information systems and the expectations of any information system that you access or even what you bring in and take out of the facility.

Q And does it describe whether or not on like the unclassified system, you can share sensitive information or operational information?

A If you want to point me to that paragraph, I'll read it and make sure what it says.

Q There's a couple spots. On page 4, the "a" at the very bottom, or on page 3, 6a and 6b has some.

A All right.

Q Okay. Did I accurately describe --

A Do you want to tell me what you -- how you read it?

Q Yeah. What kind of information can be shared on the different systems, the classified and unclassified system, and making sure you're sharing the correct information on each system.

A It generally talks about that, but that leads in, as required, a part of official duties, so --

Q Okay. And do you have to sign the acknowledgement yearly or --

A I can't remember how often we sign it. I want to feel like it's yearly when we do our infosec security.

Q And is there training that goes along with this?

A There is. Information security training, yes, ma'am.

Q Okay. And I want to jump to your time as special agent in charge of the Washington field office of the Intelligence Division.

A Yes, ma'am.

Q And when were you the special agent in charge of the Intelligence Division there?

A From October of 2019 through June of 2021.

Q June 2021, did you become the EAD?

A I became the assistant director of Security Division.

Q Okay. And then the EAD?

A Yes, ma'am.

Q Okay. And are you familiar with, during your time as the special agent in charge of the Intelligence Division during the pandemic, there were some emails that you wrote with the subject line, Captain's Log, Day --

A I did, yes, ma'am.

Q Yes. Okay. And --

A I believe those were leaked, yes, ma'am.

Q Yes. And they were leaked. The -- and they were posted on a website. Do you remember?

A I do remember being advised they were posted on a website. I didn't personally go to the website.

Q Yeah. And did the FBI request that they be taken down by the website, are you aware of?

A I was advised that they probably were, yes, ma'am.

Q Okay. And why was the FBI advising that they be taken down?

A Because it was disclosing the identities of many FBI employees. And as we've talked about previously, there's been an increase in threats to FBI employees in the current atmosphere.

Q Okay. And did this only begin with COVID? I know they have like a range of days, like Captain's Log, day No. 1, or day No. 250. Did it only begin with the COVID quarantine or were you doing those prior to the COVID pandemic?

A I started those during COVID.

Q Okay. And when you were sharing this information with your team prior to the pandemic, how -- what form did that take?

A I started in October of -- what did I say, 2019?

Q 2019.

A And we started those in March.

Q Yeah.

A So I don't remember that I was sending out weekly emails prior to that, no, ma'am. This was an attempt to continue to communicate with a dispersed workforce.

Q Okay. And between October 2019 and March 2020, when the kind of COVID pandemic hits beginning peak, did you do any sort of weekly meetings with your team where you discussed similar information or have any sort of correspondence where similar information was discussed?

A I met weekly with my managers.

Q Okay.

A My direct reports, yes.

Q And were your managers and direct reports included on the captain's logs emails?

A They would have been, yes, ma'am.

Q Were all of the employees under your supervision included on those emails?

A For the captain's logs?

Q Yes, ma'am.

A Yes, ma'am.

Q Okay. And would all of the -- you just said it was the managers that attended the weekly meetings that you held. Is that correct?

A Yes, ma'am.

Q Okay. Did you compile any sort of handouts that you dispersed at the weekly meetings about accomplishments of the Intelligence Division or --

A No.

Q -- various operations?

A Not that I recall.

Q Okay. And you said that the FBI was concerned about disclosing employee names publicly.

Did it ever concern you, when you were compiling these emails with special agents' names, what operations they were working on, other employees, that they could leak?

A No. At that time, I was naive.

Q Okay. And in these emails, you discussed various operations that the team

was working on, and it included like photo contests and updates. Is that correct?

A Photo contests, like we had a best Christmas light --

Q Yes.

A -- display contest or an ugly --

Q Yes.

A -- sweater contest. There were no photo contests of any ongoing investigations.

Q I'm sorry if I -- if you misunderstood. I was talking about -- so you gave updates on what everyone was doing. You gave shout-outs for different individuals who had had great successes. And in addition, you discussed, like, the photo contest, that you were having Christmas lights. You discussed births for the unit.

A Yes.

Q Is that correct?

A That is correct.

Q And individuals moving to and from the unit?

A Correct.

Q Okay. Were you aware if any other special agents in charge were doing similar emails?

A They were.

Q And what field offices were they affiliated with, do you remember?

A Many.

Q Many?

A Yeah.

Q And they were going out to everyone within the division that they oversaw?

A Yes.

Q Okay. When you were drafting these emails, what kind of consideration went into what should be included?

A Extensive consideration went in.

Q Okay.

A I spent hours --

Q Can you tell --

A -- writing those.

Q Okay. Can you tell me a little bit about the process?

A Each of my substantive divisions would send -- or branches -- excuse me -- would send me the accomplishments and the accolades for their week. And then I would take some of that and compile that, trying to recognize employees to know that they were still being seen and heard even though we all weren't together.

Q Uh-huh. And at the time, you said it didn't concern you that it could be leaked, the information, the operations that different units within your division was working on?

A I didn't give very specifics on operations. It would be anything that was generic in nature, like, hey, great job on the surveillance this week, or, hey, we got an indictment. So no.

Q In several of the emails, you reference information that's classified, so you couldn't go into a lot of details.

What kind of steps did you take to make sure that the information you were sharing wasn't classified?

A The document was reviewed by multiple people before I sent it out.

Q And who were the emails reviewed by?

A My special assistant did.

Q Uh-huh.

A And then, again, each of my branches sent up the information that was directly taken from their reports.

Q Okay. So did you copy and paste what the --

A Not necessarily copy and paste, no.

Q Okay. So it was only the special assistant who reviewed, or did you send it out to the other management?

A It depends upon who was -- for weeks. So some weeks a special assistant may have reviewed it. Maybe one week it would be an ASAC and a special assistant -- maybe it was an SIA -- to make sure that it was resonating with the employees, that type of stuff.

Q Okay. And what was the special assistant's role in reviewing?

A Grammar, grammatic, making sure I didn't miss anything or add something I shouldn't, any of those type of things.

Q Were they checking to make sure the information you were sharing wasn't sensitive in nature?

A They would have.

Q Okay. And how did they decide what was sensitive and what was not sensitive?

A To the best of their ability and training.

[Moore Exhibit No. 10

Was marked for identification.]

BY [redacted]:

Q Okay. Let's -- I'll enter as -- I think I'm on exhibit No. 10 here. Day 275.

A Do you want to point me to what you want to talk about or do you --

Q Yeah.

A -- want me to read the whole thing before we talk about it?

Q Whatever you're most comfortable with. I'm happy just pointing to you where --

A Why don't you do that.

Q The first paragraph, it starts out: What an amazing week it was. I can't even wait to tell you about IS-2. Okay. I can't really tell you about what IS-2 is doing, because it is both classified and special access program, but wow. I mean, wow, wow, wow. In very generic terms, they have acquired something from an adversary. The something is insane -- off the charts.

Did it concern you that you were talking about something that could be sensitive here?

A Obviously. That's why I'm using very generic terms.

Q Uh-huh. And you still shared it with -- in the email?

A There is nothing in that email that is classified.

Q Were you concerned at all that this could become public or someone could have accessed the unclassified FBI system?

A There is nothing about that paragraph that discusses what we were talking about. It's very generic and benign.

[Moore Exhibit No. 11

Was marked for identification.]

BY [redacted]:

Q Okay. Let's go to exhibit No. 11. This is day 261.

A Do you want to firm with me?

Q Yes, definitely. So third page.

A What part?

Q The second paragraph there. I'll read it.

There was a BEAR sighting. Yep, it has been a long time since we were able to report on a bogie bear. You know all the details and even a definition of a bogie bear is classified, but a shout-out to Oscar Team who responded quickly. Awesome job on short notice.

Did it concern you about including this in the email since the details and definition of a bogie bear are classified?

A It did, and so I had it reviewed by the assistant special agent in charge over that to make sure that it was benign enough that it wouldn't be classified.

Q And did they rule that it was benign enough?

A They did.

Q Okay. And when you were unable to do these, like, weekly reports, others would step in and do them, correct?

A That would be correct.

Q And to your knowledge, who all did these logs besides you?

A Each of my special agent in charge and each of my SIAs. My ASACs. Excuse me. Special agent in charge.

Q How many -- at the time that you were the special agent in charge of the Intelligence Division, how many ASACs did you have?

A Two.

Q Two? And were they in charge of specific subject matter areas?

A Yes.

Q What subject matter areas?

A They each had a branch.

Q Okay.

A One of them had surveillance assets.

Q Surveillance?

A And one of them had human assets.

Q Okay.

Okay. And then exhibit No. 12, day 55.

[Moore Exhibit No. 12

Was marked for identification.]

Ms. Greer. While we're passing out this exhibit, I would just request for the record that to the extent that any transcript would ever be released publicly, that these documents in particular contain not only non-SES information, but information about --

[redacted] Family members.

Ms. Greer. -- family members, children. So we would just respectfully request an opportunity to redact as always.

[redacted] Okay.

Ms. Moore. Do you want to point me to what part you want to talk about?

[redacted] Yes. Page -- the second page there. And then the second to last full paragraph beginning, "In February 2020."

BY [redacted]:

Q States: In February 2020, Legat Abu Dhabi specifically requested the assistance of IA/Reports Officer Rosemary Rice and C12 -- CI-2 SA Grant Parrish regarding intelligence pertaining to petroleum tanker Nautic, aka Gulf Sky. Both the DOJ and Department of Treasury were highly interested in this vessel and sought any information connecting it -- connecting it to ongoing investigations. IA Rice and SA Parrish were specifically tasked with this request due to prior success in working with Legat Abu Dhabi

on another high-profile case that received the attention of the National Security Council. IA Rice took point on researching Nautic and provided the results of a deep-dive intelligence review to all the Abu Dhabi ALATs. Thank you Rosemary and Grant for going above and beyond to assist our colleagues outside the AOR.

Did I read that correctly?

A You did.

Q And at the time this email was sent, it was May 10th, 2020. Was the investigation into the Nautic petroleum tanker done at that point in time, do you remember?

A I'm not sure.

Q Okay. And did this -- the last email we discussed, an ASAC reviewed for --

A This would probably --

Q -- information?

A -- have been replied to -- provided by an SIA.

Q Okay. And it was the special assistant then -- your special assistant who reviewed to make sure nothing was sensitive?

A Correct.

Q Correct? Okay.

Ms. Gibbs. I'm sorry. When you say sensitive -- can you just clarify what you mean by sensitive?

[redacted] Like sensitive, for official use only, law enforcement sensitive.

Ms. Gibbs. Yeah. So I think that's --

Ms. Moore. That's different.

Ms. Gibbs. Yeah, that's different.

Ms. Moore. Classified is different than sensitive. It's very different.

[redacted] Yeah.

Ms. Moore. Sensitive can be processed on an unclassified machine, and it's in the course of someone's official duties.

[redacted] Yeah.

Ms. Moore. So I don't know what you're asking in this paragraph. You were trying to insinuate something here?

[redacted] No. I'm --

Ms. Gibbs. I just want to make sure you were speaking about the same thing.

[redacted] Yes.

Ms. Gibbs. Because I don't think you two have the same understanding of what sensitive means.

[redacted] I was just making sure whether -- did the special assistant -- I was assuming you weren't sharing classified information, so did they review it for sensitive information as well or just for classified?

Ms. Moore. No. They reviewed it for classified information.

[redacted] Okay. Okay.

Ms. Greer. Would you recall specifically who reviewed this language for you?

Ms. Moore. I don't.

BY [redacted]:

Q And during the course of your work at the Human Resources Branch, do you communicate with other branches of the FBI?

A Of course.

Q And how often do you communicate with other branches?

A Of the FBI? On a daily basis.

Q Yes, ma'am.

And when you're communicating with other branches, do you communicate mainly email, in person?

A Do you want to specify what you're talking about communicating? Like, what are we communicating about? Are we communicating with the other executive assistant directors? Am I -- are you asking me if I personally talk to other ADs? Are you asking if my ADs talk to other ADs? What -- I don't understand the question.

Q Just very broadly, how do you communicate with others at the FBI? We'll start with that.

A We communicate in all means. We can communicate personally. We can communicate in writing form. We can communicate via telephone. We can attend Teams meetings with each other. We can attend SCION meetings with each other. So any broad number of ways.

Q Okay. And have you ever used a personal device to communicate with other -- with others at the FBI?

A Sure. I have friends that are in the FBI.

Q Okay. About official business?

A No.

Q You've never used a personal device to communicate about personal --

A No.

Q -- not -- excuse me -- official business?

A No.

Q Okay. Does the Human Resources Branch, does it ever use Signal or Telegram?

A The Human Resources Branch?

Q Yes.

A No.

Q Do you use Signal or Telegram to communicate?

A I do.

Q Okay. In a personal capacity or in an official capacity?

A In a personal capacity.

Q In a personal capacity.

And do you communicate with other FBI employees in a personal capacity on Signal or Telegram?

A I have.

Q Okay. And what instant messaging capabilities do you use for official FBI business --

A Skype --

Q -- you personally?

A -- or Teams.

Q Okay.

[redacted] I think that was my last question, but just let me -- we'll go off the record.

[Recess.]

[redacted] We can go back on the record.

EXAMINATION

BY [redacted]:

Q All right. One quick little set of questions about Mr. Friend again before we move on.

In the last hour, the -- there were some questions about what Mr. Friend might have known regarding the SWAT matrix in the relevant case where he was asked to

execute that warrant. Do you recall those questions?

A Yes, ma'am.

Q And I believe the suggestion was that Mr. Friend might have known that the suspect was willing to cooperate. Did you get that impression from the questions?

A I did, yes, ma'am.

Q Do you know the answer of what Mr. Friend knew about the suspect's intention to cooperate?

A I don't specifically know. I know that he declined the opportunity to read the warrant or to have any discussion regarding that decision. He just felt himself that it was wrong.

Q So as far as you know, Mr. Friend never spoke to the suspect personally before the warrant was executed, right?

A That is correct.

Q And he didn't read the warrant affidavit. Is that what you're saying?

A Yes, ma'am.

Q So we have no reason to believe that he actually -- the suspect actually was going to cooperate?

A That's correct.

Q Okay.

All right. Moving on to Mr. O'Boyle. Are you familiar with Garrett O'Boyle?

A I am familiar with his case. I don't know him in any capacity.

Q His security review case?

A Yes, ma'am.

Q Okay. Do you know what his position is within the FBI?

A He is a special agent.

Q Okay. And I learned something new in the last hour, so I want to ask a few questions if you can follow up, but I understand if you cannot.

Is it fair to say that the initial security clearance review for Mr. O'Boyle was initiated by the threat -- Insider Threat -- I'm sorry. What did you call it? Insider Threat group?

A Insider Threat Office, and that is 100 percent correct. The complaint came in to Security Division from the Insider Threat Office.

Q And that's the same office that you spoke of earlier with regard to Mr. Friend's use of an unauthorized thumb drive?

A Yes, ma'am.

Q Okay. So like you said earlier, is it fair to say that when that threat was -- or when that referral was generated by the Insider Threat Office, it was an automatic trigger?

A Yes, ma'am.

Q Okay. So no one had any discretion in that case to report the conduct once they learned that the files had been accessed in an unauthorized manner?

A Yeah. There's no discretion in that. All FBI employees are obligated to report.

Q Okay. And it -- fair to say that, once the investigation began, that was the -- there was a level of urgency about that investigation that might have been a little unusual. Is that fair to say?

A When it came into Security Division, there was a level of urgency because of the identity of the individual, and it appeared that he was still accessing case files and information that he wasn't authorized to have access to and disclosing it, because we had seen information obviously in public forums.

Q So when the referral came in, you -- people at the FBI had already seen the information in public?

A Yes, ma'am.

Q Okay. Was that part of the initial referral? The -- I'm sorry. I'll be clear. Was the information that came out in the public forum part of the initial referral?

A That was the referral, was that the information had been seen publicly.

Q Okay. And then looking back is when it was discovered that those files had been accessed in an unauthorized manner?

A Yes, ma'am.

Q Okay. Why was there such urgency in that case? Can you explain why the FBI generally would be concerned about that kind of ongoing access?

A It shows a disregard for, one, need to know, or basic security of any information. You don't have a right to go into a file, download information, and disclose it publicly.

Q Where was the public disclosure?

A I cannot tell you. I know that it was to a media organiz- -- I do know who it was. It was Project Veritas who did the interview of the individual behind the screen.

Q Did you see the interview yourself?

A I didn't watch it myself, no, ma'am.

Q Okay. And the subject of the interview was January 6 cases?

A No. I believe the subject of the interview was an ongoing criminal case in a field office.

Q One particular case?

A Yes, ma'am.

Q Is that case still ongoing?

A Yes, ma'am.

Q Did Mr. O'Boyle have any official connection to that investigation?

A None at all.

Q From the investigation that the FBI did into the unauthorized access to those case files, do you know if -- do you know if they discovered how many files had been accessed?

A So they had -- they went through and did a history of what Mr. O'Boyle accessed. Eventually that was what would be leading up to the suspension and where we realized that he had also started accessing other cases and other leads -- Guardian cases, we call them -- and had been downloading those cases without what was an apparent need to know or authority to be within those files.

Q So you say that he didn't have an apparent need to know. Is that because he wasn't assigned to any of those investigations?

A Yes, ma'am.

Q And it wasn't within his field --

A Purview.

Q -- of purview?

A Yes, ma'am.

[redacted] The cases -- the other Guardian leads or the other information he was downloading, about how many leads or cases did that involve?

Ms. Moore. So up to the suspension, it was just a couple. I can't remember exactly how many. I can't talk about what they've determined since the suspension has occurred, but up to the suspension, it was a few.

[redacted] So up to the suspension, you were able to determine he had downloaded a certain number -- he didn't -- it -- I'm sorry. But it's possible that you

were able to run -- to make further determinations after the suspension, but you can't talk about that?

Ms. Moore. I can't talk about those.

[redacted] Okay.

[redacted] Was any of the information that he leaked to Project Veritas personal information regarding witnesses or criminal suspects or non-FBI agents?

Ms. Greer. I'm sorry. Off the record for one second.

[Discussion off the record.]

Ms. Moore. So let me -- let me try to clarify. So, again, what we know from the insider threat up to the suspension was that Mr. O'Boyle was the only individual, based off of the interview that was public, that had access to all of those information unauthorized. I can't tell you who was behind the screen that was --

[redacted] Right.

Ms. Moore. -- the actual individual that provided the interview. He is the -- what we would call the linchpin of all those pieces that that individual behind that screen spoke about.

BY [redacted]:

Q Okay. So I'll clarify my questions. I'm not asking about the person behind the screen necessarily. But --

A Okay.

Q -- the information itself, just focusing on the information that was revealed. First of all, do you know when that Project Veritas interview was?

A I don't remember specifically, no, ma'am. And I don't actually -- because I know you just asked me that question, I didn't watch the interview, and so I don't know specifically everything he discussed.

Q Okay. But the information revealed in that interview, did it include any personal identifying information about non-FBI employees that might have been like, say, a victim in a criminal case?

A I believe that it did, yes, ma'am.

Q Do you know -- I'm not asking for that person's information, but, like, for example, did it include any references to a crime victim?

A I'm sorry, I can't speak to that.

Q Okay.

A I don't know. I'm sorry.

Q And when you say you believed it did include some personal information, are you just saying there were -- there was information about people that might have been connected in some way to the investigation?

A Correct.

Q Okay. What about information about FBI agents who were working on the case, was there anything leaked?

A I do remember being briefed that that was part of it, yes, ma'am.

Q Okay. And did that cause any concerns for the FBI?

A Absolutely, as we try not -- I mean, working for the FBI in itself is not classified or anything along those lines, but people become very passionate about certain cases that we work and people become targets because of those cases.

Q Do you know if that happened in this case?

A I can't talk about that.

Q Okay.

A I'm sorry.

Q All right. So Mr. O'Boyle's security clearance is ongoing. You already said

that. Is that right?

A The investigation continues, yes, ma'am.

Q Okay. And for that reason, you're somewhat limited today into what you can talk about?

A I can only talk about the events up to the suspension. I can't talk anything beyond the suspension.

Q Okay. From what you know -- now, first of all, that limitation that you're under right now, the reason that you're limited is out of concerns for fairness in the adjudicative process basically, right?

A Yes, ma'am.

Q Fairness to him. Is that right?

A Yes, ma'am.

Q Okay. But you know that Mr. O'Boyle's security clearance was suspended based on an allegation that he had made unauthorized disclosures of what you considered law enforcement sensitive materials to the media. Is that right?

A That he had made inappropriate access and downloaded information he was not authorized to, and misused information systems.

Q Okay. You clarified that. I'm sorry. That was a bad question --

A That's okay.

Q -- because you -- you're not sure who it was that actually gave the interview. You just know that the information originally that was accessed unlawfully by Mr. O'Boyle?

A Correct.

Q Okay. And that conduct was a violation of Adjudicative Guideline K, handling protected information?

A Yes, ma'am.

Q Okay. And Guideline K, which I think you're familiar with, states, in part, quote, Conditions which may be disqualifying include disclosure of protected information to unauthorized persons, including the media.

But, also, accessing information is prohibited conduct under that guideline. Is that right?

A Yes, ma'am.

Q Okay. And just generally, why would it be a concern at the FBI if an employee was accessing this protected information without authorization?

A We are very specific regarding need to know, and if you don't have a need to know of something, you should not be accessing that. It's a risk to national security. We don't want excessive people involved in any case or information that don't have -- that they do not have a need or a right to be in.

Q Okay. Are you confident that the suspension of Mr. O'Boyle's security clearance was not motivated by animus?

A I am 100 percent confident of that.

Q And was it -- the decision done to punish him for his political or ideological beliefs?

A Absolutely not.

Q Are you confident that the true motive behind the FBI's decision to suspend his security clearance was to protect the national security of the United States against a serious potential risk posed by Mr. O'Boyle, who was continuing to access secret information?

A Yes, ma'am.

Q Are you familiar with allegations that Mr. O'Boyle has made that the FBI

intentionally timed the notification of his security clearance suspension letter in a punitive fashion so that he would have incurred the hardship of executing a move to a new duty station before receiving the information that his clearance was suspended?

A I am -- I am familiar with the accusation.

Q And what's your response to that?

A That that is not accurate.

Q And how do you know it's not accurate?

A Because I'm the one that signed that security suspension letter, and I would never do that to an employee.

Q And at the time that you signed it, I think you explained in detail what the timeline was for his move, but did you know his -- whether he had packed up his goods, for example, at that time?

A At that exact moment, I didn't know. I knew that he had moved, so I -- by logical explanation that if you're moving or reporting to a new duty station, as a general rule, you've packed up, you've moved, you've moved forward.

Again, I kind of say that with surprise, because I did know that he had had a new baby. We had been made aware that he was out of the office, because we were trying to quickly figure out how to limit his access to information systems, but yet still give us enough time to do the appropriate document and get everything approved through the chain.

But it's not always a given that someone packs up and moves just because they get a promotion. Sometimes the families stay behind, and that's not also unusual.

Q Okay. Is it fair to say you were simply following your normal course of action as the package was being prepared and notifying him as soon as you could?

[2:44 p.m.]

Ms. Moore. That's correct.

BY [redacted]:

Q Are you aware that Mr. O'Boyle raised the issue of improper notice at a hearing before the Merit Systems Protection Board in April of 2023?

A I know that Mr. O'Boyle had a Merit Systems Protection Board hearing. I wasn't -- I am not positive of what that entailed. I was not part of that board.

Q Okay. So you don't know that -- you are not aware of the outcome, they found that the FBI had not improperly handled that notice?

A I am aware that his complaint in front of the merit protection board was denied.

Q Okay. So essentially, just to be clear, the board made a favorable finding for the FBI in the notice issue?

A They did. And that was what one of the reasons, I won't go on, but I thought that I could come today and openly talk about Mr. O'Boyle. That was why I was briefed. As a general rule, I wouldn't just be briefed on the outcome of those boards. It was only because we were trying to see what was still pending litigation and what I could or could not talk about today.

Q I understand. You were trying to be cooperative with the committee?

A Yes, ma'am.

[Discussion off the record.]

BY [redacted]:

Q The letter in our exhibit 1 from Mr. Dunham refers to another FBI employee, Mr. Brett Gloss. Are you familiar with the discussion of Mr. Gloss?

A I am familiar with Mr. Gloss, yes ma'am.

Q Okay. Mr. Gloss' security clearance was revoked by the FBI on May 3rd, 2023. Is that right?

A Yes, ma'am. May 2nd, 2023.

Q Okay. I am sorry. Yeah, I have the wrong date there. Thank you. May 2nd.

And we have I believe --

Ms. Gibbs. He may have gotten it on --

Ms. Moore. He may have gotten it on a different day. I would have to see the letter itself.

[redacted] Let me pull out the letter now.

Mr. Moore. But I believe I signed it on the 2nd?

[redacted] All right. I am going to mark this as exhibit -- where are we? 13?

[Moore Exhibit No. 13

Was marked for identification.]

BY [redacted]:

Q So exhibit 13 it says, May 2nd on the letter. So it looks like the revocation was May 2nd. Is that right?

A Yes, ma'am. That's when I signed it.

Q Got it. Okay. The Security Division opened an investigation regarding Mr. Gloss in August of 2021 after receiving referral from the FBI's Washington Field Office. Is that correct?

A Yes, ma'am.

Q And Mr. Gloss' clearance was initially suspended based on concerns under the adjudicative guidelines (a), allegiance to the United States, guideline (e), personal

conduct and guideline (j), criminal conduct. Is that right?

A Yes, ma'am.

Q Now the specific security concerns that resulted in his suspension stem from evidence, according to the letter, that, quote, "Mr. Gloss was in a restricted area of the U.S. Capitol Grounds on January 6th, 2021." Is that right?

A Yes, ma'am.

Q And the exhibit 1, May 17 letter there is a discussion here I guess on page 6, just to direct you to that.

The security division's investigation revealed that Gloss had committed a criminal trespass into the restricted zone at the Capitol on that day. Is that right?

A That is correct.

Q And that is a violation of Federal law. Is that right?

A Yes, ma'am.

Q Based on this conduct, the FBI determined that Gloss, "Showed questionable judgment and inability to follow rules and regulations, indicating Mr. Gloss may not properly safeguard classified or sensitive information. Is that right?

A Yes, ma'am.

Q Do you agree with this determination with respect to Mr. Gloss?

A I do.

Q And why do you agree?

A Because of his actions that he took. So we received a referral from the Washington Field Office based off of AdTech data that indicated that an employee, Mr. Gloss, had entered the restricted area on January 6th. We opened an investigation. We do the logical steps again emails, instant messages, computer access, generally those open-source searches that we can do through PASMI. Okay, I don't have to explain that

again. And that information indicated that Mr. Gloss was indeed inside a restricted zone at the Capitol intentionally.

We subsequently interviewed Mr. Gloss. And Mr. Gloss, on a map, indicated where he was, which again indicated that he was within the restricted zone. He then told us a story that he was directed there by an individual in a -- like a construction-type vest, or like an orange vest. As we all know, there's lots of cameras in that area that we all have access to now. Mr. Gloss did not come in contact with anybody in an orange vest. There was no one at any point in that area directing anybody into restricted zones.

Additionally, he made statements to us about being gassed. We have pictures that he transmitted to other FBI employees that clearly show him within the restricted zone. And again, we have his own admission as to where he was.

Q And the fact that he was in the restricted zone, that conduct alone is the violation of Federal law. Is that right?

A That is.

Q Because it was marked and it was clearly restricted, being in that area was a crime?

A Yes, ma'am.

Q Okay. And he sounds like was not forthcoming when the security interviewers were talking to him about that day. Is that right?

A That is correct.

And I do want to clarify for our purposes as well, conviction of a crime or even being fully charged of a crime does not mitigate the guideline for criminal conduct.

Q Meaning that the guideline (j), criminal conduct, adjudicative guideline is broader than merely having been convicted? Is that right?

A Yes, ma'am.

Q Or even having been charged?

A Yes, ma'am.

Q Okay. So if the FBI determines that the conduct would have amounted to a crime, that would have be sufficient under guideline (j)?

A Yes, ma'am.

Q And in this case that's what the FBI determined?

A That is what the Security Division determined. Yes, ma'am.

Q Okay. And your investigation according to the letter included other evidence, for example, video and photographic evidence that showed Mr. Gloss in the vicinity of this restricted area, even after witnesses in that same area could be seen protesting violently and climbing scaffolding. Is that right?

A Yes, ma'am.

Q And also people around him were, at that time, struggling with law enforcement visibly who were trying to maintain barriers.

A That is correct.

Q The law enforcement was trying to maintain the barriers. There were people struggling against the law enforcement and you could see that Mr. Gloss was right there in that mix, maybe not struggling himself, but in that restricted area at that time?

A He was clearly in that mix. He was clearly seeing the contact. He was in the area which most people refer to a hangman's noose area. He even mentions in one of his emails how he -- or text messages, excuse me, how he's glad that they have been able to enter the Capitol so maybe they'll all stop getting gassed as much now. So he's clearly in the area where, you know, pepper spray is being utilized.

Q So he can see that law enforcement is struggling at that time to gain control of the area?

A Yes, ma'am.

Q And he is not leaving, he is staying intentionally, right?

A Yes, ma'am.

Q And you said the area is referred to as the hangman's noose area? Is that right?

A Yes, ma'am.

Q Is that referring to the gallows, essentially a noose that was hanging by the Capitol when the crowd was yelling for Vice President Pence?

A Yes, ma'am.

Q So that was going on at the time that Mr. Gloss was in that area? Is that right?

A Yes, ma'am.

Q Do you know if he participated in that?

A The video doesn't indicate that he participated, but he was clearly there.

Q And aware of that going on at the same time?

A Yes, ma'am. Although he told our investigators he wasn't and that he didn't see any clashes, which our investigation reveals, again, not everyone is truthful with us when we interview them and they like to tell a story that perhaps mitigates their actions. But the video does -- clearly shows where he was.

Q Yeah. I would imagine and correct me if I am wrong, but when you investigate and speak to a subject like the person whose appearance here is being reviewed, you are not obligated to take what they say at face value. Are you?

A No, ma'am.

Q And as an FBI agent, you are not trained to do that when you speak to criminal suspects or anyone in fact. Right?

A That is correct. And again, when we are using for security adjudications we use the whole-person concept. We use what they tell us, along with the facts that we have gathered in the course of the investigation.

Q And you are able to then use your judgment and show -- and decide where the evidence leads you. Is that right?

A Yes, ma'am.

Q And in this case, the evidence led the Security Division to conclude that Mr. Gloss was a security risk and that he had engaged in conduct under the adjudicative guidelines that we mentioned, (a), (j) and (e). That caused the FBI to question whether he was willing to maintain the FBI's standards in -- with respect to his clearance. Is that right?

A Yes, ma'am.

Q You already mentioned that Mr. Gloss showed a lack of candor with his false and misleading statements. Is that right?

A Yes, ma'am.

Q And did that make it even more troubling to the FBI if you were to continue his clearance?

A Yes, ma'am.

Q The Security Division investigation also revealed that Mr. Gloss had shared photos of FBI special agents who were engaged in the performance of their official duties. And he shared that with an individual conspiracy theorist who is known to post sensitive FBI information publicly. Isn't that right?

A Yes, ma'am.

Q Could that conduct have jeopardized the safety of FBI agents?

A Absolutely.

Q And why is that of concern to the FBI?

A Again, we value our agents very much. They are carrying out a constitutional obligation that they have in the course of their official duties. And we do not expose each other unnecessarily.

Q At that time, were you aware that there were increases in threats to FBI agents around the country?

A Yes, ma'am. Yes, ma'am.

Q And in your opinion, does this kind of behavior contribute to that, increase the threat to FBI agents?

A It does. Yes, ma'am.

Q Did this play a role in the FBI's decision to suspend and eventually revoke Mr. Gloss' security clearance?

A It was considered in the whole-person concept.

Q Was suspension or revocation of Mr. Gloss' security clearance motivated by animus?

A No, ma'am.

Q Was the decision to suspend and later revoke his clearance intended to punish him for his political or ideological views?

A No.

Q Are you aware, as you said before, that there are other FBI employees, besides Mr. Gloss, who have expressed political beliefs that are supportive of former President Trump, but who have never been the subject of an FBI security investigation based on their beliefs?

A Absolutely.

Q In fact, there are even FBI employees who were present on January 6th

doing peaceful demonstrations that were not subject to security clearance review?

A Correct.

Q Is it fair to say what distinguished Mr. Gloss from those other employees, including some who demonstrated lawfully on the 6th, is that Mr. Gloss committed a crime, he lied to security investigators, and expressed support for crimes against the United States?

A Yes, ma'am.

Q Moving on from Mr. Gloss, are you familiar with someone named Kyle Seraphin?

A I am familiar with Kyle Seraphin.

Q How are you familiar with him?

A Kyle Seraphin was the subject of a security investigation, and ultimately a revocation.

Q Okay. And I understand that you were actually recused from working on that investigation. Is that right?

A I did have to become recused. Yes, ma'am.

Q Okay. Despite your recusal, have you ever seen the FBI's letter revoking his clearance?

A I don't think I ever saw the actual letter. No, ma'am.

Q I am going to mark it as exhibit 14.

[Moore Exhibit No. 14

Was marked for identification.]

BY [redacted]:

Q I'll let you take a look at it since you have not seen it.

A Yes, ma'am. I have now read it.

Q Okay. And just for the record, the quality of this exhibit is not great and that is because this is a letter that Mr. Seraphin posted on his Twitter and it was difficult to print out, but that's the source of this.

So the letter to Mr. Seraphin informing him of his security clearance revocation states that the security adjudication revealed -- security concerns under adjudicative guideline (e) personal conduct, (k) handling protected information and (l) outside activities. Do you see that on the letter?

A I do. Yes, ma'am.

Q Okay. The letter further states the security investigation revealed that Seraphin had, quote, "demonstrated a repeated pattern of unwillingness to comply with numerous FBI rules and regulations," unquote, which included, but were not limited to, disregarding safe weapons-handling policy, engaging in disruptive and inappropriate behavior by routinely using derogatory, racist, sexist or homophobic language that offended coworkers, and making unauthorized releases of sensitive information. Do you see that in the letter?

A I do.

Q Would this type of behavior -- excuse me. Why would this type of behavior be of concern to the FBI under the guidelines?

A Under the guidelines, this individual, again, his unwillingness to comply with rules and regulations would be in direct conflict with SEAD 4 in the security executive agents directive and all of the adjudicative guidelines. And you would want to separate the risk from national security.

Q There is a pretty good variety of misconduct or whatever you want to call it, security concerns, in this particular case. Is that right?

A Yes, ma'am.

Q I mean, it ranges from offensive behavior that is disruptive in the workplace to mishandling weapons. Is that right?

A Yes, ma'am.

Q And that is a new one in the cases that we have discussed so far, the mishandling of weapons. Can you say a little bit -- I know you don't know this case in particular, but what kinds of things would be included in that?

A Well, so I knew his case initially until I had to be recused. In his specific case, the mishandling of the weapon was they were at a firearms range, the firearms instructor had called for the line to be holstered safe. And they check, everybody confirms, everybody's holstered safe. The firearms instructor then announces that he is moving forward to fix a broken target. As he moves forward, Kyle Seraphin pulled his gun, shot across the range diagonal in front of the firearms instructor as he moves forward to fix the target and shot the target he was going to fix.

Q Wow.

Why is that behavior a concern to the FBI?

A That is threatening and intimidating behavior, unacceptable. It shows a complete misunderstanding of rules and safety. Again, it goes to his whole-person concept as well.

Q And would it lead the FBI to be concerned about Mr. Seraphin's mental state in any way?

A I would think that that would be concern. I will tell you, that had that come in alone as a standalone allegation, it would have been sent through misconduct. It was the totality of all of his actions that brought that specific thing into the security adjudication. Additionally, I had to be recused because Mr. Seraphin expressed his desire to use me as a target.

Q During the investigation he expressed that?

A He communicated with another FBI employee who provided us those communications. And in that, he specifically indicated that he wanted to use me and another female executive as targets.

Q Was the firearms instructor also a female?

A I don't know that answer.

Q The letter also states that Seraphin made repeated media appearances in which he disclosed the existence of FBI investigations, FBI methods and capabilities and the identities of active FBI personnel without authorization. Do you see that in the letter?

A Yes, ma'am.

Q Why would this kind of conduct raise security concerns for the FBI?

A I think and we have already talked about if you don't know what to keep safe and secure, then we can't trust you with national security information. And you have a blatant disregard for rules and regulations.

Q Do you know if Kyle Seraphin is still an employee of the FBI?

A Kyle Seraphin is not. I do know that he is not an employee of the FBI.

Q Okay. Do you know what he does for a living now?

A I believe he runs a podcast.

Q Are you familiar with the podcast, The Kyle Seraphin Show?

A Oh, I've been told about it. Yes, ma'am.

Q Are you aware that Mr. Seraphin refers to himself as, quote, "a whistleblower," and that he devotes much of his energy to fundraising off of his whistleblower claims?

A I am aware of that. Yes, ma'am.

Q Are you familiar with Mr. Seraphin's GiveSendGo campaign?

A I was only recently made aware of that, but yes, ma'am. But not as the course of any adjudicative action.

Q Okay. So this information is things -- information that came to you after you were recused?

A Yes, ma'am. Yes, ma'am.

Q Are you aware that Mr. Seraphin claims to have raised over $590,000 with his GiveSendGo fundraising campaign?

A I was not aware that he was claiming that.

Q Okay.

A I was recently made aware that he wrote two checks to two of the other individuals that we have discussed in this investigation. But I wasn't aware of what he was saying he had raised or had not raised.

Q Yeah. I am going to mark as exhibit 15, images of those checks.

[Moore Exhibit No. 15

Was marked for identification.]

BY [redacted]:

Q Okay. So exhibit 15 is a photograph of two checks that was attached to a tweet from Kyle Seraphin and that's the source of this document. So -- and I think you were just getting to this. So you were aware that Mr. Seraphin gifted large amounts of money, in this case, $255,194 each to two FBI employees, Mr. Allen, Mr. Marcus Allen, that we discussed earlier, and to Mr. Garrett O'Boyle who we also discussed earlier. Do you remember that?

A Yes, ma'am.

Q Or we should say at least it appears that, because this check was posted on

Twitter and we can see the photograph. Is that right?

A Yes, ma'am.

Q So the tweet -- can I have the next --

I am going to mark this exhibit 16, the actual tweet from Mr. Seraphin that was connected to these images.

[Moore Exhibit No. 16

Was marked for identification.]

BY [redacted]:

Q So on May 30th, 2023, are you aware that Mr. Seraphin tweeted that he was, quote, "sending the first of two checks today," unquote, from his GiveSendGo fundraiser, and then attached this photo in exhibit 16, showing two checks in the amount of $255,194 to Garrett O'Boyle and Marcus Allen?

A I did not see this. I don't follow Mr. Seraphin. But I was aware, someone mentioned to me yesterday in the course that did you know that Kyle Seraphin had posted that he was going to give Marcus Allen and Garrett O'Boyle $255,000.

Q Okay. Can you see in, I guess the photograph, or either exhibit, it might be easier to look at the photograph, can you see on the memo line of the checks what is written?

A It says a gift, quote, "Hold the line," unquote.

Q Now that's what it says on the check to Mr. O'Boyle, right?

A That is what it says on the check to Mr. O'Boyle, yes.

Q And Mr. Allen, it says something similar. Do you see what that says?

A It says, "holding the line, a gift."

Q So he actually uses the word gift, right?

A Yes, ma'am.

Q And he tells you or tells Mr. Allen and Mr. O'Boyle holding the line is why they are receiving that gift, right?

A Yes, ma'am.

Q As a law enforcement officer, do you know what he means by holding the line? If you don't, that's fine.

A I know as military that they use it as in when you are defending the home front, that you hold the line. But I am not sure for law enforcement, no, ma'am. It's not a term I use.

Q Okay. Does it suggest to you that Mr. Allen and Mr. O'Boyle are being given this money partly because of their role with the FBI?

A I read it that they are aligned in some way.

Q Okay. Fair enough. You don't know exactly --

A No, ma'am, sorry.

Q -- what's in Mr. Seraphin's mind anyway, right?

A No, ma'am. I am sorry.

Q Now, you know Mr. O'Boyle in the context of the security review that we discussed earlier, right?

A Yes, ma'am.

Q Okay. Is Mr. O'Boyle currently a Federal employee?

A Yes, ma'am.

Q And is he still employed by the FBI?

A Yes, ma'am.

Q Okay. Mr. Allen, is he a Federal employee?

A He technically is a Federal employee until his time runs on his request for reconsideration or the reconsideration is completed.

Q And that has not been done yet, isn't that right?

A No, ma'am.

Q Okay. As a Federal employee yourself, at least for another day, do you understand that Federal employees are required to follow Federal ethics rules restricting their ability to accept gives from outside sources when the gifts are related to their official positions?

A Yes, ma'am.

Q And are you aware that these regulations, which are codified in 5 CFR 2635, subpart (b), which I'll introduce as exhibit 17, prohibit an employee from accepting cash gifts of any kind from outside sources when the gift relates to the employees position in the government?

A I didn't know that specific statute, but we are provided ethics briefs about what we can and cannot accept. Yes, ma'am.

Q Okay. I mean, this is going to be -- what did I say, 17?

[Moore Exhibit No. 17

Was marked for identification.]

BY [redacted]:

Q I am just going to direct you to this one section --

A Thank you.

Q -- because it's long. Okay. So on the second page of the document, section 2635.202 titled, General prohibition or solicitation or acceptance of gifts (b), it says, prohibition on accepting gifts. The language reads, an employee may not, and then part two, accept a gift given because of the employee's official position. Do you see that?

A Yes, ma'am.

Q Okay. And then if you skip forward one page, so now you are on page 3 under paragraph (b), there is the definition of the word "gift," right off the bat, it tells you gift includes any gratuity. Do you see that?

A Yes, ma'am.

Q That means cash, right?

A Yes, ma'am.

Q And as a Federal employee, did you understand that you cannot accept cash from outside people that's directed at you because of your job?

A Yes, ma'am.

Q In any amount, correct?

A Correct. We've terminated people for it, right.

Q And then if you turn to page 7, there is section, I guess it's paragraph (e), little (e).

A Yes, ma'am.

Q It says, given because of the employee's official position, it defines what that means. A gift is given because of the employee's official position. If a gift is from a person other than an employee, or would not have been given had the employee not held the status, authority or duties associated with the employee's Federal position?

A Yes, ma'am.

Q Okay. So in that case, it just means because these guys were FBI agents, that's why they were given this money. Is that right?

A I would logically assume that seems to be the appearance since Stephen Friend wasn't provided infor -- it doesn't look like there was a check that was posted that he was given one and he's not an employee any longer.

Q As far as we know?

A Correct.

Q Okay. So is it fair to say that Mr. Seraphin appears to have provided a gift to Mr. Allen and Mr. O'Boyle in the amount of $255,194 each, because they are FBI employees who are raising complaints about the FBI?

A Do you want to repeat that question?

Q Yeah, I read it real fast. I am sorry. But is it fair to say that it appears Mr. Seraphin has provided a gift to Mr. Allen and Mr. O'Boyle in the amount of $255,194 each because they are FBI employees who are raising complaints about the FBI?

A I can't speculate to why he gave it to them. I can say that they are both FBI employees. He gave them both money and they are both part of what I am being questioned about today.

Q Understood.

A And I don't know exactly why he gave them.

Q I mean, there's a hint a little bit, isn't there, in the memo line where he praises them for, quote, "holding the line."

A Yes, ma'am.

Q And both of these men had testified before this committee approximately 12 days before these checks were cut. Is that right?

A Yes, ma'am.

Q And I understand that you don't know what's in Mr. Seraphin's mind, but could this be -- could this apparent violation of the ethics rules for Federal employees raise additional security concerns for the FBI if Mr. O'Boyle and Mr. Allen were still security clearance holders?

A If we had FBI employees that were receiving large sums of cash from an outside entity, it would cause concern. There's a requirement to report over a certain

dollar value, I don't know what that is. I didn't realize we would talk about that. But you have to report that. And then we kind of look and see where that's coming from, is it an inheritance, what that is.

Q Okay. And does it matter that this was an apparent violation of ethics rules for the security clearances purposes?

A For a clear violation of ethics rules, we would consider it, though, potentially in a whole-person concept again as one more rule that, perhaps, isn't being followed.

Q Okay. Aside from potential security risks and concerns that are the subject of most of this hearing, does it raise any broader concerns for you, just as a FBI employee, about the motivation of the FBI employees who appeared to be fundraising off of public criticism of the FBI?

A Yes.

Q And why is that?

A I don't know -- you are breaking down the organization and -- you work for and the allegiance that you've taken to the Constitution. And so, it would cause a concern that you are profiting from -- you are creating a negative publicity.

Q Right. And does it also raise any concerns in your mind about whether the concerns they have are sincere because they also are profiting by making those concerns?

A I guess you could draw that parallel, but that is not what I would be concerned about. For me, I am most concerned again about their allegiance to the United States, their behavior as it relates to all of the adjudicative guidelines and the totality of the whole person as it relates to national security.

Q Mr. Seraphin chose to tweet out the photos of these checks intentionally to draw attention to these illegal gifts. When he could have just privately given the money to Mr. O'Boyle and Mr. Allen. Do you find that surprising in any way?

A I am afraid I don't find anything Mr. Seraphin does surprising.

Did the Committee redact these two pictures or did Mr. Seraphin redact --

Q He did.

A It's nice that he choose to redact something in relation to him, but when he released all the pages of my weekly captain's logs, he couldn't have the courtesy to release or redact anybody else's children's name or any other FBI employee's name. I am glad he continues to look out for himself.

Q Well, it says something about him, I suppose, right?

A Yes, ma'am.

Q Now Seraphin's public announcement of an illegal gift got attention on Twitter from some high-profile conservatives. Do you think it's possible that Mr. Seraphin is publicizing this fundraising because he believes it will help him raise even more money from a segment of the public that he and his allies have already tried very hard to stoke outreach from by promoting this information about the FBI?

A Again, I am going to say I can't even begin to fathom what Kyle Seraphin thinks, or what his motivations are. I think that is a logical parallel that could be drawn is that he's obviously trying to draw -- drum up more money. But again, I can't begin to speculate.

Q Okay. Finally, the fact that Seraphin, O'Boyle, and Allen, and others, appear to be using this very public criticism of the FBI to make substantial amounts of money, does that make the alleged concern seem any less credible?

A No, ma'am.

Q Oh, just one other thing, this is a small thing, but there were a series of questions about the captain's log emails that you were sending out during COVID --

A Yes, ma'am.

Q The emails that you sent out, is it fair to say those were meant in some sense to reconstruct the sort of atmosphere of in-person workplaces. Is that right?

A It was. In a dispersed workforce, it's very hard to fill part of the greater whole. And we were receiving lots of wellness concerns about employees that were feeling disassociated. And so it was an intent to remember that you belong to a bigger thing, that we're seeing you, you're heard, we are still here, you are there, but we are still on the same team.

Q So if you had been in the office, as you had been before COVID, you would have a lot of personal conversations with people about Christmas lights, or other things that were the subject of those emails, right?

A Indeed that is true. We had had a contest, like, right before COVID at Christmas for gingerbread house construction and it was squad versus squad and who won. And we did a lot of those things to try to build a camaraderie amongst the organization.

What I can say without a doubt is had I known that those would have been leaked, I would have done something different. I would have never are put that many employees names out there in the public, much less their newborn children for -- in the hostile environment that we currently live in towards FBI employees.

Q Understood.

BY [redacted]:

Q Do you know if any of the employees who are mentioned in those logs that were leaked or their children, do you know if there's been any threats to life or safety of those individuals? You don't have to get into specifics, but just generally if you know.

A We have stood up an entire threat unit to address threats that the FBI employees' facilities are receiving. It is unprecedented. It's a number we've never had

before.

Q How big is the unit?

A It's going to be about 10 people when it's finished. We just -- we are still in the process of staffing it right now. But their sole mission on a daily basis is threats to FBI employees at facilities.

Q Based on the captain's log?

A Not just the captain's log.

Q Okay.

A But just in general.

BY [redacted]:

Q Have those threats increased with this committee's hearing, for example, on May 18th regarding the FBI alleged, quote, "whistleblowers"?

A I would have to ask for the numbers to be pulled. They report them to us on a monthly basis is what our trend is. I know that from October, which was the new fiscal year, until about April 1st, we had had more threats in that period of time than we had had in the entire previous year.

Q What period was that? I'm sorry.

A From May 1st of 2022 -- I'm sorry. Excuse me. From the fiscal year so the beginning -- October 1st, 2022, until roughly March 31st -- 30 days, 31st day of 2023 we had received more threats against FBI people and facilities than we had in the entire previous year.

Q And has that trend seemed to continue, if you know?

A Yes, ma'am.

BY [redacted]:

Q Quickly, what's been marked as exhibit 12, it's the Captain's Log Quarantine

Day 55, you were asked about the Nautic, a/k/a Gulf Sky. Do you recall that?

A Yes, ma'am.

Q Your email is dated Sunday, May 10, 2020, 11:20 p.m., correct?

A Yes, ma'am.

Q Is that an accurate representation of when you sent the email?

A Most likely. Yes, ma'am.

Q I want to introduce -- I have no idea what exhibit number we are on. Exhibit 18.

[Moore Exhibit No. 18

Was marked for identification.]

BY [redacted]:

Q A case caption and a forfeiture page, so forgive me, it is going to take me a second to read it. It is United States of America v. $2,340,000 associated with Petroleum Tank Nautic, with International Maritime Organization number 9150377, held by Liberian Company 1, and $9,998,941.91 associated with the Petroleum Tanker Nautic. With International Maritime Organization number 9150377, held at U.S. Bank 1.

And I am just going to ask you about the front page of the document.

A Okay. Thanks.

Q And let me know when you are ready to continue.

A I am ready to continue.

Q Do you see at the up top where it has the case number and document number and a filing date?

A I do. Yes, ma'am.

Q Can you please say for the record what the filed date is on this case?

A May 1st, 2020.

Q So that was actually 9, 10 days before your email, correct?

A Yes, ma'am.

Q Okay. So this was already in the public eye at this time?

A Yes, ma'am.

[redacted] Okay. Thank you. I don't think I have anything else.

[redacted] We can go off the record.

[Whereupon, at 3:22 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: KATE STARBIRD

Tuesday, June 6, 2023

Washington, D.C.

The interview in the above matter was held in room 2237, Rayburn House Office Building, commencing at 10:00 a.m.

Present: Representatives Jordan and Bishop.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

[redacted], [redacted]

For the SUBCOMMITTEE ON CRIME AND FEDERAL GOVERNMENT SURVEILLANCE:

[redacted]

For the SUBCOMMITTEE ON THE ADMINISTRATIVE STATE,

REGULATORY REFORM, AND ANTITRUST:

For KATE STARBIRD:

PRESTON BURTON, PARTNER

TIFFANY ROWE, SENIOR ASSOCIATE

ORRICK HERRINGTON & SUTCLIFFE LLP

2001 M STREET NW, SUITE 500

WASHINGTON, DC 20036

[redacted]. Can we go on the record?

This is a transcribed interview of Dr. Kate Starbird. Chairman Jordan has requested this interview as part of the committee's investigation of how and the extent to which the executive branch has coerced and colluded with companies and other intermediaries to censor speech.

Would the witness please state your name for the record?

Ms. Starbird. Kate Starbird.

[redacted]. On behalf of the committee, I want to thank you for appearing here today to answer our questions. The chairman also appreciates your willingness to appear voluntarily.

Ms. Starbird. Thank you.

[redacted]. My name is [redacted], and I'm with Chairman Jordan's staff. I will now have everyone from the committee who's here in the room introduce themselves as well.

[redacted], Chairman Jordan's staff.

[redacted], House Judiciary Committee, Mr. Jordan's staff.

[redacted] with Ranking Member Nadler's staff.

[redacted], chief oversight counsel with House Judiciary Democratic staff.

[redacted] with Mr. Nadler's staff.

[redacted] with Chairman Jordan's staff.

[redacted], Chairman Jordan's staff.

[redacted], counsel for Chairman Jordan's staff.

[redacted], Chairman Jordan's staff.

[redacted] [redacted], Chairman Jordan's staff.

[redacted]. I would like to now go over the ground rules and guidelines that we will follow during today's interview.

Our questioning will proceed in rounds. The majority will ask questions first for 1 hour, and then the minority will have an opportunity to ask questions for an equal period of time if they choose. We will alternate back and forth until there are no more questions and the interview is over.

Typically, we take a short break at the end of each hour. But if you would like to take a break apart from that, please just let us know.

Ms. Starbird. Okay.

[redacted]. As you can see, there's an official court reporter taking down everything we say to make a written record, so we ask that you give verbal responses to all questions.

Do you understand?

Ms. Starbird. Yes.

[redacted]. So the court reporter can take down a clear record, we will do our best to limit the number of people directing questions at you during any given hour to just those people on the staff whose turn it is.

Please try and speak clearly so the court reporter can understand and so the folks down at the end of the table can hear you.

It is important that we don't talk over one another or interrupt each other if we can help it, and that goes for everybody present at today's interview.

We encourage witnesses who appear before the committee to freely consult with counsel if they so choose. It is my understanding that you are appearing today with counsel.

Is that correct?

Ms. Starbird. Yes.

[redacted]. Would counsel please state your name for the record.

Mr. Burton. Yes. Preston Burton, Orrick Herrington & Sutcliffe. I'm here with my colleague, Tiffany Rowe, R-o-w-e.

[redacted]. Thank you.

We want you to answer our questions in the most complete and truthful manner as possible, so we will take our time. If you have any questions or if you do not understand one of our questions, please just let us know. Our questions will cover a wide range of topics, so if you need clarification at any point, just say so.

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

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

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

Do you understand that?

Ms. Starbird. I do.

[redacted]. This also applies to questions posed by congressional staff in an interview.

Do you understand this?

Ms. Starbird. I do.

[redacted]. Witnesses that knowingly provide false testimony could be subject to criminal prosecution for perjury or making false statements under 18 U.S.C. 1001.

Do you understand this?

Ms. Starbird. I do.

[redacted]. Is there any reason you are unable to provide truthful answers to today's questions?

Ms. Starbird. No reason.

[redacted]. Finally, I would like to make a note that the content of what we discuss here today is confidential. We ask that you not speak about what we discuss in this interview to any outside individuals to preserve the integrity of our investigation.

For the same reason, the marked exhibits that we will use today will remain with the court reporter so that they can go in the official transcript. Any copies of those exhibits will be returned to us when we wrap up.

That is the end of my preamble.

Is there anything that my colleagues from the minority would like to add?

[redacted]. We just thank the witness for traveling across the country to join us today.

Ms. Starbird. Thank you.

[redacted]. The clock now reads 10:03. We will start the first hour of questioning.

EXAMINATION

BY [redacted]:

Q Can you tell us your current job title and where you work?

A Yeah. I'm an associate professor at the University of Washington in the Department of Human Centered Design & Engineering.

Q And is the University of Washington public?

A It's a public university, yes.

Q And can you tell us your educational background, starting with college?

A I have a bachelor's of science in computer science from Stanford University, and I have a Ph.D. in technology, media, and society from the University of Colorado.

Q And your employment history?

A My employment history --

Q You don't have to tell us, like, little jobs before college or anything like that.

A Okay. From approximately the age of 21, from graduation of college, to about age 30, I was a professional basketball player in several capacities. I could name off the teams if you would like me to.

At 31, I went back to university, got a Ph.D., and then my only employer since then has been the University of Washington.

Q Okay. And can you tell us about your work at the University of Washington, what you teach -- well, assuming you teach. Do you teach?

A I do teach. Yeah, I do teach. Currently, I'm teaching a class on human-computer interaction, which is how people use computers and how the ways that we use computers change how we socialize, communicate, and interact with each other.

Q And what other courses do you teach?

A I teach experimental methods to master's students. I've taught classes, a couple special topics classes on the methods of analyzing social media data and on online rumors and misinformation.

Q Can you expand a little bit on the online rumors and misinformation? What does that mean exactly?

A Online rumors and misinformation, sure. I think there's a couple different

definitions here.

So online -- so rumors, actually the definition of rumors goes back -- you start to see research on that in around World War II really kind of take off. Actually it has a longer definition.

But rumor means sort of information that's not verified, that's traveling through informal channels. And rumors can turn out to be true. Rumors can turn out to be false.

So rumor is just sort of, like, uncertain information. They often occur during crisis times. And my original research at the University of Colorado was on the use of social media during crisis events. So rumors are common during crisis events.

Misinformation is information that's false. So a false rumor, you could categorize that as misinformation. And misinformation is not intentionally false.

And then disinformation is a variation of misinformation that's intentional, so someone is intentionally spreading false or misleading information for some sort of objective.

Q And when you say false, either in the context of mis- or disinformation, how do you decide what's false?

A I don't -- well, there's -- I don't even know who -- that's a hard question to answer. I don't necessarily decide when things are false. I think these are the terms that we would use to classify things.

Q Do you rely on other third parties to --

A In my research? In my teaching?

Q Well, both. Can you tell us each?

A Yeah. In my research we tend to look towards official sources and fact-checking organizations to determine veracity, although it's not often that I'm

classifying information as misinformation or not. We're just sort of talking about -- we're talking about the ways that information flows and how people make sense of things.

And we tend to more recently kind of go back to the rumor definition because it's a lot easier to work, especially in real-time, because you're not sure about the veracity of information. And so we tend to use the word "rumoring" in the research.

And especially in our historical research and some of the research projects that we may talk about today, we've used the term "misinformation" and "disinformation." And for misinformation, usually if we're working in a real-time capacity, we'd be trying to use official fact-checking organizations.

Q Are there any specific fact-checking organizations you work with frequently?

A I don't work directly with them. I just use their information. I would go online --

Q I see.

A -- and check different fact-checking organizations to see what they say.

Q I see. Okay.

And you mentioned that you do research. Can you tell us more about the kind of research you do?

A Yeah. So starting in around 2010, I started doing research on the use of social media during crisis events; crisis events being mass emergency events, hurricanes, earthquakes, as well as acts of terrorism, looking at how informal information could be used to actually initially -- I have a study in digital volunteerism, how people helped people using social media by helping people find resources, figure out where shelters are, ways to communicate about hazards so people can avoid going towards something that's dangerous, information about how to evacuate, those kinds of things.

So we would actually create these maps in real time to map out crisis events, and then I would study digital volunteerism at the activity that people used to kind of create these maps.

Around 2013, I started to look at rumors during crisis events because rumors became a larger part of the social media record around that time. Hurricane Sandy in 2012 was another case that just started to see rumors become a bigger and bigger part of the conversation that was happening there.

And so 2013, we start to study rumors. Around 2015, 2016, we begin to see that it's not just accidental rumors that we're seeing, it's that people are intentionally spreading falsehoods to try to -- for various reasons that we could try to infer. But we began to see sort of disinformation become pervasive within some pieces of the network of sort of online interactions.

Q And can you tell us about some of your recent research, maybe in the last 5 years or so?

A Yeah. Last 5 years. So 5 years -- so I would say I have a couple of different strong focus points.

So I would -- so one of the things we've been doing was we looked at disinformation campaigns around the 2016 election. We mapped out -- so we've been studying -- one of my students had led a project where we were studying Black Lives Matter discourse, and we had written a paper about sort of both sides of that conversation. We could map out the networks.

And we then learned when Twitter reported out publicly, I think through some conversations with Congress, they ended up getting pressure to point to -- to publish where the Russian troll accounts from the Internet Research Agency in St. Petersburg had been operating accounts impersonating Americans.

And so we did a pretty intensive study mapping those accounts to the Black Lives Matter discourse and actually found those accounts that infiltrated both sides of U.S. discourse and wrote about that.

Another project around the same time we started -- and it probably finished in 2020 -- we looked at a campaign that has Russian, Iranian, and other -- and Syrian Government elements where they were running a disinformation campaign targeting a humanitarian response organization in Syria. And so we have -- one of my students did a dissertation on that. We have several studies on that.

More recently, in the last couple of years, I think in 2020, a lot of my colleagues were really focused on sort of misinformation around COVID, including, like, where people started to get mad at the 5G towers or tell people where to -- that they can drink water and it would make them better, those kinds of things. So we did a little focus on that.

But I ended up spending a little bit more time doing research on the 2020 election.

Q Can you tell us a little bit more about that?

A Yeah. So in real time, my team participated as part of the Election Integrity Partnership to basically use our skills on social media data analysis to help analyze rumors, is what I would call them now, analyze rumors that were spreading in online environments, analyze those in real time, and then try to communicate about them to let people know that these things were spreading in hopes that they could be corrected and that people could get better information about what was going on.

So that included -- so it included real-time activity similar to what I had been doing with the crisis mapping years ago, sort of like a real-time analysis, using our data analysis skills to show how rumors were spreading.

We had four focus areas in that project, in the Election Integrity Partnership.

The first one was on false, misleading claims about when and where to vote that would have caused disenfranchisement.

The second one was on misleading information that would encourage fraud.

The third one, I think, the third dimension, I think, was on false or misleading information that could -- that was motivating violence.

And the fourth one was on false, misleading, or unsubstantiated claims that undermine trust in the election processes, materials, or results.

Q Just to clarify, that wasn't limited to looking at foreign actors, correct? That was also domestic?

A It was looking at information flows through social media spaces. And it is not possible to distinguish between foreign and U.S. actors. As we, you know, when we wrote our Black Lives Matter paper, we thought those were all U.S. actors and then found them to be people impersonating.

And so, yeah, so when you look at social media spaces, those kinds of things are hard to determine.

Q And do you get funding for your research outside of the University of Washington?

A Absolutely, yeah. So my rumoring research and then my early -- I got a career grant from the National Science Foundation. So I have -- early funding for my rumoring research was from the National Science Foundation, and I got a career grant from the National Science Foundation to study disinformation. I think I was awarded that grant in early 2018. And I think 2017 I had some funding from the Navy -- I forget the office there -- to study --

Q Office of Naval Research?

A Office of Naval Research, yeah, to study disinformation. Those, I think,

were foreign disinformation focused.

And then more broadly I get a lot of research now through the Center for an Informed Public, and I can talk about that; from philanthropic organizations, the Knight Foundation, Omidyar Network, Hewlett Foundation, Craig Newmark Philanthropies. I may be leaving one out there.

Chairman Jordan. Ms. Starbird, what percentage of -- thanks for being here today.

What percentage of your funding is directly from the government?

Ms. Starbird. I haven't done the math on that. It depends on what generation.

So the government funding funds very specifically our research, our research stuff. It mostly funds my students to do -- to work on things and occasionally funds a month of my salary in the summer.

The other research I have from the Knight Foundation, Hewlett Foundation, those fund the operations for the Center for an Informed Public, as well as student hours and post-doctoral scholars as well.

I think the amounts of funding for me personally in the recent years have mostly come from philanthropic funding through the Center for an Informed Public, but I do still have funding from the National Science Foundation. I also still have one more grant from the National Science Foundation in the crisis space where I look at crisis events.

BY [redacted]:

Q You're one of the cofounders of the Center for an Informed Public. Is that right?

A I am, yes.

Q And when did you cofound that center?

A We cofounded it in fall of 2019.

Q And who are your cofounders?

A Cofounders are Emma Spiro, Jevin West, Ryan Calo, and Chris Coward.

Q And what was the purpose of the CIP? What was it created to do?

A The CIP has a mission to understand and help address the problem of misinformation and strategic manipulation in online spaces, and we do that through four different dimensions.

One is research, just to understand the problem.

We also have an educational mission and an outreach mission to help people. So we do media literacy kinds of things, trainings.

We also consult, give talks, to help members of the public understand the challenges of online misinformation.

And then we have a law and policy pillar as well. I'm not as connected to that. That's Ryan Calo.

Q But you're very involved in the other three. Is that correct?

A I'm probably most -- like, I lead the research and co-led the research component and the data infrastructure piece because of the data and analyses that we do. But right now I'm the director of the center, so I have a larger view of the other dimensions as well.

Q And, in your opinion, what should tech companies do to combat the misinformation, disinformation, and malinformation? Which you actually defined the first two, but I don't think we talked about malinformation. If you don't mind defining that.

A I don't use that term myself very much.

Q Oh, okay.

A I don't like it.

Q Okay.

A And I know the government uses it. So in a capacity we'll talk about later, I was on a committee that had that in their name, and I tried to remove it from our conversations because I don't care for that term.

Q Why don't you care for it?

A I think it's murky, and I prefer to focus on things that are -- that we can define as on a veracity scale, as opposed to malinformation tends to be information that can be harmful, like harassment and other kinds of things, but is not necessarily false.

And I've really been focused in the sort of, like, rumors and veracity space. And I think when we bring malinformation in, things can get harder to talk about with clear delineations.

Q I see.

So can you tell us what steps you believe tech companies should take to combat misinformation and disinformation? I know that's a very hard question.

A It's a hard question to answer because every day it changes, because we're learning more things all the time. I mean, I'm a researcher, right? And we have to understand this space is extremely dynamic. The phenomenon is changing. People's understandings of it are changing.

In 2016, people had never heard -- they never even thought that someone would be impersonating someone else online and that we could fall for that and have conversations with that.

And then now media literacy, people are actually much more aware of that. I think there's been times where I might have said that sort of we could think about the affordances of the platforms and changing those to kind of change how -- so we kind of think about design and how these platforms actually amplify the problems of

misinformation in part by creating opportunities for influencers to gain influence by purposefully putting malicious content and misinformation, disinformation out in the space.

And so thinking about how the platforms could design the ways that people are recommended certain content, to change some of those dynamics to make healthier spaces.

But my opinions have evolved over time, I would say, and so my opinions today right now, I'm much more focused on the media literacy pieces and also trying to think about how we build tools that actually can give people who are using these platforms information about how the information reaches them so they can make better decisions about what they believe and what they share.

And so one of my recent papers focuses on that aspect, which is how do we sort of support new media literacy. So that's kind of where I would say I am most encouraged about where the research is going now.

Q Can you define media literacy for us, please?

A Media literacy?

Q Yes.

A And we've got a few different terms. We've got media literacy, digital media literacy, information literacy. These fields are evolving so quickly that the language is changing underneath us as we're doing that work.

Media literacy is actually -- and probably used the wrong term there -- media literacy has been focused, it's got a history of kind of focusing on how information moves through media and how we can be better critical thinkers about how we're getting that information.

I think information literacy speaks a little bit more. It combines that but

understands how information is moving through online platforms. And so people have a better understanding of sort of digital information literacy. They can understand a little bit where they may be more vulnerable to mis- and disinformation.

And so there are ideas to improve people's media literacy. Unfortunately, we could teach people all day to say, okay, you don't want to believe someone who is impersonating. But if we don't give them the tools to be able to detect when someone is impersonating someone else, they're not going to be able to use those skills.

So coming up with ways to develop signals within these platforms to help understand information provenance, which is the basis of my career grant, was to help people kind of track -- part of it was to study disinformation. Part of it was to understand those dynamics. And then part of it was to help people figure out how they could track information provenance with this understanding. If we understand better how information moves through systems, we can make better decisions.

And I would say information literacy or digital media literacy is what our Center for an Informed Public is focusing on right now when we've had our conversations in the last 3 to 4 months.

Q Have you worked with government agencies, or do you work with government agencies in your capacity?

A Have I worked directly -- with the University of Washington?

Q Yeah.

A I have recently been sitting as --

Mr. Burton. You mean Federal, because she works at the University of Washington?

BY [redacted]:

Q Yeah, sorry. Federal agencies.

A Yeah. And do we want to start after my crisis work? Because the crisis work, I don't -- I do think I had a grant from, like, NOAA to work in that space, and I would sometimes have meetings with people.

When people ask me to help and lend my insight, I usually say yes. And so I don't know how we're defining "work with." But I've been doing that my whole academic career, starting back, like, after the 2010 earthquake, I would be on the phone sometimes with folks who were asking questions about what we thought was going on.

But more --

Q Tell us as much as you can.

A Yeah. But more recently -- I can focus on more recent because my memory is probably better. I'm on the CISA -- the advisory board for DHS, CISA, external advisory board, and I've been on that since 2021. I'm sure we're going to talk about that. And so in that capacity I've been working with that office.

Prior to that, would I be directly working with anyone in the Federal Government? Not that I know of.

Q Okay.

A Now, indirectly, other folks on the project I was on were -- they were an external partner to a project that I was on, but I wasn't directly interfacing with them.

Q Okay. So as far as -- yeah, let's talk about the subcommittee.

Are you familiar with -- it's CSAC?

A CISA?

Q No, not CISA. The -- I don't know what -- how you pronounce it. The acronym is CSAC.

BY [redacted]:

Q So are you familiar with CISA?

A I'm familiar with CISA now, yeah.

Q And what is CISA?

A I mean, I live in Washington State. All these letters, they don't all make sense to me. We don't have this alphabet soup.

Yeah, the CS -- the CSAC is the advisory board that I'm on, I believe.

Q Yes.

A Yeah, they say that -- it took me a while to figure out what the term meant.

Q And what is that?

A It's an external advisory board that we meet with a group of people. A lot of them come from industry. I think there's two researchers on that group. And we advise Jen Easterly around cybersecurity issues.

So we're going to jump over to, like, most of that is, like, traditional cybersecurity on sort of cyber hygiene kind of initiatives, so how we help people figure out how to protect their devices, use two-factor authentication so they don't fall victim individually to hackers, but also people in companies, to help companies not to get hacked.

And we talk about as a workforce issues. So they have a lot of initiatives around, like, trying to get people into the workforce there. And, yeah, conversations to inform the CISA office on -- we give recommendations. So we don't do anything operational. We just kind of give recommendations on different issues that Jen Easterly has asked to get feedback on.

BY [redacted]:

Q And you're on the MDM Subcommittee under --

A I was on the MDM Subcommittee, right.

Q When did you stop being on it?

A The MDM Subcommittee was dissolved last fall.

Q Oh, I see.

Do you know when it was formed?

A So I think the advisory board was formed in -- I think Jen Easterly first -- so I met her through an email or she reached out to me through an email in 2021 in the fall, and then she asked me to be on the committee.

The committee starts to convene around 2022 in the winter, maybe December of 2021, and around that time she asked me to lead the MDM Subcommittee. And I asked: What is MDM? And then we got -- yeah, figured it out.

Q Did they define the terms the way that you defined them earlier, misinformation and disinformation?

A Their terms are slightly different than mine because there's a lot of -- I'm going to get really into the weeds here.

But these terms are dynamic. So these are problems that are just rising in terms of awareness, in part because of the online systems that we use.

And so their terms on disinformation are very specific, like -- and I have a slightly different term of -- definition of disinformation than they do. But I would say, like, the one I gave you is probably pretty consistent with what the Federal Government uses, which I think is what CISA uses.

Q Okay. So how does your definition of disinformation differ from theirs?

A Oh, mine has -- mine acknowledges that the role of unwitting agents in the spread of disinformation, going back to sort of, like, reports -- sorry.

So 2016, we kind of become aware of this term, and some of us had used it before. We didn't really understand what it meant, disinformation, and how it has a history of a certain technique via Russian intelligence starting in the -- probably even before World War II. Thomas Rid has a great book about that.

And the disinformation is intentional, but that a large portion of the people that spread disinformation do not always realize that they are witting participants in that -- or so they're not -- they don't always realize that it's disinformation, so they're unwitting participants in the spread of disinformation.

And so my definition kind of suggests that even when disinformation is spreading and a person doesn't know it, it's still disinformation. They just happen to be an unwitting conduit.

Q Right.

A Whereas CISA draws a line where you have to be -- it's misinformation if you don't know it's --

Q I see.

A If you don't know it's not true, it's misinformation. It's just sort of semantics.

Q Okay. So according to CISA, it could sort of originate as disinformation, but then other people --

A Then it comes misinformation as it spreads, yeah. And there's actually a little bit of academic, like, we're still trying to figure out what it means, right?

Q Yeah. What was the primary purpose of the subcommittee?

A The primary purpose of that subcommittee was to address what they perceive to be as one of the hard -- the biggest challenges for election officials, local and State election officials. In fact, I'd been to a couple of conferences prior, which is probably why I said yes to this, where election officials said that, like, the thing that was hardest in their jobs was dealing with misinformation.

And I think Stephen Richer had said: Dealing with misinformation is my day job. Running the election is my night job.

Q Who is Stephen Richer?

A Stephen Richer is -- happened to take over as recorder in Maricopa County in 2020, which Maricopa County is 3,600 -- we're going off to the side here -- but we have, like, 3,600 different jurisdictions for voting in the United States, but that one happens to be a very big county in a swing State, and so gets a lot of attention.

And in 2020, they had perceived problems with Sharpie pens. And in 2022 -- well, in 2020, Stephen Richer took over as -- he wins that election as a Republican in Maricopa County and becomes the recorder there. And there were a lot of false claims about the validity of the 2020 election there related to Sharpie pens. I'm happy to talk about it.

And he is dealing with all that kind of fallout from that as he takes over. And he begins to say that misinformation is, like, overtaking his job because it's so hard to deal with all the misinformation that he's confronting.

Q And what about malinformation? How did the subcommittee define malinformation, or CISA?

A I don't know how they defined it. In our work we just tried to avoid it. So when we gave recommendations, we tried to take malinformation off of the recommendations and just make recommendations about mis- and disinformation.

Q I see.

A And we were working pretty much specifically in elections context. We were asked to give recommendations possibly more broadly, and we thought that we would focus our energy, especially leading up into the 2022 midterm election with this sort of -- the acute problem of misinformation that election officials were experiencing -- we focused our attention on just thinking about that particular problem.

Q Did you attend meetings? Were there meetings?

A There were meetings, yeah, yeah, really exciting ones.

So I attended I think -- I think I've been in three in-person meetings with the full group, the full advisory board, which has some 20-some members maybe. In fact, it's got more. They added a bunch in the last round.

And then there would be, I think, biweekly meetings. From maybe February or March of 2022 until September of 2022 we had biweekly meetings, like 1-hour meetings remotely.

Q I see.

A Yeah.

Q And --

[redacted]. Sorry. Just real quick.

[redacted]. Okay.

BY [redacted]:

Q You mentioned the full committee expanded since the last round?

A Yeah.

Q What did you mean by that?

A I think they invited additional members onto the advisory board.

Q Okay. And was that -- what do you mean? I guess what do you mean by round?

A It was like the completion of a year. So when -- so it had been -- it was at the year date. And I mean round because we have the meetings at the same time each year.

So it was a December meeting that we had, like, a first meeting, and it was the next December of that day that they changed the committees, they changed around the subcommittees, and they added more people to the larger committee.

Q And are people asked to serve for 1-year terms?

A I think it's 2 years, yeah.

Q What are the other subcommittees?

A I don't know all the other subcommittees. But in the first year my memory is there was like a cyber hygiene around like trying to protect individuals and companies by two-factor authentication and other kinds of things.

There's some kind of technological advisory committee. There was a committee on trying to improve, like, the workforce or grow the workforce. And I honestly don't remember the other committees.

BY [redacted]:

Q You said that the MDM Subcommittee disbanded?

A After the first year, yeah.

Q Do you know why?

A I don't know why. She said that our work was over, the midterms were done, and that was it.

Q Okay.

[redacted]. Who is "she"?

Ms. Starbird. Jen Easterly, Director Easterly.

BY [redacted]:

Q And who are the other members? I know you said there were lots of --

A I can't remember.

Q Yeah. So the ones that you can remember?

A Yeah. I can name the members of my subcommittee.

Q Yeah.

A So that was Alicia Tate-Nadeau.

Q Can you tell us where they came from, where they worked?

A Where they came from?

Q Yeah.

A Okay. Alicia Tate-Nadeau I think is maybe Illinois emergency response. Suzanne Spaulding, I think she is -- I can't remember the letters. There's C's and I's and S's, but I don't know which order, and she is the director of an organization, I believe. And then Vijaya Gadde, whose name I might be mispronouncing, she was at Twitter at the time.

Q And some of these people were from government, right, from Federal Government agencies?

A On the actual committee?

Q Yeah.

A I don't believe the actual committee had people from Federal Government agencies. I could be wrong.

Q Okay. Did people besides subcommittee members attend the meetings?

A Yeah. So these are online meetings, and they were run in Microsoft Teams, and I could not always see who all was there.

My understanding is that some individuals that are on these committees could bring a second, so a person to help them. I learned that too late to have brought my own. It would have been nice to have a notetaker. So there is seconds.

And then there were staff from CISA who would help us -- staff from CISA who would, like, help us take notes. They would help produce an agenda and minutes and those kinds of things.

And then there were folks -- in our subcommittee there were folks, Kim Wyman and Geoff Hale, who would come from the CISA office -- not always, they would show up

when they could make the meetings -- that could be a resource for us to ask, like, what -- basically we would ask them how things worked, so then we could kind of think about if there was something that could be different or kind of blend that into our recommendations. So they were resources for us to ask questions of.

Q Okay. And what was typically discussed at the meetings, I guess more specifically than just MDM?

A Yeah. So we were put on this committee to give advice to Director Easterly around -- initially she gave us a set of questions, and they're probably in the minutes notes. She gave us a set of questions around how they should scope their work and what their work should be and how they should go about it.

And we, our goal was to create what she said is a short, readable set of recommendations that she could then review and then decide whether or not to integrate those recommendations into their mission. And so all of our work was focused around making those recommendations.

Q And how are those recommendations decided? Like, did you discuss and then vote? Or was it just --

A Well, there was four of us, and it was often only a couple of us made it. Vijaya was actually very busy, didn't come to all the meetings. And Alicia Tate-Nadeau was unable to come to a lot of those meetings as well. So Suzanne Spaulding and I probably did the bulk of the work.

But we talked to each other. And then we would also interview outside experts at those meetings. We interviewed some outside experts -- including, I think, Stephen Richer, which is why I have the quote from him -- to ask them what their experiences were and what they thought -- I don't know if all of them answered it -- but just how they were going about their work, what their problems were, what they were dealing with, so

we could kind of ideate on how CISA might be able to support them.

Q Do you know what CISA did with the recommendations? Did they always adopt them? Did they --

A So we only gave -- we gave recommendations at two different periods. One was in June of 2022 and one was in September of 2022.

The June ones, she accepted some and didn't accept others. And the September ones I honestly don't know because I couldn't go to the meeting because I had COVID. And I don't remember looking through and seeing exactly which ones were accepted or not.

Q Do you --

A Or actually maybe her -- maybe that came later. I missed -- whatever it is, I missed the meeting where she described that. And, to be honest, they sent me a document for how to see how she was going to accept the recommendations, and I couldn't open it, and so I never did.

[redacted]. Do you recall who sent you that?

Ms. Starbird. I don't.

[redacted]. Was it someone from CISA?

Ms. Starbird. Yeah, it is. And it's probably public. I think it's public. You could probably look it up.

BY [redacted]:

Q What were the recommendations?

A I can't remember exactly all of the recommendations.

Q That's okay.

A But our big focus was on trying to really focus their mission as a communicative mission. So communication around sort of PSAs, around digital media

literacy or digital information literacy. I think we might have called it civic media literacy. We were trying to play with those words a little bit.

But recommendations on sort of, like, how they could communicate generally about how people can be more aware of their vulnerabilities, and then working with State and local election officials to help them identify when there's rumors about their processes and procedures and help them proactively communicate with the right audiences in the right ways to be able to address false rumors; again, for instance, about when and where to vote or around the integrity of their processes.

Q And what specific recommendations would you make about that, how to address that problem?

A I mean, I think it's really important for them to be able to -- and the problem is, is that local and State election officials, they don't have resources. They don't have the resources that have a communications team to be able to communicate this, which is why they're suffering so much.

Our recommendation was that there could be information sharing to help the local and State election officials understand what was -- the kinds of things -- understand when there's a rumor spreading and especially kind of make a determination of whether or not -- there's a whole thing about whether or not to respond to rumors, depending on how visible they are. And so to give them the support they need on making those determinations around how to respond.

And it was a communication response. So it's about -- we didn't put the details in the thing. But the example is Sharpie pens in Maricopa County in 2020.

So the Sharpies were bleeding through the ballots, and people began to think that they were -- that their ballots weren't getting counted correctly because the Sharpies were bleeding through.

And it was a legitimate concern that they had. It turns out the ballots were developed in a way that if they bleed through, the readers aren't reading the part that's bled through. They're only reading the front side of the page. So it wasn't actually affecting their votes, but they thought it was affecting their votes.

And so the trick is, like, how do we help these local and State election officials identify that quickly on election day as it's happening? People were getting really upset. There was confrontations at the polls. People were bringing other pens in.

They start to have these confrontations at the polls. And so if the local and State election officials have been able to sort of get ahead of that and say, "No, we designed them that way and that you can't bring your other pen because these pens don't dry fast enough" -- well, this is actually a felt tip pen.

But if it was an ink pen, the ink pens don't dry fast enough and they smear the readers when you put them in there. And so the ink pens actually cause another problem.

But they weren't able to understand that this was happening and communicate fast enough. And so you end up with a bunch of people that thought they had been disenfranchised, who truly thought they had been disenfranchised with those things.

Q Did the subcommittee deal with topics other than elections?

A We talked about the fact that there could be other places where critical infrastructure could be affected by the spread of mis- and disinformation. For instance, in emergency response you could see, like, if you have an earthquake, you could see a foreign adversary trying to get into that information space. And people are supposed to be evacuating, going to shelters over here, and trying to get people to go towards the hazard or whatever.

So you could see, like, places like emergency response was one that we thought

about adding. And I know that we talked a little bit about financial services where people might spread falsehoods about financial services to kind of create runs on banks or different kinds of things.

Another one is -- so if you think of CISA's core mission is as a cybersecurity outfit, so when the pipeline was hacked and then the pipeline went off I think in 2022 -- 2021 maybe -- you can see a disinformation attempt to try to get people to all go fill up their gas tanks, which can actually amplify the problem.

So there are all these places where critical infrastructure intersects with mis- and disinformation in ways that we thought we might think about, but we really, because of the timing, because of the acuteness of election misinformation and thinking about 2022, we focused our recommendations almost totally on that.

Q What about COVID? Was that ever discussed?

A We didn't talk about COVID.

BY [redacted]:

Q Are you serving on a different subcommittee now or once MDM Subcommittee was disbanded --

A I'm serving on a different subcommittee now.

Q And which one?

A It's the technical advisory committee. I've been to one meeting. I'm still trying to figure out how all the things work and what the new acronyms are.

Q Do you know if any of the subcommittees covered concerns related to mis- or disinformation related to financial services in light of, like, the recent bank failures?

A No, I don't know. I haven't heard any conversation about that in the context.

Q You mentioned a couple names. Kim Wyman?

A Yeah.

Q Who is she?

A Close to my heart. She's the former Republican secretary of state of the State of Washington, and she now works for the CISA office.

Q And what's her current position with CISA?

A I don't know exactly what her title is, but it has something to do with elections.

Q And who is Geoff Hale?

A Geoff Hale is someone who also works at CISA, and I don't know his title.

Q You mentioned that there was CISA staff that helped with the logistics?

A Yeah.

Q Did they, did any of the staff members play a substantive role in your meetings?

A No. They were mostly a resolving door of people, so I can't remember all their names because they would change every couple of weeks.

But they would just come -- it was virtual. Sometimes they would have a meeting with me beforehand for 15 minutes. They would say: What do you want to be on the agenda? What are we going to do?

And so they would create an agenda with me, and then they would open the meeting and then step out of the way and then let me lead the meeting. They would then close the meeting. And then after the meeting, they would send me meeting notes to give a thumbs up to.

[Starbird Exhibit No. 1

Was marked for identification.]

[redacted]. This is exhibit 1. If you can just take a look at it and let me know when you've had a chance to.

[Pause.]

Ms. Starbird. All right.

[redacted]. At the bottom of page 1, the first bullet point, it says: "Dr. Starbird thought CISA might have a role based on the Subcommittee helping to define the narrative so the 'whole of government' approach" -- which is in quotes, whole of government -- "could be leveraged."

What did you think CISA might have a role in exactly?

Ms. Starbird. I have no idea what I meant by that.

[Laughter.]

So for me this meeting was just completely educational. I have never worked in government, and I don't know how things work. And I was actually trying to understand, A, what the FBI does in this context, where the line is between what the FBI does versus what CISA does work.

And I'm still trying to figure out what CISA did at this point because a lot of that was a little bit opaque to me even as a person who's on the committee. So I was probably asking an open question.

I actually don't use the word "whole of government," so that may have come from someone else in the conversation or just been sort of a summary from the person who was writing the minutes notes.

[redacted]. Go ahead.

[redacted]. What's your understanding of what role the FBI plays in this space?

Ms. Starbird. From this meeting, which is the majority of my education on this, is that they're very focused on two types of actors. One is sort of foreign actors, and one

is criminal actors. And that they don't do anything on a content base, and they're just looking at foreign and criminal actors. And those were very strong delineations for them.

[redacted]. On the next page, so it's 2, the -- well, I guess you would call it the first bullet point on that page: "Ms. Dehmlow was asked to provide her thoughts. She stated we need a media infrastructure that is held accountable."

Do you recall any of that discussion and what was said about that?

Ms. Starbird. I don't recall, no.

[redacted]. In your research, do you have -- have others discussed how to hold the media accountable?

Ms. Starbird. Hold the media accountable? Not -- I mean, in my research -- how to hold the media accountable. I don't think so. I think accountable in the sense of, like, yelling at them when they do the wrong thing maybe. But I don't think, like, there's any -- that I've ever discussed, like, what media should do.

[redacted]. A little bit later on, it's the bullet point starting with: "Ms. Kim Wyman identified a study out of Stanford University and stated a recommendation was for social media companies not to promote MDM actors, which would reduce the promulgation of information from these people."

Do you agree with that statement?

Ms. Starbird. Do I agree with that statement?

Mr. Burton. Do you agree that this accurately reflects what this person said at the time?

[redacted]. No. Does she agree with the sentiment --

Mr. Burton. Or do you agree with the sentiment that's being attributed to this person?

[redacted]. Yeah, yes.

Ms. Starbird. I think when you think about some of what we're experiencing in terms of our online environment and some of the trends we've watched around the pervasiveness of mis- and disinformation, part of what we're experiencing is because the design of social media systems has changed how we get our information and who we get it from.

And part of that, there's a lot of research on the displacement of gatekeepers, that we used to have gatekeepers who were these mainstream media outlets. And that was problematic in any number of ways. We had very limited viewpoints that we could get access to.

And social media changed that in ways, it democratized information in ways that have been largely celebrated, especially in the early 2010s.

As we start to realize there are these other kinds of problems in the information space, because there's no gatekeepers, in some ways, anything goes. We have access to all of this different information, but it becomes much harder to determine what we should trust and whom we should trust.

And more recently there has been sort of a redistribution -- this is just kind of coming out in the research -- where it's not anything goes. It's not really that we all have an equal voice in these online environments. There's a few people who have figured out how to manipulate the system to gain larger and larger megaphones.

And part of that -- I mean, there's been history of, like, using bots, using paid accounts to kind of amplify their things. And so people can take advantage or game the system to gain outsized influence.

And in my, like, my research I have really focus on, like, what could the platforms do to counter that to get back to where we have this more democratic discourse where

we have access to ideas, we can share ideas, but there's less ability for a few people to game the system. A lot of because how they game the system is gaming our psychological vulnerabilities, which is giving us a lot of what we want to hear, but is exactly where we're vulnerable to spreading and believing mis- and disinformation, which can be harmful to us individually and harmful to us as a society.

And so my personal views from my research is that it's an open question on how we intervene in that system in order to create healthier democratic discourse, but that there could be some ideas around the platforms reconsidering how they become these spaces that a few individuals can manipulate for representational gain that allows them to manipulate us at scale.

BY [redacted]:

Q You mentioned there was an open question about how we intervene. Who are you referencing?

A We as a society. I think about solutions on all different scales. There's intervening in the sense of, like, you create educational initiatives.

My colleague, Jevin West, has a class on "Calling Bullshit" that teaches people how to identify when they're being lied to by a data visualization. And we can teach people to better recognize when people are impersonating accounts and trying to infiltrate our online communities, to become part of our group and then manipulate us from there.

We can think about, again, like I talked about building tools that give people the signals of where they're getting -- how information is getting to them so they can make better decisions about what they should trust.

And so there's intervening all along the ways.

There has been a lot of talk -- and I'm sure you want to ask about this -- around platform moderation as part of that. Personally, I think the research is still out on

whether that's successful or whether it's useful.

Initially, I was not a real proponent of labels. Then I got a little bit more excited about them. And then I got a lot less excited about them after looking at the research come in.

But, yeah, so there's all different levers that could be -- that could have sort of interventions. But me, personally, I talk about what can society do. When I say "we," there's like a global we there. But what can society do? And as a researcher, I might have impact on what society does by giving a talk or by being on an advisory board or by teaching my students to go out there and design better platforms.

Q And you said this meeting was educational to you and you were learning about what the FBI --

A Yeah, because I had no idea how the FBI works, yeah.

Q Did you have the sense that the FBI and CISA had similar understandings of what each agency's role was?

A I don't know if I could answer that question. I mean, it's a Teams meeting. I can't even see everybody's faces. So I don't know that -- there didn't seem to be -- and the CISA folks weren't talking. We were talking -- our committee was talking to Laura Dehmlow.

And so I didn't really get any -- I don't remember getting any feedback from the CISA team on how they were interacting with her comments.

Q Do you recall who brought the FBI to this meeting, if it was one of the subcommittee members or someone from CISA?

A We created the invitation list. I would not have known to invite her. It must have been one of my colleagues. And I would assume that it was Susan Spaulding because she would probably be the person to have more knowledge about how different

government agencies worked and whom we should talk to.

[10:57 a.m.]

BY [redacted]:

Q And whenever someone brought a second -- or an expert that you referenced earlier, would that make it into the meeting notes?

A I believe the meeting notes had a list of the people that attended, but I don't know that for sure.

And an expert -- the experts would have been in the meeting notes because they would have been the focus -- whenever an expert came -- and I think we had three or four -- about half of the meeting would be spent talking to them. And then they would leave, and then we would sort of discuss among ourselves what we learned.

Q And did everyone on the subcommittee have an opportunity to review the meeting minutes?

A They were sent them -- I reviewed them -- I'm a busy person, so I probably didn't review them as closely as one could. But I reviewed them, and then they were circulated to the rest of the subcommittee. And I'm not sure that they read them either.

Q Just to clarify, you said you had an opportunity to review. Was it your understanding that others on the subcommittee had an opportunity to review as well?

A No, no. I reviewed, and then they went out.

Q Okay.

A Yeah. That's my understanding.

Q We can take these back.

A Okay.

[redacted]. This is exhibit 2. You can take a look, and let me know when you're finished.

[Starbird Exhibit No. 2

Was marked for identification.]

Ms. Starbird. All right.

BY [redacted]:

Q On the page marked 2, which is Bates No. 5374, it says that you asked what should be the limitation -- sorry. It's actually the next sentence.

You asked if rumor control should be a project within CISA and what it should look like.

What do you mean by "rumor control"?

A My understanding is that CISA was using the term "rumor control" internally as part of their work prior to us having this committee convened. I think it might have been in the list of questions that were given to me as a -- when we were asked to sort of -- here's your questions to give us feedback on. I think that this question was one of them. It was like, is rumor control -- should that be part of what CISA is doing?

And my understanding of how they ran that -- rumor control was mostly as a place of communicating about what rumors were spreading. And so -- and I said, from my research in rumoring, that terminology is not -- and that kind of approach to rumors is probably not as -- you know, may not be the best thing. And so I was kind of asking if rumor control was the right approach.

[redacted]. Okay. Our first hour is up.

We can go off the record, please.

[Recess.]

[redacted]. It's 11:15. We can go back on the record.

EXAMINATION

BY [redacted]:

Q Dr. Starbird, thank you, again, for joining us today. I appreciate you taking the time to fly out here and join us voluntarily.

A Happy to be here.

Q You were asked in the earlier hour about the grants you had received?

A Yes.

Q And you mentioned that you had received some grants from the National Science Foundation?

A Absolutely, yeah.

Q Can you -- are you familiar with the process that people go through to get an NSF grant?

A Yes. I've served on panels. Of course. Yeah.

Q Okay. Can you describe that process to us?

A Yeah. You write a proposal that outlines sort of the intellectual contributions. It's got, like -- so what are the intellectual merits, the broader impacts of that work, and you write a proposal -- 10 to 15 pages, depending on the size of the grant -- to basically articulate what you're going to do, what the methods are, and how that's going to enhance science and enhance what we understand about something that we care about.

And then -- again, there's these two criteria. One is the intellectual merit, the scientific contribution. One is the broader impact. And that is essentially, like, how does this help society?

Q And then, on the NSF side, are you familiar with the process --

A Yeah.

Q -- that NSF undertakes to review and decide whether to make a grant award?

A Yes. They bring in other researchers, experts in that field and related fields. They have a strenuous review process. They've got all these different review criteria. You'll have three or four experts, like, review those grants. Then they rank those grants from not competitive to low competitive to competitive.

And then, from there, they -- the NSF program officers make determinations of how to get the ones that the panel decides need to be funded -- how to get those funded.

Q How long does the process usually take?

A It takes usually about a year from the time that you submit a grant to the time that you receive the funds.

Q Would you describe this as a fairly rigorous process?

A Extremely rigorous. It's very hard to get a National Science Foundation grant, yeah.

Q And compared to, for example, other grants that you've received, would you say NSF is one of the most rigorous?

A Absolutely. Other grants, we can write, you know, a page or two depending on if the funder knows -- like, philanthropic grants, they know us. They know what we do. We might write a page or two. We'll have some conversations. And they might, you know, fund the Center for an Informed Public.

National Science Foundation, it's a peer-reviewed process. And so it's not any one individual. It's other -- it's other researchers who then say that this work has value.

Q Okay.

A Yeah.

Q And you also mentioned that you received a grant from the Navy, and I didn't write down the name of the actual grant program. Do you recall that?

A Yeah. It's the O- -- Office of Naval Research -- ONR.

Q Okay. And you only received one grant from them, correct?

A I think I might have been on two grants from them.

Q Okay.

A Yeah. One was -- I received it, and one was -- I was contracted to do some work on it.

Q Were you part of the process for applying for those grants?

A Was I part of the process for applying for the grants? Yes, but I don't remember the process very well.

Q Okay. Understood.

A Yeah. It was in 2017. Yeah.

Q Okay. So it was a while ago?

A Yeah. And it wasn't very much money compared to other things. They were very small projects.

Q And you said that they were fairly limited in scope for what you could use the grant money for?

A Yeah, yeah. They were very kind of delineated around -- around -- and the first one was foreign disinformation.

Q Okay.

A Yeah.

Q Earlier in your career -- taking a step back. Earlier in your career, you said you graduated -- that you obtained your Ph.D. in 2010, correct?

A No. My Ph.D. in 2012.

Q 2012. I'm sorry.

As part of your process of getting your Ph.D., did you conduct any research?

A Yeah, I did a lot of research. So my research as a Ph.D. student was mostly

focused -- there was another strand initially on the education and computer science, but I moved over to focusing on the use of social media during crisis events.

And we studied that in a couple of different ways, but we collected a lot of data from social media platforms, including Twitter back when we were able to do that. No longer true today.

But we collected a lot of data from Twitter, public data that was publicly shared and publicly available, and we looked at how people were sharing information about a crisis event like the Haiti earthquake. There was an earthquake in Chile, floods, Red River floods, all sorts of different kind of crisis events, and looked at how people shared information, looked at the value of, like, understanding a crisis event by the information that people were sharing with the opportunity that we have to learn more about how a crisis event is unfolding both in real time and as researchers after the fact.

And then I also started digital voluntarism, which is how people come together to help other people during crisis events using social media platforms. As part of that -- and the discovery of the online volunteers actually happened through a project that my team was doing that I led part of it as a Ph.D. student, which is really common. I led a project to do real-time crisis mapping based on information that was coming through Twitter. We would take that information, process it, do quick data analysis, and create maps of an unfolding crisis event.

And then other volunteers online sort of helped us create those maps, and then I started to study the online voluntarism that people would do to try to help each other by creating informational resources during a crisis event. And that was my -- my dissertation was in that.

Q Okay. Did you also do work tracking the use of social media in the 2010 Deepwater Horizon oil spill?

A So I did two things in Deepwater Horizon around that event. One was this real-time work. So I created this way of sort of automatically taking tweets -- if people put them in a certain format, I could automatically take them and add them to a map. And so what I was doing was creating these live crisis maps of events.

And so, for the 2010 oil spill -- the Deepwater Horizon oil spill, we would map -- like, people would take pictures on the beaches. We were mapping the impacts of that event sort of in real time.

Now, years later -- 2 years later, we came back to all that -- so, in order to do that data, I had to collect data from Twitter in order to do the real-time mapping. So, when I started my job at the University of Washington, I went back to that dataset and started studying the online sense-making process that people were going through to make sense of what was happening. That was with, I think, a NOAA grant with two or three other collaborators at the University of Washington to start kind of thinking about, in particular -- it was a really quirky thing we were focused on, but, like, how people processed the use of dispersants -- the dispersant technology -- as one of the options to clean it up. There was a lot of controversy around whether or not to use dispersants, and so we studied how people made sense of that controversy.

Q And what's the value of understanding how people make sense of that type of controversy?

A Well -- what's the value? The scientist in me is like, everything is valuable. We're curious. We want to answer these questions.

I think one of the -- it's interesting -- it's been a focal point of a lot of research in crisis events because sometimes those discourses can go right and can lead us towards, you know, understanding what's happening in ways that are enlightening and useful and help for responses. And also, those sense-making processes can go wrong. And so

there's a lot of research on collective sense-making or sense-making within organizations, which are related but not exactly the same concept. But there's a lot of research on sense-making.

And so we saw this opportunity with this new kind of data to look at sense-making in real time. To look at sense-making not through conversations -- through interviews later, but we could look at actually people making sense of things through their social media posts as these events were happening. And so there's this kind of new window of insight into this, like, very human process of how we process a disaster event.

In the case of Deepwater Horizon, like, the people there -- there were all sorts of people talking about it. It's a platform that's global, right? But there were a lot of locals that were really sort of processing this, like, horrific event that was happening to them that was marring these beaches that they really cared about. They were worried about health, the health impact, and those kinds of things. And some of that, you know, was really valuable to start working through it.

And they also were very vulnerable to rumors and conspiracy theories that we remarked on -- in our research in 2012-2013, we started to remark on that -- on how they were really vulnerable at those times due to those kinds of anxieties. But we know that anxiety and uncertainty makes us vulnerable to rumors. That's part of why rumors spread during crisis events. That's why we, as researchers, study those events as opportunities.

Q When you talk about individuals being vulnerable to rumors --

A Yeah.

Q -- and conspiracy theories, is that -- would you agree that that poses a risk to those individuals or it poses a risk to society at large if people are susceptible to kind of -- for example, in the case of Deepwater Horizon, if they are believing in -- I don't want

to say false rumors because I understand that rumors may or may not be false --

A Yeah, well --

Q -- but whatever the right terminology would be?

A Well, rumors do turn out to be false, right?

So let me give you an example. So we were doing that live crisis mapping activity around Deepwater Horizon. And I'm on Twitter, and I'm mapping things, and some people would -- these volunteers would share things. And one of them -- because I was a researcher -- I was still a Ph.D. student, but, you know, I was the leader of this project.

This digital volunteer reached out to me via my DMs in Twitter, and she said: I'm really worried about this article that I read.

And I guess I'd seen it kind of bouncing around.

I said: Well, can you send it to me?

She sends it to me. And it's this article where they've interviewed two scientists, and it turns out to be Russian scientists, but I didn't catch it at the time.

And they had said that they -- there was this article featuring them, and they said that they thought the ocean floor was going to collapse because all the oil was going to be taken out of it, sending a tsunami onto shore, and, like, basically wiping out the population.

And I said: Well, there's something about this article I don't quite understand. I don't think it's probably true.

But she was like: Well, I'm really worried.

It was clearly making her anxious, and she was asking my expert opinion whether or not she should go and move in with her daughter in a different place for a few months. And I said: Well, it probably couldn't hurt to be with your daughter for a few months.

But in that case, like, disinformation -- which we later learned was Russian

disinformation, but I didn't learn that until many years later when I went back and looked at that data and was, like, oh, my goodness.

But when we -- at the time, it probably didn't hurt her to do the wrong thing, but her emotional stress that she was -- the stress that she was experiencing due to some of those false claims and conspiracy theories -- and, in this case, disinformation really was having an impact on her acutely and I imagine was affecting a lot of the population there. I mean, she's just one person, but that article was spreading around a lot of the locals and the activists that were -- that were participating in collective sense-making around that event. Yeah.

Q And I want to actually look at the ways that there can be harm from kind of false rumors in the election context.

A Yeah, for sure.

Q So I think you've done some work on election rumor -- false rumors, I guess, pertaining to individuals impersonating election workers, right?

A Impersonating election workers --

Q Or online accounts that would be falsely impersonating an official election account?

A I personally don't think I've done any work with someone who's impersonating -- I think a project I was on did identify that, and so that is part of -- the Election Integrity Partnership, I do think had, like, one of those cases, but I didn't work directly on it, so I don't remember it.

Q Okay.

A Yeah.

Q Would you agree that, if somebody was impersonating an official account, it could potentially harm the process?

A Absolutely. I think one of the most acute worries in the election context -- the first and foremost one is that false information about when and where to vote can confuse people and can disenfranchise voters. And that can be accidental false information.

So one of the things that happens in online spaces -- because we have 3,600 different jurisdictions or something close to that -- that the rules in one place are not the same as rules in others. Times are different, when your mail-in ballots are due are different, those kinds of things. And so information that's true in one place may be false in another.

And so just, like, accidentally seeing the information about another State and then thinking, "Oh, my ballot doesn't count anymore because I sent it in too late," when really, in your State, it did still count, is actually a potential for disenfranchisement.

We've also seen people intentionally mislead about when and where to vote. Sometimes they say it's a joke, but in other cases, there have been, like, intentional efforts to disenfranchise people through false information as well. And so that's one -- certainly an acute threat in that space.

And there's others as well of just sort of -- eroding trust in the processes and procedures and results can have sort of meta-level effects on trust in democracy.

Q And I think you used the example of Sharpiegate earlier?

A Yeah.

Q And how that -- if people used the wrong type of pen because they believed the rumor that Sharpies didn't work, then that actually could ruin the ballot, right? Or make it unreadable?

A Right. So a couple of different things on the Sharpiegate.

So using -- using the wrong pen -- so using an ink pen at home didn't matter

because it had time to dry before it got mailed in. So it really doesn't matter what pen you used at home.

But, on Election Day, in the election facilities, if you feed those things into the election -- you fill out your ballot and feed it in, it could -- if you use the wrong pen, it could harm the reader -- the optical reader of the ballot. And so Sharpie pens were recommended in Arizona -- not recommended. They were -- Sharpie or felt-tip pens were the pens that you were supposed to use in the election facilities.

What happened was a rumor that the ballots weren't counting because they were bleeding through -- the Sharpies did bleed through, and that was concerning to the people that were voting, especially people that thought that they might be -- they heard that they could be cheated. And so they were kind of predisposed to kind of interpreting this: Oh, this is a problem. You know, this isn't going to work. Maybe I'm being cheated.

And so there was sort of this misinterpretation that happened based on that, which became really acute. We could actually see it -- it goes into a second stage the next day where people start going online to check the status of their ballot, and it says that it's canceled, and all these people begin to share "my ballot is canceled," except when you look at it, it's actually the status of their mail-in ballot, which was canceled when they went to vote in person. But, again, they misinterpreted that as having their ballots canceled.

And so these people really did begin to -- and you can see that they're feeling anxiety, and they're very upset because they really did think that their ballots didn't count. And that led to a lot of consternation, as you can imagine, from people who really care about the democratic process. Yeah.

Q And that could lead people to potentially lose faith in the democratic

process?

A Absolutely, yeah. Lose faith in the process.

On Election Day in Arizona, it led people to going into the facilities and demanding to use and to bring their own pens, which were potentially harmful to the system, which could have caused downstream effects. We actually -- there's also a possibility that the problems in 2020 caused Maricopa County to use thicker printed -- thicker paper in 2022, which caused a whole other set of problems. And so they're even worse off this year because then the paper didn't print properly, and they didn't -- it has downstream effects.

So, actually, those rumors can make the process less secure and less -- you know, less functional, where false rumors begin to pick at how things work.

Q I want to look at another rumor and kind of use this as a little mini case study.

A Yeah.

Q Are you familiar with something known as the Sonoma County ballot dumping allegations?

A Yes.

Q Okay. Can you broadly explain your understanding of what that is?

A Of what happened?

Q What happened?

A So I think it's in September of 2020. There -- so let's go back and explain this. Because election officials know this happens a lot.

It turns out the law is that you have to -- if you're an election facility, you have to recycle or get rid of the ballots from the last election 20 months later or something -- 22 months later. Some amount of time later. So not quite 2 years.

And, when they do that, those ballots go into dumpsters or recycling units, and

people often mistake those for actual election -- it's not actually ballots, but ballot envelopes. And people can mistake those for election materials.

What happened in Sonoma County in 2020 is someone saw a bunch of what they thought were ballots in a dumpster, and they -- again, they're hearing that there's going to be -- there was a dominant narrative around the -- that voter fraud was occurring. And they see these ballots and think, oh, this is an example of voter fraud. And they don't trust the mail-in ballot processing.

So they take a picture, and they send it to apparently some -- a couple different media influencers, and those media influencers post about it. So one post is from a reporter from The Blaze, and another goes out -- and the article goes out through The Gateway Pundit, which --

[redacted]. And I just want to pause you right there because I want to introduce --

Ms. Starbird. Yeah.

[redacted]. -- as exhibit 3 the post from The Blaze, and then -- or I'm sorry. The tweet from --

Ms. Starbird. Yeah.

[redacted]. -- Elijah Schaffer, who was a Blaze reporter.

[Starbird Exhibit No. 3

Was marked for identification.]

Ms. Starbird. Yeah.

[redacted]. And then I'll introduce as exhibit 4 The Gateway Pundit article.

[Starbird Exhibit No. 4

Was marked for identification.]

Ms. Starbird. Okay.

[redacted]. While she's reviewing the documents, I just want to note for the record that we are joined by Mr. Bishop as well.

BY [redacted]:

Q So is exhibit 3 the Blaze tweet that you were referring to?

A Yeah. So this is the Blaze tweet. And I know this case well because I was doing real-time research as this was sort of spreading.

Q Okay.

A So I was with my team of three or four students studying this particular case, and I've used it in slides since.

What's happening here is that this is a reporter from The Blaze. He's taken this picture that, I think, was sent to him. And he's -- he's sharing it with a large audience. And it says, you know: Shocking, thousands of mail-in ballots have been found in a dumpster.

And he says that they were allegedly discovered at this landfill, and the ZIP Code matches the ballots, and these are original photos, and he says: Big if true -- which is one of these common sort of ways that people -- I wrote a paper in 2016 with a few students around using sort of expressed uncertainty and hedges to be able to spread rumors and misinformation but not have to take responsibility for them. And that's a common technique for doing that. It's a reputational hedge -- or a reputational shield using, like, hedging language. Yeah.

Q So the tweet came out -- I think the time is 12:52 a.m. This might have -- I'm not sure what time zone that is.

But that came out first, right?

A Yeah.

Q And then, after that, there was The Gateway Pundit article, correct?

A Yeah. The Gateway Pundit article comes out about 6 hours later. And, if you actually look, I think you end up with -- this spreads through Twitter -- it mostly spreads, in about 24 hours, something like 25,000 to 45,000 tweets, retweets, quote tweets, and those kinds of things. It eventually starts to die down on Twitter and then hops over on Facebook a couple of days later with the same rumor.

And it turns out that these ballots are not ballots. They're ballot envelopes, and they're not from 2020. They're from 2018. So what's happened is you've taken something out of context to build that narrative that we can't trust the mail-in voting process because ballots are being thrown away when they're actually not. Yeah.

[redacted]. So, in this case, the Sonoma County elections Registrar actually put out a statement -- I'm going to introduce as exhibit 5 an article recording what a Sonoma County Registrar said that day. It's September 25th. There's not a time stamp on this article.

[Starbird Exhibit No. 5

Was marked for identification.]

[redacted]. But sometime that day --

Ms. Starbird. Yeah.

[redacted]. -- the Sonoma County Registrar actually tried to correct the record and said that they're not ballots, the county won't even send out the mail-in ballots for another 9 days, and that these ballots were in fact the envelopes from the prior election.

So I'll give you a minute to look at this article, and then I'm going to ask you why -- if this correction was made the same day, why that didn't have any impact on the spread of the rumor.

And then I'll introduce as exhibit 6 as well -- the County of Sonoma put out a tweet at 4:21 that afternoon. Same basic concept. Not as much detail as is in the article.

[Starbird Exhibit No. 6

Was marked for identification.]

Ms. Starbird. Yeah.

BY [redacted]:

Q Are you familiar broadly with this tweet and with -- maybe not the article itself but the contents of the article?

A I'm not as familiar with the article. I'm familiar with the tweets --

Q Okay.

A -- because I spend way too much time looking at tweets.

Q So these comments came out from official sources, right? It's fair to --

A Yeah.

Q -- qualify the Sonoma County Registrar as an official source, right?

A Well, it's not just the official source. It's the source that actually has the information that would give context to this.

And, yeah, I think that's important to note. It's, you know -- if it's an official voice across the country, it's not as helpful, but this -- they would know what their processes and procedures were. So this would be a credible source in this case, yeah.

Q Okay. So, in this case, we have a credible source showing that the original story is demonstrably false. So the rumor is demonstrably false, I should say.

A Yeah.

Q Is that fair to say?

A Yes.

Q So the credible source was out there with the correct information within hours.

Did you see that this actually slowed the flow -- or slowed the distribution of that

rumor at all?

A It's hard to say whether or not it slows or accelerates it, but we do know that corrections just don't get the same kind of visibility as the originally false claims. And this one certainly didn't get the kinds of retweets or exposure that the original false claims did. And it didn't stop the rumor from coming back a couple days later on Facebook. Yeah.

Q And has your research explored why that is? Why this type of correction is not effective in helping to stem false information?

A Yeah. Because the reasons we spread -- spread things have to do with -- like, they're entertaining. They're novel. They're exciting. And, you know, a correction is not half as exciting or interesting for our audiences as a, you know, claim of potential voter fraud, especially if you're -- you know, one of the things we've seen that plays out in the research is a lot of rumors and misinformation -- we're most vulnerable -- as individuals, we're most vulnerable when rumors align with our priors and when they align with our political or social identities.

And, at this moment, there were a lot of people in sort of -- who qualify as politically right-leaning or conservative who had heard that the election was going to be fraudulent and had heard that you can't trust the mail-in ballot process, and this aligned with those priors. And so they were sort of -- you know, there was that motivation to share it.

There's not the same motivation for anyone to share a correction. Nobody cares. All right. Okay. It wasn't true. Who's going to share it, right? So you just don't see the same kind of viral spread for corrections as we do for false information.

Q Okay. And I understand that, with respect to the Sonoma County tweet, but The Gateway Pundit also -- if you turn to the article at the end, they issued -- they

cited the Sonoma County comments as well.

They issued -- I think in the version that I handed out today, it says "updated," and near the end, it says: The Sonoma County Registrar says this -- you know, decide for yourself, I think.

A Right. And they put the question mark after that.

In our 2016 paper -- which, you know, was written in 2015. I just want to, like, stage that. It's before a lot of the shifts in how many of us view these things. But we noticed that these leading questions were a common technique used to spread false rumors and conspiracy theories.

Q Have you researched what kind of ordinary Twitter users and maybe the public at large understood the Schaffer and The Gateway Pundit tweets to mean?

A Yeah. One of the techniques we use -- so it's not what you say; it's what your audience hears. One of the techniques we use is what -- we'll actually look at some of these posts by an influencer. Influencers are often pretty careful in how they say things. They do these reputational shields. They don't want to, you know, put things that are overtly false out there, but they'll put insinuations. We can see what they mean by looking at their audiences' replies and quote tweets.

And so what we'll do is go and look at all of the quote tweets of these comments. And, you know, you'll see, oh, here goes the fraud again. Or, you know, voter fraud 2020 or whatever. So you'll see that their audiences will repost these things with hashtags that show that they're interpreting this as being another example of voter fraud, which is what that data for this case shows.

Q So what are the possible harms, in this particular instance, if voters believe that there are ballots being thrown in the trash? What are the possible harms that would flow from the belief that that rumor could be true?

A There's a couple of different ones. So there's the loss of faith in the process. That you no longer, you know, trust that the results are what the results are. You no longer trust the other party.

One of the things about a functioning democracy -- Henry Farrell has some great stuff about this. In a functioning democracy, you have to have, you know, at least faith that the other party is a legitimate actor. You might not believe what they say; you might not believe their policies or whatever. But you have to think about them as, you know, playing by the same set of rules. You have to have a shared sense of rules of how elections work.

And these kinds of things begin to suggest to folks that the elections are rigged against you, they don't really work, and that you can't trust the other side of the political spectrum because they're trying to cheat you. And that can turn people to do -- you know, have good people then take undemocratic actions based on these sort of misperceptions that the other side -- there's another good study that just came out this week on this.

It's that when you begin to believe that the other side isn't playing by the rules, that you don't play by the rules anymore, right? And so you don't need to play by the rules because the other side isn't. So this can just contribute to sort of the erosion of democratic norms and, you know, kind of ultimately, you know, puts democracy in danger if too many people -- if too many of us begin to get into these patterns.

Q Thank you for that.

A Oh, there was another piece of this that I had in my head, and now it's slipping away.

It's -- oh, in this particular one, what can happen is a particular -- especially with mail-in ballots in particular -- that one political party can begin to believe that mail-in

ballots are not what they want to use, right? And so that has some implications for election day in 2020.

But an example of how it has implications in 2022 is, in Maricopa County, where people have just been kind of saturated in this kind of thing. They do have a case where Democrats are more likely to use mail-in ballots because Republicans no longer trust the mail-in ballot processing. And that actually sets them up for all being -- all voting on election day or voting on election day in a much higher proportion, which, when the machines actually have problems, they're more affected than the other party.

So it can actually hurt your own party by kind of pushing you away from different -- from voting in the way that's easiest and best for you because you're falling for these rumors. So it can be personally harmful and lead to disenfranchisement when you no longer trust the process.

Q Interesting. I want to move on and talk about the CISA advisory committee that we talked about.

A Okay. Yes.

Q Do you remember those questions at the end of the last hour?

A I do --

Q Okay. The MDM -- and I think you -- were you successful in changing it from the MDM to --

A Oh, we didn't change the name. I just -- I just put mis- and disinformation and didn't -- tried not to use the --

Q Okay.

A I didn't always have the last say exactly on how things were written. So it may still end up in places, but I tend to prefer to use misinformation, disinformation.

Q Okay. So the subcommittee that you are the chair of --

A It's still called the MDM Subcommittee. I didn't win that battle. I lose my battles sometimes.

Q You referenced recommendations that you submitted to the CISA Director in June -- on June 22nd, 2022.

A Yeah.

Q Do you remember those?

A I do -- I remember referencing them. I don't have them memorized. So, if someone wants me to talk about them, I'm happy to.

[redacted]. So we're going to introduce those as exhibit No. 7.

[Starbird Exhibit No. 7

Was marked for identification.]

Ms. Starbird. Yeah. It turns out I write a lot of things and can't remember what they all are.

[redacted]. And I actually just want to look at the first page.

[redacted]. Is this exhibit 7?

[redacted]. This is 7.

[redacted]. Yep. Thank you.

BY [redacted]:

Q So this report does make various findings and recommendations, but I want to look actually at the introduction on the very first page.

I'm sorry. Before we get there, did you draft this?

A I drafted this, yes.

Q Okay.

A I had people helping me. I didn't write every word. Often, I'm translating others' words. But I wrote most of this and collaborated primarily with Suzanne

Spaulding but also with Vijaya Gadde in writing this.

Q Okay. And you had final clearance on it before it went out? Is that fair to say?

A Yeah.

Q The fourth paragraph under the introduction -- I'm going to read it into the record. It says: The First Amendment of the Constitution limits the government's ability to abridge or interfere with the free speech rights of American citizens. The First Amendment and freedom of speech are critical underpinnings to our society and democracy. These recommendations are specifically designed to protect critical functions from the risks of MD -- which is a reference to misinformation and disinformation -- while being sensitive to and appreciating the government's limited role with respect to the regulation or restriction of speech.

Did I read that correctly?

A You did, yes.

Q Okay. So is it fair to say that the subcommittee made its recommendations -- the recommendations contained in this document and, I guess, in the September document as well -- with the protection of the First Amendment forefront in your minds?

A Absolutely.

Q Okay. Do you believe that any of the recommendations contained in this document -- and I can give you a minute to look through them again if you'd like -- do you believe that these recommendations respect individuals' First Amendment rights?

A Yes. I mean, we -- our goal was to communicate in a way that acknowledges the difficulty of these challenges but that put the First Amendment first and foremost. And that's why it's in the introduction and acknowledging that, you

know, that's what makes this space challenging. And -- yeah.

Q Okay. So, when you say that was your goal, were there any -- to the extent you can talk through it, when you were -- were there any steps you took through the writing process? Did you consult with First Amendment scholars, for example? Did you -- were there any specific steps you took to make sure these recommendations protected First Amendment rights?

A We had a brief -- I had one brief conversation with Jameel Jaffer, who was a First Amendment scholar, and I think directs the Knight -- the First Amendment organization. I don't know the name of it. But to kind of understand what the limitations are.

And, to be honest, he was like -- you know, with some of the questions that I had -- like, I'm just trying to learn how everything works as a person who's not -- that's not my primary research area, but trying to understand what the limitations are, and there were still some open questions that he said in some of these different areas.

And so we tried to -- a lot of times, we said, you know: If there's an open question and we can't answer it here or it's above this committee, we'll talk about this later.

But the way we crafted this was trying to stay within the lines and also trusting that, if we're outside the lines in what we're recommending, that CISA should be able to figure that out and -- you know, and make those decisions.

And, again, these are recommendations. These are not orders or anything else. We're an external advisory board. We didn't have a lot of power. And in fact, she didn't accept all of our recommendations.

Q Sorry. One second.

So there's been an allegation made, I think, with respect to these

recommendations in particular --

A Yeah.

Q -- that they suggest that the MDM Subcommittee recommended that CISA effectively be placed in a situation to be an arbiter of truth with respect to what is and what isn't misinformation or disinformation.

Are you familiar with that allegation?

A Not directly, but it doesn't surprise me. Yeah.

Q Okay. Do you think that's accurate?

A Absolutely not. I think when we are talking about the role of CISA, it was always around -- if there was a veracity thing, it was around CISA trying to point to the authoritative source in that case.

So, if it's an issue of Sharpie pens in Arizona, they're pointing to the Maricopa County recorder. If it's an issue of the Sonoma County ballot envelopes, they're pointing to the Sonoma County thing.

For -- CISA's role would be to find those authoritative sources and help broadcast their message to make sure it reached the audiences that needed to hear it.

Q I want to look at exhibit 1, which is -- we'll redistribute it because it was taken away before.

This is the advisory -- Cybersecurity Advisory Committee meeting summary 0301 -- 2022 PDF. I'm sorry.

It's a 3-7-2022 email from the Cybersecurity Advisory Committee to a whole list of people.

A Uh-huh. So the meeting notes?

Q The meeting notes. Correct.

A Yeah.

Q And this is the meeting that you had described as educational in nature for you?

A Yes.

Q Okay. What's the value of having these type of educational discussions? How does that inform the work that the MDM Subcommittee did?

A Yeah. I mean, we were just trying to learn the space. Like, who are the actors? You know, who plays what role? What are the limitations of different organizations? And where is the gap -- where is the need that CISA might be able to fulfill in terms of what they're supposed to do and what the needs are?

And, for me, it was, like, figuring out, what does CISA do? You know, what do these other folks do? You know -- and how do they work together, and where are those sort of delineations?

It was really just, like, you know -- and to be honest, you know, 1 hour every 2 weeks is only so much. I understand a lot about how misinformation spreads -- rumors, misinformation, disinformation spread online. Government agencies and how they work and how they work together was something I didn't know a lot about when I started as the subcommittee chair.

Q In the earlier hour, you were asked about what the FBI -- what the FBI's role is with respect to misinformation, disinformation. And you used a phrase that I want to turn back to.

You said they look only at foreign interference and criminal actors, and there's a pretty strong delineation between that and, I guess, other work that could be done. Do you recall saying that? Or could you --

A I mean, that's my understanding. I could be wrong on that. I had a 30-minute briefing from them. I don't have a complete understanding.

But in our conversation, I remember they stressed those two dimensions and that that was a limitation. And, again, that's -- for us, we were thinking about -- okay. They cover that, and they maybe collaborate with CISA when things intersect with that. When things don't intersect with that, they wouldn't be a collaborator in that space.

Q Okay. So your impression is that FBI really doesn't do anything with respect to domestic content moderation. It's solely focused on foreign interference and, you know, addressing criminal activity?

A If it was criminal.

So, in the election space, my understanding is that it's illegal to purposely mislead on when and where to vote. That could be something that could feature into their work. But on just, like, the fourth dimension of the Election Integrity Partnership's work where it's, like, misinformation that undermines trust in the process, that would not be a place where the FBI would be working -- if it was domestic.

Q And that was pretty clearly conveyed to you when you met with them in March of 2022?

A Yes. Yeah.

Q Okay. I want to look next at what's been marked as exhibit No. 2. This is the meeting notes from March 15th, 2022. You were asked a couple of questions.

And I want to look at the -- on what's marked as page 2. The second -- there's a bold bullet point and then some bullet points underneath it. It's kind of like a second section of bullets there.

A Okay.

Q The second one down, it says: Dr. Starbird addressed the highly limited scope for government in terms of social media monitoring.

What does that mean?

A My understanding is that government is not permitted -- except in very specific cases -- to collect private data from U.S. citizens. I don't know where the delineations are from public data. But my understanding is, on the private data, they're not allowed to sort of monitor that kind of thing.

And I think there's some open questions there that -- one of the conversations I had with Jameel Jaffer was to understand, what are the open questions, and who should be answering them? Which is actually, you know, one of the reasons that having a committee like that would be really important, right? Because we should be having those conversations, and we should be having them transparently. And "transparently" meaning -- that's why they come out with the meeting notes and recommendations and kinds of things.

And so my understanding is there is still opportunity to have those discussions. This is something that we probably should be doing as a society.

Q But your understanding right now is that the government not only does not collect that information, but it cannot? It's not allowed? It's illegal for it to do so, correct?

A My understanding is not complete, but that is my understanding.

Q Your understanding?

A Yeah. Again, it's not my area of expertise. But that's my understanding.

Q And then just a couple of quick questions on the social media company platforms. The -- sorry. The content moderation policies.

A Yeah.

Q You were asked kind of a little bit about that in the earlier hour.

You haven't drafted any social media company content moderation policies, right?

A No.

Q Okay. Have you directly advised the platform? In other words, have you been sent a draft of a policy and said, "Can you provide feedback and commentary on this?"

A I have been presented with, like -- I'll have a conversation -- I'll have a conversation with almost anybody. I'll have a conversation sometimes with the platforms or, like, a representative of the platform, and they'll say: You know, this is what we're thinking. You know, what do you think?

And I'll say: Oh, that might work. That's probably going to backfire or whatever.

I don't draft them, but I've had conversations with representatives of several platforms, actually.

Q Okay.

A Yeah.

Q So you mentioned earlier labels and the emerging research on labels --

A Yeah.

Q -- that you used to be -- used to think maybe they were helpful, and now you're thinking, no, they're not helpful. Like, that's not actually a useful technique.

That's something that, if somebody wanted your input on, you'd be able to provide that?

A Yeah. And actually, it's very nuanced. It turns out that labels work in some contexts, and they don't really help in others, and they absolutely backfire in others, right? So it's really contextual.

And those are the kinds of things that I'm happy to have a conversation with a platform about: like, how you might want to go about labeling, which accounts you might want to not bother labeling. Maybe you really only want to label -- you know, I might

advise, like -- you know, you focus labels on the people that, you know, are verified accounts or have large audiences, those kinds of things.

But those would be, again, conversations, and it would be my expert opinion at the time with the knowledge that these are changing because the research is still coming out. The labels on social media platforms are only, like, 2 or 3 years old as a platform affordance, right? We don't even -- you know, we don't even know yet how those things work.

Q But, ultimately, that's your expert advice based on what the research shows?

A Yeah.

Q And platforms are free to say no?

A Yeah.

Q They're free to say: We don't agree. Go take a hike.

Or they're free to accept it, right?

A Absolutely. 100 percent. And -- yeah. And I would actually also tell them that this knowledge is changing at the time. So you have to take my advice with a grain of salt because we're learning something new every day. Yeah.

[redacted]. Okay. All right. We can go off the record. Thank you.

[Recess.]

[12:46 p.m.]

BY [redacted]:

Q Dr. Starbird, we've, I think, referenced this in passing a few times, but can you state what the Election Integrity Partnership is?

A The Election Integrity Partnership, this is a hard question, because we've had two versions of it, and it's different across those two.

I'll start with 2020. If you want to ask me about 2022, I'm happy to talk about that. I probably know more about 2022 than '20 in terms of I was higher up on the leadership infrastructure.

But the Election Integrity Partnership in 2020 was a partnership that at the core were four research organizations that do research on social media data analysis. And then there was a range of other partners.

And the goal was to identify rumors, false, misleading, and unsubstantiated claims specifically around election processes and procedures, and to identify them, analyze them, and rapidly communicate about them with a range of partners and the public at large.

Q And can you say who the main four partners were?

A Organizations? Yeah.

Stanford convened the group, so Stanford University, the Stanford Internet Observatory. And then there was the DFRLab, which is a data analysis lab within the Atlantic Council, I think. And then Graphika, which is an industry partner. And then the University of Washington, particularly the Center for an Informed Public.

Q Okay. And when you say Stanford convened the group, was this an idea initially pitched by them? Was this -- let me ask that way.

A Yeah. When I become aware of this -- I don't know if it had a name yet -- it was from outreach from Stanford who were working on an idea around something in the election space, yeah.

Q And who from Stanford contacted you?

A Alex Stamos.

Q And who is that?

A Alex Stamos is the head of the Stanford Internet Observatory.

Q And had you worked with him in other areas previously?

A I had not worked with him closely. I did a sabbatical at Stanford University in 2019 where I met Alex. I think I met him two or three times while I was there.

Q Did you work with Renee DiResta at all?

A Renee DiResta was part of the Election Integrity Partnership. I also met her, I think, on two occasions when I was at Stanford in 2019. Had not worked with her prior, but knew her, was on panels with her, and would see her at different kinds of conferences and things.

Q And who is she?

A She is a research scientist -- I'm not sure that's exactly her title -- but at the Stanford Internet Observatory.

Q Okay. Do you recall when Stanford first approached you, the University of Washington, about joining this partnership?

A It would have been early July.

Q Of 2020?

A Of 2020, yeah.

Q And how quickly was the partnership up and running?

A I don't remember exactly when we launched. I imagine we were

operational by September 1 or so. And so it would have been between, yeah, July -- first or second week of July and September 1.

And I think there was sort of a running start in the sense that -- I don't even know how to describe this -- but things that the partnership talked about being under the partnership were things -- like our piece, we were already kind of doing some of those things anyways. It was just kind of the kind of thing that we did in terms of some of the real-time analysis.

And so that stuff began to fall under the partnership, and I don't know whether we would have said that in August or whether it started in September.

Q Do you know if there are any organizations who were invited who declined to participate?

A My understanding is that the RNC was invited to decline -- to participate and declined. And I don't know about others. And I only understand that from post communications about it.

Q And where did you gain this understanding, understanding that it was post it occurring?

A I don't know whether it's been in, like -- in just sort of, like, making sense of what happened along the way that we've been doing over the last year. But I seem to recall that they had been a potential partner. I did not know that they had been contacted and declined until afterwards.

Q Okay.

A Yeah.

Q And is it your understanding that the DNC was contacted?

A From my understanding, that they were contacted, yeah.

Q And accepted?

A I think they did, yes.

Q Besides the RNC, the DNC, and obviously the four members who accepted, the four critical ones, do you recall who else was invited to participate?

A I don't have a full list of partners. If you showed me an example, I could say, "Oh, yeah, that's probably who they were."

At the University of Washington we didn't manage the external partnerships except for in one case, the AARP. That's the only one that we managed.

We talked about also bringing in some libraries. They didn't end up joining. It was just too late in the process to include them. But we did have -- we did manage the relationship with AARP, and that's the only external partnership that we managed.

Q Okay. And what was AARP's role with the partnership?

A So I think it was just the northwest branch. And we ran a little project where one of my colleagues who works closely with them did some training with them around recognizing rumors and misinformation in their information diets.

And then they had the potential to, when they ran across a rumor about -- again, rumors, only about election processes and procedures, very scoped -- that they could send a message to our team about that rumor.

And then we would determine whether it met the scope of the EIP project. And if it did, one of our students, who was the lead at that effort, would then add that rumor to our system, or that item. It probably was like an email that we might receive or something. They would add that kind of rumor item to the system that we were using to kind of try to identify false, misleading, or unsubstantiated claims about election processes and procedures.

Q Okay. And you've referenced a couple times your role. And just to clarify, you're speaking of both you as individually and University of Washington and their role?

A Yeah. So that's a great question. I speak as -- it will be good to differentiate these things, because there are things that the Election Integrity Partnership did, there are things that the University of Washington did, and then there's, like, the things that I had directed participation in or direct visibility in. They're all kind of large collaborations.

So the UW's role was specifically around analysis and communication. And communication for us really meant public communication. So we would do social media data analysis.

When we would become aware through the system that we have -- we'll probably talk about it -- become aware through the system that we had that there was a specific kind of rumor, we would do this data analysis based on the methods that my team's been using for now almost a decade of, like, tracking how that rumor was spreading, to see which audiences it's spreading, how far, is it worth sort of writing about or communicating about.

And then we would do public communication. We create visualizations. We create tweet threads, blogs, and eventually research papers based on analysis of the data that was -- based on the analyses that we would do of those false, misleading, or unsubstantiated claims.

Q And when you first were invited by Stanford to join this partnership, was the request to fulfill that role you just described?

A I don't remember exactly what the request was. I just remember coming away from a single conversation with Alex, which was audio or audio-video, I can't remember which one, with the understanding that he recognized that we had a lot of expertise in social media data analysis and that we would be applying that in sort of a real-time way as part of the project.

And I kind of -- and I remember thinking, oh, this is very similar to the work that I did as a graduate student when we were doing that live crisis mapping stuff. First of all, it's really horrible to try to work that fast, just because it's very taxing on students.

So I remember thinking, okay, this would be a really big commitment because of the ways that that kind of work happens and how it's different from the academic rhythms that we have.

Q In 2020, do you recall how many people from the University of Washington were involved with EIP?

A Yeah. I don't have an exact number, because we had people coming in from different ways. But I think we had three faculty members were at least involved in sort of managing these analysis teams. And then we probably had 15 to 16 students or postdoctoral researchers on those analysis teams, and then a couple other students that worked in slightly different capacities. One helped to do the policy analysis.

And then we had our communications. The Center for an Informed Public has a communications -- a full-time communications person, and that person contributed in a couple of ways. And we had a data engineer who would help us do our data collection and occasionally gave technical advice.

Q When you referenced policy analysis, what did you mean by that?

A There was one piece of the project where the students -- I think it was a student-led team, but certainly the UW participant was a student. They looked through all the social media platforms to see what kinds of policies they had around elections, like civic integrity policies, and they documented those and sort of did an analysis, which they published as a blog post, I think, in August or September. And they might have done a follow-up analysis as well.

And one of them ends up writing a paper and getting a published paper a little bit

later, maybe a year later, based on sort of the same analysis.

Q You referenced in the previous round of questioning that some social media platforms would present their policies to you from time to time and you might offer your thoughts. And please correct if that characterization is not accurate.

A Yeah. I've been asked by social media platforms to give feedback on their policies before, yes.

Q Did any of those occasions occur in the context of EIP?

A I don't remember that any did, no.

Q You said there were three faculty members. Is that including you?

A That's including me, yeah.

Q Who were the other two?

A Emma Spiro and Jevin West.

Q Turning back to the central four partners, understanding there were others involved, too, what was your understanding of what role Graphika would serve in EIP in 2020?

A I actually never got a mapping of what all of the different organizations would do. I sent a statement of what we were going to do, the University of Washington, but I don't think I ever read similar statements from the other groups. So I don't know the scope of their work.

Q Okay.

A Yeah. I'd recognize them as having similar kinds of skills in social media data analysis, so I assumed that that's the role that they would be fulfilling.

Q Okay. And so any familiarity with what DFRLab's role would have been?

A Same thing. I would have seen them as playing a role in sort of the data analysis piece. And they may have also played a role in sort of outreach to potential

external partners, but I don't know that -- you know, I don't know the details around that.

Q And who is leading the partnership? You mentioned that you sent a proposal over.

A Yeah. In terms of who I saw as the leader -- I mean, there's no leader -- there's no proposal. We sent them a statement over just because I wanted to have a clear, like, articulation of what we were going to do. I don't remember them saying a statement of here is the organizational chart or here's how things are going to work.

I can say who I perceived as the leader. And so I would say it was almost a dual -- like, I saw -- if you put it in an academic context, because of the way we work with students, sometimes, like, when I did the work when I was a Ph.D. student, I would be the leader of something, but my adviser would be mentoring me. And so sometimes people would see her as the leader, sometimes me as the leader.

So I saw -- the two folks that I saw leading were Alex Stamos, who I kind of saw as sort of a leader in terms of thinking about how we might work together and reaching out to collaborators. And then there was a student at Stanford who was the -- who was sort of the everyday in the moment helping us organize things, who they might have talked about as like a project manager.

Q And do you know who at EIP was responsible for managing external relationships?

A I don't know who, if it was one person or many. My assumption was that most of those were managed through Stanford, but I don't think that's completely true. There may have been other. I want to give you as completely -- the complete picture.

There may have been other folks that had other relationships, just like we had at UW. We had our relationship with AARP, and we brought that in sort of like on our own

because we were already working with them.

Q Uh-huh.

A Yeah.

Q Was it your understanding that some of the external partners were government agencies?

A It was my understanding that there was one Federal Government agency and that there were other organizations that convened local and State election officials who we saw -- who my understanding was is that we could help them and they could help us figure out what the ground truth was around election processes and procedures. And so that that would be an important part of a collaboration when you're trying to address that kind of misinformation.

Q And which Federal agency was the one that you were referencing?

A The Federal agency that -- is kind of who was -- is the CISA agency, yeah.

Q And do you know who at EIP was interfacing with CISA?

A My understanding is that it was Alex and the student, but there may have been more people there interfacing with them. Again, I didn't have full visibility into their activities.

Q And to the extent you have knowledge or understanding of this, what was CISA's role as serving as a partner or collaborating with EIP?

A I don't know, because I never interacted with them directly. My understanding was that, during the operations, they were primarily a recipient of our information.

So if we were putting out something around -- gosh, there was a case that -- where we had heard from one of our external partners that there was Democratic voters were receiving threats from someone saying that they were the Proud Boys, that

were intimidating them at the polls. And this is not an analysis that happened at University of Washington. But that the folks at Stanford were able to figure out that those emails were not coming from the Proud Boys, they were actually coming from an Iranian disinformation operation. And my understanding is they did interface with CISA around that to let them know that was happening.

There may have been other times that we were, like, helping. Like the products that were coming out of the EIP -- and, again, this is we, the EIP, not we, UW -- the products that were coming out of EIP were informing some of what they may have been calling rumor control at the time at CISA.

But I didn't have a lot of visibility into that. I wasn't looking at their websites, and I wasn't interacting directly with anyone at the CISA office.

Q Do you have a sense of when CISA was brought on as having some sort of partnership with EIP?

A I don't know when, but I remember in the first set of slides they were among the partners that I saw, which would have been in July or August.

Q Did EIP partner with social media platforms?

A My understanding is that we did, yes.

Q And which ones, to your understanding?

A I might not have the complete list, but I know that Twitter and likely Facebook were those partners. There may have been three or four others. I just don't know.

Q Uh-huh.

A Yeah.

Q So as part of your role with EIP, did you ever interface with the social media platforms?

A No.

Q Do you know if anyone from UW did?

A I don't know if they did. I don't know that anyone did from UW. But, again, I don't have full visibility into all the activities of all the people that were as part of that.

Q Do you know who at EIP had primary responsibility for interacting with the social media platforms?

A My memory of the structure of the EIP, I don't know who invited them into the partnership. But the way that the communication would have happened, probably folks at Stanford, and there may have been a group of managers that would have had maybe -- we might have called them on-call managers -- that had direct interfacing with the social media platforms.

Q And who were the managers that you're referencing there?

A I don't remember exactly who they are, but there would have been one person from each of the organizations. I think it was probably Emerson from DFRLab. I don't know who was from Grafika. I am pretty sure that at some point Renee DiResta was a manager, but I'm not sure she was in there initially, because she was on maternity leave. And there may have also been a student as part of the managers.

Q Do you recall if UW had someone that was serving as a manager?

A I recall that we did not have someone serving as a manager.

Q Okay. Do you know if -- well, let me ask it this way first.

Are you familiar with the Global Engagement Center?

A Mildly. Not directly.

Q Do you know if they played any role with the Election Integrity Partnership?

A I don't know if they did or didn't.

Q Do you know if EIP had -- if individuals associated with EIP had separate email domains created specifically for EIP?

A I don't think that we did. But if we did, that would be a surprise to me. But I don't know that.

Q And so is it your understanding, then, that the partnership is loosely formed? Was there an office created or a title for someone to direct, or was it loosely formed?

A No. Loosely formed. There's no paperwork. There was no signatures. There's no office. There is a branding and a shared website, and then some infrastructure for managing the workload.

Q And so, when you're interfacing with Alex, let's say --

A Yeah.

Q -- is it from his Stanford email, to the extent you have a recollection?

A My recollection is I would interface with Alex a little bit over email, sometimes in a phone call, maybe two or three, or they could have been Zoom chats, I can't remember, and then possibly through a Slack chat infrastructure that Stanford managed for, like, real-time collaboration since we were all remote.

Q And what is that Slack chat channel?

A What is it? You want me to describe what Slack is? Is that --

Q Right. Sure. I guess is it --

A Yeah. I mean, it's a --

Q You're referencing that common --

A It's a work environment. And I studied this. Computer-supported cooperative work. It's like the folks that I teach go and develop platforms like Slack.

Yeah, it's a real-time communication platform. It's especially good for distributed work, which was probably happening a lot during 2020. Almost everyone's

either using Zoom or Slack or both at the same time.

And it's organized into different channels. And different people within an organization are invited into different channels. And you might have conversations in a channel with multiple people or you can have individual conversations with someone in the group in sort of like a side conversation.

And those platforms -- yeah, they just -- it's basically textual chat, although you can add other things into the platform as well. If you wanted to add documents and things, they could be added there as well, although I don't remember any documents going through there.

Q Yeah. And Stanford, you said, was the one that --

A Stanford hosted the Slack chat on their infrastructure.

Q Okay.

A I believe they also hosted our, like, blog infrastructure. They hosted a lot of -- the shared infrastructure was hosted at Stanford.

Q Okay. So in addition to email, Slack, how else did partners communicate with one another at EIP in 2020?

A Are you talking about the four core partners --

Q Yeah.

A -- or the broader partners?

Four core partners, it was primarily through Slack and Zoom chats.

Q Okay. And what about external partners?

A My understanding on external partners is that there may have been some Zoom chats where they convened them, but I wasn't -- I don't remember being in any of those, and that the communication during the real-time activities would have happened through a system called the Jira project managing system, which is for software

engineering. And it's pretty much a disaster to use for real-time collaboration. But it's getting -- we're getting better at that.

But the external partners could send something into the system where it would become part of our analysis team, and it would go through our tiers, different tiers of analysis, and that there was a way for us from inside that system to send something out through that system.

So, like, the AARP, they couldn't directly send something into the system. They actually sent it to our student, and then he would enter things into the system.

But there were ways for external partners to enter things into it. And then a somewhat different set, although I don't know exactly the mapping of who had internal -- incoming versus external or outgoing.

Q Okay. Do you recall anyone who had -- any of the external partners who were able to directly submit information into the system?

A To put them in? I don't know how that worked, and I don't know which ones. But I imagine when they list off their civil society partners, that those folks could enter things into the system directly.

And when we're thinking about that, what we're thinking about is people monitoring -- or not monitoring -- well, monitoring -- identifying information from within their own communities.

So when we're talking about the AARP, it's elders and what they're receiving in their emails. When it's the DNC, it would usually be things that their constituents were receiving and looking at.

And so they're kind of seeing what rumors are happening within their own constituents and then putting those into the system so that we can see and take a look and see are those spreading, is it something that -- is there a fact check on it? Is there

something that we should take action on by doing a public communication? Is this something that the platforms might want to become aware of because it may violate one of their policies?

Q And who is managing the Jira system? Is that a proper way to refer to it?

A Yeah. You can talk about it as a Jira system.

Who is managing it? I guess it's a hard question. There's many people using it.

Our technical person may have set it up, because he had some experience with the Atlassian system. But he would -- he never -- he wasn't managing it. He was just making sure it all worked. But he set it up with -- it was -- Stanford hosted it. He just helped them figure out how to configure it.

But in terms of who is managing it from the day to day, again, we had that project manager. That's who -- if I had a question, that's who I would ask if something was going wrong or what's going on in the system or how does it work. But there may have been other people who would have seen themselves as managers of it, but I -- we just didn't talk about it like who is managing it in that way.

Q Okay. And just --

A We were just like users of the system, just like we used Slack.

Q Okay.

A Yeah.

Q And just real quick, you referenced Atlassian?

A Yeah.

Q Who is -- what is Atlassian?

A It's a company that own different kinds of software. So they -- Atlassian owns this platform called Jira.

Q Okay. And would external partners be invited to use Jira? Do you know

how that initial setup process worked?

A I don't. My understanding is they didn't -- they weren't using it, but they could put information in and take information out. But I don't know exactly how that looked. I never saw what an external partner would see.

Q Okay. And what do you mean by using it? So if someone is sending information in but is not using it, what do you mean?

A Yeah. So inside the system, yeah, there would be, like, a workspace where each kind of report of a rumor -- imagine an internet form, and it has like radio buttons and a tech space and we can add comments.

I worked on probably two or three tickets total, and one of them I might attach a link to my visualization or I might attach a screenshot of a visualization to say, "Hey, look, this looks like it's really taking off," or, like, "Oh, this is dying down, let's just ignore it and move on," those kinds of things.

So there's comments about a lot of data analysis that's going on. And it may be touched by ten people or two people or only one person depending on whether it's interesting enough to spend time with. And there's all sorts of different, like, data pieces of it.

So it's just like a multimedia web form, yeah, where, like, real-time analysis was happening, yeah.

Q You mentioned that you worked on two to three tickets.

A Yeah.

Q Do you have a sense of how many tickets there were? We'll start with in relation to the 2020 election?

A Yeah. I've got a bunch different numbers, because when we -- we did a lot of post hoc research where we boiled it down and realized a lot of tickets were

duplicates, or these are the same things, and it kept getting smaller and smaller. At the end of the day, the set we were working with was like -- something more like 350 or 400 tickets.

But I think, total, there was more on the lines of maybe 800 tickets. But that could -- it could be higher. That's just the first time that I kind of looked at the data. There's about 800 tickets. And, again, a lot of that had to be deduplicated.

Q Did you use Jira previously?

A No.

Q You mentioned that there's both input coming in and then an output that would come out.

A Yeah.

Q Can you describe what is being sent out and to whom?

A I believe what goes out is a message, a single message that may have links to say, "Hey, here is one link or a set of links to content that we think is both within scope for us and violates an existing policy that you have at a social media site." So this would only be for the external partners that are social media platforms.

So we could send out a textual description with links to say that here's something that's spreading that is either, again, misleading about election processes and procedures in a way that could disenfranchise someone, encouraging fraud, encouraging violence, or using false, misleading, or unsubstantiated claims to sow doubt in election processes, procedures, or results.

Q And how is this message being communicated?

A I have no idea.

Q Do you know if it was via email?

A I don't know what the -- how that was configured to go out to the other

group, yeah.

Q Do you know who at EIP was responsible for determining how things were being communicated to social media platforms?

A Do I know who designed the environment, or who was pushing the button to send them out?

Q Well, we'll start with either.

A I don't know where the design came in and how that worked. I think it was probably due to the, like, limitations or capacities of the system, which is we're adapting what we do to a system.

How it went? like who decides whether it went out was kind of a layered process. I think what would happen is some analyst would say, "Hey, this looks like it's something -- it's spreading, it could be harmful, it's in scope, and it violates one of these processes." And they could, like, hit a button within that form that says this should be looked at.

And my understanding is that that then went to a layer of managers who were on call, and they decided to hit that final button to push it out.

I could be wrong about that. That was my understanding of how it works.

Q Okay. So, again, to the extent you have an understanding on this, the managers you just referenced in your last answer --

A Yeah.

Q -- is that the same managers you mentioned previously?

A I think that's the group that had access. There may have been other people that had access to that manager status or that capacity. And it's possible that people could push buttons directly from within the system, but that's my understanding.

Q You mentioned that, post election, you were -- you or your team were doing

some research on this. Were the Jira tickets available to you after the election?

A I think we had access to the Jira tickets through about mid-2021 to -- as we were writing the final report and to conduct analysis. And then we pulled down just kind of a list of different data and used that.

But we could have also been invited back into the Jira at different times. Again -- not again, probably maybe the first time -- I didn't go there, but I had -- I was working closely with students. And so they would know more about when we needed to pull data from the Jira versus, like, we put it in a spreadsheet and were able to use it.

We put it in a spreadsheet. What we ended up doing was taking -- so there's those 800 tickets that were sort of like then deduplicated. I don't know where that goes.

But then we took that, and we wanted to analyze it for our research. We wanted to just take a specific set of tickets, and those were the ones in the fourth category, which were the ones about false, misleading, unsubstantiated claims that would have sowed doubt in election processes or results, and so we identified the tickets that had that criteria.

And then we just took those ticket numbers and a description of that, of what each of those tickets were about, and then we tried to create a search string that would go back through other Twitter data we'd collected and find all the tweets related to that ticket. And so we spent a lot of time doing that.

It didn't require us to go back to the initial Jira tickets very often, but every once in a while, for our research, I think there was a reason to go back and see the original Jira ticket. And so we might have been pulled back in, or I might have asked for permission to, "Hey, can you open this up so I can see this Jira ticket?" which I did two or three times in 2021.

Q Okay. And who are you going to when you're asking for permission?

A I probably would have asked Renee DiResta, because I know her best, and she's usually accessible via Twitter.

Q So is Stanford the one with custody of these Jira tickets or --

A Stanford owns the infrastructure and has the Jira data.

Q Yeah.

A Yeah.

Q And is it your understanding if those tickets are still available?

A I have not asked about them anytime recently.

Q If you needed to ask, is it your understanding that they would be available to you?

A I don't know.

Mr. Burton. That's an impossible question.

Ms. Starbird. Yeah, I don't know.

BY [redacted]:

Q When is the last time that you asked?

A 2021, I believe, yeah.

Q Has anyone from UW asked that you are familiar with?

A I don't think they have. In fact, I don't think they would ask directly, because they don't -- my students don't work directly with the folks at Stanford. They would ask me to mediate that relationship.

Q Yeah. Any other faculty members?

A I don't believe my other -- the other faculty members were doing any of this kind of analysis where they would have asked.

Q Okay.

A And I think they would have gone through me as well, because they don't know the Stanford folks. I'm their connection to the Stanford folks.

Q And as a point of clarification, when you're going back and asking for permission, are you reentering the Jira system? Are you reviewing a spreadsheet with archived data?

A We may have had the spreadsheet already with the archived data. We've actually put out a data set with some of that information. But it would just have the ticket number, a description of, like, what that thing was about, and then like a number of tweets and some of the analysis we would have added to categorize different tickets into different buckets.

What was your second part of your question?

Q Just when you were going back and asking for permission --

A Yeah.

Q -- are you back into the Jira system as it was originally when it was active?

A What I would --

Q Is that the right word?

A If I was going to ask, I don't know. It would just mean that I could just put in that ticket -- the link to that ticket -- and I could go see it. I could go see the full form around that ticket.

But in terms of, like, the back end and, like, how many numbers of this and look at all the tickets, I don't know if I had access. I imagine I did, but I would just go look at that one ticket, because I wanted to check: What time did we start working on the Sonoma ballots ticket? I would usually check ones that I had had access to and -- or not that I had access to -- that I had been a part of as part of the analysis to kind of remember what we did in real time.

Q And so when you're reviewing this ticket, are you able to see what -- you said at times up to ten people might comment on a ticket?

A You could see everybody who touched it, including students, yeah.

Q When you were reviewing, was there a way for you to see what was communicated to social media platforms?

A There may have been, but I didn't check it.

Q Okay.

A Yeah. I don't know if you could see whether or not that final thing has gone out. You could see whether another analyst had said that this violates the policy and we should take a look at sending it over to the platforms.

Q Do you recall, in the initial setup, in setting up this Jira ticket system, if there were discussions about how to archive this information?

A If there was -- how to archive it? I don't remember being part of those conversations.

Q Okay.

Mr. Burton. When you say this information, you mean the Jira tickets themselves?

[redacted]. Yes.

Ms. Starbird. Yeah. In 2022, we talked about archiving and talked about how do we do this in a way that preserves what's going on, but that preserves the privacy of the students who were working on this, because that's something that we're really concerned about at the University of Washington.

BY [redacted]:

Q All right. So with respect to -- actually, let me back up.

You mentioned that you were working on this summer of 2021, conducting some

research?

A Doing some post hoc research.

Q And there was a report that came out as well.

Did EIP close shop, for lack of a better word, at some point in 2021?

A We stopped doing any active work in December of 2020. We weren't doing any more identifying rumors or anything else. In fact, we might have stopped in November. The bulk of our operations stopped that Thanksgiving when the Stanford students went home.

Other people may have entered a few more things into the system into December, but we stopped that active period of the real-time work in December of 2020.

In the interim, several of us talked about the possibility of doing something again in a future election if we thought it was needed. And we had conversations about how we might go about that and how we might configure that differently.

Q And who is "we"?

A I think I had conversations mostly -- maybe two or three conversations with Alex and/or Renee.

Q And did the partnership decide to take up -- sounds like the 2022 election?

A We did in a very different way. So we limited it just to the two -- the analysis teams to just the two university partners. And at the University of Washington we decided we wanted to take intake completely into the University of Washington so we could -- because of the research we wanted to do on the data, we wanted to know exactly how it came in and be able to document that. And so we pulled our intake into the University of Washington for 2022.

Q Okay. And, sorry, just to clarify, what do you mean by pulled the intake in?

A So the discovery process where you have students kind of combing through

social media posts to try to identify potential rumors, we pulled all of that -- that was all at Stanford in 2020, and we pulled all of that to UW, or the bulk of that to UW in 2022.

Q And when you say you, do you mean your team or all of EIP?

A EIP became just our team and the team at Stanford. And we just decided we wanted to own intake. They decided they didn't want to own intake, so it was a good thing, because intake is a whole lot of work, and you've got to manage a bunch of undergraduate students.

Q And for 2022, did you have any sort of partnership or collaboration still with Grafika or DFRLab?

A We did not in 2022 have direct -- it wasn't set up the same way where we would be partners with them. There were conversations that if we saw things that were interesting for each other we would have conversations with them, but I don't remember having any of those in 2022. And there was no formal collaboration or informal collaboration with them.

Q Yeah. Do you remember what the reason was to not include them in the same form as 2020?

A I think it had to do with me just being more comfortable with another research group that wasn't university based, because I think I was pushing for that, and they probably know that.

Q And what was the reason for that to the extent you recall?

A I don't -- I don't remember. I don't know if I can articulate it. But I just felt comfortable with sort of, like, having -- if we were going to base a lot of research on it, I wanted to have that research be sort of like coming out of these two academic -- base a lot of academic research on it, I wanted to have it be coming out of two academic research organizations.

And there is just a lot of similarities in sort of the structure, the timing, expectations, understanding of student demands and kinds of things that are shared between universities that don't necessarily overlap with external organizations.

Q Okay. When you're preparing for this 2022 election-related effort, when did EIP reorganize or begin in earnest for this next election cycle?

A Say that again. I'm just trying to think about -- yeah. Say that again.

Q Yeah. Let me reframe it differently.

A Yeah.

Q You said in this kind of second iteration, it's just Stanford and UW.

A Yeah.

Q Do you recall when these discussions took place and when --

A Yeah. So I may have to correct here, because I'm trying to think now. At some point, people talked me on to -- talked me into, like, allowing other sort of -- other partners to be, like, federated partners or something, who could be a part of things. They just weren't a part of the core team.

And so we came up with these different labels, and I don't remember -- I don't think Grafika was in there. DFRLab may have been a broader partner. Again, I don't remember interacting with them directly in the context of 2022.

So I wanted to correct that. Give me that question again, because that's the piece that was bothering me.

Q Sure.

A Yeah.

Q Just when are these discussions occurring and when --

A Yeah. So Stanford and UW committed to doing something similar in 2022, and we wrote a grant proposal for that in January of 2021. And so then we would have

sort of committed to having -- to collaborating on something in that space in January 2021.

And then how we were going to do it comes after that. So here is my memory coming back. How we were going to do it comes after that. And that's where we had that sort of shared grant, and I was sort of advocating let's just keep it to ourselves, and then we have more control of what's happening here. So the conversations would have been starting in January 2021.

Q Okay. And who was that grant from?

A It's from the National Science Foundation.

Q Okay. And do you recall when you were awarded it?

A I think we get it in September of 2021 or October. Something in like the fall.

Q You referenced -- there are a couple different names -- other partners, federated partners.

A Yeah.

Q Do you recall what the final structure was?

A I don't recall exactly what the structure was. Again, it's not formal. It's just like people we agreed to talk to and share information with if we saw something.

But the structure in 2022 looked very different. We didn't have external groups putting information in our system. I think we had one partner who could, but we had them mark it differently, because I wanted to see that our data -- I wanted to keep like a pure data set that I knew exactly how the data came in so we could write research on it and know exactly what the provenance of the information was.

But we didn't have the same kind of external partnerships with election officials or government organizations. And our partnerships with platforms were very thin. I

think we only sent three pieces of content to them in 2022, and they were all things that had, like, an undercurrent of potential violence at the polls.

Q Okay. Do you recall which partner was able to submit content for the 2022 --

A Yeah. It would have been Junkipedia.

Q Okay. And what is Junkipedia?

A I don't know. It's actually -- it seems to be connected to a civil society organization. But what Junkipedia is, is a technical platform that allows people to search content in all sorts of different ways.

I don't even know if they ended up submitting anything. We had talked about whether they could or not, and you'd have to ask someone who knows better than I what the data is there.

But we sometimes use their platform, because it allows you to search not just Twitter data, which we're really good at, but it allows you to search TikTok data and Facebook data and just -- it allows you to search more different platforms. And so it was valuable for us to be able to get a sense of what was happening in other places.

Q Do you recall who from EIP wanted to bring in or invite Junkipedia?

A Probably Renee DiResta.

Q Did Junkipedia play a role in the 2020 version of EIP?

A I remember the fact that we could use the Junkipedia platform. I think that's true in 2020. But I don't know that they were a formal partner. I don't -- again, I didn't manage the partnerships.

Q In 2022, did EIP in any way collaborate or work with CISA?

A No.

Q And you mentioned that there were only maybe three tickets with the social

media platforms.

A Yeah.

Q Were there communications in the lead-up to it to reestablish relationships with the companies?

A My understanding is that folks at Stanford did make an effort to kind of put some of that infrastructure in place, and that we, in the end, decided not to do that and at the same kind of scale. But there were conversations with different social media platforms.

Q Do you know who from Stanford was having these conversations?

A Probably Renee DiResta, but also perhaps one of the more junior folks there, whose names I sometimes get mistaken.

Q Going back to 2020 and this Jira ticketing system, do you know how it was determined who would receive each ticket? It sounds like there were -- actually, let me strike that and go back.

A Yeah.

Q How many people had access to the Jira system? Do you know?

A Well, I think everyone might have had access. I think the 120 students all had access, because they could put information in.

We may have looked at different parts of it. But some people could -- so there's a set of students that are looking through social media posts, and they can create a form, a ticket, like a web form, and they can put information in it.

And then my teams, we did, at UW, we did analysis where we could pick up that ticket and we could manipulate that form and we could push certain buttons. And then there's a group of managers that could also look at those tickets.

So we all had access to it, probably 120 people.

Q So I understand you as far as when the students are researching they identify something.

A Yeah.

Q That individual student or group of students can create a ticket. But you're also receiving input from external parties.

A Yeah.

Q Do you know how it was determined to whom within this group of 120 or so, who receives the ticket first, or how those tickets are triaged?

A Oh, just whoever picked it up when it came in through the system. It was like a real-time system.

And so there's these queues, and if you're on call -- students worked in shifts, this is my understanding of the Stanford system, students are working in shifts. If they're on call, there's a queue, there's a new ticket, or maybe it's not the newest one, it's the one that's been in there the longest. But they can pick up that ticket. They start to work on it.

And they can make a determination: Is this in scope? Many tickets aren't in scope. We would just push a button, and that goes away. If it is in scope, then they would start working on it.

I didn't go through their training. I don't know what their process of what they did for that work or how they prioritized things.

But, yeah, when we did it in 2022, it was the students on call. It was first come, first served. But they weren't taking in external tickets. But when we were in analyst teams, we would pick it up first call, first served.

Q Do you know who did the training?

A The training? I don't. I don't remember. I mean, organizationally, I

remember it was the Stanford folks did the training, in 2020.

Q You mentioned at the very beginning of this line of questioning, sounded like some frustrations with how the Jira ticket system operates?

A Oh, it's just hard to use software engineering, a platform made for software development, for a crowdsourcing project, yeah.

Q Due use Jira for the 2022 iteration project?

A We did, yeah.

Q And what changes, if any, were made?

A Oh, we adapted it to make it -- we adapted it a lot so that we could do a lot more sort of classification and real-time research to, like, put things in different kinds of buckets and to classify whether they were -- remember I said we had those four criteria? To be able to classify which criteria it is or which part of the election process something deals with, and whether it's about pens bleeding through ballots or something else.

We took a lot of what we learned in 2020 and we sort of embedded that in the system so we could more quickly kind of sort of categorize the information and then put out sort of weekly reports on the kinds of things that we were seeing.

Q Did you keep the same four categories or criteria that you referenced from 2020 to 2022?

A I believe we did, yeah. And we talked about adding a fifth one, which we might have added, but we didn't spend a lot of time on that. And that was misinformation or things based on misinformation that were invoking specific threats to election officials.

Q And you mentioned it was a much -- it sounds like a much smaller number. Three tickets, I think you said, were ultimately sent to --

A We sent only in three tickets, yeah. Only when there was like a sort

of -- something about violence. One was an example of there had been a bomb threat at a school that was near an election facility, and people were saying that that bomb threat was trying to scare off voters, and it just wasn't true. And then there were a couple others that had some kind of intersection of violence at the polls with misinformation.

Q And do you know what process was in place to archive these tickets? Could you conduct similar research post election like you did in 2020?

A Yes.

Q Okay. And what was the archival system or access system that --

A Well, Jira keeps track of the things that happen within it. And so there is -- yeah, that Jira system is keeping track of -- and you can export things into spreadsheets and different kinds of things to see the intersections.

Q Do you know whether that information is available to you today?

A Is that information available to me today? Yeah. We're still doing analysis on 2022.

Q And is that -- for 2020, you mentioned that Stanford was the organization that had this information.

A Yeah.

Q Is it still Stanford?

A I think they're still housing it, yeah.

Q Is there a way for the system that you used in 2022 to see tickets from 2020?

A I don't think so. I think they have different log-ins.

Q Okay. Do you know how many personnel from UW were involved in the 2022 version of EIP?

Mr. Burton. I'm sorry. Could you repeat that?

[redacted]. Sure.

How many people from UW, the University of Washington, were involved in the 2022 version of EIP?

Mr. Burton. Thank you.

Ms. Starbird. I'm going to say something more on the order of 40, because we brought in sort of -- maybe even -- maybe more like 50, because we tried to bring in, like, 30 undergraduate students to do the intake, so we had a much bigger team.

The overall project is much smaller, but UW had a much bigger team. And we're studying the collaborations. That's what our grant is for, to study the collaborations. And so we're watching and studying how those students are using the system.

BY [redacted]:

Q Okay. Do you know how many people total were involved in the 2022 version of EIP?

A I don't know what Stanford's size team was. I think it was more on the order of 20, or it could even be fewer. They had a much smaller team.

Q All right. Are there plans to have a similar partnership in the lead-up to the 2024 election?

A Well, I think there's still a need, and I think we still have skills to participate there. And I am hopeful that we'll be able to do the same kind of thing and provide that service to society.

Q Have you had these discussions with Stanford?

A We have, but we haven't had the final discussions of where, when, who, how, how is it going to work? We're still really processing 2022 at this point. And we'd be, if we were going to start, probably thinking about supporting this kind of activity in the primaries in 2024.

Q And to the extent these conversations have occurred -- or let me ask it this way.

Would it be your preference if the model used for 2024 was closer to what was used in 2022 or in 2020, and specifically referring to the use of external partners?

A Yeah. I think my preference would be not to be reporting to platforms. I don't think that's very useful. My preference and I think something I've been advocating for since, for about a year and a half now, is that our outputs are all public, that when we do any output anybody can read it. If Twitter policy people want to read it, great, but it's also going to be public for any one of us could read it when we had an output. I think that's the model we're going to move to in 2024.

And then I still think there would be a lot of value to be able to work with local and State election officials so we can contact them to see whether something's true or false and so we can, if they see something that's affecting them, we can try to help.

I don't know how that's going to work. But I think that would be something where we could really provide something that would benefit society.

Q Do you recall -- in 2020 there were external stakeholders you said who could provide input.

A Yeah.

Q And that, if it was outside the scope of EIP, you guys would throw it out.

A Yeah. We'd just -- we would say closed, and it just wouldn't become part of our -- it would be marked in a certain way that it wouldn't become part of our analysis.

Q Yeah. Do you know -- do you recall if there were any external stakeholders who were sending more requests than others that were outside the scope of EIP?

A Again, I haven't done the data analysis. I do remember post hoc being like there were certain things that were higher quality and closer to what we wanted to do

than others, and the ones that weren't high quality and didn't help, we just didn't pay attention to.

And it's just about -- my interpretation was that that partner just didn't really understand what we were trying to do. But I can't remember a lot of examples.

Q Do you remember if any of the partners -- do you have any recollection one way or the other if any of the partners stood out as having a better understanding or a poorer understanding of what EIP was aiming at?

A I don't, no.

Q Okay.

A And, to be honest, like a lot of the external partners only submitted like two or three things, and some didn't submit any. It was variable.

Q On the ticket itself, could an analyst see who sent the report?

A I believe they could. But I don't know that for sure. I don't think I picked up an external -- I don't think my team, while I was watching, picked up a ticket that came in from an external partner. I think 70 percent of our tickets came in internally.

And at the times that our team was working, we were working while a Stanford shift was live with doing intake, and so almost everything we were picking up was coming directly from their analysts.

Q Do you recall if there were issues related to, for lack of a better word, borderline content?

So let me take a step back. You referenced that there were the four categories --

A Yeah.

Q -- of election procedures and processes.

A Yeah.

Q Do you recall if there was a sub area or topic that was difficult to navigate

about whether it fell into the category or not?

A I don't recall anything like that happening. It could have, but that's not something that I saw.

Q Okay.

A I mean, qualitative classification by people can always be challenging, but I don't remember, like, "Oh, this is an edge case that we keep running into we're not sure what we're dealing with." I never -- I don't think I remember any communication about that.

Q In 2020, obviously COVID is going on. Is it your understanding that States -- some States chose to change certain election procedures during the calendar year of 2020?

A Is it my understanding? that's my understanding, yes. Yeah.

Q And I guess the lead-up to this question. Certainly people are voicing opinions on how things should change, if they should change.

Who is making the determination as far as what was a false statement as opposed to, we'll say, an opinion or a stance on an issue?

A I guess I'm not kind of sure. I would love to get an example of what you mean by the two different cases would be.

The cases that I saw were really focused on not this is how it should work, but here's the -- here's a claim about ballots in a dumpster. Like the cases that I saw weren't -- I guess I'd need more information about what you mean in terms of that.

Q Sure. it seems like some cases are not too difficult to categorize or put this in that.

A Right.

Q But you mentioned that there were hundreds of tickets. You only worked

on two or three to the extent you recall?

A Well, directly in real time, I wasn't working on that many, yeah.

Q Yeah. Do you have a sense of how many you were able to review or had a sense, just as a point of clarification?

A How many that I've reviewed?

Q Well, if you only directly worked on two or three.

A Well, in real time, I was only working -- I could only remember two or three that we spent a lot of time with. Post hoc, we've done a lot of research across all of the different tickets.

Post hoc, what we've done is we've taken -- we identify one of these claims, and then we'd go look at all of the tweets related to that claim. And if all of the tweets with a claim -- if about 50 percent of them -- or if a majority of them are false or misleading, then we would kind of classify that as spreading a rumor, even though not every particular piece of that might have been making it.

Just like in the case that they showed, there is sometimes where the initial information doesn't directly say something that's false, but you can look at what the audience says about it.

And so, if the audiences were picking up those claims to say, "Oh, it's another case of voter fraud and this is voter fraud," then we would interpret that as part of like a false rumor when there was no evidence of voter fraud to be in -- or false or unsubstantiated rumor when there was no evidence of voter fraud in those cases.

[1:45 p.m.]

BY [redacted]:

Q Do you have a sense of what the reason was for the tickets that didn't fall within the EIP scope, why they were thrown out?

A You know, each analyst may have been making a different decision. And, to be honest, we don't have quality control across every decision that each one of these students made, and the students, you know, were trained, you know, for a week, maybe two. But I couldn't tell you about each one because they're all made by different people.

Q And, if you needed to go conduct further research on this, who would you contact to see if those tickets were still available?

A I would probably contact Renee just because she now is the person that I contact at Stanford when I want things. But I don't know who -- they've had a lot of other turnover there, and she's the only person that's been really consistently still there, even though I don't think that she was involved in that early part of the training because Renee was on maternity leave until I think September of 2020.

[redacted]. Great. I believe the hour is up.

Can we go off the record, please?

[Recess.]

[redacted]. It is 1:55. We can go back on the record.

Dr. Starbird, we just spent about an hour talking about the Election Integrity Partnership --

Ms. Starbird. Yes.

[redacted]. -- which is also referred to as the EIP.

I'm going to look a little more closely at the circumstances around EIP's creation.

Ms. Starbird. Okay.

[redacted]. So I want to introduce as exhibit No. 8 an email chain that's dated July 15, 2020, through July 2l, 2020. And this is University of Washington Bates number 5314 to 35.

[Starbird Exhibit No. 8

Was marked for identification.]

BY [redacted]:

Q And I'm introducing the whole chain for completeness, but I'm only going to talk about the very first email as it's the last in time email. It's the first email on the page.

A Yeah.

Q And this is exhibit NO. 8. So this is an email from you to [redacted], who is, it appears, a Stanford individual, and then there's a number of other individuals in the cc line. Correct?

A Yes.

Q Okay. And it's dated Tuesday, July 2l, 2020, 14:01:55. Correct?

A Yes.

Q And the subject line is "SIO Elections Monitoring Warroom Kickoff." Right?

A Yes.

Q Do you remember this email?

A I do, yes.

Q Okay. So, in this email, you're talking about how excited you are to join the team. And I want to look at the second paragraph.

A Right.

Q So it says -- you wrote, "We foresee" -- and "we" refers to UW and your participation. Correct?

A UW's Center for an Informed Public, as well as my colleagues there.

Q Okay.

A Emma Spiro and Jevin West. I was speaking on behalf of them.

Q So you wrote: We foresee our primary role as contributing to the near real-time analysis, particularly with visualizations and large-scale quantifications (network graphs, topic models) that can inform and complement more qualitative/forensic analyses. We are also setting up rapid-response teams to do qualitative coding (of posts or accounts or media outlets). Our analyses rely heavily on Twitter, Google, and You Tube. We're developing some expertise with Crowdtangle data on Facebook groups as well. Data sharing is something we might all want to talk about, and we can about how we might contribute there.

Did I read that right?

A You did.

Q So this language is incredibly technical --

A Yes.

Q -- and kind of flows over my head a little bit, so I want to break it down a little bit.

A Yeah.

Q What does "visualizations and large-scale quantifications" mean here?

A Right. So we often rely on Twitter data, so let me kind of do it with that. So we may take 50,000 or 100,000 tweets and create a graph on them. We could graph them a couple different ways. One of the things we do is graph sort of tweets over time to see, you know, if there's a couple of search terms that represent a rumor, you can see

if that rumor is growing or shrinking.

We also created a kind of novel visualization technique where we can see the influence of individual users in the sort of trajectory and see, like, when it hits an account that has a large following, that spikes. Right? So one of the things that we've learned to recognize about misinformation and rumors -- not misinformation, but rumors is that influencers can grow their influence by spreading them, but also they play a big role in amplifying them. So when it hits a large influencer, that's a time where you might want to react when you -- you know, if it hadn't hit any large influencers, it might burn out. You might not want to react to it. So building a large-scale quantification would be to help us see the sort of the patterns at scale.

And then network graphs are another important part of what we do is we can map out -- so, within our social media interactions, we may interact with different people in different ways. And some of the -- one of the common techniques we use is to create a retweet network graph where you see the accounts that retweet each other, and they'll be structurally separated from the accounts that don't retweet each other. So you can see different kinds of audiences.

If you think about an epidemiology model of, like, how things spread, things are going to be more likely -- once they hit a network, they're going to spread through that network pretty strongly.

So we can map out those networks, and structurally sometimes, because of the ways that we interact as people online right now, a lot of our political conversations will kind of end up into two different structural networks where people of like minds will basically retweet each other and not retweet people from the other side.

We create other kinds of network graphs as well, but -- I don't need to tell you about them all, but we have other ones that show, like, which kinds of media domains are

cited by the same kinds of accounts, and so that that also can get sort of different kinds of structures that can reveal sort of political orientations of different pieces of a conversation, but not just politics. Other kinds of things can come up there. Geographic location and other things can kind of be inferred from some of these network graphs as well.

Q Okay. And then you say: We are also setting up rapid-response teams to do qualitative coding (of posts or accounts or media outlets).

And I think rapid response kind of in the political world probably means something very different than it does here.

A Yeah, yeah, yeah.

Q So I'm hoping you can explain what that means there.

A So, right. So, if we have -- you know, one of the things that's really hard in social media environments is to figure out what kind of account you're looking at, whether it's like an individual account, an organizational account, whether it's a legacy media or a new kind of media. And sometimes your analysis -- like if I created a network graph of different domains that are cited together, it might be really valuable to see, okay, these ones are organizations, these ones are election officials, these ones are sort of like web media outlets.

And so we had talked about -- I don't think we ever used them -- having students rapidly go qualitatively code to differentiate the different kinds of accounts, or whatever research question emerged at the time, so that a group of three or four students, we could develop a qualitative coding scheme or a categorization scheme, and they could quickly go through the data to mark those up so we can create some more interesting visualizations that also can let us see different kinds of patterns at scale.

So it's just like a -- this is like doing traditional qualitative methods but at a rapid

pace, which is kind of what our special sauce is at our research lab.

Q And then you refer to data from Twitter and Google and YouTube --

A Yeah.

Q -- and other entities.

So, in the prior hour, there was a lot of discussion about what material was, I guess, flagged, for lack of a better word, for social media companies and the like.

A Yeah.

Q But really your focus was really kind of on the data analysis, right, and kind of taking all of this data and mapping it and graphing it. Is that fair to say?

A We're trying to understand the patterns of how things spread and where that can inform -- again, when you're thinking about how to respond to something in real time, especially a rumor, there are a lot of considerations about whether you want to give more attention to something that's going to die out or not. And so being able to analyze how it's spreading, you can say: Okay, this one is going to die out. Let's not draw attention to it.

We have all of these examples -- the NyQuil chicken, or whatever, all of these examples of things we shouldn't have drawn attention to. Right?

And so, in doing these analyses, you can say: Okay, this one is going to die out, or, you know, this one is about to hit. It's hit one influencer. It's about to hit a few more. Let's probably think about a global strategy for communicating about it. Or look this one is really just spreading among politically oriented people in a very specific location because they really are concerned about Sharpie pens. Well, then you want to create a different kind of message to target it towards a different kind of person.

And so these kind of analyses can help kind of inform the right communication strategy to help people get to the truth when they're, you know, kind of misinterpreting

things or being misled.

Q And the communication strategy might not involve going to social media platforms at all. Right?

A For our team, no. We really thought about political communication -- public communication, right, like how do we communicate this publicly? Again, we did tweet threads, blogs. I've created so many interactive graphs. My, like, home page is full of them. Right? Like -- I don't mean home page, but my web environment of graphs that people could go to and see how things were spreading and who was spreading things. So, for us, we were really focused on public communication.

[redacted]. I want to introduce as exhibit No. 9 a July 27, 2020, post from the EIP. It's announcing the EIP.

[Starbird Exhibit No. 9

Was marked for identification.]

[redacted]. And if you want to take a minute to review it.

Ms. Starbird. I will. Thank you. Yeah.

BY [redacted]:

Q So down at the bottom, the -- like I guess it's the second to the last mini paragraph, it says: We would like to thank the Knight Foundation and Craig Newmark Philanthropies for their support of this effort.

Do you see where it says that?

A Yes.

Q Are you familiar with the Knight Foundation?

A I am.

Q What's the Knight Foundation?

A It is a philanthropic organization that gives funding to a variety of entities. But they gave us the foundational granted for the Center for an Informed Public and as part of our effort to fund research at the intersection of information, integrity, and democracy.

Q And they're a private entity. Right?

A Indeed.

Q Okay. No connection to the government?

A No.

Q Okay. Are you familiar with the Craig Newmark -- I'm sorry -- with Craig Newmark Philanthropies?

A I am, yes.

Q And what are Craig Newmark Philanthropies?

A They're a philanthropic fund that is associated with Craig Newmark, who was the founder of Craigslist, and he gives money to a lot of causes, including information, integrity, and democracy, among many others, yeah.

Q And that's also a fully private philanthropic entity. Right?

A It is, yes.

Q No connection to the government?

A None, no.

Q So, to the best of your knowledge -- and the EIP, kind of the bulk of its work was July 2020 to November of 2020, right, until like Thanksgiving 2020?

A I would say we were still writing our report through December, yeah.

Q Okay.

Mr. Burton. And that's, just to be clear --

Ms. Starbird. But the live activities were --

Mr. Burton. But it's this EIP?

Ms. Starbird. In 2020.

[redacted]. In 2020, correct.

Ms. Starbird. Yes.

Mr. Burton. Correct.

[redacted]. The 2020 EIP.

BY [redacted]:

Q So, during that time period of the 2020 EIP, to the best of your knowledge, did EIP receive any funding from any government entity?

A I can't speak for the other groups. The University of Washington, my understanding is that our funding did not come from the National Science Foundation or any other Federal entity for our real-time work in -- with the Election Integrity Partnership.

Q I want to look at the second paragraph of that post. It says: The Election Integrity Partnership is a coalition of research entities focused on supporting real-time information exchange between the research community, election officials, government agencies, civil society organizations, and social media platforms.

Now, we touched on this just a minute ago, the type of communications. It's not just sending information to the social media platforms; it's public communications as well.

A Yeah.

Q This reference to real-time information exchange, is that also a reference to ways to push information out?

A Yes. Yeah, information exchange was just -- yeah. I don't know exactly where that comes from. My assumption is it's, you know -- I don't even know how to

answer that question. I didn't write that sentence, so I, you know --

Q Understood.

A I mean, information exchange, it's about, you know, like us calling up and asking during the Sonoma ballots case, I do believe one of my students called up the folks in Sonoma County to ask them about this picture to understand whether or not it was true or not. I think it's that kind of thing where we can kind of have a conversation about: Oh, yeah we're seeing this thing spread. Okay, it's about to take off, or, like, that one isn't going to take off. Don't make it the next, you know, NyQuil chicken. Right? Like don't put a lot of attention -- that kind of thing.

That's my understanding of why -- of why that configuration of a partnership would be valuable here.

Q Yeah.

A And I think -- I think it aligns with some of the traditional ways that cybersecurity information sharing is happening. So cybersecurity is really about being hacked or different kinds of things. Like an organization like Microsoft might discover a vulnerability in their tools and they'll want to communicate that with government, and they'll want to communicate that with other industry members so they can see if they have the same vulnerability and clean it up. Right? So I think it comes from that kind of orientation around thinking around information sharing.

Q Okay. And my point is like it seems like it's more flow, information flow more generally. Again, it's not -- the purpose of EIP wasn't to report things to platforms necessarily. It was about broader discussions, broader information flow. Is that fair to say?

A Absolutely that's fair to say. When I joined this project, I did not think about it primarily as a way to inform social media platforms. In fact, I thought that that

was probably the least interesting piece and possibly the least valuable piece of the project. That's why at the University of Washington we were so focused on public communication and trying to get these things out publicly.

Q The post continues -- and I think this gets into kind of the four -- the limited scope in the four areas that you were looking at.

So it says: Our objective is to detect and mitigate the impact of attempts to prevent or deter people from voting or to delegitimize election results. This is not a fact-checking partnership to debunk misinformation more generally. Our objective explicitly excludes addressing comments that may be made about candidates' character or actions and is focused narrowly on content intended to suppress voting, reduce participation, confuse voters as to election processes, or delegitimize election results without evidence.

So those last four that I just read I want to go through each of those in turn.

A Okay.

Q To the extent that you recall, what did "content intended to suppress voting" refer to?

A I can make an inference here about what I think we meant by that, but I don't remember exactly the conversations that would have gone into that.

But, for instance, content that scares people away from the polls, so false rumors that there's going to be violence at the polls, for instance, might suppress votes, and people might not go to the polls to vote because of it. So that was one of the kind of specific cases that we would think about around voter suppression in this -- when it intersects with misinformation.

Q What about content that would, quote, "reduce participation"?

A I think similarly, something that would cause people -- well, if you don't think

your vote is going to count, if you think you might -- if you think that it's going to be -- that there's going to be fraud and, you know, you're not going to be considered -- you know, it's not going to be counted, that might reduce participation. Other kinds of things, anything that might, you know, using false information cause a person to think that they don't want to vote, whether from fear or from lack of agency or something else, that would be kind of reduced participation.

Q What about the reference to content that would confuse voters as to election processes? What did that refer to?

A I think that means kind of the content about confusing people about when and where to vote, which may actually cause them to make a mistake and not vote at the right time and the right place and cause them to be disenfranchised by not understanding how the processes work.

Q Okay. And what about content that would delegitimize election results without evidence?

A This is claims that are not based in factual evidence. For instance, that voting machines are changing your vote or that, you know, that your votes -- that somebody is cheating, so unsubstantiated claims and false claims of voter fraud that cause people not to believe in the results of the election.

Q And so all of these are scoped to ensure that voters can have their votes registered and count and ensure that they're not scared away from the polls. Is that fair to say?

A Many of them apply to that, yeah, yeah.

Q Okay. And the EIP specifically made clear in its introductory post that it did not intend to address comments about characters' character -- about candidates' character or actions. Correct?

A Yeah.

Q Was that important to you to have the area that the EIP was looking at to be narrowly scoped to just specifically areas that are designed to protect voters from being disenfranchised?

A Yeah. I think we wanted -- scope helps in any kind of project just because it helps you not to get too broad. But I think in the sense that we were doing collaborations with certain -- with certain, you know, different partners, it was really important to have a very narrow scope to things that were really like in the wheelhouses of those organizations and that were something that had the sort of shared societal awareness that, like, delegitimizing election results without evidence is a problem. Right? And so scoping to those kinds of things where you don't want to get into a tit for tat about, you know, candidates' children or whatever it is. Right? So we really wanted to really focus on misinformation just about the election processes and procedures, which is why I probably repeated that over and over again today.

Q Now, after -- after the active part, I guess, after post-December 2020 --

A Yeah, yeah.

Q -- let me put it that way, the EIP put together a report. Right?

A Yes.

Q And it's entitled "The Long Fuse"?

A Yeah. It's a long -- it's a long report too.

Q Did you help to draft that report?

A I did.

Q Okay.

A Mostly in the chapters 4 and 5.

Q I'm going to introduce the cover page and the executive summary. As you

said, it's a long report. I think it's like 300-some pages, so --

A Yeah. We warn you in the title that it's going to be long. And, in fact, it was probably 1,000 pages when first drafted because you have 120 people helping to draft.

[redacted]. I'm sorry. Yes, this is exhibit No. 10.

[Starbird Exhibit No. 10

Was marked for identification.]

BY [redacted]:

Q All right. And I should say the way -- I printed this out so that it has the cover page and the executive summary. That's actually -- if you print out the entire report, there's table of contents. I think there's some acknowledgment pages, so that is cut out, so the whole report is available online. This is not an accurate representation of what it looks like in the first couple of pages.

And I'm going to start by asking you about the "What We Did" section, if that's --

A Okay.

Q So, under this "What We Did" section, it says -- it describes the scope of your work across the four categories.

A Uh-huh.

Q And I think we have touched on that a little bit, but I want to look at them again in the context of the post hoc analysis piece.

A Uh-huh.

Q So it says: To identify the scope of our work, we built a framework to compare the policies of 15 social media platforms across four categories.

And then you list procedural interference, participation interference, fraud, and delegitimization of election results.

Now, in the earlier discussion, there was some question about, you know, what was the work on platforms. This was really just an analysis of that, of those platforms' policies. Right?

A Yeah. We built the framework to compare the policies was just we took their publicly available communication about their policies, and our students did an analysis and a write-up of that with help from some of the researchers and faculty members.

Q And is that publicly available?

A It is, yeah, I believe so.

Q Okay. And so it's not like you were having discussions with the social media platforms about how to form their policies in the context of the EIP?

A I don't believe we were. I think this is just students doing their analysis of the platforms.

Q Just a publicly available analysis?

A Yes.

Q Okay. And then moving on to the key takeaways part, the very first key takeaway is that misleading and false claims and narratives coalesced into the meta-narrative of a stolen election, which later propelled the January 6 insurrection.

Are you familiar with this key takeaway broadly?

A Yes.

Q Okay. Can you explain what's meant by a meta-narrative?

A A meta-narrative is -- so a narrative is a story, and we can think about the individual claims and rumors. Many of them may be kind of related into a larger narrative. And so we saw different kinds of larger narratives. One is that, you know, the voting process -- with Sharpiegate, the voting process was intentionally marred by

people giving certain voters certain kinds of pens, and that might be a sort of larger narrative of people sort of deterred from voting at the polls. There could be other narratives about so the mail-in balloting process was rife with fraud, these kinds of things. They were all wrapped into a larger meta-narrative that there was widespread and systematic fraud that would lead to the conclusion that the election was stolen.

And so this meta-narrative of a stolen election is a combination of all of these different narratives. And, if you can unpack the narratives, there's a bunch of different rumors or claims that feed into different narratives.

Q The third bullet down says that the meta-narrative of a stolen election coalesced into the #stopthesteal movement, encompassing many of the previous narratives. And the previous narratives above reference destroyed ballots, misleading framing of real-world incidents, things like that.

Can you describe how -- to the extent you're familiar with it or the extent you can recall sitting here now, how the research showed that these narratives coalesced specifically into the #stopthesteal movement?

A Yeah. We could see the "stop the steal" hashtag actually starts to be added to different tweets within, you know -- step back. So we took all of the different tickets, and we de-duplicated them, and then we identified all of the ones that were related to claims that delegitimize the election processes, procedures, or results and into this sort of false misleading or unsubstantiated claims. We threw out ones that didn't meet those criteria. And then we did these analysis, and we did very close analysis in some cases and meta analysis in others. And we can see that the "stop the steal" hashtag begins to be added to false, misleading, or unsubstantiated rumors on election day in the morning. And over time, if you watched that happen, other rumors come up, especially sort of the ones around Dominion voting machines, and other kinds of things that begin to grow in

attention after election day. And you can see that the "stop the steal" narrative gets added -- the "stop the steal" hashtag gets added to these different claims and kind of all wrapped together, and then they begin to mobilize protests and rallies. And some folks used it to try to fundraise, combining, you know, the "stop the steal" hashtag with these rumors and false claims.

Q And the research showed that as the "stop the steal" narrative was spiking, there were also increasing calls for violence or civil war. Is that right?

A Yeah. That doesn't come directly from our work, but you can see that -- our work at the University of Washington, but that happens a lot in more of the private groups and other places that we don't spend a lot of time in. But you can see there's sort of Stop the Steal private Facebook groups we weren't in, but my understanding is that the violent language, calls to action increase over time. We have studied sort of calls for other -- different kinds of mobilization, and my understanding is that intersects as well with research from Facebook itself and other places that they could see the rise of those kinds of more violent language in combination with the calls to action.

Q And sorry. Did you just say that you did see -- your research did identify other calls to mobilization?

A Yeah. We saw other kinds of calls to mobilization, right. So there's -- to file affidavits, so there was a lot of effort, as people are -- in the Sharpies -- I spent way too much time in that case. But, with the Sharpie pens, you can see even as people are just trying to see: Oh, I used the Sharpie pen, and it didn't work.

They're, like: Oh, file an affidavit, file an affidavit.

Well, they used that to get into lawsuits, and later we see people say: Oh, look, there was so much wrong. Look at the lawsuits.

Right? So there's this kind of cyclical thing between the lawsuits and the individuals.

So there was actually this sort of infrastructure and support for people to talk -- to share what they saw as evidence of voter fraud, and then there was an effort to connect them with lawyers to file affidavits as part of that process. And then we can also see mobilization into things like to rallies and to protests.

Q I want to move on from the key takeaways and look at the key recommendations section.

A Yeah.

Q Which -- again, just the executive summary. I know there's a much longer recommendation section in the report itself, but for brevity, we're going to look at the key summary.

So, under the Federal Government, the EIP recommends the development of clear authorities and roles for identifying countering election related mis- and disinformation and creating clear standards for consistent disclosures of mis- and disinformation.

Do you know what "disclosure" means here?

A No, I don't have the -- I didn't write that, and I don't know what they mean by that.

Q Do you think it could be a reference to putting out more information?

A My understanding is probably more from the work I did later at CISA, and that was the focus of trying to broadcast these messages when people find -- you know, be able to connect local and State election officials and to corrective information that they have with the audiences or help them to reach their audiences.

Q Okay. And, putting aside what exactly "disclosure" means, there's nothing in here that recommends that the government take any steps to remove content

containing mis- or disinformation. Right?

A No.

Q And it doesn't recommend that the government be involved in any actions to remove accounts, for example, that spread misinformation or disinformation. Correct?

A No.

Q Okay. And so EIP really didn't make any recommendations about content moderation at all with respect to the Federal Government. Right?

A No.

Q Okay. I want to talk about some kind of myths that are circulating, or maybe rumors is the better way to phrase it, around the Election Integrity Partnership?

A Yes.

Q Are you familiar with a journalist named Matt Taibbi?

A Vaguely and mostly through the last few months of reading some of the things that he's written about us.

Q Okay. Mr. Taibbi has claimed that EIP has, quote, succeeded in getting nearly 22 million tweets labeled in the run up to the 2020 vote.

Are you aware of that statement?

A Yes.

Q Is that an accurate statement?

A No.

Q Okay. Do you want to say anything further about that?

A I think he's conflating the real-time work where the Election Integrity Partnership helped to label things or helped to advise or make the platforms aware of things that they might want to label, to be honest, is how we approached it. He's confusing that work with our much later work to analyze how these different rumors

were spreading on Twitter using, like, search strings that we developed. And it was like our -- he's conflating our post hoc empirical research with our real-time efforts to draw attention to the platforms to things that might violate their policies.

Q Okay.

[redacted]. I want to introduce page 183 from "The Long Fuse," and this is from a section about the way you did your work.

[Starbird Exhibit No. 11

Was marked for identification.]

BY [redacted]:

Q I just want to look at the paragraph -- 1, 2, 3 -- it's the fourth paragraph down, right above "Facebook and Instagram Data Collection." It begins "In total."

So that paragraph reads: In total, our incident-related tweet data included 5,888,771 tweets and retweets from ticket status IDs directly, 1,094,115 tweets and retweets collected first from ticket URLs, and 14,914,478 from keyword searches, for a total of 21,897,364 tweets.

So this is actually -- the 21 million -- it's not 22. It's almost 22 million --

A Yeah.

Q -- is the total data set that was collected, right, that you looked at?

A Yeah. It's the total data set of all of the tweets that we could map to tickets, yeah.

Q Okay. So that's not the total number of tweets that were --

A No.

Q Yeah. It's not the total number of posts, I should say, that were flagged. It's the total number that were mapped --

A Yes.

Q -- that were looked at?

A Yeah.

Q Okay. On March 17, 2023, the Stanford Internet Observatory posted a blog post. It's entitled "Background on the SIO's Project on Social Media."

Have you reviewed that?

A I didn't read it closely, but I'm aware of it.

[redacted]. We'll introduce it as exhibit 12.

[Starbird Exhibit No. 12

Was marked for identification.]

Mr. Burton. Did you mark this as a separate or is it just a --

[redacted]. That's separate. That is exhibit No. 11, and this will be exhibit No. 12.

Mr. Burton. Okay. Thank you.

BY [redacted]:

Q And this is a blog post that I printed out, and so it's not a page number, but I am going to look at what is the third page, the very bottom, the last -- it begins: Is it true that EIP censored 22 million tweets and labeled them as "misinformation."

That paragraph.

A Yeah.

Q Okay. So Stanford says that, as part of its nonpartisan research related to the 2020 U.S. Presidential election, EIP analyzed 22 million tweets that contained key words or URLs relevant to EIP's scope of work. EIP identified 2,890 unique tweet URLs in potential violation of Twitter's stated policies. EIP provided its factual analysis to the relevant platforms, which were then responsible for each platform's own content moderation decisions.

So, according to this, Stanford is saying that of the 22 million tweets that were all of the tweets in the database, only 2,890 were potentially in violation of policies, within the scope of your research.

Is that fair?

A Um, can you ask that question again?

Q Sorry.

A Yeah.

Q So Mr. Taibbi has said that EIP flagged 22 million tweets to be labeled.

A Right.

Q What Stanford is saying is that the number was actually about 2,890.

A Yes.

Q Does that sound right to you?

A That sounds right to me.

Q Okay. So that's a -- I did the math last night. That's about .01 percent of the entire data set?

A Yeah.

Q Okay. And this references Twitter's stated policies. That's a reference to Twitter's publicly available policies on what is and is not allowed on its site. Correct?

A Right.

Q Okay. So, to the extent that you know, would an account of an individual who is impersonating an actual election worker likely violate Twitter's policies?

A I don't know that to be explicit, but I think that's probably part of their policy. But I don't know that to be specifically true.

Q What about a post that incites others to commit violence, would that be in violation of Twitter's policies?

A Yes. I believe so, yeah.

Q Okay. So those are the type of items that may have been within that 2,890 subset. Correct?

A Yes.

Q Okay. And I know we don't have them in front of us, but just to --

A Yeah. There's -- yeah, confusing people about when and where to vote would be the one that I would have anchored on and -- yeah.

Q So, if a post said polls open at 10:00 a.m. and they, in fact, open at 7:00 a.m.?

A Yeah.

Q Something like that?

A And in the Sharpiegate case and the Sonoma ballots would also have been within those things that may have had pieces of it that could have been reported. Sharpie, it would have been a little bit harder, but --

Q Okay.

A -- Sonoma ballots would have been reported.

Q And when we say were reported -- when you're saying that the posts were reported, all that happened was they were sent to the social media platforms with an explanation. Correct?

A My understanding is that they would send the posts and sort of an explanation for why that analyst thought it might violate their policy.

Q Okay. And you had no control over what Twitter or Facebook or anybody else did with those reports once they were received. Right?

A Not at all.

Q Okay. And you couldn't --

Mr. Burton. When you're saying "you" --

[redacted]. Sorry. Fair clarification.

Ms. Starbird. Yeah, right.

Mr. Burton. -- could you distinguish between her versus EIP?

Ms. Starbird. Yeah.

BY [redacted]:

Q Did you personally have any control over what Twitter did with those reports once they were received?

A No, I had no control over what Twitter did with those reports once they were received.

Q And the same with posts sent to any other social media company?

A With any social media company.

Mr. Burton. Or whether she was involved in communicating to the posts.

Ms. Starbird. I also didn't communicate with anybody, but that's -- for EIP, let's go for EIP.

BY [redacted]:

Q Yeah.

A My understanding is that Twitter and other platforms, that they got to choose what they did with what we gave them.

Q Right.

A And sometimes they took action on it, and sometimes they didn't.

Q Right.

A When they did take action, the majority of time they put labels on things.

Q Okay. So all that EIP was doing was sending these reports over. After it left your hands -- after it left EIP's hands, it was up to the platforms to decide what to do

with the posts. Correct?

A Yeah. We were using our powers of communication to let them know that we thought this thing violated their policy and they could do with that what they may.

Q Okay. Are you familiar with what's been referred to as the Hunter Biden laptop story?

A I'm familiar, yes.

Q Okay. So this is a reference to an October 14, 2020, New York Post story about a laptop purportedly belonging to Hunter Biden. Correct?

A Yes.

Q Okay. Did EIP analyze the laptop story as part of its work?

A No.

Q Okay. And this story was actually completely outside the scope of EIP's work. Is that fair to say?

A It was outside the scope of EIP's work, yeah.

Q Okay. Mr. Taibbi also conflated in his Twitter Files reporting something called CIS with CISA.

Are you familiar with CIS?

A Familiar only through this project, and I didn't connect with them directly. But I understand the difference between the two organizations, yeah.

Q So what is your understanding of what CIS is?

A I think CIS is a nonprofit organization that helps communicate information among local and State election officials.

Q Okay. And it's entirely private. Right? It's not a government entity?

A My understanding it's not a government entity.

Q Okay. And are you familiar with CISA?

A I am familiar with CISA.

Q And what is CISA?

A CISA is a -- I'm familiar with it now that I've been on the board -- is a cybersecurity agency within the United States Government whose primary role is to build resilience among -- in our country around cyber attacks.

Q Is it fair to say that CIS and CISA, or CISA, are two very different entities?

A They're very different entities.

Q Okay. Did CIS send content to EIP to analyze?

A My understanding is they did, yes.

Q Okay. Did CISA, or CISA, ever send content to EIP to analyze?

A Again, my understanding is they did not.

Q Okay. Did the EIP, to the best of your knowledge, ever flag content for social media platforms on behalf of CISA?

A No. To the best of my knowledge, we did not.

Q Okay. There was a reference earlier to CISA being a partner of EIP. That took place between July 2020 and November, December 2020. Is that right?

A I think that's the range of it. But, again, I didn't have a lot of visibility of when that started and when that ended.

Q At the time that -- during that time period, so let's say July to November, December 2020, do you know who the Director of CISA was?

A Yes. It was Chris Krebs.

Q And who was Chris Krebs?

A Chris Krebs is -- my understanding is he was a Republican who was an appointee of Donald Trump.

Q Okay. And CISA is an agency that's under the authority of the Department

of Homeland Security. Correct?

A Yes.

Q Okay. During, again, this relevant time period, July 2020 to November, December 2020, DHS was run in an acting capacity by Chad Wolf. Correct?

A I'll take your word for it. Again, I don't know how everything works, but I will take your word for it, yes.

Q And it was -- Mr. Wolf was an appointee of President Trump as well. Correct?

A Yes.

Q Okay. So, to the extent that there was a partnership between EIP and CISA, it was in the context of CISA being run by a Republican appointee under the authority of another Republican Donald Trump appointee. Is that right?

A That's true, yes.

Q Okay. There have been allegations that EIP's work targeted Conservative political speech. Are you familiar with these allegations?

A I am.

Q Are those allegations accurate?

A Those allegations -- well, it depends on how you define "targeting," but we did not purposely go to look for Conservative political speech. What we were studying were rumors about election processes and procedures. Unfortunately, around the 2020 election, those were more predominant in right-leaning discourse and social media than in left-leaning discourse. Now, there were ones on the left too, and we reported on things on the left and the right, but there just is -- a larger proportion was on the politically right leaning, within those networks.

Q Okay. And I want to get back to that in a second.

A Okay.

Q But, before I do, you mentioned the outreach to the RNC.

A Yes.

[redacted]. I want to introduce as exhibit -- I don't know what we're up to now.

[redacted]. 13.

[redacted]. -- 13, an email dated July 3l, 2020. It's part of a chain that began as a calendar invite dated July 30, 2020, and then there was a followup email sent on top of that.

And we're only going to look at -- I mean, they've got the calendar. It's just a calendar, but we're only going to look at the email on the first page. And this is Bates stamped UW-5152 to DW-5153.

[Starbird Exhibit No. 13

Was marked for identification.]

BY [redacted]:

Q So this was sent from an individual at Stanford to you and a number of others. It begins by thanking the recipients for joining the July 30th meeting, and then it lists a number of next steps.

On the number -- underneath next steps number 1, it's meetings on the calendar for next week.

Do you see where it says that?

A I do.

Q And then there's a whole list: NASS, NASED. Those are election directors. Right?

A Local and State election officials, yes.

Q Okay. Common Cause, Twitter, ASD, CIS, DNC, and then it has the RNC

listed here. Right?

A Yeah.

Q So there was active outreach to the RNC right at the very beginning of the EIP. Is that fair to say?

A Yes, it is fair to say. And that was communicated to me when it was pitched to me is that they were reaching out to the RNC. They wanted them to be a partner.

Q Okay. And do you know if this meeting took place?

A I don't know that it did or did not. My understanding is that it did not.

Q Okay. Because the RNC chose not to --

A It chose not to participate.

Q Okay. I want to look at the question of how bias might impact research kind of in a general way.

A Yes.

Q Are you aware of the risk of bias impacting research, generally speaking?

A Yes. It's something that we talk about as researchers all the time, yes.

Q Are there particular steps that can be taken to account for that during the research process?

A I think one of them is we make ourselves aware of the biases we have, and we, you know, talk about how to make sure that, to the best of our ability, we don't let that guide our process, because we want to get towards the truth. We want to get an accurate vision of what's going on. And so, in my field, you acknowledge your positionality, you acknowledge that you're political leanings might be in a research project, not individually. We don't go around the room saying what we are, but, you know, if we think that we might have sort of a bias we acknowledge that, and we try to

counter that.

For instance, leading up to election day around our work, I had a talk with all of my students, and I advised them that, you know, it is quite possible that Donald Trump will win, and if you are -- if you, you know, begin to see -- and if he does, we are likely to see a rise in misinformation on the left to say that there's voter fraud, to not believe the results. And I expect you all to be just as committed to, you know, working on those tickets as you would be to working on tickets where it was -- where that information was spreading on the right.

So we had those kinds of conversations among our team.

Q And what about kind of at the post hoc analysis stage? I think there has been -- you hear references to cleaning the data, for example. Are there ways to look at the data after it's been collected to ensure that bias is either accounted for or minimized or addressed in some way?

A Yeah. I mean, we can go look back over things. I think with this kind of research and we knew, you know, that it could be something that's quite visible, I think as a researcher I was extra careful with the results after the fact, to go back and just make sure that we had been kind of handling things in an evenhanded way; that, if the same kind of misinformation that was spreading, for instance, accusing the DeJoy Post Office of intentionally slowing down the process, which was a very common theme on the left, that we treated that in the same way as someone talking about mail-in ballots in the trash can on the right. Right?

So we were really -- and I tried to be very careful, also removing any noise that got in there and delineate it and really make sure that, if there was a claim that we were featuring in some of the things that we were counting, that it was the majority of communication about that was, like, false, misleading, or unsubstantiated. Because

sometimes you actually get -- there's a rumor, but most of what you see is just a correction of that rumor, and we didn't want to count that the same way as we counted something else. We were just very careful before we did our peer-reviewed research to really make sure that everything was -- you know, that there was no bias. And, fortunately, our peer-reviewed research that we did after that process aligns almost exactly with the research that we did, you know, a little bit earlier that we put out in reports. But I was just, you know, really cognizant that there might -- not just bias but just like validity issues, yeah.

Q So you took, it sounds like, a fair number of pretty rigorous steps to try to account for or minimize the impact of bias?

A We did.

Q And, even in light of that, at the end of the day, is it fair to say that EIP identified more misinformation spreading among right-leaning audiences than left-leaning audiences?

A It is fair to say that, yes. And that also aligns with other research. It's not aberrant. It's not an outlier with other research that I have seen from other independent researchers that are not in our group, yeah.

Q Did your research explain why more misinformation was spreading through right-leaning than left-leaning audiences?

A I think there's two main reasons that we can kind of look at. One is that President Trump himself was pushing this idea that there would be widespread voter fraud, and his followers were and supporters were believing that and actually misinterpreting things that they were seeing in the world in some cases through that lens, and so there was sort of a concerted effort to push that narrative.

And the second piece is that Donald Trump lost. Had Donald Trump won, I think

we would have seen more on the left, not maybe more overall, but I think we would have seen like a larger -- you know, an increase of misinformation on the left.

Claims of voter fraud have not historically only been on one side. It depends on how the election goes. So those two factors together, both the sort of intentional effort to spread that narrative before the election and certainly afterwards by Donald Trump and his supporters, was a big part of why we saw more there, but also had he won, we might have seen a different pattern.

Q Thank you.

And I just have a handful of wrap-up questions.

A Okay.

Q So we spoke in my first hour, so I guess the second hour here, about some of the negative real-world impacts of misinformation and disinformation. We talked a little bit about the impacts on election workers, but I think we've not -- I just want to talk about that in a little more detail.

Has your research or through your work with the CISA advisory committee, did you examine the impact that kind of these misinformation or misleading narratives have on election workers themselves?

A We talked a lot about that. And, in part, Kim Wyman has very personal experiences that she had as a secretary of state in Washington in 2020 and the experience -- her personal experiences of how misinformation about the election turned into threats to her family. And she also had stories from other election officials who had experienced similar things. We brought in a couple of election officials, brought in remotely for one meeting, Stephen Richer and I think someone else from Maricopa County, and they talked about the threats that they faced on their family and other things that sort of, like, the false rumors and disinformation have led people, you know, who

begin to believe those things to threaten them because they think of election officials as dirty and cheating and taking away their democracy. And so, yeah, we talked about those real-world impacts on election officials.

Q Do you have concerns that this might cause individuals to be unwilling to do the work of election workers in the future?

A Absolutely. I think we've seen a trend where people have left -- Kim Wyman left her secretary of state job in part -- my understanding is in part because of that, and that's just one -- you know, that's just one person. We have seen conversation about a trend of election workers leaving because of the harassment or the threat of harassment.

Q Would you agree that a lack of election workers, really the people who keep the polls running, for example, could have serious implications for our democratic processes in the future?

A Yeah. Again, this is another case where the rumors and misinformation actually make a less secure process.

Q You've also been placed in the public eye, not because of your work, but more because of discussions of your work in the Twitter Files and other outlets. Correct?

A Yeah.

Q Have you also faced negative consequences through these discussions in the Twitter Files and other misrepresentations of your work?

A I have.

Q What impact has that had on you?

A It's been distressing, yeah.

Q Have you faced threats to your life or safety?

A Yes, yeah.

Q Have you felt the need to take precautions because of that?

A I have.

Q Are you able to tell us anything further about that?

A Um, yeah. I've taken cybersecurity kinds of actions. To be honest, at this moment, I'm worried that this video will be leaked out and used to increase those things, so I'm very careful about what I'm saying, but trying to scrape my name from the internet, my address, changing the lock on my doors, meeting with, you know, the UW police around, like, very specific threats that I received.

Q I'm sorry.

A No, that's all right.

Q Do you think the fact that you've been -- that your work has been misrepresented, that you have been brought into this investigation, for example, do you think that might limit your willingness to do public-facing work in the future?

A I mean, quite frankly, I don't have kids. If I did, I would no longer be doing this work. I'm worried about my students. I know they're worried about doing this kind of work because of these kinds of threats and what they see that I'm going through. And, at the same time, I just think the work is so important, and I want to make sure it keeps going. So I don't -- I don't want to step off that stage. I don't want -- I think we have, like, special skills that can be really useful and helpful and help make our country stronger and -- but this is having a chilling effect, and it's not just me. Other researchers are experiencing the same thing.

[redacted]. Thank you.

We can go off the record.

[Recess.]

[2:56 p.m.]

[redacted]. Back on the record, please.

BY [redacted]:

Q In the previous round of questioning there were some questions about CIS, the Center for Internet Security.

A Yeah.

Q Was CIS one of the external partners that worked with the EIP?

A My understanding was that they were.

Q Okay. And did you ever interface with them directly?

A I don't remember having any direct interface with CIS.

Q Okay. Do you know if they were one of the external stakeholders who could submit tickets?

A My understanding is that CIS could submit tickets.

Q Okay. Do you know where CIS gets its funding?

A I don't.

Q Okay. Do you know if it receives Federal funds?

A I don't know their funding.

Q Okay. Would it surprise you if they receive funding from CISA?

A No.

Q Okay.

A From CISA or Federal?

Q From CISA.

A I don't know if it would surprise me. But, yeah.

[redacted]. Okay. I don't remember which exhibit number this was.

[redacted]. 12.

[redacted]. 12?

BY [redacted]:

Q So exhibit 12 is the response of the Stanford Internet Observatory put out in March of 2023?

A Yeah.

Q If I could call your attention, it looks like it would be the fourth page. And there's a question in the middle of the page asking if EIP received direct requests from CISA. Do you see that?

A Yeah.

Q And then a couple lines down is the answer. It says that the reports were channeled through the Election Infrastructure Information Sharing and Analysis Center.

Do you know what that center is?

A The EI-ISAC?

Q Uh-huh.

A My understanding is that that is a group of local and State election officials. And they might -- my understanding is they have some connection to CIS, but I don't know what it is.

Q Okay. And do you know if that group has a connection to CISA?

A I don't know that they do.

Q Okay. Was the center viewed as a separate stakeholder from CIS, or is that one and the same?

Mr. Burton. Which center?

[redacted]. EI-ISAC. The center referenced in the answer. EI-ISAC.

Ms. Starbird. I'm not sure that I would be the best source of information on this

particular part of the relationship. I just don't know a lot about the structure of EI-ISAC, CIS, or how they were interfacing with the EIP.

BY [redacted]:

Q Okay. And who at EIP would have been the best point of contact?

A Again, I think Stanford managed a lot of our external partnerships, and I would probably direct questions to them.

Q Okay. And who --

A This is their statement, so this is -- yeah.

Q Sure. Sure.

A Yeah.

Q And who at Stanford?

A If I were to ask this question, I would probably ask Alex.

Q Okay. And if CISA and CIS were to jointly manage the EI-ISAC, would you view that as a direct request from CISA?

A I don't understand the question.

Q Okay. When receiving a request from EI-ISAC in the Jira ticket, would that -- would the Jira ticket show that the request came from EI-ISAC?

A My understanding is it would say that it came from -- I actually don't know. I don't know how those would look. I haven't looked at those tickets.

Q Okay.

A Yeah. So I don't know whether it would say CIS or EI-ISAC.

Q To a response to a separate question, you mentioned that you were not in favor of sharing tickets with the social media companies directly? Is that an accurate summary of your --

A No, I would say that I don't think it's a good use of my time. And as a

researcher, I think there are other ways to have a bigger impact.

And so I was -- it was not something that I thought was the best use of my time or my students' time to be working to inform the companies on a piece-of-content by piece-of-content basis.

Q Yeah. And do you recall who at EIP did think it was a good use of time?

A I don't know who thought that that was an important part of the project. I don't know when it became part of the focus -- the focal point. Not focal point. I don't know when it became part of the workflows, and I don't know who made those decisions.

Q Okay. Do you recall ever having the opportunity to voice your viewpoint on this?

A The only time I voiced my viewpoint was probably indirectly when asked to be part of the managers team that would be helping to direct content to the platforms, and I declined. I declined to provide someone from UW to do that. It would have probably been me, and I declined.

Q And why did you decline?

A I declined because, again, I just didn't think it was the best use of my skill set or time. I think -- my opinion has been that the social media companies should do their own moderation and that I'm not going to do free work for them, and I'm not going to take any money from them. So it puts me in a position where I'm not going to do that kind of work.

Q Okay. If I can call your attention to page 3 on the same exhibit. So one page earlier.

The last sentence -- or really after the semicolon. The second-to-last line at the bottom of the page. It says: "EIP did not make recommendations to the platforms about what actions they should take."

Do you know if that statement is true?

A I have no reason to believe it's not true. But I did not -- again, I didn't use that part of the platform that looked at what those comments would have been.

My understanding is that individual analysts could write in those boxes, and it's possible that some analysts made different kinds of comments there. But my understanding was that they were trained to just say that this violates the policy.

Q Okay.

A But not say you should take this down or you should do this or that.

Q Okay. And those communications would have been captured in the Jira ticket, is your understanding?

A My understanding is those would have been captured in the Jira ticket and written by individual analysts who could have been undergraduate or graduate students.

Q Okay. And those communications, again, this is what was going directly to the social media platforms?

A Those would have gone up to a manager -- my understanding is this would have gone up to a manager, and the manager would have sent those on to a social media platform and may have made decisions about which ones to send and not send.

Q Yeah. You mentioned earlier the managers -- it sounded like multiple of them were not students. They were either at --

A My understanding, at least one manager was a student and other managers that I know of were probably not students. They were at the different organizations.

Q So there were instances where the social media companies are receiving these communications from someone who is not a student?

A Yes.

Q And you said --

A But the students' names would be on the tickets themselves.

Q Okay. And --

A Every student that touched it is on the ticket.

Q And so the social media companies could see anybody who worked on the ticket?

A No. The social media companies could probably -- I don't know this for sure. I think the social media companies could see a message. I don't know if they had access to the ticket with the individual names.

But if the Jira -- you said the Jira system still has it. If the Jira system has it, it has that record, and it probably is connected to student names in there or analysts' names, whether they'd be students or not.

Q Yeah. So you're not sure whether the social media companies would be aware of any personnel who worked on it other than whoever was sending the communications?

A Yeah. I don't know how the social media company -- I honestly don't know how the social media company would have seen it, whether it would be -- whether it would have the student name on it that pushed the button in the system to send it up to the manager, or whether it would just have the manager on it, or whether it would have everybody who touched it. Like, I don't know what those records looked like.

Q Yeah. You mentioned when it comes into the system, the analysts, the students, can see that it came from an external stakeholder and who the external stakeholder was?

A My understanding is that you could see within the system that -- yeah.

Q Do you know if whatever is being sent out directly to the social media companies, if they could see --

A I don't know if they could see or not.

Q Okay. Did you work on the Virality Project?

A I managed -- a couple of students managed -- I advised a couple of students who worked on the Virality Project. And two of our postdocs worked on the Virality Project for a couple of weeks, maybe up to 4 or 5 weeks, and then stopped. And I had conversations with them while they were working on the Virality Project. I never had my hands in the data or the actual information streams of the Virality Project.

Q Were there any faculty members at UW who worked --

A No, I don't believe there were.

Q Is there a relationship between the Election Integrity Partnership and the Virality Project?

A I think the Virality Project tried to use some pieces of the model. If you think of it as a research project within a university. They try it once. Okay. It's got these things. Okay. Maybe we can improve it in this way.

And so they tried to use some similar elements of the model for the Virality Project, but they made some key changes, too. And I don't know exactly what all of those changes were, but I think the workflows were definitely different for the Virality Project.

Q And understanding that it sounds like you didn't work on it directly --

A Directly on it. I just didn't have capacity. Yeah.

Q What is your understanding of what some of those changes were, just at a high level?

Mr. Burton. The changes the Virality Project wanted to --

[redacted]. It sounds like it adopted --

Ms. Starbird. Yeah, I don't think they had external partners putting in tickets. I

think that's one of the differences. But I don't know that to be 100 percent true.

But that was my understanding, is that they didn't -- they did not have external partners, and if they did, it was far more limited than in the Election Integrity Partnership.

Some of the work streams were different in terms of how they collected information. There was far fewer people. It didn't have the same kind of structure. And how they -- even how they reported out was different. We weren't doing, like, tweet threads, or they weren't doing -- they didn't have the kind of visualization stuff because we didn't have our team supporting that. Yeah.

But I don't know exactly how it worked. I know that they had some briefings that they would do periodically of what they were kind of looking like at scale.

And in the next version of the EIP, we turned that into just, like, weekly public reports. So it's just more like summarizing the research they were doing.

That's what I'm aware of as kind of the major differences?

BY [redacted]

Q So you didn't work on -- I think some of them were weekly. You weren't working on those?

A No, I didn't work on the weekly things. The only thing I did is I had an undergraduate student who did some writing for the final report, and I edited her writing to make sure it was accurate and well written. And I think I would have read the final report for, like, just a cursory review.

Q Do you know if the Virality Project is ongoing?

A I don't believe it is, no. I think it ended sometime before that final report came out.

Q Okay. And do you know if there's any discussions regarding to -- similar to the EIP -- how it kind of reorganized later?

A I don't believe I've heard of any of those discussions, no.

Q Okay. Do you know how many people worked on the Virality Project?

A I don't know.

Q Do you know how many people from UW?

A Yeah. I would say two postdocs, three students, five people total. Different levels of commitment over different time periods.

Q And is it your understanding that the Virality Project used this Jira ticketing system also?

A I think that's true, but I could be wrong.

Q To the extent you know, would it be a separate system, then, from the EIP tickets?

A I would assume it would be a separate iteration, but I don't remember -- I don't know -- I don't remember how they set that up.

Q Okay. When conducting your research post election in 2020 and 2022 and you were either working in the tickets or the spreadsheet, do you recall if there were Virality Project tickets in the mix, or was it a pretty discrete category, it was just the EIP tickets?

A EIP was just EIP. There was nothing about COVID-19 in our -- unless it had to do with the election processes and procedures, it wouldn't have been in our dataset.

Q Okay. Do you know if any of the initial partners of EIP, like Graphika or DFRLab, have supported the Virality Project?

A I don't know if they did or not. I don't remember. I probably knew at the time, but I don't remember.

Q Okay.

A They had additional partners.

Q Were you -- and I think you said this -- you were invited to participate --

A We were invited at the University of Washington. Aspirationally, we said, "Oh, yeah, sure, but we don't really have capacity." And then as the time went on, we realized we really didn't have capacity to help.

Q Okay.

A I forgot to add, beyond the three students that continued the sort of student projects. The capstone project or something else.

[Starbird Exhibit No. 14

Was marked for identification.]

[redacted]. All right. This will be exhibit 14.

Mr. Burton. Is this just one and I got a whole bunch of copies? It's just one document?

[redacted]. Yeah, it's just one.

Ms. Starbird. All right.

BY [redacted]:

Q If I could call your attention -- this is on the second page. The Bates number is 832.

A Yeah.

Q There's a paragraph at the top that starts to discuss the work done by the Election Integrity Partnership.

A Uh-huh.

Q And the last sentence in that paragraph reads: "Our industry relationships led to content tagging and takedowns that helped shape nascent platform policies around 'civic integrity.'"

A Yep.

Q Do you agree with that summary of EIP's work?

A Do I agree that's a total summary of everything? No. But do I agree that we led to the tagging of content and some account suspensions and that we helped shape the nascent policies? Yes. But I would clarify, "helped shape" was by actually putting out public communication about what the policies were.

Q Can you say more?

A Around the policy analysis paper that we read -- that we -- sorry -- that we wrote -- may have informed some of their policies and the platforms.

Q Just as a point of clarification.

A Yeah.

Q EIP produced a post about --

A About the policies.

Q -- platforms' existing policies?

A About the existing policies with a list of recommendations for what they should do, and that those recommendations may have shaped those policies. I think that's what that statement is meant to convey.

Q Gotcha. Do you know if any of the social media platforms contacted anyone at EIP to say that they incorporated some of the recommendations?

A No. We never had any direct feedback that says, "Oh, you all said this, and this is what we put in for our policy around the EIP stuff," that I remember. Other times, they have told me things about their policies, but I don't remember any about election -- actually, that's not true. There may have been one time that they said, "We put something in place." But I don't think that's because we told them to. I think that's because I was yelling at them at Twitter for not doing it, like, publicly. And they said, "Hey, look, we've done this." If that makes sense.

Q If you could say a bit more.

A Yeah. So in August of 2020, I do think one of the social media companies contacted me -- it would have been Twitter, possibly [redacted], possibly someone else -- contacted me to say that they had put some kind of policy in place around civic media integrity. And I replied something around the lines of, "Yep. Okay. That's great, but it's not working fast enough."

Because we had just done an analysis to show how fast misinformation was spreading, and we could see specifically false claims from Donald Trump about the process being rigged and something about people being able to get COVID from turning in their ballots into a ballot dropbox.

And so we had tracked that, and we had shown that their policies were going -- and they had gone into place. They were trying to enforce things, but they enforced it after the content was already fading anyway. So I think I made a snarky comment about the fact that it was working too slowly.

But I did sometimes -- we did, like, public communication and visualizations and blogs, and I think sometime in, like, August I had done a blog or a visualization showing how fast that kind of content spread from his account. And I was making -- and I made some comments. And they sent me the email to say, "Hey, we have this policy now." And I said, "It's not going fast enough."

But it wasn't, like, I hadn't told them to do that policy change. They just gave me an update. It was more like I did a public communication that their policies could be improved, if that makes sense. Yeah.

Q Yeah. So just to clarify, the back-and-forth that you had with Twitter, and it sounds like potentially [redacted], is that private communications? Or is this over, like, a --

A In this one case -- I haven't had a lot of communications with [redacted].

Q Yeah.

A In this one case -- there's maybe two or three cases that you probably have the communications with since you have all my communications.

But in this case we did a public communication. I did a tweet thread showing a graph of the spread of a particular piece of content and how -- and where their actions went into place.

And they had sent, "Hey, we have this" -- they had responded, I think in an email, to say, "Hey, look, we put this policy in place." They often did send, like, "Hey, we have a new policy." And I went back and said something snarky about how it's not going fast enough to make a difference on this kind of information.

Q Okay. Were there any communications preceding the public statement that was issued about showing that the policy was not having any effect?

A No. I mean, what we did as researchers -- we were actually pretty critical of the platforms in my research group. And so we would publicly put out things sort of criticizing and showing how they were facilitating the widespread, the vast spread of rumors and misinformation about the election. And in defending themselves, sometimes the platforms would send me back messages of how they were taking action.

So we were just doing public advocacy for the platforms to be more responsible media platforms in today's environment.

Q Do you recall -- sorry. I was just going to say, it was August 2020, you recall?

A That one, I think, was -- if it's around the blog I think it was around, it would have been in July or August. Yeah.

BY [redacted]:

Q What do you mean by --

A But it wasn't within the Election Integrity Partnership. It was actually before the Election Integrity Partnership was going on.

As I said before, we were already doing that kind of real-time work before the Election Integrity Partnership kind of brought us together under a common umbrella.

Q When you say you were critical and you wanted them to be more responsible, more or less -- I realize I'm paraphrasing -- can you be more specific?

A Yeah. We would be critical of saying, "Hey, you know, these are clear cases of something that's false or unsubstantiated, and it's causing widespread exposure to misinformation."

This is the same kind of stuff that built into that Meta narrative we talked about earlier. And we were saying, "You know, you've facilitated this in happening, and is there" -- just to say, "Hey, this is a problem, and you're part of that problem."

Q Facilitated it by --

A The way the platform is designed that's allowed certain people to get outsized voices and quickly conduct information in ways that can expose people to false information long before any kind of correction can get out into the space.

And, unfortunately, what we know about misinformation is, once exposed and the repetition, the correction doesn't really correct the false impression. So it's very effective if that kind of information can be -- expose a million users in a matter of 20 to 30 minutes.

The policies that they were putting in place and the enforcement actions that were taking place 2 hours later wasn't going to be able to contain that kind of damage.

BY [redacted]:

Q Was the purpose of the public communication to have Twitter change its policy?

A It was, for me -- again, this is not, like, within the EIP brand. This is sort of something that we were just kind of doing that eventually we start working together. But this is just something that I do a lot, which is to put out analysis and have recommendations for the platforms at the end of that analysis.

Sometimes that's in formal papers. In this case, I would sometimes put the analyses out on Twitter to say this is happening and that it's a problem, to draw attention to it, and for them to think about what they should do to change. Yeah.

And I don't always recommend -- I rarely recommend a specific action. I wish -- I didn't get to say this -- I wish I had something better to say. But most of the time, I just point out problems and don't tell them how to fix them. And I understand that the fixes for the problems are very tricky and very hard, so I give them credit for that. But I did a lot of, like, pointing out: This is a problem.

Q Do you recall if there was media coverage related to this example?

A I don't think so, no.

Q Okay. Do you know if other universities -- we'll start with Stanford. Did Stanford University issue similar public communications?

A On this case I don't think so, but I don't know.

Q What about analyses?

A They might have. They might -- you know, it's online, right? People might retweet other things.

I don't -- they work a little bit differently. They tend to do more sort of reports that are based on a month or 6 weeks of intense work. A lot of their work is focused

traditionally on sort of foreign disinformation campaigns, often in other contexts, that aren't even affecting the United States.

They also usually have recommendations for platforms. But, again, those are recommendations, but they're not -- that's just what we're supposed to do as researchers, is to hopefully propose solutions that could help society address things.

Q Do you recall what this one example, what the threshold was that led you and your team to decide to issue a public communication?

A I think it was just the size of it. And I think -- if I remember it correctly, because they had started to put -- so when you think about 2020, these companies didn't have policies around misinformation prior to 2020. And so as a researcher all of a sudden you see these platforms are trying to take action. They're trying to add these labels. It becomes an interesting research question.

So one of the things that we were doing -- again, quite independently from the Election Integrity Partnership -- was to try to look at, like, what are the platforms doing, and how is that having an impact?

And so we could graph, like, here's the spread of it, here's when they added the label, and here's, I think, where it looks like they changed whether or not this could be retweeted or whatever it was.

So we were trying to track what those interventions were and what kind of impact they were having. So we had a communication about that.

Eventually, some of my colleagues have a paper about just describing what that is. And as we would describe it, in this case we were describing it to say, "Hey, look, you're doing these things, but it's way too late in the process. If you're trying to stop the exposure to misinformation, you've only stopped about 10 percent of it because 90 percent happened before you took any action."

Q You've mentioned a couple contexts. Labeling is one.

A Yeah.

Q Action a tech company could take. In Twitter's context, prohibiting people from retweeting.

A Yeah.

Q Was there any distinction made with respect to the EIP's work when transmitting a communication to a social media platform?

A Can you ask me that again?

Q Sure. As you've represented -- and I understand that you weren't the one directly engaging with the social media platforms.

A Yeah, yeah, yeah.

Q When it's being communicated, whatever the message is --

A Through the EIP?

Q Yes.

A Yeah.

Q Are there -- is there any discussion regarding labeling versus removal of content?

A My understanding is they just sent over -- they just sent, "Hey, this violates your policy" that we did not send recommendations.

Q Do you know if any of the social media companies at the time had a set of policies saying, if you violate this policy, removal is warranted. If you violate this policy --

A I don't know what they had at the time. And they were evolving. So the only thing I remember is something about a strikes policy. But I don't remember anything about, like, if you do this versus that, like a scale of severity. I don't remember

that.

Mr. Burton. Did you say it violated a policy -- do you know if they said it violated a policy or may violate the policy? Was it more direct?

Ms. Starbird. With the EIP, my understanding is we -- actually, I don't know. I don't know how we communicated that. But when I was talking there, I was talking about the platforms themselves and their policies, not about the EIP.

BY [redacted]:

Q You mentioned just in context -- totally outside of EIP -- but that platforms from time to time will say, "Hey, here's our policy."

A Yeah.

Q And you're obviously an expert in the field.

A Yeah.

Q Do you have a sense of the timeline of when these different requests came in? Is it a broad timeline?

A I started to get invitations to talk to platforms around 2017 or '18. And I probably have had 12 to 15 conversations between then and now.

In terms of, like, actual conversations, whether it's I might go in and give a talk, and then they'll ask me questions, or they may reach out to me and say, "Hey" -- maybe three or four times someone has reached out to me and say, "Hey, we've got some ideas for what might work. Can you give me your feedback on those ideas?"

For instance, they gave me feedback on, like, the Birdwatch thing and community-based crowdsourcing, which is now community -- they changed the name of it. Elon Musk changed the name of it when he took over.

So they would present what they were working on and say, "Oh, this might work." "Okay. You might want to work on that. Or I'm not sure how that would work."

So both about the policies as well as how the, like, interventions with -- other kinds of interventions within the platforms, they might ask my opinion as an expert in the field.

Q And what do you mean by other interventions?

A Birdwatch isn't -- well, it is -- they do add labels, but it's community-based labeling.

Q Gotcha.

A Yeah.

Q In your interactions -- and you said there's maybe a dozen conversations or so.

A Yeah.

Q Did you get the sense of whether companies change their policies proactively or as more of a reactionary step?

A I don't know if there's a simple answer to that. I mean, I think the companies were asking a lot of different people for input, and they didn't always take my advice. And I think they were just looking to get input on ideas.

I think when a person comes to give a talk, they're more likely to just ask us questions about what our recommendations might be. But there were other times where they already had a policy and they were looking for a policy, or they're saying they're moving in this direction and they're looking for feedback on it.

Q The August 2020 Twitter example that you gave, do you recall if Twitter had received criticism from anyone else on that issue?

A I wouldn't know if they did or not, but I assume they were receiving criticism from many people around misinformation coming out of that particular account at that particular time.

Q When onboarding the companies for EIP, were there any meetings where all the external stakeholders were brought together? Or you mentioned that you were not directly --

A I never -- we're in online environments. And in online environments we all look flat, even though the names are there.

So I can't 100 percent say that I never encountered these folks, but I don't remember being in conversations where we gathered together these external stakeholders. In many of them, I don't remember meeting anyone from those groups in the course of my work with the EIP.

Q Do you recall if there was ever any discussion within EIP about publicizing an incident that was being analyzed by the team?

A That's a hard question. I mean, early on in the process of EIP my team started this thing where if we saw something that was valuable for the public to know so people could react to it, that we would create tweet threads or blog posts around that.

And I believe that that became a thing that we would do. We would actually take something that we were analyzing. And it would probably take 2 or 3 days to get a blog post out. It could take about 2 to 6 hours to get a tweet thread out. But to, like, publicly intervene.

The Sonoma ballots case was one where we put out tweets while that was spreading to try to draw attention to the spread and to make people aware that this was a false -- that it was a false narrative.

So there were -- so in terms of, like, responding during -- as we're analyzing during the moment, that's actually the model that I was kind of pushing us to move towards, like a public response to these things.

Q And what about publicly revealing whatever messages were communicated

directly to the social media companies?

A I don't remember any conversations about that. Yeah.

Q Was there any discussion, after the conclusion of the 2020 election and EIP's work through the first iteration, about publicizing what was communicated to the social media companies directly?

A I don't remember having any conversations about that.

Q You mentioned in the previous answer and then also earlier that there are benefits to -- transparency, I think, is one word you used -- as far as showing what you're seeing.

A Yeah.

Q Can you say a little more about what those benefits are?

A To transparency -- can you explain that again? There's too many ways I could interpret that. So can you be a little bit more specific into what aspect?

Q Sure. So you and your team -- and earlier it sounded like EIP -- are looking at incidents of misinformation?

A Yeah.

Q You're able to organize it by a particular issue. We've gone over a few examples here.

If I was understanding your previous answers correctly, it's that you would view that there would be benefits in more publicly revealing your research, your analysis, your conclusions of what's going on?

A Yeah.

Q So I guess just at a high level, what -- I think I could probably guess the answer -- but what are the benefits of publicly revealing --

A We worked throughout to try to draw attention to the work that we were

doing to try to let people know. I mean, at the end of the day, it's a communication problem. We're trying to make people aware that they are being exposed to false and misleading claims, that they may be misinterpreting things, and to, at the end of the day, help them find information they can trust so that their vote counts and that they have trust in the process.

And so I think in that kind of case, like, being transparent is -- that transparency is going to be a value of a project like that. And my understanding of how we approach this and through our work at the University of Washington is we were trying to make as much as we could public.

Q Okay. Going back to EIP. There are these tickets, some form of communication that's being sent directly to the social media companies.

A Yeah.

Q Is the intent there that they will take some sort of appropriate action?

A Is our intent that they will take appropriate action?

Our intent was to make them aware that there were things that violated their policy. And I think our -- again, this is not the part of the project that was front and center in my mind because I think it's a Whac-A-Mole kind of endeavor.

But I think that the idea was that we could help them with what they thought was their policy, we could help -- what they established as their policy -- is that we could help them identify where things violated their policies.

Again, it's not something -- I just don't think that that was a good use of our time, but it's something that the EIP was doing.

Q Okay. So understanding, again, what your position on this is and that you weren't the one directly sending whatever it was to the social media platforms. But if I understood your testimony earlier, it sounded like there was a large number of tickets,

and only a subset of them are being communicated to the social media platforms. Is that right?

A I don't know what percentage was communicated to the social media platforms. I think they had to meet a certain threshold and be in scope for us and meet a certain criteria.

Q But your research that you were conducting post election involved more than just that subset of tickets, right?

A The research we did postelection, we didn't cross-reference to whether things were -- the research my team did, did not cross-reference for whether things were sent to the platforms or not. So I don't know where they overlap.

Q So I guess it appears clear that you have these tickets. There's a value in conducting the research, doing the analysis. Your team is, post election, able to do that.

But why were some of the tickets sent to the social media companies?

A We sent tickets to the social media companies when we saw that they -- when our analysts thought that they violated their policies. I think the idea was that our analysis could contribute to their understanding of what was flowing on their platform.

Q I guess if I could just push a little bit farther.

So you have to go through all this hassle to onboard the social media platforms. What is the goal that EIP is trying to accomplish?

A Again, I didn't onboard the social media platforms.

Q Sure. EIP.

A Yeah.

Q To the extent you have an understanding of what --

A Yeah. I think you would have to ask the people who brought those folks

on. You're asking me to defend pieces of the project or talk about pieces of the project that really weren't core to what I was doing.

Q Okay. And your understanding is that Stanford was the one that was --

A I don't know who --

Q -- responsible for this part of the partnership?

A I don't know who brought this on, but my guess would be Stanford. And I don't know when, whether it was early in the process, whether it came later. Certainly, when I was thinking about it, initially when the project was developed, I was thinking that it was more -- and it was going to be more -- certainly it was going to be more for our group about the kinds of things we did about public communication in real time.

[redacted]. Okay.

Can we go off the record, please?

[Discussion off the record.]

[redacted]. Back on the record.

BY [redacted]:

Q Dr. Starbird, there was just a reference made to onboarding the social media companies.

To your knowledge, were the social media companies onboarded onto the EIP?

A I don't know how the social media companies were coordinating with the Election Integrity Partnership, but they were considered sort of external partners.

Q Okay.

A Yeah.

Q There was a fair amount of discussion earlier about your August interaction -- August 2020 interaction with [redacted].

A Yeah.

Q I just want to have this clear.

You made a public Twitter post?

A Yes.

Q And your Twitter -- your Twitter is publicly available. It's not private now?

A Yes. And at the time, it was getting lots of interactions.

Q Okay. And so that was you exercising your First Amendment rights to put your thoughts out on the internet, correct?

A Indeed, yeah.

Q Okay. And so -- and Twitter saw that and -- like many people did -- and you can't control what people do with your free speech once you put it out there, correct?

A Indeed. Yes. In fact, that's how I met those folks from Twitter, is I would do public posts, and they saw them, and then they contacted me about them. Yeah.

[redacted]. Okay. Thank you.

We can go off the record. Thank you.

[Whereupon, at 3:38 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

Transcribed Interview Transcript Errata Form

Interviewee	Kate Starbird
Date of Interview	6/6/2023
Date of Review	7/21/2023
Name of Reviewer	Tiffany Rowe
Signature of Reviewer	

Page	Line	Suggested Correction
13	13	@ end add "U.S. actors"
13	25	change "disinformation" to "misinformation"
16	24	confirm "affordances of the platforms" is accurate
20	mid page	about 'workforce issues'
26	20	"so there is seconds" to be "so there are seconds [to committee members]"
27	second answer	"often only a couple of us made it" means "to the meeting" and NOT to vote
36	9	'representational' should be 'reputational'
37	4	"come" should be "coming"
37	24	"Susan" = "Suzanne"
44	mid page + line 21	"voluntarism" = "volunteerism"

Page	Line	Suggested Correction
74	25	"them" = "the students"
77	15	clarify that "Alex and the student" are Stanford, not EIP
111	4-5	strike "political communication" Unintentional choice of words
116	4	"using false information COULD cause..."
117	1-14	requires clarification by Starbird re 'scope'
121	First full answer	requires clarification by Starbird re "work @ UW" v. EIP work
135	mid page	aberrant = apparent? confirm from video?
152	mid page	"conduct" = communicate
15	2	Confirm Chris "Coward" is correct spelling
121	9	requires clarification by Starbird re "@ Univ of Wash"
154	mid-page	"One of the things that WE were doing" Clarification by Starbird of "we"

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: STEVEN D'ANTUONO

Wednesday, June 7, 2023

Washington, D.C.

The interview in the above matter was held in room 2237, Rayburn House Office Building, commencing at 10:00 a.m.

Present: Representatives Jordan and Massie.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

Also Present:

For STEVEN D'ANTUONO:

LAWRENCE BERGER, ESQ.

[redacted] We'll go on the record.

Good morning. This is a transcribed interview of former FBI assistant director in charge Steven D'Antuono. Chairman Jordan has requested this interview as part of the committee's oversight of the FBI.

Would the witness please state your name for the record.

Mr. D'Antuono. Yes. Steven Michael D'Antuono.

[redacted] I understand you are appearing with personal counsel today.

Can counsel please state your name for the record.

Mr. Berger. Sure. Lawrence Berger.

[redacted] On behalf of the committee, I want to thank you for appearing here today voluntarily to answer our questions. The chairman also appreciates your willingness to come voluntarily.

Mr. D'Antuono. Absolutely.

[redacted] My name is [redacted], and I am with Chairman Jordan's staff.

I'll now have everyone else from the committee who is here at the table introduce themselves as well.

[redacted] [redacted], Chairman Jordan's staff.

[redacted] [redacted] of Mr. Jordan.

Chairman Jordan. Jim Jordan.

[redacted] [redacted], oversight counsel for the Democrats.

[redacted] [redacted], chief oversight counsel, House Judiciary Committee, Democratic counsel.

[redacted] [redacted], Mr. Jordan's staff.

[redacted] [redacted], Mr. Jordan's staff.

[redacted] [redacted], Mr. Jordan.

Mr. Massie. Representative Massie.

[redacted] [redacted], Chairman Jordan's staff.

[redacted] I'd like to now go over the ground rules and guidelines that we'll follow during today's interview.

Our questioning will proceed in rounds. The majority will ask questions for the first hour, and then the minority will have an opportunity to ask questions for an equal period of time if they so choose. We'll alternate back and forth until there are no more questions, and the interview is over.

Mr. D'Antuono. Okay.

[redacted] Typically, we take a short break at the end of each hour, but if you would like a break apart from that, please just let us know. Also, please feel free to consult with your counsel at any point in time.

Mr. D'Antuono. Okay.

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

Mr. D'Antuono. Yes, I do.

[redacted] So the court reporter can take down a clear record, we will do our best to limit the number of staff directing questions at you during any given hour.

Please try to speak clearly so the court reporter can understand and so the folks down at the end of the table can hear you as well.

It is important we don't talk over one another or interrupt each other if we can help it, and that goes for everyone present at today's interview.

We want you to answer our questions in the most complete and truthful manner possible. So we will take our time. If you have any questions, or if you do not

understand one of our questions, please just let us know. Our questions will cover a wide range of topics. So if you need clarification at any point, just say so.

If you honestly don't know the answer to a question or do not remember, it is best not to guess. Please give us your best recollection, and it's okay to tell us if you learned information from someone else. Just indicate how you came to know the information. If there are things you don't know or can't remember, just say so, and please inform us who, to the best of your knowledge, might be able to provide a more complete answer.

Mr. D'Antuono. Okay.

[redacted] You should also understand that by law you are required to answer questions from Congress truthfully. Do you understand that?

Mr. D'Antuono. Absolutely.

[redacted] This also applies to questions posed by congressional staff in an interview. Do you understand this?

Mr. D'Antuono. Absolutely.

[redacted] Witnesses that knowingly provide false testimony could be subject to criminal prosecution for making false statements under 18 U.S.C. section 1001. Do you understand that?

Mr. D'Antuono. I'm aware of that section, yes.

[redacted] Is there any reason you are unable to provide truthful answers to today's questions?

Mr. D'Antuono. No.

[redacted] Finally, I'd like to make note that the content of what we discuss today is confidential. We ask that you not speak about what we discuss in this interview to any outside individuals, to preserve the integrity of our investigation. For the same reason, the marked exhibits that we will use today will remain with the court reporter so

that they can go in the official transcript, and any copies of the exhibits we will take back at the end of the interview.

That is the end of my opening remarks.

Is there anything that my colleagues from the minority have to add?

[redacted] We have nothing to add. Thank you.

[redacted] Okay.

Well, we'll now start our first hour of questioning. I'll turn it over to my colleague, [redacted]

The clock now reads 10:04 a.m.

[redacted] Okay. Thank you, [redacted]

EXAMINATION

[redacted]

Q Mr. D'Antuono, we're going to go over some basic questions here just regarding your tenure at the FBI. When did you join the FBI?

A January of 1996.

Q And why did you join the FBI?

A That's a long story. I got called for -- I'm a CPA by trade. I got called by -- to become a financial analyst with the Bureau, which is basically a forensic accountant.

I don't want to bore you guys with the story, but it's -- you know, the FBI has always been a great job. I'm not one of those people that like from age 6 I wanted to be an FBI agent type stuff, right.

So it's a great opportunity. So the FBI is a good career. So I decided to join as the forensic accountant, financial analyst, you know, in the province office of the Boston division.

Q And what did you do before joining the FBI?

A I'm a CPA. Yeah, I graduated with a Bachelor of Science in accounting.

Q Can you briefly walk us through the positions that you held at the FBI?

A Yes. All right, so financial analyst from '96 to '98. I became a new agent in July of '98. I went down to Quantico, Virginia, FBI Academy. From Quantico, I went to Washington field office in November of '98 when I graduated. I worked primarily public corruption, government fraud squad. You know, served all the way through 9/11 as a brick agent on that squad, different squads, I did that.

After 9/11, I worked a couple years until '05. I went down to the FBI Academy as a white-collar crime instructor, basically a supervisory position. So supervisory position, supervisory special agent, white collar crime instructor. So I instructed all of the new agents, analysts, national academy for about 3 years, from '05 -- it's almost exact -- January of '05 to January of '08.

After that, I went back to Washington field office as a supervisory special agent for the D.C. public corruption squad, and worked from D.C. public corruption, SSA, from '08 to 2014. Almost 7 years as a supervisor, right. So I didn't just touch bases, right.

So then I went to become an ASAC, assistant special agent in charge, in the St. Louis division, the field office there, from '14 to '17. I got there right when Michael Brown got shot in August of that year. I led the civil rights investigation on Michael Brown, the crisis response -- well, the perceived crisis response for the grand jury announcement that we were expecting. I led all of that stuff with my counterpart ASAC and SAC, obviously. It wasn't just me. That was in St. Louis.

So in '17, in September, October of '17, I went to -- back to headquarters. So we're now back to this -- that's the only time I've been in the building was at this point, from 2017 as a section chief of the financial crimes section, from 2017 to 2019. So I only

did 2 years at actual headquarters. My headquarters time was at Quantico. And [redacted] will understand this, right. So only 2 years at the main building.

And then in '19, 2019 of October, September or October of 2019, I became the SAC in the Detroit field office, the entire State of Michigan. And then, the Director asked me to come down as the ADIC of Washington field office, which is -- I wasn't very -- I was happy in Detroit, you know, but it was 11 months in. In September I got the call from the Director asking me to come down and take the seat.

That's where I started. So I was honored to do that, but I was happy to be out of the Beltway, honestly, but I came back as the ADIC in 2020, and then served until November of last year. So 2 years as the ADIC of the WFO.

Q Thank you, sir.

So prior to retirement, your last position then was the assistant special agent in charge of the Washington field --

A Assistant director.

Q Assistant director in charge. I'm sorry. Yes, of course, ADIC.

A Yep.

Q And all of that with one headquarters, too. Well, well done.

What was the date of your retirement?

A November 30th, '22.

Q Okay.

A Yep.

Q Can you briefly describe for the committee your roles as the ADIC at Washington field in general terms?

A So it's basically I ran the field office, right, as the assistant director in charge. I had five SACs. Now it's four SACs and an IAC, which is the intelligence analyst in

charge, right. It's still at the SAC level. It's just a different name now. You have the intelligence analyst in charge of the intelligence division, but at time I took over, there were five SACs. So basically five of me from Detroit, right.

So it's a large field office, about 1800 employees, task force officers, the second largest division in the country. That's why we have an ADIC position. You know, it covers most of the northern Virginia region. Richmond has the Winchester area and stuff like that, and we have D.C.

So, you know, every program in D.C. comes under me as the ADIC, right. So criminal, CT, CI, intelligence, every matter. It's just like you're the CEO, the president of the company, you know, so.

Q Can you describe the five SACs, just sort of the branches?

A Yeah, so it was criminal, the criminal and cyber branch. I always forget the cyber portion of it, but the criminal and cyber division, the counterintelligence division. At the time I took over as the counterterrorism and crisis -- I think we named it crisis management division, right, because it had the crisis management under it. So counterterrorism of crisis management at the time I took it over. And the intelligence division and admin, administrative, or mission support is what we called it. No one likes to be the admin portion.

Q So, and you said you had retired in November of '22. When did you decide to retire?

A So all right. When you become an agent and you have the 50-year mark, right, you know, lots of times we start looking, right. So for me, I was 50 -- what was I -- yeah, I was 50. I started, you know, looking, putting feelers out there. An opportunity came calling about in the spring, I think, of '22.

Like, I was happy with my job. I really was. A lot of my positions have kind of

fallen into place at times, even the FBI in the beginning, the financial analyst. I just got a call out of the blue. I didn't put in for the financial analyst position.

So the opportunity was there. Honestly, I was hoping to continue to ascend in the Bureau, you know, but the opportunity wasn't there for me. I could see that about springtime. So I decided to take the call and start looking at the opportunity, and so you go down the path when you're at that point and see if it works. If it did, great. If I didn't, then I could continue on, right.

In this case, the opportunity was too good to pass up. I love the Bureau, I really do. I love my job. I love serving. You know, that's important for me, you know, but it was -- what might have been said out there about me running from this, I was welcoming this conversation. I really was. So that was not -- and I'm happy to be here to assist and answer your questions.

Q I'm going back to your time as ADIC at the Washington field. How often would you say you interacted with the Director of the FBI?

A Not often. I would see the Director. My tenure at WFO, obviously, was a 2-year tumultuous tenure. I don't think any other ADIC, and I've talked to a lot of them previously, had as much turmoil as the Washington field office went through at that point in time. And I wasn't -- I wasn't there during the summer under of unrest either, right. So I missed that portion. I was in Detroit.

So the Director, I would see him. He would come over, you know, to our command post just to kind of, you know say hi to the troops and thank everyone for their service there and everything that they're doing. So I'd see the Director at that point.

I would see the Director at -- when we're at SAC conferences, but those are like few and far between because of COVID, right. Again, realizing in that period of time we still have COVID, right. And that was basically my only interaction with the Director.

Q So you were the assistant director, assistant -- the ADIC, rather, in charge of the Washington field office. Of course, it's our flagship office, one of the flagship offices of the FBI.

A Yes, I consider it that.

Q And at this time, you would say it was very -- the interaction was very interspersed or not very regular with the Director even in that capacity?

A That would be correct. My direct supervisor or direct report was to the deputy director. I had --

Q So conversely, how often did you interact with the deputy director?

A All the time. He always -- phone calls --

Q Weekly? Daily? How would you --

A It depended, right. I could go days without talking to the deputy director. In contrast -- as the ADIC, in contrast with the SAC, when Dave Bowdich was the deputy director in Detroit, I barely talked to him, right. He would just -- unless something happened, right.

As the ADIC, definitely, especially stuff leading up to January 6th. The election cycle, back then in 2020, when I became the ADIC, I was talking to the deputy director a lot. And then after January 6th and all that, the deputy director and I talked a lot, you know, a lot. And I can't -- it would be phone calls. It would be just a whole host of different things. If he had a question, I answered it, right, but I did not speak -- the Director never called me.

Q Would it be fair to say that the deputy director was your regular inject thing at FBI headquarters?

A Absolutely, yes. He was my -- he's my direct boss in a sense, right. I report to the -- well, like all SAC meetings. Other than the SACs that worked for the

ADIC offices, they technically report to the ADICs. When we do performance appraisals, the deputy director was my boss.

Q Okay. Thank you for that.

And this is sort of redundant, but how often would you interact with FBI headquarters generally?

A It's -- it was on a case-by-case basis, right. So again, you know, I think ADIC, it's -- the level there is -- we're mostly on par -- the ADIC in New York, WFO, and L.A. are on par with basically the EADs, right, the executive assistant directors, right. So the AD level at headquarters is still an AD. So we're partnered up with them, too, but a lot of times, because I had SACs, the ADs would call the SACs.

For lower SCSers, the SACs, as you well know, is a larger division. So the criminal division is larger than -- my criminal division was larger than the St. Louis division, which has one SAC over it. So things like that are just a difference that people don't understand, the complexity of the Bureau.

So I would communicate with the ADs. A lot of times my conversations were with the deputy or the EAD, and the ADs would contact the SAC, but in certain circumstances, in some of these cases that you're probably going to ask me about today, I wasn't -- I was talking to the ADs, right, but it was off and on.

We're a field office, right. So we have cases -- I believe in the field office, right. We have cases in which we're just working on our own, right, and we have oversight, program management oversight by headquarters when I was on the criminal side, as you well know, as opposed to the counterterrorism side, right, or the CI side. There's a lot more program management in that respect than on the criminal side of the house, and I'm a criminal person through and through, so.

Q Thank you for that clarification.

When -- did you interact with anyone at Main Justice?

A It depended. It depended on the cases, right. So a couple of these cases, again, that you're probably going to ask me about, there was intersection with some of the DOJ components.

During the January 6th investigations, I interacted more so with the U.S. Attorney's Offices that were running the prosecutions. I had a, at the time, a daily call with the chief of the criminal or the -- John Crabb, who is the -- he was chief of criminal, but he also had the -- I don't know what title he had. I don't know if there even was a title, but he was over basically the January 6th investigations, right. So --

Q I'm sorry. Was he at Main Justice --

A He was at the U.S. Attorney's Office.

Q -- or was that the U.S. Attorney's Office?

A The U.S. Attorney's Office, yeah.

Q Okay.

A Yep.

And then occasionally I would talk to the U.S. Attorney in either district, you know, the Eastern District of Virginia, or the U.S. Attorney in D.C. But the January 6th stuff I was talking mostly to the U.S. Attorney's Office.

Every once in a while I would talk to somebody at the -- the DAG's office would come over every once in a while. A couple of the individuals, like Matt Axelrod started, right, when I was there. He was the DAD'S advisor, I believe. Again, I'm not sure what their titles were. I then went to Chris Cavanaugh, I believe, after him and then Rush Atkinson after him. So I had conversations with them.

Q Those gentlemen sequentially were where then?

A DOJ, Main --

Q Okay, at Main Justice?

A Yeah, yeah, with the DAG's office.

Q National security branch in this case or --

A No. They were -- my understanding is they were with the DAG'S office, right. So that was a lot of times during the January 6th investigation, a lot of stuff that was going through January 6th.

Q Okay.

A If I'm talking too fast, too, please slow me down. I have an accent from Rhode Island, so I'm trying to enunciate.

That was January 6th. If you're talking the Mar-a-Lago investigation, which you'll probably get to, right, you know, I know why we're here right, the Mar-a-Lago investigation would have been with the national security division, but it wasn't like constant. Like, there were times in which I had meetings with them.

Q Do you recall who you met with regarding that?

A Yeah, that would have been -- Matt Olsen was in one of the meetings I was in, George Toscas, and Jay Bratt.

Now, going back to the January 6th stuff, there was a lot of things going on and off there, too. We, when I say "we," the deputy director was basically in the lead, we would meet with DOJ every once in a while on certain issues, and in that case, national security was there, Toscas was there, George was there, Matt Axelrod was there. I don't think Olsen was in place at that time. I'm not sure if the PDAG was there. I can't remember so.

But there were other times that we were meeting with people, so but through headquarters.

[redacted]

Q And can you give us the titles for George Toscas and Jay Bratt?

A I don't know George's title. My understanding, he's in the national security division. I don't know his titles, yeah. Titles, they didn't mean much.

Jay, I don't know his title either, but he was basically the lead prosecutor on the Mar-a-Lago investigation, as far as I recall.

Q Okay. Thank you.

A You're welcome.

Q And what do you do now for work?

A I'm a consultant. I work for -- I'm a consultant at a Big 4 accounting firm.

Q And how long have you worked for the consulting firm?

A I started in December.

[redacted] I'm sorry. Where do you work?

Mr. D'Antuono. I'm sorry. I work for a Big 4 consulting firm.

[redacted] Thank you. I appreciate it.

[redacted] Do you have any job-related interactions with the FBI at the consulting firm?

Mr. D'Antuono. No. I'm -- 12-1, I'm supposed to have -- I have a year moratorium that I abide by my year moratorium that, you know, I do not interact with the FBI. And no, I don't think I would even after that either so, you know, other than, you know, I have tons of friends there.

[redacted]

Q Okay. We're going to shift gears.

A Okay.

Q We're going to talk about Mar-a-Lago a little bit.

Are you aware of the FBI's raid on former President Trump's personal residence at

Mar-a-Lago?

A Yes. I would not call it a raid, though. It's a search.

Q You would characterize it as?

A It's a search, yeah. It's -- you know, it's a lawful search.

Q And, of course, you were still the ADIC at Washington field then?

A That is correct.

Q Which FBI field office is handling the investigation of the documents located at former President Trump's residence at Mar-a-Lago?

A When I was ADIC, it was the Washington field office.

Q Do you know if that's still the case?

A I don't know. Like you, I've read the articles about there being a grand jury down in Florida now. So I'm not sure where it went, you know, but my understanding is still the special counsel is up here. Before I left, the special counsel was being put in place. We were putting agents and analysts to help with that stuff.

You know, so Washington field office, to the best of my knowledge, is still working that or agents from that position.

Q As of the time of your retirement, your best knowledge was?

A Yeah, at the time of my retirement, yes. But my best knowledge was the fact that I know we were putting our agents and analysts that were working the prior investigation to the special counsel and resourcing that. Right now, my understanding is that we are still -- WFO is still doing that stuff.

I'm sorry. When I say we, it's the -- again, Washington field office.

Q Do you -- can you explain to the attendees here why this case was not assigned to, for example, the Miami field office?

A I have absolutely no idea. The headquarters made a decision that it was

going to be -- so there's probably a couple of investigations you want to talk about. So the Mar-a-Lago investigation, the classified document investigation, right, when that came in, we met with headquarters. The allegation came in. I remember AD Alan Kohler, and I think Kurt Ranell was in there, too, the DAD.

Counsel -- I believe our ODC was in the meeting when this all came about. So the venue would have been here for the classified documents. You know, that's in D.C., because the classified documents would have been here, right.

Now it's bringing us the --

Q By here you mean the White House?

A D.C., yeah, yeah. Sorry, yeah, D.C. area, right.

Q Okay.

A So I didn't think it was out of the ordinary that WFO would be the OO for that, the office of origin, right.

There were a lot of like -- WFO, we had enough to do, already did, you know. So when it was coming down to the search, I might have made some comments to people, like, why aren't we just transferring this down to Miami, you know.

Q Normally, would a case, in your experience, if it was in the area of responsibility in southern Florida, would your experience indicate that that would normally be a case that would be assigned, you know, to that division, in this case, Miami?

A Not in the case like this, right. So Washington field office has a lot of experience and knowledge in working public corruption cases, right. I served in the Washington field office working public corruption cases. We have a large, you know, presence, you know, where I pride ourselves on being the public corruption experts, right.

Also, it's corruption, but it's also national security, right. So being a very large

field office, second largest, and having the presence of a lot of nation state actors here and the counterintelligence program that we have at the Washington field office and dealing with classified documents, us, New York are probably the two experts in that, right. Much to New York's chagrin, I would say we are the experts, right, WFO is, right, the agents and analysts on that squad.

So the collective experience and the knowledge of dealing at some point with this, like, look, I don't -- I don't have that. Even as the ADIC, I worked a lot of criminal cases, but, you know, with the classified document stuff, I had a squad that dealt with this all the time, right. So I looked to them as my experts, the ASAC, the supervisor, and the agent.

So that's a lot of the experience of why we do it. Is there a venue? Yes, absolutely there's a venue in D.C. Would this have been better served down in the Miami field office? I'm not sure but that's a case management decision. There was no other decision being made other than at WFO we do a lot of high-profile cases, and we do a lot of these cases, much to my chagrin, because we had enough to do, you know, with a lot of stuff.

Chairman Jordan. But there was at least a discussion about who would handle it?

Mr. D'Antuono. I don't -- sir, I don't know if there was a discussion so much.

Chairman Jordan. It was a suggestion from you that maybe it would be better if Miami handled it?

Mr. D'Antuono. It was probably an offhanded discussion at the end when we were getting to that point. Like, why isn't Miami just -- why don't they do it?

Chairman Jordan. And this is just an offhanded comment that came from you while you were meeting with headquarters?

Mr. D'Antuono. Yeah, I believe. Yeah, if I remember correctly. Yeah, I think it was --

Chairman Jordan. And then headquarters said, No, we want you to do it?

Mr. D'Antuono. They didn't primarily say no. It was just kind of -- it was more of an offhanded comment. We were always expected to do it. It just -- look, I serve -- I serve a -- you know, I take orders well. It wasn't anything that I saw that was against policy or procedure. So it was perfectly fine for us to do it.

One thing with that case, though, I didn't understand -- we didn't understand why there was not a U.S. Attorney's Office assigned to it initially.

Chairman Jordan. Okay.

Mr. D'Antuono. All right. So it was -- we raised that concern. WFO raised that concern a lot with DOJ.

The U.S. Attorney's Office, as you well know, is usually the ones that, you know, hand-in-glove with DOJ. We raised our concern. We never got a good answer.

Chairman Jordan. What answer did you get?

Mr. D'Antuono. NSD is handling it.

Q As in national security division at Main Justice?

A Yeah, NSD is handling so --

Q And I believe, if I recollect, Jay Bratt may have been one of the executives?

A Jay Bratt was the lead prosecutor as far as I know, right, the lead prosecutor on the case. But I did -- we raised that concern a couple times.

I've been in the Bureau 27 years, right. I've seen a lot of different things, right. I've worked with DOJ on a lot of public corruption investigations, PIN included, right. A lot of times PIN, the public integrity section, would take over cases that the U.S.

Attorney's Office wouldn't have, right, or be conflicted out of or whatever, right.

So it wasn't completely out of the ordinary, but something like this, the severity of this, you know, we were asking for it.

Q Sure.

[redacted]

Q How was the case opened initially? What was the origin of it?

A Well, the origin was basically classified documents coming -- you know, that were found in the boxes, the 15 boxes of records that were delivered to NARA. So the allegation came in. My understanding --

Q Who did the allegation come from?

A NARA, National Archives.

Q Okay.

A Right. I'm not sure. I think it came from the general counsel, maybe the counsel. I'm not sure.

Q Gary Stern?

A Yeah, I'm not sure. It just came through -- it came through headquarters. Alan Kohler reached out to myself and Tony Riedlinger. Anthony Riedlinger was my SAC. We went over and met with him. We discussed it. He was like, okay.

Q And did they have the intent element? You know, because when the President leaves the White House in 2021, he's not packing his own boxes.

A I know. I'm aware of that, yeah.

Q So --

A You know, every case is about intent, right. And, again, I'm an old white-collar agent, right. It's about intent, right. And I taught this down at the Academy. You have to prove intent, right, but that's what you do an investigation for,

right. So there has to be an investigation open in order to prove intent or not prove intent, right.

So I've worked a ton of cases. I've supervised a ton of cases in which you open a case, and you don't find out anything. You find out that, okay, we can't prove this, and you close the case quietly.

There's other times you find it, and you bring it to the prosecution or you bring it forward. That happens, right. That's that balanced approach that I've always done as a supervisor of public corruption, as an agent in public corruption, an agent in government fraud. That's what you do.

So you keep that balanced approach and that's what -- that's how I led the Washington field office. That's how I was trying to lead these cases, so it was a balanced approach.

Q Okay.

So when Gary Stern brought the case to you, and he's a NARA official that's really interested in this --

A Yeah, he didn't bring it to me. He brought it to headquarters, right. So I never had a conversation with him. I don't want to insinuate that I did. My conversation was with AD Kohler and stuff.

Q Okay.

A So I don't know who brought it, but NSD was on the call. You know, we had the conversation about who is going to open it. You know, again, just -- we had enough going on. It was just like, all right, we'll do it, you know. And then we put the resources to looking into the matter.

Q Okay.

Do you have any idea who pitched the idea that the national security division was

going to operate this case, as opposed to --

A Well, it's classified documents, right. So it's classified information. So it's clearly a national security realm. It's not in a corruption realm. It's not in a CD realm. It's clearly within national security. Again, my experts, my people, my squad that has dealt with this countless numbers of times, right.

Espionage cases. They're the experts. And I get an education and it's just because, you know, when these documents come in, you know, you have to look at them and vet them and send them back to the agencies that need to tell you, Yes, they're classified or they're not, right, because in some cases, they're not, right. You know, it happens.

And so that's part of the calculus as well. That takes time, right, to go back to the agency. So we didn't know what we had. All we understood is that NARA opened up the boxes and they went, Oh, my God, these are classified documents and they closed the boxes again and called the Bureau.

Q Any idea how long was it Jay Bratt was going to be prosecuting this in D.C.?

A Yeah, I believe so. I can't speak to the idea or how long, but I know Jay was involved in the initial conversations. He was part of the national security division. They've done these cases before. That was not out of the ordinary for me. I didn't think anything was out of the ordinary.

Q What was out of the ordinary was the U.S. Attorney's Office wasn't involved?

A Correct. Just, yeah -- look, I'm going to be completely honest here at this hearing. I have no other reason to be, right. This is -- that was just how I saw things, right. It was just -- I just did not understand that, why the U.S. Attorney's Office was not involved. And maybe I'm just completely wrong on that stuff, but we raised those concerns a couple times, right.

And then when I raised those concerns to them, a couple times I got told, Well, the U.S. Attorney's Office -- we have a U.S. Attorney's Office. It's in Miami. Okay, now you do because the search is happening, but before then you didn't. So I don't know.

[redacted]

Q How would you characterize your role and the planning and the execution of the actual operation down in south Florida?

A Thank you for not calling it a raid.

It was a -- I was integrally involved. I was in all the meetings up to the thing. It's been reported out there that I had a dissenting view, right. Me and my people, we had a dissenting view of what to do in the case.

Now, I've said this before to several people. It's not what happened, it's not against the law, it's not against Bureau policy, right. I just didn't think it was the right direction.

In my experience, dealing with cases like this, when an attorney is involved, you give the deference to the attorney when you think the client might not be doing what they're supposed to be doing or cooperating fully, right. So our suggestion was to go to the attorney first, and give him the opportunity to say we have more evidence. We believe that there's more classified documents there. We would like, in my opinion, consent.

And if you -- I don't know what documents you have to show me today, or whatever, but there are emails that I have written back and forth that my view is we want consent. Consent, I think, is the way I worded it in my email, the fact that consent would be good. It would be the best thing for all parties. And I firmly believed that, right. For the FBI, for former President Trump, and for the country, the best scenario would have been consent.

Q And can you describe why that did not happen?

A It was not my decision, ultimately.

Q And the decision was made by?

A I would assume it was the Director and the AG, right. I was not in any of those conversations. My conversations stop with the deputy director. I voiced my opinions. My people voiced -- I voiced my opinions for my people, because I was talking to the deputy director about it. They --

Q You did, though -- I'm sorry to interrupt.

You did put in a communication that you had some concerns about not doing the normal protocol of you have attorneys working together. You have consensual parties.

A I did.

Q There's other opportunities for other tactics to be employed. You did.

So who then came back over top of that and said to the ADIC of Washington field, We're going to go this direction?

A It would have been the deputy director.

Q At that time, was that --

A Mr. Abbate, Paul Abbate.

[redacted] I didn't hear what you said.

Mr. D'Antuono. Oh, sorry. Mr. Paul Abbate. Sorry.

Chairman Jordan. The referral letter comes from NARA to the Justice Department, and then at some point, they come talk to you guys saying here's what we have. There's a discussion about whether it's going to be handled -- at least something -- you raised the point, whether it's going to be Washington or Miami.

Mr. D'Antuono. I didn't raise that at that point, sir. That was way after.

Chairman Jordan. Well, tell me the timeline. When is the date that you

get -- you have this conversation about the referral that came from NARA?

Mr. D'Antuono. So when the referral came from NARA, it was, to me, a forgone conclusion that the Washington field office was going to work this, right. NARA is here in the district. The documents came here. The White House would have -- is here, obviously, right. The documents would have left here, went to wherever they went, right. You know, obviously, we knew of their Florida, right.

So the venue is here. So it was not an issue of us working the case. It was just another high-profile case I didn't need the headache on, to tell you the truth, right.

So the second part of that is when -- basically, when we were planning for the search and getting the search at that point --

Chairman Jordan. What's the time frame between that? You're talking about when you get the referral and when the search happened.

Mr. D'Antuono. So the search happens in August, right, I believe, right. I don't -- I can't remember when the referral came in. I want to say it was the spring. You guys probably know better than I do, right, at this point. Months before, say. Me making the comment about, you know, can we just transfer this down to, you know, Florida would have been right before the search.

Chairman Jordan. Okay. So after you had -- that's what I was trying to figure out. During that time frame when you get the referral to when the raid happens, it's happening after -- 91 days before elections is what I remember. I don't remember what day in August.

Mr. D'Antuono. It was August 7th or 8th I believe. Right? Yeah.

Chairman Jordan. Okay.

Mr. D'Antuono. Yeah.

Q Is it fair to say that you did not feel that the overwhelming use of force to execute the warrant, the search warrant was appropriate, and you went on paper with that and you overruled?

A No, no, no. So it wasn't the use of force, right. It was basically the --

Q Or show of force.

A It wasn't even a show of force, right, because we were all in agreement. We didn't do a show of force, right. I was adamant about that, and that was something that we agreed on, right, the FBI agreed on, right. No raid jackets, no blazed FBI. We interact. We made sure we interacted with the Secret Service to make sure we could get into Mar-a-Lago with no issues. We're not banging down any doors. We weren't bringing any like FBI vehicles, everything that was reported about helicopters and a hundred people descending on, like a Die Hard movie, was completely untrue, right. That is not how we played it.

Q How many FBI personnel would you approximate was on scene?

A I want to say it was 30 but I'm not sure. I think it was 30.

Q Were you the on-scene commander?

A No, no. My ASAC, one of my ASACs was the on-scene commander.

Q And I'm sorry. That was? Do you recall?

A Derek Pieper.

Q Derek Pieper.

[redacted] I'm sorry. Who was that?

Mr. D'Antuono. Derek Pieper.

[redacted] Pieper?

Mr. D'Antuono. Pieper, yeah.

[redacted]

Q I'm sorry. Continue.

A So that was -- we didn't want a spectacle, right. We just did not want a spectacle of this. And so -- and there was no reason to raid or break down a door or anything like that. We could get access to it. And then we also called the attorney, right, to make sure that they knew we were coming and this is going to happen.

We, WFO, myself, we would have liked it to have been played just it a little differently, and giving the attorney an opportunity to allow for consent. The President, former President stated to us on that June day that the -- whatever you need, you know, just ask. That's the principle we were going on, and that's how I understood it.

So for me, I've done these things before, maybe not at this level, but I've done these things before. You go to the attorney first, and you give them the opportunity to bring the client around and in line.

Now, we --

Q That had been done, to my recollection. I believe we had FBI personnel, and Mr. Bratt, if memory serves.

A That was first in June.

Q Correct.

What facts and circumstances changed that would dictate at that point, when there had been cooperation on all sides, that now, after the instructions were given, allegedly, to secure the material and believably, supposedly that was done. What changed in the 2 months?

A I don't know. Nothing changed in our minds to be able to give Mr. Corcoran the ability to talk to his client first, right.

So and I've done this a countless number of times in my career, right. If you want to go talk to someone, you have a subpoena in your pocket. You go up to the

door. You knock on the door. Tell them, we'd like to talk to you. Yeah, come on in. Have some coffee. We'll talk, right. Come in. Subpoena stays in my pocket, right.

If you say pound sand, I'm not talking to you, get out of here, okay, here's a subpoena for you. Come talk to the grand jury, right.

In a case like this, same thing, right. You have a search warrant, which is a completely lawful search warrant, right. We had PC in order to do the search warrant, right. We really did. That went through so many different hands, through general counsel, CDC, all our agents, all the DOJ attorneys. The PC was there, right.

Q The scope of that warrant seemed like it was quite -- the aperture was quite large.

A It was. It was overall governmental records.

Q Especially based upon the fact that FBI personnel and Mr. Bratt himself had been on scene literally 2 months prior, had seen exactly where the documentation was. And so it seemed as though the search went well beyond the confines of the original areas that were believed to have been where the documents were.

A Well, the PC was there for viewing of the video that we viewed to have belief that some of the documents might be in other places at the residence.

Q In the First Lady's closet then?

A I can't speak to that, you know. So documents could be anywhere. When you're doing a document search, a white-collar search, you search everything.

Q I understand but it did seem like there was foreknowledge.

Chairman Jordan. Can you just go back? You were saying that in your experience, what happened in the first visit where there was this process of the attorneys talking and how it was handled, versus what happened in the second was unusual and against what you had recommended to happen. So you were talking about that.

Mr. D'Antuono. Yeah, so I don't know where it switched or at what point in time, but DOJ had an opinion that they weren't going to get cooperation out of the attorney, which I still think you have to give it the college try because that -- to me it's about the narrative.

Chairman Jordan. And that's what your folks who were on the ground in June recommended to you of what to do.

Mr. D'Antuono. Correct. That's what my folks from the squad level dealing with this all the way up to me through the ASAC and the SAC to myself told me.

Chairman Jordan. And was that a consistent feeling among the agents who were working the case?

Mr. D'Antuono. My understanding is yes.

Chairman Jordan. So all the agents said, You know what, we should handle this like we handled it in June. Let's have the lawyers talk, see if we can get the information that's been requested from NARA, why we got this case in the first place, let's work it out. And someone said, No, we're not going to trust what the agents say, what the head of the Washington field office says. We're going to do this search with this subpoena and go do it.

Mr. D'Antuono. With the search warrant, yes.

Chairman Jordan. I understand.

Mr. D'Antuono. Yep. Yeah, yeah. And that's -- again, that's not against policy or against the law.

Chairman Jordan. I'm not saying that. It's against practice and it's against the recommendations of the guys working it.

Mr. D'Antuono. It's -- everyone has different ways of doing investigations. I've seen it different ways, right. I could have wanted to interview this person this way, and

another case agent wants to do it this way. So there was nothing wrong with the way they wanted to do it. I just, in my experience, working 27 years in the Bureau and seeing a lot of corruption cases and a lot of attorneys, I would have preferred to do it the way we did it.

I do think there was a good likelihood that we could have got a consent and then we wouldn't have had to -- I think the Bureau -- we left -- we were left holding the bag again, right, and we cut ourselves. And that's just me.

[redacted]

Q To that end, I mean, were there specific instructions from either Main Justice or FBI headquarters as to how the FBI should conduct the execution of the warrant once on scene?

A No, not that I believe -- like, you guys -- again, I don't know what you know or what you've seen in the emails. So I'm just going to tell you. The email -- you know, there's an email exchange between me and George Toscas in which I basically said, you know -- he was telling us when we were going to do the search, and I'm like, We're not doing the search that day.

Q And George, I'm sorry, was?

A George Toscas. I don't remember what his title was.

Q Over at --

A Yeah, DOJ.

Q Main Justice?

A Main Justice, right.

And so if you guys want us to do the search, we're the operational lead. I'm going to tell you how to do the search, right. I'm not going to be told by DOJ -- and that's where -- we do put our foot down on that side, right. We put our foot down.

Like, we're going to do it. It's -- it all comes down to -- you know, it all comes down to officer safety. Not in this situation, obviously. We didn't -- it wasn't about officer safety, right.

But there was a way to do it. You know, if we're going to do the search, then we're going to keep it very low key and not make a spectacle of this.

Chairman Jordan. What did he tell you that would -- that led you to believe it wasn't going to be low key and not a spectacle?

Mr. D'Antuono. Oh, I didn't believe George wanted it to be a spectacle or not low key. I think they were fine with it. They just wanted us to do it on -- you're going to do it -- everyone is willing to do it on Thursday. We're not doing it Thursday, George.

Chairman Jordan. So the DOJ told you what day you were going to do the search, and you said, No, we're going to do it when you wanted to do it?

Mr. D'Antuono. They were pushing for a certain day. They were -- it was that week of that August, the week prior to it. It was national night out. You know, that Tuesday, getting emails. We're trying to decide what we're doing. I was adamant. We were adamant about, you know, talking to the attorney first. I was adamant about that with George. I got overruled in a sense, right. So, you know --

Chairman Jordan. Okay, but why did they want the date they wanted versus what the experts recommended?

Mr. D'Antuono. I don't -- I think -- again, it's speculation. There was a large concern about the documents being lost, destroyed, going someplace else, right. So in any search like that, you know, when you're dealing with stuff, whatever you're trying to find, you have the fear of, like, losing out on that evidence, right, or securing that evidence.

So there's a big fear in DOJ about the documents being leaked out, or getting into

the wrong hands, right, and I understand that, right. These are classified documents. We don't know what we're going to find, but we surmised that they were classified documents based upon what we got in the initial 15 boxes, and then 37 or 38 that were handed to us in June. We believed there were going to be more down there.

We didn't believe that the security of those documents in that storage room would suffice to secure classified documents, right. So there was that overall concern by DOJ, and that was their concern, right. I firmly believe that was their concern in their rush to get the documents.

For us, and we made comments like this, like, no one is down there anyway at this point, right. No one is living down there. It's empty. The President is gone. He was in Bedminster, or wherever he was. Let's plan this the right way. We've got time.

And the concern was -- one of the concerns when I was -- when we were formulating the attorney thing is, Well, if you tell them, now they're on alert. They might try to get rid of the documents. That's every case, right. That has nothing to do with the former President. That's everyone, right.

So we had a plan in place to have surveillance around if we needed to, right. Again, no one was there. So if they brought in -- they meaning the President's, you know, people, brought in a big box truck, we would see it, right, and we would have the search warrant in hand and be able to act at that point. So that didn't hold water for me. There were ways to do it.

And so, it's a large property. A lot of the stuff that, you know, we needed to search, that's why we brought a bunch of people into it, but their concern -- my belief is their concern was more so about the classified documents and them getting into the wrong hands because of what was there.

Now, it's been like -- we didn't -- it was best not to have the President there, the

former President there, obviously, because if he's there, that causes even more problems, right. So it's been comments or accusations thrown around that, Yeah, we didn't want the former President there.

Who wants the subject of the search present at any search you do? You don't normally want that, right. It just makes it easier and less of a spectacle at that point. And honestly, I didn't want the spectacle for obvious reasons of why we're sitting here today. You know, what it did to the country, too, right. That was my concern.

So, you know, it's a reputational risk, right, and that's the way I looked at it from the Bureau.

Sorry. I talk a lot.

Mr. Berger. It's okay. They asked you for the clarification.

[redacted] Did you want -- our hour is going to be -- can we go off the record for a second.

[Discussion off the record.]

[redacted] Okay, back on the record.

Mr. Massie. All right. Sorry for the disjointed questions.

Mr. D'Antuono. That's fine, sir.

Mr. Massie. I want to ask some questions about the pipe bombs --

Mr. D'Antuono. Yes.

Mr. Massie. -- that were allegedly planted on January 5th and found on January 6th. Can you describe the nature of the pipe bombs? Were they viable?

Mr. D'Antuono. So my -- the tip that we received from Quantico, from the lab down in Quantico was that they were viable devices, that they could explode and they could cause harm or death depending on the explosion, right.

Mr. Massie. Did they have explosives in them?

Mr. D'Antuono. My understanding from Quantico was that they did. They had black powder, I believe, but I'm not completely sure on that. But we were told by a lab report that they were viable devices that could explode.

Mr. Massie. Did the lab report say what the detonator mechanism was?

Mr. D'Antuono. I'm not -- I don't recall what they said the detonator mechanism was. There was a kitchen timer on top with the clips and wires and all that stuff. I'm not a bomb expert, so I don't know.

Mr. Massie. What was -- so I saw wires as well, which would presume they were electrical detonator. Were there batteries in it?

Mr. D'Antuono. I don't know all the components, sir. I really don't. I'm sorry.

Mr. Massie. The kitchen timer, how long could you set it for? What was the duration?

Mr. D'Antuono. If I remember the picture of the kitchen timer, I think it was 60 minutes. It was rudimentary, at best, yes.

Mr. Massie. Are you aware that former agent Kyle Seraphin, that he talked with technicians working in this office, said that they were not viable, that they couldn't have been -- wouldn't have exploded?

Mr. D'Antuono. So I've seen the report from Mr. Seraphin. I won't -- I'm not going to discount Kyle's view. That's his view from wherever he sits and the people he talked to. I don't know who he talked to. All I know is that we, at the Washington field office, received a report from the lab division, which are the bomb experts -- I don't know what Kyle's expertise in bomb making is -- that they were viable devices. So the only thing I could go by is what my lab said, and not what Kyle says.

Mr. Massie. Are you familiar with the diversion thesis, that these were set up to be a diversion?

Mr. D'Antuono. Yeah, I've heard people say that, but if you watch -- I've done a lot of media reports. I was trying to get the information out there, tips and stuff like that, right. I will not speculate. I'm not going to speculate on that. I think that's speculation, at best, when people say that it's a diversionary tactic.

We'll never know until we find the person that actually did -- or persons that actually did it. So I can't speculate on that. Could it have been? Yes, that's one theory. Obviously, it's one theory. But is it the only theory? I don't -- I really don't know.

Mr. Massie. It looks like the head Capitol Police believes it was a diversion.

Mr. D'Antuono. So Steve Sund, chief of police, yes. I believe he wrote that in his book. Again, it's pure speculation. There's no intelligence -- look, I ran the investigation for 2 years until I stepped out. We don't know. We don't even know the gender at this point as to -- we could speculate, and there's a lot of people that are speculating as to the gender.

Mr. Massie. How confident are you that the individual depicted in the surveillance footage on January 5th set both of those pipe bombs in place?

Mr. D'Antuono. So the video that we saw, I feel confident that by the video that we have, that that person planted those.

Mr. Massie. Do you think they intended for the bomb to go off the next day?

Mr. D'Antuono. I can't speculate on that, sir.

Mr. Massie. Well, let me ask you this: Do you think it was technically possible for a kitchen timer --

Mr. D'Antuono. No, no.

Mr. Massie. -- that has 1-hour duration --

Mr. D'Antuono. No.

Mr. Massie. -- to detonate a bomb 17 hours later?

Mr. D'Antuono. No, I don't. And I saw the same kitchen timer as you. I agree. I don't know when they were supposed to go off. Maybe they weren't supposed to go off. We can't -- we don't know. We honestly don't know, and that's some of the pain and --

Mr. Massie. Shouldn't you know these things? Like, it seems --

Mr. D'Antuono. If you don't know who the subject is, you don't know what their motive and intent is, right. So you can never find out.

Mr. Massie. Going back to the technical aspects, the bomb had a 1-hour timer.

Mr. D'Antuono. Should it have exploded in the hour? Or should it have been waiting there to -- for somebody to find? Those are the theories that we have, right. In any investigation, you hypothesize what the theory of that case is going to be.

Mr. Massie. Let me get to the waiting there for somebody to find aspect of this. Do you think it's a remarkable coincidence that they were found minutes -- a coincidence -- minutes in time just away from the initial breach of the Capitol just prior to?

Mr. D'Antuono. Yeah, I don't know. It just is a lot of coincidences happen all the time. There's a lot of unanswered questions. There really are.

Mr. Massie. How did the first -- who found the first bomb at the RNC? And how was that found?

Mr. D'Antuono. I don't recall, sir. I really don't. That was two -- I don't recall who found it.

Mr. Massie. Just to refresh your memory, it was somebody who was walking through the alley to do her laundry, supposedly.

Mr. D'Antuono. Oh, okay. Yeah, so where it was is behind a garbage -- it

wasn't a dumpster, but a can, I believe, and there was a door in the back, and then she came through to do her laundry. I believe it was right near there, yeah. I don't recall --

Mr. Massie. It seems like a remarkable coincidence that it sat there for 17 hours and then got discovered about 5 minutes before the initial breach.

Mr. D'Antuono. So I'm not sure how much foot traffic went through there, right. I don't know if you've visited that location.

Mr. Massie. I have.

Mr. D'Antuono. Okay, I have, too. It wasn't in an open area. It was kind of in that back area, right. So where the alleyway was, I'm not sure how much foot traffic was back there.

Mr. Massie. Let's talk about the DNC bomb because there is amazing foot traffic there.

Mr. D'Antuono. Yeah, absolutely. Yep. It's right on that street.

Mr. Massie. How was that one discovered?

Mr. D'Antuono. Again, I'm not sure of the specifics of who discovered that. I was in the command post that day, and all I found out was that the -- that there were pipe bombs discovered.

Mr. Massie. Was your office responsible for the investigation?

Mr. D'Antuono. Yes.

Mr. Massie. How would you characterize the resources spent on that investigation?

Mr. D'Antuono. So I was the head of the office. I put every person I possibly could, given all the other circumstances of January 6th, and every resource I possibly had to that investigation. It was a priority case from day one until the day I left, so.

Mr. Massie. But your investigation didn't find out how the bomb was discovered

at the DNC?

Mr. D'Antuono. No, this video of the person sitting on the bench and putting the device down.

Mr. Massie. Discovered, not planted. I'm sorry.

Mr. D'Antuono. Oh, discovered? It would have been. I just don't recall what it was.

Mr. Massie. Because I think it's remarkable it was discovered within minutes of the other bomb being discovered. And my staff and I found video, and I don't know if you're aware of it, that seems to indicate that a passerby in a black hoodie --

Mr. D'Antuono. Oh, okay.

Mr. Massie. -- discovered that. Remarkably coincidental time. Walked up to a Metro police car, told the Metro police, who seems to have directed that individual in the video that I've seen to a detailee of the Vice President's car, another SUV, and within minutes, they get out of their SUV, find -- the officials now see the bomb. And then incoming Vice President Kamala Harris is evacuated. This all happens within minutes.

Mr. D'Antuono. Okay.

Mr. Massie. But the individual in a hoodie going up to two police cars after he's passed by that bench, did your investigation review this video?

Mr. D'Antuono. I'm not aware of the video you're talking about, sir. I'm not.

Mr. Massie. If you had seen that video, would you be interested in speaking to that person --

Mr. D'Antuono. Absolutely.

Mr. Massie. -- who seems to have discovered that second bomb?

Mr. D'Antuono. In any investigation, whoever discovers the device is somebody you need to talk to, right, because they could be the one that planted the device in the

first place. You know, so that's just investigation 101.

So, but I am not aware of that video. I'm not aware of that person. I'm not -- I don't recall. It's 2 years ago, too, right. So there's been a lot of stuff that's happened prior to that, but I'm not aware of that, how it was discovered.

Mr. Massie. I'm not an investigator, but I would want to talk to that person --

Mr. D'Antuono. Absolutely.

Mr. Massie. -- who discovered the second bomb. I think it's remarkable nobody has mentioned that in public. If we're trying to get the public -- you know, you did a video appealing to the public to give you information.

Mr. D'Antuono. Correct, with the tips and all that stuff. That information is paramount as well, so.

Mr. Massie. So I just -- I think the timing is questionable.

The video that you did release to help the public maybe find this person who you think may have set the bombs the night before, there's two camera angles at the DNC, and we know this because the FBI released video from two camera angles. But the camera angle that would have shown the alleged perpetrator placing the bomb isn't -- wasn't released to the public.

Is there a reason you didn't release that other camera video?

Mr. D'Antuono. I don't recall what a reason would be. You know, the case agents describe -- people put those videos together for us to kind of put out there. I wasn't part of playing -- you know, I wasn't editing the videos or putting the videos together as the ADIC. I'm not sure. No one, you know, explained to me that there was -- the reason why that would have been left out.

Mr. Massie. Did they release them from the full resolution in the full frame?

Mr. D'Antuono. My understanding -- yes. My understanding, too, is the

cameras at the facilities weren't exactly the best cameras like you would expect in this day and age. I think I would have a better camera on my house than the DNC had in, you know, the areas that we were talking about.

Mr. Massie. Former FBI Assistant Director Christopher Swecker said the Bureau sometimes withholds or circulates incorrect information to protect an investigation, though he didn't know whether that was the case in the pipe bombs. Was that the case? Did you circulate any information that's not correct?

Mr. D'Antuono. Oh, God, no. No, I would never do that. Why -- you know, so I know Chris. I don't know why he's making comments like that when he doesn't know anything about the case. Those are dangerous comments to be had anyway. So he never called me and asked me my opinion, but I never released anything that was not truthful or we would never release disinformation.

We might have withheld information to not alert the person that we know more than that, but I don't believe in this case. Like, we were asking for tips at this point.

Hopefully you can see on my face that we want -- I want to find that person, right. That is a -- person or persons, right. We don't know who planted those things.

You know, to my -- before I left, the same case agents that were working this case from day one were working the case at the end. They were extremely passionate about what we were doing. We briefed the Director when he came over for a visit in October about everything.

We've put so many data scientists, computer scientists, going through every single document, every single receipt, every single component that was into that pipe bomb -- those pipe bombs to try to track down everything. And I hope the Bureau gives you a brief. I really do.

[11:00 a.m.]

Mr. Massie. We received a video of this. The alleged perpetrator uses a cell phone. Where -- that produced nothing; it's a geofence of data cell phone records?

Mr. D'Antuono. So the -- there's a lot of phone data that came in. Yes, I've seen the same video. I've watched the same video. We put out the same video. It looks like a phone. Was it a real phone, a not a real phone, was it a ruse? Was it a -- you know, I picked up my phone several times at meetings going, oh, yeah, I got to take this call, and walk out, right. The phone's not on, right. So was the person just sitting there trying to pretend like they're on a bench taking a phone call? We don't know until we find the person, right, and ask them those questions.

We did a complete geofence. We have complete data. Not complete, because there's some data that was corrupted by one of the providers, not purposely by them, right. It just -- unusual circumstance that we have corrupt data from one of the providers. I'm not sure -- I can't remember right now which one. But for that day, which is awful because we don't have that information to search. So could it have been that provider? Yeah, with our luck, you know, with this investigation it probably was, right. So maybe if we did have that -- that data wasn't corrupted -- and it wasn't purposely corrupted. I don't want any conspiracy theories, right. To my knowledge, it wasn't corrupted, you know, but that could have been good information that we don't have, right. So that is painful for us to not to have that. So we looked at everything.

And again, you were -- I think you were looking -- I would have love -- I would have given you a brief -- I would have loved to give you a brief on this stuff, right. I really would have. Because I think it's important that everyone understands, before people like Kyle Seraphin and others that are not a case agent, have no knowledge of the case, have no knowledge of what happened in the case, he also made another accusation too

that there was an individual with a Metro card. My understanding is all that was chased down. There was a lead that was chased down, but he says that we didn't chase it down. He has no clue what we did.

Mr. Massie. But you didn't have a lead on who discovered the second bomb. You didn't see that in the video?

Mr. D'Antuono. I'm not aware of that, sir. I'm just like -- as the ADIC, I'm like over -- I'm up here and everyone else is doing it. And so I was never -- I wasn't working the case. So I would --

Mr. Massie. Right. But you looked at a lot of resources --

Mr. D'Antuono. I would suspect that -- oh, sorry.

I would suspect that my squad, my agents would've chased that information down.

Mr. Massie. All right.

[redacted] So just to be -- to put a fine point on it, you do not know whether they interviewed the person that discovered --

Mr. D'Antuono. I don't --

[redacted] -- the file at the DNC?

Mr. D'Antuono. I don't know. If there was that video and we have that video, we definitely should have, yes. But I'm not intricately aware of every single step that we took, right, because I'm being briefed on these things, right. So --

[redacted] That's all I have for now. I think our hour is just about up. We'll go off the record --

[redacted] Off the record.

[redacted] -- and let the Democrats ask questions.

Mr. D'Antuono. Sure, no problem.

[redacted] Thank you.

[Recess.]

EXAMINATION

[redacted]

Q Good morning again, Mr. D'Antuono.

A Good morning.

Q I'm going to start with the subject of the Mar-a-Lago search.

A Sure.

Q So that search began -- or the investigation began with a referral from the National Archives and Records Administration that the FBI received on February 9th, '22. Is that correct?

A That sounds familiar, yeah.

Q And that you mentioned came to headquarters first. Is that the way it works?

A Yeah, it came -- I believe it went to headquarters first. It didn't come to us first, so definitely.

Q So it came to your attention via that referral from headquarters?

A Correct, from AD Alan Kohler I believe reached out to me, he might have reached out to SAC Riedlinger first. I'm not sure, but we went over and had a meeting. I remember sitting in Alan's office and discussed it, yeah.

Q Okay. And what was your role in the investigation?

A So as the ADIC of Washington field office, I oversee every investigation, you know, that's in the office. So -- but overseeing everything, like, thousands upon thousands of cases, you know, things come up to me, and if I have to make a decision as the ADIC, I make a decision as the ADIC. If not, the SACs make decisions. If not, the

ASACs make decisions, supervisors make decisions. So -- and that with this case being this high profile, obviously, I need to be intricately aware of what Washington field office's resources are going to be at that point in time.

Q Okay. So because of the profile of the investigation, you maybe had more knowledge of what was going on.

A Absolutely, yes.

Q Is that fair to say?

A Yes. Fair to say. Yep.

Q But there were also people beneath you who were working on this case as they would with any investigation, right?

A Yeah, absolutely. The squad -- the whole squad full of case agents -- or agents and analysts and other professional staff that were working the matter.

Q Okay. I'm going to try to walk through the process of this investigation a little more.

A Sure.

Q I understand that you may or may not recall all the details. Just say you don't know if you don't know.

A Will do.

Q Okay. So the NARA referral stated that on January 18th, 2022, which was about 3 weeks before the referral came through, in accordance with the Presidential Records Act, the agency had received from the office of former President Trump 15 boxes of records which had been transported from Trump's Mar-a-Lago property and which contained, among other things, 184 highly classified documents intermingled with other records. Is that your recollection?

A My recollection is that -- I am not sure about the doc -- how many

documents? I think at the time when we were discussing it we didn't know how many documents because they hadn't completed inventory. They just opened the box and went, oh my God, there's classified records in here, and closed the boxes. That's my understanding.

Q Okay. So you don't have --

A At the time we were talking about --

Q I'm sorry. Go ahead.

A No. I was just saying at the time we were talking about it when -- the referral first came in, I don't know how many documents were in there.

Q Okay. But you do understand that among the documents that NARA had received from former President Trump, there were what they considered highly classified documents?

A Correct, yes.

Q And that was the concern that triggered the referral?

A Absolutely, yes.

Q Okay. And do you agree that at that stage it was appropriate for them to refer that to the FBI?

A Yes. Yeah, or DOJ. I think it might have gone to DOJ first and then came to us as the investigative arm of DOJ --

Q Sure.

A -- to investigate these things, right. I don't know if it came directly to the FBI first. I'm assuming it went to DOJ and then came down to us.

Q It would be the normal course for --

A It would be the normal course.

Q -- criminal investigations --

The Reporter. You have to go one at time.

[redacted] I'm sorry. We'll slow down.

[redacted]

Q It would be the normal course for criminal investigations like that to go to both DOJ and the FBI, correct?

A It depends on which -- what the relationships were. Like, if NARA knew people over at DOJ, they would call DOJ first and then it came down to us, right. Sometimes things go to DOJ and there might be another agency that has to deal with this. But oftentimes the FBI is expected to deal with everything, not just one thing.

Q Sure. And the FBI is part of the Department of Justice, correct?

A Correct. We are the law enforcement arm of the Department of Justice.

Q And you do the investigating, correct?

A We do.

Q And DOJ does the prosecuting, correct?

A That's my understanding, yes.

Q Okay. So, so far, the process is you as you would expect it?

A Absolutely, yes.

Q Okay. Now, briefly or generally, what happened when the FBI received the referral?

A So when we received the referral, you know, like I said, we talked to AD Kohler, who has decided that we were going to open up a case. I think we were trying to decide if this is going to be a preliminary, assessment of a preliminary or a full. I didn't get into the weeds of that. We eventually -- my understanding is we eventually opened up a full investigation on it, and then we just carried it forwarded. The case agents and the ASACs and the supervisors were working the case. So --

Q Okay.

A Just like any normal case.

Q Sure. It's a criminal investigation, correct?

A No. My understanding it was a CI investigation --

Q Okay.

A -- counterintelligence. But my CI squad was working it, right. So there's classifications in the Bureau being criminal, CI, CT, right. So my counterintelligence -- I'm sorry -- CI, counterintelligence, squad was working the case. Because it was classified documents and so it's a national security type of matter.

Q Okay. So the foremost concern at this point was restoring those documents to their authorized --

A Correct, yeah. Any type of, you know, spillage in a sense, right -- using the classified term "spillage" of classified documents or potential spillage of classified documents is a concern for national security purposes. We want to get those documents back. We want to make sure the people that are viewing the documents have the respective clearances. That's why I never looked at any of the documents. I don't believe I had the clearances for some of them and I didn't want to look at them, right. So I didn't want to cause that -- more spillage.

[redacted]

Q So you said you didn't think you had the clearances to look at all the documents?

A My clearances are top secret, SC -- SCI. But there's a lot of other clearances, I believe, that the documents are hitting against that it just, -- there's experts. I rely on my experts and my experts are my squad.

Q So other compartments. Is that fair to say?

A Yeah, I believe so.

Q So like more class -- differently classified compartments?

A That was my understanding of what some of the documents were, yes. But I'm not sure of all the classifications are so that's not my forte.

Q Okay. Thank you.

A Yep.

[redacted]

Q Fair to say that -- well, actually, why is it important, in your opinion, for the FBI to locate these documents that may contain national defense information and restore them to a secure place?

A Well, it's a national security issue, or it could be, if there are classified documents that could get into the wrong hands. Like, we've had several instances across decades and decades of this country of, like, stuff getting into the wrong hands. So if they're a class -- if they're truly a classified document, they are to -- top secret or higher or just, you know, classified in any respect, they shouldn't be viewed by anyone else.

Q Okay.

A We take it seriously, right. So --

Q Okay. So in response to the referral, the FBI began an investigation into these matters that started on February 9th, '22, when the referral came through, and continued through the spring and summer of 2022. Is that correct?

A Yes, that is correct. Yes.

Q Okay. And during that time, the FBI and DOJ together made an escalating series of efforts to recover the classified documents containing national defense information that were being retained by President -- former President Trump at

unauthorized locations on his property. Is that right?

A Yes.

Q Okay. Now, these efforts included multiple communications with Mr. Trump's attorneys, correct?

A Yes. Well, I wasn't involved in any of those, but that's what I was told, yes, that DOJ had conversations with the attorney.

Q Okay. And NARA had had conversations with Mr. Trump's attorney before the referral. Is that correct?

A That's my understanding from media reports and everything else that came out, that they were trying to get the documents back. So --

Q Did NARA's referral itself refer to these communications between NARA and Mr. Trump's attorneys, do you recall?

A I'm not -- I don't recall that at all. I didn't see the referral.

Q You didn't see it yourself?

A No. No, there'd be no reason for me to have to actually see the referral.

Q Okay. I'm going to mark as exhibit 1, just because I think this might help, a application in support of -- I'm sorry. This is the affidavit in support of the application for the search warrant --

A Yep.

Q -- that ultimately was filed.

[D'Antuono Exhibit No. 1

Was marked for identification.]

Q Okay. Let's hope there are page numbers on this. It's kind of hard to see.

A Yeah. This is 7, 8, 9. Yes, there's pages.

Q Yep. There we go.

So there are actually page numbers on the top of the exhibit, which is from --

A Oh, yeah.

Q -- the docketing system from the Southern District of Florida where this was filed, and then there are page numbers on the bottom.

A Okay.

Q If you can see both.

A I can see both.

Q Okay. So referring to the bottom page number 14, this page is almost completely redacted other than the beginning of paragraph 39. Let me know if you've located that paragraph.

A Yes. Yep.

Q Okay. And can you just read to yourself that first sentence?

A Yes.

Q Okay. So according to that affidavit -- which is a sworn statement from a special agent, correct?

A The affidavit overall.

Q Yeah.

A Yes, yeah.

Q According to that paragraph, NARA had made a request for the missing Presidential records and continued to make requests until approximately late December 2021. Is that correct?

A That -- that's what it sounds like, yeah, from this.

Q I mean, do you have any reason to believe that that isn't true if was included in the affidavit?

A No. Absolutely no.

Q Okay. I guess my point is just there were many efforts made by NARA --

A Yeah.

Q -- even before the referral to get Mr. Trump and his staff to agree to return these records?

A That -- that was our understanding, yes.

Q Okay. And you can set that down. We might refer to it later. Thank you.

A Okay.

Q Okay. So at the beginning of this investigation, you were involved and participated in strategy discussions. Is that right?

A Yes. In the beginning and then throughout the investigation, I was just getting briefed on some of the evidence that was being found. There wasn't much strategy going on at that point. It was just doing an overall investigation, trying to find out what was -- what was there and where more stuff could be.

Q Okay. So in February 2022, you have these boxes of documents that were turned over from Mr. Trump to NARA and then from NARA to you, correct?

A Yes.

Q And they contained documents bearing classification markings, correct?

A That's my understanding, yes.

Q And there were about 15 boxes total?

A That's what I was told, yes, 15 boxes.

Q Okay.

A Is the number I --

Q And the FBI's investigation was supposed to determine what they had

initially, correct?

A Correct, yeah. What classified documents, what classification levels they're at, are they still classified. You know, that's all the components that go into an investigation like this.

Q Okay.

A You know.

Q And would you be surprised to learn that the initial review by the FBI discovered 184 documents that had markings such as confidential, top secret, secret, and additional compartment dissemination controls like H-C-S, F-I-S-A, O-R-C-O-N, N-O-F-O-R-N and S-I?

A That was my understanding.

Q Okay.

A Yeah, from some of my people.

Q I know you said you're not an expert on these classifications --

A No, no.

Q -- but do you know what H-C-S stands for?

A I believe it stands for -- it has something to do with the confidential human source information.

Q Okay. And F-I-S-A?

A FISA.

Q Okay.

A Sorry.

Q That's okay.

A I had to think about that one, visualize it.

Q It's not a test.

A Yeah, I know.

Q And O-R-C-O-N?

A I am familiar with ORCON, but it's -- I'm not like, you know, up on the --

Q Is that an additional --

A It's an additional classification, yeah. It's not a level. It just -- like dissemination.

Q Does it limit the people with a classification --

A Yeah.

Q -- who can see the document?

A Correct. It's -- yeah, dissemination control.

Q Okay. And N-O-F-O-R-N?

A Yeah, nonforeign. Yeah.

Q So no foreign people can see?

A Yeah, yeah. So again, dissemination. They are dissemination controls.

Q Okay.

A FISA is basically where it's derived from.

Q Okay. During the course of its investigation, the FBI, in April and May of 2022, the FBI interviewed witnesses. Is that correct?

A My understanding yes, it's correct.

Q And some of these witnesses included Mr. Trump's associates and staff. Is that correct?

A That is correct, yes.

Q And these witnesses told investigators that there were more boxes of records at Mar-a-Lago that could contain national defense information. Is that correct?

A That's my understanding that there were more boxes. They didn't know if

there were classified records in there or not. I don't believe -- I don't believe, to the best of my recollection, that anyone saw unclassified documents, but they -- there were more boxes.

Q One of the things that these witnesses told FBI investigators is that the boxes were similar in shape and marking to the boxes where the previous classified documents had been found. Is that correct?

A That is correct, yes.

Q And that lead investigators to think that there was a good chance that there might be more such documents in those boxes, correct?

A That led to the probable cause, yes.

Q Okay. Based on this and other evidence, DOJ officials started to become alarmed and made recommendations to you and other FBI officials to seek a search warrant at that point. Is that right?

A I --

Q To be clear, I'm talking about like May of 20 --

A Yeah, early on they wanted to do a search warrant.

Q Okay. And this was --

A That means DOJ wanted to do a search warrant.

Q Sorry, I don't mean to keep talking over you.

A No, it's all right.

Q This recommendation initially from DOJ officials to do a search warrant, which came around May of 2022, it was based on the additional evidence that the FBI had uncovered in the investigation, correct?

A Yes.

Q Okay. And the DOJ officials believed at this point that they had probable

cause for that warrant, correct?

A Yes, I believe they did. I -- again, I didn't talk to them, but they wanted to do a search. They requested I do a search.

Q Okay. And at this point you disagreed that a search was appropriate?

A I don't -- I wasn't part of that discussion initially. That was my squad was doing a lot of that stuff. The ASACs and the SACs were talking to -- were being briefed on it. I agreed with the direction my people wanted to do.

Q Which is what?

A Subpoena.

Q Okay.

A They -- they wanted to do a subpoena, which as a leader, as somebody -- you know, that's leading, if you have a countering opinion, then you change -- try -- you direct them differently. When you don't, you back up your people and say, you're the experts. This is what you want? Okay, I'll back you up, and we'll proceed forward. I believe -- my understanding was headquarters agreed with that too, the Director agreed with that as well. Because it went all the way up -- up to that point. That was my understanding.

Q So fair to say the people beneath you and the people above you at the FBI were essentially in consensus that a subpoena was the appropriate course?

A That's correct. That's my understanding, yes.

Q And DOJ actually agreed to do that?

A They did, yeah. I think reluctantly, but they did, yes.

Q Okay. And the subpoena, as you understand I'm sure, is actually part of a grand jury investigation. Is that correct?

A That's correct, yes.

Q And the same legal showing is required for a subpoena as is for a search warrant that is probable caused. Is that correct?

A Yeah. It's probably a lot -- it's a lot less than for a search warrant in a sense because you're just trying to get the documents from someone as opposed to actually searching someone's residence.

Q Well, sure, the process is different, correct?

A Yeah, yeah.

Q But the legal standard of probable cause exists --

A Correct.

Q -- in the grand jury as well.

A Yeah, yeah.

Q Correct?

A Yes. Yeah.

Q You cannot open a grand jury investigation without probable cause, Correct?

A Well, you know, it takes factual basis to believe that there's something going on. And you have probable cause to believe that there's, you know, a crime that was committed. So yeah.

Q Yeah. Those are two different legal standards, though, correct?

A Yes.

Q And a subpoena requires probable cause?

A It does, but it's -- it's not as -- it's not completely like a search warrant.

Q I agree. The process is not the same.

A Yeah. It's completely different, right. A grand jury, you know, is opened by the U.S. Attorney's Office on everything, on any investigation that we look into; to get bank documents, to get subscriber information, to get whatever information. So the

level of getting a search warrant and probable cause is completely different than me asking for a search warrant -- or a subpoena for someone's bank records, right. So I don't have to provide an affidavit or anything like that in order to get a subpoena, you know.

Q That's true. There may not be --

A That's what I'm saying. We don't have to write down and articulate why we believe a person has a bank account there, right. We can serve a subpoena on someone's bank that we don't even know -- we surmise that maybe they have a bank account there, right, so --

Q Well, the grand jury cannot issue a subpoena without probable cause, correct?

A Correct, yes. But -- yeah. So it's a walking legal system, though.

Q Right.

A The grand jury doesn't issue the subpoenas, right, so --

Q Well, the prosecutor needs to go to the --

A Correct, yes.

Q -- grand jury to get the subpoena.

A I know. But it's -- the civics lesson here is just different, right, you know, so --

Q Okay. So I'm marking as exhibit 2 the subpoena that was retrieved from the U.S. District Court from the District of Columbia pursuant to the grand jury investigation. This dated -- date is May 11th, 2022. So this is the subpoena that we talked about for this investigation.

A Yes, yes.

[D'Antuono exhibit No. 2

Was marked for identification.]

[redacted]

Q Okay. Pretty simple document.

A Uh-huh.

Q If you see, there's a, on the first page, a description of the documents that were requested by DOJ. Do you see that box in the middle?

A Yes. Yes, I do.

Q And would you mind just reading that? What are the documents that you were looking for at this point?

A Myself or to --

Q If you wouldn't mind reading it for the reporter.

A Any and all documents or writings in the custody or control of Donald J. Trump and/or the office of Donald J. Trump bearing classification markings, including but not limited to the following: Top Secret, Secret, Confidential, Top Secret/SI-G/NOFORN/ORCON -- O-R-C-O-N -- Top Secret/SI-G/NOFORN, Top Secret/HCS-O/NOFORN/ORCON, Top Secret/HCS-O/NORFORN, Top Secret/HCS-P/NOFORN/ORCON, Top Secret/HCS-P/NOFORN, Top Secret/TK/NOFORN/ORCON, Top Secret/TK/NOFORN, Secret/NOFORN, Confidential/NOFORN, TS, TS/SAP, TS/SI-G/NF/OC, TS/SI-G/NF, TS/HCS-O/NF/OC, TS/ -- sorry, we're going too fast -- HCS-O/NF, TS/HCS-P/NF/OC, TS/HCS-P/NF, TS/HCS-P/SI-G, TS/HCS-P/SI/TK, TS/TK/NF/OC, TS/TK/NF, S/NF, S/FRD, S/NATO, S/SI, C, and finally, C/NF.

Q Thank you for doing that.

A No problem. It's a tongue twister in a sense.

Q It is. But these, fair to say, are highly classified documents?

A It's fair -- yeah, again, I'm not a complete expert on all these classifications, but, yeah, some of these within here are definitely highly classified documents.

Q Okay. And just to explain how these work, the grand jury subpoena actually commands the custodian of these records to appear before the grand jury, correct?

A Correct, yes.

Q But what happens normally is, informally, the prosecutor will call and say, hey, I really want these documents listed in here and that will suffice if you turn them over in lieu of your appearance, correct?

A Absolutely, yep.

Q Okay. And that's what happened here?

A That's my belief, yes. Yep.

Q Okay. So on June 2nd, in response to this grand jury subpoena, counsel for the former President requested that FBI agents meet him the following day at Mar-a-Lago in order to pick up the documents that you just described that were responsive to the subpoena, correct?

A That is correct, yes. My understanding what I got from my people, yes.

Q Okay. And so the next day was June 3rd, 2022, correct?

A It would be in the normal course of a calendar, yes.

Q Yes. And on that day, several DOJ and FBI officials went down to Mar-a-Lago in order to accommodate this request, correct?

A Yes. I know some of my people went down there, and I believe Jay Bratt was down there. I don't know anyone else from DOJ. But yes.

Q Okay. You weren't down there yourself?

A I didn't go down there, no.

Q Okay.

A I'm leading an office. I don't need to go.

Q And on June 3rd, counsel for the former President, Mr. Corcoran, as well as a woman who's also a lawyer, Christina Bobb --

A I've heard the name.

Q -- was present. Is that correct?

A I don't know if that's correct or not. But I've heard Christina Bobb's name as an attorney for the former President.

Q Okay. Well, in this case, Ms. Bobb identified herself as the custodian of records, correct?

A That is my understanding, yes.

Q Okay. And when Mr. Bratt and the other officials arrived, Ms. Bobb handed the FBI officials a single double-wrapped Redweld envelope that contained 38 documents, correct?

A That is my understanding, yes.

Q And among these documents were documents that bore classification markings, correct?

A My understanding is yes, from my people, that's what they were.

Q Okay. And Mr. Corcoran at that time told the DOJ and FBI officials that the 38 documents bearing classification markings had come from boxes inside of storage room at Mar-a-Lago, correct?

A That's my understanding.

Q Okay. In addition to these 38 documents bearing classification markings, Ms. Bobb, the custodian of records, also handed one of the DOJ officials a certification letter, correct?

A Again, my understanding, yes.

Q Okay. I'm going to show you what's going to be marked as exhibit 3.

[D'Antuono exhibit No. 3

Was marked for identification.]

Q Again, this document was taken from the case file in the Southern District of Florida. Do you recognize this document?

A I don't. I didn't -- I probably saw the document at some point in time, I'm just not intimately aware.

Q Okay.

A But I understand my people said that she certified the records that were provided to us. So I was briefed on this.

Q Okay. All right. Take a minute to look at it --

A Sure.

Q -- because I'm sure it's been a while since you've seen it.

A Okay.

Q Okay. So in the first paragraph, the certification states that the person who signed it, which I'm going to represent to you is Christina Bobb, even though it's redacted, it says that she has been designated to serve as custodian of records for the office of Donald J. Trump for purposes of the testimony and documents subject to the subpoena. Is that correct?

A That's what it says on the document, yes.

Q Okay. It further says that: Based on the information that has been provided to me, I'm authorized to certify, on behalf of the office of Donald J. Trump, the following: A, a diligent search was conducted of the boxes that were removed from the

White House to Florida; B, the search was conducted after receipt of the subpoena in order to locate any and all documents that are responsive to the subpoena; C, any and all responsive documents accompany this certification; and D, no copy, written notation, or reproduction of any kind was retained as to any responsive document.

Is that correct?

A That's correct.

Q And finally it says: I swear or affirm that the above statements are true and correct to the best of my knowledge.

Correct?

A That's correct.

Q Okay. So when the FBI received this certification, that was significant, correct?

A Correct.

Q Why is that?

A The officer of the court certified.

Q And did that -- the fact that the former President's attorney and custodian of record had certified that they diligently searched for any responsive documents and that all of it had been turned over, did that change your opinion in what the investigation should do next?

A Yeah. When we get the documents, I believe we had a conversation -- or my squad I believe had a conversation with the DOJ, saying, all right, what next, at this point. You know, what do we do. So --

Q And what did you think should happen next?

A Honestly, it's -- you have to follow the facts and evidence of this at this point. At this point, right, we would receive documents. There was an officer of the

court that was attesting to it. You have to believe in our judicial system and people's oaths and stuff. So if they're attesting to it and it's an attorney doing it, you have to take it as truthful.

So at this point in time you also -- the documents are there. If they're classified, we have to still do the investigation to see what classified records, are they still classified. We had a whole slew, like you said, 184 before. Now we are going down to 38. We have to run down the cause of action in the case, right. So you can't just close the case, you are not just going to close it, oh, we're done. You have to see if they're classified and what the impact could that be.

And then you also have to determine what the intent is of the person or persons that either had them in their possession or not. If it's just mere possession, you know, by happenstance or not by neglect or malice, then DOJ makes the determination as the prosecutor. Like, FBI is the fact finders, we're investigators. We don't make that determination, that's DOJ, right. So we're just trying to find the facts for them, they make the determination. So it's not my job to do that.

Q Okay. So there was some reporting in The Washington Post I believe it was --

A Yeah.

Q -- about a disagreement among DOJ and FBI officials regarding what to do at this particular nexus in the investigation.

A Yeah.

Q Are you familiar with that reporting?

A I'm familiar with that reporting. It's not -- like, the way it was categorized is not completely correct, that portion of that -- that article.

Q Just to be clear, I don't need to rehash the whole article.

A Yeah. No, no, no.

Q There was some suggestion that you and perhaps other FBI officials at this stage wanted to close the investigation.

A That is absolutely false. We did not, my squad did not. You know, their -- the case is open, we still have to find out if there's truth to any of this stuff, what the intent is, what the classification. We're not just going to, done, right. That's not what we do. Like I said before in this interview, there's plenty of times when I've done investigations as you run down and you run down information, not exonerate the person, but you don't find evidence that they had intent or whatever, you close the case, you move on, right. You have to actually finish the case.

So at this juncture, there's no point that we're going to finish the case. But we had to ask the question, what next, what are we doing, right. Because otherwise, you're just stuck in the mud, what are you doing, right.

Q Right.

A So we had to push DOJ and ask those questions. So if DOJ categorized that, which I believe they did, that we wanted to shut it down is completely false.

Q Okay.

A Yep.

Q You've made that clear. I understand.

A Yeah, I'm sorry. I just -- yeah, I don't like being told I did something or said something when it's not --

Q That's true. You're the one who knows what you said.

A I take accountability for everything I do.

Q Okay. And I know you've already said that you were not present on June 3rd at Mar-a-Lago, correct?

A I was not, no.

Q Do you -- are you aware that during that same meeting where the certification was given to the DOJ officials, FBI and DOJ officials asked the attorney for Mr. Trump whether they could see the storage room where those documents had been stored?

A I was told that, yes. Yep.

Q And is it fair to say that the reason they wanted to see it is because part of their investigation was to assess how those documents were being stored and whether they were secured?

A Absolutely, yeah. If they were classified documents, we wanted to see them. And they wanted to see if there is, you know, any security around those.

Q Like a SCIF?

A Yeah. If they're classified documents, they should be in the SCIF. They should be locked behind, you know, in safes and stuff like that, if they're back in there. But we're getting information that we have all the documents. So I believe it was the FBI agents, not DOJ, that asked, hey, can we just -- and I believe they asked -- I was told they asked the President. The former President was there with the attorneys when the documents were provided to them.

Q You're saying that Mr. Trump was there himself?

A He was there. Yes. He was -- what was reported to me by my agents is the fact that Mr. Trump was there with his attorneys. I believe he was on the steps of Mar-a-Lago, whatever. And he -- and they asked him. He's like, whatever you need, you know, I'll comply, or whatever he said. You know, whatever you need, just ask. And they said -- my agents asked, could we see the storage room? And he said, yeah, sure, come on in, much to the chagrin -- again, my understanding, much to the chagrin of

the two attorneys who were never allowed that. And they went in and he showed them the storage room.

Q The storage room was not an authorized SCIF, correct?

A No. Not my understanding. I don't believe it was. I didn't see it, but it's a storage room --

Q Sure.

A -- with a bunch of boxes in it. And I don't think it would --

Q It wasn't locked, right?

A I was told it was not, no.

Q Okay. Now, in that --

A Well, it might have been locked. I'm not sure if it was like completely secure with a padlock and all that stuff. So it might have been locked. I can't say it was not locked.

Q Okay. That's fair, if you don't --

A Yeah, yeah. I just -- yeah.

Q Okay. The FBI officials that asked to see the storage room, they also asked if they could look inside the boxes that were remaining, correct?

A I'm not sure about that. I know that's what was reported, but my understanding is that we didn't, right. Because we, meaning the collective -- myself, the deputy, and all us -- were like, why didn't the agents just ask to look at the boxes, that would have solved some of these issues. So my understanding is that they didn't. I know what's been reported out there, but I don't believe -- you'd have to ask the agents that were there. I don't believe that they asked to look at the boxes.

Q Okay. So your understanding is they just asked to look at the room but not actually look inside the room?

A Correct, because we -- our -- when we were leading up to the search, we were like, oh my God, why didn't they just ask to look at the boxes, right. If he was allowing them to look at the storage room and allowing them whatever you need, the next question is can I look in some of these things and look through them. And if the former President was there and he wanted to cooperate, like he said he did, I don't -- you know, so we were like, darn it, why didn't you go one step further?

So that's what my belief is. I know what was reported out there, but my belief is that they didn't. But I'm not the one to ask that, right.

Q Okay.

A So it would be the agents.

Q Is it fair to say that you've never asked the agents who were physically there whether they did ask to --

A I never did.

Q -- look at the boxes?

A No, I never did.

Q Okay.

A So I'm getting this from my briefings as the -- from the SAC and the ASACs and stuff like that --

Q Okay.

A -- supervisor.

Q But the reason that they might have wanted to look in those boxes is because, like you said, the investigation was continuing at this point, correct?

A Yeah. You know, at this point we wanted to -- you know, we're getting the documents. You know, can we look at -- look behind the door there. And, yeah, can we see for ourselves that you got all this stuff, right. You trust but verify, right.

Q Right.

A And this is trusting, but the verification is the other side. You go, hey, can we look at it, a consent search, you know. Which we never asked for and that's why we were like, darn it, you know, we -- and I didn't -- I didn't talk to the agents about it because I don't want to make them feel bad, right. Because you don't want the ADIC going down to the agent saying, why -- you dummy, why didn't you do this, right. I don't know what I would have done in that circumstance either. I'm not going to say. I was a young agent or as the agent with the experience that they had. I don't want to, like, do that to them. So it was past that at that point, right.

Q Okay.

A We're past it, and we have to go on to the next step.

Q Got it. I don't want to put words in your mouth, but it sounds like, in a sense, you and the agents were being especially careful in this case. Is that right?

A Yeah. Any high profile -- I've worked so many public corruption investigations, high-profile cases throughout my career, you have to be careful, right. You don't want to damn someone for something that they didn't do, you know, wrong, right. So that's why we're very -- we try to keep things close to the vest in the FBI because we don't want it getting out there to damage someone's reputation. It's not right. So --

Q In particular, the former President of the United States, correct?

A Yeah. For anyone, right. Former President, President, Vice President, whatever, Congressman, Congresswoman, you don't want that information getting out there because it's a reputational thing, right.

Q But I mean, you're an FBI agent on the scene, right?

A Well, I was not on the scene.

Q Not you I mean, but your agents are on the scene there.

A Correct.

Q They know this investigation's continuing. They see these boxes, right?

A Yes.

Q And they could have asked for a consent search, like you said, right?

A They could have, yeah.

Q And if it was another person besides Mr. Trump, they might have, right?

A Maybe. I don't want to speculate on that. They could have, right.

Q I think that's not a very aggressive step, is it?

A No, it's not. But they were being cooperative, right.

Q Right.

A They were being -- to our understanding, they were being cooperative and they were turning over the documents.

Q Right. But they knew that there were more boxes that looked just like the other boxes, right?

A We believe that there were more boxes there, yes, at that point in time.

Q Right. And you know that the investigation had to go on at that point, right?

A Yeah. Obviously, it has to go on because we have to get to the logical conclusion of the investigation. We don't just willy-nilly say we're done.

Q Absolutely.

A You know.

Q And those agents could have simply asked for a consent search at that point?

A They could have, yeah.

Q But they didn't because it was Donald Trump, right?

A I mean -- well, it was only two -- I believe it was only two agents. They weren't going to be able to search every box anyway, so it's going to take a little more effort than that, right.

Q Okay.

A So they did what they did at that point in time, given the resources that they had. So I don't want to damn them for not going one step further, right.

Q Okay. All right. But like you said, the investigation did go on when everybody left Mar-a-Lago that day, right?

A Correct. Yeah, it never stopped.

Q Okay. And one of the things that happened was another grand jury subpoena was issued for surveillance video from Mar-a-Lago. Is that correct?

A Correct. It was decided -- my understanding, it was decided amongst the team, DOJ and the FBI, that we would get the video from the property to see if there was any movement of the boxes or what happened possibly to the boxes, where the storage room was, and all that stuff, so --

Q And the time period that was shown on that video surveillance included a period after Mr. Trump was notified that these documents were being asked to be preserved and to be returned and then the point where you all went down to receive those documents pursuant to the subpoena, correct?

A I'm not sure what the date range was, but that's what I was told, basically, that that date range from there to there.

Q Just the general timeframe --

A And you mean the documents going back to NARA, right? The 15 boxes?

Q Right.

A Right, going back and then up to the point where we were there.

Q Right. And DOJ, after the referral, actually issued a preservation letter. Is that right?

A Yeah. That's normal, of course, a lot of times.

Q I mean, basically, it's just formal notice to the President that you need to keep these things --

A Yeah.

Q -- where they are so that we can get back what we need, right?

A Correct. The coverup is always worse than the crime, right. So you don't want to get someone into that mode of like, hey, here's the preservation letter, make sure you don't get rid of these documents. We put them on notice that we want them, right. So if all of a sudden they're lost or destroyed or erased over, then it causes concern.

Q Absolutely. And that happens in every case, right?

A That we send preservation letters on every case almost, yeah. Not every case but, you know, a lot of cases.

Q Okay.

A You know, to banks, to subscriber information, to whoever, right. Maybe not to the subject, but yes.

Q Okay. But that surveillance video showed an employee of Mar-a-Lago moving documents from the storage room before you all got back down there to receive the responsive documents from Ms. Bobb and Mr. Corcoran, correct?

A That's my understanding. I'm not sure what the timeframe was, was it right before we got down there and the attorneys looked through the documents, or was it during the search, or it was during the NARA request.

Q Well, it was before Mr. Trump returned the responsive documents --

A Yeah.

Q -- to DOJ, right?

A Okay. To NARA. Was it to NARA? My understanding, it was to NARA before they -- before he turned over whatever boxes he turned over to NARA.

Q Okay.

A But that was my understanding. I could -- I could be commingling my understanding here of what the timelines were. But I do think there was also a period of time when we saw movement of boxes as well prior to that, right.

Q Okay.

A Prior to us getting down there, so --

Q Okay. Prior to you getting down there but after the preservation letter was issued?

A After the preservation letter. My understanding too is, like, we asked the -- we asked for the storage room to be locked, padlocked, right, which they complied with, right. And then I believe that's when we saw boxes being moved out of there, so --

Q Before the padlocking?

A After the padlocking. That's -- that was my understanding.

Q Okay.

A But I'm -- it's been a while.

Q Got it.

A So yeah.

Q Well, broad-brush here, what you saw or what your agents saw on that surveillance video was concerning. Is that fair to say?

A It was concerning that the -- in the sense that the boxes -- I think DOJ was a

little more concerned than we were, right. The boxes were being moved. We don't know what purpose they were being moved for. At that present time we hadn't talked the individual, which we all know who he is, right.

Q Right.

A We hadn't talked to him about what was in the boxes, when they were moved, why they were moved. We -- prior to the writing of the affidavit we didn't talk to him, which was one of the things we wanted to do in the course before we did the search.

Q You talked to many people, right, not just this particular employee, right?

A I don't know how many people we talked to. I don't have the whole list of interviews. Yeah, there was a lot of people that we were trying to get information to see what was down there, where it was, was stuff moved to other places, where are these documents possibly, where'd they go, where'd they come from, how they started from point A to point B, how they got to that point. So yeah, there's a whole host of people that you need to talk to, you know, including the individual that was one of the caretakers for that. So yeah.

Q Okay.

A And I'm trying not to divulge too much because there's confidentialities of like -- I don't want to, like, ruin someone, you know -- the names and stuff like that. But there was a lot of people that were giving us -- some people that were giving us information, so --

Q Okay. About documents still being onsite. Is that right?

A About boxes, documents, all that stuff, yes. Which led -- that's a lot of what's in this affidavit and, you know, witness one, witness two --

Q Right, right.

A -- the way we devised it, right. So all that's coming from interviews.

[redacted] And I know you don't want to divulge identities and I'm not asking --

Mr. D'Antuono. Honestly, I can't even remember the identities because it's been so long.

[redacted] But you'd know if they were Mar-a-Lago employees, for example?

Mr. D'Antuono. That was my -- that was my understanding, yes, that they're Mar-a-Lago or they worked for the President in some capacity, the former President in some capacity.

[redacted] Okay. Thank you.

[redacted]

Q So during the continued investigation that, you know, continued after June 3rd when the responsive subpoena documents were delivered, the FBI, through various means, including that surveillance tape and witness interviews, discovered that former President Trump's response to the subpoena was incomplete, correct?

A We had probable cause to believe it was possibly incomplete. We weren't --

Q Well, that's based on the evidence that you recovered, right?

A It's not -- it's not definitive, right.

Q Sure.

A So it's probable cause to believe that there are -- I think the number was 85 boxes in there. There's a large amount of boxes in that the boxes -- the information we received prior to and that what we got in June. And then in looking at the video and movement of the boxes, there was enough probable cause to believe that there could be more classified documents, or also, the way the warrant's written is very broadly, other Presidential records and governmental records, right.

Q Sure.

A So one of the things when we read the P.C. -- like, our OGC went through this with a fine-tooth comb. Our CDC, our chief division counselor, or Office of General Counsel, every attorney in the Bureau that could opine, the director's office, his attorneys, chiefs of staff, they looked at this, right, including my agents, right. And I wanted to make sure that my agents were comfortable signing the warrant. Sorry. Signing the warrant, right. Because as an agent, you're making sure that what's in here -- and a lot of it was being written by DOJ and a bunch of DOJ attorneys, right.

So DOJ attorneys are writing this with a combination of the agents, and it went back and forth with so many different revisions because there were a lot of leaps that were being taken in this document as to the probable cause, right. A lot of revisions went through. We got comfortable. I made sure, can you sign this? And they're like, yes, we're comfortable signing this, right.

Q Well, your agents wouldn't sign an affidavit that included false statements, correct?

A That is correct. But there are --

Q Okay. Are you confident that the evidence that they describe in that affidavit is correct?

A Correct. The probable cause for the search, the lawful search of Mar-a-Lago is correct, yes.

Q Okay. The probable cause is a legal determination, correct?

A Correct.

Q And the facts are something that are the responsibility of the agent to be truthful about, correct?

A Correct. But the --

Q And they are truthful in that affidavit, right?

A They are truthful, yes. But to say that there were definitely classified documents, we don't know. That's why we're doing the search.

Q Well, the affidavit doesn't say there are definitely classified documents.

A No. No, no. But there was a belief that there could be classified documents and other governmental records down there too, right. That's the -- other governmental records, Presidential records, and then on top of that, classified documents as well.

Q Right. And I mean, the point of the affidavit is that you're setting out what you found factually, correct?

A Factual, yep. Probable cause to believe that the search is warranted in this case.

Q The probable cause determination is something that the magistrate judge will determine when they --

A Right.

Q -- allow the warrant, correct?

A Yes. That is correct, yes.

Q And that's exactly what happened in this case, right?

A That is correct, yes.

Q So the facts, you're confident, are accurate, correct?

A I am confident that the facts in this affidavit are accurate.

Q Okay. And as you can see from the exhibit, the magistrate found probable cause, correct?

A Yeah, he signed it. Yeah.

Q Right. So that's why the search eventually happened?

A It is a lawful search, yes.

Q Okay. This investigation was handled differently than it would have been handled if it were not President Trump -- or former President Trump, correct?

A It was handled differently than I would have expected it to be -- that any other case is handled. I'm not sure -- like, I've never done a investigation of this magnitude on a former President, right. So I can't opine on the fact that it would be handled one way or the other.

National Security Division, DOJ Main, prosecuting this matter, you know, what's been reported out there is the fact that we had a Crossfire Hurricane hangover, which is not true, but we learned a lot of stuff from Crossfire Hurricane that headquarters does not work the investigation, it is supposed to be the field offices working the investigations. My concern is that DOJ was not following the same principles, right. So the U.S. Attorney's Office, in my opinion, should have been brought in, and we asked for it several, several times.

Q Well, let me just -- I mean, you mentioned that in the earlier hour. The National Security Division at DOJ has concurrent jurisdiction with the U.S. Attorney's Office, right?

A That's correct.

Q So they can take any national security case anywhere in the country, right?

A That's correct, but --

Q Including in Washington, D.C., right?

A That's correct.

Q And it's not unusual for them to do that when they have classified documents, right?

A No.

Q So really the process is not that different?

A It's not, but normally the U.S. Attorney's Office was involved in most of these cases. Like, it's -- DOJ can do whatever they want, right. Again, it's not against policy or procedure or anything like that. It's just like you can -- I don't know if you -- you probably haven't been able to do FOIA requests or whatever requests you've made getting the documents of the case, but my agents, which I was trying to back up, now sort of concerned about the fact that the U.S. Attorney's Office not being included in this matter. That's all.

Q Okay. Well, I mean, the U.S. Attorney's Office and Main Justice are part of the same department, right?

A They are, yeah, yeah. But U.S. Attorney's Office also have a lot of autonomy as well, right.

Q Well, I mean, in this case, Attorney General Garland has said publicly that he signed off ultimately on these decisions, right?

A That's what he said. Yeah, absolutely.

Q And he would have done that whether it was the U.S. Attorney's Office in the District of Columbia or the National Security Division, correct?

A Correct, yeah. Well -- yeah, I believe so.

Q And he's above both of them, right?

A Absolutely. The buck stops there.

Q Okay. All right. Now, when I say that this was handled differently, I'm also thinking of cases like the David Petraeus case. You're familiar with that case?

A Yes.

Q I know you didn't work that --

A I didn't work it. Yeah, I'm familiar from the media and what was reported.

Q Did you all ever discuss the operations in that case when you were considering what strategy and what process to use here?

A I didn't with my people, no.

Q Okay.

A No.

Q Well, in the case of Mr. Petraeus, you recall that -- first of all, he was a four-star Army general, right?

A That's my understanding.

Q And he, in the course of his duties, I think he was also the -- was he the Director of the CIA? I believe he was.

A I'm sorry, I don't know.

Q Regardless, he had access to some very highly classified information, right?

A Yeah. Yeah, yeah, yeah. Yep.

Q And at some point, he -- during his course of his official business, he would keep these black notebooks that contained classified information, right?

A Okay. Yeah.

Q Well, I don't know. Have you heard that? Maybe -- if you haven't --

A I don't think. I know little bits and pieces of the case. I didn't work the case, so --

Q All right. Fair to say that you know he had classified information?

A Fair to say I know he had classified, and then he was, you know, charged with all that stuff. Yes, fair to say.

Q Okay. So at some point, Mr. Petraeus was out of the Army, and he had a biographer/affair partner that he disclosed some classified information to because he allowed her access to those books, right?

A That's my understanding, yes.

Q Okay. And the FBI had to recover those books at some point, right?

A That's my understanding, yes.

Q And the way they did it was by executing a surprise search warrant, right --

A That's my understanding.

Q -- on his personal residence in Alexandria? Or Arlington. I'm sorry.

A I have no -- sorry, I don't know where he lives.

Q Let me mark this as exhibit 4.

A I only know where I was during that case and what --

Q Where were you?

A I don't know. What year was it? I can tell you where --

Q 2013.

A 2013. So I was supervisor of the public corruption squad in D.C.

Q All right.

A So I had nothing to do with this case. I had other cases going on.

[D'Antuono exhibit No. 4

Was marked for identification.]

Q Okay. This is the FBI evidence response team casebook with the Petraeus case.

A Okay.

Q There's just a couple things I want you to note. On page -- let's see. Actually, on the first -- I think it's listed as page 2 on the bottom, it's page 2 of 111. Do you see that at the bottom?

A Yep.

Q There's like a little highlight. It says, Condition of Seen on Arrival, on the top, and it mentions "Secured by"?

A Yeah.

Q Do you see that?

A WFO/SWAT.

Q Yeah. They used a SWAT team in this case, right?

A Apparently so, yes.

Q What you do think about that tactic?

A Every -- every determination or use of SWAT or not SWAT is a -- we have to determine if SWAT's necessary at that point in time. I don't know what the circumstances of this, so it's hard for me to speculate on that. He had weapons. You know, a lot of times if anyone has weapons, we're concerned about that stuff, making sure that, you know, people are safe in going in.

I can't opine on this because I don't know what type of -- if they used the full SWAT team, if they used a couple of SWAT members. I don't -- I don't know, right.

Q Fair to say that's a pretty substantial show of force compared to what you did at Mar-a-Lago. Is that right?

A Yeah. Yeah. That would definitely -- using a SWAT team any time it causes attention, right, for neighborhoods and stuff like that. So if you're talking it was in Arlington or Alexandria, it was probably close knit, there will be people out there with cameras and all that stuff, right. So --

Q But it's David Petraeus. He's not like an unknown person, right?

A Well, I don't know how known or unknown he would have been in the neighborhood.

Q I mean, he's a four-star general, right?

A Yeah, I know. But if he walked in this room I probably wouldn't recognize him, so --

Q Okay.

A I'm sorry. I just --

Q He's not Trump, but --

A Yeah. Well, correct. Yes, yes.

Q Okay. But in this case, when the FBI needed to recover potential classified documents from the home of a former government official, they did not give him any notice, right, it appears from this case file, right?

A I -- I -- I don't know if they did or didn't.

Q Well, they --

A Well, they did a search.

Q -- showed up at his door at 6 a.m. with a SWAT team.

I mean, you can see from the notes that they arrived at 6:03 a.m. with a SWAT team, right? You can look on page --

A Oh, yeah, yeah. If they arrive at 6:0 -- yeah, 6:05 -- arrival time is 6:05 a.m. -- you know, yeah, they wouldn't have given him notice. Yeah, absolutely. But I don't know what happened prior to this, right. So I wasn't part of the case, so I don't know what they did leading up to that asking for the documents back or if this is the first thing that they did in this investigation. I don't know.

Q Okay.

A Right? Which is different -- it could be different than the former President Trump investigation --

Q Okay.

A -- which we had a lot of conversations leading up to a search.

Q Okay. In the case of Mar-a-Lago, there was no SWAT team, right?

A No.

Q And, in fact, there weren't even any FBI emblazed in jackets on your team, right?

A No. We wanted to make sure that -- yeah.

Q They wore khakis, right?

A I don't know what they wore. I don't know if I prescribed them to have to wear khakis or not. So I think business attire would have been good.

Q Okay. But you did that because you did not want to show force, right?

A Yeah. I just didn't think it was nec -- in a lot of cases I don't think it's necessary to show force when someone's, you know, cooperating or not. Every search is different.

Q Okay.

A Right? So sometimes we're in suits and ties and sometimes we're not, right. So --

Q Understood. Right. But in this case, you hadn't had full cooperation because you had a false certification, right?

A Well --

Mr. Berger. Can you answer whether it's false or not?

Mr. D'Antuono. I don't know if it's false or not at that point. At this point we didn't know what was in that residence.

Mr. Berger. False assumes that the certifier knowingly misled the recipient, but I don't think he could attest to the knowingness element.

[redacted]

Q Well, fair to say you had a certification that they'd done this diligent search

and that they turned over all the documents, right?

A There was belief that maybe they didn't do as thorough of a search as they say they did.

Q Well, I mean, ultimately the search warrant, you found more classified documents, right?

A Correct.

Q So, in fact, they had not turned over all the documents, right?

A That is -- but prior -- well, your question was prior to the search. After the search, yeah, it does not look like they were --

Q Well, I actually wasn't asking what was in your mind at the time. I'm just saying, like, you've got a certification on June 3rd, right?

A Uh-huh.

Q Right?

A Yeah.

Q And that certification said that all of the responsive documents had been turned over, right?

A That's what the certification says, yes.

Q In fact, they had not been, right?

A Now that we know, no, they had not been.

Q No, right? Because the search warrant actually yielded many additional documents bearing classification markings, right?

A That's correct. My understanding was over a hundred or more, I believe, if I get the number correct.

Q Right. And let's just -- we keep talking about classified documents. The Federal statutes that were at issue in this case were 18 U.S.C. 793, which is part the

Espionage Act, right?

A Uh-huh, yes. I believe, yes.

Q 18 U.S.C. 2071 and 18 U.S.C. 1519, correct?

A Okay.

Q I mean, it's in the --

A It's in the --

Q -- document in front of you if you want to look at it.

A Yeah, no, that's fine. I trust you.

Q Okay. Well, you don't have to trust me.

A Well, if it's in the affidavit, which is public record.

Q Yeah. You should see the --

A Yeah, 1519, 2070 -- sorry. 1519, 2071.

Q Okay.

A And then 2201 as well, and then 3301 too.

Q Okay.

A Those are under 44, so --

Q Right. And just to be clear, you understand that those statutes don't refer to classified information, right?

A No. Some -- these don't.

Q Do you want to see the statutes?

A Yep. No, I can see them. No, I remember reading the affidavit, I read it. Some of the discussion was at the time that we are searching for other than classified documents.

Q The Espionage Act, for example, refers to information's considered national defense information. The Espionage Act was enacted in 1917, right? Are you aware

that it was enacted in 1917?

A I was not aware it was enacted in 1917.

Q Okay. It was before the modern classification system existed, right? If you don't know, you don't know.

Mr. Berger. If you don't know, you don't know?

Mr. D'Antuono. Yeah, I don't know.

[D'Antuono exhibit No. 5

Was marked for identification.]

Q Just marking as exhibit 5 a copy of 18 U.S.C. 793. This is statutory authority from which the FBI and the DOJ proceeded when they searched Mar-a-Lago, right?

A Uh-huh.

[12:04 p.m.]

Q Okay. Read it. I think it's highlighted in your -- yeah, it is.

A Yeah, I see it talks about that.

Q Section 793 is entitled, "Gathering, Transmitting, or Losing Defense Information." So defense information is what you're looking for, right, under the statute?

A You're correct. Well, anything could --

Q Well, I'm just talking about the statute.

A Yeah, yeah. Under the statute definitely, yeah.

Q Right.

A Well, under the statute it says classified.

Q Right. It doesn't say classified information, does it?

A No, it doesn't. No, it's just broadly termed "defense information," yeah.

Q And the reason is because there was no classification system at the time that this statute was enacted, right?

A Makes sense, yes.

Q Right. And it's still the Federal law that you have to -- that there is a crime if you lose the so-called, quote, defense information, or mishandle it or --

A Yeah.

Q -- do any of the things listed in the statute, right?

A That's what the statute states, yes.

Q Okay. So --

A Unauthorized possession to access control, yep.

Q Okay. And I'm just going to represent to you that the other statutes in here

are similar.

A Okay.

Q But that's the point. The point is, even if there wasn't classified information, or that the information had been somehow declassified, the FBI's investigation would've continued, right?

A That's correct. That's the statute that we would've investigated.

Q Right. That's what the Espionage Act says.

A Yep.

Q Okay. I think I went through most of this. Pardon me. One second.

[Discussion off the record.]

[redacted] Yeah. I think that's it for now. We can go off the record. Thank you.

[D'Antuono Exhibit No. 6

Was marked for identification.]

[redacted]

Q We'll go back on the record. It's 12:11.

Mr. D'Antuono, we -- my colleagues spoke about a Washington Post article, and I'm going to enter that as exhibit No. 6. The article was posted on March 1, 2023, titled, "Showdown Before the Raid: FBI Agents and Prosecutors Argued Over Trump." Feel free to take a moment to review.

A I've read it. Trust me.

Q You've read it? Okay.

So the second paragraph, the second sentence states: "But two senior FBI officials who would be in charge of leading the search resisted the plan as too combative and proposed instead to seek Trump's permission to search his property, according to the

four people who spoke on the condition of anonymity to describe a sensitive investigation."

Do you know who the two senior FBI officials were?

A Well, one would be me. And I don't want to -- I believe the other one probably would be Tony, Anthony Riedlinger.

Q Okay.

A He's going to kill me for, you know, bringing up his name.

Q That's okay. What was his title?

A He's the SAC, special agent in charge. So he reported to me. He was the counterintelligence SAC. He was the one leading -- you know, his people would be working the case, the ASAC would be underneath him, and then he's the SAC, so --

Q Do you ever remember describing the plan as too combative?

A I don't believe I used the "too combative," you know, terminology. I think The Post sometimes takes liberties with words, so --

Q And two more paragraphs down, the really short one says, "Starting in May, FBI agents in the Washington Field Office had sought to slow the probe, urging caution, given its extraordinary sensitivity," the people said.

Do you remember those events?

A Not -- not slow the probe. It just -- you know, in May, this is -- I believe we were talking about the search, right. And I think I said "they," meaning DOJ wanted to do a search immediately, right. After the information came in they wanted to search. They wanted to search the residence. We felt that, you know, in this case, the subpoena was more warranted, right. The boxes were turned over by NARA -- to NARA by the former President and his people, found classified documents in it. To us, that related just to immediate search.

Every case is different, right. Every case agent is different. Every ADIC, SAC, the bases of how we come up with theorizing how to do an investigation is different. So from the Petraeus case to this, like I have no involvement in that, right, so I don't know how that was worked. In this case, to me, as a white-collar agent, as someone that has done these high-profile cases, maybe not the President, Tony as well, is the fact that -- and the squad is that we should do a subpoena first and request the records. I don't know. Is it right or is it wrong? Who knows, right? Someone else to decide, but that's kind of the path that we chose.

Q And do you think the suggestion of doing the subpoena first before the search, do you think DOJ officials took that as an attempt to slow the probe?

A They may have, yeah. Yeah. There was consternation from both sides, you know. DOJ wants stuff. We were pushing back. That's the beauty of our system, right. It's like, that's the judicial system in a sense. That's how DOJ -- somebody mentioned they prosecute, we investigate. They don't like hearing that comment, right, but that's the truth of the matter, right. They're the prosecutors. We're the investigators. There's things that we opine from an investigative standpoint that needs to be done.

Now, the prosecutors disagree with it. It happens all the time. So that's why I laugh at the showdown and all that stuff. These are conversations I had with U.S attorneys -- AUSAs and U.S. attorneys and everyone else throughout my whole career. This was not a showdown. This is just a general discussion. This is an everyday discussion. So if somebody took it the other way, I'm sorry, but that's -- that was just the general discussion that we would have in every case. Every case.

Q And if we flip to the next page, the sixth paragraph down.

A You're making me count. This is like a quiz today.

Q Yeah. I'll read it. It says, "The FBI agents' caution also was rooted in the fact that mistakes in prior probes of Hillary Clinton and Trump had proved damaging to the FBI, and the cases subjected the Bureau to sustain public attacks from partisans, the people said."

I know last hour you mentioned some things that were learned from the Crossfire Hurricane investigation?

A Correct.

Q And you mentioned the aspect of the headquarters running the investigation --

A Yeah.

Q -- instead of field offices. Can you describe what your concerns were?

A Yeah. You know, right now in this country, in this world, perception is not reality a lot of times, right, and it rules over it. So, you know, it's unfortunate that we as leaders, in trying to determine courses of action, that we have to take things into consideration that are not normal, right.

In this -- in a matter like this, you have to be consistent, in my opinion. This is Steve D'Antuono's opinion, right. You have to be consistent in the way that you investigate. And so, when you learn of things that have happened in the past, you want to stay consistent and balanced, which is what I was always trying to just achieve throughout every single one of my investigations that I lead or did my -- on my own as a brick agent is consistency.

Because once you're not consistent, that's when people have cause to -- it's like being an umpire. I've used this analogy several times. I was an umpire as a kid. An umpire has to call a consistent game for both teams, right. And there's no teams here, but, come on, we all realize that, right. So you have to be consistent. And when

somebody is in that position and you're not consistent, that's when it's not good. It's not.

So in this, we were just -- we had -- you learn from the past things that happened, and we just wanted to make sure that it was being consistently followed for reputational stuff. And, hey, I'll take the blame, accountability, whatever, but I was -- for me, the reputational risk to the Bureau, to the country, and to everything else, maybe I shouldn't put that on my shoulders, but I did as a leader. That's fine. Fault me for that. Whatever. But the reputational risk that we had to the breakdown of the trust of the FBI, that was -- that was in the back of my mind. I'm sorry, you know.

Q And is it accurate to say that one of the issues that you flagged as being inconsistent was a U.S. Attorney's Office not being involved?

A Yeah. For me, that's always been -- regardless of what the DOJ Main's, you know, mandate is to do, they usually always, in my 27 years of -- I've seen them involved in the U.S. Attorney's Office, you know. So this, to me, wasn't a consistent -- it wasn't consistent. So when I see inconsistencies, I'm going to call question to that for my own edification too.

So when somebody asks me later on, it's like, I can -- I can explain. Well, we asked that question. We pointedly asked them, and they answered, okay. Well, at the end of the day, DOJ is our parent corporation, and we do what they tell us to do, right. And so was it completely against policy? Was it completely against the law? No, absolutely not. But that's just the way they chose, and it's fine. I'm a good soldier, I'll march on, right, and we did. And we did. And we did the investigation to the best that we could.

Q And last hour when you were discussing how headquarters was not supposed to run investigations, it was supposed to be the field offices, you mentioned

you were worried that the Department of Justice wasn't following that same protocol.

A Yeah. In a sense, like, you know -- and maybe they don't have too, right, I don't -- you know, but that was what we learned from Crossfire Hurricane, right. And the Bureau has taken those points to heart, right. We don't want to make the same mistakes. When I say "we," you know, the collective SACs, you know, ADICs, headquarters, we don't want to make those -- we don't want to make issues for ourselves. Why would we want to, right? And that's just calling the reputational risk and the Bureau into question. None of us want to sit there.

You read article after article about the Bureau being biased and politicalized and whatever, so you don't want to play into that. So you have to take, like the Director says, you've got to take the lessons and make sure we don't do the same thing, and we were collectively not -- trying to not do that in this case, you know.

Q And was the concern about the DOJ not following the same protocol, was that in regards to the -- only the National Security Division being involved and not a U.S. Attorney's Office?

A Yeah. And, again, I'm not sure if it's a protocol or not, right, but just the way we've always operated, the way I always operate, the way my people, right, I'm getting an understanding from my people working these cases before, right. They're the experts. I keep saying that, right. They're the experts. I didn't work classified cases before. They're telling me like, boss, this is not normal, right. The U.S. Attorney's Office should be involved. Okay.

As the ADIC, I'm the champion for them because I'm the one that's talking to the leaders, and so I have to take what my people tell me and champion that, right. That's what you do as a leader, right. You disagree with it, then you have to have a conversation with them and disagree and you come to an agreement. But that's my

responsibility as a leader.

So I don't know every bit and piece of investigation. You can't. If you're doing that as a leader, you're not doing anything what you're supposed to be doing as a leader, right, for every other case. So that was my understanding from them.

My understanding from my past experience working public corruption investigations, not national security, right, not national security, was that a U.S. Attorney's Office was usually involved, you know. And we kept getting the response back, we're good, we're good, blah, blah, blah, and okay, that's fine. We marched on. We did what we were supposed to do, and we continued to investigate, you know, but we had disagreements. But that's --

Q Yeah.

A Every case you have disagreements. And I laugh about this with some of the AUSAs that I'm still friends with, like, Oh, my God, we had not fist to cuffs but we were arguing constantly, right, just different directions and stuff like that. So to me this is just normal.

Q Yeah. On the fourth page of the article --

A Yes. Sorry, I talk a lot.

Q We want you to explain. It's not --

A Yep.

Q Yeah. I think it might be before the white page. There's a sentence that -- kind of midway down that says, "But they said national security prosecutors."

A Yes.

Q I'll read that. And it says, "But they said national security prosecutors pushed back, and instead urged FBI agents to gather more evidence by conducting follow-up interviews with witnesses and obtaining Mar-a-Lago surveillance video from the

Trump Organization."

The court sought surveillance video footage by subpoena in late June. I just kind of wanted to ask you about how the FBI came in possession of the surveillance video?

A My understanding of how -- it was a subpoena request, as was discussed before. And I believe the chronological -- yeah, it's after the June 3rd, right. So my understanding was the team got together and decided, you know, DOJ wanted to get the surveillance videos, and we said, okay. And then we put resources to viewing the surveillance videos, you know. And then we saw what we saw in the videos, my agents and analysts did, which is recorded in the affidavit as to what they've witnessed.

Q So the Trump Organization turned over the surveillance videos?

A That's my understanding, yeah. Yeah. They're responsive to the subpoena, so --

Q Okay. One more page over.

A Sure. Yeah, that's fine.

[redacted] Was that another data point that settling this via cooperation was a legitimate pathway?

Mr. D'Antuono. Yeah, in the sense they complied with the subpoena, right. Initially, the first subpoena, we weren't getting much compliance with that, so I think that might have been what led to DOJ's, like, mentality of that, the attorney wasn't being compliant. They had to push for compliance, like, Hey, we've got to get these documents, and that's when the June 3rd meeting happened, right, eventually. You know, like you guys know the process, right. If they're not going to comply, we're going to hold them to comply, come to a grand jury and they agree to.

So there was some consternation back and forth, I think, between DOJ and the attorneys for former President Trump. I wasn't involved in any of that stuff. I know

my agents were somewhat involved. I think there's a lot of just like head butting between attorneys. I don't know if they had personal relationships between Jay and Everett(ph), I'm not sure. It happens, you know. It happens on other things. So the compliance with this subpoena, yeah, it just lends --

[redacted] But there was surveillance coverage?

Mr. D'Antuono. Yeah. There was surveillance coverage, not primarily of -- my understanding was not -- what was told to me by my people that there wasn't exactly a camera on the door. There was a camera, like, in the vicinity of the door, so, you know.

[redacted]

Q And so, if we're looking at the section under, "A rift within the FBI" --

A Yep.

Q -- it says, "Against the backdrop, Bratt and other senior national security prosecutors, including Assistant Attorney General Matt Olsen and George Toscas, a top counterintelligence official, met about a week before the August 8th raid with FBI agents on their turf, inside an FBI conference room. The prosecutors brought with them a draft search warrant."

Do you remember this meeting occurring?

A Oh, yeah.

Q And who all was in attendance at the meeting besides Bratt, Olsen, and Toscas? Was that all from DOJ?

A No. It was -- okay, so it was Jason Jones, our OGC, general counsel, FBI OGC, right; Matt Olsen; I believe Jay was over here, Jay; I don't know if Julie, I think her last name is Edelstein, I don't know if Julie was there or not. I'm not sure. George was on the phone. I remember that. Alan Kohler, our AD of counterintelligence; myself; and Tony Riedlinger, my SAC. That's all I could recall. I think there were other people

in the room, but I'm not sure, so -- but those are the big players, so.

Q And is it accurate that prosecutors brought with them a search warrant, a draft search warrant?

A They may have. I don't think we passed around the search warrant. We discussed the search warrant. We discussed the probable cause of the search warrant. Jason, my general counsel, opined that there was probable cause. He believed that there was enough probable cause in the search warrant.

Because that was one of the things that, I guess, headquarters put on this discussion as to it was going to be reviewed by the general counsel, right. The general counsel was going to make an opinion as to the probable cause, which we all looked at too, and my -- so I have a chief division counsel as well within -- and ADCs within Washington field office, all field offices do, that they look through warrants, they do a lot of our legal work. They are our legal advisers, in a sense.

But, so Jason opined that there was enough probable cause. I wasn't disagreeing with the probable cause. I just wanted to make sure my agent, who was signing this, was comfortable with signing it. I've been involved in situations in which sometimes the agents are not comfortable with it. They are just good soldiers, and they believe that, you know, well, the attorneys wrote this or helped with this, and I'm supposed to sign it.

Well, that's not how I operate, right. It's like, you make sure that you're the one attesting to this. The attorney is not attesting to anything on this document. This is an affidavit by a special agent of the FBI. You make sure that every I is dotted, every T is crossed. If you don't have comfortability with this, you don't sign it. I'm sorry. I'm not being made to do anything of my agent -- that's just the way I operate, and that's how I've always done for 27 years. And, you know, not trying to push on my agents, but, you know, everyone is different, right, so --

Chairman Jordan. So in this meeting there were you, Mr. Jones, Mr. Kohler from the FBI?

Mr. D'Antuono. Yes.

Chairman Jordan. And then from DOJ were Bratt, Olsen, and Toscas.

Mr. D'Antuono. And, yeah, Tony Riedlinger too, SAC Riedlinger.

Chairman Jordan. Riedlinger. And so there were four from the FBI, three from Justice?

Mr. D'Antuono. Yeah. And there might have been more from the FBI. I think there was a DAD for George -- for Alan, but I don't recall her name, sir.

Chairman Jordan. Who gave the information to The Washington Post about this meeting?

Mr. D'Antuono. Well, I have no idea from DOJ, but I can tell you, I dispelled some of the stuff that was coming up. I was asked, so --

Chairman Jordan. Wait, wait, but this information from this news story, did you, Mr. Riedlinger, Mr. Jones, or Mr. Kohler give this information to the FBI?

Mr. D'Antuono. They -- I don't know who gave it to, right. So after this came out, this is after I retired, right, so The Post --

Chairman Jordan. I'm not worried about that. That's fine. You cleared it up after the fact.

Mr. D'Antuono. Yeah, yeah, I cleared it up. I don't know who gave the information, but I'm like, Wow, you -- somebody was taking notes in this meeting, because if you could -- I don't remember everything I always say.

Chairman Jordan. If you were guessing, I mean --

Mr. D'Antuono. I don't want to guess, sir.

Chairman Jordan. I understand.

Mr. D'Antuono. Yeah.

Chairman Jordan. But do you think it would be your FBI agents, or do you think it would be folks from the Justice Department?

Mr. D'Antuono. I really don't. I don't want to guess, sir. I just don't, so --

Chairman Jordan. Okay.

Mr. D'Antuono. I don't think it was my FBI agents, put it that way.

Chairman Jordan. You don't think it was your FBI agents?

Mr. D'Antuono. In my opinion, my opinion, and everyone has -- I had that disagreement with the attorney a couple weeks ago, stuff doesn't come out of the FBI. Like -- like, I've never leaked anything.

Chairman Jordan. I'm not saying --

Mr. D'Antuono. Yeah, no. And I know FBI, right. We don't -- we take our oath extremely important, sir.

Chairman Jordan. Thanks.

[redacted]

Q A little bit further down, it says, "Tempers ran high in the meeting." Would you agree with that statement?

A No, it's like, I don't -- well, maybe their tempers did. I -- you know, my personality is -- I'm from Rhode Island, right, and so, I speak it like it is, right. I'm a northerner, so I tell it like it is. And sometimes I wear my emotions on my sleeve or whatever, and so -- but to me, it wasn't tempers. I was just like, I was asking questions that they weren't -- they were giving answers to, and they didn't like me asking the questions. But I'm sorry, I am the ADIC of WFO, I'm a senior government official, I'm a senior Bureau official, and I'm going to ask a damn question. And I'm not just going to take it lightly what DOJ tells me to do. That's just not how I operate, you know.

And I might have said, and I think it was reported in there, like, if I'm ordered to do something, I'm going to do it, but I'm going to ask questions first, because I want to make sure I have comfortability in anything I do, because I'm not taking in the shorts for somebody else.

And that's kind of how -- I asked several questions, some of what we discussed here about, you know, the U.S. Attorney's Office, and all of a sudden they're like, nope, NSD is working this. Fine, okay. That's your answer. But I asked the question, right. So if their -- their tempers ran deep, it wasn't mine. I was just trying to do the best thing for all parties. That's all I cared about. So --

Q And a little bit along that same line, you know, two more paragraphs down, it said, you questioned why the search would target presidential records as well as classified records, particularly because the May subpoena had only sought the latter. Is that accurate?

A Yes. Yeah, I asked that. It's like, so it was brought up in the last -- you know, the affidavit was written based upon presidential records and other governmental records, and, you know, classified documents were in there as well, right. So the statutes that were -- we discussed before were viable statutes, right. We investigate those things, we do, under the, you know, National Security Act. I got an education today as to where that came from, which is great, right. I love history.

So, but that -- my concern, again, was the FBI getting involved in something that maybe NARA -- I made this comment in the meeting, like why is NARA not here? It's their records. The presidential -- their presidential records. They're the ones trying to get them back. Why is NARA not involved? Why is this always coming to the FBI? Why are we always taking everything and taking the responsibility of everything, right? Where's the other parties to this? And they're like, we don't need NARA. NARA is

going to leak this. That's what they said, NARA is going to leak this. And I'm like, all right. So you can't -- I can't argue with that, right, and so --

[redacted]

Q Just to be clear, DOJ officials said NARA is going to leak this?

A That's what they said.

Q And I think we pretty much established, although you wanted to be polite about this, that either Olsen, Bratt, or Toscas leaked everything in the meeting to The Washington Post?

A I don't know who leaked. Was it them or was it somebody else that they talked to or described the meeting to? Like, I went back and talked to a bunch of my SAC peers and stuff like that about the meeting. I'm like, Oh, my God, this is what just happened, because I'm a -- you all have peers, you all have people you talk to, you all have confidants, mentors, people that you're like, this just doesn't seem -- you know, so you talk.

So I don't know if it's them, and I don't want to, like, damn Matt and -- they're good people. They really are. Matt, Jay, and George, they're good people. And I don't know but maybe there was somebody else that they tangentially said it too. I don't know who leaked this, but they had some pretty good information.

Q This is a long --

A Well, yeah, they're putting words in my mouth too that -- like I don't appreciate the reputation that -- my reputation that has gotten crushed out there for stuff like this, that I didn't do anything wrong, you know. It's like I question things. I'm sorry that I, as an FBI senior official, actually question DOJ, but I think that's somewhat my job, isn't it, as a leader? That's how I took my oath, you know. And that's how I took my position, you know. So and I did it to the day I left the Bureau. I did it from the

beginning to the end.

Q Okay. Circling back to where the --

A Yeah, so the presidential records, you know, that type of stuff, I asked about that, and the response was, you know, we don't want NARA in this. I'm like, all right, Well, I said -- and I made this quote, I made this comment, I think it's in there, I'm not sure, it might be in another article, you know, I said we're not the presidential records police, right. I said that. We're not -- FBI should not be the presidential records police, right.

We've got enough responsibilities in this country, CI, CT, violent crime, everything I had to do in Washington Field Office was a mess. People just don't understand the -- what we have to do in a field office. And then to lop something else on to us, especially at the Washington Field Office when we're trying to protect this Nation's -- this Nation, you know, the Capitol from CI and CT threats, it was just, come on.

Like, and that squad, that squad that was dealing with this stuff, had other espionage cases that they could've been handling too, right. So, you know, things like that, it's like, if somebody else can do it, I'm a firm believer in that, if other agencies can do this stuff too, let them do it. Why does it always have to come to the FBI? That was my take on that stuff.

But at the end of the day -- bless you, sir -- at the end of the day, we're the law enforcement arm of the DOJ. I believe in that. I truly believe in that, that we were the law enforcement arm of DOJ, and that they're our parent corporation, and if we need to do stuff, we need to do it, you know. But you need to question too, not blind loyalty, so -- sorry, I made a speech. That's not good.

[redacted]

Q If we flip the page to the next page, there's a discussion about -- in the

second paragraph that says, "FBI agents on the case worried the prosecutors were being overly aggressive." Then it kind of goes into what you've testified about regarding how you wanted to seek consent from Trump's attorneys to search.

And I know the last hour you went through kind of the timeline with my colleagues about, you know, when the subpoena was issued, when the DOJ was speaking with Trump's attorneys, when NARA was speaking with President Trump's attorneys. Even though all of that occurred in this meeting that occurred the week before the raid, you still agreed that you should seek consent from President Trump's attorney. Is that accurate?

A Yeah. We believe, my team and myself, believe that that was accurate, that the -- the first person we should have went to is the attorney. He was involved, given the deference, even though, you know, there was belief -- but DOJ had a different belief, and I don't -- you know, that's their belief. We as investigators believed one thing. We thought, you know, we could talk to the attorney. You know, there was -- we actually had a script that we wrote to talk to the attorney.

You know, we didn't believe that Jay had a very good relationship with the attorney. We didn't think he would be the one that should deliver it because of the relationship, and it's like, it's all about relationships, right. It's like, I've built a career around relationship-building and getting information out of people and making people -- not making people do stuff but, you know, getting people to, you know, consent and stuff like that or to talk to you. And so, you want to put the best person in the position to do that.

And so we felt strongly that it could've worked, and we wanted to give it a try, but we were -- they felt differently, and they convinced my bosses that their course of action was correct. Deputy tells me -- believes what they're saying, and Steve just, you know,

do it, make it happen. Roger that, sir. I'm on it. We'll make it happen, but we need to do the operation this way. Absolutely, yeah, we're not going to -- you know.

We're all -- and then we had a meeting right before -- a couple days, like that Thursday or Friday, with George and Jay to discuss the operation and stuff like that. And, you know, I wanted to make sure my people were comfortable doing it. And we got it done, you know. We got it done in the most expeditious way we could and safest, and we were trying to be very quiet about it just for the reputation of the former President, as well as for the reputation of the Bureau and everyone else.

So, I cared about the optics, I really did, for both sides, you know. And, again, blame me for that. That's fine, whatever. Maybe that's not my job, but that's how I felt my job was, so, you know --

Q And you testified earlier about how your team could've done surveillance, was prepared to do surveillance on Mar-a-Lago to make sure the documents didn't leave the premises. And it's quoted a couple paragraphs down in the letter. It says, your team said they could keep surveillance on Mar-a-Lago and act quickly if they saw any scramble to move evidence.

What kind of techniques was your team prepared to use to make sure the documents weren't moved?

A Yeah, we were just -- I think I've said before that our understanding was no one was looking at the property at that point. It's a very, very large property. No one was living there. There was caretakers, people there, and stuff like that. The service is always there, I believe, protecting it.

So, you know, we would've put a surveillance team around it. I'm not sure what the components of the surveillance team were. We didn't get into that specificity, but we were going to surveillance team some sorts around it to see what the comings and

goings were, if they decided, like, if we were going down the road of talking to the attorney and then someone decide that we're going to try and go destroy evidence or move the evidence, right, if we see a big box truck coming in. And, you know, at that point, we would've had a search warrant in hand and signed, right.

Just because -- and I made this comment too, right. Just because you have a search warrant, you have probable cause for a search warrant doesn't mean you have to actually do the search warrant. I've heard plenty of times that I've had probable cause to do a search warrant, but you don't do it, right. Other people disagree with that, right. In my opinion, in my experience, just because you have the right to do a search warrant doesn't mean you do it all the time, right.

There's reasons for it, safety issues, there's other ways, or there's other ways of getting documents, right. So in this case their fear of -- DOJ's fears of this stuff being destroyed or moved or whatever, we were just trying to alleviate that. Like, boss, I said to one of the deputy directors, boss, I can -- we'll just put a surveillance team around it. We'll make sure. If they do, here's a search warrant, and we'll enact it, we'll start it right then and there.

The Bureau comes with a lot of resources and flexibility in what we can move and when we need to move, right. And that's -- that was -- I firmly believe, my team firmly believes that we could do -- we could protect that. I just -- I guess we didn't convince our DOJ counterparts of that.

Q And during the first hour you briefly discussed conversations with the Secret Service. Who was interacting with the Secret Service?

A I don't -- I don't remember. I don't know if it was my ASAC or SSA. I think my ASAC or my SSA. I don't recall. I really don't. But we were -- FBI was interacting with the service. I don't want to speculate as to who and stuff like that, but it was one

of the leads for the detail.

Q Do you know what FBI was discussing with the Secret Service? Were you briefed on those?

A No. I was -- broadly. All I understood, because one of the concerns was -- not concern. It was like, you know, someone, a comment, which I think is absurd, but, you know, Oh, is the Service going to block us from going in? It's like, come on, the Service is not going to block us from going in. You know, this is a duly, lawful search. The service isn't going to do that, right. We had no concerns about that.

Somebody brought it up, and we just -- I remember the conversation like, No, we've already been in contact with the service. We've been in contact with the team lead. We will be in contact with the team lead. They'll know that we're coming or to open up the gate, because we have a lawful search warrant, right, so there was no issues, you know. So that was kind of -- to me, I just put that out of mind, out of sight.

Q And after this meeting that's been described in the Washington Post article, the decision was to move forward with the search warrant, and then I believe you stated that there was some operational discussions. Is that correct?

A Yeah.

Q Do you know how many discussions there were or meetings, I guess?

A So I was only -- I was involved in this meeting, and I was involved in the meeting prior to the search, a couple days before. I can't remember the date. It was probably on a Friday. I think we did the search on a Monday, Tuesday. I don't recall. I think it was that Friday. So we had an overall meeting to discuss the operational-type stuff.

Q And was DOJ involved in that meeting as well?

A Yeah, Jay Bratt and George Toscas were on that meeting. It was a Teams

call.

Q And was that when they discussed what date to do the search? I believe you discussed that.

A So that came from an email exchange between me and George Toscas.

Q Okay.

A Yep.

Q And did that happen before this meeting a couple days before?

A Yeah. Yeah. That was all -- that was after this meeting, but before the search. So I don't -- I don't -- I don't have my calendar. I didn't keep anything. So this meeting happened, and then we left this meeting still hoping that we could get them to, you know, change their mind and do it the way we wanted to do it, which is, again, people blast me for that. I wasn't trying to stop anything. I wasn't trying to stop the investigation or throw the investigation out or anything like that. But I just thought there was a different way of doing it, right, and to retrieve the documents that we needed to retrieve.

The Tuesday after -- I think this might have been on Monday. Tuesday -- or this could've been on Tuesday. It was National Night Out in the city. I remember specifically because I was at National Night Out in D.C. with Tony and several of my other folks, and the deputy director came and all that stuff. And we had a conversation about it.

George had sent this email that was out there and said, Hey, Steve, you know, the agents are ready to do the search, you know, we're good to go, something like that. We're good to go, we're going to do it Thursday or Friday, let's discuss it. And I wrote, George, I'm out at National Night Out. We're not -- I don't have time to discuss this right now.

I kind of got, not upset, but it's like, you're talking about my agents? Like they're my agents, not yours. They're mine. I just -- I talked to the ASAC and the SSA, they're not -- we have a different plan for this, my agents. So don't tell me what my agents -- I didn't say this, but in the back of my mind, I was like, don't tell me what my agents want to do because my agents tell me completely different, right.

So that's why I said, We don't have time for this, Tony and I are out, and we'll discuss this tomorrow at the call. And I might have said that we are going to, you know -- I might have been very strong with George saying we are going to talk to the attorney, you know, and we're not going to do it this -- before -- something like that. I don't know. It's in the email. I don't have the email. And he shot back and emailed later and said some other nasty stuff, but, you know -- and then I talked to my deputy director, and he said, you know, we're just going to go forward with the search.

[redacted]

Q What type of nasty stuff did he say?

A Something about my gruff and something demeanor is often cute, or whatever, but not in this case, and he kind of tried to put me in my place, which I didn't take -- you know, I took a little umbrage to that.

Chairman Jordan. From the Post story, FBI agents wanted to call Corcoran, President Trump's lawyer, once they arrived in Mar-a-Lago and wait for him to fly down and join the search. Prosecutors said that would not work.

That's how it happened?

Mr. D'Antuono. Yeah. They just disagreed that it was -- they just didn't believe that Mr. Corcoran was going to comply, you know.

Chairman Jordan. So they wouldn't even -- in other words, you said, okay, how about instead of us trying to work it out with the lawyer ahead of time, what if when we

get there, we call the lawyer then, have them come over, do the search, and they said no to that?

Mr. D'Antuono. Yeah. There was a bunch of iterations that we were just trying -- I try to compromise on things, or I try to negotiate and stuff like that.

Chairman Jordan. I can see what you're trying to do, yeah.

Mr. D'Antuono. It was just trying to like, Okay, why don't we just do it this way, then. How about, like, we have the search warrant, we're ready to go, we've got 30 people there, staged, and then try to call their attorney, right. They didn't want to do that either. And, again, it's their belief. You have to talk to them as to what mindset they had. I don't know what their mindset was. They are entitled to their belief about what the attorney would or would not have done. That's based upon their thought. My people were telling me their interaction with the attorney is they thought that this was going to work. My people were telling me.

[redacted]

Q So you have 30 agents on the scene?

A Approx -- I don't know.

Q Approximately?

A Yeah. Could've, yeah.

Q You have video surveillance in the area?

A Well, we could've.

Q That you had access to?

A We could've, yes. Yeah.

Q Right. And they still would not wait for Mr. Corcoran to arrive. At that point, there's no -- no evidence is escaping. There's no box truck that's going to be driven in, correct?

A Again, I wasn't on scene. I don't -- you know, it was improbable something like that would happen, like that would be able to take the documents out or set fire, whatever.

Q You're just trying to deescalate the situation, correct, by having Mr. Corcoran there?

A Yes. You know, I think at the time we didn't know where Mr. Corcoran was too, right. So I think their concern, DOJ's concern was, well, by the time it's going to take them to fly there or, you know, the former President to fly there, it's going to take too much time. And that's where I was like, well, put a surveillance around it. We'll do -- we could do what we -- you have concerns, I'll try to alleviate those concerns.

But apparently, we did not alleviate their concerns, so they made the decision, which is perfectly fine, you know. They just had a different belief than we did. And I was just -- as a leader, I was just trying to take what my people said, use my own experience, and kind of say, Okay, I see plausibility here, and in my experience we usually go to the attorneys first, you know. If there's no attorney involved then maybe you go straight to the search warrant, right. I've done that plenty of times.

Q So that would have been the ordinary course of action?

A In certain circumstances, yeah. Yeah, yeah. Yeah. So -- maybe. Maybe not. I don't know. So every case is different. This case is completely different, right, so --

Q Fair enough.

Mr. Massie. I just have some quick follow-up questions about the pipe bomb investigation that happened while you were in charge there.

Mr. D'Antuono. Absolutely.

Mr. Massie. We've got the January 5th pipe bomb suspect who's seen on video

meandering about for several minutes.

Mr. D'Antuono. Correct.

Mr. Massie. And I asked you, was there an effort to use geofencing, to use the data to identify the suspect or to track the suspect, because we see in the video then what looks like they're using a phone. And can you tell me, you said that there was some data that was lost or corrupted by the telecom provider. Can you tell me that again?

Mr. D'Antuono. My understanding was that we had -- we would try to get cell phone data from those days from everyone, right, every carrier, T-Mobile. I don't want to like name --

Mr. Massie. Right. All of them.

Mr. D'Antuono. All of them, right, because that's what we do. And so these questions, ah, did you do this? Yeah, we did. We did them all, right. There was one provider -- I can't remember and I don't want to speculate as to the provider, but there was one provider that the data for I believe January 5th and possibly January 6th was corrupt and we couldn't get it.

Mr. Massie. What was your reaction when they told you we can't get that data because it's corrupt?

Mr. D'Antuono. Oh, great, you know, that's -- that's wonderful, right. That, like, really screws up everything, right, because that's -- you hope to have all the data, right, as an investigator you want all the data. But things happen in investigations. This has happened before with bank statements or bank account information or corrupted data or email servers and whatever. Things happen, right. And it's just like, oh, Jesus, you know.

Mr. Massie. In an investigation this important, has it ever happened with a

telecom provider in your experience?

Mr. D'Antuono. I don't know, like this --

Mr. Massie. For you in the ones that you've covered.

Mr. D'Antuono. Well, this is the highest profile investigation I would've done. I've had corrupted data before in other cases and stuff like that and subscriber information, other matters. I don't -- I don't put any thought that there was any reason for that data to be corrupted. I really don't. I think it was just happenstance. It was just dumb, bad luck on all our parts, because we're still waiting to find out who the hell this person was. And it just sucks for everyone.

Mr. Massie. Okay. I think earlier you -- and I don't want to mischaracterize this, so I want to give you another chance. When I asked about the quality of the DNC video cameras --

Mr. D'Antuono. Yeah.

Mr. Massie. -- to me, they don't seem as good as your average gas station. And given that Watergate and things like that have happened here, I would expect a little more in the quality. Is it fair to say that they are lower quality than you would expect?

Mr. D'Antuono. Yeah. Well, for this day and age, yes, absolutely. But I believe what my people -- because we discussed that, right, with my agents and stuff like that. And they're like, Yeah, the camera system was not that good, right. And it's just unfortunate, again, another unfortunate. There wasn't a lot of video around there. People surmise and suspect that, oh, there's all this video all over the country, all over D.C. It's not true, right. Ring cameras, all that stuff, if you look at it, and I've talked to people about this, right, because we've gotten that bash, and I don't like the Bureau being bashed for stuff that we've looked at. We've gone through neighborhood searches. We've asked everyone for their Ring camera stuff. Not everyone subscribes.

If you look at the row houses, they're pretty far off the street, right, so they're not going to capture that movement sometimes, right.

Mr. Massie. Right.

Mr. D'Antuono. So there's a lot of that. So DNC, I was -- we were flabbergasted by the fact that they don't have a very good system of video. But again, it's something you have to ask them, and I think they've upgraded their system to the point now, but they didn't, so --

Mr. Massie. What was the chain of custody of that video? Can you -- are you sure it didn't get compressed or degraded? Did it go through a contractor before -- between the DNC and the FBI? Do you guys hire outside contractors?

Mr. D'Antuono. We don't. If we're getting video evidence, we don't hire outside contractors. We would get it directly from DNC, but I can't opine on that because I don't know what the procedures were that my agents and analysts followed to get that. You'd have to go through the records and the chain of custody for the case.

Mr. Massie. I think you agreed earlier that the two people who found the pipe bombs would naturally be suspects. Is that true?

Mr. D'Antuono. Well, yeah. It's -- I think in any investigation, you know, if the person that's finding the evidence there could possibly be a suspect and you kind of rule them out, right, by talking to them and getting evidence. So I would suspect that my agents would've ran that to ground and ruled them out.

Mr. Massie. So -- but the person who found -- you either haven't identified the person who found the second pipe bomb, or did you?

Mr. D'Antuono. I -- honestly, sir, I don't know the granularity of everything my agents and analysts did in that matter. It's just -- it's a whole host of stuff that's going on. As the ADIC, as like any senior leader, I'm getting briefed on things, and that part

never came up, so --

Mr. Massie. Given that, you know, 1-hour kitchen timer can't detonate a bomb 17 hours later --

Mr. D'Antuono. That's correct.

Mr. Massie. -- it seems likely that these were meant to be found the day of. And one of them we do know who found it, Karen -- Karlin Younger. Do you know how she was ruled out as a suspect or an unwitting accomplice to somebody?

Mr. D'Antuono. I don't know. Again, it would be in the case file. The Bureau should be able to give you those answers.

Mr. Massie. That's my final question. Who is the person who would know the answer to these questions at the FBI?

Mr. D'Antuono. You know, the case agents would. You know, honestly --

Mr. Massie. Did they work for you?

Mr. D'Antuono. Yeah.

Mr. Massie. What were their names?

Mr. D'Antuono. I don't recall at this point, so -- it's just names sometimes escape me, so --

Mr. Massie. Was there a supervisor between you and them?

Mr. D'Antuono. Yes, there were several supervisors between me and them, so --

Mr. Massie. Can you give us their names?

Mr. D'Antuono. Could you just find out those -- I don't want to like put people on the spot and stuff like that. I really don't. You know, could you just find out from the Bureau and that stuff? Just because it's just like --

[redacted]

Q Can you just tell us titles?

A Yeah, it would be supervisory special agent, and then there would be the ASAC, and then there would be the SAC, so those three.

Q So the line agent, okay.

A Yeah.

Q Supervisory special agent?

A Yeah. They're hardworking people, right.

Mr. Massie. I understand.

Mr. D'Antuono. I don't want to put them in a bind, you know.

Mr. Massie. We can -- I guess, now that we know their titles, we could find out. Thank you.

Mr. D'Antuono. Yeah. It's the standard hierarchy of the Bureau, right. It's like those -- that case came under a supervisor that would've supervised that investigation, right, and everything that transpired, the ASAC at WFO, an ASAC and an SAC, and then the ADIC obviously. That's why I was like four levels removed. And I'm not like in the granularity of everything that's being done, you know, at that present time.

Mr. Massie. But you did appear on camera making appeals and giving details to the public?

Mr. D'Antuono. Correct. Well, we needed information for the public. We -- what was -- the briefings I was getting from my agents and analysts was like, we need more tips, right. We need more of that information. So we collectively, the FBI, with headquarters, Washington Field Office, OPA, the deputy, everyone opined that, you know, okay, this is good. Put this out there. Because in a lot of circumstances, and I disagree with Chris Swecker
in this, we put out information in order to elicit information, right. So we have to put out something in order to get people to respond.

We got a lot of tips. Now, a lot of them didn't lead to the -- you know, lead to anything, but some of them do, right. And same thing with the January 6th stuff, we put a lot of information on that, and we were getting people responding, right. So it was the same course of action here that we didn't have enough information. Our leads weren't turning into it. So we turned to the public. Again, be it right or be it wrong, the public helped a lot in this investigation, and they help in a lot of investigations, so, you know, that was our rationale.

Mr. Massie. But there's -- still nobody has been arrested as a suspect?

Mr. D'Antuono. I wish somebody would've. I really do. It's like, it's a case that I wish we would find the person for the good of everyone, right, for the -- for people to stop speculating, one, and causing rumors and innuendos out there that the Bureau is not doing what we're supposed to be doing.

We put -- when I was there for 2 years it was a high priority, as much detail as they want, we put every resource that we could. We did every check, every lab test, every data. We ran this through systems back and forth, up and down, sideways, all over the place. And I wish you could talk to the case agents and the data analysts, and you -- I honestly believe you would get an understanding that we didn't just put this to bed and not want to find the person.

Do I look like a person that doesn't want to find this person?

Mr. Massie. You do not.

Mr. D'Antuono. I don't, right. And if I could have talked to you back then, you would've gotten the same response from me that you're getting now that we put every matter to it, right. And so when I was doing the media stuff, they were asking me the same questions, but I couldn't say everything, right. You just can't.

Chris is right in some sense, you can't give all the information. I don't know.

I'm more communicative than most probably. I'm a lot more transparent than most, right, most FBI agents than maybe you've talked to, right. That's just me. It's, like -- I believe in educating and understanding the process, because without that, you're not going to get the true understanding of what we actually did and people are just going to speculate. That's bad for everyone.

Mr. Massie. All right. Thank you.

Mr. D'Antuono. So, sorry, sir.

[redacted]

Q Mr. D'Antuono, for Mr. Massie's edification, just to clarify that, because we may not be as familiar with Bureau structure.

A Yep.

Q So, A, this would still be, to your knowledge, would still be a high priority with your success?

A Yeah, I know Dave.

Q So the ADIC?

A Yeah, the ADIC, I saw him last weekend at memorial service. Absolutely. This is still a high priority for the WFO as far as I know, yes.

Q And then, B, of course, the SAC in this situation would've been under the counterterrorism branch, I would assume --

A It was under counterterrorism.

Reporter. Wait for him to finish the question.

Mr. D'Antuono. I'm sorry.

[redacted]

Q It would be under the counterterrorism branch in Washington Field?

A That is correct.

Q And then that, of course, lineage would've been underneath that. Your assistant --

A Correct.

Q -- special agent in charge, I'm assuming, who would've had domestic terrorism, maybe it was divided or bifurcated?

A So there were three branches. It might have been -- that particular matter for case manager purposes might have been put under a different branch under the CT. I forget if it was under branch two. I don't think it was under branch three, so --

Q Okay. And then for members of this committee, if they wanted an informational briefing on the status, your best recommendation, of course, I suppose, would go through FBI legislative affairs but --

A Absolutely. That's -- the general course of action, as you well know, is go through, you know, legislative affairs, and then they determine who's the best person to come talk, so, you know.

Q Sir?

Mr. Massie. No. I think I need to have a meeting with legislative affairs and share some of this video of what appears to be the second pipe bomb being found by somebody in a hoodie at the DNC.

Mr. D'Antuono. Now, I will say, a hoodie wasn't uncommon back then, remember that, right?

Mr. Massie. Right.

Mr. D'Antuono. So everyone was hoodie'd up and masked. So that's why a lot of the -- well, the questions were getting was like, how can you find out what this person's gender is? It's like, my God, they're in a hoodie, gloves, mask. That was not out of the ordinary. And we talked to a lot of people that you saw in that video, like the

person walking the dog, I think there was a person walking the baby, and all that stuff -- not walking the baby, but, you know, walking the carriage, you know, the -- so a lot of speculation out there of what did the Bureau do. We did a lot of that, right.

And a lot of those leads didn't amount to anything because they didn't see anything out of the ordinary. You can't believe that they didn't, because you were taking that from a hindsight, you know, armchair quarterback, Monday morning quarterback view. But back then, you've got to realize, it was COVID, you know. Everyone was hoodie'd up in masks. I still -- but today, if you see somebody in a hoodie, like I saw a couple, you know, days ago, in a mask, that's suspect now, right.

Mr. Massie. Right.

Mr. D'Antuono. And I'm like, I'm staying away from that person in the city, so --

Mr. Massie. Thank you.

Mr. D'Antuono. Sorry.

Chairman Jordan. Did you know if the prosecutors -- going back to the Mar-a-Lago situation. Do you know if those prosecutors have now moved from this investigation and working with you to the special counsel's investigation?

Mr. D'Antuono. My understanding is they -- I was told that Jay moved over under Jack Smith. That's what I was told.

Chairman Jordan. Jay?

Mr. D'Antuono. Jay Bratt.

Chairman Jordan. So what about Mr. Olsen and Mr. Toscas?

Mr. D'Antuono. Mr. Olsen is like the AAG, so he's top guy for national security as far as, you know, in that.

Chairman Jordan. Understand.

Mr. D'Antuono. And George is, I think, a higher official above Jay as well.

Chairman Jordan. But the key guy, Jay?

Mr. D'Antuono. That's my understanding, sir, yes.

Chairman Jordan. He's moved over. And have you had any -- you -- the special counsel is named the 15th. You retired, I think, the 30th of November.

Mr. D'Antuono. Yes.

Chairman Jordan. Did you have any interaction with the special counsel in that 2-week timeframe?

Mr. D'Antuono. I did not. He was still over at the Hague. I think he had a biking injury to his leg, so it took him some time to get over, so I never did.

Chairman Jordan. I remember those news reports. No phone calls with him? No emails with him?

Mr. D'Antuono. No, no.

Chairman Jordan. Anyone else that he put together on the team?

Mr. D'Antuono. No, no. Other than U.S. Attorney's Office people and stuff like that that I believe eventually went over to the team for the other matters as well.

Chairman Jordan. What about your -- any of the agents who had worked on the case?

Mr. D'Antuono. So I do not talk to -- I just saw them at a memorial service, my assistant, my executive assistant just passed due to 9/11 cancer.

Chairman Jordan. I'm sorry to hear that.

Mr. D'Antuono. So we just had a memorial service on Friday. I'm a strong believer and I'm not putting my people in a position that I'm not putting them in, right, so I purposely do not ask questions.

Chairman Jordan. I understand that. I appreciate that. I'm saying in that 2-week timeframe, from the 15th to the 30th.

Mr. D'Antuono. So we hadn't solidified what was going over at that point, but what I suggested to the deputy was that the case agents that were working this, I think it was like four or five, a couple analysts and the forensic accountants that were working some of the cases, like the other part -- not the Mar-a-Lago side, the classified document side would go over.

But no one in the Bureau likes independent counsel investigation -- not no one. I shouldn't say that. But it just -- you don't want to get sucked into an independent counsel investigation because you get lost, right. So they wanted to tether back to WFO for their own sake so that they don't get lost. It's just -- it's unfortunate.

I went through the whole Clinton administration when there was independent counsel, as I was a young agent back then, you know, all the other stuff. So I understand, right. So what we tried to do with Jack, and I believe this because I -- I believe this happened is that they're still tethered to Washington Field Office. So they work for the independent special counsel, but they're still tethered to Washington Field Office.

Chairman Jordan. Thanks.

Mr. D'Antuono. Yep.

[redacted]

Q Have you ever had any interactions with a lawyer named Sophia Brill at the Justice Department?

A Does not ring a bell, no.

Q She was on the special counsel's team.

A Yeah, so I didn't have any interaction with special counsel's team. Like I know a couple of the people that went over from the U.S. Attorney's Office in name only. Again, I haven't talked to them at all. But I was on my way out, you know, so I was just

trying to -- to the last day, I was just trying to manage and make sure my people were taken care of, so I was trying to broker the -- which the deputy director agreed with and they brokered that deal.

[redacted]

Q Mr. D'Antuono, we're going to slide back to January 6th, if we may, writ large. Were you or anyone else at FBI headquarters aware of planned protests to take place in and around the Capitol on January 6th?

A Yes.

Q To what degree were you aware or briefed in advance?

A So we had a lot of briefings, a lot of discussions leading up to January 6th with my intelligence folks, with all my CT, criminal, everyone. It was all my executive management and then headquarters as well, so --

Q How would you characterize the types of information that were coming in from what types of sources or, you know -- I'm --

A Well, you know, a lot of it was stuff that was put out in open-source information, right. Some of the stuff is from CHS information.

Q Sure.

A You know, it's just a whole collection of where we usually gather our intelligence for these things, right. Partners, right, MPD, Capitol Police, Park, right, Secret Service. We were sharing, right. We were consistently trying to share the information. And I think it's been, you know, obviously reported out there the fact that, you know, we had a different take on, like, January 6th at this point. It felt that it was going to be something different than the last two protests, November and December, so --

Q Would it be fair to say that those -- there were preemptive, you know,

intelligence sharing and planning meetings prior to January 6th that --

A Yeah.

Q -- were happening?

A I might not have been involved in every single one of them. My intelligence analysts were involved in things, right, and I was getting briefed at the end --

Q Sure.

A -- you know, as to how those meetings were, and there was a lot of information coming out. The week leading up to January 6th, I think it was that, you know, the holiday week and stuff like that, there was a lot more conversations between me and the deputy director, Dave Bowdich as well, you know, kind of going, Oh, this has a different feel to it, you know.

Q Sure.

A And so a lot of questions were going back to my people to get the answers. We were going back to our partners and definitely sharing that information. We, when I say "we," collectively, as a law enforcement community here in the city, I can't speak for all of them, but I firmly believe that we all knew that about 20,000 to 25,000 people were going to be coming in the city that day, amassing on the Ellipse, right, and then the end result was going to be at the U.S. Capitol. I knew that. I'm not -- we connected the dots, as much as people say we didn't. We're not dumb. I'm not dumb, right. We connected the dots.

Honestly, we had a document which was open-source document from one of the groups. I don't remember what. But it was -- showed a map of the U.S. Capitol and it showed where all the -- it was like a Disney map or a Busch Gardens map, right. It was very color code and stuff. It showed all like the East Lawn, West Lawn, who was going to be speaking on each, which time and all that stuff.

It's out there. The OIG has a copy of it. I've spoken to the OIG for 6 hours about this stuff or more. You know, that stuff -- that's the intelligence that led us to believe that there is going to be people amassing on the Capitol lawn in droves, right.

Q Commensurate with Bureau protocol or their command post setup at either Washington Field our headquarters in the SIOC or both?

A Yeah. We -- WFO had it, and I do believe there was a sister one at headquarters at SIOC, right. But WFO would've been the lead, right. SIOC would've been -- well, we wouldn't -- I put a big responsibility on my people to make sure that we were in contact with them, right, because you have to have their information flow, right.

So we set up ours on January 5th, the day before. We shut it down probably that night, whenever, like, you normally do if there's no activity going on. I don't remember the time. We had a final brief out on that time. We shut it down, and then picked it back up the next day, I think at 6:00. I'm not sure. I'd have to look at the thing. But I was in early. I was in. My people were in. We were monitoring with our TFOs and stuff like that.

Q Okay. So it would be fair to characterize there was a lot of front-end sharing and multilateral sharing as we often do with partners at that, there were command posts set up, there was a lot of, kind of, front-loaded awareness and preparation prior to the events on --

A Absolutely. Absolutely.

Q Thank you. So with that in mind then, the committee has received testimony that domestic terrorism subjects who indicated a desire to attend the January 6th protest were physically surveilled from various field offices up to the border of Washington Field Office, at which point, a handoff of surveillance from field office to field office would take place. Were you aware of that activity?

A So I was aware of like -- one of the questions I had leading up to this is like, what CHS information do we have to know that there are people coming into the city, right. The thing with D.C. is the fact that, and this is, again, my opinion, there's not a big domestic terrorism nexus here, right. It's D.C., right. But we are the end point for a lot of the anger, right, so we receive everything.

So prior to this, I brought the two other protests, and my question back to headquarters is like, we need to know who is coming into my territory so we need to prepare for this stuff. So that was a lot of the questions going back and forth. So I would question my people, they were questioning headquarters, and we were trying to flow that information. So a lot of that stuff is going at the lower levels, not on my level.

But my understanding was there were a lot of CHSes -- not a lot. I shouldn't say a lot. There was a handful of CHSes that they were trying to get information, then there were a lot -- there were some people that were planning to travel that we were trying to dissuade from traveling, because we felt that they would've been violent here, right, so --

Q And by that, sir, are you referring to subjects in that case of active domestic terrorism investigations or CHSes or both?

A No, not CHSes.

Q You had said dissuaded.

A Not the CHSes but the actors, the DT actors or the people that we were --

Chairman Jordan. People the CHSes were telling you about?

Mr. D'Antuono. Correct, yeah. We would've used CHSes to -- or anything, any means. Like, I think in some cases, we might have used like, you know, police officers or whoever to go talk to the person, Hey, you know, type stuff and dissuade them from coming here because we felt through CHS information or other information -- again, I don't have all the particulars -- that they might have been coming here to -- it just

wasn't -- we didn't want violence, right.

So we tried to dissuade and not arrest so much, right, because there's nothing to arrest them on, right. But if there was other actions that we could've put into place because we believe people were possibly coming here to do nefarious acts, then we have all the policies that we can do. But that was a lot of the plan. A lot of that was being done by headquarters. I had my own mission trying to figure out the preparation here in D.C. That's what headquarters is for, right. That's what CTD is for. That's what DTOS is for. They program manage this stuff. They're supposed to look at the national, the field offices, know what they're providing and then at the end result, right.

And so there's a lot of times -- my problem with sometimes like, we find out, I found out, WFO, I was like, what the hell, that would've been nice to know prior to this, right, but we don't find out until later because communication isn't there all the time, which is unfortunate, so --

Q I know we're nearing the end of our hour here. I will ask though, was the -- the physical surveillance of the subjects, how many would you guesstimate that actually traveled in of the bad guys that were not dissuaded, and how were they covered once they were here?

A I don't -- I don't have those answers because, again, it was a long time ago. That would've been in a lot of SITREPs, or it would've been --

Q Dozens? You know, I --

A Probably more than a dozen, I think at the time, but I couldn't give you a number. If I give you a number, I would just be guessing, and that's not right, right. So there was a handful of people that they were worried about that they were trying to dissuade from coming, right. There was CHS information that was coming in. There was open-source information too, right. There's all that stuff that we could see.

I don't know all the particulars because I wasn't working those particulars, right. I was the end result of that stuff. So something like that would have to be asked of someone like CTD or DTOS, the people that were running that stuff, so --

Chairman Jordan. Are there 1023s on these individuals?

Mr. D'Antuono. Well, 1023 is the report of CHS information. So if we're talking to a CHS and gaining information, we should be recording that on a 1023. Sometimes not all information is captured on it, because there's negative information, they didn't provide anything, right. So you have a contact, you know, all that. But if there's information from a CHS, it should go on. That's our administrative policy.

Chairman Jordan. All right. And you've got extensive experience putting together 1023s? You've done that?

Mr. D'Antuono. Yeah. You know, so the delta system came out after I was a supervisor, so I wasn't -- I was a supervisor dealing with -- delta is our confidential human source system, right. 1023s, all that stuff was afterwards, right. So I wasn't running CHSes then. I was supervisor. Supervisors don't run CHSes. They shouldn't. So I was supervising that action. So, yeah, I'm intricately aware, but I'd be lying to you if I said I physically typed a 1023 before.

Chairman Jordan. But you have some familiarity with that?

Mr. D'Antuono. Absolutely, yeah. No, I was there when the system was being built and had a lot of input.

Chairman Jordan. We'll have some questions about that in the next hour.

Mr. D'Antuono. Excellent. I look forward to it.

[redacted] Thank you, sir. And that does wrap up our second hour, so --

[redacted] We'll go off the record.

[Discussion off the record.]

[1:22 p.m.]

[redacted] We can go on the record.

[redacted]

Q Welcome back, Mr. D'Antuono. I just had a couple questions. It's not going to take an hour.

A Okay. I talk a lot, so it may take an hour.

Q That's okay. Back to the Mar-a-Lago search subject.

A Yes.

Q You said many times that it was your preference at various points in the investigation to proceed in a cooperative fashion rather than by the use of a search warrant, correct?

A That's correct, yeah.

Q Okay. And it is true, isn't it, that there were many efforts made by NARA and by DOJ and the FBI to get cooperation from Mr. Trump? Is that right?

A That is completely true, yes.

Q NARA was discussing with Mr. Trump's attorney for months the return of those records, right?

A That is correct.

Q And it didn't work out, right?

A Completely, I say no, it didn't work out because there's a lot more records down at Mar-a-Lago.

Q Exactly.

A Yep.

Q And when DOJ was persuaded by you and other FBI officials to go ahead with the subpoena before their initial desire to do a search warrant in June, they were

trying to proceed in a cooperative fashion, right?

A Yeah. We had to convince them to do the subpoena initially, yes.

Q But you persuaded them, right?

A We did. Yeah, yeah. Much -- yeah. They were reluctant, but, yeah, we persuaded them.

Q Ultimately, that's the course they agreed to, right?

A Correct. It was a little back and forth, but yes.

Q I'm sorry. Back and forth. Is that what you said?

A There was a back and forth, yes.

Q In response to the subpoena, the -- well, let's just say President Trump and his staff were not fully responsive to the subpoena, correct?

A Yes. Initially, they were not -- the first subpoena, right, you're talking?

Q Right, the one -- I'm sorry. I'm talking about the subpoena for documents that was served on June 3rd or June 2nd.

A Yes. Yeah, there weren't -- they weren't being as cooperative or responsive. So DOJ reached back out to them to, in a sense, compel them, in a sense, say, you know, we really need these documents, you know. And so --

Q Oh, I see. You're saying initially when they were given the subpoena from the grand jury, they didn't immediately respond with documents?

A Correct.

Q Mr. Bratt and others had to actually say, hey, you really need to respond to the subpoena?

A Yeah, and my understanding from my team, when I was getting briefed off my team was the fact that, you know, at that point, to Jay and the team, just, well, we're just going to do a search, right, or something like that. We're going to take other action.

And we were -- the FBI team was more adamant, like, just compel them, right. Just compel them, right. And so that's what we did agree to.

And my understanding is that the Director opined on that and that the deputy opined on it and got some higher ups at DOJ to agree to that and say, look, you've got to compel him first, right. We're not going to just do a -- serve a subpoena and then all of a sudden follow up with a search warrant. Compel them to see what we get from him.

So that's what happened. My understanding is that's what happened. Jay, I think, had a conversation with everyone, I'm assuming, and then they came forward with the documents that they had.

Q Okay. So I actually didn't fully understand that then.

A Okay.

Q So, initially, there was the subpoena that the grand jury issued, which was actually, if I recall, signed in May. I think it was May -- I want to say the 19th. It's part of our exhibit.

A Yeah, it's the one you showed me.

Q Yes, right.

A Yep.

Q And it was actually -- because Mr. Trump was not responsive to the subpoena itself, that is initially what created the concern among DOJ officials that they were going to need to do something even more --

A Yeah, absolutely.

Q -- forceful, like a search warrant, at that point. Is that right?

A Correct, yeah, because the concern is, obviously, it's a classified document. We have some hundred or so, whatever is found in NARA, 13, 14, 15, boxes. So --

Q But I mean in terms of cooperation. They didn't respond to the subpoena

initially, correct?

A My understanding is they didn't fully comply with the subpoena. I don't know if they didn't respond. I can't say they didn't respond. Like, I don't know -- I think they -- I'll be speculating if I said this, but my understanding is that they were in contact, possibly, but they didn't comply and give us the documents yet, right. You know what I'm saying?

Q You just used the word "compel." You said that you encouraged DOJ to compel the subpoena. What did you mean by that?

A So because the doc -- because they weren't providing the documents by the date that's on there, right.

Q Right.

A So if anyone gets a subpoena, right --

Q May 24th.

A -- the normal course -- yeah. Normal course of action is here's the subpoena. We require the documents by May 24th.

Q Right.

A When it's coming up to May 22nd, May 23rd, where are the documents, right. And so you have to compel them and say, either you're going to come forward to the grand jury and explain why you did not -- don't have these documents to produce or you're going to produce the damn documents, right. And so that's the course of action.

So we wanted DOJ to compel and have that conversation with Mr. Corcoran to say, hey, look, we need these documents, right. And then I'm assuming, because they didn't hit the date, that by the time June came up, because they would have been in not compliance with that subpoena --

Q Right. May 24, '22, they would have needed to produce the documents.

A Yeah. There was an agreement there between DOJ and the attorney to produce them on June 2nd, right. Because in that timeframe, from that point on to June 2nd, they were not in compliance, and they could have been held, you know --

Q In contempt.

A Correct.

Q Right.

A Yeah. That's the heaviness people don't understand about a subpoena, right. There's a contempt charge too.

Q Right. And the point that I'm trying to make here is this was another instance in which Mr. Trump and his staff were being noncompliant with DOJ --

A Absolutely.

Q -- even under a subpoena, correct?

A Absolutely. No, I don't disagree with that, and it's -- that's the normal -- not the normal course, but you can -- in any investigation you understand who the subject of that investigation is and you understand what motivates that person. It's not -- it was not out of the ord -- we weren't surprised by it. I wasn't surprised by it. If anyone was surprised by it, then they haven't been paying attention for the past couple years.

Q Understood. I'm just trying to clarify --

A Yeah, I know. Yeah, yeah.

Q I'm trying to clarify just -- you had said many times that it was your preference to seek cooperation from Mr. Trump, right?

A Correct.

Q And what I was saying is this record shows there were many opportunities for Mr. Trump to cooperate, correct?

A Absolutely. And June 2nd they did comply, and they gave us some records. It just wasn't enough.

Q Right. Again --

A Again, it wasn't enough.

Q -- on June 2nd and thereafter, the FBI had discovered that still there was not compliance with the subpoena fully, correct?

A Yep. And that's why I don't -- I don't, like, completely disagree with DOJ's process on this and the way they wanted to do it. That's why I've said before, like, I don't disagree with it. I just -- I believe in a different view sometimes, and you have to explore all views, right.

Q Right.

A So that's what I was just trying to get out with -- but it was the belief of my team that it would have worked, right, that the talking to Mr. Corcoran would have worked, right. And so I'm getting it from my team, right, the agents, the supervisors, the ASAC that had inter -- I didn't have any interaction with Mr. Corcoran, right, but they formally believed.

So as the ADIC, as the leader, I'm trying to go, okay, I understand, but going to try it this way. DOJ decides a different route, that's fine. It's all good.

Q I understand your position.

A Yeah.

Q I'm just saying, for the record, do you understand that Mr. Bratt was also communicating with Mr. Corcoran, correct?

A My understanding is that he was, yes.

Q And he was getting the feeling that Mr. Corcoran was not cooperating, correct?

A You'd have to talk to Mr. Bratt about that.

Q Okay. But if he did feel that --

A That's what he conveyed to us -- yeah. Yeah, that's what he conveyed to us.

Q Okay.

A But I also understand that Jay -- through my team -- that Jay had a contentious relationship with Mr. Corcoran.

Q I understand. And maybe some of the reason could be that Mr. Bratt was not getting compliance even when he went through the process of getting a grand jury subpoena, correct?

A Correct, because of the head bashing between him and the other attorney, which is never a good thing.

Q Sure. For whatever reason, Mr. Bratt had sought a subpoena and gotten one, correct?

A He did.

Q And he did not get compliance by the date of the return on the subpoena, which was the 24th of May, correct?

A My understanding is he did not, but I don't know what led up to that. I don't know how the --

Q Sure.

A -- conversation went.

Q We don't know that. We just know that there was no compliance by the 24th, correct?

A That's as far as the records show, yes.

Q And so Mr. Jay's position was, we tried cooperation. Now we're going to

try the next level of compulsion, correct?

A That was their take on it, yeah.

[D'Antuono Exhibit No. 7

Was marked for identification.]

Q Okay. So now I just want to introduce what's exhibit 7, which is the actual search and seizure warrant that was issued by the magistrate judge in the U.S. District Court for the Southern District of Florida. And there's a few pages, which includes the return on the warrant.

A Yep.

Q Once you've had a chance to look at it, I'm not going to ask you details.

A That's fine.

Q But just a general refresher on what was recovered when that warrant was executed.

A Yeah. It's just the 597, which was the property receipt.

Q Yeah. And the property receipt actually itemizes the things that were recovered by the FBI that day. Is that right?

A Yes. Not in specifics but more generalization, right, obviously. There's some specific match in here, but for the most part, it's just generalization.

Q Okay. And so on page 5 under the page number for the docket system, which appears on the top of the page, there's a set of lines, Description of Items, and the first says four documents. Is that right?

A Yes, I see that.

Q And then it's got 29, 30, 31, 32, and 33, which are boxes, correct?

A Yeah. It looks that way.

Q And those contained documents, as far as you know, or do you know?

A I don't know what they contained.

Q Okay.

A They could have contained anything. There's a whole host of stuff that they contained.

Q Got it. And if you turn the page to page 6, again with the docketing system, page 6, there's a further set of descriptions of various items that include, No. 1, an executive grant of clemency for Roger Stone, Jr.?

A Uh-huh.

Q 1A, information regarding the President of France. 2, leather-bound box of documents. Is that correct so far?

A Yeah. Yeah, yeah, absolutely.

Q You're the witness, not me.

A Sorry. That's what's written on the document, so yes.

Q 2A, various classified/TS/SCI documents, correct?

A That's correct.

Q And that refers to top secret compartmented information?

A Correct, yep.

Q That's highly classified, correct?

A Yeah, it is just compartmentalized, you know. It depends on what the document is.

Q Sure. No. 3, potential Presidential record, correct?

A Correct.

Q No. 5 and No. 6 say binder of photos, correct?

A That's correct.

Q No. 7 says handwritten note, correct?

A Correct.

Q I'm going to skip over some of this stuff to number 10A, which says, miscellaneous secret documents. Is that correct?

A That is correct.

Q Number 11A, miscellaneous top secret documents, correct?

A That is correct.

Q Number 13A, miscellaneous top secret documents again?

A That's correct.

Q Number 14A, miscellaneous confidential documents, correct?

A Correct.

Q And turning to the next page, page 7, line item 15A, miscellaneous secret documents, correct?

A That is correct.

Q 19A, confidential document, correct?

A Correct.

Q And 23A, miscellaneous secret documents, correct?

A That's correct.

Q 24A, miscellaneous confidential documents, correct?

A Correct.

Q 26A, miscellaneous top secret documents, correct?

A That's correct.

Q And finally, 28A, miscellaneous -- I believe it says top secret documents again, correct?

A Yeah, it does. Somebody initialed that typo in the top.

Q Okay. And at the bottom is the signature of Christina Bobb, attorney, correct?

A That's correct, yep.

Q Okay. And that means she was there to, I guess --

A As a representative to, you know, keeping the record as to what we took, right. We always have to give a record and inventory of what we initially took.

Q Understood.

A So yeah.

Q And finally, the last page, as you see, is a photograph. Do you see that photo?

A Yes.

Q And that is a photograph taken by the evidence technicians at the search warrant execution. Is that right?

A That would be my understanding, yes.

Q Okay. And that's some of the documents that they saw during the execution of the warrant that they recovered, correct?

A That's my understanding, yes.

Q Okay. And you can see in the picture that some of these documents had cover pages that say things like Secret/SCI, correct?

A That is correct.

Q Or Top Secret/SCI, correct?

A Correct.

Q Okay. And those documents are things that the FBI has an interest in recovering and having -- be assured that they're being stored safely, correct?

A That is correct.

Q Okay. You've talked a lot about your concerns that you shared with DOJ during this process, and you've characterized them as just kind of part of the normal back and forth between FBI and DOJ when they're discussing strategy.

A Correct.

Q Is that right?

A Yes.

Q Okay. And would you say that that's basically what happened here?

A Oh, yeah, absolutely. Yeah.

Q And you don't disagree with the ultimate conduct of the investigation, given the outcome, which was the recovery of all of these documents, correct?

A No.

Q And do you believe that anyone was motivated by animus in their choices here?

A No.

Q Do you believe that Mr. Bratt, for example, was simply trying to do his job as a National Security Division attorney to help the DOJ recover what he thought was important national defense information?

A Yeah, I believe Jay was doing his job, yes.

Q Okay. One other thing. Recently, on May 31st of 2023, multiple news outlets reported that DOJ prosecutors had obtained a audio recording of Mr. Trump in which he discusses holding on to a classified document that he knows is classified. Have you heard that reporting?

A I've read the reporting, honestly, but I have not -- I have no idea.

Q You have no knowledge of whether it's --

A No, I don't believe it was found when we were -- when I was the ADIC.

Q I'm sorry. What was that?

A I don't believe it was -- I left in November, end of November. So I believe that was found after I left. So I have no knowledge of it, other than the report.

Q Oh, you have no knowledge of the evidence itself?

A Yeah, no, I don't believe that was found prior to me leaving --

Q Understood.

A -- or retiring.

Q But you heard the report --

A I heard the report, yes.

Q -- about the audio recording?

A Absolutely, yes.

Q Okay.

A Yep.

Q So my question was, like, according to the reporting, again, this recording was allegedly made during a July 2021 meeting at Trump's Bedminster Golf Club in New Jersey. Did you hear that?

A I read the article, yes.

Q Okay. And according to the reporting, the recorded -- in the recorded conversation, Mr. Trump tells listeners that if he could show them this document that's classified, then they would see that General Milley had produced a military plan to attack Iran during his administration. That was the reporting, correct?

A That's my understanding, yes.

Q Okay. And there were people in that room as this audio recording was being made, correct?

A That's what they reported, yes.

Q Okay. And those people, according to the reporting, did not hold security clearances themselves that would have allowed them to hear the information in this classified report?

A That is correct.

Q Okay. Now, if this reporting is accurate, hypothetical, I know you don't understand if it is, but if this reporting is accurate, the audio recording would be very powerful evidence that Trump knowingly and unlawfully retained national defense information after he left office, would it not?

Mr. Berger. I don't think he can answer that.

Mr. D'Antuono. I can't answer.

Mr. Berger. There are so many elements to whether there's a crime or not?

[redacted] Well, the question was whether it would be evidence of it, not whether there's a crime --

Mr. Berger. Would it be evidence of it? I don't even think he can answer that.

[redacted] Why?

Mr. Berger. Because we'd have to understand, first of all, what the elements of the relevant statute is, what the accused -- what the crime --

[redacted] Well, I produced the statute for you.

Mr. Berger. Well, what is the statute? Why don't you show us what it is.

[redacted] It's marked as -- what is that exhibit?

[redacted] I took it back.

Mr. Berger. Show it to us again so I can see it.

[redacted] It's exhibit -- what is it?

[redacted] No. 5.

Mr. Berger. So the elements -- I'm looking at the elements and it's -- you have to

have an intent to be used to injure the United States or to take the advantage -- exploit an advantage of a foreign nation. I don't know how anyone can sit here --

[redacted] I'm sorry. Where are you looking?

Mr. D'Antuono. 793.

Mr. Berger. 793.

Mr. D'Antuono. For the purpose of obtaining information --

Mr. Berger. Obtaining it because you believe that the information is to be used, the injury of the United -- you're using it for the injury of the United States or you're using it to advantage a foreign nation. Those are elements of this crime.

[redacted] I'm sorry. I'm not asking you --

Mr. Berger. He's not in a position to answer that. He's not in a position to answer that.

[redacted] -- to opine on whether the elements have met. I'm asking if it's evidence relevant to the --

Mr. Berger. I'm going to direct him not to answer.

[redacted] -- investigation.

Well, he's here voluntarily.

Mr. Berger. I'm going to tell you not to answer.

Mr. D'Antuono. I'm going to take the advice of my counsel.

Mr. Berger. All right. Thank you.

[redacted]

Q Just to be clear, how many years did you serve in the FBI?

A Twenty-seven.

Q Okay. And you --

A Approximately. Twenty-six and ten months.

Q And you served in roles, everything from case agent through supervisory, all the way up to ADIC, correct?

A Correct, yeah.

Q So you would have understanding of what is and is not evidence in your -- as part of your experience, right?

A Uh-huh, yes.

Q Okay. But you're still being directed not to answer whether something is --

Mr. Berger. He's being directed not to answer, end of story, that question.

[redacted] I understand. I understand. He's here voluntarily. So if he chooses to answer, he can still answer.

[redacted] Okay.

Mr. Berger. I told him not to and he's not. He's absolutely --

[redacted] I heard you.

Mr. Berger. -- unequivocally not going to answer, no matter how many times you ask him.

[redacted] We're not asking him. We're just --

Mr. Berger. That's it.

[redacted] We heard you.

Mr. Berger. Move on to the next question and we're good.

[redacted] Okay.

[redacted] In addition, the audio recording demonstrates a significant national security risk, if it is true, posed by the former President.

Mr. Berger. Don't answer.

Mr. D'Antuono. I --

Mr. Berger. You're not answering.

[redacted] You have no opinion about sharing -- if someone were to share classified information with people without a clearance, do you agree that that poses national security risk?

Mr. Berger. Don't answer.

Again, I haven't even determined what's classified, what's not classified. There are so many elements.

[redacted] It's a hypothetical question.

Mr. Berger. I don't want him asking --

[redacted] Okay.

Mr. Berger. -- answering hypothetical questions. No one has asked any hypothetical questions right now.

[redacted] Just to be clear, you also, in your role as ADIC, oversaw the counterintelligence section of WFO, right?

Mr. D'Antuono. That's correct, yes.

[redacted] So you regularly did oversee and have to make a determination of whether items were, in fact, classified or not, correct? Or whether the importance of -- you had to make decisions regarding classified evidence. Is that fair to say?

Mr. Berger. Yeah, when he has the totality of the circumstances --

[redacted] I understand. I'm asking the client.

Mr. Berger. Correct. When there's -- when you have all the information and you have all the particulars -- when you have all the information and you have all the particulars, you're in a position to make assessments, I'm sure.

[redacted] Okay. I'm sorry. I'm actually asking your client.

[redacted]

Q In his experience, having served 28-some years in the FBI, including as ADIC

of the Washington field office --

A Yes.

Q -- you did, in fact, oversee the Counterintelligence Division?

A I did, yes.

Q And the Counterintelligence Division handled classified evidence, correct?

A They did, correct.

Q And so you were a supervisor above that?

A Yes.

Mr. Berger. Yes. Okay.

[redacted] Okay. Do you believe it's a national security risk if someone divulges top secret information or secret information to someone without a clearance?

Mr. Berger. She's asking a hypothetical question in the abstract.

Mr. D'Antuono. Yes.

Mr. Berger. You can answer that. Thank you.

Mr. D'Antuono. Yes. If national security information is leaked out or provided out to people that don't have a clearance or a need-to-know, that's -- yeah, that's not good for anyone. We take that -- I take that strongly.

[redacted] Okay.

[redacted]

Q Are you familiar with calls for the defunding of the FBI?

A Yes.

Q Okay. How do you feel about that?

A I don't agree with it.

Q Okay. Why?

A Want the soapbox version?

Q Sure. Your version.

A My version is the FBI is an institution that we need in this country, and further chipping away at the foundation of the Bureau is not a good thing for this country. You know, we do a lot of stuff.

If people -- if someone's kid got kidnapped right today, who would you call? You'd want the FBI on it, right? But nowadays, we're in this position of not trusting anything the FBI says, not trusting probably what I say here, right. There's going to be people that will see this transcript at some point in time and say -- and don't believe me. I don't understand why. I don't know what I ever did to make people not believe what I have to say but believe what others have to say.

Look at the facts and circumstances. I built a career on the facts and evidence and collecting it.

You know, so defunding the FBI is a bad thing for this country. Defunding all law enforcement is a bad thing for this country. That's just my opinion.

Q How about even the political calls to defund the FBI? When somebody stands up in a committee hearing, for example, and says that we should defund the FBI, whether or not they ever intend to follow through, when they make those kind of calls, does that, in your mind, undermine the legitimacy of the FBI and make it harder for people to do their jobs in the agency?

A Yes. In my opinion, it's just like the more the American people hear about not trusting the FBI, it's not a good day for this country. It's not a good day for the FBI. And we need all law enforcement, not just the FBI. We just need all trust, right. It comes out to trust, and there's no trust in this country anymore in our institutions, which is, to me, sad.

Q And do you believe in the mission of the FBI?

A Yes.

Q And do you believe that most people that you've encountered in your career who are in the FBI are well-meaning FBI employees who are trying their best to do their job?

A Oh, absolutely, yeah. Through and through.

Q Are you familiar with the claim that the January 6th insurrection was a, quote, false flag operation, that somehow the U.S. Government and the FBI was responsible for that attack?

A Yes. Yeah, yeah.

Q What is your opinion of that theory?

A Well, they're basically talking about me, you know, because I led the office, and it's not true, absolutely not true.

[redacted] Okay. That's all I have.

Do you have anything?

[redacted] No, I don't have anything. We can go off the record. Thank you.

[Recess.]

[redacted] Okay. We're back on the record.

[redacted]

Q We are going to go back, Mr. D'Antuono, to January 6th, a day that I'm sure you know well.

A Uh-huh.

Q We're talking about -- we left off with some of the surveillance, preparatory activities that may have been going on in advance of the event. Of course, a key feature of conducting surveillance is remaining inconspicuous and, you know, blending into the crowd.

Is it fair to assume then that FBI personnel in the crowd had to at least possibly feign aggression so as not to highlight themselves by acting different than those around them?

A We didn't have people in the crowd.

Q We didn't have any --

A FBI did not have people in the crowd. To my knowledge, we did not. We had like -- I think, [redacted] you're familiar with eye teams and stuff like that that we've done --

Q Sure.

A -- you know, in past, you know, protests or a demonstra -- or whatever, right --

Q Yes.

A -- that we've had with the knowledge that there's going to be violence or something like that, right.

In this case, to my knowledge, as the ADIC of WFO, we did not have eye teams. Secret Service was responsible for the Ellipse. U.S. Park Police was responsible for the parks. Capital Police was responsible for the Capitol Grounds. And then everything else in between is FPS usually, right?

Q Sure.

A Or MPD, right. So there was enough coverage, and we were never asked to do anything like eye teams that we've done in like inaugurations or all the special events, NSSEs. You hear about NSSEs all the time. Why wasn't this an NSSE type stuff, right.

So in this -- for this particular matter, we didn't have people in the crowds. We were getting reports from -- the way the command post works is we have task force officers within the command post, which we were getting reports from their people that

were on the ground or that were viewing it, right, because that's their responsibility. That's not the FBI's responsibility to watch peaceful protestors. It's just a process. You know what I'm saying?

Q Yeah, I do, and I appreciate that clarification for the committee.

And so the task force officers would have been in touch with their own agencies who would have had personnel represented on the ground. But the Bureau themselves were not in plain clothes on the ground?

A To my knowledge, I did not have anyone there, and that would have been something that should have been brought up to my response, because as the leader of the office, that would have been my direction to do that, and that would not have been my direction.

Q Okay. Understood.

A So if that happened, then I'm going to be pissed with some people.

Q Regarding -- we talked a little bit about some of the very, you know, robust, preemptive activities that you would assume were occurring at a, you know, at a sharing level with all the partners, State, local, Federal, you know, the folks that you'd normally work with.

Were there any investigations involving the events of January 6th, you know, proactively or, I guess, presumptively opened prior to actually January 6th? If that makes sense.

Were there cases that were opened in advance? And I don't want to speak for you because I know there might be some administrative files opened on things. But as far as operational cases, was there anything that was open in advance that you assumed there may be an activity that necessitated opening a case?

A I don't believe so, but I would have to look back at like the records. Again,

this is -- well, we'll say 2.5 years ago, right. So I don't recall there being cases specifically opened for January 6th.

Now, there were speculation, there were other cases, obviously, throughout the country that might have involved actors that were coming to D.C. Those cases were -- may have been at WFO, but they might have been at other offices, but I can't definitively say yes or no on that.

Q I understand that you had -- we had subjects traveling in from other areas of responsibility. That's a different scenario.

A Yeah.

Q Okay.

A There would have been Guardians opened, like leading up to January 6th, if there was information that came in. And that's Guardian, G-u-a-r-d-i-a-n, right -- Guardians open to take in the tip or the information that was coming in, whatever it was, and then working through logical, like, is this a threat or is this not a threat.

If it came to the point where there was some validity to this, we may have opened up a case at that point, but I can't definitively say yes or no that we did.

Q Understood.

A We may have and we may not have.

Q I appreciate the clarification. Thank you.

All right. Moving on, did FBI headquarters or any FBI field offices initiate investigative activities to cover the event?

A Well, FBI headquarters does not initiate investigative activity. They would, you know, direct or program manage it, right. I don't -- I can't answer for the other field offices. Again, I believe there were other cases that were around the country.

Q Can you explain for maybe some of the others in the room what that would

look like in an event of this size? How perhaps -- as the ADIC of Washington field, if it's happening in your space, sort of what that looks like administratively. Like, how are you covering that event?

A Well, so -- covering the January 6th event or --

Q In advance.

A Well, in advance we're preparing for the possibility of violence, right. So, you know, the FBI is not -- we don't have the responsibility of being the CDU, the crisis disruption unit, right. We're not on the front lines. We're not law enforcement in which we have riot gear on or anything like that preparing for stuff like that.

Our role, because we're very sensitive to the fact of the Constitution and our ability to protect the American people and uphold the Constitution, that's ingrained in what we do. Want to make sure that we're not trampling on people's constitutional rights. So it's a balancing act.

So we want to help law enforcement, provide them with everything we possibly can to provide them the intelligence that we know -- credible intelligence, right, credible and actual intelligence that we can provide them that they can then do their job and protect whoever they need to protect, right. They have the mission.

And there's been comments out there, I said this, I said that. But, you know, I firmly believe, it's like MPD was the main component here to protect the city, that 3,000-plus strong, sworn officers strong, you know, they have -- they've always taken that role, right.

FBI isn't on the streets. You don't want an FBI agent in that role. You really don't. We have a lot of guns and, you know, we train differently than others, right. And we don't train for a simple disturbance. So we provide the intelligence.

Q No, understood. And there are command posts proactively stood up to

sort of triage and disseminate the activity coming in?

A And the information that, like you alluded to before as to how we were leading up to this, we were having meetings. My people were having meetings with their counterparts of all these different agencies, collecting information, intelligence. What do they have? What do we have? And they're discerning as to who gets, you know -- where the information is shared.

We shared as much -- like, I believe fully that we share until it hurts, right. We share as much as we possibly can because we don't want a situation that happened. And so, unfortunately, it still did.

Q So we have a lot of -- I'm sorry. The FBI has a lot of -- it happens. The FBI has a lot of investigative resources, as everyone in this room understands. Things like CHS, as we're going to talk about a little bit more later.

But leveraging current platforms that may have been in existence, were there any -- did we have any physical surveillance teams out and about?

Based on your last answer, I'm assuming that may not, but I don't want to put words in your mouth. Pole cameras or electronic surveillance, anything of that that proactively deployed? Maybe leveraging other existing cases that would have been in the vicinity is how I'm envisioning that may have occurred, but I don't want to speak for you.

A Again, I started as an ASAC in St. Louis during the Michael Brown situation. I got an education in civil disturbance, right. I got an education in what we do as the Bureau and what we can and can't do from a legal perspective and elsewhere, right. So there's things that we can and can't do, and we're not supposed to be watching peaceful protests, right, unless there is articulable, factual basis to believe that there's some officer safety issues or violence happening and stuff like that.

So I take that extremely to heart, okay. So my -- to my knowledge, we did not have pole cams up. We didn't have any of that stuff up to watch peaceful protests, right.

Now, when information was coming in, and it might have led to the fact -- like, I remember there was like information that came in that somebody had, you know, a gun stock in their -- underneath their waist coat or whatever. So, oh, wait, gun stock? You know, stock of a gun, right, a long gun or whatever. I don't remember what it was, but I think it was described more as like a long gun or something like that. That's concerning, right.

So now we're going to investigate. We're going to, with our partners, investigate. That might come through Park Police, might come through MPD, we don't know. So you have to stop, go and investigate that. That's what the FBI does, right.

So as you well know, the gun laws in this city are completely not broad, right. They're very, very specific. You cannot bring a gun into this city like that, right. So that would have been something we would investigate. That's what we're there to do, and that's what we did.

So there could have been times that we did send people down there for surveillance of those purposes, but the overall, we're not surveilling. Again, there's plenty of law enforcement here in this city. It's not St. Louis. It's not Detroit. There's plenty of Federal law enforcement: MPD, Park Police, Secret Service, Capitol Police.

Q Understood.

A There are enough eyes there. They didn't need a bunch of FBI agents.

Q Having said that, though, the committee has received information that there were some FBI SWAT teams predeployed.

A Yes.

Q Are you aware of that --

A Absolutely.

Q -- or can you speak to some of what that may have entailed?

A I'm the one that ordered it. So I'm the one to speak to, and I wish people would have spoken to me before.

So when we're preparing for situations, right, again, the responsibility of the FBI is to not be the riot police or the control, right. But if something happened, a terrorist attack in the city, violence in the city, any type of violent activity, we want our tactical teams in place, right.

And I had an enhanced team at WFO. It's a double team in a sense, more than other field offices have, right. So we put them on call. Like, we -- or on the bags, as we call it, right, in the possibility that things happen.

Again, going back to my St. Louis days. We had our tactical team responding there too. We get a call out to help the county police with a barricade situation, barricade subject. That night when -- a November night, we respond because they asked us to. That's what our job is, to help them, right. We try to provide support. We're not going to [redacted], but we're going to go help them because the SWAT team is working.

Two of my agents get shot, right. Bad night. But that was our job, to help our brothers and sisters in law enforcement to do that. That's what we do, right.

So in the case of January 6th, if violence erupted anyplace in the city and we needed to call out for tactical, we were prepared. If it happened at the Capitol, if it happened at the Ellipse. Also, if MPD had their hands full, and then there was violent activity, and they had tactical teams do it, we could have responded to that, right.

Q Sure. How many SWAT teams do you recall? I understand your enhanced

SWAT team at Washington field.

A Yes. So we had two teams. One was on call in the morning shift and then we were prepared to bring the other ones in at 2 -- like 2 or 3 I believe, right. So that's our team.

It was decided, through my conversations with Deputy Director Bowdich at the time, he's just like, Steve, I think we might need another SWAT team. Boss, that's your call. Yeah, let's do it. Whatever makes you comfortable, boss, right.

And so I called Baltimore. Jenn was up there. Jenn Boone was the SAC up there at the time. She said, absolutely, whatever resource you need. We called Baltimore because they're right next door, right.

So we decided, me and my SWAT team lead, and my ASACs are over that, we tried to put them in place as to where they should be. I suggested an offsite facility that we have here in D.C. They suggested out in Maryland because it would have -- tactically it would have been better.

Q Yeah.

A If something happened in Virginia or Arlington, to get around the beltway, right.

So we put thought, like a lot of thought into this. This is not just willy-nilly like we're making this stuff up. There's a lot of thought and process that went into this. So those are the three tactical teams. And then also HRT was on standby too.

Q Okay.

A Which, in a case like this, in my experience, never have HRT on standby for something like this. That's severity that we in the FBI took to this matter, right. HRT, 20 minutes out by helo, right. The problem was like where they land. And then that's a story for another time. You can read the IG report on that, I guess, unless you want to

talk about it. But that was HRT as well.

So that's the severity that we put to this.

Q So an awful lot of predeployed assets.

A ERTs, CMTs, everyone else, yes.

Q Okay. We're shifting gears over to confidential human sources, CHSes, of course. There's been a lot of information of all types floating about about CHSes deployed here, there, everywhere.

Were FBI CHSes proactively deployed to the Capitol on January 6th of 2021?

A I didn't deploy -- my people, to my knowledge -- I didn't. WFO did not predeploy any CHSes. I can't speak for anything else that happened, but I know we did not. WFO did not. I didn't do it.

Q In your role as ADIC, you're of a high degree of confidence that Washington field did not?

A Correct. Washington field did not have C -- now --

Q Can you explain for the committee who may not understand what the protocol is for traveling CHSes from other field offices and how that's supposed to work?

A Yeah. It's supposed to work that the field office is supposed to notify the receiving field office that someone's coming to town or whatnot. That should be happening at the ground level, right. In most circumstances, when you go into someone else's territory, you're supposed to get approval from the SAC. It's dumbed down all the way down to the ASAC and SACs half the time, right.

So even like -- even in Baltimore coming -- you know, which is right next door, coming into WFO, technically, they're supposed to tell us when they're coming into WFO's territory. Realistically, does it always happen? No. And that's what causes some consternation, like, why are you doing an operation in our city? You know, and

the reason for that is because if there's a shooting or something happens, you need to know, right.

If all of a sudden FBI agents get into a shooting and I'm getting called by the deputy director saying your people are -- my people aren't deployed. What the hell's going on? Then that's a bad day. That's a problem, right. So that's normally what happens.

Q So what is your -- based upon that -- and thank you for the explanation for the committee.

What is your degree of confidence on that, that there were not other, perhaps, FBI CHSes that may have been onsite on January 6th?

A So my understanding now is there were CHSes onsite. So back then I didn't know that there were going to be CHSes onsite. I didn't.

Q Sure. And when you say now, with, of course, the benefit of hindsight, which we always bat a thousand, but with that being knowledge now, would that revise your prior, you know, understanding that Washington field may have had?

A Washington field may have had, but I believe my people would have told me if our CHSes were involved.

Q So you're referring to other divisions?

A Correct, right. So -- and I don't want to say that we didn't know, being WFO. I may not have known as the ADIC from up here, right. And, again, it gets delegated down. So the supervisors, those are the people you need to ask, or the ASACs, did they know that these people, particular people were traveling in, like the ones that are known to this day.

Like, I found out afterwards, through the course of the investigation of, like, this CHS from X city was -- you know, that's -- but the question that's always asked out there is

like, do we have CHSes in the crowd, right. So when we -- when we polled the field offices to find out if they're CHSes, the thing with the CHS is like -- and it's like there's a distinction that needs to be made.

Now, WFO may have had a CHS in the crowd that was a drug CHS, violent crime CHS, that didn't tell us they were going, right. People have a citizen's right to go and protest. We're not going to stop them from doing that. As you well know, we had FBI agents there. We had other government officials. People are there, right. That's -- I firmly believe that's their citizen's right, right.

So if a CHS was there and then we found out afterwards, that doesn't necessarily mean that there was malicious, nefarious action by the FBI to put that person there, right. They might have just been there and then told us after the fact that they went. That happens all the time. We don't have that much control over CHSes, right. The ones that are working off matters, yes, but the other ones, it's interesting.

So there's a lot of --

Q I understand the assessment.

A Yeah. There's a lot of other things that could have been involved, and it's not always malicious and nefarious, especially on the part of the FBI, especially on the part of the FBI.

[redacted] And how did you come to learn that there were CHSes onsite?

Mr. D'Antuono. Through the course of the investigation, as we were going through the investigation, it would have come up. I think at some point in time we were like -- it was chaotic, right. Obviously, January 6th, chaotic for you all here, chaotic for us during the investigation, crisis. January 20th, we still have the inauguration to come up, right. There's a lot going on, right.

So as these things were being put in place, I don't remember at what point, but I

think at one point we were like, we need to know how many CHSes were here, because that's going to be a question. You know, I'm not dumb. I've been through this before. We know this question is coming, right.

So I think we asked headquarters to do a poll or put out something to people saying was any CHSes involved. And I think that's when we started getting responses back.

I think also through the course of some investigations we would find out that there was a CHS involved. I remember particularly there was one from like Kansas City or whatever. That was like, okay.

Chairman Jordan. Were they known CHSes or unknown CHSes or both?

Mr. D'Antuono. Well, I think they were both. I think they were --

Chairman Jordan. So you now know that there were CHSes that the FBI knew ahead of time were going to be here on January 6th and that there were also some unknown CHSes who, on their own accord, decided to come here on January 6th?

Mr. D'Antuono. That is my belief, yeah. The one in particular I'm remembering was the Kansas City CHS that I believe the case agent knew he was coming because I think he told them, if I recall. It's possible WFO knew. I didn't know. And again, the --

Chairman Jordan. We now understand that there were confidential human sources that the FBI knew ahead of time were going to be here and those that they didn't know were going to be. There were both of those?

Mr. D'Antuono. I believe that, yes, through the course of what I learned after January 6th, yes.

[redacted]

Q And with the Kansas City confidential human source -- I believe we're talking about the same individual -- I think they were the subject of a New York Times article.

A I'm not sure.

Q And may have been reporting back to his FBI handler.

A Correct, yes.

Q Is that your recollection?

A While they were -- yeah, that's my --

Q While they were in the crowd.

A While they were in the crowd, I think, saying that they were going in. They were trying to stop some of the action happening and they left or whatnot. Yeah, that was -- but I'm not sure if that handler knew that he was coming or not.

Q Uh-huh.

A I want to say yes, but I'm not sure, right. That's, again, a question for headquarters or DTAS or whoever.

Q And when that poll came back from headquarters of how many --

A I'm not sure if there was a poll or not, but yes.

Q Yes.

A Okay. Yeah.

Q After you were learning of confidential human sources, were you able to quantify how many? Was it a handful? More than 10? More than 20?

A I think it was maybe a -- I think it was a handful, but I'm not -- I'm not honestly sure, right.

Q Okay.

A The ones that were bubbled up to us were like my level, because I was trying to deal with issues, right. As the ADIC, you have to fire a man or fire a woman that -- you know, a lot of stuff comes up and you have to deal with issues, right.

So some of these were like, oh, God, you know, what are we going to do about

this? We wanted to make sure we got it right, right. And we wanted to make sure we knew who was our -- so my recollection is maybe a handful of people, but I can't say for sure.

Q And kind of just -- not to speed ahead a little bit, but when did the WFO begin investigations that -- of individuals regarding events that occurred on January 6th?

A Immediately. Absolute -- it was -- I can't pinpoint. Once we got through the crisis, right, that's when you turned on the investigative wheel, right, and the gears. So once the -- I think you guys got back into session at like 8 or 9 or whatever, but we were still in the building, tact teams, evidence response teams, all that stuff till like 1, 2, or 3 o'clock in the morning, I believe, if my log -- like HRT didn't leave until like 3 -- I think 2 or 3 in the morning.

So throughout that, we started trying to figure out why this happened, right. Who did it? And who was doing what, right. It was just like any case, but it was a immense case, so --

Q And at what point during the day did HRT deploy, and at what point in the day did the SWAT teams deploy? If you can walk through that.

A Yeah. So I don't remember all the times, right. You'd have to -- I don't know if you have access to the logs, the surveillance logs, all that -- not surveillance logs. I mean the command post logs that we put together for everyone and their brother, OIG.

If I remember correctly the times that the Capitol was being breached or whatever, it was like 1, 2 o'clock. I think 2 o'clock or whatever.

I received a call -- we received a call through our command post for support, tactical support. Can you send the tact team? Because I had said previously to Steve Sund and everyone else that we have our tact teams on, right. So they can call out.

We have to go through our authority, right, go through CDC authority to make

sure that it's something we can do. That was like a no-brainer answer in 30 seconds, right. Yes, deploy. My tact team, I believe, got here within 10 minutes. That was one.

And then the other tact team came from the Maryland area. They would go in on scene. We redeployed them to the Capitol. They got here probably about a half hour later or something like that. And HRT, the call out to them, I think -- I don't know what time, but after the other two tact teams. And then they had to deploy here.

And that was the logistical problem with HRT, because they had to land someplace. I was not allowing them to land on the front lawn of the Capitol or anywhere in the vicinity. That would have been a bad day. And so we had to land them someplace else, and then figure out logistics of getting them from here to -- from there to the Capitol.

I'm dealing with everything else as the ADIC. I have a lot of people that are handling that stuff, so -- the logistics, so -- but I don't know times. You'd have to look -- if I gave you times, I would be -- I might not be right.

Q I'm sorry. I jumped in the timeframe a little bit.

A That's all right.

Q Did you receive any sort of direction from headquarters about how to pursue investigations into the events that occurred at the Capitol on January 6th?

A Yes.

Q And what were those directions?

A So -- all right. So initially, after a couple of days, right, maybe it was a week, everything blends together for me at this point in time, we wanted -- me and my team -- well, some -- well, my SACs and myself, my advisers, we were opening this case under a criminal investigation, under CID, right, criminal, under what we classify as a 72

case, which is obstruction, right.

So in our mind it was obstruction. So obstruction of Congress, right, a proceeding of Congress. Everyone can disagree or not disagree with the statute, whatever, but that's what we needed to open up a case under. So we opened it up under the umbrella with components of domestic terrorism, assaults against Federal officers, 176, which would be insurrection matters, and then other, right, if I remember the org chart that we had.

I believe, I'm almost positive, that we -- my criminal folks opened up a case in D.C. and actually opened up the investigation under the classification. We're a field office, right. We can run the investigation the way we determine to run the investigation. Headquarters found out that we did it that way, and I got a call from the deputy director saying that -- or someone. I think it was from the deputy, and just disagreeing with the way we opened it.

Well, he's my boss and, you know, I gave him my opinion as to why we needed to open it this way. He disagreed with it and said we're going to open it up under, you know, CTD, and they're going to program manage it in DTAS and all that stuff. And, again, I gave my opinion, like I think you see here that I give, but at the end of the day, there's nothing wrong with the way he wanted to open it. It was just, from my sense, my case management, the way my people articulated it to me, the way I saw it -- and I'm a criminal -- I worked criminal most of my career, right.

As an ASAC, SAC in Detroit, and then as the ADIC, I've always seen CI, CT, right, DT matters as well. And I understand the policies and procedures and how we do that stuff. So it's not -- it wasn't wrong to do it the way they wanted to do it. It wasn't wrong the way I wanted to do it either. I thought it would have been cleaner doing it the way we wanted to do it.

CID, in my opinion, has more resources to provide. They were going to offer a bunch of resources for us to provide. DTAS at the time didn't have as much people under them at that point to program manage the severity of this case. We saw it throughout the Washington field office as we were running these investigations, a lot of speculation that has come out from people and stuff that has been thrown at Washington field office after this. And so I could tell you that from the Washington field office perspective, that was not the way we wanted to work it.

Now, again, there's a DT nexus to this, right. You know, we worked -- the conspiracy cases were under my direction, right, so -- but I'm not -- I wasn't sure if everyone needed to be under a 266. So -- and not everyone is, right. There's a lot of AFO cases. There's a lot of 176 cases. Those are classifications, right.

[redacted] Do you recall how soon after the events you probably had that conversation with the deputy director as far as, you know, redirecting which headquarters entity would program manage it, you know, from CID to CTD? Was it days? Was it -- I know it's probably a mind melt as far as all that stuff, but what's your best estimate?

Mr. D'Antuono. I don't know, right. Everything blends together at that point in time. I'm not sure if it's weeks or months. It was probably within the first couple of weeks at least. It makes sense, because we were trying -- from a case management standpoint, we needed to figure this thing out. Best estimate at that point in time, there was 2,000 to 2,500 people that came into the Capitol or in the vicinity of what we would consider, me and my team would consider the restricted area.

I didn't believe that the restricted area went all the way to the grass, right. So working with the U.S. Attorney's Office and coming to an agreement with them, which they're very, very good, Matt and John Crabb and everyone there, it was fantastic

working with them. We decided that the steps, the scaffolding, you know, that area and then, obviously, if you entered the Capitol, you have to be looked at, right.

We have a responsibility to everyone in this country to do our due diligence to investigate, regardless of how you entered the Capitol, right. So that is my firm belief, right. And so we investigate; they prosecute, right. So in that respect of knowing the severity that we're going to have to do with this, we needed to case manage it, and I wasn't going to be able to do it from WFO. Just was not going to be possible, right.

So -- and I think this gets to your next questions as to the case management of it being in other field offices, stuff like that. I didn't have the resources to be able to do every single one of these cases and do my CI mission and my CT mission and my violent crime mission and protect this country from all those other actors that are in this city and do 2,000 to 2,500 cases as well.

And all those individuals went to other areas of the country because they weren't here, right. They're not residing here. So we needed Dallas or L.A. or Florida, whatever, to open up those cases. We were basically on the hook at the end because we're WFO and the U.S. Attorney's Office is here, which was decided by DOJ that the U.S. Attorney's Office was going to prosecute all these cases.

There's a lot of U.S. attorneys that disagreed with that across the country. They wanted to prosecute the cases in their -- but DOJ decides. Okay, fine. No problem, right.

So I'm probably getting ahead of you guys.

[redacted] And with the deputy director, did you have an understanding of why he wanted to classify the cases and use CTD?

Mr. D'Antuono. I can spec -- through my 27 years in the Bureau and seeing a lot of different things, I can speculate as to why, right. In my opinion, it's not from

politicalization of the Bureau. It's not to pad numbers for DT cases. It's not, right. That's just me, Steve D'Antuono, the way I understand it.

I've seen countless number of times in the Bureau, after 9/11, in which CTD gets the program responsibility for cases. Take, for example, the Las Vegas shooter, right. A tragic day. CID was running that case. We were program managing that case. I was in CID as a section chief at that time.

The AD was told by the deputy director -- I think it was AD McCabe at that time -- you're not program managing this anymore. It's going to CT. CID was like, what? That's just wrong, right. This is a -- there's no ideology here. We don't know it, right.

But the Bureau has a tendency to always go to the ideo -- like go to -- it's terrorism first and it's criminal after, much to the chagrin of law criminal agents, right. And it's not the Guardian cases, and it's not the padding numbers. It's just the way people have been brought up since 9/11.

A lot of our senior leaders are CTD people, right. They're not -- I don't know why there's not a lot of criminal people in it like myself, but a lot of our senior leaders are CTD. So they want it under their program. They understand that. There's things that we can do, tools, different tools that we can use, all that stuff, that we don't do on the criminal side.

So, you know, and there's -- but there's complexities to it too. Like in 266 cases, domestic terrorism, you have to open up a case on each individual, which is bizarre to me, but it's policy, right. It's just the way it is.

We don't do that in gang cases. We don't do that on violent crime. We don't do that on white collar cases. But on, you know, terrorism cases, that's what you do. It's policy.

[redacted]

Q It is policy, but you can understand the inevitable optic of --

A Absolutely.

Q -- a predicate event and a defined area of responsibility, a bad day for all of America, and then 2,500 cases scattered throughout the country that very easily tend to paint a picture of this broad-based, diabolical, metastasizing threat picture, which was honestly based on a very bad day and moment in time in one place.

A Yeah.

Q And the optic is --

A I get it. It's just -- it's not like -- I think you understand -- I understand the optic for the FBI, right. So that's not the optic WFO was trying to portray. I was really just trying to get the cases done, right, at the end of the day. And what's the most efficient and effective way of getting it done is spreading the cases out amongst the field offices.

We wanted to open up the criminal matters and do it that way. There were some DT components, obviously. There are some DT components to this, but I don't believe -- it's just my belief. I don't believe the deputy or the Director or anyone in that chain was trying to pad the numbers. In my conversations, I know them all personally, I don't see it that way, right.

And, look, I know what's been said out there by people. Like, I didn't get any extra bonus for putting a DT -- having 2,000 DT cases. I really don't, right. I didn't get a bonus when I left, right. It's like, I don't care about that. You can interview anyone that worked for me. I actually said that. I don't care about this stuff. I just want to do the job.

And so when I put things in place, I was a hybrid, like criminal and DT or CT when

they're doing crisis stuff, right, because it takes everyone to do it.

Chairman Jordan. You said you wanted to do the job.

Mr. D'Antuono. Yeah.

Chairman Jordan. And you felt the best way to do the job was for them to be assigned to the Criminal Division, not the Counterterrorism Division. And you said you had more resources, more people to handle the job in the Criminal Division. Is that right?

Mr. D'Antuono. That's correct.

Mr. Jordan. Okay.

Mr. D'Antuono. Yes.

Chairman Jordan. And then you also said that within 2 weeks of this terrible event, that within 2 weeks is when you had this conversation with the deputy director, and he instructed you, no, we're not going to do it that way. We're going to do it through the Counterterrorism Division.

Mr. D'Antuono. I think it was 2 weeks. I'm not sure. Like, I can't recall when Dave Bowdich left, because I don't -- it wasn't really -- I don't believe it was with Mr. Bowdich. I believe it was with Mr. Abbate. So it could have been a little bit longer than 2 weeks. I'm not -- yeah, I would have -- you'd have to check the records on that. I just -- I don't want to give you an answer that is not correct, sir. I believe it was with Deputy Director Abbate at the time. So I don't remember when Mr. Bowdich left.

Chairman Jordan. And just to go back when -- your service, Mr. D'Antuono, did you -- so from '96 to 2022, always had good recommendations, good evaluations, good always?

Mr. D'Antuono. Absolutely, sir.

Chairman Jordan. Is there certain awards you may have won or commendation

you received?

Mr. D'Antuono. I didn't care. I pride myself, but I didn't care about awards, sir.

Mr. Jordan. I understand. I'm the same way.

Mr. D'Antuono. I don't have like -- I don't have the director's award or the AG's award or anything like that. And I'm surprised I rose to the level of the ADIC with the mouth that I have and the opinion I have, because I did not -- from day one, how I entered, how I left was the same.

[2:19 p.m.]

Chairman Jordan. Yeah, we can pick that up in the few hours we've spent with you. But always stellar evaluations throughout your --

Mr. D'Antuono. As far as I know, yeah. I don't think I got any bad --

Chairman Jordan. You kept moving up, right?

Mr. D'Antuono. I kept moving up. But that doesn't preclude somebody from moving up, as you probably well know, right, so --

Chairman Jordan. Yeah.

Mr. D'Antuono. -- but not that I know of. I didn't have any, you know, problems with evaluations.

Chairman Jordan. Yeah, I find that interesting, and yet -- that you were suggesting some recommendations you made being, you know, overturned by folks.

Mr. D'Antuono. Well, I -- yeah, I have opinions of that, right? So I'll let those people believe what they want to believe, right? They don't listen to sometimes the experience that people have, and they discount it, so -- that's fine.

[redacted]

Q And the committee has learned that there were nationwide phone calls with field offices, kind of, coordinating --

A Oh, yeah. Okay.

Q And Mr. Thibault may have been involved, Timothy Thibault. Do you remember these calls?

A So I don't believe Tim was involved in that. And so --

Q Okay.

A -- I'll just lay it out, that Tim's a friend --

Q Uh-huh.

A -- right? I started with Tim. He came in in, I think, '97; I came in in '98. We were on the same squad together. I've known Tim 25-plus years, right?

What's been said about Tim is not true --

Q Uh-huh.

A -- is my opinion. I was the one -- as the ADIC, I was the one who had to deliver the news to him, so was there. I was the one who had to make the decision to move him on. He understood. He completely took responsibility for, you know, what he did.

Q Uh-huh.

A But if you look at Tim Thibault's record and look at the cases he prosecuted, you'll see there's no -- there's no politics there. He's a good guy.

Q Do you remember nationwide calls?

A I don't believe Tim was involved in any of those calls.

Q Okay.

A So there were nationwide calls at different points of time, in conjunction with DTOS, right, "DTOS" being the Domestic Terrorism Operations Section, right?

Through the course of the investigations, there were times in which we needed to talk to field offices to make sure that, you know, we're all communicating about the cases, right?

Q Uh-huh.

A And so WFO was in a precarious situation. I think this is where we get the knock. We're in the precarious situation of being DTOS, which I said several times to my people -- we've all said this, amongst my SACs and myself and ASACs -- like, we shouldn't be DTOS. That's not my function. I'm a field office, okay? I have responsibility for the field office. I'm not program management.

But DTOS had issues because there weren't as many people there, right? They just couldn't program-manage the severity of these cases, as many cases as there were. So there were times that came up, the field office had questions, and they weren't posing them to DTOS; they were posing them to my people. So, you know, there were questions that people had, and we tried to answer them.

This was a priority case -- these cases were a priority case from the Director and the Deputy Director. They were a priority. They both said it several times to all the SACs, the ADICs, and everyone out there that they're priority cases and we're gonna put the full force of the FBI to investigate all these cases. That was the direction we received at WFO.

When another field office would ask questions and say, we're not going to do something, I -- we get it. I get it, right?

Q Uh-huh.

A CDCs, legal people, have opined upon this as policy -- opined upon this. Don't take it up with WFO; take it up with headquarters, right?

Q Uh-huh.

A Because we're just trying to do our job, right?

And that's kind of what my people did. So the reports of all the supervisors and ASACs and the people that are trying to direct things -- Tim was not involved, as far as I know, in any of those -- he didn't work DTOS.

So, if he was involved in a nationwide call, it might've been -- the only thing I can surmise, it might've been during a command post, in which -- or during the initial course of the investigations when we had the command post up, from, like, January throughout the inauguration, and then some for the investigation, of briefings --

Q Uh-huh.

A -- right, a briefing as to what we're seeing on some of these things, some of these cases.

That's the only thing I can surmise, but you'd have to ask him, you know? And he would be the one to be able to tell you that. But he wasn't involved in the domestic terrorism matters. He barely was involved in this case, because after that was all done, he went back to his ASAC job.

Q Uh-huh.

And who was your counterpart at DTOS? Who did you speak with the most there?

A So it would've been Steve Jensen. I believe Steve was initially the -- yeah, I believe Steve was the DTOS section chief, yep.

Q So, if WFO needed to get in touch with Mr. Jensen, would you reach out to him, or were others reaching out to him?

A Yeah, it depended, right? So, as the ADIC, I would talk to anyone. It doesn't matter what level it was, right, you know? But Steve was section chief. That's a couple levels -- so his counterpart would've been the SACs, right?

Q Uh-huh.

A But because of the profile of this case, I was directed by the Deputy Director to be intricately involved with the January 6th investigations.

So I had a call every single day -- I don't know when 'til when, but it was a very long period of time -- with the U.S. Attorney's Office and John Crabb. Like I said before, John was leading, you know, the January 6th stuff. So we would just have a call to make sure there were no issues.

And in a case this complex, there were issues. There were minor issues and the big issues, the discovery issues. And with an attorney here, you understand, like, the

severity of the discovery in a case like this. Like, making sure that you get it right for discovery purposes is immense. This is a case like no other in this country. Unprecedented. 9/11 was so tragic, but it wasn't as involved, as many subjects as we had in this case.

So there's a lot of those issues, from administrative to CHSes, to just, you know, operational, to, you know, we need to go arrest this person or that person, that were decided on. And the things were going up to the DAG and up to the Deputy Director and back down to me, and I was going back up.

So, for communication purposes, the Deputy asked me to talk to John Crabb, who is not really my counterpart. The U.S. Attorney is my counterpart, right?

Q Uh-huh.

A John was low. But I don't care. I've known John for 20, 20-plus years. I'll talk to anyone. If we can resolve this stuff, let's do it.

So John, myself, Steve Jensen, my SACs, my ASACs, my SSAs, we're all on a call, mostly, every single day. It weaned at a certain point in time. We started going every other day, then once a week, blah, blah, blah. But in the beginning, it was every day that we were talking.

So Steve would've been on those calls. So we talked a lot. And sometimes Steve would reach out to me; sometimes he would reach out to the SACs. But we were all just trying to get to the root of, like, some of these issues and make sure that they weren't bigger issues -- case-manage correctly.

Q Uh-huh.

And to the extent that a field office had a concern or had a question about information they had received from DTOS or WFO regarding a January-6th-related case --

A Yeah.

Q -- would they reach out to DTOS or reach out to the WFO?

A Well, they should've been reaching out to DTOS, but they reached out to us. Because, again, we were the liaison between them and the U.S. Attorney, right? The U.S. Attorney's Office, for a time, was right across the street from Washington Field Office.

So we knew this was going to happen when we set it up this way, right? It's just -- it's inevitable. If the U.S. Attorney's Office wants something, they're going to come to the people that they know, and it's us, right?

Q Uh-huh.

A So, when there were issues, they were going back and forth, because the AUSAs are trying to work with the person in Dallas, Omaha, wherever it was. We were unfortunately in the middle of a lot of these situations.

Q Uh-huh.

A And then I'm in the middle, as the ADIC, getting the questions from the Deputy, which I don't even know the answers to half the time, so I have to reach down, because this is involving another field office and he's hearing stuff from other people.

Q Uh-huh.

A So it was this roundabout communication game that took up a lot of my time.

Q And would the WFO, through you, try to answer those questions, or would they give them to DTOS?

A Normally, we would try to answer the questions because it was the most efficient and effective way of doing it. And the supervisors or the agents or the ASACs would. A lot of times, what I would say to them was, like, look, if you need to raise this up the chain, raise it up the chain. Right?

Q Uh-huh.

A Have an ASAC call. Have an SAC call. If I need to call, I'll call.

And so there's a lot of different issues that came up with, you know, cases -- not opening a case, not wanting to open a case -- you know, all the stuff that you've probably heard about, right? And I'm not dumb; I know this is what you've heard about, and I know what you're getting at. That would've come through.

And I'm not sure what my supervisors and ASACs -- I wasn't in the room with them, right? But when I had conversations with an SAC, it was just like, "Look, you know, I completely agree. I understand you don't have the resources here, you don't have the resources there, you know. But you heard as well as I did, the Deputy Director and the Director have a priority. They want this case as a priority. I don't know what you want me to tell you, but, you know, I'm going to have to go back to the Deputy and say I had the conversation, and he's just going to call you. So cut out the middleman, because I have other things to do, and go right directly to the Deputy Director."

And I'm not sure what happened in a lot of these things. A lot of times, like, people were just, you know, "I don't have the resources to do this. This is an RA." You know? And, look, I've supervised RAs. I know what some people have said, right? You can't do everything in an RA. If you have a two-man RA, good luck.

[redacted]

Q Beyond resources, though, were some of those questions about whether there -- on a case-by-case basis, or a lead-by-lead basis perhaps --

A Yeah.

Q -- about sufficient predication? Were there discussions about predication?

A Yeah, absolutely.

Q About protected First Amendment activity --

A That's a --

Q -- that may or may not have gone on, and just merely, you know, being here wasn't predication, so to speak? Were there concerns voiced to you by others?

A There were concerns, not specifically voiced to me, but I believe there -- I know that there was to others, right?

And so there's a lot of legal complexities in these cases, a lot of policies, procedures, all that stuff, within DT cases, right? And I'm not an attorney, but we got legal opinions to do -- and that's not an excuse, right? It's just definitely not an excuse. But there's our legal people, our CDCs, in the field offices who would confer and say, "Well, we see it this way." And if, you know, attorneys --

Q Did you have a lot of pushback?

A Um --

Q There were so many leads going out. And we're talking thousands of cases --

A Yeah.

Q -- potentially. Was there pushback, again, beyond resources? I understand --

A Yeah, yeah. No, there was pushback, but it never got to the point where it was just, like, pushback like it was -- it was sort of like when I was trying to talk to the DOJ, providing a different opinion, right? And then we come to an agreement, like, "Okay, well, all right, I see your point now. Okay, we can do it under this," right?

And that happened a lot, right? That happened in a lot of cases, that -- and people could say we -- "we," WFO -- like, strong-armed them into that. To me, that's not true. I didn't strong-arm anyone into doing anything. And I'm pretty sure my people wouldn't have done that either. It just -- if the CDCs agreed and DTOS agreed

and the OGC agreed that it was within policy to open up that Guardian or open up that case, then that's what we did, you know -- they did.

I don't know, to the point of, like, how much other people had consternation about that.

Q Appreciate that. Thank you.

A Yeah.

Q I'm certain that was quite a goat rodeo to attempt to manage.

A Yeah.

[redacted] Mr. Jordan, did you have some questions?

Chairman Jordan. Do you think there would be -- the dossier was used as part of the premise for getting the FISA warrant. Would there be 1023s on the reports given to the FBI from Christopher Steele?

Mr. D'Antuono. I don't know anything about that case, sir. I don't. I just --

Chairman Jordan. I'm not -- I'm just saying, in general --

Mr. D'Antuono. Yeah, yeah.

Mr. Jordan. -- would you expect there to be 1023s on the reports given to the FBI by Christopher Steele?

Mr. D'Antuono. If Christopher Steele -- and hypothetically, right -- for process, if Christopher Steele was a CHS opened up by the Bureau, right, and there was conversations with him as a CHS, the memorialization of those conversations --

Chairman Jordan. Would, in fact, be a 1023.

Mr. D'Antuono. -- would be a 1023. That's just process.

Now, if there wasn't evidentiary conversation, if there was nothing to put in a 1023, you might not find a 1023.

Chairman Jordan. Okay.

Mr. D'Antuono. All right? That happens, so --

Chairman Jordan. Okay.

[redacted]

Q The committee has been told about information that Bank of America voluntarily provided to the FBI. Do you have any knowledge or awareness of the list that was provided?

A So I heard about it after the fact --

Q Uh-huh.

A -- that it happened, I think through the news reports.

Q "After the fact" meaning when? Just recently or --

A No, no, no. After, like, when we were going through the case and stuff like that, so -- the January 6th investigation. Like, I read on a report or something like that.

But I believe headquarters would've handled that. I don't know -- like, I don't think we did at WFO.

Q So you never saw the Bank of America list?

A Again, I was up here --

Q Uh-huh.

A -- so I wouldn't have seen something granular -- like, that granular.

Q Did any of your subordinates raise it to you?

A Not that I recall, no.

Q Another January-6th-related --

Chairman Jordan. Can I go back on the same --

[redacted] Oh. Yep.

Chairman Jordan. So when did you learn that Bank of America had provided information on people, their customers, who were in the D.C. area on January 5th, 6th, or

7th?

Mr. D'Antuono. Honestly, sir, I don't remember. It was probably through the course of the investigation at some point in time. It could've been weeks, it could've been a couple months afterwards. Whenever the article or report came out -- or, there was -- I think there was an article or a media report about it. That's probably when I heard about it. Up to that point, I hadn't heard about it.

Chairman Jordan. So you heard about it and you saw it in the press.

Mr. D'Antuono. Yes.

Chairman Jordan. But, then, did someone confirm that that, in fact, had happened?

Mr. D'Antuono. I don't know, because it wasn't something that I would've had to deal with. I had other things going on.

Chairman Jordan. Uh-huh.

Mr. D'Antuono. So, you know, in my experience, when there is terrorism-related crises or active-shooter situations or whatever, there's questions relating to people and, you know, financial information, and that's part of the normal course of the investigation, that we try to ferret out as to, you know -- that's part of the process.

Chairman Jordan. I see. So how do you -- you sort of ferret out financial information.

Mr. D'Antuono. Yep.

Chairman Jordan. How is that done?

Mr. D'Antuono. Normally through subpoenas, yes.

Chairman Jordan. Right.

Mr. D'Antuono. Yes. Or an NSL too, right? You know, an NSL is a subpoena for the national security stuff, so --

[redacted]

Q Would you characterize it as unusual, that that voluminous of a data set was just provided without process?

A I don't have enough information to be able to say it's unusual or not. I do know, in my experience of, like, dealing with white-collar cases, a lot of times there's informal information that you just ask if someone has a bank account, you know, information and stuff like that, and you don't get anything specific, right? You just know the -- to be able to go through and subpoena that, those records, at that point in time.

Q Did the Bureau follow up, to your knowledge, with process to go deeper if need be?

A I don't know. Honestly, I don't know anything about that, because it had nothing to do with what I requested or, to my knowledge, WFO requested. I don't know.

Q So headquarters would be the likely best place for those types of answers?

A There was a lot of people doing different things during January 6th and trying to run down information. Yes.

Q Okay.

A But WFO, to my knowledge -- to my knowledge, me and WFO did not have anything to do with that request.

Q And so you don't know if any investigations were predicated upon that information, specifically, in your field office?

A I don't know. I don't know the answer to that.

Chairman Jordan. Did any of the folks who worked for you at the Washington Field Office bring up Bank of America data on the people they were investigating? Did that come up in conversation with the agents working these cases?

Mr. D'Antuono. I don't recall that, no. And, again, the granularity like that wouldn't have bubbled up to me, you know? It would just be through the normal course of investigative, you know, techniques and stuff like that, if that information came up. So I was dealing with a lot of issues, right, if issues came up, fires and stuff like that.

Chairman Jordan. Were there any situations where a private company would give you information without first having a subpoena?

Mr. D'Antuono. Not that I recall. But there were a lot of complexities to the fact that, when companies have information, they can or cannot share that, right? So, being an all white-collar-crime agent and stuff like that, we have FIRREA laws, right? So, you know, Right to Financial Privacy Act. A lot of parameters around that.

Other information can be duly turned over by the company because they have the information for us. So, take a receipt or information that a private company has. They don't need a subpoena -- in my opinion, they don't need a subpoena, sometimes, to turn that stuff over.

So, when we go talk to the company -- and this is just hypothetical, right? -- I'm going to talk to any type company, and they say, "Hey, I want a subpoena for this," okay, we'll get you a subpoena, but you don't require the subpoena, right? There are certain parameters that require subpoenas.

So there might have been stuff that some company turned over I'm not sure of that would've not fallen under a subpoena requirement.

[redacted]

Q And another January-6th-related investigation we've become aware of is regarding a bus trip that 140 individuals from --

A Yeah.

Q -- Boston to D.C. rode together. The two individuals who organized the bus

actually entered the Capitol, and so they were investigated and, I believe, prosecuted.

And then there were some allegations that the WFO or DTOS had asked the Boston Field Office to investigate the other individuals on the bus.

A Yeah.

Q Do you have any recollection of that event occurring?

A So I recollect the information about the bus trip or whatever, the bus being here, shortly after January 6th, when we were trying to figure out who was here and all that stuff and was there a concerted effort to do this.

Q Uh-huh.

A I'm not -- like, I didn't have any involvement in what -- I know who provided the information to you all, or at least I was told, right?

Q Uh-huh.

A I never had a conversation with Joe Bonavolonta, the SAC -- it never raised to my level -- about their concerns about it. So I don't have, like, firsthand knowledge of what happened there.

I know what was said. I don't recall any of what was said happening at WFO or my people saying that type of stuff. But I don't have the specifics, right? If I had the specifics, I might be able to -- you know.

Q Uh-huh. And if SAC Bonavolonta contacted WFO or DTOS regarding this bus trip, who would he have contacted? Who would've been his point of contact, do you surmise?

A He most likely would've called me.

Q Okay.

A Because I know Joe, right? Joe and I came up in the Bureau together. He would've called me -- he's called me on other things too, right? Not these things, right,

but other matters, like, that don't involve stuff like this. So I would've surmised he would've called me. If he didn't call me, he would've called my SAC for counterterrorism, so --

Q And if one of his ASACs was communicating with the WFO or DTOS, who would the ASAC have gone through? What would their contemporary have been?

A It's usually ASAC to ASAC --

Q Okay.

A -- usually. You know, sometimes it goes ASAC to supervisor too, right? It depends. It's like, it depends if people care about titles and stuff like that, so -- or levels. And so the ASAC could've just called their counterpart ASAC there or one of the supervisors, so -- or a supervisor calls a supervisor, or whatnot, so -- yeah.

[redacted] I think we're nearing the end of our hour.

We'll go off the record. Thanks.

[Recess.]

[redacted] We can go back on the record, please. It's 2:50.

Hello again, Mr. D'Antuono.

Mr. D'Antuono. Hi.

[redacted]

Q Okay. A couple of questions, I guess, on the subject of the January 6th investigation.

A Sure.

Q You understand that the suggestion that the confidential human sources who were associated with the FBI and in the crowd on January 6th -- that the implication of that is this theory that somehow the FBI was directing those people and, again, orchestrating sort of a false flag. Do you understand that that's the suggestion?

A Absolutely, I understand that, yes.

Q And what is your response to that?

A That that is furthest from the truth.

Q Okay.

A It is -- like I explained in the last session, there was no nefarious or malicious -- in my opinion, no nefarious or maliciousness to having a CHS in the crowd, possibly going to the protest. That's, you know, what we have CHSes for all the time. You know, it was -- none of this was orchestrated by the FBI, nor myself, as has been talked about in other veins, you know, so --

Q Okay.

And then you talked quite a bit in the last hour about the organization of the January 6th cases, how they were classified --

A Yeah.

Q -- the relationship between headquarters and the field office. Do you recall those questions?

A I do, yes.

Q And isn't it fair to say that January 6th -- the investigations that followed were truly unprecedented in the criminal history of events of the United States?

A Oh, my good- -- it was the most unprecedented -- yeah, definitely, you know.

Q And that's the kind of situation where you'd expect program management to come in, correct?

A Yes. Yes.

Q Because it's unique, correct?

A Well, program management helps in cases when they're vast amongst -- all over the place, right? So, like, with this being a nationwide -- it wasn't just centered -- it

was centered here in D.C., but obviously it was nationwide. We've said that before within the Bureau, that this is not just WFO's problem or D.C.'s problem; this is a nationwide issue, right? Because everyone that -- not everyone, but most of the people that were here on that day that did whatever acts that they did, legal or not legal, went back to their hometowns in the country. So --

Q Right.

A -- there needed to be some sort of program management aspect to bring all that under, which -- you know, every division does program management. CID does program management; CTD. Headquarters' function is program management.

Q Okay. And just for the record, could you explain what "program management" means in this context?

A Yeah. It's not so much a direct -- like, from a CID perspective, right, from a criminal perspective, right, program management isn't about directing the traffic and how to do investigations. From CID's perspective, it's providing resources for the field offices to do the investigations, right?

So, as a section chief, I oversaw every single white-collar-crime case in the Bureau, all the public corruption and all that stuff. I had, like, 3,000. Did I really oversee every single one? No, but I had people to do it.

And so they were checking on the case, making sure that it was progressing forward in a reasonable manner. If there were issues came up or there were monetary issues that needed to be -- you know, a bribe payment or other authorities that needed headquarters' approval, that's what they're there for, from a program management standpoint.

Counterterrorism Division and Counterintelligence Division, different style of program management. They have a lot more oversight and direction as to how

investigations -- the process of investigations are, right, and what's going to take place, more so than CID.

Q Okay.

A So there's differing -- I'm just trying to explain -- there's differing levels and nuances of program management within the FBI. It's not one-size-fits-all.

Q Okay.

And you mentioned resources. That's one important component that can come from the program management, correct?

A Correct.

Q But, also, consistency is another issue, correct? Like, if you have a case like January 6th, where, again, as you just described, it's reaching all over the country, there's a value in having consistency in your investigatory and prosecutorial choices, correct?

A Yes. But there was a difference in a lot of these cases. So it wasn't cookie-cutter with January 6th.

Q Of course. No, that's not what I was implying. Yeah, of course it's going to be based on the defendant and the facts, right?

A Yeah. Well, it's also based upon what they did, right?

Q Of course.

A So we have assault-against-Federal-officer cases, which are not DT- or CTD-focused.

Q Sure.

A They're criminally focused, right?

Q But if you had similarly situated defendants, say, like, that entered the same area in the U.S. Capitol, you would want the FBI in Alabama and the FBI in Rhode Island to take the same approach in terms of whether that was the restricted area, for example,

and whether you would prosecuted a person who was here.

A So that comes down to a prosecution, not an investigation.

Q Well, even in the investigation stage, all I'm saying is, like, you want some consistency with respect to these novel issues that were presented to the investigators regarding discovery, regarding --

A Yeah.

Q You know, I mean, sedition is not a crime that is charged that often in the United States, correct?

A Yep.

Q But if somebody needed to look at that in this case, you want to make sure that, wherever you are in the country, you have a uniform understanding of the law. Is that fair to say?

A That's fair to say, but that's not how we set it up at WFO --

Q Okay.

A -- because Washington Field Office was doing most of the seditious cases. And then, from a prosecutorial standpoint, the U.S. Attorney's Office here was told -- well, they were doing all the prosecutions, right? So --

Q Yep.

A -- we try not to get involved in that for consistency's sake if a prosecution was going to take place.

Investigations, it depends on the -- it depends on the case, it depends -- like, Washington Field Office's DTOS is not telling every field office to do it one way or the other. There is no cookie-cutter way to do investigations. That's the problem, right?

I understand what you're saying. So the consistency portion of program management is to make sure it's consistent across the board. I don't know if really a

program manager gets to that level.

Q No, I wasn't trying to imply that the prosecutions were going to be consistent. I'm saying the novel issues that you were presented with for discovery, for example.

A Well, so discovery was run out of Washington Field Office --

Q Okay.

A -- right? We were the all -- we were taking every single -- I had a supervisor assigned to discovery, I had agents, we had TDY bodies, all at WFO, which was where a lot of these conversations were happening with other field offices --

Q Okay.

A -- you know? For a consistency portion, yes.

[redacted]

Q And I think you just said, and I just want to emphasize this, that the Washington Field Office was not telling other field offices how to run their cases.

A No. No. That should not have happened. You know, we may have given, like, you know, nudges, like, you know, "This is what headquarters expects. This is what the Deputy Director expects. Take it up with them --

Q Right.

A -- DTOS, if you have an issue." That's headquarters' job, is to program-manage these things, not Washington Field Office's job. We were adamant about that.

How far that was taken, though, when I'm up here, SAC, ASAC, SSA, and all the agents here, who knows, right? Because people might've said stuff that I don't know that they said. So I can't --

Q Understood. Understood.

A -- 100 percent --

[redacted]

Q Okay. Your background, substantively, in most of your career, was in the criminal context. Is that right?

A Yeah. So I -- most of it was in --

Q That's all.

A Yeah, yeah.

Q That was the question.

A Yeah.

Q And I'm just saying, in the --

A Well, it's like, as an ASAC and as an SAC, I did have CI and CT experience too --

Q Okay.

A -- because I was over a whole field office for almost a year in Detroit. So I don't want to be painted into a picture of all I have is criminal experience. I have plenty of CI and CT experience as well. I just never worked the cases -- which you don't need to do in the Bureau. You don't. As a leader, you don't need to do that.

Q Okay.

Fair to say that some of the facts that you were presented with in these cases could fall equally under a Criminal Division or DTOS? It's sort of redundant, in a sense, or either one of them could have proceeded?

A Yeah. So DTOS -- most of the time when you're doing a domestic terrorism, it's a criminal violation anyways, half the time, all right? Because there is no DT statute, as --

Q Right.

A -- we well know, right? And so most of that's coming under there. So it's apples and oranges.

And I'm not trying to portray that I was any different. Like, it was -- I just thought it would've been easier doing it the way we wanted to do it, like, under the umbrella of a criminal case, with branches. The Deputy decides it's another way? No big deal, you know?

Q Right.

A We did it the way he wanted it done. That's fine. "Roger that, sir. I'm onboard. Let's do it."

Q So you have no problem with the way they proceeded. Is that right?

A No, I don't have a problem with it. No. It just -- and it's not -- it was not nefarious, opening up DT cases. Like, in my opinion, there's no padding of the numbers. It meant nothing. In any context, from metrics, bonuses, or whatever else was said, it had no bearing whatsoever on what my counterpart peers and myself were doing.

I can't speak from headquarters, like, from the -- from the standpoint of how many cases we have and what they're trying to -- you know, show what they have. I don't know what people's motivations are on that. I don't want to believe it was nefarious or malicious. I don't lie. What's the point, right, in my opinion.

But, you know, I could speak for WFO and myself, that I didn't care if it was a DT case or it was a criminal case.

[redacted]

Q Were there tools available under criminal that wouldn't have been available under CID or vice versa?

A Nah, not really.

Q Okay.

A No. It was just -- from our standpoint, it was more or less -- so, from Washington Field Office's point, like, my CID branch -- my criminal branch was bigger than --

Q Okay.

A -- CT, right? CT was, I think, my smallest branch. It was just, you know -- or close to. So I have more resources in criminal.

Q Okay.

A Also, other than, like, violent crime -- like, there's white-collar crime that other agencies do. Violent crime, drugs other agencies do as well, right?

Q Uh-huh.

A Counterterrorism, counterintelligence no one else does. That's the Bureau, right? So am I going to be taking my agents from there and resource them to this and not be able to do the CT/CI mission? That's not good, in my opinion, right? We need to continue doing this.

So I had -- at one point in time, I had CI agents working a lot of these cases. Well, my SAC was like, "Boss, we've got things we could be" -- that's a bad day.

Q Uh-huh.

A Okay, we need to get these people off this case --

Q Right.

A -- and put them here. I have more resources in CID to work those things. Which, they're already working all the AFO cases, which is assault-against-a-Federal-officer cases, or the other cases that were not deemed, like, domestic terrorism. There were other cases that weren't all deemed domestic terrorism cases, right? But it came under the umbrella of mostly DT and CTD, right?

Q Uh-huh.

A But there were 365 officers -- or, 365 subjects, I believe, 160-something officers that were assaulted that day.

Q Right.

A There were a lot of cases that were worked by my criminal folks. So I don't want to imply that it was all worked by DT folks. It was worked by criminal as well.

Q Right.

A We were pulled in a lot of directions.

Q Right. You had to put a lot of resources on it.

A Absolutely. And as a manager, as a leader, I've got to decide what --

Q Right.

A -- best resources to put in place to be able to do my other jobs too, you know?

Q Right.

I'm sorry. How many police officers did you say were assaulted?

A I want to say it was, like, 160, 165.

Q Okay.

A There's -- you can look it up.

Q Yeah.

A There's been media reports on all that stuff. They have all the figures.

Q Yeah. Okay.

Q You would agree, though, that this was a very important investigation?

A Absolutely. Yeah, yeah. No, we put a priority to this. I believed in what the Deputy Director and the Director were saying, that this was a priority. You know, I said from day one that we were going to try to figure out why this happened, what

happened. Yeah, it was absolutely a priority, and my people at WFO know that I considered it a priority.

Q And did you follow many of the cases as they proceeded through prosecution and trial, just even in the news?

A Here and there. There were so many cases.

Some of the -- like, the seditious conspiracy cases or the conspiracy team cases, you know, the Oath Keepers/Proud Boys cases that came out, yeah, I needed to keep on track of that stuff, because those are unprecedented cases, as you said. Like, seditious conspiracy and stuff like that, that isn't normally charged, you know? So that I made sure.

But the other misdemeanor cases, some of the assaults-against-Federal-officers cases, obviously Officer Sicknick, right, all those things -- you know, the officer that died -- you know, those are -- made sure that we kept track. But all the 2,000-plus cases? No.

Q Did you guys also handle the one involving Officer Fanone?

A Yeah, I believe we -- yeah, we would've. Yeah.

The Officer Sicknick case, I think Capitol Police might've been running that, with cooperation with us.

Q Uh-huh.

A But it was just -- you know, still, we were all involved in all those things.

[redacted]

Q On Officer Sicknick, we've heard some testimony from people who say that, you know, his death wasn't the result of January 6th. Do you have a response to that?

A You know, I don't -- I'm not a doctor.

Q Uh-huh.

A I just know what the report said.

Q Yeah.

A I've seen the video.

Q Uh-huh.

A You know, other than that, it's like, I'm -- my opinion is, he died after January 6th and everything that he went through.

Again, I'm not a doctor. I don't know if -- like, it's not as clear-cut as he was shot --

Q Right.

A -- you know? But, yeah, I believe it was a law enforcement officer that died doing his duties, which is absolutely horrible.

Q Thank you.

A Yep.

[redacted]

Q I guess my final question: Are you proud of what the FBI did in that investigation?

A Absolutely. Yes.

Q Can you explain?

A You know, unprecedented.

A lot of the reports that came out were the fact that, you know, we didn't do enough, we didn't protect -- like, there was an intelligence failure. It was not an intelligence failure. In my opinion, it was a security failure. There wasn't enough protection that day.

I and my people -- I sent about 250 agents down there, plus -- all the components of ERT, everyone else -- to help the Capitol Police and our brothers and sisters, Capitol

Police and MPD and the rest of everyone else that responded that day, to push the people out of the Capitol and take the Capitol back, as my Deputy Director said we were going to do.

So that was important. And, then, after the fact, of trying to bring people to justice that perpetrated illegal acts, yes, you know, I firmly believe that, you know, what my people did in an unprecedented situation and continue to do is we follow the facts and evidence of cases. And that is what we did in this, with no bias whatsoever, one way or the other.

[redacted] That's all I had. Thank you.

[redacted] Thank you.

Mr. D'Antuono. Thank you.

[redacted] We can go off the record.

[Discussion off the record.]

[redacted] All right. We are back on the record at 3:08.

[redacted]

Q Okay. We're going back in time to your time as a special agent in charge of Detroit. You were in that position, I believe, in November of 2020?

A No. It would've been 2019. So I think I started in October 2019.

Q You started -- okay. And then when did you head back this way for ADIC --

A Well, I think it was actually September of 2019 I got to Detroit, Michigan. And then October 16, 2020, I took over Washington Field Office.

Q All right.

A So I was notified September of 2020 by the Director that I was getting the job. That's why a lot of the reports that say it was, like, days before January 6th are completely untrue --

Q Yeah.

A -- you know, so -- it was just --

Q It seems like there were a lot of reports about a lot of things that aren't necessarily right.

A Yes.

Q Okay.

So this may be even faster. Were you there at all when the Whitmer investigation --

A Yes, I was.

Q -- unfolded? We had some just general questions about some of that.

A Absolutely.

Q But, again, we'll move through these fairly quickly.

Okay. So, while SAC in FBI Detroit, in conjunction with the Department of Justice, as you know, filing a complaint against the six -- it was six men -- for an alleged plot to kidnap the Governor. Do you recall essentially why that investigation was opened, what the predicate was, at a high level?

A What I recall the predication being was that we had individuals that were conspiring to -- I'm not sure if it raised to that level of the Governor at that point or how we opened up the matter, but it was a domestic terrorism case that they were perpetrating to -- or, looking to conspire to -- I'm not sure what the definition or the opening of that case was, but it was a domestic terrorism case. I --

Q Yeah.

A I'd be --

Q I've seen the affidavit. I was just curious what --

A Yeah. I'd be giving, like, erroneous information, and I don't want to say

what I believe now in my head. That was 3-plus years ago, right?

Q No, that's fine.

A But it was a domestic terrorism case. There were a lot of conversations about, like, how to open it, what to open it under, all that stuff. And we went through the whole complexities of the policy and procedures that you go through for domestic terrorism cases. So, again, the CDCs opine on it, which is unusual -- not "unusual," but happens in all DT cases because that's policy. So --

Q And I know domestic terrorism cases are unique within the terrorism sphere of operations because of the U.S.-person status and things of that nature.

A Absolutely, yeah, versus --

Q Can -- better you than I -- can you maybe articulate for this committee just a little bit as to some of the steps you may have to jump through in that sort of investigation, for domestic terrorism?

A Yeah. So, because it's a U.S. person, it's extremely sensitive, right? We don't want to be opening a case on a U.S. person that is wrong, right, not factually based, right? And so the predication -- there's a high level of predication, which, at the end of the day, we have to have the CDC opine on that, the Chief Division Counsel, opine on making sure that we're within the parameters to open up a case. So it's one of the higher sensitive cases in the Bureau.

Q Do you recall any external pressure, outside of just the investigation and the facts that supported that, to open up the investigation?

A Oh, absolutely not, no. I never got any external pressure on that.

Q At the time as you were SAC, were you briefed that several of the defendants in the case were allegedly destitute at the time of their recruitment by the FBI? Were you aware of some of their status?

A I was not briefed or aware that they were destitute, no.

Q For example, according to one of the defense attorneys, one defendant was living in a basement of a vacuum repair shop in Grand Rapids in a strip mall, with no running water, toilet, et cetera.

I was just wondered if any of those details were --

A I was aware that he was living at the basement of a vacuum shop, but I was not aware of the no running water and no toilet. I don't believe that ever came up to me.

Q I know there were multiple sources employed in the investigation. Was the original source reporting used to predicate this investigation -- to your extent, was it corroborated, from what you saw, through --

A At this point, I can't opine on that. Again, that was a long time ago. And if I saw the case file or whatever, I could give you more of a definitive answer on that.

Q Sure.

A But it's too long of a period of time, you know?

Q Understood.

At any point from the initial receipt of source reporting, did either FBI headquarters or DOJ provide any direction or guidance with respect to this investigation or its steps, to your knowledge?

A Well, yeah, because it's a DT case, so it comes into the DTOS and program management of headquarters, right? So there would've been opinions thrown back and forth, and I believe there was conversations going back and forth between my people and DTOS and our CDC and everyone to say, is there enough predication to open the case? Because they have to come under that program management, and you have to have a conversation with headquarters.

Q Sure.

A Unlike in, like, a criminal case, where you just open up it on your own and just work it.

Q Yeah. And that is a distinction which you made for the committee earlier --

A Correct.

Q -- with regards to terrorism and counterintelligence investigations.

A Yes.

Q To my understanding, those were more headquarters-driven programs in that regard.

A You're correct.

Q According to evidence presented at the trial, the FBI's case involved at least 12 confidential human sources, CHSes, as well as undercover employees.

Does that sound accurate, from what you recall?

A I don't remember, at the moment, the number. Again, it was a long time ago.

Q Would you have by chance recalled if any of those CHSes had issues with their past reporting?

A I don't -- I can't recall about that stuff.

Q And would it have been normal or would you have been briefed or asked about, inquired about the reliability of any of those CHSes, as the SAC?

A I wouldn't have. I'm the SAC. I have an ASAC, a supervisor, and the case agents dealing with this. There were several ASACs because it crossed a lot of different territories, the Eastern and Western District of Michigan. Two U.S. Attorney's Offices involved too.

I was getting briefed on it. I wasn't involved in the inner workings of what was

going on.

[redacted] So you would say your ASACs were more involved?

Mr. D'Antuono. Absolutely. Yeah. Well, that's the normal course of everything, right?

[redacted] Uh-huh.

Mr. D'Antuono. So, as the SAC, you're leading the office. You're getting briefed on certain things and certain cases that are important, through, like, the $50,000 white-collar case all the way up to the DT case. So you have conversations all the time with your ASACs --

[redacted]

Q So your National Security Branch ASAC in that case.

A Correct.

Q How many ASACs did you have in Detroit at that time? Do you recall --

A I think it was --

Q -- how that was broken down?

A -- five.

Q It seems in later years that that --

A Five. Yes.

Q -- sort of --

A Five and an SSIA, which was a supervisory intelligence analyst.

Q Do you recall if terrorism and counterintelligence were broken out, or were they under one ASAC?

A So, at that time, counterterrorism was -- I had an NSB ASAC, National Security Branch ASAC, right?

Q Okay.

A The way the field office was, we also had ASAC out in Grand Rapids, which was the Western District, right? That covered the Western District. I had an ASAC that was responsible for the Eastern District RAs --

Q Okay.

A -- right? A national security ASAC, a violent crime ASAC, a white-collar ASAC, admin ASAC, and then an SSIA. That's six, right? I think I got that right.

Q Yep. Yep.

A So the thing --

Q Three programmatic ASACs and two ASACs that covered resident agencies --

A Correct.

Q -- territorially?

A But, you know, [redacted] like, all the cases I worked out of RAs, we have a responsibility to the RA to come under that ASAC.

Q For the program?

A And then the program NSB is involved in that. So there was a complexity there with the way it was structured. I walked into that structure; I changed the structure afterwards -- not after -- you know, before the Whitmer --

Q So this may have actually had a couple different ASACs involved. And --

A It did.

Q -- I guess the nature of my colleague's question would be, if we were going to seek perhaps further information about that particular case, what would your recommendation be? Who would have more granular knowledge per se?

A Okay. There were three ASACs, to my knowledge, that were dealing with that matter.

Q Any still current in the Bureau, to your knowledge?

A Two are, I believe, yes.

Q All right. Anyone in particular whose name comes to mind if we did have further questions along those lines?

A I don't want to throw them under the bus.

[redacted]

Q Were you familiar with any of the CHSes that were used in the Whitmer plot? Did you have any knowledge about them?

A No, other than after -- like, I'm here. When the trial was going on, I started reading the reports and stuff like that. No, I just -- that stuff didn't really -- there were no issues that were coming up, right? If there was an issue I needed to deal with as an SAC, I would've dealt with it, but, honestly, in that case, there were really no issues that came up.

Q Uh-huh. And are you --

A To my level.

Q Do you remember a CHS named Dan Chappel?

A No.

Q No?

A Other than, I'd probably remember him from the media reporting and stuff like that, the trial.

Q Do you ever remember it coming up during the course of the case, plans to take similar action regarding the Virginia Governor?

A Yes, I do remember there was a -- there was information that was coming out that the Virginia Governor, you know, might've been involved in this conspiracy as well. Not "involved," but --

Q Yeah.

A -- the action against him. He wasn't involved in a conspiracy.

Q And were you learning that at the time that the case was occurring, or did you learn that after the fact?

A No, I believe I learned that during the case.

Q Uh-huh.

A There were a lot of other -- there were a couple other DT cases around the country that we were working, too, at that point in time.

Q Uh-huh.

A I don't remember all the case numbers or anything like that at this point, but there were other cases that were involved -- I think the group was called The Base, I believe, right?

So there were other things that were involved there. From a program management aspect, that's why DTOS was involved in a lot of these things, right, in trying to -- as somebody asked what program manager -- like, making sure the dots were being crossed amongst all the field offices and that people had the flow of information that was correct, right? And that happens a lot, DTOS and CID and CTD making sure that people weren't stepping on each other.

Q Did you ever interact with the Virginia Field Office that had responsibility over --

A That would've been Richmond. No, I don't believe I had a call with Richmond Field Office. Now, my people might've, right? My ASAC and stuff like that, but --

Q Uh-huh.

A -- you know.

Q Were you ever briefed on any conversations that took place between the

Richmond Field Office and your field office?

A I don't recall. I really don't. I may have been, but I don't recall what my ASACs would've told me, at this point, so --

Q And was there a regular briefing that you had with your ASACs regarding this specific case?

A No.

Q Okay.

A This is -- this is not, like -- it wasn't, like, this huge case, like, that I needed to be briefed on all the time.

Q Uh-huh.

A So I had meetings weekly with my ASACs. We all sat on the same floor and all that stuff, most of us. Out in Grand Rapids, the ASACs sat in Grand Rapids. But we were all in communication through Teams meetings.

Also, you've got to realize, I believe this was -- case is opened; COVID happened.

Q Uh-huh.

A Right? So that threw in a whole different complexity to this case as well, right? Because, for a time, when everyone else was out of the offices, we were out of the offices. So a lot of what I was dealing with was keeping the morale and my office functioning along all lines.

So this case would've just been one case out of so many others. It wasn't that, like, "Oh, my gosh, this is the most incredible case in the world"-type stuff. No. I had a violent crime issue in Detroit too, right?

Q Uh-huh.

A So I was dealing with a lot of violent crime stuff. That was the summer, you know, we had the unrest. I was dealing a lot with that too.

So this is just one -- that's why a lot of this reporting that came out, I'm like, this is just a normal case. This wasn't botched. It was just a normal case. And it wasn't that, like, spectacular.

Q Uh-huh.

A I don't know. I didn't see it that way.

Q And you said you followed the trials when they occurred, or saw some reporting on the trials?

A Well, yeah, I did, because of what was being said about me, being botching the investigation and how I ran that into ground, and then I became the ADIC of WFO and the Director put me down there to run the false-flag operation. I wanted to -- I had a vested interest in seeing what happened with the trial, you know?

Q Uh-huh.

A And it was also my old field office too.

But there were a lot of issues that popped up in that trial, or before the trial, that were completely out of the control of the FBI -- completely out of control of the FBI and myself and my ASACs, you know, that caused a lot of questions with that.

Q Uh-huh.

A You know, you don't have a crystal ball to know that one of your agents is going to commit domestic abuse against his wife.

Q Uh-huh.

A Who was an undercover agent as well, which causes problems.

And anyone that's ever worked cases, prosecuted or investigated cases, it's not about the evidence; it's about the people presenting the evidence. Like, if you can't attack the evidence, you attack the person.

Q Uh-huh.

A So that was just like, oy vey, you know? That's not good.

Q And when you were reading the reports about how you had, as you said, botched the investigation, what were some of the ways that they said you had botched the investigation?

A There was no specifics.

Q No specifics? Just --

A Oh, no.

Q -- that it was botched?

A It's just that it's me and I'm the ADIC of WFO and I obviously botched the investigation.

Q Uh-huh. And --

A There was so much innuendo and speculation that was so untrue. And there were people here in this -- the other building that made accusations against me in a committee hearing.

Q And do you remember during the trials the defense attorneys brought up the entrapment?

A Yes.

Q What did you make of those arguments?

A So, in my opinion, there's no entrapment issues, right?

Q Okay.

A So cases like this, domestic terrorism or IT cases or whatever, right, when there's a -- when information comes in that somebody wants to do an illegal act, be it an IT case or a DT case -- and I'll go back to St. Louis to give you an analogy, right?

So, during St. Louis -- and this is probably little-known, but -- during St. Louis, leading up to the announcement, we had information that came in that a couple of

New-Black-Panther-movement individuals wanted to get a bomb and throw it at Bob McCullough -- McCulloch, I think, is Bob's last name -- the prosecutor --

Q Uh-huh.

A -- and Chief Belmar, I believe. They wanted to throw bombs at them and blow them up.

We get that information from a CHS or -- I forget where we got it from, but I think it was a CHS. So the SOP in the Bureau is what we normally do, is, we're going to try to corroborate that information, and we're going to send in the CHS to record the conversation.

You record the conversation, the people saying in their own words, yeah, they want an explosive. We tell the CHS, we got a guy -- or a girl -- right? "You need explosives? We can help you with that." They say, "Yeah, absolutely, we're going to do it." That's in their own words, right? We're not putting that in their mind, but if they want something, guns or whatever, that's the standard operating procedure, right?

That case, we eventually prosecuted those two individuals because we took them down during a -- when they were going to buy the explosive from an undercover FBI agent.

Q Uh-huh.

A All right? It's the same thing -- DT case, New Black Panther movement.

Fast forward, now I'm in Detroit. Same type of scenario, different players. Same SOP, right? Take it from an IT perspective. We have an individual that wants to, you know, do harm to an Army Reserve center. Same thing. Or go shoot up the CIA headquarters. Same thing.

[redacted]

Q I know undercover operations were utilized in that particular case with

Whitmer.

A Yep.

Q Was that a Group 1 or a Group 2? And we can describe for the committee what the difference is. Do you recall?

A I don't recall. But the -- you know, I've forgotten a lot of the policies as to what raises to the level of a Group 1 versus Group 2, right?

Q Usually the scope and scale of --

A Yeah. I want to say it would've been a Group 1 most likely because of the sensitivity of that and also involving the Governor, I think. I want to say it would've been a Group 1. But there's really --

Q So Group 1 was being approved at headquarters --

A Yeah.

Q -- and Group 2 in the field. Do you recall any stipulations in those approvals? You know how oftentimes they'll stipulate --

A Yeah, yeah. Yeah.

Q -- perhaps "yes, but," you know.

A That's another -- yeah.

Q But do you recall any particular right or left bumpers on the use of that undercover operation?

A I don't. I don't recall, like, the -- well, I don't recall if it was a Group 1 or a Group 2, so I wouldn't recall the stipulations on that. If I saw a document in front of me --

Q That's fair.

A -- yeah, I could read that for you, if you had a document.

But, you know, undercover operations are very sensitive operations, all right?

We had two U.S. Attorney's Offices that were overseeing this, right? I'm not an attorney; I've said that several times, right? So, from an entrapment issue, the attorneys, the agents, everyone is looking at -- or, listening to the recordings. Entrapment is a big issue in undercover operations. We want to make sure we're not entrapping anyone. It was the opinion of the U.S. Attorney's Office, the prosecutors -- not my opinion, not the investigators' opinion -- to prosecute this case the way that they did, with the opinion that there was no entrapment.

So they say we entrapped? We got a ton of people, attorneys that are much smarter than I am, saying that we didn't. So that's why I take umbrage with the fact that we botched anything.

[redacted]

Q I know earlier we asked about the role of confidential human sources and undercovers in January 6th.

A Yeah, yeah.

Q Are you aware of the Ray Epps story?

A Yep. I am very aware of that.

Q What can you tell us about your awareness of the Ray Epps situation?

A I feel awful for Mr. Epps because he has been wrongly accused of being a CHS and I think it's ruined his life.

Q Okay.

A So it's horrible. And, to my knowledge, I know nothing about Mr. Epps being a CHS for the Bureau.

Q Uh-huh.

A As far as I'm aware, he was not a CHS for the Bureau or had anything to do with the FBI.

Q Okay. Do you know why he wasn't -- you know, after January 6th, he was featured on the FBI's -- I think they had a "most wanted" poster --

A Yeah.

Q -- and he was one of the --

A Yeah. So, when we were coming up with, like, who's who, right, at the scene, like, my agents and analysts were poring over so much video, right? So we were trying to figure out what people did and if they did an illegal act, right? So, in order for us to identify people, we asked for the help of the public, right?

Q Uh-huh.

A So one idea was to put their photos on a website.

Q Uh-huh.

A Why he was taken off or not taken off, there was a -- I didn't have this discussion -- there was a discussion that happened someplace else, and I heard about it. And I'm like, "Just take him off, and explain why you took him off."

But I think the rationale of how it went, no one explained. And the Bureau, in my opinion, just doesn't explain very well --

Q Right.

A -- right? We don't give the narrative, so people come up with a narrative. And then when they come up with the narrative, the Bureau doesn't correct the narrative --

Q Okay.

A -- right?

And so it was an unfortunate -- I feel absolutely awful for Mr. Epps that it came to that and no one was responding. And then all this rumor and innuendo was out there by media and everyone else that we could've maybe answered but maybe -- I'm also

not -- like, I'm a realist too. A lot of people don't believe what the FBI has to say nowadays anyway, so we could say until we're blue in the face, "I'm saying right here that Ray Epps is not a CHS" and people are not going to believe me.

Q Right.

And you're aware of the YouTube footage of him talking the day before January 6th about how we're going to do this and we're going to do that and --

A I've never watched the video. I've heard about the video. I've read the media reports and stuff like that. But I've never watched it, so I can't, you know, opine on that.

I've heard the media reports about, like, how he said, like, don't do this, don't to that --

Q Right.

A -- we're going to do this, type stuff. He's not a CHS for the Bureau --

Q Okay.

A -- you know? As far as Steve D'Antuono, ADIC of WFO: I don't know of Mr. Epps being a CHS for the Bureau, unequivocally.

Q Uh-huh. Okay.

And do you know if the FBI interviewed him about what his role in January 6th was?

A So it'd be speculation. Like, if he was on our photo lineup, we should've interviewed him --

Q Okay.

A -- right? And I do believe he was interviewed, but I'm not 100 percent sure. I'd have to check with my people.

Q Okay.

And are you aware -- I mean, there are some trials proceeding in the present day where it's been represented that Mr. Epps whispered in their ear, you know, you should do this or you should do that. Are you aware of that?

A Only in what I heard from the media reports.

Q Right.

A But, you know, as far as I know, he was not directed by the FBI to do anything. I don't know that he's a CHS for the Bureau. I don't have that -- you know. But I think the Bureau -- I believe the Bureau has answered the fact that he was not a CHS, so --

Q And so you're not sure whether the FBI came to a conclusion about why Mr. Epps was saying what he was saying the day before but then decided not to go in the building? Or --

A I think that's more of a question for Mr. Epps, but I do --

Q Right.

A -- think we probably interviewed him to make sure that -- you know, to carry the investigation further, right, to see if he did any illegal acts or not. And then he was washed out and not being the subject and not prosecuted.

Q Okay. Even though he was on the Capitol Grounds and he was in restricted space?

A Well, so the restricted space is -- you know, I think I described before, like, it depends on where he was, right?

Q Right.

A So restricted space -- and I'm going to use, like, 3rd Street over here, right? So the grass area here with the restricted -- that was deemed restricted initially, right? And you go all the way to the Capitol over here, with the scaffolding and the stairs.

Q Uh-huh.

A I don't know where Mr. Epps was, but, in my mind, in my opinion, what I discussed with the U.S. Attorney's Office and with DOJ and I think we ultimately compromised on was, this was not going to be prosecuted.

Q Okay.

A If we prosecuted this many people, we'd be at this for decades --

Q Uh-huh.

A -- you know? And, in my opinion, they didn't -- there was nothing wrong here, right? We needed to do what's the most priority, right? And that was the people that incited the riot, the people that broke stuff, stole stuff, broke in, you know, the assaults against Federal officers, domestic terrorism, you know, all that stuff.

[3:31 p.m.]

[redacted]

Q Okay.

So you don't have any specific information on Mr. Epps that would help our Members understand the apparent conundrum?

A I do not. And that's something I was never briefed on at all. Again, it didn't even raise to the level of the ADIC at WFO because there was nothing there there.

Q Right.

A There was nothing. You know, this is like -- when we saw the reports, we were like, "What is this? This is wrong."

Q Were you ever a part of communications regarding the media response to Mr. Epps -- the Mr. Epps story?

A No. That wouldn't have even come under me anyways. That would've been handled by OPA and the Deputy's office, the Director's office, or whatever, as to the response.

Like, even at WFO, like, the thing at WFO is like, even if we wanted to make a media response on something like January 6th, it went all the way up to headquarters.

Q Right.

A I couldn't decide, as the ADIC, what to do --

Q Okay.

A -- in that kind of bind, right? So -- which is fine.

Q Okay.

[redacted] All right. We're going to go off the record.

[Recess.]

[redacted] Okay. We can go back on the record. It's 3:34.

[redacted]

Q Okay. Mr. D'Antuono, regarding the Whitmer case when you were in the Detroit Field Office, you discussed reports -- or, criticism that you had botched the investigation. Do you recall those questions and answers?

A Vividly, yes.

Q Okay. Is it fair to say that you couldn't have botched it too badly because the lead defendants in the Federal case, Adam Fox and Barry Croft, were both convicted at trial? Mr. Fox was sentenced to 16 years in prison; Mr. Croft, 19 years and 7 months, correct?

A That is correct, yes.

Q And that was a verdict by a jury on charges of kidnapping, conspiracy, and conspiracy to use a weapon of mass destruction, with respect to Mr. Fox; and then Mr. Croft, same charges but also possession of an unregistered destructive device, correct?

A That's correct, yes, as far as I know, yeah.

Q Yeah. Those are serious charges, right?

A Oh, absolutely, yeah. Yeah.

Q And the confidential human source that was used in that case that was discussed earlier, Mr. Chappel, I know that you said your memory of this isn't super-sharp, but do you recall that he actually approached the FBI and that it wasn't the other way around? He came to the FBI via local law enforcement, correct?

A I believe so, yeah. I'm not, like, 100 percent sure, but, yes.

Q And he was someone who had sympathies with this group and wanted to kind of train with them, in his own words --

A Uh-huh.

Q -- and then became concerned with some of the things that he heard on his own, correct?

A That's my recollection, yes.

Q And he went to local law enforcement that he had personal relationships with, and then local law enforcement went to the FBI, correct?

A It sounds correct, yes.

Q And, ultimately, someone at the FBI asked him at that point to continue his connection with this group and to become a source for the FBI?

A That's what we normally do, yes.

Q Okay.

And in the handling of Mr. Chappel and other CHSes in that particular case, was there anything that you thought was inappropriate or unusual?

A Not that I saw or witnessed, no.

Q And did you think that case was properly predicated?

A Absolutely, yes.

Q Okay.

I'm going to have marked as exhibit 8 -- this is just the press release from the United States Attorney's Office that announced the sentence in the cases that we mentioned.

A Thank you.

[redacted] We should probably mark them as 8 and 9.

[redacted]

Q Yeah. Sorry, 8 and 9. There's actually a separate release for each of the defendants.

A Okay.

Q But they're stapled together.

A Oh, okay.

Q Yeah, they're connected, but they're actually two different press releases.

[D'Antuono Exhibit No. 8

Was marked for identification.]

[D'Antuono Exhibit No. 9

Was marked for identification.]

Q I'm just introducing that. You've already testified to the sentence, which is just written out in this exhibit.

A Yeah, one's DOJ, and one is the Western District.

Q Okay.

Now, regarding the use of confidential human sources and undercover officers, those law enforcement methods or tools are used in a variety of criminal cases, correct?

A Absolutely, yes.

Q They're used frequently in narcotics cases?

A Yes.

Q Also in child exploitation cases?

A Correct.

Q You'll often have an undercover officer who is posing as a child, for example?

A Correct, yep.

Q And that type of technique is very important in gaining evidence in those cases, right?

A Absolutely, yes.

Q Even though theoretically a defendant could raise the defense of

entrapment, often those cases still garner enough evidence to overcome that at trial, correct?

A The majority, I believe, do, yes.

Q And in this case that's what happened?

A Absolutely, yes.

Q Okay.

Do you think that it was important for the FBI to investigate the plot to kidnap and kill Governor Whitmer?

A Absolutely.

Q And why is that?

A It's a serious matter. You know, to conspire to, you know, kidnap and possibly kill a Governor -- or anyone, for that matter; it doesn't even have to be a Governor -- is a serious thing. You know, we take violent crime completely serious, right? And, in this case, there was a conspiracy to do that.

Q And would the FBI's handling of the case have been any different if you'd been investigating a plot to kidnap a Republican State official?

A God, no. No. Absolutely not.

Q Was the investigation politically motivated in any way?

A Absolutely not. No.

Q And was there any outside influence from headquarters or any part of Department of Justice, outside of the field office, that was trying to influence your steps?

A I never talked to anyone at headquarters or DOJ about this matter until it came down to the final operation.

Q Okay.

[redacted] That's all I had. Off the record.

[redacted] Thank you. We're done.

[Whereupon, at 3:39 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: CHARLES DAYOUB

Tuesday, June 13, 2023

Washington, D.C.

The interview in the above matter was held in room 164, Cannon House Office Building, commencing at 10:01 a.m.

Present: Representative Jordan.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

[redacted] GENERAL COUNSEL

[redacted], DEPUTY GENERAL COUNSEL

[redacted], RESEARCH ASSISTANT

[redacted], COUNSEL

[redacted], CHIEF COUNSEL FOR OVERSIGHT

[redacted], SPECIAL COUNSEL

[redacted], MINORITY CHIEF OVERSIGHT COUNSEL

[redacted], MINORITY INTERN

[redacted], MINORITY PROFESSIONAL STAFF MEMBER

For the FEDERAL BUREAU OF INVESTIGATION:

[redacted], ASSISTANT GENERAL COUNSEL, OFFICE OF GENERAL COUNSEL

[redacted], ASSISTANT GENERAL COUNSEL, OFFICE OF GENERAL COUNSEL

[redacted] We'll go on the record.

Good morning. This is a transcribed interview of Special Agent in Charge Charles Dayoub. Chairman Jordan has requested this interview as part of the committee's oversight of the FBI.

Would the witness please state your name for the record?

Mr. Dayoub. Sure. Charles Dayoub.

[redacted] Could agency counsel please state your names for the record?

[redacted] Sure. [redacted] from the FBI's Office of General Counsel.

[redacted] [redacted] from the FBI's Office of the General Counsel.

[redacted] Mr. Dayoub, you do understand that agency counsel has a primary fiduciary duty to the Bureau and not to you individually?

Mr. Dayoub. Yes.

[redacted] And so you would like to continue with agency counsel today?

Mr. Dayoub. Yes.

[redacted] On behalf of the committee, I want to thank you for appearing here today to answer our questions. The chairman also appreciates your willingness to appear voluntarily.

My name is [redacted], and I'm with Chairman Jordan's staff.

I'll now have everyone else from the committee who is here at the table and in the room introduce themselves as well.

[redacted] I'm [redacted] with Chairman Jordan's staff.

[redacted] [redacted] with Chairman Jordan's staff.

[redacted] [redacted], chief oversight counsel for the House Judiciary Committee, Democratic staff.

[redacted] [redacted] with the House Judiciary Democratic staff.

[redacted] [redacted], legal intern, Judiciary Democratic staff.

[redacted] [redacted] with Chairman Jordan.

[redacted] I'd like to now go over the ground rules and guidelines that we'll follow during today's interview.

Our questioning will proceed in rounds. The majority will ask questions for one hour and then the minority will have time to ask questions for an equal period of time.

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

Do you understand that?

Mr. Dayoub. Yes.

[redacted] So the court reporter can take down a clear record, we will do our best to limit the number of people directing questions at you during any given hour to the people on the staff whose turn it is.

Please try and speak clearly so the court reporter can understand and so the folks down at the end of the table can hear you as well.

It's important that we don't talk over one another or interrupt each other if we can help it, and that goes for everyone present at today's interview.

We want you to answer our questions in the most complete and truthful manner as possible, so we'll take our time. If you have any questions or you do not understand one of our questions, please just let us know. Our questions will cover a wide range of topics, so if you need clarification at any point, please just say so.

Typically, we take a short break at the end of each hour. If you would like to take a break apart from that, please just let us know.

If you honestly don't know the answer to a question or do not remember, it's best not to guess. Please give us your best recollection. And it is okay to let us know who you learned the information from.

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

You should also understand that by law you are required to answer questions from Congress truthfully.

Do you understand that?

Mr. Dayoub. I do.

[redacted] And this also applies to questions posed by congressional staff in an interview.

Do you understand that?

Mr. Dayoub. Yes.

[redacted] Witnesses that knowingly provide false testimony could be subject to criminal prosecution for making false statements under 18 U.S.C. Section 1001.

Do you understand this?

Mr. Dayoub. Yes.

[redacted] Is there any reason you are unable to provide truthful answers to today's questions?

Mr. Dayoub. No.

[redacted] Finally, I would like to make note that the content of what we discuss here today is confidential. We ask that you not speak about what we discuss in the interview to any outside individuals to preserve the integrity of our investigation.

For that same reason, the marked exhibits that we use, they will remain with the

court reporter so that they can go in the official transcript, and any copies of the exhibits will be collected at the end of the interview.

All right. That's the end of my preamble.

Is there anything that my colleagues from the minority would like to add?

[redacted] No. We thank the witness for taking the time to come up to D.C. today.

Mr. Dayoub. Sure.

[redacted] Okay. The time now reads 10:06 a.m.

I'll turn it over to my colleague [redacted]

BY [redacted]

Q Good morning, Mr. Dayoub. Thank you for being here today.

You're currently employed by the FBI, correct?

A Correct, yes.

Q What's the title of your job?

A I'm the special agent in charge of the FBI's Kansas City Field Office.

Q And when did you take that position?

A August 2021.

Q Okay. So in that position, what are your roles and responsibilities?

A So I basically head the office. My main roles are to be the external face of the FBI. We cover both the State of Kansas and the western part of Missouri. It's a lot of external partnerships, community outreach, private sector engagement.

I also work to ensure the employees of my office have the resources they need, help them do their jobs, and make sure that they can do their everyday actions. So that's kind of my general role.

Q Okay.

And who is your direct supervisor?

A The deputy director of the FBI.

Q Okay.

So in the FBI Kansas City Field Office, can you describe that organizational chart?

A Sure. So there is myself. So I'm the special agent in charge. I have currently now four ASACs and one administrative officer, AO. The branches I have are criminal, an ASAC that covers my criminal branch. I have an ASAC that covers our counterterrorism, weapons of mass destruction, and special operations. That ASAC currently covers also my Missouri Resident Agencies.

Then I have another ASAC that covers my cyber, counterintelligence. That ASAC covers also the Kansas Resident Agencies.

And then I have an intel ASAC. That's new, and I can go into that if you'd like. That has my intel branch, and he's an ASAC over that. He was recently appointed.

Then I have my administrative officer. She's an AO. She covers all our administrative matters.

Prior to having an ASAC for intel, though, I previously had a supervisory senior intelligence analyst covering intel. So that was just a switch based on how we posted the position.

Q Got it.

And who are your four ASACs?

[redacted] He can answer. I just request that these are non-SES, so if the transcript were to be released, we'd request that they would be redacted.

[redacted] Sure. Absolutely.

Mr. Dayoub. So the ASAC for CT special operations is Jeffrey Berkebile. He now covers the Missouri Resident Agencies. Chad Jaffe has our CI cyber and now Kansas RAs.

And I did switch those, but recently. Tom Sondgeroth is a new intel ASAC. I'll have to pull how you spell his name, honestly, if you need to know.

BY [redacted]

Q I was definitely going to ask.

A Yeah, I can get that for you.

And my criminal ASAC is -- why am I blanking on the names? I'm sorry. Jeanette -- how do you spell her last name? Here, just so I have it for you. Milazzo, M-i -- if you need it, Jeanette Milazzo. So it's M-i-l-l-a-z-a (sic).

And then I'll tell you Tom's name so you have it. So Sondgeroth, S-o-n-d-g-e-r-o-t-h. He's the intel ASAC.

Q Okay.

A So you have it.

Q Thank you for that.

Who is your AO?

A Oh, Lauren McGuinn. Sorry.

Q So, generally, are FBI agents required to have a security clearance?

A Yes. I think all FBI employees are required to have a security clearance.

Q Okay. So can you work for the FBI if your security clearance is revoked or suspended?

A My understanding is you cannot, no.

Q Okay.

Mr. Dayoub, when did you join the FBI?

A 2005.

Q 2005.

And what was your key motivation for joining the Bureau?

A Honestly, it's something I've always wanted to do. My parents immigrated to the United States, and I wanted to kind of serve the country in a way. I joined the military and then joined the FBI.

Q So since 2005, can you walk us through your positions in the Bureau?

A Sure. So, obviously, I came in as a special agent, served initially in the El Paso Field Office and then the Washington Field Office, for about 3 years in El Paso, about 3 or 4 years in the Washington Field Office as a special agent. I did some criminal matters but mostly counterterrorism work.

I then spent some time as a supervisory special agent at FBI headquarters in the Counterterrorism Division. From there, I was selected as a field supervisor in the Philadelphia Division. I spent a couple years as the counterterrorism supervisor and then as the senior resident agent in the Newtown Square RA.

From there, I went back to headquarters as an assistant section chief in the Counterterrorism Division. From there, I became an ASAC at the Washington Field Office covering cyber matters.

From there, I was promoted as section chief to the Counterintelligence Division, and then, from that position, out to Kansas City as special agent in charge.

So that's kind of the process.

Q Gotcha.

So before the FBI, you mentioned you were in the military. What did you do immediately before you joined the Bureau?

A I was an attorney.

Q Okay. Where did you practice?

A In Texas.

Q Texas. Are you currently barred in Texas?

A Yes.

Q Okay. Did you practice at a law firm?

A Yes.

Q Which law firm?

A Haynes and Boone, LLP.

Q And what type of law did you practice?

A Insurance coverage litigation.

Q What did you think about that?

A It was very -- it was good. It was nice. Very policy driven. You have to read and interpret kind of policies. And we -- our clients were the insured, not the insurance company. So we basically -- our clients were companies that were having issues with their insurance policies, and then there were issues with the insurance company coverage. So a lot of policy discussion, case law review. It was very exciting.

Q How long did you do that?

A Not long. It was 6 months, 7 months. I was in process with the FBI out of law school, got that job, and then jumped to the FBI shortly thereafter.

Q Okay. I gotcha.

So going back to your military service, what branch did you serve in?

A Marine Corps.

Q And what was the highest rank you achieved in the Marine Corps?

A I was a sergeant, so an E5. I was enlisted.

Q Okay. Did you receive an honorable discharge?

A Yes.

Q Mr. Dayoub, do you recall Special Agent Garret O'Boyle?

A I do.

Q When did you first meet Mr. O'Boyle?

A So when I first arrived at the Kansas City Field Office, I did -- I went around the first month and just met everybody. Went to every squad, went to all my offices, both in Kansas and Missouri. And that was the initial time I met him, was I was meeting everybody else. And specifically, he was in the Wichita Resident Agency, and that's where I met him and his team.

Q Did you interact frequently with Mr. O'Boyle?

A Not initially. There were some interactions later on, but initially, it was just all like everybody else, kind of the introduction, meeting people in the office, seeing what they did, how can I help, stuff like that.

Q Sure.

So while he was employed in the Wichita office, how would you describe Mr. O'Boyle as an employee?

A So, again, not much interaction about his performance at the time just because of where my level is, so it's a supervisor. And then the ASAC really do his performance. So I wouldn't say I had an opinion one way or the other initially about him.

Q Okay.

Do you recall doing any performance reviews with Mr. O'Boyle?

A No.

Q Would you have conducted those, or would that have been the ASAC?

A That would have been the ASAC and the supervisor.

BY [redacted]

Q You said initially you did not have a lot of interaction with Mr. O'Boyle about his performance. Did that change at some point in time?

A It did, yes.

Q At what point in time did that change?

A So when the COVID mandate kind of took into effect, there were several employees that wanted to discuss the issue, talk. And that's when I engaged with Mr. O'Boyle more frequently, as well as some other employees in the office that had some concerns.

Q And what were the concerns that those employees and Mr. O'Boyle had about COVID?

A Right.

Mr. Dayoub. Okay from the medical issue?

[redacted] Yeah. So as I indicated in my email last night, we want to be careful. I don't think you're asking about any individual's medical information.

[redacted] No.

[redacted] So he's going to try to talk about just general compliance with the vaccine mandates. And then let me know if we need to get any more specific.

[redacted] Yeah, I think we're interested in specifically about the protocols that were in place at your office as well.

Mr. Dayoub. Yeah, so I think, like us, we had the executive order come in. So it required specific individuals to be vaccinated. And then there were also exemptions in place for specific reasons outside of that mandate.

So when that mandate came out, we had employees within the office that were concerned about the mandate, complying with the mandate, ensure that they stayed in compliance.

And that was where the discussion occurred with Mr. O'Boyle, how to ensure he stayed in compliance, his concerns, as well as some other employees' concerns were

about that.

BY [redacted]

Q And do you remember about what time period that was?

A So I think it was -- so the mandate came out, I think, in September, September 2021, September, October, around that time frame. So I would say it was around that time frame when that was implemented, and so we were trying to deal with how do we implement this mandate to ensure everybody was in compliance.

Q And would you say the September to October 2021 time frame is when your interactions with Mr. O'Boyle picked up?

A Yeah, him and other individuals. I have a pretty open-door policy within my office. I allow employees to come in and out to speak to me at any time. They can reach out to me at any time. I've tried to instate that while at the office.

So it was with him, as well as other employees that I met with individually and talked about the issue, as well as other things. They'd come in. I feel that level of communication all the way down is important for me to understand their concerns and issues so I can help through any problems they're having.

Q And can you quantify for us how many agents and employees within your field office had concerns about the COVID mandate?

A Yeah, I want to say about maybe a dozen. We had about approximately a dozen. Again, it's hard to quantify generally because not all of them approached me. And I was trying to be very cognizant of their medical information and not.

But what we did as part of that process was shortly after the mandate, I had a conference call. I did it over the phone so people could dial in, so nobody could see who was on, so we could talk through: Hey, here's kind of what the mandate is. Here's the issue. Here's what we can do. Nobody should be in trouble not being in compliance.

We're going to work with everybody. We're going to ensure that we work through all this.

So that was part of kind of the process to go through with the mandate.

Q And how did you, as the special agent in charge, and the field office work with those who were not in compliance with the mandate?

A So, obviously, the mandate required either being vaccinated or having an exemption to just go through testing. So I think the concern was logistically how do we have, if people have exemptions, how do we get them tested quickly, appropriately, to allow them to come to work as they should.

So the way we -- we just gave a little bit of leeway in the beginning to allow logistics to set up. So our administrative officer at the time worked with hospitals, medical units to ensure there was access for our employees, in and out. They prioritized our employees, got the results back quickly. But understanding that as long as everybody in good faith was trying to uphold the mandate, then we're good, we're going to continue to work with you.

And that took a couple weeks, and then we got everybody in a rotation and processed, and everything went pretty well for a bit from that end, yeah.

Q Okay.

And to your knowledge, were any employees under your supervision placed on absent without leave status due to noncompliance?

A Yes. So Mr. O'Boyle was.

So specifically regarding Mr. O'Boyle, so I thought -- we had interaction with him. I spoke with him and some other individuals on the process. I thought everything was going well. And then there was a time frame, either later that year or early 2022, I cannot recall when, where I was notified that Mr. O'Boyle stated that he was no longer

going to stay in compliance with the mandate.

So we reached out to him. It was my ASAC supervisory reached out to him and the AO and said: Hey, what's going on? Why do you not want to do this?

And my understanding is he just stated: Look, I'm not going to do it. You're going to need to -- you're going to have to put me under suspension or AWOL because I'm not going to stay in compliance with the mandate.

So we went back and forth trying to understand why and what has changed, what's going on, I thought everything was going fine. Ultimately, he refused.

Due to the mandate in the policy, we put him on AWOL for a day. Later that day, it was a Monday -- so this happened, I think, Thursday, Friday, at the end of the week. Monday he was given the letter, told he had to go home until he was back in compliance. That afternoon he got in compliance and came back to work that next following day.

Q How many other agents were placed on absent without leave status that you can remember?

A Nobody else.

Q Just Mr. O'Boyle?

A Correct. For the most part -- again, we -- because of Mr. O'Boyle's refusal to do anything to get through the mandate.

For the most part, if people are trying to get in compliance, we work with them, even if there is some delinquency. There is always that give and take. We want to ensure we're enforcing our policies, that's what we do, but we have to be reasonable with our people.

But, unfortunately, just due to Mr. O'Boyle saying, "Look, I'm not going to do anything to get in compliance," I didn't have a choice at that point. So that's why.

BY [redacted]

Q You said you were notified that he wasn't going to be in compliance with the mandate. How were you notified?

A Through my acting AO at the time.

Q Okay.

A Yeah. Because the administrative officer was tracking how everybody was doing in compliance with the mandate. And so typically, when people are delinquent or there's an issue, we reach out to them. We fix it. Hey, here's the deal, this is what you're doing. And typically, it's fixed and we move on.

But she reached out to Mr. O'Boyle, and my understanding is that's where he refused and then came to me. Hey, what do you want to do? Let's try to work this out. But he stated he wasn't going to do anything and that he had to be suspended, is what he stated.

Q Okay.

So in your entire Kansas City Field Office's purview, how many individuals do you oversee?

A About 336 employees. That's both special agent, intel, professional support, approximately.

Q And how many special agents do you think?

A So about 120, 130 of those are, I think, special agents. Approximately, again.

Q Okay.

So we talked a little bit earlier about your duties as an SAC.

A Yes.

Q I want to talk a little bit about the procedures for protected disclosures.

Can you describe your role as a special agent in charge when an employee wants

to make a protected disclosure?

A So, I mean, from my understanding, there are several ways to do that. From my perspective, we try to go through the chain of command, obviously, to see if we can do it. If the employee is not comfortable using the chain of command, then they can utilize specific contacts within the Inspection Division, Security. There's different ways to do it.

The way that I have it set up in my office, so, as I stated, I try to have an open-door policy. I try to reach out to agents and professional support and intel analysts at all levels, just so they know they can talk to me.

I also have an anonymous kind of SharePoint site where anybody can go on and send me a comment anonymously if there's an issue of concern or something they want me to handle but that they don't want me to know who they are, but just to raise an issue.

So I have those things set up. But then, obviously, you can always go outside to different entities in FBI headquarters or DOJ -- like there's the DOJ Inspector General's Office -- to report any issues that you have concerns with.

Q Okay.

Can you describe to me how the SharePoint works?

A Yeah. So it's on our unclassified system. It's a SharePoint we stood up as part of our internal FBI Kansas City website on the unclass site.

So you log in there, and there's a little thing: Hey, send a comment to the SAC. And you can click on it, and you just basically type whatever you want to type. And you can tell me: Hey, you're doing a horrible job, you're doing a great job, we need to fix something with the cars, you need to fix the parking. Whatever it is, they can say it without any issue that, hey, I will know who you are. But it gives -- it lets people raise

issues so I know what's going on so I can try to fix them, basically is what it is.

Q How often do you receive messages?

A So in the very beginning, I actually received quite a few.

[Laughter.]

And then, obviously, as time goes on, they kind of dwindle off.

I still get random ones. Like the most recent one is we are redoing our garage, but it got delayed, but we moved all our pool cars outside so none of the employees could park.

Well, I was not tracking this. So someone sent me an anonymous email, like: Hey, none of us can park because we haven't moved any of the vehicles back.

It was a small thing, but I talked with my administrative staff. We moved all the cars back. And so we had to fix the stuff in the garage, and people could park again.

So it's small things like that. I mean, it's nice to have because something that maybe would not come to my attention that I could kind of fix if I can.

Q Sure.

And so was that SharePoint system Kansas City specific?

A Correct, yes.

Q Did any other field office utilize a system like that?

A Well, I can't speak to that. I know that's just -- I'm sure there are, but, I mean, I just thought it was important.

But, yeah, it's limited. You have to be a Kansas City employee to access that SharePoint site to put the input. So it's only for us, correct.

Q Okay.

So now I want to talk about your specific experience in Kansas City.

A Sure.

Q So have you ever had an agent or employee make protected disclosures to you about fraud, waste, abuse, misconduct, violation of law?

A So we definitely had people who have spoken to me about misconduct or concerns or issues, yes.

Q Okay. And have any of your ASACs or administrative officer told you about any protected disclosures made to them by an employee?

A So typically -- so I definitely have had that, yes, and we do have an ASAC specifically assigned, and that's the criminal ASAC, who has and deals with all the disciplinary issues or inspection issues or misconduct issues. Like, that's the point of contact for me. And so usually that's where a lot of the things come from. But, yeah.

Q So would that have been Jeffrey Berkebile?

A So that's -- no. It's Jeanette Milazzo right now. That's who currently has that spot right now.

Q Okay.

So as a general question, do you think whistleblowers play a vital role in keeping the executive branch in check?

A Yeah, I'm sure. Yeah, I'm sure.

Q So Mr. O'Boyle, who we talked about, made protected disclosures to you in October of 2021. Does that sound right?

A No.

Q Okay. Did he make protected disclosures to any of your ASACs in that time period?

A Not that I'm tracking, no.

Q Okay. Do you recall any protected disclosures made by Mr. O'Boyle?

A No. Again, my interaction with Mr. O'Boyle was specifically regarding the

mandate issues. That is really the most interactions I had with him.

Q Okay.

Do you recognize the name Sean Fitzgerald?

A Yes.

Q Okay. Who is Sean Fitzgerald?

A So Sean is a supervisor out in Wichita Resident Agency. He is no longer a supervisor. He has done his time, stepped down. But he was a supervisor at the time.

Q Okay. Would he have been Mr. O'Boyle's direct supervisor?

A He was, yes, sir.

Q Okay.

So the committee has learned that Mr. O'Boyle made protected disclosures to Mr. Fitzgerald.

A Okay.

Q And there's some questions as to whether or not you were brought in on those protected disclosures.

A Right.

Q So is your testimony that you were not brought in on those?

A No. I mean, do you have specifically what those disclosures were? I mean, again, October 2021 was about the time we were dealing with the COVID issues, COVID mandate issues, and that was the interactions I had.

And in Wichita. So I made a trip down to Wichita and spoke with several employees, including Mr. O'Boyle.

Q Okay.

BY [redacted]

Q If you had to quantify, how many times did you speak with Mr. O'Boyle?

A I would say two to three times in person. And then, as we went through with the mandate, I did send him an email and a text just to check in on him to see how he was doing, especially after the suspension issue, just to say, "Hey, anything you need, what can we do?" on him. And then I always asked the ASAC and supervisor to check on him just to make sure he was doing all right.

Q And this was when he was on AWOL status?

A Yeah. That was before, up to, and then after the AWOL status, yeah.

Q Okay.

A So he was also a SWAT operator. He was on the SWAT team. So I would also see him. I'd go out to all of our SWAT ops for the most part, and I'd see him, and I always would check in on him, see how he was doing, see how his family was.

Q What was your understanding of Mr. O'Boyle's role within the Wichita Resident Agency?

A So he was on the national security squad, and I think he specifically did -- I don't know if he initially did international terrorism, but eventually he did domestic terrorism investigations. That was his kind of role. So I don't know if he did a mixture but then eventually was more domestic terrorism investigations.

Q And you said he was a SWAT operator?

A And he was also on the SWAT team, yes, ma'am.

Q Was he on the JTTF, to your knowledge?

A I guess he would be part of the JTTF, yes, as his role, yes, actually. Now, the main JTTF runs out of Kansas City proper, but, correct, we were trying to build that in the resident agencies, to include in Wichita.

Q And can you describe the Wichita Resident Agency?

A So there's two squads. One is -- I'm sorry. I don't have the actual size of

it. I'd have to look. But one is a national security that has a supervisor, which at the time was Sean Fitzgerald. That's the SSRA. And then they have a criminal squad as well with agents that do all criminal matters.

And it's the two of them. It's our largest resident agency that we have outside of headquarters city, Kansas City.

Q And how many employees would you say that resident agency has? A rough estimate is fine.

A I would -- 14 maybe, 15 maybe-ish.

Q Okay.

A So I think there's about 8, 8 to 10 on each squad maybe. So 16, 15, 16-ish. Again, very approximate.

Q And you said that you went out to all of the SWAT ops. Is that right?

A Correct. So all the SWAT operations require my approval, and so I review them. I approve them. And when I can, I do want to be on scene when we have those SWAT operations, yes.

BY [redacted]

Q So I just want to close the loop on the protected disclosure questions.

A Please, yes.

Q So do you know whether or not Mr. O'Boyle made protected disclosures to Mr. Fitzgerald?

A I do not. I would hope if that did occur, that that would have come to me, but I'm not tracking -- again, when you say protected disclosure, my understanding is the concern he had was over the COVID mandate, and there was a great concern, not just with him but several employees. That I am tracking.

If that's what you mean by that, I don't know. Outside of that, my interaction

with Mr. O'Boyle was limited to really the COVID mandate concerns.

Q The COVID issues?

A Yeah.

Q Okay.

A That was really his -- in my interaction, that was his main issue with that.

Q Okay.

BY [redacted]

Q And he's represented to the committee that, for instance, there was one time where he was working a case, a domestic terrorism case, and there were four subjects, and instead of opening just one case, he was told to open a case on each subject. So four cases instead of one case.

A Yeah.

Q And he expressed concerns about that to I believe it was Mr. Fitzgerald. Did you hear about that at all?

A So I typically wouldn't, no. I don't recall that. And my level, typically I'm not going to get into the details of specific cases or process.

But I can state each program has their own policy guide of how they run their programs and their investigations, and for the most part typically we would want individual cases on -- and this is me speaking more as a case agent, as a SAC.

But the reason we would want individual -- and this is different threats -- is because we want to ensure the predication of each case stands alone. You don't want to rope in a bunch of individuals based on one-person predication and then investigate each of them.

So I know that is out there in the sense of it is best to do that, and then you can do an enterprise investigation outside of that, that can wrap everybody up and you

investigate the whole.

But the nuance of that is really more administrative of how you do it. The key is that you have predication on each individual, however administratively you make it up.

But specifically to this instance, I'm not tracking that case or that -- again, I typically wouldn't at that level unless it was raised as a higher concern.

Q So Mr. Fitzgerald never raised that to you as a concern?

A I did not hear about this, no, ma'am.

Q Did Mr. Fitzgerald ever have any conversations with you regarding Mr. O'Boyle?

A No. No, outside of the -- again, outside of the COVID mandate, yes, we did talk about that. He was the one who helped broker or coordinate, like, some meetings with him and his personnel during that time, yes. But outside of that, no.

BY [redacted]

Q So, Mr. Dayoub, back to the protected disclosure process within the FBI.

A Yeah.

Q Can you explain when and if the Human Resources Division might get involved with those?

A When HRD gets involved in those? Unless there's some -- I wouldn't. I mean, I'm not sure unless there's some type of personnel issue or concern or -- maybe. But I don't know. I guess it depends on what the disclosure is or what the issue is maybe.

Q Okay.

A Yeah, sorry.

Q So would anyone in your office serve as a liaison between any of your employees and HRD in any kind of situation that they would need to be involved?

A No. I mean, again, depends on the issue. I guess, I don't know, if you have a specific example.

I mean, for the most part, our office, if there's any personnel issues, we have our own internal HR that would coordinate. We have personnel within the admin side that will work with headquarters, if there's an issue when you report or you're leaving, all that good stuff is coordinated through.

But at the end of the day, anybody can reach out to HRD and work through an issue that they have personally. If that's what you're asking, I don't know.

Q That's exactly what I was asking. Thank you.

A Okay.

Q Did you ever become aware that Mr. O'Boyle made protected disclosures to Congress?

A Not until hearing it on open source and later on.

Q Do you recall when you would have heard that?

A It would have been recent, recently.

Q Okay. Do you recall which open source you may have come across?

A No. Honestly, it was through the news and through testimony, honestly, is where I initially heard that.

Q Okay.

Do you believe that FBI whistleblowers have a right to speak with Congress to make protected disclosures?

A So I know there's a -- and I want to be careful. I respect Congress greatly. There is a process for that. And I am not really that versed in how that would work in the sense of there needs to be an ability for people to disclose things that are important out, and there's a process the FBI has, and that's what we should utilize for that, if that

makes sense.

Q Sure. I'm with you. Very, very agency --

A Okay. I'm trying to --

Q I got it.

So are you aware of the circumstances around Mr. O'Boyle's transfer from the Wichita Resident Agency to a new position at Quantico?

A I am, yes.

Q Okay. Do you recall if Mr. O'Boyle applied for that transfer?

A Yes, he did. He applied. My understanding is he applied for a position, a job, and he was accepted and got the job.

Q Do you know anything about the job for which he applied and got accepted?

A You know, generally. I know it was in FBI headquarters, or it was a position here in D.C. He did that, again, through the process.

When you apply, there are -- typically, you do get the department head, the field office head, like, approval for that. It depends on the level of the individual if I approve it or I put it down to my ASAC.

But, yeah, I mean, I'm generally aware when people apply for things.

Q Okay.

A And, obviously, when they get accepted, there is a notification made: Hey, an employee received -- got a promotion or got this position.

Q Did you sign off on Mr. O'Boyle's application?

A So I'm trying to remember. Typically, I would have the -- I would delegate it down to the ASAC, depending on how he applied. So it was either myself or the ASAC that approved it. I can't remember, honestly, offhand, which one did. But, regardless, somebody approved it and said: Hey, you're good to go.

Q So when someone gives that go ahead, that good to go, whether it's you or one of your ASACs, is that just some sort of certification of their qualifications for that position?

A No. All it is, is: Hey, there's no objection from us. It really, to be fair, it really doesn't mean much. It just means: Hey, no issue from us.

The applicant still needs to go through the process, needs to be interviewed, needs to be seen as qualified by the receiving entity that's looking at the applicant. They ultimately make the selection.

Q Okay. So do you have any reason to dispute whether Mr. O'Boyle was qualified for that new position?

A I mean, he was selected for it. So I would defer to the selection of the department that made that.

Q So in the realm of what's publicly available about Mr. O'Boyle's testimony to the committee, are you aware that at the time of his transfer from Kansas City to his new position at Quantico the FBI contracted with a company to pack up his home in Kansas City and, essentially, move it to Quantico?

A So I can't speak to the specific instance of Mr. O'Boyle, but that is typical. When we receive orders or we get a position in another location, yes, that's part of the transfer process, is you'll have a company help move you. The government pays for that. Yes, sir.

Q Okay.

And so as Mr. O'Boyle and his family were getting ready to move from Kansas to Virginia, they visited their family in Wisconsin one last time.

A Yes, sir.

Q And then Mr. O'Boyle headed to Virginia to report for his first day?

A Yes, sir.

Q So during that interim period, were you aware that his family's belongings were held in FBI contracted storage?

A No, that wouldn't be something that I would be made aware of.

Q Okay. But does that sound typical for an agent who moves?

A Yeah. So, I mean, again, depending on the situation, depending on when you're going to report, when you have ability for the movers to put your stuff into the house you're moving into, or if there is a delay, typically they can put it in storage. That is typical. Yeah, that could happen.

Q Okay.

So are you aware that during that interim period Mr. O'Boyle also took time for parental leave?

A I am. I recall, yes, in the very beginning, after he left and checked out of the FBI Kansas City office, Wichita, he did take some parental leave, yes, somewhere in there, because he was having a baby. His wife was having a baby.

BY [redacted]

Q And around that time period is when Mr. O'Boyle received his letter from the executive assistant director, Jennifer Moore, from the Security Division, suspending his security clearance.

When did you become aware that Mr. O'Boyle's clearance was going to be revoked -- or, excuse me, suspended?

A So really not until actually it occurred, but I was aware of the circumstance. It was late July 2021 is when I was made aware that there was a concern with Mr. O'Boyle. I was not given great specifics. My understanding was I was told that there was a security concern with Mr. O'Boyle, there's a concern that he was accessing

information he should not have been accessing.

And it was for no action of mine. We were not part of it. But it was for -- because I was head of the field office, they gave me notification. So it was around that time I was first notified of that, yeah.

Q And who provided you with that information?

A Security Division.

Q Who at the Security Division?

A The assistant director, Doug Beidler.

Q Say that name for me again. I'm sorry. I didn't hear it.

A Beidler.

Q Beidler? Okay.

A I think it's B-i-e-l-d-e-r (sic) maybe. Sorry. I'm not doing well with names today. I apologize.

Q And was that via email or over the phone?

A No. He called me.

Q He called you?

A Yep, he called me and gave me a heads-up that: Hey, here's the deal.

Q Did he go into specifics about the security concern that he had?

A Only thing I was told was there was concern that he was accessing information that he was not. Unclear which way it was going to go, but just so you are tracking. We're looking into this, but you just need to know. Please don't -- this is for you only. No action to be taken by you. And I said okay.

Q And did you take any action based upon that phone call?

A No. No. No.

Q And is that typical, that if one of your agents or employees is under

investigation by the Security Division, would you normally get a heads-up phone call?

A Yes, a phone call or notification some way. As head of the office, if any of my employees are going to be disciplined or there's a concern or there's an issue, they will notify me in some way or fashion, yes, depending, again, on the conduct and who was making it, Inspection Division or Security Division.

There's a process. But, yes, for the most part, I will be notified any time there is some issue with an employee.

Q And are you always notified at the beginning of the investigation, or is it at a certain point in time?

A I would say it depends, and I would defer to them how they do the process. There may be times when they wouldn't notify me in the beginning. I don't want to say -- there usually is notification at some point. I don't want to say it's at the beginning. It could for the most part. Usually it is. It just depends on the conduct and what they're looking at from their investigative end.

Q And then when did you learn that his security clearance would actually be suspended?

A So until it actually was. And I got the initial call late July-ish. And then into later, in August, I want to say, I was told: Hey, look, this is probably looking -- it's going that way. Can you get a team together in case you need to provide notification to Mr. O'Boyle that we're going to suspend him?

And so we had discussions there. I did at that time read in one of my ASACs. And I had two other individuals on standby. Did not tell them what the issue was, but I asked them to be available for me if -- because I needed something. And then we kind of waited to see when or if that would go through. And we were trying to see what the timeline would be on notification.

Q Okay. And who notified you that it was looking like it would probably go to security clearance suspension?

A So that, again, Security Division. This could have been either the AD, either Doug, or it might have been the DAD, Jeff Veltri. Both of them, I talked to both of them later on as the process was moving forward, yeah.

Q And was that via phone call or email?

A Correct, yeah, phone call.

Q Phone call?

And you said late August. Do you remember any sort of time frame?

A No. It was -- unfortunately, it was coming up to when Mr. O'Boyle was transferring, unfortunately. So it was close to that. I want to say late August time frame. I don't know when. But it was the initial call and then everything kind of sped up after that on: Hey, potentially this may happen.

Q And you said you were asked to get a team together. Why were you asked to get a team together?

A Well, I got a team together to make a notification of him. So any time we have an issue like this where there's going to be a suspension.

Look, he was my employee. I wanted to do the notification. That's my responsibility. We want to make sure we have personnel to go, provide him the notification, but also be there to answer anything we can and kind of work through the process with him if he's going to be suspended.

It's not a happy day for anybody if that happens.

Q And in terms of personnel, what type of personnel did you need in order to make the notification?

A I just had -- I just wanted another executive management member with me.

Typically, an ASAC, somebody he knows, the ASAC.

And then we also pulled some of his SWAT team members that know him well. I did not tell them because they know each other. They were readily available. I didn't want to let anybody know from the Wichita office because they all know each other there.

So there's somebody that they would travel down with me if we were going to make the notification. There were people who led the team that know him. And I think he would have been comfortable with them there with me just so that it wasn't overwhelming.

Q So if you were informed by the Security Division that you had to make a notification to Mr. O'Boyle that his security clearance was being suspended, on the team you would have had an ASAC, some of his SWAT team members, and you, correct?

A Yeah. I think that would have been the general makeup I would have had just so that he had some familiar people there when we talked to him and had to escort him out.

Q And what was your understanding of what you would have had to relay to Mr. O'Boyle at that point in time?

A I mean, obviously, I just knew it was going to be a suspension. That would eventually -- once or if the approval was made, that would be given to me in a formal letter and process, and I would be kind of told what to tell him at that time.

So all I knew was, again, this was about the accessing of information that he shouldn't have had and potentially looking at a suspension.

Q And were you given any other details regarding the Security Division's concerns about Mr. O'Boyle on the late August phone call?

A I mean, I think we -- I mean, we discussed again the misuse of information,

may potentially accessing it and misusing it, providing it out.

But, generally, I tried to stay out of the specifics of the investigation because, again, he is one of our employees, we know him, and we let them take the lead on that. I don't really get involved in the actual investigative aspect.

Q And what was the -- was there another time that you heard from the Security Division besides late July and late August?

A I mean, so the late August was several phone calls as we were prepping. My concern was we were coming up on a deadline here with Mr. O'Boyle leaving. And, again, I wanted to -- he was a Kansas City employee, and I wanted to do it. But there's a process. I don't have the authority. There is a process because it's a huge deal to suspend an employee.

There's a process it has to go through, and there has to be authorization before we can do it. And we just, unfortunately, did not get to notify him before he left. He checked out. He left. And then after that he was no longer my employee.

My only ask was if -- to the Security Division -- is if he is suspended and he is notified, can you please let me know so I can let our people know, because he has people in the Kansas City office that know him.

Q And you said several phone calls. How many phone calls would you say?

A Three, four maybe.

Q In addition to the late July and the late August that we've discussed?

A So the July one was like one call initially and then the other ones were kind of several calls within a week or so time frame, which is about three or four, maybe five calls in which we're talking about: Hey, where is it? What's the process? What's going on?

Because, again, a lot of the stuff we were not tracking. From my level, I would

not know when he's actually leaving, checking out. That's not something an SAC would typically know.

So I was also trying to stay confidential in what I was trying to say and do. So I'm trying to figure out all this stuff, like: Hey, when is he actually leaving? When can we do this? When is the approval?

So there was a lot of back and forth as we were trying to determine if or when that would happen, and that's what that discussion was about.

Q And did you relay these concerns to the Security Division, that you were worried that you were coming up on the deadline of him checking out of the Kansas City office?

A Yes. I mean, but they were all worried about. We all understood that was a concern. Like, that was the problem, was, hey, we were up on a time deadline.

But at the end of the day, because of when this thing was kicked off and the time frame for when he got his orders and he's transferring, it just was a -- it was just a bad situation from a timeline perspective.

But, no, I mean, it was absolutely a concern. It was the top of the concern. What can we do to ensure this goes? But there's got to be a process in place to ensure it's done the right way. And, again, it has to be authorized before it can happen.

Q So it was your understanding the Security Division knew that you were up against the clock?

A Oh, yeah. Yeah, we talked about it, absolutely. Yeah, we knew that he was transferring, and there was a potential timeline. And, again, his checkout -- again, I was trying to figure this out without disclosing what I'm trying to determine. It's odd for the SAC to be asking these things, just in fairness.

But, I mean, obviously, he was having a baby. So his timeline was kind of also

flexible because he wasn't sure when he was going to take off. So there was a lot of wiggle room there on when he was going to leave.

Q And would you say that when you were expressing these concerns regarding the timeline and getting it -- seeing if you could get the approval prior to his checking out of the Kansas City office, did you relay those to the AD or to the DAD?

A I think I did to both, yeah.

Q To both?

A To both, yeah, in some form or fashion, yeah, which, again, they also had the same concerns. They understood. They were like: Yep, we got it. We're going to do what we can.

We were all trying to determine if we could do this while he was there, I mean. But, again, without the authorization, we couldn't do it until the process played out, and that's a process I don't have kind of a role in.

Q And did you ever learn when Mr. O'Boyle would be checking out of the Kansas City office?

A Yes. And, again, I don't know the actual timeline. It was sometime I thought the first week of September. Either -- I have to look at a calendar, but either that first Friday of September or -- it was a Friday, either that first Friday of September, which I think was the 2nd, or that following. It was around that time frame, I believe, is when he actually checked out to go.

He turned in his stuff, and then he went on leave, had his baby. I think they went and visited his family, and then he was planning on checking into his new place, new unit. And I don't know if he was going to then take some additional leave. I wasn't really sure after that. But it was quickly there early September when he was gone from the Kansas City office.

Q Does it kind of sound right in your mind if I tell you that he wanted to check into the new office on September 26th, 2022?

A That might be right. That gave him about 3 or 4 weeks, yeah, 3 weeks or so within September. That might be right, yeah.

Q And did you ever get the official approval regarding Mr. O'Boyle's security clearance suspension while he was at the Kansas City office?

A I did not.

Q Do you know when that approval came?

A Obviously, I found out after the fact, yeah. When he checked into his new unit, he was notified at that time, and they let me know that they had notified him upon his arrival at the new unit.

Q What was your reaction that the suspension occurred right when he walked into his new office?

A I mean, at the end of the day, it's the way the process works. And, unfortunately, it had to have been provided to him in some way or fashion.

I would prefer to have done it in Kansas City, but understanding that there's a neutral outside process that has to take place, and when that's ready to go, it's ready to go.

I just think it was just an unfortunate timing factor with him putting in for a new job, this kicking off pretty late into his transfer order, and then this occurring when it did.

But I definitely know that people were trying to work to try to make it happen if we could for him, yeah.

Q And did you have any understanding of what was going on at the Security Division between the time they call you in late August three or four times regarding getting a team together to make the notification that came to the Kansas City division and

then his official suspension letter was signed on September 23rd? Do you know what occurred during that time frame?

A I don't. Again, the only thing I was tracking is we were just waiting for the approval that, "Hey, did this go through? Is this happening? Is he going to be suspended? If so, when?" so we're ready to go because of the short timeline. But I don't know. I'm not part of those discussions. And, again, on purpose I'm kept out of those because of my role in Kansas City as the SAC.

Q And in the late August time frame when you were having the phone calls with the Security Division, you said that they were telling you that it was probably looking like they were going to suspend Mr. O'Boyle's security clearance. Is that accurate?

A That it's possible, yeah. That it's possible. Let's be ready in case this happens while he's there. You have a short timeline. So let's get this ready.

[redacted] Can we go off the record for one minute?

[redacted] Yes, we can go off the record.

[Discussion off the record.]

[redacted] We'll go back on the record.

Mr. Dayoub. Can I just clarify or add?

BY [redacted]

Q Yes, you can.

A So as part of the security call -- so it wasn't just the Security Division, I mean, that's important to note, in late August.

So the Security Division, Insider Threat, there's another field office on that call, the Inspection Division. So that was the trifecta or quadruple, I guess, four of us that were talking about this, logistics of this.

Q Okay, so let's go through that list again.

Who did you say all was involved on those phone calls?

A So Security Division.

Q Security Division.

A Insider threat. Another field office. And I believe Inspection not on all those calls but at least definitely on one of the -- a couple for sure.

Q And how many people would you say were on those phone calls?

A I mean, at least one from each division at a minimum, sometimes several. Again, it started with, again, initial direction from SecD, and then as things were picking up, for logistic purposes, we were having a conference call together with all these individuals.

Q And why was there another field office involved? What was your understanding of their --

A They had their own investigation, ongoing investigation on this as well.

Q Another field office had an ongoing investigation?

A Correct.

Q Specifically related to Mr. O'Boyle?

A Yes. Correct.

Q What field office was that?

Mr. Dayoub. Can I say? Is it okay?

[redacted] Yes.

Mr. Dayoub. New York.

[redacted] The New York Field Office.

And why would the New York Field Office be involved?

Mr. Dayoub. So, again, I tried to stay out of the specifics, but my understanding was some of the information Mr. O'Boyle accessed related to something that they were

working in the New York Field Office specifically.

And I can say the specific name, I guess, or?

[redacted] Do you need him to say what the investigation was?

[redacted] Yeah.

Mr. Dayoub. Yeah? It's all right? Okay.

So I knew it had something to do with Project Veritas, is my understanding.

And so the logistics was occurring from all of us on how this would happen if this went. And, again, a lot of it was SecD determinate.

My role was simply suspension if it occurred. That was for SecD that happened. But they were all part of the logistics call, if that makes sense.

BY [redacted]

Q And what was your understanding of the New York Field Office's, what would their role have been?

A So they wanted to, obviously, get in front of Mr. O'Boyle to speak to him and interview him in some form or fashion, I'm sure. So if we did do it there, we'd want to ensure New York was available to come out to interview him as part of that process.

Q So it was your understanding that when the suspension letter would have been given to Mr. O'Boyle, that New York Field Office agents wanted to be involved in order to interview Mr. O'Boyle at that time period?

A I mean, that's typically how it would be done, yeah. That's what the coordination was about, yeah.

Q So the coordination was specifically about that?

A Well, it was about us notifying him, and then if we notify him a certain way, can New York come out and talk to him as well, yes.

Q At the same time?

A Yes.

Q And what was your understanding of the involvement of the Insider Threat office?

A So I think they were there because of, again, the access of the information, is my understanding, hey, they're concerned about him accessing information that he wouldn't normally. So usually Insider Threat is part of that process. But they really didn't say much as part of it. They were more of a listening entity.

Q And so these were all the late August phone calls.

A Correct.

Q You said there was some variance of individuals who attended?

A Correct. Yeah, I mean, it starred with SecD. SecD really led that, but then we started getting on, as we had two or three full calls. We had other people add in for logistics if he was going to be suspended, and what does that look like, what is FBI Kansas City's role? And that's kind of where our part was.

BY [redacted]

Q So we talked a little bit about Project Veritas and the New York Field Office.

A Yes.

Q So are you aware that the specific allegation was that Mr. O'Boyle gave an unauthorized interview behind the screen to Project Veritas?

A I found out about that later.

Q Okay.

BY [redacted]

Q When did you find out about that?

A It was some time after the suspension. I'm not sure when.

Q And who notified you of that?

A I can't remember where I heard that, honestly. I don't know if that was internal FBI or something that came out. I don't know.

But I was aware that, generally, there was some discussion of potential passage of information or interview with the media or outside sources. I honestly don't remember how I heard that, to tell you the truth.

Q Were you ever interviewed by the Security Division?

A No. No.

BY [redacted]

Q Are you aware that Mr. O'Boyle refutes the fact -- or refutes that allegation that he was the individual behind the screen?

A Yeah. I mean -- no, I don't, but, I mean, obviously, he has a right to do so.

Q So were you aware at the same time that the FBI also accused Mr. O'Boyle of leaking classified information or sensitive information for that reporting?

A Yeah. So, again, I think I found out after the fact as part of that. My initial understanding was simply the access of unauthorized information, and I think I became aware after suspension about the leaking, yes.

Q Okay. So the committee has also talked to EAD Moore, and she stated that the FBI pulled data on who had accessed case files in that criminal matter.

A Right.

Q Were you aware of that at all?

A No.

Q So I want to read you a portion of Ms. Moore's testimony and the ask you some questions. So she specifically testified, and the question asked of her was:

"In regards to the allegations that came in via the referral about Mr. O'Boyle being behind that screen in the media interview that we spoke about, has the FBI made any sort

of determination about the veracity of those allegations?"

To which Ms. Moore responded:

"I'm going to break this down, because I don't think I quite understand your question.

"So, again, there was an individual who was behind a screen that provided an interview. The interview that he provided is very detailed and discussed very specific things from a case file. The suspension is based off of the access of that case file and that very, very specific information that was provided.

"Regardless who was standing behind that screen, the only way that person got that information from our investigation was through Garret O'Boyle's access. Other than individuals who have a right to be in the case, that were case file agents, who did not leak that information, Garret O'Boyle was the flaming gun for us."

Ms. Moore further testified that the other individuals who were the case agents were interviewed regarding that access, and it was determined that they did not leak the information.

So are you aware to this date the FBI has not interviewed Mr. O'Boyle?

A No, I'm not. I was not tracking that.

BY [redacted]

Q Have you been involved at all with the security clearance investigation of Mr. O'Boyle?

A No. I mean, they wouldn't put me involved. That's not my role, no, ma'am.

Q Do you know what step in the process Mr. O'Boyle is currently at?

A No, nor would they let me know that.

Q Do you know whether or not his case has been resolved?

A I mean, from what I'm seeing in the media, I don't think it has. But, again, I wouldn't know any specifics about that process. They wouldn't let me in on that, no, ma'am.

Q And were you notified of his suspension on September 26th?

A [Nonverbal response.]

Q And who did you receive that notification from?

A From SecD. Again, Security Division let me know. I did ask to be notified of that because, again, he was an FBI Kansas City employee. He had a lot of people in the office that know him. He was out of our resident agency. So I asked, when or if he's suspended, that I be notified so I can tell my people.

I met with the Wichita office to let them know that it happened. I also talked with the SWAT team to let them know it happened as part of that.

Q When did all that take place? Do you remember?

A It was shortly after, maybe the week or two after I was notified about the suspension. So I made a trip down to Wichita specifically to get everybody together, to include our task force officers, to let them know. And then I pulled the SWAT team aside before one op -- after one of their ops to kind of say: Here's the deal, what happened, just so you guys are on track.

Q And what was the content of your discussion with the Wichita office and the SWAT operators?

A So I just explained generally: Look, for those of you who know Garret O'Boyle, he was an employee here. Unfortunately, he has been suspended, just so you are aware. It's unfortunate. He's still one of our employees. I just wanted you to be aware of that so you're tracking. I can't go into more detail for that. That's all I have.

Obviously, the questions that came back were: What? Why? That's not

something I was able to get into, nor would I get into, but I just wanted them to know.

And I said: Look, if there's anything you guys need, we have EAP counselors to talk to if you have any concerns about this, or you can come talk to me if you have concerns about this.

Q Did you generally get a sense that his teammates trusted him?

A Yeah. I think from the most part, that's our natural ability. We trust our employees, our colleagues that we work with, absolutely.

Q Were his colleagues surprised when you told him -- when you told them that he had been suspended?

A Yeah. I mean, I think we all were, honestly. Yeah, I think that's accurate.

Q Had you ever received any concerns from his JTTF task force colleagues or SWAT team colleagues or anyone at the Wichita Resident Agency about Mr. O'Boyle's performance?

A So the only time we had something that did come up was towards the end of the time when he was trying to transfer. We were trying to serve -- I'll try not to, because I think the case is still ongoing -- but we were trying to serve two search warrants on subjects on the Kansas side, and there was some discussion of concern about Mr. O'Boyle not really working his cases and really not coordinating and getting the legal process. But that was really towards the end of that.

But outside of that, there was no issue there.

Q And who brought those concerns to your attention?

A So that came to me from the ASAC.

Q From the ASAC?

A Yeah.

Q And who was that ASAC?

A That's Jeff Berkebile.

Q Berkebile?

A Yeah. So he covers Missouri now, but at the time he covered my Kansas Resident Agency, just so you know. So his duties are not the same now.

Q And his specific concern was that he wasn't working his cases or --

A Yeah. I mean, again, this was just a general discussion. Nothing I saw as a performance issue. It was just: Hey, there was some lack of communication of when this legal process got. We weren't able to serve the search warrants on time. So we had to delay the execution because there was no coordination by Mr. O'Boyle to do that, to get -- when he got them, plus the availability of the resources that we need to do them.

So there was just some frustration there. But that was the only time I ever heard of any issues with his performance.

BY [redacted]

Q So, Mr. Dayoub, as you're aware, Mr. O'Boyle testified in front of the Select Subcommittee on the Weaponization of the Federal Government --

A Yes, sir.

Q -- regarding his experience as a whistleblower.

I want to read you a portion of his testimony, because you were talking about his colleagues.

So a member of the committee asked Mr. O'Boyle specifically: "If one of your really good friends, your former colleagues, came to you and said, 'I have this thing that is being covered up, and I think the American people need to know about it,' what advice would you give them?"

Mr. O'Boyle said: "I'd tell them first to pray about it long and hard, and I would

tell them to take it to Congress -- or tell them I could take it to Congress for them or I could put them in touch with Congress, but I would advise them not to do it."

The member asked: "So you would legitimately try to protect one of your colleagues from doing what you have done?"

To which Mr. O'Boyle said: "Absolutely."

The member asked: "How do you think that solves being able to shed light on corruption, weaponization, or any kind of misconduct that exists with the American people?"

Mr. O'Boyle said: "It doesn't solve it, but the FBI will crush you. This government will crush you and your family if you try to expose the truth about things that they are doing wrong. We are all examples of that."

So in your capacity as an SAC, how does this testimony from one of your former agents make you feel?

[11:01 a.m.]

Mr. Dayoub. Not positive, obviously. That's not a good thing.

But, look, my position has always been, as an SAC and even prior to my years in the FBI, there are good people within the organization that want to do the right thing, but there's also a process to do that. There are ways that you can legitimately provide concerns or issues that then could be handled.

And I'll tell you, I mean, I'd want to -- if there's a concern or issue, I'd want to hear about it, because I want to solve that issue or bring it to light. That is why we're here; that's why you have leadership in place, right?

And I do feel there are so many other mechanisms in which you can do that. But, I mean, obviously, that's not a positive thing to say, in that light. But I would just argue that there are so many other ways to bring issues to light so that we can action them appropriately. We need to do that, and that communication and that flow of information on concerns or issues need to be brought up to leadership so we could action them.

BY [redacted]

Q And we've talked about the suspension of Mr. O'Boyle and how it occurred on his first day in Quantico. And so Mr. O'Boyle's belongings were already in Quantico in an FBI-contracted storage facility. Were you aware that before he expended considerable personal resources he was unable to retrieve his belongings?

A I was not aware of that, no, ma'am.

Q Were you aware that he was kind of given the runaround by the FBI and the storage facility/moving company that they contracted with about accessing his personal goods and it was over a month before he was able to obtain access? Were you aware of

that?

A No. No, ma'am.

Q Did he ever reach out to you or anyone in your office for any sort of assistance?

A No, not that I'm tracking. No, ma'am.

Q Were you aware that one of his main concerns about being unable to access his personal belongings was that all of his children's clothes were in the facility?

A I was not aware of that, no, ma'am.

Q You know, what do you make of that, that he was unable to retrieve his belongings?

A I mean, the hope would be he would be able to retrieve his belongings through the process of working through that, so it is unfortunate that occurred. But I don't know the specifics of why that occurred that way. I don't know.

Q Does it surprise you that it took over a month for the FBI to give him access?

A Again, I'm not familiar with the process on why that occurred the way it did. So I don't know, unfortunately.

Q Does it seem strange that it was over a month?

A Again, without -- I'll be honest. I mean, we've all had frustrations in moving. You know, it's a process, and there's different entities. So, again, I don't know about the specific access. My hope would be, if he needed access to his items, he'd be able to get it. But I'm not really in a position to determine why that occurred that way, was there some kind of hiccup, on whose side, that caused that issue for him. But I really don't know.

BY [redacted]

Q And so I know you've moved around a few times.

A Yes, sir.

Q Have you used the similar services?

A I have, yes, sir.

Q Have you ever experienced an issue like that?

A I've had issues with delivery and items went missing and misplaced and -- yes. I mean, unfortunately, it's a large entity, and it depends on really who they contract to help you move. So we definitely have had issues moving, 100 percent. It's a part of the process.

BY [redacted]

Q Did you ever have a delay in getting your belongings?

A Delay in them -- yes -- in getting them to the house, yes.

Q And how long was that delay?

A Several weeks --

Q Several weeks?

A -- I would say. Yes, ma'am. Again, it just depends on the contractor, what they have going on, if they're moving a bunch of other items, you know.

Q Uh-huh.

A So, again, I think every -- but I've had moves that have been amazing. We went to work, and we showed up, and they were there. So I think it just depends on who you're contracted with and how you work. It's a tedious process, so, yeah, yes, ma'am.

[redacted] Yeah. Can we go off the record?

[Recess.]

[redacted] We can go back on the record.

[redacted] Hi. I'm [redacted], and this is [redacted]. We

will be asking questions for the Democrats today.

Mr. Dayoub. Awesome.

EXAMINATION

BY [redacted]

Q I want to start by going back to the COVID policy --

A Okay.

Q -- discussion that we were talking about. So you were the SAC of the Kansas City Field Office when the executive order requiring vaccines went out, correct?

A Yes, ma'am. Correct.

Q And so, to the best of your understanding, the FBI only enforced that mandate while it was legally required to, correct?

A Oh, correct. Yes, ma'am.

Q What was your role in developing the policies and the procedures for the vaccine mandate at your field office?

A I had no role in it. I was simply enforcing.

Q So you were only enforcing them?

A Yes, ma'am. Uh-huh.

Q And testing, as we discussed a little bit about COVID testing, that was an alternative to the vaccine mandate, correct?

A Yes, ma'am. Correct.

Q So that was already an accommodation provided?

A Yeah, that was something that was developed when the mandate came in place. Yes, ma'am.

Q And we talked about this a little bit, but, generally, if an employee was applying for an exemption to the vaccine mandate, what steps did your office take?

A So, if they request an exemption, then simply they would just go through the testing process and go through the testing protocol from that end until they determine when that exemption was approved or not.

Q And, generally, what happened if an employee didn't follow the testing requirements?

A So, if they did not follow the mandate, then, per the policy, we were required to put them in a suspension status, an AWOL status, until they became back in compliance with the mandate.

BY [redacted]

Q And with the testing specifically --

A Yes, ma'am.

Q -- is it fair to say that the goal of testing was to make sure that an individual didn't come into work sick and potentially get the entire FBI field office sick?

A I think -- yes, ma'am. I think that would be -- yeah.

Q Because for FBI special agents in particular, generally, they were required to work in person. Is that fair to say?

A Correct. Yeah, we have to be in the office or out and about with the community. That's accurate, yeah.

Q Okay.

BY [redacted]

Q And would you agree that an entire FBI field office getting sick at one time could be a threat to public safety?

A Yeah. Regardless of it, we could not lose an entire workforce for whatever reason. Yes, ma'am.

Q Would you agree that being a special agent for the FBI has certain medical

requirements?

A Yes, we do have certain medical requirements. That's right. Yes, ma'am.

Q So, for example, there is a pre-employment fitness-for-duty medical exam?

A That's correct.

Q And that includes a minimum vision requirement?

A Yes.

Q And a minimum hearing requirement?

A Yes, ma'am.

Q And that also includes the mandatory vaccination?

A It does.

Q So was the COVID-19 vaccine or testing requirement an additional medical requirement for FBI employees?

A Yes. I mean, obviously, when it came out, it was new, right? So --

Q Yeah.

A -- it'd be a new requirement, yeah.

Q So we talked a little bit about Mr. O'Boyle's noncompliance. Do you remember when he said he stopped testing?

A You know, I do not. It was either late 2021 or early 2022. There was some portion where we -- it had been going on a while. We got everybody kind of in a rhythm, and everybody was -- and then the mandate. And then, after a little bit of time, he stated that he was just not going to comply with the mandate anymore. I don't recall exactly the timeframe, unfortunately.

Q So somewhere around December of 2021, January of 2022?

A Maybe January or February -- yeah, yeah. Somewhere around that timeframe, yes. I think.

Q And did you know why he had stopped testing?

A No. I was not given a reason why. Just stated that he just refused to be in compliance with the mandate.

Q And you mentioned earlier that you had ways to work with people if they didn't want to get vaccines or they had some issues with testing. So, for example, you said that the AO might reach out to somebody.

A Uh-huh.

Q So, if somebody missed a single test, would that be a reason to put them on suspension?

A No. No. We would work with them, say, "Hey, what's the reason? Can you go get tested? What's the deal?"

I mean, our key was, as long as everybody's working in good faith, to include us -- we were trying to get everybody, regarding the policy, in compliance so we can do our job. That's the key. Yes, ma'am.

Q So you didn't move on to the stage of suspension or AWOL status until there was multiple back-and-forths?

A Multiple back-and-forths. So, with Mr. O'Boyle, I think the ultimate refusal to be in compliance at all just left us no choice, unfortunately, right? It was not something we wanted to do, but I had -- I had no choice. I have to implement the policies that are given to us from the FBI.

Q And you mentioned, after he was put on AWOL status, he did go back into compliance with the policy?

A My understanding, that day, he got back into compliance and showed up to work on that following Tuesday.

BY [redacted]

Q So, just to have the record completely clear, he was in full compliance, and then -- at one point for several months, correct?

A Yeah. I think so. It was a month, 6 weeks. Yeah, there was definitely a --

Q He was in full compliance --

A -- stride there.

Q -- for a period of time?

A He was in compliance, yeah.

Q And then at some point he fell out of compliance?

A Uh-huh.

Q And you don't know the reason for that?

A No.

Q Nothing changed, as far as you know?

A From my understanding, I don't understand what happened, no. I still don't, honestly. For whatever reason, he was just delinquent. And I think, just like the AO does or the Acting AO does for many, reached out to determine, "Hey, look, you're delinquent. Let's get you back in compliance. Let's figure this out." And that's where the refusal came in.

Q Okay. And then he refused to get back into compliance?

A Yeah. And I think, again, his -- he just stated he was not going to do anything at all to get in compliance with the mandate, so --

Q So he just flat-out refused --

A Correct.

Q -- to work with you, even though you were willing to work with him?

A Correct. Yes, ma'am.

Q Okay. And, then, as soon as he was actually put on AWOL, within half a day he agreed to go back into compliance?

A Yeah. So he -- I mean, he was AWOL that whole day and then got tested that afternoon.

Q Okay.

A And, then, when his test was done, he came back in Tuesday.

Q Okay.

A He was back in the office, is my recollection, yeah.

Q Okay. Thank you.

BY [redacted]

Q I want to talk a little bit more about the security investigation into Mr. O'Boyle.

A Okay.

Q So, to start off, you weren't involved in that security investigation, correct?

A No, ma'am. No, I had nothing -- I had nothing to do with that.

Q So your only involvement was the phone call that you had with the Security Division?

A Yeah. Notification and logistics if it occurred in Kansas City.

Q And when was that first phone call?

A So I think it was, I want to say, late July 2021, sometime in July.

Q 2021?

A I'm sorry. Yeah, no. 2022. Sorry.

Q Okay.

A 2022, right? Yes. 2022. Because he -- yes. Sorry. 2022. I was not there in 2021 in July, yeah, so I apologize. Yes.

Q So he was suspended in September; you got the first phone call in July.

A July, yeah. Some- -- yeah, it was July.

[redacted] Can we go off the record for one second?

Mr. Dayoub. Yeah. Sure.

[Discussion off the record.]

[redacted] Back on the record.

Mr. Dayoub. Good point.

So, outside of the notification, they did ask us to pull his computers, after which -- I apologize. I did not include that. So that was our involvement, is, after he left, we did pull his computers as evidence from his space.

[redacted] When was that?

Mr. Dayoub. That was after he left, so it would be sometime in September. Yeah.

So that's a good point. Yes, ma'am.

BY [redacted]

Q So, in that first phone call from the Security Division --

A Uh-huh.

Q -- they told you that it was unclear which way the investigation would go, correct?

A Right. Simply, I was told, "Hey, there's a concern with Mr. O'Boyle. We're looking into it. Generally, just so you know, there's the potential that he is accessing things he's not supposed to be accessing, and we just want to make you aware of that, you know, since he's your employee." And that was pretty much the gist of that initial call.

Q Can we talk a little bit about why accessing things that you shouldn't access

is potentially problematic?

A Yes, ma'am. Sure. Yeah.

Q Why would that be?

A Well, obviously, I mean, there are so many sensitive intelligence information sources, methods, investigations that we have in the FBI, it's critical to keep things close-hold.

Also, in a situation where specific individuals who have access and need to know are only accessing that information, again, sometimes because if there's a person who does not need to know information, for any accidental reason or maybe something more malicious, on purpose, providing information and exposing things that we're doing.

So it's critical, as part of the FBI's role, as well as a lot of agencies, that we have to ensure to protect the information we have to only those individuals who have access to them, or supposed to have access to them.

Q And does that apply both to the classified and the unclassified systems?

A Yes, ma'am. Correct.

Q Because even if it's unclassified, it might still be sensitive?

A It could be. Yes, ma'am.

BY [redacted]

Q And even if it's unclassified, the release of that information could potentially impact an ongoing case?

A It could.

Q And it could potentially impact public safety as well, correct?

A It could, depending on the information.

Q If information is released, it could also potentially put the health or the safety of the agents who are working on that case at risk as well, correct?

A Correct. And that's why there's always a process if there is stuff that needs to be -- similarly, there's a process that must go through to vet through all that before anything is released. Yeah.

Q And it also could put witnesses' safety at risk, correct?

A Correct. Yes, ma'am.

BY [redacted]

Q So you got the call in July '22 originally -- or, sorry -- July 2022?

A Yes.

Q And then you did not take any actions at that point?

A No. I was asked not to. It was a notification only.

Q And then you had a few more calls in August?

A Uh-huh.

Q Do you know around when in August?

A It was mid- to late August. Honestly, those occurred because, again, we knew we were getting close to him transferring out, and so we were discussing logistics of, if the suspension came through at that time, what would we do and how would we handle it.

Q And during those phone calls, did you get the sense that the decision had already been made about his suspension?

A No. No. That was the issue. The decision hadn't been made. The process was still working itself through. And that was the things we kept discussing, about, "Hey, when would this go through? When is this going to happen?" So, no, the decision was not made at that point, no.

Q Why do you think that process and finishing that process is important?

A Well, look, I think having an extended process for any employee that has to

potentially face suspension is important. And you don't want to cut corners. You've got to let the process play out, for anybody, you know, all employees.

So it's, in my opinion, a huge deal to suspend an employee. And it has such an impact on them, their life, their livelihood. So it must go through the appropriate channels before -- there's a reason why, as an SAC, I cannot just suspend somebody, right? There's got to be a process that's outside of myself.

Q What do you know about what happens during that process?

A Unfortunately, not much, right? I just know just when I'm notified and when it occurs. But I've never been part of that process and I've never worked in that kind of area to be exposed from the FBI side. So I don't really know much, unfortunately. Yeah.

Q That's all right. But that process is important to make sure that you get it right?

A I would imagine so, yes.

Q Yeah.

BY [redacted]

Q How many employees did you say you supervise at the Kansas City Field Office?

A About 330, 336 employees.

Q And you've been the SAC for --

A Almost 2 years. It'll be --

Q Almost 2 years?

A -- 2 years in August. Yep. Yes, ma'am.

Q During that time period, how many employees have been suspended under your jurisdiction specifically?

A So it would be -- if you include Mr. O'Boyle, there would be two.

Q Okay. So it's pretty rare?

A Yes. For a suspension? Yes.

Q And it's a pretty serious thing?

A Yes.

Q So you would agree that, if the FBI is going through the process -- and I know you said you're not involved in the process --

A Right.

Q -- but it sounds like the process is specifically geared towards making sure they get it right. Is that fair to say?

A Yes. I mean, I think that's -- I would argue yes. Again, I'm not part of the process, but my hope would be, yes, that's the reason that process is in place, is to ensure we do the right thing, you know, make the right decision.

Q Because the FBI doesn't just suspend people for no reason?

A No. I would -- no. I'd hope not. Yeah.

Q Okay.

BY [redacted]

Q So you had the phone calls in mid- to late August, and then you knew that Mr. O'Boyle would be taking parental leave and then be transferred. Is that right?

A Yeah. He'd be checking out, taking potentially some leave, and then going to -- so, once his last day -- prior to his leave, he checked out of the office. I guess, technically, he was on our books, but, yes, he checked out, turned in everything, took leave, is my understanding, because he was having a baby, and then was going to report to his new duty station.

Q And you didn't know the exact day that he would be leaving?

A Towards the end, I did find out, yes. It was sometime that -- I really want to say that first -- sometime in the beginning of September, I want to say. Again, approximately.

But, eventually, I did find out when he was going to leave, because there was some discussion -- when he was going to have a baby, when he was going to leave; he had some things he was trying to wrap up. But we finally found out when he was going to leave. But the problem was, there was no decision yet made on his suspension. So we were ready and prepared, but we did not take any action.

Q To your knowledge, even when he was going to leave might have been a bit flexible, because you don't know exactly when his baby will be born?

A Well, correct, yeah. And, again, it's not -- it's odd for the SAC to be involved in that minutiae of stuff, of when an agent is going to transfer, right? That's their personal thing they're working through. That's not really necessarily something I would typically be engaged in.

BY [redacted]

Q And with parental leave in particular, how many weeks do FBI employees get for parental leave, if you know?

A I don't know. I never got to take my leave. So I know there's this new -- I don't know, honestly. Yeah, I don't know. I could -- yeah.

Q Is it fair to say that FBI employees get a certain number of weeks and they can elect to take all of that at once or they can elect to take part of it? Is that fair to say?

A I think so. Again, I'm not familiar. I know people take it. I know we have our own, you know, regular annual leave you can take. I don't know the mechanics. But, yes, I mean, there is time off you can take for parental leave at some

point.

Q So somebody might have a baby and they might take 2 weeks. Somebody might have a baby and they might be able to, between annual leave and parental leave, take 2 months. Is that fair to say?

A Yeah, absolutely. Yeah, that's accurate. Depending on, yes, what you wanted to do, that is accurate. Yes, ma'am.

BY [redacted]

Q And you were not part of the discussion of when he would start at the new office, correct?

A No. That was between him and, I'm sure, that new duty station. But I was not part of any of that discussion or is it my role to be part of that. Yeah.

Q So you had no knowledge about when that would happen?

A No. No. It was between him and -- yeah.

[redacted] Sorry, can we go off the record for one second?

[Discussion off the record.]

[redacted] We can go back on the record.

BY [redacted]

Q So I want to make sure I have this timeline down right. So you got the first phone call in July?

A Yeah. Late July.

Q Do you recall, when was Garrett O'Boyle's -- when did he apply for the new position? You signed off on it, right? Either you or --

A Well, I was ASAC, yeah. So my understanding is he received the actual orders or acceptance in June, so it happened a few months before that. So --

Q Okay.

A -- I would be guessing, but it obviously takes some time when you apply to go through the process. You're selected. Then it's announced that you're selected. Then you get your order.

So, if I have it right, I thought his orders were issued sometime around June. So that would've been after he was named and way after he applied. So I would say a few months before that, if I had to -- again, that's an approximation.

Q And when an FBI employee gets the -- you've moved several times, right? You've been transferred between stations?

A Yes, ma'am. Yeah.

Q When you get the orders, you have a range of time during which you can execute that move, correct?

A Yes, ma'am. Typically, it's 90 days is what they give you. But, again, that's flexible depending on when you're reporting, your circumstance, and, again, the needs of the office that's receiving you. That all depends. But, typically, it's 90 days.

Q Uh-huh. So he is preparing for his move, and, in the background, I presume unbeknownst to him, there's also this separate investigation ongoing, correct?

A That happened later that summer, yes, ma'am. Yeah.

Q Okay. And you first learned about it in July, and, at that time, I think you said it was unclear which way it was going to go, correct?

A Right. Yeah. They were looking at it. Yes, ma'am.

Q So, at that point, it's fair to say the investigation was in the early stages?

A Correct. I think it was just being initiated at that time. Yeah, yeah. Or close to that time.

Q And then, come August, you had some more phone calls, and the investigation still wasn't finished because the FBI wants to get it right, correct?

A Correct.

Q So there were still active steps going on?

A Again, I was not familiar with what those were, but, yes, correct, it was not completed at that -- or at least the decision whether to suspend Mr. O'Boyle was not made at that time.

Q And, then, at some point, Mr. O'Boyle left -- he went on parental leave and he left the Kansas City Field Office, correct?

A Yes, ma'am.

Q And that was?

A Again, I think beginning of July, maybe, the first week -- or, September. Excuse me.

Q Beginning of September?

A Beginning of September. Sorry.

Q Okay. And he went to Wisconsin, I believe, right, on parental leave?

A Potentially, yes. I don't know --

Q Okay. He left.

A He left. He left.

Q And you took his computers to --

A So that was the request. After he left, they asked us to go grab the computers utilized on both systems for another field office that was working the investigation.

Q And it was your understanding that when he left the investigation was still ongoing, correct?

A Yes. Correct.

BY [redacted]

Q Did they ask you for the computers before you knew that he was suspended?

A Yes. So they asked for the computers in those discussions, that likely we would need to probably grab those computers. And it wasn't until after he left when they said, hey, can you, you know, please go do that, and then we went and grabbed them.

Q And that was before you were notified that he had been suspended?

A Correct. That was prior to his reporting it, yes.

BY [redacted]

Q Okay. So, when you got the phone call, or, I guess, any of the phone calls, did SecD or Insider Threat or anybody -- was it ever told to you what the documents he had accessed were?

A No. Again, because of the other field office participating, there was discussion of Project Veritas generally. I don't know if that was the only thing, if there was more than that.

Again, the majority of what I knew -- and I tried to stay out of the specific details of it because, honestly, I did not want to know, nor should I. But my understanding was he was just simply accessing information which he should not have been. That's pretty much --

Q And they didn't say during those conversations that he had done an interview, correct? The concern was purely the accessing of the information?

A Correct. At that time, I don't think that was out there. I don't think it was until after that there was discussion about that interview.

Q Until after the suspension?

A I think so.

Q Okay.

A Or around -- it was after, yeah.

Q Okay.

Did you ever view Mr. O'Boyle's suspension notice?

A No. I never received it.

Q We're going to introduce that as exhibit 1.

A Oh.

[Dayoub Exhibit No. 1

Was marked for identification.]

BY [redacted]

Q And I'll give you a minute to look it over, and let me know when you're good to continue.

A Okay.

Q Okay.

So, in the prior hour, you were asked about Jennifer Moore's testimony and the contention that Mr. O'Boyle disputes that he gave an interview to Project Veritas. Do you recall that questioning?

A Yes. Yes, ma'am.

Q So this suspension letter actually doesn't say anything about media disclosures, right?

A Correct. It's about mishandling or misuse of our systems and information.

Q Right. So it cites Guideline K, which is "Handling Protected Information," and Guideline M, which is "Use of Information Technology of the National Security Adjudicative Guidelines," correct?

A Yes.

Q Okay.

So, regardless of whether or not Mr. O'Boyle was the person behind the screen in the interview, the fact that he accessed sensitive information, alone, was enough to justify the suspension of his clearance, correct?

A From what this letter stated, yeah. Again, this came from -- that's their determination, right? I wouldn't have a role. But, yeah, I mean, that's what it looks like from this letter. Yes, ma'am.

Q So it's entirely possible, for example, that he accessed this information and gave it to somebody else, then, who was the person behind the screen, correct?

A Yeah, potentially possible. Yeah.

Q And the key issue is the unauthorized accessing of information?

A Correct. And that is exactly what -- that was my understanding of the situation with him, was the mishandling and the accessing of information he should not have been accessing.

Q And you said that on the phone call there was -- on the various phone calls you had about Mr. O'Boyle, it was SecD?

A Yes.

Q Insider Threats?

A Yes, ma'am.

Q The Inspection Division?

A Yes.

Q And then another field office?

A Correct.

Q And that other field office was the New York Field Office?

A Yes, ma'am.

Q Okay. And you said the New York Field Office was involved because the accessed information involved one of their cases, correct?

A Yes. That's what I assume from it, yes. They had the equity in it. They had the investigation. They were working through that. Yes, ma'am.

Q And during your tenure supervising Mr. O'Boyle -- I realize you were a couple levels above him -- but, to your knowledge, did Mr. O'Boyle ever have any involvement in that -- any direct, official involvement in that New York Field Office investigation?

A Not that I'm aware of. No, ma'am.

Q So the information he accessed, it wasn't pertinent for his actual duties, correct?

A Again, from the limited I know of it, that's probably accurate, but, again, I don't know the full scope. But, yes, ma'am.

Q Okay. Why did the New York Field Office want to talk to Mr. O'Boyle?

A So, again, I think as part of their investigative efforts, that is something they said that they wanted to do. I didn't ask them specifically why or the reasoning. It was just part of what they had ongoing, and that was something they were interested in doing. That's all.

Q Are you aware that the information that Mr. O'Boyle accessed impacted their ongoing investigation?

A I did not know that, no, ma'am.

Q Are you aware that it may have put the safety or security of the agents working on that investigation at risk?

A I was not aware of that.

Q Okay. If that happened -- if something in your -- under your tenure as SAC, if information was released that put an agent under your purview at risk, would that be of

concern to you?

A Of great concern. Yes, ma'am.

Q And why is that?

A Well, obviously, our jobs are dangerous as they are. So anything that we -- especially that could put them at further risk and prevent them -- and put them in danger is obviously unacceptable.

Q During the discussion with SecD, Insider Threat, the other field office, and the Inspection Division, was there any discussion about Mr. O'Boyle accessing information related to other cases other than that one that the NYFO was working on?

A Not that was disclosed to me. Again, it was the broad of mis- -- of accessing stuff he shouldn't have. Project Veritas came up, but I don't know if that meant just them or there was a broader issue, and nor did I ask.

Q Okay. And did they say, for example, anything about Mr. O'Boyle accessing a 1023 to which he wasn't entitled?

A No, I'm not tracking that.

Q Okay. So they didn't mention that?

A They did not.

BY [redacted]

Q You mentioned at the end of the last hour that you had heard, closer to the end of Mr. O'Boyle's time at the Kansas City Field Office, that he was not working his cases. Is that right?

A Yes, ma'am.

Q So what does that mean, "not working cases"?

A Again, this was a general conversation with myself and the ASAC, but my understanding is he was not doing the correct -- he was not engaging in the investigative

steps as part of his cases. Again, I don't know when the timeframe was we're talking about here. It was a general comment.

The concern was mostly, there was search warrants that were supposed to be conducted that were delayed because of miscommunication of how they were and when they were obtained when we were not ready to execute. That's where the frustration came from. And there was an offside comment about him not always being engaged in his cases, doing the right work.

So, again, I did not dive deep into it. We were just trying to, "Hey, let's just figure out a way to get these search warrants executed in the right way and the safe way," and we kind of left it at that.

Q To your understanding, these were domestic terrorism cases?

A Yes, ma'am.

Q Why is it potentially problematic for a search warrant not to be executed at the time?

A Well, we're on -- unfortunately, right, when a judge gives you and signs you the search warrant, you have a certain amount of time in which you have to execute it, or you have to go back to the judge explaining why. And a miscommunication or misallocation from our end is I don't feel a justification that we should go to a judge and say that we cannot execute a search warrant.

Q To your knowledge, in these cases, did it require going back to the judge for a new warrant?

A I don't recall if we did or not. I mean, I know we delayed it, but I'm not sure how or what we did. I really left that to the Wichita office to kind of handle.

Q And can that affect the investigation itself, delaying a search warrant?

A Potentially, I mean, depending on what happens. I mean, luckily, in this

case, I don't think it did. We just executed it after the fact, and it was fine.

Q Okay.

To your knowledge, did other special agents or other people on Mr. O'Boyle's team have to pick up the slack from him not doing that work?

A So that was not articulated to me, so I'm not unclear -- I mean, so I'm unclear whether or not. But I would imagine, you know, but I don't know.

BY [redacted]

Q But, presumably, if he wasn't doing the work, somebody --

A Somebody would have to, yeah. That would be the presumption, but I don't know specifically.

Q And, presumably, if somebody else had to do the work that he wasn't doing, that person also had other cases that then --

A Yeah.

Q -- perhaps got put on the side?

A Right. But -- yeah. But I don't have direct knowledge of that, but yes.

BY [redacted]

Q We talked a little bit, the last hour, about Sean Fitzgerald. Could you remind us what his title was?

A So he was the supervisory special agent. I think he was the actual SSRA, the senior supervisory special agent, at the time. And he also was the direct supervisor for Mr. O'Boyle.

Q Did you interact with him frequently?

A Oh, yeah. I mean, on a decent basis. Again, I use my ASAC mostly. And the ASAC and the supervisor talk, and I use the ASAC. But I definitely had times where I engaged Mr. Fitzgerald.

Q And what was the tenor of those interactions generally?

A Mostly operational in nature, case-related. Depending on what they had going on, coordination with outside liaison partners. During my trips to Wichita when I visited the office, if I was going to encounter any of our partners there. That kind of stuff mostly.

Q Did you ever have concerns that Mr. Fitzgerald wouldn't relay concerns that he had heard in the office to you?

A No. No, I don't. We had pretty -- I would think, at a minimum, he would go to the ASAC, who would definitely talk to me if there was an issue.

Q Did you have any concerns that Mr. Fitzgerald didn't feel comfortable talking to you?

A No, not from my perspective.

BY [redacted]

Q Did you have any concerns with the performance of Mr. Fitzgerald's duties generally?

A No. Nope. Not from my end, no.

Q Okay.

You were asked in the earlier hour about Mr. O'Boyle's protected disclosure. And, to be clear, you don't know what that protected disclosure to Congress was?

A No. No, ma'am, I'm not -- I don't know what that is.

Q And there was a reference to potentially it involving something about how domestic terrorism cases were managed.

A Okay. Yes.

Q Okay. So I think you were asked a question about whether it was unusual to have one domestic terrorism case open per subject.

A Oh, yes. Yes. Yes, ma'am. Correct.

Q Okay. And I think we bounced around a little bit, so I just want to make sure I have a clean record and I understand that testimony.

A Okay.

Q So, under the domestic terrorism -- well, first of all, are domestic terrorism cases governed by the DIOG or by the Counterterrorism Program Guide?

A So both. The DIOG is typically seen as our overall general policy, and there's policies and procedures that we must follow. And then, typically, each program will have their own policy guide that will clarify or further provide guidance in their specific threat arenas. So both would be governing -- would govern the cases.

Q And, I'm sorry, I should have said this earlier. The DIOG is the Domestic Investigations and Operations Guide, correct?

A Yes, ma'am. Correct.

Q And that's, like, the broad FBI policy guide?

A Correct.

Q Okay. So DT cases are governed by both the DIOG and the Counterterrorism Program Guide.

A Yes, ma'am.

Q And, under the combination of those, do you know if the guidelines say that it should be one case per subject?

A So I'll have to -- again, I'm going off my own experiences here. I'd want to refer back to the policy to specifically state. But, for the general purpose, I've always known it to be that we'd want to have independent investigations on subjects for the predication purpose.

There are enterprise investigations. And, again, each -- not just

Counterterrorism Division and their policy, but each other program has their own policy guides within there.

I think, regardless of how it is opened, the key is that predication is there for each individual you investigate.

Q So is it fair to say that one case per subject would not be unusual?

A No, I don't think so. But, again, I don't have the specifics on those specific cases. But, no, I don't think so.

Q Okay.

And you said that you want to ensure predication on each individual subject. Could you explain what that means and why that's important?

A Right. So, as we open up our investigations, right, we want to make sure that whatever [inaudible] information or information that was collected of a potential violation of Federal law, at whatever level that we have that information, we can predicate to an individual so we know what level of investigation we're opening. Are we doing an assessment? Are we doing a preliminary investigation? Are we doing a full investigation?

So the problem that would occur -- now, to occur, you don't want to have just one huge case and be investigating a bunch of people typically. Again, there's a lot of protocols in place. There's the program manager that you would work with. We have legal advisors that help you through that process of how do we ensure we're opening our cases and they're predicated correctly. And the supervisor is supposed to really help manage that.

Q Okay. And so it falls to the supervisor -- in this case, I guess, Sean Fitzgerald --

A Right.

Q -- to help manage the determination of how many cases are opened, correct?

A Correct. He is the one that authorizes the opening of investigations within policy guidelines. Yes, ma'am.

Q And the supervisor presumably has a holistic view of the full case. Is that fair to say?

A Should, yes. That's the intent of the supervisor. Yes, ma'am.

Q Okay. And so it would be -- actually, strike that. Withdrawn.

You can go on.

BY [redacted]

Q Switching topics a little bit --

A Sure.

Q -- as an FBI employee for nearly two decades, are you aware of the ethics requirements that regulate what kind of gifts you can accept?

A Generally, yeah. I think -- yes. A very low amount, and it's just easier not to accept any gifts. Yes.

Q And are you aware if there are reporting requirements on certain gifts?

A Yes. Correct.

Q How are you generally made aware of those requirements?

A Typically, we have legal training that -- we have legal and ethics training. But, typically, the way we handle it on unique situations is, if you're going to get a gift or you're going to be in the process of getting a gift, you talk with our ethics team at headquarters or our legal advisor, and they'll help walk you through, hey, does this meet the threshold or not.

The easiest rule is, just do not accept any gifts. Just, that's the easier. But

there are some exceptions to that. But that's how we walk through that.

Q Does this apply to FBI employees that are not special agents?

A Yes. All FBI employees.

Q Does it apply even if an employee is on leave?

A Yes. As long as you're an FBI employee. Correct. Yes, ma'am.

Q In your experience with the FBI, have you ever felt silenced or as if you have been stopped from speaking out about your concerns?

A Again, speaking from my own experiences throughout the FBI, no. I'm typically pretty vocal about my opinions and my process of how I believe things should be done, and that -- there's no issue.

Now, I'm not always saying -- I have a boss, I have bosses everywhere I go, and do I always get my way? No. But I think, for the most part, the great thing about the FBI is to ensure that dialogue and communication and, if there's disagreements or there's issues, that we have different ways of looking at things and we get to the right place together, right? That's the intent.

Q And you talked a bit about your open-door policy. If somebody who worked for you came to you and said that they felt silenced, how would you respond?

A Well, I'd want to know from where and how, and I'd want to solve that issue. That is, in my opinion, not acceptable, for our employees to feel that way. They need to be empowered to provide either management or outside -- DOJ or FBI headquarters information. They have to be able to feel comfortable providing some information up so that we can deal with the issue and the problem.

So I would just want to dive into why do they feel that way, what is going on. Again, that's obviously a hypothetical, but typically that's how I would handle that issue.

BY [redacted]

Q And, sorry, just one more wrap-up question.

A Sure.

Q On Mr. O'Boyle specifically, with respect to the conditions around the time that he was served a suspension notice and his move, I think the allegation has been made that somehow the suspension notice was withheld, to serve it at exactly the time he moved as a form of retaliation.

Do you have a reaction to that allegation?

A So I'll just tell you from my aspect in my interaction with this. My intent was to do everything I could, if the process allowed, which I did not control, to try to get that done.

There was no indication at all from anybody I was talking to, in our coordination, that there was any type of attempt to hold this before. We were trying to do it. It's just, the process is the process, and that's just the way it is, and it was just bad timing.

But I did not see that, nor did I have any indication of that. And my intent was to hopefully have done that, because he was my employee. It's just, the circumstances did not allow it.

Q And so, for example, on the phone calls with SecD, Insider Threat, NYFO, and the Inspection Division, nobody ever said, you know, "Let us know when he's moving so we can time this appropriately"?

A No. No.

Q Okay.

A We were trying to figure out, you know, again, what would happen if we got this when -- or, what happens if it does get delayed, and we discussed those. But, no.

Q So it was primarily a logistical concern of --

A Yes. Correct.

Q -- how do we address this?

A How do we do this. Yes, ma'am.

Q Okay. All right. Thank you.

We can go off the record.

[Recess.]

[redacted] We can go back on the record.

[redacted], are y'all ready?

[redacted] Yeah, we're good.

[redacted] Perfect.

BY [redacted]

Q Mr. Dayoub, part of your testimony from the last few minutes has regarded Mr. O'Boyle's computers --

A Yes, sir.

Q -- that were taken into evidence.

A Yes, sir.

Q Was that a direction of the New York Field Office?

A Correct. Yes.

Q Who gave that order?

A It was during one of the calls. I cannot remember who specifically, honestly, from New York. It was part of our general call that that was something they wanted to have, is the computers.

Q Okay. And that was after Mr. O'Boyle's clearance was suspended?

A No. It was in the timeframe -- it was either right before or right after he left. So it wasn't after his suspension. It was --

Q Okay.

A -- during that window. I cannot recall if it was as soon as he left, but he was definitely out of the Kansas City Field Office when we took it. But I can't remember if the discussion occurred that week or that following week when they asked for it, depending on when he left.

But the request was, as soon as he did leave -- since it looked like we were not going to get him there -- is to get the computers.

Q Okay.

A Yeah. Hopefully that helps. I'm sorry.

Q Yeah. No, no. Absolutely.

So do you know where the computers were taken?

A So we took them into evidence, and they were shipped to the other field office as part of their evidence.

Q Okay. Do you know who is in possession of them now at the New York Field Office?

A I don't know specifically who has them. No, sir.

Q Okay. And would you know how evidence would be used in that case?

A Well, I mean, I wouldn't want to speculate. I mean, obviously, we use computer evidence all the time or examining computers all the time to determine what's on there or what actions were there. But what specifically the New York wants with it I do not know --

Q Okay.

A -- nor did I ask. I just was told that's something they wanted, and we complied.

Q Okay.

You also testified -- we were talking about, the investigation that Mr. O'Boyle was

ongoing from the FBI's side.

A Yes, sir.

Q Do you know if it's been officially determined that he leaked information?

A No, sir, I don't know. I honestly don't know.

Q Okay.

So I kind of want to shift gears just a little bit. One of the topics that Mr. O'Boyle discussed with the committee involved the Attorney General's October 4, 2021, memorandum concerning alleged threats and violence at local school board meetings.

A Yes, sir.

Q Are you aware of that?

A I am. It's been a while since I've read it, but, yes, sir.

Q Okay.

I'm going to enter that into the record as exhibit 2.

[Dayoub Exhibit No. 2

Was marked for identification.]

BY [redacted]

Q So just take a few moments here.

So, in October of 2021, you would've been in your position as special agent in charge, correct?

A Yes, for a few months. Yeah.

Q When do you recall learning of this memorandum?

A I don't know the specific timeframe, but it was close to when it was published or pushed out. And the way I received it was through our -- one of our U.S. attorneys emailed it to me and asked if I was tracking this information or this memo.

Q Okay. And who was that attorney?

A I believe that was Teresa Moore. She's the U.S. attorney for the Western District of Missouri.

Q Okay.

A Yeah, I'm not sure if it was an email or call, honestly, but there was some discussion from her, "Hey, there's this memo. Are you tracking this memo?"

Q Okay. And were you tracking?

A No.

Q Okay. What was your reaction when you read this memorandum for the first time?

A Well, again, I think, from my perspective, I read it, and I wanted to ensure what guidance -- what does this mean? What is the impact on the field? What are we asked to do? So I reached out to our headquarters to determine, hey, what's the purpose of this memo, what does this change, what is this requiring of us, to try to get some clarification on what we were required to do.

Q Okay. And what was your understanding of what you were required to do?

A I really didn't know. I know there was a mandate in here to state that we had to have a meeting within 30 days, and that's kind of what I focused in on. Outside of that, I wasn't sure what this was directing us to do, which is why I was asking for clarification.

Q Sure. And did those meetings occur?

A So the U.S. attorney Teresa Moore did schedule a meeting with local partners and the District of Kansas U.S. attorney's side and invited us, and she did the meeting within 30 days.

Q Okay.

A So she took the lead on that, sir.

Q Do you recall the attitude of any of your agents or employees in Kansas City when they heard of this memorandum?

A Well, I mean, I think we all were just a little bit confused by the memo. Like, what does it mean? What was the intent behind it? So there was that discussion. Yes, sir.

Q Okay. Did you get any SharePoint messages about this at all?

A Oh, you mean -- oh, from my -- no, I don't think so. On this specifically, I don't think so.

Q Okay. So, other than your conversations with Teresa Moore, were you involved in any other conversations or correspondence about how this would be implemented?

A Yeah. So I spoke to our Criminal Investigative Division at FBI headquarters and just sent them the memo and said, "Hey, can you tell me, what's the guidance on this? What's -- regarding the 30-day meeting requirement?"

Q Okay.

Are you familiar with the "EDUOFFICIALS" threat tag?

A No.

Q Okay.

Do you know who Carlton Peoples is?

A I do, yes.

Q Okay.

I'm going to enter exhibit 3.

[Dayoub Exhibit No. 3

Was marked for identification.]

BY [redacted]

Q Did you receive that email?

A Yeah, I had to have.

Q Okay.

A Yes.

Q So I want to know, from your perspective or from your experience, how do these threat tags work?

A So my understanding of threat tags, generally, they're an administrative function, right? They're there to help us track statistics, case openings, or assessment openings, what are we opening on in a specific threat area so we can report back, typically to Congress or within our own division or the FBI headquarters.

Q Okay.

A So it's more of a tracking administrative function, essentially.

Q Okay. So is there any other law enforcement utility with that at all, other than administrative?

A I don't think -- I mean, outside of helping us also -- like, we would probably try to pull different tags if there are specific threats that we're seeing arise up to maybe help and focus on our resources or whatnot, depending -- so it's all statistical/administrative-driven. Like, it could impact, you know, again, moving of resources depending on what we see. But it's more of a tracking mechanism to help us understand what are we seeing and what are we opening, I believe.

Q Okay.

And were there any concerns in your office when this email came through from any of your employees or agents?

A No. I mean, honestly, I don't recall the email offhand. I just remember the discussion with the U.S. attorney about the memo and trying to get clarification from

Criminal Investigative Division from our end.

And, ultimately, what I was told was, it really doesn't change anything. Like, nothing in that memo changes what we're doing, predication, all that process. Yeah.

Q Okay.

So did you have any knowledge or participate in any investigations in Kansas City pursuant to this threat tag?

A No, not that I recall. I mean, I do remember requesting, because of the memo coming out or my discussion with the U.S. attorney, asking the office, "Hey, do we have any of these cases?" And my recollection is we didn't have any.

Q Okay. Did you ever have any agents go to any school board meetings or anything like that?

A No.

Q Okay.

[redacted] Did you ever see a rise in the kind of cases referenced in this memo prior to the issuance of the memo?

Mr. Dayoub. We had -- I had not, no, ma'am. We had not seen that, no.

[redacted] Did you perceive the contents of that memorandum or that email -- did you perceive school board meetings and threats of violence as a threat in the Kansas City area?

Mr. Dayoub. Again, we had not seen that specifically within my AOR. And, again, with the memo coming out, what I wanted to ensure, was I missing something here? So that's where the discussion and talking with the office -- "Hey, is there something I'm missing? Are we seeing this?" And we had not seen it.

[redacted] Did they provide you -- you talked about guidance; you asked for guidance. What guidance did they provide you?

Mr. Dayoub. Well, the guidance I was given was, basically, it doesn't really change anything. It doesn't change any predication, any investigative actions. It doesn't change where we're directing resources.

So, outside of the meeting, which the U.S. attorney from the Western District of Missouri was going to do, that's the only requirement on there, is my understanding.

BY [redacted]

Q So, with that being said, what do you think the purpose of the memorandum and the email were?

A So I don't know -- like, I don't know if I could state -- all I know is, the memo didn't really impact us at all or didn't change anything that we did. And so, from my perspective, it really didn't -- we kind of did business as usual, honestly, from that perspective. So, yeah.

Q Okay.

And on a larger scale of the FBI and given your background as an attorney, being a former member of the military, do you think that the Federal Government, more specifically the Bureau, should use resources, counterterrorism resources at that, to investigate parents at school board meetings?

A So the FBI has a process in which we are required to have legal authority if we're going to do any type of investigation, and we have policies, procedures, and predications in place to do so. If we are not within that, then we cannot take any action, right? That is the way the FBI works. We are very limited in our scope and our authorities, from that perspective.

Q So, with that being said, the FBI is not in the business of censoring First Amendment activity, correct?

A The FBI is supposed to protect the First Amendment of the Constitution.

Q So do you think it's appropriate for the FBI to investigate parents who are exercising their First Amendment rights?

A So, again, I have not seen anything like that, right, from our end. Protection of First Amendment rights, no matter where you come from, no matter your ideology, is absolutely protected. And the FBI must do everything it can to protect First Amendment rights of Americans and individuals who practice that.

Q Do you think the FBI should wade into the business of chilling any First Amendment expression?

A Again, we are in the business of protecting those rights. Yeah.

Q Okay.

So I want to switch gears a little bit to your previous position --

A Okay.

Q -- which was the section chief of counterintel? Is that correct?

A Yes, sir.

Q Okay. All right. And what were your duties in that role?

A So I was the section chief -- I ran the China operations section, so everything regarding the People's Republic of China regarding the counterintelligence arena.

Q Okay. Did you have any involvement in any sort of investigations or allocations of counterintelligence resources in that position?

A Can you restate? I'm sorry.

Q Sure. Yeah. So were you in charge of opening investigations or directing agents to open investigations?

A No. So -- no. For the most part, obviously, there's a discussion that happens with the field office. We a program management entity at FBI headquarters, so we help manage those cases. Now, absolutely, there was times where we seek

predication or we may get information and we direct, "Hey, here's the information," and we'll work with the field office in opening cases and managing those cases. But that's generally the roles that are there.

Q Okay.

So correct me if I'm wrong. So you held that section chief position on January 6, 2021, correct?

A Yes, sir. I was here in D.C. at the time, yes. Correct.

Q Okay. So, if you can think back to that timeframe --

A Okay.

Q -- were you or anyone else at headquarters aware of any planned protests that were going to take place in and around the Capitol on January 6th?

A Honestly, no, I mean, not from my perspective. Again, I can only speak to my limited ability when I was there at counterintel. We are pretty focused on simply the PRC in my shop. And, no, outside of the protesting just happening while I was here, no, I had no knowledge or any discussions as part of that.

Q Okay.

And so the committee has received testimony that domestic terrorism subjects who indicated a desire to attend, you know, any protests on January 6th, that they were physically surveiled from various field offices up to the border of the Washington Field Office.

A Okay.

Q So were you aware of that at all?

A No. And I wouldn't be in my position. No, sir.

Q Okay.

And in your limited scope that you've described, did the FBI, you or headquarters,

receive any intelligence prior to January 6th regarding any planned protests?

A Again, I would not be in a position to know. No, sir. I'm not sure.

Q So I want to turn to the day of, to January 6, 2021.

A Okay.

Q Yeah. So -- sorry, that was misleading.

A That's okay.

Q So were you at the command post on that day?

A No. No, sir.

Q Okay. Would you ever go to the command post?

A Regarding the January 6th? No. Again, I was in the counterintelligence arena, focusing on China operations, not -- would have no reason, nor was I in that.

Q Okay. Would you have any information regarding confidential human sources on January 6th?

A Not in my capacity, right, in counterintel, no.

Q Okay. So do you know if confidential human sources were proactively deployed on January 6, 2021?

A No, not that I would be tracking from -- no.

Q Okay.

As section chief of counterintel, would you have had any involvement as to how FBI headquarters sent leads to field offices regarding January 6th investigations?

A Regarding -- no. Regarding January 6th, no, sir.

Q Okay.

So we've talked a little bit briefly in passing about, you know, how cases were opened pursuant to January 6th investigations.

A Yes, sir.

Q So the committee has received information that the Washington Field Office pressured other field offices to open investigations into those events.

A Okay.

Q Are you aware of that?

A No. And that wasn't -- in my experience, I did not see that, from my FBI Kansas City time, that pressure.

Again, I think it's important that there's always dialogue between us and other field offices, the U.S. Attorney's Office, FBI headquarters. I think that dialogue and that discussion -- we don't always see eye-to-eye. That is absolutely true. But I think that's a good thing. We want to ensure we're going back and forth.

But I had never seen any -- or, from my perspective in Kansas City, any pressure from Washington Field or anybody else on January 6th cases -- or any other cases, for that matter.

Q Okay.

So what's the normal communication between, let's say, the Washington Field Office and the Kansas City Field Office?

A I guess it depends on -- do you have a specific example? It depends on the scenario, right?

Q Yeah. So, if there's an investigation, let's say, that the Washington Field Office is heading up and they need information from Kansas City, how would that communication come down to you?

A Yeah. So, typically, it would not, right? Again, I'm speaking from the SAC perspective. Typically, I'm not -- outside of it being a very sensitive investigation or a high-profile investigation, typically, two field offices working together in an investigation would not come and ask the SAC, outside of the opening of that case requiring SAC

approval, depending on the sensitivity of that case. Those would be a squad-to-squad, supervisor-to-supervisor, maybe an ASAC-to-ASAC potentially.

But, again, there are so many ways that we can pass and share information, it's hard to say in every instance. But, generally, it's going to be at the working level unless there's an issue of concern or it regards additional approval that it would come to my level.

Q Okay.

So, you know, in that same respect, would it work the same way if there was an investigation that Kansas City was heading up and you needed information from the Washington Field Office?

A Yeah, absolutely. Yeah. We would talk. Again, to be formal, you'd set a lead, a specific lead, asking them, "Hey, here's what we're asking you to do," from that perspective, and, "Here's the information," and see what they could do to assist -- either open a case or assist us in our investigation. But, yes.

Q Okay.

Could we go off the record for a moment?

[Recess.]

[12:14 p.m.]

BY [redacted]

Q Mr. Dayoub, I know we have covered a litany of topics throughout today, but I want to turn your attention last back to Mr. O'Boyle. I just have a few more questions.

A Sure.

Q Did you do any independent investigating as to whether or not any of the allegations made against him were true?

A No. No, sir.

Q Would it be typical for you to do any independent investigating?

A No, it would not. That would not be -- no. That's not normal, no.

Q So is it your understanding that Mr. O'Boyle's security clearance was suspended in September of '22?

A Correct. Yeah, I think so, yeah. That sounds about -- late September.

Q Late September of 2022?

A Yeah.

Q Okay. And as we sit here today, is it your understanding that the investigation into Mr. O'Boyle is ongoing?

A I mean, I assume it is, just based on what we see in the media. But I don't have any specific knowledge of where that investigation is. Honestly, that's not something they keep me apprised of.

Q So you said it was pretty rare earlier for a security clearance to be suspended or for you to get calls. Is that correct?

A Yes, sir. Correct.

Q Does it seem typical to you for an investigation to take this long into an

agent's security clearance?

A I think -- and, again, I'm not sure I'm the proper person to tell you that. I think an investigation -- I can speak to investigations generally.

Q Sure.

A Especially depending on so many factors are there and how long they are, how short they can be. So I would hate to kind of comment on what a normal investigation would be, especially since I've never been in that realm in working in a security investigation regarding somebody's clearance. I wouldn't really be in the proper position to say.

Q Sure.

My final question is, do you believe that the FBI has treated Mr. O'Boyle fairly?

A From my perspective and what I have seen, we have gone through the process that any other employee would go through. So from my perspective, my hope is, yes, that everything has fallen as fairly as we could.

It's an unfortunate circumstance. This is not a good thing for any of us when you have an employee suspended, regardless of the situation.

But there are protocols and processes in place that are allowed so things are fairly kind of drawn out and investigated appropriately on that end.

So from what I have seen, that is what's occurring. Yes, sir.

Q Mr. Dayoub, that's all I have. I just want to thank you for being here today. Thank you.

A Thank you. I appreciate it.

[redacted] [redacted], do you have anything?

[redacted] Off the record.

[Discussion off the record.]

[redacted] It's 12:19, we can go back on the record.

BY [redacted]

Q One more. I want to go back to this question about the computers quickly.

A Yes.

Q And then I think we can move on from that issue.

A Okay.

Q So before Mr. O'Boyle left the Kansas City Field Office, the investigation -- the suspension investigation was still ongoing, correct?

A Correct.

Q And then he left early September.

A Yeah, it was really early-ish.

Q After he left, the computers were taken.

A Yes.

Q And they were presumably sent to the New York Field Office for investigative purposes.

A Yeah, yeah. They were sent to New York. Yes, ma'am.

Q And after those computers were seized and presumably that investigation took place, then Mr. O'Boyle was suspended after the computers were seized, correct?

A So, correct, but I think we're talking about two different processes that are occurring. You have the one field office doing their thing, which I think is separate and apart, I believe.

Q Okay.

A Again, this is my understanding of discussions from the Security Division standpoint of the security clearance suspension. So I think that is their thing.

I think New York had their own ongoing investigation. That was what the

computers were related to. I don't think that was -- I could be wrong, I don't have the specific instance, but that was different than the discussion with the Security Division on the suspension of the --

Q Okay. But the fact remains that his computers were seized before he was formally suspended?

A Yes. That is accurate. Yes.

Q Just on the timeline?

A Correct. Yes, ma'am.

Q Thank you.

BY [redacted]

Q I want to turn back to the January 6th investigation issue.

So on January 6th, you mentioned, you were a section chief in the Counterintelligence Division?

A Yes, ma'am.

Q And your office focused on China-related matters?

A Correct.

Q So you did not have any direct work on January 6th investigations at that time?

A No, ma'am, I did not.

Q You weren't part of any decisionmaking about how to handle January 6th investigations?

A No, ma'am.

Q So your first foray into January 6th investigations would have been when you became the SAC of the Kansas City Field Office?

A Correct.

Q And that was in August of 2021?

A Yes, ma'am.

Q So would it be fair to say that many of the January 6th investigations had already been opened in the Kansas City Field Office when you joined?

A There were definitely -- yeah, there were some January 6th investigations open. Yes, ma'am.

Q So you weren't involved in any case management decisions related to those January 6th investigations?

A No. But I do think it's important to note that even -- there were some cases that were looked at and opened even during that time period. Again, none of them required SAC approval or participation as part of that.

Q We talked a little bit about your interactions with the Washington Field Office. As the SAC, did you interact with them very much?

A I did not. No, ma'am.

Q Did the Washington Field Office ever inappropriately pressure you or force you to take investigative steps that you didn't agree with?

A No.

Q To your knowledge, did the Washington Field Office ever inappropriately pressure you or pressure your subordinates to take any steps they didn't agree with?

A No. And I want to be clear on this part. Like we manage what we do in the FBI field office together in coordination. That would never -- that would not be something I would be -- appropriate to happen, nor would I let happen.

I mean, there's going to be discussions and disagreement about cases, but at the end of the day, we will manage what we need to manage from FBI Kansas City. And our employees know that if it is a concern or issue from another field office, from

headquarters, that would be brought up and there would a discussion that would occur to ensure that's the right place and the right decision.

Again, I think that's a healthy thing to have and it's important to have that different perspective and discussions in different levels.

Q You mentioned that as SAC you wouldn't usually be involved in the conversations between the field offices?

A Not regarding specific investigative leads in cases, typically.

Q If there had been some kind of inappropriate pressure and had it been resolved at a lower level, would you have -- would that have been brought to your attention?

A Yes. And I would expect it to have, yes.

Q And that didn't happen?

A No, ma'am.

Q Did you ever reassign any agents that were working on criminal cases to work on January 6th investigations?

A I don't think so, no.

Q Were agents reassigned from working on child exploitation cases to work on January 6th cases?

A No.

Q Were agents reassigned from working on violent crime cases to work on January 6th cases?

A No.

Q And you have worked at the Washington Field Office, correct?

A Yes.

Q How long did you work there?

A I think I was there for a year and a half, I think, as the -- so -- well, I'm sorry. I was there for 3 to 4 years as an agent and another year, year and a half as an ASAC. So what is that, 5 years, maybe 4-1/2 years?

Q And you have also worked at headquarters?

A I have, yes, ma'am.

Q At the Washington Field Office did you ever see anybody take investigative actions because they were seeking a promotion?

A No.

Q At the Washington Field Office did you ever see anybody let symbolism dictate their investigative actions instead of the facts and circumstances of the case?

A No. Again, we deal with evidence, facts, predication as our process. That's what we rely on. That's what we focus in on.

Q Now I want to turn to the memo from the Attorney General about --

A Yes, ma'am.

Q That's exhibit 2.

You've seen this before, correct?

A Yes.

Q I'm going to ask you to review it, specifically looking for does this memo ever use the word "parents."

A I don't see the word "parents" in here, no, ma'am.

Q The memo refers to board members, but does it ever refer to school board meetings?

A No, ma'am.

Q Asking you to go back to when you first saw the memo. When you saw it, did you think that it was about school board meetings?

A No, ma'am. Again, I wasn't sure what the intent. I was trying to find guidance for what this meant. No, I did not.

Q When you read it, did you think that it was about parents expressing their First Amendment rights at school board meetings?

A No, ma'am.

Q What did you think it was about?

A Again, it was unclear. I didn't know what it was. That's why I was asking for guidance. I just knew we had to direct it together in a meeting within 30 days.

Q The last sentence of the first paragraph of the memo, it notes that, "While spirited debate about policy matters is protected under our Constitution, that protection does not extend to threats of violence or efforts to intimidate individuals based on their views."

Do you understand the phrase "spirited debate about policy matters is protected under the Constitution" to be a reference to First Amendment protections?

A I think that assessment, yeah, that's what our assessment is.

Q And as the sentence continues, would you agree that First Amendment protections do not extend to threats of violence or actual violence?

A That's been the case. Any kind of threats of violence or violation of Federal law, obviously, typically, is not protected by the Constitution.

Q You mentioned earlier that as SAC one of your responsibilities was community engagement and external partners?

A Yes, ma'am.

Q And so this memo asks or directs there to be meetings between FBI and U.S. Attorney's Offices and local and State officials.

A Yes.

Q Were those kinds of meetings routine?

A Yes, all the time.

Q And what was your role in these meetings?

A I mean, it depends on the meetings. But basically I would be there to coordinate any FBI equities, assets, or to explain what the FBI's mission and role is.

Again, the meetings came in all kinds of formats. But, yeah, routinely that's part of my job, is to engage our partners at all levels, to include the private sector in anything they need.

Q Why is that important?

A Well, I think it's important, one, so people understand who the FBI is, to put a face to name. But also understand our mission and what we are here to do and not do.

And it's also good to ensure people know we're there for any coordination efforts if there is something needed and make people feel comfortable coming to the FBI instead of having some entity that they are not really sure what it is.

And we are part of the community. Our whole intent is to protect our communities, work with our partners and work with our advocates and those who are both pro and against the FBI. I mean, that's our job.

So I think it's important to get out there and have that dialogue with them.

Q Are those meetings beneficial for State and local officials in law enforcement?

A Absolutely. I think it's beneficial for a lot of us that we do those meetings.

Q So it's beneficial for the FBI as well?

A Of course, yes.

Q And I think you mentioned this before, but did your work in the Kansas City

Field Office change in any significant way after the issuance of this memo?

A No.

Q Are you familiar with the FBI's National Threat Operations Center?

A I am.

Q And we refer to it as NTOC?

A NTOC, yes, ma'am.

Q Could you broadly explain what they do?

A Again, from my understanding of NTOC, specifically an intake of information, of any threat information, anything that wants to be brought to the FBI's attention, or sometimes information that maybe is not for the FBI but should be disseminated out. There is really an intake for us across the country -- or the world, obviously.

Q And are you familiar that they have a hotline number that people can call?

A Yes. They have, I think, a hotline, and also an email. They can also report online. Yes, ma'am.

Q So they have 1-800-CALL-FBI?

A Correct, that's one aspect.

Q And they have tips on fbi.gov?

A Yes, that's correct.

Q Is it part of NTOC's mission to ensure that every incoming tip is addressed?

A Yes, that's the intent of NTOC, is to help centralize that and assess all those threats or tips, yes.

Q In your experience with the FBI over almost two decades, how have NTOC's incoming tips been useful for you?

A I think as they have kind of stood up and been more -- kind of more sophisticated in how they take intake, it's taken a little bit off the field office so that we

don't have to worry about triaging information that's incoming. And there's pros and cons to that, obviously. But that has been helpful.

And then that ability to do that initial ingest, what do we have, what can we do, initial check, and then brought to us so we can decide what are we going to do with that information.

Q Have there been situations where tips might have prevented crimes from occurring that you've experienced?

A Yeah. I mean, I can't -- I hope so. Yeah. I can't. I'm trying to think off the top of my head of something. But I would hope something like that somewhere in the country that's occurred.

Q In your experience, have tips from NTOC helped to solve crimes?

A I think -- typically I have seen tips from NTOC help us potentially predicate investigations that may lead. I'm not sure if I've ever seen tips just come in and the information alone is what we use. And that information helps us to determine do we do any other investigative actions or Federal nexus with another partner, and then we kind of use that to either predicate or decide this is not something that we can work.

Q Some people have referred to NTOC as a snitch line. Do you have a reaction to that?

A I guess I've never heard that. I see NTOC as more of an intake center like many agencies have to ensure they can process and triage information that's brought to them.

Q Do you agree that had the term "snitch line" has a negative connotation?

A I mean, that's not the way I refer to it as. But I can see, yes, that could potentially.

BY [redacted]

Q In your experience with -- tips are -- tips from the public are valuable to the FBI, correct?

A Oh, absolutely. The public as a whole is valuable. We cannot do our job without the public.

Q And so would you agree that it's important for the public to know how they can reach out to the FBI to provide tips?

A Yes, absolutely, either through NTOC or through personal engagement from us to our community. Yeah, absolutely, that's vital.

Q So if there's rhetoric out there that discourages people from reporting tips to the FBI, that could harm the FBI, correct? Or not harm. I withdraw that. That could prevent FBI from doing its mission.

A I think anything that puts a bridge or a wall between us and the public to allow that communication is an issue. We require the public, their information, their cooperation, their confidence to do what we do. If we do not have that then we are absolutely in a disadvantage from the FBI's standpoint.

BY [redacted]

Q So I want to move to talking a little about threat tags.

You mentioned that they are an administrative tool and mostly are used for statistics. Is that correct?

A I believe so. Yes, ma'am.

Q And then you also mentioned that threat tags might be used for resource allocation?

A So as part of the overall statistical review. So we would pool -- the threat tags helps us pool specific cases or assessments that we're seeing. If we're seeing a spike of something that's been tagged, or maybe a decrease or nothing, I think that helps

get one piece of an overall view of: Do we need to reallocate? What do we need to look at threatwise? Are we seeing a rise of a threat that we weren't tracking before? Is that something we should be focused in on? Or, hey, we're working all kinds of issues with this threat, is that the right allocation of resources?

So it's, I think, one issue of many that we use to compile statistics to ensure sure we're, one, reporting those things to the proper authorities, like yourselves, but also to determine internally what are we doing.

Q I want to return to that in a moment.

A Sure.

Q But who applies threat tags to matters?

A So my understanding is FBI headquarters. And the specific threat programs will create those. I think from what we saw there, that one threat tag was created by both CID and CTD.

Q And who decides if a specific case gets a threat tag?

A I think FBI headquarters. I mean, I don't make that decision, I guess. I think FBI headquarters does on their specific threat program and what they're going to do with it.

Q Are threat tags applied to people or to cases?

A To cases, and the specific assessments.

Q Going back to the discussion of, like, resource allocation and how threat tags are just a part of that.

A Okay.

Q Have you been in resource allocation decisionmaking decisions?

A Yeah, we're required to as part of -- every year we look at our threats. It's called the TRP process. We go through and see if we have presentations like the threat

program. What are they seeing? What are the trends they are seeing? Do we need to put more resources? Less resources?

And we kind of work together and we band those threats. And we determine: Do we keep these the same? Do we increase one way or the other?

As part of that discussion we include our partners. The U.S. Attorney's Offices are invited, our local and State partners are invited to those discussions so they can see.

And also get their input. Like, what are they seeing from their perspective? Where could we help them on a specific threat that maybe we're not doing? Or are we doing too much in an area where maybe another agency is handling? So that's part of that discussion.

Q Are the number of cases in a specific threat area a good way to measure how big that threat is?

A Potentially. I mean, it depends again. If you have a lot of cases or a lot of assessments or a lot of -- there's potential that maybe there's a lot there. Who knows? But that, again, is one aspect of it.

There's also a quality of the investigation cases. We do get a lot of tips of information that we open assessments on, a lot of things, but just because those are open does not mean those are appropriate utilization of resources.

So that's where the deep dive comes in with our intel folks. They look at our cases, the substance of those cases. Are these legitimate? Are these things that we're going to continue? What are we opening? What are we not opening?

So, I mean, I guess it could be part of it, but I don't think that's at all the huge picture of it.

BY [redacted]

Q And it's fair to say that, like, not all cases are created equal, right?

A Sure.

Q There could be a robbery and there could be a domestic terrorism case and those would require very different resources.

A Absolutely. I think that's where the specific threat that we look at individually within those cases, those investigations, are looked at, at those specific levels, because a lot cases are different. A lot of the Federal violations in those different programs are different. But that's part of the discussion. That's the whole intent of talking about our resource allocation.

Q Understood.

BY [redacted]

Q I want to turn to counterterrorism cases specifically.

A Okay.

Q Are you familiar with domestic violent extremism?

A Yes.

Q We generally abbreviate that as DVE?

A Uh-huh.

Q Have you ever been inappropriately encouraged or incentivized to reclassify cases as acts of domestic terrorism or DVE?

A No. But, again, as part of our investigative process as we -- sometimes violations are reclassified all the time depending on what we find in the investigation or what we don't find in the investigation. So that happens.

But, no, we've never been -- I have never seen or never I have been pressured to reclassify or focus on specific things in DVE.

Q Have you ever pressured anybody else to reclassify a case to DVE?

A No. There's definitely discussions. And that's some of the TRP process.

Like, hey, what are we seeing in the elements? Do these elements fall under, let's say, DT? Does this fall more under civil rights? Does this fall under violent crime, VCAC?

So I think those discussions are had and those are good discussions. Plus, what the U.S. Attorney sees in a Federal violation needs to be taken into account. We may have information that it could be classified as a specific threat, The U.S. Attorney comes in and says: Hey, we only see these violations of law, should we reclassify it?

So those are all discussions we always have as part of what's part of that. So you can see that happening. But to pressure somebody one way or the other, no. Typically, we get everybody on board and we want the case agents and our personnel to be part of that discussion.

Q Would you say those discussions are routine?

A Yeah. Depending on the complexity of the investigation. Like, some stuff is clear-cut, like, this is a bank robbery, this is exactly what we do.

And there are more nuanced investigations. Again, the investigations we have, specifically on the national security side or the DVE side, those are very sensitive, hard investigations, and we want to ensure we get those right. And so those are -- typically you are going to see some more debate or discussion about.

Q Are you familiar with an individual named Jill Sanborn?

A I do know Ms. Sanborn, yes.

Q How do you know her?

A I've known Ms. Sanborn a very long time. She was -- I'm trying to figure out the first time I've met her. But I've known her a long time based on my work in counterterrorism both as an agent, as a supervisor. And I did work as an employee for her at headquarters 2007, I think, or something, '17, or something like that. I can't remember. Back 10 years ago or so. Yeah.

Q Did you ever witness Ms. Sanborn ever inappropriately pressuring somebody to reclassify a case as DVE?

A No. And I wouldn't have known her at that time -- I wasn't dealing with her at that level when she was talking DTOS cases, yeah. But, no.

BY [redacted]

Q You said you've known Ms. Sanborn for a very long time?

A Yes.

Q Do you believe that she is an expert on counterterrorism matters?

A I will tell you she is a very intelligent individual and she definitely knows her stuff. She's been working terrorism for a very long time, yeah.

Q Do you think she's a competent manager?

A She's very competent, she's very intelligent, yes.

Q Do you hold her in high regard? Is that fair to say?

A I do, yes.

BY [redacted]

Q You've worked at HQ on both counterterrorism and counterintelligence cases. Is that right?

A Yes. Counterterrorism and counterintelligence, yes.

Q Did your roles at the Counterterrorism Division and the Counterintelligence Division include overseeing the program management of those cases?

A Yes. Of those specific threat cases at the time, yes.

Q In your roles at headquarters, did you ever inappropriately pressure case agents to keep counterterrorism or counterintelligence investigations open without predicate?

A No, no, no. Absolutely not.

Q To your knowledge, did anybody who worked for you ever inappropriately pressure agents to keep those investigations open without predicate?

A No, no. Predication is key to our investigative authority.

Q And as the SAC of the Kansas City Field Office, have you ever inappropriately pressured people to keep investigations open?

A No.

Q To your knowledge, has anybody else at the Kansas City Field Office pressured people to keep cases open?

A No.

Q So every open case has a file review, correct?

A Yes.

Q It's usually every 90 days?

A Every 90 days by a supervisor. It's a little sooner if you're a probationary agent. Then you'd be a little bit more. I think it's a 60-day review.

Q Who's usually involved in those file reviews?

A So the supervisor does the direct file reviews and then the ASAC reviews the entirety of the review after that.

Q Are there times where a supervisor might suggest that an agent take a certain investigative step after the file review?

A That's the intent of the review, is to go through: Hey, what have we done not? What have we haven't done? Like, where is this case going, what is it not, are there sufficient things to do?

But, yeah, that's part of the natural discussion with a supervisor and his case agents.

Q Would that be an appropriate thing for a supervisor to do?

A Again, speaking generally, because it's been a while since I've done a file review, honestly. But, no, I don't think so, no. I mean, that's part of the general discussion.

Q This should be our last line, hopefully.

As special agent in charge of the Kansas City Field Office, are you eligible for a monetary bonus?

A Yeah. So all senior executives are at some point, yeah. Correct.

Q To your knowledge, is your bonus dependent on the number of domestic terrorism or DVE cases that your field office investigates?

A No, no, not specifically there. There is a performance evaluation like many have and there is a metrics to that. And that's all reviewed by the deputy director to determine how that works.

I don't know the actual detail on how that exactly works. But, no, not -- specific investigations directly do not impact a cash bonus -- or shouldn't. I don't think so.

Q Would the number of cases opened generally impact your cash bonus?

A No. Again, I think it's more about how are we utilizing our resources, our threat allocation from a [inaudible] GRP. But there's also health measures, right? I mean, you have things like are your special agents getting firearms qualifications, are they passing a FIP test.

So those are metrics that you are definitely graded on. That's seen as an aspect. But, again, those are portions of your overall performance that the deputy director looks at in determining that.

Q Have you ever pressured special agents to take a specific investigative step so that you would meet a certain metric so that you could get your bonus?

A No, no. Again, any discussion we have had about investigative steps,

especially sensitive investigative steps, it's all about: Is it valuable? Is it predicate? Have we done everything else? Where do we go in that investigative area?

Again, typically as the SAC, I would not have that discussion, that's more at the supervisor or ASAC level, outside of high profile, high investigative cases that would require my attention.

Q Do you know if any of your ASACs have pressured people to take specific investigative steps so that you could get your bonus?

A No, no. They would not. I don't think they would do that. No.

Q Are you familiar with an FD-954, the candidate recommendation forms?

A Not really. It's a candidate recommendation form?

Q Yeah.

A Okay.

Q That's okay. We can move on.

A Okay. All right.

Q Do you recall ever discussing your bonus structure with individuals below you in the chain of command?

A No. I mean, I definitely know some of the ASACs were asking about: Hey, if I become a senior executive, how does it work?

Unfortunately, there's not much I can provide there on how that typically works, honestly. It is performance based but there is a metrics to it. But outside of the ASACs, no.

Q So you don't recall ever discussing your bonus structure with any special agents?

A No. There would be no need. I don't recall anybody asking me about it. And it's mostly been ASACs who are looking potentially at becoming senior executives,

being a section chief or something at headquarters, what does that look like from their perspective for career choices, but not talking about that. I don't know if that --

[redacted] I think we are done. We can go off the record.

[Discussion off the record.]

[redacted] All that for nothing.

I do appreciate you being here.

Mr. Dayoub. No. Again, whatever you guys need.

[redacted] I think we're done.

[Whereupon, at 12:45 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: [redacted]

Wednesday, June 14, 2023

Washington, D.C.

The interview in the above matter was held in room 164, Cannon House Office Building, commencing at 10:01 a.m.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

[redacted] LAW CLERK

[redacted] COUNSEL

[redacted] DIGITAL ASSISTANT

[redacted] CHIEF COUNSEL FOR OVERSIGHT

[redacted] RESEARCH ASSISTANT

[redacted] DIGITAL DIRECTOR

[redacted] COUNSEL

[redacted] MINORITY CHIEF OVERSIGHT COUNSEL

[redacted] MINORITY OVERSIGHT COUNSEL

[redacted] MINORITY PROFESSIONAL STAFF MEMBER

For META:

REGINALD BROWN

DEMISSE SELASSIE

Kirkland & Ellis.

[redacted] Good morning. This is a transcribed interview of [redacted]. Chairman Jordan has requested this interview as part of the committee's investigation of how and the extent to which the executive branch has coerced and colluded with

companies and other intermediaries to gcensor speech.

Would the witness please state your name for the record?

[redacted] Yes. [redacted].

[redacted] And, [redacted], I understand that you are appearing today with counsel for Meta.

Counsel, can you state your name for the record?

Mr. Brown. Reg Brown, Kirkland & Ellis.

Mr. Selassie. Demisse Selassie with Kirkland & Ellis.

[redacted] On behalf of the committee, I want to thank you for appearing here today to answer our questions. The chairman also appreciates your willingness to appear voluntarily.

My name is [redacted] and I'm with Chairman Jordan's staff.

I'll now have everyone else from that committee who is here introduce themselves as well.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] [redacted] counsel for the Judiciary Committee Democrats.

[redacted] [redacted] chief counsel, House Judiciary Committee Democrats.

[redacted] Thank you.

I'd like to now go over the ground rules and guidelines that we'll follow for today's interview.

Our questioning will proceed within rounds. The majority will ask questions first for 1 hour, and the minority will then have an opportunity to ask questions for an equal

period of time. We will alternate back and forth until there are no more questions and the interview is over. Typically, we take a short break at the end of each hour. If you would like to take a break apart from that, just please let us know.

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

[redacted] I do.

[redacted] So the court reporter can take down a clear record, we will do our best to limit the number of people directing questions to you during any given hour to just those people on the staff whose turn it is. Please try and speak clearly so the court reporter can understand and so the folks down at the end of the table can also hear you. It is important that we don't talk over one another or interrupt each other if we can help it, and that goes for everybody present at today's interview.

We want you to answer our questions in the most complete and truthful manner as possible, so we will take our time. If you have any questions or if you do not understand one of our questions, please just let us know. Our questions will cover a wide range of topics, so if you need clarification at any point, just say so. If you honestly don't know the answer to a question or do not remember, it's best not to guess. Please just give us your best recollection, and it's okay to tell us who you learned information from. If there are things you don't know or can't remember, just say so, and please inform us who, to the best of your knowledge, might be able to provide a more complete answer to the question.

You should also understand that by law you are required to answer questions from Congress truthfully. Do you understand that?

[redacted] I do.

[redacted] And this also applies to questions posed by congressional staff in an interview. Do you understand this?

[redacted] I do.

[redacted] Witnesses that knowingly provide false testimony could be subject to criminal prosecution for making false statements under 18 U.S.C. Section 1001. Do you understand that?

[redacted] I do.

[redacted] Is there any reason you're unable to provide truthful answers to today's questions?

[redacted] No.

[redacted] Finally, I'd like to make note that the content of what we discuss here today is confidential. We ask that you not speak about what we discuss in this interview to any outside individuals to preserve the integrity of our investigation. For the same reason, the marked exhibits that we will use today will stay with the court reporters so that they can go on the official transcript, and any copies of those exhibits will be returned to us as we wrap up the interview.

All right. That's the end of my opening remarks.

Is there anything my colleagues from the minority would like to add?

[redacted] We just thank the witness for fitting us into your schedule today.

[redacted] Of course.

[redacted] I will now turn it over to my colleague, [redacted] The time now reads 10:04 a.m.

EXAMINATION

BY [redacted]

Q State your full name again for the record, please.

A Yes. [redacted].

Q And where is your current place of employment?

A Meta Platforms, Inc.

Q And what's your current title?

A I'm the head of elections -- or electoral and emergent risk.

Q And what's your educational background, starting with college?

A I have an undergraduate degree from UCLA, a graduate degree from George Washington University in political management, a JD from UNC School of Law, and an LLM from Duke School of Law.

Q And starting with after college, what's your employment history?

A I was a fellow in public affairs for a group called Coro in Los Angeles. That's C-o-r-o. I was a political appointee as an editor at the White House thereafter. And then I was an aide to the CEO at the Ashcroft Group. Worked in private practice. Was then the spokesperson for a short time and followed by general counsel for the North Carolina State Board of Elections, and then came to Meta.

Q For what time period were you with the Board of Elections in North Carolina?

A 2014 through June 1st of 2019.

Q And when did you first join Meta?

A September 2019.

Q And what was your title when you joined?

A The job post was civic policy manager.

Q And how long were you in that role for?

A The role has actually not changed; just internal designation of a title.

Q Okay. Can you explain what you do day to day, what the roles and

responsibilities are?

A Certainly. I am the subject matter expert who advises within trust and safety policy.

Q And what is your expertise in?

A Elections and related issues.

Q Is there anyone that you report to?

A Yes. Trust and safety policy is led by the VP of trust and safety policy. His name is [redacted]. And I have reported to [redacted].

Q And has [redacted] been the individual you report to since you joined Meta?

A Primarily, yes.

Q Are there any others?

A There have been all within [redacted]'s content policy work.

Q Are there other subject matter experts related to elections within your team or elsewhere?

A Not presently. Within my team, not presently. There are other teams that have other individuals with elections experience and background.

Q And when you're referring to your team, is there a subject matter team within trust and safety or are you referring to trust and safety as your team?

A Trust and safety policy is, by and large, a collection of subject matter experts.

Q And how big is trust and safety policy?

A I couldn't speculate on the total number.

Q Do you have a ballpark sense?

A [redacted], I believe, has seven or so direct reports. There are teams under most or all of them.

Q And are you one of those seven that you're referencing?

A I was from 20 -- beginning of 2020 through mid-2022, perhaps.

Q From 2019 until 2020, we'll assume the structure -- what was the structure previously?

A Previous to 2019?

Q Previous to 2020. If I understood you correctly, starting in 2020, you became one of the direct reports to [redacted] of the seven?

A Starting in 2020, yes, I started reporting to [redacted]. That was when trust and safety policy formed.

Q Okay. And you joined Meta in 2019?

A September 30th of 2019, yes.

Q So for that interim period from September 2019 until whenever 2020 you began --

A Yeah.

Q -- who did you report to during that time?

A A person named [redacted].

Q What was [redacted]'s role?

A At that time?

Q Yes.

A She was a director.

Q Of?

A I don't recall what the team was named at that time.

Q Were the team's responsibilities similar to trust and safety -- the trust and safety policy team's responsibilities now?

A I was only new on that job and could only speak to what my role was during that time. I couldn't speak to the rest of her directs.

Q Do you recall when in 2020 you began reporting directly to [redacted]?

A My recollection it was in the first quarter.

Q And with respect to the seven individuals you reference that report to [redacted], was it seven the entire time from 2020 to mid-2022?

A I don't know for sure.

Q Was it approximately that size? Has it changed significantly?

A Approximately, to my recollection.

Q Who were some of the other individuals that reported to [redacted] directly?

A One that comes to mind is [redacted].

Q And who is he?

A He is the director for security policy.

Q Do you recall any others?

A Another that comes to mind is [redacted]. That's S -- oh, sorry. Yeah, [redacted]. I won't venture the spelling.

Q And who is she?

A She is the director for human rights policy.

Q Do you recall others who reported directly to [redacted]?

A I recall [redacted].

Q And who is he?

A Stakeholder management director.

Q Do you recall who else reported directly to [redacted]?

A I recall [redacted].

Q And who is [redacted]?

A She leads secure -- or safety policy. Safety policy.

Q Do you recall any other names of people who reported directly to [redacted]?

A None are coming to mind.

Q The four individuals who you named, do you recall if they were there the whole time? You were one of the individuals reporting directly to [redacted]?

A They were.

Q And throughout this time, you were reporting to [redacted] as a subject matter expert in elections. Is that correct?

A Subject matter expert in elections, correct.

Q Did you have any other responsibilities as part of your portfolio?

A Occasionally, I would be asked to provide feedback on areas adjacent to elections.

Q And what would some of those areas be?

A Areas related to civic policy where an election may not be on the immediate horizon, for instance.

Q What do you mean by civic policy?

A An example could be recommendations of groups that are of a civic nature.

Q When you refer to recommendations of groups, are these recommendations groups that are providing to Meta or that Meta is providing to groups?

A Thanks for the opportunity to clarify that. I'm speaking of groups as a product feature within the surface of Facebook and recommendations as an algorithmic decision to surface particular groups the user may be interested in.

Q When working on this issue, are you still reporting directly to [redacted] on this?

A For civic recommendations specifically?

Q Yes.

A Still reporting to [redacted] in the role, but others in the chain, his chain,

could have been involved in that particular decision.

Q Were there teams or individuals you worked with that you didn't normally work with as a subject matter expert in elections?

A For civic group recommendations?

Q Yes.

A I worked with no other teams that I would not ordinarily work with.

Q Which teams did you ordinarily work with?

A During the totality of my time?

Q Yes.

A I worked with counsel's office, internal in-house counsel's office. I worked with civic product teams. I worked with product integrity teams and others that may be involved in individual work streams.

Q You mentioned you have a JD and an LLM. Was your position at Meta at any time a legal role?

A I was not counsel to Meta.

Q Referring back to your previous answer about areas adjacent to elections, were there any other examples of areas adjacent to elections that you worked on?

A Yes.

Q And what were some of those?

A Comes to mind the new product features that may have some bearing on election security.

Q Are there any new product features that come to mind?

A Sitting here comes to mind WhatsApp product features.

Q During your time at Meta, is your role for all Meta products, including Instagram, WhatsApp, Facebook, or only some of the products?

A Most of my time focused on Instagram and Facebook, but I would advise from time to time on WhatsApp products, Reality Lab features, Messenger features, and others.

Q As part of your responsibilities, did you ever work on the development of any of Meta's products content moderation policies?

A I did.

Q Which ones did you work on?

A I worked on community standards relating to elections, and I advised on others on a more ad hoc basis, if asked.

Q For the community standards for elections, is that a Meta-wide policy or product specific?

A The community standards apply to content, both on Facebook's platform and Instagram's platform, and certain Messenger features.

BY [redacted]

Q [redacted], earlier you mentioned that there were other election experts at Facebook or Meta. Can you tell us which teams had election experts?

A I couldn't characterize them necessarily as election experts. I just didn't want to represent that there was no one else at a large company that had elections expertise.

Q And so the individuals who had elections expertise, what teams were they on, to your understanding?

A Again, I was trying to indicate that I didn't want to make a representation that all of Meta excluded anyone else with elections expertise.

Q Are there other teams that worked on election issues?

A Yes.

Q And what were those teams?

A Civil rights, which is within legal.

Q Within the legal department, you said?

A That's right.

Q And did they have someone who had legal expertise on their team -- I mean -- excuse me -- elections expertise on their team?

A They had people with elections backgrounds.

Q How many people?

A I don't know all of their resumes sitting here today. I know of at least one who had elections expertise -- or background, rather.

Q Do you remember their name?

A [redacted].

Q Any other teams that you can remember that had election expertise members?

A And during which period of time principally?

Q Throughout your tenure at Meta.

A There was a team called Civic Integrity, and they had researchers whose backgrounds included work in the election space.

Q And how many researchers would you say?

A I don't know how many researchers.

Q Was it a handful?

A With elections --

Q Expertise.

A Again, I can't represent their expertise level, but background in elections, I would say perhaps a handful, as you say, sure.

Q Any other teams who had members with election expertise or background?

A None that are coming to mind at the moment.

BY [redacted]

Q Where is the Civic Integrity Team, out of which department?

A It was a subset of products, and included individuals that may also be from operations, for instance.

Q During your time at Meta, have you had anyone that reports to you?

A I have.

Q How big is your team that reports to you?

A Presently, no one reports to me.

Q Okay. Previously, when you had -- one did, how big was your team?

A For the longest period of time, it was only one member.

Q And who was that?

A His name was [redacted].

Q What role did [redacted] play?

A He was a public policy manager, assisting me.

Q On what issues did he assist you with?

A His duties would range, depending on my needs, but I would ask about elections-related areas.

Q When did [redacted] stop working for you?

A November of last year.

Q And what was the reason?

A He was affected by the first round of mass layoffs.

Q Turning back to the seven individuals who reported to [redacted], you listed a few names. Do you recall any other subject areas or teams that were represented

among the seven?

A Those are the only that I recall. And I would defer to the lists rather than the number that was off the top of my head at the time.

Q Was there anyone among the seven who had expertise related to COVID-19 or just medical or health-related information?

[redacted] Which?

BY [redacted]

Q Was there anyone on the team that had an expertise related to medical information?

A Who reported directly to [redacted]?

Q Yes.

A I don't know. I don't -- I don't know.

Q Was there anyone on the team that was responsible for reporting to [redacted] on issues related to content related to COVID-19?

A I don't -- I don't know.

Q Was there anyone else among the seven who reported on issues related to elections other than [redacted]?

A No. Not at the time I was there.

Q You said around mid-2022 was when you -- that reporting structure from you to [redacted] changed. Is that correct?

A Thereabouts.

Q Do you know about more specifically when in 2022?

A I don't.

Q What was the reason for the change?

A Consolidating direct reports.

Q And what was the reporting structure after that change?

A My reporting structure?

Q Yes.

A I reported primarily to [redacted], who leads human rights policy -- human rights policy.

Q Do you know whether after the change there was anyone reporting to [redacted] on issues related to elections?

A Directly?

Q Yes.

A Issues related to elections, yes.

Q And do you know who that was?

A So [redacted], the head of cybersecurity policy, frequently deals with issues that relate to elections, if that was your question.

Q Are there any others?

A Within [redacted]'s work -- or, I'm sorry, within [redacted]'s work, there are -- he leads in work.

Q Sure. Anyone outside of that?

A On elections issues specifically?

Q Yes.

A Not that come to mind.

Q Before this change in mid-2022, had you worked closely with the Human Rights Policy Team?

A Occasionally.

Q And what were the nature of those connections?

A I don't recollect specific interactions, except that [redacted] and I both

reported to [redacted] and would participate in team meetings.

Q In addition to you and [redacted], who else would be considered part of Meta's electoral and emerging risk?

A That was it at the time. My understanding is they may be restructuring things. I have not had access to emails or systems since announced layoffs 4 weeks ago today.

Q All right. Was there anyone else who served in [redacted]'s role during your time at Meta?

A No.

Q Are you familiar with the term -- are you familiar with the terms "misinformation," "disinformation," and "malinformation"?

A I've heard those terms.

Q And what is your understanding of the differences between them?

A Misinformation would likely include inaccuracies where the intent may not be to mislead. Disinformation would include things like inaccuracies where the intent is to mislead. Malinformation could be accurate information or comingled accurate and inaccurate information where the intent is to cause harm in some way or the effect would be to cause harm in some way.

Q When working on the community standards, did you work on the community standards with respect to issues related to misinformation, disinformation, or malinformation?

A There is a Misinformation Policy Team that owned misinformation policy and procedure at Meta.

Q And did you work with this team?

A I did.

Q Who leads the team?

A Presently?

Q Yes.

A I believe the director is [redacted].

Q Do you know how long [redacted] has been in this role?

A She preceded me. I don't know whether their internal structure changed.

Q When you say --

Mr. Brown. Can we go off the record, please?

[redacted] We can go off the record.

[Discussion off the record.]

[redacted] We can go back on the record, please.

BY [redacted]

Q What did you understand [redacted]'s role to be?

A I know her title is director.

Q Director of?

A Misinformation policy.

BY [redacted]

Q When you worked with [redacted], what did you work on?

A We were colleagues. Occasionally, members of her team would ask about misinformation policy as they worked on the policy itself.

Q So what types of questions would they ask you?

A Comes to mind, questions around who is a politician for purposes of their fact-checking program.

Q Politicians at the Federal level and State and local level?

A Any level.

Q Any other topics that come to your mind?

A Not immediately.

Q And what was your role in working with her team? Were you to advise the team, answer questions?

A Yeah. I did not own any implementation of their policies. I was only a subject matter expert.

Q Yeah. Did you advise the team? Did you answer questions for the team?

A Answered questions for the team.

Q Okay. Was that the only types of interactions you had with [redacted]'s team?

A Answering questions for the team was the only interactions that come to mind.

Q And what was the frequency of those interactions?

A Fairly rarely.

Q Can you say that one more time?

A Fairly rarely.

Q Fairly rarely. So how many interactions do you think you had?

A In my near 4 years, I don't know.

Q Did they reach out to you once a week?

A No.

Q Once a month?

A No.

Q Quarterly?

A Perhaps.

Q Okay. And so you think maybe eight times you interacted with them?

How many times?

A Answering direct questions for them, I'm cert -- I'm not sure.

Q Okay. And so the only interactions you had with them was answering questions, or did you have interactions with them outside of answering questions?

A We were all on a team that rolled up to [redacted], and there were team meetings and calls, things like that.

Q And so can you kind of describe that team structure that built up to [redacted]?

A I can speak to my team.

Q Okay.

A So [redacted] reports to [redacted].

Q Did you understand [redacted] to report to [redacted] or is she contemporary of [redacted]?

A She does not report to [redacted].

Q Okay. Where is she in the web with [redacted]?

A She doesn't report directly to [redacted]. Yeah. And I believe their orgs may have changed at times. I couldn't represent to you exactly how that worked.

Q Okay. And so I thought that you had said that you and [redacted], your teams were on in meetings because you all reported up to [redacted]. Did I misunderstand that?

A [redacted]'s team, I didn't report to [redacted], but we would have team meetings that could include members.

Q And you attended those meetings?

A Yes.

Q Okay. And so you interacted with [redacted]'s team in those meetings and

then via answering questions?

A Yes, or if I had a question.

Q You would reach out to [redacted]?

A Or members of the team, sure.

Q And what type of questions would you ask [redacted]'s team?

A If there were ever any changes to their policy areas, I would try to stay current on them.

Q To the misinformation policy?

A Yes.

Q How frequently did you see changes to the misinformation policy?

A I don't recall.

Q Do you know about how many times you reached out to [redacted]'s team with questions regarding changes to the misinformation policy?

A I don't.

Q Was it more than once?

A Yes.

[redacted] Do you recall if there were changes in the lead-up to the 2020 election?

Mr. Brown. Can I just ask that you could give us a little bit more? Changes to what?

BY [redacted]

Q Sure. So you mentioned that you would reach out to [redacted] regarding changes to the community standards. Do you recall if there were any changes to community standards in the lead-up to the 2020 election?

A I don't recall any.

Q What about with respect to the lead-up to the 2022 election?

A I don't recall any community standard changes.

Q How big was [redacted]'s team?

A I don't want to venture a number.

Q Do you know whether they're changed over time?

A I don't recall, honestly.

Q Besides [redacted], who else would you reach out to on the team?

A It could be anyone on the team.

Q Do you have any names that you can recall?

A [redacted].

Q And who is [redacted]?

A His role -- it may have changed now, but he worked in misinformation policy.

Q Are there any other names that you recall?

A [redacted].

Q Can you say [redacted]'s last name again?

A [redacted].

Q And who is [redacted]?

A Another member of the Misinformation Policy Team.

Q Do you know if members of the Misinformation Policy Team had subject areas that they would focus on?

A I don't know.

Q For [redacted] and [redacted], do you know if they worked specifically on misinformation policies with respect to elections?

A That would have been my interaction with them.

Q Do you recall anyone else on the misinformation team that you interacted

with?

A Not that's coming to mind.

Q When [redacted] or any other member of the team would reach out with questions, do you remember what form of communication they would use to reach out to you with a question?

A We participated in informal meetings.

Q Would they send these questions via email ever?

A Could be. Could be.

Q What about internal chat and stuff, Workplace Slack?

A I'm not recalling a specific instance on any internal tools, but it -- I -- that's all I got.

Q When [redacted]'s team would reach out to you, did they ever include language from the community standards guidelines?

A I don't recall.

Q You gave one example regarding what is a politician. Do you recall what other issues you would be consulted on?

A That was the primary one that I recall right now.

Q And what was that issue? How to define what a politician is?

A Yes.

Q Were there any other issues that you were consulted with regarding how to define the term?

A I advised on community standards broadly.

Q When you say you advised on community standards broadly, but you don't recall if they sent you draft language from the community standards -- current language from the community standards?

A The community standards are public on the website. And I recall pulling those up, for instance, on politicians. I pulled them up myself from the public website.

Q And you mentioned that these standards -- the community standards would change from time to time. Do you recall if you noticed the change of what was publicly posted or you noticed it before there was a change and consulted with [redacted] on it?

A Can I clarify, are we still talking about politicians and the definition?

Q No, just generally.

A Oh. So generally, I wouldn't just consult with [redacted] on nonmisinfo-related community standards.

Q You answered earlier that you wanted to be -- you know, stay up-to-date on what the community standards were. All right. Are you aware, before the updated community standards were made public, if someone notifying you about the change, or are you only realizing the change once it's come up?

A If there were questions to me and provide draft language, in those instances, I do.

Q Do you recall any specific instances?

A I participated in policy forums where different language would be suggested.

Q And what is a policy forum?

A It's a meeting that [redacted] holds where community standards changes are reviewed.

Q And is this meeting held in person, over Zoom?

A It was always hybrid, in my experience, except for a period of time when no one was in the office during COVID.

Q And who would be invited to those policy forums?

A It was [redacted]'s meeting, so --

Q But you were one of the people invited?

A I was one of probably 70 or so.

Q Was [redacted] one of the people who would be invited?

A I recall seeing her at some of them.

Q Was [redacted] invited to these meetings?

A I recall seeing him at some of them.

Q Was [redacted] invited to some of these meetings?

A I recall him at some of them.

Q How frequently would these meetings occur?

A I couldn't give you a cadence.

Q How many times a year would they occur?

A Maybe six, but I couldn't give you an exact number.

BY [redacted]

Q How many forums did you attend?

A I don't know.

Q You don't know. Was it more than five?

A Yes.

Q Okay. So if there were six per year, did you attend these forums for more than one year?

A Yes.

Q So did you attend a dozen forums?

A I attended the forums since I joined in 2019.

Q So was there ever a forum you did not attend?

A There may have been.

Q Okay. And what was your role at these forums?

A To listen.

Q Did you ever provide any feedback?

A I may have.

Q And based upon your election expertise, did you provide feedback?

A I don't recall specifically an instance right now.

Q If you provided feedback, would it be election-related feedback, or would the feedback have been related to other topics?

A I don't recall, honestly.

Q But you recall providing feedback. Is that correct?

A I recall speaking in at least one.

Q And it would have been related to a change in the policy that was being introduced at the policy forum. Is that correct?

A Likely.

Q Were there other topics that were discussed at the forum other than the changes to the policy?

A Not that I recall.

BY [redacted]

Q Would materials be circulated before these policy forums?

A Yes.

Q And how were they communicated to the invitees?

A A deck.

Q And was the deck emailed?

A Yes.

Q And would the deck identify which part of the community standards were being considered for a change?

A I couldn't represent the content of every deck.

Q Were there any decks?

A Were there any decks?

Q Were there any decks that had been identified, the content of the community standards that were under consideration?

A Yes.

Q And for these policy forums, for these discussions, did this all -- was there ever -- were the forums used to communicate decisions that had been made or were they used to inform decisions that were still under consideration?

A I was never the decider, so I couldn't represent whether the decider had already made a decision or not.

Q Sure. But how -- when you're attending these meetings, it sounds like some of the others, is the nature of the communication this is a new change or this is a change that was under consideration?

A Consideration.

BY [redacted]

Q How long after each forum would the policy -- would it take the policy to then go into effect?

A I couldn't say.

Q Did you feel like after the forum, [redacted] and her team would take everyone's feedback into consideration and then make the decision on the policy?

A I couldn't represent a process for each of them.

Q Do you understand a process for one of them?

A Yes.

Q Okay. And so after the forum, was there a period of time where it seemed

as though [redacted] and her team were considering the feedback they received at the forum or did they just make the decision?

A A period of time.

BY [redacted]

Q Do you have a sense how long that period of time might be?

A I couldn't give you an average.

Q Did these meetings occur with regular cadence?

A I didn't call them. I couldn't say.

Q Did you get a sense that they were scheduled at regular intervals or that something would catalyze and require a meeting to occur?

A I would only receive the invite.

Q Did the invite communicate whether it was a regular meeting?

A Not that I recall.

Q You referenced fact checkers in an earlier response. What did you mean by that?

Mr. Brown. Can you read the question back if you're referring to a specific response?

[redacted] Can we go off the record, please.

[Discussion off the record.]

[redacted] We'll go back on the record.

BY [redacted]

Q Does Meta use third-party fact checkers?

A Yes.

Q And does your team work with the third-party fact checkers?

A No.

Q Does [redacted]'s team work with third-party fact checkers?

A It's my understanding.

Q And do you know what those interactions are?

A I do not.

Q What roles do the third-party fact checkers play with Meta?

A They can review content on Instagram and Facebook platforms.

Q And which teams at Meta do the third-party fact checkers interact with?

A I don't know who they interact with.

Q Do you know some of the teams that they interact with?

A Misinformation policy.

Q So [redacted]'s team?

A Yes.

Q Are there any other teams?

A I don't know.

Q Do you know if [redacted]'s team is responsible for sending content to third-party fact checkers?

A I don't know how their system works.

Q Who would know how the system works?

A I don't know specifically.

Q Was the third-party fact-checking program with the third-party fact checkers discussed at these policy forums?

A I don't recall an instance where that occurred.

Q Do you know how many third-party fact checkers there are?

A I'm sorry, could you restate the question?

Q Okay. Do you know how many third-party fact checkers there are?

A It is a global program.

Q Do you have a sense of how many?

A I don't know globally.

Q Do you know if there were third-party fact checkers devoted specifically to election-related issues?

A I do not.

Q Do you know if Meta had an internal fact-checking team?

A I'm not aware of one.

Q Do you have any sense of the process used to vet third-party fact checkers?

A I do.

Q And what is your sense of what the process is?

A There's a third-party accreditation process described publicly in our -- in a portal for Facebook.

Q And do you know which team is responsible for handling that process?

A I don't.

Q Do you know if [redacted]'s team was involved?

A I don't know if she's involved -- or if her team is involved in the vetting of the individual fact checker partners.

Q During your time at Meta, did [redacted]'s team change in size?

A I don't know.

Q Turning back to questions that you received from [redacted]'s team, do you recall if any of those questions concerned U.S. States' individual election policies?

A I don't recall any instance where she asked about U.S. States and individual election policies.

Q Besides the example you gave of defining a politician, do you recall what

other instances you were consulted on?

A It's the only one that comes to mind with her team directly.

Q Which other teams within Meta would reach out to you for advice on issues relating to elections?

A The Civic Integrity Team mentioned earlier. Other peers within [redacted] 's org.

Q And who are some of those within [redacted] 's organization that would reach out to you?

A Let's see. I mean, there's just -- I was available, and that was my team. So it's hard to say how that would -- how that would go.

Mr. Brown. Are you asking him who sent him an email or asked him a question before your period about anything? Is that without your -- I'm just trying to -- perhaps we can be a little more targeted on the collusion or other things. Because it's not really fair to ask somebody, tell me without any prior prep everybody you've talked to in the last 4 years.

BY [redacted]

Q [redacted], can you describe on a day to day what your responsibilities look like?

A Sure. I would respond to my higher-ups on options to refine policies or enhance products related to -- or primarily related to elections.

Q Okay. And I want to be sure I quoted you correctly. Refine policies, is that what you said?

A Yes.

Q And what do you mean by refined policies? Have they changed over time?

A Yes, and as novel scenarios arise.

Q Do you recall what novel scenarios arose during your time at Meta?

A I could recall some.

Q And what are some of those?

A Ways that bullying and harassment might manifest on the platform.

BY [redacted]

Q As it relates to elections or just broadly?

A As it relates to elections.

Q Can you describe that for us?

A Yes. Bullying and harassment is a community standard. It's a broad community standard; how it might apply to individuals who are, say, poll workers would be an example.

Q And so you were asked about how the bullying and harassment policy would affect poll workers. Is that correct?

A So I wasn't generally consulted or -- and I certainly was not part of implementation for policies, but I could be asked to generate ideas on how novel scenarios that could involve poll workers should be handled, not particular reasons of content, but is the policy in the right place.

Q And would these novel scenarios arise because, like, a poll worker was concerned, or how did these novel scenarios arise?

A I would be told to look at them. I couldn't represent where my higher-ups, what prompted them to want it.

Q And who would tell you?

A It could be anyone in [redacted]'s kind of team who was tasked with it.

BY [redacted]

Q Who are some of the people on [redacted]'s team that could task you

with something?

A Ultimately, I reported to [redacted] for all times relevant, I think, to what we're talking about.

Q Is there anyone else that you recall?

A I reported to [redacted] and I reported to [redacted].

Q Besides [redacted] and [redacted], do you recall receiving tasks from anyone else on [redacted]'s team?

A [redacted] could, yeah.

Q Anyone else?

A No, that I can recall right now.

Q You listed both policy refining policies and then working on product features as two of your responsibilities. What percentage of your time was devoted to each?

A It varied over the near 4 years.

Q In 2022?

A I would say 70 percent on product.

Q And 30 percent towards policies, or is there other categories of work?

A Could be 30 percent towards policy.

Q And any -- your previous time from 2019 to 2021, was your time spent on policy higher or lower than 30 percent?

A About the same.

[11:04 a.m.]

BY [redacted]

Q Were there any other novel examples that come to mind?

A Not that come to mind at the moment.

Q The COVID pandemic, did that create novel issues that required your consultation?

A Thank you. Yes.

Q And what are some of those examples?

A There was a change to the community standards that's public and would not allow content that overtly claimed that a voter would contract COVID simply by voting.

Q What other examples do you recall?

A I don't recall any other COVID examples in my area.

Q Okay.

All right. Were you ever consulted on issues related to mail-in balloting?

A Yes.

Q Do you recall when?

A 2020 comes to mind.

Q And who at Meta did you discuss mail-in balloting issues with?

A I worked with the product team that prepared voting alerts for users on Instagram and Facebook.

Q Did you ever work with [redacted]'s team on issues related to mail-in balloting?

A I don't recall an instance of that.

BY [redacted]

Q What was the content of your consultations regarding mail-in balloting?

A I spoke with -- I worked on the notification for notifying users that there was an election. And that included notifications that led to a voting information hub on the Facebook platform that had information about mail-in balloting on a State-by-State basis.

Q And where did you get the information to include on the platform regarding mail-in balloting for State by State?

A I did not get that information.

Q Where did -- so who worked on the platform?

A I'm sorry. Who worked on the --

Q The State-by-State mail-in balloting platform.

A The Civic -- in 2020?

Q Uh-huh.

A The Civic Integrity group was responsible for that product.

Q So what was your involvement with this platform?

A I consulted on usability, translation, among other pieces.

Q And what was your understanding where Civic Integrity received the information to include on this platform?

[Discussion off the record.]

[redacted] If I could clarify?

BY [redacted]

Q Yes.

A And then I'll ask to you restate your question.

Q Uh-huh.

A I apologize.

So the hub is called Voting Information Center.

Q Uh-huh.

A So I just wanted to make sure that we were all on the same page that that's what I'm talking about, is the Voting Information Center.

Q And what was your understanding of where the information came from to include on the Voting Information Center? Was it received by State election officials?

A In 2020, we posted the content that we received and vetted with counsel.

Q And where did you receive this information from?

A Counsel employed to find it.

Q Internal Facebook counsel that was employed to find this information?

A I only dealt with internal Facebook counsel. I couldn't represent where specifically and if they had outsourced that to other counsel.

Q Okay.

[redacted] We can go off the record, please.

[Recess.]

[redacted] Back on the record, please. It is 11:20.

EXAMINATION

BY [redacted]

Q Thank you, [redacted], for joining us again.

I just have a couple of questions about your background that you went through with the majority in the last hour.

You mentioned that you worked for the White House in a political appointee position. Is that correct?

A Yes.

Q And that was under Bush Two; is that right?

A Bush Two.

Q Okay. And can you just briefly describe what it is that you did in that

position?

A Yes. I was an editor.

Q Like a speechwriter? Is that right? Or am I missing something?

A Proclamations --

Q Got it.

A -- correspondence, things like that.

Q Okay. But it was a political appointee position?

A It was.

Q Okay.

And at that point after you left the White House, or at some point after you left the Bush White House, you mentioned that you worked for the Ashcroft Group. Is that correct?

A I did.

Q And is that the lobbying firm that was named after John Ashcroft, the former GOP Senator, or is that some other organization?

A It is that firm.

Q Okay. And what was your role there, just briefly?

A I was an aide to David Ayres and Mr. Ashcroft -- General Ashcroft.

Q Got it.

Have you had any other professional positions that were partisan in nature?

A No.

Q And so your experience with elections, is it fair to say that most of that experience is in election administration?

A Yes, and education and political management at George Washington.

Q Okay. I guess my question -- I meant to emphasize that your

election-related work is not partisan; it was more process or election administration work.

A Correct.

Q Okay. And that's the experience that you drew on when you went to Meta in your current position; is that right? Like, nonpartisan election administration expertise?

A Yes.

Q At Meta, in the job that you currently have, have you ever engaged in content moderation as part of your job?

A I'm not part of the implementation process.

Q Okay. And you've never been part of that implementation process at Meta or Facebook. Is that correct?

A That has never been part of my responsibility.

Q Have you ever at Facebook or Meta been personally engaged in the fact-checking process?

A No.

Q And you don't make any decisions about whether to remove or demote content on Meta's platform, correct?

A I do not.

Q Never have?

A No.

Q Now, you were asked a lot of questions earlier about I guess what I would call the organizational structure of Meta, meaning what person reports to what other people or who is on what team. Do you recall those questions?

A I do.

Q Okay. And you don't know the answer to many of those questions that were asked of you, correct?

A Yes.

Q And so, when you didn't know, you just said, "I don't know"? Is that right?

A That's right.

Q Okay.

Do you think it would be helpful if the majority had an organization chart or a piece of paper from Meta that described the content of these teams, rather than asking you what teams look like?

A I don't know what the majority would find helpful.

Q Okay. But in terms of you being able to provide the information that they were asking for, did you find that it was hard sometimes to be able to describe teams that you personally were not a part of, sort of, the structure of?

A My memory is limited. I tried to caveat where I could.

Q Okay.

Let's move on a little bit from the background.

You mentioned that your expertise -- or, you're a subject matter expert in elections and that various Meta teams have come to you at various points to get your input on something.

And, as far as you know, none of the input that you've provided has had an impact, a direct impact, on a change in community standards, for example?

A I would prepare options.

Q Okay. With respect to what, for example?

A Including for changes that would relate to community standards.

Q Okay. And are you aware of any change that was adopted because of a

recommendation that you made?

A Options that I prepared did get adopted at various points.

Q Okay. Could you give an example?

A With regard to the example that I talked through earlier on bullying and harassment, I did work on implementation guidance for poll workers specifically.

Q Okay. Was that change -- did it become part of the community standards that is actually on the website for Meta that actually describes what the community standard is?

A I don't recall whether it was incorporated into the community standards.

Q Okay. So I'm just asking, the community standards are not secret at Meta, correct?

A They are not.

Q And they're actually posted in your -- I think it's called the Transparency Center. Is that right?

A That's correct.

Q Can you just explain for the record, like, what that is and where you would find those standards?

A Yeah. Transparency.meta.com, to my best recollection, is the website. And it includes the community standards as well as supplemental information on all types of procedures and practices that relate to policy.

Q And that's accessible by the public. Is that right?

A Correct.

Q So, if there was a question about poll workers, for example, you are not referring to community standards that are, sort of, hidden inside of Meta's policy; you're talking about what's actually published on your website when you're deciding or making

recommendations, right? You're looking at the same thing that the public is looking at. Is that right?

A Community standards are publicly posted.

Q Okay. Sorry, that question was really long. What I'm getting at is just, it's not a secret here, like, what Facebook's community standards are.

A Correct.

Q And your expertise -- when someone within Facebook comes to you, you're just trying to give an opinion about these situations, like, for example, a poll worker being harassed. You're trying to take this real-world example that someone's bringing to you and suggest how the community standards might apply. Is that fair to say?

A I was not part of content moderation implementation.

Q Right.

A But hypotheticals could be raised or real-world events could be raised that would cause someone to ask me about how we should be viewing our community standards.

Q Okay.

Prior to the, I guess it's the 2020 election, Meta had a publication -- this is dated October 21, 2019, and it's titled "Helping to Protect the 2020 U.S. Elections."

Are you familiar with that?

Mr. Brown. Can I interject? If there's a document, could we see it?

[redacted] Sure.

Mr. Brown. Great.

[redacted] We don't have any exhibits, right?

Okay. It will be marked as exhibit 1.

[redacted] Exhibit No. 1.

Was marked for identification.]

[redacted] Do you mind if I look it over?

[redacted] Of course. Just take a minute. I'm not going to ask you very -- I just want to see if you recall this.

Mr. Brown. Can I ask -- as we go through this, there are some parts of this that are highlighted in yellow. And I'm wondering, is that what --

[redacted] It's not, actually. You can actually ignore the highlighting.

Mr. Brown. Ignore the highlighting. Okay.

[redacted] Sorry for the confusion. I just really meant to put that in front of him so he could recall if he's seen the publication.

[redacted] I have.

BY [redacted]

Q Okay. And I know your name is not on this document. You didn't have any role in preparing it. Is that fair to say?

A I started the month prior. I don't recall having any role preparing it.

Q Okay.

When you look through this document, it looks to me like it describes in very general terms some of the goals that Meta had with respect to the upcoming election in terms of, you know, reducing misinformation, anticipating problems. Is that fair to say?

A The document speaks for itself.

Q It does.

There is one section -- where is it? The -- sorry.

Well, I guess all I'm going to ask you to do is just sort of notice the headlines. I mean, on the first page, I guess, the back side of the first page, there's a portion that's highlighted that says "Fighting Foreign Interference."

Do you see that?

Oh, they don't have -- I'm so sorry. You guys have a different version.

[redacted] We can pull it --

[redacted] Yeah, I'm going to pull it out later.

[redacted] We're going to go get a better copy.

[redacted] This is a lot of pages. Sorry, guys.

BY [redacted]

Q [redacted], at the time that you worked for Meta, the company worked to promote voter participation in U.S. elections generally. Is that right?

A Yes.

Q And why was that something that Meta had an interest in doing?

A They had previously done so and wanted to continue it.

Q Do you know why?

A Conversations internally regarded public expectation, shareholder expectation.

Q I mean, is it fair to say that Meta believed that it was in its own interest to promote voter participation in U.S. elections?

A I couldn't speak for all of Meta.

Q Okay.

Does Meta favor any particular ideology with respect to elections?

A No.

Q And was any of your work partisan in nature as you were promoting elections?

A No.

Q Did anyone from Meta try to pressure you in any way that you would

consider partisan?

A No.

Q And did anyone from outside of Meta try to pressure you in your role at Meta to effect a partisan outcome?

A I don't know the motives of external folks. I felt no pressure.

Q Okay. That's what I'm asking you.

Okay. So Meta has a stated interest in trying to make voting information accessible to people who are using the platform. Is that right?

A Yes.

Q And you mentioned before that the Voter Information Center was something that voters could access on the platform, correct?

A All users could access on the platform, yes.

Q Okay. And can you tell us, just briefly, like, what does that look like when you go on the platform? What does the user see on the Voter Information Center landing page?

A In 2020?

Q Yes. I'm sorry. Yes.

A In 2020, a user could find the Voting Information Center a number of ways, including through the link notification that I mentioned earlier. There were other access points, including through search, for instance.

Q Okay. And when you landed on the page as a user, what did you see?

A To the best of my recollection, it included information about a State's voting opportunities and facts about voting.

Q Okay. I know you don't have it in front of you, but, to your recollection, the information that you said, the State information that was accessible through that page,

that information was not Facebook content or Meta content; it was just a link or something would take them to the State's own information about their websites. Is that correct?

A In 2020, it was native content. It was not a link out.

Q Can you just explain for the record what "native content" means?

A This was content generated by Meta and posted within the hub.

Q Okay.

And if a voter, for example, was on the voter information page and wanted to register to vote in that State, is that the kind of information that they could access through the Voter Information Center?

A Yes.

Q And how would that work, from the, sort of, origin point of the voter? What would they see?

A To the best of my recollection, if a voter read content saying that they could register to vote, there would be a link, and that link would go to the State election authority.

Q In the State where the user was eligible to register?

A Based on the information that we had of the user, which is not always accurate, but yes.

Q Right. Okay.

BY [redacted]

Q So the link would take the Facebook user to the State board of elections or wherever they could register to vote in a certain State, correct?

A Whichever entity that State uses to register.

Q Right. And, then, presumably, if the individual was not actually eligible in

the State, they would fill out the form, and it would be up to the State's board of elections to make the determination on that, right?

A Meta had no role in evaluating the eligibility of a --

Q Right.

A -- voter.

Q So, in other words, you were just a pass-through.

A Yes.

Q You just made the information available, and then, you know, people would click on the link and it would take them to an outside website.

A Correct.

Q And Meta had no role in setting any State's election policies, right?

A Correct.

BY [redacted]

Q Other than voter registration information, the Voter Information Center on the Meta page also had a link to the Election Commission -- correct? The Election Commission website, is that right? Or do you recall?

A I don't recall in 2020 whether that link was there.

Q Okay.

A It may have been.

Q Okay. But there was some link, I believe, that allowed voters who were military or overseas voters to access information about how to vote in a Federal election. Is that correct?

If you don't know, it's fine. I'm just asking if you recall.

A We had information about it. Whether there was a link, I'm not sure.

Q Okay. But, again, the point of that portion of the Voter Information Center

was just to give information to voters about how to access a ballot, correct?

A Correct, or register.

Q Or register, correct?

A Yes.

Q But it wasn't meant -- Facebook wasn't creating a new opportunity for somebody to vote. They were just giving information or directing them to where they could find the information, right?

A Correct. Meta does not administer elections.

Q Okay.

In addition to voter participation, which Meta has identified as something that you value and that you want to promote, Meta has also sort of taken the position that voter suppression is a bad thing. Is that right, fair to say?

A We have election interference and voter suppression policies.

Q And what are those policies as they relate to your position, if any?

A Voter suppression that is not allowed on the platform includes logistical information, so misrepresentations about when, where, and how to vote; what's required to vote; and whether the vote will be counted.

Q And is that part of the Meta misinformation policy that is part of the community standards?

A It is in the community standards. It is not under the "Misinformation" header.

Q Okay. Do you know what header it would be under?

A It's a broader header, as I recall, called "Misinformation and Harm."

Q "Misinformation and Harm"?

A I believe. But I would let the community standards speak for themselves

on their organization.

Q Okay.

But when Meta is talking about voter suppression, it's specific to that kind of information that you just described, right? Like, that kind of inaccuracy about, for example, where people would vote, when, the kind of inaccuracies that could potentially prevent people from effectively accessing the ballot? Is that fair to say?

A The ethos of those policies reflects that. There are additional policies that touch on the same themes.

Q And which are those policies? I'm sorry.

A For example, ads policies, one of which prohibits ads that expressly discourage voting.

Q Okay. And why is that type of ad prevented?

A That policy predates me, so I wouldn't be able to give you a full background on the rationale at the time of adoption.

Q Okay.

BY [redacted]

Q And, to be clear, you -- you said the policy predates your time there?

A The ads policy, yeah.

Q So you didn't have any role in creating it?

A No, no. That ads policy, no.

Q Okay. Thank you.

So, on the questions about when, where, and how to vote, again, Meta doesn't set the policies about when, where, or how a voter can vote, correct?

A Correct.

Q So, to the extent that Meta has that information or, I guess, limits incorrect

information, the correct information is available from the State board of elections or other State authorities, right?

A I couldn't speak for all States on what they make available, but it's not our internal --

Q Right.

A -- standards.

Q My point is that it's a factual -- States have times that you can vote, and that is available through the State, correct?

A Correct.

Q And so, to the extent that Meta has that information available, it's because the State has made it available to the public, correct?

A By statute or otherwise, yes.

Q Okay.

BY [redacted]

Q Okay. I think you've made it clear, Meta's policies focus on misrepresentations about time, place, and manner of voting, right?

A They do.

Q And they also prohibit misrepresentations about who's eligible to vote. Is that right?

A Correct.

Q Qualifications for voting?

A Yes.

Q And whether a vote would be counted. Is that fair to say?

A Yes.

Q Meta also prohibits threats of violence related to voting? Is that part of the

community standards?

A Yes.

Q Now, content that violates those policies could be removed from a Meta platform, but it would not be something that you would decide. Is that right?

A I never made decisions on what was allowed or not allowed, on particular pieces of content.

Q Okay. And if for some reason that type of content were removed by someone else, the content would be removed regardless of the identity -- the political affiliation of the person who had made the content. Is that right?

A Correct.

Q Because it doesn't make a difference to Meta, for content moderation purposes, whether the target of the misinformation is a Republican or a Democrat. Is that right?

A Correct.

Q Okay.

I don't think I have any other questions. So thank you.

[redacted] We can go off the record. Thank you.

[Recess.]

[12:33 p.m.]

[redacted] We can go on the record, please.

BY [redacted]

Q [redacted], I wanted to ask a couple of followup questions based off of your response from the previous round of questioning.

You mentioned that you would prepare options with respect to community standards. Can you say a little bit more about what your role was? Who would come to you with requests to prepare options?

A Usually through my supervisory chain. So I would refer back to the chain that I mentioned earlier.

Q Is that in reference to [redacted] specifically?

A [redacted], [redacted].

Q Okay. And when this request would come in, would the request include the instructions of how many options to prepare?

A Not that I recall.

Q Would the request specify which types of options should be prepared?

A Generally not.

Q Okay. Do you recall what issues you were asked, or what subject areas, to prepare options for?

Mr. Brown. [redacted] could you give us a timeframe?

[redacted] During your time at Meta.

Mr. Brown. All 4 years?

BY [redacted]

Q Did you receive these types of requests all 4 years while at Meta?

A That was my role.

Q Okay. Sure. Do any examples come to mind during your time at Meta?

A Yes. I worked on options on how we would interpret calls for violence regarding elections administration infrastructure -- for instance, the transport of ballots, calls to obstruct the transport of ballots, for instance.

Q Do you recall any other examples?

A I worked on the previously described considerations around poll workers and how we might apply our bullying and harassment policy.

Q Do you recall working on any examples that fell under the category of voter suppression?

A Very early on, yes.

Q And what were those?

A My recollection is, review of the then-current voter suppression policy for what it included or excluded.

Q In your previous answer, you said "very early on." Do you have a sense of what you meant by that timeframe?

A I think in the first quarter of 2020.

Q And do you remember which aspects of the voter suppression policy you were asked to prepare options for?

A I don't recall specifically. And for clarity, the voter suppression is the previously stated time, place, manner, et cetera. Yeah.

Q Were you asked to prepare options for the election interference section of the community standards?

A Election interference included that example of, like, the transport of ballots, things like that. Yeah.

Q Okay. So, just for clarity, again, that was one.

A Yes. Yes. I was asked -- yes.

Q Do you recall any other examples of instances where you were asked to provide options for the election interference section of the community standards?

A None come to mind.

Q Besides voter suppression and election interference and the bullying/harassment sections you identified, do you recall other sections of the community standards that you were requested to provide options for?

A The previously indicated definition of a politician.

Q Any other examples?

A For any other community standards?

Q Yes.

A Nothing comes to mind, but if there's a particular area that you want to get into, I can try to --

Q Okay. With respect to COVID and its impact on elections, were you asked to consult on its options for -- let's start with consult -- were you consulted with respect to how the community standards guidelines might have to change?

A Yes, on the piece that we discussed earlier.

Q Any others?

A Not that I recall.

Q Were you asked to provide options?

A For -- I'm sorry. Provide options for what?

Q With respect to the example you gave for COVID-19, how that impacted elections.

A I don't recall specifically whether there were multiple options.

Q When you would prepare options, would this be prepared in a memo?

What did your work product look like?

A It could take form however my superiors asked for it.

Q And what are some of the ways that they would ask for it?

A A verbal briefing, something written. Those were the two buckets.

Q And when providing the options, would you also provide a recommendation?

A Occasionally.

Q Do you recall why sometimes you would provide a recommendation and other times you would not?

A I did not always act alone, and recommendations usually reflected consensus positions.

Q By that, do you mean, if you were acting alone, you did not provide a recommendation with the options?

A I may provide a recommendation, but I would be working with others, and if there was no clear consensus, there was not often a recommendation.

Q Okay. So a recommendation would be offered only if there was consensus.

A Not universally. I couldn't represent that as the case. But --

Q Most frequently the case?

A Only in my experience.

Q When you reference consensus and working with others, who are you referring to?

A A decision might involve multiple parts of the company. And it would be the affected part of the company, so if there was another part that had responsibility.

Q Was there a team that you most frequently interacted with in this context?

A Yes. In the timeframe of 2020, that would be the Civic Integrity group,

which, as stated earlier, included, you know, people from operations, product, research.

Q The example you gave regarding defining a politician, did you work on that alone or with other teams?

A There were others involved.

Q Do you recall which other teams were involved?

A The previous -- there was a team at that time called Global Elections. And my recollection is Misinformation Policy also. That was an area of their policy, as we discussed earlier.

Q Do you recall who within Global Elections team you worked with?

A Yes.

Q And who was that?

A Her name was [redacted].

Q Do you recall what her role was?

A I don't know what her title was on the team at that time.

Q With respect to, again, this example of providing definitions of a politician, do you recall who on the Misinformation Policy team you worked with?

A It was the previously referenced [redacted].

Could I clarify, you said on the policy, or led the team? Sorry.

Q Who on the team did you work with?

A Oh.

Q Yeah.

A It was [redacted].

Q Okay.

A Yes.

Q When delivering the options and recommendations, if there was a

recommendation back, would you be directing it back to the people who sent the request?

A I would present or give it in whatever forum I was asked to.

Q Was that forum ever the policy forums led by [redacted] you referenced earlier?

A I don't recall ever having taken one through that process.

Q When conducting a verbal briefing, how many people would attend the briefing?

A I there was for many years -- or, not many, but for Meta, many -- and the meeting size could change, ranging from one-on-one to more.

Q Do you recall the size of the biggest one?

A I don't. My speculation would not be helpful, I don't think.

Q Do you recall if there was a meeting where more than a dozen people attended the verbal briefing?

A I don't recall a meeting of more than a dozen people, no.

BY [redacted]

Q And with the example of the who is a politician, when you were working with the Global Elections team and the Misinformation Policy team, when you were coming up with the information to either be in a verbal briefing or something written, how did you come up with the information to put into the briefing or the written product?

A We had meetings of the working group that we mentioned.

Q And did you consult outside resources?

A On that one specifically, my recollection is that we worked with a member of the research team within Civic Integrity.

Q And so would the member of the research team consult outside resources to form the research to give to you?

A I couldn't represent what her work process was for that particular question.

Q But would she just come up with the information herself, or did she consult other resources?

A We would ask with the understanding that that researcher would be producing results from research.

BY [redacted]

Q When you issued the options and sometimes a recommendation, would you be notified as to what decision was made?

A Oftentimes.

Q And who would communicate that decision to you?

A Are we sticking with that example, or are we --

Q Who most frequently communicated that decision to you?

A Oftentimes I would be in the room at the meeting and would know from that.

Q Oh, okay.

A Yeah.

Q So the decision would occur during the verbal briefing, if it's a verbal briefing?

A It didn't always reach conclusion during the verbal briefing, but if it did and I was in the room, that's how I would know.

Q For instances where the decision comes after the briefing, do you recall who would communicate the decision to you?

A It varied depending on who the decider was.

Q Do you recall who some of the deciders were?

A Yes.

Q And who were they?

A For different decisions, they were often different, but Nick Clegg in some instances.

Q Was [redacted] ever the decision-maker?

A She was a decision-maker.

Q Was it your understanding that there were multiple decision-makers and a consensus was reached or that there was ultimately one, single decision-maker?

A It was my understanding that there were accountable parties. [redacted] was accountable for our content standards but I understood that there were others who may work with her on that, or with Nick Clegg.

Q Would [redacted] be one of the decision-makers?

A He rolled up to [redacted], and I understood [redacted]'s decisions often to involve him. But I couldn't speak for his interactions with [redacted] on individual decisions.

Q Do you recall why some decisions were presented to some decision-makers and not to others?

A I did not own the meeting invites for those types of meetings.

Q When receiving a request, would you know who was ultimately going to be considering the different options?

A Frequently, yes.

Q And do you recall if there, to take one example, if there were some requests that indicated Nick Clegg would be involved and other requests that he would not be?

A So, for example, that "politician" definition, I understood Nick Clegg to be part of that briefing ultimately during the time that we were preparing for it.

Q Can you say a little bit more? What were the options with respect to defining "politician"?

A Jogging my memory here. In or around January of 2020, my recollection was that the then-new policy, newly announced policy, exempting politicians from fact-checking had been defined and publicized, and the options included maintaining the status quo or creating some variation based on different types of political arrangements globally.

Mr. Brown. Could we go off the record, please?

[redacted] Yes.

[Discussion off the record.]

[redacted] We'll go back on the record.

BY [redacted]

Q With respect to the definition of who a politician is, do you recall how long your team worked on that issue?

A My recollection is somewhere in the neighborhood of 2 to 3 weeks. It was over a period of 2 or 3 weeks. I'm not representing that was exclusively what we did for those days.

Q And, during that time, is this an example of where there was a researcher from the Civic Integrity team that was involved?

A There was, yes.

Q Do you recall if there were other researchers from other teams involved?

A I don't recall any others for that example.

Q And do you recall if the expertise or the information they were providing was developed internally or with consultation with external stakeholders?

A I don't know all the inputs that the researcher had for that particular

question.

Q Do you recall if there were any external sources?

A I don't recall any external engagement on that.

Q To clarify your answer, you don't recall one way or the other? Or is your memory that external sources were not consulted with?

A I would not recall one way or the other, because I likely would not have been part of those consultations.

Q Gotcha. So, when there's a team and you're working to build a consensus, are some members of the team working on one angle of the issue and you're only brought in for certain aspects?

A Are we saying in general or in that --

Q This specific example.

A So we would meet, as stated before, as a working group. There was an expectation that if you had area-specific ownership, you may be conducting that, say, research independently from those working groups and bring your conclusions back to the working group.

Q But the working group wouldn't have visibility into how you reached those conclusions?

A We likely would, but I don't recall in that instance whether literature review, stakeholder engagement, some combination thereof, et cetera, was the basis -- user research.

[redacted] Do you know if the researcher received any information from outside entities such as government entities?

[redacted] No, I don't.

BY [redacted]

Q Have you ever worked with the Center for Internet Security?

A I don't remember a specific meeting with them, but I'm aware of who they are and -- yeah, could you be specific, what you mean by "worked with"?

Q Sure. We can take even one step back. To your understanding, what is the Center for Internet Security?

A CIS, as I understand it, is affiliated with Stanford Law School. It's a project of Lawrence Lessig and others. And -- does that answer your question sufficiently?

Q Yeah. When did you first have any level of engagement with CIS?

A I was aware of Lessig and the existence of the center long before I was ever at Meta.

Is that what you're asking? I want to answer what you're asking.

Q Yeah, if you were aware of its existence before you --

A I was aware of its existence, yes.

Q To make sure we're talking about the same thing, by "affiliated," do you mean a program that worked with Stanford or was housed by Stanford?

A I don't know the arrangement between them and Stanford. I understood it to be connected to Stanford.

[redacted] Off the record.

[Discussion off the record.]

[redacted] Let's go back on the record.

[redacted] This will be exhibit 2.

[[redacted] Exhibit No. 2.

Was marked for identification.]

BY [redacted]

Q Ready? Okay.

So, I guess, first, a clarification question: Reviewing this email chain, the Center for Internet Security, which is at the bottom of some of the email signatures, including on the first page, is that the same center that you were referring to in the previous questions?

A Yes.

Q Okay. So you believe this is an entity that's affiliated with Stanford University?

A It's my recollection. You asked for my recollection. I don't know the organizational structure and how that would be.

Q Do you recall being on this email chain?

A I don't recall these emails specifically.

Q Do you recall working with the Center for Internet Security during your time at Meta?

A I don't recall any meeting where I was part of a meeting with the Center for Internet Security.

Q There's reference in the subject line -- this is on the first page -- to a "Social Media Misinformation Reporting Portal." And the second sentence, also just a line down, sort of the first paragraph, referring to the "Terms of Use" with reference to a portal.

Do you recall during your time at Meta having any interactions with a social media misinformation reporting portal?

A I don't.

Q And is that with respect to CIS or with any entity?

A I don't recall using the -- or having an interaction with the portal that's capitalized here.

Q Do you know if Meta established a social media misinformation reporting portal?

A I don't have any memory of that having happened.

Q Okay. Do you know who at Meta may have worked on this issue?

A I assume the people who are in the email. But I -- I can't -- I don't know.

[Discussion of the record.]

[redacted] To be clear, I don't know.

BY [redacted]

Q Do you know who Aaron Wilson is?

A I don't.

Q If you look at the CC line, there are individuals who have an email domain, cisa.dhs.gov.

A This is still on the first page?

Q Still on the first page.

A Okay.

Q Yes.

A Yes.

Q Do you recognize any of those names?

A [redacted] rings a bell. That's it.

Q Do you recall having any -- during your time at Meta and as a function as a Meta employee, do you recall having any interactions with CISA?

A I took part in meetings that include U.S. Government and other industry peers, and, at times, CISA would be part of the U.S. Government group.

Q And, to your understanding, what does CISA do?

A Homeland Security established an office, and they work on critical

infrastructure security in the United States.

Q And does critical infrastructure, to your understanding, include election-related infrastructure?

A Elections-related infrastructure was designated as national critical infrastructure, not during my time at Meta.

Q Do you know whether CISA worked on issues related to misinformation?

A I don't -- I don't know. Happy to think about particulars if you're -- with CISA related to disinformation, can you specify what you mean there?

Q Sure. So we went over the terms --

A Yeah.

Q -- earlier, "misinformation," "disinformation," "malinformation." And I could ask the question three ways or all at once: Do you have a sense that CISA worked on any of those three areas?

A So are we still talking about the emails, or are we talking about something else?

Q I mean, this question is not specific to this email chain.

A Oh, okay. Thank you. That helps me. So your question was?

Q To your understanding, did CISA, the agency, work on issues related to misinformation, disinformation, or malinformation?

A I'm aware that CISA tried to put out information about the election in different forums. So it's related to information.

[1:06 p.m.]

BY [redacted]

Q Okay. And with respect to information about the election, would that include -- what do you mean by that?

A So we previously talked about misinformation being neutral as to intent and then disinformation not being neutral as to intent. I don't know if they considered what they were doing -- I can't speak for CISA and what they were trying to tackle. I am aware that they put out information about the election.

Q And by information about the election, does that include information about things -- about whether other information about the election is true or not true?

A I don't know. I know -- I'm trying to understand. They had a -- a set of information that they considered authoritative. If you'd let me know what you're -- if that's not answering or responsive, I want to be responsive.

Mr. Brown. Could we take a break?

[redacted] Can we go off the record, please?

[Discussion off the record.]

Mr. Brown. We're happy to go back on the record. [redacted] wants to be helpful, but he doesn't work for CISA. So, you know, we can stick on this as long as you want, but, like, his knowledge of what CISA does is speculative because he doesn't work for CISA.

[redacted] Well, he can have an understanding of what CISA did.

Mr. Brown. Sure. You're exactly right. And on that, I think he's tried to answer your question. We've tried to lean in to be as helpful as possible, but he doesn't work for CISA.

[redacted] Can we go back on the record, please?

Mr. Brown. I thought we were on the record.

The Reporter. I was on the record.

Mr. Brown. Good.

BY [redacted]

Q Picking back up where we left off. When you say that CISA would provide authoritative information on elections, was it your sense that this information was responding to something or was it just a matter of from time to time they provide information?

A I'm only aware of what I would see on the internet. I don't know their cadence, et cetera.

Q Gotcha. So your sense of CISA providing information is just in a general sense, not based off interactions with CISA?

A I'm not recalling any specific interaction with them on that, yeah.

Q With respect to [redacted], do you recall working with her in any capacity?

A I don't. Her name rings a bell. You asked if I recognized any of the names.

Q We can take these back.

You mentioned there were government industry calls of which sometimes CISA would attend. Independent of those calls, do you recall other interactions with the Federal Government in your role?

A At Meta?

Q At Meta, yes.

A I would engage occasionally with congressional counsel for committees. I think that was the extent of my interaction with Federal entities.

[Discussion off the record.]

[redacted] Yeah. Can we clarify? You said excluding those industries?

BY [redacted]

Q Yes.

A Yes. Okay. Yes. So my answer stands, yeah.

Q Again, excluding those industry government calls, which we'll get to in a moment, do you recall interactions with the FBI in your role at Meta?

A I did not otherwise interact with the FBI, that I can recall.

Q Same question. Independent of the industry government calls, do you recall any interactions with something called the Global Engagement Center housed within the State Department?

A I do not.

Q Independent of the government industry calls you referenced, do you recall interactions with the CDC?

A I do not.

Q Did you ever attend a "be on the lookout" meeting during your time at Meta?

A Apologies. I met with the U.S. Census Bureau once. I'm sorry, could you restate your question? I just want it to be complete.

Q Sure. Let's first follow up on that.

A Sure.

Q Do you recall the nature of your interaction with the Census Bureau?

A Yes.

Q And what was it?

A In the first quarter of 2020, we were linking to the Census website in one of our products, and I recall having met with one of the commissioners. I don't know their titles. I'm sorry.

[redacted] And this was in regards to the 2020 Census?

[redacted] That's right.

BY [redacted]

Q Do you recall any other interactions with the Census Bureau?

A I do not, no.

Q Okay. In your role at Meta, did you ever attend a "be on the lookout" meeting?

A I don't know what that is. I don't -- I don't believe I did.

[[redacted] Exhibit No. 3.

Was marked for identification.]

BY [redacted]

Q This will be exhibit 3. Do you recognize this document?

A I don't recall seeing this document.

Q Okay. Is this document consistent with your recollection to the U.S. Government industry calls that you were referencing in a previous answer?

A I don't remember the specific date, but this would be characteristic of that call.

Q Okay. And for these USG industry calls, do you recall when you first began attending them?

A I first began, I believe, at the -- at -- when I joined Meta at the end of 2019 or in the first quarter of 2020.

Q And do you recall who initiated these meetings?

A The origin of the meeting predated me. Is that what you're asking?

Q Well, regardless of whether it predated you, do you have -- do you know who initiated the USG industry meetings?

A I don't know who initiated it, no.

Q But when you joined Meta, they were already an ongoing meeting series?

A They were.

Q And what is your understanding of what the purpose of these meetings were?

A My purpose was visibility.

Q And what about the meeting more generally?

A I couldn't speak to what each individual member or U.S. Government's desires were for the meeting.

Q With respect to your answer regarding visibility, visibility with respect to what?

A Industry peer practices.

Q Anything else?

A Any -- any helpful information from U.S. Government.

Q By industry peer practices, what did you mean by that?

A To understand what common threats industry peers were responding to.

Q Did you ever participate in these meetings?

A Yes.

Q And what would you do as part of your participation?

A Characteristic or as to this particular meeting?

Q To participating in these meetings.

A Ask clarifying questions occasionally, provide a summary of occurrences at Meta or things that I knew about that would be relevant to the group.

Q And do you recall any examples of a summary you might provide in one of these meetings?

A Yes.

Q And what are some of those?

A In 2022, I summarized a few updates to our practices ahead of the midterms.

Q Do you recall which practices?

A They included the bullying and harassment that we referenced -- or that we discussed earlier, as well as -- as highlighting the existing voter suppression policies and ads policies.

Q So by practices, are you referring to Meta's community standards policies?

A Or ads policies or -- or how we're implementing those.

Q By implementing, would you share how they were being enforced?

A No. Under -- not as to particular content. It would be broad summary of bullying and harassment is being handled this way, if that makes sense.

Q Would that summary include the degree of enforcement or -- I guess, let me ask it this way. What did you mean by handled in the previous answer?

A It would be bullying and harassment as a general policy, the public facing languages general, and the update would be we're considering it in certain instances where it involves poll -- polling -- poll workers.

Q And would other companies provide similar updates?

A They did from time to time.

Q Do you recall who else from Meta would present at these meetings?

A [redacted] principally.

Q Do you recall what he would present at these meetings?

A Oftentimes [redacted] would speak to work that his security policy team was doing around inauthentic behavior on the platform.

Q Was there anyone else at Meta who would provide the summaries, the type

of summaries that you would provide?

A When you say the type of summaries, are you talking about --

Q So you --

A Could you clarify?

Q Sorry, yeah. You referenced -- or you said that you would provide updates regarding Meta's practices, including its community standards policies. Is there anyone else at Meta that would provide a summary on that same set of issues?

A I did not say best practices. I meant our policies. I would summarize our policies.

Q Yeah. Sorry.

A Yes.

Q Thank you.

A I don't recall anyone else summarizing our policies in those calls.

Q If there was to be -- if there were to be someone at Meta that had to fill in for you, do you recall who that might be?

A In these meetings, I -- I don't know that anyone did fill in for me.

Q Okay. Do you recall if you attended most of the meetings you were invited to?

A I did attend most of the meetings I was invited -- of this series?

Q Yes.

A Yes.

Q Okay. From when you began attending the meetings in 2020 -- actually, let me back up. Did you -- did these meetings stop at any point?

A Not that I'm aware of.

Q Okay. Is it your understanding, then, that they're still ongoing?

A I don't know. I -- I don't know.

Q During your time at Meta, did the cadence change of how frequently these meetings occurred?

A Yes.

Q And what is your understanding of when the cadence changed?

A They became less frequent.

Q When did they start becoming less frequent?

A After the -- somewhere towards the end of the first quarter of 2021, is my memory.

Q Did the frequency ever pick back up?

A Yes.

Q And when was that?

A In the lead-up to the midterms.

Q In the lead-up to 2020 and in the lead-up -- actually, clarifying question. When you say the midterms, are you referring to the 2022 midterms?

A Yes.

Q In the lead-up to the 2020 election and in the lead-up to the 2022 election, do you recall how frequently these meetings occurred?

A My recollection is that they were monthly in the lead-up to the 2020. My recollection is that it was monthly or close to monthly in the immediate lead-up to the 2022 midterms.

Q Before you would provide an update, would you consult with other individuals at Meta?

A About -- about the policies that I would --

Q About what you would be presenting at these meetings.

A No. I was told that I -- that they needed an update, but that's the only -- it wasn't consultation on content.

Q Okay. And who told you that?

A For the instance we talked about, [redacted].

Q And then at conclusion of one of these meetings, would you provide a summary to anyone else at Meta about what occurred?

A I did not. Occasionally I would flag to my superior, [redacted], if there was something that I wanted him to know for visibility.

Q In an earlier response you said the helpful informa -- the U.S. Government provided helpful information on these calls. Do you recall the -- any examples of topics the U.S. Government was discussing?

A Information I found helpful included open source information about Chinese efforts to effect a state-level contest, Chinese-backed efforts to effect a state-level contest.

Q Independent of whether you found the information helpful or not, do you recall other examples of information that the U.S. Government provided on these calls?

A Yes.

Q And what are some of those?

A It was information about dates of certification of elections at a State level that I found helpful.

Q Again, independent of whether you found the information helpful or relevant, do you recall other examples of information the U.S. Government provided?

A I don't recall specific information that they provided.

Q Would you know in advance if information was to be provided related to elections?

A By government?

Q By government.

A I would not. In advance of them saying it, no.

Q In advance of the meeting?

A No.

Q Were -- was the information that the U.S. Government provided, was it always election related or were there other topic areas as well?

A I only recall election-related comments.

Q Okay. Do you recall concerns related to a potential hack and leak ever being discussed in one of these meetings?

A I don't recall that in one of these meetings, no.

Q Do you recall in a different set of meetings?

A Not with U.S. Government.

Q In meetings without U.S. Government?

A Yes.

Q And which meetings were those?

A There were many meetings regarding scenario planning and red teaming within the policy work.

Q So were these meetings internal only to Meta?

A Those meetings were internal only to Meta, that I'm referencing.

Q And by "those meetings," can you be more specific? Meetings where hack and leak was discussed?

A So I'm trying to make sure I'm being responsive. Hack and leak was discussed in internal meetings.

Q Yes.

A And you're asking if those internal meetings were only internal. Is that right?

Q No. Meetings where hack and leak was discussed, is that entire universe of meetings only internal meetings or were there other meetings?

A Oh. I recall hack and leak being discussed with other industry partners without U.S. Government present.

Q And do you recall the context of these meetings?

A General statements. My memory is general statements emerging from -- or with the backdrop of WikiLeaks events in 2016.

BY [redacted]

Q And when did these meetings where the scenario planning and red teaming occurred, what was the timeframe of those meetings?

A The internal meetings?

Q Yes.

A Initial -- the meetings that I recall --

Q Yeah.

A -- regarding scenario planning began in the summer of 2020, is my recollection. The meetings that I recall regarding red teaming or internal exercises would have been late summer of 2020 or fall of 2020, is my recollection. Have to defer to calendars. I don't -- yeah.

BY [redacted]

Q Do you recall who else from Meta was attending these internal meetings?

A Can you -- can you be more specific which of the scenario planning and red teaming?

Q Let's start with scenario planning, but we'll ask for both.

A Yes. Scenario planning, I recall other teams being involved in reviewing, generating scenarios.

Q Do you recall which teams?

A Yes.

Q And which ones?

A Security policy and strategic response programs, I believe was the name of that org at that time.

Q And do you -- was it the same set of teams involved in the second category?

A It included those but included others.

Q Which other teams?

A And the second category, just to make sure that we're on the same page, is -- is what?

Q So the scenario planning and --

A And then actual --

[redacted] Red teaming.

BY [redacted]

Q Red teaming, yes.

A Yeah. Yeah. That included technical staff as well, operation staff, civic integrity personnel. That's my recollection.

Q Do you recall who organized the internal meetings for the red teaming?

A Who called the meeting? Strategic response programs sent out the invite, that I recall.

Q And what about scenario planning, do you recall who organized the meeting -- meetings?

A The meetings I'm referring to was a working group, and I don't recall who.

And it may have been me who sent out invites, if that's what you're asking.

Q For either the scenario planning or the red teaming, do you recall what motivated or catalyzed, you know, the organization of these meetings?

A The desire for election preparedness, which we have been very public about.

Q And were there historical examples, or why -- what were some of the concerns with election preparedness?

A Sir, is there any way we could be more specific?

Q Sure. Meta has this desire for election preparedness. You're organizing these scenario planning. You know, what is -- take one step back.

Do you remember which scenarios were used as part of the scenario planning?

A I remember broad categories.

Q And what were some of those categories?

A Hack and leak was one of them, with the caveat that hack and leak was inclusive of inauthentic documents or documents that just purported to be hacked or leaked. A second bucket would've been physical security issues affecting elections administration. Those are the two buckets that I recall for those sets of meetings.

Q For hack and leak, do you recall why that was a scenario that was included?

A The backdrop was the company's experience -- the backdrop that informed me, motivated me, was the company's experience with WikiLeaks back in 2016.

Q Anything else?

A Not for me.

BY [redacted]

Q I just want to ask a clarifying question.

A Yeah.

Q With your answers you've treated the scenario planning and the red teaming

as two separate meetings. They're two separate meetings. Is that correct?

A Sets of meetings that were on --

Q Two sets?

A Yeah. Yeah. And by red teaming I'm also talking about, you know, drills, tabletop exercises, if you wanted to call it that.

Q And so the scenarios of the scenario planning that you remember are the hack and leak and physical security. Is that correct?

A I remember -- I believe there were likely others as well, but those are the buckets that I'm recalling at the moment.

Q And then for the red teaming or the tabletop exercises that you've explained, are there different scenarios or the same scenarios?

A My recollection is different scenarios.

Q And what do you recall about those scenarios for red teaming?

A There was threat ideation where experts in different threat tactics would game out how they would, if they were a bad actor, work to do some harm.

Q Any other scenarios that you remember or just threat ideation?

A Oh, you're asking for actual scenarios or just what those meetings are? I'm trying to understand.

Q So when you did red teaming or tabletop exercises --

A Yep.

Q -- what was the context of those meetings?

A Ah. Threat ideation was to surface areas that would require preparedness. Tabletop exercises was to surface which areas of the company would be accountable for decisions in the event of those threats materializing.

[redacted] I'm sorry to interrupt, but is the time still --

Mr. Brown. I'm at 59:51.

[redacted] 58:15, so we'll go with my time.

Mr. Brown. Well, if we're going to go with your time, just remember that we have to cut the camera off during those time periods, because I noticed you stopped it when he was consulting with me --

[redacted] Yeah, that's fine.

Mr. Brown. -- sometimes when we went off the record.

[redacted] Okay. I set the time again. Go ahead.

BY [redacted]

Q Did any of these tabletop exercises concern a situation with a hack and leak?

A My recollection is yes, again, with the caveat that hack and leak could've included just documents purporting to have been hacked or leaked.

Q And do you recall as a product of this tabletop exercise which teams would be tasked with handling a hack and leak -- responding to a hack and leak scenario?

A I recall the structure going around, and the individual teams would say what their role in that would be.

Q And what was your team's role, if any?

A [redacted]'s broader content policy team owned the misinformation policy and certain hack-and-leak protocols.

Q Did you ever attend a tabletop exercise that included people outside of Meta?

A I don't recall ever having done so during my time at Meta.

Q You referenced that there were hack-and-leak discussions that occurred with other companies. Do you recall which other companies were part of those meetings?

A The meetings that I'm referring to were meetings with industry, including,

for example, Twitter, Google. There were others, but those are ones I recall.

Q Okay.

[redacted] Could we go off the record, please?

[Recess.]

[redacted] We can go back on the record, please. It's 1:48.

BY [redacted]

Q We're going to be really quick, [redacted]. I don't have many questions for you based on that last round.

You did have a few questions about the meetings that you had with the U.S. Government and industry peers, and you mentioned that the government sometimes provided information to you that was helpful. Is that correct?

A Correct.

Q And some of that information you said was about just open source information that might create election-related security issues. Is that fair to say?

A Awareness of election-related security issues.

Q Okay. So other than them providing you information that you found helpful in your job, did any Federal officials ever order Meta to do anything or take any particular action in these meetings?

A No.

Q And to your knowledge, have any Federal officials ever ordered you or other Meta employees to remove an account, page, or any other content on a Meta platform?

A I would not have been receiving those orders.

Q So you personally would not have received anything like that?

A No.

Q Okay. I mean, to your knowledge, has any Federal official or agency ever

tried to coerce or pressure Meta into any particular action with respect to its con -- with respect to its content by threatening them, say, for example, with antitrust legislation or some other kind of lever that the government might have over Meta?

A I can only speak to I have never felt pressured there, but I do not deal with formal process. There are divisions within the company that receive subpoenas, child safety related, et cetera.

Q Understood. Okay. So fair to say that in the interactions that you've described here so far with CISA or other government actors, it's been voluntary, conciliatory, and noncoercive on the part of the government. Is that fair to say?

A Entirely, in my view.

Q And they've offered you information but not demanded things from you. Is that fair to say?

A Yes.

[redacted] Okay. I don't have any other questions.

[redacted] do you?

Okay. That's it. We can go off the record.

[Discussion off the record.]

[redacted] We can go on the record, please.

BY [redacted]

Q So we've been discussing that from time to time you'd prepare options that you'd -- you know, whether it be preparing options or another context may advise or consult with respect to the community standards, the language used. So one example you gave was the definition of a politician.

In your time during Meta, did anyone ever reach out to you to request advice on how a policy might be applied to a specific situation?

A I participated in stakeholder meetings occasionally where questions about the policies would come up.

Q And what are these stakeholder meetings that you're referring to?

A They varied and included civil rights groups in the United States. They included entities in other countries. They included press.

Q Did it ever include governmental entities?

A The previously mentioned congressional-related work, and I recall some foreign government entities at different times, but not the specifics about which ones.

Q Other than congressional committees, do you recall any U.S. Federal Government entities?

A I do not, no.

Q Other than these stakeholder meetings, do you recall ever receiving requests to consult, advise on how a community standards policy should be applied?

A For clarity, you're talking about external groups?

Q No, internal as well.

A Internally, preparing options was a big part of the role. So could you clarify your question?

Q Sure. To use the example you provided us, one example but not to limit the question, you helped prepare options with respect to how a politician is defined and a decision of some sort was made. There's a policy, right? We'll use this as one example. Did anyone come to you from within Meta and ask about how to apply whatever the decision was about how a politician was defined, you know, does this individual count as a politician under the policy?

A I was not part of the implementation of our policies. Occasionally I would be asked to advise with additional background, and my time meant I had historical

knowledge, for instance, of the policy.

Q Do you recall any examples of when you were consulted?

A Yes.

Q And what are some of those?

A To stay with the politician example, it was not characteristic to be consulted on a particular entity, but the one-off consultation I recall was a public figure in government in the Philippines and whether she counted as a politician under our public policy.

Q And using this specific example of the public figure in the Philippines, when the request came in, was it specifically just to you or was it to multiple individuals at Meta?

A The request I received, I only recall it being to me.

Q And was it your understanding the reason was because you helped contribute to preparing the options for how to define a politician?

A It was close in time to that.

Q Do you recall any other similar examples where someone at Meta asked for your advice on how a policy should be implemented?

A It was rare occasions.

Q Do you recall any other occasions?

A I recall one.

Q And which one is that?

A At some point in 2020, the President made a statement about voting -- appearing and voting in person, something to the effect of even if you had already submitted an absentee ballot, just to be sure. And I was asked to advise briefly on that.

Q And do you recall which part of the community guidelines or community standards section was being considered?

A It would've been the voter suppression time, place, manner, qualifications to vote, that set that we discussed earlier.

Q Do you recall who from Meta reached out to you?

A Yes.

Q And who was that?

A It was [redacted].

Q And for this example, do you recall if the request was just to you or if it was to multiple people?

A I don't recall. I recall it being to me, rather.

Q Do you recall what your recommendation was?

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

Q Are you familiar with the October 2020 New York Post story on Hunter Biden's laptop?

A I'm familiar with a October 2020 New York Post article.

Q And do you have any familiarity with what steps, if any, Meta took with response to the story?

A Limited to my exposure, yes.

Q And what is your understanding?

A That the content was enqueued for fact checkers to review, if they chose to.

Q And do you know who made that decision?

A Ultimately, [redacted]'s team was responsible, accountable for that.

Q And did you play any role?

A I recall discussing with my coworkers on the day of what was going on.

Q Your recollections of discussing with coworkers, is that in the context of discussing just a newsworthy event or in the context of part of your role as a Meta employee?

A I -- in this particular instance, I was making myself available if they needed anything, but my role was not implementation of the misinformation protocols or process.

Q When you made yourself available, did anyone at Meta take you up on that offer?

A I don't recall them having done so.

Q In addition to [redacted], do you recall who else was involved in handling the issue?

A The misinfo policy team.

Q And do you recall who on the team?

A I don't recall specifically that day, no.

Q You mentioned that it's your understanding that the story was sent to third-party fact checkers. Is that correct? That's your understanding?

A That was my understanding on that day, yeah.

Q Do you know if the third-party fact checkers reviewed the story?

A I don't know.

Q Do you know if the third-party fact checkers returned some degree of assessment, analysis regarding the veracity of the story?

A I'm not aware.

Q And just as a point of clarification, you're not aware one way or the other or that --

A I've not been told that they returned an analysis.

Q Okay. In your discussions with coworkers, do you recall what your coworkers' thoughts were on what should be done?

A I recall generally that there were questions on if any policy applied.

Q And do you recall if some of your coworkers thought certain policies did apply?

A Other than misinfo policy or procedures, I recall no other.

Q Okay. And what are those misinfo procedures you're referring to?

A The misinfo policy team would have to tell you what is involved in the constellation of their practices, but misinfo policy kind of broadly.

Q Was it your understanding that sending the story to fact checkers is part of that?

A Yes. I am -- I am in the process including the ability to include -- enqueue, pardon, to fact checkers for review.

Q And at no point were you consulted to assist with how to respond to the story?

A I don't recall having been, you know, asked whether -- yeah, to assist in the response to the story.

Q Do you know if the -- well, actually, let me take a step back. In October of 2020, do you know whether Meta, at the time Facebook, had a policy with respect to hack-and-leak material specifically?

A My recollection is we did.

Q And is the team responsible for handling the implementation of the hack-and-leak policy different than the misinformation team?

A It's all [redacted]'s work. I don't know -- I don't know whether -- what misinformation considered in its purview at that time.

Q The -- do you recall how quickly you learned of -- actually, let me strike that.

In addition to sending the story to third-party fact checkers, is it your understanding that Facebook took any other steps with respect to the story?

A I'm not aware of any as I sit here.

Q Are you familiar with Mark Zuckerberg's August 2022 interview with Joe Rogan where he discusses how Facebook handled reacting to the story?

A I'm aware of it. I'm aware of it.

Q Were you aware prior to that interview, or I guess even today, are you aware whether Facebook took any steps to, quote, down rank the story initially?

A I'm aware that in 2020, or at that time in 2020, enqueueing to fact checkers did have a distribution effect.

Q And do you recall how quickly you had that understanding or learned that that was the step that Facebook was taking?

Mr. Brown. Can I just ask for frame of -- how quickly compared to what, like what's the frame of reference?

BY [redacted]

Q Sure. So the story comes out the morning of October 14th. Do you recall when you first learned of the steps that Facebook was taking?

A At some point during that day. I don't recall more specifically.

Q Do you have a sense of how widely known within the company people knew that that was the decision that had been made?

A I don't.

Q For anyone, including yourself, falling underneath [redacted]'s team, do you know how widely within the team there was an understanding that day regarding the decision that had been made?

A I don't. Couldn't speak outside of my own experience.

Q Do you recall how you learned?

Mr. Brown. I'm sorry, how he learned what?

BY [redacted]

Q Do you recall how you learned of what decision Facebook decided to take?

A In conversations with coworkers.

Q Do you remember which coworkers?

A I don't.

Q Do you recall what the coworkers that you spoke to, whether they were supportive or opposed to that decision?

A I don't remember any statements about the merits directed to me.

Q Or otherwise, do you recall?

A I don't. I --

Mr. Brown. I'm going to object to the line of inquiry, because I've heard no nexus to the governmental kind of collusion or collaboration or anything that would be within the scope of the committee's jurisdiction, but you can answer the question.

[redacted] We have explained this before to you. Out of respect to the witness, we can have this discussion later.

BY [redacted]

Q Do you recall if there was a sense among coworkers that this might be the byproduct of a Russian-originated hack-and-leak operation?

A There was concern that the origin was unknown.

Q Any recollection that it was Russia specifically?

A I don't remember Russia specifically.

Q So this is October 2020. Do you recall if you were in an office of Meta that

day?

A I was not.

Q So these discussions are occurring remotely of some kind?

A Yes.

Q All right. Do you recall how quickly during the day a decision was made?

A I don't.

Q Do you recall whether there was consideration on the days following the 14th in order to change the steps that Facebook had taken?

A I don't recall.

Q Do you have familiarity with a statement that was released about 5 days later, October 19th, from 51 former intel officials regarding the nature of Hunter Biden's laptop?

A I recall being aware of a letter or statement, and it would fit that profile.

Q And did you ever provide any analysis of that letter or discuss it with your superiors?

A I remember discussing it with peers. I do not recall having provided an analysis or discussing it with superiors.

Q Regarding your discussions with peers, is this -- are these discussions in the context as coworkers discussing a newsworthy event or in your role as a Meta employee?

A Coworkers discussing a newsworthy event.

Q Do you know if the letter had any impact on how Facebook continued to handle its response to the story?

A I don't know.

Q Did you ever talk to [redacted] directly about the decision?

A I don't recall having done so.

Q You mentioned on the 14th you were going to make yourself available if needed and that that offer wasn't taken up on the 14th. Just to clarify, to the extent the offer extended for the rest of the week, do you recall if anyone took you up on that offer?

A I don't. I don't recall having been taken up on that offer.

Q Did you conduct any analysis on your own independently?

A Not that I recall.

Q Were you notified when -- let me strike that.

Do you know when the -- you mentioned there was a -- to some effect, a step was taken with respect to the distribution of the story. Do you know if that step was ultimately reversed at some point?

A I don't know.

Q Okay.

A I don't know.

Q Do you recall if the step was changed at any point?

A I don't. I don't know.

Q Are you aware of the Election Integrity Partnership?

A I've heard the name.

Q Do you know what it is?

A Not with any specificity.

Q Do you recall if you've ever worked with the Election Integrity Partnership?

A I don't recall having done so.

Q Do you know if anyone else at Meta has worked with the Election Integrity Partnership?

A I don't know.

Q Earlier we were talking about the Center for Internet Security, and you

referenced you believe it's affiliated with Stanford. Do you recall any other -- let me -- strike that.

During your role at Meta, have you had any other interactions with Stanford University?

A I don't recall having done so -- oh, hold one moment. I participated on a call that involved researchers from Stanford regarding internet governance.

Q Do you recall who from Stanford was on that call?

A I don't recall the names.

Q Have you ever worked with someone from Stanford named Alex Stamos?

A I have not worked with Alex Stamos.

Q I'm sorry?

A I have not worked with him, not knowingly.

Q Do you know who that is?

A I do.

Q And who is Mr. Stamos?

A Mr. Stamos is a partner at his cybersecurity group. He formerly worked at Facebook at the time. I was not there during that period.

Q And, sorry, just to clarify, during your role at Meta, did you ever work with -- understanding you didn't overlap and Mr. Stamos left Facebook. In your role at Meta, have you ever worked with Mr. Stamos?

A I don't recall anytime having worked with him.

Q Okay. Are you familiar with the Virality Project?

A Virality Project? I am not.

Q Have you worked with a company named Graphika in your -- during your role at Meta?

A I don't recall ever having worked with them.

Q Have you ever worked with the DFRLab, which was housed with inside the Atlantic Council, as part of your role at Meta?

A I don't recall ever having worked with them.

[2:17 p.m.]

BY [redacted]

Q Have you ever worked with the University of Washington as part of your role at Meta?

A As I sit here today, I don't recall any meetings that I've worked with them, no.

Q Have you ever worked with the Aspen Institute during your role at Meta?

A I don't recall ever having done so.

Q You had mentioned that there was scenario planning, as well as a red team, and that Meta internally would prepare for hack-and-leak -- a potential response to a hypothetical hack-and-leak operation.

Do you recall if, when the New York Post ran the story on October 14, 2020, on Hunter Biden's laptop, if the response from Facebook was consistent with the response that was practiced in these tabletop exercises?

A I don't recall any deviation or consistency.

Q You just don't recall one way or the other?

A I just want to make sure -- the question seems to assume that what was the scenario was similar to what happened, and I'm not trying to draw any link between those two.

Q Okay. Do you recall if any of the tabletop exercises that were practiced over the summer were similar to the actual events that unfolded in October 2020 with respect to Hunter Biden's laptop?

A To the best of my recollection, in my view of it, that they were not similar. One involved a document dump at scale. That's my recollection. And then I won't

characterize the last scenario you [inaudible].

Q Okay.

Do you recall if Facebook's response in October of 2020 to the Hunter Biden laptop story, if the initial reaction was to treat it as a potential -- the Hunter Biden laptop as the potential product of a hack-and-leak operation?

A I recall that being a question.

Q And you mentioned that there was -- that both teams fall under [redacted] 's umbrella, but that there was a team whose primary responsibility was handling, you know, the hack-and-leak policies and that there's a separate team handling misinformation policy.

Is it your understanding that those teams worked together, or would each make an assessment independently?

A Just to clarify on my prior testimony, I don't know what misinfo policy believed to be their role with reference to an assessment on hack-and-leak. Not all individual community -- or, individual policies are owned by independent teams. And I couldn't tell you who had what lines, day of.

Q Yeah. Thank you for that clarification.

With respect to how to respond to the Hunter Biden laptop story, do you recall if the team that is responsible for implementing the hack-and-leak policy and the team that's responsible for implementing the misinformation policy were communicating with one another that day?

A It's my testimony that I don't know who owns a hack-and-leak policy specifically, other than the accountability that rolls up to [redacted]. So I don't know some subset or on whose subset --

Q Well, with the understanding you don't know who the team is, is it your

understanding that there is a team that is responsible?

A It's my understanding that [redacted]'s work is responsible for that, and I am not aware of any individual team that is segmented off for hack-and-leak assessment, if that's what you're asking. But I want to make sure I'm being responsive.

Q Do you remember if [redacted] was involved in determining how to respond to the Hunter Biden laptop story?

A My recollection is that [redacted] was involved in thinking through that decision.

Q And is it your understanding that [redacted] was involved as well?

A I don't recall whether [redacted] was directly involved.

Q So, since you have knowledge or understanding of [redacted]'s involvement, was his involvement in consultation with [redacted]?

A In my own firsthand -- he was providing information, yes, that was in consul- -- owned by a decision owned by [redacted], yeah.

[redacted] Can we go off the record, please?

[Recess.]

[redacted] Back on the record.

BY [redacted]

Q Regarding the New York Post story, I might have misunderstood you, but I thought you said that you did not have knowledge of any decision that Facebook or Meta made regarding that story, other than someone decided to send it to a third-party fact-check.

Is my understanding correct, or did I miss something?

A My recollection is that I was responding to a question about whether there was any decision on that content in addition to sending it and queuing the content to

third-party fact-checkers. So, yes, my understanding -- I don't have any additional understanding of how that was treated or not treated.

Q But you clearly said that you understood that it did go to third-party fact-checking. Is that right?

A Correct.

Q But you have no knowledge of any other decision that anyone at Facebook made with respect to that story. Is that true?

A I don't recall any other.

Q Okay. So, when you're talking about "the decision" that was referred to in the last hour, you're talking about the decision to send it to third-party fact-checking. Is that right?

A That's what I was responding to.

Q Thank you for that clarification.

If you know -- and if you don't, certainly say so -- is there something that happens when a story is sent to third-party fact-checking that results in a demotion or something like that with respect to content automatically?

A It results in a demotion at that time.

Q Is that a separate decision, or is that just part of the initial decision to send the story or content to third-party fact-checking?

A I had understood that to be normal business protocol predating -- for as long as I understood sending something to being queued, it also came with an automatic demotion.

Q Those two things are linked, correct?

A That was my understanding on the day, is that that had always been -- that had been linked, as long as I knew of, in queuing.

Q Okay.

[redacted] No other questions. Thanks for your time.

We can go off the record.

[Whereupon, at 2:27 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

Transcribed Interview Transcript Errata Form

Interviewee	[redacted]
Date of Interview	06/14/23
Date of Review	08/2/23
Name of Reviewer	Demisse Selassie
Signature of Reviewer	

Page	Line	Suggested Correction

1
2
3
4 COMMITTEE ON THE JUDICIARY,
5 U.S. HOUSE OF REPRESENTATIVES,
6 WASHINGTON, D.C.
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8
9
10
11
12 INTERVIEW OF: [redacted]
13
14
15
16
17 Friday, June 16, 2023
18
19 Washington, D.C.
20
21
22 The interview in the above matter was held in room 2237, Rayburn House Office
23 Building, commencing at 10:04 a.m.
24

1 Appearances:

2

3

4 For the COMMITTEE ON THE JUDICIARY:

5

6 [redacted] LAW CLERK

7 [redacted] COUNSEL

8 [redacted] DIGITAL ASSISTANT

9 [redacted] INTERN

10 [redacted] INTERN

11 [redacted] SENIOR SPECIAL COUNSEL

12 [redacted] MINORITY INTERN

13 [redacted] MINORITY OVERSIGHT COUNSEL

14 [redacted] MINORITY PROFESSIONAL STAFF MEMBER

1

2 For Google:

3

4 EHREN HALSE, ESQ.

5 King & Spalding

6 1700 Pennsylvania Avenue NW, Suite 900

7 Washington, D.C. 20006

8

9

10

11 For [redacted]:

12

13 MICHAEL D. BOPP, ESQ.

14 Gibson Dunn

15 1050 Connecticut Avenue, NW

16 Washington, D.C. 20036-5306

1 [redacted] This is a transcribed interview of [redacted].

2 Do I have your name right?

3 [redacted]. Yes, you do.

4 [redacted] Chairman Jordan has requested this interview as part of the

5 committee's investigation of how and the extent to which the executive branch has

6 coerced and colluded with companies and other intermediaries to censor speech.

7 Would the witness please state your name for the record?

8 [redacted]. [redacted].

9 [redacted] On behalf of the committee, I want to thank you for appearing here

10 today to answer our questions. The committee also appreciates your willingness to

11 appear voluntarily.

12 My name is [redacted] and I'm with Chairman Jordan's staff. I will now have

13 everyone else from the committee who is here at the table introduce themselves.

14 [redacted] I'm [redacted] Oversight Counsel with the Judiciary

15 Committee Democrats.

16 [redacted] I'm [redacted] I'm a legal intern with the Democrats' Judiciary

17 Committee.

18 [redacted] [redacted] with the Judiciary Democrats.

19 [redacted] [redacted] with the Judiciary majority staff.

20 [redacted] [redacted] Judiciary majority staff.

21 [redacted] [redacted] with the Judiciary majority staff.

22 Mr. Halse. Ehren Halse from King & Spalding on behalf of Google.

23 Mr. Bopp. And Michael Bopp from Gibson Dunn, counsel for [redacted]

24 [redacted] I'd like to now go over the ground rules and guidelines we'll follow

25 during today's interview. Our questioning will proceed in rounds. The majority will ask

1 questions first for 1 hour, and then the minority will have an opportunity to ask questions
2 for an equal period of time, if they choose. We will alternate back and forth until there
3 are no more questions and the interview is over. Typically, we take a short break at the
4 end of each hour, but if you'd like to take a break apart from that, please just let us know.
5 As you can see, there's an official court reporter taking down everything we say to
6 make a written record, so we ask that you give verbal responses to all the questions. Do
7 you understand.
8 [redacted]. Yes, I do.
9 [redacted] So the court reporter can take down a clear record, we'll do our
10 best to limit the number of people directing questions at you during any given hour to
11 just the people on the staff whose turn it is.
12 Please try and speak clearly so the court reporter can understand and so the folks
13 down at the end of the table can hear you. It's important that we don't talk over one
14 another or interrupt each other if we can help it, and that goes for everybody present at
15 today's interview.
16 We encourage witnesses who appear before the committee to freely consult with
17 counsel if they choose. And it's my understanding that you're appearing today with
18 counsel. Is that correct?
19 [redacted]. Yes, that's correct.
20 [redacted] Counsel's already stated their name for the record. Thank you.
21 We want you to answer our questions in the most complete and truthful manner
22 as possible, so we'll take our time. If you have any questions or if you don't understand
23 one of our questions, please just let us know. The questions will cover a wide range of
24 topics, so if you need clarification at any point, just say so. If you honestly don't know
25 the answer to a question or don't remember, it's best not to guess. Please give us your

1 best recollection, and it's okay to tell us if you learned information from someone else.
2 Just indicate how you came to know the information. If there are things you don't know
3 or can't remember, just say so, and please inform us who, to the best of your knowledge,
4 might be able to provide a more complete answer to the question.
5 You should also understand that although this interview isn't under oath, by law
6 you are required to answer questions from Congress truthfully. Do you understand
7 that?
8 [redacted]. Yes, I do.
9 [redacted] This also applies to questions posed by congressional staff at an
10 interview. Do you understand that?
11 [redacted]. Yes.
12 [redacted] Witnesses that knowingly provide false testimony could be subject
13 to criminal prosecution for perjury or making false statements under 18 U.S.C. 1001. Do
14 you understand?
15 [redacted]. Yes.
16 [redacted] Is there any reason you are unable to provide truthful answers to
17 today's questions?
18 [redacted]. No.
19 [redacted] Finally, I'd like to make note that the content of what we discuss
20 here today is confidential. We ask that you not speak about what we discuss in this
21 interview to any outside individuals to preserve the integrity of our investigation. For
22 the same reason, marked exhibits that we use today will remain with the court reporter
23 so that they can go on the official transcript, and any copies of those exhibits will be
24 returned to us.
25 All right. That's the end of my preamble. Is there anything my colleagues from

1 the minority would like to add?

2 [redacted] Just thank you for coming today.

3 [redacted] The clock now reads 10:07 a.m. We'll start the first hour.

4 EXAMINATION

5 BY [redacted]

6 Q Can you give us your current job title?

7 A I'm the director of Health Partnerships at YouTube.

8 Q And your educational background, starting with college.

9 A Duke University.

10 Q And what did you study there?

11 A Art history and English.

12 Q And your employment history before your current position?

13 A I worked at the Discovery Channel for about 3 years. I worked at Hugo

14 Boss for about 1 year in New York City. And then I worked -- I've worked at YouTube for

15 15 and a half years.

16 Q Have you had the same role at YouTube the entire time or has it changed?

17 A It's changed.

18 Q Can you describe how?

19 A Yes. Prior to my role on Health Partnerships, I worked on a strategy and

20 operations team working with top creators. Prior to that, I worked on original

21 programming for YouTube. And prior to that I worked on a marketing programs team.

22 Q And in your current role -- so is Health Partnerships, that's a specific team

23 that you do, I take it?

24 A Yes. It's part of our larger partnerships team focused on health partners.

25 Q And how many people are in partnerships or larger partnerships team versus

1 health partnerships?

2 A I don't have the exact number of the global partnerships. Oh, an estimate?

3 Q Yeah.

4 A You know, hundreds, globally. A couple hundred, globally.

5 Q Are you focused on a particular region?

6 A My role is global and scope, so I work with people on multiple countries.

7 Q And who do you report to?

8 A I report to the director of Global Health and the head of YouTube Health.

9 Q Who is that?

10 A [redacted].

11 Q And who reports to you?

12 A I have a team of people in North America, and then I work closely with their

13 counterparts in different countries.

14 Q Do you know how many people report to you, approximately?

15 A Six.

16 Q And who are those people?

17 A Their names?

18 Q Yeah.

19 A [redacted] (ph), [redacted], [redacted], [redacted], and [redacted]

20 [redacted] and then [redacted].

21 Q What does your team do, generally speaking?

22 A Generally, we work with health organizations to bring more authoritative

23 health information to YouTube.

24 Q And when did you begin working in that role?

25 A In February of 2020.

1 Q Okay. So do you have a particular focus when you began in February of
2 2020? I can't imagine what it might be.
3 A When I started in February of 2020, we were just building out the health
4 partnerships team internationally. So when I started, obviously, COVID was a focus
5 initially, and they had not yet built out the team, all those people that I just listed. It
6 was just getting underway.
7 Q Okay. And so who do you work with in partnerships? Presumably, you
8 partner with people or organizations?
9 A We primarily work with accredited organizations, like hospitals and schools
10 of medicine; schools of nursing; medical journals; in some cases, creators who are doctors
11 and nurses.
12 Q Do you ever work with government agencies?
13 A Yes.
14 Q Which ones?
15 A We work with local health authorities in a number of different countries,
16 including the U.S.
17 Q What about Federal agencies in the U.S.?
18 A In some cases.
19 Q Which agencies?
20 A I work primarily with the CDC and NIH and the -- and HHS.
21 Q Do you work with the government affairs team at YouTube?
22 A Yes.
23 Q Is it Google or YouTube?
24 A Well, we have a YouTube government affairs team. Yes, I work with them.
25 Q Do you work with [redacted] there?

1 A I have worked with her, yes.
2 Q And how -- let's go back on what sort of topics.
3 A I worked with her -- during COVID, especially one of the things we were
4 trying to do is not overwhelm health authorities all over the world when we were trying
5 to support them. So we would communicate, make sure we streamline our
6 communications. So they were already really overwhelmed in responding. So we
7 were trying to streamline our communications to health authorities in multiple different
8 countries whenever possible.
9 Q I see. Did you deal with misinformation, disinformation, or
10 malinformation?
11 A No. My role is very focused on raising authoritative information. So I
12 don't work on the development or enforcement or misinformation policies.
13 Q Okay. So you don't -- you don't -- your role doesn't require you to have an
14 understanding of those terms or --
15 A No. I mean, I broadly, you know, know what misinformation is. But I
16 work -- I'm very focused on raising authoritative health information.
17 Q Okay. Do you know who at YouTube does deal with misinformation,
18 disinformation, and malinformation?
19 A Our trust and safety teams are responsible for misinformation policies and
20 their enforcement.
21 Q Do you know who in Trust and Safety?
22 A You know, I don't know who works on each specific issue because I'm not
23 involved in that. It's not part of my role.
24 Q It's okay if you don't know specifically, but to the best of your knowledge,
25 who may generally work on those topics?

1 Mr. Bopp. Are you asking, like, who is the head of Trust and Safety or just who
2 works on misinformation and disinformation.
3 BY [redacted]
4 Q Well, we can start with the head, if you know who that is.
5 A The head is [redacted].
6 Q Okay. And do you know other people there who work on Trust and Safety?
7 A I do, but I know they all work on a variety of different issues. So I don't
8 know who works on each specific issue.
9 Q Can you tell me names, to the extent that you can, who work on Trust and
10 Safety?
11 A [redacted] is a lead on the team.
12 Q Can you spell that?
13 A [redacted], I believe.
14 Q Do you know who [redacted] is?
15 A Yes.
16 Q Have you ever worked with him?
17 A Yes, I worked with him primarily during the response to COVID, streamlining
18 our communications with the CDC so we were not overwhelming them with emails and
19 things like that.
20 Q And you mentioned [redacted]. So what exactly does he do?
21 A He's the global head for YouTube Policy. So he's responsible for overseeing
22 the overall YouTube health strategy. And I work closely with him and our international
23 counterparts.
24 Q How do you -- how is the strategy decided, health strategy? Like, who
25 determines what the health strategy is?

1 A Well, overall for YouTube for several years, the strategy for spaces like
2 health has been anchored on four Rs. I don't know if you're familiar with the four Rs.
3 Q No. Can you please tell us?
4 A It's raise, remove, reduce, and reward. And so that's really the strategy
5 that we've had in place for multiple years in spaces like health where authoritative
6 sources are particularly important. So our role is really focused on the raise part. So
7 how do we make sure that we have enough information on a variety of topics from, you
8 know, symptoms of breast cancer to bicuspid aortic valves, making sure that users can get
9 their answers to their questions from authoritative sources.
10 Q What about the remove part, what's that?
11 A That's really owned by Trust and Safety.
12 Q Okay. And that's about removing?
13 A And that's about removing violative content.
14 Q Okay. So did -- you mentioned working a little bit with CDC. Did you work
15 with Carol Crawford at CDC?
16 A Yes, I did.
17 Q And what did you work with her on?
18 A Related to providing support to helping them get the latest information
19 about COVID to users on YouTube. In March 2020, there really wasn't a lot of
20 information. Local health authorities across the world were pretty overwhelmed. So
21 my role was just helping them, you know, supporting them in any way that we can on
22 how to -- you know, making sure they understand how YouTube works and supporting
23 them in getting the latest health information out there.
24 Q So when did you start working with them on COVID?
25 A In March 2020.

1 Q And are you still working with them on COVID or other topics or did that
2 stop?
3 A No. I believe every now and then we'll have an email, but the cadence was
4 much higher during COVID.
5 Q Okay. So did CDC, HHS ask you to promote certain content or run certain
6 content --
7 A No. During the, you know -- as -- I'm trying to recall how, you know, we
8 began. But really our approach, YouTube's approach was to work with health
9 authorities all over the world and help them get their PSAs out and make sure that people
10 could see the latest information. And so we did that in a couple of different ways. We
11 promoted content from authoritative sources, government and nongovernment, across
12 multiple different countries.
13 On the home page of YouTube, we had a COVID, what we call shelf, which is really
14 just a section of the home page of YouTube that we promoted content from with medical
15 journalists, hospitals, government authorities. So we provided that kind of support just
16 to help them give more visibility to the public.
17 Q You mentioned authoritative information. So who decides what's
18 authoritative information?
19 A We -- during COVID, we relied upon our clinical team to make that
20 determination. And then, you know, moving into 2021, one of the things that we
21 worked on was we had experts, the National Academy of Medicine, the National Health
22 Service in the U.K., the World Health Organization, develop principles for how do you
23 define an authoritative source of information. And those principles, which are
24 published on the National Academy of Medicine website and really informed who's
25 eligible to show up in our health shelf and to receive an information panel that provides

1 context to the user that this is an accredited hospital, this is a government health
2 authority, this is an academic medical journal, things like that. So we rely upon the
3 principles.
4 Q You mentioned the clinical teams. So is that like an inhouse or internal
5 team of medical experts at YouTube or Google?
6 A Yes, we have a clinical team at Google. That's doctors from a variety of
7 different -- primarily doctors in other specialties, but yes, they provide that guidance.
8 Q Do you know whose on that team?
9 A There's several different -- there's a lot of people on the team.
10 Q Can you tell me who they are, to the extent you're aware?
11 A Well, they all roll up to [redacted], who runs Google Health.
12 Q And what's her title?
13 A I believe it's chief health officer for Google.
14 Q Do you know what her background is? Is she a doctor?
15 A I believe so, but I'm not familiar with her background. So I don't want to --
16 Q Okay. Were you ever asked to keep an eye out for misinformation
17 narratives on YouTube by anyone in government?
18 A Not to me, no. Not to my knowledge.
19 [[redacted] Exhibit No. 1.
20 Was marked for identification.]
21 BY [redacted]
22 Q This is exhibit 1 for the record. If you can just take a look at this and
23 just -- obviously understandable if don't remember this particular email.
24 A Okay. If you can just give me a minute.
25 Mr. Bopp. Okay.

1 BY [redacted]

2 Q And just for the record, this is an email from Sheila Walsh at HHS to a few

3 people at Google, including you and [redacted], in which she asks, I guess, the

4 recipients to keep an eye out for work. It says she'd appreciate hearing about any

5 vaccine information needs or misinformation narratives or information needs you see

6 emerging on YouTube.

7 First of all, whose -- do you know who Sheila Walsh is?

8 A Yes. She was the person that -- one of the people that we worked with at

9 HHS.

10 Q Do you know what her role at HHS was?

11 A I can't recall her title or role, but she was working on digital content. I can't

12 recall her exact title.

13 Q Do you recall this email now that you've read it?

14 A I recall it. Yes, I recall it now that I read it.

15 Q Did you keep an eye out for misinformation narratives as she asked?

16 A No. I mean, my role is focused on kind of what's referenced below and

17 helping get additional visibility and raising this content. So I don't work on

18 misinformation narratives or the role in misinformation policy development.

19 Q I understand that --

20 A And I don't believe that we responded to that. I think we -- the focus of

21 this email was really on how to raise the visibility of the videos below.

22 Q I see. I'm obvious -- I don't expect you to speculate about somebody else's

23 mindset, but do you know why she asked you that then or do you have any idea?

24 A I don't want to speculate. I'm not sure why she asked that.

25 Q Was there any internal discussion following that request at YouTube?

1 A Not that I can recall.

2 Q Okay. So, essentially, you just didn't work it?

3 A We -- our followup was to the other part of the email about taking a look at

4 the, you know, these trusted messenger -- they started a series of ask the doctor where

5 they were answering questions that were top of minds of people about these different

6 topics. And so we would raise those and help promote those to get additional visibility.

7 So that was what I recall the followup being.

8 Q Okay. Did you ever attend meetings with people at CDC?

9 A Yes. You mean -- yes, virtually.

10 Q Oh, yeah. In any form?

11 A Yeah.

12 Q Do you recall, approximately, when you attended those meetings, the

13 general timeframe?

14 A To the best of my recollection, primarily in 2020, and then some in 2021.

15 Q And do you know -- what were those meetings about?

16 A Really the focus was on for a lot of different partners, not even just health

17 partners, but across a lot of different parts of YouTube will provide sort of a YouTube 101

18 of how YouTube works, because it can be complicated. And, you know, how does

19 YouTube work and best practices for creating content, especially topics that are

20 complicated. Video can be a good way to explain things. And so we would provide

21 sort of best practices on how to use video as a means of information dissemination.

22 So we do kind of a 101 that -- I recall one of the meetings being that, and then a

23 couple of the other meetings about collaborations with creators and experts from

24 different health authorities. And we did one of those with the CDC, as I recall.

25 Q Do you know who else from Google or YouTube attended those meetings?

1 A [redacted] attended, as I recall, a couple of meetings, and I believe
2 [redacted] did as well.
3 Q And who from CDC was usually at the meetings, or who do you recall
4 attending the meetings?
5 A I recall Carol being there and a couple of other people that I'm not totally
6 remembering their names. I don't want to state --
7 Q Do you know if anybody kept notes or records of those meetings?
8 A I don't know. I do not.
9 Q And do you know how often meetings with CDC were held?
10 A I don't have an exact number. I knew that we did a handful, especially in
11 2020 during the pandemic.
12 Q Did you ever attend be on the lookout meetings with CDC?
13 A I don't believe so. That doesn't --
14 Q Okay. Did you meet with other government agencies during that time,
15 same time period, 2020, 2021, or 2022?
16 A We had some meetings with NIH and -- I don't recall if we met with HHS in
17 2020 or 2021 or both, but we met with HHS as well in the same sort of, you know,
18 YouTube 101, providing some of the same sorts of support.
19 Q Okay. So it was essentially the same topic discussed?
20 A Right. We would sort of take them through kind of our -- how YouTube
21 worked, best practices, how to think about the video as a means of information sharing
22 and dissemination.
23 Q Do you know who from the NIH attended the meetings?
24 A The only person I recall meeting was -- from the NIH was Courtney -- I'm
25 trying to remember her last name.

1 Q Billet?

2 A Yes. Thank you.

3 Q Do you recall what she did at NIH?

4 A I don't recall what her -- what her title or role was.

5 Q Okay. And how about from HHS, who attended those meetings?

6 A [redacted] and [redacted] -- I'm forgetting [redacted] last name.

7 Q [redacted]

8 A Yes.

9 Q And do you know what they did at HHS?

10 A Similarly --

11 Mr. Bopp. I'm sorry. Just, [redacted] what they did at HHS.

12 [redacted] I'm sorry. What their roles were.

13 Mr. Bopp. What their roles were?

14 [redacted] Yeah.

15 Mr. Bopp. And with respect to these meetings that we're talking about?

16 [redacted] No. I meant like their titles, generally, or their purpose.

17 Mr. Bopp. Okay.

18 [redacted]. I don't recall what their titles were.

19 BY [redacted]

20 Q Do you recall communicating with Yolanda Byrd from HHS?

21 A That name sounds familiar, but I don't recall the context or what specifically.

22 I believe she was on a couple of the meetings and emails.

23 Q Do you recall speaking with her about YouTube best practices or maybe

24 email communications?

25 A I believe that she -- I don't want to misstate. I believe she was in -- we had

1 a meeting with HHS where we walked through best practices, and I believe she was a part
2 of that, to the best of my memory.
3 Q When you mean -- when you said -- sorry. When you say walking through
4 best practices, you mean YouTube's best practices?
5 A Yes.
6 Q And on what?
7 A Really it's just, you know, we have tools available for all creators, all people
8 who upload content to YouTube, and making sure that they know how to use the tools,
9 and walking through formats that can be effective on YouTube and, you know, also how
10 to optimize your content. Things like your title and thumbnail and a description that's
11 useful and helpful. Those kinds of things are really helpful in terms of the discovery of
12 your video.
13 Q I see. And did Yolanda Byrd or anyone else from HHS ever advise YouTube
14 about what its best practices should be or --
15 A No, not to my recollection.
16 Q Okay. Did you ever have contact with White House staff in your role?
17 A I believe so.
18 Q Do you recall communications with Clarke Humphrey at the White House?
19 A Vaguely, yes.
20 Q Okay.
21 [[redacted] Exhibit No. 2.
22 Was marked for identification.]
23 [redacted] Thanks. If you can just take a look.
24 [redacted] Is this marked as an exhibit?
25 [redacted] Yes. Sorry. This is exhibit 2.

1 Mr. Bopp. Very good.

2 BY [redacted]

3 Q Okay. So for the record, these are emails with -- from -- well, between

4 Clarke Humphrey at the White House and [redacted] at YouTube, and you're cc'd on

5 them.

6 Do you recall these exchanges?

7 A Vaguely, I recall, yes.

8 Q Do you know why Clarke Humphrey at the White House was working with

9 YouTube?

10 Mr. Bopp. You're asking why -- you're asking [redacted] if she knows why Clarke

11 Humphrey was reaching out to YouTube or working with YouTube?

12 [redacted] Yeah. Yeah.

13 Mr. Bopp. Okay.

14 [redacted]. I don't -- I'm not familiar with how this discussion started. Just

15 from reading the email, it looks like [redacted] somehow -- I don't want to speculate. I

16 don't know how [redacted] and Clarke were connecting initially.

17 BY [redacted]

18 Q Okay. Did you ever meet with Clarke Humphrey?

19 A I believe that we had a meeting with her after this.

20 Q And do you recall who else was there?

21 A I don't recall. I think -- I remember [redacted] and me meeting with her and

22 talking specifically about creator collaborations that we had done. But I don't

23 remember, you know, the outcome of that or if we -- that's all I can remember.

24 Q Okay. And what are creator collaborations?

25 A We -- with health authorities all over the world, we would work with

1 sometimes paracreators, like suggest -- they were creators who expressed interest in
2 wanting to ask questions from health experts. And so that's really what that was. It
3 was another way of getting the health information out there since health authorities in
4 many cases weren't familiar with, you know, creating video content. So creators would,
5 kind of in a talk show format, have them and ask them questions that were top of mind
6 for them.
7 Q I see. Did you ever have contact with Rob Flaherty from the White House?
8 A Not that I recall.
9 Q How about Andy Slavitt from the White House?
10 A Andy Slavitt, I believe, did collaboration with creators, as I recall. I'm trying
11 to remember. But I don't remember speaking to him directly, as far as I can remember.
12 Q Okay. So you don't remember attending any meetings with him?
13 A I don't know that I can recall.
14 [redacted] I actually think that I don't have any other questions.
15 [redacted] Do you need a break before we --
16 Mr. Bopp. Can we --
17 [redacted] We can go off the record.
18 Mr. Bopp. Yeah, we probably want just a couple of minutes, if that's all right.
19 [redacted] Sure, yeah.
20 [Recess.]
21 [redacted] We can go back on the record, please. It is 10:45.
22 EXAMINATION
23 BY [redacted]
24 Q Hi.
25 A Hi.

1 Q Thanks for coming today. I just wanted to have a couple quick questions
2 about your background. I understand your title is director of YouTube Health
3 Partnerships. That's correct?
4 A That's correct.
5 Q And currently you work from Cambridge, Massachusetts. Is that right?
6 A That's right.
7 Q So you flew in here today. Is that right?
8 A Yes, I did.
9 Q At your own expense?
10 A At the expense of my company.
11 Q Okay. And you have private counsel here with you today?
12 A Yes, I do.
13 Q And also counsel from Google, correct?
14 A Correct.
15 Q Did you have to pay for your private counsel to be here today?
16 A No.
17 Q Okay. Was it a hardship for you to travel here today?
18 A You know, I have kids, so there's logistics, but --
19 Q Okay. A lot of the information that you provided regarding, for example,
20 the four Rs, that's available online, is it not?
21 A Yes. Every -- it's all published on how YouTube works in a variety of
22 different places.
23 Q Okay. I'm just going to go through a few of the questions, some of that
24 you've stated. But you do not personally engage in any content moderation at Google
25 or YouTube. Is that correct?

1 A Correct. I'm very focused on raising authoritative sources of health
2 information.
3 Q And you don't engage in any fact-checking in your role at Google?
4 A No, that's not my role.
5 Q Okay. And you do personally have no role -- or you do not have any role in
6 determining what health sources are considered authoritative for purposes of raising that
7 information at YouTube. Is that fair to say?
8 A That's fair to say. We rely upon our principles that are -- were written by
9 experts in the space, and those are all published on those -- on their websites. Those
10 are all publicly available as well.
11 Q Okay. And I just want to go through a little bit of that. I have an exhibit
12 that we're going to mark as exhibit 3, please.
13 [[redacted] Exhibit No. 3.
14 Was marked for identification.]
15 BY [redacted]
16 Q Just take a minute to look at it. It's got a couple of pages, so you
17 understand what it is. And let me know when you've had a chance to see it.
18 Have you had a chance to look at the document?
19 A Yes.
20 Q Do you recognize this document?
21 A Yes.
22 Q And what is it?
23 A This is on our Help Center. So this provides anybody who comes -- we
24 have, you know, in a lot of different places what we call a three-dot menu where you can
25 go and read our Help Center about, you know, why you're seeing the sources that you're

1 seeing, and why -- you know, and more information about the products that we have that
2 help users find authoritative health information.
3 Q This document is on YouTube Help, is that correct, that's part of your
4 website?
5 A Yes, that's correct.
6 Q And it's accessible publicly. Is that right?
7 A Yes.
8 Q And on the first page, I think it's under the heading, Information panels
9 providing help source context. Do you see that in the document?
10 A Yes, I do.
11 Q I think it's -- let's see -- the second paragraph there, starting with the words
12 "To identify eligible health sources." Do you see that?
13 A Yes, I do.
14 Q And you testified in the first hour some of the principles that Google uses in
15 order to identify authoritative health information. Do you recall those questions?
16 A Yes.
17 Q And this refers to those principles. Is that right?
18 A Yes, that's correct.
19 Q And this explains, as you implied earlier, that the principles used by Google
20 are derived from a definition provided by a panel of experts from the National Academy
21 of Medicine and reviewed by the American Public Health Association. Is that your
22 understanding?
23 A Yes.
24 Q And so if someone wanted to understand where your authoritative
25 information came from, they could have simply looked at the YouTube website. Is that

1 fair to say?

2 A Yes, that's fair to say.

3 Q Didn't necessarily need to pull you in here and ask you that question

4 personally. Fair to say?

5 Mr. Bopp. I think -- I'm not sure we want to, you know, answer that question.

6 If you don't mind, let's move on.

7 [redacted] Okay.

8 BY [redacted]

9 Q Okay. If you continue on in the document, this is towards the middle of the

10 page. The paragraph, it says, The principles of authoritative health sources. Do you

11 see that?

12 A Yes, I do.

13 Q Right. Almost in the middle. That document explains: The principles of

14 authoritative health sources developed in the respective papers -- referred to

15 above -- maintain that sources should be science-based, objective, transparent, and

16 accountable.

17 Is that your understanding of the sources that Google and YouTube uses in order

18 to identify which information to raise on your website?

19 A Yes. Per the principles, we use these principles to inform who's eligible to

20 show up and relate these experts are defining what authoritative means in the context of

21 health.

22 Q Awesome. Okay. Would you mind just turning to the next page under

23 the heading, Health content shelf?

24 A Yes.

25 Q And there's also underneath that a heading, Health information panels in

1 search. Do you see those two?

2 A Yes, I do.

3 Q And just for clarity, can you explain, if you understand, those are features of

4 YouTube Health. Is that a fair way to say what those are, something that a user would

5 experience when they come to the platform?

6 A Yes, it's one of the ways that the health -- I'll start with the health content

7 shelf first. So for hundreds of conditions, it can be -- where there's 900-plus conditions,

8 a user can enter a health-related topic or question, and you would see some health

9 sources. Then in that health sources shelf, which moves horizontally on mobile and

10 vertical on desktop, those sources, per these principles, are eligible to show up there with

11 information about that topic and anything from ovarian cancer to diabetes.

12 Q The shelf, is that term used specifically for when someone enters

13 information into the search? Like, is there a difference between entering words in a

14 search on YouTube or like looking at a video, if somebody just started to look at a video?

15 Is there a difference between the features on the website?

16 A Yeah, the shelf is a search-based feature. So when you're searching for

17 something, this is just a way for users to more easily, you know, find information from

18 authoritative sources.

19 Q And if you were just watching a video, is there a similar feature?

20 A For these eligible sources, eligible per the principles, there's an information

21 panel, that's what's referenced in the previous page, which would provide information

22 about that source. So an accredited hospital, government health authority, academic

23 medical journal, school of medicine, those kinds of things.

24 Q But those are the curated features where YouTube is actually trying to

25 elevate the authoritative sources to the users' attention. Is that --

1 A Those are the information panels that for these eligible sources that we -- on
2 any video -- even to your example, if you're just watching a video on the watch page that
3 has information panels providing information about the source would be visible to the
4 user.
5 Q Okay. But if a user, say, wanted to find something specific on YouTube,
6 either a video or just typing words in in the search panel, if they were trying to find
7 something, that was, say, not considered an authoritative source but it was just
8 something out there on the internet, they would still be able to access it with a YouTube
9 search. Is that fair to say?
10 Let me use an example. I was just confusing --
11 A Can you repeat the question? I just want to make sure I understand that.
12 Q Yeah. Suppose there's a viral video out there -- I'm making this up
13 completely. I have no idea if this exists, but --
14 A Okay.
15 Q -- a viral video about, you know, vaccines having a magnetic effect or
16 whatever, right. That's not authoritative information, and it certainly wouldn't be
17 something that YouTube would be -- or YouTube Health would be elevating. But let's
18 say it's out there on the internet and somebody wants to see it. Could they go to
19 YouTube and put in a search term or something like that and find it via the YouTube
20 platform?
21 If you can't answer that because my example is too weird, that's fine too.
22 A Yeah. I guess it depends on, you know, the video. And the shelf is just
23 one feature. There's -- you know, I think there's a lot of different videos that will then
24 be visible.
25 Q I guess that's what I'm trying to say, and I'm not being very clear. But the

1 shelf is the feature that has your content that you are trying to raise, that you consider
2 authoritative, right?
3 A Per the principles, yes.
4 Q Per the principles. But there's also other information lower down or
5 whatever --
6 A Yes, yes.
7 Q -- that just comes up that's not curated by YouTube in any way.
8 A It's just algorithmically generated, as all YouTube search -- yeah.
9 Q That's more clear. Thank you.
10 Is there a word for that? I'm sorry for my --
11 A No, no. I mean, I just wanted to make sure I understood the question
12 clearly.
13 Q Yeah. I call them links, but is there a better word, like the things that come
14 up underneath the shelf?
15 A Video search results. You're in --
16 Q Okay. You can set that aside.
17 A Okay.
18 Q I think I'm done with that for the moment.
19 Okay. So you talked about the four Rs that are kind of part of the core mission of
20 Google. Is that correct?
21 A Yes.
22 Q And those are reduce, raise, remove, and reward, right?
23 A Yes. And just to be clear, that's a YouTube --
24 Q Oh, it's just YouTube?
25 A -- YouTube framework.

1 Q Got it. Sorry about that.

2 Okay. And your responsibilities in the health partnership role fall under that

3 raise rubric, right?

4 A Yes.

5 Q And you explained that you in that role, through a variety of relationships

6 and efforts, are trying to provide authoritative health information to people who use the

7 YouTube platform. Is that fair to say?

8 A That's fair to say.

9 Q Okay. And the health subjects that YouTube Health is interested in raising

10 authoritative information about is not just COVID, it's over 900 different medical or health

11 conditions. Is that right?

12 A Yes. Our team, which, again, is international, so there's people in different

13 countries who are working with, you know, hospitals and other authoritative

14 sources -- the purpose of our team is to ensure that we have that information available

15 from authoritative sources on a variety, as you mentioned, a variety of topics: cancer,

16 diabetes, heart disease.

17 Q And why does YouTube seek to do that? What's the purpose for YouTube

18 to elevate health information that's authoritative?

19 A Our -- you know, my entire -- my job and my team's job is to make sure that

20 we have helpful information. And, you know, operating a responsible platform is a core

21 part of our business and is in everything that we put out about YouTube. You know, it's

22 the space that I'm in.

23 Q Okay. The role that you have as director of the health partnerships at

24 YouTube existed -- did it exist before you took that role? Did you have a predecessor?

25 A No. It was new -- it was a new team.

1 Q Okay. When you came on, you said it was February 2020. Is that right?
2 A That's right.
3 Q And who was the President of the United States in 2020, in February?
4 A Donald Trump.
5 Q Okay. And the role that you had during the Trump administration, did it
6 have anything at all to do with who was in the White House or what administration was in
7 control?
8 A No.
9 Q As the administration changed in 2021, did your role change in any way at
10 YouTube?
11 A No.
12 Q Did your interaction with government officials change in any way when the
13 administrations changed?
14 A No.
15 Q When you interacted with U.S. Government agencies like the CDC or HHS, or
16 even a person at the White House, was your interaction with those agencies typical of
17 your interaction with other partners in your role, in the sense that you were trying to
18 raise authoritative health information?
19 A Yes. I mean, all -- again, all over the world we're working with authoritative
20 health organizations, government health authorities, nongovernment health authorities,
21 with the same goal of ensuring that we have information from authoritative sources on
22 variety of different topics.
23 Q So if somebody at the White House had approached you under a Republican
24 administration and asked you to help them raise authoritative health information in
25 something that they were working on, would you have responded in the same way as if

1 that person worked for a Democratic administration?

2 A Yes. You know, my approach has nothing to do with the political anything.

3 It's really about the authoritative sources.

4 Q Okay. You have described some collaborations that you helped to facilitate

5 with U.S. Government agencies and YouTube creators or influencers. Do you recall that

6 description?

7 A Yes.

8 Q And can you just, in your own words, describe, like, what is that project and

9 how does it -- how did it work?

10 A It's common at YouTube for creators to collaborate with, you know, experts

11 or, you know, other creators. And especially during when COVID was happening and

12 there was a lot of uncertainty and need for information, it was the way that we could get

13 the information out to the public. Because creators are content creators, and so that's

14 what they do. It's core to what they do, and they have the infrastructure and the

15 expertise.

16 A lot of health authorities, government and nongovernment health authorities,

17 they're not creating video content every day for YouTube. So it was another way to get

18 the information out there on how to stay safe.

19 Q Okay. So really the purpose was for you to help the agencies get

20 authoritative information, once again, to YouTube users in a way that's popular and

21 well-consumed by YouTube platform users?

22 A Correct.

23 Q Okay. And then sometimes in your relationship with these government

24 agencies, they would ask you for advice on how to create a optimized video product. Is

25 that fair to say?

1 A Yes. Many of the partners that we work with are looking for best practices,
2 how to make -- you know, especially if you need to make a video quickly in a time of
3 crisis, like, what are the best ways to do that, best practices around video creation.
4 That's really what we do.
5 Q And because you have that knowledge as a YouTube executive, you were
6 just trying to help them create something that would be popular on YouTube and easy for
7 people to find. Is that fair to say?
8 A Easy for people to find and, you know, easily understood in layman's terms
9 kind of the top of mind questions that laypeople have about what was happening.
10 Q Okay. And at any point when you were doing these collaborations with
11 government agencies, was the government agency coercing YouTube in any way to
12 participate in those relationships?
13 A No.
14 Q Would you say it was voluntary on the part of YouTube and the government?
15 A Yes. This was our approach across the world was to help health authorities
16 get the information out there.
17 Q And that's because YouTube on its own has identified that mission as
18 something that's important to the corporate mission of Google and YouTube?
19 A Yes, that's a top priority.
20 Q Okay. And there were times, it appeared, that you interacted more with
21 NIH and the other government agencies, unless, like, the cadence changed over time.
22 How would you explain that change of interaction or cadence over, say, from 2020 to
23 2022?
24 A I think just as the -- you know, as the pandemic evolved initially in 2020,
25 there was, you know, an emergent need for information and, you know, a lot of

uncertainty. So, you know, with health authorities in a lot of different countries, I think the cadence was really because of that emergency phase, and then, you know, moved out of the emergency phase to this ongoing mission of raising authoritative health information.

Q So you were responding to the pandemic itself and the changes that were happening?

A Correct.

Q Okay. Did any government, U.S. Government agency ever make any demands of you at YouTube in your role at YouTube in terms of, say, like insisting that you prominently display some information from them or anything of that sort?

A No. No.

[redacted] We don't have any further questions. We can go off the record.

[Discussion off the record.]

[redacted] We can go back on the record.

BY [redacted]

Q Did you work with any individuals on the inhouse -- Google's inhouse clinical team aside from [redacted]?

A Yes.

Q Can you tell us who? Do you know the names?

A [redacted] and [redacted], and others, but primarily those two.

Q And what was the nature of that work?

A Providing guidance on authoritative sources.

Q So were those the people who decided what authoritative sources were?

A Not those two particular people, but just the clinical team in general. They were part of that, yes, provided guidance. Because the principles that we referenced,

1 those were developed in July of 2021. So our -- YouTube was relying on the clinical
2 team to provide that guidance prior to that in terms of what an authoritative source was.
3 Q And those guidelines were developed by Trust and Safety. Is that correct?
4 A The principles that we rely upon for one authoritative source were
5 developed by third parties. Those are the ones that the National Academy of Medicine
6 and others that are published -- public principles that are published that define what an
7 authoritative source was. And those were published in July 2021, the first iteration of
8 that.
9 Q And did you work with any third-party fact checkers to determine
10 authoritative sources?
11 A No, not that I recall.
12 Q And did you work with any individuals on YouTube's trust and safety team on
13 the authoritative information issue?
14 A No. My role is purely on the wayside.
15 Q Okay.
16 [redacted] That's it for me.
17 [redacted] I don't have any questions.
18 Mr. Bopp. All right. Thank you.
19 [Whereupon, at 11:10 a.m., the interview was adjourned.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

Transcribed Interview Transcript Errata Form

Interviewee	[redacted]
Date of Interview	June 16, 2023
Date of Review	July 14, 2023
Name of Reviewer	Read Mills
Signature of Reviewer	

Page	Line	Suggested Correction

Transcribed Interview Transcript Errata Form

Interviewee	Director, YouTube Health Partnerships
Date of Interview	June 16, 2023
Date of Review	November 26, 2024 (Updated December 16, 2024)
Name of Reviewer	Ehren Halse
Signature of Reviewer	

Page	Line	Suggested Correction
7	17	"It's" should be "It has"
7	25	"the" should precede "partnerships"
8	2	"team" should follow "partnerships"
8	6	"and" should be "in"
10	5	"and" should follow "make"
10	5	"streamline" should be "streamlined"
13	14	"with" should be deleted

13	15	"and" should precede "government"
15	18	"the" should be "have a"

Page	Line	Suggested Correction
16	4	"ask the doctor" should be ""ask the doctor"" (with quotation marks)
16	4	"videos" should follow "doctor"
16	17	"will" should be "to"
21	1	"paracreators" should be "many creators"
21	10	"a" should precede "collaboration"
28	8	"are" should precede "all" and "results" should follow "search"
34	4	"one" should be "choosing an"
34	14	"wayside" should be "Raise side"

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: BRIAN RICE

Tuesday, June 20, 2023

Washington, D.C.

The interview in the above matter was held in room 164, Cannon House Office Building, commencing at 10:02 a.m.

1 Appearances:

2

3

4 For the COMMITTEE ON THE JUDICIARY:

5

6 [redacted] LAW CLERK

7 [redacted] LAW CLERK

8 [redacted] COUNSEL

9 [redacted] DIGITAL ASSISTANT

10 [redacted] INTERN

11 [redacted] INTERN

12 [redacted] DIGITAL DIRECTOR

13 [redacted] SENIOR SPECIAL COUNSEL

14 [redacted] COUNSEL

15 [redacted] MINORITY INTERN

16 [redacted] MINORITY INTERN

17 [redacted] MINORITY STAFF ASSISTANT

18

19

20 For the SUBCOMMITTEE ON CRIME AND

21 FEDERAL GOVERNMENT SURVEILLANCE:

22

23 [redacted] MINORITY DETAILEE

24

25

1 For BRIAN RICE:

2

3 REGINALD BROWN

4 DEMISSE SELASSIE

5 Kirkland and Ellis

1

2 [redacted] This is a transcribed interview of Brian Rice. Chairman Jordan has
3 requested this interview as part of the committee's investigation of how and the extent
4 to which the executive branch has coerced and colluded with companies and other
5 intermediaries to sensor speech.
6 Would the witness please state your name for the record?
7 Mr. Rice. Brian Rice.
8 [redacted] On behalf of the committee, I want to thank you for appearing here
9 today to answer our questions. The chairman also appreciates your willingness to
10 appear voluntarily.
11 My name is [redacted] and I am with Chairman Jordan's staff. I'll now have
12 everyone else from the committee who is here in the room introduce themselves as well.
13 [redacted] majority staff.
14 [redacted] Chairman Jordan's staff.
15 [redacted] law clerk for the majority.
16 [redacted] law clerk, Chairman Jordan.
17 [redacted] I'm an intern, Chairman Jordan.
18 Mr. Brown. I'm sorry. I couldn't hear your name.
19 [redacted]
20 [redacted] counsel for -- I'm sorry. Go ahead.
21 [redacted] Chairman Jordan's staff.
22 [redacted] counsel for the minority.
23 [redacted] Great. I'd like to now go over the ground rules and guidelines that
24 we will follow during today's interview. Our questioning will proceed in rounds. The
25 majority will ask questions first for 1 hour, and then the minority will have an opportunity

1 to ask questions for an equal period of time, if they choose. We will alternate back and
2 forth until there are no more questions and the interview is over. Typically, we take a
3 short break at the end of each hour, but if you would like to take a break apart from that,
4 please just let us know.
5 As you can see, there is an official court reporter taking down everything we say to
6 make a written record, so we ask that you give verbal responses to all questions. Do
7 you understand?
8 Mr. Rice. Yes.
9 [redacted] So the court reporter can take down a clear record, we will do our best
10 to limit the number of people directing questions at you during any given hour to just
11 those people on the staff whose turn it is. Please try and speak clearly so the court
12 reporter can understand and so the folks down at the end of the table can hear you. It
13 is important that we don't talk over one another or interrupt each other if we can help it,
14 and that goes for everybody present at today's interview.
15 We encourage witnesses who appear before the committee to freely consult with
16 counsel if they so chose. It is my understanding that you are appearing today with
17 counsel. Is that correct?
18 Mr. Rice. Yes.
19 [redacted] Could counsel please state your name for the record?
20 Mr. Brown. Reg Brown, Kirkland and Ellis.
21 Mr. Selassie. Demisse Selassie, Kirkland and Ellis.
22 [redacted] Thank you.
23 We want you to answer our questions in the most complete and truthful manner
24 as possible, so we will take our time. If you have any questions or if you do not
25 understand one of our questions, please just let us know. Our questions will cover a

1 wide range of topics, so if you need clarification at any point, just say so.

2 If you honestly don't know the answer to a question or do not remember, it is best

3 not to guess. Please give us your best recollection, and it is okay to tell us if you learned

4 information from someone else; just indicate how you came to know the information. If

5 there are things you don't know or can't remember, just say so, and please inform us

6 who, to the best of your knowledge, might be able to provide a more complete answer to

7 the question.

8 You should also understand that although this interview is not under oath, that by

9 law you are required to answer questions from Congress truthfully. Do you understand

10 that?

11 Mr. Rice. Yes.

12 [redacted] This also applies to questions posed by congressional staff in an

13 interview. Do you understand this?

14 Mr. Rice. Yes.

15 [redacted] Witnesses that knowingly provide false testimony could be subject to

16 criminal prosecution for perjury or for making false statements under 18 U.S.C. 1001.

17 Do you understand this?

18 Mr. Rice. Yes.

19 [redacted] Is there any reason you are unable to provide truthful answer to

20 today's questions?

21 Mr. Rice. No.

22 [redacted] Finally, I'd like to make a note that the content of what we discuss

23 here today is confidential. We ask that you not speak about what we discuss in this

24 interview with any outside individuals to preserve the integrity of our investigation. For

25 the same reason, the marked exhibits that we will use today will remain with the court

1 reporter so that they can go in the official transcript, and any copies of those exhibits will
2 be returned to us when we wrap up.
3 This is the end of my preamble. Is there anything that my colleagues from the
4 minority would like to add?
5 [redacted] Not at this time. Thank you.
6 [redacted] The clock now reads 10:06. We will start the first hour of
7 questioning.
8 EXAMINATION
9 BY [redacted]
10 Q Mr. Rice, what's your current job title and where do you work right now?
11 A My current job title is vice president for public policy, and I work at Meta.
12 Q And can you give us your educational background, starting with college?
13 A I attended the State University of New York at College of Geneseo for
14 undergraduate.
15 Q What did you study there?
16 A I majored in English and minored in political science.
17 Q And anything subsequent to that?
18 A A number of courses. I didn't -- subsequent to that, but those were my
19 main areas of study.
20 Q And can you give us your employment history after college?
21 A My first position after graduating college was a role with the State Senate
22 Ways and Means Committee in the Commonwealth of Massachusetts.
23 Q And then?
24 A After I spent about 3 years with the committee, and took a position with a
25 consulting firm called Public Consulting Group in Boston, Massachusetts.

1 Q And after that?

2 A After that, I moved to Washington and took a position on the Senate Small

3 Business Committee, United States Senate Small Business Committee.

4 Q And after that?

5 A After that, I continued my role with the Senate. I worked on the Commerce

6 Committee and Finance Committee staff for Senator John Kerry.

7 Q And then after that?

8 A Following my time in the Senate, I took a position with Verizon

9 Communications.

10 Q And then?

11 A And then I spent about 5 years with Verizon, and took a position with

12 Facebook in 2014.

13 Q And is that the same -- have you held the same position ever since or have

14 you changed positions?

15 A Similar positions. It's shifted around a bit. But I've been promoted during

16 my time with Facebook over those 10 years.

17 Q What team are you on or what -- I don't know.

18 A Sure. The U.S. policy team.

19 Q And what does the public policy team do?

20 A The U.S. policy team represents the company in a variety of ways before

21 public policy officials in the United States from State level to Federal level.

22 Q And what do you do in your position? What's your main day-to-day tasks?

23 A Sure. My main scope of responsibility is to represent the company before

24 Congress and before the executive branch.

25 Q Does that mean -- so can you explain a little bit more? You communicate

1 with people from government. Is that accurate?

2 A Yes. That's right.

3 Q On any specific topics?

4 A On any number of topics that are important to the company. You know,

5 they vary depending on, you know, what's before the company and what's before

6 Congress at any given time.

7 Q Typically, do these government officials contact you or the other way

8 around, or how does this work?

9 A It can happen both ways. We advocate before government officials on

10 matters that are important to the company, and government officials come to us and

11 have questions about things that are happening at the company.

12 Q And you -- Meta has a number of -- composed of Instagram, WhatsApp, and

13 Facebook. Is that correct?

14 A Yes. Instagram, WhatsApp, Facebook. Yes.

15 Q Anything else?

16 A Messenger would be another app --

17 Q I see.

18 A -- in the family of apps. Yeah.

19 Q And do you work for all of those or just for Facebook or any in particular?

20 A I work on behalf of the whole company, so anything that falls under the

21 company's scope. So any of those apps.

22 Q And approximately how large is the public policy team?

23 A I would be guessing to give you an answer. The U.S. public policy team has

24 a number of teams that don't advocate directly with policymakers as well.

25 Q Do you -- are you confined to a specific geographical region or do you work

all over the world?

A I'm --

Q I mean, not physically, but like the people you're dealing with.

A Yeah. The people I am engaged with most regularly work in Washington for the Federal Government.

Q And who do you report to?

A I report to the head of U.S. policy, Kevin Martin.

Q Can you tell me the name again?

A Kevin Martin.

Q And who does Kevin Martin report to?

A Kevin Martin reports to the head of global policy, Joel Kaplan.

[redacted] I'm sorry. What was the last name?

Mr. Rice. Kaplan.

[redacted] Okay. Thank you.

BY [redacted]

Q And how about Joel, who does he report to?

A Joel reports to our president for public affairs, Nick Clegg.

Q And does Clegg report to Mark Zuckerberg or --

A Yes.

Q And who reports to you?

A I have a number of members in my team who do -- who fulfill, you know, similar functions with the executive branch and the Senate.

Q Approximately how many people is that that report to you?

A The team is approximately, directly reporting to me, five people.

Q And can you give us their names, please?

1 A The -- so the person who helps manage work with the United States Senate
2 is Sydney Paul. The person -- and then there are three individuals who do executive
3 branch outreach as well.
4 Q And who are they?
5 A That would be Sandy Luff, John Branscome, and Sonia Gill.
6 Q And how about in the past, say, since 2019, who's reported to you?
7 A Since 2019? That's the complete list.
8 Q Okay. No one else has reported to you?
9 A I have an executive assistant.
10 Q Okay. What about Carrie Adams, does she report to you?
11 A She does not.
12 Q Okay. How does she -- is her role sort of parallel then or how does that --
13 A Her role -- yes, it's somewhat parallel. My team and I manage matters that
14 are important to the company with respect to policy engagement, and Carrie's
15 responsibility was focused on sort of management of, you know, plat -- platform usage is
16 the way Members of Congress and policymakers use the platform.
17 Q Does Meta have content moderation policies?
18 A Yes.
19 Q And do you -- are you involved in creating those policies?
20 A No.
21 Q Who is involved in creating those policies?
22 A There is a content policy team that is designated to create and implement
23 those policies.
24 Q Do you have contact with any of them on a regular basis?
25 A I have contact with them, yes.

1 Q Who on that team?

2 A That team reports up through Neil Potts and then to Monika Bickert. I

3 communicate with them -- with those two.

4 Q Potts and Bickert. Does Meta work with other companies or organizations

5 in forming content moderation policies?

6 A I'm not -- I would be -- I'm not familiar with the day-to-day work of that team

7 with respect to other -- their other -- their engagement with other companies.

8 Q Do you know who would know that?

9 A I would think Mr. Potts would be a good source for that information.

10 Q Does your work at Meta involve enforcing content moderation policies?

11 A No.

12 Q Who does that? What team?

13 A That is the same -- it would be the same group.

14 Q Okay. And so same, you deal with Mr. Potts and Ms. Bickert?

15 A Yes.

16 Q Does Meta remove -- let me start that again.

17 How does Meta deal with posts containing so-called misinformation or

18 disinformation? Does it remove the posts, downgrade them, label them, any

19 combination of those things?

20 A Our -- it would be a combination. Our policies are stated publicly. And

21 I'm not the expert in those policies, so it would be a question better framed for a member

22 of that team. But it's a variety -- it's a combination of what you just said.

23 Q Mr. Potts or Ms. Bickert?

24 A Yes.

25 Q Anyone else?

1 A Nope.

2 BY [redacted]

3 Q What are the natures of your interaction with the content policy team like?

4 A Primarily around questions of, you know, if policymakers have questions

5 with respect to how the policies are created or enforced.

6 Q Do they proactively keep you up to date on how policies change?

7 A Not more so than the whole company is kept up to date on those changes.

8 Q So when you are having these discussions about the content policies, is it

9 most frequently because someone from the government has asked you a question and

10 you're taking the question back?

11 A Yes.

12 [redacted] Okay.

13 BY [redacted]

14 Q Do you know what categories of misinformation or disinformation are

15 subject to removal on Meta?

16 A I'm not an expert in those categories.

17 Q Are you aware of any categories that are subject to removal?

18 A I would really be -- I'm not familiar in the details of the policies. I would

19 be -- I would be estimating, at best, here.

20 Q How about health misinformation? Is health misinformation subject to

21 removal?

22 A Not -- no, not as a general rule. But again, I'm not the expert in this area.

23 Q So you've said that you have had contact -- or you have contact with

24 government employees as part of your role. Can you tell us which agencies or offices

25 you work with?

1 A I work with the White House.

2 Q Is that it?

3 [redacted] Hi. I'm [redacted] I'm with the House majority for the Judiciary

4 Committee. Apologies for the interruption.

5 Mr. Brown. I apologize. What was your last name?

6 [redacted] [redacted]

7 Mr. Rice. My responsibility covers the executive branch agencies and the White

8 House.

9 BY [redacted]

10 Q So other agencies as well as the White House, I assume?

11 A Yes.

12 Q Are there any that you have more frequent contact with?

13 A It varies from time to time.

14 Q How about in 2020 to '22, did you have contact with any agencies in

15 particular?

16 A I did have contact with agencies in 2020.

17 Q Which ones?

18 A I would -- I mean, a number of them, given the scope of work of my team.

19 It would have covered, you know, several agencies within the executive branch.

20 Q But which specific ones?

21 A I don't remember all of them off the top of my head.

22 Q Can you tell us which ones you remember, please?

23 A The State Department. Health and Human Services. The White House.

24 Homeland Security.

25 Q Keep going.

1 A That covers the ones that I can remember off the top of my head.

2 Q Okay. And who at the White House?

3 A A number of -- a number of officials.

4 Q Can you tell us who, to the best of your recollection?

5 A In the course of my work, I communicate with a number of different officials.

6 It was 3 years ago, so if there are specific individuals you would be interested in?

7 Q How about Rob Flaherty?

8 A Yes. I communicated with Rob Flaherty.

9 Q How about Andy Slavitt?

10 A Yes.

11 Q How about Clarke Humphrey?

12 A I don't recall.

13 Q And who at the State Department did you communicate with, say -- let's say

14 2020 to 2022?

15 A Again, it was a number of -- it would have been a number of different

16 individuals over the course of those years.

17 Q Do you recall any specific names?

18 A I don't off the top of my head.

19 Q How about HHS?

20 A The same.

21 Q Did you discuss misinformation about COVID vaccines with people in the

22 White House?

23 A I'm sorry. Repeat the question.

24 Q Did you in your capacity at Meta discuss misinformation about COVID

25 vaccines with people in the White House?

1 A Yes.

2 Q And who?

3 A The individuals you referenced earlier.

4 Q How about Dori Salcido?

5 A Not to my recollection.

6 [Rice Exhibit No. 1

7 Was marked for identification.]

8 BY [redacted]

9 Q Okay. This is exhibit 1 for the record. If you can take a look at those.

10 I'm not sure if you've had a chance to read them.

11 A Okay.

12 Q Thank you.

13 If I can draw your attention to 5549 through 50, so the last two pages. Payton

14 Iheme sent an email on February 8 to a number of people at the White House, and you're

15 cc'd.

16 First of all, who is Payton Iheme, if I'm pronouncing her name correctly?

17 A Yes. Payton worked for the company as a member of the U.S. policy team.

18 Q So did you -- you worked with her, I assume?

19 A Yes. I was -- yes.

20 Q And how was your -- what was your relationship with her? I mean, were

21 you her boss, the other way around, colleagues?

22 A No. She was a -- before she left, she was on our team. I managed Payton

23 as well, yes.

24 Q Okay. So if you notice at the end on 5550, Payton signs her email, On

25 Behalf of the Facebook team. Who would she have meant by on behalf of the Facebook

1 team? Who would have been involved in creating and sending this email?

2 A It's really a better question for Payton to ask as the author of the email.

3 Q So you had no input in this email?

4 A I don't recall having input in the email.

5 Q Why was Ms. Iheme reporting Facebook's efforts to the White House in

6 terms of removing misinformation about vaccines, or all of it, frankly?

7 A It's a better question to ask Payton. However, it was an important

8 issue -- the COVID pandemic generally was an issue of great importance to the company

9 and was also an issue that we were engaged with the White House on.

10 Mr. Brown. [redacted] I don't know if you know, but Payton is scheduled to come in

11 for a voluntary interview on June 27th.

12 [redacted] I know.

13 BY [redacted]

14 Q As far as you recall, did anything precede this communication in terms of

15 communications with the White House?

16 A Can you be more specific?

17 Q Well, where did it come from? Did Meta just decide to start

18 reporting -- issuing these reports to the White House? Had the White House solicited

19 them, to the best of your knowledge?

20 A To the best of my knowledge, the White House did not solicit this email.

21 Q Okay. On 5547, another email in which you're cc'd from Payton to the

22 same people in the White House, there's a reference to authoritative information.

23 Mr. Brown. Sorry. Where are you on the page?

24 [redacted] Sorry. 5547, but let me -- it could be the next page. I may have

25 put the wrong number in this. We can talk about that later. We'll come back to that.

1 In that email on 5549, excuse me, there's a reference to expanding Facebook's list
2 of false claims. Who decides what are false claims?
3 Mr. Brown. I'm sorry. Where are you?
4 [redacted] Combatting Vaccine Misinformation, so the last bolded subpane on
5 5549.
6 BY [redacted]
7 Q So why was Facebook expanding its list of false claims -- or its efforts to
8 remove false claims, I should say?
9 A I don't recall this policy change, and it would be a better question to ask a
10 member of the content policy team.
11 Q Okay. Who decides what false claims are?
12 A Again, I'm not part of the process for how those policies are made.
13 Q Okay.
14 [redacted] In your meetings with the White House, do you recall this issue being
15 raised?
16 Mr. Rice. I don't recall.
17 [redacted] What about your meetings with any of the agencies?
18 Mr. Rice. No. Again, I don't recall this issue being raised.
19 BY [redacted]
20 Q So on 5547, Payton's email on February 9, under Good evening Rob, the first
21 sentence: We have provided responses to your initial questions with input from the
22 various teams.
23 What are the various teams that would have provided input?
24 A Again, this is a question for Payton in terms of what she would have been
25 referencing.

1 Q Do you know why you were cc'd on this?

2 A Payton -- you know, Payton reported to me and likely cc'd me as a member

3 of the policy team on this issue.

4 Q But she didn't consult you about the contents?

5 A I don't recall.

6 BY [redacted]

7 Q Did Payton communicate with the White House without you?

8 A I would say not as a matter of practice, but occasionally.

9 Q Who was the primary point of contact at Meta for engagements with the

10 White House?

11 A That would have been me.

12 Q And is there anyone else that had primary responsibility at Meta?

13 A No.

14 Q Okay. So for issues that Rob Flaherty was concerned about, if there was

15 something that he proactively wanted to reach out to Meta to, was it most commonly the

16 case that he would reach out to you?

17 A There would have been others who would have fielded questions from Rob

18 from time to time.

19 Q Okay. And who are those others?

20 A Carrie Adams would have been one.

21 Q Anybody else?

22 A Not to my knowledge.

23 Q Do you recall in the initial days of the administration --

24 A I'm sorry?

25 Q Do you recall in the initial days of the administration what issues from the

1 White House were being raised to you?

2 A I do remember that COVID was a primary focus for them, for the White

3 House.

4 Q And what about COVID in particular?

5 A I recall vaccines, you know, the need to get good information to people

6 about vaccines being a point of discussion.

7 Q Okay. And in addition to the need to get good information about vaccines,

8 do you recall if they raised concerns about misinformation regarding vaccines?

9 A They -- yes, they -- yes.

10 Q And do you recall how soon in the administration these issues were raised?

11 A I don't really recall.

12 Q Do you remember the frequency in which these issues were raised?

13 A No, I don't remember frequency.

14 Q Among the various issues that the White House is raising with you in the first

15 few months of the administration, do you recall if COVID was the most frequent issue,

16 one of the top issues?

17 A I would be guessing if I told you it was the most frequent issue, but it was an

18 issue that they raised.

19 Q What other issues do you recall being raised at a similar rate?

20 A I don't recall other issues off the top of my head that were raised at a similar

21 rate.

22 BY [redacted]

23 Q On the next email, so Payton's email from February 11, she begins: Hi Rob,

24 Quickly following up to see when you would like to have a meeting arranged to speak to

25 our misinformation team reps about the latest updates.

1 Who are the misinformation team reps?

2 A That team, again, would have reported up through Neil Potts.

3 Q Okay. And did this meeting take place, as far as you know?

4 A I don't recall.

5 Q Okay.

6 [redacted] In your interactions with Mr. Potts' team, when you were being

7 briefed on either changes to Facebook's policies or, you know, what the policies are, who

8 is doing the briefing from that team with you?

9 Mr. Rice. Often Mr. Potts. I don't recall specific briefings that were done by

10 other --

11 [redacted] Okay. And when you had contacts with the White House, what

12 forms of communication did those interactions take?

13 Mr. Rice. There were phone calls, and we communicated by email.

14 [redacted] Okay.

15 [redacted] Just one second.

16 [redacted] You done with these?

17 [redacted] Oh, yeah, yeah. We're done with these.

18 [redacted] We can take these back.

19 BY [redacted]

20 Q Mr. Rice, just one clarification question going back earlier. You mentioned

21 there were five people who reported to you. And you said Sydney who handled

22 engagements with the Senate, three individuals who handled the executive branch. Is

23 Payton the fifth individual?

24 A No. I was considering in the current time.

25 Q Okay. So there was six with Payton?

1 A Several of those members of the team were not with the company yet when
2 Payton was with the company. But Payton was a member of the team, yes, before she
3 left.
4 Q Okay. So if there's Sydney, three with the executive branch, who is the
5 fifth that you had in mind?
6 A An executive assistant.
7 Q Oh, okay. Thank you.
8 [redacted] Introducing exhibit 2 for the record.
9 [Rice Exhibit No. 2
10 Was marked for identification.]
11 BY [redacted]
12 Q If you could take a look at these. I think I'm actually just going to ask about
13 3894, so if you prefer to not read all of them, that's okay. Specifically the email from
14 Rob Flaherty on February 19.
15 If I can draw your attention to 3894, Rob Flaherty's email on February 19. He
16 writes to a number of people at the White House, Clarke Humphreys, Courtney Rowe,
17 and then cc's you and other people at Facebook, saying: Agree we should chat about
18 this and what other initiatives you guys are cooking on, as well as a convo on mis and dis.
19 Did you have a meeting about -- presumably meaning misinformation and
20 disinformation -- did that meeting take place?
21 A I don't recall.
22 Q Okay. Did you ever have meetings with him about misinformation or
23 disinformation?
24 A Yes.
25 Q Do you -- can you tell us when, to the best of your knowledge,

1 approximately?

2 A I really can't give you dates of those meetings.

3 Q Okay.

4 BY [redacted]

5 Q Do you recall if that meeting took place over the phone or videoconference?

6 A I don't recall -- I don't recall.

7 Q Do you recall who attended the meeting?

8 A Again, I don't recall a specific meeting with respect to this email.

9 Q Sure. Not -- for the meeting that you're referencing that -- you have a

10 recollection at some point meeting with Rob Flaherty?

11 A Yes.

12 Q Okay. That meeting that you have a recollection for, whether it's this one

13 or not, do you recall who else attended that meeting?

14 A It would have been -- I recall a meeting with Neil Potts to discuss

15 misinformation --

16 Q So Mr. Potts joined you with Mr. Flaherty?

17 A Correct.

18 Q Do you recall anyone else?

19 A I don't.

20 Q Do you recall if anyone joined Mr. Flaherty from the White House?

21 A I recall others on the call, but can't recall who they would have been. Mr.

22 Flaherty led the discussion.

23 [redacted] Do you know if Carrie Adams was there?

24 Mr. Rice. I don't recall.

25 BY [redacted]

1 Q Do you recall if there was multiple meetings or if this was a one-off meeting?
2 A There was more than one meeting to discuss this topic.
3 Q And by this topic, you mean vaccine misinformation?
4 A Yes.
5 Q You mentioned Mr. Potts attended at least one of the meetings. Do you
6 recall if Mr. Potts attended multiple meetings related to vaccine misinformation at the
7 White House?
8 A I don't recall. I don't recall how many, no.
9 Q Is it part of Mr. Potts' responsibilities on a day-to-day basis to engage with
10 the White House?
11 A No.
12 Q Do you recall why he was asked to join the meeting?
13 A As the expert on our content policies, Mr. Potts would have been the best
14 equipped to explain them.
15 Q And do you recall what, you know, in the lead-up, what led Facebook to have
16 Mr. Potts join the meeting?
17 A I would -- frustration around disagreements over what should be on the
18 platform with respect to COVID vaccine information.
19 Q And by frustration, frustration from whom?
20 A Mr. Flaherty was frustrated with -- there was a difference of opinion.
21 Q And what was the difference of opinion?
22 A Just with respect to what the policies covered and how they were enforced.
23 Q Okay. And what was the difference of opinion with respect to what the
24 policies covered?
25 A Mr. Flaherty thought that they would have -- they should cover more in

1 terms of what content should be removed or acted upon with respect to COVID vaccine
2 information.
3 Q And do you recall what issues Mr. Flaherty thought should be covered by the
4 policies but were not?
5 A I don't really recall specific issues.
6 Q With respect to enforcement, what was the difference in opinion there?
7 A It could have been a number of different things related to pieces of content
8 that were appearing on the platform at the time.
9 Q Was the -- did Mr. Flaherty ever express frustration that Facebook was not
10 more aggressive in its enforcement of its policies?
11 A Can you repeat the question one more time?
12 Q Mr. Flaherty ever express frustration that Facebook was not more aggressive
13 with enforcement of its policies?
14 A Yes.
15 [redacted] How did he express that?
16 Mr. Rice. Through his communicating over email and telephone calls, as I
17 mentioned before.
18 [redacted] Can you give us an example of what sort of thing he would have
19 said on a call to convey frustration?
20 Mr. Rice. I really can't. I can't recall specifics.
21 BY [redacted]
22 Q Do you recall if he ever provided specific examples?
23 A I recall -- I can't recall specific examples.
24 Q Sure. To clarify the question, not that you necessarily remember what
25 these specific examples are, but do you recall interactions with Mr. Flaherty where he

1 would provide specific examples to support his point of view?

2 A Yes.

3 Q Do you recall how frequently he would do that?

4 A No.

5 Q Do you recall if there were multiple specific examples?

6 A I don't recall how many.

7 [redacted] Did he have specific names of people that he considered

8 problematic and wanted to be removed from the platforms?

9 Mr. Rice. I don't recall specific names.

10 [redacted] Do you recall if he had specific names?

11 Mr. Rice. No. No, I don't recall him asking for specific people to be removed.

12 BY [redacted]

13 Q Do you recall when the first time Mr. Potts met with the White House on this

14 issue?

15 A I don't.

16 Q Were there meetings in the -- between you and Mr. Flaherty before you had

17 a meeting with Mr. Potts and Mr. Flaherty on this issue?

18 A Say that one more time.

19 Q Sure. Did you have meetings with Mr. Flaherty before the meeting

20 between you, Mr. Flaherty, and Mr. Potts occurred?

21 A Yes.

22 Q And do you recall how many meetings there were before the meeting with

23 Mr. Potts where issues of vaccine misinformation were raised?

24 A I don't.

25 Q Do you have a ballpark sense?

1 A No.

2 Q Was it more than one?

3 A I don't recall.

4 [redacted] Was Mr. Slavitt usually in these meetings?

5 Mr. Rice. No.

6 [redacted] It was just Mr. Flaherty from the White House?

7 Mr. Rice. I -- Mr. Slavitt was not ordinarily on calls or emails with us.

8 BY [redacted]

9 Q Do you recall any other meetings that required Mr. Potts to attend with the

10 White House?

11 A I do. Mr. Potts is, again, as the expert on our content policies, would have

12 been called -- would have been representing the company if there were questions about

13 the content policy. So that was -- that's something that would happen, you know, more

14 than once, yes.

15 Q Do you recall how many times in 2021?

16 A I don't.

17 Q Do you recall if there were multiple meetings with Mr. Potts regarding

18 vaccine misinformation with the White House?

19 A I don't recall.

20 Q In advance of that meeting, do you recall if you met with Mr. Potts?

21 A I don't recall a specific meeting, no.

22 Q Do you recall if you met with Monika Bickert?

23 A No.

24 [redacted] Off the record, please.

25 [Discussion off the record.]

1 [redacted] Back on the record, please.

2 [redacted] This is exhibit 3. Did I give it to you guys?

3 Mr. Brown. No. Do you want 2 back?

4 [redacted] Yeah, sure. I think we're done with that.

5 [Rice exhibit No. 3

6 Was marked for identification.]

7 BY [redacted]

8 Q Just let me know when you've had a chance to read it, please. I think the

9 last few pages are actually the same as the first pages, so you may not need to read them

10 again, but --

11 This appears to be an email exchange between a number of people at Facebook

12 and a number of people in the White House, and you were cc'd. If I can draw your

13 attention to 4735 -- sorry, the next page, 4734. Rob Flaherty apparently sent an email

14 on February 21st, 2021, to Carrie Adams, cc'ing other people in the White House and you.

15 And he says: In the interest of making sure everyone's prepared, one of the questions

16 I'll have around this initiative is around algorithmic production.

17 Relatedly, I'm wondering what plans are in the works, if any, to replicate the

18 strategy you deployed around lockdowns -- the "stay at home" stickers/promoted

19 Instagram story. Looking forward.

20 It appears that this is in the context of discussing a meeting that's scheduled for a

21 couple of days later.

22 [Discussion off the record.]

23 [redacted] Oh, promotion. Algorithmic promotion. Excuse me. I

24 misspoke.

25 What initiative around algorithmic production -- sorry -- promotion was there?

1 Mr. Rice. I'm not familiar with what this is referring to.

2 [redacted] Okay. Were there any plans in the works to replicate the strategy

3 deployed around lockdowns in the vaccine context which Mr. Flaherty implies?

4 Mr. Rice. Again, I'm not sure what this is referring to.

5 [redacted] What do you understand algorithmic promotion to --

6 [redacted] Algorithmic.

7 [redacted] What do you understand it to be?

8 Mr. Rice. I really don't understand it to mean -- I don't have a good

9 understanding of what this would mean. Again, it's a better question for a member of

10 the content policy team.

11 BY [redacted]

12 Q So it appears as though a meeting was scheduled for February 23rd, and

13 then Carrie Adams, on 4743, kind of debriefs on the 24th. Did you attend that meeting?

14 A I don't recall.

15 Q Carrie Adams says she's excited for potential with the CDC. What did she

16 mean by that?

17 A I don't know. I don't have a good sense of what she would have been

18 referring to.

19 Q Did Meta decide to work -- sorry.

20 Mr. Brown. [redacted] I just want to say for the record because I don't think you

21 were in the meeting, we did make Carrie Adams available for a voluntary transcribed

22 interview.

23 [redacted] I know. I was here.

24 Mr. Brown. Okay.

25 BY [redacted]

1 Q Did Meta become involved with the CDC to build and scale the vaccines
2 after -- as a result of this meeting?
3 A Not that I recall.
4 Q How about after this meeting?
5 A I don't -- again, I don't recall this meeting or what would have come out of it.
6 Q Okay.
7 BY [redacted]
8 Q You mentioned in an earlier answer that there was frustration expressed
9 from Mr. Flaherty. Do you recall if there's anyone else in the White House that
10 expressed frustration?
11 A I do. Andy Slavitt was also a member of that team that was fighting -- that
12 was designated to fight the pandemic. He was frustrated.
13 Q And was Mr. Slavitt, to your understanding, frustrated with
14 Facebook's -- both the scope and enforcement of Facebook's content moderation
15 polices?
16 A I just recall a -- I recall a similar line of frustration.
17 Q Similar to Mr. Flaherty's?
18 A Similar in terms of the content -- in terms of the scope of his frustration, yes,
19 in terms of what he was frustrated with the company about.
20 Q Do you recall anyone else in the White House sharing these frustrations?
21 A I don't.
22 [redacted] Do you recall them stating that they were conveying frustration
23 from other people in the White House?
24 Mr. Rice. No.
25 [redacted] You don't recall them saying that these complaints were coming

1 from the highest levels of the White House?

2 Mr. Rice. I don't recall that being said.

3 BY [redacted]

4 Q Were you the one to communicate to Mr. Potts that there were frustrations

5 from the White House?

6 A I don't recall how -- whether or how that was communicated to Mr. Potts at

7 the time.

8 Q Would that have been consistent with your responsibilities?

9 A My responsibility was to represent the company before -- to liaise with the

10 White House. So yes, that would have been in line with my responsibilities.

11 Mr. Younes. Did you consult with anyone when the White House was expressing

12 frustration? Did you consult with anyone at Meta about how to deal with that?

13 Mr. Rice. Our job was to relay the information coming from the White House

14 and to the best of our abilities answer questions that we were being asked. There was

15 no consulting on how to deal with it beyond that.

16 [redacted] So you didn't go to, say -- I forgot who your boss was -- but you

17 didn't go to him and say anything like what do we do about this?

18 Mr. Rice. Not to my recollection, no.

19 BY [redacted]

20 Q Do you recall if these frustrations were shared by any personnel at Federal

21 agencies you interacted with?

22 A I don't recall that, no.

23 Q As part of your responsibilities, in addition to communicating messages from

24 the White House, whether it's frustrations or otherwise, do you also provide context to

25 your colleagues at Facebook about what role different government agencies play?

1 A Not as a -- not as a general rule, no. I don't -- I wouldn't have to explain
2 that.
3 Q Okay. Why did Facebook feel the need to have Mr. Potts attend the
4 meeting?
5 Mr. Brown. Can we go off the record for a moment, please?
6 [redacted] Off the record, please.
7 [Discussion off the record.]
8 [redacted] We can go back on the record, please.
9 BY [redacted]
10 Q Do you need me to repeat the question?
11 A Yes, please.
12 Q With respect to the meeting that required Mr. Potts' attendance to speak
13 about vaccine disinformation and specifically frustrations expressed from Mr. Flaherty,
14 Mr. Slavitt, and others in the White House, why did Facebook bring Mr. Potts to that
15 meeting?
16 A To help explain as the subject matter expert how our content policies are
17 designed and executed, enforced.
18 Q Okay.
19 [Rice exhibit No. 4
20 Was marked for identification.]
21 [redacted] This is exhibit 4.
22 Mr. Brown. Give you exhibit 3 back?
23 [redacted] Yeah.
24 BY [redacted]
25 Q Are you all set?

1 A Uh-huh.

2 Q This is an email from Zach Butterworth at the White House to you -- well,

3 presumably to a host of people, looks as though it went out to a lot of private businesses,

4 and it's about a conference call to help defeat COVID.

5 Did you -- this call was scheduled for February 26, 2021, and Andy Slavitt was

6 discussing the important role the business community can play in supporting recovery

7 efforts.

8 Did you join that call?

9 A I don't recall.

10 Q Do you know if anyone from Meta joined that call?

11 A I don't.

12 Q Okay.

13 Mr. Brown. Should we hand this back?

14 [redacted] Yeah.

15 [redacted] This is exhibit 5.

16 [Rice exhibit No. 5

17 Was marked for identification.]

18 BY [redacted]

19 Q Do you recall this email exchange between you and Mr. Flaherty from

20 March 14th and 15th of 2021?

21 A Yes.

22 Q The subject line is, You are hiding the ball. Do you know what Mr. Flaherty

23 meant by that?

24 A I don't recall specifically. He was referencing, I assume, this story that was

25 linked in the email, but I don't recall exactly what the issue was.

1 Q You don't remember what the story was?

2 A I don't without reviewing it, no.

3 Q It looks to me from the content of the emails that it's about -- well, never

4 mind.

5 You offered to have a call -- or you said you called and left a message earlier on

6 March 15 at 3:42 p.m. Did you ever talk to him about this email exchange?

7 A I don't recall a conversation about the email exchange.

8 Q Do you keep notes of calls with White House personnel, so there would be

9 notes of that somewhere?

10 A No, not -- no, not necessarily.

11 Q So there would be no record of whether or not this call took place?

12 A I don't -- not to my knowledge.

13 [redacted] Do you recall who else at Facebook you talked about this issue with?

14 [redacted] Can you be more specific about this issue?

15 [redacted] Sure. The issue of vaccine misinformation and, specifically, The

16 Washington Post article Mr. Flaherty got into?

17 Mr. Rice. I don't recall specific members of the team on this specific issue, no.

18 [redacted] Do you recall if this took place, this email exchange took place before

19 the meeting that Mr. Potts attended with Mr. Flaherty?

20 Mr. Rice. I mean, just -- I think -- I don't remember the date on the previous

21 email, but the dates of the emails, I think, would demonstrate whether that happened or

22 not.

23 [redacted] Mr. Flaherty was accusing Meta of being one of the top drivers of

24 vaccine hesitancy, in his words, and you responded that: We obviously have work to do

25 to gain your trust.

1 Why did Meta need to gain the White House's trust?

2 Mr. Rice. The COVID -- the COVID pandemic and fighting the COVID pandemic
3 was a top priority for the company, was a top priority for the White House. I think we
4 wanted to be, you know -- we had an interest in making sure that we were doing what we
5 could to fight the pandemic.

6 [redacted] Is this email exchange consistent with your understanding of Mr.
7 Flaherty's frustrations that you mentioned earlier?

8 Mr. Rice. Yes.

9 [redacted] When you said -- sorry. When you said you had a lot of work to
10 do to gain that trust or whatever -- We obviously have work to do to gain your
11 trust -- what was the concern if you didn't gain their trust?

12 Mr. Rice. I think personally for me in my job as, again, the primary person
13 corresponding with the White House, I wanted to be a trustworthy advocate on behalf of
14 the company, someone that has credibility and trust with the offices and policymakers
15 that I communicate with. That's something that I do every day in my job, whether it's
16 talking to Mr. Flaherty or anybody else across the government.

17 [redacted] What consequences do you think the company would face if the
18 company failed to address Mr. Flaherty's frustrations and differences of opinion?

19 Mr. Rice. I never thought that we would face consequences as a result of not
20 meeting his expectation.

21 [redacted] Except you said, I'll expect you to hold me accountable, which
22 indicates otherwise.

23 Mr. Rice. Again, in my personal capacity representing the company and my own
24 credibility in that role.

25 BY [redacted]

1 Q You think that you would have been held accountable?

2 A As a not credible -- Mr. Flaherty was representing that I was not telling the

3 truth or that I was somehow hiding the ball, and my own personal credibility as an

4 advocate on behalf of the company was what I was referring to.

5 Q But were Mr. Flaherty's frustrations with you and whether you were

6 accurately portraying the company's policies and enforcement of those policies or was his

7 frustrations with the company's policies and enforcement?

8 A I think he was -- I know he was frustrated with the company's policies in this

9 instance. It appears that he is also frustrated with whether or not I am telling the truth.

10 Q So with respect to his frustration with the policies and enforcement of those

11 policies, what consequences would the company face if it did not address his frustrations

12 and his differences of opinion?

13 A I just never -- that was not a concern of mine.

14 Q If it was not a concern of yours, was it a concern of anyone else at Facebook?

15 A Not to my knowledge.

16 Q If it was not a concern, why bring in Mr. Potts to that meeting?

17 A My job is to make sure that we are responsive and, to the best of our ability,

18 explaining our policies to policymakers.

19 Q Yeah. But what is the motivation for bringing in Mr. Potts if that's not part

20 of his normal responsibilities?

21 A Because Mr. Potts is best suited to explain those policies as the head of that

22 team.

23 BY [redacted]

24 Q What did you intend to do to avoid being held accountable?

25 A I'm sorry. I don't understand the question.

1 Q Well, you said: I'll continue to do it to the best of my ability, and I'll expect
2 you to hold me accountable.
3 What did you continue to do -- plan to continue to do to the best of your ability in
4 order to avoid being held being accountable?
5 A Yeah. I think I say it right in the email, I would provide the information
6 that's on the level, meaning I would tell them the truth.
7 [redacted] Did you recommend that Mr. Potts attend the meeting with Mr.
8 Flaherty?
9 Mr. Rice. I don't recall exactly how Mr. Potts would have been involved, but I
10 would have been involved in the conversation at some level.
11 [redacted] Was there a discussion to bring in Mr. Potts before this level of
12 frustration by Mr. Flaherty was expressed?
13 Mr. Rice. I don't recall.
14 [redacted] Can we go off the record, please?
15 [Recess.]

1

2 [11:18 a.m.]

3 [redacted] We're back on the record.

4 And, Mr. Rice, I want to thank you on behalf of the minority for agreeing to be

5 here today.

6 EXAMINATION

7 BY [redacted]

8 Q I want to just briefly cover some things that you touched on in the past hour.

9 Just to confirm, you were not involved in creating or changing any of Meta's content

10 moderation policies, correct?

11 A Correct.

12 Q And you personally did not make content moderation decisions?

13 A Correct.

14 Q So it was not your role to determine whether a piece of content violated

15 Meta's community standards?

16 A That's correct.

17 Q And when -- when you were interfacing with the White House and explaining

18 what Meta's policies did and did not cover, were you receiving that information from

19 others at Meta?

20 A Yes.

21 Q So you were -- I believe either you or your counsel used the word "liaise."

22 You were a liaison between the White House and other teams at Meta?

23 A That's right.

24 Q You worked on Meta, or Facebook when it was known as Facebook, Public

25 Policy Team for 9 years?

1 A Yes. Yes, it was for 9 years.

2 Q And did you interface with the White House during the Trump

3 administration?

4 A No, I did not.

5 Q Okay. That was not part of your responsibility then?

6 A No, it was not.

7 Q Was there somebody else who had that responsibility, the responsibility, the

8 position that you hold now with respect to the White House?

9 A Yes.

10 Q And was that person somebody who identified as a Republican, to your

11 knowledge?

12 A Yes.

13 Q And who was that person?

14 A Sandy Luff.

15 Q And, once President Biden took office, your team actually reached out to the

16 White House to establish the relationship with the new President, the new

17 administration, correct?

18 A Correct.

19 Q Now, you stated -- well, actually, I want to quickly --

20 [redacted] I'd like him to take a look at exhibits 1 and 2 again, if we can

21 briefly put them in front of him.

22 BY [redacted]

23 Q If you could take a look at the last page of exhibit 1 -- actually, no, I'm sorry,

24 page 5549.

25 Mr. Brown. Excuse me. Can we get a third copy?

1 Mr. Rice. I think this is 1 and 2.

2 Mr. Brown. So we need two more copies of --

3 Mr. Rice. Okay.

4 [redacted] And my questions will be very, very brief and general about these.

5 Mr. Rice. Can you repeat --

6 Mr. Brown. Let's just wait. Let's wait until we have the documents.

7 [redacted] Thank you very much.

8 Now, you stated earlier that communication --

9 Mr. Brown. Sorry. Could we have a minute just to review it?

10 [redacted] Oh, of course. I'm sorry.

11 Mr. Brown. Thanks.

12 Which of the documents do you want to start with?

13 [redacted] We'll start with exhibit 1, which is -- starts with Bates 5547.

14 Mr. Brown. Thank you.

15 [redacted] You're welcome.

16 BY [redacted]

17 Q Now, I just -- I want to ask you a question, a general question, and I'll direct

18 your attention to page 5549.

19 You stated earlier that sometimes your team would reach out proactively to the

20 White House, and sometimes the White House would reach out to your team. Is that

21 correct?

22 A Yes.

23 Q On page 5549, that's an example of Ms. Iheme on your team reaching out to

24 the White House to make sure that they saw Facebook's announcement on that day,

25 correct?

1 A That is what it appears to me, yes.

2 Q Okay. And that is, as far as you can tell from this exhibit, the first email on

3 the chain?

4 A Yes.

5 Q And, on exhibit 2, which starts with 3891, turning your attention to page

6 3895, the first email on that chain also appears to be outreach from Ms. Iheme to the

7 White House, correct?

8 A Correct.

9 Q And it's a Facebook -- it's about a Facebook proposal to help mitigate

10 vaccines?

11 A Yes.

12 Q And, again, that was not an email the White House sought. That was an

13 email that Payton initiates, from its face --

14 A That's what it appears to be, yes.

15 Q Okay, thank you.

16 And I'm finished with those exhibits. Actually, I might not be, so hold on to

17 them.

18 Now, you stated earlier that the pandemic was a top priority for the company and

19 that fighting a pandemic was a top priority for the company. Can you explain what you

20 meant by that, and why it was a priority for the company?

21 A I think it was a -- it was a top priority for business in general for all of

22 government, through all of society, and the company felt a responsibility to do its best to

23 combat the pandemic and get us past this as a society.

24 Q And, in addition to this societal concern, this sense of civic responsibility, did

25 Meta have a business interest in fighting the pandemic or making sure that its platforms

1 weren't used to spread misinformation?

2 A The company has a business interest in not spreading misinformation,

3 certainly.

4 Q Can you explain what you mean by that?

5 A The company, you know, wants to be a place, a safe place for users to be

6 able to use the platform.

7 Q And, if it's not a safe space, then would the company expect to use -- to lose

8 users, excuse me?

9 A That would be the expectation. Lose advertisers, lose users.

10 Q Now, is it fair to say -- and I believe you said something along these

11 lines -- that the company wanted to work with the White House to help fight the

12 pandemic?

13 A Yeah, it would be fair -- I believe the way I characterized it was it was a top

14 priority for the White House, and it was a top priority for the company. Those interests

15 aligned.

16 Q And did the White House force Meta to cooperate with its own efforts to

17 fight the pandemic?

18 A No.

19 Q Before President Biden took office, were you involved in Meta's anti-COVID

20 efforts? Or I guess it was Facebook at the time.

21 A I was as a -- yes. As a member of the Public Policy Team, we were all

22 focused on that priority.

23 Q And, in 2020, from the start of the pandemic, was the company interfacing

24 with Federal agencies like Health and Human Services, Centers for Disease Control?

25 A Yes.

1 Q And was the company meeting regularly with those agencies in 2020, if you
2 know?
3 A To the best of my knowledge, there were -- those engagements did happen
4 with the administration, yes.
5 Q Okay.
6 And, if you're aware, did the company have COVID misinformation policies in
7 place in 2020?
8 A I'm not an expert on those policies. My recollection is that, from the start
9 of the pandemic, the company considered how to approach COVID from a content policy
10 perspective.
11 Q And, just for the record, at the start of the pandemic through January 19,
12 2021, Donald Trump was President, correct?
13 A Correct.
14 Q Meta's work -- you work on the U.S. Policy Team?
15 A Yes.
16 Q Do you have information about Meta's work with -- well, you know what,
17 strike that. I'm going to not explore that.
18 You talked about the frustration that certain officials at the White House
19 expressed over what Meta's policies covered and Meta's enforcement of those policies.
20 Did anyone in the White House or any government official coerce you or force you to
21 remove or try to remove a piece of content, an account -- I mean, you -- I'm sorry, Meta,
22 or the company. I'm going to follow your lead and call it the company since it changed
23 names -- from the company's platforms?
24 A No.
25 Q And you were asked earlier about consequences that you expected to face

1 if -- or that Meta expected to face, or the company, if it did not align its policies with what
2 those who were frustrated wanted. Did anyone in the U.S. Government threaten to
3 retaliate if the company did not broaden its policies or enforce them more aggressively as
4 you were asked?
5 A No, not to my awareness.
6 Q And, to your knowledge, did the company change its policies in response to
7 pressure from the U.S. Government?
8 A Not to my knowledge, no.
9 Q And, to your knowledge, did the company enforce its policies, take down any
10 content, make any decisions because of or at the request of or because of pressure from
11 the U.S. Government?
12 A No, not to my knowledge.
13 [redacted] If I could just have one minute.
14 BY [redacted]
15 Q And I just want to ask you -- I believe this is where we left off earlier. When
16 you stated in your email to Mr. Flaherty that you expect to be held accountable, is it fair
17 to say that you meant you expect to be called out if you were not providing accurate
18 information to him about what the company is doing or if he thinks that you're hiding the
19 ball?
20 A Yes. Again, I meant that in terms of my personal responsibility to the
21 company in doing my job.
22 Q And so it was important to you personally to maintain that relationship?
23 A Yes, it was.
24 Q And, when I say "personally," I mean, so that you could --
25 A With respect to my --

1 Q With respect to your job?

2 A Yes.

3 Q Not on a social level or anything like that?

4 A Correct.

5 Q Okay. So that was all about you and your role as an employee for the

6 company?

7 A Yes.

8 Q It was not about keeping the company accountable for its decisions?

9 A That's correct.

10 Q Thank you.

11 [redacted] And that's it for me. We can go off the record while we switch

12 seats.

13 [Recess.]

14 [redacted] We'll go on the record.

15 Just a couple more quick questions about this email.

16 Mr. Brown. I'm sorry. What exhibit number was this?

17 [redacted] This is exhibit 5.

18 [redacted] Five.

19 BY [redacted]

20 Q At the last line of your email on March 15th, on 9563, it says: If interested,

21 I can schedule time to give you more context on how this work is done and why we

22 wouldn't include it in a briefing.

23 Why wouldn't you include it in a briefing?

24 A I don't recall what I was referring to with that statement.

25 Q How about "more context"? What more context?

1 Mr. Brown. Can we take a break?

2 [redacted] Sure.

3 Mr. Brown. We can pause on time.

4 [Discussion off the record.]

5 Mr. Brown. We're ready to go back on.

6 Can you go back to that question?

7 [redacted] Yeah.

8 So you said: I can schedule time to give you more context on how this work is

9 done and why we wouldn't include it in a briefing.

10 So can you give us more context on how this work is done?

11 Mr. Rice. So, in terms of why we wouldn't include it in a briefing, just

12 referencing the language that I used in the email, the work that was being -- that he was

13 referencing was exploratory and not finalized work product, which was the reason we

14 wouldn't have briefed. And, as I said in the email, I was not even aware of it when we

15 did provide him the briefing that he was referencing.

16 [redacted] Okay. We can take this one back.

17 This is exhibit 6.

18 [Rice exhibit No. 6

19 Was marked for identification.]

20 BY [redacted]

21 Q It's actually really only the first page because the rest of the chain we had

22 earlier. So 9776 follows up on that.

23 So, in response to your email that we just discussed previously about gaining the

24 White House's trust back, Andy Slavitt writes: Brian, I appreciate being copied on the

25 note. It would -- excuse me -- be nice to establish trust -- the "be" is missing -- I do feel

1 like, relative to others, interactions with Facebook are not straightforward, and the
2 problems are worse. Like you are trying to meet a minimum hurdle instead of trying to
3 solve the problem, and we have to ask you precise questions, and even then, we get
4 highly scrubbed party line answers. We have urgency and don't sense it from you at all.
5 100 percent of the questions I asked have never been answered and weeks have gone by.
6 Internally we have been considering our options on what to do with it.
7 Now, again, this appears to be in the context of Facebook not removing sufficient
8 posts about vaccine misinformation. That's what The Washington Post article is about.
9 So "internally we have been considering our options on what to do about that,"
10 what did that mean to you?
11 A I didn't really know what it meant to me. It was something that he
12 included in the email, and I didn't interpret it to mean anything.
13 Q So, when the White House says, "we have been considering our options,
14 internally we have been considering our options on what to do about it," that didn't mean
15 anything to you?
16 A I took it at face value. I didn't really interpret it to mean anything specific.
17 Q Well, what options would the White House have?
18 A As far -- again, I was not part of those conversations. No options were
19 related to me. I'm not sure what that would have referred to.
20 Q Okay.
21 BY [redacted]
22 Q Who at Facebook would be in position to understand what options the
23 White House would have at its disposal?
24 A I don't think anyone at the company would have been in that position.
25 Again, it says: Internally we have been considering our options.

1 There are no discussions happening with members of our team on what those
2 options would be.
3 Q Sure, but setting aside whatever specific options Mr. Slavitt has in mind
4 when drafting this email, just regarding the scope, the powers of the White House, who
5 at Facebook would have an understanding of that?
6 A I'm not sure I understand the question.
7 Q So the White House has the opportunity to pursue different initiatives, has
8 options available to it. Who at Facebook would have an understanding?
9 Mr. Brown. Understanding of what? Of what Mr. Slavitt's internal --
10 [redacted] No, just about the high level.
11 Mr. Rice. Of what the White House does?
12 BY [redacted]
13 Q Well, so you receive -- if we understand your position correctly, you
14 communicate to the company what the White House is telling you, right?
15 A Yes.
16 Q Okay. And then there's a line here from the White House saying "we are
17 considering our options," and you said you didn't have an understanding of what options
18 the White House would have available to it.
19 A I think there's a -- Mr. Slavitt is referencing internal discussions at the White
20 House and what actions they might take. I did not -- I don't think anyone in the
21 company was in position to know what the internal discussions would be about.
22 Mr. Brown. [redacted] I apologize, but it looks like some new people have come in
23 the room. Could we identify them?
24 [redacted] [redacted] legal intern, Democratic staff, House Judiciary.
25 [redacted] [redacted] legal intern, House Judiciary, Democratic staff.

1 BY [redacted]

2 Q If you could finish your response.

3 A I was finished. Again, Mr. Slavitt, in his email, is referencing internal

4 discussions that we were not party to about options which we were not discussing with

5 them. We were in no position to interpret that in any way.

6 Q Did Facebook not have an interest in knowing what options the White House

7 was considering?

8 A I mean, we were not considering what those options might be in terms of

9 our response.

10 BY [redacted]

11 Q I mean, Mr. Slavitt goes through a number of reasons why the company is

12 worse than others: You're not trying to solve problems. We got scrubbed party lines.

13 And it then he said -- it says internally we've been considering our options. I

14 mean, it's fair to say that he doesn't seem to be -- he doesn't plan to give you an award

15 when he's talking about considering our options. Is that right? It seems to be

16 negative.

17 A I did not have the impression that he was considering giving us an award, but

18 I did not consider what the options that he would be discussing would be.

19 BY [redacted]

20 Q Did you understand whether any of the options would be negative for the

21 company?

22 A I don't recall considering it.

23 Q You mentioned earlier that there were frustrations expressed by

24 Mr. Flaherty, Mr. Slavitt, that those frustrations led to a meeting -- that those frustrations

25 led to a meeting that Mr. Potts was required to attend. Why have Mr. Potts attend that

1 meeting?

2 A There are two separate issues. The White House, throughout a period of

3 time, was frustrated about our policies and enforcement. Mr. Potts also separately

4 attended a meeting to help explain how our policies are enforced. There wasn't a

5 moment in time where that -- where Mr. Potts came in and met with the team as a result

6 of specific frustrations.

7 Mr. Potts was the head of our Content Policy Team, the team that was designed to

8 implement the policies, and knew most about the policies and was in position to explain

9 those policies to anyone who has questions about them.

10 Mr. Brown. Just to be clear, I don't believe he ever said that Mr. Potts was

11 required to attend a meeting.

12 [redacted] That Facebook decided that Mr. Potts attend the meeting. Not to

13 say he was required.

14 BY [redacted]

15 Q Why not have Mr. Potts attend the meeting before these frustrations have

16 escalated?

17 A Again, they were not in response -- Mr. Potts' attendance at a meeting was

18 not the result of frustration. Mr. Potts' attendance was in response to questions that

19 were being asked about our policies that he was in position to respond to.

20 Q Do you recall who at Facebook you shared this message with, with respect to

21 the White House considering its options?

22 A I don't.

23 Q Who at Facebook would have been an appropriate person to share this

24 message with?

25 A Probably, you know, Mr. Potts, certainly. Kevin Martin might, the head of

1 U.S. policy, essentially.

2 BY [redacted]

3 Q So, when you responded to this email, it looks like the next day, you offered

4 to connect by phone with Mr. Slavitt. Did that conversation take place?

5 A I don't recall.

6 Q Would you have any record of whether such a conversation took place? I

7 mean, kept notes somewhere?

8 A Not that I recall.

9 Q You offered to set up a conversation with our research leads to walk your

10 team through ongoing research and prioritize sharing results as quickly as possible.

11 Did that conversation take place?

12 A I don't recall that -- how -- what meeting I would have been referring to.

13 BY [redacted]

14 Q Do you recall who at Facebook requested that Mr. Potts attend the meeting

15 with Mr. Slavitt and Mr. Flaherty?

16 A No.

17 Q During your -- actually, strike that.

18 In 2021, do you recall having discussions at Facebook with Mr. Potts or others

19 regarding concerns related to public pressure the White House might place on the

20 company?

21 A No.

22 Q You don't recall one way or the other, or it's your testimony those

23 discussions did not occur?

24 A I don't recall. I don't recall having conversations with Mr. Potts about

25 pressure that was being put on the company.

1 Q Is one of the options available to any White House the ability to put public
2 pressure on a company?
3 A That option seems like it's available to anyone with the position to, in public,
4 to apply pressure to anyone. I'm not sure what that -- I'm not sure I can answer that
5 question.
6 Can you repeat the question?
7 Q Sure.
8 Does any White House have the ability to put public pressure on a company?
9 [redacted] Can you explain what that means?
10 Mr. Rice. I'm not sure I understand how to respond to that question.
11 BY [redacted]
12 Q Okay.
13 The President of the United States, the White House have a platform to
14 communicate their positions. Is that correct?
15 A Yes.
16 Q A position that a White House could take is to criticize a company. Is it
17 not?
18 A Yes.
19 Q Do you know whether Mr. Slavitt was referring to that as one of the options
20 the White House was considering?
21 A No, I don't.
22 Mr. Brown. Objection. Asked and answered. You asked him whether he
23 knew what Mr. Slavitt was saying. He told you that he didn't know what he was saying.
24 Mr. Slavitt is a private citizen. You can call him in and ask him for a voluntary
25 interview if you want to know what he thinks.

1 BY [redacted]

2 Q Well, to your understanding, did Mr. Slavitt mean that?

3 A I don't know what Mr. Slavitt was referring to.

4 Q And do you recall asking Mr. Slavitt what he meant?

5 A No.

6 BY [redacted]

7 Q Do you know what Mr. Slavitt's position in the White House was at the time

8 this email was written in March of 2021?

9 A I don't recall the exact title that Mr. Slavitt held at that time.

10 Q Would you say he was fairly high-ranking in the White House?

11 A I know that Mr. Slavitt was responsible for the -- for a scope of work that

12 included COVID response for the White House.

13 Q Do you know if he reported directly to the President?

14 A I don't know that.

15 BY [redacted]

16 Q If you don't know what the options the White House was considering and it

17 wasn't something that was worth following up with, why take the time to engage with

18 Mr. Flaherty, Mr. Slavitt, and why take the time to have Mr. Potts brief them?

19 A In my job as the liaison between the White House and the company, it was in

20 our interest to make sure that the company was understood in terms of the work that we

21 were doing and that we were working toward the objective of helping to end the COVID

22 pandemic.

23 Q And why was it in the company's interest to make sure the company was

24 understood?

25 [redacted] By the White House. Right?

1 [redacted] By any public policy --

2 Mr. Rice. This is -- part of our Public Policy Team is to make sure that, if a story is

3 written by The Washington Post, that it accurately portrays what's happening at the

4 company, and if we're being accused of things that are not accurate, that we go and set

5 the record straight.

6 BY [redacted]

7 Q And what are the consequences if you don't set the record straight?

8 A The credibility of the company is on the line.

9 Q Credibility of the company with respect to the White House?

10 A With respect to any policymaker that would be reading The Washington Post

11 and drawing conclusions from the story.

12 Q But this isn't a public statement. You're engaging directly with the White

13 House.

14 A Yes.

15 Q So is it your testimony then that you're there to protect the company's

16 credibility with respect to the White House?

17 A I think I've explained what my interpretation of my job is, which is to liaise

18 with the public policy officials in the Federal Government, both the executive branch and

19 within the Congress, on matters that are important to the company and to maintain that

20 relationship. That's a role that several people at the company have with respect to

21 other policymakers across the government.

22 Q Wouldn't it help maintain that relationship with the White House if you

23 understood what the White House meant by considering their options?

24 Mr. Brown. Could you repeat the question?

25 [redacted] Sure. Wouldn't it help you maintain the relationship with the White

House if you understood what the White House meant by considering their options?

Mr. Rice. Not necessarily, no.

Mr. Brown. We're happy to take a break at this point for lunch if that's okay.

[redacted] We can do one more exhibit.

Mr. Brown. Sure, go for it.

[redacted] This is exhibit 7.

[Rice exhibit No. 7

Was marked for identification.]

Mr. Brown. Can we go off the record?

[redacted] Sure.

1

2 [12:31 P.M.]

3 [redacted] Can we go back on the record.

4 BY [redacted]

5 Q Back to these, sorry.

6 A Okay.

7 Q On the last page, 9061, you wrote an email to Andrew Slavitt, with Rob

8 Flaherty cc'd, on March 21st. And you started with: Andy, thanks for taking the time

9 to connect on Friday.

10 How did you connect with Andy Slavitt on Friday?

11 A This was a call between Andy Slavitt and Nick Clegg that happened.

12 Q I see. And were you on that call?

13 A I don't recall.

14 Q Do you know what was discussed on the call?

15 A I know from reading this email -- this is the context of my recollection as

16 well -- it was, you know, in response to Mr. Slavitt's previous communications to the

17 company.

18 Q Okay.

19 And point number three: Levers for tackling vaccine hesitancy content.

20 You say: You also asked us about our levers for reducing virality of vaccine

21 hesitancy content. In addition to policies previously discussed, these include the

22 additional changes that were approved late last week and that we'll be implementing

23 over the coming weeks.

24 As you know, in addition to removing vaccine misinformation, we have been

25 focusing on reducing the virality of content discouraging vaccines that does not contain

1 actionable misinformation. This is often-true content, which we allow at the post level
2 because experts have advised us that it is important for people to be able to discuss both
3 their personal experiences and concerns about the vaccine, but it can be framed as
4 sensation, alarmist, or shocking -- or shocking, sorry.
5 We will remove these groups, pages, and accounts when they are
6 disproportionately promoting this sensationalized content. More on this front as we
7 proceed to implement.
8 How was the decision to make these changes made?
9 A I don't recall specifically with respect to this content policy, but that
10 generally the content policy decisions are made by the Content Policy Team.
11 Q So you were conveying information that someone else had given you?
12 A Correct.
13 Q Do you know who conveyed that information to you?
14 A It would have gone up through the chain for Neil Potts' team.
15 Q So did you convey to Neil Potts what -- that there had been a call between
16 Nick and Andy Slavitt?
17 A I don't remember.
18 Q Presumably Mr. Potts would have found that out from someone who was
19 dealing with that, right, dealing with --
20 A It's -- I don't want to presume how he found out. I just can't -- what I can
21 tell you is I don't recall the conversation with Mr. Potts about the call.
22 BY [redacted]
23 Q Early in the first hour you mentioned that the head of U.S. policy was Kevin
24 Martin, who reported to Joel Kaplan, who reported to Nick Clegg.
25 A Yes.

1 Q Is that the same Nick Clegg that you're referring to with this meeting?
2 A Yes.
3 Q Do you recall other meetings with the White House that Nick Clegg
4 attended?
5 A I don't recall meetings other than this one.
6 Q And is this meeting different than the meeting with Mr. Potts and
7 Mr. Flaherty, Mr. Slavitt, that we were referencing in the previous hour?
8 A Yes.
9 Q Do you know which call occurred first?
10 A I don't.
11 Q Do you know what Mr. Clegg's title is at the company?
12 A President for public affairs.
13 BY [redacted]
14 Q Why were these policies changes made, especially the levers for tackling
15 vaccine hesitancy content?
16 A Again, these were decisions that were made by the Content Policy Team, not
17 by me. I don't -- I wouldn't have the expertise to answer that question.
18 Q But these were made following the meeting between Nick Clegg and Andy
19 Slavitt.
20 A I don't know that that's true and -- I don't know that that's true.
21 Q So then why were you reporting up to Andy Slavitt following the meeting?
22 A This was information that was relevant to their discussion about our content
23 policies in this area.
24 Q So, when you say "I wanted to follow up with next steps -- per our
25 discussion, I wanted to follow up with next steps," those were next steps that were

1 implemented in response to -- because it sort of sounds like it.

2 A Not in response.

3 BY [redacted]

4 Q When the Content Policy Team is communicating to you what changes are

5 being made, do they communicate to you why those changes were being made?

6 A No, not necessarily. I mean -- no.

7 Q Ever or?

8 A If there's -- if we have questions or if there's discussion about the rationale,

9 they may, but not as a matter of practice.

10 Q Do you recall in this particular instance whether the reasons were

11 communicated to you?

12 A I don't recall.

13 Q Were you involved in discussions with the team internally about how to

14 revise Facebook's content moderation policies?

15 A Not about how to revise them, no.

16 Q What about how to implement them?

17 A No.

18 Q To your understanding, who at Facebook was part of those conversations?

19 A The Content Policy Team would have been the team that deliberated on how

20 to change the policies.

21 Q And Mr. Clegg, is he above the Content Policy Team? What is his

22 relationship to that team?

23 A Yes. The Content Policy Team reports up eventually to Mr. Clegg's

24 organization.

25 BY [redacted]

1 Q So, as I mentioned earlier, you said: We have been focused on reducing
2 the virality of content discouraging vaccines that does not contain actionable
3 misinformation, often-true content, can be framed as sensation, alarmist, or shocking.
4 We'll remove -- we will remove these groups, pages, and accounts when they were
5 disproportionately promoting this sensationalized content.
6 So that sounds like that's a new step that hadn't been taken before. Is that
7 correct?
8 A I really don't know. I only know what's in front of me in this language. So
9 that's the context of my understanding.
10 Q Did you write the language, or did somebody else write this?
11 A No. I don't recall writing the language.
12 Q So who wrote it?
13 A I don't recall.
14 Q Would it have been someone on the -- Bickert and Potts' team?
15 A I don't recall.
16 BY [redacted]
17 Q How frequently do you interact with Nick Clegg?
18 A Not -- define "frequently." Not very frequently.
19 Q Once a month?
20 A It varies. The answer is it really varies.
21 Q And what are the context of your interactions when you do interact with
22 Nick Clegg?
23 A Around the context of my job. So, if there's a -- if Mr. Clegg has a call with
24 a public official or a question about something happening in the scope of my work, he
25 would reach out, or I could reach out to him.

1 Q And, in instances where it requires -- your role requires interactions with
2 Mr. Clegg, is there a threshold as far as how serious an issue is to raise with Mr. Clegg?
3 A No.
4 Q What sparks -- what is the motivation behind -- what is the reason behind
5 the interactions you do have with Mr. Clegg?
6 Mr. Brown. Just here, when we talked off the record about not intruding on the
7 company's discussions about petitioning the government advocacy, that's constitutionally
8 protected. So I guess I'm curious as to what we're trying to get at here.
9 [redacted] Sure.
10 Mr. Brown. Because a lot of the communications would be protected.
11 [redacted] Mr. Rice is interacting with the White House, and he's representing
12 the position of the company, but he isn't able to say what the reason is for the company's
13 position, and he's pointing to other individuals at Facebook. So it's entirely appropriate
14 to try to understand the nature of his relationship with the relevant folks at Facebook.
15 Mr. Brown. He can answer about the nature of the relationship. Just don't talk
16 about any of your specific advocacy.
17 Mr. Rice. It would -- the threshold was really the audience, the external
18 audience. My role was to represent the company before the White House, before a
19 specific set of policymakers. If Mr. Clegg had work that was happening within that
20 scope of work, I would have engaged with him.
21 BY [redacted]
22 Q But Mr. Clegg, to your understanding, his scope of responsibility is quite
23 broad, other than yours?
24 A He oversees, yeah, the entire Global Policy Team. So, yes.
25 Q And so what would necessitate Mr. Clegg to interact directly with White

House personnel?

A On this matter, there was an inquiry from -- on an important issue from someone at the White House who had reached out to Mr. Clegg specifically, and Mr. Clegg was responsive.

Q Do you know who from the White House reached out to Mr. Clegg?

A I believe Andy Slavitt.

Q Reached out directly to Mr. Clegg?

A I believe so, yes.

BY [redacted]

Q On the same thread, Rob Flaherty followed up on your email, on March 22nd. And he says: Awesome, Brian. Similarly to how we're looking out for your game plan on tackling vaccine hesitancy spread on your platform, we'll look out for how you plan to close the gap on equitable access.

What was the game plan for tackling vaccine hesitancy spread on your platform?

A This is another question that would be more appropriately answered by a member of the Content Policy Team.

Q Did you have a discussion subsequent to this email that you implied were going to happen? Could talk tomorrow in the 4 to 5 hour?

A I don't recall -- I don't -- I recall a meeting, yes, along these lines, yes.

Q And who was at that meeting?

A The individuals referenced here attended the meeting.

Q So is that you, Mr. Slavitt, and Mr. Flaherty?

A No.

Q And Nick?

A No.

1 Q Sorry.

2 A No.

3 Q Oh, and Lindsay. Sorry.

4 A This meeting was not -- not Mr. Slavitt and not Mr. Clegg. This would have

5 been a meeting where we introduced Lindsay.

6 Q Right. And who is Lindsay? Is it Lindsay Young (ph)?

7 A Yes.

8 Q Who is she?

9 A She was a member of our Product Team, not our Policy Team. So this is

10 somebody who is close to the work the company was doing around COVID vaccine

11 information sharing.

12 Q I see. What was her job, exactly?

13 A I don't recall exactly what her title was.

14 Q Do you know what she did, like on a day-to-day basis?

15 A She just -- she managed a portfolio of work within the company related to

16 COVID, related to COVID effort.

17 Q To COVID -- sorry, what?

18 A To our efforts around COVID.

19 Q Did that include misinformation?

20 A Not specifically, no. I don't -- she was not part of the misinformation -- or

21 part of the Content Policy Team.

22 Q Okay.

23 Oh, I wanted -- sorry. Going back briefly to the first email that we talked about,

24 the levers for tackling vaccine hesitancy content, can you give an example of often-true

25 content but that could be framed as sensational, alarmist, or shocking that would be

1 removed?

2 A I can't give you an example, no.

3 Q What about people share their own stories of their vaccine injuries?

4 A I would be guessing if I were to tell you that I could give you an example of

5 this.

6 BY [redacted]

7 Q Earlier, when we were discussing that Mr. Flaherty and Mr. Slavitt expressed

8 frustrations about what Facebook's content policies cover and how they were enforced,

9 do you recall if one of those things was often-true content that was alarmist?

10 A I don't recall, no.

11 Q You don't recall one way or the other?

12 A I don't recall that being an area of particular frustration, no.

13 Q Are there any areas that you recall?

14 A No.

15 BY [redacted]

16 Q On 9060, the email we were just talking about from Flaherty to you and

17 Slavitt, Flaherty talks about WhatsApp in the second-to-the-last paragraph: On

18 WhatsApp, I guess I'm confused about how you're measuring reduction of harm. If you

19 can't see the message, I'm genuinely curious. How do you know what kinds of messages

20 you've cut down on? And how -- skipping a sentence. And how effective are you

21 seeing the good information on WhatsApp -- that's a typo -- are you doing cross-platform

22 campaign work to try to reduce people's exposure on WhatsApp?

23 How can you cut down on such messages if you can't see the content?

24 A Yeah, this is a question that was -- that's better responded to by the team

25 that is responsible for that work on WhatsApp.

1 Q So you have no idea?

2 A I would not have been part of the team that is responsible for understanding

3 how to cut down on these messages.

4 Q Because it looks as though that's what you organized a meeting to discuss,

5 this question. So that was not discussed at the meeting?

6 A I don't recall.

7 BY [redacted]

8 Q Understanding this isn't your team's primary responsibility, what is your

9 understanding of the interventions that Facebook was taking with respect to WhatsApp?

10 A I don't have a recollection of the -- of the specific interventions.

11 Q Is the WhatsApp or the team responsible for handling WhatsApp and the

12 other steps Mr. Flaherty is referencing, is that the same Content Policy Team or two

13 separate teams?

14 A The Content Policy Team would have that scope of the work.

15 Q So that would be Mr. Potts and --

16 A Yes.

17 [redacted] This is exhibit 8. You can take a look at these.

18 [Rice exhibit No. 8

19 Was marked for identification.]

20 Mr. Brown. Do you want 7 back?

21 [redacted] Sure.

22 I just have a quick question on this one, actually.

23 There is a reference in this email exchange between you and Rob Flaherty to a

24 white paper. You promised to send it to him. What was the white paper?

25 Mr. Brown. Where is -- what are you looking at?

1 [redacted] Well, the stopping abuse white paper and --

2 Mr. Brown. Where is that referenced?

3 [redacted] Sorry. I have to find that on here. On 8924, white paper is

4 attached in PDF to this email. It's sort of in the middle of the page.

5 Mr. Brown. Yep.

6 Mr. Rice. I don't recall what this would have been referencing?

7 Mr. Brown. Is the issue you don't have this?

8 [redacted] Yeah, we don't have it.

9 Mr. Brown. Oh, I'm happy to follow up and --

10 [redacted] Okay.

11 Mr. Brown. -- get it to you.

12 [redacted] That's fine.

13 Mr. Brown. Is that okay?

14 [redacted] Yeah, that's fine. We can move on.

15 So this will be exhibit 9.

16 [Rice exhibit No. 9

17 Was marked for identification.]

1 [12:55 p.m.]

2 Mr. Brown. Just give me a second here.

3 [redacted] You can -- it's mostly the same. It's just the first two emails as far

4 as out of the chain. So you don't need to read the whole thing again.

5 Mr. Rice. Okay.

6 BY [redacted]

7 Q So on April 9, 2021, Mr. Flaherty wrote to you, and at the end of his email he

8 says: In the electoral context, you tested and deployed an algorithmic shift that

9 promoted quality news and information about the election. This was reported in The

10 New York Times and also readily apparent to anyone with cursory social listening tools.

11 You only did this, however, after an election that you helped increase skepticism in and

12 an insurrection which was plotted, in large part, on your platform. And then you turned

13 it back off. I want some assurances, based in data, that you are not doing the same

14 thing again here.

15 And then you replied: Understood.

16 What did you mean by "understood"?

17 A That I understood what he was communicating to me in the previous email.

18 Q Did that prompt you to take any action, like talking to your superiors or --

19 A No. I don't believe so, but I don't recall.

20 Mr. Brown. [redacted] I mean, are you suggesting that the "understood" is in

21 reference to just the part of this that you read, because you did not read the entire

22 email? You read the last part.

23 [redacted] Fair.

24 Mr. Brown. Just for the record, since it's on video.

25 [redacted] Well, we can clarify since he's here.

1 BY [redacted]

2 Q Did you mean you understood the entire --

3 A I understood what he was communicating to me in the email.

4 Q And what did you understand him to be communicating?

5 A Just what his words state, essentially. I think he was conveying that he

6 was -- that he didn't -- you know, what I understood was that our efforts were not

7 satisfactory to him.

8 Q And what steps did you take as a result of this email?

9 A I don't recall any specific steps that we took as a result of this email.

10 Q Did you talk to anyone at Meta while on this email about it?

11 A I don't recall.

12 Q Would you have any records indicating whether or not you spoke to anybody

13 at Meta about the email?

14 A No, I don't believe so.

15 Q So you didn't speak to anybody on the Neil Potts and Monika Bickert team?

16 A I just don't recall a conversation after this email.

17 Mr. Brown. Done with this?

18 [redacted] Yeah, yeah. This is exhibit 10.

19 [Rice exhibit No. 10

20 Was marked for identification.]

21 Mr. Brown. [redacted] just so the record's clear, I believe you have the white paper,

22 Bates number is 8930 --

23 [redacted] Thank you.

24 Mr. Rice. All right.

25 [redacted] In the first email from Nick Clegg to Andy Slavitt, with you cc'd, Nick

1 Clegg references the knock-on effect. Are you aware of what that is?

2 Mr. Brown. Can I ask, when you say the first, you mean the last?

3 [redacted] Yeah, the last chronologically. The first --

4 Mr. Brown. On the page.

5 [redacted] Yeah.

6 Mr. Rice. I don't know what Nick would have been referring to there.

7 BY [redacted]

8 Q Okay. And did the White House ask for specific steps to be taken about the

9 J&J news, which I presume -- well, do you know what the J&J news was, first of all?

10 A I don't recall what news this was.

11 Q Did the White House ask for specific steps to be taken with respect to that

12 news?

13 A Not to my knowledge.

14 Q Okay. Okay.

15 [Rice exhibit No. 11

16 Was marked for identification.]

17 [redacted] This is exhibit 11.

18 Mr. Brown. You need 10 back?

19 [redacted] Yes, please.

20 Mr. Brown. It's really long. Do you have any idea where you're going to focus?

21 [redacted] Sure, sure. If you don't want to read the whole thing, that's fine.

22 On 9502.

23 Mr. Brown. Okay.

24 [redacted] I'm going to ask about the email that's at the top. So it starts on

25 9501. I don't know if you want to read the whole thing, but --

1 Mr. Rice. Okay.

2 BY [redacted]

3 Q So Mr. Flaherty's email at the top of 9502, the paragraph, "More broadly,"

4 that sentence I'm not so concerned about, but the next

5 one whatever -- sorry -- Moreover, I want to make sure you have eyes on what might be

6 spinning off the back end of this -- that the news about J&J doesn't spin off

7 misinformation. Would be great to get a 24-hour report-back on what behavior you're

8 seeing.

9 Did you provide him with a 24-hour report?

10 A I don't recall providing him one.

11 Q Did anyone else at Meta provide him with a 24-hour report?

12 A Not to my recollection.

13 Q Did you put eyes on misinformation?

14 A I don't recall doing anything different as a result of this email.

15 Q How did you interpret his request to make sure you have eyes on what

16 might be spinning on the back end of this, that the news about J&J doesn't spin off

17 misinformation?

18 A I would be guessing if I told you how I interpreted it. This is not something

19 I recall, an exchange that I recall offhand.

20 Q What would you have done with this exchange and his request?

21 A I would have conveyed it to the appropriate teams dealing with these issues.

22 Q And what team?

23 A The content policy team.

24 Q But you have no recollection of whether you actually did that in this

25 circumstance?

A I don't have a recollection, no.

Q Okay. Turning to 9495, the first email -- well, chronologically the last email, but your email to Rob Flaherty: Hey -- I'm really sorry, I missed this ahead of the 11 o'clock.

The next -- well: We will definitely prioritize for future. And working on both immediate followups -- running down question on Tucker and working on getting you report by end of week.

Is that Tucker Carlson?

A I don't have a recollection of what that referred to.

Q So you don't remember running down the question on Tucker?

A I don't see a question on Tucker in this exchange.

Q Okay. And did a meeting with Flaherty and Slavitt take place? It looks as though one was scheduled for 11 o'clock.

A I don't remember. I recall us trying to change the time of the meeting. I don't recall the meeting itself, if it happened.

Q So you don't know if it happened?

A No.

Q Okay.

[redacted] We can take these back.

This is exhibit 12.

[Rice exhibit No. 12

Was marked for identification.]

[redacted] How are we on time?

Mr. Brown. I think we got three more minutes.

[redacted] Yeah. That's what I have.

1 BY [redacted]

2 Q So this is an email exchange between you and Rob Flaherty on April 14.
3 Flaherty says: The top post about vaccines today is Tucker Carlson saying they don't
4 work. Yesterday was Tomi Lahren saying she won't take one. This is exactly why I
5 want to know what "reduction" actually looks like -- if "reduction" means "pumping our
6 most vaccine-hesitant audience with Tucker Carlson saying it doesn't work," then I'm not
7 sure it's reduction.

8 And then you respond: Thanks -- I saw the same thing when we hung up.
9 Running this down now.

10 What does "running this down now" mean?

11 A Running this down now would mean I'm conferring with the team that
12 would understand what's happening here, the content policy team. And this does
13 seem -- just thinking about the dates of the last exchange, this seems to be probably what
14 I was referring to in the previous exchange as well.

15 Q So what discussion took place after this about Tucker Carlson with the team?

16 A It would have been a -- just looking into -- he asks the question about
17 reduction, what reduction looks like. He was interested in understanding, you know,
18 what reduction -- what a policy around reduction actually translates into if a post can
19 be -- can still be the number one post on the platform. So we would've been trying to
20 understand the context around that.

21 Q So you were trying to understand how somebody's post that, it says, has
22 vaccine-hesitant content and Mr. Flaherty looking into it being number one on the
23 platform?

24 A I don't recall exactly what the team would have been looking into, but there
25 would have been an effort to be responsive to the question.

1 Q Did the team look into taking action against Carlson and Lahren's accounts as
2 a result of this conversation?
3 A No, not to my knowledge.
4 Q What about as a result of the fact that it was number one?
5 A No, not to my knowledge.
6 Q So the accounts were not suspended?
7 A Not to my knowledge.
8 Q Were the posts removed?
9 A Not to my knowledge.
10 [redacted] We're out of time for now.
11 Mr. Jag. Go off the record.
12 [Recess.]
13 [redacted] Back on the record.
14 BY [redacted]
15 Q Mr. Rice, I want to take you back to an exhibit you were asked about a lot
16 before lunch, and that is this email exchange between you, Mr. Flaherty, and Mr. Slavitt
17 starting on March 14. If you look at page 9778, where Mr. Flaherty first emailed you
18 with the subject line, You are hiding the ball, he attached a link to a Washington Post
19 article from March 14, that same day, 2021, about Facebook's vaccine hesitancy with
20 QAnon, correct? That's what the link indicates?
21 A Yes.
22 Q Okay. I'm going to introduce that article. And we are on 13, is that what
23 we're on?
24 [Rice exhibit No. 13
25 Was marked for identification.]

1 Mr. Brown. Do we need to read the whole article?

2 [redacted] Well, I'm going to ask some questions about what it does and it

3 doesn't cover, because I believe it was mischaracterized earlier.

4 Mr. Brown. It might be useful to know whether or not Mr. Rice read the article

5 at the time --

6 Mr. Rice. I would have likely read the article, but don't recall the content. So

7 I'm happy to read it now.

8 [redacted] I'd appreciate that. I think it's important to correct the record.

9 Mr. Rice. Okay. Okay.

10 BY [redacted]

11 Q So this article is about a study that Facebook had commissioned about

12 vaccine hesitancy, correct?

13 A It appears -- the reporting states that, yes.

14 Q And the article does not address, as it was characterized earlier, Facebook's

15 alleged refusal to remove vaccine disinformation?

16 A I'm sorry. What was the question?

17 Q Majority counsel said that the article was about Facebook's refusal to

18 remove vaccine -- I don't remember the term -- dis or misinformation.

19 A Yes.

20 Q Correct?

21 A Yes.

22 Q The article's about a study about what is driving vaccine hesitancy?

23 A That's accurate. Yes.

24 Q And there is not a discussion about Facebook being asked to remove --

25 A That's correct.

1 Q -- particular content?
2 A Yes.
3 Q And in your exchange with Mr. Flaherty and then Mr. Slavitt in exhibit 6, the
4 concern that was expressed to you in these emails was that you had not informed them
5 of the study, correct?
6 A That's correct.
7 Q And nowhere in that exchange does Mr. Flaherty or Mr. Slavitt ask you to
8 have Meta take down any content?
9 A That's correct.
10 Q Okay. And you were asked many questions about what Mr. Slavitt meant
11 when he said, we've been considering our options on what to do about it. I'm not going
12 to ask you to speculate about what he meant, but I am going to ask: Are you aware of
13 the White House actually taking any actions to, quote/unquote, do something about it,
14 whatever it is?
15 A No, I'm not.
16 Q And I believe you stated earlier you were not concerned that there would be
17 consequences as a result of you not informing the White House about that study?
18 A That's correct.
19 Q And on -- I just want to step back a bit. On the issue of vaccine hesitancy, it
20 was the company's goal to encourage as many people in the United States and the world
21 to get vaccinated as possible, correct?
22 A Yes.
23 Q And that was in order to do what the company -- as much as the company
24 could do to help save lives during the pandemic?
25 A Yes, that's correct.

1 Q And was it your understanding that that was a shared goal with the White
2 House?
3 A I believe that was a shared goal, yes.
4 Q Okay. And that discussions about vaccine hesitancy and how to overcome
5 it were in furtherance of that goal to get people who were perhaps hesitant to get
6 vaccinated to convince them or encourage them to get vaccinated?
7 A Yes.
8 Q And I wanted to ask you briefly about exhibit 11. These are not labeled, so
9 this might take me a minute.
10 Actually, you know what, I might save it for later if I need it.
11 [redacted] That's it for now. Thank you. We can go off the record and
12 take a coffee break if you guys like.
13 Mr. Brown. Thank you.
14 [Recess.]
15 [1:48 p.m.]
16 [redacted] This is exhibit 14.
17 [Rice exhibit No. 14
18 Was marked for identification.]
19 Mr. Rice. Okay.
20 BY [redacted]
21 Q So this appears to be an exchange, again, about Tucker Carlson's video on, I
22 guess, the J&J. The -- you responded to Rob Flaherty's complaints on the subject on
23 April 16, the email on 11742: Hey Rob -- understood and sorry for the delay. The team
24 has been heads-down since our conversation to produce the report we discussed on
25 Wednesday afternoon. We are aiming to get you something tonight ahead of the

1 weekend. We want to respond to your questions below as well, but I have been hoping
2 to get this work completed and then to schedule a call to discuss.
3 What was the report that the team was heads down to produce?
4 A There was a report that provided information about the most popular public
5 posts on the platform that demonstrated, you know, what posts were receiving the most
6 views.
7 Q Okay. And was this post that Tuck- -- sorry -- Rob Flaherty was complaining
8 about, was that included in it?
9 A I'm sorry. Could you repeat that?
10 Q Was that considered one of the top posts?
11 A The Tucker Carlson post?
12 Q Yeah.
13 A I believe we said, and in Nick Clegg's email, he noted that it's one of the top
14 100 most viewed vaccine posts.
15 Q Okay. And then you offered to have a call with Mr. Flaherty and maybe Mr.
16 Slavitt, since he's cc'd. Did you have that call?
17 A I don't recall. I don't recall having a call.
18 Q Do you recall discussing the Tucker Carlson issue with them?
19 A Only in the context of what is included here, and we noted that the, you
20 know -- despite their advocating why the Tucker Carlson post should be violative, that it
21 did not violate our policies and that we left it up on the platform.
22 Q Okay. We can take this back.
23 [redacted] This is exhibit 15.
24 [Rice exhibit No. 15
25 Was marked for identification.]

1 Mr. Rice. Okay.

2 Mr. Brown. Can I ask, is this the whole document? Because there's a -- Andy

3 Slavitt wrote something here, and it's not here.

4 [redacted] We certainly didn't redact anything.

5 Mr. Brown. Okay. It might just be the next -- in another produced document.

6 [redacted] Yeah. I don't recall if this exhibit continued, but --

7 Mr. Brown. It looks like that this is not the end of the thread. That's all I was

8 just asking.

9 [redacted] Yeah. To be honest, I don't totally remember, but we certainly

10 didn't like purposefully take something out.

11 BY [redacted]

12 Q So on April 16, 2021, Nick Clegg, with you cc'd, writes to Andy Slavitt: We

13 want to get this to you ahead of the weekend. We believe this is responsive to what

14 you asked for -- namely to provide information on what we are seeing on the platform

15 with respect to vaccine content, as well as interventions we are deploying to counter

16 misinformation. As I mentioned yesterday, our data is lagging and this covers the period

17 April 5th through 11th. I don't yet have a more specific answer on the Tucker Carlson

18 posts -- post. Sorry.

19 This probably goes without saying, but I want to underline that this is not

20 information we normally share. This dataset is not cleanly vetted according to an

21 integrity process that would normally take much longer. But we took your cue the other

22 day that it was important to get this to you quickly even if not polished. We have not

23 made this information public and we hope to continue to be able to share with you and

24 the team under confidence.

25 Did you and Nick Clegg discuss this email before he sent it?

1 A I don't recall discussing it, but it's possible we would have discussed it. I
2 just don't recall a conversation.
3 Q Do you know what he meant by the cue -- your cue -- "We took your cue the
4 other day that it was important to get this to you quickly"?
5 A I understand that to mean we are being responsive to a concern that had
6 been communicated from Mr. Slavitt to Mr. Clegg.
7 Q And Clegg writes about interventions we're deploying to counter
8 misinformation. What were those interventions?
9 A I don't recall the countermeasures that are referenced here.
10 Q When he says, "We took your cue the other day," was that in reference to a
11 meeting that you had with the White House?
12 A I don't have a recollection, and I don't want to speak for Mr. Clegg. He's
13 referring to a conversation or a back and forth with Mr. Slavitt that he had.
14 Q Okay. And then a few days later, you wrote back to Rob Flaherty, it looks
15 like everybody else was removed from that chain: Rob -- sounds like Nick connected
16 with Andy over the weekend. Want to make sure we are running down on our end what
17 they discussed. Let me know if it makes sense to connect quickly today? I was also
18 planning to grab a few minutes to respond to your questions.
19 Did Clegg tell you what happened with the meeting with Andy over the weekend?
20 A I don't have -- I don't recall speaking to Nick about this.
21 Q And you were not at this meeting over the weekend?
22 A I don't remember it.
23 Q Did you end up connecting with Mr. Flaherty as you suggested?
24 A I do not have a recollection of that conversation.
25 Q Do you have any recollection of a conversation on this topic about the

1 Tucker Carlson post with Mr. Flaherty?

2 A No.

3 Q Do you know what the tweet -- so then on the 19th, you wrote: Wanted to

4 make sure you saw this from end of the week. And it's a tweet from someone named

5 Alex Schultz. It looks like the tweet no longer exists when I tried to access it. Do you

6 have any recollection of what that tweet was?

7 A I don't.

8 Q Okay.

9 [redacted] We can take these back. This is exhibit 16.

10 [Rice exhibit No. 16

11 Was marked for identification.]

12 [redacted] We're on 16, right?

13 [redacted] Yeah.

14 Mr. Rice. Okay.

15 BY [redacted]

16 Q Okay. On April 21st -- so this is on 9731, the first page -- Nick Clegg writes

17 to Andy Slavitt. It appears you're cc'd, although -- and this is in an odd format that I'm

18 not entirely sure.

19 Good to speak to you on Sunday -- I understand Brian and Rob had a productive

20 follow-up call today, and I'll get back to you with some further responses.

21 What was the followup that day?

22 A I don't recall what that call would have been.

23 Q Do you recall if it was you and Flaherty only or were there other people

24 there?

25 A I don't recall which call this would have been.

1 Q Would there be any notes or record of what happened on that call?
2 A I don't believe so.
3 Q Okay. On -- a couple of days later, Nick Clegg wrote to Andy Slavitt, with
4 you cc'd, and it says: Andy, just closing the loop on the specific questions you asked
5 below: I asked our data team to dig in to determine whether the post received any type
6 of artifical boost.
7 The rest of that paragraph I'm not concerned about.
8 But that of course does not address your wider question about whether we're
9 drawing the lines re what is removed and/or demoted in the right place. Our teams
10 consult pretty extensively with public health and health and misinfo experts who have
11 varied opinions on the merits of wider removal, but we're looking at options currently
12 and I know Brian is hopeful of receiving any data Rob can share from the researchers you
13 met too. I'll reach out again as/when we have worked up new proposals.
14 I assume Brian is referring to you there?
15 A Yes. I believe so, yes.
16 Q And did Rob share data with you from researchers?
17 A I recall that there was a group of researchers that he had referenced who
18 had shared some information.
19 Q Do you know who those researchers were?
20 A I don't have a -- I don't recall. I believe they were just sharing some talking
21 points that were -- that were, you know, oppositional to the work that we were doing on
22 COVID in terms of our efforts.
23 Q I see. Okay.
24 [redacted] We can take those last exhibits. This is exhibit 17. We're getting
25 there.

1 Mr. Brown. Thanks.

2 [Rice exhibit No. 17

3 Was marked for identification.]

4 BY [redacted]

5 Q So this is an April 23rd, 2021, email from Rob Flaherty to you. It's -- the

6 subject is Research Suggestions. Flaherty says: Here's the crux of their recs. Don't

7 read this as White House endorsement of these suggestions, or also as the upper bound

8 of what our thoughts on this might be. But -- spirit of transparency -- this is circulating

9 around the building and informing thinking.

10 And then he follows with a memo entitled, Facebook COVID-19 Vaccine

11 Misinformation Brief. And my reading of this, this is sort of blaming Facebook for

12 spreading vaccine misinformation. Feel free to disagree with that characterization,

13 but --

14 A That's how I read it as well, yes.

15 Q So how did you interpret his claim that this was -- this was -- he wanted to

16 let you know this was circulating around the building, the White House?

17 A This was what I was referring to as the researchers -- what the researchers

18 had been thinking about, what we referred to in the previous email.

19 Q What did it mean to you that this was circulating around the White House?

20 A I assumed that the groups that are referenced in the document had been

21 conducting meetings across -- not just in the White House, but across, you know, the

22 Federal Government, and with Members of Congress, and with members of the media for

23 that matter. This is circulating broadly.

24 Q And is it fair to say that it looks as though the White House blaming

25 Facebook for vaccine misinformation was not going to be beneficial to Facebook?

A I don't know that that's fair to say. I think this was just being shared with me to provide us with context on what is being said in meetings where we are not present about the issue.

Q Why would Mr. Flaherty have thought you should know what was being said?

A I believe that was responsive to the conversation that we were having on the previous thread around researchers and the meetings that had happened in the White House. I mean, Mr. Flaherty says in the spirit of transparency in his email. I think he was just, again, looking to be -- looking to share what was the other side of the story essentially, that they were hearing.

Q So he just wanted to be nice?

A I --

Mr. Brown. He didn't say that.

Mr. Rice. I don't think he was being nice.

BY [redacted]

Q Okay. What, if anything, did you do with this memo after receiving it?

A I don't recall taking any further action with it. I don't recall doing anything with it.

Q Did anyone at Meta have discussions about it, that you participated in?

A Not that I recall.

Q Did you speak to Flaherty about it after he sent it?

A I don't recall talking to Mr. Flaherty about the memo.

Q Would there be any record of what Meta might have done with this memo?

A Again, I don't recall that we did anything with it, but I really -- we didn't have much -- aware of a record.

1 Q So you didn't forward it or send it to anybody who was higher up?

2 A I don't recall doing that.

3 Mr. Brown. Done with this?

4 [redacted] Yeah, yeah.

5 [redacted] This is exhibit 18.

6 [Rice exhibit No. 18

7 Was marked for identification.]

8 [redacted] I think some of this we've had before. It's like a -- I think you can

9 start on 11720, and read the last.

10 Mr. Rice. Okay.

11 BY [redacted]

12 Q So on May -- sorry -- yeah, May 7, this is on 11717, you wrote to Rob

13 Flaherty. The subject line was forwarding COVID Genomic Sequencing. And you said:

14 Wanted to flag that we are talking to HHS this afternoon about the potential to build a

15 text-based vaccine finder bot on WhatsApp, similar to the one launched last week for

16 SMS. This came through Ben Wakana straight to our WA team.

17 Who's Ben Wakana?

18 A He was a member of the White House staff at the time, I believe.

19 Q So did this mean that he sent this -- I'm a little -- so he sent the --

20 A I believe it refers to a conversation that he had with someone on our team,

21 that I was not a part of and that Rob would not have been a part of.

22 Q And what is a vaccine finder bot on WhatsApp?

23 A I would be -- I'm not an expert in what the tool is. There would be

24 someone who's better on the WhatsApp team in answering that question, but it

25 was -- yeah. I mean, this was a -- it was a tool that we had -- that had been developed to

1 help combat the virus, and we were sharing that it is -- that we were exploring the idea.
2 It was an idea that we were hopeful about.
3 Q The tool combatted the virus itself?
4 A No. To help people find vaccines through WhatsApp.
5 Q I see. Okay. On -- well -- on the day before, on May 6, Flaherty had
6 written to you. And in the, I guess you'd say third paragraph: Won't come as a shock
7 to you that we're particularly interested in your demotion efforts, which I don't think we
8 have a good handle on, and based on the below, it doesn't sound like you do either. Not
9 to sound like a broken record, but how much content is being demoted, and how
10 effective are you at mitigating reach, and how quickly. As I've said, I don't think our
11 position is that you should remove vaccine-hesitant stuff. However, slowing it down
12 seems reasonable. I just can't describe what it means or how you know it's working.
13 And then he asks -- and then skip a little -- Seems like your "dedicated vaccine
14 hesitancy" policy isn't stopping the disinfo dozen -- they're being deemed as not
15 dedicated -- so it feels like that problem likely carries over to groups.
16 Do you know who the disinfo dozen are?
17 A I'm familiar with the characterization disinfo dozen.
18 Q What is it?
19 A They were accounts on the platform that were -- that were seen as
20 spreading an inordinate amount of disinformation on the platform.
21 Q Is current Presidential candidate Robert F. Kennedy part of the
22 disinformation dozen?
23 A My recollection is that he was part of the group, yes.
24 Q So you sort of had a brief exchange with him in the interim about the bot.
25 And then it sounds -- seems -- my read of it is you responded at length to his longer email

1 on the 10th. So that's on 11717. And you told him that: We have strong policies
2 against false claims about COVID and vaccines that we enforce -- and when a page, group,
3 or account repeatedly violates these policies we enforce penalties against them, including
4 removing entities that repeatedly break our rules from our platforms. On at least 11
5 separate occasions, individuals identified by the CCDH have had a presence on Facebook
6 or Instagram permanently removed for violating our COVID-19 or vaccine misinformation
7 policies.
8 What is the CCDH? Is that Center for Countering Digital Hate?
9 A It appears to be, yes.
10 Q And did Meta work with them on a regular basis?
11 A Not to my knowledge.
12 Q So was CCDH just working on this one issue or limited timeframe with Meta?
13 A I'm sorry. What was that?
14 Q Was it -- so -- well, obviously here you're saying that individuals identified by
15 CCDH have had a presence and are on Facebook or Instagram permanently removed for
16 violating our COVID-19 or vaccine misinformation policy. So it sounds like CCDH was
17 telling you to remove accounts?
18 A CCDH, I believe, is telling everyone that these accounts were performing this
19 way and reported publicly on the accounts.
20 Q So Facebook decided to take the recommendations of CCDH?
21 A No, I don't believe we did. I believe the two issues are not correlated.
22 Q Okay. And then you go on to say: We have taken down a number of
23 entities with high follower count since the launch of this policy who are clearly dedicated
24 to promoting borderline content.
25 Which policy are you referring to, the launch of this policy?

1 A I'm sorry. Can you point me to the section?

2 Q Yes. It's the last sort of big paragraph in your email. "Our automated

3 detection" is the beginning. And then the second sentence says: We have taken down

4 a number of entities with high follower count since the launch of this policy who are

5 clearly dedicated to promoting borderline content.

6 So I'm wondering what the launch of -- which policy was launched that you're

7 referring to there.

8 A I can't be totally sure because I don't recall exactly what I was referring to.

9 The paragraph seems to -- the first sentence seems to describe the policy, and the second

10 sentence refers back to the first -- the policy referenced in the first sentence.

11 Q And what is borderline content?

12 A Yeah. It's a question that is better addressed by a member of the content

13 policy team as would have a clearer definition.

14 Q Okay. Why were you telling Rob Flaherty that you were doing this?

15 A Yeah. We were trying to be responsive to the questions that he had asked

16 previously.

17 Q So was this policy changed to accommodate Flaherty or anyone else in the

18 White House's requests or demands?

19 A No. This policy was in place and we were explaining how it

20 was -- explaining its effectiveness, essentially.

21 Q Okay.

1 [2:24 p.m.]

2 [redacted] Can we go back on the record?

3 Mr. Brown. This is exhibit No. 19.

4 [Rice exhibit No. 19

5 Was marked for identification.]

6 BY [redacted]

7 Q So, beginning with the email on 9852 from David Ginsberg to Anita Dunn and

8 recognizing that you weren't -- you're added to the email chain later, David -- do you

9 know who David Ginsberg is?

10 A Yes.

11 Q Who is he?

12 A He is currently the head of communications for the company.

13 Q Is he on a separate team from you, or how do you --

14 A He's on the Communications Team, which is separate from the policy team.

15 Q Okay.

16 And do you know Anita Dunn at the White House?

17 A Yes.

18 Q What does she do?

19 A She's a senior advisor at the White House.

20 Q Did you ever meet her?

21 A I don't believe so.

22 Q Did you ever correspond with her?

23 A I only corresponded to what I see here.

24 Q Apart from this. Apart from this one. It doesn't -- I mean,

25 correspond -- okay, yeah. We can skip that question.

1 So David Ginsberg writes to Anita about a disagreement between the White
2 House and Meta on where the lines should be on misinfo: We have genuinely tried to
3 work with the administration in good faith. Obviously, yesterday things were pretty
4 heated, and I'd love to find a way to get back to pushing together on this.
5 Were you at this -- I presume it's a meeting at which things got heated?
6 A No. I believe this is referencing the President's public comments about the
7 company.
8 Q I see. Okay.
9 When the President made those comments, did you participate in any meetings at
10 Meta about his comments?
11 Mr. Brown. Which comments are you referring to?
12 [redacted] I believe he accused the social media companies of killing people,
13 but --
14 Mr. Brown. Okay.
15 Mr. Rice. I participated in -- yes, I participated. I participated in meetings.
16 BY [redacted]
17 Q And with whom at Meta?
18 A Yes.
19 Q No. With whom? Sorry.
20 A Oh, a variety of members of the policy team and communications teams.
21 Q Can you tell me, to the best of your ability, who specifically?
22 A I know that Nick Clegg was involved in those meetings. I believe David
23 Ginsberg was also part of those meetings.
24 Q And what was discussed at those meetings?
25 A Just the fact that the remarks had been made and how the company should

respond.

Q And how should the company respond?

A I believe the response was public and was -- the link in this email may be -- the email at the top of the page may be a link to our public response.

Q Was there concern from Nick Clegg and others about the President's remarks?

A There was concern that the President would make those claims, yes.

Q I'm sorry. What?

A Yes, there was.

Q There was concern that he would do what specifically?

[redacted] I'm sorry?

Mr. Brown. I think he said there was concern that the President made those remarks.

BY [redacted]

Q There was just concern -- was there concern that anything would occur as a result of those remarks or --

A No. No, but they were not remarks that any public company would want to hear about, hear come out of the President's mouth.

Q Were any notes of these meetings taken?

Mr. Brown. If they were, they would be privileged.

[redacted] Well, I can ask the question.

Mr. Brown. Sure, you can.

Mr. Rice. Not to my awareness.

BY [redacted]

Q Do you know when these meetings took place?

1 A In -- they would have been over the next few days after, around the dates of
2 these emails.
3 Q So the President made these remarks, and there were meetings about them,
4 and there was concern about them, but nothing was done?
5 A We issued a public response.
6 Q What was the public response?
7 A It was linked to the email.
8 Q Can you summarize it?
9 Mr. Brown. You have it. The document speaks for itself, and you can print it
10 out.
11 BY [redacted]
12 Q But it was only the public response? There were no internal changes at
13 Facebook or Meta as a result of the President's response?
14 A No. In fact, we leaned heavily on the work we had already done to push
15 back on the response, to push back on the comments.
16 Q So the disinformation dozen were not removed from Meta platforms as a
17 result of the President's remarks?
18 A No.
19 Q On the first page, July 17th email you sent to David Ginsberg, Rob Flaherty,
20 and Anita Dunn, you said: I am really -- along with David, I'm really hoping to close the
21 gap in terms of what's playing out publicly and what we might be able to accomplish
22 working together.
23 How do you close that gap?
24 A I'm not sure that we ever actually did. It was the intention to close the gap
25 on the shared objective of fighting the COVID pandemic.

1 Q You also said you hoped to continue to work to address concerns. How did
2 you continue to work to address concerns?
3 Mr. Brown. I'm sorry. Where are you reading?
4 [redacted] From his July 17, 2021, email, the first real paragraph.
5 Mr. Rice. I think I -- this is just referencing our continued discussions and
6 engagement to educate the Surgeon General's Office and the White House on our efforts.
7 [redacted] Okay.
8 This is exhibit -- where are we?
9 [redacted] Twenty.
10 Mr. Rice. Okay.
11 [redacted] Okay.
12 [Rice exhibit No. 20
13 Was marked for identification.]
14 [redacted] On July 23, 2021, this is on 9171, Nick Clegg wrote to Vivek Murthy,
15 the Surgeon General. You and other people at Facebook are cc'd, in addition to Eric
16 Waldo from HHS.
17 Nick Clegg says -- so this is July 23rd. I believe this is a few days after the
18 Surgeon General's advisory and the President's remarks: We talked about the speed at
19 which we are all having to iterate as the pandemic progresses. I wanted to make sure
20 you saw the steps we took just this past week to address policies on what we are
21 removing with respect to misinformation, as well as steps taken to further address the
22 disinfo dozen. We removed 17 additional pages, groups, and Instagram accounts tied to
23 the disinfo dozen.
24 And he goes on about the -- that topic.
25 So is it still your position that the disinfo dozen was not removed after the White

House made those remarks?

Mr. Brown. My understanding -- that's not what you asked. You asked him whether it was removed as a result of the President's statements.

[redacted] Okay, as a result.

Mr. Selassie. You didn't say anything about the timing.

[redacted] Okay. As a result. That's fine.

BY [redacted]

Q Was it as a --

A It was still my understanding and recollection that these accounts were not removed as a result.

Q So it was just a coincidence?

A No. I believe that we were communicating steps that we were taking as the President had made these remarks.

Q So, from that, it would seem to follow that you were taking steps in response to the President's remarks.

A That's not my understanding of what happened.

Q Then help me understand that.

A We were communicating back steps that we had taken as a company to address this group of accounts. It was a group of accounts that had received quite a bit of attention by the media, by concerned organizations over the course of many weeks. The President happened to have said what he said during a time where the company was reviewing these accounts.

I was not part of the process, nor was I a decisionmaker on what happened with these accounts, but that process, as I understand it, was ongoing during this time.

Q So the President made the remark saying that companies were responsible

1 for deaths. The Surgeon General issues this advisory, and then you guys just happened
2 to start reporting your removing of accounts and pages of -- that was just a coincidence?
3 There was no -- no causation?
4 A Not to my knowledge. I believe we were describing actions that were
5 being taken. And, again, you're leaving out the context of what was happening beyond
6 the President's remarks around these accounts.
7 Q Would it be fair to say you have also said that you weren't really responsible
8 for removing it? So somebody else may have greater knowledge of exactly why those
9 accounts were removed?
10 A The Content Policy Team would have been making these decisions.
11 Q So that would be Bickert and Potts?
12 A Yes.
13 Q Okay.
14 Mr. Brown. [redacted] I think we may have produced other documents that might
15 answer your questions in this area. I'm trying to have somebody find those for you right
16 now.
17 [redacted] Okay, sure. I think she has a question.
18 BY MS. JAG:
19 Q Yes, I do have a question regarding that.
20 I guess part of my understanding, though, is that, in some of these exhibits,
21 namely this one in particular as an example, but if it wasn't your decision in removing
22 these particular profiles, do you know or what would be your understanding as to why
23 you would be copied on them?
24 A On? Copied on this --
25 Q On this thread.

1 A -- communication?

2 Q Yes.

3 A In my capacity as the lead point of contact for the administration.

4 Q So there was more of an awareness, or was it -- was there ever any

5 expectation for you to act on any of these communications that you're copied on?

6 A It was more out of awareness that we were -- Nick and I would have been

7 both aware of this communication.

8 BY [redacted]

9 Q You responded it looks -- it appears as though you responded on the same

10 chain to Nick Clegg: Including this week's updated report. Look forward to scheduling

11 our next working session.

12 What working session was that?

13 A This was -- I believe this was after we had the conversation with the Surgeon

14 General's Office, and we had discussed setting up another meeting to continue to try to

15 educate the office on what we were seeing on the platform.

16 Q And do you know when that meeting took place?

17 A No.

18 Q And what was discussed at that meeting?

19 A I don't recall the meeting taking place.

20 Q Did you start having regular working sessions with them?

21 A No.

22 Q Did you schedule another working session?

23 A We worked to schedule additional meetings. We had additional meetings

24 but not regular.

25 Q And what typically happened at those meetings?

1 A These were efforts by the company to help the White House understand
2 what we were seeing on the platform with respect to COVID content.
3 Q And who typically attended these meetings, in addition to you?
4 A The Content Policy Team would have been participating. So Mr. Potts or a
5 designee.
6 Q And who from the Surgeon General's Office?
7 A Mr. Waldo. Eric Waldo, who is referenced in these emails, was our main
8 point of contact during that time.
9 Q Okay.
10 On August 6th -- this is on 9168 -- Eric Waldo of HHS wrote to you, with DJ Patil
11 cc'd. Do you know who DJ Patil is?
12 A He was brought in. He, I believe, was a data scientist. He was brought in
13 by the Surgeon General's Office for our at least one meeting.
14 Q I see.
15 So Eric goes on to say: Hi, Brian. I hope your week has been going well, blah,
16 blah. Also, Brian and Nick, I know on the call with Dr. Murthy he'd mentioned seeing if
17 you were able to send an update of any new, slash, additional steps you are taking with
18 respect to the health information in light of the advisory. We are asking all platforms for
19 this type of update.
20 What other discussion -- what discussion did you have about health information
21 on that call in addition to him asking for updates?
22 A I don't recall another conversation about other health issues. This was the
23 issue that I recall discussing.
24 Q So the only thing discussed on the call was him asking you to send an
25 update, but there was no other discussion at all about misinformation?

1 A This was the call -- I believe this is referring to the call that we did with
2 Mr. -- with the Surgeon General following the advisory where there was a discussion of
3 the advisory generally and steps that the company was taking already to get good
4 information about vaccines to our users.
5 Q And that was -- there was a request for information as well, right, around the
6 same time?
7 A I believe so, yes.
8 Q Did Facebook comply with the request for information?
9 A I don't recall what we sent as a response to this particular question.
10 Q Who at Meta would have that information?
11 A I don't know.
12 Mr. Brown. Happy to look into it.
13 [redacted] Okay. Thank you.
14 Okay. I don't have enough time for the next thing.
15 Ms. Jag. We'll go off the record.
16 [Recess.]
17 [redacted] We can go back on the record.
18 I want to go back to some of the emails that circulated around the Tucker calls and
19 posts that you communicated with the White House about, you and Mr. Clegg.
20 This is exhibit 21.
21 [Rice exhibit No. 20
22 Was marked for identification.]
23 [redacted] And most of this chain was part of previous exhibits, but your
24 response at the top of the exhibit was not included.
25 A Okay.

1 Q Okay, thank you.

2 If you turn first to page 11692, towards the bottom of the page, this is an email

3 from Nick Clegg that was part of an earlier exhibit. And Mr. Clegg told Andy Slavitt:

4 Regardless of popularity, the Tucker Carlson video does not qualify for removal under our

5 policies.

6 Correct?

7 A Correct.

8 Q And then, about a week later, you reiterated that the content does not

9 violate those policies after reviewing it in detail, correct?

10 A That's correct.

11 Q And your explanation for why and your statement that it does not violate

12 those policies, you were, again, conveying what members of the Content Team informed

13 you?

14 A That's correct, yes.

15 Q Now, you mentioned -- you discussed about the video receiving 50 percent

16 demotion. Can you explain what that means?

17 A I am not -- I am not an expert in our content policy -- in our content policies.

18 This 50 percent number is a number that the Content Policy Team could explain more

19 clearly.

20 Q Fair enough.

21 Can you explain to me, to the extent you have one, your understanding of what it

22 means to demote a piece of content?

23 A This means that -- to demote content means that the content receives less

24 distribution on the platform.

25 Q And, when you say it receives less distribution, do you mean it's not

1 highlighted as a recommended post? If you could explain what that means, that would
2 be great. I don't want to put words in your mouth.
3 A Yeah, I'm just not comfortable enough to explain how that policy is actually
4 effectuated.
5 Q But it's your understanding that something that is demoted but not removed
6 is still available?
7 A Yes.
8 Q And so, if I go onto Facebook and I search for that video, I can find it?
9 A Yes.
10 Q So it's not the same, for example, as if a school district decides to ban a
11 book, say, on slavery, and you can't find that book in the library; you have to go outside
12 the school to get it. That's not the situation with Facebook?
13 A If a piece of content is demoted on the platform, it is still able to be found if
14 it's sought out by a user, yes.
15 Q It's just not highlighted by Facebook?
16 A Yes.
17 Q And I think that's it for this exhibit.
18 I now want to ask about several of the previous exhibits. So I might need some
19 help with that. Well, actually, I'm going to -- you might not need them in front of you
20 for me to answer just -- ask some of these questions.
21 Do you recall seeing an exhibit, I believe an email from Rob Flaherty with a report
22 of COVID-19 vaccine misinformation, and you were asked about the phrase "this is
23 circulating around the building and informing thinking"?
24 A Yes.
25 Q Did that statement -- did you take that as a threat?

1 A No.

2 Q This is circulating around the building?

3 A No, I did not.

4 Q Did you take that as coercion?

5 A I did not.

6 Q You understood that just to be Rob Flaherty telling you what the White

7 House's thinking was, correct?

8 A I understood that to be Rob Flaherty telling me that this was part of what

9 was influencing their thinking, yes.

10 Q And, in fact, you preface that remark by saying: Don't read this as the

11 White House endorsement of these suggestions.

12 Correct?

13 A That's correct.

14 Q Now, there was a lot of questioning in the previous hour about the

15 disinformation dozen, as they're known. I want to start by talking about the President's

16 public comments. You were asked about President Biden making comments that social

17 media companies were killing people, correct?

18 A That's correct.

19 Q And that was in July of 2021?

20 A Yes.

21 Q The next day, he walked that back a bit, correct?

22 A I know he walked it back. I was not -- I'm not sure of exactly what the

23 timeline was, but yes.

24 Q And, by walking it back, he clarified that he meant individuals on the social

25 media platforms, not the companies themselves?

A I believe that's correct. I don't remember the exact characterization, but that sounds accurate.

Q And, nevertheless, you mentioned that, after he made the initial statement, that the social media companies were killing people, that the company, your company, decided that it was necessary to issue a public response?

A Correct.

Q And that response was issued by -- or at least it was signed publicly by Guy Rosen, correct?

A Yes.

Q And it was called "Moving Past the Finger Pointing." Does that ring a bell?

A That rings a bell.

Q The finger pointing by the White House and others?

A Yes.

Q And that post is still available on Meta?

A Yes.

Q Now, I want to ask you about exhibit 20. I'll see if I can find it.

Mr. Brown. Sorry. We don't have it.

[redacted] No, no. I'm going to look for it in this general pile in front of us. If you guys have extra copies of it, that would be helpful.

Ms. Jag. 9168 through 9172.

[redacted] Thank you.

Mr. Rice. Okay.

BY [redacted]

Q Okay. If you can look at page 9171. Now, I know that this is an email from Nick Clegg to Vivek Murthy, and I know that you did not write it, but I'm just going

1 to ask you what it says because I believe it was characterized as saying that the
2 disinformation dozen accounts were removed, but what it actually says is that accounts
3 tied to the disinformation dozen were removed, correct?
4 And I'm talking about the paragraph that begins with "we talked about the speed,"
5 a few lines down.
6 A Yes, that's correct.
7 Q And you were asked whether it was a coincidence that those accounts were
8 removed after the government -- after the President's statements.
9 A Yes.
10 Q You don't know when those accounts were removed, do you?
11 A No.
12 Q They may have been removed before the President made a statement.
13 A Yes.
14 Q And you don't know exactly what Mr. Clegg meant, or if you do, you can tell
15 me, by accounts tied to the disinformation dozen?
16 A I don't know. No, I don't have a recollection of what that meant, what that
17 referred to.
18 Q But the primary accounts of those individuals, the accounts under their
19 names are still up on Facebook, correct?
20 A I believe that's correct.
21 Q For example, Representative Kennedy's account is still available?
22 A Yes.
23 [redacted] And that's it for me for now.
24 Mr. Brown. Can we go off the record?
25 [Recess.]

1 [redacted] Can we go back on the record?

2 Mr. Brown. We're ready when you are.

3 [redacted] Okay.

4 BY [redacted]

5 Q You were just asked a couple of questions about demoting content as

6 opposed to removing it. I understand that that's not your specialty, but as far as you

7 know, when a user's content or account is demoted or the contents of the post, does the

8 user know about that? Are they given a warning, or are they in any way alerted to it?

9 A I'm not familiar with our process for alerting users. It's a better question

10 for the Content Policy Team.

11 Q Okay. Thank you.

12 As far as the accounts tied to the disinformation dozen question that we just

13 discussed, what would be the difference between an account tied to the disinformation

14 dozen versus an account belonging to the disinformation dozen?

15 A I don't know exactly what Nick was referring to. They could have been

16 accounts that were linked or connected through -- again, I would be guessing. I

17 shouldn't offer an answer. I would be guessing at that connection.

18 Q Okay.

19 [redacted] Do we have these? I just want to -- I can just read it, I guess.

20 So this email that we just discussed from Nick Clegg to Vivek Murthy with you

21 cc'd --

22 Mr. Brown. I'm sorry. We would want to see it.

23 [redacted] You want the --

24 Mr. Brown. Yes.

25 [redacted] I have one, but it just has writing on it. It was in the last -- I mean,

if you don't mind --

[redacted] Here you go.

[redacted] Do you want to take back our copy?

[redacted] Yes. This is -- oh, okay.

[redacted] I'm sorry, which exhibit number?

Ms. Jag. I think it's exhibit 20.

[redacted] 9171.

BY [redacted]

Q If you can look at 9171, that email we discussed earlier from Nick Clegg to Vivek Murthy, with you cc'd: We talked about the speed. Steps taken to further address the disinformation dozen. We removed 17 additional pages, groups, and Instagram accounts tied to the disinformation dozen. So a total of 39 profiles, pages, groups, and IG accounts deleted thus far, resulting in every member of the disinfo dozen having had at least one such entity removed.

So would that last clause indicate that every member of the disinformation dozen themselves had one such entity removed, had their accounts removed?

A I don't believe so, but, I'm not -- again, I'm not an expert on what Nick was conveying here.

Q Well, it says every member of the disinfo dozen having had at least -- so that would indicate to me that those people had one such entity. And then --

A I'm not sure what entity --

Mr. Brown. There's no question.

BY [redacted]

Q And then, just one further point on that, you were asked whether this removal process could have occurred prior to the President's statements. That second

1 sentence in the paragraph begins: I wanted to make sure you saw the steps we took
2 just this past week to adjust policies on what we are removing with respect to
3 misinformation, as well as steps taken to further address the disinfo dozen.
4 Would that suggest to you that the disinfo dozen were removed this past week or
5 those accounts tied to the disinfo dozen?
6 A It's hard to -- it's hard for me to know exactly what Nick was trying to portray
7 here. This is Nick's email. So it's difficult for me to decipher exactly what this meant.
8 Mr. Brown. [redacted] remember I told you earlier we were looking for the
9 document. I believe it's dated August 18, 2021, how we're taking action against vaccine
10 misinformation, and it's by Monika Bickert, which I believe has been introduced to you all
11 and hopefully answers some of your questions about that topic.
12 [redacted] Okay, great.
13 Ms. Jag. Do you know what the Bates stamp on that was?
14 Mr. Brown. I don't but it's on the internet as well. It's a public document.
15 [redacted] This is 22.
16 [Rice exhibit No. 22
17 Was marked for identification.]
18 Mr. Brown. Do you want this one back?
19 [redacted] Yes, please.
20 Mr. Rice. Okay.
21 BY [redacted]
22 Q So on October 19th, 2021, Flaherty wrote to you, with a number of other
23 people in the White House cc'd from HHS. He says -- he's talking about the 5 to 11
24 vaccine roll out: We'd like to talk about what we're seeing as the biggest headwinds.
25 We remain concerned about mis- and disinformation on feed and in groups and the wide

reach of hesitancy-inducing content across your platform. With that said, we hope, as ever, that this will be a productive and forward-looking conversation.

And then it looks like there's talk of scheduling a time early next week. Did that meeting occur?

A I don't recall the meeting. I don't, I don't recall.

Q You don't recall any meeting with the White House about the 5 to 11 vaccine?

A I don't recall.

Q Okay. Do you know who at Meta might have a recollection of that?

A No, I don't.

Q Okay.

BY [redacted]

Q Were you generally included in most meetings with the White House, between Facebook and the White House?

A I was the primary point of contact for the White House, so generally, yes.

Q Looking at this email, what did you understand the phrase the "biggest headwinds," what did you understand Mr. Flaherty to be referring to with that?

A Yeah, I think he -- I think he was telling us that he was going to relay that information during the meeting.

Q And do you know, sitting here today, what he meant by that?

A I don't know specifically, no.

Q Do you recall any discussions with the White House regarding headwinds that the White House was concerned about?

A I don't recall.

[redacted] Just two more.

1 Mr. Brown. What exhibit number is this?

2 [redacted] Twenty-four.

3 [redacted] Twenty-three.

4 [redacted] Oh, 23, okay.

5 [Rice exhibit No. 23

6 Was marked for identification.]

7 Mr. Rice. Okay.

8 BY [redacted]

9 Q Okay. On 9091, you wrote an email on February 4th to a number of people

10 in the White House, including Benjamin Wakana, Timothy Manning, Rob Flaherty,

11 Courtney Rowe, with Carrie Adams cc'd.

12 At the end -- well, yeah, at the end of the email, you say: We want to make sure

13 we're in lockstep with your teams, particularly to ensure that we're effective in our

14 efforts to slow the spread of COVID. If you have any questions about these options, I'm

15 happy to set up time with our teams to provide additional details.

16 What did you mean by being in lockstep with your teams?

17 A I was referencing our work on this specific set of priorities in the email and

18 with respect to our work to drive traffic to covidtests.gov and to get good information out

19 about how to get COVID tests.

20 Q Who did you work with on their teams?

21 A The individuals on the email, on the to line were the individuals that we

22 worked primarily with.

23 Q Okay.

24 Mr. Brown. While you're still looking, Rachel, the Bates on that document you

25 asked for is 6161.

1 Ms. Jag. Thank you.

2 [redacted] I don't think I have any more questions about this exhibit. Do

3 you?

4 [redacted] No.

5 [redacted] Okay. This is exhibit 24.

6 [Rice exhibit No. 24

7 Was marked for identification.]

8 BY [redacted]

9 Q So, in this email, you write to -- on June 22, 2022, you wrote to Rob and

10 team. This refers to Flaherty and other people in the White House: Wanted to ensure

11 you were aware of our policy updates following the early childhood vaccine approvals.

12 As of today, all COVID-19 vaccine-related misinformation and harm policies on Facebook

13 and Instagram apply to people 6 months or older.

14 We've expanded these policies in coordination with the CDC and ensured that we

15 also included false claims that might be connected to children, such as the false claim that

16 COVID vaccines cause multisystem inflammatory syndrome in children.

17 How did you expand these policies in coordination with the CDC?

18 A We sought expertise from a number of public health officials and experts,

19 including in the CDC. So the reference to coordination would have been through

20 discussions about -- you know, with public health experts.

21 Q And who at CDC did you work with?

22 A I was not part of those conversations with experts. I do not have a

23 recollection of who at CDC that would be.

24 Q Do you know who at Meta had those conversations?

25 A I don't.

1 Q Did you ever communicate with Carol Crawford at CDC?

2 A Not to my recollection.

3 Q When you say "ensure that we also included false claims," how do you

4 determine what false claims are?

5 A Through our -- that would be something I'm not familiar with. I'm not an

6 expert in that process.

7 Q Is that something that the Content Moderation Team would be?

8 A Yes, I believe so.

9 Q So you were just repeating, essentially, what they told you. Is that correct?

10 A I was relaying information that the team had provided.

11 Q Okay.

12 [redacted] If we could take a look at exhibit 22 again, which is 10046 Bates.

13 Mr. Brown. Too good to be true.

14 For future reference, my suggestion would be manila folders for each exhibit.

15 It's a best practice.

16 BY [redacted]

17 Q If I could call your attention to the sentence in the middle of the paragraph

18 from Ralph Flaherty, it says: We remain concerned about mis- and disinformation on

19 feed and in groups and the wide reach of hesitancy-inducing content across your

20 platform.

21 What did you understand Mr. Flaherty to mean by "hesitancy-inducing content"?

22 A I generally took this to mean that Mr. Flaherty was still not satisfied with our

23 approach to content on the platform.

24 Q And, just a point of clarity, hesitancy with respect to vaccinations?

25 A Yeah. I mean, I think that -- I think yes, generally, but I don't have any -- I

1 don't have clarity because it's written by Rob, and I don't know exactly what he
2 was -- intended by it.
3 Q Sure. So setting aside whether Mr. Flaherty intended to communicate this,
4 the question is: How did you interpret it? Did you have a sense of what Mr. Flaherty
5 meant by "hesitancy-inducing content"?
6 A No.
7 Q During your interactions with Mr. Flaherty, which we've gone over in a
8 number of exhibits, did what Mr. Flaherty consider to be hesitancy-inducing content, did
9 his understanding of that remain constant from February 2021 until October of 2021?
10 A It's impossible for me to say. I can say that he -- as is evident here in the
11 email in October and emails over many months, there was disagreement between
12 Mr. Flaherty and our Content Policy Team in terms of what content violated it and what
13 didn't.
14 Q Do you recall if the types of content that Mr. Flaherty was identifying earlier
15 in the administration in, we'll say, February of 2021, was consistent with what he was
16 identifying as problematic content in the fall of 2021?
17 A I wouldn't want to guess as to whether he was -- he had made alterations or
18 changes there.
19 Q So but you're having regular meetings with Mr. Flaherty, and it seems like
20 this issue is ongoing. Is that correct?
21 A It was an ongoing issue for many months.
22 Q And, on these calls, in an earlier round of questioning, you mentioned that,
23 from time to time, Mr. Flaherty would provide a specific example of what he thought
24 might be problematic content. And, again, understanding you don't remember what
25 those specific examples were, but it was your understanding that the purpose of that was

1 for Mr. Flaherty to communicate the White House's position on content they found to be
2 problematic. Is that correct?
3 A There was an assumption in the company that Mr. Flaherty spoke on behalf
4 of the White House.
5 Q And, as he's providing specific examples or is emailing you, or whatever it
6 might be, did you or anyone at Facebook start to gain a better sense of what the confines
7 were of what Mr. Flaherty understood to be problematic content?
8 A We didn't think of it that way in terms of confines. Again, it was our job to
9 relay our own policies and our own confines to the White House and to educate them as
10 to why we believed they were correct.
11 Q Sure. But, with respect to, as you testified, there was a disagreement
12 between Mr. Flaherty and Facebook's position on -- with respect to content and whether
13 there were any problems with it being on the platform, those disagreements appeared to
14 have persisted for at least a few months. Were the disagreements constant, or were
15 there new issues that were arising?
16 A The pandemic was constantly changing the scope of it, and it was an
17 unprecedented situation for the company and the country, and so issues would come up
18 that hadn't come up before. But there was no sense that it was a changed scope of
19 issues. We were always talking about content relating to the pandemic and the
20 platform.
21 Q Were there ever instances where you felt Facebook had adequately
22 addressed Mr. Flaherty's concerns and then he communicated that his concerns were
23 different or had evolved?
24 A I don't recall -- I don't recall a situation where that would have happened.
25 Q When communicating -- I mean, the White House's concerns, how did you

communicate these to Mr. Potts?

A Meaning how in terms of --

Q Just logistically. Was it over a phone call?

A It could have been over a phone call. It could have been over an email. It could have been -- yeah, those are two common ways of communicating.

Q Do you recall discussions where the White House raised issues with respect to true content but that true content that would induce hesitancy or lacked adequate context?

A I don't recall -- I don't recall the White House asking us to take content like that down, no.

Q Do you remember it being discussed during the calls?

A True content that would create hesitancy? I remember conversations around all sorts of different types of COVID content. I'm sure that was a topic of our conversation.

Q Mr. Flaherty refers to -- these are his words -- "the wide reach of hesitancy-inducing content." Do you recall during the calls that the White House was providing statistics or evidence of how far-reaching certain types of content were?

A I don't recall that.

Q Do you recall them providing any sort of basis to make that sort of claim in an email?

A I don't recall specifics, no.

[redacted] Can we go off the record, please?

[Whereupon, at 3:32 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

Transcribed Interview Transcript Errata Form

Interviewee	Brian Rice
Date of Interview	06/20/23
Date of Review	07/18/23
Name of Reviewer	Demisse Selassie
Signature of Reviewer	[signature]

Page	Line	Suggested Correction
93	5	Mr. Selassie → Mr. Brown

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: [redacted]

Wednesday, June 21, 2023

Washington, D.C.

The interview in the above matter was held in room 164, Cannon House Office Building, commencing at 10:05 a.m.

1 Appearances:

2

3

4 For the COMMITTEE ON THE JUDICIARY:

5

6 [redacted] COUNSEL

7 [redacted] DIGITAL ASSISTANT

8 [redacted] PROFESSIONAL STAFF MEMBER

9 [redacted] SENIOR SPECIAL COUNSEL

10 [redacted] COUNSEL

11 [redacted] MINORITY INTERN

12

13

14

15 For the SUBCOMMITTEE ON CRIME AND

16 FEDERAL GOVERNMENT SURVEILLANCE:

17

18 [redacted] MINORITY DETAILEE

19

20 For [redacted]:

21 REGINALD BROWN, ESQ.

22 JORDAN GREENE

23 Kirkland Ellis

1

2 [redacted] We can go on the record.

3 [redacted] This is a transcribed interview of [redacted].

4 Is that how you pronounced it?

5 [redacted]: [redacted]

6 [redacted] Chairman Jordan has requested this interview as part of the

7 committee's investigation of how and the extent to which the executive branch has

8 coerced and colluded with companies and other intermediaries to censor speech.

9 Would the witness please state your name for the record?

10 [redacted]: [redacted].

11 [redacted] On behalf of the committee, I want to thank you for appearing here

12 today to answer our questions. The chairman also appreciates your willingness to

13 appear voluntarily.

14 My name is [redacted] and I'm with Chairman Jordan's staff.

15 We'll now have everyone else from the committee who is here at the table to

16 introduce themselves, as well.

17 [redacted] [redacted] Chairman Jordan's staff.

18 [redacted] [redacted] Chairman Jordan's staff.

19 [redacted] [redacted] Chairman Jordan's staff.

20 [redacted] [redacted] Chairman Jordan's staff.

21 [redacted] [redacted] Chairman Nadler's staff.

22 [redacted] [redacted] Legal Intern, House Judiciary, Democratic staff.

23 [redacted] I would like to now go over the ground rules and guidelines that we

24 will follow during today's interview.

25 Our questioning will proceed in rounds. The majority will ask questions first for 1

hour, and then the minority will have an opportunity to ask questions for an equal period of time if they choose. We will alternate back and forth until there are no more questions, and then our interview is over.

Typically, we take a short break at the end of each hour. But if you would like to take a break apart from that, please just let us know.

As you can see, there's an official court reporter taking down everything you say to make a written record. So we ask you give verbal responses to all questions.

Do you understand?

[redacted]. Yes.

[redacted] So the court reporter can take down a clear record, we will do our best to limit the number of people directing questions at you during any given hour to just those people on the staff whose turn it is.

Please try and speak clearly so the court reporter can understand and so the folks down at the end of the table can hear you. It's important that we don't talk over one another or interrupt each other if we can help it, and that goes for everybody present at today's interview.

We encourage witnesses who appear before the committee to freely consult with counsel if they so choose, and it's my understanding you are appearing today with counsel. Is that correct?

[redacted]. Correct.

[redacted] Could counsel please state your name for the record?

Mr. Brown. Reg Brown, Kirkland Ellis.

Mr. Greene. Jordan Greene, Kirkland Ellis.

[redacted] Thank you.

We want you to answer our questions in the most complete and truthful manner

as possible. So we will take our time. If you have any questions or if you don't understand one of our questions, please let us know.

Our questions will cover a wide range of topics. So if you need clarification at any point, just say so. If you honestly don't know the answer to a question or don't remember, it's best not to guess. Please give us your best recollection, and it's okay to tell us if you learn information from someone else. Just indicate how you came to know the information.

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

You should also understand that, although this interview isn't under oath, by law, you are required to answer questions from Congress truthfully.

Do you understand?

[redacted]. Yes.

[redacted] This also applies to questions posed by congressional staff in an interview.

Do you understand?

[redacted]. Yes.

[redacted] Witnesses who knowingly provide false testimony could be subject to criminal prosecution for perjury, or making false statements under 18 United States Code 1001.

Do you understand?

[redacted]. Yes.

[redacted] Is there any reason you are unable to provide truthful answers to today's questions?

1 [redacted]. No.

2 [redacted] Finally, I would like to note that the content of what we discuss

3 here today is confidential. We ask that you not speak about what we discuss in this

4 interview to any outside individuals to preserve the integrity of our investigation.

5 For the same reason, the marked exhibits that we use today will remain with the

6 court reporter so that they can go in the official transcript. And any copies of those

7 exhibits will be returned to us when we wrap up.

8 All right. That's the end of my preamble.

9 Is there anything my colleagues from the minority would like to add?

10 [redacted] Not at this time, no.

11 I will -- I just want to alert everybody one of my colleagues will coming in to hand

12 me something, [redacted]. And then she'll just be leaving.

13 [redacted] Okay.

14 [redacted] Thanks.

15 [redacted] The clock now reads 10:05 a.m. We will start the first hour of

16 questioning.

17 EXAMINATION

18 BY [redacted]

19 Q [redacted], what's your current place of employment?

20 A I work at Meta.

21 Q And what's your current title?

22 A I am head of security policy.

23 Q And what is your educational background, beginning with college?

24 A For college, I attended the University of Chicago.

25 Q And after college?

1 A After college, I was in the Peace Corps.

2 Q Okay. Do you have any postgraduate degrees?

3 A Yes.

4 Q And what are those?

5 A I have a J.D.

6 Q And where did you go to law school?

7 A I went to Yale.

8 Q And what is your employment history following law school?

9 A Following law school, I was a Henry Luce Scholar.

10 Q And after that?

11 A After that, I joined the Department of Justice as an Honors attorney.

12 Q Okay. Which division were you in?

13 A The Criminal Division.

14 Q And after -- or how long were you at DOJ for?

15 A I was at DOJ for approximately 3 years.

16 Q Okay. And after DOJ?

17 A After 3 years, I was detailed to the National Security Council.

18 Q How long were you with the National Security Council?

19 A Between 2 and 3 years.

20 Q At a high level, what did you work on with the National Security Council?

21 A I was director for cybersecurity policy. So I worked on a range of issues

22 involving cybersecurity, including our international work.

23 Q What years were you at the National Security Council?

24 A I joined the National Security Council in 2013, and I left in 2015.

25 Q And where did you work next following the National Security Council?

1 A Following the National Security Council, I joined a cybersecurity startup
2 named Illumio.
3 Q And how long were you at that startup for?
4 A I was at the startup for, I believe, 2 years.
5 Q Okay. And after the startup, where did you work next?
6 A After the startup, I joined Meta.
7 Q When approximately did you join Meta?
8 A It would have been January of 2018.
9 Q And what was your position when you joined Meta?
10 A My position when I joined Meta is the position that I currently have.
11 Q Okay. And you said your title was head of security policy?
12 A That -- we changed my title, I think, about a year in, but it was a similar
13 function.
14 Q Okay. And in your position what are your responsibilities?
15 A The core work for my team is to track and counter determined adversaries
16 across our platform, so to work across the company and with other organizations to, for
17 example, counter foreign interference.
18 Q And how big is your team?
19 A It's a relatively small team. It's designed to be a relatively small team,
20 around a dozen people.
21 Q And from when you joined Meta in January 2018 until today, has your team
22 size changed?
23 A Yes.
24 Q Okay. And can you say a bit more about how it's changed during your time
25 at Meta?

1 A Sure. When I joined, I did not have a team.

2 Q Okay.

3 A So I have -- the team has grown over the course of the last several years.

4 Q Is your position for all of Meta, or is it only for certain products within Meta?

5 A I -- we track and counter bad actors across Meta, although some products at

6 Meta are more independently operated than others.

7 Q So would Facebook, Meta, and WhatsApp all fall within your team's

8 purview?

9 A Sorry. You said Facebook, Meta?

10 Q Excuse me. Facebook, Instagram, and WhatsApp.

11 A Yes.

12 Q Okay. Who do you report to?

13 A I report to [redacted].

14 Q Okay. And you said there's about a dozen people that report to you right

15 now?

16 A Approximately. A dozen people on the team, total.

17 Q Okay. How many of those dozen report to you?

18 A Approximately half report to me.

19 Q And what about the other half?

20 A They report to my deputy.

21 Q And who's your deputy?

22 A [redacted].

23 Q When did [redacted] gain the deputy role on the team?

24 A [redacted] joined the company in 2018, about a year after I joined.

25 Q Okay. And was he your deputy from the beginning?

1 A No. I suppose when he took on that sort of role, it would have been
2 approximately in 2021.
3 Q Are you familiar with the terms misinformation, disinformation, and
4 malinformation?
5 A Broadly, yes.
6 Q And what's your understanding of the differences between those three
7 terms?
8 A The definitions are pretty disputed. People disagree on what they mean.
9 They also disagree on what constitutes each particular term.
10 Q Within Meta, is a distinction made between misinformation, disinformation,
11 and malinformation?
12 A We would say that misinformation is content that is provably false or
13 misleading, and so, the essence of misinformation is focused on the nature of content
14 itself.
15 Disinformation, as it is used in more broadly and in the academic community, is
16 content that is provably false or misleading, that is shared intentionally. So it adds in an
17 actor component, attempting to understand the intent or motivation of the actor behind
18 it.
19 We generally don't use that term within Meta. We focus instead on the behavior
20 of actors or the content that they're sharing.
21 Q And does Meta have a team that handles malinformation?
22 A Malinformation is the least defined term of these three. We don't have a
23 team that handles malinformation.
24 Q Okay. Does your team handle misinformation or disinformation?
25 A My team focuses on tracking and countering determined threat actors.

1 One of the components of that is what we call influence operations which are -- which
2 some people would equate with disinformation.
3 Q Are you familiar with the term "coordinated inauthentic behavior"?
4 A Yes, I am.
5 Q And what is that?
6 A Coordinated inauthentic behavior is one of our policies.
7 Q And what does Meta mean by coordinated inauthentic behavior?
8 A It's a term that we use to describe violating networks that are engaging in
9 influence operations that we would enforce against.
10 Q Is your team the -- is your team the team that has primary responsibility for
11 handling coordinated inauthentic behavior?
12 A Yes. And if you have questions about that, we regularly publish details on
13 networks that we enforce against. We currently can publish them quarterly. We've
14 enforced against more than 200 networks since 2017, and we publish details on these.
15 So you can see both the specific definition of the term "coordinated inauthentic
16 behavior" and some useful information about the different networks we've enforced
17 against.
18 Q And when you reference influence operations, would that include foreign
19 malign influence operations?
20 A Yes.
21 Q Does your team handle issues related to potential hack-and-leak operations?
22 A Yes. We handle a wide range of threats including what we would call cyber
23 espionage which are essentially hacking campaigns, something called coordinated
24 adversarial reporting, influence operations, frauds and scams, and certainly also hack and
25 leak.

1 Q To your understanding, which team at Facebook has primary responsibility
2 for issues related to misinformation?
3 A The misinfo policy team.
4 Q Okay. Who leads that team?
5 A They roll up to [redacted].
6 Q Does [redacted] work on issues related to misinformation?
7 A Not directly.
8 Q Okay. Do you know what other responsibilities are within [redacted]'
9 scope?
10 A [redacted] leads our Trust and Safety organization.
11 Q Okay. And which other teams fall under Trust and Safety?
12 A In addition to my team, we also have the Safety team.
13 Q Any others?
14 A The Dangerous Organizations team.
15 Q Any others?
16 A The Human Rights Policy team.
17 Q Any others?
18 A The External Engagement team.
19 Q Who at the company would be the equivalent for [redacted] with respect to
20 the Misinformation team?
21 A The Misinformation team rolls up to [redacted].
22 Q Okay. Is there a team leader? Is [redacted] the team leader?
23 A It rolls up to [redacted]
24 Q What do you mean by "rolls up"?
25 A [redacted] responsible for the decisions that the team makes and the policies

1 that they enforce.

2 Q Okay. Is there anyone on that team that you work with?

3 A My team works with that team regularly.

4 Q Okay. Who do you work most regularly with on that team?

5 A I work with different individuals on the team. Perhaps frequently, would

6 be [redacted].

7 Q And who is she?

8 A She handles misinformation policy issues on the team.

9 Q Do you know what her title is?

10 A I don't actually know what her title is.

11 Q Do you know if she has a leadership role within the team?

12 A She does have a leadership role within the team.

13 Q And what are the nature -- what's the nature of your interactions with

14 Ms. Isola?

15 A Well, for the misinfo policy team, generally, we tend to handle -- so I don't

16 know if -- there's a useful paper written by a researcher named [redacted] called

17 The ABC Framework. I don't know if you've come across it in your research.

18 It outlines a way to think about adversarial threats online, and it essentially

19 describes that it's useful to think about threat actors, and threats in terms of actors,

20 behavior, and content, So the content they share, the behavior they engage in, and then

21 the nature of the actor, right?

22 So if you think about a network of coordinated inauthentic behavior, a foreign

23 interference campaign being run, for example, by actors from Russia or China, the actor

24 would be the individual behind the campaign. The behavior would be the fact that

25 they're using networks of fake accounts to mislead people who's behind the campaign,

1 and the content would be whatever they share.

2 I think the most focus is generally -- the most focus is generally laid to the content

3 itself, the nature of what's said. We have found, when you're trying to track and

4 counter determined adversaries, it actually turns out that the behavior and the actor

5 dimensions are more, or at least as important in terms of countering these adversaries.

6 And so I give you that framework because it animates a lot of how we think about

7 the problem at Meta. And generally, my team focuses on the actor and behavior

8 dimension, whereas, for example, the misinfo policy team or other teams focus on the

9 content dimension.

10 And so in terms of how we collaborate, we often -- I think externally people often

11 blur these lines and think about content or behavior together. And so, the misinfo

12 policy team, Justine and others, will handle the specific issues regarding content, whereas

13 we would handle specific issues regarding actor or behavior.

14 Q During that answer you mentioned that you said something to the effect of

15 "we have found." Were you referring to the company, Meta?

16 A I suppose so, yes. Meta and then my team, our work in tracking and

17 countering determined adversaries, we have found, Meta, that it is particularly important

18 to be aware of and enforce against the behavior they engage in and the actors who are

19 behind it.

20 So a useful example for this, if you think about coordinated inauthentic behavior,

21 that is a policy that's focused entirely on the behavior of these actors, because often, the

22 content they share is intentionally unobjectionable, and it's designed often to not violate

23 the policies of social media platforms.

24 Q Okay. Can you provide an example of how your team works with the

25 misinformation team? So I hear the division of the responsibilities. If you can say a bit

1 more of like an example that requires both teams to be working together.
2 A I think the reason we most frequently work together is because externally,
3 the behavior and content dimensions get blurred a lot. And so you might
4 expect -- externally, people might expect that these two things are the same. And so to
5 disaggregate them, particularly for external partners, we might be on the same panel to
6 communicate these differences.
7 Q When you say some people blur content, who are you referring to?
8 A Widely, I mean, no one in particular. I think the expert community, even
9 the terms "misinformation" and "disinformation" sort of blur this notion of content and
10 behavior.
11 Q Who are some of the external partners that you're referencing?
12 A Well, just now, I'm just describing any expert, whether they -- or really
13 discussing whether an expert or not in this area will often grapple with this question of
14 how you separate behavior and content. So there's no particular -- I don't know if I used
15 the word "partner" but there's no particular partner in this context. It's just any
16 external group.
17 Q Okay. Sure. So setting aside partner, if you could say a bit more. So you
18 mentioned that someone is blurring content and behavior.
19 A Uh-huh.
20 Q And it sounds like internally, Meta has a good sense of sorting that out.
21 But can you say a bit more about how the blurring leads to action items that that would
22 necessitate?
23 A Certainly. So let me give you an example of a coordinated inauthentic
24 behavior network that we've enforced against, which may be useful. In -- I believe it
25 was September of 2022, we removed -- we disclosed detail about our removal of a

1 network that was run from China. And this was a coordinated operation. So to
2 enforce -- for something to violate coordinated inauthentic -- our policy against
3 coordinated inauthentic behavior, there needs to be a coordinated network of counts,
4 pages, groups, or other assets that are working together to mislead viewers or users
5 about who's behind that campaign. And then they need to centrally rely on fake
6 accounts to do that.
7 Those are the key components of what we would call CIB, a CIB enforcement. All
8 of those are about behavior, by which I mean they are using fake accounts. They are
9 misleading people about who's behind them. They're working together. Those are
10 behavioral factors.
11 On this particular network, when we enforced on it, this was a network operated
12 out of China that was targeting public debate in a couple of places. But the United
13 States was one of them. This was ahead of the midterms. They were operating
14 multiple clusters of fake accounts; so fake accounts that sort of to the public would look
15 totally unrelated but, in fact, these actors were controlling all of them.
16 One cluster was representing itself as American liberals, and was focused primarily
17 on criticizing the Republican Party, Senator Rubio, among others. Another cluster were
18 representing themselves as American Conservatives and was posting content that was
19 deemed or designed to target President Biden and the Democratic Party.
20 This is an instance where you have one operation running two seemingly opposing
21 networks. The content is designed to make them look like they are completely separate
22 and to target different communities.
23 In a situation like that, you would expect people seeing it might think the content
24 was part of the motivation for our enforcement. In fact, when we enforce on CIB, we
25 enforce on the behavior, not the content. And that distinction is particularly important

1 because these threat actors will use content designed to be divisive, designed to call
2 questions.
3 Enforcing on the behavior and then being transparent about that is an important
4 technique that we use to be able to do this consistently around the world.
5 And so, for a network like this, the role of these two teams, you might expect
6 people would think that that work involved an assessment of the content. In fact, it
7 does not. And so we don't work together on the enforcement. We're actually
8 completely separate.
9 But in explaining what happened, and in educating people or answering questions,
10 my team is going to be best placed to answer questions about the behavior and the
11 enforcement. And the misinfo policy team is going to be better placed to talk about
12 questions that might arise about the content.
13 Q So in this example you just gave, [redacted] and her misinformation team did
14 not play any role in the enforcement?
15 A Correct.
16 Q Okay. And when you're referencing working with her team, at least with
17 respect to this example, it's relaying and explaining what Meta did, and explaining that to
18 external partners?
19 A Correct.
20 Q Okay. Other than relaying information and providing explanations to
21 external partners, does your team work with [redacted] or the misinformation team?
22 A Occasionally, but not that frequently.
23 Q Okay. And on the occasions you do, what is the context of those
24 interactions?
25 A When we are developing new policies, it's important to separate out

1 whether we're talking about behavior or content. So we might work with them to make
2 sure that we're drawing clear lines.
3 Q Do you recall any examples of working on policies with the misinformation
4 team?
5 A No specific examples of working with them, but I would say generally, for
6 instance, if we're crafting ours, when we crafted our CIB policy, or if we're crafting our
7 cyber espionage policy, we'll want to make sure that we're not crossing any lines into
8 content and that they understand where the lines should be.
9 Q When you're drafting the CIB policy, who at Meta is the final decision-maker
10 as far as what the final policy looks like?
11 A Well, the CIB policy was drafted actually just as I was joining the company.
12 So it was some years ago at this point. Policies and process evolve over time. But
13 whenever we go through and review one of these policies, we make sure that we have
14 good awareness of it across the company.
15 Q If change is needed to be made to the CIB policy, would your team have
16 primary responsibility for revising it?
17 A For that policy, if it was sort of a relatively minor change like we were
18 clarifying something, it would be a straightforward process, yes.
19 Q Okay. And what about significant changes?
20 A Then I think one of the things that we've concluded is it's very important to
21 be transparent about our policies and the process around that. And so we would have a
22 broad process to make sure that the company was aware and that people external were
23 aware. We publish these policies online, in our community standards.
24 And so, we want to make sure that people see them and can see sort of the
25 change. So you can actually see a change log to observe how changes are made and

1 take similar steps.

2 Q You mentioned the community standards. Is the hack-and-leak policy

3 separate from the CIB policy?

4 A Yes.

5 Q Can you state again if you team has primary responsibility for the

6 enforcement of the hack and leak policy?

7 A Yes.

8 Q Do you know when that policy was first adopted?

9 A I believe it was adopted -- I don't remember the exact date but it was sort of

10 mid-2020.

11 Q Did you work on the development of that policy?

12 A Yes.

13 Q And do you recall which other teams, if any, from Facebook were involved in

14 the development of that policy?

15 A I don't know about specific teams. But within [redacted] org, there

16 were a number of people thinking about issues around the 2020 elections at that time.

17 Q So is it concern about the 2020 elections that led Facebook to adopt a

18 hack-and-leak policy?

19 A In part, yes.

20 Q What specifically about the 2020 election?

21 A As we were preparing for the 2020 elections, we identified that one of the

22 likely risks it was important to prepare for was a hack-and-leak campaign from a foreign

23 threat actor like Russia.

24 Q And by "we," do you mean Facebook?

25 [Discussion off the record.]

1 [redacted]. My apologies. Could you say that again?

2 [redacted] In your previous answer you mentioned "we."

3 Did you mean, when you say "we," are you referring to the company?

4 [redacted]. Uh --

5 BY [redacted]

6 Q Your team.

7 A We -- in reference to what? My apologies. What did I say "we" in

8 reference to?

9 Q You said it was with reference to the 2020 election and that you -- "we" had

10 identified that it was likely -- there was likely a risk relating to hack and leak.

11 Who is doing the identifying?

12 A "We" is the company, yes.

13 Q All right. And would that be primarily your team in particular? Who -- let

14 me strike that.

15 How is -- how did the company identify that hack and leak was a, you know,

16 significant enough risk?

17 A Yeah. So we, "we," the company, work to protect elections around the

18 world. And in the lead-up to the 2020 election, beginning in 2019, we ran an exercise

19 which we call Threat Ideation Exercise to sort of understand what the potential risks

20 would be like for the 2020 election.

21 [redacted] I'm sorry. Can I ask? On threat, what exercise?

22 [redacted]. Threat ideation.

23 [redacted] Ideation.

24 [redacted]. Yes. This -- and one of the important risks we identified was hack

25 and leak.

1 A key part of the reason for this was, of course, that Russian actors deployed hack
2 and leak as a technique to target the 2016 elections in the United States. They deployed
3 hack and leak as a technique to target the French elections in 2017. They tested some
4 techniques that looked like a hack and leak in 2018 for our midterms. And already in
5 2019 and early 2020, there was some indication that Russian-linked actors were taking
6 the first steps that could prepare them to conduct a hack and leak in 2020.
7 BY [redacted]
8 Q When you say there was some indication, is this evidence, evidence that
9 Facebook had internally?
10 A This is -- I'm referring to public information. So in late 2019, which I believe
11 it was December, but in late 2019, Andrii Derkach, who was a prominent Ukrainian
12 politician who at the time was widely believed to have links to Russian intelligence and
13 who subsequently actually the Treasury Department sanctioned for those leaks -- links,
14 began posting online, suggesting that he had sensitive information, stolen information,
15 linked to Burisma that he was going leak. So there was a suggestion already from this
16 actor.
17 Then in January, there was public reporting that Russian military intelligence,
18 specifically the GRU, had hacked into Burisma which is a Ukrainian oil company.
19 Q Is your team monitoring what's out in the public domain or external partners
20 sharing this public information with you? Do you know how it came to the company's
21 attention?
22 A I don't remember how the specific posts came to our attention, in particular.
23 But we do monitor what's happening in the external domain.
24 Q And do external partners ever submit information on these sensitive issues
25 to your team?

1 A When you say information, what are you thinking of, or what do you mean?

2 Q With respect to -- we'll focus on hack and leak. Going back -- you answered

3 earlier. You said there was indication --

4 A Uh-huh.

5 Q -- for a hack and leak.

6 With respect to any evidence, any indication, was any of that provided by an

7 external partner?

8 Mr. Brown. There's a New York times article on the hack-and-leak stuff. It's

9 widely available. We're happy to make a copy of that available to you if that would be

10 helpful from January.

11 BY [redacted]

12 Q Okay. We understand there's some evidence that's in the public domain,

13 but we're trying to get a sense of his team. And there's honestly enough to -- that led to

14 a revision of the policy in the summer of 2020.

15 So picking back up with respect to the evidence, indication, some of it as

16 referenced in the public domain, you mentioned that your team does monitoring.

17 Were there external partners that were sharing this information with you?

18 A I don't remember external partners in particular but there was quite a

19 lot -- and Reg referenced some of it -- of external public discussion about the risk of hack

20 and leak, particularly from Russian actors. So within the sort of public security

21 community, whether you're talking about reporters covering it, or experts discussing it,

22 there was a lot of external discussion of this particular risk.

23 And the external discussion makes some sense because at the time it made some

24 sense, because it's a technique that Russian actors have used, and had used routinely in

25 the past.

1 I mentioned 2016, 2017, and 2018. Those were very recent examples. But if
2 you look back historically, Russian actors had used similar techniques and similar tactics
3 even before the internet age.
4 Q Did the Federal Government ever provide information regarding
5 hack-and-leak evidence?
6 A Yes, but it was later.
7 Q Okay. And by later, what do you mean?
8 A Well, in August of 2020, the Director of National Intelligence put out a public
9 report where they cited a risk -- I don't remember the exact language -- a risk of a
10 hack-and-leak operation from Russian actors involving Burisma that would be used to
11 target then Vice President and candidate Biden.
12 Q Prior to August of 2020, are you aware of whether the Federal Government
13 provided any information regarding the risk of a hack-and-leak operation?
14 A Prior to August?
15 Q Yes.
16 A I'm not sure of the exact timing. We had a regular sync with a number of
17 U.S. Government agencies. At one of those meetings this was a particular topic of
18 discussion that the U.S. Government added, but I don't remember if it was prior to August
19 or post.
20 Q Do you recall who at the company was primarily responsible for drafting the
21 hack-and-leak policy?
22 A My team.
23 Q Did your team initiate the decision to revise the hack-and-leak policy, or was
24 it ordered from someone outside the team?
25 A I don't remember exactly where it started. But it began from a recognition,

1 a realization, and a conclusion that the threat of hack and leak, particularly from foreign
2 actors, was a significant one, and the desire to make sure that we had the tools that we
3 needed from a policy perspective to respond if there was a foreign, government-backed
4 hack-and-leak campaign.
5 BY [redacted]
6 Q What were the regular syncs you mentioned with government agencies?
7 A So beginning as far back as -- I don't remember exactly when they started
8 but we initiated periodic meetings with representatives of the U.S. Government to talk
9 about foreign interference, and to talk about the threats that might be posed by foreign
10 governments to our elections. That began ahead of the 2018 midterms, and continued
11 through the 2020 election.
12 Q Sorry. You said you -- Meta initiated them. So Meta approached the
13 government agencies? Is that --
14 A I said we began them. I don't recall who approached who.
15 Q Okay. And which agencies?
16 A It was hosted by CISA at DHS, but the FBI participated. DNI participated.
17 There were some other agencies from CISA that participated at different points.
18 [redacted] Did you --
19 [redacted]. And I should say, for clarity, other companies participated, as well.
20 It wasn't just Meta.
21 [redacted] Oh, which companies?
22 [redacted]. There was a number of companies that participated at different
23 points, but certainly Google was part of that. Microsoft was part of it. Twitter was
24 part of it.
25 BY [redacted]

1 Q Are you familiar with policy forums, internal policy forums that [redacted]
2 [redacted] would host at the company?
3 A Yes.
4 Q And what are those?
5 A The policy forum is a process that we use to revise substantially revise, I
6 suppose, the community standards.
7 Q And how frequently do they do it?
8 A There isn't a set schedule for them. They occur when there are changes
9 that we need to make to our public community standards.
10 Mr. Brown. [redacted] we're going to likely be producing on that topic. It's
11 information we try to make available to the public, and I expect this week we'll be
12 producing information on those.
13 [redacted] Okay. Do you recall if there was a policy forum regarding the
14 adoption of a hack-and-leak policy?
15 [redacted]. I don't recall that there was a policy forum about that.
16 Mr. Brown. There was not.
17 [redacted] Okay.
18 [redacted]. And you can verify, as Reg mentioned.
19 Mr. Brown. I just did. There was not.
20 [redacted] Okay.
21 BY [redacted]
22 Q Do you recall if there was a policy forum with respect to any changes to the
23 coordinated inauthentic behavior?
24 A I don't believe so.
25 Q Did you ever present at these meetings?

1 A I don't recall presenting at them, but it's certainly possible?

2 Q If we could turn back to your team's work with [redacted] and the

3 misinformation team, so other than the -- making sure the development policies, there's

4 a clear distinction between actor behavior and content, and other than your two teams

5 working to relay explanations to external partners, are there other occasions in which

6 your two teams worked together?

7 A There aren't that many specific -- I mean, I'm not sure I recall specific

8 occasions where we worked together. I think, when you talk about the hack-and-leak

9 policy, there -- there's a content side to the discussion and a behavior side of the

10 discussion. So that's another instance where we would have crossed.

11 Q And can you say a bit more? What would be the content aspect of the hack

12 and leak?

13 A Well, it's not so much an aspect of hack and leak. But when a story is

14 posted, or a piece is posted, you could ask a question about whether it is a hacked

15 operation from a foreign -- so the hack-and-leak policy essentially says that if we are

16 seeing -- that we can take action if we see a hacked -- content that has been hacked and

17 leaked as part of a foreign interference operation, or foreign influence campaign. So

18 that's a behavioral assessment, right?

19 You might also expect there are questions about content that is published in this

20 way. And so that would be where the misinfo policy team would be more involved than

21 us.

22 Q So when a hack-and-leak policy was adopted, was there a content aspect

23 that was adopted, either within that hack-and-leak policy or changes to the

24 misinformation policy?

25 A No.

1 Q So what is your understanding of what role, if any, the content team would
2 play with the hack and leak?
3 A They -- whenever we -- with hack and leak, in particular, I mean, whenever
4 we have a story that's posted, there may be content analysis for violations of that policy
5 or sharing with third-party fact-checkers so they can do their own independent
6 assessment?
7 Q Is the process for fact-checking or otherwise reviewing violations of the
8 misinformation policy, is that any different when the content comes from a potential hack
9 and leak?
10 A No.
11 Q Are you familiar with Facebook's third-party fact-checking program?
12 A Broadly, but I'm not an expert on it.
13 Q Your team doesn't work with the fact-checking team?
14 A No.
15 Q Does Ms. Isola's team work with the fact-checking, third-party fact-checkers?
16 A Yes.
17 Q You mentioned that about half a dozen of your team reports to you, the
18 other half to [redacted].
19 Is there a division of responsibilities geographically? Topically? How does your
20 team decide who reports to who?
21 A My team is divided into a set of different pillars. Each pillar has kind of a
22 substantive focus.
23 Q What are those pillars?
24 A The first pillar is the pillar that David leads which is called Threat Disruption.
25 Q And what is --

1 [redacted] Can you repeat that? I'm sorry.

2 [redacted]. Sure. Threat disruption. That's the first pillar, and that's the

3 pillar that [redacted] leads.

4 BY [redacted]

5 Q And what is threat disruption?

6 A Threat disruption works with our investigators to identify, remove, share

7 information on, and expose campaigns from bad actors around the world. So our threat

8 reports that we mentioned, that team works on putting them out.

9 Q Okay. And what are the other pillars?

10 A We have another pillar called Community Defense.

11 Q And what is that?

12 A If threat disruption is focused on the bad actors, Community Defense is

13 focused on trying to protect the good actors, people who might be targeted. So they

14 work to improve account security and to help targets of operations.

15 Q And who leads that pillar?

16 A Different individual on my team.

17 Q Okay. Are there additional pillars?

18 A There's a third pillar which is called threat ideation.

19 Q I think you started to cover that earlier. But can you say what that is?

20 A Threat ideation is focused on essentially strategic foresight. When we

21 think about bad actors, if we are adopting a new policy, or we are preparing for a major

22 event like an election, how do we think through how a bad actor might target that event,

23 and then put protections in place to get ahead of that.

24 Q And who leads that pillar?

25 A A different person than [redacted] as well.

1 Q Okay. Someone that reports to you?

2 A Yes.

3 Q When it comes to identifying coordinated inauthentic behavior, in other

4 words, fake accounts, what percent are identified internally from Facebook?

5 A I don't know the exact percentage at this point.

6 Q Are some percentage -- is there some percentage that is identified from

7 external partners?

8 A We do get information from external partners. That doesn't identify a

9 network for us, but sometimes it will lead us to find a network based on our own

10 investigations.

11 Q And who are some of those external partners?

12 A We get information from a wide range of external partners. Our policy has

13 been, if someone wants to share information with us, we would like to receive that. Any

14 time we get information, we then investigate it ourselves. If we independently

15 determine that it leads to a violation of our policies, then we will take action but only

16 after our own investigation.

17 Mr. Brown. Can we go off the record?

18 [redacted] Go off the record.

19 [Discussion off the record.]

20 Mr. Brown. Ready to go back on.

21 [redacted] Go back on the record, please.

22 BY [redacted]

23 Q Sorry. You started to say that your team welcomes information when

24 people are able to share it.

25 Who are some of the external partners that will share information with your

1 team?

2 A As I said, it's a very wide range. We would much rather receive information

3 than not. If you go to our public threat reports, you can actually see we often will note

4 if an operation was identified based in whole or in part. Based on information shared by

5 a third party, we will note that in the threat reports.

6 Q Do these external partners include university researchers?

7 A They could.

8 Q Okay. What about the government?

9 A It could, yes.

10 Q Are you aware of instances where the Federal Government provided

11 information?

12 A Yes.

13 Q Which agencies most frequently communicate with your team?

14 A Meta speaks most regularly to -- well, in terms of information-sharing, most

15 regularly information is shared to us from the FBI within the U.S. Government.

16 Q And you mentioned that your team receives information and then

17 independently assesses whether to take any sort of action. Are there instances where

18 your team receives information and decides not to take any action?

19 A Yes.

20 Q I don't know if this is quite the right term. But we'll say a "false positive" or

21 information, you know, where an external partner thinks there may be inauthentic

22 particular behavior, or some sort of foreign network account, when you receive

23 information and decline to take an action because you find that there's nothing there, do

24 you recall what the most common examples are of why the external partner was

25 incorrect?

1 A No. There's a wide range of this, and often, external partners may not fully
2 understand our policy definitions or lines. And so, this is partly why we would rather
3 receive the information and assess it ourselves, because external partners aren't going to
4 be well-suited to sort of knowing where these lines should be.
5 Q Do you recall instances, when the Federal Government was sharing
6 information, where your team did not take action?
7 A I don't recall specific instances, but I know that they happened.
8 Q And do you recall any of the reasons why that was the case?
9 A There have been times when they've shared information. Often when they
10 would share information with us, it's not about our platform. It might be about a
11 website or something else that they know openly off of our platform, and sometimes in
12 that case, there's no action for us to take.
13 Q Okay. Other examples?
14 A I -- as I said, I don't have specific examples, but I know there are times that
15 we have not taken action.
16 Q When -- when the Federal Government provides information about potential
17 inauthentic behavior, do they, when providing this information, identify whether it's
18 domestic or foreign?
19 A In my experience, the Federal Government shares information -- every time
20 the Federal Government has shared information with us, that I recall, they have explicitly
21 said that they believe it is foreign.
22 Q Do you recall if your team ever, after it looked into this information, found
23 otherwise?
24 A I don't recall specific instances of that.
25 Q Absent the Federal Government, just other external partners that you

1 referenced, would they, when providing information, identify whether it was foreign or
2 domestic in nature?
3 A It depends entirely on the partner.
4 Q Okay. Which partners would more frequently be able to identify whether it
5 was foreign or domestic?
6 A It's -- it's not necessarily whether they're able to. It's whether that's the
7 concern they're focused on or not.
8 Q Okay. Could you say a bit more? What's an example of an external
9 partner that isn't concerned about whether the behavior's foreign or domestic?
10 A Well, our coordinated inauthentic behavior policy does not require that
11 behavior be foreign in order to enforce on it. One of the unfortunate truths is that if
12 you look around the world, you see governments, foreign governments, using deceptive
13 techniques to target their own people.
14 We're here talking, and focusing quite a bit on the United States, which certainly
15 makes sense. Of our enforcements around the world, the majority of them target
16 people in the global majority, in different parts of the world.
17 And approximately half or more of the CIB operations that we enforce against are
18 domestic in nature. And, in fact, many of them are governments targeting their own
19 citizens.
20 And so, the domestic-foreign component is particularly important in this context
21 as we talk about U.S. elections. But more broadly for our work, you certainly see
22 domestic violations of the CIB policy.
23 Q And some percentage of those domestic violations you're referring to are
24 U.S. domestic violations.
25 A There have been violations within the United States, yes, but none

1 associated with the government that I'm aware of.

2 Q Okay. Is there a subset of your team that focuses on the United States

3 specifically?

4 A No.

5 Q Okay. Did anyone on your team, when developing the Facebook's

6 hack-and-leak operations, ever consult with external partners when developing that

7 policy?

8 A I don't recall if that happened.

9 Q Okay. Who else was involved in developing the policy?

10 A David was certainly involved.

11 Q Did he have primary responsibility on the team?

12 A I don't -- I don't -- I don't believe so.

13 Q Do you recall who did?

14 A There was another team member who reported to David, who worked on

15 the hack-and-leak policy as well.

16 Q Do you recall who that was?

17 A It was [redacted].

18 Q And is she still a member of your team?

19 A She recently departed.

20 Q In addition to the FBI, do you recall which other Federal Government

21 agencies will provide information to your team from time to time?

22 A I don't recall other Federal agencies providing information to my team.

23 Q Okay.

24 A Specific information sharing about an operation, for example.

25 Q You don't -- you don't recall.

1 A I don't.

2 Q Okay. When information is received from an external partner, who on your

3 team is receiving it?

4 A Generally, that information would actually go to either the Threat

5 Intelligence team or the Legal team. And then my team would get involved as the

6 investigation developed. We wouldn't necessarily be directly involved.

7 Q Okay. And what is the threat investigation team?

8 A It's a team that does -- it's our investigative team. It's the team that

9 investigates threat actors.

10 Q And with respect to investigating threat actors, which other teams do they

11 work with, in addition to yours?

12 A In addition to mine?

13 Q Yeah.

14 A Our legal team.

15 Q Okay. So all of their investigations are routed one way or the other, to

16 legal or to your team or first through legal and then to you?

17 A The threat investigation team covers a range of issues, not necessarily just

18 the ones that my team works on. Of the ones that my team works on, they would all be

19 routed to both us and legal. We sort of work on these together.

20 Q Is there a subset of the threat investigations team that has a focus on issues

21 related to your team, coordinated inauthentic behavior?

22 A Yes.

23 Q And how big is that subset?

24 A It's changed over time. So it depends when you are asking about it. They

25 are designed, sort of like my team, to be small expert group and then there are other

1 teams that might support them in specific areas.

2 Q Okay. We'll start in 2018. Do you know approximately how big that

3 subset team was?

4 A I don't.

5 Q Do you have a ballpark sense?

6 A Not particularly. I mean --

7 Q Fewer than 100?

8 A Yes.

9 Q Fewer than 50?

10 A Yes.

11 Q Okay. About a dozen?

12 A For the core team, the point here is, is that that core team works with a

13 whole bunch of others. And so, to kind of accurately describe who works on these

14 operations, the number's much, much, much, much larger. But in terms of the lead

15 investigators, it's -- it's smaller than that, yeah.

16 Q And do you have a ballpark sense of when you're talking about the

17 organization and it's much, much bigger, approximately how big?

18 A I mean, we've publicly talked about hundreds of people working on these

19 operations.

20 BY [redacted]

21 Q Can I ask a clarifying question?

22 So when you mentioned that it could be hundreds of people, in the broader

23 scheme, would you say that that is consistently or that number fluctuates?

24 A It's been fairly consistent. I mean, you know, over the course of 5 years,

25 teams change.

1 Q And so, if it's roughly, ballpark, give or take 100, they are split up into smaller
2 groups is what you were describing? I just want to make sure I understand for the -- for
3 the record.
4 A Yeah, I mean, what I was describing -- and we've -- we've actually spoken
5 about this publicly in some detail. And so we can -- that -- that would also be useful to
6 see. But, you know, to counter a foreign interference campaign --
7 Q Uh-huh.
8 A -- you need to have investigators; you need to have policy experts; you need
9 to have lawyers; you need to have product leads; you need to have engineers who can
10 understand how to build the systems, to do the detection and the countering. You need
11 to have a whole range of experts in different areas.
12 And so when I describe this broader effort, I'm talking about a whole range of
13 teams.
14 Q And would --
15 A And they're not necessarily solely focused on this, right? They're focused
16 on different issues.
17 Q And would maybe that team be focused on one specific threat, or could they
18 be focused on multiple foreign threats at once normally?
19 A Well, this is a whole group of different actors and they're focused on a wide
20 range of things. So we're talking here about influence operations, but that's only one
21 component of the broader threat work that we do.
22 BY [redacted]
23 Q You mentioned CISA earlier.
24 Do you know what the acronym stands for?
25 A The Cybersecurity and Infrastructure Security Agency.

1 Q Okay. And what's your understanding of what that agency's role is?

2 A They coordinate, work across the Federal Government to do defensive work

3 to counter cyber threats.

4 Q And are you familiar with the Foreign Influence Task Force --

5 A Not at CISA.

6 Q -- at the FBI?

7 A I believe it's the Foreign Interference Task Force.

8 Q Okay. And what is that?

9 A It's a unit in the FBI designed to counter foreign influence or foreign

10 interference.

11 Q And when you referenced earlier that the FBI would sometimes provide

12 information to your team, was it this task force? Was it other offices within the FBI?

13 A Most frequently it was this task force.

14 Q What other interactions has your team had with this task force?

15 A That's the primary interaction. They also participate in those regular

16 meetings we were talking about.

17 Q Have you worked with FBI Agent Elvis Chan?

18 A Yes.

19 Q And what was the context of your work with Agent Chan?

20 A Foreign interference.

21 Q Okay. In addition to these industry syncs, would the tasks force ever meet

22 just directly with Facebook?

23 A Yes, my understanding is they did do that occasionally.

[11:00 a.m.]

BY [redacted]

Q Do you know who at Facebook would attend these meetings or interface with the task force?

A I don't know specific names.

Q Was it ever you?

A I attended a couple of them, but I didn't regularly join them.

Q What about [redacted]?

A I believe he joined them more frequently than I did.

Q Would he ever brief you on those meetings?

A Sometimes.

Q And when those briefings occurred what form of communication would they be?

A Verbal.

Q Okay. What about [redacted] Do you know if she ever attended these meetings with the task force?

A I don't know for certain, but it wouldn't surprise me if she did.

Q Have you ever worked with the State Department's Global Engagement Center?

A Yes.

Q And what was the context of your interaction?

A They were interested in understanding more about our work to counter foreign interference.

Q Okay. What's your understanding of what the Global Engagement Center does?

1 A My understanding is that at State they track instances of foreign
2 interference, work to expose them.
3 Q Okay. And other than an interaction to try and understand more of what
4 your team did, do you recall any other interactions with the Global Engagement Center?
5 A They would sometimes -- they do public reporting on foreign interference
6 campaigns that they've identified. They would share that public reporting with us.
7 Q And they would share it with you -- when you say they would share this
8 public reporting, they would share this information with you only after they had made it
9 public?
10 A I don't remember the exact timing on whether it was before or after.
11 Q Okay. Other than these public reports, did the Global Engagement Center
12 ever share information with your team?
13 A Not that I'm aware of, or at least not that I recall.
14 Q When they share information, is this in the same context as the task force
15 providing information for your team so you consider taking action?
16 A I'm not sure what the context was. It was simply, We've done this report.
17 We wanted you to be aware of it.
18 Q Okay. Would they reach out just to Facebook, or would it be multiple
19 companies?
20 A I would expect that they'd reach out to other companies, but I don't know.
21 Q But your interactions with it is direct?
22 A Generally, yes.
23 Q Okay. Were you the one on the team interacting with the Global
24 Engagement Center?
25 A I believe I've received some emails from them, and I've certainly -- like, I've

met with -- I meet with a lot of different organizations at different points.

Q Sure. Do you recall who at the Global Engagement Center that you met with?

A I don't recall specific names.

Q Do you recall any other team members that engaged with the Global Engagement Center?

A David had also engaged with them at times.

Q Have you had interactions with CISA other than the industry syncs that we mentioned earlier in the hour?

A Occasional, but nothing consistent.

Q Okay. And what were the contexts -- what was the context of those interactions?

A I might be at an event that CISA is at, or it might be that we were speaking with someone from CISA in relation to election threats or other support group.

Q Did CISA ever provide information to your team in the same way that the Global Engagement Center did, the FBI's task force did?

A Not CISA. Other components of DHS do their own intelligence reporting, public reports, that in the same way they would share with us.

[redacted] Can we go off the record, please?

[Recess.]

[redacted] We're back on the record.

EXAMINATION

BY [redacted]

Q And, [redacted], again, I want to thank you for coming in today. Are you local, or did you have to travel here from somewhere else?

1 A I live in the bay area, so I traveled in from California.

2 Q You traveled in from California for this?

3 You've been working in the field of national security and cybersecurity since 2010,

4 correct?

5 A Yes. National security and cybersecurity, yes. I mean, some work in it

6 before that, to be honest.

7 Q Okay. Thank you.

8 And when you were at DOJ in the Honors Program, you focused on cybercrimes,

9 correct?

10 A Correct.

11 Q Computer crimes?

12 And at the National Security Council you said you were the director of

13 cybersecurity policy?

14 A I was one of the directors.

15 Q One of the directors.

16 A Yes.

17 Q Thank you.

18 And you worked on cyber threat information sharing?

19 A Yes.

20 Q And you also worked on public-private cybersecurity cooperation.

21 A Yes.

22 Q And so that was something you dealt with well before you got to Meta.

23 A Yes.

24 Q Okay. And then you went to work in the private sector, correct?

25 A Yes.

1 Q And you were still focused on cybersecurity strategy?
2 A Yes.
3 Q And you have been the head of Meta's cybersecurity -- I'm sorry -- security
4 policy since 2018, although you had a different title when you started?
5 A Correct.
6 Q And to be clear, when I say Meta, I understand that the company had a
7 different name, but anytime I say Meta, I'm referring to the company that was formerly
8 known as Meta if that's the time period that I'm referring to, if that makes sense.
9 So your work at Meta builds upon over a decade of work in the fields of
10 cybersecurity and countering foreign influence?
11 A Yes.
12 Q Now, you spoke a lot during the previous hour about the distinction
13 between actors, behavior, and content, and how your team focuses on actors and
14 behavior.
15 So what that means is you personally don't engage in fact-checking, correct?
16 A Correct.
17 Q And you don't engage in what's commonly known as content moderation?
18 A Correct.
19 Q When your team enforces, you're enforcing based on behaviors.
20 A Or actors.
21 Q Or actors.
22 A Yes.
23 Q And can you explain what you mean by enforcing on actors?
24 A There are certain actors that have been such systematic violators of our
25 policies that they aren't allowed back on our platform, and any action they attempt to

1 take would result in an enforcement.

2 Q Thank you.

3 A For example, the Russian Internet Research Agency is banned from our

4 platform.

5 Q All right. And we're going to talk about them in a little bit.

6 So can you explain how foreign governments, such as Russia and others, use

7 Meta's platforms to interfere in civic events in the United States, including elections?

8 A So what we've seen is that foreign governments -- and there is a lot of focus

9 on Russia, as you say, but other actors, Iran, China -- will look to use any tool they

10 can -- that includes Meta's platforms; it also includes other social media platforms; it

11 might include direct targeting of the press or journalists -- to influence, manipulate,

12 corrupt public debate in the United States or other countries ahead of their elections.

13 So a good example of this would be to think about an influence operation, what

14 we would call coordinated inauthentic behavior, which would essentially mean, on our

15 platform, the actors would use a network of fake accounts. These are accounts that are

16 designed to look like a real person controls them -- and, in this case, a real American, in

17 most cases, controls them -- but are, in fact, controlled centrally by a single organization.

18 And they will be based maybe overseas, but they will try to make themself look like they

19 are local.

20 And then they will engage in public debate, they will take extreme positions, and

21 they will engage across the political spectrum really in an effort to create more division

22 within the United States.

23 We also enforce on something called cyber espionage, which is when, in most

24 cases, a foreign government -- it's essentially a hacking campaign, where they are looking

25 to target and expose information about individuals. These might be individuals in the

1 United States. They might be other individuals overseas.

2 Q And do foreign actors sometimes, in that effort, purchase compromised

3 assets to -- or use social engineering, hacking, to gain access to people's audiences

4 online?

5 A Yes.

6 Q Can you talk about some of the other tactics that foreign influence

7 operations use, like, for example, what is perception hacking?

8 A Perception hacking is essentially an effort to try to convince the public that a

9 hacking campaign has already happened, even though it has not. So in the lead-up to

10 the 2018 midterms Russian actors used this technique, and it's a technique that shares

11 some similarities with hack and leak, which we were talking about earlier.

12 They used this technique where what they did essentially is they purchased a

13 number of fairly ineffective and easy to find fake accounts, which we identified, in part

14 based on information shared to us by the U.S. Government, in the final days before the

15 2018 midterms.

16 These accounts had very little following. They likely -- very few people saw

17 them. They didn't have that much impact.

18 The Russians then -- these actors created a website that basically said:

19 Americans, we have hacked your election. We control who's going to win and lose.

20 And they posted a prediction of who would win every race, which ultimately turned out

21 to be inaccurate. And they offered those fake accounts as evidence of their massive

22 campaign.

23 There was no massive campaign. But by providing this little seed, their goal was

24 to create fear, to hack the perception of American citizens into thinking there was a

25 bigger campaign.

1 In that instance -- and I know we've talked a little bit about -- and we talked in the
2 previous session about information sharing -- in that instance, because we received
3 information from the U.S. Government, we were able to very quickly, within a matter of a
4 day or two, identify and remove and expose these accounts.
5 And the timing was such that the Russian actors sort of ran this perception hack in
6 the final hours before the election. Luckily, in part because of the information sharing,
7 we had found and removed these accounts, which meant that their claims were not
8 verified.
9 But that's an example of perception hacking.
10 Q Thank you. I appreciate that.
11 What about mass reporting?
12 A Mass reporting is a different technique where a threat actor will repeatedly
13 and systematically use -- abuse our reporting systems. So let me back up.
14 We have reporting systems so that users can say, this is a piece of hate speech, or
15 this is a piece of pornography for purposes of content, or they can report an account and
16 say, this account harassed me, this account is sharing personally identifiable information.
17 It's really important to have these systems, because, around the world, we want
18 to make sure that users can report when they see something they think might be
19 violating.
20 Unfortunately, any system you produce, you can expect and you need to prepare
21 for bad actors to try to abuse it. And what mass reporting is, is when actors will come
22 together and pick a target and report that account over and over and over and over and
23 over again in an effort to silence them.
24 We particularly see this in repressive countries where the government or
25 individuals associated with the government might use mass reporting to try to silence

1 regime critics.

2 The good news is we have automated systems in place that prevent someone

3 being reported a thousand times doesn't change the assessments as opposed to them

4 being reported ten times. We have protections in place. You can't just sort of

5 overwhelm someone. And the number of reports doesn't factor into the analysis of

6 whether that account, for example, violated a policy.

7 But we have seen instances where you run a network of thousands of fake

8 accounts that all do the reporting, so they look different, look like different people, in

9 efforts to try to silence critics.

10 Q And so in a situation like that, with regular reporting, if I report a post and I

11 think that it violates your community standards against hate speech, for example, or

12 misinformation, that's not the type of report that you would deal with?

13 A No. My team wouldn't deal with those reports, because those are

14 content-based questions. My team would deal with mass reporting or what we

15 sometimes call coordinated abusive reporting, because it is a behavior.

16 Q Thank you.

17 Do foreign influence operations sometimes coopt domestic actors in their target

18 countries to help amplify their message unbeknownst to those actors?

19 A Yes.

20 Q And can you give some examples of how they might do that?

21 A Sure. Sometimes it is unbeknownst; sometimes it is knowingly. But the

22 Russians, in particular, engage in this type of operation. They know that we are focused

23 on foreign interference, with good reason, and if they can trick an American into

24 representing their message, then it sort of evades that detection.

25 So we have seen Russian actors create fake news organizations. And it's worth

1 noting here. My team investigates and enforces on these operations, but many of these
2 operations are not run on our platforms, or touch our platforms marginally but exist, in
3 large part, off of our platforms.
4 So they -- so Russian actors would create, for example, a fake news organization,
5 and then they would try to hire unwitting Americans or Europeans to report for that news
6 organization. They would let them write whatever they want, but they would give them
7 assignments that sort of point them in particular directions. And, as you might imagine,
8 the editors might shape the messaging in various ways.
9 Now, for us and for my team, what they write isn't the point of the analysis.
10 That's a content question. Rather, it is this is an independent-looking media
11 organization that is, in fact, kind of being surreptitiously controlled by foreign actors, and
12 then these individuals are kind of being unwittingly caught up in this.
13 And we've seen a number of cases where they might have approached influencers
14 online to try to get them to amplify messages without telling them who is behind it or
15 what they're doing.
16 And the people who are approached generally don't like being tricked. And so
17 we've seen a number of campaigns get exposed because the people they approached
18 realized what was happening or were concerned about it, started talking about it. And
19 that gave our teams or other teams the information they needed to identify these
20 connections.
21 Q And if an influence operation is able to successfully trick a popular influencer
22 on one of your platforms to amplify their message, then that message could have an
23 extremely wide reach, correct?
24 A It could, yes. We have found they have had fewer efforts to directly try to
25 trick prominent influencers, presumably because the more prominent you get, the more

1 careful you are about things like this. They might offer to pay money. And if you're
2 very prominent, you may not need the kind of money they're offering. So they're more
3 likely to target sort of smaller, more marginal voices that at least can give their story
4 some lift and can sort of launder their role in it.
5 Q So given the breadth and sophistication of the types of foreign influence
6 operations that you've seen in your work in this field, do you believe that these
7 operations pose a threat to American democracy?
8 A Yes.
9 Q And can you explain the nature of this threat?
10 A Well, I think they pose a threat to the democratic process in the United
11 States and around the world.
12 Q Around the world.
13 A Anytime you're going into an election, it's important that voters be able to
14 understand the issues and evaluate the candidates based on what they believe and the
15 facts. And if a foreign government is trying to insert false narratives or simply just
16 generate conflict that can be used to disturb the debate, even more concretely, it can be
17 used to intimidate voters into not voting.
18 Around the 2020 election, there was an instance -- this was not on our
19 platform -- where Iranian actors essentially emailed a whole range of American voters
20 saying, we know how you voted because we hacked into your systems, and if you didn't
21 vote the right way, you're going to have problems. It's a direct threat.
22 Now, this was a perception hack, like we talked about. They didn't have access
23 to that information. All they had was a list of people in the United States. But that can
24 obviously have a very direct chilling effect on sort of people's will, and this is the reason
25 we have secret ballots.

1 Q And those threats, those types of chilling effects and the other types of
2 threats that you described, are why Meta enforces against CIB, correct?
3 A Correct.
4 Q And other influence operations?
5 A And other threats more broadly, certainly. I think that's right.
6 Q So engaging in foreign interference violates Meta's community standards,
7 correct?
8 A Correct.
9 Q And engaging in CIB, coordinated influence behavior, violates Meta's
10 community standards, correct?
11 A Correct.
12 Q And just using fake accounts generally, misrepresenting yourself online,
13 violates Meta's community standards?
14 A Using fake accounts violates our community standards, yes.
15 Q Thank you. That's actually an important distinction.
16 Does Meta have, in addition to wanting to just protect the values that you
17 described earlier and democratic processes around the world, does Meta have a business
18 interest in fighting these types of behaviors?
19 A Yes.
20 Q Can you explain what that is?
21 A It's important to us that people and I think for our business users need to
22 know -- be able to know who they're talking to online. And the truth is that users don't
23 want to engage on a platform that is full of influence operations.
24 Users want to communicate with their friends. They want to share pictures of
25 cats. They want to connect with their family. And it's important that we be able to

1 show people that we are working to keep that space safe for them and that we're
2 countering these threat actors. That is why we enforce against this stuff, and it's also
3 partly why we are public and quite transparent about it.
4 A lot of the discussion here today has been rooted in public reporting we've done,
5 because it's important that other companies and other defenders know about these
6 campaigns so that they can counter them, but also so that users know about these
7 campaigns so they can keep themselves safe online.
8 Q And also you don't want your users going to other platforms if they feel like
9 they won't be safe on Meta's platforms.
10 A That is certainly true.
11 Q I believe you said earlier -- and, if you didn't, then let me just ask -- Meta's
12 CIB policy was developed, at least in part, in response to foreign interference, particularly
13 by Russians, in the 2016 election, correct?
14 A Correct.
15 Q So Meta did not have a policy against CIB in 2016?
16 A No.
17 Q And, in 2019, Meta updated its inauthentic behavior policy specifically to
18 address CIB?
19 A In 2019, CIB was already in our community standards, but we refined and
20 clarified the language.
21 Q And you publicly posted an article that you authored called "How We
22 Respond to Inauthentic Behavior on Our Platforms: Policy Update," in October of 2021,
23 correct? I'm sorry, 2020. No, sorry, 2021.
24 A I may well have when --
25 Q You know what? I think it was 20 -- I'm sorry. It's been a day. It was

1 October 21st, 2019. Does that sound correct?

2 A It's entirely possible. We put out regular reports that I author, and so I

3 don't know about that specific date.

4 Q Fair enough. But you do know that Meta was working on this in 2019 and

5 2020?

6 A Yes. I mean, we have been working on coordinated inauthentic behavior,

7 countering foreign interference, and generally tracking and countering threat actors

8 since -- some of this before I joined, but certainly since I joined.

9 Q And you joined in 2018.

10 A Correct.

11 Q And that was during the Trump administration.

12 A Correct.

13 Q And you stated this repeatedly, but I just want to be clear. When you

14 enforce against CIB, you're enforcing on the behavior or the actor, not on content?

15 A Correct.

16 Q And so, to use a term that might have come up in law school, Meta's CIB

17 policy is content neutral.

18 A Yes. Or you might say content agnostic, yes.

19 Q And I believe you mentioned this earlier. Some of the content that CIB

20 campaigns promote is, in fact, not false and would be perfectly fine if it's something that,

21 say, I posted.

22 A Yes. The, in fact, significant majority of content in CIB campaigns is

23 not -- doesn't violate community standards or policies.

24 Q And, in fact, it's designed that way so that it doesn't get taken down for

25 other reasons.

1 A Correct. A good example of this, there is an influence operation, a CIB
2 campaign that we removed, that was run by Russian actors. They were operating
3 seemingly independent news organizations across the Baltic States in Eastern Europe.
4 These organizations represented themselves as independent news agencies, both on our
5 platform and off, and the content they posted was largely travel focused. Come visit
6 Riga in the fall. It is beautiful. See our architecture. Eat our food.
7 None of that content violates community standards, and I don't think anyone
8 would want that to. The reason we enforced against that and the reason they were
9 running a campaign like that, presumably, is once you build an audience over time you
10 can introduce more harmful or violative messages.
11 And so having it be content agnostic or content neutral means not only can we be
12 clear and consistent that we're enforcing based on behavior, not content, but we also
13 don't have to wait for them to post something harmful or violating in order to take action.
14 We can stop it earlier.
15 And one of the consequences of this is, if you look at our enforcements of
16 coordinated inauthentic behavior since 2017 -- so we're looking out 5-plus years -- you
17 can see that steadily these are being caught earlier, and they're being caught when
18 they're reaching smaller and smaller audiences. That's part of the goal, is to catch these
19 before they sort of cause the harm.
20 Q Thank you.
21 I want to talk to you about some of the networks that you've taken down during
22 your time at Meta. And I mean you, being Meta. I know that you personally are not
23 doing it.
24 In -- ahead of the 2020 election -- well, let me back up.
25 I believe you said several times that CIB networks will sometimes target people on

1 all sides of the political spectrum.

2 A Yes.

3 Q And you gave an example from China in 2022.

4 A Yes.

5 Q Do you recall a CIB operation connected to Russia's Internet Research

6 Agency that recruited journalists in the U.S. and abroad ahead of the 2020 election?

7 A There were a couple operations that included that tactic.

8 Q And do you recall those operations -- an operation that set up websites at

9 both ends of the political spectrum?

10 A Yes.

11 Q And you took down all of those accounts.

12 A Correct.

13 Q All right. It didn't matter which side of the political spectrum they were on.

14 A Correct.

15 Q In October of 2020 -- well, let me back up a little bit.

16 You said that it's very important to Meta to be transparent about its CIB

17 enforcement operations.

18 A Uh-huh.

19 Q And you stated some of the reasons for that. Another reason is also

20 because, by publishing those enforcement operations, you're hoping to deter others from

21 continuing to engage in this pattern.

22 A There's some of that, yes. Some actors can be deterred by that. I think,

23 more important, or at least as important, is you educate the experts who are trying to

24 counter them at other companies, and you educate the public to reduce the effectiveness

25 of campaigns like this.

1 It's part of why we have actually seen, over the past 5 years, a trend where the
2 most repeated aggressive actors -- Russia is a good example -- have moved increasingly to
3 try to run operations on public websites or off of the major platforms, because they're
4 being caught sooner and sooner.
5 Q So, going back to 2020, you were publishing -- and perhaps you still do -- but
6 specifically in 2020, you would publish reports when you would take down an
7 influence -- a significant influencing operation?
8 A Yes.
9 Q And in your October 2020 Inauthentic Behavior Report you discussed
10 operations that you removed, networks that you removed from Vietnam and Morocco
11 that were posting left-leaning messages. Do you recall that?
12 A I don't recall those operations in particular.
13 [redacted] Can I have exhibit 1, please?
14 Exhibit 1. I get exhibit 1. First time.
15 [[redacted] Exhibit No. 1
16 Was marked for identification.]
17 [redacted] And feel free to take your time, but I'm going to direct your
18 attention to page 1838 when you're ready.
19 [redacted]. Just give me a moment.
20 [redacted] Sure.
21 Oh, I'm sorry, [redacted] Did you not get it? I'm so sorry. Let me know.
22 Mr. Brown. Did you say 1838?
23 [redacted] Yes.
24 Mr. Brown. Great.
25 BY [redacted]

1 Q So --
2 A Just let -- let me just finish.
3 Q Yeah, no. Take your time.
4 A Okay. You said 1838?
5 Q Yes. Thank you.
6 A Uh-huh.
7 Q So one of the posts that Meta removed was from an account named My
8 President Biden, correct?
9 A Yes.
10 Q My President Biden 2020. I'm sorry.
11 A Yes.
12 Q And that account posted a question, "What is the one thing that makes you
13 want to vote for Biden?" correct?
14 A That's certainly what I see here in the report.
15 Q Yes. And the report indicates that, rather than that being a post by an
16 American-based user, U.S.-based user, that was actually posted by an account run out of
17 Morocco.
18 A I'm not sure where the account was run out of, but the operation was run
19 out of Morocco.
20 Q Thank you for that distinction.
21 And this same report discusses foreign spamming groups who tried to leverage
22 the racial justice protests in the U.S. in the summer of 2020 for monetization purposes,
23 and that's on page 1841.
24 A Yes. I see that.
25 Q And the report indicates that Meta continues to see deceptive actors try to

1 exploit moments of crisis or tension by leveraging current events, like the Black Lives
2 Matter protests in May and June 2020, to drive clicks to ad farms or merchandise sites,
3 correct?
4 A Correct. I think it's useful to distinguish here. We've been talking about
5 nation-state, Russia-backed operations that obviously have or one would expect to have
6 political goals. Here we're talking about something different.
7 Q Right.
8 A These are financially motivated actors who are engaging with politics
9 presumably because it allows them to sell merchandise. And they engage with -- you
10 gave an example of politics.
11 We also see them engage on sort of health issues. Whatever they think could
12 help them sell content. I mean, device -- like, they literally sell T-shirts. Sometimes
13 they'll sell medicine or things that are claimed to be medicine that are not, in fact,
14 medicine, things like that.
15 Q And you enforce against those operations as well, regardless of whether the
16 motivation is political or financial, if those operations are deceptive.
17 A Correct. We are careful because what we're seeing here is actors that are
18 using what's called abusive audience building. They're trying to create a fake audience.
19 That makes their content look more popular than it is, because if a piece of content looks
20 popular, the theory is it might motivate other people to be interested in it. So we will
21 enforce against these deceptive networks, yes.
22 Q And so, even if the goal of the operators of those networks is financial, they
23 just want to line their own pockets, the tactics they use could influence public debate in
24 the U.S. or elsewhere.
25 A Certainly.

1 Q And it could sow division in the U.S. and other countries.

2 A Yes.

3 Q And so, in this October 2020 report, you removed people behind an account

4 that posted images of George Floyd, one which said George Floyd and used the hashtag

5 Justice for Floyd, correct?

6 A That's what I see in the report.

7 Q And the report indicates that these were profile photos used by spammers

8 from Vietnam and Cambodia.

9 A I see that.

10 Q And it didn't matter that they were using profile photos and posting about

11 themes that were -- many would associate with the American left.

12 A The contents of this wouldn't matter. What we -- in fact, we regularly

13 see -- here, we're talking about financially motivated actors. Financially motivated

14 actors engage with issues on all portions of the political spectrum around the world.

15 They're not interested in a particular point of view. They're interested in trying to

16 deceive people and trying to make money.

17 Q And you take them down regardless.

18 A We do.

19 Q Thank you.

20 I want to talk a little bit about Meta's information sharing with the

21 U.S. Government in its fight against CIB and foreign influence.

22 You were asked some questions about the Foreign Influence Task Force. Do you

23 know, when did Meta start communicating with the Foreign Influence Task Force?

24 A I don't remember the exact -- I don't remember when we started

25 communicating with them.

1 Q Do you remember if you were engaging with them before the -- before
2 President Biden was inaugurated?
3 A Was inaugurated?
4 Q Yeah.
5 A Certainly, yes.
6 Q Okay. So that relationship began at least during the Trump administration
7 or was active during the Trump administration.
8 A My memory is that that relationship began around when the task force was
9 created.
10 Q And do you know when that was?
11 A I don't remember exactly, but it was during the Trump administration, yes.
12 Q Thank you.
13 And Meta's communication with the task force and relationship with the task
14 force is a voluntary choice that Meta makes, correct?
15 A Yes.
16 Q You could choose not to receive information from them if you wanted to.
17 A True.
18 Q And you could choose not to have members of your team attend their
19 meetings.
20 A Correct.
21 Q And did any government official ever tell Meta that it was required to work
22 with or communicate with the task force?
23 A No.
24 Q Why did Meta choose to work with the task force?
25 A We generally look to receive information from external parties. We would

1 much rather get information than not get it so that we can then subsequently conduct
2 our own investigation. And if we identify something that violates our policies, we then
3 take action.
4 We certainly have seen cases -- in fact, we talked about one a few minutes
5 ago -- where the U.S. Government was able to share information with us that helped us
6 identify a foreign interference campaign, a CIB operation, that we were then able to
7 enforce against.
8 Q And the information sharing is a two-way street, correct? You will notify
9 sometimes government actors ahead of publishing your CIB reports, or at the time you
10 publish your CIB reports, to let them know of networks that you've uncovered?
11 A Yes.
12 Q And the task force is not focused just on foreign influence on -- well, let me
13 ask you. Is it focused just on foreign influence on U.S. elections, or is it focused on
14 foreign influence globally?
15 A I'm actually not sure if it's focused globally.
16 Q You're not sure. Fair enough.
17 You talked about communications with the State Department's Global
18 Engagement Center. Do you know when that relationship with Meta began?
19 A I don't remember the -- when it began, no.
20 Q But do you remember communicating with them in 2020?
21 A Yes.
22 Q And, again, that was during the Trump administration.
23 A Yes.
24 Q And as with the Foreign Influence Task Force, Meta's communication with
25 the Global Engagement Center is entirely voluntary.

1 A Yes.

2 Q You could choose to cut off that line of communication at any time.

3 A Yes.

4 Q But you prefer to keep it open because, as you said, it's important to Meta to

5 identify as many of these networks as possible.

6 A Yes. And I would rather we get the information and be able to conduct the

7 investigation ourselves.

8 Q And you talked about Meta's relationship with CISA and the industry working

9 group meetings.

10 A Yes.

11 Q That also is a voluntary relationship?

12 A Yes.

13 Q You could choose not to participate at any time?

14 A Yes.

15 Q But you choose to participate?

16 A We do.

17 Q Okay. And with both of those, the Global Engagement Center and CISA, are

18 those also two-way communication? You're receiving information, but also sharing it

19 sometimes?

20 A Certainly.

21 Q Okay.

22 A Although, to the point we discussed earlier, in terms of information received

23 from government, specific tips about -- specific information about operations were more

24 likely received from the FBI than other partners.

25 Q And when Meta receives the tips, specific tips about operations, whether it's

1 from the FBI or other nongovernmental partners, you don't just act, correct?

2 A No.

3 Q Meta conducts its own internal investigation.

4 A Correct. Whenever we receive information from any third party, whether

5 government or nongovernment, we conduct our own investigation based on what they

6 share with us.

7 If we ultimately identify assets on our platform that violate our policies, we then

8 take the decision to take action, but only based on our own independent investigation.

9 Q And based on your own independent determination that --

10 A Yes.

11 Q -- the information uncovered by the investigation violates Meta's community

12 standards.

13 A Correct. In fact, often the information received isn't about our platform.

14 So it might be an awareness that there are websites that may be controlled by Russian

15 actors that we can't even act on that directly. We run our own investigation. And if

16 based on that information we identify assets on our platform, we take the decision

17 whether or not to act depending on if they violate our policies.

18 Q And it's Meta's decision, not the government's.

19 [redacted] I'm sorry, Reg.

20 Mr. Brown. We're getting close to noon.

21 [redacted] I'm happy to take a break in the middle, whatever you guys

22 prefer.

23 Mr. Brown. Yeah. We'd prefer -- why don't we finish this line, and then we'll

24 take a break.

25 [redacted] Okay. This, I think, will be fairly quick.

1 BY [redacted]

2 Q So when an account is taken down for violating Meta's policies against CIB or

3 foreign influence, it's not because the government wanted an account or a page

4 removed, correct?

5 A Correct.

6 Q It's because Meta made the decision.

7 A When we take action on a piece of content under our CIB policies or other

8 policies, it's because we make that determination.

9 Q And, if you do not take action --

10 A It's also because we make that determination.

11 Q Thank you.

12 [redacted] You know what? We can stop here, and I'll pick up.

13 Mr. Brown. Thank you.

14 [Recess.]

15 [redacted] Okay. We're back on the record.

16 And I want to start, [redacted], by cleaning something up that I handled very

17 inelegantly before, and I'd like to introduce into the record exhibit 2, which is the policy

18 update from October 21st, 2019.

19 [[redacted] Exhibit No. 2

20 Was marked for identification.]

21 [redacted] Actually, can I get one?

22 Mr. Brown. Do you have any more? I'm sorry.

23 [redacted] I'm sorry?

24 BY [redacted]

25 Q And the only question I'm going to ask you about that, [redacted], is you

1 authored this document, correct?

2 A I certainly see my name there, yes.

3 Q Okay. And it was published on Meta's platform on -- well, on Meta's

4 website on October 21st, 2019.

5 A [Nonverbal response.]

6 Q Thank you.

7 So we were talking before the break about Meta's choice to communicate with

8 government agencies and Meta's independent evaluation of tips, other information it

9 receives about CIB networks.

10 To your knowledge, has anyone in any government agency ordered Meta to take

11 down an account or page that it believed was violating your policies against influence

12 operations or CIB?

13 A You mean a U.S. Government agency?

14 Q U.S. Government agency, correct.

15 A No.

16 Q And, to your knowledge, has any U.S. Government agency -- anyone in a

17 U.S. Government agency ever tried to coerce or pressure Meta into taking down an

18 account that it believed violated Meta's policies against foreign interference or CIB?

19 A No.

20 Q And those are policies that you deal with, correct?

21 A Correct.

22 Q And, to your knowledge, has anyone in the government threatened Meta

23 with any adverse consequences if it did not take down accounts that it thought violated

24 Meta's policies against foreign influence?

25 A No.

1 Q You spoke earlier about foreign influence operations of other countries that
2 sometimes operate against their own citizens.
3 Your work is global, correct?
4 A Yes.
5 Q You're looking for influence operations that operate wholly outside the
6 United States --
7 A Yes.
8 Q -- and that target countries, including the United States, but also other
9 countries.
10 A Yes.
11 Q So you remove networks that operate in another country and target another
12 country that have nothing to do with the United States.
13 A Yes.
14 Q And of the top five sources of CIB networks from 2017 to 2020, the U.S.
15 ranked fourth, correct?
16 A Do you mean sources?
17 Q Sources.
18 A Yes.
19 Q Russia had the most CIB networks operating during that time period?
20 A Correct.
21 Q Does that sound right?
22 And then Iran and Myanmar, and then the U.S.
23 A That sounds correct.
24 Q Okay. China's also a growing source of CIB networks?
25 A Growing.

1 Q And from 2020 to 2020 -- I'm sorry -- from 2017 to 2020, including through
2 the 2020 election, Meta removed only nine CIB networks in the United States, correct,
3 that were based in the United States?
4 A I don't remember the exact number, but that sounds right.
5 Q But it was a small number.
6 [redacted] And that is it for me. I did not realize it was so short, but very
7 well.
8 I assume you do not want to break before we go back, just to switch sides and
9 that's it?
10 [redacted] Can we go off the record?
11 [Discussion off the record.]
12 [redacted] Back on the record, please.
13 BY [redacted]
14 Q [redacted], during the first hour we discussed briefly CISA and what your
15 understanding of what their role was.
16 Do you know if, as part of CISA's responsibilities, is it your understanding that the
17 Agency deals with issues related to misinformation, disinformation, and malinformation?
18 A Yes.
19 Q And during the first hour you mentioned the company's perspective of what
20 misinformation is, content based versus an actor, behavior based, and mentioned that
21 malinformation doesn't really incorporate to how Facebook approaches these issues.
22 What is your understanding of what the government means by malinformation?
23 A I can't speak to how they define it.
24 Q What is your understanding of what they mean when they use the term?
25 A Yeah. It's a hard term to define. I really can't speak to how they define it.

1 Q Have you ever had interactions with the government where the term has
2 been used?
3 A It's used pretty widely, so I would expect that I have, but I don't recall any
4 specific interactions.
5 Q And if, let's say, someone from CISA were to use the term, is there a most
6 common definition that you would understand them to mean?
7 A Not necessarily. I have found it to be used in a lot of different ways.
8 Q Okay. What are some of those ways?
9 A I find it to be sort of a catchall, a catchall definition. I really don't have a
10 specific definition for it.
11 Q Are there any specific instances you can recall --
12 A No.
13 Q -- where it's been used?
14 A No.
15 Q Has it ever been used in a way to mean truthful information that lacks
16 adequate context?
17 A I don't know. It's possible, but I don't recall anything like that.
18 Q When engaging with the government and someone uses this term and there
19 appears to be ambiguity about the term's meaning, do you recall anyone raising concerns
20 about what people meant by that term?
21 A I don't recall specific interactions about the term. So I don't.
22 Q Okay. Are you familiar with the October 2020 New York Post story on
23 Hunter Biden's laptop?
24 A Broadly, yes.
25 Q Okay. And are you familiar with what actions Facebook took with respect

1 to moderating the story?

2 A Yes.

3 Q And when did you first learn of the steps that Facebook took with respect to

4 moderating the story?

5 A I don't recall the exact time.

6 Q Okay. Do you know what those steps are?

7 A Yes.

8 Q And what are they?

9 A My team is responsible for the hack-and-leak policy, and so we did not take

10 any steps under the policy that my team coordinates.

[12:42 p.m.]

BY [redacted]

Q Okay. But you said you're familiar with the steps the company did take. Do you know what those steps were?

A I'm not an expert in those. You'd want to talk to the teams that manage those policies. They can certainly give you a better answer there.

Q Let's take one step back. You said your team handles the hack-and-leak policy. If I understood your answer correctly, the company did not take any actions under the companies hack-and-leak policy. Is that correct?

A Correct.

Q Okay. And who from your team was involved in assessing whether the hack-and-leak policy potentially applied?

A I was involved.

Q Okay. And do you recall if you were assessing this matter the day the story came out?

A I believe so. I would expect so.

Q [redacted] came and was interviewed by the committee. He had referenced that there were three elements that your team assesses when assessing a potential hack and leak? Are you familiar with what three elements he was referring to?

A [redacted] is more directly responsible for the hack-and-leak policy than I am.

Q Okay. He mentioned issuing a recommendation to you that the hack-and-leak policy did not apply. Do you recall receiving a recommendation from David?

A I don't recall the specifics of our conversation, but that makes sense.

Mr. Brown. He said he's sure, but generally speaking. I just want to be precise

1 about that.

2 BY [redacted]

3 Q Sure. So he communicated in some way --

4 A Yeah.

5 Q -- that the policy did not apply.

6 Do you know who else at the company he communicated his recommendation to?

7 A No. I don't have other specific people.

8 Q Okay. Did you communicate his recommendation to anyone else at the

9 company?

10 A I expect that I would've, but I don't remember specifically who.

11 Q If you had, who would've been an appropriate point of contact at the

12 company?

13 A I don't remember who we did specifically communicate it to.

14 Q In your normal course of business, would it have been appropriate to report

15 it to [redacted]?

16 A Potentially.

17 Q Do you recall having any discussions with [redacted] the day the story was

18 issued?

19 A I don't.

20 Q Did you share the recommendation with [redacted]?

21 A I don't recall.

22 Q Do you recall having communications with the misinformation team on the

23 day that the story was issued?

24 A On the day that the story was issued? I believe so, yes.

25 Q And what was the context of those interactions?

1 A After -- it was supporting them in their own policy analysis. As we
2 mentioned, there was multiple policies in play.
3 Q And what sort of support were you providing? You say you were
4 supporting their analysis.
5 A They had a specific question, and we were trying to get them context on it.
6 Q What was their question?
7 A They were specifically asking whether there were external experts raising
8 questions about the veracity of the story.
9 Q And do you recall the day the story was issued whether you were able to
10 provide a response?
11 A Yes.
12 Q And what was your response?
13 A I believe I looked back at, for example, Twitter and public commentary to
14 share what some experts were saying publicly about it.
15 Q When you reference experts, were any of those experts employed by the
16 Federal Government?
17 A I don't believe so.
18 Q With respect to the actions that the company ultimately did take, to your
19 understanding, under which of the company's policies was that action taken under?
20 A As I said, I think my team was focused on the hack-and-leak analysis. For
21 the other policies, you'd do better to talk to the other teams that manage those policies.
22 Q Sure. Recognizing what your position is and what your team's position is,
23 what is your understanding as far as which team and which section of the policy were
24 responsible for action about the story?
25 A My understanding is that it was under the misinfo policy team.

1 Q In addition to your discussions with [redacted], did you have discussions with
2 [redacted] on the day the story was issued?
3 A I don't recall specific discussions, but it's possible.
4 Q Do you know who the final decisionmaker was the day the story was issued
5 with respect to deciding to take some sort of action against the story?
6 A I mean, no, I don't.
7 Q If -- under standard protocol, who would be the appropriate person?
8 A It would depend on the situation. Things sort of vary.
9 Q Okay. Under this situation, who would be the appropriate person?
10 A As I said, I don't recall who -- who made the final decision.
11 Q Sure. With the understanding that you don't recall, the company has
12 protocols about how certain situations are handled. For a situation like this one, who
13 would be the appropriate person to make the decision?
14 A I mean, this was a fast-moving situation, and so I don't recall who made the
15 final call.
16 Q Yeah. Again, recognizing you don't recall who made the final decision, the
17 question is, with respect to how the company handles these types of issues. When
18 there are fast-moving issues, who at the company is responsible for making that decision?
19 A There are a range of different decisions, so different people make these
20 calls. In this case, the misinfo policy team rolls up to [redacted].
21 Q Okay. Are you familiar with a statement that was released about 5 days
22 after the story was issued? The statement was issued by 51 former intel officials from
23 both Republican and Democrat administrations. Do you have familiarity with that
24 statement?
25 A I'm aware of it and was aware of it when it was reported.

1 Q Did any of the 51 former intel officials contact you before the statement was
2 released?
3 A Not that I recall.
4 Q During that period of when the story was released, to 5 days after, did any
5 external experts contact you regarding the veracity of the story of the laptop?
6 A I don't recall any specific contacts during that period.
7 Q Okay. After you provided an initial response to [redacted] and the
8 misinformation team the day the story was issued, do you recall if there was a request for
9 you to continually update them if you heard any additional information?
10 A I wish I could help you. I don't recall that.
11 Q How did your communications with [redacted] take place?
12 A In the course of figuring out what to do, we discussed it.
13 Q Sure.
14 Do you recall if it was over the phone? By email?
15 A Yeah, I don't recall the format.
16 Q Okay. What was your most frequent form of communication with
17 [redacted]?
18 A With [redacted] in particular?
19 Q Yes.
20 A We communicated a lot of different ways.
21 Q Email?
22 A We've been on email together certainly.
23 Q Is there internal messenger system in the company?
24 A We do use an internal messenger system sometimes.
25 Q And what's that called?

1 A WorkChat.

2 Q During your discussions with [redacted], do you recall her

3 communicating -- actually, let me strike that.

4 When you first communicated with [redacted], had a decision already been made

5 with respect to whether to take steps to moderate the story?

6 A I don't recall the exact timeline of when I spoke to her, so I don't know.

7 Q And again, just to clarify -- I don't think we got this -- to your understanding,

8 what steps did Facebook take with respect to the story?

9 A My understanding, and as I said, I'm not the expert on this policy, but my

10 understanding is that in cases where there are questions about the veracity of a story,

11 that can be referred to third-party, independent fact-checkers to conduct their analysis,

12 and while they are reviewing, that story can be temporarily demoted.

13 That it's -- it's not removed and it was not taken down, but it can have its

14 distribution reduced. That is my understanding of what was done here, which is a fairly

15 common, or at least consistent thing that we've done under our policies for some time.

16 Q Okay. And do you know for how long it was demoted?

17 A I don't recall the exact amount of time.

18 Q Do you have a ballpark estimate?

19 A I don't know.

20 Q Are you familiar with the interview Mark Zuckerberg gave with Joe Rogan in

21 August of 2022?

22 A I'm aware of it. I haven't watched it, but I'm aware of it.

23 Q Do you think it was about a week the story was demoted? Was it before?

24 Let me ask -- let me start with that.

25 Are you aware of whether the story was -- any content restrictions on it were

1 removed before the election?

2 A I'm not aware of the exact timing.

3 Q Do you know which third-party fact-checkers were reviewing the story?

4 A No.

5 Q Who at the company would know that?

6 A It certainly wouldn't be me or my team. We don't work with those actors.

7 Q Would [redacted] know?

8 A Potentially. The misinfo policy team does work with them.

9 Q Would [redacted] know?

10 A I'm not sure.

11 Q Do you know what the third-party fact-checkers, when they conducted their

12 analysis, what they determined to be the case?

13 A No. I wasn't part of that.

14 Q Do you know if they provided an answer to the company one way or the

15 other?

16 A I don't know how that process functions.

17 Q Do you know what aspects of the article were subject to analysis by the

18 third-party fact-checkers?

19 Mr. Brown. He just told you he didn't have any involvement.

20 BY [redacted]

21 Q Did anyone at the company question your team's judgment with respect to

22 whether the hack-and-leak policy applied?

23 A No. There's a discussion about these things always to make sure you get to

24 the right choice.

25 Q Do you recall there being a discussion in this case?

1 A Not after we made our recommendation.

2 Q Is it your recollection that the recommendation came out the day the story

3 was issued?

4 A I'm sorry, which recommendation?

5 Q With respect to your team, whether the hack-and-leak policy applied?

6 A I don't recall exactly when we offered that.

7 Q Okay.

8 [redacted] Can we go off the record, please.

9 [Discussion off the record.]

10 [redacted] Can we go back on the record, please.

11 [redacted]. Sure. I believe I gave it on the day that it came out.

12 [redacted] Okay. Great. Thank you.

13 Can we go back off the record.

14 [Discussion off the record.]

15 [redacted] We'll go back on the record, please.

16 Mr. Brown. Can we go off for 1 second before we start?

17 [Discussion off the record.]

18 [redacted] Back on the record, please.

19 [redacted] This will be exhibit 3.

20 [Majority Exhibit No. 3.

21 Was marked for identification.]

22 Mr. Brown. This is exhibit 3?

23 [redacted] Yeah.

24 BY [redacted]

25 Q I'll give you a moment to review. This is a transcript of a Signal group chat.

1 Mr. Brown. Are there particular pages that you would like him to focus on?

2 [redacted] We'll highlight a couple --

3 Mr. Brown. This is not our document.

4 [redacted] So we can get started and then when we get to a page, give him a

5 moment to read it and ask questions about it if that works.

6 Mr. Brown. And we'll wait a minute.

7 BY [redacted]

8 Q Take your time.

9 A Yeah.

10 Okay.

11 Q Great. First, do you recognize this group chat?

12 A Yes.

13 Q And what is it?

14 A This is -- or at least it looks like a broadcast channel that was set up in the

15 final days before the 2020 election.

16 Q And this channel was on Signal? Is that your understanding?

17 A Yes.

18 Q What was the purpose of this Signal channel?

19 A The purpose was so that FBI could share with an industry group any

20 indicators of threats to the election that they needed to share.

21 Q In addition to the FBI, are you aware of any other government agencies that

22 were involved?

23 A No.

24 Q Would you, in the lead-up to the 2020 election, participate in other Signal

25 channels that had members of government agencies on it?

1 A No.

2 Q Do you recall who set up this channel?

3 A I think it was at the FBI's suggestion that they be able to share stuff with us,

4 if that's what you mean.

5 Q And when you mention the industry partners, not necessarily to go person

6 by person, but at a high level, are these the same industry partners that were involved in

7 the sync meetings during 2020?

8 A More or less.

9 Q Was there overlap?

10 A Yes.

11 Q In addition to Signal and the meetings, how else did the Federal Government

12 communicate with you and your team?

13 A These were the two sort of regular mechanisms for communication.

14 Q With would the FBI ever send you teleporter attachments?

15 A I don't recall any.

16 Q Okay. Do you know what a teleporter attachment is?

17 A I'm not sure.

18 Q Do you know who determined who had access to this channel?

19 A There was no particular protocol that I'm aware of.

20 Q Okay. Did you need a clearance to join it?

21 A No.

22 Q If we can turn to page 5 which is Bates stamp-numbered 15042.

23 A Uh-huh.

24 Q At the top, just a couple lines down, it says, Yoel Roth added Nathaniel. Do

25 you recall joining this channel?

1 A Yes.

2 Q And if you flip back to page 2, Bates number 15039, a couple lines up from

3 the bottom, it's a message from [redacted] Hey, y'all, [redacted] from the Facebook.

4 Do you recall if [redacted] -- do you recall [redacted] being a member of this channel as

5 well?

6 A Yes.

7 Q And then if I could have you turn back to page 5 that we were on just a

8 moment ago, 15042 --

9 A Uh-huh.

10 Q -- there's a message saying, Hello all, this is the FBI San Francisco Command

11 Post. We will activate on Friday.

12 Is it your understanding that this number representing the FBI was, in fact, the

13 FBI?

14 A Yes.

15 Q Do you know how it was verified that this was the FBI's number joining the

16 group?

17 A I don't remember exactly how that was done.

18 Q Do you know if -- actually let me take a step back.

19 Who is Yoel Roth?

20 A Yoel Roth was -- is -- or was an employee at Twitter at this point.

21 Q Okay. And did you interact with him outside of these industry syncs?

22 A Yes.

23 Q And what was the context of those interactions?

24 A Yoel led teams that Yoel oversaw, grapple with foreign interference, and so,

25 we would speak about those issues. Often when foreign threat actors are running a

1 campaign, in fact in almost all cases, they don't target just one platform. I think our
2 record is an operation that targeted more than 300 platforms across the internet. So
3 you need to be in contact with the teams at other companies who are also looking for
4 these threats.
5 Q Taking page 5 as one example, Mr. Roth appears to play, at least a
6 somewhat active role in adding members. Do you recall who helped facilitate
7 communications between industry partners and government?
8 A What do you mean when you say, "facilitate"?
9 Q Was there one member of industry that played, you know, a more significant
10 role than others?
11 A I seem to recall that, I believe, that Yoel actually created this thread. We all
12 participated.
13 Q If we could turn to page 10, which is Bates number 15047, it's a message
14 from Mr. Roth saying, Hi all, I'll shortly be adding a number of contacts from DHS-CISA to
15 this group.
16 And then --
17 A Oh. Uh-huh.
18 Q -- about two-thirds of the way down, some names are added -- [redacted]
19 CISA, [redacted], and [redacted]. Do you -- are you familiar with any of those
20 names?
21 A I'm sorry. What was your question?
22 Q Sure. The three individuals that Mr. Roth adds on page 10 -- Robert S.,
23 Pierce Lowary, and Alex Zaheer -- are you familiar with any of those individuals?
24 A I recognize the names, but I don't know who they are specifically.
25 Q Do you know if they worked for CISA?

1 A I don't recall.

2 Q If you turn one page, page 11, 15048 at the very bottom, Mr. Roth adds

3 someone named [redacted]. Do you know who Mr. Stafford is?

4 A No, I don't.

5 Q I call your attention to page -- it will be on page 14. The name is at the

6 bottom of page 13, [redacted].

7 A Sorry, what's the Bates?

8 Q Sure. 15050 at the very bottom, it says [redacted] CISA, and then his post is

9 actually on the following page, page 14, 15051.

10 If I could call your attention to the middle of page 14 --

11 A Sorry, which is the Bates stamp?

12 Q Sorry. Bates stamp is 15051.

13 The "to" line is misinformation Reports, and the email address associated says

14 misinformation@cisecurity.org. Are you familiar with the Center for Internet Security?

15 A I know -- I know the name, but I don't know much about it.

16 Q Okay. Are you familiar with any efforts by CIS to set up a misinformation

17 portal?

18 A Not -- no.

19 Q Do you have familiarity with the Elections Infrastructure Information Sharing

20 and Analysis Center, sometimes referred to as EI-ISAC?

21 Mr. Brown. Sorry, can you repeat that name again?

22 [redacted] Sure. The Elections Infrastructure Information Sharing and Analysis

23 Center, and the acronym is EI-IS AC.

24 [redacted]. I recognize the name, but I don't have any particular context on it.

25 BY [redacted]

1 Q In your role at Meta, you have not worked with them?
2 A I don't recall working with them.
3 Q Going back, you mentioned that the purpose of this channel is to share
4 information. With respect to the information that was being shared, did that include
5 reports related to misinformation and disinformation?
6 A Well, looking here at the document, I see reports that describe themselves
7 as misinformation. As we've discussed, the terms are a little unclear. These also look
8 like they were directed at Twitter.
9 Yeah, I see that there are also reports that look more in the realm of what we
10 would describe as threat actors.
11 Q Okay.
12 A With a quick scan, it looks like the majority are in that department.
13 Q Sure.
14 If we could keep your attention on Bates number 15051, with this particular
15 report, there's a -- right underneath the picture, the first two lines read, misinformation
16 report, inaccurate tweet.
17 That is a content-based assessment. Is that correct?
18 A Yes. Although I mean, to be honest, I didn't write this, so I don't know
19 exactly what their intent is.
20 Q Sure.
21 And so information related to the accuracy of information is outside of your
22 team's scope. Is that right?
23 A Correct.
24 Q And which team at Facebook would be responsible for handling an issue
25 related to inaccurate information being posted?

1 A Well, this is referring to tweets, so --

2 Q Yes.

3 A -- this wouldn't be relevant for us.

4 Q Sure.

5 Setting aside this specific example, if it was an analogous example with an

6 inaccurate -- concerns of inaccurate information being posted on Facebook, which team

7 at Facebook would be appropriate to handle?

8 A I mean, it's tricky to speculate, because for different policy areas, different

9 teams engage in them. So it would really depend on the specific circumstance.

10 Q Okay. With issues related to election misinformation, which team at

11 Facebook would be best suited to handle that information?

12 A I mean, it depends a little bit on the nature of the question or the particular

13 information that's being claimed.

14 Q Which teams -- what would it depend on?

15 A These are -- I know we've talked about this, but these are content-focused

16 areas, so I don't know all the details for how we would analyze or route that.

17 Q Okay. Are there multiple teams that analyze content at Facebook with

18 respect to whether it's accurate or not?

19 A Well, we have a range of content policies that different teams support.

20 Q Okay. Does Ms. Isola's team work among, among other things, election

21 misinformation-related issues?

22 A They do.

23 Q Okay. If the government, or any external partner, were to provide your

24 team with information that was an analysis that was content-based, which you said is

25 outside your team's scope, who would you pass that information along to?

1 A It -- I mean, in this circumstance, we wouldn't pass it along to anyone
2 because it was a reference to Twitter.
3 Q Sure. But setting aside this specific example, when information is shared
4 with your team, and if that information is assessing the content, which again, as you say,
5 is outside of your team's scope, who would you pass it along to at Facebook?
6 A I don't recall that happening, so I don't have a specific example there.
7 Q Okay. You have no recollection of ever receiving reports regarding
8 misinformation or otherwise inaccurate claims?
9 A I don't -- again, this is my memory, right, so I could be forgetting something.
10 There was certainly a lot happening around the elections, but I don't recall a specific case
11 of my team receiving a report of a claimed, specific piece of content and then referring it
12 on.
13 Q Okay. What would the company's protocol be if you were to receive a
14 report regarding misinformation, something potentially factually inaccurate? How
15 would you handle that?
16 A It would depend on the particular piece of content that was referred to me.
17 I'd want to make sure that the right team could see it and determine how to proceed.
18 Q And how would you determine who the right team is?
19 A Well, I'm not an expert in understanding sort of content that's shared in, so
20 we would have kind of a group that would help understand who it should go to, but it
21 wouldn't be my team necessarily.
22 Q I mean, would you contact [redacted]?
23 A It really depends on the particular piece of content.
24 Q Well, say, with election-related misinformation, who would be an
25 appropriate contact to share that with?

1 A This is what I'm -- I mean, it really depends on the piece of content we're
2 talking about. There are different teams that handle different parts of election issues,
3 and so it's hard to give you one specific example or answer that will cover every
4 hypothetical that could fit under what we're discussing.
5 Q Okay. It doesn't have to cover every hypothetical. What are some
6 examples that come to mind?
7 A As I said, what we would do is, we would route it to sort of a team that
8 would understand which content team should handle it. I don't necessarily know --
9 Q The intermediary team that decided which content team should handle it,
10 who are you referring to?
11 A So whenever we run an election, we have kind of a rapid response capability
12 to make sure that we can handle issues that come up.
13 Q Okay. In 2020, who handled the rapid response team?
14 A I don't know the specific name. It's a rotating sort of exercise.
15 Q Do you know how far in advance the rapid response team is put together?
16 A I don't know the specific time that it started.
17 Q Do you know which elections had a rapid response team?
18 A I don't know the specific elections. A number of different ones.
19 Q Did the 2022 midterms -- U.S. midterms have a rapid response team?
20 A I would expect so.
21 Q And the 2020 U.S. Presidential election?
22 A I would expect so.
23 Q Do you know if the U.S. 2018 midterms had a rapid response team?
24 A I would expect so.
25 Q If I could turn your attention to page 27 --

1 Mr. Brown. Can we take a break for a second?

2 [redacted] Yeah.

3 [Discussion off the record.]

4 [redacted] Can we go back on the record, please.

5 BY [redacted]

6 Q If I could have you turn to Bates number 15064, page 27, there are a few

7 posts from Mr. Roth, and then it continues onto the following page, and at the top of

8 page 29, Bates number 15066, where Mr. Roth says, My error, wrong channel, but all info

9 is public anyway.

10 Do you know which other channels Mr. Roth may have been referring to?

11 A No, I don't.

12 Q Were there similar Signal channels that you participated in?

13 A No, not that I recall.

14 Q Do you know who at the FBI was operating the FBI's account?

15 A I do not.

16 Q When you were having the industry sync meetings and the FBI had a

17 representative attend these meetings, do you recall who most frequently attended from

18 the FBI?

19 A No, I don't.

20 Q Are there any names that you recall?

21 A No, I don't.

22 Q Do you recall if Agent Jan ever attended the industry sync meetings?

23 A I don't recall specifically, but it's certainly possible.

24 Q With respect to the rapid response team that you had referenced a few

25 answers ago, do you have a sense of how big those teams were?

1 A It varies based on election timing.

2 Q As part of your role at Meta, do you have interactions with those teams?

3 A Sometimes.

4 Q And what's the nature of those interactions?

5 A The purpose of those teams is to sort of coordinate our work, thinking,

6 across an election and all threats that could relate. So it's part of that.

7 Q Do you recall if you had any interactions with the 2020 rapid response team

8 in the days following the October 2020 New York Post story on Hunter Biden's laptop?

9 A No, I don't.

10 Q You don't recall or you didn't have interactions?

11 A I don't believe that I did, and I don't recall interactions.

12 Q Okay. We can take these back.

13 Thank you.

14 This will be exhibit 4.

15 [Majority Exhibit No. 4.

16 Was marked for identification.]

17

18 Mr. Brown. Do you have any idea what you want to focus on here?

19 [redacted] Yeah. There will be specific pages we'll go through, and if the

20 witness is comfortable, we can tee up which page we're going to look at, give him a

21 chance to review, and then ask the questions or --

22 Mr. Brown. I mean, it's a long document, and I don't know what it is, so --

23 [redacted] Sure. I'm happy to represent that this is an industry-only Signal

24 channel that coordinates in conjunction with the industry syncs with the U.S.

25 Government, both the meetings and the Signal channel that was --

1 Mr. Brown. Okay. And you believe that he was a participant?

2 [redacted] Yes. We can --

3 Mr. Brown. I just want to understand that, just so I can decide how much time

4 he needs.

5 [redacted] Sure. On page 3, there's a reference to Mr. Roth updating the group

6 and [redacted] joining the group. The first question was going to be if he recalls

7 participating in this channel.

8 Mr. Brown. Why don't you take a second to read.

9 [redacted]. Just one more minute.

10 All right. Happy to get started, but I don't -- I mean, I haven't had time to read

11 the entire thing.

12 BY [redacted]

13 Q Sure.

14 A -- may have to go back to particular parts.

15 Q I understand.

16 So first, do you recall participating in this channel?

17 A Yes.

18 Q And to your understanding what was the purpose of this channel?

19 A To have a coordination space for industry to share information about threats

20 that we were tracking.

21 Q And to your understanding, was there significant overlap between the

22 personnel participating in this channel with the industry personnel participating in the

23 previous channel, exhibit 3, that we looked at?

24 A On the industry side, yes.

25 Q If I could --

1 [redacted] [redacted] would I be able to do a little bit questioning --

2 [redacted] Sure.

3 BY [redacted]

4 Q If I could have you turn to page 5, Bates number is 16076, about a third of

5 the way down, there's a post from you saying, Anyone else want to jump in after [redacted]

6 And then if you turn the page, I'll give you a moment to read everything, but there

7 are two more posts from you on Bates number 16077.

8 A Uh-huh. Okay.

9 Q Do you recall using this channel during meetings with the U.S. Government?

10 A Yes.

11 Q If I could have you turn to Bates number 16079, page 8, there's a post from

12 Mr. Roth about two-thirds of the way down, and he says, Yep, we can touch a bit on the

13 QAnon stuff we've enforced on and footstomp the lack of foreign interference aspect.

14 Do you recall what Mr. Roth is referring to?

15 A No.

16 Q Do you recall discussions within industry about whether there was a lack of

17 foreign interference with respect to information that was being shared?

18 A Information that was being shared? Sorry.

19 Q Do you recall discussions with industry partners with respect to whether

20 there was a mistake by whoever was providing the information about whether the source

21 of the information was foreign or domestic?

22 A No.

23 Q Do you recall issues related to QAnon being discussed during meetings with

24 the U.S. Government?

25 A Not specifically, no.

1 Q By "not specifically," do you recall at a general level?

2 A It's possible, but I don't recall.

3 Q Okay. If I could turn your attention to -- it's going to be a couple pages, but

4 the first page is 16083, which is page 12, there's a post from you at the bottom of the

5 page. And then, if I could have you read for the next two pages until Bates number

6 16085, page 14.

7 A So the whole next page?

8 Q Yeah. So all of 13 and almost all of 14.

9 A Sorry, you wanted me to read it?

10 Q Yes.

11 A Okay.

12 Mr. Brown. To yourself, right? You don't want --

13 [redacted] Yes. Sorry. Just take a moment to review. No need to --

14 Mr. Brown. Okay.

15 [redacted]. Thank you for the clarification. And where did you say it ends,

16 this section?

17 BY [redacted]

18 Q On page 14, you provide a new --

19 A Sorry, that's?

20 Q That's 85, yes.

21 A Okay.

22 Q Do you recall working on -- and this is in reference to page 16083, the first

23 post -- do you recall working on scoping language, do you recall working on that with the

24 industry partners?

25 A I mean, I certainly see here discussing it.

1 Q Yeah, but do you have recollections of working on this statement?
2 A Not beyond what is included here.
3 Q Do you recall the scope of the meetings being an issue that industry was
4 concerned about?
5 A I mean, I can see here that in the document, we want to be clear about the
6 scope that we're working on.
7 Q And do you know why?
8 A I don't. I mean, when you -- I don't.
9 Q Okay. It's clear you're playing an active role. Do you recall why you or
10 your team were concerned about the scope of the meetings?
11 A No. I mean, I see here my descriptions of some of the things.
12 I don't think I said that we were concerned about the scope of the meetings.
13 Q Okay. I wanted to clarify the scope of the meetings. Is that accurate to
14 say?
15 A I mean, that's -- that seems like what this exchange indicates.
16 Q Do you recall industry and the government having a different sense of what
17 the scope of the meetings should be?
18 A Well, this is the industry chat --
19 Q Yes.
20 A -- so --
21 Q And the industry chat is working on this scoping language, and as we
22 discussed earlier on the -- I think it's page 5 -- this group is communicating in context with
23 industry's meetings with the U.S. Government, and it looks like there were, not in this
24 particular case, but in other cases, realtime communications as industry is meeting with
25 the U.S. Government. Is that right?

1 A My recollection of this exchange is that it was about the industry
2 conversation, not the industry-Government conversation.
3 Q Okay. Setting aside these specific examples, just at a high level, do you
4 recall there being differences of opinion between Government and industry regarding the
5 scope of the U.S. Government-industry meetings?
6 A No.
7 If you look here, you can see the date of this exchange. It's February of 2021, so
8 it's shortly after an election in the United States, and there's some period before another
9 election will happen in the United States.
10 And I think what we're trying to do here is to be clear about, there isn't an election
11 going on. All of these teams are focused on, as we describe, adversarial threat actors
12 around the world. So when we're not in an election cycle, what is the focus of the
13 work?
14 Q Okay. If I could call your attention to 16085, it's page number 14, there's a
15 post from you, saying, I think we may want an explicit exclusion of the content focus so
16 we can defend ourselves against an effort to bring that in.
17 To your recollection, is this consistent with you and Facebook's division of
18 actor- and behavior-based being divided from content-based concerns?
19 A Yes.
20 Q When you say, "We can defend ourselves against an effort to bring that in,"
21 who is trying to bring that in?
22 A I think the point is more that people outside the group might subsequently
23 think it was part of the conversation, and it's important to be clear that we were focused
24 on the behavioral side of things.
25 Q And by people outside of this conversation, do you have anyone in mind, in

1 particular?

2 A In general, we found it's very important and useful to be consistent about

3 what we're talking about and being clear about it so that other people can sort of

4 understand the action we're taking and why we're taking it.

5 Q Do you recall if there was any discussions about public criticism of industry

6 meeting with U.S. Government on these issues?

7 A Early on when we were first meeting, there were questions about it. In the

8 early days of the meeting, there was sort of, like, attempts by the press to understand

9 what was happening and so on and so forth.

10 Q Do you recall if there were concerns specifically with respect to whether the

11 meetings addressed content as opposed to behavior or actors?

12 A I don't recall that.

13 Q With respect to the scope of the meeting, do you recall having interactions

14 with the U.S. Government to clarify the scope of these U.S. Government-industry

15 meetings?

16 A So just for context, when you say, "the scope of the meeting," my

17 recollection is, this exchange refers to the industry meeting.

18 Q Sure, sure. This question was independent of this particular exhibit. Just

19 generally speaking, do you recall -- there were the U.S. Government-industry meetings,

20 other forms of communication -- do you recall there being discussions from industry with

21 the U.S. Government regarding what the scope of the meetings should be?

22 A I mean, any time you have a recurring meeting like this you want to set the

23 scope, so I'm sure that we had those discussions, but I don't recall them in particular.

24 Q And throughout this interview, you seem to have a pretty good sense of

25 actor- and behavior-based versus content-based, and you mentioned earlier that

1 sometimes people will blur those two together.

2 A Uh-huh.

3 Q Do you recall any participants in the U.S. Government-industry meeting who

4 had a tendency to blur content versus behavior and actor-based?

5 A I don't recall specific instances of that.

6 Q In any meeting?

7 A No.

8 Q You don't recall any instances of where it was necessary to clarify whether

9 something was content-based as opposed to actor- or behavior-based, or fall within that

10 group's scope?

11 A Well, again, the content versus actor and behavior distinction, I think the

12 discussion here is explicitly about the industry syncs. We are regularly in external

13 engagement clarifying that point, and that's true with almost any partner we work with or

14 any organization we talk to.

15 Q Sure. And, again, understanding what this exhibit represents, but these

16 questions are meant more generally, independent of what's reflected in this exhibit or

17 not.

18 When industry is having to issue these explanations to external partners, to others

19 outside of your group that have this expertise, and there is this blurring, when you're

20 referring to external partners, are you ever referring to the U.S. Government?

21 A I think we're referring to everyone we work with and everyone we share

22 information with. If you take a look at our threat reports, which for some time, we were

23 publishing every time we did a takedown, then we steadied on a monthly cadence, now

24 we're on a quarterly cadence, each of those reports includes in it clarifying language

25 about the distinction in content and behavior.

1 Q Sure. And so, when you say "everyone," in response to my question about
2 the U.S. Federal Government, just so we're clear on the record, one of the external
3 partners that you share information with and that you receive information from is the
4 U.S. Federal Government. Is that right?
5 A Yes.
6 Q If I could have you turn to Bates number 16087, this is page 16 -- I'll give you
7 a moment to review all the way up to Bates number 16090, which is page 19.

1 [2:05 p.m.]

2 [redacted]. I'm sorry. How far did you want me to read?

3 BY [redacted]

4 Q To Bates number 16090. Actually, it looks like the last message on 16090

5 carries on to the next page, so if you could read to the end.

6 A Okay.

7 Q Could I have you turn to --

8 A Sorry. Yeah.

9 Q If I could have you turn to Bates number 16087, there's a post from you

10 about a quarter of the way down from the top where you say: "Does anyone have a

11 concern if I 'read aloud' our definition of scope for this group to them on this call?"

12 Do you know who you're referring to in that post?

13 A In this post?

14 Q Yes.

15 A I don't know specifically who I'm referring to.

16 Q Okay. Do you know whether it would have been in a meeting with the U.S.

17 Government?

18 A It's certainly possible as I look at the chats.

19 Q And then two posts down, there's a response from you that says: "This is

20 pretty significant" -- "This is a pretty significant demonstration of the shift in engagement

21 from government over the last couple months."

22 Do you recall which -- what shift you're referring to?

23 A So I can't recall the details when I -- I can't recall the details.

24 Q Okay. Independent of this post, do you recall how government engaged

25 with industry on these U.S. Government industry calls ever shifted notably?

1 A So when I look at the chats in here, I think the reference is actually -- you see
2 on the next page -- I refer to the note that they be brief.
3 And I think there was a period around this time when we'd originally constructed
4 these to be fairly substantive, fairly brief calls. If you don't have an important update,
5 we don't need to have a call.
6 And I recall that there was a period around here when we started to get longer,
7 less substantive briefs. And so the shift that I'm describing, for example, on 88, right, is
8 longer presentations without as much substance to it.
9 Q And when you say not as much substance, what do you mean by that?
10 A I just mean someone -- and actually I think it's useful if you go back to the
11 very beginning of this exchange, you'll see a note here, a reference to reading out loud on
12 86, right?
13 Q Yes.
14 A You have a published report and you come on and you read aloud the
15 published report.
16 Q On page Bates number 16089, there's a post of yours about the third of the
17 way up from the bottom where you say: "We've pinged DHS on the side about this and
18 we'll follow-up separately to get government contributions back on track for future
19 meetings."
20 Do you recall who at DHS you discussed this issue with?
21 A No, I don't.
22 Q Would it have been CISA or --
23 A Oh, in terms of agency, you mean?
24 Q Yes.
25 A Then I expect it would have been CISA.

1 Q Okay. And do you recall if CISA shared industry's perspective, if it was
2 industry's perspective, that the meetings were not as concise and substantive as they
3 were previously?
4 A I don't recall.
5 Q Do you recall if there were multiple agencies making presentations during
6 these meetings?
7 A Yes.
8 Q Do you recall if some agencies were doing a better job of providing concise,
9 substantive reports than other agencies?
10 A It varied.
11 Q Okay. The post at the bottom of 16090 carries on to the next page. You
12 say: "The answer we agreed on was we'll talk about it and want to focus on partners
13 that are (a) operational (b) defensive and (c) apolitical."
14 Do you know what this post is in reference to?
15 A Looking at the chain of discussion, I can see that there's a conversation
16 about including other entities in the group, and so that seems to be the reference.
17 Q So, for example, there's a reference to NSC about a third of the way down on
18 16090.
19 Did you understand that to be the National Security Council?
20 A That's what I would expect that acronym to refer to.
21 Q Okay. And do you recall which agencies -- or I should say, do you recall
22 which partners may have failed to meet the criteria laid out in the post of being
23 operational, defensive, and apolitical?
24 A No, I don't. I think -- I mean, you can see here the key factors for us are,
25 first, this sharing of information is about getting access to information that can help us

1 better identify foreign interference, which means having partners that are operational is
2 incredibly important. They're going to be the ones that are most likely to have
3 information that we could use to identify a Russian operation or an Iranian operation or a
4 Chinese operation.
5 Second, the defensive piece, we wanted to make sure we were working with
6 partners, with agencies that are focused on countering influence or interference.
7 And then, third, is apolitical. One of the things that was particularly important
8 for Meta and for industry as a whole, defending elections needs to be an apolitical
9 exercise. You're focused on ensuring everyone has the opportunity to vote. You're
10 focused on ensuring the integrity of the process. You're focused on countering efforts
11 by foreign adversaries to try to manipulate or corrupt that process.
12 And so agencies that don't have a political focus are better placed, and it's
13 important that our partners and that agencies we share information with are apolitical
14 entities.
15 [redacted] Can we go off the record, please?
16 [Recess.]
17 [redacted] We are back on the record.
18 And, [redacted], just a few quick questions.
19 This Signal chat in the binder, that is exhibit 4, I think.
20 [redacted] 4.
21 BY [redacted]
22 Q Do you have any recollection of this conversation or are your statements
23 based just on seeing what's on the paper?
24 A I don't have specific recollections of the conversation. I remember the
25 conversation existed.

1 Q Okay.

2 A That's a long-running thread that we used. So it's primarily based on what

3 I'm reading on the paper.

4 Q Thank you.

5 And at the time when you were using this thread back in January, February of

6 2021, I take it you didn't anticipate that it would one day come up in a congressional

7 investigation.

8 A No.

9 Q And drawing your attention to page 12, Bates 16083, this was a page you

10 were shown earlier.

11 A Uh-huh.

12 Q One of the things you said is, "We could discuss a range of content topics in

13 this context, but our focus should be on the threat actors and behavior rather than the

14 content itself," correct?

15 A Yes.

16 Q And that's something that you've repeated several times here today.

17 A Uh-huh.

18 Q And it's in, as you mentioned, a concept that's in all of your published CIB

19 reports.

20 A Correct.

21 Q So it wasn't just something that you're saying today or that you were saying

22 to the public. It was something in the safety of a Signal chat with the industry you were

23 also -- it was also important to you to emphasize.

24 A Yes. I mean, of course, Meta enforces on content violations.

25 Q Right.

A That exists. But for our work, we separate out content from behavior and actor and it's been sort of one of the pillars of the structure of our approach.

[redacted] Thank you very much.

[redacted] Can we go off the record, please.

[Discussion off the record.]

[redacted] Can we go back on the record, please?

BY [redacted]

Q [redacted], if I could turn your attention again to page 20, 19 to 20. Twenty is Bates number 16091. I just had a couple of questions about your post there and the criteria you lay out.

A Uh-huh. Yes.

Q I think it was the final answer you gave of the previous round of questioning we were doing. You talked about the importance of each of the criteria and in particular -- I shouldn't say in particular -- one of which was the last one, apolitical.

With respect to partners that you consider to be apolitical, would that include most of the Federal agencies that we've discussed so far? Would that include the FBI?

A It would include any of the agencies that were in the working group at this point.

Q Okay. CISA?

A Yes.

Q Would you consider the Executive Office of the President to be apolitical?

A They certainly understand foreign interference. And I think it's been an issue that's been a consistent focus for the Executive Office of the President through administrations. They weren't part of this dialogue, though.

Q So understanding that the Executive Office of the President, if I understood

1 your answer correctly, has a focus on these issues and consider the issues to be
2 important --
3 [redacted] I'm sorry. I didn't hear that. Has what?
4 BY [redacted]
5 Q Has a focus on these issues.
6 Do you consider that office, the Executive Office of the President, to be apolitical?
7 A I mean, the EOP, the NSC is part of that office.
8 Q Yeah.
9 A I served in it. [redacted] on my team also served in it in different
10 administrations. So we've sort of seen how they operate. They are certainly focused
11 on these issues and are focused on them in terms of protecting the country from external
12 threat actors.
13 Q Sure. So regardless of what their intent is, do you consider EOP to be
14 apolitical?
15 A Well, the focus of the work here is, and the focus of the work that I have
16 seen in this space from the NSC, which is the one that's most engaged in the EOP, is
17 focused on foreign threat actors and countering foreign interference. And protecting
18 our elections is certainly a political issue.
19 Q Okay. Outside of NSC, do you consider the rest of EOP to be apolitical?
20 A Well, here what we're talking about is in the context of election protection.
21 And so what I would say is the work that I have seen there, engaged in there, [redacted]
22 engaged in there, is focused on protecting elections and ensuring the process and the
23 legitimacy of the process. That is apolitical.
24 Q Sure. But your answer's not answering what I'm asking, which is you
25 created posts, you gave reasons why each of these criteria is important.

A Uh-huh.

Q And I'm just asking, does EOP, does it meet in this case, what you put as criteria (c), apolitical?

Mr. Brown. He did answer you as to the NSC, which is within the Executive Office of the President.

[redacted] I don't think he answered within the -- okay.

Is the NSC apolitical?

Mr. Brown. He did answer that the NSC --

BY [redacted]

Q What is the witness' response?

A The NSC works on these issues, and their approach to that is apolitical.

Q So your testimony is that the NSC is apolitical.

A My testimony is that here in this context we didn't ultimately need, as I recall, to assess these three characteristics because the NSC wasn't discussed as a participant here.

But I have seen the work of the NSC, been part of it, [redacted] on my team, similarly, both in different administrations. And their work in this context is focused on protecting elections and ensuring the legitimacy of the process. That is apolitical work.

Q Okay. And outside of NSC, is the rest of the EOP apolitical?

Mr. Brown. Can you be specific about what you mean by the rest of the EOP?

[redacted] Any office within EOP that is --

Mr. Brown. I'm --

[redacted] I'm asking the witness' understanding of what he considers to be an apolitical agency or office.

Mr. Brown. I'm asking you to define what EOP means, like, because he gave you

1 a definition and an answer for what he considers to be part of EOP, which is the National
2 Security Council. So I'm asking, if there are other parts of the EOP that you want him to
3 speak to, will you tell us what those parts are.
4 [redacted] Okay. Can you give an example --
5 Mr. Brown. What do you mean?
6 BY [redacted]
7 Q Can you give an example of an executive agency that is not apolitical?
8 A It's not -- I mean, so these three characteristics are structured to work
9 together in the context of investigating and countering threats to elections from foreign
10 adversaries.
11 And so the things that I would look for would be, if they are a more operational
12 agency that is empowered to investigate and counter these threats, they have a
13 consistent record in doing this. Those are the types of factors that go into this analysis.
14 So that's, I think, the lens through which this structure was designed.
15 Q And the last criteria, it didn't come out of nowhere. Do you recall which
16 agencies were under consideration that were potentially political?
17 A This criteria was defined positively as opposed to negatively, by which I
18 mean the agencies that were included met that criteria.
19 Q Okay. Who is deciding which agencies can participate?
20 A Well, I think -- so as I recall, and I think you can sort of see it referenced in
21 here, if there were additional agencies that were interested in participating, then we
22 would discuss as industry and respond with our perspective on that.
23 Q If I could have you, still on page 16091, read to the bottom, there's a post
24 from you.
25 A Uh-huh.

1 Q Do you recall why GEC was being discussed with this group?
2 A I recall that at around this time -- and you can see some references
3 here -- there was a discussion about whether the GEC should join these conversations.
4 Q Okay. And what was the -- what were the considerations at play about
5 whether GEC should join these conversations?
6 A Generally we, industry, generally we in industry had a preference not to add
7 additional partners or additional participants. Every time you add someone new to an
8 operational discussion it sort of creates more complexity. It can slow the exercise down.
9 So our general preference was not to add other partners, GEC or otherwise.
10 Q Do you recall anything specific to concerns related to GEC specifically?
11 A I think one of the key concerns around GEC specifically would be the
12 operational piece. They're not an operational entity, which distinguishes them from the
13 other institutions we were working with.
14 Q Okay. Were there any concerns that GEC was political?
15 A No, not that I recall.
16 Q If I could have you review, starting with that first post on Bates number
17 16091 at the bottom, and then continuing on to page 22, Bates number 16093, there's
18 more discussion about GEC.
19 A Uh-huh. Sorry. How far did you want me to read?
20 Q Through page 22, Bates number 16093.
21 A Got it. Okay.
22 Q At the top of page 16093, there's a post from you saying: "Maybe that will
23 change when a new head for GEC gets officially confirmed."
24 Do you recall why the change of who was running the GEC would have an impact
25 on what industry is considering?

1 A No. But I actually think, if you read the document, you'll see my previous
2 message is noting that they aren't raising GEC with us directly in the meeting. So I think
3 the change that I'm referring to is maybe they will raise GEC with us directly in a meeting
4 once a new head gets confirmed.
5 Q Okay. And by "they," you're referring to the government?
6 A Correct.
7 Q And why do you think the government was not initially raising it?
8 A I don't know.
9 Q Okay. Why would a new head for GEC lead the government to raise the
10 issue?
11 A I don't know. Perhaps it would -- I don't know.
12 Q This is -- these messages are on March 10th, 2021. Do you recall who was
13 leading the GEC before or who took the position you were referencing?
14 A I spoke with them, but I don't recall the name at this particular moment.
15 Q Okay. Do you know if the individual who heads the GEC, whether that's a
16 political appointment?
17 A I'm not sure.
18 Q If I could call your attention to a post by [redacted]. It's on page 23,
19 Bates number 16094. He posts a note that he's leaving Wikipedia. He says he wants
20 to "thank [redacted] for taking point to bring us together."
21 Is this post consistent with your understanding of what your role was in bringing
22 the industry partners together?
23 A I mean, all of industry came together to share this information. You often
24 need someone who can keep a meeting moving, something like that.
25 Q And is that a role that you would play?

1 A At times.

2 Q Did you play a role in initially initiating -- actually, let me strike that.

3 When you joined Meta in 2018, was there already industry partnerships like this?

4 A We certainly already had industry partnerships, yes.

5 Q Yeah. But what about this partnership in particular?

6 A This particular collaboration, it was beginning as I was joining. I think it

7 began after I joined, but I don't quite remember where the original start was.

8 Q Okay. Have you flip forward a few pages. It will be Bates number 16121.

9 This is page 50. There are two posts on page 50 that I want to call your attention to.

10 One's in the middle of the page.

11 It says: "If we end up having to use MDM, I may just quit. I'm not sure I can

12 take it."

13 And David A. responds: "MDMI would have staying power."

14 First off, in your post what did you mean by MDM?

15 A So in this post I'm referring to a shorthand that is used for mis-, dis-,

16 malinformation.

17 Q Okay. And you say: "We end up having to use MDM." Who are you

18 referring to by "we"?

19 A Colloquially referring to sort of all of us.

20 Q All of us publicly or all of us in the collaboration?

21 A I think the essence of this is if MDM becomes the term of art that is used to

22 refer to these threats.

23 Q Okay. Do you recall who in this collaboration wanted to use MDM as a

24 term of art?

25 A I mean, many, many different people wanted -- have wanted to use MDM at

1 different points. If you'll just give me a moment.

2 Q Sure.

3 A When I read the exchange, it looks like this was taking place during a

4 conversation with government. So certainly government also uses the term "MDM" at

5 times.

6 Q Okay. And in earlier answers you discussed -- you said that malinformation

7 is -- not to put words in your mouth -- but an ambiguous term, that it has been used by

8 people to have multiple different means. Is that fair to say?

9 A I think -- yes, I think generally MDM as a term, it's sort of misinformation

10 means one thing, disinformation means another thing, malinformation presumably

11 means a third thing. Putting them all together, you lose the definitional precision of the

12 term.

13 Q And losing the definitional precision of the term, would this be an example

14 of the blurring between actor- and behavior-based as opposed to content-based

15 distinction that Facebook internally at least recognizes?

16 A It depends on how someone is using it, but it certainly could be.

17 Q Okay. Do you recall which government agencies on these calls would use

18 the term "MDM"?

19 A I recall DHS using it at times.

20 Q And by DHS, do you recall, do you mean CISA or other agencies within DHS?

21 A I don't recall which agency.

22 Q Okay. Do you recall if CISA ever used the term "MDM"?

23 A I don't recall specifically.

24 Q Okay. Do you recall what the issue was that this post is referring to?

25 A No.

1 Q Do you recall being discussed during any of these meetings the downsides to
2 using a term like MDM?
3 A No.
4 Q Is it your understanding that issues related to MDM all fall within the scope
5 of CISA's responsibility?
6 A I mean, part of my preference for not using MDM is that it's a broad term
7 that's imprecise. So I think it's hard to say exactly what the scope is that MDM describes
8 or where that responsibility falls.
9 Q Okay. Do you recall if others within industry shared your perspective about
10 the downsides of using a term like malinformation or MDM?
11 A It wouldn't surprise me, but I don't recall specifically.
12 Q You mentioned working with Mr. Roth as an example on issues related to
13 coordinated inauthentic behavior, foreign accounts. Do you recall if Mr. Roth shared a
14 similar viewpoint to you as far as concerns with the term "malinformation"?
15 A It wouldn't surprise me, but I don't recall.
16 Q At least as reflected here in the chat, no one participating in this channel
17 publicly pushes back against your criticism.
18 Do you recall receiving criticism from industry partners about your stance with
19 respect to the downsides of using malinformation?
20 A I don't recall it being a focus of our conversation either way.
21 Q Okay. If I could have you continue reading the next two pages, so this will
22 be until the end of Bates number 16123. Or, excuse me, actually, I'll have you flip ahead
23 to -- it will be Bates number 16151, and that's page 80, and Bates number 16152, page
24 81.
25 A Sorry. I just want to make sure I understand the context.

1 Mr. Brown. Oh, don't apologize. Take as much time as you need.

2 [redacted]. Okay.

3 BY [redacted]

4 Q If I could call your attention first to Bates number 16151. There's a

5 message in the middle of the page from rsalgado saying: "Back in as speaker, told it is

6 being recorded."

7 First, do you know who [redacted] is?

8 A Yes.

9 Q Who is it?

10 A That's [redacted]

11 Q And where does [redacted] work?

12 A At this point he worked at Google.

13 Q And then there's a response by you at the bottom of the page: "Probably

14 for USG requirements."

15 Do you know if these posts are in reference to a meeting with the U.S.

16 Government?

17 A That is what they appear to be from reading them.

18 Q Independent of what's on this page, is it your understanding that your

19 meetings with the U.S. Government were recorded?

20 A Not generally, no.

21 Q Okay. Some of them were?

22 A I don't recall any instances of recording. I wouldn't have recalled this

23 except for seeing this chat.

24 Q Okay. Having seen this chat, do you recall being notified at any point that

25 your meeting was being recorded?

1 A No.

2 Q If I could call your attention to the next page, top of Bates number 16152.

3 You write: "Think it's possible for all of us to refuse to participate if they keep calling it

4 mis/dis/mal information?"

5 Is "they" referring to the government in this post, this message?

6 A I would expect so, yes.

7 Q Okay. And do you recall who from the government was continuing to use

8 the terms mis-, dis-, and malinformation?

9 A No.

10 Q On the page here, looks to be a thumbs-up and a laughing face.

11 Do you recall others within industry sharing your perspective?

12 A I mean, you can certainly see here there's a smiley face and then "(kidding,

13 kidding)." And it's sort of late in the day. So this is -- largely is joking around.

14 Q Sure. Independent of the joking around or whether you are, in fact,

15 meaningfully trying to suggest that you would refuse to participate, does the message

16 accurately reflect your views that you don't think using the terms mis-, dis-, and

17 malinformation is a good way to go about it?

18 A Specifically using them together as a sort of conglomerate, my general

19 concern, as we talked about, is that if you have three separate terms that are intended to

20 mean different things and you lump them together you lose the precision of the terms.

21 Q And that can make it difficult to define scope? Is that correct?

22 A I think in talking about adversarial threat actors it's very useful and

23 important to be precise about what you're talking about.

24 So a good example of this is if we think back to that China operation that we

25 described, that I described us enforcing against, where we enforced against an operation

1 from China targeting the United States with one cluster of accounts purporting to be
2 liberal Americans and another cluster of accounts falsely purporting to be conservative
3 Americans.
4 I think for something like that, it's important to be clear that the enforcement is
5 based on the behavior, not the content. And so referring to that as a CIB operation,
6 referring to that specifically as an operation we enforced against because of behavior is
7 more useful for the discussion than simply calling it MDM.
8 Q With respect to just Facebook, what are some of the benefits of dividing
9 teams so that you have one team that focuses on actor and behavior based and one team
10 that focuses on content?
11 A I mean, one important example is that much of the work of my team is
12 fundamentally adversarial, by which I mean there is a witting, intentional, determined
13 bad actor on the other side of every decision you make. And what that means is you
14 need to think about factors that you wouldn't normally think of if you're not worried
15 about an adversary.
16 So a great example of this, which is not directly related here but we mentioned
17 earlier, if we think about our coordinated abusive reporting work, it's important to have a
18 vehicle or an opportunity for users to report when they see something that violates our
19 policies or think they do. But we have to be prepared that adversaries will try to abuse
20 that.
21 And so this notion of adversarial design, how do you design a system that is
22 resilient to a determined bad actor, when you're talking about bad actors, this really
23 matters because you have in the behavior and actor context sort of bad actors driving it.
24 So you have to think adversarially.
25 When you're talking about content, often the person posting it may not be a bad

1 actor. They may not have had malicious intent. They're not looking in the same way
2 potentially to evade or abuse systems.
3 And so you're dealing with a different challenge, right? In that context it's simply
4 very large-scale, which raises other challenges. So the nature of the challenges you face
5 are different, and so it's useful to have different teams with different types of expertise
6 so you can align that expertise to the challenges those teams are most likely to face.
7 Q With respect to the government, when they're speaking about MDM -- mis-,
8 dis-, and malinformation -- was it your understanding that the U.S. Government was
9 involved in all three facets of the term?
10 A I can't speak to how they interpreted the term, which is part of the challenge
11 with it, of course, is that it's a broad term that means different things to different people.
12 In my experience, in these conversations we focused on behavior, the actor.
13 Q To your understanding, do any Federal agencies, are there any Federal
14 agencies that as part of the scope of their responsibilities have responsibility over issues
15 related to misinformation, disinformation, and malinformation?
16 A I can't speak to their scope, and in particular I'm hesitant to do so because
17 they could interpret mis-, dis-, and malinformation differently. So I don't know.

1 [3:03 p.m.]

2 BY [redacted]

3 Q Yeah. Setting aside whether -- what the agencies think, just to clarify the

4 question, what is your understanding?

5 So we'll take CISA as an example. Is it your understanding that it would be within

6 the scope of CISA's mission to handle issues related to misinformation, disinformation,

7 and malinformation?

8 A To answer that question, I would need to define malinformation.

9 Q Okay.

10 A Can you define how you want to use that?

11 Q Sure. If malinformation is defined as factually true content that lacks --

12 A Okay.

13 Q -- adequate content -- that lacks adequate context, do you believe -- is it

14 your understanding -- or is what CISA believes -- is it your understanding that CISA -- that

15 the scope of CISA's mission allows it to deal with issues relating to misinformation,

16 disinformation, and malinformation?

17 A Could you give me an example of a piece of content that would fit into this

18 category?

19 Q Sure. I -- regardless of --

20 A Can you --

21 Q It could fit into each of these, so --

22 A Right. But I guess into this third category you've described.

23 Q Sure. If there is a content that is factually true about a glitch with election

24 software, but the post ends there, does not provide adequate context such that someone

25 might think the post is -- contributes to skepticism of the integrity of election, would that

1 kind of piece of content, to your understanding of what CISA's scope is, fall within the
2 scope of CISA's mission?
3 A I'm not sure.
4 Q Okay. During discussions with the U.S. Government, do you recall any
5 government official ever noting or discussing limits created by the First Amendment?
6 A Knowing or discussing limits created by the First Amendment.
7 [Discussion off the record.]
8 [redacted]. I know that -- I know that our government partners, the entities
9 that will share information with us, were careful to characterize that they were sharing
10 information about foreign interference, or that they weren't asking us to take action.
11 They were simply sharing something with us for analysis. I don't know if that's relevant
12 to what you're describing, but that's what I recall.
13 Q Do you ever recall them explaining why they were only sharing information
14 as opposed to asking more specifically for a company to take a specific action?
15 A I don't know what is specifically in their head, so I can't speak to their intent.
16 Q Did they ever communicate a reason why?
17 A They were quite -- they were consistent about wanting to make sure that we
18 knew that we should take on the information they shared with us, and take action, but
19 we should make our own decision about whether to act or whether not to act. That was
20 something that each of our partners in government was quite consistent about, ensuring
21 they highlighted when they shared information or all of them spoke in dialogue. So my
22 expectation would be that that's what they're trying to communicate.
23 Q Okay. But do you have any recollection of them providing a reason in
24 addition to communicating what they were communicating?
25 A I don't have a specific recollection.

1 Q Okay. If I could have you turn to Bates No. 16169. This is page 98.
2 There is a new set of messages beginning the middle of the page starting on
3 March 23rd, and you write: Interesting to see them trying to grapple with the domestic
4 side.
5 Mr. Salgado responds: So hard to navigate.
6 Do you recall who you're referring to in your post here?
7 A Give me a moment.
8 No.
9 Q Do you recall a government ever discussing concerns related to issues that
10 involved United States?
11 Let me strike that.
12 Your reference here to the domestic side, do you refer -- what do you understand
13 that phrase to mean?
14 A I mean, I'm simply reading it here. I don't recall what it referred to.
15 Q We -- I think it was in the first hour of questioning -- had discussed whether,
16 when people provided information, sometimes those people would identify whether it
17 was foreign-based or domestic-based.
18 Do you know if this message is referring upon that same dynamic?
19 A I don't know -- I don't recall what this message is referring to.
20 Q Okay. And the them, you don't -- do you recall if that's someone from the
21 government?
22 A I don't recall.
23 Q The other messages we've been looking at and this channel has been
24 used -- used for includes allowing industry to communicate amongst one another during
25 meetings with the U.S. Government?

1 A Yes.

2 Q Is there anything inconsistent with this message to suggest that you're not

3 referring to the U.S. Government?

4 A I'm working through the double negatives.

5 Q Sorry. Is there anything in this message that would suggest that you were

6 not referring to the U.S. Government?

7 A I don't recall what this is referring to either way specifically.

8 Q Okay. Other than the U.S. Government and the industry partners in this

9 collaboration, who else would attend these collaboration meetings?

10 A Do you mean the sync meetings between industry and government?

11 Q Yes.

12 A No one else.

13 Q Okay. But you say: Interesting to see them trying to grapple with the

14 domestic side.

15 And you post this in the industry channel. Is it safe to say the message would not

16 make sense if you were referring to industry?

17 A I see what you're asking. That's reasonable.

18 Q Okay. Do you recall any meeting where a member of the U.S. Government

19 was portraying something as being -- having originated -- was portraying either an actor

20 or behavior or a piece of content that was originating from outside the United States, but

21 industry was aware that there was evidence to suggest otherwise?

22 A You're asking if I recall a -- a meeting where that happened?

23 Q Do you recall any instance where U.S. Government is presenting at a

24 meeting that industry is attending in which this occurred?

25 A I recall times when government would ask industry whether we were seeing

1 foreign activity connected to something that ended up being domestic --

2 Q Okay. And --

3 A -- which is not quite what you were asking, but is similar.

4 Q Sure. So there is an issue domestic in origin, if I'm understanding your

5 answer correctly, and the U.S. Government is asking whether there's a foreign nexus of

6 some kind?

7 A Correct.

8 Q Do you remember what sets of issues an example of this --

9 A One example that comes to mind is January 6th.

10 Q Okay.

11 A If you may recall, particularly in the days following January 6, there was a lot

12 of -- quite a lot of public discussion wondering whether there were foreign actors

13 involved with that, and I recall government looking to understand if we had seen any

14 foreign nexus, your word, to that incident.

15 Q Okay. So this post is from March 2022.

16 Do you have a sense of what incident this might be referring to?

17 A No, I don't.

18 Q [redacted] writes: So hard to navigate.

19 Independent of this chat, in your line of work, is it difficult at times to determine

20 whether the source is domestic or foreign?

21 A Yes.

22 Q Is this a difficulty that U.S. Government agencies have as well?

23 A I mean, I can't speak to their challenges. Their ability to operate and the

24 tools that they use are obviously very different than the tools that we use and how we

25 operate.

1 Q Do you ever recall anyone from the U.S. Government expressing the
2 difficulty in determining whether something originated within the United States or
3 outside?
4 A No.
5 Q In this context of the example you provided, or the high-level example is
6 there's an incident that is domestic, the government is inquiring about a foreign nexus
7 potentially to it, do you recall if any discussions of the First Amendment was ever
8 discussed?
9 A I mean, I don't recall specific instances around this, although I will say I think
10 part of why you saw these questions is, if we go back a few years, you could see instances
11 where foreign actors -- in particular, Russia -- were trying to use online profiles to create
12 physical incidents within the United States.
13 So, for example, they would create events that were trying to gather together in
14 the same place people who might strongly believe on one end of the political spectrum
15 and then on the other end, presumably to try to create a conflict or a physical fight.
16 In a context like that, you have a lot of worry about whether foreign actors
17 interfering, or could even cause direct harm, and that also interferes with the ability of
18 these people within the United States to voice what they believe, which is a commonly
19 understood First Amendment component.
20 [Discussion off the record.]
21 Mr. Brown. Time check, please?
22 [redacted] We're about 45 minutes in.
23 Mr. Brown. Okay.
24 BY [redacted]
25 Q If I could have you turn just a couple pages to 16171.

A 1617 -- so it's the next page. Okay.

Q Yeah. Sorry.

And then have you read on to the next page, which would be 16172.

A Uh-huh. I was hoping we were going to focus on Hello all and happy Wednesday.

Q There is a post I'll call your attention to, a message from you at the top of page 16172. You write: The only major heads-up I have on topics from DHS is that they anticipate doing a DHS brief on some new structures they're putting in place internally.

This message is from April of 2022.

A Uh-huh.

Q Do you recall what new structures you're referring to?

A Just give me one minute.

Q Sure.

[Discussion off the record.]

[redacted]. All right. Sorry. Your question was?

BY [redacted]

Q Your message refers to new structures that DHS is going to be putting into place.

Do you recall what you're referring to?

A I don't.

Q If I could have you turn to page 16184.

A Yeah. And it looks like this meeting may not have taken place if you would look to the next page.

Q Okay.

1 A Sorry. What was the number?

2 Q 16184.

3 A Uh-huh.

4 Q I can have you review the whole page, but I'm going to ask you about the

5 message at the bottom there.

6 A Just give me a minute.

7 Okay.

8 Q Two messages up from the bottom, there's a message from [redacted] saying --

9 A I'm sorry. Which page?

10 Q Sorry. 16184.

11 A Got it.

12 Q There's a message from [redacted] saying that DHS asked us to shift our monthly

13 meeting today since they have an election tabletops exercise.

14 Do you know if industry was invited to that election tabletop exercise?

15 A I don't, although the fact that we were apparently getting notice of it the

16 same day suggests we were not.

17 Q If I could have you turn back to page 161 -- 16169. It's page 98.

18 A 16169. Yes.

19 Q Building off what we discussed earlier, when the U.S. Government was trying

20 to determine if there was a foreign nexus or not to an incident that was domestic also,

21 your reference -- your word choice of grapple, how would that play to what you're

22 referring to as far as domestic versus a foreign nexus?

23 A Well, I mean, to be precise, I gave that example as a way the U.S. had asked

24 us about the possibility of a foreign nexus for domestic events. I don't recall whether

25 that was the context for this message or if there was a different context, so I'm not sure.

1 Q Okay. Do you recall other instances -- so you provided the one example,
2 and understand that, you know, you don't have a recollection whether this message is
3 referring to this type of example where there's something domestic in origin and the
4 U.S. Government is being -- you know, interested to see if there's a foreign nexus to
5 what's unfolded domestically.
6 What other examples do you recall where the U.S. Government might be
7 grappling with issues of domestic or foreign?
8 A Well, as I said, I don't recall what this refers to. I think January 6th is the
9 most prominent example that I recall.
10 I also mentioned the example that previously we had seen, and actually reported
11 on publicly some instances of foreign actors, specifically Russian actors, trying to use
12 online events to generate a domestic incident between American citizens. That would
13 be another example as well.
14 Q Do you recall other examples -- not necessarily examples of the same type,
15 but of a different format where government's having difficulty identifying whether the
16 inauthentic behavior is foreign or if it's domestic?
17 A I don't recall specific examples of government asking us those questions. I
18 think the question of whether -- and let's take this out of the U.S. context for a minute.
19 The question of whether behavior is foreign or domestic is a -- is often challenging,
20 because you can't see who is behind an operation at times. And we've seen that
21 Russian actors intentionally try to -- in fact, I think we were discussing this earlier -- try to
22 coopt unwitting domestic Americans or domestic participants of other countries to make
23 that line harder to determine.
24 Q Again, to the extent you recall during these meetings where different issues
25 come up, you know, we've established the message wouldn't make much sense if it was

1 directed towards industry, if it was put in the industry group channel.

2 What other challenges, to your understanding, does the U.S. Government face

3 when handling issues that relate to content or behavior actors that are domestic in

4 origin?

5 A What other issues does the U.S. Government face --

6 Q Yeah.

7 A -- that are domestic -- I mean, a lot of other issues.

8 Q What challenges does the U.S. Government face --

9 [Discussion off the record.]

10 [redacted]. Sorry.

11 [redacted] Sure.

12 BY [redacted]

13 Q So both U.S. Government and partners are working together on issues

14 relating to, for instance, inauthentic behavior, right, on issues related to that and other

15 similar issues. What challenges does the U.S. Government face when that inauthentic

16 behavior is domestic in origin?

17 A I think you'd need to speak to the U.S. Government about what things are

18 challenging for them in that context.

19 Q During this meeting, though, you're watching them make some sort of

20 presentation, and comment that they're grappling with something. I'm just trying to get

21 a sense of what you know what sort of difficulties the U.S. Government might be

22 discussing?

23 Mr. Brown. I think he's already answered --

24 [redacted]. Yeah. I mean, as a --

25 Mr. Brown. -- this question -- go ahead.

1 [redacted]. You know, as I said, I don't remember what this is referring to.
2 We've talked about the fact that they could well logically refer to government, but I don't
3 remember the specific exchange here.
4 BY [redacted]
5 Q Okay. But, again, absent this specific exchange, again, just at a high level.
6 A Well, but you were just asking in this specific exchange when I was in the
7 meeting.
8 Q Well, using this -- your word choice in this specific example -- using that as a
9 basis to ask at a high level, do you recall instances where a U.S. Government
10 representative, or representatives, are grappling with some set of, you know, challenges?
11 A I mean, I -- I gave you a couple of examples. Those are the ones that come
12 to mind.
13 Q Any others?
14 A Those are the ones that come to mind.
15 Q Okay. Did -- did you attend a hack-and-leak tabletop exercise hosted by
16 the Aspen Institute in the summer of 2020?
17 A I did.
18 Q And was it a one-time meeting, or were there multiple meetings?
19 A You're asking about -- I'm sorry -- the tabletop exercise?
20 Q Yes.
21 A There was only one of those that I recall.
22 Q Were you part of the preparation -- the creation of the exercise itself?
23 A I -- as I recall, I thought the idea of an exercise like that was a useful one, and
24 a good idea, but Aspen designed the scenario --
25 Q Okay.

1 A -- and hosted.

2 Q Do you recall who from the Aspen Institute invited you?

3 A I spoke with [redacted].

4 Q Who is [redacted]

5 A [redacted] is the director of Aspen Digital, I believe.

6 Q Okay. Do you recall the purpose of the tabletop exercise?

7 A The purpose of the tabletop exercise was to -- the tabletop exercise, in

8 particular, you're asking about?

9 Q Yes.

10 A I think you would -- I mean, Aspen pulled them -- pulled it together, so you'd

11 need to ask them what the goal was or what their purpose was for it.

12 Q Why did you attend?

13 A I attended -- well, in the lead-up to the 2020 election -- so if we pull back a

14 little bit, as we were thinking about the threats that were likely to manifest -- we talked

15 about this a bit earlier. I think one of the likely threats that we assessed we needed to

16 prepare for was a hack-and-leak operation.

17 And a hack-and-leak operation is when a threat actor, foreign government, steals

18 information, and then generally mixes it with -- mixes what may be accurate information

19 with inaccurate information, and then releases it in an effort to impact public debate.

20 And we've seen them do that before. We've seen threat actors -- in particular,

21 the Russians -- use this technique multiple times. And so we knew it was something we

22 needed to prepare for.

23 The challenge at Meta is that hack-and-leak operations don't just target Meta,

24 they target public debate broadly. They will impact other platforms. They will impact

25 the traditional media. In fact, often the goal of a hack-and-leak operation is sort of like

1 perception hacking, which we discussed earlier, to try to get traditional media to cover
2 the hack and leak. Essentially, the Russians are trying to trick us into doing their job for
3 them.
4 And what that means is that we as a platform recognize the risk. We need to
5 take steps to counter it, but we can't tackle the problem alone. No single company can
6 do that; not even a single industry. You need to have people across society thinking
7 about, and being ready for the risk. And so a tabletop exercise like this is an opportunity
8 to bring together different people who need to think about the threat and help everyone
9 think about what it could mean and how to prepare for it.
10 Q Okay. So, in addition to the media, journalists, tech partners, does the
11 Federal Government have a role in this space?
12 A I don't recall the Federal Government participating in these conversations.
13 Q The Federal Government did not discuss hack and leak -- the risk of hack and
14 leak --
15 Mr. Brown. It's not what he's -- he's talking about the tabletop. He's saying --
16 [redacted]. Right. I don't recall the Federal Government participating in the
17 Aspen tabletop that we're discussing.
18 [redacted] Well, the previous answer took a step back on the specific answer
19 about --
20 Mr. Brown. Yeah. Certainly only why they were doing tabletops.
21 [redacted] Yes. And then his answer to --
22 [redacted]. So, to be precise --
23 [redacted] Yes.
24 [redacted]. -- we're talking about the Aspen tabletop.
25 [redacted] And the Aspen tabletop --

1 [redacted]. I do not recall --

2 [redacted] -- your answer is more specifically to Aspen. Is that fair?

3 [redacted]. I do not recall the Federal Government participating in the Aspen

4 tabletop.

5 [redacted] Okay.

6 BY [redacted]

7 Q Who do you recall participating in the Aspen tabletop?

8 A You described some groups that I think was a good representation of who

9 participated.

10 Q Yeah. Did anyone else from Meta attend?

11 A I believe so.

12 Q And who do you think also attended?

13 A I believe that [redacted] also attended.

14 Mr. Brown. Are we at time?

15 [redacted] Thirty seconds. We can go off the record.

16 [Recess.]

17 [redacted] Okay. We're back on the record.

18 BY [redacted]

19 Q And I'm sorry. Do you believe -- I know you all spent a lot of time talking

20 about it, but I'm going to ask you some quick questions about the Signal chat in exhibit 4.

21 And if I could turn your attention to page 98, Bates 16169. This is the grappling of the

22 domestic side comment that has been the subject of --

23 A Yes.

24 Q -- many questions.

25 Just to clarify, you do not remember this conversation or this chat?

1 A Correct.

2 Q You don't know who "them" refers to?

3 A Correct.

4 Q You said that it was reasonable to assume that it was referring to a

5 government agency?

6 A I think what we said was it was reasonable to assume it wasn't referring to

7 industry, and that the only participants in those meetings are industry and government.

8 Industry does meet with other entities as well, so --

9 Q Okay. But it is possible that you were referring to someone from industry?

10 A From industry?

11 Q Yeah.

12 A It's possible. I think it's -- I think it is unlikely to be referring to someone

13 from industry.

14 Q And you do not -- well, for example, on the next page, you say, I see how she

15 just made it my problem again.

16 You don't know who she is?

17 Mr. Brown. Can I pause one second?

18 [redacted] Sure.

19 Mr. Brown. Do we have a third book? We had three to work from. We

20 should have some -- thanks.

21 [redacted]. I'm sorry. Ask your question again.

22 BY [redacted]

23 Q You said -- I'm asking on the next page. You said --

24 A Yes.

25 Q -- I see how she just made it my problem again.

1 You don't know -- as you sit here today, you don't know who she is?

2 A I do not.

3 Q And you don't know what it was -- what the problem was?

4 A I do not.

5 Q You have no memory of this. All those questions were premised on an

6 assumption that it was some government agency?

7 A That's correct.

8 Q Thank you.

9 Now, I want to talk to you --

10 A May I close this up?

11 Q Yes. We're done with it. Well, I'm done with that, I should say. I can't

12 speak for my counterparts.

13 In, I believe, the first hour, you gave a very detailed description of all of the

14 reasons why Meta was on guard for hack-and-leak operations in 2020, and, in fact, even

15 earlier. And some of those reasons -- and correct me if I'm wrong -- included previous

16 hack-and-leak operations by the Russians regarding the 2016 U.S. Presidential election,

17 correct?

18 A Correct.

19 Q Russia's hack-and-leak operation regarding the 2017 French election?

20 A Correct.

21 Q [redacted] posting online that he had sensitive information about

22 Burisma that he intended to leak?

23 A Correct.

24 Q And do you recall when that was?

25 A I believe that was December of 2019 --

1 Q Okay.

2 A -- but I don't remember exactly.

3 Q And, in January 2020, there was reporting that Russia had hacked into

4 Burisma?

5 A Correct.

6 Q And you were aware of all these things at the time?

7 A Correct.

8 Q And I believe you mentioned an August 2020 letter by the Director of

9 National Intelligence on the risk of a hack-and-leak operation from Russia involving

10 Burisma and targeting former Vice President, then-candidate Biden -- Joseph Biden?

11 A Correct. I believe it was a report that they put out.

12 Q And are you referring to the report by [redacted]?

13 A I'm not sure -- I'm not sure who the author of the report was.

14 Q Okay. I'm going to -- exhibit -- and we're at 5, right?

15 [redacted] Yes.

16 [redacted]. Thank you.

17 [redacted] If you can take -- wait, no. Did I just give you the wrong thing?

18 I did. Sorry. I gave you the wrong thing.

19 [Majority Exhibit No. 5.

20 Was marked for identification.]

21 BY [redacted]

22 Q If you can take a look at this and let me know if that's what you're referring

23 to.

24 A It looks like it. The reference that I'm recalling is in the -- it is the headline

25 Russia in a paragraph middle of the second page.

1 Q Thank you. This -- this press release addresses if there was operations from
2 other countries as well?
3 A Correct. It also addresses -- I mean, beyond necessarily influence
4 operations, but threats from China, Russia, and Iran.
5 Q And this press release was issued by the Office of the Director of National
6 Intelligence on August 7th, 2020, correct? That's what's reflected on the front?
7 A That's what's reflected on the front.
8 Q And that was before the Aspen tabletop exercise?
9 A Yes, it was.
10 Q And all of the indicators that you -- that we just spoke about that had Meta
11 as well as the government on guard against Russian hack-and-leak operations had
12 occurred before the Aspen exercise?
13 A I believe that's correct, yes.
14 It's worth noting this one we hadn't gotten to. In September, the Treasury
15 Department actually sanctioned [redacted] and some others as explicitly linked to
16 Russian intelligence.
17 Q Thank you very much.
18 And [redacted] was also somebody who was known to be an associate of
19 Rudy Giuliani, correct?
20 A That may be right. I'm not sure about that.
21 [redacted] If I can just have one minute.
22 That's it for me. We can let the majority continue.
23 We can go off the record to switch places.
24 [Recess.]
25 [redacted] Back on the record, please.

1 BY [redacted]

2 Q [redacted], are you familiar with the Election Integrity Partnership?

3 A Yes.

4 Q And what is it?

5 A My understanding is that it was a group of civil society organizations that

6 were trying to protect the election around 2020.

7 Q Did you have any interactions with the partnership?

8 A Some.

9 Q And what was -- what was the nature of your interactions?

10 A One of the things the partnership wanted to do was to be able to flag to

11 platforms if they identified something they believe violated our policies, and so we spoke

12 with them about how to establish that.

13 Q And, when you say "we," does that include you? Were you having direct

14 interactions with the partnership?

15 A I had some initial interactions with them, and then I didn't have as many

16 once we sort of got into operationalizing it.

17 Q And who did you speak to?

18 A I don't recall. Yeah. I don't recall.

19 Q Do you recall if you ever spoke to Alex Stamos of Stanford?

20 A It's certainly possible.

21 Q How about Renee DiResta, Stanford?

22 A Also possible.

23 Q All right. Did you know them independent of this partnership?

24 A Yes.

25 Q Okay. In your preliminary discussions with the Election Integrity

1 Partnership, who else from Meta was engaging in these conversations?

2 A I don't recall the individuals on our side.

3 Q Okay. You said once it got operationalized, you took a step back. Did

4 someone else from Meta take on --

5 A Presumably, yeah.

6 Q -- the partnership?

7 A Presumably, yes.

8 Q Do you know who?

9 A I don't.

10 Q Do you know which team?

11 A Well, most of what they were sharing was not behavior related, and so it

12 wouldn't have been my team.

13 Mr. Brown. [redacted] just for the record, are you representing that there's some

14 governmental nexus to the engagement between the EIP and Meta?

15 [redacted] There is a government nexus to EIP, so yes.

16 Mr. Brown. Thank you.

17 BY [redacted]

18 Q Do you recall when you were first approached by someone at EIP?

19 A I don't.

20 Q Was it before the 2020 U.S. Presidential election?

21 A Yes.

22 Q Was it sometime within the period of 2020?

23 A I don't remember.

24 Q Okay. Do you -- do you recall having any discussions regarding EIP with

25 [redacted]?

1 A It's possible, but I don't recall specifically.

2 Q What about with [redacted]?

3 A Similar. I don't recall.

4 Q How about with respect to [redacted]?

5 A Same answer. That is, I don't recall.

6 Q Is it your understanding that EIP did, in fact, flag pieces of content that were

7 on Meta's various platforms?

8 A Yes. It is my understanding that that happened.

9 Q Okay. Were you ever directly contacted about pieces of content that EIP

10 was flagging?

11 A Not that I recall.

12 Q Okay. Are you familiar with something called the Jira ticketing system?

13 A Not really.

14 Q Is it a program that Facebook uses?

15 A I don't know.

16 Q Not to your knowledge?

17 A Not to my knowledge.

18 Q Do you have any familiarity with whether someone from Meta was

19 onboarded onto a Jira ticketing program with EIP?

20 A No.

21 Q You don't know one way --

22 A I don't know.

23 Q Okay.

24 A I don't know just one way or the other, yeah.

25 Q Do you know what Graphica is?

1 A Yes.

2 Q What is it?

3 A Graphica is a research firm that investigates threat actors. In particular,

4 influence operations.

5 Q And, in the scope of your work, independent of EIP, do you ever work with

6 Graphica?

7 A Yes.

8 Q And what's the context of your interactions?

9 A They sometimes write reports on takedowns that we conduct.

10 Q Are you familiar with DFR Lab, which is housed within the Atlantic Council?

11 A Yes.

12 Q And what is DFR Lab?

13 A It stands for the Digital Forensics Research Lab.

14 Q And what do they do?

15 A It's a subcomponent of the Atlantic Council.

16 Q And can you be more specific about what the lab itself does?

17 A They do a range of things. They do a range of different things.

18 Q In your course of work at Meta, do you work with --

19 [Discussion off the record.]

20 BY [redacted]

21 Q In the course of your work at Meta, do you ever work with DFR Lab?

22 A Yes.

23 Q What is the nature of your work with DFR Lab?

24 A Similar to the work with Graphica.

25 Q Okay. When you were first contacted by EIP, were you aware that

1 Graphica and DFR Lab were among the partners of EIP?

2 A I mean, I don't recall what I knew at that exact moment when I first received

3 the email, or however they contacted me.

4 Q Okay. Do you know who Kate Starbird is at the University of Washington?

5 A Yes.

6 Q Have you worked with her independent of EIP?

7 A I have spoken with her independent of EIP, yes.

8 Q And you said you had a -- just a high-level familiarity with the Center for

9 Internet Security, CIS?

10 A I know the name. I know that it exists.

11 Q Okay. This will be exhibit 6.

12 [Discussion off the record.]

13 [redacted]. Okay.

14 [Majority Exhibit No. 6.

15 Was marked for identification.]

16 BY [redacted]

17 Q First, who is [redacted] Is that right?

18 A Yes. [redacted] was on my team.

19 Q And does she report to you, or to [redacted]

20 A She is no longer at Meta.

21 Q Okay. But, at the time of this email, she was on your team?

22 A Correct.

23 Q If I could call your attention to -- this is at the bottom of 44284, the

24 paragraph starting with the number 2. There is reference to a CIS portal in reference to

25 a meeting facilitated by DHS in regard to its development of a new portal to have a

1 centralized channel on reporting misinformation.

2 Do you have any recollection of --

3 Mr. Brown. That's not the end of the sentence, right?

4 [redacted]. It's just a reference on the next page.

5 Mr. Brown. It doesn't end with reporting misinformation. It says, We have

6 some questions about the efficacy of this effort that we'd love to talk over together,

7 right?

8 [redacted] It says that as well, yes.

9 Mr. Brown. All right. That's the sentence. Just don't want a fragment of a

10 sentence under here representing it as if it were the whole sentence.

11 [redacted] Okay.

12 BY [redacted]

13 Q Do you recall attending the meeting facilitated by DHS on this issue?

14 A No, I don't.

15 Q Okay. Do you recall in any capacity working on an issue related to a portal

16 created by CIS?

17 A No.

18 Q Do you know why your team is looped in on this project if the stated

19 purpose of the channel is to report misinformation?

20 A I don't, other than to say, outside of the company, people don't always

21 understand what the scope of our teams are, and so, you may end up looped into an

22 issue, and then you route it over to the appropriate team.

23 Q Okay. Based off your understanding of how Facebook's teams have divided

24 the responsibilities, would this portal be providing reports that are better directed toward

25 [redacted] team?

1 A I don't know enough about the portal or whether it was ever created to -- to
2 know how it would have made sense to direct it.
3 Q Okay. So, to clarify, you don't know whether the portal was, in fact, ever
4 created?
5 A Correct.
6 Q Do you know who funds CIS?
7 A No, I don't.
8 Q Do you know if it has any affiliation with the U.S. Government?
9 A I don't.
10 Q Other than trying to potentially set up a portal, did you have any other
11 interactions with CIS as part of your role at Meta?
12 Mr. Brown. I'm sorry. Did you say he tried to facilitate setting up the portal?
13 [redacted] No. Independent of that and appreciating he doesn't have any
14 recollection, does he have any other interactions that he recalls --
15 [redacted]. I'm not sure -- so --
16 [redacted] -- with CIS.
17 [redacted]. -- I was only cc'd on this email.
18 [redacted] Yes.
19 [redacted]. But, reading it, I don't think I would characterize our interaction
20 here as looking to facilitate setting up a portal.
21 BY [redacted]
22 Q To clarify, CIS looks to be -- as described in this email, that CIS is trying to set
23 up the portal.
24 A Fair enough.
25 Q Not Facebook.

1 A Right. I see us -- Saleela here noting some questions on the efficacy of the
2 effort, suggesting sort of the opposite.
3 Q Yes. Thanks.
4 In your role at Facebook, do you recall any other interactions with CIS?
5 A No.
6 Q What about your team generally?
7 A No.
8 [redacted] All right. We can take these back.
9 BY [redacted]
10 Q With respect to the hack-and-leak tabletop exercise hosted by the Aspen
11 Institute that you attended in the summer of 2020 --
12 A Uh-huh.
13 Q -- do you recall if there was a -- hypothetical scenarios created in advance for
14 the tabletop exercise?
15 A I believe that there was.
16 Q And do you remember what, like, the fact pattern was for that hypothetical?
17 A I don't recall the details.
18 Q Okay. Do you recall who was involved in creating the hypothetical?
19 A I know that Aspen took the primary lead in creating the hypothetical.
20 Q Did you play any role?
21 A I certainly played a role in the idea of having a tabletop exercise, if that's
22 what you mean. And I may have commented on the scenario. But they were the ones
23 who were creating it.
24 Q Do you recall if the hypothetical involved a hack and leak related to
25 information related to Hunter Biden?

1 A I don't recall that specific term. What I would expect is that the -- the
2 hypothetical would look pretty similar to what was widely expected to be the most likely
3 threat of a hack and leak at that time.
4 Q And what was that?
5 A Well, at that point, if we look at, for example, the warning highlighted by the
6 Director of National Intelligence, they were highlighting a specific risk. In fact, they were
7 indicating that it was already happening, that Andrii Derkach, a Russian-linked actor, was
8 sharing what he claimed to be sensitive information -- I believe it was phone calls -- that
9 were designed to denigrate then-candidate and former Vice President Biden, particularly
10 around links to Burisma.
11 Q Okay. Did you participate in internal tabletop exercises at Meta?
12 A Internal tabletop exercises. Broadly. I mean, we use tabletop exercises as
13 a tool, so we've certainly done them before, if that's what you mean. Yes.
14 Q Did you do any in the summer of 2020 related to hack and leak?
15 A I don't recall any.
16 Q No?
17 A No, I don't recall any.
18 Q How were the protocols developed to handle a potential hack-and-leak
19 scenario?
20 A Well, we began our preparation for the election back in 2019. And when
21 we did that, we were looking at sort of what some of the major risks or threats would be.
22 One of the major threats was -- that we identified was a hack-and-leak operation. I
23 know we discussed this some of the earlier hours. There is a bunch of different external
24 evidence, including the history of Russian activity, that went into that assessment --
25 Q Okay.

A -- based on that.

We then went to look and see how did our policy stack up against the types of threats we'd seen in the past. Would we have the tools that we would have needed in place to deal with an operation like this from the Russians, modeled on operations we'd seen in the past?

And the hack-and-leak policy, the development of it, was designed to give us further tools, so that if we did see a Russia-backed, or, I guess, a foreign-backed hack-and-leak operation, that we'd be able to take action.

Q At the hack-and-leak tabletop exercise hosted by the Aspen Institute, do you recall anyone else from industry attending?

A I don't -- I mean, I -- I don't recall specific names, but I would expect that others from the industry attended as well, yes.

Q And, regarding the risk of hack and leak, do you recall, on industry-only calls, if that issue was ever discussed?

A I don't recall it specifically, but throughout 2020, we were -- I was trying to raise awareness of this risk. You've seen, I'm sure -- I've put out public statements about it. Meta put out reports about it, and I expect we would have discussed that on the industry calls.

Q Okay.

[Discussion off the record.]

BY [redacted]

Q And, by the industry calls -- just this one clarification. You're referring to industry-only calls, or the USG industry, or both?

A Yeah. I mean, my recollection, I would expect it was part of the industry calls. I believe that there was one USG industry call where it was actually listed on an

1 agenda, so presumably it was part of that as well.

2 Q Turning back to how your team initially handled the Hunter Biden laptop

3 story, your team made an assessment and made the determination or recommendation

4 that the story could not be actioned, or should not be actioned under the hack-and-leak

5 policy.

6 In the days that followed -- the day that the story was issued and the days that

7 followed, did any of your industry contacts reach out to you regarding how you were

8 handling the story?

9 A In the days that followed?

10 Q Yes.

11 A I don't remember a specific exchange, but we took public action. It

12 wouldn't surprise me if they'd asked about it and we clarified what we did.

13 Q All right. Do you recall if Mr. Roth ever contacted you?

14 [Discussion off the record.]

15 [redacted]. I'm sorry.

16 BY [redacted]

17 Q Do you recall if Mr. Roth ever contacted you?

18 A I believe Yoel Roth contacted me on the day of. I don't recall if there were

19 further communications after.

20 Q Yeah. And, when he contacted you the day of, what was -- what did he

21 communicate to you?

22 A I don't remember the substance of the conversation.

23 Q But it was regarding the story?

24 A Yes.

25 Q Do you recall when you learned under what grounds Twitter decided to take

1 action against the story?

2 A When I learned?

3 Q Yes.

4 A I believe Mr. Roth told me when they were planning to take action.

5 Q And to your understanding, did Twitter take action the day that the story

6 was issued?

7 A I don't remember exactly when, but I expect it was the day that the story

8 was issued.

9 Q So Mr. Roth would have communicated with you on that day, then?

10 A That's my recollection, yes.

11 Q Okay. Do you recall having any discussions about your team's assessment

12 that the story did not meet your company's hack-and-leak policy?

13 A I don't recall the specific conversation, but I expect I would have told him

14 that --

15 Q Okay.

16 A -- and probably the industry group as well.

17 Q Okay. Did you share this assessment with anyone in the U.S. Government?

18 A I -- I would expect we did. I don't recall it specifically.

1 [4:14 p.m.]

2 BY [redacted]

3 Q Do you recall receiving information from the U.S. Government?

4 A Receiving information? Sorry.

5 Q Do you recall receiving any information from the U.S. Government regarding

6 the veracity of the story or the authenticity of the laptop?

7 A No.

8 Q And just as a clarifying qualifier for the sentence, from the time the story

9 was issued and, we'll say, within the 2 weeks that followed.

10 Mr. Brown. So, [redacted] further clarification. When you say "you," are you

11 referring to you, Facebook, or are you referring to you, this guy?

12 BY [redacted]

13 Q Referring to Facebook, to your knowledge.

14 A And the specific question is, did we receive -- sorry. Restate the question.

15 Q To your knowledge, did Facebook receive information from the U.S. Federal

16 Government within 2 weeks of the story being issued with respect to whether the story

17 was true or whether the laptop was authentic?

18 A Not that I recall.

19 Sure. So this isn't responsive to your question directly. I do recall that we, that

20 is Meta -- Meta -- asked government if they had any indication whether the laptop was

21 related to a foreign influence operation.

22 Q And did you receive a response?

23 A They said they had no additional information to share.

24 Q Do you know who from Meta communicated this message to the

25 government?

1 A I don't remember the name, but I expect it would have been from our legal
2 team.
3 Q And which government agency was contacted -- or agencies?
4 A It would have been FBI.
5 Q Following the statement -- I think this might have been in the second
6 hour -- there was a statement about 5 days later issued by 51 former intel officials.
7 Following that statement, were you asked to -- was your team asked to reassess whether
8 the story could be actioned under the hack-and-leak policy?
9 A I don't recall being asked to reassess our assessment.
10 Q Okay. Once your initial assessment was completed -- I think it was your
11 recollection it was the first day or very soon thereafter -- were additional assessments
12 conducted by your team?
13 A Additional assessments?
14 Q Yeah.
15 A Sorry.
16 Q There was -- the story comes out. It's very much newsworthy, different
17 information. People are providing information they think may be relevant.
18 Did your team, after, again, conducting the assessment, making a
19 recommendation, did you, in the week that followed, ever go back and make a
20 reassessment based on what you knew later in the week?
21 A I mean, certainly we were monitoring the evolving public understanding of
22 what had happened, but I don't recall getting sufficient evidence such that we reassessed
23 our assessment -- we reassessed our assessment.
24 Q At a general sense, do you recall if personnel within the company thought it
25 was appropriate to action the story?

1 A I mean, our focus was, we had a policy, the hack-and-leak policy. We had a
2 specific set of criteria that were necessary to take action under that policy. We assessed
3 it against that policy. If it had met those criteria, we would have recommended taking
4 action.
5 It did not meet those criteria, and so we didn't recommend taking action under
6 the hack-and-leak policy.
7 Q Did anyone within the company ask you to reassess?
8 A I don't recall that.
9 Q You mentioned that it's your understanding that the decision to take action
10 against the story fell ultimately under the misinformation section of the community
11 standards, that the misinformation team that rolls up to [redacted] was primarily
12 responsible.
13 As they're handling the issue and deciding whether to downrank the story, and
14 then for how long to keep it downranked, are you involved in any of these discussions?
15 A No. No.
16 Q To your knowledge, who was?
17 A I mean, I mentioned that this would roll up to [redacted].
18 Q And do you know if [redacted] was involved?
19 A I don't. I would expect she was, but I don't know.
20 Q As just an employee of Meta, did you receive a notification of any kind
21 regarding when the platform decided to no longer downrank the story?
22 A As an employee of Meta?
23 Q Yeah.
24 A No.
25 [redacted] We'll go off the record.

1 [Whereupon, at 4:22 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

Transcribed Interview Transcript Errata Form

Interviewee	[redacted]
Date of Interview	6/21/23
Date of Review	7/18/23
Name of Reviewer	Jordan Greene
Signature of Reviewer	

Page	Line	Suggested Correction
4	22-23	Kirkland & Ellis
16	2	counts → accounts
40	10	occasional → occasionally
46	2	that prevent → so that
68	9	companies → company's
71	20	[redacted] → [redacted]
78	24	grapple → grappled

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: [redacted]

Thursday, June 22, 2023

Washington, D.C.

The interview in the above matter was held in room 164, Cannon House Office Building, commencing at 10:04 a.m.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

[redacted] DIGITAL ASSISTANT

[redacted] PROFESSIONAL STAFF MEMBER

[redacted] RESEARCH ASSISTANT

[redacted] COUNSEL

[redacted] MINORITY OVERSIGHT COUNSEL

[redacted] MINORITY INTERN

[redacted] MINORITY OVERSIGHT COUNSEL

[redacted] MINORITY INTERN

[redacted] MINORITY OVERSIGHT COUNSEL

For ALPHABET:

DANIEL F. DONOVAN, ESQ.

KING & SPALDING

1700 PENNSYLVANIA AVENUE NW, SUITE 900

WASHINGTON, D.C. 20006

For [redacted]:

MICHAEL D. BOPP, ESQ.

GIBSON DUNN

1050 CONNECTICUT AVENUE, NW

WASHINGTON, D.C. 20036-5306

[redacted] We can go on the record.

This is a transcribed interview of [redacted]. Chairman Jordan has requested this interview as part of the committee's investigation of how and the extent to which the executive branch has coerced and colluded with companies and other intermediaries to censor speech.

Would the witness please state your name for the record.

[redacted]. My name is [redacted].

[redacted] On behalf of the committee, I want to thank you for appearing here today to answer our questions. The chairman also appreciates your willingness to appear voluntarily.

My name is [redacted] and I am with Chairman Jordan's staff. I'll now have everyone else in the room from the committee introduce themselves as well.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] [redacted] House Judiciary Democrats.

[redacted] [redacted] House Judiciary Democrats.

[redacted] [redacted] House Judiciary Democrats.

[redacted] [redacted] House Judiciary Democrats.

[redacted] [redacted] House Judiciary Democrats.

[redacted] I'd like to go over the ground rules now and guidelines that we will follow during today's interview. Our questioning will proceed in rounds. The majority will ask questions first for 1 hour, and then the minority will have an opportunity to ask questions for an equal period of time if they choose. We will alternate back and forth

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

Typically we take a short break at the end of each hour. If you would like to take a break apart from that, please just let us know. As you can see, there is an official court reporter taking down everything we say to make a written record, so we ask that you give verbal responses to all questions. Do you understand?

[redacted]. I do.

[redacted] So the court reporter can take down a clear record, we will do our best to limit the number of people directing questions at you during any given hour to just those people on the staff whose turn it is. Please try and speak clearly so the court reporter can understand, and so the folks down at the end of the table can hear you. It is important that we don't talk over one another or interrupt each other if we can help it, and that goes for everybody present at today's interview.

We encourage witnesses who appear before the committee to freely consult with counsel if they so choose. It is my understanding that you are appearing today with counsel. Is that correct?

[redacted]. That is correct.

[redacted] Could counsel please state your name for the record.

Mr. Bopp. Michael Bopp, Gibson Dunn, representing [redacted].

Mr. Donovan. Daniel Donovan, King & Spalding, representing Alphabet.

[redacted] Thank you.

We want you to answer our questions in the most complete and truthful manner as possible, so we will take our time. If you have any questions, or if you do not understand one of our questions, please just let us know. Our questions will cover a wide range of topics, so if you need clarification at any point, just say so.

If you honestly don't know the answer to a question, or do not remember, it is

best not to guess. Please give us your best recollection and it is okay to tell us if you learned information from someone else. Just indicate how you came to know the information.

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

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

[redacted]. I do.

[redacted] This also applies to questions posed by congressional staff in an interview. Do you understand this?

[redacted]. Yes.

[redacted] Witnesses that knowingly provide false testimony could be subject to criminal prosecution for perjury, for making false statements under 18 U.S.C. Section 1001. Do you understand this?

[redacted]. I do.

[redacted] Is there any reason you are unable to provide truthful answers to today's questions?

[redacted]. None that I'm aware of.

[redacted] Finally, I'd like to make a note that the content of what we discuss here today is confidential. We ask that you not speak about what we discuss in this interview to any outside individuals to preserve the integrity of our investigation. For the same reason, the marked exhibits that we will use today will remain with the court reporter, so that they can go into the official transcript, and any copies of those exhibits

will be returned to us when we wrap up.

This is the end of my preamble. Is there anything that my colleagues from the minority would like to add?

[redacted] Just thank you for coming today.

[redacted] The clock now reads 10:09. We will begin the first hour of questioning.

BY [redacted]

Q [redacted], what is your current place of employment?

A Right now, I run a small consulting business called [redacted] Strategies, LLC. I'm also an academic. I work at Stanford Law School and will be teaching at Harvard Law School in the fall.

Q And is that -- are you switching universities, or is that just a temporary --

A Adjunct positions at both.

Q Okay. And can you say at a high level what year current consulting firm does?

A Sure. I work with companies that have complex cybersecurity and government data access questions and issues, and I help them navigate through those questions.

Q Okay. What's your educational background, beginning with college?

A I went to the University of New Mexico where I got my bachelor's degree, and then I went to Yale Law School and got my JD.

Q And then following law school, what is your employment history?

A The larger of the jobs I clerked for Judge Babcock in the district court, Federal District Court in Colorado. I worked at a law firm called Williams, Youle and Koenigs, which is a litigation firm in Denver. I worked for a period of time as court

counsel for the Supreme Court of the Republic of Palau. I joined the law firm of Cooley Godward after that. And then I went to the Department of Justice and was a prosecutor with the computer crime and intellectual property section.

After that, I went to Yahoo! and served as an attorney in the legal department there on security and data access issues. And after that, I went to Google, where I worked most recently before leaving, and I served as senior director of law enforcement and information security at Google in the legal department.

Q Okay. When did you -- what year did you join Google?

A 2009.

Q And when you joined, what position did you have?

A I was senior counsel when I joined Google.

Q And how long were you in that position for?

A As senior counsel, it was a couple years before I was promoted. I can't remember now exactly how many, but it was a couple years.

Q And what was your next position after you were promoted?

A I was promoted to director, law enforcement and information security, again in the legal department, same role with promotion.

Q Okay. And when you became director, sounds like roughly 2011, 2012?

A That sounds roughly right. I'd need to go back and check, but I think you're in the ballpark.

Q And is that the position you held for the remainder of your tenure at Google?

A I was promoted again to senior legal director.

Q And when was that?

A That was a few years after that. I'm sorry, I don't know the details, but it

was shortly after that.

Q Okay. What about after senior legal director?

A That's -- when I left Google, that was the title I had.

Q So when you became senior legal director, do you know -- do you recall if it was around 2015, 2016, a little bit earlier?

A 2016 sounds right to me. I'm guessing a little bit here, but it was that -- it was in that timeframe, yeah.

Q Okay. Starting once you became senior legal director, who did you report to in that role?

A Oh, as senior legal director, my recollection it was -- I reported to [redacted]. It could be that that was earlier, but that's my recollection is [redacted].

Q And who is [redacted]?

A He was in the legal department, and I think he ultimately reported to the general counsel at the time. My recollection on the org chart isn't perfect, but that's my recollection.

Q And as far as your responsibilities as senior legal director, what were the scopes of your responsibilities for that position?

A Sure. It was a managerial role, so I had some teams underneath me. But the subject matter that I covered was around the legal cybersecurity issues that, at the time when I was promoted Google, and then later, Alphabet, faced from foreign adversaries, domestic adversaries, anybody who was attacking the network. It was a worldwide portfolio. And I also handled, as legal counsel, the lawful access issues, which is requests to Alphabet and to Google for user information from government entities, criminal, civil, national security as well as nongovernmental entities, and again, it

was worldwide.

Q So in your role as -- you said it was organization-wide, that would cover Google, YouTube, what other major products?

A Yeah, primarily Google and its subsidiaries, but also we provide guidance to some of the other companies that were subsidiaries of Alphabet, and not necessarily Google, although my role was with Google.

Q And you said you had a managerial role and managed some teams?

A That's correct.

Q Which teams did you manage?

A The teams that were there not just as interim included a team of counsel who would provide the guidance I was talking about to the same clients as I was referring to, and we had a team of legal specialists who would handle national security legal requests as it came in. And we had a team that would handle cybersecurity, serious criminal-ish investigations regarding the abuse of our platform that was serious enough that we thought it might constitute a criminal matter.

Q If I heard you correctly, you said setting aside temporary teams?

A Yeah, there was a period -- there was a short period of time where I also managed in an interim basis the legal specialists who also handled the civil and law enforcement requests for data. They were the operational team. They would handle the incoming demands from around the world, so that was interim period.

Just to clarify, there was a team that handled national security. That team was always with me. But the criminal and civil data disclosure operations team was with me only for an interim period.

Q And if we hadn't covered this already, when did you leave Google for Alphabet?

A July of 2022, so almost a year ago.

Q And did you go directly to Stanford after that?

A I've been teaching with Stanford through this period of time, but that is when I set up the consultancy. And there are various other things, but -- that one does when they have more time that aren't necessarily compensated. But as far as paid positions, that's when I'd created the consultancy.

Q When you were senior legal director, how big was the law enforcement and information security team?

A It was getting close to 50 people. I think it was under 50 at its peak, and I don't know where it is now. But when I left, I think we were getting close -- it was probably under 50, but closer to 50 than 40.

Q And from 2016 to 2022, did the team change in size?

A It did, yeah. There was a constant steady growth throughout those years. When I joined Google, there were no -- I was individual contributor, so this was a growth of the team throughout those years.

Q Which of the teams did you work most closely with outside of the law enforcement and information security team?

A Outside of my own team. That's a little tricky, because we provided subject matter, expertise, guidance, to any component within the company, so it wasn't as though we, strictly speaking, had a discrete set of, quote, "internal clients." We did do quite a bit of consulting with the organizations that handled security issues for the company, so that would include the Threat Analysis Group, TAG, as one of the major constituents of that.

There were child safety groups, and we would support them. Public policy dealt with a lot of the issues that our team had expertise in, so we worked very closely with the

public policy team. I mean, a little hard for me to identify all of them. There were so many. It was really a matter of our subject matter expertise that decided who needed to come to us for our guidance.

Q What was the Threat Analysis Group? What did they cover?

A The Threat Analysis Group was a team that was established, I think in 2010, in the wake of our discovering that we had some Chinese-backed attackers in our corporate system. And we realized we needed to set up a team to deal with sophisticated advanced threat actors, and the Threat Analysis Group was set up to do that. So it was a group in the engineering team made up of security professionals, engineering.

Q What were the -- what was the nature of your interactions with the public policy team?

A There was -- there's a host of those. A lot of the interactions had to do with legislative initiatives that might be being considered by a committee or subcommittee, and on lawful access issues primarily. So issues covering the Communications Act, the Wiretap Act, maybe some of the national security authorities. We would be able to provide guidance to the public policy team on our experience with those statutes and how Google's products interacts with those statutes. So that would be an example.

Q Any other examples?

A That was most of -- I think that was most of the work with the public policy team, but it would -- I'm sure there are. They're just not popping into my mind right now.

Q Who led the public policy team during 2016 to 2022?

A 2016 to 2022, oh, boy. I know -- I'm sorry, I'm just forgetting the name of

the -- it's terrible. I just can't remember the name of the first person who was -- oh, [redacted] ran the public policy team for a period of time. And [redacted] -- oh, I'm blanking on his name now, this is terrible, also who is currently the head is -- was running it for quite a few years as well during that span.

Q And from the same time period of 2016 to 2022, who on the team did you most frequently interact with?

A On the public policy team?

Q Yes.

A Oh, I don't know that there were any front runners. There was a team called the administration team, which dealt with the administration that was run by [redacted]. So I worked with her quite a bit. There were individuals on the team who handled Hill issues, and I dealt with all of them when it came to legislative initiatives, or responses to proposals. Again, it was a team and it changed over time, so there were just various folks there. I'm sorry, I won't be able to give you an exhaustive list, but they kind of matched to the subject matter I was identifying earlier.

Q Are you familiar with the terms misinformation, disinformation, and malinformation?

A I've heard those terms, yeah.

Q What's your understanding of what they are and the differences between them?

A I'm not sure I'm terribly qualified to give you a street definition. I think misinformation is pretty much what it sounds like, information that is wrong. What were the other terms?

Q Disinformation and malinformation.

A Yeah. I don't know that I -- I'd have to sit down and think it through as to

whether the definition distinctions had to do with the intent on the part of the person spreading the information. I'd probably defer to others who are better equipped to deal with the nomenclature.

Q We'll start with misinformation. Do you -- which teams at Alphabet would handle issues related to misinformation?

A I'm not actually sure what the teams are. I didn't myself deal with misinformation at Google, but I do know that if anything came to me that I needed to pass on around misinformation or any other categories that -- or any other type of lead that came in relating to the categories you mentioned, I would pass them on largely to the team that I understand on the product side that would deal with the piece of information.

So it would be a different person if it was related to YouTube versus Search versus Maps versus any other of the products. So there would be different teams that I would interact with. I'm not sure that's actually answering your question though, because I don't know behind that who actually dealt with them.

Q If you were to have received information regarding an issue of misinformation on YouTube, who at the company would you direct that information to?

A There would be a couple people I might direct that to. One would be at the time, [redacted], who was also in the legal department and handled YouTube matters. And there -- YouTube also had a Trust and Safety team, and I would have a way to provide -- if a tip came in or information I needed to get to that team, I would be able to provide it to the YouTube Trust and Safety team.

Q Do you know who led that team from 2016 to 2022?

A As I sit here today, I can't recall who that would be.

Q Did you have a point of contact on that team that you would interact with?

A [redacted] at the time was always reliable. If I didn't know who to send something to for YouTube, I could always provide it to [redacted].

Q And what about with respect to Search?

A With Search, I think that was, if I recall correctly, I would go to the product counsel for Search and have the product counsel, somebody in the legal department who worked closely with the product, and provide whatever it is that I was acting as a router for to that person and then they could take it from there. There may have been an email alias for Search, but I don't recall now.

Q Do you recall, staying with the same time period of 2016 to 2022, how frequently, you know, information, other people sending in reports related to misinformation issues were coming in to you?

A It was not -- it was not a common part of my day and -- or even week. So it wasn't -- it wasn't something that took up much of my time as volume goes, but it also wasn't unusual if I would get something and I would be able to quickly turn it around. I don't think I'm equipped now to give you an estimate beyond those generalizations of what the volume was, but it wasn't anything that required a great deal of my time or my team's time.

Q Do you recall who was sending you reports when you did receive them from time to time?

A Oh, we would -- you know, there were so many sources. I sort of served as a face for Google on a lot of matters, and so my contact information, email address was pretty widely available, and people knew that they could send something to me and I would handle it. So that there was a variety of places that tips on all sorts of things, including what you are referring to as misinformation might come in from inside the United States and from outside of the United States, government entities and

nongovernment entities. So it was a really an assortment.

Q For requests from inside the United States, do you recall any requests from U.S. Federal agencies?

A I don't remember any requests. We would get tips, and, yes, we would get tips from government agencies in the U.S. and outside, but, yes, in the U.S.

Q Which U.S. agencies provide tips?

A The ones that come to mind now would be DHS's CISA would send in tips and pieces of information. And I think we would get from the FBI as well. I'm trying to think if there was any examples that jump to mind. But as a protocol, we would get information from the FBI. I have a slight recollection of State and local officials as well, although as I sit here now I couldn't think of a specific example.

Q With respect to CISA and the FBI, when you say we were receiving tips, are you referring to your team? You specifically? Do you recall?

A Oh, I'm sorry. I should've been more specific. Me. We're receiving typically email from CISA or FBI representatives that I would then pass on to the product or Trust and Safety team.

Q And did you have interactions with CISA and FBI other than receiving tips from time to time?

A Yes.

Q What were the -- what was the nature of those interactions?

A Well, the FBI -- there were lots of interactions with the FBI and other law enforcement agencies because of the lawful access work I did, which is handling search warrants and all of that, and there's lots of legal process that comes from government agencies, including the FBI. So there was a good deal around that.

There was also interaction with the FBI around network attacks on Google and our

users and information sharing, trying to get information sharing arrangements in place so that we could get tips from the FBI when the FBI or one of the other government agencies detected some misuse or attacks against Google accounts. So there was some regular communications with the FBI on cybersecurity issues, so those were the two examples.

Q And with respect to issues related to, let's say, fake accounts or coordinated inauthentic behavior, which team at Alphabet would have primary responsibility for issues related to that?

A It's a little hard to answer. I think when you say fake accounts, I'm not quite sure what a fake account is. But if there was a YouTube account that it was problematic for some reason, or was something that could be looked at under the terms of service or otherwise, the YouTube team would take a look at those.

So if a tip came in about a YouTube URL, that would go to, as I mentioned earlier, either to [redacted] or to the YouTube Trust and Safety team for evaluation. If it looked like it was a true security issue, like an account had been taken over, or if there was an account that was being attacked, that might be viewed less as an issue for the Trust and Safety team and more of an issue for our Threat Analysis Group to take a look at to see if we've got a problem with a, for example, state-sponsored attacker. So it could go different ways depending on the context. And the same would be true with gmail accounts or other accounts that we might have at Google.

Q You mentioned CISA earlier. What is CISA?

A CISA is a DHS subunit, cyber crime and infrastructure S-A, I think security agency, yeah.

Q If I represent it was the Cybersecurity and Infrastructure Security Agency, would that -- does that sound right?

A That would be -- I understand, yes. Thank you.

Q Is CISA a law enforcement agency, to your understanding?

A I didn't view it as a law enforcement agency. I'm not aware of CISA having traditional law enforcement authorities, but that would be my view. I don't know. Others may have other views on it.

Q And what is your understanding of what CISA's responsibilities as an agency were?

A I knew what my engagement with CISA was, and it was really about information, mostly of getting information from CISA that was somewhat generalized, but about attackers and the threat landscape in the form of bulletins and that sort of thing. CISA also had an element -- my interactions with CISA around election integrity during the, I think, 2018 and 2020 general election. So they had that function. So those were the two big -- my two big interactions with the -- the areas of interaction with CISA, or largest interactions.

Q And when you received tips from State and local officials, with the understanding you don't have recollection of any specific examples, was it your understanding that these were State and local law enforcement agencies or any type of State and local agency?

A Oh, yeah, I wasn't limiting it to that, because it could be campaigns, it could be officials, it could be agencies, all sort -- a variety of different entities.

[redacted] Could we go off the record very briefly.

[Discussion off the record.]

[redacted] We can go back on the record, please.

BY [redacted]

Q You mentioned that one of the issues that CISA would handle included election integrity. What was your understanding of what CISA's responsibilities were

with respect to election integrity?

A I don't know what their responsibilities were really short of my interactions with them. And those interactions involved meetings, and of getting, as I mentioned earlier, information from CISA about the general threat landscape, and maybe some other related tips. But I don't know that I can speak to what their official role was.

Q Who at CISA did you most frequently interact with?

A During this time period, 2016 through twenty --

Q '22, when you left.

A 2022 when I left. There were two people who I think I interacted with most, not terribly frequently but would've been most. One was Matt Masterson, who somewhere in there -- in that time period, left CISA. The other, Brian Scully. Those are two names that pop out. There may be others, but those are the ones I remember most vividly.

Q Do you recall Mr. Masterson's role at CISA?

A You know, I don't know. I don't know what his title was, yeah. From my perspective, he and Brian were points of contact at CISA, but I don't actually know their relationship to each other or their titles as I sit here.

Q When having interactions with either Mr. Masterson or Mr. Scully, did these tend to be direct interactions or were they multi-partner collaborations or meetings?

A There were one-on-one interactions, and there were interactions that involved other parties.

Q Okay. When it was a one-on-one interaction, what was the nature of the interaction?

A Most of those that I can -- as I sit here today, that I can think about are where CISA would be sending, really by email, information either -- it may have actually

been to lots of people, but it would be like a CISA bulletin on advisories on threat landscape. And then there could be individual emails from Brian Scully or Matt Masterson on particular issues. As I recall, most of those in that period of time, there weren't that many, but most of them would've been involving issues around election time, place, and manner, restrictions, and rules.

Q And with respect to group or multi-partner communications, what was -- what were the nature of those?

A There were -- going back to the first thing, the advisories were probably multi-party recipients of those, so there's that. And there were also meetings that we had that were hosted by CISA and involved other parties.

Q Do you recall which other parties were involved?

A I don't know that I could be comprehensive, but I do recall some. It was a -- what I'm referring to was an industry government set of meetings. So there were participants from government entities as well as from industry private sector. Government involved CISA, and there was another DH component, I&A. I think that was it for Homeland Security. FBI had representatives. ODNI was also present. And there may be others, but that's my recollection of the government side.

Q Okay. Do you recall any interactions with the Global Engagement Center, which is housed within the State Department?

A I don't know that I had any interactions with them. I could be wrong, but that was not an entity that I dealt with very much.

Q Do you have an understanding of what the Global Engagement Center deals with, the scope of its responsibilities?

A Not really. I had seen some publications that came out of that group, but I was never -- I never dealt with them enough to need to know how they fit in the larger

picture.

Q With respect to YouTube, are you familiar at all with YouTube's community guidelines?

A Very -- probably not more than any average YouTube user, and maybe even less.

Q Were you -- as a subject matter expert, were you ever consulted with respect to the development of YouTube's community guidelines?

A No. The -- my subject matter expertise was not in that area.

Q And what about with respect to enforcement of YouTube's community guidelines?

A No, I would not have been the attorney to advise on that.

Q Do you know if YouTube or any other product within Alphabet has content moderation policies with respect to a hack and leak?

A I think I know that there is such a policy, but I'm not even confident on that, and I don't know what the policy is if there is one.

Q Okay. So if there were a policy, you were not -- did not play a role in developing it?

A That's correct.

Q Do you know which teams within YouTube are responsible for developing the community guidelines policies?

A Only generally. There will be others who can answer this with much more authority, but certainly the product counsel would be involved in that. There would be product leads who would be involved in that, and implementation of it and maybe articulation of it might be done by -- with input by the Trust and Safety team for YouTube. That's about the extent of my knowledge.

Q In your interactions with this U.S. Government industry sync, you mentioned a few agencies would be present, also sounded like some industry partners, do you recall other than Alphabet who some of the other industry partners were?

A Yeah. Again, it might be incomplete, but I recall Facebook, later Meta; Twitter; Microsoft; LinkedIn I think joined separately with Microsoft; Reddit; Verizon/Yahoo!, when they were together. And I think -- did I say Reddit? No, Wikimedia I think was also in there. And there may have been more, but I think that's all I'm remembering right now.

Q And how frequently would you attend these meetings?

A I think I went to all of them. I don't remember missing any. It's possible that there was one of them. They weren't that frequent, but it's possible there was one I didn't attend.

Q Okay. And what's your recollection of how frequently the meetings occurred?

A I recall them being, I would say, I -- this is probably easy, better verify than talking to me about my memory, but my recollection is they were pretty rare, like maybe once-a-quarter kind of meetings. We may have picked up the cadence, changed the cadence as we got closer to big election events. But during the acquire periods it was not -- it was definitely not feeling like --

Q Do you recall what kinds of information the U.S. government would provide during these meetings?

A Yeah, in general. I'm not sure I remember any specific meetings, but the meetings would generally start with the government, each one of the government entities that was participating giving a briefing if they had anything to brief on. And they generally were about sort of high-level threat landscape points to make, not very specific

on any of the threats. But that was the -- that was sort of the protocols we would go through the government one by -- government agencies one by one, and they would speak.

Q And do you recall just when the U.S. Government was briefing at this high level for the threat landscape if there were any briefings that concerned the degree of a risk of a hack-and-leak operation?

A No, that doesn't sound like a topic. I don't remember that topic being discussed.

Q Are there any topics you do remember being discussed?

Mr. Bopp. What timeframe are you talking about?

[redacted] Still 2016 to 2022.

[redacted]. The whole thing.

[redacted] Whenever the meetings were taking place.

[redacted]. Yeah.

Mr. Bopp. All right.

[redacted]. I -- the topics that stand out for me in those meetings were presentations by mostly CISA on what the election calendar looked like coming up, what the big events were, and a discussion about in -- for the different events what time, place, and manner rules may be in place or may be changing. So it was all very sort of procedural and calendar driven. That's -- those are the kinds of things I really recall.

BY [redacted]

Q Did anyone else from Alphabet attend these meetings?

A Yes. It was typically [redacted] who would join me, and [redacted]. There would be occasions when the personnel changed, but those were the most common participants for Alphabet.

Q So to your recollection, there would typically be three representatives from Alphabet on these calls, you, [redacted], and [redacted]?

A As a consistent manner throughout that period of time, yes.

Q And do you recall when these meetings first started?

A No, I don't, yeah.

Q Did they start before the 2020 U.S. election?

A I think they did start before the 2020 election.

Q Do you know if they started before the 2018 U.S. midterms?

A That would be my question. I don't know if that was set up before the 2018 getting ready for the midterms or after. I don't remember.

Q Were they still ongoing when you left in, you said, I think, July of 2022?

A There -- as I -- at the point I left there had been no discussion about terminating them, so -- but I don't know otherwise.

Q Who is [redacted]?

A [redacted] runs the Threat Analysis Group, which I referred to earlier.

Q When you departed Alphabet, did you know who your replacement was?

A Yes.

Q And who is that?

A It was [redacted].

Q And who is [redacted]?

A [redacted] runs -- is in the legal department, and runs a team called the specialists team or group. And my team, both on the cybersecurity side and the lawful access side, my understanding -- this all happened after I left -- reported into [redacted].

Q So during these U.S. Government industry meetings, U.S. Government is providing information, would either you or [redacted] or [redacted], would any of

you provide a summary to share with your Alphabet colleagues?

A I don't really recall -- not as a normal protocol. If there was something that came out of there that was notable to report to others we would, but I don't remember doing that as a normal practice.

Q With respect to information CISA provided related to its election integrity responsibilities, of the three of you that would most frequently attend, who would be responsible for, you know, handling any due-outs related to those issue topics?

A I don't recall there ever being any due-outs from those. It was mostly a collection of information. And to the extent we had anything to report to the group or the other participants, we would. But it would -- there wasn't any -- that I recall, I don't think there was any action items unless it was around logistics of something.

Q In the run-up to the 2020 U.S. election, do you recall if Alphabet or Google created any temporary teams or rapid response teams to help in election-related issues?

A Yeah, I do understand that we created a -- I can't recall the name of it, but an elections integrity team to deal with things as they came up. That included multifunctional representatives.

Q And do you recall who led that team?

A I believe it was [redacted], who ran the Trust and Safety team.

Q And when you reference the Trust and Safety team, is that for a specific product or is it company-wide?

A That -- yeah, let me clarify there. There was a Trust and Safety team for YouTube, which was, as I understand it anyway, separate from the Trust and Safety team that handled other Google products. So my understanding is those were separate but very -- they -- obviously their work was close. But I don't think that [redacted] oversaw the YouTube Trust and Safety work, but I could be wrong on that. But my recollection is she

did not.

Q And with respect to this temporary team that handle election-related issues, do you recall where other members of the team came from in the company?

A I don't. There would be -- in addition to [redacted] she would've had other of her team involved in it, so it wouldn't be purely the leader of Trust and Safety but some of the operations folks. But I don't remember who else would've been on that.

Q Okay. Was anyone from your team asked to join?

A Only intermittently. If there was a need to brief them on a security issue, we might attend.

Q Were you ever asked to brief the team or --

A I think so. I think there were times when there was -- I can't remember the details, but I do recall there being requests that me or my team be there to talk about some aspect of a security issue.

Q Are you familiar with the October 2020 New York Post story on Hunter Biden's laptop?

A Yeah, generally, I am.

Q Do you recall being asked at any point to provide any information on the veracity of the story, or the authenticity of the laptop?

A No.

Q Do you know if anyone on your team was asked?

A Not that I'm aware of.

Q Do you -- are you familiar at all with how the company handled the story, whether it would be moderated in any way?

A Not that I'm aware of.

Q Okay. Are you familiar with the statement that came out, I think it was

about 5 days later, by 51 former intel officials addressing the story, the laptop?

A That sounds familiar, but it wasn't -- that wasn't something that stands out in my memory. I don't recall that being important to any work I was doing.

Q Do you recall being contacted by any former intel officials in the days following the story's publication?

A About the story?

Q About the story.

A No.

Q You mentioned having contact with a few government agencies, CISA, FBI. Do you recall having any -- receiving any contact from anyone in the U.S. Federal Government regarding the story?

A No.

Q With respect to the story, do you know if there was public reporting that it might be the product of a Russian-originated hack-and-leak operation -- for hack-and-leak operations at a high level? Do you know which team within Alphabet might provide subject matter expertise?

A I'm sorry, I didn't understand -- the beginning of your question I got a little lost in. Would you mind --

Q Sure.

A -- trying to --

Q With -- not necessarily specific to the Hunter Biden laptop story, just in general, if there were concerns that Alphabet had about a potential hack and leak coming from a foreign actor, which teams within Alphabet might be able to provide subject matter expertise?

A It's a bit of a hypothetical, but I can tell you how responsibilities would be

allocated in a -- in what you are describing here, a hack and leak. There's the hack side, which is -- when you are referring to a hack, what I'm hearing is an unauthorized access to a Google account, and if that happens, regardless of whether there's a leak or denial of service or extortion or anything else, if there's a security breach, that's largely going to be handled -- where there's concerns about a state-sponsored attacker, that's largely going to be handled by the Threat Analysis Group.

That's separate from what the culprit does with the data they have access to, but they -- the investigation into the security incident, which is the breach of the account, would -- if it looks like a state-sponsored hacker, it would be handled by [redacted] team.

Questions about the leak presumably would be going back to one of your earlier questions about a policy on if that information appears on a product, what does Google do, and I don't know how that would be handled or really what team would deal with that.

Q During your time at Alphabet, do you have familiarity with issued tickets that were internally called bugs?

A Yeah. There was -- there were -- there was a tool called Buganizer that was used to create what you just referred to as bugs, which is a -- it's really a ticketing system, yes.

Q And just at a high level, what was the nature of your interactions with the Buganizer system?

A I didn't use Buganizer very often, but it was -- it's really a generic platform that different teams can use to intake problem requests, feature requests, all sorts of ways of tracking an action item. And it was used in many ways at Google like it is in many companies. So there were times when somebody else would file a bug, and I

would want to follow along with what's going on, so I would be copied on it. It was pretty rare for me to file a bug, but I was generally -- I don't think -- I wouldn't say I was competent at using it, but I understood the basics.

Q And what sorts of issues, again, just at a high level, would you be copied on for a bug?

A Oh, most of the -- I think for me it was mostly around requests for improvement on tooling for the data access work that Google was responsible to do, so being able to poll user data in response to legal process asking for improvements to the tools or a fix to the tools or a change to the tools. That would be pretty common if it was an important matter that I wanted to follow along and kind of keep moving.

Q Okay. And with this ticketing tool, is it independent of email? How would you receive messages or notifications?

A I do think it was a standalone tool, but the way -- this is my experience with using Buganizer as not a sophisticated user, but I would get email alerts when there was a new entry on a bug ticket that I was following. And then from that email, I could, depending on my access level, I could see the ticket through the link.

Q With respect to the U.S. Government industry calls that would occur at a somewhat regular cadence, would industry members also provide information or was it only the government provided information --

A Oh, yeah, we stopped there, didn't we. So the protocol of the meetings was that the government would go first and each of the agencies, if they had a briefing, would provide it. And then, it would be turned over to the companies. And each company would have an opportunity, if they had something they wanted to share in that group, they could share it. So we would go through or at least we would open it up for the companies to provide a briefing if they wanted to.

Q Do you recall if you ever provided a briefing?

A It was pretty rare if I did. I have a slight recollection of letting the group know that Google had just published its most recent version of a transparency report. It was along those lines. That's probably the -- that's the only one I remember providing.

Q And would industry ever meet independent of meeting with the government, set up a call in advance to discuss among industry partners only?

Mr. Bopp. Are you talking about industry meeting with [redacted] or just sort of more generally?

BY [redacted]

Q With Alphabet to [redacted] knowledge.

A And we're talking -- we're still talking about --

Q So you mentioned a few industry partners that the U.S. Government is on the call. I'll start with here. In advance of those meetings, would industry ever meet separate without the U.S. Government --

A That's very helpful. Yes, we would, yeah.

Q And what was the purpose of those meetings?

A The meetings with the industry participants in advance of the USG meeting was largely to talk about what we expected in the next meeting that was coming up, to maybe get a preview is there anything anybody wants to say or intends to say, sort of help the meeting move along efficiently. That was the -- that was commonly the purpose of the pre-meets.

Q And when working on security-related issues, during your time at Google, we'll sit with the 2016 to 2022 timeframe, would that ever require across-platform cooperation, working with other tech companies?

A Try me again on that. I'm sorry.

Q Sure. Just in the scope of your responsibilities at Alphabet, were there ever issues that would require you to work directly with, say, Twitter or Meta on a similar security-related issue?

A Yes, although that's -- it's a very broad question. There were lots of security issues and lots of interaction as a result of that, broadly speaking, and not -- not talking about elections necessarily. But, yes, there was -- there were communications around security issues with other companies.

Q Were there communications or issues related to elections in particular?

A There -- I would say yes to that, but once we had the -- the group that was meeting, that was really the primary form for the conversations, but I'm sure there would've been individual communications in addition to that.

Q Did you have a primary form of contact at Twitter with respect to these communications?

A A primary form of contact?

Q Or excuse me, primary contact at Twitter with respect to these --

A Oh, thank you. I -- I would say that if I -- during that period of time, if I needed to contact Twitter, it would probably be through Yoel Roth at the time.

Q And who is Mr. Roth?

A My understanding is at the time he was involved, or at least he was the representative of Twitter for Trust and Safety purposes, and more specifically on election work. But I don't really know what his full set of responsibilities was.

Q Turning back to the October 2020 New York Post story on Hunter Biden's laptop, do you have any familiarity with the steps Twitter took with respect to moderating the story?

A Only what was publicly known. I didn't have any other conversations that

revealed anything other than what was already known.

Q In the days following the story's publication and after Twitter had made its decision, do you recall having any contact with Mr. Roth regarding the story or Twitter's decision to moderate it?

A I remember in an industry call that was -- I think it was a pre-industry call for the USG industry, I remember Mr. Roth in that meeting, this was after everything was public about what Twitter was going to do, but basically reiterated that this is what Twitter did.

Q And when you say it was a pre-industry call, just for clarification sake, this would be an industry-only call in advance of an upcoming industry U.S. Government meeting?

A That's correct.

Q Do you recall Mr. Roth, in addition to saying what Twitter had decided to do, provide any further reasoning or explanation?

A No.

Q Do you recall if there was any discussion or response from anyone on the call?

A I don't recall there being any discussion or response.

Q Do you recall if any other of the industry partners shared how their respective companies were handling the story?

A I don't recall that being discussed.

Q Do you recall if Facebook made any presentation related to the issue?

A No, I don't remember anything like that.

Q Did you say you are a lecturer at Stanford?

A Yes.

Q So at the law school?

A That's correct, yes.

Q Do you have any interactions with the Stanford Internet Observatory?

A No.

Q Do you have familiarity with what it is?

A I do.

Q And what's your understanding of what --

A My understanding is it's a research group that's focused on Trust and Safety issues around the larger companies and content moderation.

Q Do you have any familiarity with the Election Integrity Partnership?

A No.

Q You don't?

A I don't.

Q Have you heard of that term?

A As I sit here now, that is not a familiar phrase for me.

Q During your time at Alphabet, did you ever work with someone from Stanford named Alex Stamos?

A Yes.

Q Okay. And what was the context of your interactions?

A My interactions with Mr. Stamos was in his role back then at Meta and not at Stanford. And his role at Meta being -- as I recall being involved in Trust and Safety, so it was similar in some ways to other contacts at other companies about these issues.

Q Do you recall any interactions with him after he left Meta and had joined Stanford?

A Nothing related to elections.

Q Okay. Related to -- other issues related to your work?

A Nothing related to my work.

Q Okay. Did you have a -- just a friendship, personal relationship then or --

A Well, he was at Stanford and I -- after -- I don't think I had any interaction with him after he left Meta and went to Stanford and I was still at Alphabet. I have been in contact with him since I left Google, or left Alphabet, and he's at Stanford, yeah.

Q Sure. But not before you had left?

A But not -- I don't recall anything before.

Q Okay. Are you familiar with the Center for Internet Security, CIS?

A Yes.

Q And what is that?

A It's a program at Stanford Law School that is staffed largely by fellows of various sorts, and it's largely focused on security issues and a few other sort of tech issues that have significant touch points with the law.

Q And are you affiliated with the Center?

A I am one of the fellows.

Q Okay. During your time at Alphabet -- actually, let me strike that.

Are you familiar at all with something called the Virality Project?

A No, I'm not familiar with that.

Q Okay. Are you familiar with something called the Elections Infrastructure Information Sharing and Analysis Center, frequently has the acronym EI-ISAC?

A I haven't had any interaction with them. I've not heard of that, I'm sorry.

Q During your time at Alphabet, we'll say 2016 to 2022, did you have any interactions with Graphika?

A No.

Q What about with respect to the DFR Lab, which is housed with the Atlantic Council?

A I had no interaction with them that I recall.

Q With respect to the U.S. Government industry meetings, do you recall if meeting minutes were ever circulated after a meeting?

A I don't recall there being meeting minutes circulated, no.

[11:05 a.m.]

BY [redacted]

Q To your understanding, were the meetings recorded?

A I don't know that if we didn't record them, I don't know that anybody did.

Q Do you recall who some of the most recent U.S. government representatives were specifically people you mentioned at some of the agencies?

A Oh, you know the only names that stand out to me are Matt Masterson and Brian Scully. I know occasionally -- I recall, Elvis Chan at Sachs -- Elvis Chan coming to some of them on behalf of the FBI. But as for the other agencies, I don't remember their names.

Q Are you familiar with the Foreign Influence Task Force?

A Yes.

Q And what is that?

A That is a task force, my understanding is that it was set up by the FBI to meet with industry, and they may have other functions as well, but what I'm familiar with is meeting with industry to talk about significant security threats, foreign-based.

Q And when the task force would meet with industry, in the context of these industry, U.S. Government sync'd reference, or is there a separate set of meetings?

A It was a separate, separate set of meetings, yeah.

Q And for these task force-specific meetings, were they with -- directly with companies one on one, or is it similar where there were multiple industry partners on the same --

A I can speak only for Google, it was one-on-one meetings.

Q And who from Google would attend?

A Typically, it would be me, [redacted]. Sometimes [redacted] would have other designees from his team participate. And in -- as I started exiting Google and transitioning out, I had [redacted] on my team participate in those. I think [redacted] joined those as well.

Q And who is [redacted]?

A [redacted] is a counsel on my team, and he did security work.

Q Were your interactions with Agent Chan in the context of these Foreign Influence Task Force meetings?

A I'm sorry, say that again?

Q Let me rephrase that. What meeting was the Foreign Influence Task Force? Was Agent Chan one of the representatives that would attend these meetings?

A Yes.

Q And do you recall when these meetings began?

A I don't remember when they had set up that task force. It had been years, but I don't remember when it got started.

Q Do you recall if it predated the 2020 U.S. election?

A It did predate the 2020.

Q And were they ongoing when you left Alphabet?

A There was no termination of them. At the point that I left Google, I don't know what happened afterwards.

Q Do you recall their frequency; how often they occurred?

A Those I think -- I think those were quarterly.

Q Do you recall what foreign meetings would take place? Was it over Zoom, or similar to a Zoom conference?

A If it was the before the pandemic and the shutdowns, it was in-person.

And then we moved to remote. And I think we had gone back to in-person before I had left Google.

Q And where would these meetings take place when they were in-person?

A I recall Google hosting, but there may have been occasions where it was also within an FBI facility.

Q Okay. Can we go off the record, please.

[Discussion off the record.]

[Recess.]

BY [redacted]

Q It is 11:20. Good morning, [redacted]. Thank you for agreeing to be here voluntarily. We appreciate that. I'm going to skip over a lot of the background questions because I think that you made it very clear what your background is. It's impressive. But I wanted to direct your attention to the fact that you have previously testified in congressional committees. Is that correct?

A That's true.

Q And I don't know if you recall how many times?

A It's at least 10 in the U.S. and then some outside the U.S.

Q Was that always while you were employed at Google or Alphabet or in other capacities?

A Always when I was with Google.

Q Okay. And directing your attention, just generally, to testimony that you gave in 2020, do you recall talking generally on the subject of election security and some of the work that Google had done to help with election security?

A Yes.

Q Okay. I'm not going to ask you anything specific about that. And if your

recollection is not great, that's fine. Just tell me what you recall or what you don't recall. But I just want to get a broad view of what some of what you said in the past about what Google has done with respect to election security and integrity.

You had said -- and to be clear, your testimony in that occasion, you were talking what Google does as a company, not what you personally might have been involved in. Is that fair to say?

A That's true.

Q Okay. And in your prior testimony -- and you stated that Google has focused on three main areas with respect to promoting integrity of elections. Let me know if I'm stating this correctly. Those three areas include: One, empowering people with authoritative information. For example, information that they can trust when they go to polls. Is that correct as one area?

A Yes, I recall that, yes.

Q And the second area you mentioned was providing account and site security. For example, helping to secure the election, I guess, infrastructure. Is that fair to say, or would you say differently?

A I might say that differently. I don't have the testimony, and I don't recall it. But the I think that point was more about securing the Google aspects of their accounts as it might pertain to campaigns, and others who were relying on Google services when making decisions about election issues.

Q And the third was improving transparency of election advertisements. Do you recall focusing on that as well?

A I remember that being included in the testimony, yes.

Q Okay. I am going to turn to her for a few moments.

[redacted] And I just have another question. Would you say it's fair that in

your role at Alphabet, the company's interest in protecting against hacking illegal wiretaps, malicious codes, and other computer crimes have been consistent across different political administrations?

[redacted]. Yes.

[redacted] That's it.

BY [redacted]

Q Now, you testified and mentioned in your prior testimony that Google has developed programs and products that apply, specifically, to the various areas of empowering people with information, providing account security, and improving transparency in election advertisements. Do you recall that?

A I do, yes.

Q And can you just say it briefly. Like, what are some of Google's programs or products that you developed with those goals in mind, beginning with the goal of empowering people with information that they can trust when they go to the polls?

A This is, as you mentioned earlier, a little bit vague, a little bit in the distance for me. So my recollection of this is somewhat vague, and there are going to be more authoritative sources than made to answer that yes. But I do recall that that point included making sure that when users sought information about time, place, and manner of voting and elections, that the information they received was accurate, so that they could exercise their right to vote and have a good understanding of the process for doing so.

Q And what about include how to register to vote, for example, in the State or locality where they lived, or providing like a source for accurate sources where they could find that information?

A That's a bit of a hypothetical, but I would say that yes that would fit in the

nature of what I'm referring to.

Q Okay. And when Google sought to provide that authoritative information, were you seeking to provide it to people regardless of their party affiliation?

A Ah, yes.

Q And regardless of what area of the country they lived in?

A Yes.

Q Regardless of any ideology that you expected those populations to have?

A Correct.

Q Google also provided information about congressional candidates, for example, on the search page and what they call knowledge panels. Are you familiar with that product?

A I am a little familiar with knowledge panels, yes.

Q Okay. And correct me if I'm wrong, but those panels were intended to provide the opportunity for candidates to make their own statements, for example, in the panel, so that when somebody searched for the person they were interested in, they would be able to see this information that came from the candidate. Is that a fair description of what some of those knowledge panels intended to do?

A My understanding is that that was one of the purposes of the knowledge panels, yes.

Q Okay. When Google provided this product, did Google provide it without regard to the party affiliation of the candidates?

A I know of no reason to think otherwise.

Q And without regard to the expected ideology or party affiliation of the voters?

A The same answer, right.

Q Google has also partnered with organizations like the Voter Information Project. Do you recall that partnership?

A I was not involved in that partnership, so I don't know the details.

Q All right. I'll skip over that. As far as your involvement personally or that you know with Google and these election security projects, have you ever known Google to provide a product selectively based on their expectation about partisanship or ideology of the person receiving the information?

A Can you repeat it? Would you mind rephrasing it.

Q Have you ever known Google to provide a product like the ones that we've just described with the intent of promoting a certain political party or ideology?

A No.

Q This is another example that YouTube provided a prominently surfaced information on its panel for registered congressional candidates when people did a YouTube search result. That, again, was part of its efforts to to allow people to find authoritative information about their elected representatives or candidates. Is that fair to say?

A I think that was intended to allow the candidates to present themselves as they wished to be presented.

Q Okay. And Google, again, did not -- or YouTube did not provide that opportunity selectively to one party over the other. Is that correct?

A I have no reason to think otherwise.

Q And these efforts that we've described and that you've described in prior testimony, they were done in order to ensure that voters could easily access authoritative content related to candidates that they were interested in. Is that fair to say?

A Yes.

Q And that's part of the Google's larger mission of providing the world with authoritative information about the subjects that interest them. Is that fair to say?

A Yes, it is.

Q All right. That was the first, I guess, focus area that you mentioned in your prior testimony, which you characterize as empowering people with authoritative information. You also talked about a second goal that Google had in this respect, which was securing elections.

Can you just briefly describe, or generally describe like, how does Google seek to accomplish that goal of securing elections?

A During the period of time when I was at Google, those efforts included advanced protection program where candidates and campaigns that use Google services could sign up for alerts and other protection for their accounts to make sure that they weren't breached. So that would be a good example of the type of security protection that Google is providing.

Q So that was aimed at political campaigns or candidates or office holders?

A Yeah, it could be -- excuse me, yes, it could be that. Actually, a lot of people could register for advanced protection for the advanced protection program.

Q Okay. And you provided this service regardless of the political affiliation of the candidate or the office holder?

A Correct.

Q Or the campaign?

A Correct.

Q Why is it that Google wanted to secure or to help secure elections in this manner? How did that benefit Google in your view?

A From my perspective, in my role, this was very consistent with protecting

user data and the security of user accounts and the security of the users themselves who are taking advantages of the service that Google offers. And that includes consumers of search results and other sources of information that are available through Google, but also their actual use of the communication services to receive communications as well as to push content to users.

Q Is it fair to say that if a campaign or a candidate or an election official was using a Google product and account or something else, and it was secure, and they had few problems, that that would be good for Google?

A That is a success for Google and for its users, yes.

Q You mentioned in prior testimony that Google offered what was called an Advanced Protection Program. Is that where you were just describing, or is that a different program?

A That is the program I was referring to.

Q Does that still exist?

A I don't know if it still exist. It did at the time that I left Google.

Q Okay. And that product was again something that you offered to campaigns, candidates, and election officials in order to enhance election-related accounts or the security of election-related accounts. Is that fair to say?

A It is, as well as other accounts, but yes.

Q Okay. And again, you did that regardless of the party affiliation ideology or partisanship of any of the campaign officials or candidates. Is that fair to say?

A Yes.

Q You mentioned that Google had a program called Protect Shield. Are you familiar with that, is it product? Is that better to say product?

A If what you're referring to is what I'm recalling, they're the same thing.

Yes, there was a program to help protect sites from going down from denial of service attacks. So the nomenclature, I'm not quite sure is the same, but that sounds similar to what I have in my mind when you said that phrase.

Q Okay. I'm sorry, did I call it a program, or a program or a product? What would be better, or does it matter?

A For our purposes here, it probably doesn't matter. I don't know that there's a meaningful difference.

Q Okay. Well, I'll say service. Was that service provided equally to candidates, officials, and campaigns regardless of party affiliation or ideology?

A Yes, I know there is no reason to think otherwise.

Q Okay. Another strategy that you mentioned in your prior testimony with respect to this goal of securing elections was Google and its employees made efforts to remain vigilant while looking for -- shifting strategies and techniques of attackers. Is that something that you recall Google doing as part of your efforts to secure elections?

A Yes.

Q And as part of that effort to remain vigilant, did you have relationships with U.S. Government agencies and other industry partners to kind of keep up on those threats?

A Yes.

Q And is that some of the purpose of the, you know, relationships and meetings that you described in the earlier hour that you had with U.S. Government agencies?

A Yes.

Q You talked a little bit in the other hour -- I guess, this would also be under the sort of focus of securing elections about what happens if a Google team identifies a

malicious actor, an internal demon, some kind of malicious attack. Can you again just briefly describe from your own experience what would happen if you had discovered that if a tip had come to you or somebody internally at Google had brought that to your attention? What would be your role, if any?

A Any role in that would be if I were to receive a tip that there was some security malicious activity going on would be getting a little of the details about it so I know what team to route it to. In most cases, and the types of tips I was getting, it would go to the threat analysis group for their investigation.

Q And that's the national security subject area that we were -- you were saying before these are people that were looking at state acts, threats, or others. Is that the --

A What they dealt with the sophisticated, often state-sponsored attackers. I wouldn't use the word national security necessarily for it.

Q Okay.

A But it was the nature of the attackers was sophisticated adversaries.

Q Okay. What about other kind of threats like -- I am just going to use an example so it can be a little more effective. I'm going to mark this as exhibit 1, if I could. It's got two pages, just front and back here. I'll give one to you and you.

Mr. Bopp. Thank you.

[[redacted] Exhibit No. 1

Was marked for identification.]

BY [redacted]

Q Just take a look at it for a second and let me know if you recognize it.

A Okay. I've read it.

Q First of all, [redacted], do you recognize that particular email or recall it?

A I don't.

Q Okay. Fair to say. It was -- it looks like it was simply back in 2020, November 10th. But if you look at the back page I guess where the email chain begins, can you see that it originates from a [redacted] at dominionvoting.com, and it's sent to Matt Masterson at CISA.

A I see that.

Q Okay. And Matt Masterson is the person that you discussed in the earlier hour that you knew through some of those U.S. Government and industry meetings at CISA, right?

A Yeah, Matt Masterson was one of the CISA representatives.

Q Okay. If you follow along the chain, you can see that Mr. Masterson, after receiving this, forwarded it to some other CISA folks, and that one of them -- I don't even know who -- I guess it was Brian Scully who you also mentioned in the previous hour -- eventually Mr. Scully forwarded it to you. And he just said, according to the email: We received the below report from Dominion, an election infrastructure vendor, who has been the center of several election-related conspiracy theories. In this report, they are concerned about an employee being targeted.

He just sent that along to you. Do you know what he expected you to do when he sent that to you? What would have been your expectation?

A I don't know what he expected from me. My interpretation of this would be to route it to a team for consideration.

Q Okay. So this is an example of one of those things that come to you probably because you have relationships with these government officials in the past year that you described, and then you routed to Google folks who you think are most suited to deal with it. Is that fair to say?

A I don't remember this particular instance, but what you described would be

the protocol if I did receive this, yes.

Q Okay. And I see that you had a brief response. It was just: Do you recall if they used the product reporting feature?

Do you see that in the document?

A I do.

Q And what does that mean? What is the product reporting feature?

A My -- again I don't remember this, but it wouldn't have been unusual for me to go back to the reporting party and say, there is a way to report issues of concern through the product. You can do it directly. And also -- so to make sure they're aware of it. But then also to help us deconflict in case we have this coming at us in multiple ways to make sure they were all coordinated and we weren't treating the same matter in different work streams.

Q I see. So they could have somehow on the Google platform reported this themselves, and it would have been sort of automatically routed to people who needed to know or who could have dealt with the problem?

A Yes.

Q You can set that aside. Thank you. And then going back to, again, the goals that you mentioned in your prior testimony about Google's effort to secure elections. The final focus area that you mentioned was Google's goal of improving transparency and accountability in advertising. Do you recall, again, at the time that you were working there, what was Google doing to try to accomplish that goal with respect to elections?

A Yeah, my recollection is a little fuzzy on this, but I do recall efforts at Google to make it more transparent, who was paying for election ads, so that those who were seeing election ads or who were otherwise curious could actually use -- using Google see

who it is that actually paid for the ad.

Q Okay. And what you provided that service, would you do it again regardless of the political affiliation or partisanship of the person who is seeking to place the ad?

A Yes.

Q You did not personally have any role in sending Google advertising policy. Is that fair to say?

A Yes, that's true.

Q And you never decided on any specific advertisement, whether it would be allowed on the platform or not?

A No.

Q You talked a little bit about Google's attempts to combat election-related misinformation. And I think you were clear that you had no role in either setting the policy for misinformation, or removing content in any specific case. Is that fair to say?

A That is true.

Q Even though you've never had a role, are you familiar with how Google generally deals with that misinformation with respect to elections?

A Only from the perspective of somebody who would route tips in. But the actual handling of it once I submitted the information to the team, I am not familiar with.

Q Okay. Even though you're not familiar with the way that would happen internally at Google because you never had personal experience with it, have you ever known Google to remove content, or to promote content based on the party affiliation or ideology of the speaker?

A I have no information suggesting that.

Q Okay. I'll skip a lot of this because you already made it clear. Are you

familiar generally with Google's terms of service?

A Generally.

Q Okay. Do you know if the terms of service explicitly state that user content may be removed if it violates applicable law?

A That's a clause I have seen and am familiar with.

Q And that relates some in ways to your role as the law enforcement and security information director?

A Not so much. It's just a -- that was a particular legal line that -- it was familiar to me, but I didn't need to use it much, but I have a recollection of it being in there.

Q What's an example, if you know, of content that might violate applicable law?

A An example that I am familiar with would be child sexual abuse material.

Q And did you have any role in removing that kind of content that was on Google's platform?

A Not directly. My team did work on child sexual abuse cases and reporting to the National Center for Child -- children, and the NCMEC -- sorry if I'm finagling the name. But there was another team that actually did the removal of the CSAM material.

Q So you interacted with the law enforcement who was working the prosecution or the investigation? Is that what your team did?

A No, well -- there were two pieces to this. There was working with the internal Google team that handled CSAM, and who would make reports to the National Center for Missing and Exploited Children, NCMEC. My team would interact with that team, because in some instances, we would become aware of content involving sexual abuse of children. It looked like there was a current child in peril. And if we found that

situation, we would initiate an investigation to try to rescue the child, and that would involve getting law enforcement involved, and that would be my team.

Q Okay. So if someone at Google saw that on a platform or suspected that on a platform, that that law enforcement contact would be routed through you?

A Not quite. If we detected, or if we were made aware of content on our system that suggested there was a child currently in peril, my team would investigate that and put together what we would refer to as a referral package and then report that to public safety officials to hopefully rescue the child.

Q I see. Aside from that content that you've described, let me just -- have you ever known or heard of Google removing content that is not in violation of terms in service and instead is being removed simply for political ideology reasons?

A I have no knowledge of anything like that.

Q Okay. While in your role as director, or senior director of law enforcement and information security at Google, you've described that you had somewhat frequent contact with U.S. Government agencies like the FBI and CISA. Is that fair to say?

A I had regular contact with CISA and the FBI, yes.

Q But your role was actually beyond the United States. It was a global role, and so you probably also had contact with law enforcement and government agencies outside of the United States. Is that fair to say?

A Yes.

Q You already described this, excuse me. Is it fair to say that some of those interactions with U.S. Government agencies were intended to help Google, for example, by protecting the security of its own networks and hearing threat analysis that might help you protect its own networks?

A Yes, that's fair to say.

Q Is it fair to say that some of these interactions were intended to help the government and their law enforcement responsibilities; for example, like the ones that you described, removing illegal content, like child pornography, or something else that is clearly a violation of law?

A Again, can -- I'm sorry, can you -- I got lost at the beginning.

Q I guess all I'm trying to say is, like, these interactions that you've had in your capacity as the director of legal or law enforcement and security -- I'm sorry, I lost track of your job. But these interactions that you've had, they were intended to help Google, and then they were also intended to sometimes help the government, for example, by assisting in the removal of illegal content or other capacities?

A I wouldn't describe it as intended to help the government.

Q Okay.

A There may be coextensive missions between the company and government. And then it may very well benefit. But our focus was on protecting the users, in the case of CSAM, protecting the child who was in peril. And, thankfully, oftentimes, that's also just the government entity -- equity in the matter, yes.

Q So you're saying any benefits that the government would prove incidentally may have been mutually benefiting each other, but your focus was on user data, privacy, and protection of Google's interest because that's who you were working for. Is that fair to say?

A I think that's true. We had a great fidelity to the law, of course, but Google was very concerned about security of its users and its users' data. And I was the driver for a lot of what we've been talking about.

Q Okay. And it's fair to say that it's in Google's paramount interest is securing that data and providing that security for its users?

A But that is true. One was good for the users, also benefited Google.

Q Okay. During your interaction with U.S. Government officials, did any of these officials ever try to coerce you or anyone else at Google into promoting or removing any content for political purposes?

A We're talking U.S. officials?

Q U.S. Government in this case, yeah.

A I'm not aware of any such request.

Q Okay. Did U.S. Government officials ever threaten you or any other Google employee with adverse actions if Google refused to take any particular action that the government official desired?

A I don't recall any scenario like that.

Q Did any U.S. Government official ever ask Google employees, to your knowledge, to promote or remove any content based on political or ideological viewpoint that was expressed?

A Not that I'm aware.

Q Did anyone working at the White House ever order you to remove a post, an account, or any content from Google's platforms?

A Not that I'm aware of.

Q Are you familiar with the claim made by some of the committee's Republican Members that the Federal Government has both colluded with Google and other private companies in order to censor certain types of far-right political and ideological speech in violation of the First Amendment?

A I'm sorry, what was the beginning of that question?

Q Are you familiar with the claim made by some of the members of this committee that the Federal Government has colluded with Google and other private tech

companies in order to censor certain types of far-right political and ideological speech in violation of the First Amendment?

A Yeah, I am familiar with that.

Q Based on your experience at Google, both during the Trump and Biden administrations, do you recall that such collusion was occurring while you were employed at Google?

A I can speak for Google, I'm aware of no such interaction.

Q Okay. And do you have any reason to believe after you left Google that any type of collusion is occurring today?

A I have no reason to believe so.

Q In your experience, do you think that Google has attempted to operate in a manner that respects the First Amendment rights of its platform users?

A Say that again?

Q I'll say it slower. I'm sorry. In your experience, like as a Google employer, former Google employee, do you think that Google has attempted to operate in a manner that respects the First Amendment rights of its platform users?

A Yes.

Q And do you believe that it is in Google's interest as a company to promote First Amendment freedom of platform users?

A It's just not in my area, so --

Q Okay.

A -- that's sort of a personal --

Q That's fair. That's fair.

A Thank you.

Q I don't have any questions at this point. Okay. We're all set. We can go

off the record.

[Discussion off the record.]

BY [redacted]

Q Can we go back on the record, please. [redacted], are you familiar with an FBI agent named Aleksander Kobzanets?

A Say the name again, please?

Q Aleksandr Kobzanets, K-o-b-z-a-n-e-t-s.

A Yes, that's familiar.

Q And, to your knowledge, what is Agent Kobzanets' role within the FBI?

A I don't know what it is currently. I do recall -- I think he was a legal attache for Ukraine for some period.

Q And did you interact with Agent Kobzanets during your time at Google?

A Yes.

Q And when was the first time that you interacted with Agent Kobzanets?

A I don't remember. It was brief, but I don't remember.

Q Would it have been prior to February 20, 2022?

Mr. Bopp. February 2022, you said?

[redacted] Yeah.

[redacted]. I heard February of -- I couldn't be sure. I don't know.

BY [redacted]

Q Do you recall the last time you interacted with Agent Kobzanets?

A I don't.

Q And how frequently would you say you interacted with Agent Kobzanets?

A I would say in the scope of things it was rare. A few times, I think.

Q Were there particular periods of time, or would your frequency, interactions

increase?

A I would say differently there was a period of time where I had interactions with him, and it was, if I recall correctly, related to the invasion of Ukraine.

Q Are you familiar with an FBI agent named Mark Kellett?

Mr. Bopp. What's the last name again?

BY [redacted]

Q Kellett, K-e-l-l-e-t-t. Kellett.

A The name isn't ringing a bell.

Q So this will be exhibit 2.

A Okay.

[[redacted] Exhibit No. 2

Was marked for identification.]

BY [redacted]

Q At the top here this says this is an email from you. Is that correct?

A That's what it says.

Q And on the CC line, there's an individual. The first name is [redacted]. Do you happen to know who that is?

A Well, yes, [redacted], I know who that is.

Q What is [redacted] role at Google?

A [redacted], I don't know what his current role is. At this time [redacted] was an attorney on my team.

Q And what, specifically, are [redacted] responsibilities to the workplace?

A He would have been on the cybersecurity side of the work that my team did.

Q If you could turn to that second page. Actually, we'll start with the first page at the very bottom. And that looks like it's an email from FBI Agent Kobzanets. Is

that correct?

A That's what it looks like.

Q And this was an email to you and [redacted]. Is that right?

A That's what the document shows.

Q At the bottom of the email it says: Just received the following from the National Police of Ukraine as well as the Security Service of Ukraine.

And if you turn to the next page. And: Both services believe that the Russian forces use Google Maps to tag locations on the maps for either targeting by bombing or for attacks by diversant groups. By looking at the maps, it appears that unknown actors changed the tags for sensitive and civilian locations and marked them all as Farming State. Did I read that correctly?

A I think you read that accurately.

Q And then the next email on the first page in the chain is above that. The chronologically next email from Agent Kobzanets. Is that right?

A That's what it looks like, yes.

Q And it says: Forgot to include screen shots?

A I see that.

Q Then you then respond to his email on March 1st at 2:39. Is that correct?

A If that's what the document shows. I don't have a recollection of this. If that's what document shows.

Q And then you say: Thanks, [redacted] We got this to the team. Is that right?

A If that's what the document shows, yes.

Q Do you generally remember interactions about tags on Google Maps with the FBI related to the invasion of Ukraine?

A This seems familiar. I don't remember very specifically, but this does look

familiar to me.

Q Now, you referred to a team. Here you said: We got this to the team. Do you have any recollection what that team would be?

A Based on the context here, the team would have been the -- what we refer to as G-O team, or the maps team.

Q And did you have a specific point of contact on that team that you probably would have sent this to?

A There would have been somebody specific I sent it to, yes. I don't --

Q Do you happen to recall that name?

A I don't recall.

Q And would you have sent Agent Kobzanets' request to that team by email?

A Not necessarily. Possibly.

Q What other forms of communication did you use to refer requests from the FBI?

A Say that again, I'm sorry?

Q What other forms of communication would you use to refer requests like these from the FBI?

A Passing along information like this to the product team could be done through email. It could have been voice or video. It could have been through Google Chat. There are multiple ways. It could even be in the hallway.

Q When you say, what voice or videos you would call the relevant person, and then you could tell them about the information. Is that right?

A Yes.

Q We can take that back. Let's go to the next exhibit, exhibit 3.

A Okay.

Mr. Bopp. One second. Okay.

[Exhibit No. 3

Was marked for identification.]

BY

Q If I could direct your attention to that last page, Bates number 80. On the CC line, on the second line, do you see the name ?

A Yes.

Q Who is ?

A was an attorney on my team.

Q And what were her specific responsibilities?

A Her responsibilities were handling the subcomponent on my team that dealt with demands for user data from government and civil cases for nongovernment entities, national security, and criminal.

Q Would that be things like emergency disclosure requests?

A That would include emergency disclosure requests.

Q Now, this email appears to have been sent to an email alias, @google.com?

A I see that.

Q Were you familiar with this particular email address?

A I don't recall this particular email address.

Q So you didn't receive emails that were sent initially to this domain that weren't referred to you?

A I just don't remember this.

BY

Q Is there a practice at the company of creating email addresses for crises that

would occur, subject matter, or does it appear to be from a person? Is that fair?

A If it looks like an email, it is to me. I don't know if it's a practice. Creating an alias can be useful to make things more efficient. I don't know if it's a practice or not, but I have seen it.

Q Do you recall any in the context of elections?

A I recall setting up an email alias for non-U.S. elections to be able to give tips from governments elsewhere in the world that were having elections and were worried about their security. So I know we set up an alias for that. I'm not recalling any others.

BY [redacted]

Q Understanding that you weren't originally on this email, having read the email here, it appears that the FBI is raising a similar issue with Google Maps at the last email that we looked at, that the farming State tag. Is that a fair characterization?

A I don't have a specific recollection of the two, but I did note that the phrase was in both.

Q If we could turn to the second page, at the bottom here. It's an email from you to Agent Kobzanets. Is that correct?

A Yes, that's what it says.

Q And this email was essentially at 2:28 p.m. on March 2nd, is that right?

A That's what the document says.

Q In the body of the email you said: Acknowledging receipt and sent to the team. Now, wouldn't that team be the same G-O team that you were talking earlier?

A That's how I would interpret this with my recollection being not great right now, but that's how I would interpret that, yes.

Q The next sentence you say: If you could use this urgent alias only for legal process that has been submitted by alerts, that would help us. Did I read that correctly?

A Yes.

Q And what is LERS?

A LERS is the Law Enforcement Request System. I think that's what it stands for. It is an interface that law enforcements can use to submit requests like subpoenas and search warrants to Google. And there's a good tracking system. So it's sort of an intake system for government demands for user data.

Q The following sentence is: It's set up for the team that handles LERS, not for these Maps or YT matters. YT, did you mean that to be YouTube?

A I would interpret that to be YouTube, yeah, given the context.

Q And do you recall what you meant when you said YT matters here, that this email address was for LERS, not for these Maps for YT matters?

A I think what I was getting at is if there is a request other than for disclosure of data, you don't want to use LERS, you need to go through a different system.

Q The next email in this chain is from Agent Kobzanets that was sent at 11:57 a.m. on March 2nd. Is that right?

A That's what the document says.

Q And then he says: Hi, [redacted], I spoke to the DOJ/NSD about this map matter last night, and they are interested in digging deeper on this. If you conclude and agree with the NPU's assessment that there is a possibility tags are being placed intentionally, they would be interested in following up on this with legal process. Please let me know what would be appropriate. Did I read that correctly?

A Yes.

Q Did you understand DOJ/NSD to mean the Department of Justice's National Security Division?

A I don't really remember this at all, but the normal nomenclature there, that

would be the Department of Justice's National Security Division.

Q And would the abbreviation NPU, referring to the National Police of Ukraine be consistent generally with your understanding?

A It would certainly be consistent with the thread.

Q And in this email, Agent Kobzanets refers to being interested in following up on this for legal process. Based on your experience at Google, would that legal process have involved the compulsory removal of the Google tags, or would it be legal process that would have required the disclosure of certain information, or what kind of legal process did you understand this to mean?

A The context here would be the -- it would be legal process for the disclosure of data behind the person or persons who were making changes to map labels.

Q I see. The following email is an email back from you to Agent Kobzanets. Is that correct?

A That's what the document shows.

Q And this email was sent on March 3rd at 8:36 a.m.?

A That's what the document shows.

Q In the email you send: My understanding is that in our investigation of these instances we saw that these were erroneous edits made to the map more than a year ago. Out of an abundance of caution, we are removing user contributions like photos, videos, reviews, and business information and all user-submitted places from Google Maps and Ukraine and Russia and Belarus since the invasion, and are temporarily blocking new edits from being made. Did I read that correctly?

A Yes, I think you did.

Q When you said that you were removing or Google is removing user contributions in Ukraine, Russia, and Belarus, did that mean that the user contributions

could not be seen in those three countries, or did that mean that any user contributions made in the system for locations in those three countries have been removed for everyone?

A Again, sorry, try me again on that.

Q Sure. Here you referred to the removal of user contributions to locations in Ukraine, Russia, and Belarus, does that mean Ukrainian users can no longer view those because they've been removed for them, or does that the contributions have been removed across the system? So anybody looking at locations in Ukraine would not have been able to see those user contributions?

A I don't know.

Q To your knowledge, was your team aware of this issue with the farming state tags on location in Google Maps prior to notification by the FBI?

A No.

Q And so, was the decision about removals taken because the FBI initially sent you the concern about those tags?

A I don't know.

Q But the timeline was first notified by the FBI and then the decision to remove was taken. Is that correct?

A It all -- it's a little -- I don't really know that for sure, because this isn't really my area. What I can say is I got the tip and sent it to the team and responded back to the agent per the wording provided to me by the team, but I can't say whether there were other things going on at the same time.

Q But to your knowledge the decision about the removal of user contributions was not taken prior to that notification from Agent Kobzanets?

A I don't really have knowledge either way.

[[redacted] Exhibit No. 4

Was marked for identification.]

BY [redacted]

Q Let me take that back. This will be next exhibit, exhibit 4. This is an email from Agent Kobzanets to you. Is that correct?

A That's what the document shows.

Q And it was sent on March 14th, 2022, at 4:17 a.m. Is that right?

A That's what the document shows, yes.

Q In the email, Agent Kobzanets says: Please see attached a request from the SBU containing some of the YouTube channels believed to be spreading disinformation. The SBU requested your review and if appropriate deletion/suspension of these channels/videos. Did I read that correctly?

A Yes.

Q Is it your understanding that SBU here refers to the Security Service of Ukraine?

A The context of the document suggests that, yes.

Q And are you familiar generally with the SBU?

A No.

Q The subject line for this email was disinformation accounts from SBU for 3/13/2022. Is that right?

A I see that in this subject line.

Q And then in the attachment turning to the second page, it appears there are two paragraphs at the top with texts, and then there are listed YouTube URLs. Is that correct?

A That's what it appears to me, yes.

Q In the second paragraph, it says that: The Security Service of Ukraine has identified a number of YouTube channels used in the interest of the aggressor country to read hate speeches, distribute content that promotes war, inaccurately reflects events in Ukraine, justifies Russian war crimes in Ukraine in violation of international law, and used assistance to the army of the aggressor country by transmitting information on the movement of forces of the Armed Forces of Ukraine as well as by spreading fake information, promoting the shift of legitimate power, namely, and then a list of accounts.

Did you understand aggressor country to refer to Russia in this instance?

A I don't remember this. The timing and all would suggest that, and the last paragraph in the document would be consistent with that interpretation.

Q So you don't recall this specific instance in which Agent Kobzanets sent you this request from the SBU?

A I don't.

Q Do you remember any other instances in which Agent Kobzanets sent you a list of accounts with a request for their removal from the SBU?

A No.

Q Do you recall that generally taking place?

A Yes.

Q Okay.

A I do.

Q And how frequently would you say that?

A This is the only instance, if it strikes just a vague memory for me. So this may be the only one, but --

Q Do you believe this could have been the YT matters you were referring to in the last email trans --

A That would be speculating. I don't remember the date of it and all, but that might be a theory.

Q Would you say that you were the primary point of contact for Google on request of this nature from Agent Kobzanets?

A I don't know who else he might have been submitting things to.

Q Do you recall whether you referred this or any other list provided by the FBI from the SBU to an internal team?

A I don't remember, specifically, doing that. It would have been consistent with the protocol.

Q In this case, what team would you have referred these lists to?

A In this case, what I'm seeing here are YouTube videos. The protocol for YouTube videos would be to send it to the YouTube Trust and Safety Team.

Q And did you have a particular point of contact that you commonly used in the YouTube Trust and Safety Team for requests of this nature?

A For a list of accounts to review, I think I mentioned this earlier, I would either have gone to [redacted], who is counsel, or I would have gone to the YouTube Trust and Safety Team, but I can't recall a specific name.

Q And do you recall whether the FBI ever told you that they vetted these lists prior to them sending it to you?

A That they did what?

Q They vetted the lists prior to their being sent to you.

A No, I don't recall them telling me that.

Q When the FBI sent you these lists, did they ever warn you that some of the accounts on the list were not collecting this information?

A I don't recall them making representations about the list.

Q Typically, after you referred these requests to the YouTube Trust and Safety Team, would they report back to you about the decisions that they made?

[12:24 p.m.]

[redacted]. This wasn't -- I don't think this was typical, so it's a little hard to answer that question. But generally when I would send reports of bad videos to the YouTube Team, there was somebody asserting that it was a problematic video, I would not hear back from that team.

[redacted] And when you received a request like this from the FBI, would you always refer it to an internal team, or would you make a decision about whether the accounts were worthy of this?

Mr. Bopp. Before you answer, you referred several times to "requests like these," and I think [redacted] has made it clear this was the only one that he even has a vague recollection of. So I just want to make sure the record is clear that this is not something that [redacted] believes is typical. He can answer the question, of course, but I want to make sure the record is clear.

BY [redacted]

Q Was this the only instance in which the FBI sent a list of YouTube accounts for review?

A I don't remember other instances. This, like, it was on behalf of the Ukrainian authorities, but I don't remember other instances.

Q To your knowledge, did the FBI ever refer requests for the removal or suspension of accounts on content on behalf of a Ukrainian agency other than the SBU or MDU?

A I can't think of any other instance where the FBI served as sort of a routing for the foreign authority to Google for removal considerations. I can't think of any others.

Q So you don't recall any other instances, Ukrainian or otherwise, in which the FBI referred requests for removal of content?

A Not as I'm sitting here.

Q And did you ever communicate with Agent Kobzanets about the SBU's requests in a form other than email?

A I don't think so. It's always possible you would get a heads-up that an email was going to come. But it would always be information and all would be conveyed through an email.

Q And did you ever have any communications with the FBI in which you discussed the SBU generally?

A I don't recall having that conversation.

Q Were you involved in any discussions within Google in which people raised concerns about malign actors within the SBU?

A No.

Q Are you aware of any such conversations taking place at Google about malign actors in the SBU?

A I don't -- I'm not sure I'm understanding the question. Malign actors and the SBU, what --

Q So foreign malign actors, non-Ukrainian actors, within the SBU that compromised or infiltrated the agency.

Mr. Bopp. What was the question?

[redacted] Are you aware of any conversations taking place between Google employees in which concerns were raised about malign actors within the SBU?

[redacted]. I don't recall any such conversations.

[redacted] I can take that back.

This will be the next exhibit, exhibit 5.

[[redacted] Exhibit No. 5

Was marked for identification.]

BY [redacted]

Q This is an email from [redacted] to Agent Kobzanets and [redacted]@fbi.gov. Is that correct?

A That's what the document shows.

Q And you were copied on this email? Is that right?

A The document shows that, yes.

Q And the subject line of this email is a tilde and then "30 Ukraine EDRs"? Is that right?

A I see that on the document.

Q And would EDR here refer to emergency disclosure request?

A I don't know, but that would be consistent with the context of the rest of the email.

Q In the email, [redacted] says: "We have received about 30 EDRs today submitted by a Tymur Lavrenchuk," then his email address. "They all appear to be related to YouTube. Any that include takedown requests we are forwarding to the removals team for review and action as appropriate, but we wanted to alert you to the requests for data disclosure."

Would that Removals Team, would that team be consistent with your understanding that that referred to the Trust and Safety Team you were talking about earlier?

A I don't remember this, but it would be consistent, yes.

Q On the last page of the attachment, the Bates number ending in 19, it says

that this is a "Google LLC Emergency Disclosure Request." Is that correct?

A It says that, yes.

Q And then it says that this request came from Tymur Lavrenchuk, who is an international cooperation officer with the Security Service of Ukraine. Is that right?

A That's what it shows on the document.

Q To your knowledge, were there any other instances in which the SBU requested the removal of content directly to Google without first going through the FBI?

A Not to my knowledge, not to my recollection.

Q And of the requests of which you are aware, do you know whether YouTube ever removed any of the accounts that were originally flagged by the SBU?

A I don't know.

Q To your knowledge, did anyone at the SBU ever submit a request using a dot-gov email address?

A Not to my knowledge.

Q Are you aware of any SBU personnel having access to a dot-gov email address?

A That's well beyond my ability to answer.

Q Did anyone at the FBI ever mention that SBU personnel had been granted access to any nonpublic American government systems?

A I don't recall any such conversation.

BY [redacted]

Q Just one point of clarification from earlier. When receiving requests from the FBI on behalf of Ukraine, do you recall any other countries that would submit requests through the FBI?

A I can't sit here and give you a specific example, but the FBI's legal attache

offices, which were around the world, would function as something of a liaison between that jurisdiction's public safety agencies and U.S. companies, including Alphabet or Google.

So it wouldn't be unusual to have communications with a legal attache's office about non-U.S. legal process or requests for user data.

Q Okay. So there would be both instances where the foreign entity is directly contacting Alphabet and then also instances where the FBI is serving as an intermediary?

A Yes.

Q We can take that, these exhibits back.

This will be exhibit 6.

[[redacted] Exhibit No. 6

Was marked for identification.]

BY [redacted]

Q So I will give you some time to review, but we'll represent to you this is a Signal channel with a number of industry partners, as well as the U.S. Government.

Do you recognize this Signal channel?

A Not really. It looks familiar.

Q Do you recall communicating ever with the FBI via Signal?

A Yes. I remember there being a Signal channel set up that this resembles, yes.

Q Do you recall if there were multiple channels, only one?

A I only know of one.

Q Do you recall if there were similar channels created with any other government agencies besides the FBI or besides this channel?

A During this time frame, I don't recall there being anything else.

Q Would the FBI ever send you Teleporter attachments?

A Yeah. There was a system that the FBI used that was called Teleporter, and they could use that to make documents available to us and for us to upload as well.

Q And was it a separate app? How was the Teleporter information -- the information relayed via Teleporter, how was it relayed to --

A I don't really know how Teleporter worked. I know it was an FBI service that they set up and wanted to use for the sharing of information and move away from email. So I'm not quite sure of the back end of how it worked.

Q Okay. Would you receive notifications via email?

A Yes.

Q With respect to the Signal channel, do you remember who helped organize or create it?

A As I recall, this was a government initiative, and I think it was CISA, but I couldn't be sure of that. But it was a -- I think it was the government wanting to have a Signal channel.

Q Do you remember why the government wanted a Signal channel?

A As was explained to me was this would be a quick way to be able to deliver important leads to the people at the companies who could get them routed to the right place as they came in during a sensitive period of time. So it was intended to be, as I understand it anyway, as a reliable, quick way to get information to the companies.

Q Do you know if anyone could add anyone to the Signal channel?

A I don't know. I didn't -- I wasn't familiar with the features. I don't think I needed to do that.

Q On page 2, which is Bates number 15039, there is a message just a couple lines down from [redacted] saying: "I'm here."

Do you believe that to be you?

A It would be consistent with the channel, yeah.

Q And do you recall having some form of Signal communications with the FBI and with industry partners?

A Yes.

Q And you had a moment to review the document. Are some of the names, do they overlap with some of the industry partners who attended the USG/industry meetings that we were discussing in the first hour?

A Yes.

Q On page 5, which is Bates number 15042, there is a message about a third of the way down from the FBI San Francisco Command Post.

Do you recall who was able to verify that that number was the FBI San Francisco Command Post?

A No.

Q Do you know if there's anyone in the industry that took a lead or played a primary role in organizing this group?

A I don't think so. I don't think there was a lead. I don't recall there being a lead.

Q It wasn't you, though, if there was one?

A If there was one, it wasn't me, and I'm not sure there was one.

Q Was there an agent in particular from the FBI San Francisco Command Post that the industry partners would regularly interact with?

A In this context of election and the industry/USG Group, I think the person most of us interacted with -- I know it's true for me -- was Elvis Chan out of the San Francisco Field Office.

Q And could you say just a bit more? We discussed in the first hour the Foreign Influence Task Force. Could you say a bit more about whether there was overlap or there were any relationships between the task force and the San Francisco Command Post for the FBI?

A Well, I guess there was the commonality of Agent Chan being involved in both.

I'm sorry. I'm not sure what else you would like me to address about commonalities, but there was that.

Q With respect to the -- during the first hour you said there were two sets of meetings. There was one for the Foreign Influence Task Force, and there was one for U.S. Government partners and industry partners.

Does that sound right?

A Yes.

Q And so the FBI's inclusion on this Signal channel, is it your understanding that that was consistent with that latter category of meetings, the U.S. Government/industry partners, or is it a third and separate?

A I'm sorry. Try me on that again.

Q Sure. So in the first hour we talked about there was a set of meetings. I think you testified it was direct meetings between Alphabet and the Foreign Influence Task Force, and there may have been other direct meetings with other companies, as well as regular U.S. Government/industry meetings that would occur as a separate set of meetings.

This Signal channel, is it your understanding if it was a byproduct of either of those preexisting sets of meetings?

A The genesis of it was the industry/USG Group. So if there was any

connection, like if you wanted to draw a line of where it came from, it would be from that group.

Q Okay. If I could have you turn to page 10, which is Bates number 15047. There is a message from Mr. Roth saying: "Hi all - I'll shortly be adding a number of contacts from DHS-CISA to this group."

And then at the bottom of the page -- well, starting about two-thirds of the way down -- he adds a [redacted] CISA, [redacted], and [redacted].

Are you familiar with any of those three names --

A Those are --

Q -- [redacted] [redacted] and [redacted]

A Sorry. Those are not familiar to me.

Q If you could turn the page, page 11, Bates number 15048. At the very bottom Mr. Roth adds [redacted].

Do you know who [redacted] is?

A I don't recall.

Q On page 14 -- it starts at the very bottom of page 13, 15050, and then the majority of the message is on page 14, 15051 -- there's a misinformation report, photo, and it looks like an email chain that's perhaps been copied and pasted into the group.

In the middle of the page, there's an email address called [redacted]@cisecurity.org.

Do you recognize that email address?

A I do not.

Q And do you recall any discussions about a nonprofit called the Center for Internet Security?

A No, I don't remember that.

Q If I could have you turn to page 27, which is Bates number 15064. There are a series of messages continuing until the top of page 29, Bates number 15066.

And if I could call your attention to the top of page 29, Bates number 15066. Mr. Roth says: "My error - wrong channel, but all info is public anyway."

Do you know which channel Mr. Roth may have been referring to?

A I'm not sure.

Q But, to your recollection, were there any other channels with U.S. Government agencies?

A No.

Q With respect to CISA, did anyone from CISA during the USG/industry sync meetings ever represent that the agency dealt with MDM, mis-, dis-, and malinformation?

A I don't recall that specifically.

Q Okay. Do you recall usage of that term ever in any of the meetings?

A I don't actually remember MDM being an acronym that was used in those meetings.

Q Okay. And if I could call your attention back to page 14, Bates number 15051. The first two words underneath the picture are "misinformation report."

Do you recall, when information was being flagged for industry partners, if there was -- if it tended to be content-based or behavior-based with respect to reports that the FBI or CISA would pass on?

A I'm sorry. I'm having trouble with the question.

Q Sure.

A Can you help me with it?

Q I'll take a step back.

A Okay.

Q With respect to the industry partners, both on this channel and participating in the U.S. Government/industry strings, was it your understanding that both representatives from Alphabet and your industry colleagues, did they tend to work on teams related to moderating content?

A My understanding of some of the companies is that they would have teams that worked on content moderation.

For Google, it was primarily security. For Google's purposes, most of the involvement Google had with 2016, 2018, and there really wasn't much in 2020, was really about account security and not the publication of misinformation through Google.

So we were dealing with this as primarily a security issue, so somebody like me and [redacted] would be our representatives. But it differed by company.

Q And then with respect to the information that the U.S. Government would share at these industry sync meetings and via this channel, some of that information was more relevant to the type of work you do, security-related work? Is that fair to say?

A It was a mixture, yes. And some related to security issues and some might be more about having to look at a URL for terms of service or community guideline violations.

Q Okay. And with respect to that latter category, do you recall during meetings if examples were provided or if it tended to be high level, be on the lookout for certain types of content?

A You're referring to the USG/industry meetings --

Q Yes.

A -- that were headed by CISA?

My recollection of those meetings is that it was more general than that, and there was very little in the way of actual presentation of leads or URLs or any of that. It was

much more, as I think I mentioned earlier in the morning, much more about time, place and manner and events that were coming up than it was about specific threats or instances of concerning content.

Q And I understand this is not your direct responsibility with Alphabet, but reports like the one reflected in the channel misinformation report where it is a specific example referring to in this case a tweet, do you recall there being a shift in how the U.S. Government was sharing information that became -- they were in previous meetings providing high-level information? Do you recall at any point where they began providing more granular, specific examples?

A My recollection is they were pretty consistent through the whole series of meetings that I attended, which was pretty high level and focused on what events in the election cycle are upcoming. But I don't recall -- I don't -- my memory is that there was not a shift.

Q Is it your memory that one of the purposes for this channel was to facilitate the government to be able to provide more specific reports directly to the companies?

A I think part of the -- at least the value I saw from the Signal channel was that we might be able to get timely leads that we could take action on, and this eliminated friction that might come -- unnecessary delay that could get the tips to us.

[redacted] If we could be off the record, please.

[Recess.]

[1:36 p.m.]

[redacted] If we can go back on the record, please. It's 1:36.

Let's start with [redacted]

BY [redacted]

Q Hi. I just wanted to clarify a few things with the acronym "CIS."

Earlier this morning, in the first round of questioning, you were asked if you're familiar with CIS. And you had said that, yes, it's affiliated with Stanford and you're a fellow there. Is that correct?

A Yes. CIS there being the Center for Internet and Society at Stanford, yes.

Q Yes. Okay. And just to confirm, to your knowledge, that is different than the CIS that we've mentioned in other discussions today, which is a nonprofit, Center for Internet Security?

A That's right.

Q Okay. So just so it's on the record, there is the Stanford CIS, which you are a fellow at, and then there is CIS, which is a nonprofit that you are not affiliated with?

A I'm not even aware of the second one.

Q Okay.

A I'm not affiliated, and I'm not aware of it.

[redacted] Okay. Thank you. That's all.

[redacted] I'm going to switch gears slightly. And if I could bring back exhibit 4 from the last hour and give that to you. Feel free to take a look at the email.

All right. So, in the previous hour, the FBI's request made in this email was characterized as a request to, quote/unquote, "remove content." But the email actually does not request removal, does it? I'm referring to the email on the first page of the

document from March 14th.

[redacted]. Well, let me give you two parts for the answer there.

One, I don't see any request here from the FBI at all. This is a request being submitted through the FBI from SBU.

And, two, it does say, "if appropriate" to delete channels or videos, so that could be a form of content review and removal.

And then the last sentence in the email says: "They" -- in this case "they" is referring to SBU -- "are requesting your assistance in removing this tag." And so they were referring to the, I think, as I understand it, the Google Maps tag.

[redacted] So in terms of that second sentence, "The SBU requested your review and," as you said, "if appropriate deletion," that term -- or that phrase, "if appropriate," did you understand that to mean it's up to your discretion whether or not to remove it? That is not, in other words, an order to remove content?

[redacted]. No, there's --

Mr. Bopp. Before you do answer, so that the record is clear, the sentence you are reading from purports to say or says that the SBU requested review and if appropriate deletion. And I think [redacted] also read the last sentence of this email today: The SBU "are requesting your assistance in removing this tag."

So I just want to be clear in terms of whether you're asking about whether [redacted] reading of this email is that it is saying that the SBU is requesting something or you're asking about whether the FBI is requesting something from [redacted] and/or approval.

[redacted] Thank you for that clarification.

BY [redacted]

Q I'm more so asking the latter, if the FBI is asking directly for removal or if you

understood this email to refer to just a review rather than a direct ask for removal.

A My interpretation of this is it's a request to review from the SBU transferred through the FBI.

Q So just to clarify, the FBI here is not ordering Google in any form to take any particular action other than to review?

A No, the FBI is not asking us to review. The FBI is -- my interpretation of this is the FBI is sending along a request from the SBU but not making any -- I don't see any requests from the FBI in this email.

Q And did you remove any content based on this email?

A I don't know.

Q Rather, you simply referred this tip to Google's internal content moderation team. Is that correct?

A I don't remember the specifics here. That would be consistent -- with regard to the first paragraph, which is about videos and the attachments, at least that's what this purports to be, my protocol would have been to send those YouTube videos to an appropriate contact with the YouTube Team for consideration. The second, having to do with Maps, that would have gone to a different team.

[redacted] Understood. Thank you.

BY [redacted]

Q All right. I can take those back, and I'm going to hand you guys copies of what's already been marked as exhibit 6. These are the several pages of the Signal conversation with industry actors and some FBI task force members, as well as CISA.

There is on page Bates number 15050, which is page 13 of the document, if you would turn to that, there's -- actually it begins on the previous page, 015049, [redacted] from CISA.

Do you see that?

A I do.

Q And I think they discussed this in the previous hour, this particular referral. Above you can see that it's an email that has been forwarded with the subject line: "Reported misinfo re: provisional ballots."

But the text beneath the CISA employer, this is Robert S CISA, do you see that text beginning with, "The Cybersecurity and Infrastructure Security Agency"? I said text too. I'm sorry. Not text, but the language.

A I'm sorry. Say that again.

Q I meant to just refer you to the language that begins: "The Cybersecurity and Infrastructure Security Agency." Do you see that?

A Yes, I see that.

Q Okay. I'm just going to read this, and let me know if I'm saying it as it appears in the Signal.

It says: "The Cybersecurity and Infrastructure Security Agency (CISA) of the U.S. Department of Homeland Security (DHS) is not the originator of this information. CISA is forwarding this information unedited, from its originating source -- this information has not been originated or generated by CISA. This information may also be shared with law enforcement or intelligence agencies.

"CISA affirms that it neither has nor seeks the ability to remove or edit what information is made available on social media platforms. CISA makes no recommendations about how the information it is sharing should be handled or used by social media companies. Additionally, CISA will not take any action, favorable or unfavorable, toward social media companies based on decisions about how or whether to use this information."

Is that an accurate reading of the language that appeared in that email that was included on the Signal message?

A It looks -- it seems to me you read that accurately.

Q Okay. Do you recognize that language from your previous communications with CISA?

A Not specifically.

Q Okay. But do you understand it to mean exactly what it says it means, that CISA is not taking any position with respect to how Google or any other social media company responds to the information that is being forwarded to them?

A Yes.

[redacted] Okay. I don't have any other questions.

Do you guys?

Okay. That's it.

[redacted] Could we go off the record, please?

[Discussion off the record.]

[redacted] Can we go back on the record, please?

This will be exhibit 7. It's a lengthy document. I'll represent that it's a Signal channel comprising of some of the industry partners.

[[redacted] Exhibit No. 7

Was marked for identification.]

[redacted] There'll be some passages we'll go over, so if you want to take a few moments to review. I'm not going to go over the entire transcript, but before asking the question, we'll give you a chance to re-review the relevant pages.

Mr. Bopp. Do we maybe want to see -- it would be helpful maybe for you to identify where you want us to focus or it's going to take a while for us to get through all of

this.

[redacted] If the witness feels comfortable.

[redacted]. Yeah. I'm not even halfway through.

BY [redacted]

Q Do you recognize this Signal channel?

A I think I do. My recollection on this isn't crisp, but it looks familiar.

Q And is it your recollection that this Signal channel consisted only of industry partners but was related to the Signal channel we reviewed the previous hour?

A I think the first part of that is right, that this would only have industry members. If this is the transcript of the channel I'm thinking of, it would only be industry members. I'm not sure if it relates -- I'm not sure if you could say it relates to the other one in any way. It's a separate Signal channel with industry-only participants.

Q Okay. And on page 1, which is Bates number 16072, there's reference to an [redacted] four lines down that middle paragraph.

Do you see that?

A I do.

Q And to the extent you have a recollection, do you recall joining this Signal channel?

A I do remember being on an industry-only Signal channel, yes.

Q All right. If I could have you turn to page 5, which is Bates number 16076. There are a series of messages. There's one from [redacted]

Do you know if that would be [redacted] from Facebook?

A It's possible. This isn't my document, and I've not reviewed it before, but it would be consistent. There would be a [redacted] on an industry sync -- or, excuse me, industry Signal channel.

Q And [redacted] asks: "Anyone else want to jump in after [redacted] [redacted] answers: "Nothing from us."

Do you know who [redacted] is?

A I can't recall. My recollection is he was with Microsoft, but I'm not sure.

Q Yeah. Do you know whether this channel was used during the industry/U.S. Government meetings, so while the meetings were ongoing members would communicate?

A I think we might have used it as a way to communicate at times during the industry/government meetings.

Q If I could have you turn to page 8, which is Bates number 16079. There's a post from Mr. Roth two-thirds up -- one-third of the way up from the bottom. And he says: "We can touch a bit on the QAnon stuff we've enforced on, and footstomp the lack of foreign interference aspect."

Do you recall what Mr. Roth meant by "footstomp the lack of foreign interference aspect"?

A What's the question again?

Q Do you recall what Mr. Roth meant by "footstomp the lack of foreign interference aspect"?

A No.

Q Do you recall during meetings with the U.S. Government, during the industry sync meetings, whether the United States Government representatives when providing information would try to identify whether it was domestic or foreign in origin?

A Do I recall if during the meetings -- I'm sorry?

Q Sure. So during the meetings, the U.S. Government/industry sync meetings, so the U.S. Government would present information about threats and other

issues.

When providing this information, is one of the things that they were trying to provide the source of either the threat, the information, whether it was domestic or foreign?

A I don't recall, the way we would put it, attribution as being a particularly important aspect of the discussions.

Q Do you recall it ever coming up?

A Not -- nothing specific.

[2:00 p.m.]

BY [redacted]

Q If I could have you turn to page 12, which is 16083. There are a series of messages on the next two pages, including page -- up to page 14, 16085. I'll give you a moment to review.

A Okay.

[Pause.]

Q Great. Do you recall discussions among the industry partners regarding scoping language?

A No, although this is somewhat familiar to me, this discussion in here. But I don't remember it other than what I just read.

Q Okay. Starting at the bottom of page 12, 16083, carrying on over to the next page, [redacted] writes: "Our focus should be on the threat actors and behavior, rather than the content itself."

Is that distinction between actors and behavior as opposed to content a distinction that you're familiar with?

A Yes.

Q And do you think it's a distinction that most of the industry partners were familiar with?

A I'm not sure I could say.

Q Okay.

A I saw no sign otherwise.

Q Yeah. Do you recall that distinction and communicating that distinction to ever be an issue with -- actually, let me strike that.

Do you recall representatives from the U.S. Government sharing a similar understanding of that distinction?

A This -- yes. This was a foundational part of the conversation.

Q In the previous hour that we had, we discussed that there were kind of two buckets of information. Some are more threat focused, you might say actor behavior focused, but that there was a bucket that also addressed misinformation.

Would you consider that second bucket to be content based related information?

A I think it's a little hard to make a clean distinction in all cases there, so I'm not sure I can just give you a yes-or-no answer.

Behavior can describe a lot of things. And so I think if we're talking about specific content and specific ideas or messages that are conveyed, yes.

But misinformation generally could be described as a behavior, so it's a -- I have a little bit of a hard time with a yes or no the way you phrased the question.

Q Okay. And how could misinformation be described as a behavior?

A It could be that the way a threat actor behaves is to -- its modus operandi is to send out misinformation without regard to content, without regard to any specific issue, any of that. So that would be a strategy, a behavior on the part of the actor.

Q Do you recall any discussions among the industry partners about keeping the focus on threat actors and behavior rather than the content itself?

A Yes.

Q And do you recall if these discussions occurred with representatives of the U.S. Government as well?

A I do recall that. I don't have specifics in my head, but that was part of the earlier conversations as this got set up, making sure it was understood what the scope and focus of these meetings would be.

Q Do you recall if there are any differences in opinions between what the scope of the meetings should be, if there are any differences between what representatives from the U.S. Government understood versus what industry partners understood?

A I don't remember that ever being an area of disagreement.

Q Do you remember if anyone, whether representatives from the U.S. Government or industry partners, advocated for including content within the scope of the meetings?

A If the government representatives?

Q Anybody at the meetings.

A Anybody. I don't recall anybody advocating for that.

Q If I could ask you to flip a couple pages to page 16, which is Bates number 16087.

Mr. Bopp. What in particular?

BY [redacted]

Q I'll ask that you start reading with [redacted] post at the top of the page, and then to the bottom of the page, [redacted] final post on that page.

[Pause.]

A Okay. I think I've read what you asked me to.

Q Okay. If I could call your attention to that first post by [redacted] on page 16, Bates number 16087. [redacted] asks: "Does anyone have a concern if I 'read aloud' our definition of scope for this group to them on this call?"

You had answered earlier that the calls would include industry partners and U.S. Government. Did you understand [redacted] message to be reading the definition of scope to representatives from the U.S. Government?

A I mean, there's nothing here that tells me there was a call going on. It would be -- that would be consistent with that. I don't -- I'm not sure I have enough here to say that with great certainty.

Q Okay. If I could call your attention two more posts down to [redacted] He says: "This is a pretty significant demonstration of the shift in engagement from government over the last couple months."

Do you recall there being significant shifts in engagement from the government around this time that this post is from, February 2021?

A I don't. I don't recall any shift.

Q Is it your recollection that there was a consistency, or you don't have recollection either way?

A My recollection, it was consistent.

Q Okay.

Okay. If I could ask you to turn to page 19, which is Bates number 16090. There is a post from [redacted] at the bottom that starts on the following page, and it carries on over to the next page. If you could take a moment to review that.

A Okay.

Q Did you understand [redacted] message about "focus on partners that are (a) operational, (b) defensive, and (c) apolitical"? Do you believe that message refers to government partners?

A I don't remember the specific exchange with [redacted] The context in which it appears here in this segment that I am now reviewing to me says that we're talking about additional government participants in the U.S./industry meetings.

Q And with respect to the industry partners and U.S. Government representatives, was there ever a third category of participants in these meetings, if you

can recall?

Mr. Bopp. Third as in --

BY [redacted]

Q Someone other than industry partners and U.S. Government representatives.

A Not that I can recall.

Q Okay. With respect to the criteria of operational, defensive, and apolitical, did you agree that these three criteria were good to use when assessing whether industry should have a government partner?

A It's in part. I was never particularly fond of the term "partner." I think there was engagement, and it's arm's length and disciplined and professional. And I never liked the term "partner," because to some it might have a different connotation. But the criteria that was set up here is consistent with what my views would have been for engagement with an entity.

Q Okay. And with respect to -- we don't have to use the word "partner" -- with respect to engagement with a government entity, what are the advantages when having an engagement with an apolitical government entity as opposed to a political government entity?

A It depends on what purpose we're talking about. So some of this is -- this is all so abstract. It's a little hard to answer that question.

It's clear why you would want to have -- we were interested in getting operational information that we could use to secure our systems and to defend our systems.

And that means you are hoping to get it from an operational entity itself, like security engineers or a threat to you, and not particularly from other types that aren't really going to be able to give you useful operational information to defend your system.

You could easily spend your whole career in a job like mine meeting with government agencies that really can't provide operational information to you to secure the system.

So you had to be somewhat careful and selective about those that could actually bring value to help you in work initiatives. So in this context, that's how I would read that.

Q So your answer there addressed the operational and defensive aspects of the criteria. Do you think there are any benefits to ensuring that engagement with government partners is with government partners who are apolitical?

A Well, yes, that's what I was -- maybe it was buried in my answer. But the answer to that was, yes, there are situations where you may find yourself with more actionable information from government entities that are themselves very operational, aren't political in any way. They are the professional security folks, investigators, and others that have a function distinct from anything that we consider, using the term somewhat loosely, "political."

And so from a -- from the role I was in, there would be value in trying to focus on entities that really were in the weeds on trying to track attackers and get signals that could be useful to a network operator to prevent bad things happening on the system.

Q And would CISA be an example of a government partner that would be described as apolitical?

A I don't know if I have an opinion on that.

Q Okay. What about the FBI?

Mr. Bopp. Let me make sure I understand your question, because you mentioned government agencies that have political appointees within the agency. So I'm not sure what you're asking exactly.

BY [redacted]

Q Sure. So we went through the criteria of what makes an ideal or an appropriate partner when engaging with the government. This is a group chat among industry partners. If I understood [redacted] answer correctly is that there are individuals at least within the government who play operational investigative roles he would not identify as political.

And so taking one step back, are there certain agencies that either have people who are not political or agencies whose missions are not political and that you think meet the criteria that is listed out here?

A Yes, there definitely are.

Q And would CISA be one?

A I think CISA could be one, yeah. It's a big organization, but it does have -- my experience anyway, my personal experience at Google was that they could provide useful threat information to the company that would let us do our job better. And the Bureau is another that had those kind of expertise resources that were useful.

Q Do you know if the industry partners ever engaged with the Executive Office of the President?

A I don't -- I certainly don't know about the other companies, and I assume that there are people within Google who engaged with the White House.

Q Sure. Let me clarify the question. With respect to the industry partners and with respect to these industry partner/U.S. Government sync meetings, do you recall the Executive Office of the President ever sending representatives to attend or participate in these meetings?

A Oh, sorry. I don't recall there being anybody from the executive department there. I listed the agencies earlier, and that's my recollection right now.

Q And would you consider the Executive Office of the President to be a more political partner than, say, CISA or FBI?

Mr. Bopp. I mean, first of all, we need to establish is the Executive Office of the President a partner under your understanding of the U.S. industry meetings that were -- that are discussed in this or purport to be discussed in this Slack channel -- or the Signal channel.

[redacted]. Yeah. I mean, no. I guess, I would -- first, I would start with there are no partners, everybody's acting as their own agents, and it's all arm's length. And then I also don't have any recollection of anybody from the Executive Office participating in these meetings.

[redacted] And independent of -- appreciate that you said to your recollection. No one from EOP was attending these meetings. It sounded like the -- at least one of the primary purposes of the meetings is security-related concerns, representatives from the FBI, from CISA.

Setting all that aside, would you consider representatives from EOP to be a political government partner?

Mr. Bopp. So to be apolitical or --

BY [redacted]

Q Sorry, yeah. I can see why that would be unclear.

To be a, and then new word, political partner, so in contrast to apolitical partners, such as the CISA and the FBI.

A I think I understand. I have trouble answering that because that's just not how I thought about things, and that phrasing to me isn't natural, to be assigning those labels. My approach was much more: Do you have information that can help us or do you not? And there are some entities that were more likely to be able to help than

others, and that's where we would spend our resources.

Q Would an entity that is political be less likely to provide helpful information?

A As a general matter, if you're taking your threat team representatives into a meeting to get a threat briefing, most of the time the really good information that you're going to get that's useful is going to be coming from the security analysts and not from political appointees.

It's not always the case, and there can be some value in all sorts of different meetings. So I think your question is a little too broad for me to be able to tackle with a simple answer.

For purposes of the kind of work [redacted] and I did, the real valuable meetings were definitely with the security analysts, the security engineers and researchers with the government.

And the other kinds of discussions that went on with political appointees and those that had a slightly different focus in their careers, there were people who had those conversations. And it could be very well that it was valuable. But for the work that [redacted] and I did, we were better off with the analysts who were really knowledgeable about the actors.

Q If I could have you turn your attention to -- well, we'll stay on the same page, 20, which is Bates number 16091. This is a post from [redacted] about the GEC. If I could have you read until the end of the next page, page 21, which is Bates number 16092.

[Pause.]

A Okay.

Q Great. First, is it -- if you have a recollection or your understanding -- that GEC refers to the Global Engagement Center?

A The context here would be that it is, yes.

Q Yeah. Do you recall there being consideration about whether the GEC should be included as a -- I said I wouldn't use the word "partner."

A A participant.

Q A participant that could be engaged with?

A There was -- I do recall there being some discussion about that.

Q And do you remember what the considerations were about whether to include GEC or not?

A Whose considerations?

Q The -- we'll say with the industry partners, what considerations they had.

A I don't. I recall there being discussions about it, but I don't -- as I sit here now, I can't recall what the considerations were.

Q To your understanding, what is the mission of GEC?

A I don't really have much of an understanding about it. If I recall correctly, the GEC would put out some reports, so it was a source of general information, but I don't have a deep understanding of their mission.

Q Do you recall at a high level whether there was consensus among the industry partners about whether GEC should be included or not?

A I don't recall if there was consensus. I don't recall there being a great deal of ire over that issue at all.

Q Do you recall if there was a difference of opinion between the U.S. Government and industry partners with respect to whether to include GEC or not?

A No, I don't remember there being any issue there.

Q If I could have you turn to page 50, which is Bates number 16121. There's a message from [redacted] in the middle of the page where he says: "If we end up having

to use MDM, I may just quit. I'm not sure I can take it."

Is it your understanding that MDM refers to mis-, dis-, and malinformation?

A No. No, I mean, it's not my recollection either way.

Q Do you recall any discussions regarding the use of the term "MDM," or mis-, dis-, and malinformation?

A No.

Q Do you recall the term "malinformation" being used internally within Alphabet?

A No, I don't remember that being -- nothing in particular, no memory in particular about that.

Q Just as your experience working in this space, do you recall if there's a consistent definition of malinformation or if people tend to use it to mean various things?

A It just isn't in my area, so I'm not actually familiar with the uses of those terms and how they may have developed and evolved over time. So I don't -- my experience wouldn't be useful on that.

Q I'll have you flip forward to page 81, which is Bates number 16152. There's a post, again from [redacted], at the top of the page saying: "Think it's possible for all of us to refuse to participate if they keep calling it 'mis/dis/mal information'?"

A I'm sorry, I don't think I flipped to the right page. Could you give me the Bates number again.

Q Oh, yeah. It's 16152.

A Thank you. Okay.

Q Do you have any recollection of any of your industry partners discussing the issue of mis-, dis-, and malinformation, or the use of the term "MDM"?

A I don't. I don't remember this.

Q You don't remember this specific example or any reference?

A Any reference.

Q Okay. Looking at the same post still, [redacted] says: "Think it's possible for all of us to refuse to participate if they keep calling it 'mis/dis/mal information'?"

Based off your understanding of the purpose of this Signal channel, do you believe "they" refers to representatives from the U.S. Government?

A This is [redacted] statement, so I'm not sure. It would be consistent with rest of this, but I don't have any special knowledge as to what that meant.

Q Okay. Can I have you turn to page 98, which is Bates number 16169. There's a post from [redacted] about two-thirds of the way down where he says: "Interesting to see them trying to grapple with the domestic side."

There's a response from you: "So hard to navigate."

First, do you have any recollection of this particular exchange?

A I don't.

Q Is it your understanding, looking at [redacted] post now, that his reference to "them" is a reference to representatives from the U.S. Government?

A I'm just looking for any clues that would tell me who "them" is here, but I don't have a recollection of it.

Q This channel is only industry partners. Is that right?

A That's my understanding, yeah. I haven't reviewed the whole thing, but that's what this looks like to me, yes.

Q And during the U.S. Government/industry sync calls, you said there were members from industry and various members from the U.S. Government. And to your recollection, there were no other individuals that would attend these meetings. Is that correct?

A The U.S. Government/industry meetings, yes.

Q Okay. And it's also your recollection that sometimes this Signal channel was used during the U.S. Government/industry meetings as they were referring.

A Yes.

Q Is that right?

A Yes.

Q Okay. So with the understanding you don't have a specific recollection of this post, is this -- would this post, if it's referring to the U.S. Government by "them," would that be consistent with your understanding of how this channel is used?

A It would be. It would be consistent with what you set up, yeah. I just don't know for sure.

Q Okay. Do you recall any discussions during these U.S. Government/industry meetings where the U.S. Government seemed to be grappling with a concern regarding whether a threat or information was domestic or foreign in origin?

A Nothing I can remember.

Q When identifying a network of accounts that are inauthentic or behaving in a manner that's inauthentic, is it difficult to identify whether the actor behind it is domestic or foreign in origin?

A So I can answer this in a couple -- just with one preface. The authentic versus inauthentic, that isn't so much a phrase or a term that was important to me or my work or the work with [redacted] and his team.

So that authentic/inauthentic really was, I think, a creature of that, either scenarios and other companies.

But to answer your question, where we see a threat actor there can be some challenge to determine if they are a foreign-based or a domestic threat actor. But

typically it's not -- my experience working at Google, that is not insurmountable. And [redacted]'s team was actually very good at being able to identify in particular state-sponsored attackers.

Q In your experience -- and this might be an issue that falls more under [redacted]'s team's purview -- when receiving information from, I don't want to say government partners, but when receiving information from government agencies, are you aware of any instances where a government agency identified a source as foreign but Alphabet's internal team determined that it was domestic?

A No, I don't recall a scenario like that.

Q Is that information you would've been privy to, or is that outside your team's scope?

A It is possible I would know about that where there was -- especially where I was involved with receiving a lead that then was analyzed, and I may have seen the results that come out from the Threat Analysis Group. So there is some probability that I would know if that happened. But by the same token, they wouldn't necessarily get back to me that there had been a disconnect between the government's view and Google's conclusion.

Q And would [redacted], during your time at Google, would he have been the best person to have knowledge of that issue?

A He would be a knowledgeable person at Google, the Threat Analysis Group.

Q With respect to these U.S. Government/industry sync meetings, when the U.S. Government representatives would ever raise issues related to misinformation, do you recall if there were ever discussions regarding the First Amendment?

Mr. Bopp. Discussions among the industry group?

BY [redacted]

Q Discussions among the U.S. Government and industry meetings, any participants at those meetings.

A If I recall correctly, it was fairly common at the beginning of these meetings, and certainly in the early days of these meetings, for government representatives to make reference to the First Amendment and the -- didn't want to -- to summarize it. But there would be references to the need to honor the rule of law and the First Amendment, freedom of speech, similar to some of the language we heard earlier today from one of the exhibits where CISA sets out what it is and is not doing.

Q And to your recollection, did these references continue, were they consistently made as the meetings progressed?

A It was fairly common to hear references like that, prefaces to make sure that it was understood, at least that's what it appeared to me from the government representatives, of the context in which they were having these conversations.

Q Do you recall any references to the First Amendment specific to a topic area or a piece of information that was then delivered in the meeting, or was it just to provide context at the start of the meeting?

A My recollection is that it was for stage setting at the beginning of the meetings. I don't recall instances where it was reiterated in connection with a particular topic that was being discussed.

Q Okay. I'll have you turn to page 100, which is Bates number 16171. And then I'm going to have you take a look at [redacted] post, which actually starts on the next page, 101, Bates number 16172.

There's a post from [redacted] where it says: "The only major heads-up I have on topics from DHS is that they anticipate doing a 'DHS brief' on some 'new structures' they're putting in place internally." And this message is from April of 2022.

Do you recall what [redacted] is referring to about "new structures" DHS was putting in place around this time?

A I don't.

Q If I could have you turn to page 107, which is Bates number 16178. You say in the middle of the page: "Adding [redacted] to be participating in the Google team."

Is this the same [redacted] that we referred to earlier?

A Yes.

Q Do you recall adding [redacted] to this channel?

A I don't actually recall this.

Q This post was in June of 2022. And you said you left the company in July of 2022?

A Right.

Q So do you have a recollection, is it -- do you recall adding [redacted] because you planned to be departing Alphabet soon?

A Yes. I added [redacted] to this Signal because I was leaving, and he was going to be taking over my role in those meetings.

Q And by "those meetings," are you referring to the U.S. Government/industry sync meetings?

A Yes, and the meetings among the industry representatives themselves.

Q Great. Thank you.

If I could have you turn to page 129, which is Bates number 16200. There is reference to: "[redacted] has left the group."

Do you recall, or is it your understanding now, that you were no longer a member of this Signal channel?

A Yes.

Q Do you know if that was common practice that as people would come and go from companies they would leave the Signal channel?

A I recall there being examples of that, that as people changed roles or left the company they would drop out of the Signal channel.

[redacted] Okay. We'll go off the record, please.

[Whereupon, at 2:38 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

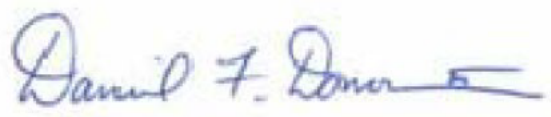
Transcribed Interview Transcript Errata Form

Interviewee	[redacted]
Date of Interview	June 22, 2023
Date of Review	7/19/23
Name of Reviewer	Michael Sapp
Signature of Reviewer	[signature]

no page lines >

Page	Line	Suggested Correction
7	toward EOP	delete "The larger of the jobs"
12	2/3 down	"internet", not "intercepts" with those statistics
21	3rd line	insert "Not" before "very --"
22	2/3 down	delete "acquire" and insert "quiet" before "periods"
52	2/3 down	line - "just the government entity" - rewrite: "the government's equity in the matter, yes."
56		[redacted] is actually [redacted] I believe

Transcribed Interview Transcript Errata Form

Interviewee	Former Senior Director of Law Enforcement and Information Security, Google
Date of Interview	June 22, 2023
Date of Review	December 16, 2024
Name of Reviewer	Daniel Donovan
Signature of Reviewer	

Page	Line	Suggested Correction
8	16	"director, law" should be "director of law"
10	18	"managed, in an interim basis," should be "managed on an interim basis,"
11	19	"subject matter, expertise, guidance," should be "subject-matter expertise and guidance,"
15	23	"that tips" should be "that sent tips"
17	9	"that it was" should be "that was"
20	15	"DH" should be "DHS"
22	18	"acquire periods" should be "quiet periods"

Transcribed Interview Transcript Errata Form

26	4	"other of" should be "others on"
29	8	"to legal" should be "to a legal"

Page	Line	Suggested Correction
30	19	"preview is" should be "preview–is"
36	15	"with industry" should be "with the industry"
36	16	"with industry" should be "with the industry"
37	1	"me, [redacted]" should be "me and [redacted]"
46	11	"with the" should be "with was the"
58	5	"G-O team" should be "Geo"
60	21	"G-O team" should be "Geo"
73	17	"me was this" should be "me, this"

Transcribed Interview Transcript Errata Form

80	9	“CIS there being” should be “CIS being”
93	12-13	“operational, aren’t” should be “operation, and aren’t”
94	24-25	“executive department” should be “Executive Branch”

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: ALEXANDER STAMOS

June 23, 2023

Washington, D.C.

The interview in the above matter was held in room 2237, Rayburn House Office Building, commencing at 9:30 a.m.

Present: Representative Jordan

1

2 Appearances:

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted]

8 [redacted]

9 [redacted]

10 [redacted]

11 [redacted]

12 [redacted]

13 [redacted]

14 [redacted]

15 [redacted]

16 [redacted]

17 [redacted]

18

19

20 For the SUBCOMMITTEE ON THE CONSTITUTION AND LIMITED GOVERNMENT:

21

22 [redacted]

1

2 For ALEXANDER STAMOS:

3

4 JOHN B. BELLINGER, III, ESQ.

5 CALEB THOMPSON, ESQ.

6 ARNOLD & PORTER KAYE SCHOLER, LLP

7 601 Massachusetts Ave, NW

8 Washington, DC 20001

1

2 [redacted]. We'll go on the record.

3 Good morning. This is a transcribed interview of Mr. Alex Stamos. Chairman

4 Jordan has requested this interview as part of the committee's investigation of how and

5 the extent to which the executive branch has coerced and colluded with companies and

6 other intermediaries to censor speech.

7 Would the witness please state your name for the record?

8 Mr. Stamos. Alexander Stamos.

9 [redacted]. We encourage witnesses who appear before the committee to

10 freely consult with counsel if they so choose, and it is my understanding that you are

11 appearing today with counsel. Is that correct?

12 Mr. Stamos. Yes.

13 [redacted]. Could counsel please state your name for the record?

14 Mr. Bellinger. John Bellinger, Arnold & Porter.

15 Mr. Thompson. Caleb Thompson, Arnold & Porter.

16 [redacted] Thank you.

17 On behalf of the committee, I want to thank you for appearing here today to

18 answer our questions. The chairman also appreciates your willingness to appear

19 voluntarily.

20 My name is [redacted], and I am with Chairman Jordan's staff.

21 I will now have everyone else in the room who is with the committee introduce

22 themselves as well.

23 [redacted] [redacted] with Chairman Jordan's staff.

24 [redacted] [redacted], Chairman Jordan's staff.

25 [redacted] [redacted], chief oversight counsel for the House Judiciary

Democratic staff.

[redacted], House Judiciary Democratic staff.

[redacted], House Judiciary Democratic staff.

[redacted], House Judiciary Democratic staff.

[redacted], House Judiciary Democratic staff.

[redacted], Mr. Jordan's staff.

[redacted], Chairman Jordan's staff.

[redacted] Thank you.

I would now like to go over the ground rules and guidelines that we will follow during today's interview. Our questioning will proceed in rounds. The majority will ask questions first for 1 hour, and then the minority will have an opportunity to ask questions for an equal period of time if they so choose.

We will alternate back and forth until there are no more questions and the interview is over. Typically we take a break at the end of each hour, but if you would like to take a break apart from that, please just let us know.

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

Do you understand that?

Mr. Stamos. I do.

[redacted]. So the court reporter can take down a clear record, we will do our best to limit the number of people directing questions at you during any given hour to just those people on the staff whose turn it is.

Please try and speak clearly so the court reporter can understand and so the folks down at the end of the cable can hear you as well. It is important that we don't talk over one another or interrupt each other if we can help that, and that goes for everybody

present at today's interview.

We want you to answer our questions in the most complete and truthful manner as possible, so we'll take our time. If you have any questions or if you do not understand one of our questions, please just let us know. Our questions will cover a wide range of topics so if you need clarification at any point just ask.

If you honestly don't know the answer to a question or do not remember, it is best not to guess. Please give us your best recollection, and it is okay to tell us if you learned information from someone else. Just indicate how you came to know the information. If there are things you don't know or can't remember, just say so and please inform us who, to the best of your knowledge, might be able to article.

You should also understand that by law you are required to answer questions from Congress truthfully.

Do you understand that?

Mr. Stamos. Yes.

[redacted]. This also applies to questions posed by congressional staff in an interview.

Do you understand this?

Mr. Stamos. Yes.

[redacted]. Witnesses that knowing provide false testimony could be subject to criminal prosecution for making false statements under 18, U.S.C., Section 1001.

Do you understand this?

Mr. Stamos. Yes.

[redacted]. Is there any reason you are unable to provide truthful answers to today's questions?

Mr. Stamos. No.

1 [redacted]. Finally, I would like to make note that the content of what we
2 discuss here today is confidential. We ask that you not speak about what we discuss in
3 this interview to any outside individuals to preserve the integrity of our investigation.
4 For that same reason, the marked exhibits that we will use today will remain with
5 the court reporters, and we will collect any copies of the exhibits at the end of the
6 interview.
7 Okay. That's the end of my preamble.
8 Do my colleagues from the minority have anything?
9 [redacted] We would just like to thank the witness for flying out from California
10 to join us today.
11 [redacted] Thank you.
12 Mr. Stamos I understand you have an opening statement. You may proceed.
13 Mr. Stamos. I do. Thank you.
14 Good morning. I'm glad to have this opportunity to describe the work of the
15 Stanford Internet Observatory and to address misperceptions about its participation in
16 the Election Integrity Partnership and the Virality Project.
17 The Stanford Internet Observatory studies misuses of the internet with the goals
18 of publishing research, suggesting technical and policy mitigations, and educating the
19 next generation of cyber specialists. I'm the founder and the director of the observatory
20 and a lecturer in the computer science department at Stanford.
21 To that end, I teach courses in cybersecurity and online safety at Stanford, along
22 with supervising our research efforts. Our research includes work on child safety, online
23 promotion of self-harm, generative AI, and influence campaigns by China, Iran, Russia,
24 and many other countries. I'm visiting Washington this week to brief government
25 officials on our latest projects, a study of large commercial operations selling child sexual

1 abuse materials on Instagram, and our upcoming work on how generative AI will impact
2 child safety work.
3 Let me briefly describe the Election Integrity Project and the Virality Project, both
4 of which have been grossly mischaracterized.
5 In the summer of 2020, SIO organized a group of four institutions in forming the
6 Election Integrity Partnership. The primary goals of the EIP were to document, in
7 real-time, the most widespread online narratives about the functioning of the election, to
8 provide a basis for further academic research of online misinformation dynamics and
9 responses, and to provide local and State election officials with a window into what was
10 happening online in their jurisdictions.
11 The EIP had about 100 contributors from four institutions. About half of the
12 overall workforce came from Stanford, and 42 of our 50 contributors were student
13 research assistants.
14 The majority of those students were undergraduates, mostly ages 18 to 23,
15 studying computer science, political science, and other subjects. To be clear, the vast
16 majority of the analysis for both the EIP and VP was performed by student researchers.
17 The EIP operated transparently and openly, publishing numerous blog posts,
18 holding regular video briefings, and documenting our work in a 274-page final report and
19 multiple peer-reviewed articles. As part of our work, the EIP invited multiple groups,
20 including the Republican National Committee, for example, to submit reports about
21 potentially false or misleading social media posts around the operation of the election for
22 us to include in the work, although in that case the RNC did not respond to our invitation.
23 One of the groups that did provide reports to the EIP was the Elections
24 Infrastructure Information Sharing Analysis Center, or EI-ISAC. EI-ISAC was created in
25 2018 to help State and local election officials with cybersecurity issues. It is operated by

1 the nonprofit Center for Internet Security and offers a switchboard operation for reports
2 of security issues to be raised by the thousands of local and State officials who run
3 elections in the U.S. The vast majority of these officials do not have the capacity or
4 expertise to manage complex cyber issues by themselves.
5 To be clear, at no time did the EIP censor speech or have access to backend
6 platform systems or data outside of public content. The EIP did not take down posts or
7 apply labels and had no power to do so. The EIP did not create targeting lists or
8 blacklists of accounts, and the list of accounts included in our reports as the top spreaders
9 of false information were generated by our academic analysis, which, importantly,
10 occurred after the election. When content clearly violated the policies of social media
11 platforms, we could refer it to the companies so they could make their own
12 determinations.
13 Many of these referrals related to false statements around the time, place, or
14 manner of voting or accounts falsely claiming to be run by election authorities. SIO
15 personnel flagged false statements that could be interpreted as supporting candidates of
16 both major political parties, not solely false statements supporting Republican
17 candidates.
18 I'll give you an example of how the system worked. On October 3, 2020, a
19 member of the Kentucky State Board of Elections sent an email to the EI-ISAC team
20 reporting a Facebook page that was pretending to be run by the Board of Elections and
21 that was asking citizens to report ballot irregularities.
22 The EI-ISAC team opened a ticket in the EIP's tracking system to report the
23 potential issue to EIP.
24 A student researcher at Stanford was assigned the ticket and quickly found a
25 related website and Twitter account. He archived those accounts for further study.

1 The student determined that the registration information for the website matched
2 that of an owner of an online marketing firm who had supported a Democratic candidate
3 for Senate in Kentucky. The candidate had lost in the primary and blamed, without
4 evidence, vote-by-mail. The website asked for personal data while misrepresenting
5 itself as run by the Board of Elections.
6 The EIP team then reported the accounts to the relevant social media platforms
7 and the URL to the Google Safe Browsing list. In this case the social media platforms
8 removed the accounts for impersonation.
9 The team then replied to EI-ISAC with the details of our findings so they could be
10 relayed back to the Kentucky Board of Elections.
11 During the 2020 election cycle, the EIP studied and documented several attempts
12 by foreign actors to influence the U.S. election. This included for-profit actors operating
13 out of North Macedonia, as well as amplification of domestic narratives by foreign
14 propaganda outlets belonging to Russia and the People's Republic of China.
15 In October of 2022, the EIP partnered with Twitter in an analysis of six networks of
16 fake accounts tempting to influence the midterm election on behalf of Iranian and
17 Chinese interests. These networks generally pushed progressive ideas such as Medicare
18 for All and attacked Republican candidates. Despite the conventional wisdom, different
19 American adversaries clearly do intend to interfere in our democratic processes in ways
20 that harm both major parties.
21 After the conclusion of the 2020 election, the surprise announcement of the first
22 COVID-19 vaccines made it clear that the next historical event to play out online would be
23 the testing and distribution of these vaccines. We added new organizations, built
24 relationships with medical professionals, and created the Virality Project to study the
25 most widespread rumors and narratives regarding the effectiveness and safety of COVID

1 vaccines.

2 The goal of the Virality Project was not to identify misinformation, as we knew
3 that the scientific consensus was still rapidly developing, but to study the most
4 widespread narratives regarding the effectiveness and safety of vaccines. The primary,
5 outputs of the VP were its weekly reports, all of which are still available on VP's public
6 website. As stated on the website, our goal was to help guide public health messaging
7 that is responsive to online conversations.

8 As with EIP, no government agencies had any special access to VP's internal
9 research systems, and the VP operated openly and transparently, releasing weekly
10 reports, blog posts, and a 230-page final report.

11 Neither the EIP 2020 or VP received any public funding. SIO's sole source of
12 government funds is a single National Science Foundation grant funded after the
13 completion of both of those projects.

14 Previous testimony to this committee has included some very serious false and
15 misleading accusations about our work and I'm glad to have the opportunities to address
16 some of them.

17 On March 9, Michael Shellenberger testified that the EIP report censored 22
18 million tweets with misinformation labels. Mr. Taibbi made a similar claim in a Twitter
19 thread tied to his testimony. This is false. The EIP had no power to apply
20 misinformation labels to any tweets. The 22 million tweet number was EIP's estimate,
21 calculated after the project completed, of how many tweets overall mentioned the
22 rumors or narratives we studied.

23 In a Twitter thread tied to Matt Taibbi's testimony, he then claimed that after the
24 2020 election, when EIP was renamed the Virality Project, the Stanford lab was
25 onboarded to Twitter's Jira ticketing system, absorbing this government proxy into

1 Twitter infrastructure, with a capability of taking in an incredible 50 million tweets a day.
2 There were two falsehoods here. The SIO and EIP have never had access so any
3 Twitter ticketing systems. The 50 million tweet number is, in fact, Twitter's estimate of
4 the number of tweets made every day related to COVID-19.
5 Mr. Taibbi claimed that, in one remarkable email, the Virality Project recommends
6 that multiple platforms take action even against stories of true vaccine side effects and
7 true posts which could fuel hesitancy.
8 This is false. The misleading fraction of the email Mr. Taibbi released was part of
9 a question sent to multiple companies from students to see which kinds of vaccine
10 narratives the companies were interested in to be notified about. The content from
11 these notifications were then put into the public weekly reports.
12 I'm glad to be able to dispel these and other false statements about our work, and
13 I'm looking forward to your questions.
14 Thank you for the time.
15 [redacted] Thank you.
16 The clock now reads 9:43 a.m.
17 My colleague, [redacted], will begin with questioning.
18 EXAMINATION
19 BY [redacted]:
20 Q Thank you again for being here.
21 Can you state your full name?
22 A Alexander Stamos.
23 Q Mr. Stamos --
24 A You can call me Alex, please.
25 Q Alex, thank you.

1 What is your current place of employment?

2 A I am the director of the Stanford Internet Observatory at Stanford University.

3 Q And what is the Stanford Internet Observatory?

4 A It is a research program as part of the Cyber Policy Center at Stanford, which

5 is a joint project of the Freeman Spogli Institute and the Stanford Law School.

6 Q And when did you become director of the Stanford Internet Observatory?

7 A I came to Stanford in August of 2018, and then we started the observatory as

8 a new program in early 2019.

9 Q I'm sorry? 2019?

10 A In 2019, yeah.

11 Q And did you become director when the program was started?

12 A Yes. I was the original director, yes.

13 Q Starting with college, what is your educational background?

14 A I have a degree in electrical engineering computer science from the

15 University of California, Berkeley.

16 Q Any other degrees?

17 A No.

18 Q Starting with after college, what is your employment history?

19 A My first job after college was with a company called LoudCloud, which was a

20 cloud computing company, before it was a profitable business. That company was sold

21 to EDS, and so I went and worked at a company called At Stake, which was a security

22 consultancy. At Stake was purchased by Symantec, a large security company. And at

23 that moment some friends and I decided to start our first company together called iSEC

24 Partners.

25 We operated that company until 2010, at which point we sold it to NCC Group

1 PLC, a large British multinational security company. I stayed there for a little bit as the
2 CTO of the new combined company. And then I was the chief information security
3 officer at Yahoo. Then after leaving Yahoo in 2015, I became the chief security officer of
4 Facebook, and that was a job I held until the fall of 2018 when I came to Stanford.
5 Q What were your responsibilities at Facebook?
6 A So chief security officer has responsibilities that really fall into two totally
7 different categories. The first was kind of the traditional cybersecurity responsibility at
8 Facebook.
9 Facebook at the time had something like 2 billion users, millions and millions of
10 computers, and 17 data centers around the world. And so the core part of the
11 responsibility was securing those systems and user data from attack.
12 As you can imagine, Facebook was -- had a very high threat profile, so we dealt
13 with some of the worst attackers in the world trying to get access to user data or to our
14 intellectual property.
15 The other side was in support of what is generally called the trust and safety
16 mission in Silicon Valley, which is preventing the platform from being used to cause harm.
17 Now, trust and safety, actually most of that belongs in other parts of Facebook, but as
18 CSO I had the investigation teams that did kind of the really high-end problems. So I had
19 a child safety investigation team that was the team of last resort if there were child safety
20 issues.
21 I built a counterterrorism team so that -- you know, when I started, one of the
22 biggest issues going on was the use of the platform by ISIS. So we built a new
23 counterterrorism investigations team specifically around ISIS, but then expanding out to
24 other kind of extremist groups who were using the platform to cause harm.
25 We also had a threat intelligence team whose job it was to investigate

1 governments trying to manipulate the platform, and that would be both them using the
2 platform to cause direct cyber attacks as well as things like disinformation and such.
3 Q Before we get any further, can you -- are you familiar with the terms
4 "misinformation," "disinformation," and "malinformation"?
5 A I am, yes.
6 Q What is your understanding of the difference between those three terms?
7 A So the problem is that these words are used colloquially in different ways at
8 different times. We try to be very careful with EIP just to make sure that we're all on
9 the same page. So we actually have an index here.
10 By the way, if you guys want the nice paper copy, we can leave you --
11 Mr. Bellinger. We brought you some swag.
12 Mr. Stamos. I'm happy to sign that if you want.
13 So if you don't mind, I'll read from the definitions, which is what we tried to use
14 for these projects.
15 Misinformation is information that is false but not necessarily intentionally false.
16 Misinformation is at times used as an umbrella category for false rumors, disinformation,
17 and other types of false and misleading information.
18 This is page 247 of EIP report. Disinformation is false or misleading information
19 that is purposefully seeded or spread for an objective; e.g., a political or financial
20 objective.
21 This goes on, but effectively the big difference here is misinformation is something
22 that might be untrue but either the speaker doesn't know it's untrue or is not spreading it
23 maliciously, where as disinformation they know something is untrue and then they're
24 spreading it.
25 Malinformation is a term I try not to use because it doesn't really have any kind of

1 reasonable academic definition.

2 BY [redacted]:

3 Q In your experience, is malinformation used by government agencies?

4 A I am sure there are people who work for the government who have used the

5 term "malinformation." Again, that's not my favorite term.

6 Q And when it is used by -- we'll stick with government agencies -- what is the

7 most common definition?

8 A I mean, the mal comes from harm -- they're trying to utilize the same

9 framing as malware, which is software that causes harm. So I expect they mean

10 information that causes harm.

11 Q Which would seem to overlap with disinformation?

12 A Not necessarily. I mean, disinformation -- the definition is things that the

13 speaker knows to be untrue that they're spreading for a purpose. I think if you're saying

14 malinformation, the overlap would be if it was actually harmful that it was being spread.

15 Again, that's why I don't like the word "malinformation." I don't think it really means

16 anything.

17 Q Can malinformation be truthful?

18 A Again, I don't use the term "malinformation." Disinformation can be based

19 upon a kernel of truth, where then the kernel of truth is used to tell a story that is not

20 true, and that's actually an extremely common disinformation tactic.

21 Q When you've heard government agencies use the term "malinformation,"

22 have they ever used it with the meaning that malinformation includes truthful

23 information?

24 A I can't think of an exact -- a situation where somebody has defined it well

25 enough for me to know what they meant. If they meant including truthful information,

1 it's possible.

2 Q Okay. You mentioned in your opening statement you're here briefing

3 government partners. Is that right?

4 A Yes.

5 Q If --

6 Mr. Bellinger. And Congress.

7 Mr. Stamos. And Members of Congress, yes?

8 BY [redacted]:

9 Q Great. And I suspect this is not your first time doing so?

10 A It is not.

11 Q When government partners use a term like "malinformation," is there an

12 effort to clarify what they mean by that?

13 A I've never corrected somebody's use of malinformation. I see it as a term

14 that tries to encompass this entire field of trying to study misleading things said online.

15 But I'm not going to go correct somebody, no. Again, it's not my preference to use it.

16 Q We'll use the terms "misinformation" and "disinformation" as you've defined

17 them, but if at any point you intend to use them differently, just let us know.

18 A Sure.

19 Q You mentioned that Facebook is part of the second half of the trust and

20 safety mission that you have played a role in. That included efforts related to

21 disinformation? Is that correct?

22 A It did. That effort did not start until after the 2016 election.

23 Q Okay. And can you say a bit more about what that effort looked like in

24 your role at Facebook?

25 A Sure. So, after the 2016 election, there were a lot of discussions of -- we

1 knew that a number of untrue things or incorrect stories were being spread on Facebook.
2 The term at the time that everybody used was "fake news," which as we all know is a
3 term that doesn't mean anything anymore, but people were talking about fake news on
4 Facebook. And there was a project that started in early 2017 based upon me going to
5 the executives at Facebook and briefing them on the possibility that some of the fake
6 news had been spread by government actors.
7 And our reason for believing that was that earlier in 2016, we had detected -- we
8 had a threat intelligence team that are people who are dedicated to different threat
9 actors, so we had a China team, we had an Iran team, we had a Russia team. And the
10 Russia team had been following actors that we knew to be working for APT28, which is
11 the hacking team that is part of the GRU, which is the main intelligence directorate of the
12 Kremlin. We don't really have an equivalent, something between NSA and DIA in the
13 U.S.
14 And so we had observed GRU actors using Facebook for -- to map out people who
15 are working for a number of Democratic groups, including the DNC and the Clinton
16 campaign, I believe maybe the DSCC, because what we knew is that the initial targeting
17 and surveillance of individuals of what we call the kill chain of the steps that an attacker
18 takes to take over somebody's account often started on Facebook because everybody
19 had a Facebook account. It's a great way to map out these networks.
20 And so we saw these GRU agents doing that work, and then we notified the FBI of
21 that. I'm not sure what happened to that tip. That's a whole other discussion that
22 perhaps got dropped on somebody's desk somewhere. As you know, there was an
23 intrusion into a number of systems, none of which those intrusions happened on
24 Facebook, but then later what we saw was the creation of fake accounts by GRU agents
25 by same infrastructure that were then used to spread information that had been stolen

1 from the DNC server, from Podesta's Gmail account, the other kinds of things that had
2 been targeted by the Russians that summer.
3 And so we had taken action against that, but we were unaware at the time of
4 what we later figured out, which was that there's a large completely separate Russian
5 campaign to try and influence the platform being run from private institutions. So after
6 the election we talked to the senior executives that we need to look into this fake news
7 thing, and so a project was spun up in early 2017, of which I was one of the leaders. And
8 through that project and then a subsequent one, we eventually found all of the activity by
9 the Internet Research Agency and some other private institutions, mostly run by Yevgeny
10 Prigozhin -- I can give you the spelling of that later, ma'am -- to influence the platform.
11 And that's all information that was then released somewhat famously, infamously, I
12 believe, in September of 2017.
13 Q With respect to both the 2017 project and, just more broadly, efforts related
14 to disinformation on Facebook, did that include any involvement with revising Facebook's
15 content moderation policies?
16 A Yes. After the discovery of all of the IRA activity, one of the things we
17 figured out was a great deal of it did not violate any of Facebook policies. This is
18 because the kind of professional trolls knew exactly what our rules were and would go up
19 to the line without violating them. And one of the things we did not have a policy on
20 was using hundreds or thousands of fake accounts to pretend to be people who you
21 weren't.
22 And so coming out of that, one of the policies we created was the Coordinated
23 Inauthentic Behavior policy, which, effectively, you can call it like a RICO for online
24 manipulation, that you're not allowed to have a conspiracy to create lots of fake accounts
25 and then push any information, whether or not it turns out to be true or false, that the

1 activity of the group lying about who they are, that it is that itself that is manipulative and
2 a kind of platform manipulation.
3 So that became the basis of our takedown of a number of Russian groups and then
4 eventually Chinese, Iranian, and I think continues to be one of the base policies that
5 Facebook uses in this area.
6 Q During your time at Facebook and with the development of this Coordinated
7 Inauthentic Behavior policy, is it fair to say it was actor and behavior based?
8 A Yeah. So it sounds like you're listening to our podcast. I appreciate that.
9 Yeah, so there are three -- for the whole group, there are really three kinds of
10 policies that you have in content policy: actor based, who's the speaker; behavior
11 based, what are they doing; content based, what they're saying.
12 And, yes, that is a policy that was really about -- mostly about behavior, somewhat
13 about actors. There were separate policies that effectively -- if you belong to searching
14 groups that have been determined to be manipulating the platform, you're not allowed
15 on. And so effectively the Internet Research Agency was declared persona non grata on
16 Facebook. And so even like the personal Instagram accounts -- Russians love Instagram,
17 it turns out. This is actually an interesting thing for us in the investigation. A bunch of
18 them went to a wedding together, and so we were able to partially map out the IRA
19 network because they had tagged all of their coworkers in a wedding photo.
20 And so we actually took down all of those accounts, because if you had any
21 relationship to Prigozhin's kind of troll farm ecosystem that you were no longer allowed
22 on the platform. The CIB is really more, with the B in there, behavior based, the
23 behavior of that group.
24 Q So the CIB, is it not content based?
25 A As of the -- the initial intention was for it to be about the behavior, the

1 overall behavior of trying to lie about who you are. I cannot speak as to the exact
2 definition of CIB now because a lot has happened in the last 5, 6 years, and so it's quite
3 possible that the CIB policy has changed to have more content components.
4 Q In 2018, before you left Facebook, you mentioned CIB as one of the content
5 moderation policies. Was there a section of the content moderation policies that was
6 content based?
7 A Most of the content moderation policies are content based.
8 Q And did you work on any of those policies?
9 A I don't -- that was not a core responsibility of the CSO. I specifically worked
10 on CIB because it was my threat intel team that was leading the investigation into the
11 Russian activity. I normally was not consulted on content policies, so I don't recall any
12 other ones. It's possible I might have had input in, say, a terrorism policy since we did
13 have the terrorism investigations. I had child safety investigations. I don't remember a
14 significant child safety policy that changed. So I can't recall any other policies, other
15 than CIB, where I had at least a significant input.
16 Q Do you recall any content moderation policies related to misinformation
17 before you left in 2018?
18 A I am sure there were policies around misinformation, but I don't recall
19 exactly what they were when I left. Again, that was not my core function. The CSO
20 doesn't do a lot of policy work. There's an entire policy organization whose job it is to
21 create those.
22 Q Do you recall the name of that team?
23 A Should be platform policy is when I left. I'm not sure what they're called
24 now.
25 Q Okay.

1 A Facebook likes to reorganize the whole company about every 6 months.

2 Q Do you recall who the director of that team was when you left?

3 A [redacted].

4 Q And just as a point of clarification, you used the term "disinformation."

5 Initially, to your recollection, there was no efforts in your role at Facebook related to

6 misinformation? It's not a primary responsibility. Is that fair?

7 A My primary responsibility related to these areas of specifically government

8 groups who were manipulating platform, since as the runner of the threat intelligence

9 team, which most of our work was about direct cyber, we were already studying these

10 groups, the GRU, SVR of Russia, many states of security, People's Liberation Army of the

11 PRC.

12 So my responsibility here was on the government side. It is possible I was

13 probably in meetings about misinformation that was not government tied, but in that

14 2017 time frame really the big focus was on governments and then also what was the

15 troll farms. So there's a lot of fake news that was just effectively spam. That was

16 really being handled by other folks, but that was the other -- kind of the majority volume

17 of the things of just straight untrue stories that were being pushed, were being pushed by

18 groups of people who were doing it for economic purposes.

19 Q So you leave Facebook, and Stanford is your next place of employment. Is

20 that right?

21 A That's right.

22 Q Yeah. And why did you leave Facebook?

23 A There was a reorganization where a bunch of my people were taken away

24 and split up to two different groups. That was happening at the end of 2017, and so I

25 didn't feel comfortable being the CSO and the face of the company. I was the one that

1 came here to Congress to brief on anything. I was the one who had to go to Brussels.
2 And any country that wanted to yell at us, I was the guy that got yelled at.
3 And I didn't feel comfortable doing that if I didn't have the appropriate team and
4 oversight to be able to follow through, and so I told the company I wanted to leave. And
5 we effectively made a deal where I stayed for most of 2018 to leave the team in a good
6 place and then especially to work on the 2018 midterms to see through most of the work
7 that was being happened. And then I left before the quarter started. The trigger was
8 the quarter was starting at Stanford, and so I wanted to teach my class full time.
9 Q Were you teaching part time earlier?
10 A I had taught one class when I was at Facebook. I had started what is now
11 called the Hack Lab, which is an internet cybersecurity class for non CS majors, so I
12 actually have a lot of lawyers and political science students. You might have some of my
13 students on your staff one day. And I had started that class when I was still at Facebook,
14 and it was just going to be much easier to make the transition before the quarter started.
15 Q Okay. And you mentioned that you served kind of as the public face for the
16 company at Facebook --
17 A Yes.
18 Q -- and would be yelled at?
19 Would that include the U.S. Government as one of the entities you're referencing?
20 A Yes, definitely.
21 Q Okay. And the media as well?
22 A I would do media events and interviews on behalf of the company, yes.
23 Q Okay. Do you recall a time period where the yelling or criticism was higher
24 than normal?
25 A During my entire time at Facebook, the company had lots of enemies in lots

1 of places. But certainly in the U.S., after the 2016 election, things got much more
2 heated.
3 Q And why do you think that is?
4 A I believe a lot -- there's a decent size of people who believe that Facebook is
5 the reason that President Trump was elected in 2016, and they were angry about that.
6 Q By "people," would that include U.S. Government officials?
7 A It certainly included elected Members of Congress. There wasn't really
8 anybody -- you know, the Obama administration only existed for a couple of months then
9 after the election so, I don't recall any interactions with folks working for the executive
10 branch. But there was a lot lots of pressure from Congress.
11 Q In your role at Facebook -- we'll stick with the -- when did you join
12 Facebook? Sorry. We didn't cover that.
13 A 2015 I believe was the exact date.
14 Q Okay. During your tenure at Facebook, which Federal Government
15 agencies did you interact with?
16 A So our primary contact was with the FBI. We'd work with the FBI National
17 Security Division on all of the hacking issues that we deal with. So, say, either somebody
18 tried to break into Facebook or we caught -- I'll give you an example. While I was there,
19 we discovered that an Iranian group was pretending to be young staffers, had fake
20 accounts pretending to be young staffers at the State Department and then were
21 friending those other State Department employees, Hey, saw you in the cafeteria, would
22 love to get coffee sometime, whatever, get the friendship, send them messages, and then
23 were using that to see their friend lists and then possibly to plant malware on their
24 computers.
25 So our team discovered this because we were running machine learning classifiers

1 to look for malicious links and such, and we found malicious links being sent out. And
2 once you looked, it was clearly a campaign against the State Department.
3 And so that was a situation in which we informed the FBI, and they put us in touch
4 with the right people in the State Department, and then we provided our data for them to
5 both remediate the problem and then perhaps for legal action, although we were able to
6 trace it to Iran, so I'm not sure, but I don't think in that situation there has been any
7 subsequent legal penalties applied.
8 Q Are you familiar with CISA, the government agency?
9 A Yes, I am.
10 Q And what does CISA stand for?
11 A It's the Cybersecurity and Infrastructure Security Agency. They like security
12 so much they put it in there twice.
13 Q And do you recall when CISA was created?
14 A It was created during the Trump administration, I believe, in early 2019. I
15 don't know the exact date.
16 Q Yeah. And so it would have been after you had left Facebook?
17 A It was after I had left Facebook, yeah. I believe the organization that was
18 leading -- doing that kind of stuff was NPPD and DHS.
19 Q And what is NPPD?
20 A Other than sounding like a Soviet era spy agency, I think it's National
21 Protection Program Director. It's something like that. But that was like the group in
22 DHS that was doing defensive cyber -- well, there are lots of groups doing that, which is
23 one of the reasons I think CISA was created was lots of people said cyber was their job.
24 Q Do you recall when you were at Facebook if you interacted as a function of
25 your role at Facebook with this DHS subagency?

1 A Yes.

2 Q And what was the nature of your interactions?

3 A So the biggest interaction was I called together a meeting at Facebook I
4 believe in the summer of 2018. I want to say June or July, but I don't know the exact
5 date. I might be able to find it.

6 I think there was news reporting around it, so we could find out the date from
7 that, in which representatives of the government who were working on protecting the
8 2018 election came to Facebook and met with representatives from the tech companies.
9 So I was able to get Google and Microsoft and Snap and a couple of other companies
10 represented there as well.

11 Q In addition to this subagency from DHS, FBI that you mentioned, which other
12 Federal agencies did you interact with most frequently?

13 A We would interact with NSA, so we had contacts with folks at the NSA who
14 were working on tracking specific government attackers, and so we would send
15 information to them about that. And we occasionally would get cleared briefings on the
16 kinds of things that we should be looking out for, as well as declassified, what are called
17 TTPs, tools, techniques, procedures, definitions effectively what should you look out for.

18 If this Chinese group is going to hack you, this is you look out for. So we would
19 get those briefings. Generally that was facilitated by the FBI, but I believe there were
20 situations in which we'd brief them directly too.

21 Q Okay. Among these government agencies, was there a common
22 understanding of what counted as critical infrastructure?

23 A My understanding is that critical infrastructure is defined by an executive
24 order and so -- but that's not really my field, so I can't speak to exactly what's in that.
25 But my understanding is the President defines what critical infrastructure is.

1 Q To your recollection, was election infrastructure added as part of the critical
2 infrastructure at some point?
3 A I believe it was added near the end of the Obama administration, yes.
4 Q And in your role -- well, this would be -- yeah. In your role at Facebook, do
5 you recall having any interactions with Federal agencies with respect to election
6 infrastructure?
7 A Part of our work on protecting the election included us looking out for
8 Facebook being used to attack election infrastructure. I know that sounds a little weird,
9 but the reason is not that Facebook would actually run election systems, but if I was
10 sitting in Beijing and you told me, "I want you to attack Cuyahoga County," I'd go after the
11 people first. And that is generally how high-end attackers do their work is they go after
12 individuals.
13 And so, as part of that, we were doing work in the run-up to 2018 to try to make
14 sure that we were not used as a conduit to attack individuals who were running the
15 election.
16 Q Okay. Do you recall which agencies you worked with on this issue?
17 A So the people who were there at that meeting and who were part of this
18 working group were FBI, DHS. There might have been a White House
19 representative -- I'm not sure -- and the EOP person from maybe like NSC. There
20 probably was a representative from the intelligence community, but I don't recall exactly
21 who was there.
22 [redacted]. Just quickly, when you said Members of Congress blamed Facebook
23 for Trump winning the election, what were the specific accusations?
24 Mr. Stamos. I don't think I'm telling you anything new. You can just look at
25 every night of MSNBC in November 2016. But, you know, the overall accusation was

1 that fake news on Facebook influenced people I believe into voting for President Trump.
2 That is the general gist of it.
3 And then eventually once we released our results, those accusations were much
4 more specifically around Russia.
5 BY [redacted]:
6 Q Do you think those accusations were fair?
7 A I think that's very complicated. It is accurate that the Russian Federation
8 ran multiple campaigns during the 2016 election to either raise the temperature in the
9 American election and, in some cases, specifically to hurt Secretary Clinton. Do I think it
10 is accurate to say without those campaigns Trump would not have been elected, that is a
11 social science question that nobody has been able to answer, but I think people have
12 jumped to that conclusion way too quickly.
13 Q You mentioned -- so you joined Stanford in 2018. Stanford Internet
14 Observatory was created in 2019. Is that right?
15 A Yes.
16 Q And what was the purpose of creating the Stanford Internet Observatory?
17 A The goal was to create a group that would work on these trust and safety
18 issues that had not really been explored in an academic context. So child safety online,
19 counterterrorism, the kinds of things I worked at of preventing organized malicious use of
20 the internet to cause harm was not a field that academia dealt with very well.
21 The example I continue to use is that when I was an undergraduate in the late
22 1990s, computer security was not considered a real part of computer science. There
23 was no one to graduate class at Cal or at any major university. I had to take a graduate
24 seminar.
25 People who did security were seen as kind of weird, not in the center of the CS

1 world, and that that's where we are as of now in the kind of general trust and safety of
2 understanding the misuse of technology outside of core packing.
3 And so the goal was to help organize that as an academic field, and we've done
4 that through our own research. We've done that through creating spaces for research,
5 so we run a journal, the Journal of Online Trust and Safety. We run an academic
6 research conference, September 28, 29 at Stanford -- you guys are welcome. I'll set a
7 ticket aside for you -- and through our own research and then through our teaching to try
8 and teach classes that help educate students about this area and try to make the field
9 more rigorous.
10 Q With respect to trust and safety -- and you mentioned a couple of examples,
11 child abuse, terrorism -- would another example be mis- and disinformation?
12 A Yes. Mis- and disinformation would generally fall under the trust and
13 safety umbrella at tech companies.
14 Q Okay. And with respect to SIO in particular and the research you're
15 conducting, is there an element of SIO that focuses on mis- and disinformation?
16 A It does, and especially with a foreign element, we do a lot of work on trying
17 to understand how foreign countries have manipulating information here in the United
18 States.
19 Q You mentioned within Facebook there was at least an attempt to make a
20 division between kind of actor, behavior based issues, as opposed to content, you know,
21 related issues. In your academic research, is there a similar delineation?
22 A When we do our work, we try to talk about things being actor, behavior
23 based, content based. You will see when we talk about policies, we make that specific,
24 but I'm not exactly sure what you're getting at there.
25 Q Sure. So one subject area might be looking at actor, behavior base, so if

1 it's, you know, a foreign state sponsoring fake accounts --

2 A Yeah.

3 Q -- that seems to be content agnostic?

4 A Right.

5 Q But is the research that is primarily looking at content based?

6 A So I think it matters what we're doing. So I actually have a great example

7 here. I think Caleb has copies if you guys want.

8 This is an exploration we did of overall Chinese capabilities in this space, and you'll

9 see we talk about the actors, so we talk about what groups within the Communist Party

10 and the People's Republic do disinformation work and information warfare.

11 We talk about their behavior of how they do it, and then we obviously talk about

12 the content of the kinds of things, what are the tropes they're pushing, what are the ideas

13 they're pushing.

14 So I see from an academic perspective if you're trying to study what is going on

15 with Chinese misinformation, for example, you would be doing an incomplete job if you

16 didn't look at all three of those things.

17 Q As part of your research, do you look at issues that are purely content based

18 as opposed to -- or does it always incorporate actor and behavior as well?

19 A I mean, there's certainly situations in which an area of content would be

20 interesting to us, but I expect our goal then would be to explore what actors were

21 pushing it. You know, just saying this is content is not as interesting without

22 understanding who is the one who's the speaker or the amplifier and how they're doing

23 that.

24 Q Do you recall in 2018, before you left Facebook, there's -- you mentioned the

25 section CIB and ultimately behavior based. To the extent there was an actor-based

1 element to it, do you recall if there was difficulty in determining if the actor was domestic
2 or foreign?
3 A There would definitely be situations in which it was difficult to determine
4 who they were, especially after we released our results in 2017, because up to that point,
5 I think these organizations, the Chinese, the Russian groups, and such, thought we
6 weren't looking and, to a certain extent, they were accurate. And once we had shown
7 we were able to map these out with the technical details that they left behind, then they
8 had to improve their ops act, their operational security. And so certainly especially after
9 that they would start to cover their tracks.
10 In the pure cyber space, this is called the attribution problem, and it's actually
11 extremely hard. I, in fact, wrote a whole blog post that you can find -- I think that is still
12 up -- for Facebook on how we approached attribution as a private entity versus, say, the
13 intelligence community which has different kinds of standards.
14 Q Before you left Facebook and you're handling CIB-related issues, would the
15 U.S. Government provide tips or reports of accounts or networks that they thought were
16 potentially violating the terms of service?
17 A When I was there, they were providing reports for actual offensive cyber.
18 That was a frequent part of our collaboration. There was -- for the 2016 election, none
19 of the information we used to do our investigation into Russian interference came from
20 the government. It was all generated internally.
21 After our announcements in, like, 2018, I believe, and maybe right before I left,
22 there was the first tip for a group that was doing it. And my feeling at the time was that
23 there was nobody in the FBI or the intelligence community tracking the information
24 warfare actors in these countries in the same way they were tracking kind of the cyber
25 warfare actors.

1 Q Do you recall who that tip came from?

2 A I don't. It was most likely the FBI. They were the ones who would relay.

3 If, say, SVR was spreading malware on Facebook, it would come from the FBI, and they

4 would relay it on behalf of whatever agency might have figured that out.

5 Q Are you familiar with the Foreign Influence Task Force?

6 A I've heard that term for the different groups in the government who work

7 together on foreign influence, yeah.

8 Q Okay. Have you had interactions with that task force?

9 A We've -- I've had interactions with people who are probably part of the task

10 force, FBI agents and such.

11 Q Are you familiar with the Global Engagement Center?

12 A Yes.

13 Q What is that?

14 A That is a group in the State Department that tracks and I think in some cases

15 is counter messaging against foreign groups that are trying to influence global as well as

16 domestic speech within the United States.

17 Q And do you recall when the GEC -- sorry for using that term -- was created?

18 A I don't know.

19 Q What's the nature of your interactions with the GEC?

20 A Now or --

21 Q Well, we'll start, did you have any while you were at Facebook?

22 A I don't recall any interaction with the GEC at Facebook.

23 Q Okay. Then since your time joining Stanford?

24 A During the Election Integrity Partnership, the GEC was able to send in tips for

25 us of potential foreign actors operating to spread disinformation about the operation of

1 the election.

2 Q Okay. Setting aside the EIP, do you recall any other interactions with GEC?

3 A It's possible. I mean, they're at conferences. We interact with, you know,

4 groups of people who study foreign influence all the time. So I'm sure we've had a

5 number of interactions with them.

6 Q You covered this partially in your opening statement, but can you say again,

7 just at a high level, what is the Election Integrity Partnership?

8 A The Election Integrity Partnership was -- it doesn't really exist as of this

9 moment -- well, we are finishing our 2022 report. Right now there's not an organized

10 group doing this kind of gathering. But at the creation in 2020, it was a group of four

11 institutions to study the narratives that were being spread around the operation of the

12 election in 2020.

13 Q And can you say what those four institutions were again?

14 A So it was us at Stanford, the University of Washington's Center for an

15 Informed Public, Graphika, and The Atlantic Council DFRLab.

16 Q And you said it was the University of Washington's Center for an Informed

17 Public?

18 A Yes.

19 Q And what is that?

20 A That is a research group a lot like ours run by a number of professors,

21 including Kate Starbird.

22 Q Okay. And what is Graphika?

23 A Graphika is a private company that makes tools to study manipulation of

24 platforms with a specific focus on Twitter.

25 Q And what is DFRLab?

1 A They are a research group within The Atlantic Council that publishes a lot on
2 foreign influence campaigns in the U.S.
3 Q Before EIP was created, had you worked with the Center for an Informed
4 Public?
5 A Yes.
6 Q And what was the context of your previous work?
7 A We had a number of interactions. I don't know if we ever copublished, but
8 we ran into them all the time. Kate Starbird is a very prominent member of the
9 academic field studying this kind of stuff.
10 Q And before the creation of EIP, had you worked with Graphika before?
11 A We had had interactions with Graphika, and we had used their tools to do
12 some of our research.
13 Q And by "we," you mean Stanford?
14 A Stanford, yes.
15 Q Had you worked with Graphika when you were at Facebook?
16 A I think we had conversations with Graphika. I don't remember exactly
17 what the timing was of Graphika actually releasing their products. I'm not sure.
18 Q And prior to the formation of the EIP, had you worked previously with
19 DFRLab?
20 A Yes. We, again, see them at conferences and such, and I think we had
21 worked on some of the same reports on foreign influence campaigns. They had
22 particular folks on Iran, so I think it might have been some of our Iran work.
23 Q And had you worked with DFRLab while you were at Facebook?
24 A We -- my team did certainly have a relationship with them. I'm not sure I
25 had any direct relationships myself.

1 Q Do you recall what the nature of your team's relationship was with DFRLab?
2 A Our threat intel team would work with think tanks and nonprofits who
3 worked on understanding foreign influence in attacks. So they would have those
4 relationships with folks. I don't recall any specific projects together. A lot of that kind
5 of -- the relationship with direct research projects working side by side occurred after I
6 left.
7 Q Okay. Once CISA is created, 2018, 2019, before the formation of EIP, did
8 you have any interactions with personnel at CISA?
9 A I'm sorry. Can you say the time frame again?
10 Q Sure. So from CISA's creation up until prior to the formation of EIP, did you
11 have interactions with CISA?
12 A Yes.
13 Q What was the nature of your interactions?
14 A So we had invited -- we had CISA folks speak on campus multiple times,
15 including Chris Krebs gave a talk to students and ran a recruiting event, because in those
16 early day of CISA that was one of the things they were trying to do was to get some new
17 blood. He, if I recall, was not super happy with some of the folks he had absorbed from
18 the DHS Civil Service System, and he was looking for people with more -- younger folks
19 with more cyber expertise. And so we had had those interactions with CISA. I'm sure
20 there were other ones as well.
21 Q Who is Chris Krebs?
22 A Chris was the first director of CISA and is now my business partner in a
23 consulting firm.
24 Q Okay. And what does your consulting firm do, just at a high level?
25 A We do cybersecurity consulting for large companies with a geopolitical

1 focus.

2 Q Okay. Do you have any government clients?

3 A We do not do any government work, no. I don't know if you've ever filled

4 out a GSA schedule, but it's not fun.

5 Q Do you know how long Mr. Krebs was director of CISA for?

6 A From its inception until he was very famously fired by tweet in either

7 November or December of 2020.

8 Q Yeah. And when did you two form your consultant business?

9 A In January of 2021.

10 Q Do you recall who first came up with the idea for EIP?

11 A It was me.

12 Q Okay. And what was the motivation? What was the purpose you were

13 hoping EIP would accomplish?

14 A So no matter what, we knew we were going to have to do some study

15 around the 2020 election. This was clearly going to be an event that was going to play

16 out massively on social media. And I was really afraid of foreign interference attempts

17 being repeated against the 2020 election, not just this time from the Russians, but

18 something that I had observed both at Facebook and then at Stanford is the publicity

19 around what the Russians did in 2016 had caused lots and lots of countries to massively

20 build up their capabilities. The biggest beneficiary there would be China. But really

21 almost every country in the world now has some kind of capability to manipulate social

22 media.

23 And so we were going to do some kind of study, and it was going to be a big thing.

24 And so the goal was to spread the work across multiple institutions and be able to get

25 help so that we didn't end up with three or four different groups repeating the same

1 work, that we could work collaboratively, and then do our own academic research based
2 on the data that we had gathered.
3 Q And if I just understood part of your answer correctly, you said the
4 publicity -- is this following the 2016 election -- led foreign states to invest more?
5 A I think the publicity is one thing. In the China situation and particularly the
6 other thing that really accelerated -- and this is something we actually talk about in that
7 report -- that accelerated their capabilities was first the uprising in Hong Kong.
8 So the PRC and the Chinese Communist Party found themselves getting, honestly,
9 their butts kicked by teenagers in Hong Kong, by young millennials who were much
10 better, and they found themselves, like behind the ball of their ability to control the
11 narrative about what was going on there. And the second was COVID. The Chinese
12 had a very big focus on trying to control the narrative around the origins of COVID,
13 China's responsibilities, the quality of their vaccines, all that kind of stuff.
14 And so between those two things, there was a big investment, from what we can
15 see in our research, in Chinese abilities in the non-Chinese languages. They always had
16 a massive capability in Mandarin and other Chinese languages, the important paper that's
17 written by Jennifer Pan, who's a colleague of mine at Stanford. But their ability in
18 English was actually quite poor, and there's a big acceleration post Hong Kong and then
19 during COVID into creating a capability to manipulate the United States, manipulate
20 people in Spanish, manipulate people in German, stuff like that.
21 Q Do you recall, or to the extent you have knowledge, of when it came to
22 Russia's efforts to interfere in the 2016 election how strong their capabilities were with
23 respect to influencing English-based networks?
24 A I mean, I could just -- I don't have -- there's no power ranking here. I can't
25 give you, like, the AP Coaches Poll on who are the best disinformation actors, but the

1 Russians had two decent sent capabilities. The first was their capability in their
2 intelligence agencies, specifically GRU, because they were able to pair up an information
3 warfare capability with actual cyber operations. And so that's what made the GRU
4 component really powerful is that they had the ability to actually break in and steal
5 people's emails, steal documents, and to do technically advanced stuff and then use that
6 to power their disinformation work.
7 On the other side with the troll farms, which had an ability to push stuff, but they
8 weren't as technically advanced and were a little bit disorganized in their work, so I would
9 say the capability the Russians had in 2016, while at the time was a big deal, was pretty
10 weak compared to where a number of countries are now.
11 Q And when you left Facebook in 2018, was it your sense that the company
12 was well prepared to handle issues related -- actually let me strike that real quick.
13 Are you familiar with the term "foreign maligned influence campaigns"?
14 A Yes.
15 Q And to your understanding, what does that phrase mean?
16 A Foreign means not American; malign meaning malicious, trying to cause
17 harm; influence to try to change people's minds.
18 Q Okay. And so these examples with China and with Russia, you put those as
19 types of -- consider those parts of foreign malign influence campaigns?
20 A Yes. I mean, I think each specific set of actions would be considered a
21 campaign, yeah.
22 Q Okay. When you left Facebook in 2018, did you think the company was
23 well prepared to handle foreign malign influence campaigns?
24 A The company was much better prepared than it was in 2016, in that there
25 was a group working on this. There were people in threat intelligence whose job it was

1 to specifically track the information worker actors and not just the offensive cyber actors,
2 and there were policies like the CIB policy that actually covered it.
3 So, yes, I thought the company was in much better shape. It was very hard to
4 know what was coming, so I'm not sure what I thought about -- I don't recall what my
5 exact thought was of whether they were ready or not, but I knew they were in much
6 better shape.
7 Q Okay. And with respect to, we'll say in 2020, summer of 2020, a few
8 months before the election, do you recall what your understanding was as far as whether
9 large social media companies like Facebook and Twitter were well prepared for foreign
10 malign influence campaigns in the lead-up to the 2020 election?
11 A Yes, I think they were generally well prepared for that.
12 Q Okay. And what sort of changes do you think they adopted to be
13 prepared?
14 A So they had teams that were specifically looking for it. They had policies to
15 cover it. They had collaborations. There had been a long history of collaborating on
16 cyber issues in Silicon Valley that really come out of 2009. There was a big People's
17 Liberation Army attack against a big chunk of Silicon Valley called the Project Aurora
18 Attacks. I actually got to help in the incident response for that. And that was like a
19 huge deal. If you remember, that's when Google pulled out of China famously. They
20 shut down their China operations. That was a big deal because it indicated that tech
21 companies were playing at the same level as the defense industrial base, big banks, stuff
22 like that.
23 And so that collaboration existed really on the offensive cyber operations, and
24 they used some of the same kind of capabilities then to study and stop information
25 warfare actors. So if one company found we have this group in Iran that is creating fake

1 accounts that they could share, here are the email addresses, here are the phone
2 numbers with another platform, and they could go find the similar aspects.
3 So there's that kind of collaboration that was happening. There were dedicated
4 teams. I do think the companies were in better shape for 2020.
5 Q So going back then to, what was the goal with forming the EIP? What need
6 were you looking to fill?
7 A So there are really three big gaps that existed that we wanted to fill that had
8 not existed in 2016.
9 The first was to create a real-time historical record of what was happening. Lots
10 of content on social media is ephemeral. It can be deleted by the actors. It can be
11 deleted by the platforms. It kind of can get lost in the sands of time. And one of the
12 things we found coming out of 2016 is there's no good historical record of what actually
13 happened, and that's generated a lot of disagreement about the size and scope of these
14 campaigns.
15 The second was to do academic analysis of how were the actors operating, how
16 does information flow in these platforms, and what were the responses of the platforms,
17 and the possible effectiveness of those responses.
18 And then the third was to provide a help to local and State election officials, who
19 had really very little capability to stand up against dedicated information warfare actors
20 by themselves, to help them understand what was going on in their own backyards.

1

2 [10:31 a.m.]

3 BY [redacted]:

4 Q For that third purpose, how did you gain this understanding?

5 A I'm sorry. What do you mean?

6 Q Sure. So the third purpose is to help State and local election officials. At

7 what point did it come to your attention that State and local officials, based off your

8 understanding, were ill-equipped to handle these kinds of issues?

9 A So, before 2020, I had been a part of a number of groups that had met with

10 NASED, you know, the National Association of -- well, there's the National Association of

11 Secretaries of State, and then there's a National Association of State Election Directors.

12 So, of the different groups that represent the local and States -- this is where

13 you'd have Matt Warner and other kind of prominent secretaries of states talk about the

14 things they were doing to protect in 2020. In those situations, they talked about their

15 need for help.

16 I think America is the only advanced democracy in which we devolve our elections

17 into thousands of localities. That has a lot of benefits of allowing local control and

18 probably gives us security benefits in that it makes it very hard to steal an overall election

19 because there's a huge diversity in systems and capabilities. But the flip side is that you

20 end up with these local government officials having to stand up to state adversaries.

21 I live in San Mateo County in California. The people who run the elections are

22 nice people, but the idea that they're going to protect their systems against the People's

23 Liberation Army just doesn't make sense. If the People's Liberation Army Air Force flew

24 over San Mateo County, that is not the San Mateo County Sheriff's Department's

25 responsibility to have a SAM site, right? That's the Air Force.

1 And so a lot of this discussion was happening in the runup to the 2020 election
2 about how centralized help could -- from the Federal Government, from other nonprofits
3 and such -- could be provided to local and States on cyber issues. But it also became
4 clear in those meetings that they had challenges around the disinformation side that
5 were probably not going to be met.
6 Q Okay. And just to be clear, these meetings occurred once you were already
7 at Stanford?
8 A Yes. Yes.
9 Q Okay. Do you recall when you started to meet with these types of groups?
10 A I don't have an exact recollection. I'm guessing in late 2019, early 2020.
11 Q Okay. And, when you were meeting with them, would it be with -- you
12 mentioned nonprofits and the Federal Government. Were these meetings with
13 representatives from nonprofits and the Federal Government?
14 A There were people from nonprofits and Federal Government at these
15 events. NASED events, NAS events, and such.
16 Q Yeah. Which Federal agencies were involved?
17 A Well, certainly CISA, which I believe now existed at this time, Federal
18 Elections Commission, EAC, the Election -- I think -- Assistance Commission is what that
19 stands for. I believe those are the three that you would normally have from the
20 government.
21 Q And do you recall who from CISA would attend these meetings?
22 A So you'd see [redacted] a lot. Krebs himself would come. Probably
23 some other folks. I don't recall everybody.
24 Q Okay. Who is [redacted]?
25 A [redacted] is probably the man who knows more about election

1 security than any other living American. He has worked in elections at the local level, at
2 the State level, at the Federal level. He worked for CISA. He was -- I don't know his
3 exact title, but he was effectively kind of a special assistant to Krebs on election security
4 in 2020.
5 After he left CISA, he came and spent a little bit of time with us to document
6 everything he had learned and to do a report on what he had learned out of the 2020
7 election. Now he works at Microsoft, I think, in their group that supports election
8 security.
9 Q Okay. Do you recall when in 2020 you first began considering the
10 formation of EIP?
11 A Yeah. So, in the early summer of 2020, I had a conversation with one of my
12 students who was interning at CISA. And, in that conversation, we talked about how
13 there was no kind of support currently being offered on the disinformation side to local
14 States.
15 And so we had already been planning at that moment to do some kind of study in
16 the fall, but this is where it became clear of -- if we're going to put a group together to
17 work together on the election, that another function that we could provide would be that
18 support.
19 Q Okay. In addition to the student, who else did you consult with in the
20 summer of 2020?
21 A Well, then we ended up sending emails to a number of stakeholders.
22 Obviously, the other groups that were part of EIP. And then we had meetings with CISA
23 to get their feedback.
24 Q Yeah. And who at CISA did you meet with?
25 A I don't recall exactly. I expect it was [redacted], Brian Scully. Those

1 were key people at CISA. And probably a variety of other people.

2 Q Who is Brian Scully?

3 A He was an important person at CISA. He's now at NSC. I don't know his

4 exact title at CISA.

5 Q Okay. Did you consult with Chris Krebs in the summer of 2020?

6 A I probably did, yes.

7 Q Do you recall what sort of feedback anyone from CISA -- whether Mr. Krebs,

8 [redacted], or Mr. Scully -- provided?

9 A I don't recall exactly what they said, but the outcome was that they

10 introduced us to the Election Integrity -- Election Infrastructure ISAC people, and we built

11 the relationship with the EI-ISAC to be able to relay these -- to introduce us to local and

12 State partners and to relay the requests.

13 Q Okay. And what is EI-ISAC?

14 A The Election Infrastructure Information Sharing and Analysis Center.

15 Q Great. And we can stick with the acronym.

16 A Yeah. That's fine. Thank you.

17 Q And what does EI-ISAC do?

18 A So the ISACs are nonprofits that coordinate security inside of a sector, often

19 a critical infrastructure sector. The ISACs have been around for a while, this idea. I

20 believe the first ones were designated by an executive order. The canonical one that

21 everybody uses as an example is FS-ISAC, the Financial Services ISAC, where you have

22 thousands of banks -- big ones, small ones -- sharing real-time information about bad

23 things happening, and then the big banks providing support to the little ones.

24 And so the idea of an ISAC is collective defense, that you're in better shape if one

25 person gets an attack, that they tell all of their friends "I'm getting an attack from this IP

address" or "I just saw this piece of malware or "I find this vulnerability in this product; we should get this fixed," that you work together in the ISAC to get that kind of support.

So the EI-ISAC is a similar thing. I believe the central management of it is by the Center for Internet Security, which is a nonprofit that actually runs the kind of coordination, but most of the work is then done by the members themselves who are sharing with one another.

Q Okay.

BY [redacted]:

Q The student you mentioned, was that an undergraduate student that was interning at CISA while --

A Yes. We had four students who were working at CISA. Three of them were new interns. One had had a preexisting relationship. All of them, I believe, at the time were undergraduates.

Q And they were interning for the summer? Or what was the duration of the --

A For the summer. One of them, again, had a preexisting relationship because he had done lots of work in hacking. He had actually hacked the Pentagon as part of a program and did some other stuff like that. So he had a relationship that, I think, postdated the summer. But three of them were there just for the summer.

BY [redacted]:

Q Okay. Do you know who funds CIS?

A So I can't speak to all of their funding. I know they get government grants.

Q Okay. Do you know which government agencies provide the grants?

A Relative to this, I believe they get a grant to run EI-ISAC from DHS.

Q Okay. And do you know if that's true for all of the ISACs? You mentioned

1 there were multiple.

2 A Which ones get government-funded, I'm not sure.

3 Q Okay. By DHS, is it your understanding that CISA in particular provides the

4 grants to CIS?

5 A I can't speak to who the grant holder is.

6 Q Okay.

7 A I believe the EI-ISACs predate CISA. So I'm not sure how that would affect

8 it.

9 Q Okay. Did you ever interact with the EI-ISAC while you were at Facebook?

10 A It's possible. I don't recall. It's possible they had a representative at our

11 meeting, but I don't -- it's possible.

12 One of the projects we did at Facebook is we tried to gather up the Facebook

13 accounts of all the key election officials because we wanted to -- this is something that we

14 had done first for the German and French elections, which occurred right after the U.S.

15 elections, in which the German equivalent of CISA helped gather up all of the key people

16 who were running the German election so we could mark their accounts as being

17 high-risk.

18 So, if a bad guy takes over your Facebook account -- it happens every

19 day -- nobody is going to notice. But, if the bad guy takes over the Facebook account of

20 the key technical person patching systems for a swing State, that's something we want to

21 know.

22 And so we had done a bunch of work that summer to identify those thousands of

23 people who might be targeted as part of a campaign so that we could -- we push

24 notifications for them to turn on two-factor. We force them to change their passwords

25 if their passwords were weak. And then we had special monitoring so if a bad thing

1 happened to that account, it would get locked and a human being would look instead of
2 just allowing them to deal with it themselves.
3 And so it's possible we worked with EI-ISAC on that, but I don't recall exactly who
4 our contact was for that.
5 Q A couple answers earlier when talking about the different ISACs, you
6 referred to critical infrastructure. Did you mean to refer to critical infrastructure as used
7 by the executive order you referenced earlier in the hour?
8 A My understanding is the initial ISACs were created by executive order tied to
9 the critical infrastructure sectors. So there's a national health. There's a power
10 generation, you know -- maybe it's called energy ISAC.
11 But there's ISACs -- aviation -- for critical infrastructure sectors. I believe there's
12 ISACs outside of those, too, but that's the original idea.
13 Q And you mentioned that election infrastructure was added to critical
14 infrastructure at some point in the Obama administration?
15 A That's my understanding, yeah.
16 Q Do you know if EI-ISAC was created after that change occurred?
17 A I am not an expert in the history of the EI-ISAC. I believe it preexisted, but
18 I'm not totally sure.
19 Q Okay. And the Center for Internet Security, other than its operation or
20 helping facilitate the EI-ISAC, had you other interactions with CIS at your role at Stanford
21 before the formation of EIP?
22 A It's possible, but I don't recall any specific ones.
23 Q Okay. What about during your role at Facebook?
24 A Again, it's possible, but I don't recall.
25 Q What was the reason for consulting with the individuals you did at CISA

before the formation of EIP?

A We were offering to them that, if they got reports from their local and State partners, that that's something that we would like to have; one, because we were trying to make the most complete historic and academic record of what was going on, and that we could then provide support through our own exploration of these issues and communicate back to them.

Q So does CISA have any role to play with EI-ISAC?

A I can't speak to the exact relationship between CISA and EI-ISAC?

Q But it's your understanding that there was some relationship between the two?

A My understanding is that they were working together to help local and State officials, that a core challenge of CISA is that they have responsibility for helping secure the election but no real power to do so. And so they need to be a service provider, and that EI-ISAC was one of the tools for which they could provide a service to these local and State election officials so that they're not totally by themselves while securing the election.

[redacted]. Okay. Can we go off the record, please?

[Recess,]

[redacted]. We can go back on the record. It's 10:53 in the morning.

EXAMINATION

BY [redacted]:

Q Mr. Stamos, good morning again.

I want to ask a couple questions based on the prior hour. I don't think we ever got a definition of the term "election infrastructure." What's the definition of that term?

A As I would use it, it would be the systems that are actually used in the -- all the different parts of election, from the registration systems, to the poll books, to obviously the systems that print ballots, scan, if appropriate, ballots, tabulate the results, all the way through the ways in which the results are then announced to the public or sent to the media, which is a part that people often forget about because that last part is actually quite critical.

Q You say systems. Does systems mean machines? Software programs? What does systems mean?

A All of the above. Computers, specialized hardware, software, firmware, all the different components that go into supporting the election, as well as -- I would define it including the normal IT systems of election -- you know, I said San Mateo County. So the Windows desktops of San Mateo County would be part of that infrastructure.

Q So is it fair to say that it's really the technical things that make elections work?

A Yes. I think that's accurate.

Q Okay. I want to turn to -- I think we talked a little bit earlier about the purpose of the Stanford Internet Observatory. I just want to talk a little bit more about the SIO.

And I'm sorry. The Stanford Internet Observatory is sometimes abbreviated as SIO, correct?

A Yes.

Q So I'm going to use that phrase going forward.

A Sounds good.

[redacted]. So I want to introduce Exhibit -- I think this is our first exhibit, actually -- exhibit 1, a printout from the about section from the SIO website.

1 [Stamos Exhibit No. 1

2 Was marked for identification.]

3 BY [redacted]:

4 Q And I should say, we printed this off in reader view, so this is not exactly how

5 it appears on the website. We couldn't get it to print appropriately just hitting control P.

6 Are you familiar with this?

7 A I mean, this looks like you got it from our website, yes.

8 Q Okay. And I want to read the third paragraph down into the record. It

9 says: The Stanford Internet Observatory is a cross-disciplinary program of research,

10 teaching and policy engagement for the study of abuse in current information

11 technologies, with a focus on social media. Under the program direction of computer

12 security expert Alex Stamos, the Observatory was created to learn about the abuse of the

13 internet in real time, to develop a novel curriculum on trust and safety that is a first in

14 computer science, and to translate our research discoveries into training and policy

15 innovations for the public good.

16 Did I read that correctly?

17 A Yes.

18 Q Okay. What does "abuse of the internet" mean in this context?

19 A So, when we talk about abuse, that is misuse of technology to cause harm in

20 a way that's technically correct. So that's what differentiates us from hacking or

21 traditional cybersecurity, is that when you abuse an online system, you're using it in the

22 way it's intended to be used, but the outcome is that something bad happens to

23 somebody.

24 Q And so harm means something bad happening to somebody. Is that how

25 you would describe it?

1 A Yes.

2 Q Okay. And the paragraph says that -- that I just read says that the SIO was

3 established to, quote, learn about the abuse of the internet.

4 What does "learn about" mean in this context?

5 A So, as I was discussing with [redacted], one of my goals here was to help

6 create a more stable academic basis for kind of assumptions that people have always

7 made about things that happen online and the responses. We don't have, like, a good

8 qualitative or quantitative basis to understand what kinds of things are going on, what are

9 the actual harms, and then if the things that companies do -- whether they actually have

10 any positive impact.

11 Q So is it fair to say that the SIO is primarily a research-focused entity?

12 A Yes.

13 Q Okay. And SIO -- you mentioned in the earlier hour a couple different areas

14 that you've looked at. Is it fair to say that you're not focused solely on elections; you're

15 focused on a wide variety of things that happen on the internet?

16 A That's right. We look at a number of things of different kinds of abuses.

17 We do try to restrict ourselves to adversarial abuses. So where there's somebody who is

18 actively doing something bad. But, within that space, we have a pretty wide variety.

19 Q And actively doing something bad, why is that important for you to restrict

20 your focus to that?

21 A So there's a lot of people who study, is the internet bad for you? Are

22 phones melting kids' brains? Totally legitimate area of study.

23 My colleague Jeff Hancock, who is now our faculty director, is a psychologist and

24 has much more of a background in that. For my particular background, coming from a

25 cybersecurity training and then working on specifically stopping people who are child

1 abusers or stopping government agencies, I felt that my skill set was better applied to
2 that area, to adversarial abuse.
3 Q Okay. And I want to look at a recent example of a type of abuse that SIO
4 has looked at.
5 [redacted]. I want to introduce as exhibit 2 the key takeaways in the background
6 section from a report entitled "Cross-Platform Dynamics of Self-Generated CSAM."
7 [Stamos Exhibit No. 2
8 Was marked for identification.]
9 BY [redacted]
10 Q This was written by yourself, David Thiel, and Renee DiResta, and it was
11 published by the SIO on June 7, 2023.
12 A That's correct.
13 Q And you're familiar with this report?
14 A I helped write it, yes.
15 Q Okay. What is self-generated CSAM?
16 A So CSAM, child sexual abuse material, is the term of art we use in the
17 industry to refer to child pornography. For a variety of reasons, child advocates do not
18 want to use that term, so we say CSAM.
19 SG CSAM, self-generated, is content that was created by the child themselves with
20 their consent, to the extent that a child can consent to anything. This is about
21 specifically commercial SG CSAM.
22 So you can have the noncommercial, which is effectively teenagers sending each
23 other naked photos of themselves and such. Sexting, I think, is what a teenager would
24 say. I feel incredibly old saying that with air quotes.
25 This is specifically about the commercialization of that kind of technique.

1 Q Okay. And, on page 3, the first full paragraph on the top of page 3 says:
2 After being alerted to specific hashtags and keywords commonly used in this community,
3 SIO began an investigation to assess the scope and scale of the practice and to examine
4 how platforms are succeeding or failing in detecting and suppressing SG CSAM. During
5 this process, we identified hundreds of accounts dedicated to selling as well as likely
6 buyers detected by social graph connections and public account metadata. These
7 sellers and suspected buyer accounts were referred to the National Center for Missing
8 and Exploited Children, or NCMEC, for further investigation.
9 Did I read that correctly?
10 A Yes.
11 Q Okay. What is the National Center for Missing and Exploited Children or
12 NCMEC?
13 A NCMEC is the federally -- the congressionally designated recipient of all
14 reports in the United States about child sexual abuse material. They are effectively the
15 only people in the country who are legally allowed to hold on to this material. And so
16 they are the clearinghouse that the tech companies work with if they ever find
17 reports -- if they ever find bad stuff, they are legally required to send that to NCMEC.
18 Q So is this an example of an investigation -- or a study, I guess, I should
19 say -- that SIO did that you researched various posts, various types of content online, and
20 then certain ones were essentially flagged and submitted to NCMEC?
21 A Yes. That's right. So this was an academic study -- what you would call
22 this is a descriptive white paper. We are now preparing the manuscript to be submitted
23 to a peer-reviewed journal. That's a process that takes a year and a half, 2 years.
24 And one of the reasons we did this preprint specifically is because we thought the
25 abuse was so bad that going public with it would help us motivate the companies and

1 motivate law enforcement into taking action.

2 And then we also reported to NCMEC. I do not believe we have a legal obligation

3 to do so. So I believe it's 18 U.S. Code 2258a that requires electronic communication

4 service providers, of which we are not. But we thought the only ethical thing we could

5 do in this case would be to hold ourselves to the same standards as Facebook or Twitter

6 and such.

7 Q Okay. And so you found this problematic material, and you reported it to

8 somebody who could potentially take action on it. Is that fair to say?

9 A That's right. Yeah. We briefed NCMEC. We provided them with our

10 Maltega graphs and such with the data that we had gathered around this, and then I

11 believe they did forward it on to the FBI.

12 Q Okay. We talked earlier about misinformation, disinformation -- I guess

13 malinformation, although you said you don't use that term.

14 A I don't.

15 Q But do you recall that discussion generally?

16 A Yes.

17 Q You've been studying disinformation for a fairly long time. Is that fair to

18 say?

19 A I would say that this has been an area of kind of -- organized disinformation

20 has been an area I've been studying since the results of the 2016 Election and the

21 investigation I helped run in 2017.

22 Q And by "organized disinformation," you mean disinformation spread by state

23 actors?

24 A By any actor who is working to do so intentionally. So it's something that I

25 have studied. I try not to call myself a disinformation expert. And certainly I'm not an

1 expert in the overall kind of psychology of these issues. But I do know a lot about how
2 people use platforms to spread disinformation.
3 Q Okay. In your experience -- and I'm sorry.
4 You said earlier you previously worked at Facebook, correct?
5 A Yes.
6 Q And you previously worked at Yahoo?
7 A That's right.
8 Q In your experience, both in your current role and based on your prior
9 experience with social media companies, do social media companies have reason to be
10 concerned about the spread of disinformation on their platforms?
11 A Yes.
12 Q Why is that?
13 A Social media companies exist to show ads to people. If you want to show
14 ads to people, you have to have inventory. Inventory is somebody who is looking at
15 their screen, and they're scrolling through, and they're reading all day. You have to have
16 engagement.
17 What keeps people from wanting to use social media is if they feel it's a bad
18 experience. And that could be an abuse that's really directed against them, or it could
19 be that overall they feel like it is a -- that this is no longer a platform that they can trust.
20 And so I do think the platforms do have a responsibility for all trust and safety.
21 There's an economic incentive to make it an experience that people want to have. And,
22 for a lot of people, that includes not being intentionally lied to.
23 Q Okay. And so I just want to reemphasize what you said. The companies
24 have an economic inventive to address disinformation on their platform?
25 A Yes.

1 Q And that's because people won't -- advertisers won't want to buy ads if
2 people are wary of spending time on the platform?
3 A Yes. I think we actually have a really good example of this right now, which
4 is -- Mr. Musk's takeover of Twitter has become almost a perfect experiment that we
5 never could set up in social science of what happens when you seriously downgrade your
6 trust and safety enforcement. The platform has had really a growth of bots, a growth of
7 spam, probably a growth of organized disinformation actors, although we're still trying to
8 work that out of exactly to quantify that. And they've lost at least two-thirds of their
9 value according to some of the reports I've seen.
10 And so, you know, advertisers do not want to be on platforms that are controlled
11 effectively by a government. Advertisers don't want to be on a platform where people
12 are spreading lies or they're lying about who they are. And users don't want to use a
13 platform if they don't believe the people interacting with them are real.
14 Q Thank you. And I want to talk about coordinated inauthentic behavior a bit
15 as well. And I think you gave the definition earlier, but I didn't write it down.
16 Could you remind me what the definition of coordinated inauthentic behavior is?
17 A It is when a group of people work together to mislead users of a platform,
18 generally about their identity. That's the core -- the definition, I think, at Facebook now
19 is probably actually quite complex.
20 But, when we started this, it was really mostly about the identity. That you can't
21 have 20 people in St. Petersburg pretend to be 500 Americans, that we needed some kind
22 of policy that caught that behavior, even if the individual pieces of content posted by
23 those 500 fake Americans -- that each individual piece did not violate policy.
24 Q Okay. And I think you used an example earlier from the 2016 Election of
25 Yevgeny Prigozhin engaging or leading, I guess, an effort to conduct coordinated

1 inauthentic behavior. Is that fair?

2 A That's right. Yes.

3 Q And Prigozhin - he's a Russian, correct?

4 A I am pretty sure he's a Russian citizen.

5 Q And he is also the head of the Wagner Group, correct?

6 A Yeah. I believe he owns Wagner Group, yes.

7 Q And what is the Wagner Group?

8 A That's a mercenary group. So he seems to have an ecosystem of both troll

9 actors and then groups like Wagner, which are actual physical boots on the ground.

10 In one of the studies we did -- I don't think I have access to it, but we could pull it

11 up on the website -- was looking specifically on his actions in Africa, which demonstrated

12 that he would support certain dictators in Africa with both Wagner boots on the ground

13 as well as with disinformation activity, and in return, he would get economic benefits

14 from those countries.

15 Q Okay. And so, through your time with Facebook, you determined that

16 Prigozhin -- who had supported African dictators and is involved in the war in Ukraine in

17 2016 -- conducted an coordinated inauthentic behavior attack on the United States,

18 correct?

19 A Yes. We were able to isolate a rather large network of Internet Research

20 Agency accounts, and we had very strong technical attribution to specifically the IRA.

21 Q And why was it of concern to Facebook that Prigozhin was conducting

22 coordinated inauthentic behavior attacks on its platforms?

23 A So, for the company, allowing people to manipulate the platform in the long

24 run is not going to be good business, for sure. I think also, personally, I'm an American.

25 Most of the people who work on this are American. So we in particular felt not happy

1 about a foreign actor influencing our democracy.

2 Q The research that you did to examine what took place on the platform, did

3 anybody in the United States Government ask you to conduct that research?

4 A Nobody asked us to do it. There were a number of -- you know, in the

5 runup to that, there were a number of people talking about Russian activity on the

6 platform and who were, you know, blaming Facebook. So if you want to call that asking.

7 But certainly the specific project that started, which we called Project P -- P for

8 propaganda -- in the start of 2017 was something that was triggered by me approaching

9 Mark Zuckerberg and his executive staff saying I think we need to do this work.

10 Q Okay. And Facebook, you said, has now established policies on -- and I'm

11 sorry. I keep saying coordinated inauthentic behavior. It's abbreviated CIB, correct?

12 A Yeah.

13 Q Facebook has now established policies on CIB, correct?

14 A Yes.

15 Q Did the government ask Facebook to establish those CIB policies?

16 A No.

17 Q Okay. And why did Facebook establish those policies?

18 A We did not want large groups of organized people -- working for

19 governments or not -- manipulating the platform. And so we needed a policy that

20 caught both the IRA activity, which was government-related, as well as the Macedonian

21 troll farms and the other kinds of organized groups that we found manipulating the

22 platform.

23 Q And, when you say you didn't want people or entities manipulating the

24 platform, is that because of cybersecurity reasons?

25 A We didn't want it because, just like with other trust and safety issues, it

1 would eventually drive people away if they thought they were being manipulated. And
2 particularly the financially-motivated stuff was very widespread and was creating a really
3 bad experience for people.
4 The eponymous Macedonian troll farms -- they're not all in Macedonia -- but
5 there's, like, a famous example of these Macedonian teenagers who were able to set up
6 entire fake news organizations. And that really is not in the long-term interest of the
7 company.
8 Q Okay. And so the companies have a financial incentive to address CIB on
9 their networks, correct?
10 A Yes.
11 Q Okay. There have been some claims made that, when the Russians or
12 others engage in CIB activity, they're just engaging in free speech. Have you heard those
13 claims?
14 A I mean, I've certainly heard there's lots of debate about what kind of rights
15 do you have as a foreign speaker in American elections, for sure.
16 Q Do you have an opinion on that?
17 A I do. I think -- I'm not a First Amendment scholar, as I'm sure will be really
18 obvious throughout the next several hours.
19 From my perspective, I think it's completely appropriate for foreign governments
20 to have outlets who have speech in the United States. So I don't mind that Russia today
21 exists. I don't mind that CGTN carries the stories of the Chinese Government and the
22 Communist Party. But I think they need to be honest about who they are.
23 And, from my perspective, I don't think you have a free speech right to lie about
24 who you are and to say, "I'm just a good ol' red-blooded American from Texas, and this is
25 what I believe," when you're really working indirectly for the Russian Government.

1 Q And, from the social media company platforms' perspective, the social media
2 companies are private entities, correct?
3 A Yes.
4 Q Okay. And so social media companies are not -- if social media companies
5 have an economic interest in controlling what's on their platforms as a private entity,
6 they have a right to do that, right?
7 A I mean, that is my understanding of the law, yes.
8 Q I want to return to the discussion about the Election Integrity Partnership.
9 I'm going to refer to that as the EIP going forward.
10 [redacted]. I want to introduce a July 27, 2020, post from EIP. It's entitled,
11 "Announcing the EIP." This is on the EIP website. This will be exhibit 3.
12 [Stamos Exhibit No. 3
13 Was marked for identification.]
14 BY [redacted]:
15 Q Have you seen this before?
16 A Yes. This looks like the initial announcement post from 2020.
17 Q Okay. And this is dated July 27, 2020. Do you see where it says that?
18 A Yes.
19 Q Okay. Is that a fair -- is July 27, 2020, approximately when the EIP was
20 stood up?
21 A Yes.
22 Q Okay. You said in the earlier hour that, even before the EIP, you at SIO had
23 been talking about ways to study the 2020 election, right?
24 A Yes.
25 Q Do you have an estimate on when you first started thinking about studying

1 the 2020 election?

2 A Probably right when we started SIO in 2019. I mean, it was clearly going to

3 be the next -- it was the next Presidential election after 2016. It was going to be the

4 most important online information event of possibly our lifetimes.

5 Q Okay. And -- sorry. You said it was going to be possibly the most

6 important information event of your lifetimes. Why did you feel that way?

7 A Because the 2016 election -- the activity that the Russians did, as I talked

8 with [redacted], may or may not have had a real impact on the outcome. That's a very

9 difficult question to ask -- answer. I'm sorry.

10 But the coverage of it meant that anything that was happening online would

11 immediately be seen in the frame of foreign interference and that what the Russians had

12 done was advertise out a capability that we knew lots of other countries would want to

13 utilize. Like I said, China was specifically the country that reacted the most to what the

14 Russians did and to their own internal problems to build up this capability.

15 So I believe I used the term multiple times that this could be the Super Bowl of

16 disinformation and that it seemed likely there were going to be many different groups

17 who were trying to manipulate the election.

18 Q And is it fair to say that, in your role as head of SIO, your interest in looking

19 at the 2020 election was primarily academic in nature? It was primarily for research

20 purposes?

21 A Yes.

22 Q Okay. We spoke earlier about CISA, the cybersecurity and internet security

23 agency?

24 A Cybersecurity and Infrastructure Security Agency.

25 Q Thank you. And you said you had had some meetings with CISA around the

1 time of the creation of the EIP?

2 A Yes.

3 Q Did CISA ever ask SIO to create the EIP?

4 A I don't recall if they ever asked us to do anything. The EIP was my idea, and

5 we approached them with the proposal.

6 Q Okay. So it wasn't like the Department -- did anybody else at the

7 Department of Homeland Security ask SIO to create the EIP?

8 A No. This was my idea.

9 Q Okay. Turning back to this -- what we've introduced as exhibit 3, at the

10 bottom of the page, there's a line reading: We would like to thank the Knight

11 Foundation and Craig Newmark Philanthropies for their support of this effort.

12 "This effort" refers to the EIP, correct?

13 A Yes.

14 Q Are you familiar with the Knight Foundation?

15 A Yes.

16 Q What is the Knight Foundation?

17 A They are a nonprofit that does a lot of grants to universities for research.

18 Q Are they affiliated with the government?

19 A I don't think so, no.

20 Q Are you familiar with Craig Newmark Philanthropies?

21 A Yes. That's a one-man nonprofit by which Craig Newmark is giving away his

22 money.

23 Q And is that nonprofit affiliated with the government?

24 A I don't think so, no.

25 Q Okay. So both the Knight Foundation and Craig Newmark Philanthropies

1 are private philanthropic organizations, right?

2 A Yes.

3 Q To the best of your knowledge, in its work in advance of the election -- so say

4 through December of 2020 -- did EIP receive any funding from any government entity?

5 A SIO has only ever received one government grant, and that happened well

6 after both the EIP and the Virality Project.

7 Q Okay.

8 A I can't speak as to every bit of money ever received by anybody who worked

9 on EIP, of course. I can only speak to SIO.

10 Q But to the best of your knowledge, I should say.

11 A Best of my knowledge, no.

12 Q Okay. I want to look at the second paragraph of this post. It reads: The

13 Election Integrity Partnership is a coalition of research entities focused on supporting

14 real-time information exchange between the research community, election officials,

15 government agencies, civil society organizations, and social media platforms.

16 We talked through in the prior hour what the coalition of entities was, but I want

17 to talk about the real-time information exchange part of this. Do you recall what was

18 meant by that?

19 A We built a database in which we could collect all of the examples we found

20 in real time of disinformation during the election. And, in doing so, we took tips and

21 then tried to provide services back to the local and State election officials. So we

22 wanted to have a real-time exchange between folks, as we believe that that would

23 support our academic mission and then also allow us to report out issues that we saw

24 happening in real time.

25 Q The post continues: Our objective is to detect and mitigate the impact of

1 attempts to prevent or deter people from voting or to delegitimize election results. This
2 is not a fact-checking partnership to debunk misinformation. More generally, our
3 objective explicitly excludes addressing comments that may be made about candidates'
4 character or actions and is focused narrowly on content intended to suppress voting,
5 reduce participation, confuse voters as to election processes, or delegitimize election
6 results without evidence.
7 It's a long paragraph.
8 A Yes.
9 Q I want to go through each piece in turn.
10 To the extent that you recall, what did "content intended to suppress voting" refer
11 to?
12 A So we are -- that is specifically situations in which you might have a post that
13 threatens people, that lies to people about the nature -- or I'm sorry -- like, the time, the
14 place, the mechanics of voting. Traditionally, you've had things like: The vote has
15 been canceled. The vote has been delayed. The polls are closing early. We have at
16 least one example in our database of a bomb threat.
17 And so that's what we mean. Things that you would lie about online to try to
18 keep people from voting.
19 Q To the extent you recall, why did EIP choose to focus on content intended to
20 suppress voting?
21 A So, in all of these situations, we were specifically focused on the operation of
22 the election itself. In this case, there is a long history of disinformation to try to
23 suppress voting. In fact, there was, I believe, even a prosecution of people who were
24 sending text messages telling people the wrong information about when to vote, for
25 example.

1 Q Okay. Is it fair to say that this focused on the time, place, and manner of
2 voting?
3 A Yes. And, in fact, this is drawn from -- if you want to see in more detail, in
4 the EIP report itself, we break down in detail kind of our scope and specifically in these
5 four areas.
6 Q Okay. And I think we'll get to that in just a minute.
7 A Okay. Great. But I do believe we talked about time and place and such.
8 Q So, to the extent that you can recall, what did "content that would
9 delegitimize election results without evidence" refer to?
10 A Right. So, in this case, we were looking for claims of the election being
11 stolen or of being rigged in such that was not based upon an evidentiary basis.
12 Q Okay. Why was that something that EIP chose to include as part of its
13 research?
14 A So, by the summer of 2020, it became clear that the kind of traditional
15 outlines of election disinformation were going to be pushed. By that summer, President
16 Trump had already started laying the groundwork to deny that he had lost the election.
17 Q And why was it of concern -- was it of concern to you if the election result
18 might be delegitimized?
19 A Yes. We have -- we had a very long history of peaceful transfers of power
20 in this country. That's one of the things that makes us the city on the hill, as Reagan
21 might say. It's one of the things that makes us special.
22 And one of my fears, personally, has been that we will end up becoming a
23 pseudo-democracy where people never believe the election. They always believe the
24 election was stolen. I believe that that's actually something we're trending to on a
25 bipartisan basis.

1 And one of the things we wanted to understand was, what were the lies that
2 might be driving those beliefs during that year, and to come up with -- both for us to -- as
3 it says here, in some cases to publish and to demonstrate what is being said, and then,
4 kind of on a longer term, to understand how can we restore trust back in the voting
5 system.
6 Q So your goal in looking at that was to assess how these narratives spread.
7 Is that fair to say?
8 A It's to see what the narratives were, how they were spread, who spread
9 them, and in what situations did specific features of different platforms -- we call those
10 affordances. How would certain platform affordances affect this issue? That's actually
11 one of the key things SIO works on.
12 Back to the child safety thing we were talking about, for example, it's -- what is it
13 specifically about this platform that makes this abuse especially work here? And so
14 those were all kinds of things that we wanted to study.
15 Q Okay. So, again, it was research-focused. Is that fair to say? You
16 wanted to study how -- these affordances?
17 A Yes. And we have. And we have published our results, both in this big ol'
18 report as well as in a number of peer-reviewed journals.
19 Q Okay. In your opening statement, you stated that part of the purpose of
20 the EIP -- sorry, turning away from exhibit 3 -- was to provide local and State election
21 officials with a window into what was happening online in their jurisdictions.
22 A Yes.
23 Q When you say "a window into what was happening online," is that with
24 regards to both how the election operations might be impacted and also with regard to
25 potential delegitimization of the results?

1 A Yes. For all of the issues within our scope, which is the function of the
2 election itself -- if you were, again, Cuyahoga County or San Mateo County, if there was a
3 claim going viral, that's something that we wanted you to know so that you could put out
4 your own accurate information and respond however you thought was best.
5 Q Okay. So EIP conducted the bulk of its collecting of research data in the
6 lead-up to the election, so from July 2020 to November 2020. Is that right?
7 A That's right. We ran for -- I would have to look at the exact date, but we
8 ran for a bit after the election collecting responses to what happened, and then we shut
9 down before the end of the year.
10 Q Okay. And then, after the election, EIP analyzed what it had collected. Is
11 that fair to say?
12 A Yes. We spent much of the first half of 2021 taking all the data we had
13 gathered, and then building our database and then building our analysis, which you see
14 the results of here and those other papers.
15 Q And so EIP ultimately produced a report entitled "The Long Fuse," correct?
16 A That's right.
17 Q Okay. This was published in March 2021?
18 A That sounds correct. I'd have to look at the exact date, but March sounds
19 about right.
20 Q Okay. And did you --
21 A I'm sorry. We have this one marked June.
22 Q Okay.
23 A So I think it probably was June.
24 Q Okay. Did you play a lead role in drafting the report?
25 A I played a role in helping coordinate. Lots of people worked on it. I'm not

1 going to take credit for it.

2 Q Okay. But you were familiar with the report's contents?

3 A Yes. Of course.

4 Q And it's the product of your research? Research that you led?

5 A Research that I helped supervise, yes.

6 Q Okay.

7 A But to be fair, one, there's four organizations involved and, as you can see in

8 here, lots of people working on this who provided both the input into it as well as did the

9 writing of the report.

10 Q Okay.

11 [redacted]. I want to introduce as exhibit 4 -- and I know you have your own

12 copy, but I want to introduce it into the record because I think it's hard to put this into the

13 record -- as exhibit 4 the cover page and the executive summary from "The Long Fuse."

14 [Stamos Exhibit No. 4

15 Was marked for identification.]

16 BY [redacted]:

17 Q On page Roman numeral VI, there's a line reading "what we did" and

18 followed by three goals. Do you see where it says that?

19 A Yes.

20 Q Okay. So I want to walk through each one of these goals in that first

21 paragraph in order.

22 So the first goal -- it says: The EIP's primary goals were to, number one, identify

23 mis- and disinformation before it went viral and during viral outbreaks.

24 What was the -- is that accurate that that was one of your goals?

25 A Yes.

1 Q Okay. What was the purpose of identifying mis- and disinformation?
2 A So both that we could, as it says here, share our own countermessaging and
3 also to inform local and State officials of the kinds of things that were going viral and then
4 in support of our academic research. Without identifying what was going viral, then
5 there's no way you can do any research on what actually happened.
6 Q Okay. And I know that the report is almost 300 pages long, and it discusses
7 in some detail how EIP went about identifying mis- and disinformation, but can you break
8 it down into layman's terms what was done?
9 A Right. So we had monitoring groups of students who had a variety of
10 different tasks that they were given, who worked in shifts during the day so that the shifts
11 got more frequent and longer as we got closer and closer to the election. And they
12 would be given specific tasks to look at the output of certain things.
13 On some platforms, we had automated systems that were taking API data and
14 then surfacing -- these are the pieces of content that are starting to trend on the topic of
15 the election. And so, for example, for Twitter, we had a dashboard of -- these were, like,
16 the biggest tweets about the election overall, and they'd look and they would discard
17 anything that actually had to do with the candidates.
18 So, to be absolutely clear, we did nothing around Donald Trump is bad/Joe Biden
19 is good and vice-versa. Any claims about the candidates, about their kids, for
20 example -- all that stuff was out of scope. So they would disregard anything like that.
21 But then, if there was a claim that fit within these four buckets of different kinds
22 of potential disinformation, they could pull that down, open up a ticket, and start an
23 investigation.
24 Q Okay. And so you mentioned the different types of -- the scope,
25 essentially. And that's listed down below. So let's skip ahead down to that.

1 A Yeah.

2 Q The scope of what was considered mis- and disinformation for purposes of

3 your investigation was fairly limited, right?

4 A Yes. It was only about the functioning of the election itself.

5 Q Okay. And so, in the bullet point section on page 6 -- or Roman numeral

6 VI --

7 A Yes.

8 Q The first example is "procedural interference." Can you explain what you

9 consider procedural interference to be?

10 A So it says here: Misinformation related to actual election procedures. So

11 telling people -- you have to have a passport to vote would be an example of attempting

12 to interfere procedurally by lying to people about something they have to do to vote.

13 Q Okay. And so it's a demonstrable falsehood about how a person can vote.

14 Is that fair to say?

15 A Yes.

16 Q The next bullet is "participation interference." Is that right?

17 A Yes.

18 Q And what is your understanding of what participation interference is?

19 A So here, we define it as content that includes intimidation to personal safety

20 or deterrence to participation in the election process.

21 So an example of that that we had in our database was saying: A bomb threat

22 has been called into this precinct. Don't go. Don't go vote. There's a bomb threat.

23 And there was no bomb threat.

24 Q Okay. And so individuals, if they had heard that bomb threat, might have

25 not gone to vote. Is that fair to say?

1 A Yes.
2 Q Okay. And so people effectively could have been disenfranchised by that
3 information. Is that fair to say?
4 A That's right.
5 Q The next bullet is "fraud."
6 A Yes.
7 Q How did you define fraud for purposes of this project?
8 A So it says here content that encourages people to misrepresent themselves
9 to affect the electoral process or to illegally cast or destroy ballots.
10 So it is effectively people calling on others to help them fraudulently throw the
11 election.
12 Q Okay.
13 A So go get lots of ballots. Go, you know, mark your ballot up for your
14 parents. Go request absentee ballots in places that you aren't allowed to. Those
15 would be examples of fraud.
16 Q In your introductory statement, you used an example of an individual
17 impersonating an election worker. Do you recall that?
18 A Yes.
19 Q Would that be considered fraud for the EIP's purposes?
20 A Yes. I think so.
21 Q Okay. And then the last bullet is "delegitimization of election results."
22 And I think we talked through it, but here it says: Content aiming to delegitimize
23 election results on the basis of false or misleading claims.
24 That tracks with your definition, right?
25 A Yes. That's right.

1 Q Okay. So the second goal listed under "what we did" in that paragraph is:
2 Share clear and accurate counter-messaging.
3 What does countermessaging mean here?
4 A So countermessaging would be providing accurate information to people.
5 And the way we did that was both ourselves, mostly on our blog, of saying, "This is some
6 claim that's going viral, and here's the truth that we could find," or by providing
7 knowledge to those State officials -- local and State officials who then could do their own
8 local messaging.
9 Q So, with respect to the State and locals first, would an example of that be, if
10 there was a claim made about how long polls were open, and it was false, you would let
11 the State or local know so they could put something on their website potentially to make
12 it abundantly clear --
13 A Yes. And that's something that happened multiple times, where people
14 shared the incorrect dates or times of voting so that they could then do their own tweet
15 or their own post or go to the local media and say: Hey, tell people the polls are still
16 open, for example.
17 Q Okay. And then you said, with respect to the EIP specifically, you might
18 post things on your blog about inaccuracies. Is that right?
19 A Yes. Yes. We posted -- for narratives that got lots of traction or seemed
20 to be really important, we would do our own write-ups of both analyzing how it was going
21 as well as linking to any fact checks or any information we could find about the base
22 truth.
23 Q Did you ever affirmatively create social media content for the platforms?
24 In other words, would you create content for Facebook to counter a post that might be
25 misleading?

1 A No. No. We had our own Twitter account where we'd speak as
2 ourselves, but we did not create any content for the platforms.
3 Q Okay. And countermessaging, to be clear, it doesn't actually involve
4 removing content, right? It's just pushing more information out that's accurate?
5 A That's correct, yes.
6 Q Okay. The third goal identified under "what we did" was to document the
7 specific misinformation actors, transmission pathways, narrative evolutions, and
8 information infrastructures that enable these narratives to propagate.
9 I am not a scientist. I'm not a data scientist, for sure. And I don't really
10 understand what that language is. Can you explain what that means?
11 A Yeah. So this is overly flowery academic terms for -- first document the
12 specific misinformation actors. So that is us creating a record of who was either
13 speaking about things that were false or amplifying. The amplification actually became
14 a big focus of our research afterwards. We learned some interesting things.
15 The second, "transmission pathways," how is this incorrect information moving?
16 "Narrative evolutions," how have things changed over time? We wrote both a
17 blogpost and we have a couple examples in here that's, as the facts changed or as States
18 were called, for example, the narrative changed.
19 Or "information infrastructures that enabled those narratives to propagate," that's
20 back to when I was talking about the affordances. What is it about these platforms
21 specifically that allows these things to grow?
22 Q Okay. And the very first word in this is "Document the specific
23 misinformation."
24 A Yes.
25 Q Is it fair to say that by "document," this amounts to tracking or cataloging

1 your findings?

2 A Yes. It was us looking to see what was going big and then archiving it and

3 creating the database for our further study.

4 Q Okay. So, again, one of the major goals of the EIP was research-based. Is

5 that fair?

6 A Yes. Absolutely. Both the research we did specifically in the EIP, and then

7 to support further research because one of the things I saw coming out of 2016 -- when I

8 got to Stanford, I talked to a lot of people about what happened in 2016. Real political

9 scientists. I'm not a political scientist. But political scientists who study democracy.

10 Frank Fukuyama. Larry Diamond.

11 And if you talk to them about what do you think this important question of, did

12 2016 change the results, what most of them will say is: We don't know because nobody

13 was watching.

14 And so one of the things I wanted to change for 2020 is, if something big

15 happened, either in the election or afterwards, that we had a real historical record that

16 did not exist in 2016 that would allow both history to know what happened but then for

17 us to do our own research and for our partners to do their own research.

18 Q Okay. And I want to turn to one, I think, outcome of that research in the

19 key takeaways section on page -- Roman numeral VII.

20 A Yeah.

21 Q And I want to look at the first item on that page, which is: Misleading and

22 false claims and narratives coalesced into the meta-narrative of a stolen election, which

23 later propelled the January 6 insurrection.

24 Can you explain what's meant by a meta-narrative?

25 A So the report talks a lot about -- that you have -- one of the things that

1 happened in 2020 is that the overall belief that the election was going to be stolen before
2 anything had happened started to be laid by President Trump and some of his political
3 allies throughout the summer and the fall of the year. So that's the meta-narrative, is
4 the election is going to be stolen, and then immediately on election day and afterwards,
5 the election has been stolen. The meta-narrative is supported by whatever evidence
6 can pop up and can be utilized for that.
7 And so that's a lot of what we documented here, was -- if people are voting with
8 Sharpies, that becomes a narrative that Sharpies are part of throwing the election. If
9 people are voting with Dominion Voting Systems, that becomes part of the narrative.
10 And so the meta-narrative being stolen election was -- one of the things we talk
11 about here is that once you prime people to believe through repetition over and over and
12 over again the election is going to be stolen -- the election is going to be stolen -- then if
13 they personally witness anything, then they will make it fit that meta-narrative.
14 And so that's a lot of what we talk about here. They get a Sharpie, and they
15 vote, and they're like: Oh, man. It bled through. This must be part of the conspiracy.
16 And that's a lot of what we were trying to study here.
17 And one of our conclusions was that a lot of the narratives that came up were
18 specifically targeted or -- I'm sorry -- were created by the meta-narrative becoming
19 widespread among mostly supporters of President Trump.
20 Q Okay. Thank you for that.
21 Real fast, you referenced Sharpies. That's your reference to what's sometimes
22 called Sharpiegate scandal. Is that right?
23 A That's right. We have a whole -- we have a blogpost about this and a big
24 analysis because that was a great example of an observation a number of people made
25 that then got fit into this meta-narrative. And then, as the night progressed, in

1 particular when FOX News called Arizona, all of a sudden, the narrative changed to make
2 it about Arizona, for example. So it was a really good kind of baseline for our study.
3 Q And the Sharpie -- the allegation -- just so the record is clear -- the allegation
4 was that individuals were filling out ballots with the wrong pen, and it was making the
5 ballot invalid. Is that right?
6 A Right. The allegation is, if you vote with a Sharpie, it bleeds through, and
7 that that would make it not read correctly.
8 Our understanding is that the ballot manufacturers know that Sharpies bleed
9 through, and so that's why there's not voting space on the other side of the ballot. They
10 don't scan that. They don't count that. And, in fact, Sharpies are something that is
11 requested by some of the ballot manufacturers because, unlike ballpoint pens, it doesn't
12 smear off inside of the scanner and jam stuff up.
13 And so one of the things we document here is -- some of the first allegations
14 around Sharpies actually came from people who seemed to be more progressive and
15 from blue States of: Hey, what's going on here? I voted with a Sharpie. It bled
16 through.
17 And then, as the night progressed -- and especially with Arizona because Maricopa
18 County, for whatever reason, a lot of people were using Sharpies -- that as it progressed,
19 then, all of a sudden, kind of a general thing that a number of people said got coalesced
20 into this narrative that Sharpies were only being given to Republicans or in Republican
21 districts, and therefore that was being used to invalidate all those ballots.
22 Q Okay. And the allegation about Sharpies invalidating the ballot, it's untrue,
23 right? It's demonstrably false?
24 A To my best understanding, it's untrue, yes.
25 Q And you also referenced the Dominion theory. That's a reference to the

1 Dominion -- the theory that Dominion voting machines were switching votes. Is that
2 right?
3 A That's right, yeah.
4 Q And that's also demonstrably untrue?
5 A To my best of my knowledge, it's untrue, yes.
6 Q Okay. So you used these examples and talked through how they coalesced
7 into a meta-narrative. I want to look at a couple pages of your report that show the
8 results of this meta-narrative.
9 A Yep.
10 [redacted]. I want to introduce pages 99 to 101, which concerns postelection
11 violence. And this is exhibit 5.
12 [Stamos Exhibit No. 5
13 Was marked for identification.]
14 BY [redacted]:
15 Q So we've clipped the whole part, but I really want to look at page 99, which
16 is the start of the second paragraph under the "during and postelection" heading.
17 It says: Violence-related posts became increasingly tied to claims of election
18 theft or rigging and, at times, were part of increasing rhetoric that more generally
19 referenced the idea of preparation for civil war.
20 A I'm sorry. I think I might be looking -- where exactly is it?
21 Q I'm sorry. It's the second paragraph.
22 A Okay. Yes. Yes.
23 Q It says: Violence-related posts became increasingly tied to claims of
24 election theft or rigging and, at times, were part of increasing rhetoric that more
25 generally referenced the idea of preparation for civil war.

1 Do you see where it says that?

2 A Yes.

3 Q So your team saw a spike in calls for violence after the election. Is that

4 right?

5 A That's correct, yes.

6 Q And did you analyze how the narratives that were already creating the

7 Sharpie, for example, the Dominion voting, fed into those calls for violence?

8 A Yes. That's a big focus of our report.

9 Q Okay. And what did you find?

10 A What we found is that the creation of all of these narratives, that were

11 based, in some cases, on people's real experiences, were factual things that happened

12 but were then turned into narratives that were not true about large conspiracies or the

13 election being stolen.

14 It is the creation of all those narratives that gave people the feeling that

15 something must have gone wrong. This must have been stolen. And that's what most

16 likely led people to do things like call for civil war or call for violence.

17 Q So is it fair to say that your research actually showed that these preelection

18 false claims actually ultimately fed into calls for violence postelection that potentially

19 could have contributed to January 6?

20 A So I would be very careful of making, like, a strong causal claim here. That

21 is not, like, the research question that we had here. But we did document the

22 increasing popularity of these narratives and then, among the same people who seemed

23 to believe the narratives, would have called for violence.

24 Q Okay. Thank you. And then, before I move on from the report, I want to

25 turn to page 9 of the executive summary, which is key recommendations. And sorry.

1 That was the previous exhibit number. No. 4. And I want to look at the one for the
2 Federal Government: For the Federal Government, EIP recommends the development
3 of clear authorities for identifying and countering election-related mis- and
4 disinformation, and creating clear standards for consistent disclosures of mis- and
5 disinformation.
6 A Yes.
7 Q What does "disclosure" mean here?

1

2 [11:42 a.m.]

3 Mr. Stamos. I am sorry, I was on the second part. Create disclosures. Yes, it

4 means for -- in this case for members of the Federal Government to say here is something

5 that a trending, here is why it's not true. And we specifically refer to rumor control

6 which was a CISA blog that was very effective of doing that during the election.

7 BY [redacted]:

8 Q And so the ideas is that the recommendation is that the government identify

9 and make these things public, but there's no recommendation here that the government

10 sensor or work with the social media companies to take any posts down. Right?

11 A No. We do not make that recommendation, nor do I think that would at all

12 be appropriate.

13 Q And why, why would that not by appropriate?

14 A I don't think it's appropriate for the government to tell platforms to take

15 content down.

16 Q Okay. And so there's no recommendation here that platforms take

17 anything down the recommendation is that more information be pushed out?

18 A I mean in this case, we are not recommending that the Federal Government

19 take content down at all, no.

20 Q Okay. I have about 10 minutes left so I want to turn to some kind of

21 misconceptions that have been circulating around the EIP and what the EIP does. And

22 you I think you touched on some of these in your opening statement. And actually, do

23 you happen to have a written copy of your opening statement.

24 Mr. Thompson. I certainly may have another one.

25 Mr. Stamos. I have this one. I just kind of need it back, if you don't mind.

1 [redacted]. I wanted to -- okay. So we can do without it. I was going to
2 introduce it into the record, but that's okay.
3 [redacted]. You can put it in the record.
4 Mr. Stamos. You can use it.
5 BY [redacted]:
6 Q Are you familiar with Matt Taibbi?
7 A Yes.
8 Q Who is Matt Taibbi?
9 A He is a journalist who testified in front of this committee.
10 Q Are you familiar with an individual named Michael Shellenberger?
11 A I am.
12 Q And who is he?
13 A Likewise he is a journalist and a Substacker he writes on Substack. And he
14 testified in front of the committee.
15 Q Have these individuals made claims about the Election Integrity Partnership?
16 A Yes.
17 Q And I think -- and one that you referenced in here you claim that the
18 EIP -- oh, I'm sorry, Mr. Taibbi claimed that the EIP has succeeded in getting nearly 22
19 million tweets labeled in the run-up to the 2020 vote. Are you familiar with that
20 statement?
21 A Yes.
22 Q Is that accurate?
23 A That is absolutely false.
24 Q You look like you want to say more.
25 A I would be happy to explain.

1 Q Yeah, please do.

2 A So he was pulling out this 22 million number, which I believe comes from

3 here in my statement, I believe I cite exactly where it comes from.

4 So we in our academic study and in our publications one of the things we have

5 done is we have discussed the size of the overall conversation. And one of the things

6 that we talked about was there was something on the order of 800 million tweets in that

7 year about the election at all, about Trump and Biden and anything to do within the

8 election and that there's 22 million of those were specifically about the narratives that we

9 had identified.

10 So if you look in our report we talk about Dominion, Sharpiegate stuff like that.

11 After this was all done, we went back and we looked at Twitter and we said, how many

12 people were talking about these things? Those were not necessarily true or false, it's

13 just people talking about Dominion Voting Systems, people talking about Trumpies.

14 And that was a number of the overall scope of the conversation. It had nothing

15 to do with anything. We reported the platforms. That number had nothing to do

16 except as part of our post facto analysis of the conversation that happened online.

17 Q I want to introduce pages 182 to 183 of The Long Fuse because I believe

18 that's where this comes up.

19 A Okay.

20 [Stamos Exhibit No. 6

21 Was marked for identification.]

22 BY [redacted]:

23 Q So at the top it's not a full paragraph because it carries over from the prior

24 page, but it describes the collection of information. It says, the collection resulted in

25 859 million total tweets. That's 800 million number you just referred to. Right?

1 A That is right, yes.

2 Q And in the middle of page 183 there's a paragraph reading in total our

3 incident related tweet data included 5,888,771 tweets and retweets from ticket status IDs

4 directly, 1,954,015 tweets and retweets collected first from ticket URLs and 14,914,478

5 keyword searches for a total of 21,893,364 tweets.

6 A Yes.

7 Q Correct?

8 A That is right.

9 Q So what does the reference to tickets mean in this paragraph?

10 A Right, so a ticket is an entry into our internal research database describing a

11 narrative or incident. Yeah.

12 Q Okay. And so the ticket is the 21,897,364 number, that's the total number

13 of tickets in your database. Correct?

14 A No.

15 Q Okay. What's that?

16 A So we had -- we had -- the actual number of tickets is elsewhere.

17 Q Oh, I'm sorry. I meant the total number of tweets in your database not the

18 total number of --

19 A That is the total number -- so the University of Washington team, using their

20 API access collected tweets that were related to the election at all. That it is the total

21 number of tweets that then were related to the narratives that we identified.

22 Q Okay.

23 A In that massive database of everything that was said about the election.

24 Q And I'm sorry, you just referenced API data. For the record, what is API

25 data?

1 A API means application programming interface. So that would be the
2 mechanism in this situation in which the University of Washington was able to ask
3 tweeter send us all you will of your public tweets about the election.
4 Q On March 17, 2023, SIO posted a blog post of some type of background on
5 the SIO's project on social media. Are you familiar with that post?
6 A I don't have it memorized but I am familiar with it, yes.
7 [Stamos Exhibit No. 7
8 Was marked for identification.]
9 BY [redacted]:
10 Q And again, this is a blog post. I will refer to the page numbers as printed.
11 But a blog post --
12 A All right.
13 Q Page 3 of this post as printed you address the 22 million claim. And it says
14 that Stanford explains that that's false. And it says, in fact, EIP identified 2,890 unique
15 tweet URLs and potential violation of Twitter stated policies. Does that number track
16 your best recollection of how many tweets are identified in violation of policies?
17 A Yes.
18 Q Okay. So that's actually a bit over .01 percent of the entire data set. Is
19 that right?
20 A That's correct, yes.
21 Q And what does the reference to Twitter stated policies means here?
22 A So we had during our operation in situations where there were egregious
23 violations of the policies that the platforms have already put out which we then
24 provided -- we both provided a public analysis and we had an internal tracker of the what
25 the policy's were per platform. We could then refer to those to the platforms.

1 In which case they would get an email from us that would say saying something
2 like we believe these five URLs might violate policies on fraud. And then the platforms
3 themselves could make a determination themselves could make a determination of
4 whether or not that was true.
5 Q Okay. So I want to emphasize that. You sent this information to the
6 platforms. And after it left your hands, you had no control over what a platform did
7 with it?
8 A That's right. They had to make the determination, it's the same as if you
9 went into Twitter right now and you clicked and said report, it's essentially the same
10 function.
11 Q And anybody can do that. Right? Anybody can go on Twitter and report a
12 post? Right?
13 A Anybody can report a post. And I know there are, multiple organizations
14 that email people. As somebody who comes from a platform, you get email all day,
15 every day of things that people think should be taken down. In our case, we believed
16 we were reporting things that were violative of their policies around election operations
17 specifically. But people do it all the time for all kinds of reasons.
18 Q Okay. And it's the same thing with Facebook. Right? Once if you were
19 to report something to Facebook as potentially in violation of their policies, once it left
20 your hands it was up to Facebook to decide what to do with it. Right?
21 A That's correct, yes.
22 Q And you had no control over how Facebook applied its policies to particular
23 posts. Correct?
24 A We had no control over what they did, no.
25 Q Okay. Mr. Taibbi testified that the EIP targeted more disinformation on the

1 right than on the left by a factor of 10 to 1. Is that correct?

2 A No.

3 Q Could you explain?

4 A So I think what he is doing is misrepresenting our tables that show the size of

5 various narratives and who the super spreaders were. And so we had no goal of

6 targeting anybody or any political -- as I said, I am actually afraid of this becoming a

7 bipartisan issue and we can talk more about how that might happen.

8 And so that was not part of our targeting, but in the end when we did our analysis

9 then, as you might expect, the majority of disinformation around the election did come

10 from conservatives, which is not a surprise because President Trump lost the election and

11 he denied that the election was valid and so that motivated his supporters to be

12 spreading those things. But that is a post facto analysis as part of our academic research

13 into what happened in 2020.

14 Q Are you familiar with what's been referred to as the Hunter Biden laptop

15 story?

16 A Yes, I am.

17 Q And this is a reference to an October 14, 2020, New York Post story about a

18 laptop reportedly belonging to Hunter Biden. Correct?

19 A That's right.

20 Q Did EIP analyze the laptop as part of its work?

21 A No.

22 Q Is it fair to say that the laptop story was entirely outside the scope of your

23 work?

24 A Yes. That kind of claim about the son of a candidate is completely out of

25 scope for us. We had nothing to do with any decisions of any platforms made about

1 Hunter Biden nor does that show up anywhere in our database.

2 Q I think -- we can go off the record.

3 [Recess.]

4 BY [redacted]:

5 Q Mr. Stamos, I wanted to pick up briefly on -- touch on one of your answers

6 from the previous round. You were asked a question about whether the government

7 had ever requested EIP be created or something similar. And during that set of

8 questioning you mentioned that there was "a lot of blaming" that went around to, like,

9 Facebook and other social media companies. With respect to people that were blaming

10 Facebook and others, would that include people in the government?

11 A So if we are talking about post 2016.

12 Q Yes.

13 A Yes. I mean, I think pretty famously you had a number of elected officials,

14 President Obama being at the top of it and most Democratic House and Senate Members

15 talking about fake news on Facebook being a determinative thing.

16 Q And you said you approached Mark Zuckerberg about your concerns and the

17 need to address, coordinate inauthentic behavior?

18 A What I brought to him was this fake news problem that might have a foreign

19 component and that we need to get ahold of it.

20 Q Okay. And as part of your discussions with Mr. Zuckerberg, did you note

21 the public backlash that Facebook was receiving?

22 A I don't recall exactly what I said. I don't think I had to note for him the kind

23 of public backlash that he was getting.

24 Q Do you think he was well aware?

25 A I think he was well aware, yes.

1 Q And do you recall if he was receptive to what you were presenting?

2 A He was. He was receptive. And he ordered XFN, cross functional working

3 group to be put together specifically to look at possible foreign origins of the fake news

4 crisis as we were discussing it at that time.

5 Q And to your understanding, what would the consequences have been if the

6 company had failed to address this concern?

7 [redacted]. I'm sorry. Can we go off the record?

8 [Discussion off the record.]

9 BY [redacted]:

10 Q To repeat that previous question, to the extent you have a recollection, to

11 your understanding were there consequences that Facebook would face if it failed to take

12 action with respect to better countering foreign malign influence campaigns?

13 A I think in the long run it would have been worse for the platform to not do

14 things because people would have lost trust in news worthiness. But in the short run

15 being honest about it probably ended up creating more political pressure on them.

16 Q And what types of political pressure are you referencing?

17 A Well, I -- the pinnacle of this was Mark and Colin Stretch being called to do

18 hearings and lots of blame that Russia controlled fake news, that Russia was larger.

19 There were a lot of discussions like in the late '17 into 2018 of the idea that a huge

20 amount of the content on the platform was controlled by Russia or came from Russian

21 sources and have an overstatement. The stuff that we put out was factual and we

22 thought kind of sober and then that got blown out of proportion in 2017, 2018.

23 Q And you referenced in an earlier answer that there was a sense, primarily by

24 Democrats, that Facebook's failure to better counteract foreign malign influence

25 campaigns, particularly from Russia, materially impacted the outcome of the 2016

1 election. Sitting here today, do you think that's still the case, that a large swath of the
2 public still believes that?
3 A I don't have any survey data here. I think it has become less widespread of
4 a belief. But certainly I am sure there are still Democrats who believe that minus the IRA
5 campaign or the GRU campaign that Donald Trump would not have won.
6 Q And during your time at Facebook, do you recall what [redacted]'s role
7 was?
8 A She was the head of platform policy.
9 Q And do you understand what was her responsibilities?
10 A She ran the team that came up for -- what policies were going to be, the
11 community standards they are called on Facebook and Facebook's other properties and
12 then the interpretation of how those would actually be enforced which was actually the
13 really important component here that is generally not public is how do you take a general
14 statement against hate speech and then define that in really specific circumstances in
15 dozens of languages around the world.
16 Q And when you were briefing Mr. Zuckerberg about your concerns and the
17 need to better address foreign malign influence campaigns who else participated in those
18 discussions?
19 A So it was a big room, it was certainly my boss, Colin Stretch, the general
20 counsel, Sheryl Sandberg, the COO at the time, Chris Cox was the head of product.
21 Probably Mike Schroepfer, who is the chief technology officer. [redacted] would
22 have been in there. Elliot Schrage who is the head of policy, Joel Kaplan with a K was his
23 deputy who ran policy in the D.C. team, probably some other folks from D.C. in policy
24 who I don't recall.
25 Q And do you recall approximately when these meetings took place?

1 A This was in November and December of 2016 was the initial set of meetings.
2 Obviously, as all the stuff progressed over 2017 we had regular updates on our findings
3 and what to do about it and such.
4 Q I also want to touch upon briefly you had mentioned that EIP did not cover
5 the Hunter Biden laptop story.
6 A That's right, yes.
7 Q Did you have a general familiarity with the story?
8 A From the media reports, yes.
9 Q Did anyone from the government contact you regarding the story in the days
10 following the publication?
11 A I don't recall anybody in the government ever talking to me about the
12 Hunter Biden laptop. Sorry.
13 Q Did anyone from Facebook contact you on the days following the story's
14 publication?
15 A I had had regular contact with people at Facebook, I don't remember this
16 being a topic. But I don't recall -- they certainly would not come to me for advice on
17 something like that.
18 Q Do you recall anyone from Twitter contacting you in the days following the
19 story's publication?
20 A Again, I was in regular contact with people at Twitter. I don't recall a
21 specific conversation about the Biden laptop.
22 Q In the fall of 2020, with respect to content moderation, enforcement
23 decision, would you ever be contacted by somebody at Facebook or Twitter?
24 A So they would often ask us for our feedback either on specific things that are
25 happening. So, you know, especially on some of these foreign influence campaigns we

1 would collaborate on the investigations. And around election policy we had a back and
2 forth on sometimes they would ask us generally this has been the summer, well before
3 the election, about what kind of policies issues to put in place. So we did have a kind of
4 an ongoing conversation about that.
5 Q In these ongoing conversations, do you recall any that concerned whether
6 social media platforms should develop policies with respect to potential hack and leak?
7 A We probably had those discussions, but our scope for EIP was specifically
8 about the election infrastructure itself. So we would not have been given advice for
9 anything outside of a hacking campaign that involved the election running, which is
10 something you could consider possibly happening.
11 Q And just a point of clarification, if it involved EIP that would be relevant too,
12 but also just in your position as a former Facebook executive and having expertise in the
13 area. Is it your recollection that when the story, the Hunter Biden laptop story first
14 broke that there were some who believed it was the product of a hack and leak that
15 Russia was behind?
16 A Yeah. I mean that was a pretty widespread believe among people.
17 Q And during that time, do you recall anyone in media or otherwise asking for
18 your expertise regarding whether Russia was behind this as a hack and leak operation?
19 A It's possible. I don't recall.
20 Q You don't have any specific recollections of anyone?
21 A No.
22 Q Do you recall familiarity with the statement that 51 former Intel officials
23 released 5 days later?
24 A Yes, from the media.
25 Q Before that was released, did you have -- did any of the 51 former Intel

1 officials contact you?

2 A I am pretty sure not, no. I don't have a recollection of that, but that seems

3 highly unlikely. And I did not know anything about that letter until it came out.

4 Q If we could -- so if could turn your attention and get back to the summer of

5 2020, you're in the early days of forming EIP?

6 A Yeah.

7 Q Were there any potential partners who you reached out who declined to

8 participate?

9 A Hmm. I don't recall any specific ones. It's possible.

10 Q How did you decide on having UW, Graphika and DFR Lab as Stanford's three

11 partners?

12 A So UW had already been our closest academic partners. And their team

13 was the one that was most aligned to the kind of work that we had done in the past. So

14 they were just a natural fit. We won their academic institution especially for eventually

15 we were going to be publishing peer reviewed work and that's not something that's of

16 interest generally to non academic institutions.

17 Graphika was interesting because they made the software at the time that was

18 the best at understanding networks of amplification on Twitter in particular. So answer

19 to Graphika's data set there and having their analyst use it was going to be the interesting

20 part. DFR Lab we contacted them because of their particular experience doing these

21 foreign investigations. So Graphika, DFA Lab and us, less UW but we had in the past

22 worked with Graphika and DFR Lab on our investigations of different foreign influence

23 actors and such. So they were kind of natural partners since we had already done that

24 work together.

25 Q And you mentioned that there were discussions with CISA prior to the formal

1 formation of the EIP. Once EIP is formed, what role did CISA play?
2 A So CISA made the introduction to EI-ISAC and helped us know who the
3 players were. We didn't -- we didn't know until our conversations with CISA that the
4 central responsibility for the switchboard function of communicating with all the local and
5 State officials was going to exist in the EI-ISAC so that was key role they played. They
6 did not have access to our data nor could they report things to us directly. So EI-ISAC
7 was our primary partner in being able to reach out to the local and States.
8 Q And when did you first learn that EI-ISAC existed?
9 A I don't recall.
10 Q Was it before you joined Stanford?
11 A I don't think it existed for long before I joined Stanford. So it's probably
12 while I was at Stanford. I wouldn't have a recollection of the first time I ran into them.
13 Q You said CISA, you know, introduced you to EI-ISAC. Did you have
14 familiarity at all with EI-ISAC before CISA --
15 A I don't recall. It's possible I'd run into them at, like, the NASS, the secretary
16 of State events and such.
17 Q Yeah.
18 A But CISA didn't -- made the introduction to the people who were actually
19 running this function.
20 Q And are those people at CIS, are they -- or are those people at CIS different
21 than those ruining EI-ISAC?
22 A The people who run EI-ISAC are CIS employees is my understanding, who run
23 the central function. There are thousands of members who then do all the work and
24 create content and such. But the kind of coordination function my understanding is run
25 by CIS.

1 Q Do you recall when CISA introduced the partnership to EI-ISAC?
2 A So it must have been in the June timeframe. I don't have an exact date.
3 Q And did you have an understanding of EI-ISAC before the formal formation
4 of EIP?
5 A I don't recall my knowledge of EI-ISAC.
6 Q Did you have an understanding before you were intro -- before CISA
7 introduced you to the EI-ISAC if there was some sort of switchboarding or reporting portal
8 related to elections that existed?
9 A It probably came up in one of those earlier meetings with election officials.
10 I don't recall the exact timing, though.
11 Q When you were first raising this issue, was the idea that EIP would provide a
12 similar reporting function?
13 A So we had discussed at one point working directly with locals and States, but
14 I think that became clear after we learned about EI-ISAC to be completely improbable
15 because there were thousands of people. It was just not going to be with the time that
16 we had something that we could possibly advertise out to them.
17 And so there was, like, a series of meetings in discussing how could we work best
18 with all of these counties, all of these cities in some cases. And the outcome was that
19 EI-ISAC already had these relationships, it could be the people that routed to us.
20 Q When the introduction was made between CISA and EI-ISAC, did you have an
21 understanding of how familiar the folks at CISA were with EI-ISAC and how it operated?
22 A I mean, I don't recall a specific feeling about that. I -- it's pretty clear that
23 they had been working with each other on building the switchboard functionality.
24 Q Do you recall if there was the switchboard functionality ahead of the 2018
25 U.S. midterms?

1 A If there was, I was not aware of it.
2 Q So you have contacted CISA, CISA introduces you to EI-ISAC. And we are
3 still in the summer of 2020, to the best of your recollection?
4 A Okay.
5 Q What roles did CISA play, if any, after that?
6 A In the EIP they had no official role. They did not have the ability to report
7 things directly to us. We would take things from EI-ISAC. I don't believe anything that
8 EI-ISAC sent us came from CISA employees themselves. And they were not part of our
9 day-to-day operations or our analysis. So they had very little role, if none in EIP.
10 Q Did CISA continue to meet with EIP partners during the summer of 2020?
11 A It's possible, we had meetings. We did a number of briefings for
12 government partners about the kinds of things that we were seeing.
13 Q And happy to use whichever term you want, there's the EIP four partners
14 and there are other external partners as well. You mentioned social media platforms --
15 A There were other --
16 Q -- some sort of engagement with EIP. Is that right?
17 A Yes. I think the term we used is stakeholders was people who we had
18 some kind of communication with.
19 Q All right. And do you recall which social media platforms were some of the
20 external stakeholders for EIP?
21 A So we list all of these in the report. I'm happy to go through them, if you
22 want.
23 Q Would it include Facebook, Instagram, Twitter to your recollection?
24 A Yes, all three of those. Instagram and Facebook for the purposes of this
25 would be the same, it would be the same people.

1 Q How did you decide which social media platforms to include?
2 A So we contacted the platforms that we thought would have the most -- that
3 this content would be found on and that would be the most interesting for us to study.
4 So in some cases we had had preexisting relationships such as with Facebook and Twitter.
5 We had worked with them on these investigations of foreign influence campaigns and
6 such. And some of the cases like for example Reddit we didn't really have much of a
7 relationship with, and so we reached out to them to at least have the ability to report
8 stuff to them.
9 Q So if I could just try to clarify a couple of the wes there. When with you say
10 we worked with Facebook and Twitter, that's in reference to EIP. But when you
11 referenced we earlier, working with Facebook and Twitter, is that Stanford?
12 A Okay. So the Stanford Internet Observatory had worked with Facebook
13 and Twitter on foreign influence campaigns in the past.
14 Q Okay.
15 A So it that was the preexisting relationship we had. And then as part of EIP
16 we reached out to a number companies that we had not had relationships with such as
17 Reddit because we thought they would be of possible -- possibly targeted as part of
18 campaigns. And we wanted to have the ability to report things to them.
19 Q Do you recall any social media platforms that declined the invitation to
20 participate?
21 A I don't recall, but it's possible.
22 Q Okay. And in addition to the social media platforms, what other types of
23 external stakeholders were there?
24 A So we had voting rights groups and other kind of NGOs who related to voting
25 rights and voting suppression who had the ability to send us tips. They didn't have

1 access to anything but they could send things in to us. They had an email address.
2 Like I said, we reached out actually to the RNC to the general counsel's office and they did
3 not take us up on our offer. But effectively we'd reach out to a bunch of groups saying,
4 here's an email account that you could then email if you see anything going on.
5 Q You mentioned that reports can be submitted to EIP as you were setting up
6 this operation and EI-ISAC was one of the primary entities that would be submitting
7 reports. Is that correct?
8 A So we document this in here. Of the entities that submitted reports,
9 EI-ISAC was by far the largest.
10 Q And do you know if every report that was submitted to EI-ISAC was then in
11 some way forwarded or submitted to EIP?
12 A No, I am -- I am pretty sure that most of the reports that went to EI-ISAC
13 were related to more standard cybersecurity issues. And so somebody is port scanning
14 or I found malware or something, those are not forwarded to us. And I -- I can't speak
15 as to what percentage of the things that related to disinformation were forwarded to us.
16 Q Who made the decision whether a report submitted to EI-ISAC would be
17 submitted to EIP?
18 A I believe it was the CIS employees who were running the switchboard.
19 Q Yeah. Do you recall who was running the switchboard at CIS?
20 A I don't recall names of the people, but we could -- I could come back with
21 that.
22 Q Yeah. Do you know who Aaron Wilson is?
23 A I believe he is CIS employee.
24 Q Do you know who [redacted] is?
25 A I don't know. I don't recall who he is.

1 Q You mentioned that the Global Engagement Center was one of the entities
2 that can submit reports, tickets as well?
3 A Yes. They could send -- they could send emails in to us for us to open and
4 to look into, yes.
5 Q Do you recall who at the GEC you interacted with?
6 A I don't- -- I mean, personally I had -- there was a meeting in which I believe
7 the director of the GEC was at here in D.C. I don't recall her name. I -- I didn't have
8 most of those conversations.
9 Q The meeting in D.C. that you just referenced, what was the purpose of that
10 meeting?
11 A I believe it was to tell them about what was EIP was doing and telling them
12 that they could send into us reports of foreign influence that they he saw, potential
13 foreign influence.
14 Q Do you know who first connected GEC and EIP together?
15 A I believe that we had already had preexisting relationships with GEC because
16 they had published in this area before the EIP.
17 Q In addition to CISA and GEC, do you recall any other Federal agencies that
18 played either informal, like, external stakeholder role or otherwise consulted EIP?
19 A So the only groups that could and did report from the Federal Government
20 report anything to us was the GEC, which is actually part of the government and then the
21 EI-ISAC external, you know. And you'd have to give it your own determination of how
22 much of the government that is. But those are the only two groups that did send
23 anything in to us. We did do briefings for several our agencies and we had one ticket
24 that we then sent out to the FBI.
25 Q Which other Federal agencies did EIP briefly?

1 A I did a briefing for General Nakasone then the director of NSA and Cyber
2 Command.
3 Q And did these briefings -- when did they occur in the process? Is it
4 pre-election?
5 A Pre-election, yes. Like in the late summer, early fall we did a briefing. He
6 had come to campus and had heard us talk about our foreign work. And he asked me to
7 brief his executive staff on our concerns and what kind of foreign influence who happen
8 during the election.
9 Q And the FBI mentioned -- received the ticket. Did the FBI also receive
10 briefings for the election?
11 A The FBI was part of that briefing, so I did it from the FBI office in -- in San
12 Francisco because I just can't Zoom in to the NSA.
13 Q Do you recall who set up the meeting between you and the NSA?
14 A Elvis Chan had set up the -- so the meeting was set up because Nakasone
15 had come to campus. Elvis was the facilitator who provided the space and participated,
16 listened to the briefing in San Francisco.
17 Q Yeah. Did you know Mr. Chan before this meeting had occurred?
18 A I did.
19 Q And how did you know special agent Chan?
20 A Yeah, he runs the group in the San Francisco office of the FBI that handles
21 high profile national security cyber attacks and so had I worked with him both at Yahoo.
22 At Yahoo we had been attacked by the -- by contractors working for the Russian FSB.
23 And then at Facebook we had a number of attempted attacks, as well as
24 manipulations of the platform to cause attacks by a variety of government agencies,
25 foreign government agencies. And so Elvis was the primary contact for all of that

1 because he ran the group that would investigate those kinds of foreign actions.

2 Q Do you recall anyone else from the FBI attending this meeting?

3 A There were some other people from his squad. I don't recall their names.

4 Q And so in addition to the NSA, FBI, do you recall any other entities that were

5 present at the meeting?

6 A The -- it was a video conference. In the room were only FBI agents. The

7 only people I knew of who were on the other link were NSA.

8 Q So you mentioned FBI, NSA, GEC and CISA. Were there any other

9 government agencies that received a briefing from EIP?

10 A Not to my knowledge.

11 Q Did you -- in addition to this briefing that the FBI helped facilitate between

12 EIP and NSA, did you have any other interactions with the FBI as a function of EIP's work?

13 A We did the preemptive briefing and we sent them one report related to

14 Arabian action in the election and I believe that was our only interaction with them.

15 Q When EIP was organized, were there new EIP email addresses created for

16 folks?

17 A No. We have a domain that has one working email address info@, which

18 was a mailing list that went to three or four different people.

19 Q Okay. Do you know who those three or four people are?

20 A It was me, probably [redacted] or deputy director of SIO, Kate Starbird and I

21 believe there's a comms person at UDOT, I forgot his name, who'd receive those emails.

22 Because often that would be media requests and he would be the one who handled

23 those.

24 Q So I think we started to touch upon this, but how would members of EIP

25 communicate with one another?

1 A So there was some emailing of each other. We had very regular Zoom
2 calls, you know, at least one or two times a week in the first days and then every day in
3 the days right up to the election, right after the election. We could communicate over
4 Slack channels and we -- but most of our kind of research communication happened
5 within Jira, because that's where you would put content and you'd put any analysis into
6 it.
7 Q And if you could say a bit more, what is Jira? What is a Jira ticket?
8 A So Jira is a popular product made by a company called Atlassian that is used
9 by lots of company for issued tracking. It has a couple of ways you can use it. You can
10 use it for, like, internal IT. It's used a lot for software defect management so finding
11 bugs, tracking how you are fixing stuff or you can use it for work flow management.
12 There's an on premise solution where you host it yourself or you do it in the cloud.
13 We had a cloud account. And so we created a database in Jira service desk,
14 which is the version of Jira we used that EIP members had access to where we could
15 create tickets that would identify lines of research attached to that evidence that we
16 found and then have a conversation about what was going on.
17 Q And when reports are being submitted to EIP, EI-ISAC -- GEC also have the
18 capability. Are they submitted via Jira or how do the reports get from outside the
19 system into Jira?
20 A Right. So for those two organizations for EIP and GEC they had the ability
21 to submit it directly. So the EI-ISAC people had an account they could log into where
22 they could submit reports and then they could see the public components of their ticket.
23 So there's a part of the ticket that was private just to us and the part that was public.
24 They could see the public part of those tickets.
25 For GEC, we'd have to look again, but I believe it was somewhat of the similar,

1 they would file something, they could see the things that they opened themselves or that
2 we added them to specifically.
3 For the other organizations like NAACP, we just give them an email account, they
4 could email us.
5 Q For GEC, when you say they would have access to a public portion of the
6 ticket, by that you mean they are in the Jira system?
7 A Yes.
8 Q This is not an email notification, this is separate from that?
9 A So every user in Jira can change what notifications they want to get. So
10 you can put in there to say if anybody ever mentions me in a tickets or if a ticket changes,
11 I want to get an email. So that's an individual setting by each individual user.
12 So there could be emails generated for the ticket being created and there could
13 have been emails generated for changes to the ticket. But that's really up to each
14 individual user.
15 Q But to see the ticket itself you had to be invited to join?
16 A Right. You had to be logged in. You ha -- the account is Atlassian
17 account, but we'd have to invite your account to have access.
18 Q Do you recall who at GEC had access to the GEC account?
19 A I don't recall who the exact person was.
20 Q Okay. Who at the GEC was most involved with EIP?
21 A I didn't have much of those conversations. I can't really -- I don't
22 remember the exact names of the people.
23 Q Who at EIP had most of the conversations with GEC?
24 A GEC was probably either Renee Diresta or [redacted].
25 Q And who is Ms. Diresta?

1 A She's our research director.

2 Q Besides GEC, which other agencies had access, direct access to the Jira

3 ticketing system?

4 A So to be clear, no agencies had direct access to everything. They could only

5 access the stuff that they gave to us or that we specifically tagged them in. And the only

6 two agencies -- well, not agencies, one organization was EI-ISAC and then the only

7 government agency would be the GEC.

8 Q Did CISA ever ask for access?

9 A I don't believe so.

10 Q Did the FBI ever ask for access?

11 A I don't believe so.

12 Q Did the NSA ever ask for access?

13 A Definitely they did not ask for access.

14 Q Following your meeting with the NSA that the FBI facilitated, did you receive

15 any follow-up communications from the FBI regarding their interest in participating in EIP

16 in any way?

17 A I don't recall our exact communications. I think it was known that the line

18 of communication was open if we saw anything that was actually a significant legal

19 problem or a foreign interference that they wanted to be notified of it.

20 Q Did the FBI and the NSA know that CISA consulted you at the beginning of

21 EIP, had made the introduction between the EIP and EI-ISAC?

22 A I don't know what they knew. We -- most likely, by the time we briefed

23 NSA, we probably briefed them on the EI-ISAC reporting initiative.

24 Q So in addition to EI-ISAC and GEC, you said there were other external

25 stakeholders that would just email reports to EIP?

A Right. They could send in. And I believe we gave them so the -- a Jira database itself can have an email account so effectively you can email to that and the email will get entered into a ticket for somebody to go look at it.

Q Okay. Do you recall what those email addresses were?

A No.

Q Do you know when the domain name would be for those email addresses?

A It would most likely be under atlassian.net or atlassian.com. They were not things that we hosted. That's part of the basic functionality of Jira.

Q And would each organization get a specific email address or did the Jira ticketing system that EIP was using have its own email address?

A I don't recall how we set it up.

Q With respect to choosing the different options to using the Jira system, who at EIP played the primary role in that?

A I am sorry. What do you mean choosing the different options?

Q You said Atlassian provides Jira --

A Yes.

Q In a couple of instances now we talked about different options that may or may not be available. In terms of deciding how to set up the ticketing system, who at EIP was playing a primary role in that?

A So the choice of Jira was mine. It's kind of the default choice of any situation in which you want to do cloud based ticketing. It's extremely widely used across the tech industry. Of the people who did the setup, there's a variety of people doing that. There's two students especially who did lots of work, [redacted]. And I guess he wouldn't be for EIP, for later [redacted] did a lot of work on the Jira configuration.

1 Q And then once a ticket is received, who has the ability to comment or make
2 any provisions on the ticket?
3 A Right. So a comment could have been entered by any of the, like, of the
4 inner members of the EIP. Right. So analysts from us, UW, Graphika and Atlantic
5 Council those are the people who could hack, could see all the tickets and could comment
6 on any of them. Although in general you'd only comment on ones if it was your time to
7 do so, if you were on call and it was your responsibility to do so.
8 The -- there's a pop -- there are different kinds of comments called public
9 comments, which could be seen by either EI-ISAC or GEC if they had either we had tagged
10 them specifically or they had submitted the tickets or we could add tech companies. So
11 if we said, I want Twitter to see something, then you would add -- you would add Twitter
12 to the ticket and then you'd fill out a public comment that would say Twitter, here's
13 something you should look at.
14 Q And when Twitter is added to the comment, can Twitter see who first
15 submitted the ticket?
16 A I am not sure. That's a good question.
17 Q During this time, did CISA at any point have access, the ability to see what
18 was on a Jira ticket, either with access to public comments on Jira or receiving email
19 notifications from Jira?
20 A I don't believe so.
21 Q With respect to when social media companies mentioned Twitter in the
22 previous example, who is making the decision at EIP whether to tag a social media
23 platform?
24 A So that would have been usually a conversation between the tier one and
25 tier two analysts. So the tier one analysts were mostly undergraduates, the tier two

1 were undergraduate students and post docs mostly. There were some undergraduates
2 who operated in tier two. And so the would be a -- the tier one analyst's job was to find
3 content to do the initial analysis to archive it, to open the ticket. And then at the could
4 say, I think this needs to go to -- this looks like it is violating this policy or this is
5 developing and they could tag in the tier two analyst who was on call to go make that
6 determination.
7 Q What was your role in EIP once it's been operationalized?
8 A So there was a manager role that was above tier two for any escalations or
9 questions and so I would occasionally take manager shifts.
10 Q Who else served IP the manager role?
11 A Kate Starbird, [redacted], Renee Diresta. I think maybe one other person.
12 It might have been [redacted] from the University of Washington, [redacted]
13 from Graphika, maybe Graham Bookie, I don't remember, but he was the leader from the
14 DFR side.
15 Q When you are serving in this manager position and you are handling issues
16 that have been escalated from tier two, what sorts of issues might be escalated from tier
17 two to manager?
18 A So if something required -- if there is thoughts that this was something that
19 was going really wide and we might want a write up about it, that would go to a manager
20 to say yes, I think this deserves a --
21 So, for example the Sharpiegate was a great example of, like, this is becoming a
22 big issue. And we made a decision let's write more about this. If they believed that
23 there was a need for something really immediate -- so if there's a possible threat of
24 violence, for example.
25 So we had a couple of threats of violence. We had that bomb threat as I talked

1 about. So those are the kinds of things we would -- wanted them to escalate to a
2 manager. Generally though it was the tier two analysts had -- the students had a lot of
3 flexibility here and what steps they are going to take. This is for if they thought
4 something was a corner case or if something seemed extremely urgent --
5 Q To your recollection, the decision whether to add Twitter, Facebook another
6 external partner was made at the tier two level?
7 A I believe that's generally where it's made, yes.
8 Q Do you recall what criteria was used to determine whether a social media
9 platform should be tagged or not?
10 A So the general criteria was it had to be obviously violative of the policies.
11 Q And at tier 2, when a person is making this determination, is it one person, is
12 it multiple people?
13 A There might have been a conversation between different people or one
14 person could have made it by themselves.
15 Q How big was EIP as --
16 A I think a little --
17 Q -- in 2020, I should say?
18 A A little over 100 people.
19 Q And of the 100, how many served in tier two?
20 A That's a great -- I'm not sure. I'd have to go look.
21 Q Do you know who at EI-ISAC was the individual or individuals who had access
22 to Jira tickets that EI-ISAC was submitting?
23 A I don't. I believe they had a shift system themselves as well so that the
24 person changed.
25 Q And is it your understanding that those individuals would have been

employees of CIS?

A I believe they were. I am not sure.

Q Do you know if CIS was in contact with CISA regarding CIS's involvement in EIP?

A It's possible, but I can't speak as to CIS's relationship to CISA.

[Stamos Exhibit No. 8

Was marked for identification.]

BY [redacted]:

Q And this is some of the archived data from the Jira ticketing system that's been produced for the committee. There are many, many rows that its produced in Excel. Two rows have been pulled for exhibit 1 and --

[redacted]. Is this 8?

[redacted]. Exhibit 8, yes.

BY [redacted]:

Q So to be clear, this is an archived data version of what were Jira tickets. Is that consistent with your understanding?

A So yes -- what we turned over to the committee was an Excel spreadsheet that we exported from when we were done with the project we didn't need a live database anymore, we needed that the data in a way that we could do the analysis that you see in here and in our papers and so we downloaded the database as an Excel spreadsheet.

Q With respect to each of these columns, if you could help walk me through with respect to whether and how each column would appear that Jira ticket when it's first being addressed, when the system is still operational and it is in real-time. There are a couple that appear to be pretty self-explanatory who it is assigned to, who the reporter is.

1 If I call your attention to -- this is on the front page about middle of the way there. CIS
2 misinformation reporting, do you know what that's in reference to?
3 A So that means that this ticket came through EI-ISAC from the CIS team.
4 Q Okay. And so when there are references to a CIS misinformation portal in
5 other contexts, does that to you understanding refer to EI-ISAC?
6 A So if there is a portal that CIS was running, that would be different than this.
7 That would be something that they would see. They would have then had to manually
8 go and put it into our system, if that's what you mean.
9 Q Not quite. To your knowledge, was CIS operating a misinformation
10 reporting portal separate from EI-ISAC?
11 A I --
12 Q Both independent of EI-ISAC.
13 A I know people could report to them. I am not sure exactly what the
14 functions were. So it's possible they had a portal that was separate, yes. But they
15 were not -- we did not have a portal on behalf of CIS to be clear.
16 Q Understood.
17 A Okay.
18 Q Great. To your understanding, and recognizing you were not at CIS at any
19 time --
20 A No.
21 Q -- that is CIS could both receive reports and that was separate than the
22 switchboarding function that EI-ISAC operated, that CIS operated. Is that what you are
23 saying?
24 A I -- I don't know. I know CIS could get reports on behalf of the EI-ISAC and
25 then they could choose to put them into our database. But I don't know exactly how

1 you would communicate with EI-ISAC on the other side.

2 Q Gotcha. But to your understanding, when CIS misinformation reporting

3 appears in the EIP system that is in reference to something that was submitted to EI-ISAC

4 and that CIS decided to then submit to EIP. Is that correct?

5 A Yes. That's right.

6 Q Flip the page, backside of the first page, there's a column called description.

7 And then there are a couple of examples beneath it. And for the top one it looks like

8 there's been an email that was copy and pasted and it's from what appears to be a State

9 official and sent to misinformation@cisecurity.org. To your understanding, is this an

10 example of a report, this email I should say, not the fact that it has been copied and

11 pasted, is this email an example of something that has been submitted via EI-ISAC by a

12 State official or via a different reporting portal available to CIS?

13 A I -- this is obviously an email that belongs to CIS. Whether or not this is

14 officially part of the EI-ISAC, I don't know.

15 Q Okay. So if there was a difference between the two, by the time it gets to

16 EIP that to your understanding that distinction is not made?

17 A We would not know that difference.

18 Q Okay.

19 A And I'm not sure what reporting CIS would take outside of their EI-ISAC, but

20 that's something you'd have to ask them.

1

2 [12:49 p.m.]

3 BY [redacted]:

4 Q All right. With respect to when a ticket is created, can we walk

5 through -- you know, what is the first thing that happens? Is this type of description

6 included on the ticket initially?

7 A Right. So when filling out the form to create a ticket, the CIS people, at

8 least in this case -- and this is, I think, common with a number of the EI-ISAC

9 tickets -- copy and paste it in whatever report they got into the description. And then

10 they could fill out probably a couple of these other fields.

11 You know, all the times would be automatically generated. But, for example,

12 priority based upon their definition of priority, those are probably the only ones they

13 filled out themselves.

14 Q And when an EIP analyst -- we'll start with a tier 1 analyst -- sees this

15 ticket -- first off, are tickets assigned randomly? You mentioned there were shifts. But

16 when someone starts their shift, do they get to pick and choose which tickets they work

17 on?

18 A Right. So in the different shifts, we had different assignments, effectively

19 desks. This was COVID so people were generally not together. They were working

20 from their dorm rooms or home and -- but they would have a specific thing they were

21 responsible for.

22 So probably somebody -- I don't recall the exact assignments, but I expect that we

23 had somebody assigned just to incoming. So if a new ticket was created based upon the

24 shift, it would go in as effectively unseen, and they would have the queue open of tickets

25 that had yet to be addressed, which is generally how ticketing systems work.

1 Q And when an analyst then takes on a ticket -- and we'll use these two as an
2 example -- they would see the email that had been copied and pasted as a submission by
3 CIS. Is that right?
4 A Yes.
5 Q If I could have you flip it over. This would be the front half of page 2,
6 there's a column referring to fact checking.
7 A Yes.
8 Q Do you know who in EIP -- or first off, let me back up.
9 Is it someone within EIP who is responsible for filling out the fact-checking aspect?
10 A Yes. This is part of our checklist of things for tier 1 analysts to do was you
11 can see it says archive URLs. So one of the first things they do is archive the content.
12 As I said, one of our core things was to try to have a historical database here for further
13 study. So they'd archive it in case it got taken down or deleted.
14 And then one of the things in the checklist was if a factual statement was being
15 made, whether or not there were any other -- any fact checks or any other news stories
16 to reference on that factual assertion.
17 Q If I could have you flip one more page, and it starts with the
18 columns -- there's a comment column, and then comment 1, and it starts column 2,
19 column 3, so on.
20 A Right.
21 Q Can you walk me through as far as what this would look like on the Jira ticket
22 as opposed to what we're seeing in the archive data?
23 A Right. So in the Jira ticket, you would have -- the body of the ticket would
24 have the initial email as we talked -- so the summary up top, so just a description. As
25 you can see here, it says CIS dash. So my understanding is that reflects their internal

1 database for CIS of their tracking number.

2 The description -- the issue key is just a monotonically generated integer of

3 counting up ticket by ticket as it's created automatically by the system. So a bunch of

4 these fields you would see there in the body, and then at the bottom people could

5 comment.

6 And so what you're seeing there is it's like Reddit or Facebook or any other place

7 with a common field is somebody could comment, respond, respond. And so these

8 columns represent those comments in order.

9 Q Okay. And who can comment?

10 A So there are two kinds of comments. There were public and private

11 comments. Private comments could only be EIP members. Public could have been

12 comments that were made by EI-ISAC or GEC or one of the tech companies if they had

13 been added to the ticket.

14 Since in this situation the ticket had been reported by CIS, the CIS people had

15 access to those fields automatically.

16 Q And since it had been submitted by CIS, does CIS have access to these

17 private comments that you referenced earlier?

18 A I don't believe so.

19 Q So even the entity submitting the ticket doesn't have access to those?

20 A That was -- the intention was they should not have access to that.

21 Q In this archived format, are you able to tell which comments are public and

22 which are private?

23 A No. You have to kind of infer it by what is being said.

24 Q Okay. If there were -- to your recollection, were there instances where

25 there were multiple tech companies copied, so, like, say, both Twitter and Facebook

1 would be on a ticket?

2 A Yes. We actually document this in our report where we talk about -- so if

3 you look at 38, page 38 in the main report, we talk about which tickets were -- which

4 companies were tagged. And as you can see, it's over 100 percent, because you would

5 have companies -- multiple companies that could be tagged on the same ticket since the

6 ticket was about a narrative, not necessarily a single piece of content.

7 Q And when two companies are tagged, with the understanding that there's

8 these private comments that they can't see but the public ones that are seen, if Twitter

9 posts a comment and both Twitter and Facebook are tagged, can Facebook see what

10 Twitter commented?

11 A I don't recall what they could see. It's possible. I'm not sure.

12 Q If I could have you turn to -- keep flipping until you get to column 5,

13 please -- comment 5, that column.

14 A I see it.

15 Q Great. There's a comment -- there's some text before it, but the language

16 starts: "We heard back from Twitter through CISA with this response: Our team

17 concluded that the tweet was not in violation of our Civic Integrity Policy."

18 Do you know what role CISA is playing that is referenced here?

19 A So I expect this comment was from EI-ISAC. I can only assume based upon

20 what I see here. I have no other knowledge of what role CISA was playing.

21 Q Okay. So with the understanding that -- so it doesn't seem like this

22 comment came from you. But based off your experience in EIP and seeing this Jira

23 ticketing system, do you know whether CIS was working with EI-ISAC?

24 A I know CIS has a relationship with -- or CISA has a relationship with CIS. I

25 don't know exactly what that was like.

1 Q Do you recall any discussions with the social media companies whether they
2 had the understanding that CISA was working with the EI-ISAC?
3 A I don't recall that being something they'd discuss, and I'm not sure why they
4 would discuss that with me.
5 Q If I could have you keep flipping until we get to comment 11, that column.
6 A Uh-huh.
7 Q There's, again, like a string of letters and numbers, but the text starts:
8 "Thanks EIP. We have kept the election official updated on the steps you took. We
9 also received confirmation from Facebook (by way of CISA) that Facebook took action on
10 this case."
11 Same question. Do you know what role CISA is playing here?
12 A No. I expect that this -- since this says "Thanks EIP" and we have kept the
13 election official updated, that this was posted by the EI-ISAC team. They're referencing
14 CISA, but I don't know exactly the relationship between the EI-ISAC and CISA.
15 Q But it is your understanding -- I mean, CISA introduced EIP to EI-ISAC. Is
16 that right?
17 A Yes. I know that, obviously, the EI-ISAC was operating with CISA's blessing
18 to run a switchboard, but what specific role was being played in this is outside of our
19 knowledge.
20 Q Do you recall if -- let me strike that.
21 Throughout the 2020 election that the EIP is operating in, would you make public
22 posts from time to time regarding decisions that EIP was making?
23 A I wouldn't say they're about decisions we were making, but we did public
24 posts about the narratives we found.
25 Q And do you know if -- actually not do you know.

1 Do you recall any interactions with officials at CISA regarding the narratives that
2 you were finding?
3 A It's possible we briefed them. I don't recall any specific conversations.
4 Q Okay. If you were to brief CISA, what form of communication might that
5 be?
6 A Well, I expect we would have e-mailed them if we wanted to have a meeting
7 with them.
8 Q Okay. And who at CISA was your primary point of contact during the fall of
9 2020?
10 A Probably [redacted] or Brian Scully you could say.
11 Q Was there a time where you briefed the tech companies on what EIP is when
12 you were first inviting them?
13 A Yes.
14 Q And when that briefing occurred, had you already made the decision to have
15 EI-ISAC as an external partner?
16 A I don't recall the order in there.
17 Q Okay. Do you recall a time where external stakeholders were brought
18 together for a briefing, including tech companies and the EI-ISAC?
19 A We did lots of briefings. It's quite possible it happened, yes.
20 Q Do you know with the Jira ticketing system, could someone download a
21 ticket ever? Is that a function that was available?
22 A As the administrators, we could download full spreadsheets. It's -- I don't
23 know exactly what configuration we had on individual tickets. Certainly you could
24 always print a ticket. So if you wanted to have a record yourself, you could always
25 generate a PDF.

1 Q Okay. Again, with respect to the commenting system, I'd asked about
2 Twitter and Facebook and whether -- if Twitter comments, can Facebook see it. Same
3 question, but with respect to if GEC is the one that submitted the ticket and is able to see
4 what's going on, do you recall instances where GEC was on a ticket with Twitter and
5 Facebook as well -- Twitter or Facebook?
6 A It's likely. We've turned over all of those tickets, so it should be obvious
7 from the organizations field. So if that was true, you would have GEC as well as
8 Facebook and/or Twitter tagged in organizations.
9 Q And to your recollection, same dynamic or same question as the
10 Twitter/Facebook one. If GEC commented, could -- and both GEC and Facebook were
11 tagged, could Facebook see GEC's comment?
12 A I don't recall. I know that the company should have been able to see the
13 initial description. So if GEC put in something in the initial description, the companies
14 would have seen that, but I'm not sure about the comments, what they would have seen.
15 Q Okay. At what point in time -- so, obviously, it's operational through at
16 least the election of 2020. At what point in time did the Jira ticketing system -- was it no
17 longer operated and then you switched to this archived version of the data?
18 A Well, we stopped our collection a couple of weeks after -- we've got the
19 exact date in here -- of the election, so that's when we stopped changing it. And so
20 probably some point early in 2021 when we were changing the project from -- so it says
21 right here, you know, we started data cleanup in -- around the end of December, so that's
22 when we would have had to export and start to do all of the work necessary to do the
23 analysis. So there's an operational timeline on page 3. So I'm guessing it would have
24 been in the end of December, beginning of January.
25 Q Do you know if this archival process was automatic?

1 [redacted]. Oh, [redacted].

2 [redacted]. We've got 30 more seconds.

3 A Okay. We manually went in and said we wanted to export the

4 spreadsheet, if that's what you mean.

5 BY [redacted]:

6 Q Okay. So it was not an automatic process, just a point of clarification?

7 A We had to -- we had to say we want to export.

8 Q Yeah. And did you have to go to Atlassian to do that, or is it just an option

9 as a user to do that?

10 A If you were an admin, you could just go and click a button in Jira to say

11 export everything.

12 Mr. [redacted]. Okay. Could we go off the record, please?

13 [Recess.]

14 Ms. [redacted]. Okay. It is 1:48. We can go back on the record.

15 BY [redacted]:

16 Q Mr. Stamos, I want to start by talking through some comments that were

17 made in the prior hour before the break.

18 A Okay.

19 Q There was some discussion about an NSA briefing.

20 Do you recall that?

21 A Yes.

22 Q And you said that that was a briefing for a General Nakasone. Correct?

23 A And his staff.

24 Q And his staff?

25 A Yes.

1 Q A virtual briefing?

2 A Yes.

3 Q Okay. And did they request that briefing?

4 A General Nakasone did.

5 Q And why -- what's your understanding of why he requested that briefing?

6 A He had come to Stanford and had visited a number of people, and we -- as

7 part of that visit, I went in with some of my colleagues from SIO, and we gave him an

8 overview of a bunch of our work, and he said -- and it included, you know, the work we

9 were doing to get ready for the election. And he said something along the lines of we'd

10 love to hear from you of what kind of concerns you have for interference in the fall.

11 Q Okay. Were there -- the concern was specifically foreign influence

12 campaigns. Correct?

13 A That's right, yes.

14 Q Okay. So did he -- during that meeting, to the extent you recall, was it

15 primarily you providing a presentation about what you were seeing?

16 A It was me doing a presentation about the capabilities of various actors that

17 we had been tracking and some of the things we were concerned about them doing

18 from -- at the time and still, one of the things we talk a lot about is kind of hybrid warfare.

19 So one of our big concerns was if you were one of these high-end government

20 groups, similar like PLA, GRU, not the Russian troll farms, but like the high-end guys, you

21 could attack election infrastructure.

22 Third, in the chaos, it's really hard to actually change votes. It's not that hard to

23 make things break. And then break things and then use that as a basis of a

24 disinformation attack to say that the election is being stolen, something is going on.

25 And so we talked a lot about that kind of stuff and what we would be looking for

1 and the threat posed by various adversaries in that area.

2 Q Okay. Thank you for that.

3 And so the focus was completely on foreign interference. Right?

4 A Yes.

5 Q And it wasn't about -- well, withdraw. Strike that.

6 A He specifically asked us to brief on foreign interference.

7 Q Okay.

8 A And knowing that the NSA is not allowed to operate domestically, I would

9 have never talked about domestic actors.

10 Q All right. There was some discussion in the earlier hour -- actually a fair

11 amount of discussion on CISA. And I want to take a step back and talk through what

12 CISA, is, what it does, what its role is.

13 I think you were asked, maybe actually in the first hour, when CISA was created.

14 Do you remember that?

15 A Yes.

16 Q And I think you said you thought it was 2018, but you weren't sure?

17 A Yes.

18 [redacted]. So I want to introduce the printout from Congress.gov, which is the

19 reflection of the bill that created CISA. This will be exhibit number 9.

20 [Stamos Exhibit No. 9

21 Was marked for identification.]

22 BY [redacted]:

23 Q And this was bill number H.R. 3359, Cybersecurity and Infrastructure

24 Security Agency Act of 2018. And if you see up at the top, it says: "Latest action:

25 11/16/2018 became Public Law No. 115-278."

1 Do you see where it says that?

2 A Yes.

3 Q Okay. And then if you look up above that, it says the bill's sponsor was

4 Representative Michael McCaul, Republican of Texas.

5 Do you see where it says that?

6 A Yes.

7 Q Okay. And looking down further, I want to start at -- we'll start at the

8 bottom of the actions and work -- it's in reverse chronological order.

9 So the bill was introduced in the House on 7/24/2017?

10 A Yes.

11 Q Do you recall which party was in control of the House in 2017?

12 A I believe it was the Republican Party.

13 Q Okay. And then it was discharged -- it was reported by the Committee on

14 Homeland Security on 12/11/17 and then discharged by a number of other House

15 committees on that same day.

16 Do you see where it says that?

17 A Yes.

18 Q And so one of the committees that discharged it was the Committee on

19 Oversight and Government. Do you see that it says that?

20 A Yes.

21 Q Are you aware that Mr. Jordan was a member of that committee in 2017?

22 A I was not aware.

23 Q Okay. And then later that day, on 12/11/17, it says it was passed and

24 agreed to in the House on suspension.

25 Are you familiar with what the term on suspension -- on the motion to suspend

1 the rules and pass the bill means?

2 A I mean, I believe that's when it's basically unanimous and people say they

3 don't want to slow things down, so nobody objects and, therefore, it passes.

4 Q Okay. So in December of 2017, this passed the House, essentially a

5 Republican House -- Republican-led House essentially unanimously in December.

6 Correct?

7 A Yes.

8 Q Okay. Then it went over to the Senate. Do you know which party was in

9 control of the Senate in 2018?

10 A I believe it was also the Republican Party.

11 Q Okay. So it passed through the Senate Committee on Homeland Security

12 and Governmental Affairs on the 3rd of October, 2018, and then it says it was passed the

13 Senate by -- passed the Senate with an amendment by unanimous consent also on

14 10/3/2018.

15 Do you see where it says that?

16 A Yes.

17 Q So it also passed the Republican Senate by unanimous consent. Is that

18 right?

19 A Right.

20 Q Then there was a conference to resolve differences. It, again, passed the

21 House and the Senate without objection.

22 Do you see where it says that?

23 A Yes.

24 Q Again, House and Senate were both Republican held at the time?

25 A Right.

1 Q And then it was presented to the President on 11/14/2018 and signed into
2 law on the 16th of November?
3 A Yes.
4 Q Who was the President on November 16, 2018?
5 A To the best of my knowledge, it was Donald J. Trump.
6 Q Okay. Thank you.
7 So CISA was created through this bill that passed unanimous consent in the House,
8 unanimous consent in the Republican Senate, and was signed into law by President
9 Trump. Is that correct?
10 A Yes.
11 Q Okay. I want to turn to a CISA web page on election security. This will be
12 introduced as number ten, exhibit 10.
13 [Stamos Exhibit No. 10
14 Was marked for identification.]
15 BY [redacted]:
16 Q And before we actually get into the meat -- you can take a moment to
17 review, and then I'm going to ask you your understanding of what CISA's role is with
18 respect to election security.
19 A Okay.
20 Q You were asked earlier about the definition of election infrastructure and
21 who identified it.
22 Do you see on page 2 the second full paragraph that says: "In January 2017, the
23 Department of Homeland Security officially designated election infrastructure as a subset
24 of the government facilities sector, making clear that election infrastructure qualifies as
25 critical infrastructure."

1 Do you see where it says that?

2 A I do.

3 Q Okay. So that would have been January 2017, so right at the turnover of

4 administrations. Correct?

5 A Yes.

6 Q Okay. And as far as we know, throughout the Trump administration, there

7 were no steps taken to roll that back?

8 A No, I don't believe there were.

9 Q Okay. And then we spoke in, I think, my first hour about what election

10 infrastructure is.

11 A Uh-huh.

12 Q And they have a list here. So I just want to go through and ask you kind of

13 your understanding of what each one of these things are.

14 So it says: "Election infrastructure is an assembly of systems and networks that

15 include, but is not limited to:

16 "Voter registration databases and associated IT systems."

17 Are those the -- those are the technical systems that hold voter registration data.

18 Correct?

19 A That's right. I think they also probably mean the web interfaces and the

20 other ways by which voters can change their information and interact with the databases.

21 Q Okay. And then it says: "IT infrastructure and systems used to manage

22 elections."

23 A Yes.

24 Q So, again, that's all -- that's IT systems. Right?

25 A Yes.

1 Q Okay. "Voting systems and associated infrastructure," are those actually
2 the voting machines? Is that your understanding of that?
3 A I expect that means the voting machines and probably things like the
4 counting systems. Where, like, a counting system falls between IT infrastructure and
5 voting systems is an interesting question, but yes.
6 Q Okay. "Storage facilities for election and voting system infrastructure."
7 Are these, like, warehouses, I guess, where the voting machines might be held?
8 A Yes, I believe so. And I don't think this is a mistake because there have
9 been a number of issues where in the years between elections devices have been lost or
10 stolen or they can't have chain of custody. So I expect that that's a focus on where do
11 you keep all of the polling information and voting information in those off years.
12 Q Okay. And then "Polling places (to include early voting locations)," so that
13 would be probably both the actual physical places where people can go to cast their vote
14 and potentially drop boxes as well?
15 A That's what it sounds like, yes.
16 Q Okay. So these are the actual technical systems, the means by which
17 people vote. Correct?
18 A Yes.
19 Q Has nothing to do with the politics around voting; it's really the operation of
20 the vote. Is that fair to say?
21 A Yes.
22 Q Okay. And then on the next page it says: "CISA's Role." And it says:
23 "CISA is committed to working collaboratively with those on the front lines of
24 elections -- state and local governments, election officials, federal partners, and private
25 sector partners -- to manage risks to the Nation's election infrastructure."

1 Do you see where it says that?
2 A Yes.
3 Q Okay. And, again, the infrastructure is what we just read through?
4 A Yes.
5 Q All the technical -- the nuts and bolts of how voting operates. Right?
6 A Right.
7 Q So CISA is actually tasked with working with the State and local
8 governments? Right? That's part of their role?
9 A That's my understanding, that they are the agency that has been given the
10 primary responsibility for coordinating the security of the election.
11 Q And EI-ISAC that we talked a fair amount about, they're kind of -- is it fair to
12 describe them as something of a trade organization for local election directors or State
13 and locals?
14 A I mean, EI-ISAC is its own thing. I consider it a collaborative -- a defense
15 collaboration.
16 Q Okay.
17 A But, yes. The closer to a trade association I think would probably be NASS
18 and NAZB.
19 Q Okay. So EI-ISAC is -- so the member organizations are -- or the member
20 entities are State and local election officials and entities. Right?
21 A That's my understanding, yes.
22 Q Okay. So EI-ISAC is effectively a conglomeration of those entities, and then
23 it interacts with CISA, which is actually what CISA is supposed to do is interact with State
24 and local entities. Right?
25 A Yes.

Q Okay. We can move on probably.

A Did I pass the civics test?

Q You did.

A Okay.

Q I want to turn to the Jira tickets that we talked a fair amount about in the prior session.

And you said earlier you were the one who selected the Jira software. Right?

A Yes.

Q And you said it's a pretty commercially widely available software?

A Yes. I believe it is the most widely used ticketing software in software development certainly.

Q And is that -- so is it used -- obviously, you use it in your work with research regarding the spread of information online. But is it also used in other social research contexts, to your knowledge?

A I'm sure it is, but I can't -- I can't think of any specific examples right now.

Q Okay. So we talked through the columns, and I want to turn back -- actually I don't know which exhibit number this was.

[redacted]. Eight.

BY [redacted]:

Q Eight. We talked through the columns in exhibit number 8, and we talked through a couple of different examples.

There's a lot of -- and I'm not sure if it's actually in this example or not. What was exported and produced in the Excel spreadsheet, there's a lot of columns for comments. Right?

A Yes.

1 Q Why are there so many columns for comments?
2 A My understanding is when you export a spreadsheet from Jira is it needs a
3 way to represent all of the comments, and some tickets might have zero comments, and
4 some could have 50. So if you're going to represent that in a spreadsheet, you need a
5 column for every single -- the number of columns needs to be equal to the maximum
6 number of columns -- of comments on the max -- of the ticket with the maximum number
7 in the database.
8 Q And I guess what I'm getting at is we talked through in the prior hour the
9 comments that reflected interactions with social media companies.
10 A Right.
11 Q There was actually a lot of internal comments back and forth between
12 students and supervisors and, I guess, potentially between researchers and each other.
13 Right?
14 A Yes.
15 Q And was that actually the primary purpose of Jira was to help do that
16 analysis of this material internally?
17 A Yeah. The two primary purposes was, one, as the data repository that we
18 could use for our analysis and, second, as the way that our people could interact with
19 each other and to track their tasks. So just like a -- ticketing systems are often used in
20 situations where people work shifts so that you don't -- instead of e-mailing Bob, if Bob is
21 done at 8:00 p.m., then you don't want that sitting in Bob's inbox. You want there to be
22 a ticket that then the next person who comes on the shift it's their responsibility to finish
23 the work.
24 Q Okay. So it was kind of an internal communication method?
25 A Internal communication, and it's our primary research database. So, like,

1 for all of the data that went into our publications, the primary database where that was
2 stored was Jira.
3 Q And a significant amount of the information that was produced to us were
4 tickets that were generated by EI-ISAC. Right?
5 A Of the stuff that was produced --
6 Q Right.
7 A -- that includes all of the tickets that were generated by EI-ISAC, yeah.
8 Q But that's not actually representative of the total number of tickets that are
9 in the database. Right?
10 A That's right. So in our report we document the number of tickets, which I
11 believe was -- so in our final summary, we had 639 in-scope tickets. So the actual
12 number in the database is closer to a thousand. This is from later us taking out things
13 that -- test tickets, test data, situations in which two tickets turn out to be about the same
14 thing.
15 Q Okay.
16 A So all of those things were condensed before we did our analysis so we
17 didn't have duplicates. And I believe there's something like 100 and some tickets
18 involving EI-ISAC, so it's less than a sixth.
19 Q Okay. So less than a sixth. Thank you for doing the math for me because I
20 could not have done that in my head.
21 A Sure. How about, like, I'll do the math, and then you can explain how
22 Congress passes laws in a moment.
23 Q So EI-ISAC, which is operated by CIS -- and I'm sorry. CIS is the Center for
24 Internet Security. Right?
25 A Yes.

1 Q Okay. The State and local election officials would send them reports, and
2 then EI-ISAC would effectively just pass them along to you. Right?
3 A They made a determination. I'm not sure how of whether to pass it along.
4 Q Right.
5 A But, yes, they would take, as we can see in here, emails they would get in,
6 and then they could put that into a ticket for us.
7 Q And I guess my point isn't that they were passed along. It's that the
8 original incoming information came from State and local officials. Right?
9 A That's right. If you look through the EI-ISAC tickets, I think for almost all of
10 them you should have an original email that we can see where it came from.
11 Q Okay. And so we just talked through CISA and CISA's role. CISA's role is
12 actually to interact with State and local election officials. Right?
13 A Yes.
14 Q Okay. So to the extent that CISA's name shows up in these, it's kind of part
15 of their task, right, under the law that was passed by the Republicans in 2018?
16 A As I told [redacted], I can't speak to exactly what CISA's role was in some of
17 these tickets where they were not communicating directly with us because they could not
18 get directly into this.
19 Q Okay.
20 A So I don't really feel comfortable answering that.
21 Q Okay. Understood.
22 Do you have an understanding of why State and local election officials would be
23 concerned about the information that they were flagging?
24 A Yes.
25 Q And what's your understanding of that?

1 A So I think it matters in the situation. In the situation where they found that
2 somebody was misleading voters about how to vote, when to vote, that that is -- you
3 know, part of their job is to enfranchise their voters, and that would be obviously quite
4 upsetting if you did all of this work to educate people and then it was being undone by
5 some influencer on Instagram. And so that's part of their job to make sure people are
6 properly educated.
7 In some of these cases, they're probably worried about people who are trying to
8 drive violence. So I believe we have a number of tickets where individuals are making
9 claims about individual voting workers. This is one of the trends in 2020 that I think was
10 an unfortunate new thing that might be with us for a while is trying to intimidate
11 individual people who are working, the little old ladies that work in the polling places, as
12 well as the employees who were like -- could make more money doing anything but
13 working for their county, but then they're having their information posted and such. So
14 in those situations protecting your employees would be a big deal.
15 So, yeah, I mean, I think there's a variety of reasons why they would be really
16 worried about disinformation in their area.
17 Q And I think you touched on this earlier, but I'm not sure I heard the
18 response.
19 Could it have been possible for you -- for EIP, I mean, to have set up a system
20 where every State and local election official in the country could have just e-mailed you
21 directly with items of concern?
22 A I think that would have been impossible with the amount of time we had.
23 My understanding is, you know, one of the things CISA had to do here is just get the email
24 addresses and the phone numbers of election officials, and that by itself was a massive
25 project because there's thousands and thousands of people. And as you can see if you

1 look through the tickets, there's, like, Yahoo accounts, Gmail accounts, AOL accounts.
2 So it's not like they're all coming from.state.oh -- or something -- u.s.
3 And so having like an authenticated list of people that we could interact with
4 would have been impossible.
5 Q Okay. And I'm sorry. You said one of the things that CISA had to do.
6 Does that mean that CISA had to do to set up?
7 A I think to set the switchboard, so I'm not sure if that work was done by CISA
8 employees themselves or if that was done by EI-ISAC. But in creating the switchboard,
9 just having the contact information for all of those people, was a huge project.
10 Q Yeah. Okay. But, again, CISA was not flagging any material or sending any
11 material to you. All they did was set up this switchboard that then enabled State and
12 local election officials to pass things on to you efficiently?
13 A That's right. I'm not aware of any situation in which any of the content that
14 was referred to us came from CISA itself.
15 Q Okay. I want to look at -- actually, I want to talk through, before we get
16 back to this exhibit, the process of what happened after EI-ISAC created a Jira ticket.
17 So EI-ISAC creates a Jira ticket. And is there an alert for an EIP researcher?
18 What happens next?
19 A It would go into a queue. I'm not sure whether generating an alert. But it
20 would have been somebody's job to handle the incoming queue.
21 Q Okay.
22 A So they would have then gone and said, I'm taking this over. There's a
23 button you can push to say this ticket is assigned to me. So a ticket at any moment has
24 to be assigned to somebody, and they assign, okay, I'm taking and then they -- I'm taking
25 responsibility for this, and then they would run the checklist of things that we had given

1 our students of go archive it, go fill out -- we had our little form with all the little form
2 fields. You can see how much is it spreading, how's it going viral, are there news stories
3 or fact checks related to a factual concern, what category is it in. Part of that would be
4 if it was not in one of those categories that we were paying attention, then they would
5 mark it as out of scope and close the ticket; prioritization and such, and then they would
6 fill out a little bit of a narrative in the comments of this is what I found.
7 Q And you said earlier -- you said just a second ago that one thing they would
8 track would be how far it's going and how fast it's going. I think the spreadsheet uses
9 the terms "reach" and "velocity." Is that --
10 A That's right, yes.
11 Q Okay. And so why were you interested in assessing reach and velocity?
12 A So a big part of this project was trying to understand how do viral rumors go
13 viral. And so we were trying to study in real-time how do things go big. We actually
14 have some interesting conclusions in here, I think, that were unique in that -- in some of
15 our published papers, that we have a unique model of -- at least in this election, one of
16 our findings was that virality for most of these narratives was not driven by kind of
17 authentic engagement by individuals but by a relatively small number of influencers, who
18 the moment one of those influencers said -- retweeted something or shared something or
19 said, "I can't believe this is happening," usually a little comment, that would be the start
20 of what we called the hockey stick.
21 So that you would have some claim about Sharpies or something that would -- you
22 know, a couple of people are looking, a couple of people. And then one of the
23 influencers -- you know, we have the top 25 list -- so Don Trump, Jr. retweets it, and then
24 you'll have all the influencers retweet it, and then it goes exponential.
25 So one of the things we were studying was how quickly are things growing. Is it

1 growing in a way that it's people organically looking at it, or is it growing because one
2 incredibly powerful person gave it a kick?
3 Q Okay. And so, again, that was part of your research, the research function
4 of EIP. Right?
5 A That was part of our research, and that directly went into our analysis and
6 the papers we wrote.
7 Q Were you surprised by that finding?
8 A I was. I mean, we always knew that influencers were important, but
9 something that we came out of this understanding is that very few things actually went
10 viral on their own without a relatively small number of people deciding to make them a
11 big deal.
12 Q Okay. So in certain instances after the -- so it sounds like there was an
13 extensive analysis done of whatever the material was that had been identified. Right?
14 A Yeah. So we have that calendar in here where we spent months in the
15 big -- in the first quarter of 2021 doing the data analysis so that we could write this paper.
16 And then there's work that happened after that, after this report, for our peer-reviewed
17 journal articles.
18 Q I'm actually talking about the period during the election.
19 A Oh, I'm sorry.
20 Q So when the ticket came in and there would be certain information entered
21 between -- by the students -- and the researchers are mostly students. Right?
22 A Yes, the majority. 42 of our 50 people were students.
23 Q So there would be certain information entered by these student researchers,
24 and there would probably be some discussion amongst them or between them and a
25 supervisor. Right?

1 A That's right, yes.

2 Q And then at some point -- in certain instances, EIP did make the call to bring

3 certain content to the attention of social media companies. Right?

4 A That's right.

5 Q Okay. How did EIP determine what content was appropriate to bring to the

6 attention of social media companies?

7 A So we had a couple of criteria. If something was dangerous, that was

8 something that we would do immediately. So if we thought there was either a threat to

9 somebody's life or things like the bomb threat situation, then those are the kinds of

10 things that would kind of jump to that, even if it wasn't of high spread. Right? So

11 threatening somebody's life or posting the personal details, even if it only had ten

12 retweets, that would be a big deal for us.

13 If people were doing an impersonation -- again, they didn't have to be

14 widespread, but if somebody was pretending to be an election official, that's something

15 we would report really quickly. And then if something violated their policies and it had

16 good reach and velocity and it clearly violated platform policies, then we could refer it to

17 them.

18 Q Okay. So just to repeat back what you said, threats to life or safety or

19 health?

20 A Yes.

21 Q Impersonations?

22 A Yes.

23 Q And then the third category would be something that potentially violates

24 platform policies?

25 A Right, and that has a reasonable amount of spread. We -- you know, if

1 somebody just said something and four people saw it, even if it was, like, very violative
2 policies, if there wasn't a real risk to people, then we probably wouldn't have said
3 anything. If it got 50, 100, 2,000 retweets and we saw that the velocity was extremely
4 high, then that would be much more likely that we'd point it out to them.
5 Q Okay. And once you pointed something out to a social media company -- I
6 think we talked through this earlier, but just, again, for the record, once you pointed it
7 out to the social media company, it was up to those companies to determine whether a
8 post actually violated their internal content policies. Correct?
9 A That's right.
10 Q And it was up to them to determine whether to take any further action?
11 A That's right. It was totally up to them.
12 Q And they never came back to you and said, you know, what do you -- what's
13 your opinion of this action?
14 A I don't -- I don't know of any situation in which they asked for our opinion on
15 their action. Generally their response is, if you look at the tickets, are ack, which is
16 acknowledge, thank you, and maybe sometimes they would tell us what they did. To
17 do -- we actually have empirical evidence of what they did. To put the empirical
18 evidence together, we actually had to test it ourselves because generally we would not be
19 told by the companies what actions they took.
20 Q Okay. So I want to turn to this exhibit 8 now, and I want to talk through the
21 interactions of social media companies. But before I do that, I want to actually look at
22 the underlying content that's referenced.
23 So the first one, it's Case No. -- I'm sorry. It's issue EIP-482.
24 A Uh-huh.
25 Q And it's -- we talked through earlier. It says: "CIS Misinformation

1 Reporting."

2 A Yeah.

3 Q If you turn to the next page where it says "Description" at the top, it says:

4 "I'm reporting this" -- it looks like it's an email, appears that the email sender said: "I'm

5 reporting this disinformation about elections. Please take steps to stop it, and correct it

6 publicly. Thanks."

7 A Yes.

8 Q Okay. And then on the next page, under "Archive URLs," it says -- there's a

9 web address. It's

10 web.archive.org/save/https://twitter.com/realDonaldTrump/status -- then there's a long

11 string of numbers.

12 Do you see where it says that?

13 A Yes.

14 Q Okay. I want to introduce what that is into the record.

15 So this is exhibit number 11.

16 [Stamos Exhibit No. 11

17 Was marked for identification.]

18 BY [redacted]:

19 Q So this is a tweet from @realDonaldTrump. It says: "Strongly trending

20 (Google) since immediately after the second debate is CAN I CHANGE MY VOTE? This

21 refers to changing it to me. The answer in most states is YES. Go do it. Most

22 important Election of your life!"

23 And it's 6:53 a.m., October 27, 2020?

24 So this is a tweet that then President Trump put out. In your assessment, does

25 the question about changing your vote, is that accurate, do you believe?

1 A My understanding is no. I think because this is in pre-voting so that you
2 would be talking about, for example, absentee ballots is that you cannot change your
3 vote. And, in fact, if you went and tried to send another absentee ballot in, you would
4 be violating the law.
5 Q Okay. So this is -- and it looks like there's a fact check -- I don't actually
6 have the fact check. But on its face, there's certainly questions about whether or not
7 this is true?
8 A Right. And if you look in this, here are multiple stories about it. So if they
9 were in here, this means that the student looked at those and that they had a factual
10 refutation of the claim that was being made here.
11 Q Okay. And a little further down on the page it says the reach was viral,
12 1,001 plus engagements.
13 A Yes.
14 Q Is 1,001 plus engagements, is that like a category? Does that just, like,
15 mean it's the most viral it can be?
16 A Yeah. So this is the reach -- I believe this was a drop-down box that you
17 could choose from a level, and I believe this was viral was the top, over 1,000
18 engagements.
19 Q Okay. And then it says -- on the next page -- sorry -- the column that says
20 "Velocity," it says: "Growing: reach is growing linearly."
21 A Yes.
22 Q Do you see where it says that?
23 A Yes.
24 Q What does that mean?
25 A So we have a couple of different velocity options again in a drop-down box.

1 And so you can see two of them here. One would be linear, so it is growing, but not
2 crazy. Viral would be the top level of growth, which means it's going exponential, like
3 there's a curve like this [indicating].
4 Q Okay. And then I can't quite figure out from this spreadsheet if this was
5 actually referred to Twitter or not, but I'm gathering that it was because of the response.
6 A Right. So there is a response here from Twitter: "Twitter received and is
7 reviewing." You can also check --
8 Q I'm sorry. Which column is that?
9 A Comment 3.
10 Q Thank you.
11 A You can also tell it went to Twitter because if you look in platform column,
12 which is near the end, it's labeled with Twitter. And so that meant that they had been
13 added -- or I'm sorry -- not the platform column; the organizations column. So those
14 organizations, those are the people who could see the tickets. So Twitter had been
15 added specifically. Platform was just our own internal designation.
16 Q Okay.
17 A The organizations is the people who could see the ticket, so we have added
18 @Twitter.
19 Q Okay.
20 A And this is clearly a message from Twitter saying Twitter received.
21 Q Okay. Twitter -- so this was sent to Twitter. Twitter did see this?
22 A Yes.
23 Q You did refer this effectively to Twitter?
24 A Yes.
25 Q And then I want to look at column 5, comment 5. And what it says is -- I

1 think we read the first part of that sentence but not the second part. So the full
2 sentence is: "We heard back from Twitter through CISA with this response. Our team
3 concluded that the tweet was not in violation of our Civic Integrity Policy."
4 Do you see where it says that?
5 A I do.
6 Q Okay. So it says: "We heard back from Twitter." So it sounds like
7 Twitter didn't actually even tell EIP directly?
8 A That's right. They -- generally companies -- it was a crap shoot whether or
9 not they would tell us what they were doing.
10 Q Okay.
11 A They usually would just acknowledge it.
12 Q Okay. But at the end of the day, Twitter concluded that this tweet was not
13 in violation of its content moderation policies. Right?
14 A That's right.
15 Q So they didn't take it down, at least not at that time?
16 A At this time they didn't take it down, no.
17 Q So this is an example of a situation in which the EIP flagged content for social
18 media. The social media company, in this case Twitter, I guess assessed it against its
19 own policies, or did something with it -- we don't know -- and came back and said, no, this
20 doesn't violate our policies. Right?
21 A That's right.
22 Q Okay. So you had no control over that. You just sent it off, and they did
23 what they did and sent it back and said no?
24 A That's right. And we, in fact, have hard empirical evidence on this, in that
25 we went -- for the 4,000-some URLs that were sent to any platform that we went and

1 checked them after the election of what had happened to them, and we found that in
2 only 35 percent of the time had they made any decision, which is what you would expect
3 if they were making their own determination per their policies of what they should do.
4 Q Sorry. So in only 35 percent of the time had they make any decision,
5 meaning that --
6 A I'm sorry. Did they take any actions on anything we referred to them.
7 Q So in -- sorry. So in 65 percent -- am I doing the math right? In 65 percent
8 of the time, they just didn't do anything with it at all?
9 A That is yes. That is what we saw. And the most common action -- and so
10 I'm now looking at pages 39 and 40 of the report.
11 So of the 35 percent, the way that breaks down is 21 percent of all the URLs that
12 were reported were labeled. 13 percent were moved, and one was called soft blocked,
13 which means it wasn't removed, but it was hard to get to.
14 Q Okay.
15 A So the vast majority of time -- first, the majority of time they did not take
16 any action on our report. And when they did, the majority of the time almost two-thirds
17 of the time, their action was to label it. And generally the labels here were pretty
18 generic. It was something like: Elections are complicated. Here's a link to our
19 platforms, information, or our voting center, or something like that.
20 Q Okay. And you didn't have any insight into why they took particular actions
21 with respect to any particular tweet?
22 A No. If they got back to us, sometimes they would say: We determine this
23 is not violative of policy. And that's I think the most we would generally ever here. We
24 had to make this table by going -- we built software that went and checked every single
25 URL to see how it was being treated at that time.

1 Q And I want to look at the next example that was presented. It's EIP-257.
2 A Uh-huh.
3 Q This is misinformation related to absentee ballots and fraud. And there's
4 actually -- there's not an archived web -- an archived URL for this one. But I think it
5 says -- if you look at the description on the bottom of the second page -- or I guess the
6 back of the first page, it says --
7 A So -- I'm sorry. Yeah, I see.
8 Q So I want to -- so I actually want to look at comment number two, which is
9 where the description is.
10 A Uh-huh.
11 Q So it says: "This user is claiming that his father who died in 2018 received
12 an absentee ballot in the mail. According to" -- and then it has a link to the Connecticut
13 Election Services website -- "from the state of Connecticut, ballots are not mailed to
14 individuals until October 2nd, 2020. It's possible (following the calendar) that the mail
15 was in fact a registration form." And then it has a link to what appears to be the post.
16 Do you see where it says that?
17 A I do, yes.
18 Q Okay. So, in this instance, it appears that this content involved a claim that
19 could not have been true. Correct?
20 A Yes.
21 Q Okay. And it specifically concerned ballots sent through the mail?
22 A That's right.
23 Q And ballots, you would agree, are a key part of election infrastructure?
24 A Yes.
25 Q Okay. And so if there's claims spreading about -- inaccurate claims

1 spreading about whether ballots are available, that could impact people's ability
2 to -- whether people choose to vote in an election or it could impact whether they do
3 vote in an election?
4 A Yes. In fact, I think what the evidence shows is that all of the discussion
5 that's incorrect about vote-by-mail ended up disenfranchising a decent number of people
6 who decided not to utilize voting by mail during COVID and perhaps didn't vote at all.
7 Q Okay. And so in my first hour of questioning, we talked about time, place,
8 and manner. This is kind of core time, place, and manner. Right?
9 A Yes.
10 Q And then turning to the description that we -- it's the second page, the
11 description. It appears that the original flag came in from an individual named Gabe
12 Rosenberg. If you look, he is the communications director for the Connecticut Secretary
13 of State at the time. Right?
14 A That's what this says, yes.
15 Q So the individual who actually identified the concerning information worked
16 for the Secretary of State of Connecticut?
17 A That's correct.
18 Q And presumably the Secretary of State of Connecticut would know for a fact
19 the rules around time, place, and manner for voting in that State. Right?
20 A You would hope so, yes.
21 Q Okay. And I want to walk through one more example. We actually -- so
22 we didn't print off the spreadsheet quite like this because in the examples I'm going to
23 show you there were a lot of columns that were unused. So to make it a little more
24 usable, we just took it out and put it into a single page. So it's not how it appears in the
25 actual spreadsheet.

1 So this is exhibit number 12?

2 [Stamos Exhibit No. 12

3 Was marked for identification.]

4 BY [redacted]:

5 Q And I'll give you a minute to review it.

6 A Okay.

7 Q So this is EIP-396.

8 A Uh-huh.

9 Q The short summary is described as "Potential for voter fraud in Oregon and

10 Washington."

11 And I want to actually introduce the -- we don't have it on the sheet that I just

12 handed to you, but the archive URL, the actual underlying Facebook post at issue.

13 We'll mark this as exhibit number 13.

14 [Stamos Exhibit No. 13

15 Was marked for identification.]

16 BY [redacted]:

17 Q And it says, the comment 1 says: Hi Facebook, Reddit, and Twitter. This

18 claim, based on a 4chan thread, that voter can be changed and mail-in ballots cancelled

19 with only limited personal information is rapidly spreading online. There is an

20 associated Gateway Pundit story that is a primary catalyst for the spread of the story off

21 4chan. The Gateway Pundit headline does nothing to dispute the claims even though a

22 number of them are debunked in the story itself. Other claims within the story are left

23 unfact checked with the publication simply stating 'We have not yet been able to confirm

24 or debunk this claim.'

25 As the headline '4chan Users Claim to Have Found Way to Easily Change People's

1 Voter registration and Cancel Ballots Online in Oregon and Washington' leaves open false
2 claims (debunked within the article itself) that delegitimize voting we recommend it be
3 removed from your platforms?"
4 Do you see where it says that?
5 A Yes, I do.
6 Q Okay. So in this instance there was actually -- this is a claim about changing
7 votes, changing ballots. Right?
8 A Yes.
9 Q Again, that's kind of core time, place, or manner. Right?
10 A Right. I mean, I believe they're making the claim that you could cancel
11 ballots and that people had that ability, which is I believe not true.
12 Q Okay. And understanding that, what I want to look at actually is comment
13 number six, because it appears that this was actually sent to Facebook. Right?
14 A It was sent to Facebook, Reddit, and Twitter.
15 Q Facebook, Reddit, and Twitter. And I'm sorry, is -- comment number one is
16 that an internal comment? Is your read on that that that was a comment from student
17 researcher sending this to Facebook and Twitter and Reddit or --
18 A This would probably be the tier 1 or tier 2 student --
19 Q Okay.
20 A -- writing this out, and then it would be a public comment that was seen by
21 them.
22 Q Okay. And I think in the spreadsheet we don't know what Facebook -- what
23 Twitter and Reddit did with it.
24 A Right.
25 Q But I want to look at comment number six. It says: "[REDACTED]," which

1 I believe is the name of the student here?

2 A Yes.

3 Q "Just following up here. Thanks for flagging this content. After a

4 thorough review of the content, we can confirm that it doesn't violate our community

5 standard as it relates to Voter Suppression." Correct?

6 A Yes.

7 Q Okay. And so Facebook didn't take this down. Correct?

8 A Most likely did not.

9 Q And I want to look at what we've introduced as exhibit 13, which is the

10 actual Facebook post.

11 There's no label on this. Right?

12 A I'm sorry. What do you mean by "label"?

13 Q So there's not -- it's not labeled as inaccurate on the face of the tweet -- or

14 on the face of the post?

15 A Yes. Facebook has not applied the label to this, no.

16 Q Okay. And if you look up in the upper left-hand corner, do you see where it

17 says "6/22/23 7:33 p.m."?

18 A Yes.

19 Q That was yesterday. Right?

20 A Yes.

21 Q Okay. So we actually printed this off yesterday. This is still up on the web

22 today?

23 A Right.

24 Q So there's been no action taken on this post?

25 A That's right. This would be in the 65 percent of the URLs in which no action

1 was taken.

2 Q Okay. So just because a student analyst recommended that something be

3 removed didn't mean that social media companies actually removed the content.

4 Correct?

5 A That's correct.

6 Q Okay. Was content moderation the primary goal of the EIP?

7 A No.

8 Q Okay. And, in fact, an example like this where the ticket was not

9 where -- sorry -- where the information was flagged for a social media company but it was

10 not actually taken down by the social media company, would this still be of use to EIP for

11 your research purposes?

12 A Yes. So we were able to archive this and then include it in our analysis of

13 the different narratives that were being spread.

14 Q Okay. And it's because EIP was, by and large, a research project. Right?

15 A Yes. The fact that 65 percent of the time steps were not taken does not

16 mean the project was a failure. In fact, I think it was a success because of the research

17 we did.

18 Q And the 65 percent of the time, that's only of the things that were actually

19 raised to the attention of social media companies. Right?

20 A That's two things. One, it's only things that were raised to their attention.

21 Two, that is a conservative estimate. Because when we looked later, content could have

22 been taken down by individuals or the entire accounts taken down by one of these

23 platforms for their violations without us having any part to do with it. So 35 percent is

24 the absolutely high watermark of actions that could have been taken based upon our

25 referrals.

1 Q Okay. So it's potentially an overestimation actually?

2 A It's almost certainly an overestimation. It's the best we could do for our

3 research.

4 Q Okay. So just to make this real clear, there were around 600 tickets total.

5 Correct?

6 A That's correct, yes.

7 Q And of that, some small subset was flagged for social media companies

8 because of either threats to life and safety, fraud, or concerns about violating the

9 company's platforms or policies?

10 A Yeah. So if you look on page 37: "Of the 639 tickets," it says, "363 of

11 them tagged an external partner to either report the content, provide situational

12 awareness, or suggest a possible need for fact checking or a counter-narrative."

13 So if you look at the next page you can see which one of them were actually

14 tagged to a platform. So this would not count when we said -- say, sent something to

15 EI-ISAC around, hey, you might want to tell Maryland to go do a blog post, or here's an FYI

16 for Kentucky. So the upper bound would be 363, but then you could see on this table on

17 38 the details of that.

18 Q So it was actually less than 3 -- it was actually probably --

19 A Yeah. We would have to go slice the numbers in a different way, but yes.

20 Q Right. But it's actually less than 363 tickets total?

21 A That's right. That's the absolute high watermark, yeah.

22 Q And of the 363, even assuming that was the universe, which is

23 probably -- that's probably more, in 65 percent of the cases, the social media companies

24 did nothing?

25 A That's right.

1 Q Okay. All right. Moving away from the Jira tickets.

2 A I'm sure we'll come back.

1

2 [2:33 p.m.]

3 BY [redacted]:

4 Q Are you familiar with allegations or criticisms suggesting that EIP engaged in

5 censorship?

6 A Yes.

7 Q What's your response to those criticisms?

8 A We did not engage in censorship. EIP had no power to take down content

9 or even have it labeled. And that was neither our goal nor the outcome from us doing

10 our work.

11 Q Some activists have claimed that SIO cajoled or pressured social media

12 companies to take certain actions. Are you familiar with those allegations?

13 A Yes, I have seen those allegations.

14 Q And are those allegations accurate?

15 A No.

16 Q Okay. And can you explain that?

17 A We would send URLs to platforms we thought they clearly violated the

18 policies. If you look into the tickets themselves, there was not a "take this down or else"

19 or a demand. I'm not sure how we would demand. We're an academic research

20 project. We have no coercive power in any way. All we could do is refer these to them

21 and then document the outcomes of what was going on in the election.

22 Q And, just by way of example, how many people total were involved in the

23 EIP?

24 A A little over 100, I believe.

25 Q How many employees does Facebook have, if you know?

A Over I think 60,000.

Q Okay. So EIP is kind of a small fish? Right?

A All of EIP is smaller than just the team I supervised at Facebook, yes.

Q Thank you for that context.

Did EIP have a blacklist of accounts that it had -- that it kept track of?

A No, absolutely not.

Q Do you at SIO keep a blacklist of accounts?

A No.

Q Mr. Shellenberger, who we talked about in the first hour, he stated that SIO published a report urging news media to abandon the Pentagon Papers ethic and instead focus on the perpetrators of the hack and leak rather than its contents. Is that accurate?

A That's not.

Q Okay. Do you have any idea where that allegation came from?

A So two different people at Stanford, [redacted] and [redacted], wrote a white paper about how to handle hacker leaks. They are not part of SIO. They had no role in EIP. Stanford has something like 17,000 or 18,000 staff members. And so I am neither the former Secretary of State nor an Olympic swimmer obviously. And so I think he was just -- automatically assumed that anybody from Stanford that he could ascribe that their writings to us, that would be incorrect. And those people have nothing to with EIP in any way.

Q And I actually should have asked this much earlier, how many people are employed by SIO?

A Currently? So, if you count the post docs who are technically employees but are kind of pseudo students, I think we have seven or eight full-time employees.

1 Q Okay. And Stanford has about how many employees total?
2 A I think around 17,000 to 19,000.
3 Q So there's probably a lot of work being done at Stanford that SIO is not
4 involved in. Is that fair to say?
5 A There's a couple of things happening on campus that they don't ask me
6 about, yes.
7 Q Okay. There have been allegations that EIPs were targeting Conservative
8 political speech. Are you familiar with those allegations?
9 A I am.
10 Q Are those allegations accurate?
11 A No.
12 Q Could you explain?
13 A Our goal going into the election was to have an apolitical set of standards
14 around rumors, disinformation and misinformation about the functioning of the election.
15 That could have come from either side. The outcome was asymmetrical, but that is
16 clearly because one side lost and one candidate pushed his followers to believe that it
17 had been stolen. And so I think that's a natural conclusion. But our conclusion, if you
18 look at our statistics around Conservative versus Progressive, which I think people get this
19 idea or the list of the top super spreaders, all of that is part of our academic research, our
20 analysis after the fact. Going in, we tried to be as careful as possible. And, in fact, in
21 2022, we were pretty prepared for the possibility that lots of this content would be
22 coming from both sides because there were candidates in the election who had a history
23 of election denial --
24 Q Okay?
25 A -- from the Democratic side as well.

1 Q And I want to get back to what your research found in just a sound. But,
2 before we do that, when EIP was founded in July 2020, did you reach out to potential
3 partners in both the right leaning and left leaning spheres?
4 A We did.
5 [redacted]. I want to introduce as exhibit 14 an email dated July 21, 2020.
6 [Stamos Exhibit No. 14
7 Was marked for identification.]
8 BY [redacted]:
9 Q This was actually produced by the University of Washington in their
10 production.
11 A Okay.
12 Q And it's part of a chain that began at the calendar invite dated July 30th, 202,
13 but we're only going to look at the top email. I introduced the whole chain for clarity.
14 This email was sent by [redacted]?
15 A Yes.
16 Q And that's a Stanford student. Right?
17 A That's right.
18 Q It's dated July 31st, 2020, time-stamped 14:30:39. It says: Hello all.
19 Thank you for joining us in yesterday's meeting. Please find this week's Next Steps
20 below. Also copied into our Minutes Document at the top of today's notes section and
21 our Slack #general.
22 And then it says: 7/30 EIP Workflows Sync Next Steps. We'll look at number
23 one.
24 It says: Number one, meetings on the calendar for next week: 8/3 -- so
25 August 3 -- NASS/NASED -- that's the National Association of State Election Directors?

1 A Yeah. National Association of Secretaries of State and the National
2 Association of State Election Directors.
3 Q And that's what we talked about earlier; it is kind of a trade association for
4 election --
5 A Right. That's the collection of all the people who run elections at the State
6 level.
7 Q Okay. Common Cause, Twitter. On 8/4, which August 4. ASD, which
8 is -- what's ASD?
9 A I believe this ASD -- I'm not sure actually. I'd have to look this up one.
10 Q Okay. CIS, DNC -- that's the Democratic National Committee. Right?
11 A That's correct.
12 Q And then it says RNC. That's the Republican National Committee? Right?
13 A Yes.
14 Q So is it fair to say that EIP met with the RNC almost as soon as the project
15 was underway?
16 A We reached out to them. I'm not sure who it was -- who actually took the
17 meeting with them. I don't think I was part of that meeting. But we did offer to them
18 the ability for them to send in anything that they saw.
19 Q And did the RNC take you up on that offer?
20 A I don't believe they ended up sending us anything.
21 Q Okay. Did they not agree to join the -- to join your effort, or is it they didn't
22 send you anything?
23 A So, for these kinds of partners, they didn't really have to join anything. We
24 just offered them: Here's an email address, that if you see anything, you can send it in.
25 Q Okay. But you certainly made them aware of what you were doing?

1 A Yes.

2 Q And, as far as you know, this meeting actually did take place?

3 A I don't recall. I remember very distinctly sending the initial introduction

4 email to the general counsel's office.

5 Q At the Republican National Committee?

6 A At the RNC, yes.

7 Q Okay. Do you know approximately when you sent that email?

8 A No, but we can look into that.

9 Q So you said a couple seconds ago that you were very careful with how you

10 approached this project in part because you were mindful of the concerns about bias.

11 Do you recall saying that?

12 A Yes. I think that's a paraphrase, but yes.

13 Q It's definitely a paraphrase. We can't ask the court reporter to read back in

14 this setting, but --

15 A Because that slows everything down incredibly.

16 Q But you agree that, when you undertook this project, you had in mind the

17 fact that research needs to be clean. Right? As clean as possible. It has to be -- you

18 have to address concerns about bias?

19 A Right. I mean, the output here would not be acceptable to us or pass peer

20 review if the work we did was biased politically.

21 Q Are there particular steps that can be taken to account for the risk of bias

22 during the research process?

23 A So we had guidelines of -- for the students, as well as we did training to

24 make sure that they were fairly applying what our standards were for scope. So I think

25 that's where the most likely bias would creep in, would be in a situation where on that

1 initial decision of "oh, I see something," is it actually in scope or not, if they had some
2 feeling of "oh, a complaint from a Democrat is legit, but a complaint from a Republican is
3 not." So we tried to make sure that, in those initial steps, they were accurately
4 recording the things that they saw.
5 Q Okay. And when you were -- after December 2020, when you were going
6 through and looking at the data that you had collected, did you take any particular steps
7 as you were analyzing that data to account for the potential bias?
8 A Well, so we had standard -- you know, a big thing you do in this kind of post
9 hoc data analysis is labeling, where this horrible, horrible job of just going through and for
10 all the pieces of data applying fair labels. And so we had standards for that. In fact, we
11 then did what's called intercoder reliability. So we had multiple people code all of this
12 data. So this is a standard part of social science research, so it's H251. So we
13 published the reliability scores where we tracked from multiple different people doing
14 this work how much differentiation there were in their results.
15 Q Okay. So there's particular actual research steps that you took, and I'm
16 sorry; what is it called multi --
17 A Intercoder reliability.
18 Q Intercoder reliability. There's particular research steps that you take to try
19 and make sure the data is as accurate as possible. Is that fair to say?
20 A That's fair to say, yes.
21 Q Okay. And, actually, during the actual process of gathering the data, so July
22 to December 2020, you actually did identify and report on misleading claims spreading
23 through left-wing -- left-leaning audiences as well as right-leaning audiences. Correct?
24 A That's correct, yes.
25 Q So, for example, you reported on misinformation concerning Postmaster

1 General Louis DeJoy. Do you remember that?

2 A That's right. I believe we did a blog post on that.

3 Q And what was that misinformation, if you recall?

4 A There was a lot of concerns by Democrats that changes to how the post

5 office was handling vote by mail were specifically meant to disenfranchise Democrats.

6 Q And were those claims accurate?

7 A I don't believe they were. And I believe we wrote it up as demonstrated

8 there was no evidence behind those claims.

9 Q Okay. And then, skipping ahead into the 2022 election, EIP actually

10 analyzed six networks of fake accounts attempting to influence midterm elections and

11 determined that they were acting ways that were generally pushed toward Progressive

12 causes. Right?

13 A That's correct. Those were networks that were run by Iranian and Chinese

14 groups that were one very Progressive, kind of Democratic Socialist, Bernie-type content,

15 Medicare for All and such. And then were particularly attacking Republicans. In one

16 example, there was an entire Floridians against Rubio group where all the Floridians were

17 actually Chinese -- not of Chinese descent living in Florida, sorry; people working for the

18 People's Republic of China.

19 Q So, in the 2022 election you actually assessed that there was a -- foreign

20 actors were acting on behalf of Progressive causes. Is that fair to say?

21 A Yeah, in both 2020 and 2022. So, in 2020, the most important foreign

22 influence campaign was an attempt by the Iranians to convince Americans that the Proud

23 Boys were stealing the election from President Trump. This actually came to us via a tip

24 from the NAACP. I believe it's the only thing they sent to us, was they -- members of the

25 NAACP, kind of prominent Black leaders, were getting death threats in email, and so

1 they -- saying, "We are from the Proud Boys" -- and then sent it to us. And I believe the
2 folks in the NAACP really thought it was the Proud Boys. So we asked them to send us
3 the technical details, and then those linked to a video. And the video showed a desktop
4 of somebody as they purportedly broke into the election systems of Alaska, downloaded
5 data, and then used a somewhat obscure mail-in ballot generation system that's meant
6 for overseas servicemembers that they scripted up creating hundreds of thousands of
7 fake votes in Alaska to try to swing the election, all of them for Trump. And then
8 specifically I think they had a Proud Boys background. And the whole thing was set I
9 remember to Metallica's "Enter Sandman." So the first indication is that no, like, actual
10 White supremacist group would use anything off of the Metallica "Black" album as the
11 sellout album of Metallica as their theme. Second, there were technical indicators so
12 we actually could tell from both the emails. And then we paused the video, and there
13 was a moment where they forgot to redact part of it. And, instead of attacking systems
14 in Alaska, it was actually a virtual private server in Moldova where they had set up a fake
15 website for the Alaska State Secretary of State's Office. So, looking at the Moldova stuff
16 and such, we could tell this is almost certainly a foreign actor, and there are death threats
17 involved. So this is a situation where, you know, we did our normal EI-ISAC process, but
18 we also directly sent it to the FBI all of our results. And then, 2 days later, I'm not going
19 to take any credit for this -- I'm sure lots of people in the government were working -- but
20 I believe the Director of the FBI and other core leaders went on the dais in the White
21 House and said: We have detected foreign interference from Iranians trying to blame
22 President Trump.
23 So, yes, the most interesting foreign campaign in 2020 was actually directed at
24 trying to make it look like the Proud Boys were throwing the election to President Trump.
25 Q Is that documented in your report?

1 A Yes. And we wrote a whole blog post about it.

2 Q So, notwithstanding that, at the end of the day, you said a couple of minutes

3 ago that you did identify the most super spreaders, I guess, or the most -- the

4 most -- actually withdraw that.

5 Is it fair to say that, in 2020, EIP did ultimately identify more misinformation or

6 information spreading among right-leaning audiences than among left-leaning audiences?

7 A Right. When we did our analysis, while there was disinformation among

8 left-wing analysis, the more right-wing content and the right-wing accounts were much

9 more effective and had a larger spread in virality of their content.

10 Q And did your research explain why it was that more disinformation was

11 spreading through the more right-leaning accounts?

12 A I mean, I think the obvious example is that President Trump lost. And,

13 therefore, he was the one who denied the election. You're not going to have -- well, let

14 me take that back. There is a small but very dedicated set of Democrats who believe

15 that the 2020 election -- that President Biden won legitimately but that the Republicans

16 winning House seats was fake. That they really believe that there's some kind of bizarre

17 conspiracy where they forgot to rig it for Donald Trump, but they did rig it for local House

18 races. And so there are people like that, but it's a much less widespread belief. And I

19 think the base thing is that President Trump lost, and he's the one who told his followers

20 "it was stolen from me." So, therefore, most of the excitement is going to be there. If

21 the other side won, then there's no reason to think that, you know, that --that it was

22 thrown.

23 Q Do you think, if outcome had been reversed, that Donald Trump had won

24 and Joe Biden had lost, do you think you might have seen trends in the other direction?

25 A I think you would have seen trends in the other direction. I don't think

there's any indication that a losing President -- Vice President Biden would have been as aggressive. But certainly I think it's a possibility. If you look -- the specific example I think about from the Democratic side is Representative Stacey Abrams, who was very aggressive in 2018 of saying it was stolen. In fact, that's something we were looking out for in 2022 when she ran again. In the end, there wasn't a lot of content, probably because she lost by a big margin so it just looked silly. But certainly I think -- and this is actually my biggest fear as an American is that we'll get into a place that whoever loses always thinks it was stolen from them.

Q Thank you. We can go off the record.

[Recess.]

BY [redacted]:

Q Mr. Stamos, I wanted to touch back on topic we discussed in maybe in both hours, but certainly the first one. With respect to your tenure at Facebook, when you had the meeting you described with Mr. Zuckerberg, [redacted], and a few others high up in the company --

A Uh-huh.

Q -- was it one meeting or a series of meetings, if you recall?

A There was one big meeting where I presented our results. And then there was a series of meetings to figure out what to do about it, using I think generally a small -- so I think there's only two meetings with Mark Zuckerberg in that initial set and then a smaller group broke off to try to figure out what we were going to do and to structure the investigation of what we were going to.

Q And, during your tenure with Facebook, how frequently would you meet with Mr. Zuckerberg?

A Not very. I'd probably be in a meeting with him two to three times a

1 month. We almost never met one on one during my time there.

2 Q And you said it was kind of well understood within the company that people

3 are upset with Facebook on the 2016 election?

4 A Yes.

5 Q And did it seem it was more heavily weighted by one side of the political

6 aisle than others -- than the other?

7 A I mean, it was pretty clear that Democrats were more angry at the company,

8 yeah.

9 Q And can you just say a bit more, what is it that, to your understanding, the

10 Democrats believed Facebook did wrong?

11 A So, you know, things changed, but initially, after the election, a lot of blame

12 was put on fake news of just any kind of content that was fake being on the platform.

13 And then, later, especially after we made our announcements, the assumption was that a

14 significant amount of the anti-Clinton content was Russian.

15 Q Okay. And you left Facebook -- do you remember which month in 2018?

16 A I believe August.

17 Q So just a few months before the U.S. 2022 -- U.S. 2018 midterms?

18 A That's correct.

19 Q And, in the lead up to those midterms, do you recall there being concern

20 within the company regarding whether a similar dynamic could play out as it had in 2016?

21 A We were certainly concerned about there being some kind of manipulation

22 of the election, and it happened in a platform, which was why at that point we had built a

23 team to deal with it and we were taking those meetings, as I discussed, with both other

24 companies, as well as with the relevant government players.

25 Q Okay. With respect to the steps the government was taking, if I

1 understood your answer correctly with the criticism, it seems two parties at least.
2 Right?
3 Mr. Bellinger. Can I just say we are now at over 5 hours. What he did at
4 Facebook a number of years ago is not relevant to your investigation. You had said we
5 would really try to get out after 4 hours. So I would really like to try to keep this focused
6 on the parts that are relevant to the committee's inquiry.
7 [redacted]. We are happy to turn right back to the questioning. We will
8 complete it, and there will be other topics as well.
9 BY [redacted]:
10 Q It sounded like there were two parts to your answer: the fake news concern,
11 which sounded content-based, that whatever is being posted is not true, and then the
12 fact that some of it allegedly came from Russia so that would be actor based. Is that a
13 fair understanding?
14 A That's right. And then, on the latter, on the Russia, that would also be
15 behavior based since I think the assumption was they were not saying they were
16 Russians.
17 Q And, again, to your recollection, the pressure, the concerns, the awareness
18 of the political backlash that the company was facing, that was still present when you the
19 left the company in 2018. Is that right?
20 A Yes.
21 Q With the understanding that you weren't at the company, but you said you
22 remained in contact with colleagues and maybe friends at Facebook, do you know if that
23 was still present in 2020 -- that feeling?
24 Mr. Bellinger. Again, this is really not relevant to --
25 [redacted]. The witness has the opportunity to answer.

1 Mr. Bellinger. He can answer if he thinks it's relevant.

2 Mr. Stamos. So, yeah, I mean, this has nothing to do with EIP, but certainly, by
3 2020, we were still in what we people called the tech lash, which is kind of an attack, you
4 know, political actors attacking the platforms for a variety of different things, but
5 including concern of foreign interference in elections and fake news and disinformation
6 overall.

7 BY [redacted]:

8 Q And, to the extent you have a knowledge or understanding of this, is it your
9 understanding that Twitter and Facebook both took action to moderate the Hunter Biden
10 laptop story the day it was issued?

11 A So my understanding -- and all of this comes from public reporting and what
12 I observed. So I have no special insight here. But yes, my understanding is, in both
13 those platforms, put some kind of limit on the story. I believe Twitter banned The New
14 York Post URL so you couldn't post the story at all. Facebook, it's my understanding, did
15 some kind of limitation on spread so that you could post it, but they were not
16 recommending it or it wasn't being highly ranked and that both those companies then
17 removed those within a day or 2.

18 Q And, in your opinion, if absent this tech lash, to use the term you were using,
19 do you think the companies would have taken the same content moderation steps that
20 they chose to?

21 A Specifically around Hunter Biden?

22 Q Yes?

23 A I don't know. I think -- so my position is I -- I don't -- I think they made
24 mistakes in doing that. There were two parts to the Russian interference in 2016, as we
25 talked about. There was the hacking leak campaign by the GRU, and there was the

1 activity that was right on the platforms. And the companies responded to both of those
2 things. But the truth is on the hacking leak campaign, there's not much you can do as a
3 platform because the real target there is trying to get the media to cover stories based
4 upon hacked data, which was very effective by the GRU in 2016. And so I am not
5 sure -- it's impossible to imagine what was going on different, but I do believe they made
6 a mistake in that having policies that make them act in a situation where the content is
7 not being posted first under the platform really means that they are so disconnected that
8 there's no way they can make a reasonable determination of whether something was
9 hacked.
10 Q And why do you think the companies adopted the content moderation
11 policies they did with respect to hack and leak?
12 A Because it was a real big part of the Russian campaign in 2016. From my
13 perspective, it probably was the more effective part of the Russian campaign. You
14 know, they very effectively changed the tenor of the conversation in the last couple of
15 months of the campaign to be about Hillary Clinton's email server and stuff like that. So
16 I think they were reacting to that. And the feeling that they were being held
17 responsible, I'm sure that's part of it. But, from my perspective, the appropriate thing
18 for them to be responsible for is the content that is posted directly on their platform
19 where they have some kind of knowledge. So it's different to me; if The New York Post
20 posts something, it's up for The New York Post to authenticate whether they got the data
21 from a Russian actor or something. If somebody creates an account and posts on
22 Facebook, it's Facebook's responsibility to make sure that person isn't lying about who
23 they are.
24 Q We had talked in the first hour about malinformation and the difficulties
25 with that term?

1 A Yeah.

2 Q Again, to your understanding, do you recall any Federal Government

3 agencies that would use the term "malinformation"?

4 A I -- there's an acronym around MDM for mis-, dis-, and malinformation.

5 And so I believe DHS has used the MDM, and maybe some other government agencies

6 have picked up on that.

7 Q And then CISA, which you identified as falling within DHS, do you recall if

8 CISA has ever used the MDM --

9 A I --

10 Q -- term?

11 A I believe that was the name of the subcommittee in CSAC, the Cybersecurity

12 Advisory Council, that was looking at this issue, is they called it the MDM Subcommittee.

13 Q To your understanding, what did the MDM Subcommittee look at?

14 A They were talking about CISA's role in issues involving mis- and

15 disinformation.

16 Q And what does the second M stand for in MDM?

17 A Malinformation.

18 Q Again, understanding that you don't prefer the term, what is your

19 understanding of what CISA meant by malinformation?

20 A My general standing is that malinformation is supposed to involve any

21 information that could be used to weaponize, to cause harm.

22 Q And, to the extent you have an understanding, what is encapsulated under

23 CISA's understanding about malinformation that is not already encapsulated by this

24 information?

25 A I honestly don't know. The term is used by different people. I've never

1 seen like a good definition. So I'd rather not speculate as to whoever at CISA used the
2 term of what they meant by that, you know.
3 Q When you -- you mentioned that you do work with Dr. Kate Starbird.
4 When you engage with one another, does your work ever concern malinformation?
5 A So, I mean, if you use malinformation as kind of an umbrella term, then yes,
6 all of our work on EIP and the like you could count it as malinformation. Again, I would
7 not use that, but if you had to use it, then yes, our conversations would be -- include
8 techniques that include malinformation.
9 Q But would you use the term malinformation, or is that disfavored by the
10 academics you're familiar with?
11 A Some people use it. I'm just saying I don't like it because I don't think
12 there's a good definition in the way we have definitions for mis- and dis-.
13 [redacted]. Exhibit 15.
14 [Stamos Exhibit No. 15
15 Was marked for identification.]
16 BY [redacted]:
17 Q If I could have you flip to the last two pages, Bates No. 159 and 160, there
18 appears to be an email sent from @2020partnership.atlassian.net, and there is reference
19 to an EIP ticket number. To you understanding, is this consistent with an email
20 notification that would be generated by the Jira ticketing system?
21 A Yes.
22 Q And then, if I could have you read the email at the top of Bates No. 159.
23 There's an email -- you are not copied on this email chain, but there's an email that
24 says -- the second sentence says: Evidently Director Krebs personally reached out to
25 Stamos asking what happened around this event, around the time the content was taken

1 down, which is only an hour after this ticket was created.

2 Do you recall if Chris Krebs reached out to you regarding various EIP events?

3 A I don't recall this situation, of him reaching out in this situation.

4 Q How would Chris Krebs know that an event was being monitored by EIP?

5 A So, in this case, it looks like the EIP ticket was forwarded to [redacted] here who

6 probably showed it to him. Although Krebs is not on this exchange so somebody

7 probably showed it to him, or there is another thread.

8 Q So, to your understanding, was Chris Krebs potentially receiving email

9 notifications from the EIP?

10 A He should not have been receiving direct notifications, but somebody could

11 have forwarded it to him. It looks like [redacted] might have forwarded this to people within

12 CISA.

13 Q Do you know how frequently that occurred?

14 A I don't.

15 Q The email address has got an atlassian.net email domain. So, if [redacted] is

16 forwarding it, is she forwarding it from the Jira system?

17 A Yes, she could have put -- she could have put him in there to get straight

18 from Jira. That's what this looks like or -- yes.

19 Q And by "him," are you referring to [redacted]?

20 A [redacted], yes.

21 Q So could individuals be added to the Jira system how does [redacted] receive an

22 email notification that [redacted] is in the Jira system?

23 A He would had to have been added to the ticket.

24 Q And he has a -- if you look an email above his email address is cisa.dhs.gov.

25 It's your understanding that's the email domain address for CISA?

1 A Yes.

2 Q Now, when an individual is added to Jira, do you put in the email address, or

3 is it -- do they have to accept a notification in advance before they can be forwarded

4 the --

5 A I'm not sure exactly what the initial notification would be, whether you just

6 get the ticket or whether you'd have to accept it.

7 Q Do you know who might know that information?

8 A Sir, you're talking about, like, specific generic configurations that don't exist

9 anymore because we haven't used this system in 3 years.

10 Q So your answer is no one would have this information?

11 A I'm not sure we'd have the ability to recreate exactly what the configuration

12 was at that time.

13 Q Do you recall forwarding Jira tickets to anybody during your operation of EIP

14 in 2020?

15 A It's possible. I don't remember forwarding anything, but it's possible.

16 Q Independent of EIP, in the fall of 2020, how frequently were you in

17 communication with Director Krebs?

18 A We probably texted every couple of weeks.

19 Q And did you have other professional interactions, other than EIP during the

20 fall of 2020?

21 A With anybody or with him?

22 Q I'm sorry. With Director Krebs?

23 A I don't recall all the ways in which we interacted in the fall of 2020.

24 Q Are there any that you recall?

25 A So there were events, election security events, that we probably ran into

1 each other.

2 Q Was there any --

3 A It's possible he came to calls in which we were briefing people. I'm not

4 sure.

5 Q When you say "we were briefing people," are you referring to EIP?

6 A Yes.

7 Q And are you referring to, for example, briefs you provided to external

8 stakeholders?

9 A So we did regular briefings on the things that were trending or that we saw

10 happening. And so most of those were public, but, occasionally, I think we did private

11 ones for folks like EI-ISAC and such.

12 Q Do you recall how many private briefings you had with EI-ISAC?

13 A No.

14 Q When you say it was with EI-ISAC, the individuals who were representing the

15 EI-ISAC, are they employees of CIS?

16 A It should have been. It's possible that we sent things for them to forward

17 to their membership. I don't recall our entire schedule of what we did that fall.

18 Q What form would these briefings typically take? Would it be in person,

19 over Zoom?

20 A Probably Zoom. It was COVID; nobody was meeting in person.

21 Q In advance of a briefing, would there be an agenda circulated?

22 A I don't think so. There's probably just a calendar invite.

23 Q After a meeting, were meeting minutes ever circulated?

24 A Not that I know of, no.

25 Q Do you have any recollection of Director Krebs asking to attend one of these

1 briefings?

2 A I don't recall what interactions we had in the fall of 2020. So he might have
3 asked, he might not. If we put out something to the EI-ISAC, he might have gotten
4 something forwarded to him. He might have attended; he might not have. I'm not
5 sure.

6 Q [redacted] email references that Director Krebs reached out around the time the
7 content was taken down, which was only an hour after this ticket was created: If the
8 system is to work, we will need the turnaround time to be much faster for sending these
9 tickets out to States.

10 What is your understanding of what the, quote/unquote, turnaround time for a
11 typical ticket?

12 A So I think in this he's talking to the folks at CIS. So it says: If the system is
13 to work, we'll need the turnaround time to be much faster for sending these tickets out
14 to States. So I think what he's saying is that the delay between us seeing this content
15 and labeling in this EI-ISAC and then the speed at which then that went to California in
16 this case was too slow.

17 Q Okay. So the system here is the EI-ISAC he is referring to, not EIP?

18 A Yes, because, one, we are not on this thread. It is Aaron Wilson and [redacted]
19 [redacted] from CIS are the people he's emailing. So I think he is talking about EI-ISAC's. If
20 we say: Hey, send this to California, that it should be faster for that to go straight to
21 California.

22 Q Would EI-ISAC send that to California only after EIP had conducted its
23 analysis?

24 A So we'd have to go look at this ticket to see exactly how it started, but since
25 this is not how -- it does not look like this is a ticket that came from CIS. This would have

been us finding something and then tagging in EI-ISAC, saying something along the lines of: You should probably notify Sonoma County.

Q We can take these back.

[redacted]. Exhibit 16.

[Stamos Exhibit No. 16

Was marked for identification.]

BY [redacted]:

Q Is this email consistent with the Jira notification we saw on the previous email chain, different EIP ticket but --

A This looks like the kind of notification that we would get from Jira.

Q Okay. And is it [redacted], is that -- am I reading -- saying her name correctly?

A Yes.

Q On the front line?

A Yes.

Q And she's with Stanford and with EIP. Is that right?

A That's right.

Q Okay. I will have you take a look at below where it says: View request and turn off this request's notifications.

It says: This is shared with TikTok, Facebook, EI-ISAC, Twitter, CIS misinformation reporting and CISA CFITF. Identified earlier in the spreadsheet, it's your understanding that CIS misinformation reporting versus EI-ISAC. Is that right?

A I believe so, yes.

Q What is your understanding of what CISA CFITF refers to?

A I don't know. I believe FITF is Foreign Influence Task Force. I'm not sure

1 what the C stands for.

2 Q Okay. Was the Foreign Influence Task Force housed within CISA?

3 A I am not sure. I believe -- I thought the Foreign Influence Task Force was

4 between different departments.

5 Q To your understanding, what entity was represented by CISA CFITF in the Jira

6 system?

7 A I have no knowledge of what that is outside of what you just handed to me.

8 Q Is there a way to determine who was represented by CISA CFITF through the

9 archived data or other means?

10 A We'd have to look to see whether there is an entry in the ticket that refers to

11 them that makes it clear. I'm not sure the -- again, this is almost 3 years ago. So we

12 don't have the kind of metadata configuration of the database anymore.

13 Q To your understanding, if a ticket was shared with an entity that's listed

14 here, that would be an entity that could see public comments on a ticket. Is that right?

15 A That was the intention of the public versus private, yeah.

16 Q Okay. So, whichever entity is CISA CFITF, if consistent with the

17 understanding, is likely able to see comments on this ticket. Is that correct?

18 A They should be able to see the public comments our people put in there.

19 Q And would they be able to see public comments by other entities that are

20 tagged there, such as Facebook and Twitter?

21 A As we discussed, I'm not totally sure. We'd have to look to see -- yeah, I'm

22 not sure. We'd have to try to figure out from looking at the tickets if there's any

23 interaction between them.

24 Q Is there anyone else at Stanford that would have this information?

25 A We can go ask folks. I can ask around and see if anybody understands, if

1 they remember exactly what was available in different public comments -- or of which
2 kind of public comments were available to outside entities.
3 Q At a high level, are you familiar with what was redacted in the spreadsheet
4 that was produced to the committee?
5 A Yes, I believe student names and -- was a key thing and the private
6 comments that were only internal to EIP.
7 Q And I think we discussed this earlier, but, based off the spreadsheet, there's
8 no readily identifiable way to determine if a comment is private or public based off the
9 column heading?
10 A No, we had to figure it out based upon context.
11 Q And by "we," do you mean Stanford?
12 A I worked with our attorneys to try to figure that out.
13 Q And what was the rationale behind redacting the private comments?
14 A Because those are internal work product for an academic research project
15 for which we have a pretty well established First Amendment right to do that research
16 and to share publicly. We did not believe that was relevant to the legitimate
17 investigative position of this committee, which is to look into the actions of the executive
18 branch. And so we shared the things that could have been seen by outsiders, including
19 platforms or EI-ISAC or whomever EI-ISAC forwarded things on to.
20 Q But, in determining whether a comment was viewed, was able to be viewed
21 by an external stakeholder, there was no readily identifiable way in the archived data.
22 You had to review the comment and make a determination? Is that right?
23 A Yes. And it's generally pretty clear because it almost always starts with the
24 name of the organization, because the way you would tag an organization in is you would
25 do like an @ symbol and put their name. So that would be the normal way in which you

1 might want to make a comment available to somebody. You say @ -- when you see in
2 there, it says, like, Twitter, Facebook, Reddit, I think it's most likely it is them saying
3 @Twitter, @Facebook, which would automatically add them to the ticket and then have
4 it sent on to them, which would then -- those are the organizations you see in the
5 organization column.
6 Q Are there any -- to your recollection, were there any comments that you
7 determined to be public that did not begin with the organization names?
8 A So certainly things that look like responses would be public. They would
9 have to be public because they would come from those orgs so those were included.
10 Q Do you recall if there were any comments that you were unsure about,
11 whether private or public comment?
12 A I sat with the attorney and worked through the ones that were ambiguous,
13 and we did the best we could to try to determine that.
14 Q Does this document refresh your recollection at all regarding whether the
15 entity that is CISA CFITF have the ability to submit tickets?
16 A I don't know of any situation in which they were able to submit tickets
17 if -- not -- unless it was through EI-ISAC.
18 Q Do you have a sense, just a ball park figure of how many different individuals
19 or entities a Jira ticket was shared with?
20 A So we don't have to ball park that; we have data on that.
21 Q Well, let me ask you this: So there is data in the report. To use the
22 previous exhibit, where it looked like the Atlassian email address was [redacted] forwarding
23 a ticket to [redacted], an individual.
24 A Right.
25 Q Is that captured by the report as in terms of the number of individuals who

1 may have received any EIP ticket?

2 A I don't believe so, no.

3 Q Do you have a sense of how many people that might be?

4 A No, I do not.

5 Q The internal or private comments as you've referred to them, does that

6 include only student comments, or is that -- was that comments that include, for instance,

7 the managers as well but do not include external stakeholders that?

8 A That would include the managers. So, if a student asked a manager for

9 "what do you think we should do here" or "what do you think of X," then the response to

10 them would be a private comment in the ticket.

11 Q And, to your understanding, is there anything in the spreadsheet or the

12 archive data that you have that produces some sort of record of when a Jira ticket is

13 forwarded?

14 A So, if an organization is added, then they end up in that organization column.

15 If it was forwarded to an individual, I have not seen anything in there that would indicate

16 that. So it would have to be in the individual's inbox. They would probably have an

17 email notification; it would be the only record we'd have.

18 Q Do you have any sort of access to that Atlassian email domain? That would

19 seem like an automatic generator system, the one that's -- when an EIP ticket is

20 forwarded to someone outside the system like I saw in the previous exhibit, to your

21 knowledge, does Stanford have any access to that email address?

22 A So the email address is supposed to represent things that come in and out of

23 the database. So anything sent in should end up with a ticket in the database. And

24 things that go out are representative of the configs you put -- of what you put in into Jira.

25 So, beyond what has been turned over, I don't think so, no.

1 Q You mentioned texting with Director Krebs. When communicating with
2 him as part of your role at Stanford, what other forms of communication would you use?
3 A So I know we had some emails and probably text iMessage or Signal.
4 Q Was anyone else from Stanford in touch with Director Krebs with respect to
5 EIP?
6 A It's possible. I don't know.
7 Q In setting up EIP, did you have conversations ever with Atlassian, the
8 company that runs the Jira service ticket?
9 A Yes, we sent them emails because they had an academic discount rate.
10 And so we asked to get the kind of academic package so we didn't have to pay like we
11 were a big company.
12 Q And were you in touch with them at all when you decided to end the project
13 after the 2020 election?
14 A I don't recall. I think generally at that point what we did is we archived the
15 data, and then we started reconfiguring it for a Virality Project. I don't think we had to
16 talk to them about that, but it's possible that somebody at Stanford had some
17 interactions with them.
18 Q And was there a 2022 version of EIP?
19 A Yes.
20 Q And what were some of the differences between the 2022 version and the
21 2020?
22 A So it was much smaller. It was a smaller group with fewer shifts. It was
23 midterms. We thought it would probably be less active, and that was accurate. There
24 was no equivalent to the EI-ISAC relationship so we did not have tips coming from that
25 the local and State governments. And we made no referrals to platforms. So it

1 was -- it was more of just gathering what we found. We posted blog posts, and we're
2 finishing up the final report.
3 Q Did you use the Jira ticketing system again?
4 A Yes.
5 Q And, when you use the system and you're jumping into it in 2022 as the
6 election is leading up, is it the same system you used in 2020, or is it a new one?
7 A So these are new databases every time that we start from scratch.
8 Q And then, with respect to retention of those records, did you follow a similar
9 approach with 2022 as you did in 2020?
10 A I would have to ask the team. I expect we've exported them, and we do all
11 the work in Excel.
12 Q To your understanding, could you go back to the original database with the
13 tickets?
14 A No.
15 Q Why not?
16 A Once we exported it and then we replace the database with the new ones so
17 we can do the VP work.
18 Q So did you overwrite it or --
19 A I believe -- so we have licenses that we are given as part of the contract, and
20 there are a number of seats that we have, and there's only a certain number of databases
21 you're allowed to run. So I believe we downloaded it, deleted it, and created a new one
22 to do our next work.
23 Q Was CISA involved with the Virality Project to your recollection?
24 A It's possible that they were one of the recipients of our output, but they
25 were not kind of the core recipients because -- you know, vaccine issues aren't core to the

1 mandate.

2 Q Who were the core recipients?

3 A So I believe there's Office of the Surgeon General, Health and Human

4 Services, and State and local health officials who signed up for our notifications.

5 Q Who from the Surgeon General's Office did you work most closely with?

6 A I -- I don't recall who that was. I -- I was not part of most of those

7 conversations.

8 Q Who at Stanford was most involved with the Virality Project?

9 A So [redacted] did a lot of work there, but the key person was an undergraduate

10 student, [redacted] was -- and a couple other people -- of students who worked on

11 doing a lot of the interaction because we had had a pretty smooth -- had gone to a pretty

12 good smooth operational place by the end of EIP. EVP was more student run that is EIP

13 was.

14 Q With VP, was there a similar manager role that existed with EIP?

15 A It was a much more simplified structure because the volume was much

16 smaller so I don't -- I don't recall the exact structure there. And, again, well -- I was

17 helping provide feedback to VP; I was not the one who was running it on a day-to-day

18 basis. I was less involved than I was with EIP.

19 Q Were social media companies still receiving Jira tickets as a part of the

20 Virality Project?

21 A Yes. So they could subscribe to different narrative types. So the goal of

22 the Virality Project was quite different in that we knew with these vaccines being

23 brandnew that what was true and what was false was going to be a much harder thing to

24 determine than some of these election situations, which were very, very easy to know.

25 Right? It's easy to know that you can't vote twice and then undo your vote. Right?

1 That was the example it was before. And so one of the differences with Virality Project
2 is that the narratives that were found would be put into categories of different kinds of
3 things that then the companies could subscribe to. And so they would get updates
4 based upon this is what is going viral in these areas, not tied to whether or not it was
5 about their platform or their policies of just like this is what people are discussing in this
6 area. And, in some cases, that was pro-vaccine, and sometimes it was antivaccine. It
7 was effectively like a clipping service for what was the most viral things being discussed
8 on social media related to the vaccines.
9 Q Would you or would the Virality Project when sending a Jira ticket to a
10 company send for instance to Twitter a series of tweets on topic?
11 A So we'd have to look at the specific tickets. But generally I think it was,
12 like: Here's a description of what's being said.
13 And it would include: Here are tweets. Here are Facebook posts. Here is
14 Reddit posts. Here's a YouTube video.
15 Q And obviously the relationship with social media companies dates back to
16 the predecessor EIP. Is that right?
17 A And, for some of these companies, as I said, we had a preexisting
18 relationship before that in our collaboration on foreign influence. But yes, for -- most of
19 these companies were part of the EIP. And so they -- yeah, they already had that
20 relationship, although it was sometimes it was different people at the companies because
21 election security and health misinformation are sometimes different people at these
22 companies.
23 Q Was there an understanding that the social media companies might consider
24 taking down some of the specific pieces of content that were being flagged by the Jira
25 tickets?

1 A So that was up to them. And most of the time, just as with elections, the
2 response the companies had was to tag people and to push people into their own vaccine
3 information centers.
4 Q So, again, with the understanding that EIP and Virality Project don't have the
5 power to directly label or remove a piece of content, was the understanding that sending
6 these Jira tickets may result in that?
7 A The understanding is we were telling them what was the thing that people
8 were talking about. In a situation in which there was a narrative that was clearly false or
9 clearly overblown or not based upon any fact, then it's possible that they might have
10 taken actions under the new policies. In general, the platform policies on vaccine
11 misinformation had a lighter touch than on the election, partially because of this issue
12 that everybody was dealing with that nobody knew exactly what the truth was at the
13 time. So what they did with the information we sent was completely up to them.

1

2 [3:35 p.m.]

3 BY [redacted]:

4 Q So, turning back to EIP, you know, we walked through the value and the

5 benefit of your team's analysis and the report you issued later. What was the intention

6 with adding in social media platforms as external stakeholders?

7 A For EIP?

8 Q For EIP.

9 A So, as we said, we wanted them to be aware if there was content that was

10 violating their policies. And one of the things that we had the ability to do is, if a local

11 official told us something, especially something that directly lied to individuals about how

12 to vote or the mechanisms of voting or had a life-safety issue, then we felt it was our

13 responsibility to help address that, not just document it.

14 Q Okay. And "by help address that," do you mean share it with the social

15 media companies?

16 A When we shared it with them, then they could take the steps that they

17 thought were appropriate based upon what we shared.

18 Q Okay. Would you send information to the social media companies if you

19 didn't think action was needed?

20 A I believe there are tickets where they're added and it just says: You should

21 know that this is something that is going big. You might want to watch.

22 So, you know, if you had -- if you had a narrative that looked like it might go viral

23 or, "Hey, we don't know if this is true or not, but you should keep an eye on it," then

24 perhaps it's the kind of thing we would have basically been cc'ing them for their

25 knowledge, and I think there are a couple tickets that effectively say that.

1 For the most part though, we really should have -- you know, the goal was to only
2 refer stuff to them if we knew it violative of their policies. So that means they might
3 have labeled it. They might have taken it down.
4 Again, 65 percent of the time, they did nothing, and we knew that we had no
5 power to make them do anything, and that, you know -- especially once we got the
6 project going, that they would have to make their own determinations, and most of the
7 time, they determined not to take any steps.
8 Q When you were briefing CISA in the summer of 2020 or maybe into the fall
9 of 2020 and outlining what your intentions are with EIP, did you include, as part of your
10 discussions with CISA, that you would be onboarding external stakeholders, including
11 social media companies?
12 A We probably told them, yes, that we would have the social media
13 companies, that we'd be able to refer things to them.
14 Q Okay. You said a couple times in different ways that EIP didn't have any
15 power. Would EIP ever note that it -- either on Twitter or elsewhere -- that it had
16 flagged a piece of content for a company?
17 A So, I mean, it's possible, like, in our blogposts where we're analyzing things,
18 we might have said something along the lines of, we sent this to platforms. I'd have to
19 go look to see exactly what we said.
20 Q And we touched upon earlier that, following the 2016 election, at least some
21 of the major platforms were under criticism for not doing enough with respect to fake
22 news and with respect to foreign influence?
23 A Yes. I mean, I would say Facebook got 95 percent of that, and 5 percent
24 was distributed among the other platforms.
25 Q Okay. And, based off your earlier answers, it sounded like there was a

1 particular sensitivity and awareness within Facebook -- and maybe these other companies
2 but to a lesser degree -- of the pushback -- political pushback for not taking enough steps.
3 Is that right?
4 A It was on TV every day. So it was definitely understood by people that we
5 were being blamed, yeah.
6 Q And is it fair to say that the company wanted to avoid being blamed again in
7 the future?
8 A So I think there were individuals who were really sensitive to that. I think
9 the company overall did not want people to lose trust in the platform.
10 If you go on Facebook and you believe that all the people you're talking to are
11 trolls, are fake accounts, are Macedonian teenagers, then that, in the long run, really
12 lowers the value.
13 So -- and Facebook is a company that is very much driven by money and metrics.
14 And so would individuals feel like "I don't like to be blamed for something"? Absolutely.
15 But, in the end, most of these decisions are made based upon, like, hard, metric-driven
16 discussions, and certainly metrics around the trust in the platform were going down
17 during that period of time.
18 Q Do you recall who at Facebook in -- we'll say 2016 to 2018 -- was most
19 sensitive to the political backlash that was occurring?
20 A So, I mean, the people who were dealing with it every day would be Elliot
21 Schrage and Joel Kaplan in their roles of running the government affairs team. Probably
22 of the senior leadership, the person who cared the most about this stuff was Sheryl
23 Sandberg.
24 Q And, with respect to the blogpost, are there any -- did anyone from EIP ever
25 communicate to the platforms that you were going to make these blogposts public?

1 A I mean, it's possible that we gave them a heads-up when we were posting
2 about it.
3 Q And why would you do that?
4 A I think it's a polite thing to do so that they know that we're going public.
5 We didn't want them to feel like we were blindsiding them.
6 Q And what do you mean by "blindsiding" them?
7 A We wanted them to know that there's going to be a possible discussion of
8 what was going on in their platform, and they should know about it.
9 I think the -- you know, we were -- I am sympathetic to how hard it is to be in one
10 of these companies and to try to balance all the different equities. And so, if somebody
11 was writing something that could generate a communications moment during an election
12 period, then that's something I would want to know for sure.
13 Q What do you mean by "communications moment"?
14 A So, if we wrote a blogpost that said, "This is something viral that's happening
15 that's not true," you very well could find members of the media going out and then
16 finding that content on five different platforms and then writing about it being up or not.
17 Q And, if it was still up, would some of those media publications be criticism of
18 the platforms?
19 A It's possible.
20 Q And so, if EIP has the power to flag this content and produce a blogpost,
21 does EIP have any sort of ability to incentivize the platforms to take down the content?
22 A No more than anybody else who has the ability to write a blog.
23 The companies were criticized constantly by both sides. They received letters
24 from Members of Congress on both sides. They received -- according to what I've seen
25 in the hearings -- emails from President Trump's office about content moderation.

1 So, compared to people who have actual coercive power such as Members of
2 Congress or members of the executive branch, I think us saying "here's a narrative that's
3 going viral" -- whether or not we mention the specific platforms where it's going viral -- is
4 the exact same ability every American has, and especially -- and ours would be less than a
5 celebrity or somebody with a massive following.
6 So, no, I don't think you would say we have any more coercive power than
7 anybody else who has the ability to criticize platforms in our democracy.
8 Q You mentioned in contrasting your role in Stanford with the executive
9 branch at Congress and the coercive role and coercive powers they have --
10 A Yeah.
11 Q What do you mean by the coercive powers that Congress and the White
12 House have?
13 A In that Congress has the ability to punish companies through passing
14 legislation, making their lives hard through subpoenas, which I know are always given out
15 for true investigative purposes and not to punish people for their First Amendment
16 speech. And certainly the White House has all kinds of levers in which they can try to
17 make life hard for a company.
18 Q And, with respect to the coercive powers that Congress and the White House
19 have, when you were talking earlier about the tech lash that Facebook was concerned
20 about in 2016 and -- 2018, is part of that concern the coercive powers that Congress and
21 the White House have, to use your terms, punish companies?
22 A Yeah. I mean, I think there was, in that period and for several years after I
23 left Facebook, a real fear of significant regulation coming out of Congress. It turns out
24 that fear was misplaced. Nothing substantive has happened since the 2016 election in
25 this area or in any area of content moderation in the U.S. The E.U. is a different story.

1 But, yes, I am sure that they were worried, which is why each one of you has met
2 probably 10 Facebook lobbyists over the last 6 months and that they have such an
3 aggressive government affairs shop. Is that they do not want to get regulated.
4 Q Okay. And, when talking about this tech lash and the public criticism and
5 the concern of significant regulation, in an earlier answer, you said it tended to be heavily
6 from the Democratic side of the aisle. Is that correct?
7 A That was true at the time, and now it seems to have swapped, where a lot of
8 this criticism is coming from Republicans about the same decisions but from the other
9 side. Decisions that the Democrats thought were not sufficient are seen as overreaching
10 or suppression of free speech by the Republican side.
11 So it is an interesting thing to observe, the tech lash going back and forth
12 that -- effectively, the exact same arguments are being made by -- I saw a funny moment
13 where Elizabeth Warren, I think, was retweeted by Ted Cruz. And that was kind of
14 shocking of -- like, they're both making the same arguments of tech companies bad, but
15 they both had a very different idea of why. And so it does seem to be moving back to
16 the Republican side.
17 Q In 2018, when you were still at Facebook and Facebook is adding the CIB
18 policy, at that point in time, the tech lash and all that was coming from the Democratic
19 side, is your understanding. Is that right?
20 A Yeah. I mean, I think there was a lot more negativity towards Facebook
21 from Democrats in the 2018 -- sorry. That would be 2017. In the 2017 timeframe.
22 Q Okay. And the concern -- when you say "significant regulation," to connect
23 the two answers together, significant regulation coming from being pushed by the
24 Democratic side of the aisle?
25 A I mean, at the time, I believe most of the regulation was being proposed by

1 Democrats, although there has been lots of regulation proposed by Republicans, too.
2 In the last couple years, now, a lot of that seems to have moved to the States.
3 That all the really -- I'll say interesting, but I also mean unconstitutional -- things are being
4 pushed by State legislatures.
5 Q And this kind of public criticism from the Democratic side of the aisle, to
6 your understanding, that still persisted up until the 2020 election. Is that correct?
7 A I think it persists until today. I mean, I think there's -- there's criticism of
8 the platforms for lots of things.
9 The feeling inside the companies is that, if you're a platform that has a couple
10 hundred million Americans, you're going to end up reflecting all of the good and bad of
11 America. But then people end up blaming the intermediary for carrying the speech that
12 they both like and they dislike.
13 So, even today, Democrats are still submitting bills, as you guys know, to regulate
14 the companies. On the Democratic side, it seems more about privacy and a lot of stuff
15 around antitrust.
16 Q Okay. Is your understanding that the approaches to antitrust would be
17 harmful to companies like Facebook?
18 A I mean, something aggressive like breaking the company up would certainly
19 be -- they would consider that harmful, yeah.
20 Q Do you remember any discussions like that when you were still at Facebook?
21 A I wasn't involved in any of the antitrust stuff. That's outside of the realm of
22 a CSO.
23 Q With the understanding it was outside of the realm, do you recall any
24 discussions that arose in meetings or conversations with colleagues?
25 A I mean, I don't recall any discussions about, like, antitrust strategy or

1 anything. They would never include me in that. Certainly -- yeah -- noises different
2 administrations make around antitrust are being noticed by everybody at the company.
3 Q In an earlier answer, you were comparing Stanford and EIP and contrasting
4 that with the coercive powers of the executive branch and Congress.
5 It is true, though, that certain members of the executive branch were at least
6 engaging with EIP. Is that fair to say?
7 A So certainly we were engaging with members of the executive branch in a
8 way that we thought was appropriate and that, my understanding, they had signed off
9 on -- that they had gotten approval of by a Trump administration lawyer, by attorneys at
10 the Department of Homeland Security.
11 But, yes, we were engaging with them. Of course, we were engaging with the
12 parts of the government that have very little power. CISA actually has no regulatory
13 capability. They don't have law enforcement capability. I believe they recently got
14 administrative subpoena capability to do things like unmask IP addresses.
15 But that's actually, I think, one of the good things about CISA, is that for a long
16 period of time, as a CSO, there was nobody in the government that you could work with
17 defensively who couldn't also put you in jail.
18 And so it's like, you can't have a casual chat with an FBI agent when you're an
19 executive at a company. It's not safe. You end up with a $3,000-an-hour row of
20 people sitting next to you.
21 And so the invention of CISA, I think, was a positive thing because it is an
22 organization that does not have regulatory or punitive law enforcement capability.
23 Q And what do you mean you can't have a casual conversation with the FBI?
24 Why is that?
25 A I think defense attorneys would tell you that FBI agents are always looking

1 out -- you might feel like you're having a friendly conversation with them, but you never
2 know if you're actually the target.
3 And I think there has been a number of situations which companies have tried to
4 engage the FBI because they were victims of, say, a cybercrime, and then they end up
5 getting punished or their executives getting punished.
6 There is actually -- this was a big deal over the last couple of years where the CSO
7 of Uber, who was my predecessor at Facebook, was prosecuted for doing some things
8 that I don't agree with, but I understand how he got there. And it was kind of shocking
9 because he was working directly with the FBI in situations where they had aligned law
10 enforcement, and then DOJ turned around them like that.
11 And so, you know, dealing with a law enforcement agency that has coercive
12 powers is just a risky thing to do if you're part of some big organization and some
13 other -- there might be some investigation involving the organization that you don't even
14 know about.
15 Q That perspective you just shared with respect to the FBI, do you think it was
16 widely shared by the executives at Facebook when you were at the company?
17 A Certainly the policy of the company was that an executive could not talk to
18 the FBI without attorneys present.
19 Q Okay. And, with respect to the Uber example you gave, did that -- was that
20 example well known among industry partners?
21 A Sorry. That was just very recent. So that has been over the last, like, year
22 and a half. That's from well after I left Facebook.
23 Q Okay. Do you recall any other similar examples like the Uber one?
24 A I'm sure I could look. But I think a number of people were concerned that
25 you can end up going and having a conversation with the FBI and end up getting yourself

1 into some trouble in a way that was not expected. So, generally, at companies,
2 executives are required to take attorneys with them for those kinds of meetings.
3 Q Okay. And, to use the Uber example as one, even if the government
4 represents that the interests are aligned, it could be the case that, later on, the
5 government changes its mind. Is that right?
6 A Yes.
7 Q Okay. And this fact is well known by tech executives?
8 A Yes. And I think all executives of all public companies understand that
9 there's lots of parts of the government that can punish you for activity that you thought
10 was appropriate.
11 Q And that's regardless of what the government may have said. Is that right?
12 A Yeah. Yes. I mean, I think the determination of any individual U.S.
13 attorney is disconnected from whatever the overall policy of the government happens to
14 be.
15 Q Okay. In addition to the FBI, there are elements of DHS -- or I shouldn't say
16 in addition to. FBI is in DOJ.
17 Are there elements of DHS separate from CISA that have coercive power?
18 A Over companies in particular?
19 Q Yes.
20 A I mean, clearly, if you're an immigrant, DHS is very important.
21 I mean, the only thing I could think of would be his, Homeland Security
22 Investigations. A number of companies work closely with them because they have a
23 long history of doing child safety investigations. They are actually probably the most
24 important Federal law enforcement agency on child safety due to the history of -- if
25 people are bringing child pornography into the U.S., it used to be you did that in

1 magazines and photos in a suitcase. And so the investigations of smuggling raids across
2 the physical border used to be the core of child safety investigations.
3 And so his is still, like, a big part of that, and that's probably the agency in which
4 we work the most. I don't think anybody is really afraid of them. Like, you don't hear
5 about them doing investigations of companies in the same way the FBI does.
6 Q Okay. Are you aware of any other similar types of partnerships that had
7 multiple executive agencies working with them to monitor elections?
8 A Of partnerships --
9 Q So you represented EIP as a, you know, blogpost, which is accurate in a
10 certain sense. You were producing blogposts. But you also partnered with multiple
11 government agencies.
12 Are you familiar with any other types of blogposts or partnerships that had a
13 similar set of relationships with the executive branch?
14 A So I don't think that's an accurate summation of what I represented EIP.
15 EIP was an academic research program that documented and studied what happened in
16 the 2020 election. We happened to then get tips from EI-ISAC and the GEC.
17 To call them partners -- you can use the word "partners," but in the end, they
18 were sending us information, and we sent them information based upon our knowledge
19 and our analysis of activities.
20 I am not aware of any other groups that were working with them like that, but
21 it's -- I wouldn't be shocked, if you look at the NASSes or the NASEDs and the other kinds
22 of organizations that do election security, that there's some kind of relationship with both
23 CISA and the FBI.
24 Q Okay. Are you familiar with anywhere there is both large social media
25 companies, such as Facebook and Twitter, on the same communication with Federal

1 agencies such as CISA?

2 A Well, I think those companies interact with CISA probably all the time.

3 Q Are there any blogposts to help facilitate this?

4 A Are there any -- are there any academic research projects to help facilitate

5 it? I don't know of any at this time, no.

6 [redacted]. Okay. All right.

7 Can we go off the record, please?

8 [Recess.]

9 [redacted]. It's 4:01. Let's go back on the record.

10 BY [redacted]:

11 Q There was a -- Mr. Stamos, there was a comment made in the last hour

12 about SIO and EIP being a blog. Is that accurate?

13 A No.

14 Q Okay. They're research entities, right?

15 A The EIP is a research partnership. It's not actually a legal entity. It was a

16 partnership between four institutions with a history of doing research into -- especially

17 foreign interference into U.S. politics.

18 We had a blog, but we were much more than a blog. We were a group that

19 created, I think, the most complete historical record of disinformation during the 2020

20 election, and I think the most interesting academic research that has been published both

21 in our final report and in multiple peer-reviewed journals since then.

22 Q Okay. And you did -- you said you did have a blog, though?

23 A Yes.

24 Q And I think you were questioned about that a little bit.

25 Did you sometimes write the blogposts?

1 A I contributed. I don't think there's any blogpost that I wrote totally by
2 myself, but I contributed to a number of them.
3 Q Is writing a blogpost an expression of your First Amendment rights?
4 A I believe so, yes.
5 Q Okay. And so there was an allegation made that, somehow, by the act of
6 writing a blogpost, you are acting in a coercive manner. Do you remember that
7 allegation?
8 A I do.
9 Q Is it fair to say that that's effectively suggesting you should be punished for
10 exercising your First Amendment rights?
11 A That does sound like what he was saying, yes.
12 Q Okay. There was a lot of discussion about Facebook's internal reaction and
13 concern about the political fallout -- let's call it -- after 2016?
14 A That's right.
15 Q Russia did, in fact, interfere in the Presidential election in 2016, correct?
16 A That's correct.
17 Q And it did so by manipulating the Facebook platform, correct?
18 A Among other things, yes.
19 Q Okay. Does Facebook have a vested interest in ensuring that nobody
20 manipulates its platform, Russia or otherwise?
21 A Yes. Keeping the platform free of foreign interference, I think, is a key part
22 of them keeping up the trustworthiness metrics that eventually lead to people wanting to
23 use the platform and therefore them making money.
24 Q Okay. You were also asked in the earlier hour about the Hunter Biden
25 laptop story. Do you recall those questions?

1 A I do.

2 Q Okay. Do you know -- and I know you didn't work on the specific -- this

3 issue yourself, but just from public reports, how long was the Hunter Biden laptop story

4 banned on Twitter?

5 A I think it was a matter of hours, but I don't remember exactly.

6 Q Okay. If I represent to you that it was 24 hours, would you agree with me?

7 A That sounds correct.

8 Q Okay. And what about Facebook, do you know how long it was -- how long

9 Facebook --

10 A Probably about the same amount. It was never banned on Facebook, but I

11 believe it was downranked for a day or less.

12 Q Okay. In the -- much earlier -- I think maybe it was the first hour of the day

13 with the majority's questioning -- you were asked if the 2016 Russian election

14 activity -- the Russian interference in 2016 had actually impacted the election, and you

15 said you thought it was actually pretty hard to assess what impact it had. Do you recall

16 that?

17 A I do.

18 Q Okay. Do you think it's possible to assess the impact of the 24-hour ban on

19 the Hunter Biden laptop story on the 2020 election?

20 A On the actual outcome?

21 Q Uh-huh.

22 A I expect it was quite low because I think, in the end, the bans the companies

23 put together created what we call the Streisand effect, that it ended up getting way more

24 coverage than otherwise. I expect if you polled Americans, that a huge percentage of

25 them know that Hunter Biden had a laptop with all kinds of nasty stuff on it.

1 So I expect it actually went the other way, that the blocks were probably beneficial
2 to President Trump or at least not good for Joe Biden.
3 Q Okay. I want to turn back to exhibit 15, which is the email involving [redacted]
[redacted]. It's EIP 243.
5 "Re: EIP 243. Claim the thousands of ballots found in dumpster in Sonoma."
6 A Sorry. I gave my copy back.
7 Mr. Bellinger. Here you go.
8 Mr. Stamos. Okay. I'll just use this one.
9 BY [redacted]:
10 Q Okay. And there was a question about whether the -- whether CISA had
11 been added on to this ticket.
12 This is actually an email, right? It's not a ticket?
13 A This is an email that came from the ticketing system.
14 Q Right. So it was -- but it's not the ticket itself. It's just an email that
15 perhaps attached the data from the ticket, but it didn't allow CISA access to the ticket
16 itself, right?
17 A Right. So CISA did not have the ability to come and just look at tickets.
18 But, if somebody -- like, in this case, it looks like she put in this person specifically to get it
19 forwarded to him.
20 Q Are you familiar with the Sonoma County ballot dumpster story?
21 A I am.
22 Q And can you briefly describe what that is?
23 A This is something we wrote up in -- on our blog. There was a true
24 report -- a photo of a dumpster in Sonoma County with all of these mail-in ballots. And
25 the claim that was made was this was a demonstration of pro-Trump votes being thrown

1 out.

2 It turns out they were real ballots, but they were ballots from the last election.

3 And Sonoma County did something really stupid, which is -- instead of shredding those

4 ballots, as they probably should have, and disposing of them securely, they just dumped

5 them into a dumpster.

6 And so -- yeah. The claim was that these were being thrown away, and they

7 were voting for Trump, but even if you looked at the photo -- if you zoomed in enough,

8 you could see it was the California ballot design from the election before.

9 Q Okay. And so the claim that the ballots were current -- that they were

10 ballots from 2020 that had been thrown out was just flat-out false, correct?

11 A That's right. And this was something we saw a lot of and we continue to

12 see a lot of, is that you have a kernel of truth. Here are ballots in the dumpster. And it

13 makes people feel -- oh, I see a photo. I'm doing my own research. I'm learning for

14 myself. And then they accept the framing around it, which is these are this year's

15 ballots, and these are Trump ballots being thrown out.

16 And so using that kernel of truth allows you to drive a story -- a narrative that's

17 not true.

18 [redacted]. And I want to introduce as exhibit 17 the actual ticket from this.

19 [Stamos Exhibit No. 17

20 Was marked for identification.]

21 BY [redacted]:

22 Q This is from the Excel spreadsheet.

23 A Okay.

24 Q And this is -- I'll tell you, it's stapled on the wrong side, so you want to hold it

25 like that. There you go.

1 And I'm hoping you can quickly turn -- sorry. Not quickly. Take as long as you
2 need. The column labeled "reach." It is on the --
3 A I see it.
4 Q Yep. It says this is "viral, 1,001-plus engagements." Do you see where it
5 says that?
6 A I see that, yes.
7 Q So this demonstrably false claim was among -- it was in the highest category
8 of spread, correct?
9 A That was in the top category, yes.
10 Q Okay. And I'm going to ask you to turn to -- if I can find it -- the column
11 that has the organizations listed.
12 So it's on -- it's labeled -- what's that -- the third-to-last page. Do you see where
13 it says "organizations"?
14 A I do.
15 Q And the organizations listed there are EI-ISAC, Facebook, Reddit, and
16 Twitter. Do you see where it says that?
17 A I do.
18 Q CISA is not listed there, correct?
19 A That's correct.
20 Q Okay. So CISA was not an organization that was brought in on this ticket?
21 A What he showed me before is it looks like an individual person had been
22 added for it to be forwarded out of the platform.
23 Q Right.
24 A But CISA is not added because CISA themselves did not have direct access to
25 the ticket.

1 Q Okay.

2 [redacted]. And now I want to turn to the other example they used, which is

3 exhibit No. 16. It's the DeKalb County.

4 And I want to introduce the actual ticket for this one, which is going to be exhibit

5 18. And, again, this is stapled on the wrong side.

6 [Stamos Exhibit No. 18

7 Was marked for identification.]

8 BY [redacted]:

9 Q Okay. And I'm going to read quickly the description of what this was. It is

10 in tiny, tiny font, so if you can't follow along, let me know, but --

11 A Most of my body is falling apart, but my eyes are actually okay. So I'm fine.

12 Thank you.

13 Q So it says -- underneath description, it says: Can you help with this tweet?

14 A person describing himself as an Emory professor says DeKalb County has rejected

15 40,000 absentee ballots. DeKalb has only rejected 240 ballots so far. Only slightly

16 more than 1,400 have been rejected statewide. His tweet is totally false but is still

17 getting pick-up -- and then there's links to the URLs -- any help you can provide? Ari

18 Schaffer, director of communications, Georgia secretary of state.

19 Did I read that right?

20 A Yes.

21 Q Okay. So is it fair to say that this ticket involved a claim about the number

22 of absentee ballots that had been rejected, and the secretary of state of

23 Georgia -- somebody from that office said this is demonstrably false?

24 A Yes.

25 Q And the Secretary of State's office would be in a position to know if that was

1 true or false, correct?

2 A Correct.

3 Q Okay. And I want you to turn to the "organizations" page for this one as

4 well. I think it's probably near the end. Yeah. It's the last page.

5 And the organizations listed there are EI-ISAC, Facebook, TikTok, and Twitter. Do

6 you see where it says that?

7 A That's correct.

8 Q Okay. And, again, CISA is not listed as one of those organizations, correct?

9 A That's correct.

10 Q Okay. So CISA, again, was not brought in on this ticket?

11 A Unless somebody forwarded it to them.

12 Q Right.

13 A They did not have direct access.

14 Q Right. And they wouldn't have been able to edit the ticket or contact social

15 media companies through the ticket?

16 A They certainly could not have done those things, no.

17 Q Okay. Okay. There's a -- sorry. Real fast.

18 There was a comment made earlier about social media companies being

19 onboarded to the platform. What's your understanding of what the term "onboarded"

20 means?

21 A Onboarded would mean we would set up their accounts in Atlassian and

22 then probably provide them some basic training of what was going to be happening, how

23 they could access the tickets, what kind of notifications they would get, stuff like that.

24 Q Okay. So they were onboarded in that they had access to the platform, but

25 that was really it, right?

1 A Yes. That meant they had a login that they could see the stuff that we put
2 in front of them.
3 Q Okay. A couple questions about the Virality Project.
4 SIO created the Virality Project in 2021, correct?
5 A Yes.
6 Q Okay. And the purpose of the Virality Project -- actually, let's go ahead and
7 introduce -- I want to introduce as exhibit 18 -- no. I think we're on 19, actually.
8 It's an SIO blogpost entitled "Launching the SIO Virality Project."
9 [Stamos Exhibit No. 19
10 Was marked for identification.]
11 BY [redacted]:
12 Q Are you familiar with this post?
13 A This looks like our initial post, yes.
14 Q So, on the second page of the post as printed, the first full paragraph on that
15 page at the end --
16 A Okay. I'm sorry. So there are two things that we call the Virality Project,
17 just to be clear. So our first launch was SIO only, which is what you're seeing here.
18 This is from before the vaccines happened.
19 Q Okay.
20 A We were doing our own study of disinformation around the virus itself,
21 right? So this is May. So things are getting hot.
22 Q Okay.
23 A So, for example, I actually brought a blogpost from it. We did a whole
24 study of -- from this first version of the Virality Project, we did -- maybe I don't have it.
25 We did a study of Chinese lies about the -- or, like, what Chinese social media was doing --

1 Q Okay.

2 A -- and what the Chinese Foreign Ministry was saying around the origin of the

3 virus and Chinese responsibility for it.

4 Q Okay.

5 A Yeah. So this is the paper that came out from that. So that was the first

6 version --

7 Q Okay.

8 A And then we effectively relaunched it. And we had the name, and we had

9 the domain, so we reused it --

10 Q Okay.

11 A -- of relaunching it with the partners specifically around the vaccine.

12 Q Okay. So let's put this exhibit to the side.

13 A Yeah.

14 Q Because this is not actually what I want to talk about.

15 A Yeah.

16 Q The relaunched version. I think there was some muddle earlier in what the

17 purpose of that relaunch version was. Could you just state again your understanding of

18 what the purpose was with respect to the Virality Project, the second iteration of it?

19 A Right. So we -- just like with EIP, our primary purpose was to archive in real

20 time the discussions that were happening around the vaccines. We knew this was going

21 to be an incredibly important historical moment for the whole world and, as a result,

22 would probably be the target of serious disinformation.

23 At this point, we had already, like I said, seen, for example, the Chinese doing lots

24 of foreign influence work around the world, both trying to -- trying to push blame for the

25 virus onto the U.S. and things like that.

1 The second was to then do an academic study of how -- how do people discuss
2 these things in a rapidly moving scientific environment? So, as I said before, the
3 difference between this and the election is that a lie about when the election is, is easily
4 fact-checked. Saying a vaccine causes a side effect is something that is much harder to
5 know whether that's true or not, or there might be a kernel of truth, but then somebody
6 says: That's why you shouldn't take it, or everybody is going to get the side effect, right?
7 And so studying how that stuff worked online was a big goal.
8 And then the third was to provide health officials with a view of what was being
9 said because we wanted them to be responsive to the actual concerns of citizens and not
10 just do the normal doctor thing, which is to lecture at length, you know, in a very
11 scientific way, like: This is what people are afraid of. This is what you should address.
12 Q Okay. There was discussion earlier about the Virality Project -- I'm going to
13 call it VP for shorthand -- the VP's output.
14 A Yes.
15 Q What was the VP's output?
16 A So the primary output was the weekly reports. We did these weekly
17 briefings that we sent to a mailing list, which included public health officials, companies, I
18 think some kind of nonprofits -- NGOs who do public health work -- and then we posted
19 those on the public website. We also then would send -- between those updates
20 around the narratives we were tracking -- to platforms that subscribed to those specific
21 narratives.
22 Q Okay. And that was just one-directional, right? Like, you would create
23 the update, and you would hit "send," and it would go out into the world?
24 A That's right, yes.
25 Q Okay. So it wasn't like there was back-and-forth engagement with the

1 platforms on those?

2 A Right. This was different than EIP in that we didn't have the back-and-forth

3 engagement, nor did we have an EI-ISAC equivalent where you had somebody routing

4 stuff to us from local and State officials.

5 Q Okay. So is it fair to say that you were summarizing the results of your

6 research or whatever the research had been that week, writing it down, and sending it?

7 Is that a fair summary?

8 A Yes.

9 Q Okay. That was also an exercise of your First Amendment rights, correct?

10 A I believe so, yes.

11 Q Okay. Did the Virality Project receive any Federal funding?

12 A No, it did not.

13 Q Okay. And that's true for both the 2020 iteration of the Virality Project and

14 the 2021 iteration of the Virality Project?

15 A That's correct. We didn't get any of the NSF grant, which is our sole

16 government funding, until after both of those projects were over.

17 Q Okay. Matt Taibbi has claimed that the VP had the capacity to take in 50

18 million tweets a day. Is that accurate?

19 A So what he's referring to -- I saw that tweet. He released a leaked email

20 from inside of Twitter where Twitter had sent us an email saying: Hey, here's an API in

21 which you can get COVID information. There's over 50 million tweets a day about

22 COVID-19.

23 So that was an advertisement of Twitter saying: There's 50 million tweets a day.

24 You can access it via APIs.

25 Q And what's an API?

1 A I'm sorry. Application programming interface, which in the end, we didn't
2 have to use because we already had an integration with their general API that would
3 allow us to look at the things we cared about, which was actually much tighter than all of
4 COVID-19. So he had, like, a basic misunderstanding of what that email said.
5 Q And, just to be clear, an API is essentially a tool that Twitter created. Is that
6 a good way to put it?
7 A An API is effectively a way you can talk to Twitter. So it's how Twitter on
8 your phone talks to Twitter, is via an API.
9 Q Okay. It's a Twitter product?
10 A It's a Twitter product, yes.
11 Q Okay. Mr. Shellenberger has reported that the VP, quote, censored 66
12 different social media narratives. Is that accurate?
13 A No.
14 Q Do you know where that -- do you know why he would think that?
15 A So, first off, we censored nothing. We had no power to do any censorship.
16 And I think he's going in that -- we identified in our final report -- we categorized what we
17 found into different kinds of narratives, and I think we might have had 66 narrative
18 archetypes.
19 To say we censored those things is absolutely incorrect because the whole point is
20 that we saw those things on social media. We had -- those narratives are still going on.
21 And our goal was to document: These are the things people were saying about
22 vaccines. Some true; some false. Here are the 66 different categories that we put
23 them into.
24 So we did no censorship at all. And the idea that we censored those things is just
25 empirically wrong because you can look at social media today or you could look at it

1 during that project and you would see plenty of discussion on all those areas.

2 Q And one last claim. Mr. Taibbi has claimed that the VP recommended that

3 platforms take action against true vaccine side effects or posts that would fuel vaccine

4 hesitancy. Is that true?

5 A No. So, in that case -- in that tweet where he makes that claim, he took a

6 subset of an email, which students sent -- the student leaders of the project sent an email

7 out to all of the platforms saying: Which of these narratives would you like to be

8 updated on and get updates on?

9 They did not say you should then take them all down. And, clearly, they didn't

10 because if you look at all of those platforms, all of those things we talked about happened

11 a lot.

12 But we do do study of what kinds of tropes exist, what are the common narratives

13 around vaccines, and that is something that we shared with the platforms, as I believe we

14 have a constitutionally-protected right to do.

15 Q Okay. And you said that, to your knowledge, those are still actually

16 available on social media today?

17 A I think if you opened it up right now, you would find plenty -- you could find

18 an example of all 66 of those different kinds of narratives on social media, yes.

19 Q Okay. Okay. A handful of wrap-up questions.

20 Are you -- are you familiar with an individual named Renee DiResta?

21 A Yes.

22 Q Who is Renee DiResta?

23 A She's my colleague at Stanford. She's our research director.

24 Q How long have you known her?

25 A How long have I known Renee? That's a good question. I probably met

her in the 2017 timeframe at a conference or something like that. Yeah. I don't remember exactly when I met her. I've worked side by side with her since 2019. So I've known her well since we hired her at SIO.

Q And you would say you know her well?

A Now, yes.

Q Okay. Are you familiar with an individual named Mike Benz?

A I very much am, yes.

Q Who is Mr. Benz?

A Mr. Benz is a gentleman who has been writing a lot of things about us that are not true. I believe he used to work at the State Department for a short period of time on cyber. And he likes to tweet about us and publish things and seems to be the person who is pushing a lot of these theories to the various committees and such.

Q Okay. I want to focus on one particular thing that he said about Ms. DiResta.

Mike Benz has publicly accused Ms. DiResta of being a CIA spy embedded at the SIO to help the government engage in censorship. And I know there's a lot to unpack there, so let's take it piece by piece.

Is Ms. DiResta a CIA spy, to the best of your knowledge?

A To the best of my knowledge, she is not a spy for the CIA.

Q To the best of your knowledge, did the CIA embed Ms. DiResta at the SIO?

A No. I offered her a job, and she accepted.

Q Okay. Does the SIO engage in censorship?

A No.

Q Okay. So it cannot be the case that -- so Ms. DiResta is, first of all, not a CIA spy?

A Right. So I think where this comes from is Renee was on her own in her family at a very young age and had to pay for college herself and ended up getting a National Security Fellowship that sent her to an internship at the CIA, which then paid for her to go through school.

I'm pretty sure she has not had any relationship with the CIA or been a spy for them or anything. And I think at the time, she was, you know, an undergrad, so she was probably just an analyst sitting at a desk somewhere in Langley. So I'm pretty sure she has had no official relationship with the CIA since then.

Q Are you familiar with the impact that this rumor has had on Ms. DiResta?

A Yes. Unfortunately, yes.

Q Are you able to speak to that at all?

A Renee has come under really extreme personal attacks over the last several months. I have too, but, unfortunately, as you often see online, this thing becomes gendered. So she probably gets five times as much hate mail as I do. I know she has gotten death threats and threats to her children.

Q And Mr. Benz has also tweeted about you. Is that right?

A I believe he has, yeah.

[redacted]. I want to introduce just one of these tweets.

[Stamos Exhibit No. 20

Was marked for identification.]

BY [redacted]:

Q It was actually from 4 a.m. this morning, so you might not have seen it.

A Oh, I probably did not.

Q And I'll give you a second to read it, and let me know when you're ready to continue.

1 A Okay.

2 Q Okay. I'll just read it quickly.

3 Mr. Benz, who tweets @MikeBenzCyber, tweeted: Interesting.

4 December -- Dec -- 2019 was when Chris Krebs flew to Stanford for a meeting with Alex

5 Stamos to discuss election censorship for 2020 election. Krebs' CISA then tapped

6 Stamos' EIP to censor trending narratives. Wonder if Krebs was briefed by FBI on

7 damning Hunter laptop first.

8 And I should say, this follows a comment from an individual named Sean Davis

9 about the Hunter Biden laptop.

10 A Right.

11 Q And this was tweeted at 3:58 a.m., on June 23rd, 2023. I want to take this

12 apart piece by piece.

13 Did Mr. Krebs fly to Stanford in December 2019?

14 A I don't recall. Chris visited and spoke to students and participated in a job

15 fair to recruit students to the new CISA. I don't remember exactly when that was.

16 Q Okay. At any point in December 2019, to the best of your recollection, did

17 you and Mr. Krebs discuss election censorship?

18 A No.

19 Q Did you discuss the Election Integrity Partnership?

20 A No. At that time, it did not exist.

21 Q Okay. And that was actually about 7 months before it would get underway,

22 correct?

23 A That's right.

24 Q So that was well before it was really a thought?

25 A Yeah. It was not until early in 2020 that we started our internal discussions

1 about what we were going to do about the election, and we didn't really pull the EIP
2 together until June of 2020.
3 Q Okay. And then this continues: Krebs' CISA then tapped Stamos' EIP to
4 censor trending narratives.
5 Did CISA tap or ask the EIP to censor anything?
6 A No.
7 Q With respect to the 2020 election or otherwise?
8 A No.
9 Q Okay. And we talked through the Hunter Biden laptop earlier. Just to
10 restate, EIP had nothing to do with the Hunter Biden laptop story, correct?
11 A That's right. We published nothing on that. We had no tickets on it. It
12 was completely out of scope because it was about a candidate's kid. About whether you
13 would vote for a candidate had nothing to do with the actual mechanism of the election.
14 Q Okay. So is it fair to say that this particular tweet from Mr. Benz is entirely
15 false?
16 A He spelled my name correctly. But, other than that, it's pretty much
17 entirely false, yes.
18 Q Okay. Thank you.
19 A And it's unfortunate. I guess he's not a very good sleeper since he's
20 tweeting about me at 4 a.m. That's unfortunate.
21 Q So Mr. Benz, Mr. Taibbi, and Mr. Shellenberger, and others have placed you
22 in the public eye because of your work -- or not because of your work, but because of
23 misrepresentations about what you do. Is that fair to say?
24 A I mean, they have certainly misrepresented what we do, yes.
25 Q Okay. And we talked through the consequences that this has had on

1 Ms. DiResta.

2 Have you also faced negative consequences because of what's been happening

3 with the way you've been -- your work has been misrepresented?

4 A I think you could say that, yes.

5 Q What impact has this had on you?

6 A So there have been a number of threats against me and my family. The

7 most disturbing was actually a very subtle one. I got a Twitter DM that the only thing in

8 the DM was an extremely blown-up crop of my wife's face from a family photo, which I'm

9 pretty sure the implication was not, "Boy, your wife is pretty. Why are you with

10 somebody so beautiful?" That this was a threat against her life, the way it was

11 portrayed.

12 It was pretty smart because it was both very scary and also exactly the kind of

13 thing for which the context to try to represent to Twitter that this is really a threat against

14 my family is quite hard.

15 So, yes, there has been lots of people lying about me. And, unfortunately, this is

16 something that now, if you Google for my name, there's plenty of accusations that are

17 totally incorrect. So I expect that this will have a long-term negative impact on my

18 career.

19 Q And why a long-term negative impact on your career?

20 A Because we've tried very hard to do good academic work that is not

21 politically-biased. And I've never wanted to be seen as a political actor. And, for some

22 people, that's what they want. They want to be seen, and they want jobs where they're

23 particularly partisan.

24 And, since I will most likely one day have to go back in industry, being seen as, like,

25 a political player who is hated by half the country will be a real challenge for me. You

1 know, if somebody googles me for my background and what they find is lies after lies
2 after lies, it's going to make for -- much more difficult, especially if I was going for, like, a
3 chief security officer role again.
4 Q Do you think the fact that you've been facing these kind of threats and the
5 fact that you've been brought into this investigation for that matter -- might that have a
6 chilling effect on your willingness to do this kind of research in the future?
7 A Absolutely.
8 Q In what way?
9 A Because it makes you really wonder whether it's worth it, right? In the
10 end, my primary responsibility is to my wife and my three children, and it's very hard to
11 justify for them -- even if it's unfair, for them to be put at any kind of physical risk because
12 I want to do academic research into the election.
13 Q Do you think if other researchers or other academics are seeing what's
14 happening to you, it might chill their willingness to do this type of research?
15 A Oh, I'm sure it is having that effect. Both this investigation and what is
16 going on publicly, I expect that it is discouraging a number of universities from studying
17 what happens in 2024.
18 [redacted]. All right. Oh, sorry. Before we end, I did want to enter your
19 written statement -- the written version of your statement into the record. This will be
20 exhibit 21. And it's just to have the complete record made.
21 [Stamos Exhibit No. 21
22 Was marked for identification.]
23 [redacted]. Thank you. We can go off the record.
24 [Recess.]
25 [redacted]. Back on the record, please.

1 Do you guys still have the exhibits? One was introduced by the minority in the
2 previous hour. It was the spreadsheet of EIP 833. And then, in my previous round of
3 questioning, there was an email with the same EIP 833 number.
4 Mr. Bellinger. Yep.
5 BY [redacted]:
6 Q Okay. If you were to flip to the second-to-last page of the re-creation of
7 the spreadsheet row, there are two columns, one "organizations," one "platform."
8 A Yeah, I see that.
9 Q And there's reference to EI-ISAC, Facebook, TikTok, Twitter. And under
10 "platform," it's Facebook, Instagram, TikTok, and Georgia Twitter. On the --
11 A If I may.
12 Q Yeah.
13 A The Georgia is in the State-targeted column.
14 Q Oh, okay.
15 A So it just looks like when it's printed here, but it's in the State column.
16 Q Thank you for clarifying.
17 So the "platform" reads Facebook, Instagram, TikTok, Twitter?
18 A That's right.
19 Q And then, in the exhibit that I introduced in the majority's previous hour of
20 questioning, it says that the ticket had been shared with TikTok, Facebook, EI-ISAC,
21 Twitter, CIS misinformation reporting, and CISA CFITF.
22 For the email, I'll represent that this was produced to the committee by one of the
23 tech companies listed below. When the tech company receives this, they're able to see
24 that both CIS Misinformation Reporting and CISA CFITF received a ticket. Is that right?
25 A If this is what you said, this went to the company -- if that's true, then yes.

1 Q Okay. Do you know why CIS Misinformation Reporting and CISA CFITF are
2 not appearing in the archive data?
3 A So CIS Misinformation Reporting shows up as the creator. So I think what
4 you're seeing here is that EI-ISAC is the organization that the humans are logged into, and
5 CIS Misinformation Reporting is perhaps an automation system we are using to turn their
6 emailed reports into an entity. So it is -- that part is listed here.
7 Q Okay. And what about CISA CFITF?
8 A Yeah. I don't know why that's listed here. It's perhaps that it was
9 individually forwarded or they were cc'd, but that they were added specifically to this
10 ticket. I'm not sure.
11 Q Okay. And, to your understanding, how could CISA be specifically added to
12 this ticket?
13 A I'm not sure.
14 Q Could a government entity -- if it was not the creator and if it's not one of
15 the social media platforms, is there a mechanism by which not just a government entity
16 but other entities could be copied on or added to a ticket?
17 A I believe you could always put individual emails so that they get forwarded
18 something.
19 Q Okay. So it might be the case that CISA CFITF is a personal email?
20 A It could be that that is the name of an email that has -- as it's represented in
21 the Atlassian system, that if you put the email of an individual person the at CISA, it
22 shows up as CISA CFITF. I'm not sure.
23 Q Okay. If you were the recipient of the -- I don't know which exhibit number
24 this is, but the Bates No. is 1934, and the bottom of the email says, "This was shared
25 with," and it lists a bunch of entities including CISA CFITF -- would you be under the

1 impression that this information had been shared with CISA?

2 A It's possible, yes.

3 Q Okay. This is going back to just --

4 A And, to be clear, this was our work of information that we filled out and our

5 analysis. So that's what they would have seen in the public component. But, in the

6 email, that's what they would see, yes.

7 Q Okay. Would they see if this was submitted by EI-ISAC?

8 A So you can tell that from -- it says the CIS mis-. So what they would

9 probably see when they looked in is it would say CIS Misinformation Reporting because

10 that's what the reporter was set for the EI-ISAC tickets.

11 Q Okay. So the tech company would realize CIS created the ticket, and when

12 it's being shared, it's being shared with major social media platforms and CISA. That's

13 what this email represents. Is that right?

14 A That's what they could infer from this, yeah.

15 Q Okay. When -- I want to make sure I use the right term. Whether it's

16 onboarding or engaging with the social media platforms, who was your primary point of

17 contact at Meta in 2020?

18 A The person who supervised the most important team here would be

19 [redacted].

20 Q Do you recall any other names from Meta?

21 A I know a lot of people who work at Meta.

22 Q Sorry. In the context of engaging with EIP in 2020.

23 A Probably [redacted]. He helped lead a bunch of investigations.

24 [redacted]. I'm not sure who else would have -- we would have engaged with

25 directly or who were the people we onboarded on the platform.

1 In the end, I'm pretty sure the people who were doing this was not any of those
2 three, but whoever was on-call in the trust and safety team that was handling the
3 election at the time.
4 Q Do you recall if [redacted] from Meta was involved with EIP in 2020?
5 A It's possible. I don't recall any actual conversations with him, but it's
6 possible.
7 Q Did you have any regular points of contact with Facebook's or Meta's trust
8 and safety team in 2020?
9 A So all of those people work on integrity. Of the team that is actually doing
10 operations -- I should probably have said is probably what's called community operations,
11 which is the team that would take a report from us and then make the decision of what to
12 do with it. And I'm sure we onboarded one of those people, but I wasn't part of that
13 process of onboarding them.
14 Q Who at EIP was part of the process of onboarding the social media
15 platforms?
16 A I don't recall exactly who did that one, but I believe [redacted] and some of the
17 other students did most of those onboardings and trainings.
18 Q Who from Alphabet did EIP engage with in 2020?
19 A So I think the key person was [redacted], who I believe was kind of the
20 point of contact for policy engagement.
21 Q Were there any other names you recall?
22 A That's the only one at this point.
23 Q In 2020, who was EIP's primary point of contact with Twitter?
24 A Probably Yoel Roth and [redacted].
25 Q In 2020, who was EIP's primary point of contact with TikTok?

1 A The person who ran the team was [redacted], who I believe recently left.
2 I'm not sure who the actual person who might have been looking at the output, but [redacted]
3 would be kind of the primary person that we interacted with.

1

2 [4:42 p.m.]

3 BY [redacted]:

4 Q Who was the EIP's primary point of contact at Reddit?

5 A I've forgotten her name. There was a woman in the policy team. We can

6 come back to you.

7 Q Do you recall with respect to Alphabet if there was different points of

8 contact for Google as opposed to YouTube or if it was the same point of contact?

9 A I believe it was the same. For these purposes, the central Google team was

10 the one who was coordinating on their election policies.

11 Q In 2020, who was EIP's primary former contact with Discord?

12 A I don't recall with Discord.

13 Q What about with respect to Wikimedia?

14 A Yes. There's a -- I don't remember what the name is of the person at

15 Wikimedia. I wasn't a part of those meetings.

16 Q Who would have been part of those meetings?

17 A Probably [redacted] or some of the students who were doing onboarding.

18 Q Who is EIP's primary point of contact with Pinterest?

19 A I don't recall.

20 Q Are there plans to -- you mentioned that EIP -- obviously, this is the 2020

21 iteration. In 2022, you said there were some differences. Are there any plans to have

22 some continuation of the partnership for the 2024 election?

23 A That's an interesting question. I'm going to have to have a discussion with

24 Stanford's leadership. Since this investigation has cost the university now approaching

25 seven figures legal fees, it's been pretty successful I think in discouraging us from making

it worthwhile for us to do a study in 2024.

[redacted]. Do you recall which exhibit we're on?

[redacted]. 21 -- 22.

[redacted]. 22. All right.

[Stamos Exhibit No. 22

Was marked for identification.]

BY [redacted]:

Q Do you know who [redacted] is? I don't know if I'm pronouncing her name right.

A Yeah. She was the woman I was thinking of, the head of policy for Reddit.

Q Great. And at her email at the top of the page, she says that "We" -- assuming referring to Reddit -- "are unable to participate in Jiras, but we are happy to receive info over email."

Do you recall that Reddit didn't respond in Jira directly?

A Right. They did not -- for whatever reason, did not want to have something they had to log into. They wanted things to be put in the email and sent directly to them.

Q Okay. And then there's an email below from you. You explain the situation. There are a couple of links. And then below you say: "It would be great if we could get somebody from Reddit on the Jira, just like Facebook, Google, Twitter, TikTok, Instagram, CISA, EI-ISAC."

Were you referring to CISA, the government agency?

A I was probably making a mistake there talking about CISA because EI-ISAC were the people who had access to the Jira.

Q But you list both EI-ISAC and CISA. Is that right?

1 A As I said, I believe I made a mistake in doing so.
2 Q In listing two entities when you meant one?
3 A I'm sure if you look through thousands of my emails, as you're doing, you'll
4 be able to find me make some mistakes and typos, yes.
5 Q But there is a Jira ticket notification that has CISA as well. Is that right?
6 A I believe that that is a Jira ticket that an imudal system member had been
7 added to. But CISA was not an organization that was onboarded that had the ability just
8 to get the stuff. Any ticket, just like with this, could have been sent to somebody -- this
9 is actually a great demonstration of this. Reddit, as is demonstrated in this email, is not
10 onboarded, yet they received a notification, just as CISA does not have to be onboarded
11 to receive a notification.
12 Q True. But you're representing to Reddit that CISA is on --
13 A As I said, in my thousands of emails, I'm sure I misrepresented -- made a
14 mistake somewhere.
15 Q Okay. How do you think Reddit interpreted this email?
16 A She says right here, "Unfortunately as we mentioned at the beginning of this
17 project we are unable to participate in external Jiras, but we are happy to receive info
18 over email."
19 Q Sure. But do you think she read the email to interpret that CISA was on
20 Jira?
21 A Possibly. And apparently it had no impact because her decision, as she
22 made for herself, is that they did not want to participate in being onboarded onto Jira.
23 Q Do you think that they declined to participate in part because they were
24 government partners?
25 A I don't know why they declined to participate. Reddit has always been a

1 little bit of a different company in this. They have kind of a smaller trust and safety
2 team and a different set of ways they enforce their policies because of the complicated
3 relationship they have with their sub Reddits. So it is definitely possible they would
4 approach doing any kind of policy around elections differently than other platforms.
5 [redacted]. This will be exhibit 23. I believe the majority introduced the same
6 statement. As things go along, we will hand out new versions.
7 [Stamos Exhibit No. 23
8 Was marked for identification.]
9 [redacted]. And this is exhibit 7 earlier.
10 [redacted]. No problem.
11 BY [redacted]:
12 Q If I could have you -- first let me ask again, did you play a role in drafting
13 this?
14 A Yes.
15 Q And who else from Stanford played a role in preparing it?
16 A My colleagues inside of SIO, and then we worked with Stanford lawyers and
17 outside counsel.
18 Q If I could call your attention -- it will be the top of page 3. The question
19 begins on page 2. The bolded question is: "Is it true that the EIP censored 22 million
20 tweets and labeled them as 'misinformation'?"
21 And the answer continues -- it starts on the bottom of page 2 and continues on
22 the top of page 3.
23 A Right.
24 Q The last full sentence -- there's a semicolon in there -- says: "The EIP
25 informed Twitter and other social media platforms when certain social media posts

1 violated each platforms's own policies; EIP did not make recommendations to the
2 platforms about what actions they should take."
3 That last half of the sentence, "EIP did not make recommendations to the
4 platforms about what actions they should take," do you understand that statement still to
5 be true?
6 A So the policy of the EIP was that we were informing platforms when we
7 thought content that we found violated their policies. It is possible that individual
8 students would use language like "I recommend" or "we recommend." Those are the
9 words of 18- to 24-year-olds who have no power, no coercive power, and had no ability
10 to force the companies to do anything.
11 Q So when communicating with social media platforms via the Jira tickets, it
12 was only students who would do that?
13 A No. There were also managers and tier 2 analysts, some of whom were
14 professionals, who might add comments that would be seen.
15 Q Okay. In the previous exhibit we saw, it's the email is from you to [redacted].
16 Is that right?
17 A That's right.
18 Q And even if you look down a little bit further, the notification where it's
19 being forwarded to [redacted] and there's that same 2020partnership.atlassian.net, the
20 name that appears next to it is yours. Is that right?
21 A That's right.
22 Q Okay. So there were instances where there were not students sharing the
23 Jira tickets with the social media platforms?
24 A That's right. There were professionals. We too, even employees, have
25 First Amendment rights to have our own opinions about what's going on and to share

1 those opinions with others.

2 Q And did the professionals who were sharing the Jira tickets with the social

3 media platforms, did they ever make recommendations?

4 A It's possible. We'd have to go look. But, again, the EIP had no power to

5 coerce the platforms to do anything. And, in fact, our hard empirical evidence shows

6 that in 65 percent of the time they took no action because they determined that that was

7 their decision under their own policies.

8 Q Same page, on page 3, the question is phrased as: "Did EIP receive direct

9 requests from the Department of Homeland Security's" -- it says "CISA to eliminate or

10 censor tweets?"

11 Did you phrase the question to avoid saying did EIP receive indirect requests from

12 CISA?

13 A We phrased this question to try to be accurate. And the accusation that's

14 have been made in front of a committee that, unfortunately, none of your members

15 corrected repeatedly is that CISA was telling us to censor tweets. And that turns out to

16 be false on multiple levels. We did no censorship, we had no power to have censorship,

17 and we did not have CISA sending us those requests.

18 Q To your understanding, if the question had read: "Did EIP receive indirect

19 requests from CISA," could you have provided the same response of a direct no?

20 A So I can't tell if CISA said something to somebody or if the EI-ISAC forwarded

21 something that perhaps had CISA involved. Beyond the EI-ISAC reporting things to us,

22 we're not sure where it's from. So this is an accurate statement and directly refutes the

23 claims that -- the false claims that were made in front of your committee.

24 Q But if the question had said: "Did EIP receive indirect requests," could EIP

25 represent the same answer of a direct no?

1 A If you asked me did EIP receive indirect requests from Donald Trump or from
2 Chairman Jordan, I also couldn't answer it. That's why we try to say direct. We only
3 have the knowledge of what went directly to us. If something was routed through
4 somebody else, I have no idea. It's possible that President Trump asked somebody, who
5 said something, who said something through EIP, and that would be impossible for us to
6 determine. So we try to be as accurate as possible here.
7 Q Okay. But in the archived data you provided to the committee, there are
8 social media platforms commenting on the Jira ticket system that they communicated
9 through CISA by way of CISA. Is that right? We covered that I think in the second
10 hour.
11 A Yes. Social media companies refer to them talking to CISA directly.
12 Q Okay. And you channel the requests through the EI-ISAC, which you
13 represented is operated by CIS, which is funded by CISA. Is that right?
14 A Partially funded. I don't know where all of their funding comes from, but I
15 do know they have grants from CISA.
16 Q Okay. And there are email notifications being generated by the Jira ticket
17 system where it says the ticket is being shared with CISA. Is that right?
18 A There's at least one case that you showed me where somebody from CISA
19 was cc's on the ticket.
20 Q Okay. And sitting here today -- this statement was drafted I think back in
21 March. Is that right? I don't know if we have a date on here.
22 A That sounds right.
23 Q Sitting here today, based off your understanding of who is involved with the
24 EIP, if the question was phrased "Did EIP receive indirect requests from CISA," what
25 response would be accurate?

A Just as I said, I cannot provide any assurances that requests from CISA or any other political actor did not come through some other actor. So, as you can see, we got requests from government officials and such. And so if President Trump sent a request to a political ally of his in the Georgia Secretary of State's office -- maybe that's a bad example -- in the Florida Secretary of State's office and they sent something via EI-ISAC, that would be an indirect request from the government.

So this was accurate when we wrote it, and I still believe that we did not receive any direct requests from CISA.

Mr. Bellinger. So, [redacted], it is 5 minutes to 5:00. I think just to be respectful to the witness, we're going to leave at 5:00. We've taken an awful lot of time. We spent an awful lot of time in the beginning just doing a lot of background stuff, but -- so can we wrap up in 5 minutes?

[redacted]. We'll be done shortly.

Mr. Bellinger. Well, we're going to leave at 5:00.

[redacted]. Understood.

BY [redacted]:

Q With respect to your Florida Secretary of State example, the Florida Secretary of State is one of the offices that participates in the EI-ISAC. Is that right?

A I expect so. I'm not so sure, but I'm pretty sure they do, yes.

Q Okay. Is it your understanding that the role CIS plays is different than the roles that the offices of the various Secretary of State offices play?

A Yes. My understanding is that CIS operates the internal -- the overall organization that coordinates. They run the events. They run the switchboard. They run the mailing list and such.

Q And does --

1 A And then all of the Secretaries of State and local election directors are the
2 members that generate the communications that then CIS routes.
3 Q And does CISA play a role with CIS's responsibilities with the EI-ISAC?
4 A I really can't speak as to the internal organization of the EI-ISAC.
5 Q Okay. Do you recall what the ticket was that was sent to the FBI?
6 A It was the -- I can try to find the ticket number. It was the ticket about the
7 Iranians and the Proud Boys.
8 Q Yeah.
9 A We sent it to them because there was a direct death threat, and it seemed
10 very possible to have a foreign component. So since that is a straight-up Federal crime,
11 we sent it to the FBI.
12 Q Do you recall if any social media platforms were tagged on that ticket?
13 A So, to be clear, I believe the way I communicated to the FBI is I sent a direct
14 email to them, and then we set up a call where we explained our findings to them.
15 They -- I do not believe they got anything out of Jira. So that was me cutting and pasting
16 our -- effectively a draft of the blog post that we eventually sent and sending them these
17 are our conclusions and then talking them through it.
18 Q Yeah. And so you issued a blog post on this issue. Did that blog post
19 predate the election?
20 A Yes.
21 Q And was it -- as part of the blog post, did you reveal that you had sent the
22 information to the FBI?
23 A I don't recall, no.
24 Q Okay.
25 A The blog post is still available if you want to go to eipartnership.net.

1 [redacted]. Can we go off the record?

2 [Discussion off the record.]

3 [Whereupon, at 4:59 p.m., the interview was concluded.]

1 Certificate of Deponent/Interviewee

2

3

4 I have read the foregoing ____ pages, which contain the correct transcript of the

5 answers made by me to the questions therein recorded.

6

7

8

9 _____

10 Witness Name

11

12

13 _____

14 Date

15

Transcribed Interview Suggested Errata Form

Interviewee	Alex Stamos
Date of Interview	06.23.23
Date of Review	07.13.23
Name of Reviewer	Caleb Thompson
Signature of Reviewer	

Page	Line	Suggested Correction
10	16	"tempting" → "attempting"
12	2	"so" → "to"
14	24	"kind" → "kinds"
15	23	"where as" → "whereas"
17	7	? → .
19	17	"Facebook" → "Facebook's"
20	21	"that" → "then"
22	8	"platform" → "platforms"
22	10	"states of" → "states'"
26	18	Insert "what" between "is" & "you"

Page	Line	Suggested Correction
28	23	"one to graduate" → "undergraduate"
31	8	"ops act" → "op sec"
38	1	Delete "sent"
48	8	? → .
80	5	"" a → "is"
82	13	"Trumpies" → "sharpies"
82	15	"anything. We reported the" → "anything we reported to the"
84	3	"Tweeter" → "Twitter"
84	24	Delete "the"
~~84~~ 91	16	"believe" → "belief"
92	14	"won their" → "wanted an"
93	5	Insert "the" between "was" & "key"
96	15	Delete "it"
96	16	Insert "of" between "number" and "companies"

Page	Line	Suggested Correction
98	11	Delete first "was"
98	12	Delete "he"
98	23	"our" → "other"
100	21	"UDOT" → "UW"
106	2	"at the" → "they"
106	11	"Coffield" → "Caulfield"
108	18	Delete first "that"
163	24	"hacking leak" → "hack and leak"
164	1	" "
176	14	"a" → "the"
178	8	"Elaina" → "Elena"
178	11	"EVP" → "VP"
182	2	Insert "was" between "it" & "violative"
190	21	"his" → "HSI"

Page	Line	Suggested Correction
191	3	" "
219	6	"imudal" → "individual"
[illegible]	[illegible]	[illegible]
222	14	Delete "have"
223	18	"cc's" → "cc'd"
178	11	"that is" → "than"

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: [redacted]

Friday, June 23, 2023

Washington, D.C.

The interview in the above matter was held in room 164, Cannon House Office Building, commencing at 10:17 a.m.

1

2 Appearances:

3

4 For the COMMITTEE ON THE JUDICIARY:

5

6 [redacted] DEPUTY GENERAL COUNSEL

7 [redacted] DIGITAL ASSISTANT

8 [redacted] SPECIAL COUNSEL

9 [redacted] RESEARCH ASSISTANT

10 [redacted] DIGITAL DIRECTOR

11 [redacted] MINORITY INTERN

12

13 For the SUBCOMMITTEE ON CRIME AND FEDERAL GOVERNMENT SURVEILLANCE:

14

15 [redacted] MINORITY DETAILEE

16

17 For the SUBCOMMITTEE ON THE CONSTITUTION AND LIMITED GOVERNMENT:

18

19 [redacted] MINORITY COUNSEL

20

21 For the SUBCOMMITTEE ON THE ADMINISTRATIVE STATE,

22 REGULATORY REFORM, AND ANTITRUST:

23

24 [redacted] MINORITY CHIEF OVERSIGHT COUNSEL

1

2 For ALPHABET:

3

4 DANIEL F. DONOVAN, ESQ.

5 KING & SPALDING

6 1700 PENNSYLVANIA AVENUE NW, SUITE 900

7 WASHINGTON, D.C. 20006

8

9 For [redacted]:

10

11 MICHAEL D. BOPP, ESQ.

12 1050 CONNECTICUT AVENUE, NW

13 WASHINGTON, D.C. 20036-5306

1

2 [redacted] We will go on the record.

3 This is a transcribed interview of [redacted]. Chairman Jordan has

4 requested this interview as part of the committee's investigation of how and the extent

5 to which the executive branch has coerced and colluded with companies and other

6 intermediaries to censor speech.

7 Would the witness please state your name for the record.

8 [redacted]. My name is [redacted].

9 [redacted] We encourage witnesses who appear before the committee to

10 freely consult with counsel if they choose. It is my understanding that you're here with

11 counsel today. Correct?

12 [redacted]. Yes.

13 [redacted] Could counsel please state their name for the record.

14 Mr. Bopp. Michael Bopp, Gibson Dunn, representing [redacted].

15 Mr. Donovan. Daniel Donovan, King & Spalding, representing Alphabet.

16 [redacted] On behalf of the committee, I want to thank you for appearing

17 here today to answer our questions. The chairman also appreciates your willingness to

18 appear voluntarily.

19 My name is [redacted] I'm with Chairman Jordan's staff. This is [redacted]

20 [redacted] who will be leading the questions. I'll now have everyone else from the

21 committee who is here introduce themselves.

22 [redacted] [redacted] with Chairman Jordan's staff.

23 [redacted] [redacted] with Ranking Member Nadler's staff.

24 [redacted] [redacted] with Ranking Member Nadler's staff.

25 [redacted] [redacted] with Ranking Member Nadler.

1 [redacted] Ranking Member Nadler.

2 [redacted] Chairman Jordan's staff.

3 [redacted] I'd like to now go over the ground rules and guidelines that we'll

4 follow during today's interview. Our questions are going to proceed in rounds. The

5 majority will ask questions first for 1 hour, and then the minority will have the

6 opportunity to ask questions for an equal period of time if they so choose.

7 We're going to alternate back and forth until no more questions remain, and the

8 interview will be over then. We typically take a short break at the end of each hour, but

9 if you need a break apart from that, just let us know, lunch break. We're happy to

10 accommodate whatever you need.

11 [redacted]. Sure.

12 [redacted] As you can see, there is an official court reporter here today. So

13 we ask that everything you say you have a verbal response to all our questions and

14 answers so we can create a written record properly. Do you understand that?

15 [redacted]. I do.

16 [redacted] Okay. And so the court reporter can take down a clear record,

17 we're going to do our best to limit the number of people directing questions at you during

18 any given hour to just those people on staff whose turn it is. Please try and speak

19 clearly so the court reporter can understand and so the folks down at the end of the table

20 can hear you. It's kind of hard to hear at the end of the table over the echo.

21 It's also important that we try not to talk over one another during the interview or

22 interrupt each other if we can help it, so that goes for everyone present at today's

23 interview. And we want you to answer our questions in the most complete and truthful

24 manner as possible so we're going to take our time. And if there are any questions that

25 you don't understand, just let us know. We're happy to clarify. And they're going to

1 cover a wide range of topics, so, again, if you need clarification on what the question is
2 referring to, just let us know.
3 [redacted]. Okay.
4 [redacted] And, if you honestly don't know the answer to a question or don't
5 remember it, it's best not to guess. Just give us your best recollection, and it's okay to
6 tell us if you learned that information from someone else. Just indicate how you came
7 to know that information. And if there are things that you don't know or can't
8 remember just say so, and please inform us who, to the best of your knowledge, might be
9 able to provide a more complete answer to that question.
10 You should also understand that by law you're required to answer questions from
11 Congress truthfully. Do you understand that?
12 [redacted]. I do.
13 [redacted] Okay. This also applies to questions posed by congressional
14 staff in an interview. Do you understand this?
15 [redacted]. I do.
16 [redacted] Witnesses that knowingly provide false testimony could be
17 subject to criminal prosecution for making false statements under 18 U.S.C. 1001. Do
18 you understand this?
19 [redacted]. I do.
20 [redacted] Finally, I'd like to make note that the content of what we discuss
21 today is confidential, so we ask that you not speak about today's interview with any
22 outside individual so we can preserve the integrity of our investigation. For that same
23 reason, the marked exhibits that my colleague will be using today are going to remain
24 with the court reporter to be part of that record, and any copies of those exhibits we're
25 going to take back at the end of today's interview.

1 That's the end of my preamble. Anything from the minority?

2 Great. The clock now reads 10:20, and we're going to get started with our first

3 round of questioning.

4 EXAMINATION

5 BY [redacted]

6 Q [redacted], I'd like to begin with your educational background. Do you

7 have an undergraduate degree?

8 A I do.

9 Q And where did you obtain that undergraduate degree?

10 A Cornell University.

11 Q And what year did you obtain that degree?

12 A 2009.

13 Q Do you have any graduate degrees?

14 A I do.

15 Q And where did you obtain those graduate degrees?

16 A Georgetown University.

17 Q And what was the nature of that degree?

18 A Security studies.

19 Q Did you have a specific concentration?

20 A National security policy.

21 Q With the United States specifically or generally?

22 A I believe the title was U.S. national security policy, so, yes, it was certainly

23 focused on U.S.

24 Q And was that your only graduate degree?

25 A It is.

1 Q And what year did you obtain that degree?

2 A 2015.

3 Q And where were you first employed after graduating from Georgetown?

4 A I was employed at the Department of Defense. I worked -- I was -- I

5 worked through grad school.

6 Q And where did you work through grad school?

7 A At the U.S. -- well, I think, when I started grad school, I was working in the

8 House of Representatives. When I finished grad school, I was working in the

9 Department of Defense.

10 Q And from what office did you work in the House of Representatives?

11 A The Committee on Homeland Security.

12 Q And what were your positions?

13 A So I was a legislative assistant and then later a professional staff member.

14 Q And about when did you leave the committee?

15 A 2013.

16 Q And you said you were employed by the Department of Defense after that.

17 Is that correct?

18 A Correct.

19 Q And what positions did you hold at the Department of Defense?

20 A Special assistant to the Assistant Secretary of Defense for Legislative Affairs,

21 and then later special assistant to the Deputy Assistant Secretary of Defense for Cyber

22 Policy.

23 Q And what were the time periods for those respective positions?

24 A Roughly, the first role was 2013 to 2015, and the second role was 2015 to

25 2017.

1 Q And could you describe your responsibilities as special assistant?
2 A For which role?
3 Q In the first one.
4 A So the first role, I was hired to be essentially the liaison to Congress for
5 matters relating to cyber policy.
6 Q And what about the second role?
7 A The second role I was an adviser in the Office of the Secretary of Defense, so
8 an adviser ultimately to the Secretary of Defense on matters related to cyber policy.
9 Q And did that involve social media at all?
10 A No.
11 Q And where were you employed after the Department of Defense?
12 A Goldman Sachs.
13 Q And what was your position there?
14 A I was global head of vulnerability management for Goldman Sachs.
15 Q And what did your responsibilities entail as head of vulnerability
16 management?
17 A So I was responsible for leading a team that's found and helped mitigate
18 software vulnerabilities in Goldman Sachs' technology.
19 Q And what was the time period during which you were employed by Goldman
20 Sachs?
21 A 2017 to 2021.
22 Q And is that when you began your employment with Google, 2021?
23 A Yes.
24 Q Do you remember the month?
25 A I believe I started in October 2021.

1 Q And have you held more than one position at Google?

2 A No.

3 Q And what is your current position at Google?

4 A Head of security policy.

5 Q And what is the name of the team to which you belong?

6 A The broader team I belong is called the Government Affairs and Public Policy

7 Organization.

8 Q And so the Government Affairs and Public Policy is that one consolidated

9 team?

10 A It is.

11 Q And how many people belong to that team?

12 A I do not know. It is several hundred.

13 Q And to whom do you directly report?

14 A [redacted].

15 Q Could you spell that last name?

16 A [redacted].

17 Q Okay. And do you have any direct reports?

18 A I do.

19 Q And who are those individuals?

20 A [redacted] and [redacted].

21 Q [redacted]

22 A [redacted]

23 Q How is that spelled?

24 A [redacted].

25 Q Okay. And what is [redacted] responsibilities?

1 A [redacted] -- you know, our team, our pod is responsible for advising the
2 company on cybersecurity policy mainly, and within that, [redacted] responsibilities, she
3 focuses on device security, Asia-Pacific issues, and cyber workforce policy. Those are
4 her three primary responsibilities.
5 Q Sorry, what was that third one?
6 A Cyber workforce policy.
7 Q And what about [redacted]; what are her responsibilities?
8 A Her primary focus -- her two focuses are the kind of intersection of emerging
9 technology in cybersecurity and emerging markets cybersecurity.
10 Q And with which other teams would you say that you work most often within
11 the company?
12 A Other teams within our Government Affairs and Public Policy Organization,
13 the Legal Organization, our core security team. It's an organization called Privacy,
14 Safety, and Security.
15 Q And is Privacy, Safety, and Security housed within Government Affairs and
16 Public Policy?
17 A It is not.
18 Q And who leads that team?
19 A [redacted].
20 Q [redacted]?
21 A [redacted].
22 Q And who do you interact with most often on the legal team?
23 A [redacted].
24 Q Broadly speaking, what would you say are your responsibilities as head of
25 security policy?

1 A To advise company teams and executives on security or cybersecurity public
2 policy issues and help to set Google's public policy positions related to that topic.
3 Q And when you say teams, does that encompass both Google and YouTube,
4 or is it specific to one or the other?
5 A So my role is more or less Alphabet wide, so, yeah.
6 Q And would that include Alphabet subsidiaries like Madiant, for example?
7 A It would.
8 Q And it would also include all of Google's product offerings, Google Maps,
9 Google --
10 A Correct.
11 Q -- Search, et cetera?
12 A Yeah.
13 Q And, in your capacity as head of security policy, did you have any role in
14 shaping Google's community guidelines?
15 A No. I -- my role -- I have no role whatsoever in content moderation issues
16 or decisionmaking.
17 Q So you also have no role in shaping YouTube's committee guidelines, for
18 example?
19 A No.
20 Q Have you ever directed anyone at the company to remove content on one of
21 Google's platforms?
22 A No.
23 Q Have you ever recommended that anyone at the company do so?
24 A Not to my recollection.
25 Q Were you involved in any capacity in the identification of inauthentic

1 accounts on any of Google's platforms?

2 A No.

3 Q Were you involved generally in discussions about inauthentic accounts?

4 A Not to my recollection, no.

5 Q Are you familiar with the term "misinformation"?

6 A I am.

7 Q And what do you understand the term "misinformation" to mean?

8 A I'm not the expert in this area, but to me it means information that may be

9 false or misleading.

10 Q And what about the term "disinformation," are you familiar with that term?

11 A I am.

12 Q And what do you understand the term "disinformation" to mean?

13 A The distinction with disinformation in my understanding -- again, I'm not the

14 expert -- is that it's information that is deliberately false or misleading.

15 Q In your capacity as head of security policy, have you been involved in any

16 discussions related to misinformation?

17 A Yes.

18 Q What about disinformation?

19 A Yes.

20 Q And what were the nature of the discussions about misinformation?

21 A By the nature of my role, and, again, to be very clear, I am not responsible

22 for those matters, but I am responsible for cybersecurity matters. And so, you know, I'm

23 in conversations about threat groups that are both responsible for hacking, which is an

24 issue I, you know, work on and care about, but some of those actors are also involved in

25 spreading misinformation and disinformation. And so, though that is not my lane or

1 something I focus on, I am in conversations about, for example, Russian foreign
2 intelligence services that might be doing both hacking and spreading, you know, harmful
3 content online.
4 Q And have you been involved in any discussions about misinformation in a
5 domestic context?
6 A No, I don't think so. My world is kind of foreign, you know, intelligence,
7 espionage organizations, that type of thing.
8 Q When you say that you focus on hacking, so that's from a public policy
9 perspective rather than, say, an engineering perspective?
10 A Yeah, correct. That's a good distinction. I have no operational or
11 technical role with the company. I focus exclusively on policy matters.
12 BY [redacted]
13 Q You said you're not the expert at misinformation. Who is at Google?
14 A Well, so there are various teams. I wouldn't say there's a single lead for
15 that topic. There are various teams that focus on different aspects of that -- of that
16 challenge.
17 Q What are some of those teams?
18 A So the Trust and Safety team, and then I think various product teams that
19 may host content have a role.
20 Q Do you work with one team more than another?
21 A I don't work with those teams at all when it comes to this topic.
22 Q Who do you work with when misinformation comes up in like the context of
23 hacking?
24 A So where I have been in conversations where the topic comes up, it's usually
25 with, for instance, our Threat Analysis Group.

1 Q Who leads that?

2 A [redacted].

3 BY [redacted]

4 Q Would you say that your role is external facing?

5 A I would say it's a mixture.

6 Q And do you have interactions with the Federal Government?

7 A I do.

8 Q And so I want to talk about the Cybersecurity Infrastructure and Security

9 Agency, or CISA. Are you familiar with that particular agency?

10 A I am.

11 Q And, to your knowledge, what generally is CISA's mandate?

12 A They have a -- to my understanding, you know, they have a critical

13 infrastructure protection role, which is broadly, I think they call themselves America's

14 Cyber Defense Agency, and they partner with a particular focus on critical infrastructure

15 to help improve security and resilience.

16 Q And do you know who the current Director of CISA is?

17 A I do.

18 Q Do you know her name?

19 A Jen Easterly.

20 Q Okay. Have you ever interacted with Director Easterly during your time at

21 Google?

22 A I have, yes.

23 Q And what was the nature of that interaction?

24 A I have been in meetings with her and her team on cybersecurity policy

25 matters, so that, you know, topics like software security, critical infrastructure security,

1 cyber workforce policy.

2 Q You mentioned previously that misinformation, disinformation had come up

3 in the context of cybersecurity. Did you ever discuss mis- or disinformation with

4 Director Easterly?

5 A No.

6 Q And are you familiar with the Joint Cyber Defense Collective, JCDC?

7 A The Joint Cyber Defense Collaborative, yes.

8 Q Collaborative. And what is the JCDC?

9 A It is a public/private initiative hosted by CISA that brings together CISA and

10 other Federal partners with industry participants with the goal of helping to improve, you

11 know, the security and resilience of our Nation's critical infrastructure.

12 Q Okay. And are you involved with JCDC in any capacity?

13 A Yes. I wouldn't say I have deep involvement, but Google is a founding

14 member of that group.

15 Q But you would say that you are involved?

16 A Yes.

17 Q And -- go ahead.

18 BY [redacted]

19 Q Who are the other founding members, if you're aware?

20 A I couldn't -- I couldn't give you a list off the top of my head, sorry.

21 Q Are you aware of any of the other industry participants in the group?

22 A I would say broadly they're in the telecommunications and technology

23 sectors.

24 Q You don't know a number or approximate amount of members?

25 A I can't. I mean, I can list some examples, and the group is public.

1 Q Okay.

2 A So our, you know, peer Cloud providers, for instance, are involved.

3 Q Okay.

4 BY [redacted]

5 Q Do you know what the relationship is between the JCDC and CISA?

6 A JCDC is a part of CISA.

7 Q And do you know if any non-CISA governmental entities were involved in the

8 JCDC?

9 A Yes. And I don't know if it's a formal mechanism or not, but it's quite

10 common for, you know, activities under the aegis of JCDC to involve other Federal

11 organizations in meetings and things like that.

12 Q And what are some of those agencies?

13 A FBI, Department of Energy.

14 [redacted] This will be exhibit 1.

15 [[redacted] Exhibit No. 1

16 Was marked for identification.]

17 [redacted] And, for the record, we're handing you what we've marked as

18 exhibit 1, which is an email dated November 1, 2022. Just let us know when you've had

19 enough time to review, but take your time.

20 [redacted]. Okay.

21 Mr. Bopp. One moment.

22 [redacted]. Sure. Yeah, please, take your time.

23 Mr. Bopp. Okay.

24 BY [redacted]

25 Q This is an email sent on September 1, 2022. Is that correct?

1 A It appears to be, yes.

2 Q And you received this email. Is that right?

3 A I don't recall, to be honest.

4 Q Okay. Does the document indicate that you received the email?

5 A This is a lot of names to look through.

6 Q Right above the cc line on the left.

7 A There I am.

8 Q I'd like to ask you about some of the names on this email at the bottom of

9 the cc line.

10 A All right.

11 Q Specifically, Geoffrey Hale, does that name mean anything to you?

12 A I do not know him personally, but I believe that Geoff Hale kind of leads

13 election security efforts for DHS.

14 Q And have you ever interacted with Mr. Hale?

15 A I don't believe so.

16 Q What about Brian Scully, right under Mr. Hale, are you familiar with that

17 name?

18 A I'm not.

19 Q And [redacted], to the right of Mr. Scully, are you familiar with that

20 name?

21 A I'm not.

22 Q The subject line of this email is "JCDC Election Security Webinar #3." Is that

23 correct?

24 A That's correct.

25 Q And do you recall whether you attended this particular webinar?

A I do not recall, but I very likely did not.

Q Okay. Have you ever attended any JCDC election security webinars?

A I do not recall.

Q Have you ever attended any JCDC webinars generally?

A I have, yes.

Q And do you recall whether misinformation was discussed at any of the webinars that you attended?

A I do not believe so.

Q What about disinformation?

A I do not believe so.

Q Was election security generally discussed in these JCDC webinars you attended?

A I don't think so. I think I've attended a -- kind of a threat briefing discussion with JCDC before, but I do not believe the topic was election security or misinformation or disinformation related.

[redacted] What was the topic?

[redacted]. I think broader threats. I think there was one that I had attended that was about kind of more Russian hacking activities.

BY [redacted]

Q To your knowledge, does the JCDC host nonwebinar meetings?

A They do.

Q And have you attended any of those nonwebinar meetings?

A I think maybe one or two.

Q And, in those one or two nonwebinar meetings that you attended, was misinformation discussed?

1 A No.

2 Q Was disinformation discussed?

3 A No.

4 Q And what were the topics of those meetings?

5 A I believe I attended one on Cloud security kind of instant response issues.

6 Q In any email correspondence related to the JCDC, do you remember any

7 discussion of misinformation?

8 Mr. Bopp. You're asking him if -- first -- a couple things going on in your

9 question, right. You're first asking him -- or are you asking him if he recalls any emails?

10 [redacted] Well, we've already established that he's received email

11 correspondence about JCDC.

12 Mr. Bopp. Right, but I thought you were asking him about other email

13 correspondence?

14 [redacted] Well, that's part of the question.

15 Mr. Bopp. Okay. Well, would you mind restating the question? I just didn't

16 understand it.

17 BY [redacted]

18 Q Okay. Have you received any other email correspondence related to the

19 JCDC other than this email?

20 A Yes.

21 Q And, in those email correspondence, was there any discussion of

22 misinformation?

23 A Not to my recollection.

24 Q Was there any discussion of disinformation?

25 A Not to my recollection.

1 Q Was there any discussion of content moderation policies generally?

2 A Not to my recollection.

3 BY [redacted]

4 Q How often do they have these webinars?

5 A Well, I believe this specific, you know, thread of webinars indicates that they

6 held at least four in 2022.

7 Q Okay. And what about in-person meetings with JCDC?

8 A So I am not deeply involved with JCDC, as I indicated, but I am aware that

9 they meet more frequently than this.

10 [redacted] We can take that exhibit back.

11 [redacted] Just put it in the middle in case we refer to it later.

12 BY [redacted]

13 Q And maybe you already mentioned this, but who at Google would be most

14 intimately familiar with the JCDC and their meetings?

15 A Our Google Cloud Team is kind of the more or less official participant in the

16 JCDC.

17 Q And who is that led by, if you know?

18 A Well, the Google Cloud CEO is Thomas Kurian, but there are some, you

19 know, colleagues who participate from more of a, you know, working level.

20 Q Do you know their names?

21 A [redacted] would be a name, [redacted].

22 Q Okay. Thanks.

23 [redacted] We've marked this email sent on May 4, 2022, as exhibit 2.

24 [[redacted] Exhibit No. 2

25 Was marked for identification.]

1 BY [redacted]

2 Q This is an email that was sent on May 4, 2022. Is that correct?

3 A Yes.

4 Q And one, two, three, four, five, six, seven lines from the bottom of the cc

5 section, is that your email?

6 A It is.

7 Q Do you recall receiving this email?

8 A I do not.

9 Q The subject line of this email as it's written on the document is "JCDC

10 Election Security Meeting: Cyber Threat Info Sharing." Is that correct?

11 A It is.

12 Q And this is an email from a Mitchell Freddura at CISA. Is that right?

13 A Yes.

14 Q And do you have any familiarity with that name?

15 A Only -- I'm familiar with the name as I get emails from this person. I've

16 never met this person, to my knowledge.

17 Q If I could turn your attention to the second page, Bates No. ending in 40.

18 Do you see the bolded text that says "intended outcomes"?

19 A Uh-huh.

20 Q And, under that, bullet one is a common understanding of the Slack channel

21 competition protocols and work flows. Did I read that correctly?

22 A Yes.

23 Q Do you have any idea what Slack channel this is referring to?

24 A I do.

25 Q And did you have access to that particular Slack channel?

1 A No.

2 Q Do you know what the purpose of that Slack channel was?

3 A I believe to facilitate information sharing and exchange of best practices

4 amongst JCDC members.

5 Q And would that have included Google personnel?

6 A Yes.

7 Q Do you know whether Google personnel took part in the Slack channel?

8 A I do not.

9 Q All right. I can take that back.

10 [redacted] I'm marking this email dated March 22, 2023, as exhibit 3.

11 [[redacted] Exhibit No. 3

12 Was marked for identification.]

13 [redacted]. Okay.

14 BY [redacted]

15 Q Are you familiar with the Cybersecurity Advisory Committee affiliated with

16 CISA?

17 A I am.

18 Q And this is an email dated March 22, 2023. Is that correct?

19 A Correct.

20 Q And the subject of this email is "CSAC, C-S-A-C, turning the corner of cyber

21 hygiene subcommittee meeting." Is that correct?

22 A Yes.

23 Q And, on the bottom line in the middle there, is that your email address for

24 the cc line?

25 A Yes.

1 Q And do you recall receiving this email?

2 A I get a lot of emails, you know, related to this, so this specific one, I don't

3 recall, but --

4 Q And were you a member of CISA's Cybersecurity Advisory Committee?

5 A No. I'm a plus-one.

6 Q And have you ever been invited to an official CSAC function?

7 A Yes.

8 Q And have you ever attended an official CSAC function?

9 A Yes.

10 Q And which function was that?

11 A So, for instance, they recently had a quarterly meeting for members that I

12 attended.

13 Q And have you attended any quarterly meetings prior to 2023?

14 A No.

15 BY [redacted]

16 Q Do they meet outside on a quarterly basis at all, or how often do they meet?

17 A Yes. I mean, as you can see here, this is a virtual subcommittee meeting.

18 Q Do they normally meet virtually or in person?

19 A Virtually.

20 Q And were all the members, everyone, on this email, I presume?

21 A Yeah. I -- the membership is public, so -- but I -- I think that recipients is

22 probably a good starting point. Those are members, members or plus-ones.

23 BY [redacted]

24 Q And did you attend any CSAC functions in 2022?

25 A No.

1 Q Are you familiar generally that the CSAC had a subcommittee related to
2 mis- and disinformation?
3 A I'm not really.
4 Q We can take that back.
5 [redacted] Marking this email dated September 2, 2022, as exhibit 4.
6 [[redacted] Exhibit No. 4
7 Was marked for identification.]
8 BY [redacted]
9 Q The first email on this thread is from [redacted]. Is that correct?
10 A Correct.
11 Q And it was sent on September 2, 2022. Is that right?
12 A Correct.
13 Q And you are cc'd on this email. Is that correct?
14 A Correct.
15 Q And is the [redacted] on the cc line the [redacted], your direct
16 report that we were talking about earlier?
17 A It is.
18 Q Okay. And this email from [redacted] was to [redacted] and
19 [redacted]. Is that correct?
20 A Uh-huh.
21 Q Can I get a verbal yes or no for the record?
22 A Yes.
23 Q Sorry. And do you know who [redacted] is?
24 A I do.
25 Q And is he with the Office of the Director of National Intelligence?

1 A He is.

2 Q And what is his role, to your knowledge?

3 A So his role is -- I probably can't perfectly state the organization, but I believe

4 he's the deputy at the Cyber Threat Intelligence Integration Center within the DNI.

5 Q And have you interacted with [redacted] prior to this email exchange?

6 A Yes.

7 Q And what were the nature of those interactions?

8 A We occasionally engaged with that organization to share information on

9 cyber threats.

10 Q And what about [redacted], do you know who that is?

11 A I believe so.

12 Q And do you know what their name is?

13 A I believe so, yeah.

14 Q Could you state for the record what their name is?

15 A I'm not sure if his -- you know, if it -- I don't think I should be stating

16 someone in the intelligence community's name.

17 [redacted] Okay. Let's go off the record.

18 [Discussion off the record.]

19 [redacted] Back on the record.

20 BY [redacted]

21 Q In this first email from [redacted], that first large paragraph saying "I'm

22 writing." It says: I'm writing to share with you Google's recent blog on our ongoing

23 work to support the 2022 U.S. midterm elections. YouTube also published this blog on

24 its efforts to connect people to authoritative information and help limit the spread of

25 harmful misinformation related to the 2022 U.S. midterm elections.

1 Did I read that correctly?

2 A Yes.

3 Q And do you know why [redacted] informed the ODNI about YouTube's

4 election misinformation policies?

5 A I do not specifically know why that sentence is in the paragraph.

6 Q Do you know why generally Google personnel informed government

7 personnel about updates to their content moderation policies?

8 A So like the content moderation side, I can't speak to if any authority. I can

9 talk in general when it comes to combating threats in the digital domain, particularly for

10 cybersecurity, which is my job. A common thing you'll hear is cybersecurity is a team

11 sport. We need to work together to combat threats to our digital infrastructure, and so

12 we engage with a host of partners to make sure they understand what we're seeing out

13 there in terms of, you know, malicious nation-state threats to users.

14 Q And do you know what [redacted] role is at Google?

15 A I do.

16 Q And what role is that?

17 A She currently works in Cloud security policy within our GAP Team.

18 Q Now, on this email, the only two people copied are yourself and

19 [redacted]. Is that right?

20 A Uh-huh.

21 Q And, as you said before, those are both individuals on your team?

22 A Myself and [redacted] yes.

23 Q Right. Who work on cybersecurity. Is that correct?

24 A Yep.

25 Q Do you know why the two of you work on cybersecurity were copied on this

email about limiting the spread of harmful misinformation?

A I would guess it's because of the first sentence, which is "our ongoing work to support the 2022 U.S. midterm elections." Again, I -- I do not work in the content moderation space whatsoever, but cybersecurity is an important component of election security as well, ensuring that the platforms and services used by campaign organizations, election organizations, et cetera, are secure. And so Google has a small but important part to play in that.

Q And is this the only email correspondence that you've been involved on with ODNI?

A No.

Q To your recollection, were there any other instances in which a Google personnel communicated with ODNI about election misinformation?

A It's -- to my recollection, no.

Q But this would've been the only instance? That's two different questions.

Mr. Bopp. I want to make sure the record is clear on this. I think maybe it would be better to just ask whether you have any recollection of any other communications with the DNI on election misinformation.

[redacted]. I'm not aware of any specific other threats on this topic with the DNI.

BY [redacted]

Q Okay. And would you say that it was common for Google to send updates to ODNI about changes to its content moderation policies, to your knowledge?

A It's not my space.

Q Are you aware of other instances in which Google personnel emailed ODNI about updates to the content moderation policies?

1 A Not aware or can't recall.

2 Q Are you aware of any other instances in which Google personnel emailed

3 other government agencies about updates to its content moderation policies?

4 A No.

5 Q Are you aware of any discussions involving pending changes to any content

6 moderation policies between Google personnel and government personnel?

7 A No.

8 Q To your knowledge, did anyone from ODNI ever contact Google about its

9 content moderation policies?

10 A Not to my knowledge.

11 Q What about other intelligence agencies?

12 A Not to my knowledge.

13 Q What about other government agencies?

14 A I think we're going on a string here. What was the first question again?

15 Q Sorry. Are you aware of any instances in which other government

16 agencies, that is to say agencies other than ODNI intelligence agencies, emailed Google

17 about its content moderation policies?

18 A Yes. Not -- so not ODNI, not even U.S. Government, frankly.

19 Q So these would be foreign governments?

20 A Correct.

21 Q I'd now like to turn our attention to the FBI. Are you familiar with an FBI

22 agent named Alexander Kusanex (ph)?

23 A No.

24 Q Are you familiar with an FBI agent named Agent Mark Kellett (ph)?

25 A No.

1 Q And are you familiar with an FBI agent named Elvis Chan?

2 A I have heard that name before. I'm familiar with it, but I can't really place

3 him.

4 Q And have you ever interacted with Agent Chan?

5 A No.

6 Q And are you generally familiar with the security service of Ukraine, or SBU?

7 A Generally.

8 Q And what is your understanding of the role that the SBU serves?

9 A They're the security service of Ukraine.

10 Q And would you say that they're a law enforcement agency?

11 A Internal security in law enforcement.

12 Q Would you say that they have an intelligence role?

13 A Yes.

14 Q In your time at Google, have you ever interacted with SBU personnel?

15 A Not knowingly, no.

16 Q Have U.S. Government officials ever discussed the SBU with you?

17 A No.

18 Q To your knowledge, has the FBI ever referred requests for the removal of

19 content from the SBU to Google?

20 A Not to my recollection.

21 Q To your knowledge, has the FBI ever referred requests from other non-SBU

22 Ukrainian Government agencies?

23 A Yes, I am aware of such things occurring. I could not tell you any specifics

24 about them.

25 Q Are you aware of the FBI referring requests for the removal of content from

1 non-Ukrainian foreign government agencies?

2 A No.

3 Q And, to your knowledge, did anyone at the SBU ever submit a request to

4 Google through a dot-gov email address?

5 A Not to my knowledge.

6 Q And are you familiar with a [redacted]?

7 A Yes.

8 Q And who is [redacted]?

9 A He's a former Google employee.

10 Q And did you interact with [redacted] during your time at Google?

11 A Yes.

12 Q And what were the nature of those interactions?

13 A Generally related to, you know, cybersecurity and cybersecurity policy

14 matters.

15 Q Did they ever involve discussions of misinformation?

16 A No.

17 Q Did they ever involve --

18 Mr. Bopp. When you say "no," do you mean not that you recall? I just want to

19 be clear on the record.

20 [redacted]. Yeah, not that I -- not that I recall.

21 BY [redacted]

22 Q And do you recall any discussions with [redacted] about disinformation?

23 A Not that I recall.

24 Q Do you recall any discussions with [redacted] about foreign influence

25 operations?

1 A Not that I -- not that I recall.

2 Q Are you familiar with a [redacted] at Google?

3 A Yes.

4 Q And who is [redacted]?

5 A She is a current lawyer handling kind of law enforcement access and data

6 disclosure matters for Google.

7 Q And have you interacted with [redacted] during your time at Google?

8 A Yes.

9 Q And were those interactions similar to the ones you had with [redacted]?

10 A Not really, not -- I've barely worked with [redacted], and I generally don't

11 work on that law enforcement access side.

12 Q Have you ever discussed misinformation with [redacted]?

13 A No.

14 Q Disinformation with [redacted]?

15 A No.

16 Q Foreign influence operation with [redacted]?

17 A No.

18 Q Do you know who [redacted] (ph)is?

19 A Yes.

20 Q And who is [redacted] ph)?

21 A He is a lawyer on that Legal Team.

22 Q And have you interacted with [redacted] (ph) during your time at Google?

23 A Yes.

24 Q Have you ever discussed misinformation with [redacted] (ph)?

25 A No.

1 Q Have you ever discussed disinformation with [redacted] (ph)?

2 A No.

3 Q Have you ever discussed foreign influence operations with [redacted] ph)?

4 A No.

5 Mr. Bopp. Once again, when you're saying "no," do you mean categorically no or

6 that -- not that you recall?

7 [redacted]. Not that I recall. It would -- I am engaging with these lawyers on

8 cybersecurity, generally cybersecurity laws and regulations. But not that I recall.

9 BY [redacted]

10 Q Do you recall any discussions of malign actors within the SBU with any

11 Google personnel during your time at Google?

12 A Not that I recall.

13 [redacted] Marking this email dated March 2, 2022, as exhibit 5.

14 [[redacted] Exhibit No. 5

15 Was marked for identification.]

16 [redacted]. Okay.

17 BY [redacted]

18 Q This is an email that you sent on March 2, 2022. Is that correct?

19 A Correct.

20 Q And do you recall sending this email?

21 A Yes, more or less, yeah.

22 Q And this email was sent to two individuals, the first of which is a Jeffrey

23 Greene at EOP/NSC. Do you know who Mr. Greene is?

24 A I do.

25 Q And who is Mr. Greene?

1 A He's -- he's Jeff Greene, was at the National Security Council at that time.
2 Q And do you know what Mr. Greene's role was at the NSC?
3 A He was one of the Directors for Cyber Policy.
4 Q Then the next individual this email was sent to is an Iranga Kahangama. Do
5 you know who that is?
6 A I do.
7 Q And who is Mr. Kahangama?
8 A He was also serving on the National Security Council at that time as a
9 Director for Cyber Policy.
10 Q And do you know if there is any distinction in the two roles? You said that
11 they both worked on cybersecurity policy. Did one work in a particular region?
12 A I couldn't tell you the distinction between who was doing what there.
13 Q In the email you say that: Hi, Jeff, Iranga. Long time no speak. I am sure
14 this is very stressful times, so I will cut to the chase. We were wondering if you'd like to
15 connect for 15 minutes in the next couple of days for us to give you a download on some
16 actions we are taking in the Ukraine context to help protect people and fill you in a little
17 bit on what we are seeing in the threat environment.
18 Did I read that correctly?
19 A Yes.
20 Q To your recollection, did this briefing that you offered take place?
21 A To my recollection, this briefing did not take place.
22 Q And why did you offer to brief Mr. Greene and Mr. Kahangama about
23 Google's actions in Ukraine?
24 A Similar to what I said previously, cybersecurity is a team sport, and working
25 together to disrupt threats is critical. And so it's very common for both companies to

1 share information about what's going on in the threat environment with government and
2 vice versa. So that's, I think, what this is all about.
3 Q At the end of that first paragraph, it says: A little bit on what we are seeing
4 in the threat environment.
5 Would that involve things like hacking, or would that also involve things like
6 foreign malign influence campaigns?
7 A Likely just hacking, yeah.
8 Q Do you recall ever having discussed foreign-based disinformation with
9 anyone at the NSC?
10 A Not that I recall.
11 Q What about misinformation generally with anyone at the NSC?
12 A Not that I recall.
13 [redacted] Marking this email thread with the most recent email March 3,
14 2022, as exhibit 6.
15 [[redacted] Exhibit No. 6
16 Was marked for identification.]
17 [redacted]. I'm ready.
18 BY [redacted]
19 Q If you could turn to the last page -- excuse me, the second-to-last page,
20 Bates No. ending in 84.
21 A Uh-huh.
22 Q This appears to be an email from an Endrit Demi. Is that correct?
23 A Yes.
24 Q And do you know who that is?
25 A I do not. I mean, I know it's a State Department employee, but --

1 Q And do you recall having received this email?

2 A I do. I don't believe I received this email. I think I was added to this

3 thread.

4 Q And so, when you were added to the thread, would you have been able to

5 see this email?

6 A Yes.

7 Q In the email, Endrit Demi says: One of the things I have been brainstorming

8 with Mike is the possibility of flooding Russian platforms with accurate and detailed

9 information about the war in the hopes of opening the eyes of Russian citizens to the

10 realities next door. Given Google's immense technical expertise and global reach, I

11 would greatly appreciate the chance to discuss with you any possible technological

12 solutions that could help us achieve this goal and potential public/private

13 partnerships -- or excuse me, public/private partnership opportunities we could explore.

14 Did I read that correctly?

15 A You did.

16 Q To your knowledge, did State Department officials ever suggest flooding a

17 platform with certain kinds of information in a domestic context?

18 A Flooding a platform with information within the U.S.?

19 Q Yes.

20 A Not to my knowledge.

21 Q Is this the only instance when a government official suggested an

22 information operation like this one?

23 A To my knowledge, yes.

24 Q And, from the rest of this email chain, it appears that Google took the State

25 Department officials' offer to have a briefing. Is that correct?

1 A It appears so, yes.

2 Q And, on that first page, Bates No. 78, that appears to be an invitation for a

3 Google/State Department/Ukraine discussion. Is that right?

4 A [Nonverbal response.]

5 Q Do you recall whether you attended --

6 The Reporter. What was your answer?

7 [redacted]. I hadn't answered yet.

8 BY [redacted]

9 Q Oh, sorry. I apologize.

10 A To the question of do I recall if I attended? That question?

11 Q No, sorry. This is a Google/State Department/Ukraine discussion. Is that

12 correct?

13 A Yes. It does appear to be, yes.

14 Q And do you recall whether you attended that particular discussion?

15 A I don't recall, but I believe I did not.

16 [redacted] Do you know who did attend that meeting?

17 [redacted]. I don't. I think you could infer based on the people on this email

18 thread. But I don't know, because I was -- I don't believe I was there.

19 [redacted] Were there any other similar meetings to this that you did

20 attend?

21 [redacted]. Define similar.

22 [redacted] Discussing an information campaign like this?

23 [redacted]. No.

24 [redacted] Marking this email dated March 24, 2022, as exhibit 7.

25 [redacted] Exhibit No. 7

1 Was marked for identification.]

2 BY [redacted]

3 Q This is an email invitation sent on March 24, 2022. Is that correct?

4 A Correct.

5 Q And this was an invitation sent to an [redacted]. Is that right?

6 A It appears to be, yeah.

7 Q In the description box, it says that you are invited to join Google and the

8 YouTube representatives for an unclassified briefing on their ongoing response to the war

9 and humanitarian crisis in Ukraine. This is an off-the-record and not-for-attribution

10 briefing.

11 Did I read that correctly?

12 A You did.

13 Q Do you recall this email?

14 A I do.

15 Q And do you recall this meeting?

16 A I do.

17 Q And do you know why this was an off-the-record meeting?

18 A I do not. Presumably to exchange in frank views.

19 Q Does that apply also for the not-for-attribution part?

20 A Yes.

21 Q And it says that you accepted the invitation. Is that right?

22 A Yes.

23 Q And do you recall whether you attended the meeting?

24 A I did.

25 Q Do you see the section where it says "agenda," and there are four bullet

points underneath?

A Yes.

Q The first one is "supporting authoritative information." Is that right?

A Yes.

Q And do you recall whether supporting authoritative information was discussed at this meeting?

A I don't particularly recall much about this meeting.

Q Do you recall who attended the meeting besides yourself?

A Well, [redacted] clearly. Likely [redacted] and [redacted], but I'm not positive. I mean, honestly, I don't recall too much about this meeting.

Q And do you recall whether this meeting was with representatives from the United States' delegation to the United Nations?

A Yes, it was.

Q And would [redacted] be one of those individuals?

A Well, you know, one might assume that. I don't recall specific people in the meeting itself.

Q This second point under agenda is "combating mis/disinformation." Is that correct?

A Yes.

1

2 [11:17 a.m.]

3 BY [redacted]

4 Q Do you recall whether combativeness/disinformation was discussed at this

5 meeting?

6 A It likely was, but again I don't have a great recollection of the briefing.

7 Q Do you recall any other instances in which you would have discussed mis- or

8 disinformation with representatives from the United States' delegation to the U.N.?

9 A This was the only meeting on this topic that I ever attended with the U.S.

10 U.N. team.

11 Q Have you ever attended any other meetings with U.S. U.N. team?

12 A I have, yes.

13 Q Do you recall whether any agenda items of those meetings involved mis- or

14 disinformation?

15 A Yes.

16 Q And do you recall when those meetings took place?

17 A I had a recent meeting about a month ago at the U.N. where -- really, I am

18 not going to be able to properly state this because I am not a U.N. expert. I don't

19 understand how the U.N. works, but they have a new global digital compact thing that's

20 about, you know, how to better improve trust and safety and security online. And so I

21 went to meeting there to talk about cybersecurity and Google's views on cybersecurity.

22 At that meeting -- at one of those meetings, there was also a counterpart from Google's

23 trust and safety team who spoke about, you know, content moderation issues.

24 Q And do you recall who that individual was from the trust and safety team?

25 A [redacted].

1 Q How is that last name spelled?

2 A [redacted].

3 [redacted] His title?

4 [redacted]. He is either a director or senior director in trust and safety. I

5 couldn't tell you what his specific title is.

6 [redacted] And was this recent meeting about the U.N.'s digital contact the

7 only instance that you can recall other than this one in which mis- or disinformation were

8 discussed?

9 [redacted]. Yes, yes.

10 [redacted] Do you recall other meetings with the U.S. U.N. with other Google

11 employees that would discuss content moderation?

12 [redacted]. No.

13 BY [redacted]

14 Q In the meeting that you mentioned, the recent meeting of the global

15 compact, do you recall if any representatives from U.S. U.N. asked questions about

16 mis- or disinformation?

17 A I can't specifically recall, no.

18 Q Do you recall any discussion between government representatives and

19 Google about its content moderation policies and the context of that meeting?

20 A Could you restate the question?

21 Q Sure. During the meeting that you attended about the global compact --

22 A Yeah.

23 Q -- you had mentioned that there was discussion about Google's content

24 moderation policies?

25 A Yes, sir.

1 Q This involves a meeting where U.S. U.N. personnel attended. Is that
2 correct?
3 A Correct, yes.
4 Q And so in that meeting with U.S. U.N. personnel and Google personnel, was
5 there a discussion of Google's content moderation policies as opposed to say a one-point
6 briefing, for example?
7 A There was a discussion portion. The U.S. U.N. official did speak, but I
8 certainly do not recall when to say definitively that there was no, like, direct interrogation
9 of our policies, if that makes sense. There was -- this was largely focused on artificial
10 intelligence and how can we, you know, build policies that can manage risks from artificial
11 intelligence, you know, generative AI.
12 Q So you don't remember the U.S. U.N. representative asking any specific
13 questions about mis- or disinformation?
14 A No.
15 Q Or any specific questions about content moderation policies?
16 A No, I can't recall any specific questions.
17 Q I think our hour is about up, so we'll call it.
18 [redacted] Off the record.
19 [Discussion off the record.]
20 EXAMINATION
21 BY [redacted]
22 Q We can go back on the record. My name is [redacted] I know it's
23 been a bit since we last introduced ourselves. I am joined by [redacted] and [redacted] from Ranking
24 Member Nadler's staff. Thank you for your time today. We appreciate it.
25 A Sure.

1 Q So in the last hour, you described your work with cybersecurity as being sort
2 of a team effort. Can you talk more about that?
3 A Sure. I think, you know, society, you know, industry, government, civil
4 society organizations have found out through kind of hard experience over the years that,
5 you know, we all need to work together to improve the resilience of our technology in
6 society against cyber threats. No one organization has a full picture of what bad guys
7 are doing.
8 And so, you know, Google might have a piece of that and, you know, Microsoft
9 might have a piece of that, and the U.S. Government has a piece of that. And by
10 working together to complete that threat picture, all organizations can be safer. So it's
11 kind of a trope at this point, but it really is a team sport.
12 Q So and information sharing is part of that team sport to make sure
13 everyone's apprised of current threats in the landscape?
14 A Information sharing, and kind of collaborating on best practices, things like
15 that.
16 Q And so just come back to the point of Google as a company, they have a high
17 interest in cybersecurity, I would imagine, right?
18 A That's correct.
19 Q And what would you say that -- how do you help Google maintain that high
20 level of security for its platforms and users?
21 A So really in two ways. And I call it inside out and outside in. So first, you
22 know, we don't just focus on the security of our users, we really focus on the security of
23 our society. And so we take an inside-out approach where we see what we can do with
24 our engineering expertise and talent and tools to partner with others. You know,
25 whether that's government or civil society or other companies to, you know, help protect

1 everybody.

2 And then the outside-in is we work with governments around the world who

3 we're thinking about laws and regulations in this space. And I help us set positions to

4 advocate for, to improve those laws to make sure that those laws are truly going to be

5 effective in helping organizations' cybersecurity posture.

6 Q Excellent. So in this team effort you're describing, you speak with

7 government agencies, correct?

8 A Correct.

9 Q And those government agencies are not just U.S. agencies, correct?

10 A Correct.

11 Q And so you would say that this information sharing is done with many

12 different governments likely in that same way, or would you say that, you know, any one

13 government is unique?

14 A So it really depends because each government is going to be interested in

15 different things. In general, we try to maintain, you know, positive working

16 relationships with governments around the world. You know, that said, of course, we

17 are, you know, a U.S. company. And so a U.S. Government, you know, we probably

18 engage with more than your average government in a different part of the world. But in

19 general, all of those relationships are focused on ensuring that we can ultimately protect

20 our users. And sometimes so we'll share information to better protect our users and

21 protect kind of broader cyber threats to critical infrastructure and the like.

22 Q So Google is not directed, of course, or required by the U.S. Government to

23 share information about threats in cybersecurity or current trends, correct?

24 A There is no compelling surlaw on the books related to cybersecurity threats.

25 And the reason -- I don't want to make that sound strange. We do have laws on

1 reporting incidents. So if we've suffered an incident, but that's different than threats.
2 We certainly any sharing around cyber threats is entirely voluntary.
3 Q And you mentioned in the last hour that it was a two-way street. So you
4 would share information, and they would also share information. So you both would
5 have come out of it knowing more about threat landscapes.
6 A I also want to clarify that I am not in an operational or technical role for
7 Google. And so when I say broadly we will share information, it is generally not me that
8 is sharing information. But I helped to form these partnerships with governments to set
9 up those sharing, you know, to set up sharing.
10 Q Excellent. So I wanted to turn to some of the questions asked in the last
11 hour around the FBI and Ukraine. Even though the possible content moderation that
12 was happening external to the U.S. is outside the scope of this investigation, I just want to
13 ask some questions about it. You were asked whether you were aware that the FBI had
14 gotten requests or requested -- sorry, the FBI had requested Google remove any content
15 from certain foreign actors in the last hour, correct?
16 A I did say something to that effect, yes.
17 Q And you said you were aware that such requests may have been made, but
18 you don't know any specifics?
19 A Correct.
20 Q So you haven't seen any of these requests?
21 A I have not seen the actual documentation of the requests being made. I
22 am aware that we received such requests.
23 Q So you don't know if they were explicitly made to remove content or a
24 request for Google to determine whether or not some content violated their already
25 existing terms, correct?

1 A Correct. I'm not aware, yes.

2 Q And to your knowledge, did the FBI or any U.S. Government agency ever

3 coerce, pressure, or direct Google to remove a piece of content?

4 A No, not to my knowledge.

5 [redacted] Questions?

6 [redacted] No.

7 [redacted] All right. No more questions. Thank you so much for your time.

8 We can go off the record.

9 [Discussion off the record.]

10 [redacted] Back on the record.

11 BY [redacted]

12 Q You mentioned that during the last round of questioning that you were

13 generally aware of requests coming from foreign governments' removal of content, but

14 not the specific documentation. Was that knowledge based on discussions with other

15 employees at Google?

16 A Yes.

17 Q And who would those employees be?

18 A You know, following the invasion of Ukraine, I think we were deluged with

19 various requests of that nature. Generally, within the policy organization that could

20 come from either product policy folks or our central kind of subject matter expertise

21 folks. So it could come from multiple teams.

22 Q And, sorry, the first one was the product policy folks. Is that right?

23 A Yes.

24 Q Did you have discussions, specifically, with people in product policy that led

25 to that knowledge?

1 A I certainly was in discussions, like meetings with lots of people, where it was
2 discussed. I wouldn't say that I ever had like a one-to-one discussion with these people
3 because, again, that's not my issue or area.
4 Q Do you recall anybody specific in the product policy team talking these
5 issues?
6 A Sure, like [redacted] whose the head of YouTube policy.
7 Q Anybody else?
8 A The next person is going to be like -- [redacted], I'm fairly sure is on that
9 team and would receive such requests or actions for such requests.
10 Q You mentioned in the aftermath of the Russian invasion of Ukraine Google
11 was deluged with requests of this nature. Do you know what the primary sources of
12 those requests would be?
13 A The Ukraine Government certainly and, you know, various European
14 Governments and certainly European Union, European Commission.
15 Q And are you aware of any U.S. Government agencies playing a facilitatory
16 role, acting as an intermediary, referring those requests from any of those entities?
17 A Yes, and this gets to a previous line of questioning which is, you know, the
18 way that the MLAT process works is sometimes the U.S. Government Department of
19 Justice would route requests from foreign governments. But I'm not aware of any
20 specifics of those.
21 [redacted] And how would those requests come from, the email, from sort
22 of platform at all?
23 [redacted]. I don't recall. That's not my role.
24 BY [redacted]
25 Q In the discussion of cybersecurity during the last round of questioning, you

1 said that no one organization has a full picture of the threat environment. Is that right?
2 A Correct.
3 Q And cybersecurity is a team sport?
4 A Correct.
5 Q Would you say that each individual actor has a responsibility to identify
6 threat actors and share that information with others?
7 A No, I would not because many organizations are, you know, small
8 businesses, you know, school districts. I would not say that they have a responsibility to
9 identify threats. I think that's the responsibility of other kind of players in the
10 ecosystem, but certainly like tech companies, governments, folks like that I do think have
11 a responsibility.
12 Q Tech companies like Google?
13 A Yes.
14 Q And you said that Google has -- tries to make a positive working relationship
15 with governments around the world. Is that right?
16 A Yes.
17 Q Does that include adversarial governments?
18 A I would not say we try to maintain positive, but certainly maintain
19 professional relationships, yes.
20 BY [redacted]
21 Q You mentioned in the first hour that you were aware of an FBI agent named
22 Elvis Chan, correct?
23 A I've heard the name, yes.
24 Q And have you heard his name in the context of your work at Google?
25 A Yes.

1 Q Who at Google would be interacting with Mr. Chan?

2 A Probably our security legal team.

3 Q And who heads up that team?

4 A [redacted].

5 Q And are you aware of what that team's interactions might be with Mr. Chan?

6 A No.

7 Q And would that same be interacting with the FBI more broadly?

8 A Yes.

9 Q Do you know what their interactions with the FBI had been like?

10 A Have been like? No, I couldn't characterize what their -- the tenor of that.

11 Q What about the nature of their interactions with the FBI?

12 A So, broadly, receiving, you know, requests for information from the FBI and

13 in the opposite direction making law enforcement referrals to the FBI.

14 Q What sort of requests might come from the FBI?

15 A You know, where they might have, you know, evidence or an indicator that a

16 malicious actor or hacker is targeting a Google user or some piece of Google

17 infrastructure or Google service, and they might pass that our way.

18 Q Are you aware of any requests from the FBI regarding content moderation?

19 A No. Except, again, I believe like some of those requests in the Ukraine war

20 where like a government, like the Ukraine Government might ask the FBI who would then

21 ask us. That is my kind of layperson's understanding of how, like, MLAT and things like

22 that work.

23 Q We talked a little bit about sort of interactions with the State Department.

24 Are you aware about the nature and extent of Google interactions with other government

25 agencies outside of what we discussed earlier?

1 A Yes.

2 Q Okay. What's the nature of those interactions?

3 A Google's interactions with other government agencies?

4 Q Correct.

5 A I think it's going to vary based on what the policy issue is. I mean, you

6 know.

7 Q What about content moderation policy?

8 A That's not my area, and I would not have any information about that.

9 BY [redacted]

10 Q During the last round, would it be fair to say that you said that all of Google's

11 interactions with the government, the ultimate purpose is the protection of users. Is

12 that correct?

13 A I would not say that categorically, no.

14 Q Would most of Google's interaction with the government, the purpose be to

15 protect users?

16 Mr. Bopp. Are you talking about [redacted] interactions with the government or

17 Google as a company?

18 [redacted] During the previous round of questions about Google as a

19 company, their interaction with the government.

20 Mr. Bopp. Right.

21 [redacted] So I'm asking about that. So the scope would be the company.

22 Mr. Bopp. Okay. Can you restate the question, please.

23 BY [redacted]

24 Q Sure. Would you say that the majority of Google's interaction with the

25 government, the ultimate purpose of those interactions would the protection of users?

A I cannot say that categorically, no.

BY [redacted]

Q Would Google be best situated to discuss Google's interactions with other government agencies regarding Alphabet and Google content moderation policies?

A The U.S. Government?

Q Correct.

A Likely, the team that is responsible for U.S. Government engagement within the GAAP organization.

Q And who leads that team?

A [redacted].

Q Sorry, what was that last name?

A [redacted] [redacted].

Q Can you -- do you recall any other individuals on that team?

A Sure. [redacted], [redacted], [redacted].

[redacted] We can go off the record.

[Whereupon, at 11:52 a.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

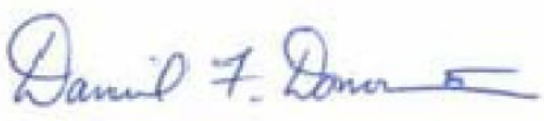
Date

Transcribed Interview Transcript Errata Form

Interviewee	[redacted]
Date of Interview	June 23, 2023
Date of Review	7/19/23
Name of Reviewer	Micheal Boyd
Signature of Reviewer	[signature]

Page	Line	Suggested Correction
12	6	should be "mandiant", not "madiant"

Transcribed Interview Transcript Errata Form

Interviewee	Head of Security Policy, Google
Date of Interview	June 23, 2023
Date of Review	December 16, 2024
Name of Reviewer	Daniel Donovan
Signature of Reviewer	

Page	Line	Suggested Correction
7	23	“on U.S.” should be “on the U.S.”
9	4	“So the” should be “For the”
9	7	“The second role” should be “For the second role,”
9	7	“Defense, so” should be “Defense; so,”
9	14	“was global” should be “was the global”
9	17	“that's found” should be “that found”

Transcribed Interview Transcript Errata Form

Page	Line	Suggested Correction
10	6	"I belong" should be "I belong to"
11	8	"the kind of intersection" should be "the intersection"
11	9	"markets cybersecurity" should be "markets in cybersecurity"
11	13	"Organization, our" should be "Organization, and our"
12	1	"advise company teams" should be "advise the Company's teams"
14	19	"content have" should be "content, have"
15	13	"role, which is broadly," should be "role."
17	13	"FBI, Department" should be "FBI and Department"
19	18	"about kind of more Russian" should be "about Russian"
24	21	"recipients is" should be "recipients are"

24	22	"members, members or plus-ones" should be "members and plus-ones"
Page	**Line**	**Suggested Correction**
27	8	"to if any" should be "to it with any"
27	17	"GAP" should be "GAPP"
27	25	"you work" should be "you who work"
32	5	"handling kind of law" should be "handling law"
33	8	"cybersecurity, generally cybersecurity" should be "cybersecurity; generally, cybersecurity"
34	1	"he's Jeff Greene, was" should be "Jeff Greene was"
38	18	"exchange in frank" should be "exchange frank"
39	9	"clearly. Likely" should be "clearly and likely"
39	9	"[redacted], but I'm" should be "[redacted]. But, I'm"

40	6	“but again I” should be “but, again, I”
40	20	“And so I” should be “And, I”
Page	**Line**	**Suggested Correction**
40	21	“to meeting” should be “to a meeting”
43	4	“experience” should be “experiences”
43	22	“users, we” should be “users; we”
44	2	“the outside-in is we” should be “for outside-in, we”
44	3	“we're thinking” should be “are thinking”
44	4	“for, to” should be “for and to”
44	17	“And so a U.S. Government, you know, we” should be “We”
44	20	“sometimes so we'll” should be “sometimes we'll”

44	24	"surlaw" should be "law"
45	1	"incidents. So" should be "incidents, so"
45	2	"We certainly" should be "Certainly"

Page	Line	Suggested Correction
45	9	"those" should be "that"
46	19	"organization that" should be "organization, that"
47	8	"[redacted], I'm fairly sure is" should be "[redacted]. I'm fairly sure [redacted] is"
47	14	"European Union, European" should be "the European Union's European"
47	18	"U.S. Government Department" should be "U.S. Department"
48	10	"ecosystem, but certainly like tech companies, governments, folks like that I" should be "ecosystem. But, certainly tech companies, governments, folks like that, I"

49	20	"where like a government, like the Ukraine Government might" should be "where a government, like the Ukraine Government, might"
51	7	"Likely, the" should be "Likely the"
51	8	"GAAP" should be "GAPP"
Page	**Line**	**Suggested Correction**
51	14	"[redacted], [redacted]" should be "[redacted], and [redacted]"

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4
5 COMMITTEE ON THE JUDICIARY,
6 U.S. HOUSE OF REPRESENTATIVES,
7 WASHINGTON, D.C.
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9
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11
12
13 INTERVIEW OF: [redacted]
14
15
16
17
18 Monday, June 26, 2023
19
20 Washington, D.C.
21
22
23 The interview in the above matter was held in room 2237, Rayburn House Office
24 Building, commencing at 10:00 a.m.
25

1 Appearances:

2

3

4 For the COMMITTEE ON THE JUDICIARY:

5

6 [redacted] LAW CLERK

7 [redacted] COUNSEL

8 [redacted] DIGITAL DIRECTOR

9 [redacted] COUNSEL

10 [redacted] MINORITY OVERSIGHT COUNSEL

11 [redacted] MINORITY CHIEF OVERSIGHT COUNSEL

12 [redacted] MINORITY INTERN

13 [redacted] MINORITY INTERN

14 [redacted] MINORITY PROFESSIONAL STAFF MEMBER

15

16

17 For the SUBCOMMITTEE ON THE CONSTITUTION

18 AND LIMITED GOVERNMENT:

19

20 [redacted] MINORITY DEPUTY CHIEF COUNSEL

1 For ALPHABET:

2

3 DANIEL F. DONOVAN, ESQ.

4 KING & SPALDING

5 1700 Pennsylvania Avenue NW, Suite 900

6 Washington, D.C. 20006

7

8

9 For [redacted]:

10

11 MICHAEL D. BOPP, ESQ.

12 GIBSON DUNN

13 1050 Connecticut Avenue, NW

14 Washington, D.C. 20036-5306

1

2 [redacted] This is a transcribed interview of [redacted].

3 Chairman Jordan has requested this interview as part of the committee's

4 investigation of how and the extent to which the executive branch has coerced and

5 colluded with companies and other intermediaries to censor speech.

6 Would the witness please state their name for the record?

7 [redacted]. Sure. [redacted].

8 [redacted] On behalf of the committee, I want to thank you for appearing here

9 today to answer our questions. The chairman also appreciates your willingness to

10 appear voluntarily.

11 My name is [redacted] and I am with Chairman Jordan's staff. I'll now have

12 everyone else from the committee who is here in the room introduce themselves as well.

13 [redacted] [redacted] Chairman Jordan's staff.

14 [redacted] [redacted] chief oversight counsel for the House Judiciary

15 Committee Democratic staff.

16 [redacted] [redacted] House Judiciary, Democrat.

17 [redacted] [redacted] House Judiciary, Democrat.

18 [redacted] [redacted] House Judiciary, Democrat.

19 [redacted] [redacted] House Judiciary, Democrat.

20 [redacted] I'm [redacted] House Judiciary, Democrat.

21 [redacted] [redacted] Chairman Jordan's staff.

22 [redacted] Okay.

23 I'd like to now go over the ground rules and guidelines that we will follow during

24 today's interview.

25 Our questioning will proceed in rounds. The majority will ask questions first for 1

1 hour, and then the minority will have an opportunity to ask questions for an equal period
2 of time if they choose. We will alternate back and forth until there are no more
3 questions and the interview is over.
4 Typically, we take a short break at the end of each hour, but if you would like to
5 take a break apart from that, please just let us know.
6 As you can see, there is an official court reporter taking down everything we say to
7 make a written record, so we ask that you give verbal responses to all questions.
8 Do you understand?
9 [redacted]. Yes.
10 [redacted] So the court reporter can take down a clear record, we will do our best
11 to limit the number of people directing questions at you during any given hour to just
12 those people on the staff whose turn it is.
13 Please try and speak clearly so the court reporter can understand and so the folks
14 down at the end of the table can hear you.
15 It is important that we don't talk over one another or interrupt each other if we
16 can help it, and that goes for everybody present at today's interview.
17 We encourage witnesses who appear before the committee to freely consult with
18 counsel if they so choose. It is my understanding that you are appearing today with
19 counsel. Is that correct?
20 [redacted]. Yes.
21 [redacted] Could counsel please state your name for the record?
22 Mr. Bopp. Michael Bopp with Gibson Dunn, representing [redacted].
23 Mr. Donovan. Daniel Donovan, King & Spalding, representing Alphabet.
24 [redacted] Thank you.
25 We want you to answer our questions in the most complete and truthful manner

1 possible, so we will take our time.

2 If you have any questions or if you do not understand one of our questions, please

3 let us know. Our questions will cover a wide range of topics, so if you need clarification

4 at any point, just say so.

5 If you honestly don't know the answer to a question or do not remember, it is best

6 not to guess. Please give us your best recollection. And it is okay to tell us if you

7 learned the information from someone else; just indicate how you came to know the

8 information.

9 If there are things you don't know or can't remember, just say so, and please

10 inform us who, to the best of your knowledge, might be able to provide a more complete

11 answer to the question.

12 You should also understand that, although this interview is not under oath, that by

13 law you are required to answer questions from Congress truthfully.

14 Do you understand that?

15 [redacted]. Yes.

16 [redacted] This also applies to questions posed by congressional staff in an

17 interview.

18 Do you understand this?

19 [redacted] Yes.

20 [redacted] Witnesses that knowingly provide false testimony could be subject to

21 criminal prosecution for perjury or for making false statements under 18 U.S.C. section

22 1001.

23 Do you understand this?

24 [redacted]. Yes.

25 [redacted] Is there any reason you are unable to provide truthful answers to

today's questions?

[redacted]. No.

[redacted] Finally, I'd like to make a note that the content of what we discuss here today is confidential. We ask that you not speak about what we discuss in this interview to any outside individuals to preserve the integrity of our investigation.

For the same reason, the marked exhibits that we will use today will remain with the court reporter so that they can go in the official transcript, and any copies of those exhibits will be returned to us when we wrap up.

That is the end of my preamble. Is there anything that my colleagues from the minority would like to add?

[redacted] We just thank the witness for taking time out of your schedule to join us today.

[redacted] The clock reads 10:04. We will start the first hour of questioning.

EXAMINATION

BY [redacted]

Q [redacted], can you state your full name again for the record, please?

A Of course. [redacted].

Q And what is your current place of employment?

A Google, Inc.

Q And what is your current title?

A Head of information quality strategy within the Google trust and safety team.

Q And what is your educational background, beginning with college?

A Sure. I have a bachelor's in law and then a master's in political sciences and one in business.

1 Q And what is your employment history?

2 A I joined Google straight out of college and have remained employed there

3 for the past, I would say, close to 13 years now, approximately.

4 Q Do you recall which year it was you joined Google?

5 A Yes. December 2010.

6 Q And when you joined Google, what was your first position?

7 A I had joined Google within the French PR team.

8 Q And how long were you at the French PR team?

9 A If memory serves well, I stayed employed there until March or April of 2015.

10 Q And what was your next position?

11 A My next position was with the global public policy team in California.

12 Q And what was your position there?

13 A If memory serves well, I was in charge of economic issues.

14 Q And how long were you with the global public policy team?

15 A I was with the global public policy team for somewhere close to 8 years,

16 ending January of this year.

17 Q Did you serve in multiple positions for that team?

18 A I did.

19 Q Can you walk us through the various positions you served?

20 A Yes, with the understanding that positions were shifting in a gradual fashion,

21 not necessarily always in an in-and-out, like, clear-cut. But the positions were, indeed,

22 for the lead for economic issues, then global lead for Search and News, and then head of

23 information quality policy.

24 Q I'm sorry. What was that last one?

25 A Head of information quality policy. Well, starting with global lead, and

1 then head.

2 Q When, approximately, were you global lead for Search and News?

3 A To my recollection, that would have been somewhere around 2016 to 2018

4 maybe.

5 Q And what were your day-to-day responsibilities in that role?

6 A Sure. Thank you for asking.

7 As with most of my roles within the public policy team, my responsibilities would

8 entail engaging with outside stakeholders on behalf of the company, typically to explain

9 or to otherwise clarify our work on the various issues I was covering and, insofar as

10 Google had positions or views it wanted to represent, to represent those, as well as to

11 hear feedback, questions, or concerns raised by third parties and route them to the

12 appropriate teams internally and, if relevant, provide advice on the various topics that

13 these teams were working on.

14 I should say that none of these roles involved making decisions about content

15 moderation in any way, shape, or form.

16 Q When you were with Search and News, who did you report to?

17 A That would have been the head of the Search and News public policy team.

18 Q And who was that?

19 A His name was [redacted].

20 Q You said you were engaging with outside stakeholders. Who were some of

21 those outside stakeholders?

22 A Sure. That was a global role, as most of my -- actually, all of my roles have

23 been since 2015. So that would be any entity around the world, from civil society to

24 academia to in some places governments, wanting to engage with us. I was mostly on

25 the receiving end of these questions and oftentimes would take guidance from local

1 teams on who might be the person we should engage with.

2 Q Which U.S. outside stakeholders did you interact with?

3 A I'm sorry to say, it's hard to provide a comprehensive list. That would be a

4 very wide range of stakeholders. If you have questions about specific stakeholders, I

5 might be happy to confirm, but providing a comprehensive list would be difficult.

6 Q What about just categories? Universities?

7 A Sure.

8 Q Nonprofits?

9 A Yes.

10 Q Did you interact with U.S. Federal Government agencies?

11 A Not to my specific recollection, but that would not be out of place if the U.S.

12 public policy team told me it was warranted.

13 Q Okay. And who led the U.S. public policy team during this time?

14 A That's a good question. I believe it was [redacted]. You're still talking

15 about the time when I was in the Search role?

16 Q Yeah. So this was roughly 2016 to 2018, if memory serves?

17 A Yep. I do believe it was [redacted] then.

18 Q And can you say a bit more of where the global public policy team fit in in

19 relation to the U.S. public policy team? Are these two separate teams?

20 A Correct. They were at the time. The team has -- there have been several

21 variations of structure within the public policy team at Google, but it's always been the

22 case that the U.S. public policy team is a separate branch from global teams and has a

23 remit to determine engagement strategy within the United States across the board,

24 whereas global teams serve as advisors or experts or otherwise more in depth in any one

25 topic and can be brought in in support of these local teams.

1 Q Do you know who the U.S. public policy team reports to?

2 A Yes. That would be the head of the U.S. public policy team, so, at the time,

3 I believe [redacted].

4 Q Uh-huh. And do you know who she reported to?

5 A That would be the head of global public policy.

6 Q Okay. And who was that?

7 A I believe it changed at the time, so I'm not entirely sure if it might have been

8 [redacted] or [redacted].

9 Q In this role, how many people did you have that reported to you?

10 A In that role, none on a stable basis.

11 Q Did you have anybody that reported to you?

12 A No, not on a stable basis.

13 Q Okay.

14 Do you recall -- so, in 2018, you left Search and News, and what was your next

15 position after that?

16 A The team structure changed, and my new role was information quality

17 policy.

18 Q And what were your day-to-day responsibilities in that position?

19 A Very similar to my old role. As I've described the role of the public policy

20 team, I would engage with outside stakeholders on behalf of the company, in that role

21 most particularly with civil society and academia around the world, again in cooperation

22 with local teams and again with the purpose of explaining our work across our services,

23 not just specific to Search and News, as well as hearing questions, feedback, and routing

24 them to the internal teams and helping provide advice to anyone who would need it.

25 Q And how long were you in this role for?

1 A That would have been until January of this year.

2 Q Who did you report to in this role?

3 A That would have been the head of the -- the team that handled these issues.

4 So, if you're asking for a name --

5 Q Yes, please.

6 A -- [redacted].

7 Q Did you have people who reported to you in this role?

8 A Not at first and not until the last year in that role, by which point I had two

9 people reporting in to me.

10 Q And who are they?

11 A You mean name or titles?

12 Q Both, please.

13 A So [redacted] was one of these people, focusing more on

14 information quality. And [redacted] was the other one, focusing on hate speech and

15 violent extremism.

16 Q For [redacted], sorry, could you say again what his --

17 A Sure thing.

18 Q -- responsibilities were?

19 A [redacted]. So [redacted], [redacted], [redacted].

20 Q And then in January of 2023 you changed positions again. Is that right?

21 A Correct.

22 Q And could you say it again, your next title?

23 A Sure. Head of information quality strategy within the Google trust and

24 safety team.

25 Q And what are your responsibilities in this role?

1 A Yeah. In this team, my job is to help advance a number of projects that are
2 strategic to the trust and safety team, pertaining broadly to issues of information quality.
3 And the nature of the responsibilities depend on the project.
4 Q Who do you report to?
5 A The head of the strategic preparedness and response team within trust and
6 safety.
7 Q And who is that?
8 A [redacted], [redacted].
9 Q How many people do you have report to you in this role?
10 A None.
11 Q Your previous position, the information quality policy position, where was
12 that housed? Was that also within trust and safety?
13 A It was not.
14 Q Okay. Within the hierarchy of Alphabet, where was that team placed
15 under?
16 A It continued to be a global public policy team that, as I said, was in charge of
17 engaging externally on behalf of the company and taking feedback or questions back in.
18 It was not a team that made any decisions regarding content moderation. That would
19 be the responsibility of other organizations.
20 Q But the team would communicate content moderation decisions or policies
21 to external stakeholders?
22 A Can I ask what you mean by "communicate"?
23 Q Sure. I guess this was -- first, your answer was, with reference to Search
24 and News, you said that you were often on the receiving end of questions from external
25 stakeholders -- academia, civil society groups, government.

1 Did any of those questions ever concern what Google's content moderation
2 policies were?
3 A Yes, that would be commonplace. It would not be the only questions that
4 we would get, but some ask for clarifications about our work.
5 Q Okay.
6 And I'll ask this for each of the three spots you've had -- Search and News,
7 information quality policy, and then your current role: Is this company-wide, as in all of
8 Alphabet, or specific to Google, YouTube, only some products?
9 A So you asked for each of the three roles. So, in order, with the Search and
10 News role, I was only focused on these two services. And I would say, here, I
11 would address any sort of questions about the services, not just related to any sort of
12 content.
13 And then, within my public policy role, on information quality, that would be
14 across Google services, but I would say with less emphasis on YouTube, who had its own
15 public policy team, with whom I sometimes collaborated with.
16 And, finally, within my current role, my responsibilities are less focused on
17 external engagement. So, when I might receive questions on an occasional basis, I
18 would typically route them to public policy or communications teams.
19 Q And for your current role, is that Alphabet-wide as well?
20 A No. This would explicitly not include YouTube.
21 Q Okay. Who leads the YouTube public policy team?
22 A For clarifying purposes, you mean the head of that organization?
23 Q Yes.
24 A That would be the vice president of public policy at YouTube. If you're
25 asking for a name --

1 Q Yes, please.

2 A -- I believe that would be [redacted].

3 Q Is it your understanding that YouTube has its own public policy team? Is

4 that right?

5 A That is correct.

6 Q Does YouTube have its own trust and safety team?

7 A To my awareness, yes, it does.

8 Q Do you know who leads that team?

9 A I believe the vice president of the YouTube trust and safety team is [redacted]

10 [redacted]

11 Q For your position with the information quality policy team, how big was that

12 team?

13 A So you're asking my prior role?

14 Q Yes.

15 A And when you're asking about the team, what do you mean by that? Is it

16 my specific team and people who are reporting to me, or peers, or --

17 Q So remind me who you reported to in that position.

18 A The head of the organization -- the name changed a few times, but -- whose

19 job was to deal with various issues related to, broadly speaking, content on Google,

20 including in my world but also things like [inaudible] liability or copyright, for instance.

21 Q How many people had a title, you know, affiliated with information quality

22 policy?

23 A That would just be me and my two reports within the organization.

24 Q Okay.

25 In your current role, do you engage with the U.S. public policy team?

1 A I'm sorry to ask, what do you mean by "engaging"?
2 Q Do you have interactions with them?
3 A Yes, I would.
4 Q And what's the nature of your interactions with them?
5 A If they have questions about any of our work or if they need any sort of
6 support for outside engagement, they could reach out to me, among other people.
7 Q You mentioned that you work on projects in your current role?
8 A Correct.
9 Q What types of projects?
10 A That would depend, but the gist of my work in the past, I would say, few
11 months has been focused on generative AI.
12 Q And when you were in your previous position, the information quality policy
13 position, did you ever have direct engagement with the U.S. Federal Government as part
14 of your role?
15 A With the caveat that I don't necessarily recall the specifics of the
16 conversations, yes, I think so.
17 Q Do you recall which agencies?
18 A I recall engaging specifically with the Global Engagement Center within the
19 State Department. And there were other agencies as well, but I'm not certain which, as
20 that would be -- all of this would be at the request of our U.S. public policy team telling
21 me whom I should engage with.
22 Q And we'll start with -- well, actually, let me just take a step back.
23 To your understanding, what is the Global Engagement Center?
24 A To my understanding, it is a part of the U.S. State Department.
25 Q And, to your understanding, what is that agency's mission?

1 A That is not necessarily clear to me. All I can say is how I interacted with
2 them.
3 Q Okay. And what was the nature of your interactions?
4 A Sure. Thank you for the question.
5 We were told that they had questions for us about our policies and practices when
6 it came to various information quality questions and that they might also have observed
7 issues relating to, in this case, I believe, foreign interference with the U.S. democratic
8 system that they might want to highlight for us.
9 I should say that the procedure in this sort of situation would be that whatever
10 they deemed fit for sharing we would consider, but make our independent decisions
11 about always.
12 And so we engaged with them on these premises. And I believe there was, at
13 their request, a series of engagements through the years. I don't recall exactly how
14 many.
15 Q Are you familiar with the terms "misinformation," "disinformation," and
16 "malinformation"?
17 A When you say "familiar," what do you mean?
18 Q Do you have an understanding of what they mean?
19 A It is my experience that definitions are fraught in this space, so it's -- I think it
20 might be that people might have different expectations of what they mean. But, yes,
21 I'm aware of these terms.
22 Q Okay. In the context of engagements with the U.S. Government, what is
23 your understanding of what those terms mean?
24 A To my -- I don't feel very comfortable asserting what the U.S. Government
25 might mean with it. My own personal practice and experience focuses on our own

1 policies and our own practices and how we enforce them at scale.

2 Q Sure. To clarify the question, not necessarily what the U.S. Government

3 individuals -- what their intent of what they wanted the definitions to mean, but what is

4 your understanding of the differences between --

5 Mr. Bopp. I think you already asked him that and he already answered the

6 question.

7 BY [redacted]

8 Q Well, no, I don't think we have covered what your understanding is of what

9 those words mean.

10 A I appreciate the question. I am sorry if I'm not really helpful here, but I

11 don't know what they might have meant by that. All I can say is, when we receive any

12 sort of information from any third parties, our focus is on our policy and practices and

13 how we enforce them.

14 Q Okay. In engagements with the U.S. Government, did they ever use the

15 terms "misinformation," "disinformation," or "malinformation"?

16 A I'm sorry, I don't recall specifics of the conversations, if you will.

17 Q Okay. At any point with any U.S. external stakeholder, did you have

18 conversations concerning misinformation, disinformation, or malinformation?

19 A While I don't recall the specifics of conversations, I'd expect some of these

20 terms might have come up.

21 Q Okay. And, to your understanding, what is the most common definition of

22 "misinformation"?

23 A To my understanding, the way people who are outside of the company

24 might define "misinformation" is information that's inaccurate.

25 Q Okay. And with respect to "disinformation"?

1 A As I understand it, a common definition outside the company is information
2 that is purposefully inaccurate, misleading.
3 Q And with respect to "malinformation"?
4 A That one is not entirely clear to me. I'm not sure. I feel like -- yeah. I
5 don't want to speculate.
6 Q Do you recall any interactions where malinformation was discussed?
7 A I do not.
8 Q You made the distinction as opposed to how external stakeholders might use
9 these terms as opposed to how they're referred to internally. What terminology or
10 what is the equivalent that is used internally in the company to refer to misinformation
11 and disinformation as you just defined them?
12 Mr. Bopp. Do you understand the question?
13 [redacted]. I'm not entirely sure.
14 Mr. Bopp. Because I don't.
15 I'm not sure what you're asking.
16 [redacted] Sure.
17 Mr. Bopp. Are you asking if there's some sort of different way that Google refers
18 to misinformation and disinformation internally?
19 [redacted] Well, he added a qualifier to one of his earlier responses about how
20 these terms we're discussing, mis-, dis-, and malinformation, are referred to. He
21 qualified "inside the company" and then gave his best understanding of how it's used
22 with external stakeholders.
23 Mr. Bopp. Uh-huh.
24 BY [redacted]
25 Q So the question is, you provided two definitions for "misinformation" and

1 "disinformation." When, as you just defined them, misinformation and disinformation
2 are discussed within Google, are they discussed the same way? What is the
3 terminology, just so we're on the same page for future questions, as they're discussed
4 within Google?
5 A Sure. Thank you for clarifying.
6 Within the company, our focus is on the specific rules that we have and how they
7 might apply to any specific use case, as well as how we design our services. In that
8 sense, we don't have broad-strokes definitions within our rules for these terms. We
9 have specific rules about specific contents or behaviors that might be harmful to our
10 users.
11 Q So, if I understand your answer correctly, you have policies that are specific
12 to behavior and do not depend upon content?
13 A We have both.
14 Q And by "both," you mean policies related to behavior and policies related to
15 content?
16 A That is correct, depending on the service.
17 Q Okay.
18 And with respect to content moderation policies, there's a set of policies for
19 YouTube? Is that right?
20 A That is correct.
21 Q And is there a set of policies for other Google products?
22 A It has been my experience that every product has its own set of policies.
23 Q Okay. Which other products' policies are you familiar with?
24 A There are many that I would have brushed against, but I have been mostly
25 familiar with the Search policies.

1 Q And, to your understanding, do Search policies cover both behavior and
2 content?
3 A With the caveat that, as I've said, I do not and never belonged to a team that
4 writes or applies these policies or makes any decisions about these policies, so I would
5 not be the foremost expert here, my understanding is that Search does have limited
6 policies about behavior or content. Most of Search's actions are not removal actions.
7 Search removes very little content from its services.
8 Q Okay. Which team at Alphabet is responsible for writing Search's policies?
9 A That would be the Search trust and safety team.
10 Q And who leads that team?
11 A Currently, I -- so it would be the head of Search trust and safety. I assume
12 you're asking for a name?
13 Q Yes, please.
14 A I believe that would be [redacted], [redacted].
15 Q And which team is responsible for applying Search's policies?
16 A That would be a different part of the trust and safety team focusing on
17 Search.
18 Q So there are two teams within Search trust and safety, one for writing the
19 policies and one for enforcing them, is your understanding?
20 A That is my understanding.
21 Q Okay.
22 With respect to YouTube, which team is responsible for writing YouTube's content
23 moderation policies?
24 A Similarly, that would be the YouTube trust and safety team.
25 Q And I think we covered this, but, again, to your understanding, who leads

1 that team?

2 A As we discussed, I believe the person in charge of the YouTube trust and

3 safety organization writ large would be [redacted].

4 Q And, to your understanding, which team is responsible for applying

5 YouTube's content moderation policies?

6 A I believe it is a separate part of the YouTube trust and safety team, but I

7 would be less familiar with that.

8 Q Do you recall when you first had interactions with the Global Engagement

9 Center?

10 A Not in specifics, no.

11 Q Do you know if it was -- it would've been -- let me strike that and restart my

12 question.

13 Do you recall if the first time you had interactions with the Global Engagement

14 Center was once you had joined the information quality policy team?

15 A Yes. That would have been, I believe, though I am not certain, somewhere

16 in the spring or summer of 2020. With that said, I want to remind that I'm not certain,

17 so this is me doing my best recollection.

18 Q Yeah. No, certainly understand that, and we very much appreciate your

19 efforts coming here.

20 You had referenced discussions with the GEC regarding the company's policies and

21 practices. Do you recall when those discussions took place?

22 A That would be the same timeline. Most of my conversations with outside

23 stakeholders in my prior roles regarded some aspect of the company's policies, practices,

24 products, or issues.

25 Q Okay. And do you recall who else from the company engaged in these

1 discussions with the Global Engagement Center regarding the company's policies and
2 practices?
3 A While I believe it might have varied over time, I do think it involved members
4 of the U.S. public policy team.
5 Q Any in particular that you remember?
6 A I am sure it will come back to me, but right now I'm not sure of a name.
7 Q When these discussions occurred, do you recall, did the Global Engagement
8 Center reach out to you directly, or did they reach out to someone else at the company
9 and you were looped in?
10 A Again, with the caveat that I do not recall the specifics, the most normal
11 procedure for anything like this would be that the U.S. public policy team would be in
12 charge of engagement with all branches of government -- executive, legislative, or
13 otherwise -- and would pull myself and others in whenever they felt it was necessary.
14 So that would be the way it would've happened here as well.
15 Q Do you recall why it was necessary to loop in to these discussions?
16 A I do not recall the specifics, but the normal procedure would be that, if there
17 were specific questions about our services or practices that the team felt I was in a better
18 place to answer than they were, or when they wanted to have people who had more
19 insight into some of these questions than they did, they brought myself or others in,
20 depending on the issue.
21 Mr. Bopp. Just so we're clear, what did you mean by "these discussions"?
22 BY [redacted]
23 Q The discussions the company had with the Global Engagement Center
24 regarding the company's policies and practices, which, to the extent your memory serves
25 correctly, occurred at least in the summer of 2020.

1 A Again, I believe the initial discussions took place then, but I think there were
2 a series of engagements, and I don't recall when I last engaged with them.
3 I would also add that these discussions were not different, from my perspective,
4 from discussions we had with other stakeholders around the world in that regard.
5 Q Do you recall which policies and practices the Global Engagement Center had
6 questions about?
7 A Not specifically, no, I do not.
8 Q Do you recall if it was about Search?
9 A It might have been. I'm not sure.
10 Q Do you recall if there were questions regarding YouTube's policies and
11 practices?
12 A Again, I do not recall the specifics. I expect some of our products were
13 mentioned. I'm not sure which ones when.
14 Q Do you recall how many times you met with the Global Engagement Center?
15 A I do not, but I do recall it was a series of engagements that took place over at
16 least several months, if not more, at their requests.
17 But the discussions were always the same. They might have questions or things
18 they wanted to raise with us, which we would answer to the best of our ability, as we
19 would with any other stakeholder asking those questions. And insofar as they had
20 feedback about anything the company did, that would be something we would take back
21 in and route to the appropriate teams. That was our normal procedure.
22 Q Can you walk me through, what is the typical protocol, from your
23 perspective, that you would take in advance of one of these meetings?
24 So you mentioned there would be multiple folks from the company who would
25 attend. Would you meet with them previously, before having the meeting with the

1 GEC?

2 A Not necessarily, no. That would be fairly infrequent.

3 Q And, then, what about after the meeting concludes? You mentioned

4 sometimes there'd be either information or do-outs that would have to be routed to

5 someone else. Who would be responsible at the company for communicating that

6 information?

7 A I appreciate the question. Again, I don't recall specifics, but the normal

8 procedure would be that, depending on the question or the participants at the meeting,

9 at least one of the participants would communicate with the relevant team, whoever that

10 may be, who would then make an independent assessment as to what to think of or do

11 with whatever was raised or asked.

12 Q Okay. Did you take notes during these meetings?

13 A I do not recall doing so.

14 Q Do you recall anyone else at Google taking notes or circulating meeting

15 minutes?

16 A I don't recall specifics, no.

17 Q Who was your primary point of contact at the Global Engagement Center?

18 A I believe it was, at the time, [redacted].

19 Q Is this the same --

20 A Same.

21 Q -- individual who now works --

22 A That is correct.

23 Q Okay. Is that how you met one another, is through these meetings?

24 A If the question is whether I had any other interactions with [redacted], the

25 answer is no. Indeed, the only interactions I've had before he joined the company were

1 over the course of these meetings.

2 Q I know we covered this briefly, but could you state again what [redacted]

3 responsibilities are at the company?

4 A I am not certain of his present responsibilities, because he is not in my

5 organization anymore. But, at the time when I was in the same team as he was, they

6 were similar to mine -- engagement with outside stakeholders, explaining our work,

7 taking feedback back in.

8 Q Do you recall when [redacted] joined the company?

9 A If memory serves well, that would have been roughly January 2022, along

10 those lines.

11 Q To your understanding, is [redacted] with the same team at Google as he

12 was before you left for your current position?

13 A Yes.

14 Q Was there someone at the company who took your role when you left your

15 previous position for this position?

16 A Again, with the understanding that I'm not in my former team and do not

17 know how they are currently structured, I'm not sure I was replaced exactly role for role.

18 Q Earlier, we were discussing policies that addressed behavior and policies that

19 address content. Again, with the understanding that you aren't on the team that writes

20 or applies the content moderation policies, do you know if the -- we'll start with Search to

21 keep these answers a bit more simple -- if, within the Search team, they divide the team

22 based off folks who analyze behavior, policies related to behavior, as opposed to policies

23 related to content?

24 A I am not certain. And in light of the fact that you asked me to not

25 speculate, I would rather not mislead you. I'm not aware of any such distinction, but it

1 might exist.

2 Q Okay.

3 Independent of the teams you've already identified -- the Search team, the

4 YouTube team -- is there a team within the company generally that analyzes inauthentic

5 accounts or inauthentic behavior?

6 A Again, with the understanding that your question focuses on broader

7 analysis than just policy development or enforcement, then there is at least one other

8 team that I'm aware of that engages in assessing whether behaviors are taking place on

9 our services that are undermining their integrity and potentially deceiving users, and that

10 would be Google's Threat Analysis Group, "TAG" for short.

11 I should note that these kinds of analysis are one part of TAG's remit. TAG also

12 focuses on broader cyber threats, hacking and other similar issues, which I believe would

13 be the center of gravity of its work.

14 Q And do you know who leads the Threat Analysis Group?

15 A Yes. I believe that that would be a specific director within the Google

16 organization.

17 Q And do you know the name of the current director?

18 A I believe, again, if the team structure hasn't changed, that would be [redacted]

19 [redacted]

20 Q In your meetings with the Global Engagement Center, you mentioned that

21 they might provide, from time to time, information regarding foreign interference. Do

22 you recall if anyone from the Threat Analysis Group ever attended these meetings?

23 A I do not recall specifics, but it would have been possible, though, I should

24 say, that would be infrequent, in large part because, in my experience, the Threat

25 Analysis Group's work is mostly focused on analyzing these kinds of threats and not as

1 much on external engagements.

2 Q Across any of Alphabet's products and services, are you aware of any

3 content moderation policies that address a potential hack-and-leak, how to handle

4 information that is the product of that?

5 A I appreciate the question. To your point, I'm aware of the existence of such

6 policies. I'm not certain I know all of the specifics of them.

7 Q Do you know which team or teams would have responsibility for -- let's start

8 with -- writing the hack-and-leak policy?

9 A Thank you for the question. That would depend on the service, but

10 answers I gave you previously about teams in charge of writing policy for each service

11 would apply here as well.

12 Q And would the same answer you gave apply with respect to enforcing that

13 policy?

14 A Correct.

15 Q Again, referring back to your meetings with the Global Engagement Center

16 and their questions with current policies and practices, do you recall any questions that

17 the Global Engagement Center had, or any discussions, regarding a hack-and-leak?

18 A Not specifically, no.

19 Q What is First Draft News?

20 A I'm not entirely sure how they would define themselves. I'm aware that it's

21 an organization, a civil society organization, that Google has engaged with and that, I

22 believe, works with fact-checkers.

23 Q Have you ever been involved with First Draft News?

24 A Thank you for the question. As I've mentioned, as part of my public policy

25 role, I engage with a broad range of civil society and academia actors around the world,

1 and so I believe First Draft News was one of them. I'm only --

2 Q Across Google's various products and services, whether it's company-wide or

3 specific to a product and service, are you aware if the company engages with third-party

4 fact-checkers?

5 A So your question is, just to make sure I understand it, does the company

6 have any interaction with third-party fact-checkers?

7 Q Yes.

8 A To my awareness, yes.

9 Q And do you know which teams at the company engage with third-party

10 fact-checkers?

11 A With the caveat that I am not certain about an exhaustive list, I believe the

12 team in charge of being a primary point of contact for these groups is called the News Lab

13 team.

14 Q And just at a high level, what does the News Lab team do?

15 A Again, I am not entirely certain of the full scope of their mission. I believe it

16 involves broader engagement with the news ecosystem and setting up programs and

17 partnerships to foster journalism writ large, of which fact-checking would be a part but

18 not the sum total.

19 Q Do you know who leads that team?

20 A I am not sure who the current head of that team is.

21 Q With respect to the trust and safety team for Search or the trust and safety

22 team for YouTube, do you recall if either of those two teams have direct engagement

23 with third-party fact-checkers?

24 A I would not know that for sure. I would expect it to be, at very best,

25 infrequent or exceptional.

1 Q And in your current position or in your previous position, did you have
2 engagement with third-party fact-checkers?
3 A And here, by "engagement," you mean interactions of any kind?
4 Q Yes.
5 A Then, yes, as I've mentioned, in my previous position, I was engaging with a
6 broad range of stakeholders around the world across the board, and some fact-checkers
7 were part of that for sure.
8 Q And what was the nature of your interactions with these third-party
9 fact-checkers?
10 A Broadly and to my recollection, they would be the same as what I've
11 described before: explaining our work; answering questions; if they had concerns or
12 feedback, taking those back to the relevant teams internally, who would then make their
13 own decisions.
14 Q So would third-party fact-checkers ever send questions related to specific
15 pieces of content?
16 Mr. Bopp. To whom?
17 BY [redacted]
18 Q To [redacted].
19 A Again, with the caveat that I don't recall any specifics, I would receive from
20 outside stakeholders around the world on a regular basis any number of questions about
21 any number of topics, which could include questions about content.
22 Q Okay. And when you would receive specific questions -- or, when you
23 would -- excuse me.
24 When you would receive questions about specific pieces of content with respect
25 to YouTube, who would you direct either that question or that information to within the

1 company?

2 A Specific to YouTube?

3 Q Yes.

4 A That would depend on the nature of the question.

5 Q Okay. If an external stakeholder, we'll say an external U.S. stakeholder,

6 contacted you with concerns regarding misinformation in a YouTube video, who at the

7 company would you pass that report on to?

8 A While it's hard for me to speculate without any specifics, one normal

9 procedure would be for me to share this kind of information with the YouTube public

10 policy team.

11 Q And on that team, did you have a most frequent point of contact?

12 A That would really depend on the issue in question.

13 Q If the issue concerned a report about U.S. election misinformation, who

14 would be the best point of contact?

15 A Again, I'm sorry, I want to be helpful, but that would depend on the time,

16 that would depend on who was on the team at the time, and on the specific question that

17 was raised. I would just look -- that would vary over time.

18 Q So, when receiving, again, with this hypothetical example, a report about

19 potential misinformation on a YouTube video, was there a general team point of contact

20 that you would send it to? Or you would decide who on the team, based off the subject

21 matter, would be the most appropriate person to contact?

22 Mr. Bopp. This is, again, as you said, it's a hypothetical. You're asking [redacted]

23 to indicate what he would have done if this had happened? Is that what you're asking?

24 [redacted] Yes. So, to clarify, he has said that this was part of his job, was

25 receiving reports from external stakeholders. He's representing he doesn't have specific

1 recollections as far as, like, this video or whatever else, but that, at a high-level sense, he
2 would receive these types of reports.
3 So I'm asking, when he would receive these high-level reports, with the
4 understanding he doesn't have a specific recollection, what was the standard protocol?
5 [redacted]. Thank you for the question.
6 As I've said, it would really depend on the video, on who was on the YouTube
7 team at the time. I would always have a sense of who that person would be, but I can't
8 say that it was necessarily stable over time, and I'm not entirely sure who that would've
9 been, especially given that it's hard to speculate without seeing any one piece of content.
10 BY [redacted]
11 Q To your recollection, do you recall directing to different people based off the
12 subject matter?
13 So, by that, I mean, let's say there are two reports you receive. One alleges
14 misinformation with respect to COVID in a YouTube video, one with respect to
15 misinformation regarding elections in a YouTube video.
16 I'm just trying to get a sense, are these going to the same person, or do you have a
17 contact on the team that tends to deal with COVID-related issues and another contact
18 that tends to deal with election-related issues?
19 A I appreciate the question. I want to be helpful. At the same time, I find it
20 challenging to answer because, again, it would entirely depend on the moment when that
21 came up, who was on the team at the time, who was in the office at the time, any other
22 number of parameters, like whether this was, I don't know, a U.S. or a global question.
23 I can't give you a specific set of names, other than saying that would be the team I
24 would route it towards. And sometimes I may not even know, and I would just send it
25 to the whole team.

1 Q Okay. When you would send it to the whole team, was there an email
2 listserv that you could email?
3 A Not to my recollection. It was just not a very sizable team.
4 Q How big was the team, to your recollection?
5 A I'm not entirely sure of specifics. I would say, less than 10 at the time.
6 Q We'll use the timeframe of 2020. Do you recall any of the less than 10
7 people who served on the YouTube team in 2020?
8 A Again, with the caveat that the teams and the person would change over
9 time and so I'm not entirely certain, I believe I do. But I am not entirely sure who was
10 actually on the team at the time versus later or earlier, if that makes sense.
11 Q Okay. With the understanding that this is just your recollection and there
12 might be folks who were on the team earlier or later, what are those names that you can
13 recall?
14 A Is that something we could come back to you on, if that's okay? Just, I
15 don't want to name people that were not on the team at the time.
16 Mr. Bopp. Are you specifically asking about the YouTube trust and safety team in
17 2020?
18 [redacted] Yes.
19 [redacted]. Oh, you were asking about trust and safety?
20 [redacted] Yes.
21 [redacted]. Oh, I'm sorry. I was under the understanding you were asking about
22 public policy.
23 BY [redacted]
24 Q Okay. How big was the YouTube trust and safety team in 2020?
25 A That I would have absolutely no idea. That would not be a team I would

1 engage with frequently in a capacity, and I'm not sure exactly how big they were.

2 Q Okay. Do you have a ballpark sense? Was it bigger than 10?

3 A I honestly would not know. I don't feel comfortable speculating.

4 Q So, just as a point of clarification, your "less than 10" was with respect to

5 YouTube's public policy team?

6 A Correct.

7 Q Okay.

8 So, in your previous role, you served from 2018 to 2023, January of 2023. Do

9 you recall -- the pandemic hits in the beginning of 2020 -- who at YouTube's public policy

10 team took the lead with respect to developing policies related to COVID-19?

11 A Ah. Thank you for this question. It gives me an opportunity to clarify, and

12 that applies, as well, retroactively.

13 When I say "public policy team at YouTube," I mean the team that was similar to

14 mine, in charge of engaging with the outside stakeholders and taking information back in.

15 That would not be the team that would make any sort of content moderation decisions,

16 whether it is about writing policy, enforcing it, or otherwise deciding about any of the

17 pieces of content.

18 So, whenever I say "YouTube public policy team," that is who I mean.

19 Q Okay. Thank you for that clarification.

20 Do you recall who at the YouTube public policy team was the primary point of

21 contact for engagement with external stakeholders, similar to yours, related to issues on

22 COVID-19?

23 A Again, I'm not entirely sure, because it might have fluctuated over time, if

24 that makes sense. I don't want to mislead you. I'm not sure who was -- if there was a

25 primary and, if so, who that was.

1 Q Do you recall anybody who worked on COVID-19 issues from the YouTube
2 public policy team?
3 A I believe -- and, again, this is to my recollection and with the understanding
4 that I was not on that team and, therefore, would not know the specifics of their
5 allocation. I believe a lot of people on the team might have received questions about it,
6 if that makes sense. I'm not entirely sure how they would've been structured.
7 Q All right.
8 When engaging with external stakeholders in your previous role, do you recall
9 questions regarding the various enforcement options available?
10 A Meaning?
11 Q With respect to -- yeah. Let me rephrase that.
12 In your previous role, when receiving questions from external U.S. stakeholders,
13 do you recall receiving any questions with respect to how YouTube enforced its content
14 moderation policies?
15 A You mean YouTube specifically?
16 Q Yes.
17 A I don't recall specifics of questions I might have received. As I said, it
18 wasn't part of my job to receive any number of questions from stakeholders around the
19 world.
20 I do recall generally receiving questions about YouTube, but I would not
21 necessarily be the primary recipient of those, as YouTube's public policy team might be
22 the one who receives most of them.
23 Q Okay.
24 And when receiving a question from an external U.S. stakeholder regarding either
25 the scope of YouTube's content moderation policies or the enforcement of YouTube's

1 policies, when a U.S. external stakeholder poses the question and you take the question
2 back to the company, are you the one delivering the answer back to the U.S. stakeholder
3 or would you connect the stakeholder directly with the person providing the information
4 at the company?
5 A That would depend on the question and the guidance I would receive,
6 typically from the YouTube public policy team.
7 Q So both would occur? Sometimes you would relay back the answer, and
8 other times you would connect them directly?
9 A Again, I don't recall specifics, but, per normal procedures, both could
10 happen.
11 Q Okay.
12 What familiarity do you have with the enforcement options YouTube has to
13 enforce its content moderation policies?
14 A Can I clarify what you mean by "enforcement options"?
15 Q Sure. So YouTube has its content moderation policies available. Users
16 will violate them. When that happens, there are presumably, you know, enforcement
17 options available to the company to take for people who violate the policies. Do you
18 have an understanding of what those options are?
19 A I would not consider myself an expert on YouTube's enforcement options.
20 I have a base level of understanding.
21 Q Okay. With the understanding you're not an expert and don't serve on the
22 team, is -- removal would be one option; is that correct?
23 A It is my understanding that, yes, when YouTube's publicly stated policies are
24 violated, it usually leads to the content in question being removed.
25 Q Do you know what other enforcement options are available?

1 A To my awareness, violations of YouTube's publicly stated rules lead to
2 content removals in most cases. I'm not aware of other options.
3 Q Is labeling an option?
4 A If it is a policy enforcement option, I am not aware of it.
5 Q To your understanding, then, what is the context for when labeling is applied
6 to a YouTube video?
7 A Again, I am not familiar with the specifics on YouTube, the operations of
8 YouTube's trust and safety teams. I am aware of -- I should take a step back.
9 What do you mean by "labeling" specifically?
10 Q Sure. On YouTube videos, some of them will have labels with respect to
11 concerns related to misinformation or provide a link to authoritative information.
12 So thank you for the opportunity to clarify we're on the same page. Is it your
13 understanding that -- first off, are you familiar with what I'm referring to?
14 A I am aware of information panels being displayed under YouTube videos,
15 some of them at least, depending on the topics that they might cover. And those might,
16 indeed, have a few lines of text on the link.
17 If that is what you're referring to, to my awareness, those are triggered
18 automatically and at scale based on the topic covered. They do not constitute a policy
19 action, to my awareness at least.

1 [11:00 a.m.]

2 BY [redacted]

3 Q Do you know which team is responsible at the company for handling how

4 Search results or recommendations are issued at YouTube?

5 A Again, with the caveat that I was never a part of the YouTube organization, it

6 is my understanding that YouTube has a dedicated products team.

7 Q And who leads the YouTube products team?

8 A I am not certain with regard to the question you're asking, meaning I'm not

9 sure who would be in charge of the topics you just discussed.

10 Q Okay.

11 Again, to the extent you have an understanding, how does YouTube's products

12 team fit within the company hierarchy compared to YouTube public policy and YouTube

13 trust and safety?

14 A Again, I am not certain. To my understanding, these are separate

15 organizations within YouTube. But I want to refrain from speculating.

16 Q As part of your work in your previous position, did you work with the

17 YouTube products team?

18 A Can you clarify to me about working with?

19 Q Sure. Did you have interactions with them as part of your role?

20 A I do not recall specifics, but that might have occasionally been the case.

21 That would be infrequent, though.

22 Q Do you recall any instances of why?

23 A No.

24 Q Which team at the company is responsible -- sorry. Let me strike that.

25 With respect to Google Search, to your understanding, what does that entail?

1 Does the Google Search -- let me rephrase this again.

2 When running a search on Google Search, blue links will appear.

3 A Uh-huh.

4 Q Yeah. Which team is responsible for handling the order in which the blue

5 links appear?

6 A Thank you for the question.

7 To my understanding, the order in which blue links appear on Google Search

8 results is determined automatically and at scale by ranking systems, not by individual

9 humans making these decisions. Those systems are designed by the Search ranking

10 team.

11 Q And who leads the Search ranking team?

12 A I am not entirely sure of how it is currently structured. There have been

13 some reorganizations in Google Search. I believe it would be the vice president in

14 charge, but who that is right now I'm not entirely certain.

15 Q Do you know who the vice president in charge was last year?

16 A I'm sorry. I'm happy to come back to you on that, but I don't want to

17 misrepresent, if that makes sense. That might have changed.

18 Q Again, with the understanding this is just based off your recollection and that

19 your memory may serve incorrectly sometimes, who do you believe was leading the team

20 last year?

21 A I'm feeling a little conflicted because you asked me earlier not to speculate

22 and not to guess, and so I don't want to do that, if that's okay.

23 Mr. Bopp. So you just don't remember who it was?

24 [redacted]. I'm not sure who it was.

25 Mr. Bopp. You're not sure who it was.

1 [redacted]. Yeah.

2 Mr. Bopp. Okay.

3 Are you about at the hour, by the way, or --

4 [redacted] Yeah. We're just at the hour.

5 Can we go off the record, please?

6 [Recess.]

7 [redacted] It is 11:22, and we can go back on the record.

8 [redacted], thank you again for joining us today.

9 EXAMINATION

10 BY [redacted]

11 Q Before we get too far into our questioning, you had used a term in the last

12 hour that I just wanted to get some clarification on.

13 You used the phrase "automatically and at scale" with respect to both the info

14 panels and then also the Search results. What's your understanding of what

15 "automatically and at scale" means?

16 A Thank you for the question.

17 In both cases, I was reflecting the fact that either, in the case of Search, the

18 ordering of blue links or, in the case of YouTube, the decision to trigger or not to trigger

19 an information panel would be handled by automated systems across the corpus of

20 content available in Search or YouTube's index.

21 Q Okay. So there's no human involved in making the decisions on a

22 case-by-case basis?

23 A To my awareness, there is not.

24 Q Okay. Thank you for that.

25 Your current title is head of information quality, correct?

1 A My current title is head of information quality strategy within the trust and
2 safety team.
3 Q Thank you. What's your understanding of what the definition of
4 "information quality" is for Google's purposes?
5 A Thank you for asking.
6 Broadly speaking, at Google, this tends to refer to the set of actions the company
7 undertakes to either elevate information that is reliable and helpful to users or address
8 activities that are harmful to users on our services.
9 Q Okay.
10 How would you describe Google's core mission?
11 A I'm going to try to quote from memory, with the understanding that it may
12 be failing me. But I believe it is, organize the world's information to make it accessible
13 and useful.
14 Q Okay. So can you talk a little bit about how your work as the head of
15 information quality strategy, with the goal, I think you just said, being to elevate the key
16 information, how does that interact with Google's core mission? How does that help
17 advance Google's core mission?
18 A I appreciate the question.
19 First of all, I should note that this isn't -- Google's core mission, of course, is shared
20 by many teams and individuals across the company. I would not be the sole driver, by a
21 very long shot.
22 Q Uh-huh.
23 A But within that remit, as I've said, within trust and safety, I support strategy
24 projects that have ramifications for either helping foster helpful features for our users or
25 address potential risks of harmful or deceptive activities on our services.

1 Q Okay.

2 You said in the earlier hour that part of your role involved hearing questions from

3 outside stakeholders, right?

4 A That applies to my prior role within public policy.

5 Q Correct. Thank you for that clarification, and that's what I want to talk

6 about. In that prior role, what did that actually entail on a day-to-day basis?

7 A I appreciate you asking.

8 That would entirely depend on the interaction, of course, but, generally speaking,

9 as I've mentioned, I would be exposed to questions or feedback or even sometimes

10 concerns raised by outside stakeholders across the world, again, mostly in civil society

11 and academia and mostly on a responsive basis.

12 They would express that they had something they wanted the company to be

13 aware of. And it would be my role to make sure that I route that information to the

14 appropriate teams within the company, who would then make their own independent

15 decisions about what to do with that information. In places where there were simple

16 questions I knew the answers to, of course I would address those.

17 Q Was it your impression that it was important for Google to hear from outside

18 stakeholders in that way?

19 A It is my impression that this was the core function, or at least one of the core

20 functions, of the public policy team at Google.

21 Q Okay. And why was it important for Google to hear those incoming

22 questions from stakeholders?

23 A To my understanding, one of the key reasons why Google wants to have

24 this -- to hear it from these stakeholders is a commitment to be as transparent, as open

25 as can be, and engage with any in society who have a stake and an interest in

1 understanding how our systems work or want to help us do our job better.

2 Q Could you estimate how many stakeholders you might engage with, whether

3 it's a hundred, a thousand, too many to count?

4 Mr. Bopp. Over what timeframe?

5 BY [redacted]

6 Q Over -- in your prior role. So throughout the duration of your entire prior

7 role.

8 A I appreciate you asking. I honestly would have a hard time estimating. It

9 was a daily occurrence.

10 Q Okay. So perhaps, like, too many for you to estimate. Is that fair to say?

11 A That is my impression.

12 Q Okay.

13 You said that, also, part of your role involved explaining Google's policies to these

14 outside stakeholders. Do you recall that?

15 A I did say explaining our overall work, which could include some of our

16 policies but also our practices, our products.

17 Q What did that entail on a day-to-day basis?

18 A Again, this is in my prior role.

19 Q Uh-huh.

20 A When someone would come with a question about, for instance, how Search

21 operates or Search works as a product, I would endeavor to provide them a high-level

22 understanding of how the service is designed, how it operates to sort of rank content,

23 and what kinds of rules might apply to different parts of the service.

24 And, then, if they had specific questions for any of the teams, I would take those

25 back internally and see if we're authorized to answer these questions, and if I did not

1 have the answers myself, try to secure those answers. Yeah, that could be very broad,
2 depending on the question.
3 Q What type of sources would you rely on to gather that information to
4 provide to the outside stakeholders?
5 A To my recollection, the immense majority of the information I would share
6 with outside stakeholders would be information that was available publicly, whether it
7 was in a blog post or dedicated websites or help centers.
8 In some cases, it might not be available publicly, in which case I would seek
9 clearance from the appropriate teams to disclose it. And that would never, to my
10 recollection, be information we'd share only with one external stakeholder. It would be
11 just, are we clear to share this kind of information?
12 Q Okay.
13 And is it fair to say that you didn't have a role in creating the information that you
14 would relay back; you would just find it and relay it back to the stakeholders?
15 A And by "creating," you mean?
16 Q So, for example, if you were referencing a blog post, a public blog post, you
17 wouldn't necessarily have written that blog post; you would just identify the information
18 in that blog post and provide it to the outside stakeholder. Is that fair to say?
19 Mr. Bopp. This is -- we're at a hypothetical stage here. You're asking about a
20 hypothetical. You're asking about what the normal course of dealing would be in a
21 situation like that?
22 BY [redacted]
23 Q I mean, I think what I'm trying to get at is, you were providing information to
24 the stakeholders, but you weren't the one that wrote the policies, for example, that you
25 may refer to, you weren't the one that wrote the blog posts, whatever it is that you were

1 relying on to provide information to the stakeholders?

2 A Again, I appreciate the question.

3 I don't recall specifics of these interactions. Generally speaking, no, I was not in

4 charge of writing any sort of content policy or making any sort of content decision in any

5 of my roles at Google.

6 However, since you asked about blog posts, it might be the case that I helped

7 write some of those. I would, however, never be the sole writer for them. And our

8 communications team would be the one that has the final decision on which blog post

9 would be released.

10 Q Okay.

11 Why was it important for Google to provide this information outwards for the

12 stakeholders?

13 A To my understanding, as I discussed before, it is of core importance to

14 Google's business to appear transparently and maintain trust in the way that we do our

15 work, which includes engaging, sharing information in the open, and addressing

16 questions.

17 Q Okay.

18 You said a couple minutes ago that part of what your work entailed was

19 addressing concerns about potentially malicious actors or efforts to manipulate the

20 Google platform. Is that something that you dealt with?

21 A I did receive questions about these topics, to my recollection.

22 Q Okay. What's your understanding of what it means for an entity to

23 manipulate a platform such as Google?

24 A This is a broad question, but to give an example of how that could work, if

25 you were, let's say, a foreign government and created a website that you want to

1 masquerade as a U.S. domestic news outlet for the purpose of disseminating information
2 in the United States, that would be something that would be deceptive, in that you are
3 misrepresenting who you are to our users. And so that would be something that, at
4 least for some of our services, would be a problem.
5 Q And would it be of concern to Google? You said it'd be a problem for some
6 of your services?
7 A Yes.
8 Q And why is that?
9 A Again, harking back to our mission, it is our job and our value proposition to
10 users to provide them or at least help them find information that hopefully they can rely
11 on when they need to rely on it. And, therefore, items deceiving our users undermine
12 our business.
13 Q How does Google detect -- or what's your understanding of how Google
14 might detect such platform manipulation?
15 A I appreciate the question.
16 As I have mentioned, I was never in one of the teams that does that kind of
17 detection, so I'm speaking only in broad strokes and with some amount of caution here.
18 But it might depend on any number of signals that we might have access to,
19 helping us understand that, for instance, again, a domain that purports to be a U.S.
20 domain is actually operated by a foreign government.
21 Q And you said a couple seconds ago that it would be of concern for Google if
22 an outside entity was manipulating the platform because that might make the Search
23 results less reliable, right?
24 A Correct, or less useful.
25 Q Less useful. Is it fair to say that Google's primary source of revenue is

1 selling advertising?

2 A With the understanding that I have not checked on its financials, but that is

3 my understanding, that ads continue to be the largest part of the company's revenue.

4 Q And is it fair to say that if users don't perceive Google as providing accurate

5 Search results, they might not use the platform?

6 A It is my understanding and certainly my expectation that if users don't find

7 the platform useful, they will not use it.

8 Q And is it logical to conclude, in that case, that if users don't use the platform,

9 Google would sell less advertising?

10 A It is my expectation, though it is speculative and a hypothetical, that, with

11 traffic decreasing, advertising revenue will decrease.

12 Q Okay. So manipulation of a platform could actually impact Google's ability

13 to sell ads. Is that fair to say?

14 A Again, this is a hypothetical, and, obviously, the specifics matter, but that is

15 certainly a concern that we would have.

16 Q Okay. Thank you.

17 We spoke in the prior hour about the Global Engagement Center, the State

18 Department's Global Engagement Center. Do you recall those questions?

19 A I do, thank you.

20 Q The Global Engagement Center is sometimes abbreviated as the GEC,

21 correct?

22 A To my awareness, yes.

23 Q Okay. So I'm going to refer to it as the GEC for the duration of this

24 interview.

25 A Sounds good.

1 Q You described earlier your understanding of the GEC's mission with respect
2 to your interactions with the GEC.
3 A Uh-huh.
4 Q I actually want to introduce our first exhibit. It's about the GEC page from
5 the GEC's public website.
6 A Thank you.
7 Q And this is going to be marked as exhibit No. 1.
8 [[redacted] Exhibit No. 1.
9 Was marked for identification.]
10 BY [redacted]
11 Q Have you seen this before?
12 A Not to my recollection.
13 Q Okay. I'm going to just read the mission statement on the front page.
14 The mission statement is to direct, lead, synchronize, integrate, and coordinate
15 U.S. Federal Government efforts to recognize, understand, expose, and counter foreign
16 state and non-state propaganda and disinformation efforts aimed at undermining or
17 influencing the policies, security, or stability of the United States, its allies, and partner
18 nations?
19 Do you see where it says that?
20 A Yep.
21 Q Okay. To the best of your recollection -- and you had mentioned earlier
22 you'd had discussions with individuals from the GEC, correct?
23 A That is correct, to my recollection.
24 Q To the best of your knowledge, to the best of your recollection, were the
25 matters that you discussed with the GEC pertinent to the mission I just read to you that is

1 pertinent to the GEC's efforts to address foreign and non-state activities that were
2 designed to destabilize the United States?
3 A With the understanding that business, you know, what is pertinent or not
4 pertinent to the mission is one that is subjective, I can just come back to the fact that, to
5 my recollection, discussions did pertain to foreign -- foreign influence writ large.
6 Though, again, I don't recall specifics.
7 Q Do you recall -- sorry, back up a second. Was it your impression that it was
8 important for Google to have discussions such as this with the GEC?
9 A It was my impression that I -- it was important for our U.S. public policy team
10 that we engage with the U.S. State Department and the request.
11 Q Okay. And why was that?
12 A That would be a question for our U.S. public policy team, yep.
13 Q Okay. So you were just essentially acting at the request of U.S. public
14 policy team. Is that fair to say?
15 A To my recollection, I was.
16 Q Okay. Do you recall if some of your interactions were intended to help
17 Google recognize possible malicious activity by foreign actors or non-state actors?
18 A Writ large, I would say that, over the course of my engagement, which, as
19 I've mentioned, were global in scope and included a broad stroke of actors, the vast
20 majority not government, we did receive on a regular basis information from these
21 actors, state or non-state actors, about content or behaviors they purported to have seen
22 on our services that they expected might violate our rules or otherwise undermine the
23 integrity of our services.
24 And that's the kind of information we, obviously, when we receive it, want to
25 make sure to share with the relevant team internally so they can determine if it has

1 merits, independently of course, and if it does have merits, take the right actions.
2 Q And with respect to your role specifically, you received that information
3 from stakeholders such as the GEC, correct?
4 A Yes, that would happen on a regular basis as part of my role.
5 Q And then you would pass it along to the proper team?
6 A That was normal procedure, yes.
7 Q Okay. And then after that, what was your role?
8 A Depending on the issue at stake, certainly, I would not be involved in making
9 a final determination as to whether the claim, whichever claim it was, had merits, but
10 once the determination was made and an action was taken, I may or may not be asked to
11 report back to the entity in question. More often than not, we would not necessarily
12 report back, but that could happen.
13 Q With respect to the GEC specifically, did your interactions -- did you interact
14 with the GEC during both the Trump administration and the Biden administration?
15 A Again, to my recollection, interactions began in the summer or spring of
16 2020. So that would be, I believe, during the Trump administration.
17 Q And did they continue on after January 20, 2021, to your recollection?
18 A I believe they did. Again, it was a series of engagements, roughly on a
19 monthly basis, I believe, but I'm not sure exactly when they ended. I believe they
20 continued in the Biden administration.
21 Q To the best of your recollection, was there any difference in your
22 interactions during the Trump administration versus during the Biden administration with
23 the GEC?
24 A To my recollection, none whatsoever.
25 Q Okay.

1 During your interactions with individuals from the GEC, did anyone who was a
2 State Department employee ever try to coerce you or anyone else at Google into
3 promoting or removing any content?
4 A With the understanding that, again, "coercing" is a term that is somewhat
5 subjective, it has certainly been my experience that we would receive information from
6 GEC that they shared with us but that they always marked as for our consideration, as
7 opposed to requesting, as far as I recall, or otherwise mandating any sort of an outcome.
8 Q Okay.
9 Did any GEC employee or any State Department employee writ large ever
10 threaten you or any other Google employee, to the best of your knowledge, with any
11 adverse action if Google did not act on particular information they had provided?
12 A Again, "threatening" is a broad term, but, to my recollection, when there
13 was any other interaction than during these meetings -- and those meetings were focused
14 on either them asking questions to us about our practices and their taking no for an
15 answer if our answer was that we did not have a response for them, or raising
16 information to us with this for-awareness purpose that I mentioned before, but otherwise
17 no.
18 Q Okay.
19 Did any GEC official or any State Department official writ large ever ask you or, I
20 guess, to the best of your knowledge, any other Google employee to promote or remove
21 any content based on the political or ideological viewpoint that it expressed?
22 A To my recollection, no. And that would've been a strong departure from
23 normal procedure, so I believe I would recall that.
24 Q And when you say it would be a strong departure from normal procedure,
25 what does that mean?

1 A That means that I'm not used, in my role, to receiving requests to elevate or
2 remove content based on its political leaning.
3 Q Okay.
4 Did you have any interactions with anybody at the White House?
5 A I'm sorry to say --
6 Mr. Bopp. You're asking over the same time period, 2018 to 2020?
7 [redacted] Yeah, 2018 to -- before you -- you took your new position in January
8 of this year, correct.
9 [redacted]. Yeah.
10 [redacted] So 2018 through the end of last year.
11 Mr. Bopp. Okay.
12 [redacted]. I appreciate you asking me.
13 I should note that, because many of my meetings at the time were remote and
14 over visual conference, I'm not entirely sure that I have a clear recollection of who I
15 interacted with. I don't recall going to the White House, if that makes sense, but I don't
16 recall all of my meetings.
17 BY [redacted]
18 Q Okay. And as we established earlier, you had so many interactions it's
19 impossible to quantify the number of stakeholders you engaged with, right?
20 A I certainly do not recall the number.
21 Q Okay.
22 Are you familiar with the claim made by -- I think it was raised at the very
23 beginning today and also made writ large in other hearings that we've had by some of the
24 committee's Republicans -- that the Federal Government has colluded with Google and
25 other private companies to censor certain types of political and ideological speech?

1 A And when you say "familiar," you mean am I aware of it?

2 Q Yes.

3 A Then, yes, I have awareness of the claim.

4 Q Based on your experience, personal experience at Google, do you have any

5 experience with such collusion actually taking place?

6 A In my experience, Google across its range of services through the years has

7 consistently made its own independent decisions with regards to what policies, practices,

8 or product development it designs.

9 Q Thank you.

10 And I just want to go through -- you answered a number of these questions

11 earlier, but I just want a clean record on it.

12 In your current role at Google, meaning the role you've been in since January of

13 this year to the present, are you personally involved in making content moderation

14 decisions?

15 A In my current role, I do not have the responsibility or possibility to make

16 content moderation decisions, meaning decisions about individual cases of content.

17 Q In your immediate prior role, so 2018 to December of last year, were you

18 involved in making content moderation decisions?

19 A Same answer. I would not have had the responsibility or possibility of

20 making individual decisions about pieces of content.

21 Q And what about the roles you had prior to 2018? Were you ever in a

22 position to make content moderation decisions?

23 A Same answer as before. I did not have that possibility.

24 Q Okay.

25 In your current role at Google, do you personally engage in fact-checking?

1 A Could you clarify the question? What does it mean to "engage in
2 fact-checking"?
3 Q Are you ever asked to assess a piece of content for whether it is true or
4 false?
5 A I would not be involved in content moderation decisions in any way, shape,
6 or form, including on that.
7 Q Okay. And with respect to any of your prior roles, was that part of your
8 responsibility?
9 A In none of my prior roles was I ever in charge of making decisions about
10 enforcement of any policy or any piece of content, including on fact-checking.
11 Q Okay.
12 And [redacted] in the prior hour asked you about Google News Lab. Do you recall
13 that?
14 A I do recall the question.
15 Q Did you ever work on News Lab?
16 A I did not.
17 Q Okay.
18 You were also asked a number of questions about YouTube. Were you ever
19 assigned to any YouTube-specific teams?
20 A I was not.
21 Q Okay.
22 Were you ever involved in the creation of any content moderation policies at
23 Google?
24 A And by "involved" you mean?
25 Q Did you help to draft any of the content moderation policies at Google?

1 A In my advisory capability, I might have been consulted on any number of
2 policies, but I would never be the person making decisions on the final draft of these
3 policies and what might be raised.
4 Q Okay.
5 Same question. You were asked a number of questions about your
6 understanding of the terms "misinformation," "disinformation," and "malinformation."
7 Were you ever involved in any decision-making at Google regarding what is or is not
8 misinformation or disinformation or malinformation?
9 A While I appreciate the question, in my experience, it does not fit with the
10 functioning of Google, in that it is not the company's approach to have an abstract
11 definition of these terms, but to focus on specific policies or product designs, which
12 would be handled by the appropriate teams.
13 Q So is it fair to say that you actually could not have been involved in any
14 decisions regarding what is or is not mis- and disinformation because Google doesn't do
15 that?
16 A Again, I'm not sure I fully understand the question, but, as I've said, I was not
17 the decision-maker on any sort of drafting of a policy or any sort of enforcement of a
18 policy, nor was I the decision-maker on one of our products.
19 Q Okay.
20 And one last question. Were you ever the final decision-maker with respect to
21 any of Google's community guidelines?
22 A I appreciate the question. I would equate those two policies in my mind, so
23 no.
24 Q Okay.
25 Thank you. We can go off the record.

1 [Recess.]

2 [redacted] Back on the record, please.

3 BY [redacted]

4 Q [redacted], do you -- we'll keep the timeline from January 2020 until today.

5 Do you recall any interactions with the U.S. Census Bureau?

6 A In general terms, yes. Not specifics.

7 Q And, in general terms, do you have a recollection, what was the nature of

8 those interactions?

9 A To my recollection, the Census Bureau was preparing for the decennial

10 census and concern about ensuring that the American public understood it accurately.

11 Q Do you recall who else, if anybody, from the company was engaging with the

12 Census Bureau when you were interacting with them?

13 A Yes -- I mean, again, not comprehensively. I do recall at least one name,

14 but there were many others. But the one person I do recall is one [redacted]

15 Q And who is [redacted]?

16 A At the time, he was in the Google trust and safety team. I'm not sure of his

17 exact title and position.

18 Q Again, the same timeline of January 2020 until today, do you recall any

19 interactions with the FBI?

20 A To the best of my recollection, I do not.

21 Q From January 2020 until today, do you recall any interactions with the U.S.

22 Department of Homeland Security?

23 A Again, to my recollection, no.

24 Q From January 2020 until today, do you recall any interactions with the CDC?

25 A To my recollection, no.

1 Q Are you aware of the Election Integrity Partnership?

2 A Yes, I'm aware of its existence.

3 Q And, to your understanding, what is -- I'll call it EIP, if that's all right. To

4 your understanding, what is EIP?

5 A To my understanding, the EIP was a project that gathered several

6 organizations. Those I know were a part of it include the Stanford Internet Observatory,

7 the Atlantic Council, Graphika I believe, as well as the University of Washington, around, I

8 believe, assessing and elevating threats to the integrity of elections -- at least, the

9 U.S. election.

10 Q With respect to EIP, do you recall who your points of contact were at

11 Stanford?

12 A Let's see. I recall interacting with a number of Stanford personnel. I'm

13 not sure which one I would call my point of contact. But names would include at least, I

14 believe, Renee DiResta and -- yeah, this is the one name I recall for sure. There might be

15 others I'm just not thinking of right now, but if you have names, I'm happy to confirm or

16 infirm.

17 Q Did you have any interactions with Alex Stamos?

18 A I believe I would have on an occasional basis, but he was not a frequent

19 point of contact for me.

20 Q Are you familiar with the Center for Internet Security, sometimes

21 abbreviated as CIS?

22 A To my awareness, no, not really.

23 Q Just a couple of answers ago, you said with respect to EIP that they would

24 elevate certain reports or threats to, presumably, Google? Is that what you were

25 referring to?

1 A Again, with the understanding that I was not a part of the team that ran the
2 project, my understanding is that it would seek to elevate information to a broad set of
3 stakeholders, including but not limited to technology companies and maybe others, such
4 as election officials.
5 Q And do you recall how this information was transmitted, at least to Google?
6 A Sure. To my recollection, the EIP had set up a platform called -- well, in this
7 case, the system was called Jira, the purpose of which was to write down information.
8 The content on the Jira page would be like a blog post page, if you will. There would be
9 written content and then a space at the bottom for people to ask questions or react in
10 some way. And that was the way they would signal information.
11 They would tag, meaning, like, explicitly include or exclude specific entities within
12 tickets, would then be able to see or not see the contents.
13 Does that make sense?
14 Q Yeah. A couple of followup questions.
15 A Sure.
16 Q So, first, when you say it was like a blog post and there would be content
17 and people could ask questions, were you able to ask questions or comment on this post?
18 A So, to my recollection, yes, I was one of the people from Google with access
19 to this platform. Though I should mention, again, to my recollection, we rarely did ask
20 any questions.
21 Our procedure was the same as it would be with any other third party raising
22 information with us. As I described before, we would take that information and route it
23 to the appropriate internal teams for them to make their own independent decisions.
24 Q Who else from Google had access to this Jira system?
25 A To my awareness, one other person from YouTube had access.

1 Q Do you recall the person from YouTube?

2 A I believe it was [redacted].

3 Q And if [redacted] is responsible for YouTube, in your point of contact, were

4 you for other Google products?

5 A Broadly speaking, yes, she was interacting with them on behalf of YouTube

6 and I was interacting with them on behalf of the rest of Google.

7 Q Okay. So, besides YouTube, which Google products were implicated by the

8 reports and information EIP was sharing?

9 A To my recollection, and, again, with the understanding this was a few years

10 ago and I'm not

11 comprehensive in my recollection, the only other Google products I recall being ever

12 mentioned by the EIP are Google advertising systems.

13 Q So you mentioned having access to this Jira system. Would you have to

14 onboard on -- this is not an email; is that right?

15 A No, it was a separate platform that they set up.

16 Q Okay. And so would you have to be invited to join it?

17 A That is correct. They would have to set up a dedicated account and access.

18 Q And then you mentioned that reports, information would be elevated, and, if

19 appropriate, you would send it along to the appropriate team. How did you get the

20 information off of Jira onto however you're transmitting it to the appropriate team?

21 A Thank you for the question. Of course, happy to elaborate on that.

22 If it's okay, I just would like to clarify one thing, which is, you said, if appropriate I

23 would share it. And insofar as I recall, we did not make, sort of, judgments. When a

24 page or ticket mentioned a Google service, we would share that information with the

25 relevant service and make them decide whether it had merit or was appropriate, it did

1 highlight a violation of our rules or did not.

2 But, with that in mind, the standard procedure here, which, again, is similar to

3 what would happen in other places, is, I would read the information, take the relevant

4 parts of it, the parts relevant to Google services, and send that to the appropriate team.

5 I believe, in this case, with email was the most common way of doing it, but I do not recall

6 that being comprehensive, of course.

7 Q And when you're sharing it via email, are you summarizing the ticket? Can

8 you copy and paste what's in the ticket and put it into the email? What does that

9 transmission look like?

10 A Thank you for the question.

11 And, again, I know I'm repeating this, but this is for clarity. It was a few years

12 ago, so my recollections are comprehensive. But, to the best of my recollection, we

13 would aim to copy and paste as much as of the contents of the ticket as we could, while

14 also limiting information that was not pertinent to Google, if that makes sense.

15 There were some parts of tickets that were -- some tickets involved multiple

16 entities, and so we would try to keep the information we send to the part that was

17 relevant for the team we were sending it to, so that it makes things easier for them.

18 Q In an earlier answer, you mentioned that entities could be tagged, and then

19 in this past answer you said there were multiple entities. So there would be tickets

20 where, let's say, Google was tagged but also other tech companies?

21 A To my recollection, yes.

22 Q Do you recall which other tech companies were involved?

23 A And by "involved," you mean the broader project than any one specific

24 ticket?

25 Q Which other tech companies might be tagged on a ticket, if you can recall?

1 A Again, with the caveat that I don't have a comprehensive list of who might
2 be involved, I do believe other companies that might be tagged, depending on the ticket,
3 would include Twitter; Facebook, now known as Meta; I believe TikTok, though I'm not
4 certain.
5 Q And when you say that you would remove the parts that are not relevant to
6 Google, would these be, like, links to tweets that would not be relevant? What type of
7 content, if you recall, would be removed from the ticket that wasn't relevant?
8 A I appreciate the question. Again, it's hard to speak in generic terms, so I'm
9 going to try to approximate the process here, but, obviously, each ticket is different, and
10 therefore it would help to see specifics.
11 In general, if a segment or a paragraph was about alleged abuse regarding another
12 platform's terms of service and happening on their services, we would not share that with
13 our own teams, I don't expect, because it would be less relevant to them. It might be
14 included if we did a broad and a quick copy and paste, but we would try to be diligent
15 about sending pertinent information for the sake of everyone's time.
16 Q And once you pass along the information, would you hear back from the
17 appropriate internal team regarding what decision, if any, was made?
18 A I would not say that was necessarily systematic, but that was certainly a
19 possibility.
20 Q Do you recall if anyone at EIP would ask you what decision was made?
21 A I don't recall specifics, but I believe they were interested in the decisions we
22 made.
23 But, to be clear, also, for the sake of specificity, it is my recollection that we did
24 not systematically and, in fact, did not even frequently report back on decisions.
25 Q To the extent you have a recollection, when multiple entities were

1 tagged -- let's say Google, Twitter, Facebook are tagged on a ticket -- if you or someone
2 from Twitter were to post on a ticket, could the other entities see what was posted?
3 A To my recollection, yes, if someone responded to a ticket in the Jira
4 platform, others would see that response if they had access to the ticket.
5 Q Do you recall if the Jira system would create automatic email notifications?
6 A To my recollection, it was designed to try to do that, but, again, if memory
7 serves well, the very reason why we log into Jira to see the tickets as opposed to receiving
8 emails is because that function was not, for whatever reason, reliable, and so it was not
9 certain that we would get an email with every ticket.
10 To my recollection, our preferred mode of operation, if we could, would have
11 been to receive emails versus logging into Jira.
12 Q I think you mentioned this in an earlier answer, but this was in the lead-up to
13 the 2020 U.S. election?
14 A Yes. These interactions with EIP began, I believe, in the late summer of
15 2020.
16 Q Did you have any interactions with EIP in the lead-up to the 2022 U.S.
17 election?
18 A To my recollection, much more limited, but yes.
19 Q And by "more limited," do you mean the nature of the interaction changed
20 or just the frequency was sparser?
21 A I appreciate the opportunity to clarify. I didn't mean sparser frequencies.
22 The interactions, as with many of our stakeholders, were the same. They might have
23 questions or share with us information we would treat appropriately in light of process.
24 Q Did you have engagements with something called the Virality Project?
25 A "Engagements" meaning interactions?

1 Q Interactions.

2 A Again, to my recollection, yes. I believe it was similar. We received

3 information from them that was shared to the appropriate teams.

4 Q And were you using Jira as part of these interactions with the Virality

5 Project?

6 A Here, I want to give you -- my recollection is not 100 percent clear, but if

7 memory serves well, by that time, the automatic emails worked better, and so we did not

8 have to log into Jira and just received emails. But that is a recollection; it could be

9 flawed.

10 Q Okay. So, again, understanding this is your recollection from a few years

11 ago, Jira was still used, but the email notification system was more reliable, so your

12 recollection is that email was used more frequently?

13 A To put this differently, I did not recall using Jira in the context -- logging into

14 Jira in the context of the Virality Project precisely due to the fact that emails were more

15 functional at the time. But, again, that is a recollection. It's a few years ago. I'm not

16 entirely sure.

17 Q In the lead-up to the 2020 U.S. election, do you recall how many Jira tickets,

18 approximately, you were copied on?

19 A I actually do. To my recollection, it was somewhere less than 50, maybe

20 high 40s, like 47, 48, something like that.

21 Q And do you have a sense of -- we'll say high 40s, roughly -- what percent of

22 those related to YouTube as opposed to ads, I think you said was the other category?

23 A Not in specifics, no. I'm sorry.

24 Q Okay. Do you have a sense of which was the majority?

25 A I'm sorry, that would -- I don't want to guess. I'm not sure.

1 Q If a Jira ticket included information that was relevant to YouTube, would you
2 take that information and pass it along to the appropriate team to handle? Or would
3 [redacted] -- you'd wait until she was logged on and she would take that ticket?
4 A To my recollection, in light of the fact that only two of us had access and not
5 all of -- like, sometimes we took a day off or some tickets would come on a weekend, we
6 typically have an agreement that whoever sees a ticket first sends it to the appropriate
7 areas and have made it very clear in advance what the procedure was so that whichever
8 one of us sends send it to the right place and in the right procedure.
9 Q In the lead-up to the U.S. 2020 election, as this project is going underway,
10 did EIP ask for information from you or [redacted] or from others at the company
11 regarding what YouTube's policies were or what the other Google products' policies
12 were?
13 A To my recollection, the EIP did publish a preliminary report on platform
14 policies ahead of the election that maybe they even kept up to date -- again, fuzzy
15 recollection there -- for which they did engage with not just [redacted] and I but with
16 others as well in order to understand the platform's policies and, yeah, in order to write
17 the report.
18 Q Do you recall who else from the company was part of these discussions?
19 A Not with specificity, no. I expect the YouTube public policy team would've
20 been involved as well, perhaps others on our end too. But I don't recall the exact
21 meeting, if that makes sense, where the discussion took place.
22 Q Do you know who [redacted] is?
23 A I apologize, in that the name rings a bell, but right here and now I'm not able
24 to tell you exactly who that is or what they do.
25 Q This will be exhibit 2.

1 A Okay.

2 [Exhibit No. 2.

3 Was marked for identification.]

4 BY

5 Q I guess just first at a high level, do you recall this email exchange?

6 A Not specifically, no.

7 Q If I could turn your attention, this is the first page, Bates number 24385.

8 This is an email from you that carries on to the next page. And you write, "I was

9 watching your 2nd briefing of the day and you mentioned that YT" -- in this context,

10 would you understand that to be YouTube?

11 A Yes.

12 Q -- "that YouTube had failed to take action on a livestream that you shared,

13 hours ago."

14 Do you recall, would EIP host livestreams?

15 A To my recollection, they did have public livestreams. On what cadence, I'm

16 not sure.

17 Q And then you say, "I was hoping to have more clarity here as I thought that

18 we did take action on the URL, but maybe I'm missing something?"

19 You then clarify, "I heard your correction now, which is nice -- but to be clear, we

20 took action a few hours ago, not because someone was watching this briefing."

21 Someone from Stanford responds, "Yes, sorry! We were trying to correct the

22 record."

23 And then in your response to that email, you say, "All good! Thanks for

24 correcting. You just had me concerned for a second that we were missing something

25 here. (As you might imagine, it's a bit of an angst-inducing notion on election day.)"

1 What did you mean, that it was an angst-inducing notion?

2 A Again, with the caveat that I don't recall the specifics of this exchange, it is
3 certainly the case that, on any day and especially on days when there's a lot of intensity
4 or a lot of public scrutiny, failing to enforce our rules appropriately would be a concerning
5 notion.

6 Q Okay. And when you reference public scrutiny, do you mean that the
7 company, Alphabet, would be under public scrutiny?

8 A I mean that, generally speaking, yes, election days tend to be days when we
9 get a lot of question and attention.

10 Q And, in this context, would the scrutiny be that YouTube had failed to take
11 action on a piece of content that, again, had some sort of issue with it?

12 A Again, I don't recall the specifics of this exchange, but, in general, we do
13 receive questions and feedback on a routine basis from stakeholders around the world
14 about content they believe violates our rules and we should have taken action on that
15 we, in their view, failed to take action on, which we then have to determine whether we
16 think they're right or not.

17 Q And when you reference stakeholders around the world, let's stick in the
18 U.S. focus. Among U.S. stakeholders who expressed a criticism of when the company
19 maybe has failed to take action, would those U.S. stakeholders, does that include the U.S.
20 Government?

21 A Again, to my recollection, no. And that would not be something that I
22 would've experienced directly because I was not the main point of contact for any one
23 branch of government.

24 Q And when you say public scrutiny, would that also just include criticism from
25 the media?

1 A Or users or any set of people. And, in general, just ourselves, that we hold
2 ourselves to a high standard.
3 Q Do you recall when public scrutiny with respect to elections and whether the
4 company was taking adequate steps with respect to content, when those criticisms first
5 began?
6 Mr. Bopp. Are we talking about -- have we established that there were
7 criticisms? I thought that [redacted] was talking about why -- that there might be
8 concerns, that there could be scrutiny, that there would be scrutiny. I'm not sure we've
9 established that there were criticisms.
10 [redacted] I think a previous answer did, but happy to clarify again for the record.
11 BY [redacted]
12 Q Do you recall at a high level whether Alphabet has ever been subject to
13 public criticism with respect to how it handled content moderation decisions?
14 A In specifics, no. But in my 13 years of experience at Google, it's commonly
15 been the case that around the world some person, organization, or other would have
16 concerns with our actions or lack thereof.
17 Q Okay. And that would include U.S. external stakeholders?
18 A Again, without recollection of specifics, yes, it could.
19 Q And, again, we covered this. Among U.S. external stakeholders, do you
20 have any awareness of whether the company has faced criticism in media reporting on
21 whether the company adequately has taken steps with respect to content moderation?
22 A Again, in my experience across 13 years at Google, it is frequently the case
23 that the company is criticized for some reason or other. That would include but not be
24 limited to content moderation.

1 [12:23 p.m.]

2 BY [redacted]

3 Q To the extent you have an awareness on this, do you recall, following the
4 2016 U.S. election, whether the company received public criticism with respect to steps it
5 took to moderate content that may have been the product of Russian disinformation?

6 A I don't recall specifics. That said, as I've mentioned, criticism of the
7 company across any number of topics and issues has been commonplace, in my
8 experience across all of my roles at Google.

9 Q And do you recall, in your experience at least, whether this criticism has
10 been consistent during your time at Google?

11 A Can I ask what you mean by "consistent"?

12 Q Sure. There's some degree of criticism that you have in mind in reference
13 to your previous answer. Do you recall any events or time period where the criticism
14 was greater than normal?

15 A I find, I'm sorry, this is a hard question for me to answer, in that, to me,
16 there's always some amount of discussion of the company in the public sphere, and some
17 of the discussion is positive and some is negative, but it's hard for me to quantify
18 variations of that.

19 Q Okay.

20 Do you recall negative -- I was going to say "negative criticism," but -- negative
21 discussions or criticism regarding the company and the steps it's taken with respect to
22 moderating content prior to the 2016 U.S. Presidential election?

23 A Not in specifics, but I would not say -- it would be a normal topic, as well as
24 many others, for both positive and negative discussion in the public, in my experience,
25 yes.

1 Q Do you recall when, approximately, the company adopted, for any of its
2 products or services, a policy with respect to hack-and-leak?
3 A I'm sorry, I don't recall a date.
4 Q Okay. To your recollection, was it sometime in 2020?
5 A It might've been. I'm so sorry, I'm not sure of the date.
6 Q You made a point of, in this email exchange, to clarify that Google took this
7 action hours ago -- this is at the bottom of the first page, Bates number 24385 -- not
8 because someone was watching this briefing.
9 Why did you think it was important to clarify that?
10 A Again, I don't recall the specifics of this exchange, but, in general, as I've
11 mentioned, common procedure is that Google makes its own independent decisions
12 about which contents may or may not violate rules. It is commonplace for me to remind
13 that this is the case to outside stakeholders.
14 Q Okay. Do you recall if the individuals at Stanford you were engaging with,
15 or had interactions with, what their intention was by sharing information with you?
16 A While I appreciate the question, it is hard for me to speak to it. I don't
17 know what their intentions might be.
18 Q Again, with the understanding that you're not them and can't specify to
19 what's in their head, but, to your understanding, what purpose did they have in sharing
20 the information with you?
21 A Again, I appreciate the question, but I'm not sure what their purpose was.
22 What I can say is that, when we saw information, we did route it to the
23 appropriate teams internally in our process, and if we thought there was evidence of
24 content or behaviors that violated our rules, then the teams would take appropriate
25 action.

1 I don't know what purpose the EIP might have had in their own heads.

2 Q Okay.

3 Do you recall this at the beginning when EIP is being organized, what the purpose

4 of the organization -- let me strike that.

5 Do you recall who was first invited from Google to have Google participate or have

6 interactions with the EIP?

7 A I do not. I don't believe it was me, but I'm not entirely sure.

8 Q Okay. Was there an opening briefing or opening meeting where -- at what

9 point did you come to understand what EIP was?

10 A Again, I don't recall specific meetings or discussions, but I recall my

11 discussions with them would have begun around the summer of -- late summer of 2020.

12 I don't recall any specific meeting, but normal course of action with outside

13 stakeholders would be to understand -- have a conversation with them -- so a meeting to

14 understand what they're doing and how it might fit with our work.

15 Q And do you recall who at Google was the decision-maker with respect to

16 having Google, you know, interact with EIP?

17 Mr. Bopp. You mean, who decided that Google was going to participate in this

18 EIP Jira program?

19 Do you know?

20 [redacted]. I don't believe it was any one single person, to my recollection, but

21 more for shared assessment of how would we receive that information, and what kind of

22 permission would we need to do so, and would that potentially be helpful. But I don't

23 recall any specific decision-maker, if that makes sense.

24 I should note that, when we say "participation," all we mean here is inputs,

25 receiving information.

1 BY [redacted]

2 Q You did testify that the tech companies -- and maybe we can clarify this,
3 about whether Google in particular, but -- the tech companies who were onboarded to
4 the Jira system could receive information, but they could also comment, provide
5 comments on the ticket? Is that correct?

6 A Yes, with the asterisk that we could only see and interact with tickets we
7 were tagged in to, so nothing else.

8 Q Okay. So, for the tickets that the company is tagged in, the companies
9 would have the ability to ask questions, provide comments. Is that correct?

10 A The companies had the technical ability to respond to a ticket however they
11 wanted.

12 Q Okay. Do you recall if the companies ever used -- would respond on Jira
13 regarding actions the company had taken?

14 A I can't speak to other companies, in large part because I don't recall paying
15 much attention to their own responses.

16 But insofar as we were concerned, I do not recall using the Jira system much for
17 responses. I recall individual instances of responding along the lines of acknowledging
18 that I've seen the tickets. I don't recall responding about actions taken.

19 [redacted] Okay.

20 We can take these back, please.

21 Thank you.

22 This will be exhibit 3.

23 [[redacted] Exhibit No. 3.

24 Was marked for identification.]

25 Mr. Bopp. Okay.

1 BY [redacted]

2 Q At a high level, do you recognize this email chain?

3 A If by "recognize" you mean recall, I do not recall the conversation, but I

4 recall -- I recognize that this is an email exchange I was a part of.

5 Q Do you recall if you attended the Stanford cyber December 2020 elections

6 debrief that's referenced in this email chain?

7 A I do not recall. It seems from this thread that I was started (ph) to.

8 Q Okay. Who is Kelly Born from Stanford?

9 A At the time, I believe she was a program officer within the Stanford Internet

10 Observatory.

11 Q In your email at the top, about a third of the way down on Bates number

12 39145, you recognize a person named Steven Bradley. Who is Mr. Bradley?

13 A I do not recall who that person is.

14 Q You say that Mr. Bradley is from CISIC. Do you know what that's in

15 reference to?

16 A I do not.

17 Q In response, Ms. Born seems to be, at least at a somewhat high level,

18 familiar with Mr. Bradley. She references something called "GIFCT." Do you know

19 what that is in reference to?

20 A I believe it stands for the Global Internet Forum to Counter Terrorism.

21 Q And then she says, "GIFCT but for disinformation." The full sentence, for

22 full context, is that Mr. Bradley wants to start something similar to GIFCT but for

23 disinformation.

24 Do you know if such an entity was ever put together?

25 A To my awareness, it was not.

1 Q There are references, including in that same sentence, in parentheses -- this
2 is in reference to Mr. Bradley -- "he ran a few government ISACS before, with DHS I
3 think."
4 Do you know what the reference is to "ISACS"?
5 A I am not 100 percent certain of the acronym, but I believe it referred to
6 information-sharing arrangements.
7 Q And do you have familiarity with the EI-ISAC?
8 A I'm aware of its existence, but I was not, to my recollection, involved directly
9 with it or its activities.
10 Q Okay.
11 Mr. Bopp. You said the EI-ISAC?
12 [redacted] Yes. It would E-I, dash, I-S-A-C.
13 Mr. Bopp. Thanks.
14 BY [redacted]
15 Q Do you recall who at Google, if anybody, had interactions with EI-ISAC?
16 A I'm not sure.
17 Q In your role in 2020, which included, you said, engaging with U.S.
18 stakeholders, did that include DFRLab, which is housed within the Atlantic Council?
19 A As I've mentioned, I engaged with many stakeholders around the world,
20 including in the U.S., in academia and civil society. And I believe I had some interactions
21 with the Atlantic Council.
22 Q Do you recall, at a high level, what any of those interactions entailed?
23 A I don't recall the specifics. To my recollection, they were similar to
24 interactions I would have with other stakeholders, like the ones we discussed.
25 Q In 2020, did you ever participate in a hack-and-leak tabletop exercise?

1 A I do not recall being a part of that tabletop.

2 Q Do you have awareness regarding the hack-and-leak tabletop exercise the

3 Aspen Institute held in June of 2020?

4 A With the understanding I have a fuzzy recollection, I do recall discussions

5 around such a tabletop. I do not recall myself being present there.

6 Q Do you know whether anyone from Alphabet attended that tabletop

7 exercise?

8 A I do not. And, again, I genuinely do not recall if I, myself, was there.

9 Q Do you recall attending any other meetings hosted by the Aspen Institute

10 related to a hack-and-leak tabletop exercise in 2020?

11 A No, I don't recall attendance to any one specific meeting.

12 Q Okay. Do you recall, at a high level, attendance at any meetings?

13 A I recall -- you mean in the pre-2020-election period? I'm sorry. I recall

14 email traffic from Aspen around that period. I don't recall any specific meetings that

15 make sense, just because part of my work involved engaging with many entities around

16 the world and having exchanges with them on our working practices, and I don't recall

17 specific meetings necessarily.

18 Q To your understanding, what does the Aspen Institute do?

19 A To my understanding, it's a think tank.

20 Q And what sorts of issues does the think tank work on that relate to your line

21 of work?

22 A I believe the Aspen Institute writ large tackles a wide range of issues, but I

23 believe one of its centers focused more over time on issues related to what they called

24 "information disorder."

25 Q Okay. And what did you understand them to mean by "information

1 disorder"?

2 A I am not entirely certain of the whole scope of what the Aspen Institute

3 would include in that, but I do believe they wrote a report about it that was published.

4 So that would be my understanding of what they mean by it.

5 Q Okay. And just sitting here right now, what's your understanding?

6 A My best understanding would be issues that -- issues with the information

7 ecosystem that risk deceiving or otherwise misleading citizens.

8 Q With respect to your previous position at Google, did you have interactions

9 with the Global Disinformation Index?

10 A Yes, I did.

11 Q And, to your understanding, what is the -- I'll call it "GDI." What is GDI?

12 A To my understanding, GDI is a not-for-profit organization -- I believe it

13 is -- I'm not sure if it's U.S.-based or not, actually -- whose stated mission involves, at least

14 in some way -- that's the way I'm familiar with them -- forming assessments of content

15 that is, per their words and definitions, disinformation and that is being monetized by

16 advertisers or platforms.

17 Q Okay.

18 We can take these exhibits back.

19 This will be exhibit 4.

20 [[redacted] Exhibit No. 4.

21 Was marked for identification.]

22 BY [redacted]

23 Q Do you recall this interaction with GDI?

24 A Again, not the specifics of each email, but I do recall the interaction.

25 Q Okay. And, first, who is Clare Melford?

1 A To my awareness, she, at least at the time, was the CEO of the Global
2 Disinformation Index.
3 Q And, again, to your recollection, in this email chain, what is being discussed,
4 what sort of interaction between GDI and the company?
5 A Sure. Again, to my recollection, as I have mentioned, GDI has a practice of
6 identifying and oftentimes reporting publicly on content they believe is improperly
7 monetized by advertisers or platforms.
8 It is the case that, as with any other report filed on issues affecting our services,
9 our teams would regularly review that kind of public information to determine whether it
10 has merits in light of our policies.
11 And, in this case, there was a decision to explore whether we could get such
12 information from GDI -- whether it would make sense to get more information from GDI
13 based on the usefulness of the public reports and whether that could be done with the
14 clear understanding, as I believe I mentioned in this email, that Google is, remains, and
15 will be accountable for setting its own service policies and enforcing them independently.
16 Q And so, when you said you're exploring whether it might be appropriate for
17 Google to get more information from GDI -- but you also referenced that GDI puts out
18 public reports. So you're referencing information that's not in the public reports. Is
19 that right?
20 A I don't believe we had a clear perspective at the time on what that might
21 have meant. And part of the effort here, as I --
22 [Sound of door slamming.]
23 A -- believe described in this exchange -- oh. Sorry.
24 Q I don't know what that was. Please.
25 A As I believe, as I referred to in this exchange, it was to understand whether

1 there was such information in the first place that might be helpful to our teams and, if so,
2 how might it be shared in a way that was respectful of the mandates and the operating
3 boundaries of both organizations, particularly with regards to the fact that GDI would
4 indeed continue to write and publish reports about Google and Google would continue to
5 disagree with these reports wherever it deemed appropriate.
6 Q And is the intention, from the company's perspective, that, with the
7 information that GDI may be providing, the company will be in a better position to make
8 determinations on whether to allow certain content to monetize ads?
9 A Again, this was, to my recollection, an exploratory project. But, at least to
10 my recollection, the question was, rather, is it the case that the GDI has information that
11 is pertinent to us to assess whether there might be content on our services that violates
12 our rules?
13 Q And, yes, it's your understanding it does? GDI does?
14 A No. My understanding was that this project was geared towards exploring
15 whether it might have such information.
16 Q Gotcha.
17 Are you aware of any other entities similar to GDI that serve a similar function of
18 issuing reports regarding whether content should be allowed to monetize with ads?
19 A With respect -- if I may reframe a little, I do not believe we were, are, or
20 would be looking to GDI to tell us what should or should not be monetized within our
21 systems. I believe we were exploring whether GDI had information that was pertinent
22 to spotting content that was violative of our rules as we wrote them and understood
23 them, which is slightly different.
24 But with that caveat in mind, while it's not been my team's remit to own such
25 relationships, it is the case that both Google and YouTube have teams whose job it is to

1 try to, across our services, observe whether there is content that violates our rules. And
2 it is my understanding that these teams might, whenever they deem appropriate,
3 contract with third parties that might augment their own understanding with leads or
4 information that they might deem useful.
5 Q Okay.
6 A But my understanding with these arrangements is that always it is the case
7 that Google's teams remain independently in charge of determining whether information
8 they receive does or does not violate a rule and never make any commitments to abide
9 by any third party's definitions of what should or should not be on our services.
10 Q And which internal Google teams are you referring to?
11 A I believe those would be trust and safety teams.
12 Q Okay.
13 Can we go off the record, please?
14 [Recess.]

1 [1:32 p.m.]

2 [redacted] It is 1:32. We can go back on the record.

3 BY [redacted]

4 Q [redacted], I know you had no role in content moderation. You didn't make

5 content moderation decisions. You didn't play a decision-making role in the policies.

6 But you do have a general understanding of how content moderation works, right?

7 A Yes, I do have a general understanding.

8 Q Okay. Do you have an understanding of when content would be taken

9 down from a Google platform?

10 A Sure. I think that depends on the service, but, typically, each service has its

11 own set of rules that govern what content is permissible on the service. And when

12 those rules are violated, typically, that content would be actioned, which most often

13 means removed.

14 Q I want to turn back, and I actually don't remember what it was marked

15 as -- exhibit No. 2, which is the 11/4/20 email.

16 A Yep.

17 Q You recall reviewing this in the earlier hour?

18 A I do.

19 Q And this is an 11/4/2020 email from [redacted] to you, and then a number

20 of other individuals are carbon-copied, right?

21 A That is correct.

22 Q Okay.

23 On page -- the second page of this that's printed, it's Bates-stamped 24386. At

24 the very top, the email from you says, "I was hoping to have more clarity here as I

25 thought that we did take action on the URL."

1 Do you see where it says that?
2 A Yep.
3 Q Do you have any recollection, sitting here, what that URL was?
4 A I do not.
5 Q Okay. And do you have any recollection of what action might have been
6 taken?
7 A I do not have a specific recollection, but on YouTube, typically, if a video
8 violates YouTube's rules, it would be removed.
9 Q Okay. So, understanding you that you don't recall this specific situation, is
10 it fair to assume that, if, in fact, this particular URL was taken down, it was because it
11 violated YouTube's rules?
12 A Yes, that is my experience. YouTube would only remove content that
13 violated its rules.
14 Q Okay.
15 That's all for that.
16 With regard to the Election Integrity Partnership, you recall answering questions
17 about that in the earlier hour?
18 A I do.
19 Q Do you recall anything at all about the substance of the tickets that you
20 viewed through the Election Integrity Partnership?
21 A I don't recall specific tickets. I do recall, typically, they involved instances of
22 content or behaviors that the EIP deemed was, in their view, likely violative of our rules.
23 Q Okay. And when you received a ticket from the -- did you refer to them as
24 "tickets" or do you refer to them as "emails" when you received incoming from the EIP?
25 A We, depending on the project, could receive either. In the case of the

1 original version of the EIP, I believe the emailing function of Jira did not work as well as
2 expected, so we would mostly see the tickets within the Jira platform.
3 Q Okay. And when you saw the ticket within the Jira platform, you said
4 earlier you would copy and paste the portion relevant to Google, put it into an email, and
5 pass it along. Is that right?
6 A Generally speaking, I would indeed copy and paste relevant information and
7 send it to the relevant teams.
8 Q Okay.
9 There was some discussion earlier about whether you could view comments made
10 by other platforms. Do you recall that?
11 A I do.
12 Q Do you recall if you would ever copy and paste information that other
13 platforms had put on the tickets?
14 A Not to my recollection. I can only imagine doing that if it was pertinent to
15 the decision that our teams had to undertake so we would have information pertinent to
16 our own services.
17 Q Okay. But is it fair to say it's not something you did in the regular course of
18 handling this incoming?
19 A That would not be the case, in my recollection.
20 Q Okay.
21 Do you recall if you ever saw the word "CISA," C-I-S-A, on any tickets?
22 A I do not.
23 Q Okay. You have no specific recollection of that?
24 A No.
25 Q Okay.

1 Did you ever make any promises to EIP regarding what Google would do with the
2 information after it had taken it from the Jira system?
3 A I do recall being very explicit, very clear with the EIP, as we were with any
4 other third-party organization we engage with and send information to us, that Google
5 would retain its own right to make independent determinations on whatever information
6 was shared with us and made no commitments with regards to agreeing or disagreeing
7 with EIP's assessments.
8 Q And, to the best of your recollection, did Google, in fact, make its own
9 independent assessment of how to handle particular content that had been flagged?
10 A That has been my consistent experience, not just with this project but in
11 general across my life at Google.
12 Q Okay.
13 And you said in the earlier hour that you had received approximately
14 in-the-high-40s number of tickets from the EIP. Is that right?
15 A That is my recollection.
16 Q And did you also receive incoming comments about content from other
17 sources other than EIP?
18 A Again, I don't recall me pursuing any if I did, but I'm generally aware of the
19 company receiving information or feedback about content from any number of sources at
20 all times.
21 Q Okay.
22 Mr. Bopp. So you're not talking about specifically about the same content that
23 EIP flagged?
24 BY [redacted]
25 Q No, I just -- in advance of the election, did outside entities other than EIP flag

1 content for Google?

2 A I appreciate the clarification.

3 Again, to my recollection, I do not have a recollection specific to that period of

4 time, but, in general, it is my experience that any number of entities around the world

5 and in the United States might send feedback or information about content on our

6 services to various parts of Google on a day-in-day-out basis. And we would treat all of

7 those with the same process, meaning receiving it, routing it to the appropriate teams,

8 letting them decide.

9 Q Okay. And, in fact, that was kind of your job, right, was to receive incoming

10 from all kinds of outside entities?

11 A It certainly was a part of my job, yes.

12 Q Okay.

13 We talked through earlier the Virality Project. Do you recall that discussion?

14 A I do recall that being mentioned, yes.

15 Q Okay. Do you recall what timeframe you interacted with the Virality

16 Project?

17 A Not specifically, but I would expect -- to my recollection, it began sometime

18 after the year 2020, so maybe sometime anywhere between January and March 2021.

19 Q Okay. And you said in the earlier hour that you didn't access -- to the best

20 of your recollection, you weren't accessing information about the VP, the Virality Project,

21 through the Jira system, that at that point there were automated emails sent to you. Is

22 that accurate?

23 A That is my recollection.

24 Q Okay. Do you recall approximately how many emails you received?

25 A I do not.

1 Q Did it strike you as more than 10?

2 A It is hard for me to say. I do not know. I would not, in my recollection,

3 rate these to be a high frequency.

4 Q Okay. So, as compared to the rest of the -- again, your job, day-in and

5 day-out, part of your responsibilities were to receive incoming. As compared to other

6 incoming that you received during this time period, what percent of your time would you

7 estimate was occupied by incoming from the Virality Project?

8 A Again, with the understanding it's really hard to quantify that, I would say, a

9 very low percentage. Low single digits.

10 Q Okay. And, certainly, less frequently than you received incoming from the

11 Election Integrity Partnership, right?

12 A That would be my expectation, yes.

13 Q Okay.

14 And, again, during the course of -- during that time period that we're looking at

15 when you were interacting with the Virality Project, to the best of your knowledge, was

16 Google also receiving incoming content flags from other sources related to COVID-19?

17 A I appreciate the question.

18 Again, with the understanding that I would not, myself, necessarily be the

19 recipient of all of the above, by any stretch of the imagination, it is my understanding and

20 expectation that, yes, Google would receive any number of comments, feedback, or

21 questions from third parties about pieces of content as related to COVID-19 around the

22 world on a daily basis via different parts of the company.

23 Q To the best of your knowledge, was there any difference in the way that

24 Google handled the Virality Project incoming content flags than the way it did incoming

25 content flags from other entities?

1 A To the best of my knowledge and recollection, the procedure that I
2 described above was applied in all cases. The information would be routed internally to
3 the right teams; they would make their independent decisions and would take action
4 appropriately.
5 Q Okay.
6 In the first hour, you were asked about whether the Election Integrity Partnership
7 had asked for information about Google policies. Do you recall that?
8 A I do.
9 Q Okay. To the best of your knowledge, did Google make any changes to its
10 policies based on any interactions with the Election Integrity Partnership?
11 A To the best of my knowledge and recollection, no, we did not.
12 Q Okay.
13 In other interviews, the majority has suggested that the fact that certain content
14 was flagged by institutions such as Stanford might mean that Google gave it more weight
15 when considering potential actions -- for example, how to handle particular content.
16 To the best of your knowledge, did anyone from the Election Integrity Partnership
17 ever place undue pressure on you or anyone else at Google to take particular actions?
18 A I cannot speak to what undue pressure looks like. It's a subjective concept.
19 But I can say, I did not feel pressured, certainly, to take any different approach than I
20 would normally and that was also the consistent guidance we provided to anyone who
21 would ask.
22 Q And what about with respect to the Virality Project?
23 A The same, to my recollection.
24 Q Okay.
25 I want to turn back to what was marked as exhibit -- I think it was 4, the one that

1 we were discussing right when we broke. It's the October 18, 2021, email with the
2 Disinformation Index.
3 A Thank you.
4 Q Could you turn to Bates number 47632?
5 A Yes.
6 Q At 11:31 p.m., you sent an email to Ms. Melford. Do you see where that is?
7 It's the second to the bottom.
8 A I do see it.
9 Q There are two starred bullet points there. The first one says, "Scaling
10 requires agreement on definitions, which is likely something that'd slow us down as we
11 know we don't necessarily see eye to eye here."
12 What did you mean by "we don't necessarily see eye to eye here"?
13 A Sure. Thank you for the question.
14 As I believe I stated earlier, it is the case that consistently throughout my
15 experience at Google, with GDI and others, when engaging with third parties that had a
16 view about what content should or should not be -- in this case, monetized on our
17 services -- we're consistently willing and happy to engage and discuss, but we retain our
18 own license to make determinations about what should or should not be prohibited by
19 our rules, and as others may have different definitions of that, which is their prerogative,
20 that we don't have to agree with it.
21 Q Okay. And so there are instances -- and this is maybe a specific
22 instance -- where Google would sometimes disagree with the Global Disinformation
23 Index?
24 A That would be a regular instance, yes.
25 Q Okay.

1 And you said earlier that, writ large, this was an exploratory agreement -- or, an
2 exploratory discussion. Do you recall if Google ever actually entered into this contract
3 with GDI?
4 A To my knowledge, at the end of the discussion, the relevant teams deemed
5 that there was information that would be helpful for them to spot content that might
6 violate our rules, and they struck an agreement that is similar to one they have with other
7 types of entities that do that.
8 To my awareness, that agreement -- and, in fact, not just in my awareness, but I'm
9 very confident that this agreement continues to establish that, whatever the information
10 sent by GDI is, Google remains sole in charge of making determinations about what
11 should or should not be monetized and reserves a license to disagree with GDI on any or
12 all of what they would send.
13 Q So is it fair to say that GDI in this context is really just providing Google with
14 an additional source of information?
15 A That would be correct.
16 Q Okay. And why is that helpful for Google?
17 A Again, with the understanding I am not part of the team that made the
18 decision to engage with GDI and receive that information, my understanding is that, if a
19 third party, any third party, has information that is regularly -- even if it's not always
20 accurate in terms of characterizing content that might violate our rules, it can be useful to
21 our teams whose job it is to find such content and enforcing our rules more deliberately
22 and efficiently and at scale.
23 [redacted] Okay. And -- strike that.
24 Okay. I think we can go off the record. Thanks.
25 [Recess.]

1 [redacted] Can we go back on the record, please?

2 BY [redacted]

3 Q I would like to turn back -- I think it's exhibit 4. It's the exhibit we were

4 discussing right before we broke.

5 A Sure.

6 Q And when you have a second, if you could turn to Bates number 47632.

7 A Yes.

8 Q And there's an email from you on November 10, 2021, at 11:31 p.m.

9 A Uh-huh.

10 Q And then there's two bullet points. The second one says, "Scaling also has

11 been a historical point of contention for our 2 organizations."

12 Do you recall what that is in reference to?

13 A I appreciate the question.

14 With the caveat that, again, I don't recall the specifics of this exchange on that

15 day, my reading of it today, as I see it, refers to the regular practice by GDI, among other

16 organizations, to allege that Google was not doing a good enough job of enforcing its

17 rules at scale, and, therefore, we may have a disagreement on that.

18 Q And do you recall when you first -- by "you," I mean the company, Alphabet,

19 Google -- first received criticism from GDI on this issue?

20 A I do not.

21 Q Okay.

22 A That would have long predated this email, though.

23 Q Yeah. So, certainly, years before 2021?

24 A It's hard for me to say if it's months or years but certainly not that day.

25 Q Yeah. And you said GDI and other organizations. Do you recall any other

1 organizations that have levied similar criticisms against the company?
2 A In my experience across all of my roles at Google, it's a very commonplace
3 criticism of the company that is shared across organizations around the world, not just in
4 the United States. So it's hard for me to single out one or two. There's a real wide
5 range, if that makes sense. So it's not something that strikes me as unusual in that
6 space.
7 Q Uh-huh.
8 And you'd said in an earlier answer that GDI, in GDI's perspective, their goal is to
9 look at content that should not be monetized. Is that a fair summary?
10 A That it's at least, in my experience, a part of their role. If they have other
11 activities beyond that, I'm not familiar with them.
12 Q Uh-huh. And are you familiar with other organizations that try to serve a
13 similar role as GDI tries to serve?
14 A With regard specifically to the monetization of content?
15 Q Yes.
16 A I'm sure there are others, but no individual name comes to mind right now
17 that I would speak to. Of course, if you have specific names in mind, I'm happy to react
18 or comment.
19 Q Are you familiar with the company NewsGuard?
20 A Yes, I'm aware of it.
21 Q And, to your understanding, what does that company do?
22 A Again, to my awareness, and with the caveat that I'm not a part -- never
23 been a part of NewsGuard and, therefore, I'm not an expert in their mission, I understand
24 that they have at least two kinds of activities.
25 One, to my understanding, involves providing some sort of trust rating -- and I

1 hesitate on these words because I don't know that this is how they would describe it -- for
2 news websites around the world.
3 And the other involves, indeed, some amount of public reporting with regards to
4 content that they believe is -- I think they qualify as disinformation -- I'm not entirely
5 sure -- that either is disseminated or monetized on services.
6 If they have a specific focus on monetization, that is not something I'm, off the top
7 of my head, familiar with. To my understanding, it could be on monetization.
8 Q Yeah. And do you recall interacting with NewsGuard during your time at
9 Google?
10 A I do.
11 Q And what was the nature of your interactions?
12 A Similar to other organizations on the outside, as I've described, NewsGuard
13 has published reports alleging that Google did not either surface or monetize content that
14 it should not surface or monetize or reached out to us directly about these points, which
15 we would've responded to in the same way we do with others, meaning looking at the
16 merits and making our own decisions.
17 Q When --
18 A Sorry. I should clarify for the sake of comprehensiveness, it is also the case
19 that NewsGuard might have reached out to us in order to suggest that we implement
20 some versions of their trust ratings for news websites, which, to my knowledge, we
21 haven't done.
22 Q Does GDI, to your knowledge, do something similar with respect to the trust
23 ratings that NewsGuard does?
24 A If they do, I'm not aware of it off the top of my head, and I don't believe
25 we've engaged with them on that front.

1 Q When GDI or NewsGuard publishes something publicly and it criticizes the
2 company for failing to take steps, does the company proactively reach out to NewsGuard
3 and GDI?
4 A I appreciate the question.
5 I would say that it depends on the report. It depends on whether we believe we
6 might have a correction to bring to something they published or whether there is a value
7 in perhaps explaining our policies and our work if we think that there might be a
8 misunderstanding.
9 So I can't say that it's systematic, but I wouldn't say it's out of place either, as well
10 as for others. It's not specific to GDI or NewsGuard. That would be our procedure for
11 others too.
12 Q With respect to GDI and NewsGuard and the publications they issue, how do
13 you become aware that they've issued a publication?
14 A Most often, I would say, via press releases or public coverage. On occasion,
15 some of these organizations, I believe -- I'm not actually sure if NewsGuard or GDI did, but
16 both could have -- some send early notices of their reports that were filed for our
17 awareness, and that's how we learn about it.
18 Q And with respect to when it is via press releases or public reporting on the
19 issue, who flags the reports for you? Is this something that you independently, you see
20 the press release or the report? Or is someone in the company, Alphabet, flagging the
21 issue for you?
22 A Again, with the understanding that I don't recall specifics, from a procedure
23 and standard process perspective, it could be either. There's not necessarily only one
24 team that is empowered to see things. However, the place to route the report will
25 always be the same, which is the team that are charged with evaluating whether there

1 are, indeed, violations of our rules or not.

2 Q Okay.

3 And I think this was the final question we had in the previous round with the

4 majority. When you reference the appropriate teams, can you say again what you mean

5 by that?

6 A Sure. In this case, I mean, typically, when the report alleges that we have

7 failed to take action on content that might violate our rules, we would route this to the

8 team whose responsibility it is to enforce these rules, depending on the service in

9 question. And they would make, then, their own determination as to whether, based on

10 what we can see in the reports, there were indeed rules that were violated and actions

11 we need to take.

12 Q And so, if the reports reference YouTube, are you referring to the YouTube

13 trust and safety team?

14 A That is correct.

15 Q And for other Google products, the other trust and safety teams?

16 A Whichever trust and safety team is in charge of that specific product.

17 Q With the understanding that, at least -- or prior to your current position,

18 which you said technically falls within the trust and safety team, but with the

19 understanding that your previous positions did not, to your knowledge, are the

20 accusations that GDI has levied against the company accurate?

21 A First of all, you mentioned my current position. I want to be clear about

22 that. In my current position, I do not take part in content moderation decisions either.

23 Still not the case.

24 But to your question specifically about GDI, it is my understanding that, at least

25 somewhere, like, a percentage, I'm not certain if it's a majority or a sizable minority of the

content, but it was non-zero, on average, as I recall.

Q And just to clarify the answer --

Mr. Bopp. If I could just -- yeah, go ahead. Clarify.

BY [redacted]

Q By "non-zero," you're saying a non-zero percentage of GDI's accusations had merit to them?

A I appreciate the opportunity for clarification.

What I mean by this is, it is my understanding that the teams that review and decide whether, based on the examples we can see in third-party reports -- in this case, GDI's -- decide whether there were any violations of our rules, at least some were found to be violative.

Q And with respect to GDI and NewsGuard, do you recall whether the company notified GDI and NewsGuard regarding this non-zero percentage?

A To my recollection, we did not. But, again, I don't recall specifics, so I'm not entirely sure.

1 [2:03 p.m.]

2 BY [redacted]

3 Q Same exhibit that we were looking at just a few moments ago. If I could
4 call your attention to Bates number 47630. There are two bullet points that begin in
5 bold, one regarding depth of workstreams and then one regarding narratives.

6 And for the narratives paragraph, it says: That's trickier as we don't share
7 definitions so it's a little more difficult to align. I'd say let's focus on anti-science and
8 voter fraud and QAnon just because it's closer to our policies specific to mis- and disinfo.

9 First, just as a clarification point, in this context, do you understand mis- and
10 disinfo to refer to misinformation and disinformation?

11 A That would be my understanding.

12 Q You then say the entity -- you and GDI don't share definitions, and there's a
13 couple categories listed: anti-science, voter fraud, and QAnon. Do you recall if those
14 terms were first used by GDI or Google?

15 A My understanding is that those were GDI's terms.

16 Q And then to the extent you have a recollection of what agreement was
17 under consideration between GDI and the company, is it that GDI would provide
18 information with respect to these categories?

19 A That is not my understanding. My understanding -- and, again, with the
20 caveat that my recollection is somewhat spotty -- is that at the time we were trying to
21 understand whether it was the case that GDI was in a position to share information with
22 us about content that was violative of our rules.

23 And in that regard, the way I read my response in this email is we don't agree on
24 definitions. For instance, we do not have policies on QAnon or anti-science specifically
25 that I am familiar with. I'm not entirely sure, though. I would not be the expert.

1 I should say, though, that I read this as expecting that these might be places in
2 which they might be able to share information that was at least somewhat likely to
3 violate existing rules.
4 Q Is it your understanding that GDI internally was tracking content that GDI
5 was characterizing as anti-science?
6 A Again, with the understanding that my recollection is spotty, that is how I
7 read this email.
8 Q Are you familiar with the Aspen Cyber Group?
9 A Yes, to an extent.
10 Q And what are they?
11 A I believe they are a branch of the Aspen Institute that we discussed earlier.
12 Q Do you recall interactions with this group?
13 A With the caveat I'm not entirely sure whether it was part of the cyber group,
14 which is hence my hesitation, I do recall interactions with Aspen's Commission on
15 Information Disorder, which I believe I discussed earlier.
16 Q And outside of what we discussed earlier, do you recall any other
17 interactions?
18 A With the Aspen Commission on Information Disorder specifically or Aspen
19 Cyber Group?
20 Q With the Aspen Cyber Group.
21 A Not specifically. They were a stakeholder I would engage with as part of
22 my normal role, as I've mentioned. I know many across the world in civil society and
23 academia, but not in a specific way.
24 Q Are you familiar with the Partnership for Countering Influence Operations,
25 which appears to be convened by the Carnegie Endowment for International Peace?

1 A I am.

2 Q And what is that?

3 A I believe it is the arm of the Carnegie Endowment focused on, as far as I am

4 aware, two, but there might be more, types of projects. In my experience, I've engaged

5 with them on their work to foster a community of practice around countering information

6 operations, as well as their work to facilitate researcher access to that at writ large on

7 platforms.

8 Q And have you had interactions with this partnership as part of your role at

9 Google?

10 A I have.

11 Q And what's the nature of those interactions?

12 A One, the vast majority was what I've described with other stakeholders as

13 well. They were one stakeholder in this space. I would speak to many stakeholders

14 across civil society and academia around the world and engage on explaining our work

15 and taking feedback. That would be what I did with them as well. I also provided, I

16 believe, funding for their work on researcher access at least once.

17 Q Turning back to GDI, the exhibit we were looking at identified a few

18 categories that GDI internally had labeled. Do you recall when GDI would publicly

19 criticize the company for failing to take -- for allegedly failing to take action that GDI

20 believed was violative to Alphabet's various policies? Do you recall any subject matters

21 in particular or categories that GDI identified?

22 A I'm sorry, I do not, not in specifics. If you showed me a specific report, I

23 could try to comment.

24 Q Do you recall serving on a panel in Brussels, Belgium, in November of 2022,

25 hosted by the Institute for Strategic Dialogue?

1 A Not specifically. I don't have a recollection of that specific panel, but I am
2 willing to accept I might have.
3 Q Okay. There's a reference to that panel, but independent of that, do you
4 have a -- or a reference made during your talk on that panel, but independent of whether
5 you have a recollection of that panel, is -- has the company created a permanent task
6 force to handle issues related to mis- and disinformation in Europe?
7 A I'm not sure what that means specifically, what kind of permanent task
8 force.
9 Q Okay. Are you aware of any -- are you aware of either an internal company
10 task force or a task force of which Google personnel are serving on in Europe with respect
11 to mis- and disinformation?
12 A I'm aware of a code of practice on disinformation that is -- exists under
13 European law and which does have a permanent task force, which is not run by Google
14 but which Google is a part of as part of our participation with the code of practice, which
15 is a part of European law.
16 Q With respect to the code of disinformation task force, are you familiar with
17 any reporting pipelines that are being developed?
18 A Again, I'm not sure what the question specifically focuses on, but the code of
19 practice does come with obligations to do public reporting under the code, which we
20 have engaged in as well as other signatories.
21 Q What about with respect to the development of portals for information to
22 be shared from various entities to tech companies?
23 A You mean technical portals?
24 Q Yes.
25 A I'm not aware of any such technical portals being developed.

1 Q With respect to the code of disinformation task force, which team at
2 Alphabet is primarily responsible for interacting with that task force?
3 A Again, this is in the context of Europe, European law?
4 Q Yes.
5 A And within the setting, it has no ramification on the U.S. environment?
6 Q Well, that's what we're getting to, but --
7 A Well, that's my -- the remit of the code does not apply to the United States,
8 to be clear. But it is my understanding that the teams that have interacted with this
9 code involve the local sort of Brussels-based government affairs and public policy team
10 within Google, as well as myself in my prior role as lead on information quality.
11 Q And as you stated, this is European law. Are there steps that the company
12 has been asked to take or is required to take under European law that it would be unable
13 to take in the United States because of the First Amendment?
14 Mr. Donovan. To the extent that you have knowledge.
15 Mr. Bopp. Yeah. He's not a lawyer. You're asking a question about the First
16 Amendment.
17 I mean, do you have any knowledge of or have you done any analysis of whether
18 there might be a violation of the First Amendment with things that are going on in Europe
19 versus here?
20 [redacted] That's where I was going with this. I am not a First Amendment
21 expert or U.S. law expert. What I can say is that, in my experience, the code does not
22 entail any obligation to take action on any one specific piece of content or on any one
23 specific flag from any entity, whether it is the European Commission or otherwise.
24 BY [redacted]
25 Q In your engagement with the U.S. Federal Government, have there ever

1 been discussions regarding what steps the European Commission is taking or just Europe
2 writ large is taking with respect to combating misinformation and disinformation?
3 A Again, it's hard to recall specifics. It would not strike me as out of place for
4 a question to arise about developments we're seeing in other places around the world
5 from any entity we discuss with, but I don't recall any specific conversation about this
6 topic.
7 [[redacted] Exhibit No. 5.
8 Was marked for identification.]
9 BY [redacted]
10 Q Do you recall the -- or do you recall this news event, generally?
11 A Yes.
12 Q And to your recollection, did the discussions referenced in this news article,
13 did the discussions occur?
14 A To my recollection, there was an email thread including many employees
15 within the company where some people raised ideas. I would only call it a discussion so
16 far as it was an email thread.
17 Q And the -- to the extent you have a recollection, did the discussion include
18 suggestion or reference to changing the Google search algorithm?
19 A I do believe someone made that suggestion, yes.
20 Q And which team at Alphabet is responsible for managing the Google search
21 algorithm?
22 A As I've mentioned earlier, I think it would be the Google search ranking
23 team, which, to my recollection, was not on that thread.
24 Q To the extent you have any knowledge of this, can the Google search ranking
25 team prevent certain blue links from appearing in search results?

1 A I appreciate the question. I would say it's hard for me to speculate on what
2 they could do. What I can tell you is that, in my experience, that's not the way the team
3 works, certainly not what happened in this case. The team designs ranking systems that
4 work across the board at scale, and those organize a search results page without human
5 intervention on one specific link.
6 Q Okay. But there's human intervention on the initial creation of the
7 algorithm or whatever else?
8 A If your question is whether the ranking team designs the algorithm, then the
9 answer is yes.
10 Q What is the extent of your interactions with the Google search ranking team
11 as a member of Google?
12 A At the time that I was advising the Google search team, I would on occasions
13 engage with them.
14 Q On what sorts of issues would you sometimes engage with them?
15 A That's where it gets a little murky, my memory, I'm sorry, given that it was a
16 while ago. But I expect anything from helping answer questions about how our systems
17 work to when there was feedback, as I've mentioned earlier, about our work, sharing that
18 with them.
19 Q Do you recall any U.S. external stakeholders asking about how the Google
20 search algorithm works?
21 A Again, with the usual highlight that I don't recall specifics, if you will, that
22 strikes me as a very frequent line of questioning from many stakeholders in the U.S. and
23 beyond.
24 Q Do you recall any questions on how Google searches -- on how the Google
25 search algorithm works from U.S. Government officials?

1 A Not specifically, but as I've said, it's a common line of questioning.
2 Q Do you have any familiarity with how the Google search algorithm works?
3 A Insofar as -- I'm not an engineer myself, but at a high level, yes.
4 Q Okay. And what is your understanding?
5 A As I've mentioned, Google's ranking engineering team devises systems that
6 attempt to elevate information that is relevant and useful to users. To do so, they base
7 themselves on any number of criteria that they believe correlates with these goals.
8 They develop the system at scale and do not have any individual action on any individual
9 link beyond this initial design. The only exception I'm aware of are very specific use
10 cases of -- I believe the narrow use case of -- I'm sorry for mentioning this in this case, but
11 revenge pornography and spam, meaning at-scale attempts at deceiving our systems.
12 Q Referring back to the email chain that you recall and that's referenced in this
13 article, do you recall commenting on that email chain?
14 A I -- again, fuzzy recollection, but I do.
15 Q Yeah. And to the extent you have a recollection, what do you recall adding
16 to the email chain?
17 A My recollection was that I went in to note that anything we would undertake
18 with regard to such ranking should be done in an apolitical way.
19 Q Do you recall others within the company sharing a perspective that was
20 different than yours on this email chain?
21 A I recall others in the company that were not in the search ranking team, that
22 were on different teams, suggesting that we might support certain groups.
23 Q With the understanding that you answered that no action was taken with
24 respect to this email chain and discussion, is it your understanding that taking the action
25 proposed by others was a capability of the Google search ranking team?

A I am not certain.

Q During your time at Google, do you recall any other similar incidents where there was a discussion of elevating certain viewpoints using the Google search ranking algorithm?

A Not specifically, no, but I would say that would be uncommon.

Q It would be uncommon?

A Yeah.

Q When the Google search ranking team makes any sort of modifications to the algorithm, do you know which teams they work with to develop those modifications?

A When you say "work with," you mean?

Q Who else at Google -- let me -- I can reframe the question a different way.

Is it up exclusively to the Google search ranking team to determine what modifications, if any, to make to the algorithm?

A I am not entirely sure. Maybe they consult with other teams, but I would not be one of those.

Q Do you recall having at any time in your point at Google a point of contact at the Google search ranking team?

A Yes.

Q And who are some of those people?

A This would be -- let's see. I believe [redacted] would be one, and [redacted] would be another.

Q Any other examples that come to mind?

A I mean, again, I'm not sure of exact titles to your question earlier, which is why I'm not entirely sure of what position and title to ascribe, but at the executive level also [redacted].

1 Q To your knowledge, has the Google search algorithm ever been modified to
2 down-rank blue links that may contain misinformation?
3 A This is not the way search operates, so it's hard for me to answer the
4 question. To my understanding, the way most search ranking changes are undertaken is
5 Google has, Google Search specifically, has outlined a specific set of goals and purposes
6 that search ranking should aim to achieve. Those goals and purposes, as well as the
7 specifics on how people are trained to assess whether search is doing well or not against
8 these goals and purposes, are all publicly available in a document called the Search
9 Quality Rater Guidelines.
10 And when the search ranking team seeks to improve search ranking, it looks to
11 these guidelines and the raters to make changes, and see if they support the goals
12 outlined in these guidelines or represent a step back, in which case they would try to fix
13 it.
14 Q To your knowledge, has the search function ever been modified so as to
15 down-rank blue links from entities that are believed to disproportionately issue articles
16 and news that is misinformation?
17 Mr. Donovan. [redacted] to be clear, you're asking about [redacted] personal
18 knowledge, correct?
19 [redacted] That's correct.
20 Mr. Donovan. Okay.
21 [redacted]. Yeah. As I was going to say, because I'm not on the search ranking
22 team, I would not be consulted on individual ranking changes. I would not have
23 personal knowledge of any of this.
24 BY [redacted]
25 Q Well, you would agree that just because you weren't consulted doesn't

1 mean you may not have some awareness. You're at the company, are you?
2 A I appreciate that I might have, but in this case I am not certain of the
3 rationale or motive between individual ranking changes other than this procedure I've
4 described, which is aligning on the publicly stated Search Quality Rater Guidelines.
5 Q The converse of the previous questions, instead of down-ranking, are you
6 aware of the search function ever being modified so as to elevate authoritative
7 information or other blue links?
8 A To my awareness, again, yes, that would be in line with the Search Quality
9 Rater Guidelines, which seek to elevate authoritative information.
10 Q The Google search ranking team has engineers on it. Is that right?
11 A That is my understanding, yes.
12 Q Are there other types of personnel on that team?
13 A I am not entirely sure. I believe so. The rater quality guidelines I've
14 mentioned are also run by that team, so that would be another type of person, though it
15 may be engineers writing them. I'm not sure.
16 Q I'm sorry. So it was the rate quality guidelines?
17 A Rater quality guidelines. Sorry. Search Quality Rater Guidelines is I
18 believe the exact title of the document, which, again, is public and regularly updated.
19 Q So that's in reference to the document. Is there a team that goes by that
20 name as well?
21 A That might be the case. Again, I'm not entirely sure on the nomenclature,
22 if you will, but I do know that there's a team that writes these guidelines and then
23 ensures that raters understand them.
24 Q And to your understanding, the team that writes these guidelines meets
25 with the engineers, who then implement them for the algorithm?

1 A I would not know the specifics of how they work together.

2 Q With the understanding that you don't have exact familiarity with the team

3 that's writing the guidelines and what the name of that team is, is it your understanding

4 that those individuals fall within what you previously identified as the Google search

5 ranking team or is that a separate team you're referring to?

6 A My understanding is that they are part of the same organization. Again, I

7 want to caveat by saying I am not entirely sure of nomenclature or current company

8 structure.

9 Q You had mentioned some interactions where -- with the Google search

10 ranking team with respect to, I think, questions from external stakeholders, from a

11 number of different stakeholders. Do you recall any similar engagements with the

12 personnel responsible for writing these guidelines?

13 Mr. Bopp. Let me make sure I understand. Similar interactions. What's -- can

14 you give us an idea of what you're asking for or asking about?

15 [redacted] Sure. So we went through a few questions where [redacted] identified

16 that it's fairly common people have questions about the Google search algorithm. He

17 will either pass that information along or he might have to consult with the Google search

18 ranking team. And then we've also since identified individuals who are responsible for

19 writing the guidelines.

20 BY [redacted]

21 Q Do you recall -- when I say similar interactions, I'm referring to either passing

22 information along or consulting with them in order to provide information back -- with

23 any of the individuals you identified as responsible for writing the guidelines?

24 A Again, not specifically, but it would have been normal course of operation

25 for my work to engage with any internal team that has relevant information to a question

1 I receive and, of course, confirm whether we are clear and authorized to share a response
2 on the topic.
3 Q To the extent you have any knowledge -- actually, let me strike that.
4 To the extent you have any recollection, do you recall discussions with reference
5 to the email chain that's referenced in this exhibit, do you recall any discussions that
6 were -- that came out of this email chain, discussions that were internal in the company?
7 A And when you say coming out, you mean?
8 Q Well, so there were ideas that were at least floated on the email chain.
9 And do you recall -- and then the email chain at some point becomes public, because it
10 was reported on in the news. Do you recall having discussions within the company as a
11 byproduct of what unfolded?
12 Mr. Bopp. You're asking whether [redacted] was party to any such discussions?
13 [redacted] That's right.
14 [redacted]. To my recollection, as I've mentioned, I weighed in on that thread
15 along the line I discussed. If there were separate discussions, I was not a part of them,
16 but the output was clearly that no such action would take place. And I believe, if I recall
17 correctly, this came pretty fast, probably the same day. And that was the end of the
18 conversation.
19 BY [redacted]
20 Q Do you recall anyone at the company that was unhappy with that decision?
21 A That is hard for me to project on. As I've mentioned, this was all over
22 email, so it's hard for me to know exactly who reacted what way.
23 [redacted] Can we go off the record, please?
24 [Recess.]
25 [redacted] We can go back on the record. It's 2:34.

1 BY [redacted]

2 Q Before we get back to this article, you just answered a whole number of
3 questions about the Google search ratings. To be abundantly clear, you're not on any
4 teams that have anything to do with search rating, correct?

5 A Thank you for the question. That is correct. I have -- I am not and have
6 not been in a team which was involved in rating search results.

7 Q Okay. So everything you just said is based on your best understanding in
8 your current position and your past positions, but you don't have any personal knowledge
9 of how search ratings work?

10 A I have no firsthand involvement in search ratings.

11 Q Thank you.

12 In the prior hour, you answered a number of questions about the Global
13 Disinformation Index. Do you recall those questions?

14 A I recall answering a question about the GDI.

15 Q And I think there were some comments made about accusations that the
16 GDI made against Google. Do you recall that?

17 A I recall comments about the GDI criticizing Google.

18 Q To the best of your knowledge, did Google ever alter any of its policies
19 because of criticism it received from GDI?

20 A To the best of my knowledge and recollection, no.

21 Q Okay. Turning to this article that was introduced as, I think it was 6 -- 5.
22 The decision about the travel ban from Muslim majority countries was -- took place in
23 early 2017, correct?

24 A With the understanding that timing is a little fuzzy on my part, I believe that
25 was the case.

1 Q In 2017, what was your position in the company?

2 A Again, as I've mentioned, I'm not entirely sure of dates. I might already

3 have been supporting the Search organization or I might not. I'm not entirely sure. It

4 was a transition, based on the time.

5 Q Okay. So to the -- so this article refers to you as being an individual who

6 held a management-level position. To the best of your recollection, in January-February

7 2017, did anyone report up to you?

8 A No, no one did.

9 Q Okay. You discussed the email chain. The article suggests that there

10 were conversations. You said, to the best of your recollection, it was a single email

11 chain, correct?

12 A To the best of my recollection, it was.

13 Q Do you remember the subject of the chain?

14 A I do not.

15 Q Okay. Do you remember how many people were on the chain?

16 A I do not.

17 Q Do you think it was more than five?

18 A I -- sorry. I do not want to speculate.

19 Q Okay. And I think there was a comment, you said that there -- there was a

20 comment made that there were these ideas, plural, floated.

21 Do you recall if the subject of the article, the suggestion that the search algorithm

22 might somehow be altered, was that raised by multiple individuals on the chain or just

23 one individual?

24 A Again, this is a long time ago. I am not entirely sure. I believe it was one

25 individual, but I'm not fully recollecting that day and that thread.

Q Okay. And just to be abundantly clear, you said that once the -- the chain took place over a short period of time. Is that your best recollection?

A That is my recollection.

Q And that you don't recall -- to your knowledge anyway, there were no further conversations after that chain was concluded?

A I am, in fact, quite confident, you know -- again, recollection fuzzy, but quite confident that once it was clear that no action will be taken along those lines, that was the end of the conversation.

Q Okay. Thank you.

[redacted] Okay. Thank you. We can go off the record.

[Whereupon, at 2:39 p.m., the interview was adjourned.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

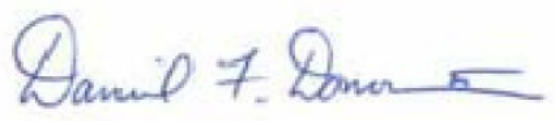
Date

Transcribed Interview Transcript Errata Form

Interviewee	[redacted]
Date of Interview	6/26/2023
Date of Review	7/19/2023
Name of Reviewer	Theodore Kristek
Signature of Reviewer	[signature]

Page	Line	Suggested Correction
23	15	"loop in" to "loop you in"
60	12	"are comprehensive" to "are not comprehensive"

Transcribed Interview Transcript Errata Form

Interviewee	Head of Information Quality Strategy, Google
Date of Interview	June 26, 2023
Date of Review	December 16, 2024
Name of Reviewer	Daniel Donovan
Signature of Reviewer	

Page	Line	Suggested Correction
10	22	“from global” should be “from the global”
10	24	“whereas global” should be “whereas the global”
13	3	“depend” should be “depends”
14	3	“It” should be “Those”
15	18	Remove “but”
16	3	“I would” should be “I do”

Transcribed Interview Transcript Errata Form

17	10	“, but” should be “, but we”
17	11	Remove “about”
Page	**Line**	**Suggested Correction**
21	11	Remove “,I”
37	7	“YouTube, the” should be “YouTube or the”
46	16	“never in” should be “never on”
49	20	“not government” should be “nongovernmental”
50	9	“had merits, but” should be “had merits; but”
51	14	“their taking” should be “them taking”
56	10	“concern” should be “was concerned”
56	14	“recall is one [redacted]” should be “recall is [redacted]”

Transcribed Interview Transcript Errata Form

58	12	"would then" should be "which would then"
59-60	25-1	"appropriate, it did highlight" should be "appropriate, and if it highlighted"
60	5	"with email" should be "email"
61	13	Remove "I don't expect"
64	6	"typically have an agreement" should be "typically had an agreement"
Page	**Line**	**Suggested Correction**
64	8	"us sends send it" should be "us sends it, sends it"
66	14	"and we should have" should be "and they believe that we should have"
66	15	"we, in their view, failed to take action on," should be "We, in their view, failed to take action,"
69	12	"violate rules" should be "violate the rules"
77	24	"while it's not been" should be "while it has not been"

Transcribed Interview Transcript Errata Form

82	4	“and send” should be “and that send”
87	17	“understanding I am not” should be “understanding that I am not”
87	19	Remove “that is regularly”
87	21	“enforcing” should be “enforce”
88	15	“as I see it, refers” should be “as I see it, is that it refers
88	17	“may have a” should be “we may have had a”
90	13	“Google did not either surface or monetize” should be “Google either surfaced or monetized”
91	25	“are charged” should be “is charged”
Page	**Line**	**Suggested Correction**
93	10	Remove “decide whether”
95	13	“the caveat I’m” should be “the caveat that I’m”

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: [redacted]

Tuesday, June 27, 2023

Washington, D.C.

The interview in the above matter was held in room 22:37, commencing at 9:59 a.m.

1

2 Appearances:

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted] LAW CLERK

8 [redacted] COUNSEL

9 [redacted] DIGITAL DIRECTOR

10 [redacted] SENIOR SPECIAL COUNSEL

11 [redacted] COUNSEL

12 [redacted] MINORITY OVERSIGHT COUNSEL

13 [redacted] MINORITY INTERN

14

15 For the SUBCOMMITTEE ON CRIME AND FEDERAL GOVERNMENT SURVEILLANCE:

16

17 [redacted] MINORITY DETAILEE

18

19 For the SUBCOMMITTEE ON THE ADMINISTRATIVE STATE,

20 REGULATORY REFORM, AND ANTITRUST:

21

22 [redacted] MINORITY CHIEF OVERSIGHT COUNSEL

1

2 For [redacted]:

3

4 ISEL BEDGOOD, ASSOCIATE

5 REGINALD J. BROWN, P.C., PARTNER

6 KIRKLAND & ELLIS LLP

7 1301 PENNSYLVANIA AVE, NW

8 WASHINGTON, DC 20004

1

2 [redacted] Can we go on the record, please?

3 This is a transcribed interview of [redacted]. Chairman Jordan has requested

4 this interview as part of the committee's investigation of how and the extent to which the

5 executive branch has coerced and colluded with companies and other intermediaries to

6 censor speech.

7 Would the witness please state your name for the record?

8 [redacted] [redacted].

9 [redacted] On behalf of the committee, I want to thank you for appearing here

10 today to answer our questions. The chairman also appreciates your willingness to

11 appear voluntarily.

12 My name is [redacted] and I'm with Chairman Jordan's staff. I'll now have

13 everyone else from the committee who is here in the room introduce themselves as well.

14 [redacted] [redacted] Chairman Jordan's staff.

15 [redacted] [redacted] Chairman Jordan's staff.

16 [redacted] [redacted] Chairman Jordan's staff.

17 [redacted] [redacted] with Ranking Member Nadler.

18 [redacted] [redacted] Ranking Member Nadler.

19 [redacted] [redacted] Ranking Member Nadler.

20 [redacted] I'd like to now go over the ground rules and guidelines that we will

21 follow during today's interview.

22 Our questioning proceed in rounds. The majority will ask questions first for 1

23 hour, and then the minority will have an opportunity to ask questions for an equal period

24 of time if they choose.

25 We will alternate back and forth until there are no more questions and the

1 interview is over.

2 Typically, we take a short break at the end of each hour, but if you would like to

3 take a break apart from that, please just let us know.

4 As you can see, there's an official court reporter taking down everything we say to

5 make a written record, so we ask that you give verbal responses to all questions.

6 Do you understand?

7 [redacted] I do understand.

8 [redacted] So the court reporter can take down a clear record, we will do our best

9 to limit the number of people directing questions at you during any given hour to just

10 those people on the staff whose turn it is.

11 Please try and speak clearly so the court reporter can understand and so the folks

12 down at the end of the table can hear you. It is important that we don't talk over one

13 another or interrupt each other if we can help it. And that goes for everybody present

14 at today's interview.

15 We encourage witnesses who appear before the committee to freely consult with

16 counsel if they so choose. It is my understanding that you are appearing today with

17 counsel. Is that correct?

18 [redacted] That's correct.

19 [redacted] Could counsel please state your name for the record?

20 Mr. Brown. Reg Brown.

21 Ms. Bedgood. Isel Bedgood.

22 [redacted] Thank you.

23 We want you to answer our questions in the most complete and truthful manner

24 as possible, so we will take our time. If you have any questions or if you do not

25 understand one of our questions, please let us know.

1 Our questions will cover a wide range of topics, so if you need clarification at any
2 point, just say so.
3 If you honestly don't know the answer to a question or do not remember, it is best
4 not to guess. Please give us your best recollection, and it is okay to tell you us if you
5 learned information from someone else. Just indicate how you came to know the
6 information.
7 If there are things you don't know or can't remember, just say so, and please
8 inform us who, to the best of your knowledge, might be able to provide a more complete
9 answer to the question.
10 You should also understand that although this interview is not under oath, that by
11 law you are required to answer questions from Congress truthfully.
12 Do you understand that?
13 [redacted] I do understand.
14 [redacted] This also applies to questions posed by congressional staff in an
15 interview.
16 Do you understand this?
17 [redacted] I do understand.
18 [redacted] Witnesses that --
19 Mr. Brown. Can we pause for a second, and can we go off the record?
20 [Discussion off the record.]
21 [redacted] We can go back on, please.
22 Witnesses that knowingly provide false testimony could be subject to criminal
23 prosecution for perjury or for making false statements under 18 U.S.C., Section 1001.
24 Do you understand this?
25 [redacted] I do understand.

1 [redacted] Is there any reason you are unable to provide truthful answers to
2 today's questions?
3 [redacted] There is not.
4 [redacted] Finally, I'd like to make a note that the content of what we discuss
5 here today is confidential. We ask that you not speak about what we discuss in this
6 interview to any outside individuals to preserve the integrity of our investigation.
7 For the same reason, the marked exhibits that we use today will remain with the
8 court reporter so that they can go in the official transcript, and any copies of those
9 exhibits will be returned to us when we wrap up.
10 That is the end of my preamble. Is there anything that my colleagues from the
11 minority would like to add?
12 [redacted] Not at this time. Thank you.
13 [redacted] The clock reads 10:03. We will start the first hour of questioning.
14 [redacted] Can you tell us your current job title and where you work right
15 now?
16 [redacted] I'm the vice president of public policy at Bumble Inc.
17 [redacted] And your educational background, beginning with college?
18 [redacted] I have a bachelor's degree and --
19 [redacted] [redacted], can I ask you to speak up a little bit? I'm having
20 trouble hearing you.
21 [redacted] I have a bachelor's degree and a master's degree.
22 EXAMINATION
23 BY [redacted]
24 Q Where are those degrees from and what are they in?
25 A My bachelor's degree is from the University of Texas. It's in

1 communications technology and public relations. And I have a master's from GW in
2 government affairs and public policy.
3 Q And can you tell us your employment history just after college? Nothing
4 before that.
5 A I worked in the military after college for some time, many years, and then
6 transitioned to different roles past that.
7 Q Can you specify what those roles were?
8 A Yes. I served many years in the military, so I have served years overseas,
9 abroad. I've served Stateside, various States. I've served some time as a fellow, and
10 I've served in the administrative branch as well before I moved over to private sector.
11 Q Okay. And did you work in the U.S. Senate?
12 A I did.
13 Q Can you tell us who you worked for and what those positions were?
14 A I was a military fellow with the United States Army. When I was in the
15 Senate, I worked in an office of Senator Barbara Boxer at the time, but I also worked
16 generally for a wide number of members in the Senate liaison division in the Senate.
17 Q And then after that, what did you do?
18 A I worked in the Pentagon after that.
19 Q And then after that?
20 A After the Pentagon, I worked in the White House.
21 Q What was your role there?
22 A I was an adviser on technology.
23 Q And you worked at Meta after that? Is that right?
24 A That's correct. I worked at Facebook after my time in the White House.
25 Q Okay. It was still just Facebook then, is that true?

1 A That's correct.

2 Q Okay. And what team did you work on?

3 A I worked on a policy team, managing liaison to government.

4 Q Which policy team, what was the name?

5 A The executive branch.

6 Q Okay. And can you tell us what your role was at Facebook, what you did

7 specifically?

8 A My role was to be a liaison. So if there were questions that came in, either

9 way, or questions were going out. And also just to keep track of news and current

10 events, issues of interest to government or technology sector.

11 Q Okay. And when you say you worked as a liaison, you were typically

12 communicating between the executive branch -- or relaying communications between

13 the executive branch and people at Facebook? Is that correct?

14 A That would be one of the duties.

15 Q Okay. And were there any particular parts of the executive branch you

16 worked with more than others?

17 A I tended to work with the Veterans Affairs quite a bit, probably more than

18 others.

19 Q Okay. And how large was your team approximately?

20 A Our team for the majority of the time was just a couple, couple of us.

21 Q And who did you report to?

22 A I reported to [redacted].

23 Q And who reported to you?

24 A I didn't have reports.

25 Q Okay. Did you work with [redacted]?

1 A I did.

2 Q What was she in relation to you? Was she -- how would you describe her

3 role in relation to yours?

4 A She was on a different team that did government engagement, more on the

5 product side.

6 Q Okay. What about [redacted]?

7 A [redacted] worked with [redacted] on that same work.

8 Q Okay. And did you work with [redacted]?

9 A I did work with [redacted] at some point while I was at Facebook.

10 Q What did you work with him on?

11 A He was on the -- like the trust and safety team.

12 Q So what did you work with him on?

13 A We just would be sometimes in the same meetings or whatnot, but I don't

14 remember anything specific that he and I specifically, like, worked on together.

15 Q Okay. How about [redacted], did he work with her?

16 A I did work with [redacted].

17 Q And what did he work with her on?

18 A With [redacted] it was usually, like, national security issues, terrorism, threats.

19 Q Can you elaborate a little bit more on that?

20 A For example, their team, one of their responsibilities is the trust and safety

21 of the platform. So if there were items that were in the news or reported that were

22 possibly hurting users, their team would probably be involved, and then to some extent if

23 there were questions either way, sometimes that team would be involved.

24 Q Okay. Does Meta have -- I guess Facebook when you were there -- did

25 Facebook have content moderation policies?

1 A They do.

2 Q Did you play any role in creating the policies?

3 A I did not.

4 Q Who does?

5 A I am not sure who all makes those rules for content policy. It just wasn't

6 really my purview of who all the people are involved in making those rules.

7 Q Did you ever work with anybody who created those rules?

8 A I believe when I -- you mentioned [redacted] or [redacted]. They're part of

9 those discussions that do that.

10 Q Okay. Do you know if Meta consulted or worked with outside companies

11 or organizations on content moderation policies?

12 A I don't have insight into that.

13 Q Okay. Did your work involve enforcing content moderation policies?

14 A It did not.

15 Q Did you work with people who enforced content moderation policies?

16 A I believe so. I worked with the trust and safety team, and they're part of

17 those discussions.

18 Q So the trust and safety team both created and enforced them, but it was

19 different people on --

20 A I can't -- yeah, I can't say.

21 Q Okay. Thank you.

22 A My answer was I wasn't sure.

23 Q Okay. So when you worked with government employees, what was the

24 nature and purpose of that?

25 A Primary role was to be a point of contact if there should be a need to pass

1 information in the sense of they wanted to speak to someone or they had a question
2 about the platform or how to use it or policies.
3 So it was to just position yourself as a point of contact so they knew who to reach
4 out to if they needed to reach the company.
5 Q Okay. And were there specific people in government that you
6 communicated with on a regular basis?
7 A I was at the company sometime, so I don't remember the names, and
8 administrations change --
9 Q Let's say after, like, from 2020 and on.
10 A It still was quite a long time ago. I don't remember all the names that I
11 might've come across during that time.
12 Q Which names do you remember?
13 A I just -- I'm not sure. It's been a long time.
14 Q You don't remember anyone?
15 A Yeah. I can't recall a name just off the top of my head.
16 Q Okay. What about Carol Crawford from CDC?
17 A I do remember Carol from CDC.
18 Q Okay. Did you ever discuss misinformation about COVID or COVID vaccines
19 with the White House?
20 A Yeah, there were discussions about COVID with the administration.
21 Q And who did you have those discussions with at the White House?
22 A Again, I don't remember fully names, but I do remember talking about
23 COVID with the CDC, Carol Crawford.
24 Q How about at the White House? Rob Flaherty?
25 A I do remember that name.

1 Q Clarke Humphrey?

2 A I do remember that name.

3 Q How about Andy Slavitt?

4 A I remember the name. Again, I don't -- I can't remember or recall if I was

5 the one who had contact. But I do remember those names.

6 Q How often did you have such contact?

7 A With?

8 Q With the White House.

9 A On?

10 Q On COVID or COVID vaccines, approximately. I understand --

11 A Yeah, I don't know.

12 Q Okay.

13 [[redacted] Exhibit No. 1

14 Was marked for identification.]

15 BY [redacted]

16 Q This is exhibit 1. If you can take a look and let me know when you've had a

17 chance to read it.

18 All set?

19 So starting with the last email -- the first email chronologically, which is the last

20 email, the one you sent on February 8th -- this starts on 5549 -- February 8th, 2021, at

21 1:18.

22 Do you recognize these exchanges or this email?

23 A I recognize the content, not this particular email per se, but I recognize these

24 discussions.

25 Q Do you recall what preceded this, why you were reporting Facebook's policy

1 changes or -- yeah, policy changes, expansion of efforts to remove false claims about
2 COVID, to the White House?
3 A I mean, I don't remember much of the details, but I just am recognizing there
4 was an announcement made of changes.
5 Q Do you know why those changes were made?
6 A I don't.
7 Q You signed it on behalf of the Facebook team. Do you recall who provided
8 input in writing this email?
9 A I know the information was provided to me, but I can't speak to all of the
10 people who might have pulled the information together.
11 Q So you didn't actually write it, it was just given to you and -- okay.
12 How did -- so on 5549 there's a reference to, at the bottom, under "Combating
13 Vaccine Misinformation," "Since December, we've removed false claims about COVID-19
14 vaccines that have been debunked by public health experts."
15 How did Facebook decide what were false claims that had been debunked by
16 public health experts?
17 A I don't know how they made those decisions.
18 Q Okay.
19 BY [redacted]
20 Q Do you recall any names of who at the company you consulted with prior to
21 sending this email?
22 A Well, the names on the CC usually would've been my contacts that provide
23 the information -- or providing me this is what we're sending.
24 Q And I think we covered [redacted] and [redacted]. Who's [redacted]?
25 A [redacted] is a team member who I believe worked on another Facebook team but

1 with the same group.

2 Q And which Facebook team?

3 A Ads, I believe.

4 Q I'm sorry?

5 A Ads.

6 Q Ads?

7 A Advertisements, I believe.

8 Q Okay. Is there anyone from the trust and safety team included on this

9 email?

10 A It doesn't appear so.

11 Q Do you recall if you had communications with the trust and safety team prior

12 to sending this email?

13 A I don't. And like I said, I can't vouch for all the information in the note

14 that's sent over.

15 Q Would it be standard protocol to consult with the trust and safety team prior

16 to sending a note like this?

17 A I can't say that that there's a protocol that that has to happen before the

18 note is sent.

19 Q Following up on my colleague's question about how claims are debunked

20 and the policies that Facebook has, was your answer that you don't recall, sitting here

21 today, how it was handled, or was this outside the scope of your responsibilities at the

22 time this email was sent?

23 A Both. I wouldn't know how they came to those decisions, but it also wasn't

24 part of my job.

25 Q And who at the company would you consult with on an issue like this?

1 A I would usually pass it to the people that you see cc'd here on the note,
2 including my manager, and then they would have further-on conversations to advise me
3 on how to respond.
4 Q You had said that [redacted] was who you reported to. Is that correct?
5 And there were only a couple of you on your team. Who were the other people on your
6 team?
7 A For a long time, [redacted] and I were the only two people on our team. Many
8 years.
9 Q And did you add people after a certain point?
10 A There were people added -- oh, you know, I was there for several years.
11 There were people who came and went. But the majority of those early years was [redacted]
12 and I.
13 BY [redacted]
14 Q So did you play any role in writing this email, or do they just give you an
15 email -- someone gives you an email and you send it?
16 A The questions here are ones that are outside of my job scope, so I wouldn't
17 be the person drafting or making these decisions. My job is to be the liaison. So
18 they're asking about things that are beyond my job description.
19 Q Would you, like, edit it or refine it? Or you literally just passed along what
20 someone else said?
21 A I can't speak to all communications, but this is not within my job scope, so I
22 wouldn't be in a position to be editing.
23 Q Okay. On 5547 there are a number -- Rob Flaherty writes a number of
24 emails about -- asking some questions. And then --
25 Mr. Brown. I'm sorry. There's no email from Rob Flaherty on 5547.

1 [redacted] No, I know. I meant, like, in between, he wrote an email on 5548,
2 and then there's a response. Sorry. So he only wrote one -- I apologize for the
3 misstatement -- he wrote one response, and then you responded to him on 5547 to 48.
4 And actually also there's another email.
5 You offered to have a meeting or a discussion about his questions. Did that
6 meeting take place?
7 A I don't remember if the meeting took place.
8 Q Okay. No, go ahead. Sorry.
9 Just actually, just to clarify for the record, it looks as though Rob Flaherty wrote
10 two emails in a row asking questions, and his questions were about the framework for
11 removing debunked claims, whether there's a strike policy like YouTube, does the severity
12 of the claims matter. He wants to know how these misinformation policies are being
13 implemented. And then he asks a question about civic and health-related groups and
14 reforms and stuff like that, in any event.
15 So on 5547, on February 11th, 2021, at 2:17 a.m., you responded and offered to
16 have Mr. Flaherty meet with the -- or speak to the misinformation team reps. Who are
17 the misinformation team reps?
18 A I know my contacts, which would be [redacted]'s team, but I don't know
19 exactly who those are, which is why there's a kind of generic nomenclature there, as I'm
20 not sure who would be the people answering these. But I -- my job is to offer a meeting
21 to help answer the questions.
22 Q And you don't remember if that meeting took place?
23 A I don't.
24 Q Did anyone keep track of such things? So would there be a record
25 somewhere of whether such a meeting took place?

A I don't think so.

Q Okay. So Facebook would have no internal memo of such a meeting?

A I can't vouch for it.

Q Okay.

A Yeah, I can't vouch for it. I mean, there's many meetings that occur, so I'm not sure.

Mr. Brown. [redacted] we're happy to follow up with you if you would like to know whether this actually happened or not.

[redacted] Sure.

Mr. Brown. Okay.

[redacted] We would like to know, yes.

BY [redacted]

Q You also referred in the same email, they also have a more detailed misinformation analysis prepared based on the discussion/questions from the previous meetings during the transition time period.

What was this misinformation analysis?

A I don't specifically know what the analysis was, but I was told that there was additional information and to relay that.

Q Who had told you that?

A My boss, [redacted].

Q [redacted]. Okay.

[redacted] Did you partake in any of the previous meetings during the transition that you reference in your email?

[redacted] You know, I don't recall if I was on transition -- on the transition work. I don't recall. I don't want to misspeak, but I was there for many years.

1 [redacted] Are we done with this one?

2 [redacted] Yeah.

3 [redacted] I'm going to be asking about it. I don't know if you want to hang

4 on to that for a little bit.

5 [redacted] If you want to keep a set --

6 Mr. Brown. I suggested Manila folders, quite some time.

7 [[redacted] Exhibit No. 2

8 Was marked for identification.]

9 BY [redacted]

10 Q This is exhibit 2.

11 Starting with the email on 4840 to 41 that you sent on February 18th, 2021, to a

12 number of people at the White House, with [redacted], [redacted], and [redacted]

13 cc'd, on 4841 -- well, first of all, what prompted this exchange? Why did you send this

14 email?

15 A I don't remember specifically why this was sent. I mean, I see the context

16 in here. Looks like there's an idea.

17 Q Did [redacted] or someone else at Facebook typically tell you to report policy

18 changes to the White House?

19 A I usually would send a note if asked to send a note on a particular topic.

20 Q Okay. Had the White House asked you for such updates?

21 A I don't recall.

22 Q You mention on the first line of 4841, "I also want to circle back on the

23 misinfo meeting we are looking forward to having today. It would include some new

24 insights we have and a deeper discussion of what more we can do. We think best to

25 have the proper reps to include yourself, HHS, and CDC." And you also refer to "Josh at

1 HHS."

2 Who is Josh at HHS?

3 A I don't remember his role, but he was in a leadership role at a division at

4 CDC.

5 Q Do you know what his last name is? Josh Peck?

6 A I want to guess, but I don't want to be wrong.

7 Q Okay. Did this meeting take place?

8 Mr. Brown. I'm sorry. Which meeting?

9 [redacted] The one, "circle back on the misinfo meeting we are looking

10 forward to having" with CDC and HHS, as well as the White House apparently.

11 [redacted] I'm not sure.

12 [redacted] Would there be any record of whether that occurred?

13 [redacted] I'm not sure.

14 Mr. Brown. We're happy to take the email back and try to answer the question

15 for you.

16 [redacted] Sure.

17 Mr. Brown. If that would be helpful.

18 [redacted] That would be great.

19 BY [redacted]

20 Q On 4839, at the top of the page -- sorry -- 4840 at the top of the page,

21 Rob Flaherty wrote -- responded and said, "We should chat about this and what other

22 initiatives you guys are cooking on, as well as a convo on mis and dis."

23 Did that conversation take place?

24 A Which conversation?

25 Q About mis and dis.

1 A I'm not sure.

2 Q Presumably misinformation and disinformation.

3 A I'm not sure.

4 Q Okay. Then, on 4838, a couple of days later -- or maybe it's the same

5 day -- Flaherty writes that, "In the interest of making sure everyone's prepared, one of

6 the questions I'll have around this initiative is around algorithmic

7 production" -- sorry -- "promotion." I keep doing that.

8 Mr. Brown. I'm sorry. Where is this?

9 [redacted] On 4838, the -- not [redacted]' email at the very top but the next

10 one, Rob Flaherty at 8:35 p.m. on February 21st, "In the interest of making sure

11 everyone's prepared --"

12 BY [redacted]

13 Q Do you know what "algorithmic promotion" means?

14 A I understand promotion in the general sense, what surfaced, what might

15 have a priority, but I don't have any deep understanding of what this term means.

16 Q Do you know if Facebook had discussions about algorithmic promotion

17 following this email?

18 A I'm not sure.

19 Q Flaherty then asked, "What plans are in the works (if any) to replicate the

20 strategy you deployed around lockdowns -- the 'stay at home' stickers/slash promoted

21 Instagram story."

22 Were there any plans like that? I think he means around vaccines.

23 A Can you repeat the question?

24 Q Were there any plans in the works -- that Flaherty asked -- to replicate the

25 strategy -- I think he means in the context of vaccines -- that you deployed around

1 lockdowns?

2 A Yeah. I'm not actually quite sure on what's being discussed in detail or

3 what plans they're specifically talking about.

4 Q Who would know that?

5 A I mean, at this point, I couldn't point to someone. I just know I don't have

6 that insight of what the plans were around that.

7 Q So given that he asked this, is this something you would've conveyed the

8 question to someone else?

9 A Right. So you see some of these are from [redacted], and they're more

10 on the product side. I'm not necessarily the person having the conversation. So it's

11 just once we start switching out of more the liaison space and into the product, I just

12 don't have as much knowledge about some of the terms or some of the items that are

13 mentioned in there.

14 Q Okay. I see. So once it got more into the product side, you sort of

15 switched over, you had [redacted] take over the communications? Is that correct?

16 A Yeah, that's what I'm seeing here. And traditionally I'm not on the product

17 side, so it's not something that I would be -- communicate in depth about.

18 Q Okay. Got you.

19 [redacted] Do you recall attending any meetings in February/March of 2021 that

20 were attended by Rob Flaherty?

21 [redacted] I don't know timelines. I think I do remember being in a meeting

22 where they might've been present. I can't remember dates, times.

23 Mr. Brown. I'm sorry. When you say being at a meeting, do you mean in

24 person? Do you mean virtual?

25 [redacted] At this time I think it's most likely it was a virtual.

1 Mr. Brown. It's 2021. I don't know.

2 BY [redacted]

3 Q But either way, attending a meeting, whether the meeting is virtual or in

4 person?

5 A I mean, there's phone calls, there's meetings. Again, we weren't in the

6 office, but I remember exchanges with some individuals here in the sense of that there

7 were discussions, but I can't remember intro calls, date, times at this time. I just don't

8 remember.

9 Q And would it be the company's standard protocol if prior to a meeting with

10 Rob Flaherty or someone else in the White House, would there be a pre-meeting where

11 Facebook internally would huddle up to discuss what would be discussed on the call with

12 the White House?

13 A I don't think I'd be -- I can't be in a position to say what happens before

14 every meeting because it's fairly fluid, so I'm not in a position to say what happens before

15 every meeting.

16 Q Do you recall that happening before any meeting with the White House?

17 A I would talk to my boss usually before a meeting with the White House,

18 [redacted].

19 BY [redacted]

20 Q So you don't recall any specific meetings where Rob Flaherty was -- that

21 Rob Flaherty attended?

22 A I can't recall a specific meeting, but I do believe I remember there was a

23 meeting with Rob on that.

24 Q What was the meeting about?

25 A I believe it was that the topic would've been COVID or it was a

meet-and-greet, but I just really can't remember what the topic of it was.

Q Was Andy Slavitt there?

A I don't know.

Q Do you know who else from Facebook was there?

Mr. Brown. I'm sorry. Which question? Slavitt or --

BY [redacted]

Q At the meeting with Flaherty that she can't remember exactly.

A Yeah, I don't remember at -- I forgot the name already you said.

Q Andy Slavitt.

A I don't know if Andy Slavitt was in the meeting.

Q Going back to Flaherty, do you -- was anybody from Facebook -- was anyone else from Facebook there, or who else from Facebook was there?

A I can't say per se, but likely my boss. Me and my boss often did meetings together. But I can't remember because I don't remember specifically what meetings that occurred or who was exactly in that.

Q Do you remember any contentious meetings with Rob Flaherty?

A I don't remember any.

[[redacted] Exhibit No. 3

Was marked for identification.]

[redacted] This is exhibit 3.

[redacted] I'll take these back.

Mr. Brown. Do you need these?

[redacted] That one I'll need.

Mr. Brown. Okay.

Need the gift policy for the House of Representatives.

1 [redacted] This, if you can just take a look at the first email from Becca Siegel.
2 You don't need to read the whole thing.
3 Sorry, the first one, like, chronologically, so not -- not -- sorry. The first one -- the
4 one from --
5 Mr. Brown. What page are you on?
6 [redacted] 7498. So just on the very first page.
7 Mr. Brown. Yeah, I understand. There's a series that she's on --
8 [redacted] Yeah.
9 Mr. Brown. -- that relate to us that might have context, so I wanted to give her a
10 second to read it.
11 [redacted] Sure. Yeah, yeah, of course.
12 BY [redacted]
13 Q So that email from Becca Siegel on 7498 to you and some people at HHS and
14 [redacted] and other people, it looks like, I'm not sure actually, maybe Facebook or
15 FDA.
16 Who is Becca Siegel at the White House?
17 A I don't remember her role. I don't remember her title or her role.
18 Q Have you communicated with her before?
19 A I see that I have communicated with her. I don't know that I have
20 communicated with her before this context.
21 Q Okay.
22 A But I don't remember what her specific title was.
23 Q Okay.
24 A But I know that she was working on COVID-related things, but it doesn't
25 mean that that's her full title.

1 Q Okay. So she asks if Facebook can target by ZIP Code for -- it's a little
2 unclear exactly what she's asking actually -- vaccination rate. "I think this would be an
3 improvement over SVI alone."
4 Do you know what SVI is?
5 A Only because it's identified in the text of the email on 499, Social
6 Vulnerability Index.
7 Q Okay. And did Facebook agree to do this?
8 A I don't know if they agreed to do that. And then, like I said, the
9 terminology -- by ZIP Code, by not -- it's just more detail than I had privy into.
10 Q How would Facebook have known the vaccination rates of various
11 neighborhoods?
12 Mr. Brown. [redacted] with respect, I think we might be misreading this. They are
13 offering to share ZIP Codes with Facebook, not the other way around --
14 [redacted] Yeah.
15 Mr. Brown. -- to help promote vaccine awareness in areas where there are lower
16 vaccination coverage rates predicted based on CDC data. That's described on 7499. So
17 it's them asking us, not the other way around.
18 [redacted] Right. Okay.
19 BY [redacted]
20 Q So they want you to target by ZIP Code for the vaccination campaign? Is
21 that -- or they want Facebook to? Is that correct?
22 And you don't know if Facebook did that?
23 A I don't.
24 Q Do you know who you would've taken this request to?
25 A Yes. I would've shared that with my manager at the time, or I would've

1 shared it with [redacted], the general people you see on the email thread from Facebook.

2 Q And you wouldn't have been part of any decisionmaking process about what

3 was done with this?

4 A No.

5 Q Okay.

6 [[redacted] Exhibit No. 4

7 Was marked for identification.]

8 BY [redacted]

9 Q This is exhibit 4.

10 So on 7478, Eric Waldo from HHS writes to you, Nick Clegg at Facebook, and

11 [redacted] at Facebook, and offers to connect on Friday or suggests that you will connect

12 on Friday. Do you know if you did connect on Friday?

13 A I'm not sure. I'm not sure directly if we did make that connection. I see it

14 referenced here that that was the plan, but I'm not sure if we followed through.

15 Q You don't have any recollection of whether that meeting took place?

16 A I don't remember if it specifically did, especially given there's an overlap

17 here. As you see, I wasn't on the original communication.

18 Q Yeah, I see you weren't on the original communication.

19 Do you know if this was discussed internally at Meta, the --

20 A A meeting request?

21 Q Yeah. Well, the meeting request and then the -- sorry, this is about the

22 Surgeon General's advisory, the release of his advisory tomorrow about health

23 misinformation. Do you know if that was discussed internally at Meta?

24 A I'm sure it was because of the email to the leads here.

25 Q Did you participate in any discussions?

1 A I did not.

2 Q Do you know who would've participated in such a discussion?

3 A I assume my boss would have. I don't know who would've been with him.

4 Q Did Facebook discuss -- so on the same page, 7470 (sic), but further up, Eric

5 Waldo writes to you and some other people on July 14th, 2021, and says, "I don't think

6 there will be too many surprises. On the technology side, at a high level, the Advisory

7 notes that technology companies and social media organizations have a role to play in

8 product and policy design to help slow the spread of health misinformation. Again, I

9 know you have all been working hard on thinking deeply about this issue."

10 Was Eric Waldo's email discussed internally at Facebook?

11 A Yes, I'm sure it was.

12 Q Did you participate in that discussion?

13 A I wasn't on the discussion.

14 Q And do you know who would've?

15 A [redacted], at minimum.

16 Q Do you know who else might've been part of that discussion? Would

17 [redacted] and [redacted] have?

18 A I would only be assuming, because I wasn't in the meeting, who was in the

19 meeting.

20 Mr. Brown. And we don't do that.

21 BY [redacted]

22 Q On the following page -- well, 7477 -- you wrote an email to Eric Waldo on

23 July 15th, 2021. "Hi, Eric. Good evening and quick question for you. We heard

24 during the press conference today that Jen listed a focus on the following items and that

25 we had received these requests already."

1 Is that Jen Psaki?

2 A I believe it is. Spokesperson.

3 Q Okay. And then, "Was this part of what you were going to speak to

4 Facebook about at the upcoming meeting? Our team not sure they are tracking a

5 specific list of requests." And then the list of the requests.

6 Do you recall discussing those requests with people at Facebook?

7 A I remember discussing what we heard from Jen with my manager, which is

8 outlined here in the email.

9 Q And by your manager, you mean [redacted]?

10 A I do.

11 Q And what was the discussion about? What was the sum and substance of

12 the discussion?

13 A That we observed what was said from the White House, there were things

14 that they said they were tracking. As noted in the note, we weren't aware that they

15 were looking for this information. Shared that with [redacted].

16 Q Was [redacted] or you or other people at Facebook, were you concerned about

17 this tracking?

18 A What does "concerned" mean?

19 Q Well, were you concerned that the administration was frustrated with

20 Facebook or didn't think Facebook was doing enough?

21 A I think there was a general, of course, people felt disappointed with that.

22 Anytime that you feel someone feels that you could be doing more. And that was a

23 discussion. We heard it, we logged it, passed it to [redacted] for whatever discussions he

24 needed to have.

25 Q Do you know if anyone else at Facebook expressed concern about this issue?

1 A I believe the people that I normally work with -- [redacted], [redacted] -- we all
2 monitor government and work with the White House, and we all saw the response and
3 the request.
4 Q How did you perceive the administration's statements? Was it -- did you
5 perceive it as a request or something that had to be complied with? Or why were you
6 concerned?
7 Mr. Brown. I'm sorry. Can we -- I just want to make sure she can take those
8 one at a time.
9 [redacted] Yeah. Sure.
10 Mr. Brown. So which one do you want to --
11 [redacted] Was it -- did you perceive it as a request to do more?
12 [redacted] I don't -- I think I don't know what it was, which is why you see the
13 email and why I'm talking to my manager about it, because it's unclear what the
14 statements meant.

[10:59 a.m.]

[redacted] Was there concern that there could be negative repercussions for Facebook if Facebook did not do more?

[redacted] I can't speak to that. I think everyone is just trying to understand what the conversation was or what information, you know, they were trying to relay.

[redacted] When you say you can't speak to that, because you don't recall what their understanding was or --

[redacted] I don't know. I don't know what their thoughts were. You know, I only know my thoughts when I saw the statement and then me passing the information to my boss, but I wasn't in the room or in the conversations or, you know, I don't know what they thought when they -- when they said that.

This was COVID so we're all individually -- you know, we're not in the office. You know, we're at our own homes. So I don't know what they thought. I can't speak for what other people thought when they heard it.

BY [redacted]

Q What did you think when you heard it?

A What did I think? I was, like, oh, that's interesting. I remember trying to log down what they had asked about and then to make sure I collected what they had said on the announcement and to pass it to our teams internally. So for me that would be [redacted].

Q Were there discussions that occurred after this, after Jen Psaki made these statements about changing policies in order to comply with the White House's requests?

A I don't recall that there were discussions on changing policy.

Q Do you know if policies were changed in order to accommodate the White

House?

A I don't know.

Q Do you know who would know?

A I'm not really quite sure who would make those decisions or if a decision was even made. You know, my role was to kind of collect what was said and pass it to [redacted] for his use.

Q On 7475, you wrote to Eric Waldo and Kyla Fullenwider at HHS. You said you wanted to follow up on a few questions you asked in the meeting focused on CrowdTangle, data on the online interventions, and Facebook's borderline content policies.

What meeting was this?

Mr. Brown. I'm sorry. Where are you on the page?

[redacted] Sorry. 7475, the first paragraph, "Hi Eric and Kyla," right under that.

Mr. Brown. Okay.

[redacted] I don't really remember more than maybe what's in the email specifically what meeting it was. I can just reference, you know, what's stated here, that it looks like there was a discussion?

BY [redacted]

Q And what is Crowdtangle you refer to in that sentence, the second sentence?

A It's a company that was maybe acquired by Facebook some time ago. I think it aggregates information.

Q What kind of information does it aggregate?

A Again, I'm not on that team, so I don't fully know what its full scope is. But

1 we're a platform, so it aggregates information that's out in the social sphere.

2 Q Is that team the trust and safety?

3 A The Crowdtangle team?

4 Q Oh, it's the Crowdtangle team. I see. It's separate, but okay. I didn't

5 realize it was an entire team.

6 A Well, I was just referring to the company. You asked what is Crowdtangle.

7 It's a company that was acquired.

8 Q I see. So it was owned by Facebook, and then it aggregates information for

9 Facebook?

10 A I don't know that. I can't speak to that.

11 Q Okay. Who -- do you know anyone from Crowdtangle?

12 A I don't remember any names from the Crowdtangle team, yeah.

13 Q Then you go on to talk about: "We wanted to follow-up on a few questions

14 you asked in the meeting focused on CrowdTangle, data on the online interventions, and

15 Facebook's borderline content policies."

16 What are the online interventions?

17 A I don't know.

18 Q Do you know who gave you the language in this email that would know?

19 A Usually my primary contacts are the ones that we're talking about. [redacted]

20 [redacted], [redacted], you know, [redacted], that group of individuals would provide the

21 context for the emails.

22 Q And then Facebook's borderline content policies, are you aware of what

23 those policies are?

24 A I don't. I mean, I know that they have a lot of their policies listed on the

25 website and things, but I can't speak to them.

1 Q Do you know what borderline content is?

2 A I don't.

3 Q So you had -- you just were conveying this, and you have no idea what it

4 means?

5 A [Nonverbal response.]

6 [redacted] Okay.

7 [redacted] Can we go off the record, please?

8 [Discussion off the record.]

9 [redacted] Okay. We are back the record.

10 EXAMINATION

11 BY [redacted]

12 Q [redacted], my name is [redacted] I'm counsel for the minority, and I

13 want to thank you for being here today.

14 A Okay.

15 Q One thing I want to ask that I don't think we've established yet is when did

16 you start working at Facebook?

17 A 2016, early 2016.

18 Q And when did you leave?

19 A I believe early fall 2021 perhaps.

20 Q So it has been nearly 2 years since you've worked there?

21 A Yes.

22 Q And we can tell, I assume because of that, you don't remember a lot of the

23 details of emails that you sent and meetings that you had?

24 A And because some of the emails are older than even the 2 years.

25 Q Given that you haven't worked at the company for 2 years and

1 your -- because of the passage of time your memory is not very clear -- let me just ask you
2 this.
3 Did you want to be here today?
4 A I am a veteran, as you may know. I understand, you know, the process of
5 government. So I was asked to be here, so I decided to come. But it would have not
6 been my choice to spend my day here.
7 Q Was it your understanding that if you didn't agree to come that you
8 ultimately would have been subpoenaed?
9 A It is.
10 Q Thank you.
11 And just to reiterate some things that you said earlier, you in your 5 years at
12 Facebook did not make any content moderation decisions. Correct?
13 A I did not.
14 Q And what that means is it was not your role to determine whether or not a
15 piece of content violated Facebook's community standards?
16 A That's correct.
17 Q And if one of the people who you were a liaison with, someone in the
18 executive branch, flagged a piece of content that they thought violated Meta's -- I'm
19 sorry -- Facebook's community standards, you would forward that on to someone at the
20 appropriate team rather than making the assessment yourself?
21 A That is correct.
22 Q And then that person would make a determination?
23 A I can't say that that person would make the determination.
24 Q Fair enough.
25 And I believe you testified that you were not involved in the creation of

1 Facebook's content moderation policies?

2 A I did not -- I did not make those, and I was not part of that.

3 Q And you were not part of the creation of any of their content policies?

4 A That's correct.

5 Q And all of those policies, to your knowledge, are available online. Correct?

6 A I don't know if they're all available online.

7 Q So your work on Facebook's policy team spanned three presidential

8 administrations?

9 A That's correct.

10 Q And you worked on the team during the entire Trump administration?

11 A I did.

12 Q And then not -- less than a year on the Biden administration?

13 A [Nonverbal response.]

14 Q And you talked about how some of your communications with the executive

15 branch were about COVID. And I believe we saw in one of the exhibits a reference from

16 the White House, or it might have been Health & Human Services, to our shared goal of

17 increasing vaccine adoption.

18 Was that a goal for Facebook during the pandemic?

19 A Facebook's goal was just to make sure that the platform was as safe as

20 possible, and they were surfacing the best information because, again, they don't create

21 headlines for health. And that's as far as I can state as far as the goal, but I can't speak

22 to them referring to our shared goal.

23 Q Fair enough.

24 You would, as we've seen, sometimes reach out to individuals at the White House

25 to provide information to them about either new policy changes or new initiatives that

1 Facebook was implementing. Correct?

2 A Yes.

3 Q And that was part of your role as a liaison?

4 A Yes.

5 Q And so we saw from several of the exhibits that they began with an email

6 from you saying something to the effect of, Hey, I just wanted to reach out and let you

7 know we're doing X or we changed X policy. Correct?

8 A That's correct.

9 Q And that was not unusual for you?

10 A It was not.

11 Q When the pandemic began, you were speaking with officials at the CDC

12 about how to deal with issues raised by the pandemic. Correct?

13 A That's correct.

14 Q And you were speaking to them as early as January of 2020. Correct?

15 A I don't recall the date, but --

16 [redacted] If I could have exhibit C.

17 Sorry about that.

18 [[redacted] Exhibit No. 5

19 Was marked for identification.]

20 Mr. Brown. What's the exhibit number on this?

21 [redacted] This is exhibit number 5, at least that's what I have. Is that what

22 everybody else has?

23 Mr. Brown. Yes.

24 BY [redacted]

25 Q Okay. Are you ready?

1 A I am.

2 Q Thank you.

3 So in late January 2020, you exchanged some emails with Ian Williams at the CDC.

4 Correct?

5 A Uh-huh.

6 Q And he mentioned that he got pulled into the 2019-nCoV response.

7 Correct?

8 A Yes.

9 Q And you understand that to mean what we now refer to as COVID-19?

10 A Yes.

11 Q And on January 28th -- I'm referring to page 15232 -- you told Mr. Williams:

12 "If there is any messaging or task force set up/developing that has a pillar for public

13 messaging, we would like to be involved sooner rather than later. Currently we are

14 standing by for any guidance or requests."

15 Correct?

16 A Correct.

17 Q And on that same page, just above that, Carol Crawford from the CDC stated

18 that she would love to talk about how Facebook can support the coronavirus response.

19 Correct?

20 A Correct.

21 Q And that was in early February, and this is well before lockdowns or anything

22 like that.

23 And then once the pandemic really took hold and people were locked down,

24 people from Facebook -- I don't know if you were involved, but Facebook held weekly

25 meetings with the CDC to talk about how to deal with these very rapidly evolving issues.

1 Correct?

2 A I don't know if they were weekly.

3 [redacted] If I could have exhibit A, please.

4 Mr. Brown. Do we give you 5 back?

5 [redacted] I don't need that.

6 Mr. Brown. Okay.

7 Mr. Brown. So this will be 6?

8 [redacted] This will be 6, yes.

9 Mr. Brown. Okay.

10 [[redacted] Exhibit No. 6

11 Was marked for identification.]

12 BY [redacted]

13 Q Thank you.

14 So turning your attention to the first page of that exhibit, on January 26, 2021, you

15 sent an email to several individuals at the White House and Health & Human Services in

16 which you stated: "Facebook has been meeting with the CDC weekly on Wednesdays

17 (3pm Eastern) for the last year to coordinate on COVID-19 initiatives."

18 Correct?

19 A I see that here.

20 Q And all but 6 days of that year were during the Trump administration.

21 Correct?

22 A I assume.

23 Q Based on what you see in the email?

24 A Yeah.

25 Q And you continued to reach out to the CDC and the White House about

1 COVID, as you stated during, the Biden administration until you left the company.
2 Correct?
3 A That's correct.
4 Q And in this exhibit, as in some of the others we've seen, after that email
5 there's several pages of content about Facebook's initiatives and different information.
6 That was not -- you did not author that?
7 A I did not.
8 Q That was provided to you by somebody else?
9 A That's correct.
10 Q I want to ask you about some of the questions about some of the exhibits
11 that we saw earlier, if I can --
12 Mr. Brown. Are we done with this one?
13 [redacted] We are. Yes. Thank you.
14 Mr. Brown. Okay.
15 [redacted] If I could have exhibit 1, please, and if [redacted] could have that.
16 Do you guys have a copy of that?
17 Mr. Brown. No, we did not keep them.
18 [redacted] That pile right there, is that --
19 [redacted] Those are just leftovers from what was handed to me. I believe the
20 first two exhibits were recollected, correct, from the folder?
21 Mr. Brown. Could we go off the record, please?
22 [Discussion off the record.]
23 Mr. Brown. We're ready to go back on.
24 [redacted] Okay. We can go back on the record.
25 BY [redacted]

1 Q So I'm showing you the email chain that began as exhibit 1 -- I'm sorry -- that
2 was labeled as exhibit 1.
3 And in this email chain, this email chain began -- I'm looking at page 5549 -- with
4 you proactively reaching out to the White House to advise them about authoritative
5 COVID-19 vaccine information and expanding Facebook's efforts to remove false claims
6 about COVID-19. Correct?
7 A Correct.
8 Q And some of that information included helping people find where they can
9 get vaccinated. Correct?
10 A I see that.
11 Q Right. And, again, this is -- even if you don't remember sending this email,
12 you know that you would not have written that yourself. That was information --
13 A Correct.
14 Q Okay. I'm sorry. I didn't mean to speak over you.
15 And then Mr. Flaherty asked some questions including: "And as far as removal of
16 your claims, do you have data on the actual number of claims-related posts you've
17 removed?" And I'm sorry. He started by saying: "Can you share more info about
18 your framework here? May, of course, is very different than 'will.' Is there a strike
19 policy, ala YouTube?"
20 Do you see that?
21 Mr. Brown. Page where that is?
22 [redacted] I'm sorry. On page 5549. I believe it actually comes up a few
23 times, but I was reading from 5549.
24 BY [redacted]
25 Q And then on page 5547, it looks like you put some of his questions in bold

1 and then provided answers. Correct?

2 A Correct.

3 Q So for that question about can you share more about your framework here

4 and is there a strike policy ala YouTube, your response was: "We don't disclose the

5 details of our thresholds publicly due to concerns about users gaming the system to avoid

6 enforcement."

7 Correct?

8 A Correct.

9 Q And then you continue to say that you do notify groups, pages, and

10 advertisers when you've removed content that violates Facebook's community standards.

11 Correct?

12 A I see that there, yes.

13 Q And -- okay. I think we're done with this one.

14 If we could have exhibit 2, please -- actually, you know what, we don't have to

15 have the exhibit. I'll just ask.

16 Exhibit 2 was -- there was a reference to stickers on Instagram and profile stickers

17 related to --

18 Mr. Brown. Sorry. Could we get the document just --

19 [redacted] Sure.

20 Mr. Brown. -- to make sure she's got appropriate context?

21 [redacted] Exhibit 2, Bates number 8447 is the first page.

22 [redacted] No. I think it's 4838.

23 [redacted] Sorry.

24 [redacted] There's a copy.

25 BY [redacted]

1 Q And, [redacted], I'm referring on that first page, you were asked
2 about -- well, in the email -- actually if you could give me just a moment.
3 So this was the email chain that began with an email from you on page 4840 on
4 February 18, 2021. Correct?
5 A Correct.
6 Q And, again, it appears that you were reaching out unsolicited from the
7 greeting: "I hope everyone is doing well and taking care amidst this wintery weather."
8 Correct?
9 A I don't remember if it was -- you know, the context of the outreach.
10 Q Fair enough.
11 And the following email after that was [redacted] replying all and jumping in
12 with some information about the U.K.'s NHS using profile frames.
13 And then the rest of the exchange appears to be between [redacted] and individuals at
14 the White House. Correct?
15 A Correct.
16 Q And there was a mention of a strategy that Facebook deployed around
17 lockdowns with stay-at-home stickers and promoted Instagram stories.
18 Do you recall that strategy when it was employed?
19 A I only heard about it. I focused on the U.S.
20 Q Okay. You mentioned earlier when you were asked what executive branch
21 agencies you worked with, the first one that you mentioned was the Department of
22 Veterans Affairs. Correct?
23 A [Nonverbal response.]
24 Q What types of work would you do with them?
25 A The items that I mentioned were -- usually trying to help wounded veterans

1 was probably the most prominent one that made public or made press. So a lot of it
2 was wounded veterans, you know, veterans seeking job opportunities after they've left
3 service that might have cross-pollinated with the SBA. So it was more in the sense of,
4 like, wellness in a way and then also being a liaison to help them use the product better,
5 for outreach.
6 Q Helping the VA use the products better?
7 A Uh-huh.
8 Q And during COVID you also helped meet with them to help the VA learn how
9 they could use your platform to be able to reach their communities, to reach veterans
10 during the pandemic, and help connect them to the services they need when it was very
11 difficult to do so because of the pandemic. Correct?
12 A Right. And that's generally the scope. I can't specifically say it was just
13 during the pandemic, but that's the scope of my job generally.
14 Q And because you were at Facebook for 4 years --
15 Mr. Brown. Could we go off the record, please?
16 [Discussion off the record.]
17 [redacted] We're back on the record.
18 BY [redacted]
19 Q [redacted], because you started in 2016, you were working with the
20 executive branch well before COVID was --
21 A That's correct.
22 Q -- even existed. Correct?
23 And as you said, you worked on many issues other than just COVID. Correct?
24 A Correct.
25 Q And your work with agencies like the CDC, that was -- it was Facebook's

1 choice to have those relationships. Correct?

2 A Correct.

3 Q Nobody forced Facebook to sit down and have meetings with the CDC every

4 week. Correct?

5 A That's correct.

6 Q Not during the Trump administration --

7 A Yeah, from my understanding, that's correct.

8 Q And that was the whole nature of your job was to interface with the

9 executive branch?

10 A That's correct.

11 Q And that was your job regardless of who was in office?

12 A That's correct.

13 [redacted] Okay. No more questions at this time. Thank you.

14 We can go off the record.

15 [Recess.]

1

2 [12:30 p.m.]

3 [redacted] We will go back on the record.

4 BY [redacted]

5 Q We talked a little bit in the -- previously about Eric Waldo from HHS. I

6 know you didn't recall any specific meeting, but do you recall meeting with him at all at

7 any point?

8 A I believe I did.

9 Q Do you know what you met with him about?

10 A I'm not sure.

11 Q How about the CDC? Did you attend meetings with people from the CDC?

12 A I did.

13 Q And do you recall when you started attending those meetings?

14 A I don't recall the date.

15 Q Not exact dates, but approximately?

16 Mr. Brown. Could you maybe speak up a little bit? They're having a hard time

17 hearing.

18 [redacted] I don't recall the dates specifically.

19 BY [redacted]

20 Q Do you recall like the year or approximate time frame?

21 A The COVID time frame.

22 Q Okay. And who from the CDC was usually at those meetings?

23 A A name I remember is Carol Crawford.

24 Q Was there anyone else?

25 A She had people from her team. I'm -- some of the names are -- I don't

1 remember off the top of my head, but there was various people.

2 Q Okay. Were there people from other tech companies at the meetings?

3 A Our meetings were -- if I recall, I think our meetings were, you know, our

4 company and theirs.

5 Q Okay. And who else from Facebook were at the meetings?

6 A [redacted] would sometimes be there, [redacted] -- well, they would usually

7 be there.

8 Q Sorry?

9 A They would usually be there.

10 Q What were the meetings about?

11 A They were meetings that we had on COVID and learning what they were

12 doing and them learning what we were doing.

13 Q Were they about misinformation on social media?

14 A If I remember correctly, the meetings were focused on trying to surface like

15 health information on COVID, advice, handwashing, et cetera, you know, how to stop the

16 spread.

17 Q Did you attend meetings with the CDC called Be On The Lookout meetings

18 specifically?

19 A I believe so.

20 Q Do you know how many of those meetings you attended?

21 A I don't.

22 Q Approximately?

23 A I don't.

24 Q Do you know how frequently they occurred, like every week or month or --

25 A I don't remember how frequently, but --

1 Q Did you attend -- so you have no idea if, like, five, ten?

2 A No, I don't.

3 Q Okay. And what were those meetings about?

4 A Those meetings, I believe, were them surfacing, you know, things that they

5 were seeing, trends that they were seeing people talking about or that they're aware of

6 related to COVID.

7 Q And what were they -- what was the purpose of the meetings?

8 A Our purpose of the meeting was to just hear them out and listen to what -- if

9 they had concerns or opportunities, you know, where they thought, Hey, this is great

10 information, you know, to help mitigate the spread of people getting ill.

11 You know, I can't fully speak to what their motivations were behind the meetings.

12 Q Who was typically in attendance at those meetings?

13 A Carol was. She had team members. I don't remember who they were.

14 And then myself, [redacted], or [redacted] would usually be in those meetings.

15 Q Were other tech companies at those meetings?

16 A [Nonverbal response.]

17 Q Okay. Just Facebook.

18 Did Crawford or others from the CDC make recommendations about how

19 misinformation about COVID should be handled?

20 A No, not that I'm aware of.

21 Q Were there ever examples of misinformation given, specific posts?

22 Mr. Brown. I'm sorry. Were there ever --

23 [redacted] Did Crawford or anyone at the CDC show specific posts and say this

24 is an example of --

25 Mr. Brown. To the witness or to somebody else or what --

1 BY [redacted]

2 Q Well, at the meetings were there slides of posts?

3 A I don't recall if there was slides. I generally believe that they would

4 have -- if they saw something that was incorrect or something that we posted that was

5 incorrect about how to keep one safe or stop spreading the disease, they would say so.

6 Q And what would be the point of showing those posts?

7 A I don't know their point.

8 [redacted] So you mean showing them to her during the meeting?

9 [redacted] Well, to -- yeah, to whomever was attending from Facebook.

10 [redacted] I don't fully -- I can't fully speak to what their motivations are on

11 their side.

12 [redacted] Well, was there any context? Like, I mean, if they're saying this is

13 an example of misinformation, what was the context for that?

14 Mr. Brown. She didn't say they did that. I just want to --

15 BY [redacted]

16 Q Yeah. Okay.

17 A Yeah, I can't speak to what -- to that of, you know, what -- that being shared

18 or what their context was. I just really wouldn't know.

19 Q Okay. After these meetings when you'd go speak to other people at Meta

20 or Facebook about what happened, were there internal meetings to discuss the meeting,

21 the BOLO meetings?

22 A I wasn't a part of discussions afterwards. You know, [redacted] or [redacted] were

23 in the meeting. We all take the information back to our managers, and I'm not sure

24 what happens after that.

25 Q So when you take it back to the manager, did you report it over email or --

1 A What happened -- I'd often have conversations with [redacted] all the time. He
2 was my direct manager.
3 Q But it would just be like a one-on-one conversation?
4 A Yes.
5 Q So this is exhibit 7.
6 [[redacted] Exhibit No. 7
7 Was marked for identification.]
8 BY [redacted]
9 Q Are you all set?
10 Okay. So this appears to be an invite from Carol Crawford to a Be On The
11 Lookout meeting, and it's sent to people from Google, Twitter, and Facebook. It actually
12 looks like you're on the initial invite and appear to have attended from this anyway.
13 Do you know why Census was involved in this -- or invited to this?
14 A I cannot speak to the government's work and other organizations. I don't
15 know the scope of the work.
16 Q So in your response you -- well, not response, but you're sort of discussing
17 this with people at Facebook, it looks like: "Hi ladies can we please attend -- focus is on
18 COVID-19 misinfo themes Census team helping CDC wants to relay?"
19 So you don't know why the Census team was helping CDC relay misinfo themes?
20 A I guess in my position I can't really speak to what's happening on the
21 government side. Right? I understand many times organizations will help each other.
22 Right? But I can't speak to what the conversations were or, you know, how that arises,
23 and et cetera, on their side. But, clearly, I see, you know, since this was definitely
24 helping in part of these discussions.
25 Q Do you know if Census attended the meetings, the Be On The Lookout

meetings?

A I believe that they may have.

Q Had Census worked with Facebook before?

A They had.

Q In what context?

A They were working to get out the timelines for the census applications through any way possible, whether that was News or, you know, anyone could reach citizens. So I remember they had an interest in trying to make sure people understood the deadlines for returning census information.

Q So that was 20 -- is that 2020 or --

A I don't remember, but know there was a distinct period that the Census was happening, and they wanted to make sure that they were providing the right information to people about the deadlines or if there was incorrect deadlines out there somewhere that they were corrected. Okay. We can take these back, unless --

Q This is exhibit 8.

[[redacted] Exhibit No. 8

Was marked for identification.]

Mr. Brown. Could I ask, is this the complete message? I note that at the beginning of the first page it says: "Best, [redacted]," which would imply there was another page.

[redacted] It looks -- yeah, it looks like there was probably another email, but I was only going to ask --

Mr. Brown. Do you have the rest of the context?

[redacted] Not here, but, I mean, these were sent before, so anything else would have come after.

1 Mr. Brown. Well, it's just difficult to understand the full context without the
2 whole thread.
3 [redacted] Well, not --
4 Mr. Brown. But we'll proceed, but I do want to reflect --
5 [redacted] Not really for these questions.
6 Mr. Brown. Well, I don't know that. You know, that might be right, but I don't
7 know that because I can't see the whole thread.
8 [redacted] Are we ready?
9 BY [redacted]
10 Q So this is an email exchange from January of 2021.
11 So we talked a little bit about CrowdTangle earlier and the CrowdTangle team.
12 So that -- I didn't quite fully understand what that was. So they aggregate information
13 and give it to other teams at Facebook. Is that correct?
14 A I just said that they were a company that was acquired and they aggregate
15 information. I can't speak to, you know, where it -- the dissemination and what their full
16 scope is.
17 Q You don't -- what did they do with -- what was their interaction with your
18 team? Let me put it that way.
19 A In this case they provided a report that I relayed.
20 Q Okay. So what were these reports or this report, if you recall, specifically?
21 Like, what are CrowdTangle reports?
22 A I don't work on the teams. I don't have a lot of insight into what their
23 reports are or what they are. I know from the contents of the email, it's just as it's
24 stated. But I really can't go into depth about their process or what's in the scope of the
25 reports.

1 Q I see. Do you know who [redacted] and [redacted] are?

2 A They were on that CrowdTangle team --

3 Q Okay.

4 A -- or representing the CrowdTangle team.

5 Q Okay. And do you know what Facebook did with CrowdTangle reports?

6 A I don't.

7 Q Okay. Why did you send this to Carol Crawford at the CDC?

8 A I was asked to by my manager.

9 Q And that's [redacted]?

10 A Uh-huh.

11 Q But you don't know why?

12 A I mean, I -- anything I'm sending obviously is because I was asked. But it

13 looks like from the content of this, I was sending a report to them.

14 Q Okay. In the next email from Carol Crawford to you in response to the

15 email about CrowdTangle, Carol Crawford said: "One group we'll be adding is the

16 Census group who hopefully will soon start their project with us."

17 Do you know what the project was?

18 A I don't know the scope of the project.

19 Q You don't know what the project was at all?

20 A I know it's on COVID, but I don't know the scope -- you know, I don't know

21 the full scope of --

22 Q Yeah. You don't know anything more specific?

23 A Yeah, like, I don't know the specifics of what the scope of it is. But, you

24 know, obviously, it's on COVID and the work they're doing.

25 Q Okay. And, again, do you know why Census was involved in this?

A Not more than because of the work that they've done trying to track and keep deadlines, et cetera. But I don't know the full details of why Census was particularly the group brought in or if it's the only group brought in. You know, I just don't know that.

Q I see. So Census was involved in tracking COVID data?

A I don't know that I can speak to that.

Q Okay. Just because you said "track." I didn't know what you meant by track.

A Just a terminology, my own terminology, vernacular.

Q Okay. So you mean just track sort of general population --

A Because they were trying to keep -- they were trying to be aware of timelines with the Census. That's the work I know that I did with the Census is them trying to keep track of timelines, when reports were due in on the Census. That's the work that I know from them.

Q I see. Okay.

Did you send -- so you sent the CrowdTangle report, it looks like, to CDC. Did you send it to any other agencies?

A I don't recall.

Q We're done with this one, so I don't know if --

[[redacted] Exhibit No. 9

Was marked for identification.]

Mr. Brown. Is this exhibit 9?

[redacted] Yes.

BY [redacted]

Q Are you all set?

1 Okay. On 7397 on to the next page 7398, the email at the bottom that you
2 wrote to Carol Crawford, you say: "I saw that DHS/CISA is planning/possibly working on
3 COVID-19 misinfo concerns."
4 Where did you see that?
5 A I don't remember where I saw that.
6 Q What was the greater context for that? How were they working on COVID
7 misinfo concerns?
8 A I'm not sure where I saw it, so I'm not really sure the detail that I was
9 speaking about here.
10 Q Do you have any idea why DHS and CISA, which are sort of -- well, do you
11 have any idea why DHS and CISA were working on COVID misinfo?
12 A I don't.
13 Q Okay. Do you know where there might be additional information about
14 that?
15 A It's not something that I have. I don't know.
16 Earlier I referred to maybe -- I don't know the government discussion, so it might
17 be just a conversation that you have to have with those mentioned.
18 Q Okay. And then shortly after you say: "There is quite a bit of focus on
19 misinfo and it's growing among Members of Congress et cetera."
20 Why did you believe it was growing among Members of Congress?
21 A I remember that headlines or news or discussions and a lot of confusion
22 entering COVID about what do you do, what do you not do, you know, people who were
23 sick, et cetera. So this is general, you know, press, et cetera, understanding people
24 talking about it quite a bit, that there was uncertainty during those years of COVID.
25 Q Okay. You said -- okay. So right after that you say: "We really would

1 need to be partnered with government on this effort as we don't know what
2 would/should be flagged as misinfo in some cases."
3 What do you mean by "partnered with government1.
4 A It wasn't a conversation that we are the ones who know all four corners of
5 the topic, so we -- and you see that I'm asking questions for clarity.

1

2 [12:56 p.m.]

3 BY [redacted]

4 Q So you wanted to partner with government to get the information. Is that

5 right?

6 A In the email, I'm just asking for clarity multiple times of just what's

7 happening or what are discussions.

8 Q Clarity about -- I mean, clarity about what, I guess?

9 A In the email, I'm asking -- I saw that there's working groups or they're

10 planning possibly working on items. You'll see the questions I'm asking.

11 And so what I mean that way, these are government discussions. I am not privy

12 to those. And my job is to liaison. So if something is going to come across or they're

13 going to ask me something, just positioning myself to make sure that I'm in my liaison

14 role.

15 Q And did that come from someone else, the idea of being partnered with

16 government on this effort? Was that -- I mean, did that come from [redacted] or

17 somebody higher up who wanted you to convey that information?

18 A I'm not sure what you mean.

19 Q Well, was that you speaking or was that you conveying someone else's idea

20 about being partnered with government on this effort?

21 A It's just me trying to understand exactly what I was hearing from

22 government. So I would need to work with Carol to understand: Is this true? What

23 is being discussed? So I would have to work with her on understanding the questions

24 that I have put in the email.

25 Q Okay. On 7397, you wrote an email on February 4th, starting with, "Hi

1 Carol. A couple months back we thought perhaps some examples of the misinfo could
2 be sent to us. That way we are also educating our misinfo team and know what to be
3 looking for. In addition, if something is especially egregious, we could also be doing the
4 work to make sure it's not going viral."
5 How did you end up determining what was especially egregious?
6 A I didn't make those determinations.
7 Q How about to make sure it's not going viral?
8 A I also wouldn't be in charge of making those decisions.
9 Q Okay. I think I'm done with this one.
10 [[redacted] Exhibit No. 10
11 Was marked for identification.]
12 BY [redacted]
13 Q Okay. On March 30th, on 7988, you sent an email to Carol Crawford and
14 said, "Hi Carol. Yes, I think good to have questions from Census so we make sure we
15 have the right person."
16 It looks like there was going to be a meeting with CDC and Facebook and Census.
17 Do you know what you meant by that?
18 A By what?
19 Q What did you mean by that, "I think good to have questions from Census so
20 we make sure we have the right person"?
21 A I don't specifically remember what I was referring to there other than trying
22 to organize the meeting.
23 Q Do you know if Census did end up attending this meeting?
24 A I can't confirm. I'm not sure.
25 Q And was this part of a -- was this meeting, since the subject line of the email

1 is "This week's meeting," was this a weekly meeting that took place with CDC?
2 A There were several meetings with CDC. I can't speak to the exact interval,
3 but I've seen in reference that they were weekly.
4 Q Okay. And then on March 31st, you said: "Hi Carol. We are working on
5 a proposal of how set up sharing partnership on the misinfo items...what it would look
6 like."
7 Did you end up setting that up, the sharing partnership on misinfo? I don't --
8 A I'm not sure.
9 Q Okay. You don't know at all if that happened?
10 A I'm not sure, as categorized here, if that happened.
11 Q Well, did any kind of sharing partnership on misinfo items end up getting set
12 up?
13 A We set regular meetings to have discussions. I think that's the -- what you
14 see here is us trying to get organized, understand what questions they have, what
15 questions we have, just to make it more efficient. Lots of emails. Just to make it more
16 efficient for both sides.
17 Q On just right before that, Carol Crawford had written you an email about
18 what Census would like to discuss, and it has to do with vaccine themes.
19 When she mentions adding labels to certain stories, for example, "local news
20 coverage of deaths after receiving the vaccine. What's the approach for adding labels to
21 those stories," what was the approach for adding labels to those stories?
22 A I don't know. This is me organizing the meeting and trying to make sure
23 the correct people are in the room to answer to specific things, but it's not something
24 that I had knowledge of.
25 Q Who were the correct people?

1 A I would have brought in my colleagues, [redacted] and the ones you've seen on
2 the emails, to make that decision.
3 Q What about people like from trust and safety, like [redacted], [redacted],
4 or people like that, would they have been part of this conversation?
5 A I don't recall.
6 Q Were there people who worked under [redacted] and [redacted] who
7 would have dealt with this sort of thing?
8 A The people that I connected with were the ones you've seen on the emails,
9 [redacted], [redacted], [redacted], that was my interface on the COVID work, or the other emails.
10 That's just the group of us who were on those emails.
11 [[redacted] Exhibit No. 11
12 Was marked for identification.]
13 BY [redacted]
14 Q This is exhibit 11. On 5401, [redacted] wrote an email to Carol
15 Crawford and you were cc'd. And [redacted] refers to "our COVID misinfo channel up for
16 CDC and Census colleagues."
17 What's the COVID misinfo channel?
18 A I can't speak fully to it. The email is not from me, so I can't really explain
19 the full details of what that might be.
20 Q Do you have any idea what it is?
21 A I can't guess fully what it all entails.
22 Q So you have no idea what it is?
23 A I see what's in the note.
24 Q Okay. So you hadn't heard of the COVID misinfo channel or you hadn't
25 used it other than what's in the note?

1 A I've heard of it from this email that I'm looking at, but I just don't recall what
2 it is.
3 Q Okay. Just one more question about this one. On May 7th -- this is on
4 5400 -- [redacted] wrote to Carol Crawford, with you cc'd as well as [redacted],
5 saying, "Following up from our meeting yesterday. It looks like Monday, May 17th at
6 12:00 p.m. will work for onboarding meeting. The overlaps with your standing Census
7 meeting you mentioned."
8 What's the "standing Census meeting"?
9 A Those would be the meetings that you referred to earlier where we'd meet
10 from time to time with Census.
11 Q I see. Oh, are those different from the meetings with the CDC?
12 A I think -- I'm not sure, but I think it's -- it could be the same. It could be
13 referring to the same meeting.
14 Q Were there any meetings with just Census?
15 A I don't know.
16 [redacted] Okay. We're done with this.
17 [[redacted] Exhibit No. 12
18 Was marked for identification.]
19 [redacted] This is exhibit 12.
20 Mr. Brown. We're ready if you are.
21 [redacted] On 3407, these are emails between Elvis Chan and some people at
22 Facebook.
23 Mr. Brown. She's not on these.
24 [redacted] Yeah, I acknowledge you're not on them.
25 Do you have any idea if these meetings took place?

1 [redacted] I don't.

2 [redacted] Okay. I actually am not sure why these are here. That may have

3 been an error.

4 [[redacted] Exhibit No. 13

5 Was marked for identification.]

6 [redacted] On 36289, on an email on June 24th, 2021, you wrote to Josh,

7 who's Special Assistant to the President and Special Advisor to the Homeland Security

8 Advisor on Countering Domestic Violent Extremism, National Security Council, about

9 veteran misinformation.

10 What is veteran misinformation?

11 [redacted] Obviously, dealing with the veteran population. And the

12 misinformation, I don't know fully what it is in this context, but it must be something

13 about confusion. But I don't know what it's referring to specifically in this note.

14 Mr. Brown. The rest of the sentence says, "in the wake of 1/6."

15 [redacted] In the wake of 1/6, yeah.

16 Mr. Brown. Which I assume is a reference to January 6th.

17 [redacted] I would assume that too.

18 BY [redacted]

19 Q Do you know if veteran misinfo -- so is that a term that was used apart from

20 January 6th ever, or was this only in relation to January 6th?

21 A Veteran and misinformation terms exist outside of January 6th.

22 Q No, I mean the term "veteran misinformation." Like --

23 A Yeah. Those exist outside of January 6th.

24 Q Outside of January 6th.

25 A But, like I said, I still don't know the context of what they're -- what

1 specifically was the content here.

2 Q Okay. And it appears that you were asking Josh Geltzer at the NSC for

3 contacts at DOD or the VA who could help with this misinformation.

4 Did you end up talking to anyone there, at either of those agencies?

5 A I see from the email I was connected.

6 Q And what was the sum and substance of that discussion?

7 A The goal was to just understand if -- that DOD or VA was working with

8 outside groups, is what I'm gathering from this email. Outside groups were saying they

9 were working with DOD and VA. We didn't know if that was true.

10 Again, I do government relations. So if it's not government, it wouldn't be

11 something that I would need to be in my portfolio. So this is me trying to determine

12 that.

13 Q I see. Okay. Just sort of out of curiosity, why was there a particular

14 concern about veterans? Was there -- yeah.

15 A I can't say. I can only go by the email. You know, someone may have

16 reached out. You know, I might have -- something might have come across my desk

17 which made me determine what is this, who is this group, let me determine if this is

18 something with the government portfolio or if this is not.

19 Q Do you know of any other types of veteran misinfo other than January 6th,

20 like specific examples?

21 A The terms are very generic, so it could -- you know, it could cover anything.

22 [[redacted] Exhibit No. 14

23 Was marked for identification.]

24 BY [redacted]

25 Q So you were just added at the end to this email chain about a meeting with

1 the U.S. Government Accountability Office about information sharing, and I guess -- yeah,
2 information requests related to January 6th, and it's a meeting on that topic.
3 Did you attend that meeting?
4 A I don't recall.
5 Q Did you attend any meeting with the U.S. Government Accountability Office?
6 A I don't recall.
7 Q So you don't recall anything about this meeting?
8 A No.
9 [redacted] Okay. I think I'm all set.
10 Mr. Brown. Are you done too?
11 [redacted] Just give me one second.
12 Yes, we're done.
13 Mr. Brown. Thanks. Appreciate your time.
14 [redacted] Thank you for coming.
15 [Whereupon, at 1:24 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

Transcribed Interview Transcript Errata Form

Interviewee	[redacted]
Date of Interview	6/27/2023
Date of Review	7/18/2023
Name of Reviewer	Lisa Redgood
Signature of Reviewer	

Page	Line	Suggested Correction
50	23	Replace "since this" with "Census"
56	3	Replace "governmental" with "government"

1
2
3
4 COMMITTEE ON THE JUDICIARY,
5 U.S. HOUSE OF REPRESENTATIVES,
6 WASHINGTON, D.C.
7
8
9
10
11
12 INTERVIEW OF: [redacted]
13
14
15
16
17 Wednesday, June 28, 2023
18
19 Washington, D.C.
20
21
22 The interview in the above matter was held in room Rayburn House Office
23 Building, commencing at 10:02 a.m.

1

2 Appearances:

3

4 For the COMMITTEE ON THE JUDICIARY:

5

6 [redacted] LAW CLERK

7 [redacted] SPECIAL COUNSEL

8 [redacted] SENIOR SPECIAL COUNSEL

9 [redacted] DIGITAL DIRECTOR

10 [redacted] COUNSEL

11 [redacted] MINORITY OVERSIGHT COUNSEL

12 [redacted] MINORITY OVERSIGHT COUNSEL

13

14 For ALPHABET:

15

16 EHREN HALSE, ESQ.

17 KING & SPALDING

18 1700 PENNSYLVANIA AVENUE NW, SUITE 900

19 WASHINGTON, D.C. 20006

20

21 For [redacted]:

22

23 MICHAEL D. BOPP, ESQ.

24 GIBSON DUNN

25 1050 CONNECTICUT AVENUE, NW

1 WASHINGTON, D.C. 20036-5306

[redacted] Can we go on the record, please.

This is a transcribed interview of [redacted]. Chairman Jordan has requested this interview as part of the committee's investigation of how and the extent to which the executive branch has coerced and colluded with companies and other intermediaries to censor speech.

Would the witness please state your name for the record.

[redacted]. [redacted].

[redacted] On behalf of the committee, I want to thank you for appearing here today to answer our questions. The chairman also appreciates your willingness to appear voluntarily.

My name is [redacted] and I'm with Chairman Jordan's staff. And, I'll have everyone else from the committee who is here in the room introduce themselves as well.

[redacted] [redacted] with Chairman Jordan's staff.

[redacted] [redacted] with Chairman Jordan's staff.

[redacted] [redacted] with Ranking Member Nadler's staff.

[redacted] [redacted] oversight counsel for the Democrats and Judicial Committee.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] I'd like to now go over the ground rules and guidelines that we will follow during today's interview.

Our questioning will proceed in rounds. The majority will ask questions first for one hour, and then the minority will have an opportunity to ask questions for an equal period of time if they choose. We will alternate back and forth until there are no more questions and the interview is over.

1 Typically we take a short break at the end of each hour, but if you would like to
2 take a break apart from that, please just let us know.
3 As you can see, there is an official court reporter taking down everything we say to
4 make a written record. So we ask that you give verbal responses to all questions.
5 Do you understand?
6 [redacted]. I do.
7 [redacted] So the court reporter can take down a clear record, we will do our best
8 to limit the number of people directing questions at you during any given hour to just
9 those people on the staff whose turn it is. Please try and speak clearly, so the court
10 reporter can understand and so the folks down at the end of the table can hear you.
11 It is important that we don't talk over one another or interrupt each other if we
12 can help it, and that goes for everybody present at today's interview.
13 We encourage witnesses who appear before the committee to freely consult with
14 counsel if they so choose. It is my understanding that you are appearing today with
15 counsel. Is that correct?
16 [redacted]. That's correct.
17 [redacted] Could counsel please state your name for the record.
18 Mr. Bopp. Michael Bopp from Gibson, Dunn, representing [redacted].
19 Mr. Halse. Ehren Halse from King & Spalding, representing Alphabet.
20 [redacted] Thank you.
21 We want you to answer our questions in the most complete and truthful manner
22 as possible. So we will take our time. If you have any questions or if you do not
23 understand one of our questions, please let us know. Our questions will cover a wide
24 range of topics, so if you need clarification at any point, just say so. If you honestly don't
25 know the answer to a question or do not remember, it is best not to guess. Please give

us your best recollection, and it is okay to tell us if you learned the information from someone else. Just indicate how you came to know the information.

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

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

[redacted]. I do.

[redacted] This also applies to questions posed by congressional staff in an interview. Do you understand this?

[redacted]. Yes.

[redacted] Witnesses that knowingly provide false testimony could be subject to criminal prosecution for perjury, or for making false statements under 18 U.S.C. section 1001. Do you understand this?

[redacted]. Yes.

[redacted] Is there any reason you are unable to provide truthful answers to today's questions?

[redacted]. No.

[redacted] Finally, I'd like to make a note that the content of what we discuss here today is confidential. We ask that you not speak about what we discuss in this interview to any outside individuals to preserve the integrity of our investigation. For the same reason, the marked exhibits that we will use today will remain with the court reporter so that they can go in the official transcript, and any copies of those exhibits will be returned to us when we wrap up.

1 That is the end of my preamble.

2 Is there anything that my colleagues from the minority would like to add?

3 [redacted] Thank you for agreeing to speak with us voluntarily today.

4 [redacted] The clock now reads 10:05. We will start the first hour of

5 questioning.

6 EXAMINATION

7 BY [redacted]

8 Q Can you state your full name again for the record, please.

9 A [redacted].

10 Q And where is your current place of employment?

11 A Google.

12 Q And what is your current title?

13 A Director.

14 Q And director of?

15 A Security Legal.

16 Q Security Legal?

17 A Yes.

18 Q And what is your educational background, beginning with college?

19 A USC, University of Southern California for undergraduate, as well as for law

20 school.

21 Q And beginning with your graduation of law school, what is your employment

22 history?

23 A After graduating law school, I joined the Department of Justice through a

24 fellowship called the presidential management fellowship. Through that program, I

25 started first as a budget analyst for the Department of Justice and then transitioned to an

1 attorney advisor position for the executive office for the U.S. Attorneys.

2 From there, I was a special assistant U.S. Attorney in the Eastern District of

3 Virginia for a short period of time, and then I became an assistant U.S. Attorney in the

4 Southern District of California.

5 Following that, I took a role back here in D.C. at the computer crime and

6 intellectual property section as senior trial counsel, and then I joined Google in 2017 as

7 corporate counsel. And at Google, I was promoted to senior counsel at some point and

8 then director.

9 Q And since 2017 until today, have you been with the same team?

10 A So I was first hired to a team called the Law Enforcement and Information

11 Security, or LEIS. That team was disbanded, and my team, security legal, became a team

12 in 2022.

13 Q In 2022?

14 A Yes.

15 Q Thank you.

16 And your current team was the exact same team as before and just renamed, or

17 did folks move about as part of that transition?

18 A Folks moved about. LEIS was the larger team and was divided, roughly, in

19 half, and one half was now security legal.

20 Q So prior to this 2022 transition, what were your responsibilities as part of the

21 law enforcement information security team?

22 A I was first hired as corporate counsel, and my primary role was to advise the

23 operations or compliance team in relations to third-party user data requests. This

24 would be things like subpoenas and search warrants Google was receiving from law

25 enforcement in the United States.

1 Q And did you do that both as corporate counsel and as senior counsel?
2 A Yes.
3 Q When did you become director?
4 A November of 2022.
5 Q And was this after the transition had taken place?
6 A Yes, soon after.
7 Q Who was head of LEIS?
8 A When I was hired, the director of LEIS was [redacted].
9 Q And at the time of the transition?
10 A He was still the director but soon left Google soon after.
11 Q And during your period with LEIS, 2017 to 2022, is this for the -- all of
12 Alphabet or only Google or certain products or services?
13 A Primarily Google.
14 Q And when you say primarily Google, would that include YouTube?
15 A Yes.
16 Q How big was the LEIS team?
17 A When I was hired, I would say it was approximately -- there were
18 approximately six attorneys and then some investigators operations. I want to say in
19 total approximately 20.
20 Q When you say "investigators," what were some of the issues that they would
21 be investigating as part of the team?
22 A They would investigate things such as like ad fraud or abuse of Google
23 products.
24 Q Did the -- actually, let me take one step back.
25 Are you familiar with the terms "misinformation," "disinformation," and

1 "malinformation"?

2 A Very generally. It's not an area of expertise.

3 Q To the extent you have an understanding, what is your understanding of the

4 differences between those three terms?

5 A I don't think I can accurately discern the three. I think of them collectively

6 as fake information on the internet.

7 Q Was there any aspect of the LEIS team that dealt with, we'll say, fake

8 information, false information as part of the team's responsibilities?

9 A My primary duties were advising the compliance team on user data

10 requests. It's possible that -- what time period are we talking about right now?

11 Q 2017 to 2022.

12 A So at the time, [redacted] advised TAG, the threat analysis group, and was

13 also involved in, I believe, some election information issues.

14 Q And where does the -- I think you said TAG. Threat Analysis Group. Is

15 that right?

16 A Yes.

17 Q Where does TAG fit in relation to the LEIS team during this --

18 A They are a security engineering group, and LEIS advises them as attorneys.

19 Q And as part of your responsibilities, did you interact with TAG?

20 A I do now, yes.

21 Q Did you in the LEIS team?

22 A Kind of towards the tail end, yes, and very little at that time.

23 Q In addition to [redacted], do you recall anyone else on the LEIS team who

24 dealt with election information issues?

25 A No.

1 Q Are you familiar with a company called Mandiant?
2 A Yes.
3 Q And what is it?
4 A It's a cybersecurity company that Google acquired.
5 Q And when did the -- to your understanding, when did the company acquire
6 Mandiant?
7 A I don't remember an exact date. Sometime last year.
8 Q And for the security legal team, post transition, were there multiple teams
9 that came out of the transition or was it --
10 A Two teams.
11 Q Two teams? What was the name of the other team?
12 A Data disclosure strategy.
13 Q And at a high level, can you say the differences of the scope and
14 responsibilities for security legal, as opposed to the data disclosure strategy team?
15 A Yes. Data disclosure strategy advises the operations or compliance teams
16 on third-party user requests. So again, the subpoenas and search warrants. Security
17 legal advises teams on security issues, cybersecurity, physical security, some parts of user
18 security.
19 My team also has a group of investigators that do law enforcement referrals on
20 behalf of Google.
21 Q And as director, what do your day-to-day responsibilities look like?
22 A I sit in a lot of meetings. Practically, I manage this team of lawyers and
23 investigators.
24 Q And how big is your team right now?
25 A I believe it's 19 people.

1 Q Do you have a primary deputy or anyone assisting you?

2 A No.

3 Q So the other 18 or 19 folks report to you?

4 A Oh, the attorneys all report to me. There is five of them. And then the

5 investigators, there is -- one of my reports manages them, and they have submanagers as

6 well.

7 Q Who is the individual who reports to you that manages the investigators?

8 A [redacted].

9 Q Did you work with -- of the 18, 19 folks, did you work with any of them

10 previously at LEIS?

11 A Some of them.

12 Q And do you recall when last year, like which month this transition took

13 place?

14 A In May.

15 Q During your time at the company, do you interact with the government

16 affairs and public policy team?

17 A Yes.

18 Q And what's the nature of your interaction with that team?

19 A They do our policy work, and so, if there are new laws coming up,

20 particularly cybersecurity laws, often they are flagging for us, so we will flag for them.

21 Q And who on that team is your primary point of contact?

22 A [redacted].

23 Q And do you know who leads that team?

24 A The head of policy?

25 Q Yes.

1 A I believe his name is [redacted].

2 Q If there are issues -- this might apply more to YouTube than other products,

3 but maybe others as well, with concerns regarding inauthentic accounts and behavior,

4 would that fall under your team's responsibility?

5 A Could you explain what you mean by inauthentic behavior?

6 Q In the kind of broader sense of content moderation, the tech companies will

7 handle it. Some will make a distinction between actor and behavior base, as opposed to

8 content base. With respect to actor or behavior base, would issues related to that fall

9 under your team's responsibility?

10 A Not generally.

11 Q Do you know which team would generally be responsible for that?

12 A We have an organization called trust and safety.

13 Q And to your knowledge, who leads that team?

14 A [redacted].

15 Q During your time at Google, have you interacted with the trust and safety

16 team?

17 A Yes.

18 Q And what is the nature of your interactions?

19 A They do abuse operations, and so, if they see large abuse behavior, they may

20 flag for my team to potentially do a law enforcement referral.

21 Q To your understanding, does the company have policies related to a

22 potential hack-and-leak operation?

23 A I am not aware.

24 Q With respect to concerns related to a form line influence campaign, which

25 team would have primary responsibility for issues related to that?

1 A Responsibility for?

2 Q Handling issues related to concerns of if a form line influence campaign was

3 taking place, could take place?

4 A I would say either the threat analysis group or trust and safety.

5 Q Do you have any familiarity with YouTube's community guidelines?

6 A I know they have them, yes.

7 Q As part of your job responsibilities, do you have any familiarity other than

8 awareness that they're out there?

9 A Not particularly.

10 Q Do you have any interactions with Google search ranking team?

11 A No.

12 Q As part of your responsibilities, both with LEIS, and now in your current role

13 as director of security legal, what interactions do you have with the U.S. Government?

14 A I interact with law enforcement from time to time and at other times,

15 perhaps, other regulators, but --

16 Q And when your team is interfacing with the Federal Government, are you

17 the primary point of contact?

18 A One of them, yes.

19 Q Who else on the team serves as a primary point of contact?

20 A Depending on the issue, any member of the team could be interacting with

21 government or law enforcement.

22 Q How are responsibilities divided within your team?

23 A My attorneys handle different portfolios. So some work on cybersecurity

24 issues, others work on physical security issues, child safety issues. And then the

25 investigations teams break up into digital crimes, imminent threats, child safety, and

1 hardware investigations.

2 Q In an earlier answer, you mentioned that it was your understanding that

3 [redacted], among his other responsibilities, would handle election information issues.

4 Is that right?

5 A Yes.

6 Q And you said that [redacted] left the company last year?

7 A Yes.

8 Q To your understanding, who handled that segment of his portfolio following

9 his departure?

10 A He transitioned contact with law enforcement on those issues to me.

11 Q Which Federal Government agencies are you in touch with related to

12 election information issues?

13 A The FBI.

14 Q Any others?

15 A And DHS.

16 Q Within DHS, do you know which subagency?

17 A I believe it's CISA.

18 Q And just so we're on the same page, what is CISA?

19 A I'm blanking on what it stands for, but it's their, like, internet arm.

20 Q If I represented that it was the Cybersecurity and Infrastructure Security

21 Agency, would that sound right?

22 A Yes.

23 Q In addition to the FBI and CISA, are there any other Federal agencies that

24 you recall working with?

25 A On election issues?

1 Q On election issues, yes.

2 A No.

3 Q Is there anyone else on the legal security -- on the security legal team that

4 works on election information issues?

5 A Other attorneys may, at times, step in, yes.

6 Q Is there any attorney, in addition to you, that has most frequently worked on

7 these issues?

8 A One of my attorneys, [redacted].

9 Q And before [redacted] left the company and had you transition, take over

10 this part of the portfolio, what familiarity did you have with his work on election

11 information issues?

12 A Very little.

13 Q To your understanding, what types of issues fall within the scope of election

14 information issues?

15 A Sorry. Can you specify?

16 Q Sure.

17 So if I understood your previous responses correctly, first [redacted], and then

18 you, following his departure work on election information-related issues. What types of

19 issues fall into that category?

20 A It was primarily helping set up meetings with the FBI's Foreign Influence Task

21 Force.

22 Q And what is the Foreign Influence Task Force?

23 A It is a FBI task force focused on foreign influence.

24 Q Does it have a focus on election-related issues, or can it touch upon

25 anything?

1 A I think on anything.

2 Q Who is your primary point of contact in the government with respect to the

3 Foreign Influence Task Force?

4 A An FBI agent named Elvis Chan.

5 Q Prior to taking over [redacted] portfolio on this set of issues, had you had

6 interactions with Agent Chan?

7 A Yes.

8 Q And what was -- at a high level, what was the nature of those interactions?

9 A Elvis serves as our primary point of contact with the FBI, and so an example

10 would be if we were sending a law enforcement referral on a matter, and they contacted

11 Elvis to ask which office was most appropriate, or if he would receive it.

12 Q And so in your current role, do you work with Agent Chan in other context in

13 addition to the Foreign Influence Task Force?

14 A Yes.

15 Q Did you have familiarity at all with the Foreign Influence Task Force prior to

16 taking over [redacted]'s portfolio related to election information issues?

17 A Very little.

18 Q So in addition to setting up meetings and having meetings with the Foreign

19 Influence Task Force, what else falls within the scope of election information issues that

20 you work on?

21 A For what I've done, that was primarily it.

22 Q Is there anything else that comes to mind?

23 A Other than those meetings? In the FBI, not particularly.

24 Q With respect to election information issues and your responsibilities

25 handling that portfolio, did it change in the lead-up to the 2022 U.S. midterm elections?

1 A Not particularly.

2 Q So as a percentage of your workload, was it relatively consistent

3 pre-midterm elections up until today, summer of 2023?

4 A Yes.

5 Q How frequently do you meet with the Foreign Influence Task Force?

6 A I believe they meet quarterly.

7 Q And when these meetings occur, is it just Alphabet and the Foreign Influence

8 Task Force, or are there other --

9 A Just Google and the Foreign Influence Task Force.

10 Q To your understanding, does the Foreign Influence Task Force have similar

11 meetings with other tech companies?

12 A I don't know.

13 Q And since you took over last year, have the meetings, in fact, occurred on a,

14 roughly, quarterly basis?

15 A Yes.

16 Q And are they ongoing today?

17 A Yes.

18 Q Who else from Google attend these meetings?

19 A We typically have representatives from the threat analysis group and my

20 team. That's usually the attendees.

21 Q Who from the threat analysis group usually attends these meetings?

22 A The director of TAG, is what we call it, is [redacted], and he may have

23 analysts or engineers come.

24 Q And for your team, who primarily attends these meetings?

25 A [redacted], myself sometimes.

1 Q Sometimes?

2 A Sometimes, yeah.

3 Q And do you have a ballpark sense of how many you've attended?

4 A As a ballpark, maybe three.

5 Q At a high level, can you say what occurs at these meetings? Is it the

6 company sharing information with the FBI? Does the FBI share information with the

7 company?

8 A It's typically the FBI sharing information with Google.

9 Q Does Google ever provide information to the FBI?

10 A Sometimes, yes.

11 Q The meetings you have attended or have knowledge of, what has been the

12 subject matter of the meetings?

13 A Disinformation campaigns by nation states.

14 Q Do you recall any government personnel other than the FBI attending these

15 meetings?

16 A No.

17 Q Have these meetings typically occurred via Zoom or video conference? Are

18 they in person?

19 A We've had both.

20 Q When they occur in person, whose office are they in?

21 A At Google.

22 Q For the meetings that you attended or have familiarity of, how many FBI

23 representatives typically attend one of these meetings?

24 A Approximately, 10.

25 Q And to the extent you have knowledge of this, are all 10 affiliated with the

1 task force, or are they elsewhere in the FBI?

2 A I believe all affiliated with the task force.

3 Q For the meetings you've attended or have familiarity with, has Agent Chan

4 attended all of them?

5 A I believe so.

6 Q Is there a primary person that helps facilitate the meetings or, you know,

7 leads the meetings?

8 A The FBI comes in teams of China or Russia, and they will go around sharing

9 information.

10 Q With respect to issues related to disinformation campaigns by foreign states,

11 you said there were two teams that are at these meetings, TAG and your team. Of

12 those two teams, which team generally has primary responsibility?

13 A For coordinating, we will help coordinate, substantively TAG.

14 Q In advance of one of these meetings, will you or anyone from your team

15 meet with [redacted] or anyone from his team?

16 A About?

17 Q In advance of the meetings if you're preparing for them. Or you said

18 sometimes Google will share information.

19 A Often to arrange calendars, see when people are available. Nothing comes

20 to mind substantively, no.

21 Q During the meetings, to your knowledge, does anyone from the company

22 take notes?

23 A Not that I know of.

24 Q And to your knowledge, does anyone, whether within the company or at the

25 FBI, circulate meetings minutes or similar output after a meeting has occurred?

1 A Not that I can recall.

2 Q Have you had substantive discussions with [redacted] or anyone on his

3 team regarding any potential do-outs following one of these meetings?

4 A Nothing that I specifically remember.

5 Q When it comes to identifying -- let me strike that.

6 Do you have familiarity with the term "attribution" in this context?

7 A Yes.

8 Q And to your understanding, what is it?

9 A Identifying who an actor is on the internet.

10 Q When it comes to disinformation campaigns by foreign states, what degree

11 of difficulty is there when it comes to attribution?

12 A I don't know specifically.

13 Q Who at the company would be in the best position to answer that question?

14 A TAG.

15 Q And would that include [redacted]?

16 A Yes.

17 Q Do you recall any discussions with [redacted] or anyone on his team

18 regarding difficulties related to attribution, specifically difficulties determining domestic

19 versus foreign?

20 A No.

21 Q During meetings with the Foreign Influence Task Force, do you recall any

22 similar discussions, the difficulties of attribution and, specifically, the difficulties related

23 to foreign versus domestic?

24 A Not that I remember.

25 Q How do you communicate with the Foreign Influence Task Force in addition

1 to these meetings?

2 A Via email.

3 Q Anything else besides email?

4 A Maybe I'll talk to Elvis on the phone, but it's primarily email.

5 Q Are there any Signal channels between you and the FBI?

6 A Just us specifically?

7 Q Yes.

8 A No.

9 Q What about with others?

10 A There are -- there is an industry group for election integrity, and they use the

11 signal channel.

12 Q And for the industry group, does the signal channel include the government?

13 A There are two channels, one with the government, I believe, and one

14 without.

15 Q And are you on either of these signal channels?

16 A I am now on both.

17 Q And are both channels active, being used right now?

18 A They are active in the sense that you can send a message. They are not

19 particularly active in traffic.

20 Q We'll start with the one with the government. To the extent you have a

21 recollection, when was the last time someone posted or sent a message in that channel?

22 A I don't remember.

23 Q Any this year?

24 A I don't remember specifically, but probably.

25 Q And for the channel without the government, do you recall when the last

1 time someone sent a message in that channel?

2 A I don't, but I'll say this year.

3 Q To your knowledge, who else from the company is on either channel?

4 A [redacted], and I believe -- that's the only person at Google I'm sure of.

5 Q Do you ever send messages in either channel?

6 A I don't think I ever have.

7 Q To the extent you can recall, when did you join both channels?

8 A Right before [redacted] left Google.

9 Q And [redacted], to your understanding, was on both channels?

10 A Yes.

11 [redacted] This is exhibit 1.

12 [[redacted] Exhibit No. 1

13 Was marked for identification.]

14 BY [redacted]

15 Q So you're added at the very end of this email chain and copied on. Do you

16 have any recollection of being added to this email chain?

17 A Vaguely.

18 Q And the email is dated June 24, 2022. Is this consistent around the time

19 you were taking over part of [redacted] portfolio?

20 A Yes.

21 Q Do you know who [redacted] is?

22 A I don't.

23 Q Do you recall any interactions with her since the date of this email?

24 A I can't remember if we actually created a one-pager or not.

25 Q In the title of her email address, she identifies as being on the mis-, dis-, and

1 malinformation team at CISA. To your understanding, what is that team?

2 A I don't know.

3 Q Have you had any interactions with anyone else on the MDM team at CISA?

4 A Not that I'm aware of.

5 Q Do you recall any discussions with [redacted] regarding his interactions

6 with CISA?

7 A I don't.

8 Q When we were -- earlier in the hour, you had identified the FBI and DHS as

9 two government agencies, and then CISA as the subagency within DHS you had had

10 interactions with. To the extent you have recollections, what happened in your

11 interactions with CISA since, we'll say June of 2022?

12 A On election interference?

13 Q Yes.

14 A They are also on that industry group I mentioned, and that would be all.

15 Q And when you say the industry group, are you referring to the signal

16 channel?

17 A Yes. And then they hold a call on occasion.

18 Q So to your understanding, on the signal channel, there are -- the one with

19 the government, there are individuals from the FBI and individuals from CISA?

20 A I believe so.

21 Q Do you know who from CISA?

22 A No.

23 Q How frequently do the calls with CISA occur?

24 A So I don't -- it's not just CISA. The industry call, I believe, is quarterly and

25 then cadence can change based on what people want.

1 Q And when did you first begin attending these industry calls?

2 A I don't remember exactly, but I believe my first call was right around this

3 time period before [redacted] left.

4 Q To your recollection, how many of these industry calls have you attended?

5 A Two, maybe three.

6 Q And does anyone else from your team, the security legal team, attend these

7 calls?

8 A No.

9 Q Do you know who else from Google attends these calls?

10 A [redacted], and then, I believe, members from trust and safety also join.

11 Q Who from the trust and safety team has joined these calls?

12 A I believe it's [redacted].

13 Q And who is [redacted]?

14 A He's a trust and safety -- I don't know his exact title.

15 Q Do you have interactions with him as part of your job?

16 A Not often.

17 Q On the few occasions it does occur, what's the context for those

18 interactions?

19 A In relation to elections. I believe his work involves election security.

20 Q And just to clarify, are these interactions other than being on the same

21 industry call?

22 A Or inviting him to it, yes.

23 Q And for the interactions other than the industry call or any kind of just

24 logistics of getting everyone on the call, what's the nature of these -- of your interactions

25 with [redacted]?

1 A They would be in relation to elections.

2 Q Okay. Is he providing you information or you providing him information?

3 A Not really one way or the other.

4 Q I guess a different way of phrasing the question is what requires the security

5 legal team to interact with the trust and safety team?

6 A On election security?

7 Q On election security.

8 A There is very little interaction.

9 Q And on the few occasions it does, what sort of examples of --

10 A You know, asking if someone is going to be on this call. I believe if they had

11 information, that at times they may have shared things, but there isn't that much.

12 Q If your two teams are, what it sounds like, focused on different sets of

13 issues, are the -- is the subject matter of the industry calls broad? Are there a number

14 of topics?

15 A No. I believe they're related to election security and integrity.

16 Q With the understanding that you started joining these calls only last

17 year -- actually, let me strike that first.

18 On these calls, is it the government providing information to industry, or industry

19 providing information to the government?

20 Mr. Bopp. When you say these calls, just so the record is clear, what calls are

21 you talking about now?

22 BY [redacted]

23 Q The industry calls with CISA and others.

24 A I believe it's primarily the government sharing information.

25 Q And to your understanding, does -- do industry representatives on the call

1 ever share information with the government?

2 A I believe they have, yes.

3 Q And do you recall anyone from Alphabet, from Google, presenting

4 information on one of these calls?

5 A Not specifically to the government, no.

6 Q And have you ever presented on one of these calls?

7 A No.

8 Q When the government is sharing information, with the understanding that

9 you joined these calls only last year, to which team at the company is the information

10 usually the most relevant to?

11 A To TAG.

12 Q [redacted] team?

13 A Yes, or trust and safety.

14 Q So would you say your team is kind of the third most relevant?

15 A We're the other team on the call.

16 Q Fair enough.

17 Are these calls ongoing?

18 A I believe so.

19 Q Independent of this email chain and the one-pager discussed by CISA with

20 [redacted], do you recall any other similar projects or tasks that your team has been a

21 part of?

22 A I don't.

23 [redacted] We can take these exhibits back.

24 BY [redacted]

25 Q In the context of your communications with Agent Chan and the Foreign

1 Influence Task Force, have you ever received Teleporter links?

2 A I have.

3 Q And what are those?

4 A It is the file sharing system the FBI uses.

5 Q And is Teleporter used just by the Foreign Influence Task Force, or is it used

6 by other teams and task forces within the FBI?

7 A I believe others use it, too.

8 Q With respect to who you have received Teleporter links from, has it only

9 been Agent Chan and the Foreign Influence Task Force?

10 A No. I would say Agent Chan or other agents that work with him. I don't

11 know if they are part of the Foreign Influence Task Force or not.

12 Q Do these Teleporter links contain, at a high level, contain information related

13 to election-related issues at all?

14 A Not that I remember specifically.

15 Q The Teleporter links that are being sent, the subject matter, is it similar to

16 the subject matter that is discussed during the calls between -- in the meetings between

17 Google and the Foreign Influence Task Force?

18 A I believe sometimes, but not always.

19 Q What are some of the additional topics or areas?

20 A Hacking campaigns by nation states.

21 Q What is Google's protocol for handling these Teleporter links?

22 A They typically come to either [redacted] or myself. One of us will download.

23 If I download, I will forward on to [redacted] and to TAG.

24 Q And then once it's downloaded, is there -- are there any other steps

25 regarding maintaining a written record of what happens next?

1 Mr. Bopp. I'm not sure I understand the question. So you're saying
2 post-download, does [redacted] group, or are we talking about just generally does he know
3 if there are any steps that are then taken with the Teleporter information by Google?
4 BY [redacted]
5 Q Yeah, so the first question will be with respect to standard protocol, and
6 then we'll ask the same questions as far as how it actually plays out.
7 A So I forward it on to TAG. I don't know what specifically TAG does with it
8 after.
9 Q Are there ever links that you don't need to forward on to TAG?
10 A No. I send them all.
11 Q Are there links that require work from your team?
12 A Not that I can recall specifically. I can't think of a specific time. Typically,
13 we would send it on. I guess if they had a question, they would ask us, but nothing is
14 coming to mind.
15 Q In an earlier answer, you said either you or [redacted] would download the
16 links. Did I hear that correctly?
17 A Yes. I think we're typically the two they send it to.
18 Q So to your understanding, you two serve as the points of contact for the
19 company, but generally, the Teleporter links are most relevant to [redacted] team. Is
20 that correct?
21 A That's correct.
22 Q To the extent you have knowledge, do the Teleporter links ever include in
23 the body of whatever is in the Teleporter message, links to YouTube or any content that's
24 hosted by Alphabet?
25 A I believe at times they have, yes.

1 Q And to the extent you can remember, when there are links to YouTube, what
2 is the context of why the government is sending along those specific links?
3 A I don't remember specifically. I assume it ties to a nation state or foreign
4 actor.
5 Q When -- let me take a quick step back.
6 These Teleporter links, are they sent via email?
7 A Yes.
8 Q And who from the government is most frequently the sender?
9 A Elvis.
10 Q And when Agent Chan sends the links, does the company follow up with
11 respect to the information received?
12 A Follow up with who?
13 Q With Agent Chan.
14 A We will confirm receipt often. I think they may be able to just see it on
15 their end as well.
16 Q Has Agent Chan ever followed up on specific links to see if any action was
17 taken?
18 A Not that I remember.
19 Q To your knowledge, is Agent Chan in contact with [redacted] at times
20 independent of you?
21 A Not that I'm aware of. I guess I wouldn't be aware, though.
22 Q Are there -- let me restart that question.
23 Are you familiar with the Foreign Influence Task Force, FITF Global?
24 A Is that a separate entity from -- I think my answer here then is no.
25 Q Okay.

1 [redacted] Just for the record, this will be exhibit 2.

2 [[redacted] Exhibit No. 2

3 Was marked for identification.]

4 BY [redacted]

5 Q So first question, this email is dated February of 2022. I don't know if

6 we've covered this previously. When did you first start, to your recollection, attending

7 meetings with the Foreign Influence Task Force?

8 A I don't remember, but my guess would be sometime in 2022.

9 Q And it's sent to [redacted], to you, and to [redacted], and we spoke about

10 both of the other gentlemen there. Does this document refresh your memory at all with

11 respect to what the FITF Global unit is?

12 A Not at all.

13 Q To your understanding, are there multiple units within FITF?

14 A As I mentioned before, I think of them as broken up by, like, country. So a

15 group that's focused on Russia, maybe a group that's focused on China, North Korea, et

16 cetera.

17 Q And then other than those geographic distinctions, do you recall any other

18 distinctions within the task force?

19 A I don't.

20 [redacted] We can take these back.

21 BY [redacted]

22 Q In this context and in the context of engagements with the FBI, do you know

23 what the acronym GSRS stands for?

24 A Is that a Google acronym or an FBI acronym?

25 Q I believe it's a government acronym. We'll introduce an exhibit to try to

1 refresh your memory, but wanted to see if you had knowledge independent.

2 A Let's go ahead and look at an exhibit.

3 Q Okay.

4 [redacted] This will be exhibit 3.

5 [[redacted] Exhibit No. 3

6 Was marked for identification.]

7 BY [redacted]

8 Q Ready?

9 Now that you've had a moment to review, in this context, do you know what

10 [redacted] is referring to by GSRS?

11 A Yes. GSRS is the acronym for Google's security organization. So it's a

12 Google acronym.

13 Q And by Google security organization, is that an internal Google team or a

14 security organization that Google hires?

15 A An internal Google team.

16 Q And in relation to your team and TAG, where does GSRS fit?

17 A Earlier I mentioned that we counsel physical security. GSRS's broad mission

18 is security of physical security, Google or Google campuses.

19 [redacted] We can take these back.

20 Mr. Bopp. Is this a good time for a break?

21 [redacted] We've got just a couple minutes left so.

22 [[redacted] Exhibit No. 4

23 Was marked for identification.]

24 BY [redacted]

25 Q Do you recall why Agent Chan was asked about Mandiant?

1 A Yes.

2 Q And what was the reason?

3 A It seems he read something that Mandiant had published and was asking if

4 there was a law enforcement referral that would accompany it. This was

5 post-acquisition of Mandiant, and I think he was reaching out, wondering if my team was

6 working with Mandiant in this regard.

7 Q Was your team working with Mandiant?

8 A No.

9 Q Do you know if Agent Chan has -- had direct contact with the folks on the

10 Mandiant team?

11 A I don't know.

12 Q Other than this particular report and incident, do you recall if Agent Chan

13 has had questions about Mandiant and its work since it's been acquired by the company?

14 A Nothing that I remember specifically.

15 Q Does Mandiant work with TAG?

16 A Yes.

17 Q Do you know how frequently they work together?

18 A I don't.

19 Q Do you know who leads the Mandiant team right now?

20 A I'm going to blank on the CEO's name. Charles Mandiant. Is that his

21 name?

22 Q And how frequently does your team interact with Mandiant?

23 A On occasion.

24 Q And to your recollection, in meetings with the Foreign Influence Task Force,

25 have representatives from Mandiant ever attended?

1 A I'm sorry. Could you repeat that again?

2 And I think, also, his name is Kevin Mandiant.

3 Q Okay.

4 To your recollection, in meetings between Google and the Foreign Influence Task

5 Force, in addition to the Google representatives, have there been representatives from

6 Mandiant on any of these calls?

7 A Not that I know of.

8 Q Okay.

9 [redacted] Can we go off the record please.

10 [Recess.]

1

2 [11:15 a.m.]

3 BY [redacted]

4 Q Good morning, again.

5 A Good morning.

6 Q I'm going to ask just a couple of brief background questions. You

7 mentioned that you worked for the U.S. Department of Justice, computer crimes and

8 intellectual property section in the past. Is that correct?

9 A Yes.

10 Q And your role there was senior counsel, or you were also in another position

11 as well?

12 A I want to say I was hired as senior trial counsel, but maybe the title change

13 came while I was there. I don't recall exactly.

14 Q Do you remember how long you worked there?

15 A Just under 3 years.

16 Q And what kind of work did you do in that capacity?

17 A I prosecuted computer crime and intellectual property cases.

18 Q Was that a civil service position or a political appointment?

19 A Civil service.

20 Q Have you ever held a political appointment in the Federal Government?

21 A I have not.

22 Q All right. In your current role at Google as director security legal, you're not

23 personally involved in any content moderation decisions; is that fair to say?

24 A That is correct.

25 Q And in your current role, you're not personally involved in any fact-checking

1 of content?

2 A That's correct.

3 Q Have you ever been involved in setting content moderation policy for

4 Google, Alphabet or YouTube?

5 A In relation to, like, election integrity, things of that sort?

6 Q First, just generally, like would you -- have you been involved in setting

7 content moderation polity for the company?

8 A For a team perspective, one of the topics we advise on is child safety. And

9 so when it comes to child sexual abuse media, or CSAM, we do advise, and it's treated as

10 contraband. There's a law prohibiting things of that sort.

11 Q So you advise internally on content moderation policy that has to do with

12 child sexual abuse material; is that --

13 A My team does, yes.

14 Q Okay. Any other subjects other than child sexual abuse material?

15 A The team also covers like nonconsensual exploitive imagery, or NCEI.

16 Q Can you just generally explain what that means?

17 A It's colloquially referred to as revenge porn.

18 Q Is that also prohibited by law?

19 A In some countries, yes.

20 Q Any other subject matter that you would advise Google, Alphabet, or

21 YouTube on with respect to content moderation policy other than those two?

22 A For the moderation or removal of it?

23 Q Exactly.

24 A Not that comes to mind.

25 Q Okay. Have you ever played any role in the development of Google's

1 community guidelines or its terms of service?

2 A No.

3 Q And have you ever played a role in deciding whether a particular content on

4 the platform would be removed or downgraded?

5 A No.

6 Q Okay. I'm going to step back a little bit and talk broadly about what

7 I -- questions about Google's sort of core mission, if you know as an executive in the

8 company.

9 Would you agree that Google's core mission as a corporation is to help people

10 around the world find information that they're seeking?

11 A Yes.

12 Q In your current role as director legal -- security legal, sorry, do you work to

13 advance that mission?

14 A Yes.

15 Q And could you say in your own words generally how you do that in your

16 current role?

17 A Broadly speaking, we, you know -- the security of the company itself and the

18 data it handles and compliance with laws around the world regarding that goes towards

19 protecting both the company as well as our users. When it comes to the protection of

20 users themselves, helping stop scams or crimes, things of that sort, allowed individuals to

21 use the platform to get the information. And so we want users to feel safe or secure in

22 using our products and services.

23 Q And would you say that allowing or creating that space where Google can be

24 used without harm to users is in the economic interest of Google?

25 A Yes.

1 Q And that's partly your job as an executive at Google is to advance that
2 interest?
3 A Yes.
4 Q I'm going to ask you generally about some threats to Google's platform. I
5 don't know if this is within your responsibilities, so please tell me if it's not. But in your
6 role currently at Google, do you have any responsibility with respect to concerns about
7 the security of Google's networks and platforms generally, and by that, I mean the
8 physical security of those networks and platforms?
9 A Yes.
10 Q And what is your role with respect to maintaining that security?
11 A We advise engineering or security teams in their work protecting our
12 platform.
13 Q Okay. And what's an example of a physical threat to your platform?
14 A If somebody was to break into our offices to steal things.
15 Q Okay. Other than giving advice to your engineering team, do you have any
16 other role in attempting to mitigate this type of threat?
17 A When you say this type of threat, you mean the physical threat?
18 Q I mean -- yes. The one we just spoke of.
19 A Physical threats primarily just advice.
20 Q Okay. Another type of threat, malicious actors attempting to hack a Google
21 account -- a Google user's account. Is this the type of threat that in your role at Google,
22 you have a concern for?
23 A Yes.
24 Q And what, if anything, do you or your team do to mitigate that threat?
25 A Again, we provide legal advice to security teams, engineering teams that

1 protect our platform.

2 Q Are you concerned in your role with Google platforms or accounts being

3 used to commit a crime?

4 A Yes.

5 Q And what, if anything, do you do to mitigate that threat?

6 A So my investigation teams will look into this activity, and if appropriate, we

7 may either file a civil suit, lawsuit, or provide a referral to law enforcement so that they

8 can further investigate.

9 Q Okay. How about a threat that I would characterize as a malicious actor

10 attempting to manipulate the Google platform, or an account through coordinated

11 inauthentic behavior? Is that the type of threat that you would be concerned with in

12 your role?

13 A Just generally speaking, but the work here would be done by TAG.

14 Q Okay. Can you -- are you familiar with the term coordinated inauthentic

15 behavior?

16 A At a very high level.

17 Q Okay. From your perspective, what does that mean?

18 A That a group of actors are working together to present false information.

19 Q And I think you've said this, but that type of threat is normally addressed by

20 the TAG team. Is that fair to say?

21 A Yes. TAG, or trust and safety.

22 Q Okay. Do you know if Google has its own means of detecting coordinated

23 inauthentic behavior, I mean, internally?

24 A Yes. I mean, if we're using coordinated inauthentic behavior to mean,

25 again, like foreign actor groups, yes. TAG investigates those groups.

1 Q And when I say, or ask if they have an internal means of detecting that type
2 of behavior, I'm asking if it's possible for Google to detect that behavior without it being
3 referred from an outside source like law enforcement?
4 A Yes.
5 Q Okay. And sometimes, does Google internally find those type of
6 coordinated inauthentic behaviors?
7 A Yes.
8 Q And I understand this is not your role in particular to deal with this kind of
9 behavior. Is that fair to say?
10 A To detect it myself, no.
11 Q Well, once it's detected, do you have any role in addressing it?
12 A Not typically.
13 Q Okay. You spoke in the first hour about different types of interactions that
14 you have with U.S. government agencies, like the Department of Justice, the Federal
15 Bureau of Investigations, and CISA.
16 Can you just step back outside a little bit, and in your own words, describe when
17 do you interact with those agencies?
18 A I primarily interact with the U.S. Department of Justice and the Federal
19 Bureau of Investigation. I don't personally interact with DHS very often. And most of
20 my interactions are related to abuse of our platform in a criminal context, and the
21 referrals that we may be giving.
22 Q So in that respect, can you give an example of what type of things that
23 you're doing in abuse of the platform?
24 A For example, last year, if we detect, you know, users perhaps operating a bot
25 net, or committing ad fraud on our platform, and we can identify who those individuals

1 are, as well as a criminal violation, beyond just the abuse of our platform, we will refer
2 that to law enforcement with the hope that they will further investigate.
3 Q Okay. So fair to say that internally in those examples, Google has identified
4 some behavior like ad fraud, for example, and someone on your team, or in a Google
5 team somewhere decides that that may be a criminal violation, and therefore, they're
6 going to make a referral; is that fair to say that's how you would respond?
7 A Yes.
8 Q Okay. Even -- I mean, let's say the example of ad fraud, it's possible that
9 what you find or what the team finds might not be a criminal violation, but it might also
10 separately violate your own terms of service or your community standards; is that fair to
11 say?
12 A Yes.
13 Q And so Google could deal with that in its own internal processes; is that
14 right?
15 A Yes.
16 Q So the law enforcement referral may or may not happen, but it's a different
17 track; is that fair to say?
18 A Yeah.
19 Q What I mean is, like if you come across a type of behavior on your
20 platform -- and I'm going to stick with your example of ad fraud that you brought up,
21 something that you think constitutes ad fraud, that behavior may separately violate some
22 internal community standard, or terms of service of Google; is that fair to say?
23 A Yes.
24 Q And you would internally deal with that or somebody in Google would deal
25 with that by addressing the content based on your terms of service or your community

1 standards, right?

2 A Yes.

3 Q That same behavior might also violate a criminal law, correct?

4 A Yes.

5 Q But you don't make that determination, right?

6 A In the violation of criminal law, whether we should do a referral --

7 Q Well, you said that you make the referral; is that right, if you think it could

8 violate the criminal law?

9 A Yes.

10 Q But you don't decide whether -- you don't prosecute it, obviously, right?

11 A No.

12 Q So you have your internal processes that have to do with your community

13 standards or something internal, and then there's a separate process of law enforcement

14 referral that may happen outside of Google, right?

15 A The law enforcement referral would go from Google, and then law

16 enforcement would independently act on that, yes.

17 Q Okay. You interact with government agencies also for lawful access work,

18 like subpoenas and search warrants; is that right?

19 A I used to, yes.

20 Q But not any longer in your capacity in this job?

21 A Not typically, no.

22 Q Do you also interact with law enforcement agencies outside of the United

23 States in your current role?

24 A Yes.

25 Q Okay. You spoke in the first hour about specific interactions with the FBI's

1 foreign influence task force. Do you recall those questions?

2 A Yes.

3 Q All right. And I think you indicated that those were roughly quarterly

4 meetings that you've attended since you've been in your current position?

5 A I believe so, yes.

6 Q And specifically, you interacted with Special Agent Elvis Chan; is that right?

7 A Yes.

8 Mr. Bopp. Just one clarification, I don't believe [redacted] said that he's been

9 attending the meetings regularly, or since he got into his current position.

10 BY [redacted]

11 Q Okay. Could you clarify then? Since you've got into your current position,

12 have you been attending the foreign influence task force meetings regularly?

13 A I've gone to some.

14 Q Okay. In some of those interactions or meetings, you've interacted with

15 Special Agent Elvis Chan; is that right?

16 A Yes.

17 Q Okay.

18 [redacted] Could I have this marked as marked exhibit 5?

19 [[redacted] Exhibit No. 5

20 Was marked for identification.]

21 BY [redacted]

22 Q So this exhibit is marked exhibit 5. Take a second to look at it. This is not

23 your statement. It's a statement from Elvis Chan.

24 [Witness reviews the document.]

25 BY [redacted]

1 Q The only pages I've included in the exhibit are the first page to identify that
2 it's a deposition taken on Tuesday, November 29, 2022, in a civil lawsuit, and then
3 pages 32 and 33 and 34 have some statements that Mr. Chan made relating to his
4 interaction with social media groups like Google.
5 So let me direct your attention to page 32 of the exhibit, and I think you should
6 see the highlighting on there?
7 A Yes.
8 Q Okay. Just have a quick look at that and familiarize yourself with it, if you
9 would?
10 A Yes.
11 Q Thanks. Let me know when you had a chance to look at it.
12 A I'm ready.
13 Q So Special Agent Chan has described the purpose of the foreign influence
14 task force as periodic meetings with Google and other tech companies as sharing
15 information that Google can use to protect its platform as it deems appropriate.
16 Do you agree generally with Agent Chan that the purpose of those meetings
17 seems to be to share information generally so that Google can protect its platform as it
18 deems appropriate?
19 A Yes.
20 Q Okay. And if you would turn to page 34? Yeah. Sorry, we're skipping
21 over 33. Do you see the highlighted portion? There's two of them. Just take a look
22 at that really quick of the witness's statement.
23 A I'm ready.
24 Q Okay. Agent Chan has also stated that when the FBI provides information
25 to tech companies like Google, the expectation is that the company, quote, "can take

1 whatever actions they deem appropriate without any suggestion or interference from the
2 FBI," unquote.
3 Do you agree with this characterization of the FBI's information sharing practices
4 as they apply to Google?
5 A Yes.
6 Q On the same page, Agent Chan has testified that when the foreign influence
7 task force has identified suspected state-sponsored or state-controlled accounts, and
8 alerted Google to their suspicion, the decision to take down the account or not is
9 Google's, quote, "own choice and not result of any FBI direction."
10 In your experience is it true that the decision to take down such an account is
11 made by Google internally without direction from the FBI or any other government
12 actors?
13 A Yes.
14 Q In the prior hour -- we can take that back. Thank you.
15 In the prior hour, you were asked about some Teleporter links that you received
16 from the FBI's information-sharing or file-sharing system. Do you recall those
17 questions?
18 A I do.
19 Q Okay. Agent Chan has spoken about what he called tactical information
20 that he shared via Teleporter links with Google on occasion. And he described some of
21 that information, for example, as identifying specific accounts, or URLs, that the FBI had
22 concluded with high confidence are foreign originated accounts or URLs pretending to be
23 American.
24 Have you, personally, ever received any such tactical information from Agent
25 Chan?

1 A When you say personally, do you mean via Teleporter?

2 Q Yeah, that came to you in your current role at Google.

3 A I believe so, in the sense of information related to URLs or accounts.

4 Q Okay. Often this type of tactical information will include a statement from

5 the FBI, something to the effect of, we assess that these accounts are being controlled by,

6 for example, the internet research agency of Russia, or some other foreign

7 state-sponsored actor.

8 Do you ever recall receiving that kind of message with that kind of assessment

9 from the FBI?

10 A Generally. No specifics.

11 Q Okay. If you had received that, what would be your response?

12 A I would send it onto TAG.

13 Q Okay. And would you ever make any decision yourself in your position at

14 Google with respect to that account or information that had been flagged?

15 A No.

16 Q I'm sorry. Could you say that loud?

17 A Sorry. No.

18 Q Thank you. All right. In addition to the FBI and DOJ, you also mentioned

19 that you had a few interactions with CISA; is that correct?

20 A Yes, referring to the -- I believe they're in the industry calls.

21 Q Yes. And I think that you said, just to clarify, that your interactions with

22 CISA were pretty limited and limited to quarterly industry calls; is that fair to say?

23 A In this context, yes. And the email I was shown earlier, I believe was from

24 CISA.

25 Q Okay. And you estimated that your participation in these quarterly calls

1 that involve CISA maybe amounted to two or three total; is that fair to say?

2 A I believe so.

3 Q Okay. Is it fair to say that those calls were mostly on the subject of election

4 integrity and election security?

5 A Yes.

6 Q Have you -- well, also, the information that you received from CISA, if any,

7 during these meetings, is it fair to say that normally it would relate to time, place, and

8 manner information about the elections?

9 A I don't remember.

10 Q Okay. During your interactions with government officials, including CISA

11 officials, did anyone from the government ever demand that you or anyone at Google

12 remove any content on one of your platforms or shut down any user account?

13 A Not that I recall.

14 Q Okay.

15 [redacted] I'm going to mark this as exhibit 6.

16 [[redacted] Exhibit No. 6

17 Was marked for identification.]

18 BY [redacted]

19 Q I've marked as exhibit 6 a letter from the United States Department of

20 Justice to Chairman Jordan of this committee on the subject of DOJ's interaction with

21 social media companies. The letter was signed by Assistant Attorney General Carlos

22 Felipe Uriarte, and there's no date on here.

23 I'm going to direct your attention --

24 Mr. Bopp. Can you give us a minute to --

25 [redacted] Oh, yeah, of course. Take a minute.

1 Mr. Halse. There's a date on the signature line.

2 [redacted] Is it? I was looking for that earlier. The date for the letter is

3 June 21st, 2023.

4 [Witness reviews the document.]

5 BY [redacted]

6 Q Okay. Okay. [redacted], with respect to the DOJ and FBI, the Department

7 of Justice has publicly explained how it works with private companies like Google to share

8 information and to help Google prepare to detect illegal conduct on its platform. This

9 letter is marked as exhibit 6. The letter clearly states that with respect to content

10 moderation decisions, the social media companies with which DOJ and FBI interact are,

11 quote, "themselves have the responsibility and authority to make decisions based on

12 their own terms of service and how to apply those terms to protect their platforms and

13 users."

14 Do you have any reason to believe that this is not true?

15 A No.

16 Q In your experience at Google, do you agree with the statement that DOJ

17 allows Google to take responsibility and to exercise the authority to make content

18 moderations decisions itself?

19 A Yes.

20 Q The letter further states, quote, "engagement with social media companies

21 is critical to disseminate information about potentially ongoing criminal activities and to

22 share strategic and tactical information to help the companies identify national security

23 threats on their platforms."

24 In your experience in your role at Google, do you agree that such information

25 sharing is important to advance Google's interests?

1 A Yes.

2 Q The DOJ letter then broadly describes five categories of disinformation that

3 the FBI and DOJ have sought to share with social media companies. These include:

4 One, counter and foreign malign influence operations; two, election-related time, place,

5 and manner disinformation; three, combating terrorist use of social media platforms;

6 four, cyber criminal activities; and five, other crimes and security threats online.

7 We've talked with you previously in the other hour about foreign-maligned

8 influence operations. And with respect to that, DOJ has stated that it shares tactical

9 information with social media companies, including information like IP addresses, email

10 accounts, file hash values, in order to quote, assist a social media company's own

11 independent investigation into whether there is violation of its own terms of service.

12 In your experience, is that the type of information that is received from DOJ?

13 A Generally, yes.

14 Q And for the purpose of -- do you agree that the information seems to be

15 shared for the purpose of allowing Google to make its own independent investigation,

16 and to determine whether there's a violence of its own terms of service?

17 A Yes.

18 Q The DOJ further stated that the U.S. government does not, quote, "does not

19 direct or coerce companies to take any action with respect to users or accounts."

20 In your experience, is it true that the U.S. government does not, quote, "direct or

21 coerce companies to take any action," unquote?

22 A Yes.

23 Q The DOJ also stated that its decision to share information with the social

24 media platforms about a foreign maligned actor's social media activity, quote, "is not

25 based on the content or particular viewpoint expressed in the posting," unquote, but

1 instead is based on, quote, "on the conclusion that the account is part of a cohort effort
2 by a maligned foreign actor," unquote.
3 In your experience, does this appear to be true, that DOJ's information-sharing
4 practices are not based on the content of the information, but on the suspected covert
5 foreign actor's status as a covert foreign actor?
6 A Yes.
7 Q The DOJ letter talks with respect to election time, place, and manner
8 disinformation about the FBI or DOJ relaying tips about these type of disinformation posts
9 to social media companies, and that according to the letter, this information is shared in
10 order to make the social media platform aware that this information is being passed in
11 order to minimize the scope of harm to victims who might be misled by the information.
12 Again, the letter states that DOJ and the FBI, quote, "does not pressure or coerce
13 platforms into taking any action. The FBI relies on the platforms to take the actions they
14 deem appropriate under its terms of service," end quote.
15 Do you agree with that statement with respect to DOJ and FBI not coercing or
16 pressuring Google to take any action with respect to time, place, and manner of
17 disinformation?
18 A Yes.
19 Q And finally, the third category that we've discussed a little bit is cyber
20 criminal activity on social media platforms. With respect to that kind of information, the
21 DOJ letter states that the FBI may in some circumstances notify social media platforms of
22 spear-fishing, malvertizing, or other fraud enabling activities on their platforms. The
23 letter states that, quote, "the FBI's practice is not to pressure or coerce companies to take
24 any actions, and companies do not necessarily disclose to the FBI whether they took any
25 action on such fraud," end quote.

1 In your experience in your role at Google interacting with the FBI, is this true?
2 A Yes.
3 Q On the first page, there's a footnote on the letter that refers to a public
4 report from July 2, 2018. The report is titled, Attorney General's cyber digital task force,
5 and there's a large quote in that footnote.
6 The quote says, "The department maintains strategic relationships with social
7 media platforms that reflect the private sector's critical role in addressing the threat.
8 Social media providers have unique insight into their own networks and bear the primary
9 responsibility of securing their own products, platforms, and services. The FBI can assist
10 the providers' voluntary efforts to identify foreign influence activities and to enforce the
11 terms of service that prohibit the use of their platforms for such activities. This
12 approach is similar to the department's recent approaches in working with providers to
13 address terrorist use of social media and more traditional collaborate to combat child
14 pornography, bot nets, internet fraud, and other digital infrastructure" -- and sorry,
15 "other misuse of digital infrastructure. By providing information about potential
16 threats, the department can help social media providers respond to maligned use of their
17 platforms, identify foreign influence operations on those platforms, share information
18 across diverse products and services, and better ensure their users are not exposed to
19 unlawful foreign influence," end quote.
20 Do you agree generally with the characterization of DOJ's information sharing
21 relationship with Google as it was described in that footnote?
22 A Yes.
23 Q During your interactions with U.S. Government officials, did any of the
24 officials you interacted with ever try to coerce you or anyone else at Google into
25 promoting or removing any content for political purposes?

1 A No.

2 Q Have any U.S. Government officials ever directed you or anyone else at

3 Google, to your knowledge, to change its community standards or terms of service?

4 A No.

5 Q Have any U.S. Government officials ever tried to persuade you or anyone

6 else at Google that you know of to change its -- sorry. Strike that. I just asked that.

7 Did U.S. Government officials ever threaten you or any Google employee with

8 adverse actions if Google refused to take any particular action the government official

9 desired?

10 A No.

11 Q Did any U.S. Government official ever ask Google employees to promote or

12 remove any content based on the political or ideological viewpoint that it expressed?

13 A Not that I'm aware of.

14 Q Did anyone working at the White House ever order you to remove a post, an

15 account, or other content from Google's platforms?

16 A No.

17 Q Are you familiar with the claim made by some of this committee's

18 Republican Members that the Federal Government has, quote, "colluded," unquote, with

19 Google and other private companies to censor certain types of political and ideological

20 speech in violation of the First Amendment?

21 A Very generally.

22 Q Based on your experience at Google during both the Trump and Biden

23 administrations, do you believe that such collusion was occurring while you were

24 employed at Google?

25 A No.

1 Q Do you have any reason to believe that this type of collusion is occurring
2 today?
3 A No.
4 Q In your experience, do you think that Google has attempted to operate in a
5 manner that respects the First Amendment rights of its platform users?
6 A Yes.
7 Q Do you believe it's in Google's interest as a company who promote freedom
8 of speech for its platform users?
9 A Yes.
10 Q And why is that?
11 A There is benefit from hearing from a diverse audience and a difference of
12 thoughts, I think, is good for free society generally.
13 Q Even though you've never had any role in content moderation policy other
14 than the advice you described giving with respect to the two type types of child sexual
15 abuse content and the other illegal content, do you have a basic understanding of how
16 content moderation works at Google?
17 A A very basic understanding, yes.
18 Q Okay. You've said that those decisions are not made by your group; is that
19 right?
20 A That's correct.
21 Q Okay. Are you familiar generally with Google's terms of service?
22 A Generally, yes.
23 Q Are they published publicly on the website?
24 A Yes.
25 Q Are you familiar with Google's community standards?

A Generally, yes.

Q And are those also publicly available on the website?

A Yes.

Q Is that true as well for YouTube?

A Yes.

Q Do you know if the terms of service for Google explicitly state that user content may be removed if it violates applicable law?

A I don't know specifically.

Q Okay. Let me ask you this: Do you know -- I know that you don't work directly with content moderation or removal of content, but have you ever heard or understood Google to remove content based solely on the political and ideological viewpoint of the speaker or the content producer?

A No.

[redacted] I don't have any other questions. Thank you. I can take those back. Thanks.

[redacted]. Can we take a 5-minute break?

[redacted] Absolutely.

[Recess.]

1

2 [11:57 a.m.]

3 [redacted] Back on the record, please.

4 BY [redacted]

5 Q [redacted], do you have familiarity with what the election integrity

6 partnership is?

7 A I don't.

8 Q And as part of your work at Google, do you have any interactions with the

9 global disinformation index?

10 A I don't know what that is.

11 Q Do you have any interactions with the company Graphica?

12 A Not that I can think of.

13 Q What about with the DFR lab, which is housed within the Atlanta Council?

14 A No.

15 Q Regarding the U.S. Government industry sync calls we've discussed in both

16 previous hours, can you go through, again, just to your recollection of which government

17 representatives you recall being on it just by agency? So you named CISA as one.

18 A Yes.

19 Q Do you recall which other government agencies?

20 A The FBI.

21 Q Are there any others?

22 A Not that I'm aware of.

23 Q And not holding you to provide an exhaustive list, but to your recollection,

24 which industry partners tended to attend these meetings?

25 A I know that Meta is on there. Twitter is on there. There are others, but

1 I'm not certain of which ones.

2 Q Do you recall the last time you attended one of these meetings?

3 A I don't. Not specifically.

4 Q Do you recall if it was this year?

5 A Maybe.

6 Q In advance of these U.S. Government industry calls, would there be

7 pre-meetings that were industry only?

8 A Sometimes, yes.

9 Q Did you ever attend those meetings?

10 A I have.

11 Q And just at a high level, what's the purpose of these meetings?

12 A To discuss whether there were questions to ask government or specific

13 topics to raise.

14 Q Okay. And do you recall the forum of which these meetings took place?

15 Was it Zoom or something similar?

16 A Yes.

17 Q Do you recall who from Alphabet would attend these meetings?

18 A [redacted] is the only other one that I'm certain of.

19 Q And do you recall how frequently you would attend these industry only

20 meetings?

21 A I've gone to one or two, maybe three.

22 Q To your understanding, does the cadence of the industry-only meetings

23 match the cadence of the U.S. government industry meetings?

24 A I'm not certain, but something along those lines.

25 Q And to your understanding, then, is there typically -- maybe not in every

case, but typically an industry-only meeting for each U.S. Government industry meeting that takes place?

A I think that's true.

Q In the meetings you did attend that were industry-only, would you take notes during those meetings?

A No.

Q Do you recall anyone on the industry call circulating meeting minutes after a meeting?

A Not that I remember.

Q Who among the industry partners kind of plays the role of facilitating or bringing everyone together for the industry meeting; do you know?

A Meta.

Q Meta does. Do you know who at Meta?

A I believe it's [redacted].

Q Other than these industry meetings, as part of your role at Google, do you have interactions with [redacted]?

A I run into him on occasion.

Q Okay.

A But nothing regular.

Q When the FBI is attending these U.S. government industry meetings, is it representatives from the foreign influence task force?

A I don't know.

Q Okay. To your recollection, has Agent Chan ever attended one of the U.S. government-industry meetings?

A I believe so.

1 Q And to your recollection, the U.S. Government-industry meetings, the
2 subject matter tends to focus on elections, or it can be other topics as well?
3 A Elections, I believe.
4 Q Okay. And that's in contrast to the -- Google's meetings with the foreign
5 influence task force where some may be election-related, but it could be other subject
6 matters as well?
7 A That's correct.
8 Q As part of your work related to election information issues, have you had any
9 interactions with ODNI?
10 A Not that I can think of.
11 [redacted] This will be exhibit 7.
12 [[redacted] Exhibit No. 7
13 Was marked for identification.]
14 [Witness reviewing document.]
15 Mr. Bopp. Okay. You good?
16 [redacted]. Uh-huh.
17 Mr. Bopp. All right.
18 BY [redacted]
19 Q Do you recall this email chain at all?
20 A Not particularly, no.
21 Q Okay. Do you recall if a meeting ultimately was set up between ODNI and
22 individuals at Google?
23 A I don't know.
24 Q And so you don't recall whether you have ever attended a meeting with
25 Olivia or anyone else?

A I don't think I have.

Q Okay. And the [redacted] who's referenced here and responding to some of those emails, that's the same [redacted] that is on your team that you referenced earlier?

A Yes.

Q Are you familiar with any of the individuals from ODNI who are on the email chain?

A I am not.

[redacted] We can take these back.

BY [redacted]

Q As part of your issues related to election information security, did you have any interactions with the White House?

A Not that I can recall.

[redacted] This will be exhibit 8.

[[redacted] Exhibit No. 8

Was marked for identification.]

[Witness reviewing document.]

[redacted] You're ready?

[redacted]. Yes.

BY [redacted]

Q Do you recall this email chain?

A Vaguely, yes.

Q And what is your recollection of the purpose behind it?

A I was added onto by someone in your policy shop. I believe they were setting up a meeting.

Q And to your understanding, did a meeting ultimately occur?

A I believe so, yes.

Q Did you attend this meeting?

A I think I did.

Q And what was the purpose of including you and your team on this call?

A I think they were looking to add an attorney, and I think broadly speaking as security issues go, I was added here.

Q And why do you think they were looking to add an attorney?

A Perhaps just for awareness from legal's side.

Q To your understanding, what is the legal risk with attending a meeting like this?

A I'm sorry. Could you rephrase?

Q Sure. So you said the benefit or the purpose would be for the legal team's awareness. What is the reason behind having the legal team to have awareness of this meeting?

A Oh, I think probably more broadly just that someone from legal is aware. We would have to ask [redacted] why she added me.

Q Who is [redacted]?

A She's in Google's policy, or used to be, at least.

Q To your understanding, where is she now?

A She had changed roles to, I believe, somewhere in Google Cloud policy. And then is now -- she's somewhere in Google's policy teams generally.

Q What were your interactions with [redacted] before this email chain?

A One of [redacted]'s roles was to have interactions with law enforcement or national security. And so, at times, she would either invite us to meetings, or keep us apprised of ongoings of Google and those agencies.

1 Q In addition to the White House here, do you recall which other Federal
2 Government entities [redacted] would -- meetings with other Federal Government
3 agencies [redacted] would include you on?
4 A Law enforcement. So if they had meetings with the FBI or security
5 agencies, things of that sort.
6 Q The other folks from Google who are in the BCC line there, do you recognize
7 the names of anyone?
8 A Generally, yes.
9 Q Can you just quickly run through who they are?
10 A I believe they're all on Google's policies teams.
11 Q And do you recall interactions with any of these policy folks?
12 A Nothing specific, no.
13 Q Do you recall interactions with any of these individuals that is different than
14 your interactions with [redacted]?
15 A No. I interacted with [redacted] more than everyone else there.
16 Q Is [redacted], around this time, fall of 2022, is she your primary point of
17 contact on the policy team?
18 A No. The policy team people have different roles. So I wouldn't say she's
19 my primary contact.
20 Q Reviewing this email chain to the extent you have a recollection, was there a
21 law enforcement angle to this meeting? What was the purpose of the meeting?
22 A So I'm reading the description here, but my recollection of this meeting
23 involved narcotics smuggling.
24 Q Reference to the -- as discussed in the email below [redacted] from the White
25 House, do you recall the meeting ever discussing disinformation?

1 A I don't.

2 Q In addition to this meeting, do you recall other interactions with anyone

3 from the White House?

4 A I don't.

5 Q Do you recall if this meeting took place over Zoom or something similar?

6 A Yes.

7 Q And by yes, they did take place --

8 A A virtual, yes.

9 Q Do you recall who else from Google attended this meeting?

10 A I don't.

11 Q Do you recall if [redacted] attended?

12 A Yes.

13 Q Did anyone else from your team attend?

14 A No.

15 [redacted] We could take these back.

16 BY [redacted]

17 Q In your time at Google, have you had interactions with the Global

18 Engagement Center?

19 A No.

20 Q Have you had engagements with the CDC?

21 A No.

22 [redacted] This will be exhibit 9.

23 [[redacted] Exhibit No. 9

24 Was marked for identification.]

25 BY [redacted]

1 Q Do you recognize this meeting invite?

2 A Nothing specific about it, no.

3 Q The -- Agent Chan is listed at the very top. There are other individuals from

4 the FBI listed in the "to" line. To your understanding, are these agents affiliated with

5 the foreign influence task force?

6 A I don't know.

7 Q Okay. Do you recall having a meeting with the FBI prior to the

8 22 -- 2022 -- excuse me, 2022 U.S. midterm elections?

9 A I don't know if I attended this meeting.

10 Q Do you know who at Google may have attended this meeting?

11 A Based on this list, if it occurred, I would assume [redacted] or [redacted]

12 [redacted]

13 Q To your knowledge, you mentioned that the foreign influence task force

14 meetings would occur kind of a regular cadence. I believe you said quarterly. Is this

15 meeting a part of those quarterly meetings, or is this a one-off meeting?

16 A I don't know.

17 Q Typically, when you would receive meeting invites for the foreign influence

18 task force meetings, would it be as specific as, you know, midterm election touch point,

19 or would it just be the next Google meeting?

20 A I don't remember. This seems more specific. Yeah.

21 Q Do you recall discussions with the FBI specific to the 2022 U.S. midterms?

22 A I don't.

23 Q With respect to the U.S. Government industry calls, do you recall if the

24 cadence -- the frequency increased ahead of the 2022 U.S. elections?

25 A Yes.

1 Q And do you know how, to what degree? I think you said initially it was
2 quarterly or around there?
3 A I think quarterly, monthly, and perhaps closer to an election, it went to every
4 2 weeks.
5 Q Okay.
6 A That's my general recollection.
7 Q In the foreign influence task force meetings with Google that you attended
8 or had familiarity with, when election information-related issues were discussed, did that
9 ever include issues related to misinformation and disinformation?
10 A I don't remember any specific, but yes, I think the foreign actor was
11 spreading misinformation, disinformation, that would be a topic, yes.
12 Q And at least with respect to the Teleporter links, you said in most cases, that
13 was more relevant to [redacted] TAG team; is that right?
14 A Yes.
15 Q With respect to concerns whether a foreign actor was spreading
16 misinformation or disinformation on YouTube or another Google product, which team
17 within the company would that fall under their purview?
18 A Either TAG or trust and safety.
19 Q On this meeting invite, there's [redacted] from your team who you testified.
20 There's you. There's [redacted]. At this time in November 2022, none of the folks
21 from Google on this invite are from the trust and safety team; is that right?
22 A That's correct.
23 Q Do you know, would anyone from Google brief trust and safety on what was
24 discussed at a meeting like this one?
25 A If there was a reason to, it would be TAG.

1 Q Okay. And to your understanding, would it be most likely [redacted]

2 doing that?

3 A Or someone on his team.

4 Q If a briefing were to occur between TAG and the trust and safety team, did

5 you ever attend any of those briefings?

6 A I don't believe so.

7 [redacted] All right. We can take these back, please. Thank you.

1

2 [12:21 p.m.]

3 BY [redacted]

4 Q With respect to the two signal channels -- there's one with the government,

5 and one that's industry only. Is that correct?

6 A Yes.

7 Q When you were added, do you recall who added you to the signal channels?

8 A Yes, it was [redacted].

9 Q To your understanding, can anyone in the channel add in people?

10 A I don't know.

11 Q Do you know at least for the personnel from Google, whether messages

12 from signal retained in any way?

13 Mr. Bopp. Or what in any way?

14 BY [redacted]

15 Q Retained.

16 A Yes, I guess for my messages.

17 Q For your messages, are they still available; is that what you're saying?

18 A Yes.

19 Q What familiarity did you have with either signal's channel before you were

20 added?

21 A I don't think I knew about them. I don't recall learning about them before.

22 Q Do you recall the signal channels ever being used to transmit Teleporter

23 links?

24 A No.

25 Q Do you know if the folks on the signal channel for the one with the

1 government, if you have to have a security clearance or anything similar?

2 A I don't know.

3 Q Now that you're on the signal channels, are they -- is it discussed on either in

4 the U.S. Government industry calls or any of the industry calls that kind of mirror in

5 advance of the U.S. Government industry calls?

6 A Sorry, is what discussed?

7 Q Just that there is a signal channel and what is discussed, if anything?

8 A Not that I can think of.

9 Q Is the industry-only signal channel used by industry partners during a

10 meeting with the U.S. Government?

11 A Clarifying, do you mean do people message to signal channel during, like, a

12 meeting with the government?

13 Q Yeah.

14 A Not that I remember.

15 Q Do you know if the government knows about the industry-only signal

16 channel?

17 A I don't know.

18 Q We'll give this version to the court reporter. We only have a couple, so

19 we'll use this. This will be exhibit 10.

20 [[redacted] Exhibit No. 10

21 Was marked for identification.]

22 BY [redacted]

23 Q And this is a lengthy exhibit. If I could have counsel and the witness turn to

24 Bates No. 16178. I think it's page 107. If you wish, you're welcome to review prior,

25 but there's a message from [redacted] saying: Adding [redacted] who will be

1 participating in the Google team. You said to expedite things if you want to start your
2 review from there.
3 A I'm ready.
4 Mr. Bopp. Wait a minute. How far should we go here?
5 [redacted] I'd call attention to specific pages, but the range is 107 until the end,
6 136.
7 Mr. Bopp. Okay.
8 BY [redacted]
9 Q So first, if I could have you turn to the first page where you're at right there
10 167, 168. It's dated June 10th, 2022. Is that consistent with your recollection of when
11 you were added to the channels?
12 A Yes.
13 Q And having had a moment to review, is it your understanding that this is the
14 industry-only channel?
15 A Yes, I believe so.
16 Q And do you recall what [redacted] represented to you when adding you to
17 this channel, about what its purpose was?
18 A Generally speaking, that this was an industry group discussing election
19 integrity issues.
20 Q And not necessarily person for person all the way across, but to your
21 understanding, are the folks on the signal channel largely the same industry folks that are
22 on the U.S. industry calls?
23 A I would believe so, yes.
24 Q If I could have you turn to page 16182.
25 A Okay.

1 Q [redacted] name is at the very bottom on the previous page, but the
2 message starts at the top of 16182. Then there's a series of messages that continue on
3 to page 16184.
4 A Okay.
5 Q Yeah. [redacted] posts two from DNI, and then he provides a set of
6 questions. To your recollection, did ODNI ever attend these U.S. Government industry
7 meetings?
8 A I don't know.
9 Q With respect to [redacted] message that is on the top of 16182, did you
10 understand these questions to be from representatives from DNI?
11 A Reading this, that's how I would read it, yes.
12 Q And do you recall any meetings that discussed the questions laid out here?
13 A I don't.
14 Q If someone had a question regarding how Google looks at these questions,
15 who would you direct that question to?
16 A To [redacted].
17 Q If I could have you turn to Bates No. 16186. There's about a third of the
18 way down a message from [redacted] saying a few last-minute questions from the USG side.
19 And then there's a discussion that continues until page 16188.
20 A Okay.
21 Mr. Bopp. One second. Okay.
22 BY [redacted]
23 Q A similar question as before, did you understand -- actually, let me take one
24 step back. Who do you understand [redacted] to be?
25 A I don't know.

1 Q Did you understand these posts to be questions posed from the U.S.
2 Government to industry?
3 A That's how I would read this, yes.
4 Q And the questions posted here, are these the types of subjects and
5 questions that he discussed during U.S. Government industry meetings?
6 A Generally speaking, yeah, with foreign actors maybe doing.
7 Q Do you have any recollection about whether these specific questions were
8 discussed in any U.S. Government industry meeting?
9 A I don't.
10 Q On page 16187, this is the fourth question of [redacted]'s posting, and it says, 4:
11 From July meeting, what narratives are taking a foothold in diaspora communities? And
12 are engagements broad or narrative specific? Do you recall any discussions either
13 relevant to this specific message or at a more general level regarding specific narratives?
14 A I don't.
15 Q If I could have you turn to Bates No. 16190. There are two messages again
16 from David A. The second message corrects the first message. So I'll read it with the
17 correction. It says: Good morning, colleagues. Today's a meeting agenda from USG,
18 as a reminder, was just an ask for updates around the group on new policies, products,
19 and changes to staffing and posture as the election draws closer.
20 Do you recall any U.S. Government industry meetings that involved anyone from
21 industry providing an update on a company's -- any of the company's policies, products,
22 or changes to their staffing posture?
23 A I don't. And you mean the company staffing?
24 Q Yes.
25 A I don't.

1 Q And for any company, not just Google?

2 A You know, what I remember about this thread earlier is that several Twitter

3 people have left, and the thread indicated that. So I don't know if that's the reference

4 to that or not, but that would be a staffing change.

5 Q What about with respect to policies and products?

6 A No.

7 Q Would [redacted] be in a position, if necessary, to discuss Google's policies

8 and products relevant in this context?

9 A Possibly.

10 Q Okay. Would you be able to speak about Google's policies and products?

11 A In regard to election integrity?

12 Q Yes.

13 A This was all new to me at the time. And so, it is not an area of expertise of

14 mine.

15 Q And so you, to your recollection, did not present at any meeting Google's

16 policies and products --

17 A No.

18 Q -- in the election space? Do you have any recollection of whether [redacted]

19 [redacted] ever did?

20 Mr. Halse. With respect to this chain?

21 BY [redacted]

22 Q With respect to the U.S. Government industry meetings.

23 A Yes, I don't remember what he says, but I do believe [redacted] chimed in in one,

24 at least one meeting.

25 Q And in at least that one meeting, do you recall roughly when that occurred?

1 A I don't.

2 Q Do you recall if it was in the lead-up to the 2022 U.S. elections?

3 A I don't, but that wouldn't surprise me.

4 Q And prior to 2022, it's your recollection that you didn't attend any U.S.

5 Government industry meetings that occurred earlier?

6 A Prior to 2022, not that I can remember.

7 Q Yeah. Do you have any understanding about whether these meetings

8 occurred in the lead-up to the 2020 U.S. election?

9 A I wasn't involved, but I feel like I have general recollection that [redacted] was

10 involved in meetings like this would occur.

11 Q With respect to the one instance where -- actually, I'll take a further step

12 back. Regarding industry partners presenting any information on their policies and

13 products as it relates to the election space, for the industry-only meetings that would

14 occur prior to a U.S. Government industry meeting, do you recall any company sharing

15 information on their policies or products in the election space?

16 A Nothing specific, no.

17 Q What about just at a general level, would that be the topic of conversation?

18 A No -- I mean, it may have been. I don't remember anything, though.

19 Q Just from the context of these U.S. Government industry partner meetings,

20 when [redacted] is representing the company, is he representing Alphabet, just Google,

21 only certain products within Google?

22 A I think we'd have to ask him.

23 Q All right. If there were any questions regarding YouTube, would that be

24 within the scope of [redacted]'s responsibility?

25 A Yes, and I guess to clarify my last answer, between Google and Alphabet, I

1 don't know where that would fall. But YouTube would fall under Google. So I would
2 say yes to Google.
3 Q Okay. Thank you. Yeah, if I could have you turn to page 16197. There
4 are messages from [redacted] starting at the bottom of 16197, and then there's a
5 conversation that continues for a couple of pages until 16199.
6 A Okay.
7 Mr. Bopp. Just one second.
8 [redacted] Okay.
9 BY [redacted]
10 Q [redacted] posts a few messages, including: It also seems a lot of this has
11 moved to speculation versus observed activity. And then a subsequent message: And
12 not being clear on the difference.
13 Do you recall what [redacted] was referring to when he posted these messages?
14 A I think generally speaking to that, there wasn't much actual activity being
15 observed by groups.
16 Q And when you say not much activity being observed by groups, would that
17 include the U.S. Government was not observing much activity by groups?
18 A Here I think I would just speak for Google. As to what [redacted] meant
19 specifically here, I would have to ask him.
20 Q There's a message from [redacted] that begins at the bottom of 16198, and
21 then continues onto the next page. And he says: Midterm syndrome: In 2018, they
22 were overindexing on a repeat of 2016. In 2022, they seem to be overindexing. That it
23 will be a repeat of 2020. Then there's another message from [redacted]. He said: I
24 mean, it's good to be watching out, but it does seem like always fighting the last war.
25 Do you have any recollection of what [redacted] meant by these messages?

1 A Very generally speaking, I believe there was not much foreign interference
2 or nation-state activity in this space for the 2022 elections. And so, that input he's
3 mentioning, that, perhaps, there's an expectation that things would be like the past, but
4 that's not what's being observed in this election cycle.
5 Q And to your understanding, did that prove to be true with respect to the
6 2022 U.S. election?
7 A That is my understanding.
8 Q Do you recall having any discussions with [redacted] on this issue outside
9 of this channel?
10 Mr. Bopp. Why don't we -- you can answer only to the extent that you would
11 not implicate the attorney-client privilege?
12 BY [redacted]
13 A I think he would have made similar comments that he is doing here.
14 Q All right. We can take these back. In addition to the two signal channels
15 you've identified, the one with government, and the one that we just looked at, industry
16 only, are you aware of any signal channels that relate to the U.S. Government industry
17 partner meetings?
18 A The election integrity, no.
19 Q Can we go off the record please.
20 [Discussion off the record.]
21 [Whereupon, at 12:44 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

Transcribed Interview Transcript Errata Form

Interviewee	[redacted]
Date of Interview	6/28/23
Date of Review	7/19/23
Name of Reviewer	Emma Rosl - King & Spalding
Signature of Reviewer	Emma R

Page	Line	Suggested Correction
49	16	"violence" → "violation"

Transcribed Interview Transcript Errata Form

Interviewee	[redacted]
Date of Interview	6/28/23
Date of Review	9/4/24
Name of Reviewer	Ehren Halse
Signature of Reviewer	EHKA

Page	Line	Suggested Correction
8	23	"relations" should be "relation"
9	18	end of sentence should read "investigators and operations staff"
9	22	delete "like"
12	4	"is" should be "are"
12	20	add "them", change "so" to "or"
13	20	add "it" after "flag"
13	24	"form line" should be "foreign"
14	2	"form line" should be "foreign"
14	10	"Google" should be "Google's"
17	10	add "to the FBI" after "referral"

Page	Line	Suggested Correction
17	12	"context" should be "contexts"
17	23	"in" should be "for"
18	18	"attend" should be "attends"
20	2	add "are" after "all"
20	8	"in" should be "with", "of" should be "covering"
24	25	"then" should be "the"
36	8	"For" should be "From"
37	20	"we do not allow" should replace "allowed"
40	15	"Investigations" should be "Investigation"
40	23	"doing in" should be "seeing that is"
49	7	"maligned" should be "malign"
50	1	"cohort" should be "covert"
53	23	"are" should appear after "they"
55	11	"Graphica" should be "Graphika"

Page	Line	Suggested Correction
55	13	"Atlanta" should be "Atlantic"
56	12	"the" should precede "government"
56	14	"of" should be "in"
59	23	"it" should follow "onto"
60	23	"or" should be "on"
61	10	"policies" should be "policy"
63	14	"at" should precede "kind"
64	10	"any" should be "anything"
64	19	"about" should follow "testified"
66	12	"were" should precede "retained"
66	19	"signal`s" should be "Signal"
69	10	"DNI" should be "ODNI"
70	6	"with" should be "what"
72	10	"in" should be "and"

Page	Line	Suggested Correction
73	24	"we are" should precede "always"
74	18	"The" should be "On"

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: ERIC MILLER

Thursday, July 6, 2023

Washington, D.C.

The interview in the above matter was held in room 2237, Rayburn House Office Building, commencing at 9:57 a.m.

1 Appearances:

2

3

4 For the COMMITTEE ON THE JUDICIARY:

5

6 [redacted], SENIOR ADVISOR

7 [redacted], RESEARCH ASSISTANT

8 [redacted], INTERN

9 [redacted], DIGITAL ASSISTANT

10 [redacted], CHIEF COUNSEL FOR OVERSIGHT

11 [redacted], DIGITAL DIRECTOR

12 [redacted], MINORITY CHIEF OVERSIGHT COUNSEL

13 [redacted], MINORITY INTERN

14 [redacted], MINORITY INTERN

15 [redacted], MINORITY OVERSIGHT COUNSEL

16 [redacted], MINORITY PROFESSIONAL STAFF MEMBER

17

18

19 For ERIC MILLER:

20

21 JONATHAN KRAVIS, ESQ.

22 Munger, Tolles & Olson, LLP

1

2 [redacted] We'll go on the record.

3 Good morning. This is a transcribed interview of Mr. Eric Miller. Chairman

4 Jordan has requested this interview as part of the committee's oversight of the Federal

5 Bureau of Investigation.

6 Would the witness please state your name for the record?

7 Mr. Miller. Eric Miller.

8 [redacted] We encourage witnesses who appear before the committee to

9 freely consult with counsel if they so choose. And it is my understanding that you are

10 appearing today with personal counsel. Is that correct?

11 Mr. Miller. That's correct.

12 [redacted] Would counsel please state your name for the record?

13 Mr. Kravis. Good morning. My name is Jonathan Kravis from the law firm of

14 Munger, Tolles & Olson. And I'm here representing Mr. Miller today.

15 [redacted] Thank you.

16 On behalf of the committee, I want to thank you for appearing here today to

17 answer our questions. The chairman also appreciates your willingness to appear

18 voluntarily.

19 My name is [redacted], and I'm with Chairman Jordan's staff. I'll now have

20 everyone else here in the room who is with the committee introduce themselves as well.

21 [redacted] [redacted], Chairman Jordan's staff.

22 [redacted] [redacted], chief oversight counsel for the House Judiciary

23 Committee Democrats.

24 [redacted] [redacted], oversight counsel for the Democrats, Judiciary

25 Committee.

1 [redacted] [redacted] with Chairman Jordan.

2 [redacted] [redacted] with Chairman Jordan.

3 [redacted] [redacted] With Chairman Jordan.

4 [redacted] Thank you.

5 I'd like to now go over the ground rules and guidelines that we will follow during

6 today's interview.

7 Our questioning will proceed in rounds. The majority will ask questions first for 1

8 hour, and then the minority will have an opportunity to ask questions for an equal period

9 of time if they so choose. We will alternate back and forth until there are no more

10 questions and the interview is over.

11 Typically, we take a short break at the end of each hour, but if you would like to

12 take a break apart from that, please just let us know.

13 As you can see, there is an official court reporter taking down everything we say to

14 make a written record, so we ask that you give verbal responses to all questions. Do

15 you understand that?

16 Mr. Miller. Yes.

17 [redacted] So the court reporter can take down a clear record, we will do our

18 best to limit the number of staff directing questions at you during any given hour to just

19 those people whose turn is.

20 Please try and speak clearly so the court reporter can understand, and so the folks

21 down at the end of the table can hear you as well. It is important that we don't talk

22 over one another or interrupt each other if we can help it, and that goes for everybody

23 present at today's interview.

24 We want you to answer our questions in the most complete and truthful manner

25 as possible, so we will take our time. If you have any questions or if you do not

1 understand one of our questions, please let us know.

2 Our questions will cover a wide range of topics, so if you need clarification at any

3 point, just let us know. If you honestly don't know the answer to a question or do not

4 remember, it is best not to guess. Please give us your best recollection, and it is okay to

5 tell us if you learned information from someone else. Just indicate how you came to

6 know the information.

7 If there are things you don't know or can't remember, just say so, and please

8 inform us who, to the best of your knowledge, might be able to provide a more complete

9 answer to the question.

10 You should also understand that by law, you are required to answer questions

11 from Congress truthfully. Do you understand that?

12 Mr. Miller. Yes.

13 [redacted] This also applies to questions posed by congressional staff in an

14 interview. Do you understand this?

15 Mr. Miller. Yes.

16 [redacted] Witnesses that knowingly provide false testimony could be subject

17 to criminal prosecution for making false statements under 18 U.S.C. Section 1001. Do

18 you understand this?

19 Mr. Miller. Yes.

20 [redacted] Is there any reason you are unable to provide truthful answers to

21 today's questions?

22 Mr. Miller. No.

23 [redacted] Finally, I'd like to make note that the content of what we discuss

24 here today is confidential. We ask that you not speak about what we discuss in this

25 interview to any outside individuals to preserve the integrity of our investigation. For

1 the same reason, the marked exhibits that we will use today will remain with the court
2 reporter so that they can go in the official transcript, and any copies of those exhibits will
3 be returned to us when we wrap up.
4 All right. That's the end of my preamble. Is there anything that my colleagues
5 from the minority would like to add?
6 [redacted] We just thank the witness for taking time out of your day to join us
7 today.
8 [redacted] Any opening statements from you all?
9 Mr. Kravis. No, not from us. We're happy to answer any questions you have
10 this morning. Thank you.
11 [redacted] Thank you so much.
12 Okay. The clock now reads 10:01 a.m. We will start our first hour of
13 questioning.
14 EXAMINATION
15 BY [redacted]
16 Q Mr. Miller, I want to begin with just a bit of your professional background.
17 Where do you currently work?
18 A I work for Amazon Web Services.
19 Q And when did you start at that job?
20 A I started in September of 2021.
21 Q And what are your roles and responsibilities with Amazon?
22 A I lead the industrial security and compliance organization that supports our
23 Federal Government contracts.
24 Q And in your current role, do you have any interactions with the FBI?
25 A Periodically.

1 Q And what do those entail?

2 A Generally, it has to do with -- mainly our contracts.

3 Q Okay. And going to your time with the Bureau, when did you join the FBI?

4 A I joined in May of 2006.

5 Q And what was your motivation for joining the Bureau?

6 A Well, I grew up in a small town in rural Indiana with relatively low crime in

7 just a farm community. And I also remember my dad telling me stories about my

8 grandmother, who was a branch manager of a small bank, who actually got robbed twice

9 in the, I think, early 1950s.

10 And she would tell stories about the interactions that she had with the FBI, and

11 how they investigated, and how great they were, and how well they treated her and her

12 colleagues. So that kind of started my interest. And then, you know, as I got into high

13 school and college, it kind of just grew from there.

14 Q And do you mind walking us through some of the positions you held at the

15 FBI starting with May 2006?

16 A So upon graduating Quantico, I was assigned to the Dayton, Ohio RA. I

17 worked on a criminal squad. We handled several different violations. Everything from

18 bank robberies, kidnappings, transnational organized crime, drug trafficking, public

19 corruption.

20 And then from Dayton -- I spent about 5 years there, and then I was transferred to

21 the Chicago division under the current transfer policy, which basically limited agents to

22 around 3 to 5 years in their first office.

23 Once I was transferred to Chicago, I was assigned to a counterterrorism squad and

24 was there for about 3 years. And then in the summer of 2014, I was promoted to a

25 supervisory special agent position at FBI Headquarters with the counterterrorism division.

1 I spent 2 years in that post, and then I was promoted, again, to unit chief with
2 our -- with the FBI Weapons of Mass Destruction Directorate, and I was there for
3 approximately another year and a half, almost 2 years.
4 And then I was assigned in late 2017 -- early 2017 to the Washington Field Office
5 to Squad CR-15. While at CR-15, I was a line agent for approximately a year and a half.
6 And then around 2018, I was the acting squad supervisor. And I was acting for about 6
7 to 8 months, and then I was permanently promoted to the role.
8 Q Okay.
9 A And I was in that role until I left in August 2021.
10 Q So what was your title as of August 2021?
11 A Supervisory special agent.
12 Q Okay.
13 A In CR-15.
14 Q And can you describe your roles and responsibilities in that position?
15 A I oversaw the squad. All squad investigations in the squad had the
16 investigative mandate of investigating the executive branch, legislative branch, judicial
17 branch of Federal Government, as well as Federal Government fraud investigations.
18 Q And how many individuals did you supervise?
19 A It would vary, but approximately 13 to 15.
20 Q Okay. And can you describe the organizational structure of the squad?
21 A It was myself as the supervisory special agent, and those 13 or 15 field
22 agents.
23 Q So everyone was a special agent, then?
24 A Correct.
25 Q Okay.

1 A Well, we also had two intelligence analysts and two staff operations
2 specialists.
3 Q Okay. And so that would have counted into the 13 to 15 individuals?
4 A No, 13 to 15 agents.
5 Q Okay.
6 A But the additional would have been anywhere from three to four
7 intelligence analysts or staff operations specialist positions.
8 Q And who was your direct supervisor at that time?
9 A Well, when I started on the squad -- as supervisor, my direct -- well, when I
10 started as an SSA, my direct supervisor was Kevin Vorndran, who was the ASAC at the
11 time.
12 Q Okay. And then did it ever change from Kevin Vorndran?
13 A Yes. Then Kevin was promoted, and Tim Thibault became the assistant
14 special agent in charge.
15 Q And about what timeframe was that, that Mr. Thibault became ASAC?
16 A I believe that was sometime in approximately 2018 to early 2019, I believe.
17 Q Okay. So Mr. Vorndran was there from 2017, and then Mr. Thibault came
18 on sometime in 2018, 2019? Is that accurate?
19 A Yeah. Probably closer to 2019.
20 Q And then you said you left the Bureau in August of 2021. Is that correct?
21 A That's correct.
22 Q And you immediately then went to Amazon. Is that accurate?
23 A Yes.
24 Q And what prompted you to leave the Bureau?
25 A I had spent the -- all of my professional career in public service with

1 government, starting with local government and then obviously with the Federal
2 Government, and had no real private sector experience. So when the opportunity came
3 to diversify my leadership experience, and it was a great opportunity, I took it.
4 Q And in your various positions at the Bureau, how often did you interact with
5 FBI Headquarters?
6 A Throughout my career, depending upon the investigation, it was sporadic.
7 But I would say I interacted with Headquarters -- not frequently until I was actually really
8 assigned to the -- or when I was working counterterrorism investigations in Chicago, I
9 started working more with the counterterrorism division, and then obviously when I was
10 promoted to Headquarters.
11 Q And then when you were the SSA for CR-15, how frequently did you interact
12 with FBI Headquarters?
13 A I interacted with Headquarters -- mainly the Public Corruption Unit -- every
14 other week, generally.
15 Q Okay. And who specifically did you interact with most at FBI Headquarters
16 during your time at CR-15?
17 A Mainly with the supervisory special agents and the unit chiefs that were
18 assigned to the Public Corruption Unit.
19 Q And who were those individuals?
20 A I'm not comfortable saying those individual names.
21 Q Okay.
22 A I would refer you back to Congressional Public Affairs for those individual
23 names.
24 Q Okay. Did the individuals that you interacted with, the SSA and the unit
25 chief -- did they change at all, or were they the same individuals during your tenure on

1 CR-15?

2 A Generally, that would change usually every 18 months to 24 months.

3 Q And you said you interacted with them -- was it every other week or once a

4 week?

5 A I would say, on average, once every 2 to 3 weeks.

6 Q Okay.

7 A So, yeah, generally speaking, that would be probably average.

8 Q And what was the normal reason for the outreach?

9 A Mainly to discuss -- to provide them case updates. That was generally the

10 reason for the interaction.

11 Q And was the SSA and unit chief, was that the highest level you ever

12 interacted with from Headquarters?

13 A No. I would periodically interact with the deputy assistant director, the

14 section chief, the assistant section chief.

15 Q And the deputy assistant director, what division was that for?

16 A That would be the Criminal Division.

17 Q The Criminal Division.

18 And the section chief?

19 A With the Public Corruption Section.

20 Q And so is it accurate to say that there's a Public Corruption Unit,

21 Headquarters, and then WFO? Would the CR-15 have its own Public Corruption Unit?

22 A That's correct.

23 Q And how often did you interact with anyone at Main Justice from DOJ?

24 A In that role?

25 Q Correct.

1 A In that role, with Main Justice, I interacted probably, on average, monthly
2 with the Public Integrity Section.
3 Q Okay. And who most often did you interact with with the Public Integrity
4 Section?
5 A Just various trial attorneys --
6 Q Okay.
7 A -- with PIN.
8 Q And you said you interacted monthly. What was the purpose of those
9 interactions?
10 A Just to discuss ongoing cases and investigations.
11 Q And specifically, turning and focusing on CR-15 -- so during your tenure with
12 CR-15, at one point, you were the acting squad leader, and then you became the squad
13 leader. Is that correct?
14 A Correct.
15 Q And that was in the position of SSA. Is that correct?
16 A Correct.
17 Q And so the number of employees that were assigned to the squad, did it
18 ever fluctuate?
19 A Generally, like I said, it was usually around 13 to 15 agents at any given time.
20 Q Okay.
21 A And we had four to six support personnel. Again, that was intel analysts,
22 the SOS. And actually, I recall we had two financial analysts as well.
23 Q Okay. And can you help us understand, did everyone work on the same
24 subject matter, or were people cordoned into groups with agents assigned to specific
25 types of cases?

1 A No. All the agents on the squad were assigned a variety of cases.
2 Q Okay.
3 A And at the time, we also had the Federal Government fraud mandate. So
4 we would investigate any allegation of contract fraud within the government. So most
5 agents had a variety of investigations on their -- in their portfolios. So some had -- there
6 was a few fraud cases, and they may also have corruption cases as well.
7 Q And so cases were just randomly assigned, if you will, or did individuals
8 specialize in certain types of cases?
9 A No. No one specialized.
10 Q Okay. So the cases, when they came in, they would just be assigned to
11 different agents?
12 A And they would be assigned based on the current workload. So if one
13 agent had -- we tried to assign investigations so one agent didn't have more than the
14 other. Just a balanced workload.
15 Q And can you talk a bit about the workload? What was the typical number
16 of cases that CR-15 was handling?
17 A I don't recall the number of cases we had at any given time.
18 Q Was it more cases than you had had in your previous position, or was it
19 about the same?
20 A No. No. Yeah. I don't recall, over the course of my 15-year career, you
21 know, a breakdown of how many cases each squad had at any given time when I was on.
22 So, no, I can't really compare those.
23 Q Yeah. Would you say CR-15 was a busy squad? Always had cases going
24 on?
25 A Absolutely. Every squad that I ever worked on was -- had a lot of cases.

1 Q And during your tenure at CR-15, were there cases -- big investigations that
2 began and finished during your tenure?
3 A Not -- I don't recall a case that started and finished in my tenure there, no.
4 Q Were the cases typically multiyear investigations and prosecutions?
5 A Yes.
6 Q And do you know the average time span or how long a typical case would
7 take?
8 A No. I couldn't speculate as to the average time a case would take. Each
9 case is so different depending upon the fact pattern. Each case is -- there's no real
10 average time that a case would start -- from start to finish -- would conclude.
11 Q But a typical case that the Public Corruption Unit would handle, it would
12 normally be finished in a year. Is that correct?
13 A I don't recall one being finished in a year.
14 Q Okay. And did you -- and you said you directly interacted with the DOJ's
15 Public Integrity Section. Is that correct?
16 A That's correct.
17 Q And so the prosecutors on the cases, would they typically come from the
18 Public Integrity Section?
19 A Not typically.
20 Q Okay.
21 A We would -- we would have prosecutors from the Public Integrity Section.
22 We would have prosecutors from the U.S. Attorney's Office for the Eastern District of
23 Virginia.
24 Q Okay.
25 A We would also have prosecutors from the U.S. Attorney's Office for the

1 District of Columbia as well.

2 Q Okay. And what was kind of the percentage breakdown of cases that were

3 handled in the Eastern District of Virginia and D.C.?

4 A I couldn't give you a percentage breakdown. I don't really recall

5 exactly -- again, that would be going back to the sheer number of cases that we had, and

6 that breakdown -- you know, having been gone almost 2 years now, I really can't give you

7 that.

8 Q Did you mostly interact with the Eastern District of Virginia?

9 A No. I wouldn't say -- I think I personally, in my role, interacted with -- the

10 same amount of time with each of those prosecutor's offices because part of what my

11 role was is to kind of be the liaison with those individual U.S. Attorney's Offices and their

12 leadership. So I tried to stay in contact with each of those three main offices equally.

13 Q Okay. Okay. So your time was split equally between the Public Integrity

14 Section, Eastern District of Virginia, and the District of Columbia?

15 A Correct.

16 Q Okay. And I want to talk to you about ASAC Timothy Thibault.

17 And you said he came on, you know, sometime in 2018, 2019. Is that correct?

18 A [Nonverbal response.]

19 Q Do you know what his position was prior to coming on as ASAC?

20 A Prior to ASAC, he was assigned to FBI Headquarters.

21 Q And so what was his exact title? He was the assistant special agent in

22 charge of the Public Corruption Unit? Or what was his title?

23 A He was the assistant special agent in charge of the Criminal Branch. Branch

24 two, I believe.

25 Q For the Washington Field Office? Is that correct?

1 A Correct.

2 Q Okay. And so he worked out of the Washington Field Office?

3 A That's correct.

4 Q And how would you describe ASAC Thibault?

5 A A professional, dedicated public servant.

6 Q Okay. And what kind of reputation did he have at the Bureau?

7 A He had a very stellar reputation, and as an agent with a lot of public

8 corruption investigative experience.

9 Q And are you aware of a letter -- Senator Grassley has sent a series of letters

10 on ASAC Thibault, and he sent a letter to Director Wray and Attorney General Garland on

11 May 31st, 2022, regarding Mr. Thibault's political social media posts. Are you aware of

12 that letter?

13 A I did become aware of that letter, yes.

14 Q I'll offer that letter as exhibit No. 1.

15 [Miller Exhibit No. 1

16 Was marked for identification.]

17 BY [redacted]

18 Q Please take your time to review.

19 And when I refer to specific sections, I'll refer you to the page number.

20 A Okay.

21 Q So on the second page of the letter, the first full paragraph, the first

22 sentence there states, "For example, ASAC Thibault's social media postings, comments,

23 and 'likes' (i.e. public expressions appreciation, validation, and approval) demonstrate a

24 pattern of improper commentary related to, for example, ongoing FBI investigations,

25 including those under his purview."

1 Were you aware of any of these posts while you were on CR-15 with ASAC
2 Thibault?
3 A No, I was not.
4 Q Did you ever become aware of the posts or look at the posts?
5 A No.
6 Q And did you ever talk with Mr. Thibault about his internet postings?
7 A No. During my time on CR-15, I had no idea that he had a social media
8 account.
9 Q Okay. And then in that same paragraph, the next sentence states, "It is
10 noteworthy that ASAC Thibault's LinkedIn network includes current and former FBI
11 personnel, and the general public is able to review his social media content, which
12 includes his political views, biases, and objections."
13 Were you aware of anyone on the CR-15 squad who interacted with Mr. Thibault
14 on social media?
15 A No.
16 Q And what's your reaction to reading this letter and reading some of the posts
17 that Mr. Thibault made?
18 A Well, when I first became aware of it and saw the letter, I was surprised
19 because, as I said, I didn't know that he had a social media -- social media accounts.
20 Q And while he was in the office, did he ever make any partisan or political
21 comments that you're aware of?
22 A No, not that I'm aware of.
23 Q As the lead of the squad, did any of your agents who were under your
24 command ever come to you with concerns about comments made by Mr. Thibault?
25 A Not concerns about comments made by Mr. Thibault, no.

1 Q Okay. Did any of your agents come to you with other concerns?

2 A My -- there was a time when it was brought to my attention that, generally,

3 there was talk among the squad of -- there was political-opinion talk around the squad

4 area.

5 When I learned of that, I addressed it with the squad immediately because of

6 our -- our investigative mandate. It's imperative that the agents obviously remain

7 objective. And I had no serious concerns about any of the objectivity from any of the

8 agents, but there was a concern that there was just general political talk and chitchat

9 around the squad area at times. And even that is something that should not and cannot

10 happen in that arena because of our mandate at the time.

11 So I just generally addressed it and reminded them that, although obviously

12 everyone has a political viewpoint, that that should be checked at the door and that, you

13 know, any political discussions should not be had within the squad area.

14 Q And did you ever become aware of what the general political-opinion talk

15 was of the squad?

16 A No. When it was brought to my attention, it was just brought to me by a

17 senior agent who had a lot of experience in the squad, and was very aware of that being

18 the underlying -- objectivity and even the appearance -- even a general appearance of

19 bias not being something that could be exhibited in the squad area, or frankly, anywhere

20 within the FBI.

21 So that's when I addressed it with the squad, just to remind them of that -- of the

22 importance of that and that, you know, they should adhere to that.

23 Q Did you -- after you addressed it with the squad, did you have any other

24 concerns that were raised to you about political-opinion talk?

25 A No additional concerns after that were raised to me.

1 Q Okay. And about what time period was that when those concerns were
2 raised?
3 A That was -- I believe that was the spring, early summer of 2020.
4 Q Okay. And the political-opinion talk was done by agents on the squad.
5 Was that your understanding?
6 A That was my understanding.
7 Q Okay. And turning back to the letter, on page 3 -- the last paragraph on
8 page 3, it states, "Given ASAC Thibault's authority over major investigations coupled with
9 the fact his LinkedIn network includes FBI and DOJ personnel and the general public, his
10 posts illustrated clear risk of systemic political infection within the Justice Department
11 and FBI."
12 Did you ever have any concern that ASAC Thibault seemed to be politically biased?
13 A No, I did not. Like I said, I was surprised when I read this letter the first
14 time in the media.
15 Q Yeah. When you read the letter, did you see why the posts, when they
16 were put all together in one letter, would be concerning to outside observers regarding
17 the objectivity?
18 A Based on the information that was provided in this letter, yes, I could see
19 where the general public would be concerned about objectivity, again, if they're reading
20 this letter.
21 Q And after Senator Grassley sent his letter to Director Wray and Attorney
22 General Garland, ASAC Thibault then suppressed his social media postings from public
23 view.
24 But on May 31st, 2022, was it your understanding that Mr. Thibault was still with
25 the CR-15 squad or still the ASAC?

1 A I don't know where he was May 31st, 2022.

2 Q Do you know when Mr. Thibault left the FBI?

3 A I do not.

4 Q Do you know any of the circumstances surrounding his departure?

5 A No. I don't know the specific circumstances around how he left or when he

6 left.

7 Q Did you follow the media reporting on his departure from the FBI at all?

8 A I read a couple of articles about the -- based on the Grassley letter, but not

9 about -- I don't recall reading anything about -- specifically about his departure.

10 Q And what was your understanding from the news articles you read?

11 A My understanding was he retired.

12 Q Okay. And is it accurate to say that the WFO CR-15 oversaw some of the

13 highest-level national public corruption investigations --

14 A That's correct.

15 Q -- and prosecutions?

16 And for any of the high-level national public corruption investigations that have

17 finished and are no longer ongoing, can you tell us any -- like, high-level, what they

18 concerned?

19 A No, because I don't know which ones are currently open and which ones are

20 currently closed.

21 Q Do you know of any investigations that CR-15 has closed?

22 A No.

23 Q Did you close any investigations while you were SSA at CR-15?

24 A Oh, absolutely.

25 Q And can you describe one of those investigations that you closed?

1 A I closed many. I would have to -- I would have to be given a list of those
2 from the Bureau so I could review those.
3 Q Yeah. And, I mean, I'm not asking for all of them. Can you remember one
4 that you handled? Like, what was the content?
5 A Like I said, there were many that we closed. Many that were -- again, most
6 investigations were multiple-year investigations. So I can't -- I don't recall a specific one
7 that we did close, but I know there were several that we closed.
8 Q Yeah. So if -- for example, if an elected official had done some sort of
9 wrongdoing that violated Federal statute, would that be under the purview of the CR-15?
10 A Yes.
11 Q Okay. Can you give us any other examples like that of what CR-15 would
12 typically handle?
13 A Sure. So it would handle allegations of the Federal Election Campaign Act.
14 Q Okay.
15 A It would investigate allegations of violations of 1001 -- Title 18 U.S.C. 1001;
16 the bribery statutes; the wire-fraud and mail-fraud statutes. Yeah. Those were the
17 main statutory violations that generally we handled.
18 Q Yeah. And without getting into the specifics of the case, while you were at
19 CR-15, did you handle investigations related to the statutory violations --
20 A I did.
21 Q -- in each of the categories?
22 A I did.
23 Q Was there one that took up more time for CR-15, or was it a mix?
24 A No. Not one case comes to mind that we spent more time on. Again,
25 most, if not all, cases were multiyear investigations.

1 Q Were there specific statutory violations that you dealt with most often?

2 A Most of the violations were around those violations. You know, the 1001,

3 mail fraud, wire fraud, the bribery statute.

4 Q And would it be typical for investigations at CR-15 handled to have multiple

5 statutory violations?

6 A Yes.

7 Q Okay. And on July 18th, 2022, Senator Grassley wrote again to Director

8 Wray and Attorney General Garland regarding ASAC Thibault. I'll offer that as exhibit

9 No. 2.

10 [Miller Exhibit No. 2

11 Was marked for identification.]

12 BY [redacted]

13 Q Are you familiar with this letter? Have you read the July 18th letter?

14 A I don't recall.

15 Q Okay. I'll give you time to please review. And, again, I'll make sure to

16 refer to specific sections.

17 Have you had sufficient time to review?

18 A Yes.

19 Q Okay. So looking at page 1 of the letter, the very last paragraph there, I'm

20 going to read starting with the second sentence.

21 "In fact, the information I have received reveals that Thibault's political

22 partisanship went much deeper than the inappropriate social media posts. Instead, it

23 impacted his official decision-making on sensitive public corruption investigations.

24 Equally concerning is that, based on Justice Department and FBI policies, Thibault's

25 partisanship likely affected investigations briefed to and approved by senior Justice

1 Department and FBI officials."

2 And these allegations came from whistleblowers to Senator Grassley's office.

3 Are you familiar with any of these whistleblower allegations?

4 A Just what was released in the media.

5 Q Okay. And was today the first time you were aware of this letter, or had

6 you read it previously?

7 A I don't recall reading this letter, no.

8 Q Okay. And had you heard the allegations within the letter prior to today?

9 A I had. That was when it was reported in the news.

10 Q And what was your reaction to hearing the reporting?

11 A Again, I was surprised. My interactions with all of -- you know, Mr. Thibault

12 on up throughout the Washington Field Office with leadership -- I never got the sense

13 that anyone had a political bias.

14 Q Okay. And so, you never got the sense that his partisanship was likely

15 affecting his investigations?

16 A No.

17 Q And how often did you interact with Mr. Thibault and with the CR-15?

18 A I would say, you know, every other day, generally.

19 Q And did he sit with the CR-15 squad, or did he have an office that was

20 separate from where the squad was?

21 A He had an office that was separate.

22 Q Okay. But all within WFO. Is that accurate?

23 A Correct.

24 Q So turning to page 2 now, the first paragraph. It says, "Whistleblowers

25 have reported to me that, although the FBI and Justice Department maintain policies

1 dictating specific standards requiring substantial factual predication to initiate an
2 investigation, Thibault and other Justice Department and FBI employees failed to comply
3 with these requirements. By disregarding these policies, Thibault was able to open or
4 approve, or cause to be opened or approved investigations based on unsubstantiated or
5 unverified statements sourced to biased media publications."
6 And during your time with the CR-15 and interacting with ASAC Thibault, was he
7 responsible for multiple squads besides CR-15, or was it just CR-15?
8 A No. He was responsible for multiple squads.
9 Q Was CR-15 the only squad that handled public corruption investigations?
10 A No. There was a squad that handled Northern Virginia public
11 corruption-based investigations and another squad that handled D.C.-specific public
12 corruption investigations.
13 Q So then was CR-15 nationwide, or what was --
14 A No. CR-15 was specifically mandated to investigate the Federal branch
15 agencies. So the executive branch, the cabinet agencies, the legislative branch, as well
16 as the judicial branch.
17 Q Okay. And then you said there was another squad under Thibault's
18 command that was specific to Northern Virginia. Is that correct?
19 A Right. And they could -- they were mandated to investigate anything
20 from -- you know, at the local level all the way up through the State level.
21 Q Okay. And then there was another squad that Mr. Thibault oversaw that
22 was dedicated solely to the District of Columbia. Is that correct?
23 A Correct.
24 Q Okay. But that wouldn't have handled any of -- like, you know, the Federal
25 branch public corruption?

1 A No. District of Columbia was, again, just local level up to -- you know, local
2 level agencies, and then also, again, fraud cases that might be derived out of those
3 particular agencies.
4 Q Okay. So is it accurate to say that the other squads -- the Northern Virginia
5 squad and the District of Columbia squad -- they were focused on local public corruption
6 cases?
7 A Yes. Local- and State-level public corruption cases.
8 Q Okay. And then CR-15 handled specifically those that involved Federal
9 officials. Is that accurate to say?
10 A Correct.
11 Q Okay. Okay. And so during your time at CR-15, can you describe the
12 process by which investigations were opened or approved?
13 A So they were opened by following the process that's outlined in the
14 Domestic Investigations and Operations Guide. That is basically the guidelines and the
15 standard operating procedure that's outlined by the FBI to open those investigations, also
16 along with the Attorney General guidelines.
17 So these cases required approval from not only the squad supervisor, but also
18 from the assistant special agent in charge, the special agent in charge, and then you
19 would also need to have -- the case agents would have had to consulted with a local
20 prosecutor's office, being D.C. U.S. Attorney's Office, Eastern District of Virginia, or Public
21 Integrity Section.
22 Q Okay. So if an investigation was to be opened, it would need to be
23 approved by the squad supervisor. Would that have been you?
24 A Yes.
25 Q So you approved all investigative -- investigations opening. Is that correct?

1 A Correct.

2 Q And then the ASAC, would that have been Mr. Thibault?

3 A Well, during my time, it would have been either Mr. Vorndran and then,

4 eventually, Mr. Thibault.

5 Q Okay. Mr. Thibault. Okay.

6 And then the SAC -- who was the SAC of the Washington Field Office when you

7 were there?

8 A That was Jim Dawson.

9 Q Okay. Was there anyone above Mr. Dawson that had to approve any case

10 openings?

11 A No. Not at the Washington Field Office level. Then you had to have

12 consultation with -- basically notification to the Public Corruption Unit at Headquarters.

13 Q For every case that you opened?

14 A Correct.

15 Q Is that correct?

16 And who would you most liaise with at the Headquarters Section?

17 A Well, it was the case agent's responsibility to notify the responsible

18 supervisory special agent at the Public Corruption Unit --

19 Q Okay.

20 A -- of that opening communication. And then they -- the responsible

21 supervisory special agent would convey that to their chain of command. And I don't

22 recall how far up that actually went at the Public Corruption Unit.

23 Q Okay. And the SSA with the Public Corruption Unit, would they need to

24 sign off on the investigation, or was it just a notification that was required?

25 A It was a notification.

1 Q Okay. And so the FBI policies that CR-15 followed to open investigations,
2 you said, were the DIOG and then the Attorney General guidelines. Is that correct?
3 A That's correct.
4 Q Okay. And so what was Mr. Thibault's role in approving -- what was
5 required for his approval?
6 A He -- well, it was just -- you would assess the allegations and the predication
7 that was outlined in the opening communication, and if that particular individual agreed
8 that there was sufficient predication according to the DIOG, they would approve it.
9 Q Okay. And so, before Mr. Thibault reviewed and approved the opening
10 communication, you would have approved the --
11 A I would have done the same thing.
12 Q And your review process was the same as Mr. Thibault's. Is that your
13 understanding?
14 A Correct.
15 Q So when you were there, did you ever see any, you know, opening or
16 approving investigations based on unsubstantiated or unverified statements?
17 A No.
18 Q Were you ever aware of any statements that were sourced directly from
19 media publications?
20 A Sourced from media publications? I don't believe there were any opening
21 communications that directly cited a media publication.
22 Q Okay. That you reviewed?
23 A Yeah. Based on my recollection -- based on everything I've -- based on the
24 opening communications I've read, I don't recall ever reading an opening communication
25 that was based on a media report.

1 Q Okay. And so, was this only for full investigations that this approval
2 process would have to go through?
3 A I would have to consult back to the DIOG. Based on my recollection, I
4 believe a preliminary investigation also required the same leadership approval.
5 Q Okay. And if it was just an assessment, was there any sort of leadership
6 approval that you remember?
7 A If -- assessments could be -- were approved at the supervisory special agent
8 level.
9 Q So you would have just approved those. Is that correct?
10 A Correct.
11 Q Okay.
12 A And generally, those were what's referred to as guardian assessments.
13 Q Okay. And so, you know, with all the approval processes for assessments,
14 preliminary investigations, full investigations, you know, you were pretty involved with all
15 of those. Did you have a good handle of what CR-15 was working on at any given time?
16 A Yes. I had complete oversight of all the open investigations.
17 Q Okay. And so, turning back to the letter, the same page, that next
18 sentence, it says, "In other instances, whistleblowers have reported that Thibault declined
19 to open or approve investigations based on partisan objectives notwithstanding the
20 existence of proper predication. This double-standard in the application of Justice
21 Department and FBI policies has resulted in investigations opened in a manner appearing
22 to benefit the political aims and objectives of a select few Justice Department and FBI
23 officials."
24 Mr. Miller, are you aware of any investigations that Mr. Thibault declined to
25 approve?

1 A I believe there were investigations that were -- that he declined. I'm sure
2 there were. I don't recall which ones.
3 Q And so, you know, going through the process again, you would have already
4 approved and determined that there was proper predication in your mind for the
5 investigation -- is that accurate -- before it went to Mr. Thibault?
6 A Correct.
7 Q Okay. So were you ever aware of any instances when Mr. Thibault declined
8 to approve an investigation when there was proper predication in your mind?
9 A I can't recall an exact -- a definite investigation where he declined to approve
10 it. But given the sheer number of cases that we were -- opening communications that
11 were -- at any given time were moving through the approval chain, I would -- I believe
12 there may have been one or two. I don't want to speculate. I just -- given the sheer
13 number, my recollection is he probably did --
14 Q Okay.
15 A -- not approve some, but I don't recall which ones.
16 Q And whistleblowers that have spoken with Senator Grassley as well as the
17 committee have said that there was a dramatic difference in how many cases CR-15
18 opened on Republican officials versus Democrat officials.
19 From your perspective, was there an even spread?
20 A From my perspective, there was no difference between Republican or
21 Democrat officials. No.
22 Q No? Okay.
23 In the final sentence of that paragraph, it states, "Further, it is my understanding
24 from whistleblowers that when FBI agents sought a uniform and consistent application of
25 these standards, their concerns were marginalized or otherwise not acted upon."

1 As an SSA, did anyone in your chain of command ever report to you that they felt
2 marginalized?
3 A No.
4 Q Did anyone under your supervision raise objection to you about how CR-15
5 ran its investigations?
6 A No.
7 Q So no one ever raised concerns to you regarding how investigations were
8 handled? Is that accurate?
9 A No. We would have discussions about internal -- actual investigations that
10 were opened and, you know, the next investigative steps, and there was always healthy
11 discussion around what was the next logical step we needed to take in an investigation.
12 But I don't recall any concerns being raised to me about how we were opening cases.
13 Q And did you feel that there was an open line of communication between you
14 and your line agents?
15 A Absolutely.
16 Q And they would feel comfortable coming to you with any sort of concerns?
17 A Oh, absolutely.
18 Q And they would feel comfortable coming to you with any sort of concerns
19 they had about leadership above you, Mr. Thibault? Is that accurate to say?
20 A Absolutely. And, again, there were many -- you know, there were
21 always -- there were always healthy conversations around next investigative steps,
22 and -- but nothing that I recall about opening investigations or, you know, which
23 investigations we should open and which ones we shouldn't.
24 Q Okay. And are you familiar with a Main Justice official named Richard
25 Pilger?

1 A Yes.

2 Q And how are you familiar with him?

3 A Mr. Pilger was assigned to the Public Integrity Section as a trial attorney, and

4 I believe he specialized in election crimes.

5 Q And how often did you interact with Mr. Pilger?

6 A When I started on CR-15 -- actually, when I came from Headquarters and

7 was a line agent, I interacted with him initially on one investigation.

8 Q Okay. So just one investigation that you interacted with him?

9 A Yes.

10 Q Has that investigation been closed, to your knowledge?

11 A To my knowledge, I believe it has, but I can't confirm that.

12 Q And how often did he, Mr. Pilger, interact with CR-15? Was it frequent?

13 A Given his specialty was election crimes, he had -- I would say frequent

14 interaction with the various agents on the squad.

15 Q Okay. And in the letter, going to the second paragraph there on page 2,

16 the second sentence says, "Whistleblowers have indicated that Thibault and Richard

17 Pilger, director of the Election Crimes Branch within the Justice Department's Public

18 Integrity Section, were deeply involved in the decisions to open and pursue this

19 investigation."

20 Was Mr. Pilger deeply involved in the opening of any investigations?

21 A My recollection is, for election crimes investigations, he had to be consulted.

22 Q Okay. And was that typical with when you, in the approval process, said

23 that you would need to consult with prosecutors, or notify prosecutors of the

24 investigation?

25 A That's correct.

1 Q So that was the typical outreach?

2 A Right. And if it was alleging an election crime, then it would -- you would

3 have to -- they would have to consult with Mr. Pilger.

4 Q Okay. And then, specifically, turning back to that paragraph -- I'll just read

5 it to keep the record clear here.

6 It says, "According to CNN, the FBI is investigating former President Trump's

7 campaign and its advisors, and the Justice Department has issued subpoenas to

8 individuals linked to electors during the 2020 election. Whistleblowers have indicated

9 that Thibault and Richard Pilger, director of the Election Crimes Branch within the Justice

10 Department's Public Integrity Section, were deeply involved in the decisions to open and

11 pursue this investigation. Based on allegations, the investigation's predicating

12 document is based, in substantial part, on January 2022 CNN News articles, which relied

13 on information derived from a liberal nonprofit, American Oversight, and referenced as

14 Boris Epshteyn's interview on MSNBC. As you know, a high-profile investigation such as

15 this would require the Attorney General and FBI Director to be briefed on the full factual

16 predication, which they would then review and approve. Based on allegations, the

17 opening memo that you approved included selective assertions created, in large part, by

18 Thibault and either removed or watered-down material connected to the aforementioned

19 left-wing entities that existed in previous versions and recommended that a full

20 investigation -- not a preliminary investigation -- be approved. As you know, a full

21 investigation requires a heightened factual basis as compared to a preliminary

22 investigation."

23 Mr. Miller, were you still at the Bureau when this investigation began?

24 Mr. Kravis. And I'm just going to interject here.

25 As you know, Mr. Miller is here for the voluntary interview today pursuant to an

1 authorization letter that was provided by the general counsel of the FBI. I did provide
2 copies of the authorization letter to counsel for both sides yesterday in advance of the
3 interview.
4 The authorization letter that Mr. Miller was provided does caution him not to
5 discuss investigations that were active at the time of his service at the FBI. I don't know
6 whether the investigation that is referenced here falls into that category, and I don't
7 know whether Mr. Miller participated in it at all.
8 So I'm just going to instruct you now, Mr. Miller, in answering the last question,
9 you should not discuss the particulars of any active investigation that you participated in
10 while you were serving at the FBI pursuant to the authorization letter. Does that make
11 sense?
12 Mr. Miller. Yes.
13 Mr. Kravis. Do you want her to read back the question since that was a lot to
14 say?
15 Mr. Miller. Please do.
16 BY [redacted]
17 Q Yeah. So the paragraph that I just read from said that the predicating
18 document was based on articles from January of 2022. And my question was, were you
19 still at the Bureau when this predicating document would have been working its way
20 through the approval process?
21 A No. I left the Bureau in late August of 2021.
22 Q Okay. Thank you.
23 And was it -- I think we kind of talked about this earlier, but was it normal for
24 predicating documents to cite to news articles?
25 A No, it was not normal.

1 Q Okay. And moving on, during your time at CR-15, were you familiar with an
2 FBI official named Walter Giardina?
3 A Yes.
4 Q And what was his role?
5 A He was a line agent on CR-15.
6 Q Was he there when you were there?
7 A Yes.
8 Q Okay. And did you work closely with Mr. Giardina?
9 A Yes.
10 Q To your knowledge, is he still with the Bureau?
11 A I don't know.
12 Q Okay. But he was still there when you left the Bureau. Is that correct?
13 A Yes.
14 Q How long has Mr. Giardina worked for CR-15?
15 A He was on CR-15 when I arrived in 2017 and then was on the squad when I
16 left.
17 Q Okay. And what would you describe Mr. Giardina's reputation to be?
18 A Hardworking, professional. He had a good mix of experience in
19 investigating various violations of Federal law.
20 Q And we've received whistleblower reporting that he worked on the Crossfire
21 Hurricane investigation. Are you familiar with that?
22 A I was not a part of that investigation. So, no, I'm not.
23 Q Were you aware that Mr. Giardina was assigned to that investigation?
24 A Not that investigation specifically. I was not aware that he was assigned.
25 I know that he was assigned -- when I came on the squad, he had just, I believe, come

1 back from being assigned to the special counsel's office.

2 Q Okay. And special counsel's office, meaning Special Counsel Mueller?

3 A Correct.

4 Q Okay. And whistleblower reporting indicates that Agent Giardina

5 proactively had an outside vendor use a program to wipe his Crossfire Hurricane laptop.

6 Are you aware of this episode at all?

7 A No.

8 Q So there was no squad talk about this happening, or did you ever became

9 aware?

10 A Not that I recall.

11 Q And did you ever receive any reporting from your line agents about

12 Mr. Giardina, about how he handled cases or investigations?

13 A No. No one brought any concerns directly to me.

1

2 [10:57 a.m.]

3 BY [redacted]

4 Q And during your tenure at the Washington Field Office, were you ever

5 involved in any investigations regarding the events that occurred at the Capitol on

6 January 6th, 2021?

7 A Yes, I was.

8 Q And what was your -- without getting into case specifics, what was your

9 involvement with those investigations? Was it after January 6th or before?

10 A No, I responded to the U.S. Capitol on January 6th.

11 Q So you physically came to the Capitol. Is that what you mean by

12 responded?

13 A That's correct.

14 Q Okay. And what was your involvement with the January 6th investigation?

15 A I was dispatched to the -- initially to the Washington Field Office around

16 approximately 2:00 p.m. that day. While I was en route, we were diverted to a staging

17 area near the Capitol, which was basically a parking lot. I believe one of the secure

18 parking lots on the Grounds. Because the -- there was a fear that the crowd was starting

19 to get near the Washington Field Office, and we had to lock it down.

20 So all the responding agents were redirected to this particular staging area near

21 the Capitol site. When I arrived, I was briefed by the special agent in charge at the time,

22 and also Deputy Director Bowdich. And I was asked to take a large contingent of agents

23 to secure the Members of the Senate.

24 Q Okay.

25 A And so I took a team to work with the U.S. Capitol Police and other agencies

1 who were, at the time, with the Senators. And we responded, essentially took over the
2 protection of them at that point. And then I worked with other law enforcement
3 leadership to secure a route that would allow the Senators back into the Chambers so
4 they could continue the certification. So we secured a route. We escorted them back
5 in and secured the Senate Chamber for the rest of the night while they continued their
6 business.
7 Q Okay. And you said that you were briefed by the deputy director at the
8 SAC at the time. Who was the SAC at the time?
9 A The SAC was Jim Dawson.
10 Q And that was the same Jim Dawson you mentioned earlier being the SAC?
11 A Correct.
12 Q Okay. And do you remember you said you were on your way at 2:00 p.m.
13 Is that correct?
14 A It was approximately 2:00, 2:30.
15 Q And when were you briefed by the deputy director and the SAC?
16 A It was probably 3:00, around 3:00 p.m. I would probably gather -- or I would
17 guess. And it was just a very brief we need to assist with securing the Senate and just
18 grabbed as many agents as you can and go meet with Capitol Police leadership.
19 Q Okay. And then you immediately headed to the Senate. Is that accurate
20 to say?
21 A I -- I responded to an undisclosed location.
22 Q Okay. And about what time was that?
23 A It was -- I would say around 3:00.
24 Q Okay.
25 A 3:15. It was- -- yeah?

1 Q And did your whole squad get dispatched to the Capitol that day?

2 A The entire Washington Field Office got dispatched.

3 Q Okay. And following the events at the Capitol, were you involved in the

4 investigations starting after January 6th?

5 A Yes.

6 Q And we're ending the near of our time here so I'll stop here and pick back up

7 on our next round.

8 [Discussion off the record.]

9 BY [redacted]

10 Q Good morning again, Mr. Miller. I just want to ask you a couple of

11 follow-up questions to start off from your discussion with the majority counsel from the

12 first hour. You mentioned a couple of people; Richard Pilger, who was the DOJ public

13 integrity attorney. Is that correct?

14 A That's correct.

15 Q And he's a career line attorney with that section. Is that right, if you know?

16 A During my interaction with him he was the lead prosecutor for election

17 crimes.

18 Q Okay.

19 A I don't recall his exact title.

20 Q Got it. But is he -- to your knowledge, is he a political appointee?

21 A I don't know.

22 Q Okay. How many -- you said he had a specialty in election crimes and those

23 cases tended to be referred to him. Is that fair to say?

24 A Yes.

25 Q Okay. And in your experience with him, what was his reputation at the

1 Department of Justice?

2 A My recollection is his reputation was -- that he was professional and

3 was -- yeah, I didn't really -- like I said, other than the one case, I really didn't interact with

4 him a lot. But generally speaking, I had heard that his reputation was -- that he was very

5 knowledgeable about election crimes and was kind of the authority on election crimes.

6 Q Did you ever hear of anyone raise concerns about political bias on his part?

7 A No.

8 Q Or partisanship?

9 A No.

10 Q Did you personally have any concerns along those lines with respect to

11 Mr. Pilger?

12 A No.

13 Q And also, with respect to Walter -- Walter Giardina, who was also mentioned

14 in the first hour, are you familiar with his reputation at the FBI?

15 A Yes.

16 Q And how would you describe that reputation?

17 A Extremely hardworking.

18 Q What about with respect to any bias or political opinions, was it ever your

19 experience that he let those kind of opinions interfere with his work?

20 A No.

21 Q Have you ever heard anyone complain that he had let bias or political

22 personal opinions interfere with his work?

23 A No.

24 Q Okay. You spoke quite a bit about your background, and I'm not going to

25 have you go over that too much, but I just want to understand. When you left the FBI,

1 you were in the position of supervisory special agent in the WFO CR-15 squad or --

2 A That's correct.

3 Q Okay. And you've described your responsibilities there. Is it fair to say

4 that during your 15-year career, that you've had a wide variety of experience, including

5 serving as a line agent handling investigations yourself, supervising line agents, and also

6 holding leadership positions within the FBI. Is that a fair characterization of your entire

7 career?

8 A Yes, that's correct.

9 Q Did you receive any awards or commendations during your period with the

10 FBI?

11 A Yes.

12 Q Can you just briefly describe some of those?

13 A They were just awards for work that I had done on various cases. Just,

14 like -- just merit awards I guess you could say.

15 Q Okay. Going specifically to your time with the public corruption unit, you

16 indicated -- sorry, I'm going to show you again what the majority had marked as exhibit 1,

17 that's the May 31st -- you guys already have your copy or was it already taken from you?

18 Mr. Kravis. No, we returned our copy.

19 [redacted] Do you guys have exhibit 1?

20 [redacted] Yes, a copy is right there.

21 [redacted] Sorry, guys.

22 BY [redacted]

23 Q In the first hour were you asked to look at page 2 of exhibit 1 and the second

24 paragraph that begins, "for example." Let me know if you've located that paragraph.

25 A Yes.

1 Q That paragraph discusses Assistant Special Agent in Charge Thibault's social
2 media postings. And when you were asked about that during the first hour you
3 indicated that you didn't know about these social media postings while you were working
4 with Mr. Thibault. Is that correct?
5 A That's correct.
6 Q And you learned about them after they were publicized in the media. Is
7 that fair to say?
8 A Yes.
9 Q You indicated when you were directed to the sentence in the letter about
10 the social media postings that you were surprised, I believe that was the word you used,
11 to learn of those social media postings. Is that right?
12 A Yes.
13 Q And you were also asked as you went through this letter what your reaction
14 was to Senator Grassley's claim that these postings, quote, "demonstrate a pattern of
15 improper commentary related to, for example, ongoing FBI investigations, including those
16 under his purview."
17 Is it fair to say that you were surprised, at least in part, because what is depicted
18 in this letter is not consistent with your personal experience with Agent Thibault?
19 A I was surprised because again I didn't have any insight into Mr. Thibault's
20 social media accounts. So, yeah, again I was -- I guess the best word to describe it is
21 surprised, yes.
22 Q Okay. And the social media accounts referred to in this letter are personal
23 accounts, not FBI accounts. Is that right?
24 A Based on what is depicted here, yes.
25 Q And FBI agents are human beings with personal opinions in your experience.

1 Is that right?

2 A Yes.

3 Q And Mr. Thibault, in your experience, did not share those personal opinions

4 at work with you. Is that fair to say?

5 A He did not share any personal opinions with me.

6 Q And did you hear of him sharing his personal political views with other

7 agents at work?

8 A No one brought that to my attention while -- during my time at the FBI.

9 Q Okay. You can set the letter aside.

10 There were a couple of questions earlier about the nature of the investigations

11 that you do in the CR-15 squad in terms of how complex they are and how many years

12 they might last. Would you say that the cases really varied depending on the individual

13 investigations and the facts that you have, or is there kind of a uniformed duration that

14 those cases tend to have?

15 A All cases are very different in duration. Obviously, it's based on the

16 complexity of the allegations and, you know, where the facts take the individual

17 investigation. So you can't, you know, really look across the board and assess that

18 there's an approximate timeframe to any group of investigations, each one is so different.

19 Q Okay. It's fair to say that as an FBI agent in the CR-15 squad, it's your job to

20 just investigate as long as you need to get to the truth, or to have a proper understanding

21 of what happened. Is that fair to say?

22 A Correct. You -- you investigate until there are no additional leads to -- to

23 pursue. And then you assess the -- the results of the investigation at that point.

24 Q Okay. And you indicated that some of those investigations were multiyear

25 investigations. Is that correct?

1 A Yes.

2 Q And in your experience, during some of those multiyear investigations,

3 would there be sometimes a change of presidential administration as those case -- cases

4 continued?

5 A Yes.

6 Q And when that happened, did the change of presidential administrations, in

7 your experience, affect the way the FBI agents took their investigative steps in those

8 cases?

9 A No.

10 Q Have you ever seen the change of a presidential administration or a political

11 appointee in an executive agency interfere with the investigative steps that the FBI agents

12 were taking in their investigations?

13 A No.

14 Q How about the DOJ attorneys that you worked with during those

15 investigations, did they tend to be the same people over different administrations or did

16 you tend to see a change in staffing from DOJ when one presidential administration

17 would come in and another would be replaced?

18 A No, I never saw a change in staffing with the group of attorneys that we

19 worked with.

20 Q Okay. And that's what I meant, is the DOJ or AUSAs that you were working

21 with, did those tend to be career lawyers, and not political appointees?

22 A Correct.

23 Q All right. Let's- -- I'm going to make sure I got all of these.

24 Sorry, really quick back to the letter, you don't have to refer to any specifically, but

25 that letter regarding Mr. Thibault's social media accounts, when you learned that he had

1 personal social media accounts that expressed some personal views, did that change the
2 opinion that you stated earlier that Mr. Thibault was, quote, "professional," and had
3 quote, "a stellar reputation" as an FBI agent?
4 A During my time working with and for Mr. Thibault, that is how I would
5 describe him as being professional, dedicated, just like all the other agents I worked with.
6 Q And you continue to believe that he had a stellar reputation or has a stellar
7 reputation?
8 A I can't speculate today as to what his reputation is.
9 Q Oh, you mean other people's opinion of him?
10 A Correct.
11 Q Okay. I just meant your own opinion of him. I'm sorry.
12 A I will say that my opinion, again, is based on my interaction with him during
13 that time. Again, I was -- I'm surprised and a little shocked when I read this particular
14 reporting.
15 Q Yeah.
16 A Yeah.
17 Q But in your time with Mr. Thibault, you never saw him allow his personal
18 opinions to interfere with his work. Is that fair to say?
19 A That's fair to say.
20 Q And you never saw him exhibit any kind of bias with respect to any
21 investigative decisions that he made at work or that he approved at work?
22 A No.
23 Q All right. You indicated in the first hour that at some point when you were
24 working at the supervisory special agent in CR-15, there was, I think you said, some kind
25 of talk or partisan opinions being shared among some squad members. Do you recall

1 that discussion?

2 A I -- yes. It was brought to my attention that there was political discussions

3 being had in this squad area.

4 Q Okay. Do you know -- do you recall when that discussion happened or

5 when it was brought to your attention?

6 A I think -- I think it was around spring 2020, I believe.

7 Q Okay. Can you tell us how it was brought to your attention?

8 A It was brought it my attention by a senior agent on the squad.

9 Q All right. Was the squad that was having this discussion, was this a field

10 office in Manassas?

11 A Yes.

12 Q Okay. And that's part of the public corruption unit, but a particular squad

13 within that unit that works out of Manassas?

14 A CR-15 is assigned to the Northern Virginia RA which is in Manassas.

15 Q So that's physically where they're located?

16 A Correct.

17 Q Okay. And you indicated that you gave a talk or a warning to some of the

18 agents on the squad cautioning them that partisanship was unacceptable in their work.

19 Is that correct?

20 A Correct.

21 Q Did you give that talk to everybody in the office, or just certain agents?

22 A No, I gave it to the entire squad.

23 Q Okay. But it was predicated or your need to give that warning was

24 predicated on what you heard from this other agent about specific talk that was partisan?

25 A Correct.

1 Q All right. Can you describe anything about the circumstances of, you know,
2 that caused you to have to give that warning, other than what you've already said?
3 A No, it was just brought to my attention that there was generally political
4 discussions being had around the squad area. It was not specific to what kinds of
5 political discussions.
6 Q So you never actually heard that discussion yourself?
7 A No.
8 Q Do you know from the special agent who reported it to you what the
9 comments were about?
10 A No.
11 Q Okay. But your response was that you had to address it in some way, fair
12 to say?
13 A Correct.
14 Q And can you explain why you felt you had to address it?
15 A Again, given our mandate and what the responsibilities are of an FBI special
16 agent investigating any crime, especially allegations of any public corruption, it's
17 incumbent that we be objective and that we not show any, even apparent or implied bias
18 with anything that we do. So even discussions in the squad area, you know, you could
19 characterize it as water cooler-type discussions about politics was not to be done. And I
20 just again reiterated that it was their responsibility to, although we all have opinions, to
21 leave that at home, check it at the door and obviously do not, you know, bring that
22 to -- to work.
23 Q Okay. And was -- sorry, do you want to --
24 BY [redacted]
25 Q Yeah. You said that you -- in the first hour you used the term "chitchat."

1 Do you recall that?

2 A Yes.

3 Q What is your understanding of what chitchat is?

4 A Water cooler discussions.

5 Q Okay. And you said a couple times that the senior agent that brought this

6 to your attention, he didn't tell you the substance of what the chitchat was. Is that fair?

7 A That's correct.

8 Q And so he didn't tell you, for example, if the comments were pro one

9 political party or pro another party or anti one party or anti another party. Is that fair to

10 say?

11 A That's correct.

12 Q So it's just broadly speaking, any political discussion, whether it's pro

13 Democrat, pro Republican, pro Green Party, whatever is inappropriate for that type of

14 squad. Is that right?

15 A Correct.

16 Q Okay. So the substance never -- the substance was somewhat irrelevant to

17 you because any such discussion would have been inappropriate?

18 A That's correct.

19 Q And you didn't know the substance?

20 A No, I did not.

21 BY [redacted]

22 Q Was it unusual, in your experience, to have to warn these agents about

23 partisan discussion?

24 A It was the first time I'd ever had to do it. But again, I think -- it was more

25 highlighted and very important to remind them of that because of CR-15's mandate,

1 especially given the investigative authority that we were assigned.

2 Q What was the response within the unit when you gave that warning?

3 A Everyone listened intently and there was no -- I didn't get any additional

4 feedback after I provided that admonishment.

5 Q Did you have to do it again or did it appear to you that it was -- your warning

6 was successful in kind of tamping down that kind of talk?

7 A No, I never had another discussion with the squad.

8 BY [redacted]

9 Q Sorry. Going back a second, the warning when you delivered it was it live

10 in person, was it over Zoom? What were the actual circumstances?

11 A It was live in-person.

12 Q And so it was like a squad meeting that you called?

13 A Correct.

14 Q Okay, thank you.

15 BY [redacted]

16 Q Do you have any opinion about why in the spring of 2020, it became

17 necessary for you to tamp down on partisan talk? Was there anything happening in the

18 world that sort of led you to believe that the agents were becoming more prone to this

19 chitchat, as you put it?

20 A No, I don't know what -- what led to this additional -- these additional

21 conversations in the squad area that led to that agent coming to me. I don't remember

22 what the particular motive was.

23 Q Okay. Was one of the agents that you were warning about partisanship

24 [redacted]?

25 A I believe he was on the squad at the time, yes.

1 Q Do you know if he was present when you gave that warning?

2 A I don't recall.

3 Q Okay.

4 A But I believe everyone was there at the time, so I would assume -- I don't

5 recall anyone not being there who was assigned to the squad.

6 Q Can you tell me, how do you know [redacted]?

7 A I -- he was assigned to the squad. He came from FBI headquarters from a

8 previous assignment, and was interested in coming to the Northern Virginia RA. He had

9 been referred to me from other agencies he had worked with in the past, and he was

10 interested in CR-15. And as an agent coming from headquarters, coming back to

11 Washington Field Office, most agents will reach out to various supervisors that they

12 might -- supervisors of squads that they might be interested in joining, and have

13 discussions with them about whether it was any availability on the squad as far as, you

14 know, is the squad -- does -- do they have an opening. And I recall having met with him

15 to discuss yeah, that we did have openings and that, you know, we would -- that he could

16 certainly request through the -- I believe it was the SAC at the time. If he wanted to, he

17 could request to be assigned to CR-15.

18 Q Do you remember when it was that he asked to be placed on CR-15 squad?

19 A I don't.

20 Q Okay. Any, just even year that you could recall?

21 A No. I --

22 Q It's okay.

23 A I really don't recall.

24 Q Okay. Do you know how long he was with CR-15?

25 A I believe a couple of years, but I don't recall when he actually came on the

1 squad.

2 Q Okay. And were you his direct supervisor?

3 A Yes.

4 Q The whole time he was there?

5 A Yes.

6 Q At some point, when were you still the supervisory special agent on CR-15,

7 [redacted] left that unit. Is that correct?

8 A That's correct.

9 Q And are you familiar with the circumstances under which he left the unit?

10 A Yes.

11 Q And can you describe those?

12 A It had come to my attention through FBI headquarters that he had some

13 family connection I think through -- if I recall, through one of his children, that they were

14 employed by a media outlet. And based on that -- and again, going back to any kind of

15 appearance of partisanship, I asked [redacted] about that when it was brought to my attention.

16 And I said, You know, that given that he was new, fairly new to the squad, especially new

17 to working public corruption cases that any kind of a potential appearance of bias is

18 always something to be very aware of. So I said, You know, given what the

19 investigation, any kind of corrupt, public corruption investigation in the oversight, and the

20 scrutiny that those get, if you see any potential or even -- even an apparent bias, that you

21 should really think about whether or not you want to be put in that position.

22 So I said, You know, it's probably something that you should -- you should maybe

23 look to just work government fraud cases. If you're not interested in government fraud

24 cases, I think it would, you know, be better to work on a different squad. And if you

25 know, you could have your pick of any squad, it's completely, it's left up to him. But my

1 concern was, again, for kind of really protecting him. So I said, You know, just
2 something to think about, those are what -- if I were in your shoes, that's what I would
3 consider to be my options. And he chose to go to a different squad at the Northern
4 Virginia RA.
5 Q Okay. So the media outlet that his child worked for, was it a partisan
6 outlet, in your opinion?
7 A I believe so.
8 Q Okay. And that was the concern that there was partisanship sort of
9 displayed in that connection to the media outlet that?
10 A There was -- that there could be an appearance of.
11 Q Okay. The way that came to your attention, is it fair to say, was through a
12 tip in reviewing [redacted] sourcing review? I don't know how you characterized it, but at
13 the FBI is there a -- do agents -- source reporting, does it get reviewed by either FBI
14 headquarters or someone in intel or some other division?
15 A Source reporting is -- is visible, but -- visible by FBI headquarters and they do
16 review it. And that information came to me by way of FBI headquarters. I don't
17 recall -- I don't know how they became aware of it in the process by which they became
18 aware of it, but it was brought to my attention by public corruption unit that -- that that
19 particular connection was -- was identified and they wanted just to be -- to be aware of it.
20 Q When you say that connection, they are talking about the fact that his
21 daughter worked for a partisan news organization?
22 A Yes, it's -- yeah. The employment was identified.
23 Q And are you aware also that she was a writer for the Urb Blogger (ph) for the
24 news organization, and that she actually wrote about, quote, "someone her father was
25 investigating," unquote?

1 A I think I became aware of that after that particular -- after it was initially
2 brought to my attention that she was employed by a particular news outlet.
3 Q Okay. So you didn't know at the time that you spoke to [redacted] that his
4 daughter was actually writing --
5 A No.
6 Q -- about his cases?
7 A No, I didn't know the subject matter by which she wrote about.
8 Q Okay. Would that have been even more concerning to you if you learned
9 that not only did she have a connection to this media organization but that she was
10 actually writing about some of the people that her father was investigating at CR-15?
11 A Yes.
12 Q And why would that be concerning?
13 A Because, you know, we certainly wouldn't want to create a connection
14 between someone who was running or investigating the case in any media news outlet.
15 Q And are FBI agents, particularly on the squad, allowed to speak about their
16 open investigations to family members?
17 A No.
18 BY [redacted]
19 Q A couple of follow-up questions. You said you certainly wouldn't want to
20 create or have any appearance of a connection between anyone on the squad and any
21 media outlet. Why is that?
22 A To maintain the integrity of the investigation.
23 Q And can you explain that a little more, like, what's --
24 A Well, it's paramount to maintaining the integrity of the investigation, and we
25 certainly don't want to create even the appearance that there's a relationship with news

1 media and a particular investigator. So we're not opening up a particular line of
2 communication between that investigator and the news media.
3 Q If a case, for example, were to go to trial and that information came out,
4 could that be damaging to the case?
5 A Yes.
6 Q And why is that?
7 A Well, certainly, any defendant's counsel could focus that -- on that particular
8 aspect of the case and it could take away from, you know, the facts, and could take away
9 from the overall arbitration of those facts.
10 Q Is it fair to say that it could potentially impact the ability for the FBI or DOJ to
11 obtain a conviction in that case?
12 A I certainly -- it would depend on the case.
13 Q Okay.
14 A But again, it would take away from the facts of the case and it would give
15 any defense counsel something to focus on and take away attention from the facts and
16 the evidence that we are bringing by way of the prosecution away from that and refocus
17 it on a potential or appearance of bias.
18 Q Okay. And you said a couple minutes ago that part of that concern here is
19 that you wanted to protect him. What did you mean by protect him, meaning
20 [redacted]?
21 A You know, [redacted] was a -- was a professional, you know, hardworking FBI
22 agent. I knew him to be, you know, very new to public corruption, but had vast
23 experience in counterterrorism. And because he had not worked these kinds of
24 higher-level public corruption investigations where you have a heightened level of
25 scrutiny, I wanted to make him aware of the potential pitfalls as you get closer. You

1 know, as you open an investigation and you're moving through to potential prosecution,
2 and if you got to a prosecution and there was discovered to be a relationship, a family
3 relationship or any kind of personal relationship with someone on the outside that would
4 be -- again, that could refocus the defense's attention on that case or could provide a
5 potential appearance of bias, or with the media there's always the concern that, you
6 know, that we could damage the integrity of the investigation. I wanted to make him
7 aware of how that could be perceived.
8 So he understood what potential pitfalls there could be. And that's why I
9 recommended that, you know, he focus -- not open or not investigate cases that were
10 public corruption cases, but instead, focus on cases that were fraud-related, or go, you
11 know, to a different squad and investigate an entirely different violation.
12 Q And when you made the offer for him to go to another squad, did he take
13 you up on that? Did he agree that he should go to another squad?
14 A Yes. My recollection is I -- I told him, you know, take the weekend think
15 about what he wanted to do and then let me know. And he came back and said that
16 he'd be interested in going to another particular squad and I worked with him to get him
17 assigned to that squad.
18 Q So you helped to facilitate that transfer. Is that fair to say?
19 A Yes.
20 [redacted] Okay. Thanks.
21 BY [redacted]
22 Q Did [redacted] make any complaints to you when you had this conversation
23 when he left the CR-15 squad?
24 A Oh, no, no.
25 Q And I guess I meant specifically about being advised that it might be better

1 for him to be on another squad?

2 A No, and we had, you know, quite a lengthy conversation about it. And my

3 recollection was that he, you know, even asked if he should have a conversation with one

4 of his kids about the situation. And I also have grown children, and I said, You know,

5 that's completely up to you, but we certainly can't dictate where our kids work. So I

6 said, you know, I think these -- that's your decision to make, but I would -- I would

7 definitely consider these -- these options as being probably the least disruptive, given the

8 situation and so that's why I laid out the option of working just fraud cases, or going to a

9 squad of his choice.

10 Q Okay. So he didn't make any formal complaints about his reassignment?

11 A No.

12 Q Other than what you just described in terms of hearing from headquarters

13 about this connection with [redacted] child, were there ever any other concerns

14 brought to your attention about [redacted] partisanship?

15 A No.

16 Q I'm going to ask you a couple questions about Special Agent Thibault,

17 because you were asked many questions about him. How long have you known Agent

18 Thibault?

19 A I met Mr. Thibault when I joined CR-15, I believe in early 2017.

20 Q You said 2017?

21 A 2017.

22 Q He's now retired, correct?

23 A I believe so.

24 Q Are you aware that Mr. Thibault spent 25 years as an FBI agent?

25 A I didn't realize it was that long, but that sounds about right.

1 Q It doesn't surprise you?

2 A No.

3 Q Okay. Are you aware that Mr. Thibault spent a substantial portion of his

4 career investigating public corruption cases?

5 A Yes.

6 Q Are you aware that during Mr. Thibault's career, he was primarily

7 responsible for the investigation of Congressman William Jefferson, which was a fairly

8 high-profile investigation that led to the Congressman being charged with many Federal

9 offenses, and serving time in jail?

10 A Yes.

11 Q I'm going to introduce exhibit 3.

12 [Miller Exhibit No. 3

13 Was marked for identification.]

14 BY [redacted]

15 Q I'm sorry about the print, it's extremely small. This is an article -- this is

16 actually from the FBI website, you can see the source on the bottom in extremely small

17 print. And guess I would characterize it as kind of a press release or a retrospective

18 about some of the cases that the FBI had done. Just take a minute to look at it and let

19 me know if you're familiar with this investigation at all.

20 A I wasn't involved in this investigation. I wasn't assigned to the Washington

21 Field Office at the time, but I was aware of generally of the media reporting around the

22 investigation.

23 Q Okay. I'm just going to direct your attention to, I guess it's the second to

24 last full paragraph, it begins "FBI agent Tim Thibault." It is above the public corruption

25 primer heading.

1 A Yes.

2 Q I'm just going to read that and tell me if you agree that that is what is

3 written. FBI agent Tim Thibault who worked the case out of Washington Field Office,

4 that means that he was the lead agent on this investigation of Congressman Jefferson.

5 Is that accurate?

6 A Based on my information that I had after the fact, I had learned that he was

7 the case agent, yes.

8 Q Okay. And I don't know. Do you know who William Jefferson is?

9 A Yes.

10 Q Okay. He is, or was -- Congress -- was the Second Congressional District

11 Congressman from Louisiana, a Democrat, correct?

12 A Yes.

13 Q And we can put that down for a moment.

14 Are you aware that Mr. Thibault, during his career oversaw an FBI inquiry into the

15 Clinton Foundation?

16 A Yes.

17 Q And are you aware that Mr. Thibault oversaw an FBI investigation into

18 former Virginia Governor Terry McAuliffe, a Democrat?

19 A Yes.

20 Q Does it surprise you that Mr. Thibault played a role in the investigation of

21 both Democrats and Republican elected officials during his career?

22 A No.

23 Q And why doesn't that surprise you?

24 A Because he was assigned to CR-15 that had investigative jurisdiction over the

25 Federal Government.

1 Q And CR -- sorry, go ahead.

2 A I was going to say it had investigative jurisdiction across all Federal branches

3 of the executive, judicial and the legislative branches.

4 Q All right. In your experience with Mr. Thibault, do you believe that he

5 allowed his personal views to influence the decisions that he made with respect to FBI

6 investigations?

7 A No.

8 Q If you had become concerned about Mr. Thibault or any other FBI employee

9 at CR-15, that they were allowing their personal or political beliefs to influence an

10 investigation, how would you have responded?

11 A I would have been the first one to bring it to the attention of leadership.

12 Q Have you ever had to do that?

13 A No, not beyond my conversation with the squad.

14 Q Okay. Are there procedures in place within the FBI, and particularly within

15 that squad or unit that would allow you to raise that kind of concern about partisanship?

16 A Absolutely you would bring it to the attention of the Washington Field Office

17 or field office management. And then you could also bring it to the attention of DOJ

18 inspector general.

19 Q Okay. Did you ever feel constrained, or, in any way, discouraged from

20 bringing such a concern --

21 A No.

22 Q -- while were you at CR-15?

23 A No.

24 Q Had anyone that you were supervising ever brought those concerns to your

25 attention?

1 A No.

2 Q Are you aware that Mr. Thibault received FBI awards during his career that

3 recognized his, quote, "professionalism," and quote, "sterling reputation"?

4 A I was not aware of any awards.

5 [redacted] Does it surprise you to know that he received those awards?

6 Mr. Miller. Based on this particular case generally most agents that obtain

7 convictions in larger cases, even small cases will be recognized.

8 BY [redacted]

9 Q Is that because it's a good amount of work to kind of bring that investigation

10 to fruition and prosecution?

11 A Yes. I think it's -- it's the FBI's opportunity to -- to recognize the hard work

12 of the entire case team.

13 Q Okay. Is it fair to say that Mr. Thibault was well regarded within the FBI?

14 A Yes.

15 Q And that he was promoted several times during his career that you know of?

16 A Yes, I am aware that he was promoted.

17 Q Okay. All right. Are you aware that Mr. Thibault was -- had some role in

18 opening an investigation into former President Trump with respect to the 2020 electors?

19 Mr. Kravis. And Mr. Miller, I'm just going to reference again the authorization

20 letter that we received from the FBI concerning your voluntary appearance at the

21 interview today. I don't know the status of the investigation, the subject of the question

22 here, but I'm just going to instruct you, as with the last round, to refrain from discussing

23 the specifics of any active investigation that you worked on while you were at the FBI, just

24 as we did the last time. Does that make sense?

25 Mr. Miller. Yes.

1 Mr. Kravis. Okay. Go ahead.

2 BY [redacted]

3 Q Okay. I don't plan on asking you any specific questions other than do you

4 know if Mr. Thibault was involved in the opening of that investigation?

5 A I'm not aware of that.

6 Q Okay. Are you -- do you want to?

7 BY [redacted]

8 Q If Mr. Thibault or anyone else on CR-15 were to receive a congressional

9 inquiry shortly after opening a case, do you think that could have the impact of

10 discouraging them from pursuing that case?

11 A I can't speculate as to how they -- how that would be perceived.

12 BY [redacted]

13 Q Okay. I'm going to mark this as exhibit 4. This is a news article from The

14 New York Times, dated May 18th, 2023.

15 If you wouldn't mind, Mr. Miller, just take a look at it and see if you're familiar

16 with this article or the information reported in it. It's a few pages so it will just take a

17 moment.

18 [redacted] Off the record.

19 [Discussion off the record.]

20 [redacted] We're going to withdraw the exhibit and we'll reintroduce it again in

21 the next round. Thank you.

22 BY [redacted]

23 Q I'm going to ask you a couple of questions about January 6th, you were

24 asked about your involvement that day in an FBI operation to basically secure the

25 Senators. You indicated that you had to come into work on January 6th in response to

1 what was happening on the Capitol that day. Is that fair?

2 A That's correct.

3 Q And you weren't otherwise planning to be at work that day?

4 A No, I was at work that day.

5 Q Okay.

6 A I was at the Northern Virginia agency --

7 Q I see.

8 A -- at the time.

9 Q So you responded to D.C. because of what was happening at the Capitol?

10 A That's correct.

11 Q Okay. And what did you see when you arrived here?

12 A When I arrived at the staging area, a large police presence from various

13 agencies, and we were -- again we were kind of a few blocks away from the Capitol at

14 that point. And just a large amount of traffic in a -- foot traffic and vehicle traffic.

15 Q Where was the staging area that you arrived at?

16 A It was a secure parking lot just near the Capitol Grounds.

17 Q Okay. And was there a crowd around at that point?

18 A I don't recall seeing a crowd.

19 Q At some point, you were asked to move into the Capitol Building itself,

20 correct?

21 A Yes. We -- later that evening we escorted the Senators back to the Senate

22 Chamber.

23 Q Okay. And can you describe that scene? First of all, how many agents

24 and other agency officers were with you approximately when you had to do that?

25 A I don't recall how many agents and other law enforcement we had in the

1 group. We, again, secured a facility where the Senators were being housed. And then
2 we identified another route back to the Senate Chamber, secured that route, and then
3 escorted the Senators back into the Chamber. But I don't recall how many law
4 enforcement agents and officers were involved in that particular operation. With
5 my -- with our group, I think it was probably -- probably over 30.
6 Q Okay. And were you all armed?
7 A Yes.
8 Q Why was that?
9 A All FBI agents are armed.
10 Q Did you have concerns for your safety?
11 A Yes. With any operation, there's always a safety concern.
12 Q Did you have concerns for the safety of the Senators?
13 A Yes.
14 Q And can you describe what that concern was?
15 A I mean, it was based on the fact that they were removed from the location
16 and being housed in an offsite location that was undisclosed based on what was going on
17 at the Capitol at the time.
18 Q So why were they removed?
19 A Because a large crowd entered the Capitol.
20 Q And what happened when they entered the Capitol, to your knowledge?
21 A To my knowledge, they -- they entered the Grounds and law enforcement
22 officials at the time deemed that it was dangerous to, you know, staff and Senators and
23 Congressmen and women. So they were -- they were removed and secured at other
24 locations.
25 Q Had you ever, as an FBI agent, been asked to secure the Members of the

1 United States Senate before while they were conducting their business?
2 A No.
3 Q Have you ever heard of the FBI being asked to do that kind of operation?
4 A No.
5 Q What was your -- do you have any opinion that you can share about what it
6 was like to have to be asked to do that?
7 A It was -- it was a very unique operation, a unique experience.
8 Q Were you concerned that somebody might get hurt, that one of the Senators
9 might get hurt?
10 A Yeah, we were concerned about, yeah, the safety of the Senators and the
11 safety of all law enforcement involved during that day.
12 Q Okay. How about the Vice President, did you have any role in
13 his -- securing his safety when he was at the Senate that day?
14 A No.
15 Q Did you have any reaction to the fact that the FBI that day was being asked
16 to physically secure U.S. Senators so that they could perform their constitutional duty to
17 certify the electoral count of a Presidential election?
18 A My concern that day was for the safety of the Senators and our entire time.
19 Q Okay. Now you -- when you were at the FBI, in the Washington Field
20 Office, you actually -- did you actually work on some January 6th prosecutions that
21 happened because of events that occurred that day?
22 A Yes, CR-15 were assigned a number of January 6th cases.
23 Q Okay. Are you familiar with the conspiracy theory that's out there being
24 promoted by some people on the right that the FBI had a confidential human source at
25 the Capitol on January 6th who was there to incite violence as a false flag against Trump

1 and his supporters? Are you familiar with that theory?

2 A No, I'm not familiar with it.

3 Q You never heard it?

4 A No.

5 Q Do you have an opinion about that theory --

6 A No.

7 Q -- if you knew it existed?

8 A No, I don't.

9 BY [redacted]

10 Q To your knowledge, was there a confidential human source at the Capital

11 placed to incite violence as a false flag operation to impugn Trump and his supporters?

12 A I wasn't aware of anyone -- any confidential sources being there.

13 BY [redacted]

14 Q Okay. Are you familiar with the conspiracy theory that another group,

15 antifa, or some other, was really behind January 6th? Are you familiar with that

16 conspiracy theory?

17 A No.

18 Q Do you have any evidence that there was left-wing group, antifa or others,

19 that were posing as a false flag operation and were really behind the violence that

20 occurred on January 6th?

21 A No, I'm not aware of that.

22 Q In your experience with the prosecution of January 6th, suspects or

23 defendants, do you think they were treated any differently, based on their perceived

24 partisanship or ideological beliefs?

25 A Not the cases that I was familiar with.

1 Q Are you familiar with how those suspects were arrested, like the manner of
2 the arrest in the cases that you worked on?
3 A Yes.
4 Q Was the manner of arrest of these suspects in any way different or
5 treated -- approached differently than it would have been approached for defendants in
6 any other kind of case?
7 Mr. Kravis. And Mr. Miller, I'll just give you the same instruction about active
8 investigations that you worked on during your time with the FBI. To the extent you're
9 sort of able to answer the question that was asked at a general level, you can go ahead
10 and answer, but please do not get into the specifics of any active investigation that you
11 worked on while you were at the FBI.
12 Mr. Miller. Okay.
13 Mr. Kravis. Go ahead.
14 BY [redacted]
15 Q So just -- I'm not actually asking you about the cases themselves, but when I
16 mean manner of arrest like how the FBI took the person into custody, like,
17 how -- methods that you used. Were those methods chosen in any way differently for
18 January 6th defendants than the methods of arrests were chosen for other defendants
19 who were not involved with the January 6th events?
20 A January 6th defendant arrest operations were assessed and evaluated no
21 different than any other arrest operation that we would conduct.
22 Q Did anybody in the FBI complain to you about the manner that those
23 defendants were arrested?
24 A No.
25 Q The January 6th defendants?

1 A No.

2 Q Did anybody in the FBI complain to you about the way those cases were

3 handled?

4 A No.

5 I think we're good for now. Thank you.

6 [redacted] We can go off the record.

7 [Discussion off the record.]

1

2 [12:07 p.m.]

3 [redacted] We'll go back on the record. It's 12:07 p.m.

4 BY [redacted]

5 Q Mr. Miller, when we wrapped our first round of questioning and then just

6 wrapped the last round of questioning with my colleagues from the minority, you were

7 discussing January 6th investigations, and you had said that CR-15 was assigned

8 January 6th investigations.

9 What was CR-15's role?

10 A So CR-15, like all squads at Washington Field Office, were assigned

11 January 6th investigations.

12 Q Uh-huh.

13 A So, given the sheer number and volume of the cases, all the squads were

14 assigned those investigations, as were squads across the country.

15 Q So were you working the investigations on specific subjects?

16 A I was supervising those investigations.

17 Q And then your line agents were the ones that were working the cases?

18 A That's correct.

19 Q And would they communicate at all with other field offices regarding the

20 case they were working?

21 A Yes.

22 Q And did you have an understanding of how the investigations were handled?

23 Was Washington Field Office handling the investigations?

24 A When the investigations began, Washington Field Office was really the

25 intake point.

1 Q Uh-huh.

2 A And for defendants that were -- you know, for subjects that were identified
3 as residing in the Washington Field Office's area of responsibility, Washington Field Office
4 would open those cases.

5 For other subjects who were identified and the initial investigation, you know,
6 identified, you know, identities, where they may live, once we've identified a particular
7 residence that was outside of the Washington Field Office area of responsibility, those
8 investigations were sent to the field office that had jurisdiction over where that particular
9 person lived.

10 Q Uh-huh. And was it your understanding that after the Washington Field
11 Office sent the investigation over to the other field office, would Washington Field Office
12 take their hands off the investigation, or were they involved in those investigations?

13 A Washington Field Office agents were not involved, unless there was a lead
14 that came back where they needed Washington Field Office assistance. But those
15 investigations were transferred to that field office where that person was living, and they
16 handled the investigation from there.

17 The preliminary investigation was done by Washington Field Office by way of just
18 identifying, you know, where they were on the Capitol that day, who they were, where
19 they particularly are residing. And then that packet of information was then sent to the
20 field office where that person may be -- where we believed that person was living at the
21 time.

22 Q And when you said that the Washington Field Office would get involved
23 again if a lead came back, what do you mean by a lead that came back?

24 A If there was, like, a question about, okay, where did they stay when they
25 were here, and they identified they were staying in a hotel in the Washington area, that

1 lead would come back to the field office for an agent to go out and, with a subpoena, get
2 information from that particular hotel.
3 Q Uh-huh.
4 A Or, you know, any investigative step that had to be taken back in this area,
5 that's when they would send a lead back to the Washington Field Office, and that agent, a
6 Washington Field Office agent, would handle that action.
7 Q And was your squad -- were they responsible for creating these, I think you
8 used the word "packages" that were sent to the other field offices? Or were they
9 working specific cases?
10 A Well, it was a combination of both. It depended upon -- if the person,
11 again, was believed to be living in the Washington Field Office area of responsibility, then
12 the entire investigation would be run by a Washington Field Office case agent.
13 If there was a -- again, just preliminarily, they did a, you know, investigation where
14 they identified who they were, where they might live, after looking at the various video
15 evidence, they would take that and send that information to another field office if that
16 person was believed to be living in that area.
17 Q And were your squad agents involved in doing any of the -- executing any of
18 the arrest warrants or search warrants involved with January 6th subjects?
19 A Yes.
20 Q And were they all within the Washington Field Office area of responsibility,
21 or were they across the country?
22 A The agents assigned to CR-15 were only working cases, from start to finish,
23 of defendants that were in the Washington Field Office AOR, area of responsibility.
24 Q So those were the warrants that they were involved in the execution of?
25 A Correct.

1 Q Okay.

2 And was it your understanding that the FBI was following the DIOG in relation to

3 January 6th investigations?

4 A Yes.

5 Q And when the investigations were given over to the field office, was there

6 any involvement from the Washington Field Office about how those field offices should

7 run their investigations?

8 A No, we did not consult with them on how they should run the investigations.

9 Q Okay.

10 And do you know how the cases were classified? January 6th investigations, how

11 were they classified?

12 A I don't recall the actual classification.

13 Q Were they classified as domestic terrorism cases?

14 A I don't recall.

15 Q Okay.

16 And through the course of our investigation, we've learned of a list that Bank of

17 America turned over to the FBI of customers regarding purchases that were made in the

18 D.C. area between January 5th and January 6th that also included purchases of firearms.

19 Are you aware of this list?

20 A No.

21 Q Did you ever see it come into the Washington Field Office?

22 A No.

23 Q Did anyone ever tell you about the list from Bank of America?

24 A No.

25 Q During our course of investigation, we've also learned about a bus trip of

individuals who were attending the rally from Boston and they came on a bus all together. There were 140 of them.

The two individuals who organized the bus trip actually entered the Capitol, and so the FBI investigated those individuals, and they were prosecuted.

But we've learned that the Washington Field Office asked the Boston Field Office to open investigations into all of the individuals on that bus.

Are you aware of that episode at all?

A No.

Q Did anyone ever raise concerns to you about this bus trip?

A No.

Q Okay.

I'm going to turn it over to my colleague [redacted].

BY [redacted]

Q Mr. Miller, just for the benefit of the committee, working public corruption at the FBI appears to be a fairly nuanced type of violation, from what we understand, compared to perhaps other violations.

A Uh-huh.

Q Can you just walk through, for the benefit of the committee, what's a little different about the approval chain and the mechanisms and sort of the coordinative partnerships that you have to, you know, have at the ready in order to be able to embark upon that violation?

It's a little different than, perhaps, my understanding of maybe what a bank robbery investigation is like, which is more linear.

Can you just kind of walk that through for the benefit of the committee, please?

A Well, given the sensitivities of a public corruption investigation, being that it

1 is targeting a public official, the FBI, you know, through their, you know, publishing the
2 DIOG, which I've referenced before, outlines a different set of approvals that are
3 necessary to open those cases.
4 So, as I mentioned, for a -- I believe it's a -- if my memory serves me correctly, it
5 was a 58 case, so it's a public corruption investigation, the requirement is that the
6 supervisory special agent assigned to the squad approves the opening. It would then go
7 to the assistant special agent in charge for approval, and then on to the special agent in
8 charge.
9 And then you also had to send a letterhead memorandum to DOJ outlining and
10 summarizing predication, notifying them of the opening and also that you have
11 consulted -- already, you know, previous to the opening, consulted with the prosecutorial
12 office in your area of responsibility.
13 Q Would it be fair to say that there's a much more -- how would I say
14 this? -- that, early on, there's a partnership and a more centralized approach to the way
15 that's managed because of the sensitivity of that investigation? Would that be correct?
16 A Yes. You know, from my assessment, the reason that the FBI outlines the
17 specific number of positions that need to sign off on those opening electronic
18 communications that actually initiate the case, that's due to the sensitivity and due to the
19 fact that it is a public official.
20 Q And the committee understands that one thing that would be different
21 about, say, public corruption from a violent crimes or other types of investigations would
22 be, as opposed to a more action, officer-oriented working relationship with the U.S.
23 Attorney's Office, you would also be working oftentimes with main Justice, and someone
24 at main Justice might be consulting or also otherwise giving advice, counsel, or even
25 approval, as needed, depending on the level of the investigation.

1 Would that be accurate?

2 A There was no approval necessary for Department of Justice to open it. It

3 was just, you needed to consult with them and review the predication prior to drafting

4 and sending the opening communication up through the approval chain. So it needed

5 to reference in the body of the communication that that meeting and that discussion had

6 occurred between the particular --

7 Q Sure.

8 A -- case agent and the prosecutors.

9 Q But beyond the opening, as things might develop in a case, there may be

10 approvals, depending on where the investigation's logical facts, circumstances, et cetera,

11 may occur, right? If you're going to necessitate further intrusive techniques or

12 something of this, as far as investigative techniques --

13 A Right. Investigative techniques obviously would be -- there would be a

14 requirement for, you know, search warrants. Or, to back up, you know, you would need

15 to get subpoenas, so you would have to open up a grand jury investigation. And, you

16 know, that would require the prosecutor's office actually initiating that. And then the

17 next step, being search warrants for any number of things or items or places, would

18 obviously require going to the court.

19 Q Yeah. Well, thank you for that.

20 Just to put a fine point on that, I just wanted to distinguish the fact that it's a very

21 nuanced investigation and that it's very sensitive, and, therefore, the levels of

22 coordination and approval vary juxtaposed with other more -- I don't want to say

23 "mundane" or "routine," but -- you know, criminal investigative matters the Bureau might

24 handle.

25 So thank you for that, Mr. Miller.

1 BY [redacted]

2 Q Going back to January 6th for one more question there, during the last

3 round, you spoke to my colleagues about confidential human sources and whether or not

4 there were CHSes at the Capitol on January 6th.

5 Following the events that occurred at the Capitol on January 6, 2021, did you ever

6 come to learn that there were FBI CHSes on the Capitol grounds that day?

7 A No, not while I was with the FBI. I learned or I heard about that through

8 media reporting.

9 Q And that was after you had left the Bureau. Is that correct?

10 A Correct.

11 Q And what was your understanding from media reporting?

12 A Just that there was reporting that, you know, sources were present during

13 January 6th.

14 Q But you never became aware of any CHSes on the grounds during your

15 tenure at the FBI. Is that correct?

16 A That's correct.

17 Q Okay.

18 I'm going to move on to -- I'll introduce as exhibit No. 4 a July 25, 2022, letter from

19 Senator Grassley.

20 [Miller Exhibit No. 4

21 Was marked for identification.]

22 BY [redacted]

23 Q Please take your time to review.

24 Have you had sufficient time to review?

25 A Yes.

1 Q So, on July 25, 2022, Senator Grassley sent another letter to Director Wray
2 and Attorney General Garland regarding ASAC Thibault as well as whistleblower
3 disclosures purporting to show that the FBI developed information in 2020 about Hunter
4 Biden's criminal, financial, and related activity.
5 Were you aware of this letter before today?
6 A I remember reading about it, yes.
7 Q And when did you read the letter, or did it --
8 A When it was referenced in the news media.
9 Q Okay.
10 And, again, I'll refer to the specific pages when I read from the letter.
11 So, on the first page, that last paragraph, second sentence, it states, "It is further
12 alleged that in August 2020, FBI Supervisory Intelligence Analyst Brian Auten opened an
13 assessment which was used by a FBI Headquarters ('FBI HQ') team to improperly discredit
14 negative Hunter Biden information as disinformation and caused investigative activity to
15 cease. Based on allegations, verified and verifiable derogatory information on Hunter
16 Biden was falsely labeled as disinformation."
17 Mr. Miller, are you familiar with SIA Brian Auten?
18 A Yes.
19 Q And did you ever interact with Mr. Auten while you were at the Bureau?
20 A I may have had one meeting at headquarters where he was in attendance.
21 Q And how did you become familiar with SIA Auten?
22 A Just in that meeting. Like I said, I believe he was in that meeting. But I
23 don't recall what that was regarding. I just remember the name.
24 Q Were you aware of what team or squad Mr. Auten was assigned to?
25 A No.

1 Q He was not assigned to CR-15. Is that correct?

2 A Correct.

3 Q Did he regularly interact with agents at CR-15 or the intelligence analysts of

4 the CR-15?

5 A No.

6 Q What did you understand Mr. Auten's roles and responsibilities to be?

7 A I don't know what his roles and responsibilities were, other than he was

8 assigned to FBI headquarters.

9 Q Okay. Did you understand if he was in Mr. Thibault's chain of command?

10 A He was not. If he was assigned to headquarters, he was not in the chain of

11 command.

12 Q Okay. And are you familiar with the assessment that Mr. Auten opened on

13 Hunter Biden?

14 Mr. Kravis. And, Mr. Miller, I'll just offer you the same caveat I've been offering

15 about information on active investigations. I am not certain whether this falls into that

16 category or not, but I'll just give you the same instruction that I mentioned in the last

17 round.

18 Go ahead.

19 [redacted] Thank you.

20 Mr. Miller. Could you repeat the question?

21 BY [redacted]

22 Q Yeah, absolutely. Are you familiar with the assessment that Mr. Auten

23 opened on Hunter Biden that was referred to in Senator Grassley's letter?

24 A No, I'm not.

25 Q And do you know which FBI headquarters team the letter was referring to?

1 A No.

2 Q Okay.

3 On the second page of Senator Grassley's letter, it's the last paragraph on that
4 page, it says, "It has been alleged that in September 2020, investigators from the same
5 FBI HQ team were in communication with FBI agents responsible for the Hunter Biden
6 information targeted by Auten's assessment. The FBI HQ team's investigators placed
7 their findings with respect to whether reporting was disinformation in a restricted access
8 sub-file reviewable only by the particular agents responsible for uncovering the specific
9 information."

10 Are you familiar with this episode referenced in the letter?

11 A No, I'm not.

12 Q Do you have any information regarding investigators placing their findings
13 regarding disinformation on Hunter Biden in a restricted file?

14 A No.

15 Q Turning to the third page of the letter, the first full paragraph there, I'll read
16 it so the record is clear.

17 It says, "Third, in October 2020, an avenue of additional derogatory Hunter Biden
18 reporting was ordered closed at the direction of ASAC Thibault. My office has been
19 made aware that FBI agents responsible for this information were interviewed by the FBI
20 HQ team in furtherance of Auten's assessment. It's been alleged that the FBI HQ team
21 suggested to the FBI agents that the information was at risk of disinformation; however,
22 according to allegations, all of the reporting was either verified or verifiable via criminal
23 search warrants. In addition, ASAC Thibault allegedly ordered the matter closed without
24 providing a valid reason as required by FBI guidelines. Despite the matter being closed
25 in such a way that the investigative avenue might be opened later, it's alleged that FBI

1 officials, including ASAC Thibault, subsequently attempted to improperly mark the matter
2 in FBI systems so that it could not be opened in the future."
3 Are you familiar with this episode referenced in the letter here?
4 A A little bit.
5 Q Okay.
6 A I'm familiar with the reference to the Auten assessment and how -- that was
7 actually shared with us initially. But it does -- I think it also speaks back to an ongoing
8 investigation, so I don't think I can comment any further on that.
9 Q Okay. And when you say it was "shared with us," was that shared with the
10 CR-15?
11 A Yes --
12 Q Okay.
13 A -- some aspect of it was shared with the CR-15.
14 Q Okay.
15 And what was your understanding of ASAC Thibault's involvement in this
16 investigation?
17 A I don't have specific information -- well, again, I think it speaks back to the
18 ongoing investigation that I believe is still open, as far as my recollection is concerned.
19 Q Uh-huh.
20 A So I think I'm restricted via the -- in accordance with the authorization letter.
21 Q And so, referring back to the letter here, it's accurate to say that ASAC
22 Thibault would've had some involvement in this investigation?
23 A I believe that there was -- because it was shared, that assessment was
24 shared with CR-15, he would've had access to that assessment.
25 Q Okay.

1 And what information do you have about ASAC Thibault allegedly
2 ordering -- excuse me, Thibault -- ordering an avenue of derogatory reporting on Hunter
3 Biden closed?
4 Mr. Kravis. And I'll just offer the usual --
5 Mr. Miller. Uh-huh.
6 Mr. Kravis. You know the spiel by now.
7 Mr. Miller. Yeah.
8 I'm not -- I think it speaks back to the initial -- or, an open investigation. So I
9 don't know if I can -- I don't think I can comment on that.
10 BY [redacted]
11 Q So, besides the sharing of the Auten assessment with the CR-15 team, was
12 CR-15 involved in this investigation?
13 A The investigation was not assigned to CR-15 --
14 Q Uh-huh.
15 A -- no. The -- which investigation are you referring to? The Hunter Biden
16 investigation?
17 Q Correct.
18 A That was not assigned to CR-15.
19 Q So what was assigned to CR-15 that you received the Auten assessment?
20 A I believe that was regarding a line of intelligence that was related to the
21 Hunter Biden investigation. I don't recall exactly why it was shared with CR-15, only that
22 it was shared.
23 Q Did CR-15 take any action on the assessment?
24 Mr. Kravis. I'll offer you the same caution about not revealing information about
25 active investigations from your time at the FBI, pursuant to the authorization letter that

1 we previously discussed.

2 Mr. Miller. Yeah.

3 I think I'm not able to comment on that, given the authorization letter restrictions.

4 BY [redacted]

5 Q Okay.

6 And are you familiar with an individual named Tony Bobulinski?

7 A Yes.

8 Q And how are you generally aware of Mr. Bobulinski?

9 A His name came to us as having been someone who could potentially have

10 information regarding the Hunter Biden investigation.

11 Q And when you say "came to us," was that --

12 A CR-15.

13 Q CR-15. And just general information about Hunter Biden? Or what was

14 the -- when you say it came to you?

15 A Only that he had information concerning the investigation.

16 Q Okay, that was assigned to CR-15, a portion of the investigation.

17 A The investigation was not assigned to CR-15.

18 Q Okay. So then why did information about Mr. Bobulinski come to CR-15?

19 A Again, I don't think I can get into that, given that it's still an ongoing

20 investigation.

21 Q Okay.

22 According to reporting, the FBI designated ASAC Thibault as the point man to

23 manage Mr. Bobulinski.

24 Are you aware of that reporting?

25 A Yes.

1 Q And are you aware that the FBI interviewed Mr. Bobulinski on October 23,
2 2020?
3 A Yes.
4 Mr. Kravis. And I'll give you the same instruction about not revealing particulars
5 of active investigations from your time at the FBI, as we've previously discussed.
6 I'm sorry. I didn't mean to interrupt you.
7 Mr. Miller. No, yeah.
8 Yes, I'm aware of that interview.
9 BY [redacted]
10 Q Were you involved in Mr. Bobulinski's interview?
11 A I was involved in facilitating it. I was not involved in the interview itself.
12 Q Okay. Were others on CR-15 involved in facilitating the interview as well,
13 or just you?
14 A Yes.
15 Q Okay.
16 And, according to Mr. Bobulinski, he gave the FBI the contents of three cell
17 phones containing encrypted messages between Hunter and his business partners, along
18 with emails and financial documents detailing the Biden family's corrupt
19 influence-peddling operation in foreign countries during President Biden's Vice
20 Presidency.
21 Are you aware that Mr. Bobulinski turned over this evidence?
22 Mr. Kravis. I'll just give you the same instruction about not revealing particular
23 information about active investigations during the time that you served at the FBI,
24 pursuant to the authorization letter that we previously discussed.
25 Mr. Miller. Yeah.

1 BY [redacted]

2 Q Okay.

3 Just for clarity, I'll enter as an exhibit a September 4, 2022, New York Post article

4 titled "FBI agent Timothy Thibault hid intel from whistleblower on Hunter and the 'Big

5 Guy' Joe Biden."

6 [Miller Exhibit No. 5

7 Was marked for identification.]

8 BY [redacted]

9 Q You can feel free to review. I'll just refer to specific passages in the article.

10 A Okay.

11 Q It's lengthy because there's a lot of photos.

12 Have you had sufficient time to review?

13 A Yes.

14 Q So I'm looking at the first page here. It's the -- one, two, three -- fourth

15 paragraph.

16 The article reads, "Bobulinski gave the FBI the contents of three cellphones

17 containing encrypted messages between Hunter and his business partners, along with

18 emails and financial documents detailing the Biden family's corrupt influence-peddling

19 operation in foreign countries during Joe's vice presidency."

20 And the "Joe" is in reference to President Biden now.

21 Did I read that correctly?

22 A Yes.

23 Q And is this accurate, to your knowledge?

24 Mr. Kravis. And I'll just offer you the same instruction about not providing

25 specific information about particular active investigations that you worked on when you

1 were serving at the FBI.

2 Mr. Miller. Right.

3 Yeah, I can't comment on this regarding whether or not it's true or not, based on

4 the fact that it's still an open investigation.

5 BY [redacted]

6 Q Are you aware of whether or not the FBI promptly analyzed the information

7 provided by Bobulinski?

8 Mr. Kravis. I'll give you the same instruction.

9 [redacted] And that's to not answer the question? Is that correct?

10 Mr. Kravis. I'm sorry, what?

11 [redacted] Is that to not answer the question? Is that the instruction you're

12 providing?

13 Mr. Kravis. Yes.

14 [redacted] Okay.

15 BY [redacted]

16 Q And at the conclusion of the interview, Mr. Bobulinski reports that he was

17 given ASAC Thibault's information and told that ASAC Thibault would follow up.

18 Mr. Bobulinski contends that he never received any followup from ASAC Thibault. And

19 this is on the -- one, two, three -- the fourth page, there at the top.

20 Do you have any information as to whether ASAC Thibault followed up with

21 Mr. Bobulinski?

22 Mr. Kravis. And I'll give you the same instruction about questions regarding

23 particular active investigations during the time that you were serving at the FBI.

24 [redacted] And that instruction is to not answer the question? Is that correct?

25 Mr. Kravis. Correct.

1 [redacted] Okay.

2 BY [redacted]

3 Q Do you know if Mr. Bobulinski was ever interviewed again by the FBI, or was

4 it just the one occurrence?

5 Mr. Kravis. The same instruction.

6 [redacted] And that's to not answer the question? Is that correct?

7 Mr. Kravis. Correct.

8 BY [redacted]

9 Q And why did the WFO not investigate Mr. Bobulinski's allegations further?

10 Mr. Kravis. I'll give you the same instruction.

11 [redacted] And that's to not answer the question? Is that correct?

12 Mr. Kravis. Correct.

13 BY [redacted]

14 Q Okay.

15 And so, besides as you've testified already today regarding receiving the Auten

16 assessment, receiving reporting that Tony Bobulinski could have information on the

17 Hunter Biden investigation, and then helping to facilitate Mr. Bobulinski's interview, were

18 there any other actions related to the Hunter Biden investigation that CR-15 took?

19 Mr. Kravis. If you can describe at a general level your -- this is slightly different,

20 not the same instruction.

21 [redacted] Uh-huh.

22 Mr. Kravis. If you're able to describe at a general level anything that you were

23 involved in without revealing the details of a particular active investigation from your

24 time at the FBI, then you can go ahead and answer the question that way. Does that

25 make sense?

1 Mr. Miller. Yes.

2 Nothing beyond facilitating that particular interview.

3 BY [redacted]

4 Q Okay. And the Auten assessment and then receiving reporting regarding

5 Mr. Bobulinski?

6 A Correct. Yeah, nothing more than those three items.

7 Q Okay.

8 During your tenure with the CR-15 and related to this investigation specifically, did

9 you ever have any communications with the U.S. Attorney's Office for the District of

10 Delaware?

11 A No. Oh --

12 Mr. Kravis. Well, okay. Never mind.

13 Mr. Miller. No.

14 BY [redacted]

15 Q Any communications with the U.S. Attorney's Office for the District of

16 Columbia?

17 A During my tenure?

18 Q Related to this specific investigation.

19 A Not that I recall.

20 Q Okay.

21 Any communications with the U.S. Attorney's Office for the Central District of

22 California?

23 Mr. Kravis. You're asking about this particular matter?

24 [redacted] Yes, sir.

25 Mr. Miller. No.

1 BY [redacted]

2 Q Okay.

3 Did you ever have any communications with specifically, from the U.S. Attorney's

4 Office for Delaware, U.S. Attorney Weiss?

5 A No.

6 Q Assistant U.S. Attorney Lesley Wolf?

7 A No.

8 Q Did you have any communications with anyone at headquarters, FBI

9 headquarters, regarding this investigation?

10 A Nothing outside of those three items.

11 Q Okay. And who did you communicate with these, or the unit or section

12 that you communicated with?

13 A I don't recall specifically who, but public corruption unit would've been

14 involved.

15 Q Uh-huh.

16 And did you ever have any communications with the Public Integrity Section of

17 DOJ regarding this investigation?

18 A Not that I recall.

19 Q Did you have any communications with DOJ's Tax Division on this

20 investigation?

21 A No.

22 Q Did you have any communications with any individuals that were from the

23 Internal Revenue Service regarding this investigation?

24 A No.

25 Q Okay.

1 And then, during your tenure at the FBI, were you ever assigned to any of the
2 Special Counsel's investigations -- Special Counsel Mueller's investigation?
3 A Not assigned to the actual investigations, no.
4 Q Okay. Did you work on any of the investigative matters that Special
5 Counsel Mueller was covering?
6 A No, I did not work on the actual investigations.
7 Q Okay. Did you have any sort of involvement?
8 A Once the Special Counsel's Office was closed, we assisted with supporting
9 the prosecution phase of their investigations.
10 Q And what did that entail, supporting the prosecution phase?
11 A Just providing -- the agents provided support to the prosecutor team to
12 prepare for trial.
13 Q Okay.
14 And were you ever assigned to do any sort of tasks related to Special Counsel John
15 Durham's investigation?
16 A No.
17 Q Were you ever assigned -- I think this was after your tenure. Were you
18 ever assigned any tasks related to Special Counsel Jack Smith's investigation?
19 A No.
20 [redacted] I think that's all the questions I have for now. We'll go off the
21 record.
22 [Recess.]
23 [redacted] We can go back on the record. It's 12:48 p.m.
24 BY [redacted]
25 Q Mr. Miller, I want to just address -- kind of get some clarification on the

1 record.

2 There have been a number of references made during the course of the interview

3 to the authorization letter that you received from the FBI.

4 A Uh-huh.

5 Q And you've reviewed that letter, right?

6 A Yes.

7 Q Okay.

8 Before we turn to that, when did you leave the FBI?

9 A August of 2021.

10 Q And it's now July of 2023. So, in the intervening almost 2 years, have you

11 had any conversations with anybody at the FBI about any ongoing matters?

12 A No.

13 Q Okay.

14 So there have been a number of references made during the course of this

15 interview to "open" investigations. To the extent that it's been referenced, that refers

16 to investigations that were open during the time that you were at the FBI, right?

17 A Correct.

18 Q Okay. So you don't have any knowledge, sitting here today, about whether

19 any particular investigation that was open when you left is still open today.

20 A Yeah, I wouldn't know which ones were open and which ones were closed at

21 this point.

22 Q Okay.

23 And I want to go ahead and introduce into the record the authorization letter that

24 you received. Your attorney provided us with a copy of that yesterday. This will be

25 exhibit No. 6.

1 [Exhibit later withdrawn.]

2 BY [redacted]

3 Q Have you reviewed this before?

4 A Yes.

5 Q Okay. And if you want to take a minute to look through it again, you're

6 welcome to.

7 A Okay.

8 Q On page 2, the second full paragraph --

9 Mr. Kravis. I'm sorry, I think there may be a page missing from the versions that

10 were handed to us.

11 [redacted] Oh.

12 Mr. Kravis. But I have a copy that you can read from.

13 BY [redacted]

14 Q I'll just read it into the record. We don't need -- we can withdraw it. That

15 won't be exhibit No. 6. We'll withdraw it. I'll just read into the record the sentence.

16 On the second page of the authorization letter, the second full paragraph

17 reads -- the first two sentences read, "The Department expects you will abide by your

18 obligations under the law and Department policy to refrain from disclosing information

19 relating to sensitive law enforcement information and deliberations. This includes FBI

20 deliberations concerning investigations or prosecutions that were ongoing while you

21 served in the FBI."

22 Did I read that correctly?

23 A Yes.

24 Q Okay. And so the authorization letter that you received specifically

25 references matters that were ongoing while you were in your tenure at the FBI, correct?

1 A Correct.

2 Q Okay. So, to the extent that you're discussing anything here today, it was

3 just about investigations that were ongoing, again, during your tenure at the FBI?

4 A Correct.

5 Q All right.

6 On the questions about Mr. Thibault that you -- or, I'm sorry, Mr. Bobulinski that

7 we just talked through, I want to look back at the New York Post article dated

8 September 5, 2022. And I think this was exhibit No. 4, but I didn't actually mark it. No,

9 this was exhibit No. 5.

10 Had you seen this article before it was presented to you today?

11 A This is the September 5th article?

12 Q The September 5, 2022, article from the New York Post.

13 A Yes.

14 Q Okay. Do you see on the first page where it says it's written by Miranda

15 Devine?

16 A Yes.

17 Q Are you familiar with who Miranda Devine is?

18 A No.

19 Q Okay. Are you aware that she is -- was a -- considered a tabloid journalist

20 from Australia?

21 A No, I'm not aware of Miranda Devine.

22 Q Okay.

23 Turning to the exhibit 4, it's the July 25, 2022, letter from Senator Grassley

24 concerning the Auten assessment.

25 You said that your team received the Auten assessment. Do you recall if you

1 personally reviewed that assessment?

2 A I don't recall.

3 Q Okay. You don't recall if you reviewed it, or you did not review it?

4 A I don't recall reviewing it.

5 Q Okay. So you don't know -- there are a number of allegations made in this

6 about the contents of the assessment. Sitting here today, you don't recall reviewing it,

7 so you don't know if any of the allegations in here could be true about that assessment.

8 A I don't recall reviewing the assessment, no.

9 Q Okay.

10 There's an allegation in this letter that Mr. Thibault hid intelligence. And,

11 without getting into the substance of any investigations, we talked through extensively in

12 the prior hour your experience with Mr. Thibault, your understanding of his reputation.

13 Is it consistent with your understanding of his reputation or your experiences with him

14 personally that he would hide intelligence?

15 A That's not consistent with what I know about Mr. Thibault.

16 Q Okay. Did anybody who you supervised ever bring allegations to you about

17 Mr. Thibault hiding information or hiding intelligence?

18 A No.

19 Q Okay.

20 [redacted] Go ahead.

21 BY [redacted]

22 Q A couple little points of clarification from the previous hour.

23 You had a couple questions about what differences, if any, there are in the

24 approvals that you have to seek for cases on the public corruption unit versus, sort of,

25 run-of-the-mill criminal investigations. Do you recall those questions?

1 A Yes.

2 Q At one point, there was a question about investigative techniques and the

3 approvals that you needed to get subpoenas, for example, or search warrants. Do you

4 recall --

5 A Yes.

6 Q -- those questions? And just to be clear, you have to get a prosecutor's

7 approval or involvement to get a search warrant, correct?

8 A Correct.

9 Q And that's true of any criminal investigation, not just something that

10 happens in the CR-15 unit, right?

11 A That's correct. That's any criminal investigation.

12 Q And the same with a grand jury subpoena, correct?

13 A Correct.

14 Q So those are not special procedures for your unit; they just apply to any

15 criminal investigation that you were doing?

16 A Right. Those are not special investigative steps designated only for public

17 corruption cases.

18 Q Okay.

19 But you indicated that you do notify D0J or U.S. Attorney's Office prosecutors in a

20 memo sort of laying out the predicate for certain public corruption offenses when you are

21 investigating those. Is that fair?

22 A When we open them.

23 Q When you open them?

24 A Yes.

25 Q But not when you're seeking -- no special approval is needed when you're

1 seeking more invasive investigative steps than the approvals that you would need
2 otherwise in a criminal case?
3 A Correct.
4 Q Okay.
5 You also were asked just a couple of questions about the allegation that there was
6 an FBI confidential human source placed on the ground on January 6th. Do you recall
7 that question from the last hour?
8 A I recall that question, yes.
9 Q And the questions that you were asked were based on media reporting,
10 correct?
11 A I don't recall.
12 Q I'm sorry, that's a weird way for me to ask. Let me just say this. You don't
13 have any knowledge from your experience at the FBI that there was any confidential
14 human source on the ground on January 6th. Is that fair to say?
15 A I was not aware of that, no.
16 Q Okay. And when you were asked about the confidential human source
17 allegedly being present on January 6th, that allegation was from a media source. It was
18 from reporting that you had seen. It was not something that you learned as an FBI
19 agent, in your official duties as an FBI agent. Fair to say?
20 A Correct.
21 Q Okay. So you have no idea whether that reporting is true?
22 A I do not.
23 Q Okay.
24 All right. Now, you have been given -- I guess it's three letters here. I don't
25 recall all the exhibit numbers. You don't need to look at them specifically. But -- the

1 three letters from Senator Grassley that are not addressed to you, right?
2 A Correct.
3 Q But you may have heard some of the allegations in those letters in the
4 media. Is that fair to say?
5 A Yes. I learned about these letters in the media.
6 Q Okay. And how about the allegations contained in them? The particular
7 ones that we went over today, did you learn of those allegations generally from public
8 media reporting?
9 A Yes.
10 Q Okay. And while you were in the position of supervisory special agent at
11 CR-15, you indicated before that no one had come to you with these allegations in your
12 official position while you were there. Is that right?
13 A That's correct. I don't recall any allegations that are outlined in these
14 letters being directly brought to me.
15 Q If an FBI agent had raised any of the concerns that are addressed in these
16 letters from Senator Grassley to you while you were serving as supervisory special agent
17 in CR-15, what would your response have been?
18 A I would have immediately brought it to the attention of my bosses to find
19 out if there was any merit to them.
20 Q Fair to say that when you say "find out if there was any merit," you would
21 have been in a position then to maybe figure out if these things were true?
22 A Depending upon the particular allegations and the facts, potentially. It
23 would depend on what the allegation is.
24 Q I mean, let's just take, for example, the general allegation that Mr. Thibault
25 was burying evidence or refusing to follow through on investigative leads for political

1 purposes. If an agent had come to you with that kind of complaint, like the ones raised
2 in the letter, would you have been in a position to try to do something about it?
3 A Absolutely, if it would've been -- especially if it was a case that was under
4 marked review.
5 Q And you said you would've gone to your superiors, is that fair to say, with
6 those?
7 A Yes.
8 Q And then you or they together or separately, someone at the FBI, could've
9 tried to find out whether there was merit to those allegations, right?
10 A Correct. And there's a process by which you would bring those concerns to
11 your superiors and then potentially over to FBI headquarters, to the Office of Professional
12 Responsibility. Also, you could bring them to the DOJ inspector general.
13 Q And are your line agents trained with respect to that process, how to raise
14 those kind of concerns?
15 A Yes. Every agent knows that if there are concerns about particular actions
16 on the part of FBI employees, how they could report those allegations of wrongdoing.
17 Q Do you know how they receive that training or how often they receive it?
18 A I don't recall how often they get that training.
19 Q Is it called whistleblower training or something like that?
20 A I believe whistleblower training is part of the annual training curriculum.
21 There's also training, again, about -- where the policies that guide, you know, what's
22 appropriate for agents, you know, as far as agent behavior and so on.
23 So I think it all goes back to the general annual training around policy. But, if I
24 recall, there was whistleblower training as well.
25 Q Okay.

1 So is it fair to say that those policies are in place exactly for situations like those
2 alleged in Senator Grassley's letters, so that, for example, if an agent believes that
3 somebody is being influenced by partisanship in their investigative steps, they have a
4 place within the FBI to raise that concern and to put it to a stop? Is that one of the
5 reasons those policies exist?
6 A Yes, that's why those mechanisms are in place.
7 Q So, as someone who formerly was in a position to try to address those kind
8 of allegations, does it frustrate you at all to learn of them in the public versus when you
9 were in a position where you actually could've addressed them if they were meritorious?
10 A I would just say that I would hope that agents and FBI employees would
11 know to use that mechanism and that that's in place for reporting any allegation. Yeah.
12 Q Okay.
13 A lot of the concerns that are in those letters are directed at one particular FBI
14 employee; that's Mr. Thibault. Fair to say?
15 A Yes.
16 Q Not all of them, but a good portion of them.
17 [redacted] And for clarity, we're talking about the letters from Senator Grassley
18 dated July 18, 2022; May 31, 2022; and July 25, 2022.
19 BY [redacted]
20 Q Right, the ones that have been introduced as exhibits here.
21 A Yes.
22 Q Okay. And you've already said many times that you did not personally
23 receive any complaints and did not personally have any concerns about partisanship on
24 the part of Mr. Thibault with respect to his official investigative work. Is that --
25 A That's correct.

1 Q -- fair to say? Okay.

2 I'm going to introduce -- what's our exhibit? Are we at 6?

3 The Reporter. Six.

4 [redacted] Okay. Let's mark this exhibit 6.

5 [Miller Exhibit No. 6

6 Was marked for identification.]

7 BY [redacted]

8 Q There we go. This is all the pages of a New York Times article dated

9 May 18, 2023. The title of this article is "Taking on the F.B.I., Trump Allies Single Out a

10 Former Agent."

11 Do you see that title at the top?

12 A Yes.

13 Q Are you familiar with this article?

14 A I have seen this article, yes.

15 Q Okay. And are you aware that the former agent that they're referring to

16 that's being singled out by Trump's allies is Tim Thibault, according to the article?

17 A Yes.

18 Q Okay.

19 I'm going to direct your attention in particular to paragraph 3. It begins,

20 "Powerful Republican lawmakers." Do you see that paragraph?

21 A Yes.

22 Q And would you mind just reading that one paragraph? It's only, like, two

23 sentences.

24 A "Powerful Republican lawmakers, including Representative Jim Jordan and

25 Senator Charles R. Grassley, demanded that Mr. Thibault testify before their committees.

1 Citing an anonymous G.O.P. official, Mr. Jordan's panel in a news release last year
2 denounced Mr. Thibault as 'public enemy No. 1.'"
3 Q Okay. Were you aware that this GOP official, via Chairman Jordan, had
4 denounced Agent Thibault as, quote, "public enemy No. 1"?
5 A No.
6 Q Does it concern you at all that an FBI agent, particularly one whose job is to
7 investigate congressional officials or public officials, is being targeted by Members of
8 Congress and other partisans as, quote, "public enemy No. 1"?
9 A Could you rephrase the question, or --
10 Q Yeah. Does it concern -- does the language concern you, is really what I
11 mean? Like, does targeting an FBI agent and referring to him as, quote, "public enemy
12 No. 1" publicly, does that concern you, as a tactic?
13 A I'm concerned if any FBI official is referenced in a media article in any
14 negative light.
15 Q Can you explain, like, why it would be a concern for Mr. Thibault, for
16 example, or others?
17 A I think it is a -- it could have a chilling effect to, you know, any official, any
18 FBI employee, for that matter, again, any time that they're singled out in the media
19 without being particularly charged with a crime or -- I think that it can, again, have a
20 chilling effect to the overall employee base when it comes to doing their job.
21 Q And do you mean it would be chilling because if they investigated somebody
22 and that upset powerful people that they also would be targeted?
23 A No, I wouldn't -- I don't know. That's a hypothetical. I really don't know.
24 Q Okay.
25 BY [redacted]

1 Q What do you mean by "chilling effect"?

2 A Like I said, I just think that any time an FBI official or an FBI employee is

3 highlighted in the media negatively, I think it can affect morale and their ability to

4 potentially do their jobs in an objective way, in the way that they're expected to.

5 Q And just with respect to the "chilling effect" specifically, could it potentially

6 make an agent think twice about taking a particular investigative step, if they had

7 concerns about being lambasted in the media about it?

8 A There's any number of possibilities of how agents could react to seeing

9 other, you know, colleagues being highlighted in the media.

10 Q Are you familiar with reports that threats against FBI agents have increased

11 sharply over the past 2 years?

12 A I haven't -- I'm not familiar with that particular report. I have seen media

13 reporting that FBI agents were threatened.

14 Q Is that of concern to you, as a former FBI agent?

15 A Absolutely.

16 Q And why is that?

17 A They're my colleagues, and I'm a former FBI agent, so I, of course, am

18 concerned about their well-being and their ability to do their job safely.

19 BY [redacted]

20 Q All right. With respect to Mr. Thibault, just before we move on, the

21 allegations that have drawn attention to Mr. Thibault and that are the subject of the

22 various letters from Senator Grassley and that earned him this moniker "public enemy

23 No. 1," those allegations were not only never criminally charged or even rise to the level

24 of a criminal allegation, but they were never raised with someone at the FBI who could

25 address them in the process that you described earlier, as far as you know, correct?

1 A I'm not aware of any -- I'm personally not aware of any allegations being
2 brought to me or any of my superiors at the time during my time at the FBI.
3 Q So you would have no idea, from your position in the FBI, as to whether any
4 of the allegations raised against him in the media or in these letters from Senator
5 Grassley are actually true?
6 A No, I wouldn't have that information.
7 Q And, in fact, they're actually inconsistent with your personal experience with
8 him such as it was when you were at the FBI?
9 A As I stated, I was surprised when I read what was being reported.
10 Q Okay.
11 The chilling effect that you were speaking of, I know that you described it as much
12 as you seem to want to, but I just want to ask you specifically about FBI agents who are
13 on the public corruption unit and charged with those type of cases.
14 Fair to say that if, hypothetically, a Congressman on this committee had
15 committed a crime that would fall under the jurisdiction of public corruption, like bribery
16 or statute or some kind of election-related offense, it would be those agents in particular
17 who would have to investigate those Congressmen. Is that right?
18 A If it was an allegation against a particular Congressman, yes, it would fall on
19 CR-15.
20 Q So, I mean, is it particularly troubling that a Congressman is calling an agent
21 "public enemy No. 1" when that agent might personally be responsible for investigating
22 wrongdoing that that Congressman committed, if he did so, in office?
23 A I mean, that's up to that particular agent that is being called out. Everyone
24 would react to it differently --
25 Q Sure.

1 A -- I would assume. So I couldn't speculate as to how one person would
2 react or feel about media attention versus another.
3 Q Okay. But do you think that there could be a chilling effect that is kind of
4 special in the public corruption unit if they are being called out by people who are public
5 officials that they may need to investigate if the occasion arises?
6 A I believe that any media attention directed towards an agent, really
7 regardless of their assignment, would be concerned about that level of attention --
8 Q Okay.
9 A -- in the public eye.
10 Q Thank you.
11 [redacted] Thank you.
12 We can go off the record. Thank you.
13 [Whereupon, at 1:10 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: LAURA DEHMLOW

Monday, July 17, 2023

Washington, D.C.

The interview in the above matter was held in room 164, Cannon House Office Building, commencing at 10:03 a.m.

Present: Representative Jordan.

1 Appearances:

2

3

4 For the COMMITTEE ON THE JUDICIARY:

5

6 [redacted] LAW CLERK

7 [redacted] INTERN

8 [redacted] CHIEF COUNSEL FOR OVERSIGHT

9 [redacted] PROFESSIONAL STAFF MEMBER

10 [redacted] SENIOR SPECIAL COUNSEL

11 [redacted] COUNSEL

12 [redacted] MINORITY CHIEF OVERSIGHT COUNSEL

13 [redacted] MINORITY INTERN

14 [redacted] MINORITY OVERSIGHT COUNSEL

15

16 For the U.S. DEPARTMENT OF JUSTICE:

17

18 [redacted] SPECIAL COUNSEL,

19 OFFICE OF LEGISLATIVE AFFAIRS

20

21 For the FEDERAL BUREAU OF INVESTIGATION:

22

23 [redacted] ASSISTANT GENERAL COUNSEL,

24 OFFICE OF GENERAL COUNSEL

1

2 [redacted] This is the transcribed interview of Laura Dehmlow.

3 Chairman Jordan has requested this interview as part of the committee's oversight

4 of the Federal Bureau of Investigation.

5 Would the witness please state your name for the record?

6 Ms. Dehmlow. Laura Dehmlow.

7 [redacted] Could agency counsel please state your name for the record?

8 [redacted] [redacted] FBI.

9 [redacted] [redacted] Department of Justice.

10 [redacted] And, Ms. Dehmlow, you understand agency counsel has the primary

11 fiduciary duty to the Bureau and not to you individually?

12 Ms. Dehmlow. I do.

13 [redacted] And so you would like to continue with agency counsel today?

14 Ms. Dehmlow. Yes.

15 [redacted] On behalf of the committee, I want to thank you for appearing here

16 today to answer our questions.

17 The chairman also appreciates your willingness to appear voluntarily.

18 My name is [redacted], and I'm with Chairman Jordan's staff.

19 I'll now have everyone else from the committee who is here in the room introduce

20 themselves, as well.

21 [redacted] [redacted] with Chairman Jordan's staff.

22 [redacted] [redacted] with Chairman Jordan's staff.

23 [redacted] [redacted], Chairman Jordan's staff.

24 [redacted] [redacted], Chairman Jordan's staff.

25 [redacted] [redacted], Chairman Jordan's staff.

1 [redacted] [redacted] oversight counsel for the Democrats and Judiciary
2 Committee.
3 [redacted] [redacted] chief oversight counsel for the House Judiciary
4 Committee.
5 [redacted] [redacted] Democratic staff and intern.
6 [redacted] Thank you.
7 I would like to now go over the ground rules and guidelines that we will follow
8 during today's interview.
9 Our questioning will proceed in rounds. The majority will ask questions for 1
10 hour, and the minority will then have an opportunity ask questions for an equal period of
11 time if they so choose.
12 We'll alternate back and forth until there are no more questions and the interview
13 is over.
14 Typically, we take a short break at the end of each hour, but if you would like to
15 take a break apart from that, please just let us know. We're happy to accommodate
16 that.
17 As you can see, there's an official court reporter taking down everything we say to
18 make a written record.
19 So we ask that you give verbal responses to all questions.
20 Do you understand?
21 Ms. Dehmlow. I do.
22 [redacted] So the court reporter can take down a clear record, we will do our
23 best to limit the number of people directing questions at you during any given hour to
24 just those people on the staff whose turn it is.
25 Please try and speak clearly so the court reporter can understand and the folks

1 down at the end of the table can hear you, as well.

2 It is important that we don't talk over one another or interrupt each other if we

3 can help it, and that goes for everyone present at today's interview.

4 We want you to answer our questions in the most complete and truthful manner

5 possible. So we'll take our time. If you have any questions or if you do not understand

6 one of our questions, please just let us know.

7 Our questions will cover a wide range of topics. So, if you need clarification at

8 any point, please just say so. If you honestly don't know the answer to a question or do

9 not remember, it's best not to guess. Please give us your best recollection. It's okay to

10 tell us if you learned information from someone else. Just indicate how you came to

11 know that information.

12 If there are things you don't know or can't remember, just say so and please

13 inform us who to the best of your knowledge might be able to provide a more complete

14 answer to our question.

15 You should also understand that by law you are required to answer questions

16 from Congress truthfully.

17 Do you understand that?

18 Ms. Dehmlow. I do.

19 [redacted] This also applies to questions posed by congressional staff in an

20 interview.

21 Do you understand this?

22 Ms. Dehmlow. I do.

23 [redacted] Witnesses that knowingly provide false testimony could be subject

24 to criminal prosecution for making false statements under 18, U.S.C., United States Code,

25 section 1001.

1 Do you understand this?

2 Ms. Dehmlow. Uh-huh.

3 [redacted] Is there any reason you are unable to provide truthful answers to

4 today's questions?

5 Ms. Dehmlow. No.

6 [redacted] Finally, I'd like to make note that the content of what we discuss

7 here today is confidential. We ask that you not speak about what we discuss in this

8 interview to any outside individuals to preserve the integrity of our investigation.

9 For the same reason, the marked exhibits that we will use today will remain with

10 the court reporter so they can go in the official transcripts. And any copies of those

11 exhibits will be collected at the end of the interview.

12 All right. That's the end of my preamble.

13 Is there anything my colleagues from minority would like to add?

14 [redacted] Just thank the witness for taking time out of your schedule to join us

15 today.

16 [redacted] [redacted] or [redacted] do you have anything for the record?

17 [redacted] No.

18 [redacted] No.

19 [redacted] Okay. Well, the clock now reads 10:06 a.m.

20 We'll get started with our first hour of questioning.

21 Ms. Dehmlow. Okay.

22 EXAMINATION

23 BY [redacted]

24 Q Good morning.

25 A Good morning.

1 Q Could you state your full name for the record?

2 A Laura Dehmlow.

3 Q Okay. And where do you currently work?

4 A The Federal Bureau of Investigation.

5 Q And what is your current title?

6 A I'm the section chief of the Foreign Influence Task Force.

7 Q And what is the Foreign Influence Task Force?

8 A The Foreign Influence Task Force is a component part in Counterintelligence

9 Division that is charged with understanding and mitigating foreign malign influence

10 operations targeting the United States.

11 Q And how long have you been in that role for?

12 A A bit over 2 years.

13 Q What is your educational background, beginning with college?

14 A Sure. I have an undergraduate degree in political science from Colorado

15 State University and a master's in public administration, public policy from University of

16 Florida.

17 Q And, following your master's degree, what is your professional background?

18 A I worked as a temp in Washington, D.C., for 10, 11 months while I applied to

19 Federal jobs and then joined the FBI soon after.

20 Q What year did you join the FBI?

21 A 2007.

22 Q And what was your first position?

23 A I was an intelligence analyst in Counterintelligence Division.

24 Q And how long were you in that role for?

25 A Five-plus years.

1 Q And what was your next position?

2 A I was a supervisor intelligence analyst in -- in -- in Counterintelligence

3 Division.

4 Q And how long were you a supervisor analyst for?

5 A Doing the math, until 2017, so 4 to 4 and a half, 5 years, something to that

6 effect.

7 Q And, just at a high level, what were your day-to-day responsibilities in that

8 role?

9 A So I promoted in the same unit I started in as an intelligence analyst, and I

10 was working primarily counter -- China counterintelligence issues. I worked both Taiwan

11 issues and China tech transfer for the majority of those years.

12 Q And, in that position, who did you report to?

13 A There were a number of different unit chiefs. I'd have to go back, and

14 they're not SES employees. So I'd have to check with these guys.

15 Q And you said it was about until 2017 --

16 A Uh-huh.

17 Q -- to your recollection?

18 A Yep.

19 Q And then, in 2017, what was your next position?

20 A I took a joint duty assignment with the National Counterintelligence and

21 Security Center. I was a national counterintelligence officer for Economic Security and

22 Threat Finance.

23 Happy to repeat that. It was a mouthful of a title.

24 Q If you could, please.

25 A Yes. The national counterintelligence officer for economic security and

1 threat finance.

2 Q And how long were you in the this role for?

3 A A bit under 2 years.

4 BY [redacted]

5 Q When you were an advisory intelligence analyst, what unit did you work for?

6 A It was called [redacted].

7 Q And was that a China unit, you said?

8 A It was, yes.

9 Q Just focused, that was the subject matter of the --

10 A Yep.

11 Q -- unit?

12 [redacted] Okay.

13 BY [redacted]

14 Q With respect to your -- you described it is as a joint duty assignment?

15 A Uh-huh.

16 Q Can you describe what you meant by that?

17 A Yeah, absolutely. I was essentially detailed to the NCSC. National

18 counterintelligence officers are responsible for a CI mission management for a specific

19 either regional or functional portfolios. I had a functional portfolio.

20 And it was the -- I was the first person in that role. It was during the Trump

21 administration's -- largely during the Trump administration's pivot to economic security,

22 national security issue.

23 And so I did a lot of engagement with different parts of the ODNI workforce,

24 different parts of the U.S. Government to enhance people's understandings of the

25 counterintelligence risks posed and then economic securities space, largely from China.

1 But it was a global portfolio. So I also did Russia and other adversary work.

2 Q And who did you report to in this role?

3 A I'm not sure if they're an SES, but it was the NIM for Counterintelligence.

4 And, ultimately, Bill Evanina was the National Counterintelligence and Security Center

5 Director.

6 Q And do you recall when you left this position?

7 A 2019.

8 Q And what was your next position?

9 A I was the acting unit chief of the Foreign Influence Task Force, China unit,

10 before I permanently took on that role in the fall of 2019.

11 Q And what were your responsibilities and if there were any differences

12 between acting unit chief and unit chief?

13 A Essentially just applying for the job and hope that you get it. So

14 responsibilities did not really shift. The -- as I mentioned, the FITF is charged with

15 counter and foreign malign influence operations in the United States.

16 So the China unit was focused on how the Chinese Government was using foreign

17 malign efforts to influence policymaking environment in the general public.

18 And the definition of FMI, foreign malign influence, is important. What we're

19 looking for is explicit attribution to a foreign actor or their proxy, and the malign

20 threshold is critical to our work, as well. We're looking for activity that is subversive,

21 undeclared, or covert, coercive, or criminal.

22 So we're not looking at overt diplomatic engagement, public messaging, public

23 diplomacy. We're looking for that malign threshold, too. And that's what we're

24 charged with, both program managing from both an intelligence and an operational

25 perspective.

1 Q When you were the unit chief for the China --

2 A Uh-huh.

3 Q -- division of FITF, who was the section chief for FITF at the time?

4 A Bradley Benavides.

5 Q Before joining FITF, had you had any interactions with the task force --

6 A No.

7 Q -- during your prior roles?

8 A No. It was relatively new. It was only expanded to cover the globe in

9 2019.

10 Q What did it cover prior to this 2019 expansion?

11 A Russia only, post-2017.

12 Q Prior to when you joined, did you have a sense of how big the task force

13 was?

14 A No, I wouldn't have any idea.

15 Q When you joined in 2019, how many people at the FBI?

16 A I don't recall. It's grown in the intervening years, but I don't remember

17 what our footprint was then.

18 Q When you say it's grown, do you have a sense of how much it's grown by?

19 A I don't -- I couldn't tell you back then because I don't recall the start, but it's

20 around [redacted] now, the task force as a whole, not just the China unit.

21 Q When you were the unit chief for the China unit, how big was your team?

22 A It started with four people.

23 Q Including you?

24 A No. That was plus me.

25 Q Do you recall from where else the four individuals came from? Were they

1 within the agency and reassigned?

2 A Yes. So it is a true task force environment or has historically been a true

3 task force environment. So, primarily, we were staffed out of Counterintelligence

4 Division. We also had embedded personnel from our Criminal Investigative Division and

5 our Cyber Division, and historically in the Russia unit there was also somebody from our

6 Counterterrorism Division.

7 Q When you joined in 2019, in addition to the China Unit, what other units

8 required were part of the task force?

9 A There was a Russia unit and a Global unit.

10 Q And did the Global unit cover everything except for Russia and China?

11 A It primarily focused on Iran. But, yeah, if there were other adversarial

12 nations who were engaging in foreign malign influence, that's where that would fall.

13 Q In 2019, when you joined the task force, who was the unit chief for Russia?

14 A He's not an SES employee. So I can't give that name, but perhaps they can

15 get back to you.

16 BY [redacted]

17 Q Can you give us the title?

18 A Unit chief-FITF Russia.

19 Q Is there still a unit chief for FITF Russia?

20 A There is.

21 Q Is it the same individual or a different individual?

22 A It is a different individual.

23 BY [redacted]

24 Q When you were the unit chief for China, who did you report to?

25 A FITF China?

1 Q Yes.

2 A Brad Benavides. There was also an assistant section chief who is a GS-15,

3 as well.

4 Q Which office were you working out of at the time?

5 A Which building?

6 Q Yes.

7 A J. Edgar Hoover, downtown.

8 Q Was the entire task force based out of there?

9 A Yeah, to the best of my recollection. Some of our cyber personnel may

10 have occasionally sat out where our cyber folks are in Virginia.

11 Q To your knowledge, when did the task force first begin?

12 A 2017.

13 Q Do you know who was primarily responsible at the FBI for creating the task

14 force?

15 A I believe Director Wray created FITF.

16 Q You stated earlier that the -- there was a Russia focus.

17 A Uh-huh.

18 Q Was it a separate Russia unit within that task force or the task force just was

19 the --

20 A The task force just was Russia focused, and it was essentially a unit concept

21 at the time. So there was not a section. There was not an SES that covered the globe.

22 Q And, to your knowledge, is that the framework that existed from 2017 until

23 you applied for acting unit chief of the China section in 2019?

24 A Yes, to the best of my knowledge.

25 Q Do you recall when you first learned that there'd be an opportunity to apply

1 for an acting section chief, unit chief for China?

2 A I don't specifically. I believe someone from Counterintelligence Division

3 called me, but I don't remember the details.

4 Q Do you know who at the FBI made the decision to expand FITF?

5 A I don't specifically. I believe -- I've been told that Director Wray was

6 involved in the decision, but I don't know if he made the call eventually, the ultimate call

7 to do so.

8 Q Do you know why FITF was expanded to include more than just Russia?

9 A So the original scope of the FITF was in direct response to the 2016 active

10 measures that Russia undertook to target the U.S. election. You're, I'm sure, aware of

11 the DHS report that details those.

12 By 2019, we had recognized that other nation-states had ongoing influence

13 operations and ongoing influence efforts. And so it was thought appropriate to

14 consolidate those efforts and ensure we are handling things consistently across all

15 country programs.

16 Q How long were you the unit chief for China?

17 A A bit under 2 years, through 20 -- early 2021.

18 Q What was your next position?

19 A The section chief of the Foreign Influence Task Force, my current role.

20 Q And when you were the China unit chief --

21 A Uh-huh.

22 Q -- did you have regular interactions with the FBI Director?

23 A No, not really, no.

24 Q What about the section chief in FITF?

25 A We do regular engagements with the Director, yes.

1 Q How frequently do you engage with the Director?

2 A I would say quarterly and then operationally dependent.

3 BY [redacted]

4 Q Does FITF fall under any executive assistant director?

5 A It does, the EAD for the National Security Branch, Larissa Knapp.

6 Q You said her name is Larissa Knapp?

7 A Uh-h-h, k-n-a-p-p.

8 Q Have you had the same assistant executive director throughout your tenure

9 on FITF?

10 A No.

11 Q Who was the executive assistant director prior to Ms. Knapp?

12 A Jill Sanborn immediately preceded her and, prior to that, John Brown.

13 Q And how often do you interact with Ms. Knapp?

14 A It's really operationally dependent. It can be a couple times a week if

15 we've got something going on. It can be, you know, as infrequently as once every few

16 months.

17 BY [redacted]

18 Q In 2019, when you joined as a unit chief of the China unit --

19 A Uh-huh.

20 Q -- how big was the Russia unit at the time?

21 A I couldn't tell you. I don't remember.

22 Q Was it larger than the China?

23 A It was, yes. It had been around for longer. So it had time to staff up.

24 Q Do you recall how much larger, relatively speaking?

25 A I really couldn't tell you. We were in separate spaces at the time. So we

1 didn't have -- I didn't have day-to-day interaction with that whole team.

2 Q And what do you mean by you were in separate spaces?

3 A We didn't have an office space big enough for the task force to consolidate.

4 So we sat in different rooms.

5 Q Do you have an office space now?

6 A We do, yeah.

7 Q And when did that occur?

8 A I don't remember. It took longer than we'd hoped, but I don't remember.

9 Q And who was the unit chief for the Russia unit?

10 A Again, not SES employee. So --

11 BY [redacted]

12 Q Looking at your tenure at the FBI as a whole, Ms. Dehmlow, have you ever

13 been detailed or worked for any of the special counsel investigations?

14 A I have not, no.

15 Q Didn't work for Special Counsel Mueller?

16 A No.

17 Q Durham.

18 A No.

19 Q Smith.

20 A Nope.

21 Q Hur.

22 A Sorry?

23 Q Hur.

24 A No.

25 [redacted] Okay.

1 BY [redacted]

2 Q Starting with your time as unit chief with the China unit, what were your
3 day-to-day responsibilities?

4 A FITF's both an operational and intelligence component. So we are charged
5 with both providing intelligence support to case agents and analysts working
6 investigations in field offices, as well as contributing to Intelligence Community product,
7 production, and analysis for FBI executives, policymaking environment, et cetera.

8 We're also an operational unit. So we've got program management
9 responsibilities where we help facilitate field office investigative steps for cases who
10 are -- that we're covering foreign malign influence actors.

11 Q Is there a field office that you work with most frequently?

12 A No. We've got 56, and we go where the work takes us.

13 Q As -- one of FITF's tasks included meeting with social media companies. Is
14 that correct?

15 A Yes.

16 Q Do you recall when those meetings first began occurring?

17 A I don't. It was prior to my arriving there, but I don't know when they
18 started.

19 Q And when you joined this -- the unit chief of China unit --

20 A Uh-huh.

21 Q -- how frequently were those meetings occurring?

22 A They were operationally driven, and it ended up being about quarterly.

23 Q In this 2019 timeframe, do you recall which companies were meeting with
24 FITF?

25 A This would be probably an incomplete list because it was several years back

1 but Twitter, Facebook, Google, Microsoft occasionally, Apple occasionally,
2 Reddit -- although I'm not sure they were -- that might have happened within the first
3 year of me being there. I'm not sure if we were meeting with them when I started.
4 Nextdoor we met with.
5 Q Did that quarterly pace continue, or would the cadence change?
6 A The cadence changed as we got closer to the 2020 elections. We met more
7 regularly. At some point -- again, this was several years back. So I couldn't tell you
8 when that shifted. But, at some point in the lead-up to November, we met probably
9 close to monthly. And then I think we made sure to meet in the immediate week or 2
10 weeks prior to election day.
11 Q When there are these -- actually, let me take a step back.
12 A Sure.
13 Q Were these meetings all the companies at once, or were they at each
14 individual company?
15 A So the meetings I am referring to were FBI's bilateral conversations. So we
16 would have one-on-one conversations with the companies because, again, I said they
17 were sort of operationally focused.
18 We also at some point in the 2020 cycle -- and, again, I'm sorry I don't recall
19 exactly when -- began participating in a broader industry sync where several companies
20 and several members of the Federal Government, several departments and agency would
21 collaboratively have conversations about foreign malign influence threats and election
22 security.
23 Q Okay. Sticking with the 2020 timeframe, for the FITF meetings that are
24 occurring monthly, how frequently did you attend these meetings?
25 A Regularly, unless I had a conflict. There may have been a couple that I

1 missed.

2 Q And you said, to your recollection, they were occurring close to monthly --

3 A Uh-huh.

4 Q -- by the time --

5 A They may have also increased in tempo, but, honestly, I don't remember

6 when or if.

7 Q And so each month there would be a meeting with Twitter, let's say, Google,

8 Facebook, whoever else is at. Is that right?

9 A I'm sorry. Let me take a step back.

10 Are we talking about the bilateral conversations --

11 Q The bilateral ones.

12 A -- or the industry?

13 We would -- we would meet with those who are willing to engage with us. It

14 might not have been every company and at every meeting because everybody was very

15 busy at the time but, yeah, some combination of that list.

16 Q So, between the FITF meetings and the U.S. Government industry kind of

17 large motion, do you have a sense of how many meetings you attended in 2020?

18 A It would be speculation. I'd want to go back and count.

19 Q In the FITF meetings, how many personnel FITF would attend those?

20 A The bilaterals?

21 Q The bilateral meetings.

22 A It -- between five and ten probably.

23 Q And, during this time in 2020, how big is FITF at this point?

24 A Again, it was a -- we were growing at the time. So I'm honestly not sure. I

25 was only really tracking the FITF China team.

1 Q How big was the FITF China team?

2 A Let me think about that for a minute. By mid-2020, we probably had

3 between [redacted] and [redacted] people, something about that.

4 Mr. Jordan. So, on a typical week in say October of 2020, you're having an

5 individual, that group, the FITF group is meeting with Facebook that week. Maybe that

6 same week you're meeting with Twitter. Maybe that same week you're meeting with

7 Apple. Maybe that same week -- each one of those companies you're meeting with on

8 an individual basis I assume some kind of a Zoom meeting each week.

9 Ms. Dehmlow. Well, no. I don't think we were meeting weekly with everyone.

10 I -- we met -- we tried to meet with everybody within a 1- or 2-week timeframe before

11 the election, but everybody was very busy. I don't think the companies would have had

12 time for a weekly meeting. So it was some combination of those meetings at least once

13 in the months preceding the election.

14 Mr. Jordan. But it would just be with one company.

15 Ms. Dehmlow. Correct.

16 Mr. Jordan. Okay.

17 Ms. Dehmlow. With the exception of the industry-led conversations --

18 Mr. Jordan. Right.

19 Ms. Dehmlow. -- I referenced earlier, yeah.

20 BY [redacted]

21 Q With these bilateral meetings, the 5 to 10 people who are occurring, do you

22 have a -- was it tend to be the same 5 to 10 people? Would it rotate?

23 A It was usually the unit chiefs of the individual units. And then, depending

24 on what the topic was, we would have other component parts. We might have a field

25 office who is handling a cyber intrusion investigation, for example, to join those

1 conversations, as well.

2 Q Do you recall, roughly, how many people the industry partner these bilateral

3 meetings would have attend?

4 A No. At that point, most of them were via phone call. So we weren't in

5 person. I wouldn't be able to reference a count. I'm sure we did introductions at the

6 beginning of them, but I don't recall.

7 Q To your recollection, do you have a sense of which departments companies

8 would have send representatives from to attend these meetings?

9 A Yeah, it was usually, you know, they've all got different names for them but

10 essentially, like, Sight Integrity or Sight Security, Trust and Safety. And then their

11 counsel, their lawyers were usually often present.

12 Q And for these -- actually, one step back.

13 A Uh-huh.

14 Q Do you know who Elvis Chan is?

15 A I do.

16 Q And who is that?

17 A At the time he, was a supervisory special agent in the San Francisco Field

18 Office. He is now the assistant agent in charge for cyber in the San Francisco Field

19 Office.

20 Q And was Agent Chan involved with these bilateral meetings?

21 A He was.

22 Q And what was his role?

23 A So, in our field offices, the ASAC or SSAs often manage private sector

24 relationship for companies that exist within their AOR. So, because San Francisco has

25 many of the companies we're talking about, with the exception of Microsoft, for example,

1 it's pretty typical for that ASAC to manage those engagements for all sorts of threat
2 programs that the FBI works. And it's that capacity they're sort of managing calendaring
3 and agendas and ensuring that everybody knew the right phone number to call, et cetera.
4 Q In addition to this kind of management role -- did he did he present at these
5 meetings? Did he provide substantive information?
6 A Generally, no. If there was a -- and, yeah, generally, no. I would say that,
7 if it was an advanced persistent threat actor, a cyber intrusion, cyber actor that he was
8 familiar with or his team worked on, then that might have been the exception to the rule.
9 But, generally, he was -- he was in an MC role, essentially, making sure the meetings
10 stayed on track and the agenda was followed.
11 Q And, for these bilateral meetings, what was the purpose of these meetings?
12 A So one of the things that we collectively realized, I think across the U.S.
13 Government, the Intelligence Community, the Hill in the aftermath of the 2016 election
14 was that foreign actors, including Russia, were pretending to be authentic parts of the
15 conversation, of political conversations inside the United States by pretending to be
16 Americans on some of these platforms.
17 So part of the FITF's efforts were to understand and inform on private sector
18 partners of the -- of information that we might or that we believed might help them
19 protect their platforms.
20 So also pretty typical of what the FBI does with private sector partners, whether
21 it's cleared defense contractors, hospitals who might be the victim of a cyber attack, you
22 know, a wide range of other private sector engagements, the FBI has a role to play in
23 informing them of foreign actor threat activity that might be taking place, targeting their
24 companies or on their company's platforms.
25 So, when we had specific information that articulated a foreign actor was covertly

1 or inauthentically accessing those platforms, we provide information details about how
2 specifically those actors were accessing or covertly using those platforms.
3 Q Did you need a clearance? Do the industry partners, did they need a
4 clearance to attend these meetings?
5 A We worked, because most of the folks who were going to -- who were going
6 to be in the meetings did not have clearances, we often worked to declassify or
7 downgrade information from higher classifications and provide it at an unclassified level.
8 [redacted] How did you determine whether an actor was foreign or domestic?
9 Ms. Dehmlow. So there's pretty specific guidelines in the Domestic Investigation
10 Operations Guide, the DIOG, the Attorney General Guidelines for Domestic Operations
11 that talk about foreignness. So we're trying to adhere to those standards. And most of
12 the details like about how we did that in these specific contexts I can't get into because
13 it's at a classified level.
14 But, at base, what we're looking for is activity that's emanating from overseas, and
15 we can articulate that, say, an actor in country X is accessing one of these U.S.-based
16 platforms from an IP range between a certain date and time. We have explicit access
17 into how that was happening and then worked to downgrade that information.
18 BY [redacted]
19 Q When you say "worked to downgrade," do you mean you weren't sharing
20 classified information? Or was the FBI actively declassifying items to share?
21 A So usually it was not our information. So it would be [redacted]
22 [redacted] that was declassifying or downgrading information.
23 Q So you would ask the [redacted] to downgrade or declassify the
24 information?
25 A We would either ask, or they would proactively look to do that.

1 Q How did you make that decision whether or not that information could be
2 declassified through the [redacted]?
3 A I did not. It wasn't my call.
4 Q And were there any concerns that you were sharing classified information
5 with the private sector?
6 A We weren't sharing classified information. We were sharing appropriately
7 cleared information. It was just originally derived from classified sources.
8 Q Okay. So --
9 A Part of our -- part of our -- part of our mission always is to protect sources
10 and methods. And so --
11 Q Uh-huh.
12 A -- there are really specific rules in place, to the best of my knowledge, were
13 followed to make sure that we were following those rules and procedures to downgrade
14 or to declassify.
15 Q Okay. So you weren't downgrading or declassifying information to share
16 with the private sector --
17 A Again, I used "we" just previously. And I would say that the [redacted]
18 [redacted] or some other part of the government was doing that. I was not
19 specifically.
20 Q At the request of the FBI.
21 A Sometimes at the request of the FBI. Sometimes proactively on their
22 behalf.
23 BY [redacted]
24 Q How long did these meetings typically last, the bilateral meetings?
25 A I think they were usually scheduled for an hour. We didn't always go that

1 long.

2 Q And were they scheduled at a regular cadence, or would they be scheduled

3 as needed, depending on what information the FBI had?

4 A We, like I said, we had initially done them essentially quarterly. But they

5 were operationally driven. So, if there was something that was time-sensitive, we

6 would have called a meeting in the intervening time.

7 Q And, in situations like those, there'd be a meeting scheduled, in addition to

8 an already regularly scheduled meeting, or would you try to move one up?

9 A You know, I can't think of any specific examples of where we scheduled a

10 specific meeting. But, if there was something that was time-sensitive, that's how it

11 would have happened, yes.

12 Q And then, for the meetings that are occurring at this regular basis --

13 A Uh-huh.

14 Q -- is it only time-sensitive information that's being shared, or is it other

15 information, as well?

16 A I would characterize it as we're trying to share timely and relevant

17 information as quickly as possible.

18 Q Okay. But --

19 A As I said, the information that is getting downgraded or classified, we're not

20 in charge of that process. So we're a little bit beholden to the process that's in the [redacted]

21 [redacted] holdings.

22 Q Sure. So, in 2019, for example, was the quarterly pace occurring frequently

23 enough to share this information in a timely fashion?

24 A To the best of my knowledge. At that point, the -- again, I was, again, the

25 Foreign Influence Task Force China Unit chief. And so I would only have insight into the

1 China-related passage of information. So, at least for the FITF China-specific
2 information, that was happening regularly enough.
3 Q Do you recall at any of these bilateral meetings discussing with the social
4 media companies whether they a hack-and-leak policy?
5 A I don't.
6 Q Do you have any recollection during these bilateral meetings of discussing
7 any aspect of the social media's content moderation policies?
8 A So one of the things that we've been very explicit and clear about, very
9 persistent about from the beginning is that we're providing information so that they can
10 take action under their own terms of service. I am not an expert in all of those terms of
11 service. The FBI is not an expert in those terms of service, and they do vary from
12 platform to platform.
13 But one of the consistent things is they usually have a term regarding inauthentic
14 behavior on the platform or coordinated behavior on the platform. And, because that is
15 a specific scope of what the FBI information sharing is about, we certainly were aware
16 that the terms of service included provisions regarding coordinating -- coordinated
17 inauthentic behavior on platform.
18 Q Why was the FBI providing this information to social media companies?
19 A To inform, again, very typical with what we do with other private sector
20 partners. If we've got information that can protect a U.S. company or their customers,
21 we feel we've got a responsibility to share that so they can inform decisionmaking and
22 take steps to better protect themselves or their platform. But we certainly never asked
23 them to do anything with the information.
24 Q Do you recall any discussion during these bilateral meetings regarding the
25 potential of a hack-and-leak operation?

1 A I really don't recall specifics. If -- one of the things that we, again, really
2 typically do in these conversations is talk about tactics and techniques that have
3 historically been used by the threat actors that we're following and trying to mitigate or
4 help people understand. And I think, as I'm sure everyone in this room is aware, there
5 had been a hack-and-leak operation in the 2016 timeframe that had been very
6 well-covered.
7 So I would assume -- or as I remember, probably talked about hack-and-leak
8 operations by context of a range of activities foreign actors might undertake. But I don't
9 recall specific details or specific conversations or questions about hack-and-leak
10 operations, no.
11 Q With the understanding you don't recall specific examples, at a high level, do
12 you recall if that was one of the examples that was brought up during one of these
13 bilateral meetings?
14 A I really don't recall again. But, because it was a tactic and technique that
15 had been historically, I assume that it was brought up, yes.
16 Q And what about at these kind of broader USG Industry meetings? Do you
17 recall hack and leak being discussed?
18 A I don't.
19 Q And who would attend from the government side those USG Industry
20 meetings?
21 A It was some combination of FBI personnel, DOJ personnel, DHS, CISA, and
22 DHS, INA personnel. There was usually somebody from the Office of Director of
23 Intelligence Election Threats Executive -- I think that's it -- and sometimes the San
24 Francisco Field Office, again, because they were serving in sort of a calendaring
25 administrative role.

1 Q And so turning back to the bilateral meetings --

2 A Uh-huh.

3 Q -- whether it's hack and leak or other types of tactics that foreign adversaries

4 might use, is there kind of two buckets of information that the FBI is sharing, both these

5 high-level, more general warnings, as well as specific instances that the FBI's aware of

6 that foreign actors are posing a threat to a U.S. company?

7 A Yeah, I would say that primarily the information sharing, especially with

8 those companies, those bigger companies at that time in the bilateral conversations, it

9 was about specific information. In the broader industry meetings -- specifics about

10 operations or details that we were aiming to share about foreign actor, foreign malign

11 influence operations. In the broader industry meetings, that is probably the place

12 where we more regularly talked about sort of broad trends.

13 Q Do you recall any other government agencies discussing the potential of a

14 hack-and-leak operation?

15 A It was 3 years ago. I'd be speculating.

16 Q You mentioned the 2016 DNC hack. Were there other examples of a

17 hack and leak that the government provided to industry partners?

18 A Not that I recall with any specificity.

19 Q Do you recall this warning of hack and leak being discussed in 2019?

20 A I don't.

21 Q Do you recall how many meetings you had with the social media companies

22 in October of 2020 or in the weeks leading up to the election?

23 A I'm sorry. I don't remember.

24 Q You do recall that there were --

25 A Yeah, yeah.

1 Q -- a number of meetings?

2 A There were -- as I mentioned earlier, we aimed to get together with most of

3 the companies within the couple of weeks in the immediate -- in the immediate weeks

4 preceding the election.

5 Q Are you familiar with the October 2020 New York Post story on Hunter

6 Biden's laptop?

7 A I am.

8 Q Do you recall whether any of these social media companies you were

9 meeting with asked you any questions about it?

10 A I do.

11 Q And what is your recollection? Who --

12 A So I remember having a conversation with or being involved in a

13 conversation with Twitter, and I honestly can't recall if this was repeated to me -- I might

14 have been a few minutes late to the meeting -- or if -- or if I was -- I actually overheard it.

15 But it was -- it was relayed to me later that somebody from Twitter -- I don't recall

16 who. I'm not sure who. Somebody from Twitter essentially asked whether the laptop

17 was real. And one of the FBI folks who was on the call did confirm that, yes, it was

18 before another participant jumped in and said no further comment.

19 Q Do you recall who from the FBI said it was real?

20 A I do.

21 Q And who was that?

22 A It's a non-SES employee. I'd have to take that back.

23 [redacted] What's their title?

24 Ms. Dehmlow. An analyst.

25 [redacted] What field office are they out of?

1 Ms. Dehmlow. Again, I'm not sure that I'm allowed to provide details here
2 because it was a non-SES employee.
3 [redacted] We'll take it back.
4 [redacted] Can we not know about this, just not the name of the individual?
5 [redacted] They're in the Criminal Investigative Division. We can tell you that
6 and then get back to you if we can provide a non-SES name.
7 [redacted] I think the committee would like to know the name of the individual
8 but also their title.
9 [redacted] Sure.
10 BY [redacted]
11 Q Was this individual affiliated with FITF?
12 A Again, it was somebody from the Criminal Investigative Division who is
13 embedded with us.
14 Q So yes?
15 A Yes.
16 Q And did this question occur in the context of a bilateral meeting?
17 A It did.
18 Q Do you recall how soon after the story broke that this meeting occurred?
19 A I don't remember. I believe it was the same week, but I don't remember
20 the specific day.
21 BY [redacted]
22 Q On that call with that IA who's in the Criminal Investigative Division, that was
23 the individual who said, "yes, the laptop is authentic"? Is that correct?
24 A I don't believe it was that specific. Again, I don't recall hearing the
25 conversation itself. I know it was relayed to me afterwards. But my understanding is

that we confirmed that, yes, the laptop was a real laptop.

Q And then you said another FBI individual came on and said, "No further comment."

A Yes.

Q Is that correct?

A That's correct.

Q Who was that individual?

A It was some -- it was one of our lawyers who was on the call.

Q And who was that individual?

A Again --

[redacted] We'll take that request back. They're not SES.

[redacted] Do they work out of the General Counsel's Office or a specific field office?

[redacted] They're in the Office of the General Counsel. But, again, we'll take that request back. We don't have authorization to speak to their specific name in this context.

[redacted] Okay. I think the committee would like to know the individual's name, as well as their title.

Thank you.

[redacted] Just to clarify, when you say the laptop was real, you mean it was, like, a real laptop or that it belonged to Hunter Biden or what exactly?

Ms. Dehmlow. Since I wasn't -- I don't recall the specifics. I think my understanding is generally we confirmed the existence of the laptop.

BY [redacted]

Q Who relayed this information to you?

1 A I don't recall. The reason that I remember it specifically is that we had a
2 conversation afterwards, talking, deliberating on how we would answer the question if
3 another company asked.
4 Q And did this deliberation occur immediately following --
5 A I would say within, yeah, within the next couple of hours.
6 Q During this time period, October 2020, does FITF have its own in-person
7 office? Or is this conversation over Zoom?
8 A Which -- which part of the conversation, the conversation with the
9 companies or the conversation, the deliberations?
10 Q The deliberations.
11 A I believe it happened over our -- our -- our chat function.
12 Q Do you recall how many FBI personnel were part of this deliberation?
13 A I don't.
14 Q Do you have a ballpark sense?
15 A Just a handful probably.
16 Q Do you recall why you were not in attendance at this part of the bilateral
17 meeting?
18 A Again, it's possible that I was. I just don't recall the part. The part that I
19 remember with clarity is the part immediately after that. It's a very busy time. I might
20 have just been running late, a couple of minutes late, you know. It was a very busy time
21 for the FITF.
22 Q Do you know how Twitter reacted when the first agent said that the laptop
23 was real?
24 A No recollection.
25 Q Did you receive any followup requests for information from Twitter?

1 A Not that I recall, not that came to me.

2 Q So you said he was one example.

3 Do you recall other social media companies?

4 A I believe Facebook -- we met with Facebook soon thereafter. Can't

5 remember if it was the same day or within a couple of days. And they also asked, and I

6 said, "No comment." That was the -- that was the decision we made in those

7 post-meeting deliberations, which is pretty typical. It was an ongoing investigation, and

8 we don't generally comment on ongoing investigative matters when asked.

9 Q Okay.

10 [redacted] Who made the decision that the FBI would have no comment to the

11 social media companies going forward?

12 [redacted] So I want to be clear.

13 Ms. Dehmlow, obviously, can answer the question as long as it doesn't get into

14 internal deliberations or advice from a lawyer or anything.

15 Ms. Dehmlow. Yeah, and, unfortunately I can't answer that with any further

16 detail on that advice.

17 [redacted] So you can't tell us who made the decision?

18 Ms. Dehmlow. I can say there were internal deliberations with a number of

19 parties, and then -- but I can't get into that further.

20 [redacted] So then, Counsel, are you instructing her not to answer the question

21 any further?

22 [redacted] We'll take the request for the non-SES back and get back to you as

23 soon as possible.

24 [redacted] And the content of the discussion?

25 [redacted] So, in this context, she's not authorized to speak to internal

1 deliberations which may implicate attorney-client or other legal privileges today, but we'll
2 take your request back.
3 [redacted] But you're instructing her not to answer today. Is that accurate?
4 [redacted] To the specifics of the conversation she received related to whether
5 or not she was deliberating about the veracity of the laptop, in this context, yes.
6 [redacted] Okay.
7 BY [redacted]
8 Q With respect to the internal deliberations, were there individuals who
9 participated other than members of FITF?
10 A Yes. Again, I can't get into more specifics because of the deliberative
11 process privilege they're articulating.
12 Q Were there members participating in these deliberations other than
13 members of FITF and other than members of OGC?
14 A I can't recall specifics.
15 Q Do you recall who from Facebook asked the question?
16 A I don't.
17 Q Was the laptop on the agenda for either of these bilateral meetings with
18 Twitter or Facebook?
19 A No. It came as a surprise to us that there was questions. At least it came
20 as a surprise to me. I wasn't tracking the news story until that moment.
21 Q And who else was on the call with Facebook?
22 A It would have been essentially the same -- same folks, probably the unit
23 chiefs from FITF and some range of other folks. But I don't recall specifics.
24 Q You said that you were the one that said "no comment"?
25 A Uh-huh.

1 Q Had it been decided in advance that you'd be the one to answer that
2 question?
3 A No, not that I recall.
4 Q Who was the section chief of FITF at the time?
5 A Bradley Benavides.
6 Q Was he on the call?
7 A Not to my recollection, no.
8 Q Was he on the Twitter call?
9 A Not to my recollection, no.
10 Q Did he usually attend these calls?
11 A He did not.
12 Q Was Elvis Chan on the call with Facebook?
13 A It's likely, but I don't recall specifically.
14 Q Was Elvis Chan on the call with Twitter?
15 A It's likely, but I don't recall specifically.
16 Mr. Jordan. You acknowledged, back to the meeting with Twitter, when the first
17 FBI official acknowledged that the FBI -- that the -- excuse me -- that the laptop was real,
18 how long had you -- how long you had known that information?
19 Ms. Dehmlow. I don't remember. I really can't recall.
20 Mr. Jordan. Did you learn that it week you? Learn it months before? When
21 did you know that the laptop was real?
22 Ms. Dehmlow. I really don't remember.
23 Mr. Jordan. You said -- that's the word you used. You said the agent said the
24 laptop was real. Is that right?
25 Ms. Dehmlow. He confirmed at some point that the laptop existed, yes. But,

again, I don't recall the specific language, and I wasn't there.

[redacted] Can I confer with the client for a moment?

[redacted] Yeah, we'll go off the record.

[Discussion off the record.]

[redacted] We'll go back on the record.

BY [redacted]

Q When the Facebook employee asked the question, do you recall exactly what they asked?

A I don't.

Q Do you know if it was about the laptop?

A Yes. It was essentially whether or not we -- yes, it was something about the laptop. I don't remember -- I know that my answer was "no comment" because -- and the question doesn't stick in my mind because it was something about the laptop. And I said, "No comment."

Again, that was not my decision. It wasn't my final call. There were other agency, other departments, other FBI equities at stake, investigative equities, and so pretty typical for us to come to that conclusion.

Q Were you aware if Twitter or Facebook were taking steps to censor the story?

A I was not.

Q Did you ever become aware?

A Eventually, when the -- when there was extensive news coverage about it ultimately, but I don't know if I knew it that week, within a couple of months.

Q Do you think it was the right decision to say "no comment"?

A Not here to -- again, it wasn't my call and it's pretty typical for us to not

1 comment on ongoing investigative equities.

2 Q When the information was relayed to you following the Twitter call that the

3 first agent had said the laptop was real, just to clarify, you knew prior to that

4 conversation that the laptop was real. Is that correct?

5 A I did, yes.

6 Q But you don't recall when approximately you learned.

7 A I don't, sorry.

8 Q Sitting here today, do you know when the FBI first determined that the

9 laptop was real?

10 A I don't. I know that there is some information in the public record

11 regarding when the FBI acquired the laptop, but I don't, sitting here, remember that date.

12 Q Do you know who else at FITF knew that the laptop was real?

13 A I don't actually. I would assume both my -- yes, I would certainly say that

14 Brad Benavides was aware.

15 Q What about the individuals on the Russia unit?

16 A I would assume the unit chief was also aware. I'm pretty certain of that

17 fact.

18 Q For the individual --

19 [redacted] Just to clarify, do you know to a certainty that they were aware, or

20 are you just making deductions?

21 Ms. Dehmlow. I'm pretty certain that they were aware.

22 [redacted] Okay.

23 BY [redacted]

24 Q In advance of the bilateral meeting, would the FITF team discuss internally

25 about what to cover in a meeting?

1 A We would, yes.

2 Q And, in these pre-meetings, would you attend and participate?

3 A Usually, yes.

4 Q Do you recall whether Hunter Biden's laptop or any investigation related to it

5 was discussed in any of these meetings?

6 A It was not -- to the best of my recollection.

7 Q Following the Twitter meeting, you said there were internal deliberations

8 over a chat function.

9 A They might -- there might have been folks in person. We were doing a lot

10 of things virtually at that point, given the pandemic and the rules and restrictions we

11 were under for in-person meetings.

12 Q Do you recall which chat function was used?

13 A It was -- it was likely a Microsoft link.

14 Q Do you recall how long the internal deliberations were following the Twitter

15 meeting?

16 A I don't.

17 Q After that initial set of internal deliberations, isn't that first set of internal

18 deliberations where the decision is made that FITF will say "no comment" going forward?

19 A To the best of my recollection.

20 Q Were there ever additional internal deliberations to revisit that decision?

21 A Not that I recall.

22 Q Besides Twitter and Facebook, do you recall other social media companies

23 raising the issue?

24 A I don't. There may have been others, but I don't recall.

25 Q Do you recall if the story of Hunter Biden's laptop was discussed at any of

1 the USG Industry meetings?

2 A Not to the best of my recollection, no.

3 Q Are you familiar with the statement from 51 former intel officials that was

4 released on October 19th, 2020, saying that the laptop story had, quote, all the classic

5 earmarks of a Russian disinformation operation?

6 A I'm aware of the statement, yes.

7 Q Did any of the 51 former intel officials contact you prior to the release of the

8 statement?

9 A No.

10 Q What about afterwards?

11 A No.

12 Q After that statement was released, did the FBI ever consider letting the

13 public know that the laptop was authentic?

14 [redacted] I'm just going to instruct the witness not to answer. She's not

15 authorized to speak to those specific internal deliberations at this time.

16 [redacted] What's the objection?

17 [redacted] Just that it the implicates attorney-client privilege. As she testified,

18 her conversations with OGC present legal privilege issues in this context.

19 [redacted] Could she testify as to whether there were discussions that occurred

20 regarding whether or not the FBI considered notifying the public that the FBI -- that the

21 laptop was authentic?

22 [redacted] I would instruct her not to answer that in this context.

23 [redacted] And what's the objection?

24 [redacted] The same objection I stated. She's not authorized to discuss

25 internal deliberations which may implicate attorney-client privilege at this time.

1 [redacted] Even as to whether the communications occurred, not to the
2 content of the communications?
3 [redacted] I need to confer with the client for a moment.
4 [redacted] Yeah, we can --
5 [redacted] We can go off the record.
6 [Discussion off the record.]
7 [redacted] We'll go back on.
8 [redacted] Do you want to ask your question again?
9 [redacted] Yes, I will.
10 Were there any communications within the FBI as to whether they would inform
11 the public that the laptop was authentic after the statement from the 51 former intel
12 officials?
13 Ms. Dehmlow. If there were, I'm not aware of them.
14 [redacted] Okay.
15 BY [redacted]
16 Q Do you recall if the meetings with Twitter and Facebook occurred the same
17 day?
18 A I don't remember.
19 Q Okay. If there's a meeting invite with Facebook for that afternoon, would
20 that be inconsistent with your recollection?
21 A No. It was certainly within a day or so, if not the same day.
22 Q And, to your recollection, the Twitter bilateral call occurred first.
23 A To the best of my recollection, yeah.
24 Q To the agent who said that the laptop was real, was that -- was the individual
25 who said that information one of the agents who would regularly attend these bilateral

1 calls?

2 A So, again, I want to be crystal clear about what I know about that, and it was

3 essentially a confirmation that the laptop existed. I don't know if the wording was

4 specifically the laptop was real.

5 And, again, that the individual -- I'm sorry. The second half of your question

6 was?

7 Q The individual who provided that first answer --

8 A Uh-huh.

9 Q -- to --

10 A Were they a regular participant?

11 Q Yes.

12 A I don't remember. I'm not sure if it was -- it was atypical that they were on

13 the call.

14 BY [redacted]

15 Q And, beyond the conversations that you had with Twitter and Facebook

16 regarding the Hunter Biden laptop, did you have any additional involving with the Hunter

17 Biden laptop or the investigation?

18 A No.

19 Q Did you have any communications with the Central District of California

20 regarding the Hunter Biden investigation?

21 A No, not the best of my recollection.

22 Q Any discussion with the U.S. Attorney's Office of Delaware regarding the

23 Hunter Biden investigation?

24 A Can I talk to these guys for a minute?

25 [redacted] Yes.

1 We'll go off the record.

2 [Discussion off the record.]

3 [redacted] We'll go back on the record.

4 [redacted] So we saw that you were asking a series of questions that related to

5 ongoing investigations and any communication she may have had with various districts

6 conducting ongoing investigations.

7 So our instruction is for the witness to not answer related to any specific

8 conversations she's had with any of the districts that you referenced.

9 [redacted] Okay. I'm going to go on. I have a series of questions I'll just go

10 ahead and ask and see if you need to instruct Ms. Dehmlow not to answer.

11 BY [redacted]

12 Q Did you have any communications with the U.S. Attorney's Office for the

13 District of Delaware regarding the Hunter Biden investigation or Hunter Biden laptop?

14 A I can't answer that question on the advice of counsel.

15 Q Did you have any communications with the U.S. Attorney's Office for the

16 District of Columbia regarding the Hunter Biden investigation?

17 A I can't answer that question on advice of counsel.

18 Q Did you have any communications with the DOJ Tax Division regarding the

19 Hunter Biden investigation or Hunter Biden laptop?

20 A I can't answer that question.

21 Q Did you have any other communications with FBI officials regarding the

22 Hunter Biden investigation or Hunter Biden laptop?

23 A I can't answer that question.

24 [redacted] And what's the instruction for her not to answer the question?

25 [redacted] As it's publicly known, the U.S. Attorney's Office in Delaware is

1 conducting an ongoing investigation into Hunter Biden. So it's longstanding FBI and
2 Department policy not comment on ongoing matters.
3 [redacted] Did you have communications with individuals from the Internal
4 Revenue Service regarding the Hunter Biden investigation?
5 Ms. Dehmlow. Again, I can't answer that question on advice of counsel.
6 [redacted] Did you have any role regarding the Hunter Biden investigation?
7 Ms. Dehmlow. I can't answer that question on advice of counsel.
8 BY [redacted]
9 Q During your call with Facebook, where you said "no comment," did you
10 provide a reason why you could not say, not provide the comment?
11 A No. I believe I just said "no comment" to the best of my recollection.
12 Q And was it determined internally that you would be the one to say "no
13 comment"?
14 A There was not a discussion about that to the best of my recollection. I
15 might have been speaking at the time or next on the agenda when they asked, but I don't
16 recall.
17 Q Do you recall what the reaction was?
18 A I don't.
19 Q In the meetings that followed, whether the bilateral meetings or the USG
20 industry meetings, did the issue come up again to your recollection?
21 A Not to the best of my recollection, no.
22 Q When did you learn that the story was being censored by Twitter and
23 Facebook?
24 [redacted] I think I'll --
25 Ms. Dehmlow. Again, I --

1 [redacted] Oh, sorry. Go ahead.

2 Ms. Dehmlow. That's all right.

3 I recall hearing coverage of Twitter's actions, though I wouldn't necessarily

4 characterize it as censoring. That's not -- that's not a judgment that I should make.

5 BY [redacted]

6 Q And, once that public coverage was occurring, did the FBI revisit its decision

7 regarding the decision to say "no comment" when asked?

8 A Again, I don't recall any deliberations regarding that.

9 Q At any meeting post-2020 election, at any point did a social media company

10 revisit the issue with the FBI?

11 A Not to the best of my recollection, no.

12 Q Do you know who Yoel Roth is?

13 A I do.

14 Q And who is that?

15 A He is the former head of Trust and Safety at Twitter I believe was his job

16 title.

17 Q Do you recall if Mr. Roth was on the call with Twitter?

18 A I don't recall.

19 Q Do you recall anybody from Twitter who was on the call?

20 A I don't. I'm sorry.

21 Q Do you know who Jim Baker is?

22 A I do.

23 Q And who is that?

24 A He is -- I believe -- I'm fairly certain he was at Twitter, as well. He's one of

25 their lawyers.

1 Q Did you have any communications with Jim Baker regarding the Hunter
2 Biden laptop story?
3 A No, not that I know of.
4 Q Who else from Twitter would most frequently attend the bilateral meetings?
5 A I'm sorry. I'm really terrible with names. I'd be -- going back, there were
6 a lot of different people on the call. I remember Yoel specifically, but I don't remember
7 other names.
8 Q Would Mr. Roth present at these meetings, do you recall?
9 A Sometimes, yes.
10 Q Do you have any knowledge whether Mr. Roth was the one who asked the
11 question?
12 A I don't.
13 Q Who from Facebook would most frequently attend these bilateral meetings?
14 A I think, if I'm remembering the name correctly, it's [redacted] -- I'm
15 pretty sure that's Facebook -- also their counsel. Other than that, I don't really
16 remember names.
17 Q Do you recall the counsel's name?
18 A I don't. I'm sorry.
19 Q Earlier you said that there were kind of two buckets of information that was
20 shared in these bilateral meetings. Some were kind of more high-level, previous tactics
21 that foreign adversaries used. You also said that those tended to fall more on the USG
22 industry bucket. And then there were more specific examples that you provided to
23 social media companies.
24 For that latter category, was there ever an ongoing FBI investigation that related
25 to specific information that was being shared with the social media companies?

1 [redacted] I'm going to instruct the witness not to respond to this question as it
2 may relate to pending matters.
3 [redacted] Okay. So was there ever --
4 [redacted] As it may? Does it relate to pending matters, or that's the
5 instruction, that it's an ongoing investigation?
6 [redacted] You can answer as long as your answer does not discuss ongoing
7 matters.
8 Ms. Dehmlow. Okay. I'm sorry. I'm going to need to you to repeat the
9 question.
10 BY [redacted]
11 Q Sure. So I'll cut off the first half.
12 But, with respect to in thigh bilateral meetings, the FBI would share information
13 that was a -- specific to the company, an ongoing threat. You mentioned that
14 sometimes it would be time sensitive.
15 When the FBI is sharing that information, did it ever -- did that information ever
16 relate to an ongoing investigation that the FBI had?

1

2 [11:07 a.m.]

3 Ms. Dehmlow. At a high level, all FBI work relates to ongoing investigations. So
4 we don't take operational steps unless we've got a predicated investigation into a foreign
5 actor.

6 [redacted] And so why was the FBI allowed to share this information as opposed
7 to say "no comment"?

8 Ms. Dehmlow. So there is a provision in the Justice Manual articulating specific
9 rules regarding sharing threat information on foreign malign influence operations, and it's
10 within the purview of that Justice Manual provision, the declassification purpose or
11 downgrade purpose of the [redacted] material.

12 And so we're pretty consistent with our efforts to inform and provide actionable
13 threat intelligence to U.S. companies in the private sector across lots of threat
14 landscapes.

15 [redacted] So as a hypothetical, if the laptop were the product of a foreign malign
16 influence campaign, the FBI would have been able to provide information to the
17 companies?

18 [redacted] I'm going to instruct the witness not to respond to that hypothetical.

19 [redacted] Why? What's the basis of the objection?

20 [redacted] Our practice is not to respond to these questions in this context in
21 hypothetical terms. If you can recharacterize it in a more specific or policy-based way,
22 she can respond.

23 [redacted] Well, just trying to get a sense of there's ongoing information sharing
24 about matters that the FBI is investigating. You have these ongoing meetings with the
25 social media companies specific to them. The social media companies ask about a

1 potential foreign malign influence campaign. In fact, 51 intel officials came out and said
2 that's what they thought it was.
3 I'm trying to get a sense of the circumstances in which the FBI can provide
4 information, as it did in dozens of meetings, and why they had to say "no comment" in
5 this specific case.
6 Ms. Dehmlow. The investigative equities were not my investigative equities.
7 So we were specifically focused on foreign malign influence actors, foreign actors and
8 their activities.
9 Chairman Jordan. Yeah. But he didn't question, Ms. Dehmlow, because in Yoel
10 Roth's sworn declaration he says in point number 11 that there were weekly meetings
11 with law enforcement where you communicated they expected hack-and-leak operations
12 in October right before the Presidential election, weekly meetings actively in October
13 before the Presidential election, and that this information would be disseminated on
14 social media platforms. And then he states in the last sentence: "And rumors were
15 that the hack-and-leak operation would involve Hunter Biden."
16 So you told him weekly what's coming, when it's coming, who it's going to involve,
17 and then you get a question about it, and you say "no comment."
18 Does that seem strange when you prepped them, when you've said all of this is
19 going to happen? There's a specific example right on point, and they ask you, and you
20 give "no comment."
21 Ms. Dehmlow. So, again, I would reiterate that we are acting on specific and
22 detailed information, and I'd probably reject the characterization that we're weekly
23 warning them about a Russian hack-and-leak operation.
24 Chairman Jordan. I'm reading from Yoel Roth who you said you had meetings
25 with. I'm reading from his declaration.

1 Ms. Dehmlow. Yeah. And my knowledge, my recollection differs from Yoel's.
2 We did not have specific -- to the best of my recollection, we were not regularly engaging
3 in talking about a Russia hack-and-leak operation.
4 And I believe, both my recollection and I think he's also publicly corrected that
5 perhaps it was an industry partner who had articulated the rumors of a Russia
6 hack-and-leak operation, not a government partner.

1

2 BY [redacted]

3 Q In 2020, when you are having these bilateral meetings, did the companies

4 ever present information? Did they ask questions?

5 A Yes. They often asked questions about information we were providing.

6 Q Did they ever ask questions about what they were seeing, something that

7 the government hadn't presented initially?

8 A They did.

9 Q And to your recollection, did the FBI ever have to comment "no comment"

10 to those questions?

11 A I don't recall whether or not we did. Again, if it was focused on an ongoing

12 investigative matter where we were not the stakeholders and it wasn't relevant to this

13 specific information or investigations we were passing information on, it would have been

14 our practice to articulate "no comment."

15 Q Do you recall any other post-bilateral meetings where you had to have

16 internal discussions about whether to say "no comment" similar to the one that you had

17 following the Twitter bilateral meeting?

18 A I don't recall.

19 Q You don't recall?

20 A Huh-uh.

21 [redacted] Can we go off the record, please?

22 [Recess.]

23 [redacted] We can go back on the record. It is 11:25 in the morning.

24 EXAMINATION

25 BY [redacted]

1 Q Ms. Dehmlow, thank you again for joining us today.

2 I want to return to a couple of things that were discussed in the last hour.

3 First, there was a discussion about the downgrading of certain information. Do

4 you recall that discussion?

5 A I do.

6 Q Okay. You said during that conversation -- it was about providing

7 information to social media companies. You said that it was fairly routine to provide

8 information to the private sector. Is that right?

9 A It's fairly routine for the FBI to provide that information to the private sector

10 broadly, yes.

11 Q And that's not just to social media companies, Correct?

12 A No.

13 Q So can you provide examples of other information that may be provided to

14 the private sector by the FBI?

15 A Sure. In the technology transfer arena, for example, we're trying to protect

16 U.S. intellectual property and proprietary secrets and clear defense secrets. We pretty

17 regularly engage in both broad prep briefings, where we talk about tactics, techniques,

18 and procedures that threat actors might use to target those companies, target those

19 entities, target academia, as well as provide specific information as to how a company or

20 individual might be being targeted so they can better protect themselves and take action

21 as they see fit.

22 Q And why is it in the FBI -- why does the FBI provide that information to the

23 private sector?

24 A We've got a responsibility to U.S. companies and to U.S. persons to help

25 protect them against foreign threats, foreign intelligence threats. And one of the ways

1 we do that pretty consistently is to harden targets and provide information to help them
2 build better processes and build best practices about how to better protect that
3 information from those threats.
4 Q And you said it's to help protect the private sector. Is it also in the United
5 States' national security interest to help the private sector take action on those threats?
6 A Yes, of course. We're talking about sort of the economic security of the
7 United States, we're talking about our defense industrial base, we're talking about our
8 intelligence and policymaking environments. All of those things are national security
9 targets from foreign adversaries.
10 Q Okay. And in those examples you just provided, is information, classified
11 information, ever downgraded so that it can be provided to the private sector?
12 A Yes.
13 Q Is that a fairly frequent occurrence?
14 A I would say it's pretty regular. I don't have much familiarity with it, or I
15 don't anymore. But, yes, pretty regularly we would be downgrading and sanitizing
16 information from previous rules.
17 Q And can you explain what downgrading is?
18 A Sure. So declassification is taking sort of the, to the best of my
19 understanding -- I'm not the best person to articulate this -- but to the best of my
20 understanding is declassification is when you change the classification of an original piece
21 of material.
22 Downgrading would be removing specific elements of that, that take away sort of
23 the component parts that make something classified, so details about sources and
24 methods, for example. And then removing pertinent parts of the information means
25 that you can share with a wider audience.

1 Q So the information provided to the private sector is generally downgraded,
2 not declassified?
3 A Correct.
4 Q Correct?
5 A Correct.
6 Q Okay. And the difference there, just so I'm clear, is that downgrading
7 means that the actual classified information is removed entirely, whereas declassification
8 means that the previously classified information is still there?
9 A Correct.
10 Q Okay. And there are very specific steps laid out by the Federal Government
11 for how to downgrade information, correct?
12 A There is -- there are.
13 Q Are you familiar with that process?
14 A I am not. I don't do it very regularly. And, again, most of the information
15 we're passing is being passed along to other government agencies.
16 Q Okay. I want to turn to the discussion of the laptop that we were having
17 just a couple of minutes ago.
18 Do you recall that discussion?
19 A Uh-huh.
20 Q You said during that discussion that someone at the Twitter meeting said the
21 laptop was real.
22 Do you recall saying that?
23 A I recall saying that. I do want to clarify that somebody asked a question
24 about the laptop's existence. And to the best of my knowledge, it was conveyed to me
25 the FBI articulated that -- something to confirm the laptop existed, but the specific

1 wording I'm not sure of.

2 Q So you weren't in that meeting, correct?

3 A I'm not sure. It has been relayed to me, and I honestly don't have a

4 recollection of whether I popped in as the conversation was going on or if somebody told

5 me about it as I popped into the meeting.

6 Q But the language, "the laptop was real" or "the laptop is real," that's your

7 paraphrasing here today?

8 A My paraphrasing, yes.

9 Q Okay. And so whoever it was that said that, that might not have been their

10 exact words?

11 A Correct.

12 Q And, in fact, it probably was not their exact words?

13 A Absolutely.

14 Q Okay. What did you mean by the term "real" when you said it just now?

15 A Again, my recollection of the conversation that we were having was in the

16 context of confirming whether or not the FBI was aware of a laptop that formerly

17 belonged to Hunter Biden.

18 Q So when you said "real," you meant the laptop was, in fact -- there was, in

19 fact, existence of a laptop?

20 A Yes, exactly.

21 Q But that didn't necessarily mean that the FBI had affirmatively determined

22 that the laptop had belonged to Hunter Biden, correct?

23 A I can't get into that, I don't think, on the advice of counsel.

24 Q And real didn't mean -- when you used the term "real" or when this was

25 conveyed to the Twitter executives, it didn't mean that the FBI had determined that the

1 contents of the laptop had actually been put on to the laptop by the FBI, just the term
2 "real"?
3 A I honestly don't know, yeah. I'm not -- I don't recall.
4 Q Okay. And real didn't mean that the FBI had determined that the contents
5 of the laptop were not manipulated or altered in some way?
6 A Not to my knowledge.
7 Q Okay. So if someone were to leave here today, were to leave this interview
8 and were to suggest or imply or state that when you said "the laptop was real," that it
9 meant that the FBI had affirmatively determined in October 2020 that the laptop
10 belonged to Hunter Biden, that the contents belonged to Hunter Biden, that the contents
11 had not been manipulated in some way, they would be misrepresenting what you said,
12 correct?
13 A They would be misrepresenting what I said because I don't have much
14 knowledge of that.
15 Q Okay. On the question of "no comment," you recall saying -- do you recall
16 the discussion about you said the FBI had no comment with respect to the Hunter Biden
17 laptop, correct?
18 A We had no -- I don't remember again the specific phrasing of the question,
19 but it was something to do with the laptop, and I said "no comment."
20 Q Okay. And you don't recall the specific phrasing, so that you don't recall if
21 it was, "Is the laptop authentic?" or, "Does the laptop exist?"
22 A I don't recall.
23 Q Okay. "What kind of laptop is it?"
24 A Exactly. I don't recall.
25 Q And you said that the decision was reached to say "no comment" because it

1 pertained to an ongoing investigation, correct?

2 A No, I don't think I can speak to the deliberations on advice of counsel.

3 Q Okay.

4 A And, again, deliberations is probably the wrong word. I was seeking advice

5 from people who were in decision-making positions and who had a better understanding

6 of the equities.

7 Q Why doesn't the FBI comment on ongoing investigations?

8 A To protect the investigative integrity of our ongoing investigations, to

9 protect the rights of the accused, to protect the rights of victims.

10 [redacted] I will turn it over to my co-counsel.

11 BY [redacted]

12 Q Ms. Dehmlow, I'm going to start with some just background questions.

13 Can you just explain, why is it that you joined the FBI?

14 A I'll be very frank: I wanted health insurance. I had applied to a number of

15 jobs in the Federal Government. My dream job was to be a foreign service officer, and

16 that clearance came through after the FBI.

17 So I joined the FBI, and within 6 months I was really hooked. I liked the idea of

18 being able to concretely contribute to national security and outcomes.

19 Q Are you proud of the work that you've done with the FBI during your career?

20 A I am.

21 Q Is there anything that you would like to share that you're most proud of?

22 A I think we've made a lot of progress in understanding the real wide range of

23 scope, scope and scale of foreign intelligence threats. I think it's much more broadly

24 understood by the American public, by this body, by our private sector partners. And I

25 hope that that makes us safer. Understanding more about threats equals -- means that

1 you're better able to protect yourself from them.

2 Q And those threats meaning to individual Americans and threats to private

3 sector, those are all included?

4 A Individual Americans, Congress, our policymaking body, the integrity of our

5 policymaking process, Federal Government agencies, non-Title 50s. I've been involved

6 in a lot of engagement trying to help those folks better understand the threats we're

7 facing.

8 Q In your career, Ms. Dehmlow, have you ever held a political appointee

9 position?

10 A I have not, no.

11 Q Is it fair to say your experience with the FBI has always been as a career

12 nonpartisan employee?

13 A Correct. We take it very seriously. It's an apolitical, nonpartisan aspect of

14 our work.

15 Q And why is that?

16 A It's really critical. We -- everybody has political opinions outside the

17 building. You have to check those things at the door.

18 And I've been incredibly consistent on articulating that to my teams over the

19 years. I had a meeting last week, for example, where I rearticulated that to my entire

20 section.

21 It's just really critical that we maintain impartiality and an apolitical stance,

22 because we're investigating Federal law enforcement, violations of Federal law, and we're

23 investigating national security threats. We're not a partisan or political organization.

24 Q And do you believe that in your time with the Foreign Interest (sic) Task

25 Force you've been successful in leading that organization, such as you've led it in a

1 nonpartisan way?

2 A I hope so, yes.

3 Q I'm going to direct your attention to some of the kind of background events

4 that were happening in the world that led to the creation of Foreign Interest (sic) Task

5 Force. And you touched on this a little bit.

6 But with respect to the U.S. Presidential election in 2016, do you agree that Russia

7 interfered in that 2016 election based on what you know in the national security sector?

8 A Based on what I know and based on things like the SSCI report regarding

9 Russian active measures, I think it's pretty well documented that there were Russian

10 efforts targeting that electoral cycle.

11 Q Okay. Do you agree that the Russians interfered in that election by

12 conducting hack-and-leak operations whereby they hacked into the server of the DNC and

13 the DCCC and then leaked derogatory information about Hillary Clinton to WikiLeaks?

14 A My understanding of the record is that the DNC was hacked and information

15 was leaked, yes.

16 Q And that the Russians were behind that hack?

17 A Yes.

18 Q Okay. Do you agree that the Russians also interfered in the 2016 election

19 by conducting a vast campaign using social media and other means to covertly influence

20 the outcome of the election to help President Trump get elected?

21 A It's pretty well documented in the intelligence community record, yes.

22 Q I'm going to introduce for the record what I think will be our first exhibit.

23 It's an October 7th, 2016, statement from the Department of Homeland Security and the

24 Office of the Director of National Intelligence.

25 [redacted] is also going to hand you copies.

1 Ms. Dehmlow. Thank you.

2 [Dehmlow Exhibit No. 1

3 Was marked for identification.]

4 BY [redacted]

5 Q Okay. Have you had a chance to look at it?

6 A Give me a minute.

7 Q Sure.

8 A I haven't had time to read the full document.

9 Q Take your time.

10 A Okay. Yes.

11 Q Okay. Are you familiar with this statement?

12 A I'm not -- I don't believe I've ever read it before, no.

13 Q Okay. Well, it's a three-paragraph statement confirming that Russia

14 directed the 2016 hack-and-dump operation against the DCCC and DNC in order to

15 interfere in the 2016 election. Is that fair to say?

16 A Yes.

17 Q Okay. And do you agree with the IC community's conclusions as they're

18 contained in this statement?

19 A Which specific conclusions?

20 Q Just the one that I -- in the first paragraph, the one that I characterized in the

21 previous question. Just that the IC community's intelligence showed that Russia

22 directed the 2016 hack-and-dump operation. Do you agree with that?

23 A Yes.

24 Q And that they did so in order to interfere in the 2016 Presidential election?

25 A To the best of my knowledge, yes.

1 Q Okay. And are you also familiar with the Senate Select Committee on
2 Intelligence report on "Russian Active Measures Campaigns and Interference in the 2016
3 U.S. Election"?
4 A I am.
5 [redacted] Okay. I'm going to mark that as exhibit 2, please.
6 [Dehmlow Exhibit No. 2
7 Was marked for identification.]
8 BY [redacted]
9 Q Okay. For this exhibit No. 2, I'm going to direct your attention just first to
10 the cover page so you can see that this is, in fact, the report that I just mentioned from
11 the Senate Select Committee on Intelligence.
12 Do you see that?
13 A I do.
14 Q And if you turn to page Roman numeral vii -- the number is on the
15 bottom -- there's a highlighted portion that should be highlighted in your exhibit, and it's
16 under the heading "Hack and Leak."
17 Do you see that?
18 A I do.
19 Q Okay. Could you just read that sentence that's highlighted please for the
20 record?
21 A Sure. "The Committee found that Russian President Vladimir Putin ordered
22 the Russian effort to hack computer networks and accounts affiliated with the
23 Democratic Party and leak information damaging to Hillary Clinton and her campaign for
24 president."
25 Q And are you familiar with that finding?

1 A I am familiar with the finding.

2 Q Okay. Would you agree that there's widespread agreement now among

3 United States intelligence and national security experts that Russia used hack-and-dump

4 operations to interfere in the 2016 election?

5 A I would.

6 [redacted] Okay. We can set that exhibit aside as well, please.

7 Thank you.

8 Introduce for the record exhibit 3, which is the indictment in Case No.

9 1:18-cr-32-DLF, United States v. Internet Research Agency, et al.

10 [Dehmlow Exhibit No. 3

11 Was marked for identification.]

12 BY [redacted]

13 Q Okay. Ms. Dehmlow, are you familiar with this indictment from 2018? It

14 was an indictment that Mr. Mueller's team produced.

15 A I am.

16 Q And do you know who Yevgeniy Prigozhin is?

17 A I do.

18 Q Who is he?

19 A He is a Russian oligarch who is known as "Putin's chef," who directed an

20 organization called the Internet Research Agency or Lakhta Internet Research, conducted

21 influence operations globally. He also ran or runs the Wagner Private Military.

22 Q And he's one of the defendants in this indictment?

23 A Yes.

24 Q Okay. Are you familiar with the organization the Internet Research

25 Agency?

1 A I am.

2 Q And what is that?

3 A IRA was a series of troll farms, for lack of a better term, that

4 conducted -- used to conduct, to the best of my knowledge, malign influence

5 organizations across the globe reporting to be authentic parts of global -- sort of the

6 global marketplace of ideas, but in reality they're Russian directed and Russians behind

7 the keyboards.

8 Q Is there any way that you could put that in, like, layman's terms when you

9 say "malign operations"? Like, what are those troll farms doing?

10 A Sure.

11 Q Who are they, and what are they doing?

12 A Yeah, at the base level -- I talked earlier about the definition that we use.

13 We're looking for foreign actors or their proxies, so foreign government or their proxies.

14 We need that attribution. It's really critical to our work. And then they're conducting

15 subversive, undeclared criminal course of activity.

16 In the context of IRA, we put them in the undeclared category because they are

17 pretending they are someone they are not, and they're pretending to be Americans or

18 any other nationality across the globe and pretending to be an authentic part of the civil

19 discourse or conversations about politics or issues in any of the target audiences that

20 they're going after.

21 Q And when you say "they," you're talking about people who are Russians who

22 are working for the Russian Government. Is that right?

23 A Yes.

24 Q And they're pretending to be Americans or some other person engaging in

25 our political discourse, correct?

1 A Correct.

2 Q And they're doing that how?

3 A In the context of the 2016 election, 2018, into 2020, they would create
4 inauthentic accounts, which is one example, inauthentic accounts on social media
5 platforms, and join conversations, join this discourse on all sides of issues. They were
6 identifying political issues of the day, divisive issues, and either -- and pretending to
7 support one side or the other, sometimes both of those conversations.

8 Q Okay. I'm going to direct you in this exhibit No. 3, could you turn to page 3
9 and paragraph 4, which appears kind of in the middle of that page, paragraph 4,
10 beginning with the word "Defendants."

11 Do you see that?

12 A I do.

13 Q Could you just read that one paragraph for us?

14 A Sure. "Defendants, posing as U.S. persons and creating false U.S. personas,
15 operated social media pages and groups designed to attract U.S. audiences. These
16 groups and pages, which addressed divisive U.S. political and social issues, falsely claimed
17 to be controlled by U.S. activists when, in fact, they were controlled by Defendants.
18 Defendants also used the stolen identities of real U.S. persons to post on
19 ORGANIZATION-" -- that's in all caps -- "controlled social media accounts. Over time,
20 these social media accounts became Defendants' means to reach significant numbers of
21 Americans for purposes of interfering with the U.S. political system, including the
22 Presidential election of 2016."

23 Q So that activity described in paragraph 4 of the indictment, is that what you
24 meant as you were describing it in your own words --

25 A Yes.

1 Q -- about the troll farms?

2 A Yes.

3 Q Okay. If you could look at paragraph 10, please, that is on page 6 -- page 5

4 continuing to page 6.

5 A Okay.

6 Q Okay. In subsection c of the indictment, which is actually on the next page,

7 page 6 --

8 A Okay.

9 Q -- could you just read that sentence in subsection c, please, when you get to

10 that page?

11 A Sure. "The ORGANIZATION" -- which earlier in the document was

12 articulated as the Internet Research Agency -- "The ORGANIZATION sought, in part, to

13 conduct what it called 'information warfare against the United States of America' through

14 fictitious U.S. personas on social media platforms and other Internet-based media."

15 Q So, according to the indictment, is it fair to say that the Internet Research

16 Agency characterized its own behavior as, quote, "information warfare against the United

17 States"?

18 A According to the indictment, yes.

19 Q You can go ahead and set that aside.

20 A Okay.

21 [redacted] And I'm going to mark for the record exhibit No. 4, please. It's a

22 June 21st, 2023, letter from Assistant Attorney General Carlos Uriarte to Chairman

23 Jordan.

24 [Dehmlow Exhibit No. 4

25 Was marked for identification.]

1 BY [redacted]

2 Q Okay. Ms. Dehmlow, are you familiar with this letter?

3 A I am not.

4 Q Okay. Just take a quick second to review it. You don't have to read every

5 word, but you can see that a portion of it discusses the Foreign Interest (sic) Task

6 Force -- sorry -- Foreign Influence Task Force.

7 A FITF.

8 Q I think that section actually starts on the second page.

9 A Okay.

10 [Pause.]

11 A Okay.

12 Q Okay. So directing your attention to the second page under the heading

13 "Countering Foreign Malign Influence Operations," the letter reads, quote: "The

14 identification and disruption of foreign malign influence operations is a longstanding and

15 critical concern for the Department and the FBI. Foreign influence operations include

16 covert actions by foreign governments intended to affect U.S. political sentiment and

17 public discourse, sow divisions in our society, or undermine confidence in our democratic

18 institutions to achieve strategic geopolitical goals."

19 Is that statement consistent with your understanding of the mission of the FBI in

20 fighting foreign malign influence operations?

21 A It is, yes.

22 Q The letter continues, quote: "These concerns are not hypothetical. For

23 example, in 2018, the U.S. Government obtained an indictment of Russian individuals and

24 entities for federal crimes in connection with efforts to interfere in the 2016 election, an

25 effort the Russian defendants referred to as, quote, 'information warfare.'"

1 Did I read that correctly?

2 A Yes.

3 Q Okay. Now, on the top of the third page, the letter continues, quote:

4 "The FBI established the Foreign Influence Task Force in 2017 to identify and counteract

5 foreign malign influence operations targeting the United States."

6 Do you see that statement?

7 A I do.

8 Q Are you aware that this was the original purpose of the Foreign

9 Interest -- Foreign Influence Task Force?

10 A I am.

11 Q Is this statement consistent with your understanding of the purpose of the

12 Foreign Influence Task Force as it operates today?

13 A It is.

14 Q So when the task force was established in 2017 to counteract foreign malign

15 influence operations targeting the United States, who was the Director of the FBI?

16 A Christopher Wray.

17 Q And who appointed Mr. Wray to be Director of the FBI?

18 A President Trump.

19 Q In your experience, has the Foreign Interest -- my goodness. I'm just going

20 to say task force.

21 A FITF.

22 Q Has the task force -- has FITF operated in the same manner under both the

23 Trump and Biden administrations, in your experience?

24 A It has, yes.

25 Q Have the decisions that you have made as chief of FITF been influenced at

1 any time by partisanship or political considerations?

2 A Absolutely not.

3 Q Okay. And just going to your role inside FITF, you currently hold the title of

4 chief of the section. Is that correct?

5 A Correct.

6 Q And this task force is led by the Counterintelligence Division of the FBI. Is

7 that right?

8 A Yes.

9 Q Okay. Now, broadly, what is the mission of the Counterintelligence

10 Division of the FBI?

11 A To combat foreign intelligence security and -- run intelligence and security

12 for those efforts that target the United States.

13 Q Okay. Is it fair to say that the FBI is the lead agency for exposing,

14 preventing, and investigating intelligence activities in the United States?

15 A We're the lead counterintelligence investigative agency in the U.S.

16 Government, yes.

17 Q Okay. And as I've read the FBI's own description of the Counterintelligence

18 Division, the FBI's website indicates that the goals of this Counterintelligence Division are

19 to protect the secrets of the U.S. IC community, protect the Nation's critical assets, like

20 advanced technologies, sensitive information, and defense, intelligence, economic,

21 financial, public health, and science sectors, counter the activities of foreign spies, and to

22 keep weapons of mass destruction from falling into the wrong hands.

23 Is that your understanding of the mission of the Counterintelligence Division at

24 the FBI?

25 A It is.

1 Q Why is that mission important?

2 A We have an incredibly successful and important democratic experiment, I
3 would say, and we've got a way of life that is not shared by many of our adversaries.
4 And that way of life is supported by our economic security. It's supported by our
5 defense industrial base. It is supported by classified information and support to the
6 policymaking environment, to this body, to the White House, to other Federal partners.

7 And it's really critical that we protect that environment from foreign adversaries,
8 from foreign intelligence security services who are seeking to understand that, to gain
9 information from it, to use that in advantage -- to their home country's advantage in both
10 encountering our military and economic superiority around the world.

11 Q Thank you.

12 In your experience with FITF, does the work of the task force contribute to the
13 mission of the Counterintelligence Division?

14 A It does.

15 Q And how does it contribute?

16 A You read off a list of a pretty extensive range of priorities of the
17 Counterintelligence Division. Foreign malign influence is not new. It is something that
18 has been going on for decades.

19 The advent of the internet, the advent of social media capabilities, just like every
20 other criminal actor or foreign actor that we are aiming to understand and disrupt the
21 activities of, they use a toolkit. And one of the tool kits that criminals use and one of the
22 tool kits that foreign intelligence security services use are access to social media
23 platforms, are access to internet technologies, to telecommunications companies.

24 And so as that threat has evolved, the means by which those foreign actors are
25 targeting us has evolved, and so now the FITF exists to help understand and disrupt those

1 efforts.

2 Q Is it fair to say that FITF is the U.S. Government's foremost tool or response

3 to that threat in terms of foreign influence operations that come at us from the internet?

4 A I think I would characterize it as we're the investigative lead. We've got a

5 really specific role, and it's confined to countering those actors and their activities.

6 There are other departments and agencies who have different roles in the foreign malign

7 influence space, but what I'm familiar with and what I can speak to is the FBI's.

8 Q Okay. Now, you mentioned a few terms earlier in the hour just discussing

9 some of the work of FITF. What are foreign influence operations in the simplest terms

10 that you can muster?

11 A Sure. It would be -- again, I go back to our definition because it's

12 something that we've been really persistent on and have used for a long time. The

13 community uses our lexicon definition as well.

14 So that would be foreign government or proxy efforts, which in layman's terms

15 usually means a security service or an intelligence service actor, or one of their proxies or

16 co-optees.

17 Using subversive, meaning efforts to undermine the authority of the United States

18 Government; undeclared or coercive, meaning the hand of that foreign intelligence

19 service or foreign actor is hidden to the target.

20 Subversive -- sorry -- coercive, meaning that there's some leverage point that a

21 foreign actor is trying to use, either economic coercion, familial coercion.

22 We also cover a lot of transnational repression threats. So that would be one of

23 the examples there. Or criminal. We're a law enforcement organization, so a violation

24 of Federal law is something we'd be interested in.

25 And they're doing that activity in order to target public opinion, to target the

1 policymaking environments, and/or to undermine the security and integrity of our
2 democratic processes, including elections.
3 Q So when you say subversive, what does that mean to you? Does that mean
4 that it's connected to a malign state actor, or does that mean something else?
5 A It's an activity threshold that essentially articulates -- that's looking to
6 undermine U.S. Government authority or U.S. Government legitimacy.
7 Q From a state actor or not necessarily?
8 A So it would be -- it's always from a state actor from the FITF perspective, but
9 it would be targeting sort of domestic issues.
10 Q Okay. And you also mentioned -- I think you used the term "malign
11 threshold" when you were talking about the work of FITF. Can you explain what that
12 means?
13 A Yes. It's the exact definition that I just went over, that we need both a
14 foreign actor and that activity threshold of the person undeclared from our core issues
15 activity. That's our malign threshold.
16 Q So undeclared means that they're acting covertly. They're not -- for
17 example, Russia today is a foreign actor, but they're overt in the sense that they're
18 registered under FARA?
19 A That's exactly right. We use the term "undeclared" to cover both covert or
20 clandestine actions, so actual clandestine activity by an intelligence service. But we use
21 the term "undeclared" really specifically because we are also talking about activity that
22 would potentially bring in FARA civil or criminal penalties, meaning you've got to register,
23 you've got to declare yourself to the Department of Justice as a foreign actor.
24 Q But your work with FITF is focused on those groups that are working covertly
25 or trying to hide their --

1 A Correct.

2 Q -- connections to foreign government?

3 A They are not being transparent with their target audience about who they're

4 working for.

5 Q Okay. Why is it important that the FBI combat these type of foreign

6 influence operations?

7 A Part of what we're trying to protect, as I said earlier, is essentially our way of

8 life, our democratic processes, the legitimacy of our democratic processes.

9 And as you've articulated in some of the exhibits you've given me today, there's a

10 really lengthy intelligence record that foreign actors are aiming to undermine the

11 legitimacy of that, undermine our policy process, and pretend to be Americans.

12 We believe we're incredibly protective of First Amendment protections inside the

13 FBI and DOJ, as you can well imagine, and so we're trying to ensure that that marketplace

14 of ideas is free from foreign interference and people pretending to be an authentic part

15 of that conversation when they're not.

16 [redacted] Thank you.

17 I'm going to mark for the record exhibit 5. This is from the FBI website as well.

18 It's titled "Combating Foreign Influence."

19 [Dehmlow Exhibit No. 5

20 Was marked for identification.]

21 BY [redacted]

22 Q Ms. Dehmlow, there's two pages to this. If you could just take a quick look

23 at it and see if you're familiar with it.

24 A I am, yes.

25 Q Okay. Is it fair to say this portion of the FBI's website describes the origin

1 and some of the work of FITF?

2 A It does, yes.

3 Q And if you turn on to the back page, there is a description in the very last

4 paragraph. It starts with the words "Through the FITF." And in this section, the

5 pamphlet describes that the FBI takes a three-pronged approach to the serious threat of

6 foreign influence campaigns.

7 Do you see that portion of the exhibit?

8 A I do, yes.

9 Q Okay. Could you just read what those three are, those three-pronged

10 approaches?

11 A Sure. "Through the FITF, the FBI is taking a three-pronged approach to this

12 serious threat."

13 The first bullet is "Investigations and operations: The FITF works with FBI field

14 offices across the country to counter the extensive influence operations of our foreign

15 adversaries."

16 Second bullet is "Information and intelligence sharing: The FBI works closely

17 with other intelligence community agencies, as well as with state and local law

18 enforcement partners and election officials, to ensure a common understanding of the

19 threat and a unified strategy to address it."

20 And the third bullet is "Private sector partnerships: The FBI considers strategic

21 engagement with U.S. technology companies, including threat indicator sharing, to be

22 important in combating foreign influence actors."

23 Q Okay. This three-pronged approach that is described in the exhibit, is this

24 the same approach that the FBI has taken -- or that FITF has taken in its work from the

25 inception of the task force?

1 A It is. And I'd actually articulate that this is pretty typical of all of our
2 counterintelligence work where this three-pronged approach is pretty typical regardless
3 of the threat -- of how the threat is manifesting.
4 Q And specifically with respect to the third prong of maintaining private sector
5 partnerships, can you explain why it's important for FITF to engage strategically with U.S.
6 technology companies, including sharing threat indicators?
7 A Sure. We at the FBI, through our investigations and through the
8 collaboration, that previous bullet, "intelligence and information sharing," sometimes get
9 information about how foreign actors are targeting and using U.S. technology companies,
10 the U.S. private sector, to conduct their foreign influence operations.
11 And when we get that information, we have a -- the FBI has a proactive
12 responsibility to inform those companies so that they can take whatever action that they
13 deem necessary to better protect themselves, their platforms, and their customers.
14 [redacted] Go ahead.
15 BY [redacted]
16 Q So with what you just said, if the FITF is not able to operate as it currently
17 does, which is to say making social media companies or other technology companies
18 aware of foreign threats or foreign activity, would that potentially prevent the social
19 media companies from taking action to stop those foreign threats?
20 A I think it would make their jobs harder, yes.
21 Q And so potentially that could open the door to malign foreign actors
22 successfully impacting the elections or impacting other U.S. interests, correct?
23 A Yeah. Another example that we haven't talked about is transnational
24 repression. So we've seen foreign intelligence services target individuals who are
25 speaking out against authoritarian regimes here inside the United States. And so

information sharing with those platforms helps protect U.S. people who are just exercising their really deeply held and cherished First Amendment protections to speak out on issues of their choosing, which is another example.

Q And if the FITF can't engage with social media companies to share that information, those individuals would presumably be left exposed. They could be exposed to harm.

A Correct.

BY [redacted]

Q So is it fair to say that the kind of conduct that was described in the indictment that we saw earlier would be easier for foreign actors to engage in if FITF was not allowed to engage with these technology companies?

A Yeah. And, again, to draw the sort of parallels to a lot of the other work that we do in the FBI where this is not -- and we've been very transparent about this. We've been very open about this. And it's very typical for the threats that we work and part of our toolkit to combat that to engage with U.S. companies and the U.S. private sector to help them protect themselves. So it would also I guess differ from a lot of the other spaces in the FBI.

Q Do you still have in front of you the letter from the AG, exhibit 4?

A No. I gave it back. Sorry.

Q Okay. I should have let you sit with that for a second. I'm sorry.

A That's okay. My counsel has handed me a copy. We're good.

Q Okay. I'm just going to look back at that letter, have you look back at it one more time. At the top of page 3, the Assistant Attorney General identifies four types of foreign malign influence operations that the FITF seeks to disrupt.

A Uh-huh.

1 Q Do you see that section?

2 A I do. It's actually four things.

3 Q Did I say three? I'm sorry. I meant four.

4 A That's okay.

5 Q So the AG described in this letter these four types of malign influence

6 operations, including, one, "Attempts by adversaries -- hoping to reach a wide swath of

7 Americans covertly from outside the United States -- to use false personas and fabricated

8 stories on social media platforms to discredit U.S. individuals and institutions."

9 Do you see that?

10 A I do.

11 Q Now, that is the type of activity that we've talked to quite a bit already that

12 was included in the indictment, the troll farms. Is that right?

13 A Uh-huh.

14 Q The second type of activity listed in the letter is, "Targeting U.S. officials and

15 other U.S. persons through traditional intelligence tradecraft."

16 Do you see that?

17 A I do.

18 Q And what does that mean?

19 A So, broadly, what we're trying to protect the individual officials from is a

20 foreign intelligence service targeting them because they've got either a policy perspective

21 that the foreign adversary either agrees or disagrees with and wants to change their mind

22 or ensure that they stick with a specific perspective; or, of course, the policymaking

23 environment is something that foreign countries, foreign governments are very

24 interested in.

25 So they're looking for insights into U.S. policymaking and the U.S. policymaking

1 environment policy deliberations. And, of course, sort of the third bucket I articulated is
2 classified information.
3 Q So how does FITF work to prevent this type of harm, the targeting of U.S.
4 officials?
5 A So we do -- I've got to be careful because of classification level.
6 Q Yeah.
7 A What we're looking for -- what we're aiming to do is either harden targets or
8 disrupt the threat actors. I think that's the big buckets.
9 So we have to provide information to again help those U.S. officials protect
10 themselves, the same thing we're doing in the private sector context, which is provide
11 specific information about how they're being targeted in order to have them make
12 decisions about how to better protect themselves or their staffs.
13 And then, from an operational perspective, at a very high level what we're aiming
14 to do is understand the mechanisms by which those actors are conducting that type of
15 collection and look to law enforcement or national security authorities to disrupt the
16 actors' behavior.
17 Q Okay. And number three says, "Criminal efforts to suppress voting and
18 provide illegal campaign financing."
19 How does FITF work to suppress these type of criminal acts?
20 A So there's an extensive portion of the Criminal Code that talks about election
21 crimes. And so if the equity -- or if the FBI investigation is about a foreign actor
22 committing a violation of Federal law, that's something that we'll partner with our
23 Criminal Investigative Division on to understand or disrupt.
24 Q And, finally, it says, "Cyber attacks against voting infrastructure, along with
25 computer intrusions targeting elected officials and others."

1 How does FITF work to neutralize that threat?

2 A So we do this in collaboration with our Cyber Division counterparts. And

3 they're, of course, also actor-based.

4 So if we identify an intrusion set or a foreign actor who's using cyber means to

5 either target critical infrastructure in the election space or to target elected officials'

6 campaigns, part of our political -- our democratic process, we're looking to understand

7 how that's happening and, again, aim to inform them so they can better protect

8 themselves and disrupt the activity itself.

9 Q Okay. And earlier, in the previous hour, you referred to some social media

10 companies' terms of service that prohibit coordinated inauthentic behavior.

11 Do you recall that discussion?

12 A I do.

13 Q And how would that fit within this type of conduct? Is coordinated

14 inauthentic behavior something that might overlap with what the FBI is interested in?

15 A Yes. So it's essentially the industry parallel for the undeclared or covert

16 aspect of the social media operations that are a component part of all of this.

17 So it's what they use to articulate the work they are doing to protect their

18 platforms and protect their customers. And so when we articulate that we're providing

19 information so they can take action using their own terms of service, it's our way of

20 saying this is up to you and your rules. We're not asking you to do anything.

21 Q Okay. What does it mean, "coordinated inauthentic behavior"?

22 A So the industry terms, so this will be my approximation or my paraphrasing,

23 so coordinated activity would be activity that is taking place across a wide range of users

24 or chatrooms or groups, and inauthentic activity would, again, be pretending to be

25 somebody you're not on the platform, so a Russian pretending to be an American in a

1 group.

2 [redacted] What's your understanding of why that type of activity is of concern

3 to the social media companies?

4 Ms. Dehmlow. I think they are also responding to a lot of the government

5 findings, the intelligence community findings regarding the Russian Government's intents

6 in 2016.

7 I think they also -- my understanding is that there have been efforts to protect

8 their customers and protect their companies from, again, inauthentic behavior. But,

9 honestly, it's their perspective, so they would be a better person to ask.

10 [redacted] Okay.

1

2 BY [redacted]

3 Q Is it fair to say that the reason that you might have information is because

4 your interest is in the inauthentic type of behavior if it's also foreign and meets your

5 other criteria at FITF?

6 A Yes. We're context agnostic in the context of information sharing with

7 these platforms. The message that they're trying, the issue that they're trying to take

8 advantage of, that doesn't matter to us. What we're talking about is the actor and their

9 inauthentic behavior.

10 Q Thank you.

11 Okay. Now, the FITF's efforts to combat covert foreign malign influence

12 operations are consistent with the findings of current and prior administrations regarding

13 the national security of the United States and foreign policy.

14 Is that fair to say?

15 A It is, yeah.

16 Q Okay. Are you familiar with former President Trump's Executive Order

17 13848?

18 A I am.

19 [redacted] Okay. I will mark for the record exhibit 6.

20 [Dehmlow Exhibit No. 6

21 Was marked for identification.]

1

2 BY [redacted]

3 Q While you're looking at it, exhibit 6 is titled "Executive Order

4 13848 - Imposing Certain Sanctions in the Event of Foreign Interference in a United States

5 Election," dated September 12th, 2018.

6 And you said that you're familiar with this. Is that right, Ms. Dehmlow?

7 A I am, yes.

8 Q How are you familiar with it?

9 A The EO requires the intelligence community to respond with an assessment

10 of foreign interference, I think is the phrasing used in this executive order, of what activity

11 foreign governments undertook to target our election security in the previous election.

12 So I'm familiar with it in the context of having been a participant in providing

13 those -- or in forming those assessments. Those assessments are then used to inform

14 policy responses, including, for example, sanctioning individuals who may have conducted

15 foreign interference in our elections.

16 Q So is it fair to say as part of your responsibilities at FITF you responded to

17 this executive order specifically?

18 A Absolutely.

19 Q And I'm going to, if you don't mind, have you read just the finding in the

20 second paragraph of the order. It begins with "I, Donald J. Trump."

21 A Sure.

22 Q And you don't have to read the whole thing. I think it's only one sentence,

23 that entire finding, if you wouldn't mind.

24 A Okay. "I, Donald J. Trump, President of the United States of America, find

25 that the ability of persons located, in whole or in substantial part, outside the United

1 States to interfere in or undermine public confidence in United States elections, including
2 through the unauthorized accessing of election and campaign infrastructure or the covert
3 distribution of propaganda and disinformation, constitutes an unusual and extraordinary
4 threat to the national security and foreign policy of the United States."
5 Q That's good. Thank you.
6 Now, how does FITF seek to disrupt the threat that's identified by former
7 President Trump's executive order?
8 A So it's the component parts that I previously articulated. The President is
9 here declaring a national emergency, articulating one component part that's really critical
10 to our work, the covert distribution of propaganda and disinformation, which he
11 articulates constitutes an unusual and extraordinary threat to the national security and
12 foreign policy of the United States.
13 So, again, our purpose would be to identify those actors who are conducting that
14 activity and use the available tools to us under law enforcement and national security
15 processes to disrupt that.
16 Q And is it fair to say that your relationships with the social media companies
17 enable you to fight those, the covert distribution of propaganda and disinformation,
18 because the social media companies are sometimes inadvertently letting them reach
19 masses of Americans?
20 A That's a fair characterization, yes.
21 Q The FITF's work includes sharing information and intelligence with Federal
22 and State and local government agencies, as well as with private sector entities, correct?
23 A Yes.
24 Q And FITF has participated in periodic U.S. Government industry meetings and
25 occasional bilateral meetings with social media companies, including Facebook, Twitter,

1 Google, Yahoo, Microsoft, Wikimedia, and Reddit, as part of its effort to share
2 information and intelligence with these companies in an effort to combat covert foreign
3 malign influence operations.
4 Is that a fair characterization?
5 A We have, yes.
6 Q Did you participate in those meetings?
7 A Many of them, yes.
8 Q Okay. And I think you already spoke at length about how often they
9 occurred.
10 Just characterizing generally, is it fair to say that FITF shared both tactical and
11 strategic information with social media companies; "tactical" meaning information about
12 specific accounts that are suspected of being covertly controlled by malign foreign actors
13 and "strategic" meaning tools, tactics, and processes used by those actors?
14 A Definitely, yes.
15 Q Are you familiar with those two distinctions, tactical and strategic? Is that
16 something that you would say?
17 A I'm not sure that I would use the words "tactical" and "strategic," but tactical
18 and sort of broad information, yes. Your characterization of it are two buckets that I'd
19 characterize, just maybe not with those specific terms.
20 Q Okay. If there's two categories of tactical and strategic, can you say briefly
21 what the difference would be of those type of terms?
22 A Sure. The strategic bucket, as you articulated it, would help to inform sort
23 of the broad understanding of trends that we are seeing, potentially articulate the intent
24 of a foreign adversary to do something without specific articulable details.
25 And then the tactical would be we've got high confidence -- that's a reference that

1 I haven't made yet; the Justice Manual requires us to have high confidence before sharing
2 this information -- high confidence and the details of how that foreign adversary is going
3 about using a social media platform or an account to conduct influence operations.
4 Q So that's specific information about a particular account or website or some
5 actor?
6 A Yes.
7 Q First talking about what we described as tactical then, the specific
8 information, with respect to U.S. social media platforms, if the FBI or the IC partners
9 determine through investigation or intelligence gathering that an account purporting to
10 be controlled by a U.S. person is actually controlled by a covert foreign malign actor, the
11 FITF may share that with relevant social media companies -- may share with relevant
12 social media companies the indicators or selectors regarding that spoof account. Is that
13 correct?
14 A Yes.
15 Q Now, the information that you share might include IP addresses, email
16 accounts, website domains, or file hash values. Is that fair to say?
17 A Yes.
18 Q And why does FITF share that type of information with the social media
19 companies?
20 A That is the type of information that allows us to really specifically identify a
21 foreign actor on those platforms.
22 So you'll note that nowhere in there did you articulate that we're talking about the
23 content or the messages actors are trying to propagate. These are technical indicators
24 that a foreign actor is behind the activity, and that's the type of information sharing that
25 we're doing because we want to combat -- or we want to help the platforms combat the

1 activity, not do counternarratives. That's irrelevant to our work.

2 Q Is it fair to say that the FBI shares this information to assist the social media

3 company's own independent investigation into whether there's a violation of their own

4 terms of service?

5 A Yes.

6 Q Does the FBI ever direct or coerce social media companies to take any action

7 with respect to the information that it shares or the accounts that the information

8 pertains to?

9 A Not to the best of my knowledge.

1 [12:16 p.m.]

2 BY [redacted]

3 Q And, when the FBI decides to share information with a U.S. social media

4 company about a foreign actor's social media activity, is that decision ever based on the

5 content or viewpoints expressed in the posting?

6 A It is not.

7 Q Instead, is it fair to say that FITF's decision to share this type of information

8 is based on the conclusion that the account is part of a covert effort by a foreign malign

9 actor to exert influence over Americans?

10 A That's correct.

11 Q FITF only shares information about accounts for which it, quote, has high

12 confidence. That's what you just mentioned. Is that correct?

13 A Yes.

14 Q And what does "high confidence" mean?

15 A It means that we are very certain that either a source that we've derived the

16 information from, so that -- I can't get into methodology here because of classification

17 level. We're very certain of the source, or we've got corroborating information from

18 several different sources.

19 Q Are you aware of any instances when the FBI shared information about a

20 suspected foreign covert account where it was later determined by the U.S. Government

21 or by a social media company that the account was, in fact, not controlled by a foreign

22 actor but is instead controlled by a U.S. person?

23 A I'm not aware of any specifics like that, no.

24 Q FITF does not share any information on social media platforms regarding

25 overt postings by hostile actors like Russia Today, right?

A Correct.

Q I think you already mentioned the reason is because Russia Today is overt and not covert?

A Correct.

[redacted] Can we go off the record for just one second?

[Discussion off the record.]

[redacted] Okay. We can go on the record again, please.

BY [redacted]

Q All right. We talked about tactical information sharing in FITF. I'm going to try to talk more about the strategic information sharing or what I've been characterizing as strategic information.

Some of the strategic information about the tools, tactics, and processes used by malign foreign actors that FITF shares with social media companies could include information about hack-and-leak operations. Is that right?

A Can you ask the question again? I'm sorry.

Q Yeah, that was really a long, weird way.

Strategic information could include, like, broad operations like hack and leak. Is that fair to say?

A It -- strategic information would be -- it would always be observed activity that we either have reporting on the intent of an adversary to use it or we've previously observed that that is a tactic or technique that they are using.

So, in the instances of hack and leak, again, I was the FITF China unit chief at the time. My understanding is, you know, there was a Russia hack-and-leak operation, and so it was that context that we were talking about, a previously used technique by the Russian Government.

1 Q So the U.S. Government identified this as a tactic that had been used in the
2 past --
3 A Correct.
4 Q -- that you considered a threat in future. Is that fair to say?
5 A Correct.
6 Q And you shared that information with the social media companies why?
7 A Again, we're -- I think the intent of the engagement with the private sector is
8 to help them raise their own defenses and take action if they so fit, as they see fit. And
9 part of our really standard practice across threats is to articulate historic examples of how
10 that threat is manifested. So that's the context of sharing previously observed tactics.
11 Q Okay. With respect to hack-and-leak tactics, we've already said this in this
12 TI. But one of the examples was the Russian interference in the 2016 election, correct?
13 A Yes.
14 Q And, after the 2016 election, is it fair to say that there was still widespread
15 concern among national security and law enforcement experts in the United States about
16 Russia interfering in the same or similar manner as in the 2020 election?
17 A Yeah, I think that's a fair characterization.
18 Q And why was that concern still present?
19 A So I can't get into real specifics largely because I don't know them. But my
20 understanding is that there continued to be a wide range of advanced persistent threat
21 actors from the Russian Government who are targeting both our policymaking
22 environment, elected officials, party apparatus, et cetera.
23 And so the -- again, this is an indicator of both -- this is something that we were
24 sharing in the context of both as previous example and knowledge that the actors
25 continue to engage in operations targeting these audiences.

1 Q And so that belief that these actors were still engaging in those tactics and
2 still trying to interfere in the same manner was shared not just by FBI officials but by
3 intelligence officials throughout the IC community in the United States?
4 A And I think the intelligence community officials and the broader
5 government. So, for example, I think the EO is an example of the Trump administration
6 sharing similar concerns.
7 [redacted] Okay. And I'm going to mark for the record exhibit 7, which is a
8 statement from then National Counterintelligence and Security Center Director William
9 "Bill" Evanina dated August 7th, 2020. And the statement is entitled, quote, "Election
10 threat update for the American public."
11 [Dehmlow Exhibit No. 7
12 Was marked for identification.]
13 BY [redacted]
14 Q Ms. Dehmlow, have you seen this statement before today?
15 A I have, but it's been a while.
16 Q Okay. If you wouldn't mind turning to page 2, there's a highlighted section
17 in there and just directing your attention to that portion --
18 A Okay.
19 Q -- about Russia.
20 [redacted] Do you want a minute to go over it?
21 BY [redacted]
22 Q Yeah, absolutely.
23 A Okay.
24 Q Okay. Would you mind reading for the record that portion that's
25 highlighted, titled, "Russia"?

1 A Sure.

2 Russia. We assess that Russia is using a range of measures to primarily denigrate
3 former Vice President Biden in what it sees as an anti-Russia, quote, establishment, end
4 quote. This is consistent with Moscow's public criticism of him when he was Vice
5 President for his role in the Obama's administration policies on Ukraine and then support
6 for the anti-Putin opposition inside Russia.

7 For example, pro-Russia Ukrainian Parliamentarian Andriy Derkach is spreading
8 claims about corruption including through publicizing leaked phone calls to undermine
9 former Vice President Biden's candidacy in the Democratic Party. Some criminal-linked
10 actors are also seeking to boost President Trump's candidacy on social media and Russian
11 television.

12 Q Thank you.

13 Is it fair to say that -- oh, I'm sorry, yeah, yeah.

14 Is it fair to say that the intel community was concerned about the Russians
15 conducting another successful hack-and-leak operation in order to influence the 2020
16 election?

17 A To the best of my knowledge, but, again, I was the FITF for China unit chief.
18 So I don't have a lot of detail about the reasons why.

19 Q Okay. Did FITF communicate this particular concern to U.S. social media
20 companies before the 2020 election?

21 A I don't have any specific recollection of this. Again, I was the China unit
22 chief. So --

23 Q Okay.

24 A It wouldn't stand out in my mind.

25 [redacted] Okay. Yeah, off the record for one second.

1 [Discussion off the record.]

2 [redacted] I think I'm going to stop right here.

3 [Recess.]

4 [redacted] Go on the record, please.

5 BY [redacted]

6 Q Ms. Dehmlow, remind me again when you became section chief of FITF.

7 A In early 2021, I think May, maybe April.

8 Q Do you recall who made the decision to elevate you?

9 A The Director signs off on SES promotions.

10 Q And, once you were elevated, how did your responsibilities change from

11 being unit chief of the China section to --

12 A Uh-huh. So essentially I am the both lead operational program manager

13 and the intelligence program manager for the full scope of the FITF operations.

14 Q And do you still attend the FITF meetings, the bilateral meetings?

15 A No, not regularly. I think the last time was over a year ago.

16 Q Would you sometimes attend in we'll say 2021 after the promotion?

17 A Maybe in the immediate -- to the best of my recollection, in the immediate

18 aftermath of my promotion, I think I attended a couple of them to introduce the new unit

19 chiefs.

20 Q Great. And just to have an accurate understanding of the structure, there's

21 the section chief of all of FITF. Then there's three unit chiefs of Russia, China, and

22 Global? Is that correct?

23 A There's a section chief, an assistant section chief, and then three unit chiefs,

24 yes.

25 Q Who's the assistant unit chief?

1 A It's a GS-15. So I'll have to take that back.

2 Q And, when you took over in 2021, do you recall how big the Russia, China,

3 and Global units were?

4 A It's been pretty static at about [redacted] people since the time I took over.

5 Q And then, with respect to how the [redacted] are divided, do you recall how many

6 are assigned to each unit?

7 A I think China and Russia are pretty comparable, around [redacted] to [redacted] folks. And

8 then Global is a little bit smaller.

9 Q Are you familiar with the injunction that came out on July 4th --

10 A I am.

11 Q -- over the summer?

12 A Yes.

13 Q Do you know if the bilateral meetings were paused as a result of that

14 injunction?

15 A Yeah. To the best of my knowledge, FITF has not engaged with the

16 platform since the injunction.

17 Q What about with respect to the USG Industry meetings?

18 A Those have not been held in some time, since I think maybe prior to or

19 immediately after the last election. So, again, to the best of my knowledge, nobody

20 from the FBI has participated in those.

21 Q We'll start first with the bilateral meetings. You've laid out that focus was

22 on the actors behind it.

23 Do you recall if there was any discussion regarding the subject matter of what

24 these foreign actors or inauthentic actors were posting on social media platforms?

25 A It was often a space where we were in receive mode. So the platforms had

1 more insight into that and so would sometimes talk to us about what they were
2 observing, both the inauthentic actors we were discussing on -- discussing. And then
3 again in the broad industry meetings they would talk about managed analysis including
4 information from, like, state-owned media.
5 Q And, for these broader meetings, there were -- you mentioned a number of
6 government agencies that would attend them. Were there any government agencies
7 that tended focus, when sharing the information with industry partners, would tend to
8 focus on what sort of content might be posted as a result of these disinformation?
9 A So the FITF's -- to the extent that the FITF's engagement on the social media
10 platforms was, as I said, actor and activity focused, once that attribution happens, the
11 intelligence community at large pays attention to the intent. So it would pay attention
12 to the narratives.
13 So, to the best of my recollection, sometimes the DNI folks would articulate some
14 of the intent and the narratives on the attributed foreign influence operations that we
15 talked about.
16 Q During these USG industry sync meetings -- actually, let me take one step
17 back.
18 Did you attend any of those once you became section chief of all of FITF?
19 A I think, again, to the best of my recollection I may have attended a couple to
20 introduce the new leadership team.
21 Q So you -- when you were attending, it was primarily when you were the unit
22 chief of the China unit?
23 A Correct, the bilateral meetings. I pretty regularly engaged in the industry
24 meetings.
25 Q Oh, sorry. To clarify --

1 A Yeah.

2 Q So, with respect to the -- and we'll use whatever terminology you prefer.

3 Not the bilateral meetings, the USG industry, what did you call those or --

4 A Yeah, the industry meetings.

5 Q Okay.

6 A The broader group meetings, I was attending those.

7 Q Okay.

8 A Yeah.

9 Q For the broader group meetings, do you attend those as FITF section chief?

10 A I had but, again, we haven't had them in quite some time.

11 Q And so would that include 2021 and 2022?

12 A Yes.

13 Q In 2022, do you recall how frequently you attended those meetings?

14 A I think they were monthly. So, again, unless I had a scheduled conflict, I

15 was trying to make them. But I would be going back in my memory. I don't remember

16 how many.

17 Q And what about in 2020 when you were the China unit chief?

18 A I attended them pretty regularly.

19 Q In 2020, how many people from FITF would attend one of these meetings?

20 A It was usually a small number, usually the unit chiefs, maybe the assistant

21 section chief and section chief, and then usually a DOJ representative, as well.

22 Q And did that hold true for 2021 and 2022, as well?

23 A In 2022, I was usually, aside from field office personnel who might have been

24 helping organize the meeting, like, from San Francisco, I was usually the only FITF

25 attendee.

1 Q And, in 2022, do you recall how frequently you would present at these
2 meetings?
3 A Really infrequently. I was often on the agenda, but most of the threat
4 information was coming either from DHS I&A or the ODNI personnel who were attending.
5 Q Do you recall how frequently CISA personnel were --
6 A They were pretty consistently a part of the conversation as far as I
7 remember.
8 Q And, to your recollection, did they usually present at the meetings?
9 A As I recall, it was usually I&A, not CISA. But I could be misremembering
10 that.
11 Q In advance of these meetings, similar to the bilateral meetings that FITF
12 would meet internally, first, would the USG partners internally meet before one of these
13 meetings?
14 A There was usually a prep call. I often missed it, frankly. But there was
15 email traffic and usually a prep call.
16 Q With respect to these broader industry meetings, do you recall having a
17 primary point of contact at CISA?
18 A I do, but I don't believe that individual's a GS -- or an SES employee. So, I'm
19 not sure if the prohibition applies to [redacted] personnel who are not --
20 [redacted] You can name them.
21 Ms. Dehmlow. I can name them? Okay.
22 [redacted], [redacted]
23 [redacted] What about with respect to ODNI?
24 Ms. Dehmlow. The -- it would have been somebody from the Foreign Malign
25 Influence Center, the FMIC. And, again, maybe not -- not SES personnel.

1 So maybe -- I'm sorry. Is it okay?

2 [redacted] Yes.

3 [redacted] Yeah.

4 Ms. Dehmlow. All right. [redacted] (ph) and [redacted] (ph).

5 BY [redacted]:

6 Q And for ODNI, you mentioned I think it was the Foreign Malign Influence

7 Center.

8 A Uh-huh.

9 Q What is that?

10 A That's ODNI's center for foreign malign influence work. I think it was the

11 result of a congressional mandate to set them up, and it's where the Election Threat

12 Executive is now housed in ODNI.

13 So the ETE was a component part of ODNI who led election security efforts in the

14 previous election cycles, and the FMIC is a broader group that covers not just election

15 security issues but broader foreign malign influence issues.

16 Q Is there any overlap between this center, ODNI's responsibilities, and FITF's

17 responsibilities?

18 A So they are the mission manager for ODNI's efforts in the foreign malign

19 influence space. So they do things like articulate lexicons and definitions of issues.

20 They do things like set collection -- help set collection priorities. They run the -- the

21 ODNI notification framework that articulates when and how we make defensive briefing

22 notifications in the context of election security. And they also work closely with the

23 National Intelligence Council personnel who are the primary directors of the response to

24 the EO 13848 that we previously discussed, the response to national emergency, and the

25 report that's required of the IC under the previous administration and this administration.

1 Q With respect to these broader industry meetings, who is your primary point
2 of contact at I&A?
3 A Again, that was [redacted]
4 Q So for both CISA and --
5 A Oh, I'm sorry. I misunderstood the question.
6 So [redacted] was my primary point of contact on the I&A side.
7 Q Okay.
8 A Let me think. You know, I might be misremembering which side she's on.
9 She may have been CISA. On the I&A side, there's another non-GS employee whose
10 name is escaping me right now. But I think, now that I'm thinking hard about this, [redacted]
11 was CISA. I apologize.
12 Q Would Elvis Chan attend these meetings?
13 A Sometimes, yes. I'm not sure he was at every one, again, in his capacity,
14 sort of managing the relationships with the companies we were engaged in, engaged
15 with.
16 Q Does FITF, other than these kind of broader industry meetings, does FITF
17 engage regularly with CISA?
18 A The election securities space, they're the primary -- they are part of the
19 primary response to election, what we call election interference, which would be
20 targeting of the actual mechanisms how to vote.
21 So, in the context of talking about the whole of government, Federal efforts to
22 protect security and integrity of our election, we regularly engage with CISA, yeah.
23 Q And would that include for issues related to misinformation related to
24 election integrity?
25 A Uh-huh.

1 Q Which Federal agency would have, like, be the primary point of contact for
2 handling that issue?
3 A So we don't -- we, the FBI, the only space that we have a specific role in
4 election, quote/unquote, disinformation would be information regarding time, manner,
5 and place, so information that is inaccurate regarding time, manner, or place. But,
6 again, that's not the FITF's role. That's another part of the FBI.
7 As far as the other sort of information regarding election security or integrity, the
8 FBI really doesn't have that mission space, to the best of my knowledge anyway.
9 Q To your knowledge, does the FBI ever pass along information from CISA to
10 the social media platforms?
11 A I can't think of an example where we've done that specifically, not to my
12 recollection.
13 [redacted] Are we up to exhibit 8?
14 [redacted] Sorry. I think it's 8.
15 [redacted] This is 8.
16 [Dehmlow Exhibit No. 8
17 Was marked for identification.]
18 BY [redacted]
19 Q Let me know if you need a moment to review.
20 A No.
21 Q Okay. First, do you recall attending --
22 A I do.
23 Q -- this meeting? What was the purpose?
24 A I'd been asked by a colleague at CISA to talk about FBI's really specific and
25 narrow role in foreign influence operations and countering foreign influence

1 operations -- sorry -- foreign malign influence operations. Let me be really specific.
2 And so I met with this group to articulate what our role is. And, as I think is
3 indicated here, I talked about both the foreign attribution component part of our work
4 and the behavioral sort of threshold that we need to use our investigative or operational
5 authorities.
6 Q Do you recall who from CISA invited you?
7 A Geoff Hale.
8 Q Prior to attending this meeting, were you familiar with this MDM Advisory
9 Subcommittee?
10 A I wasn't.
11 Q If I could call your attention to the bottom --
12 A Uh-huh.
13 Q -- of page 1, Bates number --
14 A Sure.
15 Q -- 4580, it's the first sub-bullet point, second sentence. It says: FBI does
16 not perform narrative content-based analysis.
17 Do you agree with that statement?
18 A I do.
19 Q To your knowledge, are there any Federal agencies that perform narrative or
20 content-based analysis?
21 A I really am here to speak about what the FBI's specific scope and role is. I
22 don't have detail about how they're doing, other government agencies are doing their
23 work. So I don't want to characterize it as something I don't understand.
24 Q Do you recall during this meeting there was discussion of whether other
25 agencies -- whether other Federal agencies could or do conduct narrative or

1 content-based analysis?

2 A It looks like in the next line, the record indicates that Dr. Starbird thought

3 CISA might have a role based on the subcommittee, helping to define the narrative so the

4 whole-of-government approach could be leveraged. I vaguely recall that conversation.

5 But, again, since it wasn't FBI, I don't have specific memories of it.

6 Q To your knowledge, sitting here today, does CISA play a role in performing

7 narrative or content-based analysis?

8 A My understanding is that CISA believes, understands itself to have a

9 resilience role, particularly in the specific context of election security and election

10 integrity.

11 Q Okay. And what do you mean by a resilience role?

12 A That part of their role is to ensure that there is access; there is broad access

13 to truthful information about election integrity. But, as far as a counter-narrative

14 strategy, I wouldn't have any idea.

15 Q Okay.

16 A And how they do content-based analysis or how they come up with that

17 truthful information, I don't know.

18 Q If I could have you turn to the next page --

19 A Sure.

20 Q -- just a couple more sub-bullet points. And then it's the middle of the first

21 full sub-bullet point on top of the page, about four lines down.

22 A Okay.

23 Q It says: Ms. Dehmlow was asked to provide her thoughts or to define a

24 goal for approaching MDM. She mentioned resiliency.

25 Well, first, let me stop it there.

1 A Okay.

2 Q Is that using "resiliency" in the same way you were just using it in your

3 previous answer?

4 A I think that this is at least a slight mischaracterization of my remarks or the

5 context of our -- my remarks. So the -- I was asked there to talk about the specific FBI

6 efforts, and we'd gone over that.

7 And then we were talking about the Federal Government's, if I remember

8 correctly, essentially right to speak and ensure that there is truthful information

9 accessible to citizens. And so that's what I mean by "resiliency."

10 Q Okay.

11 A But that there is really not an FBI role in that space.

12 Q Do you recall if you were given an opportunity to review these meeting

13 minutes?

14 A No, not that I remember.

15 Q Okay. So continue with the next sentence.

16 She stated: We need a meeting for structure that is held accountable.

17 Do you recall making a statement to that -- to that end?

18 A It doesn't sound like something I would say. What I have said in a context

19 like this is that there is a role to play for the media and standards for media engagement,

20 but I certainly was not articulating that the FBI or any other part of the government

21 should hold the media accountable.

22 Q Okay. And, when you say you were not saying that the government or

23 anyone else should necessarily hold the media accountable, is that your position that it

24 should not, that the government should not be making an effort to hold the media

25 accountable, or is it not allowed?

1 A I don't think there's a role for the FBI to play in quote, unquote, holding the
2 media accountable, no. Freedom of the press is another constitutional protection we
3 take really seriously.
4 Q Do you recall any discussion at this meeting about ways in which the media
5 could, quote/unquote, be held accountable?
6 A I don't. Again, I think it's a mischaracterization of the conversation as I
7 remember it, talking about other elements of civil society that are a component part of
8 this issue space.
9 Q And what other components of civil society?
10 A Like the media, like other parts of the government.
11 Q Any others that come to mind?
12 A No.
13 Q If I could call your attention up a few more -- this is a few sentences
14 previously --
15 A Uh-huh.
16 Q -- within the same bullet point. After a semicolon, three lines down, it says:
17 With the FBI focus on foreign efforts, how do we disentangle foreign actors embedded in
18 the MDM process?
19 Do you recall a discussion on that issue in this meeting?
20 A Vaguely. And it would be pretty typical of how persistent -- how consistent
21 we've been in other types of questions like this.
22 The FBI does not have a counter-narrative role, and my recollection of that
23 conversation was talking about how to sort of counter mis-, dis-, and
24 malinformation -- that's what MDM stands for -- narratives. And the FBI really does not
25 have a role in this space. So I remember being in sort of listen mode.

1 Q Do you know whether there is a Federal agency that does have this
2 responsibility?
3 A Not to my knowledge.
4 Q Do you recall if there was a discussion during this meeting about whether a
5 Federal agency should have the ability to serve a counter-narrative role?
6 A I don't remember that -- that specific characterization, that specific question.
7 Q You helpfully defined MDM as mis-, dis-, and malinformation. To you
8 knowledge, what's the difference between those three terms?
9 A I -- "malinformation" is not a term of art I'm very familiar with. So I can't
10 really define that one.
11 "Misinformation" would be information that's -- I think the academic definition is
12 essentially I think information that's partially true but is being characterized and spun in a
13 way that is not fully accurate.
14 And "disinformation" would be inaccurate information being propagated.
15 Q Do you know if CISA ever uses the term "malinformation"?
16 A Yeah, I believe they use "mis-, dis-, and malinformation" as essentially
17 articulating the mission space as those broad three things.
18 Q And understanding this is obviously not your agency but to your
19 understanding, what does CISA understand malinformation to be?
20 A Really I've never really understood the term, and it's not one I use. So I
21 wouldn't want to speculate. I'm sorry.
22 Q During the broader industry group meetings, the one that were attended by
23 CISA --
24 A Uh-huh.
25 Q -- would they ever use the term "malinformation"?

1 A Yes, yes.

2 Q And, when they would use the term during these meetings, whether it was

3 context clues or providing the definition, what was your understanding of what they

4 meant?

5 A It seemed to be essentially the same thing as either mis- or disinformation.

6 So the distinctions between something that is partially true and being misrepresented

7 and something that is fully untrue.

8 I'm not sure what the -- what makes malinformation different from those two

9 things, and the context didn't help me.

10 Q Do you recall anyone during these meetings stopping someone from CISA

11 and asking, "What do you mean by 'malinformation'?"

12 A Not that I remember.

13 Q And just picking back up on, again, the sentence that's reflected in the

14 meeting notes --

15 A Uh-huh.

16 Q -- about how do we disentangle foreign actors embedded in the MDM

17 process, to your knowledge, what was the discussion there with respect?

18 A To the best -- to the best of my recollection, it was the idea that there is

19 foreign amplification of authentic speech, and the conversation was, again, about building

20 resiliency and counter-narratives. And that was the context that they were discussing.

21 But, again, I already articulated the FBI didn't have a role in that space, so vague

22 recollections.

23 Q So you help me understand then malign as the FBI understands it. So, if

24 there are foreign malign actors, that's clearly within the FBI's purview.

25 A Correct.

1 Q If they're creating fake accounts, that would be within the FBI's purview.
2 A Uh-huh.
3 Q What did you mean by "amplification"? And, as part of your answer, you
4 also say, you know, why is it not the FBI's space to address that issue?
5 A We're countering actors and activity. So sort of our core, our core function
6 at the FBI is to, you know, identify criminals and national security and actors who are, you
7 know, national security threat, who are conducting specific types of activity to either
8 conduct criminal activity or, you know, undermine the national security of the United
9 States.
10 And, in the FMI context, we are countering foreign actors who are using, who are
11 conducting specific activities -- that's the subversive, undeclared, criminal, or coercive
12 definition that I referenced several times. And it is not about countering the message.
13 It's not about countering the narrative that those actors are propagating. It's about
14 disrupting their ability to pretend to be someone they're not in our civil discourse, in our
15 marketplace of ideas.
16 Q Okay. If you could say a bit more then. As far as you understand it, what
17 is that amplification role? What does that mean?
18 A So, once we've attributed something, right, once we've attributed something
19 to a foreign actor, what we have observed is that, in addition to creating content
20 historically, creating new content around the specific issues that they are -- they are
21 attempting to influence, many actors, including the Russians, have identified issues inside
22 the United States, both sides of divisive issues inside the United States, and amplified
23 messaging or amplified content surrounding that -- that protected speech inside the
24 United States.
25 So that's explicitly why the FBI doesn't get into counter-narratives, why we don't

1 use narrative matching or content-based analysis because we are very cognizant of the
2 speech protections that we need to be careful to protect.
3 Q And, again, to your knowledge, does CISA play a role in trying to counter the
4 amplification of these narratives?
5 A I'd have to defer to CISA to characterize their own operations. I'm really
6 here to talk about FBI's role.
7 Q Do you recall during this meeting if CISA, anyone from CISA stated that CISA
8 has a role to play?
9 A As I recall, it was largely the -- I think there were mostly academics who were
10 on the board. It was a discussion amongst them. There really wasn't much input from
11 the CISA representative who's on the call who is Geoff Hale, as I recall.
12 Q Do you recall anyone else from CISA who was on the call?
13 A Not that I remember.
14 [redacted] We can take these back.
15 [Dehmlow Exhibit No. 9
16 Was marked for identification.]
17 [redacted] This will be exhibit 9.
18 BY [redacted]
19 Q So if I could call your attention to the bottom --
20 A Uh-huh.
21 Q -- part of the first page, there's a bullet point that reads: Subcommittee
22 members have received the following briefing.
23 And then the second sub-bullet point refers to you and the briefing that you
24 provided in the previous exhibit.
25 First, to your recollection, was that March 1st hearing that looks like the previous

1 exhibit, was that the only time you presented to this group?

2 A To the best of my knowledge, yeah.

3 Q Were you given an opportunity to review this [redacted] of your meeting to

4 the CISA subcommittee?

5 A Not that I remember.

6 Q If you need a moment, let me know.

7 The second bullet point provides a [redacted] of what you presented to the group.

8 And if I could call your attention to the second line down, it says: The FBI does not

9 conduct-narrative based analysis which allows CISA to complement their abilities.

10 We've touched upon this --

11 A Uh-huh.

12 Q -- a couple of times. But does this refresh your memory at all with respect

13 to what the advisory subcommittee meant regarding CISA's role?

14 A I think it misrepresents the fact of that -- the second part of that sentence,

15 "which allows CISA to complement their abilities," I don't ever recall saying that.

16 So I think a better characterization or my recollection would be: Ms. Dehmlow

17 identified the FBI's purview of foreign and criminal threats, comma, the FBI does not

18 conduct narrative-based analysis. Full stop.

19 And then I would characterize it as a subcommittee conversation about CISA

20 complementing it, but I don't recall saying that.

21 Q But, to your recollection, was there some discussion with the understanding

22 it didn't involve you --

23 A Uh-huh.

24 Q -- and what you were saying but among the other members attending that

25 March 1st meeting, a discussion about CISA's role to complement the FBI's abilities?

1 A I don't remember the term "complement" specifically but I do -- just from
2 the previous document, I think I previously articulated that I remember them talking
3 about countering the MDM and the role that other parts of the government might play.
4 But, again, I don't remember CISA injecting themselves into that conversation.
5 Q I --
6 A And I remember it very vaguely.
7 Q Understood. Were you invited, to your recollection, to attend another one
8 of these meetings?
9 A Not that I remember.
10 Q That same sub-bullet point continues: Subcommittee members outline
11 goals of strengthening resilience across all sectors to help develop a media infrastructure
12 that is held accountable for amplifying misinformation/disinformation.
13 You stated your recollection as far as what you presented, what the FBI presented.
14 Do you recall who on the call or the meeting provided any commentary how to hold a
15 meeting structure accountable?
16 A I don't. I don't. I don't remember specifics of that discussion at all. I
17 don't remember suggestions on how that might take place, what that meant. I don't
18 remember.
19 Q Okay. You remember just at a high level that there was some discussion.
20 Is that what your previous answer was saying?
21 A So I think I previously said that, in the context of my comments on holding
22 media accountable, I think we were talking about the broad set of actors who are in the
23 counter-MDM space. And my purpose for attending the call was, again, to articulate the
24 FBI's more narrowly scoped role which is countering foreign malign influence operations.
25 So we are not in the counter-MDM space, and that's what I was there to discuss.

1 That's -- that's the majority of what I remember.

2 Q Do you recall receiving any briefings from anyone at CISA regarding what

3 their role is, what their responsibilities are?

4 A Me getting briefed? No. We have participated historically in some

5 engagements with the National Association of Secretaries of State and the National

6 Association of State Election Directors. And so I've heard them briefed pretty regularly

7 on their role in election security and integrity and protecting election infrastructure writ

8 large from foreign adversary attacks.

9 Q And those two organizations you mentioned, is that NASS and NASED?

10 A Yes.

11 Q Is that right?

12 A NASS, NASED.

13 Q When meeting with NASS and NASED, do you recall how frequently those

14 meetings occurred?

15 A They've got semiannual conferences that we get invited to at least one of

16 usually. So it's a combination of personnel who brief. Sometimes it's FITF.

17 Sometime it's Criminal Investigative Division. Election security is very much a shared

18 equity in the FBI.

19 Q Besides CISA and the FBI, do you recall who else?

20 A I&A, DHS I&A.

21 Q We can take these back.

22 A Okay.

23 Q And, to your recollection for these NASS and NASED meetings, did

24 you -- would you present at these meetings?

25 A I have at some of them, yes.

1 Q And, when the meetings did occur, based on the ones you presented and
2 recall, how many members from FITF would typically attend?
3 A One to two usually. It was a pretty small footprint from FITF, broader
4 component from the FBI.
5 Q Do you recall if these briefings, meetings occurred in person or over Zoom?
6 A Both.
7 Q Okay.
8 A I don't think we ever used Zoom. We would have used some other video
9 conferences capability, but the FBI typically didn't use Zoom.
10 Ms. Dehmlow. Could I talk to them for one second?
11 [redacted] Could we go off the record, please?
12 [Discussion off the record.]
13 Ms. Dehmlow. Okay.
14 [redacted] We can go back on the record.
15 [Dehmlow Exhibit No. 10
16 Was marked for identification.]
17 BY [redacted]
18 Q Do you recognize this meeting invite?
19 A I'm trying to remember the context. I don't recognize this specific one, but
20 I think from context clues I understand what these were.
21 Q Okay. And from the context clues --
22 A Uh-huh.
23 Q You have a memory of it.
24 What was the purpose of this call --
25 A I --

1 Q -- or calls?

2 A I think these were the -- some of the engagements that we had with NASS

3 and NASED partners with CISA's election security initiative.

4 Q And so these meetings would be separate from the broader industry

5 monthly meetings that we've been discussing.

6 A Yeah, if I'm right about which meeting this is. The election partners means

7 a lot of things. So --

8 Q Okay. We can take these back.

9 A Okay.

10 Q Are you familiar with the Global Engagement Center?

11 A I am.

12 Q And what is that?

13 A It's a State Department -- vaguely familiar with it. It's a State Department

14 entity that my understanding is they also focus on foreign influence and public diplomacy

15 that State Department equities oversees.

16 Q And, during your time at the FBI, have you had interactions?

17 A Uh-huh. I have.

18 Q What's the nature of those interactions?

19 A So, although the FBI's purview, obviously, is focused on how foreign malign

20 actors are targeting U.S. audiences, those same actors are targeting other partners and

21 allies.

22 And so, to the extent there's sort of actor overlap, we've had some discussions

23 with the Global Engagement Center about those foreign malign influence actors. And,

24 again, those -- I think it was characterized in the previous era -- hour, that sort of strategic

25 understanding of the tactics and techniques those actors use.

1 Q And do you have a primary point of the contact at the Global Engagement
2 Center?
3 A I have usually engaged with [redacted], but there are others whose names I
4 can't recall.
5 Q With respect to the broader USG industry sync meetings, did the Global
6 Engagement Center ever participate in those?
7 A No. I had at one point had some conversations with some of the partners
8 about whether they should join the industry calls but never did, no.
9 Q Do you recall who proposed adding the Global Engagement Center to these
10 meetings?
11 A I don't remember whose original idea it was. I was part of the
12 conversations where we presented it to the technology companies, the private sector
13 partners.
14 Q So, to your recollection, it was the government that was presenting the ideas
15 the industry partners?
16 A To the best of my recollection. Could have gone the other way around. I
17 was part of the conversations about whether we should do it but --
18 Q Do you recall what the position was of the industry partners regarding
19 whether the Global Engagement Center should be included?
20 A Yeah, if I remember correctly, the -- I don't remember which company it was,
21 but one of the companies that we'd engaged with did not want them to join.
22 Q Do you know what the reason why was?
23 A As I recall, it was that -- essentially the distinction that I articulated before,
24 that, you know, we were a group of folks who were narrowly scoped and focusing on
25 domestic, on targeting of the U.S. homeland. And they were focused on targeting of

1 foreign countries by the same set of actors. And so they wanted to keep those two
2 streams separate as far as I remember.
3 Q With respect to the U.S. agencies that were already on the USG industry --
4 A Uh-huh.
5 Q -- partner calls, do you know if the idea was proposed by one of those
6 agencies, or did the Global Engagement Center come to you guys and ask?
7 A I really don't remember. It was a few years ago. Sorry.
8 Q So, to your recollection, it was 2020?
9 A It was in the 2019, '20 timeframe. It was before the 2020 election for sure,
10 at least 3 years ago, I guess. Time flies.
11 Q At any point has the Global Engagement Center participated, so since the
12 2020 election?
13 A Not that I am aware of, not that I remember.
14 Q So, beyond social media, the tech companies we've identified with the
15 bilateral meetings and the U.S. Government Industry broader meetings, does the FBI
16 share similar information that's shared in those meetings with any other third parties?
17 A Regarding like the -- which -- which -- which information specifically are you
18 asking about?
19 Q Well, you identified at least two buckets --
20 A Okay.
21 Q -- the broader strategic information and then the more tactical.
22 A Okay.
23 Q So if you can answer both.
24 A Okay. On the tactical side, we would -- I'm trying to be careful of
25 investigative equities.

[redacted] If there's information that could help [redacted] form sort of their knowledge and understanding of the tactical space, we would also inform them.

If, on the strategic side, again, really typically -- typical to how we engage on threat actor awareness building in many other national security and criminal spaces, we'll do broad strategic information sharing with foreign partners and allies where we talk about threat actors and the activities that we've observed. Other departments and agencies, I think we would request briefings on it -- State, local, Tribal, territorial officials -- so a broad range of audiences that the FBI regularly engages with on that kind of information.

Q What about with respect to nonprofits?

A Historically, there was -- nonprofits, no, not to the best of my recollection.

I think historically, particularly at the very beginning of FITF, of the FITF standup, we did some engagement with academic institutions to understand more just about academic research that was going on in the foreign information -- foreign influence operation space.

Q Do you recall which academic institutions?

A I don't. I wasn't part of most of those. I just have been told.

Q When you first joined as unit chief of the China unit, do you recall if there were any ongoing information sharing meetings with these academic institutions?

A I don't recall. I don't recall, not that I participated in anyway.

Q To your knowledge, has the FBI interacted with the Election Integrity Partnership?

A It's not ringing a bell. Is there an organization it's attached to or associated with? Maybe that will help.

Q The partners in the Stanford Internet Observatory --

A Okay.

Q -- the University of Stanford, the University of Washington's Center for an Informed Public, Graphika, and DFRLab housed with it.

A Okay. I specifically have not engaged. That does not mean that FITF has not. I don't think I've specifically engaged with that set of actors. Graphika was at a conference that I was at. So I had some, you know, informal conversation, saying hello with some of the folks at Graphika.

Did Graphika get acquired by Google? That's possible. But I don't believe we've had any engagement with Graphika folks since the acquisition. I could be misremembering that acquisition, though.

Q What about Mandiant?

A Man -- oh, maybe Mandiant is the one that got acquired by Google. Is that it? Okay. Sorry. I get them mixed up.

We -- no, not that I recall. I don't recall having specific conversations or engagement with Mandiant. I've read some of their reports, but I don't recall having specific engagements or conversations.

[redacted] What was the conference that you were at Graphika with?

Ms. Dehmlow. It was the Cipher Brief Conference. I think it was last year.

[redacted] What was the -- what was it about or what was the --

Ms. Dehmlow. There's -- it's a 2- or 3-day cybersecurity professional engagement where a bunch of private sector and bunch of government folks get together and talk about various topics. I was there to, again, present on the FBI's very narrow and limited role in the FMI space.

BY [redacted]

Q Just to clarify your earlier response, so you don't recall if you interacted with

1 the Election Integrity Partnership or foreign entities laid out.

2 Do you have any knowledge of whether anyone at the Foreign Influence Task

3 Force engaged with those?

4 A I don't have any specific recollection or knowledge of that but --

5 Q Are you familiar with the Center for Internet Security?

6 A Can you give me some more context? Sorry. It's not ringing a bell, no.

7 Q Yeah. CIS.

8 [redacted] This will be exhibit 11.

9 [Dehmlow Exhibit No. 11

10 Was marked for identification.]

11 Ms. Dehmlow. Okay.

12 BY [redacted]

13 Q Okay. Reviewing this email chain, does that refresh your memory at all

14 with respect to --

15 A I don't --

16 Q -- CIS?

17 A -- remember this one, no.

18 Q There's reference in the subject line and then throughout the email chain --

19 A Uh-huh.

20 Q -- with respect to a Misinformation Reporting Portal.

21 A Uh-huh.

22 Q Do you have any familiarity with what that's referring to?

23 A I don't.

24 Q Are you aware of any Misinformation Reporting Portals to which the Federal

25 Government has access to?

1 A No, I'm not.

2 Q To your knowledge, is there any Misinformation Reporting Portal that the

3 FBI has access to?

4 A No, not that I'm aware of. To the best of my knowledge, the only place to

5 report anything to the FBI is our tip line.

6 Q This is the first email in the first page, Bates No. 34?

7 A Uh-huh.

8 Q There's a question from the FBI. It's about three lines down regarding: Is

9 there a way to identify foreignness or criminality of the misinformation that would serve

10 as thresholds for reporting in the portal?

11 A Uh-huh.

12 Q And you've discussed previously that's kind of the two nexus points that the

13 FBI needs.

14 A Yeah.

15 Q Are there, to your knowledge, U.S. Federal agencies that have the ability to

16 handle noncriminal domestic disinformation?

17 A I really can only speak with confidence to the FBI's role. So, FBI, that's our

18 threshold. But I can't speak with confidence to anybody else's.

[1:45 p.m.]

BY [redacted]

Q When the FBI or the tip line or perhaps someone contacts or you or someone else directly relating to misinformation or disinformation that lacks that foreign or criminal nexus, what happens next? Does the FBI refer it to someone else?

A No, not to my knowledge. If there's not a violation of law or specific detailed attribution to a foreign actor, we wouldn't take any action.

Q We can take these back.

A Okay.

Q Do you know what Sentinel is?

A Yes.

Q What is it?

A It's the FBI's case management system.

Q In his deposition in Missouri v. Biden, Agent Chan testified that he would summarize any substantive meetings he had with the tech companies.

A Uh-huh.

Q And he's referring both to the bilateral meetings and these broader U.S. industry sync meetings.

Do you recall, would you ever be the one who drafted those summaries?

A Not that I remember, no.

Q Agent Chan testified that the summaries are still saved and available. To your understanding, would that be the case?

A I don't see any reason why his testimony would be other than accurate, no.

Q Do you know if those meeting minutes could be produced to the committee?

A You would have to ask them that question. I don't know.

1 Q In addition to the meetings themselves, obviously communicating with the
2 tech partners there, and based off documents that are in the public record and that we've
3 obtained certain email correspondence between the industry partners and the FBI, are
4 you aware of what other channels were used to communicate between the FBI and the
5 industry partners?
6 A Beyond -- sorry. Can you give me the list again?
7 Q Beyond just the meetings and the emails.
8 A And the emails? There were phone calls.
9 And for the 2020 election, a Signal channel was set up, I believe at the request of
10 the partners, to ensure that there was sort of broad visibility on any threat information
11 the FBI might have to share. I'm not sure that anything was shared, but all of those
12 communications were documented in Sentinel after the fact.
13 Q With respect to the Signal channel that you're referencing between the
14 industry partners and the FBI, Agent Chan testified that it was the San Francisco Field
15 Office who was communicating on behalf of the FBI.
16 To the extent you have knowledge, is that consistent with what you know?
17 A Yeah. To the extent that I remember, yeah.
18 Q Did you ever have access to the Signal channel?
19 A I did, yes.
20 Q And can you walk me through that? Were there multiple FBI numbers on
21 the Signal channel or one FBI one that multiple personnel had access?
22 A Yeah. We had a national election command post set up and, to the best of
23 my knowledge, this approval and setup had gone up within the FBI for approval at higher
24 levels. But the on-scene commanders essentially for the command post -- I was one of
25 the shift leaders -- all had a phone with the Signal channel set up.

Q Okay. Do you recall who at the FBI signed off on using this?

A I don't. I don't. It would have had to have been at the A level or higher, I believe, but I don't recall specifically.

Q And I think you referred to it as shift leaders?

A Yeah.

Q How many shift leaders were there?

A We had three shifts 24/7, so 8-hour shifts.

Q In addition to you, who were the other --

A Non-SES personnel, so we would have to get back.

Q Was Elvis Chan one?

A No. He was not, no. This was at FBI headquarters.

Q Do you know for how long this Signal channel was used for?

A I don't remember. The command post was somewhere around [redacted], but I don't remember specifically if it extended before or beyond.

Q Before the FBI would post something to the Signal channel, did the shift leader need signoff from someone, or who would make the decision?

A Not that I recall. Can I just ask them a question about the investigative --

[redacted] Can we go off the record, please?

Ms. Dehmlow. Thank you.

[Discussion off the record.]

[redacted] Can we go back on the record, please?

Ms. Dehmlow. Can you repeat the question just so I can make sure I'm answering it?

BY [redacted]

Q Yeah. When you mentioned there were three shift leaders who had access

1 to the Signal channel and could post things if necessary, do you recall if the shift leaders
2 needed signoff from someone else?
3 A So the way the command post was working was information was coming
4 into the headquarters command post, and then we would send what we call leads to
5 appropriate field offices for follow-up investigative action.
6 So to the extent information was coming in through the headquarters command
7 post and we were sending leads off to the field office, I actually don't remember if that
8 went to the on-scene commander, the shift leader leads, or if they were signed off at
9 lower levels.
10 But someone at headquarters was essentially saying, yes, this needs to go there.
11 So to the extent the information was passing through that command post construct, then,
12 yes, somebody at headquarters would have signed off on assigning San Francisco the
13 responsibility to pass information on.
14 Q Okay.
15 A Does that make sense?
16 Q So it was San Francisco passing on the information in a way that's different
17 than what's being passed in the Signal channel, or isn't it?
18 A So we would have -- so the task to San Francisco to get information to the
19 platforms would have gone through Sentinel, and then the means by which that was
20 communicated would probably have been up to San Francisco. I don't remember having
21 any conversations about specifically saying Signal or email or a phone call. I don't think
22 we were that specific in articulating the means of communication.
23 Q Do you know if the FBI has kept records of these Signal communications?
24 A Yes. To the best of my knowledge, everything was recorded in Sentinel.
25 And there was -- as I'm sure you're aware, there's a disappearing message function that's

1 available in some of the encrypted apps, and we were required -- as I said, of course, we
2 were obviously required to turn that off so we would have an ongoing record.
3 Q Do you recall any other examples or a similar Signal channel that was
4 created --
5 A No.
6 Q -- like the 2020 election?
7 A We did not set up one for 2022.
8 Q And other than 2022, any other?
9 A Not that I am aware of, no, or can recall.
10 Q Are you familiar with what Teleporter is?
11 A I am.
12 Q What is it?
13 A Vaguely, although I've never used it. It's a secure communications channel
14 to encrypt sort of point-to-point communications that the FBI uses to share information
15 with private sector partners, usually in the cybersecurity context, is my understanding.
16 Q Okay. But you've never used it?
17 A I have not.
18 Q Do you know if anyone from FITF have used it?
19 A FITF is usually not the entity who's responsible for doing the information
20 sharing. That's going to go to one of our field offices. So it would be atypical for a FITF
21 employee to use Teleporter. But I can't confirm that that has never happened. It's
22 usually the field office who is doing that engagement that would require it.
23 Q Would FITF be sharing the information to the field office that would then
24 share the information --
25 A Yes.

1 Q -- Teleporterly?

2 A That would be the usual -- a typical way of getting that information to the

3 field office, yes, or to a private sector partner.

4 Q To your knowledge, does Elvis Chan use Teleporter too?

5 A I believe so, yes.

6 Q So when FITF is communicating information to Agent Chan, do you know

7 how he's going to communicate it to the industry partners?

8 A I don't recall ever having conversations about the specific means we're

9 talking about to share, specific details to share. It's understood that this is often coming

10 from pretty sensitive sources, and so we don't -- we're looking for ways to protect that

11 information that is meant to be between two parties. But I don't know if we're ever

12 having a conversation about how a tip or a lead would be passed.

13 Q Do you know if the communications, the Teleporter communications,

14 whether the FBI retains any records of them?

15 A So my understanding is that if something is being sent via Teleporter, the

16 documentation of both what is being sent and the means by which it was sent would also

17 get serialized in Sentinel.

18 [redacted] Can we go off the record, please?

19 [Recess.]

20 [redacted] We can go on the record, please.

21 Good afternoon, Ms. Dehmlow.

22 Do you want me to wait for the DOJ?

23 [redacted] Yeah.

24 [redacted] Sorry. We can go off the record.

25 [Recess.]

1 [redacted] Okay. We're back on the record, please. It is 2:06 p.m.

2 BY [redacted]

3 Q Good afternoon again, Ms. Dehmlow.

4 The last time we spoke I was asking you a series of questions about what I deemed

5 strategic information sharing with the private sector and other partners of the FBI.

6 Do you recall those questions?

7 A I do.

8 Q Okay. And we were getting into the atmosphere leading up to the 2020

9 Presidential election and the fears that the FBI and the IC community continued to have

10 about the potential for Russia or other foreign state actors to interfere in the upcoming

11 2020 election.

12 Do you recall those questions?

13 A I do.

14 Q Okay. So I want to introduce exhibit No. 17 -- sorry -- 12. It's a New York

15 Times article dated January 13th, 2020, and updated October 19th, 2020.

16 A Okay.

17 [Dehmlow Exhibit No. 12

18 Was marked for identification.]

19 BY [redacted]

20 Q And the article is entitled, quote, "Russians Hacked Ukrainian Gas Company

21 at Center of Impeachment," unquote.

22 A Okay.

23 Q Do you see the article in front of you?

24 A I do.

25 Q And have you read that article?

1 A I have not.

2 Q Would you just take a quick minute or so and look at it? You don't need to

3 be looking at every word but just to see what the article is saying.

4 A Okay.

5 [Pause.]

6 A Okay.

7 Q Have you had enough time to look at it?

8 A I have.

9 Q Okay. Is it fair to say that the article states that the GRU, the Russian

10 Intelligence Directorate, used phishing emails to target Burisma and gain access to their

11 computer systems?

12 A I am not sure it specifically articulates that they gained access, but they were

13 targeting Burisma. But I haven't read every word, so --

14 Q All right. If you could -- I guess it's one, two, three, four -- look at

15 paragraph 5.

16 A Okay.

17 Q It begins, "Then, as now." Do you see that paragraph?

18 A I do.

19 Q That article then states, "Then, as now, the Russian hackers from the military

20 intelligence unit known formerly as the GRU, and to private researchers by the alias

21 'Fancy Bear,' used so-called phishing emails that appear designed to steal usernames and

22 passwords, according to Area 1, the Silicon Valley security firm that detected the hacking.

23 "In this instance, the hackers set up fake websites that mimicked sign-in pages of

24 Burisma subsidiaries and have been blasting Burisma employees with emails meant to

25 look like they are coming from inside the company."

1 And then, continuing beyond the image, "The hackers fooled some of them into
2 handing over their login credentials, and managed to get inside one of Burisma's servers,
3 Area 1 said."
4 A Okay. Yes.
5 Q So is it fair to say, then, that according to this reporting, the GRU successfully
6 hacked into Burisma's system before the 2020 election?
7 A Yes.
8 Q Do you know anything about the GRU in your professional experience?
9 A I don't. I'm primarily a China hand by trade, so I know very little other than
10 they are behind some of the advanced specific threats that the Russia cyber community
11 follows.
12 Q And they're a part of the Russian --
13 A The Russian Intelligence Services, yes.
14 Q Okay. Were you aware of this reporting, the idea that Burisma had been
15 hacked by the GRU before the 2020 election?
16 A I was not.
17 [redacted] I will set that aside.
18 And I'm going to mark as exhibit No. 13 a September 10th, 2020, Treasury
19 Department press release.
20 I will wait for you to see it.
21 [Dehmlow Exhibit No. 13
22 Was marked for identification.]
23 BY [redacted]
24 Q So there was a press release from the U.S. Department of Treasury. Here
25 exhibit 13 is titled "Treasury Sanctions Russia-Linked Election Interference Actors." And

1 the date is September 10th, 2020.

2 Do you see that?

3 A I do.

4 Q The press release states in relevant part, "Treasury designated Andrii

5 Derkach pursuant to Executive Order 13848 for his efforts to influence the 2020 U.S.

6 presidential election. Derkach, a Member of the Ukrainian Parliament, has been an

7 active Russian agent for over a decade, maintaining close connections with the Russian

8 Intelligence Services. Derkach has directly or indirectly engaged in, sponsored,

9 concealed, or otherwise been complicit in foreign interference in an attempt to

10 undermine the upcoming 2020 presidential election."

11 That's the highlighted portion that's in the exhibit before you. Did I read that

12 correctly?

13 A Yes.

14 Q Have you seen this prior to today?

15 A I don't think I've seen this specific press release, but I was aware of the

16 action, yes.

17 Q Okay. And you know who Andrii Derkach is?

18 A I do.

19 Q And who is he, in your experience?

20 A He's another Russian Government-affiliated actor who engaged in covert

21 influence activities targeting the 2020 election.

22 Q Did you know prior to the 2020 election that Treasury had sanctioned him?

23 A I don't specifically recall. Again, I was focused on China at the time.

24 Q Okay.

25 A So I wouldn't have necessarily been tracking.

1 [redacted] You can set that aside.

2 And I'm going to mark as exhibit 14 another news article. This is a Daily Beast

3 article published on October 17th, 2020, entitled: "Rudy: Only '50/50' Chance I

4 Worked With a 'Russian Spy' to Dig Dirt on Bidens and Ukraine."

5 [Dehmlow Exhibit No. 14

6 Was marked for identification.]

7 BY [redacted]

8 Q If you would just take a second to look at that article, please.

9 [Pause.]

10 A Okay.

11 Q I know it's a long article. Have you read this before?

12 A I have not, no.

13 Q Okay. This article reports on an hour-long interview with Mr. Giuliani in

14 which Giuliani said, quote, "He viewed his latest leak to the New York Post," referring to

15 the Biden laptop leak, as, quote, "an extension of his years-long effort to work with

16 Ukrainians to dig up dirt on the Bidens."

17 If you turn to page 5, I'm just going to direct you to his quote there. It's right at

18 the very top of the page. Let me read it again to be clear. This is what he said in an

19 interview with the Daily Beast.

20 He said, "He viewed his latest leak to the New York Post," referring to that article

21 about Hunter Biden's laptop, "as an extension of his years-long efforts to work with

22 Ukrainians to dig up dirt on the Bidens."

23 Did I read that correctly?

24 A Yes.

25 Q Were you aware of this reporting before the 2020 election?

A This specific article? No.

Q Not specifically, but the substance.

A Yes, I was aware that Giuliani was speaking publicly.

Q On the subject of --

A On this topic, yes.

Q Okay. Can you tell me what you were aware of at the time, to the best of your recollection?

A Can I talk to these guys for a second?

Q Sure.

[Recess.]

[redacted] We can go back on the record, please.

BY [redacted]

Q Okay. So we were talking about Andrii Derkach and Rudy Giuliani. You stated that you know who Andrii Derkach is, correct?

A Uh-huh.

Q Did you know that he was an associate of Mr. Giuliani's?

A When?

Q Let me start with before the 2020 election.

A I believe that was in publicly available media reporting, so yes.

Q Okay. What was your understanding of his relationship with Mr. Derkach?

A I guess in the context of me as the FITF China unit chief, there is not a lot I could speak to. I don't recall the details.

Q Okay. And you knew that Mr. Giuliani was the lawyer for the President of the United States at the time, Mr. Trump?

A I did.

1 Q I understand that you can't give us any information from your experience
2 with respect to the Daily Beast article that we talked about, but would it be concerning to
3 you if what Giuliani said was true, that he viewed the leak of the laptop as part of his
4 ongoing work with a foreign country to dig up dirt on a political figure? Is that a
5 concerning activity in your mind?
6 A I don't know. I really want to stay away from opinions about things. Not
7 an investigative equity that I'm familiar with, so I just don't want to speak to it.
8 Q Okay. Do you know who Andriy Telizhenko is?
9 A Yes.
10 [redacted] I'm going to introduce exhibit No. 15.
11 [Dehmlow Exhibit No. 15
12 Was marked for identification.]
13 BY [redacted]
14 Q Okay. This is another U.S. Treasury Department press release, this one
15 dated January 11th, 2021.
16 Have you seen this press release before, Ms. Dehmlow?
17 A I haven't, no.
18 Q Just take a minute to look at it, if you would.
19 A Okay.
20 Q Thank you.
21 I will have you turn to the second page and look at the top of that page. There's
22 a highlighted portion.
23 Do you see that?
24 A I do.
25 Q Okay. At the top of the second page the press release states that

1 Telizhenko, quote, "orchestrated meetings between Derkach and U.S. persons to help
2 propagate false claims concerning corruption in Ukraine," unquote.
3 The press release continues and says that Mr. Telizhenko was sanctioned, quote,
4 "for having directly or indirectly engaged in, sponsored, concealed, or otherwise been
5 complicit in foreign influence in a United States election," end quote.
6 Do you see that?
7 A I do.
8 Q What does that mean, that he was sanctioned for having directly or
9 indirectly engaged in, sponsored, concealed, or otherwise been complicit in foreign
10 influence?
11 A My understanding is that OFAC -- OFAC sanctions essentially prohibit certain
12 business activities, use of banking systems. But, again, I'm not really familiar with this
13 specific sanctions package, so I couldn't speak to -- I would have to refer you to the
14 sanctions package to articulate the specific details there.
15 Q Okay. The language that says "otherwise been complicit in foreign
16 influence in a United States election," does that in any way implicate the work that FITF
17 does generally?
18 A So the Executive Order 13848 is the executive order that the sanctions
19 package is in response to. And, yes, I think I've previously articulated that we contribute
20 to information that goes into that report and contribute intelligence to the sanctions
21 packages.
22 Q And if there had been a finding that Mr. Telizhenko had participated, like, as
23 it says, had directly or indirectly engaged in, sponsored, concealed, or otherwise been
24 complicit in foreign influence in a United States election, that's the kind of foreign actor
25 that FITF is meant to target. Is that right?

1 A That's correct, yes.

2 Q And I apologize if I've asked you this, but did you know who Andriy

3 Telizhenko was in 2020 before the election?

4 A I don't remember when I became aware of Telizhenko. It might have been

5 before. It might have been after. I'm certainly aware now in the context of FITF

6 sanction chief, but at the time I don't remember when I understood him. I was over the

7 China unit at the time.

8 Q Okay. Are you aware that Mr. Giuliani has ties to Mr. Telizhenko?

9 A I would have to again fall back on I'm not sure what's in the public hearing

10 and elsewhere.

11 Q Okay. How about if I said it like this. If he had ties to Mr. Telizhenko or

12 any person who was close to a President of the United States had ties to a person like Mr.

13 Telizhenko who had been complicit in foreign influence in a U.S. election, would that be

14 concerning to you?

15 A Again, I don't want to -- "concerning" is probably the wrong word, and I

16 don't want to -- I can't really speak to ongoing investigative equities or classified material.

17 I would say that -- to fall back on our definition of what's within the scope, and

18 that would be foreign actors or their proxies who are engaging in undeclared criminal

19 coercive or subversive activity.

20 Q By proxy, you mean someone who's working on behalf of a foreign country?

21 A I do.

22 Q Like Mr. Telizhenko in this case?

23 A Yes.

24 Q And you're saying that anybody who is a foreign country or a proxy for a

25 foreign country who's doing the criminal things that you've described at length in this

1 interview that are of interest to FITF, that would concern you?

2 A That may be within the scope of FITF's work, yes.

3 Q Okay. I'm going to move on.

4 Okay. You had a bunch of questions about the Hunter Biden laptop story.

5 Do you recall those questions?

6 A I do.

7 Q And that's referring to a New York Post article that was published on

8 October 14th, 2020?

9 A Okay.

10 Q You may not know the date off the top of your head.

11 A I did not.

12 Q But does that seem about right to you?

13 A It was October, yes.

14 Q Before the election, right?

15 A Before the election.

16 Q Okay. Did you or any other FBI employee, to your knowledge, ask

17 Facebook, Twitter, or any other social media company to limit the distribution of that

18 Hunter Biden story?

19 A No, not to my knowledge. Again, we don't ask for any action.

20 Q And did you or any other FBI employee, to your knowledge, ask any social

21 media company to limit the distribution of any information in any media form about

22 Hunter Biden?

23 A No, not to my knowledge, not about Hunter Biden or any other matter.

24 Q Did you or any other FBI employee, to your knowledge, ask Facebook or any

25 other social media company to change its policies regarding hacked material before the

1 company may have decided to limit distribution of that story on their own?
2 A No. I don't -- I don't recall participating in any conversation where we
3 advocated for a change in terms of service or specific action.
4 Q Are you familiar with allegations that when you said something to the effect
5 of "no comment" when asked about the New York Post story by a social media company
6 employee at one of your industry meetings that your response of "no comment" was
7 used by the social media company as a reason to suppress distribution of those stories?
8 A I'm not aware of any of the reasoning or any of the deliberations that the
9 social media needs to take any action.
10 Q I just mean the allegation. Like, have you ever heard that that's a theory
11 circulating among members of this committee or other people in the media?
12 A Yes, I have seen coverage of that particular theory.
13 Q Okay. So just to be clear, it seems that the theory is you saying "no
14 comment" with respect to this question, which we don't even really know exactly what
15 the question was, but it may have been something like, Is that New York Post story real?
16 Or is the laptop real? Or does it exist, something to that effect, your "no comment"
17 response is what spurred the social media companies to then suppress the story or
18 remove the story?
19 A I'm aware of that allegation.
20 Q Okay. And what's your response to that allegation in your own words?
21 A It doesn't make a lot of sense to me.
22 Q Why is that?
23 A Because it's really typical of us to not comment on ongoing investigative
24 equities. That is not a response that is atypical coming from FBI if they're asking us -- if
25 anyone asks us to comment on things.

1 And just based on my knowledge and experience, I would not expect an
2 enormous, really well-resourced technology company to take my "no comment" as an
3 indication of anything other than I had no comment.
4 Q They've heard you say things like that in the past. Is that correct?
5 A Me and other FBI officials many times.
6 Q And they understand that FBI officials don't comment on ongoing
7 investigations as a matter of policy. Correct?
8 A I believe so, yes.
9 Q And would you be surprised if anyone took that comment as specific
10 information about the Hunter Biden laptop story and not just a statement of FBI policy
11 that is over and over stated when you have an ongoing investigation?
12 A Yeah, I would be surprised.
13 Q Okay.
14 A It certainly wasn't intended to convey anything other than we have no
15 comment.
16 Q Right. And fair to say that you didn't mean anything further by it with
17 respect to the laptop?
18 A No. I was just following guidance I had received regarding an ongoing
19 investigative equity.
20 Q Okay. I think that you've made this clear, but at the time -- you didn't know
21 when the New York Post article came out. Is that right?
22 A No.
23 Q Do you recall if you even -- when you heard about it in relation to the "no
24 comment," whether it was before you said that or after? Do you even know that?
25 A I really don't remember.

1 Q Okay.

2 A I pretty regularly fail to turn the television on in my office, so --

3 Q Okay. Or read the New York Post?

4 A Yeah. I'm on different systems, so, yeah, I don't --

5 Q Okay. Are you aware that Twitter initially paused distribution of the New

6 York Post story after it came out on October 14th and that it then allowed the story to be

7 freely shared within less than 24 hours?

8 A I wasn't aware of it at the time. I'm aware of that now.

9 Q Okay. Is it fair to say you just weren't really following it that closely?

10 A Correct.

11 Q Do you recall whether your comment or your "no comment" came within

12 that 24-hour period when the story was actually suppressed?

13 A I don't remember specifically. It was, I think, within the same week of the

14 story breaking, but I don't remember specifically anything else.

15 Q But you don't even know if it came before the story was then freely shared

16 on Twitter?

17 A I don't.

18 Q Okay. All right. Now, with respect to media companies more broadly, are

19 you aware that the New York Post ran its October story about the Hunter Biden laptop

20 after Mr. Giuliani had approached other news organizations, including FOX News, which

21 turned them down and were not willing to report that story?

22 A I was not really tracking that.

23 [redacted] Okay. I'm going to introduce exhibit No. 16.

24 [Dehmlow Exhibit No. 16

25 Was marked for identification.]

1 BY [redacted]

2 Q Exhibit 16 is a story on mediaite.com. The title is "Fox News Passed on

3 Hunter Biden Laptop Story," dated October 19th, 2020.

4 A Okay.

5 Q Ms. Dehmlow, have you ever seen this before?

6 A No.

7 Q Okay. And you already indicated you were not aware of that reporting?

8 A I wasn't, not that I recall anyway.

9 Q Okay. This article was published on October 19th, 2020, at 11:42 a.m.

10 And according to the story, Mr. Giuliani approached FOX News with the Hunter Biden

11 laptop story before he approached the New York Post, but FOX News declined to run the

12 story.

13 Do you have any reason to doubt this reporting?

14 A No.

15 [redacted] Okay. I also want to introduce for the record exhibit No. 17.

16 [Dehmlow Exhibit No. 17

17 Was marked for identification.]

18 BY [redacted]

19 Q Okay. This is another news article, October 15th, 2020. It's entitled "Bret

20 Baier Calls Out Dubious Sourcing of Alleged Hunter Biden Emails: Let's 'Not Sugarcoat It,

21 This Whole Thing is Sketchy,'" unquote.

22 Do you see this article?

23 A I do.

24 Q Have you ever read this article?

25 A I have not.

1 Q And are you aware of the reporting?
2 A I was not.
3 Q Are you familiar with who Bret Baier is?
4 A FOX News anchor?
5 Q Very good. That's right.
6 If you would look at the second-to-the-last paragraph of the story, which is still on
7 the first page, second-to-the-last paragraph, Baier said about the laptop story, quote,
8 "Let's say, just not sugarcoat it. The whole thing is sketchy," unquote. And then he
9 continues, "You couldn't write this script in 19 days from an election," unquote.
10 Did I read that correctly from the article?
11 A You did.
12 Q To your knowledge, have you or anyone else at the FBI ever been accused of
13 asking FOX News to suppress the Hunter Biden laptop story?
14 A Not that I'm aware of.
15 Q Is it fair to say that, as far as you know, FOX News' decision not to run the
16 story was made by FOX News alone and was not influenced by any outside pressure from
17 the FBI or any other U.S. government agencies?
18 A I have no reason to doubt that characterization.
19 Q Okay. And you can set that aside.
20 A Okay.
21 Q I want to talk a little bit more about foreign influence in the 2020 election,
22 now post-election.
23 There is evidence, fair to say, that Russia actually did successfully interfere, to
24 some degree, in the 2020 election. Is that correct?
25 A Yes.

1 Q And what's your understanding of that as we sit here, that influence?

2 A I refer for more specifics to the declassified intelligence community

3 assessment that was released in early 2021, but largely there was indications that the

4 Russian Government both used proxies to pass unsubstantiated narratives into the U.S.

5 electoral space, as well as using some of the other techniques that we've talked about

6 previously, like using IRA, Internet Research Agency, to amplify its divisive social issues

7 online inauthentically.

8 Q Because you mentioned it, I'm going to mark for exhibit 18 that report.

9 [Dehmlow Exhibit No. 18

10 Was marked for identification.]

11 BY [redacted]

12 Q It's January 7th, 2021, the Intelligence Community Assessment from the

13 National Intelligence Council.

14 Is this the report that you were referring to?

15 A It was.

16 Q Okay. And this is a nonclassified version that was published March 10th,

17 2021?

18 A Yes.

19 Q I suppose, is it fair to say, that the January 7th, 2021, version was the

20 classified version that you and others may have been aware of at the time?

21 A That's my recollection, yes.

22 Q And this version came out a little bit later in March?

23 A Yes.

24 Q You mentioned in your description before you even looked at the exhibit

25 that the conclusion of the intelligence community was that Russia had, for example, used

1 proxies to influence the American population, again, with respect to the election. Is that
2 right?
3 A Yes.
4 Q Can you tell us anything more about that, I mean, within the unclassified
5 space here?
6 A I really can't without getting into more classified details. I'd have to be very
7 careful.
8 Q Okay. And, again, when you said proxies, you're just talking about people
9 who are working on behalf of the foreign governments?
10 A Correct.
11 Q And in this case are they talking specifically about Russia?
12 A Let me go back to the document.
13 Yes, yeah.
14 Q Okay.
15 A This was about Russia. It's a key judgment, key judgment about Russia.
16 Q So key judgment number 2, correct?
17 A Yes.
18 Q And that's on page Roman numeral i of the exhibit?
19 A Yes.
20 Q Would you mind reading that paragraph that says key judgment number 2?
21 A Sure.
22 Q Thank you.
23 A "Key Judgment 2: We assess that Russian President Putin authorized, and a
24 range of Russian government organizations conducted, influence operations aimed at
25 denigrating President Biden's candidacy and the Democratic Party, supporting former

1 President Trump, undermining public confidence in the electoral process, and
2 exacerbating sociopolitical divisions in the United States" -- "in the U.S."
3 "Unlike in 2016, we did not see persistent Russian cyber efforts to gain access to
4 election infrastructure. We have high confidence in our assessment; Russian state and
5 proxy actors who all serve the Kremlin's interests worked to affect public perception in a
6 consistent manner.
7 "A key element of Moscow's strategy this election cycle was the use of proxies
8 linked to Russian intelligence to push influence narratives -- including misleading or
9 unsubstantiated allegations against President Biden -- to U.S. media organizations, U.S.
10 officials, and prominent U.S. individuals, including some close to former President Trump
11 and his administration."
12 Q Okay. Is this consistent with the type of concern about Russian
13 interference that law enforcement agencies and intelligence agencies like the FBI held
14 before the 2020 election?
15 A Yes.
16 Q And based on the Treasury Department sanctions we discussed earlier, do
17 you believe that Andrii Derkach and Andriy Telizhenko were Russian intelligence proxies
18 pushing influence narratives?
19 A I think that at least Derkach is further identified later on in this document as
20 one of those actors.
21 Q Okay. And do you know if Mr. Telizhenko was as well?
22 A I don't recall, although the sanctions package that you referred to earlier
23 would probably outline some of that.
24 Q Okay. Do you believe Russian information operations pose a threat to
25 American democracy?

1 A I do.

2 Q And why is that?

3 A The Russians know our system and our rules very, very well. I am

4 sometimes asked to compare and contrast what I think is a greater threat, Russia or

5 China. And I don't rack and stack those things, but I will say that Russian Intelligence

6 and Security Services knows our system of government, knows our laws really, really well.

7 They know where to exert pressure to influence and undermine the integrity of our

8 democratic processes.

9 Again, as I think I've articulated today, it's really important that the intelligence

10 community -- the FBI is part of that intelligence community -- seeks to understand how

11 those levers are being pressed and disrupt it where we can.

12 Q Do you agree that making sure Americans know about Russian efforts to

13 interfere in our election plays an important role in countering that interference?

14 A Yeah. I think that part of the reason that -- the reason that there's an

15 unclassified version of this document, for example, is because it's required under the

16 NDAA. That's not an original part of the EO. And I think in many, many instances, in

17 most instances, the more we can be transparent about the work that we're doing and the

18 threats that we are facing, the better off we will be, because, again, we're building

19 collective defenses and understanding how people -- how adversaries are targeting us.

20 Q So you're saying that the unclassified version of this was a result of the

21 NDAA?

22 A Yes.

23 Q Can you explain a little bit more about that?

24 A Yeah. The EO doesn't articulate an unclassified version of this, but it's my

25 understanding that somebody, I'm sure -- maybe within Congress -- somebody could

1 actually give us a timeline.

2 But after the EO was signed one of the NDAAs requested that an unclassified

3 version be made available to the public to the fullest extent possible.

4 So we have done this in every election cycle since, I think, 2018.

5 Q And you understand that the purpose of making this available to people is so

6 that Americans do better understand the threat, correct?

7 A Yes.

8 Q Because that helps preserve our national security, right?

9 A Yes. And I hope that it also helps confirm the ongoing integrity of our

10 election security and election process.

11 Q To give people faith in the process?

12 A Yes.

13 Q All right. There's some who claim it does not matter whether information

14 is true or false or where it comes from. Again, with that Rudy Giuliani article, the Daily

15 Beast article, in that Mr. Giuliani was quoted as saying, if that information was linked to

16 Russian intelligence that had been hacked," he said, quote, "It wouldn't matter. What's

17 the difference?" Meaning he would use the information regardless of whether Russians

18 were placing it there for him or not.

19 What's your feeling about that view that he expressed, that it really shouldn't

20 matter where the information comes from, whether it's foreign or not?

21 A Well, I don't want to speak to Mr. Giuliani's perspective about this. What I

22 would articulate from a Federal law enforcement perspective is that there are Federal

23 violations of law associated with accessing materials, accessing information through cyber

24 means. So that would be an investigative concern from us.

25 I'd also, again, articulate that part of the FITF's mission is to understand that

1 explicit threat space, so foreign actors, foreign cyber actors targeting information that
2 they can release or use in other nefarious ways, not just as hack and dumps, but for
3 blackmail, for example.
4 Q I'm going to turn to another subject here.
5 In the previous hour you were asked questions about the civil lawsuit Missouri v.
6 Biden and the preliminary injunction that was in place for, I guess it was about a week
7 and a half, involving FBI -- actually, you personally and the FBI as an agency and some of
8 their contacts with the private sector.
9 Do you recall those questions?
10 A Yes.
11 [redacted] I'm going to mark the injunction actually as an exhibit, the
12 judgment, 19, exhibit 19.
13 [Dehmlow Exhibit No. 19
14 Was marked for identification.]
15 BY [redacted]
16 Q So for the record, on July 4th, 2023, Judge Terry
17 Doughty -- D-o-u-g-h-t-y -- of the U.S. District Court for the Western District of Louisiana
18 granted a preliminary injunction in the case of Missouri v. Biden, Case No. 3:22-CV-01213.
19 And are you familiar with Mr. -- or, sorry, Judge Doughty's order?
20 A I am.
21 Q Do you understand it to prohibit any contact that FITF or the FBI had
22 undertaken in past interactions with social media companies?
23 A I can't speak to engagements in the past. I can say that in between the
24 time when the injunction was ordered and the stay from last Friday that FITF did not
25 engage with any contact with social media companies. That was a deliberative and

1 ongoing process inside the building to understand the rules of the road.

2 Q Could you just flip to page 4, if you would. This is the actual prescription

3 from the preliminary injunction. It's, like, numbered paragraphs which specifically

4 identify certain types of conduct that the FBI and other agencies are not allowed to

5 engage in under the injunction.

6 Do you see that on page 4?

7 A I do.

8 Q So there's 1 through 10 paragraphs.

9 A Uh-huh.

10 Q And you'll notice, if you read it carefully, that the same verbs are used

11 repeatedly. So I'm just going to kind of go through this quickly so that it's clear for the

12 record.

13 The list reads, paragraph 1, meeting with social media companies for the purpose

14 of, quote, "urging, encouraging, pressuring, or inducing in any manner the removal,

15 deletion, suppression, or reduction of content containing protected free speech posted

16 on social-media platforms."

17 And then if you go down, paragraph 2, paragraph 3, paragraph 4, paragraphs 5, 6,

18 and 7, what he is prohibiting in each of those paragraphs is, quote, "urging, encouraging,

19 pressuring, or inducing," unquote, and then there's certain types of things that you're not

20 allowed to, quote, "urge, encourage, pressure, or induce."

21 So my question is, in your experience with the FBI, especially with FITF -- excuse

22 me -- just focusing on that, have you ever had FITF employees or yourself, have you ever

23 engaged in, quote, "urging, encouraging, pressuring, or inducing," unquote, social media

24 companies to take any particular action with respect to content on their platforms?

25 [redacted] So, Counsel, I just want to be careful.

1 [redacted] Yes.

2 [redacted] Obviously, there's ongoing litigation here, Right?

3 [redacted] Yes.

4 [redacted] And the Department's general practice is to speak through its file.

5 [redacted] Okay.

6 [redacted] So I know that the department has filed an application to stay this,

7 right?

8 [redacted] Yes.

9 [redacted] And so the Department is on record with the court interpreting the

10 provisions of this PI. So I just want to be careful --

11 [redacted] Yes.

12 [redacted] -- as you ask questions here. Obviously, she's got experience she

13 can share. I just don't want to, you know, get crosswise with ongoing litigation and, you

14 know, assert the formal back and forth between the parties and the court about the

15 substance of the injunction.

16 [redacted] Okay.

17 BY [redacted]

18 Q Well, I won't read from the injunction.

19 But has the FBI ever urged a social media company to remove content from its

20 platform?

21 A No.

22 Q Has it ever induced a social media company to remove content from its

23 platform?

24 A To the best of my knowledge, FITF has not, no.

25 Q Has it ever pressured a social media company to remove content from its

1 platform?

2 A Not to the best of my knowledge, in the context of FITF, no.

3 Q Has it ever encouraged a social media company to remove content from its

4 platform?

5 A In the context of the FITF, not to the best of my knowledge.

6 Q Okay.

7 A We've got -- if I could expand on that a little bit.

8 Q Sure.

9 A Just the rules of the road for the FITF. I think I've articulated several times

10 today, but I will repeat it once more for the record, we never ask for action once -- when

11 we share this information. We're providing it so the platforms can take action as they

12 see fit, as they see fit.

13 And I'd also articulate there are many provisions in the DIOGs, the Attorney

14 General Guidelines for Domestic Operations, and, as I mentioned, the Justice Manual,

15 articulating specifically our authorities for investigating foreign actor activity and

16 prohibitions on conducting activity, investigative activities, solely based on free speech.

17 Q Okay. I'm going to move on from that. I think that you've made that

18 clear.

19 Okay. So the investigation that this committee is focusing on here with respect

20 to the FITF and other government agencies and your interaction with social media

21 companies, it has kind of given rise to these allegations, sort of like the one I paraphrased

22 to you earlier, like focusing on an action like you saying "no comment" about the Hunter

23 Biden story, and then turn that into sort of a conspiracy theory about interactions with

24 social media companies and you trying with a heavy hand to keep them from passing on

25 certain information.

1 Can you give us your response to that type of allegation? Is the FBI or you,
2 anyone you know in the FBI, engaged in that kind of effort to conspire with social media
3 companies to suppress certain types of information with respect to their content and
4 keep it from the American people?
5 A Not to the best of my knowledge.
6 Q And what are you engaged in trying to do with your role at FITF?
7 A We are focused on identifying foreign actors and their activities and looking
8 to mitigate the means by which these foreign actors are trying to undermine democratic
9 processes and privileges.
10 [redacted] Okay. I'm going to introduce another exhibit, 20, exhibit No. 20.
11 [Dehmlow Exhibit No. 20
12 Was marked for identification.]
13 BY [redacted]
14 Q This is an FBI, Department of Homeland Security Joint Intelligence Bulletin
15 from August 12th, 2022. This bulletin warns of an increase in violent threats and acts of
16 violence against Federal law enforcement officials.
17 Do you have that in front of you?
18 A I do.
19 Q And have you seen this bulletin before?
20 A I have.
21 Q On page 2 the bulletin details a threat to place a dirty bomb in front of FBI
22 headquarters and an incident in which an individual armed with an AR-15-style rifle and
23 nail gun attempted to force his way into an FBI field office in Cincinnati.
24 At the top of page 3, the threat bulletin states, quote, "A subsequent review
25 of" -- the attacker's -- "device and online postings identified his likely ideologically driven,

1 personal anti-FBI beliefs."

2 Are you familiar with that incident?

3 A I am.

1 [2:50 p.m.]

2 BY [redacted]

3 Q Okay. What is your experience as an FBI member in terms of this escalating

4 threat environment that's going on right now?

5 A So I received harassing mail at my home. There have been several

6 instances where my name and these allegations against me have inspired responses on

7 social media and other platforms that are pretty distasteful. There have been calls in to

8 the FBI, allegations against me. So I am, frankly, scared.

9 Q And when did that start in your personal life?

10 A Immediately after the -- I think initially immediately after the first -- the

11 lawsuit was filed, and I was added to the list of defendants and, again, when the Twitter

12 Files named me.

13 Q When the Twitter Files named you?

14 A Yeah.

15 Q Okay. And you -- when was -- when the lawsuit was filed, that was over a

16 year ago. Correct?

17 A Uh-huh.

18 Q Is that right?

19 A I don't actually -- sorry. Time has no meaning.

20 Q I'll just take that --

21 A Sometimes in 2020 -- 2022. Sorry.

22 Q I'm look for your experience with these questions, not so much --

23 A Yeah.

24 Q -- the lawsuit.

25 A Yeah.

1 Q Have you -- you've been with the FBI since 2007. Right?
2 A Uh-huh.
3 Q Had you ever had those kind of personal threats directed at you before this
4 lawsuit was filed?
5 A Never.
6 Q And before these allegations about you being partisan or suppressing
7 conservative speech arose in the public?
8 A No.
9 Q I don't want to ask you too many personal questions, and, obviously, you can
10 just say no. But has this made you concerned for your personal safety?
11 A It has.
12 Q What about your family?
13 A Yes. I've got a large and extended family across the country, and they
14 know very little about my work. I've been a career counterintelligence professional.
15 I'm able to take some steps because of the nature of my work to feel more comfortable
16 about all of this, but I worry about my parents, my siblings, my young nieces and
17 nephews.
18 Q Did anyone from the Missouri v. Biden litigation ever approach you and
19 ask you for clarification or any statement on -- from your perspective as to what your role
20 was?
21 A Not that I recall, not so far.
22 Q Okay. Has anyone from this committee ever expressed any concern for
23 your safety, given the allegations that are flying around about -- of what you may have
24 done?
25 A No, ma'am.

Q Do you have any other concerns that you'd like to share with the committee today?

A No. I think you've covered it.

[redacted] I have no further questions right now.

[Recess.]

[redacted] Can we go back on the record, please.

This will be exhibit 21.

[Dehmlow Exhibit No. 21

Was marked for identification.]

BY [redacted]

Q Do you recognize this meeting invite?

A I don't remember the -- recognize this specific one but I understand it to be one of the invites for a FITF meeting with Facebook in 2020.

Q It's the second email down on that first page --

A Okay.

Q -- regarding the agenda. "AGENDA" in all caps. And then there's looks like Russia, China, Global status which appears to mirror the Russia, China, Global units of FITF.

A Uh-huh.

Q Then the final section says "planning for U.S. elections."

A Uh-huh.

Q And then there's three bullet points: FBI posture, your posture, information sharing channels and methods.

Do you recall what the planning for U.S. elections was discussed during FITF meetings?

1 A I don't remember the specific context, but I know what our posture was.
2 Q Okay. What was the FBI's posture?
3 A We were planning on setting up a 24-hour command post -- I think I
4 referenced that a little bit earlier -- with three shifts. That was a command post that
5 included Counterintelligence Division FITF personnel, Criminal Investigative Division
6 personnel, Cyber Division personnel, and Counterintelligence personnel.
7 Q Do you recall if Facebook shared its posture?
8 A I don't recall. It was too long ago.
9 Q Do you recall the posture of any of the other social media companies around
10 this time period?
11 A Not with any specificity. They would have told us essentially whether they
12 were going to be having 24-hour coverage, et cetera. But I don't remember the details.
13 Q Do you remember at a high level what sort of steps they were taking, "they"
14 being the social media companies?
15 A At a high level, they were just ensuring that they had personnel who were
16 ready to receive information if we needed to pass it to them.
17 Q And then the third bullet point says "information sharing channels and
18 methods."
19 Do you recall discussing information sharing channels and methods?
20 A I don't recall the specificity of the discussion. In August, that might have
21 been the time we were talking about setting up the Signal chat.
22 Q And, in the previous hour, we went through a few. There was obviously
23 the meetings themselves, emails, phone calls, the Signal channel --
24 A Uh-huh.
25 Q -- and the teleporter links.

A Uh-huh.

Q Are there any other information channels that you're aware of?

A Not that I'm aware of. Not that I can recall with any specificity.

Q So you mentioned, again, that there were kind of these two buckets of information. The first one is strategic or product information that would be discussed in both USG industry part of the meetings, as well as the FITF bilateral meetings. And then more tactical information that was shared, specifically it sounds like in the bilateral --

A Uh-huh.

Q -- meetings.

A Uh-huh.

Q In that latter bucket, would that include, when the there were concerns about foreign adversaries and inauthentic accounts and specific to a particular platform, would FITF be communicating specific accounts or posts for the social media platforms?

A I would say that the majority of what we were passing at the time and continue to pass would be details about how the accounts were set up or how the accounts were -- were specifically -- how the individuals were specifically accessing the platform to set up the messaging. But it could have included account lists that we had high confidence were attributed to a foreign actor.

Q Did you ever play a role in preparing those account lists?

A I did not.

Q Do you know who at the FBI played a role in preparing those account lists?

A It would have been personnel in the units. And, again, as I -- I think I previously articulated, a lot of this information was coming from [redacted]. So they would have prepared a list and then passed it to us.

Q Okay. And who else in the government would prepare lists to send to the

1 FBI?

2 A I don't think I can speak to broader intelligence community partners in this

3 setting.

4 Q Who at the FBI would play a role in compiling these lists?

5 A Personnel in FITF units, if it was based on FBI information, which it very

6 rarely is.

7 Q If it's not from the FBI but it's being transmitted --

8 A Uh-huh.

9 Q -- through -- let me take one step back.

10 Was it your understanding was Elvis Chan the agent that most frequently

11 communicated these kinds of account lists to the social media companies?

12 A I don't think can I characterize it as most frequently. I know that he was

13 one of the individuals who passed information.

14 Q Okay. We'll use Agent Chan then as an example.

15 If the information was coming from outside the FBI, does the information get sent

16 first to FITF and then to Agent Chan or directly to Agent Chan?

17 A In the context of foreign malign influence operations, yes, it would come

18 through FITF to the San Francisco Field Office or another field office if the company was in

19 a different AOR.

20 Q And it is just the nature of your role or in your background or your unit?

21 Why were you not involved with compiling the account lists?

22 A I was in a leadership and managerial position. So this would be sort of a

23 step from the program management perspective. So, in working level line analysts, our

24 agents would have been responsible for preparing that information.

25 Q And, in 2020, you said there were about [redacted] people responsible for FITF? Or

1 did I mix up the timeline?

2 A I don't know when we got to that point. Since I've become the section

3 chief, it's been about static. But we had a really varying level of staffing throughout

4 2019 and 2020 as the FITF was standing up. So I can't speak specifically to how many

5 people we had at the time.

6 Q But there were quite a number of people who served as more line analysts

7 roles compared --

8 A There were many individuals working different aspects of the threat. I

9 wouldn't characterize all [redacted] of those people being engaged in this type of activity.

10 Q When an account list is being prepared, is it signed off on by the unit chief or

11 the section chief?

12 A At the time I don't recall. At this point, it is signed off at the unit chief level.

13 Q At the unit chief level?

14 A Yes.

15 [redacted] When was that change made?

16 Ms. Dehmlow. I don't know. I don't recall.

17 [redacted] What prompted the change in the policy?

18 Ms. Dehmlow. We're consistently looking for ways to just make our

19 con -- process more persistent and consistent. And, to the best of my recollection,

20 we're -- we just wanted to ensure we were doing it the same way across all three units.

21 BY [redacted]

22 Q Did this change occur after you became section chief?

23 A I don't think so, but, again, I really couldn't -- I can't recall. Been doing it

24 that way for a while as far as I can remember.

25 Q Prior to the 2020 election?

1 A I don't -- again, I don't remember.

2 Q Before this change was made, would the line analysts communicate directly

3 to Agent Chan or whoever the equivalent would be with the list of accounts?

4 A The information was -- is documented. These sorts of Terra (ph) lines are

5 documented in Sentinel. So it would have gone through our case management systems

6 with leads sent to San Francisco or, again, another field office if the company we wanted

7 to talk to or needed to pass information to was in a different AOR.

8 Q Do you know how frequently the FBI was sending lists of accounts to the

9 social media companies?

10 A I wouldn't want to characterize. It would be speculation.

11 Q Agent Chan testified that it was sometimes up to five times a month in the

12 lead-up to the 2020 election.

13 A Okay.

14 Q Is that inconsistent with anything you're aware of?

15 A Again, I was the FITF China unit chief, and we passed very few Terra (ph)

16 lines in the context of the 2020 elections. So I couldn't characterize the whole section's

17 work.

18 Q To your knowledge, compared to the China unit, did the Russia units send

19 more account lists?

20 A That was my perception. But, again, I wouldn't want to characterize it with

21 any specificity because I don't recall. I don't have the details in front of me.

22 Q What about with respect to the Global unit?

23 A Yeah, I mean, I think [redacted] was likely the most frequent drafter of Terra (ph)

24 lines.

25 Q Do you have a ballpark sense of how many account might be in the list of

1 accounts that's sent to the social media companies?

2 A I don't. Today it varies. I assume it's pretty typical of what it was then.

3 Q And what is it today?

4 A Anywhere from a few to several dozen to hundreds, depending on the

5 nature of the information, the nature of the collection.

6 Q Today how frequently are these lists sent to the social media companies?

7 A Well, again, in the context of the injunction, we have not passed anything

8 since the injunction or since the stay on Friday. Prior to that, yeah, I -- I don't sign off on

9 all of them. So I wouldn't articulate a number. It'd be complete conjecture.

10 Q How many do you sign off on?

11 A I don't sign off on them as a section chief. It's at the unit chief level

12 currently.

13 Q And I think we may have covered this in the first hour. But are there any

14 names of the Russia, China, Global unit that you can give us today?

15 A I can't.

16 BY [redacted]

17 Q How regularly do you meet with your units chiefs?

18 A Daily. I've got a daily stand up with the exception of Mondays, but I usually

19 see them on Mondays anyway.

20 Q Do interactions with social media companies ever come up on the daily

21 meetings?

22 A We usually talk about whether meetings are scheduled, but I don't often get

23 specifics about what's going to be passed or what specifics we've got.

24 Q And so how would the unit chiefs characterize this information to you?

25 A The same way that I've characterized it, I think, throughout the day. We

1 have actor-specific information, activity-specific information that we're passing.

2 Q And how does the FITF become aware that actors are behind certain

3 accounts?

4 A Most of that I can't get into because the information would be classified

5 specifics, but it's because we've got information or more sources that give us that insight.

6 Q And then how do you pass that information along to the social media

7 companies without the classification issue?

8 A We covered this a little bit this morning. But the [redacted]

9 would go through a downgrade process and take out sensitive material through their own

10 rules and processes associated with that and then pass us a Terra (ph) line that's

11 specifically made for that purpose at the upper classification level.

12 Q And so, once the FITF puts this information into the Sentinel system and the

13 leads are sent out to field offices, whether it be San Francisco Field Office or other field

14 offices across the country --

15 A Uh-huh.

16 Q -- what's FITF's involvement after the leads are sent out?

17 A If we are -- we usually cover the content during the meetings --

18 Q Uh-huh.

19 A -- the bilateral conversation that we have. So we'll talk it, ensure that they

20 have received the information from the lead, and answer any questions, if we can.

21 There's often not much more that we can share because, again, we're beholden to

22 [redacted]'s information and details.

23 Q Is there any engagement between the FITF line agent or analyst and the field

24 office agent or analyst who's handling the lead?

25 A Again, only in the -- to the best of my knowledge, it's usually in the context

1 of us articulating information from the lead in the meeting that that field office is usually
2 responsible to set up --
3 Q Uh-huh.
4 A -- for setting up.
5 Q There's no back and forth between the agent on FITF that's responsible for
6 the lead and the field office agent?
7 A Again, I'm not cc'd on that information. There might be, but I -- I'm not
8 sure what you're -- what you're asking me to characterize.
9 [redacted] Okay.
10 BY [redacted]
11 Q You mentioned that sometimes content will be discussed in these bilateral --
12 A Uh-huh.
13 Q -- FITF meetings.
14 A Uh-huh.
15 Q Do you recall any instances where the social media companies flagged that
16 they were less confident than the FBI that these account were foreign in nature?
17 A Certainly there are -- there have been some instances where they've
18 responded and said: You know, based on what we have access to on our platforms, we
19 can't confirm this. You know, the insight that we're getting is based off of something
20 different than the platform access.
21 So there have been certainly -- there have certainly been instances where they
22 have articulated to us they can't specifically say with as much certainty as we are that this
23 is a specific Russian actor, for example.
24 Q And how frequently does that occur?
25 A I couldn't begin to characterize it.

1 Q Is that more than once per year?
2 A I don't know because the -- yeah, I don't know.
3 Q Do you recall if one social media platform -- platform more frequently
4 disagreed with the FBI's findings?
5 A Again, I would -- I would push back on that characterization. I reject the
6 characterization as disagreed. It's that they cannot confirm what the level of certainty
7 that we have because they don't have access to the sources and methods that we do.
8 So not disagreeing with the characterization but not being able to confirm it based on the
9 information they have.
10 Q Okay. With respect to not being able to confirm based off the information
11 they have, do you recall any of the social media platforms raising this more frequently
12 than the others during the bilateral FITF?
13 A I don't. I can't really recall how often we've done this. So it would be
14 pure speculation.
15 Q Is it --
16 A Characterize that specific component part of something, I can't characterize
17 as a whole.
18 Q How frequently are these discussions occurring in the FITF meetings?
19 A Which FITF meetings? The --
20 Q Excuse me. With respect to the bilateral --
21 A Yes.
22 Q -- FITF meetings, how frequently is there a discussion with respect to,
23 whether it's unable to confirm or just in general, with respect to account lists that have
24 been sent to the social media platform?
25 A It's the purpose of our bilateral engagement. So some conversation about

1 this specifically is usually what takes place during those bilateral engagements.
2 Q And during these bilateral engagements, does the FBI ask if any action was
3 taken?
4 A Occasionally, yes. The really critical part of the FBI's role in this space and
5 why the FBI has essentially this role is that we are able to issue legal process to
6 understand from the platforms more information about these foreign attributed account
7 and their behavior on platform.
8 So we'll ask for more information in the context of a field office potentially issuing
9 legal process on those accounts, the issuing the legal process to those platforms on those
10 accounts or on the details that we've shared.
11 Q Has the FBI ever asked twice for the same account to be taken down?
12 A I don't know.
13 Q Has the FBI ever followed up on a previous request to have an account or
14 post taken down?
15 A So we don't ask or request people -- accounts be taken down. Just
16 reiterate. That goes to your earlier question, too. So, to clarify, we don't request
17 information removal or don't request account details. We're informing them so they
18 can take action as they see fit.
19 Q After you have informed, the FBI have informed the social media platforms
20 about an account or about a post, does the FBI follow up with respect to a specific
21 account or a specific post?
22 A We'll follow up on the Terra (ph) lines in the context that I articulated, that I
23 spoke about previously. So we may issue legal process because we've got foreign-actor
24 attributed activity and that legal process where we have to demonstrate cause and we
25 have to demonstrate knowledge and confidence in our sourcing to get further

information about that actor's behavior on platform.

Q So, other than the purpose for this legal process you just outlined --

A Uh-huh.

Q -- has the FBI ever followed up with respect to an account or a post that the FBI has flagged for the social media companies?

A I'd, again, maybe reject the characterization we would be following up on a post or an account. We'd be following up on information or leads that we've provided to them and ask if they've got any questions, ask if there's any insight they can provide about that activity, and to inform legal process requests.

Q But, to your knowledge, the information that the FBI is sending to the social media platforms includes the specific accounts or includes specific posts. Is that right?

A I -- to the best of my knowledge, we don't include specific posts because that would not be sort of the tactics or techniques. That would not be the technical indicators of foreignness. We'd be -- we would pass information on accounts that we have attributed to a foreign actor.

Q Okay. Including who the accounts are. It's not a high-level [redacted] of the accounts. Is that right?

A Correct, yeah.

BY [redacted]

Q And, when you're engaging with the social media companies, that, you know, you pass the lead to the San Francisco office, passes that information along to the social media company, the social media company comes back and says that, you know, "We don't have the same level of confidence that the FBI does regarding this account," is that the end of the conversation, or does more engagement occur?

A I would say that's pretty case specific. And, if we've got more details we

1 can share or that we can, again, issue legal process to get more information about those
2 accounts to gain more insight and pass more information, we may do that.
3 But I wouldn't characterize it as one-size-fits-all conversation.
4 Q So, with it being case-specific, has there ever been a time that you can
5 recollect where a social media company came back and said, "We don't -- we, you know,
6 don't agree with the level of confidence that the FBI has regarding this account" and the
7 FBI has come back with additional information?
8 A Again, I wouldn't characterize it as they don't agree. It's they can't confirm.
9 Q Uh-huh.
10 A And I can't think of specific examples where we've gone back and provided --
11 Q Well, you said it was case specific. So I'm just trying to get an
12 understanding of if it's case specific, have there been times where the FBI has engaged
13 further?
14 A Uh-huh.
15 Q Have there been times where the FBI hasn't engaged further?
16 A I think I articulated it. The answer is it is case specific. So a
17 one-size-fits-all answer wouldn't apply here.
18 Q Uh-huh.
19 A So, yes, I would assume there are instances where we have followed back up
20 about a lead, and there are instances where we said, "Okay, we don't have anything
21 further to pass."
22 Q And you can recollect, when the FBI has followed up on a lead, where the
23 social media company does not assess the same level of confidence?
24 A Again, I can't confirm --
25 Q Uh-huh.

1 A -- what -- they can't confirm our level of confidence.

2 Q Uh-huh.

3 A Yes, though, specifics would be beyond what I can share today.

4 [redacted] Uh-huh.

5 BY [redacted]

6 Q You mentioned that a lot of times this information, it sounds like, was

7 presented to the social media companies as this may violate their terms of service. If a

8 social media -- and you said sometimes the social media companies are unable to find the

9 same level of evidence.

10 Do you recall any instances where they had the same level of evidence or

11 understood what the FBI was presenting but concluded it did not violate their terms of

12 service?

13 A Again, we don't routinely follow up to ask what specific actions the platform

14 took. So I wouldn't want to characterize any of those conversations. It's not

15 something we routinely do.

16 [redacted] When you say "routinely," what do you mean by "routinely"?

17 Ms. Dehmlow. So we don't -- it is not a matter of practice, at least in my

18 experience, that we would say, "Did you take that account down, did you do anything

19 with that specific information?"

20 So I guess maybe repeat your question to make sure I'm answering it correctly.

21 BY [redacted]

22 Q Yeah, well, to that end, so do you have a sense of -- I don't know if "success

23 rate" is the right word. But how frequently, once the FBI has flagged an account, do you

24 have a sense of what percentage the social media companies ultimately do take some

25 sort of action against?

1 A I wouldn't want to characterize it. The best insight we have usually is the
2 same insight the public has. And there are reports that at least both Twitter and
3 Facebook -- I'm not sure of the rest of them -- do this, sort of publicize the fact that they
4 took some action on platforms. And they have also historically articulated at least some
5 of that action was informed by FBI information.
6 Q And when you say that "we don't," quoting you, "We don't as routinely
7 follow up with the social media," are you saying, are you referring to you? To FITF? To
8 the FBI as a whole?
9 A To me specifically, that's what I can say with good confidence. But, I think
10 as I articulated earlier, you know, I'm not in -- I've not been in these meetings routinely
11 for the past 2 years.
12 Q To your knowledge, would Agent Chan follow up with the social media
13 companies to see if any action was taken?
14 A I'd have to leave that to Agent Chan to characterize.
15 Q Do you have any knowledge that's inconsistent with that?
16 A Inconsistent with what?
17 Q With the fact, with the statement that Agent Chan would follow up with the
18 social media companies?
19 A He certainly followed up in the context of legal process, like I articulated
20 earlier.
21 Q Agent Chan testified in his deposition in the Missouri v. Biden case -- well,
22 first of all, let me take a step back.
23 Are you familiar with Agent Chan's deposition in that case?
24 A I have. Yes, I'm familiar, reviewed it.
25 Q Okay. Are you familiar with, during that deposition, he recalls throughout

1 2020 discussing with the social media companies their hack-and-leak policies?
2 A Yes, I'm familiar with that.
3 Q Okay. And you earlier said that you don't have any recollection today. Is
4 that -- is that correct?
5 A I think what I hoped that I articulated or that I meant to articulate is that I
6 don't have any specific recollection of those conversations, no.
7 Q Okay. And do you have any recollection of anyone discussing hack and leak
8 either in the FITF bilateral meetings on the USG industry department meetings?
9 A I think I articulated this. But that broad strategic bucket you've talked
10 about, we have, because there is historical evidence and a sort of widely accepted view
11 that Russia used that specific type of operation in the 2016 timeframe, that conversation
12 may have taken place in either the bilateral or the industry-specific meetings. But I
13 don't recall the specific details of all of it.
14 Q Just want to make sure I understand your answer fully. Are you saying that
15 you recall discussions of potential hack and leak and/or recall discussions of
16 hack-and-leak policy with respect to the social media companies in terms of service?
17 A Just the idea that the Russians had historically hack-and-leak operations.
18 Q You testified that you tried to make most of these meetings that you were
19 able to attend?
20 A Uh-huh.
21 Q So, to your recollection, there wasn't a set of meetings that Agent Chan was
22 having? Referring to the bilateral FITF meetings, he's referring to the same set of
23 meetings are you?
24 A To the best of my knowledge, yeah.
25 Q And so it's just a different recollection from --

1 A I don't think it's even a different recollection. It's just that I don't recall
2 with that level of specificity or detail.
3 Q Okay.
4 A Several years ago, and I have a lot of meetings.
5 Q When reviewing his deposition or to the extent that you have any familiarity
6 with it, did you understand him to be saying that the FBI was asking social media
7 companies what their terms of service were?
8 A I'd have to take a look at the deposition because I don't have it in front of
9 me. I don't want to unintentionally misstate something.
10 Q In his deposition, Agent Chan testified something to the effect of he believed
11 information sharing was one of the most important things that the FBI did in combating
12 disinformation.
13 A Uh-huh.
14 Q Is that something you'd agree with?
15 A I think it's something that a lot of people agreed with including, you know,
16 members of the previous and current administrations that information sharing was a
17 critical component part for combating foreign influence operations.
18 Q In Agent Chan's deposition, he discusses the pressure. He discusses that
19 personnel from the social media platforms shared with him the pressure that they felt
20 including political pressure.
21 First, are you familiar with that part of his deposition?
22 A I don't recall it specifically, no.
23 Q Do you recall having any conversations with personnel from the social media
24 companies regarding political pressure that they felt?
25 A No.

1 Q To your recollection, did it ever come up in any meetings with bilateral FITF
2 meetings or the USG industry meetings?
3 A Not that I recall specifically, no.
4 Q In earlier answers, you've discussed how, when the FBI wants to be able to
5 share something with in this case the social media platforms and there's classification
6 concerns, there's kind of two options. It can either be declassified, or it can be
7 down-ranked.
8 A Uh-huh.
9 Q Do you know --
10 A Downgraded.
11 Q I'm sorry?
12 A Downgraded.
13 Q Downgraded. Excuse me. Thank you.
14 A Yeah.
15 Q Do you recall if either of those options were considered as a means in order
16 to be able to share some information with the social media platforms with respect to
17 Hunter Biden's laptop?
18 A Those are investigative equities that were not mine. So I wouldn't be
19 familiar.
20 Q I mean, you've testified you participated in some of the internal discussions
21 then.
22 A The internal discussions about whether we should comment further, and,
23 again, those were not my investigative equities.
24 Q In those internal discussions, specifically the ones taking place after that
25 Twitter bilateral meeting, were any members of the Hunter Biden investigation

1 participating in those discussions?

2 A Not to the best of my knowledge, not to my recollection.

3 Q Prior to those internal discussions taking place, did you know that there was

4 an ongoing investigation involving Hunter Biden?

5 A I did. I think it had been publicly reported at the time.

6 Q During those internal deliberations on -- after the Twitter bilateral meeting --

7 [redacted] These were the ones involving counsel that we talked about earlier

8 today?

9 [redacted] Yes.

10 [redacted] Okay.

11 [redacted] Do you recall if the first agent who answered the question received

12 any reprimand or pushback for delivering that answer?

13 [redacted] If this relates to the discussion we referenced earlier with OGC, I

14 would instruct you not to respond.

15 Ms. Dehmlow. Okay. I can't respond on advice of counsel.

16 BY [redacted]

17 Q Outside of any discussions with counsel, are you aware of that first agent

18 being reprimanded or receiving criticism for delivering an answer?

19 A Not that I'm aware of.

20 Q With the understanding that it's your recollection and this information was

21 relayed to you, when that information was relayed to you, do you have a sense of how

22 quickly the second response, the "no comment" response followed the first answer from

23 the FBI agent?

24 A Can you repeat the question? I'm sorry.

25 Q Sure. With the understanding that your recollection is this was relayed to

1 you as opposed to receiving it directly --

2 A Uh-huh.

3 Q -- the meeting, do you have a sense of how quickly the second agent

4 responded "no comment" following the first agent's answer?

5 A I -- it was quickly, but, again, that's been relayed to me. Again, the

6 characterization of the laptop, it wasn't -- that it was real, it was something to do with

7 whether it existed, not that the contents had been real, that anything that had been

8 reported was real. It was something to the effect of it was the laptop existed.

9 But I believe that the -- if you're asking me, in the meeting that I -- where I earlier

10 articulated that an individual confirmed in some way, shape, or form that the laptop

11 existed, and then somebody else jumped in and said "no further comment," my

12 recollection -- and, again, I think this information was relayed to me, rather than me

13 experiencing it, it was several years back -- is that it was quite quickly after that.

14 Q Do you recall any discussions at the FBI whether there was a degree

15 of -- maybe rephrase that.

16 Do you recall any discussions with anyone in the FBI where someone from the FBI

17 felt uncomfortable that the FBI was unable to comment on the existence of the laptop?

18 [redacted] Just reiterating my previous instruction that, if this relates to

19 discussions you had with OGC related to the laptop, we would instruct you not to

20 respond.

21 Ms. Dehmlow. Okay. No, in either context, I don't recall anyone articulating.

22 Again, I'd reiterate that not commenting on ongoing investigative matters,

23 particularly and especially when that is not an investigative matter that is part of your

24 purview, is really typical. So I don't recall anybody expressing discomfort.

25 BY [redacted]

1 Q When you, when FITF, the FBI shares lists of accounts with the social media
2 companies, in any of those cases where accounts are being shared with the social media
3 companies, does that relate to an ongoing investigation with the FBI?
4 A So it would relate to an investigation into the foreign actors' activities. We
5 don't do investigative activity, and that's the purview of the FITF.
6 Q And by "we," are you referring to FITF or the FBI?
7 A I don't remember when I said "we" in that previous sentence. Apologies.
8 Q That's all right. I'll ask again.
9 The -- who is conducting the investigations into the foreign actors?
10 A Field offices, FBI Field Offices.
11 Q So for the account lists that are being sent --
12 A -- uh-huh.
13 Q -- to the social media platforms --
14 A Uh-huh.
15 Q -- are those account lists involved with investigations being conducted by FBI
16 Field Offices?
17 A So the connection is essentially there's a foreign actor who's conducting
18 foreign malign influence activity. We've got information either based on our reporting
19 or other reporting that indicates how they're doing that.
20 The FBI would have an open investigation into that foreign actor and activities,
21 and that's the vehicle by which we would -- the FBI would issue legal process for
22 follow-on information or followup activity with those platforms after we passed that
23 informational lead.
24 Q But you testified earlier that sometimes you would have to follow up in
25 order to pursue this legal process. So the first time you're communicating with social

1 media, to the social media platforms, is there a legal process element to this, or are you
2 just flagging?
3 A No, it's governed by the provision under the Justice Manual that I
4 early -- that I mentioned earlier, because we're not asking for anything. Legal process is
5 when we're asking for something. So we're not asking for anything when we're passing
6 the information for them to use as they see fit.
7 Q Okay. And so, as you said, you're not asking.
8 A Huh-uh.
9 Q You're just sharing information.
10 A Uh-huh.
11 Q But you're sharing information with respect to accounts that relate to an
12 ongoing FBI investigation. Is that correct?
13 A Yes.
14 Q Okay. So, with respect to the Hunter Biden laptop story --
15 A Uh-huh.
16 Q -- the -- introduced in some of the exhibits, there was questions in the public
17 about whether it was part of a foreign malign influence campaign. There's a statement
18 of 51 former intel officials that said as much, that they think, you know, at the very least
19 looks like a potential Russian disinformation operation.
20 If it were a Russian disinformation operation, would the FBI be able to share
21 information relating to it?
22 A So I can't comment on the veracity of any information or what's going on
23 with that specific investigation. I'd have to refer you to the appropriate U.S. Attorney's
24 Office because, again, it was not a FITF-owned equity.
25 Q But you testified earlier with respect to the account lists --

A Uh-huh.

Q -- that very frequently it wasn't a FITF-owned investigation or equity. Is that right?

A I don't think that's what I testified, no.

Q Okay.

A I said FITF is focused on those actors and those activities, and those activities are inclusive of the information that we're passing to -- to -- to the social media companies. So that was very much a FITF equity. We're program managing those cases.

BY [redacted]

Q When you say that the Hunter Biden wasn't a FITF-owned equity --

A Uh-huh.

Q -- did it have any equities in the FBI investigation of Hunter Biden?

A Did what have any equities?

Q FITF.

A Again, I can't speak to that ongoing investigative action. That's an ongoing investigation. I can't speak to any details regarding it.

Q Is that an instruction from counsel?

A I think, yes, but they can confirm it.

[redacted] I'd ask you to not respond to any information regarding ongoing investigations.

Ms. Dehmlow. I can't speak to ongoing investigations, ongoing investigative activity.

BY [redacted]

Q If the ongoing investigation had FITF equities in it, then FITF would be able to

1 share information?

2 A Not broadly. The FITF can only share information in the context of the

3 Justice Manual provision regarding details of foreign malign influence operations. So it's

4 not that we can just broadly share anything regarding an ongoing investigative equity.

5 There's specific provisions of the Justice Manual that govern what we can and cannot

6 share.

7 Q Okay. But, if the Hunter Biden laptop were part of a foreign malign

8 influence operation, that is something that FITF would be able to share information on.

9 A Yeah, I don't want to speak to a hypothetical. But if there is a foreign

10 malign influence operation and we've got specific details about how those actors are

11 propagating information operations, influence operations on platforms, that's something

12 that we could share the specific details of.

13 Q Okay. I mean, that sounds like a "yes" to my previous question but --

14 A I want to be really specific about what we do and don't do because we don't

15 just comment broadly on investigative activity.

16 [redacted] So did FITF share any information with social media companies

17 regarding the Hunter Biden investigation as it relates to foreign malign activity?

18 [redacted] Same instruction.

19 Ms. Dehmlow. Yeah.

20 [redacted] What's the instruction, [redacted]

21 [redacted] Not to comment on ongoing investigations.

22 [redacted] Thanks.

23 BY [redacted]

24 Q So, in these bilateral FITF meetings, social media companies, is it fair to say it

25 was routine that they would be receiving information related to foreign malign influence

1 operations that related to investigations of the FBI?

2 A I would say it's -- again, I'll reiterate the specific information that we're

3 sharing are information about the specific details about foreign -- how foreign actors

4 were misusing their platforms. So it's a really specific and narrow part of FITF work they

5 were sharing in those engagements.

6 Q Is one way that a foreign actor can misuse a platform is a hack-and-leak or

7 hack-and-dump operation?

8 A I would say that the "dump" part of the information might be inclusive of

9 using inauthentic accounts to propagate and spread the dump of the information. That

10 is a hypothetical.

11 Q Okay.

12 A Yeah.

13 Q So, as a hypothetical --

14 A Uh-huh.

15 Q -- information can be shared with the social media platforms if it relates to,

16 again, this narrow subset of foreign malign influence operations --

17 A Uh-huh.

18 Q -- and that one tactic or one way a foreign malign influence operation might

19 be carried out is to use the social media platforms to dump hacked material or other

20 disinformation.

21 A Yeah, but, again, the information sharing that we would be doing would be

22 about the mechanism of the dump, not the dump itself. So it wouldn't be talking about

23 the content or the narrative or the information. It would be on how they were planning

24 on propagating the material.

25 Q And, when you would share this information with the social media platforms

about foreign malign influence operations --

A Uh-huh.

Q -- how frequently would they ask for additional information?

A I wouldn't want to characterize it. I don't -- frequency thing is hard for me to answer.

Q I mean, was it a rare occurrence?

I guess let me ask this. Did it happen where social media platforms asked for "can you tell us anything more"?

A Yes.

Q And, in those situations, what happens next?

A We are limited largely by the information that we're able to get downgraded and passed along from those [redacted]. So, if there was further detail that we could go back and get, we may attempt to do that. If we're certain that we got everything from the original Terra (ph) line, there's usually not much more that we can pass.

Q And would you tell the social media companies, "No, that's everything we have," or would you say, "There is more information, but we aren't able to provide it to you at this time"?

A I would say it's really -- it would be really difficult for us to answer that on the spot. So my recollection of our most frequent answer would have been something like, "We'll take that back and see if there's anything we can do."

Q And then would you follow up with the social media companies?

A If they asked again or if we had information to pass, yes, but I think they were -- at that point, they were pretty aware of the limitations of what we were, could and could not do. So we didn't get back to them, that's --

1 Q But, when you would get back to them, would it ever be with any
2 clarification of "there is no additional information" or "there is but we're not able to
3 provide it at this time"?
4 A I don't ever recall us saying, "We're not able to provide any more
5 information," but that doesn't mean it didn't happen.
6 Q You've testified about, and there have been exhibits to this end, as well,
7 about Russia's efforts to interfere with the 2016 election.
8 A Un-huh.
9 Q Do you have an opinion or has your team made an assessment on whether it
10 changed the outcome of the 2016 election?
11 A We don't assess impact.
12 Q If the FBI were to follow up with respect to specific account lists, would that
13 change your understanding of the FBI's role in just passing information along?
14 A Again, I don't think that I articulated that we never ask follow-up questions
15 because we do through legal process.
16 Q Okay. So, absent legal process, if there was a request that would follow up
17 on a specific list of accounts --
18 A Uh-huh.
19 Q -- to you, would that type of action be different than the more passive
20 information sharing of a one-time request?
21 A No, I don't think so. Again, we're talking about passing information that we
22 hope is useful. So asking an obvious followup question about whether it was useful I
23 think is typical. But -- but, again, we're not asking for any details on the actions they
24 took, just whether the information was helpful.
25 And then, if we need further information about the accounts or further

1 information what's going on the platform, then, again, we have to prove that through
2 legal process that we've got cause for asking that question and asking for further
3 information.
4 BY [redacted]
5 Q What kind of responses did you get from social media companies when the
6 FBI followed up and asked if the information was helpful?
7 A To the best of my recollection, it was often "yes" and then, again, based on
8 the information that they have made publicly available --
9 Q Uh-huh.
10 A -- they've articulated in several of the public reports about action they took
11 to police, coordinated inauthentic behavior on platforms, they've articulated information
12 from the FBI was -- informed those actions. So it's public record articulating that, too.
13 BY [redacted]
14 Q Just broadly speaking, with respect to how social media companies prepare
15 their terms of service, what is your understanding of the difference, if any, between
16 coordinated inauthentic behavior and policies related to a hack and leak or hack and
17 dump?
18 A Can you repeat the question? I'm sorry.
19 Q Sure. To your understanding, what is the difference between coordinated
20 inauthentic behavior and how that relates to social media platforms protecting their
21 platforms and hack and leak or hack and dump?
22 A I think it would probably be two different parts of their terms of service. So
23 one would be addressing, again, inauthentic, pretending to be somebody you're not on a
24 platform, or coordinated widespread behavior. There may be some links
25 between -- between the coordinated components and, you know, and the activity that

1 would be dumping the material on platform.

2 But, again, I'm not the person to ask about the terms of service. That would be

3 something to ask the platforms.

4 Q And, in Agent Chan's deposition, he said that the FBI did ask the platforms.

5 To your knowledge, did -- we'll take Facebook as an example -- have terms of service

6 related to coordinated inauthentic behavior prior to 2020?

7 A To the best of my knowledge, yes.

8 Q And, to the best of your knowledge, did Facebook have a hack-and-leak

9 policy prior to 2020?

10 A That, I couldn't speak to. I don't recall.

11 Q Okay. We've had multiple witnesses from Facebook come and testify that

12 hack-and-leak policy was not developed until the summer of 2020.

13 A Okay.

14 Q You've testified that you're familiar with Agent Chan's deposition --

15 A Uh-huh.

16 Q -- where he says during this time period --

17 A Uh-huh.

18 Q -- the FBI was asking about hack-and-leak policy.

19 Do you think the FBI's asking questions played any role in whether Facebook

20 developed a hack-and-leak policy?

21 A I wouldn't want to speculate on the policy development. Again, I have no

22 recollection of these conversations. So I'm not the right person to ask that question to

23 the platforms.

24 Q Would Agent Chan be the appropriate person to ask these questions to?

25 A I think, if you're asking about the reasons the platforms took action, that

1 should be a question for the platforms.

2 Q Okay. What about with respect do the hack and leak, discussions of the

3 platform's hack-and-leak policies?

4 A Same answer. I think if we're asking about policy decisions the platforms

5 made, you'd have to ask them the reasons for it.

6 Q But with respect to whether those discussions occurred.

7 A I'm sorry. I can't -- can you be more clear about what the question is?

8 Q Sure. So we've gone over the extent of your recollection --

9 A Uh-huh.

10 Q -- the extent of Agent Chan's recollection --

11 A Uh-huh.

12 Q -- at least at the time of his deposition.

13 Would Agent Chan be the best point of contact to be able to speak to the

14 discussions that occurred during these meetings?

15 A Regarding --

16 Q Regarding --

17 A -- FBI discussions of hack and leak?

18 Q Yeah.

19 A If it's in his deposition, he recalls things that I don't but your witnesses.

20 BY [redacted]

21 Q And, during your tenure at the FBI, have you ever interacted with or worked

22 with [redacted]? He's an intelligence analyst.

23 A Yes, he worked in Counterintelligence Division. So do I.

24 Q And in what context have you interacted? Or we can use it

25 interchangeably. How often do you work with [redacted]?

1 A So, yeah, he's in Counterintelligence Division. And so am I.

2 Q What do you understand his roles and responsibilities to be?

3 A Currently --

4 Q Huh-uh.

5 A -- or historically.

6 Q We'll go currently, then go historically.

7 A He's an analyst. It's going to be same. He's an analyst in the

8 Counterintelligence Division. He was a formerly a supervisory intelligence analyst in the

9 Counterintelligence Division.

10 Q Uh-huh.

11 A Beyond that, I can't speak it to because it's all going to be classified.

12 Q Did you say he was formerly a supervisory intelligence analyst?

13 A Yes.

14 Q Is he no longer a supervisory intelligence analyst?

15 A He is not.

16 Q What's his title now?

17 A Intelligence analyst.

18 Q Do you know when he went from being an SIA to IA?

19 A I don't have any specificity, no. I don't recall with any specificity but within

20 the past year.

21 Q Within the past year? And do you know why that occurred?

22 A I don't.

23 Q Are you familiar with an assessment that [redacted] created regarding

24 Hunter Biden information being disinformation?

25 A No, I'm not familiar with that specific characterization of that assessment.

1 Q How would you characterize that assessment?

2 A Again, I can't speak to ongoing investigative equities.

3 Q But you could say that this characterization is inaccurate?

4 A That there was an assessment on Hunter Biden disinformation?

5 Q Correct.

6 A Not to my knowledge.

7 Q Are you aware that he created an assessment?

8 A I am aware of the allegations that he's created an assessment, that he signed

9 off on one of the opening -- opening documentations of an assessment, yes.

10 Q Are you aware that it's been characterized that it was improper and used to

11 discredit negative Hunter Biden information as disinformation?

12 A I am aware of that allegation, yes.

13 Q Are you aware of what the assessment was actually used for?

14 A I am.

15 Q And what was that?

16 A I can't speak to it.

17 Q Why can't you speak to it?

18 A It's both an ongoing investigative equity and classified.

19 Q Do you know if [redacted] has continuing equities involving the Hunter Biden

20 investigation?

21 A Not to my knowledge, but I don't -- but the Hunter Biden investigation is not

22 my investigation.

23 Q And earlier I asked you about any involvement with special counsel

24 investigations. Do you know if [redacted] has been involved in any of the special counsel

25 investigations?

A I believe that's a matter of public record, but I don't know any details about it.

Q Okay. And what's your understanding of that's been publicly reported?

A That he was -- he was part of the special counsel, the Mueller special counsel team, but, again, I don't know anything more about it.

Q Do you know if he was involved in Special Counsel Jack Smith's investigation?

A I don't know.

Q And when you say that he works in counterintelligence with you, does he work in a different unit? A different task force?

A He works in a different component of the division than I do, yes.

Q The Counterterrorism Division or -- excuse me -- the Counterintelligence Division? Is that accurate?

A Yes.

Q Do you know what component he's assigned to?

A I do, but I really don't know that I should be getting into current activities for non-SES employees.

[redacted] FBI counsel, can we have the component?

[redacted] I just state it for the record that committee has requested to do a transcribed interview with [redacted]. It's currently being considered as part of the ongoing accommodations process, and I would encourage the committee to follow up with some of these specific questions with [redacted] if we are able to provide that interview.

In terms of providing personnel-specific information, we can follow up with you regarding those details.

[redacted] Okay. Think committee would be interested in knowing what

1 component [redacted] is assigned to.

2 Thank you.

3 BY [redacted]

4 Q When a potential hack and leak is or hack and dump is discussed as a tactic,

5 whether at the broad USG industry meetings or the bilateral FITF meetings, do you recall

6 there being any discussion regarding how the potential hack and leak, hack and dump

7 should be handled if the hacked documents are, in facts, true?

8 A I don't recall any specific conversations like that, no.

9 Q To your understanding, does the First Amendment protect publishers who

10 publish hacked materials?

11 A That's really not my forte. So I wouldn't speculate.

12 Q Do you recall any discussion internally --

13 A I don't.

14 Q -- with the FBI?

15 A I don't.

16 Q With respect to the 2016 DNC hack, is it your understanding that some of

17 the materials produced as a result of that hack were, in fact, true, authentic materials?

18 A I believe that is a pretty consistent matter of public record that that was -- it

19 was in -- it was a hack into DNC and a real hack into DNC where they acquired materials.

20 As to the veracity and authenticity of everything that was propagated as a result of that

21 operation, I can't begin to speculate.

22 [redacted] Can we go off the record, please?

23 [Recess.]

1 [3:59 p.m.]

2 [redacted] We will go back on the record. It is 3:59.

3 BY [redacted]

4 Q Good afternoon again, Ms. Dehmlow.

5 A Hi.

6 Q I only have a couple of questions.

7 There were some questions in the first hour about the Elvis Chan deposition. Do

8 you recall being asked about his deposition?

9 A I do.

10 Q You weren't present when he was deposed. Is that right?

11 A I was not.

12 Q Have you read his entire deposition?

13 A I have.

14 Q Okay. Do you know everything that's in it?

15 A No. It's lengthy. I don't recall every detail.

16 Q Okay. When you were asked those questions in the first hour, you were

17 not provided a copy of the deposition --

18 A That's correct.

19 Q -- while you were answering, right?

20 A No.

21 Q So you don't really know exactly what he said. Is that fair to say?

22 A Yeah, I can't recall with specificity.

23 Q Okay. But generally you're familiar with the fact that he was deposed in

24 the Missouri v. Biden lawsuit and then he was asked some questions about FITF, correct?

25 A Yes.

1 Q Okay. I do have his deposition in front of me. I'm not going to introduce
2 it, because it's so long, as an exhibit, but let me know if you agree with the answers he
3 gave to the following questions.
4 In that deposition on November 29th, 2022, Agent Chan was asked if the FBI
5 shared specific tactical-level information with social media companies.
6 And he responded, quote, "The FBI shares information with the social media
7 companies, no strings attached, so that the social media companies can protect their
8 platforms as they deem appropriate," end quote.
9 That is from Mr. Chan's deposition on page 32.
10 Do you agree with that characterization of the information and why it's shared by
11 FITF?
12 A Yes.
13 Q And when he said "no strings attached," do you agree with that
14 characterization?
15 A Yeah. I think I've articulated a couple of times today that we're passing
16 them information to do with as they see fit.
17 Q Also in that deposition Agent Chan explained in his testimony, when the FBI
18 provides this tactical information to social media companies, the companies then take the
19 information provided by FITF or the FBI and they, quote, "validate it through their own
20 means," unquote.
21 Are you familiar with that statement that he made in his deposition, that they
22 validate the information by their own means?
23 A Can you repeat that?
24 Q Sure. So when he was asked about what happens when the FBI shares this
25 tactical information with social media companies, he explained in the deposition that the

1 companies then take the information that FITF or the FBI has provided and, quote,
2 "validate it through their own means," unquote.
3 A Yes.
4 Q When he said that the social media companies validate the information
5 provided by the FBI, does that characterization come in line with your understanding of
6 what happens?
7 A Yes, it rings true.
8 Q And what do you think that means, in your experience?
9 A I spoke a little bit earlier that sometimes the platforms are not able to
10 characterize with as much confidence that any specific foreign actor is behind the activity,
11 so they've got -- I don't begin to presume to understand what access to information
12 they've got sort of behind the walls of the platform, but I assume they've got access to
13 technical details and information about how, for example, accounts are set up.
14 So they would go and take potentially information that we've shared and then
15 determine whether or not they've got information that matches the information that
16 we've shared and if they've got any further insight into how that actor might have been
17 operating on their platform.
18 Q So is it fair to say the FBI has information through their own investigations
19 and intelligence gathering and the social media companies have their own means of
20 validating?
21 A Yes.
22 Q But they're separate, correct?
23 A Yes.
24 Q And the FBI doesn't have any purpose or interest in what the social media
25 company does with those accounts on their platform. Is that fair to say?

1 A We don't have any specific objectives with us passing the information, no.
2 Q Okay. You also were asked -- actually you were not asked about this. I'm
3 going to ask you about a new subject here.
4 A Okay.
5 Q Are you familiar with the majority's interim staff report on the FBI that was
6 released on July 10th, 2023?
7 A Can you give me the title?
8 Q The actual title is, quote, "The FBI's Collaboration with a Compromised
9 Ukrainian Intelligence Agency to Censor American Speech."
10 A I have, yes.
11 Q Have you read that report?
12 A I've not read it word for word, but, yes, I'm familiar with the content. I've
13 read portions.
14 Q Okay. The report alleges that the FBI and the Ukrainian SBU engaged in,
15 quote, "a censorship scheme," unquote, involving FITF, the San Francisco Field Office of
16 the FBI, the FBI legats, among others.
17 Are you aware of that allegation in the report?
18 A I'm aware of the allegation.
19 Q And what's your response to that allegation?
20 A That FITF had really nothing to do with that information passage. I believe
21 the Director testified publicly last week, so I would defer to those comments, that we
22 were -- the FBI, the legat office, Cyber Division was passing information for a partner and
23 ally because the Russian Government had taken away their ability to do it themselves;
24 that FITF didn't take any follow-on investigative or lead action based on any of those
25 referrals. It was just information passage from a foreign partner in the context of a

1 wartime scenario for them to the platforms because they had no other means of getting
2 it there.
3 Q And as far as you know, did the FBI make any requests on behalf of the SBU?
4 A Not that I'm aware of it.
5 Q Would it surprise you to learn that tech executives like [redacted], who
6 was involved in some of those communications, that he didn't even understand those
7 messages to be messages from the FBI, he just saw it as a forwarded message?
8 A That's our understanding. That was our intent.
9 Q And that was consistent with what your purpose was?
10 A Yes.
11 Q The report also names FBI operational agents and publicly outs them,
12 including the legat in Kyiv and a supervisory agent whose job included leading operational
13 strategic preparedness for 13 legat offices in Eastern Europe. Are you aware of that?
14 A I'm aware that FBI personnel were named, yeah.
15 Q And how do you -- what's your reaction to that, the outing of those
16 operational employees?
17 A I worry for them in the same way that I've been concerned for myself and
18 other employees in the context of some of the information that you put in the record
19 earlier. Unfortunately, naming these individuals who are simply doing their jobs, it
20 means that they might be subject to harassment or worse.
21 Q And naming them also in the context of specific allegations of collusion with
22 the SBU and a, quote, "censorship scheme," correct?
23 A Uh-huh.
24 Q You have to answer for the record, if you would.
25 A Yes.

1 Q Okay. I mean, does naming these people -- just putting their names out in
2 the public creates a certain risk to those agents, correct?
3 A Yes.
4 Q And does it create a certain additional risk to put their names out in
5 connection with allegations that they're doing things such as, quote, "engaging in a
6 censorship scheme"?
7 A Yes. I'd also articulate that we're talking about a state actor at the end of
8 all of this, the Russian state, so there's an added risk for any time we're talking about
9 making international security threats.
10 Q Can you elaborate on that a little bit?
11 A Foreign intelligence security services target individuals who are associated
12 with this work as well, so this heightens the counterintelligence risk because it names to
13 those foreign intelligence services other persons working in the space, so it gives them
14 another potential target of opportunity.
15 Q Does it also make it difficult for those agents who are operational to do their
16 work?
17 A It does.
18 Q How is that?
19 A Because it compromises sort of the security and confidentiality of the work
20 that they're doing.
21 Q Could it also compromise foreign contacts that they have or assets
22 potentially?
23 A It could.
24 Q And could that compromise potentially lead to somebody's death or injury?
25 A We keep confidential -- human source relationships confidential to avoid

1 that specific risk.

2 Q Okay. And so one of the -- I'm not going to name them here -- but one of

3 the agents who was outed who was in the position of being a supervisory agent, he,

4 according to a description of his jobs in the past, was leading efforts of the Joint Terrorism

5 Task Force to identify and disrupt terrorist plots by individuals, organizations, networks

6 who were responsible for -- and was responsible for six operational squads.

7 If that agent is not able to do his work, does that mean that the FBI's mission with

8 respect to that Joint Terrorism Task Force is also being inhibited by his outing?

9 A Yeah. I mean, any time something sort of unexpectedly or unintentionally

10 removes focus from the individual's ability to do their job, there could be consequences

11 to their day-to-day responsibilities, yes.

12 Q And also you had a series of questions about another FBI employee, an

13 intelligence analyst, [redacted]. Do you recall those questions?

14 A I do.

15 Q Okay. [redacted]'s name has also been shared publicly by members of this

16 committee and other political operatives. Are you aware of that?

17 A I am.

18 Q And do you also have concerns for him with respect to the sharing of his

19 name?

20 A I do.

21 Q And anything specific that you can share with regard to him?

22 A He's been the subject of, as far as I'm aware, online harassment, letters to

23 his home. He's got small children. There's some safety concerns there.

24 Q And all of that is the result of having been outed by political operatives and

25 members of this committee?

A It's the result of his name being publicly out there. I'm not sure when that was initially -- when and where he was initially outed.

Q Okay.

A But it has been continuously amplified by other elements, by this body and others.

Q Do you know if he or anyone else in the FBI has raised concerns about his safety to this committee or members of this committee?

A I don't.

Q In the series of questions that you had about his work, it sounded like you weren't able to answer because they're asking questions that he might know but that you actually don't know personally. Is that fair to say?

A Well, it's a combination of both that and I just don't think it's appropriate to talk about ongoing personnel responsibilities for somebody who's not me.

Q Okay. You were also asked specifically about the allegations that his -- that he created an assessment regarding the veracity of the Hunter Biden information, and you -- I know you can't talk about what that assessment was really about, but is it fair to say that the allegations as they've been articulated in this TI and in the public are not accurate?

A And that is not my understanding of any assessment that was managed by the Counterintelligence Division.

Q So the allegations that you understand with respect to [redacted] are just wrong?

A To the best of my knowledge, yes.

[redacted] I don't have any other questions at this time.

Ms. Dehmlow. Okay.

1 [redacted] Thank you.

2 [redacted] Can we off the record, please?

3 [Whereupon, at 4:11 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

Transcribed Interview Transcript Errata Form

Interviewee	Laura Dehmlow
Date of Interview	7/17/23
Date of Review	7/10/24
Name of Reviewer	[redacted]
Signature of Reviewer	[redacted]

Page	Line	Suggested Correction
9	6	Redact [redacted]
11	20	[redacted] Redact [redacted]
20	3	Redact [redacted] and [redacted]
34	4	strike "she received"
91	7	Redact [redacted] and [redacted]
119	13	Redact [redacted]
p.153	23-24	Redact [redacted]
p. 23	21	Redact [redacted]
156	4	terra → "fearlines"
11	15	id.

Page	Line	Suggested Correction
156	23	id.
11	11	Redact [redacted]
158	10	tera → "tear line"
161	22	"
p. 176	12	Redact [redacted]
"	14	tera – "tearline"
p. 180	22	Redact [redacted]
"	25	" [redacted]
181	23	"
182	19	"
"	24	"
183	18	1 → "1'd"
"	19	Redact [redacted]
"	21	"

Page	Line	Suggested Correction
184	1	Redact [redacted]
191	13	Redact [redacted]
11	15	"

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: DR. MARION GRUBER

Tuesday, July 18, 2023

Washington, D.C.

The interview in the above matter was held in room 167, Cannon House Office Building, commencing at 10:02 a.m.

Present: Representatives Jordan, Biggs, and Massie.

1 Appearances:

2

3

4 For the COMMITTEE ON THE JUDICIARY:

5

6 [redacted] SENIOR PROFESSIONAL STAFF MEMBER

7 [redacted] DEPUTY GENERAL COUNSEL

8 [redacted] COUNSEL

9 [redacted] DIGITAL ASSISTANT

10 [redacted] CHIEF COUNSEL FOR OVERSIGHT

11 [redacted] CLERK

12 [redacted] DIGITAL DIRECTOR

13 [redacted] MINORITY CHIEF OVERSIGHT COUNSEL

14 [redacted] MINORITY PROFESSIONAL STAFF MEMBER

15

16

17 For DR. MARION GRUBER:

18

19 HILARY LOCICERO, ESQ.

20 LLOYD LIU, ESQ.

21 BLL, LLP

1 [redacted] We will go on the record.

2 Good morning. This is a transcribed interview of Dr. Marion Gruber. The

3 committee has requested this interview as part of the committee's oversight of the FDA

4 and administrative practices and procedures.

5 Would the witness please state your name for the record?

6 Dr. Gruber. My name is Dr. Marion Gruber.

7 [redacted] We encourage witnesses who appear before the committee to

8 freely consult with counsel if they so choose, and it is my understanding that you are

9 appearing today with personal counsel. Is that correct?

10 Dr. Gruber. That is correct.

11 [redacted] Could counsel place state your name for the record?

12 Ms. LoCicero. Yes. Good morning. My name is Hilary LoCicero from BLL LLP

13 on behalf of Dr. Marion Gruber.

14 Mr. Liu. And I'm Lloyd Liu from the same firm.

15 [redacted] Great. Thank you.

16 On behalf of the committee, I want to thank you for appearing here today to

17 answer our questions. The chairman also appreciates your willingness to appear

18 voluntarily.

19 My name is [redacted] and I work with Chairman Jordan's staff.

20 I will now have everyone else from the committee who is here in the room

21 introduce themselves as well.

22 [redacted] My name is [redacted] and I am here with Chairman Jordan's staff.

23 Mr. Massie. I am Congressman Thomas Massie from Kentucky.

24 Mr. Biggs. Congressman Andy Biggs from Arizona.

25 [redacted] [redacted] with the Democratic staff.

1 [redacted] [redacted] I am the chief oversight counsel for the House
2 Judiciary Committee, Democratic staff.
3 [redacted] [redacted] Chairman Jordan's staff.
4 [redacted] [redacted] law clerk on Chairman Jordan's staff.
5 [redacted] [redacted] Chairman Jordan's staff.
6 [redacted] I would like to now go over the ground rules and guidelines that we
7 will follow during today's interview.
8 Our questioning will proceed in rounds. The majority will ask questions first for 1
9 hour. Then the minority will have an opportunity to ask questions for an equal period of
10 time if they so choose. We will alternate back and forth until there are no more
11 questions and the interview is over.
12 Typically, we take a short break at the end of each hour, but if you need to take a
13 break at any other time, just please let us know, and we're happy to accommodate that.
14 As you can see, there is an official court reporter taking down everything we say to
15 make a written record, so we ask that you give verbal responses to all questions. Do you
16 understand that?
17 Dr. Gruber. I do.
18 [redacted] So the court reporter can take down a clear record, we will do our
19 best to limit the number of people directing questions to you at any given hour to just
20 those people on the staff whose turn it is.
21 Please try and speak clearly so the court reporter can understand and the folks
22 down at the end of the table can hear you as well.
23 It is important that we don't talk over one another or interrupt each other if we
24 can help it, and that goes for everybody present at today's interview.
25 We want you to answer our questions in the most complete and truthful manner

as possible, so we will take our time. If you have any questions or you do not understand one of our questions, please let us know. Our questions will cover a range of topics, so if you need clarification at any point, just say so.

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

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

You should also understand that, by law, you are required to answer questions from Congress truthfully. Do you understand that?

Dr. Gruber. Yes.

[redacted] This also applies to questions posed by congressional staff in an interview. Do you understand this?

Dr. Gruber. Yes.

[redacted] Witnesses that knowingly provide false testimony could be subject to criminal prosecution for making false statements under 18 U.S.C. Section 1001. Do you understand this?

Dr. Gruber. Yes.

[redacted] Is there any reason you are unable to provide truthful answers to today's questions?

Dr. Gruber. No.

[redacted] Finally, I'd like to make note that the content of what we discuss here today is confidential. We ask that you not speak about what we discuss in the interview to any outside individuals to preserve the integrity of our investigation.

1 For the same reason, the marked exhibits that we will use today will remain with
2 the court reporter to go into the official transcript and any copies of those exhibits will be
3 returned to us when we wrap up the interview.
4 All right. That's the end of my preamble.
5 Is there anything my colleagues on the minority would like to add?
6 [redacted] We just thank you for taking time out of your day to come in today.
7 [redacted] And I understand your attorney has a statement she would like to
8 make on the record.
9 Ms. LoCicero. Yes. Thank you.
10 On behalf of Dr. Gruber, Dr. Gruber is here today as a former FDA employee.
11 She has been authorized to speak about matters that the committee wishes to learn
12 about, but she is not authorized to speak about anything that would impinge on the
13 agency's deliberative process privilege. So if there are questions what would impinge on
14 that privilege, I'll raise an objection at that time.
15 [redacted] Thank you.
16 The clock now reads 10:07 a.m. We'll start with the first round of questioning,
17 and I'll turn it over to my colleague, [redacted]
18 EXAMINATION:
19 BY [redacted]
20 Q Good morning, Dr. Gruber.
21 Are you currently employed?
22 A Yes.
23 Q Where do you work?
24 A I have a remote office position. I work from home. My employer is the
25 International AIDS Vaccine Initiative.

1 Q And how long have you been working there?
2 A I started working with IAVI in January of 2022.
3 Q And what is your title?
4 A My title is vice president for public health and regulatory science.
5 Q And in this role, what are your responsibilities?
6 A I oversee the Regulatory Affairs Division in IAVI. I also present IAVI at
7 global committees and agencies, WHO, for instance, but also other not-for-profit
8 organizations and, of course, our funders.
9 Q And where did you work before IAVI? Did I say that correctly?
10 A Yes. IAVI is correct. It stands for International AIDS Vaccine Initiative. I
11 worked at the U.S. Food and Drug Administration in the Office of Vaccines.
12 Q Did you work anywhere in between those two?
13 A No.
14 Q And when did you first join the FDA?
15 A I joined the FDA as a government employee, and that was in 1992.
16 Q And what did you do before working at the FDA?
17 A I was a postdoc. I had a postdoc position at the FDA from 1989 to 1992.
18 And prior to that, I had a postdoc position at the Oklahoma Medical Research Foundation,
19 and that was from 1986 to 1989.
20 Q And can you walk us through the positions that you held at the FDA?
21 A Yeah. So when I started in 1992, I worked as a CMC reviewer. CMC
22 stands for chemistry, manufacturing, and control information. So I was part of a team
23 which looked at the manufacturing process for biological products that were regulated by
24 the office. At that time, that was the Office of Therapeutic Research and Review. So
25 that was not the Office of Vaccines.

1 Then -- and I actually worked there, as I said, as a CMC reviewer, and I also did
2 bench research because these positions -- it was supporting to our role at the FDA.
3 In 1995, I decided to take a full regulatory position in the Office of Vaccines
4 Research and Review. There, I worked what they referred to as primary reviewer. I
5 was responsible for communicating decisions made by review teams to the vaccine
6 manufacturers. I also was part of the review team, working alongside with the medical
7 officers, with the CMC reviewers, facility experts, et cetera. I did that for 10 years.
8 And then in 2005, a position came open in the Office of the Director at the Office
9 of Vaccines Research and Review, and that was associate director for regulatory and
10 policy decisions. And I was selected for that position. And at that time, my primary
11 responsibility was looking at guidance documents, taking part in writing guidance
12 documents, involved in policy decisions, looking at proposed and final rules to see how
13 they could be implemented.
14 And I did this -- I think it was 2008 when the, at that time, deputy director of the
15 Office of Vaccines retired from the office, and I served as acting deputy and then was
16 selected deputy director of the Office of Vaccines. But I don't -- I cannot give you the
17 exact date on that.
18 And then in 2007, the, at that time, office director, Dr. Norman Baylor,
19 resigned -- not resigned. He decided to retire and take another position outside the
20 agency. And because I was his deputy director at that time, I served as acting office
21 director and had applied for office director position.
22 So the acting office director, I did from -- it was fall of 2011. So when Dr. Baylor
23 left. I can't really recall. Was it October, November? I don't know. And in May
24 2012, I was selected office director of the Office of Vaccines, and I served in that position
25 until I decided to retire from the FDA in October of 2021.

1 Q And so your last position at the FDA was director of the Office of Vaccines
2 Research and Review. Is that correct?
3 A That is correct.
4 Q Can you describe for us your roles and responsibilities in that position as
5 director?
6 A As director of Office of Vaccines, it was my responsibility to oversee the
7 review activities conducted by the different disciplines. I also, in collaboration with the
8 division directors, decided on the research program because the offices in the Center for
9 Biologics Evaluation and Research have research responsibilities.
10 So -- and I also closely collaborated with office directors in the other offices:
11 Office of Biostatistics and Epidemiology. Office of Compliance, for instance. Office of
12 Communication. And, of course, you know, I had to report my activities -- the activities
13 of my stuff -- to the center director.
14 Q Other than vaccines, were there other subject matter areas that you worked
15 on in this position?
16 A There were certain other biological products. Allogenic products.
17 Q What are those products?
18 A Allogenic products? Well, these are -- were developed -- actually, they
19 have been on -- around for decades. Way before I became office director. And they
20 are really to treat people with certain allergies, such as allergies against grass and pollen,
21 for example.
22 Q Okay. And who was your director supervisor in this position when you
23 were director?
24 A At first, it was Dr. Karen Midthun. She was center director when I became
25 office director. And when Dr. Midthun retired, Dr. Peter Marks was, at that time, her

1 deputy and took over as acting center director and then to center director. So I
2 reported to him.
3 Q When did that change happen? When did Dr. Marks join? Do you
4 remember?
5 A I don't quite remember the year, but I can tell you he served as the deputy
6 director -- center director -- to Dr. Midthun. And I think Dr. Midthun retired
7 2000- -- 2016 or 2017.
8 Q And did you have more than one direct supervisor other than Dr. Marks?
9 A It was Dr. Marks at that time. I mean, when Dr. Midthun left.
10 Q How many people directly reported to you when you were director?
11 A It varied slightly between -- 15 and 17 were my direct reports.
12 Q Was one of those direct reports Dr. Philip Krause?
13 A Dr. Philip Krause was my deputy director.
14 Q And how long had he been your deputy director?
15 A As I stated, I became office director in 2012, and he was chosen deputy
16 office director of Office of Vaccines -- I want to say 2013 or 2014.
17 Q Did you have regular interactions with Dr. Peter Marks?
18 A Yes. Yes. We had weekly one-on-one meetings where, you know, I
19 summarized the activities of the Office of Vaccines.
20 BY [redacted]
21 Q Can you help us understand the organizational structure of the Office of
22 Vaccines? The 15 to 17 people, were they split into teams? Did they all work on one
23 vaccine? Or what was the setup of the office?
24 A Okay. So that's going to be a little bit long of an answer.
25 The Office of Vaccines, when I was office director, was organized into the Office of

1 the Director. And the Office of the Director were, at that point, seven people. It was
2 the deputy office director. I had an associate director for regulatory policy, an associate
3 director for medical policy, an associate director for medical countermeasures and
4 scientific affairs, and then an associate director for epidemiology, postmarketing
5 surveillance. Then I had an assistant.
6 Let me see if I'm going to be complete here. Yeah. There were two assistants.
7 One was because I also had overview, of course, of the Budget Division.
8 And so that was the immediate Office of the Director. And the other people
9 reporting to me were the division directors. So Office of Vaccines is organized, again,
10 Office of the Director and then the Budget Office and then the Division of Bacteria and
11 Allogenic Products. And that was, at that time, about 70 people plus postdocs. So 70
12 FTEs plus postdocs. Then the Division of Viral Products and Division of Vaccines and
13 Related Product Applications. So that was the Applications Division, which administered
14 the incoming submissions by the vaccine manufacturers and completed correspondence,
15 et cetera.
16 So each of these divisions was headed by two directors, the director and the
17 deputy director. My direct reports were the division directors. So three division
18 directors. So now I have to see. 10, 11 -- yeah. So it amounted to 15 people. Yeah.
19 Q And how many people worked under the director and deputy director of the
20 Division for Viral Products?
21 A About the same. It always fluctuated a little bit. People are hired.
22 People leave and retire. So it was about 70 people. That was the average. Again,
23 plus postdocs.
24 Q Okay.
25 A And the Division of Vaccines and Related Product Applications, DVRPA, that

1 also had about 70 people.

2 Q Okay.

3 A Medical officers, toxicologists, and then the administrative people were all in

4 DVRPA.

5 Q Okay. Thank you.

6 A And, of course, let me be complete. The DVRPA division director also

7 reported to me.

8 Q Okay.

9 BY [redacted]

10 Q Now, with your interactions with Dr. Marks, did the frequency of your

11 interactions change throughout the COVID-19 pandemic versus beforehand?

12 A There was more frequent interaction, yes.

13 Q And what was his exact title at the beginning of the COVID-19 pandemic?

14 A Well, he was the director of the Center For Biologics Evaluation and

15 Research.

16 Q Did that ever change at all during your time there? Was he always in that

17 specific position?

18 A Yeah.

19 Q And did you have regular interactions with FDA Commissioner Janet

20 Woodcock?

21 A Direct regulatory interactions?

22 Q Yes.

23 A One time.

24 Q One time.

25 And so you didn't have regular interactions, like, weekly meetings or monthly?

1 A No.

2 Q Is that normal for someone in your level position at the FDA?

3 A Yes.

4 Q Generally speaking, did you have regular interactions with Dr. Krause?

5 A Yes.

6 Q Yes?

7 A He was my deputy, yes.

8 Q How often would you say you interacted with him?

9 A Every day.

10 Q Every day.

11 In your line of work at the FDA, did you find that there were common

12 disagreements between you and your supervisors?

13 A Define common disagreements.

14 Q Maybe just on research or analyzing data. Just, I think, common, everyday

15 discussions about a product.

16 A No. There were no common disagreements as defined by you.

17 Q Did you have any common disagreements between you and your

18 subordinates?

19 A No.

20 Q Due to the size of your agency and your parent agency HHS, who did you

21 regularly interact with outside of the FDA in your line of work?

22 A I did committee work. So as I mentioned at the beginning, I -- there was

23 interaction with the WHO, the World Health Organization. But there were also, you

24 know, other ad hoc committees within HHS where I was sent to represent the Office of

25 Vaccines.

1 Mr. Biggs. Can I ask a question? A follow-up question? I don't want to break
2 the flow. You guys are doing well.
3 But the common disagreements question -- maybe I read too much into your
4 answer. Were there times that there were extraordinarily -- you know, extraordinary or
5 anomalous times where you'd have a disagreement with either a supervisor or
6 subordinate over any of these areas that you were previously asked about?
7 Dr. Gruber. There were no common disagreements in the line of work that I did
8 for the 10 years that I was office director.
9 Mr. Biggs. I get the no common disagreements.
10 But was there ever a disagreement over an exceptional way to handle something
11 or to look at research that you recall?
12 Dr. Gruber. On the way research was handled? No.
13 BY [redacted]
14 Q And you spoke about how you had interactions with the World Health
15 Organization. How regular were those interactions?
16 A I served, at the time I was office director, for 6 years on the Global Advisory
17 Committee for Vaccine Safety, the GACVS, WHO. These were in-person meetings that I
18 had to attend twice a year.
19 And in addition, there were ad hoc working groups, for instance, during the Ebola
20 outbreak. That was something that the WHO concerned itself with and, of course,
21 required interaction with the global public health community. So I served on some
22 committees such as guidance finding committees.
23 Q Did your service on these committees continue during the COVID-19
24 pandemic?
25 A I rotated off the GACVS committee -- I want to say 2019 or 2020. I would

1 have to double-check that.

2 Q Did you have any interactions with the WHO during the COVID-19

3 pandemic?

4 A Yes. Yes. There were.

5 Q Can you describe some of those interactions?

6 A Well, you know, it was -- the WHO, of course, was interested in making

7 vaccines available for the global community, and so there had been meetings on how to

8 address that. Yeah.

9 Q And what was your role in these meetings?

10 A A regulatory advisor. Yeah.

11 Q And can you describe what you would do as a regulatory advisor?

12 A So during the pandemic, as you know, there were several -- several -- many,

13 many vaccine candidates evaluated by the Office of Vaccines and, by far, not restricted to

14 the vaccines that one heard about in the news or were eventually authorized.

15 And so what we discussed in these committees was really the progress of the

16 development of these products. And then when we assumed regulatory review of the

17 data for these products, we had scientific exchanges.

18 BY [redacted]

19 Q Can you define for us what a biologic license is?

20 A What a biologic license is? So there is -- and you'd have to look this up in

21 the CFR, the Code of Federal Regulations. There is a long and very old definition for

22 biologic product.

23 And vaccines are part of biologic products. And if a manufacturer develops a

24 vaccine, the Public Health Service Act states that, in order to obtain a license, the vaccine

25 has to be shown to be safe and pure and potent, and the manufacturing facility in which

1 the product is made has to be complying with standards to assure the safety and purity
2 and potency of the product.
3 And if -- so we had the responsibility of reviewing the information submitted by
4 the vaccine manufacturer to support safety, purity, and potency. And when we made
5 the regulatory decision that these standards are met, we would issue a license. A
6 biologic products license.
7 Q Why is a biologic license needed, in your opinion?
8 A Before you make available a biological product such as a vaccine to
9 potentially millions of healthy individuals, there has to be oversight by an independent
10 agency to assure that the product meets standards of safety, purity, and potency.
11 Q And are you familiar with the FDA's Emergency Use Authorization process?
12 A Yes.
13 Q Can you explain the difference between a typical vaccination approval
14 process and an EUA approval process for us?
15 A So in order for an Emergency Use Authorization to occur, there are certain
16 requirements laid out in statute that need to be met. First of all, there has to be a
17 declaration by the health secretary that there is a public health emergency that could
18 adversely affect the well-being of American citizens. There has to be a requirement that
19 the biological product or other product -- emergency use authorizations are also for drug
20 products -- that there's a standard of "may be effective." So there needs to be
21 supporting data to demonstrate that the biological product may be effective.
22 There has to be lack of available alternate therapy, and a decision has to be made
23 that the known and potential benefits of the product outweigh the known and potential
24 risks of the product.
25 So these are statutory requirements under an EUA authorization. And the

1 statutory requirements pertaining to a license, I already explained.

2 Mr. Massie. On the known and potential benefits outweighing the risks, is that

3 done for certain age-groups, or is it uniformly done for the entire population? That

4 calculation?

5 Dr. Gruber. So typically, the vaccine manufacturer has to do clinical trials. And

6 the population for which the vaccine then is authorized and the EUA is typically the

7 population that was studied in the clinical trial. So in an Emergency Use

8 Authorization -- just an example. If it's for 16 years of age and older, there has to be

9 data to authorize the biological product for that age-group.

10 Mr. Massie. If someone already had COVID and, as a result, had been conferred

11 some natural immunity and have recovered, would they be considered separately in that

12 risk-versus-a-benefit calculation?

13 Dr. Gruber. At the time that the clinical trials for these vaccines were conducted

14 during the pandemic in 2020, the clinical trials at that time excluded people already

15 exposed to COVID. So an inclusion criteria was COVID-naive -- naive to COVID or a new

16 exposure to COVID.

17 Mr. Massie. But some of them, once they entered the study, they did -- it was

18 found out that they had had prior exposure. Is that correct? In the Pfizer study, I think

19 there were about 1,300 or 1,200 roughly distributed between the placebo group and the

20 vaccine group.

21 Dr. Gruber. I don't recall the exact number, but yes.

22 Mr. Massie. Could that change the potential benefit versus the risk -- that

23 calculation, that threshold -- if somebody had already had COVID?

24 Dr. Gruber. So, as you know, these studies were large studies. The Pfizer

25 vaccine, it was, like, 44,000 people included in that study. And the analysis of efficacy

1 was really done on the population that was specified who were naive individuals. There
2 were also separate analyses conducted in looking at other subpopulations included in the
3 study, but typically, these studies were not powered, you know, to look at each subgroup
4 individually.
5 Mr. Massie. So given that there weren't enough people who had already been
6 exposed to COVID in that very large study to make -- to draw reliable conclusions about
7 the benefit, is it wise to say that it conferred the same benefits to the COVID-naive -- the
8 benefits that were conveyed to the COVID-naive were the same benefits that were
9 conveyed to those who had already had COVID? That was sort of -- that was the CDC's
10 position in the MMWR they did in December of 2020.
11 Dr. Gruber. The CDC is a recommending body. It's not a regulatory agency.
12 We made our decision that the potential known -- that the known and potential benefits
13 outweighed the known and potential risks of the vaccine made based on the data that we
14 analyzed, the data coming out of the efficacy studies.
15 Mr. Massie. Which was based almost exclusively on a COVID-naive population?
16 Dr. Gruber. Most of them, yes.
17 Mr. Massie. Okay. Thank you.
18 BY [redacted]
19 Q In your position at the FDA, specifically with the vaccine approval process
20 generally, did you exercise any discretion? Was that permitted in your role to do that?
21 A I don't understand the question. Can you give me an example?
22 Q Of course. In deciding the overall -- for the overall decision to license a
23 vaccine or -- you know, you had discussed just a bit ago about the risk-benefit analysis.
24 Were any of your decisions in the vaccine approval process -- were you able to
25 exercise discretion?

1 A So first of all, let's separate Emergency Use Authorization from the biologic
2 license. What I can tell you is, in both situations, in order to grant a license or an EUA,
3 Emergency Use Authorization, I did not exercise discretion. I based my decision to
4 authorize or approve the product based on the data submitted to support an EUA for a
5 license.
6 And, of course, that was discussing it with the experts tasked with reviewing that
7 information in the Office of Vaccines, but also the other offices that are included in
8 making these decisions.
9 BY [redacted]
10 Q And who is the ultimate decision-maker in granting a license or granting an
11 EUA?
12 A Well, the EUA is not signed off by the office director. That was an HHS
13 position at that time.
14 Q Okay. And who was that? Or what position was that?
15 A I don't recall that position. But you are able to check by just looking at the
16 signature. Yeah.
17 Q Okay. And what about the regular license?
18 A That is the office director in concert with the -- so in this case, for a vaccine,
19 it would be the office director of vaccines. So there was me and the office director of
20 the Office of Compliance and Biologics Quality. For a new vaccine licensure, both office
21 directors have to sign off on that license.
22 Q And so with the COVID-19 vaccinations, were those signed off by HHS, then?
23 A Can you repeat the question?
24 Q For the COVID-19 vaccinations, were those signed off by an HHS official, or
25 were they signed off by the -- by you and the director?

1 A Are you referring to the biologic product licenses?

2 Q Yes.

3 A I only signed off on one of the biologic product licenses. That was the

4 Pfizer mRNA vaccine community. I was no longer in the agency when Moderna's

5 product was licensed.

6 Mr. Massie. Do you know when you signed off on that?

7 Dr. Gruber. On the Pfizer mRNA? Yes. In August of 2021.

8 BY [redacted]

9 Q Who was the office director in the other office that you mentioned who

10 would normally make a decision for a BLA?

11 A Yeah. The Office of Compliance and Biologics Quality. It's the OCBQ.

12 That's what it stands for. And the office director at that time was Mary Malarkey.

13 Q How often did you work with Dr. Malarkey?

14 A Well, her office had oversight of the facility information that also needed to

15 be reviewed in order to grant a biologic product license. And so we interacted in

16 meetings on the products where we looked at progress review. Are there any issues

17 that need to be followed up? Are there other information requests that we need to

18 send to the manufacturer while the BLA, the biologic license application, review is

19 ongoing?

20 And so we, you know, exchanged information and kept each other informed if

21 there were any, you know, issues coming up during the review process.

22 Q Can you explain some of the post-vaccine rollout studies that need to be

23 made before a booster vaccine is approved?

24 A I was not part of the booster vaccine approvals.

25 Q Had you ever worked on a booster vaccine in the past during your time as

1 director?

2 A Yeah. Not as part of director, but deputy director. There was a Hib

3 vaccine, influenza type B, for boosting of toddlers that I was involved in. Yeah. So

4 that -- yeah. That would be it.

5 Q Are the possibilities that post-rollout research could uncover -- and this

6 could be for any vaccines. What would be important findings that you or your team

7 would look at?

8 A So we got -- let's go back to biologics license application, and I'll give you an

9 example.

10 The sponsor or the vaccine manufacturer -- actually, it's referred to as an applicant

11 when a biologics license application is in. They have to have conducted, during the

12 development of the product, studies to demonstrate the immunogenicity and the safety

13 and the efficacy of the product. And we, the regulators, look at the data derived from

14 the efficacy and the safety studies and the immunogenicity studies.

15 And if there are adverse events -- uncommon adverse events observed in a clinical

16 efficacy study, based on the severity of that adverse event, the sponsor may be

17 required -- and that is a requirement to evaluate this adverse event further in the

18 postmarketing space.

19 Many times, when I was in the Office of Vaccines, there were no required studies

20 because the profile of the vaccine, the safety profile, was good. But many times,

21 applicants still do so-called postmarketing commitment studies to further look at the

22 safety of the product.

23 And it is not only the manufacturers. It's also the CDC, the Center for Disease

24 Control, and also experts in the Office of Biostatistics and Epidemiology at CBER would,

25 you know, have a system by which they can further evaluate the safety as well as the

1 effectiveness of the product once it's licensed.

2 Q Are there benefits to doing these postmarketing studies for the FDA or for

3 the applicant? Like, there are usually benefits versus any risks for this being done, in

4 your opinion?

5 A I consider postmarketing studies of important -- importance because they

6 usually can enroll many, many, many thousands, sometimes hundreds of thousands of

7 people. And, you know, if there are events that you may not pick up in a prelicensure

8 trial of a couple of thousand or sometimes many thousands, you may see that when you

9 roll out the vaccine to a large population.

10 And the reason why this is important is that surveillance for safety and

11 effectiveness of a product does not stop when the product is licensed. It continues.

12 That is referred to as life cycle management.

13 And so, let's say, there is an event that is observed in the postmarketing space.

14 The package insert that is approved when the vaccine is licensed needs to be updated to

15 include that information. But the package insert will also be updated if further studies

16 are conducted that perhaps have not been conducted in the prelicensure space, such as

17 coadministration studies with other vaccines, for example. And once these data are

18 available, the package insert is also updated. So it's a life cycle management of the

19 product.

20 Mr. Massie. Was there a package insert for the EUA product?

21 Dr. Gruber. No. There are no package inserts, but there are fact sheets. So

22 you refer to it as a fact sheet. And there are fact sheets for the healthcare providers,

23 and there are fact sheets for the recipients of the vaccine.

24 And these fact sheets make it very clear that this is not a licensed product, but

25 that the agency has determined that the known or potential benefits outweigh the known

1 or potential risks of the product. But the people -- persons have, of course, a choice of
2 taking the vaccine or not to take the vaccine.
3 Mr. Massie. Would a package insert for a licensed product include potential side
4 effects?
5 Dr. Gruber. Yes. And so do the fact sheets.
6 Mr. Massie. Do the fact sheets mention myocarditis? Or what were the side
7 effects mentioned on the fact sheets?
8 Dr. Gruber. So, for example, for the Pfizer vaccine community -- or, at that time,
9 it was not called community because it wasn't licensed -- there weren't events of
10 myocarditis in the clinical efficacy study. I think there was one event of pericarditis in
11 the vaccine group and one event of myocarditis in the placebo group.
12 So the risks of myocarditis became evident when the vaccine was rolled out once
13 there was an Emergency Use Authorization. So it was the post-EUA safety surveillance
14 systems by the CDC and by the FDA that -- where this increased risk was observed.
15 The fact sheets had to be updated. And, of course, when we license a
16 community, there is a section in the approved package label -- package insert that is
17 referred to as section 5.2, warnings and precaution, where this risk is described.
18 Mr. Massie. Was there ever a period of time where the EUA product was
19 distributed with a fact sheet, that after the license was issued -- where the fact sheet on
20 the EUA product did not disclose everything that the insert did if the licensed product had
21 been distributed?
22 The reason I'm asking this question is, it was a year, it seems, before the licensed
23 product with the insert was distributed. I'm not even sure if it was maybe longer than
24 that.
25 So in the interim, there must have been a period of time where EUA products

1 were being administered with a fact sheet. What I want to know is, did the fact sheet
2 have all the things on it that the insert did that you approved?
3 Dr. Gruber. Okay. When we developed the fact sheets for these EUAs -- and it
4 was the first time that the Office of Vaccines had to develop fact sheets for vaccines
5 because there wasn't an Emergency Use Authorization of that scale before -- we followed
6 closely the organization of the package insert.
7 And the safety events and the efficacy data that were known at the time that the
8 fact sheets were issued once the EUA was granted were based on the information known
9 to us at that time.
10 And, of course, with the Pfizer vaccine, the Emergency Use Authorization occurred
11 in December of 2020. The vaccine was licensed in August of 2021. So there was a
12 period of 8, 9 months during which the vaccine was rolled out. And, of course, the
13 additional information became apparent, such as the myocarditis risk that we just talked
14 about. And then, of course, the data were written into the package insert because we
15 became aware of that risk as a result of the post-authorization surveillance that was
16 conducted by CDC and FDA.
17 Mr. Massie. Let me ask the question differently and more specifically.
18 Dr. Gruber. Yeah.
19 Mr. Massie. In November of 2021, it was not possible to get Comirnaty vaccine
20 at CVS or any provider. Yet -- because they were still providing the EUA vaccine. So at
21 that point, we wouldn't have known about myocarditis and other things that
22 were -- would have been described on the package insert for the licensed product.
23 But were consumers who were receiving still the EUA product after the product
24 Comirnaty had been licensed but was not available -- were they made aware on this fact
25 sheet, let's say, 2 months after the license was issued for Comirnaty -- were they aware

1 on the fact sheet of the same things that were in the enclosure or the insert?

2 Dr. Gruber. So people that received the vaccine on the EUA in November of

3 2021 -- that was after I had left the agency. I mean, I made sure, of course, as part of

4 the license, that there was a package insert that included the safety information, and that

5 was also available then on the FDA website. So there was that information.

6 As far as I am aware, there is a requirement to update the fact sheets as new

7 safety information becomes available, but I didn't have authority over that at that point in

8 time anymore.

9 Mr. Massie. And did you anticipate it would be so long between when the

10 license was given for the product and when the licensed product would actually be

11 available?

12 Dr. Gruber. We should look at the fact sheets because, again, there is a

13 requirement to update the fact sheets with safety information as we became aware.

14 And I do recall -- although I do not recall the specifics -- that during 2021, once the

15 vaccines were authorized -- the Moderna vaccine and the Pfizer vaccine -- that there were

16 several rounds of fact sheets that we had to update, and the updated versions then had

17 to be made available.

18 Mr. Massie. Did they include myocarditis as a side effect on the fact sheet?

19 Dr. Gruber. It could have only been included once CDC and FDA became aware

20 of that increased risk of myocarditis.

21 Mr. Massie. Were you aware in August of 2021?

22 Dr. Gruber. Yes, I was aware in August of 2021 because, at that time, while the

23 BLA for the Pfizer vaccine was under review, information from these post-EUA

24 surveillance systems became available to us and pointed to this risk of myocarditis.

25 And this is why the FDA did a -- did a benefit-risk assessment. And we concluded

1 that the benefits of the vaccine outweighed the risks, but we included myocarditis as an
2 adverse event in section 5.2, warnings and precautions, on the package insert.
3 Mr. Massie. On the insert.
4 And I know you left almost as soon as the license was issued.
5 Dr. Gruber. Correct.
6 Mr. Massie. Within a month or two.
7 Dr. Gruber. Yes.
8 Mr. Massie. But the reason I'm asking this is not to catch you up in something
9 here. But I just wonder -- for the year that everybody was told it was a licensed product,
10 but when they went to get it, they were given the EUA product, I wonder in that period of
11 a year, were they getting the same information?
12 I mean, you may not know since you were not in charge after that, but you might
13 know if you had updated the fact sheet before you left to include the same things that the
14 insert had.
15 Dr. Gruber. As I said, we were required to update the fact sheets for the EUAs as
16 we became aware of safety.
17 Mr. Massie. Okay. Thank you.
18 Can I go down another line of questioning?
19 [redacted] Absolutely of course.
20 Mr. Massie. When compared to the typical review process for a vaccine prior to
21 authorization or licensing, how was the process different for the COVID-19 vaccine?
22 Dr. Gruber. Are you referring to the process of the license application review or
23 the overall development?
24 Mr. Massie. The authorization and then the licensing.
25 Dr. Gruber. Okay. So --

1 Mr. Massie. But I think you already told us that you had -- you really hadn't done
2 an EUA before for a vaccine.
3 Dr. Gruber. Right.
4 Mr. Massie. So let's focus on the license.
5 Dr. Gruber. On the license.
6 What was similar in terms of the biologics license application review is that we
7 assigned priority review to this application. The agency can assign priority review
8 studies to a vaccine product if it is believed that it will treat or prevent a serious and
9 life-threatening disease for which there's no available alternative therapy. And we had
10 done that several times before, be granted priority review.
11 The difference between a priority review and a standard review is the time that
12 the FDA has to take regulatory action either in approval, a license, or what we refer to as
13 a complete response letter. That is when the information submitted was not sufficient
14 to grant a license.
15 And there is a standard BLA review application that is 12 months from submission
16 and a priority review application that is 8 months. So we would have to review the
17 application in two-thirds of the time.
18 For community, it was yet different because I recall that -- I cannot give you the
19 exact date, but I think the biologics license application was submitted somewhere in May
20 of 2021. So do the math. 8 months later, the action due date would have been
21 somewhere in January of 2022.
22 But because of the public health emergency, we decided we will do what we can
23 to review this vaccine and the more compressed timelines without sacrificing our
24 standards for safety, purity, and potency. And so we decided on a September 15th date,
25 which would have been a third of the time usually allowed for a standard approval.

1 Mr. Massie. Were there -- would it be required to skip steps or collect less
2 information to meet that deadline?
3 Dr. Gruber. No. I would not have supported that. I would have not signed off
4 an approval letter. Skipping steps was out of the question.
5 What helped is the fact that we already had the efficacy data because the vaccine
6 was approved and an EUA. So the efficacy study had been completed, and we already
7 had reviewed the data under the EUA.
8 What we needed to focus on during the BLA review for the community are the
9 updated information, including safety information that came in because the vaccines
10 were used under EUA.
11 And there are other requirements that we have to meet in order for a product to
12 license. We had to make sure -- and I referred to that before -- that the facility have
13 certain standards and MGMP compliance, and we also had to make sure there is -- for
14 every biologics license application, there has to be a pediatric assessment plan. These
15 are studies -- if the applicant has not conducted them prior to licensure, that they will
16 need to be required to study the product further in pediatric populations if there is no
17 reason to grant a waiver. And there have been examples. We have done that before
18 for other vaccine products.
19 So that had to be taken care of in that review time.

1 [11:03 a.m.]

2 Dr. Gruber. And then, of course, as our reviewers looked at the safety
3 information that were submitted with the BLA and the updated information that came in,
4 there were very, very close interactions with Pfizer, with the vaccine manufacturer.

5 We had, for example, medical offices may have a point of clarification on a certain
6 dataset. They send a question to Pfizer. Sometimes it takes Pfizer a day to turn it
7 around, sometimes a week or 3 weeks. And that happened during this timeline. There
8 could be, you know, additional information requested to make sure that the facility meets
9 all the standards required for licensure.

10 So there are a lot of information requests going back and forth on a daily basis
11 during the BLA review. And it's not even, you know -- that goes for vaccines in general
12 for vaccine BLA reviews.

13 Mr. Massie. My next series of questions is longer, so I can save it for the next
14 portion.

15 Mr. Jordan. Can I have one quick question?

16 Dr. Gruber. Can I ask, can we take a break? I mean, I'm happy to answer your
17 question but --

18 Mr. Jordan. I think the time is up in like 3 minutes.

19 Dr. Gruber. Okay.

20 Mr. Jordan. We'll be happy to do that and take a break every hour or more if
21 you need.

22 I'm just going back to something you said much earlier when you were asked did
23 you have regular interactions with FDA Commissioner Ms. Janet Woodcock and you said
24 no. Is that right?

25 Dr. Gruber. That is correct.

1 Mr. Jordan. And then we asked, did you have any interactions with her? How
2 often? I think you said one.
3 Dr. Gruber. I did have one direct interaction with her, yes.
4 Mr. Jordan. I'm just curious, what was that about?
5 Dr. Gruber. That was about the topic that Dr. Woodcock and Dr. Marks had
6 informed the Office of Vaccines that it was necessary to speed up the approval process
7 for COMIRNATY faster than the September 15 deadline that we all had agreed upon.
8 Mr. Jordan. You just discussed with Mr. Massie that deadline?
9 Dr. Gruber. Yes. And I -- because -- and I explained the interactions that were
10 ongoing at that time, the frequent communication, the information requests going out.
11 And we, of course, at that time were not in control of when the sponsor would provide
12 responses.
13 I was concerned about wrapping up the approval faster because when -- and I had
14 written a memo in the middle of July laying out my concerns.
15 Mr. Jordan. Tell me the beginning dates. Is it September of '21?
16 Dr. Gruber. Yes, September 15 of 2021.
17 Mr. Jordan. If I remember right, you just told Congressman Massie that you had
18 already moved that up from a normal timeframe of January.
19 Dr. Gruber. That's right.
20 Mr. Jordan. Eight-month timeframe. So you had already moved it up to
21 September.
22 Dr. Gruber. Yes.
23 Mr. Jordan. And then the updated mission was saying go even faster.
24 Dr. Gruber. That's right.
25 Mr. Jordan. And this is approving the license for the vaccine?

1 Dr. Gruber. Yes.

2 Mr. Jordan. Okay. That's the one time you talked to her. Did she come to

3 you, or did you go to her?

4 Dr. Gruber. No. I had written a memorandum in July of 2021 laying out my

5 concerns about that. I said: This is going to be very ambitious. I am not in control of

6 when and how fast Pfizer would respond with information requests.

7 And I told her that we should not further compress the approval timeline. This is

8 when she called me into a meeting. And we had the meeting.

9 Mr. Jordan. And what did she say?

10 Ms. LoCicero. I believe this would impinge on the deliberative process. So she

11 is not authorized to answer that question.

12 [redacted] So your instruction is for the witness to not answer the question.

13 Is that correct?

14 Ms. LoCicero. Correct, based on the guidance given to us by the FDA.

15 [redacted] We'll go off the record.

16 [Recess.]

17 [redacted] It is 11:18. We can go back on the record.

18 EXAMINATION

19 BY [redacted]

20 Q So my name is [redacted] I'll be asking some of the questions

21 for the Democratic side along with [redacted]

22 I wanted to start. We talked a little bit about your background as a public health

23 official. I know that you were at the FDA in Office of Vaccine Research and Review for

24 almost two -- over two decades. Is that right?

25 A Yes.

1 Q So did you -- I know you're here because of your work on the COVID-19
2 vaccine, but did you work on other vaccines in that time?
3 A Yes. Yes. I worked on numerous vaccines during these -- yes, between
4 '95 and '21. And, again, in varied positions with different levels of authority, but, I
5 mean, we had the pneumococcal conjugate vaccines that we licensed, Prevnar 13,
6 Prevnar 20. Then there were 20-valent vaccines by other manufacturers, such as Merck,
7 the licensure of Shingrix, the licensure of the Dengue vaccine. Licensure of the Ebola
8 Zaire vaccine, meningococcal type B vaccines. Licensure of combination vaccines, you
9 know, with childhood vaccines, human papillomavirus vaccine type, the nonavalent, et
10 cetera. So lots of them, yeah.
11 Q Did you win any awards during your tenure as the Director of Office of
12 Vaccine Research and Review?
13 A Awards? Yeah. I received awards, yes.
14 Q Can you talk about them?
15 A Well, the -- I got an award that probably was the biggest in 2008, when I was
16 Deputy Director. That was awarded by the Secretary of Health and Human Services.
17 You know, that was a big award. I got several policy awards.
18 Q What was that award for in 2008?
19 A That was just for -- for the work I was doing, you know, a general award.
20 But then there were awards for the policy work I've done. We had awards that we
21 received as a team that say for licensure of certain vaccines.
22 There were individual awards during, you know, my tenure as office director for
23 leading the Office of Vaccines. And I think there was a group award too about the
24 licensure of the Ebola vaccine. I mean, it goes on and on. Yeah, they -- they award or
25 reward people for government service done.

1 Q Did you win the FDA Innovator Award in 2021?
2 A I think I did, yes. I forgot to say that, right?
3 Q Do you remember what that award was for?
4 A You know, I think that was just for, you know, the work we've done over the
5 last couple of years in the approval of these, you know, pandemic vaccines and then the
6 endemic vaccines, yeah.
7 Q Would it be accurate to describe you as a vaccine expert?
8 A Yes.
9 Q I wanted to talk about OVRR's processes more generally. So OVRR refers to
10 the Office of Vaccine Research and Review. Is that right?
11 A Yes.
12 Q And it's part of the Center for Biologics Evaluation and Research?
13 A That is correct.
14 Q And that's CBER?
15 A Yes.
16 Q The mission of OVRR is to ensure that vaccines and related products are
17 safe, effective, and accessible to U.S. consumers in order to protect public health. Is
18 that right?
19 A Yes.
20 Q Is it fair to say that OVRR has both a regulatory and a research mission?
21 A Yes.
22 Q And there are three broad categories that OVRR's work falls into. Would
23 you say that?
24 A Well, there's the preventive vaccines. There are the allergenic products,
25 and then there is, we refer to it as catchall, the fecal microbiota products, for instance,

1 phage therapy. So yeah.

2 Q And OVRR reviews products for approval. Is that right?

3 A Yes.

4 Q What does that entail?

5 A Well, it is -- entails providing regulatory oversight of all the prelicensure

6 activities. So we don't start interacting with vaccine manufacturers at the time they

7 submit a biologics license application to us.

8 We actually start interacting at very early stages. We refer to this as pre-IND

9 meetings, pre-Investigational New Drug Application meetings, where a vaccine developer

10 comes in and informs us that they want to develop a preventive vaccine against a certain

11 pathogen.

12 They will share with us their development plans, the type of preclinical data they

13 need to sometimes show and demonstrate that the vaccine has preclinical safety. They

14 tell us about the manufacturing process, and they inform us about the proposed clinical

15 development plan.

16 And, as they go through the stages of clinical development or overall

17 development, there will be interactions. So there's sort of like certain stages they come

18 and talk to us again.

19 For instance, if they have data from a phase 2 safety and immunogenicity study,

20 and then they want to know is the data supportive of starting a big study to demonstrate

21 the safety and the efficacy of the product. So just as an example.

22 But there are also lots of other meetings where vaccine developers sometimes

23 have technical questions, or there is to be a new assay that needs to be developed to

24 measure the immunogenicity, let's say, of the products.

25 So CBER experts will sit with the vaccine manufacturer and develop a path

1 forward. And then, if data are accrued to support the safety and efficacy of the product
2 and to support the adequacy of the facility, then they can submit a biologics license
3 application. Then we review all the data in one big submission, as I described.
4 I mean, do you want me to go through this again?
5 Q Yeah, we're going to come back to that. Yeah.
6 So who develops the policies and the procedures that govern the review process?
7 Does OVRR do that themselves or does somebody else tell them how to do reviews?
8 A So we, of course, need to start with the statute, right, the PHS ACT, and that
9 is, of course, Congress. And then it's up to the FDA to really implement the statutory
10 requirements, and that's in the form of regulations. And this is where FDA has authority
11 for rulemaking, introducing a new regulation or even introducing a revocation of an old or
12 outdated regulation.
13 And then there is guidance. And guidance basically takes the regulations and
14 interprets them and provides then guidance and advice to manufacturers how to comply
15 with the regulations and the statute.
16 And there are experts in the FDA who concern themselves with policy work or rule
17 writing, and they will often reach out to subject-matter experts in the different offices of
18 the FDA to help them with the rule writing, you know, and/or guidance writing. So
19 people, based on their experience and expertise, may be asked to sit in on these working
20 groups.
21 Q So OVRR's role is sort of a subject matter expert?
22 A Yes, that is correct.
23 Q And then OVRR also conducts bench research. Is that right?
24 A Yes.
25 Q Can you talk about that mission and what that entails?

1 A So the bench research that is conducted is really supporting the mission of
2 OVRR, which is, again, to make available safe and effective products. And, in order to
3 really develop the subject-matter expertise and the expertise to look at the chemistry
4 manufacturing process, our researchers do often research in this area.
5 So we have subject-matter experts for let's say filovirus vaccines. That is the
6 group of the Ebola vaccines. There are subject-matter experts for the flavivirus vaccines.
7 That is the dengue vaccine, for instance. There are subject matter experts for certain
8 bacterial pathogens, like the meningococcal type B and C, the pneumococcal or shigella,
9 cholera.
10 And people will perform research in these areas. It is not basic research as it is
11 performed by the NIH, for instance. It is what they refer to as mission-oriented
12 research.
13 So they may help develop a certain assay to measure the immunogenicity induced
14 by a new vaccine candidate against a certain pathogen.
15 Q You said that word "immunogenicity" a couple times. Could you explain
16 what that means?
17 A Immunogenicity is the response that the body makes to a vaccine that the
18 human receives. And so the immune response, that is a very comprehensive response
19 and there are a certain type of cells in the human body that are being activated in
20 response to the vaccine antigen that is injected.
21 And, basically, what that means is that the body develops a protective effect or
22 reaction to the vaccine, so the next time the human may see the pathogen, it is protected
23 because the vaccine induced this protective immune response.
24 Q Could you explain the difference between immunogenicity and efficacy?
25 A Yes. Immunogenicity refers to measuring the immune response that is

1 induced to a vaccine. That is very commonly the antibodies that are made and that are
2 measured.
3 Efficacy is determined, in the traditional sense, by a clinical disease endpoint
4 efficacy study in which the endpoint that is measured is prevention of morbidity or
5 mortality that may be induced by the pathogen.
6 So, you know, for -- let me give you an example. When Prevnar 7 was licensed, it
7 was prevention of invasive streptococcal disease due to serotypes contained in the
8 vaccine.
9 And, however, the effectiveness or efficacy can also be demonstrated through an
10 immunogenicity trial if the biomarker that is being measured, typically an antibody
11 response, is a well-established biomarker that has been shown to be predictive of
12 protection. But traditionally what the agency likes to see is a clinical disease endpoint
13 efficacy study because it provides a very robust past demonstration of efficacy or not,
14 depending on the vaccine. Yeah.
15 Q That makes sense. So, in your 25 years at OVRR, did you see the vaccine
16 approval process change over time?
17 A Yeah. It changed in the sense that, through the Prescription Drug User Fee
18 Act, or PDUFA, the agency had to comply with certain review timelines. When I started
19 back in the early nineties or even late eighties as a post-doc, there was -- this concept of a
20 managed review process wasn't there. That came into effect with the Prescription Drug
21 User Fee Act, the first one, because the first one was in '92, when I had just started at the
22 FDA.
23 And so certain timelines, you know, for which we had to take regulatory action,
24 you know, were instituted. And, with the years, that was revised and further revised.
25 For instance, not only did we have to meet timelines as part of the management review

1 process. We also had to have meetings with -- official meetings with the sponsors as
2 part of the review process, as part of the BLA review process.
3 There were also then additional provisions, such as the Pediatric Research Equity
4 Act, PREA, which then required us to really work with the applicant on a pediatric
5 assessment that I mentioned before.
6 So, yes, over the years the review process was modified.
7 Q In your opinion, did you see those as improvements to the process?
8 A Yes.
9 BY [redacted]
10 Q Can you say anything more about that? Why did you think that was an
11 improvement to the process?
12 A Because it afforded more structure in the process and it was, you
13 know -- and I think it facilitated interactions and collaborations between the vaccine
14 manufacturer and the reviewers. And there was a clear establishment of roles and
15 responsibilities.
16 Q And, looking at those interactions between the manufacturers and the FDA,
17 you mentioned earlier in the approval process it sounds like there could be dozens of
18 interactions. Is that fair to say?
19 A Hundreds of interactions.
20 Q Hundreds. And that -- in your opinion, that's beneficial for the process?
21 A I think it does facilitate reaching a regulatory decision because sometimes
22 information that is submitted may be a bit vague or unclear, and that in and of itself
23 should not result in a complete response action, which is the vaccine is not approved.
24 You should have the opportunity to ask questions during the review process.
25 And it's not only just email or picking up the phone, but it is also writing what the agency

1 refers to as discipline review letters.

2 So, when the medical officers do their -- perform their review and it's completed,

3 while the review clock is ticking -- that's what we say -- they can send a letter to the

4 vaccine manufacturers. And it could say: You know, your data are encouraging.

5 However, we need this additional information.

6 And the same for CMC with facilities. And so that's why there is so much

7 interaction during the BLA review process.

8 [redacted] Thank you.

9 BY [redacted]

10 Q You worked through a couple of epidemic illnesses at OVRR, swine flu, Ebola,

11 and then COVID. Do you think that these increased interactions helped you respond

12 more quickly to those epidemic illnesses?

13 A I think they were learnings. There were learnings from each and every, you

14 know, pathogen's pandemic potential, H1N1, and also, you know, the Ebola outbreak.

15 I think we've learned to communicate and foster more global interactions too.

16 For instance, during the COVID pandemic, we had frequent interactions with other

17 national regulatory authorities, such as the European Medicines Agency, Health Canada,

18 PGA, global regulators from Asia, from Africa to really exchange regulatory reviews

19 because the submissions made by these vaccine manufacturers, of course, they were the

20 same.

21 And I think public health benefited from these interactions because there was sort

22 of an alignment of what we would be, you know, requiring, requiring or also what may

23 not be so necessary. Yeah.

24 BY [redacted]

25 Q And is it fair to say that all of these global interactions meant that, in the

1 case of the COVID-19 review specifically, you were able to gather more information
2 because you were interacting with the European vaccine --
3 A Agencies.
4 Q -- regulatory agencies, agents at these agencies, et cetera?
5 A Yes, that is correct. Yes.
6 BY [redacted]
7 Q The FDA has also been described as somewhat unique in that you analyze
8 data for yourselves rather than take data analysis from the companies. Is that fair?
9 A Yes. That sets the FDA apart from other regulatory agencies. Even the
10 European Medicines Agency, they do not require the raw data, the datasets from the
11 vaccine manufacturer. We typically do request that information.
12 So that would be line listings, you know, of course, subjects identifiable we
13 dequalify. We don't know who the subject, of course, is, but it will be line listings of,
14 you know, for instance, the immune response induced in every subject or safety data, you
15 know, injection site reactions, fever.
16 And, of course, these data, they are then used by the CBER statisticians, and they
17 perform their own analysis of the data. So they would not rely on the output provided
18 by the vaccine manufacturer. And that is another reason why there is so much
19 interaction during an application review.
20 BY [redacted]
21 Q Because you're looking for additional data?
22 A Well, because let's say the analysis and the outcome of the analysis done by
23 CBER statistician is not -- is different than, you know, provided by -- by the vaccine
24 developer. That's cause for discussion, right? So it doesn't happen all too often, but
25 there are situations, you know, where this is -- you know, where this needs to be

1 addressed. Yeah.

2 BY [redacted]

3 Q And can that make the review process take a longer time if --

4 A You know what it means, that people just have to work more hours to get

5 this work done. And that was the case during the COVID pandemic.

6 Q I want to turn to the COVID pandemic.

7 Do you remember when you first learned about the emerging novel coronavirus?

8 A When I learned about that? It was January of 2020, when my Deputy

9 Director came in and said: You know, you heard about this new pathogen out of China?

10 And I said: Yeah.

11 And he said: The Coalition for Epidemic Preparedness Innovation, CEPI, wants to

12 make that its pathogen X.

13 And that is a coalition that really, you know, with the mission to really expedite

14 the availability of vaccines against these pandemic pathogens. So this is how I heard

15 about that. And, well, but that was just the start, right? Pretty soon we knew that,

16 you know, there was a real global health emergency.

17 Q What does designating something as pathogen X mean?

18 A Well, that is a term that CEPI uses, okay? So that they are trying to be

19 proactive and really, you know, making sure that the vaccines are developed even to a

20 future, you know, pathogen which you don't really know what it is. Is it a new

21 coronavirus? Is it another Ebola virus? Is it a new form of, you know, viral species that

22 you haven't -- that one hasn't seen before.

23 Q So, when you first learned about the emerging coronavirus, it sounds like

24 your first thought was a vaccine for it?

25 A Yes. And the concern was what vaccines, right? So we didn't have any at

1 that time. However, you know, things happen fast due to the new technology. And
2 rather than months or years, you know, they had the sequence of the virus in a couple of
3 weeks and could express the antigen using the mRNA technology. And I remember
4 meeting with the one company already in the beginning of March.
5 Q So that was going to be my next question. What steps did you take?
6 A Yeah. So what we -- what we realized very quickly is that the usual
7 process -- and I describe this as the manage review process, where we have to, you know,
8 meet certain timelines but also have a certain amount of time to review a data package.
9 Let me give you an example. A new vaccine -- a vaccine manufacturer knocks at
10 FDA's door and says: I would like to, you know, develop this vaccine.
11 We have 2 months until we have to meet with that vaccine manufacturer.
12 In the meantime, they have to submit us -- to us a briefing document that we then
13 review the available data. We formulate questions. We formulate guidance. And
14 these timelines we realized are not doable to address this global public health
15 emergency.
16 And so we met. Leadership in Office of Vaccines met and also with the Center
17 Director. And we said business as usual in terms of having these timelines, you know,
18 are no longer available to us. We have to have an all hands on deck. Our people have
19 to realize that the submissions that are coming in need to be reviewed thoroughly.
20 Scientific standards cannot be compromised. We have to make sure that there's
21 compliance with regulations and applicable law, but work needs to be done as
22 expeditiously as possible.
23 And we achieved that by -- first of all, it was tremendous dedication of our people.
24 They canceled their vacation. They worked through weekends. Statisticians put in
25 night shifts. We also enlisted help.

1 SARS-CoV-2 was a viral pathogen. The vaccine was a vaccine against a viral
2 pathogen. But we enlisted the help of subject-matter experts in the -- in other
3 disciplines, such as bacterial products, to help with other important work that was
4 ongoing in the Office of Vaccines at that time. So that the group of people charged with
5 the review of SARS-CoV-2 vaccine candidates could fully, fully concentrate on that.
6 And, when I referred to an all-hands-on-deck approach, that's what it was. I
7 mean, we made sure, between my deputy and myself, that we had coverage almost
8 around the clock. I was at my desk at 6 o'clock in the morning. He started a little later,
9 but was on call until midnight. So we had maybe 5, 6 hours where there was not, you
10 know, immediate answering of emails and phones, but other than that that's what we did
11 at that time.
12 And this is how we could accelerate the review and the decisionmaking. And,
13 again, it was due to the tremendous dedication of the people. And many had been
14 working in the Office of Vaccines for a long time. It was a very experienced staff, and we
15 could apply learnings from other pathogens.
16 Q I know it feels kind of obvious, but could you explain why you felt such a
17 sense of urgency in early 2020?
18 A You know, I think it felt very different. And you saw the news responding
19 to the death counts on a daily basis, right? The curve, about people succumbing to
20 SARS-CoV-2. I mean, by the day, you know, the curve skyrocketed. And people were
21 falling ill. Neighbors were falling ill. I had people in my own office, their family
22 members died of COVID.
23 So it was there, and we knew we had to do our part. And that is not to say that
24 we didn't do our part during the Ebola pandemic because it was in Africa. We worked
25 very hard too. But this, this was -- this happened on a very different scale.

1 Q Can you speak to -- do you know the number of people that were involved in
2 this effort in your office and the other offices that you pulled in?
3 A So the Office of Vaccines at that time had about 250 full-time employees.
4 Post-docs cannot be doing regulatory work, so there are restrictions.
5 I would say at least half of it. And that was also happening in the other offices.
6 And there was a true commitment of leadership too. I mean, I remember helping with
7 writing briefing documents or, you know, statements. Usually other people did this, and
8 I just reviewed them.
9 And so I really -- it was a real team effort, you know. It was not the team did it
10 and then presented it to the office director. We had to be part of it so that we could
11 also make decisions and provide guidance in real time. It was a very different, you
12 know, environment. And, yeah, again, our PDUFA timelines went straight out the
13 window.
14 BY [redacted]
15 Q You mentioned a couple minutes ago that you would get in the office at 6
16 a.m. and then your deputy would get in, and you basically had coverage at the office from
17 6 a.m. to midnight at the administrative level.
18 A Yes, yes.
19 Q How long did that schedule go on? How long did you do that?
20 A Started in January 2020, and it lasted till I left.
21 Q So a year and three-quarters?
22 A Yes.
23 BY [redacted]
24 Q In 2020, the decision was made that COVID vaccines would be eligible for
25 consideration under an Emergency Use Authorization. Is that right?

1 A In fall of 2020.

2 Q Yes.

3 A Yes, that is correct.

4 Q What was the -- you said that you don't sign the EUA, so what is your office's

5 role in reviewing the vaccines for EUA?

6 A I -- I sign off on the memorandum that is put together by the Office of

7 Vaccines, which provides a summary of the data and the results of the studies conducted

8 and the product characterization performed. And so that's what I'm signing off on.

9 But the EUA per se, that's not at my level. That was the HHS level.

10 Q In your memorandum, are you making a recommendation for a EUA?

11 A Yes. Yes, we recommended that. Basically, it's not a recommendation.

12 We determined that the known and potential benefits outweigh the known and potential

13 risks. We had to determine that at that time there was no available therapy. We

14 basically have to make sure that all these requirements under the statute are being met.

15 Q So, when a manufacturer submits an EUA request, does OVRR still look at

16 the safety profile of that vaccine?

17 A Yes. That is part of the review. So we had met frequently during 2020

18 with the vaccine manufacturers that were developing SARS-CoV-2 vaccines, and we had

19 provided guidance on the clinical studies that needed to be conducted to demonstrate

20 the safety and the efficacy of the product.

21 And, once the efficacy data came in, I mean, there was a lot of optimism, because

22 the vaccines were so effective. But at that time, we did not have the safety information.

23 So we could not authorize the vaccine based on demonstrated efficacy alone. We had

24 to assure the safety and the circumstances of a public health emergency.

25 And this is what we did. And we also discussed our approach with the Vaccines

1 and Related Biologic Products Advisory Committee in October of 2020. I remember that
2 because we said we cannot just take 7-day safety data. You know, like you inject the
3 vaccine. The primary series was two doses and then you wait 7 days and, oh, it's fine.
4 No.
5 We said we wanted a minimum of 2 months of safety followup. That meant half
6 of the subjects had to have at least 2 months of safety followup. And that was a bit
7 difficult to address during that time. And we had to hold the line to make sure that
8 safety -- you know, the safety of the vaccine was favorable. Again, it's an EUA standard.
9 That is different than a license standard. It says may be effective and the benefits,
10 known and potential benefits need to outweigh the known and potential risks. And, in
11 order to make that assessment, you have to look at the safety data.
12 Q How did that 2-month followup compare to the standard safety followup
13 that you might require for a vaccine?
14 A It's shorter. It is -- usually, it is at least 6 months' safety followup.
15 Q How did you determine that 2 months was appropriate in this case?
16 A Again, we had to make a decision that the benefits of the vaccines in terms
17 of protecting COVID-induced death, ICU admissions, hospitalization, that these benefits
18 did outweigh, you know, the known and potential risks. And because we had a raging
19 pandemic and people falling ill and dying, that benefit-risk ratio changed.
20 Q Can you explain a little more about how that changed?
21 A Well, we had to make a determination what the safety followup, what
22 is -- what do we need in order to make that decision?
23 And we knew from experience working at the FDA and licensing lots of other
24 preventive vaccines, we knew that if adverse events occur that are due to the vaccine -- I
25 mean, there are many other adverse events that can just happen during the time. It's

1 called incidental.

2 But we knew for those adverse events that happen that -- for other vaccines that

3 are attributable to vaccines, they happen usually between, you know, the first 1, 2

4 months after the vaccine is injected. And this is how we came up with we need to have

5 at least a minimum of 2 months of safety followup.

6 BY [redacted]

7 Q So your determination, the reference you just made to the adverse effects,

8 adverse events usually take place in the first 1 to 2 months, that's based on your years of

9 vaccine research?

10 A That was the experience that we had at that point. And, you know, if you

11 look at the Vaccine Injury Compensation Act, you have the data there, yeah.

12 Q And you talked a little bit about the benefits kind of broadly, decreasing ICU

13 admissions, things like that. Can you talk a little bit more about what went into the

14 benefits side of that equation?

15 A Well, as I said, we did the efficacies. We did review the efficacy data. And

16 that was protection from severe -- from COVID vaccine. And the case definition said,

17 protection from hospitalization, and then there were a series of secondary endpoints.

18 And these endpoints were met. There were far more cases in the placebo

19 group -- because these were a placebo-controlled trial, right? -- than in the vaccine group,

20 so that we could conclude the efficacy of the vaccine. It was over 90 percent. It was a

21 relatively tight confidence it evolved to.

22 Q So the benefit isn't just that fewer people got COVID, though. It's that the

23 people that got COVID were not as sick. Is that fair to say?

24 A That was caught in terms of secondary endpoints, yes. And, you

25 know -- well, you can debate what that means, being less sick, right? And then -- yeah.

1 [redacted] So you mentioned that October 2020 guidance. I want to
2 introduce that for the record as exhibit 1.
3 [Gruber Exhibit No. 1
4 Was marked for identification.]
5 BY [redacted]
6 Q This is the October 2020 FDA guidance about Emergency Use Authorizations
7 for vaccines to prevent COVID-19. Are you familiar with this guidance?
8 A Yes.
9 Q Before I talk about this one in detail, could you first just broadly explain what
10 are FDA guidance documents?
11 A Well, FDA guidance documents interpret a certain regulation. And so, you
12 know, in this case, we knew what the requirements were under the statute to be able to
13 grant an Emergency Use Authorization.
14 And, for instance, take the standard it may be effective. And so, in this guidance
15 document, then, we tried to interpret what it means, you know, what sponsors had to
16 demonstrate to meet this standard of may be effective.
17 And we did -- at that point wanted to apply stringent criteria because we knew, if
18 an EUA would be granted for a COVID vaccine that it had the potential to be administered
19 to millions of people. And so we wanted to make sure that the vaccines that we would
20 authorize on the EUA would need to meet a certain effectiveness standard.
21 And we said: You know, at least 50 percent in the lower bound, you know, of
22 greater than 30 percent. But we also told the sponsors what we would like to see in
23 terms of safety data. And this is not something that we just came up with overnight.
24 As we discussed with the vaccine manufacturers since spring of 2020, the
25 development of these COVID vaccines, we already had conversation there with the

1 vaccine manufacturers. They asked us for guidance, what would be the standards.
2 And we communicated this to them, and then we formulated it in terms of a guidance
3 document. And -- yeah.
4 Q What role did OVRR play in developing this guidance?
5 A We played a very central role. Our -- our subject matter experts really
6 described, for instance, what chemistry manufacturing and control information would be
7 required, what safety and effectiveness information that was ruled by the medical
8 officers, you know, in terms of preclinical data. These were our toxicologists. And,
9 yeah, so it was a concerted effort.
10 But that is not to say that only the Office of Vaccines worked on that, right?
11 There were other offices that took part of it, such as the Office of Biostatistics and
12 Epidemiology, again, the Office of the Compliance.
13 And, of course, you know, the -- the Center Director's Office and their policy
14 people, you know, looked at this as well. So it was a concerted effort. However, it's
15 fair to say that OVRR played a very central role.
16 Q Did you have a role in approving this guidance?
17 A I agreed to this guidance. Formal signoff is within the Director's -- Center
18 Director's Office.
19 Q And, generally, not just for this guidance, but generally what approval
20 processes do FDA guidance have to go through before they can be issued?
21 A Well, usually guidance writing takes longer than the guidances that we
22 issued June 2020. I mean, one was the Emergency Use Authorization, and the other one
23 was a clinical development and licensure of SARS-CoV-2 vaccines, right? We had two
24 guidance documents.
25 Usually, there is a drafting group, the usual process. The drafting group consists

1 of subject-matter experts and policy people, and they are addressing a certain issue for
2 which, you know, guidance needs to be developed.
3 And so there is a draft. That draft is then being put out in the Federal Register
4 for public comment. Depending on the comments that are received, it takes a couple of
5 weeks or a couple of months to finalize the guidance document.
6 And so, once the comments are received they are addressed, but the agency has a
7 certain discretion. So that's the difference to a rulemaking, where we have to address
8 every comment. Here, we have a certain flexibility for guidance documents. Usually,
9 we try to look at all the comments.
10 And then, you know, the guidance is finalized and being made available. That is
11 not to say that final is final. The guidance can be updated. You know, entities,
12 stakeholders have -- have opportunity to continue to submit their comments to the
13 docket. And then if -- you know, if -- if it's felt that the guidance needs to be updated
14 then that takes place.
15 Q This specific guidance was updated multiple times after October 2020.
16 A Yeah. Yeah, it was. Yeah, because it addressed other issues, right?
17 Yeah.
18 Q Does the White House have a part to play in the approval process of
19 guidance?
20 A It usually doesn't. In this case, that was different. The White House
21 wanted to clear the guidance document.
22 Q We'll come back to that point. But, before we go there, I want to turn to
23 page 5 on section 5 of this guidance. That section is entitled "Recommendations
24 Regarding Information and Data to Be Included in a Request for an EUA for a COVID-19
25 Vaccine."

1 Would you say that the information and the data laid out in these
2 recommendations was important for the OVRR to review before authorizing a COVID-19
3 vaccine for emergency use?
4 A Yes.
5 Q Section A looks at regulatory information. Is that right?
6 A Yes.
7 Q So, looking at A3, the guidance talks about a discussion of risks and benefits,
8 including information about -- available information about the threat.
9 Why is that important for the EUA request to include a discussion of risks and
10 benefits? I know we've talked about this a little bit before, but specifically for the EUA
11 request.
12 A Because if you look at the beginning of the guidance document, and that is
13 on page III, Roman III, criteria and consideration for the issuance of the guidance, it
14 states: Based on this declaration and determination, FDA may issue an EUA after FDA
15 has determined that the following statutory requirements are met.
16 And then there are four bullets. One of them is: The known and potential
17 benefits of the product, when used to diagnose, prevent, or treat the identified serious or
18 life-threatening disease or condition, outweighs the known and potential risks of the
19 product.
20 Q So, when EUAs were eventually issued for COVID-19 vaccines, were -- was
21 there a discussion of risks and benefits in the requests that were made?
22 A In the -- by the vaccine manufacturers?
23 Q In the review process, was there a discussion of risks and benefits?
24 A Yes, of course, the review team looked at that and did a benefit-risk
25 assessment. And, in doing so, of course, it took into consideration the data derived

1 from the clinical disease endpoint efficacy studies that were conducted with these
2 vaccine candidates.
3 Q And you mentioned the clinical endpoint is things like was the person
4 infected; did they get severe disease?
5 A Yeah. It was prevention of COVID disease. It wasn't so much prevention
6 of infection. It was really prevention of COVID disease and, you know, severe disease.
7 Am I allowed to make one statement? There was a lot of miscommunication
8 that the vaccines were not effective. They were effective in terms of preventing against
9 severe disease. They kept people out of the hospital. They didn't prevent infection or
10 transmission. And that was -- this is an important distinction to make when talking
11 about the vaccine efficacy.
12 Q Next I want to look at the safety and effectiveness information that is in this
13 guidance. It's on page 9 in section C3. And then the actual safety and effectiveness
14 data is detailed on pages 10 and 11.
15 So subsection b on page 10 talks about phase 1 and 2 studies and safety data in
16 those studies. What are phase 1 and 2 studies?
17 A Typically, when a vaccine is developed, phase 1 studies are the first in human
18 clinical trials. And they are there to primarily look at the safety. Looking at very
19 common adverse event, of course, because these phase 1 studies are small studies,
20 usually not more than a hundred subjects. And you sort of look at the initial safety of
21 the product, and you look at the initial immunogenicity profile of the product.
22 And, when things look favorable, then phase 2 studies are started. These are
23 typically randomized. That means there's a vaccine arm and a control arm, usually
24 placebo. They include a couple of hundred subjects. And, again, there is safety that is
25 evaluated and immunogenicity. Sometimes these phase 2 studies are even large

1 enough to get a signal of efficacy, but usually that is not the case.

2 And then, if these data are favorable -- and usually it's not only one phase 1 and

3 one phase 2. There are several studies that can be conducted, depending on what the

4 data show.

5 And then there is a phase 3 study that is the what we refer to as pivotal study to

6 demonstrate the safety and the efficacy. And that study data, if favorable, usually

7 supports licensure of the product.

8 But, of course, during the review process we would look at all the clinical studies

9 conducted. And, during COVID, these -- there were not discrete stages of phase 1 and 2

10 and 3. The sponsors started with larger -- with smaller populations.

11 And when the vaccines were first tested in the first in human clinical trial part, it

12 was healthy younger individuals. And then -- and they looked at different doses,

13 different vaccine candidates. So different formulations of the vaccine, I mean.

14 And then they met with us and said: We have data here to suggest that this is

15 immunogenic and tolerable.

16 And so they went then and expanded the study into phase 2, and then again

17 expanded the study into phase 3.

18 And that, again, accelerated the accrual of critical safety and efficacy data,

19 because -- because the clinical development, because of the pandemic, did not occur in

20 stages.

21 Q When reviewing the COVID-19 vaccines for EUA, did OVRR review the safety

22 data from this range of studies?

23 A OVRR did review the safety data available from all studies, yeah, and every

24 subject that was receiving the vaccine.

25 BY [redacted]

1 Q So you just talked about the phase 1, phase 2, phase 3 studies. In a normal
2 process -- in a normal non-health emergency, let me put it that way, it would be the
3 phase 1, and then there would be some review of data and then phase 2, then phase 3.
4 Is it fair to say that, with respect to COVID in particular, it was more of like a
5 continually expanding process?
6 A That's right.
7 Q And that you said helped you accelerate the approval process, right?
8 A Yes.
9 Q And can you talk a little bit about how that helped you reach a regulatory
10 decision more quickly with respect to this vaccine?
11 A Well, that in and of itself facilitated, you know, getting the critical safety and
12 efficacy data needed to authorize the vaccine, but there was one thing that you usually do
13 not have if you develop a preventive vaccine. And that is, when Pfizer, for example,
14 started its safety and efficacy study, the large -- expanded to the large 44,000-subject
15 trial, it was in the end of July.
16 And, at that time, the COVID cases like August-September started to rise. And
17 they were able -- not only were they able to enroll these subjects in a matter of weeks,
18 because people wanted to get the vaccine to protect themselves -- that was a fact.
19 The enrollment was much faster than you typically see with a vaccine, and you
20 had an incidence rate. That means many, many cases of COVID, so that you could -- you
21 know, your statistical criteria -- you need so many cases to declare efficacy -- was reached
22 much faster because of the pandemic. Sometimes that can take years to accrue a
23 sufficient number of cases due to disease incidence being very low. And this was not
24 the case in this situation.
25 Q So, in a way, even though, obviously, the pandemic was horrible, also

1 because it was so bad it made it easier to do the research here?

2 A Yeah. I am reluctant to phrase it that way, but yeah, uh-huh. Because it

3 was very sad, seeing so many people dying. Yeah.

4 BY [redacted]

5 Q And other parts of this guidance talk about the chemistry manufacturing and

6 control data that you also talked about earlier. It talks about nonclinical and clinical

7 data.

8 So is it fair to say that, during the EUA review process, OVRR reviews the

9 regulatory information, the CMC information, and nonclinical and clinical safety and

10 efficacy information?

11 A Yes. And facility information.

12 Q Facility.

13 A Well, OVRR, in concert with its colleagues from the other offices, right? For

14 instance, our -- the statisticians here played a key role. They're not in the Office of

15 Vaccines. They're working closely with the medical offices who are in Office of Vaccines,

16 but they are responsible to do the statistical evaluation.

17 And our OVRR had the subject-matter experts for the CMC information, but the

18 facility information is yet with a different office. And the office director of that office is

19 Mary Malarkey, as I said before.

20 Q So FDA did review all of this information for the COVID-19 vaccine before

21 issuing EUAs?

22 A Yes.

23 Q I want to turn to section VII. It's on page 11. It's titled "Consideration of

24 an EUA for a COVID-19 Vaccine By an FDA Advisory Committee." Could you explain this

25 consideration?

1 A Typically, if we -- if we have a Biologic License Application for a new vaccine
2 product, we convene the Vaccines and Related Biologic Products Advisory Committee,
3 which consists of experts in different disciplines from across the country. And we do
4 this to have a public discussion and a public vetting on the safety and efficacy information
5 that is available for this vaccine product.
6 And, even though FDA has reviewed the data and has also -- you know, has a
7 perspective, of course, at that point when they convene the committee on the safety and
8 the efficacy of the product, they usually want to hear the advice of these public experts.
9 So the safety information and the efficacy information is presented during a day's
10 deliberation, you know, for the specific vaccine. And the committee is typically asked
11 with questions: Do you agree that the safety information submitted, or you heard about
12 today supports the safety of the product under the condition of use? It's always like
13 that, okay? And under the condition of, you know, what the recipient has to undergo
14 because of exposure to the disease, or do the data support the efficacy of the vaccine?
15 And the committee then can vote. And there are sometimes also discussion
16 points. So please discuss what additional data may be necessary. Do you think?
17 So -- and so that's meetings that we have to really have a transparent process too so that
18 people know about the products licensed. Everybody can call into these meetings.
19 We felt it was important to have this very transparent process also, you know, set
20 in place during the COVID pandemic and before the Emergency Use Authorization,
21 because we wanted to know if VRBPAC agreed with the criteria that were laid out in this
22 guidance document. And that's why we convened the meeting. And, yes, they agreed
23 with the criteria that we laid out.
24 And then we had two more advisory committee meetings that year, and that was
25 presenting the data accrued with the Moderna mRNA vaccine and the Comirnaty mRNA

1 vaccine, and both of these committee meetings took place within a week of each other in
2 December, where the committee was again asked, you know, do you agree that the
3 known and potential benefits outweigh the known and potential risks of this?

1 [12:16 p.m.]

2 BY [redacted]

3 Q So you're saying VRBPAC did meet before the EUAs of both the Moderna and

4 the Pfizer vaccine?

5 A Yes. Yes.

6 Q Do you have confidence in the OVRR review of the Pfizer and the Moderna

7 COVID-19 vaccines for Emergency Use Authorization?

8 A Yes.

9 Q Were all the necessary procedures followed during the review process?

10 A Yes.

11 Q Were the review methods reliable?

12 A Yes.

13 Q Did OVRR make its decisions based on reliable evidence?

14 A OVRR made its decision based on the safety and efficacy information that

15 was before them and found that the known and potential benefits did outweigh the

16 known and potential risks of the product.

17 Q Did you have confidence in the safety and the efficacy of the COVID-19

18 vaccines when the EUAs were issued in late 2020?

19 A I had confidence that the requirements, as laid out by the statute, were met,

20 and as I said before, may be effective, and the potential -- known and potential benefits

21 would outweigh the known and potential risks. Yes.

22 [redacted] Thank you.

23 We can go off the record.

24 [Recess.]

25 [redacted] We'll go back on the record.

1 Dr. Gruber, at the end of the first hour, we were talking about your interaction
2 with Commissioner Dr. Woodcock. So I want to enter a couple of exhibits, and then I'm
3 going to turn it over to Congressman Massie.
4 So I'll offer as Exhibit No. 2 an email from you Wednesday, July 21st, 2021, at
5 11:59 a.m., to Drs. Peter Marks and Janet Woodcock.
6 [Gruber Exhibit No. 2
7 Was marked for identification.]
8 [redacted] Then, as Exhibit No. 3, an email chain between Dr. Gruber and Dr.
9 Marks and Dr. Krause from July 15th, 2021, 8:00 a.m., with an attached memorandum
10 titled, "Pfizer COVID-19 STN 125742.0 BLA target AD: 9-15-21."
11 [Gruber Exhibit No. 3
12 Was marked for identification.]
13 [redacted] And we'll give you a moment to review.
14 Dr. Gruber. So this is not -- you passed this out as well. Do you want me to
15 review this right now as well or just this email?
16 BY [redacted]
17 Q Just start with the email because we'll get to the memo a little later.
18 A Okay.
19 Q I just wanted you to have both in case you needed to reference either of
20 them.
21 Mr. Massie. There's a reference in your email to a memo on July 15th, and we
22 believe that's the memo that's referenced.
23 Dr. Gruber. Yeah. I'll take a moment to memorize it.
24 Thank you for giving me the time to look through this memo.
25 [redacted] Of course. I'm going to enter one more exhibit just so you can

1 have it, too, while we're questioning.

2 This will be Exhibit No. 4. It is an email from Dr. Marks to Dr. Woodcock and Julia

3 Tierney from Friday, July 16th, 2021, at 6:08 p.m., with an attached timeline. And that

4 will be Exhibit No. 4.

5 [Gruber Exhibit No. 4

6 Was marked for identification.]

7 Dr. Gruber. Okay.

8 Mr. Massie. I'll primarily be asking about the email.

9 Dr. Gruber. Okay.

10 Mr. Massie. Exhibit No. 2.

11 Dr. Gruber. Yes. I have that email. Thank you.

12 Mr. Massie. Dr. Gruber, did you have a meeting on July 19th, 2021, with Krause,

13 Woodcock, and Marks to discuss the timeline of the BLA review for Pfizer's COVID-19

14 vaccine?

15 Dr. Gruber. Yes. That is true. The meeting took place between

16 Dr. Woodcock, Dr. Marks, Dr. Krause, and Julia Tierney, was, I think, Dr. Woodcock's

17 acting chief of staff at the time.

18 Mr. Massie. Were there any other people present?

19 Dr. Gruber. No.

20 Mr. Massie. And were there any other communications about this meeting

21 other than your email?

22 Dr. Gruber. I had received -- I need a second. Yes. So I had

23 written -- leadership in Office of Vaccines had written the July 15th memorandum to

24 Dr. Marks explaining why we felt at that time that the review timelines cannot be

25 compressed further. And I did not hear back from Dr. Marks in response to that memo

1 of July 15th.

2 But then I received an email from Dr. Woodcock. It was a meeting invite to meet

3 with her -- it was a Zoom meeting -- to meet with her on July 19th. I believe that was

4 even a Monday. I got that, you know, meeting request, I think, the Friday before the

5 specific instructions to appear at 7:30 a.m. or 8:00 -- 7:30 -- it was early in the

6 morning -- to discuss the BLA review timelines. Yes.

7 Mr. Massie. And did you tell them in that meeting that they cannot be -- that the

8 timeline cannot be compressed further?

9 Dr. Gruber. In the meeting of July 19th, I did recapitulate the content of my July

10 15 memo. Yes. That included my assessment at that time not to compress the

11 timelines further.

12 Mr. Massie. Was there any recording of that Zoom meeting?

13 Dr. Gruber. Not that I remember.

14 Mr. Massie. Okay. And did you feel pressured in that meeting to change the

15 timeline?

16 Dr. Gruber. Yes.

17 Mr. Massie. Did they say -- well, I don't want to lead you or trip you up or

18 anything, so I'll draw your attention to this email.

19 You say in here about two-thirds of the way down in the second paragraph, quote,

20 "You expressed concern that the rising COVID cases in the U.S. and globally, largely

21 caused by the Delta variant, and stated your opinion that, absent a license, States cannot

22 require mandatory vaccination."

23 Your email is addressed to both Marks and Woodcock, and here you say "you."

24 Was it Woodcock or was it Marks or was it both of them that expressed their opinion that

25 a license would be needed for vaccine mandates?

1 Dr. Gruber. It was both of them. Yeah.

2 Mr. Massie. So I'll introduce this into the record later, but on August 8th, the
3 Secretary of Defense -- and I have that document, but I got a New York Times article, and
4 I'll just -- I don't have other copies. I'll introduce all that later.

5 But on August 8th, the Secretary of Defense said that the vaccine mandate for the
6 military would happen as soon as the FDA licensed the product. And then on August
7 9th, the New York Times reported that.

8 Were you -- other than in this meeting where Dr. Marks and Dr. Woodcock told
9 you that the vaccine mandates would be conditioned or needed to have the full FDA
10 approval before they could happen -- in addition to them telling you that here, were you
11 aware that the Defense Department was awaiting an issuance of a license, the BLA, so
12 that they could do the mandate?

13 Ms. LoCicero. And I just want to caution Dr. Gruber that you are not to speak
14 about any deliberative process internal to the agency on that topic.

15 [redacted] And just to get it clear for the record, is that an objection for
16 deliberative process?

17 Ms. LoCicero. Yes.

18 [redacted] Okay. And you're instructing her not to answer, or --

19 Ms. LoCicero. I'm instructing her to answer if she can, but to avoid providing
20 information that is covered by the deliberative process within the agency.

21 [redacted] Okay. Thank you. Just wanted to get it clear for the record.

22 Dr. Gruber. Can you repeat the question for me?

23 Mr. Massie. Yeah. Let me repeat the question.

24 Did you know that the military was going to issue a mandate as soon as the
25 licensure happened?

1 Dr. Gruber. No, I did not.

2 Mr. Massie. Are you aware that the day after your -- the license was issued, that

3 the mandate was handed down from the Secretary of Defense?

4 Dr. Gruber. No.

5 Mr. Massie. Okay. What specifically did Woodcock or Marks tell you

6 about -- or can you elaborate on your sentence here where they said that, "Absent a

7 license, States cannot require mandatory vaccination."

8 Do you believe they were telling you that because they were trying to increase a

9 sense of urgency?

10 Dr. Gruber. I cannot speculate as to why they told me that. I just recall that

11 both of them said, absent a mandate -- a mandate requiring mandatory

12 vaccination -- right. People would not be getting the vaccine.

13 And they also made the point, as I state here in the email, that they feel that

14 people have a tendency to get a vaccine that is authorized, but they may be hesitant and

15 would be more likely to receive the vaccine if it would be licensed. These two

16 arguments were made during that meeting, yes.

17 Mr. Massie. Was it predetermined that the vaccine was going to be licensed at

18 the point of that meeting?

19 Dr. Gruber. At that point of the meeting, the review was still ongoing. No

20 determination had been made whether this vaccine would be licensed because we were

21 busy reviewing critical information, as I had outlined in the July 15 memo.

22 Mr. Massie. What would have prompted a denial of licensing? What

23 information would you have collected, possibly, in that period of time or were

24 discovered?

25 Dr. Gruber. Several reasons. Multiple reasons. For instance, there could

1 have been lack of information supporting that the facility would be in compliance with
2 good manufacturing standards. There could have been information that incoming
3 safety data during the review of the BLA -- safety data that resided from the post-EUA
4 surveillance system, where -- of such concern that a license would not be possible.
5 There could have been, you know, an analysis by our statisticians not verifying the
6 efficacy of the BLA.
7 So many, many reasons that could have prevented licensure of the product.
8 Mr. Massie. So was there a threshold for efficacy that you were looking for to
9 approve the product?
10 Dr. Gruber. The efficacy standard -- the criteria had been published in the
11 guidance for industry documents on development and licensure of SARS-CoV-2 vaccines.
12 In that guidance, we said the point estimate of vaccine efficacy has to be at least
13 50 percent as a lower bound of the suggested confidence interval of equal or greater of
14 30 percent. This was the efficacy standard that had to be met. And results showed
15 that the vaccine far exceeded that efficacy standard. The point estimate was in the
16 nineties rather than the 50th percentile, and the lower bound of the confidence interval
17 was -- I think it was in the eighties or nineties.
18 And so, yes, the statistical criteria had been met to deem the vaccine efficacious.
19 Mr. Massie. Were there reports in the -- weren't there reports in the news that
20 the efficacy was waning or that it wasn't effective for the predominant strain at the time?
21 For example, there was a CDC report about an outbreak in Barnstable,
22 Massachusetts. Were you aware of that outbreak? Here, let me find a date on it. It
23 was in early August. Or the Wisconsin -- oh, I'm sorry.
24 Where Walensky said on August 5th that what the vaccines can't do anymore is
25 prevent transmission?

1 Dr. Gruber. I am not aware of that newspaper article. What I can tell you is the
2 vaccines were developed to prevent severe COVID disease. It was evident that these
3 vaccines would not prevent transmission. Many vaccines do not prevent transmission
4 or infection.
5 So when we discussed with the vaccine manufacturers the case definition that
6 they needed to use to demonstrate efficacy, it was not transmission.
7 Mr. Massie. Were you ever concerned about public statements from
8 government officials that these vaccines would reduce transmission, given that the Pfizer
9 clinical trial was designed -- was not designed to test that and that your approval wasn't
10 conditioned on it?
11 Dr. Gruber. In our regulatory documents, we clearly described the end points
12 and case definitions that the vaccine was tested for to meet. There were a lot of
13 different publications and statements made at that time.
14 Mr. Massie. So what the test didn't -- or the trials didn't determine is whether it
15 prevented infection?
16 Dr. Gruber. That's right.
17 Mr. Massie. So -- but there was statements from the CEO of Pfizer that would
18 indicate that -- that would suggest that it did. Were you concerned about that?
19 Dr. Gruber. I could not and wasn't able to control the statements made by public
20 health officials or CEOs of the company in terms of, you know, the vaccine efficacy. All I
21 could do is, in our regulatory documents, describe how the vaccine was tested and what
22 efficacy was demonstrated against.
23 Mr. Massie. So you had given them a September 15th date, which you
24 considered to be, I think, very aggressive compared to prior timelines for other vaccines.
25 Is that correct?

1 Dr. Gruber. That is correct.

2 Mr. Massie. And who was pushing you to move that date up?

3 Dr. Gruber. It was Dr. Marks.

4 Mr. Massie. You said that, in your email, there are very important regulatory

5 issues that need to be settled, and as an example, you mentioned a pediatric plan.

6 Can you explain what that means and what needed to be settled? Why was the

7 BLA approval dependent on the pediatric plan?

8 Dr. Gruber. Because it is required by law that a vaccine manufacturer will assess

9 the vaccine further in the pediatric population if they have not been tested as part of the

10 efficacy study. And as I recall, in the efficacy trial, there were adolescents and children, I

11 think, down to 12 years of age, but the vaccine was not tested in children less than 12

12 years of age as part of this efficacy study.

13 So a vaccine manufacturer then has to put a document together describing -- even

14 though the vaccine was ready for approval in an older population or the adult population,

15 that it would conduct further studies to evaluate the safety and the effectiveness of the

16 product in pediatric subjects. So that is a -- that's the Pediatric Research Equity Act,

17 PREA, that is a law that vaccine manufacturers and, by implication, FDA has to comply

18 with.

19 So we had to review the documents that Pfizer submitted delineating the type of

20 studies they would be conducting in pediatric subjects. And that, of course -- and this is

21 what I stated in my email -- was important because safety in younger populations is even

22 more paramount than in older populations.

23 Mr. Massie. You mentioned that the pediatric plan was becoming increasingly

24 complex. What was complex, and how did the FDA and your team adapt to those

25 complexities?

1 Dr. Gruber. So, by definition, pediatric subjects go until age 17, including age 17.
2 And as we discussed earlier on this morning, we had become aware of data suggesting a
3 risk of myocarditis. And this data became apparent because the vaccine was rolled out
4 and the EUA. And, of course, there were post-EUA surveillance systems in place by the
5 CDC and the FDA, and they showed it was for myocarditis and pericarditis in younger
6 adults but also adolescents, young males. And 12- to 17-year-olds includes the pediatric
7 population.
8 So we had to discuss with a sponsor, given that identified risk, what further
9 studies did need to be conducted if we were to license the product in the postmarketing
10 space to further assess that risk. And this is referred to as postmarketing-required
11 studies.
12 Mr. Massie. And that is complex in a way different from prior vaccine approvals?
13 What is --
14 Dr. Gruber. The difference was that we became aware of this risk of myocarditis.
15 If there would not have been this information and this data, there would not have been a
16 need to require Pfizer to conduct a postmarketing-required study to further evaluate the
17 safety signal as the regulations prescribe.
18 And so we also had to review proposed protocols for that further
19 postmarketing-required study. And that also comes with -- they have to give us a date
20 when they're going to initiate this trial and when they're going to conclude these studies.
21 So this is where review activities were ongoing at that time.
22 Mr. Massie. And that's part of the timeline that Dr. Marks was asking you to
23 compress?
24 Dr. Gruber. Yeah.
25 [redacted] So is it fair to say that you were the -- it had been raised to you the data

1 regarding myocarditis or other -- the pericarditis side effects, that was -- you determined
2 that based on the data before this July 19th meeting? Is that timeline accurate? Or
3 could you elaborate on when you had found out about the myocarditis side effect in
4 relevance to this meeting?
5 Dr. Gruber. The vaccines were rolled out under EUA, and the decision to
6 authorize the Pfizer vaccine was made in December of 2020. The FDA and the CDC set
7 in place a post-EUA safety surveillance system. And as the vaccine was rolled out and
8 administered to a large number of subjects in the United States, these safety surveillance
9 systems picked up this risk of myocarditis. And, of course, the sponsor was aware of this
10 as well.
11 Mr. Massie. So you -- sorry to jump around.
12 You mentioned that Dr. Marks and Dr. Woodcock both mentioned
13 mandates -- vaccine mandates to you. Is that something inside of the FDA's purview,
14 and should that be a consideration that you have to take into effect when you're deciding
15 whether to issue a license or not?
16 Dr. Gruber. I was never made aware that this is a requirement, and as a matter
17 of fact, that subject had never come up in vaccine licensures before.
18 Mr. Massie. So is that why you memorialized it in this letter, that they were, I
19 mean, mentioning mandates, and that wasn't really part of your job?
20 Dr. Gruber. Yes.
21 Mr. Massie. When you left, who was appointed to take over your
22 responsibilities?
23 Dr. Gruber. That was Dr. Marks.
24 Mr. Massie. And who appointed him?
25 Dr. Gruber. Dr. Woodcock.

1 Mr. Massie. Did you express dissatisfaction with that decision?

2 Dr. Gruber. At the time of my departure in October -- on October 31st, 2023, I

3 did not.

4 Mr. Massie. Who would you have expected to assume your position when you

5 left?

6 Dr. Gruber. Dr. Krause.

7 Mr. Massie. You mentioned in your email the importance of a thorough and

8 credible review by OVRR. Did you have concerns that what they were asking you to do

9 would not be thorough and credible?

10 Dr. Gruber. At the time I wrote this memo on July 15th, and as I stated and tried

11 to document in the July 15th memo, there was many activities going on, including

12 information requests, requests for data to Pfizer.

13 And my experience as office director and my decades of experience in the Office

14 of Vaccines had told me that one cannot predict when a vaccine manufacturer would

15 respond to an information request. It could be in a couple of days, weeks, or months.

16 And so for me, I did not think that I could say, at that time, in the middle of July,

17 where I knew so much review and regulatory activity was ongoing, that, yes, we can

18 approve earlier. I also would like to add that I had concerns because I felt I needed to

19 protect my people.

20 Mr. Massie. When was the decision finally made to shorten the timeline from

21 September 15th to what eventually was August 23rd?

22 Dr. Gruber. At the time, I -- not about the memo, but when this meeting

23 happened on July 19th, I had to go out of town. My daughter, whose wedding had been

24 canceled twice due to COVID, had finally given a date for the marriage on August 1st in

25 Germany, and I wasn't going to miss that wedding.

1 And, of course, that date, I didn't know when the BLA was submitted. I had no
2 time of planning in advance. But what I did during -- during this time, during the BLA
3 review, I discussed that -- with Kraus, my deputy, and I said, listen. I need to be -- you
4 know, I want to go to attend my daughter's wedding. Can you take over at that time for
5 me?
6 And he says, well, of course. That's what a deputy office director is for.
7 I also should say that Dr. Krause, you know, being a medical officer, knew the
8 clinical data very well. The review team, the medical officers, asked him for guidance.
9 He was very knowledgeable about all the data, and I felt he was the perfect person to
10 oversee the review activities for the time that I was gone. I also indicated to
11 Dr. Woodcock that I would be having my telephone and my telephone number. If
12 something is the matter, I can be reached at any time.
13 She informed me in this meeting on July 19th that Dr. Marks would take over the
14 review of the BLA activities -- or the BLA review activities. I'm sorry. And that
15 Dr. Krause would be assigned to other OVRR programs. And they had -- and she
16 indicated this to me in an email that she wrote me after she received my memo on July
17 21st that she had tasked Dr. Marks with looking at where efficiencies can be gained and if
18 it was possible to move up that date.
19 So the decision was not made when I left, but it had been made when I came back.
20 Mr. Massie. And what did they assign Dr. Krause to? Was it other COVID
21 vaccine tasks?
22 Dr. Gruber. Other COVID vaccines, other files because, of course, work in OVRR
23 had to continue on bacterial products or, you know, allogenic products and -- yes, that
24 sort of --
25 Mr. Massie. So they took somebody who was intimately familiar with the

1 problem that needed to be solved and took him out of that decision position?

2 Dr. Gruber. I have to say yes.

3 Mr. Massie. And when you came back from your daughter's wedding, is that

4 when you found out the new timeline was going to be August 23rd?

5 Dr. Gruber. No. There was no set timeline. It was, we will achieve an

6 approval faster than September -- or regulatory action faster than September 15th.

7 And I have to say, I give credit to the team because they did what they could.

8 They -- as I indicated earlier, they were there day and night. Day and night to perform

9 these review activities. Also, the sponsor did not delay responding to information

10 requests. I was informed that they, you know, submitted the answers day and night.

11 And that is how, in the end, it was possible to move up the regulatory action of

12 that BLA to the end of August. It was because my people gave it their best and they

13 gave it their all.

14 Mr. Massie. What was the date that you returned?

15 Dr. Gruber. I think it was August 7th.

16 Mr. Massie. Would you like to ask questions?

17 [redacted] Yes.

18 BY [redacted]

19 Q I would like to ask, how big was your team that was assigned to work on

20 this -- on the BLA while you were out, and had they been previously working on it as well?

21 A So when a BLA is submitted, a review team is assigned, and the review team

22 is put together from the different offices which have authority to review and then license

23 the product. Office of Compliance, Office of Biostatistics and Epidemiology, and Office

24 of Vaccines. And I cannot give you the exact number, but usually these committees

25 are -- I would say 70, 80 people. Yeah.

1 Q And so is it fair to say, of those committees, they only took a few people
2 from those committees to work on this BLA review team, or are you saying 70 to 80
3 people worked on it?
4 A Well, not everybody in all the review committee has, you know, a very
5 central function. I mean, the most -- the most important people are the people that
6 perform the clinical data review. And there, we have said we need help. It's not
7 usually -- it's one medical officer working with their supervisors in a typical BLA. Here,
8 we had two people. Instead of one statistician, we had three statisticians.
9 But then, of course, the CMC reviewer -- they're working, you know, as a team,
10 too. One has the primary responsibility of writing the memo, and others will help, you
11 know, look through it. Yeah.
12 Q And the reason I ask is because I believe in -- I'm trying to exactly figure out
13 which email it was, if it was the one from you. Oh, yes.
14 So in Exhibit 2, midway through paragraph -- the second paragraph, you wrote, "I
15 reiterated that adding staff to this review at this advanced stage would likely slow down
16 the review due to the need to bring new people up to speed."
17 So I was curious as to the number that had existed at the time before you left and
18 then if that number did increase, or what number they were proposing to increase your
19 team size to.
20 A I recall that the number did not increase. No. And I had made the point
21 that I didn't think it was productive to add at such late stage in review new people
22 because they have to familiarize themselves with the file, and there was really nobody
23 who had time to bring somebody up to speed. I mean, I said either we try to get this
24 done, or we start to train other people.
25 Q And to your knowledge, they did not bring on anybody new?

1 A No. To my knowledge, they did not bring on any new people, no.

2 Q Do you know if Dr. Marks and Dr. Woodcock -- if they had received

3 instruction from outside the FDA to move this timeline up further from the September

4 15th, 2021 action due date?

5 Ms. LoCicero. I'm going to object to that to the extent it impinges on the

6 deliberative process privilege.

7 [redacted] Okay. So are you instructing the witness not to answer?

8 Ms. LoCicero. I am instructing her not to answer that question.

9 [redacted] Okay.

10 BY [redacted]

11 Q What was your reaction to Dr. Marks' and Dr. Woodcock's goal to move up

12 the timeline from September 15th to several weeks earlier?

13 A Well, I think I did describe this in my memo.

14 Q Would you say -- did Dr. Krause share those concerns that you described in

15 your memo?

16 Ms. LoCicero. I'm going to instruct her also not to answer that question based

17 on the objection.

18 BY [redacted]

19 Q Did you draft your July 15th -- or whenever it was actually drafted, but it was

20 in that July 15th email that was Exhibit 3 -- that memo, did you draft that yourself, or was

21 there multiple people that helped you draft that?

22 A Several people helped draft it.

23 Q Now, on that Exhibit 3, with the July 15th, 2021 email, you also included

24 Celia Witten. Can you tell us who she is?

25 A Celia Witten was, at the time, the deputy center director.

1 Q Of which center?

2 A Sorry. Center for Biologics Evaluation and Research. So Dr. Marks'

3 deputy.

4 Q And in that email, that Exhibit 3 email, you wrote -- and I believe it's at the

5 bottom of that page.

6 You said, "Phil and I further discussed with DVRPA and DVP management the

7 review timeline for the above BLA. As you know, we are targeting September 15th as

8 the ADD. It will not be possible to move the ADD up without further cutting corners and

9 lowering our review standards and that I would not be able to defend. We have

10 described our rationale and logic in the attached memo. Feel free to share with JW."

11 I wanted to just ask clarification what DVRPA and DVP stand for.

12 A Yeah. Where is that? I mean, I can tell you what it is. It's the Division of

13 Viral Products, which was -- oh, in the email. I thought it was in the memo. I'm sorry.

14 Yeah. Okay. Here it is.

15 Yeah. That was July 15th at the time I wrote the memo because I did consult

16 with management, with the division directors of the Division of Viral Products, which is

17 one of the divisions in the Office of Vaccines responsible for the review of chemistry,

18 manufacturing, and control information.

19 And DVRPA is the Division of Vaccines and Related Product Applications. That is

20 the division that is responsible for not only the administrative processing of the files, but

21 it's the division where the medical team resides.

22 And so I -- obviously, when I was instructed to move up the approval date, I went

23 to the management of these divisions because it is their people who performed the

24 review activities. If they would find it reasonable, could they do it? And they

25 cautioned for moving up the date further.

1 So this was not a decision single-handedly made by myself or by Phil.

2 Q Thank you for that clarification.

3 And if corners were indeed cut in the BLA approval process, would you personally

4 be responsible for something going wrong, or would it be your team? Would it be the

5 FDA generally? Or what is your understanding of who would be personally responsible?

6 Ms. LoCicero. I'm going to object. She's not going to answer hypothetical

7 questions.

8 [redacted] Are you going to instruct her not to answer the question?

9 Ms. LoCicero. I'm instructing her not to speculate. If she would be happy to

10 insert a different question --

11 [redacted] Okay. We don't really recognize, you know, typical objections.

12 Ms. LoCicero. I'm instructing her not to answer that question.

13 Ms. Ferguson. Okay.

14 [redacted] Going to your memo that's attached to that July 15th email --

15 Ms. LoCicero. Can I just raise one issue? Just to note for the record that these

16 Bates numbers are not consecutive.

17 [redacted] Correct.

18 Ms. LoCicero. So we are not -- we have never seen this document before today,

19 which is fine. But I want to make it clear that it doesn't appear that this memo you've

20 attached to it actually follows this email.

21 [redacted] Those documents -- just for clarification, they were produced under

22 FOIA, and they were available on the FDA's website, and they had redacted any privileged

23 information. And there was a couple different copies --

24 Ms. LoCicero. Okay.

25 [redacted] -- of some of these emails, and so it might have just been the way that

1 we stapled it was -- that particular memo was attached to -- that's what it's referring to
2 from the attachment. It just was in there a different order.
3 Ms. LoCicero. Okay.
4 BY [redacted]
5 Q And going back to that memo -- and just for the sake of usual practice, is it
6 fair to say that the FDA usually evaluates and analyzes BLAs separate and apart from any
7 analysis provided by a sponsor? That's the normal practice that the FDA --
8 A The FDA does perform its own analysis of the raw datasets submitted by the
9 sponsor. We request those datasets to perform our analysis.
10 Q And how long does this dataset analysis usually take?
11 A That depends on the complexity of the BLA, the size of the clinical trial.
12 Q How long had it taken for this particular Pfizer vaccine?
13 A I cannot give you an exact timeline on that.
14 Q Can you explain how the FDA's own analysis of a developer's data affects the
15 public's confidence in the vaccine?
16 A The primary reason for FDA to perform its own analysis is really to verify the
17 accuracy of the data and information submitted by the vaccine manufacturer because, in
18 the end, we have to make the determination that the vaccine is safe and pure and potent
19 for its intended use, and we want to make sure that the data are accurate.
20 Q And further in this memo, you discuss that this BLA is a rolling BLA, and I just
21 wanted to note for the record or get clarification what a rolling BLA is.
22 A Yeah. I mentioned earlier that a biologics license application can be
23 assigned priority review, so the -- the review time is about 4 months -- 4 months shorter
24 than a standard review. And there is an additional program.
25 So this -- this vaccine also received breakthrough therapy. It's an expedited

1 program by the FDA. And that means a sponsor does not have to wait until they have all
2 pieces of the BLA ready and submit this, but if they have pieces of the BLA already
3 completed, such as the preclinical data and datasets, such as the CMC data and datasets,
4 such as the clinical data, they can submit them, and FDA will start reviewing these
5 sections, but the official review clock only starts when all the pieces are available.
6 So in this case, as I recall, the preclinical data were already available earlier than
7 the clinical data, and so we started reviewing that. And that, of course, is another
8 mechanism by which you can accelerate, you know, the time it usually takes to review a
9 BLA application.
10 Q Thank you for the clarification.
11 Mr. Massie. On August 17th, you e-mailed Dr. Marks and shared the current
12 draft of the clinical review memo for Pfizer's BLA, and you stated that there was work that
13 still needed to be completed, and therefore, the date of August 20th was not possible.
14 You know, 6 days later, the BLA was approved. What happened between your
15 August 17th email to Dr. Marks and August 23rd, and do you agree with that decision?
16 Dr. Gruber. Congressman, is it possible -- is there an exhibit? Can I take a look
17 at that?
18 Mr. Massie. I'll get that later. Yeah. I'll put this on hold and then give you
19 those exhibits and ask you about it.
20 Dr. Gruber. Okay. Thank you.
21 Mr. Massie. When Pfizer submits safety data and categorizes adverse events
22 that occurred during the trial, what level of review does the FDA conduct on those
23 adverse events?
24 Dr. Gruber. As I mentioned, the FDA will request the raw datasets. So in this
25 situation, there was data from 44,000 subjects, line listings, because -- and these people

1 were followed for safety, right? 7 days and then 28 days. And so daily records are
2 being put into these raw datasets. Injection site reaction, fever, malaise. And so these
3 are line-by-line listings of every subject included in this clinical trial.
4 The sponsor then analyzes the data and says, okay. What was the percentage of
5 fever? What was the percentage of headache, for example? And FDA then does the
6 same analysis and says, let's see. Let's verify if what they state is correct.
7 Mr. Massie. Does the FDA independently check the medical records to confirm
8 the characterization of the adverse event?
9 Dr. Gruber. The charts? The medical charts? For those where we see a more
10 serious adverse event, we typically want to look at this and perform a chart review.
11 Mr. Massie. Does the FDA do its own analysis to determine whether every
12 adverse event reported by the sponsor is related to the vaccine?
13 Dr. Gruber. That is clinical judgment. When the medical reviewers look at the
14 adverse event, they look not only at, you know, what happened, but also, they look at the
15 timely association between vaccination and occurrence of this adverse event.
16 They also look at the health status of the subject. Is it a person who is 75 years
17 old with underlying medical conditions? Is it a young, healthy person? So they look at
18 all this information.
19 And then there is a certain -- you know, of course, there are data effects, but then
20 there is also clinical judgment that is applied to make a determination that the vaccine
21 was related or if it was in accordance with that finding.
22 I should add that, for these clinical trials, there is also something that is called a
23 Data Safety Monitoring Board, DSMB. That is an independent committee that also will
24 look at data and do a safety review.
25 Mr. Massie. Just a week after the FDA approved the vaccine, you announced

1 your retirement. Is that correct?

2 Dr. Gruber. Yes.

3 Mr. Massie. Why did you decide to retire from the FDA at that time?

4 Dr. Gruber. Congressman, I was eligible to retire from the FDA in summer of

5 2020. And I actually had made plans, and my husband and I talked about it, that I would

6 put in my retirement paperwork by the time I would turn 62, which was in June of 2020.

7 And I was ready to do so, and then, as we all know, the pandemic hit. And I did not

8 think, at that time, it was responsible of me to leave this important position during this

9 time.

10 And we worked very hard that year to authorize these vaccines to make them

11 available to people who wanted to be vaccinated to protect themselves from COVID-19.

12 And in 2021, of course, there was still a lot of activity. There was -- and we -- you know,

13 the submission, as we discussed, of the Pfizer BLA.

14 But at that time, I decided that my contribution to help the public health

15 community out of the pandemic was done. I also admit there was a certain burnout,

16 and I decided I will now move on with my retirement plans, and this is what I did.

1 [1:39 p.m.]

2 Mr. Massie. The press reported that your disagreement over the booster shots
3 with other people in the FDA contributed to that. Is that true or false?

4 Dr. Gruber. That is false.

5 Mr. Massie. Okay. Thank you. Did you have concerns about booster shots
6 being the policy of giving them to everybody or recommending them for everybody?

7 Dr. Gruber. During the year of 2021, there were various type of publications that
8 evaluated the efficacy of the vaccine, expressed concerns about waning antibody titer.
9 And there were people who were of the opinion that boosters to be given to the general
10 population was necessary.

11 I had a different perspective. And I was part of a group on a paper published by
12 the WHO that expressed a different perspective.

13 I want to be clear. I was not against boosters being administered. I thought
14 boosters were necessary for the elderly, those with, you know, fragile immune systems,
15 but I did not think, based on the data and the publications that I had read and reviewed at
16 that time, that it was necessary to provide booster immunizations to the general public.

17 And I also was of the opinion, shared by colleagues of mine in the WHO, that, in
18 order to curb the pandemic, that it would be better to provide vaccines to those
19 unvaccinated or people that did not have access to vaccines, and not just necessarily in
20 the United States but globally.

21 So, yes, I thought boosters were indicated for the frail, for the elderly, for the
22 immunocompromised, based on the scientific information that I had reviewed at that
23 time. I didn't think it was necessary to provide boosters to the general population.

24 Mr. Massie. In addition to the availability of vaccines, was it your concern that
25 the risk-benefit was different for somebody who had already had the vaccine with respect

1 to getting a booster?

2 Was it purely -- was it purely a decision about vaccine distribution, or did you think

3 the risk-reward changed for somebody receiving a benefit versus -- receiving a booster

4 versus their initial vaccine?

5 Dr. Gruber. Any time we make a decision of authorizing or licensing a vaccine

6 either for primary or for booster immunization, you have to be certain that the vaccine's

7 benefit would outweigh the risks.

8 And my conclusion from the data that I had reviewed was that there wasn't

9 increased benefit for let's say a young healthy person who had received the primary

10 vaccination series to receive a booster at that time.

11 Mr. Massie. Did your concerns fall on deaf ears at FDA? Did they listen to your

12 concerns and offer -- that would be my last question because we're out of time.

13 Dr. Gruber. I was not involved in the booster authorizations. I -- I was involved

14 in writing a briefing document for Pfizer's supplement to authorize boosters for people 16

15 years of age and older, Congressman, but I was informed by my Center Director that my

16 objectivity had been compromised due to the publication of the Lancet article and that,

17 therefore, I could not preside over this advisory committee discussing the need for

18 booster immunization.

19 Mr. Massie. Thank you.

20 [redacted] We'll go off the record.

21 [Recess.]

22 [redacted] It is 2:01. We can go back on the record.

23 BY [redacted]

24 Q I want to pick up where we just left off about the Comirnaty BLA and then

25 talking about what happened then.

1 During the pandemic, did the BLA build on the data that you already had from the
2 EUA?
3 A Yes, yes. I mean, it contained the data from the EUA, the efficacy data and
4 the safety data, but, of course, there was the -- the trial was continuing and there was
5 continued safety followup and also continued efficacy followup, because, you know, the
6 pandemic went on, and the trial continued. And so these were additional data that
7 were submitted by Pfizer and were part of the BLA.
8 Q Is it fair to say that that made the review process a little bit faster, because
9 you didn't have to analyze all of the data at once, but were able to do the EUA data first
10 and then the additional data?
11 A That is correct. That is correct, yes.
12 Q And did the BLA approval account for any concerns that came up between
13 the EUA and the BLA approval?
14 A Can you clarify your question?
15 Q Yes. So, we talked about how between -- after the EUA the FDA and CDC
16 conducted post-EUA surveillance and found this risk of myocarditis and pericarditis.
17 Did the BLA account for that risk and did -- was that risk considered during the
18 review process?
19 A Absolutely. We -- Pfizer submitted data, but also we became aware of the
20 data from the post-EUA safety surveillance system that CDC and FDA had put in place.
21 And so the FDA experts, that was people in the Office of Biostatistics and
22 Epidemiology that did a quantitative risk assessment, looking at the benefits afforded by
23 the vaccine, in terms of protecting against COVID death, ICU admissions, and
24 hospitalizations versus looking at the risk of myocarditis and hospitalizations there.
25 They came to the conclusion that even -- there were some severe cases of

1 myocarditis requiring hospitalization. Most of them, however, reacted to conservative
2 management. And so when they also looked at the hospitalizations due to myocarditis
3 versus COVID, that, of course -- you know, COVID -related hospitalizations were much
4 more -- you know, they were longer, you know, intensive care units, et cetera.
5 So the overall benefit-risk assessment conducted by the FDA experts resulted in
6 their conclusion that, despite of this increased risk seen, the benefits afforded by the
7 vaccine far outweighed the risks.
8 But, in order to be conservative, the package insert for this vaccine that needs to
9 be approved as part of the BLA approval stated the risk of myocarditis in section 5.2
10 warnings and precautions of the package insert. And, also, the sponsor was required to
11 perform postmarketing-required studies to further evaluate that risk.
12 Q Are you confident in the review that your office did for the full licensure of
13 the Pfizer vaccine?
14 A I am very confident.
15 Q Was the review based on reliable methods?
16 A The review was based on reliable methods and processes, yes.
17 Q And did those methods and processes consider reliable evidence?
18 A Yes.
19 BY [redacted]
20 Q I want to turn to the events of August 2021 specifically that we talked
21 through when this decision was made to accelerate the timeline.
22 So you said that you returned from your daughter's wedding on August 7. Is that
23 correct?
24 A Yeah. I think it was August 7. My husband would know, but I know it was
25 about a week after the wedding, which was August 1st. So yeah.

1 Q So you came back and you learned that the decision had been made to
2 accelerate the timeline, correct?
3 A I think the decision was made during that time, but it was pretty much
4 decided even before I left, because I had received word, right, to compress the timelines.
5 Q So the decision had actually been made even -- had been made before you
6 left. It wasn't like they waited for you to leave the country and then issued a decision.
7 A No, no.
8 Q And what was the actual decision? Was it this vaccine needs to be released
9 by -- or the -- sorry, the BLA needs to be approved by a certain date, or is it just we're
10 going to speed things up?
11 A It was we do -- the review committee needs to do what it possibly can do to
12 move up the action due date from September 15 to an earlier time point.
13 Q But they didn't say it needs to be moved up to August 23rd specifically?
14 A No. I did -- I was not informed of that, no.
15 Q So it wasn't like you -- like you returned from vacation and between -- you
16 learned on August 7th that, within 2 weeks, this approval would have to be done?
17 A No.
18 Q I want to look through the memo that we talked through. It's exhibit No. 3.
19 And start out on what is Bates stamped 347. So it's the actual memo, not the email
20 itself.
21 A Yes.
22 Q And I want to -- this is the memo that you sent on July 16, 2021. I want to
23 talk through this kind of page by page.
24 A July 15th, right?
25 Q I'm sorry. July 15th, correct, the email was sent. So you sent this on July

1 15, 2021.

2 A Uh-huh.

3 Q To Peter Marks, Celia Witten, copying Dr. Krause.

4 But the second boldfaced item on this page, it says: The BLA merits a complete

5 and thorough review.

6 Can you briefly explain why you wrote that? Why did you believe this merited a

7 complete and thorough review?

8 A It really was not a statement that pertained to this very BLA only. I mean,

9 every BLA would merit a complete and thorough review.

10 Q And, in your opinion, at the time the BLA was approved, so on August 23,

11 2021, was a complete and thorough review done?

12 A Absolutely, yes.

13 Q The second -- or I'm sorry, I guess the third boldfaced headline there: As

14 compared with other BLAs, the proposed completion date of September 15th would be

15 unprecedented.

16 We talked through in the first hour -- or our first hour of questioning, I guess it

17 was the second hour overall, that COVID-19 itself was fairly unprecedented. It was all

18 hands on deck. Is that fair to say?

19 A That is fair to say, yes.

20 Q So the timeline here was unprecedented, but it's also an unprecedented

21 public health emergency situation, right?

22 A Correct.

23 Q Turning the page to what's Bates stamped 348, it says: This is possible only

24 with deprioritization of other reviews, including some related to COVID, and reassignment

25 of work to other experienced medical officers."

1 Were there, in fact, other reviews deprioritized?

2 A We had deprioritized other reviews. We had deprioritized submissions

3 related to other vaccines, non-COVID vaccines. We had received instructions to

4 continue to prioritize COVID vaccine applications, not only restricted to the Pfizer and the

5 Moderna, but all COVID, and of which there were, I don't recall, but at least a hundred.

6 And so we deprioritized the work on other important files. So, to give you an

7 example, if a vaccine manufacturer submitted a meeting request -- and usually these can,

8 depending on the type of the meeting -- most of them are type B meetings. That means

9 we have to have the meeting held within 60 days.

10 We would say, we can't do that. It's deprioritized. It's going to take us another

11 2 months. So not 2 months but 4 months. And we had to do this the entire year of

12 2021 in order to cope with the workload.

13 Q And that was my point is that, to the extent it was all hands on deck to

14 prioritize the response to COVID, it wasn't just this particular Pfizer BLA. It was across

15 the board you were focused, your office was focusing on COVID and on addressing the

16 response to that and deprioritizing other.

17 A That is correct. The deprioritization was not unique to this BLA.

18 Q Okay. Then the next bullet here or the next boldfaced topic is: Additional

19 support from outside OVRR will not speed up the review.

20 And I think we talked through in the prior hour how it would have taken time to

21 bring people up to speed and to have them read the files, right?

22 A Yeah. And that is it. I mean, a lot of review had been already taken place

23 on the efficacy data, on the safety data, on the statistical evaluation, on the CMC

24 information.

25 And so I disagreed with the note that putting in additional reviewers would speed

1 up the timeline, because if I give you this book of a hundred pages, and I have read
2 through it, and I will ask you, please continue your review, what do you have to do? You
3 have to review this hundred pages. You have to ask all kinds of questions, right, in order
4 to come up to speed.
5 And I felt very strongly that I could not afford that at that time or at that stage of
6 the BLA review. And, again, that was not a decision I made single-handedly. I
7 discussed that with the supervisors of the different disciplines. And they said: No, not
8 at this point.
9 Q Understood. What I want to look at in this paragraph, though, is your
10 discussion of what the team that was already assigned and already up to speed on this
11 review had to do.
12 So, for example, it says: The safety review encompasses a critical evaluation and
13 interpretation of solicited and unsolicited safety data and SAES and clinical AEs of
14 interest, including, but not limited to, the myocarditis signal that has been observed
15 following the administration of the Pfizer COVID-19 vaccine under EUA.
16 So halfway through that paragraph.
17 We just talked through how at the end of the day, by August 23rd you, in fact,
18 were able, your team was, in fact, able to do that review and to account for the concerns
19 regarding myocarditis, correct?
20 A Correct. Yes.
21 Q And it says then: We are also performing subgroup analyses of safety and
22 effectiveness data for race, ethnicity, and subjects with underlying condition.
23 A Uh-huh.
24 Q By August 23rd, was the team that was working on this project able to
25 perform all of those subgroup analyses?

1 A They were. They were able to perform the subgroup analysis. And see,
2 the next sentence is important: Completion of these reviews may require additional
3 correspondence with the sponsor.
4 That was the concern. If this would have had to take place, and then we would
5 have had to wait for the sponsor's responses, additional analysis would have needed to
6 be conducted. But that was not the case. We didn't -- we didn't have to do this. We
7 didn't have to ask for additional information.
8 Q So, at the end of the day, it says: Completion of these reviews may require
9 additional correspondence with the sponsor.
10 To the extent that there was correspondence, Pfizer was forthcoming. This
11 happened more quickly than you might have been able to anticipate when you wrote this
12 memo. Is that fair to say?
13 A That is -- that is a fact. At the time I wrote this memo, I wasn't in the
14 position to make that assertion. I did not know how -- you know, what the extent of
15 additional information requests would be, how fast Pfizer would be able to respond.
16 And, again, I said this before, I took a bit of a conservative stance here, yeah.
17 Q And it says, it continues on: We hope that reviewers will be able to
18 complete their detailed review memos of the various review activities by the beginning of
19 September, as planned.
20 Were those -- what are those? Briefly, what are detailed review memos? What
21 do those entail?
22 A So a clinical review memo is not simply here like a 2- or 3-page memo. It is
23 a very comprehensive account for the review activities and the data, the data reviewed
24 and looked at and assessed.
25 It can be -- I don't recall the exact pages of this review memo, but I think it was a

1 hundred pages, at least. I predict it probably was more, but I can't recall. I've seen
2 clinical review memos exceeding 400 pages.
3 It will give you the background of the disease. It will give you a summary of
4 preclinical data submitted. It gives you a summary of the statistical evaluation, in
5 addition to separate memos written by statisticians.
6 It will then walk through the individual clinical studies, describes the design, the
7 subject disposition, how many people were of what race, what age, gender. All of this is
8 going to be recorded, and then it will give you a discussion of the endpoint, the case
9 definition, and will summarize the efficacy data.
10 And the same then goes for the safety evaluation. There will be tables and
11 tables listing the adverse events that have been analyzed and shown. And so all of that
12 is going to be recapitulated in that clinical review memo.
13 And then, at the very end, it has sort of an integrated assessment of risk. We'll
14 be looking at what are the benefits, what are the -- what are the risks? And all of this
15 has to be listed.
16 Q Okay. So those what sound like very comprehensive review memos, for
17 this particular approval, were all of those comprehensive memos completed by August
18 23rd, when the BLA was approved?
19 A They were.
20 Q And then this says that, even after those very comprehensive reviews were
21 completed, there were additional review activities to be completed, including legal
22 negotiations, supervisory review, SBRA preparation, et cetera.
23 Were all of those additional approval requirements that are listed here, were all of
24 those completed by August 23rd?
25 A They were. And it's -- that does not really happen in timely sequence.

1 Q Right. Okay.

2 A While a clinical review memo is written, label negotiations will start, for

3 instance because the applicant is required to send in the draft label with its initial BLA

4 submission and reviews already start.

5 It's just that you need the conclusion and the assessment made by the medical

6 officer to make a final determination that the data as shown and illustrated in the

7 package insert are correct.

8 Q Understood.

9 A That's why you can't really get the label done before the clinical review

10 memo is done. It is -- it is a parallel activity.

11 Q Okay. And, at the end of the day, all of these parallel activities, they were,

12 in fact, completed to your satisfaction by August 23rd, right?

13 A That is right, yes.

14 Q Okay. I want to turn to -- it's part of the memo. It's page 350 of the Bates

15 stamp. It's just the next page.

16 It says: Additional support from outside OVRR, if effectively used, might reduce

17 the need to deprioritize certain submissions.

18 And there's a number of bullet points underneath that.

19 So I know we talked through that assigning additional staff to this particular -- to

20 the Pfizer BLA wouldn't have been helpful, but you did think that it could be helpful for

21 staff to be assigned for other areas, right?

22 A That's right. That is -- that was work that had to be addressed for other

23 files, bacterial products, allergen products, other products that the Office of Vaccines was

24 regulating, yes.

25 Q And even for like IT things, correct, IT staff?

1 A Including IT staff, yes. And we were saying -- because, of course, it was a
2 compromise to be made. Prioritizing SARS-CoV-2-related submissions required
3 deprioritization of other submissions.
4 But we thought if we can get more people, experts to help with the SARS-CoV-2
5 unrelated files, it would not necessitate to keep deprioritizing those submissions.
6 Q Were you able to get additional staff for any of these areas?
7 A You know, that was at such late stage of my tenure at FDA that I did not see
8 that through.
9 Q Okay. I want to return to something else you said in the earlier hour. You
10 said -- and so it sounds like -- sorry, just to wrap up this line quickly.
11 So you did have concerns when you wrote the memo on July 15th about this
12 potential accelerated timeline, but at the end of the day when -- and nobody actually said
13 everything has to be done by August 23rd. It was just we're going to try and accelerate
14 it even further.
15 A Yes.
16 Q At the end of the day, by August 23rd, you were fully confident in the
17 decision to approve the BLA?
18 A I was. And I signed the approval letter, yes.
19 Q Okay. You said in the first hour -- the prior hour that you needed to protect
20 your people. What did you mean by that?
21 A I -- I knew that my people -- and that did not only pertain to people in the
22 Office of Vaccines but also the other offices -- that were part of the review team had
23 worked many hours, had canceled vacations, while away from the office to attend events
24 of their little children took their computers, their -- the computers, they couldn't take
25 those, but the work phones, you know, to be -- to be available for questions to -- for

1 phone calls.

2 So it was really -- people worked through many, many hours and situations. And

3 that had been ongoing for over a year. And I saw the dedication of people to wrap that

4 BLA up and review it by September 15th, and I had discussed that with the division

5 directors of the respective units, is it a possible date. And, at that time, I was informed

6 by my division directors that it is ambitious, but it can be done.

7 When I heard that I have to move up the regulatory action date even further, I

8 was concerned about my people, because there were signs of burnout. I had received

9 phone calls of my staff. And I had to encourage them to move on and said: This is

10 okay if you do that.

11 So, knowing that, knowing that and then being asked move this up, I felt I had to

12 protect them and say: We have to put boundaries around what can be done.

13 But that was really just one argument. I want to clarify this. The other reasons

14 were, as I stated in the memo: July 15th was a time where there were a lot of review

15 activities ongoing. There were information requests to the sponsor, as we went over.

16 And I didn't feel that I can give a certain point by which I can do this even faster.

17 And this was why I, you know, took a conservative stance and said: This cannot

18 be done.

19 But I talked to my people. I talked to the division directors. We worked very

20 closely with Pfizer. And the committee did get it done.

21 Q Are you proud of the work that your team did?

22 A I was -- I am tremendously proud. This was a team effort. I do not take

23 credit for that. It was to the credit of the team. They were just wonderful. But it

24 took its toll, yeah.

25 [redacted] Thank you.

1 BY [redacted]

2 Q I want to move on and briefly talk about the booster shots that we've talked

3 about a little bit in the last hour.

4 The day after the Pfizer BLA was approved, Pfizer submitted a supplemental BLA

5 to administer a booster dose to all individuals aged 16 and older. Does that sound

6 right?

7 A Yeah. This supplement for a booster dose was submitted very shortly after

8 approval of the BLA, yes.

9 Q Did your office follow its normal procedures when reviewing the supplement

10 to the BLA?

11 A We did. I recall at that time that we discussed the necessity to go to an

12 advisory committee meeting. And when we did. And people were assigned with

13 reviewing of the supplement.

14 Q You mentioned that you didn't preside over the advisory committee, but the

15 advisory committee did meet on September 17 to consider the supplemental BLA?

16 A That is correct. And I was participating in that meeting, but I didn't actively

17 contribute.

18 Q What does that mean, that you didn't actively contribute?

19 A Well, usually if there are questions to the FDA, there are situations when the

20 medical officer or the CMC reviewer doesn't want to speak up because it is at a certain

21 level.

22 And then you have a -- you have an FDA official, a senior FDA official presiding

23 over that, and they will answer questions. And this is what had been my responsibility.

24 And that wasn't the case at that advisory committee.

25 BY [redacted]

1 Q But you said you still participated in the meeting. What does "participate"
2 mean?
3 A I did participate in the sense that I listened on Zoom. I listened to --
4 Q You're familiar with the results of the meeting and what happened?
5 A Yes. Yes, I was, uh-huh.
6 BY [redacted]
7 Q Do you remember what the committee concluded at that meeting?
8 A I do remember.
9 Q Could you tell us?
10 A Yes. They did not recommend an approval for booster immunizations for
11 people 16 years of age and older. They said, at that point, there wasn't sufficient data
12 to support that, but that the -- not even an approval, it was an authorization again, an
13 EUA should be considered for people 65 years of age and older and people with certain
14 immunocompromised conditions.
15 Q That aligned with your opinion on --
16 A Well, it so happened.
17 Q And that exactly is what the FDA ended up doing, is that right, on September
18 17th? Sorry, on September 22nd, the FDA amended the Pfizer EUA to allow booster
19 doses for the elderly and those at risk of severe disease from COVID-19?
20 A That happened, yes, on the EUA.
21 Q Are you confident in the amending of that EUA in that way? Are you
22 confident in the review that happened for the amending of the EUA that way?
23 A Again, I wasn't entirely involved in that anymore. I participated in the
24 writing of the briefing document for the committee, but, as stated, I did not preside over
25 this committee as a senior FDA official and -- that's what I have to say to that.

1 Q I want to now move back in time, back to 2020. We were talking about the
2 October 2020 guidelines, and you mentioned -- I had asked if the White House is usually
3 involved in those guidelines, and you said they usually weren't, but in this case, they
4 were.
5 Could you talk a little bit more about that? What did you mean by that?
6 A Well, there was, of course, an interest to get vaccines out as soon as possible
7 to protect people from SARS-CoV-2. And there was, you know -- the administration at
8 that time, of course, also had the goal of making these vaccines available soon. And we
9 all agreed with that stated goal.
10 I found it unusual that the White House said that they would need to clear this
11 guidance document, because that was not usually the case.
12 BY [redacted]
13 Q Who at the White House said that?
14 A Well, there were public announcements by President Trump at that time,
15 right, that he said: We may or may not clear the guidance document.
16 He never said: We will not clear the guidance document.
17 He said: We may or may not, you know, clear it.
18 Q And when he -- how did you -- how did you hear that he had said that?
19 A By watching the news.
20 Q And what was your reaction when you saw that on the news?
21 A I was concerned because I felt that the recommendations made in this
22 guidance document were reasonable. We already, you know, had in writing this
23 guidance document considered the public health emergency and the serious risk, you
24 know, caused by SARS-CoV-2. And, in Office of Vaccines, we were not willing to
25 compromise any standards for safety and effectiveness in the interest of getting vaccine

1 out even faster than we thought we could make them available.

2 Q And so your impression of what President Trump had said is that he may be

3 pressuring you to compromise safety to get the vaccine out more quickly?

4 A I don't want to speculate about that.

5 Q Okay.

6 A I just know that he said: We may or may not approve, you know, the

7 guidance document.

8 Q Have you ever had a situation before where a President had commented on

9 any guidance document your team was involved in?

10 A No.

11 [redacted] So I'd like to introduce for the record a tweet from former

12 President Trump dated October 6, 2020. It is timestamped 9:09 p.m.

13 [Gruber Exhibit No. 5

14 Was marked for identification.]

15 BY [redacted]

16 Q This tweet reads: New FDA rules make it more difficult for them to speed

17 up vaccines for approval before election day. Just another political hit job.

18 And then he tags an FDA official.

19 Were you aware that former President Trump wanted COVID vaccines to be

20 authorized for emergency use before the election day in 2020?

21 A I was not directly informed of that. I knew that it was the desire to make

22 the vaccines available as fast as possible, but I never got direct, you know, instructions to

23 make them available prior to October 6 by nobody within FDA.

24 Q Had you heard at the time that the former President had called the FDA's

25 guidelines a political hit job?

1 A I didn't pay attention to that.

2 Q What is your reaction to that?

3 A You know, during my tenure at the FDA, I really didn't focus on -- on politics

4 or, you know -- I wanted to make sure that my decisions were grounded in science and

5 supported by the available data and in compliance with applicable law and regulation.

6 And so, you know, there were at this time so many tweets, so many newspaper

7 articles. And I deliberately wanted to stay away from that, just do my job.

8 BY [redacted]

9 Q The reference here to "just another political hit job," did political

10 considerations play any part in the guidance that you drafted or that you -- I guess that

11 your team drafted and that you cleared?

12 A No. As I explained earlier, the criteria in that guidance document that we

13 advised manufacturers to follow in order to support an EUA were really based on -- on

14 scientific and regulatory standards and not political motivations.

15 Q And, to be clear, you were a career civil servant, correct?

16 A Yes.

17 Q You never held a political appointment at the FDA?

18 A No.

19 [redacted] I'd like to introduce for the record another tweet from

20 President Trump dated August 22, 2020. It's timestamped 7:49 a.m., and this will be

21 exhibit 6.

22 [Gruber Exhibit No. 6

23 Was marked for identification.]

24 BY [redacted]

25 Q This tweet reads: The deep state, or whoever, over at FDA is making it very

1 difficult for drug companies to get people in order to test the vaccines and therapeutics.
2 Obviously, they are hoping to delay the answer until after November 3rd. Must focus on
3 speed, and saving lives.
4 And then it tags an FDA official.
5 Were any of the regulatory decisions you made related to the COVID vaccine an
6 effort to delay vaccine authorization until after the 2020 election?
7 A Absolutely not.
8 BY [redacted]
9 Q There's a reference in here to the deep state. What's your understanding
10 of what the deep state is a reference to?
11 A My native language is German. I have to say, when I looked at that, I had
12 no idea what "deep state" is and refers to.
13 Q Some people have said that the "deep state" refers to civil servants who are
14 working to prevent the agenda of a political party from going forward.
15 With that definition, do you consider yourself to have been part of the deep state?
16 A No.
17 BY [redacted]
18 Q I'm going to move on to another topic. I'm going to bring up some claims
19 about vaccines, and I apologize in advance that some of these might be offensive, but I
20 just want to make sure we have on the record, with you as a vaccine expert, the facts
21 about vaccines.
22 Do childhood vaccinations cause autism?
23 A No.
24 Q How do you know that?
25 A Because I was at the time in the mid to end '90s, later even, beginning of the

1 thousands, the 2000s, involved in reviewing a lot of the data and the information,
2 specifically, you know, about a certain preservative in the vaccine. And the evidence
3 suggested, the scientific evidence, that vaccines are not the cause of autism.
4 And, together with my colleagues, I spent a lot of time reviewing the evidence and
5 came to the conclusion that vaccines are not the cause of autism.
6 Q Can the misconception that childhood vaccines are linked to autism be
7 detrimental to public health?
8 A If parents decide not to immunize their children because of these claims, of
9 course, in certain situations it could be detrimental to public health.
10 BY [redacted]
11 Q Do you think it's generally accepted among the scientific community that
12 vaccines are not the cause of autism?
13 A I think it is generally accepted in the scientific community, yes.
14 BY [redacted]
15 Q There have been claims that Black children or Black people more generally
16 should not be vaccinated because people with African blood react differently to vaccines
17 than people with Caucasian blood. They are much more sensitive. Is that claim true?
18 A I am not aware of data that would suggest that.
19 Q There is a conspiracy that the government's promotion of widespread COVID
20 vaccination was a way to hide vaccine injuries by eliminating the control group. Is that
21 true?
22 A No.
23 Q Could you explain why that's not true?
24 A Because the studies conducted, the efficacy studies were placebo-controlled
25 trials.

1 BY [redacted]

2 Q Can you explain why that -- can you explain that a step further? The fact

3 that they were placebo-controlled trials, why does that matter?

4 A Because if you enroll subjects in the clinical study, and one arm, study arm of

5 people gets the investigational vaccine and the other group gets placebo, like a saline

6 injection. And so how?

7 Q I think the theory behind this claim is that, if so many people got vaccinated,

8 you couldn't possibly know if any particular injury was related to the vaccine, but you

9 stated that there are a number of surveillance, ongoing evaluations that take place.

10 So it is possible to know if an injury is due to a vaccine, correct?

11 A So, as part of the clinical trials, where there is safety followup, there will be a

12 determination if there is an adverse event whether it is plausibly due to the vaccine or

13 not. And, as I explained earlier, that takes into consideration the timely association

14 from the injection to the occurrence of the adverse event, the condition of the recipient,

15 et cetera.

16 BY [redacted]

17 Q There are claims that the COVID-19 vaccine is the deadliest vaccine ever

18 made. Is that true?

19 A No.

20 Q There is a conspiracy that the COVID vaccine implanted microchips into the

21 people who received it. Is that true?

22 A No.

23 [redacted] What's your reaction to that claim?

24 Dr. Gruber. I think that's a little bit far from science.

25 BY [redacted]

1 Q I know that you have studied maternal vaccination. There are claims that
2 the COVID vaccine isn't safe in pregnancy or even causes miscarriage. Is that true?
3 A I'm not aware of data that would suggest that the COVID vaccine is not safe
4 in pregnancy.
5 Q Recently, a conspiracy surfaced that COVID-19 was engineered to harm Black
6 and White people while protecting Jewish and Chinese people.
7 In your opinion, is that true?
8 A No.
9 Q Are you familiar with the death of Hank Aaron, the baseball player, at the
10 beginning of 2021?
11 A I don't recall.
12 Q Can false narratives about vaccines be detrimental to public health?
13 A Yes. I think yes.
14 Q How?
15 A Well, if it's false narratives, they convey the wrong facts. And that could
16 lead to people hesitating to get the vaccine.
17 BY [redacted]
18 Q Why is that a problem?
19 A That is a problem if you take SARS-CoV-2, which is a pandemic that caused a
20 lot of death and serious disease in this country and globally, but can be prevented by
21 using vaccines.
22 Q In your opinion, was vaccination an effective tool against COVID-19, the
23 COVID-19 pandemic?
24 A There is no doubt in my mind that, without these vaccines, there would have
25 been -- many more people would have suffered, would have suffered from the serious

1 consequences of SARS-CoV-2.

2 Q Do you think many more people would have died without the vaccine?

3 A Yes.

4 [redacted] We can go off the record.

5 [Recess.]

6 [redacted] We will go back on the record, and the time is 2:55.

7 To begin, we are going to enter this exhibit, an email from Dr. Peter Marks to

8 Commissioner Janet Woodcock, as exhibit 7.

9 [Gruber Exhibit No. 7

10 Was marked for identification.]

11 [redacted] And please take your time review if you need it.

12 Dr. Gruber. Okay.

13 Mr. Massie. Okay. I want to base some of my questions on this document.

14 So, on August 17th, you emailed Dr. Marks, who shared the current draft of the clinical

15 review memo for Pfizer's BLA. You stated that there was work still needed to be

16 completed, and, therefore, a date of August 20th was not possible.

17 Had the date of September 15th been moved to August 20th?

18 Dr. Gruber. There was not an official email or instruction to move the

19 September 15 date to August 20th. There was just repeated instruction of approving

20 this BLA as soon as possible.

21 Mr. Massie. In the email characterizing the July 19th -- or, sorry, yes, July 19th

22 meeting, you said that vaccine mandates were one of the reasons that were given for the

23 importance of having an earlier date.

24 Were there other reasons given for moving up the date? Given that the EUA was

25 still available, that people could get the vaccine, there seems to be a great sense of

1 urgency placed on the approval, the final FDA approval. And one of the reasons was, as
2 you stated in your email, the vaccine mandates.
3 Were there other reasons they gave, or could you determine why they had such a
4 sense of urgency to get this?
5 Dr. Gruber. The reason given to me was the vaccine mandate. And the second
6 reason that I also mentioned in my email was that people hesitant to take a vaccine that
7 is authorized but not approved may be inclined to take the vaccine if it's licensed. These
8 two reasons were provided to me.
9 Mr. Massie. Dr. Fink, who is Doran Fink?
10 Dr. Gruber. Doran Fink was at that time the clinical Deputy Director in the
11 Division of Vaccines and Related Product Applications, which, as you recall, is the
12 division that -- in which the medical officers reside and the toxicologists and the
13 administrative people.
14 Dr. Fink was responsible for overseeing the clinical review activities and had
15 to -- was given responsibility to make sure that the clinical review is accurate.
16 Mr. Massie. He shared an email with you on August 17th in which he explained
17 to Dr. Marks the status of the clinical review in the memo. Is that correct?
18 Dr. Gruber. Yeah. That is correct. That can be concluded from this email,
19 yeah.
20 Mr. Massie. He noted that the benefit-risk considerations are complex. Do you
21 agree with that?
22 Dr. Gruber. Yes.
23 Mr. Massie. Do you believe those considerations were adequately and
24 thoroughly addressed in the ultimate review and regulatory decision 6 days later?
25 Dr. Gruber. The work on the benefit-risk analysis and assessment had been

1 ongoing. I see here that Dr. Fink mentioned Rich Forshee's group. That's number 4.
2 That was the Division of Biostatistics and Epidemiology.
3 And that group was responsible to perform a benefit-risk assessment of the
4 vaccine, because that is the group that was analyzing the pos-EUA surveillance safety
5 information and, thus, included the observed risk of myocarditis.
6 Mr. Massie. On the front page at the top of this in the email to Janet Woodcock
7 from Peter Marks, he says: I'm not fully optimistic that we will make it, particularly
8 because the supervisors seem to be treating this like a conventional review/learning
9 exercise, rather than an all hands on deck, work together to get it done.
10 When he says, "I'm not fully optimistic we will make it," what was "it"? Was that
11 a deadline that he had imposed?
12 Dr. Gruber. I do not know what he is referring to. I can just speculate.
13 Mr. Massie. Do you disagree with his assertion to the director that supervisors
14 were treating it like a conventional review/learning exercise?
15 Dr. Gruber. I resent that statement.
16 Mr. Massie. He goes -- the next sentence, he says: I am going to provide
17 context this a.m. that in the setting of this public health emergency adhering to our usual
18 standards for safety and efficacy means just that -- it does not mean that we are bound by
19 our usual process.
20 What do you think he meant by that?
21 A Again, I would need to speculate. I do not know what he meant by that
22 because the sentence, as phrased, does not make sense to me.
23 Mr. Massie. It seems to contradict itself, that -- or implies that, because there's a
24 public health emergency, you don't have to go by your usual process.
25 Dr. Gruber. I do not know what he meant by this sentence, Congressman. I do

1 not know.

2 Mr. Massie. It seems like you can -- you know, emergency use authorization has
3 one set of standards, but would you agree that just because this is an emergency
4 you -- on the final approval, not the authorization, the emergency authorization, but, on
5 the final approval, shouldn't you follow your process, your usual process that's been put
6 in place?

7 Dr. Gruber. If we had followed our usual process, we would have adhered to the
8 PDUFA prescribed timelines: Priority review approval 8 month, standard review, you
9 know, 12 months.

10 And we did not follow these timelines because of the public health emergency,
11 and we wanted to approve the product as soon as that was possible without
12 compromising our standards for safety and effectiveness.

13 Mr. Massie. You mentioned earlier in our last exchange that you have been told
14 that, because you published a paper that was recommending against indiscriminate
15 widespread boosters, that you were, therefore, biased and could not participate in the
16 booster decision.

17 Is that correct or -- I don't want to mischaracterize.

18 A I was told by my supervisor at that time that because I am a co-author, I was
19 a co-author on this Lancet paper, that my objectivity had been compromised.

1 [3:05 p.m.]

2 Mr. Massie. Who was your supervisor that told you that?

3 Dr. Gruber. Dr. Marks.

4 Mr. Massie. Was his objectivity compromised?

5 Dr. Gruber. I don't know.

6 Mr. Massie. I mean, by the standard he applied to you, he went on YouTube

7 before the vaccine was approved and recommended that everybody take it. He made

8 videos and public statements. Yet, he's part of the agency that's supposed to be the

9 unbiased -- I mean, he's directing your efforts.

10 Can somebody remain unbiased in that final approval process and be publicly

11 promoting the vaccines and saying they're safe and effective?

12 Ms. LoCicero. I'm going to raise an objection to that question. She is unable to

13 speculate about that.

14 [redacted] In the last hour, Dr. Gruber was able to answer a few speculation

15 questions, hypotheticals, made from the Democrat staff. So I just want to note that for

16 the record that she has previously answered several questions.

17 Ms. LoCicero. Okay.

18 Mr. Massie. Let me rephrase it.

19 Do you think he was unbiased?

20 Dr. Gruber. It is true that, when he made a public statement, that one would

21 have come to the conclusion that there was not perfect objectivity on his part.

22 Mr. Massie. I'll let you ask some questions now.

23 [redacted] Absolutely.

24 BY [redacted]

25 Q So, Dr. Gruber, going back also to the last hour, our colleagues in the

1 minority discussed some statements made by President Trump leading up to the approval
2 of the vaccine in 2020.
3 I also wanted to discuss some additional comments that were made in approval
4 for the booster shots. I'm going to label this article from The New York Times dated
5 August 27th as Exhibit 9.
6 Oh, I'm sorry. I apologize. I take that back. It is Exhibit 8. Thank you. I
7 missed that sticker.
8 [Gruber Exhibit No. 8
9 Was marked for identification.]
10 BY [redacted]
11 Q Here you go.
12 And we don't have to walk through the full article. I just wanted to direct your
13 attention primarily to -- I believe it is the fourth paragraph down. There is a comment
14 from President Biden from this meeting with the Israeli Prime Minister, Naftali Bennett,
15 from -- as I mentioned, I think it was August 27th, 2021.
16 He mentioned, "We were going to start around mid-September, but we're
17 considering the advice you've given that we should start earlier," Mr. Biden said.
18 "The question raised is, should it be shorter than 8 months? Should it be as little
19 as 5 months? That's being discussed." And this is in regards to approval of the booster
20 vaccine.
21 Now, I just wanted to know, were you aware of President Biden's statement at
22 this point in time?
23 A I may have read this article, The New York Times article, at the time, but I do
24 not recall this now.
25 Q Do you have any reaction to him saying that the booster could potentially be

1 approved in as little as 5 months versus 8 months?

2 A You know, give me a minute to read this because I don't think he is referring

3 to the approval time. Let's see.

4 From the second paragraph, where it says, "Just 9 days earlier, the President

5 announced that his administration would begin offering third shots the week of

6 September 20th to adults who had received the second dose of the Pfizer or Moderna

7 vaccines at least 8 months ago," I believe they're referring in this paragraph to the

8 booster immunization interval since primary vaccinations are not to approval times.

9 Q So is that different from the BLA? Is that a different booster? Is that what

10 you're referring to?

11 A The BLA was approved not for booster shots. The BLA was approved for

12 the primary vaccination. The primary vaccination of the mRNA vaccines was two doses.

13 It was 21 days for one and 14 days for the other. That was a primary vaccination.

14 Q So do you know what he's referring to when he says the advice that the

15 Prime Minister gave him was that there should be an approval shorter than 8 months or

16 as little as 5 months? Do you know which shot he's referring to at that point in time?

17 A He's not specific, isn't he? So, you know, I would have to speculate here.

18 Q I wasn't sure what you meant -- if you understood when he said "offering

19 third shots the week of September 20th to adults who had received their second dose."

20 What would that line up with-wise as far as the deadline goes?

21 A I don't believe I understood your question. As far as the deadline goes?

22 Q When originally you had mentioned that the BLA approval deadline before

23 you went on leave was September 15th. And then at this point in time, August 27th of

24 2021, this had been after you got back from your leave?

25 A Uh-huh.

1 Q And at that point, in the last hour, you had said that the decision was pretty
2 much made that the timeline would get moved up, but it hadn't been formalized.
3 My question is, which deadline is this referring to when they're talking about third
4 shots?
5 A I think we have to separate. This is talking about booster administration,
6 and that has nothing to do with BLA action due dates.
7 Q So were you a part of these discussions that they're referring to the booster
8 shots?
9 A No.
10 Q Okay. Even though you were still there at this point in time in August of
11 2021, you were not a part of the approval process as far as the timeline goes?
12 A Of the booster authorization, you're saying?
13 Q Yes.
14 A Well, I stated earlier I was part of the group that wrote the briefing
15 document that discussed the booster data that Pfizer had submitted on August 25th to
16 support boosting the general population because the indication for the BLA was people
17 16 years of age and older. And the supplement that is submission to a licensed
18 vaccine -- to a BLA -- now was seeking approval for a booster shot in people 16 years of
19 age and older.
20 And I, at that time, was part of the group that prepared for the advisory
21 committee to discuss these booster shots. And the people in the Office of Vaccines did
22 review the supplement to the BLA, but that came to a halt on September 13th when I was
23 told that I cannot preside over this for that happened on September 17th.
24 Q Okay. Thank you for the clarity. I was confused on the timeline.
25 Mr. Massie. Who is Maddie de Garay? Do you know in this case?

1 Dr. Gruber. I do not know.

2 Mr. Massie. Okay. I'll have to get this. But I think Doran Fink copied you on
3 an email to Pfizer inquiring about Maddie. But if you don't remember that, I'll have to
4 find it.

5 Dr. Gruber. No, I don't recall. I'm sorry.

6 Mr. Massie. Maddie was a participant in the children studies of 12- to
7 15-year-olds.

8 And when Pfizer submitted its EUA for 12- to 15-year-olds, they classified
9 Maddie's injuries as follows: The SAE of neuralgia was reported in one female
10 participant, 12 years of age, who had three emergency room visits beginning one day
11 after the second dose. She reported concurrent nonserious AEs of vulvar abscess,
12 gastritis, and contact dermatitis. She subsequently had SAEs of abdominal pain and
13 constipation. She had an extensive workup, including serial, physical, and laboratory
14 examinations and was diagnosed with functional abdominal pain. She was referred to
15 psychology and physical therapy after which symptoms were reported as gradually
16 improving.

17 During its initial review of the EUA request from Pfizer, what did the FDA do to
18 confirm this SAE was reported accurately by Pfizer?

19 Dr. Gruber. That child was how old?

20 Mr. Massie. Between 12 and 15.

21 Dr. Gruber. During the initial review, the medical officers would have requested
22 additional information. In this case, it is very likely that they would have conducted a
23 chart review.

24 Mr. Massie. I'm sorry. I don't have the documents to show you. I'll have to
25 get those. But I believe that there are some documents and some emails that were sent

1 to you and Doran with an updated narrative concerning -- Pfizer sent you and Doran an
2 updated narrative concerning Maddie on June 30th, 2021. I'll get you those documents.
3 Let me ask you a separate question since the other side went a little far field of the
4 vaccine approval process. I'll ask you some general questions.
5 On December 10th, 2020, the FDA put out a slide deck characterizing the review
6 of efficacy and safety of the Pfizer BioNTech COVID-19 vaccine Emergency Use
7 Authorization request. This is Susan Wollersheim, FDA/CBER. Do you know her?
8 Dr. Gruber. Yeah. She was a medical officer in charge of the review of
9 that -- the clinical data.
10 Mr. Massie. Did she work in your department?
11 Dr. Gruber. Yeah. She worked in the Division of Vaccines and Related Product
12 Applications, and she reported to Dr. Fink.
13 Mr. Massie. So you and I discussed earlier that the vaccine was designed -- in
14 fact, they tried to pick -- it wasn't designed to test whether it had benefit to those with
15 prior exposure to COVID, but that they did have a few people that showed up in the
16 study -- roughly 12- to 1,300 -- just over -- just about 1,100 finished the study. Of the
17 many thousands who were in the study, I'm saying 1,100 had evidence of prior exposure
18 to COVID.
19 And in this slide deck that Susan Wollersheim -- Dr. Wollersheim produced, there
20 was one case of COVID in the placebo group and one case in the vaccine group. I'll show
21 you this. This is the entire slide deck, but it's on page 25 there. Sorry.
22 [redacted] Do you have a copy for us?
23 Mr. Liu. Are we going to mark this as an exhibit, this slide deck? Can I get a
24 couple other copies?
25 [redacted] Can we go off the record for a moment?

1 [Discussion off the record.]

2 [redacted] We will go back on the record.

3 Mr. Massie. While you were at the FDA, did you -- were you asked to do any

4 approval or EUA for a more conventional kill-virus-type vaccine?

5 Dr. Gruber. No. No. It was something that was called pre-EUA requests, you

6 know, where the CDC, for instance, submitted, you know, requests for certain vaccines.

7 And I cannot even recall them now. Was it the anthrax vaccine? I don't know. I

8 cannot say for sure. But that is very different from an EUA request. So we didn't do

9 any EUAs for any other vaccines, at least not during my tenure.

10 Mr. Massie. Okay. Thank you.

11 BY [redacted]

12 Q I'd like to turn back to Exhibit 4, if we could. And that is Bates stamped at

13 the bottom on the FOIA document. The last digits are 355.

14 A The timeline document?

15 Q Yes. But I'd like to first discuss the email itself.

16 A Uh-huh.

17 Q In this email, you copied Mary Malarkey, Steven Anderson, and Dr. Philip

18 Krause.

19 You had mentioned who Mary Malarkey was. Could you remind me what her

20 title was again?

21 A Yes. She was, at that time, the director of the office -- OCBQ. Okay. The

22 Office of Compliance and Biologics Quality.

23 Q And who is Steven Anderson?

24 A Steven Anderson was, at that time, the director of the Office of Biostatistics

25 and Epidemiology.

1 Q Are either of them still working at the FDA, to your knowledge?

2 A I do know that Mary Malarkey retired. And to my knowledge, Dr. Anderson

3 is still in CBER. Yes.

4 Q Why did you choose to copy them to this email?

5 A Because I had to discuss the approval timelines and the time that it would

6 need to take to bring this vaccine to approval not only with the people and supervisors in

7 the Office of Vaccines Research and Review, but also, I had to discuss it with the office

8 directors that were overseeing the Division of Epidemiology, the Division of Biostatistics,

9 because they played an integral part, you know, in the review of the data, and then, of

10 course, the Office of Compliance and Biologics Quality.

11 These are the people that look at the facility information. These are the people

12 who would do a lot of this testing of the vaccines. And these are the people -- Mary

13 Malarkey also did oversee the people looking at the labeling to see if that is -- so they

14 collaborated with other medical officers to assure that.

15 So my point is that these timelines -- they're not only driven by review activities in

16 the Office of Vaccines, but also in the Office of Biostatistics and Epidemiology and the

17 Office of Compliance and Biologics Quality. And that's why I cc'd these people on the

18 email because I also discussed these timelines with them.

19 Q And you had mentioned in the last hour, too, that, at this point in time, in

20 this mid-July timeframe, there was a concern by you that there would not be able to be a

21 complete and thorough review on the Pfizer BLA. But then you said by October 23rd, in

22 your opinion, that there had been a complete and thorough review. Is that accurate?

23 A By October 23rd?

24 Q I'm sorry. August 23rd of 2021. That there had been a complete and

25 thorough review. Is that correct?

1 A I knew there was because people really gave it their all and made sure that
2 all the data that needed to be reviewed were reviewed and assessments were made.
3 Q And that includes all of these moving parts with Dr. Malarkey's office and Dr.
4 Anderson's office?
5 A Yeah.
6 Q And I guess my question is, what do you think changed between your
7 concern in mid-July and then once you had returned from your leave? How was your
8 concern alleviated that there would be able to be a complete and thorough review?
9 A Yeah. Again, my concerns that I expressed in the July 15th memo were
10 centered around the fact that, at that time, we had outstanding information requests
11 through Pfizer. I could not be sure at the time how fast Pfizer was able to submit the
12 required data and documentation to the FDA.
13 I also did know that, at that time, we received additional safety information that
14 had to be factored into the benefit-risk assessment, and it was difficult for me to guess in
15 the middle of July when these review activities could be completed.
16 And, again, it was able -- we were able to do so because Pfizer was very
17 responsive and submitted, you know, data in a very timely manner. And, again, the
18 people -- the reviewers who did the job were extending their working hours through
19 weekends, canceled holidays, to address that request from the center director and acting
20 commissioner to speed up the approval.
21 Q And you had mentioned that you were concerned about the burnout of
22 these hardworking and dedicated individuals who were working to get this BLA approved.
23 And you had mentioned just now that they had, like, you know, worked very long hours
24 and through holidays.
25 Was that any concern of yours at the time that it was approved that there could

1 have been a misstep somewhere in the process or that data wasn't fully reviewed?
2 A No, because there was sufficient oversight at the different levels. So you
3 don't really just rely on a clinical review memo. It is being reviewed by a team leader.
4 It is being reviewed by the branch chief. It is being reviewed by the division director.
5 It is being reviewed at the office level. So there are all these different steps.
6 So as you hear, it wasn't only the reviewers. It was everybody else.
7 Q And noting back in Exhibit 4, in the email you initially sent on Friday, July
8 16th of 2021, to Dr. Marks, you had said -- and I just want to understand what these
9 acronyms mean and ask a couple questions about that.
10 You had said, "The target AAD is September 15th. Note that the DBSQC DS and
11 DP testing will not be completed at that time because of reagent shortage."
12 Now, my question to you is, what does DBSQC DS and DP stand for? That's my
13 first question.
14 A DBSQC was the acronym for a division in the Office of Compliance
15 responsible for doing -- DS and DP refers to drug substance and drug product testing. So
16 that division -- and I will tell you, I do not recall if it was the division of biologics standard
17 and quality something, but I -- you know, I need to verify this, okay?
18 But I do know that that division is part of the Office of Compliance and Biologic
19 Product Quality headed by Mary Malarkey at that time. And they usually do
20 testing -- certain tests on the drug substance and the finally formulated drug product to
21 basically verify the testing conducted by the vaccine manufacturers. But it is not the
22 entire battery of testing. That's not what is required, so...
23 Q And can you elaborate on what you were saying would not be completed at
24 that time because of reagent shortage?
25 A Because of reagent shortage?

1 Q Yeah. I didn't know what that meant.

2 A Yeah. You need, you know, to do, let's say, a potency test to verify the
3 individual strength of a vaccine. You need certain reagents. And that pertains to other
4 tests as well. There was obviously a reagent shortage, so that -- not the entire battery of
5 testing that the division usually did -- could do in a timely manner.

6 But, again, that is confirmatory testing. It's not that the vaccine didn't undergo
7 lot release testing. The manufacturer had done that and had submitted the data to the
8 agency. They have to do that.

9 We also have to review and approve a lot release protocol, and that all was done.
10 Just this confirmatory testing by that division was not done. It's entirely because of a
11 shortage of a particular reagent that was part of the assay -- the individual assay. But I
12 do not recall what test and what reagent that was at this time.

13 Q Okay. And then I'd like to just turn generally back to -- when you submitted
14 your resignation at the agency, what conversations did you have with Dr. Krause
15 regarding your resignation?

16 A I informed Dr. Krause that I would inform Dr. Marks that I would retire from
17 the FDA, and that meeting with Dr. Marks took place the end of August. I don't recall
18 the exact date. Was it August 27th? I don't know. If that was a Friday, it probably
19 was that day.

20 And because Phil was my deputy -- and usually, when an office director leaves, as
21 was the case when Dr. Baylor had left when I was the deputy director, in the interim
22 period before a new office director is selected or appointed, the deputy office director
23 takes on the position of acting office director. And so I felt that I needed to inform Phil
24 of my decision.

25 Q What was his reaction?

1 A Well, he didn't want to let me go. But he understood because we -- both of
2 us actually had discussed, you know, retirement age and eligibility for retirement. And
3 for me, that had been the prior year. So it didn't come as a big surprise to him, I would
4 think.
5 Q Do you think your decision influenced Dr. Krause's decision to also submit
6 resignation and retire?
7 A I do not know.
8 Q What response did you receive from Dr. Marks regarding your resignation?
9 A Well, I met with him. I actually did ask for a face-to-face meeting. I put
10 my mask on and waved to my dog, and I informed him of my decision to retire. He was
11 very professional, very cordial.
12 Q And do you know what Commissioner Woodcock's reaction was to your
13 resignation?
14 A I do not know.
15 Q Did anyone else on your OVRR team leave the FDA for the same reason you
16 did? Did they retire? Did they resign?
17 A There was a person leaving, but that person already had looked for other
18 opportunities in industry. That was their desire, and I think it was just coincidence.
19 Yeah.
20 Mr. Massie. Was that Dr. Krause?
21 Dr. Gruber. No. That was Dr. Roberts.
22 Mr. Massie. Did Dr. Krause also leave or announce that he was leaving soon
23 after you did?
24 Dr. Gruber. Yes, he did. It was on that following Monday.
25 Mr. Massie. Did you have discussions with him before you announced that you

1 were leaving?

2 Dr. Gruber. I had informed Dr. Krause that I would -- that I had scheduled a

3 meeting with Dr. Marks in which I was going to inform Dr. Marks that I would retire from

4 the FDA. Yeah. That discussion took place between Dr. Krause and myself.

5 Mr. Massie. Did Dr. Krause tell you that he was also leaving?

6 Dr. Gruber. No. No. That was an announcement made on that Monday, and

7 I recall he sent an email to Dr. Marks and cc'd me on it.

8 Mr. Massie. I'm waiting for my copies.

9 [redacted] All right.

10 We'll go off the record for a moment.

11 [Discussion off the record.]

12 Mr. Massie. So what we're submitting is Exhibit 9, which is an MMWR in

13 December of 2020, obviously, from CDC.

14 [Gruber Exhibit No. 9

15 Was marked for identification.]

16 Mr. Massie. And then Exhibit 10 is a correction that they issued, and the back

17 page of Exhibit 10 is an errata that goes with -- that's part of Exhibit 10.

18 [Gruber Exhibit No. 10

19 Was marked for identification.]

20 Mr. Massie. Exhibit 11 is the slide deck from Dr. Wollersheim at the FDA/CBER

21 dated December 10th, 2020.

22 [Gruber Exhibit No. 11

23 Was marked for identification.]

24 Mr. Massie. And then Exhibit 12 is a study -- this is Pfizer's funded study, and I'm

25 not sure of the date on it. I believe this is a research summary.

1 But the date on the Pfizer data, which is -- all this is is the cover page for the
2 document that's very thick. And then the page of interest, which is the reported cause
3 of death in the Pfizer trial as of July, I believe.
4 [Gruber Exhibit No. 12
5 Was marked for identification.]
6 Mr. Massie. So let me start, if that's okay. Okay. I'm going to start with
7 Exhibit 12, the one we're all holding. The second page is the page of interest.
8 This is the reported cause of death broken down by individuals in the placebo
9 group and individuals in the Pfizer vaccine group. And it shows that there were 15
10 deaths in the vaccine group and 14 in the placebo group. Are you aware of these
11 results, Dr. Gruber?
12 Dr. Gruber. Yeah. We -- as part of every BLA submission, we look at the safety
13 data. And, you know, when a study is that large -- 40-, maybe 44,000 subjects -- it is
14 expected that there will be reported cases of death. And, yes, we were aware of these
15 deaths. 15 in the vaccine group and 14 in the placebo group.
16 Mr. Massie. Is mortality something important to look at during a randomized
17 control trial of a drug or vaccine?
18 Dr. Gruber. That is part of the analysis.
19 Mr. Massie. Did you or anyone else at FDA have concerns about the fact that
20 there were slightly more deaths in the vaccine group than the placebo group?
21 Dr. Gruber. I would not interpret the data that beforehand CNP analyzed to
22 suggest that there were more deaths in the vaccine group than in the placebo group.
23 I should also say that every time that we have a reported death and the cause
24 thereof, which is listed here, the medical officers will perform an analysis to try to discern
25 if the death was caused by the vaccine or if it was caused due to other reasons, such as

1 underlying conditions.

2 And what this table does not really separate out here -- it just says safety

3 population greater or equal of 16 years old. It would have been more helpful to have a

4 stratification by age. Often what you see listed as the cause of death is events that

5 happen, you know, in the elderly with underlying medical conditions.

6 So, again, to answer your question, I am not concerned, and the data do not

7 suggest to me that there were a higher number of deaths in the vaccine group compared

8 to the placebo group.

9 Mr. Massie. But there were -- there were 15 deaths in the vaccine group and 14

10 in the placebo.

11 Dr. Gruber. Yes.

12 Mr. Massie. Wasn't one of the end points or one of the benefits of the vaccine

13 supposed to be that it would protect you from hospitalization, severe illness, and death?

14 Dr. Gruber. Due to COVID, but not due to other conditions. And this table does

15 not speak to that.

16 Mr. Massie. Wouldn't you -- I mean, if that was the end point, should -- you

17 know, I know you like to have this stratified by age, but even so, on the whole, it shows

18 that there were more deaths in the vaccine group than in the placebo group. But you

19 have methods to eliminate that concern?

20 Dr. Gruber. So the efficacy estimation is driven by the primary end point, and

21 that was prevention of symptomatic COVID disease. And when you look at the efficacy

22 data, you would have seen that there was a substantially higher number of COVID cases

23 presented -- prevented in the people who received the vaccine compared to people who

24 got the placebo.

25 There are always death in these clinical disease end point efficacy studies. And

1 this table here just calls reported causes of death. It doesn't say, you know, that all
2 these deaths are due to COVID. Look, if you look at COVID-19, even here, you have zero
3 cases in the vaccine group and two cases in the placebo group.
4 Mr. Massie. Uh-huh.
5 Dr. Gruber. But the numbers are also, you know, very, very low considering the
6 size of this trial.
7 Mr. Massie. But as far as the ages of the two groups go, didn't they assemble
8 these -- this study such that the groups would have relatively the same average age and
9 the same number of participants in the different --
10 Dr. Gruber. That is true. In this trial, the groups were fairly balanced between
11 vaccine and placebo groups with regards to demographics, age, et cetera.
12 Mr. Massie. So there are two columns, as you -- or at least -- let's see -- one
13 column here, COVID-19, where it indicates there were two deaths in the placebo group
14 and none in the vaccine group. But COVID-19 pneumonia, there was one in the vaccine
15 group and zero in the placebo group.
16 But I think the concern is not whether this demonstrates efficacy. There were
17 lots of public health officials saying, if you get this, you won't die. Was that an
18 efficacy -- was that an end point that you took into consideration when giving the
19 approval? Was efficacy of keeping you alive part of it, or was it just the symptomatic
20 COVID within a period of time?
21 Dr. Gruber. It was symptomatic COVID. And, you know, if you look at
22 COVID-19 pneumonia, there was one case in the vaccine group, and I note that this
23 vaccine was not 100 percent efficacious, right? There were some, you know, cases of
24 COVID in the vaccine group, just much, much less than in the -- much less cases of death
25 and severe disease compared to the placebo group.

1 Mr. Massie. One of the concerns that people have when they look at this chart is
2 not necessarily does it prove efficacy or not efficacy of keeping you from dying, but that
3 there may be -- if there is efficacy, they may be offsetting deaths because of adverse
4 reactions to the vaccine.
5 You would think if the vaccine is keeping people alive, there would be more
6 deaths in the placebo group, but the fact that they're equal leads one to wonder if there
7 are adverse effects that cause death that weren't captured.
8 Dr. Gruber. But these weren't causes of death from dose one to underlying. It
9 doesn't say causes of death due to COVID.
10 Mr. Massie. Uh-huh.
11 Dr. Gruber. This is just a listing of all death that occurred as part of this clinical
12 study. And these are causes that -- or the causes of these deaths had different reasons
13 than COVID. So this is not what this table shows, that the number of deaths in the
14 vaccine group was likely higher; therefore, the vaccine caused more death. That is not
15 how you interpret this data.
16 Mr. Massie. Uh-huh. Okay. Well, thank you.
17 My next questions involve Exhibits 9, 10, and 11.
18 [redacted] Yes.
19 Mr. Massie. And I note you were over at Vaccines at FDA and not at the CDC, but
20 I would like your scientific opinion because the CDC was basing their report on data
21 that -- or characterization, I should say, of the Pfizer trial that was prepared by the FDA.
22 That would be the document that we're -- what number is that?
23 [redacted] Eleven.
24 Mr. Massie. Yeah. 11. The slide deck. With Dr. -- who is the doctor on that
25 one?

1 Dr. Gruber. Dr. Wollersheim, right? She was the medical officer that
2 performed the review of the efficacy data for this vaccine.
3 Mr. Massie. So on page 25 of that document --
4 Dr. Gruber. Yeah.
5 Mr. Massie. It shows that in the two groups, the placebo group and the vaccine
6 group, they found a bit over 500 people in each of those groups who had evidence of
7 prior COVID exposure. And what they discovered in this very short trial with limited
8 data was that there was one case of symptomatic COVID in each of those groups of 500.
9 The CDC published in December of 2020 -- just a few days after that, they
10 published an MMWR and characterized that -- and that would be Exhibit 9. If you could
11 look at Exhibit 9, the highlighted area, and I'll read that part.
12 "Consistent high efficacy greater than or equal to 92 percent was observed across
13 age, sex, race, and ethnicity categories and among persons with underlying medical
14 conditions as well as among participants with evidence of previous SARS-CoV-2 infection."
15 Now, when I read this in December, the day it came out or the day afterwards, I
16 was interested myself in whether I should take the vaccine because I had already had
17 COVID and -- proved through an antibody test, which is fairly reliable.
18 So I read this MMWR, and what -- I found it somewhat incredible that they could
19 make a claim of 92 percent efficacy among those who had already had COVID because, as
20 you said earlier, the study itself wasn't designed to prove that. In fact, the study was
21 trying to involve only participants who had not had COVID before. But they were basing
22 this statement on the slide deck and the FDA characterization of the Pfizer data.
23 And so what it is -- I called them. I called up the CDC, and I told them that I think
24 they have a typo in their MMWR. And they agreed to change it.
25 And my concern at the time was that, if you promoted 92 percent efficacy for

1 those who had already had COVID -- there was a limited number of vaccines, if you
2 remember -- a very limited number in December or January. December of 2020 and
3 January of 2021, February of 2021.
4 And my concern was that there would be more people -- based on the CDC
5 guidance, there would be people who -- honestly, it wasn't proven that they could benefit
6 from this vaccine -- who would go get the vaccine in place of people who would benefit
7 from it according to the data.
8 So what the CDC did is -- and I will refer you to Exhibit 10, which is the one with
9 this mark on the front.
10 Dr. Gruber. Uh-huh.
11 Mr. Massie. The very last page of that is -- that Exhibit 10 is a modified version
12 of their document. They changed it, but they didn't really change it. If you look at the
13 highlighted part -- I'm sorry -- on page 2 of that. There you go.
14 Here, they limit their claim of 92 percent efficacy to being observed across age,
15 sex, race, and ethnicity categories and among persons with underlying medical
16 conditions.
17 Now, they -- but their correction was to change and say efficacy was similarly high
18 in a secondary analysis, including participants both with or without evidence of previous
19 SARS-CoV-2 infection. So you see they didn't really change it.
20 And if you go to the last page of that document that's in front of you, the very last
21 page --
22 Dr. Gruber. Forty-four
23 Mr. Massie. Keep going. There it is.
24 Dr. Gruber. Right here.
25 Mr. Massie. They published this errata, and they said -- they said what it should

1 have read. And then here's the sentence.

2 "Although numbers have observed hospitalizations and deaths were low, the

3 available data were consistent with reduced risk for those severe outcomes among

4 vaccinated persons compared with that among placebo recipients."

5 They basically -- in both their original MMWR and their correction to it, they

6 claimed that the Pfizer data, which your group had already evaluated and found that

7 there was no efficacy that could be proven with the Pfizer data -- they claimed -- the CDC

8 claimed it was 92 percent efficacious or highly efficacious.

9 Do you find any support for that claim at that time, which would have been

10 December of 2020? December 18th of 2020 is when they made the claim. And the

11 only available data they had to make that claim on was your characterization of the Pfizer

12 trial.

13 Do you think the Pfizer trial supports that claim?

14 Dr. Gruber. So I was reading this article as you were talking, and yes, it does say

15 that the body of evidence for this vaccine was primarily informed by one large

16 randomized placebo-controlled study and 43,000 participants. In the preceding

17 paragraph, they're talking about systematic review of literature.

18 However, the FDA did not come to the conclusion that similar high efficacy, you

19 know, could have been derived from the data that came out of this efficacy study. And

20 the study was powered for the overall population. There was some analysis done in the

21 very elderly and people with comorbidities. Here, baseline SARS-CoV-2 race. But the

22 number of people were just not large enough to really make an efficacy estimate.

23 Now, what's stated here does not mean that the vaccine is not efficacious in

24 people with positive SARS-CoV-2 status. But we also cannot deduce from this data

25 efficacy in the subpopulation because these are subgroup analyses, and the number of

1 subgroups -- the sample size is just not high enough. So I cannot tell you why this
2 wording was chosen in the MMWR report.
3 Mr. Massie. I'm not asking you to speculate, but I'm going to.
4 I think there was -- there was a concerted effort to get everybody vaccinated,
5 whether they had immunity from prior exposure to COVID or not. And I think from the
6 very beginning, that was an effort at the CDC to do that. And I think they were wrong to
7 mischaracterize the data that I believe you all correctly characterized in just the basic
8 presentation of the numbers.
9 I have one last question, and feel free to answer it or not. Did you take the
10 booster?
11 Dr. Gruber. I took the booster, yes. And that was in May of 2022. I had
12 already left the agency. My primary vaccination was 1 and a half years before, and I
13 took the booster.
14 Mr. Massie. I have no other questions.
15 [redacted] Neither do I. We can go off the record.

1 [4:16 p.m.]

2 [redacted] It is 4:16. We can go back on the record.

3 At the outset, I just want to note there was a comment made in the prior hour

4 about the minority staff asking speculative questions.

5 We dispute that characterization of any of our questions or any of our lines of

6 questioning as asking for speculation or being speculative in nature.

7 BY [redacted]

8 Q Dr. Gruber, I want to -- it feels like I think it was an hour ago at this point.

9 At the very early part of the last hour of questioning, there was a discussion about the

10 VRBPAC, the booster-related VRBPAC.

11 A Yeah.

12 Q And there was a discussion about somebody commenting on your

13 objectivity. Do you recall that discussion?

14 A Today?

15 Q Just today.

16 A Yes.

17 Q And I'm sorry, I can't remember right now. Who -- was it Dr. Marks who

18 said that he wasn't sure of your objectivity?

19 A Yes.

20 Q Did he say what he meant by "objectivity"?

21 A Yes. That was on the very same day that the WHO publication in the

22 Lancet in which we asserted that, at that time, booster immunizations were not necessary

23 for the general population.

24 At that time, he called me, and he was very upset that I had signed on as a

25 co-author of that publication. And he said that concerns were expressed that my

1 objectivity has been compromised and that I there -- regarding necessity of booster shots,
2 and that, because of that, I could no longer take an active role in the September 17th
3 VRBPAC that discussed the Pfizer supplement and the request by Pfizer to get a booster
4 approval in people 16 years of age and older.
5 Q Understood. But he didn't actually explain "objectivity." He didn't define
6 that term for you, did he?
7 A He did.
8 Q So did he say, for example, if by "objectivity," for example, if he meant that if
9 the VRBPAC voted to decline a broad authorization and you were on that panel, that
10 might, you know, call into question that outcome? Because that is actually what
11 happened, right, it ultimately declined to recommend a broad recommendation?
12 A Yes. He said my objectivity was compromised because I had already taken
13 a stance regarding booster immunizations.
14 Q And the purpose --
15 A By way of the publication.
16 Q And the purpose of the meeting is to have the information presented to you
17 at that meeting, right?
18 A Yes. Although the purpose of the -- I mean, we knew the data because we
19 do the review of the data then, right? And then the VRBPAC serves the purpose to have
20 a public discussion of the data and for the VRBPAC to weigh in on the question. You
21 know, at that time, it was, should boosters be administered to the general population?
22 Q There were questions raised in the earlier hour about whether Dr. Marks
23 was objective. Was he on -- was he a voting member of that panel?
24 A No, no, no. FDA officials are not voting members, no.
25 Q So he may have participated, but he was not -- he didn't have a role in

1 making the final decision?

2 A No. He was called upon to make -- to answer questions, you know, by the

3 committee.

4 Q Okay. I want to turn back to what's been marked as exhibit No. 7. This is

5 the email from Peter Marks to Janet Woodcock, 8/18/21, 6:54:21 a.m.

6 [redacted] The one with highlights.

7 Dr. Gruber. Oh, this one. 6:54 a.m., right?

8 [redacted] Yes.

9 Dr. Gruber. On August 18?

10 [redacted] Yeah.

11 BY [redacted]

12 Q So you were asked a number of questions about the very first email in that

13 chain. You weren't on -- you weren't an original recipient of that email, right?

14 A That is correct. I was not an official recipient of that email. I was made

15 aware of this email by Dr. Fink. And, at that point, you know, I felt that I had to support

16 him --

17 Q Oh, understood.

18 A -- and supervise him.

19 Q I'm sorry. I should be clear. I'm looking at the very, very first email in that

20 chain. I realize that you were included later in the chain.

21 [redacted] You mean the last, chronologically.

22 BY [redacted]

23 Q Sorry, chronologically. The one at the very top. Sorry. The last in time,

24 the one that's dated 6:54.

25 A Yes. I'm sorry. Yes.

1 Q The first one on the page, the last in time.

2 That email, you weren't on that email, correct?

3 A No.

4 Q Okay. So you were asked a number of questions about what was meant in

5 this email, but you weren't one of the original recipients, and you weren't the sender,

6 correct?

7 A That is correct.

8 Q So the questions about -- so, for example, there was a question made earlier

9 about "it does not mean that we are bound by our usual process." Here, the term

10 "process" you don't know what the term "process" means in this context, right?

11 A As I stated earlier, I wasn't clear what the whole sentence meant.

12 Q And so I think there was -- after you said that, there was a suggestion made

13 by one of the questioners that this referred to the approval process. We just don't

14 know that. You weren't on this email, and you don't -- any comment on that would be

15 speculation, right?

16 A Any comment on that would be speculation because it is not clearly spelled

17 out in this email what is meant here.

18 BY [redacted]

19 Q I want to turn to the CDC MMWRs that were introduced. Based on your

20 reading of that MMWR, is it exclusively based on the data that is presented in the

21 December 10th slideshow that was introduced?

22 A Well, it says the body of evidence for the Pfizer vaccine was primarily

23 informed by this one large double-blind placebo-controlled study. And that is the

24 subject of that PowerPoint presentation here. This -- this is -- this is all the data from

25 that study.

1 Q Looking at slide 25 of the PowerPoint, the overall efficacy concluded on that
2 PowerPoint is 94.6, with a confidence interval of 89.6 to 97.6, right?
3 A Yeah.
4 Q And, in the CDC publication, it says that the efficacy was 95.0 with a
5 confidence interval of 90.3 to 97.6. Do you see that? It's above the highlighted
6 sentence "the CDC has efficacy data."
7 [redacted] It's on page 2.
8 [redacted] You're looking at the other version.
9 A No, I see it.
10 BY [redacted]
11 Q So do you see that clearly CDC was using different numbers, if not -- it might
12 not be exactly clear why they're different, but clearly these numbers are not the same as
13 the ones in the PowerPoint?
14 A Well, because it says it was primarily informed, but further up here they're
15 talking about surveillance data and, you know, I don't know what other information they
16 put in there.
17 Q In fact, it says that the COVID-19 vaccine's work group, which comprised of
18 experts, held 27 meetings to review surveillance data, evidence for vaccine efficacy and
19 safety and implementation, including the Pfizer vaccine. So it's possible that this CDC
20 data, though primarily based on the Pfizer trial, includes information from other sources?
21 A That is possible, yes.
22 Q Finally, I want to turn to the conversation that we had again at the beginning
23 of the last hour about the BLAs versus the booster.
24 So the Comirnaty BLA approval process was unrelated to the booster vaccines,
25 correct?

1 A Yes.

2 Q And the BLA approval was not undertaken as a prerequisite to

3 recommending vaccines -- or booster shots? I can clarify.

4 A Yes, can you please clarify.

5 Q So the BLA wasn't a necessary prerequisite for booster shots? Pfizer didn't

6 need to get their BLA approved to then be able to recommend booster shots?

7 A Potentially, there could have been an emergency-use authorization of

8 booster shots.

9 Q And there was an emergency --

10 A And that was eventually done, yeah.

11 Q And the majority referred to a part of this New York Times article that said

12 that the President announced his administration would be offering third shots the week

13 of September 20th to adults.

14 Do you remember that?

15 A Uh-huh.

16 Q That didn't happen, correct?

17 A Well, we went to the VRBPAC on September 17, right? And they

18 recommended not boosting the general population, but restricting the boosters to

19 people -- to the elderly and people with underlying conditions. So yeah. Let's see.

20 What did it say here? When you said that didn't happen, what are you referring to?

21 Q Third shots were not offered to adults, all adults during the week of

22 September 20th.

23 A That is correct, they were not offered.

24 Q The FDA followed the VRBPAC's recommendation?

25 A Yeah.

1 [redacted] We can go off the record. Thank you.

2 [redacted] We have no further questions.

3 [Whereupon, at 4:27 p.m., the interview was concluded.]

4

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: NIKKI FLORIS

Wednesday, July 19, 2023

Washington, D.C.

The interview in the above matter was held in room 2237, Rayburn House Office Building, commencing at 10:00 a.m.

Present: Representatives Gaetz, Biggs, and Sparks.

1 Appearances:

2

3

4 For the COMMITTEE ON THE JUDICIARY:

5

6 [redacted] GENERAL COUNSEL

7 [redacted] SENIOR ADVISOR

8 [redacted] CHIEF COUNSEL FOR OVERSIGHT

9 [redacted] SENIOR SPECIAL COUNSEL

10 [redacted] SPECIAL COUNSEL

11 [redacted] PROFESSIONAL STAFF MEMBER

12 [redacted] MINORITY INTERN

13 [redacted] MINORITY OVERSIGHT COUNSEL

14 [redacted] MINORITY PROFESSIONAL STAFF MEMBER

15

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17 For the U.S. DEPARTMENT OF JUSTICE:

18

19 [redacted] SPECIAL COUNSEL, OFFICE OF LEGISLATIVE AFFAIRS

20

21

22 For the FEDERAL BUREAU OF INVESTIGATION:

23

24 [redacted] [redacted] ASSISTANT GENERAL COUNSEL,

25 OFFICE OF GENERAL COUNSEL

1 [redacted] We'll go on the record.

2 Good morning. This is a transcribed interview of Ms. Nikki Flores. Chairman

3 Jordan has requested this interview as part of the committee's oversight of the Federal

4 Bureau of Investigation.

5 Would the witness please state your name for the record?

6 Ms. Floris. Nikki Floris.

7 [redacted] Could agency counsel please state your name for the record?

8 [redacted] from the FBI's Office of General Counsel.

9 [redacted] from DOJ, Office of Legislative Affairs.

10 [redacted] And, Ms. Floris, you understand that the agency counsel has a

11 primary fiduciary duty to the Bureau and not to you individually?

12 Ms. Floris. Yes.

13 [redacted] And so you'd like to continue with agency counsel today?

14 Ms. Floris. Yes.

15 [redacted] On behalf of the committee, I want to thank you for appearing here

16 today to answer our questions. The chairman also appreciates your willingness to

17 appear voluntarily.

18 My name is [redacted] and I'm with Chairman Jordan's staff.

19 I'll now have everyone else from the committee who is here in the room introduce

20 themselves as well.

21 [redacted] with Mr. Jordan's staff. Good morning.

22 [redacted] with Chairman Jordan's staff.

23 [redacted] with the House Judiciary Democrats.

24 [redacted] House Judiciary Democrats.

25 [redacted] with Mr. Jordan.

1 [redacted] [redacted] with Chairman Jordan's staff.

2 [redacted] Thank you.

3 I'd like to now go over the ground rules and guidelines that we'll follow during

4 today's interview.

5 Our questioning will proceed in rounds. The majority will ask questions first for

6 1 hour, and then the minority will have an opportunity to ask questions for an equal

7 period of time if they so choose. We will alternate back and forth until there are no

8 more questions and the interview is over.

9 Typically, we take a short break at the end of each hour, but if you would like to

10 take a break apart from that, please just let us know. We're happy to accommodate

11 that.

12 As you can see, there's an official court reporter taking down everything we say to

13 make a written record, so we ask that you give verbal responses to all questions. Do you

14 understand that?

15 Ms. Floris. Yes.

16 [redacted] So the court reporter can take down a clear record, we'll do our best

17 to limit the number of people directing questions at you during any given hour to just the

18 people on the staff whose turn it is. Please try and speak clearly so the court reporter

19 can understand and so the folks down at the end of the table can hear you.

20 It's important that we don't talk over one another or interrupt each other if we

21 can help it, and that goes for everybody present at today's interview.

22 We want you to answer our questions in the most complete and truthful manner

23 as possible, so we will take our time. If you have any questions or if you do not

24 understand one of our questions, please just let us know. Our questions will cover a

25 wide range of topics, so if you need clarification at any point, just say so.

1 If you honestly don't know the answer to a question or do not remember, it is best
2 not to guess. Please give us your best recollection, and it is okay to tell us if you learned
3 information from someone else; just indicate how you came to know the information. If
4 there are things you don't know or can't remember, just say so, and please inform us
5 who, to the best of your knowledge, might be able to provide a more complete answer to
6 the question.
7 You should also understand that by law you are required to answer questions
8 from Congress truthfully. Do you understand this?
9 Ms. Floris. Yes.
10 [redacted] This also applies to questions posed by congressional staff in an
11 interview. Do you understand this?
12 Ms. Floris. Yes.
13 [redacted] Witnesses that knowingly provide false testimony could be subject
14 to criminal prosecution for making false statements under 18 U.S.C. Section 1001. Do
15 you understand this?
16 Ms. Floris. Yes.
17 [redacted] Is there any reason you're unable to provide truthful answers to
18 today's questions?
19 Ms. Floris. No.
20 [redacted] Finally, I'd like to make note that the content of what we discuss
21 here today is confidential. We ask that you not speak about what we discuss in this
22 interview to any outside individuals to preserve the integrity of our investigation. For
23 the same reason, the marked exhibits will stay with the court reporter to go in the official
24 transcript, and any copies of the exhibits we use today will be collected when we wrap
25 up.

1 All right. That's the end of my opening remarks.

2 Is there anything my colleagues from minority would like to add?

3 [redacted] Just thank you for appearing here today voluntarily.

4 Ms. Floris. Sure.

5 [redacted] Okay. The clock now reads 10:04.

6 [redacted] [redacted] before we start the questioning, I would just like to point

7 out our understanding for the record. We understand that the committee has questions

8 about the defensive briefing that was provided to Senator Grassley and one that was

9 provided to Senator Johnson. The FBI does typically not discuss defensive briefings

10 provided to individual members, but recognizing the committee's interest and Senator

11 Grassley and Senator Johnson's testimony about this topic to the committee, we are

12 understanding that we are operating with their consent to provide information to the

13 committee.

14 [redacted] Okay. Thank you for that.

15 The clock now reads 10:05. I'll turn it over to my colleague, [redacted] for the

16 first hour of questioning.

17 EXAMINATION

18 BY [redacted]

19 Q Good morning, Ms. Floris.

20 A Good morning.

21 Q When did you join the FBI?

22 A In 2005.

23 Q What positions have you held in the FBI?

24 A I was an intelligence analyst when I first joined the FBI. From there, I was a

25 supervisory intelligence analyst, which is a GS-14; a unit chief, which is a GS-15; an

1 assistant section chief, which is a GS-15; a section chief, which is in the SCS service; a
2 deputy assistant director; and now I am the intelligence analyst in charge at the
3 Washington Field Office.
4 Q Okay. So in 2018, you became the deputy assistant director of the
5 Intelligence Branch for the Counterintelligence Division, correct?
6 A Correct.
7 Q Okay. What were your roles and responsibilities in that position?
8 A So in that position I had oversight over the intelligence functions of the
9 Counterintelligence Division. Essentially what that means is my team was responsible
10 for assessing intelligence related to counterintelligence matters, disseminating products,
11 briefing key partners, providing strategic awareness within and outside the FBI as far as
12 how nation-state actors operate in the counterintelligence space.
13 Q Briefing key partners, who might some of those key partners be?
14 A Partners within the intelligence community, State and local partners, foreign
15 partners, private sector partners.
16 Q Did you work out of FBI headquarters?
17 A I did.
18 Q Okay. If you could be a little more specific on the subject area matters that
19 you worked on in that responsibility.
20 A Sure. So it was nation-state actor threats to the United States, so think
21 China, Russia, Iran, Cuba, and the like, anything of a counterintelligence concern. So
22 individuals who were attempting to acquire sensitive U.S. Government information,
23 influence U.S. policy, attempt to acquire proprietary information, military technology,
24 old-school spies. You know, that's usually the easiest way to describe the
25 counterintelligence mission, but it's far more than just spies as well.

1 Q Okay. Who was your direct supervisor at the time?

2 A I had a couple, in traditional FBI format. So when I first arrived, the

3 assistant director was Bill Priestap. He was there for a few months. Once he left, my

4 assistant director was then John Brown. Once he left, it was then Alan Kohler.

5 Q I saw from your bio that you had some responsibilities as the FBI's election

6 security lead for the 2020 Presidential election. Is that correct?

7 A That's correct. So in my role as the deputy assistant director, we

8 established the Foreign Influence Task Force, which we call the FITF. It became a

9 section, so an actual formalized section, in around the spring or summer of 2019, and the

10 decision was made to put that in the Intelligence Branch within the Counterintelligence

11 Division. So I did oversee the FITF. Because of that, I was, you know, hatted with being

12 the FBI's election security lead for the Presidential elections.

13 Q Okay. I think we'll come back to that in a moment.

14 A Sure.

15 Q In 2022, you were promoted to intelligence analyst in charge of the

16 Washington Field Office's Intelligence Division, correct?

17 A Correct.

18 Q Okay. And similarly, what were your responsibilities or are your

19 responsibilities?

20 A Yeah, correct, I'm still in that role. So very similar to my jobs as the DAD

21 over the intelligence branches in both counterterrorism and counterintelligence is

22 overseeing the intelligence functions of the Washington Field Office; again, assessment,

23 production, dissemination of intelligence and information, working with partners,

24 supporting operational colleagues, so the special agents, supporting them in their

25 casework.

1 Q This may sound naive, why do all these things in the Washington Field Office
2 when you have an FBI headquarters?
3 A We focus on the cases specific to the Washington Field Office area of
4 responsibility. So headquarters is much more strategic. So an analyst, for example, at
5 headquarters would assess the China threat writ large to the United States. An analyst
6 in the Washington Field Office would support WFO cases on Chinese actors doing
7 nefarious activity within the Washington area of responsibility.
8 Q And that would include actions, say, against Congress or something like that?
9 A Exactly.
10 Q Okay. Do these responsibilities differ from when you were deputy assistant
11 director in counterintelligence?
12 A Differ in that the scope of it. My focus right now is on what happens in
13 WFO's AOR, which includes the district in northern Virginia.
14 Q I see.
15 A My focus at headquarters was what was impacting nationally the American
16 people and U.S. interests overseas as well.
17 Q And the subject matters are virtually identical, nation-state operations?
18 A So the difference -- and that's a good question. I should have clarified. So
19 in my role WFO, I have analysts supporting all program areas, so criminal,
20 counterintelligence, counterterrorism, white collar crime, cyber. So I oversee all intel
21 personnel at WFO across all operational program areas; whereas, in counterintelligence, I
22 was focused solely on the counterintelligence threat.
23 Q I see. Do you have a direct supervisor now?
24 A I do. Assistant Director in Charge Sundberg, David Sundberg.
25 Q And you are currently in that role?

1 A I am.

2 Q I think I will turn this over to my colleague for a few questions.

3 BY [redacted]

4 Q So I want to talk about the Foreign Influence Task Force --

5 A Sure.

6 Q -- a little bit. You said you were there when it was created. Is that

7 correct?

8 A Yes and no. So initially, the FITF was created, I believe, in the 2017

9 timeframe, and it was a smaller task force. It was not an actual formalized section, and

10 it was focused just on Russia.

11 Q Okay.

12 A So when I got there in 2018, in my first couple months there in the division

13 and in talking with some of my operational counterparts, realized that all nation-state

14 actors essentially do some type of foreign influence operations against the United States,

15 and we needed to widen the aperture, why just have a FITF looking just at Russia. So if

16 we were going to widen the aperture, we would obviously bring in more individuals into

17 the team and eventually get to the size where it really needed to be a standalone section

18 with a section chief over it, so an executive over the FITF.

19 So that happened, like I said, I want to say, spring or summer of 2019. So when I

20 was there, there was this thing called the FITF, but in a very different shape and manner

21 than it turned out to be once I assumed the position.

22 Q Okay. And so once you assumed the position, did you have oversight over

23 the FITF?

24 A I did, yes.

25 Q And what years did you have oversight over the FITF?

1 A From, like I said, spring, summer 2019 -- I can't remember the exact date it
2 became a section -- until I departed in May, June of 2022.
3 Q And who was the section chief over the FITF when you were there?
4 A When I was there, it was Bradley Benavides and then Laura Dehmlow after
5 that.
6 Q And were there unit chiefs underneath of Benavides and Dehmlow?
7 A Yes.
8 Q And how many unit chiefs were there?
9 A Three.
10 Q And what were the topic areas for those unit chiefs?
11 A So the way their units were broken down, you had one focus on Russia, one
12 focus on China -- at least when I was there. I don't know what it looks like today -- and
13 then one focus on global threats with primarily a focus on Iran.
14 Q And when you had oversight of the FITF, did you have an understanding of
15 what the FITF was working on at any given time?
16 A Yeah, for the most part, yeah.
17 Q And how often would you interact with Mr. Benavides or Ms. Dehmlow?
18 A Pretty much daily.
19 Q Daily. Okay. Were you aware of ongoing meetings with tech companies
20 at the time?
21 A Aware sometimes that they were occurring, but not anything more specific
22 than that.
23 Q Did you have any sort of awareness of the frequency of the meetings that
24 were occurring between the FITF and social media companies?
25 A If it was -- if Brad or Laura were attending those meetings, but my

1 understanding is folks below them would also have contact with folks. I don't know the
2 frequency of that. I would know if one of my section chiefs was going to engage with
3 them.
4 Q And were you aware that the FITF would create these account lists, send
5 them to field offices, and then the field offices would send them to tech companies?
6 Were you aware of that?
7 A My understanding of how it worked is -- and when you say account list, I'll
8 walk through my understanding of how we shared information --
9 Q Okay.
10 A -- with tech companies. So -- and this is all hypothetical, given classification
11 concerns.
12 So a CIA report comes out, for example, that says Russian foreign influence actor
13 Vladimir who has ties to the Russian intel services is going to use the handle
14 @ILoveRussia to push out disinformation. CIA would then have to approve us to
15 downgrade that information in an unclassified format, that handle @ILoveRussia, and
16 then give us the approval to then pass it to a tech company. We would pass
17 that -- when I say we, the FBI would then pass that information to the tech company.
18 I think -- and, again, I wasn't involved in kind of the minutia of how this
19 worked -- that passage ultimately went through San Francisco because they had the
20 primary relationship with those tech companies. We would provide that information
21 saying we have intelligence indicating this handle is potentially going to push out
22 disinformation, and that was the end of the conversation, as far as I understood it.
23 Q And would Ms. Dehmlow or Mr. Benavides provide any briefing to you
24 regarding these meetings that occurred?
25 A Seldom.

1 Q Do you know if there were any conversations between the FITF and the
2 social media companies regarding potential hack-and-leak operations?
3 A That, I don't know.
4 Q Do you know if there were any conversations between the FITF and social
5 media companies regarding the social media companies' policies regarding hack-and-leak
6 operations?
7 A I don't know.
8 Q Were you aware that -- so on October 14th, 2020, the New York Post
9 published a story regarding the Hunter Biden laptop. On October 14th, and one of the
10 meetings may have occurred a day or two after October 14th, the FITF met with both
11 Facebook and Twitter. Are you aware of those meetings?
12 A Not that I recall.
13 Q Are you aware that on the call with Twitter, one of the FBI officials on the call
14 said that the -- there was a question posed by a Twitter official of whether the laptop was
15 real or not, and an FBI official said that the laptop was real, and then was quickly
16 corrected by another FBI official on the phone that they had no comment. Are you
17 aware of that?
18 A I am not.
19 Q Are you aware that later on, Ms. Dehmlow was told to make no comments
20 about the Hunter Biden laptop?
21 A I am not aware.
22 Q Did you have any involvement in the Hunter Biden investigation?
23 A I did not.
24 Q Did you have any conversations with U.S. Attorney David Weiss about
25 Hunter Biden investigation?

1 A No.

2 Q Any conversations with U.S. Attorney Martin Estrada?

3 A No.

4 Q Any conversations with U.S. Attorney for the District of Columbia Matthew

5 Graves?

6 A No.

7 Q Are you familiar with a supervisory intelligence analyst [redacted]

8 A I am.

9 Q And how often do you interact with [redacted]

10 A Now, I haven't seen him since I left the position in counterintelligence.

11 Q Okay. So how often did you interact with him when he was in

12 counterintelligence --

13 A Almost --

14 Q -- when you were in counterintelligence?

15 A Sure. Almost daily.

16 Q Almost daily. And were you his supervisor?

17 A I was. He was in the front office of the Intelligence Branch, so worked from

18 my front office staff.

19 Q Okay. And what can you tell us were -- about his roles and responsibilities?

20 A Sure. So I had a staff of roughly four or five individuals who were in my

21 front office who were responsible for what I would call not the administrative side of the

22 business process but ensuring the production calendar was up to date, talking points

23 were pushed up the chain in a timely manner, taskings were followed through. So, you

24 know, almost de facto chief of staff, special assistant, I mean, whatever term you want to

25 use, but really that administrative side to just ensure things were getting done.

1 Q Okay. And are you familiar with an assessment that [redacted] created
2 regarding Hunter Biden?
3 A I am not.
4 Q Okay. I'll enter as exhibit No. 1 a July 25th, 2022, letter from Senator
5 Grassley to Attorney General Garland and Director Wray.
6 [Floris Exhibit No. 1
7 Was marked for identification.]
8 BY [redacted]
9 Q Please take a moment to review.
10 A Is there a specific area you want me to review in this?
11 Q If you want take a look at the whole thing, I'll point to specific sections --
12 A Okay.
13 Q -- as I read them for you.
14 Okay. So on the first page, that bottom paragraph, second sentence states: It
15 is further alleged that in August 2020, FBI Supervisory Intelligence Analyst [redacted]
16 opened an assessment that was used by a FBI headquarters team to improperly discredit
17 negative Hunter Biden information as disinformation and caused investigative activity to
18 cease. Based on allegations, verified and verifiable derogatory information on Hunter
19 Biden was falsely labeled as disinformation.
20 Ms. Floris, were you [redacted] supervisor in August of 2020?
21 A I was.
22 Q Did you have any awareness that he was doing this assessment?
23 A It's hard for me to know what the assessment is without seeing it, and
24 understanding we're in an unclassified setting. At that time -- and it wasn't [redacted].
25 But at that time, several individuals within the Russian mission center were attempting to

1 take a hard look at our source base, just were they accurate, did they have access to the
2 information. This is something we routinely do is take a step back and take a look at the
3 source base we have.
4 I don't recall anything specific to Hunter Biden or [redacted] involvement in
5 writing an assessment, so I don't know if that term is an assessment as in like a finished
6 intelligence product, which is sometimes referred to as an assessment, or what we could
7 call a Type 3 assessment, which is simply opening an investigative file so that we can look
8 further into something.
9 So we would open up a Type 3 assessment to look at threats to inauguration or
10 something along those lines. I just -- the term "assessment," without seeing the
11 document, I don't know if it's an intelligence product or more of an investigative file just
12 saying we are going to look further into something.
13 Q If [redacted] produced a finished intelligence product, what would the
14 approval process for that look like?
15 A Well, he wasn't writing finished intelligence products in his role.
16 Q Okay.
17 A But if he was a line-level analyst, it would go through, depending on what
18 the product was, SA, unit chief, section chief.
19 Q Okay. And if it was -- if he was opening an investigative file, would there be
20 any sort of approval process there?
21 A It would likely go through both the operational and intel sections, so, you
22 know, without lining up with the ridiculous org chart that we had. So within the
23 Counterintelligence Division, you had me over the Intelligence Branch, and then I had two
24 partner DADs over our operations.
25 Anytime an analyst was to write something, they would get approval from both

1 sides of the house, that that's just the way we would work if there was an investigative
2 angle to it.
3 So that assessment, again, not knowing what it is, the approval chain probably got
4 approval from someone in an operational section, someone in an intelligence section.
5 But it never came up to me, so -- nor would it. As the DAD, seldom did anything come
6 up to my level for approval.
7 Q And on the second page of the letter, the bottom paragraph -- I'll give you a
8 chance to turn to it.
9 A Sure.
10 Q Says: Second, it has been alleged that in September 2020, investigators
11 from the same FBI headquarters team were in communication with FBI agents
12 responsible for the Hunter Biden information targeted by [redacted] assessment. The FBI
13 HQ team's investigators placed their findings with respect to whether reporting was
14 disinformation in a restricted access subfile reviewable only by the particular agents
15 responsible for uncovering the specific information.
16 Do you have any awareness of this episode?
17 A Again, the closest thing I can think of is that, you know, strategic look at our
18 Russia source base. And I would imagine the findings of that would be in somewhat of a
19 controlled file just given any sensitivity with source -- sources, but I don't know this
20 specific activity. Again, I just don't know if it's related to what I was tracking.
21 Q And do you have any specific information regarding investigators placing
22 their findings regarding disinformation on Hunter Biden in a restricted file?
23 A I don't.
24 Q On the third page of the letter, that first paragraph, says: Third, in
25 October 2020, an avenue of additional derogatory Hunter Biden reporting was ordered

1 closed at the direction of ASAC Thibault. My office has been made aware that FBI
2 agents responsible for this information were interviewed by the FBI HQ team in
3 furtherance of [redacted] assessment. It has been alleged that the FBI HQ team suggested
4 to the FBI agents that the information was at risk of disinformation; however, according
5 to allegations, all of the reporting was either verified or verifiable via criminal search
6 warrants. In addition, ASAC Thibault allegedly ordered the matter closed without
7 providing a valid reason as required by FBI guidelines. Despite the matter being closed
8 in such a way that the investigative avenue might be opened later, it's alleged that the FBI
9 officials, including ASAC Thibault, subsequently attempted to improperly mark the matter
10 in FBI systems so that it could not be opened in the future.
11 Have you ever interacted with ASAC Timothy Thibault?
12 A I have not.
13 Q What would his -- would he have been in the chain of command for
14 [redacted]
15 A No. I believe he was at WFO at that time, and Brian was at headquarters.
16 Q Did you have any sort of understanding of what Mr. Thibault's role was?
17 A No.
18 Q Are you familiar with this episode of ASAC Thibault ordering an avenue of
19 derogatory reporting on Hunter Biden closed?
20 A I'm not.
21 Q Have you ever been involved with any of the special counsel investigations,
22 Special Counsel Mueller?
23 A I was not involved in Special Counsel Mueller's investigation.
24 Q Were you involved in Special Counsel Durham's investigation?
25 A I was not.

1 Q Special Counsel Jack Smith?

2 A I'm not going to comment on the current special counsel investigations that

3 are still ongoing.

4 Q Are you detailed to that investigation?

5 A I am not detailed to it, but I'm not going to comment.

6 Q Are you detailed to Special Counsel Hur's investigation?

7 A I am not.

8 Q Okay.

9 BY [redacted]

10 Q I'm going to turn your attention to the actual briefing that you and

11 Mr. Benavides gave to the -- Senator Grassley --

12 A Sure.

13 Q -- and Senator Johnson. Are you familiar with a letter sent to the FBI on

14 July 13, 2020, from Senator Chuck Schumer, Senator Mark Warner, then-Speaker Nancy

15 Pelosi, and then-Chairman of the House Permanent Select Committee on Intelligence

16 Adam Schiff, to Director Wray expressing a belief that Congress was the subject of a

17 foreign disinformation campaign?

18 A Not that I recall.

19 [Floris Exhibit No. 2

20 Was marked for identification.]

21 BY [redacted]

22 Q So I'm entering into the record as exhibit 2 the aforementioned letter.

23 Have you had a chance to review it?

24 A I did, yeah.

25 [redacted] Do you have a copy over the letter? Thanks.

1 BY [redacted]

2 Q Have you seen this letter before?

3 A Not that I recall, but there was a lot going on in the summer of 2020.

4 Q Okay. Have you ever reviewed letters like this in your capacity with the FBI

5 providing briefings to Members of Congress, et cetera?

6 A I can remember occasionally receiving it through our Office of Congressional

7 Affairs, but the letters don't come directly to me. Usually they're routed through the

8 Office of Congressional Affairs, and occasionally when they have my name in them, for

9 example, I'll receive them.

10 Q Is that -- is there any other benchmark when you might receive these letters

11 if they don't have your name in them?

12 A If it was something germane to my role, perhaps.

13 Q Okay. You've read the content of this letter?

14 A I have.

15 Q Is this germane to your role? Was it germane to your role?

16 A It was germane to my role, but, again, I just don't recall if this was -- if this

17 was sent my way.

18 Q Okay. Was it your understanding that Congress may have, in fact, been

19 subjected to a concerted foreign interference campaign?

20 A It was.

21 Q Okay. Where did this concern originate from?

22 A So, again, keeping classification concerns at mind here, so in really the start

23 of 2020 and leading into the summer of 2020, a body of reporting indicating Russia's

24 intentions, ambitions to potentially push disinformation to ultimately impact the

25 Presidential election.

1 Q Now, when you say body of reporting, what are you referring to?

2 A Again, I can't go into the specifics of the reporting, but a body of reporting

3 indicates more than just one report and more than just two reports.

4 Q I guess what I'm asking is, is this from an intelligence agency? Is this from

5 the FBI?

6 A Intelligence agency.

7 Q Okay. And would this be --

8 A And we are an intelligence agency --

9 Q Yes.

10 A -- just for the record. But what we would refer to as OGA, so other

11 government agency.

12 Q Okay. And are these usually collaborative or individual agencies submitting

13 these reports?

14 A So it's not a matter of submitting reports, so a government agency would

15 disseminate reporting -- that is certainly our job -- and analysts would read the reports as

16 they would come in. Specific to the Presidential election, there was what we called a

17 cross-cleared group where you had dozens of analysts from across the intelligence

18 community who had access to any information, any IC-collected information germane to

19 the Presidential election. That was to ensure we were all seeing the same thing.

20 So regardless of -- you know, not to get into the weeds of intelligence traffic, but

21 regardless of the compartment that it came out in, how sensitive it was, we were all

22 cleared to see anything related to the Presidential election, and that was intentionally

23 done.

24 Q Now, this reporting generally, was that based on fresh intelligence, or shall

25 we say some of it is sort of a hangover from 2016?

1 A Fresh intelligence, I mean, specific to 2020.

2 Q Okay. Had you reviewed this letter, would you -- sort of your modus

3 operandi, had you -- had Office of Legislative Affairs, or whatever it's called, sent you this

4 letter, what, if anything, would you have done with it?

5 A I would've first contacted my partners in the intelligence community, so

6 within the election security space. So I was the FBI's election security lead. There was

7 a Nikki in other agencies, so CIA, NSA, DHS, CISA, State, CYBERCOM, we were all a

8 coordinated body. So nothing we did tied to the elections that we do unilaterally.

9 So if I was to receive this letter requesting a defensive briefing to all members, my

10 first call would be to my colleagues in the interagency, and I would imagine my leg affairs

11 folks would operate in the same manner. First, did you all receive this same type of

12 letter requesting the same type of briefing, because this is not something the FBI would

13 have provided without coordination.

14 Q Okay. This letter bears the name of all prominent Democrat leaders.

15 Would such a letter concern you that it doesn't appear to have any bipartisan

16 attachments?

17 A Concern -- my understanding is that's generally how letters come in, so no.

18 My concern would be if we were to provide an all-Member briefing, it, in fact, would be

19 an all-Member briefing, and we wouldn't just brief one side over the other.

20 Q And then this is request requesting an all-Member briefing, right?

21 A Right.

22 Q But it doesn't come from the leadership of both -- both parties?

23 A It does not.

24 Q We mentioned him before, Bradley Benavides. What was your -- what was

25 his role and responsibilities while you were working with him during the time of this

1 briefing?

2 A Sure. So he was my deputy and the section chief of the Foreign Influence

3 Task Force. So he was -- he was the second in command of election security.

4 Q Okay. And how long had you worked with him at the FBI, generally?

5 A For quite a while. He worked for me as well in the Counterterrorism

6 Division. I want to say maybe 2015 he started working for me. He went out to the

7 Denver Field Office for a couple of years, but then came back and worked for me, so I've

8 known him for quite some time. He's worked for me for several years, with a break.

9 Q Okay. So at the time of the briefing, he reported to you?

10 A Yes, sir.

11 Q Okay. He's no longer with the FBI, right?

12 A He is not.

13 Q Okay. Let's focus on the August 6, 2020, briefing. Do you recall that you

14 provided a briefing on that day --

15 A I do.

16 Q -- to Senators Grassley and Johnson?

17 A Yes.

18 [redacted] I'm sorry. Was it one briefing or --

19 Ms. Floris. They were separate briefings.

20 BY [redacted]

21 Q Oh, explain.

22 A So I believe we did Senator Johnson first, and then there was a break, and

23 then we did Senator Grassley. I don't ever do defensive briefings with two recipients in

24 the same room.

25 Q Okay. So this was a defensive brief?

1 A It was a defensive brief.

2 Q Okay. Two separate briefings. Was there any variation in the content of

3 those briefings?

4 A Absolutely not.

5 Q Okay. Did the July -- to your recollection, did the July 13, 2020, letter

6 prompt this briefing?

7 A It did not. In fact -- so how familiar are you with the defensive notification

8 framework?

9 Q Assume I know nothing.

10 A Okay. No worries. No worries. So I think it'll help to lay that as

11 background for this defensive brief.

12 So in October of 2019, then-President Trump approved what was called the

13 defensive notification framework, which was exactly as it sounds, a framework on how

14 the intelligence community, the IC, would action threats of foreign influence or foreign

15 interference to the elections. In that, it established the process of how information

16 comes in, what the IC does with that information, how we assess that information, and

17 then eventually how we action that information.

18 So step one is intelligence comes in, and, again, that cross-cleared group of

19 analysts, they see that intelligence. Anyone can then take that intelligence and

20 nominate it to the Credibility Assessment Group, a CAG, which is a body of subject matter

21 experts, think senior, GS-14, 15 level experts, who would convene in the interagency, so,

22 again, NSA, CIA, DHS, CISA, State, CYBERCOM, and determine whether or not that

23 information, that intelligence was credible.

24 If it was a yes, this is, in fact, credible, we do have -- we do believe that this is

25 indicative of potential foreign interference or influence in the election, they would then

1 move that information to the experts group, which was my level, so the election security
2 leads across the interagency, to determine if notification needs to be made.
3 Now, there are two types of notification: private, which is a defensive brief;
4 public, which is notification to the American public. That decision was made by
5 principals only, so Director Wray, Secretary of DHS, and the like.
6 For the defensive brief and when it's laid out in that framework, again, signed by
7 President -- then-President Trump, is that the action arm for private notification by way of
8 a defensive brief was the FBI. So even if it's not FBI information, FBI was still the face
9 and still the responsible entity for delivering that defensive briefing.
10 So I think that's just helpful to give you background of how we got into it.
11 Q Yes.
12 A And I say all this because your question as far as the July 13th letter, the
13 Credibility Assessment Group, the information was nominated into that I think July 8th.
14 The experts group, so my colleagues, we met on July 17th and confirmed that, yes, a
15 defensive briefing is warranted. But that experts group who caucused on the accuracy
16 of that intelligence met, I would say, July 8th, which was a Friday, and probably early into
17 the next week. So doing my math, 9, 10 -- so probably, 11, 12, 13th of that week.
18 Q That's pretty specific details. Had you reviewed some of this material
19 before this information?
20 A I have reviewed plenty of material over the years. So I was trying to figure
21 out when did I meet with that senior leaders group, knowing that I would be asked
22 obviously about the defensive briefing, because that's when the decision was made to
23 give the defensive briefing. So going back in my litany of email traffic and on my
24 calendar, I saw the July 17th, and then I thought, okay, well, when did it get nominated
25 into the CAG, and that's when I saw email traffic starting on July 8th.

1 Q So would the letter from the Democrat leaders complement the work you
2 were already doing? Is that fair to say?
3 A It's hard because this letter requests an all-Member defensive brief,
4 which -- and I can't tell because obviously I didn't write the letter.
5 Q Right.
6 A A defensive brief is vastly different than a threat briefing. We wouldn't
7 provide an all-Member defensive brief; we would provide an all-Member threat briefing.
8 So not really, would be my short answer. We were driven by the intelligence we had.
9 The intelligence came in, intelligence was nominated to the CAG, the smart people met,
10 decided it is accurate, and then we made the decision.
11 So, you know, letters like this didn't detract from what we were going to do, didn't
12 propel us to move forward in any direction. It was really the intelligence that we were
13 collecting. And when I say we, the IC was collecting.
14 Q So why Senator Grassley and Senator Johnson specifically?
15 A They were explicitly referenced in reporting.
16 Q Okay.
17 A And so that's what a defensive brief is. So a threat briefing is I would come
18 into the room and say, all right, here are the threats to the elections, you know, here are
19 the cyber side, the foreign influence side, and talk high level about the intelligence we
20 had. A defensive brief is I am going to get in front of a specific individual because we
21 have specific information that that individual is being targeted in furtherance of a foreign
22 influence operation. So content might be somewhat the same but that the difference is
23 I would say you are being targeted in furtherance of a foreign influence campaign. So
24 it's really directed and it's really specific to an individual.
25 BY [redacted]

1 Q And you said the email traffic regarding the CAG started around July 8th. Is
2 that correct?
3 A That's the first -- that's the email I have --
4 Q And who or what entity nominated that information to the CAG?
5 A I would defer to the ODNI. So ODNI owns this whole process. So the
6 notification framework came up through the traditional NSC machine, right, the IPC
7 process. It was called something different in the Trump administration.
8 As far as the owning body of, you know, the ticktock when certain meetings
9 happened, the script is a really good example. So ODNI took lead, just given their role,
10 in drafting the script, in coordinating the script through the interagency.
11 And while I was the FBI's election security lead, ODNI had what was called the
12 election threat executive. So almost -- I don't want -- she wasn't up here, but almost
13 think of it as the belly button with all the agency election security leads all working in
14 coordination but with the ODNI's election threat executive as like the coordinating body
15 to ensure everybody was on the same page, everybody was seeing the same intelligence,
16 everybody got the meeting invites, everybody saw the scripts, everybody saw the
17 intelligence products.
18 Q When you say script, was that the script for the defensive briefing?
19 A Yes.
20 BY [redacted]
21 Q Do you look at everything and then -- no, you're saying ODNY -- ODNI
22 prepares the script?
23 A They take initial stab at drafting it, but it's not their information. ODNI is
24 not a collecting agency. So they would then coordinate that through the interagency.
25 Q But then, ultimately, would you take the final pen to the script, if you will?

1 A More like the final approver. You know, at my level and my colleagues'
2 level, seldom would we make changes, unless there was like a glaring error or something,
3 you know, we weren't comfortable with. But I don't recall putting a red pen to the script
4 when it came up to my level.
5 Q So upon -- when was the determination made then to give these Senators
6 the defensive briefing?
7 A I would say it was probably at the July 17th meeting, because, again, that's
8 when that experts group made and said -- made the determination that, yes, we feel that
9 a defensive brief is warranted.
10 Q And in this particular briefing, what was the concern?
11 A You mean the meeting on the July 17th or the --
12 Q Well, the defensive briefing emanates from the determination July 17th that
13 a defensive briefing is warranted, right?
14 A Correct.
15 Q Okay. And what was the content of concern?
16 A So I can't go into specifics about what was in the script. Again, that still
17 remains classified, and I would certainly defer you to ODNI as far as the specifics that
18 were in the script. It wasn't FBI collected information, so I'm certainly not in a position
19 to declassify that information.
20 Q Well, recognizing we're in an unclassified position, I would -- just to clear up,
21 I think your counsel had made a record before that Senator Grassley gave statements and
22 there was a generalized sense that you could speak about this.
23 So without discussing what was classified, presumably there was unclassified
24 information as well that was weaved into this briefing, right?
25 A It was -- it was classified at the SECRET/NOFORN level every single tick and

1 bullet.

2 Q Okay. So let me ask you this. The concern of the -- the foreign influence

3 was emanating from Russia, correct?

4 A Uh-huh.

5 Q Okay. And that was the focus with these particular briefings?

6 A The focus was Russia, yes.

7 Q Okay. Was it concern Russia and anything having to do with Hunter Biden?

8 A Again, I can't go into those specifics.

9 Q Saying Russia was a concern is somewhat specific, right?

10 A Right.

11 Q So we were able to discuss that. Fair?

12 A That's fair.

13 Q Hunter Biden?

14 A Again, it's not FBI information. I'm not trying to not answer the question,

15 but I take classification quite seriously in my role, and it's not FBI information.

16 BY [redacted]

17 Q When you talked about the defensive notification framework, you spoke

18 about FBI principals being involved in the decision. What FBI principals were involved in

19 the decision for this briefing?

20 A They weren't involved in this decision. So the way the notification

21 framework is laid out is if there was a -- if there was a discussion as to whether or not we

22 need to notify the American public about any malign foreign influence campaign, that

23 decision doesn't lie with me. That decision gets bumped up to principal-level

24 decision-makers.

25 Q So you were the decision-maker at the FBI --

1 A I was.

2 Q -- for this defensive briefing?

3 A I was.

4 Mrs. Spartz. Did you vet this information of all of the sources? The vetting,

5 what kind of vetting did you do before you did the briefing?

6 Ms. Floris. Did I do -- did I validate?

7 Mrs. Spartz. Validate, yeah. Did you do the vetting of this information?

8 Ms. Floris. I personally did not validate this information.

9 Mrs. Spartz. So who validated this information?

10 Ms. Floris. I can't speak to that.

11 Mrs. Spartz. So -- but you saw that somebody did?

12 Ms. Floris. I know what the underlying intelligence is.

13 Mrs. Spartz. Right. But you -- so you actually knew that what you brought is

14 actual -- was validated by someone before you made decisions for briefings?

15 Ms. Floris. Again, I would defer to ODNI on the validation assessment of the

16 reporting itself.

17 Mrs. Spartz. So you assume it was validated. So you don't know?

18 Ms. Floris. I'm not assuming it was validated. I know it came from reliable

19 collection.

20 Mrs. Spartz. Okay. So the sources are -- because you had a lot of situation

21 when you're reliable -- things are not reliable. So did you explicitly verify or did you just

22 pretty much said if you got information it was reliable?

23 Ms. Floris. I personally did not validate the information. Whether or not

24 individuals beneath me and in the interagency did, I can't speak to that.

25 BY [redacted]

1 Q The briefing you provided to Senators Grassley and Johnson independently,
2 was it verbal or did you also provide them with documentation or materials?
3 A It was verbal.
4 Q Okay. Do you bring any materials with you when you do these
5 briefings -- or in this briefing particularly?
6 A Just the script.
7 Q Just the script? Okay.
8 Did the Senators ask to see the script?
9 A I don't recall them asking to see the script. They asked to see the
10 underlying intelligence.
11 Q And what was your response?
12 A Very similar to my response to these questions. I was not in a position to
13 provide it, deferred them to contact ODNI.
14 Q Okay. Did the Senator say anything else to you at this briefing? And we
15 could start with Grassley and then Johnson.
16 A Sure. I don't recall anything specific from Senator Grassley. Again, he just
17 wanted to see the underlying intelligence, which I deferred him to ODNI.
18 Q And he was satisfied with that response?
19 A I wouldn't say satisfied, and I get that. It's my job as providing defensive
20 briefings, when it's not always FBI information, does put me in a bit of a tricky situation
21 because I -- I can't unilaterally make the decision to share the underlying intelligence.
22 So probably not satisfied, and I share that lack of satisfaction as well.
23 With Senator Johnson, he was a bit more vocal.
24 Q Explain.
25 A I recall him slamming on the table, standing up, and screaming at me

1 demanding to know who sent me, and then threatened to subpoena me. And then he
2 too asked for the underlying intelligence, which I gave him the same response I gave to
3 Senator Grassley.
4 Q What was your sense of why he was vocally upset about this defensive
5 briefing?
6 A I don't -- I don't know.
7 Q Did he say anything specifically?
8 A Not that I recall. Again, this was 3 years ago. I just remember him
9 wanting to know who sent me.
10 Q So are you familiar with Senator Grassley and Johnson's joint efforts to
11 investigate Hunter Biden's overseas dealings and any potential connections to then-Vice
12 President Biden?
13 A Not in any level of detail.
14 Q But you're familiar they were conducting this investigation?
15 A Not at that time. I know it now because it's somewhat in the media, but
16 that's the extent of my knowledge.
17 BY [redacted]
18 Q Who all from the FBI attended the briefings with Grassley and Johnson?
19 A It was just Mr. Benavides and then a representative from our Office of
20 Congressional Affairs.
21 Q And who was the representative from Office of Congressional Affairs?
22 A He's not a CSO. I'm not comfortable providing that name.
23 [redacted] I think the committee would be interested in knowing that name, if
24 you can get that name.
25 [redacted] Okay.

1 BY [redacted]

2 Q And what was the role of the representative from the Office of Congressional

3 Affairs?

4 A I usually have a representative when I brief anyone from Congress just there

5 as an observer, to take notes if there are any requests, any due-outs.

6 Q And did the representative take notes?

7 A Not that I recall.

8 Q Okay. Do you know if anyone after the briefing, either you or

9 Mr. Benavides or the representative from the Office of Congressional Affairs, made any

10 sort of summary document following the briefing?

11 A No.

12 Q No 302 or anything?

13 A No.

14 BY [redacted]

15 Q I don't mean for some of these questions to sound repetitive.

16 A That's fine.

17 Q It's just very important we get --

18 A No. No worries.

19 Q -- to the bottom of what we're interested in determining.

20 In your view, was the content of the briefing related to the Senators' investigation

21 into the Biden family's overseas dealings?

22 A It was not. It was related to the intelligence that we had, again, tied to

23 Russia.

24 Q But you can't get me any specifics on the intelligence, so there's no way of

25 really knowing other than -- well, in fairness, there's no way of knowing beyond your

1 saying it wasn't related to --

2 A Correct.

3 Q -- the investigation?

4 And you're saying you didn't have information about the investigation at the time.

5 So given its broad scope, you couldn't confidently say one way or the other that it wasn't

6 related to what they were looking at?

7 A No. I wasn't familiar with what they were investigating at the time.

8 Q Were you aware that Senator Grassley did not believe there was a -- I'm

9 quoting from the Senator -- a real purpose for the briefing that you provided to him on

10 August 6, 2020?

11 A I was not aware that that was his opinion, but --

12 Q How do you respond to that?

13 A I don't. People are entitled to their opinions about my defensive briefings.

14 Q What have you learned about Senator Grassley's and Johnson's view of that

15 particular briefing and how it unfolded in the press?

16 A The only thing I've learned is what I've seen, whether it's open testimony,

17 open hearings by our director. It's clear that they were displeased with it, but I try not

18 to pay much attention to the media and things like that. I mean --

19 Q How many -- ballpark, how many brief -- defensive briefings have you given

20 to Members of Congress and the Senate?

21 A Related to election security or writ large?

22 Q Writ large.

23 A Probably hundreds.

24 Q Have you ever had such vocal concern after giving one the way you did in

25 this case?

1 A There've been a handful of individuals who I've defensively briefed several
2 times on a very similar topic who, you know, have said, you know, Nikki, there's nothing
3 new here, which it's fine. My personal opinion, I like to err on the side of leaning in and,
4 you know, providing these defensive briefings as opposed to not.
5 I believe if a Member of Congress' name is within intelligence traffic and he or she
6 may be a target of a foreign influence operation, even if it's the same type of threat
7 reporting, I just believe in getting in front of the Member. We owe that to them. That
8 is the FBI's job is to action intelligence.
9 So most of the time, folks seem thankful that I've come, thank me for my time, but
10 not all the time, and it is what it is. It doesn't detract me from providing defensive
11 briefings in the future.
12 Q Now, you had laid out this sort of structure in place to determine when a
13 briefing is appropriate, right. Beyond that, did anyone specifically at the FBI tell you to
14 give this briefing to Senators Johnson and Grassley?
15 A No.
16 Q But did you make -- did you make a determination that you should give it
17 given your seniority level?
18 A Yes, and for consistency. You know, I provided most of the defensive
19 briefings, again, outside of just the election security context. If it was two Members, it
20 should be a DAD-level individual providing those briefings. And just given my role in the
21 Counterintelligence Division, not just as the election security lead, that fell to me.
22 Q Okay. So that was your call?
23 A It was.
24 Q Okay. Following the briefing, did you provide anyone at the FBI
25 information on how the briefing went?

1 A I'm sure I provided my AD at the time, which I'm trying to think, was Alan
2 Kohler at the time. I'm sure I gave him a backbrief on how it went.
3 Q Would that have been in writing?
4 A No.
5 Q Are there ever instances where you would provide something in writing after
6 a defensive briefing?
7 A Not that I can recall, not to any sort of level of specifics.
8 Q What do you recall saying to Mr. Kohler at the time?
9 A I would imagine -- again, not recalling specifics, I would imagine that I likely
10 told him what Senator Johnson said.
11 Q Okay.
12 [redacted] We have about 15 minutes left in our hour. I want to see if any of
13 the Congressmen and women in the room had any questions.
14 Mr. Gaetz. Yeah.
15 Ms. Floris, my name is Matt Gaetz. I'm a majority Member of the House
16 Judiciary Committee.
17 Did you attend White House election security interagency meetings?
18 Ms. Floris. Occasionally, if it was at my level.
19 Mr. Gaetz. And what was the frequency of those?
20 Ms. Floris. Oh, goodness. I think I did it maybe monthly.
21 Mr. Gaetz. Was it a standing meeting or was it something that would just get
22 scheduled?
23 Ms. Floris. It was a standing meeting. It was through -- it's now called the IPC
24 process. I think under President Trump it had a different name to it, but the interagency
25 process that the NSC chaired.

1 Mr. Gaetz. And who attended those meetings?

2 Ms. Floris. So it was myself and then my colleagues around the interagency. So
3 every agency had an election security lead, so it would be myself and my colleagues.
4 But there were meetings that would take place before our meetings at more like the
5 GS-15 level and then eventually would move up to us, was how it would work.

6 Mr. Gaetz. And so how many people would attend these meetings?

7 Ms. Floris. At my level, I can't say for certain. They were all virtually, because it
8 was in the middle of COVID, but there were probably, give or take, 9 or 10 agencies that
9 were calling into it.

10 Mr. Gaetz. Were there agendas that were printed for those meetings?

11 Ms. Floris. There were.

12 Mr. Gaetz. If we asked you to produce those to the committee, is that
13 something you would still have possession of?

14 Ms. Floris. I don't know if I still have possession, but I would imagine either NSC
15 or the election threat executive team over at ODNI, they were really the record keeper for
16 anything related to the election. So ticktock, talking points, that sort of thing. They
17 were the belly button of it all.

18 Mr. Gaetz. Thank you for that.

19 Ms. Floris. Sure.

20 Mr. Gaetz. And did you take -- were there minutes that were taken of those
21 meetings?

22 Ms. Floris. I think there were minutes. It's called the SOC. I don't know what
23 the SOC stands for, but essentially it's a summary of what was discussed, not in any sort
24 of significant level of detail, but usually they're about a page or two, and, again, would
25 defer to either NSC or ODNI if they kept those SOCs.

1 Mr. Gaetz. Was there ever a discussion of this Hunter Biden laptop situation at
2 those meetings?
3 Ms. Floris. Not that I recall, at least not at my meeting. And, again, there were
4 meetings at lower levels that would always go before our meeting.
5 Mr. Gaetz. Okay. And at the meetings that you either attended or were aware
6 of, was there a discussion of this derogatory information about the Bidens that is sourced
7 on a laptop?
8 Ms. Floris. No.
9 Mr. Gaetz. Does the FITF have an operations guide that describes how the
10 section conducts its business?
11 Ms. Floris. I don't know if we have an operations guide. As far as the
12 operations, we conduct operations like any other section entity within the FBI, so it would
13 be the DIOG. We would follow the same policies under that. So I think the short
14 answer would be no.
15 Mr. Gaetz. And is there an org chart of the FITF?
16 Ms. Floris. I don't know if there's one that still exists. When I was there, there
17 was an org chart, yes.
18 Mr. Gaetz. So what's the doctrine the FITF uses to determine like when a
19 defensive briefing is necessary?
20 Ms. Floris. Sure. So in the context of election security, it's actually not an FBI
21 doctrine. It's the defensive notification framework, which is an interagency document
22 that was signed into effect by President Trump in October 2019. And it's a framework
23 that essentially lays out the guiding principles of how and when the interagency would
24 decide if a defensive briefing is warranted. So the key players in that, NSA, CIA, FBI,
25 DHS, CISA, State, and I believe CYBERCOM.

1 Mr. Gaetz. Okay. So that doctrine says when a defensive briefing is warranted.
2 Does it speak to what the requisite substance of such a briefing would be?
3 Ms. Floris. It doesn't. It doesn't get into that level of detail. It does specify
4 that the FBI would be the action arm of that defensive briefing even if it's not FBI
5 information.
6 Mr. Gaetz. Okay. So once the decision's been made to provide a defensive
7 briefing but then decisions have to be made about what it's going to entail --
8 Ms. Floris. Sure.
9 Mr. Gaetz. -- what guides those decisions?
10 Ms. Floris. As far as guiding it, it is really driven by the intelligence, so how
11 specific is the intelligence. Certainly something we take into concern is will any level of
12 detail we provide ultimately burn the source of the information, and that's with anything
13 we do, not just defensive briefings but threat briefings, certainly cognizant that we're not
14 going to ultimately identify the source of that information.
15 Mr. Gaetz. We're all familiar with sources and methods as a basis to not answer
16 questions, and, you know, we're familiar with that regime and that doctrine. But I guess
17 I'm trying to understand, when a briefing's been decided, carve out sources and methods,
18 you know, how you determine what level of detail to go into. Does a -- does a Member
19 of Congress' committee assignment weigh on the level of detail you could go into?
20 Ms. Floris. Not usually.
21 Mr. Gaetz. Does a Member of Congress' seniority weigh in on that?
22 Ms. Floris. No. At least not in the defensive briefings I've participated in.
23 Mr. Gaetz. Does a Member of Congress' political party or affiliation --
24 Ms. Floris. No.
25 Mr. Gaetz. -- weigh into the level of detail?

1 Ms. Floris. No.

2 Mr. Gaetz. Okay. So the committee has received information that defensive
3 briefings provided to Democrats at times have more detail than defensive briefings
4 provided to Republicans. What would be your reaction to that concern?

5 Ms. Floris. Again, we're driven by the intelligence. So sometimes we get a
6 piece of information that is as, I'd say, boring, I can't think of a better term of, you know,
7 Senator Johnson is being targeted by the Russians, period. Sometimes you get reporting
8 that Senator Johnson is being targeted by a Chinese intelligence officer who works out of
9 the embassy who frequents this restaurant.

10 So I prefer to give as much detail as possible, because that's how you actually arm
11 the recipient of the defensive briefing. But we are sort of beholden to the level of detail
12 within the intelligence. And, again, frustrating for me, certainly is, because I'm the FBI,
13 but I am oftentimes, most of the time, using information collected by another agency.
14 I'm beholden to them approving me using that information. So I can't unilaterally make
15 the determination as far as the level of detail, but it certainly runs the gamut.

16 Sometimes they're very boring, benign defensive briefings. Sometimes I have
17 been in front of a Member for 2 hours providing a very explicit detailed briefing.
18 Political party, seniority, none of that plays into effect. It's all driven by the intelligence.

19 [redacted] And just for the record, those are hypothetical.

20 Ms. Floris. Those are all hypotheticals, yes. Please, for the record, all
21 hypotheticals.

22 Mr. Gaetz. No, we're talking about the doctrine --

23 Mr. Floris. Okay.

24 Mr. Gaetz. -- not any specific matter yet.

25 Thank you for that clarification.

1 So is there a National Security Law Branch attorney assigned to conduct legal
2 review of FITF activity?
3 Ms. Floris. Yes. There was an attorney assigned specific to the FITF.
4 Mr. Gaetz. And who was that attorney during your time there?
5 Ms. Floris. I can't give the name. He's not a senior executive.
6 Mr. Gaetz. Okay. What kind of -- without going into any legal advice an
7 attorney gave you, what were the categories of information that this person was relevant
8 to on your team?
9 Ms. Floris. Similar to other attorneys throughout operational divisions, you
10 know, do we have enough predication to open an investigation. He would review policy
11 documents. Oftentimes we defer to the attorneys to help us with any policy level
12 documents, so very similar to an OGC attorney's role in any other part of the FBI.
13 Mr. Gaetz. Sounds like this predication is pretty important.
14 Ms. Floris. Uh-huh.
15 Mr. Gaetz. So they were pretty central to the work, it seems.
16 Ms. Floris. They were. He was part of the team. He was engaged in a lot of
17 conversations.
18 Mr. Gaetz. During your time overseeing the FITF, did any FBI attorney ever
19 express misgivings or raise concerns about the FITF's interactions with any technology
20 companies?
21 Ms. Floris. No, not to my knowledge.
22 Mr. Gaetz. Did any nonattorney member of the FITF raise concerns about those
23 interactions?
24 Ms. Floris. Not to me.
25 Mr. Gaetz. To your knowledge?

1 Ms. Floris. To my knowledge, yeah.

2 Mr. Gaetz. Did the FITF participate in a tabletop exercise at the Aspen Institute

3 in 2020 prior to the Presidential election?

4 Ms. Floris. Oh, gosh. I didn't. That sounds vaguely familiar, but my apologies,

5 sorry, I don't recall. It wasn't me personally, so I don't recall.

6 Mr. Gaetz. You were leading the FITF at the time?

7 Ms. Floris. I was.

8 Mr. Gaetz. So I guess I'm trying to understand why the FBI would be

9 participating in an Aspen Institute tabletop.

10 Ms. Floris. I can't speak to it, sir, because I don't remember.

11 Mr. Gaetz. Did anyone seek your approval for that participation?

12 Ms. Floris. I don't recall.

13 Mr. Gaetz. Is it typical -- is it typical that people on the FITF would have their

14 own agency to go and work with nonprofits or other entities in the absence of seeking

15 your approval?

16 Ms. Floris. It's unlikely they did. I just unfortunately don't recall.

17 Mr. Gaetz. It's unlikely they did it without seeking your approval?

18 Ms. Floris. Correct. Correct.

19 Mr. Gaetz. As you sit here today, can you think of any basis why that would be

20 something you would want a member of your team doing?

21 Ms. Floris. Not knowing the details of what was discussed or who was at the -- it

22 was the Aspen Institute of -- I just don't know enough details to know if that's something I

23 would have supported or --

24 Mr. Gaetz. And so you don't recall if, upon return from that tabletop exercise,

25 there was any discussion at the FITF about Hunter Biden?

1 Ms. Floris. No, sir.

2 Mr. Gaetz. Was there ever a discussion at the FITF about Hunter Biden?

3 Ms. Floris. No. At least not with me. And, again, there's a whole team below

4 me, so whether or not conversations happened, I don't know, but I personally did not

5 have any conversations.

6 Mr. Gaetz. Oh, yeah. No, I understand people can interact and you don't have

7 personal knowledge of that. But just so I drill a fine point on it, as you testified to us

8 today, you have no personal knowledge of Hunter Biden ever being the subject of any

9 discussion at the FITF while you ran that entity?

10 Ms. Floris. Correct.

1 [10:59 a.m.]

2 Mr. Gaetz. How many people at the FITF had access to 702 databases?

3 Ms. Floris. I would think everyone.

4 Mr. Gaetz. Do you know if they ever conducted queries under 702?

5 Ms. Floris. I would assume so, yes, but --

6 Mr. Gaetz. Can you give the committee a sense of scale?

7 Ms. Floris. I can't. I personally didn't do the queries, so I didn't -- I don't

8 approve the queries or I didn't in my role as DAD.

9 Mr. Gaetz. Help me understand the process by which someone on the FITF was

10 able to access a 702 query.

11 Ms. Floris. So -- and, again, talking hypotheticals here. If there was 702 collect

12 on a Russian foreign influence actor who was living overseas, that would be 702. And if

13 there was -- say there were reports of something along the lines of these Russian actors

14 are going to target USPER one, and we wanted to note that was the first time USPER one

15 had been targeted by Russian influence actors, we would probably -- and, again,

16 hypothetical -- a good analyst would then seek to query USPER one back through 702 to

17 see if this is the first time this USPER has been identified, if this USPER has been targeted

18 before, if other Russian actors are looking at this USPER. So that would be one example

19 of how we would query it.

20 Mr. Gaetz. And every member of the team had that capability?

21 Ms. Floris. They did.

22 Mr. Gaetz. And if someone wanted to utilize that capability, they didn't need

23 approval from the supervisor, did they?

24 Ms. Floris. That's -- I'm trying to remember what the approvals were for queries

25 at that time because, certainly, we've adjusted how we do business in FISA queries. I

1 just don't know the specific dates of when changes were made to the approval process.

2 Mr. Gaetz. I'm just talking about during your leadership of the entity.

3 Ms. Floris. I don't know what the approval process -- and actually, I realize I

4 probably should know this. I don't know what the approval process was for queries of

5 U.S. persons in the 2018 to 2022 timeframe because I know the approvals have changed

6 and adjusted over the years.

7 Mr. Gaetz. Right. But I'm not interested in the adjustments. I'm just

8 interested in 2020 when you were running the FITF.

9 As you sit here and testify to us today, you cannot tell us what approvals were or

10 were not necessary for any analyst on the FITF to do a 702 query of a U.S. person?

11 Ms. Floris. That's correct.

12 Mr. Gaetz. Is that concerning?

13 Ms. Floris. I just -- as the DAD, I never approved anything. It would never have

14 come up to my level. And I personally don't know when certain approvals were

15 mandated as far as queries because I know the approvals have changed over the years.

16 Mr. Gaetz. Yeah. But I'm just talking about 2020.

17 Ms. Floris. Yeah. So, again, I don't know. I don't know.

18 Mr. Gaetz. Was there ever any intelligence regarding any U.S. person from a 702

19 query that ever made it to your level?

20 Ms. Floris. Not that I can recall.

21 Mr. Gaetz. Is that normally something you would recall?

22 Ms. Floris. Probably not 3 years ago and in the midst of 2020.

23 Mr. Gaetz. I think Mrs. Spartz has a question.

24 Mrs. Spartz. Just a follow-up.

25 So you were in charge, and you didn't know and you didn't care. So who knows?

1 Who is actually -- you have people in charge of you, and you have no idea what approvals
2 are? So who knows? Who sets up processes?
3 [redacted] To be clear, the witness didn't say if she didn't know. She said they
4 have changed over time. So you're asking her to identify a specific period of time within
5 a 4-year window. She's not saying she didn't know it. She certainly did not say she did
6 not care.
7 Mrs. Spartz. Well, but I'm just saying.
8 So you were -- as someone who is in charge, managing this operation -- so you're
9 saying you are not even knowing how the process of approval works for U.S. persons? Is
10 that a correct understanding?
11 Ms. Floris. In the summer of 2020, that's correct because the approval has
12 changed several times over the last several years. I can't recall exactly in the summer of
13 2020 what the FBI policy said as far --
14 Mrs. Spartz. What can you recall at all about that? Can you recall anything
15 about that approval?
16 Ms. Floris. Approval -- I don't understand approval of what, though.
17 Mrs. Spartz. Approval of U.S. queries.
18 Ms. Floris. I don't even know if U.S. queries happened and how they're even
19 related to this briefing, is what I'm saying.
20 Mrs. Spartz. So we're talking about this query situation that you just discussed.
21 You know, you said that you're sure this happened. You're sure that all people have
22 access.
23 But I just wanted to clarify that you are actually not even aware of any approvals
24 that needed to be done, and you don't even know -- I just want to --
25 Ms. Floris. The approval never had to come up to me as DAD. Full stop.

1 Mrs. Spartz. But you didn't know the process?

2 Ms. Floris. Full stop. Full stop. I, as a DAD, never had to be in the level of

3 approval for U.S. queries. I know that for a fact.

4 So if U.S. queries happened in 2020 by members of the FITF team, that didn't

5 come up to me for approval. So I don't know what queries my individuals were doing,

6 my team was doing, because it didn't have to come up to me. What I'm saying is, I don't

7 know if that needed unit chief, section chief level approval. I don't know, at that time,

8 per FBI policy, what the level of approval was for U.S. person queries.

9 Mrs. Spartz. And you are not sure what the policy is?

10 Ms. Floris. Correct.

11 Mrs. Spartz. You are not at the level of FBI?

12 Ms. Floris. Yep.

13 Mrs. Spartz. Interesting.

14 [redacted] At a very specific period of time. And if the committee is interested

15 in what the policies were in place in 2020, we are certainly happy to provide that

16 information.

17 [redacted] We're out of time, so we'll go off the record.

18 [Discussion off the record.]

19 [redacted] We'll go on the record, please.

20 EXAMINATION

21 BY [redacted]

22 Q Good morning, Ms. Floris.

23 A Good morning.

24 Q I'm going to ask you some questions about defensive briefings generally.

25 A Okay.

1 Q When the intelligence community receives information related to malign
2 foreign influence efforts that are directed specifically at the electoral process, decisions
3 related to those defensive briefings are governed by the defensive notification
4 framework, which was approved under the Trump administration October 31st, 2019. Is
5 that right?
6 A Yes.
7 Q Okay. And I'm going to introduce for the record what's going to be marked
8 as Exhibit 3.
9 [Floris Exhibit No. 3
10 Was marked for identification.]
11 BY [redacted]
12 Q This is entitled, "The overview of the process for the executive branch to
13 notify the public and others regarding foreign malign influence and interference
14 operations targeting U.S. elections."
15 Just take a minute to --
16 A I'm familiar with that.
17 Q You said you're familiar with this?
18 A Yes.
19 Q Okay. And how are you familiar with it?
20 A It's essentially a summary of the broader notification framework. I don't
21 know who actually put this together, but it's a one-pager that I've seen several times.
22 Q Okay. And you can see at the top of the exhibit, there are, I guess, five
23 shields of U.S. agencies. Is it fair to say that those agencies are involved in this process?
24 A Yes.
25 Q Okay. And is this -- does this exhibit refer to the process that you've

1 described already when you talk about notifications and --

2 A Yes.

3 Q -- briefings?

4 A Yes.

5 Q Okay. This framework is an interagency framework which standardizes the

6 process for notifying potentially impacted parties, including members of Congress,

7 political candidates, private sector entities, and the public that they may have been

8 targeted by foreign attempts to influence the U.S. democratic process. Is that a fair

9 assessment?

10 A Yes.

11 Q Okay. And the framework recognizes that, quote, "Public exposure and

12 attribution of foreign election influence and interference can render these operations less

13 effective." Do you see that?

14 A I understand that, yes.

15 Q Can you explain what that means?

16 A So -- and, again, speaking hypothetical here. If the U.S. intelligence

17 community had information indicating that a nation-state actor was going to do some

18 sort of disinformation campaign with the goal of undermining the U.S. democratic

19 process, there is a belief -- and it's certainly a conversation -- do we, as the IC, owe it to

20 the American public to warn them about this disinformation campaign? Do we need to

21 provide them with the information we have so that they become, you know, informed

22 consumers and understand aspects of potential disinformation?

23 Q Okay. Specifically, the language in Exhibit 3, when it says, "The act of

24 explaining how" -- or can you just explain how public exposure and attribution -- so that

25 particular information from the intelligence -- how does exposing the public to that

1 render the foreign influence operations less effective? Or how could it?

2 A Sure. And, again, speaking hypothetical. If, for example, we had

3 indication that Iranian actors were going to push out information indicating that Election

4 Day was no longer on Tuesday. It had been moved to Wednesday.

5 Potentially, if we publicly made notification of that -- that, hey, if you have

6 indications or you hear information that it's been moved to Wednesday, understand

7 that's a disinformation campaign, essentially rendering that operation ineffective.

8 Q Because now people know the truth, right?

9 A Because now people know the truth or know that potentially information

10 they're reading could be disinformation.

11 Q Understood. And the framework also recognizes that nonpublic

12 notification to targets of election interference, quote, "may also mitigate the impacts of

13 these operations by providing accurate and reliable information and by enhancing

14 resilience against future attempts." Correct?

15 A Correct. And private notification in this context is a defensive briefing.

16 Q To the target of the foreign influence?

17 A Correct.

18 Q Okay. And can you explain what is meant by enhancing resilience in that

19 description?

20 A Sure. And, again, just talking broadly about defensive briefings. If we

21 were to tell an individual, you are being targeted by a nation-state actor in furtherance of

22 a foreign influence campaign, the goal is that that defensive briefing would essentially

23 heighten their awareness so that if in the future they were approached by somebody who

24 is having conversations with them about U.S.-China policy, they would have an awareness

25 that, okay, potentially, this is related to the foreign influence campaign.

1 So it builds up that resilience. What I've often told recipients of defensive
2 briefings is your Spidey senses. It gives you an awareness that you have been identified.
3 Nation-state actors are seeking to target you. Be aware should anything happen that
4 seems out of the ordinary or out of the standard course of business. And that's what we
5 mean by resilience.
6 Q Is it fair to say the idea is that when the nonpublic notification happens, the
7 person who is the target is going to be made more resilient just by knowing that that
8 targeting is occurring? They're going to be harder, then, to influence?
9 A Correct. The whole goal of a defensive briefing is ultimately to protect the
10 recipient of that defensive briefing.
11 Q Okay. And Exhibit 3, on the second column under the heading "The
12 following process ensures that notification decisions are thoroughly informed," it basically
13 describes the process that you alluded to earlier.
14 Do you see in the first bullet point under that heading, the exhibit describes the
15 first step in the process, and it says, quote, "When relevant foreign intelligence is
16 identified, the ODNI will convene a credibility assessment group, CAG, comprised of
17 experts from different intelligence community agencies to conduct a credibility
18 assessment of the intelligence." Do you see that?
19 A I do.
20 Q And you referred to that earlier when you talked about the first step, which
21 is a determination of whether the intelligence out there is credible?
22 A Correct.
23 Q So can you, again, briefly describe what is that process?
24 A So the way that process works -- and, again, to focus on the hypothetical
25 here -- is a piece of intelligence comes in indicating that Iran wants to target, you know,

1 25 members of Congress and push them disinformation about Election Day -- you know,
2 the integrity of the election machine. The voting machine.
3 So the credibility assessment group -- so analysts -- again, the cross-cleared group
4 of analysts who see all of the reporting would see that. Anyone can nominate it into the
5 CAG. So say this reporting comes from NSA, and a CIA analyst reads it. He or she can
6 nominate that to the CAG. It doesn't have to be the agency that collects it who
7 nominates it.
8 So it gets nominated into the CAG, which is comprised of subject matter experts
9 really around the 14, 15 level who are -- read all the intelligence that comes in about
10 election cycle. The CAG meets and convenes and caucuses on, okay, is this information
11 reliable? Is it credible? You know, assess the source. You know, is the source
12 reliable and credible? And then makes a determination about, as it says, the credibility
13 of that reporting.
14 If that group -- and, again, it's an interagency group comprised of the headers you
15 see above. If they determine, yes, it is in fact credible, it then moves on to the experts
16 group, which I was a part of as the election security lead.
17 Q Okay. We're going to get to that in a second.
18 A Sure.
19 Q But first just staying on the CAG for a moment.
20 I think there was maybe some confusion earlier in the hour when we talked
21 about -- or when people talked about credibility and verification. I just want to make
22 clear.
23 Is it fair to say that when you talk about intelligence that's nominated into the
24 CAG, the credibility determination is focused on the source?
25 A It is.

1 Q Like, where that information is coming from, not the truth of that
2 information --
3 A Correct.
4 Q -- that's being introduced by that potentially foreign source?
5 A Correct. It primarily focuses on the source of the information.
6 Q So in your example with Iran, could you explain what precisely the credibility
7 determination would be focused on? Your hypothetical, I mean.
8 A Sure. So we would look at the Iranian actor. Does he have ties to the
9 Iranian intel services or their cyber actors, for example? Can we connect he or she to
10 higher levels of the Iranian government? Is this an individual that we've seen time and
11 time again in relation to previous malign foreign influence operations? Can we
12 corroborate this with any other reporting from other IC agencies as well?
13 Q So, again, your focus is on whether that actor is connected to the Iran -- is an
14 Iranian state actor or proxy. It's not focusing on the credibility of the information that
15 that person is trying to disseminate?
16 A Correct. Certainly, you know, we've received reportings where -- reports
17 where the subject of it -- the content of it is quite unbelievable. Martians are going to
18 come down and cast votes. I mean, that's a hypothetical, but somewhat close to some
19 reports you get. That's just the nature of the intelligence that we're in.
20 But if the source of that is from a legit source, a credible source, a verifiable
21 source, it would get more credence. But, again, we usually start with the source and the
22 actors as opposed to the content.
23 Q Okay. And not to bludgeon this example to death, but suppose that this
24 alleged or suspected Iranian state actor had pushed information that the election was
25 going to be on Wednesday instead of on Tuesday.

1 And your group here, when they look at the credibility of the intelligence with
2 respect to this report, they're not trying to figure out if the election is really on Tuesday or
3 really on Wednesday. They're trying to figure out who is pushing the information. Is
4 that fair to say?
5 A That's fair to say. And what can we, as the IC, do to potentially make
6 targets of that disinformation campaign aware of that.
7 So, for example, let's take the hypothetical a step further. If the Iranian actors
8 were going to do that using these 10 social media handles, can we provide those social
9 media handles to the social media companies so that they are aware of it?
10 Or if those Iranian actors were going to say, we're going to say that the election is
11 on Wednesday, and we're going to tell these 25 congressman that their elections are on
12 Wednesday, then the conversation would shift to, okay, do we need to tell those 25
13 congressman that they are potentially going to be used in furtherance of a malign foreign
14 influence campaign?
15 Q And your actions in that regard have nothing to do with whether or not
16 you're trying to figure out if the election is on Tuesday or Wednesday. You're focused
17 on telling the person who is targeted that you have a foreign actor who is trying to give
18 you the information?
19 A Correct. And we assess that information as disinformation based on the
20 individuals referenced in the reporting and their connection potentially to senior
21 members of government.
22 Q Okay. Thank you for that explanation.
23 Let's move to the second bullet point under that same heading in Exhibit 3. This
24 bullet point reads, "The next step after the CAG."
25 It says, quote, "When appropriate, the ODNI will provide the CAG assessment to

1 an experts group comprised of senior representatives of the IC elements within the CAG
2 and the Department of Defense, Justice, Treasury, Homeland Security, which will evaluate
3 whether a public or nonpublic notification is appropriate under the notification
4 framework."
5 Are you familiar with that stage of the process?
6 A Sure.
7 Q Okay. And so after the CAG makes its credibility determination, is it fair to
8 say that that is when the experts group comes in, and that's where you personally have a
9 role?
10 A Correct.
11 Q And what is your role there?
12 A Our role is to determine -- okay. Once the CAG says yes, this is credible, it's
13 our role to determine what notifications need to be made. Do we need to provide a
14 nonpublic notification by way of a defensive briefing, or do we believe public notification
15 is warranted at this time?
16 Q And how do you all make that determination? Do you collaborate together
17 and have to come to consensus?
18 A We do. So ODNI, their election threat executive, the ETE, essentially acts as
19 the chairing body. We all have a conversation. Again, my colleagues throughout the IC
20 have a conversation. We came to consensus. I don't remember an instance in 2020
21 where there was not consensus at this level.
22 So if there was not consensus, I don't know if I know what the next steps are. It
23 would probably just move up to principal level, as most things tend to happen in D.C. If
24 we can't get consensu at one level, we'll just move it up to the next level. But there was
25 consensus at this level.

1 Q So when you say that you've never had an occasion where there was not
2 consensus, does that mean that you've never experienced a meeting of the expert group
3 where somebody has expressed dissent with respect to the decision that was made?
4 A To my recollection, there was not dissent on the decisions made related to
5 2020 in the defensive briefings that were done.
6 Q Okay. Before we go on to the last two bullet points, I'm actually going to
7 focus your attention higher. This is under the heading of Exhibit 3 still.
8 "The executive branch relies on guiding principles when considering whether to
9 provide notifications under this framework." Do you see that heading?
10 A Uh-huh.
11 Q It starts on the second -- or the first column continues to the second.
12 And under that heading, there are -- it looks like four bullet points that discuss
13 what this exhibit calls guiding principles. Are you familiar with those guiding principles?
14 A I am.
15 Q And those principles are meant to guide the decisions that you make with
16 respect to what notifications to give. Is that fair to say?
17 A That's fair.
18 Q Okay. And so let's look at those guiding principles one by one.
19 The first one says, quote, "Notification decisions shall serve U.S. national security
20 interests consistent with the responsibility to protect the American people and to uphold
21 the Constitution."
22 Are you familiar with that guiding principle?
23 A Generally, yes.
24 Q What is your understanding of what that means?
25 A It's really how we hold ourselves day to day and how we do business, to

1 uphold the constitution and protect the American people. It guides us in absolutely
2 everything we do. First and foremost, we work for the American people.
3 Q Okay. And in your experience in the decisions that you have made in the
4 experts group and in any other capacity with respect to defensive briefings under this
5 framework, have your decisions been made consistent with that guiding principle?
6 A Yes.
7 Q The second guiding principle says, quote, "Partisan politics shall not play a
8 role in the decision to provide notifications."
9 Do you see that principle?
10 A I do.
11 Q And what does that mean to you?
12 A That politics should not play into a decision as to whether we do something
13 or don't do it. And, again, very similar to how we carry ourselves outside. Just the
14 defensive notification framework. Partisan politics play into nothing that we do.
15 Nothing that I do.
16 Q And when you've made decisions with respect to this framework to notify
17 people or to give any notifications to the public to the extent that you have, have you
18 been guided by that principle that partisan politics shall play no role in the decision to
19 make notifications?
20 A I have.
21 Q And have you seen other members of the expert group and the other IC
22 agencies that participated also guided by that same principle?
23 A I have.
24 Q The third principle says, quote, "Notification decisions shall not be intended
25 to censor or chill political and social discourse or other First Amendment-protected

1 activities."

2 Are you familiar with that principle?

3 A I am.

4 Q And in your experience, has your decision to participate in these notification

5 decisions and to make notifications been strictly guided by adherence to that principle?

6 A It has.

7 Q Finally, the fourth principle says, quote, "Notification decisions shall be

8 intended to support broader Federal Government efforts to protect U.S. democratic

9 institutions and processes, including elections, and to counter foreign malign influence."

10 Have you seen that principle?

11 A I have.

12 Q And have your decisions made in the expert group and in all other capacities

13 with respect to notifications under this framework been made with respect to that

14 guiding principle?

15 A It has.

16 Q And the other people within the IC community who have participated, have

17 they also been guided by the same principle?

18 A They have.

19 Q That one is an affirmative principle that talks about what you should be

20 looking at.

21 What does that mean to you with respect to supporting the broader government's

22 effort to protect the democratic institutions and processes of the country? What does

23 that mean, in your experience?

24 A That was our goal. The entire election security community throughout the

25 intelligence community. First and foremost, we wanted to protect our democratic

1 processes. It is something we hold quite paramount to being an American public
2 servant. So every decision we made was really with the end goal of ultimately
3 protecting the election.
4 Q Okay. And then going back down to the heading "The following processes
5 ensures that notification decisions are thoroughly informed," the final two bullet points
6 that we talked about, this is part of the process that occurs after the meeting of the
7 experts group and your decision whether or not to effect a notification.
8 The third bullet point there says, quote, "When the experts group recommends a
9 nonpublic notification, the FBI and/or DHS will provide the notification."
10 Is it fair to say that when you're doing a private notification, the FBI or DHS is
11 designated as the person to relay that information?
12 A So there's a bit more meat in the actual framework. So the FBI is the
13 designated body if it's a malign foreign influence operation. DHS comes into play if it's
14 interference.
15 So the way we differ between the two, interference -- think some sort of cyber
16 attack against election infrastructure. So CISA was the primary lead in any sort of
17 notification to that. So if we got reporting, for example, that country X had gained its
18 way into the voting machines of District 1, CISA would make that notification, I believe.
19 FBI was -- we were the ones tasked with providing nonpublic notification as it
20 relates to malign foreign influence operations.
21 Q Okay. So when you have a nonpublic notification that's due -- with respect
22 to malign foreign influence operations, the fact that the FBI is giving that notification is
23 determined by the framework and not determined in any other way?
24 A Correct.
25 Q Okay. The fourth bullet point says, quote, "When the experts group

1 recommends a public notification, the Director of National Intelligence will convene a
2 leaders group comprised of the Secretaries of State, Defense, Homeland Security, and the
3 Treasury, the Attorney General, and the directors of the Central Intelligence Agency, FBI,
4 Cybersecurity and Infrastructure Security Agency, and National Security Agency, to
5 determine if a public notification is appropriate, the nature of the notification, and the
6 notifying agency."
7 Is that fair to say that bullet point describes the process of public notification,
8 which is different than what you've been talking about in terms of defensive
9 notifications?
10 A Correct.
11 Q And those are basically done by the principles of those agencies?
12 A Correct.
13 Q You're not involved in any way in those, or are you?
14 A Only briefing of the intelligence.
15 Q Okay. Is there anything about your experience with the notification
16 process that differs from the way it's described in Exhibit 3?
17 A No, not that I recall.
18 Q Okay. All right.
19 In your experience in your career, do you know about how many times you've
20 given defensive briefings on behalf of the FBI and the IC community?
21 A Again, outside the election space, you know, the difference of briefings writ
22 large, I would say hundreds.
23 Q Okay. And those are private notifications, again, to people who are
24 suspected to be targeted by foreign influence?
25 A Sometimes they're one-on-one. Sometimes they're with a committee if we

1 have information, for example, that a specific committee is being targeted. I've
2 provided, you know, broad defensive briefings related to China, for example, as we
3 continue -- at least in my chair, continue to get reports about China's interest in certain
4 levels of government.
5 Q And you've indicated that you've given defensive briefings to members of
6 Congress in the past, correct?
7 A Yes.
8 Q About how many times have you had to do that?
9 A I don't know. I would have to go back to my Office of Congressional Affairs.
10 It's quite a lot.
11 Q Do you think it would be fair to say that it was more than a dozen?
12 A Yes. Again, outside -- you know, we're talking just broad defensive
13 briefings.
14 Q More than a hundred?
15 A To individual members? Probably not more than a hundred.
16 Q Okay. When you've given defensive briefings, have you strictly followed
17 the guidance that we've discussed which is identified in our Exhibit 3, the ODNI defensive
18 notification framework?
19 A So that framework only relates when the foreign influence campaign is
20 targeting against elections.
21 Q Okay.
22 A So we do different -- by way of the counterintelligence workforce at the FBI,
23 we do defensive briefings all the time outside the confines of election security.
24 More hypotheticals. If we have indication that a member of Congress is
25 potentially going to be targeted for recruitment by an intelligence officer, we would

1 defensively brief that congressman. If we have reporting that a government wants to
2 engage with congressman X to try to influence his or her policies with respect to that
3 country, we would do a defensive briefing. So defensive briefings are not just a tool for
4 election security.
5 Q So when you talked about the hundreds of times that you've given defensive
6 briefings, you're talking about the whole --
7 A The whole gamut.
8 Q -- of briefings that you've given?
9 A Correct.
10 Q How about with respect to election foreign interference?
11 A So I can't speak to that in this classification level.
12 Q Okay. You mean even the number of times?
13 A Even the number.
14 Q Okay. Let's -- I don't know if you've already said this. I apologize if you
15 already have.
16 But to the extent that you have given defensive notifications with respect -- that
17 relate to the election, have you strictly followed the framework described in Exhibit 3?
18 A We have. And when I say "we," because again, it's always an interagency
19 decision. So the IC always followed that framework.
20 Q Okay. And you were asked a series of questions about a particular
21 defensive briefing that you gave on August 6th, 2020, to -- I guess two briefings -- to
22 Senators Grassley and Johnson. Do you recall --
23 A I do.
24 Q -- those questions?
25 Now, those briefings were related to potential influence on the election. Is that

1 right?

2 A Correct.

3 Q And so those were made pursuant to the framework in Exhibit 3?

4 A Correct.

5 Q And with respect to those specific briefings, did you make those notifications

6 consistent with the principles that are described in Exhibit 3?

7 A Yes.

8 Q Consistent specifically with the principle that partisan politics shall not play a

9 role in the decision to provide the notification?

10 A Correct.

11 Q And you were asked about a letter, I think, that was already marked --

12 A Yes.

13 Q -- as Exhibit 1. This was the July 25th, 2022 --

14 I'm sorry. Is that the one that they marked?

15 Yeah. July 25th, 2022 letter sent by Mr. Grassley to Attorney General Garland

16 and Director Wray.

17 In that letter, there is the allegation that the defensive briefing that you gave on

18 August 6th was in response to calls from Democrats that you give that briefing. What is

19 your response to that allegation?

20 A It's not true. We provided the defensive briefing -- the IC made the

21 determination to provide the defensive briefing in response to intelligence that was

22 collected through intelligence channels.

23 Q Okay. And at the time that you gave the briefing, you weren't even aware

24 that there was a letter by certain Democrats in Congress asking for the whole-of-Congress

25 briefing?

1 A Not that I recall.

2 Q Okay. So is it fair to say that letter would have had no role at all?

3 A It would not have, no.

4 Q Okay. I'm going to mark this as Exhibit 4, please.

5 Okay. I'm marking for the record as Exhibit 4.

6 [Floris Exhibit No. 4

7 Was marked for identification.]

8 BY [redacted]

9 Q A letter dated July -- excuse me -- June 11th, 2021. This is a letter from

10 assistant director of the FBI, Jill Tyson, to Senator Charles Grassley, then ranking member

11 of the Senate Committee on the Judiciary, and to Senator Ron Johnson.

12 Are you familiar with this letter?

13 A I am.

14 Q Okay. In the letter, Executive Director Tyson refers to the summer of 2020

15 defensive briefing. And in that letter, she states, quote, "The framework was applied

16 after the United States intelligence community received information pertaining to Russian

17 efforts to influence the 2020 Presidential Election."

18 Do you see that reference?

19 A I do.

20 Q And do you agree with that characterization of the reason for the briefing?

21 A I do.

22 Q AD Tyson continues, "The FBI, ODNI, Department of Defense, Department of

23 Homeland Security, and National Security Agency used the framework as our guide and

24 determined it was appropriate to provide defensive briefings to several members of

25 Congress related to Russia's malign foreign influence efforts," end quote.

1 Do you see that line in the letter?

2 A I do.

3 Q And do you agree that the framework, which we described in Exhibit 3, was

4 appropriately used in this instance to provide these defensive briefings related to malign

5 foreign influence in our election?

6 A I do agree.

7 Q And I think I've already gotten to this, but are you familiar with the

8 accusation that the defensive briefing was provided based on political and partisan

9 motivations?

10 A Only by the nature of questions today.

11 Q Okay. And what's your response to that allegation?

12 A I disagree with it. Again, we were driven by the intelligence that the IC had

13 collected. The IC made the determination that a defensive briefing was warranted.

14 Q Okay. I'm going to introduce as Exhibit 5 --

15 [Floris Exhibit No. 5

16 Was marked for identification.]

17 BY [redacted]

18 Q This is a statement from then National Counterintelligence and Security

19 Center Director William Evanina dated August 7th, 2020. It's entitled, "Election threat

20 update for the American people."

21 Take a minute to look at that and see if it's familiar to you, please.

22 A Yeah. I remember this coming out.

23 Q Let me know when you've had a chance to review it sufficiently.

24 A Yeah. I'm familiar with it.

25 Q Okay. Exhibit 5 is dated August 7th, 2020. Do you see that date?

1 A I do.

2 Q So that was the day after the briefings you gave to Senators Grassley and

3 Johnson, correct?

4 A It was, yes.

5 Q And this statement is a public notification as opposed to a private

6 notification --

7 A Sure.

8 Q -- which you gave to the senators, right?

9 A Yes.

10 Q Okay. And tell me if this is correct. Would this type of notification to the

11 public that relates to the election and possible foreign influence be made pursuant to the

12 framework in Exhibit 3?

13 A It should have. I don't recall if they actually had a principals-level meeting

14 as far as the details in this press release.

15 Q You wouldn't have been involved in that since you weren't a principal. Is

16 that fair to say?

17 A I wouldn't have been involved in the decision-making, correct.

18 Q Okay. But normally, the framework that's described in Exhibit 3 would

19 encompass the public notifications that related to elections and foreign influence?

20 A Correct.

21 Q Okay. So let's turn to the second page, and there's a highlighted portion

22 that has the title "Russia." Do you see that highlighted portion?

23 A I do.

24 Q Could you just read what's highlighted in the statement?

25 A Sure. "We assess that Russia is using a range of measures to primarily

1 denigrate former Vice President Biden and what it sees as an anti-Russia establishment.
2 This is consistent with Moscow's public criticism of him when he was Vice President for
3 his role in the Obama administration's policies on Ukraine and its support for the
4 anti-Putin opposition inside Russia. For example, pro-Russian Ukrainian parliamentarian
5 Andrii Derkach is spreading claims about corruption -- including through publicizing
6 leaked phone calls -- to undermine former Vice President Biden's candidacy and the
7 Democratic party. Some Kremlin-linked actors are also seeking to boost President
8 Trump's candidacy on social media and Russian television."
9 Q Okay. And are you familiar with that information coming out before the
10 2020 Election? Do you recall that statement being made public?
11 A I didn't recall the explicit details, but I remember generally the theme of that
12 going public.
13 Q Okay.
14 A There was also a press conference between then DNI Ratcliffe and Director
15 Wray, I believe, a little bit closer to the election that had similar themes as well.
16 Q Okay. And what -- in your experience, what is the purpose of providing this
17 public notification at that time?
18 A I can't speak to that. I would defer to ODNI on that since this was a
19 statement specifically from Mr. Evanina. This was not a joint statement, if I recall. So I
20 would refer to them as their motivations for pushing this public.
21 Q Okay. Well, his motivations aside -- again, referring back to Exhibit 3 -- that
22 statement of the framework for briefings, defensive briefings in relation to, you know,
23 foreign interference in U.S. elections, it talked about the reasons that those notifications
24 were given both to private individuals and to public individuals, right?
25 A Sure.

1 Q And one of the reasons that we already went over -- specifically with respect
2 to public notifications, it says, "Public exposure and attribution of foreign election
3 influence and interference can render these operations less effective."
4 Is it fair to say that the reason that this statement about Russia and specifically the
5 details about the kind of information that the Russian proxies were pushing -- the reason
6 that that was shared with the public was in an effort to harden the public against that
7 misinformation so that the influence operation could be less effective?
8 A Again, as this was an ODNI press release, I can't speak to if that was their end
9 goal. If they were following the framework, one could assume that that was their
10 intention, but I don't want to speak for ODNI or Mr. Evanina.
11 Q Okay. But you have no reason to believe that their motivation was
12 anything other than what's described in the framework in Exhibit 3?
13 A I do not.
14 Q Okay. There were some more questions I just wanted to see if we can drill
15 down on from the first hour.
16 I think someone asked you about the intelligence that was underlying the briefing
17 that you gave to Senators Grassley and Johnson. And I understand that you can't share
18 anything that's classified.
19 But the question that was posed to you in the earlier hour was whether that
20 intelligence was, quote, fresh, or, quote, a result of the hangover from 2016. Do you
21 recall that question?
22 A I do.
23 Q And you indicated it was fresh intelligence. Do you recall that answer?
24 A Yes.
25 Q And can you explain why you said it was fresh rather than, quote, a hangover

1 from 2016?

2 A The intelligence was more current. The intelligence was from 2020.

3 [redacted] Okay.

4 Can we go off the record?

5 [Discussion off the record.]

6 [redacted] Back on the record, please.

7 BY [redacted]

8 Q Okay. I'm going to mark for the record Exhibit 6.

9 [Floris Exhibit No. 6

10 Was marked for identification.]

11 BY [redacted]

12 Q Okay. This is a September 10th, 2020 Treasury Department press release

13 entitled, "Treasury sanctions Russia-linked election interference actors."

14 And take just a moment to look at that exhibit, and let me know when you've had

15 sufficient time to look at it.

16 A I'm familiar with this.

17 Q Okay. At the time that this notice came out on September 10th, 2020, did

18 you become aware of it then, or were you aware of it sometime later?

19 A I was aware of it around then. So as we had the intelligence coming

20 in -- and when I say "we," the intelligence community was looking at the intelligence

21 coming in -- each agency has different tools in their toolbox about how to render these

22 operations less effective. Certainly, Treasury's tool is designation or sanctions. So we

23 were aware that Treasury was going to move forward with the sanctions on Derkach.

24 Q Okay. This exhibit -- the press release states in the relevant part, quote,

25 "Treasury designated Andrii Derkach pursuant to Executive Order 13848 for his efforts to

1 influence the 2020 U.S. Presidential Election. Derkach, a member of the Ukrainian
2 Parliament, has been an active Russian agent for over a decade, maintaining close
3 connections with the Russian intelligence services. Derkach has directly or indirectly
4 engaged in, sponsored, concealed, or otherwise been complicit in foreign interference in
5 an attempt to undermine the upcoming 2020 Election," end quote.
6 Do you see that portion of the 2020 press release?
7 A I do.
8 Q So the concerning foreign influence operation that's motivating this Treasury
9 sanction is not a, quote, hangover from 2016. It's actually targeted at the 2020 Election.
10 Is that fair to say?
11 A That's correct.
12 Q And so at least from this information, it appears that the threat to U.S.
13 elections from foreign actors like Russia and foreign influence continued from
14 2016 -- before that even -- through 2020 and beyond. Is that fair to say?
15 A That's correct.
16 Q Are you aware that Mr. Giuliani, Rudy Giuliani, is an associate of Mr.
17 Derkach?
18 A Not to my knowledge.
19 Q Okay. Do you know who Mr. Derkach is?
20 A I do.
21 Q Who is he, in your experience?
22 A I would characterize him exactly as it's characterized in the Treasury memo.
23 He's a member of the Ukrainian Parliament. He has been an active Russian agent.
24 Pretty prolific in his foreign influence operations.
25 Q Okay. I'm going to mark as Exhibit 7.

1 [Floris Exhibit No. 7

2 Was marked for identification.]

3 BY [redacted]

4 Q A Daily Beast article entitled, "Rudy: Only 50-50 chance I worked with a

5 Russian spy to dig dirt on Bidens and Ukraine."

6 Have a look at that and let me know when you've had time to look at it.

7 A Okay.

8 Q Have you had a chance to review the article in Exhibit 7?

9 A I have.

10 Q Have you seen that article before?

11 A I have not. Not that I recall.

12 Q Okay. If you would turn to page 5, there's a highlighted portion at the very

13 top of page that begins with "Giuliani."

14 This article reports on an hour-long interview with Mr. Giuliani, in which

15 Mr. Giuliani said, quote, that he viewed his latest leak to the New York Post as an

16 extension of his years' long efforts to work with Ukrainians to dig up dirt on the Bidens."

17 Do you see that?

18 A I do.

19 Q Okay. I understand that you haven't seen this reporting before, but would

20 it have been concerning to you to learn that Rudy Giuliani viewed the leak of Hunter

21 Biden's laptop -- which is the subject of the New York Post article he references -- as an

22 extension of his years' long effort to work with Ukrainians to dig up dirt on the Bidens?

23 A I don't know if I would have much of an opinion on what Mr. Giuliani was

24 doing.

25 Q Well, focusing in on the difference that we discussed earlier between the

1 content of information that foreign sources are sending out into the world and the source
2 itself or the attribution to a foreign source, what would be most concerning to you from
3 the FBI?
4 Is it fair to say that if there's information out there that relates to U.S. elections,
5 your concern is that it's from a foreign source, not that the content is of any particular
6 nature? Is that fair to say?
7 A I would be more focused on the source of that information because it would
8 lead credibility that there was a nation-state actor behind the activity.
9 Q Okay.
10 A That's our concern. It's malign foreign influence.
11 Q Okay. And in this case -- I know that you don't know whether or not it's
12 true -- but if it were true that Mr. Giuliani was seeking information from Ukraine that
13 would affect the U.S. Election in 2020, would the fact that he's seeking it from a foreign
14 source be of concern to you?
15 A I mean, he's an American person. He certainly has the right to seek out
16 information.
17 Q He was also the President -- former President Trump's lawyer, correct?
18 A To my knowledge -- to be truthful, I don't really track the inner workings.
19 Q Okay. Well, if any U.S. citizen were seeking information from a foreign
20 source in order to influence the U.S. Election -- so taking something from a foreign source
21 to influence an American election -- would that be concerning to you?
22 A That would be concerning. More so if the foreign source was complicit,
23 and the U.S. person was doing it willingly at the behest of a foreign government
24 ultimately to participate in a foreign government's malign foreign influence operation.
25 Q So the fact that the government and the foreign company -- or foreign state

had approached the U.S. citizen would be more concerning to you than if it was the other way around?

A Correct.

Q Okay. Do you know who Andrii Telizhenko is?

A Telizhenko, yes.

Q How do you say it?

A I say Telizhenko. I'm not a linguist. I could be wrong.

Q All right. I'm going to mark for the record as Exhibit 7 a Treasury Department press release dated January 11th, 2021.

Exhibit 8. I'm sorry. I already said seven.

[Floris Exhibit No. 8

Was marked for identification.]

Ms. Floris. I'm familiar with this as well.

BY [redacted]

Q Okay. So Exhibit 8 is a Treasury Department press release entitled, "Treasury takes further action against Russian-linked actors," dated January 11th, 2021.

At the top of the second page, the press release states that Telizhenko, quote, "orchestrated meetings between Derkach and U.S. persons to help propagate false claims concerning corruption in Ukraine."

Do you see that statement?

A I do.

Q So according to that statement, it appears that Telizhenko, who is a foreign agent, is the one who is doing the action, orchestrating meetings between Derkach, the other Ukrainian, and U.S. persons, and doing it for the purpose of propagating false claims concerning corruption in Ukraine. Is that a fair take on what this says?

1 A That is.

2 Q Okay. And is that concerning in your role at the FBI in fighting foreign

3 influence in our elections if it's true?

4 A It is. And, again, I go back to my previous point. Telizhenko being aligned

5 with a foreign intelligence service, that's really the concerning part of that.

6 Q Okay. This press release further states that Mr. Telizhenko was sanctioned,

7 quote, "for having directly or indirectly engaged in, sponsored, concealed, or otherwise

8 been complicit in foreign influence in the United States Election."

9 Do you see that portion highlighted?

10 A I do.

11 Q So that gets to what you were saying, right, that this is the whole heart of

12 what it is, what FBI's FITF and other IC efforts and law enforcement efforts are trying to

13 protect against, which is, you know, concealed foreign efforts to influence our elections?

14 Is that fair to say?

15 A That's fair.

16 Q And concealing is an important element of that, too, isn't it?

17 A It is. One of the main definitions of malign foreign influence is that it's

18 covert. It's undeclared.

19 Q And can you explain why it is that the FBI's concern is undeclared covert

20 actions versus overt foreign actions?

21 A Sure. So overt foreign actions would fall more into day-to-day diplomacy.

22 Meeting with diplomats, meeting with individuals who openly say, I am a member of a

23 foreign government. I am here to talk to you about U.S. policy toward this government.

24 That's diplomacy.

25 Where it becomes of investigative concern to the FBI and certainly a threat

1 concern to the intelligence community is when there is a subversive kind of covert nature
2 to that. When an individual is not outwardly recognizing, admitting to his affiliation with
3 an intelligence service or a foreign government.
4 Q And so that relates to some of what we said earlier when you talked about
5 the intention under Exhibit 3, the framework for notifications. The intention, again, is to
6 fortify the American public by giving them information, letting them know, making what
7 was covert overt. Is that fair to say? Like, letting them have the information and giving
8 them transparency kind of protects against the harm that the FBI is trying to defend
9 against?
10 A Yes.
11 Q That was a lot of words.
12 A That was a lot of words. I wouldn't use the term "covert" and "overt" with
13 how we notify the American public. It's more just public notification versus classified
14 intelligence reporting that, for some reason, the IC is not comfortable sharing or we don't
15 think the American public have a need to know for that information.
16 Q Okay. Mr. Telizhenko is also an associate of Rudy Giuliani. Are you aware
17 of that?
18 A Not that I recall, but --
19 Q Okay. If he were -- Mr. Telizhenko associating and providing information to
20 the lawyer to the President of the United States, again, could that be of concern if
21 Mr. Telizhenko was the one initiating that contact and passing on that information?
22 A That would be of concern.
23 [redacted] I'm going to go off the record. Thank you.
24 [Recess.]
25 Mr. Gaetz. It is 12:01. We're back on the record.

1 Ms. Floris, I want to draw your attention to Exhibit 3. And in this doctrine, it goes
2 over how defensive briefings should be given.
3 The third paragraph begins, "Public exposure and attribution of foreign election
4 interference and interference can render these operations less effective."
5 Do you agree with that statement?
6 Ms. Floris. For the most part, yes.
7 Mr. Gaetz. Why?
8 Ms. Floris. So if we -- and, again, speaking hypotheticals here. If we were to
9 notify the American public that a disinformation campaign indicating the voting system in
10 Idaho is not working, if we say it is in fact working, that's disinformation, that would
11 render the operation hopefully less effective.
12 Mr. Gaetz. Is there a deterrent effect to outing these foreign influence
13 operations directed at our elections?
14 Ms. Floris. I think there can be. I think it can sometimes add fuel to the fire.
15 Oftentimes, when we get reporting, there's benefit to it being classified and not a whole
16 lot of people seeing it. You don't flame the fire, for example. There is potential if you
17 go public with some sort of foreign influence campaign, it just adds fire to it. More
18 people actually see the information than would have seen it had we not gone public with
19 it.
20 Mr. Gaetz. So does part of the going public or not going public analysis involve
21 how in the public sphere the information is already?
22 Ms. Floris. To some extent. It's really hard to measure, though, and quantify
23 how much a narrative has gotten out to the public sphere because we don't monitor
24 content. So that's -- and when I say "we," the IC. That's a very difficult thing to
25 quantify.

1 Mr. Gaetz. The IC doesn't need a intelligence report to say that it's raining. I
2 mean, if something is major news throughout the country, seemingly outing it as foreign
3 interference would deter future foreign actors from engaging in that type of malign
4 behavior, right?
5 Ms. Floris. That is a possibility, yes.
6 Mr. Gaetz. So we've talked a lot about Russia, but in the Evanina report, there
7 were other countries that engaged in foreign interference, too, right?
8 Ms. Floris. Yes, absolutely.
9 Mr. Gaetz. And one of the countries is the People's Republic of China, right?
10 Ms. Floris. Yes, sir.
11 Mr. Gaetz. And so between the election and the swearing in, did Vice President
12 Pence request a briefing regarding the election activities of the PRC?
13 Ms. Floris. Not to my knowledge.
14 Mr. Gaetz. I want to be very precise here.
15 Did you -- were you ever involved in any decision to not give the Vice President a
16 PRC briefing on election interference between the election and the swearing in of
17 President Biden?
18 [redacted] I want to, just before the witness answers, point out for the record
19 that the scope of this interview was the briefings provided to Senators Grassley and
20 Johnson. And to the extent that there are additional questions that she has a
21 recollection about and would like to answer, that's fine, but we're sort of well beyond the
22 scope.
23 Mr. Gaetz. Well, I would disagree. I mean, you're here voluntarily, but I would
24 strongly disagree with that categorization because inherent in the decisions vis-à-vis
25 Grassley and Johnson is the paradigm that overlays when a defensive briefing is given,

1 when one is not, and what policies and doctrines exist at the Bureau to guide those
2 decisions. So --
3 [redacted] You're asking about a very specific briefing additionally, which is
4 beyond the scope of what we discussed with staff. Again, if the witness would like to
5 answer, she may, but --
6 Mr. Gaetz. Yeah. I just want to make sure -- we both made our point for the
7 record in the event that we have to utilize that in the committee process.
8 But as you testified here today voluntarily, you can say with certainty that you
9 were not involved in a decision to deny Vice President Pence a defensive briefing vis-à-vis
10 the PRC?
11 Ms. Floris. To my knowledge, I have no recollection of that.
12 Mr. Gaetz. And do you recall whether or not a similar briefing was requested by
13 Vice President Harris?
14 Ms. Floris. I do not recall that.
15 Mr. Gaetz. So you talked in the last hour about the source of the information
16 being really central to how the FBI thinks about these things, right?
17 Ms. Floris. How the IC thinks about these things.
18 Mr. Gaetz. Right. Of which the FITF is a part?
19 Ms. Floris. Yes.
20 Mr. Gaetz. FITF doesn't have a separate doctrine from the rest of the IC on these
21 things, do they?
22 Ms. Floris. We do not.
23 Mr. Gaetz. So -- and you testified earlier that if a U.S. person is doing something
24 at the behest of a foreign government, that would fall within the envelope of needing to
25 make a decision regarding a defensive briefing?

1 Ms. Floris. Correct.

2 Mr. Gaetz. Okay. So is a consulate official's involvement in the criminal

3 shakedown of a U.S. lawmaker election interference?

4 Ms. Floris. Repeat the question, sir.

5 Mr. Gaetz. Does a consulate official's involvement in the criminal shakedown of

6 a U.S. lawmaker election interference?

7 Ms. Floris. I can't speak to that. It depends on the motivation of that consulate

8 official, his intentions.

9 Mr. Gaetz. Well, what -- I guess we'll go from the hypothetical to the specific.

10 I want to mark as Exhibit 9 what purports to be a text message from then Israeli

11 consulate official Jake Novak to Scott Adams, who is the Gilbert cartoonist.

12 [Floris Exhibit No. 9

13 Was marked for identification.]

14 Mr. Gaetz. And I'll draw your attention to the fourth text in this chain where it

15 says, "The real documents do not extort, and we only asked for 25 million as an estimate

16 at first. We came way down."

17 Are you familiar with this text chain?

18 Ms. Floris. I am not.

19 Mr. Gaetz. So I'll represent to you that this text involves the criminal matter that

20 resulted in Steven Alford going to prison for trying to shake down my family.

21 Are you familiar with that matter?

22 Ms. Floris. I am not.

23 Mr. Gaetz. So you were the head of the entity under which the FITF sits in 2021,

24 right?

25 Ms. Floris. Correct.

1 Mr. Gaetz. So I will mark as Exhibit 10 a statement from the consulate of Israel.

2 [Floris Exhibit No. 10

3 Was marked for identification.]

4 Mr. Gaetz. Are you familiar with this document?

5 Ms. Floris. I am not.

6 Mr. Gaetz. So here, the consulate general of the Government of Israel in New

7 York is verifying that one of their staffers sent a text message that relates to this criminal

8 shakedown of $25 million of my family. And this is the first you're learning of this?

1 [12:08 p.m.]

2 Ms. Floris. It is.

3 Mr. Gaetz. At no point did any -- did anyone at the FITF ever even analyze

4 whether or not a consulate official for a foreign government being involved in the

5 shakedown of my family was the foreign interference into my reelection?

6 Ms. Floris. Not to my knowledge.

7 Mr. Gaetz. Well, isn't this the type of thing that normally would be directly

8 within the paradigm of a defensive briefing as outlined by exhibit 3?

9 Ms. Floris. Without specifics, sir, and not having knowledge of what this is, I

10 can't speak to that.

11 Mr. Gaetz. So how would you respond to the criticism that if it's Russia, if it's

12 something that comports with the Evanina memo, that you were really involved and

13 really active and really engaged, but if it's a Republican being targeted, if it's me, there's a

14 foreign official involved in trying to shake my family down, you have no knowledge of

15 that, were never involved? Does that seem to be disparate application of the doctrine

16 laid out in exhibit 3?

17 Ms. Floris. So, sir, the doctrine laid out in exhibit 3 is specific to elections. If I

18 recall, you noted that this was in 2021.

19 Mr. Gaetz. Yes. I was a candidate for reelection in 2021.

20 Ms. Floris. So I'm not familiar with it, looking at this. With extortion, it sounds

21 more on the criminal side of the house, just I --

22 Mr. Gaetz. Well, it's a foreign government official. How is it a criminal matter

23 and not a counterintelligence matter when you have the consul of the state of Israel

24 saying our employee sent these messages? Does it have -- does it -- strike that question.

25 Does it have to be an even numbered year for it to be election interference?

1 Ms. Floris. It does not.

2 Mr. Gaetz. So if I was a candidate for reelection in 2021, why would this not

3 qualify?

4 Ms. Floris. Again, sir, I don't know the details of it, so I can't answer that

5 question.

6 Mr. Gaetz. Why didn't I get a defensive briefing?

7 Ms. Floris. Again, sir, I can't speak to that.

8 Mr. Gaetz. Well, let's go over exhibit 3 then. The Federal Government is

9 committed to protecting our democratic process, institutions, economy, and the

10 American public from foreign malign influence. Of particular concern are the intentions

11 and activities of foreign governments and persons acting on their behalf.

12 So why did you not investigate this?

13 [redacted] Respectfully, these questions about why a briefing may not have

14 been provided per the framework are best directed to ODNI, and I think it's inappropriate

15 to raise questions to the FBI in this forum.

16 Mr. Gaetz. Well, why can't I ask the FBI questions about why they didn't -- why

17 they didn't provide a defensive briefing on one matter as opposed to another so that the

18 committee can understand how to assess the FBI's conduct?

19 [redacted] Sir, you can ask the question, but as the witness has said, the

20 decision to provide a defensive briefing is not made by the FBI. So you have an FBI

21 witness here. If you have questions about the decision under ODNI, go to ODNI.

22 Mr. Gaetz. Okay. So ODNI never had concern regarding this consulate official

23 trying to shakedown my family?

24 Ms. Floris. I can't speak to whether or not they did, sir. If they --

25 Mr. Gaetz. They never expressed one to you?

1 Ms. Floris. Correct, yes.

2 Mr. Gaetz. Okay. But doesn't the FBI investigate when -- I mean, you went -- in
3 the last hour, we went over these points you made about how when a U.S. person is
4 doing something at the behest of a foreign government that impacts elections, that the
5 FBI does have equities in that, right?

6 Ms. Floris. Yes, sir.

7 Mr. Gaetz. So why would those equities not have applied here?

8 Ms. Floris. Again, I can't speak to why they didn't.

9 Mr. Gaetz. But doesn't it look ridiculous to you that the gaze of the FBI appears
10 to be weaponized in some areas over partisanship?

11 Ms. Floris. Again, it -- having the FBI being -- claim that we were being
12 weaponized for partisan politics certainly does not sit well with me. I --

13 Mr. Gaetz. But isn't part of the discretion of the Foreign Influence Task Force
14 choosing when to give defensive briefings and when not to?

15 Ms. Floris. So that's not just the Foreign Influence Task Force. It's the entire
16 intelligence community.

17 Mr. Gaetz. But the Foreign Influence Task Force has equities there, right?

18 Ms. Floris. We are part of that conversation, correct.

19 Mr. Gaetz. And you chose to engage in that process with Senator Grassley and
20 Senator Johnson, right? That was a choice you made?

21 Ms. Floris. The IC chose to engage, yes, sir.

22 Mr. Gaetz. And FITF agreed with that choice to engage?

23 Ms. Floris. Yes, sir.

24 Mr. Gaetz. They didn't dissent to that choice to engage?

25 Ms. Floris. Correct.

1 Mr. Gaetz. So in this process, as played out like with Johnson and Grassley, does
2 the FITF ever initiate the need for this interagency process to occur?
3 Ms. Floris. I can't recall if we ever did in 2020. We certainly can. So part of
4 the notification framework is that any agency can nominate any agency's reporting into
5 the process. I don't recall. I know for, specific for Senator Johnson and Grassley, the
6 FBI was not the nominating entity. We did not nominate the reporting into the CAG.
7 And for --
8 Mr. Gaetz. Who did?
9 Ms. Floris. For details on that, I was just about to say, sir, would again defer you
10 to ODNI who's got the record on all of this.
11 Mr. Gaetz. I guess, why didn't the FITF report this information regarding clear
12 election interference regarding me and my family and a criminal shakedown into that
13 system?
14 Ms. Floris. Again, I can't speak to that. I -- I don't --
15 Mr. Gaetz. Why can't you speak to it? You were in charge of the entity.
16 Ms. Floris. Because I don't have details about the specific activity. This is the
17 first time I'm hearing about it. That doesn't mean that --
18 Mr. Gaetz. This led every news outlet for weeks in this country. And you're
19 saying that the FBI was like ostrich head in the sand on it. You have literally foreign
20 government --
21 [redacted] That's not what she said, and she's answered the question.
22 Mr. Gaetz. Okay. Fine. But you have a foreign government acknowledging
23 their involvement, and you didn't -- you didn't act on this at all, did you?
24 Ms. Floris. I personally did not. Again, sir, I can't speak for the whole of FBI on
25 this matter or the whole of the IC on this matter.

1 Mr. Gaetz. Have you ever heard the name Bob Kent?

2 Ms. Floris. No, sir.

3 Mr. Gaetz. How does the FITF interact with the media?

4 Ms. Floris. So media -- and, again, are you talking specific to 2020, sir, or just in

5 general?

6 Mr. Gaetz. Generally.

7 Ms. Floris. In general, our media engagements are usually done with the

8 interagency, so with the same partners that we work on in the defensive notification

9 framework, primarily CISA and DHS. If we get a request from the media to respond to a

10 question, we go through the channels that everyone in the FBI does, through our Office of

11 Public Affairs. Anything we do has to be coordinated with them. Anything we do has

12 to be coordinated with the interagency.

13 But under my tenure in the FITF -- and, again, I can't speak to what they're doing

14 currently, sir, or what they did in the midterms. Under my tenure, media engagements

15 were few and far between.

16 Mr. Gaetz. During your leadership of the FITF, were you ever aware of

17 circumstances where anyone on the FITF spoke with the media directly?

18 Ms. Floris. Not without authorization and approval from our Office of Public

19 Affairs.

20 Mr. Gaetz. Okay. And how frequently did that authorization occur?

21 Ms. Floris. For me personally, I had participated in, I think, two media

22 backgrounders over the course of, you know, 3.5 -- 3.5 years on the job. I don't really

23 remember. There was maybe one other media backgrounder that I think one of my

24 leaders underneath me did.

25 Mr. Gaetz. What's a backgrounder?

1 Ms. Floris. A backgrounder, I believe in -- a backgrounder is when it's not
2 televised. We give our briefing. Folks from the media can call in and listen to it. My
3 name is not attributed to it, for example, so it's on background. So it would say
4 something along the lines of FBI senior official said X, Y, and Z, as opposed to me being in
5 front of the camera doing like a very formal press conference.
6 Mr. Gaetz. And in those backgrounders that you participated in, what was the
7 subject?
8 Ms. Floris. At least from the FBI perspective, it was my job to just talk about
9 what the FBI was doing to secure the elections, which generally I spoke about the role of
10 the FITF, engagements with our field offices, and State and local partners, very high level,
11 you know, here's what we're doing about it. I believe the other agencies involved had
12 very similar tone and tenor as well.
13 Mr. Gaetz. Was it about Russian malign influence?
14 Ms. Floris. I don't believe we got into any of the threats; if we did, it would have
15 been ODNI. I just can't recall if they were on the call, and I don't have their script for
16 that.
17 Mr. Gaetz. Do you remember the media outlets that participated?
18 Ms. Floris. I do not. I don't believe the FBI organized either of the two media
19 engagements I was involved in.
20 Mr. Gaetz. If you had seen, which apparently you did not, a foreign government
21 discussing their staffer being involved in something that resulted in someone going to
22 prison for a criminal shakedown, is that the type of thing that under the normal course of
23 business at the FITF you would utilize to trigger this interagency process to administer
24 defensive briefing?
25 Ms. Floris. Possibly. Again, without the details. You know, generally

1 speaking, if we have any reporting about a foreign government and/or its proxies
2 ultimately targeting a Member of Congress, that is certainly of concern to the Foreign
3 Influence Task Force. If the reporting was explicit in that it indicated that targeting was
4 intended to influence the outcome of your election, then, yes, that is something that
5 sounds like it would go through the defensive notification framework. But, again, I
6 just -- I don't know -- I don't know the details.
7 Mr. Gaetz. How long have you been in counterintelligence?
8 Ms. Floris. Well, I'm no longer in counterintelligence. I was over there for
9 about 3 --
10 Mr. Gaetz. Throughout your career, how many years have you spent in
11 counterintelligence?
12 Ms. Floris. About 3.5 years.
13 Mr. Gaetz. Oftentimes, do -- in your experience in the counterintelligence world,
14 are consulates of foreign governments at times hubs of malign activity?
15 Ms. Floris. They are.
16 Mr. Gaetz. Frequently, right?
17 Ms. Floris. Yes, sir.
18 Mr. Gaetz. And is it your typical experience, in your extensive background in
19 counterintelligence, that people who work at consulates moonlight and go on their own
20 operations in the absence of guidance from the consulate?
21 Ms. Floris. That can happen, yes.
22 Mr. Gaetz. Well, when you observe malign activity from an official who works at
23 a consulate, do you start with the assumption that that person is acting at the direction of
24 a foreign government or do you start with the assumption that that person is acting of
25 their own volition?

1 Ms. Floris. It really depends on the intelligence traffic. Sometimes we get lucky
2 and we have reporting indicating that country X wants to influence U.S. policy related to
3 this, and then we've got the more explicit reporting about the individual from the
4 consulate that seems to align with it. If that's the case, we would assume there's some
5 sort of direction.
6 Sometimes we only have a reporting about the individual at the consulate, and we
7 can't confirm through the intelligence community that there's any link between that
8 individual and higher levels of government, and then one would assume he's acting at the
9 behest of his own ambition. So really, sir, it just depends on the intelligence.
10 Mr. Gaetz. Very helpful answer, but wouldn't one have to conduct some inquiry
11 or investigation to ascertain whether or not an individual was acting of their own volition
12 or at the behest of their employer foreign government?
13 Ms. Floris. Yes, there would have to be some legwork to be done to make that
14 assumption.
15 Mr. Gaetz. And the absence of that legwork having happened in the matter that
16 we've been discussing regarding Israel seems alarming.
17 [redacted] That's not what she testified.
18 Are you aware?
19 Mr. Gaetz. No.
20 [redacted] She's not aware either way.
21 Ms. Floris. I'm just -- I personally, sir, am just not aware of this story. That
22 doesn't mean that --
23 Mr. Gaetz. That's kind of the point. That's kind of what I'm -- that's what I'm
24 getting at is that a lack of awareness and inquiry seems to inform on the committee's
25 concern about this -- about the FITF being weaponized for political reasons --

1 Ms. Floris. No.

2 Mr. Gaetz. -- and then partic- -- and then explicitly in omissions similar

3 weaponized. That's our concern.

4 Ms. Floris. So, again, sir, I personally am not aware of this. That doesn't mean

5 that folks who worked beneath me in the FITF or in the Counterintelligence Division or

6 perhaps in the Criminal Division were not working it. I just -- I personally don't know, sir.

7 Mr. Gaetz. Okay. So now I want to understand the chain of command as to

8 how things get to you. So if malign activity is directed at a sitting Member of Congress,

9 is that typically something resolved by a person below you on the org chart or is that

10 something that would typically be brought to you?

11 Ms. Floris. It really depends.

12 Mr. Gaetz. Okay. And what would it depend on?

13 Ms. Floris. The severity of the activity, actions we need to take on the activity, if

14 we have corroborating reporting, if this is the first time we've seen this.

15 Mr. Gaetz. Or corroborating admission from the Israeli consulate would

16 seemingly be sufficient predicate for an investigation, wouldn't it?

17 Ms. Floris. It does. But, again, sir --

18 Mr. Gaetz. It does.

19 Ms. Floris. -- I can't speak to this. And, you know, my apologies that I don't

20 have information on this. I don't want to talk in hypotheticals as far as what would have

21 been done. I just -- I don't know. And I know that's a frustrating response, sir, but

22 that -- I personally don't know, and I can't speak for the whole of the FBI.

23 Mr. Gaetz. Are there any other circumstances -- leaving this aside, are there any

24 other circumstances you're aware of where decisions regarding the targeting of a sitting

25 Member of Congress were made at the FITF at a level below you?

1 Ms. Floris. Decisions as far as opening cases --

2 Mr. Gaetz. Decisions regarding whether or not to trigger the interagency process

3 with ODNI and others to administer a defensive briefing.

4 Ms. Floris. Those decisions would have had to come up to me eventually by the

5 policy of the framework because I'm in the experts group. It would have come up to

6 me.

7 Mr. Gaetz. So anytime there's going to be action, it's got to go through you on

8 the FITF to trigger that defensive briefing. And the Johnson-Grassley matter did come to

9 you and you did agree that -- or that came to you through the interagency process, but

10 you agreed with that assessment?

11 Ms. Floris. Yes, sir.

12 Mr. Gaetz. And this never came to you?

13 Ms. Floris. No, sir.

14 Mr. Gaetz. Those are my questions.

15 Mrs. Spartz. Just to follow up about you saying not politicizing, just also not a

16 hypothetical. You are maybe not one that knows this. But do you think -- I had a

17 situation with your agency where actually because I questioned oversight of our aid to

18 Ukraine, Ukrainian Government openly attacked me through social media during my

19 election, through TV, writing hit articles through CNN.

20 Do you think something like that I should have gotten some defensive briefing

21 from FBI not just from some people? Do you think that's something as a Member of

22 Congress I should have been briefed from your assessment?

23 Ms. Floris. So this is actually a question I've gotten quite a bit, and, you know, I

24 certainly appreciate the question, ma'am. If -- and, again, we'll talk in hypotheticals

25 because I'm not familiar specifically with your situation.

1 If we had intelligence reporting, so through established intelligence channels, that
2 Ukrainian actors were going to target you specifically through some sort of social media
3 campaign, that does sound like something that we would do a defensive briefing for you
4 about because you would be specifically referenced in intelligence traffic.
5 Now, if we didn't have that side of the story, ma'am, if we didn't have the actors
6 and all we had was social media content that you deemed to be disinformation, that is
7 not something we would engage in because we don't start with content.
8 Mrs. Spartz. But if it's an official government account of the Ukrainian
9 Government, if this information exists, you don't monitor that?
10 Ms. Floris. We do not monitor that, no. We are not in the habit of monitoring
11 social media.
12 Mrs. Spartz. So unless your analyst knows information internally that you
13 believe from some sources received, you know, you don't look into this information of
14 what's happening. So your CIA, all these people don't look into further when they see
15 this potential attack by foreign governments on U.S.-elected official, you know, you don't
16 look at that. So you don't have people looking into that and causes of that?
17 Ms. Floris. I can only speak for what the FBI does, ma'am. We start with the
18 actors, the foreign actors. That's the nature of the malign foreign influence operation.
19 And we look at intelligence traffic. We don't start from social media and open source;
20 we start with the actors. And, again, if we had information and intelligence channels
21 that the Ukrainian Government through their social media accounts, their official media
22 statements were seeking to undermine you and your credibility, that does sound like
23 something wherein we would provide you a defensive briefing.
24 Mrs. Spartz. So since I wasn't provided, even after I requested and I had even
25 signs they were there, so it means that I could assume that they made assessment that it

1 wasn't targeting, right? Because I even did a special request to FBI to brief me on that.

2 Ms. Floris. I don't like --

3 Mrs. Spartz. Since they never did that. So you're assuming that they decided it

4 was not a problem?

5 Ms. Floris. I don't want to assume anything, ma'am. That is something we can

6 certainly look into. I don't know your specific situation.

7 Mrs. Spartz. It seems like it's a double standard, but I understand that you are

8 not on the decision-making. But it seems it's a double standard, but thank you.

9 Ms. Floris. Sure.

10 Mr. Gaetz. Mr. Biggs has some questions.

11 Mr. Biggs. Thanks. Andy Biggs here, Arizona's 5th Congressional District.

12 Thanks for being here today.

13 Ms. Floris. Sure.

14 Mr. Biggs. I want to go back to, I think it is exhibit 3. It's that memo. And it

15 talks specifically about public exposure and attribution of foreign election influence.

16 And the public exposure I think is really interesting to me, how you get there, who makes

17 the decisions, what kind of public notice or information do you put out there.

18 And so we've seen the -- our colleagues have given us three of those. One

19 is -- and I don't know if this is related to this, but it says an ODNI news release -- and this

20 is the one from William Evanina, right?

21 Ms. Floris. Yes, sir.

22 Mr. Biggs. That's the first one. Is that -- was that in conjunction with this?

23 Does that fit into this? Because it's an ODNI news release.

24 Ms. Floris. It does not, sir. So I believe the date on the press release is

25 August 7th.

1 Mr. Biggs. Yes.

2 Ms. Floris. And it only has the ODNI seal on it. So that is not an official

3 interagency press release. That was a decision that I would certainly defer to

4 Mr. Evanina and ODNI as to why they put that out.

5 Mr. Biggs. Okay. All right. And this one seems to be just from Treasury, and

6 this is the one, "Treasury Sanctions Russia-Linked Election Interference Actors." That's

7 just Treasury?

8 Ms. Floris. Yes, sir. So a little bit of background, as we were getting the

9 reporting and we were trying to determine what steps the interagency needed to take.

10 So obviously the FBI provided the defensive briefing, Mr. Evanina in ODNI put out the

11 press release. Treasury, one of their best tools against foreign actors is certainly the

12 sanctions process, so they moved forward with sanctions and made the determination to

13 push out the press release.

14 Mr. Biggs. Okay. All right. And then in this one, this is January 11th. This is

15 where they go after several others: Konstantin Kulyk, Oleksandr Onyshchenko, and

16 Andriy Telizhenko, and back to Dubinsky as well. So this is -- this one is January '21.

17 Same level, right? Is that -- this is Treasury as well.

18 Ms. Floris. That's Treasury, sir, and that's --

19 Mr. Biggs. That's not -- that's not interagency?

20 Ms. Floris. Treasury certainly makes the determination on who and when they

21 sanction, but it's driven by the same intelligence and reporting that the IC sees.

22 Mr. Biggs. So those last couple weren't actually -- they were just press releases

23 about sanctions that Treasury was doing. It has nothing to do with the interagency

24 cooperative, right?

25 Ms. Floris. It was -- it was discussed in the interagency but more along the lines

1 of what can each agency do to protect ourselves against this activity, and Treasury has
2 the tool sanctions.
3 Mr. Biggs. All right. Then I want to go to -- from there to another exhibit that
4 our colleagues put in, and that was the piece from The Daily Beast, which I think is an
5 interesting piece. I don't want to spend too much time on it, but it's just -- it's kind of
6 weird.
7 But here we go, and I've got to ask you these things because of how they use the
8 article. So it's this: So they focus on this hard drive or the computer that Mr. Giuliani
9 is supposed to be using to influence the election and they use his comments to say he
10 was trying to influence the election and he is buddies with somebody in Ukraine.
11 So how long did the FBI have that laptop prior to the 2020 election, do you know?
12 Ms. Floris. I don't know. I don't know what laptop the article was referring to.
13 Mr. Biggs. It's the one that Hunter Biden left with -- and it's referred to in this
14 article -- with a computer repairman in Connecticut.
15 Ms. Floris. I -- I don't have any details about the laptop.
16 Mr. Biggs. Okay. And the reason I bring it up is because -- and I'll get to some
17 other issues in just a sec -- is that laptop has now been -- your agency, I believe, has said
18 that it's legitimately Hunter Biden's, and Hunter Biden's attorneys have actually
19 acknowledged that in pleadings to the court. So it kind of undermines this notion of
20 someone actually creating disinformation, which leads to my question.
21 How do you determine -- I know you've indicated that you guys look at
22 primarily -- initially you look at the source, but -- and if that information that that
23 source -- if the source is whacky but otherwise providing real information that's accurate,
24 what do you do with that?
25 Ms. Floris. That's a tough question. Again, we start with the intelligence

1 collection, you know, we assess the sourcing of it. If we think it's credible, accurate,
2 reliable, then we'll action it.
3 Mr. Biggs. What information? So if the source is otherwise -- you believe the
4 source to be incredible, but they're putting information out there, what do you do to
5 assess the validity or credibility or veracity of that information?
6 Ms. Floris. Oftentimes, you know, the IC will see if there's any corroborating
7 information. That's usually a good start. If it's a new source, if it's a source that's
8 provided false information before, that's usually where we'll try to see, okay, is there any
9 other information that corroborates this story, is somewhat related to this story. But
10 that's part of the job is -- in the intelligence community and our work as analysts.
11 Mr. Biggs. So we get to the point, I guess, that I want to -- rather, I'll probably
12 ineloquently and inartfully make, and that is, mistakes can happen as you assess, because
13 if you think somebody's incredible and they're providing actually what turns out to be
14 credible information, but you determine that because the credibility of the source and
15 there's no corroborating -- immediately available corroborating evidence, you put out a
16 public statement of misinfor- -- that this is misinformation. What -- would that
17 be -- would not that be a mistake if it turns out to be true?
18 Ms. Floris. We -- and when I say we, the IC -- would not go as so far as to push
19 out public information if it's a source that we deemed not credible. That would likely be
20 a step too far. So if we have source -- if we have reporting from a source that has not
21 been validated, that does not seem to be credible, we may share that information
22 throughout the IC; we would not likely share that information with the American public,
23 but that's --
24 Mr. Biggs. So let me -- let me give you an example. So -- and I'm going to use
25 the hypothetical that a Presidential candidate's son has left a laptop in a repair shop, and

1 on that laptop is incredibly damaging material to the President's -- that Presidential
2 candidate, or some would say it is damaging. Comes into the hands of the FBI, and
3 somebody else publicly says, you've got the laptop, it's incredibly damaging, and the
4 information is valid and good and belongs to this individual. Are you guys going
5 to -- what are you going to do at that point if that -- with that laptop?
6 Ms. Floris. I can't speak to that, sir, what we would do with that laptop. You
7 know, I don't have any knowledge of said laptop. I can't talk hypothetically about what
8 we would have done or not have done with that laptop.
9 Mr. Biggs. All right. The point, I guess, ultimately is, if you made a
10 determination and -- that because the source was incredible and there was no
11 independent verifying information what they were saying, if you thought it was going to
12 impact an election, would you then put out information saying we believe this
13 information is bad and could impact the election, or are you going to just say we're going
14 to sit on it, we're going to be quiet because we just don't know what that
15 information -- whether it's credible or not?
16 Ms. Floris. I can't speak to it, and, again, it wouldn't have been an FBI-only
17 decision.
18 Mr. Biggs. Okay. So that leads me to my -- well, you're going to tell me that
19 this is Department of Treasury so you can't really answer that. But I am curious to know
20 if you -- because I think you said that you guys did have discussions interagencywise
21 with -- about what was going on with these Derkach's inner circle, what's in the -- in this
22 press release called Derkach's inner circle, in particular with former general prosecutor
23 Konstantin Kulyk. Did you discuss in your group the prosecutor -- former prosecutor
24 general Kulyk at all? Do you remember --
25 Ms. Floris. Not that I recall.

1 Mr. Biggs. Okay. All right. I'm going to let it -- are you going to talk about
2 Bobulinski?
3 [redacted] We actually had some -- yeah, we're going to get into that a bit
4 later, Congressman.
5 Mr. Biggs. All right. Thank you very much.
6 Ms. Floris. Thank you, sir.
7 BY [redacted]
8 Q Ms. Floris, do you recall receiving a letter addressed to you and Bradley
9 Benavides from Senators Grassley and Johnson dated August 25th, 2022?
10 A Vaguely.
11 [Floris exhibit No. 11
12 Was marked for identification.]
13 BY [redacted]
14 Q Okay. I'm going to show you what's been marked as exhibit 11. And that
15 exhibit is the aforementioned August 25th --
16 A Yes.
17 Q -- 2022 letter. So I'd like to go through this letter and have you respond to
18 the Senators' allegations and concerns. But first, having reviewed this letter, do you
19 recall receiving this?
20 A I do.
21 Q Okay. How was this transmitted to you?
22 A Probably via email from my Office of Congressional Affairs.
23 Q Okay. Do you recall if you responded in any way to that office when you
24 received this letter?
25 A To the Office of Congressional Affairs?

1 Q Yes.

2 A I'll usually respond "I received the letter," but defer to them on how to

3 action any correspondence.

4 Q Given that, what did they -- what, if anything, did they suggest you do in

5 response to this letter?

6 [redacted] Well, the witness is not authorized to discuss internal deliberations

7 about how to respond to a different Member of Congress.

8 [redacted] So is that the basis -- are you directing her not to answer the

9 question?

10 [redacted] It's -- yes, and it's out of scope.

11 BY [redacted]

12 Q So let's go through this letter and get your response. Directing your

13 attention to the second sentence of the first page, the Senator states: As we have

14 publicly and privately stated to you and Director Wray since the briefing, the briefing was

15 unnecessary and was only done because of pressure from our Democratic colleagues,

16 including Democratic leadership, to falsely attack our Biden investigation as advancing

17 Russian disinformation.

18 Did the one or either -- did one or both Senators state this to you in the briefing

19 you gave them on August 6, 2020?

20 A I don't recall.

21 Q You don't recall whether or not they said the briefing was a result of

22 Democratic pressure?

23 A I don't re- -- I don't believe they said that to me, no. Again, what stands

24 outs in the briefing is what I previously noted.

25 Q Well, then I have to ask, is this characterization false?

1 A It is completely false. The briefing was done because of the intelligence
2 that the IC received and determined warranted a defensive briefing.
3 Q And is it also false that these -- is it your testimony that the Senators did not
4 say this to you?
5 A My testimony is that I don't recall the Senator saying this to me, but, again, it
6 was 3 years ago at this point.
7 Q Well, let me ask you: You would agree it's a very serious allegation?
8 A It is a very serious allegation.
9 Q So it stands to reason that might stand out to you given the briefings you've
10 done over time, right?
11 A The thing that stood out the most was the screaming and pounding on the
12 table and threatening to subpoena me.
13 Q And that was from Senator Johnson?
14 A Yes, sir.
15 Q Not from Senator Grassley?
16 A Correct.
17 Q You would agree that being accused by a United States Senator of providing
18 a politically motivating briefing to advance one party over the other is quite serious?
19 A Yes.
20 Q Let's go to page 2, the last paragraph. Next, the Senators state, quote,
21 With respect to the substance of the briefing, it consisted primarily of information that
22 we already knew and information unconnected to our Biden investigation.
23 Did either of the Senators express this to you?
24 A Again, I don't recall.
25 Q How do you respond to this allegation?

1 A So it's interesting, late July and early August, so July 30th through
2 August 5th, the FBI, along with our colleagues from the IC, provided all Member briefings
3 on election -- threats to the election, which included certainly Russia as a topic. I don't
4 know if Senators Grassley and Johnson attended those briefings, but the context of those
5 was similar into the context of the defensive briefings.
6 The difference was the notion that those Senators were explicitly referenced in
7 the reporting. So some of the information, had they attended those briefings -- and,
8 again, I can't confirm if they were in the room -- had they attended those briefings may
9 have sounded similar in content.
10 Q Okay. Building off of what they state here, was the information you
11 conveyed to the Senators unconnected to the Biden investigation that they were
12 performing?
13 A It was not given in relation to the investigation they were performing.
14 Q Okay. Let's go to page 3, top of -- excuse me. Let me make sure I'm
15 reading the correct -- oh, I can't find my space. Give me a moment.
16 A No worries. Could I possibly have another bottle of water?
17 Q Of course.
18 A Thank you. I talk a lot but not usually this much.
19 Q Oh, here we are. I'm sorry. Page 2.
20 A No worries.
21 Q This is why I got lost. The Senators go on to say -- this is the bottom
22 paragraph.
23 A Okay.
24 Q We made clear to you at the briefing that it was not relevant to the
25 substance of our work. In response, you stated that the FBI is not attempting to quash,

1 curtail, or interfere, end quote, in the investigation in any way.

2 Did the Senators here properly characterize your response to their concerns?

3 A Again, I don't recall that specific line of questioning. As, you know, my,

4 quote/unquote, quotes are in quotes, I would assume that somebody in the room quoted

5 me. I don't recall saying that.

6 Q What would someone from the FBI who did say that mean by that: quash,

7 curtail, or interfere?

8 A If the Senators were alleging that I was there only to curtail the investigation,

9 my likely response would be, as what I've said several times, I am not there to interfere

10 with their investigation. I am there at the behest of the intelligence community to

11 provide a defensive briefing.

12 Q Okay. Let's go to page 3, top paragraph. Quote, the Senators say: We

13 also made clear our concern that the briefing would be subject to a leak that would shed

14 a false light on the focus of our investigation. Indeed, on May 1, 2021, The Washington

15 Post did exactly that, and so did the other inaccurate media articles during the course of

16 our investigation, which falsely labeled our investigation as advancing Russian

17 disinformation.

18 How did you respond to this concern when the Senators raised it to you?

19 A I don't recall them raising concerns of leaks to me. I started the

20 investiga- -- or the defensive briefing indicating that it was a classified briefing. As I do

21 with all defensive briefings, I'd usually note something about their privacy being

22 paramount and I won't share the contents or the fact that this defensive briefing

23 happened with anyone.

24 Q So I think you're stating you don't recall them saying these -- making these

25 assertions to you in the briefing, correct?

1 A I don't recall, no.

2 Q Taking them at face value, would these concerns concern you as someone

3 providing the defensive briefing?

4 A Absolutely. As an 18-year intelligence officer, I take media leaks quite

5 seriously. I take classification quite seriously, as you've seen over the last several hours.

6 I don't want information leaked to the media as much as they don't want information

7 leaked to the media, and something that is absolutely paramount to how the FBI

8 conducts defensive briefings is the privacy of the recipients of that defensive briefing.

9 Q And they continue, stating your briefing was leaked, and it permitted a major

10 newspaper to falsely label a United States Senate investigation as advancing Russian

11 disinformation, leading up to a Presidential election, which the investigation concerned

12 one of the candidates for that office. How do you account for this?

13 A I don't know, sir. Again, as somebody who was in the Counterintelligence

14 Division, media leaks is not something that I take lightly.

15 Q Top paragraph, page 3, reads: Moreover, whistleblowers have recently

16 alleged that on August 2020, the same month you provided the briefing to us, FBI officials

17 initiated a scheme to downplay derogatory information on Hunter Biden for the purpose

18 of shutting down investigative activities relating to his potential criminal exposure by

19 labeling it disinformation. Whistleblowers have also alleged that local FBI leadership

20 instructed employees not to look at the Hunter Biden laptop immediately after the FBI

21 had obtained it.

22 Are you familiar with these whistleblower allegations that FBI agents were

23 downplaying or scheming to downplay derogatory information about Hunter Biden by

24 calling it disinformation?

25 A I am not.

1 Q In your view, why are the Senators tying this allegation to you?

2 A I don't know.

3 Q Do you have any knowledge about local FBI leadership instructing employees

4 not to look at the Hunter Biden laptop?

5 A I do not.

6 Q Second paragraph, page 3. The Senators indicate, quote, At the briefing as

7 well as after, we requested relevant records relating to what happened at the briefing,

8 including the 302 or similar summary, the intelligence basis for the briefing, and the

9 personnel involved in making the decision to brief us. On August 12, 2020, May 3rd,

10 2021, July 25, 2022, and August 11, 2022, those requests were made. The FBI has

11 consistently failed to respond in full to each request and failed to provide those critical

12 records, which casts further doubt on the true purpose of the briefing.

13 If you know, why has the FBI failed to respond to these requests?

14 A Well, I don't believe there is a 302 related to this briefing. And, again, I

15 would defer back to ODNI who has the script, who owns the script, who is in a position to

16 share additional details about the underlying intelligence.

17 [redacted] I would just add that the Senators' allegation that the FBI has not

18 responded to these requests is not accurate.

19 Mrs. Spartz. Who's in charge -- that was at that time of ODNI, the person who

20 can answer these questions?

21 Ms. Floris. So Mr. Evanina was the head of NCSC who oversaw the ODNI's

22 election threat executive.

23 Mrs. Spartz. Okay. Evanina. He would know what validation was done, what

24 sources, all the details, that's the person who would be able to answer us?

25 Ms. Floris. In theory, or he would at least know who at the ODNI would have

1 that information.

2 Mrs. Spartz. Okay.

3 BY [redacted]

4 Q Given what you -- you conveyed Senator Johnson's response to us. Did you

5 create a post-briefing memo, document, or any summary of his response to your

6 briefing?

7 A I did not.

8 Q Okay. Did you tell anyone at the FBI about it?

9 A I likely told my boss.

10 Q And who would that have been?

11 A AD Alan Kohler.

12 Q Do you recall if he responded, if you did, in fact, tell him?

13 A How he responded?

14 Q Yeah.

15 A I don't remember anything remarkable about his response. But given that I

16 was threatened to be subpoenaed, I felt my boss should probably know.

17 Q I know you indicated ODNI is the appropriate venue, but let me ask you, do

18 you have any -- do you know if the FBI has any documents responsive to the Senators'

19 request?

20 A That I -- do you mean our response back to the Senators?

21 Q Well, specifically what they're asking for, summaries, memorandum, even

22 the intelligence --

23 A The FBI, we don't have anything in possession of that. Again, ODNI would

24 be your best bet for that.

25 Q You would have the intelligence basing for the briefing, though, because that

1 was submitted to the FBI to give the briefing?

2 A I have the script and can access the underlying intelligence.

3 Q That script would presumably fall under this request, right?

4 A I would think so, yes. And, again, ODNI is the place for that.

5 Q But the FBI would also have the script in its possession?

6 A We do.

7 Q Okay. Counsel had made a representation that one of the allegations was

8 untrue as to failing to respond. Is that correct?

9 [redacted] Correct.

10 BY [redacted]

11 Q But taking the Senators' view at face value, perhaps when this letter was

12 written, and we're not here to sort of mediate factual disputes at this point as to whether

13 or not the FBI responded, can you understand why the Senators' view that this briefing

14 was political and pretextual is bolstered by the fact there hasn't been, according to them,

15 a response to their request?

16 A I don't have an opinion on their reactions to the briefings or our lack of or

17 responses so far to their request.

18 Q Let's go to the last paragraph on page 3. Quote, Simply put, the

19 unnecessary FBI briefing provided the Democrats and liberal media the vehicle to spread

20 their false narrative that our work advanced Russian disinformation. Although you

21 stated that the FBI didn't intend to, quote, interfere in our investigation, the practical

22 effect of such an unnecessary briefing and the subsequent leaks related to it created

23 interference, which frustrated and obstructed congressional oversight efforts.

24 Would you agree this is a very serious allegation from two United States Senators?

25 A I would.

1 Q Given that we've gone over this letter, let me ask you again. In any way, in
2 part or in full, did you provide Senators Grassley and Johnson the August 6th defensive
3 briefing in response to the request by Senate and House Democrats?
4 A No.
5 Q Other than their oral responses, did they provide you with any information,
6 the Senators?
7 A Not that I recall.
8 Q Other than the script, did you or Mr. Benavides do any additional
9 information gathering in furtherance of the briefing you gave these Senators?
10 A No.
11 Q Who specifically at the FBI directed you to provide that briefing?
12 A No one at the FBI directed me to provide that briefing. It was done under
13 the auspices of the defensive notification framework and the interagency coming to
14 consensus that a defensive brief was warranted.
15 Q And, again, not to be redundant, but to be clear, you do not recall if you
16 created any post-briefing record of their reaction or what you told them?
17 A Not a written record.
18 Q Okay.
19 Mrs. Spartz. So were you just saying information of what you received was
20 within the frameworks that you would have to do the briefing based on all the criteria.
21 Is that correct, my understanding?
22 Ms. Floris. Right.
23 Mrs. Spartz. In general it was presented in a way that generally it would lead you
24 to do briefing. Based on what you receive from whatever agency you receive, it would
25 be within the framework for you to do the briefing. Is that what your --

1 Ms. Floris. Absolutely, the underlying intelligence followed the spirit of the
2 defensive notification framework.
3 Mrs. Spartz. Do you think there was potential that someone tried to use you for
4 political reason?
5 Ms. Floris. I do not. Just given the number of agencies and individuals involved
6 in those conversations, all career intelligence officers and professionals, I do not think
7 that I was in any way set up to give this briefing.
8 Mrs. Spartz. Based on your investigation there were a lot of career officers
9 involved and the reality became a setup, so, you know, that's something. But I
10 understand you don't feel that way.
11 Ms. Floris. I do not, not at all.
12 BY [redacted]
13 Q Did you, Mr. Benavides, or anyone else at the FBI promise the Senators
14 confidentiality with respect to your defensive briefing?
15 A We probably said something -- or I said something along those lines. Again,
16 usually when I give a defensive briefing to an individual, I indicate their privacy is
17 paramount, and I have no intention of telling anyone that I've provided them a defensive
18 briefing.
19 Q To your knowledge, were the contents of your briefing leaked to The
20 Washington Post?
21 A Not to my knowledge.
22 Q Don't look at this any other way than a question.
23 A It's fine.
24 Q Did you leak the contents of that briefing to The Washington Post or any
25 other media?

1 A No.

2 Q Do you know if Mr. Benavides leaked the contents of that briefing?

3 A Not to my knowledge.

4 Q Okay. But you couldn't say one way or the other?

5 A Well, no, I couldn't.

6 Q Did either Senator Grassley or Senator Johnson express to you their concerns

7 that the content would be briefed -- would be leaked to the media?

8 A Not that I recall.

9 Mrs. Spartz. Does the timing of this leak ever seem strange to you, from your

10 assessment? Does it seem strange all of this happening with all the investigations?

11 Does it seem strange to you?

12 Ms. Floris. Not necessarily. We were in the height of the election season.

13 There was a lot of information flowing around D.C., so really, in my business, ma'am,

14 nothing actually seems strange at this point, but, no it was, again, at the height of the

15 election season.

16 Mrs. Spartz. Is it strange that the people that lead an investigation, it was

17 strange that this information just came to them, or it didn't seem strange to you in your

18 work?

19 Ms. Floris. No. The underlying intelligence, again, was from, you know,

20 multiple sources, reliable sources, a body of information, so it did not seem strange to

21 me.

22 Mrs. Spartz. In your report multiple sources, from lots of sources.

23 BY [redacted]

24 Q I want to show you what I think we previously marked as exhibit 2. Let

25 me --

1 A Yeah.

2 Q I want to direct your attention again to -- this letter indicates at the top, it

3 had an "Unclassified When Separated from Attachment." Do you understand what that

4 means?

5 A I'm assuming that with it was a classified attachment.

6 Q So are you aware that unclassified elements of the classified attachments to

7 this letter were leaked to the press?

8 A I have no awareness. I don't know what the classified attachment is.

9 Q According to the Senators, this leak permitted the press to accuse Senators

10 Grassley and Johnson of -- falsely label their investigation as promoting Russian

11 disinformation. Were you aware of this?

12 A No.

13 Q Were you aware that the media framed the Grassley-Johnson investigation

14 as relying on materials from a Russian agent?

15 A No.

16 Q Were you aware that around the time of the briefing that you gave to these

17 Senators, then-Chairman Schiff claimed that -- Schiff, excuse me -- claimed that -- or

18 Schiff -- Senators Grassley and Johnson's investigation into the Biden family's Ukraine

19 connection was the product of Russian disinformation?

20 A No.

21 Q Was it or is it your view that the Grassley-Johnson investigation into the

22 Biden family's overseas financial dealings in Ukraine were rooted in Russian

23 disinformation?

24 A I haven't read the investigation, so I can't speak to that.

25 Q Are you aware that just one day prior to your August 6th briefing, The

1 Washington Post ran a story titled, quote, "Senate Republicans advance Ukraine probe
2 aimed at Biden despite foreign interference concerns"?
3 A No.
4 [Floris exhibit No. 12
5 Was marked for identification.]
6 BY [redacted]
7 Q I don't know that you need to read the whole thing --
8 A Okay.
9 Q -- but I think you probably get the gist of it. I'm going to direct your
10 attention specifically to the second page and the first full paragraph, which begins, quote,
11 Senator Johnson is diverting his committee from oversight of the failing response to the
12 pandemic, even though over 4.5 million Americans have been infected, and is instead
13 facilitating a foreign influence operation to undermine our democracy, end quote, from
14 Biden campaign spokesman Andrew Bates.
15 Do you read The Washington Post?
16 A Sometimes.
17 Q Okay. Were you familiar with this story in particular?
18 A I am not.
19 Q Directing your attention to the first page of this exhibit, it states there this
20 story came out August 5th, 2020, correct?
21 A Yes.
22 Q 6:10 p.m. Eastern Time?
23 A Yes.
24 Q Okay. And this is one day before you gave your briefing to Senators
25 Grassley and Johnson?

1 A Correct.

2 Q Are you aware that Senator Richard Blumenthal published an op-ed piece in

3 The Washington Post on August 7, 2020, just one day after you briefed Senators Grassley

4 and Johnson, and claimed their investigation was, quote, perpetuating Russian

5 disinformation in the U.S. Senate?

6 A I was not aware of that article.

7 Q Showing you what has been marked as exhibit 13, putting that in the record.

8 [Floris exhibit No. 13

9 Was marked for identification.]

10 BY [redacted]

11 Q Just take a brief look at that, and then I'll direct your attention to the

12 relevant portion.

13 I'm going to direct your attention to page -- the second page of exhibit 13, last

14 paragraph. Quote, There is no excuse for perpetuating Russian disinformation in the

15 U.S. Senate, just as there is no excuse for barring the American public from learning more

16 about the genuine foreign threats in the November election.

17 Exhibit 12 is a Washington Post article critical of the Grassley-Johnson

18 investigation that comes out on August 5th, correct?

19 A Correct.

20 Q August 6th, you give the defensive briefing to Senators Grassley and

21 Senators Johnson, correct?

22 A Correct.

23 Q Now, August 7th, we get this op-ed from Senator Blumenthal who states

24 Russian disinformation is being perpetuated in the U.S. Senate.

25 In your view, did your August 6th briefing that you gave to these Senators play a

1 part in allowing Senator Blumenthal to make such a claim publicly?

2 A Not to my knowledge. He wouldn't have known the contents of the

3 briefing, at least not from the FBI. Again, we provided an all-House and all-Senate brief

4 on threats to the election in the days prior to my defensive briefs. As far as the contents

5 of those briefings, they were classified up to the SECRET/NOFORN level. Defer once

6 again to ODNI as far as the contents of that. My role in those briefings was not to

7 discuss the threat reporting. It was to discuss the FBI's response in preparation to the

8 elections.

9 Q Well, did you brief Senator Blumenthal on potential threat -- malign foreign

10 threats to U.S. elections?

11 A I can't recall if he was in the room. We did a series of briefings. Members

12 and Senators were coming in and out of the briefing, so --

13 Q At the bottom of page 2, the paragraph right before the one we just read,

14 the penultimate paragraph.

15 A Yes.

16 Q On Wednesday, the Post -- quote, On Wednesday, the Post reported that

17 Senator Ron Johnson, Republican of Wisconsin, Chairman of the Homeland Security and

18 Governmental Affairs Committee, is moving ahead with an investigation into presumptive

19 Democratic Presidential nominee Joe Biden's family using documents provided to the

20 Senator by the son of a former KGB officer. Johnson's actions are of such concern to the

21 CIA, according to news reports, that the Agency has refused to brief him. Think of it,

22 Congress may become a forum for debunked conspiracy theories peddled by Kremlin

23 proxies.

24 Did you see that paragraph?

25 A I did.

Q And then, again, the very next paragraph is the Senator saying there's no excuse for perpetuating Russian disinformation in the U.S. Senate, correct?

A Correct.

Q Do you see how, from the Senators' perspective, your briefing tied into a narrative that their investigation into Hunter Biden is Russian disinformation?

A I won't speak to why the Senator thinks certain things.

Q Let's put the Senators aside. August 5th, we have The Washington Post piece that's critical of the investigation; August 6th, we have your briefing; August 7, we have Senator Blumenthal's op-ed.

You would agree that the timing of the briefing book-ended by these two pieces bolsters the media and Democrat view that the investigation these Senators ran was based upon Russian disinformation?

A No one knew the contents of my defensive briefing, so I don't think that's a fair statement. I think a better statement is that the contents of the threat briefing that ODNI, NSA, CIA, FBI, and other partners provided to all Members and all Senators may have been the impetus to some of this. I can't confirm that. All I know is that the contents of my defensive briefing was private and germane only to the Senators and myself and the individuals who wrote the script.

[redacted] Okay. I realize that we are up on time, so we'll go off the record.

[Recess.]

[redacted] Okay. Let's go on the record, please. It is 1:10.

BY [redacted]

Q Good afternoon again, Ms. Floris. I'm going to start by just responding to some of the lines of question that happened in the last hour.

First, with respect to the exhibits 9 and 10, which Congressman Gaetz

1 introduced -- do we have -- could we get examples of those back up here, 9 and 10?

2 [redacted] Nine and 10?

3 [redacted] Please.

4 Here we go. I'm sorry, but if we could just -- do you mind just sharing those two?

5 [redacted] No.

6 [redacted] Okay.

7 BY [redacted]

8 Q So, Ms. Floris, we put before you again what's been marked as exhibit 9,

9 which is -- appears to be a screenshot of a text message or some kind of instant message

10 from a person who is identified as Scott Adams, and it appears from the screenshot that

11 the message was sent on March 31st, 2021, at 7:39 p.m. And you indicated in the

12 earlier hour that you've never seen that message before. Is that right?

13 A That's correct.

14 Q And you have no knowledge of the events that are described in that --

15 A Correct.

16 Q -- or purportedly is described?

17 A That's correct.

18 Q Okay. And then putting that next to exhibit 10, exhibit 10 is what purports

19 to be a tweet from a source account @IsraelinNewYork, and the tweet appears to have

20 been sent on September 23rd, 2021. That line of questions, if you recall, by the

21 Congressman seemed to characterize the events described in the message in exhibit 9 as

22 some kind of discussion of an extortion attempt. Is that a fair description of what those

23 questions seemed to be saying?

24 A I think.

25 Q Okay.

1 A Again, with no knowledge as to what this story is, it was hard to determine
2 the line of questioning.
3 Q Very well. And is it fair to say that you don't know any of the people that
4 are referred to in this message, including Bob Kent?
5 A That's correct.
6 Q You know who Congressman Gaetz is?
7 A Yes.
8 Q But you didn't know of the allegations that are described in this exhibit?
9 A That's correct.
10 Q And I think there is a person named Levinson referred to. Do you know
11 who that person is?
12 A The only Levinson I know is the former FBI agent.
13 Q Okay. As far as we know, that's not a former FBI agent that we're referring
14 to?
15 A Correct. Correct. Again, I have no idea.
16 Q Okay. And there's also a person McGee. Do you have any idea who that
17 person is?
18 A I do not.
19 Q Okay. Just if we accept that what is described in here is extortion, fair to
20 say extortion is a crime, is that right, in your experience?
21 A That's correct.
22 Q And the FBI might have some responsibility in some situations for
23 investigating extortion potentially. Is that correct?
24 A That's correct.
25 Q But that wouldn't be your job in the Counterintelligence Division with FITF, if

1 it's strictly a criminal investigation. Is that fair to say?

2 A I -- that's generally fair to say. If a foreign government was involved in the

3 extortion for the goal of ultimately influencing the Congressman, perhaps that was

4 something we would get involved in, but it's hard to decipher from these two documents.

5 Q Sure. So let's talk about what you just said. If a foreign government was

6 involved, that might be something that would trigger the interest of FITF or the groups in

7 the FBI that you worked with, right?

8 A Correct.

9 Q Okay. So if we looked at exhibit 10, again, the tweet, this tweet purports to

10 be from the Israeli consulate, if we take it at face value. And if you look at the -- I guess

11 it's the second tweet, subtweet 2/4, so right here on this exhibit, that tweet says, quote,

12 The consulate general of Israel and New York and the state of Israel are not involved in

13 any way, directly or indirectly, in this issue.

14 Did I read that correctly?

1 [1:13 p.m.]

2 Ms. Floris. You did.

3 BY [redacted]

4 Q Again, having no idea whether this is even from the consulate of Israel,

5 assuming it is, that appears to say that this person acting in the conduct described in

6 Exhibit 9 is actually not being directed by Israel, correct?

7 A That's how I read it just based on that tweet, but --

8 Q Of course, you have no knowledge of whether that's true because you

9 weren't involved in any of these investigations, right?

10 A Correct.

11 Q But as it's stated in the exhibit that was introduced, the state actor here, the

12 consulate of Israel, has disavowed any action and said that this person was not acting at

13 their direction according to the exhibit?

14 A According to this tweet, correct.

15 Q Okay. So in addition to somebody acting on behalf of the state in order to

16 trigger the FBI's interest in terms of foreign influence, you also mentioned in some of your

17 prior description that there would need to be an intent to influence an election or -- the

18 intent of the state actor would be relevant to the inquiry that the FBI would have. Is

19 that right?

20 A It would be, yes.

21 Q So what would be the relevance of the state's intent with respect to the FBI's

22 interest in that kind of activity?

23 A If the intention was to influence the election, it falls into the defensive

24 notification framework in that interagency process. If the intent was to influence a

25 congressman's policy or views on U.S. relations with Israel, for example, that would be

1 traditional malign foreign influence wherein that primarily falls in the remit of the FBI.
2 So trying to determine the intention of the foreign actor is important regarding what
3 course of action we will ultimately take.
4 Q Okay. And in this case, at least on the face of it, this action was not taken
5 on behalf of a foreign actor, right?
6 A Again, based on what I'm seeing, I don't even know if this is a real handle.
7 So I can't answer that question.
8 Q Sure. So let's pose a hypothetical.
9 Suppose you have an employee of a foreign consulate, any foreign government.
10 Foreign consulates are going to employ a lot of people, especially if it's a large one,
11 correct?
12 A Correct.
13 Q Maybe especially one that's in New York, for example. Is that fair to say?
14 A That is fair to say.
15 Q And is it possible that among the employees who are working at a consulate
16 in New York for Israel or any other country, there might be an employee who commits
17 some kind of criminal conduct?
18 A That is possible.
19 Q Okay. And the fact that a person who is employed by a consulate or a
20 government is committing a crime does not necessarily mean that that crime is attributed
21 to the country that employs that person. Is that fair to say?
22 A That's fair.
23 Q You would need to do a lot more investigating to figure out if the person
24 who committed the crime is actually working on behalf of the government. Is that fair?
25 A That's fair.

1 Q And in this case, at least in the exhibit, the state of Israel is denying that this
2 person is acting on their behalf?
3 A As far as I read it, yes.
4 Q Okay. And we don't have any other evidence in this record that suggests
5 that this person is actually working for Israel. Is that fair to say?
6 A That's fair. I don't even know who the person is at this point.
7 Q Sure. Sure. Now, hypothetically, again, like, if you in your position with
8 the Counterintelligence Division or FITF had access to some kind of intelligence suggesting
9 that this person or some person was committing a crime against a U.S. congressman on
10 behalf of a foreign government, that would interest you. Is that fair to say?
11 A Absolutely.
12 Q And that information typically would come to you through your normal
13 intelligence channels within the intelligence community. Is that fair to say?
14 A Fair.
15 Q And that could be from human sources, potentially. Is that right?
16 A It could be, yes.
17 Q Or signals intelligence, potentially?
18 A Correct.
19 Q A variety of different means, right?
20 A Right.
21 Q And in this case, as far as you know, you had no information from any of
22 those channels that there was any actor on behalf of the state of Israel or any other
23 foreign government who was targeting Congressman Gaetz with respect to criminal
24 activity at that time?
25 A Correct.

1 Q Okay. And if you had received that information, you would have acted. Is
2 that fair to say?
3 A Most likely, we would have acted, yes.
4 Q Can you describe what you would have done in that hypothetical situation if
5 you had credible intelligence that there was a state actor trying to target Congressman
6 Gaetz or any other congressman with criminal activity?
7 A We would likely do a defensive brief to that congressman with as much, you
8 know, detail and information as we're capable and able to share.
9 Q Okay. Did Congressman Gaetz or anyone from his office ever come to you
10 or anyone in the FBI, to your knowledge, to report this alleged crime?
11 A To my knowledge, no. That doesn't mean it didn't happen. He could have
12 done it through his local field office. It just never came to my attention if it did happen.
13 Q I mean, if the congressman had become aware of a criminal activity that was
14 directed at him or his family, normally, would you expect that to come to the FBI's
15 Criminal Division, or is there a certain process that you might expect that information to
16 come to the FBI?
17 A Generally, it comes in through our Office of Congressional Affairs. I believe
18 we have OCA contacts -- support and contacts in the FBI office. But really, at least from
19 the FBI perspective, it doesn't matter how it comes in. If it comes in, we will action it
20 and get it where it needs to be.
21 Q And when you say "we," you're talking about the FBI generally?
22 A The FBI. But depending on what the information is -- again, if there's an
23 election element to it, it becomes an IC-wide issue. If it somehow impacts IC equities,
24 certainly, we would engage with our IC partners.
25 Q And if you had -- let's just say this. There seemed to be a suggestion in the

1 line of questioning earlier that you intentionally -- "you" meaning the FBI and, I guess,
2 "you" meaning personally -- intentionally avoided access to this story that was
3 characterized as widespread in the media because you didn't want to help a Republican
4 congressman. Did you hear that accusation to some degree?
5 A Not in those words exactly. The congressman did seem to think that the
6 FBI was aware of this. But, again, just because I'm not aware doesn't mean that
7 somebody in the FBI wasn't aware.
8 Q Do you think that the FBI tries to avoid situations that prejudice Republican
9 congressmen because you don't want to help Republican congressmen?
10 A That is not how we operate. We don't give any sort of partisan politics
11 consideration when we engage and do either our investigative or intelligence mission.
12 Q Okay. I'm going to set those aside.
13 You also had a series of questions from Congresswoman Spartz. And that set of
14 questions, if you recall, included an allegation of what I believe was characterized as open
15 criticism from a foreign state government of her policies or actions. Do you recall
16 those?
17 A I do. I don't know exactly what she was referring to, but I get the general
18 gist of what she was saying.
19 Q Okay. And is it fair to say that my recollection is correct that the alleged
20 foreign action was overt or open or something to that effect in that scenario?
21 A I believe she indicated it was from the Ukrainian, like, official state media
22 page, which is, in effect, overt influence.
23 Q So if you in your position at FITF or the FBI had knowledge of a foreign
24 government overtly criticizing a member of Congress, would that implicate any of the
25 equities in the foreign influence operations field?

1 A It wouldn't. Again, the overt nature of foreign governments -- that's
2 diplomacy. That would not really fall to the purview of the FBI.
3 Now, if there was an actor operating in the online space masquerading as an
4 American, for example, but that individual was actually operative of the Ukrainian
5 Government, that's where it would become of concern to the FBI, an investigative
6 concern. But Ukrainian state media pushing out information about an American official,
7 as frustrating and annoying as that may be, it is not in the purview of the FBI, and there's
8 not much we can do about that.
9 Q Okay. Have you ever received any complaints from the congressman or
10 anyone else in Congress about covert efforts on the part of the Ukrainians or any other
11 state to target them?
12 A Not to my knowledge.
13 Q If you had, would you have responded to them in the same way as if you
14 would to a Democratic congressperson?
15 A We would have responded the same no matter what it is. If it's covert
16 action and somehow it's been attributed to a nation-state actor, that would be of concern
17 to the FBI regardless of who the target of that activity was.
18 Q Okay. And then, again, there were a series of questions -- I think many
19 from Congressman Biggs -- with respect to the exhibits that we had introduced in the
20 earlier hour, the framework, which was our Exhibit 3, as well as Mr. Evanina's statement.
21 And, again, for clarification, I think it's important that we ask you to differentiate
22 between the interests that the FBI has in authenticating the source of information versus
23 authenticating the content of information that is sent around.
24 Could you, again, just in simple terms, explain -- you know, when you're going
25 through the framework that we described in Exhibit 3, and you have that first step where

1 you talk about credibility, what -- what does the credibility refer to that you're trying to
2 determine? The credibility of what?
3 [redacted] Can I just add, you referred to Exhibit 3 as the framework, and I just
4 wanted to be clear that that -- my understanding is that it is not in and of itself the
5 framework. There are additional materials that are not necessarily publicly accessible
6 online.
7 A That's correct. So the framework itself is much longer. Probably 10 pages
8 or so. That's a one-pager summarizing what the framework is.
9 BY [redacted]
10 Q Got it. Okay. But I guess I mean, like, the progress that is described in
11 that first step with respect to credibility of intelligence that comes through the IC. And
12 I -- sorry. I forgot what it's called.
13 A The CAG.
14 Q The CAG. When the IC is determining -- is making that credibility
15 determination within that group in the process, what is it that you're trying to determine
16 in terms of -- credibility of what?
17 A So primarily, credibility of the source, the body of reporting. As far as the
18 content, you know, is there any corroborating intelligence? And that is something that
19 doesn't just happen in the CAG. That is an analyst's job.
20 If we see a piece of information come in, step one is to try to verify and
21 understand what the source of that information is. Step two is then to see if there's any
22 corroborating reporting because that usually gives more merit to what that piece of
23 information is. And then we try to determine how that one piece of information fits into
24 the broader storyline that we're looking at.
25 So for Russia, for example, if we get a piece of information that Russian actors

1 plan to do A, B, and C, first, what is the source of that information? Do we have any
2 corroborating reporting that we've seen these same types of Russian actors talk about
3 doing A, B, and C? And how does doing A, B, and C fit into the broader context of
4 Russia's foreign influence agenda?
5 So it is not a decision that is made on the spot. There's a lot of thought and
6 critical thinking that goes into it. That is the job of an intelligence analyst.
7 Q Okay. And you say -- you're looking at whether -- in this example, a Russian
8 actor is going to do A, B, and C. Again, your focus is on the actions of the Russian. It's
9 not on the content of A, B, and C or whatever it is that they're pushing out into the world,
10 correct?
11 A It is not. That becomes a bit of a tricky space when you talk about content
12 monitoring. That content -- an American person can push out that content. That is
13 why there's "foreign" in the Foreign Influence Task Force because we're focused on the
14 foreign actors.
15 Q And your focus is on the fact that this is on the source, not the information?
16 A Primarily on the source. But, again, we do try to corroborate the
17 information as well because if the information is something we've seen in multiple
18 sources -- human sources, technical sources, foreign government -- that probably means
19 there's a "there" there. If this is the first time we've ever seen the information but it's
20 from an uber-reliable source, we usually tend to just caveat that. You know, law
21 information from a well established source.
22 So there's a whole host of how analysts describe information we get depending on
23 the sourcing of that information and then if we've seen the content of the information
24 elsewhere.
25 We don't assess whether that content is accurate, if that makes sense. So if the

source says the sky is blue, we don't necessarily say, well, is the sky in fact blue? Our first step is, okay, who is the source? What does he or she have access to? And then who else has said that the sky is blue? And if multiple sources have said the sky is blue, we'll assess with some level of credibility that the sky is blue. I know that's a very simplified response, but that's generally how we look at it.

BY [redacted]

Q I'm going to ask about a different example.

So let's say you have intelligence coming in that the Iranians are creating false accounts on a social media website saying that the election is on Wednesday and not Tuesday.

You're saying -- you're looking at the source of what that information is, and then you're looking at, are other people also saying that Iranians are doing that? You're not actually looking at -- that they're saying that the election is on Wednesday instead of Tuesday. You're not interested in that specific claim. You're interested in the fact that Iranians are doing it. Is that fair?

A Primarily interested in that it's the Iranians doing it. Who are these actors? So are these just individual Iranian actors, or are they tied to the MOIS or the IRGC? And then we say, okay, is there other reporting that Iranian actors are going to push out information about voting day being Wednesday vice Tuesday?

The last step would then be, like, wait. Is, in fact, voting day Wednesday or Tuesday? That may come up in a conversation, but that's not the primary vehicle we use to assess the credibility of the reporting.

Q And when you say you're looking for corroborating information, that's other people -- or other sources that agree that the Iranians are posting this, not corroborating sources about what day Election Day is?

1 A It's both. So if we've got other sources saying Iranian actors are going to
2 push out that Election Day is Wednesday, that would definitely be of concern to us as
3 well.
4 Q Are you looking -- are you fact-checking which day Election Day is in the
5 original credibility assessment?
6 A Not that I know of. That would probably be a question, like, better suited
7 for the folks who actually sat on the CAG.
8 BY [redacted]
9 Q Okay. I'm going to ask you some questions sort of about the origin of FITF.
10 We haven't even gotten into that, and I think it helps to frame a lot of the work that
11 you've described here today.
12 A Sure.
13 Q First of all, before FITF was formed in 2017, we had a significant event, which
14 was the Presidential Election in 2016.
15 Do you agree with the intelligence community assessment that Russia interfered
16 in that election?
17 A I do.
18 Q Okay. And just high bar here, could you describe that interference?
19 A Much like what was out in the intelligence agency report, the CISA report.
20 You had cyber operations. You had influence campaigns. You know, two arms of the
21 Russian intel services involved in efforts to undermine the credibility of the election,
22 ultimately to discredit then Presidential campaign - or Candidate Clinton's campaign.
23 Q Okay. Is it fair to say that the Russian interference in the 2016 Election,
24 among other things, included the hacking into the DCC and the DNC computer system
25 there and leaking derogatory information to WikiLeaks in order to denigrate Hillary

1 Clinton and assist Donald Trump?

2 A That's correct.

3 Q That was a finding of Special Counsel Mueller as well as, like, many of the IC

4 reports that came out with respect to the election?

5 A Correct.

6 Q This type of foreign interference is sometimes referred to as hack-and-leak

7 or hack-and-dump. Is that correct?

8 A That's correct.

9 Q Okay. Now, after the 2016 Election, we just said there was widespread

10 consensus among U.S. intelligence and Federal law enforcement agencies that Russia was

11 responsible for that leak, correct?

12 A Correct.

13 Q And these findings were well documented in the Mueller report as well as in

14 an October 7th, 2016 statement from the Department of Homeland Security and the

15 Office of the Director of National Intelligence, which we'll mark as Exhibit 14.

16 [Floris Exhibit No. 14

17 Was marked for identification.]

18 BY [redacted]

19 Q Okay. I will give you a chance to look at that exhibit. Let me know when

20 you've had a moment to look at it.

21 A Okay.

22 Q Okay. Exhibit 14 is titled, "Joint statement from the Department of

23 Homeland Security and Office of the Director of National Intelligence on election

24 security," dated October 7th, 2016.

25 Are you familiar with this statement?

A I don't know if I've actually read the exact statement, but I'm, in general, familiar with it.

Q Okay. Is it fair to say this is a three-paragraph statement that confirms that Russia directed the 2016 hack-and-dump operation against the DCC and the DNC in order to interfere in the election in 2016?

A Correct.

Q Now, in addition, after the election, later in August 2020, the Senate Select Committee on Intelligence published a report on Russian active measures campaign and interference in the 2016 Election.

Are you familiar with that report?

A In general, yes.

Q Okay. I'm going to mark that as Exhibit 15.

[Floris Exhibit No. 15

Was marked for identification.]

[redacted] This is the cover page and the findings section.

[redacted] Thank you.

BY [redacted]

Q There's a highlighted portion I could draw your attention to, which is on page -- Roman numeral seven in this copy. Do you see that?

A I do.

Q Okay. The highlighted section -- the first sentence under the title "hack-and-leak" section of the findings reads, quote, "The committee found that Russian President Vladimir Putin ordered the Russian effort to hack computer networks and accounts affiliated with the Democratic Party and leak information damaging to Hillary Clinton and her campaign for President."

1 Did I read that correctly?

2 A You did.

3 Q And do you agree with those findings?

4 A I do.

5 Q Okay. In addition to tactics like the DNC hack-and-leak operation, Russia

6 also interfered in the 2016 Election by engaging in a sweeping covert social media

7 campaign designed to interfere with the American political process and to undermine

8 confidence in the U.S. democratic process. Is that fair to say?

9 A That is.

10 Q Are you familiar with the Internet Research Agency?

11 A I am.

12 Q And what is it, in your experience?

13 A Basically an arm of the Russian Government who is tasked -- at least as I

14 remember it, tasked with malign foreign influence campaigns with a focus on social

15 media.

16 Q Okay. And I'm going to mark as Exhibit 16 the indictment in Case No.

17 1:18-cr-32-DLF, U.S. v. Internet Research Agency, et al. This case was filed in the U.S.

18 District Court for the District of Columbia in 2018 following Special Counsel Mueller's

19 investigation.

20 [Floris Exhibit No. 16

21 Was marked for identification.

22 BY [redacted]

23 Q Are you familiar with this case?

24 A In general, yes.

25 Q Okay. You didn't work on it, though?

1 A I did not, no.

2 Q According to paragraph four of the indictment, which is on page 3, the
3 Russian defendants in this case, quote, "posing as U.S. persons and creating false U.S.
4 personas operated social media pages and groups designed to attract U.S. audiences.
5 These groups and pages, which addressed divisive U.S. political and social issues, falsely
6 claimed to be controlled by U.S. activists when, in fact, they were controlled by
7 Defendants. Defendants also used the stolen identities of real U.S. persons to post
8 on" -- and it says "organization," which refers to the IRA -- "controlled social media
9 accounts.

10 Over time, these social media accounts became Defendants' means to reach
11 significant numbers of Americans for purposes of interfering with the U.S. political
12 system, including the Presidential Election of 2016," end quote.

13 Now, the conduct described in paragraph four of this indictment is sometimes
14 referred to as the activities of a troll farm. Have you heard that?

15 A I have.

16 Q Okay. And can you explain in your own words, like, what is it that troll
17 farms do?

18 A To the best of my ability, understanding I am by no means an expert in this
19 area, a troll farm is an entity that creates social media content and then uses bots to get
20 that content out to as many people as possible. So it looks as if multiple individuals are
21 saying the same thing or a tweet gets millions of likes. But oftentimes, these troll farms
22 create their own content. Oftentimes, they just push out content that is in line with
23 their objectives.

24 So if their objective is to drive a wedge between China and Taiwan, and there's
25 already reports out there and tweets out there about driving a wedge, they would just

1 propagate that through using bots.

2 Q Is it fair to say that that activity is somewhat covert in the sense that the

3 identity of these trolls is not known to the people who see their content on the internet?

4 A That's correct. That's the primary objective, is to obfuscate any affiliation

5 with the foreign actor -- foreign government.

6 Q And sometimes, these trolls actually pretend that they're somebody that

7 they're not. Is that fair to say?

8 A That is very fair to say.

9 Q Okay. And so in this case, in paragraph four of the indictment that we just

10 described, that's exactly what was happening. There were people that were actually

11 sitting in Russia and working at the behest of the Russian Government and the IRA who

12 were pretending to be Americans and posting content on the internet in order to

13 influence Americans. Is that fair to say?

14 A Correct.

15 Q And the reason that that's of concern to the FBI is because of that covert

16 element and the intent to influence without transparency?

17 A Correct.

18 Q Okay. Later in the indictment, in paragraph 10, which is on page 6 -- it's

19 paragraph 10, subsection C, near the top of Page 6.

20 The DOJ notes in the indictment that the defendants sought to conduct what it

21 called, quote, "information warfare against the United States," end quote, "through

22 fictitious U.S. personas on social media platforms and other internet-based media."

23 Were you aware that, during this investigation, the defendants allegedly, as

24 described in this indictment, characterized their own actions as, quote, "information

25 warfare against the United States of America"?

1 A Not specifically. I was not involved in the investigation. But of my
2 understanding of the IRA, that seems to fall in line, at least at that time, with what they
3 were doing and how they would classify it.
4 Q And that's a pretty overt statement of exactly what their motivation was. Is
5 that fair to say?
6 A That's fair.
7 Q Now, the actual criminal charge in this indictment is conspiracy to defraud
8 the United States. And the theory presented in the indictment is that the defendants
9 conspired to defraud the United States by, quote, "impairing, obstructing, and defeating
10 the lawful functions of the Federal Election Commission, the U.S. Department of Justice,
11 the U.S. Department of State, in administering Federal requirements for disclosure of
12 foreign involvement," end quote, "in our elections."
13 So the key criminal element of this activity is not the content or the message that
14 was spread by the troll farms, but rather the fact that a foreign adversary was covertly
15 spreading misinformation with the purpose of influencing our elections while concealing
16 that fact -- the fact that the influence was coming from Russia. Is that fair to say?
17 A Yes.
18 Q And that's exactly the heart of what the FBI with FITF is going to be trying to
19 prevent when it's formed about a year later?
20 A Correct.
21 Q Okay. The Foreign Agents Registration Act or FARA requires that foreign
22 states and their proxies register and disclose their activities so that the U.S. Government
23 and the American people are informed about the source and identity of the persons who
24 are attempting to influence U.S. public opinion, policy, and law.
25 To your knowledge, does DOJ have enforcement responsibilities under FARA?

A They do.

Q Okay. I'm going to show you --

BY [redacted]

Q We talked a little bit about -- you're not -- the focus of this indictment -- the focus of the Foreign Influence Task Force isn't on the content that is being spread but the fact that it is being spread by a foreign government.

A lot of the examples that we used today are straight-up lies, right? The Election Day is on Wednesday, not on Tuesday.

A Uh-huh.

Q I think that we have a pretty good understanding of why that is harmful.

But is it true that malign foreign influence campaigns can also use true information?

A They can. So, again, Russia is not the only actor in this space. It really depends on what the intentions and motivations of the foreign government are.

But let's take Russia, for example. One of their key drivers is to really build this divisive wedge in the American populous. So they will push out information about gun laws, for example, and promote stories on both sides -- pro-, anti- -- not with the intention to push out disinformation, but with the intention to put -- to pit us against each other. That is in their agenda. That is what they are trying to do because if we're fighting each other, we're not looking at Russia.

So foreign influence actors can certainly push out true information. The intention behind that is nefarious in intent, absolutely.

Q But some people argue that this -- if I am repeating the things that a -- or if I am retweeting the things that a troll account or Russian account posts, that's my First Amendment right. And obviously, as a citizen, I am allowed to do that on social media.

1 A Sure.

2 Q Why doesn't the troll account, the Russian account, have that same right?

3 A Because they're not a U.S. person. They don't fall under our U.S.

4 Constitution and our protections we have for American people. And, again, it goes back

5 to why we don't start with content.

6 So if I see a post that says, you know what, President Biden is terrible and should

7 be fired. Great. If that post is from an American, so be it. If that post is from a

8 covert Russian actor who is attempting to stir the pot, and we somehow know that

9 through intelligence channels that that's a Russian actor masquerading as a U.S. person,

10 we would be somewhat concerned about the Russian actor.

11 Q An example of this is in the IRA indictment in paragraph 46. It's on Page 18.

12 A Page 18, you said?

13 Q Yeah. In paragraph B, they refer to an account -- an Instagram-controlled

14 account called "Blacktivist" that is encouraging people to vote third party.

15 That encouragement of people to vote third party isn't what the FBI is interested

16 in, right?

17 A Correct. It's that the defendants masqueraded as Americans online.

18 Q And that account, "Blacktivist," also, in other instances, posted about true

19 things -- like, posted a true video of police brutality unedited. But the problem with that

20 is not that they posted the video. It's that they are covertly a Russian account, correct?

21 A Correct. Correct.

22 [redacted] You can set that down, if you don't mind.

23 And I'm going to mark as Exhibit 14 -- right? Oh, my goodness. Sorry. 17. A

24 June 21st, 2023 letter from Assistant Attorney General Carlos Duarte to Chairman Jordan.

25 [Floris Exhibit No. 17

1 Was marked for identification.]

2 BY [redacted]

3 Q Ms. Floris, are you familiar with this letter?

4 A I am not.

5 Q Okay. Just take a minute to look at it. And specifically the part on page 2

6 that starts under the heading "Countering foreign malign influence operations."

7 Good?

8 A Yeah.

9 Q Okay. In that paragraph under "Countering foreign malign influence

10 operations," the assistant attorney general refers to the special counsel's indictment that

11 we just went over.

12 A Uh-huh.

13 Q U.S. v. the IRA. And the, quote, "information warfare," end quote, that the

14 Russian defendants waged against the United States during the 2016 Presidential

15 Election.

16 Do you see that referenced in the letter?

17 A I do.

18 Q On top of the third page, the letter continues, quote, "The FBI established

19 the Foreign Influence Task Force or FITF in 2017 to identify and counteract foreign malign

20 influence operations targeting the United States," end quote.

21 Do you see that statement?

22 A I do.

23 Q And are you aware that this was the original purpose of FITF?

24 A I am.

25 Q Okay. Is this statement consistent with your understanding of the purpose

1 of FITF as it operates today?

2 A Yes.

3 Q Okay. Are you familiar with -- you can set that letter down. Thank you.

4 Are you familiar with former President Trump's Executive Order 13848 titled,

5 "Imposing certain sanctions in the event of foreign interference in a United States

6 election," which was signed by him on September 12th, 2018?

7 A I am not.

8 Q Okay. I'm going to mark as Exhibit 18 that executive order.

9 [Floris Exhibit No. 18

10 Was marked for identification.]

11 Ms. Floris. Oh, it's familiar now once I see the meat of it.

12 BY [redacted]

13 Q Okay. Looking at the beginning of the second paragraph of the order, it

14 begins, "I, Donald J. Trump."

15 A Uh-huh.

16 Q The order states, quote, that President Trump found, quote, "the ability of

17 persons located in whole or in substantial part outside the United States to interfere in or

18 undermine public confidence in United States elections, including through the

19 unauthorized accessing of election and campaign infrastructure or the covert distribution

20 of propaganda and disinformation, constitutes an unusual or extraordinary threat to the

21 national security and foreign policy of the United States."

22 Did I read that correctly?

23 A You did.

24 Q Okay. How does FITF seek to disrupt the threat that was identified by

25 former President Trump's executive order, particularly the part addressing the covert

1 distribution of propaganda and disinformation?

2 A Yeah. So if memory serves me correct, there are kind of three pillars that

3 the FITF used in furtherance of this objective. We had our investigations, which is our

4 law enforcement mission, the bread and butter of what we do.

5 So a FITF investigation could be on, for example, a Russian foreign influence actor.

6 We have our intelligence. So everything we've been speaking about. Our ability to

7 collect information, analyze that information, disseminate that information, and

8 ultimately action that information. For example, the defensive briefings.

9 The last pillar is partner engagement. So based on what happened in 2016,

10 everything that we just went over with the indictments and the findings in the various

11 reports, we knew that we had to essentially arm social media companies with as much

12 information as possible so that they could harden their own platforms against any

13 nefarious activity.

14 So a big aspect of what the FITF did was engagement with social media companies

15 to provide them actual intelligence so that they had an awareness that foreign actors

16 were attempting to abuse and use their platforms in furtherance of their objectives.

17 Q So we'll get into that in a little more depth later.

18 But is it fair to say that when the FBI was providing that information, you were

19 doing it for the benefit of the social media companies so that they could protect their

20 own platforms under their own terms of service?

21 A And the benefit of the American people. You know, one would like to think

22 that information Americans receive is righteous and factual. Obviously, that's not the

23 case always. But it was not just for the benefit of the social media companies, but it was

24 also for the American people. And ultimately -- you know, selfishly, the IC and the U.S.

25 Government wanted to render these operations ineffective.

1 Q Okay. So you believed that transparency for the public would help render
2 the operations ineffective?
3 A I do.
4 Q Okay. So back to the executive order there on Exhibit 18.
5 Can you say generally why you think the work of FITF is important for the national
6 security objective that President -- former President Trump articulated?
7 A Again, I mean, as -- just given our authorities, our ability to investigate these
8 foreign actors that are doing this activity, our ability to engage with social media
9 companies and be that interlocutor between the IC and social media companies to action
10 that information, all, again, with the end goal of rendering these operations ineffective
11 and ultimately protecting our democratic processes.
12 Q And the operations that you are referring to are like the ones that were
13 described in the indictment of the IRA?
14 A Correct.
15 Q The troll farms, for example?
16 A Correct.
17 Q Okay. When the FITF was established by the director of the FBI in 2017 to
18 counteract foreign malign influence operations targeting the United States, who held that
19 position of FBI director? That was 2017.
20 A I should know. I actually don't know when Comey left and Director Wray
21 came in.
22 Q Okay. So you don't know --
23 A I should know.
24 Q It's okay.
25 A I think it was 2017. I just don't know what year or what day in 2017.

1 Q Got it. Okay. Well, in 2017, whoever the director of the FBI was -- I'll
2 represent to you that it was Director Wray at the time that FITF was formed.
3 A I'm pretty sure it was Director Wray because when he testifies, he says, I
4 established the FITF.
5 Q Okay. And who appointed Director Wray?
6 A President Trump.
7 Q Have you ever -- well, actually, sorry.
8 In your experience, has FITF operated in the same manner under both the Trump
9 and Biden administrations?
10 A They have.
11 Q And have you ever seen or heard of anyone from the White House in either
12 administration attempt to exert political pressure or influence the work done by FITF?
13 A No.
14 Q Have the decisions that you've made as an FBI employee and that you've
15 observed from other FBI employees ever been influenced at any time by partisanship,
16 ideology, or political considerations?
17 A No.
18 Q Have you ever witnessed other employees of the FBI appearing to make
19 work-related decisions in a manner that's motivated by partisanship, ideology, or political
20 considerations?
21 A No.
22 Q What would you have done if you had witnessed such improper conduct by
23 an FBI employee?
24 A Likely called them out on it. Made notification to his or her supervisor.
25 Again, it is something that is absolutely paramount. And I think specifically to FITF,

1 being the entity tasked with being the election security lead, there's absolutely no wiggle
2 room for that.
3 Q And you started to already get into the next subject that I want to address
4 when you talked about the three-pronged -- the three-pillar approach at FITF.
5 A Sure.
6 Q So regarding FITF operations -- that's what I'm going to sort of have you
7 describe for us a little bit.
8 You mentioned that there are three buckets or categories of work that FITF is
9 assigned to do. One is investigations and operations. Another is information and
10 intelligence sharing. And finally, private sector partnerships. Did I characterize that
11 right?
12 A You did.
13 Q This is from your testimony.
14 A That's what I was thinking. It's from my testimony.
15 Q Do you recall testifying before this committee in 2018? I think October.
16 A Yes, I do.
17 Q Okay. I don't remember the exact date. I'm sorry.
18 A No, it was -- you're close. It was October 2019, I believe.
19 Q Okay. And the subject of that testimony was what FITF does, the work of
20 FITF?
21 A Correct.
22 Q Okay. And in that testimony, you described those three prongs that we
23 just mentioned. And so with respect to the first one, investigations and operations, you
24 actually gave some detail and examples of the kind of work that's done under that prong.
25 Is it fair to say that FITF works with 56 FBI field offices across the country to

1 counter the extensive influence operations of foreign adversaries by working with the
2 Cyber Division, the cyber task forces, to determine attribution of covert foreign actions
3 and quickly respond to those threats?
4 A That's accurate.
5 Q Okay. And that's the description of the investigations and operations side?
6 A Correct.
7 Q Okay. During your testimony before the committee, you discussed some
8 examples of FITF's investigations work. Do you recall your testimony?
9 A Generally. High level.
10 Q One example that you provided, FITF's investigations work was the
11 investigation leading to the indictment of Elena --
12 A Portina?
13 Q Well, this one is Elena Khusyaynova. It's spelled K-h-y-s-y-a-y-n-o-v-a. A
14 Russian national with criminal violations stemming from her efforts to influence the 2016
15 and 2018 Elections in her role as chief accountant of Project Lakhta, which is L-a-k-h-t-a, a
16 Russian disinformation organization connected to the Internet Research Agency that had
17 budgeted over $10 million for the first half of 2018 to finance initiatives to influence
18 unwitting American political organizations and advocacy groups.
19 Do you recall that investigation or speaking about that investigation?
20 A Not in any detail. I mean, essentially, she was the accountant for Lakhta in
21 IRA. So she had involvement. Very similar activity in the previous complaint that we
22 read.
23 Q Okay.
24 A That's the extent of my knowledge of her.
25 Q I'm going to mark as Exhibit 19 the indictment in U.S. v. Elena Alekseevna,

1 A-l-e-k-s-e-e-v-n-a, Khusyaynova, K-h-u-s-y-a-y-n-o-v-a, out of the Eastern District of
2 Virginia, Case No. 1:18-MJ-464, September 28th, 2018.
3 [Floris Exhibit No. 19
4 Was marked for identification.]
5 BY [redacted]
6 Q Okay. Obviously, I don't want you to read the whole indictment. But if
7 you look at paragraph 15, page 6, there is a Roman numeral three, "Manner and means of
8 the conspiracy," paragraph 15 states, quote, "The conspiracy has a strategic goal, which
9 continues to this day, to sow division and discord in the United States political system,
10 including by creating social and political polarization, undermining faith in democratic
11 institutions, and influencing U.S. elections, including the upcoming 2018 Midterm
12 Election?"
13 The conspiracy has sought to conduct what it called internally, quote,
14 "information warfare against the United States," end quote, "through fictitious U.S.
15 personas on social media platforms and other internet-based media, end quote."
16 So that -- according to the indictment, the defendants in this case, again,
17 characterized their own activity as, quote, "information warfare against the United
18 States." Is that correct?
19 A Yes.
20 Q And similar to the previous indictment, they used fictitious -- well, it doesn't
21 say that yet.
22 They intended to sow division in the political system and undermine our faith
23 ultimately in democratic institutions. Is that fair to say?
24 A Yes.
25 Q And in this occasion, this was meant to influence the 2018 Midterm Election.

1 Is that right?

2 A I believe so, yes.

3 Q Okay. Why in your experience is it harmful to the U.S. national security

4 when foreign actors engage in this type of foreign influence operation?

5 A Again, it's twofold, as I said, with Russia in particular. And they are trying

6 to sow discord into the U.S. society with the end goal of essentially taking our focus away

7 from Russia and ensuring that they don't become a global superpower and instead focus

8 internally on each other. That's a very strategic goal, but it certainly is one of their

9 goals.

10 And, again, I think anytime you undermine the democratic processes of the United

11 States -- the democratic global superpower that it is -- and it calls into question that

12 standing, it can certainly have ramifications for our standing on the global stage.

13 Q Okay. And directing your attention to page 19, paragraph 29 of the

14 indictment. It's under section C, "Use of specific U.S. fake personas.

15 That paragraph states, quote, "Since at least in or around 2015, the conspiracy

16 used social media platforms to create thousands of social media and email accounts that

17 appeared to be operated by U.S. persons and used them to create and amplify divisive

18 social and political content targeting a U.S. audience. These accounts were also used to

19 advocate for the election or electoral defeat of particular candidates in the 2016 and

20 2018 elections, to post derogatory information about a number of candidates, and on

21 occasion, to promote political donations against political candidates."

22 Now, that conduct is -- well, it includes many things, but among them is, again,

23 these troll farm activities. Is that fair to say?

24 A I think so.

25 Q So people pretending to be someone that they're not, pretending to be

1 domestic American voices, when in fact, they are foreign Russian voices. Is that fair to
2 say?
3 A Yes.
4 Q And attempting to use those voices to influence the American political
5 process, correct?
6 A Correct.
7 Q And in this case, the indictment talks about specifically targeting particular
8 candidates. Is that fair to say?
9 A Yes.
10 Q Okay. In your experience, why is this type of covert foreign action harmful
11 to the United States?
12 A Again, the American people should be able to elect whoever they want to
13 elect based on the facts related to the candidates. If you have a foreign government
14 pushing out disinformation on one candidate or another, that could potentially influence
15 how an American ultimately votes. They have, in effect, interfered in our electoral
16 processes. For the same reasons I said before, that has a long-term damaging effect to
17 the United States.
18 Q Okay. You also discussed in your prior testimony before the committee an
19 example of another FITF investigation which led to the indictment of Maria Butina. Do
20 you recall that investigation?
21 A I do.
22 Q And Ms. Butina was a Russian national who was convicted of conspiring with
23 a Russian intelligence service to influence unwitting American political organizations and
24 advocacy groups. Is that correct?
25 A Yes.

1 Q What's your recollection of who she was?

2 A Not much more to add than what's in that. She was using her influence to

3 essentially manage individuals in powerful positions.

4 Q Okay. So I'm going to mark this as Exhibit 20, the indictment in the case of

5 United States v. Maria Butina in the U.S. District Court for the District of Columbia. It

6 was July 14th, 2018.

7 [Floris Exhibit No. 20

8 Was marked for identification.]

9 BY [redacted]

10 Q And directing your attention to page -- paragraph 14, which is page 4 so to

11 be clear, this exhibit also includes the affidavit of the FBI agent who supported the

12 allegations in the indictment.

13 This paragraph says, quote, "The FBI's investigation has further revealed that

14 Butina and the Russian official took steps to develop relationships with American

15 politicians in order to establish private, or as she called them, "back channel" lines of

16 communication. These lines could be used by the Russian Federation to penetrate the

17 U.S. national decision-making apparatus to advance the agenda of the Russian

18 Federation," end quote.

19 In your experience, why is that type of foreign covert influence operation

20 damaging or harmful to the United States?

21 A Any communication between a foreign government and an elected official of

22 the U.S. Government should be through overt means. Diplomacy. Once you start

23 getting into the covert means, it means that we've essentially lost the eye, that this

24 information or this argument is being at the direction of a foreign government. So it

25 certainly has the impact to interfere in our national security.

1 Q Okay. And the important element there, again, is that the American people
2 don't know about this, quote, "back channel." It's actually being hidden from the
3 American people rather than being presented transparently to them. Is that fair to say?
4 A Correct. And being hidden to the American politicians as well.
5 Q More recently, in April of 2023, a Federal grand jury in Tampa, Florida
6 returned a superseding indictment charging four U.S. citizens and three Russian nationals
7 with working on behalf of the Russian Government in conjunction with the Russian
8 Federal Security Service in the FSB to conduct a multiyear foreign influence campaign in
9 the United States.
10 I'm marking Exhibit 21, which is a DOJ press release dated Tuesday, April 18th,
11 2023, entitled, "U.S. citizens and Russian intelligence officers charged with conspiring to
12 use U.S. citizens as illegal agents of the Russian Government," end quote.
13 [Floris Exhibit No. 21
14 Was marked for identification.]
15 BY [redacted]
16 Q When you've had a chance to look at that, let me know.
17 A Okay.
18 Q Okay. I'm going to direct your attention to page 3 at the very top.
19 Are you familiar with this investigation, first of all?
20 A I am. High level.
21 Q Okay. On the top of page 3, the press release states, quote, "Among other
22 illegal activities, the indictment alleges that Russian nationals working at the direction of
23 the FSB," quote, "conspired to directly and substantially influence Democratic elections in
24 the United States by clandestinely funding and directing the political campaign of a
25 particular candidate for local office in St. Petersburg, Florida in 2019," end quote.

1 The indictment further alleges that one of the Russian defendants, quote,
2 "expressly referred to this effort on behalf of the FSB as," quote, "our election campaign,"
3 end quote, and referred to the candidate as, quote, "the candidate whom we supervise,"
4 end quote.
5 If these allegations are true, why would it be harmful to the security of the United
6 States to have an elected official who is working under the supervision of Russia and the
7 FSB?
8 A I don't even know where to begin to answer that. You know, Russia is
9 certainly one of our primary adversaries on the global stage. It is certainly a country
10 that is not in line with our democratic beliefs.
11 So if you've got an elected official, whether it's at the State level, whether it's at
12 the Federal level, who is, in effect, operating at the direction or a willing participant in
13 Russia's strategic objectives, that said individual can have influence. That said individual
14 can derail something that the United States Government is trying to do.
15 It is detrimental for a whole host of reasons. And, again, I go back to the fact
16 that Russia is one of our top three key adversaries on the global stage.
17 Q Is it fair to say, as we've gone through these indictments, that you see not
18 any kind of reduction in effort on the part of the Russians to interfere in our elections as
19 time has gone on? Instead, they seem to be very well interested and continuing those
20 efforts as time goes on. Is that fair to say?
21 A That's very fair to say. If anything, they may change their playbook, but at
22 least to my knowledge -- and, again, that knowledge extends through the 2020
23 Presidential Election -- I see no indications of them ceasing this activity or their ambitions.
24 Q If you were to continue along on this press release, it says -- again, according
25 to the indictment, the same indicted Russian defendant allegedly intended for the

1 election interference plot to extend beyond the 2019 local election cycle and
2 subsequently discussed that, quote, "the USA Presidential Election," end quote, was the
3 FSB's, quote, "main topic of the year," end quote.
4 What's your response to that?
5 A You know, without knowing specifically what that individual said or what the
6 underlying reporting was to that, it's not surprising. Oftentimes with foreign
7 governments, China and Russia being the primary ones in this space, they'll look to
8 influence at the State and local level, but with the end goal being the Federal level where,
9 again, they can enact some sort of strategic change in U.S. policy toward those
10 governments.
11 Q Okay. Returning briefly to our discussion of the three prongs.
12 We just went through several examples of investigations and operations that FITF
13 has done to combat foreign influence in our elections, and it appears fair to say that there
14 is a lot of work for FITF to do in that field. Is that correct?
15 A That's correct.
16 Q And certainly, as time goes on, it's not something that is no longer an issue?
17 A That's correct.
18 Q Okay. And if, for whatever reason, congressional investigations or criticism
19 or any other outside influence were to chill the work of FITF, is it possible that those kind
20 of cases that were indicted in the examples that we just discussed wouldn't be brought?
21 A Yeah, it's possible. But, you know, I'd like to think that the FBI and its
22 workforce would continue to do its job by the book, following the policies and processes
23 that we have in place, regardless of any external noise and criticism. But we are
24 humans, so it certainly it is possible.
25 Q And just directing this question to you personally, does having been yelled at

1 and screamed at by a senator in the United States for doing your job and notifying him of
2 what you thought was a threat -- does that deter you in any way from doing your job in
3 the future to combat these foreign influence operations?
4 A It doesn't. It is what it is. He's certainly not the only individual to ever
5 raise his voice at me during a congressional engagement.
6 But as I said several times in this discussion, I think it's extremely important for us
7 to lean in and be transparent with the elected officials. It is our job. The FBI is the
8 action arm of the IC, and in my opinion, we owe it to our elected officials to be as
9 forward-leaning as we can in sharing information explicit to them.
10 Q Okay. The second prong that you mentioned in your testimony, again, was
11 information and intelligence sharing. I think, from your testimony, that that basically
12 involved information sharing with law enforcement partners and election officials. Is
13 that what you were --
14 A That's accurate. And, you know, throughout the IC. It's what we do on
15 the intelligence side of the house. Disseminating and producing products for a whole
16 wide swath of audiences.
17 Q Okay. And the final part was private sector partnerships, and this is where
18 you were describing some of the work that FITF does in engagement with U.S. technology
19 companies. Is that fair to say?
20 A Correct.
21 Q And also, you explained in your testimony -- again, before this
22 committee -- that technology companies have a front-line responsibility to secure their
23 own networks, products, and platforms. And you further stated that the FBI has
24 provided actionable intelligence to help these companies, quote, "address abuse of their
25 platforms by foreign actors," end quote.

1 Does that characterization of your testimony still seem accurate to you --

2 A Yes.

3 Q -- in terms of that work?

4 Is it fair to say that you share information with these companies including threat

5 indictors, on occasion, with the expectation that the companies will use their own means

6 to verify whether these indicators are accurate or really -- they use their own means to

7 verify those indicators of whether those actors are really foreign actors?

8 A That's correct.

9 Q Okay.

10 [redacted] Sorry. Just to clarify, her question said "you."

11 Ms. Floris. Oh, yeah. Not me personally.

12 BY [redacted]

13 Q Sorry. I know you were testifying on behalf of FITF.

14 A I was.

15 Q Okay. And it's also your understanding that those social media companies

16 will ultimately make their own determination as to whether the identified accounts or

17 postings violate their own company's terms of service. Is that right?

18 A That's correct.

19 Q And the FBI never coerces or tries to influence the decision of the social

20 media companies to remove any particular content. Is that fair to say?

21 A That's fair to say.

22 Q Okay. Does the FBI ever decide to share information regarding an account

23 or post based on the nature of the content rather than the source of the content?

24 A No.

25 Q Is it fair to say that the FBI's only concern is whether the account or post is

1 controlled by a covert foreign actor and that the FBI has no concern at all with the
2 content of the message or any political or ideological message that's embedded in it?
3 A That's correct.
4 [redacted] All right. Okay.
5 I think we can go off the record.
6 [Discussion off the record.]
7 [redacted] Could we be back on the record.
8 Ms. Floris. So regarding content outside the confines of the FITF, certainly any
9 content on social media companies about, you know, threats of violence, child sexual
10 exploitation -- there's certainly a whole host of content-based information outside the
11 purview of the FITF that the FBI writ large is concerned about.
12 BY [redacted]
13 Q Okay. Sorry. I meant my questions to actually pertain to the foreign
14 influence operations sphere of what FITF does.
15 A Okay. Perfect. Thank you.
16 Q Thank you for that clarification.
17 A Sure.
18 Q Actually, I do have one last question.
19 Are you aware of any increased threats to law enforcement at the FBI or to you or
20 any other employee in particular as a result of some of the allegations that have come out
21 about partisanship or censorship on behalf of the FBI?
22 A Yes. There certainly has been an uptick in threat reporting. We're all
23 familiar with the incident at our FBI Cincinnati office. I personally have been doxxed.
24 So, yes, there has been an uptick. I can't quantify what that uptick is, but it is certainly
25 something we're all concerned about.

Q Has anyone from the committee reached out to you personally or to any other FBI employees who have been affected by these threats to inquire as to their safety or their well-being?

A Not to my knowledge.

Q And do you have anything you want to share with the committee on that or any other subject before we close?

A Again, I would just say that, regardless of the criticisms and, you know, what goes on outside the FBI building, we are an organization comprised of highly-motivated, highly-dedicated individuals whose primary goal is to serve the American people.

I've wanted to work for the FBI ever since I was a little girl, and I would assume a lot of employees in the FBI are the same. So I love working for the FBI. I'm proud to work for the FBI, and I stand by the decisions and actions we've taken over the years.

Q Thank you for that.

A Sure.

[redacted] We can go off the record.

[Recess.]

[2:12 p.m.]

[redacted] On the record.

BY [redacted]

Q So, Ms. Floris, we've been advised that you have a hard stop at 3 p.m.?

A That's correct.

Q Okay. For the record, this is the first the committee is hearing about it, so in the event we have questions that go over that time, we do reserve the right to ask you to come back.

I actually did not have an opportunity to sort of finish up a particular line of questioning before we turned over the time to the minority.

Are you aware that Senator Chuck Schumer and Senator Ron Wyden tried to offer a resolution in the Senate disparaging the Grassley-Johnson investigation into the Biden family's overseas dealings?

A I am not.

Q I'll explain why this is relevant. We have these -- we have consecutive 3-day unifying events. We have the August 5th, 2020, Washington Post article seeking to discredit this investigation. We have the August 6, 2020, briefing that you gave to Senators Grassley and Johnson. And then we have the August 7, 2020, Senator Blumenthal op-ed that also sought to discredit their investigation.

Senator Grassley testified before the Select Subcommittee on the Weaponization of the Federal Government and said that these events in part were, quote, some fictional -- something out of a fictional spy thriller.

He places you and Mr. Benavides as integral to this thriller. Can you understand why?

A Again, there was a lot going on at that time. We were a couple months out

1 from the election. I'll continue to harken back to the all-Member briefings that I, along
2 with my colleagues from the IC, provided, which were very similar in theme and context.
3 But, again, I wish we were as organized to do some sort of great thriller. We are not
4 that organized.
5 Q Well, given what you now know, do you regret providing the August 6th
6 briefing to Senators Grassley and Johnson?
7 A I do not.
8 Q I want to ask you about Andrii Derkach. I think I'm saying that correctly. I
9 think there's been some discussion about him. Are you -- do you know who he is?
10 A I do.
11 Q Okay. Who is he?
12 A Again, I won't say much more than what's in the Treasury sanctions, a
13 longstanding associate of Russian intel services, integral in the foreign influence
14 objectives of the Russian intel services.
15 Q Did you mention Derkach in your August 6, 2020, briefing with the Senators,
16 Senators Grassley and Johnson?
17 A I won't go into specifics about what was mentioned.
18 Q Okay. So you can't tell us one way or the other?
19 A I cannot.
20 Q To your knowledge, did Derkach provide information to Senators Grassley
21 and Johnson or their staff?
22 A I don't know.
23 Q In the July 13, 2020, letter, which I think we had marked as exhibit 1, from
24 senior Democrat officials -- withdraw.
25 Are you aware that Senator Grassley took to the Senate floor on September 29,

1 2020, and condemned his, quote, Democratic colleagues, close quote, for, quote, publicly
2 insinuating that I received records from a Ukrainian national, Andrii Derkach, a Russian
3 agent, end quote, and stated, quote, I've never received nor solicited information from
4 Derkach, end quote? Are you aware that he made this statement on the Senate floor?
5 A I am not.
6 Q Do you have any reason to doubt Senator Grassley's representation about
7 never receiving information from Mr. Derkach?
8 A I would have no reason to doubt any Senator's statements.
9 Q Senator Grassley also praised the Treasury Department for sanctioning
10 Derkach. Did you know that?
11 A I did not.
12 Q Does that sound like someone who would rely on information from
13 Mr. Derkach?
14 A I -- I can't speak to what that sounds like.
15 Q Senator Grassley stated his Hunter Biden investigation was, quote, based on
16 Obama administration government records and records from a Democrat lobby shop,
17 Blue Star Strategies, end quote.
18 Were you aware of this information at the time you briefed the Senators?
19 A No.
20 Q Lastly, Senator Grassley observed, quote, Vice President Biden was
21 responsible for carrying an anti-corruption message to Ukraine on behalf of the United
22 States at the same time his son was making millions of dollars working on the board of a
23 corrupt Ukrainian company. To any reasonable observer, that's a very questionable fact
24 pattern that deserves attention, end quote.
25 Given your experience with the FBI, is that a reasonable basis in and of itself for a

1 Senate investigation?

2 A I can't speak to what the basis of a Senate investigation would or would not

3 be.

4 Q Would you agree that, with or without any alleged disinformation, the fact

5 pattern Senator Grassley laid out is a fair predicate for a congressional inquiry?

6 A I can't speak to that.

7 Q Would it be a fair predicate for an FBI investigation?

8 A I can't speak to that. I would have to know more facts than that.

9 Q Okay. I think we've touched on this, but in the interest of having a

10 complete record, I'll ask again. Were you aware that in August 2019, Senators Chuck

11 Grassley and Senator Ron Johnson opened an investigation into conflicts of interest

12 involving the Biden family's foreign business ventures while Joe Biden was Vice President?

13 A No.

14 Q Have you since become aware of it?

15 A High level, mainly in this conversation.

16 Q Does that investigation in any way relate to your role at the FBI?

17 A No.

18 Q High level, what is your understanding of their investigation?

19 A Not much more than you said.

20 Q Are you aware that upon concluding their investigation, the staff of the

21 Senate Finance Committee and the Senate Homeland Security and Governmental Affairs

22 Committee issued a report in September of 2020?

23 A No.

24 Q At the time the report was released, you were deputy assistant director of

25 the Intelligence Branch, correct?

1 A Correct.

2 Q Okay. Generally speaking, have you ever -- have you -- as far -- to your

3 knowledge, the Intelligence Division, the FBI, ever relied on congressional staff reports?

4 A Not to my knowledge. I can't speak for the whole of the FBI.

5 Q What if a report was germane to a, you know, FBI investigation?

6 A I -- I personally have never relied on it. Again, I can't speak for everyone.

7 [Floris Exhibit No. 22

8 Was marked for identification.]

9 BY [redacted]

10 Q So speaking of the report, I'm showing you what I'm entering into the record

11 as exhibit 22, the Hunter Biden, Burisma, and -- "Hunter Biden, Burisma, and Corruption:

12 The Impact on U.S. Government Policy and Related Concerns." It is a staff report. It is

13 87 pages in length. I am only putting into the record the first six pages, which contain a

14 cover page, a table of contents, and an executive summary.

15 If you could look briefly at the table of contents, that would be ideal.

16 Have you had a chance to review it?

17 A Uh-huh.

18 Q Okay. So high level, are you familiar with these -- with sort of these

19 subheadings in the table of contents?

20 A Just from reading it today.

21 Q So it's a pretty extensive report, as I indicated, 87 pages. We're just going

22 to look at the some of the key findings.

23 And to be clear, have you ever reviewed or seen this report prior to today?

24 A Not to my knowledge.

25 Q And beyond this report, given your position, you are familiar with the

1 allegations surrounding Hunter Biden's overseas ventures, particularly with Burisma and
2 how they may implicate his father, correct?
3 A Just high level, not much more than that.
4 Q Okay. So I'm going to direct your attention to page 4 of this exhibit, key
5 findings. It's the second one. It reads: In October 2015, senior State Department
6 official Amos Hochstein raised concerns with Vice President Biden, as well as with Hunter
7 Biden, that Hunter Biden's position on the Burisma's board enabled Russian
8 disinformation efforts and risked undermining U.S. policy in Ukraine.
9 In your briefings with Senator Grassley and Johnson, did you mention similar
10 concerns?
11 A I did not.
12 Q Directing your attention to page 5. The second full paragraph, it reads,
13 quote, Hunter Biden was serving on Burisma's board, supposedly consulting on corporate
14 governance and transparency, when Zlo- -- excuse me, Zlochevsky allegedly paid a
15 $7 million bribe to officials serving under Ukraine prosecutor general Vitaly Yarema, to,
16 quote, shut the case against Zlochevsky -- excuse me -- close quote. Kent testified that
17 this bribe occurred in December 2014, 7 months after Hunter joined Burisma's board, and
18 after learning about it, he and the resident legal advisor reported this allegation to the
19 FBI.
20 Did you discuss this allegation in your August 6th briefing with the Senators?
21 A I did not.
22 Q Were you aware of this allegation or have you since become aware of this
23 allegation prior to just now?
24 A No.
25 Q Okay. So you can't say if anything was done about this report to the FBI?

1 A No.

2 Q Given that we've just reviewed it and given your experience, is this the sort

3 of thing that the FBI would take seriously?

4 A I can't comment on that with additional information.

5 Q Well, if you would just narrow the scope to this particular fact pattern, given

6 your experience, is this something the FBI would be concerned about?

7 A Possibly, but, again, without more information, one bullet is not enough to

8 make a determination.

9 Q Directing your attention to the third from the bottom key finding on page 5.

10 A Uh-huh.

11 Q In addition to over $4 million paid by Burisma for Hunter Biden's and

12 Archer -- who I'll represent is Hunter Biden's business partner Devon Archer -- Archer's

13 board membership, Hunter Biden, his family, and Archer received millions of dollars from

14 foreign nationals with questionable backgrounds, end quote.

15 Did you discuss these facts in the August 6th briefing with the Senators?

16 A No.

17 Q Were you aware that Burisma paid Hunter Biden and his business partner

18 over $4 million?

19 A No.

20 Q Were you aware that those two made millions more from foreign nationals

21 with questionable backgrounds?

22 A No.

23 Q Would such a thing be a concern for the FBI?

24 A Again --

25 [redacted] I'm going to interject here and say that some of these allegations this

1 witness is not the correct one to speak to. There is obviously an ongoing criminal matter
2 regarding Hunter Biden, and the FBI is not in a position to speak for the specifics of that
3 investigation and would refer you to U.S. Attorney Weiss. This witness is not, as she has
4 testified, is not involved in that investigation. So I just want to be very clear about the
5 record here.
6 [redacted] We appreciate the record. We'll continue to ask the questions
7 that the committee deems appropriate.
8 BY [redacted]
9 Q Was that a concern for the -- given the key finding we've read, was that
10 a -- do you know if that was a concern for the FBI because Vice President Biden oversaw
11 Ukraine policy for the Obama administration at a time when his son was on the payroll of
12 a giant Ukrainian energy company?
13 A Again, I -- I have no knowledge of this.
14 Q Okay. I think we'll -- we're done with it.
15 [redacted] Oh, please, Congresswoman.
16 Mrs. Spartz. Can I just go quickly?
17 [redacted] worked for you, correct?
18 Ms. Floris. Yes.
19 Mrs. Spartz. So what was his involvement in this defensive briefing that you
20 gave the Senators?
21 Ms. Floris. He had no involvement.
22 Mrs. Spartz. So you haven't discussed with him before or after?
23 Ms. Floris. I did not. He may have booked the conference room that I had a
24 meeting to discuss it, but --
25 Mrs. Spartz. Was he involved in any way to deliver information, obtain

information that you would use?

Ms. Floris. No.

Mrs. Spartz. So what was his job under you?

Ms. Floris. Again, it was mainly administrative, handling the production calendar, handling talking points on a whole host of issues, engaging with the other assistants throughout the division to just help with, you know, managerial type stuff.

Mrs. Spartz. So his job under you was administrative. He was -- his title was supervisory intelligence agent, right?

Ms. Floris. Analyst. Supervisory intelligence analyst, yeah.

Mrs. Spartz. Analyst. Analyst, right?

Ms. Floris. Yeah.

Mrs. Spartz. But he didn't do any analysis for you? All he did is just scheduling?

Ms. Floris. It wasn't scheduling in the sense of like an executive assistant would do. Most senior executives in the FBI have a team of individuals under them to help with, again, drafting of talking points, correspondence. For me as an intelligence analyst, quite a bit of production that gets a bit unwieldy, he assisted with that as well. We do have analysts, much like we have agents, who sit in those roles as well because they have a unique perspective.

Mrs. Spartz. How long did he work for you?

Ms. Floris. Maybe 2 years.

Mrs. Spartz. Did you have any other interactions through your career with him?

Ms. Floris. No, that was the first time I met him is when I got over to the Counterintelligence Division.

Mrs. Spartz. So he already was there?

Ms. Floris. When I got there, I believe he was detailed to another investigation.

1 But, again, I think I met him maybe 2019, maybe 2020. I can't remember, because there
2 was somebody else in that role for a while when I first got that job.
3 Mrs. Spartz. Have you ever discussed with him his previous work involved with
4 kind of investigation and all of that? You know, so you have never even discussed with
5 him any of these issues before?
6 Ms. Floris. No, that was intentional.
7 Mrs. Spartz. So you haven't discussed anything related to any other
8 investigations that he did before? So you truly -- it is just the scheduling was him.
9 That's the only discussions that you had?
10 Ms. Floris. Again, he did more than scheduling, as I said, but he was not involved
11 in operational or analytical discussions.
12 Mrs. Spartz. Okay. So what more than scheduling? What else would he do?
13 Ms. Floris. Work on special projects that crossed -- you know, I had three
14 sections, hundreds and hundreds of employees working for me. You know, ensure that
15 certain taskings got met. He was a mentor to, you know, several analysts throughout
16 the division.
17 Mrs. Spartz. Was he involved in any projects related to disinformation by Russia,
18 of election or interference, specifically projects like that?
19 Ms. Floris. He was not in FITF, so no.
20 Mrs. Spartz. So he was never involved with any projects related to
21 disinformation, election interference of Russian -- at all?
22 Ms. Floris. Not specific as it relates to the defensive briefings.
23 Mrs. Spartz. So not specifically under you. Not related to the specific briefing,
24 but when he worked for you during that time?
25 Ms. Floris. He did, but he did not work for FITF.

1 Mrs. Spartz. So he didn't do any for you as dealing with issues of, you know,
2 briefings and election interference, he didn't do any specific projects related to Russia for
3 you?
4 Ms. Floris. He maybe drafted up talking points for me.
5 Mrs. Spartz. Based on what?
6 Ms. Floris. Based on the FBI's role. So, again, when I would do an interagency
7 engagement, be it Hill testimony, a media backgrounder, a briefing to the SACs, for
8 example, my role was to talk about what the FBI was doing, so more in line with the three
9 pillars that I discussed when I testified before this committee years ago. Nothing about
10 the substance or meat of the intelligence.
11 Mrs. Spartz. But you are pretty sure that he was definitely not involved in
12 anything related to this defensive briefing. You're kind of confident about that for sure?
13 Ms. Floris. I am confident.
14 Mrs. Spartz. So you know that --
15 Ms. Floris. I know that.
16 Mrs. Spartz. -- that he never was involved in any of that?
17 Ms. Floris. No.
18 Mrs. Spartz. Okay.
19 BY [redacted]
20 Q I want to talk a bit about your -- you were election security lead for the 2020
21 Presidential election. Is that correct?
22 A That's correct.
23 Q Okay. I'm going to ask for some specificity. What exactly did that entail?
24 A I don't even know where to begin on that. So I was the senior FBI official,
25 so all of the interagency meetings, briefings, Hill engagements, media backgrounders, I

1 was the representative. But there was a whole team beneath me who was involved in
2 it. It was my job to essentially play traffic cop, to make sure the Cyber Division was
3 talking to the Counterintelligence Division and talking to the Criminal Division. I was the
4 primary interlocutor between the operational divisions and the 7th floor, the director, the
5 deputy director.
6 So really every agency had a single ingest point, just because there was a lot of
7 information, a lot of folks involved in this. I was that ingest point.
8 Q And sort of get broadly, you were sort of the traffic cop getting this
9 information, but specifically how did you effectuate those responsibilities leading up to
10 the 2020 election?
11 A So, for example, if there was reporting about potential cyber interference, I
12 would ensure the Cyber Division has it -- had that information, actioned that information,
13 would then report back to my partners in the IC, for example, that this information had
14 been actioned. We'd coordinate on talking points, you know, make sure our SACs and
15 our field commanders were aware of what was going on, similar type of activity.
16 Q Did you -- who worked with you in this role at the FBI?
17 A So Brad Benavides was the actual section chief over FITF, so he was my
18 deputy, kind of second in command on that.
19 Q Anyone else?
20 A There were folks from all over the FBI who were involved in election security
21 matters, folks in our Criminal Division for your, you know, historic election crimes, voter
22 fraud and the like; folks in our Cyber Division about any sort of election interference
23 activity. All 56 field offices have an election crimes coordinator. I mean, it was really a
24 whole-of-government effort to secure the elections.
25 Q So basically, though, say in your office, it was just you and Brad for the most

1 part working together on this particular issue?

2 A Yeah, but with a whole legion of folks around the FBI headquarters and the

3 field.

4 Q Right.

5 A I mean, securing the elections is not something that just Brad and I can do

6 ourselves.

7 Q And what were the other government agencies you worked with in this

8 particular role?

9 A NSA, CIA, DHS, CISA, State, Treasury, ODNI.

10 Q And what was the nature of their responsibilities, just intelligence gathering?

11 A Similar to what they do in their normal course of action. For example, we

12 saw Treasury pushes out sanctions, and CISA ensures that the integrity of the election

13 systems are tight, and DHS would help us push out public service announcements, and

14 CIA would do whatever squirrely thing CIA does, and NSA and CYBERCOM would look to

15 swim upstream to target the adversaries overseas.

16 Q And how did you all interact with each other?

17 A I mean, almost daily phone calls. We would have weekly SVTCes, syncs,

18 ensuring that we were all working in concert. It was routine dialogue.

19 Q Did you work with anyone in the private sector?

20 A I personally did not, no.

21 Q Are you aware of private sector entities that were involved in this effort?

22 A The social media companies, again, we provided them with information.

23 Q Facebook?

24 A I don't know the specifics. I mean, it's far more than just the usual players

25 is my understanding, but I don't know specifics.

1 Q But as far as you know, they were a part of it, the large social
2 media -- Facebook, Twitter, et cetera?
3 A Yes.
4 Q Is that fair to say?
5 A That's fair.
6 Q Do you know the names of any of the individuals at the social media
7 companies that were liaisoning with your outfit?
8 A I don't.
9 Q In your efforts in this regard, you had provided certain intelligence to social
10 media companies, correct?
11 A I had never engaged with social media companies.
12 Q Has the FBI?
13 A The FBI has, yes.
14 Q And social media companies have also passed tips to the FBI?
15 A That is my understanding, not directly to me.
16 Q Okay. Your understanding, they've done so sort of leading up to the 2020
17 Presidential election with respect to election interference?
18 A Yes. So, for example, you know, you can remember the headlines,
19 Facebook takes down 10,000 accounts related to Chinese actors, again, hypothetical.
20 Facebook on occasion, my understanding, would take the selectors of those individuals
21 they identified as being Chinese actors and pass those back to the FBI, that would then
22 pass back to the intelligence community.
23 Q Would you then, for instance, in this hypothetical, say, tell Facebook it
24 checks out, take them down?
25 A We would never tell them to take them down. If they provided us those

1 accounts and we had information corroborating that they were, in fact, you know, at the
2 behest of the Chinese Communist Party and we've got additional selectors related to that,
3 we may in turn pass those back to them. But we would never advise them to take down
4 the accounts.
5 Q Would an intelligence agency or the FBI then monitor those accounts given
6 the origin, say, with the CCP?
7 A Probably not. I mean, the FBI, we certainly don't have the scope and scale
8 to monitor social media accounts. What the social media companies can do, I don't
9 know.
10 Q In your experience, are you aware of accounts being flagged as, say,
11 belonging to the Chinese Communist Party but, in fact, were accounts of U.S. citizens?
12 A Not that I'm aware of.
13 Q Have you heard anything like that, though?
14 A I haven't, no.
15 Q Never?
16 A Never.
17 Q Leading up to the 2020 Presidential election, did you or your sort of
18 colleagues at the FBI contact social media companies and share concerns about
19 disinformation being disseminated on their platforms?
20 A I don't know. I didn't personally. I know several folks within FITF had
21 engagement with social media companies. If they shared those concerns, I'm just not
22 aware of it.
23 Q If you know, how would they make such assessments?
24 A Probably based on intelligence community reporting.
25 Q And it's your testimony you've never flagged a specific account for the social

1 media companies?

2 A I personally have not, no.

3 Q And you can't say that others haven't, though, at the FBI?

4 A Correct. I don't know the specifics of what information has or has not been

5 flagged.

6 Q Would the FBI be concerned not only about the origins of the account but

7 the content of the account?

8 A Not necessarily the content, unless said content was about, you know,

9 stoking violence or threats of violence or, you know, child sexual exploitation, for

10 example, no. Our primary objective was the foreign actor.

11 Q But surely an extension of the foreign actor's presence would be what is the

12 sort of malign interference they're engaging in. Fair to say?

13 A That's fair to say, but you've got to have that foreignness to it in order for us

14 to be concerned about it. So we start with the actor, not content.

15 Q So I think before there was testimony, if it was Iran was saying election day

16 was on a Wednesday instead of a Tuesday, you might -- you, the FBI, might make a public

17 statement that this is untrue?

18 A So the FBI would never make a public statement unilaterally. If we had

19 information that Iranian actors were going to push out a disinformation campaign stating

20 elections are on Wednesday vice Tuesday, that is something that would go into the

21 interagency defensive notification framework to determine if we do need to make public

22 notification.

23 Q Okay. Revisiting this point, there's been a lot of reporting on this that

24 Americans have been swooped up in the social media drag, getting information from the

25 FBI, providing information to the FBI, and their accounts have been censored on the basis

1 that they were either foreign actors trying to spread disinformation when, in fact, they
2 were not.
3 I just want to be clear, you have no information or you have not heard this
4 reporting in that regard?
5 A I have not heard this reporting.
6 Mrs. Spartz. Are you -- when you were part of still counterintelligence in '22, and
7 you were in charge of Foreign Influence Task Force, were you aware of SBU collaboration
8 with FBI?
9 Ms. Floris. I was not, and I left that position in May of 2022.
10 Mrs. Spartz. May 2022. So you have not really dealt with SBU at that time?
11 Ms. Floris. I have never personally dealt with SBU, no.
12 Mrs. Spartz. So you're not even aware dealing with that that SBU was dealing,
13 you know, with FBI and getting information sent to social media companies? You're not
14 everyone aware of that?
15 Ms. Floris. I have no knowledge of this.
16 Mrs. Spartz. No one ever told you that this actually was happening at the
17 beginning, you know, the war to provide information to social media companies on behalf
18 of Ukrainian SBU? So you've never been informed, even though you were in charge of,
19 you know, the Foreign Influence Task Force assessment? This was never brought to
20 your attention?
21 Ms. Floris. No.
22 BY [redacted]
23 Q Beyond accounts being suspected of being foreign threat actors, when
24 they -- well, withdraw.
25 Let's use the CCP hypothetical again. You have accounts. You have a basis to

1 believe they are foreign accounts. Would the FBI or your partners then investigate
2 further beyond the existence of these accounts?
3 A If we had information that a CCP-linked account was being used to push out
4 disinformation to the American public, yes, we would be interested in those CCP accounts
5 and the actors behind the accounts and if those actors were connected to high levels of
6 the CCP.
7 Q Were America's foreign adversaries actively trying to influence the 2020
8 election?
9 A Yes.
10 Q How?
11 A I would defer you to the ICA that was pushed out by the ODNI March
12 of 2021.
13 Q But to your knowledge, broad strokes.
14 A Broad strokes, yes, Russia was trying to denigrate then-President-elect
15 Biden; China had considered but did not, to our knowledge, with the intelligence we had
16 at that time, participate in any foreign influence operations; Iran did have some
17 semblance of a social media campaign.
18 Q To your knowledge, China's preferred candidate was Joe Biden. Is that
19 correct?
20 A If I believe -- again, having not read the IC for quite a while, I believe that
21 they did not want Trump elected, if I recall the intelligence. But, again, that's clearly laid
22 out in the ICA.
23 Q If you know, has any foreign government attempted to tamper with U.S.
24 vote counts?
25 A Not to my knowledge.

1 Q What did your organization, the FBI, the task force, do in response to the
2 foreign adversaries trying to influence the 2020 election?
3 A Much like we discussed, the three pillars of investigation, intelligence
4 sharing, and partnerships. So we certainly had investigations on key actors, foreign
5 actors who were attempting to promote these operations -- certainly won't get into any
6 details about that -- produced several intelligence products in concert with our IC
7 partners, shared information with our field offices, shared information with State and
8 local partners, and then the partnerships as we've discussed, sharing actionable
9 information with the social media companies.
10 Q To your knowledge, has anyone been charged with a crime for trying to
11 influence the U.S. election, foreign actors trying to influence the U.S. election in 2020?
12 A I don't know. I don't know if we ever ended up charging Derkach or
13 Telizhenko.
14 Q I mean, I ask because we have this sort of broad public information
15 campaign to be on a lookout, all of these foreign actors are trying to influence the U.S.
16 Presidential election, right, FBI, all these -- which is an intelligence agency and a law
17 enforcement agency.
18 A Thank you.
19 Q All of your very serious partners in this endeavor doing important work, no
20 doubt. And yet no one's been charged with a crime for trying to actively interfere in a
21 U.S. Presidential election. Is that peculiar?
22 A I don't know what's peculiar when you talk about election security and
23 foreign influence. I don't think there is a norm when we talk about this.
24 [redacted] And, of course, the FBI doesn't charge.
25 [redacted] Say again?

1 [redacted] The FBI doesn't make charges.

2 BY [redacted]

3 Q Well, it makes arrests, right.

4 A Sometimes.

5 Q It investigates cases.

6 Mrs. Spartz. Were any other countries trying to influence elections, except

7 Russia and China?

8 Ms. Floris. Again, according to the ICA, there was certainly an Iranian element,

9 but beyond that, no.

10 Mrs. Spartz. So have you get any -- looked into any investigation related to SBU,

11 Ukrainian SBU at all as part of your investigations?

12 Ms. Floris. Not that I'm aware of, but, again, I would defer to the current

13 management over at the Counterintelligence Division.

14 Mrs. Spartz. But at that time, when you were dealing, you know --

15 Ms. Floris. We had no indications that the Ukrainian Government was

16 attempting to influence the Presidential election.

17 Mrs. Spartz. Looking at anything with SBU, because -- you know, in any way,

18 because there was some reports later on there was a lot of infiltration in SBU. But have

19 you ever looked into at all that agency as part of your assessments what's happening?

20 Ms. Floris. I don't know if my team looked into it.

21 Mrs. Spartz. But you aren't personally aware that anyone ever looked?

22 Ms. Floris. Correct.

23 BY [redacted]

24 Q I just think I have a few more questions.

25 Are you familiar with the name Tony Bobulinski?

A I am not.

Q I ask because there's been reporting that the FBI designated Timothy Thibault as the point man to manage Mr. Bobulinski. And Mr. Bobulinski is apparently a business partner or was a business partner of Hunter Biden. Do you have any information in that regard?

A I don't.

Q You've never heard reporting on this story?

A I have not.

[redacted] Congresswoman, anything else?

Mrs. Spartz. No.

[redacted] Off the record.

[Discussion off the record.]

BY [redacted]

Q We could go on the record, please. Need to get you out of here.

A It's fine. No, if we go a little over, it's fine.

Q Just really briefly, on the set of questions that you had about whether there had been Department of Justice indictments related to activity to interfere in the 2020 election, you indicated that you don't know of any indictments as you sit here today. Is that correct?

A That's correct.

Q Okay. And you're not a prosecutor. Is that fair to say?

A I am not a prosecutor.

Q Do you read all the press releases from the DOJ regarding --

A I do not.

Q Okay. Are you aware of -- I don't have this with me. But are you aware of

1 the November 18, 2021, press release from the Department of Justice entitled, "Two
2 Iranian Nationals Charged for Cyber-Enabled Disinformation and Threat Campaign
3 Designed to Influence the 2020 U.S. Presidential Election"?
4 A Somewhat.
5 Q Okay. It's not your job to review all of the indictments that DOJ puts out.
6 Is that right?
7 A That was also, if memory serves correct, those were cyber actors so it was
8 under the purview of our Cyber Division, which is probably why.
9 Q Okay. But I just want to make it clear that -- is it possible that the DOJ may
10 be considering indictments at this point and not yet either unsealed them or announced
11 indictments that relate to activities to interfere with the 2020 election?
12 A I certainly won't speak on behalf of the Department. I don't know.
13 Q It's possible, though, correct?
14 A It is possible. It's possible they're not --
15 Q Sure.
16 A -- moving toward anything.
17 Q You just don't know, and that's the point, right?
18 A Correct.
19 Q Okay. And it's not unusual for investigations, especially ones that involve
20 conspiracy and many different people, to take many years. Is that fair to say?
21 A That's fair.
22 Q Okay. But you do know that at the time leading up to the 2020 election,
23 there were efforts, widespread efforts by Russia and other state actors, to interfere in
24 that election. Is that fair to say?
25 A Correct.

1 Q And some of that conduct we've already discussed in the record here led to
2 Treasury sanctions against Andrii Derkach, for example?
3 A That's correct.
4 Q Is that fair to say?
5 A Yes.
6 Q And also the other Rudy Giuliani associate, Telizhenko, correct?
7 A Correct.
8 Q Okay. And some of that conduct, at least as it's stated in the Treasury
9 announcement, could be a violation of Federal law. Fair to say?
10 A Could be, yes.
11 Q And it could lead to a Federal indictment potentially.
12 A Potentially.
13 Q Fair to say?
14 We just know that at this point it hasn't, as far as we can tell, correct?
15 A To my understanding, we have not -- DOJ has not
16 charged Telizhenko or Derkach.
17 Q Okay.
18 [redacted] Just for the completeness of the record, you mentioned the
19 intelligence community assessment of the 2020 election. I just want to enter it for the
20 record as exhibit 23. I won't ask you any questions about it.
21 Ms. Floris. Okay.
22 [Floris Exhibit No. 23
23 Was marked for identification.]
24 [redacted] Okay. That's it. We can go off the record. Thank you.
25 [Whereupon, at 2:48 p.m., the interview was adjourned.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

Transcribed Interview Transcript Errata Form

Interviewee	Nikki Floris
Date of Interview	7/19/23
Date of Review	9/5/24
Name of Reviewer	[redacted]
Signature of Reviewer	[redacted]

Page	Line	Suggested Correction
7	1	SCS → SES
14	7	FBI requests [redacted] be redacted.
14	9	"
15	1	"
15	15	"
15	20,24	"
16	4,13	"
17	12	"
18	3	"
32	22	"a CSO" → "SES"

Page	Line	Suggested Correction
35	19	"two" → "to"
147	12	"direction" → "direction of"
160	17	Redact [redacted]
170	20	"IC" → "ICA"
[redacted]		

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4
5 COMMITTEE ON THE JUDICIARY,
6 U.S. HOUSE OF REPRESENTATIVES,
7 WASHINGTON, D.C.
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9
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11
12
13 INTERVIEW OF: [redacted]
14
15
16
17
18 Wednesday, July 19, 2023
19
20 Washington, D.C.
21
22
23 The interview in the above matter was held in Room 164, Cannon House Office
24 Building, commencing at 10:03 a.m.
25

1 Appearances:

2

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted] LAW CLERK

8 [redacted] COUNSEL

9 [redacted] DIGITAL ASSISTANT

10 [redacted] INTERN

11 [redacted] DIGITAL DIRECTOR

12 [redacted] COUNSEL

13 [redacted] MINORITY INTERN

14

15

16 For the SUBCOMMITTEE ON CRIME AND

17 FEDERAL GOVERNMENT SURVEILLANCE:

18

19 [redacted] MINORITY DETAILEE

1 For ALPHABET:

2

3 DANIEL F. DONOVAN, ESQ.

4 EHREN HALSE, ESQ.

5 King & Spalding

6 1700 Pennsylvania Avenue NW, Suite 900

7 Washington, D.C. 20006

1

2

3 [redacted] Can we go on the record, please?

4 [redacted] This is a transcribed interview of [redacted]. Chairman

5 Jordan has requested this interview as part of the committee's investigation of Alphabet.

6 Would the witness please state your name for the record?

7 [redacted]. [redacted].

8 [redacted] And could you please spell your last name for the record?

9 [redacted]. [redacted].

10 [redacted] We encourage witnesses who appear before the committee to

11 freely consult with counsel if they so choose, and it is my understanding that you're

12 appearing here today with counsel. Is that correct?

13 [redacted]. That is correct.

14 [redacted] Could counsel please state their names for record?

15 Mr. Donovan. Daniel Donovan, King & Spalding, Alphabet.

16 Mr. Halse. Ehren Halse, King & Spalding, Alphabet.

17 [redacted] On behalf of the committee, I want to thank you for appearing

18 here today to answer our questions. The chairman also appreciates your willingness to

19 appear voluntarily.

20 My name is [redacted] and I'm here with Chairman Jordan's staff. Now I'd

21 ask that everyone else from the committee that's here at the table introduce themselves

22 as well.

23 [redacted] [redacted] with Chairman Jordan's staff.

24 [redacted] [redacted] Chairman Jordan's staff.

25 [redacted] [redacted] Chairman Jordan's staff.

1 [redacted] [redacted] with Ranking Member Nadler.

2 [redacted] [redacted] legal internal for the minority, House Judiciary.

3 [redacted] [redacted] Chairman Jordan's staff.

4 [redacted] I'd like to now go over the ground rules and guidelines that we

5 will follow during today's interview.

6 Our questioning will proceed in rounds. The majority will ask questions first for 1

7 hour, and the minority will have an opportunity to ask questions for an equal period of

8 time if they choose. We will alternate back and forth until there are no more questions

9 and the interview is over.

10 Typically, we take a short break at the end of each hour, but if you'd like to take a

11 break at any time, please just let us know.

12 As you can see, there is an official court reporter taking down everything we say to

13 make a written record, so we ask that you give a verbal response to all questions.

14 Do you understand?

15 [redacted]. I understand.

16 [redacted] So the court reporter can take down a clear record, we will do

17 our best to limit the number of people directing questions at you during any given hour to

18 just the people on staff whose turn it is.

19 Please try and speak clearly so that the court reporter can understand and so that

20 the folks down at the end of the table can hear you. It's important that we don't talk

21 over one another or interrupt each other if we can help it, and that goes for everybody

22 present here at today's interview.

23 We want you to answer our questions in the most complete and truthful manner

24 as possible, so we will take our time. If you have any questions or if you don't

25 understand one of our questions, please just let us know.

1 Our questions will cover a wide range of topics, so if you need clarification at any
2 point, just say so. If you honestly don't know the answer to a question or do not
3 remember, it is best not to guess. Please give us your best recollection. And it is okay
4 to tell us if you learned information from someone else; just indicate how you came to
5 know the information.
6 If there are things you don't know or can't remember, please just say so, and
7 please inform us who, to the best of your knowledge, might be able to provide a more
8 complete answer to our questions.
9 You should also understand that, by law, you are required to answer questions
10 from Congress truthfully.
11 Do you understand?
12 [redacted]. I understand.
13 [redacted] This also applies to questions posed by congressional staff in an
14 interview.
15 Do you understand?
16 [redacted]. I understand.
17 [redacted] Witnesses that knowingly provide false testimony could be
18 subject to criminal prosecution for making false statements under 18 U.S.C., section 1001.
19 Do you understand?
20 [redacted]. I understand.
21 [redacted] Is there any reason you're unable to provide truthful answers to
22 today's questions?
23 [redacted]. There is no reason I cannot.
24 [redacted] Finally, I'd like to make note that the content of what we discuss
25 here today is confidential. We ask that you not speak about what we discuss in this

interview to any outside individuals to preserve the integrity of our investigation.

For the same reason, the marked exhibits that we will use today will remain with the court reporter so that they can go in the official transcript, and any copies of those exhibits will be returned by the time we wrap up today.

This is the end of my preamble. Is there anything that my colleagues from the minority would like to add?

[redacted] No, thank you.

[redacted] The clock now reads 10:07 a.m. We will start the first hour of questioning.

EXAMINATION

BY [redacted]

Q Thank you, [redacted].

Can you state your full name again for the record?

A My full name is [redacted].

Q And what's your current place of employment?

A I work for Google, specifically out of the Sydney office.

Q And what is your current title?

A Senior director of Google's Threat Analysis Group.

Q What is your educational background, beginning with college?

A I have a degree in electrical engineering from the Australian Defense Force Academy, and I also have a master's degree from the same institution.

Q Okay. And what is your employment history, we'll say, post getting that master's degree?

A I did the master's degree while I was in the military. I served in the Royal Australian Navy -- actually, briefly in the Royal Australian Air Force and then the Royal

1 Australian Navy.

2 After that, I was employed by our defense research lab, then the Defence Signals

3 Directorate, before joining Google in 2010.

4 Q And when you joined Google in 2010, what was your first position?

5 A I was hired to join as part of Threat Analysis Group as it was being formed.

6 I did not lead the group, but I was an engineer and analyst on that team.

7 Q So, just to understand your answer, the group had not yet been formed.

8 You were hired as one of the first members. Does that sound right?

9 A That's correct.

10 Q And who was the leader of that group when you first joined?

11 A [redacted].

12 Q And how big was the group when it was first created?

13 A The five of us.

14 Q And what was your title or position as a member of this group?

15 A Google is not very big on titles, so at the time I think I was just officially, like,

16 down as a software engineer, was just my base title. But I was just a member of the

17 Threat Analysis Group, but my job title was software engineer.

18 Q Okay. And what were your day-to-day responsibilities in this first position?

19 A So, to clarify, we're talking about the position, like, when I first started

20 around 2010 through 2015?

21 Q Uh-huh.

22 A I did a range of roles, including developing software, reverse engineering

23 malicious software, doing various analytical tasks of analyzing threats. And that would

24 be the primary work I did.

25 Q And, then, in 2015, did your position change?

1 A Yes. In 2015, [redacted] left, and I took over management of the team at
2 that time. So I moved into the management role.
3 Q And is that role different than the position you hold today?
4 A The role has evolved. My responsibilities have expanded in some ways,
5 and I've been promoted, but -- I'm still leading the Threat Analysis Group, but it is a large
6 organization today.
7 Q And as the leader, director -- I'm not sure which is the appropriate term -- of
8 the Threat Analysis Group, what are your day-to-day responsibilities in that role?
9 A So, on a day-to-day basis, I am responsible for the operation of the team and
10 supervision of activity. So I manage the leads of the various areas. I also provide
11 specific advice. And I do an occasional amount of direct work, but it's more managerial,
12 supervisory, and providing executive direction at this point.
13 Q And, going forward, sticking with questions, we'll say, post-2015, once
14 you've taken on the leadership role: Is this for all of Alphabet or just for Google?
15 How --
16 A So, to clarify what Threat Analysis Group does, we are responsible for
17 understanding serious threats to both Google and all of Google's users and really all of
18 Alphabet's users, which really covers a huge proportion of the world, in terms of just
19 making the internet more safe.
20 And so we look at the range of threats, including government-backed threat
21 actors, information operation threat actors, and also serious crime.
22 And so my team is responsible for developing that understanding and then
23 producing assessments, intelligence, that allows other parts of Google to take action and
24 counter these threats in order to keep users safe.
25 Q Can you provide an example of something where your group would provide

1 analysis and then a different part of the company would be able to take action on it?
2 A Certainly.
3 A very typical example might be that we would see somebody attempting to send,
4 sort of, malicious software through Gmail. And, then, if it worked out some way to get
5 past the spam filters, we might write a signature or some, you know, detection rule that
6 allows, say, the Gmail team to block future instances of that.
7 That would be an example of, like, we were blocking, sort of, an attack coming
8 from some actor.
9 Q So your team isn't product-specific. Your team is broadly looking at
10 threats, and then there are other teams that are assigned to Gmail, to YouTube, to other
11 Alphabet products. Is that correct?
12 A That is correct. My team is responsible for understanding the threats and
13 the threat actors.
14 Q Who do you report to in this role?
15 A I report to a vice president who is in charge of overall user protection, and
16 then to the next level of vice presidents, who is responsible for privacy, security, and
17 safety.
18 Q And who is that?
19 A My immediate supervisor is [redacted]. And the lead of privacy, security,
20 and safety is [redacted].
21 Q We'll start first in 2015 when you took over the managerial position. How
22 many people were reporting to you at that time?
23 A As I took over the combined two areas, around 18 people.
24 Q And, I'm sorry, what were the two areas?
25 A It was what was the Threat Analysis Group, and I also had some other

1 engineers from another project assigned to me as well.

2 Q And what was that project?

3 A It was an acquisition called Zynamics, which was doing analysis of malware.

4 Q And as part of your responsibilities, did you manage both of these projects

5 for a while?

6 A Yes, and the teams combined to become Threat Analysis Group. So the

7 teams emerged to become one group.

8 Q Do you recall when, approximately, the groups were merged?

9 A I was managing them as one group for -- I'm not exactly sure how long. So

10 they were all under my management, but at some point we changed the name to say it

11 was all one group, but I don't remember exactly when the merger happened.

12 Q How many people do you manage today?

13 A I believe 60.

14 Q And how is your team internally divided? Well, let me rephrase that. Is

15 your team -- are there internal teams?

16 A There are internal teams, yes.

17 Q Yeah. And can you say at a high level what --

18 A At a high level, I have an engineering team who builds, sort of, some of the

19 tooling for our team. And the three missions I mentioned before of government-backed

20 threats, information operations, and cyber crime, I have, you know, sub-teams that

21 analyze and look at each of those classes of threats.

22 Q If I could have you briefly just say from your team's perspective, you know,

23 what do you define as a government-backed threat? And then we'll go through the next

24 two.

25 A Sure. So we consider, like, a government-backed threat -- we're generally

1 talking hacking threats here. So we would consider that, sort of, espionage or other sort
2 of hacking attempts against our users where we believe that the origin is coming from,
3 sort of, some form of government sponsorship.
4 Q And then the second mission you said was with respect to information
5 operation?
6 A Yes.
7 Q Okay. And then how does your team understand that?
8 A There, we are looking for threat actors engaged in coordinated inauthentic
9 behavior on our platforms, generally government-backed activity as well, but from an
10 information point of view.
11 Q And so is there overlap between those first two teams, the
12 government-backed --
13 A Certainly. They're part of the same group. Some groups are more
14 focused on posting information, so they'd be covered by the information operations
15 team. Other groups are focused primarily on hacking. But there is occasional
16 crossover, and the teams work together when there is overlap between those missions.
17 Q And then the third one, cyber crime?
18 A Yes.
19 Q Briefly state --
20 A So we look at ransomware, botnet, sort of, like, major criminal threat actors
21 in order to counter those threats.
22 Q Is there an individual who leads each of these sub-teams for each mission?
23 A I have managers for each of those areas, yes.
24 Q Who is the manager for the government hacking, espionage, the first
25 mission?

1 A The manager is [redacted].

2 Q And for the second mission, information operations?

3 A My direct report who manages that is [redacted].

4 Q And for the cyber crime team?

5 A [redacted].

6 Q As part of your position at Google, do you have interactions with the

7 government affairs and public policy team?

8 A Yes.

9 Q And what's the nature of those interactions?

10 A Generally, we, as a company, we are engaging on security matters.

11 Sometimes I am drawn upon or interact with the government and the government affairs

12 and public policy team, assist in those interactions.

13 Q And -- I'm sorry -- assist with those interactions to have your team interface

14 with governments? I'm sorry.

15 A Yes. So, if, like -- for instance, I testified in front of Congress last year, and

16 the government affairs and public policy team assisted me in my preparation to testify in

17 front of Congress, for instance.

18 Q Are there other instances that require your interaction with the government

19 affairs and public policy team?

20 A We do actively engage with governments worldwide, and often those will go

21 through the government affairs and public policy team.

22 Q Would the government affairs and public policy team be the team that

23 would help communicate questions governments had that were relevant to your team's

24 work?

25 A That would be one of the teams, yes.

1 Q What other teams may be involved?

2 A Our legal team.

3 Q Specifically to the U.S. Government, do you recall what sorts of issues have

4 been raised either directly with your team or through the government affairs and public

5 policy team?

6 A Generally if it's coming to my team, it would be something to do with

7 threats, foreign threats, that is relevant to the three areas I discussed.

8 Q Do you have a primary point of contact on the government affairs and public

9 policy team?

10 A No, I don't.

11 Q Do you know who leads that team?

12 A I believe I do know the vice president, yes.

13 Q And who is that?

14 A I believe it's [redacted], though I may be wrong.

15 Q Are you familiar with the terms "misinformation," "disinformation," and

16 "malinformation"?

17 A Yes.

18 Q And, to your understanding, what is the difference between those three

19 terms?

20 A I'd say, at a broad level -- although I think the exact definitions of those

21 terms is an area being actively discussed at the moment, and not everyone uses those

22 terms in the same way. That's one of them.

23 Q Okay. We'll start with, first, what is your understanding of what the most

24 common definition for each of those three terms would be?

25 A I've mostly heard the first two. I'd say "misinformation" is information that

1 is wrong and misleading. My understanding of the term "disinformation" is it generally
2 it implies some level of active, sort of, effort to kind of spread wrong information for a
3 purpose. And I'm not sure I have a definition for "malinformation."
4 Q Within Google, are any of these terms that you or your team use as part of
5 your work?
6 A Yes, we've used those terms. Generally, I narrow it down to where there is
7 this actual directed threat actor part, and we consider that information operations. And
8 that's, sort of, a more -- the term we use in my team.
9 Q So, for the team that works on information operations, you mentioned you
10 also call it coordinated inauthentic behavior?
11 A That would be -- yeah, that's one of the policies we have.
12 Q Okay. What other policies or things would fall within the scope of an
13 information operation?
14 A Generally, we are looking where there is a threat actor trying to undertake
15 something that is coordinated with intent. And I'd make clear that my role is not to do
16 the policy assessment; we are there to do the threat understanding. So we would
17 generally investigate, and then we would develop the understanding of what is being
18 observed, what's being investigate here, and then we would pass that to the policy
19 experts elsewhere in the organization to make the policy decisions.
20 Q And which team houses the policy experts?
21 A Generally, the central policy team is trust and safety, although there are
22 determinations also made in some products, such as YouTube.
23 Q So that first trust and safety team you're referring to, that team doesn't
24 cover YouTube? Is that right?
25 A I believe there is some overlap, where there's, like, a global policy for all

1 products. There's trust and safety, but there's also specialized efforts between
2 YouTube.
3 Q Who's your primary point of contact for the trust and safety team?
4 A It would depend on what topic.
5 Q On what sorts of topics would you communicate about with the trust and
6 safety team?
7 A The trust and safety team is a broad organization, so we may communicate
8 with them on malware, we may coordinate with them on information operations,
9 or -- you know, they are two of the big ones.
10 Q Okay. For information operations, who would be your point of contact on
11 trust and safety?
12 A My counterpart would be [redacted].
13 Q And for information operations, who would be your point of contact for the
14 YouTube team?
15 A Generally this happens from my team. I don't know the exact point of
16 contact for my team.
17 Q Could you provide an example of how your team interacts with the trust and
18 safety team with respect to information operations?
19 A Certainly.
20 We'd, say, maybe have some lead or discovered some activity on YouTube that we
21 believe is coming from a foreign actor -- in other words, propaganda. We would do the
22 analysis and see the nature of the activity. We would work out all the related details,
23 some of the evidence, how it was coordinated. And then we would pass that
24 information over to YouTube and trust and safety, where they would make the decisions
25 of the actions to take.

1 And then also, subsequently, we transparently, in a bulletin my team publishes,
2 actually produce statistics on the takedowns and other actions taken. We do that on a
3 quarterly basis.
4 Q When your team is communicating your findings to the trust and safety
5 team, how is it communicated?
6 A Generally through our internal electronic systems.
7 Q Such as?
8 A Email is one of them, but I believe there's also other tracking systems, but I
9 don't know the specific details.
10 Q What other internal tracking systems are available to your team?
11 A Google is a very large company with an incredible range of systems. I'm
12 not sure how to answer that, because it's a lot of IT.
13 Q Okay. Besides email, what is the most frequent form of internal
14 communication used between your team and the trust and safety team?
15 A That'd probably be our -- probably the next one would be the internal chat
16 system.
17 Q Is there a name for the internal chat system?
18 A Hangouts.
19 Q Once your team has communicated your findings to the trust and safety
20 team, is any information passed back to you from trust and safety?
21 A Yes.
22 Q And what would they communicate back to you?
23 A They would communicate whether action was taken. And there may be
24 further back-and-forth to clarify, if they needed more information.
25 Q With respect to information operations, you've in a few answers now

1 referred to actors, such as an actor component. Is there a content component to your
2 group's analysis?
3 A We do observe the content in terms of -- we do look at the content in terms
4 to understanding what the actor is trying to do. And we provide information on what
5 the content is and the nature of the content is. But we are not providing and do not
6 provide, sort of, assessment against our content policies, which are enforced elsewhere.
7 But if we're reporting on an actor, part of the report would be what we believe
8 the actor is -- has in their content, for instance.
9 Q As part of your position at Google, do you have an understanding or
10 familiarity with YouTube's content moderation policies?
11 A I've been exposed to them, but I wouldn't consider myself an expert on the
12 details.
13 Q To your understanding, are there some policies that are specific to actors'
14 behavior?
15 A Yes. There is, I think, a specific policy on coordinating authentic behavior.
16 So, if there is -- that was one of the things we are asked, is if we can see that there is a
17 group of accounts or activity that is acting in a coordinated way and is inauthentic.
18 And then that is one of the grounds they take action on, so that is one of the
19 things we assess for them and help assess for them. We don't make the decision, but
20 we provide input for them to use our evidence to make that determination.
21 Q And, to your understanding, are there YouTube content moderation policies
22 that are content-based?
23 A Yes.
24 Q And when the YouTube team, let's say, is communicating back to your team
25 about a decision or an action that was taken, do they inform you under which policy the

1 action was taken?

2 A Generally, yes.

3 Q And, in some of those cases, the action was taken under the CIB,

4 coordinated inauthentic behavior, policy? Is that right?

5 A Yes.

6 Q Is that for all cases?

7 A No.

8 Q What other policies will sometimes apply?

9 A An example would be, an actor might be -- we have a policy, if they're calling

10 for violence or the actual content itself was violence or -- are not allowed on our platform

11 at all. So it would be maybe taken down under that policy if it wasn't coordinated.

12 Say, it was, for instance, terrorist content or something, which is banned on that

13 platform.

14 Q Do you recall any instances where the YouTube team informed that a

15 decision to take action was taken under a misinformation related to content moderation

16 policy?

17 A I do believe it has occurred, yes.

18 Q And what about for the main trust and safety team that you referenced

19 earlier?

20 A I would say similar. I'd say similar. They cover the other products.

21 Q When your team presents your findings to the trust and safety team or to

22 the YouTube team, do you provide any sort of analysis of which content moderation

23 policy is being applied?

24 A No. That's their area of expertise, not ours.

25 Q When your team provides your team's findings to either the trust and safety

1 team or to the YouTube team, does the evidence, since it's being communicated to those
2 teams, split out what evidence is actor/behavior-related as opposed to content-related?
3 A I'd say it breaks down, but we try to provide, like, an overall assessment of
4 the nature of the activity and of the details of the, you know -- what we know of who it is,
5 what it is, and the technical details that we have with regards to accounts or contents or
6 videos, the list of the details. That would be the best description.
7 Q All right.
8 For the messages that have information that relates to content, with the
9 understanding that there probably is other evidence and information as well, does your
10 team provide an analysis at all about the veracity of that content?
11 A We do not.
12 Q For the segments of the content moderation policies, whether for YouTube
13 or for a different product, that are misinformation-related and require somebody to, you
14 know, conduct an analysis of the veracity of the content, do you know which teams at
15 Google or within Alphabet play that role?
16 A My understanding is that content moderation generally falls under the trust
17 and safety organization.
18 Q Do you know if any of these trust and safety teams have fact-checkers?
19 A My area of focus is when it comes to threat actors and looking at, like,
20 coordinated activity. So my knowledge of the range of the trust and safety is limited.
21 Q Does your team interact with any fact-checkers employed by Alphabet?
22 A I'm trying to work out the definition of "fact-checker" here.
23 Q Well, we can take one step back and see -- to your understanding, are there
24 any individuals within the company tasked with the responsibility of determining the
25 veracity of content claims on various Google, Alphabet products?

1 A My understanding is, we have content policies, and there are some specific
2 areas where there are specific content policies. My team does not interact with those
3 teams, as far as I can recall.
4 Q So, to your knowledge, are there any instances where your team is
5 communicating something to the trust and safety team or to the YouTube team that does
6 not in some way involve either coordinated and inauthentic behavior or evidence of a
7 potential threat actor?
8 A Generally, our assessment is to look at this to -- we look at the range of
9 activity, we provide our overall assessment of what is going on and whether we believe
10 there is a threat actor, whether we believe it's not, and then we pass it over. And then
11 it is assessed for policy under that policy and any other policies that could be applied.
12 Q How soon does your team communicate its findings -- let me take one step
13 back.
14 Your team conducts analysis. At some point, it sounds like a conclusion is
15 reached. How soon after a conclusion is reached does your team communicate those
16 findings to either the trust and safety team or to the YouTube team?
17 A This is a fairly timely operational, sort of, capability, so generally we'd be
18 aiming for days at a maximum.
19 Q And, on average, how quickly do you hear back from either the trust and
20 safety team or the YouTube team?
21 A Generally, this is quite a quick process. We are aiming to -- if there is
22 malicious activity on our platforms, our goal is to protect users and we want to take
23 action as quickly as possible, so this is generally happening very quickly.
24 Q For issues related to a potential, say, foreign-originated hack-and-leak
25 operation, which team within Alphabet would have primary responsibility for that issue?

1 A It would be similarly split. I think the understanding of the hacking part
2 and the threat actor and what went on, a lot of analysis is done by my team. And we
3 track the threat actors that have done hack-and-leak before. But decisions on -- policy
4 decisions and legal decisions would be made by policy teams and legal teams.
5 Q To your understanding, does YouTube or any other Alphabet product have a
6 content moderation policy with respect to a potential hack-and-leak that is separate from
7 the content moderation policies referring to coordinated inauthentic behavior?
8 A I understand that we do have a hack-and-leak policy, yes.
9 Q To your understanding, do you know when, approximately, the
10 hack-and-leak policy was first developed and implemented?
11 A It was sometime after 2016.
12 Q Do you have, I guess, a more condensed timeline of when it might be since
13 2016? Do you recall if it was before the 2020 U.S. election?
14 A It was well before 2020. I would say somewhere between 2016 and -- so
15 maybe 2016, 2017, 2018. I probably would say it is 2017 -- my best recollection would
16 be around 2017, but it may have gone just after that.
17 Q And, to your understanding, which team or teams worked on the
18 hack-and-leak policy?
19 A The trust and safety policy team.
20 Q Do you know any individuals on that team who worked on that policy?
21 A I don't know individuals -- I don't know any individual working on that
22 specific policy.
23 Q And, then, of the three missions that we were discussing
24 earlier -- government-backed, information operations, and cyber crime -- if there is a
25 potential hack-and-leak that occurs, which of those teams, as your team understands it,

1 would take the primary role in assessing what happened?

2 A It would depend on, like, which actor it is and where the actor falls.

3 Q Okay.

4 A So, if it was a government-backed hacking actor, then it would fall within my

5 government-backed team.

6 Q Are you generally familiar with the October 2020 New York Post story

7 regarding Hunter Biden's laptop?

8 A Yes.

9 Q And are you generally familiar that there were concerns that it may be the

10 product of a Russian hack-and-leak or hack-and-dump operation?

11 A Yes.

12 Q Once that story was released, did your team conduct an assessment of

13 whether materials from the story of the laptop were part of an either Russian

14 hack-and-leak or hack-and-dump operation?

15 A Yes.

16 Q And what were your team's findings?

17 A My team's findings was that we did not find any evidence that it was part of

18 a foreign hack-and-leak operation.

19 Q The story came out on October 14, 2020, early in the morning. I'm not

20 going to ask if you recall that day in particular. But do you recall how soon from when

21 the story first broke -- at least in the United States, it received a good amount of news

22 coverage -- from how soon the story first broke to when your team first began its

23 assessment?

24 A Pretty quickly.

25 Q Same day?

1 A Same day or day after probably.

2 Q And then how long did it take your team to reach an initial assessment?

3 A I'd say we did an initial assessment based on the information we had access

4 to within a few -- within hours.

5 Q Who on your team worked on this assessment?

6 A I took the lead on this, but consulted with my team if anyone had any

7 information.

8 Q And who within Alphabet did you communicate these findings to?

9 A To trust and safety.

10 Q And do you recall who on trust and safety you communicated these findings

11 to?

12 A To vice president [redacted].

13 Q Do you recall how you communicated these findings?

14 A Initially over Hangouts chat.

15 Q And, to your recollection, piecing together earlier answers -- your team was

16 looking at it either the same day or the following day, and it took only a few hours to find

17 an initial assessment -- to your recollection, then, did you communicate this to the trust

18 and safety VP either the day of or the day following when the story broke?

19 A Yes.

20 Q How --

21 A And just to clarify, like, I don't have the exact timeframe recollection, so it

22 may have been 2 days after, just to be clear.

23 Q Sure.

24 A But definitely around that time, fairly quickly. Just to make sure I'm being

25 precise.

1 Q Thank you.

2 And when the story first broke, do you recall what first put it on your team's

3 radar? Did someone from the company request your team to conduct an analysis?

4 A I don't recall exactly. It was a very big story, and -- there was a very big

5 story, and there were some suggestions of hack-and-leak, which, if it was, would've put it

6 in our purview.

7 Q And for the Hangouts chat, is there a call associated with that as well? Is it

8 just written communications? What do you mean by --

9 A So this is our internal chat app. So the initial communication on that was

10 with this chat app, yes.

11 Q Okay. And was this a direct message from you to the trust and safety VP,

12 or were there others who participated in this chat?

13 A This chat was a direct message, yes.

14 Q Do you recall what the VP of trust and safety responded?

15 A Not on that message, except -- not on that message.

16 Q You don't recall, or there was no response?

17 A I don't recall a response. Sorry.

18 Q Generally, taking a step up from this specific example, how is your team

19 made aware of potential threats or, in this case, hack-and-leak, but just generally

20 speaking?

21 [redacted] I'm sorry, I didn't hear. How is your team made aware of what?

22 [redacted] General threats.

23 [redacted] General threats. Thank you.

24 [redacted]. We have a broad range of sources, and we're looking for leads in a

25 number of places. It could be discovered internally by our team through research. It

1 could come from other parts of the company or from external leaks.

2 BY [redacted]

3 Q So, following this direct message to the VP of trust and safety, your team has

4 conducted an initial assessment, passed along the findings. Do you recall any

5 subsequent communications with personnel at the company about your team's findings?

6 A Yes. I was called in to a video call meeting later that day.

7 Q Into what meeting?

8 A Into a video chat --

9 Q Oh.

10 A -- a video call meeting, a video call.

11 Q And who was at this video chat meeting?

12 A The meeting was, as I recall, convened by [redacted], and there were a

13 number of other VPs and some lawyers from various products.

14 Q Do you recall which teams the other VPs were from?

15 A I definitely recall YouTube being represented, but I do not recall specifically

16 what other products.

17 Q And what was the purpose of this call?

18 A My understanding was that it was a discussion on Google's response and

19 what action they would take.

20 Q And did you again present your team's findings, or were people familiar with

21 what your team's findings were at the time?

22 A That was why I was called into the meeting. My role was to come in and

23 provide a short verbal brief on our understanding.

24 Q And, to your understanding, what was Google's response?

25 A I'm not sure, and I think it may have varied by product. I'm not sure of the

1 exact details of the response to that, to that issue.

2 Q To your understanding, did the Google Search team take any sort of action?

3 A I do not recall.

4 Q Who would best be able to answer that question?

5 A I'd assume their trust and safety organization. I do not know a contact

6 specifically in Search.

7 Q To your understanding, did YouTube make any decision with respect to how

8 they'd take action or not take any action on the story?

9 A I don't know the specific actions they took.

10 Q How long were you on this video chat call for?

11 A I can't recall exactly, but a fairly short period of time.

12 Q Were you on it for the entirety of the call?

13 A I was not.

14 Q Did you receive any sort of briefing later on about parts of the call you were

15 not on?

16 A Not that I recall.

17 Q Were you asked to provide any sort of written work product in addition to

18 the one written message to the VP of trust and safety?

19 A I was not.

20 Q To your knowledge, did anyone from your team send any written product

21 subsequently about your team's findings?

22 A I don't recall us doing so.

23 Q Do you know how long this video chat call lasted approximately, with the

24 understanding that you were not on for all of it?

25 A I do not know.

1 Q At the time that you were brought into the call, did you have a sense of
2 whether a decision had been made by any Google product on whether to take an action
3 with respect to the story or whether for all the Google products the decision was still
4 under consideration?
5 A My understanding of the meeting is that the purpose of the meeting was to
6 determine the policy decisions that were going to be made and to do that in a
7 coordinated way, and no decision was made when I joined, and my role in the meeting
8 was to provide input to allow decisions to be made.
9 Q Do you recall receiving any questions during your time on the video call?
10 A Yes.
11 Q And what were some of these questions?
12 A The first question was what our understanding -- or whether we had any
13 evidence of that this was hack-and-leak or that we could tie this to a foreign actor. And
14 the second question was what information we had heard from others.
15 Q For the first question, whether it was a hack-and-leak and whether it could
16 be tied to a foreign actor, what answer did you provide?
17 A I provided the answer that we had no evidence of that and could not tie it to
18 any foreign actor, and we had no evidence of it being hack-and-leak.
19 Q And what answer did you provide to the second question on whether you
20 heard anything from others?
21 A I said I had consulted with some contacts in the industry and similarly had
22 not heard any evidence that -- any direct evidence of specific foreign involvement or
23 hack-and-leak.
24 Q Had you heard any indirect evidence?
25 A The only thing I had heard was speculation. I hadn't heard any evidence.

1 Q And by "speculation," are you referring to speculation in the time that
2 followed the story's publication or speculation even before as well?
3 A All my recollection is after the publication, and I don't believe I had
4 knowledge of anything to do with this before the publishing of the story in the New York
5 Post.
6 Q Which industry partners did you reach out to?
7 A I recall reaching out to Twitter and Apple.
8 Q Who at Twitter did you reach out to?
9 A Yoel Roth.
10 Q And who is Mr. Roth?
11 A I understand he was in the trust and safety organization of Twitter.
12 Q Do you recall how you reached out to Mr. Roth?
13 A I don't.
14 Q And do you recall if it was you reaching out to Mr. Roth or Mr. Roth reaching
15 out to you?
16 A I reached out to him.
17 Q And what did you ask him?
18 A I had seen that they had taken -- that Twitter had already taken action, and I
19 asked him if he had any information about the questions asked of foreign involvement or
20 any details that they could share about this that may assist us and what information there
21 was that they could share with my team.
22 Q And what answer did Mr. Roth provide?
23 A He did not provide me, as I recall, any specific information that -- of evidence
24 of that it was a foreign hack-and-leak operation.
25 Q Just to tease out that answer a little bit more, did he say he was unable to

1 provide evidence, or did he provide some sort of answer to your assessment and didn't
2 provide evidence to --
3 A Sorry. No, he did not provide any details. He did not provide any details.
4 Q Do you recall if he said that he was not able to provide details because of the
5 sensitivity of the information, or was it his understanding that there was no evidence to
6 support that it was a potential foreign hack-and-leak?
7 A My recollection, noting that it was a couple of years ago, was that he said he
8 did not have direct evidence.
9 Q After he provided that answer, did you ask why Twitter was taking action if
10 they did not have direct evidence?
11 A I believe I did ask that question.
12 Q You believe you did?
13 A Yes.
14 Q And do you recall Mr. Roth's answer?
15 A I don't recall a specific policy that -- I don't recall.
16 I know that Twitter is a very different product from ours, and their policies are
17 quite different in many different ways. So I'm not an expert on their policies, so I can't
18 recall.
19 Q With the understanding that you don't recall if a specific policy was
20 referenced or how it might apply, obviously, at the company, do you recall Mr. Roth
21 providing any other reasons of why action was taken?
22 A I don't recall. My focus was solely on whether there was evidence -- what I
23 was seeking out of the call was, was there evidence for this foreign influence or
24 hack-and-leak, because that was the information I was seeking in order to provide to my
25 team, because that was what was relevant for us.

1 So we were waiting to do an independent assessment. So our goal in this was to
2 do an independent assessment on the evidence. So my reaching out to industry
3 partners was to determine if there were any sources of information or details that could
4 be used by -- passed on by me to the team to actually make policy assessments.
5 Q During your conversation with Mr. Roth, did he say whether he reached out
6 to anybody else for information?
7 A I can't recall details.
8 Q Do you recall how long this discussion or interaction lasted?
9 A It was fairly short.
10 Q Do you recall at the time that this discussion was occurring, not just that
11 Twitter had taken action, but the extent to which Twitter had taken action to moderate
12 the story?
13 A I have recollections in the news that they were blocking all links to the
14 article.
15 Q Do you recall, to your understanding at the time, whether that sort of action
16 was a fairly significant step?
17 A I don't recall many other instances of this. But I'm not an expert in their
18 policies, and they're very different products, so I can't speak to how often they've done
19 this with other content.
20 Q Did this discussion with Mr. Roth occur before the video chat with the
21 company VPs that you referenced earlier?
22 A Yes.
23 Q During the video chat with the company VPs, did you reference or provide
24 an update regarding your discussions with industry partners?
25 A Yes.

1 Q And did that include your discussions with Mr. Roth?
2 A Yes.
3 Q Do you recall any reactions or responses from people on the video chat?
4 A I don't recall specific reactions.
5 Q And just to make sure we're clear on the record, when conveying these
6 discussions that you had with industry partners before the video chat call during the
7 video chat call, the information you were relaying is that the industry partners also did
8 not provide any evidence that would support that it was a foreign hack-and-leak?
9 A Correct. I provided the assessment we have and also the fact that we had
10 not received information from the industry partners I'd spoken to, and I told them which
11 industry partners I had spoken to.
12 Q Who at Apple did you speak to?
13 A I spoke to their threat intelligence person, [redacted].
14 Q Do you recall if you spoke to Mr. Roth or -- is it [redacted]?
15 A [redacted], [redacted].
16 Q Okay. Thank you. If you spoke to Mr. Roth or [redacted] first?
17 A I believe it was Mr. Roth, but I could be wrong.
18 Q And do you recall that you reached out to [redacted], or did he reach out to
19 you?
20 A I reached out.
21 Q Okay. And what did you ask [redacted]?
22 A Given that the laptop was, I believe, an Apple laptop and some of the stuff
23 could've been on iCloud, I was asking if Apple had any information about the nature of
24 the hack or the source of -- nature of the -- the source of the materials that was being
25 produced here and the sources that had been released. I asked if Apple had any

1 intelligence about what may be the source.

2 Q And what did [redacted] say?

3 A He said he did not have any information about the source of the materials.

4 Q And just to try to parse that a little bit more, when he said he did not have

5 information, to your recollection, was the basis of that answer that he could not provide

6 any information to you or --

7 A He said he did not have the information, did not have any information.

8 Q Thank you.

9 So, besides Mr. Roth and [redacted], do you recall reaching out to any other industry

10 partners?

11 A I do not.

12 Q Do you recall any industry partners reaching out to you?

13 A On this topic, in this timeframe, I don't recall.

14 Q To your knowledge, did anyone else from your team during this time period

15 reach out to an industry partner?

16 A I don't specifically know.

17 Q To your knowledge, did any of the industry partners reach out to someone

18 on your team?

19 A I don't specifically know.

20 Q You mentioned having awareness of the action that Twitter had taken.

21 During this time, did you have any awareness of what action Facebook had taken with

22 respect to the story?

23 A I can't recall, but it may have been discussed.

24 Q And by "discussed," do you mean discussed internally or --

25 A Yes.

1 Q Do you recall or have knowledge of any interactions between someone at
2 Facebook and someone on your team?
3 A I can't recall specifically whether I spoke to my counterpart at Facebook. I
4 may have or I may not have.
5 Q At the conclusion of your discussion with Mr. Roth and/or your discussion
6 with [redacted], did you communicate in writing the contents of those discussions to
7 anybody?
8 A No.
9 Q Besides the video chat that you participated in, did you verbally brief anyone
10 on what you discussed during those calls?
11 A I don't recall any specific discussions, but we provide general updates
12 on -- general updates, so it would've come up as a topic.
13 Q And general updates to whom?
14 A So we could say, within the team.
15 Q With the understanding that you don't recall if you reached out to someone
16 at Facebook but you did reach out to Mr. Roth at Twitter, [redacted] at Apple, in that set of
17 circumstances, to your understanding, who would have been the best point of contact at
18 Facebook to reach out to?
19 A [redacted].
20 Q And who is that?
21 A He is on the -- I believe he's in the security public policy team at Meta.
22 Q Besides these two industry partners that you've identified, do you recall
23 reaching out to anyone else for information?
24 A No. I asked my team if they had any information, and they did not. But I
25 don't recall any other external outreach.

1 Q And do you recall any outreach to academics or researchers in this area?
2 A No.
3 Q Do you recall any outreach to members of the U.S. Federal Government?
4 A I did not do any.
5 Q This is going back a little bit. When I asked how your team becomes aware
6 of different threats generally, obviously your team internally identifies things, but then
7 sometimes information will come in externally. Is one of the entities to provide tips, for
8 lack of a better word, the U.S. Federal Government?
9 A Yes.
10 Q And which agencies will provide information to your team?
11 A With regards to the information operations threats, the primary agency
12 would be FBI.
13 Q And do you have a primary point of contact at the FBI or an office within the
14 FBI?
15 A Generally, these interactions are coordinated by our legal department, but
16 the main point of contact is the FBI San Francisco office.
17 Q And are you familiar with the FBI's Foreign Influence Task Force?
18 A Yes.
19 Q To your understanding, what is that?
20 A To my understanding, it is a coordination group within FBI with the mission
21 of countering foreign interference.
22 Q And, in 2020, did you have ongoing meetings with the Foreign Influence Task
23 Force?
24 A Yes.
25 Q And would these meetings typically be between just the Foreign Influence

1 Task Force and personnel from Alphabet?

2 A We would -- we had meetings between just FITF and Alphabet. FITF was, I

3 believe, also represented at industry meetings, at meetings with [inaudible] government

4 as well.

1 [11:02 a.m.]

2 BY [redacted]

3 Q And who from Alphabet would most frequently attend the meetings in 2020

4 between just FITF and Alphabet?

5 A Myself, [redacted], [redacted]. And we would

6 occasionally -- well, we would bring in, depending on the topic of discussion, you know,

7 one or two people from my team or other teams that were related.

8 Q And once this story broke, the Hunter Biden laptop story, in October of 2020,

9 to your knowledge, and not just limited to your team, did anyone from Alphabet reach

10 out to anyone on the FBI's Foreign Influence Task Force to see if they had any

11 information?

12 A I don't specifically know, but it would've been done by our -- such a

13 reach-out would've always been done by our legal, not by myself or my team.

14 Q And who from the legal department specifically?

15 A At that time, [redacted].

16 Mr. Halse. [redacted] you're not saying that it did occur but if it did --

17 [redacted]. Yes, that's right. Like, if it did.

18 I'm talking in the general point of view here, that the general mechanism, if we

19 were making an inquiry, those inquiries would be routed through our legal department.

20 And Richard Salgado was the primary point of contact with the FITF for making requests,

21 and myself and my team did not. We always went through our legal team.

22 BY [redacted]

23 Q Understood.

24 Do you recall any meetings between FITF and Alphabet occurring after the story

25 had broke but before the 2020 U.S. election?

A I don't recall if there was a FITF meeting between those dates.

[redacted] I'm sorry, [redacted] Were you asking if there were any meetings between October 20th and November --

[redacted] October -- it'd be October 14th.

[redacted] October 14th, sorry, yeah.

BY [redacted]

Q To the extent you have knowledge or understanding, any FITF meetings where the issue of the story of the laptop or anything related to it was raised during a FITF meeting?

A I do not -- do not believe or recall that it was raised in any FITF meeting.

Q And you mentioned earlier there are these broader, we'll call them, U.S. Government and industry meetings. Do you recall at any of those meetings whether the laptop story, anything related to it, was raised in one of those meetings?

A I don't recall it being raised.

Q Okay.

Besides reaching out to Mr. Roth and [redacted] before that video chat occurred with the VPs in the company, did you reach out at any other points to industry partners on this issue subsequently?

A I don't recall. My understanding is it was relatively resolved fairly quickly and the actions had been taken, and it was not an ongoing issue after that time.

Q Did you recall receiving any subsequent requests from anyone in the company to either provide a briefing or provide an update on your team's findings?

A I recall in general being asked a number of times whether -- because of the speculation in the press, asked whether we had information about this or had any evidence, whether we knew that this was one of the threat actors we tracked. I

1 would've received that request from different people. But I always would've replied
2 that, no, we did not.
3 Q Okay. Do you have a ballpark sense of how many times that request came
4 in?
5 A A handful at best.
6 Q Okay.
7 Are you familiar with a statement by 51 former U.S. intel officials that was
8 released on October 19th saying that the story bore all the classic earmarks of a Russian
9 information operation?
10 A I have a vague recollection of that.
11 Q Do you recall any of these requests from internal to the company either link
12 to that because someone had seen the statement or post the statement?
13 A I would say in general this is one of the tasks my team fulfills, is that we
14 provide a more detailed understanding. So, if there is somebody who sees something in
15 the press or from some other sources, it would be a general practice that my team's
16 responsibility were to say, does my team know anything about this, or are we able to
17 provide more context. And that is something we do for executives.
18 So one of the reasons they may have been asking, it was a high-profile incident, so
19 they may have come back and asked us, did we know anything more about the true story.
20 [redacted] Can we go off the record, please?
21 [Recess.]
22 [redacted] All right. We are back on the record. It is 11:18.
23 And, [redacted], on behalf of the minority, I want to thank you for coming here
24 today.
25 EXAMINATION

1 BY [redacted]

2 Q You said -- I didn't quite hear this -- you work in the Sydney office?

3 A I do now, yes.

4 Q You do. Okay. And how long have you been in the Sydney office?

5 A Since January of this year.

6 Q January this year. Okay.

7 And you have been with the Threat Analysis Group at Google since you started

8 there in 2010, you said?

9 A That's correct.

10 Q And you've been working in the field of cybersecurity since well before then,

11 correct?

12 A That's correct.

13 Q And in your work at the Threat Analysis Group -- well, the Threat

14 Analysis Group itself, your team, detects and works to disrupt government-backed

15 threats?

16 A Yes.

17 Q And other types of cybersecurity threats?

18 A Yes.

19 Q So you would focus on things like malware, correct?

20 A Yes.

21 Q Spam?

22 A Yes.

23 Q Phishing? That's with a p-h.

24 A Yes.

25 Q And commercial spyware?

1 A Yes.

2 Q You've encountered hack-for-hire operations?

3 A Yes.

4 Q And those are typically engaged on behalf of a foreign government?

5 A Both foreign government and just for commercial purposes.

6 Q Commercial purposes. Okay.

7 And that brings me to another question. It seems like a lot of your team's work

8 is focused on state-sponsored influence operations or other types of illegal activity, but

9 you also focus on coordinated behavior that might just have a purely financial purpose,

10 correct?

11 A That's correct.

12 Q It's not just a political --

13 A No.

14 Q -- mission.

15 A The team was originally founded with a focus on government-backed threats

16 in 2010, but our mission has expanded. And in the last number of years, with the

17 growth of ransomware and other big threats to our users such as botnets, we've also

18 been given that responsibility and built out a sub-team to look at those serious

19 cyber-criminal threats as well.

20 Q Can you talk about the risk that those cyber-criminal threats pose to your

21 users?

22 A Certainly.

23 We see, you know, the growth of a range of attacks. And some of the biggest

24 ones are ransomware attacks, where an organization may be compromised and, as you've

25 seen big examples in the news, where an organization may be compromised, their data

1 can be encrypted. It can cause a huge amount of disruption to an organization.
2 We're also seeing individuals targeted, and they're, you know, being blackmailed
3 or coerced, or information collected and -- you know, different threats to users.
4 Q And where do most of these -- are there particular countries that you're
5 seeing that are engaging in these kinds of attacks more than others?
6 A Certainly, some countries more than others, but this is an absolute global
7 problem, and we track threats from all around the world, and my team is a global team.
8 Q Okay. And I'm going to want to follow up on the global nature of your work
9 in a little bit.
10 So, as you said, this has been something -- these issues are things that you've been
11 dealing with since 2010, correct.
12 A Correct.
13 Q And this is not something that Google only started focusing on in the wake of
14 the 2016 election.
15 A Correct.
16 Q Just give me one moment.
17 You know, as I believe you explained earlier, your team's role is to identify and
18 assess whether activity you see on your platform falls into those three categories that you
19 described -- government-backed influence operations, coordinated inauthentic behavior,
20 or cybercrime.
21 A That's correct. We're assessing whether it's part of that behavior. But we
22 also develop the understanding of the actors and the threats involved to, you know,
23 understand these threats to allow us to better make our protections and better protect
24 our users.
25 Q Okay.

1 And I believe you also said that it's not part of your team's role to determine
2 whether content that is produced by some of these networks is actually true or false.
3 A That is not my role or the role of anybody on my team.
4 Q Okay. And so another way of saying that is, you do not --
5 A We do not --
6 Q -- engage in content moderation.
7 A We do not engage in content moderation.
8 Q Okay. And you do not engage in fact-checking.
9 A We do not do fact-checking.
10 Q Can you talk a little bit about what coordinated inauthentic behavior is?
11 A I'd say, with the caveat that I'm not the policy expert of doing the lines
12 around it --
13 Q Uh-huh.
14 A -- maybe best given as an example, for instance, would be that -- an example
15 would be if a foreign actor tried to create, like, a thousand YouTube accounts, and they
16 were pretending to be somebody else, and then they're actually all posting videos or
17 comments and acting in this coordinated way in order to push some message --
18 Q And --
19 A -- and then --
20 Q Oh, sorry. No, finish.
21 A That's the sort of -- an example of behavior we might see from a threat
22 actor. And then we would provide that assessment of, that's what we are seeing, here's
23 the details of it, here's the accounts involved, and then we'd pass that over to the policy
24 and enforcement teams.
25 Q So your team does the investigation to determine whether, for example,

1 those YouTube accounts are from where they purport to be or by whom they purport to
2 be?
3 A Yeah, we provide our assessment of that.
4 Q And so the "inauthentic" part of coordinated inauthentic behavior refers to
5 somebody using an account, such as a YouTube account, under false pretenses, holding
6 themselves out to be someone or in a country that they're not?
7 A Yes. And then a lot of these policies came from the -- you know, the
8 inauthentic behavior is someone in a foreign country pretending to be American, for
9 instance.
10 Q And can you explain -- and if this is not your area, then that's okay, but can
11 you explain how that type of behavior poses a risk to Google's users?
12 A I think we're sort of speculating the outcome, but -- I think that's getting into
13 speculation. We are trying to maintain a platform.
14 Q Fair enough. And you want users to be able to trust that what they're
15 seeing is what people say it is?
16 A We are building a platform for, you know, our authentic, good users.
17 Q And I believe you stated earlier that, even though you're not an expert, you
18 do know that Google's policies prohibit coordinated inauthentic behavior on its platforms.
19 A That's correct.
20 Q And, again, you said your job is to identify and make assessments but it's
21 another team's job to determine what action to take, if you have made the assessment
22 that you found a CIB network?
23 A Yes. We, I'd say -- that's correct. We pull together sort of like the range
24 of the evidence, sort of like a packet of evidence, but the actual policy determination
25 based on the evidence would say, like, these 10 accounts were coordinated, there's some

1 evidence that they are inauthentic.

2 And so we provide different information about what is going on, but then the

3 assessment against our policies is made elsewhere.

4 Q But, as you stated, you're not assessing the truth or falsity of content.

5 A We never assess the truth or false of the content.

6 Q And when actions are taken against accounts, it's not based on the content,

7 it's based on violating the policy against coor- -- in this area, from what your team deals

8 with. It's based on the behavior of engaging in a coordinated network that is using

9 inauthentic tactics.

10 A Generally, yes. The policy team can enforce any policies, and I think in the

11 last session I gave an example where it could be the content if it broke a clear content

12 policy, such as incitement to violence or something else.

13 Q Right.

14 A If some of that turned up in an investigation and we provided that, the policy

15 team definitely could enforce on those reasons versus others.

16 But we are not providing the assessment on whether something breaks a content

17 policy. But the content team -- the policy team is free to -- is able to enforce against

18 different policies.

19 Q And you've seen CIB networks post content that had nothing to do with

20 politics or people's political views, correct?

21 A Yes.

22 Q So you've seen networks -- for example, the Dragonbridge network, they

23 would post clips of animals and landscapes, just really benign things that you would not

24 think would be linked to political ideology. Is that a fair assessment, or statement, I

25 should say?

1 A Yes. Actors often mix in some of their political or propaganda messages
2 but mix it in with a large amount of other content to sort of disguise it. So that's
3 something we have seen from actors, including, as you mentioned, Dragonbridge.
4 Q Now, we briefly touched on in the last hour the Foreign Influence Task Force,
5 and I believe you were asked if there were regular meetings. How often did Google
6 meet with the Foreign Influence Task Force?
7 A Generally, I believe we had -- we've had quarterly meetings.
8 Q Okay. And so that's once every 3 months?
9 A Once every 3 months, yes.
10 Q Okay. And it's Google's choice to have those meetings with the
11 government, correct?
12 A Yes.
13 Q The government doesn't force you to have those meetings.
14 A That's correct.
15 Q Google could choose at any time to say, "You know what? We don't want
16 to meet with you anymore."
17 A That's my understanding, yes.
18 Q Okay. And what's your understanding, if you have one, of why Google
19 chooses to have these meetings?
20 A To the best of my understanding, we have meetings, as we have meetings
21 with other people, because we are interested in receiving information about threats,
22 because my team and we are interested in knowing about threats on our platform or
23 about threat actors so we are able to then make our independent assessment and take
24 action against these threats. So we always welcome threat information from any source
25 to allow us to make these assessments.

1 Q And you also, during these meetings, in addition to receiving information
2 about threat actors, sometimes you will brief the government about threat actors that
3 you're seeing on your platform and what patterns you're seeing.
4 A Yes, we provide some threat information back in these meetings and discuss
5 the threats.
6 Q So, fair to say the information-sharing is a two-way street?
7 A There is two-way sharing of information, yes.
8 Q And, again, it's completely voluntary.
9 A Correct.
10 Q Okay.
11 And -- well, let me think about that for a second.
12 A If I could just clarify my last -- when I say "correct," I mean, to the best of my
13 knowledge, correct. So --
14 Q Fair enough.
15 A -- I believe the way that -- I cannot speak for the entirety of agreements at
16 Google, but --
17 Q Of course.
18 A -- everything I'm aware of, I have no indications that anything is not
19 voluntary here.
20 Q Thank you very much.
21 Is it your understanding, when the FBI provides information to you about a
22 possible threat actor, that Google can take whatever actions that company deems
23 appropriate without any suggestion or interference from the FBI?
24 A Yes. My understanding is, when we receive information from the FBI, it is a
25 lead for us to take action or not take action or to use as we wish.

1 Q And when you receive a tip from the FBI or another government agency, I
2 believe you said you make your own independent investigation.
3 A That is correct. We never take anything at face value, and we always
4 assess any lead we get from any source.
5 Q And that's even if the FBI tells you they've already done an investigation?
6 A Yes. In every case, we do an independent investigation.
7 Q And then a different team at Google makes a determination about whether
8 or not to take any action?
9 A For content moderation issues, yes.
10 Q And for other issues?
11 A Generally, there's another team taking action. On occasional cases where
12 something, say, is malware or malicious software, there may be some case where we
13 want a firewall -- we'll add a malware wall to block something along those lines. So
14 they're small cases, but, generally, in the malware case, nothing to do with content where
15 my team may take some level of direct action.
16 Q And that's because your team also involves engineers --
17 A Yes, because -- they're part of --
18 Q -- who are capable of doing --
19 A -- part of our role --
20 Q Yes.
21 A -- and we are the malware experts, and we are part of the security team, so
22 we do have security responsibilities. So we would be taking action. But that would be
23 clear cases of, you know, technical action.
24 Q Okay. Thank you.
25 I want to show you an email. This will be exhibit 1.

1 [Exhibit No. 1.

2 Was marked for identification.]

3 BY

4 Q Okay. This is an email that you received from Stephen Proctor of the FBI on

5 November 3rd of last year, correct?

6 A That's what it says, yes.

7 Q And the email -- Mr. Proctor is forwarding on some possible indicators of a

8 nation-state influence operation, correct?

9 A That's how I read it, yes.

10 Q Yes. And is this email typical of the types of tips you would receive from

11 the FBI in terms of its tone and what it's asking?

12 A It can vary a little bit, but in terms of that -- the typical path is like this, of

13 they're saying that they would be providing us to a link through their system to download

14 the lead and they would -- yeah, that's what it says, a link to the Teleporter. That's how

15 we got leads from them, so typical in that way.

16 Q And, in this email, there's no request for you to take any particular action,

17 correct?

18 A I do not see or take there to be any request.

19 Q And there's no demand.

20 A There's no demand.

21 Q It's information-sharing.

22 A Yes.

23 Q Like you described earlier.

24 A Yes.

25 Q And it was up to Google to determine what to do with this type of

1 information.

2 A Yes. Whenever we get leads through this path, we take them, and it is up

3 to Google to take our action. This is information being provided, which is fed into our

4 processes.

5 Q In your interactions with officials from the U.S. Government, has anybody

6 ever ordered you to take any particular action, to take down an account, a Gmail address,

7 a YouTube channel, anything like that?

8 A I do not recall ever being asked by the U.S. Government to take a specific

9 action.

10 Q Okay. So, not only were you not ordered, you were never even

11 asked -- you don't recall ever being asked.

12 A No. All the interactions I recall were of the form of them providing us

13 information.

14 Q Okay. You did not experience unrelenting pressure from the U.S.

15 Government to take certain content down?

16 A I can't recall ever feeling pressure to take a specific action.

17 Q Okay. Thank you.

18 And Google's policies against inauthentic behavior and the other policies that you

19 personally deal with, those were created without input from the government, correct?

20 A I was not involved in the policy creation process, so I can't speak to how they

21 were made.

22 Q Okay. So you don't create the policies then.

23 A No. I am not part of policy team or policy creation. I may be consulted on

24 the side about the technical enforcement of them, but I'm not a policy person. I'm a

25 technical security expert.

1 Q I imagine there's many folks at Google who have to be consulted about the
2 technical -- technically how to enforce the policies.
3 A Yes.
4 Q You stated earlier, and I said I wanted to follow up, that your work at Google
5 is global, correct?
6 A That's correct.
7 Q And so the U.S. Government is not the only government you interact with.
8 A Correct.
9 Q You have relationships with governments across the world, I would imagine.
10 A A number of other governments provide us information, yes.
11 Q And so you do information-sharing with other governments besides the U.S.
12 Government.
13 A In some forms, yes.
14 Q And that's to help Google identify and disrupt threat actors on your
15 platforms?
16 A Yes. All of our focus is in order to protect our users and to defend Google
17 against threats.
18 Q And, in fact, your team devotes a significant amount of time to combating
19 threat actors that are targeting users outside of the United States?
20 A Absolutely, global remit, covering over 1 billion users, and many of the
21 targets of these threats are outside the U.S.
22 Q Okay.
23 That's it for me for now. We can go off the record.
24 [Recess.]

[12:33 p.m.]

[redacted] Can we go on the record, please?

BY [redacted]

Q [redacted], I want to pick back up where we left off at the end of the first hour, regarding your team's assessment following the New York Post story on Hunter Biden's laptop.

Just at a high level, do you recall what sort of evidence led your team to reach the conclusion it did, or, if it's a better way to answer my question, what lack of evidence?

A I think as I mentioned previously, we had a lack of evidence of any involvement of a foreign actor in this activity and we had no evidence that the source of the material had come from hacking.

Q And when there were individuals -- you said you received a number of requests in the coming days from people at the company, that this was consistent with other, kind of, other high-profile press coverage events. Besides the VP of trust and safety, do you recall any other titles or individuals at the company who reached out?

A I don't recall specifically. It's, you know -- a part of my job was, people would see stuff in the news, and, general curiosity, they'll ask, do I know anything about that, does TAG know anything about this. This happens all the time on many, many topics, so I don't recall on this specific issue about who asked me on that topic.

Q In the years following 2016, obviously there's the DNC hack that occurs. Do you recall any instances where someone from the company would reach out to you or your team about something they heard in the news regarding a potential foreign influence operation that your team believed was not, in fact, a foreign influence operation?

A Sorry. Can you restate the question?

1 Q Sure. Following 2016, do you recall any instances where individuals at
2 Alphabet would reach out to you or your team regarding what was either being reported
3 or was believed to be an foreign influence operation that you and your team understood
4 to not be a foreign influence operation?
5 A This really is the day-to-day job of my team, is that we got leads and
6 questions about activity seen from various leads, and we assess them, and then we
7 understood to see if we had any information or determine the nature behind it.
8 So, if that is what you're asking, then I'm saying that we are constantly assessing,
9 sort of, leads on potential, sort of, foreign influence campaigns and then making our
10 assessment and then feeding that in. So that's the primary purpose of my team.
11 Q Uh-huh. And do you recall any instances where it was being publicly
12 reported that, take, for example, Russia might be behind an influence operation, but you
13 and your team didn't see evidence to support that?
14 A In terms of public reported ones, I would say -- I'd say it's relatively common
15 at various times, I think, at various periods that, you know, whenever -- when something
16 has hit the press, there's always the question of, is it, and in many cases it is not.
17 So there was often a question about whether something is an operation. And
18 often we do not have the evidence that it is, or in some cases have the evidence that it is
19 not.
20 Q And do you recall any time periods -- obviously, you've been at Google, I
21 think, since 2010, in management since 2015 -- any time periods where there was an
22 uptick in these sort of requests or questions?
23 A I'd say it's been fairly consistent both through President Trump's
24 administration but also President Biden's administration.
25 I'd say the requests often ebb and flow with the political cycle. So we would get

1 more questions when it is closer to elections and less focus on this further away from
2 elections, would be the general pattern.
3 Q During the first hour, we talked about how your team will send along -- when
4 you identify a threat actor, you'll send along evidence to the trust and safety team, and
5 they'll communicate back a decision.
6 The Hunter Biden case is a little bit different, where your team wasn't able to
7 reach the conclusion that it was a foreign hack-and-leak influence operation.
8 Are there other examples that you recall where you're passing along information
9 based off the absence, if that's a correct way of looking at it, based off the absence of a
10 finding that there's a foreign hack-and-leak?
11 A Yes, we've seen cases -- like, a typical case may be that something may look
12 like an influence operation or a hacking operation, people are asking whether it's a
13 government operation, and then we determine that it's actually cyber criminals or
14 something like that.
15 So somebody's being targeted by something that looks like it could be an attack
16 on a, like, high-profile individual, but it turns out to be, you know, 1 of 10,000 messages
17 being sent out by a Nigerian scammer.
18 So that sort of assessment is actually relatively common.
19 Q And I don't want to mischaracterize your testimony, but it does sound like,
20 before your team typically shares information with the trust and safety team, some
21 determination has been met that it meets a certain threshold. So, even in the example
22 you gave, where it's not an influence operation, it is a cybercrime.
23 I guess, are there instances where your team is sharing information even when it's
24 not government-backed, it's not an information operation, and it's not a cybercrime?
25 A If we were provided and asked to provide an assessment about whether it

1 fell into those categories or whether we believed it did and what evidence we had, then
2 we would always provide that assessment. We provide that service to trust and safety.
3 So they would get a lead in, and then we would do that assessment and provide
4 our evaluation, both if it was a positive determination that we did have evidence, or if we
5 did not have evidence, that would be the result of our assessment.
6 Q And do you recall how many examples there have been, we'll say since 2015,
7 where your team has been asked to conduct that assessment and the report back has
8 been that you don't have evidence to meet any of the three categories that we've been
9 discussing?
10 A I'd say it's very common. So, like, we're doing assessments every week,
11 and I'd say, my best estimate would be, most weeks there would be cases that don't meet
12 the criteria for action being taken.
13 Q And once your team has relayed the information that -- again, on the
14 categories that your team is responsible and looking at -- that there isn't sufficient
15 evidence there, is any communication given back from trust and safety?
16 A No, it's very -- we're both part of -- Google is very collaborative, so my team
17 is working, sort of, directly and communicating back and forth with the trust and safety
18 team.
19 Q So, with the Hunter Biden example, right, your team received a request, or
20 at the very least it was high-profile, so maybe someone on your team internally already
21 decided to begin to conduct an assessment. You provided your assessment to first the
22 VP and then on a video call.
23 I want to make sure I characterize your testimony correctly as far as, is it your
24 recollection that you did not receive any word ultimately on what action was or was not
25 taken or just that you don't recall either way?

1 A I don't recall either way. I do not believe I was at the part of the meeting
2 where the final decisions were being made, and I was not formally informed.
3 Q Uh-huh.
4 A But I may have heard at some stage, but I do not recall being told
5 specifically, and definitely not the details on different platforms.
6 Q In a more typical example, you testified earlier, I know, that when your team
7 does identify that there is sufficient evidence, you'll pass it along to trust and safety, and
8 it sounds like the usual practice is, trust and safety will communicate back that an action
9 has been taken. Is that correct?
10 A Yes.
11 Q And in the instances -- and you testified this is a fairly common experience,
12 to be tasked this request. For the instances where your team has conducted an
13 assessment and determined that there is insufficient evidence to meet any of the various
14 thresholds, or whichever terminology your team would use, in those instances, does trust
15 and safety come back ever and say, well, we've taken action under a different step, or any
16 other sort of communication?
17 A They may let us know, yes.
18 Q Okay. So it would not be out of the ordinary that they may communicate
19 additional information to your team about if action was taken under a different content
20 moderation policy?
21 A I would not consider that unusual.
22 Q Okay.
23 And when these communications from trust and safety are going to your team,
24 how are they most frequently communicated?
25 A I'd say there's, you know, direct connection, say, between -- close

1 collaboration. So I think Hangouts would be one mechanism, and there'd also be emails
2 in some cases. But I think Hangouts between my team and trust and safety would be
3 one of the more common mechanisms.
4 Q And, to your understanding, when -- actually, let me take a step back and
5 rephrase that.
6 When a message is being delivered from your team to trust and safety, is it routed
7 through you in the manager position, or do your many team members -- are they able to
8 communicate directly to trust and safety?
9 A I am not in the critical path, and the teams have the connections and
10 processes to do so without my direct involvement.
11 Q To your knowledge, are there individuals within your team that have, kind
12 of, primary points of contact on the trust and safety team? Or does it -- an alternative
13 might be, does it go to a team email listserv? Do you know who those communications
14 ultimately are between, then?
15 A I'm actually not fully up to date about the technical mechanisms in which the
16 two teams are coordinating at present.
17 Q So, based off your understanding of the last two questions, the Hunter Biden
18 example, where you are the one communicating that information, is that because it was
19 high-profile request, example?
20 A I think it was a combination of high-profile and also being expedited because
21 it was -- because of the high-profile nature of it, that it was operating in an expedited
22 way.
23 Q And you testified that you solicited information, help, from a couple industry
24 partners. Do you recall receiving any unsolicited information from anyone external to
25 the company?

1 A I should clarify there that, you know, when I did reach out -- this was to
2 Mr. Roth -- it was after the action taken by Twitter and after we'd observed that.
3 Q Uh-huh.
4 A I do not recall any specific incoming leads on this issue.
5 Q So we chatted very briefly at the end of the first hour, we were starting to
6 get into, it sounds like there were two sets of ongoing meetings with the U.S.
7 Government that either you or your team would participate with. There were these
8 FITF bilateral meetings --
9 A Yes.
10 Q -- and then broader U.S. Government and industry meetings.
11 A Yes.
12 Q Starting first with the FITF bilateral meetings, do you recall when those
13 meetings first began occurring?
14 A I don't, actually. They go back quite a way.
15 Q I think, based off a previous answer, we could say before the U.S. 2020
16 election?
17 A Absolutely. It was a number of years before that.
18 Q Do you recall if it was before the 2018 midterms election?
19 A I believe, yes, it was before 2018 midterms election, by the best of my
20 recollection.
21 Q And do you recall the frequency in which these meetings typically would
22 occur?
23 A Generally we had a quarterly meeting, is the standard cadence.
24 Q And are there times when the cadence changes?
25 A There may be -- that's for the general meetings, it has been quarterly, but

1 there has been a call with some -- we have had calls with people who are part of FITF to
2 discuss specific threats if they've come up.
3 Q And, during these meetings, do you know or do you have a sense of how
4 many personnel from the FBI are attending these calls?
5 A I have, I suppose, a rough sense of it.
6 Q And what's your approximate understanding?
7 A Somewhere between 10 and 20.
8 Q And we went through the names briefly of who most frequently attended.
9 Of the individuals you provided, were there any that had primary responsibility for
10 YouTube?
11 A For most of those meetings, it was [redacted], who is sadly deceased
12 now, was the primary contact for YouTube and was a lawyer on the YouTube team.
13 Q Are you familiar with Mandiant?
14 A Yes.
15 Q And what is that?
16 A Mandiant is a computer security firm which also has a threat intelligence
17 function, an incident response function. They were acquired by Google Cloud at the end
18 of 2022.
19 Q And either for the personnel or the knowledge, expertise, does
20 Mandiant -- did that acquisition, did that affect in any way your team?
21 A Yes. We collaborate with Mandiant. They were someone in industry that
22 we communicated with prior to their acquisition, but we partner with them internally.
23 We produced a major public report earlier this year on cyber activity in the Ukraine war,
24 and that was a joint report between Threat Analysis Group and Mandiant. So, yes, we
25 are partnering with them.

1 Q Internally, though, for Alphabet, are they a separate team from your team?
2 A They are separate, yes.
3 Q Did personnel from the FBI ever send to you or anyone on your team
4 Teleporter links?
5 A Yes.
6 Q And, to your understanding, what are Teleporter links?
7 A My understanding is, Teleporter is their system which they use to provide us
8 information. So they would send us a link, and then we would visit the link, and that
9 would allow us to download the documents that they wanted to share with us.
10 Q And just at a high level, what type of information would be included in the
11 document that's being sent by the Teleporter link?
12 A It would be some form of assessment or technical leads about some type of
13 threat.
14 Q Would it ever include specific accounts or specific, we'll say, YouTube links?
15 A Yes, there would be specific indicators as part of these leads.
16 Q Do you know who at the company is the primary recipient when the FBI
17 sends these Teleporter links?
18 A Myself and the representatives from legal.
19 Q And what is your sense of how frequently you or the representatives from
20 legal receive these links?
21 A It can vary over time. Estimate of between once a week and once a month,
22 on average, maybe. It's a little hard to measure, or hard for me to recollect exact- -- to
23 work out exactly how many.
24 Q Uh-huh. And when there are specific indicators -- let me take one step
25 back.

1 When referring to the term "indicators," just to make sure I understand it
2 correctly, that includes both accounts as well as links to specific videos or content? Is
3 that correct? Is it only one or the other?
4 A It may include those. It also often includes technical indicators of malicious
5 activity, such as an IP address or an account or some details of a piece of malware. So
6 it's general technical indicators about a threat, yes.
7 Q For instances where the indicators include either accounts or maybe links,
8 on average, how many accounts or links might be included in a single Teleporter?
9 A You're sort of asking me to sort of estimate here. Generally, it is a fairly
10 small number of links, so it's generally not large links. Most of the cases I can think of at
11 this time would be, they'd be sending a handful of accounts, like, 3 to 10, so, like, not
12 large lists. But there may be cases where there's, like, longer lists.
13 Q Do you recall any examples where there were longer lists?
14 A I recall one case where there was, like, a fairly large number, say, 50
15 different Gmail accounts involved in sending phishing messages to break into accounts,
16 and they sent us a full list of, say, 50 phishing messages or somewhere along those lines,
17 as an example.
18 Q When you receive a Teleporter link with a document and it's got these
19 indicators, is all the information specific to one investigation or, you know, concern? Or
20 can there be multiple, kind of, issues that are being flagged for you and your team?
21 A Generally, they're separated.
22 Q So one per?
23 A One per document. Although sometimes a Teleporter link may link to two
24 different documents or three different documents, but they separate them out into
25 separate documents.

1 Q Okay. Thank you.

2 So, once you or someone from the legal department receives the message -- first,

3 let me take a step back. Are these Teleporter links being transmitted via email.

4 A The link is sent via email, yes. And then you visit the link, you know, in a

5 web browser.

6 Q Okay. So, once you or someone from the legal department receives the

7 link, presumably download whatever's being sent to you, what are the next steps from

8 there?

9 A I would look at the document. We would save a copy of the document.

10 And then I would assess, where is the correct place in my team to investigate.

11 So, if it was regarding Russian hacking, I would send it to my lead for government-backed

12 attacks and maybe the Russia lead. If it was to do with information operation, I'd send it

13 to my information operation lead with the details, and pass it on, that this is a lead, and

14 ask them to investigate.

15 In some cases, it would not seem to be anything for us to investigate and it was

16 general purposes. And I would either communicate or in some cases -- that there was

17 no action or investigation needed to be taken.

18 So I would make that assessment and route it within my team.

19 Q Once it's been assigned and it goes to an analyst or engineer, whatever the

20 correct title would be, how is the assessment tracked internally?

21 A They would generally, like, record the outcome or -- you know, record the

22 outcome in a document and/or email the email back on the email thread to me and the

23 lead with their findings.

24 Q Referring back to the Hunter Biden case specifically, do you recall what the

25 internal mechanism was to keep track of the assessment, whether it was an email thread

1 or something else?

2 A My best recollection is, this one actually happened so quickly and over such

3 a short period of time that there wasn't a thread in that way. It was handled pretty

4 much directly by me making these queries and asking whether we had anything. And

5 because we did not have anything, there is not really very much record here.

6 And the limit of it was, you know, within a few hours of us starting this

7 investigation, we had finished this investigation, we had handed that information across

8 in the kind of discussions we've already said, and then, to some degree, that was the end

9 of that investigation, so there was not any real followup.

10 Q When you were discussing with members of your team, during the relatively

11 short period of this investigation, putting together your team's assessment, do you recall

12 how you were communicating with members of your team?

13 A It would've been Google Hangouts.

14 Q And just a point of clarification on the timeline, to the extent you recall. As

15 your team is working on developing your team's assessment, was it during this time

16 period that you reached out to Mr. Roth and [redacted], or was that after your team's

17 assessment that you did it?

18 A I think these were all happening in parallel.

19 Q When the FBI sends you Teleporter links of indicators, whatever

20 else -- obviously, the information is being sent that the FBI is aware of -- would they ask

21 you if Alphabet took action on anything related to it?

22 A I don't believe generally. Generally, they may ask in a future meeting what

23 leads we found useful or did we find a particular lead useful. And most of the -- if there

24 was incoming questions, it would've come to the legal department, not to me.

25 Q Do you recall any FITF meetings, the bilateral meetings, where someone

1 from the FBI followed up or raised again an issue that had been sent previously in a
2 Teleporter link?
3 A Yes.
4 Q And do you recall how frequently that would occur?
5 A Very frequently, because if there was things that were on the agenda to
6 discuss during the FITF meeting, the pre-reading would also be sent via Teleporter links.
7 So this was the mechanism that they provided -- if there was something to discuss, they
8 would provide it by Teleporter, so it would be common.
9 Q So I'll ask the question again, but setting aside agenda items that are being
10 transported via Teleporter link in advance of a FITF meeting, do you recall any FITF
11 meetings where the FBI is re-raising an issue sent in a different Teleporter message?
12 A They would sometimes provide more information than was in the document.
13 So they may provide some information via the document and then at the meeting they
14 might provide a further briefing about what was there. And they'd also offer us the
15 opportunity to ask any questions if we had questions about what they previously sent.
16 Q And would you sometimes have questions?
17 A Yes, I would ask some questions.
18 Q And were there instances -- I'm obviously not asking you to speak to every
19 example, but, generally, were there times where the FBI could provide substantive
20 responses?
21 A I would say, generally, they provided most -- the information they could was
22 already in the documents. So most of the information was actually -- there wasn't that
23 much followup that they could provide, generally.
24 Q Do you recall any instances where there was followup that they could
25 provide?

1 A Not specifically. Sometimes we might have, like, a fairly obscure question
2 about, say, Russian hacking, or, do we think it's related to this other activity from a few
3 years ago. Occasionally they'll come back: Oh, yeah, we think that's actually the same
4 thing.
5 So we'd have some general conversations about threats, and there may be some
6 clarifying on a specific question that we had about it that they are able to answer. So, if
7 that's what you're asking -- but most of the conversations around threats happened in
8 these threat-sharing meetings, yes.

1

2 [1:00 p.m.]

3 BY [redacted]

4 Q For the instances where they're not able to provide additional information,

5 would they give a reason why?

6 A The only -- the reason I can recall is, they say, that's all we have -- that's all

7 we're able -- that's all we have to share at this time.

8 Q Okay.

9 Were there any FITF meetings in 2023?

10 A Yes.

11 Q And do you recall how many there have been?

12 A I believe they're about every 3 months. So we would've had one in quarter

13 one and one in quarter two, so we'd have had two so far.

14 Q Did you attend the one in quarter two?

15 A Yes.

16 Q Do you recall approximately when it was?

17 A I would say approximately a month ago. I believe it was sometime in June,

18 may have been late May. But I could be wrong on that, though.

19 Q Are you familiar with the ongoing U.S. proceedings involved in a lawsuit

20 against certain agencies within the Biden administration?

21 A I've been made aware of it, yes.

22 Q And are you aware there was an injunction that came out July 4th of this

23 year? More recently there's been a stay put in.

24 A So, in discussing with our legal people, I have received, you know, some

25 rundown of their assessment of that, yes.

1 Q Since the July 4th injunction, have there been any FITF meetings between
2 Alphabet and the FBI?
3 A There have not been any FITF meetings.
4 Q Did you or, to your knowledge, anyone at Alphabet receive communications
5 from the FBI following the injunction?
6 A I don't recall any communications since the injunction.
7 Q To your knowledge, are there plans to have a meeting in quarter three?
8 A It has not been discussed that I am aware of. I have not been
9 present -- I've not been involved in any discussions and it's not been raised with me that I
10 can recall of anything to do with a Q3 FITF meeting.
11 Q Okay.
12 Just as a typical practice, how were you invited to previous FITF meetings?
13 A Generally, we'd receive an email, and they propose a series of times. We
14 discuss when they're available. And via email we'd pick a time, and then they would
15 send us a calendar invite.
16 Q And, to your knowledge, you haven't received any similar emails with
17 respect to a potential quarter-three meeting?
18 A To my knowledge and recollection, we have not.
19 Q With respect to the kind of broader U.S. Government and industry meetings,
20 first, have any of those occurred in 2023?
21 A They have not.
22 Q Do you know if there's any plans to have another one of those meetings in
23 the future?
24 A Presently, those meetings seem to be on hold.
25 Q And there are a number of Federal agencies involved in that one. Have you

1 or, to your knowledge, anyone at Alphabet received communications from one of those
2 U.S. Federal agencies regarding whether the meetings will continue or not?
3 A I'm not aware of communications with us about that, or to me. I do not
4 recall communications to me about that, and I can't speak to the rest of the company.
5 Q Without getting into any area of privilege, any of the other attendees at the
6 FITF meetings, the USG-industry meetings, have they said anything to you like "the
7 meetings have been paused" or "I heard from a government agency"?
8 A Yes. I've been told that the meetings are currently on pause.
9 Q And were you given a reason?
10 A I was just told that they were paused from the government side.
11 Q And were you told this from someone at Alphabet?
12 A I was told this by [redacted] from Meta, who generally took point on
13 coordinating with the government with regards to scheduling and coordination of the
14 meetings.
15 Q And when you received this information from [redacted] at Facebook, or
16 at Meta, was it directly to you or was it to multiple industry partners?
17 A It was during industry coordination meetings.
18 Q And --
19 A So, to make sure I'm being complete here, too, I may have also -- I do talk to
20 [redacted], so I may have received it directly as well. But the recollection of when I
21 heard that they were on hold first came from an industry meeting.
22 Q Uh-huh.
23 Are these industry coordination meetings -- first, let me take one step back. Are
24 they an ongoing set of meetings, similar to the FITF bilateral and USG-industry meetings?
25 A Yes. We have an ongoing standing meeting.

1 Q And these industry-only ongoing set of meetings, are they tied to these
2 either -- well, I won't say to FITF -- are they tied specifically to the USG-industry meetings
3 with the government?
4 A Yes, they are generally the attendee list on the industry side, and allows the
5 industry people to discuss with only industry people present.
6 Q And so this industry-only meeting where you learned that the meetings were
7 being paused, do you recall when that meeting was?
8 A It would've been sometime last year, but I can't recall specifically. I believe
9 it was last year, but I don't recall specifically when the meetings with USG went on hold.
10 Q So before the 2022 U.S. election?
11 A I don't recall.
12 Q But, given the timeline, these were on pause well before the injunction on
13 this past July 4th?
14 A Yes. They were definitely on pause before the injunction.
15 Q Did the industry-only meetings also pause once the government meetings
16 paused?
17 A No. We still have video calls in that group.
18 Q And just at a high level, what's the purpose of those calls?
19 A At present, these meetings are very short. It is just an opportunity for
20 industry folk to raise any issues, any administration issues, or to share any information
21 that we want to share within the group.
22 Q Do you recall when the last one of these industry-only meetings was?
23 A I'd say within the last month.
24 Q Do you recall if the last meeting was before or after the injunction from the
25 Federal court on July 4th?

1 A To the best of my recollection, it was before.

2 Q To your recollection, during any of these industry-only calls, has the ongoing

3 litigation against the U.S. Federal agencies been discussed?

4 A Not that I recall.

5 Q For the USG-industry meetings, first, to your recollection, there were

6 meetings at some point in 2022? Is that correct?

7 A To my recollection, there were meetings in 2022, yes.

8 Q Do you recall when they first started?

9 A Generally, these meetings have been ongoing now for a considerable

10 amount of time. The cadence of how often the group meets changes, but they have

11 been on an ongoing basis. As I recall, those have been ongoing since well before 2022.

12 Q And, to your knowledge, before the U.S. election in 2020?

13 A Yes. I believe these meetings started before the 2018 midterm elections.

14 Q Who from Alphabet typically would attend these USG-industry meetings?

15 A For a long time, the three attendees were myself, Richard Salgado, and Nate

16 Lipscomb, were the three attendees.

17 Q And which Federal agencies would attend these meetings?

18 A The main agencies I recall were FBI; DHS, CISA specifically; and, at times,

19 DNI.

20 Q Other than these regularly occurring U.S. Government-industry meetings,

21 what were your interactions with CISA?

22 A I don't have a lot of interaction with CISA, but there may have been meetings

23 over the years on cybersecurity issues.

24 Q Any other meetings or interactions that you can recall?

25 A I can't recall any specific meetings.

1 Q Do you recall having a primary point of contact at CISA?

2 A I do not.

3 Q Do you recall anyone at CISA using the term "MDM" or, more broadly, "mis-,

4 dis-, and malinformation"?

5 A I'm not sure if they -- I'm not sure if they phrased it like that.

6 Q Do you recall any of the U.S. Government agencies using the term

7 "malinformation"?

8 A I don't recall that specific term being used.

9 Q Other than the ongoing -- or, at the time,

10 ongoing -- U.S. Government-industry meetings, at a high level, did you have any

11 interactions with ODNI?

12 A In what timeframe, and on what issues?

13 Q We'll say from 2015 until present.

14 A I'd say limited interactions, to talk on -- I believe I met with DNI earlier this

15 year in Singapore.

16 Q Other than that meeting, do you recall any other interactions?

17 A I don't recall specific meetings, no.

18 Q Are you familiar with something called the Global Engagement Center?

19 A I'm somewhat aware of its existence, yes.

20 Q And, to your understanding, what is it?

21 A I understand it is part of State Department.

22 Q As part of your work at Alphabet, have you had any interactions with the

23 Global Engagement Center?

24 A I don't recall meeting with them, no.

25 Q What about the CDC? Do you recall any interactions with the CDC?

1 A As far as I can recall, I haven't met with the CDC.

2 Q What about with respect to the White House?

3 A Again, sort of, what timeframe? And do you mean the entire executive

4 branch here or --

5 Q So specifically within the Executive Office of the President, and we'll say

6 2015 to present.

7 A To the present? I would say that I've done a number of meetings through

8 the different administrations. I've had meetings around encryption, I believe, in 2015.

9 And I've met with the national cyber director in 2022. And I'm not sure whether it falls

10 into this, but maybe one or two meetings with NSC staff as well.

11 Q Would personnel from the NSC ever attend the USG-industry meetings?

12 A I don't recall them doing so.

13 Q Do you know what the Election Integrity Partnership is?

14 A Not specifically.

15 [[redacted] Exhibit No. 2.

16 Was marked for identification.]

17 BY [redacted]

18 Q This is exhibit 2.

19 Are you ready?

20 A Yes.

21 Q Does this email chain refresh your memory at all?

22 A Yes. There are many organizations with very similar names in this space.

23 So this Election Integrity Partnership is out of Stanford. Yes, I am aware of that.

24 Q And what was your involvement, engagement, to the extent it existed, with

25 the Election Integrity Partnership?

1 A I recall having one meeting with them, a video call. That's my primary
2 recollection.
3 Q And was it personnel from Stanford on this call?
4 A That's what I recall, yes.
5 Q And on this email chain, there are some other individuals from Google who
6 are included. To the extent you have knowledge, do you know if anyone at the
7 company had more than that one meeting with EIP?
8 A I don't know specifically what meetings they had.
9 Q Is it your understanding that someone from the company had somewhat of,
10 at the time, an ongoing communication with Stanford or EIP?
11 A I don't specifically know the nature of the interaction.
12 Q With the understanding you don't recall any or know of specifics, was it your
13 understanding that there was, to some degree, a partnership or an engagement?
14 A I think I would be totally speculating about -- if I said anything about, like,
15 what that partnership looked like or whether they met and what information was learned
16 or was passed, because I didn't have visibility.
17 Q The one email is addressed to [redacted]. Who is that?
18 A I've heard the name, but I can't recall her specific position at the company.
19 Q Do you recall ever working with her?
20 A I have recollections that it's a name of somebody I've worked with and been
21 in meetings with, but that's about the limit.
22 Q Yeah. Do you recall which team she was with?
23 A I do not.
24 Q Do you know who [redacted] is?
25 A Yes.

1 Q Who is that?

2 A [redacted] is on our global affairs and public policy team.

3 Q And do you work with [redacted] as part of your job?

4 A Not as much recently, but I have worked with him in the past, yes.

5 Q In the instances when you worked with him in the past, what was the

6 nature?

7 A His role was engagement around disinformation/information operations and

8 I believe some work around elections. So we have been at some events together and

9 have spoken to people together, and he's asked questions of us.

10 Q At a high level, what were some of the questions he would ask of you or your

11 team?

12 A Just more generally, how the team worked, what we were doing. General

13 questions about our work.

14 Q Do you recall any instances where [redacted] was relaying a question that had

15 been given to him from the government?

16 A I don't recall him relaying any specific -- relaying any question -- anything

17 from the government. And definitely I do not believe he was a conduit for information

18 from the U.S. Government.

19 Q We can take these back.

20 Are you familiar with the company Graphika?

21 A I am.

22 Q And what is Graphika?

23 A Graphika is, as I understand it, a firm that investigates -- what do they

24 call -- disinformation, misinformation, things in this space, and they provide services.

25 Q Does your team work with Graphika?

1 A I'd say we have definitely received leads and collaborated with them in the
2 past.
3 Q How frequently does your team receive leads from Graphika?
4 A I can't recall us receiving any leads from them in the last 12 to 24 months.
5 Most of the interactions were a way back.
6 Q Do you know if Graphika conducted any analysis of the Hunter Biden story in
7 October 2020?
8 A I do not know.
9 Q Do you recall any communications with them about the story?
10 A I don't recall having communications with them about this.
11 Q Are you familiar with the Digital Forensics Research Lab housed within the
12 Atlantic Council?
13 A Yeah, I'm aware of them.
14 Q And do you work with them as part of your role at Google?
15 A Not generally, presently. I believe we have received leads from them in the
16 past as well.
17 Q Other than receiving leads from them, does your team have any interactions
18 with DFRLab?
19 A Not substantive. I know of one incident at general industry events and
20 places along those lines. That's all I can think of.
21 Q Are you familiar with the Global Disinformation Index?
22 A Not specifically.
23 Q Are you familiar with the organization NewsGuard?
24 A Not specifically.
25 Q Are you familiar with the Aspen Institute?

1 A Yes, I am.

2 Q Have you ever worked with them?

3 A I can't recall doing any work with them, no.

4 Q Are you familiar with the Alliance for Securing Democracy, which is housed

5 within the German Marshall Fund?

6 A No, I'm not.

7 Q Do you recall presenting a talk in September of 2020 on election security

8 that was also attended by Matt Masterson and Nina Jankowicz?

9 A Are we talking here about CyberWarCon in D.C.?

10 Q Uh --

11 A So which year was this?

12 Q 2020.

13 A Oh, sorry. Sorry, can you repeat the question again?

14 Q Sure. There was a -- and we can go through and introduce the exhibit if

15 needed. There was a talk you presented at in September of 2020 on election security,

16 and it featured you, Matt Masterson, and Nina Jankowicz?

17 A I don't recall that specific meeting.

18 Q All right. Do you know who Matt Masterson is?

19 A Yes.

20 Q Who is that?

21 A I believe -- my recollection is he is at CISA and attended -- he was an

22 attendee of the USG-industry meetings.

23 Q Have you had any interactions with him other than -- we'll say, other than

24 this talk, but other than the USG-industry meetings?

25 A Not that I can recall. Again, I may have run into him at a conference or

1 something along those lines, but no specific ongoing interaction.

2 Q And do you know who Nina Jankowicz is?

3 A The name seems familiar, but I can't recall her position or organization.

4 Q Did you ever partake in a hack-and-leak tabletop exercise?

5 A I did not participate in an exercise, that I recall.

6 Q As part of the company's efforts in the development of a policy specific to

7 hack-and-leak, do you know if anyone at the company attended a hack-and-leak tabletop

8 exercise?

9 A I can't recall if we had anyone participate in such an exercise.

10 Q Do you know if such an exercise was ever conducted internally?

11 A I can't think of an exercise along those lines, no.

12 Q Do you know what the Center for Internet Security is?

13 A Not specifically. Again, it's -- it's a lot of names here.

14 Q Okay.

15 So, when it comes to communications with the FBI, we'll start with the meetings,

16 the emails to set up the meetings and emails to Teleporter links. Do you recall other

17 forms of communication with the FBI?

18 A Yes. Over the years, we've also gone to meetings and briefings in person

19 about threats, generally hacking threats, at FBI offices.

20 Q And in addition to those in-person meetings, do you recall any other forms

21 of communication with the FBI?

22 A Yeah. Especially during the COVID period, many of those meetings moved

23 to video call, as most meetings did.

24 Q In addition to in-person meetings, video call meetings, emails, emails with

25 the Teleporter links, do you recall other forms of communication with the FBI?

1 A I certainly believe they're the primary mechanisms I can think of. I do know
2 that, prior to Teleporter being used, some material was sent directly via email and
3 occasionally some were sent via email, but Teleporter was the primary source at this
4 time.
5 Q Do you recall ever communicating via Signal with the FBI?
6 A There is a Signal channel that covered the entire USG-industry group, which
7 included the FBI. That's the only Signal communication with FBI that I recall.
8 Q And do you recall when this Signal channel with the U.S. Government and
9 industry partners was first created?
10 A I may be mistaken, but I recall it was probably around 2018.
11 Q Do you recall it having a specific election focus?
12 A I recall it being linked as a mechanism to share information to the group
13 related to the USG-industry meetings.
14 Q And you mentioned there were three of you from Alphabet who would
15 typically attend the USG-industry meetings. Were all three of you, to your recollection,
16 on that Signal channel?
17 A Yes, to my recollection.
18 Q So that would include you?
19 A Yes.
20 Q And do you recall how many individuals were on this Signal channel,
21 approximately?
22 A I don't recall from the Signal channel specifically, but the members of that
23 Signal channel was generally the same as the USG-industry meetings.
24 Q And this Signal channel with the U.S. Government, does it still exist? Is it
25 still being used?

1 A I'd say it exists, but I can't recall the last time anything was sent on it. And,
2 generally, this Signal channel was very rarely used in its entire life. It was maybe a
3 handful of things that I can recall being sent over the entire duration of its existence.
4 Q Do you recall when, approximately, the last time a message was sent?
5 A I don't recall.
6 Q Do you recall if any messages were sent in connection with the 2022 U.S.
7 midterms?
8 A I don't recall any being sent.
9 Q The information that was transmitted via Teleporter, could that ever be sent
10 via the Signal channel?
11 A Again, there's very few messages ever sent on that channel. Like, the
12 Teleporter was the active channel where FBI communicated directly with us. This Signal
13 channel was not really used, with a handful of exceptions that I can recall, over its entire
14 duration.
15 Q Do you recall why it was set up?
16 A I believe it was set up in case -- to ensure that there was a communications
17 channel if there needed to be a way to communicate relatively quickly.
18 Q Do you recall if it was the government or if it was industry that first set it up?
19 A I do not recall. I think it was a -- it was a topic of discussion at the
20 meetings, and it came out of the meetings as a sort of decision, as the group, to do this.
21 Q Did you know which FBI personnel or office were behind the FBI's account
22 on the Signal channel?
23 A I am not sure if I did.
24 Q To your understanding, was it the same individuals that would most
25 frequently attend the U.S. Government-industry meetings?

A That would've been my understanding, yes.

Q When you were receiving the Teleporter links via email, are some of these emails coming from FBI Agent Elvis Chan?

A Yes.

Q Is he the primary person at the FBI who would send these emails?

A He was the primary person for a long time. In more recent times, many of the links were being sent out by someone else in his office, in the San Francisco Field Office.

Q Do you recall ever receiving messages from an office other than the San Francisco Field Office?

A I don't recall other field offices using Teleporter. And, often, material was from other field offices, though, and would often pass through the San Francisco Field Office, as they had the primary point of contact with the tech industry around San Francisco, is my understanding of how they were organized. But I can't speak to internal FBI organization.

Q Understood.

[redacted] Can we go off the record, please?

[Recess.]

[redacted] It's 1:37, and we're back on the record.

BY [redacted]

Q I wanted to talk a little bit about the information that you received via Teleporter.

So you stated that Teleporter was how the FBI would provide documents to you that would include this information, basically the tips, of certain accounts that might be engaged in foreign influence?

1 A Amongst other threats. That's how they communicated, yes.
2 Q And those were just -- the documents you received on Teleporter would just
3 contain the information, either URLs or the usernames of accounts, that sort of thing,
4 correct?
5 A That's one thing it would contain. It also may contain general assessments.
6 It was a range of -- when they wanted to provide information about threats to us in some
7 form, whether it was a general assessment or a specific account or a specific detail, all of
8 those were passed via Teleporter at some point.
9 Q And it was all information; it did not include a request for you to take a
10 particular action.
11 A That is correct. Requests are not sent via Teleporter or to me.
12 Q And the tips that you would receive would be related to either foreign
13 influence or cybercrime or something within the types of threats that your team handled?
14 A Yes, the threats would be related to something that was roughly within my
15 remit.
16 Q And I believe you said that there were occasions where you would read the
17 information on the Teleporter, that was sent to you via Teleporter, and you would decide
18 not to even follow up with any investigation.
19 A That's correct.
20 Q Okay.
21 And you were asked about whether the FBI would follow up with you in person
22 during the FITF meetings on some of the information they had sent via Teleporter.
23 Is it fair to say that, when they did follow up, it was to provide additional
24 information about those tips?
25 A I'd say it was either to provide additional information -- sometimes they'd

1 just go through it and talk through it, the times when they were basically providing the
2 information again. And that was the nature of it, yes.
3 Q And the nature of it was not to say "what have you done about this" or
4 asking if you had taken any action?
5 A I can't recall specific questions on that, no.
6 Q And you talked a lot during the last hour about the U.S.
7 Government-industry working group. That was a group that Google chose to be a part
8 of, correct?
9 A As I understand it, yes, we were participating voluntarily in that group.
10 Q And you could choose to leave at any time?
11 A As far as I understand, there's nothing compelling us to stay in this group.
12 [redacted] That's it for me for now. We can go right back to --
13 [redacted] Can we go off the record, please?
14 [redacted] We're going to go off the record and switch places.
15 [Recess.]
16 [redacted] We can go back on the record, please.
17 BY [redacted]
18 Q [redacted], in our previous round, we were talking about the Signal
19 channel. Was there a corresponding Signal channel that was industry-only partners?
20 A Yes, there was a Signal channel which was industry-only partners.
21 Q Okay. And what was the purpose of that channel?
22 A The purpose of that channel was the coordination mechanism between
23 meetings.
24 Q And would members use that channel during the meetings?
25 A Yes, it was also used as a side channel between industry during the

1 meetings. Yes.

2 Q And let me ask first for the FITF bilateral meetings. Did you attend most of

3 the FITF-Google bilateral meetings?

4 A Yes, I attended almost all FITF bilateral meetings.

5 Q And is that true, as well, for the USG-industry meetings?

6 A Yes, I've been primary representative of those meetings as well.

7 Q And what about those industry-only meetings in advance of USG meetings?

8 A I've been a representative there. Those ones I've missed more often, but

9 I've been the primary representative there. Occasionally I'd have someone -- one of the

10 other people would be covering because I had a conflict, but, yes.

11 Q Fair enough.

12 So exhibit 3 will be the Industry Election Integrity Working Group Signal channel.

13 [Exhibit No. 3.

14 Was marked for identification.]

15 BY

16 Q And we have binders here for your review.

17 So there are a couple messages I want to go over. I'm happy to give you as much

18 time as you need to review before each message to make sure you have sufficient

19 context.

20 But, first, I just want to call your attention to the list of names in the middle of

21 page 1, Bates number 16072. There's a, looks like four lines down, reference to "

22 ."

23 To your recollection, were you a member of this Signal channel?

24 A Yes.

25 Q Do you recall if there were multiple different iterations of this Signal channel

1 among the industry partners?

2 A I don't recall. This is the primary one I recall. Noting this goes back to

3 2020, which is a fair way -- a while ago now.

4 Q Yeah.

5 There is a message from you on page 4, which is Bates number 16075, and there

6 are messages above it. I'll give you a chance to review. But there's a discussion of

7 potential action by foreign state actors. And your message is: "A couple of the

8 accounts link back to some Iranian stuff a way back tipped by FireEye."

9 What is FireEye?

10 A FireEye is an information security company. Subsequently -- I don't know

11 the full history -- but they were merged into Mandiant. So what was FireEye at that

12 time in various iterations joined and split through corporate activity. So, yes.

13 Q And that's the same Mandiant that Alphabet acquired at the end of last

14 year?

15 A Yes.

16 Q If I could have you turn to page 8, which is Bates number 16079, there's a

17 message about two-thirds of the way down from Mr. Roth.

18 He says, "Yep. We can touch a bit on the QAnon stuff we've enforced on, and

19 footstomp the lack of foreign interference aspect."

20 Do you recall what he's referring to in this message?

21 A I have recollections of Yoel talking about actions taken against QAnon.

22 Q Do you have -- well, let me take a step back. What are your recollections of

23 Mr. Roth's discussions on actions taken against QAnon?

24 A My recollection is that they were taking action against some behavior on

25 their platform from, sort of, largely QAnon members doing swarming and other activities,

1 and they were taking action against them as a group.

2 Q Do you recall any discussions during the U.S. Government-industry meetings

3 about either these specific actions or actions more generally related to QAnon?

4 A I don't recall any specific conversations.

5 Q Just generally, do you recall the issue ever being raised?

6 A Of QAnon at these meetings?

7 Q Yes.

8 A I don't recall a discussion.

9 This is reminding me that I do recall Yoel speaking on this in some form, about

10 what they were doing at Twitter with regards to QAnon, but I don't recall specific

11 discussions at this meeting.

12 Q Okay. Do you recall the forum in which Mr. Roth may have been sharing

13 this information?

14 A The information about QAnon?

15 Q Sorry. So you have some recollection of Mr. Roth sharing information

16 regarding the enforcement actions Twitter was taking against QAnon. Do you recall

17 what forum, what context, Mr. Roth may have been providing this information?

18 A I don't recall. Either one, of the industry or the government meetings, I

19 believe he provided some update at some point.

20 Q So either the U.S. Government-industry meeting or the industry-only

21 meeting, to the best of your recollection?

22 A That's to the best of my recollection, yes.

23 Q Do you recall, in reviewing this message, what Mr. Roth meant by specifically

24 "footstomp the lack of foreign interference aspect"?

25 A I don't recall.

1 Q Do you recall any discussion at the U.S. Government-industry meetings
2 where the government would present information as having a foreign nexus when either
3 all the industry partners or some of the industry partners were aware there was not a
4 foreign nexus?
5 A I don't recall anything from these meetings of -- and there was -- I don't
6 recall anything specifically shared where there was such a disagreement, no, in these
7 meetings.
8 Q Are you familiar with the term "attribution" in this space?
9 A I am familiar with that term, yes.
10 Q And what does that mean?
11 A Attribution, as I understand it in the field of threat intelligence, is actually
12 determining who or what group is behind a set of activity.
13 Q And when the FBI would provide information to you and your team, would
14 they provide information to assist your team's assessment related to attribution, of who
15 to attribute the conduct to?
16 A In some cases the messages would speak to attribution, where they would
17 say that they believed some activity was linked to some effort and who was behind it as a
18 lead. So, if that's what you're talking about, information along those lines was passed in
19 some of the communications with us.
20 Q Do you recall any instances where you would receive a message where the
21 FBI would present the evidence as suggesting foreign attribution but your team's internal
22 assessment differed?
23 A I can recall at least one case.
24 Q And what is that case?
25 A There was a case where there was some phishing campaigns against an

1 election campaign, and it was suggested that it could be Russian activity. In that case,
2 we investigated and determined it was not.
3 Q And was this the FBI that had initially shared the information with you?
4 A In this case, I believe we received leads from a couple of different sources,
5 and I can't recall which one was first.
6 Q To your recollection, was the FBI one of them?
7 A Yes. My recollection is that they did communicate on this, yes.
8 Q And do you recall when approximately this was?
9 A This was -- I believe it would've been early -- the first half of 2020, maybe the
10 latter half of 2019.
11 Q Do you recall if you and your team shared with the FBI your team's findings
12 on this issue?
13 A In this case, we did.
14 Q And do you remember the context or how it was communicated to the FBI?
15 A I recall there being a call, and I believe there was a legal referral as well.
16 Q Do you recall if this call was one of the FITF bilateral meetings, or was this a
17 one-off call specific to this issue?
18 A This was a one-off call specific to this issue.
19 Q Did you participate in this call?
20 A I did.
21 Q Do you recall how many others from Alphabet participated in the call?
22 A Myself and [redacted].
23 Q Do you recall who from the FBI was on the other end?
24 A I believe Elvis Chan set up the call, but I believe it was with the field office as
25 well.

1 I should clarify on this that the reason we were referring in this case and
2 communicating back is that we had determined that it was a criminal hacking case and
3 that it was a -- we had seen a U.S. individual undertaking attempts at hacking activity on
4 our platform, and we were reporting it as a law enforcement matter to FBI.
5 Q Other than this example that you've described in either late 2019 or early
6 2020, do you recall any other instances where a U.S. agency provided information to you
7 or your team suggesting foreign attribution and that your team subsequently determined
8 did not exist?
9 A I can't recall any specific cases at present.
10 Q With the understanding that you don't recall any specific cases, do you recall
11 just generally if there were instances when that occurred?
12 A I can recall times where we disagreed with the assessment of the nature of
13 the activity. I can't recall specific ones where it turned out to be domestic.
14 Q And when you say disagreed with respect to the nature of the activity, what
15 do you mean by that?
16 A Say, for instance, something that they're reporting as a possible coordinated
17 or government attack, government effort externally, and then we would do the
18 investigation and, from our perspective, it may look like it actually is still foreign but
19 normal users.
20 So, for instance, the difference between, like, a coordinated campaign talking
21 about the Ukraine war and normal users in Eastern Europe talking about the Ukraine war.
22 And sometimes drawing the line between those are difficult, and we were able to tell one
23 of them from the other.
24 Q For that set of examples where there were differing assessments on the
25 nature of the activity, to your recollection, how frequently did that occur?

1 A I would say, where we -- I would say, it'd be relatively rare but not unknown.
2 Q To the extent you have knowledge of this, do you know whether any of the
3 industry partners have had similar examples, where a lead has been provided by a U.S.
4 agency -- let's start first with attribution -- suggesting foreign attribution and then
5 internally the industry partners have determined that it's domestic?
6 A I don't have insights into the bilateral discussions between FITF and these
7 individual other industry partners to any degree -- to any significant degree.
8 Q So, with the understanding that I assume you're not attending the FITF
9 bilateral meetings with Facebook and Twitter, let's say, do you have any knowledge,
10 either shared by industry partners or shared by someone else at the company who had
11 knowledge, of instances where an industry partner, say Facebook or Twitter, received a
12 lead from a U.S. agency with information suggesting foreign attribution, according to the
13 U.S. agency, where the industry partner made a different determination?
14 A I can't think of specific examples. My visibility was very limited to that.
15 Q What about just generally? Do you recall that issue ever being discussed?
16 A No, not generally. No, I don't recall it being discussed.
17 Q Okay.
18 Setting aside the foreign versus domestic attribution, same question but with
19 respect to the nature of the activities, where maybe there was evidence as part of a lead
20 that the behavior is inauthentic and the industry partner determines that it's authentic or
21 reaches a different assessment: Do you recall any -- or do you have any knowledge to
22 the extent that industry partners have had similar examples?
23 A Yeah, I don't -- these things are kept fairly separate, so we really don't have
24 that -- haven't really had those discussions about the USG-individual-industry
25 relationships. We keep those relatively private. One of the reasons there were

1 separate meetings is, there was discussions happening between us fairly separately, and
2 the joint conversations were ones that happened in those meetings.
3 Q Okay.
4 If I could have you turn to page 14 -- or, excuse me, first to page 12, which is Bates
5 number 16083. There are a series of messages beginning at the bottom of page 12 and
6 then continuing on until page 14, which is Bates number 16085. I'll give you a moment
7 to review.
8 A Okay.
9 Q Do you recall working on this statement first introduced by Nathaniel and
10 then there are a couple of comments made by you on it?
11 A This is reminding me that this conversation in this forum existed, but I can't
12 remember any real specifics about it.
13 Q Do you recall there being a debate or a discussion at all among the industry
14 partners on one hand and the government on the other regarding what the scope of
15 these meetings should be?
16 A I don't recall any debate, particular debate, or disagreement.
17 Q There's a message from [redacted] on the bottom of page 12 that continues
18 on to page 13, Bates number 16083 on to 16084. And the last sentence halfway
19 through says, "Our focus should be on the threat actors and behavior, rather than the
20 content itself."
21 What did you understand him to mean by that?
22 A Reading this, I take it as, this is a discussion of the scope being about how to
23 describe what we're doing, and the scope of the -- it's, you know, making clear that, as it
24 was the case, that these meetings were not discussing content and that any discussions
25 about threats were about threat actors. So it seems to be a discussion about, pre-game,

1 writing the actual scope of this meeting and making that clear.

[2:03 p.m.]

BY [redacted]

Q Do you recall anyone from the government suggesting that discussions related to content should be raised during these meetings?

A No, I don't recall that ever being suggested, and I don't recall specific content issues being raised during these meetings.

Q If I could have you turn to page 19, which is 16090. And there's a set of messages, first starting from [redacted] asking, "Have we come to a conclusion on including NSC in these?"

And there are some messages back and forth including [redacted] and it continues on to the next page, page 20, Bates number 16091.

A Okay.

Q There's a message from [redacted] I'll call your attention to at the bottom of page 19; that's 16090.

He says, "But the answer we agreed on was we'll talk about it, and want to focus on partners that are (a) operational; (b) defensive; and (c) apolitical."

Do you recall what discussion he's referring to here?

A To the best of my recollection, looking at this, there have been discussions at various times about expanding the number of government agencies involved in these meetings.

Q And do you recall any government agencies that the industry partners did not want included?

A I believe the -- the conversations I see here is the -- discussing NSC and they were discussing the GEC.

Q And, to your recollection, were those, the NSC the GEC, two that at least

1 some industry partners did not want included?

2 A I don't remember the NSC conversation, but I do remember the consensus.

3 The consensus from our side was, we were not keen on having the GEC also join.

4 Q And do you recall what the reason was?

5 A I don't recall the specific reasons. I think others had -- I think others had

6 strong -- had opinions on this, but I did not.

7 Q Do you recall the reason for any of the industry partners for being against

8 GEC's inclusion?

9 A I think there were general discussions that expanding the group out too

10 widely would make the group unwieldy, and having too many different government

11 agencies all involved could just cause extra overhead bureaucracy and make the group

12 less functional.

13 So there was a general focus on, can we limit down to a small number of agencies

14 to allow the group to be more streamlined and efficient.

15 Q There's three criteria that [redacted] lays out -- operational, defensive, and

16 apolitical.

17 Sitting here today, do you think those are three good criteria to have when

18 deciding which government partners industry should engage with on these types of

19 issues?

20 A I don't -- I'd say that those three characteristics describe the, sort of, nature

21 of the agencies involved in this work. And I don't disagree that they are

22 characterizations -- they are characteristics of the appropriateness of this group.

23 Q And why would it be appropriate to have apolitical government partners?

24 A From my perspective -- from my perspective, this has always tried to be

25 independent of politics, bipartisan, and focused solely on defending on threats. So

1 there was a -- did not want to introduce politics into any of this activity, and we were
2 doing all of this activity independent of politics.
3 Q And what would be the risk if politics was introduced into this activity?
4 A That would be speculation on my part, of what could happen.
5 Q But you feel confident enough to say that it would represent some sort of
6 risk to the integrity of the work that this industry partnership was working on?
7 A I did not say that. I would say that, at present, it is an apolitical group, and
8 I believe it would change the -- any addition or subtraction from the group would change
9 the nature of the group, and adding political entities to the group would change the
10 group.
11 Q If there was a suggestion to add political entities to the group, would you
12 support or oppose that?
13 A That's a hypothetical situation.
14 Q Well, you're engaging with the industry partners right now, and you've had
15 an industry meeting -- industry-only meetings as recently as a month ago, a FITF meeting
16 as recently as quarter two.
17 A I'd say this group seems to be working fairly well as is, so I would come from
18 a position of skepticism of changing it, would want to have a good reason of why we
19 would be including new partners.
20 But this decision would not be mine either and would also have to take into
21 account other aspects, including legal aspects.
22 Q There are some messages beginning on that same page, page 20, down at
23 the bottom, mostly from [redacted] but a few others, including [redacted], about GEC.
24 The conversation continues on page 21 and then on to page 22 as well, Bates number
25 16093.

1 Do you recall if Facebook was one of the industry partners that opposed GEC's
2 inclusion?
3 A Yeah, I believe that they were not in favor of GEC joining.
4 Q And do you recall what Facebook's reason was for opposing GEC's inclusion?
5 A I don't recall what the specific reason was.
6 Q If I could have you flip forward to page 50. It's Bates number 16121.
7 There are seven messages, but the one I want to call your attention to is by Nathaniel in
8 the middle of the page.
9 It says, "If we end up having to use MDM, I may just quit. I'm not sure I can take
10 it."
11 A Okay.
12 Q Do you recall the context in which [redacted] sent this message?
13 A I don't recall context.
14 Q In this context, would you understand "MDM" to refer to mis-, dis-, and
15 malinformation?
16 A Only because I think you raised the term with me earlier today. I probably
17 would not have, except that you defined that acronym for me earlier in this discussion.
18 Q Do you recall any discussions among industry partners about the dislike of
19 the term "MDM" or dislike of the term "malinformation"?
20 A I don't recall discussions on that.
21 Q On page 68, which is Bates number 16139, there's a question at the top of
22 the page from [redacted] about, "Anyone else seen anything beyond scammers/spammers
23 engaging around the convoy?"
24 And then their response is -- there are two, in particular, I want to call your
25 attention to, the first from [redacted] immediately below and then one from Mr. Roth

1 below that.

2 A Okay.

3 Q First, with respect to [redacted] question at the top of the page, do you

4 recall the context, where he's referring to "engaging around the convoy," what he's

5 referring to?

6 A My understanding, reading this and the dates, would be the -- I would

7 assume that this -- I think it would be the Canadian convoy protests, but I could be wrong

8 there. I don't recall specifically.

9 Q And then there's a message from [redacted] where he says, "We've seen and

10 actioned some financially-motivated actors, but haven't seen (at this point) clear signs of

11 IO."

12 In this context, would "IO" be referring to information operation?

13 A I would assume so, yes.

14 Q And then there's an answer from Mr. Roth below that, sharing what Twitter

15 has seen. The second sentence says, "Not pointing to state actors or anything that

16 interesting... just good old fashioned persistent real people doing bad stuff."

17 Are these two responses consistent with an answer you gave earlier in the hour

18 with respect to differences, where the U.S. Government may provide information on

19 what they believe to be potentially inauthentic behavior and industry partners have seen

20 evidence that it is perhaps inappropriate or unlawful behavior but it's done by real people

21 who aren't state actors?

22 A I don't see or remember any link to anything along those lines here, and

23 that's not how I read this conversation.

24 Q Okay. What do you recall with respect to this conversation?

25 A Mostly what I see here is that the -- this channel, which I believe is the

1 industry-only one -- is that we often -- we had responsibility -- like, when there was a hot
2 topic of the day that was attracting abuse, there would be information shared. And this
3 looks like information-sharing about what the different platforms had seen around this
4 topic at that time. And I don't see any evidence here that there is U.S.
5 Government-related stuff here.
6 Q So the channel would be used for industry partners to share information
7 independent of information that may be shared by the U.S. Government?
8 A Yes. It was a coordination channel amongst us in industry who are working
9 in this space. So conversations here may be unrelated to things discussed with the USG.
10 Q Do you recall in this conversation whether information was received by the
11 U.S. Government, one way or another? Or you just, you don't recall specific to this
12 conversation?
13 A I'm sorry. Could you --
14 Q Sure. So, just to clarify your response, is it your recollection that the U.S.
15 Government did not provide information on this issue that's being referenced in the
16 conversation on page 68? Or is it that you don't have a recollection of whether any
17 information from the U.S. Government was provided?
18 A I have no memory of this topic being discussed with the U.S. Government.
19 Q If I could have you turn forward to page 81, Bates number 16152, there's a
20 message from Nathaniel at the top of the page where he says, "Think it's possible for all
21 of us to refuse to participate if they keep calling it 'mis/dis/mal information'?" Then it
22 says, "(kidding, kidding)".
23 Do you recall [redacted] ever raising concerns related to the use of term "mis-, dis-,
24 and malinformation".
25 A I don't recall this conversation.

1 Q Okay. Based --

2 A Gen- --

3 Q -- off the -- I'm sorry?

4 A I said, generally, as I mentioned, when this issue was first raised in this

5 interview, I do know that there is -- and I said earlier that there's, like, a fair amount of

6 debate about the definitions of these terms and there's, sort of, ongoing discussion about

7 which terms to use for what, and aligning those terms has been difficult, so --

8 Q And I think you said you don't really use the term "malinformation"? Is

9 that --

10 A Definitely not on my team. I can't recall us ever using that term.

11 Q Do you recall ever using that term with, we'll say, [redacted]

12 A I really don't recall that term being used within -- definitely not within

13 industry, but -- yeah.

14 Q And if it's definitely not being used --

15 A I will say that, like, I have no recollections of this term being used.

16 "Definitely" is probably too strong a word to use there.

17 Q Understood.

18 But to the extent that you have some understanding of the terminology industry

19 partners prefer to use, or at least some of the industry partners prefer to use, and in the

20 context here with [redacted] reference, he refers to a "they" -- "they keep calling it

21 'mis/dis/mal information'" -- in this context, would you understand that message to be

22 referring to the U.S. Government is using those terms?

23 A I don't have specific recollection, so I'd only being going off context here.

24 Q So, with the understanding you don't have specific recollections, based off

25 the context that this was the industry-only chat, and it's being used in the context -- one

of the contexts in which it's being used is during meetings between the industry partners and the U.S. Government, based off your recollection of what the chat was used for, sitting here today, do you think it's most likely that [redacted] is referring to the government when he says "they"?

Mr. Donovan. I think you've asked and he's answered that question.

[redacted] He said he didn't have a specific recollection.

[redacted]. I would say that that's a possible interpretation, but it's hard, without knowing what else was going on at the time and what our conversation is referring to, for me to draw conclusions about what's being referred to there.

BY [redacted]

Q Do you recall any discussions where someone from the U.S. Government used the term "malinformation"?

A I don't recall specifically.

Q Do you recall any instances where anyone from Alphabet used the term "malinformation"?

A I can't think of any instances that I can recall.

Q In an earlier answer, you said it's not a term that you and your team use.

A That's correct, it's not used within my -- it's not -- I can't recall it used in my team.

Q If I could have you flip forward to page 98, which is Bates number 16169, there are two messages I want to call your attention to.

About two-thirds down the page, [redacted] writes, "Interesting to see them trying to grapple with the domestic side." And then [redacted] responds, "So hard to navigate."

First, do you recall the context of this exchange?

1 A I do not recall the context of this exchange.

2 Q Do you recall any instances where attribution was being discussed on these

3 industry-U.S. Government calls?

4 A "Attribution" is a pretty broad term.

5 Q Just broadly speaking.

6 A Well, broadly speaking, like, certain times, if threats were being discussed,

7 then they would be attributed.

8 Q And how challenging is it to determine the attribution of a threat?

9 A It can vary greatly. In some cases it is relatively obvious, and in some cases

10 we cannot determine attribution.

11 Q Okay.

12 Do you recall any discussions, first, with any individual with Alphabet regarding

13 the government's ability to accurately attribute a threat?

14 A So the question is, has anybody in Alphabet ever discussed this?

15 Q Discussed it with you.

16 A I'd say, in general terms of, like, how people would ask how confident

17 I -- like, do we agree with the government's attribution here, how confident are we, those

18 sort of questions. Because we are doing our independent analysis, the key question is

19 always, if there is attribution, is, do we agree with that attribution, do we disagree, can

20 we confirm it ourselves, because we never take attribution at face value.

21 So, if that's what you're asking, attribution is sort of a key part of our assessment

22 process. So there's always discussions and trying to -- any time we get a lead, part of

23 our assessment is, do we attribute, including leads from the U.S. Government. So our

24 understanding of whether the attribution is correct, whether we can reproduce it, or

25 whether we believe it's wrong is part of the discussions.

1 Q With respect to attributions of threats -- with respect to the U.S.
2 Government's attribution of threats, do you recall any discussions on this issue with
3 industry partners?
4 Mr. Halse. I'm sorry. When you say "this issue" --
5 [redacted] The U.S. Government's attribution of threats.
6 Mr. Halse. Thanks.
7 [redacted]. And these information operations -- sorry, these sort of
8 information operations, disinfo sort of threats?
9 I don't recall specific conver- -- I don't recall specific ones, no.
10 I think, as a general topic of discussing the quality of -- discussing the material
11 that's being provided, yes, in a similar way -- or, like, in a similar way that industry people
12 were discussing a lead that had been provided to us, we would ask each other, do you
13 agree with this, do you not. So, in terms of those general terms, similarly, we would
14 always be discussing attribution, because it was a key part of the assessment process.
15 BY [redacted]
16 Q In this context, [redacted] answers, "So hard to navigate."
17 What did you understand him to mean by that response?
18 A I understand that, you know, because of that -- I understand that, like, this is
19 focused on foreign, so making sure that it's navigated and does not go into domestic
20 issues is difficult to navigate.
21 Q So, understanding that the focus is foreign and it's difficult to navigate, do
22 you recall any discussions or any comments by personnel from the U.S. Government to
23 that end, discussing this issue?
24 A In what timeframe?
25 Q In these meetings.

1 A The only conversations I can recall around that was them very specifically
2 and pointedly ensuring to say that they were not interested in domestic activity here.
3 Q Do you recall any instances where the U.S. Government was making the
4 point that they didn't want to be involved in domestic activity but that the industry
5 partners had information to suggest that there was domestic activity involved?
6 A I don't recall such cases.
7 Q If I could have you flip forward to page 126, which is Bates number 16197,
8 there are a series of messages starting two-thirds of the way down from [redacted] then a
9 couple messages from you.
10 I'll give you a moment to review. The conversation continues on to page 128,
11 Bates number 16199.
12 A Yes.
13 Q This message is from November 2, 2022. You write, "It also seems a lot of
14 this has moved to speculation vs observed activity."
15 What did you mean by this message?
16 A My recollection is that the meetings were occurring and there wasn't
17 actually very much threat information to share, so the meetings had turned very much
18 into general briefings about threats or threats that might possibly occur and they were
19 very broad in nature.
20 So my recollection of this discussion -- and I'm reminded of this here -- it was
21 discussing that we're having long meetings and there wasn't really a lot of substance.
22 And I think when I was saying "speculation," what I was referring to was the, like -- you
23 know, they were giving a list of things that could possibly occur, that hadn't, and in
24 general terms. And that's my recollection of what I was saying there.
25 Q At a high level, are there any examples that you recall that were more in the

1 speculation bucket as opposed observed activity?

2 A I don't recall specific examples. I recall, like, they were basically outlining

3 all the possible threats there could be, like, different attacks or possible threats there

4 could be, and just outlining the list, is the recollection I have.

5 Q When they were outlining a list of all the different potential threats, was a

6 foreign hack-and-leak or hack-and-dump one of the things that they listed?

7 A Yes, that would be listed. Yes.

8 Q Specific to hack-and-leak and hack-and-dump, do you recall which Federal

9 Government agency raised that as a potential threat?

10 A That threat has been discussed numerous times, as it is a threat that has

11 been seen in the past. So it's been a topic of discussion a number of times by different

12 agencies.

13 Q Do you recall it being a topic of discussion before the 2020 U.S. election?

14 A Yes, it was definitely a topic of discussion. Subsequent to the 2016 election

15 and since at least 2017, that has been a -- hack-and-leak has been a topic of discussion in

16 this field.

17 Q You mentioned that -- well, first let me ask this.

18 During these U.S. Government-industry meetings, it certainly sounds like the

19 U.S. Government is sharing information with industry partners. Are industry partners

20 sharing information with the U.S. Government?

21 A Yes. We would provide some general information of what we were seeing

22 or not seeing, yes.

23 Q Do you recall anyone in these meetings providing their -- "their" referring to

24 the industry partners -- assessments of the Hunter Biden story in October 2020 and

25 whether it was the product of a Russian hack-and-leak or hack-and-dump?

1 A I can't recall that being discussed.

2 Q And with respect to FITF-Google meetings that were occurring in 2020, when

3 Google was sharing information, do you recall whether Google ever shared its

4 assessment?

5 A I don't believe it was discussed.

6 Q And by not discussed, it's your recollection --

7 A My recollection is, we did not.

8 Q On the top of page 127 here, Bates number 16198, you send a second

9 message saying, "And not being clear on the difference." It appears to be referring to

10 your previous message of "speculation vs observed activity."

11 What did you mean by that second message?

12 A My understanding is that -- and this is a general opinion I have -- is that there

13 needs to be a clear line between "this is what a foreign actor could do" and "this is what

14 we know they do."

15 And I think some of the briefings were fairly general, and I was, you know, raising

16 a point that we should be clear about "this is possible" versus "this is something we've

17 seen a particular actor do." And some of the briefings were -- I was saying that we

18 should be clear on that difference.

19 Q So this is in 2022. In 2020, in the lead-up to the 2020 U.S. election, you said

20 there were discussions that the government would share regarding a potential foreign

21 hack-and-leak or hack-and-dump.

22 Do you recall, when it came to the detail of information that the FBI was sharing,

23 whether it would more perfectly fall under the speculation as opposed to

24 observed-activity bucket?

25 A I would say, FBI were generally good with providing specific information.

1 Q Okay. And do you recall what specific information the FBI provided on a
2 potential hack-and-leak?
3 A In 2020?
4 Q In 2020.
5 A My last answer was, generally you had the information provided as leads. I
6 don't recall a specific lead and I don't believe that we had any confirmed hack-and-leak
7 operations as part of the 2020 election.
8 Q So, to your recollection, it was a more general warning? Or what is your
9 understanding of what level of information was shared?
10 A I'm sorry?
11 Q If I understood your previous answer correctly, in 2020, there are discussions
12 of hack-and-leak, but, to your recollection, there was no specific leads on hack-and-leak
13 that was shared. So, to your recollection, what level of detail or what information was
14 shared with respect to hack-and-leak in 2020?
15 A I think there was information about threat actors that have engaged in
16 hack-and-leak in the past that was shared, either -- not sure whether through those
17 meetings or through FITF or through channel. And that was on the government side.
18 But I don't recall any specific leads on anything that they believed was a successful
19 hack-and-leak operation.
20 Q As part of the information they were providing in 2020, do you recall if the
21 government shared that Russia may be one of the state actors to attempt a hack-and-leak
22 or hack-and-dump operation?
23 A I don't recall specifically, but generally Russia would make a list of threat
24 actors to be concerned about.
25 Q There's a message from you at the bottom of page 127, Bates number

1 16198, where you say, "Midterm syndrome: In 2018 they were overindexing on a
2 repeat of 2016. In 2022 they seem to be overindexing that it will be a repeat of 2020."
3 And then there are some messages too -- I'll give you a moment to
4 review -- where you and Nathaniel go back and forth, to give you some context.
5 And once you've had a chance to review, what did you mean by the first message
6 there, "midterm syndrome"?
7 A This is something I've spoken on publicly, that the midterms end
8 up -- generally look somewhat different to general elections in terms of threats and focus.
9 And I was making a general comment that many of the briefings are talking about the last
10 election. And when there isn't much to discuss, they will just discuss the last election
11 versus what's currently occurring, because they may not be seeing anything currently.
12 Q At a high level, can you provide any examples of a warning in 2018 that was
13 really based off something that was seen in 2016, or a warning in 2022 that was based off
14 observed activity in 2020?
15 A At a high level, I would say that there was -- well, between 2016 and 2018,
16 like, there was a fair evolution of information operation actors, such as the IRA, and some
17 of the actors that were takedowns after 2016, those actors evolved significantly. But
18 the focus -- you know, we still have to look out for how it was before, but, you know,
19 there was evolution in those threat actors.
20 Q And what about 2022 from 2020?
21 A I can't -- both 2020 and 2022 were relatively quiet, so I can't -- with few
22 exceptions. So I can't think of a specific example on that.
23 Q And what do you mean by "fairly quiet"?
24 A So there was some activity in 2020, and Google did go public that we did see
25 targeted, government-backed campaigns against both President Biden's and

1 President Trump's campaigns. So it was not totally quiet, and we went public with
2 things we had seen, but most people would say that there was more activity in 2016.
3 Q This industry-only Signal channel, is it still active?
4 A Yes, it still exists.
5 Q And do you recall the last time someone sent a message in it?
6 A The most recent messages are, I think, around scheduling, so maybe in the
7 last month, saying, is the meeting on today, or, the meeting this week is canceled.
8 Those sort of messages I've seen in the last month, 2 months, 3 months. So that's the
9 nature of most of the recent activity that I can recall.
10 Q And, again, to your recollection, the last either U.S. Government-industry
11 meeting or industry-only meeting -- it sounds like it was an industry-only meeting -- was
12 about a month ago?
13 A That would -- I'd have to see my calendar, but that would be my recollection
14 of the rough timeframe, yes.
15 Q Do you recall any messages in the Signal channel regarding the July 4th
16 injunction or pausing the meetings because of the July 4th injunction?
17 A I don't believe there are any such messages.
18 Q Do you know if there were any messages since July 4th in the Signal
19 channel?
20 A I don't know if there were.
21 Q Do you -- Signal has a self-deleting function for certain channels if the user
22 prefers. For the Signal channel, do you have the messages available still?
23 A I do have the messages. I think with Signal it dates back to -- it doesn't
24 always transfer across with the phone, so I have it going back some distance on these
25 messages, yes.

1 Q And so do you -- sorry, as a point of clarification, do you access it by
2 something other than your phone?
3 A I do access by my phone, yes.
4 Q Oh, okay. Sorry, just to understand that previous response, you do have
5 access to some of the messages going back?
6 A Yes.
7 Q Do you know how far back?
8 A I don't offhand.
9 Q Approximately?
10 A I'd say, consistent with what's in front of me here, most likely.
11 Q Okay.
12 There was a conference you were at in 2021. I'm not going to ask you to recall
13 what you said at the conference, whatever else, but there was a question posed to you
14 about, where is the line between politics and disinformation.
15 There have been some obviously very high-profile public examples of information
16 operations, the role of foreign actors. You, in one of the responses, provided a
17 comment that some of these more high-profile examples lead to individuals at the
18 company to ping your team and ask questions, get more information.
19 To the extent disinformation and information operations have intersected with
20 politics, has that had any impact on your line of work?
21 A So I'm not sure I fully follow. Are you talking about CyberWarCon?
22 Q Yeah.
23 A What are you asking? Has my -- if you are asking --
24 Q I guess my --
25 A -- if you're asking, has the investigations we do been influenced by political

1 realities or that we change the nature of the investigations we do due to politics, the
2 answer is no.
3 We always take our investigations very much on the facts, doing the investigation
4 and taking action according to our policies. And I've never felt any pressure due to
5 political reasons to change our assessment in any form or to pick what we do or don't
6 investigate, if that's where that question is going.
7 Q Okay. And what sort of frameworks are put into place to ensure that's the
8 case?
9 A I'm not sure exactly what you mean. I suppose this is the guidance that we
10 give to the team. This is something that I and others are aware of and we watch out for.
11 We set this as a standard, and it's a, you know, common value and something that we
12 take seriously.
13 Q And with respect to press reports, the reasons that, you know, individuals
14 will ping you and your team, is it your understanding that some of the reason these
15 examples have become more high-profile is because of the intersection with politics?
16 A I think that's -- I'm struggling to answer this question a little bit because the
17 definition of what is politics is very broad and up for debate as well here. So I'm not
18 sure how to answer that.
19 Q The hour is about to expire, so I'll finish with this question.
20 And maybe there is no tie between the two. But there was a presentation at the
21 conference about the line between politics and disinformation. And there's the criteria
22 laid out by Nathaniel in this industry chat with respect to, when it comes to government
23 partners, one of the criteria was apolitical.
24 And so the question would be, independent of you and your team's work, whether
25 when politics becomes involved with how publicized potential information operations

are, has that had any effect with respect to how often your team is receiving requests from personnel at the company?

A I don't believe that politics has affected the work that we do in our team. The team, in countering threats, the focus has always been on what we do to protect users and enforce the rules of that platform.

[redacted] Can we go off the record, please?

[Discussion off the record.]

[redacted] Can we go back on the record?

BY [redacted]

Q I guess just to pick back up, then, on that last question, I guess what the question is getting at is not what you and your team do as a result of these changes, but, if there are changes that are significant enough that can be raised at a conference and that members of the conference will understand what the question is referring to, has there been a change in --

A Can you provide a clarification of what the question was? Like, my recollection or time that I've seen the video of this talk is, like, long passed, and it seems more fresh to you, so --

Q Sure. The question itself was, where is the line between politics and disinformation?

A And this was raised by somebody asking a question of me?

Q You presented it as a question that you are asked frequently.

A Okay. And so I think what I was referring to, then, was actually something, I think, quite different -- somewhat different to the line that you are pursuing here.

I think a lot of this challenge actually happens in a global state of -- I think there's more clear lines in the United States, but one of the challenges we've had is, like, we

1 cover global elections worldwide, so the standards about sort of, like, what is acceptable
2 policies in very different countries of, like, what they consider disinformation versus what
3 they consider normal political behavior is not nearly as well-defined.
4 And I think that was the point of my talk, is that I was raising that, especially in a
5 global level, trying to set a standard between the boundary of those is not nearly as
6 well-defined as it is in the United States. That's my recollection of what I was speaking
7 on at CyberWarCon as a challenge with regard to election protections.
8 Because I should state again very clearly, is that we are not just focused on U.S.
9 teams; we are focused on this as a global problem. And there are many democracies in
10 the world and elections going on on an ongoing basis, so we are constantly looking at
11 threats to elections around the globe.
12 Q The next question that you presented that you are frequently asked is, is it
13 always the Russians?
14 So, in the context of your previous answer, is this something that, worldwide,
15 people are frequently asking, is it the Russians? Is there a U.S.-specific element to this?
16 A I think some of this was tongue-in-cheek, is that, for a while in the threat
17 intelligence community, there was a certain bias towards activity being -- people would
18 guess that something is the Russians when sometimes it would be some other threat
19 actor. And there's a few cases of that.
20 And the cases where we went public in 2020, it was actually not Russia. The
21 cases we went public with was -- the activity was originating from PRC and Iran.
22 Q And you said in your previous answer that people will sometimes incorrectly
23 guess or believe it's Russia. Who are you referring to there?
24 A The example I was thinking of was, we have seen other threat teams
25 produce reports where they have, in our opinion, misattributed to Russia when it was

1 another actor.

2 Q Which other entities?

3 A I was thinking of CrowdStrike at the time.

4 Q Any others that come to mind?

5 A Not specific examples.

6 And, generally, the more mature organizations in the U.S. Government and threat

7 teams do -- I think it's more something that, you know, amateurs and the, sort of,

8 lower-tier security people, kind of, will put a blog and they say, "This could be the

9 Russians." So there is a lot of swirl of the less informed and less capable will sometimes

10 jump at shadows. And that's a -- not everyone has high capabilities in this area.

11 Q Do you recall any examples where, let's say, amateurs or someone who's

12 maybe not as well-trained in this area has a finding that they try to publicize as attributing

13 a threat actor as Russian and that the press picks up that finding?

14 A I don't think so. I think there's a pretty good -- there's actually a fair

15 amount of mechanisms now to debunk these things, and the press is actually pretty good

16 at going to multiple sources.

17 Q Do you recall any examples where someone in the company says, we've seen

18 such-and-such news story in the United States attributing this activity to Russia, and then

19 you and your team took a look and determined that it was not Russian in origin?

20 A I spoke earlier about one case which ended up being a, you know,

21 phishing/hacking attempt which was determined later to be a U.S. criminal effort. That

22 might fall into that category. That's one specific one that some people suggested it

23 would've been a Russian operation but we determined it was not.

24 Q Any other examples?

25 A Not specifically.

1 I think one of the -- for a while, there was a general question whether a threat
2 is -- like, "could this be the Russians," was, like, being asked relatively frequently. But
3 we always did our assessment, and we always were neutral about that and never took
4 that as a starting position, but made sure, if we were going to make that assessment, that
5 it was originating from Russia, that we had the evidence behind it.
6 Q Are you familiar with Hamilton 68?
7 A I don't believe so.
8 [redacted] Can we go off the record?
9 [Discussion off the record.]
10 [redacted] We're done. Thank you very much for your time.
11 [Whereupon, at 2:50 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

Transcribed Interview Transcript Errata Form

Interviewee	Senior Director, TAG
Date of Interview	July 19, 2023
Date of Review	November 19, 2024 (Updated December 16, 2024)
Name of Reviewer	Ehren Halse
Signature of Reviewer	

Page	Line	Suggested Correction
3	1	"and [Redacted Witness Name]" should follow "Alphabet"
9	16	"the" should follow "what"
9	21	"serious" should be "cyber"
13	12	"assist" should be "assists"
16	1	"between" should be "by"
19	10	second instance of "violence" should be "violent"
19	15	second instance of "to" should be deleted

21	11	"violations" should follow the first instance of "policy"
23	17	"was" should be "were"

Page	Line	Suggested Correction
26	23	"brief" should be "briefing"
40	14	Remove comma after "team"
45	5	"false" should be "falsity"
57	19	add "for" before "example"
64	5	"was" should be "were"
64	21	add "provide" before "was"
75	5	"way" should be "ways"
85	18	"of" should be "on"
86	25	second "was" (after "there") should be "were"

87	3	"this" should be "it"
94	18	add "and" before "would"
99	18	"being" should precede "used"
111	1	"is" should be "are"
111	4	"in" should be "at"

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: KEVIN ANDREW CHAMBERS

Friday, July 21, 2023

Washington, D.C.

The interview in the above matter was held in room 2237 Rayburn House Office Building, commencing at 10:00 a.m.

1 Appearances:

2

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted] RESEARCH ASSISTANT

8 [redacted] COUNSEL

9 [redacted] COUNSEL

10 [redacted] DIGITAL ASSISTANT

11 [redacted] CHIEF COUNSEL FOR OVERSIGHT

12 [redacted] CLERK

13 [redacted] MINORITY CHIEF OVERSIGHT COUNSEL

14 [redacted] MINORITY INTERN

15 [redacted] MINORITY OVERSIGHT COUNSEL

16

17

18 For KEVIN ANDREW CHAMBERS:

19

20 JONATHAN SU, ESQ.

21 MICHELLE WADOLOWSKI

22 MARGARET HYNDS

23 LATHAM & WATKINS

1

2 [redacted] Good morning. This is the transcribed interview of Mr. Kevin
3 Chambers. Chairman Jordan has requested this interview as part of the committee's
4 oversight of the Justice Department and Federal Bureau of Investigation.
5 Would the witness state please your name for the record.
6 Mr. Chambers. Kevin Andrew Chambers.
7 [redacted] We encourage witnesses who appear before the committee to
8 freely consult with counsel if they so chose. And it's my understanding that you are
9 appearing today with personal counsel; is that correct?
10 Mr. Chambers. Yes. That's correct.
11 [redacted] Could counsel please state your name for the record.
12 Mr. Su. Jonathan Su, with Latham & Watkins. And with me are Michelle
13 Wadolowski and Margaret Hynds.
14 [redacted] Thank you. Behalf of the committee, I want to thank you for
15 appearing here today to answer our questions. The Chairman also appreciates your
16 willingness to appear voluntarily. My name is [redacted] Nabity, and I'm with Chairman
17 Jordan's staff. I'll now have everyone else from the committee who is here in the room
18 introduce themselves.
19 [redacted] and I'm with Chairman Jordan's staff.
20 [redacted] Chairman Jordan's staff.
21 [redacted] oversight counsel with the Democrats on the
22 judiciary committee.
23 [redacted] chief oversight counsel for the House Judiciary
24 Committee, Democrats.
25 [redacted] with Chairman Jordan's staff.

1 [redacted] [redacted] Chairman Jordan's staff.

2 [redacted] Thank you. I'd like to now go over the ground rules and guidelines

3 that we'll follow for today's interview. Our questioning will proceed in rounds. The

4 majority will ask questions first for one hour, and then the minority will have the

5 opportunity to ask questions for an equal period of time, if they choose. We'll alternate

6 back and forth until there are no questions and the interview is over.

7 Typically, we take a short break at the end of each hour, but if you would like to

8 take a break apart from that, please just let us know. We are happy to accommodate

9 that. As you can see, there is an official court reporter taking down everything we say to

10 make a written record, so we ask that you give verbal responses to all questions. Do

11 you understand?

12 Mr. Chambers. Yes.

13 [redacted] So the court reporter can take down a clear record, we'll do our to

14 best limit the number of people directing questions at you during any given hour to just

15 those people on the staffer whose turn it is. Please try and speak clearly so the court

16 reporter can understand, and so the folks down at the end of the table can hear you as

17 well. It's important that we don't talk over one another or interrupt each other if we

18 can help it, and that goes for everyone present at today's interview.

19 We want you to answer our questions in the most complete and truthful manner

20 as possible, so we'll take our time. If you have any questions or if do not understand

21 one of our questions, please just let us know. Our questions will cover a wide range of

22 topics. If you need clarification at any point, just say so. If you honestly don't know an

23 answer to a question or do not remember, it is best not to guess. Please give us your

24 best recollection, and it is okay to tell us if you learned information from someone else,

25 just indicate how you came do know that information.

1 If there are things you don't know or can't remember, just say so. And please
2 inform us who, to the best of your knowledge, might be able to provide a more complete
3 answer to the question. You should also understand that by law, you are required to
4 answer questions from Congress truthfully. Do you understand that?
5 Mr. Chambers. Yes, I understand.
6 [redacted] This also applies to questions posed by Congressional staff in an
7 interview. Do you understand this?
8 Mr. Chambers. Yes, I understand.
9 [redacted] Witnesses that knowingly provide false testimony could be subject
10 criminal prosecution for making false statements under 18 U.S.C. Section 1001. Do you
11 understand?
12 Mr. Chambers. Yes, I understand.
13 [redacted] Is there any reason you are unable to provide truthful answers to
14 today's questions?
15 Mr. Chambers. No, there is not.
16 [redacted] Finally, I'd like to make note that the content of what we discuss
17 here today is confidential. We ask that you not speak about what we discuss in this
18 interview to any outside individuals to preserve the integrity of our investigation. For
19 the same reason, the marked exhibits that we use today will remain with the court
20 reporters to go into the official transcript, and any copies of those exhibits will be
21 returned to us when we wrap up.
22 That is the end of my preamble. Is there anything that my colleagues from the
23 minority would like to add?
24 [redacted] No. Just thank you to the witness for taking time out of your day to
25 join us to.

1 [redacted] And I understand, Mr. Su, you have some remarks you would like to
2 make?
3 Mr. Su. Yeah. In logistics, just confirming that this is being taken down by a
4 court reporter and audio and video record; is that right?
5 [redacted] Yes.
6 Mr. Su. Okay. So Mr. Chambers is appearing here voluntarily, [redacted] as you
7 said. He has not had a chance to review thoroughly, obviously, all of his records and
8 emails and whatnot. And so, he is testifying today to the best of his recollection. And I
9 know we discussed that in the lead up to this interview. I don't think you all have any
10 issues with that.
11 Thank you for the courtesy of allowing him to consult with counsel as appropriate.
12 I think we also sort of understand that whatever questions you are asking him about the
13 extent of his knowledge does not apply to conversations that he has had with counsel in
14 the run-up to the matter.
15 So Kevin, I'll just tell you that to the extent that the responses to the questions,
16 you know, call for discussions that you may have had with counsel, these folks are not
17 looking for that. They're looking for your factual knowledge about the events that they
18 want to ask you about.
19 With that, please go ahead.
20 [redacted] That's correct. Thank you.
21 The clock now reads 10:05 a.m. I'll turn it over to my colleague, [redacted] for the
22 first hour of questioning.
23
24 EXAMINATION
25 BY [redacted]

1 Q Good morning, Mr. Chambers, and thank you, again, for being with us?
2 A Good morning.
3 Q Can you tell us where you currently work?
4 A Sure. I work at Latham & Watkins.
5 Q And what is your title there?
6 A I am a partner in the firm. I am the global chair of white collar defense and
7 investigations practice.
8 Q And how long have you been there -- working there under that title?
9 A Under the title global chair, approximately 2 months. I've been a
10 partner -- most recently been a partner there since December 2nd, 2022.
11 Q And when did you start working in the Biden Justice Department?
12 A I believe February 1st, 2021, was my first day at the U.S. Department of
13 Justice.
14 Q And what was your motivation for working at the Justice Department?
15 A To serve the country.
16 Q And what did you do right before working at the Justice Department?
17 A I left Latham & Watkins where I was a partner. At the time that I left
18 Latham & Watkins, I was the local department chair or the chair of our local litigation
19 department.
20 Q And can you walk us through the positions that you held while you were at
21 the Justice Department between those two tenures at Latham & Watkins?
22 A Sure. During the entirety of my time at the Justice Department, I was an
23 associate deputy attorney general. For the period from when I started, beginning of
24 February, I believe, February 1st, until about the end of February, beginning of March of
25 the following year, 2022, I took on an additional position. The position was called the

1 director of COVID-19 fraud enforcement. It was a newly created position at the
2 Department of Justice.
3 Q So did you serve in both of those roles simultaneously?
4 A Yes. I was an ADAG, associate attorney general.
5 Q Before you came the director for COVID fraud enforcement and you were
6 just an associate deputy attorney general, could you describe the roles and
7 responsibilities you had in that position?
8 A Sure. The department has a number of ADAGs, use the shorthand, that
9 cover and coordinate with different sections of the department. In my case, I was
10 appointed specifically to handle issues arising out of the criminal division of the
11 Department of Justice.
12 Q Can you describe what the organizational chart for your office was, if it was
13 just dealing with the criminal division, or was that the entire ADAG office?
14 A So just to clarify a little bit, there's not -- I didn't have my own office.
15 Q Oh, okay.
16 A The office to which I was a part is the Office of the Deputy Attorney General,
17 ODAG. So what I mean to say is I did not have a staff. I was staff reporting up to the
18 Deputy Attorney General.
19 Q Then for that Deputy Attorney General, could you describe the
20 organizational chart that works under her or he?
21 A For ODAG?
22 Q Yes.
23 A Sure. ODAG is headed by, not surprisingly, the Deputy Attorney General.
24 There are a number of associate deputy attorneys general who report to the Deputy
25 Attorney General. If memory serves, it was maybe 7 or 8 associate deputy attorneys

1 general.

2 One of those ADAGs is known as the principal associate deputy attorney general.
3 In addition to those -- so that's the first level down beneath the Deputy Attorney General.
4 In addition within the office, there were at various times administrative staff, other
5 lawyers who may have had the title -- I don't know -- counsel or senior counsel. Those
6 were a bit more -- again, those changed over time. You know, there was turnover,
7 people coming, people leaving. I'm just trying to think if there was any other -- I think
8 that covers it.

9 Q And who was your direct supervisor?

10 A My direct supervisor is the Deputy Attorney General. However, the
11 principal associate attorney general, who I mentioned earlier, is at least more informally
12 to whom I would report more often.

13 Q And who filled that position during your tenure?

14 A The principal associate?

15 Q Yes.

16 A The principal associate deputy attorney general for -- so for the first couple
17 months that I was there, I'm not sure that there was a principal associate deputy attorney
18 general in place because that person was serving as the acting deputy attorney general.
19 And his name is John Carlin. Whether he was considered the PADAG, which is the
20 principal associate deputy attorney general, from the beginning, I honestly don't recall.
21 He was without question, the PADAG from when Deputy Attorney General Monaco was
22 confirmed until some time in the summer of 2022. I believe around July, maybe August
23 of 2022. After John Carlin left the role of principal associate deputy attorney general,
24 that role was filled by Marshall Miller -- Marshall is how I know him. I think his last
25 name is Miller. And as far as I know, he is still the principal associate deputy attorney

1 general today.

2 Q Thank you. And how long did you serve in the joint role as director for

3 COVID-19 fraud enforcement?

4 A So I was appointed to that role, I think, it may have been like March 8th,

5 2022, give or take a week. It may have been earlier, certainly wasn't later. And I had

6 that role until I separated from the Department in late November, early December

7 of 2022.

8 Q And can you describe what your roles and responsibilities were when you

9 took that position on?

10 A The director of COVID-19 fraud enforcement?

11 Q Yes.

12 A Sure. As I'm sure you know well, the United States government, in the

13 wake of the onset of the coronavirus pandemic, authorized a number of relief programs.

14 Two very well known ones are PPP, EIDL. PPP paycheck -- Payroll Protection Program.

15 EIDL, Economic Impact Disasters Loans. UI, Unemployment Insurance, and a host of

16 others. The amount of the funds distributed were in the trillions. Unfortunately, with

17 any government relief program, there's going to be some level of fraud in those

18 programs.

19 My role as the director COVID-19 fraud enforcement was to work with our

20 partners throughout the federal government inside and outside of the Department of

21 Justice to devise strategies, to discourage, identify, and where identified, prosecute fraud

22 against those government programs.

23 Q And was this position technically still within the ADAGs or the ODAG's office?

24 A Yes. Yes, it was.

25 Q And who was your direct supervisor in this role? Was that someone

1 different?

2 A No. My supervisory chain did not change.

3 Q And how many people directly reported to you throughout your tenure

4 between 2021 through 2022?

5 A Okay. So in my role as associate deputy attorney general over the criminal

6 division, no one reported to me. I, of course, had an administrative assistant, but it

7 wasn't -- she wasn't reporting to me in any substantive sense. When I was appointed to

8 the position of director of COVID-19 fraud enforcement, I had a -- two deputies, a criminal

9 deputy who handled fraud from the criminal perspective, and I had a civil deputy who

10 handled fraud, obviously, from the civil perspective.

11 Both of those people, like me, added those roles onto what they were already

12 doing. So my criminal deputy was an assistant United States Attorney, I think, in the

13 Northern District of Texas. It's not Northern District. It's where ever Austin is. It's

14 one of the districts in Texas. My civil deputy was a -- I'm not sure exactly what his title

15 was, but he was in the civil division.

16 Q How often did you interact with Deputy Attorney General Monaco?

17 A Generally, or with respect to either of these positions?

18 Q Generally.

19 A Regularly -- or I should say frequently with regular meetings throughout the

20 course of my tenure. When I was -- prior to taking on the role of director of COVID-19

21 fraud enforcement, those meetings would take place maybe once a week. After I

22 moved onto the director of COVID-19 fraud enforcement role, they were less frequent.

23 There would be monthly update meetings to discuss my work in that position. In

24 addition to those regular meetings, I would meet with the Deputy Attorney General as

25 necessary.

1 Q And how often did you interact with Attorney General Merrick Garland?

2 A Less frequently. So again, during the time that I was associate deputy

3 attorney general and not playing the role of director of COVID-19 fraud enforcement, we

4 would have regular meetings with the Attorney General in his office, I think probably

5 every 3 weeks to a month. And again, if necessary, although far less frequently. I

6 would meet with the Attorney General as required.

7 BY [redacted]

8 Q And these frequent regular meetings that you had with Deputy Attorney

9 General Monaco, were they standing meetings?

10 A Yes.

11 Q And was it just to provide her an update of what each ADAG was working

12 on?

13 A For the most part. No. No. Sorry. That's not right. I'm actually glad

14 you asked that question because I want to change my answer. So I would -- the

15 meetings that I described to you, the weekly meetings, were just me, Deputy Attorney

16 General, and others specifically to discuss things happening in the criminal division.

17 Probably every week, there would be -- every other week there would be a staff meeting,

18 I guess, is what you call it, where there would be opportunities for each ADAG to discuss

19 issues with the Deputy Attorney General, as well as with the rest of the ODAG team.

20 Q Okay. I just want to make sure I have it clear here. So once a week, you

21 would have a one-on-one with --

22 A It wasn't a one on one, but it was focused on the criminal division. So it

23 was focused on my portfolio.

24 Q So did the Deputy Attorney General generally have awareness of what the

25 criminal division was working on?

1 A Yes. That was in part the purpose of those meetings.

2 BY [redacted]

3 Q Did you ever have any interactions with the FBI regularly?

4 A Yes.

5 Q And how regularly would you describe those interactions?

6 A Interactions with the FBI would typically be more on an as needed basis if

7 pertaining to a particular issue. If memory serves, there would have been a handful of

8 meetings related to say, for example, corporate enforcement policy, election threats, and

9 other items. But there was not -- I was not part of standing meetings with the FBI.

10 Q Thank you. And who was your main point of contact at the FBI? Would

11 that fluctuate depending on the issue?

12 A My main point of contact with FBI, as best I recall, was typically someone

13 named Jay Greenberg. Now, as you sort of hinted at, depending on the issue, you know,

14 he may be -- you know he may have -- he may have not been the only or first person that

15 I'd reach to. But if I had a general FBI question, I may have gone to Jay if I didn't know

16 who else, you know, was tasked with handling that sort of thing.

17 Q And have you ever heard -- have you ever worked with federal law

18 enforcement before working at the Justice Department in 2021?

19 A Yes.

20 Q What kind of cases?

21 A Okay. Let me -- it's probably a little bit more complicated than it needs to

22 be. It will become clear why. I was prosecutor here in the District of Columbia for

23 4 years. During that time, I worked with both the Metropolitan Police Department as

24 well as law enforcement from, you know, the 47 different federal agencies that are in the

25 District. So Park Police, you know, Police Department for the Bureau of Printing, and the

1 like, in addition to the FBI on certain matters. So yeah, I think technical matter all those
2 are concerned federal, so I did have experience working with them beforehand.
3 Q Thank you.
4 BY [redacted]
5 Q You said your main point of contact at the FBI was Mr. Greenberg. What
6 was Mr. Greenberg's title?
7 A I was afraid you were going to ask me that. As I sit here today, I don't recall
8 what his title was. I believe he was an assistant of some sort, but I don't remember Jay's
9 specific title as I sit here.
10 Q Did you have a general understanding of his roles and responsibilities at the
11 FBI?
12 A If memory serves, Jay was in the leadership of the -- what's called CID, the
13 Criminal Investigative Division at the Bureau. That's probably as best as I can give you
14 based on my recollection.
15 Q And as the ADAG for the criminal division, would it have been natural to kind
16 of liaise with the Criminal Investigative Division head at the FBI?
17 A No, I don't think it would have been. So to answer your question, no. It
18 wouldn't have been the routine. I think over time, Jay became my point of contact
19 because we worked together on a number of issues, Chauvin trial in Minneapolis, election
20 threats, I believe. So I don't know that there was a formal, you know, ADAG Chambers
21 this is your point of contact at the Bureau. I think it was more over time this was the
22 person I was most familiar and got to know stuff from. On familiar issues, I may
23 have -- you know, somebody may have said this is the person you reach out to for this or
24 give this person a call. All of which is to say it wasn't maybe as formal as, you know,
25 your point of contact.

1 BY [redacted]

2 Q And during your time at the Justice Department in 2021 through 2022, did

3 you work out of the main Justice building?

4 A Yes. And from home, but mostly out of main.

5 Q Why did you ultimately leave the Justice Department and return to Latham

6 & Watkins? Any particular reason?

7 A No particular reason. I mean, I was a political appointee. I -- my

8 experience was that political appointees typically stay for, you know, a year and a half to

9 two and a half years. So it was just for -- it was just time to, you know, give somebody

10 else a shot, or you know, return to private practice. But it wasn't triggered by any

11 particular event or anything like that.

12 Q And during your tenure at the DOJ, did you ever participate in a review of

13 your performance throughout that time?

14 A Yes. Well, I received performance reviews, yeah.

15 Q Yeah. And did you get any performance awards while you worked there?

16 A No.

17 Q I'm going to switch gears a little bit, and we'll get into discussing the National

18 School Board Associations letter, which for the most part, I'm going to refer to as the

19 NSBA letter in short?

20 A Understood.

21 [redacted] We're going to enter this into the record as Exhibit 1, and I'll get you a

22 copy.

23 [Chambers Exhibit No. 1

24 Was marked for identification.]

25 Mr. Su. [redacted] before you get into that, can I just confirm, you all did receive

1 the Department's authorization letter --

2 [redacted] Yes.

3 Mr. Su. Do we need to put that in the record in any way? I'm not sure that we

4 need to but --

5 [redacted] We can. If you would like to, we can get copies printed and next

6 round, enter it as an exhibit.

7 Mr. Su. Thank you.

8 [redacted] Of course.

9 [redacted] Take your time to review if you'd like to look at it.

10 Mr. Chambers. Sure.

11 BY [redacted]

12 Q Prior to today, are you familiar with the NSBA's September 29th, 2021, letter

13 to President Biden?

14 A I am aware of it, yes.

15 Q When did you first learn of the NSBA's letter?

16 A If memory serves, the first time that I saw this letter and knew that a letter

17 had been sent to the President was when it was sent. And I think the first time I actually

18 saw the letter was downloading it from a news report that contained the letter. That's

19 the best of my recollection.

20 Q And when did you learn that the Justice Department was going to take

21 action related to school board related threats? Was it at the same time of this letter, or

22 was it before or after?

23 A Okay. So I want to be precise, so I'm gonna split this up a little bit. The

24 first time that I learned that we were going to be drafting a memo on behalf of the

25 Department about school board threats was -- my recollection was it was a Friday after

1 this letter was made public. The first time that I learned or became aware that the
2 Department was aware of and considering what, if any, action to take with respect to the
3 issue of threats of violence and acts of violence at school board meetings and other
4 school functions, I believe, was a few days before that.
5 Q Before the October 1st date you mentioned or that Friday?
6 A Yes.
7 Q And do you know what due diligence occurred at the Justice Department
8 between when this letter came out and the memo?
9 A So if I could ask you just to clarify, what due diligence?
10 Q Regarding the threats of violence or any violence that was alleged at school
11 board meetings?
12 A Sure. So the October 4th memo that you referred to earlier is not and was
13 not a direct response to this letter. So it was not a situation where diligence was
14 performed on this letter to decide whether a memo should issue. The Department of
15 Justice, prior to this letter being made public, was aware of a concern about violence
16 at -- violence and threats of violence at school board meetings and other school events.
17 And a process began to, you know, draft our language similar to what we did with
18 election threats and others. But there wasn't diligence -- because of -- the October 4th
19 memo was not a response to this, or it wasn't as if this letter was diligenced. The
20 concerns in there were known to the Justice Department already.
21 BY [redacted]
22 Q I think in response to my colleague's question, you spoke about how -- you
23 know, what action the Justice Department would take on the issue. You knew a few
24 days before. Was that before the Friday, October 1st date or before the
25 September 29th date that the letter was sent?

1 A So the September 29th date is not of particular import in my thought
2 process because what I remember is this becoming public. So I don't know if it was
3 issued -- you know, it was public in the press on this date, but whenever it was in the
4 news, that's when I first learned of it. The Department was aware and concerned about
5 violence and threats of violence prior to the October 1st date that I mentioned earlier.
6 The October 1st date is when a decision was made to draft what eventually became the
7 October 4th memorandum.
8 Q Okay. And how did the Justice Department become aware of these
9 concerns about threats and violence at school boards?
10 A So at some point prior to October 1st, at some point prior to my becoming
11 aware of this letter, and quite possibly, although I'm not sure, prior to the date on this
12 letter, one of my colleagues in ODAG reached out to a number of ADAGs advising us that
13 he had received communication from someone at the White House asking if the
14 Department was aware of threats that were taking place, acts of violence at school
15 boards, school board meetings, and other school events.
16 Now, I wasn't part of that conversation, but my colleague said I'm getting this call
17 from someone at the White House about this. At some point, I spoke directly to that
18 person at the White House. And I would say at that stage, the Department was aware
19 of a concern about these school related threats and started the process of determining,
20 you know, whether and what type of response was appropriate.
21 Q Do you remember the date or rough date that the other ADAG would have
22 spoken with the White House?
23 A Just to clarify, it wasn't another ADAG. It was somebody in ODAG. I know
24 we could probably make our acronyms a little less confusing. But it was not an ADAG.
25 Q Okay.

1 A And to answer your question, I don't remember with specificity when that
2 person reached out to the broader group of ADAGs. It was a couple emails. But
3 I -- aside from knowing it was before the 1st and before -- probably before the date of this
4 letter, I can't tell you with specificity, but, you know, a week, 2 weeks, days, some fairly
5 close in time.
6 Q And then at some point, you then reached out to the individual at the White
7 House; is that correct?
8 A I don't recall whether I reached out to the individual or the individual
9 reached out to me, but we did have a brief conversation, yes.
10 Q Do you remember the rough timing of that conversation at all?
11 A I believe -- I believe it was in the same week. So I referenced Friday earlier
12 is when a decision was made to write the October 4th memo. I recall it being in that
13 same week. I'm fairly certain of that, but again, that's about as specific as I can get.
14 Q And who is that individual you spoke with at the White House?
15 A His name is Ephraim, E-P-H-R-A-I-M, McDowell.
16 Q And where does Mr. McDowell work at the White House? Do you know
17 what department or division?
18 A I don't. I don't. I may have at the time, but I don't as I sit here today.
19 Q Have you ever had any interactions with an individual named Mary Wall
20 from the White House?
21 A Not that I recall.
22 Q Do you know if the individual who told the group of ADAGs about the
23 concern from the White House, do you know who they received the outreach from the
24 White House?
25 A No, I don't. But the person I mentioned before, Ephraim was at least one

1 person who spoke to my colleague. In fact, he's the only person at the White House
2 that I'm aware of raising these concerns with Justice, at least as far as I'm aware.
3 Q And do you know how Mr. McDowell became aware of these concerns?
4 How they were raised to him?
5 A I don't.
6 BY [redacted]
7 Q Were your conversations with Mr. McDowell or that one conversation, was
8 that in person or was it over the phone or by email?
9 A That conversation I referenced was over the phone. It was a fairly short
10 telephone call.
11 Q Okay. And moving onto the particular --
12 A I'm sorry. Can I clarify one other thing?
13 Q Absolutely.
14 A So the conversation that I referenced was over the phone. I do recall some
15 email tag, either him asking me to call him or my saying I called and missed you. So not
16 conversations, but I don't want to give the impression there was no other kind of contact
17 at all.
18 Q I appreciate the clarification. And then according to a May 2022 report
19 commissioned by the NSBA, on October 21st, 2021, 8 days before the NSBA sent its
20 letter -- so a little over a week -- the NSBA sent a detailed summary of the contents of its
21 letter and listed incidents at school board meetings to the White House and its requests.
22 Were you aware of that communicate from the NSBA to the White House?
23 A No, I was not.
24 Mr. Su. And [redacted] that's September right?
25 [redacted] Yes. Oh, I think there was a May 22nd report, and the list that went to

1 the White House was some time in September.

2 Mr. Su. September.

3 [redacted] Yes. And I'm going to show you our next exhibit is this email from

4 September 21, 2021. It's an email chain between Mr. Chip Slaven, who's the former

5 executive director of NSBA and Mary Wall who was at the White House.

6 Mr. Chambers. Okay.

7 [Chambers Exhibit No. 2

8 Was marked for identification.]

9 [redacted] Take your time to review that.

10 [redacted] Just so the record is clear, this email was an exhibit to the NSBA

11 report that came out in March of 2022 -- or, excuse me May 2022.

12 Mr. Su. Their internal investigation?

13 [redacted] Correct.

14 Mr. Chambers. Of 2022?

15 [redacted] Of 2022, yeah. They did --

16 Mr. Chambers. Oh, okay. Right. Right.

17 Mr. Su. [redacted] I know you're going to ask him questions, you're not

18 suggesting --

19 [redacted] No, and I was about to say, if you want to focus on page 2, kind of

20 towards the middle there if you'd like to just review that for another second, that's

21 mainly what I'm going to ask about.

22 Mr. Chambers. So the Mary Wall email?

23 BY [redacted]

24 Q Yes.

25 A Okay. Ask away.

1 Q Okay. Perfect in email to NSBA, Ms. Wall stated, is there anyway we can
2 take a look at the letter in advance of release, in specific I am meeting with colleagues
3 from other White House offices and DOJ tomorrow morning to see if there might be any
4 options we could pursue here, so if you have concrete recommendations in your letter,
5 eg, the threat assessment you mentioned would be good to know so I can include in
6 discussions.
7 Have you ever in your tenure at the Justice Department interacted with Mary
8 Wall?
9 A No, not to my recollection. And --
10 Q Not in this instance either?
11 A No, not in this instance, and this meeting that's being referred to here, this is
12 the first I'm learning or hearing about this meetings.
13 Mr. Su. Well, to be clear, you -- are you aware of whether a meeting occurred?
14 Mr. Chambers. No.
15 Mr. Su. Okay.
16 BY [redacted]
17 Q Did you take part in -- or I'm sorry. You just answered you were not aware
18 if there were any meeting that did end up occurring.
19 Did you take part in any discussions regarding threats of violence related to school
20 boards before September 29th in general other than the one you had mentioned with
21 Ephraim McDowell?
22 A And aside from internal conversations in the Department that I referenced
23 earlier, no. And certainly no meetings with Chip Slaven or Mary Wall.
24 Q Are you aware --
25 A I'm sorry. If that's not clear, you can ask me a question again. I try can to

1 answer your question.

2 Q No. Of course. No, that is clear. Thank you. And if not, do you know if

3 any other DOJ officials took part in these discussions before the September 29th letter?

4 A I do not know.

5 Q Now, let's switch gears a little bit again.

6 A Okay.

7 Q Are you familiar with former FBI Domestic Terrorism Operations Section, so

8 DTOS what they refer to, Section Chief Steve Jensen?

9 A Familiar that I recognize the name. DTOS, I mean, I think I know what it

10 stands for, but that was not a regular part of my work. I recognize Steve's name, but I

11 couldn't tell you much more than that.

12 Q Best to your recollection, how often did you ever interact with Mr. Jensen?

13 A My guess is we would have interacted on this issue. I want to be clear,

14 based on what DTOS does, probably election threats, the Chauvin trial, school board

15 threats, flight personnel threats. I imagine they would have been consulted on all of

16 those.

17 Q During Mr. Jensen's transcribed interview, he testified that on Friday

18 October 1st, 2021, he received an email from you that included his national security

19 branch peer, Thomas Brzozowski, if I'm saying his name right, regarding the NSBA

20 September 29th letter to President Biden. Do you remember this email generally?

21 A I don't remember -- well, generally I remember that I reached out to all of

22 the relevant components, kind of letting them know we're doing this thing. So, you

23 know, be on standby to review, et cetera, but I don't remember that specific email.

24 Q How often did you interact with Mr. Brzozowski?

25 A Less -- I mean, I don't recall interacting with him all.

1 Q I'm going to mark this next email that we have from October 1st, 2021, that I
2 believe you sent to Thomas Brzozowski and Steve Jensen. We'll mark that Exhibit 3 and
3 you can take your time to review.
4 A Sure.
5 [Chambers Exhibit No. 3
6 Was marked for identification.]
7 Mr. Chambers. Okay.
8 BY [redacted]
9 Q You start the email by saying that David Newman suggested that you reach
10 out to them. Can you tell us who David Newman is?
11 A Sure. David Newman, at the time, was another associate deputy attorney
12 general. As I mentioned before, I handled the criminal portfolio for the deputy attorney
13 general. David at this time handled the national security portfolio for the deputy
14 attorney general.
15 Q Was he technically in your chain of command, or was he an equivalent?
16 A We're peers, yeah, both reporting to the Deputy Attorney General.
17 Q Okay. And next, in the email, you wrote, leadership has asked me to reach
18 out to the FBI regarding a request from a National School Board Association for assistance
19 in dealing with the recent spate of threats occurring at school board meetings, often
20 related to the imposition of COVID-19 vaccine or mask mandates.
21 You then linked the NSBA letter and a link to a related article from the Washington
22 Post.
23 A Okay.
24 Q Is -- I'm going to pull that next article as our next exhibit.
25 A Okay.

1 [Chambers Exhibit No. 4

2 Was marked for identification.]

3 [redacted] You can just generally look at this.

4 [redacted] This will be Exhibit Number 4.

5 [redacted] Yes.

6 BY [redacted]

7 Q Now, I know earlier you mentioned that you saw the letter when it came

8 out, and you thought you had seen it in an article. Would this be the article you saw the

9 letter in?

10 A Yes. So this does seem familiar, and I think that this document -- this -- so

11 this September 30th, 2021 article, my guess is that I learned of the letter being issued the

12 next day. So if this was published at 9:46 p.m. on Thursday, my guess is it's the next

13 morning that I learned of this article.

14 The only thing that surprises me is that I don't see a -- oh, the link to the letter.

15 So I think the article came out. This is the first time that I learned that the letter had

16 been issued. So I would have learned it on Friday, not Wednesday when it was

17 addressed to the President per this article.

18 Q And who in leadership asked you to reach out to the FBI regarding the

19 letter? Do you remember?

20 A John Carlin.

21 Q Did he also send you this Washington Post article, or did you come across

22 this on your own?

23 A Honestly, I don't recall.

24 Q And during your tenure at the Justice Department, was it common to

25 respond to an outside nongovernmental organization's request for federal law

1 enforcement assistance?

2 A Outside, nongovernment --

3 Q Like, not an agency, but maybe like a nonprofit or another nongovernmental

4 entity?

5 A Sure. Yeah. So for example -- so to answer your question, yes, it's fairly

6 common. Let's say, for example, there's a corporation who is the target of a

7 ransomeware or malware attack. I mean, we, at the Department, would certainly

8 respond to that. I mean, there are probably countless examples, but to answer your

9 question, yes.

10 [redacted] And was John Carlin the PADAG at the time?

11 Mr. Chambers. Yes, he was.

12 BY [redacted]

13 Q In the remainder of your email from October 1st, you wrote -- I'm sorry.

14 We realize that many of these threats are local in nature and may not obviously implicate

15 federal laws, especially when they do not involve the mail or wires. But we are

16 nonetheless interested in understanding how the FBI can, one, determine whether and

17 when these crimes rise to the level of domestic terrorism; two, track threats against

18 school board officials to identify patterns or trends; three, serve as a clearinghouse to

19 receive information about threats and hand off to the appropriate agency where

20 appropriate.

21 You mentioned that we realized many of these threats are local in nature. Was

22 there anyone else that you were referring to?

23 A In this email, I think I was referring to we as in we, the Department, or we,

24 even ODAG. I was not trying to attribute anyone else that view. That said, yes, you

25 know, anyone and everyone in the Department would be, you know -- would want to

1 study and, you know, gain comfort that there was federal jurisdiction here. So I don't
2 know -- in this email, I wasn't intending to say we, as in a bunch of people, all realize, but
3 it's a fairly noncontroversial thought that federal government should make sure that it
4 has federal jurisdiction.
5 Q Absolutely. And at the time, did you have any information from DOJ or FBI
6 that local law enforcement would be ill-equipped or unable to handle these threats on
7 their own?
8 A No.
9 Q From reviewing this email --
10 A Sorry, just to be clear, no one way or the other, not that they would be
11 ill-equipped or that they would be particularly equipped. Didn't have that information
12 from the Bureau or anywhere else in Justice.
13 Q And from reviewing this email in general, it doesn't appear that there was
14 any deadline to respond for Mr. Jensen or Mr. Brzozowski to answer your questions,
15 correct? Or did you expect to receive a quick answer from them?
16 A So you are correct, there was not a deadline in here. I can tell you that as a
17 matter of, you know, practice in the Department, there is an expectation that things will
18 be responded to quickly. I recall other communications with the Bureau and others
19 about this issue, where it was more of a, you know, this is when we're doing it, what have
20 you. With this one, there wasn't a deadline, but I'm sure if I had not heard in a fairly
21 short amount of time, my practice would be to, you know, reach out again.
22 Q Did you speak with anyone else in the FBI that day regarding these
23 questions?
24 A This day or the next day -- or I'm sorry, regarding these particular questions?
25 Q Yeah, these particular questions other than Mr. Jensen?

1 A My recollection is that there was -- people were brought in on FBI specifically
2 to address both the -- from both CID and CTD on these issues. I do remember at the
3 time, it seemed like with each new email, there were more people from the Bureau being
4 brought on it to.
5 Q Were those emails on this particular day sent by you or others at the
6 Department of Justice?
7 A Well, sent by me at the Department, responded to by the FBI, which is part
8 of the Department. This day and the following day and the day after that. And just
9 one thing I wanted to clarify. We talked about Brzozowski earlier, I may have assumed
10 he was an FBI agent, but it's apparent from this that he's someone at Justice in the
11 national security division.
12 Q Yes. Does that change when you think your frequency of interaction --
13 A It does because I would not have had -- it would have been David, as the
14 ADAG over at NSD, who would have had regular interaction with Thomas, not me.
15 Q Thank you for clarifying. After receiving your email, Mr. Jensen testified to
16 the committee that he and Mr. Brzozowski had a telephone call to discuss it, and Mr.
17 Brzozowski summarized their conversation in an email to you that particular evening of
18 October 1st and copied Mr. Jensen. Do you recall receiving Mr. Brzozowski's email that
19 evening?
20 A Okay. So, no. And just do be clear, you're not suggesting that was a
21 phone call -- they had phone call with each other, or a phone call with me.
22 Q They had a phone call with each other to discuss your email.
23 A No, I don't recall it. But there were a number of emails from a number of
24 different components coming you know back and forth. So because I don't remember
25 doesn't mean it didn't occur.

1 BY [redacted]

2 Q When you say a number of components, components to the FBI or main
3 Justice?

4 A So FBI is a component of main Justice. In addition to that, there are -- let
5 me take one step back. Once the decision was made that we were going to issue this
6 document, ordinary course is to enlist any component in the Justice Department that is or
7 may be relevant to the particular issue. So my task, and this was part of it, was to reach
8 out to those components. So I reached out to David Newman at NSD who suggested
9 that I reach out to FBI. But that's not the only component. The criminal division was
10 reached out to as well. The civil rights division was another component that was
11 involved.

12 The Executive Office of U.S. Attorneys, EOUSA, which handles all of the U.S.
13 Attorneys offices throughout the country, who are particularly central to this, they were a
14 component who was part of this process. Smaller components, Community Relations
15 Service, CRS, was another component. I think Office of Justice Policy, OJP, I think came
16 in at the end, like at the end of the process, but I remember them as well and there may
17 be a number that I'm not remembering. Within FBI, the two divisions that I recall being
18 involved were CID, the Criminal Investigative Division, as well as CTD, the
19 Counterterrorism Division.

20 Q Do you remember any other divisions from the FBI of having any sort of
21 interactions with you or any other components of the Justice Department on this
22 particular issue?

23 A No. And to be honest, maybe I should know this, I'm not sure that there
24 are other operational divisions of the FBI that we would have had as ODAG, much in the
25 way of conversation with. But CID and CTD are two that were -- that received reach out.

1 BY [redacted]

2 Q Do you know who determined who -- do you know who determined which
3 components needed to be reached out to on this? Was that your decision or somebody
4 else?

5 A It was certainly primarily my decision. What I don't recall is whether I got
6 checked with anyone, or for example, in talking with one division, somebody would say,
7 oh, you should also bring in such and such. But at this point in time, you know, my
8 guess is this is shortly after a decision was made that we were going to write this memo,
9 this one may not have been my decision only because it seems like I was told to reach out
10 to David and what have you. But I don't remember specifically CID, CRM, obviously,
11 CRS, EOUSA are all ones that I remember. These are folks that have to have a role.

12 Q And you said you don't recall who told you you should reach out to David
13 Newman?

14 A I don't recall whether it was my decision to reach out to David or someone
15 suggested that I reach out to David. Yeah. So -- and obviously, if it was somebody
16 suggested, I don't remember who that was.

17 Q Of course. And also just to make sure I get it clear for the record as well,
18 did you say that you recall speaking with anyone else in the FBI that day regarding these
19 questions other than this email Mr. Jensen you could have spoken anyone else at the FBI?

20 A I don't recall -- so number two here, track threats to identify patterns or
21 trends, I do recall a conversation, either that day or the next day, where I wanted to get
22 smart on the process for reporting in incidents. FBI has a 1-800 number. They also
23 have what is essentially a website where people can report instances.

24 And I wanted to understand how did that work, so I would have spoken to
25 someone else at FBI. I don't think it was these -- I don't think it was Steve Jensen. But

1 I do recall speaking to someone to kind of explain to me how 1-800 call FBI worked.

2 Q Thank you for clarifying that. So the next day, Saturday, October 2nd,

3 2021, at 11:58 a.m., we've got an email that you sent to a group of individuals from the

4 DOJ and FBI subject line, draft documents to be circulated later today. I will let you

5 review this email. Take your time.

6 [Chambers Exhibit No. 5

7 Was marked for identification.]

8 [redacted] Is that Exhibit 5?

9 [redacted] Yes, ma'am. Sorry.

10 Mr. Chambers. Okay.

11 BY [redacted]

12 Q And in this email, it looks like you sent this to Nicholas McQuaid, Robert

13 Mossy, if I'm saying that correctly, Monty Wilkinson, George Toscas, I think it's Katherine

14 Darke Schmitt, Steven Jensen, James Tarasca, Michael Burgwald, and Matt Blue. And

15 you copied Myesha Braden, David Newman, and Iris Lan. You wrote that you wanted to

16 flag something for their attention to review later today for any red flag concerns.

17 What did you mean by red flag concerns?

18 A So whenever the Department is going to send out, you know, a statement on

19 policy or initiative, it's important to remember that the Department, while the leadership

20 is at the OAC and ODAG level, operationally the Department is made up of these

21 components that talked about earlier.

22 So what the Department wants to avoid is a situation where some sort of

23 communication goes out pertaining to an operational issue, and that component hasn't

24 had an opportunity to raise their hand, raise their red flag and say, hey, we don't agree.

25 We need to tweak this, whatever the case may be. So you know that's what it means

1 here is, you know, we want you to look at this, and from your perch being the a career
2 experts in this, let us know if you have any issues with it.
3 Q And below the redacted line that we have here in the email, you noted that
4 document 2 will be a narrative document that sets forth certain steps that the
5 Department may take to address threats against school administrators and officials.
6 Possibilities include, including creation of a task force, training the
7 aforementioned in coordination with state and local law enforcement and threat
8 assessment, and filtering through the National Threat Operation Center or NTOC.
9 Discussing possibilities of steps that the Justice Department may take implies that
10 someone had already started brainstorming these ideas that were included in the email.
11 Who came up with the steps that you listed here, do you remember?
12 A I'm sorry. The first part of your question one more time?
13 Q It says that there are like possibilities, including each of these ideas. And I
14 wanted to know who came up with these steps?
15 A Oh, okay. So as I sit here today, I don't recall. I certainly had some input
16 into them because all of these seem familiar to me. I believe that there was a discussion
17 with Matt Clapper in the Office of the Attorney General, either about this or whether -- or
18 just the form that the communication would take. I don't think I can get much more
19 into it than that.

1 [10:59 a.m.]

2 BY [redacted]

3 Q And so did that discussion with Mr. Clapper happen between October 1st

4 and when you sent this email on October 2nd?

5 A It happened Friday night.

6 Q Friday night.

7 Was that in person, or was that by email?

8 A No, it was by phone.

9 Q And can you explain what is your understanding of the National Treat

10 Operations Center?

11 A Sure. So do you remember a moment ago we talked about whether I

12 spoke to anyone else about that item?

13 Q Yes.

14 A I probably learned of this NTOC during that conversation the day before.

15 So understanding that NTOC would be a way, based on what the FBI shared, to identify

16 instances, track them, identify trends and what have you. So this was fairly new

17 knowledge to me, but I remember that was one of the results of the conversation I had

18 with someone at FBI who I don't really recall right now.

19 Q And then you further mentioned that you spoke to some but not all of you

20 on these issues. What issues, more specifically, were you referring to in this email?

21 A I think it's the issue of school board threats, violence and threats of violence

22 at school boards. I certainly spoke to Monty, again, because it's EOUSA that was going

23 to be really operationalizing what we did. I spoke to -- well, as you know, I spoke to

24 David Newman. That's evident from the email. I believe I spoke to Myesha as well,

25 and I would have spoke to Nicholas McQuaid.

1 Q All of these folks before you sent the email, or do you remember who you
2 spoke to before sending this particular email that's listed?
3 A Yeah, so here I say I've spoken to some but not all of you on these issues.
4 Q Yes.
5 A I think, just to go through who I would have spoken to before, it would have
6 been FBI, obviously, CRM, so Nick McQuaid and CRM, Monty Wilkinson, EOUSA. You
7 would have seen that I spoke to Steve Jensen, Tarasca. I don't recognize the name
8 Burgwald. I do believe I spoke to Matt Blue but, again, that may have been another
9 issue entirely. And then Myesha Braden, David Newman, and Iris Lan would all have
10 been people I spoke to about the concern about threats and acts of violence prior to
11 sending this exact email.
12 Q Yes. Thank you very much.
13 And did you speak with these individuals by phone or email?
14 A My recollection is mostly by phone.
15 BY [redacted]
16 Q When did those communications occur? Was that Friday night on
17 October --
18 A My guess -- sorry. I didn't mean to interrupt.
19 My best guess, it would have been at some point between when the decision was
20 made that we were going to issue this memo and this date. So it would have been the
21 night before, October 1st, and possibly, I don't know, maybe early in the morning on the
22 2nd.
23 Q And did you frequently interact with these individuals that you spoke about,
24 Mr. Wilkinson, Mr. Newman, Ms. Braden?
25 A Yes.

1 BY [redacted]

2 Q And then you signed off the email saying: With apologies for the Saturday

3 fire drill. I just wanted to understand why using that language and if there -- why was

4 there a rush?

5 A We worked in a job where, you know, weekends are more technical than

6 actual. You guys may be able to relate. No one likes to get an email on Saturday when

7 they may be out at a soccer game with their kid or at a ballet recital. So I think that was

8 just my way of, you know, acknowledging that, you know, I realize it's a Saturday. I

9 realize there are other things that you may need to do. I'm not insensitive to that.

10 BY [redacted]

11 Q And we're nearing the end of our hour, so I just wanted to clarify with

12 exhibit number 5 --

13 A So I haven't numbered them. Can you tell me which one that is.

14 Q That's the one we were just working off of with document 2 bolded. I

15 recognize there's no Bates stamp at the bottom, but this was produced to us by the

16 Justice Department. It was actually reproduced to us late last night in less redacted

17 form. So I just wanted to keep the record clear that this is a document we received

18 from the Justice Department --

19 A Okay.

20 Q -- since there's no Bates stamp on it.

21 But we can go off the record for this round.

22 [Recess.]

23 [redacted] All right. It is 11:15. We can go back on the record.

24 Do you want to introduce the authorization letter?

25 [redacted] Sure.

1 I'm going to introduce for the record exhibit 6, which is the authorization letter
2 from DOJ regarding Mr. Chambers' testimony today, dated July 20th, 2023.
3
4 [Chambers Exhibit No. 6
5 Was marked for identification.]
6 EXAMINATION
7 BY [redacted]
8 Q Mr. Chambers, I'm going to start off the questioning and then turn it over to
9 my co-counsel.
10 A Okay.
11 Q I want to take a step back and talk about your portfolio a little more broadly
12 when you were an ADAG. Before you had the coronavirus, the pandemic response, the
13 task force assignment added, you said you oversaw the criminal division broadly?
14 A If I used the term oversaw, that might be -- I handled the criminal division for
15 the DAG. She oversees the criminal division.
16 Q Understood. Understood.
17 And I want to talk through some of the matters that fell under your portfolio --
18 A Okay.
19 Q -- in that position. So I know we're here today to talk about the school
20 threats memo, but you also had, I think you mentioned, the election fraud, correct, under
21 your --
22 A Election threats.
23 Q Election threats, I'm sorry. Election threats under your jurisdiction.
24 A Yes. It was a criminal division issue handled primarily by the public
25 integrity section, as well as a task force that was put together, and I was tasked with

1 coordinating that with the DAG, as well as the drafting of a memo that went out related
2 to that.
3 Q And I want to introduce that memo. That will be exhibit number 7.
4 [Chambers Exhibit No. 7
5 Was marked for identification.]
6 BY [redacted]
7 Q I just introduced the memo. Its subject line is guidance regarding threats
8 against election workers from the deputy attorney general for all Federal prosecutors,
9 dated June 25th, 2021.
10 Are you familiar with this memorandum?
11 A I haven't seen it in a while, but, yes, I remember this memo.
12 Q And this is the memorandum that you were just referring to that you said
13 you were involved in the drafting of?
14 A Yes, it is.
15 Q Okay.
16 And can you talk through broadly what your role was in preparing or drafting this
17 memorandum?
18 A Sure. As best as I can recall, at some point in June, I was asked to draft,
19 along with someone in the public integrity section, John Keller, to draft a memo to all
20 prosecutors, which included U.S. Attorneys Offices, and also attorneys in the Department
21 who are commonly referred to as prosecutors, as well as to the Bureau, explaining the
22 Department's response with respect to election threats.
23 Q Do you recall who in the Department asked you to draft the memo?
24 A I believe it was John Carlin. I believe it was John Carlin.
25 Q And John Carlin, again, was the principle associate deputy attorney general,

1 right?

2 A Correct.

3 Q Okay.

4 And was there a task force created as part of the -- or following this

5 memorandum?

6 A Yes, ETTF, election threats task force.

7 Q Did you play a role in that task force?

8 A I was part of the task force while it was impaneled. So let me just -- so, yes,

9 I played a role. Amongst the things we did are convened components within the

10 Department. We brought together States, State Secretary of State, other election

11 workers on a phone call in August or September, and then tracked, as a task force, you

12 know, the rise and falling threats, election worker threats over time.

13 Q Okay. And thank you for that.

14 Did you -- you also mentioned threats against flight attendants. Do you recall

15 that?

16 A Flight personnel.

17 Q Flight personnel.

18 A Yes, so that included flight attendants, pilots, ground crew, importantly TSA

19 workers, people with magnetometers, gate agents, just anyone who was potentially a

20 victim of threats, actual violence or threats of violence.

21 Q And do you recall if there was a memo drafted as part of --

22 A There was.

23 Q -- that task force?

24 A Yes, there was.

25 Q Okay.

1 I want to introduce that memo for the record. That will be exhibit number 8.

2 [Chambers Exhibit No. 8

3 Was marked for identification.]

4 BY [redacted]

5 Q Okay. So I just introduced a memo dated November 24th, 2021, from the

6 attorney general to the director of the Federal Bureau of Investigation, the director of the

7 executive office for U.S. attorneys, assistant attorney general, criminal division, and all

8 United States attorneys.

9 Subject line, coordinating with Federal, State, local, tribal, and territorial

10 prosecutors and law enforcement to address criminal conduct on commercial aircraft.

11 Do you recall this memorandum?

12 A I do.

13 Q Did you play a role in drafting this memorandum?

14 A Yes, I drafted this over Thanksgiving while on vacation.

15 Mr. Su. Summer vacation optional.

16 Mr. Chambers. Right. Yeah, vacations are also technical more than actual.

17 BY [redacted]

18 Q Broadly speaking, do you recall the circumstances that led you to draft this

19 memo?

20 A Sure. So over the course of the year, the criminal division and the U.S.

21 Attorneys Offices -- actually, let me back up.

22 Over the course of the year, there were increased reports, news reports related to

23 violence and threats of violence taking place on commercial airliners. People actually

24 striking flight attendants and ground crews because they were unhappy with whether

25 they had to wear a mask, whether their carry-on bag was too big. But it was becoming

1 more of an issue based on what was publicly reported.

2 We, at the Department, were receiving, well, expressions of concern from outside,

3 so from -- ATA is an acronym that springs to mind, but I'm not sure. It was, essentially,

4 you know, a trade organization for airlines or flight attendants, you know, saying what

5 can -- you know, what can the government do to prevent this?

6 At the same time, around the time the decision was made to write this memo,

7 we're heading into the run up to the travel season, right, that season between

8 Thanksgiving and New Years where particularly as the pandemic was coming or at least

9 beginning to abate, there was a significant uptick in traveling and corresponding increase

10 in these unfortunate incidents.

11 So that was the impetus for drafting now a third or fourth threats memo to

12 address, you know, what was occurring and where the Department had a role.

13 There was also, I will mention, the Department, you know, and other agencies,

14 DOT, had to get up to speed on -- it's kind of an interesting thing. If you assault

15 someone outside of an airplane, is that a Federal offense? You know, if it's on the

16 airplane but the door is open, is it a Federal offense? Does that change when the door

17 is closed? If you assault a TSA employee? So there were -- part of what the task force

18 did was to get smart on those kind of jurisdictional questions.

19 And I think that, you know, one of the purpose here was to have them, you know,

20 out in the communities, particularly where you have large airports. Get groups

21 together, State, Federal, local, tribal, territorial, to assess and address these threats.

22 Q So just a couple of follow-up questions. You said that part of the impetus

23 for this November 24th memo was public reporting, so news reports, right? But part of

24 it --

25 A Yes.

1 Q -- was also outreach from private -- or from a nonprofit organization?
2 A I don't know if it's nonprofit, but it's certainly a nongovernmental outside
3 organization, to use some of the language used earlier.
4 Q Okay.
5 And part of the purpose of the memorandum and the task force that was created
6 was to assess whether there would be Federal jurisdiction that would apply to these
7 incidents?
8 A Yes.
9 Q Okay.
10 Do you recall who made the decision to write the memo?
11 A I don't -- I can't tell you with certainty who made the decision to write the
12 memo. I can tell you that the attorney general's chief of staff contacted me with
13 instructions about writing the memo. So I don't know who made the decision, but I can
14 tell you who brought it to my attention and asked me to lead the effort.
15 Q And so it was that -- that was who asked you to actually draft the memo?
16 A That's my recollection, yes.
17 Q And so we've talked through threats to election workers, threats to airplane
18 personnel. I think you mentioned earlier the Khashoggi matter. Was that something
19 that fell under your portfolio?
20 A I don't think I mentioned the Khashoggi matter.
21 Q Okay, I'm sorry. Maybe I misheard.
22 Are there any other broad, like specific issue areas, I guess, that fell under your
23 portfolio, or was it just everything that the criminal division did?
24 A Everything the criminal division did, not necessarily including what all of the
25 U.S. attorneys' offices were doing.

1 Q Okay.

2 A Some of that did, some of that didn't, but practically everything under the

3 criminal portfolio or that the criminal division was engaged in would have fallen under my

4 portfolio.

5 Q And it sounds like it wasn't that unusual for you to draft memoranda along

6 these lines as part of your responsibilities?

7 A That's right. That was certainly part of my role as an ADAG.

8 Q In the earlier hour, there was some discussion about how often you met

9 with Deputy Attorney General Monaco, and you said weekly and sometimes every other

10 week as well with the other ADAGs.

11 A Correct.

12 Q And during those meetings, all of these matters would be discussed, right, or

13 could be discussed?

14 A Yeah. So, yes. During the meeting with the DAG, so the weekly, we call

15 them the CRM weeklies, we would discuss everything that's going on, you know, above a

16 certain, you know, threshold.

17 Q Okay.

18 A So items like that certainly would have been discussed.

19 Q Okay.

20 A At the all-hands, you know, there were so many people that it wouldn't

21 make sense for everybody to go through everything they're working on.

22 Q Okay. I'm going to turn it over to my co-counsel. Thank you.

23 A Sure.

24 [redacted] Thank you.

25 BY [redacted]

1 Q Just a couple of questions about some of the exhibits that have already been
2 introduced before we move on.
3 A Okay.
4 Q If you could, do you have a copy in front of you of exhibit number -- which
5 one was it? Sorry.
6 A Take your time.
7 Q It was exhibit 3.
8 A If you could give me a Bates stamp.
9 Q Oh, sorry. We didn't label it. There is a number. Bates number 451.
10 It's an email chain involving Mr. Jensen.
11 A Okay, yep.
12 Q Got it?
13 Just a quick question here. You were asked in the previous hour about whether
14 you had or anyone at Justice had received information that local law enforcement was
15 having trouble or was inadequately equipped to deal with these issues before DOJ
16 proceeded with the task force.
17 Do you recall those questions?
18 A I do recall those questions.
19 Q And your answer was that you neither received information that they were
20 ill-equipped or that they were well-equipped. Is that a fair characterization of what you
21 said?
22 A That is.
23 Q Can you explain a little bit further about why it is that the Justice
24 Department might want to determine whether law enforcement was well- or ill-equipped
25 and whether they needed the resources of DOJ on that issue?

1 A Sure. So with certain types of potential crime, there may often be a
2 question of, you know, whose bucket does this fall into. Does it fall into one? You
3 know, does it fall into Federal exclusively? Does it fall into State, local, tribal, territorial
4 exclusively? Is there kind of a shared responsibility to respond to these kinds of things?
5 One thing that the Department of Justice does not want to do is kind of big foot or
6 big dog, you know, State, tribal, territorial, local law enforcement. So the goal would be
7 to identify an issue that may affect both Federal and -- I'm just going to use the term local
8 for the sake of argument -- and then offer resources to address issues, help local law
9 enforcement understand issues, help local law enforcement -- give them an opportunity
10 to say, you know, not only does the Federal Government have jurisdiction, but we need
11 their help to do that.
12 So I think that may be a long way of answering your question, but it's important
13 for us to -- sorry. It's important for the Department of Justice to understand, you know,
14 not only where their role is appropriate but where the role is actually needed.
15 Q Okay.
16 You made it clear I think from that answer and from the answer you gave
17 previously that at the time that this memo was being drafted and that the task force was
18 being stood up, you didn't have all the answers, and DOJ was trying to find some answers
19 as to whether there was a role for DOJ with respect to threats of violence at school
20 officials and school board activities.
21 Is that a fair characterization?
22 A What was the first part of what you said?
23 Q It sounded to me like from your answer --
24 A Right.
25 Q -- that what you were saying was you didn't know at the time that the task

1 force was stood up whether there was a need to supplement local law enforcement, for
2 example, with respect to these threats. So you were trying to find out. That was one
3 of the tasks that DOJ was undertaking with this effort was to learn --
4 A Yes.
5 Q -- whether there was a problem?
6 A Right. So the second part of what you said is right. So let me just clarify.
7 Q Sure.
8 A Based on reports that were publicly available, bomb threats, death threats
9 communicated by the mail, death threats communicated over the internet, telephone,
10 there was unquestionably a role for the Federal Government with respect to those.
11 But in addition to that, yes, part of the purpose of standing up the task force and
12 convening State, local, tribal, territorial law enforcement with the U.S. attorneys' offices
13 in all of the 94 districts was for them to have conversations about, you know, what's
14 happening in your districts. Are you seeing, you know, an unusual amount of this kind
15 of potential crime? And if so, how, if at all, can we be of assistance to that?
16 So there was -- I don't want to give the impression that the Federal Government
17 thought we have no role here. There was certainly a role for the Federal Government,
18 but there was also an obligation for the Federal Government to understand the extent,
19 the scope of the problem, and how we can help.
20 Does that answer your question?
21 Q Yes, it does. That helps to clarify.
22 And with respect to the example that [redacted] was discussing with you, the
23 election threats scenario, you mentioned that part of what you all were doing with that
24 task force creation was to explore kind of what you might consider novel issues of Federal
25 jurisdiction. The example you gave was whether the offense occurred on an airplane or

1 outside of an airplane, for example.

2 Now, that's not an unusual task, right? The Federal Government sometimes has

3 to think on whether there is Federal jurisdiction in certain situations, and it takes a little

4 bit of reflection.

5 Would it be fair to say that with respect to the school board and school official

6 threats situation, you had to do a similar kind of analysis to see what Federal jurisdiction

7 there was? And you actually personally were involved in considering some potential

8 Federal statutes that would be implicated by some of the conduct that had been

9 reported?

10 A Yeah, so to answer the first part of your question, yes. Not only is it not

11 unusual, it's an obligation of the Federal Government to satisfy itself of actually having

12 jurisdiction to deploy the resources of the Federal Government. So part of it is

13 understanding, getting smart on, okay, what are the Federal statutes that apply to

14 this -- these potential crimes, you know, specific statutes. Like not just it involved the

15 wire, it involved the mail. That's kind of a guiding principle, a threshold question.

16 But there's a deeper question, which is, okay, once you cross that decision point

17 or if, you know, somebody is using a bomb threat, maybe entirely local but still triggers

18 certain Federal laws, so once you get past that first decision point of whether there may

19 be Federal jurisdiction here, we have to understand at Main we need to support the U.S.

20 Attorney's Office. In this case, the Federal, local partnerships in understanding what

21 those statutes could be.

22 I do have some recollection of, you know, kind of doing a survey or actually

23 looking through statutes. I don't recall that with a lot of specificity, but I do think I was

24 involved in that.

25 Q I don't want to give you any kind of legal test here, but do you recall

1 considering 18 U.S.C. 875, which is the interstate communication statute, about whether
2 some of the threats, if they were communicated in that fashion, delineated under the
3 statute might rise to a Federal crime?
4 A I wouldn't have been able to recite it, section, code.
5 Q Fair enough.
6 A But yes, interstate communication was a big part of whether Federal
7 jurisdiction lied.
8 Q And did you also consider 18 U.S.C. section 275, which is federally protected
9 activities? It's like the under color of law statute. Did you consider whether -- because
10 that statute addresses federally funded activities, specifically including education, that
11 some threats directed at schools or other school activities might actually fall under that
12 statute and give rise to Federal criminal jurisdiction?
13 A I have a vague recollection of that discussion. I think that's one of the
14 reasons that we brought in civil rights.
15 Q Mr. Moossy?
16 A Sorry?
17 Q Mr. Moossy?
18 A Yes.
19 And maybe even the reason we brought in OJP to understand like funding
20 questions. As I sit here, I don't have tremendous recollection of that, but yes, I recall
21 there being a discussion of whether Federal funding or, you know, Federal programs
22 would create an independent basis for jurisdiction.
23 Q Okay. I guess my point is that sometimes these questions are not clear
24 right at the beginning of a task force creation, but there is something that you explore as
25 a part of your responsibilities in Federal law enforcement. Is that fair to say?

1 A Yes, it is. I agree with that.

2 Q Okay.

3 I'm going to ask you some more questions about the task force operation --

4 A Sure.

5 Q -- as it existed there.

6 Can I mark for the record it will be number nine. Thank you.

7 [Chambers Exhibit No. 9

8 Was marked for identification.]

9 BY [redacted]

10 Q Exhibit 9, this is an email chain that includes -- well, let me just read the

11 Bates number first. It's part of a DOJ production. It starts with Bates number 1367.

12 There are a couple of pages, for the record, here, and the Bates number is only on the

13 first page because we just blew it up so that you could see the text on the PowerPoint

14 slides on the second page.

15 If you have a minute, just look at that exhibit, if you would, Mr. Chambers, and let

16 me know if you have had a chance to familiarize yourself with it.

17 A So I'm not familiar with this email.

18 Q Okay.

19 A And I don't see my name on it. So I don't know if I was bcc'd or not, but I'm

20 familiar with the content of the email --

21 Q Okay.

22 A -- but not seeing this email itself.

23 The document, I don't know if it's an attachment or it just follows, I am familiar.

24 It appears to be a portion of a PowerPoint deck that I prepared for the initial task force

25 meeting.

1 Q If it's helpful, just on the first page within the body of the email, the
2 paragraph that has the redacted line --
3 A Uh-huh.
4 Q It refers to Kevin, and I don't know if that is you. Do you think that might
5 be referring to you?
6 A Yes, that's me.
7 Q Okay. Does that help you kind of orient what the email might have been
8 about with respect to you?
9 A Oh, I'm sorry. I know what the email is about.
10 Q Okay.
11 A This is just somebody reporting out our first task force meeting.
12 Q Okay.
13 A I guess what I'm saying is I don't think I received this email.
14 Q Okay.
15 A It appears to be from somebody at EOUSA to someone else at EOUSA saying
16 this is what we just discussed.
17 Q Okay. And the date on the email, though, is October 13th, 2021. Is that
18 fair?
19 A Yes, that's correct.
20 Q Do you believe this was the first meeting of the task force?
21 A I think so. I remember it being -- a decision being that we held on
22 Wednesdays. The timing of this makes it sound right, so yeah.
23 Q Okay.
24 And then the PowerPoint slides, did you say that you prepared them yourself?
25 A Yes, I did.

1 Q And so you're familiar with their content?
2 A Yes. Yes, I am.
3 Q Okay.
4 Let's just go through them a little bit.
5 A I mean, it's been almost 2 years.
6 Q I understand.
7 A So if I have to spend a little time looking, I hope you'll indulge me.
8 Q No worries. The pace is yours.
9 A Please go ahead.
10 Q Can you just tell -- so at the very top of the second page of the first
11 PowerPoint here, there is a sentence that says, quote, expectation of USAO is to meet
12 with LE, not school officials, end quote.
13 Do you see that statement?
14 A Yes.
15 Q And do I understand that correctly that what they're saying is that the U.S.
16 attorneys' offices should be holding meetings with law enforcement, referring to local law
17 enforcement, and not with school officials?
18 A That's correct.
19 Q And why is that?
20 A So this part of kind of the do-out or what you're going to do once this task
21 force is stood up, this portion, convening these meetings, was really for law enforcement
22 to be able to coordinate with each other, have discussions about what they're seeing and
23 then come up with an appropriate response. It was not to interact directly with school
24 officials or board members or really anyone outside of the law enforcement community.
25 This was a law enforcement effort to address a particular concern, that concern being

1 violence and threats of violence at school board functions.

2 Q Okay. And I'm going to direct your attention to the first slide.

3 A Okay.

4 Q The very first slide here, it is titled school board, school administrator threats

5 task force, and then it addresses examples of violence and threats. Is that correct?

6 A Yes.

7 Q And can you just go through some of these. The very first example, I don't

8 know what your eyesight is, but can you read the text in that first slide that describes the

9 first example?

10 A My eyesight is not good, but I can read this. So you just want me to read

11 the text?

12 Q If you don't mind. Let's start with the first one.

13 A Yes, so the first lighter blue box on the left of this exhibit, top row, says a

14 parent attacked a teacher following a mask dispute on the first day of school, a California

15 superintendent said. And then beneath that, Amador County Unified School District,

16 California, August 2021, and physical education.

17 Q Okay. And can you read the second one, please?

18 A Sure.

19 A parent physically assaulted a teacher by ripping a mask off her face. Eanes

20 Independent School District -- that's embarrassing -- Texas, July 2021, physical altercation.

21 Q And the third one, please.

22 A Three men carrying zip ties show up at a Tucson, Arizona elementary school

23 and threatened the principal with a citizen's arrest after the child of one man was told to

24 quarantine under county health guidelines. Mesquite Elementary School, Arizona,

25 September 2021, in-person confrontation.

1 Q And underneath that, there are three more examples. Can we go through
2 those as well?
3 A Sure.
4 Quote, I'm going in with 20 strong men, ellipses. I'm going to speak to the school
5 board, and I'm going to give them an option. They can leave or they can be removed,
6 end quote.
7 North Hampton County School District, Pennsylvania, August 2021, communicated
8 orally at rally.
9 Q And then continuing to the second middle slide there?
10 A Quote, all of you are going to be spoiled in severe ways. Get ready. All of
11 you targeted. Writer then -- sorry. In parentheses, writer then lists the school board
12 members' addresses. And this is a Waukesha school board, Wisconsin, August 2021,
13 communicated via social media.
14 Q And finally, the last slide or last example, I'm sorry.
15 A At the bottom?
16 Q The one right next -- the third one. I'm sorry.
17 A Okay.
18 Quote, we know who you are. We'll find you. We know who you are, end
19 quote. Williamson County school board, Tennessee, August 2021, communicated orally
20 to victim.
21 Q Okay. And there is one final one, which is at the very bottom, that little
22 visual.
23 A Sure.
24 It's an image of two men in a crosshair. It says at the top, you will be taken out
25 by vote or by force. And beneath their pictures are the words in all caps, in large font,

1 public enemies. And this is the Hackensack Board of Education, New Jersey,
2 September 2021.
3 There is a tool bar at the bottom of that slide that's covering some language. I'm
4 fairly confident that that language underneath says something to the effect of
5 communicated by U.S Mail. But there is a full version of this document that would not
6 have that tool bar covering the language if you want to check that.
7 Q All right. Thank you for that.
8 These examples are examples that you found when you were preparing for this
9 meeting. Is that correct?
10 A That's correct.
11 Q And where did you find those examples?
12 A These were public reports, news reports. I don't think it was anything
13 more sophisticated than, you know, a review of publicly available news reports online.
14 Q And why did you choose each of these as an example?
15 A So, you know, we talked a little bit before about jurisdiction. In each of the
16 94 U.S. attorney office districts, there was going to be a meeting of Federal, State, local,
17 tribal, territorial law enforcement. My goal was to educate the task force who may or
18 may not be interacting with these groups about what was and what was not in this area
19 of threats of violence and actual violence.
20 Each of these examples is a reported threat of violence, actual violence, as
21 opposed to someone just, you know, spouting off or speaking their mind or saying
22 controversial things, and I thought it was important for our task force to understand that.
23 And I think later in this document there's another slide that talks about, you know,
24 what is and what isn't outside of our agreement.
25 The other thing that I thought was important to do was to provide examples for

1 discussion amongst ourselves and possibly with these groups about, you know, what may
2 be purely local, what may be, you know, possibly Federal, what may be unquestionably
3 Federal, and that's the reason that at the bottom of each of these I try to describe -- well,
4 in each of these I describe not only the threat or the act of violence but also either how it
5 was communicated or how it was affected.
6 Q Because it's relevant to the Federal statute?
7 A Because it's relevant to whether there's Federal jurisdiction or not.
8 Q And is it fair to say that each of the examples as you've described them
9 involve either violence or threats of violence?
10 A Yes.
11 Q And all of these examples are occurring in --
12 A I'm sorry. Let me back up.
13 Q Go ahead.
14 A They involved in my view violence or threats of violence. I think part of the
15 discussion is whether, you know, for example, somebody saying we know who you are,
16 we'll find you, we know where you are. You know, I'm sure someone can argue that
17 that's not violence and not a threat of violence. But I think it was important for our task
18 force to understand the entire panoply of what kind of threats were out there. You
19 know, I take the view that's a threat of violence. Somebody else may not. But it's
20 something that as a task force we need to understand.
21 Q And as a former prosecutor, you know that -- I mean, it may be. It's a
22 factual question for a jury, and it's something that you might consider at the DOJ level
23 whether it's chargeable?
24 A What I can say is this is something that should be reviewed and considered,
25 as opposed to someone just saying, you know, I don't like our football field. I don't like

1 masks. I don't like this. This is the kind of stuff that our task force was focused on,
2 and, quite frankly, this is the kind of stuff that the memo is focused on.
3 Q Okay. And each of the examples that you just discussed occurred in either
4 the summer of the fall of 2021. Is that correct?
5 A Yes, it appears that's right.
6 Q I think the latest example that you have here was September of 2021.
7 A Yes.
8 Q And they also occurred over several jurisdictions within the United States.
9 Fair to say?
10 A Yes. Yes, geographic -- right. So these are not all the examples that, you
11 know, one would find if they searched for them, but I had a goal of, you know, geographic
12 diversity, different types of threats communicated in different ways, actual of violence
13 versus threats, that sort of thing. So my goal was to try to give an example of
14 everything. So geographic diversity is certainly part of it.
15 Q Okay.
16 And would you turn to the second page, please, of the exhibit. It appears that at
17 the meeting, according to these notes, after the examples of threats of violence were
18 presented, the task force proceeded to discuss, quote, purpose of the task force.
19 A Yes.
20 Q And this slide here, the section notes -- refers to the AG's October 4th
21 memorandum and the, quote, disturbing spike in instances of threats.
22 Do you see that reference?
23 A I do.
24 Q Now, did the disturbing spike in instances of threats refer to the type of
25 conduct that you just discussed in those examples, which occurred in various locations

1 throughout the country in the summer and fall of 2021?

2 A It refers to what I viewed as an increase in the incidents, some of which are

3 described on the prior page, you know, but, again, you know, when things like this

4 happen, they are typically -- you know, when these things unfortunately happen, they are

5 typically reported in the news.

6 So, you know, it was my view that as you went through the spring and the

7 summer, there was an increase in these things, similar to the increase that we saw incited

8 with respect to election threats, similar to the increase that we saw incited with respect

9 to violence on commercial aircraft.

10 Q So all of those things are actually happening at the same time that DOJ is

11 observing an increase in threats in these various substantive areas?

12 A Yes, that's correct.

13 Q That same slide that's titled purpose, there is a discussion of, quote, DOJ

14 response. Do you see that section?

15 A Yes.

16 Q And can you just read the bullet points that are listed under DOJ response?

17 A Sure. Instructions to USAOs, U.S. attorneys offices to convene meetings

18 with local law enforcement.

19 Next bullet, create training and guidance for use by potential victims.

20 Next bullet, nonenforcement ways to assist.

21 Next bullet, threat tracking and trend identification.

22 Q Okay. And did you prepare that portion of the presentation?

23 A Yes, I did.

24 Q And is that your understanding of what the DOJ's response was going to be

25 of the rise in threats?

1 A It was part of our discussion. So this is a discussion paper. But between
2 our -- you know, between what appears in I think the memo or the press release to the
3 memo and possibly my conversations with John Carlin, it was decided that, you know, the
4 task force was actually going to have tasks and these are what they were.
5 Q Okay. Could we go over each of them briefly.
6 A Of course.
7 Q The first one, instructions to U.S. attorneys' offices to convene meetings with
8 local law enforcement. What did that mean?
9 A So as we discussed a bit earlier, it was important to me, it was important to
10 the Federal Government, more -- sorry, important to DOJ, more importantly, to
11 understand the contours of its jurisdiction, where it had primary jurisdiction, where it had
12 shared jurisdiction, where it had no jurisdiction. And also, you know, the frequency and
13 severity of these kinds of instances throughout the Nation.
14 With that in mind, it was decided that the task force would instruct the U.S.
15 attorneys' offices, the U.S. attorneys in each office to bring together their local partners
16 and, with those partners, have a discussion about the concern about increased violence
17 at school meetings and whether U.S. attorneys' offices could assist, whether there
18 was -- you know, the issue was prevalent, whether local law enforcement thought they
19 had it in hand.
20 But the first task was we can't make decisions about what's actually going to
21 happen until we understand what the issue, what the problems are, and that problem is
22 not going to be the same across the entire country. It may be different in, you know,
23 Virginia, Eastern District of Virginia, and Western District of Virginia. So the idea was to
24 make sure that we didn't -- that we took a nuanced and fact-specific approach to
25 whatever the Federal response would be.

1 Q So with respect to that first bullet point, was DOJ in the mode of receiving
2 information from local law enforcement?
3 A Absolutely.
4 Q The second bullet point, create training and guidance for use by potential
5 victims. Can you explain what that meant?
6 A Sure. So one of the things that we learned as part of our work on the
7 election threats issue, and I think something else that prosecutors generally know is that
8 when someone is potentially the victim of crime, they may not always take the steps
9 necessary to preserve evidence that will allow prosecutors to bring defendants to justice.
10 So, for example, if in the context of what we're discussing here, if someone
11 received a voicemail on their phone saying -- and this is sadly one that I recall, but, you
12 know, don't bring your kid to school because, you know, you don't know what will
13 happen to her. And that was something reported to a teacher or school administrator
14 or something like that.
15 It might be that person's first inclination to just get that garbage off of their phone
16 and hit delete. Or if they get an email, do the same thing. Or these gentlemen in New
17 Jersey, you know, who found -- who received mail on their doorstep or in their mailbox
18 targeting them for death, it might be the easier thing just to say I don't want to think
19 about this. I'm going to delete it. I'm going to rip this up and throw it out. That, of
20 course, would frustrate efforts to prosecute the cases.
21 So part of our thinking here is that similar to what they did in the election threats
22 case is to create a one page or a slick sheet that would say, you know, these are the steps
23 you take in the unfortunate event that you're the victim of crime. So, you know, call the
24 police. You know, take pictures of any evidence. You know, if your car is vandalized or
25 something like that and a death threat is written on your car, take a picture of it before

1 you go wash it off. Save your emails, save your voicemails.
2 You know, do not -- and there is also a component of if it's safety oriented, right.
3 If somebody is a victim of a threat, we don't want them engaging with someone in that
4 case. So it might say do not respond to this threat. Get law enforcement involved.
5 So that was some of the thinking behind the create training and guidance for use
6 by potential victims.
7 Q Thank you.
8 And then the next one, nonenforcement ways to assist. Could you describe what
9 that was about?
10 A Sure. So I think people often think that the Department of Justice is just
11 the FBI and, essentially, prosecutors, but the Department, for ages, has played a much
12 broader role, and that's evident through a few of the components that we mentioned
13 earlier.
14 I think I made reference to CRS, community relations service. Community
15 relations is a unit that is not a prosecuting component. It's not a law enforcement
16 component in the traditional sense, but it's a component that will go into communities
17 with an eye towards providing nonenforcement-type assistance.
18 So just to give you a couple examples, in spring of '21, when the Chauvin trial was
19 going on for the murder of George Floyd, CRS had a critical role in going into the
20 communities and talking to them about how the process would work in court, you know,
21 the importance of, you know, maintaining order, you know, nonenforcement ways that
22 the Department of Justice could be of assistance.
23 So now fast-forward to this situation where we're dealing with violence and
24 threats of violence taking place at school board meetings. The way that CRS would be
25 able to assist in that situation is to, you know, offer, for example, de-escalation training

1 where they go in and say, look, if you are running a school board meeting, whether it's
2 the school board or whomever, and you find yourself in a situation where temperatures
3 are getting inflamed, maybe even threats are levied, here are some of the things you can
4 do to reduce that tension.
5 I am not an expert in that stuff, so I can't tell you what those things are, but I can
6 tell you that they would play a very important role in addressing this concern that does
7 not involve Federal statutes and bringing charges and having trials and, say, a
8 nonenforcement method that the Department has to achieve the desired result, which is
9 less crime, less threats, less acts of violence.
10 Q Okay.
11 And the final one that you have listed here is threat tracking and trend
12 identification. Can you explain that one?
13 A Sure. So this ties in a little bit to the first bullet, which is about, you know,
14 the frequency and degree to which these issues are prevalent in various U.S. attorneys'
15 offices. I think with anything that's important, you want to measure it, and the thing
16 here is how do we measure, you know, where this is happening? Do we have pockets or
17 particular districts where this is more of an issue than others?
18 One, we want to know that from a macro standpoint, which is what is the degree
19 of this issue, but we also want to know from a -- sorry. I keep saying we. I mean the
20 Department also wants to know from the standpoint of, you know, where best to allocate
21 resources. You know, how to address things on a micro level. So, you know, the
22 tracking and trend analysis is important.
23 The other thing that's important is if you're going to undertake to do something
24 related to these threats, these acts of violence, you also want to know that it's working.
25 So, you know, if you see threats decrease over time, then you can say, okay, this is having

1 some effect. If you're not, you might want to, you know, rethink the approach.
2 So it's nothing fancy. I mean, simply put, the Department wanted to know, you
3 know, what trends were related to these threats and acts of violence.
4 Q Okay.
5 And is it fair to say that the four purposes that you've broadly described here for
6 the task force is fairly inclusive of the purpose of the task force as you understood it?
7 A It is the purpose of the task force, yes.
8 Q So there are no other purposes that are not listed there that you're aware of
9 that the task force was meant to accomplish?
10 A No, there were not.
11 Q Okay.
12 A Give me one second to just make -- that's a fair question. I just want to
13 make sure I give an accurate response.
14 Q No worries.
15 A Yeah, that's accurate --
16 Q Okay.
17 A -- with an overall goal of discouraging, reducing, identifying violence and
18 threats of violence.
19 Q Okay, thank you for that.
20 So it's fair to say the DOJ did not have a purpose in the formation of this task force
21 to interact in any way with, quote, parents?
22 A No, and nothing about the memo is directed towards parents in particular.
23 It's directed towards persons, parents or not, who would commit acts of violence or level
24 threats of violence in the context of these school board meetings and other function
25 events. Parents was never uttered as far as I can recall and certainly not a part of the

1 focus of the memo or the task force.

2 Q And it was not the purpose of the task force to engage with any particular

3 type of speech or content of speech that was being articulated at school board meetings

4 or elsewhere?

5 A Absolutely not, and I don't think it can be any clearer from the memo that

6 constitutionally protected speech was not part of the concern about violence and threats

7 of violence.

8 Since we have this document in front of us there, the next slide after the purpose

9 slide is one that I think makes abundantly clear that it was not about ideology. It's not

10 about whether you like masks or don't like masks, like vaccines or don't like vaccines.

11 It's about really one thing or two things, violence and threats of violence by anyone

12 against anyone at these school board meetings and other school-sponsored events.

13 Q I was about to ask you about those, so let's look at that next slide. Can you

14 first look at the left-hand portion that's titled what this effort is, and just read us those

15 bullet points, if you can read it from this document.

16 A Sure. So the first one is understand range of potentially criminal conduct

17 and where Federal enforcement authority rests.

18 Next bullet, assist State and local law enforcement through training and

19 information sharing.

20 Next bullet, help protect school board members and school administrators from

21 violence or threats of violence.

22 And then fourth, educate victims of threats on how to report threats to law

23 enforcement.

24 Q I think those are fairly self-explanatory, and I think you explained them

25 already in your testimony. So let's move on to the right side, and can you read, quote,

1 what this effort is not?

2 A Sure.

3 Not based in ideology. Focuses on acts or threats of violence not on underlying

4 ideologies.

5 Not an attempt to suppress speech. Memo clearly stated that nonviolent debate

6 is protected and will be respected.

7 And not about federalizing State and local offenses. Where Federal authority is

8 not present, DOJ defers to State and local authorities and offers assistance where helpful.

9 Q And let's just go over those a little bit. The first one that says not based on

10 ideology. The focus is on acts or threats of violence. Can you explain?

11 A Sure.

12 I think in a lot of context, but particularly when you're talking about schools, it's

13 almost unavoidable that there are going to be people speaking very passionately about

14 particular issues, parents and nonparents alike. What I wanted to be clear about is that

15 our mandate was to address violence or threats of violence no matter where you stood

16 on a particular topic.

17 So you could be a person who thinks that every kid should be vaccinated and

18 make those views known. You can be a person who thinks that no kid should be

19 vaccinated and make those views known. And as long as you don't threaten violence or

20 commit a crime that's an act of violence, we, the Department, this task force, has no role

21 there. It's only when that behavior crosses those lines into threats of violence and acts

22 of violence that, you know, this task force and law enforcement has a role.

23 And I wanted to make sure -- and I think it was very clear to our group. I wanted

24 to make sure they understood what that was. And also, let me be completely candid, in

25 the aftermath of this memo being issued, there was a lot of discussion about this being

1 about particular ideologies, and I thought it was important to make clear to our team that
2 that was not the case and really would not be tolerated.
3 Q What discussion are you referring to? What kind of discussion are you
4 referring to when you say that there was discussion about this being about ideology?
5 A I mean if the memo was issued on the 4th, I'm pretty sure by the 6th there
6 may have been people who were espousing the view that this was political or ideological
7 in nature because of, you know, particular topics, and I wasn't unaware of that.
8 Q By people, do you mean critics of the Department or people inside the
9 Department?
10 A Outside of the Department. I mean, I won't describe them as critics of the
11 Department. I mean, people are entitled to their views, but I just know that some
12 people receive this as an attempt to address issues of ideology, which it was not.
13 Q Okay.
14 And the second bullet point says it was not an attempt to suppress speech. The
15 memo clearly stated that nonviolent debate is protected and will be respected.
16 So the memo there refers to the August 4th Attorney General's memorandum?
17 A The October 4th Attorney General's memo, yes.
18 Q And so you're adhering, in your view, clearly and closely to the directive of
19 the Attorney General when you say that this is not about speech and it's about violent
20 conduct?
21 A That's correct.
22 Q And the final bullet point says, quote, not federalizing, unquote, State and
23 local offenses. Can you explain a little bit about that limitation?
24 A Sure.
25 It's not a -- the Federal Government has its role, has its jurisdiction, and I think

1 with any endeavor by the Department of Justice, it's important to first understand and
2 study that there is a role for the Federal Government. The Federal Government doesn't
3 do everything it wants to. It does certain things that it can do.
4 Here there was no goal to try to make, you know, what I will call State level, local
5 level crimes into Federal crimes. Again, there's not a way in my view for the Justice
6 Department to do that, but I thought it was important that we acknowledge that, you
7 know, some of these cases there may be no Federal role at all, and I think that's part of
8 what I tried to convey in the examples that we put forward.
9 But, you know, again, maybe I was being too repetitive to this task force, but it
10 was just to say, again, you know, not everything here is Federal, and when it's not
11 Federal, you know, State and local law enforcement, you know, it's their area of
12 responsibility. The decisions are theirs to make.
13 Q So this meeting, again, it appears to have taken place on Wednesday,
14 October 13th, 2021, and we believe that was the first meeting of the task force. Is that
15 your recollection?
16 A Yes.
17 Q Were there other meetings of the task force?
18 A I believe there may have been one or two other meetings of the task force,
19 maybe one about a month later after all the U.S. Attorneys' Offices had reported back in.
20 And I believe, but don't hold me to this, there may have been one more around either in
21 December or near year end but no more than that.
22 Q And as far as you know, was there ever any discussion of elections, any
23 particular elections discussed at any of these task forces?
24 A Well, in the election threats task force.

1 [12:10 p.m.]

2 BY [redacted]

3 Q No, I meant in this one. I'm talking about --

4 A Oh, in this --

5 Q -- this particular task force.

6 A No, not at all.

7 Q Okay. And was there any discussion of the Governor's race in Virginia that

8 was going on at the time in 2021?

9 A The Governor's race in Virginia --

10 Q Yes, uh-huh.

11 A -- with respect to the -- no, no discussion of that at all.

12 Q Okay. And was there any political motivation, as far as you know, for

13 holding these task force meetings, to affect any particular election?

14 A No, there was not.

15 BY [redacted]

16 Q Just a handful of additional questions.

17 A Sure.

18 Q We have maybe 5 minutes left.

19 You clarified in the earlier hour that your conversations with the White

20 House -- the only communications you had were with Ephraim McDowell, correct?

21 A Communication. Or --

22 Q Right.

23 A -- maybe there was a second communication, but I think there was one

24 substantive conversation on this issue --

25 Q On this issue.

1 A -- which was a phone call.

2 Q Right. With Mr. McDowell.

3 A That's right.

4 Q And can you broadly -- I don't want to get into issues of privilege, but can

5 you broadly describe what was said during that call?

6 A I think the most that I can say -- and it was a short call. And Jonathan will

7 tell me if I need to stop, so I'll speak slowly.

8 But at the end of the conversation that I had with Ephraim, I think his purpose was

9 to know that the Department was aware of this issue of violence and threats of violence.

10 Q Uh-huh.

11 A I think, at the end of the call, that was clearly accomplished. We were

12 aware, and -- I don't want to say we were fashioning a response, but we were aware of it

13 and considering it. And that was the extent of the conversation with them.

14 I should make clear that neither Ephraim or, to my knowledge, anyone else at the

15 White House had any role in reviewing the memo, approving it. This was a Department

16 of Justice publication.

17 And the only -- as I described to you, that's the substance, at a high non-privileged

18 level, of the conversation that I had with Ephraim.

19 Q Other than wanting to make you aware of the situation, did Mr. McDowell

20 instruct you to take any particular action?

21 A No, he did not.

22 Q And did Mr. McDowell pressure you, in your opinion, to take any particular

23 action?

24 A No, he did not.

25 Mr. Su. And, Kevin, just so the record is clear -- and I think it is -- when you

1 characterize discussions between -- any discussions between the White House and the
2 Justice Department about the matter, you are describing to the extent of your
3 knowledge?
4 Mr. Chambers. My conversation and to the extent of my knowledge. Right.
5 [redacted] Thank you for that.
6 We can go off the record.
7 [Recess.]

1 [1:01 p.m.]

2 [redacted] We'll go back on the record. It's 1:01 p.m.

3 [redacted] Okay, Mr. Chambers. We're going to direct your attention to another

4 exhibit. This is what we're going to mark as exhibit 10 for the record.

5 [Chambers Exhibit No. 10

6 Was marked for identification.]

7 BY [redacted]

8 Q And this is an email from October 2nd at 4:02 p.m. It's from you to a group

9 of folks within the FBI and DOJ. And it is Bates-stamped at the bottom -- the last few

10 digits are 455 through 456.

11 A Yes, I see it.

12 Q And you can take your time, if you want to take a look at it, if you need to.

13 A Okay.

14 Q So, comparing to the earlier email that we discussed -- in our first hour, we

15 talked about the Saturday morning email that you sent regarding the, I guess, initial

16 document that was sent out, and you said, "Sorry for the Saturday fire drill."

17 A Uh-huh.

18 Q And then this is the afternoon. The number of people increased on your

19 email, at the very bottom down there. And I was wanting to know why the number

20 increased from the original email you sent that morning.

21 A Sure. Just give me a second to compare the two.

22 Q Of course.

23 Mr. Su. You're comparing exhibits 5 and 10, right?

24 [redacted] Yes, sir. Sorry. I meant to say the number.

25 Mr. Chambers. So, as best as I recall -- and I think I may have mentioned it either

1 in the first hour or the second hour -- one of the things I noted was that, over time, the
2 number of people on the email increased, particularly from the Bureau, if I'm not
3 mistaken, but also from other folks as well.
4 So, to give a couple examples, on the "CC" line, you'll see John Carlin was added.
5 And that would've been an add because we were actually attaching documents.
6 With respect to the 'To' line, I believe that this was just kind of an accumulation of
7 the additional people who had been brought into the conversation by their respective
8 components. I'm not sure where I got the names or whether I pulled it off of a different
9 email and said, okay this is our working group now. But, kind of as I said before, over
10 time, more and more people were brought into the conversation.
11 BY [redacted]
12 Q So is it common practice at the Justice Department, or at least for ODAG,
13 that you would add Mr. Carlin in when documents would be sent around for review? Is
14 that common practice?
15 A I don't know that there was a common practice. It may have been my
16 practice. And, again, because we were circulating this, I did think I wanted to make sure
17 that he was included on the chain. But I don't know that I was adhering to a prescribed
18 practice.
19 Q And in this particular email that you sent that leads into page 456 --
20 A Uh-huh.
21 Q -- you wrote, "Attached are two documents" -- or, at the beginning, you say,
22 "Attached are two documents proposing Department responses to continuing threats
23 against election officials and workers and recent threats against school administrators
24 and board members."
25 Did you draft the documents that were attached to this email?

1 A Yes.

2 Q And did anyone else assist you in drafting them?

3 A Not in the original, the initial drafting. But there were other folks, including

4 some of the people who I'm seeing, who reviewed and, you know, would've provided

5 comment on these.

6 Q To your recollection, who would maybe those people be?

7 A I mean, looking at the list, I think Monty or Norm from EOUSA might've had

8 some revisions or questions.

9 Q One of the documents attached to this email -- I think that there were two

10 you mentioned, but one of them appears to be the draft "School Boards Threat Response

11 Strategy." And that lays out several proposals for addressing "a recent uptick in threats

12 of violence against school board members, as recently highlighted in a letter to the

13 President from the NSBA."

14 And you further noted that "the letter from the NSBA is also attached for

15 reference" and listed the following affected components: EOUSA, FBI, CRM, CRT, NSB --

16 A I'm sorry, [redacted] I apologize --

17 Q Oh, of course.

18 A -- but where are we?

19 Q It is actually -- so we have this version, this email. This is one of the other

20 versions that we had just gotten back from DOJ last night.

21 A Okay. So it's not something I have in front of me.

22 Q No.

23 A Okay.

24 Q I think we actually -- it might've been previously -- if it wasn't entered here,

25 we have another version of it that says the rest of that, that we just got produced from

1 the Justice Department last night. So that was the text of it, and I can find that for you.
2 A If you can find it for me or if you can read it to me again. I wasn't paying
3 attention because --
4 Q Of course.
5 A -- I was looking for where we were.
6 Q Absolutely. And it says the -- one of the documents attached appears to be
7 the draft "School Boards Threat Response Strategy," and that lays out several proposals
8 for addressing "a recent uptick in threats of violence against school board members, as
9 recently highlighted in a letter to the President from the NSBA."
10 And you noted that "the letter from the NSBA is attached for reference," and
11 listed the following affected components: EOUSA, FBI, CRM, CRT, NSD, CRS, and OJP.
12 And I know we talked about some of those components earlier.
13 A Uh-huh.
14 Q And did you say earlier -- I can't remember if you did. Who determined
15 that these components should be included in this response strategy?
16 A Me or a combination of me and John Carlin. But I think, in the first
17 instance, I thought these were the components it made sense to include. Although, let
18 me say, by this -- are we talking about Saturday, October 2nd, now?
19 Q Yes.
20 A Yeah. So, by this time, there would've been conversations, for example,
21 with FBI, who would've said, oh, you should bring in this person or that person. I think it
22 was still just CTD and CID. But OJP, for example, I think maybe, my civil rights
23 counterpart in ODAG, suggested that we bring them on board. The Associate's office is
24 not one that I included initially, but because we're not sending a document around for
25 review, they would've been included as well.

1 BY [redacted]

2 Q When you say communications with the FBI and the FBI suggested bringing

3 others in, were those communications that you had or others in the DAG's office?

4 A Well, I can speak to the ones that I had. Certainly, on Friday, when I'm

5 asking, you know, how do you guys track trends --

6 Q Uh-huh.

7 A -- or, you know, is there a CTD lane here that we should be aware of,

8 somebody would say, oh, well, you should bring in X or you should bring in Y because

9 they'd be better versed on this. So that was part of it.

10 Q Uh-huh.

11 A Whether others had conversations that brought more people in, I don't

12 know.

13 Q Are you able to characterize the number of conversations you think you had

14 with the FBI during that weekend, the October 1st-October 2nd --

15 A Sure. I can try. I would say, phone calls, I don't know, somewhere

16 between 5 and 10.

17 Q Okay.

18 A Some of it was kind of information-gathering and, hey, who's the right

19 person to talk to about this or that.

20 Via email, it'd be harder for me to put a number on it.

21 Q And could you characterize how many conversations or phone calls you had

22 with other components of the Justice Department that weekend?

23 A Yeah. I mean, EOUSA, probably 10 to 15; Civil Rights, maybe 2; OJP, maybe

24 2 --

25 Q Uh-huh.

1 A -- CRM, you know, 5 to 10. I mean, those are ballpark, but --
2 Q Yeah.
3 A -- based on my recollection.
4 Q What about anyone from the NSD?
5 A Maybe one or two conversations early on.
6 BY [redacted]
7 Q And what kind of vetting of the allegations that were contained in the
8 NSBA's letter occurred during the drafting process of this response strategy? Did any of
9 that take place during this particular October weekend after the NSBA letter came out?
10 A No. So the NSBA letter highlighted this concern about school board threats
11 and violence and other issues that were mentioned in there, but we didn't undertake to
12 vet their letter, because our response was not a direct response to their letter. I mean,
13 the letter did highlight the issue --
14 Q Uh-huh.
15 A -- but it wasn't as if there was, like, a vetting process.
16 As I mentioned earlier, some of these things were publicly reported; you could
17 look them up and find instances of that.
18 So, sorry. The short answer: No, we did not undertake to vet the NSBA letter.
19 BY [redacted]
20 Q And, within the NSBA's letter, there were some suggested statutes and
21 suggested Justice Department components, branches, that should be -- could be involved.
22 Did that play any role in the drafting process? Did you look at those suggested
23 statutes?
24 A I don't recall. I don't even recall that being the case in the letter. I'll take
25 your representation that it is in there. I haven't seen that letter in a couple years.

1 But what I can tell you is, no. I mean, if we undertake to address a particular
2 type of issue or threat, we will decide who in the Department should be involved or
3 potentially involved in the conversation.
4 Q Uh-huh. And so the letter is exhibit 1. I don't know if you still have it with
5 you.
6 A Yep.
7 Q I believe it's on the second page of the letter, in that last paragraph there.
8 Mr. Su. "As these acts of malice..."?
9 [redacted] Yes.
10 Mr. Chambers. Okay.
11 BY [redacted]
12 Q In that, it suggests, you know, "enforcement mechanisms from the FBI,
13 including any technical assistance necessary from, and state and local coordination with,
14 its National Security Branch and Counterterrorism Division, as well as any other federal
15 agency with relevant jurisdictional authority and oversight. Additionally, NSBA requests
16 such review examine appropriate enforceable actions against these crimes and acts of
17 violence under the Gun-Free School Zones Act, the PATRIOT Act in regards to domestic
18 terrorism, the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act, and the
19 Violent Interference with Federally Protected Rights statute, the Conspiracy Against
20 Rights statute, an Executive Order to enforce all applicable federal laws for the protection
21 of students in public school district personnel, and any related measure."
22 Did the Justice Department look at any of these statutes?
23 A So some of these statutes are familiar to me just from being in the
24 Department of Justice.
25 Q Uh-huh.

1 A But, no, with respect to our decision to write a memo on this issue, it wasn't
2 as if we used this as a guide.
3 I mean, I can tell you, some of these I don't recall ever looking at -- for example,
4 the PATRIOT Act --
5 Q Uh-huh.
6 A -- Gun-Free Zones Act, the Shepard and Byrd Hate Crimes Prevention Act.
7 So the short answer to your question is, no.
8 Mr. Su. So, for purposes of clarity -- and I know, [redacted] that you know
9 this -- when asked that question, did the Justice Department --
10 [redacted] Uh-huh.
11 Mr. Su. -- he's only testifying to the extent of his knowledge, right?
12 Mr. Chambers. Yep.
13 [redacted] Uh-huh.
14 Mr. Su. So I don't want there to be --
15 Mr. Chambers. No, that's a fair -- no, no. That's fair.
16 I did not, and, to my knowledge, I am not aware of anyone else looking through
17 these statutes or provisions.
18 BY [redacted]
19 Q And, prior to working on the memorandum and, you know, having the
20 October 1st and 2nd conversations, had you read the full NSBA letter at all?
21 A I'm sure I did. Well, I don't know if it was prior to October 1st. It
22 would've been when it was released publicly.
23 Q Okay.
24 A And there was a Washington Post article we looked at. So whenever I saw
25 that article and downloaded -- I'm sure I downloaded the letter --

1 Q Uh-huh.

2 A -- I would have -- my practice would have been to read it, the entire letter.

3 Q Did it concern you at all that the NSBA was requesting that such a review

4 examine appropriate enforceable actions, including the PATRIOT Act?

5 A I don't remember having a particular concern at the time. But, also

6 remember, I'm not looking at this letter as providing a roadmap or instruction to what the

7 Department is going to do. We don't take marching orders from outside entities.

8 Q And did you ever hear any concerns from anyone within the Justice

9 Department about the inclusion of the PATRIOT Act in this letter?

10 A Not that I recall. Let me just -- it was not the topic of discussion --

11 Q Uh-huh.

12 A -- but I don't recall any discussion of the PATRIOT Act, one way or the other.

13 BY [redacted]

14 Q Now, going back to that email, exhibit 10, at the end, you wrote, "[I know]

15 the timeline on these documents is short, but we want to provide awareness to your

16 components and give potentially affected components the opportunity to voice

17 views/red-flag concerns."

18 What was the timeline to review these documents at this time, do you remember?

19 A Just give me one second.

20 Q Of course.

21 A My recollection is that the goal was to get these documents out early in the

22 next week. I don't know if there was a set date or time, but, you know, soon, like,

23 within days, not weeks.

24 Q And do you know why the timeline was so quick, within days and not weeks

25 or months or --

1 A So I would say, for a one-page memo, I mean, 3, 4 days is not particularly
2 fast. By way of example, either you or the folks who had the second hour referenced an
3 election threats memo that we put together.
4 Q Uh-huh.
5 A That, I think, was as long, if not longer, and that was an overnight exercise.
6 So, you know, I don't know why the decision was made it was going to go out early
7 that week, but it wasn't my sense that this was being unusually rushed.
8 Q Uh-huh.
9 A In fact, it probably took a little longer than some similar memos we've done
10 before.
11 BY [redacted]
12 Q And what prompted this action by the Justice Department related to school
13 board threats?
14 A Again, what I can tell you is that we were aware of a concern about acts of
15 violence and threats of violence at school boards based on a conversation I'd had with the
16 fellow at the White House.
17 Q Uh-huh.
18 A But in terms of what prompted "we are going to write this memo," all I can
19 tell you is that, on that Friday, I spoke to the PADAG, and at the conclusion of that
20 conversation, it was clear to me that we were going to write the memo.
21 Q And what was the content of that discussion?
22 A So I don't --
23 Mr. Su. So that's where the Department's letter comes in. And so he can
24 adequately read out, as he's done, what the conclusion of that conversation was, but that
25 falls under the content of private discussions.

1 Mr. Chambers. Yeah. Right.

2 So the upshot of the conversation was, the Department's going to write memo

3 similar to, you know, what we've done with election threats and -- there may have been

4 another threats memo before that that I was not involved in, involving Members of

5 Congress or members of the judiciary.

6 But it was, as with those others, we're going to write a memo explaining, you

7 know, that the Justice Department is aware of and concerned about the question.

8 BY [redacted]

9 Q And then were you tasked with effectuating that conclusion from your

10 conversation with the PADAG?

11 A I was tasked with writing the memo.

12 Q Okay.

13 BY [redacted]

14 Q Is there any significance between -- I know that we've referred to it as "the

15 memo," but, in this email -- and, again, like, I have a less redacted version, just not on

16 hand. But you have it referred to in the email as the draft "School Boards Threat

17 Response Strategy." Is there a significance in the difference between those titles?

18 A So the draft response strategy really refers to what the Department is going

19 to do via the task force, so that I think the response strategy included convening these

20 meetings. It is a sep- -- my recollection at this point in time, it was a separate document

21 from the memo, that kind of laid out: Okay, here is a concern. The Justice Department

22 is going to undertake to do something. Here is what we're going to do.

23 One other thing that's worth pointing out here, when we're talking about this

24 email from October 2nd at 6:50 is that you'll notice it says that there are two documents

25 proposing responses to continuing threats against election officials and workers and

1 recent threats against school administrators and board members. There's a point in
2 time where it was going to be one combined memo, and a decision was made not to
3 combine them. So the draft response strategy was necessary because we were talking
4 about one piece of what was once going to be a joint memo.
5 BY [redacted]
6 Q And when was that decision made, that it would be two separate
7 memorandums?
8 A I believe shortly after this email or maybe the next morning, my PADAG
9 communicated to me that we were going to go with a standalone memo for school
10 administrator threats.
11 Q Okay.
12 BY [redacted]
13 Q And I know you've mentioned, like I said, at the end of this email, on the
14 next page, on 456, you had said -- asking to give components the opportunity to voice
15 views and red-flag concerns.
16 Did anybody respond to your email with any concerns?
17 A Yes, to answer your question. The one that I recall is, I think EOUSA had
18 some questions about the timing of when the meetings would take place.
19 Aside from that -- and that wasn't a red-flag concern; it was kind of more of
20 clarification -- I do not recall any other components raising red-flag concerns and certainly
21 not to me.
22 Q And above your email, in response to this -- and I know you weren't on this
23 specific email chain, but this is an email from former Deputy Assistant Director Jim
24 Tarasca. And he forwarded it to FBI officials and added in Deputy Assistant Director of
25 the Criminal Investigative Division Jay Greenberg, who we spoke about earlier.

1 He said that he discussed the need for immediacy of this messaging with
2 Mr. Newman and Mr. Toscas and neither of them was quite sure and questioned the
3 same.
4 Further, Mr. Newman "was going to attempt to find an answer and potentially
5 head it off so we could have a discussion early in the work week when we have more time
6 to review existing cases and develop more of a strategy vs. sending a directive to [special
7 agents in charge] over the weekend that [they]'ve had no input on."
8 Did Mr. Toscas or Mr. Newman reach out to you with the concerns you mentioned
9 before?
10 A No, they did not.
11 Q You said that you believe someone from EOUSA did. Do you recall who
12 that was?
13 A I think it was Monty Wilkinson. Or it may have been Norm Wong. But I
14 remember a conversation with Monty where the issue was whether it should be 30 days
15 or 45 days, how much time the officers needed to convene these meetings.
16 Q And so did Mr. Newman ask for more time to have a discussion the following
17 week, if he didn't reach out with concerns?
18 A No, not to my recollection.
19 Q Can you explain, to your recollection, what the directive to special agents in
20 charge is that Mr. Tarasca is referring to? Like, do you understand what he's saying
21 there?
22 A So, if you can give me one second, I just want to consult the actual memo.
23 [redacted] Uh-huh.
24 [redacted] Do you want to enter it?
25 [redacted] Oh, yes, of course. We can enter that into the record.

1 Mr. Su. You don't have it open?

2 Mr. Chambers. Oh, the October 4th memo?

3 Mr. Su. Correct.

4 Mr. Chambers. No.

5 [redacted] We'll enter that now though.

6 Mr. Chambers. Okay.

7 [redacted] Yeah. We're marking it as exhibit 11.

8 [Chambers Exhibit No. 11

9 Was marked for identification.]

10 Mr. Su. So, [redacted] the question is, is Kevin aware of what Tarasca meant by

11 "directive to SACs"?

12 [redacted] Yes.

13 Mr. Su. Okay.

14 If you have an understanding.

15 Mr. Chambers. Yeah.

16 So, as best as I can recall, there may have been questions about who was going to

17 receive this memorandum. Ultimately, it went to Director Wray; Monty Wilkinson,

18 who's the Director of EOUSA; Kenneth Polite, the AAG over the Criminal Division at the

19 time; and then each of the 93 United States attorneys.

20 What I vaguely recall was, during that discussion, it may have been a question of,

21 is this also going to go to the special agents in charge of each of the FBI's divisions? That

22 may be what this refers to. I don't know.

23 But I think, ultimately, a decision was made not to send it to the individual SAICs,

24 the way that it was, for example, sent to the individual U.S. attorneys.

25 BY [redacted]

1 Q And it appears from this email from Jim Tarasca that these FBI officials
2 believed they didn't have input on this directive. Do you agree with their
3 characterization that they had no input?
4 A No, respectfully, I don't agree with that characterization. And I think the
5 emails that you've shown me have borne that out.
6 Q Did anyone from the FBI reach out to you to request a pause until that
7 Monday at this point in time?
8 A No.
9 Q Mr. Greenberg had then replied to Mr. Tarasca's email, and that's up top in
10 the email from October 2nd at 6:50. And he said that he received your email from
11 someone in the Criminal Division of the Justice Department and asked for a delay until
12 the workweek.
13 Did anyone in the Criminal Division of the Justice Department relay
14 Mr. Greenberg's request to you?
15 A No.
16 Q Let's see. Mr. Greenberg mentioned that he had worked with you in the
17 past, and I know that you had said that you had worked with him on other investigations.
18 Can you recall those for us, when and where you worked with him?
19 A I think it was the Federal response to the Chauvin trial following the murder
20 of George Floyd, as well as our efforts to address threats against election workers and
21 volunteers.
22 This is October. It's also possible that around this time Jay would've worked with
23 me on -- as one of several components as we worked on the Deputy Attorney General's
24 corporate enforcement policy.
25 There may be more that I'm forgetting, but those are three that I think Jay

1 would've been involved in.

2 Q No, that's good.

3 And so did he reach out to you that weekend before the memo was published?

4 A Not that I recall.

5 Q The next night, on Sunday, October 3, 2021, at 7:27, it appears you had sent

6 another email on the same email chain to individuals at the FBI and DOJ. We're going to

7 mark that as exhibit 12.

8 A Okay.

9 [Chambers Exhibit No. 12

10 Was marked for identification.]

11 BY [redacted]

12 Q And you can take your time to familiarize yourself with it. We're going to

13 start on page 2, if that helps.

14 Looking specifically at this center email here on what's marked at the bottom,

15 Bates-stamped ending in 433 --

16 A Uh-huh.

17 Q -- this is that email from October 3rd at 7:27 p.m.

18 Was this a draft of the Attorney General's October 4th memo, that you can recall?

19 A Yes.

20 Q Was the document similar to the one that you had yesterday, or were there

21 any major changes to it at this point?

22 A So, here, now, about 24 hours later, I'd mentioned to you guys a moment

23 ago that at one point they were thinking of doing a joint document.

24 Q Uh-huh.

25 A I don't recall that being drafted, but, looking at this, it must have been.

1 I believe that, by the time we get to Sunday, October 3rd, at 7:27 p.m., the
2 decision had been made that it would be a standalone memo rather than a joint memo.
3 So that's one significant change that would've taken place.
4 Q Did anyone from the main Justice or FBI contact you with feedback on this
5 draft that night after you sent this email?
6 A I don't recall, as I sit here today. The conversation I mentioned earlier
7 about Monty or Norm, it could well have taken place after this email.
8 What I can tell you is that at no time do I recall getting any input or
9 communications or anybody raising their hand or waving a red flag about the content of
10 any of these drafts from the FBI or any other components.
11 Q Did anyone ask you when the draft would be finalized at this point?
12 A I don't recall. In the document, there's something that's mentioned about
13 the turnaround. I don't recall what's in that redacted portion, but it may be that it sets
14 forth a timeframe. Again, I don't know.
15 Q Of course. And what you're referring to, the turnaround time, that's
16 actually moving into my next question that is your next email on this chain. That was on
17 Monday, October 4th, at 3:00 p.m.
18 A Uh-huh.
19 Q And the subject line is changed to "FOR IMMEDIATE REVIEW: Draft AG
20 Memo Re: School Board Threats and Draft Press Release."
21 And, at this point in time, you wrote, "Please see attached documents (memo
22 from AG and related press release) re school board threats effort. Please review and
23 advise of any red flag concerns as soon as possible."
24 Because you sent the attached documents to the same group of individuals on the
25 same email chain, is it fair to say that the earlier email and this email both included the

1 memo but now you've included a press release?

2 A I think that's -- I think that's accurate, yes.

3 Q This appears to be now the third time in the emails we've seen that you've

4 requested individuals to advise you of any red-flag concerns. Did you predict that

5 individuals on this email would raise any concerns to you by this point?

6 A I'm sorry, did I predict?

7 Q Yeah. Were you expecting any red-flag concerns to be raised at this point?

8 A With any communication that goes out from a department where

9 components are involved, it's important to have their input and have them say, this is

10 good, this is not good, we have a problem with this.

11 So I didn't predict, you know, that they would, but it was certainly an important

12 part of it, to give them the opportunity to review and raise any concerns that they had.

13 So the fact that I did it three times is not unusual. It's part of the process.

14 Q And did anyone at that point, after that 3:00 p.m. email on October 4th,

15 raise any red flags to you?

16 A Again, it's a Monty conversation that I remember, and I don't remember if it

17 was a red flag as much as, hey, we could use 45 days instead of 30, or 60 instead of 45.

18 But, no, aside from that, that I recall, I don't remember anyone saying, from any

19 component -- let me stop.

20 Q Of course.

21 A There is one exception. When we had the joint memo where it was

22 election threats and school board threats, the Criminal Division did reach out and say, we

23 don't think it should be a joint memo. I'm remembering that now. That is the only

24 substantive objection to any of the drafts that was raised to my attention.

25 I did not resolve that issue. It was later told to me that it would be a standalone

1 memo.

2 So Crim Division did raise what I would call a red flag. That's it.

3 Q So that was a joint memo for election workers and school boards --

4 A Right.

5 Q -- and they thought it should be separate issues?

6 A Yeah. They were separate issues. The prior version had what I would

7 refer to as a callback to the election threats issue. Everything else about the memo

8 pertaining to school boards was the same.

9 Crim -- it was important to them to keep it separate, and I think they wanted to

10 down that question. So the portions related to election threats were excised from that

11 memo, and the rest of memo is what was circulated.

12 BY [redacted]

13 Q And that decision was made by the PADAG? Is that correct?

14 A It was communicated to me by the PADAG.

15 Q Okay.

16 A I don't know who made the decision.

17 BY [redacted]

18 Q Later, on October 4, 2021, your draft of the Attorney General's memo was

19 forwarded at 5:28 p.m. by Cory Fraizer Ellis in the FBI Director's office to Norman Wong at

20 the EOUSA's office. And that's just on the first page of this exhibit 12, Bates-stamped

21 432.

22 Mr. Ellis wrote, "We are asking that the memo be revised. As the leading law

23 enforcement entity in each respective district we feel that the USAOs are the 'convening'

24 authority to be out front on this. OGC is going to engage with ODAG to request it be

25 reworded."

1 Did anyone from the FBI contact you or anyone else in the Deputy Attorney
2 General's office to revise the memo at this point in the day?
3 A So I'm not on this email. It didn't go to ODAG. The most that I can say is
4 that no one reached out to me from FBI about this issue.
5 We discussed a little bit earlier that at one point we were going to send it to the
6 special agents in charge and they were pulled from that. That is actually what occurred,
7 but I was not part of the decision to do that. And this is a question of who is going to be
8 responsible for convening the groups.
9 Q Are you aware of anyone at the FBI contacting your office about revisions, if
10 it wasn't to you?
11 A I am not.
12 Q Did the FBI provide any assessment or data on threats that led the DOJ to
13 conclude there was a disturbing spike in harassment, intimidation, and threats?
14 A No, they did not, not prior to the release of the memo. Later on, they
15 provided information, but at the time this memo was written, we didn't get any analysis
16 or stats from them.
17 BY [redacted]
18 Q And when was that analysis or statistics provided to you?
19 A Oh, over the course of the next 3 months, I would have, I would say,
20 fortnightly conversations with -- the name "Luz," L-u-z, is ringing a bell --
21 Q Uh-huh.
22 A -- about what they were identifying in terms of incidents that are related to
23 this memo. But that was post- the issuance of the memo. This is part of the tracking
24 and trending that we discussed earlier.
25 Q Uh-huh. And that individual that you mentioned having a conversation

1 with, was that individual within the FBI or a --

2 A Yeah.

3 Q -- different component?

4 A No, it was someone within FBI. And it may be the person who was tasked

5 with -- we talked about NTOC earlier. She may have been part of that. But this is

6 someone who had access to, okay, here are all the things we're seeing, here's what they

7 look like, here's what's happening.

8 Q But that was only after the memo was issued?

9 A That's right.

10 BY [redacted]

11 Q And then we're going to go back and look briefly again at the memo, which is

12 exhibit 11.

13 I know you mentioned that you'd played a major role in drafting the memo.

14 What about disseminating the final draft of the memo? Was that also your

15 responsibility, or was that someone else's?

16 A Disseminating to whom?

17 Q Publicly or to those who are listed as the memorandum is for, each of these

18 individuals listed at the top.

19 A So I was not personally responsible for hitting "send" or the equivalent. I

20 believe it would've been someone in the administrative office for the Deputy Attorney

21 General, but -- or, sorry, in the administrative office of the Attorney General, since it was

22 his memo. But I was not involved in actually pressing "send." My disseminating was to

23 send out to the components to review, revise, make sure they had drafts of it.

24 Q In the third paragraph of the memo, starting with "The Department takes

25 these incidents," the sentence that says, "The Department will announce a series of

1 measures designed to address the rise in criminal conduct directed toward school
2 personnel," were you involved in announcing these departmental series of measures?
3 A So, no. As an ADAG, I wouldn't be announcing anything on behalf of the
4 Department.
5 What I'm struggling a little bit with is whether these series of measures were the
6 four items that we discussed in the prior hour, which I thought were mentioned in the
7 press release itself. But I was not part of a separate announcement of a series of
8 measures.
9 Q Referring to that press release, were you involved in drafting the press
10 release that accompanied the memo?
11 A I may have been, but it would ultimately have been OPA who finalized and
12 put it together.
13 I'm sorry. Can I back up one second?
14 Q Absolutely.
15 A So, going back to your last question, remembering that this was a memo that
16 was issued not to the public but to components within the U.S. Department of Justice,
17 when it says, "The Department will announce a series of measures designed to address
18 the rise," I believe it's referring to the instruction to convene the State and local, kind of,
19 joint working groups. That's what I think it's referring to here.
20 BY [redacted]
21 Q And were you involved in any of those meetings that were convened
22 between the U.S. Attorney's Office, the FBI field office, and their State and local law
23 enforcement partners?
24 A Yeah, I was not. ODAG does not get involved in operational items, so I was
25 not invited or expected to attend those meetings.

1 Q Did you provide any guidance on what was to be expected to be discussed at
2 those meetings?
3 A I think that Monty -- sorry, the Director of EOUSA sent something out to the
4 U.S. Attorney's Offices describing -- you know, saying, for example, that the meetings
5 could be held in person, virtually, or by phone, that they had to do it by a particular date,
6 and maybe even attaching information about relevant statutes.
7 I was not the primary drafter of those, but I would've had a kind of, like, a review
8 pen just to make sure, you know, I was aware and it was consistent, so that I, like other
9 people, would have the chance to raise their hand and say, hey, you know, I have a red
10 flag, which I don't recall having.
11 But that would've been the extent to which I was involved in advising the U.S.
12 Attorney's Offices on how to conduct the meetings.
13 Q Did you receive any sort of readout or brief on how these meetings were
14 going or if they were occurring?
15 A Yes. Not directly from the U.S. Attorney's Offices but from the Assistant
16 Director of EOUSA, who kept in touch with the 94 offices to confirm that they were
17 having the meetings.
18 Q Uh-huh.
19 A And then I think -- I'm not sure what their conversations were, but Norm was
20 able to give me, you know, blurbs of, you know, offices that had raised concerns, offices
21 that said they didn't have concerns. It wasn't, like, a list of 94 we went through, but I
22 did get a -- I guess I would call it a summary readout.
23 Q Uh-huh. From your summary readout, did you get a sense of whether
24 there were multiple offices or -- we'll use "districts" -- that local law enforcement or the
25 FBI field office had raised the fact that there were concerns within their district?

1 A Yeah. So, across -- what I recall from the readout is that, across all of the
2 districts, some districts said, we don't have a problem here; you know, some districts said,
3 we have a problem, but, you know, we can handle it -- you know, between us and the
4 U.S. Attorney's Office, we can handle it, we don't need help, additional help, from, you
5 know, main Justice; and then there were a couple, maybe several, that said, no, we have
6 a serious problem here, we've had a recent incident of this, and we could use assistance.
7 I think CRS, if I recall, assisted an office -- I want to say it was on the West Coast, maybe
8 northern California. I don't remember with specificity.
9 Q Uh-huh.
10 A But, to answer your question, it ran the gamut.
11 Q And did you ever get a sense of the local law enforcement partners that
12 were attending the meetings -- what their take on this issue was? Did they need
13 assistance?
14 A So, not directly. And I guess this would even be second- and third-hand,
15 you know, from them, to the U.S. attorney, to Norm, to me.
16 Q Uh-huh.
17 A Again, some of them thought they didn't have an issue or that it was an issue
18 that they could handle on their own.
19 Q Uh-huh.
20 A So that was certainly some portion of that group.
21 Q Okay. Thank you.
22 BY [redacted]
23 Q And when you say "CRS," that's the Community Relations Service component
24 of the Justice Department. Is that right?
25 A Yes.

1 Q And I know you mentioned in the last hour, I believe, that the task force had
2 maybe two or three meetings --
3 A Yes.
4 Q -- to your knowledge? Does the task force still exist today, that you're
5 aware of, or was there an end date to it?
6 A I don't know that it was formally disbanded, but I can tell you that by the
7 time I left to take on the COVID fraud enforcement director role, we were not having
8 regular meetings at that time.
9 Q And you don't recall what the last meeting of this task force was?
10 A Not with specificity. I recall it being at the end of -- sometime during
11 December. I want to say end of December -- because of the holidays, it may have been
12 middle of December -- or early January. And I recall that because, as I think I
13 mentioned, there was a readout of kind of almost like a progress report on all of these
14 threats initiatives -- congressional election, school board administrators, commercial
15 aircraft.
16 After that, I don't recall there being additional meetings.
17 Q And I know with the task force, I know we discussed the various
18 components. And I believe each component assigned two people. Is that right?
19 A That could be right. I don't recall.
20 Q Did each departmental component get back to you in a timely manner with
21 these representatives? Or was there a timeline?
22 A No, there wasn't a timeline. But if the meeting took place on the 13th, by
23 the time we had the meeting, I knew who the representatives would be.
24 The one thing I do remember is that FBI, although it's one component, had a
25 representative from the CID side as well as from the CTD side. What I don't remember

1 is if they had multiple representatives on either side.

2 Q And on Sunday, October 10th of 2021, do you remember sending an email to

3 the individuals designated to be on the school board task force?

4 A I don't.

5 Q We can talk through that. We're going to mark that as exhibit No. 13.

6 [Chambers Exhibit No. 13

7 Was marked for identification.]

8 BY [redacted]

9 Q Take your time reviewing as well.

10 A Okay.

11 Okay.

12 Q Now, this exhibit, at the bottom, just for the record, Bates stamps number

13 952 through 955 from the DOJ --

14 A Uh-huh.

15 Q -- do you recall asking these representatives to provide a working list of

16 Federal statutes potentially applicable to threats made against school board members

17 and school administrators and workers?

18 A I don't think that we'd asked them to put it together.

19 Oh, no. I take that back. So I guess what we had done is provide a starting list

20 of potentially related Federal statutes and asked them to supplement the list based on

21 their, you know, knowledge and expertise of various subject areas.

22 Q And I know during the last hour there was some discussion about a few of

23 these statutes. And I just want to make sure we have them all listed: 18 U.S.C.,

24 section 875; 18 U.S.C., section 876; 18 U.S.C., 275; and 47 U.S.C., section 2223.

25 Was there any other additional statutes that you can recall added to this list?

1 A Honestly, I don't know. I think that this was, again, a beginning list. It
2 may even have been cribbed from the work that we were doing on election threats.
3 If memory serves, another document went out to the U.S. attorney community
4 that had the list that was sent out. The delta between that list and this list would tell us
5 what additional statutes, if any, were included. But I don't -- I don't recall them, but it's
6 not because they weren't there. I just don't remember them.
7 Q Of course.
8 And I know you'd mentioned the first meeting -- and I know it says that on the top
9 here of this document -- the first task force meeting was on October 13th.
10 A Uh-huh.
11 Q Do you know who ran that meeting?
12 A I did.
13 Q You did. Okay. Do you know who all attended? Was everyone there
14 that was supposed to be there?
15 A So there's a PowerPoint that was put together that I think had the
16 attendees. I believe everybody who was on that list actually attended, but I can't tell
17 you with specificity.
18 Q In addition to the PowerPoint slides that were discussed earlier, did you
19 discuss anything additional, other than that, I guess, feedback of the ideas of what was or
20 what wasn't something that Federal law enforcement should handle, instances of
21 threats? Were are there other discussions that took place at this task force meeting?
22 A I don't recall. I mean, the PowerPoint that was put together was the
23 agenda for the meeting, but if someone asked a question or there was something else
24 relevant worth discussing, we wouldn't have been wedded to the agenda. And sitting
25 here almost 2 years later, I don't remember exactly what was discussed.

1 Q And after the task force meeting or even the additional one or two after
2 that, was there any back brief provided to the senior leaders of the Justice Department or
3 FBI?
4 Mr. Su. About the task force meeting?
5 [redacted] Correct. Yes.
6 Mr. Chambers. I know I'm belaboring this, and I just want to be specific. FBI is
7 part of the Justice Department. So the back brief -- and I don't report to that
8 component.
9 [redacted] Uh-huh.
10 Mr. Chambers. So I would not have been reporting to FBI.
11 In terms of briefing my leadership in ODAG about, kind of, the status, like, "We
12 held the meeting," you know, "Instructions were given out," that's something I would've
13 updated leadership on at our weeklies, Crim weeklies.
14 BY [redacted]
15 Q So you're not aware of if anybody who was on the task force that worked at
16 the FBI briefed Director Wray or Deputy Director Abbate?
17 A No, I don't know whether they did or not, and that's a question you'd have
18 to ask them.
19 Q Okay.
20 Do you know if the Attorney General's office plans to rescind the October 4th
21 memo at this point in time?
22 A I'm not -- just to be clear, I'm in private practice now. I'm not --
23 Q I wasn't sure if you still had any conversations with anyone there.
24 A With respect to this issue, my knowledge would've ended when I left in
25 December. When I left in December, I had no reason to believe that the memo would

1 be rescinded.

2 Q Do you personally believe that the memo should be rescinded now?

3 A No. I think the memo served an important purpose.

4 Q We're going to switch gears quickly to the "EDUOFFICIALS" threat tag that

5 was created following the memo.

6 Were you involved in any conversations or correspondence related to how the FBI

7 could address the alleged threats or violence at school board meetings following the

8 October 4th memo?

9 A Both before and after the October 4th memo.

10 So, before the memo, I mentioned having a conversation with somebody at the

11 Bureau about their process for classifying and analyzing trends. And that's

12 how -- maybe that's how I was able to speak semi-intelligently about NTOC.

13 After that meeting and, I believe, at the first task force meeting, maybe the

14 second one, we actually discussed, like, how would you effectuate this? And I think

15 that's when I would have learned that they have a way of classifying things at FBI.

16 But it wouldn't have been ODAG's -- like, we wouldn't instruct FBI to, you know,

17 "This is how you should classify it, and this is what the classification should be called."

18 What we did is say, you know, "Is FBI able to track these?" and my understanding is that

19 they answered in the affirmative.

20 Q On October 6, 2021, at 4 o'clock, there was an email we have -- or 4:01

21 p.m. -- an email from you to Jay Greenberg. And I believe it's Bates-stamped at the end

22 380. And we'll mark that as exhibit 14.

23 [Chambers Exhibit No. 14

24 Was marked for identification.]

25 BY [redacted]

1 Q It's a short one.

2 And I know you mentioned earlier that you knew Mr. Greenberg previously and he

3 had been an easy point of contact for you when needed, if you didn't have another

4 component or resource that you could reach out to at the FBI.

5 You wrote in this email, "The [NSBA] reports to us that they are receiving

6 threatening calls and emails since they issued their letter last week, which have increased

7 since the AG's memo. Is protocol when one entity is getting multiple threats (via

8 phone/email) to call the local FBI, the 1-800 number, or something else?"

9 Who contacted you from the NSBA about these calls and emails?

10 A I believe that -- so I don't think it was directly to me. If memory serves, it

11 may have been from -- it may have been from a U.S. Attorney's Office. It may have been

12 from EOUSA. It may have been directly to me, but I don't recall that being the case.

13 So that's the best answer that I could give you. And I think what I said is, let me

14 talk to the Bureau and find out how we deal with this -- you know, these threats to NSBA.

15 Q Are you aware of whether or not they reached out to local law enforcement

16 first?

17 A I do not know.

18 Q Do you know of any FBI investigations that resulted from these calls that the

19 NSBA received?

20 A I don't know one way or the other. That's something you'd have to ask the

21 Bureau. They did launch a number of investigations. I don't know whether this was

22 one.

23 Q And are you familiar with the email that Mr. Carlton Peeples, the former

24 Acting Deputy Assistant Director of the Criminal Division at the FBI, sent on October 20th

25 that announced the creation of "EDUOFFICIALS" threat tag to special agents in charge?

1 I can rephrase.

2 A Yeah.

3 Q If you're familiar with the email that Mr. Carlton Peeples had sent to the

4 special agents in charge regarding the "EDUOFFICIALS" threat tag that went out

5 October 20th?

6 A I'm not familiar with the email. I am familiar with the creation of the

7 classification.

8 Q Okay. I will enter that in the record here as exhibit 15. You can check it

9 out.

10 [Chambers Exhibit No. 15

11 Was marked for identification.]

12 BY [redacted]

13 Q And, as you mentioned, you said you were familiar with the email going out.

14 Were you involved in --

15 A So just -- I'm sorry. I don't --

16 Q Oh, of course.

17 A -- mean to interrupt, but just to clarify, I wasn't familiar with the email going

18 out.

19 Q Oh, okay.

20 A I was familiar with the fact that the FBI created this classification.

21 [redacted] You can go ahead and take a minute to review.

22 Mr. Chambers. Okay.

1 [1:56 a.m.]

2 BY [redacted]

3 Q And were you involved in any official conversations with the FBI about the

4 creation of the "EDUOFFICIALS" threat tag?

5 A So, I mean, whether official or unofficial, the only conversation that I

6 would've had with the Bureau are the two that I've described: prior to the memo,

7 asking, you know, is there a method of doing this; and then during the first or second task

8 force meeting -- based on the date of this, I'm guessing it was the first task force

9 meeting -- you know, tasking them with the analysis, the classification.

10 That was the extent of it. I didn't have any involvement in the actual creation of

11 the tag or the selection of its name. That's operational FBI stuff.

12 Q And when you said "tasking them," did "them" refer to FBI?

13 A Yes.

14 Q And did you ever get a sense of how the "EDUOFFICIALS" threat tag was to

15 be used or, just in general, any threat tag, how that was used at the FBI?

16 A To my knowledge, the way that these classifications are used are -- if you've

17 ever been at a law firm, it's almost like a document review. You're tagging things in

18 order to be able to later say, I want all the information related to this item or that item.

19 My understanding -- and, again, not operationally involved -- is that this was the

20 Bureau's method of classifying items and being able to later pull information related to

21 that one item.

22 So, if someone comes to you and says -- and this is what happened with the

23 January meetings I mentioned --

24 Q Uh-huh.

25 A -- you know, "We'd like to know how many items have come in related to

1 flights," someone could click a few buttons and, using that classification, pull that
2 information down.
3 That's my understanding of how it works, but anything more than that or even to
4 confirm that that's correct would really be a question for the Bureau.
5 Q Did you ever get a sense of how the "EDUOFFICIALS" threat tag was used,
6 how the FBI tagged any investigations with the "EDUOFFICIALS" threat tag?
7 A No, I don't know how it was used.
8 I can tell you that, in conversations with the Bureau afterward, I would be told
9 that they have, you know, X number of matters under this classification and then maybe,
10 you know, Y are this type, Z are this type.
11 But as far as how it was used or the -- you know, we gave them guidance, we gave
12 everyone guidance on what we're looking at. But as far as how they operationalize it, it
13 wouldn't have been something that I would've been involved in in ODAG.
14 Q And when you say you gave them guidance of what you were looking at, is
15 that in reference to the memorandum --
16 A Yes.
17 Q -- or was there other guidance?
18 A No, it's what's in the memo in terms of what this is meant to address.
19 Q And when you said the FBI got back to you about, there's, like, X number of
20 these sorts of investigations in this classification, was that all under the purview of, like,
21 school-board-related threats or violence?
22 A Yeah, do you remember the person named Luz that I mentioned before?
23 Q Uh-huh.
24 A So she was the point of contact for, kind of, the updates.
25 Q Okay.

1 A And these would be updates specific to school board, school administrator
2 threats.
3 The meeting in January was more of the broader, kind of, let's talk about all of the
4 threats that the Department is focused on.
5 Q And was there ever a time where -- you know, when you had this
6 conversation with Ms. Luz from NTOC, did you ever have any sort of conversations with
7 the PADAG or the Deputy Attorney General regarding your conversations with her?
8 A So, a couple things. Luz could be her first or last name; I don't remember.
9 And I'm not sure that she was in NTOC. And I just say that because, you know, I want
10 you guys to have accurate information.
11 Q Uh-huh.
12 A I do believe that, at a weekly, I would update the DAG on, kind of, the status
13 of the threats initiatives. And, certainly, in the run-up to what I described earlier as,
14 kind of, the all-threats progress report, whatever you want to call it, I had conversations
15 with the PADAG about that.
16 Q Okay.
17 Mr. Su. So I think we're at the hour.
18 [redacted] We are. We'll go off the record.
19 [Recess.]
20 [redacted] Good afternoon again, Mr. Chambers.
21 Mr. Chambers. Good afternoon.
22 BY [redacted]
23 Q I'm going to have you pull out exhibit No. 11, which was the Attorney
24 General's memorandum, if you have it in front of you.
25 A I do.

1 Q Great.

2 Okay. You read some of this in the previous hour. If you need to look at it

3 again, that's fine too, because I know that it's been a while since you were actually

4 involved with this memorandum.

5 But do you recall anywhere in the memorandum the Attorney General using the

6 words "school board meetings"?

7 A No, I don't recall that independently, and in reviewing this memo, I don't see

8 it in the memo.

9 Oh. Well, it makes reference to "board members" -- "school administrators,

10 board members, teachers, and staff."

11 Q And does --

12 A And it -- sorry. It also makes the same reference in the first sentence.

13 Q Of?

14 A "School administrators, board members, teachers, and staff." So it was

15 omnibus, all. Yeah.

16 Q Okay. And that sentence that you just referred to, the sentence is actually

17 referring to threats of violence against those people. Is that correct?

18 A That's correct.

19 Q And that was your concern at the Department of Justice, is acts, threats of

20 violence?

21 A Exclusively, yes.

22 Q Okay. And not any particular status of person?

23 A No.

24 Q Does the memorandum anywhere use the word "parent" that you know of?

25 A No.

1 Q Do you know if that was intentional?

2 A I don't know if it was intentional. What I do know is that this memo was

3 never designed to apply solely to parents. Parentage was not the issue here. The issue

4 here was persons committing acts of violence or leveling threats of violence.

5 Q Okay. Does the memorandum use the word "counterterrorism"?

6 A It does not appear so, and I don't believe that it does.

7 Q And do the words "National Security Division" appear anywhere in the

8 memorandum?

9 A No, not in the memorandum.

10 Q Okay.

11 A No, it does not. Sorry.

12 Q What about the phrase "domestic terrorism"?

13 A No, it does not.

14 Q Does the memo refer to the FBI's hotline or the internet tip line?

15 A No.

16 Q Does the memo actually say anything about encouraging people to, quote,

17 "snitch" on parents at school board meetings?

18 A No, it does not.

19 Q Now, the fourth paragraph of the memo directs the FBI and the U.S.

20 Attorney's Offices to convene meetings with State and local officials to, quote, "facilitate

21 the discussion of strategies for addressing threats," end quote, and to, quote, "open

22 dedicated lines of communication for threat reporting, assessment, and response," end

23 quote.

24 Do you understand this to be a reference to the NTOC tip lines or to lines of

25 communication between State and local officials and Federal law enforcement?

1 A I don't understand this -- I'm sorry. Could you ask your question one more
2 time?
3 Q So I'm asking about the language that appears in paragraph 4 directing the
4 FBI and U.S. Attorney's Offices to convene meetings with State and local officials to,
5 quote, "facilitate the discussion of strategies for addressing threats" and to, quote, "open
6 dedicated lines of communication for threat reporting, assessment, and response."
7 I'm just curious, do you understand that language about opening communication
8 lines for threats to reference the NTOC tip line?
9 A No. The turn of phrase here, "open dedicated lines of communication," is
10 not literal, turning on a switch or picking up a CB. It's facilitating communication to
11 discuss these items -- threat reporting, assessment, and response.
12 Q And that's really communication between the local officials and the FBI and
13 the DOJ?
14 A Well, amongst local officials, FBI, and DOJ. So between any of those parties
15 involved in those working groups, yes.
16 Q Okay.
17 You talked a little bit about NTOC specifically. I think you said that you were
18 trying to learn more about the FBI's capacity to track and to assess these kind of threats
19 and how NTOC might be a tool in that capability? Is that fair to say?
20 A Not exactly. I wasn't attempting to learn or become expert in it. I just
21 wanted to understand from the FBI, how would you do it? So, if that's what we mean by
22 "learning about NTOC," then sure. But I think it's obvious, as I sit here today, that I'm
23 not an expert in NTOC.
24 Q Okay. What was the role for NTOC with respect to this initiative, as you
25 understand it?

1 A A better question for the FBI. But I understand that it is the mechanism
2 that the Bureau has in place to collect information about incidents and, you know, classify
3 them and do whatever analyses they need to do.
4 Q And you indicated that part of the objective with the Attorney General's
5 memorandum and the task force was to assess the level of threat that existed with
6 respect to threats and violence against these school officials. And you also talked about
7 receiving information later, after the task force was stood up, from this person whose
8 first or last name might have been Luz.
9 A Uh-huh.
10 Q Did you receive that information because of the task force? Like, did that --
11 A Yes.
12 Q So can you explain, sort of, how that came to be?
13 A Sure.
14 Just at a very basic level, at ODAG, we -- well, the Attorney General issued this
15 memorandum. At ODAG, I was tasked with leading the task force. I convened all these
16 folks together. We had our four action items, one of which was, figure out a way to
17 identify threats and track them.
18 FBI took the ball from there in actually operationalizing that. So I would've had
19 no visibility into how they did that. The next time this becomes visible to me is when I'm
20 having conversations with Luz about, you know, what they're seeing. You know, I
21 happen to know it was based on their classification, but that's as much as I can tell you
22 about the process.
23 Q Okay.
24 I'm going to introduce for the record exhibit 16. And this is the press release
25 that accompanied the Attorney General's October 4th memorandum.

1 [Chambers Exhibit No. 16

2 Was marked for identification.]

3 BY [redacted]

4 Q Kind of take a minute to take a look at that, since it's been a while since

5 you've seen it.

6 A Okay.

7 Q Are you familiar with the memo -- or the press release? I'm sorry.

8 A Yes.

9 Q Okay. Does the press release use the word "parents"?

10 A No, it doesn't appear to.

11 Q Is that for the same reason that you described earlier, that the Attorney

12 General's memo doesn't direct attention to parents?

13 A Yes. Again, I don't mean to belabor this, but this memo at no point was

14 directed at parents, parentage. It had nothing to do with the concern. The concern

15 was with violence and threats of violence at school board meetings and other school

16 functions.

17 Q The press release does talk about threats targeting school board members,

18 correct?

19 A Yes.

20 Q And are you aware of instances when school board members received

21 threats outside of meetings, such as threatening letters sent through the mail?

22 A Yes, I am. I think some of them are detailed in the PowerPoint that I put

23 together for the task force.

24 Q Would threats sent through the mail potentially trigger Federal jurisdiction?

25 A So, again, I mean, it's important for the DOJ to make itself comfortable that

it has jurisdiction. I want to be clear that I'm not speaking with respect to particular statutes or the like.

But my understanding is that crimes committed or threats -- in this case, threats or -- threats of violence that are communicated through interstate means does fall into Federal jurisdiction.

[redacted] Are you done?

[redacted] You can go ahead.

[redacted] Okay.

BY [redacted]

Q I want to introduce as exhibits -- it'll be 17 and 18. We're going to introduce them as two separate exhibits.

A Okay.

Q The first one is an email that you sent on October 13, 2021, and it references a letter from Senator Grassley. We're going to introduce the letter from Senator Grassley as exhibit 18.

[Chambers Exhibit No. 17
Was marked for identification.]

[Chambers Exhibit No. 18
Was marked for identification.]

BY [redacted]

Q And I think it may have been a minute since you've seen the letter, so I'll give you some time to read through it again.

[redacted] Hey, [redacted] is this exhibit 18 or 17?

[redacted] So we're doing the email as exhibit 17 --

[redacted] Oh, okay.

1 [redacted] -- and the letter as exhibit 18.

2 [redacted] Thank you.

3 Mr. Chambers. Okay. Go ahead.

4 BY [redacted]

5 Q Okay. So exhibit 18 is a letter from Senator Grassley, who at the time was

6 the ranking member of the Senate Judiciary Committee, correct?

7 A It is a -- yes, it is a letter from Senator Grassley. I take -- yes, according to

8 his signature, he was the ranking member on the Committee on the Judiciary.

9 Q And if you look, the letter was cosigned by Lindsey Graham, who was a

10 Senate Judiciary Committee Republican, correct?

11 A I understand that to be the case, yes.

12 Q And by Senator Cornyn, also a Republican member of the Senate Judiciary

13 Committee, correct?

14 A I understand that to be correct, yes.

15 Q Michael Lee, who was a Republican member of the Senate Judiciary

16 Committee?

17 A I will take your representation that that's true.

18 Q And then I'll just quickly go through the others. It was joined also by

19 Senator Cruz, Republican member of the Senate Judiciary Committee --

20 A Yes.

21 Q -- Senator Sasse, Republican member of the Senate Judiciary Committee

22 Republican --

23 A Yes.

24 Q -- Senator Hawley, Republican member of the Senate Judiciary Committee --

25 A Yes.

1 Q -- Senator Cotton, Republican member of the Senate Judiciary Committee --
2 A Yes.
3 Q -- Senator Kennedy, Republican member of the Senate Judiciary
4 Committee --
5 A Yes.
6 Q -- Senator Tillis, Republican member of the Senate Judiciary Committee --
7 A Yes.
8 Q -- and Senator Blackburn, Republican member of the Senate Judiciary
9 Committee.
10 A Yes.
11 Q And this was dated October 7, 2021.
12 A That appears to be the case, yes.
13 Q So, in your email dated October 13, 2021, timestamped 21:32:06, you refer
14 to this letter. You say, "Here is Sen. Grassley's letter, which lays out some objectively
15 reasonable points about what our effort is and isn't."
16 Do you see where it says that?
17 A I do see that, yes.
18 Q Do you recall how you learned about this letter?
19 A I don't recall how I learned about the letter. In the -- no, I don't recall
20 specifically how I learned about this letter. In the ordinary course, I would've learned of
21 it by either being publicly available or routed through the Attorney General's office to the
22 Deputy Attorney General's office.
23 Q Okay.
24 And you say here that you consider the Grassley letter to lay out some "objectively
25 reasonable points." Do you recall what you meant by that?

1 A Sure.

2 If you look on the second page of the letter, the first full paragraph, the Senator
3 writes, "To be clear, violence and true threats of violence are not protected speech and
4 have no place in the public discourse of a democracy. To the extent such violence and
5 true threats of violence employ mechanisms within federal jurisdiction, the FBI is squarely
6 within its authority to help local law enforcement investigate such crimes. However, the
7 FBI should not be involved in quashing and criminalizing discourse that is well beneath
8 violent acts."

9 That, I think, is on all fours with the Attorney General's memo of 3 days earlier,
10 where it points out both that constitutionally protected speech is to be respected and
11 that the concern was with violence and true threats of violence.

12 So, in the main, when I'm agreeing that Senator Grassley's letter make some
13 objectively reasonable points about what our effort is and is not, I think it's encapsulated
14 in the first two -- or the first three sentences of that paragraph.

15 Q And in the email you sent, most of the names on the version that we have
16 are redacted, but it's a long list of names. Is that fair to say?

17 A Yes.

18 Q And I think this was based on the context -- "Thank you all for joining and
19 contributing your thoughts" -- this was circulated after that first task force meeting? Is
20 that your understanding?

21 A Yes, it is.

22 Q Okay. So, again, the names are redacted, but is it fair to conclude that
23 these people who are listed here either attended the task force meeting or somehow
24 were involved in the task force?

25 A Yeah. These would be the attendees from the task force.

1 Q Okay. So is it fair to say that you wanted the task force members to see
2 this letter from Senator Grassley?
3 A Yes.
4 Q Is it fair to say that you considered this to be, I won't say -- well, that you
5 considered it to be instructive for these members?
6 A I considered it to be, in some respects, accurate, confirmatory of what was in
7 the October 4th memo. And I did want them to read it, because, again, it was very
8 important for us to understand what our initiative was and what it was not.
9 Q And is it fair to say that you wanted them to keep this in mind as they were
10 doing their work?
11 A "This" being?
12 Q The Senator Grassley letter and, in particular, the paragraph that you
13 highlighted, in mind as they were doing their task-force-related work?
14 A Yes. What I described as the reasonable points the Senator raised are what
15 I wanted to point out to the task force and what I wanted them to keep in mind.
16 Q Okay. We can set that aside.
17 I want to introduce as exhibit 19 an email chain. The top-most email is dated
18 October 12, 2021, 16:58:34, and this is Bates-stamped DOJ-HJC-1335.
19 A Okay.
20 [Chambers Exhibit No. 19
21 Was marked for identification.]
22 Q So, if you look at page 1336 --
23 A Uh-huh.
24 Q -- that email at the top of that page, it's an email from you to a number of
25 people, Sunday, October 10, 2021, 12:35 p.m.

1 Do you see that?

2 A Yes.

3 Q And that's an introduction to the task force. Is that fair, to describe that

4 email as that?

5 A Yes.

6 Q And so that email went from you to a number of people, including George

7 Toscas and Mark Lesko and Brad Wiegmann in the National Security Division. Do you

8 see that?

9 A Yes.

10 Q Okay. And then it looks like the email chain continued but you were

11 removed from the chain, right?

12 A I and a number of others, yes, were removed from the chain. That's right.

13 Q Right.

14 And so what I want to look at is page 1335, which is an email chain that only

15 involves George Toscas from the National Security Division, Mark Lesko from the National

16 Security Division, Brad Wiegmann from the National Security Division, and then

17 somebody else whose name is redacted.

18 A Yes.

19 Q Okay. So I want to go through these names first. Are you familiar with

20 who George Toscas is?

21 A I think he was the DAAG, Deputy Assistant Attorney General, or maybe

22 Assistant Attorney General, over NSD.

23 Q And NSD is the National --

24 A National Security Division.

25 Q Okay. Do you recall who Mark Lesko is?

1 A My answer is going to be the same. I think he was either the AAG or the
2 Deputy AAG or the Principal Deputy AAG in NSD.
3 Q Okay. Fair to say both George Toscas and Mark Lesko were fairly senior in
4 the National Security Division?
5 A Both George and Mark were part of the NSD leadership.
6 Q Okay. And what about Brad Wiegmann? Are you familiar with Brad
7 Wiegmann?
8 A The name doesn't ring a bell.
9 Q Okay.
10 The email timestamped 12:43 p.m. from Mark Lesko says, "I just talked with Kevin
11 and made the request." Do you believe "Kevin" here to be a reference to you?
12 A Yes, I'm certain it is.
13 Q Okay.
14 And the email immediately below that from George Toscas to Mark Lesko and
15 Brad Wiegmann says, "Mark: As I previously expressed, I don't see the need for a task
16 force like this." It goes on, "I think we should ask that NSD be removed from this task
17 force."
18 Do you see where it says that?
19 A Yes, I do.
20 Q And then the email stamped 12:43 p.m., Mark Lesko says, "I just talked with
21 Kevin and made the request."
22 Do you understand that to be a request to have NSD removed from the task
23 force?
24 A Yes.
25 Q Do you recall having that conversation with Mr. Lesko?

1 A I do recall a conversation where it was decided that NSD would not be a core
2 member of the task force but would instead act in an acting -- oh, sorry, an advisory
3 capacity, which I think is detailed in my PowerPoint.
4 What I don't recall is whether I spoke to George or Mark directly about it. It's
5 entirely possible. I just don't recall it as I sit here today.
6 Q Okay.
7 And what did you mean by "would not be a core member of the task force"?
8 Can you explain that a little more?
9 A Sure.
10 So my recollection is that -- you'll remember earlier I discussed, you know, when
11 we started this process, part of my role, in drafting and kind of running process on this,
12 was to reach out to any components that were or may have a stake in the issue -- so Crim,
13 FBI, Civil Rights, NSD, and others.
14 My reason for including NSD in that initial, kind of, "here are all the people who
15 may have a stake" was a concern about, in particular, as I recall it, bomb threats, which I
16 understood to fall, at least in part, under the purview of the National Security Division,
17 given that conduct.
18 As we got to the task force phase, I either spoke to Mark or was told about a
19 conversation of Mark -- but the upshot was, their role was very narrow; it would relate to
20 a very specific type of crime. I think you remember in one of the prior emails I actually
21 sent an email to FBI asking for just almost a primer on when it would fall under that type
22 of conduct.
23 And, at this point, the decision was made that the task force would proceed. To
24 the extent that the task force had questions that may implicate national security
25 concerns, we could reach out to NSD to kind of air out those questions and get guidance.

1 But they wouldn't be sitting in on conversations about non-NSD-related crime, they
2 wouldn't be sitting in on conversations about, you know, sending folks into the
3 community -- you know, purely local items.
4 So that's the best of my recollection.
5 Q Do you recall if NSD attended the task force meetings or if a representative
6 from NSD attended?
7 A They did not.
8 Q They did not.
9 A No.
10 Q Okay.
11 And in the 12:43 p.m., October 12th email from Mark Lesko, it references
12 concerns about connections between the threats and White supremacist groups. Do
13 you recall what that was in reference to?
14 A Just give me one second.
15 Yeah, so these are -- I just want to be clear -- these are not my words.
16 Q Correct.
17 A And, as I sit here today, I don't recall this being a part of my conversation
18 with Mark.
19 Yeah, I'm afraid that's as much as I can give you. I don't remember that being
20 part of the conversation.
21 Q Okay. Understood. And I think you said a couple minutes ago that the
22 concern was bomb threats.
23 A Primarily that, and then to obtain an understanding of what else might fall in
24 that category.
25 Q Okay.

1 BY [redacted]

2 Q Did you or anybody at DOJ receive specific information about bomb threats

3 that were directed at school board officials or other school officials?

4 A My recollection is that, as part of the progress report -- and I have to be

5 careful. I'm not going to speak about specific investigations.

6 Q Understood.

7 A But as part of the progress reports that we received from Luz, I do recall

8 there being discussions of incendiary devices, bombs, being threatened against -- I don't

9 know if it was school board members, administrators, or the like, but related to this issue.

10 Q And you said that information came from the FBI when it came to you?

11 A Yes.

12 Q And was that under the "EDUOFFICIALS" threat tag?

13 A I believe it was, because that was the substance of the conversation that I

14 would've had with them, but I don't know that for a fact.

15 BY [redacted]

16 Q And you don't recall if there were any Guardian leads created pertaining to

17 bomb threats, do you?

18 A I don't recall one way or the other.

19 Q Okay.

20 [redacted] We can go off the record.

21 [redacted] Oh, no, no. I'm not done yet.

22 [redacted] Oh, I'm sorry. Never mind.

23 Mr. Su. Just kidding.

24 [redacted] Just kidding.

25 [redacted] Just kidding.

1 [redacted] Stay on the record.

2 BY [redacted]

3 Q In the prior hour -- just a couple of wrap-up questions.

4 A Sure.

5 Q -- you referred to threats initiatives. You said that, in the weekly meetings

6 with Brad Monaco, you would discuss threats initiatives, and you said "initiatives," plural.

7 So I just wanted to make sure that we're clear. What did you mean by "threats

8 initiatives"?

9 A Election officials threats, school administrator threats, threats taking place

10 on commercial aircraft. Those were the three that I was referring to.

11 I believe there was another, yet another, initiative that dealt with either Members

12 of Congress and judges, or Members of Congress or judges, or one or the other.

13 But those are the initiatives that I'm referring to.

14 Q So is it fair to say that in 2021 at the Department of Justice there was, kind

15 of, broad concern about threats in general?

16 A Yes.

17 Q So this was not a unique memo or a unique initiative; this was part of a

18 broader Department of Justice area of concern?

19 A Yes, it was part of a broader concern with respect to threats that may have

20 some Federal nexus.

21 Q Okay.

22 And then you said in the earlier hour that the memo served an important purpose.

23 Do you recall saying that?

24 A I do.

25 Q Can you elaborate a little bit? What was that purpose, from your

1 perspective?

2 A Sure.

3 The memo and the initiative related to school administrators and school boards,

4 like the memo and initiative related to election threats, like the memo related to violence

5 on commercial aircraft, all have in common that they're designed to address situations

6 where Americans or others in the country are victimized either by acts of violence or

7 threats of violence. That, to me, is a serious issue that everyone should be concerned

8 with.

9 The Department of Justice, when it has jurisdiction, has an obligation to do its part

10 to reduce those acts of violence, threats of violence, certainly to discourage them. And

11 this memo, like the election threats memo, like the incidents on commercial aircraft

12 memo, I believe served that purpose.

13 To the extent that anyone thought it was okay to commit an act of violence or

14 threaten violence for any reason, these memos, collectively and individually, should've

15 made clear that that's not the case.

16 So, to me, that's an important initiative, it's an important part of what the

17 Department does. And that's why I said I think it served an important purpose.

18 Q Thank you.

19 We can go off the record.

20 [Discussion off the record.]

21 [redacted] We'll go back on the record.

22 BY [redacted]

23 Q We just have a couple followup questions, Mr. Chambers.

24 A Sure.

25 Q On October 21, 2021, Attorney General Garland testified before this

1 committee. And he received a question from Congressman Dan Bishop from North
2 Carolina about whether he had read the October 4, 2021, memorandum. And the
3 Attorney General testified, "I certainly did, and I worked on it."
4 Are you aware of at what stage in the drafting process Attorney General Garland
5 got involved?
6 A Well, it would've been after my initial draft, in that part of the review
7 process.
8 Q And so was it in the time period of October 1st to October 3rd, do you
9 believe?
10 A At some point before -- the memo was the Attorney General's memo.
11 Q Uh-huh.
12 A He would've worked on it at some point between -- yes, between
13 October 1st and when it was ultimately issued, in all likelihood closer to the end of that
14 window than to the beginning.
15 Q And did you have any conversations with the Attorney General regarding the
16 October 4th memorandum?
17 A Yes, but not prior to its being issued. I didn't personally speak -- yeah, I
18 didn't personally speak to the Attorney General about it, but did receive -- as I said, he
19 was part of the review process.
20 Q And did you speak to the Attorney General about the memorandum
21 following its publication?
22 A I did.
23 Q Okay. And how many times do you believe you discussed the
24 memorandum with the Attorney General?
25 A Certainly at the January progress report. I do recall while I was on vacation

1 working on the commercial aircraft memo. I spoke to the Attorney General, and he
2 referenced the work we previously had done on the October 4th memo.
3 Q Okay. Thank you.
4 We can go off the record.
5 [Whereupon, at 2:42 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: [redacted]

Tuesday, July 25, 2023

Washington, D.C.

The interview in the above matter was held in room 164, Cannon House Office Building, commencing at 10:00 a.m.

1 Appearances:

2

3

4 For the COMMITTEE ON THE JUDICIARY:

5 [redacted] LAW CLERK

6 [redacted] DIGITAL ASSISTANT

7 [redacted] SENIOR SPECIAL COUNSEL

8 [redacted] COUNSEL

9 [redacted] MINORITY CHIEF OVERSIGHT COUNSEL

10 [redacted] MINORITY INTERN

11 [redacted] MINORITY STAFF ASSISTANT

12 [redacted] MINORITY OVERSIGHT COUNSEL

13

14 For the SUBCOMMITTEE ON CRIME AND

15 FEDERAL GOVERNMENT SURVEILLANCE:

16

17 [redacted] MINORITY DETAILEE

18

19 For [redacted]:

20

21 JORDAN L. GREENE

22 REGINALD BROWN

23 Kirkland & Ellis LLP

24 1301 Pennsylvania Avenue, N.W.

25 Washington, D.C. 20004

[redacted] Can we go on the record, please?

This is a transcribed interview of [redacted]. Chairman Jordan has requested this interview as part of the committee's investigation of how, and the extent to which, the executive branch has coerced and colluded with companies and other intermediaries to censor speech.

Would the witness please state your name for the record?

[redacted] [redacted].

[redacted] On behalf of the committee, I want to thank you for appearing here today to answer our questions. The chairman also appreciates your willingness to appear voluntarily.

My name is [redacted] and I'm with Chairman Jordan's staff. I'll now have everyone else from the committee who is here in the room introduce themselves as well.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] [redacted] Nadler's staff.

[redacted] [redacted] with Ranking Member Nadler's staff.

[redacted] [redacted]

[redacted] [redacted] oversight counsel for the Judiciary Committee. And [redacted] our chief oversight counsel, will be joining us later.

[redacted] Thank you.

I'd like to now go over the ground rules and guidelines that we will follow during today's interview. Our questioning will proceed in rounds.

The majority will ask questions first for 1 hour, and then the minority will have an

1 opportunity to ask questions for an equal period of time if they choose. We will
2 alternate back and forth until there are no more questions and the interview is over.
3 Typically we take a short break at the end of each hour, but if you would like to
4 take a break apart from that, please just let us know.
5 As you can see, there's an official court reporter taking down everything we say to
6 make a written record, so we ask that you give verbal responses to all questions. Do
7 you understand?
8 [redacted] I do.
9 [redacted] So the court reporter can take down a clear record, we will do our best
10 to limit the number of people directing questions at you during any given hour to just
11 those people on the staff whose turn it is.
12 Please try and speak clearly so the court reporter can understand and so the folks
13 down at the end of the table can hear you. It is important that we don't talk over one
14 another or interrupt each other if we can help it, and that goes for everybody present at
15 today's interview.
16 We encourage witnesses who appear before the committee to freely consult with
17 counsel if they so choose. It is my understanding that you are appearing today with
18 counsel. Is that correct.
19 [redacted] That is correct.
20 [redacted] Could counsel please state your name for the record.
21 Mr. Brown. Reg Brown, Kirkland.
22 Mr. Greene. Jordan Greene, Kirkland.
23 [redacted] Thank you.
24 We want you to answer our questions in the most complete and truthful manner
25 as possible, so we will take our time. If you have any questions or if you do not

1 understand one of our questions, please just let us know.

2 Our questions will cover a wide range of topics, so if you need clarification at any

3 point, just say so.

4 If you honestly don't know the answer to a question or do not remember, it is best

5 not to guess. Please give us your best recollection, and it is okay to tell us if you learned

6 information from someone else. Just indicate how you came to know the information.

7 If there are things you don't know or can't remember, just say so, and please

8 inform us who, to the best of your knowledge, might be able to provide a more complete

9 answer to the question.

10 You should also understand that, although this interview is not under oath, that by

11 law you are required to answer questions from Congress truthfully. Do you understand

12 that?

13 [redacted] I do.

14 [redacted] This also applies to questions posed by congressional staff in an

15 interview. Do you understand this?

16 [redacted] I do.

17 [redacted] Witnesses that knowingly provide false testimony could be subject to

18 criminal prosecution for perjury or for making false statements under 18 U.S.C., section

19 1001. Do you understand this?

20 [redacted] I do.

21 [redacted] Is there any reason you are unable to provide truthful answers to

22 today's questions?

23 [redacted] No.

24 [redacted] Finally, I'd like to make a note that the content of what we discuss

25 here today is confidential. We ask that you not speak about the discussion in this

interview to any outside individuals to preserve the integrity of our investigation.

For the same reason, the marked exhibits that we will use today will remain with the court reporter, so that they can go in the official transcript. And any copies of those exhibits will be returned to us when we wrap up.

That is the end of my preamble.

Is there anything that my colleagues from the minority would like to add?

[redacted] No, thank you.

[redacted] The clock now reads 10:05. We will start the first hour of questioning.

EXAMINATION

BY [redacted]

Q All right. [redacted], can you tell us your current job title and where you work now?

A Yes. I am a content policy director at Meta.

Q Okay. And what team are you on?

A I am a member of the content policy team.

Q And can you give us your educational background beginning with college?

A I went to Yale College.

Q And what was your degree in?

A English.

Q And then after that?

A I worked for a magazine right after college.

Q Do you have any other degrees?

A I do.

Q What and from where?

1 A I have a master's in international policy from Stanford University.

2 Q And can you tell us your employment history starting after college?

3 A I worked for a magazine right after college.

4 Q Which magazine?

5 A For The Atlantic magazine.

6 Q And what did you do?

7 A I was a staff editor there.

8 Q Okay. And then?

9 A After I worked for The Atlantic, I went to graduate school.

10 Q And that's the Stanford?

11 A That's correct.

12 Q And then after that?

13 A I -- after graduate school, I went to work for a firm called the Rice Hadley

14 Group.

15 Q And what did that firm do?

16 A The firm advised companies on their international expansion strategies.

17 Q And what was your role there?

18 A I was a researcher and support to the partners.

19 Q Then after that?

20 A After the Rice Hadley Group, I joined what was then Facebook.

21 Q And what was your first position there?

22 A I was a member of the content policy team when I started.

23 Q What specifically was your title?

24 A Product policy manager.

25 Q And what did you do in that role?

1 A I was responsible for developing policies and -- that cross a range of issues,
2 similar to what I do now.
3 Q And what years was that?
4 A I started at Facebook in 2016.
5 Q And was your next position the one that you hold now, or did you have
6 something in between?
7 A My next position was the position I hold now.
8 Q Okay. And can you explain what you do on a day-to-day basis as head of
9 misinformation policy?
10 A I support a team that is responsible for developing Facebook and Instagram's
11 misinformation policies.
12 Q How many people are on that team?
13 A I have six direct reports.
14 Q And who do you work for too?
15 A I report to [redacted].
16 Q And what's his title?
17 A Content policy director.
18 Q And who does he work for to?
19 A We all roll up to [redacted], who leads the content policy organization.
20 Q And how does [redacted] fit in there?
21 A He is also a member of the content policy team.
22 Q Is his role parallel to yours or above or below?
23 A He's more senior to me.
24 Q Okay. Before we go on, can you define "misinformation" as Meta -- you
25 know, the way you use it as Meta?

1 A I can -- I can point you to our definition in our community standards. I'm
2 glad to read that to you. That's tab 20 in the binder. I'm glad to read from the top.
3 Q That's okay. We have it.
4 Can you explain the differences you understand between "misinformation" and
5 "disinformation"?
6 A What I can best speak to you today is our misinformation policies. In our
7 policies, in our public-facing community standards here what we explain is,
8 misinformation is different from other types of speech addressed in our community
9 standards because there is no way to articulate a comprehensive list of what is
10 prohibited.
11 Q Okay. Go ahead.
12 A Oh, some of the other information here, you know, is part of our thinking,
13 but we -- we explain, in our public-facing policies, that our policies articulate different
14 categories of misinformation and try to provide clear guidance about how we treat that
15 speech when we see it.
16 Q And so, back to when you joined Meta in 2016, how many people were on
17 your team then?
18 A I don't remember the specific number.
19 Q Can you give an approximate number?
20 A I don't want to speculate and get that wrong.
21 Q I mean, can you give, like, was it 20? Was it 5?
22 A I don't know the number.
23 BY [redacted]
24 Q Has the size of the team changed since 2016?
25 A The size of the overall content policy team?

1 Q Yes.

2 A It has gotten bigger.

3 Q Do you know how much bigger?

4 A I also don't know the number of the current -- current number of members

5 of the team overall.

6 Q When you joined in 2016, who was your direct report?

7 A My -- I had no direct reports at the time.

8 [redacted] Who did you report to?

9 [redacted] Let's see. My managers have changed over time. I believe that,

10 when I started at Meta, I directly reported -- again, I ultimately reported to

11 [redacted]. My direct manager, I believe, was [redacted] (ph).

12 [redacted] And who else have you reported to since 2016?

13 [redacted] I've had a number of direct managers, but I've always ultimately

14 reported to [redacted].

15 [redacted]

16 Q In 2016, when you first joined, how was the content moderation team

17 structured?

18 A I think similar to the way it is today. What's changed about my role is,

19 rather than being a generalist, I now focus specifically on misinformation policy.

20 Q And, as a generalist, what are some other categories or topics that you

21 would focus on besides misinformation?

22 A At the time when I first started, I -- let's see. I remember working on -- 7

23 years ago -- so I remember working on hate speech policy, a little bit on our policies

24 around suicide and self-injury. But it's been many years since I was specifically working

25 in those areas.

1 Q In 2016, were there individuals who focused specifically on misinformation?
2 A Not at the time that I started, no.
3 [redacted] How -- oh, go ahead. Sorry.
4 BY [redacted]
5 Q To you extent you remember, when was the first time that the team had
6 folks who were dedicated specifically to working on issues on misinformation?
7 A We started to look at misinformation probably within a year of when I
8 started at Meta.
9 Q And who, within that first year there, who on the team was working on
10 misinformation or related issues?
11 A I don't remember that anyone was working on misinformation specifically
12 when I joined, you know, during that first year.
13 BY [redacted]
14 Q Do you remember when misinformation became a specific category?
15 A I do remember that by the -- well, let's see. It was roughly by the end of
16 2016, we had shared that we would begin partnering with independent, third-party
17 fact-checkers to rate and review misinformation specifically.
18 Q And which fact-checkers were those?
19 A I don't remember the specific organizations who were our initial list of
20 partners.
21 Q Was there any event that precipitated that change?
22 A I can't speak to all the specifics at this point. You know, since that time,
23 we've been really building out our approach to misinformation, which is explained here in
24 our policies, in building out the fact-checking program as well.
25 Q Why did you decide to build out the fact-checking and misinformation

1 programs?

2 A I think, again, I'd probably have to point you back to some of the things we

3 said at the time. We were getting questions about whether we were taking the right

4 approach to misinformation and hoax content spreading online.

5 When we develop policy, our policies are always evolving. As the world changes

6 and as new kinds of content trends emerge, we're always looking at whether our policies

7 and our approaches are in the right place. And, you know, our work on misinformation

8 is -- is one such evolution.

9 BY [redacted]

10 Q Who made the decision to begin working with third-party fact-checkers?

11 A I don't remember at this point if it was one specific individual decision made

12 by -- supported by the content policy team which is the team I'm on.

13 Q Were you part of the decisionmaking process?

14 A I don't, again, recall all of my -- all of my role. I was -- I was, you know, not

15 a -- not a leader in the company at the time. So I remember, you know, being aware we

16 were considering this, but I -- and I don't remember who specifically was involved in

17 making the decision.

18 Q Do you recall if -- you said your person you reported to was [redacted]

19 (ph). Is that correct?

20 A When I -- yes, when I first started, that's correct.

21 Q Do you know if [redacted] (ph) was involved in the decisionmaking?

22 A I do not know.

23 Q Do you know if [redacted] was involved in the decisionmaking?

24 A I do not remember specifically.

25 Q When you first joined Facebook, was everybody a generalist as you

1 described?

2 A What I remember is there were a number of generalists on the content

3 policy team. I don't remember all of the individuals who ultimately rolled up to

4 [redacted] at that time or their specific roles and responsibilities.

5 BY [redacted]

6 Q Meta has a number of different, I guess they call it products, right, like

7 Instagram, WhatsApp in Facebook, and now Threads, I guess. Do you work on

8 misinformation policy for all of those or just Facebook?

9 A I work on misinformation policy for Facebook and Instagram primarily.

10 Q And has that changed since you began?

11 A No, that hasn't.

12 Q So WhatsApp and Threads have totally different teams, or how does that

13 work?

14 A We enforce our community standards on Threads. WhatsApp is a different

15 product experience --

16 Q Right.

17 A -- its own -- its own --

18 Q Do you work with people from the public -- is it the public policy team -- like

19 [redacted] and [redacted]?

20 A I do sometimes work with members of our public policy team.

21 Q And what do you work with them on?

22 A So, as I might have started to explain, my responsibility is to -- and my

23 team's -- develop policy and consistent with our principles and our values. As the world

24 changes, we're always looking at whether those policies are in the right place.

25 When we develop new policies, we will solicit diverse perspectives, and

1 sometimes that can include hearing feedback from external stakeholders. So that's one
2 way in which I might indirectly get feedback from the stakeholders that those team
3 members work with.
4 I think the primary way I would work with them is: External stakeholders have
5 questions about our policies, and members of our global policy, public policy team will
6 come to me or my team to ask clarifying questions about how our policies apply and the
7 rationale behind those policies. And it's my responsibility to explain that.
8 Q And which external stakeholders are you talking about?
9 A It can, you know, it can really range. So we hear feedback from diverse
10 global stakeholders from the press to researchers and experts.
11 Q What about government?
12 A We do sometimes hear feedback from government, yes.
13 Q Any particular agencies or branches of government that you hear from
14 more?
15 A I would hear that feedback indirectly coming from our public policy team.
16 Q And is there anyone on the public policy team who conveys such information
17 to you other than [redacted] and [redacted]?
18 A Who I would hear from would sort of depend on the day and who asked the
19 question. Again, if you think about the global nature of our platform, I can get questions
20 from colleagues in France, in Brazil, in the U.S. Just depends who's asking a question on
21 the given day.
22 BY [redacted]
23 Q Are you receiving these communications or, you know, messages that are
24 being passed along by, we'll say, either [redacted] or [redacted], was that only once you
25 were in a leadership position at the team, or would you receive these -- this kind of

1 contact on the public policy team earlier as well?

2 A So I don't remember all of the specifics across my years at Meta, but a

3 member of the public policy team could reach out to anyone on my team and could've

4 reached out to me in the past with questions.

5 Q How long were you a generalist for, from when you first started?

6 A My memory is that the transition between being a generalist and focusing

7 more specifically on misinformation happened gradually over the course of maybe a year

8 or two.

9 By the time, you know, by January 2020, when I started working on our COVID

10 approach specifically, I was focused on misinformation exclusively.

11 Q When were you promoted?

12 A I was promoted to director in 2021.

13 [redacted] Director is what you are now? That's the head of --

14 [redacted] That's correct.

15 [redacted] And how, when people like [redacted] or [redacted] or whoever

16 reached out to you to convey messages from external stakeholders, how -- do they email,

17 call, meet in person?

18 [redacted] You know, it could -- it could really vary. I'm based in our Menlo Park

19 office, so not always in person together.

20 BY [redacted]

21 Q After [redacted] (ph), if I'm saying his last name right -- after [redacted]

22 [redacted] (ph), who was your next person that you reported to?

23 A My next manager at Facebook was [redacted].

24 Q And how long was he your manager for?

25 A I don't remember the specific length of time that I reported to him.

1 Q Do you recall the next manager you had?

2 A I think I have the sequence right here. I think I next reported to [redacted]

3 [redacted].

4 Q And do you have a sense of where we are in the timeline?

5 A I don't remember the time -- the specific times at which I reported to all of

6 these individuals.

7 Q Did they all have the same title?

8 A I don't remember at this point.

9 Q In terms of like the chain of command, how many individuals are there

10 between the manager you're reporting to and [redacted]?

11 A Are you asking about at present or at the time?

12 Q Earlier at the time and if it's changed.

13 A Yeah, I don't remember. The team is dynamic. My direct manager had

14 changed over time, but I always did ultimately report up to [redacted].

15 Q After [redacted], who was your next manager?

16 A I'm not going to get all the sequencing right. I don't remember some of the

17 changes. I've had a number of managers at Meta.

18 Q With the understanding that your memory is not perfect and you're going off

19 memory, who is the next name that you remember that you reported to?

20 A I mean, I guess I could best speak to today. I report to [redacted].

21 Q And when did you begin reporting to [redacted]?

22 A The specific date is blurry.

23 Q Was it after your promotion in 2021?

24 A Sorry. Would you mind repeating the question?

25 Q Do you recall if you began reporting to, is it [redacted]?

1 A [redacted].

2 Q Was that following your promotion in 2021 to director?

3 A I would want to go back to my records and get an org chart to make sure I'm

4 answering these questions precisely.

5 Q When the third-party fact-checker relationship program first starts, it sounds

6 like 2017, if you recall correctly, which team at Meta, or then Facebook, had primary

7 responsibility for interacting with third-party fact-checkers?

8 A That would've been our partnerships team.

9 Q And what is the partnerships team?

10 A It's not part of -- at the time it's not -- I mean, the content policy team was

11 distinct from the partnerships team, so I would defer to members of that team to explain

12 its full scope.

13 Q During this time, did your team have interactions with the partnerships

14 team?

15 A I did interact with members of the partnerships team, yes.

16 Q And what was the nature of those interactions?

17 A So I was responsible for developing our policies for the fact-checking

18 program. Partnerships team was responsible for managing relationships with

19 fact-checkers. So we would explain our policies obviously to our colleagues managing

20 those relationships.

21 BY [redacted]

22 Q And who at the partnerships team?

23 A Who specifically?

24 Q Yeah.

25 A Sorry. Can you --

1 Q Who did you interact with on this topic?

2 A I -- again, I would have to go back in time, and it was pretty early -- pretty

3 early on in my time. I'd have to double back to my notes and org charts for the specifics

4 of who all was involved.

5 BY [redacted]

6 Q Did you interact directly ever with the third-party fact-checkers?

7 A Not frequently.

8 Q But there were occasions?

9 A I can think of an occasion when I was invited to speak at, I guess a

10 conference, being held with third-party fact-checkers in the audience, and I explained our

11 misinformation policies.

12 Q In 2017, when this program for third-party fact-checkers is first being

13 brought together, how did the process work, and in what circumstances would

14 third-party fact-checkers be used?

15 A All right, yeah. I think I can best speak to how the program works today,

16 which we -- we describe in our public-facing policies, so, in this same tab, tab 20, in your

17 binder.

18 Q If I may, when did this policy that you're about to describe take effect, or this

19 process?

20 A So we set up partnerships with third-party fact-checking partners in 2017. I

21 would have to double check my records for when we specifically documented those

22 policies in this public-facing language. I don't know when we updated the language

23 exactly.

24 Q To your understanding, have there been changes from 2017 to today

25 regarding how Facebook uses third-party checkers?

1 A I think largely the program has remained the same, the principles of the
2 program, but like with all of our policies, we've evolved some of the specific details over
3 time as we've learned more.
4 Q What are some changes that have occurred?
5 A When we first started partnering with third-party fact-checkers, certain kinds
6 of content were eligible for fact-checking. So link content was eligible for fact-checking,
7 and we asked fact-checkers to focus their time on that content, on viral misinformation
8 that was timely, trending, relevant.
9 As we learned more and we saw how misinformation spread in different parts of
10 the world and heard, you know, feedback from our users, for example, we evolved the
11 program so that photo and video content was also eligible for fact-checking.
12 BY [redacted]
13 Q What happened to content, you know, if a fact-checker said it's not true or
14 it's misinformation, what action was taken?
15 A The way the program works is, fact-checkers decide what content to review
16 and rate. They have a range of specific ratings that they can choose among. Each of
17 those ratings is defined. We define those in our program guidelines.
18 Based on the rating the fact-checker chooses, whether that's false or altered, we
19 then take action on the content. So we -- that's the basic process.
20 Q And what kind of action?
21 A We will reduce the visibility of content that fact-checkers rate as false,
22 altered, or partly false. We also have a rating option that's missing context.
23 For all of the rating options, we will also label the content and direct people to the
24 fact-checking article explaining what the fact-checker found, its determinations.
25 People can always also choose not to read that fact-checking article, to click

1 through, to see the content. The content that is rated by fact-checkers remains on our
2 platform for people to see and share with friends.
3 And recently we've also introduced the ability for people to control how much
4 fact-checked content they see in their feeds.
5 We've heard and we know, and we've known this from the beginning, that people
6 disagree about what constitutes misinformation and want more control over their
7 experiences. So that's how the program is today.
8 Q When you say "decreased visibility," what's that? How do you do that?
9 A All content in the Newsfeed is ranked to help people see content more
10 relevant to them. There's a huge amount of what we would call inventory, sort of a
11 menu of options of content you could see when you log in to your Facebook account.
12 So ranking that content is a way to show people what is most relevant to them
13 and make it less likely they'll see content that is either less relevant to them or where
14 we've heard feedback from people it's not the kind of content they want to see.
15 [redacted] By what percent is content -- or is visibility, to use the term you used,
16 reduced?
17 [redacted] In the signals that go into newsfeed ranking are quite technical, and I
18 can't speak to all -- all of those -- those signals. It extends well beyond the scope of our
19 misinformation work.
20 [redacted] Is it always -- is the visibility always reduced by the same percentage,
21 or are there variable options available?
22 [redacted] So I can speak to our misinformation policies specifically, and under
23 our misinformation policies, when a fact-checker rates content, we take action -- we take
24 the same action on all content rated false, partly false, or altered.
25 [redacted] What about, do people lose their accounts if they have posted

1 misinformation?

2 [redacted] For the most part, no. So there's two different sets of policies that I

3 could -- I could walk through. There are categories I mentioned at the top. We look in

4 different categories of misinformation, so -- and, again, this is in tab 20 -- our policies

5 articulate different categories of misinformation and try to provide clear guidance about

6 how we treat that speech when we see it.

7 And then, here on the next page, we talk about the misinformation we remove

8 and separately other misinformation. So, for misinformation we remove, we have a

9 very high bar there. We remove misinformation where it is likely to directly contribute

10 to the risk of imminent physical harm.

11 For other misinformation, we focus on reducing its prevalence and creating an

12 environment that fosters effective dialogue.

13 So, for fact-checked misinformation, the penalties experienced at the account

14 level would never be to take an account down entirely. We would -- if someone

15 repeatedly shares content that has been fact-checked as false, we will eventually take

16 account-level restrictions, but that does not include banning the account.

17 For the misinformation we remove, which is a very -- a very specific and small

18 subset of all misinformation, if someone repeatedly violates those policies, any of our

19 community standards, we can eventually ban the account, remove the account.

20 We do this -- we try to be very transparent about those policies and give people

21 notice when they've posted individual pieces of content that violate our policies.

22 [redacted] And "imminent harm," so information that might contribute to

23 imminent vaccine refusals is considered imminent harm in this, it looks like? "Natural

24 immunity is safer than vaccine immunity" is an example.

25 So that would be considered imminent harm that would necessitate or justify

removal?

[redacted] Of the content, yeah.

BY [redacted]

Q In an earlier answer, the third-party fact-checkers decide what to review and rate. For the first part of that, what do you mean by the "third-party fact-checkers get to decide what to review"?

A So Meta's third-party fact-checkers are independent. Our job is to send content to them that may be misinformation, but they use their judgment to look at the facts and decide whether to rate content.

Q Who from Meta sends content to the third-party fact-checkers?

A It's not one specific individual. That's the way our systems work to send content to third-party fact-checkers.

Q Which teams will send content to the third-party fact-checkers?

A Again, there's a number of -- this is really a process that works through our systems -- yeah. It's an automated process.

1 [10:40 a.m.]

2 BY [redacted]

3 Q Can you say more? "Automated" as in, like, certain words will

4 automatically lead to content being transferred? How does an automated system work

5 in this context?

6 A Certain words? I see. No, it's not as simple as that. We use, you know,

7 a number of signals so that our systems can learn what content may be misinformation

8 and send content to fact-checkers that may be false.

9 Fact-checkers can always also identify content on their own that they believe

10 should be reviewed and rated even if we have not sent that content to them.

11 And, if our systems miss content, we can also send that content, specific content,

12 to them --

13 Q Okay.

14 A -- to the third-party fact-checkers.

15 Q So that last part, there are teams at Meta who can, not automatically, just

16 manually send content to the third-party fact-checkers directly? Is that what you're

17 saying?

18 A Yes, that's correct.

19 Q And which teams at Meta will do that?

20 A So my team's responsibility is to write the guidelines. The sort of specific

21 teams that would be involved in sending content could be members of our enforcement

22 teams that do that.

23 Q Is there still a partnerships team that interacts with third-party

24 fact-checkers?

25 A There is, yes.

1 Q And would that team send content directly to the third-party fact-checkers?
2 A No.
3 Q Once it's sent to the third-party fact-checkers, let's say it's content, it's to an
4 article, do the third-party fact-checkers have to review?
5 A They do not.
6 Q And what happens in instances where a third-party fact-checker decides not
7 to review?
8 A The content stays up on the platform, and it's there for people.
9 Q It sounds like there's a number of third-party fact-checkers. How is it
10 determined which content goes to which fact-checker?
11 A Our systems send content to all fact-checkers in a given country at once.
12 So, in the United States, our systems -- and we send content to our U.S. fact-checking
13 partners.
14 One of the principles of the program, as I mentioned, is that we want
15 fact-checkers to rate content that is timely, trending, relevant. So fact-checkers in a
16 given country are best positioned to make those decisions about content relevant to the
17 people in that country.
18 Q And I understand it sounds like there's kind of an automatic system in place.
19 Once it's in the hands of the third-party fact-checkers and it's sent more broadly, do they
20 internally decide which fact-checker is going to handle it? Can any of them? I guess if
21 there's multiple -- multiple reports that come back?
22 A Any fact-checker can decide to rate any piece of content, and multiple
23 fact-checkers may choose to rate the same piece of content.
24 Q And, in the instances where there's a disagreement between fact-checkers,
25 how does Meta handle that situation?

1 A Under our policies, we would apply the less severe rating to enforce on that
2 content. Though it's fairly rare that fact-checkers disagree. From memory.
3 Q And, just typically, what happens most frequently, how long is from the time
4 that content is sent, whether it's automatic or manual, to the third-party fact-checkers,
5 until Meta hears back from a third-party fact-checker?
6 A That can really vary based on the facts and the specific piece of content. As
7 you could imagine, some viral hoaxes on the internet are, you know, tired, you know,
8 regularly circulated, false memes, that might not take a lot of time to research.
9 Some content may be entirely new and require more research for a fact-checker.
10 Q If Meta can receive -- if Meta can receive multiple reports from third-party
11 fact-checkers, how do you know that there are no more reports coming in?
12 A There's no, you know, [inaudible] to answer that. It would be possible for a
13 fact-checker to -- for one fact-checker to rate content and for another to rate content at a
14 later date.
15 We will take action based on the first fact-check when we get the rating. If
16 another fact-checker at a later date chooses a different rating, we would then update our
17 action if that was a less severe rating.
18 Q What action does Meta take before the first fact-checker response comes
19 in?
20 A Our job is to, as I said, send content to fact-checkers. When we send
21 content to fact-checkers, per our policy policies, we may temporarily reduce the visibility,
22 distribution of that content, but the content always remains available. People can
23 choose to see it and share it with others.
24 Q In instances where -- actually, I'm going to strike that.
25 Is that the case for all pieces of content that are sent to third-party fact-checkers?

1 A Again, under our policies, we may reduce the distribution of content sent to
2 fact-checkers.
3 Q Okay. So, by your answer saying you may do it, is that to say that only a
4 subset of the contents of the third-party fact-checkers is -- has reduced visibility pending
5 a report from the third-party fact-checkers and that there's another subset of content
6 that is not reduced?
7 A It can really vary depending on where -- you know, talking about systems in
8 different parts of the world. But, again, under our policies this is something we -- we
9 would do.
10 Q So, focusing on the United States, for content that goes to third-party
11 fact-checkers, I'm just trying to get a sense of what the different outcomes are. Is it a
12 hundred percent -- for the interim period, from when the content is sent to the
13 third-party fact-checkers and they're reviewing it, so you don't know yet what their
14 fact-check report is going to be, for that initial interim period, is it a hundred percent of
15 the contents in the United States has its visibility reduced? Is it only a portion of that?
16 Mr. Brown. She can tell you what she recalls, but if you want a precise, precise
17 answer that covers a date range, because policies sometimes change, you could send us a
18 set of interrogatories on the topic, and we'll be happy to respond.
19 [redacted] Thank you.
20 BY [redacted]
21 Q Again, well, repeat the question. So, again, to the extent you have
22 knowledge or understanding of it.
23 A Can -- I -- I guess, as my lawyer said, to the extent you have specific
24 questions to the exact numbers, I wouldn't be able to speak to those today.
25 Q Yeah. So the question is not about exact numbers. It's just, what are the

1 options though? Happy to reframe the question this way.

2 Is all content in the United States that is sent to third-party fact-checkers, during

3 that interim period of when the content is sent but before the third-party fact-checker

4 has made a decision, is all content having its visibility reduced in that case?

5 A Today, no, that does not happen in all cases.

6 Q And who makes the decision regarding whether the content will have

7 visibility reduced in that interim period?

8 A So today the way our systems work in the United States is we no longer

9 temporarily reduce the visibility of that content while a fact-checker reviews.

10 Our program is more focused, given its maturity, on the action we take when a

11 third-party fact-checker reviews the content and rates it.

12 Q You say it's no longer the case. Do you recall when this new policy was put

13 into place?

14 A Earlier this year.

15 [redacted] I'm sorry. I didn't hear that. Did you say earlier this year?

16 [redacted] Earlier this year.

17 [redacted] Thank you.

18 BY [redacted]

19 Q And, prior to this year, what was the policy?

20 A There our systems in the United States would temporarily reduce the

21 distribution of content when we sent the content to fact-checkers.

22 Q And that was just automatic?

23 A That's correct.

24 [redacted] Why did you change the policy?

25 [redacted] We are always looking at ways to evolve our policies and hear a lot of

1 feedback about our misinformation approach.

2 In the U.S., as I said, the program is fairly mature now. We have 11 fact-checking

3 partners in the U.S. compared to a handful when we started, and so have made changes

4 reflective of that current reality.

5 BY [redacted]

6 Q When third-party fact-checkers decline to fact-check a story, do they

7 affirmatively tell you, "we don't want to fact-check this story," or do you just -- you don't

8 hear a response after a certain period of time?

9 A We do not hear a response.

10 Q Okay. How long do you wait until you decide that no response is coming

11 in?

12 A After 7 days, the content would not be sort of in our systems available to

13 fact-checkers.

14 Q And for how the policy existed prior to this year where it was -- there was

15 automatic reduction in the visibility, would it just be automatic that, for instances in

16 which ultimately no third-party fact-checker gets back to you, that the content would

17 automatically be -- have reduced visibility for 7 days and then automatically would have

18 those restrictions lifted?

19 A That's correct.

20 Q You said you had six direct reports?

21 A That is correct.

22 Q Who are they?

23 A My direct reports are [redacted], [redacted], [redacted], [redacted]

24 [redacted], [redacted], and [redacted].

25 BY [redacted]

1 Q And what are their responsibilities?

2 A Largely, they are responsible, like me, for developing our policies for

3 misinformation on Facebook and Instagram.

4 Q So they -- do they each have, like, different subject areas, or how do they

5 relate? How do you divide it up?

6 A They sometimes focus -- they're -- they're a globally distributed team. So I

7 think the primary difference across the team is that members of the team based in a

8 specific region are most responsive to issues coming from that region.

9 Q So the policies might differ not so much -- well, I imagine by subject matter

10 too, but the policies would differ depending on geographical region. Is that correct?

11 A No. The policies don't differ, but the members of the team based in

12 different geographical regions would be more likely to, you know, interface with people

13 in that region on different internal teams or outside stakeholders.

14 Q So who is focused on the United States?

15 A Within my team?

16 Q Yeah.

17 A The -- the members of my team who are based in the U.S. are

18 [redacted], [redacted], [redacted], and [redacted].

19 [redacted] And how big is the -- actually, let me rephrase that.

20 Other than your team, who else in the broader content moderation team has

21 personnel to work on the policies related to the United States?

22 [redacted] Again, the policies we write are global policies. The policies in our

23 misinformation section of our community standards apply to people around the world.

24 So, regardless of where someone is based, they are working on global policies.

25 [redacted] Go ahead.

1 BY [redacted]

2 Q So what do they do exactly, and then what do you do in relation to that

3 work?

4 A Are we talking about my specific direct reports?

5 Q Yeah.

6 A Again, we have very -- you know, I'm a manager of the team, so my role is to

7 support my team members, but the bread and butter of what the team does is fairly

8 consistent in developing policy.

9 As of earlier this year, the one new function on the teams is that the team also

10 manages now our relationships with third-party fact-checkers. But that has not been

11 the bulk of my experience or what I was responsible for at Meta.

12 Q So do they -- as they come up with ideas for misinformation policy and then

13 run them by you, and you give input, and then it goes up the chain or --

14 A I think, you know, as I've sort of said, we are always looking to evolve our

15 approach, or whether our policies are in the right place as the world changes and as

16 content trends online change. So any member of my team at any given time might be

17 looking at a specific policy to, again, stress test whether it's still in the right place, and

18 then, yes, would come to me to discuss whether we should formally explore any changes.

19 Q So, in order to get adopted, I'm kind of trying to figure out what the process

20 is that it has to go through, proposed policy change -- or proposed policy would have to

21 go through. So, after you, it would go up to [redacted]? Is that --

22 A [redacted] would be involved in decisions to formally update our

23 policies.

24 Q So who makes the ultimate call?

25 A [redacted] is responsible for our content policies.

1 Q Okay.

2 [redacted] What's the name of the team responsible for enforcement of the

3 policies?

4 [redacted] I'd probably have to check on the org chart. We have a number of

5 teams that are involved in enforcing our policies.

6 [redacted] And which of those teams does your team interact with?

7 [redacted] We can interact with any number of them, again, depending on the

8 specifics of how the policy is enforced.

9 BY [redacted]

10 Q Do you play a role in enforcing policies, does your team?

11 A I am not involved in the team enforcement decisions.

12 Q But, sort of in a broad sense, so say, you know, with the third-party

13 fact-checkers, if they said this type of claim is false, then would you make

14 recommendations about what should be done with it?

15 A When it comes to our fact-checking program, fact-checkers decide what to

16 rate, and we do not have a role in -- sorry -- the enforcement action we take is consistent

17 based on the rating. We wouldn't look at a specific decision when it comes to

18 our -- that's how our fact-checking process works.

19 Q So you think that they're sort of formulaic?

20 A Yes.

21 Q Okay.

22 BY [redacted]

23 Q With respect to the third-party fact-checkers policy change at the start of

24 this year, you recall what the policy was at least in 2022 and earlier. Do you recall if

25 there were any changes from 2017 when the program got started up until 2022,

1 regarding how to handle content during that interim period we were discussing earlier
2 when it's sent to the third-party fact-checkers and you're waiting for a response?
3 A So our policies and our specific program guidelines for the fact-checking
4 program have evolved, and I gave you an example of the -- when the program first started
5 leaks were eligible for fact-checking, and we eventually decided photo and video content
6 should also be eligible for fact-checking based on feedback from users that they were
7 seeing viral misinformation spread in photo and video content.
8 So that's -- I don't remember the specific date when that change went into place,
9 but that's an example of a change made to the program.
10 Q With respect to the policy that existed up until last year to automatically
11 have content have its visibility reduced pending review by a third-party fact-checker, do
12 you recall if that specific aspect of the policy changed between 2017 and 2022?
13 A I don't remember the specific timeline on any changes we made there in that
14 particular period.
15 Q Do you recall -- if you don't recall the timeline per se, do you recall if there
16 were any changes?
17 A No -- no changes are coming to mind at the moment.
18 Q What about with respect to the policy that, again, at least as of last year,
19 that Facebook would wait 7 days, and if there was no response after 7 days, it was
20 determined the fact-checkers weren't reviewing, do you recall that aspect of the policy, if
21 there were any changes from 2017 to 2022?
22 A I don't recall specifically whether we would've -- that would've changed over
23 time.
24 Q Who was involved in the decision to change the -- I guess the default rule,
25 for lack of a better phrase, from having -- where content is automatically reduced in

1 visibility pending approval, to the policy that it is today?

2 A Kind of as I -- as I said for our policies, for our content policies and policies

3 covered in our community standards, [redacted] is the senior leader responsible for

4 those policies.

1 [11:02 a.m.]

2 BY [redacted]

3 Q Were you involved in the decision-making process?

4 A I was involved in kind of preparing, you know -- yes, I was part of that

5 process.

6 Q And what was your role in the process?

7 A My role is what kind of my team's role is today, to help develop options for

8 whether we should evolve our policies.

9 Q When it comes to -- we'll take this policy as an example. Who first initiates

10 it? Is it coming from the top and your team is roped in? Or does your team offer this

11 change as a proposal?

12 A That can really vary based on the circumstance. Sometimes, you know, any

13 number of people across the company might ask a question about our policies and

14 whether they're in the right place. Sometimes we've also been asking those questions

15 ourselves. And we'll pull together options.

16 Q Do you recall, in this case regarding how to treat content while it's being

17 reviewed by a third-party fact-checker, do you recall who in the company first raised the

18 issue of reconsidering that policy?

19 A I do not.

20 Q To your understanding, was it anyone on your team?

21 A I do not remember.

22 Q Your current person that you report to, is it [redacted]? Sorry. I want

23 to make sure I have my names --

24 A That's correct.

25 Q -- straight. How many other people report to him?

1 A I want to double-check the org chart -- there have been some changes
2 recently -- to make sure I'm being precise on that.
3 Q Do you have an approximation?
4 A I want to double-check to make sure I'm giving you the right information.
5 Q You mentioned that this is kind of a new aspect of your team's role, but what
6 is your team's interactions now with the third-party fact-checkers?
7 A The team that manages those relationships rolls up to me, but I am not
8 directly doing -- I do not directly engage with the third-party fact-checkers.
9 Q And what is the name of that team that rolls up to you?
10 A Internally, we refer to them is as the third-party fact-checking partnership
11 team.
12 Q And who leads that team?
13 A As of this year, the team is led by [redacted].
14 Q And, again, to your knowledge, what's the nature of those interactions
15 between [redacted]'s team and third-party fact-checkers?
16 A The team is responsible for managing our relationship with third-party
17 fact-checkers. That involves educating those fact-checkers about our program, any
18 changes to our policies; fielding questions from the fact-checkers should they have
19 questions for us; making sure that, you know, our systems are working, there aren't
20 errors or bugs that are causing problems.
21 Q You mentioned that it was rare but sometimes there'd be disagreements
22 between third-party fact-checkers. Do you recall any disagreements where from Meta's
23 perspective something did or did not constitute misinformation and from the third-party
24 fact-checkers' perspective something did or did not constitute misinformation?
25 A That's not how our program works. Our role is to send content to

1 fact-checkers. Fact-checkers can also choose what to rate and review. Fact-checkers
2 then use their expertise and their judgment to decide whether to rate content based on,
3 again, their understanding of the facts.
4 Q Can the third-party fact-checker on its own not be automatically sent or
5 manually sent content from Meta? Can the third-party fact-checker on its own identify
6 a piece of content, review it, and send it to Meta?
7 A Yes, they can.
8 Q And have there been instances where -- well, time is -- can we go off the
9 record?
10 Mr. Brown. Go ahead. Do you want to finish the question, just so we close this
11 out?
12 [redacted] Can we go back on the record, please?
13 BY [redacted]
14 Q For those instances where the third-party fact-checker on its own has
15 identified a piece of content, passing it to Meta, and then identified something as
16 misinformation, have there been instances where Meta has received that report and has
17 disagreed with its conclusion?
18 A Again, could you repeat the specific question?
19 Q Sure. It sounds like kind of the default option is Meta sending content
20 either automatically or in some cases manually to third-party fact-checkers. There are
21 also instances where the third-party fact-checkers on their own identify a piece of
22 content, analyze it, and send information to Meta regarding their analysis.
23 Are there times where, in that last subset of category, where the third-party
24 fact-checker has on its own identified a piece of content and sent it to Meta, where Meta
25 has disagreed with the third-party fact-checker's analysis?

1 Mr. Brown. So can I just ask what you mean by -- "disagree," meaning overruled,
2 or "disagree" meaning somebody at Meta didn't think that was the right answer? Like,
3 I'm just trying to understand what you'd be looking for when you say "disagree."
4 [redacted] Sure. So, I mean -- and maybe the answer can clarify this.
5 BY [redacted]
6 Q It sounds like there's kind of an almost automatic process where if a
7 third-party fact-checker analyzes it where the content first was sent by Meta, Meta has in
8 place kind of a formulaic response of how to best respond.
9 But, in this case, Meta hasn't sent the content first to third-party fact-checkers.
10 They've identified it on their own and are sending it back to Meta.
11 Is it the exact same response from Meta, automatically taking the formulaic
12 approach? Or does anyone at Meta then take an --
13 A No. It --
14 Q -- opportunity to review it?
15 A -- it -- that was clarifying. Yeah, it doesn't matter if Meta has sent
16 fact-checkers the content or the fact-checker independently chose to review content.
17 We take the same formulaic approach.
18 Q Great.
19 [redacted] We went a few minutes over, and we'll of course extend the same
20 courtesy.
21 [redacted] Thank you.
22 [redacted] Can we go off the record, please?
23 [Recess.]
24 [redacted] Okay. We are back on the record.
25 EXAMINATION

1 BY [redacted]

2 Q And, [redacted], my name is [redacted] I am counsel for the minority.

3 And we appreciate you being here today.

4 I believe you had mentioned that you're based in the Menlo Park office?

5 A That is correct.

6 Q And that's in the Bay Area?

7 A That is correct.

8 Q So you flew in here from northern California for this interview?

9 A Yes, I did.

10 Q And you said that the misinformation policy was developed in -- you believe,

11 in your first year?

12 A Yes, roughly -- by early 2017.

13 Q By early 2017. So that policy was in place during basically the entire Trump

14 administration.

15 A Yes, that would be correct.

16 Q Can you explain to me why it's important to Meta, or then Facebook when

17 the policy was created, to combat misinformation?

18 A So, when we develop a policy -- our goal is to enable expression. We're a

19 platform for expression. And when we restrict expression, we do so in service of one of

20 our values, which are authenticity, safety, privacy, and dignity. And we apply that

21 overarching principle to our misinformation approach.

22 I could point again to our community standards, where we explain in detail the

23 rationale for why we approach misinformation in the way we do. It'd be helpful if you

24 could have 20 in your binder.

25 And I'd read some of this earlier, I believe, but what we explain is, misinformation

1 is different from other types of speech addressed in our community standards, because
2 there is no way to articulate a comprehensive list of what is prohibited.
3 So, with other types of speech -- graphic violence or hate speech -- our policies
4 specify the speech we prohibit, and even persons who disagree with those policies can
5 follow them.
6 With misinformation, however, we cannot provide such a line. The world is
7 changing constantly, and what is true one minute may not be true the next minute.
8 People also have different levels of information about the world around them and may
9 believe something is true when it is not.
10 So a policy that simply prohibits misinformation would not provide useful notice
11 to the people who use our services and would be unenforceable, as we don't have perfect
12 access to information.
13 So, instead -- and we explain this in more detail in the section -- but our policies
14 articulate different categories of misinformation and try to provide clear guidance about
15 how we treat that speech when we see it.
16 Q So I appreciate that, and that is helpful. But I want you to take a step back
17 a little bit. Why does Meta bother to have a misinformation policy?
18 A For all of our policies, we are trying to do what is best to make the platform
19 a good experience for users and for advertisers.
20 Q And if users or advertisers encounter clearly false information on the
21 platform that's being presented as truth, that's not good for Meta, is it?
22 A We have heard from people, users and advertisers, that they want to see
23 less misinformation, though we also know people disagree about what constitutes
24 misinformation, which is why we take a very nuanced approach and do our best to be
25 thoughtful about how we draw lines in this space.

1 Q Okay. Fair enough. But, at the end of the day, I believe what you said
2 when I asked why bother, your initial response was: Our users and our advertisers do
3 not want to see this type of content.
4 A That's correct.
5 Q And so it's essentially a business interest of Meta's to ensure that its users
6 and its advertisers stick with the product?
7 A That's correct. We are accountable to our users and advertisers.
8 Q If you know, how many -- approximately how many users does Meta
9 platforms -- Meta's platforms have?
10 A I --
11 Q That was not grammatical. I'm sorry.
12 A I don't know the latest number right now and would not want to get that
13 wrong.
14 Q It's probably in the billions, though, correct?
15 A I don't want to speculate.
16 Q Fair enough. And a large percentage of those users are outside the United
17 States, correct?
18 A That is correct.
19 Q And you've touched on this a bit, but I just want to make clear. Meta has
20 many different content policies, correct?
21 A That is correct.
22 Q In fact, we've got a whole binder here -- it's probably 2 or 3 inches thick -- of
23 your content policies.
24 A That is correct.
25 Q Can you tell us what type of content other than misinformation is

1 prohibited?

2 A So our community standards define our policies for speech. As you

3 mentioned, this binder has a list of all those policies. If you flip to the beginning, I can

4 see if there's a -- I have the list -- the full list of our policies is here.

5 And on our community standards site, I believe we also summarize -- oh, here, in

6 the introduction before tab 1 -- the range of our policies and -- and -- yes, at the very end

7 of the section in front of tab 1, there is a full list of all of the topical areas covered by our

8 policies, starting with violence and criminal behavior.

9 Q So the general categories are violence and criminal behavior, safety,

10 objectionable content, integrity, and authenticity, correct?

11 A I'm just double-checking if there's more. There's two more sections

12 here -- respecting intellectual property and content-related requests and decisions.

13 Q Thank you.

14 A Are we on the same --

15 Q I think we're on the same page. Oh, got it. Okay.

16 So, for example, child sexual exploitation materials are prohibited?

17 A As defined, yes, under our safety policies.

18 Q And bullying and harassment is a safety policy?

19 A That is correct.

20 Q Hate speech?

21 A In looking at this list, these are not policies I'm specifically responsible for at

22 this point. But I see hate speech is under "Objectionable Content."

23 Q Fair enough. And so is -- this is something that I think most people are

24 familiar with -- adult nudity and sexual activity?

25 A That's correct.

1 Q And so what that means is, I can't post nude photos to my Facebook account
2 or my Instagram account or, now, if I had one, a Threads account.
3 A I'd have to refer to the very specific policy language on that area, because it's
4 outside of my area of expertise.
5 Q And you were working at the company when then-Facebook decided to
6 develop the misinformation policy?
7 A That's correct.
8 Q And it was the company's choice to implement that policy, correct?
9 A That's correct.
10 Q It wasn't something that anybody in the government forced Meta to do?
11 A I have, yeah, no specific recollection of -- I don't remember the specifics of
12 our decision-making at the time, but no sense that that would've happened.
13 Q And it was your understanding that this was something that the company
14 affirmatively wanted to do in order to protect its users and its advertisers?
15 A That is my understanding. I was not involved in all of the decisions at that
16 time or today, but that reflects my understanding.
17 Q Okay.
18 I want to talk a little bit about the third-party fact-checking program, and I want to
19 clarify some of the issues that were discussed earlier to make sure that I understand
20 them.
21 So I believe you said that program was developed in 2017?
22 A I believe -- yes, it -- it --
23 Q Approximately?
24 A Approximately 2017.
25 Q And just as with the misinformation policy was Meta's choice, Meta chose to

1 work with third-party fact-checkers and develop that program?

2 A That is my recollection of how it came to be.

3 Q And Meta has many third-party fact-checking partners, probably over 80 I

4 believe, across the globe?

5 A As of today, we have 90 partners globally, who cover more than 60

6 languages or -- sorry -- more than 90 partners globally, who cover more than 60

7 languages.

8 Q And did you say -- I'm not sure if I heard this correctly, but did you say have

9 you 11 fact-checking partners in the United States?

10 A That is correct.

11 Q And so it's just a small percentage of Meta's global fact-checking program?

12 A That is correct.

13 Q And all of Meta's third-party fact-checking partners must be signatories to

14 the International Fact-Checking Network's Code of Principles, correct?

15 A That is correct.

16 Q And the first one of those principles in the code, if you know, is a

17 commitment to nonpartisanship and fairness, correct?

18 A That is correct.

19 Q And you're aware of that because you helped develop this policy, the --

20 A Yes.

21 Q -- third-party fact-checking policy, not the Code of Principles. I'm sorry.

22 A Yes, that's correct.

23 Q So --

24 A From the beginning, it was important to us to, you know, have an objective

25 way to assess fact-checkers and who to partner with.

1 Q Were you involved in the decision to require that all of Meta's third-party
2 fact-checkers be members of the International Fact-Checking Network?
3 A I don't remember the extent to which I would've been involved in that
4 decision.
5 Q But you know that it was important to then Facebook, now Meta, that its
6 fact-checkers have a commitment to neutrality?
7 A That's correct.
8 Q And nonpartisanship?
9 A Correct.
10 Q And the purpose of the fact-checking program is to help identify and address
11 viral misinformation, correct?
12 A That's correct.
13 Q And I believe, as you alluded to, the program does not concern itself with
14 every conceivable untruth that's on your platforms.
15 A That's correct. We specifically and our public policies state that the goal of
16 the program is for fact-checkers to focus on viral misinformation.
17 Q And you talked about how the company identifies information to be
18 fact-checked, and you also mentioned that the fact-checkers can fact-check any content
19 that they identify.
20 Do Meta's users have any input? Like, can I, as a user, submit a request for a
21 piece of content to be fact-checked? Is that part of the process?
22 A The way the process works is, any user can give feedback on content they
23 see on the platform, including giving us feedback that the content may be false. And
24 that is one factor that informs the systems we use to determine what content to send to
25 fact-checkers.

1 Q And this is one of the things that you mentioned earlier, but fact-checkers
2 review their content independently of the company. The company plays no role in the
3 fact-checker making a rating.
4 A That's correct.
5 Q And so you were asked earlier if you can recall any instances of Meta
6 disagreeing with a fact-checker's rating. Is that something that Meta gets involved in,
7 just in your experience?
8 A Meta makes many, many decisions about millions of pieces of content every
9 day. I don't have any recollection of that happening, but, obviously, I can only speak to
10 my experiences and my memory.
11 Q Thank you, and I appreciate that.
12 And, again, as you said, this is a global program, the vast majority of which is
13 taking place outside of the United States, correct?
14 A That's correct.
15 Q Okay.
16 Now, I believe something else that you said -- or if you didn't say, this is a
17 conclusion -- is that the fact-checkers are not making decisions about what happens to
18 content that they've rated, correct?
19 A That is correct.
20 Q That's a decision that's made on a policy level by Meta?
21 A That's correct.
22 Q So, if a fact-checker rates something as false, Meta has a policy in place for
23 what action it's going to take.
24 A That's correct.
25 Q And that policy applies regardless of why the content was rated as false or

1 what the content is?

2 A That's correct.

3 Q And it's a different action if the content is rated as "partly false" or "missing

4 context" or any other one of the ratings it might receive.

5 A That's correct.

6 Q And I want to talk a little bit about the actions that Meta takes and one of

7 the -- I believe you said -- well, first of all, let me back up. I'm sorry.

8 Content that has been rated by a fact-checker is not removed from your platforms

9 unless it violates one of your community standards. Is that correct?

10 A That is correct.

11 Q So, even if content is rated as "false," you will not remove it unless it violates

12 one of the content policies that we talked about earlier. And I only mentioned a few,

13 but --

14 A That is correct.

15 Q And so you mentioned, for misinformation, you only remove it if there is a

16 risk of imminent physical harm resulting from the content.

17 A That's correct.

18 Q And there are other circumstances, as well -- like, if it interferes with political

19 processes.

20 A That's correct.

21 If you look at tab 20 of the binder, the misinformation section of our community

22 standards, we articulate the categories of misinformation and how we treat them.

23 So we explain, we remove misinformation where it is likely to directly contribute

24 to the risk of imminent physical harm, content that is likely to directly contribute -- sorry,

25 do you want me to give you a minute?

1 Q Well, here, let me see if I can summarize it. So you have, in the
2 "Misinformation We Remove" section -- and this is available on the website, correct?
3 A This is, yes.
4 Q There are four categories that are noted with Roman numerals of the types
5 of information you remove. So it's information that's --
6 A That's correct.
7 Q -- likely to result in imminent physical harm or violence, correct?
8 A That's right.
9 Q Harmful health misinformation?
10 A That's right.
11 Q Voter or census interference, so information that is likely to directly
12 contribute to a risk of interference with people's ability to participate in these processes?
13 A That's correct.
14 Q Elections and the census, correct?
15 And then certain types of manipulated media.
16 A That's correct.
17 Q And all of this is outlined so that people can follow it.
18 A Yes.
19 Q And so, again, just to be clear, if information is rated as "false," meaning it's
20 completely false, it will not be removed unless it falls under one of those four categories?
21 A That's correct.
22 Q But its visibility will be reduced, correct?
23 A If one of our fact-checking partners assesses the content should be rated
24 "false" per our definition of the term "false."
25 Q So I want to talk about that a little bit. When content visibility is reduced,

1 what that means is it's ranked lower on people's news feed on Facebook, correct?

2 A That's correct.

3 Q And on people's Instagram feeds?

4 A That's correct.

5 Q And in -- on the "Explore" page?

6 A On Instagram, it would be filtered out of the "Explore" tab.

7 Q Let's start with Facebook. If content has distribution reduced, it still will

8 show up on a news feed; it just be will be lower, will be ranked lower on the news feed.

9 A That's correct.

10 Q So that means, if I keep scrolling, I can encounter it.

11 A That's correct.

12 Q And it's the same on people's Instagram feeds, correct?

13 A That's correct.

14 And as I mentioned earlier, we are now allowing users actually to tell us if they

15 want to see more fact-checked content or less. Because we heard from people that

16 they wanted more control over their experiences in feed.

17 Q And so a user can say, I want you to show me more content that has been

18 fact-checked.

19 A That's correct.

20 Q So, if somebody suspects that they're not seeing what they want to see

21 because it's been fact-checked, then they can tell Facebook, no, I want to see that

22 anyway.

23 A That's correct.

24 Q Okay. Can users share content that has been fact-checked?

25 A Yes, they can.

1 Q So you can still see it on your news feed, you can see it on your Instagram
2 feed, and you can share the material.
3 A That's correct.
4 Q And there are certain types of content on your platforms that is not subject
5 to fact-checking, correct?
6 A That is correct.
7 Q Okay. Can you tell us a little bit about what types of content that is?
8 A Yes.
9 In our Transparency Center is our public-facing policies that are sort of adjacent to
10 the community standards. We explain our policies for fact-checking, and we explain
11 there that there are several types of content not eligible for fact-checking.
12 So only public content is available for fact-checking.
13 Q So let me -- can I interrupt you for a second?
14 A Yeah.
15 Q So when you say "public content," if a person has a private Facebook or
16 Instagram account, does that mean that anything they post will not be fact-checked?
17 A It could not be directly rated by a fact-checker.
18 Q And I assume that's because the goal of the fact-checking program is to
19 prevent viral misinformation, and private accounts are unlikely to have anything go viral
20 since, by nature, they're private.
21 A That's correct.
22 Q I'm sorry. So that's one type --
23 A Yes.
24 Q -- is private information.
25 A Private information is not eligible to be fact-checked directly.

1 We also explain that opinion generally should not be fact-checked. The purpose
2 of the fact-checking program is not to interfere with people's opinions. And we define
3 "opinion" in our public policies that, obviously, our fact-checkers have access to.
4 Q Okay. And what about content posted in ads by politicians?
5 A So, under our policies, direct politician speech is not eligible for
6 fact-checking.
7 Q And that includes their advertisements, correct?
8 A That's correct.
9 Q And the company's definition of "politician" includes candidates for office at
10 every level, correct?
11 A That is correct.
12 Q And political parties and leaders of political parties?
13 A That is correct.
14 Q So the leaders of the Republican Party in the United States, even if they're
15 not running for office, their speech is not fact-checked?
16 A Their content cannot be directly rated by a fact-checker.
17 [redacted] If I could have 1 minute.
18 [redacted] I think we're done. I just wanted to announce I'm [redacted]
19 I'm the Democrats' chief oversight counsel. I joined about halfway through the
20 interview. Thank you.
21 [redacted] And we can go off the record.
22 [Recess.]

1

2 [12:32 p.m.]

3 [redacted] So we'll go on the record.

4 BY [redacted]

5 Q So did you ever have contact with the White House about misinformation?

6 A In my role, I would only in- -- usually indirectly --

7 Q Sure.

8 A -- hear feedback from the White House.

9 Q And through whom? Through whom?

10 A Through whom?

11 Q Yeah.

12 A Our public policy team are responsible for managing relationships with

13 government stakeholders.

14 Q All right. Do you know when their contact with the White House began?

15 A I do not.

16 Q Do you know of any specific meetings that occurred with the White House

17 about misinformation?

18 A I do not recall any of the specifics.

19 Q Are you familiar with Rob Flaherty from the White House?

20 A I recognize his name.

21 Q Do you know who he is?

22 A I don't know him well, or I -- I'm sorry. My understanding is, he was

23 a -- was or is a member of the Biden administration. That's really the extent of --

24 Q Do you know if people at Meta had contact with him about misinformation?

25 A I did not have contact with him.

1 Q Do you know if other people at Meta did?

2 A I can't speak to whether other people did.

3 Q Do you know of any meetings that took place between him and [redacted]

4 [redacted] and [redacted]?

5 A I can't speak to whether those meetings would've occurred. I was not part

6 of them.

7 [redacted] [redacted], can I ask you to speak up just a little bit?

8 [redacted] Yes.

9 [redacted] Thank you.

10 BY [redacted]

11 Q So you don't know of any specific meetings? Is that what you're saying?

12 A I don't right now have a specific recollection of meetings that would've

13 happened with external stakeholders during -- are you asking me about a specific time

14 period?

15 Q No. Just, how about more generally? Do you recall information being

16 conveyed about the White House's position on COVID misinformation on Facebook?

17 A So, yes, I was aware the administration asked questions about our COVID

18 approach.

19 Q And was that the Biden administration?

20 A Yes.

21 Q Not the Trump administration?

22 A I cannot remember -- yeah -- back to the Trump administration.

23 Q Okay. But, as you recall, it was the Biden administration that was asking

24 questions?

25 A I do remember, yes, being aware the Biden administration was asking

1 questions about our COVID misinformation approach.

2 Q And what sort of questions?

3 A What I can best speak to is that we received input throughout the pandemic

4 from a variety of stakeholders, asking whether our policies were in the right place

5 and -- yeah.

6 Q What do you mean by the "right place"?

7 A Again, we routinely field questions about whether we are enforcing our

8 policies or if we have adopted policies that are consistent with our principles.

9 I had mentioned previously that our goal is to enable expression. And so, when

10 we restrict expression, we do so in the service of our values, which are authenticity,

11 safety, privacy, and dignity.

12 During the course of the pandemic, we were doing our best to develop policies

13 that were good for our users and advertisers that were taking into consideration the

14 stakes and the public-health stakes of the pandemic.

15 Q When you received information from the public policy team that the White

16 House had some problems -- I know that's not exactly the language you used; I can't

17 remember exactly what you said, but -- they had concerns about misinformation about

18 COVID on Facebook, what did you do with that information?

19 A So, when we get questions from external stakeholders, we will often look at

20 our policies. Our first step is to explain the rationale for those policies, make sure that

21 whoever is asking, whether it's another internal team or if that team is asking because

22 someone else had asked them, understands the rationale, understands those principles

23 and values I referenced, and start there, by explaining our rationale.

24 [[redacted] Exhibit No. 1.

25 Was marked for identification.]

1 BY [redacted]

2 Q So this is exhibit 1.

3 I included the whole chain just so you have it, but what we're really interested in is

4 the March 19, 2020, email.

5 Mr. Brown. Can we just have a few minutes to --

6 [redacted] Sure, sure. Yes, please. Yeah.

7 Mr. Brown. Thanks.

8 BY [redacted]

9 Q Do you recall this email exchange from March of 2020?

10 A I'm done reading.

11 Do I recall this email exchange? No, I do not.

12 Q Do you know what it was? I mean, it appears to be an industry working

13 group about COVID on social media. That's what it looks like to me, but --

14 Mr. Brown. Can I ask which email you're referring to?

15 [redacted] I'm referring to the March 19th. It's not the --

16 Mr. Brown. There are a couple of March 19th emails. Which one?

17 [redacted] It's March 19th from a redacted at Microsoft. It's at 9:57 a.m.

18 [redacted] Do you have the Bates number?

19 [redacted] Yes. 6521 and on to 6522.

20 So the name of the person who sent the email is redacted.

21 Mr. Brown. Okay. Just so I've got this, she's not on this email.

22 [redacted] She's on the participants list --

23 Mr. Brown. But she's not --

24 [redacted] -- on the --

25 Mr. Brown. -- she's not on the email.

1 [redacted] Okay.

2 BY [redacted]

3 Q Do you recall participating in this working group?

4 A No, I don't -- I was not on this email, as far as I can tell. And I don't fully

5 understand the context.

6 Q Okay. So you don't know why, on 6523, your email address is listed under

7 the participants?

8 A I -- yes, I see my name there. I don't remember the context around

9 whatever is being described here.

10 Q Did you attend any meetings with Microsoft and other companies in this

11 time period that you recall?

12 A I don't have a specific recollection. It's possible. Sometimes in my job, I

13 have, you know, been to conferences, for example, with other industry representation.

14 But I don't remember the specifics of what was being discussed on March 19, 2020.

15 Q Okay.

16 If we could take these back, yeah.

17 A Oh.

18 [[redacted] Exhibit No. 2.

19 Was marked for identification.]

20 BY [redacted]

21 Q This one is shorter. So this is exhibit 2.

22 Thank you.

23 A Thank you. I've had the chance to read.

24 Q So this appears to be an invitation to a Zoom or some kind of virtual meeting

25 with the Surgeon General's office. And the subject line is "COVID-19 Misinfo Meeting

1 with HHS senior Advisors to US Surgeon General Vivek Murthy."

2 Do you recall attending this meeting? It's on July 16, 2021.

3 A I do have a vague memory that I met with HHS employees at some point

4 during the pandemic.

5 Q Do you recall who else was at the meeting from both Facebook and from

6 us -- from the government?

7 A I don't remember off the top of my head. I would only have the, you

8 know --

9 Q Were remarks of the Surgeon General and the former press secretary,

10 Jennifer Psaki, from the previous day as well as that day blaming Facebook and other tech

11 companies for COVID deaths a topic discussed at the meeting?

12 A I don't remember what specifically was discussed.

13 Q Was misinformation about COVID on Facebook discussed?

14 A I don't remember the specifics of the meeting. My role in external

15 meetings with government stakeholders -- which I would sometimes join. It's not a

16 primary part of my role. But my role is to, as I think I've explained, explain the rationale

17 for our policies and generally answer questions that external stakeholders have about

18 those policies.

19 Q Do you recall anything that was said at that meeting by HHS leading you to

20 change any policies at Meta or talk to people about changing policies at Meta or to any

21 internal discussions of that nature?

22 A I do not recall what specifically was discussed at this meeting. I have a

23 vague recollection that at a certain point in the pandemic I did meet with HHS employees,

24 but that's really all I remember about this interaction.

25 Q Were notes or other records of the meeting kept that might contain such

information?

A I don't remember.

Q Does Facebook have a policy in terms of, you know, keeping notes about such meetings?

A My team doesn't have such a policy. I don't know.

Q And there wasn't anyone on your team who would be in charge of taking notes or keeping a record?

A My team doesn't have a formal policy for notetaking during external meetings.

BY [redacted]

Q How frequently are you in meetings with the Federal Government?

A With the Federal Government?

Q Yeah.

A I am infrequently in meetings with the Federal Government.

Q Infrequently?

A Yes.

Mr. Brown. Can we go off the record for a minute?

[redacted] Sure.

[Recess.]

[redacted] Back on the record.

BY [redacted]

Q Are you aware of a statement that President Biden made that day, July 16th, saying that social media companies were killing people because they weren't censoring COVID misinformation enough?

A I am aware of the statement.

1 Q Were those remarks discussed at Meta, to your knowledge?

2 A I obviously don't know all the conversations that happened at Meta, but

3 whether I was aware of the remarks, I can speak to that.

4 Q Did you participate in conversations about those remarks?

5 A I can't say with any specificity, you know, whether the remarks came up

6 specifically in conversations I was part of at the time.

7 I know -- taking a step back, I was aware the White House was asking questions

8 about our policies at the time, beyond that specific statement.

9 Q Did the White House's questions or statements have an impact on Meta and

10 its employees?

11 A My role at Meta is to develop policies that are consistent with our principles

12 and values. And I believe that during the pandemic, which was truly an unprecedented

13 time, we did our best to adopt policies that were consistent with those values.

14 We get criticism and questions from any number of stakeholders. And, you

15 know, again, while being aware of the criticism, I'm usually somewhat insulated from it,

16 given I hear that kind of feedback indirectly.

17 Q When you say consistent with your values, I think earlier on we talked a little

18 bit about -- maybe it was during the other hour of questioning, -- you know, the fact that

19 information changes. And this was, as you said, unprecedented, and knowledge

20 changed rapidly, so something that might be considered true one day wasn't considered

21 true the next.

22 How did Meta take that into account in its misinformation policy?

23 [redacted] I'm sorry. Can I ask both you guys just to speak up a little bit?

24 I'm having trouble hearing.

25 [redacted] Yeah.

1 BY [redacted]

2 Q How did Meta take that into account in its misinformation policy?

3 A Our approach to developing our COVID misinformation policies really began

4 as early as January 2020, when, you know, the press was, if I'm remembering correctly,

5 first reporting that cases of COVID were spreading outside of China.

6 By the end of that month, the World Health Organization had declared COVID a

7 public health emergency of international concern.

8 And we had shared, Meta had shared, that our approach to addressing

9 misinformation about COVID during the public health emergency would be to remove

10 claims when external public health authorities told us those claims were both false and

11 could directly contribute to imminent physical harm -- for example, contribute to people

12 getting or spreading COVID.

13 And throughout the pandemic, we worked with public health authorities to

14 understand which claims met the bar of that two-prong test -- both false and could lead

15 to imminent physical harm.

16 Q So, just for example, Rochelle Walensky, who I assume would be considered

17 a public health authority as Director of the CDC, said that if you don't get --

18 [redacted] I'm sorry. Could --

19 [redacted] Oh.

20 [redacted] -- you slow down and speak a little louder? I just can't hear down

21 here.

22 BY [redacted]

23 Q Rochelle Walensky, for example, former Director of the CDC, I assume would

24 be considered a public health authority; is that right?

25 A When we were developing our policies, so early in the course of the

1 pandemic, we consulted with a broad range of external stakeholders, from safety experts
2 to freedom-of-expression experts. Throughout the course of the pandemic, the public
3 health authorities that we most regularly turned to for input on specific false claims were
4 organizations such as the WHO or CDC.
5 Q So, if she said something like -- which she did say -- if you get the vaccine,
6 you can't transmit COVID or you won't get COVID -- that was considered, you know,
7 2 years ago to be the truth -- how would Facebook have implemented that sort of
8 statement?
9 Mr. Brown. I'm sorry. Could you repeat the --
10 [redacted] What?
11 [redacted] Well, if --
12 Mr. Brown. I don't think -- you say, if --
13 [redacted] How would that --
14 Mr. Brown. -- you got the vaccine, you can't get COVID --
15 [redacted] Yeah.
16 Mr. Brown. -- and that was considered to be the truth --
17 [redacted] Yeah.
18 Mr. Brown. -- 2 years ago?
19 [redacted] By whom?
20 [redacted] By President Biden and Rochelle Walensky --
21 Mr. Brown. If you get the vaccine, you can't get COVID?
22 [redacted] Those were public statements that the CDC made and President
23 Biden.
24 Mr. Brown. I'm -- yeah, look, we can go and deal with the questions. I am not
25 familiar with anyone ever saying that if --

1 [redacted] Well --

2 Mr. Brown. -- you get the vaccine, you can't get COVID. And if you've got a

3 document that says that from the CDC, I think we'd be interested in seeing it.

4 [redacted] There were a number of public statements where, at a later point, a

5 public official says something that's different --

6 Mr. Brown. Two years ago.

7 [redacted] Yeah. The question is, in instances like that --

8 Mr. Brown. If that actually happened. That's what I'm really kind of getting at,

9 is, I don't want her to have to respond to a hypothetical. If that really happened -- I

10 trust you if you read it, but, like, I just don't know what you're referring to.

11 [redacted] This is from the Associated Press on July 22, 2021. "President Joe

12 Biden offered an absolute guarantee Wednesday that people who get their COVID

13 vaccines are completely protected from infection, sickness, and death."

14 [redacted] July 22, 2021.

15 [redacted] "'If you're vaccinated, you're not going to be hospitalized, you're

16 not going to be in the IC unit, and you're not going to die.'"

17 [redacted] I'd say that's different than not getting COVID.

18 [redacted] That's not -- okay.

19 Mr. Brown. Yeah, I don't mind her answering the question. I just want her to

20 answer the question based on an actual statement. And that actual

21 statement's -- because she's going to respond about what the policies are with dealing

22 with it, and if it's a hypothetical, something that didn't actually get said, then it's not a fair

23 question.

24 So, if you want to ask her about that particular quote and what they did about it, if

25 you know the answer, you can give it. If you don't know it, we can go look it up and try

1 to --

[1:02 p.m.]

[redacted] Okay. Here is August 26, 2021. Speaking on "The Rachel Maddow Show" on MSNBC, Rochelle Walensky said that CDC data show that vaccinated people don't carry the virus -- that's in quotes -- and don't get sick.

[redacted] Can you repeat your specific question to me?

BY [redacted]

Q Yes. So, given that that was coming from the CDC director, how would Facebook have approached claims that contradicted that?

A So our general -- excuse me -- our general approach throughout COVID was to start, as I explained, by speaking to a wide range of external experts, to understand -- and this was really as early as January 2020 -- to understand the categories of claims that could contribute to real threats to public safety, to the risk of people getting or spreading COVID.

Once we had that, those categories of claims, we were able to kind of look for trends in what people were saying on our platform -- and then, as any kind of new trends or new claims emerged, the conversation obviously changed throughout the course of the pandemic as information changed -- bring new claims to public health authorities and ask them if that claim was both false and likely to directly contribute to the risk of people getting or spreading COVID.

If public health authorities told us those claims met those two criteria, we would then update our public-facing policies -- I have a list in the binder of what those policies look like, you know, to a certain point in the pandemic. They've continued to evolve today -- and start enforcing on -- on those claims.

We were always very mindful of the importance of allowing people to discuss their personal experiences and ask questions. That was something we heard early on

1 would be -- would be important to public safety.

2 Q I see. Are you familiar with the disinformation dozen, with that term?

3 A I am familiar with the term.

4 Q And are you aware that it includes Robert F. Kennedy, Jr.?

5 A I, yes, do remember that.

6 Q Do you recall Facebook or Meta taking any action specifically against the

7 disinformation dozen?

8 A Yes.

9 Q And what action was taken?

10 A So my memory is, at a certain point in the pandemic, I believe that a group

11 called the --

12 Q Center for --

13 A -- Center for Countering Digital Hate first coined the term

14 "disinformation dozen," pointing to a group of individuals they said were responsible for

15 spreading vaccine misinformation on social media platforms.

16 When we became aware of their accounts, my recollection is, we assessed them

17 under our policies -- policies at the time and took action per those policies.

18 I don't remember specifically which actions we took, you know, when we first

19 became aware of them.

20 Q So the Center for Countering Digital Hate, is that a nonprofit, or do you know

21 what the nature of that group is?

22 A I -- I am not an expert on the nature of that group.

23 Q What was Facebook's relationship with them?

24 A I don't know that we had a relationship with them.

25 Q Oh, so they weren't advising Facebook? You just heard that they had

1 identified the disinformation dozen? Is that a correct understanding?

2 A My memory is that I heard that they had written the report identifying the

3 disinformation dozen, and I do remember reading the report.

4 Q Did the White House or any other government agencies play any role in

5 having the Disinformation -- action taken against the disinformation dozen?

6 Mr. Brown. I'm sorry. Can you just give me that one more time?

7 [redacted] Let's start with the White House. The White House made a

8 number of public statements saying that they considered the disinformation dozen

9 particularly problematic, for the record. Did that influence Facebook's policies or

10 actions toward the disinformation dozen?

11 [redacted] So, as I think I said, I was aware the White House asked questions

12 about -- I was aware the White House asked questions about the disinformation dozen.

13 BY [redacted]

14 Q Who made you aware of that?

15 A I don't recall at this point. I generally heard feedback from government

16 stakeholders indirectly.

17 Q When you would receive feedback from someone with that matter,

18 regarding feedback from external stakeholders, who usually would communicate that to

19 you?

20 A I think it could be a -- I could hear that from my leadership. I could hear

21 it -- my leadership being more senior members of my team, [redacted] of course,

22 [redacted]. I could also, on occasion, hear directly from members of our public policy

23 team.

24 Q Which members of the public policy team would convey information to you

25 or your team regarding communications with the Biden White House?

1 A I don't remember all -- the specifics of who would've been involved in those
2 conversations at the time.
3 [redacted] Can I just ask a clarifying question? I think that I'm confused
4 about whether you're asking about information she heard about in the news because
5 disinformation is something that was brought up in the news, and she mentioned that
6 she had heard about it, or if you're talking about internal communications of the
7 White House directly contacting Facebook --
8 [redacted] To be clear, the question was just a general question. [redacted] said
9 that there were instances where she'd be made aware of what external stakeholders
10 were saying -- that includes the Biden White House -- not necessarily specific to the
11 disinformation dozen, as an example.
12 BY [redacted]
13 Q But, if communication is being relayed to you, regarding communications
14 with the White House, who on the public policy team would be making those
15 communications?
16 A I don't remember the specifics of those specific communications, but in
17 general, our public policy teams around the world do hear directly from government
18 stakeholders and may share what they've heard with me from time to time.
19 Q You mentioned an answer a few answers earlier that typically you and your
20 team were -- "insulated" was the term you used. Who makes the decision regarding
21 when you're insulated and when you're not regarding the opinions or questions from
22 external stakeholders?
23 A The question is, who decides when I am insulated from external input?
24 Q That's correct.
25 A My job is, by definition, and our company is structured so that I am relatively

1 insulated from external input because my job is to focus on developing our policies and
2 doing so in ways that are consistent with our principles and our values.
3 Q And, understanding what you're saying as far as the reason behind why the
4 company wants to keep you insulated, but based off your recollections, there are
5 instances in which you are not insulated. Do you know what the threshold is or why
6 that occurs?
7 A Sorry. Thank you. I understand the question.
8 So, from time to time, when colleagues who are responsible for working directly
9 with external stakeholders get questions or feel like it would be helpful for those people
10 to hear directly from someone developing our policies, I'm -- I would be asked, you know,
11 by probably a senior member of the team -- as I'm a senior member of our team -- to join
12 a meeting or a phone call and explain our policies.
13 Q So, other than instances where the company believes it would be helpful to
14 have you at a meeting with an external stakeholder, are you ever receiving information
15 regarding the -- I'll restate the question.
16 [redacted] You said "viewpoints."
17 [redacted] I'm sorry?
18 [redacted] You said viewpoints. That was the word.
19 [redacted] Oh, okay.
20 [redacted] I don't know why I heard it.
21 [redacted] Great. Thank you.
22 [redacted] It's the one word I've heard.
23 BY [redacted]
24 Q So, reflecting your previous response, that at least some of the instances in
25 which you are being contacted about the viewpoints or questions raised by external

1 stakeholders, that situation occurs when the company thinks it would be helpful for you
2 to attend a meeting.
3 In addition to that example you provided, are there other times where
4 information regarding the viewpoints or the questions of external stakeholders is being
5 shared with you or your team?
6 A So, you know, another example of when I would hear feedback from
7 external stakeholders would be when Meta receives letters from Congress, asking us to
8 answer questions on the record. I will help to explain our policies in response to those
9 questions.
10 Q Did you end up attending any meetings with the White House in the summer
11 of 2021?
12 A I do not have a memory of attending meetings.
13 BY [redacted]
14 Q What about the Surgeon General's Office?
15 A I do remember meeting with HHS employees. As far as I remember, it
16 was -- it was just once that --
17 Q Just that one?
18 A -- summer of 2021.
19 Q Okay.
20 BY [redacted]
21 Q Regarding the White House, if you don't recall attending any meetings with
22 the White House and [inaudible] a letter from Congress, what are the circumstances to
23 explain why you and your team are made aware of what the White House was asking or
24 relaying to the public policy folks?
25 A In general you're asking --

1 Q In summer of 2021.

2 A In summer of 2021. So the specific question is -- can you tell me the

3 specific question one more time?

4 Q Sure. So we started off with a more general question of, your team is

5 relatively insulated. There are instances in which that insulation is pierced. You

6 mentioned one of the reasons might be letters from Congress. Another reason might be

7 when it is necessary for you to meet with the relevant external stakeholder.

8 You've answered that you recall being aware of what the White House was saying,

9 but you don't recall meeting with the White House. So the question is, what were the

10 circumstances that led to you and your team becoming aware of what the White House

11 was saying?

12 A Thank you for repeating the question. I -- I don't remember the specific

13 circumstances that led to my team becoming aware of those questions. I -- you know,

14 it's possible I heard some of them in the press and some from -- from colleagues at the

15 time.

16 Q Do you recall whether anyone from the company informed you of what the

17 White House was telling the company during the summer of 2021?

18 A I do not remember the specifics of how I became aware of that -- those

19 questions and that criticism.

20 BY [redacted]

21 Q Just one more specific example. Were you aware of statements that the

22 communications -- White House Communications Director Kate Bedingfield made, saying

23 that they were reviewing Section 230 to see if platforms could be held accountable for

24 vaccine misinformation?

25 A I don't remember that communication specifically. That -- that sort of area

1 would be sort of outside my general scope of responsibility.

2 Q You don't remember hearing it just on the news or --

3 A I don't remember specifically today.

4 Q Okay.

5 [redacted] With respect to the disinformation dozen, do you recall when

6 approximately you first learned about concerns related to a group of individuals called

7 the disinformation dozen?

8 [redacted] I believe, my memory is that I first became aware of that term when

9 the CCDH published their report, which, I believe, was early spring of 2021.

10 [redacted] Do you know why you came -- why you saw that report because

11 that's -- how you came across that?

12 [redacted] I don't remember specifically. You know, throughout the pandemic,

13 press, other stakeholders routinely, you know, asked us questions about how our policies

14 applied to different instances and different content. I don't -- I don't remember who

15 specifically first raised that CCDH report.

16 BY [redacted]

17 Q Is it widely known within Meta that the content moderation team should be

18 relatively insulated?

19 A You know, I really don't know -- I don't know that I can speak for all of Meta.

20 Within the content policy team, something we say, you know, how we would describe

21 ourselves is what I've told you, that our job is to develop policies that are consistent with

22 our principles.

23 Those principles I've cited are, you know, prominently featured on our community

24 standards language, our public language, so our team certainly does our best to carry out

25 that work.

1 Q Do members of the public policy team know that your team is supposed to
2 be relatively insulated?
3 A I can really best speak to what I know from my team and not speak on behalf
4 of the public policy team.
5 Q But, whether the content moderation policy team actually, in fact, can be
6 relatively insulated, it's not relative to the actions of your teams, it's to the actions of the
7 other teams and whether they decide to share information with your team or not.
8 Do you recall ever having discussion about what's appropriate to share with your
9 team or not share with your team?
10 A I'm sorry. Could you repeat the question one more time?
11 Q Sure.
12 Do you recall having discussions, any discussions between your team and any
13 other team at Facebook, regarding what information would be inappropriate to share
14 with your team, in order to maintain this relative insularity for your team?
15 A I really don't recall the specifics of, I think, any of the conversations I had at
16 the time, given it was 2 years ago.
17 Q Just what about in general?
18 A The question would be -- tell me the question again.
19 Q Yeah.
20 Do you recall you or your team having any discussions with another team at Meta
21 regarding what sort of sharing information would be inappropriate in order to maintain
22 your team's relative insularity?
23 A I mean, I don't -- I don't recall having those specific conversations. We do
24 sometimes, you know, when there is a new hire at the company, on another team,
25 explain our policies and our policy approach to that person.

1 So my team and I would be involved in that kind of conversation, but I -- that's an
2 example for you.
3 Q When someone from the public policy team is sharing, we'll use as an
4 example, information or questions from the White House, and the decision has been
5 made to share that information with you and your team, is the public policy team making
6 that decision directly, or do they consult with other members of Meta first to get
7 approval?
8 A I would have to defer that question to the public policy team.
9 Q When the -- when information is being shared from the public policy team to
10 you and your team, is there a briefing that occurs? Is it an email? How typically are
11 you receiving these interactions?
12 A I don't know there's a typical use case that really comes to mind.
13 Q Okay. When it -- to the extent you have a recollection with respect to how
14 you came to understand the, again, kind of viewpoints, questions being raised by the
15 White House, specifically in 2021, did you have a sense of whether the White House's
16 view was that Facebook was too aggressive or not aggressive enough regarding
17 misinformation and the content moderation policies?
18 A My -- my recollection, and based on some of the things you've mentioned
19 here today as well, is that the questions we were getting were primarily about whether
20 we were doing enough to protect public safety during unprecedented time. That was a
21 question we got from a number of stakeholders, again, given how unprecedented COVID
22 was and how impactful it was on people's lives.
23 Q And by "doing enough" -- I mean, your team's role is content moderation,
24 and so by "doing enough," does your answer mean with respect to doing enough to
25 moderate enough content? I mean, what do you mean by -- what is your understanding

1 of what "doing enough" meant?

2 A Whether -- by that I mean, we were asked regularly by a number of

3 stakeholders if our policies were consistent with what we had said at the outset, that we

4 would remove false information -- or information that public health authorities told us

5 was false and could directly contribute to the risk of people getting or spreading COVID,

6 which, again, we said early on in our policies was -- was the approach we had decided to

7 adopt.

8 Q And so was it your -- we'll keep the question specific to the White House in

9 2021. To the extent you had an understanding of the viewpoint, the position, that was

10 being relayed from the White House via the public policy folks, was that there was not

11 enough, I'll say, false information, false content, being removed from Meta's platforms?

12 A Again, I don't -- I don't know if I remember the specifics of all the critique,

13 but I do know the bigger picture was the questions we were getting, as far as I remember,

14 from the U.S. Government, was whether we should be doing more to address false

15 information about COVID vaccines.

16 Q Given the benefits you outlined earlier about maintaining -- keeping your

17 team insular, does learning that information jeopardize any of those benefits?

18 [redacted] I'm sorry. Are you saying "benefits"?

19 [redacted] Yeah.

20 Mr. Brown. I think he's referring to the benefits of so-called insularity.

21 [redacted] That's correct.

22 [redacted] Tell me the question again.

23 BY [redacted]

24 Q Sure.

25 If an earlier response, you outlined the benefits of keeping your team insular from

1 other information, viewpoints. Your team likes to focus on what it's working on. In
2 relation to those benefits, does learning information, such as the viewpoint of
3 U.S. Government stakeholders, does that in any way jeopardize the benefits you had
4 outlined?
5 A I guess my team's job would be to look at our policies and develop policy
6 options consistent with our principles and our values.
7 I believe that the policies we adopted during the public health emergency were
8 consistent with those principles and values and that we were really trying to do our best
9 during an unprecedented time to keep people safe.
10 Oh, yeah, okay. To kind of perhaps more directly answer your question, we do
11 want to know when people disagree with our policies or have questions. We are, again,
12 as I have said, always trying to evolve those policies, and so especially when something
13 changes or when the nature of what's happening in the world or what people are saying
14 on our platforms changes, we welcome questions, so that we can look at our policies and,
15 you know, take a really close look and see if there's any changes that we think we should
16 make to update them.
17 Q So I guess where is the line then between making sure that your team is
18 insulated from external influence but as opposed to, it sounds like, welcoming certain
19 viewpoints from certain stakeholders?
20 A I think it -- it's a structural line that I've talked about, so largely structuring
21 the company so that the people who hear that -- who tend to hear that feedback most
22 directly are on other teams. And the people who then think through that feedback look
23 at our -- look at content, look at our policies, are relatively insulated from the feedback,
24 which does not mean that we don't welcome the feedback and expect we should have to
25 answer hard questions, any range of questions, why we're doing too much or too little at

1 any given time.

2 Q When it comes to insulating the team, who is the highest ranking person on

3 the team that the company aims to insulate?

4 A [redacted] is the head of the content policy team. That is my team.

5 Q Obviously, we've heard her name in a number of contexts. Presumably

6 she's interacting, though, with public policy folks and other high-ranking members at the

7 company. I guess let me ask it first this way.

8 Does the company try to insulate [redacted] from knowing what the public

9 policy team does?

10 A Probably have to defer that question -- that question to [redacted].

11 Q In terms of folks on your team who will interact with the public policy folks,

12 if there's a goal to insulate your team to a certain degree, is there a certain threshold or a

13 certain seniority where only certain folks are allowed to engage with the public policy

14 team?

15 Mr. Brown. We're happy to go down this road, but you're assuming a

16 hypothetical about how the company is organized that isn't --

17 [redacted] What's incorrect about the hypothetical?

18 Mr. Brown. The notion that people from the policy team, the executive branch

19 policy team, can't talk to people in her world. And, for instance, we were asked to come

20 here today to talk to you, the policy team involved in making sure she was aware you all

21 wanted to talk to her.

22 You know, there are other instances where [redacted] has been asked to talk to

23 the Senate, the House, and the executive branch. We've been very clear about that.

24 So I think it is definitely true, and we've said this before, that the structure is that most of

25 the engagement with the executive branch happens with people on the policy team.

1 And questions about specific pieces of content get related to people on content teams,
2 and then answers typically get communicated back. Like, this notion of a wall within the
3 company is, I think, not saying that there's anything wrong with you asking the question,
4 but I don't know that she's testified or that we've ever said anything that would suggest
5 there is such a wall.
6 [redacted] Well, I --
7 Mr. Brown. But if you're asking the question --
8 [redacted] The question referred to a wall, but it's been, both in this interview
9 and others, representations regarding, again we use the term that I'm using, to keep the
10 content moderation team insulated from certain external pressures. So it's a perfectly
11 appropriate line of questioning to understand how that operates. Clearly --
12 Mr. Brown. But they're not external. Their policy team is not external. It's
13 internal.
14 [redacted] But that's the team with primary responsibility for engaging with the
15 external stakeholders.
16 Mr. Brown. Right. And I think we've instructed, they don't talk to --
17 [redacted] -- they --
18 Mr. Brown. -- I'm sorry about that.
19 [redacted] No problem. Yes, no one's denying what each team's role is, and no
20 one is trying to suggest that teams don't talk to one another --
21 Mr. Brown. Okay.
22 [redacted] -- right? But there are benefits that [redacted] laid out, why the
23 content moderation team is relatively insulated from other teams.
24 Mr. Brown. From the -- from the government?
25 [redacted] Yes.

1 Mr. Brown. Yeah, that's not from teams.

2 [redacted] From -- excuse me -- from the government.

3 Mr. Brown. Yes.

4 [redacted] Because we're trying to gain an understanding of how that filtering

5 process works. So, in some cases, the content moderation team learns who the

6 government stakeholder is, what the viewpoint of that government stakeholder is, and

7 with respect to content moderation policies -- and we're trying to understand who makes

8 that decision, how is that filtering occurring, because some things are getting to the

9 content moderation team.

10 Mr. Brown. If you have an answer for him, you're obviously welcome to give it.

11 [redacted] Is there a more specific version of the question that you most -- that

12 you would like me to answer?

13 BY [redacted]

14 Q Sure. And so the answer may be that there's no one on the team that isn't

15 able to be contacted by someone on the public policy team, and if that's the case, please

16 correct me. The question is not trying to assume anything.

17 The question was, is whether there was a certain seniority or if there were junior

18 folks on the content moderation team that were deliberately, you know, walled off or

19 limited in their ability to interact with the public policy team?

20 A Thank you. No one within my team, within the misinformation policy

21 team, would be explicitly not allowed to speak to someone on our public policy team. I

22 think as was said, sometimes people might have a quick question about, you know, when

23 did X policy change, and there's no need to ask [redacted], the head of our team,

24 that question directly. They're able to go to anyone on the team who might have that

25 information.

1 Q With respect to the information that was -- that you became aware of
2 regarding the White House's views in 2021, do you recall if there were any discussions
3 related to that, that rose to the level of roping in [redacted]?
4 A See, I don't recall a lot of the specifics. I think that, in general, throughout
5 the pandemic, our approach was highly scrutinized. So [redacted] likely would've had
6 some oversight over, you know, decisions to change our policies, and ultimately she is
7 accountable for those policies, so it would be normal, almost at any given time, for her to
8 be involved in approving policies.
9 [redacted] Can we go off the record, please.
10 [Recess.]
11 [redacted] Okay. We are back on the record.
12 BY [redacted]
13 Q And I wanted to first say something that -- counsel said earlier, he referred
14 to your team, he said your team's role was content moderation. I just want to clarify on
15 that. That was a prelude to a question. And I believe your team was also referred to
16 as the content moderation policy team. Your team is content policy creation, correct?
17 A That's correct.
18 Q I mean, "creation" is not in the word, but that's your job?
19 A My team is responsible for the development of our content policies.
20 Q And your team does not enforce the policies?
21 A That's correct. It's a different team involved in those kind of routine
22 enforcement decisions.
23 Q And so it's fair to say that your team is not actually the team that's doing the
24 content moderation, that's engaging in content moderation?
25 A That's -- that's not the primary responsibility of my team, correct.

1 Q Thank you.

2 I want to talk to you a little bit about this notion of insulation. What I
3 understood from that phrase, and please let me know if I was incorrect, was that your
4 team is insulated in the sense that you typically don't have direct contact with the
5 third-party stakeholders, such as the White House or other government agencies, unless
6 you're brought in for some of the examples you gave, like if one of those stakeholders has
7 questions in a meeting, folks think you might be able to answer those questions better.

8 But, generally speaking, what you're insulated from is the day-to-day contact with
9 the external stakeholders, and that's what you meant by "insulation"? Am I
10 understanding that correctly?

11 A That is correct.

12 Q So it's not that you're insulated from learning what their opinions are. It's
13 just you're not the one receiving that feedback directly from the stakeholders?

14 A That's correct.

15 Q And you were asked several questions about the White House, and you
16 responded by talking about how your team works with or gets information from external
17 stakeholders generally. The White House is only one of many, many external
18 stakeholders that Facebook deals with, correct -- or Meta?

19 A That's correct, yes.

20 Q And I'm trying to phrase my question. I don't want to put words in your
21 mouth, but does the White House or do government agencies have a special status with
22 respect to your work, that differentiates them from other external stakeholders, or are
23 they generally treated the same?

24 A They would generally be treated the same. We would hear feedback from
25 any range of stakeholders and, you know, look at that feedback or questions.

1 Q So that's consistent with you being asked a question about the White House
2 and responding about external stakeholders generally, correct?
3 A That's correct.
4 Q Can you explain a little bit about what you mean by the phrase
5 "stakeholder"? What exactly does that mean, and who are some other stakeholders
6 besides government agencies? I think you mentioned this a little bit before, but if we
7 can --
8 A Sure, sure.
9 Q -- dig into that a little bit more.
10 A I mean, to give a specific example just to reinforce, when it came to
11 developing our COVID-19 policies, which we adopted very early on in the pandemic, one
12 of our values -- and I think this comes out in -- we say this in our public-facing language,
13 but it's to engage with stakeholders from diverse perspectives.
14 We have a global user base, and we want to ensure that as many perspectives as
15 possible are incorporated into our policy development. So, for COVID, some of the
16 stakeholders we consulted -- and, again, I was not, myself, part of most of these
17 conversations -- would've been both experts on epidemiology, public health experts, and
18 also freedom of expression experts, people from the United States, people from Asia,
19 people from all parts of the world, to understand what was top of mind for them and help
20 us -- help us shape the policy that we ultimately adopted.
21 Q And, as you mentioned, the policy was developed early on. I believe you
22 said you started developing the policy in January of 2020, correct?
23 A That's correct.
24 Q And so Facebook had policies against COVID misinformation before even the
25 public health emergency was declared in this country?

1 A Concurrent with -- oh, well, you'll have to remind me of the date the public
2 health emergency was declared in the U.S., but the policies were developed in January
3 2020 and announced at the same time that the World Health Organization declared
4 COVID was a public health emergency of international concern.
5 Q And, along those lines, you were asked earlier -- or I don't recall what you
6 were asked, but I believe you said that you did not recall any meetings with the Trump
7 White House about COVID?
8 A I don't recall personally being involved in such meetings.
9 Q I wanted to draw your attention back to exhibit 1, and I'm going to give you
10 my copy of it. This was the email that you were not on, but your email address was
11 listed as one of the participants.
12 A I recall reading this, yes.
13 Q And, directing your attention to page 6522 and referring to the numbers at
14 the bottom right side of the page, this email references a White House-industry
15 conference call from March 16th, 2020. Do you see that on the second paragraph on
16 that page?
17 A I do see that.
18 Q On March 16th, 2020, Donald Trump was the President of the United States,
19 correct?
20 A Yes.
21 Q And so that would've been the Trump White House that had an industry
22 conference call?
23 A I don't remember the specifics here, but I see the language.
24 Q Everything in this exhibit is from -- all the emails in this exhibit are from
25 March of 2020, correct?

1 A That's my understanding.

2 It looks like what this email is saying is, there was a White House-industry

3 conference call on March 16th, 2020, indicating priorities for, one, prominently directing

4 consumers to accurate and authoritative information, parentheses, the CDC, WHO, or

5 FEMA, and two, directing consumers to accurate information on forthcoming expanded

6 testing and how to get tested.

7 Q Thank you. And, again, I know that you don't remember and you don't

8 even recall if you were part of that meeting, but that meeting would've been necessarily

9 with the Trump White House given that it was in March of 2020?

10 A That seems accurate, yes.

11 Q Okay. Thank you. I can take that back.

12 You mentioned that one part of your job, in terms of interfacing with external

13 stakeholders, is, sometimes you're called in to put together responses to letters from

14 Congress, correct.

15 A That's correct.

16 Q Do you recall specific letters that you've had to respond to?

17 A There have been a number of them over the seven years I've been at Meta.

18 Q Have you responded to any particular to this investigation?

19 A I'd have to think about that. I -- I don't have kind of a clear list of all the

20 letters in my head. And sometimes I'm only asked to look at one question and not even

21 the whole -- the whole letter.

22 Q Makes sense.

23 You were asked a series of questions relating how you came to know about the

24 so-called disinformation dozen and the White House's concerns about them. And again

25 I just want to make sure I understood your answer correctly, which is that you're not sure

1 if the knowledge came from somebody within the company telling you or if it was
2 something that you read about from the press since the White House was -- you know,
3 various people in the administration were making promise -- all you know is that you
4 heard about it somehow.
5 A That's correct. At this point several years later, I remember being aware of
6 it, but I do not have specific recollection of how I came to be aware.
7 [redacted] And that's it for me right now. Thank you.
8 We can go off the record.
9 [Recess.]
10 [redacted] Can we go on the record, please.
11 [redacted] On the record. Sorry.
12 BY [redacted]
13 Q Do you recall a meeting with other people at Meta in the summer,
14 August -- or summer of 2021 about the Surgeon General's position on vaccine
15 misinformation?
16 A I don't recall the specifics of such a meeting.
17 Q Do you recall discussing a potential response to the Surgeon General?
18 A I am aware we -- we got questions from the Surgeon General's office about
19 our policies.
20 Q And do you know what those questions were?
21 Mr. Brown. If you have a document that reflects the conversation --
22 [redacted] Sure.
23 Mr. Brown. -- that could refresh her memory, we'd --
24 [redacted] Sure.
25 Mr. Brown. -- just as soon see it.

1 [redacted] The question isn't necessarily limited to what's in this exhibit.

2 [redacted] Exhibit 3.

3 [[redacted] Exhibit No. 3.

4 Was marked for identification.]

5 BY [redacted]

6 Q This is exhibit 3.

7 A I've read this email.

8 Q Okay. So you said that the Surgeon General's office posed questions to

9 Meta about misinformation. Is that right?

10 A I do remember being aware, yes, that the Surgeon General's Office had

11 posed questions to Meta about our COVID information response.

12 Q And do you know what kind of questions those were or what the questions

13 were?

14 A I do not remember the specifics.

15 Q Did you see them?

16 A I don't remember.

17 Q Do you know if they were in written form?

18 A I don't remember.

19 Q So, during this discussion that's referred to here on August -- our August 6th

20 discussion regarding your response to the Surgeon General, do you know who

21 participated in that discussion?

22 A I -- I don't -- I don't remember.

23 Q Did you? Do you recall taking part in that discussion?

24 A It's possible. I don't have a specific recollection of whether I specifically

25 participated in the internal meeting in question.

1 Q So, below the email, the signature from [redacted] [redacted], there are a
2 number of options given for what appeared to me to be policy changes. Would you
3 agree with that description?
4 A That's correct, these are policy changes.
5 Q And were those options discussed as part of the response to the
6 Surgeon General?
7 A Based on the email here, it sounds like [redacted] was describing these options
8 as policy options we had discussed subsequent to hearing questions from the
9 Surgeon General.
10 Q You said "subsequent," but would you say that it was because the
11 Surgeon General asked certain questions or said certain things that those policy changes
12 were being discussed?
13 A Based on what's here, and my recollection, is, our -- my leadership asked
14 us -- "me" being misinfo policy team -- to look at certain options with respect to -- to take
15 a close look at our COVID misinformation policies and provided this sphere, that we
16 should look at four discrete policy options to reduce the prevalence of COVID-19
17 misinformation on our platforms.
18 So we scoped out those options -- and, again, this email explains that we made
19 the decision, our leadership made the decision that we should implement these options.
20 Q And so those were all implemented, all four?
21 A Based on what is -- what is written here, these were implemented. I -- on
22 the first specifically, I don't have a great recollection of whether that ultimately was
23 implemented. The other -- option 2, option 3, and option 4, I can speak to those, those
24 were implemented.
25 Q When you say your leadership, just to clarify, is that Nick Clegg,

1 [redacted], and [redacted], or is there anyone else -- or is that not an accurate
2 description of the leadership list?
3 A I'm -- I'm -- when I say my leadership, I mostly mean [redacted], but --
4 Q Okay.
5 A -- yeah.
6 Q Okay.
7 BY [redacted]
8 Q You recall that options 2, 3, and 4 were implemented and possibly option 1
9 as well. Do you recall why there was -- referencing the underlined language, As
10 discussed further below, we plan to roll out the first three options over the next coming
11 weeks and will roll out the fourth option as an escalation-only policy.
12 First, what does that language mean, as, quote, as an escalation-only policy?
13 A Sorry, which option are you on specifically?
14 Q So there's four options listed below [redacted]'s signature, but then, in the
15 body of his email, he has an underlined sentence --
16 A I see.
17 Q -- where he says "as discussed further below," and then he distinguishes
18 between the first three and the fourth, noting the fourth as, quote, an escalation-only
19 policy.
20 Can you explain what he meant by that?
21 A So I can't speak for [redacted]. I can take a step back and explain what an
22 escalation-only policy would be, and it's when we develop policy, we are always looking
23 to develop policies that can actually be enforced. We wouldn't want to write a policy
24 that can't be enforced.
25 Most of the time we develop policies that we can enforce at scale, and that means

1 really we use -- the policy is enforced whenever we become aware of content that
2 violates the policy.
3 An escalation policy means the policy is only enforced when we have sufficient
4 context to assess the policy -- assess the content under the policy. It may not be
5 something that we are operationally able to implement at scale.

1 [2:14 p.m.]

2 BY [redacted]

3 Q Okay.

4 In option 1, there's a couple references to a term called "non-recommendable."

5 What does that term mean?

6 A We have policies for when we recommend content to users. Those are

7 public-facing policies that we make available in our Transparency Center. Content that

8 is not recommendable is content that we will not proactively show people in places

9 where they might see content they haven't already chosen to see.

10 So, for example, there are features that allow you to see and follow accounts that

11 we have signal may be connected to other accounts you're interested in but you haven't

12 chosen to follow those accounts. That would be a recommendation, surface. And we

13 have a higher bar there for the content we display, because we know people haven't

14 explicitly told us they want to see that content.

15 Q In option 1a, there's a reference to, provided as an example, "RFK Jr.'s IG

16 Account is removed, so his FB Page will be non-recommendable."

17 Do you know, with the implementation of -- or with the addition of Threads to

18 Meta's apps and products, whether a -- just at a higher -- not specific to this example, that

19 Threads would be included in policies like this?

20 So let me rephrase that question.

21 If there's a -- if, prior to the creation of Threads, if there was a policy linking

22 Facebook and Instagram, has that policy automatically been extended to -- to extend to

23 Threads as well?

24 A I definitely can't speak to the specific policies here in Threads. But, at a

25 higher level, we are enforcing our Facebook community standards and Instagram

1 community guidelines, which is essentially the community standards, on Threads content.
2 Q And as part of that, is action ever taken to someone's Threads account based
3 off content they've posted or actions they've taken on Instagram or Facebook?
4 A I am not an expert on Threads, but I can tell you that -- that product is very
5 new and I haven't been closely involved.
6 I can tell you that enforcement actions taken on Facebook content are specific to
7 Facebook when it comes to how we ladder-up penalties. What people post to their
8 Instagram accounts is then looked at specifically on Instagram. The two are separate.
9 Q For option 3, 3a, there's a reference to: "Impact: We currently demote
10 content rated Partly False at 50%. We will increase that demotion level to 80% for
11 COVID and vaccine misinfo."
12 First, the higher-level question. I think it was in the first hour when we were
13 discussing about visibility being reduced. Is the reference here to "demote content" and
14 "demotion level," is that referring to the same action?
15 A This is referring to the action we take when fact-checkers rate content
16 "partly false," which is one of the rating options that fact-checkers have to choose among.
17 Q When you were using the term "reducing visibility" during the first hour, is
18 that the same type of action as "demoting content"?
19 A Yes, that is.
20 Q And there are figures here. What does it mean to have content demoted
21 at 50 percent?
22 A I think what's important about that number is to understand that we're
23 trying to take the status quo and apply a stronger demotion to make that content less
24 visible in the news feed.
25 Q And, I guess, like, how is that measured? What is 50 percent less visible, if

1 I'm accurately saying that?

2 A The way that plays out is sort of -- can be specific to the content in question

3 and goes beyond my expertise to explain accurately.

4 Q Which team at the company handles the percentage by which content is

5 demoted?

6 A Broadly speaking, as I said, my team writes the policies. And we have parts

7 of the company that are responsible for enforcing those policies and also, you know,

8 taking actions within our products, you know, which requires engineering expertise.

9 Q So there are two figures here, 50 percent and then there's an increased level

10 of 80 percent.

11 Do you recall the figure by which -- this question goes back to the first hour.

12 There was a set of questions about the third-party fact-checkers and the policy that you

13 said was changed at the beginning of this year, but the policy that stood last year was

14 that, in that interim period from when Facebook sends a piece of content to the

15 third-party fact-checkers and are waiting for a response back, the content automatically

16 has its visibility reduced -- in this case, sounds like it's demoted.

17 During that interim period, do you know by how much content was demoted?

18 A I don't want to speak to those numbers. I don't want to say anything

19 inaccurate on that.

20 Q You don't know if it's 50 percent or if there's a default number?

21 A What I can confirm based on what is said here is that, at the time we wrote

22 this memo, or at the time [redacted] wrote this memo, our practice was to demote -- I

23 mean, this is specific to the action taken after a fact-checker chooses to rate content.

24 But, again, at that time, our practice was to demote, give reduced visibility, to

25 content rated "partly false" at a specific strength. And then the proposal here was to

1 increase the demotion strength to make that content less visible in the news feed.
2 Q Besides the example that's provided in this email chain about, you know,
3 being if it was "partly false" at 50 percent and then a demotion level to 80 percent for
4 COVID and vaccine misinformation, what other categories received a, you know, specific
5 demotion level?
6 A So, when fact-checkers choose to rate content "false," "altered," "partly
7 false," Meta will give less distribution to that content and show a fact-check.
8 Fact-checkers can also choose to rate content "missing context," and the default
9 there is not to demote the content but to still show a fact-checking label.
10 Fact-checkers can also rate content "true," in which case we do not, obviously,
11 demote the content, but we will link to the fact-checking article so people have more
12 information.
13 And fact-checkers can also rate content "satire." We have a specific definition of
14 "satire" that's in our public-facing Help Center. We're not asking fact-checkers to rate
15 content that is obviously satire and spoil the joke, but we know that in some cases people
16 have, you know, been confused about what is satirical. And so, if a fact-checker chooses
17 the "satire" rating, we do not demote the content.
18 Q So, taking 3a as an example, there's a universe of content that has been
19 rated "partly false." There's then a subset of that universe that relates to COVID or
20 vaccine misinformation that is demoted at a different level.
21 What other examples of content receive a demotion level that is different?
22 A I mean, I can best speak to what's sort of in front of me right now, in terms
23 of remembering all of our policies for the last several years.
24 During at this time, you know, consistent with our overarching principle of trying
25 to keep people safe during the pandemic, we proposed this option of looking at content

1 that, again, fact-checkers had already identified as being "partly false" -- and we have a
2 definition for what that term means -- and layering on top of that, as you said, if the
3 content was related to COVID and vaccine misinformation, and decided it was
4 appropriate to take stronger action, given the stage of the pandemic, to reduce the
5 visibility of that content.
6 I am not coming up with other examples, you know, right now, but I can explain
7 this one.
8 Q With the understanding you can't recall other specific examples, to the
9 extent you have an understanding on this, is this example the only one like it, where
10 there is kind of this specific carve-out to a specific subject matter that receives an
11 increase in the demotion level? Or is this a tool that was available to the company in
12 other examples, in other contexts?
13 A I can, again, best speak to our misinformation policies. I can walk you
14 through some of these other options based on what I'm reading here. But I'm not
15 thinking of other examples that perfectly address your question.
16 Q Do you have any recollection, as far as when this example was being put
17 together and being considered by folks you work with, if this was the first time that this
18 option had been considered for a specific subject area of content?
19 A I think, from what I remember, COVID was, you know, such a -- it played out
20 over a number of years, and at a number of points in the pandemic, we looked at our
21 policies, not only our policies for removing COVID misinformation but also our policies for
22 fact-checking, to understand if we were getting that balance that I had described right of
23 enabling expression, enabling people to share their personal experiences.
24 I think we talked earlier about how certain kinds of content are not eligible for
25 fact-checking -- for example, people's opinions. And under our COVID misinformation

1 policies, we explicitly said we were not intending to prevent people from sharing their
2 personal experiences, so -- but also mindful of the real public health risks and the truly
3 unprecedented nature of the pandemic.
4 So I do believe -- we regularly looked at policies. It's possible these specific
5 options are options we'd, you know, considered at different times using. But in our
6 toolkit of levers, changing the demotion strength would've been one of those tools.
7 Q And, to your knowledge, changing the demotion strength to a different
8 subject area of content that had been rated "partly false," had that ever been used
9 previously prior to August of 2021?
10 A I do not remember. I do not remember.
11 Q Do you know who might be able to -- who else might be able to answer that
12 question?
13 A It's the kind of thing you could potentially ask [redacted] about, given
14 she heads up our entire team.
15 Q Okay.
16 We can take these back. Thank you.
17 Are you familiar with the October 2020 New York Post story on Hunter Biden's
18 laptop?
19 A I am.
20 Q And do you have a familiarity with what actions Facebook took with respect
21 to the story?
22 A I do.
23 Q Okay. And what's your understanding of what actions, if any, Facebook
24 took with respect to the story?
25 A My memory is that we became aware of the New York Post story the day it

1 was published. People were asking questions at the time about the authenticity of the
2 story. We sent the story to third-party fact-checkers so they could decide whether to
3 rate or review. It's the kind of thing that could benefit from fact-checking.
4 It was always available. People could always see it and share the story with
5 friends. And, ultimately, it stayed on the platform.
6 Q And starting with the beginning of your answer, you said that "we" became
7 aware of the story. Were you referring to your team or the company?
8 A I was referring to my team.
9 Q And how did your team become aware of the story?
10 A I don't remember specifically how we became aware of it. My recollection
11 is, we made the decision early on in the day to send the content to third-party
12 fact-checkers.
13 Q And who made that decision?
14 A My memory is, it was a consensus decision, supported across the content
15 policy team, a decision [redacted] supported.
16 Q I'm sorry, what was that last part?
17 A A decision [redacted] supported.
18 Q Do you recall anyone outside of your team being involved in the
19 decision-making process?
20 Mr. Brown. I'm sorry, the decision-making process about what?
21 BY [redacted]
22 Q About the decision to send the New York Post story to third-party
23 fact-checkers that day.
24 A I would just say again, I don't remember the specifics of who all was involved
25 in the decision. It was a decision -- my memory is, it was a consensus decision made by

1 the content policy team that [redacted] supported, that other leaders, such as [redacted]
2 [redacted], also supported.
3 Q And when you say it was a consensus decision, do you recall there being a
4 discussion of some type during the day?
5 A I don't have a specific recollection. What I do remember is, the decision
6 was made early on in the day. I'm based on the West Coast. I remember that was
7 early in my morning. It's not something that I spent a lot of time on during the day.
8 Q But you do recall you were one of the individuals that participated --
9 A I do remember being part of the conversation, yes.
10 Q And do you recall if these discussions were taking place in writing or if there
11 was a videoconference call?
12 A I don't remember the specifics, given how long it's been.
13 Q Do you know who [redacted] is?
14 A Yes, I do.
15 Q Who is he?
16 A He is another member of the content policy team.
17 Q And do you know who [redacted] is?
18 A Yes, I do.
19 Q And who is he?
20 A He is also another member of the content policy team.
21 Q Did you have discussions with either of them on the day that the story came
22 out?
23 A I don't remember if I did.
24 Q As part of your role, and not just specific to this example, do you have
25 familiarity with Facebook's hack-and-leak policy?

1 A I am vaguely familiar that there is such a policy.

2 Q And do you know who at the company, if anybody, conducted an assessment

3 of whether the New York Post story -- whether any action could be taken under

4 Facebook's hack-and-leak policy?

5 A I don't remember specifically. That would not have been the responsibility

6 of the misinformation policy team. That was not a policy that our team owned or --

7 Q Would it be a responsibility of the team that [redacted] and [redacted]

8 [redacted] are affiliated with?

9 A I don't remember specifically who would own that policy. Ultimately, like

10 all of the community standards, it's something that [redacted] would be accountable

11 for.

12 Q During any discussions that are taking place the day the story comes out, do

13 you recall receiving any information, internally within the company, about whether the

14 story or any of its contents are the product of a hack-and-leak operation?

15 A I do not remember being part of any conversations on that topic.

16 Q To your recollection, whether the story was a potential product of a

17 hack-and-leak operation, did that at all factor into your team's assessment as far as what

18 the next appropriate step would be?

19 A That kind of an assessment would've been made by another team, as you

20 said.

21 What I remember is, again, we made the decision to send the story to third-party

22 fact-checkers early on in the day because people were asking a lot of questions about the

23 authenticity of the story and it's the kind of thing that could have benefited from

24 fact-checking.

25 Q Once the story was sent to the third-party fact-checkers that day, was the

1 story demoted?
2 A Yes, the story was demoted.
3 Q And how long was the story demoted for?
4 A For 7 days, though it was always available to people. People could share
5 the story with their friends during that time period.
6 Q Do you know the percentage by which the story was demoted during these 7
7 days?
8 A I don't remember the specifics and don't want to get that wrong.
9 Q And this is October of 2020. For the policies we were discussing earlier,
10 that change that will start with this year, but referring to the policy that Facebook had in
11 place in 2022, was that the same policy that was in place in October of 2020?
12 A Under our policies at the time, we would temporarily demote content
13 pending our fact-checkers' review.
14 Q Do you recall, not, say, what the specific number was as far as the degree,
15 but was there in place a default percentage for stories to be demoted pending a
16 fact-checker's review?
17 A Yes, there would've been a default in place, like I said.
18 Q And, to your understanding, was the New York Post story demoted to
19 whatever that default number was?
20 A I would expect so, yes.
21 Q And then, at the end of 7 days, why was the story no longer demoted?
22 A Per our policy, if after 7 days fact-checkers choose not to rate or review
23 content, it's no longer available to them, and we will lift the demotion on the content.
24 Q Oh, so no fact-checker got back to Facebook in October of 2020 regarding
25 this story?

1 A No fact-checker rated this content on our platform.

2 Q Once a -- we'll use this specific case. Once the story had been sent to the

3 fact-checkers on the day, sounds like you said, the day the story was issued, and then for

4 that 7-day period, did anyone at the company follow up with any of the fact-checkers?

5 A I did not, and I'm not aware of anyone who did.

6 Q Do you recall anyone senior to [redacted] who was involved in the

7 decision to send the story to third-party fact-checkers?

8 A I don't recall specifically. My memory is, it was a decision made that

9 [redacted] supported.

10 Q Do you know if the decision was revisited at any point during the 7 days?

11 A I don't recall the specifics of the subsequent days.

12 Q Other than the 7 days where the story is demoted pending a third-party

13 fact-checker's review, did Facebook take any action against the story at any point?

14 A Not that I'm aware of.

15 Mr. Greene. I'm sorry. Did you ask, after that 7 days? Was that your

16 question?

17 BY [redacted]

18 Q Yeah, anytime. Yeah, so it's actually after, since the action was taken the

19 day it came out.

20 A Not that I'm aware of. I will caveat that by saying I am only responsible for

21 our misinformation policies and so, you know, can't say for sure how that story has

22 existed on the platform for the last 4 years.

23 Q Do you know if anyone at the company asked anyone in the government for

24 information regarding whether the laptop was authentic or somehow related to a

25 hack-and-leak operation?

1 A I do not know. But our approach under our misinformation policies would
2 be to send the content to fact-checkers and defer to them to investigate the facts.
3 Q With the understanding that 7 days is how long the third-party fact-checkers
4 get, did you ever receive any analysis after the 7 days from any of the third-party
5 fact-checkers?
6 A No fact-checker ever chose to rate the story in our systems, on our platform.
7 Q When content is transmitted or shared in some fashion from Facebook to
8 the third-party fact-checkers, do you know how that occurs, just as a logistical matter?
9 A I think we covered some of this earlier, but our systems send content to
10 fact-checkers. All fact-checkers from a specific country can see the same content.
11 They can also choose whether to identify content that we didn't find that they think is
12 appropriate for fact-checking.
13 And, yeah, that's the basics of the process. If they rate content, then we take
14 enforcement action.
15 Q And you've referred a couple times to your systems. I guess my question is,
16 is it email? Is it a system independent of that that both the fact-checkers and Facebook
17 have access to? Just how, practically, does the content get shared to the fact-checkers?
18 A There's sort of an interface that fact-checkers have access to so they can see
19 the content we send them.
20 Q Is there a name for that interface system?
21 A I don't look at it myself, so I'm -- and I'm not actually sure what we
22 would -- how we would describe it to fact-checkers.
23 Q Do you know which teams at the company have access to this interface?
24 A I don't know all the specific teams who have access to the tool, this
25 interface. It's meant to be an interface that is fact-checker-facing, that fact-checkers

1 look at to see content. It's not something, as I mentioned, that I would look at regularly
2 as part of my job.
3 Q You had referred to a partnerships team earlier. Would that be a team
4 during 2020 that would have access to this interface?
5 A I can't speak for the team. At the time, it was not part of the content policy
6 organization. So I don't want to speak on their behalf.
7 Q When a fact-checker comes in, provides an assessment, I imagine there's the
8 top-line finding itself. Does the fact-checker provide a rationale explaining its finding?
9 A Yes. We require fact-checkers to write a reference article explaining the
10 basis or the rationale for their fact-check. And when that fact-checker rates content on
11 our platform, as I had mentioned, we will label the content and link to that fact-checker's
12 reference article.
13 Q Does the company receive any information that's not included in the
14 reference article?
15 A Well, the information we receive is the rating the fact-checker chose,
16 because that is what enables us to know what action to take.
17 Q Okay. So, besides the rating and whatever is in the reference article, is
18 there any other information that the fact-checker is sending along to the company?
19 A I don't believe so.
20 Q What's the average time between when a -- well, first, from when, whether
21 automatic or manual, someone from the company shares information with a
22 fact-checker, what's the time between from when that occurs to when Facebook receives
23 a response from a fact-checker?
24 A I think we talked about this earlier, but it can vary. For some content that's
25 been around the internet, some, you know, viral hoax stories, it would not necessarily

1 take a fact-checker particularly long to debunk that. Fact-checkers are able to apply
2 existing fact-checking articles to new versions of, you know, old content.
3 But for content that is -- or claims that are new, you know, potentially related to a
4 natural disaster that's playing out in real-time, it can take a fact-checker longer to do the
5 research to understand the facts.
6 [redacted] This is exhibit 4. Thank you.
7 [[redacted] Exhibit No. 4.
8 Was marked for identification.]
9 BY [redacted]
10 Q Just take a look at this.
11 If you don't recall this, don't feel like you have to read the whole thing. I just
12 wanted to ask if you --
13 [redacted] Can you speak up a little bit?
14 Mr. Brown. If you don't mind, I think we'd like to --
15 [redacted] Yeah, sure, sure.
16 Mr. Brown. -- read the whole document.
17 [redacted] Sure.
18 Mr. Brown. Just for the record, this is a GDI document provided to you by
19 Google?
20 [redacted] Yeah.
21 Mr. Brown. Not a Meta --
22 [redacted] No, not Meta.
23 Mr. Brown. Okay.
24 BY [redacted]
25 Q Does this look familiar to you at all?

A This does not.

Q Okay. Do you know what the Global Disinformation Index is?

A I do not.

Q Okay. So you did not see this, what appears to be a PowerPoint presentation, I guess?

A I don't remember seeing this previously.

Q Okay. Then we can move on from that.

So did Meta ever work with other companies on misinformation issues? Like, did you consult with or meet with other companies to discuss approaches?

A I don't remember, sort of, specifics of any such conversations. I believe I told you previously that I infrequently interact with people at other tech companies. You know, for example, at a tech -- a conference focused on an issue, I may talk to peer colleagues.

Q Sorry?

A If I were at a conference on a particular issue, I might see peer colleagues in that kind of venue.

Q Do you recall attending meetings with other companies? Not so much conferences, but meetings?

A I don't -- if there is a specific that you want to ask me about --

Q Yeah.

A -- that would be helpful, because this is not a big part of my job.

[[redacted] Exhibit No. 5.

Was marked for identification.]

BY [redacted]

Q So this is exhibit 5. Thank you.

1 A Thank you.

2 All right. I've looked at this document.

3 Q Do you know [redacted] and [redacted]?

4 A I do recognize their names.

5 Q Do you recall meeting with them?

6 A Yes. I -- at least, I do recall being on a phone call with [redacted] at one

7 point. I don't remember if -- I know who [redacted] is, given his role, but I don't have

8 as clear a recollection of whether I was in a meeting with him.

9 Q Since this is called a "bi-weekly sync," does that mean that these meetings

10 took place with some frequency?

11 A It looks like this is an invitation that [redacted], who's a colleague of

12 mine, owned. My memory is that at a certain point [redacted] invited me to join a sync

13 he had with some peers working on misinformation and disinformation, but I don't

14 remember the specifics of what was discussed.

15 Q So you don't remember the specifics at all?

16 A I don't --

17 Q Or the general --

18 A Like, this invite is from February 8, 2020, so, you know, at the time, I

19 imagine I could've been working on any number of issues. You know, that date doesn't

20 have a specific significance to me.

21 Q Do you know if you attended more of these biweekly syncs?

22 A My recollection is, it was something I -- infrequently. I wouldn't have done

23 on that many occasions. I don't remember. I don't remember at the time.

24 Q Do you remember if you attended some during the COVID era about COVID

25 misinformation?

1 A Just based on the date here, February 2020, we would've been working on
2 our -- you know, we would've already adopted some of our COVID policies. But we
3 also -- you know, I think earlier we looked at other areas of our misinformation policy as
4 spelled out in our community standards, which I am glad to go through. So it is possible
5 we discussed something else.
6 Q I can take these back.
7 [Exhibit No. 6.
8 Was marked for identification.]
9 BY
10 Q This is exhibit 6.
11 A I've had the chance to look at the document.
12 Q Do you recall this meeting with similar people -- , ,
13 also -- and it's also a biweekly sync?
14 A I do not remember the specifics of this meeting.
15 Q Okay. Just, do you know if you'd have any record of what was discussed at
16 the meeting?
17 A I don't know.
18 Q And so you don't recall coordinating with -- you know, even if you don't
19 remember the specific meeting -- coordinating with Google or Twitter on misinformation
20 policy?
21 A I don't remember the specifics of any coordination. I really don't
22 remember the specifics.
23 Mr. Brown. There's nothing on the document that even suggests that that's the
24 topic of the meeting. So I --
25 That's true.

1 Mr. Brown. Yeah.

2 [redacted] I'm sort of stepping back from the document.

3 BY [redacted]

4 Q Did you speak to other companies about strategies for combating

5 misinformation? Or coordinate or however you want to put it.

6 A As I said, I think I was very infrequently -- I infrequently am in touch with

7 other companies. Yeah, I don't have a lot to offer on the specifics of coordination with

8 other companies.

9 Q Do you know if anybody else at Meta would have been involved in such a

10 thing?

11 A I don't. I think it is, you know, possible that members of [redacted]'s

12 team would've been involved in conversations. You know, other members of the team

13 are involved in communication around our approach to terrorist content, for example,

14 and I know that happens in a very formalized setting across industry. But it's not an

15 area that, as I recall, I was personally involved in.

16 [redacted] Okay.

17 We can take those back then.

18 [Discussion off the record.]

19 [redacted] Can we go off the record, please?

20 [Recess.]

21 [redacted] We can go back on the record.

22 BY [redacted]

23 Q [redacted], I want to follow up with some questions about exhibit 3. This

24 was an email from Nick Clegg to you and several other people at Facebook, including

25 members of your team.

1 A That's correct.

2 Q Yes. And this is the email discussing the four different options that

3 Facebook had discussed or decided to implement to advance its COVID misinformation

4 policies, correct?

5 A That's correct.

6 Q Okay.

7 Now, on the face of this email -- I'm sorry. Actually, I'm looking at the email from

8 [redacted]. And he's your supervisor?

9 A That's correct.

10 Q And what he says is that, during the discussion with the Surgeon General on

11 August 6th, "we" -- and I assume by that he means Meta -- "agreed to further explore our

12 discrete policy options for reducing the prevalence of COVID-19 misinformation on our

13 platforms."

14 That's what's reflected in this email?

15 A That's correct.

16 Q So all that was agreed to was to explore policy options.

17 A Yes, it sounds like that's what happened. Right.

18 Q And, as reflected on this email, there was no agreement to actually change

19 policy; it was just to explore options.

20 A In, yes, that initial meeting.

21 Q Okay. And just to be clear, this is an entirely internal email among

22 Facebook personnel, correct? Or Meta personnel, I should say. Well, maybe it was

23 Facebook at the time.

24 A Yes.

25 Q Company personnel.

1 A Everyone on this email is a Facebook employee.
2 Q And I believe you stated that you recall discussing these options?
3 A Yes, I do.
4 Q Okay. And then the options were discussed, and then ultimately it was
5 decided by folks at Meta to implement these four. Is that a fair statement?
6 A Yes, that's an accurate representation of this email exchange.
7 Q Was anyone, to your knowledge, from the Surgeon General's office involved
8 in the decision to implement these four options?
9 A Not that I have any knowledge of.
10 Q And were there other more restrictive options that were considered and
11 rejected?
12 A Yes. I do remember that we had brainstormed additional options that
13 would've been more restrictive and that ultimately were not adopted.
14 Q And all of Facebook's misinformation policies apply -- if the
15 misinformation -- well, let me rephrase that. Sorry.
16 The policy covers content regardless of who the speaker is. If the content itself
17 falls within the parameters of your policy, it's subject to the policy --
18 A That's correct.
19 Q -- enforcement actions, correct?
20 A That's correct.
21 Q And it doesn't matter if the speaker is from the United States or somewhere
22 else?
23 A It does not.
24 Q It doesn't matter if they're from a particular political party?
25 A It does not. Yeah, our goal is to write policies that apply to our global user

1 base and enforce those policies consistently across all users.

2 Q Now, this email talks specifically about Facebook's COVID-19 misinformation

3 policies. Those policies are no longer in effect, correct?

4 A They are no longer in effect in the United States.

5 Q In the United States. And that's because there is no longer a public health

6 emergency with respect to COVID in the United States?

7 A That's correct. Earlier this year, we made the decision that we would roll

8 back enforcement of these policies given the state of the pandemic in the U.S.

9 Q Now, moving back to the Hunter Biden laptop story, I believe you said that

10 your team made the decision to send it on to fact-checking because your team believed

11 that the story could benefit from the fact-checking process.

12 Separate and apart from any concerns that it was a product of a hack-and-leak, do

13 you remember what factors led your team, which deals with a different type of content,

14 led you to believe that the story needed to be fact-checked?

15 A My memory from the time is, people were asking questions about the

16 authenticity of the story. We made the decision early on to send it to fact-checkers for

17 them to determine if it was appropriate to review and rate.

18 Q And were some of those questions related to the source of the story, the

19 fact that it came from Rudy Giuliani?

20 A I don't remember the specifics of our considerations at the time.

21 Q It was just simply you -- your memory is just that it was about the

22 authenticity, and you don't remember specifically what that was --

23 A That is correct, what I remember at this point.

24 Q And when the story was demoted, that was pursuant to, I guess,

25 then-Facebook's general policy of demoting content while it was being fact-checked.

1 A That's correct --

2 Q At the time.

3 A -- the policy that we would temporarily demote content to give fact-checkers

4 the opportunity to investigate and determine whether to rate and review content.

5 Q And so every piece of content that was fact-checked would be demoted in

6 that same way?

7 A The content that our systems sent to fact-checkers would've been demoted

8 in the same way.

9 Q And so this wasn't treated any differently -- the Hunter Biden story wasn't

10 treated any differently than other content that was sent to the fact-checkers.

11 A That's correct.

12 Q And, as you mentioned, it was still available on the platform?

13 A That's correct.

14 Q It would still show up in people's news feeds, just lower?

15 A That's correct. And people could share the story if they chose. It was

16 always available.

17 Q And, in fact, people did share the story over 300,000 times during that 1

18 week, correct?

19 A I don't remember the specific numbers, but --

20 Q But you're aware that it was shared --

21 A Yes.

22 Q -- during that week?

23 A Yes.

24 Q All right. That's it for us. Thank you.

25 We can go off the record.

1 [Recess.]

2 [redacted] We'll go back on the record.

3 BY [redacted]

4 Q Did or do you have contact with the CDC in your role?

5 A I would infrequently engage with that kind of stakeholder, but I --

6 [redacted] I'm sorry. I did not hear the question. I'm sorry.

7 [redacted] Oh. That's okay. Did she have contact with the CDC, or does she

8 have contact?

9 [redacted] Thanks.

10 [redacted] My answer was, I would infrequently have contact with that kind of

11 government stakeholder in my role, but I do recall some infrequent contact that I have

12 had with the CDC, yes.

13 BY [redacted]

14 Q And when did that contact begin?

15 A I don't remember. I can think of maybe one time where I was in a

16 conversation with the CDC, maybe two.

17 Q Okay. Do you know if it was during the COVID era?

18 A Yes, I believe it was, yes.

19 Q And was it about COVID and misinformation about COVID?

20 A Again, I don't remember the specifics of the conversation. I don't know if

21 you have any specific documents you want me to look at?

22 Q Yeah. We can just jump to that.

23 [[redacted] Exhibit No. 7.

24 Was marked for identification.]

25 BY [redacted]

1 Q This is exhibit 7.
2 A I've had the chance to look at this.
3 Q Do you recall this meeting with CDC that was scheduled for March 25, 2021?
4 A I don't remember the specifics of what we discussed on, like, this particular
5 date.
6 Q You don't remember any specifics at all?
7 A I don't.
8 You know, looking at the information here and, as I sort of shared previously, my
9 role, if I was asked to join a call with an external stakeholder, would largely be to explain
10 our misinformation policies.
11 Q To the extent you recall, did CDC express concern to you about
12 misinformation policies?
13 A I do not remember what was discussed on this particular date.
14 Q I'm asking generally --
15 A In general?
16 Q -- if you don't recall this date.
17 A I don't have a lot of very specific memory of the questions the CDC asked.
18 As we talked about earlier, we'd initially consulted with a range of stakeholders
19 when developing our COVID policies. And, over time, throughout the course of the
20 pandemic, we would bring content to public health authorities when we were looking for
21 input on whether the content was both false and could lead to imminent physical harm
22 and would've raised, you know, questions of the CDC in that context.
23 Q Okay. So do you recall whether this meeting -- or, if you don't recall this
24 specific meeting, these meetings, the ones that you do recall, did Facebook seek them
25 out, or did CDC ask Facebook to hold the meetings, or how did they come about?

1 A I can't speak to, sort of, this particular series of meetings. From what I see
2 here, I was part of one of these meetings on March 25, 2021. That's really the extent of
3 what I can say. Yeah, I don't remember.

[3:18 p.m.]

[redacted] Okay.

Mr. Brown. You want this back?

[redacted] Oh, yes, please. Thank you.

This is exhibit 8.

[[redacted] Exhibit No. 8.

Was marked for identification.]

Mr. Brown. So there's a reference here to an attached deck, and I didn't know if you have that deck or not. It's possible we didn't have it and couldn't -- if we did have it and missed it. Otherwise, do you have that with you?

[redacted] I don't believe there was an attachment that I had.

Mr. Brown. Okay.

[redacted] I've had a chance to look at this.

BY [redacted]

Q So this also appears to be a meeting with the CDC on March 25th, 2021. Do you -- I understand you may not recall, but do you recall if this was the meeting that was discussed, or is this something separate --

A I don't recall.

Q -- than previous?

Okay. It seems to me that you were presenting. Although I could have that incorrect. Do you remember at all what you did at that meeting?

A I don't remember.

Q Okay. Do you have any knowledge of why the Census Bureau was part of this meeting?

A I don't have a recollection of that.

1 Q Do you recall ever meeting or speaking with Census at any time -- I mean,
2 any role in that?
3 A In the exhibit? I don't have a specific recollection, especially in the context
4 of COVID.
5 Q Okay. If you don't remember, then --
6 Okay. We can take them back.
7 [redacted] This is exhibit 9.
8 [redacted] Exhibit No. 9.
9 Was marked for identification.]
10 [redacted] I've had a chance to look at this email document.
11 BY [redacted]
12 Q Do you recall what appears to be a meeting between Meta and the FDA on
13 June 10th, 2022?
14 A I have a vague recollection the meeting took place.
15 Q Do you -- I mean, the subject line says: Meta & FDA Misinformation
16 Briefing. Do you recall what was discussed at the meeting?
17 A I don't recall.
18 Q Do you know who was briefing who?
19 A I don't have a specific recollection of the substance of this meeting.
20 Q Do you recall who else was in attendance?
21 A Again, I don't have a specific recollection, so I would be working off of what
22 this calendar invite says but can't confirm who specifically was on the call.
23 Q Even if you don't remember this specific meeting, do you recall meeting with
24 the FDA at any point -- or if you don't recall the specifics of this meeting --
25 A Yeah, I -- I have a vague recollection that I met with the FDA, and I -- but it

1 would've been an infrequent kind of thing, so I don't remember specifics.

2 Q But it could've been more than once?

3 A I only can remember one interaction. This is -- this particular meeting looks

4 like it took place in 2022. So that's slightly more recent compared to some of the other

5 documents.

6 [redacted] Okay. I don't think I have any more questions.

7 Mr. Brown. Thank you. We'll go off the record.

8 [Whereupon, at 3:26 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

Transcribed Interview Transcript Errata Form

Interviewee	[redacted]
Date of Interview	7/25/23
Date of Review	8/17/23
Name of Reviewer	Jordan Greene
Signature of Reviewer	

Page	Line	Suggested Correction
2	21-22	switch order of names: Reginald Brown Jordan L Greene
13	17	strike
13	23	"policy and consistent" → "policy consistent"
35	1	"I want" → "I would want"
35	4	"I want" → "I would want"
35	10	"is as" → "as"
55	17	strike

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: [redacted]

Wednesday, July 26, 2023

Washington, D.C.

The interview in the above matter was held in room 164, Cannon House Office Building, commencing at 10:02 a.m.

1 Appearances:

2

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted] COUNSEL

8 [redacted] DIGITAL ASSISTANT

9 [redacted] SENIOR SPECIAL COUNSEL

10 [redacted] COUNSEL

11 [redacted] LAW CLERK

12 [redacted] MINORITY OVERSIGHT COUNSEL

13 [redacted] MINORITY PROFESSIONAL STAFF MEMBER

14

15

16

17 For [redacted]:

18

19 REGGIE BROWN, ESQ.

20 JOSH GOLDBERG, ESQ.

21 Kirkland & Ellis

1

2 [10:02 a.m.]

3 [redacted] This is a transcribed interview of [redacted]. Chairman Jordan has

4 requested this interview as part of the committee's investigation of how, and the extent

5 to which, the executive branch has coerced and colluded with companies from other

6 intermediaries to censor speech .

7 Would the witness please state your name for the record.

8 [redacted] [redacted]

9 [redacted] Thank you. On behalf of the committee, I want to thank you for

10 appearing here today to answer our questions. The chairman also appreciates your

11 willingness to appear voluntarily. My name is [redacted] and I am with Chairman

12 Jordan's staff. I will now have everyone else from the committee who is here in the

13 room introduce themselves as well.

14 [redacted] [redacted] Chairman Jordan's staff.

15 [redacted] [redacted] Chairman Jordan's staff.

16 [redacted] [redacted] Chairman Jordan's staff.

17 [redacted] [redacted] Oversight counsel for the Judiciary Committee

18 Democrats.

19 [redacted] I would like to now go over the ground rules and guidelines that we

20 will follow during today's interview. Our questioning will proceed in rounds, the

21 majority will ask questions first for 1 hour, and then the minority will have an opportunity

22 to ask questions for an equal period of time, if they choose. We will alternate back and

23 forth until there are no more questions and the interview is over. Typically, we take a

24 short break at the end of each hour. But if you'd like to take a break apart from that,

25 please just let us know.

1 As you can see, there is an official court reporter taking down everything you say
2 into the written record. We ask that you give verbal responses to all questions. Do
3 you understand?
4 [redacted] Yes.
5 [redacted] So the court reporter can take down a clear record, we will do our best
6 to limit the number of people directing questions at you. During any given hour it is just
7 those people on the staff whose turn it is. Please try and speak clearly so the court
8 reporter can understand and so the folks down at the end of the table can hear you. It
9 is important that we don't talk over one another or interrupt each other if we can help it,
10 and that goes for everybody present in today's interview.
11 We encourage witnesses who appear before the committee to freely consult with
12 counsel if they so choose. It is my understanding that you are appearing today with
13 counsel. Is that correct?
14 [redacted] That is correct.
15 [redacted] Would counsel please state your name for the record.
16 Mr. Brown. Reginald Brown, Kirkland & Ellis.
17 Mr. Goldberg. Josh Goldberg, Kirkland & Ellis.
18 [redacted] Thank you. We want you to answer our questions in the most
19 complete and truthful manner as possible so we will take our time. If you have any
20 questions, or if you do not understand one of our questions, please just let us know.
21 Our questions will cover a wide range of topics, so if you need clarification at any
22 point, just say so. If you honestly don't know the answer to a question or do not
23 remember, it is best not to guess. Please give us your best recollection, and it is okay to
24 tell us if you learned information from someone else, just indicate how you came to know
25 the information.

1 If there are things you don't know or can't remember, just say so and please
2 inform us who, to the best of your knowledge, might be able to provide a more complete
3 answer to the question.
4 You should also understand that although this interview is not under oath, that by
5 law, you are required to answer questions from Congress truthfully. Do you understand
6 that?
7 [redacted] I do.
8 [redacted] This also applies to questions posed by Congressional staff in an
9 interview. Do you understand this?
10 [redacted] Yes.
11 [redacted] Witnesses that provide false testimony could be subject to criminal
12 prosecution for perjury for making false statements under 18 U.S.C. section 1001. Do
13 you understand this?
14 [redacted] Yes.
15 [redacted] Is there any reason you are unable to provide truthful answers to
16 today's questions?
17 [redacted] No reason.
18 [redacted] Finally, I would like to make a note that the content of what we
19 discuss here today is confidential. We ask that you not speak about what we discuss in
20 this interview to any outside individuals to preserve the integrity of our investigation.
21 For the same reason, the marked exhibits that we use today will remain with the court
22 reporter so they can go in the official transcript. And any copies of those exhibits will be
23 returned to us when we wrap up.
24 That is the end of my preamble. Is there anything that my colleagues from the
25 minority would like to add?

1 [redacted] Just thanks for taking the time to come in voluntarily with us
2 today, [redacted]
3 [redacted] Thank you.
4 [redacted] The clock reads 10:05, we will now start the first hour of questioning.
5 EXAMINATION
6 BY [redacted]
7 Q Can you tell us your current job title and where you work?
8 A Sure. I am [redacted]. I am the vice president of Trust and Safety Policy At
9 Meta.
10 Q So you are on a trust and safety team?
11 A Trust and safety is the title I have. The team that I sit on is the content
12 policy team.
13 Q And can you tell us your educational background starting with college?
14 A Sure thing. I attended the United States Naval Academy from 1994
15 through 1998, graduated with a degree in mathematics. Post the Naval Academy, I
16 spent 5 years in the Greek Rhodes, a different type of education. And then after the
17 Marine Corps, I went to law school in 2003 through 2006 at the University of Virginia.
18 Q And can you tell us your employment history?
19 A Sure thing.
20 Q After college.
21 A So I joined the military at 17, that took me through about 27, if you will give
22 or take. That was the period where I served in the Marine Corps. First the Department
23 of the Navy and then the Marine Corps. Following law school, I began to work at a law
24 firm here in Washington, D.C., Patton Boggs, L.L.P., which I now believe has merged with
25 another firm, Squire Patton Boggs is the name. I worked there for approximately

1 8 years, I believe, before transferring laterally into a different firm which was WilmerHale.
2 At that point, maybe roughly 2013 to -- late 2013, early 2016 I was at WilmerHale. I left
3 WilmerHale to join what was then Facebook, now Meta, in 2016 where I currently serve.
4 Q And what roles have you held at Meta?
5 A Sure. I first started out at Meta. I was hired to be a policy manager that
6 focused on our community standards so I joined the content policy team at that time, so
7 overseeing the development of our community standards, one of many people in that
8 field. As we progressed through and, you know, fortunately we were blessed in many
9 ways to both do good work and be recognized for that work. I advanced up in my career
10 leading teams focused on developing those policies and how we do trust and policy safety
11 team.
12 Q How do your roles differ from when you started to now -- in what you do?
13 A In some ways, not much different. I still have responsibility for the rules
14 that we write that dictate what we allow and not allow on the platform. Over the years,
15 they have become more complicated. We have much more breadth. Where perhaps
16 it is a bit different now, I do lead a team of subject matter experts that focus on some of
17 the most high-intensity issues that we face, largely maybe throughout society, but
18 definitely across the internet. Those things include issues like child safety, health and
19 well-being, human rights, terrorism, counterextremism, things like disinformation and
20 misinformation as well.
21 Q And how many people are on the team that you lead?
22 A I don't have the org chart in front of me today. I say that because we just
23 recently went through a reduction in force of roughly 75 people. We still have people in
24 consultation, globally different labor laws, perhaps leaving but not -- roughly 75.
25 Q And how many direct reports do you have?

1 A Including my executive assistant, I have six.

2 Q Can you tell us their names?

3 A [redacted], [redacted], [redacted], [redacted], [redacted]

4 [redacted] and [redacted]. It is a lot the vowels there.

5 Q And who do you report to?

6 A Sure. I report to [redacted].

7 Q And how does your role relate to [redacted]? Are you like parallel?

8 A No, I am more senior than [redacted] but our teams do work very closely

9 together to confront the challenge that we face as a social media company, including

10 those as I know [redacted] and I believe this misinformation work I have spoken with you.

11 And so we work together on those issues making sure that we are in the right place.

12 Some of the work that I help -- helped lead over, or at least have oversight over, has

13 misinformation components, but [redacted] is the lead.

14 Q So which work that you do has misinformation complaints?

15 A Honestly, I guess anything can have misinformation depending on the

16 subject, right? So that's one so we have to deal with it through a number of protocols.

17 But the one that's probably most closely related would be the work that we do on her

18 cybersecurity team. And so, for us cybersecurity covers a wide range of topics, things

19 like traditional cybersecurity, you think of like malware into other areas well, things like

20 account compromise, but also cyber espionage, and things like disinformation.

21 BY [redacted]

22 Q When you first joined --

23 A Yes.

24 Q -- Facebook, who did you report to?

25 A At that time I first joined a gentleman by the name of [redacted].

1 Q And what was [redacted] role?

2 A He was, at that time, [redacted] deputy. He oversaw parts of the content

3 and policy team.

4 Q And how long was he the person you reported to?

5 A That's a great question. If I -- to the best of my ability, about 2 years, Ross

6 then transferred to a different part of our company and then subsequently left the

7 company.

8 Q When [redacted] transferred, was there a different person who took his role as

9 deputy or did you --

10 A I essentially took [redacted] role at that point.

11 Q And then once you took [redacted] role, were you reporting to [redacted]?

12 A I was reporting to [redacted] as I do now.

13 Q And how big was the content policy team when you first joined Facebook?

14 A When I first joined Facebook, I believe, give or take, of the content policy

15 team was around 28 to 36 people.

16 [Discussion off the record.]

17 BY [redacted]

18 Q And when you joined in 2016, was there a component of the team that

19 focused specifically on misinformation and disinformation?

20 A In 2016, there wasn't a specific -- we did not have a specific team focused on

21 that. Following a number of issues that arrived in 2016 through 2017 we recognized

22 that this was going an important way for us to both enhance our community standards,

23 and help us deal with content on our platform.

24 Q And what are some of the issues in 2016 or 2017?

25 A I think one of the biggest issues they took in a variety of different tactics,

1 some of the issues focused on seeing misinformation around developing world, world
2 events. I will try to give some color to that. So whether you are in parts of the
3 developing world, whether that's sub-Saharan Africa, parts of Asia, specifically Southeast
4 Asia seeing the spread of misinformation where there were perhaps digital literacy rates
5 and then what that impact had. In some cases that impact would actually turn into off
6 platform violence. And so, we were thinking about how do we develop policies to help
7 address those issues, and then largely a lot of the work that I focused on is how do we
8 ensure that our platform is not being used to or exploited to further some type of offline
9 violence.
10 After some additional developments, there was also foreign interference in the
11 2016 election where we recognize that misinformation comes in numerous forms. It
12 can come in different ways where people are trying to spread it, spread misinformation
13 for various reasons, some for offline violence, some for other reasons that we needed
14 some policies and objective standards to try to help us with these issues.
15 Q Your reference to the 2016 election, is that in reference to the 2016 U.S.
16 election?
17 A I am sorry, yes. I will try to be more clear. Yes, the 2016 U.S. election.
18 Q And in your previous answer, you were providing some global examples as
19 well and some U.S. examples in addition to concerns related to foreign interference with
20 the 2016 election. Were there other U.S. specific issues?
21 A That's the one that jumps out. I can't remember if there was something
22 smaller. That's the one that jumps out.
23 Q And -- and you had joined the company prior to the 2016 election. Is that
24 right?
25 A I did for clarity. I joined the company in April of 2016 so the beginning of

1 2016 in that position and maybe just -- it's helpful, to give a little more clarify on my role.
2 So I had that role that I initially joined the company for about 2 years. As I mentioned, I
3 received a promotion and then about a year after that promotion received I believe some
4 other promotion, but also, then took on the role that I currently lead, so it's about
5 2019 -- yeah, about 2019.
6 Q Can you walk us through as far as the elections in November, 2016 U.S.
7 election?
8 A That is correct.
9 Q How quickly there, you know, after the election occurs, does the company
10 begin to consider taking steps to begin to address misinformation or concerns into foreign
11 affairs?
12 A You know, unfortunately, I don't have a timeline or I can't recall exactly how
13 soon after. That's November, roughly November 8th or so of 2016. It was some point
14 after that, but I -- whether we worked through the holidays or of 2017, I don't have the
15 direct date. I remember being much more involved and focused on it in the summer, I
16 believe, of 2017, but work definitely led up to that point.
17 Q And were you personally involved in these discussions and the
18 developments of the policy?
19 A Well, I oversaw some of the folks that were in it originally involved with
20 helping to develop those issues, but sometimes these things kind the fog together, so I
21 don't -- I don't want to overstate my involvement in it either.
22 Q And what about the folks above you? Was [redacted] involved?
23 Mr. Brown. [redacted] can I ask, this -- the subpoena range is January 2020 to the
24 present so I am just trying to understand your focus on the period. I understand the
25 idea of getting general context. This meeting does not call for documents or

information prior to January 1, 2020. So --

[redacted] Yes, we have had witnesses who have come and provided testimony related to content moderation policy changes in 2020, but there was a set of changes earlier, it sounds like, dating back to 2016. So it is entirely perfect to understand what changes were made and what changes were made on top of that.

Mr. Brown. And your view is that would be in scope and this would be --

[redacted] The document subpoena?

Mr. Brown. Yeah.

[redacted] Doesn't limit the scope of the --

Mr. Brown. -- transcribed interview?

[redacted] That is correct.

BY [redacted]

Q Please continue.

A I am going to ask you to repeat the --

Q Sure. You mentioned that you were overseeing folks who were involved.

A Sure.

Q Folks who were above you. So was [redacted] involved in these discussions?

A Yes. And I think maybe they provide some color we -- well, we have hierarchy and we have structure to our organizations, we are also fairly flat across and [redacted] would have been involved.

Q What about [redacted]?

A Yes.

Q And what was the outcome of what changes occurred to the policy?

A Again, what really jumps out to me I think that things are -- there are a few

1 things that jump out. First, we develop a misinformation and foreign policy that would
2 help remove misinformation where we thought that that would lead to imminent harm
3 off platform.
4 So that could be anything of misinformation related to healthcare that's, you
5 know, drink bleach to secure X so we are going to remove that. But also, we found was
6 in certain locations, as I kind of mentioned in some of the developing world on locations
7 where we saw content being shared that was false. For example, look what is
8 happening on the corner of Maine and First in Rwanda and it's a picture of the genocide
9 that happened in the 1990s, and using that as a catalyst to further out some -- you know,
10 some other type of ill, you know, action. And more people where we see enough signal
11 that that was actually or potentially causing offline harm, and we would take action
12 against those. Those were the parts that I think I was most closely involved with. But
13 we did develop a policy that dealt with misinformation, which is important to the extent
14 that we also recognize our limitations on actually identifying what misinformation is.
15 But I think you may have heard us -- I have said this and said this, I think, before this
16 committee that we are not the arbiters of truth. Like, who am I to say what is actually
17 true or not true, especially on developing issues.
18 So at that point, we recognize that we needed a different approach than perhaps
19 our traditional binary approach of leave content up, remove content.
20 In a case like nudity, like, you kind of see Oh, that looks like a penis. It doesn't
21 look like a penis, you can make that decision a lot easier. But when someone is stating
22 something as an opinion or stating something as fact is that misinformation, how do you
23 deal with that? And so we had to develop an approach at that point.
24 BY [redacted]
25 Q When you said take an action, what was the action, removing or demoting

1 or --

2 A I'm going to ask you to clarify that action on.

3 Q On misinformation?

4 A Sure.

5 Q So do you consider removal to be the way to deal with it or did you have

6 different types of dealing with different types of misinformation?

7 A I think it -- I think it's the latter, to be clear to repeat that. We had different

8 types of misinformation. So the misinformation harm that I have spoken about we

9 would remove that type of content if we felt that it would lead to imminent offline harm.

10 So if there is, like, an imminent there is from a new reversibility, we would remove that

11 type of content. But again, not wanting to be the arbiters of truth we recognized that

12 we needed a new way actually to approach that. And so we took what we call an

13 approach to misinformation that we, you know, kind of easily can remember as remove,

14 reduce and inform.

15 So we have policies that deal with authenticity of actors so, you know, you have

16 spoken with Nathaniel, and Nathaniel has perhaps he told you about appropriating

17 authentic behavior policies. So we are looking at people who are not representing who

18 they are. It's fake names, all of those things. We may remove the actor, and say,

19 Okay, you are not this person. But for the content, which is the underlying question I

20 think you are going to, with what do you do with the content? So for that content, we

21 don't want to be the ones, like, trying to make that decision, so what do we do? We

22 reduce it so we reduce the availability in your feed and not recommend that to you

23 because we know that those things may carry a level of virality. And also try to use an

24 informed treatment. And so, for the informed treatments, we would essentially label it

25 and say that this has been fact-checked. And I want to make sure that it's clear. As I

1 said, we do not -- we are not the arbiters of truth certain. We don't want to hold that,
2 but we do work with a third-party fact-checking network. And that third-party
3 fact-checking network, based off of their own international standards, they must adhere
4 to the journalistic ethics. They then provide those fact checks, and we entrust them to
5 make those calls.
6 Q And what are those third-party fact-checkers?
7 A There are multidozen fact-checkers across a number of languages globally
8 that adhere to the Poynter's International Fact-Checking Network, and that's a standard
9 body that does fact checking for us. We accept any -- like, we encourage people to go
10 apply, if you don't apply to us, apply through the fact-checking network. We encourage
11 people who have the journalistic capabilities, that experience, the ability to do
12 investigative reporting in some ways to make those applications, apply and to bring those
13 organizations in. We have a wider range of organizations.
14 BY [redacted]
15 Q When it comes to the vetting process, does anyone at the company, or is it
16 any processes that are exclusively through Poynter?
17 A The Poynt -- it's the Poynter networks that does the vetting process.
18 Q Do you know if it is part of the vetting process to take into account
19 allegations related to the political bias?
20 A I don't want to speak for Poynter. I don't want to speculate. They do
21 have their own ethics. I believe in those ethics, that they do address insuring that you
22 do not carry any bias in that. But I would defer to Poynter, and I think their information
23 is public.
24 Q Does the company ever periodically vet Poynter International and their
25 vetting folks or once the decision was made, it's just --

1 A That's a great question. I would -- I don't know offhand. If you are asking
2 how do we check Poynter, I didn't know offhand.
3 Q Which team at the company is the primary point of engagement with
4 third-party fact-checkers with Poynter?
5 A It is within the content policy team and with [redacted].
6 Q And is there an individual who leads their team or subdivision that's
7 primarily responsible for dealing with third-party fact-checkers?
8 A I don't have the org chart in front of me, I would go to Justine for these
9 issues.
10 Q Just as a point of clarification, initially a few answers back, we were
11 discussing the steps related to misinformation, disinformation following the 2016
12 election.
13 A Sure.
14 Q A set of policies developed. You also referenced coordinated inauthentic
15 behavior. All right. See if we understand were you referring to two different sets of
16 policies? And if so, when was each adopted?
17 A Can you repeat that last part?
18 Q Sure. Were you referring to two different sets of policies? And if so,
19 when were each set of policies adopted?
20 A On the second question I -- when were each set of the policies adopted, I
21 just don't have the information in front of me to give you an accurate response. There
22 are two separate policies, there is some interplay, but there are two separate policies.
23 Again, the coordinated and authentic behavior is focused somewhat in the name.
24 Let's focus on the behavior of those actors, so you are -- inauthentic -- inauthentic actors
25 that are coordinating away to mislead people about what your intentions are, and that

1 may be for sharing of misinformation. And in that case, we would probably call it
2 disinformation. Misinformation is broadly -- anyone can make, you know, just say
3 something that's false. I could come in here and say, Okay, I am 6 foot 4 and the most
4 handsome guy on Earth. That might be misinformation. That might be
5 misinformation, but is that meant to lead someone to a false conclusion on these things.
6 So we try to make that qualitative in our assessments as well.
7 Q Were you involved in the development of the coordinated and authentic
8 behavior policy?
9 A I -- in the initial stages, I was not.
10 Q What about after the initial stages?
11 A Now that I oversee the team for new and developing issues within that set, I
12 have some oversight.
13 Q And the third-party fact-checkers, are they connected just to the
14 misinformation policy or do they play any role with the enforcement of the coordinating
15 and unauthentic behavior?
16 A No, the coordinated and authentic behavior policy, you know, and I guess
17 maybe it slights it back right now to ensure that becomes clear and specific. We
18 obviously own -- not obviously, I don't mean to say it that way, but we own our policies.
19 We own the policies. We write those policies, we own the enforcement of those
20 policies.
21 For things like misinformation, we do rely on those third-party fact-checkers to
22 actua -- because we don't want to be arbiters of the truth, they actually give us an
23 indication of whether something is false, partly false, partly true, to carry through. And
24 then that helps us go forward making our decisions, maybe we labeled something.
25 Looked at Hey, this is true, perhaps no action. They don't have a direct play other than

1 if a coordinated network of individuals was sharing this information for the purposes of
2 influence -- influence operation, at that point, then there would be the interplay so these
3 things are close but they are separate and distinct. And the fact-checkers they really
4 have no role in our coordinated and unauthentic behavior. Again, we are looking at that
5 point for on-platform signals of inauthenticity coordination.
6 Q Do you recall when approximately they [inaudible] in either direction?
7 A When it became my direct report. Yes, that would have been around that
8 2019 timeframe. So fall of 2019 I believe.
9 BY [redacted]
10 Q A couple more questions about your role.
11 A Sure.
12 Q So do the people who report to you, what do they do and then what do you
13 do in relation to that?
14 A I am chuckling. They lead -- they are subject matter experts. I am very
15 fortunate to be -- to lead a team of true subject matter experts. People are often on
16 their second careers of an expertise. We have folks that have worked in academia.
17 We have folks who have done, you know, work for human rights organizations, et cetera,
18 folks who were partners at law firms that bring a certain level of sophistication for the
19 subject matters that they deal with. So whether that is something like disinformation in
20 cybersecurity, whether that is through child safety they bring a level of sophistication
21 expertise to those subjects where they can go in at the very, very tactical level, and also
22 spend up to, like, go up in strategy for a tech company with 3 billion people.
23 My role is to ensure it has a little bit of oversight to kind of, in some ways,
24 synthesize -- because I am from New Jersey I apologize tend to talk with my hands -- to
25 synthesize their issues versus where we are as a business, what we are attempting to do,

1 and maybe seeing across multiple variables. So, for example, and here's one that
2 recently came up, human exploitation and human trafficking, it's a scourge on the planet,
3 and it is a whole site problem. We have teams that focus on safety, safety for children,
4 safety for vulnerable populations.
5 We also have teams that focus on criminal organizations. And so in my role, I sit
6 there and say, You know, we have this issue that deals with human trafficking, yes, you
7 want to protect children, you want to protect the vulnerable that may be subject to that.
8 And you over here, you want to eliminate cartels and you want to eliminate organized
9 crime. Let's bring those together, let's work in a way that can utilize both your skill sets
10 along with the rest of our leads from our team to ensure that we have correct policies in
11 place, we have correct enforcement in place. So that's -- try to synthesize those things
12 where there may be fall along the gaps, give advice on where appropriate and hopefully
13 show that our policies are fit for purpose. And that's the whole idea is to make sure that
14 what we do further is the mission of the company, furthers the mission of our --
15 Q So they, like, draft policies or come up with proposals and then you review it
16 and --
17 A I mean, it is definitely a give and take. There is a lot of conversation, as you
18 can imagine, about where we are. There is a lot of just analysis on what we see on the
19 platform, what we figure we are hearing from our partners outside -- outside of our
20 platform, so that may be civil society, it may make academics. We hear from, you
21 know -- we receive a lot of signal and sometimes it is trying to read through the signal, to
22 get actionable intelligence, things that we can say, it may have an issue on this subject.
23 Hey, this is a developing kind of space. This is something that we want to get our arms
24 wrapped around. How do we go about that?
25 And then through that developing policies, I mentioned our community standards

1 earlier. And that is one way we have a very formal process to developing policies.

2 Q And what is the formal process?

3 A It's something that we call the product -- it is a little bit of a short name,

4 product policy forum. And so, we have sometimes monthly, I guess, forum that looks at

5 whether new policies, updated existing policies to ensure that they are meeting the

6 needs of our community at that point in time.

7 Q So who's the final -- I mean when a policy contact moderation policy gets

8 adopted, who is sort of the final say?

9 A We often do many things by consensus. I sometimes have the final say.

10 Ultimately we all roll up to [redacted] So I guess if we had to say that who has the final

11 say, Monika often has that, but in her absence, I sometimes will have that ability. And

12 again, we often do things by consensus.

13 BY [redacted]

14 Q Regarding the development of coordinated inauthentic behavior --

15 A Sure.

16 Q -- who is the most senior person involved in the decisionmaking process to

17 adopt that policy?

18 A I would have to go -- again, ultimately we all roll up to [redacted] so I would say

19 as default, [redacted] I don't have the specifics on that policy at that time for the option.

20 Q And with respect to the development of the misinformation policy, it sounds

21 like around 2017 going off [inaudible] here. To your recollection who was the most

22 senior person at the company decision of that policy?

23 A Again, I -- trying to speculate on unfortunately to speculate on that. But

24 ultimately we go through our policy forum, [redacted] has oversight over that through our

25 content policy part, at that point, product policy forum, so I would stop there.

1 Q At these policy forums, is there anyone more senior to [redacted] who
2 would attend these forums?
3 A Generally not. I can't speak for every occasion. Fairly frequently there
4 always is a possibility that someone would join. Often don't see people's kind of level
5 either throughout the company so -- but primarily, it's [redacted]
6 Q Are you familiar with the company's policy -- per with respect to hack and
7 leak?
8 A Yes.
9 Q And what was your role in development of that policy?
10 A So at that time, when the hack and leak policies were developed, I oversaw
11 our trust and safety policy team, which included our cybersecurity policy team.
12 Q And when approximately was the policy developed and ultimately adopted?
13 A We had policies that dealt with privacy for a long -- prior to me joining Meta.
14 And those policies did include some aspects of, you know, leaked materials, they were
15 hack and leak specific. I can't give you an exact date of after I joined -- after I joined
16 [inaudible.] but I don't have an exact date.
17 Q Would you have worked with [redacted] and [redacted] in
18 relation to that policy?
19 A Yes.
20 Q Do you recall the reasons that were behind the company's decision to
21 consider adopting a policy specific to hack and leak, and then ultimately adopting a
22 policy?
23 A We are often through all of our policies, whether that's something like
24 privacy, if it is terrorism, adult nudity or sexualization. We are looking for trends. We
25 are looking for information. And then we are trying to assess and iterate our policies to

1 match the moment in time. Things that were perhaps problematic 5 years ago may be
2 less problematic today. Things that were not on our radar 5 years ago. Maybe, you
3 know, are front and center for us as issues today. So specifically with that just ensuring
4 that we have enough of our defenses up before potential misuse and exploitation of our
5 platform.
6 Q Was there any evidence that suggests that there was an increased likelihood
7 that someone would misuse your platforms to hack and leak?
8 Mr. Brown. Sorry, [redacted] what is your timeframe you are talking about?
9 [redacted] Well, whenever the policy's being considered and ultimately adopted.
10 [redacted] Again, I can't recall. Like, I can't recall the exact analysis that
11 brought that up, but we looked for all the signals and then where we think we have gaps
12 in our policies that we can essentially enact a policy to close a gap. We looked at these,
13 and that's a constant iteration on our policies.
14 BY [redacted]
15 Q Are you familiar with the FBI's Foreign Influence Task Force?
16 A I have heard of it.
17 Q And if you have an understanding, what is that task force?
18 A I don't think I've ever engaged with them, so I don't know any particulars.
19 Q To your understanding, are there members of your team that engaged with
20 the FBI's Foreign Influence Task Force?
21 A I would have to -- I am having trouble recollecting right now so. I want
22 don't want to state something that's inaccurate. I am having trouble.
23 BY [redacted]
24 Q So Meta has different products, right? Like, I don't know if that's the right
25 word. But WhatsApp and certain things like -- does your kind of -- and Threads now I

1 guess -- does your work involve all of those or some of them?

2 A They touch all those -- you used a great term, we generally call them apps,

3 and within each app, there may be specific products within those apps.

4 Q Are the policies the same for all of them or do they differ? I understand

5 WhatsApp is a little different --

6 A There are some slight differences, but between Facebook, the app,

7 Facebook. Instagram, we have Instagram, now currently Threads the app, the policies

8 are substantially similar. There are somewhat small nuances. So for example on

9 Facebook, we have a real name policy, we are evaluating. And if you are on Instagram,

10 or if you go on Threads, you don't have to use your real name, you can use an alias or a

11 handle. But for the majority of policies, things like nudity, terrorism those things will

12 carry through the apps.

13 Q And do you work -- what other teams do you work with frequently?

14 A I often -- I guess maybe take a slight step back, my role content policy is a

15 policy role, so I work fairly closely with our traditional public policy or government

16 relations teams as well. They have issues that are dealing with content policy matters,

17 because some of the work that I do has a legal component to it so you think of things like

18 child safety, terrorism, legality of moving this type of content. I do work with our legal

19 teams. And then I work with the teams that are also tasked with ensuring that our

20 automated systems are correct and our moderators are moderating content.

21 Q Who do you work with on the public policy team, typically if you --

22 A I work with, you know, my peers, so other vice presidents throughout

23 private public policy so these would be our regional leads so we have regions within APAC

24 what we call AMET, Africa, Middle East, Turkey. Europe, Latin America and North

25 America. So I work with those teams, and I work with members of my peer groups, their

1 rollup, if you will. So they have -- they may have -- the vice president may have a
2 director that handles the Canadian department, I would work with that person. They
3 may have a person that works with, you know -- has three or four countries in
4 sub-Saharan Africa I work with them on difficult solutions.
5 Q What about when it comes to the United States, who do you work --
6 A Sure.
7 Q -- with?
8 A I work with a number of people, including the head of our U.S. team, which
9 is [redacted]. I work with [redacted] and then folks in his rollup.
10 Q What about [redacted]?
11 A Yes, I worked for [redacted]
12 Q And then [redacted]?
13 A I did not work closely with [redacted] I am sure I joined a meeting with [redacted]
14 but not worked closely with her.
15 Q How is [redacted] role related to [redacted]? Is he above [redacted]?
16 A Yes.
17 Q And what kind of things do you work with him on?
18 A It depends. If there are -- if things like briefings that need to be done, so
19 like a congressional briefing, I may help out if there is no understanding of how we are
20 approaching content, how we are approaching something that happened with behavior.
21 I may come in and talk to a number of your colleagues on those issues. I try to answer
22 questions and make sure that their service is liked.
23 BY [redacted]
24 Q Which team has primary responsibility for enforcing content moderation
25 policies?

1 A Ultimately the content policy team with the policies and the ultimate
2 enforcement. Obviously -- not prep's, not obviously, but we do have a broadened set of
3 teams that help us accomplish that, including the moderation.
4 Q And what -- like within the teams, team name or is there an individual lead
5 for the set of responsibilities?
6 A The team names are -- they are wide and varied, but we have teams that
7 focus on -- focus on content moderation that have undergone a lot of recent reduction.
8 But I think global response is one of those global response operations. It is one of teams
9 that focus on our moderation, our human moderation.
10 Q Are there ever specific enforcement questions that get elevated up to you
11 directly many?
12 A Not frequently, but, you know, on occasion, there may be.
13 Q And what sort of criteria or threshold for something to get elevated up to
14 you?
15 A That's something I learned pretty long ago is try to delegate as much of the
16 authority, you know, kind of down, make sure that people have the power to make
17 decisions. Obviously the responsibility stays with me as a leader. And when we
18 receive questions that someone essentially feels that they -- it's just like above their pay
19 grade but they may feel uncomfortable making those decisions, they will raise those
20 decisions.
21 One area that I guess I frequently address is how we deal with certain terrorists, or
22 new-found terrorist organizations, and that is with their development. So we have a
23 very robust process that impacts that. You have our platform to try to assess what
24 these are, and often, the teams would bring me requests for, based off their findings
25 they'll give a recommendation, or bring me a request for review.

1 Q Do you recall any incidents, to use your term, where someone felt it was
2 above their pay grade related to questions of whether something should be action or not
3 in the misinformation policy?
4 A Rephrase the question. I want to be sure that I answer is as best that I can.
5 Q Sure. You said it sounds like, relatively speaking, few occasions, or
6 something is raised up to you directly, provided terrorism is one example that you recall
7 some incidence where that was the context. Do you recall any that involved
8 misinformation?
9 A I am sure that they happened. I can't recall any specific ones at this time.
10 I know that, again, something that jumps out is within Cameroon, we had a
11 misinformation that ultimately became a misinformation and harm issue based off of
12 local -- local violence I guess to kind of finding -- a violent non state actor versus the
13 government and those actions.
14 So that's one. But I don't have any specifics that unfortunately recall off the top
15 of my mind right now.
16 BY [redacted]
17 Q Do you have context with government entities -- U.S. Government entities as
18 part of your work?
19 A May I ask you to just reframe that? I want to make -- am I -- are they
20 contacting me or am I contacting them?
21 Q Either.
22 A So I guess -- I do talk to them so I guess that's contact, right?
23 Q Yeah.
24 A If I am talking with, working with our teams that work with Congress, that
25 work with the administration, I do talk with them, but I don't have any direct contact.

1 Outside of one place which is the GIFCT, so that's a Global Internet Forum on
2 Counterterrorism. That's a cross-industry body that works on counterterrorism.
3 Within that group, we have what we call the IAC, the Independent Advisory Committee
4 which is made up of governments and civil society and some members. And so we do
5 have conversations with a broad range of industry people on counterterrorism.
6 Q Sorry, just to clarify.
7 A Sure.
8 Q So you do have contact with people in government and other contacts as
9 well?
10 A I guess to the extent I talk to them. I guess am I going out and having,
11 like --
12 Q Oh, I mean as part of your work, do you consult with them, or do they
13 consult with you?
14 A I don't know consult -- I am trying to make sure -- I don't want to overstate,
15 but we do have discussions about the work that we are doing on certain initiatives or on
16 GIFCT, we will have discussions with government on those issues.
17 Q And --
18 A Then again, like, I don't know if the briefing is considered consulting, but if
19 you all ask for me to come in and brief on a subject of how are you dealing with X, Y, Z, I
20 would come in and talk with you about how we are dealing with X, Y, Z.
21 So for example I had, last year or a 1-1/2 year ago, with Judge McConnell, we
22 briefed, like, the Senate Republican committee on our oversight board. But I don't know
23 if that's consulting, it was just talking with them.
24 Q I am using the term loosely.
25 A Oh, okay.

1 Q What -- how about executive agencies?

2 A Yes.

3 Q Which ones?

4 A Well, I have talked to folks within the National Security Council about -- you

5 know, again going back. I think the terror is the main space, is another area that is really

6 developing how its anti-illicit drug work. So the only things like fentanyl, fentanyl sales

7 across platforms within social media so I have talked to those folks.

8 Years ago, I had a conversations with DHS on counterterrorism as well. They ran

9 a few programs. Like I said, at the beginning of the Trump administration, dealing with

10 ways to promote counter speech across the developing world, some of that was

11 Afghanistan at the point to fight terrorism.

12 Q And is that are they -- in that situation, are they looking for misinformation

13 or are they looking for illegal activity that could be --

14 Mr. Brown. I am sorry who is the they --

15 [redacted] DHS.

16 Mr. Brown. -- is looking.

17 [redacted] I mean, is what they are interested in. Are they --

18 Mr. Brown. Are you asking about the substance of the meeting?

19 [redacted] Yeah. To the extent, yeah.

20 [redacted] No. Which -- let --

21 BY [redacted]

22 Q DHS.

23 A DHS? Yeah, so that work -- the work that I did most closely with DHS was

24 work that was focused on empowering third parties, so a lot of the actual teenagers think

25 about high school, early university age globally to come up with ideas, maybe develop

1 ideas on how to promote counter -- so one of our theories on to fight terrorism,
2 especially terrorism online was to see bad speech, figure out a way to get more good
3 speech into the mix.
4 Or you see people potentially going down a rabbit hole, going down a path of
5 hate, going down a path towards extremism, are there ways that we can intervene? So
6 through DHS working with us we did help develop and promote a conscious content that
7 these -- you know, anyone could enter, but university maybe even some younger
8 students would enter, but that's largely I think has been funded so it's not occurring to my
9 knowledge anymore.
10 Q What about the White House?
11 A Sure.
12 Q Did you deal with them under Trump?
13 A Yes.
14 Q And on what?
15 A A number of issues, I think, there was some drug issues, but primarily the
16 terror, terror and aid.
17 Q And what about under Biden?
18 A Similarly, drug issues had become more prominent, but terror.
19 Q What about other issues like COVID?
20 A I did not -- I -- I have had conversations with both the Trump White House
21 and the Biden White House on COVID. The Trump White House on COVID, I guess,
22 probably immediately after we were all sent home. I think that's probably March
23 of 2020. And then following that and maybe following the change and transition for
24 administrations early on in the Biden administration as well.
25 Q And what were the conversations with the Trump White House about?

A I think at that time and it's hard. Again, I mean, I don't want to speculate. I think it was just an understanding of what we were seeing and what, to be clear, like going back in time to March of 2020 is difficult for me to remember, but I remember that it was just a wide lack of understanding for what was going on for everybody. And so, I think it was much an information kind of, you know, understanding session, sharing the vaccine trends, things of that nature.

Q And when the administration's changed, when Biden came into office, what was the nature of those conclusions?

A I think it was much the same, an understanding of what we were seeing on our platforms vis-a-vis COVID, COVID broadly, you know, kind of full stop. Obviously we had maybe a more firm understanding of what COVID was at that time. I won't call it a completely firm understanding as we all know. Perhaps our understanding of COVID as a society has continued to evolve, but it was much mentioned the same vein.

Q Did you attend the meetings with the White House on that subject?

A I remember one meeting on COVID with the Biden administration, one meeting with the Trump administration on COVID.

Q And who was at the meeting under the Biden administration from both the White House and from Facebook, Meta?

A From Facebook or Meta, it would have been Brian Rice, as you mentioned, for the Biden administration. For the Trump administration, I don't want to speculate on -- it wasn't Brian, but I don't want to speculate. I can't quite --

[Discussion off the record.]

[redacted] Likely, [redacted], who was leading our administration outreach at that point.

BY [redacted]

1 Q For the meeting that took place during the Biden administration, who from
2 the White House was present?
3 A From the Biden administration, I believe that was Rob Flaherty, Andy Slavitt.
4 Q Anybody else from the White House?
5 Mr. Brown. I think we have given you some documents that have the names.
6 BY [redacted]
7 Q And what was the substance of that meeting?
8 A Again, I think it was understanding our approach to COVID. At that time
9 COVID information, potentially COVID misinformation how we were treating content on
10 our platform.
11 BY [redacted]
12 Q Who at the company reached out to you about a meeting at the White
13 House?
14 A I can't recall. I don't -- I have emails. Likely [redacted], at that point.
15 Q It likely would have been via email?
16 A I -- I don't know. Perhaps, perhaps email, perhaps via a phone call. But I
17 don't know.
18 Q And do you recall the contents that he laid out about why you were being
19 asked to attend the meeting?
20 A No, no, nothing specific other than the White House -- seeing how we were
21 treating COVID.
22 Q Did he share with you a sense of what the White House's viewpoint was or
23 questions they had in mind?
24 A I can't recall. I can't recall.
25 Q At a high level, do you recall if there were any questions regarding the scope

1 of Facebook's misinformation policies?

2 A I believe -- I believe the topic came up with the specifics on what was asked.

3 I cannot recall.

4 Q At a high level, do you recall there were questions regarding the

5 enforcement of Meta's content moderation policies?

6 A At a high level, I believe they were likely, those questions.

7 Q And either based off the questions or statements was it your sense what the

8 folks at the White House had the position that Meta was not aggressive enough with its

9 enforcement policies, was too aggressive, or had no position at all?

10 A Yeah, based of off -- this is my recollection, I don't know what their intent is.

11 I think they wanted us to be as aggressive as we possibly could be, and more aggressive

12 than we actually were.

13 Q Do you recall how you gathered that understanding?

14 A Just based off the conversation, I think you entered into these conversations,

15 and you can both tell by just the tenor, the intensity, the urgency around and kind of

16 reflecting back. To be fair to both conversations, reflecting back we were in a period of

17 time where we did not know a lot about the virus, and kind of the impacts would be.

18 And I think people were expressing that urgency of people need to do something, we

19 need to ban together to understand what's going on, and making sure that folks, you

20 know, just felt the same urgency that they were feeling.

21 Q This meeting with the Biden White House that you attended, was it a virtual

22 meeting, an in-person meeting?

23 A Yeah, these were -- and I don't remember all the names, this was Zoom or

24 whatever the system of the meeting is so you are on an multiscreen box.

25 BY [redacted]

1 Q Do you know when it was, the meeting?

2 A I do not recall. Is this the Biden --

3 Q The Biden --

4 A Biden, no, don't recall.

5 BY [redacted]

6 Q You referenced partly to gain understanding of the contact situation how the

7 White House folks was feeling, the tenor of the conversation.

8 A Sure.

9 Q What was the tenor of the conversation?

10 A You know, I think, to my recollection, the conversation started off kind of

11 generally, you know, with a bit of background on how we were approaching some of the

12 issues. So that's fine to kind of just control. I think there was a level of intensity that

13 kind of ratchet it up in the meeting when there were just questions about were we doing

14 enough.

15 [redacted] Who was the intensity coming from?

16 [redacted] I think in that period of time, I remember Mr. Flaherty being very,

17 very intense.

18 [redacted] And you remember what issue or what was causing him to ratchet up

19 the intensity?

20 [redacted] General demeanor. I can't remember, it was -- it became more and

21 more intense. That's not -- like I would want to overstate not the most intense thing

22 you have ever been in, but it was more and more intense.

23 [redacted] Did Brian Rice or anyone else tell you about communications that

24 preceded this meeting with Flaherty or others at the White House?

25 [redacted] I can't recall.

1 [redacted] With respect to Flaherty in particular, as the intensity is ratcheting up
2 in this conversation, do you remember if there was a specific issue or something in
3 particular that was causing the intensity of the meeting to increase?
4 [redacted] I can't -- I can't -- I can't recall specifics. I know that, again, focused
5 on the subject matter, and then looking forward to impacts. And I remember that being
6 an issue that they wanted to know the impacts of our policies and that, perhaps, raising,
7 raising the intensity.
8 [redacted] Following the meeting, were there discussions internally at the
9 company to reflect what had been discussed?
10 [redacted] We did have at least one call following the meeting.
11 [redacted] And who was on that call?
12 [redacted] Brian was on that call, I was on the call. I think a number -- one or
13 two folks from Brian's team were on the call as well, just kind of our general debriefing
14 meeting.
15 [redacted] Do you know if any record was kept of the call?
16 [redacted] I do not, no.
17 [redacted] Would records normally be kept of such a call?
18 [redacted] Yeah, that's a great question as far as --
19 Mr. Brown. Sorry, record of our internal call debrief after --
20 [redacted] Yes.
21 Mr. Brown. -- meeting when somebody makes a record of --
22 [redacted] Would someone take notes?
23 Mr. Brown. Talking to each other?
24 [redacted] Yeah.
25 [redacted] No, I didn't keep a record. I don't know if anyone else took notes on

them, but nothing I remember was shared.

BY [redacted]

Q And what was the conclusion of that internal call? Do you know what was the original conclusion?

A I can't recollect specifically. I am sure that we, you know, took the feedback into our system, but I can't recall specifics.

Q Do you recall if any of this feedback being taken back into the system was shared with [redacted]?

A At that point in time I can't recall. Also for clarity, [redacted] experienced some health issues around that time as well, so I can't recall if she was sick or on leave.

[redacted] Was there anyone who was filling in for her or --

BY [redacted]

Q As far as taking back feedback, information you learned from the White House meeting, do you recall if any of those were shared with Nick Clegg?

A I can't recall specifically. We do when we have, you know, meetings of import, we do often have calls. I also don't have oversight on all of what Brian's communications, what our policy folks are.

Q To your recollection, was it is just one meeting with the White House or multiple meetings with the Biden White House?

A For me, on that topic I want to make sure we kind of cabin it to just on the COVID issue. That's the meeting that I can remember. I don't want to overstate that I didn't attend another meeting. It's very possible I was on a broader call and something was raised. That's the one meeting I remember. Because I don't oversee kind of the day-to-day operations, or even -- your operations of a public policy government relations team, I can't say what -- how many -- how much they --

1 [11:00 a.m.]

2 BY [redacted]

3 Q Do you recall if you were surprised during the meeting as the intensity

4 ratcheted up?

5 A Not really -- I would say I wasn't necessarily surprised. I think, again, trying

6 to reflect back on that period of time, there was just a high level of uncertainty going on,

7 like I -- it's almost like I expected that people are going to approach it with a level of

8 urgency.

9 I think everyone was just concerned, concerned for their own health, concerned

10 for their constituents. There was definitely concern to make sure that I'm doing the job

11 correctly for the people that use our platform and making sure that we arrive at the right

12 decisions.

13 Q Do you recall [redacted] or anyone on the public policy team briefing you in

14 advance to say there is this urgency on this issue or that Mr. Flaherty in particular is very

15 focused on this issue?

16 A I can't recall any specific pre-meetings on it.

17 Q Did you present at this meeting?

18 A I talked. I talked, yeah. I don't know if I presented, but I definitely talked

19 and explained our approach to how we deal with things like misinformation, how we're

20 dealing with claims around COVID, perhaps claims around vaccines at that time, some of

21 the information that we received.

22 Q Do you recall any discussion around vaccine hesitancy?

23 A In that meeting specifically, I cannot recall.

24 Q What about more generally around this time period?

25 A With government officials?

1 Q With either directly with government officials or -- we'll start first with
2 government directing officials.
3 A I can't recall direct conversations with government or indirect conversations
4 with government on vaccine hesitancy --
5 Q And then do you recall any discussions with the public policy team regarding
6 concerns that the public policy team was hearing from government officials that were
7 arguing vaccine hesitancy?
8 A Not specifically with the public policy team.
9 Q Any other team?
10 A I do remember having a conversation on vaccine hesitancy based off of
11 conversations with some of our partners that were helping us kind of think through the
12 policies that we deal -- that we used to deal with COVID, including like the WHO and the
13 CDC.
14 [redacted] In the meeting with Rob Flaherty and Andy Slavitt, to the best of
15 your recollection, did they convey that the concerns were coming from anybody else, or
16 did -- were they brought -- were they put forth as their own concerns.
17 [redacted] I remember them as their own concerns. I can't speculate. They
18 may have said something that I missed, but I can't recall.
19 BY [redacted]
20 Q Regarding issues related to Meta's content moderation policies related to
21 COVID-19, do you recall having any meetings with Nick Clegg on this issue?
22 A Do I recall -- do I recall the meeting?
23 Q Yes.
24 A I believe meetings happened. Do I recall any substance of those meetings?
25 No.

1 Q Okay. How frequently do you meet with Nick Clegg?

2 A It depends. It depends on the subject. I have a standing meeting with

3 him, I think, once -- biweekly is every other week. So biweekly standing meeting with

4 him and other policy leads. And then, you know, there are possibly meetings with him

5 on other issues.

6 Q Is Nick Clegg the most senior member you have a standing meeting with?

7 A To be clear, it's not my meeting. It's a policy -- a broader policy meeting.

8 But he is the most senior person that I have meetings with or regular meetings with.

1

2 BY [redacted]

3 Q Do you ever meet with Zuckerberg?

4 A Have I or do I?

5 Q Let's start with have you.

6 A Yes, I have.

7 Q How often, or is it just a few times?

8 A With Mark it's not frequent, not frequent. But on occasion if there are

9 issues that are developing sometimes with product launches, things of that nature, I'll be

10 a part of the meeting.

11 Q Did you meet with him about COVID issues?

12 A I can't recall having a specific meeting with Mark on COVID.

13 BY [redacted]

14 Q With respect to the developing of either the misinformation policy around

15 2017 or the coordinated inauthentic behavior policy, did you ever meet with Mr.

16 Zuckerberg with either of those two policies?

17 A I can't remember specifically.

18 Q What about with Sheryl Sandberg?

19 A I can't remember specific meetings with her on the development of those

20 policies.

21 Q On the Meta side of the meeting with Rob Flaherty and Andy Slavitt, was

22 there anyone else from your team that was also in that meeting?

23 A I can't recall. I cannot recall. No, I just don't -- unfortunately, I don't

24 recall.

25 [redacted] Can we go off the record, please?

1 [Recess.]

2 [redacted] Go on the record, please.

3 EXAMINATION

4 BY [redacted]

5 Q Good morning again, [redacted]

6 A Good morning.

7 Q It's 11:17.

8 I'm going to jump in with some of the subjects that we were just talking about in

9 the first hour, specifically the misinformation policy at Meta and particularly as it related

10 to COVID-19.

11 Remind me again. Like, you had oversight or some role with misinformation

12 policy at Meta starting in what year?

13 A Reflecting back, when I joined the company in 2016, I remember

14 misinformation more prominently developing in 2017.

15 Q Okay. And you had a role at that point?

16 A Yes, I had a role.

17 Q Okay. So there were a series of questions in the first hour about the policy

18 that developed at Meta with respect to misinformation. And with regard to COVID, in

19 particular, you mentioned that in your role you met with both the Trump White House

20 and the Biden White House at different times about specifically the COVID

21 misinformation policy. Is that fair to say?

22 A I don't want to limit it to COVID misinformation.

23 Q Okay.

24 A I, again, don't want to speculate. But it was on COVID issues.

25 Q Okay. What do you mean? What's the difference between

1 misinformation and issues? What's the difference in sort of the breadth there?
2 A Sure. COVID-19 presented a wide array of different types of content that
3 would appear on our platform. Some of that content was dealing with misinformation.
4 Other parts of that content fall under, what we would say, other policies within our
5 community standards, to include things like bullying and harassment, violence and
6 incitement, hate speech, and seeing how the COVID-19, the virus was now appearing in
7 content that was used to be weaponized against certain people.
8 Q Could you explain what that -- in that example, what does that mean?
9 A Sure. From a bullying and harassment perspective, we have a
10 policy -- actually I have the community standards here today. I think we have an extra
11 copy of the community standards that would maybe point to some of those issues as
12 well.
13 Q Thank you.
14 A Let me make sure I find the correct -- so it's tab 9. So we have an index
15 here. Tab 9 is bullying and harassment.
16 And our community standards are fairly binary. We generally have policies that
17 either allow or remove content, and we talked about misinformation with a slightly
18 different approach.
19 But even things like misinformation, they may trip other parts of their content. If
20 it's something that can be false but also used to incite violence, it may fall under another
21 policy and we would remove. It could be misinformation. But if it breaks a privacy
22 issue, we would remove that.
23 And so if I'm going to go through -- I think we're at tab 9. And looking down
24 here -- and let me be sure I include it -- we have policies that specifically dealt with -- and
25 I, unfortunately, need to take my time to try to find it.

1 Q Take your time. You're good.

2 A For example, on the -- unfortunately, these aren't numbered. It's printed
3 off the website. But the first, second, the third page is where we have the long bullet
4 list. Under tier 1, it says: Universal protections for everyone.

5 If we go to the bottom of those bullets right before tier 2, we have: "Everyone is
6 protected from the following: But for adult public figures, they must be purposefully
7 exposed to calls for death and statements in favor of contracting or developing a medical
8 condition."

9 So something like calling for someone to develop, "I hope you get COVID and I
10 hope you die" --

11 Q I see.

12 A -- is the type of bullying and harassment that we would ultimately remove.
13 So that's not necessarily misinformation. It's just a statement that someone is making,
14 but it would fall under a different one of our policies.

15 Q Okay.

16 A Likewise, with privacy, if someone alleged that you have COVID -- you know,
17 we're not subject to HIPAA, but we do want to protect people's right to their privacy and
18 their medical conditions -- we would potentially remove those claims as well.

19 Q Okay. So this example and the other examples that are in your community
20 standards that deal with content moderation, is it fair to say that all of these are meant
21 by Meta to prevent some kind of harm to your platform users. Is that correct?

22 A That's a fair statement. Maybe to take a slight step back, as we think about
23 the community standards, we develop those standards to promote -- really to uphold
24 marksmanship for the company, and that's to give the people the power to build
25 community and make the world a more connected place.

1 We find that through expression, you know, for our users, that is the way that we
2 can help build community, make that world more connected. And we hear often from
3 our users, from people who are allowed to have partnerships with us and advise us in the
4 case of civil society, academics who help give us input on our policies, as well as our
5 advertisers -- and advertising is a huge component part to our revenue -- of what type of
6 environment they feel is best on our platform.
7 We don't -- we make our decisions. We own our policies. We own our
8 decisions. But we use that as signal.
9 And so to your point, yes, the idea behind these community standards are to give
10 people the wide range of expression and allow people to engage in that expression but
11 also to have some limits around things like safety, privacy, authenticity, dignity, make
12 sure that we have some bounds. And we found out that this has been a very productive
13 way to go about business for us.
14 Q And I think you said "we use that as signal." Are those the words that you
15 used?
16 A I did.
17 Q And tell me about that. What do you mean? What are you looking to as
18 a signal when you come up with your content moderation policy or other community
19 standards at Meta? Where's the signal coming from?
20 A Sure. Our policies take a -- we're very deliberate in our policy
21 development, looking for how content may appear on our platform, looking at trends that
22 are happening on other spaces on the internet, trends that may be happening offline, and
23 then trying to map those to our platform and how that content manifests.
24 So signal for this, we may have an idea about a policy like, okay, we want you to
25 perhaps remove adult nudity and sexualization. We're agreed that that is something

1 that we do not want on our platform for all the variety of reasons I mentioned before.
2 We'll have people who are under 18 and certain cultures that may be more problematic,
3 brand safety for both our brand, for our advertisers' brands. Maybe they don't want to
4 appear next to that similar type of content.
5 We'll then create a policy line or get draft lines through a number of
6 group -- working groups within my content policy team. And then we have folks on our
7 team that also do stakeholder engagement, so they will talk to academics, people who
8 are well versed in freedom of expression, advocates for freedom of expression, but also
9 advocates for safety to see if we're drawing those lines in the correct place.
10 After, you know, multiple conversations on any given policy, we will then make a
11 recommendation based off of their input, our analysis of that input, also the analysis of
12 what we think the content on our platform is at that time.
13 So are we seeing a high prevalence, a high amount, high volume of a certain type
14 of content and will this actually have an impact? Or if we move the line a certain
15 direction, it will have no impact. And if that's the case, do we actually need to do it?
16 So those are the types of questions and the signal that we are taking when we try
17 to go through that balancing of freedom of expression, safety, making sure that we draw
18 the correct line that promotes both of those on our platform that ultimately serves our
19 users.
20 Q Okay. And you mentioned that the signals that are inputs for policymakers
21 like you at Meta --
22 A Sure.
23 Q -- include advertisers. And can you explain why it is that as a business Meta
24 has to take some signals from its advertisers when it comes to its content moderation?
25 A Sure. I want to be clear that our advertisers, you know, they don't

1 influence our policies in a direct way, but we do understand that our advertisers want
2 certain environments for their content, for their own ads, their advertisements to appear
3 next to.
4 There are many different types of platforms across the internet, some that are
5 much more graphic in their displays -- I'll leave it at that -- so whether it's a pornographic
6 site, something of that nature, where advertisers just for their own brand safety they
7 would not want to engage with that.
8 What we try to provide is a place that allows working that freedom of expression
9 but also recognizes that we have our own brand safety, as Meta has their own brand
10 safety. You know, we have to make sure that we are in the right places that we're in
11 and then also those that are our partners and our clients in that space.
12 So while they don't have direct feedback, we do hear, you know, just like whether
13 it is an advertiser, an academic, could be the government, some people they will
14 try -- they will discuss these issues in pretty public forums.
15 We take that and we take the signal back, you know, whether we are having direct
16 conversations or we are absorbing that signal from other places, to make sure that our
17 policies land in the correct place.
18 Q Okay. And you mentioned also that you take signals from, I believe you
19 called them advocates for safety?
20 A From advocates, correct.
21 Q And those could be community members, correct?
22 A That could be community -- everyone from individual community members
23 through large organizations that deal with -- whether those are maybe health issues, child
24 safety issues, in the space of terror, kind of those that have long histories of national
25 security broadly, but also human rights. And we have to strike the balance between all

1 of these concerns.

2 Q And why is it important for Meta to listen to the signals from those type of

3 organizations or individuals?

4 A I think the most simple answer is that we recognize that we do not have all

5 the answers. We are a group of very talented individuals that, you know, work on my

6 team to help develop these policies, but we don't have all of the answers. We are not

7 necessarily experts across the board on every issue that we would face with a community

8 of three billion people.

9 So with that as the backdrop, and as we try to draw those policy lines, we want to

10 make sure that our policy lines actually represent both leading thought and it is having

11 the impact that we desire.

12 Everyone potentially has room for growth in developing these policies, and this is

13 one way that we try to ensure that we are taking a very proactive route to identify where

14 we have room for growth, make sure that we bring that signal in, and craft the best policy

15 for it.

16 Q Okay. And you said I think that part of the objective here is for Meta to

17 protect its brand safety. Can you say a little bit more about what that means at Meta?

18 What is it that you're trying to protect?

19 A I think for any company, for any corporation, any brand, you want to make

20 sure that your brand is viewed in the best light.

21 The one that -- for our brand specifically, that one that provides an environment

22 for expression but does have some bounds on the way that people express theirselves, to

23 make sure that people do not think that the Meta brand, Meta apps and services can be

24 exploited to do harm, whether it's harm on the internet or offline harm.

25 So that is part of the reason why we have these policies, to make sure that as

1 others look at our brands, look at Meta's products and the family of apps and services,
2 that they can say that this is a place ultimately that I feel comfortable sharing
3 information, sharing my meaningful -- making meaningful connections across.
4 Q Okay. When you say that it's important to Meta that the platform not be
5 exploited to do harm, that's a judgment or a value that Meta has internally, correct? It's
6 not being imposed on them from the outside.
7 Is it fair to say that Meta on their own does not want its platform to be exploited
8 to cause harm to its platform users?
9 A That is correct. We maintain a very affirmative point in the development
10 for our community standards. In fact, I want to kind of just reflect back here, if we have
11 the preamble to the community standards. We may not have that in here,
12 unfortunately.
13 I take that back, we do. It's actually prior to tab 1. So if you go just right to the
14 introduction. I think we try to summarize it and try to be very transparent across these
15 issues.
16 And so on the introduction, I'll read: "Every day, people use Facebook to share
17 their experiences, connect with friends and family, and build communities. It's a service
18 for more than 2 billion people to freely express themselves across countries and cultures
19 in dozens of languages."
20 I'm going to skip ahead briefly.
21 "Meta recognizes how important it is for Facebook to be a place where people
22 feel empowered to communicate, and we take our role seriously in keeping abuse off the
23 service."
24 And so we are very transparent that that is what -- we want people to be able to
25 communicate through our platform, our family of apps and services. And to do that we

1 feel that safety is one way that we help undo that, both giving expression but having
2 some limitations there.
3 If we skip down to the next paragraph, again, as I mentioned, taking the advice of
4 experts: "These standards" -- and in this case the community standards -- "are based on
5 feedback from people and the advice of experts in fields like technology, public safety and
6 human rights. To ensure everyone's voice is valued, we take great care to create
7 standards that include different views and beliefs."
8 And so, again, that is one of the reasons, as I tried to say, you know, with all due
9 humility, that we don't have every answer. We do not represent -- while we try to
10 represent the views widely, there are places that we don't have that. And going out to
11 experts that may have different views on certain issues are very, very helpful for us.
12 Q And it's fair to say that keeping Meta's platform safe from harm to its users
13 is a value to Meta itself as it is --
14 A Yes.
15 Q And Meta has existed as a -- actually, and Facebook --
16 A That's correct.
17 Q -- has existed for how many years? Do you know?
18 A It's -- we just passed, I believe, our 18th birthday recently, so going back to
19 2004.
20 Q Okay.
21 A So we're coming up maybe pretty soon -- hopefully, I didn't miss the
22 anniversary -- on our 19th year.
23 Q Got it. So around 2004. So that means that Meta or Facebook in one
24 form or another has existed in multiple Presidential administrations in the United States.
25 Fair to say?

1 A That's correct.

2 Q That represented different ideological and partisan views -- I mean the

3 administration, not Meta -- over the years, correct?

4 A That is correct.

5 Q And Meta intends to remain a corporation in some form or another into the

6 future, correct?

7 A That is correct.

8 Q Through different administrations that may come and go, correct?

9 A That is correct.

10 Q And throughout the world, outside the United States, in other countries with

11 different political systems and different ideologies, correct?

12 A That's a very important point, and that is also correct.

13 Q Okay. So it will be in Meta's -- it would not be in Meta's interest, let me put

14 it that way, for them to conform with any particular political party's interest or be

15 coerced into being a platform simply for the views of some political party that happened

16 to be in power at one particular time in one particular country. Is that fair to say?

17 A That's correct.

18 Q Why would that be contrary to the well-being of Meta as a corporation

19 that's global?

20 A Ultimately we want to provide services for a wide variety and wide array of

21 people. I think I commented here that the community standards mention 2 billion. I

22 think we've actually put 3 billion people across the apps -- family of apps and services.

23 Within 3 billion people, obviously, perhaps, you're going to have a lot of differing

24 views within 3 billion people. But we believe that our platform can serve the purpose of

25 allowing people to communicate and find meaningful connections across their different

1 groups, whether those are groups for individuals to connect in small groups for family
2 issues, it may be church and religious issues, also for small businesses.
3 All these people come to our platform utilizing it for their own benefit, and we
4 want to provide that service. To the point being made that if you were to somehow
5 ostracize significant swaths of those people, they likely would not go away and perhaps
6 not come back.
7 Q Okay. And let's kind of narrow in a little bit more to some of the
8 conversation that we were having in the first hour with respect to Meta's COVID
9 misinformation policy.
10 A Sure.
11 Q Am I correct that that policy began soon after the COVID pandemic arose on
12 the scene in 2020?
13 A That is correct. I believe our first policy was created in January of 2020.
14 Q Okay. And that was when Donald Trump was President of the United
15 States?
16 A Yes, that is correct.
17 Q And that policy applied throughout the platform globally, not just in the
18 United States?
19 A That is also correct.
20 Q Okay. The policy, I take it, evolved over time as the understanding of the
21 COVID-19 pandemic was evolving. Is that fair to say?
22 A Yes. The policy, much like the pandemic and our understanding, evolved
23 over time. As we do with all of our policies and specifically on the COVID-19 issues, as
24 we had more information and more information became readily known and widely
25 accepted, we would take that information. And then, as mentioned previously, take

1 that signal into our policies and iterate and adjust as necessary.
2 Q Okay. With respect to COVID policy, you were taking signals from a range
3 of experts, fair to say?
4 A That is correct.
5 Q Including health experts?
6 A Yes. We took our policies from -- primarily from health experts.
7 Q Okay.
8 A Or excuse me. I should not say policies. We took information and advice
9 from health experts.
10 Q Okay. Any other general sources that you were taking those signals from
11 with respect to COVID policy?
12 A I can't remember. The two that come directly to mind are the CDC and the
13 WHO.
14 Q Okay. In your work with the CDC and the WHO on, you know, receiving
15 those signals to inform your COVID policy, were you ever forced to engage with those
16 experts -- you, Meta? Sorry.
17 A Yeah. I was never forced, and I don't believe anyone was forced to engage
18 with the WHO or the CDC.
19 Q And was Meta or anyone, to your knowledge, at Meta pressured to make
20 changes to its policies from those experts?
21 A Not to my knowledge was anyone pressured.
22 Q Okay. So fair to say that you at Meta and others at Meta wanted to receive
23 that information, those signals from those experts, just like you do in other contexts in
24 order to inform your own policy on how to protect your platform?
25 A That is correct.

1 Q Okay. And I want to be specific. You talked in the first hour about a
2 particular meeting with some members at the Biden White House?
3 A May you repeat the question?
4 Q Oh, absolutely.
5 You talked in the first hour about a particular meeting with -- involving Andy
6 Slavitt and [redacted].
7 Do you recall those questions?
8 A Yes.
9 Q No, Mr. Flaherty. I'm sorry. I said the wrong person.
10 [redacted] is a Meta employee, correct?
11 A [redacted] is a Meta employee. And, yes, he was at the meeting as well.
12 Q Okay. And you indicated that during that meeting -- I don't remember if
13 you said when it was, but do you recall as you sit here when that meeting was, to the best
14 of your recollection?
15 A Unfortunately, I don't recall when the meeting was. 2021, beginning of
16 the -- relatively the beginning of the year, but I do not recall the date.
17 Q Okay. I think you said in the first hour that you thought it was early on in
18 the administration of President Biden?
19 A Correct.
20 Q Okay. And at that time in 2021, certainly the COVID pandemic was still
21 raging in this country. Is that correct?
22 A Yes, very much so.
23 Q And millions of people had died in the United States, correct?
24 A That is correct.
25 Q Millions of people had died globally, correct?

1 A Yes, that is correct.
2 Q And those deaths were attributed to COVID, correct?
3 A In some cases, yes.
4 Q Okay. And so a lot of people in the United States and around the world
5 were concerned about COVID and the harm that it was doing to people, fair to say?
6 A I think it's a fair statement.
7 Q And people at Meta shared that concern, fair to say?
8 A I shared that concern, yes.
9 Q Okay. And the company itself also had a concern about harm that could be
10 done using the platform with respect to COVID misinformation or other --
11 A The company did. The company -- obviously, we adopted -- as a company,
12 we adopted the community standards that dealt with COVID misinformation, and some of
13 the work that we also empowered the teams to explore and then ultimately adopt were
14 our COVID Hub, which is a COVID information portal.
15 So in a developing issue like where we do not have potentially all the facts and the
16 situation is evolving, we take a stance that providing more information or up-to-date
17 information was a way to empower our users to make the correct decisions for
18 themselves. And so we developed the COVID-19 Hub so that people could find the most
19 authoritative information that we were known to have at that moment in time.
20 Q Okay. I don't recall if you mentioned that in the first hour, but the COVID
21 Hub, is that -- I don't know if it's called a product. Is that sort of a Meta product that
22 was developed when your policy evolved with respect to COVID?
23 A You are correct both calling it a product and calling it an evolution. It was
24 something that was developed in reference to realizing that there was a significant lack of
25 information, authoritative information that people could base their decisions off of.

1 And that was one way that we sought to address potential misinformation on our
2 platform.
3 Q How did you at Meta come to recognize that there was a problem that
4 needed to be addressed by developing this product, the COVID Hub?
5 A For the hub itself and just realizing, maybe taking a slight step back in time
6 to the 2020-2021 period when there was not much knowledge or written knowledge of
7 what COVID was and the ways to combat it, what the vaccines were, how readily
8 available those would be, we felt at that point, with the potential for so much
9 misinformation, that where we could collate and aggregate authoritative sources to help
10 people understand and then make the decisions that are more appropriate for them, that
11 was the best course of action.
12 Q So the solution broadly that Meta came up with for all of this misinformation
13 or confusion, lack of information, was to focus mostly on raising authoritative information
14 up on its platform versus pushing other information out? Is that fair to say, in terms of
15 the strategy that led to the COVID Hub?
16 A I believe that's a fair summary of how we thought about upleveling and
17 perhaps ensuring that people had access to authoritative information.
18 Just one caveat. Again, when there was the misinformation that could lead to
19 imminent harm, a classic example is, "You want to cure COVID, go drink bleach," we
20 would remove something like that because of, obviously, the irreversibility if someone
21 was to take those actions to their own physical harm.
22 But when there are a lot of questions in the space and we're looking to get people
23 that information that will help them make decisions from the best authoritative sources
24 that we could identify at the point, that was our philosophy.
25 Q And when did the COVID Hub product appear on the platforms?

1 A I would have to go back. I don't know offhand, unfortunately.

2 Q Okay. What would it look like to a user on the platform if you went to that

3 landing spot?

4 A For the user, if you went to the landing spot and you could find that by just a

5 generic kind of URL, you would see authoritative sources. I think at that point we would

6 have in some cases localized information about COVID for you, also essentially tracking

7 back to the government what they were telling us about COVID issues in their own

8 jurisdictions. And then some of that was best practices, best practice information as

9 well. That is one way to find it.

10 Also, if you were -- if you had seen misinformation within your feed -- I mentioned

11 earlier, I would rely on third party fact-checkers to identify misinformation -- we would

12 label that. And through the label I believe we had a click-through that would

13 also -- essentially a "see more" style click-through that would bring you to the COVID Hub.

14 Q And I'm curious of the example that you mentioned. If you had content on

15 your platform that said, "Hey, drink bleach, it's going to cure COVID," walk me through

16 how your content moderation policy would work with respect to that post.

17 A Sure. So in those cases where we have misinformation that can lead to

18 imminent harm -- "imminent" means in this case drinking bleach would lead to imminent

19 harm -- that is a policy that we would actually remove content, content stating something

20 specifically similar in vein.

21 Our automated systems and our human reviewers would have -- after that

22 content was flagged, would then be able to make the removal. We use a combination

23 of human moderators and automated systems to identify content.

24 Also relying on our users to actually flag content. If you go through your app,

25 three buttons and, you know, through a couple of click-throughs identify content that's

1 potentially violating.

2 At that point we've made the decision something that is kind of hairy on this

3 space, a wild tip, like drink bleach, we would eventually resort to a place where we would

4 allow the automated system to actually action that content directly. Potentially, for a

5 closer call, we would raise those issues with human moderators in certain instances.

6 Q And those are your third party fact-checkers?

7 A No. In that case these would be Meta employees who make content

8 decisions and the -- I'm roughly going to say the binary choices of remove or allow. For

9 third party fact-checking, which is a different system, if this was not violating of our

10 policies but there was a signal that this was potentially misinformation, we would give

11 third party fact-checkers the opportunity to rate that information as true, false, or

12 somewhere between.

13 Q Okay. So it sounds like there is quite a range when it comes to the

14 misinformation and other content moderation decisions. Some things are pretty clear,

15 like the drink bleach, that it's going to cause imminent harm, so Facebook/Meta has a

16 clear response, which is remove.

17 But then there are other questions that are much more nuanced and closer calls

18 that require a more complex process to evaluate that information. Is that fair to say?

19 A That is correct. It is a very complex system that we try to arrive at the right

20 answer. And certain cases were straightforward, as you mentioned, the drink bleach

21 example is one where we can take action. There are also millions of pieces of content

22 that are shared daily that are closer to the line and require some evaluation.

23 Q Okay. And when you have those pieces of content that are closer to the

24 line, your community standards and your policies that are inside this --

25 A Sure.

1 Q -- are meant to guide people at Meta in determining how to deal with
2 that -- those situations, right?
3 A That is correct. Guide both our users and how to, you know, moderate, but
4 also guides our decisions. We try to have a -- strive to enact a number of what I believe
5 are very objective standards about our policies, try to remove the subjectivity on any one
6 given person to make a decision, objective standards, and adhere to those standards.
7 Q Okay. And as you've explained already, what goes into those nuanced
8 processes is a lot of input and a lot of signal, as you put it, from various stakeholders,
9 including experts on health in the context of COVID, people in the community who want
10 to use your platforms, and ultimately Meta's desire to protect its brand as a safe place for
11 people to express their views, fair to say?
12 A That is correct. One point of clarification. That is to help us develop
13 those policies, and we -- ultimately, as I mentioned earlier, we go through the long policy
14 development process, which we own, where there is a line -- a clear line which is that we
15 enforce those policies. We enforce those policies. We're not consulting externally on
16 individual pieces of content and how we enforce it. We enforce those policies directly.
17 Q Okay. And why is that important?
18 A You want to remove -- it's important I think both internally and externally,
19 you want to remove any indication of potential bias or undue influence making a
20 decision. We write these policies very objectively, try to remove that even internally
21 from our people before they would action content so that they're making conscious
22 decisions based off the objective standard, colloquially the letter of the law or what is
23 contained in the four corners of the paper.
24 Q Because, again, Meta is trying to create a platform that is appealing to an
25 incredibly diverse set of individuals, including people in every country in this world, with

1 every kind of political or ideological view. Is that right?

2 A Probably that is correct.

3 Q As long as the platform isn't being exploited to do harm to those users, fair

4 to say?

5 A That is correct. We want a platform that is used for expression for people

6 to have as many connections with the guardrails that we don't want the platform used to

7 exploit others on our platform or offline.

8 Q Okay. So circling back again, after you gave me an interesting context on

9 that COVID Hub and other matters, back to your meeting at the White House in

10 approximately January of 2021 -- not your, but the meeting of many, many employees

11 and others --

12 A Sure.

13 Q -- you indicated in the first hour that Mr. Flaherty in particular was, in your

14 words, intense during that meeting. Do you recall that?

15 A Yes, I do.

16 Q Okay. And, again, this was at a time when COVID was a very significant

17 problem in the United States and around the world, correct?

18 A Yes, it was.

19 Q And when people were dying by the millions, correct?

20 A Yes, they were.

21 Q Is it possible that Mr. Flaherty's intensity was motivated by that context, the

22 fact that people were dying by the millions and he was concerned about the harm that

23 might come to those people?

24 A You know, I can't speculate to what Mr. Flaherty, you know, his intention

25 was.

1 I will say that for me specifically, I also recognized that -- I recognized that we
2 were at a moment in time where, as you mentioned, that there were millions of people
3 that were dying, that there were billions of people perhaps on Meta's products and
4 ensuring that that platform, our platform, our family of apps and services was not being
5 used to exploit or to further whether that's misinformation or something that can actually
6 be harmful in the offline space. Physical harm is what I'm trying to address. I
7 definitely recognized the urgency as well.
8 Q And others at Meta recognized that urgency?
9 A Yes.
10 Q Okay. And is it fair to say that you and, as far as you know, others in that
11 meeting, including the Biden administration officials, were all there for the purpose of
12 trying to come up with solutions to make sure that people were subjected to the least
13 amount of harm possible with respect to COVID misinformation and other ways of
14 exploiting the platform?
15 A As I mentioned earlier, we take signal, and I think we even, as mentioned
16 here in the community standards -- excuse me -- we talked to academics, we talked to
17 partners, we talked to experts on these issues. It is taking that signal that ultimately
18 helps us write the policies, make sure that we are enforcing them in the correct ways that
19 ultimately protects and better protects our community.
20 COVID specifically where, you know, there are challenges, we do not have teams
21 of epidemiologists. We do not have teams of immunologists or other doctors that are
22 well versed in fighting these types of viruses. So we were looking for those signals from
23 external sources. I mentioned the CDC and WHO potentially as two to make sure that
24 we are writing policies that is having an impact that we ultimately want to have for our
25 platform.

1 And so in those conversations at the end, we are looking for that type of
2 information to help us better assess how we are doing, then evaluating that information
3 against what is manifested in our platform, then making the correct decision.
4 In certain cases you make decisions that may not necessarily agree with a piece of
5 information -- or a piece of that signal, you may dismiss it. In other cases you say that is
6 very valid, and we will see that if can entrust that issue.
7 Q Okay. And in this case how did you take the signal that you received from
8 that meeting from Mr. Flaherty and others?
9 A Again, I can't -- unfortunately, I cannot speculate because I don't remember
10 the specifics. I remember the tenor. I don't remember the specifics of what we
11 shared.
12 Q Okay. Is it fair to say that no one threatened you during that meeting?
13 A I don't recall any threats.
14 Q Okay. And no one coerced Meta ultimately to make any changes to its
15 policies through threats or pressure?
16 A I was not coerced.
17 Q Okay. When you left that meeting, you indicated that there was some
18 discussion at Meta with respect to the policy?
19 A Generally we will have a debriefing meeting on the meeting itself.
20 Q Okay. And is that a process that occurs frequently when you take these
21 outside signals from the U.S. Government or other individuals or organizations?
22 A It varies. It varies. I don't think we have a standard operating playbook
23 on conducting, like, a post-meeting.
24 Q Okay. What I'm getting at is this. Are you familiar with the allegation of
25 some members of this committee that the U.S. Government essentially pushed and

1 pressured Meta to make changes to its policies by threatening them or coercing
2 them -- you, I should say, you at Meta?
3 A I guess maybe the first -- I'll speak to my experience. Maybe we can take a
4 broader view of all of this. I think people often feel pressure or people are often
5 pressured. I think that happens across any business, across personal lives, any
6 interactions people may feel pressure.
7 It's in some ways how that pressure manifests and what you do with the pressure.
8 Do you succumb to it? Do you acquiesce to it? Do you rely on, you know, kind of your
9 existing standards, existing protocols, policies, procedures to go forward.
10 I personally -- I don't know if I felt pressure. I mean -- and I'll try to qualify this a
11 bit. I definitely felt pressure to do my job correctly. I feel that pressure every day to
12 ensure that I'm leading my teams correctly. We have a platform of 3 billion people
13 across a family of apps.
14 I do make consequential decisions that I understand will have a significant impact
15 globally, and so I do feel that pressure. But one given meeting, everybody is only -- it's a
16 culmination of their own identify and their experiences and perspectives.
17 I served in war. I'm a marine. Pressure manifests different for everyone. So I
18 did not feel any type of unique pressure in that meeting.
19 Q Okay. It sounds like the pressure you described is more pressure that you
20 put on yourself to perform in a way that meets your standards. Is that a fair
21 characterization?
22 A That's a fair characterization. I think that's a pressure that, you know, both
23 within Meta, here in this room I think, perhaps even more broadly everyone
24 experiences -- every professional experiences that pressure to be professional, to do their
25 jobs to the utmost of their ability.

1 Q Okay. And with respect to COVID policy at Meta, is it fair to say that the
2 policy that was developed after that meeting at different stages was developed internally
3 by Meta and that Meta owns that policy, as you put it, because it was your decision at
4 Meta to develop that policy as it exists?
5 A Yes. We developed our policies. To the extent that I was involved with
6 the policies, we developed those policies based off of our analysis of the situation.
7 Q Okay. I just want to step out a little bit now just to your misinformation
8 policy generally.
9 Mr. Brown. Could we go off the record?
10 [redacted] Yeah.
11 [Recess.]

[12:34 p.m.]

[redacted] So the time is 12:34. We have 20 minutes left in our questioning here.

BY [redacted]

Q All right. We had some questions in the first hour about Meta's third-party fact-checking program. Do you recall those questions?

A Yes, I recall the questions about the fact-checking program.

Q Okay. Are you familiar with the program?

A I am.

Q And you mentioned in your answers something called the Poynter Institute. That's P-o-y-n-t-e-r, right?

A That's the correct spelling. I believe it's the Poynter Institute's International Fact-Checking Network.

Q Okay. And, yeah, within the Poynter Institute, there's a network called the International Fact-Checking Network, correct?

A That's correct.

Q And they call that the IFCN. Is it fair to say that the fact-checkers that are used by Facebook have to be signatories to that organization, the IFCN?

A That's correct. They must be signatories through the Poynter Network.

Q Okay.

And Meta chose to develop that third-party fact-checking program independently of any outside pressure or coercion, correct?

A That is correct. We developed that, recognizing that we are arbiters of truth, and to give us an organization or at least an entity that could help oversee fact-checking, which has gone on long before Meta existed.

1 Q Okay. And is it fair to say that Meta believes it's in its own interests as a
2 company to develop that third-party fact-checking program?
3 A Correct. For Meta's interest, to utilize the third-party fact-checking
4 program to help us address misinformation is always in our -- it's in our own interest.
5 Q And that policy and the use of a third-party fact-checking program was
6 developed in 2018?
7 A I don't want to speculate. I don't have the exact date.
8 Q Okay.
9 The government did not force Meta to adopt that program, fair to say?
10 A That is correct.
11 Q Now, with respect to the IFCN signatory requirement, that organization has a
12 set of principles that all of the signatories must commit to, correct?
13 A I believe that to be true, yes.
14 Q Okay. And the first principle of the IFCN that would apply to all of the
15 third-party fact-checkers that are employed by Meta is that the signatory organization
16 must fact-check claims using the same standard for every fact-check and use the same
17 process for every check. Is that right?
18 A Unfortunately, I don't have the document in front of me, so I can't -- I can't
19 say.
20 Q Okay.
21 Do you understand, broadly, that the principles of the IFCN require signatories to
22 be nonpartisan and to display fairness in terms of the content that they are checking?
23 A Broadly, I do understand that the signatories must be nonpartisan and
24 exhibit the same standards to all fact-checks.
25 Q Okay. And are you aware that the signatory cannot be an organization

1 affiliated with or that shows support for any political party, politician, or political
2 candidate?
3 A Again, I'm broadly aware. I don't have the document in front of me, so I
4 can't speak to the specifics.
5 Q Okay. Can you say, just generally, why it would be important to Meta for
6 there to be such a principle, in terms of nonpartisanship, for its third-party fact-checkers?
7 A Sure. And maybe to take a slight step back, I think I -- both how we
8 develop our content policies but how the fact-checking network operates as well.
9 I mentioned previously we try to develop policies that are objective, to the best of
10 our ability, to remove that subjectivity. Everyone, perhaps, that comes in touch with
11 our policies has their own life's perspective, but we don't want that perspective
12 necessarily influencing day-to-day decisions on our policies. So we make them very
13 clear and make them very objective.
14 Likewise, for the Poynter Network and the way that they approach the
15 fact-checking partners, having objective standards, you remove the claims of subjectivity,
16 the claims of bias, you try to eliminate any of that undue influence on any decision that's
17 being made.
18 So whether for us specifically at Meta, dealing with our enforcement of our
19 policies, but likewise at Poynter Network, dealing with individual fact-checking partners
20 and the facts-checks that they ultimately produce.
21 Q And would it be fair to say that, if Meta were perceived from the outside as
22 being partisan or biased in some way, that that would be bad for Meta as a company,
23 because Meta appeals to such a broad, diverse set of people across the globe?
24 A Again, we want to provide a service for a wide array of people, including up
25 to the 3 billion that we currently have across the family of apps and services. To

1 ostracize one by thinking that you were biased in any direction would not be with the
2 mission that Mark has held, which is to allow people to build communities and find those
3 meaningful connections.
4 Q And in your experience as an executive at Meta, has it been communicated
5 to you through the leadership above you that objectivity and nonpartisanship is an
6 important value at Meta?
7 A In my discussions with my team and my discussions with my manager,
8 Monika Bickert, it's very clear that objectivity and, kind of, nonpartisan approach to our
9 policies is the correct way to be.
10 Q Okay.
11 The fact-checking program, I don't know how much -- have you dealt with it on a
12 specific level or just sort of more general in terms of you're aware that the program
13 exists? Do you know how it operates on, like, the ground level?
14 A I have a much broader, kind of, up-level view of it. I obviously know that
15 the program exists. I understand the impact of some of the ratings. But I'm not into
16 the day-to-day minutia, if you will, of how the fact-checkers ultimately apply those
17 fact-checks and then all of the impacts that follow.
18 Q Okay. So I'm going to ask you some questions, starting with general ones.
19 If I get --
20 A Sure.
21 Q -- to the point where it's too specific, obviously you can tell me that, that you
22 just don't know.
23 Broadly, though, the purpose of Meta's fact-checking program, is it fair to say, is to
24 identify and address viral misinformation on the platform?
25 A That's a fair summary. The purpose of the program is to identify

1 misinformation or information that has been surfaced to essentially give it a rating that
2 will ultimately allow us to label.
3 One of the byproducts there is that there is a concern with the virality of
4 misinformation and our ability to label that and then use inform treatments, as I
5 mentioned earlier. And that remove, reduce, and inform model is something that helps
6 us both guard against the virality and provide authoritative sources.
7 Q Okay. So the remove, reduce, and inform model, that refers to removing a
8 content that is clearly harmful, like you said before?
9 A Slight nuance. Yes, plus.
10 So the removal can be in two parts. It can be removing misinformation that has
11 an imminent harm, as we talked about the drinking bleach --
12 Q Right.
13 A -- example to cure COVID.
14 But, secondly, we also remove actors -- so this is exclusive of the content of the
15 actors -- that are potentially sharing that, based off of their authenticity, or their in this
16 case inauthenticity, and their coordination.
17 If we have potentially a malicious actor that maybe we have removed from the
18 platform previously that has now come back to the platform, or one that is now just new,
19 engaging in this type of behavior, something that we do prohibit, we remove the actor.
20 So the downstream impact of removing the actor is that that actor's content will
21 also be removed. So that is the removal bucket.
22 Q Okay. I'll get into that a little bit later, but that would touch on some other
23 policies of Meta, like your coordinated inauthentic behavior, for example? Is that right?
24 A That is correct.
25 Q They focus on the actor, not the content?

1 A That's correct. In coordinated inauthentic behavior, the focus is on the
2 actor and the actor's behavior. The coordination piece is -- will be determined to be
3 behavior.
4 Q Okay.
5 The other "R" that you mentioned was -- oh, my gosh -- reduce?
6 A Reduce.
7 Q Sorry.
8 A Right.
9 Q So that strategy is to, what? Can you explain what that strategy means?
10 A Sure.
11 As you mentioned earlier, it's misinformation designed to potentially limit virality
12 of content. In the reduce, we do reduce the -- once labeled by a third-party
13 fact-checker, misinformation is reduced in our system. So we will limit the ability for
14 that to appear in feed; we will limit the ability for our systems to recommend that to a
15 user who would not otherwise see it.
16 That being said, while it's reduced, it is still available on our platform. If you have
17 the URL, you will see it. And it may appear in your feed as well.
18 Q So, if somebody were looking for that material and seeking it out, they
19 would still be able to find it?
20 A That is correct.
21 Q And then, finally, "inform." Can you explain what that strategy is?
22 A Sure.
23 The inform treatments are the labeling that comes with each of the
24 misinformation decisions. And so, in this case, if a third-party fact-checker labeled
25 something as being false, we would -- or, excuse me, they identified something as being

1 false -- I want to be specific -- they identify; we label -- they identified something as being
2 false and gave it the rating, we would then label that content as being false and
3 potentially surface an authoritative source that shows why that is false.
4 In some contexts, we would then, where we have these other treatments -- the
5 hub, for example, around COVID -- we would point people to the hub. "If you're
6 interested in learning more about this topic, here are all the resources" -- not all the
7 resources, but -- "here are resources for you to better understand the issues at hand."
8 Q Okay.
9 So the fact-checking program intentionally separates the first stage, which is
10 reviewing the content -- that's going to be done by the third-party fact-checkers, who are
11 signatories, again, to this IFCN, right?
12 A That's correct.
13 Q It separates that process from the decision on what to do with that content
14 on Meta's platform. That's actually going to be made by Meta.
15 A That is correct.
16 And if I can just take one slight moment to kind of just explain a bit of just how
17 complex the system is and our operation.
18 When we talked about the community standards earlier, I explained that, well,
19 part of that's misinformation but it's also maybe covered by a different policy --
20 Q Right.
21 A -- in that case, bullying and harassment. So we will examine all of the
22 content against the community standards for those direct exclusive-of-misinformation
23 violations. So does this piece of content actually violate our violence and incitement
24 policy? Does it violate our child nudity policy? Whatever it may be, we will examine it
25 under that rubric first. And then sometimes, whether sequential or in parallel, the

1 process for misinformation will begin as well.

2 But, to your point, to be clear, the third-party fact-checkers, they are given the

3 opportunity to rate misinformation on our platform. Once they have come back with a

4 rating, we would then own that from that process on. Do we now reduce the ability to

5 share? Do we label? How do we go forward with the treatment or enforcement of

6 that content?

7 Q Okay. And this separation of those two decisions -- the fact-checking from

8 the decision as to what do to the content on the platform -- it's intentionally separated so

9 that Meta can have objectivity, I guess, in terms of the content evaluation. Is that fair to

10 say?

11 A That is correct. And I'll use -- to use my term, we're not arbiters of the

12 truth, so we do recognize that there are other entities, in this case the third-party

13 fact-checkers through the network, that have the ability to do the investigative work to

14 apply those decisions. And once we have the decisions, we then own, based off of those

15 decisions, how we will enforce.

16 Q Okay.

17 And is it true that not all content on Meta's platform is subject to fact-checking?

18 For example, posts and advertisements by politicians are not fact-checked under the

19 policy?

20 A That is correct.

21 Q And that would include candidates for office in the United States for any

22 level of office?

23 A Yes, that is correct.

24 Q And it would include --

25 A With one slight caveat.

1 Q What?

2 A You asked, would it include all candidates? To the extent that we know

3 you are a candidate. Obviously, at the local levels, we would not necessarily have clarity

4 on someone running for every level of office. And so could there be a situation where

5 that person was ultimately fact-checked? Possibly. But once they are known to be a

6 candidate, they would falls under that exception.

7 Q Okay.

8 And also excluded would be advertisements from political parties in the United

9 States?

10 A There's a lot of nuance in these questions, so I'll try to do my best to take my

11 time and explain them as well as I can.

12 So, for first-party speech -- so, if I am a political candidate and I am making a

13 statement, that would not be eligible for fact-checking.

14 However, if a non-candidate was sharing misinformation on our platform and I

15 subsequently take that, without any editorializing, without any other, you know, kind of

16 comments based off my own -- me as a candidate, and share that, that would

17 ultimately -- because the source itself would be eligible, if that makes sense.

18 Q Yes, it does.

19 A So there's kind of a slight nuance there.

20 Q Okay.

21 And can you explain why it is that Meta carves out this exception within its

22 fact-checking framework or policy for politicians and what I would characterize as political

23 speech?

24 A Yeah. I think because it is political speech, and we -- I, specifically -- I

25 recognize the value in having people hear from their elected officials, from their

1 potentially elected officials, those running for office in all of its forms and ensuring that,
2 by surfacing that and allowing that to be seen by the people, the people will now have
3 the ability to make any decision that they want to, based off of what they understand and
4 they hear.
5 We are not in the business of censoring or removing content from politicians.
6 Q Is it fair to say that Meta has a value within the organization of respecting
7 political speech as a First Amendment liberty in the United States?
8 A We believe broadly in free- -- I believe broadly in freedom of expression.
9 We recognize the value of political participation.
10 We have policies that deal specifically with ensuring that, where appropriate, we
11 remove misinformation related to the political process, but also allowing information
12 about the political process, including that first-party speech from potentially elected or
13 elected officials.
14 Q Does this policy excepting politicians from the third-party fact-checking
15 program, does it apply globally, if you know?
16 A I don't -- I don't want to overstate. Yes, but there may be exceptions.
17 Q That's fine. You can just tell me that might be outside of your --
18 A It is. I think it's maybe -- some slight nuances may be outside
19 my knowledge.
20 Q In the United States, though, the policy excepting politicians and allowing
21 them to post what would potentially be considered misinformation in a different context,
22 does that apply to politicians regardless of their political party?
23 A Would you say that one more time?
24 Q Sorry. The policy that Meta has excepting politicians and political speech
25 from its fact-checking program --

1 A Uh-huh.

2 Q -- basically allowing them to post what might be considered misinformation

3 if it were not in that political-speech context, does that policy apply to all politicians

4 regardless of their political party or affiliation?

5 A Yes, the policy applies evenly across the board.

6 Q Okay.

7 Another exception, as far as I understand it, for the third-party fact-checking

8 program is for private posts. Is that correct? That if you have a private post on

9 Facebook -- I take it that means, like, a message from one user to another that's not

10 public or available -- that that is not fact-checked in any way?

11 A A direct user message through --

12 Q Exactly.

13 A -- the messaging app? No, that would not be eligible for fact-checking.

14 Q Okay.

15 And if a Facebook --

16 A With one --

17 Q Sorry.

18 A -- I want to make sure --

19 Q No worries.

20 A -- just for completeness and fulsome -- if people are sharing information that

21 was previously fact-checked from a public forum, that would still carry -- that would carry

22 the existing label that's in the public forum.

23 So, for example, I share misinformation on Facebook, it is fact-checked, it is

24 labeled, all the treatments, and then someone goes to share in a direct message that

25 piece of that information? It would include that.

1 If we were talking today through Messenger and I made a statement that was
2 false, no one is fact-checking that. It is just not a public --
3 Q Right. So, for example, if I was direct messaging my uncle on Facebook or
4 Instagram and I said something like, "You should drink bleach; it'll cure COVID," where the
5 platform has recognized that they would remove that if it were public, Meta would have
6 no interest in taking that private message between myself and my uncle and own?
7 A We do not apply our fact-checking policies to those private messages.
8 Q Okay.
9 Is it fair to say that that distinction between the public post and the private
10 messaging is because Meta is mainly interested in viral misinformation and, you know,
11 the harm that could come writ large to platform users?
12 A Virality does play a component into our treatment on this. I think it's kind
13 of sort of evident in their remove-reduce-inform cycle that reduction is to limit virality
14 from potential misinformation --
15 Q Okay.
16 A -- at the same time, not removing it from the platform.
17 Q Thank you.
18 Private messages can't go viral, right?
19 A Well --
20 Q Well, I mean, within that -- a private message is not viral by definition,
21 correct?
22 A Yeah, by definition. I believe that's correct. The intent is likely not for it
23 to go viral.
24 [redacted] I'm going to go off the record.
25 [redacted] Okay.

1 [redacted] Thank you.

2 [Recess.]

3 [redacted] We'll go back on the record, please.

4 BY [redacted]

5 Q [redacted] with respect to the third-party fact-checker program, you were

6 starting to respond to some of the details. I understand you have an interest really just

7 at a high level of how the program works.

8 To your understanding, when content is shared with the third-party fact-checkers,

9 is content demoted or otherwise affected in any way pending a review by the third-party

10 fact-checker?

11 A I don't know the exact treatment as it stands on July the 26th, today, right

12 now, so I don't want to speculate.

13 Q We interviewed one of your colleagues yesterday. She had said that the

14 policy had changed at the start of this year and that there was a difference in the policy

15 last year.

16 Do you have familiarity with what the policy was as of last year?

17 A The policy around misinformation --

18 Q Yeah, regarding whether content in the interim period while it's pending

19 review by the third-party fact-checkers, whether that content is demoted or affected in

20 any way?

21 A I don't know the exact dates. For a period of time, we did demote content

22 in the fact-checking.

23 Q And during that period of time, do you know the degree by which content

24 would be demoted pending review by a third-party fact-checker?

25 A I can't recall.

1 Q With the understanding that you don't recall the exact figure or the
2 percentage, do you recall if there was a default or a standard degree by which content
3 would be demoted pending the third-party fact-checker's review?
4 A Unfortunately I don't recall, and I don't want to speculate.
5 Q Starting in -- correct me if I'm misstating your testimony. It says around
6 2017 and 2016 the company began working with third-party fact-checkers?
7 A I don't have the exact dates. We began looking at misinformation in, I
8 believe, 2016. 2017 is where I became a bit more involved in that process. The exact
9 fact-checking -- I don't know the exact date.
10 Q And around that 2017 timeframe, do you recall who at the company had
11 primary responsibility for relationships with third-party fact-checkers?
12 A I do not. I don't recall.
13 Q Do you recall which team or teams were involved?
14 A Our misinformation team had a relationship. I don't recall individuals.
15 Q Who led the misinfo team at the time?
16 A Justine Isola was part of the misinfo team. I don't know if she led the team
17 at the time.
18 Q And what about last year? Do you know in 2022 which team had primary
19 responsibility for engaging with the third-party fact-checkers?
20 A Again, within our content policy team, we have our misinformation team.
21 They engage throughout our internal -- through all our teams to oversee our
22 fact-checking -- excuse me -- oversee our misinformation program.
23 Q And from 2017 to 2022, did it ever change, who was the primary team
24 responsible for engaging with third-party fact-checkers?
25 A I can't recall. I don't believe so, but I can't recall.

1 Q Are you familiar with the October 2020 New York Post story on Hunter
2 Biden's laptop?
3 A I am.
4 Q And are you familiar with what actions, if any, the company took with
5 respect to the story in October of 2020?
6 A And, to be clear, I'm familiar the story existed. I may have read it at the
7 time. I don't recall anything about the story itself.
8 Q With that understanding --
9 A Yeah.
10 Q -- do you have any familiarity with what actions, if any, the company took
11 with respect to the story in October of 2020?
12 A Yes.
13 Q And, to your understanding, what actions, if any, did the company take?
14 A We made the original story eligible for fact-checkers to rate. And that
15 was the original action.
16 Q And who made that decision?
17 A I can't recall.
18 Q Was it you?
19 A It was not me.
20 Q Were you involved in the decision-making?
21 A I remember that story. When that story was evolved, I actually had
22 external meetings that day. And I quickly, I believe, told folks to carry on, that I was
23 going to external meetings.
24 Q And these external meetings were not related to the decision-making with
25 this story?

1 A They were not.

2 Q Were any of these meetings with the government?

3 [Discussion off the record.]

4 [redacted] Just for color, so those external meetings were with State -- let me

5 make sure I get this right -- attorneys general -- "ASG," I guess, so attorneys general -- at

6 that time on a variety of topics but not the Hunter Biden issue.

7 BY [redacted]

8 Q Any meetings with the Federal Government?

9 A On that day, no. Not that I can remember.

10 Q To your understanding, was the story assessed under -- at the time,

11 Facebook -- Facebook's coordinated inauthentic behavior policy?

12 A Recalling that time, we did look at that piece of content under all of our

13 policies, as we do for any piece of content, ultimately deciding on allowing that to be set

14 into a queue for the opportunity for fact-checkers to pick this story up and read it -- a

15 decision I thought was the smart one at the time because it was nonviolative of any of our

16 other policies.

17 Q Yeah. So, to your understanding, it was nonviolative of Facebook's

18 hack-and-leak policy at the time?

19 A That is correct. That's my understanding.

20 Q To your understanding, who made that determination?

21 A Again, I was not -- I was at an external meeting. I left that to my teams.

22 Daniel Gleicher oversaw that policy itself, and so his teams would have.

23 Q To your understanding, do you know how quickly that determination was

24 made?

25 A I don't know.

1 Q Once a determination is made under -- you said it was assessed under all the
2 policies, so an assessment was made under hack-and-leak, an assessment was made
3 under the misinformation policy -- was there any sort of discussion between those two
4 teams, or was everyone operating in independent silos?
5 A For the specifics, again, I wasn't part of those discussions, so I don't know if
6 they occurred or they did not occur.
7 Q To your knowledge, who was part of those discussions?
8 A I don't want to speculate. I do know that Nathaniel had identified that, but
9 I don't know who else was in those discussions.
10 Q Okay. Do you know if [redacted] was part of the discussions?
11 A Ultimately we all roll up to [redacted] as we talked about [inaudible]
12 responsibility of these decisions. But I don't know if she was directly involved in those
13 discussions.
14 Q Not referring specifically to this example, but just in a typical course of
15 business, who was making the decision to refer an article -- in this case, the New York
16 Post story -- but, in a typical sense, who is usually making the decision to refer content to
17 a third-party fact-checker?
18 A We have our protocols and procedures, and I would defer to Justine and her
19 team on how that actually operates. I don't see the day-to-day of who's making those
20 decisions -- or how those things are being identified for --
21 Q Understood.
22 Are there -- have there been -- excuse me. Have there ever been any instances
23 where the person making the decision on whether to send a piece of content to a
24 third-party fact-checker -- whether you have ever been the decision-maker?
25 A Not that I can recall.

1 Q Earlier, in an answer not directly related to this, you'd mentioned that
2 sometimes folks may feel that an issue is above their pay grade.
3 For an issue where there's a closer call or a more difficult question about whether
4 to refer content to a third-party fact-checker, who would that roll up to in the chain?
5 A Again, ultimately, it would go to Monika.
6 Q Okay. To your knowledge, has that ever occurred, where a decision on
7 whether to send content to a third-party fact-checker has gone to [redacted]?
8 A Again, to maybe take a slight step back, we try to have these very objective
9 kind of protocols and principles that we follow in these situations to, essentially, in many
10 ways, eliminate any discussion in the periods of a fog of war or chaos, right, when the
11 company's in an intense situation. And I'm not saying that that's the case here or was
12 the case with the one that you're flagging. But throughout any of the work that we do,
13 we want to just rely on what we have as a detailed, objective procedure, and then we just
14 follow that procedure.
15 So it's not frequent that people are raising these questions for, you know, further
16 adjudication in those instances, but on occasion where there is something significant, it
17 can be raised.
18 So I don't have specifics about, you know, an individual time something may have
19 been raised to [redacted] Again, as I've mentioned, I can't remember a time when
20 something was raised directly to me on the matter. But I also don't want to be so
21 uniform or -- that I know of every conversation that's ever happened at Meta. I don't.
22 Q Uh-huh.
23 Do you know how long the story was demoted for?
24 A Roughly 1 week, per the procedure.
25 Q And, to your knowledge, did any of the third-party fact-checkers review the

1 story?

2 A I don't know if any third-party fact-checkers reviewed the story. I know

3 that we did not get a fact-check on the story. So there's a nuance there. But I don't

4 know if any of them reviewed it, decided not to. I just know that we did not receive a

5 fact-check on this story.

6 Q In the roughly week it was demoted, did you participate in any discussions

7 with personnel at the company about how to handle the story?

8 A I can't recall.

9 Q Do you have a ballpark sense of, we'll say in this time period, fall of 2020,

10 when content is sent to a third-party fact-checker, pending review of the third-party

11 fact-checker, by what degree the content is demoted?

12 A Again, I would only be speculating. I don't have a -- I don't have either

13 accurate knowledge currently or hard paper in front of me to comment.

14 Q Who at the company would know that answer?

15 A I believe [redacted] would have the best recollection.

16 Q Anyone else?

17 A Justine. [redacted] That's who I could go to in situations.

18 Q Okay. Would [redacted] know the answer?

19 A Again, Justine would be the -- she's the person who has the most, kind of,

20 oversight, the oversight, over these issues. And I would go to her before I went to

21 Monika.

22 Q You mentioned there's kind of these standard protocols and the company

23 tries to, you know, follow them.

24 With respect to this story, is there any -- as part of the decision-making process, as

25 far as factors that are considered, is any thought given to the -- if there are times when,

1 say, these related to an election?

2 A Can you maybe clarify? I want to make sure I understand the thrust of the

3 question.

4 Q Sure. So, using the New York Post story as an example, it comes out in

5 mid-October. There's a Presidential election coming up very shortly.

6 A Yes.

7 Q Was there any discussion of shortening the 7-day window that the content

8 was demoted?

9 A I don't recall any discussion on shortening the window, again following the

10 standard procedure.

11 Mr. Brown. Just for clarity, the purpose legislatively was to focus on

12 executive-branch coercion, pressure, et cetera. What Meta's policies are about

13 proximity to elections would seem to be afield to that. And I just was trying to

14 understand the nexus between that topic, sort of general policies around the content,

15 and the subject of the interview, including the letter inviting individuals to come testify

16 voluntarily.

17 [redacted] Yeah. As you're well aware, there's been a number of witnesses who

18 have testified about interactions with the Federal Government, including the FBI,

19 regarding topic areas that are related to the subject of the Hunter Biden story. And as

20 part of that investigation, the committee needs to know what the company's policies

21 were and if they were followed.

22 Mr. Brown. What the company's policies were and whether they were followed

23 is different than whether the government weighed in and -- government weighing in.

24 [redacted] Well, the government did weigh in. And so then the question is how

25 the company reacted.

1 [redacted] Since the allegation is that the government sort of pressured or
2 tricked the companies into changing their policies, it would be helpful to know what the
3 policies were prior.
4 Mr. Brown. Thank you. I just -- thank you. I appreciate the clarification.
5 BY [redacted]
6 Q Sorry, anything else to add?
7 A No. I think I lost your -- I lost your last question.
8 Q Yeah, so just -- I asked the question initially for those 7 days. Finally the
9 story was lifted. After the story was lifted, did you recall any discussions with personnel
10 at the company regarding how the story was handled?
11 A I don't recall any conversations.
12 Q Do you recall, with the understanding that earlier you testified you don't
13 recall exactly when the hack-and-leak policy was adopted, but it's your recollection that
14 the hack-and-leak policy was adopted prior to October of 2020?
15 A Yes.
16 Q And do you recall which individuals worked on that policy?
17 A I recall [redacted] being involved with the policy.
18 Q Do you know if [redacted] was involved in the development of the
19 policy?
20 A Again, we all roll up to Monika, so ultimately she has the oversight over the
21 policy. I can't remember her being in a specific conversation about the policy
22 development.
23 Q Do you know whether [redacted] and [redacted] were
24 meeting with the FBI in 2020?
25 A I do know they had government meetings. I don't know exactly what parts

1 of the government they met with.

2 Q Did they ever share information with you regarding discussions they had

3 with the government?

4 A I can't recall.

5 BY [redacted]

6 Q You mentioned earlier that you have partnered -- or Facebook partners with

7 the WHO and the CDC. Was that a correct understanding?

8 A I mean, for clarification, "partner with," we sought, kind of, their insights on

9 issues. We separately have had partnerships in different parts of our company, you

10 know, just as we would partner with other clients on issues. If they're running a

11 campaign, we may partner with clients in that way. But for the issues that dealt with

12 COVID and our policies, we sought information from the WHO and the CDC.

13 Q And did you directly meet with them or communicate with them on that

14 issue?

15 A No, I did not.

16 Q Do you know who at Meta did?

17 A I don't recall.

18 Q Would it have been people on the public policy team most likely or --

19 A Unfortunately, I don't recall.

20 Q How about the Surgeon General's Office? Did you meet with the Surgeon

21 General's Office?

22 A I did not.

23 Q Do you know if anyone at Meta did?

24 A I don't know.

25 Q Are you aware of remarks that the Surgeon General and the then-press

1 secretary, Jennifer Psaki, made in July of 2021 about how the tech companies weren't
2 doing enough, especially Facebook, and needed to do more?
3 Mr. Brown. I'm sorry. Just -- it was hard to hear.
4 [redacted] Oh, sure.
5 Mr. Brown. Did you say the Surgeon General, or did you say Jen Psaki?
6 [redacted] Both the Surgeon General and then-Press Secretary Jen Psaki.
7 Mr. Brown. So he would have to know about both or --
8 [redacted] Well, they gave a joint press conference on July 15th of 2021.
9 Mr. Brown. Okay.
10 [redacted] May I ask you, who -- this is embarrassing -- who is the Surgeon
11 General?
12 BY [redacted]
13 Q Vivek Murthy.
14 A Okay. I want to retract. Unfortunately I do want to retract. I have met
15 with Mr. Murthy recently, not while -- recently on fentanyl.
16 Q Oh, okay.
17 A So I did meet with him recently. So I have met with the Surgeon General's
18 Office, but not on anything prior to, like, the last year, within the last year, counting
19 fentanyl issues.
20 Now -- sorry?
21 Q Oh, yeah, sure. Were you aware of remarks that both of them made in July
22 of 2021 about how Facebook especially and other tech companies weren't doing enough
23 to stop the spread of vaccine misinformation?
24 A I do -- I am familiar with the comments. I think those comments were
25 made by the press secretary, not necessarily --

1 [Discussion off the record.]

2 [redacted] Just to be as explicit as possible, I am aware that the press secretary

3 made comments. I don't remember watching a press conference. I don't remember

4 going back to see. I remember that there were comments, that she made comments, or

5 at least I was informed that she made comments.

6 I -- as you see, I struggled with the Surgeon General's name. I did not remember,

7 or maybe I was not aware, that he made comments well.

8 BY [redacted]

9 Q Okay. Did Meta have conferences -- or, conversations about those

10 remarks? Were they discussed internally, is the question.

11 A I can't recall a conference. And I don't want to speak for other people's

12 conversations.

13 Q Was there any concern at Meta over these remarks?

14 A Again, I don't want to speak for other people's concern, but what I

15 concerned? I think --

16 Q Sure.

17 A -- I carried the same amount of concern that I spoke to earlier about just

18 being a professional, making sure that our platforms are not being used for exploitive

19 purposes, that we're going about protecting people.

20 But I don't remember myself having a specific conversation based off of any

21 remarks.

22 Q Okay.

23 Do you know who the "disinformation dozen" are? Or, even if you don't know all

24 12 of them, are you familiar with the term?

25 A I am familiar with the term. I do not know all 12 of them.

1 Q Yeah, neither do I. Do you recall Press Secretary Psaki or anyone else from
2 the administration mentioning them in particular, Meta, as purveyors of misinformation?
3 A Again, I didn't -- I didn't and I don't watch the press secretary's briefings
4 often. I do remember hearing that those comments were made, about the
5 "disinformation dozen."
6 Q Did that, to your knowledge, prompt any internal conversation that you
7 were a part of or that you heard about?
8 A I do remember being made familiar with, although I did not read cover to
9 cover, their underlying report on the "disinformation dozen" that alleged a certain
10 significant percentage of people or content was shared by those 12 individuals, if it's only
11 12.
12 And then I remember us ultimately pushing back on the claim or the allegation
13 that our content was -- or, content on the Meta platform was overrun by "disinformation
14 dozen" content.
15 Q Is that the Center for Countering Digital Hate report, do you recall, that you
16 referenced?
17 A I would have to look at the exact name. It's whoever made the -- it was the
18 group that made the report. That sounds pretty close.
19 BY [redacted]
20 Q Who made you aware of the underlying report?
21 A I -- I don't -- I don't recall.
22 Q When you say you were pushing back, against who were you pushing back?
23 A I think there was the claim that was made in that report that something like
24 65 or 70 percent -- I don't actually recall the number -- but greater than 65 percent of all
25 content that was misinformation around COVID came from that group.

1 I know that we did an analysis to find that only about .05 percent of COVID-related
2 content on our platform was associated with that group. And we just made that clear,
3 that the underlying methodology of that report seemed to be lacking.
4 BY [redacted]
5 Q Were you aware of discussions at Meta about perhaps the need to get them
6 off the platform, off Meta's platforms, or reduce the virality of their posts?
7 A Again, I think I -- I've tried to explain this to the best of my ability. When
8 we are informed of potential violative content, bad behavior, and malicious actors on our
9 platform, we do take that as a report. So, regardless of whether it's the administration,
10 Congress, civil society, my mom flagging that information, we do take it back to look, to
11 ensure that our policies are being enforced as they are meant to be enforced, as we
12 intend to do. And if there are gaps, then we try to close those gaps around our policies.
13 So, being made aware of that report, we did the immediate kind of review of, are
14 there allegations here that we are not failing to meet our existing policies? And, again,
15 that, I think, spawns -- that spawns the blog post that we made that the underlying
16 methodology seemed to be off in that report.
17 Q If, say, a defined team -- or, say, Justine Isola or someone at Facebook had a
18 different view and thought it was a problem and thought they should be removed and
19 took steps to have them removed, would you necessarily have known about that?
20 A And maybe to broaden it out a little bit, there are billions and billions of
21 pieces of content, like, placed on the platform by our 3 billion users. For every decision,
22 I don't necessarily have direct oversight and know about each of those issues.
23 More narrowly, though, in these situations, especially where we would be able to
24 do the analysis to make sure that what was being alleged -- to see if that was actually
25 truthful or maybe a faulty methodology that was being used, we would go forward with

1 that. And would I be informed? I can't say that I'm always informed, I can't say that I
2 would be informed. But I was uninformed about any decision on that --
3 BY [redacted]
4 Q I'm sorry. I didn't catch the end of your answer. You were not informed
5 about any decision relating to the --
6 A Well --
7 Q -- "disinformation dozen"?
8 A -- I think -- and maybe to clarify what the comments are, maybe I'll ask you
9 to repeat your comment.
10 What I'm referring to was that -- and correct me if I'm wrong -- you asked, would I
11 be informed about every decision made against a piece of content by the "disinformation
12 dozen."
13 BY [redacted]
14 Q Or their accounts. Say there was a decision to remove their accounts.
15 Would you necessarily have -- or to decrease visibility of their accounts. Would you
16 necessarily be involved in that?
17 A Not every decision.
18 BY [redacted]
19 Q Were you involved in any decision regarding the "disinformation dozen"?
20 A Again, I can't recall the names of each specific person that is in that group, so
21 I don't know.
22 Q Were you involved in any decisions regarding content from Robert F.
23 Kennedy, Jr's account?
24 A I don't recall.
25 BY [redacted]

1 Q Around this same time, there was a statement made by President Biden on
2 July 16th, around the same time as the remarks by the Surgeon General and Press
3 Secretary Psaki, about social media companies effectively killing people by not censoring
4 COVID misinformation.
5 Were you aware of those statements?
6 A I was aware of that statement.
7 Q And did that statement impact you?
8 A Personally, it did have an impact on me. You know, kind of, any time you
9 receive criticism, regardless of where it comes from, I think you -- especially about your
10 professional work, you take some, you know, kind of, immediate -- it has immediate
11 impact. Hearing from the President, it does have an impact as well.
12 Again, but during those times, I think it's, how do you react to that, those type of
13 statements? Do you feel pressure? Do you feel like you need to acquiesce or succumb
14 to some type of external force?
15 In this case, I believe -- like, I do in some ways remember it very vividly. I believe
16 that comment was made on a Friday on the South Lawn as he was walking to Marine One.
17 And by Monday, I believe he -- actually, I don't believe -- I know that he essentially
18 retracted that statement, he came off of that. But I do remember seeing it.
19 Q Did you discuss it with anyone, to your recollection, at Meta?
20 A I don't remember specific conversations about it.
21 Q Did you discuss it with Nick Clegg?
22 A I don't remember the conversations. I'm sorry.
23 Q What about statements from the White House communications director,
24 Kate Bedingfield, that the administration was reviewing section 230 to see if platforms
25 could be held accountable?

1 Mr. Brown. Can I ask, do you have the document -- because I just --

2 [redacted] We can -- sure.

3 Mr. Brown. If he's representing that he heard something, I'd want to make sure

4 that what you're saying is precise --

5 [redacted] He's allowed to answer without a document first.

6 Mr. Brown. Yeah, but I understand. My question is, how do I know and how

7 does he know that those words are the actual words that were used?

8 [redacted] We can pull up the quote.

9 Mr. Brown. I just don't want him signing on to words that perhaps were not

10 used, referencing a specific statement by someone.

11 BY [redacted]

12 Q During the summer of 2021, how frequently were you meeting with Nick

13 Clegg?

14 A I can't recall.

15 Q You said you have biweekly standing meetings with him right now?

16 A Correct -- not now, but I did have biweekly meetings with him.

17 Q Okay. And how long was that ongoing?

18 A Since 2020, for me.

19 Q Do you know if people typically take notes at these meetings?

20 A I don't know.

21 Q Do you?

22 A Often not.

23 Q But sometimes you do?

24 A I'm sure I've taken notes at some at some point, but I don't recall.

25 [redacted] So, here. This is a CNN article by Betsy Klein, "White House

1 reviewing Section 230 amid efforts to push social media giants to crack down on
2 misinformation."
3 "The White House is reviewing whether social media platforms should be held
4 legally accountable for publishing misinformation via Section 230."
5 "The Section 230 debate is taking on new urgency in recent days as the
6 administration has called on social media platforms to take a more aggressive stance on
7 combating misinformation."
8 "'We're viewing that, and certainly they should be held accountable,' Bedingfield
9 told MSNBC when asked about Section 230 and whether social media companies like
10 Facebook should be liable and open to lawsuits for publishing false information that
11 causes Americans harm."
12 [redacted] Sorry, what was that article?
13 [redacted] It's a CNN article --
14 [redacted] Is there a date?
15 [redacted] Yes. July 20, 2021. Betsy Klein with a K.
16 [redacted] Okay.
17 BY [redacted]
18 Q Were you aware of that statement?
19 A So I think there's a lot there.
20 Q Yeah.
21 A There's a lot there. So, first, who is the person that you said made the
22 statement?
23 Q Kate Bedingfield, who was the White House communications director.
24 A Yeah, I -- A, obviously, that's a story that's written. I don't know if that
25 story -- I'm assuming it's accurate, right? Like, I'm not saying that it's intentionally false.

1 But I don't know if those were the exact terms and how that conversation developed, so
2 there's a lot there.
3 Secondly, I don't know -- is it Bedingfield?
4 Q Yeah.
5 A I think this may be the first time I've heard of her name, so --
6 Q Well, let me ask more generally. Were you aware that people in the White
7 House were reviewing -- or said that they were reviewing section 230 to see if social
8 media companies could be held accountable for misinformation on their platforms in the
9 summer of 2021?
10 A In the summer of 2021?
11 Q Yeah.
12 A I don't recall.
13 Q Okay.
14 BY [redacted]
15 Q During the summer of 2021, how frequent were you meeting with [redacted]
16 [redacted]
17 A The reason why I'm trying to -- I mentioned earlier that [redacted] had some
18 health problems, so I don't actually recall the period of time exactly when she was in and
19 when she was out. But, more broadly, we generally meet weekly.
20 Q How frequently do you meet with [redacted]?
21 Let me rephrase that. During the summer of 2021, how frequently did you meet
22 with [redacted]?
23 A Again, for the summer of 2021, I can't recall.
24 Q What about right now?
25 A We generally, as a team, have a team meeting at least once a month. In

1 addition to the broader team meeting, we have a directors-and-above meeting at least
2 once a month, so that would give us twice. And then on an ad hoc basis.
3 Q For the team meeting that occurs once a month, are notes kept of those
4 meetings?
5 A I don't keep notes of meetings.
6 Q Do you know if anyone keeps notes at those meetings?
7 A I don't pay attention.
8 Q How long have those meetings been ongoing?
9 A We've had meetings -- 7 years that I guess we've had meetings, general just
10 staff meetings.
11 Q Okay. And the directors-and-above meetings, do you take notes at any of
12 those meetings?
13 A I do not.
14 Q Do you know if anyone takes notes?
15 A I do not know.
16 Q How long have those meetings been ongoing?
17 A For a less period of time, but I don't know exact dates.
18 Q Since at least 2020?
19 A I don't know. I don't know. They may have started after 2020.
20 Q Do you recall if, during either of those sets of meetings, whether there were
21 discussions regarding how the company should handle the "disinformation dozen"?
22 A I don't recall. And to put a bit of color, these are more administrative
23 meetings that we have, so not necessarily substantive issues being discussed.
24 Q Is substance ever raised during these meetings?
25 A I can't say that it's never raised, but I don't recall any specifics.

1 BY [redacted]

2 Q You mentioned meeting recently with the Surgeon General about fentanyl.

3 Was that about misinformation related to fentanyl?

4 A No, huh-uh.

5 Q So -- okay.

6 [Discussion off the record.]

1 [1:35 p.m.]

2 BY [redacted]

3 Q In the course of your position, are there any regular standing meetings

4 where you're meeting with Mark Zuckerberg?

5 A No.

6 Q She is, obviously, no longer with the company, but previously any standing

7 meetings with Sheryl --

8 A I'm sorry. Can you repeat?

9 Q Sure. I was going to -- the next question is in reference to Sheryl Sandberg,

10 who I understand she's no longer with the company.

11 A That's correct.

12 Q But prior to her leaving the company, did you have any standing meetings

13 with Sheryl Sandberg?

14 A Not before she left the company.

15 Q Regarding, say, the --

16 A For clarity, I do remember one standing meeting. I am part of the Civil

17 Rights Task Force, which Sheryl did lead, and I think we had quarterly meetings, which

18 was standard meetings, so for full completeness.

19 Q Regarding your standing meetings with Nick Clegg, you said it involved

20 multiple people, not one-on-one meetings?

21 A That is correct.

22 Q Who else participated in these meetings?

23 A The regional leads for our policy teams. We also have function leads, like

24 policy privacy -- privacy policy, our chief privacy policy officer, and our policy -- global

25 head of policy.

1 Q Do you have any one-on-one meetings with Nick Clegg?
2 A I do not.
3 Q During these meetings with Nick Clegg, is he the most senior person in the
4 meeting?
5 A Yes.
6 Q For the adoption of the Coordinated Inauthentic Behavior policy, for a
7 change like that, who's the most senior person at the company involved with the decision
8 to adopt that policy?
9 A For that policy specifically?
10 Q I'll start there first. Specific to that policy.
11 A I can't remember who exactly was at the company at that time. Our
12 leadership within the policy team underwent a change similar in time, but I just don't
13 know exactly who was at the company.
14 Q Is there anyone you remember?
15 A Ultimately, [redacted] would be the person who's senior.
16 Q Who does [redacted] report to?
17 A She reports to [redacted].
18 Q Do you have any ongoing standing meetings that are attended by [redacted]
19 [redacted]
20 A I attend -- he has weekly meetings, and I attend those. So, again, some of
21 those are just administrative meetings.
22 Q And how long have those weekly meetings been ongoing?
23 A Since I began at the company.
24 Q And how frequently do you attend the meetings?
25 A Just weekly update meetings. It's just that, weekly. So I think everyone

1 tries to meet at the weekly update meeting where teams will report on a tax bill in
2 Liberia, and then we'll have reports, things like that.
3 Q Are you presenting at these meetings or are you just receiving the output?
4 A Yeah. I have presented at those meetings. I have not presented in a long,
5 long time.
6 Q And what about the standing meetings with Nick Clegg, are you presenting
7 at these meetings?
8 A Generally not.
9 Q To your recollection, for the weekly meetings with [redacted], is it ever
10 discussed if a new policy is being adopted for the content moderation policies?
11 A I can't -- I don't want to be so clear that it could never happen. I don't
12 recall that happening.
13 Q And what about the standing meeting you and others have with Nick Clegg?
14 Would the adoption of a new content moderation policy be discussed in those meetings?
15 A Again, I don't want to be so forceful to say that it would never happen. I
16 don't know if it would ever happen. I can't recall any times.
17 Q With respect to the hack-and-leak policy, who's the most senior member of
18 the company involved in the development of the hack-and-leak policy?
19 A Again, [redacted], his team -- [redacted] is a senior member of my
20 team -- had that ultimately, as well as [redacted] [redacted].
21 Q And I have seen reference to [redacted] for a few of these answers. With
22 respect to the Coordinated Inauthentic Behavior and with respect to hack and leak or any
23 of the other policies, do you know if there are any policies where [redacted] required
24 signoff from [redacted] or anyone above her?
25 A I do not know.

[redacted] Q Do you know if anyone briefed [redacted] about your meeting with the White House, the Biden White House, in the spring of 2021?

A I don't know.

Q For the Zoom call that occurred -- or not the Zoom, but the video conference call that occurred between Rob Flaherty, Andy Slavitt, and some people from Meta, do you recall if people had their video cameras on for that meeting?

A There were video cameras on. I don't know who had their camera on and who had their camera off.

Q The reason I ask is you mentioned that Mr. Flaherty in particular, you know, based off the tenor of the conversation, all that, just saying you recall, is that based off he's off camera, just his voice and what he's saying, or was he on camera and could you visibly see his reaction as the meeting was unfolding?

A I just remember the tenor of the voice, the communication. I don't actually remember body language or if he even was on the camera.

Q Do you recall if he used profanity?

A I don't know.

Q In the debrief following the meeting, do you recall if others at Meta had a similar understanding of how the meeting unfolded than you have of this?

A I don't recall. I wouldn't want to speculate.

Q Who participated in the debrief?

A I don't recall everyone. I do know I spoke to [redacted]. I don't remember others who were potentially on.

[redacted] Do you remember what you said at all?

[redacted] No, I don't recall.

BY [redacted]

1 Q Do you recall how soon the debrief meeting occurred following the
2 conclusion of the meeting with the White House?
3 A I don't have specifics.
4 Q Do you recall generally? I mean, was it the same day?
5 A Roughly within the same 24-hour period.
6 Q You mentioned that Andy Slavitt was on the call, to your recollection?
7 A Yes, Mr. Slavitt was on the call.
8 Q Between Mr. Flaherty and Mr. Slavitt, do you recall who was doing most of
9 the speaking on behalf of the White House?
10 A I don't. I don't recall who acted -- who was the primary speaker.
11 Q Do you recall Mr. Slavitt's reaction, if it was similar to Mr. Flaherty's?
12 A I remember Mr. Slavitt being fairly cerebral in that meeting, and that is all.
13 Q Had you ever engaged previously or interacted with Mr. Flaherty or Mr.
14 Slavitt prior to that meeting?
15 A I do not believe so, but I don't want to be so forceful that I had a
16 conversation where I was a party to and I just don't remember.
17 Q Do you recall receiving information in advance of the meeting regarding who
18 Mr. Flaherty or Mr. Slavitt, who they are?
19 A I don't recall.
20 Q Do you have an understanding of how frequently Mr. Flaherty and Mr.
21 Slavitt were communicating with the company during this time?
22 A I just know my conversation. I don't know how frequently they were
23 communicating with others within the company.
24 BY [redacted]
25 Q Do you recall [redacted] or anyone else saying anything before the

meeting --

A Sorry. [redacted]?

Q Sorry. [redacted]. [redacted], [redacted].

About Flaherty or Slavitt, about their communications with Flaherty or Slavitt?

A Say it one more time. I'm sorry.

Q Do you recall [redacted] or anyone else saying anything preceding the meeting about Flaherty or Slavitt and their communications with them?

A I can't recall.

Q Did they tell you why they wanted you in the meeting? Did they -- sorry. I should have prefaced that. Did they ask you to be in the meeting, [redacted] or --

A [redacted] and [redacted]?

Q Yeah.

A I can't recall who specifically asked me, whether it was Brian or -- and I even have to struggle to remember that [redacted] was there. So I just remember [redacted] being there.

Q But it would likely have -- you likely would have been asked by someone else. It wouldn't have sort of naturally have been your role. Is that a correct understanding?

A The question, to make sure I understand the question, are you asking would the White House -- or would I reach out to the White House or the White House would reach out to me directly?

Q Well, is it sort of -- did someone else at Meta say it would be great if you could be in this meeting or you should be in this meeting rather than -- would that sort of be the natural course of things since you weren't on the public policy team?

A Yeah, I think it's probably fair to say. I did not invite myself to the meeting,

so --

Q And you weren't directly invited by the White House?

A No. And I didn't -- I don't engage with the government on my own.

Q Okay. And do you recall them saying why they wanted you there?

A No, not specifically.

BY [redacted]

Q Regarding the decision to -- the company's decision to begin using third party fact-checkers, do you recall the most senior member of the company involved in that decision?

A I do not offhand know for sure.

Q Was [redacted] involved in that decision?

A Yes.

Q Was [redacted] involved in that decision?

A Again, [redacted] reports to [redacted] I don't know their conversations.

Q Who's the most senior member of the company you had a discussion with regarding the decision to begin a program with third party fact-checkers?

A And I want to be clear in case it wasn't -- in case I wasn't earlier. At that point in time, I did not oversee -- when we undertook the misinformation, I did not oversee that part, so that was not part of my bailiwick. So I was -- appeared to the folks that were going through that process underneath [redacted] so I just wasn't involved in those conversations.

Q In the spring of 2021, how frequently were you invited to meetings with members of the U.S. Federal Government?

A Spring of 2021, U.S. Federal Government? I do not know. Of course, I just don't know.

1 Q So meetings like the one with Mr. Slavitt, Mr. Flaherty, is this a regular
2 occurrence with your job? Is it a relatively rare experience that you're asked to directly
3 engage with the Federal Government?
4 A It's not overly frequent. It's also not infrequent. I talk a lot to your
5 colleagues here in the House, across the way with the Senate. I talk to folks at the
6 administration when asked when appropriate. So it's not infrequent, but it's not, like,
7 daily or, you know --
8 Q Do you recall the purpose of -- so for Mr. Flaherty -- the meeting with Mr.
9 Flaherty and Mr. Slavitt, was the primary purpose of the meeting an issue that you were
10 able to speak to, or were you one of multiple folks who was there to help answer
11 questions?
12 A The issues, to the extent that I remember, were dealing with our approach
13 to content moderation, including misinformation, so I can't speak to those issues.
14 Again, I don't recall everyone that was in that meeting. I remember [redacted] being
15 in the meeting. I remember Mr. Flaherty, Mr. Slavitt being in the meeting. But I can't
16 recall other participants.
17 Q To the extent you recall, were there other agenda items, or was that the
18 purpose of the meeting?
19 A That was what was remarkable to me. I do not recall if there were other
20 agenda items.
21 [redacted] Did you essentially explain the company's policies or defend them?
22 Was that --
23 [redacted] I try to explain the policies, our community standards and our
24 approach to dealing with -- whether it's violating content, dealing with things like
25 misinformation. I mean, that's my role in those types of meetings.

1 [redacted] And did you feel after the meeting as though the issue had been
2 resolved, or was there remaining dissatisfaction among the parties?
3 [redacted] Again, as I mentioned earlier, there was a certain level of intensity in
4 our meeting that I could experience and I believe was being expressed, but I also thought
5 that at that point our policies were where we are.
6 BY [redacted]
7 Q Do you recall ever providing a briefing to either [redacted] or [redacted]
8 regarding the company's content moderation policies? Let me narrow that question.
9 A Yeah.
10 Q Do you recall, say, in the spring of 2021, providing a briefing to either [redacted]
11 [redacted] or [redacted]?
12 A I don't recall.
13 And may I ask a clarifying question? What do you mean by "briefing"?
14 Q Sure. And correct me if this assumption is wrong. But [redacted] and
15 [redacted] are not on your team?
16 A That's correct.
17 Q And so they don't have the same degree of expertise as you and your team
18 have on content moderation policies?
19 A That is correct.
20 Q Yeah. They are engaging with members of the Federal Government?
21 A That's correct.
22 Q It sounds like receiving questions with respect to your content -- with
23 respect to the company's content moderation policies.
24 You recall one meeting where you were directly engaging --
25 A Correct.

1 Q -- with [redacted] and [redacted], but were there other occasions, say, in
2 the spring of 2021, where you were answering questions to [redacted] or to [redacted] or
3 any questions they've had based on meetings with Federal Government, external
4 stakeholders?
5 A Again, I just don't recall that level of specificity at that time period.
6 Q Okay. Would that be within the realm of your responsibilities?
7 A Again, if someone asks me a question about my work, about our community
8 standards, I'd likely answer it, answer that question both internally and externally. I just
9 don't recall any specifics that were asked by [redacted] or [redacted]
10 Q I mean, what about anybody on the policy team?
11 A Again, likewise, those questions may and perhaps at that point in time may
12 have likely come in. I just don't recall the specifics.
13 Q Typically, when you would engage [redacted] and [redacted], how would
14 you communicate with them?
15 A I often do verbal, just phone calls or at that point Zooms.
16 Q How about email?
17 A I can't say that we never have had email. I traditionally don't rely on email
18 as my primary mode of communication.
19 Q What is your primary form of communication?
20 A I generally use phone calls.
21 Q Do you ever use an internal workplace messaging system?
22 A We do have internal messaging systems, yes.
23 Q And what's the name of the messaging system you use?
24 A Colloquially, it's Ping, but I think it's officially Work Chat, maybe is the
25 correct term.

1 Q Do you ever use that?

2 A Yes.

3 Q And how frequently?

4 A Again, infrequently. It's not my preferred method.

5 Q Is it the preferred method of some of your colleagues?

6 A I can't speak to what their preferred method is. I know what mine is, and

7 I'd rather just pick up the phone and have a conversation.

8 [redacted] Is that usually a one-on-one form of communication, or is that the

9 community Work Chats too?

10 [redacted] I'm sorry?

11 [redacted] Is that a one-on-one form of --

12 Mr. Brown. What?

13 [redacted] Whatever that workplace is, whatever it's called.

14 [redacted] Ping.

15 [redacted] Yeah.

16 [redacted] No, but it's a messaging system. So you can have individual

17 one-to-one or you can have one-to-two on Ping.

18 [redacted] I see.

19 [redacted] You mentioned that you were meeting with State officials on the day

20 of the Hunter Biden New York Post story, when Hunter Biden's laptop came out?

21 [redacted] That's correct.

22 [redacted] Why is it that you remember what you were doing that day in

23 particular?

24 [redacted] I don't know why I remember that day specifically.

25 Mr. Brown. Calls for discussions with counsel, and I'm going to instruct him not

1 to answer.

2 BY [redacted]

3 Q Do you recall receiving messages from people from your team that morning

4 regarding questions on how to handle the story?

5 A I remember one message, where I believe my response was informing them

6 that I was going to [inaudible].

7 Q And who messaged you?

8 A I can't -- I don't know.

9 Q Do you recall how the message was communicated to you?

10 A Unfortunately, I don't know.

11 Q Do you recall if it was a phone call or a verbal discussion?

12 A I don't believe it was a phone call, so it would have been some other form of

13 communication.

14 Q Some form of written communication?

15 A Perhaps.

16 Q And do you recall if you touched base at the end of the day to see what

17 decision had been made?

18 A I just don't recall the specific timetable over that day.

19 Q When you were first receiving, it sounds like perhaps a written message,

20 some form of communication from someone on your team, do you recall how early in the

21 day that was?

22 A I don't recall. I do -- the reason I'm stuttering a bit is I was on the West

23 Coast, so I don't actually remember exactly -- I just got back to the East Coast recently. I

24 don't remember exactly what time of the day that was on the West Coast.

25 Q Your external meetings, were they in person or virtual?

1 A At this time we were still doing everything virtually, and I was on those, yes.

2 Q And you mentioned that a bunch of your day was tied up with these external

3 meetings. Was it a lengthy meeting throughout the day, or did you have multiple

4 individual meetings with State officials?

5 A I forget the exact format. We have done both formats. I forget the exact

6 format.

7 Q And what was the subject matter of these meetings?

8 Mr. Brown. Objection. Calls for -- let me take a minute.

9 Let's go off the record.

10 [redacted] We can go off the record, please.

11 [Discussion off the record.]

12 Mr. Brown. We can go back on the record.

13 Answer the question.

14 [redacted] We can go back on the record.

15 [redacted] Just repeat the question one more time.

16 BY [redacted]

17 Q Sure. Do you remember what the subject matter was of your meetings

18 with the State officials?

19 A Just to be clear, this is the day that the Post -- the Post's Hunter Biden

20 story.

21 Q Yes.

22 A It was on issues that were previously scheduled and not dealing with that

23 story.

24 Q Do you know if anyone at the company reached out to the government for

25 additional information regarding the veracity of the story, the authenticity of the laptop?

1 A I want to make sure I have the words right. Did the government reach out
2 to the company or did the company reach out to the government?
3 Q Did the company reach out to the government?
4 A Not that I'm aware of.
5 Q To your knowledge, did the government provide any information to the
6 company?
7 A Not that I'm aware of.
8 Q Do you recall seeing any email traffic related to the decision -- the company's
9 decision regarding what steps to take?
10 A I can't recall.
11 Q Do you know how long the policy had been in place for a story to be
12 temporarily demoted for 7 days pending a third party fact-checker's review?
13 A No, I don't recall. I would defer to Justine for that.
14 Q Do you know how frequently it occurs that a story is shared with a third
15 party fact-checker and no third party fact-checker writes back a response?
16 A I have not done any analysis on that. I am not aware of any.
17 Q Were you aware of any examples prior to this example, the Hunter Biden
18 example?
19 A Not offhand, I'm not aware.
20 Q And is that because you don't have visibility into it, or is it your
21 understanding that it's a relatively rare occurrence that third party fact-checkers don't
22 provide a response?
23 A My lack of awareness is perhaps visibility into it. At that point these
24 decisions are sometimes made at levels that are not brought to me, so --
25 [redacted] Can we go off the record, please?

1 [Recess.]

2 [redacted] We will go back on the record, please. It is 2:12.

3 BY [redacted]

4 Q Good afternoon again, [redacted]

5 A Good afternoon.

6 Q I'm going to ask you a little bit on a couple of different subjects here. I'm

7 going to jump around a little bit.

8 First, I don't think we have touched on this yet, so I just want to get your

9 understanding of how Meta structures itself in the sense that it seems to me that there's

10 a division between the Meta employees who engage in the actual content moderation

11 decision, so like when a piece of content is being considered under some of the policies or

12 under the community standards, so those people who are -- let's just call them like

13 operational, like they are actually looking at the decisions themselves.

14 There's a separation between those people and the people at Meta who interface

15 with government officials or others outside of the organization to kind of hear their

16 signals, as you put it.

17 A Yes.

18 Q Is that accurate as I've described it, or can you tell me more about that

19 division?

20 A I think it's a fair summary. And maybe to give more color, within our policy

21 team we have both people who are regional, and those are considered to be your

22 government relations people. I mentioned some of those regions previously, the

23 Asia-Pacific region, the Africa, Middle East, Turkiye region, the Europe region, Latin

24 America, North America, as our primary regions.

25 And those individuals and their sub teams, they handle the day-to-day

1 government relations functions within those regions, including broader stakeholder
2 engagement within those regions.
3 Separately from that group, from those teams, we have what we call central
4 teams that sit with policy, and they focus on subject matters and sort of expertise.
5 My expertise for the company is on content policies, trust and safety issues. We
6 have teams that focus on things like economic impact and activity. We have teams that
7 focus on developing policy programs.
8 So if there is a need, a regional person may be bringing an elected official or other
9 dignitary back to headquarters, they will have a whole setup of demonstrations about our
10 VR systems, this is how the app works, making sure they have a pleasant experience.
11 We have teams that focus on privacy policy for us, and it's showing that they are
12 interacting with the -- locally with the data protection officers around the world on all the
13 data issues that you can imagine that Facebook faces.
14 So that's how we're generally organized. But to be specific again to your
15 comment -- or your question -- we have people who have interface on a daily basis with
16 government relations, with folks with the government, and those people are not on my
17 teams.
18 Q Is that division intentional on Meta's part?
19 A That division has preceded me, but it is something that is intentional -- were
20 it not that, I can say that we have no intention of keeping that division in the same place.
21 Ensuring that the folks who are working on the central teams were doing and
22 creating those content policies and overseeing enforcement, again trying to remove
23 potential -- whether it's pressures or other stimulus to making those decisions, we try to
24 be objective as possible and then put in the necessary guardrails to make sure that we
25 can adhere to that posture.

1 Q So the people who might be hearing the concerns of the external
2 stakeholders are not the same people that are actually putting in place -- or
3 applying -- sorry -- Meta's policies. They're not the ones that are on the ground making
4 specific content moderation decisions. They're just separation.
5 A Broadly, I think that is the correct answer. Now -- and I've mentioned here
6 that I talk to government officials on occasion. So when you're more senior, you have
7 the role that sometimes you are asked to come through and brief, whether it's a
8 committee, brief an individual office on an issue, and we'll have those discussions. And,
9 obviously, your ears don't turn off, so you will hear the signal and you're able to take it
10 firsthand.
11 But on the day-to-day basis again, that is not my core job. It's not my day-to-day
12 job. It's for the more junior people on the team. It's very, very infrequent. Maybe
13 they will staff a more senior person, but they would not have those conversations with a
14 government relations official for Meta on their own, if that makes sense.
15 Q I think I understand what you mean.
16 But also, like, even in your case, you do hear that signal from government officials,
17 but you're not personally making content moderation decisions on a daily basis. Is that
18 right?
19 A For the specificity that I think is really appropriate here, those people who
20 are tasked with making those daily day-to-day decisions -- again, I don't want to speak in
21 such declarative statements that it could never happen -- but I would be hard-pressed to
22 find a reason why those people would be engaging with government relations officials.
23 Q Why do you think that's important, the division of those two roles?
24 A Again, we have -- it is where your expertise lies, to take a step back. Again,
25 we try to empower people at the company to do their best work where they have their

1 expertise.

2 There are people within my teams that are great content policy monitors that

3 understand these issues. There are people who are well versed how to moderate

4 content for a platform.

5 That does not mean that they're well versed in how to engage with government

6 relations officials. And, likewise, government relations folks that work for Meta who are

7 not trained specifically on our policies, have not done the necessary research to

8 understand our systems, to go out and make these decisions, it would be unfair to them

9 as well.

10 And I think there is the benefit ultimately that you can separate the two, that you

11 can have your interface with governments where they can have frank conversations, but

12 recognizing that there's a level of sanctity, for lack of a better term, with the decisions

13 that are made on a day-to-day basis on individual pieces of content or potential actors.

14 Q And does that division help serve Meta's interest and objectivity with

15 respect to content moderation?

16 A Again, I mentioned earlier the idea that we intentionally try to make our

17 processes and our policies as objective as possible, and this does further that goal. It

18 relieves the individuals forced to make those decisions, forced to create those policies,

19 from external pressure.

20 [redacted] Thank you.

21 [redacted] You mentioned the sanctity of content moderation

22 decisions. Why is that sanctity important to maintain?

23 [redacted] Again, going back to the many reasons -- the way and the reasons

24 why we have our community standards, I spoke about -- a bit about brand safety, both for

25 the brands that we partner with and for our clients, but also for us. And I think that for

1 any group of people it would seem that Meta was making a biased decision or one that
2 would succumb to pressure, that they would have a reaction [inaudible] the platform.
3 In fact, outside the U.S., in other parts of the world where there are more
4 authoritarian governments, we are often, often asked to remove content that they find to
5 be offensive, not necessarily violative of any of our policies. Maybe it's to invoke the
6 law, that we will have to examine the law which is offensive to those sitting in power.
7 And we often push back on those requests because we want to give people the
8 power to express their opinions and have those meaningful connections and sometimes
9 go forward in that vein.
10 With that as the backdrop, recognizing that if you had the same people that were
11 forced to make those decisions also interfacing on a day-to-day basis with government,
12 then there could be an unfelt pressure.
13 And my advice, just to make clear -- I think I mentioned this specifically -- this is
14 how it works in the broad amount, in the vast majority of cases. I don't want to speak
15 so certain that there's not the opportunity that one member of a team who's more junior
16 than me hadn't asked at a point to make a content decision has ever engaged with a
17 government official.
18 BY [redacted]
19 Q Understood.
20 In the first hour on this subject, there was discussion in more depth about the
21 concerns of some government officials that relate to you, in particular concerns from
22 Biden administration officials in a press conference, for example, or that CNN article that
23 was, I guess, not introduced but discussed.
24 I want to hear your view of those concerns more broadly. Is it fair to say that in
25 your role at Facebook over multiple Presidential administrations that you've heard

1 concerns from government officials who are of both parties?

2 A That is a very fair submission. I've heard concerns from government

3 officials within -- throughout multiple administrations, throughout multiple Congresses

4 express their disagreement, often criticism of my work, of the policies that we enact, and

5 in our enforcement of those policies.

6 Q And are you aware of criticism from various Republican officials that

7 Facebook does -- or Meta does a poor job of moderating in the sense that they suppress

8 too many conservative views? Are you aware of that criticism?

9 A I am aware of that criticism.

10 Q And, in fact, when President Trump was in office -- I don't know if you ever

11 use Twitter. Are you allowed to use Twitter in your role?

12 A Well, we are allowed to use Twitter. I really enjoy the Threads product.

13 Q There you go. Me too.

14 But just, again, like are you aware that when Mr. Trump was President that he

15 used Twitter quite a bit to communicate his, quote, "concerns about social media

16 companies," both Twitter and Meta and others?

17 A I'm aware that President Trump would tweet and use Twitter often.

18 Q But are you aware also that some of his criticism about Facebook and other

19 social media companies would come in those tweets out to the public?

20 A Yes, I'm aware of that.

21 Q Did you ever read any of those tweets or messages that were critical of

22 Facebook from Mr. Trump?

23 A I didn't keep a full running diary of all the tweets that President Trump

24 made, but I am aware of tweets.

25 Q Okay. I'm just going to share one for the record. This is May 27th, 2020,

7:11 a.m., from former President Trump, while he was in office.

He tweeted, quote, "Republicans feel that social media platforms totally silence conservative voices. We will strongly regulate or close them down before we can ever allow this to happen. We saw what they attempted to do and failed in 2016. We can't let a more sophisticated version of that," and then it trails off in ellipses, unquote.

Mr. Brown. What's the source of that?

[redacted] That's a tweet. It's actually from an NPR article dated May 27th, 2020, and the title of that article -- this is on the NPR website -- is, quote, "Trump threatens to shut down social media after Twitter adds warning to his tweets," unquote.

BY [redacted]

Q All I'm asking about is, were you aware of those kind of concerns that President Trump had in his office, and particularly the threat that he would, quote, "shut down" social media platforms like Facebook if you continued to, quote, "censor conservative views."

A I'm not familiar with that tweet specifically. I did hear what you read. And I would not say that was foreign, that type of rhetoric was foreign.

Q Okay. You know, I guess what I'm asking is, you know, it sounds like in your career with Meta you've heard concerns from both Republicans and Democrats and criticism from both Republicans and Democrats as to how then Facebook and now Meta operates, fair to say?

A I've heard criticism from both Republicans and Democrats about how Meta works, yes.

Q And some of that criticism could be pretty intense, fair to say?

A Yes, it can be intense.

Q From both sides, correct?

1 A That is correct.

2 Q And despite the intensity of that criticism and even the threat in this case to,

3 quote, "shut down" Meta or other social media companies, that didn't affect the way you

4 did your job at Meta. Is that fair to say?

5 A Again, we receive criticism from many, many sources, both across the aisle in

6 government, civil society, academics, users themselves.

7 It is our job to take the signal where appropriate and try to cut through the noise

8 to see if there are ways that we should be improving our policies or the course of the

9 platform itself and then objectively apply the standards that we adopt.

10 So we objectively apply those despite the criticisms or the intended pressure.

11 Q And, ultimately, when you've made decisions at Meta to change your policy,

12 to adopt new policies, or whatever other decisions you've made, you've made them

13 because they're in Meta's interest in your estimation. Is that correct?

14 A That is correct. We try to make decisions based off of what is best for our

15 users.

16 Q And not because of any outside coercion or threats from government

17 officials or other external stakeholders?

18 A Again, people will bring issues to us. We will evaluate those issues. And

19 then we welcome the decisions for the objective value of those decisions and the way

20 that they impact our platform.

21 Q Now, there's kind of an elephant in the room, you might say. I mean, we're

22 here today because you've been asked to participate in a congressional investigation,

23 correct?

24 A That is correct.

25 Q And you understand that underlying that request is a criticism from the

1 chairman of this committee as to how Meta has operated, correct?

2 A Yes.

3 Q Do you recall any experience when you've been a Meta executive where a

4 chairman of a congressional committee has threatened to hold Mr. Zuckerberg in

5 contempt?

6 A I cannot recall. I can't recall.

7 Q Or, I mean, are you aware of any other chairman of a congressional

8 committee who has threatened to hold any Meta executive in contempt due to his

9 concerns about the way Meta operates?

10 A Not in the United States, I cannot recall.

11 Q It did happen in Canada. Is that correct?

12 A I was testifying knowing what had happened, so, yes, that is correct.

13 Q Okay. But in the United States that hasn't happened before?

14 A I do not recall that.

15 Q But you are aware that right now the chairman of this committee has

16 threatened to hold Mr. Zuckerberg in contempt?

17 A That is correct, I am aware.

18 Q Does that threat affect you all in any way in terms of the decisions that

19 you're making?

20 Mr. Brown. I'm going to ask you not to answer on behalf of the other

21 employees.

22 [redacted] Yeah, I can only answer for myself. Thank you.

23 I can only answer for myself. It's not impacting the way that I operate and do my

24 job, including appearing here today. So I am committed to being a professional in going

25 forward.

1 BY [redacted]

2 Q I want to shift gears a little bit.

3 We talked a little bit in previous hours about two policies which are kind of

4 buckets of policies that Meta has; one with respect to Coordinated Inauthentic Behavior,

5 and the other with respect to hack-and-leak policies.

6 I just want to have you walk us through those if you know.

7 A Sure.

8 Q I have my policy notebook that you provided in front of me.

9 A Okay.

10 Q But let's start with the CIB policy.

11 A Certainly.

12 Q The Coordinated Inauthentic Behavior.

13 Tell me, from what I can see here in this binder that you provided, it's under tab

14 19, is that right, inauthentic behavior?

15 A I believe so. That's correct. It's under tab 19, inauthentic behavior.

16 Q Okay. Tell me what is it that violates the community standards at Meta

17 with respect to inauthentic behavior. Tell me what it means for there to be inauthentic

18 behavior.

19 A Sure. Within our policy rationale for inauthentic behavior -- and I will

20 quote -- we focus on -- and here is the quote: "In line with our commitment to

21 authenticity, we do not allow people to misrepresent themselves on Facebook, use fake

22 accounts, artificially boost the popularity of content or engage in behaviors designed to

23 enable other violations under our Community Standards. This policy is intended to

24 protect the security of user accounts and our services, and create a space where people

25 can trust the people and communities they interact with."

1 And focusing on that last line, and specifically that last clause, that is the thrust,
2 "create a space where people can trust the people and communities they interact with."
3 Coordinated inauthentic behavior often erodes that trust on the sharing of
4 disinformation.
5 Q Okay. So there are a couple of things that I guess are examples of
6 inauthentic behavior.
7 A Yes.
8 Q Use of fake accounts would be one of those? Is that right?
9 A That is correct.
10 Q Foreign actors coopting unwitting domestic actors to amplify a message, that
11 would be something that would come under that?
12 A Those are often hallmarks of Coordinated Inauthentic Behavior campaigns.
13 Q Okay. What about perception hacking? Are you familiar with that term?
14 A I am not familiar with that term specifically.
15 Q We'll skip over that.
16 How about purchasing compromised assets or directing compromised domestic
17 actors through social engineering or hacking? Is that the kind of conduct that would be
18 prohibited under the policy?
19 A To the extent that that conduct was occurring on our platform or we found
20 out that it was part of a larger campaign, that would be prohibited.
21 Q Okay. And you have explained -- it's in the policy -- why it is that Meta has
22 this policy, correct?
23 A That's correct.
24 Q And, broadly, it's harmful to Meta's platform users if they're able to have the
25 platform overrun by inauthentic behavior, correct?

1 A It does erode the ability for people to form meaningful connections. So it's
2 not in our interest to have that type of content or that behavior on the platform.
3 Q Okay. And this policy is actually focused -- this is one of the policies that
4 you described earlier that focuses on behavior and actors rather than on content. Is
5 that right?
6 A That is correct.
7 Q And can you explain that distinction with respect to this policy?
8 A Sure. In many ways the underlying content -- or the policy is agnostic to
9 the underlying content, whether people are sharing potentially truthful content opinion,
10 but they're doing it in a way that is meant to mislead or they are doing it through this idea
11 of using an inauthentic network of individuals.
12 That is the issue that we are seeking to address, and that is why we removed
13 those actors. Subsequently, the way that our systems work by removing those actors,
14 the content that they have posted is also removed.
15 Q Okay. Let me talk to you a little bit about why Facebook or Meta felt it
16 necessary to develop this particular policy. And I think let's first talk about the idea of
17 Coordinated Inauthentic Behavior. There's a larger community standard that has to do
18 with inauthentic behavior, right?
19 A That's correct.
20 Q But then, within that, there's this special kind of behavior that is prohibited,
21 which is the Coordinated Inauthentic Behavior? Is that right?
22 A That is correct.
23 Q And so what is the difference between the two?
24 A Coordinated Inauthentic Behavior, it can carry over to a range of different
25 types of content and actions that appear on a platform.

1 Most traditionally you think about spam as one, and that is often just using
2 inauthentic accounts, the use of inauthentic accounts to spread and amplify spam
3 material.
4 Sometimes that becomes scamming material, the difference being like financial
5 scams versus just kind of a general scam -- buy a pair of this type of sunglasses, buy a pair
6 of this type of tennis shoes -- versus actual scamming that goes into more things that
7 could then lead to phishing and other different types of harm.
8 With the Coordinated Inauthentic Behavior, while those inauthentic accounts and
9 that type of behavior is unwanted and you can remove it, it's often carried out by an
10 individual and just operating for their own perhaps financial goals.
11 The Coordinated Inauthentic Behavior, we find that that is a network of
12 individuals and accounts. Sometimes maybe five people can own a thousand accounts,
13 but they are coordinated in a way that they understand the message they're trying to
14 amplify, the frequency of what they post, and how they are trying to drive the
15 conversations in specific areas.
16 We found that to be particularly problematic following the Internet Research
17 Agency in 2016.
18 Q I love that you just mentioned that.
19 So I'm going to introduce as an exhibit the indictment in that case, which is Case
20 No. 1:18-cr-32-DLF, U.S. v. Internet Research Agency, et al. This is our exhibit 1.
21 [[redacted] Exhibit No. 1
22 Was marked for identification.]
23 BY [redacted]
24 Q You were involved when Facebook adopted its Coordinated Inauthentic
25 Behavior policy around 2017? Is that right?

1 A That's correct. I was on the content policy team at the time, although I did
2 not oversee that policy specifically.
3 Q Okay. And like you just said, you're aware that part of what led Meta to
4 understand that there was a need for this policy was some of the conduct that was
5 unearthed after the investigation of Russian interference in the 2016 election. Is that
6 fair to say?
7 A That is correct.
8 Q Okay. So if you would look at this exhibit 1, and I actually direct you to
9 paragraph 4, page 3, please.
10 A I'm sorry. What page?
11 Q I'm sorry. On page 3, paragraph 4, there's a description of the conduct of
12 the Internet Research Agency and other -- actually this one is about other defendants.
13 Let's talk to that first.
14 Do you know who Yevgeniy Prigozhin is?
15 A I am familiar with the name. I can't recall the specifics of the case.
16 Q Okay. He was one of the indicted defendants in this case. But do you
17 know what the Internet Research Agency is?
18 A I'm familiar with the IRA.
19 Q Okay. And in paragraph 4, this is going to be a description of some of the
20 conduct of the Internet Research Agency. Directing you to that paragraph, according to
21 paragraph 4, the Russian defendants in this case, quote, "posing as U.S. persons and
22 creating false U.S. personas, operated social media pages and groups designed to attract
23 U.S. audiences.
24 "These groups and pages, which addressed divisive U.S. political and social issues,
25 falsely claimed to be controlled by U.S. activists when, in fact, they were controlled by

1 Defendants.

2 And "Defendants" here refers to the IRA.

3 "Defendants also used the stolen identities of real persons to post on

4 ORGANIZATION-controlled social media accounts. Over time, these social media

5 accounts became Defendants' means to reach significant numbers of Americans for

6 purposes of interfering with the U.S. political system, including the presidential election

7 of 2016," end quote.

8 Were you familiar with those allegations, that that was occurring on social media

9 platforms such as Facebook, when the IRA was interfering in the 2016 election?

10 A First, I'm not familiar intimately with the complaint here. But with the

11 allegations, I am aware of the allegations.

12 Q Okay. So what's your understanding of what they were doing on

13 Facebook's platform, the IRA in particular?

14 A The IRA, to the extent that I -- my knowledge was that they were operating

15 inauthentic accounts, fake accounts, to spread divisive messages within the United States.

16 Q I'm going to have you turn to page 6 and paragraph 10, subparagraph c.

17 This is a shorter paragraph.

18 This paragraph in the indictment says -- here the DOJ notes that the defendants

19 sought, quote, "to conduct what it called information warfare against the United States of

20 America," end quote, "through fictitious U.S. personas on social media platforms and

21 other Internet-based media."

22 That's noteworthy because the defendants themselves, according to the DOJ,

23 were referring to what they were doing on social media platforms like Facebook as,

24 quote, "information warfare against the United States of America," end quote.

25 Were you aware that the IRA and the other defendants in this case actually

1 characterized their own actions as information warfare against the United States?
2 A I can't recall being made aware of this other than in this document right
3 here.
4 Q And whether or not you're aware that they used those words or that's how
5 they characterized their actions, is it fair to say that you were concerned about the kind
6 of activity that was being done by the Internet Research Agency on Facebook in 2016
7 when you learned of it?
8 A Yes. Yes, I was concerned.
9 Q And why were you concerned?
10 A As a citizen of the United States, to have a foreign nation attack a private
11 company is, obviously, concerning. The fact that it was my company made it even more
12 concerning. And one that would try to deliberately impact the political process made it
13 truly concerning for me.
14 Q So is it fair to say that, like, as an American, you probably felt that this was
15 damaging to the Nation, but as an employee of Meta, you also felt that it was damaging
16 to the company, Facebook, at the time?
17 A Yes, I definitely thought it was damaging to Facebook at the time and from a
18 broader perspective damaging to national security.
19 Q Let's talk about the damage that that kind of activity does to the company.
20 Why is it harmful to Meta or Facebook at the time for the Internet Research Agency and
21 other proxies of the Russian Government to be exploiting the platform in the way that
22 they did according to the indictment?
23 A Again, going back to -- in some ways going back to first principles of how we
24 try to develop policies and what environment we want on the platform, we want one that
25 people can build meaningful connections, that they are able to express themselves

1 authentically.

2 So we have those structures in place, those guardrails in place to make sure that
3 we are leaning on ideals of authenticity, privacy, dignity in our community standards and
4 creating an environment that people will want to continue to engage and come back to
5 the platform repeatedly to find those meaningful connections, to make the partnerships
6 on behalf of their businesses and in their personal lives.

7 Any attack on that that would undermine that and create doubt in trust for Meta
8 impacts our user base, impacts the way that the platform is received, not just within the
9 United States but globally. So that is something that we take very seriously.

10 Q And would you agree that that conduct that we just discussed that was
11 described in the indictment in exhibit 1 is part of the reason that Facebook/Meta
12 ultimately adopted its CIB policy?

13 A It was to -- our adoption of our CIB policy was to ensure that our platform
14 again adhered to this ideal of creating an environment of people having meaningful
15 connections and to specifically address this type of behavior.

16 Q Okay. And I think in the last hour you were asked some questions about
17 the Foreign Influence Task Force. Do you recall those questions?

18 A Vaguely, yes.

19 Q Okay. But you didn't actually work with the Foreign Influence Task Force in
20 your role at Meta. Is that fair to say?

21 A I did not.

22 Q Okay. Do you understand the purpose of Meta's relationships with the
23 Foreign Influence Task Force?

24 A I don't. I don't know the day-to-day conversations or relationships with the
25 task force.

1 Q Okay. Do you know whether Meta's participation in periodic meetings with
2 the Foreign Influence Task Force was compulsory on the part of Meta or voluntary?
3 A Again, I wasn't part of the meetings. I'm not --
4 Q I'll just skip over that. You don't have that knowledge of that then.
5 Let's talk about the other policy that we discussed a little bit in the last hour,
6 which is the hacked materials policy.
7 A Sure.
8 Q What does Meta call that policy? Is that a privacy policy?
9 A It's in our privacy policies that should be under tab 11 in the binder.
10 Q Okay.
11 A So if you go to tab 11 -- unfortunately, these are not numbered -- one, two,
12 three, four -- the fifth page within that tab.
13 Q Yes.
14 A It's the second bullet -- or the first bullet section on that page that begins,
15 "Information obtained from hacked sources."
16 Q Could you just read that one section for us so that we understand what the
17 hacked sources policy is.
18 A Sure. "Except in limited cases of newsworthiness, content claimed or
19 confirmed to come from a hacked source, regardless of whether the affected person is a
20 public figure or a private individual."
21 For clarification, I will go back and perhaps read that all together with the action,
22 which is important. If we go back to the second page, starting at the top, "do not post"
23 is the key phrase there, "do not post," and then flipping to that subsection, "information
24 obtained from hacked sources, with the exception of in limited cases of newsworthiness,
25 content claimed or confirmed to come from a hacked source, regardless of whether the

1 affected person is a public figure or private individual, do not post that content."

2 Q Okay. And what's the rationale behind this policy?

3 A Again, information that potentially comes from a hacked source, the ability

4 to verify the authenticity, the fidelity of that information would be significantly hard to

5 do; also wanting to not create an environment where people are actively using our

6 systems to try to go and potentially hack other people and exploit them through social

7 engineering or other methods. This is one way for us to address that.

8 Of course, we have the carve-outs and caveats in the limitations of

9 newsworthiness. If something is so newsworthy that it may be better that that type of

10 material was allowed to be on the platform, we do have the ability to pull that lever, for

11 lack of a term, to allow that exception to go forward.

12 Q Can you explain that a little bit more? Like what would be an example?

13 A In so many cases I think the conversations between hacking and/or leaking

14 compared to someone who was whistleblowing, there are sometimes fine

15 lines -- sometimes it is maybe the eye of the beholder -- to ensure that we had enough of

16 a -- or we had a policy basis for allowing it for those newsworthy times that we inserted

17 that language and to make sure that we were not in the moment trying to ad hoc on

18 our -- or excuse me -- come up with a policy in an ad hoc manner.

19 So we included that line about newsworthiness to allow that to occur when

20 appropriate, but otherwise the default would be to remove it.

21 Q Do you know if there was a particular instance or an example that motivated

22 that exception being included in the policy?

23 A I can't -- I cannot recall.

24 Q Okay. It sounds like this policy, similar to the CIB policy, is focused on

25 actors and behaviors and not as much on content. Is that fair to say? Or is there more

1 of a melding of those two in this case?

2 A I think there's actually more of a melding of the two in this case, for a

3 number of reasons. The content itself may be shared -- and shared sometimes

4 inadvertently -- by others that are just passing it along.

5 We would not necessarily want to remove someone's account for making a

6 mistake or making -- or sharing content that they did not, A, realize it came from a hacked

7 source, or, B, realize that it carried such a weighty penalty of removing your presence

8 from the platform. So we would just go through our traditional policy enforcement

9 guidelines.

10 For people who are willingly trying to spread and share and not carrying out the

11 cybersecurity elements of that, of hacking, then we would look at actor-based penalties.

[2:47 p.m.]

BY [redacted]

Q Okay. And let's talk about that actor-based analysis first, then. Does Facebook or Meta have a way of determining, with its own means, whether sources are hacked or whether material has been hacked?

A Not that I'm aware of. Nothing -- not -- not that I'm aware of.

Q So in a real-world example, if a news article came to you, how would you even know whether to evaluate it under your hack pol -- I'm going to call it the hack-and-leak policy, but this policy that you're identifying.

A Sure.

Q How would you even know if you were potentially hacked, unless the article says, Hey, this is hacked material, which I assume it doesn't usually, but how would you know?

A In some cases, I think you got to the punch line very fast. People are often very up front in sharing information about where their sources came from -- are coming from, and we take people at their word. For example, if you say that you are affiliated with a certain type of hate organization. We don't question it, we take your word and we apply our policies as -- as wanted. So in those cases, we would do that.

In the cases of hacked materials if we are -- if we are unaware, we try to -- are the other violative reasons that we removed the content? And if there are not, we look at other cases where -- we were speaking earlier of other cases and where we thought that third-party fact-checking was the appropriate way to go.

Q Okay. So that's where you might have an overlap between the policies, the content might be in violation of your community standards on its own, whether or not it was the result of a hacking operation?

1 A That's right.

2 Q But still focusing on the hack itself, and I imagine this is something I'm trying

3 to get you tell me something about -- I imagine it's a real challenge, in some cases, for

4 Meta to have insight into whether materials on its platform came from a hacked source if

5 the source itself doesn't self-identify as a hacker. And I guess you're saying that there

6 are instances where sometimes people who have hacked material are not afraid to say,

7 Hey, this is hacked material, I got this because I stole it or I got it --

8 A All right.

9 Q -- because I went into somebody else's system. But are there also cases

10 where material might be presented on the Facebook or Meta platform, and there is a

11 question about whether that material was hacked, but it's not stated by the source that

12 Yeah, it's hacked material?

13 A I guess the counter -- not necessarily the counter, but alternative version of

14 those events is when an entity will claim that they were -- have been hacked, and they

15 claim they've been hacked been an ex-employee, by a competitor or whatever have you,

16 and they make that clear. And that would also allow us to enact our policies. But you

17 are correct to say that there are often cases where material appears on our platform

18 where we do not know how the material was, you know, sourced, for lack of a better

19 term. There was no indication that it was hacked. No one told us whether the

20 individual was posting, or some third party that says that we were the targets of the hack.

21 And often that material will just reside on our platform, absence some other violation.

22 Q Because you don't have any means at that point to investigate further, you

23 don't have any more information at that point?

24 A That's correct.

25 Q Okay. So let's talk about the example that the other side spoke of, The

1 New York Post article that appeared on your platform in 2020 in October. That article,
2 you indicated, you recalled that it existed, but you don't remember the contents of the
3 article. Is that a fair characterization?
4 A I can't remember reading the -- reading the article in full. I know the article
5 existed, I can't recall reading the article in full.
6 Q Do you recall that The New York Post article included a claim about where
7 the laptop came from?
8 Mr. Brown. Can -- do you have the article to share with us?
9 [redacted] I don't know.
10 Mr. Brown. It's just hard for him to react to a document he can't see.
11 [redacted] Do we have it?
12 Mr. Brown. If you remember, if you don't --
13 BY [redacted]
14 Q Let's just talk about the decision that Facebook or Meta made with respect
15 to that article. When it came out, do you know what triggered the examination of the
16 article under the hack-and-leak policy?
17 A I can't recall the specifics right now, but material coming from any source
18 not posted by the source themselves so that the owner of that device could be eligible for
19 the hack-and-leak policy.
20 Q Okay. Fair to say that you would look to the article itself to see whether
21 there is any comment in the article about the source of the material?
22 A Under our general protocol we would look for all the signal, including in this
23 case that there are --
24 Q And if the author of the article or the publication --
25 [Discussion off the record.]

1 BY [redacted]

2 Q Okay. If the publication itself, or the author of the article said where he or
3 she got the information that was published in the article, would you consider that in your
4 analysis?

5 A To be clear, broadly speaking, on, like, a hypothetical generic case, yes, we
6 would do that for the specifics. I wasn't involved in making the analysis of that.

7 Q Okay. So we can just stay hypothetical then. Let's just say you have an
8 article where somebody is reporting on the contents of someone's diary that they found.
9 And in the article, the author says, I found this diary abandoned, it was lying on the street,
10 and I picked it up and look what's inside, and that's what the subject of the article is.

11 A Uh-huh.

12 Q When you consider whether that material is illegally obtained, would you
13 give any weight to the assertion in the article that it was just found lying on the street?

14 A And I know I -- I'm smiling because I want to speak in the hypothetical and it
15 is heartfelt sometimes to deal with hypotheticals. In those situations, we would take
16 the signal that we had first. So if the article said that I stole his diary, and I am now
17 reading it to you, that would give us an indication of it being hacked. If the diary was
18 otherwise published or somehow found that may ultimately result in a different decision
19 on this. Again, we have newsworthiness because it's being reported on in a news
20 article, does that automatically deem it's newsworthy? Not necessarily, but it would
21 factor into our analysis. Do we need to make an exception to the existing policy?
22 That's where it is a bit fuzzy on the hypothetical, but that's how the process would
23 generally work. We would take the signal, or attempt to take the signal from that was
24 delivered within -- within the news article itself.

25 [Discussion off the record.]

1 BY [redacted]

2 Q Okay. I'm not going to go too far with the hypothetical, I don't want it to
3 get crazy, but the easy case would be that you have somebody who writes an article and
4 just says, I stole this, here it is, because then, you have an admission that the information
5 was stolen or hacked. There you don't really have much to determine, fair to say, with
6 respect to whether it was hacked, but you might also be considering whether your
7 exception like the news worthiness might come into play, right?

8 A That is possible, that's correct.

9 Q Okay. But in the absence of that admission within the article itself that the
10 information was illegally obtained or hacked, it actually becomes harder for Facebook or
11 Meta to do that first prong of the analysis, right, to figure out if the hack-and-leak policy is
12 going to be triggered, right? I mean, if there's no admission, how do you figure it out,
13 hypothetically whether something has been hacked?

14 A Again, trying to identify sources around this policy is very difficult. And so,
15 absent clarifying information this policy generally would not -- just not apply.

16 Q Is it fair to say you kind of err on the side of caution in the sense of allowing
17 something on the platform under this policy if you don't have clear information at the
18 time that the information was illegally obtained?

19 A Going back to, you know, the policy itself, content claimed or confirmed to
20 come from a hacked source without being able to satisfy those, the content would not be
21 prohibited, so it would be allowed on our platform.

22 Q Okay. Let's talk a little bit about why that hacked policy came into being at
23 Meta. Are you familiar with those reasons, like why this developed?

24 A I -- I can't remember specifics on when this was developed.

25 Q Okay. And you weren't involved in the creation of the policy?

A I do not believe so.

Q All right. Let me ask you generally, were you aware -- again, going back to the Russian interference in the 2016 election, we talked about the conduct on the Meta platform that was described in the IRA indictment. But were you also aware of Russian conduct that specifically involved hacking and leaking material since the election?

A I can't recall specifics unfortunately on that.

[[redacted] Exhibit No. 2

Was marked for identification.]

BY [redacted]

Q I'm going to mark as exhibit 2. Is it 2? This is a report from the Senate Select Committee on Intelligence, report on Russian active measures, campaigns and interference in the 2016 U.S. election. It was released in August 2020. It is an excerpt. I'm sorry. I just have the cover page to identify the report. And this then there's also an highlighted -- this tiny section is highlighted --

Mr. Brown. This is exhibit 2?

[redacted] Yes.

BY [redacted]

Q So there is a portion -- it should be a highlight on your exhibit as well. If you turn to the -- it's Roman Numeral VII, really small.

A Yes.

Q So this section is -- the heading is "hack and leak," hopefully. I'm just going to read to you what it says in the report and let me know if this is an accurate reading. Under the hack and leak section of the report it says, quote, "The committee found that Russian President Vladimir Putin ordered the Russian effort to hack computer networks and accounts affiliated with the Democratic Party and leak information damaging to

1 Hillary Clinton and her campaign for President." It continues, "Moscow's intent was to
2 harm the Clinton campaign, tarnish an expected Clinton Presidential administration, help
3 the Trump campaign after Trump became the presumptive Republican nominee and
4 undermine the U.S. democratic process," end quote. Did I read that correctly, that
5 paragraph?
6 A Based off my reading, yes, yes, you did.
7 Q Thank you. Were you familiar with that? Just generally are you familiar
8 with that finding by the Senate Committee?
9 A Yeah, I'm not actually familiar with this report. So -- but what you read was
10 accurate to the report.
11 Q Okay. Are you aware that the material that was hacked by the Russians
12 from the DNC and the DCCC was later leaked to WikiLeaks?
13 A Not aware -- not aware of the report.
14 Q Were you aware that that conduct occurred by Russia or not?
15 A I -- I'm aware of stories. I don't know what the final findings were.
16 Q Okay. Now during his testimony before this committee in June, your
17 colleague, [redacted], shared his opinion that -- this is from the Gleicher
18 transcript, pages 20 and 22, he shared his opinion that part of what motivated Meta to
19 adopt its hack-and-leak policy was concern over past Russian interference in U.S.
20 elections, and the fear that they were planning to do it again in 2020. Do you agree with
21 Mr. Gleicher that this concern was part of what motivated Meta to hack that policy -- or
22 excuse me, to adapt that hacking policy?
23 A You know, Nathaniel is the expert here, and I would defer to him and his
24 recollection.
25 Q Okay. All right. I'm just going to show one more exhibit. Exhibit

Number 3 is a New York Times article first published on January 13, 2020, later updated October 19, 2020. The title is, quote, "Russians Hacked Ukrainian Gas Company At Center of Impeachment," end quote.

[[redacted] Exhibit No. 3

Was marked for identification.]

BY [redacted]

Q [redacted] have you seen that article before?

Mr. Brown. If you want to give him a minute to read it.

[redacted] Yeah, take your time.

Mr. Brown. While he reads it, we can go off the record.

[Discussion off the record.]

BY [redacted]

Q Have you had a chance to review the article?

A Yes, I did read it.

Q Have you seen it before today?

A I do not believe so.

Q Okay. [redacted], when he testified earlier, maybe it was last month, he said that in January 2020, there was public reporting that Russian military intelligence, specifically the GRU, had already hacked into Burisma, and that is what's reported in this article in the highlighted portion -- oh, your version is not highlighted. I'm sorry. In the one, two, three, four -- in the fifth paragraph that begins with "now," would you just take a look at that? I'm sorry.

I'll read that portion out loud for the record too. "Then, as now, the Russian hackers from a military intelligence unit known formerly as the GRU and to private researchers by the alias 'Fancy Bear' used so-called phishing emails that appeared

1 designed to steal user names and passwords, according to Area 1, the Silicon Valley
2 security firm that detected the hacking. In this instance, the hackers set up fake
3 websites and mimicked sign-in pages of Burisma subsidiaries of it blasting Burisma
4 employees with emails meant to look like they were coming from inside the company,"
5 end quote.
6 And when [redacted] testified, he indicated that there was public reporting that
7 Russian military intelligence, specifically GRU, had hacked into Burisma. And this article
8 appears to be consistent with -- with what [redacted] testified to, correct?
9 A I'm not sure exactly what [redacted] testified to, but --
10 Q As I have characterized it. I'm sorry.
11 A As you have characterized it, that is in the article.
12 Q Okay. Do you agree with [redacted] that this information may have
13 contributed to concerns at Meta about the sharing of hacked materials on the platform in
14 an effort to covertly influence the 2020 election?
15 A Again, defer to [redacted] expertise on the matter in the signal that he's
16 quoting.
17 Q Okay. And finally one more exhibit here which will be our exhibit 4.

1

2 [[redacted] Exhibit No. 4

3 Was marked for identification.]

4 BY [redacted]

5 Q This is a statement from then national Counterintelligence and Securities

6 Center Director William Bill Evanina, which is dated August 7, 2020, and entitled, quote,

7 "Election Threat Update for the American Public," end quote.

8 Just take a quick look at that. Focusing on page 2, the portion that is highlighted

9 hopefully in yours and it's under the Russia highlight?

10 A There's like a bullet point that says, Russia. That's the part I'm going to ask

11 you.

12 Q Have you had a chance to look at the document?

13 A I have.

14 Q Okay. Have you seen it before today?

15 A I do not remember seeing it before today.

16 Q With respect to just that bullet point that is under the heading, Russia, the

17 statement says, "We assess that Russia is using a range of measures to primarily

18 denigrate former Vice President Biden and what it sees as an anti-Russian 'establishment.'

19 This is consistent with Moscow's public criticism of him when he was vice president for

20 his role in the Obama administration's policies on Ukraine and its support for anti-Putin

21 opposition inside Russia. For example, pro-Russian Ukrainian parliamentarian Andriy

22 Derkach is spreading claims about corruption, including those publicizing leaked phone

23 calls, to undermine former Vice President Biden's candidacy and the Democratic Party.

24 Some Kremlin-linked actors also seeking to boost President Trump's candidacy on social

25 media and Russian television," end quote.

1 When [redacted] was here testifying before this committee, he indicated that
2 there was public reporting and also a statement from the U.S. Government Director of
3 National Intelligence, which had been published in a public report and which specifically
4 addressed the hack-and-leak operation from Russia involving Burisma, that might be used
5 to target Biden.
6 Do you agree with [redacted] opinion that that warning, which he was aware
7 of at the time, from the DNI contributed to concerns at Meta about the sharing of hacked
8 materials on its platforms, intended to covertly influence the U.S. election in 2020?
9 A Again, [redacted] the expert on -- in this space so I give a lot of deference to
10 him in how he acknowledges the signal that he receives.
11 Q Okay. Could you understand why experts like [redacted] would be
12 concerned that there might be harm to Meta's platform if, in fact, the U.S. intelligence
13 community was correct that the Russians intended to do their hack and leak practice
14 again and try to influence the 2020 election and exploit Meta to spread that information?
15 A We take election integrity very seriously throughout multiple teams within
16 our content policy organization, including our cybersecurity team. And so ensuring that
17 we protect those elections to the best of our ability is paramount.
18 Q Okay. Sounds good.
19 [[redacted] Exhibit No. 5
20 Was marked for identification.]
21 BY [redacted]
22 Q Exhibit 5. Okay. There was talk earlier in the hour about when Facebook
23 decided to demote The New York Post story while it was being subjected to the
24 third-party fact-checking, that there was a limitation on the, I guess availability of the
25 article. Do you recall that discussion?

A Yes.

Q This article, or exhibit 5, is an October 15, 2020, article from Business Insider titled, The New York Post's Dubious Hunter Biden Article Was Shared 3,000 times on Facebook Even After the Company Said It Limited its Reach. Have you seen that article before?

A Could I have a second to --

Q Absolutely.

A Okay. I'm not familiar with this -- this article.

Q Are you familiar with CrowdTangle?

A Yes, I know what CrowdTangle is.

Q And what is it?

A It was a system that we had to provide transparency to content that was posted on our platform.

Q What does it tell people? What's it transparent about?

A It includes -- essentially, it includes the posts of each -- I don't have CrowdTangle, I haven't used it in years so I don't have the specifics of what -- what all was included but it was an archiving system that was on the platform.

Q Okay. And according to this article and dated from CrowdTangle, that New York Post article was shared 400,000 times of Facebook, according to the article?

A According to the article, that's correct.

Mr. Brown. I think we're at time.

Okay, next.

Let's take 5 minutes.

[Recess.]

BY [redacted]

1 Q Do you know who [redacted] is, [redacted]?

2 A Yes, yes.

3 Q Who is that?

4 A [redacted] is -- leads our organic content policy and our lead public core

5 policy team within the content policy group.

6 Q And what is the organic content policy team?

7 A It is a team of individuals that sits on a day-to-day basis helping to ensure

8 that we are writing the rules correctly and ensure there are no conflicts. In some

9 ways -- clear terms, the legislative counsel thinking of those to be very deliberate and

10 ensuring our policies don't conflict, that we enact a policy that actually undermines

11 another policy and ensuring the implementation happens correctly.

12 Q And how big is that team?

13 A I don't have the org chart in front of me unfortunately. I don't have the org

14 chart in front of me.

15 Q And how does that team fit within the modern content policy team?

16 A It's a -- in some ways, a sister team to the teams that we see directly, but it

17 fits as part of the --

18 Q So does this team report directly to you?

19 A It does not report directly to me. It reports to [redacted]

20 Q To?

21 A It reports to [redacted] [redacted] runs the -- [redacted] is the --

22 Q Okay. And who does [redacted] report to?

23 A She reports ultimately up through [redacted] on the org chart.

24 Q Do you know who [redacted] is? [redacted]?

25 A Yes, I do know [redacted].

1 Q And who is that?

2 A She is on [redacted] team.

3 Q I'm sorry?

4 A She was on [redacted] team. I don't know if she still is on [redacted] team.

5 Q Do you recall meeting with the representatives from the National Security

6 Council in the fall of 2022 regarding issues related to disinformation and migration

7 related issues?

8 A Vaguely, but I can't recollect that specifically.

9 Q But do you recall a meeting?

10 A Yes.

11 Q That it happened?

12 A Yes.

13 Q Do you recall if it was an in-person meeting or virtual?

14 A I don't recall it being -- I don't it being an in-person.

15 Q Do you recall the purpose of the meeting?

16 A I recall the issues dealing with migration, and then immigration.

17 Q And what was the nexus between why you were at the meeting and those

18 issues?

19 A For the issues that my teams also oversee, I think I mentioned this earlier,

20 human exploitation, for us that is includes human trafficking and the administration had

21 concerns about possible trafficking across borders.

22 Q Do you recall who else from Meta attended this meeting?

23 A I -- I do not.

24 Q Have you had multiple meetings with the Federal Government on this issue?

25 A I can't recall.

1 Q For the organic content policy team, referred to as kind of a sister team to
2 what is within your direct line of report?
3 A Yes.
4 Q Are there any other content-related teams that are similarly structured,
5 sister teams that are not within your direct line of report?
6 A We have teams that focus on building -- or I guess counseling our products
7 so that they take our policies and work very closely with our products as new products
8 are being launched. We call it product counselors.
9 Q Is there a team specific to Threads?
10 A Threads falls under our Instagram team. There's a team specific to focusing
11 on the product Instagram, so the product counseling -- sitting with the engineers as they
12 launch the products.
13 Q Did those teams play any role in the development of policies, or in the -- just
14 to help facilitate and explain to the engineers when needs take place?
15 A I don't want to diminish anyone, but they are more -- translating those
16 policies to the engineers as they go forward.
17 Q Are you familiar with the agency CISA that falls within DHS?
18 A I've heard -- I've heard the term, but I'm not -- not very familiar with them.
19 Q To your recollection, have you, in your role at Meta, had any interactions
20 with CISA official?
21 A Not to my recollection.
22 [redacted] Can we go off the record?
23 [Discussion off the record.]
24 [Whereupon, at 3:26 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

Transcribed Interview Transcript Errata Form

Interviewee	[redacted]
Date of Interview	7/26/23
Date of Review	8/11/23
Name of Reviewer	Josh Goldberg
Signature of Reviewer	

Page	Line	Suggested Correction
2	19	"Reginald Broun"
6	16	"Greek Rhodes" → "Marine Corps"
8	3	[redacted]
8	4	"Serena Tortedello" → "Sarina Tortoriello"
8	25	[redacted]
9	1	" " " "
11	22	" " " "
12	17	" " " "
12	21	" " " "
13	5	"secure X" → "cure COVID"

Next

Page	Line	Suggested Correction
13	8	"Maine" → "Main"
14	10	"there is from a new reversibity" → "harm"
14	16	"appropriating" → "~~inauthentic~~ coordinated"
14	17	"authentic" → "inauthentic"
14	23	"informed" → "inform"
14	24	" " " "
15	21	"insuring" → "ensuring"
17	7	"and authentic" → "inauthentic"
17	15	"and unauthentic" → " "
17	16	" " " "
17	17	"it slights it" → "I'll take a step"
17	24	"labeled" → "label"
18	4	"and unauthentic" → "inauthentic"
18	6	"they [inaudible] in other direction" → Nathaniel Gleicher become a direct report"

Next

Page	Line	Suggested Correction
18	7	"it" → "he"
20	23	trying not to ... to not speculate
21	17	"Leith Bronovich" → "David Agranovich"
24	11	"Worked for" → "work with"
26	17	"context" → "contact"
31	18	"content" → "context"
32	19	"bon" → "band"
35	11	[redacted]
42	24	"marksmanship" → "Mark's mission"
61	16	Marine
63	23	we are not arbiters
78	5	"ASG → AGs
78	22	[redacted] → [redacted]
88	1	0.05 → 0.5

Next

Page	Line	Suggested Correction
88	17	defined → different
107	6	[inaudible] → meetings
111	20	of not keeping
133	15	heartfelt → difficult
139	21	[redacted] → [redacted]
141	3	3,000 → 300,000
24	22	"their" → "our"
8	10	including misinformation work she has spoken with you
2	21	LLP

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: STANLEY MEADOR

Thursday, August 24, 2023

Washington, D.C.

The interview in the above matter was held in room 2237, Rayburn House Office Building, commencing at 10:02 a.m.

Present: Representative Jordan.

1 Appearances:

2

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted] DEPUTY GENERAL COUNSEL

8 [redacted] RESEARCH ASSISTANT

9 [redacted] CHIEF COUNSEL FOR OVERSIGHT

10 [redacted] COUNSEL

11 [redacted] MINORITY OVERSIGHT COUNSEL

12 [redacted] MINORITY PROFESSIONAL STAFF MEMBER

13

14

15 For the U.S. DEPARTMENT OF JUSTICE:

16

17 [redacted] SPECIAL COUNSEL,

18 OFFICE OF LEGISLATIVE AFFAIRS

19

20

21 For the FEDERAL BUREAU OF INVESTIGATION:

22

23 [redacted] ASSISTANT GENERAL COUNSEL,

24 OFFICE OF GENERAL COUNSEL

25

1

2 [redacted] We'll go on the record. Good morning.

3 This is a transcribed interview of Special Agent in Charge Stanley Meador.

4 Chairman Jordan has requested this interview as part of the committee's oversight of the

5 Federal Bureau of Investigation.

6 Would the witness please state your name for the record?

7 Mr. Meador. Stanley Meador.

8 [redacted] Could agency counsel please state your name for the record?

9 [redacted] [redacted] from the FBI's Office of General Counsel.

10 [redacted] [redacted] with the Department of Justice's Office of

11 Legislative Affairs.

12 [redacted] And, Mr. Meador, you understand that agency counsel has a

13 primary fiduciary duty to the Bureau and not to you individually?

14 Mr. Meador. Yes, ma'am.

15 [redacted] And still you'd like to continue with agency counsel today?

16 Mr. Meador. Yes, ma'am.

17 [redacted] On behalf of the committee, I want to thank you for appearing here

18 today to answer our questions. The chairman also appreciates your willingness to

19 appear voluntarily.

20 My name is [redacted] and I'm with Chairman Jordan's staff. I'll now have

21 everyone else from the committee who is here introduce themselves as well.

22 [redacted] [redacted] with Chairman Jordan.

23 [redacted] [redacted] oversight counsel for the Democrats on the

24 Judiciary Committee.

25 [redacted] [redacted] with Chairman Jordan.

1 Mr. Randolph. I'm [redacted] with Chairman Jordan.

2 [redacted] Thank you.

3 I'd like to now go over the ground rules and guidelines that we'll follow during

4 today's interview.

5 Our questioning will proceed in rounds. The majority will ask questions first for 1

6 hour. Then the minority will have an opportunity to ask questions for an equal period of

7 time if they choose. We will alternate back and forth until there are no more questions

8 and the interview is over.

9 Typically, we take a short break at the end of each hour, but if you would like to

10 take a break apart from that, please just let us know.

11 As you can see, there is an official court reporter taking down everything we say to

12 make a written record, so we ask that you provide verbal answers to all questions today.

13 Do you understand?

14 Mr. Meador. Yes, ma'am.

15 [redacted] So the court reporter can take down a clear record, we will do our

16 best to limit the number of people directing questions at you during any given hour to

17 just those people on the staff whose turn it is.

18 Please try and speak clearly so the court reporter can understand and so the folks

19 down at the end of the table can hear you as well. It is important that we don't talk

20 over one another or interrupt each other if we can help that, and that goes for everyone

21 present today.

22 We want you to answer our questions in the most complete and truthful manner

23 as possible, so we'll take our time. If you have any questions or you do not understand

24 one of our questions, please just let us know. Our questions will cover a wide range of

25 topics, so if you need clarification at any point, just say so.

1 If you honestly don't know the answer to a question or do not remember, it is best
2 not to guess. Please give us your best recollection. And it is okay to tell us if you
3 learned information from someone else; just indicate how you came to know that
4 information.
5 If there are things you don't know or can't remember, just say so, and please
6 inform us who, to the best of your knowledge, might be able to provide a more complete
7 answer to the question.
8 You should also understand that, by law, you are required to answer questions
9 from Congress truthfully. Do you understand that?
10 Mr. Meador. Yes, ma'am.
11 [redacted] This also applies to questions posed by congressional staff in an
12 interview. Do you understand this?
13 Mr. Meador. Yes, ma'am.
14 [redacted] Witnesses that knowingly provide false testimony could be subject
15 to criminal prosecution for making false statements under 18 U.S.C. section 1001. Do
16 you understand this?
17 Mr. Meador. Yes, ma'am.
18 [redacted] Is there any reason you're unable to provide truthful answers
19 today?
20 Mr. Meador. No, ma'am.
21 [redacted] Finally, I'd like to make note that the content of what we discuss
22 here today is confidential. We ask that you don't speak about what we discuss in this
23 interview to any outside individuals to preserve the integrity of our investigation.
24 For the same reason, the marked exhibits that we will use today will remain with
25 the court reporter so they can go in the official transcript, and any copies of these exhibits

1 will be returned to us when we wrap up.

2 All right. That's the end of my opening remarks.

3 Is there anything my colleagues from the minority would like to add?

4 [redacted] Just thank you for agreeing to speak with us voluntarily today.

5 Mr. Meador. Yes, ma'am.

6 [redacted] The clock now reads 10:07 a.m. We'll start with our first round of

7 questioning.

8 EXAMINATION

9 BY [redacted]

10 Q Mr. Meador, when did you join the FBI?

11 A 2002.

12 Q And what was your key motivation for joining the Bureau?

13 A I would say twofold. I was in State law enforcement, and I had a desire to

14 want to receive the best training in law enforcement. And I also had a motivation to

15 want to do more from an investigative standpoint and make a larger impact.

16 Q Uh-huh. And what's your current position today at the FBI?

17 A I'm the special agent in charge of the FBI Richmond Field Office.

18 Q And when did you start in that position?

19 A March/April 2021.

20 Q And can you describe the organizational chart of your office at Richmond?

21 A Sure. We are divided into three branches: the criminal branch, national

22 security branch, and what would be referred to as the mission support branch. Each

23 operational branch has an assistant special agent in charge. And the mission support

24 branch has an administrative officer that oversees most of the support functions within

25 the field office.

1 Q And how many people work out of the Richmond Field Office?

2 A If we look at agents, intelligence analysts -- or the intelligence cadre support

3 and task force officers, federally deputized task force officers, 280, 300 maybe. I know

4 that when I do an all-employee email it's roughly 300, 310. It fluctuates.

5 Q And how many of those employees directly report to you?

6 A Only six. Six.

7 Q Okay. And who's your --

8 A I can go through them individually just to clarify, but mine would be six.

9 Q Six? And who's your direct supervisor?

10 A That would be the Deputy Director.

11 Q And can you walk us through the positions you've held at the FBI since 2002?

12 A Sure. Special agent, supervisory special agent at FBI headquarters, unit

13 chief at FBI headquarters, senior supervisory resident agent out in the field, assistant

14 special agent in charge, chief of staff to the Deputy Director, and special agent in charge.

15 Q And when you were the chief of staff to the Deputy Director, who was the

16 Deputy Director at that time?

17 A David Bowdich. However, he retired during my tenure, and then I had the

18 current Deputy Director for a short period before being assigned to Richmond.

19 Q And what were the dates of your tenure as chief of staff?

20 A I believe March of '20 to 14 months from that point, so April -- I think

21 April -- March/April timeframe of 2021.

22 Q Okay. And in that position, how often did you interact with the Deputy

23 Director?

24 A Daily basis.

25 Q Daily basis? And in that position, how often did you interact with the FBI

1 Director?

2 A I don't know that I could quantify it. I would see the Director, sit in on his

3 various briefings, I would say, maybe once every couple of weeks or just as needed if

4 there were different briefings.

5 Q And as chief of staff to the Deputy Director, how many people directly

6 reported to you?

7 A Approximately five. Approximately five, I believe.

8 Q And in your current position as special agent in charge of the Richmond Field

9 Office, how often do you interact with the Deputy Director?

10 A Not often. Personal interaction, like, one-to-one? Or --

11 Q Just any sort of professional interaction with the Deputy Director.

12 A I would -- well, we have -- if there is an all-SAC brief --

13 Q Uh-huh.

14 A -- sometimes those can be weekly or every other week -- I can see that.

15 That's not a personal interaction, though, just an as-needed basis. Not frequent.

16 Q And have you ever interacted with the FBI Director in your position as special

17 agent in charge?

18 A Not that I -- other than seeing him at, like, the Special Agent in Charge

19 Conference, not that I can recall.

20 Q Thank you.

21 I want to get to the topic of today's interview, the domain perspective that came

22 out of the FBI Richmond Field Office.

23 Can you kind of just describe for us in general, what purpose does a domain

24 perspective serve?

25 A A domain perspective is a product that is written when the analysts see a

1 change in an environmental variable.

2 Q Uh-huh. And how often is the Richmond Field Office creating domain

3 perspectives?

4 A I'd say not often. I don't recall having ever seen another domain -- I don't

5 recall having seen another domain perspective. So I would say not often.

6 Q And are there other types of intelligence products that intelligence analysts

7 are creating that come out of the Richmond Field Office?

8 A Yes.

9 Q And how often is the Richmond Field Office creating intelligence products, in

10 general?

11 A Oh, I think that the intelligence cadre -- I mean, that's their job.

12 Q Uh-huh.

13 A So there's intel products. There's tactical intelligence products that

14 support investigations. So I'd say that's a daily -- you know, just a daily process in the

15 intelligence -- for our intelligence cadre.

16 Q And how --

17 A It doesn't mean that there's one produced every day --

18 Q Uh-huh.

19 A -- but that's things that they work on.

20 Q And how large is the intelligence cadre at the FBI Richmond?

21 A We have four -- I have the assistant special agent in charge, oversees the

22 intelligence branch. And I have four supervisory intelligence analysts that all have

23 intelligence analysts that report to them, or staff operations specialists.

24 Chairman Jordan. This is the only domain perspective produced while you were

25 at Richmond?

1 Mr. Meador. I would have to take that back and double-check. I don't recall
2 seeing another domain perspective, but I would have to --
3 Chairman Jordan. It's the only one you recall seeing?
4 Mr. Meador. Yes.
5 Chairman Jordan. But could there have been others that you didn't see?
6 Mr. Meador. There could've been.
7 Chairman Jordan. But you don't think so?
8 Mr. Meador. I don't recall.
9 Chairman Jordan. Okay.
10 BY [redacted]
11 Q And how many intelligence analysts are at Richmond?
12 A I'd have to take that back. I couldn't provide you an exact number there.
13 Q That's fine.
14 And I'll offer as exhibit No. 1 the FBI Richmond domain perspective titled "Interest
15 of Racially or Ethnically Motivated Violent Extremists in Radical-Traditionalist Catholic
16 Ideology Almost Certainly Presents New Mitigation Opportunities."
17 [Meador Exhibit No. 1
18 Was marked for identification.]
19 BY [redacted]
20 Q And, sir, I'm sure you're familiar with this, but please take your time to
21 review as you need. And to the extent we refer to any sections in the perspective, we'll
22 make sure to note the page number for you.
23 And could you describe to us generally, what was the purpose of this domain
24 perspective?
25 A It's my understanding that this perspective was based off criminal activity,

1 more than one point of criminal activity, and the analysts put together information to
2 point out the criminal activity and similarities and that the focus was for outreach, to
3 conduct outreach in support of that, the information that was found.
4 Q And are you aware of the Inspection Division's report and review of the
5 domain perspective?
6 A Yes, ma'am.
7 Q I'll enter that as exhibit No. 2 just so we can have both as we're reviewing.
8 [Meador Exhibit No. 2
9 Was marked for identification.]
10 BY [redacted]
11 Q And are you generally familiar with the Inspection Division's report?
12 A Yes, ma'am.
13 Q And did you take part in the review that they conducted?
14 A Yes, ma'am.
15 Q Were you interviewed by the Inspection Division?
16 A Yes, ma'am.
17 Q Do you remember the date of your interview?
18 A No.
19 Q No? Was it earlier this year?
20 A I believe April timeframe.
21 Q April? Okay.
22 And can you describe for us what a racially or ethnically motivated violent
23 extremist is, the FBI's definition of that?
24 A It would be an individual that's motivated to commit violence on behalf of a
25 particular belief.

1 Q Okay.

2 And the domain perspective talks about, you know, radically traditional Catholics.

3 To your knowledge, what is a traditionalist Catholic?

4 A I couldn't -- I cannot speak to that. I have a general idea of what I've since

5 learned, but I don't know that I could accurately articulate that.

6 Q And what have you since learned about the definition?

7 A I have since learned that there are -- in the Catholic faith, there are Catholic

8 churches that fall in accordance with the Vatican, which is the Vatican has authority over

9 those Catholic churches, and that there are Catholic churches that do not fall under the

10 authority of the Vatican, the official Vatican.

11 Q Okay.

12 And when did you first learn of the term "radical traditionalist Catholic"?

13 A I believe it would've been in the -- I would've first saw it in the perspective.

14 Q Uh-huh. And according to that INSD's report, the intelligence analyst who

15 conceived of the idea for the domain perspective, you know, first thought of this in

16 September of 2022. Does that kind of match your recollection of when the domain

17 perspective idea came about?

18 A No, I would not have that information.

19 Q Okay.

20 And are you aware of the Richmond domestic terrorism case that's cited in the

21 domain perspective?

22 A I am.

23 Q And were you involved in that case at all?

24 A "Involved" as the special agent in charge of a case out of my field office, yes.

25 Q And can you describe what that involvement looks like in practice?

1 A Well, as the SAC, if you have, for example, a priority matter that you may be
2 briefed on, given the severity of the subject matter or the threat to national security if it's
3 on the national security side, you could -- I would -- could be involved in that.
4 Q And would you say this was, like, a high-profile case for the Richmond
5 office --
6 A Extremely.
7 Q -- or high-priority?
8 A Extremely.
9 Q And on page 6 of the Inspection Division report, at the top of the page, it's
10 talking about the Richmond case, and it said, "[Redacted] self-identified as a 'radical
11 traditional Catholic Clerical Fascist.' INSD interviews revealed this was how Richmond
12 initially learned of the term 'RTC.'"
13 Does that match your recollection of where the term "RTC" came from?
14 A It does, because that -- I recall it from the perspective. What I am unclear
15 on is if that was included in a briefing -- in earlier briefings.
16 Q Okay.
17 A I don't recall that, but I'm not certain that that wasn't in a prior briefing.
18 Q And when you say "prior briefing," that was the ongoing briefings that were
19 occurring related to that specific case that you were involved in?
20 A Yes.
21 Q And so would the individuals in charge of that case brief you on how the
22 case was going? Was that the context of those briefings?
23 A When I heard additional stuff -- additional details related to this case, I called
24 for a briefing, given the severity of the investigative matter.
25 Q And can you help us understand why FBI Richmond kind of adopted that

1 term from the subject, the "radical traditionalist Catholic" term?

2 A It's my understanding that the -- that -- can I ask -- may I ask --

3 [redacted] Yep. We'll go off the record.

4 [Discussion off the record.]

5 [redacted] We'll go back on the record.

6 Mr. Meador. It was my understanding that the subject self-identified as an RTC.

7 And I think -- an additional clarification. This -- there's no -- from my standpoint

8 as SAC, no pre-review of this prior to seeing the document post the publication. I just

9 wanted to clarify that.

10 BY [redacted]

11 Q Okay. And so is it kind of the normal course for FBI Richmond to refer to

12 subjects kind of as they self-identify, in regards to "radical traditionalist Catholic"?

13 A I think, in any investigation, if that's information that the investigation finds,

14 that could be incorporated into the investigation.

15 Q And turning back to the domain perspective as exhibit No. 1, on page 1, in

16 the first paragraph, the last sentence of the first paragraph, it states, "FBI Richmond

17 makes this assessment with high confidence based on FBI investigations, local law

18 enforcement agency reporting, and liaison reporting, with varying degrees of

19 corroboration and access."

20 What does an assessment of high confidence mean?

21 A I would have to defer to the explanation, I think, that is incorporated in the

22 report.

23 Q Yes. It's on --

24 A That'd be page --

25 Q -- page 9.

1 A -- 8? Oh, sorry. I would defer to the definition of "high confidence" on
2 page 9.
3 Q So, according to page 9 of the memo, it states that "high confidence
4 generally indicates the FBI's judgments are based on high quality information from
5 multiple sources."
6 How did your office determine that the information it received to inform the
7 drafting of this domain perspective was high-quality?
8 A I would have to defer back to the analyst that -- that would be the analyst's
9 determination on the intelligence side.
10 Q And do you know if, in the review process of the domain perspective and,
11 you know, in your review of the domain perspective as well, did anyone review the
12 underlying information used to formulate the perspective and the FBI's confidence level?
13 A I cannot speak to that. For myself, though, the document had already been
14 approved and published when I saw it.
15 Q Okay.
16 A So I couldn't speak to that.
17 Q Do you believe that this assessment was made with high confidence?
18 A Again, I would have to defer to the analyst that submitted -- that wrote the
19 product and contributed to it.
20 Q And in the beginning of the second paragraph on the first page, the memo
21 states, "In making this assessment, FBI Richmond relied on the key assumption that
22 RMVEs" -- racially motivated violent extremists -- "will continue to find RTC ideology
23 attractive and will continue to attempt to connect with RTC adherents."
24 Where did this key assumption come from?
25 A That would've been from the analytical side.

1 Q And can you describe what you mean by the "analytical side"?
2 A That would be the intelligence cadre who are drafting and putting the
3 product together.
4 Q And what evidence and information supported equating RTCs to RMVEs?
5 A The -- I think the underlying criminal activity associated -- or, that's detailed
6 in the -- that served as the basis for the report.
7 Q Uh-huh.
8 And the INSD review found that there was lack of sufficient support to equate
9 RTCs to RMVEs. Are you aware of that fact from the INSD's report?
10 A Yes.
11 Q And do you know if, during the review process of the domain perspective,
12 did anyone consider the proper support for this assumption?
13 A I couldn't speak to that.
14 Q And who would know whether or not the proper -- during the review
15 process, if it was reviewed that there was proper support for the key assumption?
16 A I think that would be the -- well, I think that's each level.
17 Q Uh-huh.
18 A I think the drafter has a responsibility, and then other approving officials
19 would have a responsibility as well.
20 Q And on the bottom of this page, it says -- or, I'm sorry. Right after that
21 sentence, it says, "Indicators that would cause FBI Richmond to revise the judgments or
22 confidence levels in its assessment include increases or decreases in RMVE subjects'
23 attendance at RTC or traditionalist Catholic places of worship."
24 How many RMVE subjects did Richmond Field Office know were attending
25 Catholic services?

1 A Can you repeat that?

2 Q Yeah, sure. How many RMVE subjects had the Richmond Field Office

3 identified as attending Catholic services?

4 A I'm not aware of any.

5 Q Okay. And so, when it's making this statement that the confidence levels

6 would increase or decrease based upon RMVE subjects' attendance at RTC or traditional

7 Catholic places of worship --

8 A Actually, one clarification.

9 Q Sure.

10 A This is -- because the product was based on criminal activity, three different

11 entities across the country, this could apply at large --

12 Q Uh-huh.

13 A -- not -- it's my understanding, not narrowly defined to Richmond. This

14 could apply for whoever the consumer of the product is, reading across the -- this could

15 apply to that, to the greater.

16 Q And how did the Richmond Field Office know that RMVE subjects were

17 attending these services?

18 A Well, I could only speak to -- can I have a moment?

19 [redacted] Yes. We can go off the record.

20 [Discussion off the record.]

21 [redacted] We can go back on the record.

22 Mr. Meador. So one more time?

23 BY [redacted]

24 Q So how did FBI Richmond determine that RMVE subjects were attending

25 Catholic services?

1 A Through -- in the Richmond -- for Richmond, it would've been pursuant to
2 investigation. It would've found that information.
3 [redacted] For the Richmond investigation?
4 Mr. Meador. For the Richmond investigation. I can't speak to the other.
5 BY [redacted]
6 Q Okay. For the Richmond investigation, was the field office monitoring the
7 RMVE subjects' movements to the Catholic service? Or how did you determine that that
8 subject was attending Catholic services?
9 [redacted] So I just want to be careful because we're talking about a criminal
10 investigation, parts of which remain ongoing, so we just have to be careful. I want to
11 make sure you all get the information you need, but just wanted to flag, we have a, you
12 know, criminal investigation, ongoing matter. So I'll ask him to answer to the extent he
13 can without revealing details about an ongoing criminal matter.
14 Mr. Meador. I think that, given the pending criminal matter, I would not feel
15 comfortable answering that.
16 BY [redacted]
17 Q Is the FBI Richmond office monitoring attendance at Catholic services?
18 A No.
19 Q Has the FBI Richmond created or maintained a list of radical traditionalist
20 Catholic churches?
21 A No.
22 Q On the bottom of the second paragraph --
23 A With the exception of what -- I mean, what has been noted by the analysts in
24 this report.
25 Q Did the analysts come up with that list, or was that a preexisting list?

1 A They're not -- it's my understanding that these are just pursuant to the
2 report and the criminal activity. These were entities highlighted by the analyst. But,
3 no, I'm not aware of any list.
4 Q On the bottom of the second paragraph on the first page, the memo states,
5 "FBI Richmond assesses RMVE interest in RTCs is likely to increase over the next 12 to 24
6 months in the run-up to the next general election cycle, complicating the overall RMVE
7 threat picture while also creating new opportunities for mitigation efforts."
8 Why do you think there was a reference to the next general election cycle?
9 A As I've since been educated through this process in getting more educated
10 on the product and the substance of the product, it's my understanding that the various
11 topics -- or, topics that are of interest to varying groups are, I think, considered
12 polarizing -- would be polarizing topics and that are topics that I think are in the forefront
13 externally right now. So I think that -- I believe that's where that comes from.
14 Q And when you say the "topics of interest," what topics are you referring to?
15 A I think immigration, LGBTQ+-type topics.
16 Q Did FBI Richmond assess what, you know, interest RTCs and RMVEs had in
17 those topic areas?
18 A I believe the product, if I'm not mistaken -- I would have to go back to
19 the -- so I think that -- okay, like, page 4 --
20 Q Uh-huh.
21 A -- under the "Outlook," first paragraph, I think they've noted those -- some of
22 those topics.
23 Q So, on page 4, it says, "Catalyzing events in which RMVEs and RTC adherents
24 might have common cause include legislation or judicial decisions in areas such as
25 abortion rights, immigration, affirmative action, and LGBTQ protections."

1 Are those the topics that you were referring to?

2 A Yes, ma'am.

3 Q And how did the FBI Richmond assess those topics and how they could be

4 catalyzing events to RMVEs?

5 A I couldn't speak to that.

6 Q And who would be able to speak to that?

7 A That would be the analysts.

8 Q How did the election complicate the overall RMVE threat picture?

9 A I couldn't speak to that.

10 Q And who could speak to how the election cycle would complicate the overall

11 RMVE threat picture?

12 A I think I would have to go back to the analysts, what the analysts are writing

13 to inform or to -- whatever the product is, I think that would be the analysts'

14 responsibility.

15 Q And what basis was relied on to conclude, as the memo does, that RMVE

16 interest in RTCs is likely to increase over the next 12 to 24 months in the lead-up to the

17 election?

18 A I think the -- well, the product was based on criminal activity. They

19 observed -- or, based on the criminal activity. Again, I would have to defer back to the

20 intelligence cadre for that.

21 Q Does the reference to the general election cycle, as well as how you

22 described the polarizing issues, does that concern you at all that it was overly politicized?

23 A I'm not -- I don't -- I'm not -- the over-poli- -- I'm not agreeing with the

24 over-politicalization statement.

25 Q Okay.

1 A I think, you know, the product was based on criminal activity, which, in turn,
2 led to the recommendations to conduct outreach in support of what the analysts found.
3 Q Did the reference -- when you read the domain perspective for the first time,
4 did the reference to the general election cycle as well as, as you described, the polarizing
5 issues, did that concern you at all? Or you had no concern about those references in
6 this intelligence product?
7 A No, I would clarify that when I first -- when I saw the document, I did not
8 give it the review that it's being given today.
9 Q Uh-huh.
10 A But I read through the document, but I did not -- I saw the basis for criminal
11 activity and the -- based on my knowledge of the severity of what it involved and my
12 prioritization of outreach in the Richmond Field Office and the outlook -- or, the
13 conclusions of conducting outreach, for me, that was the only -- that was the connection I
14 made.
15 Q And at the end of that paragraph, it references "the quality of the source
16 information and the lack of significant uncertainties." That's on page 2 of the memo.
17 How did the Richmond Field Office judge the quality of the source information
18 that was used to inform the domain perspective?
19 A I couldn't -- again, I could not speak to that.
20 Q And who would be able to speak to that?
21 A That would be the -- that would be the intelligence side.
22 Q And how did the Richmond Field Office determine that significant
23 uncertainties regarding the information included in this intelligence product did not exist?
24 A I don't know if I understand. Maybe point to where that was again.
25 Q Yep.

1 A I'm not sure I understand that question.

2 Q So, at the top of the page, the last sentence before the yellow box, it states,

3 "FBI Richmond did not include an Analysis of Alternatives in this product due to the

4 quality of the source information and the lack of significant uncertainties."

5 A So, again, the question?

6 Q So how did the Richmond Field Office determine that significant

7 uncertainties did not exist?

8 A I couldn't speak to that. I think that in the totality of -- it would be my

9 understanding, in the totality of this product, based on the criminal activity, the

10 additional information of what the analyst is using to make this -- in totality, I think that's

11 what the analyst put forward. I couldn't speak to what the analysis of alternatives

12 would be. I couldn't speak to that.

13 Q And who would be able to speak to why there was no analysis of alternatives

14 because of the lack of significant uncertainties?

15 A Certainly that would be the intelligence cadre.

16 [redacted] And just to point out that a number of these questions, I believe,

17 address by the Inspection Division's review, in terms of the standards. And I don't

18 believe that the witness has undertaken a separate review on those standards.

19 Mr. Meador. No.

20 [redacted] So, to the extent that the inspection review has drawn conclusions

21 about the review itself, they're reflected in the report.

22 [redacted] Okay. And we're asking about, you know, his knowledge of the

23 topic and his review, as well as, you know, what intelligence analysts were briefing to

24 him --

25 [redacted] Sure.

1 [redacted] -- okay?

2 BY [redacted]

3 Q At the beginning of the "Source Summary Statement" in that yellow box, it

4 states, "Reporting in this Domain Perspective was primarily derived from an FBI Richmond

5 contact with direct access who reported for the first time, an FBI Portland liaison contact

6 with direct access, an FBI Undercover Employee with direct access, local law enforcement

7 agency reporting with varying degrees of corroboration and access, and open source

8 reporting."

9 What does it mean when the memo states the "FBI Richmond contact with direct

10 access"?

11 A Well, that would be -- that would be someone that has direct access to --

12 [redacted] What does "direct access" mean?

13 Mr. Meador. Firsthand knowledge.

14 BY [redacted]

15 Q And why is it significant to mention that the individual reported for the first

16 time?

17 A I think that's just a caveat for the reader to know that this is the first time

18 this reporting had been received.

19 Q And what does it mean when it says "local law enforcement agency

20 reporting with varying degrees of corroboration and access"?

21 A That could be -- you know, outside of this document, that could be any

22 liaison contact with the local law -- local, State, or the Federal law enforcement,

23 investigative steps they may have or additional information they may have.

24 Q Did you have an understanding of if it was just local law enforcement agency

25 partners in the Richmond area, or was it Portland and Milwaukee as well?

1 A No, just Richmond.

2 Q Just Richmond?

3 A Uh-huh.

4 Q And did you have an understanding of what the analysts meant by "open

5 source reporting" when you reviewed this domain perspective?

6 A Well, I wouldn't have keyed in on that my time -- my first -- but since then,

7 open-source reporting would be anything that's openly, publicly available.

8 Q And does the FBI typically rely upon open-source reporting?

9 A The FBI relies on varying sources of information.

10 Q Uh-huh.

11 A And as we conduct our investigations or our analysis, there could be varying

12 sources of information.

13 Q And open-source reporting is one of those sources?

14 A Yes, ma'am.

15 Q The second-to-last sentence of the "Source Summary Statement" states that

16 "open source information was instrumental in providing an understanding of current

17 trends in the far right white nationalist movement and background information on the

18 various RTC and traditionalist Catholic factions."

19 Within the Inspection Division's review of the domain perspective, they

20 determined that the use of "RTC" and "far right" was not -- they were not accurately used

21 in this domain perspective.

22 Do you have an understanding of what is meant by "far right"?

23 A Generally.

24 Q Can you explain that understanding?

25 A Not at this time, no. I don't -- I would not feel comfortable, fearing I may

1 misspeak about that, because I don't -- for me -- yeah, I would not feel comfortable trying
2 to explain that.
3 Q When you were reading the domain perspective for the first time, did you
4 have an understanding of how the intelligence analyst was using references to the
5 far-right in this domain perspective?
6 A From my review, I went -- you know, once I saw the criminal activity, what it
7 was based upon, and, you know, having the prior knowledge of that subject matter, and
8 then the request to conduct outreach, that was my main focus for this document.
9 Q And did you have an understanding of how open-source information was,
10 quote, "instrumental in providing an understanding of current trends" related to the
11 domain perspective?
12 A Not specifically. I know that, in general, in my role, that the FBI uses
13 open-source information for cases and analysis, but I wouldn't have -- this was published
14 and approved, and then I review it. I wouldn't have -- that wouldn't have stuck out to
15 me.
16 Q Okay.
17 Chairman Jordan. Who is ultimately responsible for approving it?
18 Mr. Meador. It would be the intelligence program coordinator, the IPC, who's
19 also a supervisory intelligence analyst. The CDC is only a -- to my understanding, is only
20 a reviewer.
21 [redacted] Will that change, the review process?
22 Mr. Meador. So -- yes. Well, in accordance with knowing we just received the
23 final inspection report, one of the recommendations in the report was that intelligence
24 products be designated sensitive investigative matters. And when they are, they require
25 the approval of the SAC and headquarters personnel -- senior-executive-level

1 headquarters personnel as well.

2 Chairman Jordan. So, on page 6 of the domain perspective, there are five

3 different individuals who are -- we don't know their names, but they give their

4 titles -- "Approval," "Reviewed," "Coordinated with."

5 So the approval, so the very first one, is supervisory intel analyst/IPC RH CSCC.

6 That's the person who's ultimately responsible, that individual?

7 Mr. Meador. Yes, from an approval process, yes, the IPC, the intelligence

8 program coordinator.

9 Chairman Jordan. Okay.

10 [redacted] At this time.

11 Mr. Meador. At this time.

12 BY [redacted]

13 Q And how long had that approver -- how long have they worked at the FBI

14 Richmond?

15 A He's -- I couldn't speak to the exact time. He's fairly senior.

16 Q Has he worked there as long as you've been there?

17 A Yes, ma'am.

18 Q And do you know how many intelligence products he's reviewed and

19 approved?

20 A I know that, as an -- no, I couldn't speak to that. Specifically to him, I

21 cannot speak, because he would -- as a field office for the -- I would know for the fiscal

22 year roughly into the number of intelligence products, but whether or not he was the one

23 individual on each one -- you know, I know sometimes there may be someone in an acting

24 capacity or he may be out. So I couldn't speak to the number that he would have done.

25 Chairman Jordan. How many intel analysts are there in the Richmond Field

1 Office?

2 Mr. Meador. There are four supervisory intelligence analysts. Under them, I'm

3 not -- I can't give you an accurate number.

4 Chairman Jordan. Ten?

5 Mr. Meador. I would say --

6 Chairman Jordan. More than 10 total?

7 Mr. Meador. Maybe 10. Maybe.

8 Chairman Jordan. Okay.

9 BY [redacted]

10 Q Was the approving IPC -- was he the supervising person over the authoring

11 intelligence analysts?

12 A No.

13 Q No, he was not?

14 A No.

15 Q Is there another person who's the supervisor of the intelligence analysts?

16 A That's the SIA, the -- there's a different supervisory intelligence analyst.

17 Q Is that the individual that's below the SIA/IPC on page 6 of the memo?

18 A That's my understanding, yes.

19 Q So that individual supervises the authoring intelligence analysts?

20 A Yes, with the caveat that I'm unsure on -- there's a coauthor.

21 Q Uh-huh.

22 A But the primary author would fall under this SIA. The coauthor I'm unsure

23 on.

24 Q And looking at the approvers of the domain perspective, if you go to page 8

25 of the INSD's report -- that's exhibit No. 2 --

1 A Sure.

2 Q -- the first full paragraph says that "SIA [redacted] stated during her

3 interview with INSD that she didn't make many edits."

4 Do you know if this is common practice?

5 A To not make edits?

6 Q Correct.

7 A Well, that would be -- it's up to the -- I'd have to defer to the individual

8 approver.

9 Q So the SIA who's referred to here would know more about whether or not

10 it's common practice to not make edits to an intelligence product that they're approving?

11 A Well, I would defer to anyone that's in the approval chain, that that would

12 be their -- whether or not they make changes or edits or not, that would be up to

13 whoever the approver is.

14 Q And prior to this domain perspective, did you have an understanding of the

15 review and approval process that went on at FBI Richmond for intelligence products,

16 including domain perspectives?

17 A Yes. I have an understanding that intelligence products go through a chain

18 of command, much like any other document, for approval.

19 Q Uh-huh. And how long had the SIA who approved this domain perspective

20 worked at Richmond? Had she been there as long as you've been there?

21 A I think she had just gotten there. I don't think at the time -- maybe 2-,

22 2-1/2-, 3-year timeframe. I think she had just gotten there.

23 Q Does this SIA still approve intelligence products at this time?

24 A Yes.

25 Q In that same paragraph, it states, "During his interview, IPC SIA [redacted]

1 stated he did not know where the term 'RTC' originated and was not part of the
2 confidence level decision on the DP."
3 Is it your understanding that, at that point, the confidence level specified in the
4 domain perspective had not been decided at that point in the review and approval
5 process?
6 A I'd have to defer to Inspections. This is Inspections' review, so I'd have to
7 defer to their -- that's their findings. I'd have to defer to that.
8 Q And according to your understanding of the review and approval process for
9 intelligence products, when does the confidence level get decided? Is that on the
10 intelligence analyst drafting it, or does that get done during the review and approval
11 process?
12 A I'm unclear on that.
13 Q Does it concern you that the approving IPC didn't know where the "RTC"
14 term originated from?
15 A I think that the -- well, I think there's varying -- there's a lot of data in an
16 intelligence product. I think there are a lot of points. So I think that -- I don't know
17 what he or she would've taken into consideration of -- I couldn't speak to what he knew
18 or didn't know and how that formed his -- do I have a concern? I think that -- I think
19 that the intelligence -- I mean, they have a -- that is their craft. That's their -- they just
20 have more knowledge of that. I couldn't speak to that.
21 Q And how are the approving official's edits documented?
22 A Say -- how --
23 Q How are the approving official's edits to the document documented in FBI
24 systems?
25 A Well, anything, if it comes through the formal workflow process in SENTINEL,

1 has a review, and you can comment there. But I'm unclear, on the intelligence side, if
2 they have a draft place. I think they -- there is a -- I'm unclear on that. I'm unclear.
3 Q And does the IPC still review and approve intelligence products at this time?
4 A He does.
5 Chairman Jordan. I want to make sure I pronounce your name right. Mr. Me- --
6 Mr. Meador. "Medder."
7 Chairman Jordan. "Medder."
8 Mr. Meador. Yes, sir.
9 Chairman Jordan. Mr. Meador, so I want to go back. You said you weren't
10 concerned that the intelligence analyst couldn't define the term "RTC."
11 I mean, you told us earlier that you couldn't define the term at the time that this
12 was put together. And now you're saying you're not concerned that the person whose
13 job it is to approve it, put this document together, couldn't -- we know from the
14 investigation that they couldn't define the term either.
15 [redacted] I'd like to clarify. I think that was where the term came from.
16 Mr. Meador. Yes. Yeah, I --
17 Chairman Jordan. Same question. You're not concerned -- you said you
18 weren't concerned that the analyst who approved this did not know the origins of the
19 term.
20 Mr. Meador. At the time of review? At my time when I see it?
21 Chairman Jordan. No, just -- this is based on what [redacted] just read from the
22 investigation, the internal investigation that the FBI did.
23 Mr. Meador. I'm taking into consideration that -- and probably may be doing it
24 too broadly -- but that the intelligence analysts are taking into a lot of consideration for
25 what they're reviewing.

1 Do I think it's a concern that the IPC did not know where it came from?

2 Chairman Jordan. Uh-huh.

3 Mr. Meador. I think that question could be -- I would actually defer back. I do

4 not know what the substance of those discussions were with the IPC. So, without

5 having the context, I'm unsure of what that could've meant. I don't think I could -- I

6 don't think I could speak to that.

7 Chairman Jordan. I guess I'm just struck by: You, as the guy in charge of

8 Richmond Field Office, can't define the term, couldn't define the term when it was put

9 together, still don't want to define it now. You weren't able to answer, not aware of the

10 number of RMVE subjects attending Catholic places of worship. You can't tell us how

11 you determined that an RMVE went to a, quote, "radical traditional Catholic" church.

12 And we now find out that the person who wrote the document didn't even know the

13 origin of the term. There are so many things that we don't know about, yet it's put in a

14 document that's sent around across the system.

15 I'll go back to [redacted]

16 BY [redacted]

17 Q Have you had any discussions with the approving officials regarding the

18 domain perspective?

19 A Yes.

20 Q And can you detail those discussions for us?

21 A Yes. I have had -- the first instance that I learned that the leak occurred, I

22 immediately reached out to Office of General Counsel, Counterterrorism Division, and the

23 Director of Intelligence, and I asked them to come to Richmond ASAP to conduct training,

24 guidance, and more discussion on this to help us learn what the issues were.

25 Q Uh-huh.

1 A So I did -- I had the full intelligence team, the domestic terrorism cadre, I got
2 them all in the room, and we had that training-slash-discussion on this.
3 Chairman Jordan. Just a second, Mr. --
4 Mr. Meador. Yes, sir.
5 Chairman Jordan. Was the concern that a leak had taken place, or was the
6 concern what was in the document?
7 Mr. Meador. My concern was, what -- because of the statement that the
8 product didn't meet the exacting standards, my concern was, what did Richmond -- what
9 did we not do here? My concern is, what is in here that is problematic? And whatever
10 it is --
11 Chairman Jordan. That was based on the fact that main FBI had put out the
12 statement that it didn't meet the exacting standards?
13 Mr. Meador. Well, that's the -- it would've been the first time -- that's the -- post
14 the leak, that's the first time I would've saw it.
15 Chairman Jordan. That's how you knew about the --
16 Mr. Meador. Yes. And so I wanted to quickly, as soon as we could, get more
17 information on this to figure out what had occurred there.
18 I also -- as we moved forward, I asked certain individuals, you know, pointedly,
19 like, what am I missing? Help me understand what -- educate me on this. You know,
20 give me some insight on what we did here and what's the substance of this to get more
21 clarity on the product.
22 I also -- as the time progressed, I also learned of -- when I started getting
23 information from headquarters on the things like not having a clear -- roles and
24 responsibilities clearly delineated, I did not wait on the inspection report. I came back
25 and had the team -- requested the IPC to start having a formal peer-review process. It's

1 not something that is a policy, and it's not a directive from the Director of Intelligence,
2 but I learned that some offices have formal peer-review processes. So I had the IPC
3 start finding those peer-review processes throughout the Bureau so that we could
4 formalize a peer-review process.
5 I also, when I learned of the analytical tradecraft standards, Intelligence Directive
6 203 on analytical tradecraft standards, had more discussion on that and actually
7 held -- invited everyone in the field office to join an all-employee call, where I mentioned
8 that I spoke to the ICD 203 and the new formalized peer-review process. And that was
9 something we -- I also sent out an all-employee communication.
10 I've continued, as I've learned information, to talk with the team on things that
11 have been identified, like the roles and responsibilities and so forth.
12 BY [redacted]
13 Q And so, prior to the INSD's inspection as well as the public reporting on the
14 domain perspective, did you have an understanding of the FBI's tradecraft standards or
15 no?
16 A I had -- I have -- I do not recall in my career seeing -- ever having seen ICD
17 203, analytical tradecraft standards.

1 [11:03 a.m.]

2 BY [redacted]

3 Q And whose role is it to review for tradecraft standards in the review and

4 approval process of intelligence products?

5 A Well, in Richmond now, we have a formalized peer review process so that

6 everyone knows who is responsible for what in the intelligence product review process,

7 so that if you get it and you're reviewing for tradecraft, you know you're reviewing for

8 tradecraft.

9 Q And in this specific instance with this domain perspective, who's

10 responsibility was it at that time to review for tradecraft standards?

11 A I think that's one of the things that we learned from the inspection report is

12 that there was lack of understanding of who -- that goes back to the roles and

13 responsibilities. There's lack of understanding as to who's supposed to do that.

14 Q Do you have an understanding of whether or not this domain perspective

15 was reviewed for tradecraft standards?

16 A I would have to defer back to the inspection findings that they made their

17 conclusion regarding that.

18 Q And that's on page 7 of the report, so the record's clear. At the end of the

19 second paragraph it says, INSD found that no Richmond personnel reviewed the DP for

20 analytic tradecraft.

21 Does that concern you now knowing that this domain perspective was never

22 reviewed for analytic tradecraft?

23 A I think that the -- what has been extremely helpful now that we have a final

24 report is that -- is to know the substance of the issues related to the document. So I

25 think it's concerning that -- that -- the importance of that, but obviously from what we've

1 learned from this, yes, that they need -- that that is a part of the intelligence process.

2 Q And at the time the approving officials were reviewing this specific domain

3 perspective, did you have any conversations with them about the domain perspective at

4 the time of their approval?

5 A No.

6 Q Did you have any previous concerns about either approving officials'

7 performance?

8 A No.

9 Q And the inspection division report requires an admonishment of the

10 approving officials. Has any other disciplinary action been taken against the approving

11 officials?

12 A No.

13 Q Are you responsible for admonishing the approving officials?

14 A I am, pursuant to the -- I think the way the articulation in the report is that

15 I'm directed -- I believe I'm directed to conduct that admonishment.

16 Q And would you be responsible for taking any other disciplinary action against

17 the approving officials?

18 A Only if directed. Since they do not report to me, they have their own rating

19 and reviewing official. That would not be me, with the exception of the CDC.

20 Q And who's the rating and reviewing official for the two SIAs that approved?

21 A The -- they report to the ASAC.

22 Q The ASAC of the intelligence cadre?

23 A So -- yes, but I would have -- I would have -- correction, I would have

24 reviewed for the IPC in the SIA. I would have reviewed for that, those two. Sorry.

25 [redacted] Any other questions?

1 We'll go off the record.

2 [Recess.]

3 [redacted] We can go back on the record, please.

4 EXAMINATION

5 BY [redacted]

6 Q Good morning again, Mr. Meador.

7 A Good morning.

8 Q Thank you again for joining us today.

9 I just want to talk first a little bit more about your background before we move on

10 to the substance. I understand that you joined the FBI in 2002. Is that right?

11 A Yes, ma'am.

12 Q And I notice a lot of people who join law enforcement or the military in that

13 year were specifically motivated by 9/11. Is that the case in your experience --

14 A Yes, ma'am.

15 Q -- or not?

16 Can you explain a little bit about that?

17 A Yes. I had actually turned my application into the FBI in August of 2001.

18 And then in my role in law enforcement in Virginia, I was a first responder to the

19 Pentagon on 9/11. And so for me, I knew -- obviously, I knew I wanted to join the FBI,

20 but when I responded to the Pentagon and spent the days there, knew that I had made

21 the right choice because of what I -- what I was personally participating in and witnessing.

22 And for me, you know, I knew -- you know, I knew from that, from 9/11, that

23 because of what we had done, I -- I -- my personal opinion was that we were going to get

24 sick from that. So I actually filed a form right after that along the lines of workers' comp

25 for the response to 9/11, and then unfortunately received my first cancer diagnosis in

1 2013, metastasized again in 2016. And then I was successfully -- I joined the
2 World Trade -- got into the World Trade Center Health Organization and was since
3 certified for my health condition to 9/11.
4 Q Meaning that there was a connection that is clear between the cancer that
5 you were diagnosed with to having been exposed to --
6 A Yeah, potentially. I think anyone in the World Trade Center Health -- that
7 get sent to the organization that could've been because of the predisposition that
8 could've affect -- could've resulted in the ailment.
9 Q Not to dwell on this too long, but when you responded on 9/11, was that
10 over the course of several days?
11 A Yes, ma'am. I spent approximately 8 days collecting evidence and working
12 in the rubble pile.
13 Q Well, thank you for your service.
14 A Yes, ma'am.
15 Q And moving to your career in the FBI, just, again, more broadly, it seemed
16 from your description that most of your career has been in the criminal context, is that
17 fair to say, with the FBI?
18 A Yes, ma'am.
19 Q Okay. And you have not had any specific positions in the intelligence field
20 of the FBI?
21 A I served for 1 year as a HUMINT special agent, so that is where you operate
22 sources and collect -- just collect information.
23 Q Okay. But you wouldn't have, like you said before, been exposed to
24 directive 203 or sort of the tradecraft --
25 A No.

1 Q Okay.

2 A No, I'm the special agent, not an intel analyst. They have a -- it's a whole

3 separate training regiment they go through, and it's a whole separate -- one team, one

4 fight, but they have their own training cadre they go through.

5 Q Understood. While you were an agent in the FBI and throughout your

6 career, did you receive any awards for your work?

7 A Yes, I did receive a declaration of valor for 9/11, but that was in the

8 State -- State law enforcement side. But I have received several, numerous.

9 Q Okay. And have you ever been admonished, demoted, or anything in that

10 context with regard to your work in the FBI, other than anything related to this domain

11 perspective?

12 A No, ma'am.

13 Q Let's move on a little bit to the domain perspective itself and your role in

14 that. And I just want to focus -- before we get into like a series of organized questions, I

15 want to focus on two things that came up in the first hour, the first being the term

16 "radical traditionalist Catholic." And you indicated that that is not something that you

17 were familiar with personally in your experience as an FBI agent. Is that correct?

18 A Yes, ma'am.

19 Q Before this happened, right?

20 A Yes, ma'am.

21 Q Okay. And is it fair to say that the term "radical traditionalist Catholic,"

22 even in the context of this domain perspective, did not originate from the FBI analyst or

23 any other FBI employee; it was just repeated by them because a criminal subject in your

24 area of operation identified himself in that way?

25 A Yes. The term "radical traditionalist Catholic" is -- the FBI didn't invent that

1 term. In this particular matter, the subject self-identified as that. So that -- that's
2 not -- and that's not a term -- correct.
3 Q Okay. And so when you said earlier that it might not have been important
4 for you to track down the origin of that term, is it fair to say that that may be because it's
5 not a term that the FBI was adopting or in any way trying to explain; it was just a term
6 you came across in the course of the investigation because someone else had
7 characterized himself in that way?
8 A Yeah, I think what's important to highlight here is that there are
9 investigations and then intelligence products. In an investigation, if -- if a subject, you
10 know, self-identifies as any -- in any particular title or whatever it may -- whatever name
11 you want to give it, that's information that of course it can go -- pursuant to that
12 investigation, it would go into that case file pertaining to that subject who is a predicated
13 or -- or a full investigative subject that we're looking at.
14 On the intelligence side, if the intelligence analyst took the basis of, you
15 know -- took the criminal activity and saw -- you know, was trying to connect dots and
16 kind of look across the country and do what analysts do and connect the dots and to put
17 forth information to be informed, they could've learned that information and taken it
18 from the investiga- -- what they see in the investigation.
19 Q So you all in the FBI were basically observing what you saw in a criminal
20 investigation, and that was the use of this term by the subject himself and other subjects?
21 A Yes. That's my understanding is we have the case, the criminal activity, and
22 that is a part of -- that is something that is observed in the -- in that investigative phase.
23 Q Understood. So in this case, you were asked in the first hour just generally
24 what is a domain perspective, and your answer was -- basically, you indicated that you
25 don't have a lot of experience personally with domain perspectives. Is that fair to say?

1 A Yes, ma'am.

2 Q Okay. Would you agree that domain perspectives can be used in the

3 context of criminal investigations to identify patterns and to also help with outreach?

4 A Yes. Yes. I think that -- that is the purpose. It is to look at -- it -- in

5 my -- maybe see something, say something. That's -- in law enforcement that's common

6 speak for how we try to get ahead of a threat and we try this, you see something, say

7 something. And so if you -- and especially if we ask a lot, especially in the post-9/11

8 world of our analysts to, you know, their responsibility and role is to try and connect dots

9 and get ahead of the threat. So if you see something, say something.

10 So that domain perspective is one outlet to do to show that, hey, there's a change

11 in the environment. Hey, someone should look at this and maybe go talk to someone

12 and conduct outreach -- as this example, go conduct outreach in support of it.

13 Q Okay. And let's talk a little bit about the context in Richmond and in the

14 country at the time that this domain perspective was created. We've already heard

15 testimony that you had a subject -- a predicated, fully predicated domestic terror subject

16 who had engaged in criminal activity within the Richmond area of operations, correct?

17 A Yes, ma'am.

18 Q And that subject was of very high importance to your office, correct?

19 A Yes, ma'am.

20 Q That was because of the violence that he threatened in that community?

21 A Based on the investigation, it was determined that it is the severity and

22 dangerousness of the individual involved, yes, that the investiga- -- we found that

23 pursuant to our investigation.

24 Q And that person at the time was an -- you -- was determined to be an

25 ongoing threat by the FBI?

1 A Yes, ma'am.

2 Q Okay. Now, it was that person who used the term "radical traditionalist

3 Catholic" to describe himself, correct?

4 A Yes, ma'am.

5 Q And when the domain perspective was conceived and written, other -- the

6 analysts reached out to or found information about subjects in other areas of operation

7 who also identified themselves in a similar way in terms of radical traditional Catholicism,

8 correct?

9 A I believe so, and I would have to defer to the -- to the contents of the DP

10 where those specific points are outlined --

11 Q Okay.

12 A -- as far as what the analysts --

13 Q Is it fair to say based on your reading and your recollection of the DP that,

14 again, those terms referring to radical traditionalists or Catholic, those terms came from

15 the criminal subjects not from any FBI employee who tried to characterize the people in

16 those ways?

17 A Yeah. It's my understanding it came from our main predicated subject --

18 Q Okay.

19 A -- because he self-identified.

20 Q In -- the Richmond subject?

21 A Yes, ma'am.

22 Q But also with respect to the people in the other areas of operation, when

23 they refer to themselves, those terms are self-identification. They're not FBI terms that

24 are being superimposed over these people.

25 A I would have to defer to how the analysts explained the other subjects'

1 affiliation with that.

2 Q Okay. And affiliation, meaning like the actual church organizations that

3 they were involved with?

4 A Yes, ma'am, and what that is, yes.

5 Q Understood.

6 A Yes.

7 Q And so let's talk about that, because that was another subject that was

8 raised in the first hour. I think that you were given the question, you know, do you

9 know or does anybody who participated in the formation of the DP know how many racial

10 and ethnically motivated violent subjects happen to attend these Catholic churches, and

11 you said no?

12 A No.

13 Q That's not something that --

14 A That's not something I would -- right.

15 Q Right. But it is clear from the domain perspective and the work that the

16 analysts did in preparing it that, with respect to the Richmond subject, he did attend a

17 local organization, the Society of Saint Pius X, which is in the domain perspective. Is that

18 fair to say?

19 A Yes, ma'am.

20 Q Okay. And he attended that church organization for, I believe it says

21 7 months, but a substantial period of time, according to the analysts who wrote this?

22 A I would have to -- I'm unsure of the date, the length of time.

23 Q If I -- so under exhibit 1, if you would refer to page 2. And it's right there in

24 the first bullet point at the bottom of the page. Actually, the last sentence there in that

25 last bullet point.

1 A Yes. Yeah, 7 months as noted in the DP.

2 Q Okay. And so, I mean, that information, it's just a fact that was derived

3 from the investigation, correct?

4 A Yes.

5 Q Okay. And --

6 A Because, remember, this -- the -- if I could -- if I could note the -- in the same

7 bullet point the 2022 arrest.

8 Q Yep.

9 A And then the drafting of the DP as post, if we go to the timeline, the

10 inspections timeline, it is post this. So this was already --

11 Q This was known to the FBI when the --

12 A This had already occurred.

13 Q Right.

14 A Yes.

15 Q And, I mean, that -- the subject's participation in that organization or church,

16 whatever you want to call it, that was ongoing and known to the analysts who prepared

17 this, correct?

18 A Yes.

19 Q Okay. Is that what you were trying to say, or are you trying to say

20 something more?

21 A Yes, ma'am. Yeah. Yes, they would've -- they would've known that, yes.

22 Q Sure.

23 A Oh, absolutely.

24 Q Sure. So when you're asked about whether you're concerned that this

25 document prepared by the FBI analyst is using terms that refer to Catholics or Catholic

1 organizations, is it fair to say that those terms are not being sort of equated with any
2 violent activity; they're just being used because it describes a factual situation that was
3 found during the course of the investigation?
4 A Correct. And if I could -- if I could give an analogy, if we're conducting an
5 investigation and, you know, someone is stealing catalytic converters from a certain
6 location, that certain location would probably be noted in the case file, not because of
7 anything related to the location other than the criminal -- than the connection that the
8 subject had to the location. So, yes, to answer your question.
9 Q Okay. And now, with respect to this particular church organization, the
10 Society of Saint -- sorry, Pope [sic] Pius X, I want to make that right, the subjects that were
11 discussed in other places in the domain perspective, the Portland subject and the other
12 one, at least one of those also attended the same -- or church with the same name. Is
13 that fair to say, according to the document?
14 A According to the document, yeah.
15 Q Okay. So, again, when the analyst is highlighting that, they're noting a
16 pattern that derives factually from the investigation; they're not suggesting that on the
17 FBI's own volition?
18 A I would add an additional word of criminal activity has been identified, and
19 that is information found in conducting that criminal investigation that formed the basis
20 of -- that that is additional information that was observed and so the analyst is seeing
21 something that is consistent.
22 Q Right. Each of those subjects were properly predicated domestic terror
23 subjects, correct?
24 A Yes, ma'am.
25 Q Meaning that they were engaged in criminal activity?

1 A Yes, ma'am. It's my understanding, yes, ma'am.

2 Q And, again, stepping out, that is why the FBI was interested in identifying

3 these patterns for information purposes?

4 A Yes. If -- you know, in a -- in these -- in predicated investigations, you

5 know, it's the analysts' responsibility if you -- if we have subjects predicated -- fully

6 predicated subjects conducting criminal activity that have things in common, that is the

7 analysts' responsibility to connect the dots and inform and educate us on how -- on things

8 where we can maybe need to do to get ahead of the threat, which would be to conduct

9 outreach --

10 Q Right.

11 A -- and to go -- go tell someone we've seen this, we're seeing this, we want to,

12 you know, convey it to you, learn from you, learn from us.

13 Q Okay. So let's talk about that, because that's exactly what I'm hoping to get

14 more answers from you about, is what did you do with it. So when the domain

15 perspective was produced, it wasn't available on FBI systems for very long, actually less

16 than 2 weeks, right?

17 A Yes. I don't know the final, but --

18 Q Approximately.

19 A Yeah.

20 Q Okay. So when you were exposed to it and read it for the first time, your

21 reaction was what? What did you think that you could do with that document?

22 A Well, I thought it was a -- because of the -- and I had -- I had intimate

23 knowledge of this particular case because of the severity and the specificity of what I

24 knew about this particular individual.

25 Q Right.

1 A And so when I saw the document and I saw that it was based on that
2 particular subject, and then I saw the recommendation to conduct outreach, that was, for
3 me, a nobrainer.
4 Q Okay. Talk about that. What was the outreach that you intended to
5 conduct?
6 A Well, I had actually -- it would've been to conduct outreach to the diocese,
7 but first to sit with the team and talk about what does the outreach look like, get a more
8 fuller understanding, obviously, before I pick up the phone and conduct outreach.
9 Q Okay. A fuller understanding of the threat?
10 A Of what is in the substance of the product and the threat -- and what that
11 outreach would look like.
12 Q Okay. And can you be specific? I mean, what were you -- what were you
13 intending to tell the leadership of the diocese based on this?
14 A Well, what I would've done is, and I actually commented to the team that
15 this, you know, was a -- was a document that would help in outreach to the diocese, and I
16 wanted to put them around the table to talk about that and have this conversation and
17 get a kind of a more understanding of what should we say when we go to the diocese, like
18 what should we tell them. So I would need, in order to do that, kind of an
19 understanding of what -- what should we say, because, remember, we have a pending
20 criminal matter --
21 Q Right.
22 A -- but what did that look like. And also, you know, outreach is important to
23 me. It's a priority that I've set for the field office. I believe in outreach in a -- not only
24 being reactive to cases you work but being proactive with outreach. So I, again, saw it
25 as an excellent opportunity to not just talk about anything that may be the substance of

1 this, but also to talk about -- just to have a -- have a -- that -- make that connection.
2 Q So just a -- have a relationship with the leaders in the community at the
3 church generally and be available to them for resource?
4 A Uh-huh.
5 Q Is that what you mean?
6 A Yeah. And that wouldn't have -- would not have been the first time we
7 would've conducted outreach to a house of worship.
8 Q Okay. But getting back a little bit more to the threat that is identified here.
9 When you seek to convey information to the Catholic diocese, in this case, or any
10 community about a threat that you're learning of at the FBI, what is the general purpose
11 for conveying that information to them? What are you hoping --
12 A To inform. Inform and educate.
13 Q Do you expect any action on their part based on what you tell them?
14 A No.
15 Q Do you hope for any -- well, do you hope for any assistance in preventing
16 harm to that community or to the community at large?
17 A Yes. And it's also to give them a resource for, if they saw activity related to
18 the threat material that we're briefing, they have someone to call and reach out for for
19 assistance.
20 Q And that's --
21 A And they're educated on the threat.
22 Q Is that what is referred to I think somewhere in the domain perspective as
23 the tripwire?
24 A Yes, ma'am.
25 Q Can you explain what that means?

1 A A tripwire would be anytime we go out into the public, that is, I would say,
2 standard kind of course of practice for us in our operations is we -- we make contacts in
3 the community, and if they're in a position and they see something, violation of criminal
4 activity, and they want to say something, they -- they have a point of contact to call.
5 I will give you an example. If -- kind of back to the example, if we have a number
6 of dealerships that are, you know, having catalytic converters being stolen from them, we
7 may go engage in the ownership of the dealership to say, you need to know what's going
8 on in this area and we're here as a resource. If there's anything we can do to educate,
9 inform, or you need from our direction, you can contact us.
10 Q And so in the case of that example, if you were to go to a car dealership and
11 say, hey, at the FBI we've noticed a pattern of criminal activity which targets car
12 dealership because, you know, these catalytic converters right now happen to have a
13 certain mineral, that it's very valuable and people are stealing it, you're telling them not
14 because you suspect them --
15 A Right.
16 Q -- of being associated with criminals but because you know that criminals are
17 targeting them for criminal association or activity, correct?
18 A Correct. We have an obligation not to only be reactive to when people
19 violate the law and there's an actual incident, we have an obligation to be proactive with
20 the community to ensure that we're getting out and educating them on all our threats.
21 And I'll give you an example. You know, we have a very robust outreach that we
22 do to private sector corporation -- entities because of the cyber threat that we're facing
23 across the country and across the world. So we will -- we will engage cybersecurity
24 experts from various private sector entities to share information, things that we're seeing
25 in the space, to learn from them, and also give them -- be a resource for them in the

1 event they need -- the unfortunate event they would need our assistance if they were to
2 have a compromise.
3 Q Okay. So when you reached out to the Catholic diocese after having been
4 exposed to the domain perspective and with the knowledge that you had about the DT
5 subject in your area of operations, it was your intention to warn them of potential
6 criminal subjects who might be coming to them or people in their community, so that if
7 they saw it, they would recognize the threat?
8 A Correct. It would be to sensitize them to something we -- we have in our
9 back -- that we saw in our backyard and to sensitize them to what this threat is, what it
10 looks like. We often -- we have a, on our IT/DT, international terrorism/domestic
11 terrorism site, we have a booklet that we often hand out that's mobilization -- indicators
12 of folks mobilizing for violence. It's a handy resource that we have that we actually
13 disseminate, that we'll give to folks so that they see -- it's kind of a -- it's a good summary
14 of things to look for and when folks are on a pathway to violence, as it's -- it's a handy
15 resource.
16 Q Is that identifying specific subjects or just kind of something that
17 characterizes generally like the flags to look for for somebody who might be --
18 A That's the flags. That's the threat -- the threat in general, and it's -- of
19 course, it would be based off things that we've learned over years of working these
20 particular threat pictures.
21 Q Okay. And in this case, the domestic terror suspect -- or subject that was in
22 your AOR was ranked fairly high on that scale. Is that fair to say?
23 [Discussion off the record.]
24 Mr. Meador. Yes.
25 BY [redacted]

1 Q Okay. Are you familiar with what a defensive briefing is?
2 A I am.
3 Q Okay. Can you explain what your understanding of that is?
4 A Defensive briefing would be if, for example, there was a -- maybe someone
5 was traveling to a foreign country and had counterintel- -- had a counterintelligence
6 threat or a counterintelligence concern, they may request a defensive briefing where we
7 would conduct a briefing on things to be aware of, at unclassified -- or depending on who
8 they are could very well be classified, on things that they need to be aware of, things that
9 we're seeing, trends, and how to take precautions and protect yourself.
10 Q Okay. And if you had an individual, particularly one who was in a position
11 of some authority or elected official in the United States who was being targeted, say, by
12 like a foreign government, that might be a context where the FBI or some other
13 organization might try to give that person a warning --
14 A Yes, ma'am.
15 Q -- hey, you're being targeted by this malign actor and we just want you to
16 know about it, correct?
17 A Yes, ma'am.
18 Q And that would be a defensive briefing?
19 A Yes, ma'am.
20 Q In that context, the FBI is doing that not to accuse the person who is the U.S.
21 official of any misconduct but to just warn them that there's a threat out there and that
22 somebody who is a threat might be interested in trying to manipulate them or have
23 contact with them in some way, correct?
24 A Yes, ma'am.
25 Q And is that similar to what you were trying to do in this context in identifying

1 a part of the community, some particular Catholic churches, who a real criminal subject
2 had expressed interest in and had been involved in, you were trying to warn them of the
3 threat that that person and others like him might pose?
4 A Yes. Unfortunately, I mean, that -- we didn't get the opportunity to
5 have -- even have the conversation internally because of the leak that happened fairly
6 soon after I saw it. So that would've been -- the focus would've been to talk with the
7 team on what's the best way to communicate and what can we communicate and what
8 should we -- you know, what should the substance of our brief be to them.
9 Q Okay. And I think that you had also, in your role as SAC, had some
10 interfaith briefings or meetings with leaders of the Catholic church and other churches.
11 Is that right?
12 A We -- I -- again, I prioritized outreach as a top priority for the field office.
13 And post the Colleyville hostage -- U.S. synagogue hostage situation in January of, I
14 believe, '22, you know, we -- we wanted to take a proactive step with all houses of
15 worship and to educate and inform and try to be a resource. There were a number of
16 folks who were asking for information.
17 So we took the initiative and put together an interfaith awareness briefing virtual
18 and coordinated with headquarters to be able to do a large-scale event. And we
19 attempted to reach out to as many houses of worship across all faiths that we could in
20 our AOR, which is 82 of the 95 Virginia counties, and we put together that presentation
21 virtual. We had a -- two U.S. attorneys from each district spoke, I spoke. And then we
22 provided information on domestic terrorism, international terrorism, hate crimes,
23 because a lot of entities have hate crime -- may have hate crime situation.
24 And we also spoke to crisis management, if an entity had an -- unfortunately had
25 an incident, what would the FBI do, what does that look like in the response. And that

1 was, I believe, February of '22. And we had -- it was -- it's my understanding that was
2 the largest external team -- live Teams event that the FBI had attempted. And we
3 had -- while the system said over 1,000 joined on, we had, I think, roughly 600-plus on
4 that call from all across the Commonwealth.
5 Q My colleague is going to ask you a few questions about that.
6 BY [redacted]
7 Q Are you proud of the attendance of that event? It sounds like you are.
8 A Yes, ma'am.
9 Q Why?
10 A And I think -- well, for one, for me, you know, I prioritize outreach. It's in
11 the top four pillars of what I put forth for the office, and I believe in -- especially when
12 you look at the collegial situation, that we needed to do something in the Commonwealth
13 to educate and inform houses of worship in our AOR.
14 And I'm real -- I believe -- I want to be as impactful as possible, and there's no way
15 I can go to every house of worship, because there's thousands. There'd be no way to do
16 that. And so to be able to communicate that and then host that event and then see the
17 attendance and then see the demand for followup, we even -- we took it a step further
18 and actually put together -- they wanted -- in talking about our crisis response matters,
19 we even put together a separate handout that we could send to them, but it was just a
20 well-attended event.
21 [Meador Exhibit No. 3
22 Was marked for identification.]
23 BY [redacted]
24 Q I want to introduce for the record as exhibit 3 some notes about that event.
25 I'm not going to introduce the full thing. It's -- there's like 200-some pages. But this

1 includes the -- a few pages about electronic communications summarizing the briefing
2 and then some of the Q&A report and some of the feedback report.
3 Do you recognize this?
4 A [Nonverbal response.]
5 Q It's okay.
6 A So I would not have -- I would not have approved it, so I wouldn't have seen
7 the actual --
8 Q Yeah.
9 A But I'm very well aware of the substance of it, uh-huh, yes.
10 Q So the first three pages describe that the interfaith awareness briefing took
11 place on February 10th of 2022, and then describes the agenda. You mentioned you
12 spoke?
13 A Yes, ma'am.
14 Q Turning to the first landscape page that has the Excel. So there were many
15 pages of, it looks like, Q&A that was submitted for this event, and so I -- we just excerpted
16 a couple of them.
17 The first page has questions from a congregation leader about specific threats in
18 the Richmond area, such as, are gangs a threat. It also asks, are there ways that we can
19 partner with the FBI to better serve our communities.
20 Were questions like this common in your community engagement?
21 A Yes. As I recall, we tried to be -- when we were looking at the agenda, we
22 tried to be informative, so when they did the -- as I recall, the -- when they signed up,
23 they had an opportunity to ask a question as to what do they want to learn most about,
24 and this is the feedback that we would've received.
25 Q The next page has a few questions from a congregation leader: What are

1 some things we should be looking for over the next several months? What are
2 perceived threats? What legitimizes a threat?
3 Are those common questions that you received from community organizations --
4 A Yes.
5 Q -- during this outreach?
6 A Yes.
7 Q And you mentioned earlier the scale for how likely someone is to commit
8 violence. Might that be something you share with an organization for factors to look
9 for, what legitimizes a threat?
10 A Yes. We can -- when we teach on like indicators of people who are on a
11 pathway to violence, who are mobilizing to violence, we can -- we would brief -- we can
12 brief through that.
13 Q And then at the -- turning to the portrait pages again. At the top it says,
14 "FBI Richmond Interfaith Awareness Briefing Feedback." This looks like --
15 [redacted] Which Bates number?
16 [redacted] It's Bates 211.
17 BY [redacted]
18 Q This looks like it was a feedback form that organizations submitted after the
19 briefing. Is that fair?
20 A Yes, ma'am.
21 Q Looking at some of the feedback, there is a couple of things that deal with
22 cyber threats and cyber terrorism. You mentioned that earlier, right?
23 A Uh-huh, yes, ma'am.
24 Q Is that something that the FBI routinely engaged with the community about?
25 A Yes.

1 Q Do you think that that was something that was helpful for organizations?
2 A Yes. That's actually top priority for the Bureau right now especially, yeah.
3 Q There's -- at 10:30 a.m., on February 17th, I think it's line 12, it's on page
4 211.
5 A Oh, sorry.
6 Q You're good.
7 A February 17th, at what time?
8 Q 10:30 a.m. It's line 12.
9 A Uh-huh.
10 Q Somebody suggested -- or said that they were interested in updates on
11 safety/security/terrorism issues as they become available. Is that something that you
12 would regularly engage on, what kinds of threats are arising?
13 A Yes. And I think that speaks to -- you know, our challenge is how do we get
14 our -- the message out to as many faith-based communities as possible, which was the
15 reason we did the virtual awareness briefing. But the feedback is rather overwhelming
16 as to the demand for what folks are asking for and what they need, but, yes, we would've
17 done that.
18 Q The last one I want to look at is line 16, February 16th, 5:13 p.m. It says,
19 This was a great presentation because it gave us information that relates to the faith
20 community. I would like to see a continuation of this type of sharing of information.
21 Do you think that generally reflects some -- a lot of the feedback that you got
22 about this event?
23 A It does. And, again, the demand is -- it was -- is excessive, and the
24 challenge that we have is how do we -- how can we be impactful going forward in this
25 space, because there's -- it's -- our backyard is so big.

1 Q Yeah.

2 A Right.

3 Q So there is four pages of feedback in this form. Do you think it's fair to say

4 that these faith-based organizations generally wanted to continue engagement with the

5 FBI?

6 A Yes.

7 Q And was that in your mind as you were -- at the beginning of this year when

8 you were thinking about outreach in the case of the domestic terror subject who

9 identified as a radical traditionalist Catholic?

10 A Yes. Yeah, it goes back to the severity of the subject and, again, the level of

11 what we were dealing with, the importance of saying something.

12 Q Does the FBI engage in community outreach to conduct surveillance on

13 organizations?

14 A No, ma'am.

15 BY [redacted]

16 Q On that line of questioning, it's fair to say that this example that my

17 colleague just went through with you is a good example of the role the FBI has in

18 providing information to the community as opposed to trying to discover information

19 through investigation, correct?

20 A Yes, ma'am.

21 Q Because that is an important role of the FBI, to provide information as well,

22 correct?

23 A Yes. I believe that we have a proactive obligation to educate the

24 community, connect with them, not just to tell them who we are, but to educate them on

25 the threat because we're -- we're better by knowing them and letting them help us, and

1 then same is true for us helping them.

2 Q And so when you did this interfaith exercise, this meeting, you were not

3 there to get sources or get information for your investigations; you were just there to

4 push out information to them --

5 A Correct.

6 Q -- at that time?

7 A Yes.

8 Q And with respect to the Catholic community that you were preparing to

9 conduct outreach with based on the domain perspective, again, your role, or as you

10 conceived of it, was to go push out information to them to help them?

11 A Yes. The analysts' recommendation was to conduct outreach to the -- to

12 these -- the leadership, to these specific entities to sensitize them to this threat and

13 things to be aware of.

14 Q And did you ever intend to conduct any surveillance of any Catholic

15 communities or Catholic churches in the Richmond area?

16 A No.

17 Q To your knowledge, did anyone at the FBI, in your office or elsewhere, ever

18 have that intention to surveil the community or infiltrate it in some way to find

19 information about them?

20 A Our agents surveil predicated subjects of investigations.

21 Q Only, correct?

22 A Only, wherever they go.

23 Q Meaning people who are engaged in criminal activity?

24 A Criminal activity.

25 Q Okay. As far as you know, did the FBI ever take any investigative steps

1 whatsoever based on the domain perspective that we've discussed here today?

2 A No.

3 Q Was that ever the intention?

4 A No.

5 Q Does the FBI target Catholics?

6 A No.

7 Q And can you have -- give us your reaction to the allegation that some on this

8 committee have made based on this domain perspective and other things that the FBI

9 does, quote, target Catholics?

10 A Well, I think -- I think it strikes a personal chord with me --

11 Q Why is that?

12 A -- because my wife is raised Catholic, from a devout Catholic family. I was

13 married in a Catholic church in Richmond by a Catholic priest. So the thought that

14 something would've -- that I would've observed something that is what people are

15 indicating is challenging for me.

16 Q And do you believe that your colleagues on the intelligence side and in other

17 positions that worked on this domain perspective share your opinion of that allegation

18 that they were targeting Catholics, that it was a -- that allegation is false?

19 A I would say that they -- they do and also probably have even more stronger

20 opinions on it because of some of the -- some of them being devout Catholics.

21 Q Some of the analysts who worked on this product are devout Catholics?

22 A Yes, ma'am.

23 Q And would you find it very hard to accept the accusation that they were

24 using this product or any other FBI resources in order to target people of their own faith?

25 A I think it is -- this has been traumatic from --

1 Q In what way?

2 A -- not just the -- those individuals who may attend, may be devout Catholics;
3 this has been just simply traumatic for all of the individuals involved in the -- involved in
4 this.

5 Q When you say "this," do you mean the reaction to this domain perspective
6 and the accusation that this is somehow, again, an effort by the FBI to target Catholics?

7 A Yes. You have individuals who I would argue are a dedicated,
8 mission-driven team, who get up every day and try to do the right thing to protect the
9 American people. And in an attempt, based on criminal activity, an attempt to see
10 something, say something, and for the tenure that some of these folks have in the
11 Bureau, it's been -- it's -- it's been crushing.

12 Q Have any of those employees, to your knowledge, received threats based on
13 publication of their involvement in this DP?

14 A They have not, but I, however, have taken steps to -- I have felt, as a leader,
15 it's my responsibility to stand beside them regardless -- no matter what, you know -- how
16 hard it is or how good that they may be, it's my responsibility to stand with them. So
17 I've been fully transparent with them. And I've also taken steps to bring in folks from
18 our field office to talk to them about -- to help prepare them for things like -- things
19 that -- if their information was to get out, things that they need to be concerned about, to
20 be a resource --

21 Q Do you have concerns about their names being leaked during the course of
22 this congressional investigation?

23 A Absolutely.

24 Q And what are those concerns?

25 A My concerns are that the -- based on my career, based on what I do for a

1 living, I know what's out there, because I deal with it every day, and I run a field office
2 that deals with it every day. And for the time that I've been, I know the potential of
3 what is out there, and exposing them when there is no -- again, there was no malicious
4 intent and no wrongful purpose found in what they were doing, they just -- could've been
5 a better product, the potential for them because of just the environment and what
6 is -- what this has evolved into, yeah, I think they have to be very cautious.
7 Q What about you yourself, do you feel that you have to be cautious based on
8 the fact that your name has been associated with this controversy that's been created?
9 A Yes, and I have taken a step to ensure that I'm as safe as I can be for myself.
10 Q And your family as well?
11 A Yes, specific to my family.
12 Q During the course of your more than 20 years with the FBI, have you ever
13 had to take a step like that before to protect yourself or your family?
14 A Never.
15 Q Have you ever been involved in congressional testimony before?
16 A No, ma'am.
17 Q Okay. Do you think that the heightened threat that you have experienced
18 is a direct result of this investigation in Congress and your role in it?
19 A It's the only, yes. I mean, the -- it's -- with the leak and the subsequent
20 follow-on, it's the only thing, yes.
21 Q Okay. You mentioned, just stepping back a little bit, the -- I don't know if
22 I'm going to get this word right, but the Colleyville situation?
23 A Oh, Colleyville, Texas.
24 Q Colleyville. Oh, okay. Can you just explain what you meant by that?
25 A Sure. So that is the situation in the Jewish synagogue where they were

1 taken -- the priests were taken -- held hostage, and we deployed in partnership with the
2 local police department there. And the situation -- unfortunate resolve to that situation
3 occurred, but it was a very high-profile, very national -- nationally covered event.
4 And, you know, we -- we have a very robust relationship in Richmond with the
5 Jewish community and the Jewish Federation, so much so that we presented the
6 director's community leadership award to the regional security director for the Secure
7 Community Network for the Jewish community. That was in 2021. But we have a very
8 robust relationship there.
9 And in conversations with individuals about how can we be more of a resource, I
10 found that there has to be a way we can help educate our houses of worship and give
11 them, because we are always doing outreach to private sector, critical infrastructure,
12 various threats, how can we help in this space. That was our attempt to be proactive to
13 do that.
14 Q Is it fair to say that in your experience in the FBI, you were observing that
15 there were more houses of worship of various faiths that were being targeted for
16 violence?
17 A Repeat that.
18 Q In your experience in the FBI, you were observing that there was a trend
19 seemingly of more houses of worship in many different faiths that were being targeted
20 for violence?
21 A Well, I know, especially with the Jewish community and the continued
22 comms I have with them, the number of violent acts that -- or activity that they have to
23 navigate. So, again, it was -- you know, I felt the need was there to connect in that
24 community and do our part as a field office.
25 Q And you were also aware of the Pittsburgh synagogue murder --

1 A Yes, ma'am.

2 Q -- correct?

3 A Yes, ma'am.

4 Q And all of that was sort of in the context of this domain perspective thing

5 developed?

6 A Yes, ma'am.

7 Q Okay. And, finally, there's just one other set of questions that was based

8 on the first hour. You were asked about some language in the domain perspective that

9 referred to an assessment that there would be more threat as the election cycle

10 proceeded. Do you remember those questions?

11 A Yes, ma'am.

12 Q And I think you were asked like why was it important to refer to elections,

13 and I think you deferred to the analyst in that setting. Is that fair to say?

14 A Uh-huh.

15 Q Okay.

16 A I think I -- I made an additional caveat about the topics. I think the topics --

17 Q Oh, right, the topics that were raised in the course of an election.

18 A That polarizing topics of -- right.

19 Q Right. And that discussion in the domain perspective also included

20 reference specifically to the predicated Richmond subject and statements he had made

21 about the election in the investigation, correct?

22 A It's my understanding.

23 Q Okay.

24 A That's my understanding.

25 Q And I'm not going to quote it. I think it's --

A I think it's in the domain.

Q There is reference to conversations that, I don't know if it was an FBI source or somebody in the FBI who participated in that criminal investigation had overheard the Richmond subject saying that, because of some election results, it was only violence that remained for him, or something to that effect, correct?

A I could --

[redacted] I obviously would acknowledge we're talking about an ongoing criminal matter, so I just want to be careful.

Mr. Meador. I don't think I could speak to that. I'm unsure.

[redacted] Okay. I'll just withdraw that.

I guess my point is, the inclusion of discussion of elections in the domain perspective, again, that is a subject that the investigators observed criminal subjects speaking of, not a subject that the FBI itself wanted to inject into this analysis?

Mr. Meador. Correct.

[redacted] Okay. I don't have any other questions at this time.

[redacted] We can go off the record. Thank you.

[Recess.]

[redacted] We'll go back on the record.

BY [redacted]

Q Sir, when we last ended our first round, we were talking about the approval and review process of the domain perspective. I want to talk about the authors of the domain perspective. According to the inspection division report, there were two authors. Does that match your recollection?

A Yes, ma'am.

Q And were both of those authors intelligence analysts?

1 A Yes, ma'am.
2 Q And how long had each of the intelligence analysts worked at Richmond at
3 the time of the drafting of the --
4 A I have general -- I don't know the specific in Richmond, but I know
5 their -- their approximate tenure in doing the job.
6 Q Ten years in doing the --
7 A Oh, no, no. The primary author is, I believe, 18 years, 18. The coauthor
8 is -- he may be upwards 20-plus years, maybe even as much as 25.
9 Q And would they be considered senior intelligence analysts or just regular
10 intelligence analysts?
11 A We don't have a -- I don't think we have a classification. We have
12 supervisory intelligence analysts, but they're -- they'd be senior, the tenure they'd been
13 doing it, yeah.
14 Q And what subject matter areas do they generally work on, these intelligence
15 analysts?
16 A The primary author works DT.
17 Q Okay.
18 A And the coauthor is the, what's called the DMC, the domain management
19 coordinator.
20 Q And what does the title "domain management coordinator" mean?
21 A In that role, responsible for understanding, looking from the domain
22 perspective. So our AOR would be 82 of the 95 Virginia counties, so it'd be activity and
23 things occurring in the domain and reviewing that particular information relevant for our
24 domain. It's like coordinating the intelligence that we're -- we're -- it's in our
25 back -- from our backyard.

1 Q And do you know how many, roughly -- how many intelligence products each
2 intelligence analyst has created in their tenure at the FBI?
3 A No, ma'am.
4 Q Do they have to have a specific amount of intelligence products that they
5 produce each year?
6 A They are -- every threat in our yearly plan, every threat will have a measure
7 related to it of certain things, like number of arrests, number of intel products could be
8 one of those for threat -- for each threat.
9 Q And does the Richmond field office have a set number of intelligence
10 products it needs for certain threats?
11 A Those are field office specific, based on the field office's assessment. That's
12 a -- that's -- those are set by each field office.
13 Q And had you set one for your field office?
14 A Excuse me? Can you repeat that?
15 Q Had you set one for your field office, a measure?
16 A Well, they -- as a -- during our annual process to set that for the coming fiscal
17 year, the intel, in coordination with the operational squads, will -- you know, they will
18 make recommendations on what they -- what measure they want to put for a
19 particular -- whatever the measure is. They'll make that recommendation. Ultimately,
20 though, that comes up -- you know, intel will have theirs, the operations folks would have
21 theirs, and then ultimately at the end I would approve all that as the SAC.
22 Q Okay. Did you have an understanding of what number you approved for
23 the intelligence cadre?
24 A Not -- not -- I mean, there's -- that's for every threat --
25 Q Okay.

1 A -- so I couldn't -- you know. I know on, specific to DT, I looked at one, but I
2 don't -- for the -- that goes for every threat. Every threat's got its own.
3 Q And so would this domain perspective have counted towards the field office
4 measures for this specific threat that it was -- pertained to?
5 A I believe so.
6 Q Okay. And are the coauthors of the domain perspective, do they still have
7 responsibility for creating domain perspectives in other intelligence products as of today?
8 A They do.
9 Q And have they received additional training?
10 A So we had our -- yes. We -- as I believe I mentioned earlier, the moment
11 this happened, I had OGC, the DI, CTD provide a training to us, and I had the -- we did an
12 intelligence personnel, DT personnel, other supervisors in there for that training. And
13 then we've also went and once I started learning about that peer review process and that
14 some offices have it, some don't, we instituted that and formalized that.
15 We also had an all-employee call where I mentioned ICD 203 and the peer review
16 process, and I also communicated that out to the field office. And we also -- I heard -- I
17 learned of a report analytical training, and we took steps to have that scheduled. We
18 were due to have that course in mid-August, but due to scheduling conflicts, we've had to
19 delay I think a month. I've also -- the team also went up to CTD to have additional
20 discussion with CTD on this and other -- other matters.
21 Q Did either intelligence analysts who authored the domain perspective, did
22 they have responsibilities or work on the Richmond-specific DT case related to this
23 domain perspective?
24 A Well, the analysts would've been -- if the analyst is working the DT threat, he
25 or she will know the DT cases. That's where she -- he or she is going to be reviewing.

1 Q So that individual may have not had responsibilities for the specific
2 Richmond case that's referred to in the domain perspective. Is that accurate?
3 A Could you repeat that?
4 Q So the authors of the domain perspective, did either of them have
5 responsibilities related to the ongoing Richmond DT case that was the subject of the
6 domain perspective?
7 A Well, the primary author as the DT analyst has to know the DT cases.
8 Q Okay. And other than the admonishments required by the inspection
9 division, are either intelligence analysts receiving any other disciplinary actions as a result
10 of this?
11 A No, not at this time, not to my knowledge.
12 Q Would you be responsible for kind of taking those disciplinary actions?
13 A If I was directed to do, I would be -- if I'm directed to do additional, but
14 they -- each one still has their own supervisors they report to.
15 Q So it could be their direct supervisor that would take disciplinary action?
16 A It could. Just in the standard performance they can take -- actually, I caveat
17 that. Disciplinary in the sense of you did -- I think we got to --
18 Q Yep.
19 A What do we mean by disciplinary? Because we've got to be --
20 Q So the inspection division report talked about an admonishment during their
21 performance reviews, but also left it up to the human resources division if any other
22 disciplinary action would be taken. And we're just trying to understand if other
23 disciplinary action is going to be taken.
24 A No, I don't think that's correct. I think that the -- per the inspection results,
25 the directive is that the SAC would admonish the individuals involved and coordinate with

1 HRD, as appropriate, to ensure any future deficiencies aren't met. That would be in a
2 performance review. The performance -- annual performance review covers the whole
3 year. If an individual has a performance issue, we would work with the employee, give
4 the employee -- try to give the employee the tools to succeed, and then help the
5 employee improve. In that process, if that employee is having issues or concerns, we
6 would coordinate through our performance appraisal unit with additional things that may
7 need to take place to ensure that employee is improving or held accountable.
8 Q So as of right now, you're not aware of any other disciplinary action that will
9 be taken against the authoring IAs. Is that correct?
10 A I hesitate -- when I think of disciplinary, I'm thinking there's an inspection
11 report found no wrongful -- no malicious intent, no wrongful purpose, no official
12 misconduct, which I would say is disciplinary. But this -- from a performance standpoint,
13 the only thing I know that there is going to be additional discussion, as I have been
14 advised on what that would look like for these -- for all individuals involved --
15 Q Okay.
16 A -- because, remember, the performance period covers the year and not just
17 from a point in time.
18 Q And after the intelligence analysts have put together a draft, we have an
19 understanding from the inspection division report that it was then peer reviewed. Is
20 that your understanding as well?
21 A Yes, ma'am.
22 Q And do you know how many peer reviewers there were?
23 A Two.
24 Q And what were the titles of those peer reviewers?
25 A Intelligence analysts.

1 Q And how long has each of the peer reviewers worked at Richmond?

2 A I can't speak to Richmond, but I know one peer reviewer, I estimate 18 years.

3 The second peer reviewer maybe less than two.

1 [12:19 p.m.]

2 BY [redacted]

3 Q And who was their direct supervisor?

4 A Well, an IA will report to a supervisory intelligence analyst.

5 Q And was this -- their direct supervisor, were they one of the SIAs that

6 approved this domain perspective?

7 A Not one of -- of the two, one does not.

8 Q Uh-huh.

9 A The second one -- I think I know, but I'm uncertain.

10 Q Okay.

11 A I don't want to misspeak.

12 Q And do these individuals still have responsibility for creating and/or

13 peer-reviewing intelligence products as of today?

14 A Yes, ma'am.

15 Q Did either of these individuals have responsibilities of knowing about the

16 Richmond DT case that's mentioned in the domain perspective?

17 A They wouldn't have -- I mean, they can know about it in the course of just

18 intelligence-sharing amongst the intelligence cadre. They do their own meetings. I

19 mean, they could've learned about it there. But I don't -- they're not primarily

20 assigned -- it's my understanding they're not primarily assigned to that threat-specific

21 group.

22 Q Uh-huh.

23 And turning to exhibit 2, which is the Inspection Division's report, on page 7,

24 looking at the second paragraph on that page, it states of the first peer review that they

25 "edited the DP for mechanical and structural edits to ensure the DP conformed to the

1 Style Guide for FBI Analytic Intelligence Products. Although trained as an Analytic
2 Tradecraft Reviewer, the peer reviewer stated she did not conduct a tradecraft review or
3 edit for substance because the DP was not an external product."
4 Does that seem troublesome to you, that she was trained to edit for tradecraft but
5 did not in this case?
6 A On this one, I'm going to have to defer to the inspection results. I think this
7 is challenging because I don't know the conversations between the inspectors and the
8 analysts.
9 Q Uh-huh.
10 A And I think that, for me, now that we know that there are formalized
11 peer- -- that a formalized peer-review process is something that some offices do, and now
12 we know we have that in place. That's, again, not a policy, not something that's given
13 by the DI to do, but we did it, we're doing it. Now we know there's going to be no
14 question who is supposed to be reviewing a product for analytical tradecraft.
15 I think specific to this, though, I would have to defer back to the Inspection
16 Division and that conversation. I think there may be some disagreement on who
17 reviewed it for tradecraft and who didn't.
18 Q And you described this as "challenging." What's challenging about this
19 portion of the Inspection Division's report?
20 A Well, the comment I just made, I think that in my conversations -- because I
21 talk with the team about tradecraft and this continued thing of tradecraft -- is the
22 question of whether or not -- you know, were they -- did they have tradecraft
23 going -- were they looking for it in the back of their mind while they were reading the
24 product or not.
25 Q Uh-huh.

1 A I think that's something, again, I'd have to go back to the inspectors and the
2 actual individuals involved as to what they were --
3 Q But shouldn't someone who had been trained to conduct these sorts of
4 reviews been thinking about tradecraft when they're looking at this?
5 A Well, one thing I think, especially for me, that's been a benefit is, now that, I
6 mean, I know what, again, the ICD 203 directive is regarding analytical standards, I think
7 that, you know, inspection found that there was analytical tradecraft issues. Yes, it's
8 concerning, and it's a good reminder for us that, one, everybody needs to understand
9 what analytical tradecraft standards -- you know, what they are, and the importance of,
10 whoever is reviewing the product, you've got to know what --
11 Q Uh-huh.
12 A -- you've got to be reviewing for that.
13 Q And in that next paragraph -- this is talking about the second peer
14 reviewer -- the final sentence says, "IA [redacted] did not have any major issues with the
15 substance, but suggested some items for clarification."
16 Do you have an understanding of what sort of clarification he sought?
17 A I do not.
18 Q And who would have more insight as to what clarification was sought?
19 A Well, the individual.
20 Q Was their review documented anywhere in the FBI systems?
21 A I don't know.
22 Q Have you personally seen or reviewed the edits that these individuals made
23 to the document?
24 A No.
25 Q Next, after the peer-reviewing process, the intelligence analyst sought legal

1 review by the chief division counsel. Does that match your recollection?

2 A According to the report, yes.

3 Q And according to page 7 -- we're looking at the last paragraph now on that

4 page -- it said, "The CDC advised he had never reviewed a DP before."

5 How long had the CDC been working at the FBI Richmond at this juncture?

6 A He's probably been there 15 years, maybe.

7 Q And are you surprised that he had never reviewed a DP before?

8 A I'm actually not, because I don't -- I don't know that I've ever seen one. So

9 I'm not --

10 Chairman Jordan. Is it a new thing?

11 Mr. Meador. No. I couldn't answer that, because the product lines have -- I

12 mean, different products have -- in their product line, they have 30, 40, 50 different

13 things they can do. I don't know when certain ones would've come on -- you know,

14 "Hey, here's a new way they're doing something." And if I went back 20 years, I could

15 see something was done this way but now it's different. But I don't know how that

16 would've been.

17 But, again, it's not -- to me, that's not surprising, especially in a small field office.

18 In a large field office, it may be a different story. But in a small field office, fewer

19 people, you're going to get fewer -- fewer production.

20 BY [redacted]

21 Q And who is the CDC's direct supervisor?

22 A That would be me.

23 Q That would be you?

24 A Uh-huh.

25 Q Does the CDC still have responsibility over reviewing intelligence products,

1 including DPs?

2 A Yes, ma'am.

3 Q And do you know if, during his review, he reached out to any other CDCs

4 who had reviewed DPs prior --

5 A I do not know.

6 Q -- in your tenure?

7 A I do not know.

8 Q You don't know?

9 The next sentence of the report states that "he advised the products should

10 include a First Amendment legal caveat, but otherwise concurred as long as the product

11 remained an internal product."

12 Can you help us understand what the difference at Richmond is between an

13 internal and an external intelligence product?

14 A Well, I think, in general -- and I can't speak to his, you know, comment there.

15 I couldn't speak to that. In general, for an external -- and this is Bureau-wide -- for an

16 external product, all external products go through headquarters and are actually scored,

17 reviewed. And if there's an issue with them, they're pushed back down, and of course

18 the analysts can make edits. And the internal products are not.

19 So I don't know. I mean, that's something I know just in a general sense, but I

20 don't know -- I could not provide additional explanation as to what he would've thought.

21 Well, if it's going external, what would it change? I'm not sure, from a legal review.

22 Q And so, as far as the domain perspective being an internal product, so it was

23 just meant for the Richmond Field Office? Was it meant for FBI-wide?

24 A Well, it could be -- it could be both. It could be to inform me or

25 management in the Richmond Field Office, but it also could be to inform the other

1 intelligence analysts across the country.

2 Q So do you know, if the document was going to be external, does that mean

3 that there's -- obviously, there's a headquarters review, but would it undergo a more

4 strenuous review at Richmond, or is the review process the same at Richmond?

5 A Well, I think that -- well, I just think the external process just has

6 headquarters' input and review and oversight before the document is released to the

7 public.

8 And I think that, again, if we go back to the inspection report -- and the huge

9 takeaway here is that, moving forward -- and I'm confident, in Richmond, we understand

10 the full aspect of this -- is that it doesn't matter if it's internal or external, we've got to

11 look at every product and just anticipate and expect -- you know, look at it through the

12 eyes of, if this were to go external, what it would look like.

13 Q Uh-huh.

14 And then the next sentence states, "In his legal analysis of the DP, the CDC did not

15 review the terminology and deferred to the SIAs to use accurate terminology for their

16 program. He also deferred to their expertise on any definitions."

17 Have you had conversations with the CDC about his legal review process following

18 the domain perspective?

19 A I have.

20 Q Do you know if he's changed his review process so he isn't so deferential to

21 the SIAs?

22 A I think, again, this is a challenging area, because I think the question is,

23 should CDCs be reviewing documents for analytical tradecraft?

24 Q Uh-huh.

25 A Is that their responsibility? I think that's a separate question. I'm not a

1 lawyer. I'm not in that space. I don't know.

2 Q Have you had any conversations with the CDC about his legal review of this

3 domain perspective?

4 A Yes.

5 Q And what was the content of those discussions?

6 A One, again, it was formed on the basis of criminal activity. He has to add

7 the caveat -- again, he reviewed it -- that, you know, I think, looking back on it, hindsight,

8 you know, the more sensitivity being placed on just the terms and things that were used.

9 Q Uh-huh.

10 A More care and caution.

11 Q And had you had any previous concerns about the CDC's performance

12 overall?

13 A No.

14 Q And turning to your review and feedback of the domain perspective, when

15 did your role in reviewing the memo begin?

16 A That would've been -- the document was approved, published about a week

17 after.

18 Q About a week after?

19 A Uh-huh.

20 Q So would that have been around, like, January 26th?

21 A No. It would've been the -- February -- it would've been sometime in the

22 next week, because I think it was the next week -- end of the next week.

23 Q That you --

24 A I looked at it.

25 Q -- looked at the document for the first time?

1 A Uh-huh. Uh-huh.

2 Q Okay. And was that the -- when it was posted, was that the first time you

3 had learned of the existence of this specific domain perspective?

4 A Uh-huh. Yes.

5 Q At what point did you read the domain perspective in its entirety? Do you

6 remember the day?

7 A I may have -- no, I did not.

8 Q Okay.

9 A I don't remember the day.

10 Q Uh-huh.

11 A I remember pulling it up and skimming some and then on to other things.

12 And I remember, maybe the next day, I maybe skimmed, looked through some more.

13 But I don't remember specific.

14 Q Do you remember providing feedback on the domain perspective?

15 A I do.

16 Q On February 3rd?

17 A Yes, ma'am.

18 Q Okay. So I'll enter as exhibit No. 4 -- it's your feedback post on the

19 feedback loop from February 3, 2023.

20 [Meador Exhibit No. 4

21 Was marked for identification.]

22 BY [redacted]

23 Q Do you remember providing this feedback?

24 A Yes, ma'am.

25 Q And I'm sorry, the version that we have, the L's are missing, but -- so I'm just

1 going to read it aloud.

2 A Yeah.

3 Q It say, "Appreciate this perspective, especially after what was gleaned from

4 the [redacted] investigation. I plan to engage in additional conversation regarding

5 engagement at the Diocese of Richmond. I think there is an opportunity here to

6 consider putting several folks in a room (from different locations) to have the

7 conversation."

8 What did you mean by "appreciate this perspective"?

9 A Well, this comes from -- in Richmond, we have something that's been

10 identified as a best practice; it's called the feedback loop.

11 Q Uh-huh.

12 A And that is -- you know, one of the important things in the FBI is to have

13 executive management engagement with the intelligence program.

14 Q Uh-huh.

15 A And so what they developed -- and this was before my time -- they

16 developed this feedback loop. And once a document has been approved and published,

17 the supervisors will send a -- SIA will send an email to supervisors and command staff

18 letting us know a new product has been posted in the feedback loop, if we're interested

19 in going to look.

20 For me, what's important is that periodically I go in there so that my intelligence

21 team knows that I pay attention and I care about their work, I appreciate their

22 perspective.

23 Q Uh-huh.

24 A And that's what that comment -- I appreciated them -- appreciate their

25 work.

1 Q And prior to the Inspection Division's review and the completion of their
2 report, you were not in the approval or reviewer process for this domain perspective. Is
3 that correct?
4 A No.
5 Q But now with the changes, you would be in the approval process? Is that
6 how you understand it?
7 A No. For our peer-review process?
8 Q For a domain perspective of this kind which would be classified as a --
9 A Oh.
10 Q -- sensitive investigative matter.
11 A Pursuant to the inspection's findings, if an intelligence product is designated
12 a sensitive investigative matter, it would require SAC and FBI headquarters senior
13 executive approval before it -- before approval, for final approval.
14 Q And what's your understanding of what that review and approval would look
15 like on your end?
16 A Well, in the FBI, in a sensitive investigative matter, that is any investigative
17 matter that involves a public official, political candidate, member of the media, member
18 of academia, religious organization, people that hold prominent positions within any of
19 those groups.
20 Q Uh-huh.
21 A And I also believe, in the DIOG, that it also says "and anything that should
22 have FBI/DOJ oversight."
23 Q Uh-huh.
24 A So those are SIMs for our investigative matters, which requires SAC approval
25 for those.

1 Now, on the intelligence side, if an intelligence product is designated a SIM, the
2 same requirements apply. I will now -- you know, which will -- it is going to be -- be up
3 to the Bureau.
4 Q And when you said "after what was gleaned from the [blank] investigation,"
5 is that in reference to the Richmond DT case that we've been speaking about here?
6 A Yes, ma'am.
7 Q When you say that "I plan to engage in additional conversation regarding
8 engagement at the Diocese of Richmond," what did you mean by "additional
9 conversation"? Were those internal to the FBI or external-facing?
10 A My goal was to put our folks around the table and talk about this and what
11 that outreach would look like.
12 Q Talk about the domain perspective; is that correct?
13 A Uh-huh, everything, and what it would look like, outreach to the -- because
14 this is an example of intel informing operations. It's informing management of things
15 management can do in our role. So, again, I'm going to sit with them and say, okay, tell
16 me what you're asking me to do here, and let me make sure I understand what we're
17 doing.
18 Q And who would've been involved in those conversations on the Richmond
19 FBI side of things?
20 A Well, that would be something that I would've just asked for, as I did there.
21 So it could've been intelligence analysts, could've been the SIAs, IPC. I just never got to
22 that. I don't even know that I even -- we didn't even get to that point, because it was
23 leaked.
24 Q Uh-huh.
25 And when it said, "I think there is an opportunity here to consider putting several

1 folks in a room (from different locations) to have this conversation," what different
2 locations were you referring to?
3 A I don't recall at the time. It could've been -- I don't recall at the time.
4 Q And was this --
5 A Headquarters? I don't know.
6 Q And was this the same conversations that you were referring to in the
7 sentence before that, or were there going to be two different sets of conversations?
8 A No. Same conversation.
9 Q Did you provide any additional feedback on the domain perspective --
10 A No.
11 Q -- besides this?
12 A No.
13 Q Did you provide any substantive edits?
14 A No.
15 Q Did your views on the domain perspective ever change?
16 A Well, I think that in -- you know, I would defer back to Inspection's findings
17 and the substance of what Inspection found after the DI and CTD's review.
18 Q Uh-huh.
19 A And, I mean, I've learned a lot just as the SAC in this process, so -- from
20 having clearly defined roles in your intelligence -- which is, again, not a policy or directive
21 we had. We had some offices doing it somewhere. So I now have an understanding of
22 having those roles identified. I also have a clear understanding of who's responsible for
23 what.
24 Q Uh-huh.
25 A Analytical tradecraft standards should be a priority, as with any -- as with the

1 external products. We've got to put focus on both products, whether it's internal or
2 external.
3 I think that, you know, when I look back at it, you know, when I see -- there's no
4 malicious intent, no wrongful purpose. Based on criminal activity, you know, an analyst
5 trying to connect the dots and request, recommend outreach.
6 I think when you look at the substance of the additional stuff that was put in
7 there, I think, you know, a lot of it, especially based on, kind of, CTD's review, needed
8 more information. If we say certain things and you assert certain things, you've got to
9 put more information as to why you put it, or maybe less information. I think there was
10 one comment that I wrote that the DP wouldn't have suffered any contextual loss if it
11 didn't have this additional information. So --
12 Q And turning back to the substance of the domain perspective, on page 2 of
13 the domain perspective, underneath the bold title that reads "Increasingly Observed
14 Interest of RMVEs in RTC Ideology Almost Certainly Presents New Opportunities for
15 Threat Mitigation," that first sentence states, "FBI Richmond assesses the increasingly
16 observed interest of RMVEs in RTC ideology almost certainly presents new opportunities
17 for threat mitigation through the exploration of new avenues for tripwire and source
18 development."
19 Can you explain what was meant by "new avenues for tripwire and source
20 development"?
21 A Well, I think, in any threat, that's, you know -- we are always looking to, you
22 know, establish tripwires. And source development is something that is a technique we
23 can use in our operations. So, regardless of the threat, that's something that we do in
24 just normal course of business.
25 Q And in regards to this domain perspective, what would source development

1 have looked like here?

2 A Well, source development would be towards predicating full investigative

3 subjects conducting criminal activity. Individuals that would have information

4 pertaining to those people or to those particular subjects or are in a position to engage

5 with those subjects.

6 Q And was there any sort of plan about how to develop these sources or reach

7 out to these individuals?

8 A Well, I think that's -- standard FBI practice is source development and

9 tripwires.

10 Q What did it look like, in your mind, for this domain perspective, the source

11 development piece?

12 A Well, to me, again, regardless of the threat, that's common-speak for a

13 threat. If you have criminal activity, if you've got sources involved in criminal activity,

14 sources is in your toolbox to help mitigate that threat.

15 Q And would the outreach to the parishes and the Catholic places of worship

16 that were listed in this domain perspective, would that have informed the source

17 development?

18 A Well, I think the outreach would have sensitized leadership to the threat of

19 what we're seeing, and especially if it's in our backyard. One, it would've sensitized

20 them to that. And it would also have given them a resource for knowing who we are, in

21 addition to educating them and informing them, having a point of contact for them to call

22 us for assistance if they needed that.

23 Q And I think you discussed this with my colleagues last hour. Can you

24 describe what you meant by "sensitize the parishes"?

25 A Sure. So, as an example, if we see a new particular cyber variant -- and I'm

1 going to give you just as an example a cyber variant -- that we're seeing, if we go to a
2 private-sector company and we sensitize that company to the trends of what we're
3 seeing related to that variant, that would be: "Hey, this is informing you this is what
4 we're seeing. These are some of the indicators of compromise. These are things you
5 need to be aware of."
6 It would be the same here. If we go to a particular house of worship to sensitize
7 them to a particular threat, we'd be informing them and educating them on what we're
8 seeing.
9 Q And so, looking at the first bullet point here, it says that the Richmond
10 subject, prior to his arrest, had been attending the Society of Saint Pius X-affiliated parish.
11 Did you have an understanding of what "SSPX" was prior to this domain
12 perspective?
13 A No.
14 Q Do you have an understanding of what the Society of Saint Pius X is?
15 A Yes. Broadly, yes.
16 Q Can you give me your broad description of what SSPX is?
17 A There are Catholic churches that fall under the Vatican, where the Vatican
18 has authority over those churches, and there are Catholic churches that do not.
19 Q And why were the SSPX parishes of concern in this domain perspective?
20 A I think based on the criminal activity that was identified in pages 2 and 3. I
21 think the analysts pulled that information from across the country from predicated cases
22 that -- similar information.
23 Q Similar information as to the RMVE status of the subject or of the SSPX place
24 of worship?
25 A Both. These are fully -- these are predicated subjects across the country,

1 and there's an affiliation there.

2 Q Affiliation with the --

3 A SSPX.

4 Q -- SSPX? Okay.

5 And was it your understanding that, at the time of this domain perspective -- on

6 the second page here, it talks about his 2022 arrest. Was the individual in custody at

7 the time this domain perspective was authored?

8 A Yes.

9 Q Okay.

10 Looking at the second bullet, it states, "According to an FBI Portland liaison

11 contact with indirect access, as of September 2021, deceased RMVE subject Robert

12 Reynolds had previously posted online that he first sought out a mainline Roman Catholic

13 community that practiced the Novus Ordo liturgy and then gravitated to the SSPX."

14 Is it your understanding that this example of the case from Portland involves a

15 subject who was deceased at the time of the domain perspective?

16 A Based on what's in the -- based on what's in the report, yes.

17 Q And do you have any understanding of why it was important to include that

18 he sought out a mainline Roman Catholic community? Do you know what they meant

19 by "mainline Roman Catholic community"?

20 A I do not.

21 Q Okay.

22 Looking at the third bullet point example, it mentions an FBI undercover employee

23 with direct access and an RMVE subject who attended the SSPX.

24 Is it your understanding that this specific bullet deals with the Milwaukee case

25 that's referenced in the INSD report?

1 A Yes.

2 Q And did you have an understanding of whether this investigation at FBI

3 Milwaukee was open or closed at the time the domain perspective was drafted?

4 A I don't know.

5 Q And can you describe the correspondence that took place between

6 Richmond and the Milwaukee Field Office and the Portland Field Office on the domain

7 perspective?

8 A I think, one, I'd have to defer to the inspection timeline -- or -- I believe it's in

9 the inspection timeline. But I do know, in general, that an intelligence analyst, if they

10 see information that they want to use, that they would like to use in a product, they

11 cannot just use that information; they have to have coordination with that intel team

12 from that particular field office, because we don't own other divisions' cases. So the

13 analyst would've had to have sought approval to use anything from their investigation.

14 Q So would there have been discussions prior to, you know, what was

15 mentioned in the Inspection Division's report of sending the specific bullet point that

16 pertained to the Milwaukee investigation with the Milwaukee Field Office?

17 A I think I would have to defer to Inspection's timeline on that.

18 Q So it says on page 6 of the report --

19 A Inspection --

20 Q Inspection Division, exhibit 2, sir.

21 A Okay.

22 Q On the bottom of the page, it states, "Accordingly, the authors coordinated

23 with the case managers of the [blank] investigation, as well as with agents and analysts in

24 Milwaukee and Portland, to verify the facts cited in the DP. The agents and analysts in

25 Milwaukee and Portland only reviewed the bullet points associated with their respective

1 investigation and did not review or contribute to the broader DP."

2 We're just trying to understand what that coordination looked like between the

3 field offices involved.

4 A Yes. I think that's -- I think that's the -- that's the summary. You know,

5 that's -- if the analyst wants to use information, they have to ask permission.

6 But it does not -- there is no -- you've got investigations, intel products. There is

7 no -- that's not -- there is no coordinated investigative --

8 Q Uh-huh.

9 A This is an intelligence product. In order for the analyst to use the

10 information, he or she has to have approval.

11 Q Do you have an understanding as to whether the subjects in the Milwaukee

12 and the Portland case referred to themselves as "radical traditionalist Catholics"?

13 A I do not.

14 Q Do you know if the term "RTC" came up in the investigations that took place

15 out of Portland and Milwaukee?

16 A I do not.

17 Q Did you review any of the three underlying investigations prior to providing

18 your feedback on February 3rd?

19 A I had information from the Richmond investigation, but not the other two

20 ones that are cited in the product.

21 Q On page 9 of the Inspection Division report, in the last paragraph there, it

22 states, "In the three FBI investigations cited in the DP, the authors mentioned interest in

23 religion alongside concerning rhetoric and illegal acts, but did not establish that interest

24 led subjects into the RMVE movement or had an impact on the acts for which they were

25 investigated or arrested."

1 Would knowing this information have affected any of the feedback you provided
2 on the domain perspective?
3 A Well, if I would've had CTD's expert analysis, of course.
4 Q And if you go to page 10 of the report, the middle of the second paragraph,
5 it states, "While there are instances in which the FBI may take appropriate cognizance of
6 the role religion may play in the motivation for criminal or terrorist acts, (i.e. when
7 subjects of investigation state their criminal or terrorist acts are based on religious
8 doctrine), such was not the case with the three subjects of the DP."
9 Would knowing this have affected the feedback you provided?
10 A It would have.
11 Q And how would it have affected the feedback you provided?
12 A Well, I think it would -- it would go -- well, I think it would just factor into my
13 feedback, that this is a question that needs to be answered or something that needs to be
14 addressed.
15 But if we -- if we had -- if the review process was like the external product review
16 process, we very well may have had this feedback.
17 Q Uh-huh.
18 A But you don't have that for the internal products.
19 Q Moving back to the domain perspective, exhibit No. 1, page 3, at the very
20 bottom, under the "Perspective" heading, it states that "the Southern Poverty Law Center
21 identified nine RTC hate groups operating in the United States." These nine alleged RTC
22 hate groups are listed in Appendix D of the memorandum.
23 Do you view the Southern Poverty Law Center as an unbiased and nonpartisan
24 source that should be cited in FBI products?
25 A Can I have a moment?

1 Q Absolutely.

2 We're off the record.

3 [Discussion off the record.]

4 [redacted] We're back on the record.

5 BY [redacted]

6 Q I'll re-ask the question.

7 A Sure.

8 Q Do you view the Southern Poverty Law Center as an unbiased and

9 nonpartisan source that should be used in citations in FBI products?

10 A Firstly, I did not know what the SPLC was.

11 Q Okay.

12 A Now knowing what I know and following Inspection's findings and the DI and

13 CTD on the appropriate use of caveats with the organizations that potentially have bias,

14 there would be an importance to note that.

15 Q Are you aware that the SPLC has issued apologies in the past for its labels

16 and characterizations that it has used?

17 A No. No, I don't have specificity of that.

18 Q On page 7 of the INSD's report, exhibit 2 again, sir --

19 A On the Inspection --

20 Q Yes. Page 7.

21 At the top of the page, it states, "IA [redacted] acknowledged that SPLC was

22 known to have a political bias," but "did not provide any details about potential bias or

23 the credibility of sources" and ended up citing to the SPLC.

24 Were you aware that the IA acknowledged that SPLC was politically biased?

25 A No, not -- no.

1 Q Does it concern you that an intelligence analyst at your field office would
2 know that a source was politically biased and still use that information to cite factual
3 information in an intelligence product?
4 A Well, I think, here, something that may be lost in the explanation is that I
5 believe, in analyst-speak, that the SPLC was used to offer perspective, but wasn't officially
6 cited as a, quote/unquote, "source" in the document.
7 Q Uh-huh. Yeah. And I'll --
8 A If that makes sense.
9 Q Yeah. I'll direct you to page 11 of the domain perspective, and end-note
10 number nine cites to the Southern Poverty Law Center.
11 A Uh-huh.
12 Q Does it concern you that an intelligence analyst in your field office would
13 know that the SPLC was politically biased but use it as an end-note to cite to factual
14 information in the report?
15 A I couldn't speak -- because I'm not an analyst, I couldn't speak to -- I think,
16 going back to the inspection, I think it is important to note that if there are -- as we've
17 learned, if those organizations are used, then you need to specifically cite that
18 information, that potentially biased information, in the product so the consumer is able
19 to see that.
20 Q Uh-huh.
21 A The concern of does it concern me, I think that -- well, I want the feedback
22 from CTD and the DI to tell us how to do the job better. So, as we're learning all the
23 different things that we need to do better, that's one of the things we need to focus on.
24 But I don't know, because I had so many -- there were so many approvers and
25 reviewers -- the need -- if that would've been a requirement to do in the product. I

1 don't know that.

2 Q Do you think, going forward, with the procedures and new policies that are

3 being put in place as a result of this domain perspective, do you think that that political

4 bias should've been noted in the domain perspective?

5 A Well, I think going forward, I think that that is the -- now that we have the

6 official report, we see that the importance of ensuring that caveat -- in accordance with

7 ICD 203, that the appropriate caveats are placed on source citings -- or, if you're going to

8 use a source, that if you have that information, you need to put it in the product.

9 Q And at the time that the domain perspective was authored, were you aware

10 of any sort of FBI policies regarding third-party sources?

11 A No.

12 Q If you go on to the fourth page of the domain perspective, the first sentence

13 states, "Open source reporting and FBI investigations have noted a growing overlap

14 between the far-right white nationalist movement and RTCs."

15 What evidence of the overlap between White nationalists and RTCs did the

16 Richmond Field Office observe prior to the domain perspective being authored?

17 A I couldn't answer that.

18 Q Who would be able to answer that question?

19 A That would be the individuals who wrote the product.

20 Q During the briefing on the Inspection Division that the committee received

21 on Tuesday, there was discussion of the July 2021 Consolidated Strategy Guide. Do you

22 have awareness of the Consolidated Strategy Guide, also abbreviated as "CSG"?

23 A I do.

24 Q And, according to CTD, the terms that were used for far-right and RTC wasn't

25 the correct usage according to the CSG. Do you agree with that?

1 A Again, there, I'm not an expert in that particular area, so I would have to
2 defer to CTD and the DI for their input as to what falls in line with that.
3 Q And has the Richmond Field Office received any additional training from CTD
4 on the CSG?
5 A We've done the -- we had our first training. I had OGC, DI, CTD. And then
6 we have a report analytical training that we were supposed to have this month but
7 unfortunately I had to reschedule. But I don't know any -- I'm not -- anything specific to
8 CSG, I'm not aware of.
9 Some of the team members did go to CTD early on for a discussion, but I don't
10 know if that involved anything related to the CSG. And of note, we didn't have this
11 report until fairly recent.
12 Q Uh-huh.
13 In that same paragraph, a couple sentences down, it states, "The ongoing
14 convergence of the far-right white nationalist movement and RTCs was further
15 demonstrated through the increase in hostility toward abortion-rights advocates on social
16 media sites in the run-up to and aftermath of the Dobbs v. Jackson Women's Health
17 Organization decision that overturned Roe v. Wade."
18 Do you know why abortion rights was specifically mentioned in this
19 memorandum?
20 A Now, I think, again -- and I can't provide much clarity here, but -- that the
21 discussion of topics, like, those polarizing topics, and their relation to how the analyst is
22 explaining what RTCs were and were not, I think that's maybe where it comes from. But
23 I couldn't offer any more.
24 Q In relation to the domain perspective's mention of the hostility toward
25 abortion-rights advocates, was there similar concern at the FBI Richmond Field Office

1 regarding the over 100 churches and pregnancy resource centers and pro-life facilities
2 that were attacked following the leak and then eventual decision in the Dobbs case?
3 A What's the question?
4 Q Was there similar concern about pro-life facilities that were being attacked
5 after the Dobbs decision?
6 A There would be concerns if we had Federal criminal violations to investigate,
7 but I'm not aware of any -- anything.
8 Q And to the extent that pregnancy resource centers are attacked and fall
9 under the purview of the Freedom of Access to Clinic Entrances, would that fall under the
10 purview of the FBI?
11 A Uh-huh. FACE Act.
12 Q And was there similar concern about attacks on pregnancy resource centers
13 that would fall under the FACE Act at the Richmond Field Office?
14 A Well, I think, broadly, that that would be our purview and would be of
15 concern. If it was occurring, it would be a concern.
16 Q Was there any sort of intelligence products from the Richmond Field Office
17 regarding attacks on pro-life facilities?
18 A I'm not aware of any.
19 Q When you look at the "Outlook" section, we've talked about that the
20 "catalyzing events in which RMVEs and RTC adherents might have common cause include
21 legislation or judicial decisions in areas such as abortion rights, immigration, affirmative
22 action, and LGBTQ protections."
23 Was there specific legislation or judicial decisions that the FBI was concerned
24 about?
25 A No, not that I'm aware of.

1 Q When you look at the last sentence on page 4, it says, "Nonetheless, the
2 current trend of RMVE interest in RTC ideology provides new opportunities to mitigate
3 the RMVE threat through outreach to traditionalist Catholic parishes and the
4 development of sources with the placement and access to report on RMVEs seeking to
5 use RTC social media sites or places of worship as facilitation platforms to promote
6 violence."
7 What was the sort of "placement and access to report on RMVEs" that the
8 Richmond Field Office was seeking here?
9 A Well, in our full predicated investigation, we would target the subject
10 wherever the subject is, if we were able to gain access to the subject. So, regardless of
11 the particular threat, you know, we have a responsibility, with full investigations, to try
12 and collect evidence against that subject.
13 So, if we were looking to continue the investigation, then source development
14 would be one of the techniques we could use to try and get more information on the
15 subject that's committing violent criminal activity.
16 Q And when you're talking about an RMVE subject going, you know, wherever
17 they go, does that include their place of worship?
18 A Yeah, oftentimes -- and we've known this. You know, we do know that
19 people seek justification for violence in religion. And we also know that there are
20 limited windows, oftentimes, when subjects may leave a particular location, and they
21 may go to a religious entity as their only outlet. So --
22 Chairman Jordan. But, in this case, the subject's in custody. So was there
23 another subject you were looking to develop sources on?
24 Mr. Meador. Well --
25 Chairman Jordan. I mean, it's a long, complicated sentence, but if you break it

1 down, it's pretty simple: "outreach to traditional Catholic parishes," "development of
2 sources with the placement and access to report on," "places of worship."
3 So the guy you've been after, the predicating thing, is in custody. He's been
4 arrested; he's in custody. And this comes out after and says, we're looking to develop
5 sources and put those sources in places of worship.
6 Mr. Meador. No, I think that what the domain perspective is saying is that we
7 are educating and sensitizing locations on the RMVE threat. If they see any signs of
8 indicators of violence that we've educated them on, then obviously that is something that
9 we're encouraging them to report to us.
10 However, if we are -- and if that is fruitful and there's an additional person
11 identified, then, obviously, that would be -- we would, in a fully predicated investigation,
12 target that subject.
13 Chairman Jordan. Well, that's fine, but that's not what it says. "Development
14 of sources with the placement and access to report on...places of worship."
15 Mr. Meador. So that would be -- you know, again, a source could be anywhere
16 reporting on a subject, could be in any location.
17 Chairman Jordan. Fine, but that's not what it says. "Sources with the
18 placement and access to report on...places of worship."
19 Mr. Meador. Well, that's -- but, according to the domain perspective, that is
20 the -- if the domain perspective is showing that fully predicated subjects who have this
21 affiliation are conducting criminal activity and we are actively investigating RMVEs that
22 are affiliated, then we have an obligation to use source development in those locations to
23 target that subject regardless of where they're at.
24 BY [redacted]
25 Q As far as when the domain perspective was approved and ready for

1 publication, if you will, do you know where it was placed on the FBI systems?
2 A When the removal occurred is where I learned that.
3 Q Okay. Go ahead and discuss that with us.
4 A It went -- one, we had the SharePoint site, which we talked about earlier.
5 SENTINEL, our official recordkeeping. And then the DI, I believe, has a portal. And
6 then the FIG. I think the SharePoint site is the same as the FIG portal, the Field
7 Intelligence Group portal.
8 Q And did you ever receive direction from anyone regarding the domain
9 perspective and its removal from FBI systems?
10 A Yes.
11 Q And who did you receive that direction from?
12 A The Deputy Director.
13 Q How many conversations did you have with the Deputy Director regarding
14 the domain perspective?
15 A To date?
16 Q To date.
17 A Maybe five? Four or five, approximately, specific to the perspective.
18 Q And was the decision to pull the domain perspective off FBI systems made
19 before or after the public reporting on its existence?
20 A It was made after. It was the following day. And there were two -- yeah,
21 the following day.
22 Q Uh-huh. So, according to the Inspection Division's report, it was uploaded
23 to SENTINEL on January 24th. Then it was uploaded to the SharePoint on January 26th.
24 You commented on February 3rd. Does that match your recollection?
25 A Yes, ma'am.

1 Q On February 8th, the media began reporting on the existence of the domain
2 perspective. And that same day, the Deputy Director advised you to remove the DP
3 from all FBI systems. Is that correct?
4 A The Deputy Director said pull it down.
5 And then I received a followup call from the AD of the Directorate of Intelligence
6 indicating that the Deputy had communicated the same that morning and that I needed
7 to notify them when I had taken the necessary steps. And I said, I will do that, and I will
8 also send you an email to tell you what we've done.
9 Q So what did you take the Deputy Director's directive of "pull it down" to
10 mean?
11 A To remove it from wherever the document was posted.
12 Q And in doing --
13 A That Richmond has control over, that we have control over.
14 Q And in doing so, the SharePoint folder was deleted. Is that correct?
15 A It's however they -- the team did that is there.
16 Q And what team was in charge of doing that?
17 A I put folks around the table, and we went through, kind of, locations of
18 where it was at. We had the discussion on the SharePoint site, like, how do we deal
19 with the SharePoint site? And then the SENTINEL discussion, and then the DI portal
20 discussion.
21 Q And prior to February 8th, when the existence of the domain perspective hit
22 the news, had anyone raised concerns to you about the propriety of the domain
23 perspective?
24 A "Propriety" meaning what?
25 Q Whether or not it held up to the exacting standards of the FBI?

1 A No.

2 Q Had you had any discussions with anyone at headquarters prior to February

3 8th about the domain perspective?

4 A No.

5 Q Do you know, if the domain perspective had not been, you know, made

6 public, would it still be in FBI systems?

7 A Yes.

8 Q Would outreach have been conducted based upon the domain perspective?

9 A I would've -- I would've prioritized and had the discussion. Quite likely, I

10 would've reached out to the diocese.

11 Q Okay.

12 We'll go off the record.

13 [Recess.]

14 [redacted] Back on the record, please.

15 BY [redacted]

16 Q Okay. Good afternoon again.

17 A Good afternoon.

18 Q I just want to return to exhibit 1, page 4 and 5. This is the domain

19 perspective again.

20 And you were asked some questions by Chairman Jordan about one particular

21 sentence in there in the "Outlook" section. And, if you recall, this set of questions

22 were -- you kind of went back and forth on development of sources, as that statement

23 says.

24 So I just want to direct your attention to that so you can remind yourself. Would

25 you mind just reading, first of all -- this is the last full sentence in the last paragraph on

1 page 4. It starts with the word "nonetheless."

2 A Uh-huh.

3 Q Would you read that sentence to yourself and let me know when you've had

4 a chance to read the whole thing? It continues on the next page.

5 A Okay.

6 Q Okay. So I'm going to read it. This is, again, in the section entitled

7 "Outlook" in the domain perspective.

8 The full sentence reads, "Nonetheless, the current trend of RMVE interest in RTC

9 ideology provides new opportunities to mitigate the RMVE threat through outreach to

10 traditionalist Catholic parishes and the development of sources with the placement and

11 access to report on RMVEs seeking to use RTC social media sites or places of worship as

12 facilitation platforms to promote violence," end quote.

13 Did I read that correctly?

14 A Yes.

15 Q Okay.

16 So the question that Chairman Jordan had asked you from that sentence sort of

17 shortened the sentence and basically focused on the part that says: opportunities to

18 develop sources with the placement to access places of worship.

19 But it leaves out a lot, doesn't it? Because what the sentence actually says with

20 regard to development of sources is that you're talking about sources to report on

21 RMVEs, correct?

22 A Correct.

23 Q And those are fully predicated criminal subjects, correct?

24 A Yes. Yes.

25 Q Not churchgoers --

1 A No.
2 Q -- correct?
3 A Correct.
4 Q Can you explain the importance of including that part of the sentence in
5 order to understand its full meaning?
6 A Yeah, I think what's important in this context is, in investigations, if we have
7 a fully predicated subject that we're investigating, we have in the toolbox an opportunity
8 through source development to try and place sources close to the individual or obtain
9 sources who are close to the individual, regardless of where they're at.
10 And in this particular instance, again, it speaks to having a fully -- if we have a
11 racially motivated violent extremist that we know about in a certain location, an
12 investigative step for us to take would be to develop a source to get close to that
13 individual, which very well could be in a house of worship.
14 Q Okay. And, in this case, the Richmond office did have a fully predicated
15 domestic terror subject who was affiliated with this particular -- or one particular house
16 of worship, correct?
17 A Yes.
18 Q But, beyond that, even though he was incarcerated at the time, the domain
19 perspective is foreseeing that there may be others in the future who are fully predicated
20 criminal subjects who might be associated with a variety of places of worship, correct?
21 A Correct. And, specifically, why the domain perspective is predominantly
22 outreach-based, it is to initiate those relationships, so that when they are sensitized to
23 what a racially motivated violent extremist is, warning signs of different things they
24 demonstrate, and in the event they see something, they can say something.
25 And, then, if a racially motivated violent extremist is identified, the investigative

1 step that we would take in a fully predicated investigation would be to develop -- could
2 be to develop a source targeting that individual or a source who has information to report
3 on the activities of that fully predicated subject.
4 Q Okay. And what's contemplated in that scenario, like, potentially
5 developing sources in the future who could report on another fully predicated criminal
6 subject, that is something that is hypothetical at this point, correct?
7 A Correct. Correct.
8 Q It's not talking about putting people in a church in order to spy on them,
9 correct?
10 A Correct.
11 Q And can you explain the difference between the sort of suggestion there
12 that you're placing people and what you're actually trying to do?
13 A Yes. We have very strict protocols that we follow internally. We do not
14 violate First Amendment rights. We don't do that. We work within the confines of the
15 Constitution and what our policies and procedures allow.
16 And in the event that we were going to -- let's say we had an RMVE subject
17 identified that was in a religious organization. We have a very specific additional
18 approval process that we have to go through just to use a source with that individual.
19 You just cannot go out and recruit. We don't do that.
20 Q Was that policy, that extra protection, in place even before this domain
21 perspective was written --
22 A Yes.
23 Q -- and the Inspection Division report --
24 A And, again, the Bureau recognizes the sensitivities involved with
25 religious -- specific to religious organizations, so much that we have an additional

1 approval process for even doing that kind of activity towards predicated full subjects.

2 Q Okay.

3 [redacted] And, generally speaking, the fact that a subject is incarcerated does

4 not necessarily mean that there is not an ongoing FBI investigation.

5 Mr. Meador. Correct.

6 BY [redacted]

7 Q In this case, the subject, even though he was incarcerated, there was -- and

8 indicted, there was still an investigation continuing?

9 [redacted] There could be.

10 Mr. Meador. Could be.

11 BY [redacted]

12 Q Could be. Sorry. Okay.

13 One other question, too. There were a couple of times during this interview that

14 you've mentioned that the domain perspective itself was sort of a rare entity in the

15 Richmond office, correct?

16 A Yes, ma'am.

17 Q But there are lots of intelligence products that your intelligence analysts

18 would be producing that are not domain perspectives, correct?

19 A Correct.

20 Q Is it possible or fair to say that maybe one of the reasons that your very

21 experienced intel analysts and yourself had not either produced a domain perspective or

22 seen one, in your case, is because, at the Richmond office, you hadn't before had a

23 subject like the one that was the basis for this domain perspective, in terms of the threat

24 that he posed?

25 A I think that that's something I would have to defer to the intelligence cadre.

1 And when there are so many different products and so many different ways they can
2 communicate things, based on the substance of what specifically applies, I think it would
3 dictate how it should be presented.
4 I think, here, the analysts, again, looking at our specific case information and then
5 looking across the country and doing what analysts do, saw other fully predicated
6 investigations with similar information, I think they determined the domain perspective
7 was the appropriate way to communicate this information.
8 Q Okay. And, again, the domain perspective in this case was based on the
9 fully predicated criminal activity and not based on some other interest that the FBI had --
10 A Correct.
11 Q -- in churches?
12 A Correct.
13 Q Okay.
14 I'm going to defer to my colleague here with a few questions.
15 BY [redacted]
16 Q I know that we've gone over this a few times, but when you first read the
17 domain perspective, what were your main understandings and takeaways?
18 A The focus on the predicated information of the subjects, the criminal
19 activity, and the severity of who it was, and that it asked for the recommended outreach.
20 I do recall, you know, seeing the sources -- placement of sources and thinking to
21 myself, eh, it didn't really need that, because that's common-speak for FBI agents. I
22 mean, we just know that's part of our job.
23 But, again, given the severity and, at that time, the briefings I had received and
24 the increased emphasis I specifically placed on this because of what I learned, I knew that
25 this was the right thing to do because the subject was in our AOR and, yes, we need to do

1 this outreach and make contact.

2 Q When you say "this was the right thing to do," you mean reaching out to the

3 community was the right thing to do?

4 A Yes. We just -- I mean, it's unfortunate we just couldn't get the

5 opportunity. And in my follow-on -- you know, in conducting that outreach and my

6 follow-on meetings, that is what I put forward, was that the whole purpose of this was for

7 me to come sit here and tell you what I'm telling you right now. I just didn't get the

8 opportunity.

1 [1:30 p.m.]

2 BY [redacted]

3 Q I want to look at the opportunity section of the domain perspective that

4 starts on page 5. You mentioned earlier, we've talked about just now, the main

5 takeaway from this was engaging in community outreach. Looking at the first

6 opportunities bullet, it talks about sensitizing congregations to warning signs of

7 radicalization and enlisting their assistance to serve as suspicious activity tripwires. Is

8 that consistent with your understanding?

9 A Yes.

10 Q And we talked a bit earlier about sensitizing congregations to the warning

11 signs of radicalization. Can you summarize quickly what that means?

12 A Yes. Anytime, you know, when we're going out and doing, whether it's a

13 training or an outreach event and we're speaking to specific topics, we're sensitizing the

14 audience to whatever the threat picture is. And back to the tripwire, it goes back to the

15 basic premise of see something, say something, and having folks know, be more informed

16 on a particular threat, and know that if they do see these things, that there is an avenue

17 to reach out and contact us and let us know. And also, you know, the reverse, if we

18 have additional information or questions or we see something, reaching back out to let

19 them know.

20 Q And earlier in the domain perspective there's a reference to both tripwires

21 and source development. In your understanding, those are separate things, correct?

22 A They are.

23 Q And what -- how does a tripwire differ from an FBI source?

24 A Well, a tripwire could be anyone that we just have regular or just have -- you

25 didn't have to have regular content, anyone we have contact with that -- just that we've

1 established contact with, and through the -- through the course of our business, whether
2 it's private sector outreach to the private sector entities, whether it's -- just general
3 outreach, could be basic contacts.
4 The source is a -- is our formalized process for individuals that have to adhere to a
5 completely separate policy guide on source operations and development that are -- that
6 are in a capacity to report on violations of criminal -- criminal laws.
7 Q Some have accused the FBI by hoping to enlist congregations assistance to
8 service tripwires the FBI is engaging in surveillance. Do you agree with that
9 characterization?
10 A I do not.
11 Q Why not?
12 A The FBI conducts our investigations -- or conducts our activities and
13 operations in fully predicated investigations. We do not go out without an authorized
14 purpose to do our job. So the indication that we would just arbitrarily go do things like
15 that is just borderline absurd. We don't do that. Our mission is to uphold the
16 Constitution, and we hold that near and dear to our mission -- to our heart, and so -- and
17 fall in accordance with -- with that.
18 Q And serving as a tripwire, like you said, is completely voluntary?
19 A [Nonverbal response.]
20 Q Could you answer for the record? Sorry.
21 A Yes.
22 Q And it's something -- it's similar to see something, say something education?
23 A It is. And what could happen is there are, you know, instances where a
24 tripwire based on the nature of the information may develop into a person who may have
25 additional information or access that could transition then to a potential source, but

1 that's --

2 Q That wasn't what was envisioned --

3 A No.

4 Q -- in this?

5 A No.

6 Q The next bullet point, the main bullet point, also talks about sensitizing the

7 congregation to warning signs of radicalization and enlisting their assistance to serve as

8 suspicious activity tripwires. Do you see that?

9 A Yes, ma'am.

10 Q And this is similar to the bullet point before about information sharing with

11 congregations. Is that fair to say?

12 A Yes.

13 Q The third bullet point at the top of the next page, at the end of it talks about

14 providing background information for Catholic parishes and assistance in sensitizing the

15 parishes to the warning signs of radicalization. Would you agree that this is similar to

16 the earlier two bullet points?

17 A Yeah. But what I would offer for this one is the benefit and the -- I would

18 say the commonsense approach from the analysts putting that is going to the diocese

19 because they are over their Catholic par- -- their churches under their purview would be

20 asking them, one, sensitizing them, showing them what we have, and then asking them

21 what do they recommend -- what could we do to help them in their congregation, like

22 if -- you know, as far as sensitizing and providing additional information, would it -- seek

23 their input and advice on what their recommendations are.

24 Q So not only giving information from the FBI side but asking how can the FBI

25 best support you?

1 A Yes.
2 Q Only the fourth bullet point references sources. Do you see that?
3 A Yes, ma'am.
4 Q So there's four major bullet points, three of them reference community
5 outreach. Is that fair to say?
6 A Yes.
7 Q So would you agree that generally the domain perspective is focused on
8 community outreach?
9 A Again, what I've -- I think I've alluded to earlier is that my takeaway from this
10 document, this was an outreach document, so, yes, the major -- nearly all of the bullets
11 are all outreach focused.
12 Q And then the last bullet point that talks about sources, it doesn't reference
13 any specific congregation or church, does it?
14 A No.
15 Q And that's because that's not what the interest of developing sources is?
16 A No.
17 Q The focus of that bullet point and the focus of developing sources is on the
18 racially motivated violent extremists?
19 A Yes, it's for subjects that do that.
20 Q And with the opportunities that you had read in this domain perspective,
21 your first reaction wasn't even going to be let me go call up the numbers that were listed
22 here, right?
23 A No.
24 Q Your first reaction was, let's have a meeting about it?
25 A Correct.

1 Q And you didn't even get to that point?

2 A No.

3 BY [redacted]

4 Q Just a couple of questions, again, based on the first hour. You were asked

5 about some of the reference in the domain perspective by the author to particular

6 political issues like the Dobbs decision and other things that were kind of being, I guess,

7 discussed. Do you recall those questions?

8 A I do.

9 Q And I think one of the questions that was asked was are you aware of any

10 domain perspective or intelligence product that was produced in reference to criminal

11 events on kind of the other side of the political spectrum, specifically, attacks on the

12 clinics where people kind of -- I forget what they're called -- pregnancy clinics that are

13 more conservative or religious. Do you recall that question?

14 A I do.

15 Q Okay. And I think that your answer was, well, if there was an act of

16 violence associated with that political view or religious view, then, yeah, the FBI might do

17 the same thing, might have a predicated subject and then they might further have intel

18 products like a domain perspective, correct?

19 A If there's a criminal Federal nexus, and the FACE Act would be one of those,

20 then there would be -- there could be an investigative avenue there. But on the

21 intelligence side, if the intelligence saw some similarities there on subjects that -- then

22 they could -- they could be in a position to report on that.

23 Q Okay. And is it fair to say that your main point was the intelligence

24 products are being driven by what criminal acts the FBI is seeing and not vice versa?

25 A I would say that it's -- yes, to a point. You have the criminal acts that are

1 being identified, but then the intelligence analysts' role is to look at consistencies,
2 because I'm not paying attention to what's going on in Portland, and I'm not paying
3 attention in Milwaukee. That's the analysts' role is to see those like-minded criminal
4 activities and any similarities that would help inform on the threat.
5 Q And so because you were sitting in Richmond and your analysts in this case
6 were sitting in Richmond, they were looking at criminal activity that was happening in
7 your area of operation, but then the intelligence analysts were trying to draw conclusions
8 that might have been nationwide that would inform the type of investigation that you
9 were working on?
10 A Yes.
11 Q Okay. And just in your experience more generally, what is your response to
12 any allegation that the analysts and the FBI agents that you've worked with in Richmond
13 are politically motivated in their work?
14 A I think it's -- I think it's absurd. I think it's an inaccurate representation
15 every time we hear that. I work with a dedicated group, an awesome team of
16 individuals who dedicate themselves to protecting the American people and upholding
17 the Constitution. They do it every day, and sometimes late at night and through the
18 weekends. And we are motivated based on those who seek to do harm to our people,
19 and that's what drives what we do. And we work our cases, we stay dedicated to the
20 mission, and we don't get caught up in the noise of everything that's external to affect
21 that, because we have a mission to keep people safe.
22 Q And based on the questions that you've heard today and your experience
23 with this domain perspective in particular, is there anything else that you want the
24 committee to know about your work or the work of the people who were involved in this
25 product?

1 A I think that when you -- I think one thing that's been lost -- that was lost
2 early on is that -- I think when you look at the domain perspective, the fact that it was
3 based on criminal activity, the fact that the inspection report found no malicious intent,
4 no wrongful purpose, you had individuals whose hearts and minds are in the right place
5 trying to do the right thing, and could the product have been better now that we have
6 this review and this amount of review that has been placed on the product, absolutely.
7 There's things we can improve on, and there's things that we have done to develop to be
8 better, which I think is great -- is good for the organization because it will help us do our
9 job better.
10 I do think that when we look at the people that were involved in this, again,
11 everyone's hearts were in the right place. I wouldn't think for a moment that if there
12 was ever a thought, even for my own personal connections to the Catholic faith, if I
13 thought for a moment that there was anything inappropriate or wrong here, that I would
14 have said something.
15 But judgment is judgment, and we're only human, and I think people, again, put
16 forth their best effort. And I think it is unfortunate that when you go back to the
17 beginning of this, that the leaking of the document was redacted in such a way, redacting
18 the basis for why it was written and for what the document was asking us to do -- asking
19 us to do. And in the public light, that, you know, unfortunately left it up to
20 interpretation, which has brought significant -- has been hard for everyone involved.
21 Q Hard on the FBI employees, you mean?
22 A Yes. Yeah. And I'm -- you know, we are taking steps. They are a -- you
23 know, my team is a -- they're a dedicated group of individuals. And as I've
24 communicated to them, you know, we -- I'll open the books for anyone. I believe in
25 oversight. I believe in anyone that wants to look at our books. You want to look at

1 how we do business, absolutely. Come look at it. I'll share whatever we can share
2 with you. Come look at it. We'll take the input. We're not above review. We're
3 not above reproach. We'll take that input.
4 And if there's areas where we need to improve, well, then, we're going to take
5 that recommendations and guidance and we're going to improve, because I have every
6 bit of the confidence in my team and every bit of the confidence in their abilities to take
7 this and to move forward and do better.
8 Q And regardless of the improvements that the inspection division has pointed
9 out that could've been made to the domain perspective, do you still think that that
10 product had a valid use given the context in which it was created?
11 A I do, and I -- there have been -- there have been additional discussions on
12 how to get the information out in a -- because they're -- you know, there were -- I think,
13 as you could see the inspection report, there was step -- there were steps taken to put
14 this into an external product. So, yes, I think there's -- there's validity there, because
15 when you have a criminal -- something that's based on criminal activity and a potential
16 threat to people, then the right thing to do is to say something. Because for us, the
17 business that we work in, we don't have the luxury of being wrong, because if we're
18 wrong one time, the results can be catastrophic.
19 So we -- and to the analysts' point of why we ask so much of them, we are
20 dedicated to leaning forward and trying to get in front of that next incident. And
21 sometimes it -- you know, no one said protecting the American people would be easy.
22 And when you work in this business, this is not easy stuff when you deal with these types
23 of subjects and what steps we need to take to deal with them. You know, we live, again,
24 in a world of having to make hard calls in a very high-pressure environment, recognizing
25 that if we miss it, it would not be good.

1 Q And you've said very clearly I think today that the value in the domain
2 perspective was potentially allowing you and others to reach out to these communities,
3 to provide information so that potentially there would be less of a threat with respect to
4 this type of racially motivated violence, correct?
5 A Yes.
6 Q Do you believe that the kind of negative consequences that have fallen upon
7 the people who worked on this product will chill the FBI and its analysts from producing
8 this kind of product in the future and helping to mitigate those type of threats?
9 A That is one of the -- one of the biggest concerns -- one of my main -- one of
10 the concerns I have, yes, is that because of the result here, because there's no malicious
11 intent, no wrongful purpose, but what was called into question and the way, I do fear that
12 there will -- that there will possibly be a chilling effect, which we want our analysts to lean
13 forward, to do the right thing, and do what they do to protect the American people. We
14 want them to do so knowing that when we do it in accordance with our policies and
15 procedures, that they're doing the right thing; and that if they have a book report that
16 could've been written better, that we will take steps to do that. But given the severity
17 of the external coverage or narrative of this, that that could make it hard for people.
18 Q And could one of the results of that chilling effect be that the office will not
19 be able to conduct the same kind of outreach that it might have been able to do without
20 this type of kind of uneven, unfair spin, and therefore won't be able to prevent some of
21 the harm that it might otherwise have been able to prevent?
22 A Well, I think it prevents -- presents itself a -- an opportunity -- somewhat of a
23 challenging opportunity for me in how we proceed forward, because now that we have a
24 final report and now that we see that the report could've been written better, I will have
25 to, you know, kind of assess, but -- how we move forward.

1 But I am confident that, because I knew and was confident that there was no
2 wrongful purpose here and no malicious intent, that now that I can see what the
3 inspection found and where there were site-noted deficiencies or where improvements
4 can be made, and now I can confidently speak to things that we've done and that we're
5 doing.
6 What's important to me is if -- as a leader, if you -- if you have an area you need to
7 improve in, you need to be vulnerable enough to tell people you need to improve in it
8 and not act like you're untouchable, you're awesome. I believe you own it, you be
9 vulnerable enough to own it in front of people, because I believe that builds you more
10 confidence with folks.
11 So I'm confident in our team that even despite the negativity and what has come
12 of this, that we're going to be able to move forward. And I'm confident that when we
13 have those discussions, that we're going to continue to try and be effective in that space.
14 [redacted] Okay. Thank you. I have no further questions. We can go off
15 the record.
16 [Discussion off the record.]
17 [redacted] We'll go back on the record. The time is now 1:50 p.m.
18 BY [redacted]
19 Q Sir, I want to draw your attention to page 12 of the inspection division
20 report. And I know you briefly mentioned this last hour about the external product on
21 the same topic. On January 5th, 2023, the inspection division timeline shows that
22 Richmond DT SSA received an email from the DMC advising of an internal intelligence
23 product being written and that IA -- redacted -- was coordinating with CTD, DTOS on an
24 external product, a Strategic Perspective Executive Analytic Report.
25 Can you describe what your awareness was of this external product?

1 A Post the leak and the discussions --

2 Q Uh-huh.

3 A -- I did learn, you know, as I was having conversations, asking questions, that

4 there was -- from the analysts that there had been a communication with CTD on the

5 relea- -- the release of this information in an external product, in a SPEAR, and that the

6 response from them based on the DP was that the information should go into a different

7 type of product, which is called an EI -- for an external release, an EIR, emerging

8 intelligence report, and versus a SPEAR.

9 Q And was the topic of the external product, whatever the form, the SPEAR or

10 the EIR, what was the topic going to be for that external product?

11 A I don't know. I know -- I think I would have to defer back to the inspection,

12 because I think there's an indication that it was based on the DP.

13 Q Yeah. If we turn to page 13, February 2nd, it says, The Richmond personnel

14 sent the draft SPEAR, based on the DP, to CTD, Domestic Terrorism Operations Unit.

15 Do you know if it focused on RMVEs and RTCs?

16 A I do not.

17 Q Did you ever see the draft SPEAR?

18 A No.

19 Q Do you know if the FBI is still pursuing an external product based upon the

20 DP?

21 A There -- I know internally there have been some discussions that -- through

22 the -- through the months and -- throughout the months of a desire to still try and get this

23 information out somehow, but I don't have any -- there's been no -- I've not seen

24 anything as a result of that.

25 Mr. Jordan. What information out?

1 Mr. Meador. The subject -- I think just a general subject, RMVE connection --

2 Mr. Jordan. An RTC?

3 Mr. Meador. Yeah.

4 Mr. Jordan. Okay.

5 [redacted] Do you know if it's about RTC or RMVE?

6 Mr. Meador. No. I would assume it's RMVE, but I don't -- I couldn't speak to

7 the broader --

8 Mr. Jordan. You never -- and you've not seen this draft SPEAR, this document?

9 Mr. Meador. No.

10 BY [redacted]

11 Q I want to talk about some of the specific findings in the inspection division

12 report on page 10. It says the DP equated interest in a particular form of religion with

13 RMVE ideology without sufficient evidence or articulable support. The errors in the DP

14 are significant as they created the false appearance that the FBI conducts investigative

15 activity based on religious affiliation.

16 What's your reaction to that portion of the report?

17 A Well, I think it -- my reaction is that the report, according to CTD's findings,

18 that the -- they needed more in the report for the assertions they made, or the

19 statement. They needed to put more information in.

20 Q And how can you assuage our concerns about, you know, the lack of support

21 in the domain perspective and, you know, how according to the inspections division it

22 created a false appearance that the FBI conducts investigative activity based on religious

23 affiliation? How can you assuage our concerns that it's going to happen again?

24 A Well, I think for Richmond, you know, we've taken considerable steps, one,

25 in hosting training and establishing that peer review process, you know, disseminating

1 analytical tradecraft standards by way of ICD 203. We have more -- more training
2 upcoming, and -- I think, again, when we proactively have done that before this was
3 released, what this will also do for us is now that I can see CT -- this, the final report, I can
4 now have more conversations with our team in CTD and the DI on -- to help better
5 educate us in this space, for Richmond specifically.
6 Q And then the report states, As a result, the publicity the DP received
7 diminished public trust and had a significant negative impact of the reputation of the FBI.
8 Do you agree?
9 A Well, I think the -- I think the one -- the one caveat -- before I answer, the
10 one caveat I would ask is -- I would offer is, as a result, the publicity, the redacted leaked
11 version of the DP that did not include the basis for which the DP was written, which was
12 criminal activity and fully authorized purpose, that I would have added that additional
13 information. But overall, when obviously taken -- when it was in the public space, yes,
14 the -- that it has had a negative impact on the organization.
15 Q And does it concern you that an intelligence product came out of your field
16 office that created this false appearance that the FBI is conducting investigations based
17 upon religious affiliation?
18 A Yes.
19 Q I'm going to turn it over to my colleague, [redacted]
20 BY [redacted]
21 Q All right. So we're going to switch gears into the communication with
22 Diocese of Richmond post the leak of the memo. So after the Catholic memo went
23 public, did you meet with the bishop and others at the Diocese of Richmond?
24 A Yes, ma'am.
25 [Meador Exhibit No. 5

1 Was marked for identification.]

2 BY [redacted]

3 Q I would like to enter an exhibit dated March 13th, which is an email you sent,

4 as exhibit No. 5.

5 A Yes, ma'am.

[1:57 p.m.]

BY [redacted]

Q All right. So, on Monday, March 13th, you emailed someone associated with the Diocese of Richmond and wrote, "Thank you for allowing me the opportunity to meet with you and Bishop [redacted]."

Was this Bishop Knestout?

A Yes.

Q And whose idea was it for you to reach out to the bishop?

A Well, it was mine initially. I had made the request to headquarters to conduct this outreach.

Q Did you make that request to the Deputy Director?

A I did.

Q And he gave you permission?

A Yes.

Q Great. And on what date did this meeting occur?

A The first meeting was -- this is -- the first meeting was March the 9th. The second meeting was March -- the one this is referring to occurred on March the 24th. This invitation occurred on March the 24th.

Q Great.

And going back to this March 9th meeting, what time did that happen? Was it during the day?

A Uh-huh.

Q Okay. About what time?

A I can't recall.

Q Okay. How long was the meeting?

1 A I don't know that it was 40 -- 30, 45 minutes maybe.

2 Q And did this meeting occur at the Diocese of Richmond?

3 A Yes, ma'am.

4 Q And how many people attended this meeting?

5 A Including myself, four.

6 Q And who on behalf of the Diocese of Richmond were in attendance?

7 A The vicar general and the general counsel.

8 Q And the bishop?

9 A And the bishop.

10 Q Did you go to the meeting alone on behalf of the FBI, or did a colleague join

11 you?

12 A I went alone.

13 Q And what was the purpose of the meeting?

14 A Well, obviously, given the attention the product had received, you know, I

15 wanted to, one, offer, you know, an apology on behalf of the field office for the negative

16 attention that's been drawn to the -- as a result of this.

17 And I also wanted to speak to them and inform them as to why -- and give them

18 what information I could as to why this -- what it was and what it wasn't and help inform

19 them.

20 Q Did you get the sense that the bishop or the reverend were concerned about

21 the memorandum when you had the meeting?

22 A Yes. I think, in general, I think, common sense, to me, is that they would've

23 been concerned.

24 Q Uh-huh.

25 A Because I do know -- I mean, the bishop did release a statement, so I knew

1 that there was some concerns in that statement. I had reviewed that statement. So --
2 Q So you read the statement in its entirety?
3 A Yes.
4 Q All right.
5 Going back to exhibit 5, in the next sentence, you wrote, "I sincerely appreciate
6 you taking the time to meet and do hope the discussion was helpful."
7 Can you walk us through the conversation of the entire meeting and how it took
8 place?
9 A Certainly.
10 I, you know, one, offered an apology on behalf of the field office for the negative
11 light that it had placed the organization in, that that was not the intention at all of the
12 product.
13 I explained a little bit about the challenges of working in the domestic terrorism
14 arena and gave them a basic explanation of, when we look at domestic terrorism, we look
15 at -- it's a three-pronged approach. We look for ideology, violence, and criminal law
16 violation. Explained that it is a more challenging area to work because it has that
17 three-pronged requirement, so it's a lot of pressure to ensure we have -- the three points
18 are met.
19 I also spoke to the purpose of the product and offered insight that, you know, the
20 purpose of it was to engage in outreach to them. And I went through some of the
21 specific information that was the basis for the document, and then expressed to them
22 that, you know, the purpose, again, was to -- the document was telling me to come talk to
23 them and that I just did not get that opportunity because it was leaked.
24 Q Uh-huh.
25 Do you need a domain perspective to conduct outreach in the community, or can

1 you --

2 A No.

3 Q -- just do that?

4 A I can just do it.

5 Q Okay. So, even though this DP may have disrupted doing outreach with,

6 like, Catholic churches or parishes, you could still conduct outreach with them?

7 A I can conduct outreach. However, now I have to go through the general

8 counsel to do that.

9 Q Okay.

10 BY [redacted]

11 Q Is that for all religious-affiliated organizations or just with specifically

12 regarding this domain perspective?

13 A Well, I sent this invitation and then was advised that, great, appreciate the

14 invitation, but, you know, going forward, they understand the importance of the

15 partnership with law enforcement; however, please, you know, if you could direct your

16 request and the communications to the general counsel, we can help -- we'll help

17 accommodate that.

18 Q Did you get the sense from the bishop and the general counsel that they

19 were worried about the effect that the domain perspective would have on their

20 parishioners?

21 A They were more in listening mode.

22 Q Uh-huh.

23 BY [redacted]

24 Q All right. Going back to the exhibit, you then wrote, "I wanted to follow up

25 and extend an open invitation to you and Bishop Knestout," which is redacted, "to visit

1 our Richmond FBI Field Office. In addition to showing you around, I think it would be a
2 great opportunity to have you both meet some of our team members, who could also, if
3 you like, provide a short briefing on some of our priority threats."
4 Did you end up having this tour and briefing at FBI Richmond Field Office?
5 A Yes, ma'am.
6 Q Great. And what did the visit entail?
7 A We brought them into the office. We had the vicar general, general
8 counsel, and they had an additional attorney. We gave them a short, just overall
9 briefing on DT. I think we may have touched on IT, international terrorism, I believe.
10 We also had headquarters representation to speak to hate crimes across the country and
11 civil rights. And then, you know, had, you know, Q&A and then an additional discussion
12 with them.
13 Q Were you in attendance for this briefing, or was it someone on your team
14 that offered the tour and briefing?
15 A No, I was in attendance.
16 Q Okay.
17 A And I recall, you know, at the conclusion of the briefing, specifically, that the
18 vicar general commented and said -- and he said it repeatedly -- that "I don't know if the
19 authors of the product are in the room, I don't know if you're in here, but if you are, I
20 want you to know" -- and I actually put this in a document and we wrote this down
21 because I thought it was important -- "to whoever wrote the document, the authors
22 provided a clear, theologically sound base understanding of the Catholic faith." And it
23 was a commendation, "nice job."
24 You know, he made comments, I understand, some sensitivities with some of the
25 language. But, overall, that was -- again, presented a clear, thoughtful understanding of

1 the Catholic faith --

2 Q And --

3 A -- based on what he saw online from the leaked portion.

4 Q Uh-huh. And this was the vicar general, correct?

5 A Yes, ma'am.

6 Q Okay.

7 And have you given this type of briefing before?

8 A Yes. We've done different briefings for different groups, different people.

9 Q And how long do these briefings usually last?

10 A It can last 30 minutes, an hour. I mean, there's no set time. It just

11 depends on the number of topics that we want to put -- that we want to give to folks.

12 Q And is it normal to invite houses of worship or faith communities to visit the

13 FBI Richmond Field Office, or was this a special occasion?

14 A Well, we did the interfaith awareness briefing virtually because there's no

15 way we could invite that many people to the field office.

16 Q Uh-huh.

17 A This one was specific, you know, of course, in following up on my meeting

18 with them.

19 We also have other outreach events that we do where we invite members of the

20 community, which could include houses of worship, whether it's Citizens Academy

21 or -- and so forth. We have those entities, as well, to invite people in.

22 Q And since March 24th, have you had any other contact with the Diocese of

23 Richmond?

24 A No. I think that was the last one.

25 Q What about anyone on your team from the Richmond Field Office?

1 A For the Diocese of Richmond, I'm not aware of any.

2 Q And after this initial meeting with the bishop, did you have any other

3 conversations with him personally after that?

4 A No.

5 BY [redacted]

6 Q Has anyone on your team reached out to any faith leaders in the Catholic

7 religion in Richmond following the March 24th meeting?

8 A The March 24th -- not that I'm aware of.

9 BY [redacted]

10 Q And before the creation of the DP, did you ever meet with staff from the

11 Diocese of Richmond or the bishop?

12 A No.

13 May I ask one clarifying thing real quick?

14 [redacted] Yes.

15 We're off the record.

16 [Discussion off the record.]

17 [redacted] We're back on the record.

18 BY [redacted]

19 Q Go ahead, sir.

20 A The questions on the outreach to the Catholic was just Richmond-specific,

21 but I have also met with the cardinal in Washington, D.C., with the assistant director in

22 charge of the Washington Field Office.

23 Q And when did that meeting take place?

24 A I think that was, hmm, sometime in May, June, early -- I'm not sure.

25 Sometime in the late spring, early summer.

1 Q And who requested that meeting? Was it the --

2 A I learned of the meeting from one of the special agents in charge of the

3 Washington Field Office. He had told me that he was coordinating that meeting and

4 wanted me to know. And I asked if I could attend to help with that meeting, and they

5 said, of course. Put me in touch with the assistant director in charge of WFO,

6 Washington Field Office, whom I know, and he said, absolutely. And so he and I went

7 and conducted that meeting.

8 Q Did the cardinal request that meeting, or did WFO reach out to the cardinal?

9 A That's in WFO's territory.

10 Q What was discussed at the meeting?

11 A The similar -- I presented similar information that I did with the bishop.

12 Q Did you get the sense that the cardinal was concerned about the domain

13 perspective?

14 A Well, I think they were just concerned at large. I don't have any

15 information expressed to me from the cardinal on his thoughts, on his stance related to it.

16 I was there in a proactive sense and to help the ADIC because I had more of the firsthand

17 information on the product.

18 Q And besides the ADIC and yourself, were there any other individuals from

19 the FBI at the meeting?

20 A No.

21 Q From the cardinal's office, was it just the cardinal, or --

22 A No.

23 Q -- were there other individuals?

24 A There were, I think, counsel and the communications director.

25 Q So, besides the two meetings with the Diocese of Richmond and the meeting

with the cardinal, any other outreach to the Catholic community?

A Not by me.

Q And none that you're aware of by the Richmond Field Office?

A No.

[redacted] We'll go off the record.

[Discussion off the record.]

[redacted] We're good to go. And thank you for your time.

[Whereupon, at 2:12 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: PHILIP KRAUSE, M.D.

Thursday, September 7, 2023

Washington, D.C.

The interview in the above matter was held in room 6400, O'Neill House Office Building, commencing at 10:01 p.m.

1 Appearances:

2

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted] SENIOR PROFESSIONAL STAFF MEMBER

8 [redacted] SENIOR COMMUNICATIONS ADVISER

9 [redacted] DIGITAL DIRECTOR

10 [redacted] COUNSEL

11 [redacted] DIGITAL ASSISTANT

12 [redacted] SENIOR SPECIAL COUNSEL

13 [redacted] PROFESSIONAL STAFF MEMBER

14 [redacted] MINORITY INTERN

15 [redacted] MINORITY OVERSIGHT COUNSEL

16

17

18 For PHILIP KRAUSE, M.D.:

19

20 THOMAS KRAUSE, ESQ.

1 [redacted] Okay. Let's begin.

2 This is a transcribed interview of Dr. Philip Krause. Chairman Jordan has

3 requested this interview as part of the committee's oversight.

4 Would the witness please state your name for the record?

5 Dr. Krause. Well, my name is Philip Krause.

6 [redacted] Could your counsel please state your name and law firm for the

7 record?

8 Mr. Thomas Krause. My name is Thomas Krause. I work for a U.S. Government

9 agency, the U.S. Patent and Trademark Office. I'm here in an unofficial capacity with

10 respect to them, but I have their permission to represent my brother.

11 [redacted] Okay. And just to be clear, are you representing solely your

12 brother's interest unrelated to your agency affiliation?

13 Mr. Thomas Krause. That's absolutely correct.

14 [redacted] Do you understand this, Dr. Krause?

15 Dr. Krause. I do, yes.

16 [redacted] And you said that your attorney is your brother as well? Did I

17 understand that correctly?

18 Dr. Krause. That is correct.

19 [redacted] Okay. On behalf of the committee I want to thank you for

20 appearing here today to answer our questions. The chairman also appreciates your

21 willingness to appear voluntarily.

22 My name is [redacted] and I am with Chairman Jordan's staff. I'll now have

23 everyone else from the committee who is here at the table introduce themselves as well.

24 [redacted] I'm [redacted] I'm with Chairman Jordan's staff.

25 [redacted] [redacted] Chairman Jordan's staff.

1 [redacted] [redacted] Chairman Jordan's staff.

2 [redacted] I'm [redacted] oversight counsel with the Democrats on the

3 Judiciary Committee.

4 [redacted] [redacted] I'm a legal intern of the Democrats, Judiciary

5 Committee.

6 [redacted] [redacted] Chairman Jordan's staff.

7 Mr. [redacted] [redacted] Judiciary Committee.

8 [redacted] I'd like to now go over the ground rules and guidelines that we'll

9 follow during today's interview.

10 Our questioning will proceed in rounds. The majority will ask questions first for 1

11 hour, and then the minority will have an opportunity to ask questions for an equal period

12 of time if they choose. We will alternate back and forth until there are no more

13 questions and the interview is over.

14 Typically we take a short break at the end of each hour, but if you would like to

15 take a break before that, just let us know.

16 As you can see, there's an official court reporter taking down everything we say to

17 make a written record, so we ask that you give verbal responses to all questions.

18 Dr. Krause, do you understand that instruction?

19 Dr. Krause. I do understand.

20 [redacted] So the court reporter can take down a clear record, we will do our

21 best to limit the number of people directing questions at you during any given hour so

22 that -- withdrawn.

23 Please try and speak clearly so the court reporter can understand and so the folks

24 down at the end of the table can hear you. It is important that we don't walk over -- we

25 don't talk over one another or interrupt each other if we can help it, and that goes for

everybody present at today's interview.

We want you to answer our questions in the most complete and truthful manner as possible, so we will take our time in today's interview. If you have any questions or if you do not understand one of our questions, just let us know.

Our questions will cover a wide range of topics, so if you need clarification at any point, Dr. Krause, just let us know. We're happy to rephrase the question or ask it in some similar fashion.

If you honestly do not know the answer to one of our questions or do not remember, it is best not to guess unless we expressly ask you to speculate. That's rare, but it could happen. But generally speaking, if you don't know the answer or you are at a loss to remember, just let us know.

Please give us your best recollection, and it is okay to tell us if you learned information from someone else. Just indicate how you came to know that information and from whom you came to know that information.

If there are things you don't know or can't remember, just say so, but please inform us, to the best of your knowledge, who you believe may have that information.

Can I get a commitment from you to do that, Dr. Krause?

Dr. Krause. Yes.

[redacted] You should also understand that by law, you are required to answer questions from Congress truthfully. Do you understand that?

Dr. Krause. I do.

[redacted] This also applies to questions posed to you by congressional staff in this interview today. Do you understand that?

Dr. Krause. Yes, I do.

[redacted] Witnesses that knowingly provide false testimony could be subject

1 to criminal prosecution for making false statements under 18 United States Code, Section
2 1001. Do you understand that?
3 Dr. Krause. I do.
4 [redacted] Okay. Is there any reason today you are unable to provide
5 truthful answers to today's questions.
6 Dr. Krause. No reason.
7 [redacted] Okay. And, Dr. Krause, we give everyone that admonishment
8 about what the law is.
9 Dr. Krause. I understand.
10 [redacted] Finally, I'd like to make a note that the content of what we discuss
11 here today is confidential. We ask that you not speak about what we discuss in this
12 interview to anyone else -- to any outside individuals to preserve the integrity of this
13 congressional investigation.
14 Can I get a commitment from you to do that, Dr. Krause.
15 Dr. Krause. Yes.
16 [redacted] For the same reason, the marked exhibits that we will use today will
17 remain with the court reporter so that they can go into the official transcript. Any
18 copies we use to show you we will ask that you return those.
19 All right. This is the end of the preamble. Is there anything that my colleagues
20 from the minority would like to add?
21 [redacted] No. Just thank you for coming voluntarily today. We
22 appreciate your time.
23 Mr. Thomas Krause. And I have a couple of statements to make first if you don't
24 mind.
25 [redacted] Oh, yeah. Just about to go on the record, and then we'll take your

1 statement.

2 Mr. Thomas Krause. All I wanted to say was --

3 [redacted] Then we'll go back on the -- yeah.

4 Mr. Thomas Krause. Oh, I thought this was on the record.

5 [redacted] We're on the record. I apologize. I'm about to give a final

6 statement and then --

7 Mr. Thomas Krause. I can wait for your final statement.

8 [redacted] The clock now reads 10:06 a.m. We will start the first hour of

9 questioning, but, of course, Mr. Krause, if you have a statement to make.

10 Mr. Thomas Krause. Yes. As [redacted] just noted, Mr. Krause -- Dr. Krause is

11 here voluntarily. He's seeking to cooperate with the committee.

12 We do have two points that I'd like to make.

13 You mentioned that he is not to disclose the contents of this subcommittee

14 meeting to anybody to protect the integrity of the investigation.

15 Can we get a reciprocal commitment from the subcommittee that you will not

16 disclose the contents of this outside the subcommittee, that nobody with access to it will

17 compromise this investigation that way?

18 [redacted] Mr. Krause, we're not in a position to make any representations

19 one way or the other, but it's in everyone's interest to keep these things confidential and

20 quiet, is what we can say on behalf of the committee.

21 Mr. Thomas Krause. Okay. Our concern is that parts of the transcript perhaps,

22 or the videotape, would be used in certain manners, and we request that if that is to be

23 done outside the committee, we receive a copy of the transcript prior to that release.

24 Can I get your commitment on that?

25 [redacted] The transcript is committee property, and while we allow your

1 client and you to come and review it, we do not disclose it. And any other
2 requests -- and this is all on the record -- we will take to the chairman for consideration.
3 Mr. Thomas Krause. Okay. Well, we've just agreed that this is a confidential
4 subcommittee meeting, and it's not normally to be disclosed outside the subcommittee.
5 I'm just asking in the extraordinary event that you see a need to disclose it outside
6 the subcommittee, that we get access to the transcript so we can check to make sure that
7 it's accurate and also provide context.
8 [redacted] So again, we will take all requests to the chairman for his ultimate
9 ruling. He'll make those decision. But so you know, upon receiving the transcript of
10 this interview, you will be notified, and you and your client can come and review the
11 transcript.
12 Mr. Thomas Krause. Okay. But we understand we're not allowed to take it
13 with us or --
14 [redacted] Correct. Correct. That's committee --
15 Mr. Thomas Krause. Just completely understand that. So it's important to us
16 to get a copy of the transcript in the event the transcript is to be used outside the
17 committee, which you've kind of assured me it won't be.
18 [redacted] The committee's investigation is confidential. Your request will be
19 taken to the chairman, but to be clear, I have not assured you that the transcript will be
20 given to you. You will be permitted to review the transcript in its entirety in our offices
21 when -- at a mutually convenient time.
22 Mr. Thomas Krause. Totally understand. Just phrase the request, in the event
23 the committee sees a need to breach the confidentiality of this hearing, then we request
24 that we get advance notice of that and a copy of the transcript.
25 [redacted] We'll take that request to the chairman.

1 Mr. Thomas Krause. And, please, you'll report back to me what the chair says on
2 that.
3 [redacted] Happy to do so in the event -- yes, happy to do that.
4 Mr. Thomas Krause. Thanks. And you've also seen the letter from the Food
5 and Drug Administration, HHS, setting limits on what Mr. Krause's purpose of
6 this -- Dr. Krause, Mr. Krause -- Dr. Krause's purpose at this transcribed interview is.
7 They've also asked us separately to respect their claims of deliberative process
8 privilege. We'll attempt to do that. We ask that you try to frame your questions so as
9 not to elicit deliberative process-privileged information.
10 If you do, I may find myself objecting to your questions and asking my question
11 not to answer.
12 [redacted] I'll defer to my colleague on the letter from the agency, but I will tell
13 you this: We don't -- the committee doesn't recognize the deliberative privilege
14 process.
15 In the event you feel compelled to direct your client not to answer a question,
16 you're welcome to do -- this is a voluntary interview. You're welcome to do that. You
17 make a brief record as to why you're doing that, but we will also admonish that the
18 committee reserves the right, if they deem that answer necessary for the committee's
19 oversight work, to have your client come back in, perhaps under subpoena, to get that
20 answer.
21 Mr. Thomas Krause. Appreciate it. Thank you very much. That's all I have.
22 [redacted] Okay. I'll get started then.
23 EXAMINATION
24 BY [redacted]
25 Q Dr. Krause, are you currently employed?

1 A Yes. By myself.
2 Q Okay. And what is the name of your business?
3 A It's called Logics.Bio, LLC, but it's a consulting business.
4 Q Okay. You said Logics.Bio?
5 A Yes.
6 Q LLC?
7 A Yes.
8 Q Do you also work with Mesoblast, Incorporated?
9 A Yes. I'm on the board of directors of Mesoblast.
10 Q Okay. And how long have you been working in your consulting business?
11 A Since I left the FDA.
12 Q And how long have you been on the board of directors for Mesoblast?
13 A I don't remember exactly when I started, but a year, give or take.
14 Q Okay. And what is your title with Mesoblast?
15 A I'm just a member of the board of directors.
16 Q Okay. And what are your responsibilities on the board?
17 A Well, as a member of the board of directors of any company, I help provide
18 direction to the company in strategic matters, as well as obviously oversight of what the
19 CEO is doing.
20 Q And in your consulting business, Logics.Bio, LLC, what kind of work do you
21 do?
22 A I do consulting for companies that are interested in developing biological
23 products. I also do consulting for the World Health Organization. Yeah, those two
24 things.
25 Q And did you work anywhere between your consulting business and

1 Mesoblast and the FDA?

2 A No.

3 Q When did you first join the FDA?

4 A I joined the FDA in 1991. I did not bring a copy of my CV, and so I -- I've

5 been admonished not to guess if I can't remember something, but I'm pretty sure 1991 is

6 right.

7 Q Completely okay, give or take.

8 A Yes.

9 Q And what made you want to work at the FDA?

10 A The FDA is an important public health agency. The FDA also offered me a

11 position as a research scientist where I could run a research laboratory, and gave me the

12 resources necessary to do that, and of course, it was appealing.

13 I trained at the National Institutes of Health and so was already in the area. So it

14 was appealing not to have to move. And so these were all factors that made it a good

15 place for me to start my career.

16 Q And I know you'd mentioned -- you said not having your CV in front of you.

17 To your best recollection, can you walk us through the positions you've held with the

18 FDA?

19 A I can. Would you mind if I gave you a little bit of background what I did

20 before I got to the FDA?

21 Q Absolutely.

22 A Because that will put things in context perhaps.

23 Q Of course.

24 A So I grew up in Urbana, Illinois. I received a -- well, I ultimately went to

25 medical school at Yale. I became board certified in internal medicine and in infectious

1 diseases.

2 I then did training in virology at the National Institutes of Health, and then ended

3 up going to the FDA from there.

4 While at the FDA -- I'll give you the big picture first, and if you need more detail,

5 I'm happy to provide it -- I worked in a number of different capacities, ranging from

6 running a laboratory to being the deputy director of the Division of Viral

7 Products -- actually, being the acting director of that same division for a year, being in the

8 Office of Vaccines Research and Review, the associate director for vaccine safety and

9 medical policy.

10 Then ultimately in around 2013, the deputy director of the Office of Vaccines,

11 which is the position I held until I left the FDA.

12 During the COVID pandemic, I was the -- the highest-ranking infectious diseases

13 physician in the Center for Biologics. During the COVID pandemic -- well, and while at

14 the FDA, I published over 100 peer-reviewed articles on topics that ranged from

15 vaccinology, virology, epidemiology, vaccine safety, and even biostatistics.

16 While at the FDA during the COVID pandemic, I also was assigned as a liaison from

17 the Office of Vaccines to the WHO, and in that capacity, very soon after the pandemic

18 began, the World Health Organization made me the chair of their expert working

19 committee on COVID vaccines, which entailed running frequent meetings on the topic of

20 COVID vaccine development, helping to coordinate international and WHO scientific

21 responses in addition to the work that I was doing for W -- or for FDA.

22 And then in addition to that, through this time, starting in -- well, there was an

23 organization called the Coalition for Epidemic Preparedness Innovations, CEPI, which was

24 founded in 2017, but I was involved in -- even before the organization was formed, also as

25 part of my duties at FDA in helping to advise them how to set themselves up.

1 It's a nonprofit NGO with a goal of trying to promote the development of mostly
2 vaccines to prepare for epidemics and pandemics. And so, I've been on their scientific
3 advisory committee since then.
4 Since I left the FDA, I have still continued to do consulting work with the WHO and
5 have remained on the scientific advisory committee of CEPI.
6 Q And you said you were with CEPI since 2017. Is that right?
7 A In one capacity or another, but mostly as an adviser on the scientific advisory
8 committee, so not employed by, but as an unpaid, senior, scientific adviser.
9 Q And you had mentioned the WHO in there. How long had you been doing
10 work with them, like during the FDA and post?
11 A Well, as far as the WHO is concerned, while I was at the FDA, I intermittently
12 helped different offices at the WHO on different things, especially regarding stability of
13 vaccines, which is a big problem, of course, especially in the developing world, and how
14 to make sure the vaccines are adequately stable.
15 So I did that for many years, using a combination of my regulatory, scientific, and
16 mathematical background.
17 Oh, I didn't mention that I also have a master's degree in computer science and an
18 MBA, which played a role, obviously, in that mathematical background.
19 And -- but then, starting around 2016, they started requesting my help in
20 preparing for pandemics and for emerging infectious diseases. And so since 2016, give
21 or take, I've been involved in various consultations with the WHO in one way or another
22 to help them think about how they will prepare for different kinds of outbreaks in the
23 developing world and around the world.
24 And then, of course, when the COVID pandemic came, I was on many of their early
25 calls and was soon then asked to chair their expert working group.

1 Q And what kind of -- what topics, or like, what was the focus of that working
2 group that you were the chair of?
3 A The expert working group included a lot of people who were working around
4 the world, on an ad hoc basis, to provide advice to the WHO, but also to provide advice,
5 using the WHO as a forum to the entire international community.
6 So the WHO would sponsor, or would convene meetings where they brought
7 people together who were experts to answer critical questions that might come up about
8 how vaccines should be developed, how people around the world could collaborate to
9 make better and faster COVID vaccines, what are good ways to evaluate COVID vaccines,
10 and all of those kinds of things.
11 Most of that work centered around clinical evaluation, but there was also a fair
12 amount of science involved there too, and immunology, because understanding the
13 immunology of a disease like COVID is obviously an important component of thinking
14 about what one is up against.
15 Q And is there a reason -- and there might not be, but is there any significance
16 to you being the acting director, not just the director? Like, did you not hold that
17 position the entire time that that working group existed?
18 A Oh, I'm sorry. I think you must've written something down wrong. So I
19 was the chair of the --
20 Q Oh, the chair.
21 A -- committee for WHO. I was the acting director of the Division of Viral
22 Products at FDA for a year or so. And I would guess this was around 2009 or 2010, but I
23 don't remember exactly what year that was.
24 Q I did get that mixed up. Thank you. Sorry. You've held a lot of
25 positions.

1 And primarily, it sounds like you did work on virology, immunology, and
2 vaccinations. Is there any other science subject matter that I missed.
3 A Well, clinical trials.
4 Q Clinical trials.
5 A So I'm viewed as -- I'm viewed as -- I'm fairly well-known as an expert around
6 the world in all those topics.
7 Q Great. And while you were at the FDA and you were in your role with the
8 Office of Vaccine Research and Review, your direct supervisor was Dr. Marion Gruber,
9 correct?
10 A Correct.
11 Q And did you have more than one direct supervisor?
12 A No. Dr. Gruber was my sole direct supervisor while I was the deputy
13 director of the office. Of course prior to that and prior to the time that she became the
14 office director, I had other supervisors.
15 Q Okay. And then how long would you say that you worked with Dr. Gruber,
16 not even necessarily in that capacity but in total?
17 A In terms of working with -- so, of course, I knew who she was for many years.
18 I remember working closely with her probably when we were on a committee together in
19 around 2010, but that's a -- that's also a guess. So I would say a dozen years or so.
20 Q Yeah. And how many people directly reported to you when you were
21 deputy director?
22 A So the way that the office was structured, the -- a number of people
23 reported directly to the office director. And the role of the deputy director was
24 obviously to advise the office director but also to sit in for the office director when the
25 office director wasn't present.

1 And so, when the office director wasn't present, the same direct reports that
2 Dr. Gruber had were reporting to me when I was then the acting director during periods
3 of time when she was not around or available.
4 I also was running a laboratory for much of this time, and while I was running the
5 laboratory, I had a small number of direct reports who were involved in doing laboratory
6 work.
7 Q How often would you say that you had to step in for Dr. Gruber when she
8 wasn't present?
9 A It was intermittent. Normally would occur if she was on vacation or -- or
10 needed to go to a meeting or something like that.
11 Q Did that ever happen during the pandemic?
12 A During the pandemic we all tried to maintain an all-hands-on-deck posture,
13 and, of course, we were all also operating remotely. And so, I don't recall a time when it
14 was impossible to reach Dr. Gruber in that capacity. Is it -- is it possible that she needed
15 to leave town? I don't remember. It's possible.
16 Q And did you have regular interactions with Dr. Marks?
17 A "Regular" would be a strong word, but I certainly interacted with him quite a
18 bit in -- at senior staff meetings. Normally, the office directors and the deputies were
19 invited.
20 And then, of course, occasionally I would see him at other times as well. I would
21 probably see Dr. Marks normally once every -- once or twice a month.
22 Q And did the frequency of your interactions change throughout the COVID-19
23 pandemic?
24 A Yes. Obviously through the pandemic, there were more interactions
25 between the Office and the Office of the Center Director, and I was in a position to be in

1 meetings with Dr. Marks more often.

2 Q What was his title during the pandemic starting at the beginning of it, March

3 2020?

4 A Dr. Marks --

5 Q Yes.

6 A -- was the director of the Center for Biologics Evaluation and Research.

7 Q And how long did you work for him -- I'm sorry. Let me take that back.

8 You worked for Dr. Gruber, and was your office, OVRR, underneath his purview?

9 I'm trying to understand the structure a little bit better.

10 A That's exactly right. So the Center for Biologics Evaluation and Research

11 has three product offices -- or at that time, had three product offices, and still does, but

12 the names have changed in the meantime.

13 But it was the Office of Vaccines Research and Review, which was responsible for

14 vaccines and certain allergenic products.

15 There was the Office of Tissues and Advanced Therapies called OTAT, which was

16 responsible for cell therapies and gene therapies and tissue therapies.

17 Then there was the Office of Blood Research and Review, which was responsible

18 for blood-related products.

19 So all of those types of products comprise biological products, which again, are

20 regulated by a separate center within CBER.

21 There are additional offices within CBER that included an Office of Biostatistics and

22 Epidemiology which -- in which most of the statisticians and a lot of the

23 epidemiological -- epidemiology expertise resided.

24 There was an Office of Compliance and Biologics Quality, which was responsible

25 for -- well, compliance, and certain kinds of quality testing and -- and often, certain kinds

1 of -- of review of assays that companies might use to characterize their product.
2 There was an Office of Management that included people whose job it was to
3 facilitate the work of the rest of the center. And it wouldn't shock me if I'm forgetting
4 an office right now, but those are the main ones I'm remembering right now.
5 Q No, I appreciate your explanation. Yeah, I know that there's a lot there.
6 How long would you say that you worked for him in his capacity as director of
7 CBER, you said, C-B-E-R.
8 A CBER.
9 Q CBER?
10 A Yeah. Well, the entire time that I was the deputy director -- well, actually,
11 when I first became the deputy director, Dr. Karen Midthun was the director of CBER, and
12 Dr. Marks was her deputy director.
13 And I do not remember what year Dr. Midthun left. This is something I could
14 look up on my phone. But when -- when she left, Dr. Marks took over as the center
15 director. I would guess that was somewhere around 2015 or 2016, but I could have that
16 wrong.
17 Q I appreciate it. Estimations are fine, too.
18 Did you have regular interactions with the FDA Commissioner, Janet Woodcock?
19 A Regular interactions, no. I sort of knew who Janet Woodcock was. She,
20 of course, for most of my tenure at FDA was the director of the Center for Drug
21 Evaluation and Research, CDER. She was the acting commissioner for a while during
22 COVID.
23 You recall Dr. Stephen Hahn was the commissioner for a while, and then
24 Dr. Woodcock became the acting commissioner before she was replaced by Dr. Califf.
25 Because I'd been at the FDA a long time, I certainly knew who Dr. Woodcock was.

1 I think she knew who I was. If we were to see each other in the cafeteria, we would be
2 cordial, but we didn't really have serious interactions on substantive issues.
3 And the only time I had a direct interaction with her during the COVID pandemic
4 was at a meeting on July 19th, 2021.
5 Q Okay. And we'll get to that meeting a little bit later on, but you had said,
6 other than that one direct meeting, you had probably just passed her in the hallways but
7 nothing -- no other direct contact?
8 A Yeah. And of course during the pandemic there were no hallways because
9 the FDA had everybody working from home.
10 Q Okay. Perfect.
11 How often would you say that you interacted with Dr. Gruber?
12 A I would say daily. She and I talked about everything that was going on in
13 the office. I gave her advice. We often went back and forth to try to figure out what
14 the right solutions to problems were, and obviously, two heads are better than one
15 usually.
16 And so my sense is that she valued my advice and I also felt as though I was often
17 able to positively influence decisions that the office needed to make.
18 Q Did you ever have disagreements with her over certain studies or certain
19 products that had come out of OVRR?
20 A So, you know, of course it's not possible to be a scientist at FDA and not have
21 somebody who -- and not occasionally disagree with somebody, but you know very often,
22 what I find is that when there are major disagreements that people have, it's because the
23 people are approaching the problem from somewhat different perspectives, and perhaps
24 value systems, and that if ultimately the organization decided to do something that
25 wasn't what I recommended, often it was a very reasonable decision when approached

1 from -- from a perspective that was held by -- by somebody else.

2 Q Generally speaking, how often would you say that maybe you'd ever

3 disagreed with Dr. Marks regarding your research or review of vaccines?

4 Mr. Thomas Krause. I'd caution you to use your judgment and not disclose any

5 deliberative process information, but she's asking a general question. You can provide a

6 general answer.

7 Dr. Krause. Yeah, I think I can answer that generally. So occasionally, I would

8 disagree with Dr. Marks. I was involved with the research program and saw myself as an

9 advocate for the research that was being done within the center.

10 Dr. Marks wasn't always a -- he often appeared to question the value of some of

11 the research that was going on where it seemed more obvious to me that that research

12 was of high value, and so, I would attempt to explain those kinds of things to him.

13 BY [redacted]

14 Q Did that happen around the time with the COVID vaccines?

15 A No, not around that time. So I remember some discussions with Dr. Marks

16 about key issues where it appeared that he might disagree with what I thought was the

17 right thing to do at the beginning, but after discussing them with him, he ultimately

18 ended up agreeing with what I thought was the right thing to do.

19 Q What about Commissioner Woodcock? I know that you didn't have direct

20 interaction, but did you -- were you aware of any disagreeing opinions that she might

21 have about OVRR?

22 A I was not.

23 Q Okay.

24 A I was not.

25 Q In your line of work at the FDA, did you find that there were any common

1 disagreements amongst your staff or anybody helping you work on the vaccines?
2 A Well, you have to understand that regulation is a complicated business and
3 that it's people -- different people with different backgrounds may approach regulation
4 from different perspectives, and some might be more or less conservative than others
5 about how they might think a certain problem should be solved.
6 And so, I wouldn't say there were disagreements, but there were robust
7 discussions in which everybody's point of view was heard, and it then became possible to
8 make a decision that ultimately everybody agreed with, based on an understanding of
9 everybody's perspective -- well, everybody's opinion and the perspective from which
10 those opinions came.
11 And to me, that was a really important part of the review process to have those
12 kinds of robust discussions. If everybody walks in a room and thinks that they know
13 what the right thing to do is, probably they're missing something.
14 And so, that's not -- you then -- as a leader, I felt it was my job to try to elicit
15 almost sometimes some disagreement to try to understand how different people were
16 reviewing things.
17 There's also always the risk that if somebody walks into a room and states a
18 position, that you end up having some people who will just agree with that position for
19 the sake of agreement or not -- not arguing.
20 And so I think it's an important part of the regulatory process to have those kinds
21 of robust discussions. So I don't think I would call them common disagreements, but
22 they -- they need to be discussions of different perspectives.
23 Q And due to the size of your agency and your parent agency, HHS, who did
24 you regularly interact with outside of the FDA in your line of work? I know you've
25 mentioned WHO. I didn't know if -- I can't remember if you mentioned anyone else.

1 A So I didn't. And depending on what was going on, I had fairly frequent
2 interactions with people at the National Institutes of Health.
3 One of the things that I did as deputy director was, I organized, often in
4 conjunction with NIH, various scientific meetings to address important questions that
5 came up in the context of needing to understand the science.
6 And so, this is not like an advisory committee meeting, but it -- it's -- because no
7 advice was requested in these meetings, and yet, it's very important for an organization
8 like FDA to be operating with the most current and most cutting-edge science, and to
9 hear, from the scientific community, what is actually going on in an area.
10 So to give you an example, I -- with NIH, I organized and chaired a meeting on
11 cytomegalovirus vaccines, and CMV is a virus which causes devastating congenital
12 disease. And there were companies that were interested in studying that, but they
13 actually also needed more scientific perspective from scientific leaders in the field.
14 And so having a meeting to discuss that helped move the field forward and then
15 also had the byproduct of bringing some of those -- that scientific expertise, or scientific
16 thinking, into the FDA on those vaccines.
17 Even early in the development of some of the vaccines -- and, of course, we still
18 don't have a licensed vaccine -- and I repeated these kinds of things for other viruses too.
19 I did this for Ebola with NIH. I did this for Zika with NIH. I was a co-chair of a
20 meeting on Dengue virus, which I believe also involved NIH. So I had fairly quick
21 interactions with NIH in the context of convening and sharing those kinds of scientific
22 meetings.
23 I also, during various kinds of emergencies, although not during COVID, went to
24 NIH to provide regulatory advice on various studies that NIH wanted to do.
25 So, for example, during the Zika virus outbreak, NIH was very interested in

1 developing Zika vaccines and funding Zika vaccines, and so they wanted to understand
2 what the regulatory landscape looked like for those vaccines and how ultimately FDA
3 might evaluate those.
4 And so, in collaboration with a sister agency, we listened to what they had to say
5 and -- and gave them general advice on -- on -- on these regulatory issues. So I went to
6 NIH, for instance, for those kinds of meetings as well.
7 Q Did you give that -- or have those types of meetings with the CDC as well?
8 A So I did have occasional meetings with CDC, usually less formal. So the CDC
9 plays, obviously, an important role in studying epidemiology and in recommending which
10 vaccines should be given. And so, during the COVID pandemic, I found myself on more
11 calls with CDC.
12 During the 2009 H1N1 flu pandemic, I found myself on a lot of calls with CDC as
13 we were trying to understand the epidemiology of these diseases.
14 Obviously during COVID there also was concern over safety issues, like
15 myocarditis. The CDC was generating data that was relevant to that, as were other parts
16 of the FDA.
17 The chief epidemiological component in the Center for Biologics is in the Office of
18 Biostatistics and Epidemiology, and so, they were having the primary interactions with
19 CDC.
20 Again, I was often invited to those meetings to provide the perspective of -- of
21 somebody who understood the products, and understood the way that they'd been
22 clinically evaluated, and also had, actually, a very strong understanding of epidemiology
23 and could contribute to those discussions.
24 Q Do you feel that they listened to your advice when it came to the -- you
25 explaining the regulatory landscape or any of your discussion and your background on

1 these particular issues? Did you feel that the CDC listened to your advice on that?
2 A In general, I found that wherever I went, people valued my advice, or at least
3 they said that they did, and very often they -- it appeared that they were also listening to
4 it.
5 Q And you had mentioned that during the pandemic you found yourself on
6 more calls with the CDC than previously. Did that -- was that also the case with the
7 WHO and the NIH? Like, did your interactions with each of those agencies increase?
8 A Well, my interactions with WHO increased quite a bit because that was a
9 direct assignment that I had as part of my duties at FDA.
10 There were other people who were assigned to work more with NIH, so I did not
11 interact as directly with NIH during the COVID pandemic.
12 Q I'm going to switch gears a little bit, talking a little bit about the vaccine
13 approval process. You're probably very familiar with the FDA's biologic license
14 application process, correct?
15 A Yes. That's fair to say.
16 Q Could you give us a brief overview of what it's used for and why it's
17 important?
18 A Sure. So the biologics license application process is a process that a
19 developer goes through in order to obtain a marketing license for a biological product, or,
20 in this case, a vaccine, which allows them to market the product in the United States.
21 There -- so fundamentally the BLA is a marketing authorization. But another
22 equally important part of what the FDA does in the review of a BLA is to evaluate all of
23 the claims that the developer wants to be able to make about that product, and to
24 determine the veracity of those claims.
25 And that then ends up showing up in what is in the package insert for that product

1 and -- and then it constrains what advertisements the developer is allowed to make,
2 because they're only allowed to advertise things that the FDA has reviewed and
3 determined to be correct.
4 So the FDA, through its biologics licensing process, serves as an independent and
5 objective reviewer of fact. The FDA employees are expected not to have any conflicts of
6 interest, and thus, can look at the license applications from a perspective that nobody
7 else can and do their -- do their best to challenge the claims that the developer will make
8 and make sure that those are correct.
9 So let me just finish -- give you one final sentence. So in -- which maybe was
10 your next question anyway. But so in reviewing a biologics license application then, the
11 FDA has to determine that the product is safe, pure, and potent, is what the statute says.
12 And what that means is that the FDA has to independently evaluate the safety of
13 the product, and make sure it's safe. They have to independently evaluate its efficacy,
14 which is how the word "potency" is then interpreted from the very old language.
15 And they have to independently evaluate its purity, which really means an
16 evaluation of the chemistry, manufacturing, and controls and evaluation of the facility
17 that is manufacturing the product to make sure that all of the controls that are used by
18 the company or by the marketer, by the developer, to manufacture the product will
19 assure that the product is the same many years after it's been licensed as it was during
20 the clinical trials before it was licensed.
21 So I think you can understand that if it's safe and effective, that's fine, but if the
22 manufacturer can't make that safe and effective product in the future, that doesn't help
23 you. So really, the BLA stands on those three key elements that the FDA has to
24 evaluate.
25 And then, of course, there's a benefit-risk decision that accounts -- that brings all

1 of that together and summarizes that assessment.

2 Q And I'm going to jump back to something else first, but while you touched on

3 it, can you briefly explain the benefit-risk analysis that you do at the FDA? I've briefly

4 read on it, but to get a little bit more of a better understanding of why that's important.

5 A Well, obviously, any product needs to have -- that is going to be marketed to

6 people -- needs to have more benefits than it has risks. And in vaccines, traditionally,

7 because vaccines are given to healthy people who aren't otherwise sick at the time they

8 get the vaccine, that benefit-risk ratio should be highly favorable, because otherwise, you

9 might be giving people, who are otherwise healthy, some substantial risk without

10 knowing whether or not they will later encounter the disease that the vaccine is

11 protecting against.

12 Q Now, going back to what you had mentioned with the FDA independently

13 evaluating a product's safety, it's purity, and its potency, did you feel that the FDA was

14 able to fully evaluate those three elements with the COVID vaccines?

15 A So the -- maybe if I could digress to make this easier, let me describe the

16 emergency use authorization process which was also used to make many of the COVID

17 vaccines available.

18 Q That was my next question. Please do.

19 A Okay. So -- sorry for taking you out of order.

20 Q No, that's perfect. Not a problem.

21 A You see I'm a very cooperative witness.

22 All right. So in the emergency-use-authorization process, the FDA has to make a

23 determination that the product may be effective and that the known and potential

24 benefits outweigh the known and potential risks.

25 And so there's also a risk-benefit determination for the EUA, but the EUA standard

1 is not nearly as substantial as the BLA standard is.

2 The EUA standard, as it's written, of course involves the FDA looking at the efficacy

3 data and the safety data and the CMC data, but allows the FDA to take all of that and

4 integrate it into a -- an overall assessment of whether the known and -- known and

5 possible benefits exceed the known and possible risks.

6 And so -- and whereas for BLA, the requirement is substantial evidence of efficacy.

7 For the EUA, it's that the product might be effective.

8 So the FDA, in issuing an EUA, has to be -- has to be careful, but also needs to

9 think about this -- these different elements in the context of the actual situation.

10 And so, for example, when the vaccines were first authorized -- and I'm going to

11 try to be careful in spite of the fact that many people get this wrong. So I'll say this right

12 now, is an emergency-use authorization means that the vaccine is authorized, but

13 licensure means that it's approved.

14 And yet, many people mistake this and say approved when they mean authorized.

15 So I'm going to try and keep this straight, but even I sometimes slip up.

16 So when the vaccines were first going to be authorized, the FDA then had to think

17 about, in the context of the pandemic, how can one meet this requirement of believing

18 that the known and possible benefits outweigh the known and possible risks for a

19 vaccine.

20 And there were a number of concerns early in the pandemic which included that

21 many vaccines were being developed at once, that if there were a vaccine that turned out

22 not to be effective, that that could actually do considerably more harm than good,

23 because that could then prevent better vaccines from being used or evaluated.

24 And so, in thinking about the standard and the way that the pandemic was

25 unfolding, the FDA set a standard for efficacy of vaccines that required a 50 percent

1 efficacy estimate and a 30 percent, 95 percent lower confidence in that efficacy estimate.
2 So that's a statistical way of saying that the -- we'll accept a vaccine as long as we
3 have a high degree of confidence that it will reduce the incidence of disease by at least 30
4 percent.
5 Now, if we had said we would accept a vaccine that, for example, appeared to be
6 better than nothing, we would be accepting, if multiple vaccines were authorized under
7 that standard, some significant risk when you do it with many vaccines, that some of
8 those vaccines might not work at all.
9 And so, given the pandemic and the need for public confidence in what was done,
10 the FDA set what some people might say was a fairly high efficacy standard. And yet,
11 this was a similar efficacy standard to that which was set elsewhere around the world
12 which the WHO ultimately recommended, and which many countries ended up using too.
13 So what that meant was when the vaccines were originally approved under
14 emergency use authorization, we actually had very solid data on the efficacy of those
15 vaccines.
16 We -- it turned out that the vaccines blew away those criteria anyway, right?
17 The vaccines were about 95 percent effective, and the lower bound was in the high 80s or
18 even above 90 percent for one of the vaccines.
19 And so, the public could have very high confidence that those vaccines worked.
20 At that point, though, we had only very short-term follow-up of these vaccine -- of
21 people who received these vaccines, and so, what I would say is that we had some
22 uncertainty about safety.
23 But of course, because we had great certainty about efficacy, you could state that
24 the benefits were clearly outweighing the risks, even though we had follow-up that was
25 much shorter than one would normally want for a BLA.

1 So in a BLA, we actually, at the beginning of the pandemic, issued a guidance
2 document describing what we would want to see, what the FDA would want to see for a
3 BLA, and that included 6 months of safety follow-up.
4 But, of course, as the pandemic wore on and as it seemed like it was likely that we
5 would come to a vaccine, it was clear that we could not wait 6 months to gather all the
6 safety data to license a vaccine.
7 And so, the question came up, what's the minimum amount of safety data that
8 one could contemplate using, as well as what's the minimum amount of efficacy data that
9 one could contemplate using.
10 And so a subsequent guidance was ultimately published that described a median
11 of 2 months' follow-up for safety and efficacy, and so -- but that 2 months' follow-up
12 didn't meet the standard that one would've wanted for a BLA at the time that the
13 vaccines were first authorized in December of 2020, if that makes --
14 Q Who had made that determination of the -- of the amount of data that was
15 required?
16 A Well, so that -- that decision arose organically through discussions within the
17 Office of Vaccine, and I think also with the Office of the Center Director, and was
18 consistent with the kinds of decisions that were being made elsewhere in the world as
19 well.
20 Q And who was the center director at the time?
21 A Peter Marks.
22 Q And you said, This was around the beginning of the pandemic that they set a
23 standard for BLA. That was --
24 A That would've been in June of 2020, I think, that the guidance document was
25 published that said that for a BLA, 6 months of safety data would be required.

1 Now, of course for BLA, one also would've needed the manufacturing data -- the
2 chemistry, manufacturing, and controls data, and that data wasn't at a level during the
3 original emergency-use authorization that one would've wanted during a BLA either.
4 And so, the initial emergency use authorization then, just to summarize, actually
5 had the level of efficacy data that one was either equivalent to or close to, but I would say
6 equivalent to that, which one would normally want for a BLA, because we had a very high
7 standard in the efficacy study.
8 It did not have quite as much safety data as one would want for a BLA, but it had
9 enough safety data that one clearly determined that the benefits, you know, substantially
10 outweighs the risk, it turned out.
11 Q How much safety data did you have versus how much you wanted?
12 A Well, at the time that the vaccines were originally authorized, it was roughly
13 a median of 2 months, which meant that half of the people in the study had been
14 followed for more than 2 months, and half had been followed for less than 2 months.
15 And then of course with every additional month, additional safety data became
16 available. But, of course, the desired amount of safety data was around 6 months of
17 safety data.
18 And of course if one is doing this, you would like to follow everybody who's in the
19 study for 6 months. So you don't come up with that answer 6 months after the first
20 person is vaccinated.
21 You come up with that answer 6 months after the last person is vaccinated and, in
22 this case, probably 6 months after the last person in the study has had two vaccinations,
23 right?
24 And so -- so -- and then, of course, the EUA also didn't have the same standard, I
25 think I said, of CMC data that one would expect to have in a BLA.

1 Q Now, were the standard EUA procedures followed throughout the COVID-19
2 vaccine approval process for as long as you were with the FDA?
3 A So there were several additional EUAs that were done while I was at the
4 FDA. Some of these involved expansion of the age group for vaccines, and there
5 generally the standard procedures were followed.
6 And -- and then in the fall of 2021, or August of 2021, there were two additional
7 EUAs that were -- that were authorized by the FDA for -- for immunocompromised
8 individuals who were to receive either the COVID or the Moderna vaccine or
9 for -- ultimately for individuals at -- of certain ages and in certain occupations to receive
10 booster doses.
11 And so, under those circumstances, arguably one could still say that those
12 authorizations met the statutory requirement for an EUA, but at that point, the reason
13 they met the statutory requirement for the EUA was quite different.
14 So for the immunocompromised, for example, the efficacy data was based on a
15 couple of published papers.
16 For a BLA, FDA always reviews the individual data and is in general not so trusting
17 of published papers because they can't see the data.
18 And there are many cases where FDA has seen published papers that are
19 published even in very prestigious journals and have rejected some of the conclusions
20 from those papers when they've had a chance to actually see the data.
21 So if the FDA relies on a published paper, one could still say that the product may
22 be effective, and one could still say, especially by that point, because we had a fair
23 amount of data on vaccine safety, and especially, for instance, if you're giving a vaccine to
24 the immunocompromised who were at great risk of getting very severe disease -- one
25 could say that the benefits, or the known and possible benefits outweigh the known and

1 possible risks.

2 At that point, one is shooting in the dark almost on how effective it is, but what

3 has more confidence in the safety. So I think it would be fair to say that if you looked

4 specifically at the EUA requirements, some people could interpret those EUA

5 requirements to have been met, but that -- but they would've been met for different

6 reasons.

7 And the same, of course, is true ultimately -- and this was after I left the FDA for

8 some of the booster vaccine EUAs, where, in August -- and I think you'll probably ask me

9 more detailed questions about this later, and so I don't want to go through that entire

10 story right now, but in August of 2021, there were announcements about the availability

11 of booster vaccines by September 20th.

12 And the intent, I think, was to make the vaccines available for everybody. The

13 discussions at the FDA's advisory committee ultimately supported making them available

14 only in a subset of people.

15 And in that subset of people, it's probably fair to say that that criterion was met,

16 but later on, one could have greater doubt as to whether that criterion was met when the

17 EUA was expanded -- for boosters was expanded to the entire population, for example,

18 above age 16.

19 Q And you said "one could say." Did you personally believe that there was

20 grounds to expand it to all age groups, or to everybody, however -- whatever the

21 classification would be?

22 A Well, there's is a lot of detail in the story, but I had, you know,

23 co-authored -- or was the first author, so I had written the first draft of an article in

24 September 2021 that laid out the data that supported giving boosters. And that article

25 fairly definitively showed that most people would be unlikely to receive substantial

1 benefit from a booster.

2 And so, my opinion was that there were probably some subgroups who would

3 receive benefit from getting a booster, but that for everybody it -- I did not think at that

4 time that one could say that the known and potential benefits exceeded the known and

5 potential risks for everybody.

6 Q And you're right, we will touch a little bit on that a little bit later, too. And

7 before I finish up my hour, I had just a -- one other question too.

8 You had said that the FDA had relied on a couple of published papers in

9 determining their -- the EUA for immunocompromised, and I believe you said for

10 the -- was it the immunocompromised and the booster, or did you say it for --

11 A Oh, I said it for the immunocompromised, but for the booster, there was an

12 advisory committee meeting at September 17th, 2021. And at that meeting, Dr. Marks

13 invited scientists from Israel to present data that had never been provided to the FDA for

14 review. So the first time anybody was seeing it was at that advisory committee meeting.

15 And Pfizer presented the results of a study that was -- had been briefly available in

16 preprint form, but also was not -- had not been submitted to the FDA for review.

17 So there, in contrast to typical advisory committee procedures for BLAs, at least,

18 data that FDA reviewers had never had a chance to look at was being presented to the

19 advisory committee to -- to, on the one hand, let them know the latest breaking news,

20 but at the same time, an important part of the advisory process, at least for BLAs had

21 been to allow the FDA to review those data.

22 So I can't say that that's an inappropriate thing to do in the context of an EUA,

23 because the standard for an EUA is much lower, and yet, it -- I think it highlights how

24 different the standard is.

25 And I know that your committee is interested in figuring out how to do better in

1 the next pandemic. And so, the one thing that I think could possibly be done would be
2 to require the FDA to, if they're going to issue an EUA, to explain for that given EUA why it
3 isn't a BLA, in other words, their independent assessment of the safety data, the efficacy
4 data, the CMC data, and what would need to be done.
5 And that way, people who are looking at an authorization would know, for
6 example, in the case of the -- one of these booster authorizations, that the efficacy data
7 was weak, but they also would've known, in the context of the original EUA, that the
8 efficacy data was strong.
9 And then, it would've provided a basis for a clearer interpretation of what the
10 FDA's assessment was.
11 I don't think it would require the FDA to do more work because they do these
12 assessments anyway, but it would be a different way of communicating which would
13 allow the lay public, the prescribing physicians, and other policymakers to really
14 understand in greater depth what the results of the FDA review was.
15 [redacted] Well, that is very helpful, but -- and I think that at this time, we'll go off
16 the record.
17 [Discussion off the record.]

1 [11:11 a.m.]

2 BY [redacted]

3 Q Good morning again, Dr. Krause. If I could start just with a couple of --

4 A Actually, could I ask --

5 Q Yeah. Sure.

6 A I'm wondering if I could just clarify two things quickly that I just said --

7 Q Yeah, of course.

8 A -- to make sure that I got them right.

9 So, of course, what I -- I said that the Israeli data was presented, the Advisory

10 Committee had not been reviewed by FDA, but of course, I can't be certain that no one at

11 FDA saw those data, but those were not reviewed by the Office of Vaccines --

12 [redacted] Okay.

13 Dr. Krause. -- which was what I was aware of -- would've been aware of at the

14 time.

15 And just to be clear, when I was talking about the boosters meeting the EUA

16 standard, this referred to the original booster application, where Pfizer came in and

17 wanted a booster and everybody above age 16, and I disagreed that it met the EUA

18 standard in that age group, and, in fact, the Advisory Committee also disagreed it that

19 met the EUA standard for that group. And, ultimately, it wasn't -- it was authorized for a

20 more limited subset of people.

21 Later on, the FDA authorized boosters for broader groups of people, and in those

22 cases, I don't know what additional data the FDA had.

23 I actually, together with a colleague, published an editorial lamenting the fact that

24 the FDA did not convene an Advisory Committee to discuss that decision, so I don't know

25 what data they used to ultimately make that decision or if they had more data than they

1 had at the time when I was there and when the Advisory Committee recommended
2 against authorizing it that broadly.
3 BY [redacted]
4 Q Okay.
5 A Sorry. Go ahead.
6 Q Oh, no worries. That's good. You're a very technical expert here, and I
7 want to defer to your expertise, and if you ever feel that you need to clarify something,
8 please absolutely feel free, because I myself am not a doctor, and I don't think anyone
9 else here is but you.
10 So I just wanted to back up a little bit before we get into the -- kind of the stuff
11 that you were discussing in the first hour. Can you just talk a little bit more broadly
12 about vaccines, and what are they, and do you believe that they're beneficial and why for
13 most people?
14 A Sure. So vaccines are regarded, at least in medicine, as one of the most
15 important inventions of all time in terms of their ability to prevent disease. And so, it's
16 because of vaccines that we've eradicated smallpox from the Earth; we have come close
17 to eradicating polio, although we're now failing again due to some problems, mostly
18 related to vaccine hesitancy; we have, I believe, unless this has changed, eradicated
19 rubella, or German measles, from the -- from this hemisphere.
20 And so, vaccines have had an enormously positive impact on human life and on
21 the quality of life, and quantity of life, around the world.
22 I can tell you a little bit about what vaccines are and how they work, if that's all
23 right.
24 Q Sure.
25 A I'll keep going.

1 Q You can keep going, and I'll keep asking.

2 A All right. Sounds good. So vaccines work by stimulating an immune
3 response against what is called an antigen. The antigen is the vaccine component that is
4 administered to a person. And so, the vaccine antigen provokes the same kind of
5 immune response that that person would get if they were infected with the organism that
6 that component came from.

7 And that immune response then, depending on the vaccine, can provide a lot of
8 protection. And many vaccines will protect you for life, even with a single dose; other
9 vaccines may require some additional doses to protect. Some vaccines are better at
10 protecting against certain outcomes than other vaccines are.

11 But at the heart of this is this idea of mimicking an infection for the body so that
12 the body then responds to it as though it were infected, so that when a person actually
13 gets infected they treat the real infection as though it were a second infection. And
14 because the immune system is ready for that, the severity of disease is normally less, if
15 the vaccine works, or the infection might be prevented all together.

16 Q Okay. So fair to say that there are both risks and benefits involved with
17 vaccination, generally speaking?

18 A That is true. While vaccines are generally very, very safe, vaccines also can
19 have side effects, and it's very important to pay close attention to people who receive
20 vaccines and to make sure we understand what side effects those vaccines might be
21 causing.

22 One of the biggest advances in vaccinology over the last 15 years or so has been
23 the ability to look at large databases of people who've received vaccines and compare
24 them with people who did not receive vaccines and to understand what even rare side
25 effects vaccines might be causing.

1 And so our ability to find even very rare side effects is much, much greater now,
2 and this ability keeps increasing every year than it has ever been at any time in history.
3 And so if these databases are not finding substantial side effects, that can give us a great
4 deal of confidence in the safety of a given vaccine.
5 Q And that's because of the advances in data analysis and just the way you can
6 see more statistically?
7 A That's exactly right, yes, so you can compare people who are
8 vaccinated/who are not vaccinated. You can look much more -- in a much more
9 granular way at time-dependent effects. So because many vaccine-associated adverse
10 events appear shortly after vaccination, things that occur in a certain time window after
11 vaccination might be more likely to be vaccine related than those that occur in a different
12 time window.
13 And so, all of these different ways in which very clever scientists have learned to
14 look at the epidemiology of vaccines has given us greater confidence in vaccine safety
15 than we've ever had.
16 Q Okay. And fair to say then, because you can see more from the data in
17 terms of the potential risks for vaccine, your standard might actually change, because you
18 have the capacity to understand these risks. You may expect more of yourselves as
19 public health advocates when you make a recommendation, because the information is
20 available to you, you need to analyze it and balance it all, as you've described?
21 A I think -- I see the FDA's primary role there as in being a fair presenter of
22 information, and of course they need to do this in the context of how the public is going
23 to look at vaccine side effects.
24 And so, an example of this, for instance, is that back when there was a lot of polio
25 everybody was very happy to take the oral polio vaccine, and even though the oral polio

1 vaccine carried with it a very small risk, maybe one in a million, of causing a disease that
2 was very similar to polio. But the risk of getting polio was so much greater, and the
3 devastating consequences for families and for children of getting polio were such that
4 nobody doubted that that small risk was worth getting the vaccine.
5 Over time though, a -- well, a killed polio vaccine became sort of used more,
6 because that vaccine did not carry even this one-in-a-million risk. And so -- and
7 eventually the oral polio vaccine, which carried that risk, was withdrawn from use in the
8 U.S., although it is still used in a few parts of the world. And so, the -- it's a combination
9 of things that play into the public's and regulators' willingness to accept risks.
10 The J&J vaccine against COVID became associated and was found using these
11 kinds of methods to cause a very rare but sometimes fatal disease. And I'm blanking on
12 the acronym, but it -- involving a clotting disorder and -- TTP -- no, it's not TTP. Anyway,
13 it'll come to me probably during Ms. Jag's time or at lunch, then I'll come back to you.
14 But in any event -- and, of course, the availability of other vaccines that didn't
15 have that side effect played a role in people's willingness to do without the J&J vaccine,
16 and eventually the J&J vaccine was withdrawn from the market here in the U.S.
17 And so this is just an example of how well these safety systems work and how
18 they can move us towards using the very safest vaccines.
19 Q Okay. So when you're talking about the risk-benefit analysis, just to be
20 clear, you've talked about the risks and that can be seen in the data, especially the big
21 data that is now available to scientists.
22 But on the benefits side, that is like the severity of disease, right? Like you have
23 some diseases that can be a very serious, life-threatening risk, and then you have others
24 that might not be so serious.
25 Can you talk a little bit about how the benefit fits into the analysis?

1 A It's an enormously important component of this. You know, one of the
2 important parts of the BLA analysis that the FDA needed to do for the Pfizer vaccine was a
3 formal and quantitative benefit-risk analysis of the myocarditis signal that had been
4 observed. And so, it was clear that, at that time, that a small percentage of people who
5 got either the Pfizer or the Moderna vaccine, the mRNA vaccines, carried a low risk of a
6 disease called myocarditis.
7 Now, myocarditis is an inflammation of the heart, which, in theory, should be
8 something that you would worry very much about, and in fact, this was the case.
9 When people started coming in with myocarditis, they were very carefully observed, and
10 it was very important to figure out what happened to them.
11 And over time, various things were learned about the myocarditis that was
12 associated with COVID vaccines. It tended to be more common in males than in
13 females; it tended to be more common in younger people; and the peak seemed to be
14 roughly the 16- to 18-year age group. And you could find different reported rates of
15 that myocarditis by changing the age span that one was looking at.
16 But it was common enough that it was very important to think about how to put
17 that in the context of the benefits of vaccination, especially from we're thinking about
18 approving a vaccine also for males in that particular age group.
19 And so, the analysis that the FDA did included an examination of myocarditis that
20 is caused by COVID itself, because COVID can also cause myocarditis.
21 Q Right.
22 A And, of course, one has to make assumptions of how quickly the population
23 would've gotten infected with COVID. But it became clear that even for the -- this young
24 male age group that had the highest risk of myocarditis, the benefits in terms of
25 preventing severe disease, hospitalization, and COVID-induced myocarditis greatly

1 exceeded the number of cases of myocarditis that the vaccine could possibly cause. So
2 that particular benefit-risk analysis was performed formally as part of the BLA.
3 Now, even then, when the BLA was ultimately approved, the FDA required that
4 Pfizer continue additional studies on myocarditis to understand more about what
5 happened to people who had myocarditis and to better define the frequency of
6 myocarditis. And so, the responsibility to keep looking at this didn't end with the
7 licensure of that vaccine.
8 What became known over time, and actually was already known at the time the
9 vaccine was licensed also, is that COVID-vaccine-induced myocarditis is much milder than
10 the typical case of myocarditis that I would've seen when I was an intern or that a typical
11 doctor would see.
12 And very often, while there would be some EKG abnormalities and there would be
13 chest pain and there would be clear evidence of an inflammation of the heart, it would
14 resolve fairly quickly and wouldn't have the same kinds of sequelae that myocarditis was
15 associated with other causes would've had.
16 And so that also helped play a role in this benefit-risk analysis by gaining a better
17 sense of what the risk side of that equation really looked at. But you really need to do
18 these kinds of quantitative analyses when one -- when you're looking at that kind of an
19 adverse event to understand how to put it into the context of the vaccine benefit.
20 Q And I don't want to digress too much, but because you brought up that
21 particular analysis with respect to myocarditis, I think what I heard you just say is that
22 COVID itself, there's evidence that COVID itself, the disease, causes myocarditis, correct?
23 A Correct.
24 Q And then there was this evidence that you discuss that the vaccine might
25 cause it in a mild form in some population, particularly younger men, correct?

1 A Right.

2 Q But because, you know, the decisions that the FDA and other people,

3 individuals are making when they decide to take a vaccine or not are actually affecting the

4 course of the disease. Fair to say? Like when people start to have access to the COVID

5 vaccine, people were -- more people were -- were being prevented from getting the

6 disease, correct? Like as the vaccine became more available --

7 A No, there's no doubt the vaccine was saving lives, yes.

8 Q Okay. But the end point, or the objective of this vaccine was not

9 necessarily to prevent infection, but to prevent COVID disease. Is that correct?

10 A Well, so that's an interesting question. The original clinical trials showed

11 that the vaccine prevented COVID disease, and that's what they were designed to do.

12 What people always care the most about with vaccines, though, is will they prevent

13 severe disease? Will they keep people out of the hospital?

14 And for COVID this was particularly important, because we were worried about

15 the hospitals getting overwhelmed.

16 Q Right.

17 A And if everybody got infected all at once and the hospitals got overwhelmed,

18 that could lead to worse consequences even for the people who didn't have COVID.

19 And so, hospitalization is actually the end point, and of course, death, that society

20 probably cares about the most.

21 The difficulty is, is that hospitalization is a pretty rare end point. And so, for

22 example, in the Pfizer vaccine trial, which enrolled around 43,500 total people, half in the

23 placebo group and half in the vaccine group, there were -- and now, since I'm under oath,

24 I could get the numbers wrong, but -- well, the efficacy was around 95 percent, which

25 means that there were, I think, over 160 cases in the placebo group, and a handful in the

1 group that had the vaccine of COVID disease.

2 If you looked at the number of people who had hospitalization due to COVID, or
3 severe COVID disease, and I don't remember exactly which one this is, it was nine to one.
4 There were nine people in the placebo group who had that and one in the vaccine group
5 that had severe disease. And that's not a big enough difference to statistically say that
6 the vaccine clearly protects against severe disease.

7 So we're stuck with a system that allows us to look at and to understand the
8 efficacy of a vaccine against milder disease. But, of course, what we care the most
9 about is its ability to prevent severe disease. And then, of course, we also care, if we
10 can achieve that, about its ability to prevent transmission to additional people.

11 But there's a general rule in vaccinology that, to my knowledge, is followed by
12 every vaccine, and as I've told you, I've been in this field for more than 30 years, and that
13 is that vaccines are always more effective at preventing severe disease than they are
14 preventing mild disease. I don't know of any counter example to that rule.

15 And they're also always more effective in preventing mild disease than they are
16 preventing infection. And, in fact, many vaccines, especially at times remote from
17 vaccination, don't prevent infection at all. One might be able to get evidence that the
18 person was infected, but they might not even know they were infected because they had
19 such mild disease, but these infections can occur. If an infection occurs or if a person
20 has mild disease, they probably have at least some theoretical risk of transmitting the
21 disease. And so, the efficacy against severe disease is also likely to be greater than the
22 efficacy against transmission.

23 But -- so, if you put this together for the Pfizer vaccine, for example, as it was
24 evaluated in December 2020, with evidence that there was prevention of any disease,
25 which included mild disease of 95 percent reduction, there would've been fairly high

1 confidence that it would also reduce severe disease by that much as well.

2 But -- so I'm just putting a little bit of a finer point on your statement, which is that

3 the goal really -- the number one goal has to be to keep people out of the hospital, and in

4 a pandemic like COVID, that had to be the number one goal. But a way of proving that

5 we were likely to reach that goal was by demonstrating efficacy for mild disease, for

6 symptomatic disease.

7 Q Okay.

8 A Does that make sense?

9 Q I think so. So telling you what you were looking at, it was helping you to

10 see what might be the case as you get more data?

11 A Right. Yes.

12 Q Okay.

13 A So if the vaccine was going to be highly effective against mild disease, we

14 likely had a good vaccine. But that wasn't necessarily the goal of vaccination, per se.

15 Q Okay. I want to go back a little bit to where I was trying to get to before,

16 again, with the general risk-benefit analysis that you do with any vaccine. You

17 mentioned that, especially I think in your example, the polio, one concern of public health

18 officials is what happens when people stop taking what is considered a safe and healthy

19 vaccine, and vaccine hesitancy is introduced into a population.

20 Now, when you have, you know, a population like in the United States or

21 anywhere else in the world, most of us don't understand vaccines and virology the way

22 that you do, we don't have that technical knowledge, and so we rely on experts like you

23 and agencies like the FDA to help make large public health decisions.

24 And can you tell us a little bit, just broad view, what is your concern, if any, about

25 vaccine hesitancy, like on the other end of the spectrum here? Is there any concern that

1 this committee should have in terms of the message that's sent when, you know,
2 politicians and other people with a pulpit are talking about this highly technical, you
3 know, subject? Do you think there's a risk on the side of promoting vaccine hesitancy
4 with respect to public health?
5 A There absolutely is. And vaccine hesitancy is obviously a danger, because
6 what it means is that people who would benefit from vaccines might be misinformed and
7 choose not to take those vaccines.
8 And there are, of course, many things that can contribute to vaccine hesitancy.
9 And overall, the public's confidence in the public health agencies overall, and in the
10 quality of decisions that are coming out of the public health agencies, whether it's the
11 FDA or the CDC, can play a role in vaccine hesitancy.
12 It's also the case that if people say that there are problems with vaccines that
13 don't exist, that can also contribute to vaccine hesitancy.
14 So there are -- the difficulty is that there are many contributors to vaccine
15 hesitancy, and I know that the public health agencies have spent a lot of effort trying to
16 figure out how to combat vaccine hesitancy, but it's a difficult thing to do, as I'm sure you
17 know.
18 Q Have you, since you were in the FDA or after you've left, have you followed
19 sort of the public debate that is in the news or in other media settings about the safety of
20 COVID vaccines? Do you pay attention to that?
21 A To some degree I do, yes.
22 Q And tell me what it is -- what is your reaction to that on, like, a high level?
23 What are your concerns, if any?
24 A So, of course, there have been some people who have misled some of the
25 data and have concluded that the vaccine has caused many deaths.

1 And the difficulty is that if you look at these databases, these are enormous
2 databases that include many, many people in them, and they include many people who
3 are vaccinated.
4 And it's not hard, if you include people who are vaccinated on every day of the
5 year, and you also know that people die every day of the year --
6 Q For any cause, right?
7 A -- for any cause, whether it's a traffic accident or something else, it won't be
8 difficult to find somebody who died of some cause within, in some proximity, to receiving
9 a vaccine.
10 And that's why these very rigorous statistical methods that I was talking about for
11 looking at these databases are so important, because they can tease that out and ask
12 whether the risk of dying or of something bad happening after vaccination is truly
13 different from the risk of what would have happened if one hadn't received the vaccine.
14 And so really, in the end, it's this aggregation of data and the ability to do these
15 kinds of statistics which is the only reliable way to figure out when one is looking at this
16 kind of data, whether it's showing a true vaccine adverse effect or something that is
17 spurious.
18 But I'll give you an example from my experience also, which -- since you're asking
19 about vaccine hesitancy, and maybe you'll come to this question anyway, but when I was
20 the associate director for medical policy and vaccine safety at -- in the Office of Vaccines, I
21 had the occasion to go to meetings where I would talk with parents and would hear from
22 parents of children who believed that autism had been caused in their child by a vaccine.
23 Q Right.
24 A And what would happen is that these were parents whose child had received
25 a vaccine, and some period of time not long after getting the vaccine, their child would

1 start behaving in a way that caused them to suspect autism.

2 And there would be nothing you could do to shake the belief of these parents that

3 this vaccine was somehow associated with autism in their child, because they saw it

4 happen in close proximity to each other.

5 But if you look at the entire population and ask how often are children receiving

6 autism diagnoses, and how often are they receiving vaccines, and are we seeing more

7 children receiving autism diagnoses in proximity to vaccines than not in proximity to

8 vaccines, the answer is that there isn't an association.

9 But if you're the one person who sees that, and especially if you're a parent, I

10 mean, that's something that has changed your life and you see the change in the life of

11 your child.

12 And so, that parent is always going to believe that that vaccine was associated

13 with autism and that there's nothing that you can do to shake that belief, in spite of the

14 fact that all of the most sophisticated methods that can be used will show that that

15 vaccine had nothing to do with autism.

16 And so, that's what one is up against when one is dealing with vaccine hesitancy,

17 people who have very real stories that they have lived and that are, for them, are

18 completely true and from their perspective represent unshakeable beliefs.

19 Q But as a scientist, with respect to that example, are you confident with your

20 position that those vaccines are not causing autism?

21 A 100 percent confident. That's exactly right, because the data that the

22 scientists can look at that becomes more powerful and stronger every year gives us

23 assurance that there is no association between the vaccines and autism, and that these

24 kinds of events are coincidences.

25 So likewise, the same thing is true about deaths after COVID, where if -- there may

1 be examples of people who got a COVID vaccine and might have died some period of time
2 thereafter, or may have had some other adverse event sometime thereafter.
3 But unless this is looked at in the aggregate to see whether other people who got
4 vaccines had the same thing happen to them and then had it happen more frequently
5 among people who received vaccines than people who didn't, then you simply can't say
6 that the vaccine caused that.
7 Q So when somebody, say this unfortunate parent, makes that association for
8 reasons that you can imagine because it's personal to them, that decision really becomes
9 problematic, I guess, when it's broadcast population-wide and people then have vaccine
10 hesitancy. They're worried that their child might get autism, even though they haven't
11 had the experience of the parent with the autistic child. They're hearing this message
12 kind of filtered through culture or media or whatever, and they're thinking there's a
13 danger here that really doesn't exist. There's no evidence that there's a causal
14 connection between the vaccine and autism, and so --
15 A That's exactly right, and of course those kinds of problems are amplified
16 through social media as well, because the reach of these stories ends up increasing.
17 Q And so it takes away -- this fear that's not based in science takes away from
18 the benefit that vaccines could provide to the population writ large. Is that fair to say?
19 A That is fair to say, yes.
20 Q And with respect to COVID, as you followed the kind of
21 disinformation/misinformation that has sort of proliferated in conversations, do you have
22 concerns about the way the general public, in this country in particular, but elsewhere
23 around the world, sees the risk benefit of COVID vaccines?
24 A So I'm less concerned now than I was before, because at this point many
25 people have been vaccinated and many people have already been infected. And we

1 know that even now getting vaccinated, even with just the original two doses, is still
2 pretty highly protected against severe disease.
3 And of course getting infected, the evidence suggests, is even more protective
4 than getting vaccinated, and many people who have been both vaccinated and infected,
5 many people have been infected multiple times.
6 So the urgency of COVID vaccines right now is nowhere near the level that it was
7 in 2020, for example. I think, overall, though, to the extent that the population or the
8 public starts believing that COVID vaccines are associated with adverse events, I'm almost
9 more worried that they will carry that over to other vaccines and that we'll have a
10 broader public health impact, because if they believe that COVID vaccines are causing
11 adverse events, it means that they've lost confidence in our public health apparatus, it
12 means that they don't believe what the CDC is telling them, and it means that they don't
13 believe what the FDA is telling them, and that disbelief is going to extend beyond COVID.
14 So, I'll say, I'm less worried about the ramifications for COVID itself than for other
15 diseases.
16 Q Okay. Let's talk about that. Actually, that is another subject I wanted to
17 get into. And you as a scientist, but also as a FDA government regulatory official have a
18 unique perspective in terms of, you know, how experts like yourself can affect the public
19 health. Like there's an element here of trust that the American people need in their
20 government in order to receive the expertise that people like you have with respect to
21 virology and vaccines.
22 Is that fair to say?
23 A It is fair to say, yes.
24 Q And what, in your opinion, is dangerous, if that is your opinion, about
25 undermining trust in Federal officials like yourself, and in regulatory agencies like the

1 FDA?

2 A So I'm a believer in transparency and openness, and so, to the extent that I

3 hope that Federal agencies can do a better job in a future pandemic, it's not that I intend

4 to undermine confidence in those agencies now. On the other hand, I do think it's

5 important to take stock of where we've been and figure out what can be done better and

6 see whether there were things that were done that themselves might have undermined

7 confidence in these agencies.

8 Q Now, you were at the FDA under multiple presidential administrations,

9 correct?

10 A Correct, yes.

11 Q And you've seen the operation of that agency with Republicans in control

12 and also with Democrats in control, right?

13 A That is correct.

14 Q Have you ever observed political influence from either party affect scientists'

15 ultimate decision-making at the FDA in a way that would affect the safety of the American

16 people?

17 A I need a moment to think about that, also because I have to go to the

18 restroom. Can I just take a couple minutes to run out?

19 [redacted] Sure. We can go off the record.

20 [Discussion off the record.]

21 BY [redacted]

22 Q We can go back on the record.

23 A Can I ask you to just repeat the question so I have it, if you can read it back.

24 Q Yeah. My question is, like, after having been at the FDA through various

25 administrations and both political parties, are you concerned, first of all, about the

1 motivation of FDA employees and their ability to make decisions that are based on
2 science and based on the motive of helping Americans outside of political influence?
3 Are you concerned about the employees at the FDA making the right choice?
4 A I have no concerns about that.
5 Q Do you have confidence in people in your position and the people around
6 you that they're doing their job with the motive of keeping Americans safe?
7 A I think -- I can certainly speak for myself, and my sense is that most people at
8 the FDA have that as their primary motivation.
9 Q If you had experienced something at the FDA that you thought, like, say, an
10 employee or somebody who was ordering you to do something, that would risk the
11 health of Americans that you thought was wrong, like asking you to make a decision that
12 was wrong, or to hide some information from the American people, what would have
13 been your response?
14 A If they asked me to do that, I would've said we can't do that.
15 Q Have you ever had to say that?
16 A No.
17 Q Okay. And as you sit here today, do you have confidence in the FDA as it's
18 constituted now under the current administration to make decisions with the well-being
19 of the American people in mind?
20 A Yes.
21 Q Okay. Let's go back to COVID.
22 A So, of course, before I took the break you actually did ask me a slightly
23 different question, which I'm happy to answer if you want me to.
24 Q Okay. Sure. Go ahead.
25 A Well, that was the question I asked you to repeat.

1 Q I'm sorry. I don't know how you characterized the first versus the second,
2 but if you had something else that you wanted to add.
3 Mr. Thomas Krause. The court reporter probably has the question.
4 Dr. Krause. You had asked a question about whether any administration had
5 done something that had some impact on FDA decisions, didn't you?
6 BY [redacted]
7 Q On your decision-making, yes.
8 A Is that what she said, on my decision-making? I mean, I'm happy to
9 answer.
10 Q Well, you can answer whatever you -- if you have something you want to
11 share, just go ahead and answer.
12 A No, no. I was puzzled by the question, so --
13 Q Okay.
14 Mr. Thomas Krause. It was about any administration whether political pressure
15 could affect the health of the American people.
16 Dr. Krause. I think -- is that right? It was a broader question.
17 BY [redacted]
18 Q You can answer whatever you would like to answer. Like, you can, if you
19 have something that you want to share, share it.
20 A Okay. Well, so, I think it's been reasonably well-documented that there
21 was suspicion that political pressure led to certain decisions being made at the -- just to
22 start, at the FDA, early in the COVID pandemic.
23 So, for example, without very much data, hydroxychloroquine --
24 Q Right.
25 A -- was authorized by the Center for Drugs under the same EUA rules that I

1 was talking about earlier. And there, if you sort of follow the analysis that I described,
2 the hydroxychloroquine, although I was not in the Center for Drugs and wasn't involved in
3 evaluating drugs, there was very shaky, if any, there was zero credible data that that
4 would be effective in the thing it was being authorized for, which was COVID.
5 Q Can you just explain that a little bit further. So I didn't even realize that
6 that was the case. So hydroxychloroquine was authorized for --
7 A Hydroxychloroquine was an antimalarial --
8 Q Right. And --
9 A -- which was authorized by the FDA in early 2020 to treat COVID.
10 Q Under the Trump administration, correct?
11 A That is correct, yes.
12 Q Okay. And tell me how that decision was made, from your knowledge.
13 A Well, from my knowledge, I only know what I read in the papers, but it
14 seemed that political pressure led to that authorization because the President was
15 touting that as a cure for COVID, and soon afterwards the FDA authorized it.
16 Q Was there any data, to your knowledge, that supported the President's view
17 that hydroxychloroquine was an effective treatment for COVID?
18 A I was not aware of any such data. And ultimately, a couple of months later,
19 the FDA revoked that.
20 Now, also, later that year, the FDA authorized convalescent plasma to treat
21 COVID. So convalescent plaza is blood or plasma that is taken from people who have
22 recovered from COVID, and it was authorized to be used to treat people with COVID.
23 And this was viewed at the time as being very suspicious because the
24 announcement of this authorization, to which the NIH strongly objected, and I remember
25 looking at the data myself at the time, although it was not in my part of the Center for

1 Biologics, I did not think that the data suggested that it was really working at all.
2 And yet -- and I believe that people at the NIH also didn't think it worked. And
3 yet it was authorized, and people found the timing suspicious because it was authorized
4 on the eve of the Republican National Convention. And --
5 Q When was that? Do you recall the year?
6 A That would've been August 2020, I think.
7 Q Okay.
8 A No, August? No, no, earlier, I think.
9 Q Trump administration as well?
10 A That was the Trump administration.
11 Now, so those are certainly situations where political pressure influenced things
12 that the FDA did. So the question then is, was there political pressure applied also
13 during the Biden administration in the context of the BLA for COVID vaccines, or the
14 booster vaccination?
15 And, of course, in the context of the BLA, there was -- I have no direct evidence of
16 pressure applied specifically by the administration, but it certainly -- and we'll probably
17 get into this later, is that there is certainly evidence that there was applied
18 from -- pressure applied from outside of FDA to speed up that evaluation.
19 Q Where -- was that from a position you were in that you could feel that
20 pressure?
21 A Yes, absolutely.
22 Q Okay. And so what was your response to that pressure?
23 A Well, when that pressure occurred, initially, Dr. Gruber and I resisted that
24 pressure, but then as the history will show, we were both relieved of responsibility for
25 directing that review when we resisted that pressure.

1 Q And so what was the ultimate result -- I mean, I want to be very specific
2 about the decision. Now, with respect to the BLA for the COVID vaccine, are you talking
3 again about what you were saying in the first hour, the boosters for the particular -- for
4 the general population, or are you talking about --
5 A No. No, the boosters for the general population was an EUA not a BLA.
6 Q Okay. So you're talking about the licensing later?
7 A The licensing that occurred in August of 2021, yes.
8 Q Okay. And what were your concerns?
9 A Well, the -- the concerns there related to the speed with which the vaccine
10 needed to be evaluated, and --
11 Q And can you just map out the difference, like what your view was and what
12 the, you know, view was from the outside that was being advanced?
13 A So let me be clear, I'm not saying that this led to a safety problem for the
14 American people, but I am saying that this led to a credibility problem for the FDA.
15 Q Okay. Can you explain the difference. Like how can you be confident that
16 it didn't lead to a safety problem?
17 A Well, because to the questions that you've asked me, we've established that
18 when the FDA loses credibility that then potentially increases vaccine hesitancy.
19 Q Yes.
20 A And so, if the FDA behaves in a way that suggests that it is subject to outside
21 influences, whether it's through authorizing hydroxychloroquine or authorizing
22 convalescent plasma, or speeding up the review of a BLA and what came along with that
23 or speeding up a review, and actually having the FDA Commissioner before the FDA
24 was -- even conducted review and before one of the companies even submitted any data
25 say that a vaccine is going to be available for the American people in a month's time,

1 these things strongly suggest external pressure on the FDA. And this is not lost on the
2 American public.
3 Q So that concern --
4 A And the American public will lose confidence in the ability of the FDA to
5 make good and independent and science-based decisions.
6 Q So just so I understand, the concern that you're describing right there is
7 about the public perception of the FDA and how -- how able they are to resist outside
8 political pressure and let science prevail. Is that correct?
9 A Correct, yes.
10 Q Okay. And then you also said that there is this other potential concern,
11 which is safety itself. And I think that you said that your concern is more about the
12 public perception of the FDA's integrity, if you want to put it that way, and not so much
13 that there was actually a decision made at the FDA that ultimately sacrificed the safety of
14 the American people. Can you distinguish between those two?
15 A So the difficulty is I'm struggling with your definition of the safety of the
16 American people, because you started off with the correct proposition that the safety of
17 the American people depends on people's confidence in vaccines.
18 Q I see what you're saying, yeah.
19 A And so, if things happen that cause confidence in the public health
20 agencies to decline --
21 Q Okay.
22 A -- that does have an impact on the safety of the American people.
23 Q Okay. But is there a distinction in your mind between that kind of risk to
24 safety, which has to do with public perception and the ability to rely on the FDA in the
25 future, and an immediate threat to safety with respect to a specific vaccine, for example,

1 like COVID?

2 A And a recipient of a vaccine, of course those are different things, yes.

3 Q Okay. And do you think in the case of COVID vaccines that there was

4 ever -- that --

5 A And then -- so, by the way, what I'll say, though, is that for the examples I

6 gave under the Trump administration, my major concern there also was the hit to the

7 credibility of the FDA.

8 Q Yeah.

9 A Not that these fundamentally ineffective treatments necessarily led to major

10 safety concerns for recipients.

11 Q Right. Because if you took hydroxychloroquine, you're not going to die

12 most likely. You're just not going to help --

13 A Well, it turned out over time that when a lot of hydroxychloroquine was

14 given, there were more side effects than people expected.

15 Q Okay.

16 A But nonetheless, that's right. So I'm putting these on roughly the same

17 level --

18 Q Got it.

19 A -- where, to me, the concern is not that the political pressure is going to

20 cause a person who goes out and gets a vaccine to have a worse outcome because they

21 got the vaccine, but I do think that a perception of political pressure, whether it exists or

22 not, will affect the public's confidence in the public health agencies, which will then also

23 have an impact on vaccine hesitancy.

24 Q Okay. Because if they don't trust the FDA then they're not going to take

25 the next vaccine when we have another pandemic, right?

1 A Right. And as we said before, right, the same people who believe that
2 COVID vaccines are causing side effects or deaths or whatever, they're open to that
3 proposition because they don't trust the public health agencies. If they trusted the CDC
4 and the FDA, they wouldn't believe that.
5 Q Right.
6 A And so vaccine hesitancy is, at its heart, built on the credibility of the public
7 health agencies, as well as other things, so it's not just up to experts like me.
8 Q Right. And, you know, here's another level of analysis that I'm curious
9 about your opinion. So the FDA is regulatory agency, it's going to give
10 recommendations to Americans based on highly technical expertise, that frankly no one
11 can understand if they're not a doctor or an expert. But above the regulatory scheme,
12 the FDA is Congress itself, and the people that are organizing this interview here today.
13 And, in theory, we're here to try to get information from you that will help in
14 terms of the FDA being -- any kind of legislation that might affect the FDA in the future.
15 But also, like Congress, in my opinion, and I'm curious about yours, is not
16 completely outside of that process of either undermining or supporting faith in the FDA.
17 Like, do you have any thoughts or opinions that you would like to share about what this
18 investigation itself, and the information that is derived from this investigation and sent to
19 the public, what affect that could have on this problem that we might see in the future
20 with people not trusting the FDA?
21 A So, my sense is that there are people who already are not trusting the public
22 health agencies, which is why it is that we see people believing things that could not
23 possibly be true.
24 And so, I think it's important for the people in charge of the public health agencies
25 and the people who interact with them, to keep the importance of that credibility in

1 mind.

2 And I think that is a lesson learned that I don't mean to be applied more to one

3 party than another. It's -- and, of course, it would be unrealistic to imagine in a

4 pandemic that politicians would have no interest in these kinds of decisions when people

5 are dying due to a disease.

6 But my goal here obviously is to answer questions truthfully and to help as a

7 citizen, who has been asked by Congress to provide whatever information I can, to help

8 figure out what happened so that we can do a better job next time.

9 So I'm approaching it from that perspective, which is why I'm a -- I'm here

10 voluntarily. The --

11 Q So could you answer that question that you just posed to yourself? I mean,

12 what if anything could the FDA do differently or --

13 A Well, so the one thing I suggested to [redacted] and I do think that this would

14 help, is if the FDA needed to provide more detail about the nature of their evaluations of

15 products that are made available, especially under EUA, I think there's something about

16 the EUA process where the standard for an EUA is, of necessity, somewhat ambiguous.

17 In an emergency, it may be necessary to get something out with very, very little data if

18 there really is no choice, and that's a decision that needs to be made at that time.

19 And so, I don't think one can change the way that the EUA standard is written,

20 although other experts might disagree. But what I do think is that when the EUA

21 standard is used, the public physicians, actually even Albert Bourla, who tweeted out that

22 the Pfizer vaccine had been approved rather than it had been authorized, don't really

23 always understand the difference between an EUA and a BLA.

24 And, in fact, many of the questions that you guys are asking me here today come

25 down to what does it mean if something is authorized versus licensed, what level of

1 confidence do we have in the authorized versus the licensed product, and so forth.
2 And it seems to me as though just because the EUA process has this intrinsic
3 ambiguity, it also makes it a process that whether a politician intends to or not, can be
4 perceived to be influenced by politics.
5 And so if there were a way of making sure that when an EUA is used, the standard
6 that was applied for that EUA were made clear that the FDA's true assessment of why it is
7 that this is an EUA and not a BLA were made clear, then the public and physicians and
8 other public health authorities would have more to go on.
9 So, for instance, if under hydroxychloroquine, rather than simply say we think that
10 the product might be effective and that the known and potential benefits outweigh the
11 known and potential risks where somebody might say, well, this is a person who might
12 die anyway, so any theoretical benefit might outweigh any risk --
13 Q Right.
14 A -- somebody could look at that standard and say that hydroxychloroquine
15 met that standard.
16 Even though once the FDA authorized it, it almost certainly shouldn't have been
17 authorized based on what was known about its likely efficacy, and the fact this was an
18 antimalarial drugs, and antimalarial drugs don't have, in general, efficacy against these
19 kinds of viruses.
20 And so, if the FDA would've been -- would've needed to say with that
21 authorization, Well, we actually don't have any evidence for efficacy, and we're
22 authorizing this because we see this as a Hail Mary pass, then people might have viewed
23 that authorization differently from if it just came through as, the news report today, the
24 FDA authorized hydroxychloroquine. And then people go out and seek a drug that isn't
25 helping them and maybe keeps them from seeking things that might actually help them.

1 And so I do think that finding a way to convey better and stronger information
2 about the nature of any individual EUA could go a long ways to reduce the temptation, if
3 there were temptation for politics to influence the outcome.
4 But I also think that it would go a long ways to reduce a perception of political
5 interference as well, because if there -- if the data were very weak, and the FDA were
6 forced to say what the data were in that sense and divide it up in this way and provide a
7 clear explanation of why it doesn't meet the standard for licensure, why is it an EUA
8 instead, then it would make the EUA a less-tempting target for -- well, for politicians, but
9 then it also would decrease the likelihood that people would mistakenly believe that the
10 process had been politicized.
11 Q Right. Do you have any concerns -- this reminds me of another question
12 that, have you been following some of the work of this committee and other committees
13 in Congress that seek to deregulate lots of the American bureaucracy, but in particular,
14 the FDA and other agencies? Have you followed that effort?
15 A Not closely, but -- and, again, if you're asking for an opinion --
16 Q I am.
17 A Okay. So if this is an opinion, I'm safe under oath here, right? I believe
18 that regulation is a very important aspect of the American economy that distinguishes the
19 U.S. economy from the economy of many other countries, because what regulation
20 allows is for people to know the facts about the products that they're using; it allows,
21 well, for instance, people who buy stock to know the facts about the company they're
22 buying stocks in; it helps us assure that various safety standards are met. If you buy a
23 car without regulation, you don't know, for instance, if the airbags are going to work or
24 not, and but maybe you care about that.
25 And so, confidence in the economy does depend on having some level of

1 regulation, but it also requires on having very clear communication that surrounds what
2 that regulation is. And so, I feel as though I think getting rid of regulations for the sake
3 of getting rid of regulations will probably harm the U.S. economy, although I'm not an
4 economist. I do have an MBA.
5 Q I'm talking about the FDA in particular. Like, what if we had no FDA when
6 COVID hit, and how would -- how can you imagine that the American people would've
7 navigated this very technical cost-benefit analysis with respect to COVID?
8 A Well, we wouldn't have vaccines if there were no FDA, because without an
9 FDA there would've been no basis for a company to make credible claims that a vaccine
10 worked. And so, vaccines or purported vaccines that didn't work, would have just as
11 easy a time market -- being marketed as vaccines that did.
12 Q So do you think that the danger to the American people, if there is any, is
13 more from the people who work inside bureaucracies like the FDA, the sort of
14 technocrats who are making decisions based on their expertise, or from some other place
15 outside?
16 A I mean, there are plenty of dangers to the public, for sure. And so, maybe I
17 can ask you to be more specific. I don't think that the people who were working at the
18 FDA, by and large, are a major hazard to the American public, and yet you're giving me a
19 very vague and anonymous comparator. So it's hard to answer the question specifically.
20 [redacted] Okay. I have no more questions, and we can go off the record.
21 [Discussion off the record.]

1 [12:29 p.m.]

2 [redacted] We can go back on the record.

3 BY [redacted]

4 Q Let's see. Now, Dr. Krause, I know that we touched on this a little bit

5 because you've clarified before that Dr. Marks had brought in a group of Israeli physicians

6 to review data by the FDA -- or to review data, but it had not been reviewed by the FDA.

7 Can you clarify what you had said? I think you said the Office of OV --

8 A Right. So at the advisory committee meeting on September 17th, where

9 the boosters were discussed, data that had not been reviewed by the Office of Vaccines

10 was presented to the advisory committee. And if this had been a BLA, surely the Office

11 of Vaccines would've reviewed those data.

12 The question always is, in the advisory committee process, you know, what are

13 the expectations of the advisory committee members, and how does this kind of data

14 that the FDA hasn't had a chance to carefully review, how should it play a role in ultimate

15 decisionmaking.

16 Q Did it play any role?

17 A Well, in the end, the advisory committee recommended against the full

18 authorization of boosters for everyone over age 16. They limited their authorization to

19 the elderly and people in certain -- certain jobs.

20 The immunocompromised had previously already had a booster dose authorized

21 for them, and so, the authorization at that meeting added the elderly and some

22 additional people, but was not an authorization for universal boosting which is what

23 Pfizer had requested and what had been announced previously by the Commissioner, the

24 CDC Director and the NIH Director, NIAD Director, as well as the President.

25 Q And whose idea was it to bring in the Israeli physicians? Was that a

1 decision made by Dr. Marks, or was it made by someone else, you know, above him, to
2 your knowledge?
3 A To my knowledge, what had happened prior to that advisory committee
4 meeting was that Dr. Gruber, who normally would've been in charge of the advisory
5 committee, was relieved of responsibility for that advisory committee by Dr. Marks.
6 And so, it would be reasonable to assume that it was Dr. Marks who brought in
7 those speakers, but -- but I do not know.
8 And I'll point out, right, it was -- and I think I said this before, that the data had not
9 been reviewed by the Office of Vaccines. It's quite possible that Dr. Marks or someone
10 else at the FDA had seen the data.
11 Q Okay. Perfect.
12 And kind of switching gears back to what we were talking about before during our
13 first hour, in your position at the FDA, specifically within anything with the vaccine
14 approval process for a BLA or an EUA, is it fair that -- or, I'm sorry. Scratch that.
15 Did you exercise any discretion, like, was it ever permitted by your role for
16 licensing, in licensing any of these products?
17 A I have to understand what you mean by "discretion." I'll give you a partial
18 answer, and you can tell me if that covers what you need. So, for example, early in the
19 pandemic, the FDA issued guidance documents that described what it was that the FDA
20 would expect to see for a licensed COVID vaccine, and then later in the pandemic, for an
21 EUA for a COVID vaccine. Excuse me.
22 And so that involved interpretation of the underlying regulations in the context of
23 FDA's understanding of vaccines and the situation, and those guidance documents that I
24 think ultimately were signed off on by Dr. Marks.
25 So, if by "discretion" you meant that the FDA had the ability to define how it was

1 interpreting the regulations, to me, that's an intrinsic component of what the FDA does,
2 is, if there's a regulation where they need to provide guidance to sponsors, it needs to be
3 done in context, and that was the purpose of providing those guidance documents.
4 But of course, once the FDA provided that guidance, they, in essence, take any
5 discretion away from themselves. And so it was important to put those -- that guidance
6 out early on in the pandemic so that everybody would know what to expect.
7 And of course, the guidance documents themselves are subject to public comment
8 and to further discussion as well. And so, it's not as though the FDA just picks
9 something, puts it in a guidance document, and that's the final word.
10 Q No, that does answer my question. That's exactly kind of what I was
11 wanting to know.
12 And can you explain, you know, based on some research -- cursory research I had
13 done, anything, what would be important to see in maybe post-vaccine rollout studies?
14 Like, what kind of role did you play in reviewing post vaccine rollout studies and why
15 they're important?
16 A So, are you talking about post-vaccine rollout studies after the original EUA
17 authorizations in December 2020?
18 Q Any of them. EUAs or BLAs in general.
19 A Well, so the FDA, of course, was very interested in making sure that there
20 was good and increasing safety data on these vaccines, because that obviously was
21 something that they did not have as much of, as one would have for a BLA right at the
22 time that the EUA was -- was done.
23 So some of these studies were conducted by the company, and some of these
24 studies were done by FDA and CDC. And of course, international health authorities
25 were also doing safety studies as well, and so FDA needed to keep tabs on those.

1 In addition, of course, there were missing data on pediatric use, and so it was
2 important to understand how well these vaccines might work in children as well. And so
3 those -- those studies needed to be designed and executed once the vaccine was made
4 available.
5 There were important studies that were -- were done, although perhaps not quite
6 under FDA's authority, to look at how well the vaccine was working during that rollout,
7 and to look over time at what was happening.
8 And I had the opportunity in the article that was published in The Lancet in early
9 September 2021, to summarize almost all of those studies. So I can tell you a little bit
10 more about that paper now if you want --
11 Q Yeah, we can talk about it.
12 A -- or you may have a separate question about that.
13 Q Absolutely. I've got it actually right here. We'll enter it as exhibit 1 for
14 the record.
15 [Krause Exhibit No. 1.
16 Was marked for identification.]
17 BY [redacted]
18 Q There you go, sir. And if you want to continue on with what you were just
19 saying in reference to this article, feel free, and I can jump to any of my other questions
20 about this.
21 A Sure. So -- so what we did in this article was we looked at all of the data
22 that had been published on how well vaccines were working. And so we looked at every
23 published study that included information, both about vaccine efficacy against severe
24 disease, and vaccine efficacy against mild disease.
25 And what I can say is, if you look at the co-authors, there's a long list of them, and

1 these include, well, myself, they include Dr. Gruber, they include colleagues from the
2 WHO, they include people from other countries who had contributed to WHO
3 consultations on this matter, and they also include people from -- who participated in the
4 Cochrane Collaboration.
5 And the Cochrane Collaboration is a highly respected group that aggregates data
6 from clinical studies in order to provide advice to doctors about the nature and quality
7 of -- of the medical literature and what conclusions can be drawn from that.
8 And so, this was a fairly highly trained and experienced group of co-authors, also
9 included people who, in my view, are some of the best statisticians in the world.
10 And together we looked at every study that had been published that could
11 possibly lay -- provide any -- any insight into whether vaccine-induced immunity was
12 waning over time.
13 And, of course, there had been some studies suggesting that vaccine-induced
14 immunity was waning, and this was one of the big questions that came up in this issue of
15 whether or not a booster might be needed.
16 Because in deciding that a booster should be given, it's important first to figure
17 out, is the booster needed? And then to figure out, you know, does it work, because
18 you really need both of those. If it isn't needed, then "does it work?" becomes a
19 meaningless question.
20 And so this was just looking at these -- these studies that had been published.
21 And you can look at these -- these four figures here that sort of summarize the findings of
22 the paper, which is that, on the X axes there, you have vaccine efficacy against any
23 infection, and at each of these four graphs on the Y axis, you have vaccine efficacy against
24 severe disease -- or against -- so we have any disease versus severe disease.
25 And what you can see is that in panel A, even in vaccines that had fairly much

1 lower efficacy against mild infections -- that's the 26 reports to the left -- the efficacy
2 against severe disease was still quite high, was close to 90 percent, based on a study
3 aggregation method -- actually, two different methods were used to put all of the data
4 together.
5 And, of course, if the vaccine continued to work very well even against mild
6 disease in these studies, they also continued to work very well against severe disease.
7 So this is showing that vaccine efficacy in all of these reports together was
8 retained against severe disease as being quite high.
9 And then panel B shows that regardless of which variant you looked at -- Alpha,
10 Beta, or Delta, and the Gamma perhaps a little bit lower, but for Alpha, Beta, and Delta
11 variants especially, which were the only ones which had been published at that time,
12 vaccine efficacy against severe disease was retained as being very high, even if it
13 appeared that vaccine efficacy against mild disease had started to decline.
14 Then panel C shows that this same finding is true regardless of what kind of
15 vaccine it is.
16 In the U.S. we only had mRNA vaccines at that time, and we had the J&J vaccine
17 which are the vector vaccines, but what you can see is, even for other kinds of vaccines
18 which were used in other parts of the world, the vaccine efficacy against severe disease
19 was, in general, retained much better than efficacy against milder disease.
20 And, of course, you see the inactivated vaccines were the least of the vaccines
21 against mild disease or severe disease. But you see the mRNA vaccines, especially when
22 you put all the 32 studies on mRNA vaccines together, you could see that when you
23 aggregated that data, that these vaccines were continuing to work well, no matter where
24 in the world you were looking.
25 Q So ultimately that's what you and these other doctors were trying to argue in

1 your article, that because the efficacy remained high after the initial vaccines, against
2 severe disease, that the booster would not be needed? Is that correct?
3 A Well, so, that was the inescapable conclusion, that a booster was not going
4 to have a significant impact on people's protection against severe disease.
5 And then the final panel, some people had said, well, people who got vaccinated
6 early in the pandemic were having greater infection rates than people who were
7 vaccinated later in the pandemic, suggesting that immunity might be waning.
8 But the difficulty with all these kinds of studies -- and here you see there was also
9 no difference in impact on severe disease -- but that difference could also have been
10 because people who were vaccinated early in the pandemic were, in general, people who
11 were already perceived to be at higher risk, because we tried to vaccinate the higher risk
12 people early in the pandemic.
13 So if that -- the difference even in mild disease there could've been just due to
14 differences in who was vaccinated.
15 So what's interesting is that we actually cited early data from the Israeli study that
16 was ultimately presented at the vaccines and related biological products advisory
17 committee, even in this study, which had a very small amount of data by the time we
18 wrote this article, had a little more data by the time they presented it at the vaccines and
19 related biological products advisory committee.
20 And we pointed out that this study actually could have significant biases in it that
21 were making it look like a vaccine was needed when it wasn't.
22 And what that Israeli study had shown -- well, reported, was that if you looked at
23 people who had received a booster dose, they seemed to do better than people who
24 didn't receive a booster dose.
25 Q And you're saying that study was biased?

1 A Well, we pointed out that that study could be biased.

2 Q Could be.

3 A What's interesting is that just a month or so ago, there was a letter to the
4 editor of the New England Journal of Medicine by a group from San Francisco, which
5 pointed out that this and several other studies from Israel were biased, because they
6 were able to go back and look at some of the primary data, and they showed that the
7 people who happened to get booster doses in Israel were fundamentally different from
8 people who did not have access to booster doses.

9 And the people who had access to booster doses were people who were perhaps
10 wealthier, had access to better healthcare and other things.

11 And you could find things that had absolutely nothing to do with COVID that also
12 distinguished those groups, which is proof of -- in that study, of what we call healthy
13 vaccinee bias, which means that if the people who get the vaccine, the booster, are
14 fundamentally healthier than the people who don't, it makes it look like the booster
15 helped those people.

16 But in fact -- so this was one of the main studies that had been relied upon in
17 deciding that boosters might be needed in the U.S.

18 And what was interesting was that the advisory committee, in considering this, did
19 not give huge weight to that, but nonetheless that was something that we pointed out in
20 this article.

21 So the conclusions that we came to were that -- that a booster probably wasn't
22 necessary in most people. These studies can't rule out the possibility there are some
23 people whom a booster would help, and indeed, probably did help the
24 immunocompromised and older adults.

25 Although the immunocompromised, it's a hard question. They were getting

1 COVID at a very high rate, but one of the reasons is because they didn't respond well to
2 the vaccine in the first place.
3 And so an additional booster might not have helped them that much either, but it
4 was certainly a reasonable thing to try.
5 [redacted] Can I ask?
6 [redacted] Go ahead.
7 [redacted] Why would -- in your experience, why -- either you know the
8 answer or in your experience -- why would the advisory committee not take into account
9 the potential for this biased model, as you put it?
10 Dr. Krause. Well, but they did, in the sense that they ultimately came up with a
11 recommendation not to recommend booster vaccination in everybody.
12 [redacted] Okay. I --
13 Dr. Krause. So when they met, they actually came to conclusions not so different
14 from the ones that my co-authors and I had come to in this paper.
15 [redacted] Okay.
16 [redacted] You also -- oh, I'm sorry. Go ahead.
17 Dr. Krause. Can I just finish?
18 [redacted] Yeah.
19 Dr. Krause. There were sort of just a couple of things that we pointed out as
20 consequences of this. And, of course, this paper was published on September 9. This
21 was actually based on a meeting at the WHO that was held on August 13th that brought
22 together experts from around the world.
23 I mean, you can see that this collaboration of people who were putting this data
24 together didn't arise out of nowhere, but it really came out of a lot of robust and
25 international scientific discussions to try to come up with a clear-eyed answer of what the

1 data was showing.

2 And so, we concluded that probably boosters were not needed for most people.
3 We pointed out that if given that boosters were not going to help many of the people
4 who might otherwise take them, that giving doses of vaccine, regardless of where in the
5 U.S. or in other countries or whatever, that one would be using as boosters as primary
6 vaccination shots would clearly save a lot more lives, because the first two doses of
7 vaccine is really what it took to get people that high level of protection, and that high
8 level of protection against severe disease.

9 So we pointed out that we could save more lives if -- if the booster doses -- well, if
10 doses that people wanted to use as both boosters were doses that might otherwise be
11 unnecessarily used as boosters, were purposed differently.

12 And the other thing we pointed out was that, given that difference, it seemed that
13 to the degree that public health authorities, the media focused on boosters, that actually
14 might undermine confidence in the original vaccines in the first place.

15 Because if the message is, you need to go out and get a booster, and the message
16 also is, you should get your first two shots, you're sort of telling people, well, these first
17 two shots aren't expected to work that well.

18 And so -- so the booster message may actually have even undermined, to some
19 degree, the message that was clear, which was that the first two doses were going to be
20 highly protective and would save lives.

21 And so, these were the points we made in the article, and honestly, I think these
22 points are, you know, turned out to be correct because it was based on very solid science
23 with good scientists, excellent scientists, who did a very comprehensive study.

24 So this is not really an opinion piece. It's -- it's data and an effort to then figure
25 out what the sequences of those data are.

1 BY [redacted]

2 Q And you also mentioned, I see like at the bottom of the first page of this
3 article, you noted that there could be risks if boosters are widely introduced too soon.
4 Is that concurrent -- or is that kind of what you were suggesting before, that the booster
5 message could undermine the original vaccination messaging if people weren't all
6 vaccinated yet, or were there possibly other risks if boosters were introduced to the
7 public too soon?

8 A I don't recall whether we said that explicitly in this article.

9 Q Oh, I'm sorry. It's at the bottom of page 1, and it's a piece of -- it's at the
10 bottom of page 1 in the first column. It says, Although the benefits of primary COVID-19
11 vaccination clearly outweigh the risks, there could be risks if boosters are introduced too
12 soon or too frequently, especially with vaccines, that can have immune-mediated side
13 effects, such as myocarditis, which is more common after the second dose of some mRNA
14 vaccines or GB Syndrome -- I can't fully --

15 A Guillain-Barre, right.

16 Q Yeah.

17 A Right. Just so -- so I couldn't remember if we'd raised those specific
18 outcomes. But yeah, so the myocarditis at that time was believed to be potentially
19 immune-mediated, which might have suggested that the more you stimulated someone's
20 immunity, the greater the risk of myocarditis.

21 Likewise, Guillain-Barre syndrome is an immune-mediated side effect, and so,
22 there might have been some risk that with additional doses of vaccine, one might have an
23 increased risk of that.

24 The Guillain-Barre syndrome was observed mostly with the J&J and Astrazeneca
25 vaccines, which weren't used very much in the U.S., and so it's not clear whether that

1 came to pass. It turned out with additional data that additional doses of the -- of the
2 mRNA vaccines didn't lead to a higher risk of myocarditis.
3 Although there was still some small risk of myocarditis even with additional doses,
4 so -- but time there was -- at the time there was no way to know whether, if one were to
5 give a lot of extra doses of mRNA vaccines, what the safety of that would be, and so this
6 was just a cautionary note.
7 Q And you had mentioned the J&J vaccine. Can companies like Johnson &
8 Johnson and Pfizer and Moderna ultimately be held liable, like, from American citizens if
9 they suffered those types of injuries from a vaccine produced by them, from your
10 experience?
11 A So --
12 Mr. Thomas Krause. If you know. It's a legal question.
13 BY [redacted]
14 Q If you know. From your experience.
15 A So it is a legal question, and so I'm not deeply familiar with the liability laws,
16 and yet, one of the things that makes these vaccines feasible are the protections under
17 the rules that make EUAs feasible in the first place.
18 And so, whether the company can be held liable or not, I'm not sure, but I believe
19 that the companies have some protections against liability under these circumstances.
20 Q And kind of going back to this article, too, do you believe that the data
21 collected since you published this article, do you think that vindicates the concern you
22 expressed in 2021 which may, at that time, have not been popular? People, at that
23 time, I think people were expressing the need for boosters, but it sounds like you and
24 Dr. Gruber and some of these other physicians might've been in the minority at that time
25 for thinking that boosters weren't needed? Am I wrong in understanding this?

1 A Well, at the time that we published this, at least the advisory committee
2 ended up mostly agreeing with what we were saying.
3 You know, the difficulty is that at that time, we had -- well, the Delta variant,
4 which had people very concerned because it seemed to be causing severe disease.
5 Although, as you can see from this paper, not so much in people who had received the
6 vaccine, but was causing severe disease in people who had not been vaccinated.
7 And there was some worry, I would say, among people who hadn't done this
8 careful an analysis that if vaccination efficacy was going to wane against mild disease, that
9 waning efficacy against severe disease might be far behind -- might not be far behind.
10 And so the worry there was that -- that the Delta virus, or, perhaps, ultimately the
11 Omicron virus might change the equation.
12 The -- my own opinion at the time was that it was unlikely that that would be an
13 issue because it seemed that longer-term protection was mediated by cell-mediated
14 immunity, which is a kind of immunity where the cells in your body attack cells that are
15 infected with the virus and controls the infection that way.
16 That's different from what scientists call humoral immunity, which is where
17 antibodies attack the virus and can sometimes control the infection even before it gets
18 started.
19 Q Not to interrupt you, but which of those two is what is commonly referred to
20 as natural immunity, do you know? Like, I know how everyone's just like natural
21 immunity can be equal --
22 A Both.
23 Q They're both?
24 A Both.
25 Q Okay.

1 A So -- so natural immunity is a term that as I understand how it's been used, is
2 simply meant is simply meant to describe the immunity that somebody has after they've
3 been infected.
4 And after somebody's been infected, they have a combination of antibodies,
5 humoral immunity, and cell-mediated immunity.
6 And so, the -- it seemed the humoral immunity was more important in protecting
7 against mild disease, and the cell-mediated immunity, once the humoral immunity had
8 waned, was more important in protecting against severe disease.
9 And so, if you have only humoral immunity, you would've been protected against
10 both, but it's just that the cell-mediated immunity would take over once the humoral
11 immunity started to wane. And people would have both anyway that would contribute
12 to controlling an infection.
13 So, that's a biological explanation for why it is that people had reduced experience
14 over time, reduced efficacy against mild disease, because the antibodies started waning,
15 but the cell-mediated immunity did not. So that continued to protect them against
16 severe disease.
17 So it's even deeper immunology then to think about what it is that is being
18 protected against by humoral versus cell-mediated immunity. And the cell-mediated
19 immunity was directed at parts of the virus that didn't change as much, and so, the
20 cell-mediated immunity is longer lived than the humoral immunity and is much more
21 resistant to variants because those parts of the virus aren't changing when new variants
22 evolve.
23 Q So those -- the natural immunity, which obviously covers both the cell -- the
24 term just escapes me. Is the cell immunity versus the --
25 A Humoral.

1 Q -- humoral, both of those fall under the category of natural immunity?
2 A But they also both fall under the category of vaccine-induced immunity.
3 The mRNA vaccines also induce both.
4 Q Okay. And do all of -- I guess any of the data that was collect over the
5 last -- or over the last 2 years, does that -- I don't know the word I'm thinking of is -- like,
6 does that kind of fit in and agree with this article that you've published as far as the need
7 for boosters?
8 A Overall, the data is pretty consistent with what we published here and is
9 pretty consistent that the cell-mediated immunity protects people against infection.
10 Now, over time, even the cell-mediated immunity can wane, but certainly at this
11 time, it was very clear that there was no need for boosting --
12 Q And --
13 A -- in most people.
14 Q And you said the people that it would be needed in -- or at that time, the
15 data suggested that it would be needed for the elderly and the immunocompromised.
16 Were those the two main categories that were needed?
17 A Those are the main categories where the data suggested that a booster
18 might save lives, yes.
19 Q Okay. And then I'm briefly going to touch on something before I switch
20 gears again because we've already discussed a little bit about the September 17th
21 advisory committee meeting.
22 Do you recall during that meeting conveying skepticism about Pfizer's possible
23 misrepresentation of data or withholding any data?
24 A So "misrepresentation" is a strong word. During that meeting I did have an
25 opportunity to briefly, for probably just 2 or 3 minutes, talk about one of the studies that

1 Pfizer had presented at the meeting. And this was also a study in which Pfizer claimed
2 showed waning of immunity.
3 And this was also a study which had not been provided to the Office of Vaccines at
4 least, for review prior to that meeting. So this was an analysis that -- I presented an
5 analysis during this meeting that I generated on the fly during the meeting.
6 But it seemed as though there were inconsistent results within different pieces of
7 data that were presented there.
8 Pfizer requested that the authors of the studies come on, and the authors insisted
9 that they had used completely standard methods to generate those results, but
10 nonetheless without having the ability to understand exactly how those results were
11 generated, without having the ability to actually review those data in advance, it's -- even
12 to this day, it is not clear to me that their analysis was correct.
13 Q Did that happen often throughout this time in the pandemic where maybe
14 any of these pharmaceutical companies if they had presented data -- was this a rare
15 occurrence that, like, Pfizer presented data that the FDA, or at least the OVRR had not
16 had the chance to review prior to, that you guys were expected to?
17 A So -- so the first time I saw changes in the type of data that were being
18 presented to support the EUAs, was with the EUA for the immunocompromised, where
19 that EUA was based almost exclusively, at least for the Moderna vaccine, on published
20 articles.
21 And one of those published articles was actually not with the Moderna vaccine. I
22 believe it was with the Pfizer vaccine. So I think there was one article about the
23 Moderna vaccine in the immunocompromised with a relatively small number of people.
24 And yet, I, at that point, given the situation in the immunocompromised who
25 otherwise did not have much that they could use to help them, and the fact that many of

1 them were ending up in intensive care units if they got infected, in spite of the fact that
2 they'd received two doses of vaccine, it seemed almost as a Hail Mary that it was
3 reasonable to give that specific population a -- an opportunity to get another dose of
4 vaccine because they otherwise had nothing.
5 And so, I think that although that EUA was based only on published papers, it did
6 meet the EUA standard. It was reasonable to assume that the -- well, that it might be
7 effective, of course, which is a very low standard, and that the known and likely benefits,
8 or known -- not likely -- known and possible benefits exceed the known and possible risks.
9 Well, the known and possible risks in that population were low, but the possible
10 benefit was potentially life-saving because so many of these people were getting very,
11 very ill.
12 And so that was a population in which it seemed like the EUA standard was met
13 even when the quality of the data was not at the level that the FDA would've requested
14 for a BLA. So that appropriately was an EUA.
15 Q Who made that determination, though, to your knowledge, that even if the
16 data wasn't as -- the word you said, like if it wasn't as, you know, broad of a data set, or if
17 it wasn't something that you all didn't get the chance to evaluate, it was just based on
18 published papers -- how often did that happen, and also, who made the determination
19 that, yep, just because we're going to rely on these published papers for, you know, our
20 decision, an EUA would be given?
21 Mr. Thomas Krause. You can use your judgment on deliberative process
22 privilege on that one.
23 Dr. Krause. So --
24 BY [redacted]
25 Q You mentioned the Moderna ones. That's why I was thinking if there were

1 other instances.

2 A So -- so that particular one was not reviewed at all within the Office of

3 Vaccines, I'll say that. And so those decisions were made -- that final decision

4 was -- so -- but I actually don't remember who signed that.

5 Q Okay. And then, but other than that instance with Moderna where you

6 had to rely on -- or I guess where the FDA, not saying you necessarily, but whoever would

7 make that final decision on if an EUA should be granted based on the data presented

8 from these published papers, but not from, you know, your office's ability to study and

9 evaluate, you did it yourself, how often had that happened to your recollection, or was

10 that the only time?

11 A At that time that was the only time I was aware of, but then of course at

12 least some of the data that was presented in favor of boosting the more general

13 population also was of a different standard.

14 Q And it was of a different standard for the EUA or --

15 A Well, so it's in -- Pfizer originally submitted the booster dose as a

16 supplemental BLA, with the idea that that might be included under their license. But in

17 the end, FDA authorized the booster in the elderly and in people with certain

18 occupational situations as an EUA.

19 Q What's the difference? And this is purely coming from, again, as we've

20 discussed, like none of us are doctors, but like the difference between a supplemental

21 vaccine under the BLA versus an EUA, like, is there a difference in those considerations?

22 A So a BLA is still a license application. So a supplemental BLA has to reach

23 the licensure standard whereas the -- which is as I described, right -- safe, pure, and

24 potent -- whereas under the EUA, it just needs to meet the EUA standard, which is, may

25 be effective and known and possible benefits outweigh the known and possible risks.

1 And so, the FDA somewhere in there, and I do not recall where, decided that this
2 booster, even just in the elderly, could be authorized but not approved because they
3 didn't think that the data met the standard for approval.
4 Q Well, I'm going to switch gears a little bit, going back to a little bit about the
5 BLA approval process, and this is going to go into talking a little bit about, during the
6 summer of 2021, do you recall working with Dr. Gruber on a timeline update for the
7 Pfizer COVID-19 BLA in July of 2021?
8 A I do recall that, yes.
9 Q Okay. And we're going to admit this as exhibit 2.
10 [Krause Exhibit No. 2.
11 Was marked for identification.]
12 Dr. Krause. Can I just take like a 3-minute bathroom break?
13 [redacted] Absolutely, of course.
14 We'll go off the record.
15 [Discussion off the record.]
16 [redacted] We'll go back on the record.
17 BY [redacted]
18 Q Going back to where we were just getting ready to discuss a time in July of
19 2021 --
20 A Sorry. Let me mute this.
21 Q Oh, of course.
22 A It's a junk call anyway, a scam likely.
23 Q I get those too.
24 A All right.
25 Q We were just getting ready to talk about a time when you and Dr. Gruber

1 were asked to provide a timeline update for the Pfizer COVID-19 BLA in July of 2021, and I
2 had just passed out what we've marked as exhibit 2.
3 And this is a previously FOIA'd email from Dr. Marks to Dr. Gruber -- oh, I'm sorry.
4 One moment, actually.
5 A Is that the right one?
6 Q I'm going to make sure it is.
7 Oh, yes, this is correct.
8 Okay. So this is a timeline that you all had provided, and it's marked at the
9 bottom, Bates-stamped FDA-OC-2021-5574-000355 through 000357.
10 Do you recall being copied on this email -- or I'm sorry -- yes.
11 A Yes, I do.
12 Q In this email, Dr. Gruber also copied Mary Malarkey and Steven Anderson.
13 Who is Mary Malarkey?
14 A Mary Malarkey, at that time, was the director of the -- of OCBQ, which, if I'm
15 remembering the acronym correctly, is the Office of Compliance and Biologics Quality,
16 and I described the function of that office earlier.
17 Q Yes. And then who is Steven Anderson?
18 A At that time, and possibly still, Steven Anderson is the head of the Office of
19 Biostatistics and Epidemiology, another office which I described earlier today.
20 Q Do you know if either of them are still working at the FDA?
21 A I know that Mary Malarkey retired because she invited me to her retirement
22 party. I do not know if Steven Anderson is still at FDA or not.
23 Q Why, to your knowledge, would they be copied to this email on the timeline
24 for the BLA, out of curiosity, if you're aware?
25 A The -- the two of them would've contributed to the development of the

1 timeline, because the review of the BLA would've depended -- or did depend on activities
2 in multiple FDA offices. So the full review of the BLA depended on, for instance, a
3 benefit-risk epidemiological analysis of the myocarditis, which was being spearheaded by
4 people in Dr. Anderson's office.
5 And the approval of the BLA -- not -- yes, the approval -- sorry, I'm using the
6 correct word here -- would've depended, or did depend, on activities within
7 Mary Malarkey's office as well in terms of certain aspects of the chemistry,
8 manufacturing, and controls review, inspections, and things like that.
9 Q And to this email, Dr. Gruber had attached a document that was the updated
10 Pfizer COVID approval timeline, and it started in May of 2021, and ended on September
11 15th of -- September 15th, 2021. Is that correct?
12 A That's correct.
13 Q Now, in her email -- and feel free that if you need to take any time to review
14 it as we're walking through it, you absolutely can do so -- in her email, she had wrote that
15 the bar graph reflects target completion dates. Some of these pending timely sponsor
16 response to information requests which we have been and are sending as we review the
17 info contained in the submission.
18 Can you explain what that means?
19 A So maybe to explain this graph, I need to take you back in time some weeks,
20 and explain what the action due date is and all of these things in the context of the BLA --
21 Q Absolutely.
22 A -- which will give you sort of a bigger picture of what this is, which then may
23 enable you to ask more specific questions.
24 Q And while you walk us through that, I'll actually take this moment to
25 introduce another email exhibit that I think it includes a memo that maybe will help you

1 with what you're possibly going to walk us through.

2 A Sure.

3 Q And feel free to get started if you would like. I'm going to admit this into

4 the record as exhibit 3 --

5 A Sure.

6 Q -- while I get it, but feel free to start.

7 [Krause Exhibit No. 3.

8 Was marked for identification.]

9 Dr. Krause. So what you can see on the left here is that the first part of the BLA

10 submission came to FDA on May 6th. The so-called roll 2 of the BLA's mission, which

11 means that as of that point the submission was complete, came in on May 18th.

12 Now, according to the normal Prescription Drug User Fee Act deadlines for a

13 priority review -- and this is the requirements that FDA agrees to -- a priority review like

14 this would be completed within a total of 8 months.

15 So, of those 8 months, the first 2 months are consumed with a filing review to

16 determine whether the application is materially complete, and the remaining 6 months

17 are spent on the review.

18 So if you take those 8 months from the May 18th date that the BLA was

19 considered complete or was considered completely filed, when Pfizer asserted that

20 everything had been submitted, that would give a -- a PDUFA, which is how we say

21 Prescription Drug User Fee Act, a mandated action due date of January 18th, 8 months

22 from May 18th.

23 The -- it was clear, based on the COVID situation, that January 18th would

24 be -- was longer than what we thought -- and this would be Dr. Gruber and I -- would

25 want to wait to take action -- final action on this BLA.

1 And so -- and I do not recall exactly how this happened, but we reached an
2 agreement with Dr. Marks that we would target completion in mid-October. And I can't
3 remember exactly when we reached that agreement with him, but it would've
4 been -- well, sometime probably in late June, give or take.
5 Dr. Marks agreed with that, but then, not long afterwards, he came back and said,
6 I think mid-October is taking too long for this, I'm worried about -- whatever he was
7 worried about. I don't know what -- I'm quoting something I don't know that he said,
8 but he said, Can you do it faster than that? And he suggested that we try and complete
9 it by September 15th.
10 And so, Dr. Gruber and I went back and we talked with the people in the Office of
11 Vaccines, as well as the people in these other offices and asked whether they thought if
12 we worked very hard at this, we could finish it by September 15th.
13 And keep in mind that when we're telling Dr. Marks that we can finish it by
14 September 15th, that doesn't mean that's necessarily how long it must take, but we
15 assumed that he was going to take whatever date we gave him, and he was going to tell
16 other people that it will be done by that date. And other people might do things relying
17 on it being done by that date.
18 [redacted] Who might those other people be?
19 Dr. Krause. Hard to know but people outside the center perhaps who maybe
20 needed to figure out how to distribute vaccine, for instance, or things like that.
21 It's -- it's -- so -- so we were nervous about providing a date that we were not 100 percent
22 sure that we could meet.
23 And so we, after going back to the various people within the office and in other
24 offices, gained confidence that we could agree to complete the review by
25 September 15th.

1 Well, not long afterwards, he came back again and said, we are going to need this
2 to be done faster than September 15th but on an earlier date. And based on that,
3 Dr. Gruber and I, again, looked to see what might be feasible, but of course we already
4 had an idea what everybody was telling us about what they thought was feasible, and we
5 came back to him and told him, based on the memo that is exhibit 3, which I don't think I
6 have a copy yet of --
7 [redacted] Oh, I'm sorry. It's over there.
8 Dr. Krause. Oh, there it is. There it is. Okay. There it is, yes -- which we
9 sent on July 15th, explaining why it was why we didn't think we could promise that this
10 could be done faster than September 15th.
11 So -- and, of course, this was -- but of course the timeline that it actually would
12 take to complete a review was dependent on many things that were outside the control
13 of the Office of Vaccines, including what might happen in these other offices, including, in
14 particular, very often during a BLA review, there's very robust communication between
15 the reviewing offices and the sponsor.
16 And so, in fact, what Dr. Gruber's email that you asked me about says, was that
17 there were some pending sponsors requests for information.
18 So in other words, FDA had sent information requests to the sponsor to interpret
19 what Pfizer had sent in, and we did not yet have answers back from Pfizer on those
20 information requests.
21 BY [redacted]
22 Q And those were needed in order to determine the --
23 A Well, those were needed to complete the review, but the concern was there
24 would be additional information requests too, and the Office of Vaccines had no control
25 over how long it would take Pfizer to respond to those.

1 And so, this just gets to this point where it was very difficult to predict in advance
2 how long it would take to complete the review and -- but when asked to promise a date,
3 obviously that had to include a worst-case scenario in terms of what else needed to be
4 done, how long it took to do the overall benefit-risk analysis, coordinating the dozen or so
5 different reviews which needed to be done in order to complete the BLA review, as well
6 as then what the company was going to provide in response to requests for information
7 and how quickly they would be able to do it.
8 Q And who was asking you to make a promise on a deadline?
9 A Dr. Marks was requesting that we -- that's what the ADD is. So it's an -- in
10 this case, it's -- the action due date, as entered in the computer, would've been
11 January 18th. But the question is, what is the intent, when are we actually going to get
12 this done?
13 And so Dr. Marks was requesting that it be done sooner than September 15th
14 and -- but he did not provide a suggestion of how quickly he wanted it done. But he said
15 sooner than the 15th.
16 Q And is that ADD, that action due date you've described, is that something
17 that's normally publicized to, you know, to the American public, or is that something
18 that's, like you said, something for your all --
19 A That's intended to be something that is kept within the FDA.
20 Q Was it, in this situation, to your knowledge?
21 A I do not know whether that was kept within the FDA. Although I note that
22 CNN, in Marion Gruber's email to Dr. Marks, announced on that very day -- and actually, I
23 saw this email from a Judicial Watch F-O-I, so I actually was able to find the CNN article
24 where they said that it will be completed within 2 months of July 15th, which is a pretty
25 sure way of saying September 15.

1 So it seemed that the September 15th ADD, as had been agreed prior to this email
2 with Dr. Marks, had found its way outside of the center.
3 Q Is that -- was that common, or was that something that -- was that
4 happening, where this information about a projected timeline for when the vaccine
5 would be approved, was that common, or was that -- did that seem like a rare occurrence
6 to you for your time in the FDA?
7 A So I -- I would say that was -- from my time at the FDA was very rare.
8 Within COVID, I'm less certain, but I can't give you a specific example.
9 Q No, that's okay.
10 [redacted] Do you have a personal opinion on who -- on how or who may be
11 responsible for this ADD-projected date being leaked to the public or the media?
12 Dr. Krause. Well, I'm 100 percent sure that it was not leaked from within the
13 Office of Vaccines, and I can't speak to where else it might've been leaked. It's
14 conceivable that this was -- information was provided to the acting commissioner. It's
15 conceivable that it was provided to the White House task force.
16 So figuring out where -- I don't know who else knew this, so I can't hazard a guess
17 as to who -- who would've leaked that information.
18 [redacted] Now, what, if any, effect does this sort of public exposure place on
19 your office at the time?
20 Dr. Krause. Well, at the time, at that moment, we were pretty confident that the
21 review could be completed by September 15th, and so thought that by following our
22 usual processes, that could be -- could be done.
23 Although one possible exception to that is, is that if it were going to be completed
24 by September 15th, it would not have been possible to take this to an advisory
25 committee. And I don't recall what discussions we had internally on whether this should

1 go to an advisory committee.

2 This, however, is the type of thing that, in order to gain public confidence in FDA's

3 process, one might prefer to send to an advisory committee. And so, even the

4 September 15th date would not have allowed sufficient time for that.

5 [redacted] Is that an important step in making your determination for a BLA,

6 having an advisory committee?

7 Dr. Krause. So not all BLAs go for advisory committees. And, of course, if there

8 are critically important issues that require outside advice, it's essential for those to go to

9 the advisory committee.

10 My sense is that we already had very strong efficacy data. We had a substantial

11 amount of safety data at this point, in some studies, almost an entire -- more than a

12 year's. And we had the CMC data that we had, but advisory committees don't deal with

13 CMC data.

14 So the other reason to go to an advisory committee would be to maintain and

15 build public confidence in what we're doing.

16 So there wasn't a problem that the FDA would've needed to send to an advisory

17 committee. But by opening the process and making it more transparent, an advisory

18 committee might have, nonetheless, been viewed as an important thing to do.

19 Of course, there is -- there is a trade-off between taking it to an advisory

20 committee and the total amount of time that it would take to complete the review.

21 [redacted] Okay. Well, I think we've reached our hour for now. We'll touch

22 back, pick back up on that, next round.

23 But we'll go off the record.

24 [Discussion off the record.]

1 [2:17 p.m.]

2 [redacted] We can go back on the record, please.

3 BY [redacted]

4 Q Okay. Dr. Krause, in the last hour, we talked a little bit about the

5 September 17, 2021 meeting. Do you recall those questions?

6 A More or less, yes.

7 [Krause Exhibit No. 4.

8 Was marked for identification.]

9 BY [redacted]

10 Q I just wanted to introduce -- since it wasn't introduced before, I just want to

11 introduce, for the record, the summary minutes from that -- from that meeting. And

12 this is, I guess, going to be marked as Exhibit 4. I'll give you a minute to just look at it so

13 you can remind yourself.

14 Mr. Thomas Krause. Have you seen this before?

15 Dr. Krause. I haven't read it, no.

16 BY [redacted]

17 Q Take some time to look at it if you need to.

18 A Okay.

19 Q The only reason I'm introducing this is just for the completeness of the

20 record. Can you just tell us, like, what was the objective of this meeting?

21 A So the initial objective of the meeting was to have a public discussion to

22 describe and present in a transparent way the data that -- that pertained to whether

23 boosters, in particular, the Pfizer vaccine, should be made available to everybody, age 16

24 and up, which is what Pfizer had requested.

25 Q Okay. And you mentioned earlier in the last hour that there was some data

1 from Israel that was discussed or introduced at this meeting. Is that right? Is that
2 when this -- that data was introduced?
3 A That's correct, and that's consistent with the line here: This was followed
4 by a presentation by Dr. Sharon Alroy-Preis with the Ministry of Health, Israel, and
5 Dr. Ron Milo with the Weizmann Institute" --
6 Q Okay.
7 A -- "made a presentation titled, 'Booster protection against confirmed
8 infections and severe disease- data from Israel.'"
9 Q You're reading from exhibit 4 on page two, the second-to-last paragraph.
10 Is that right?
11 A Correct.
12 Q Okay. And you said in the previous hour that you had noted some
13 concerns about that data. Is that fair to say?
14 A Well, in The Lancet article we pointed out ways in which that data might be
15 misleading.
16 Q Okay. And the ways in which you found the data potentially misleading,
17 was that discussed at this meeting?
18 A Not to my recollection.
19 Q Okay. Did you bring it up at the meeting?
20 A I wasn't in a position to bring it up. Dr. Gruber was not running the
21 meeting, and Dr. Marks was. I did get an opportunity, right after the committee
22 returned from a break, to ask a question, and so I asked the question about the study that
23 Pfizer presented.
24 Q Is that the data that we're referring to, or is that study something else?
25 A No, that's a different study.

1 Q Okay.
2 A That was -- that was -- I don't know if they mentioned that here. That was
3 related to the, well, the Pfizer presentation, but they -- this doesn't -- doesn't
4 describe -- the minutes, in general, represent a very, very abbreviated summary of these
5 meetings, and so it -- that doesn't describe those specific data or the concerns that I
6 raised.
7 Q Okay. But when you say that you raised the concerns, are you saying you
8 raised the concerns in your article or that you raised them in the meeting or something
9 else?
10 A No, actually at the meeting I raised them, because Pfizer was citing the data
11 prominently as though that created an open-and-shut case that boosters were needed.
12 Q Right.
13 A And I pointed out that the study itself was -- had not been reviewed by FDA
14 and itself seemed to have some internal inconsistencies that needed to be understood
15 before one could interpret the data.
16 Q Okay. And raising concerns like that, that's your role as an expert, correct,
17 to share your opinion or concerns about?
18 A It's a little bit unusual to be in a position where I need to raise those
19 concerns in an Advisory Committee meeting, because normally when a company presents
20 something in an Advisory Committee they're presenting data that they've already
21 submitted to the FDA --
22 Q Right.
23 A -- and that the FDA has had a chance to review.
24 Q Okay.
25 A So -- but one of my roles was to try to make the office be as good as it could

1 be, and if I saw something that I thought could be improved to point it out to somebody.
2 Q Okay. And can you see, I guess it's beginning on page three of exhibit 4,
3 there's the numbers one and the number two down below, and I take it that those were
4 the questions that were presented for vote to the committee. Is that correct?
5 A That's exactly right, yes.
6 Q Okay. And question one, it says, quote: Do the safety and effectiveness
7 data from clinical trial C4591001 support approval of a COMIRNATY booster dose
8 administered at least 6 months after completion of the primary series for use in
9 individuals 16 years of age or older," end quote. Did I read that right?
10 A Yes, you did.
11 Q And COMIRNATY, for the record, that's the Pfizer vaccine?
12 A That's the trade name of the Pfizer vaccine, yes.
13 Q Okay. And then the members of the Advisory Committee were asked to
14 vote yes or no, right?
15 A Correct.
16 Q And the results of the vote are listed there. It says that two people on the
17 committee or on the Advisory Committee voted yes, and 16 voted no. Is that right?
18 A That's correct.
19 Q Is that consistent with your recollection?
20 A It is, yes.
21 Q Okay. So ultimately, the result of this Advisory Committee was that this
22 particular booster for that subset was not approved or authorized?
23 A Exactly, yes.
24 Q Okay. And then if you look below, I guess it's number two, the question
25 presented to the advisory group was, quote: Based on the totality of scientific evidence

1 available, including the safety and effectiveness data from clinical trial C4591001, do the
2 known and potential benefits outweigh the known and potential risks of a COMIRNATY
3 booster dose administered at least 6 months after completion of the primary series for
4 use in individuals 65 years and older. Did I read that right?
5 A Yes.
6 Q And was that the question presented to the advisory group?
7 A It was, to the best of my recollection.
8 Q Okay. And then you see below that the results of that vote were yes, 18,
9 and no, zero, correct?
10 A Correct.
11 Q Okay. And that's consistent with your recollection?
12 A Yes, it is.
13 Q Okay. With respect to those results, like the yes and the no and ultimately
14 the authorization for the group 65 years or older, let's start with that, did you agree with
15 that recommendation?
16 A I thought that was a very reasonable recommendation.
17 Q Did you vote on that, or is that some other member?
18 A No, no, FDA employees don't vote.
19 Q Got it.
20 A So it's an external advisory committee that is meant to reflect what the
21 general scientific community and outside experts would think.
22 Q Okay. And then back to the first question, the vote was yes -- two people
23 voted yes and 16 members voted no, with the ultimate result being that it was not
24 authorized for use in individuals 16 years or older. Did you agree with that ultimate
25 recommendation?

1 A I thought that was the right vote based on the data that were presented,
2 yes.
3 Q Okay. And those were the only two questions that were presented to the
4 Advisory Committee at that meeting, is that right, in terms of the vote?
5 A These were the only two voting questions.
6 Q Okay.
7 A There was some additional question -- discussion after these questions were
8 voted on regarding whether there might be some value to making the vaccine available to
9 some additional populations.
10 Q And so --
11 A But this is my recollection. It's not obviously listed in these minutes.
12 Q Okay. Was that discussion -- I don't know if you can explain, but why was
13 that not voted on, that second or third question?
14 A Normally, the FDA puts a lot of time into thinking about what the voting
15 questions are, the exact wording, because they have such importance. And this
16 additional discussion was, as I recall, induced by a question from Dr. Marks that he would
17 like to have some additional discussion about whether there were other groups in which
18 there might be some value to a booster dose.
19 Q Okay. So he was just looking for the Advisory Committee's thoughts?
20 A Informal thoughts, yes.
21 Q Understood. You can set that aside.
22 A Okay.
23 Q That's the only question I had about our exhibit 4.
24 A couple questions about just the COMIRNATY BLA approval process generally.
25 Ultimately, that licensing authorization was approved on August 23, 2021. Is that

1 correct?

2 A That's -- just to clarify the language --

3 Q Yeah, please.

4 A -- the license was approved. So normally, when I say approved, I mean,

5 and people at the FDA mean, but this is hard language to enforce, approve means that

6 the license or the BLA was approved. When you say "authorized," or "authorization,"

7 you're talking about emergency use authorization --

8 Q Yep.

9 A -- as a way of keeping these distinct from each other.

10 Q Okay. So --

11 A So the BLA was approved.

12 Q Okay. On August 23rd --

13 A On August 23rd, yes.

14 Q -- 2021. Is that right?

15 A Correct.

16 Q Got it. With respect to the BL -- the COMIRNATY BLA review process, was it

17 thorough, in your opinion, as it went through the approval process with OVRR?

18 A The review was thorough. The review addressed all of the critical issues

19 needed to come to the conclusion that it was appropriate to approve a BLA.

20 Q Okay. And are you confident that in that review in total that it was based

21 on reliable evidence?

22 A Yes.

23 Q Okay. And did you -- in your opinion, did you find that the review utilized

24 reliable methods?

25 A Yes.

1 Q You said that normally a BLA review process would take about 8 months if it
2 was priority. Is that right?
3 A That's correct.
4 Q Okay. And in this case, it was priority review, right?
5 A Correct.
6 Q Is that determined by statute, or what is the priority determination?
7 A There are several different criteria, but it has to do with the urgency for the
8 product, how unusual it is, and also how lifesaving it is, and various other criteria that are
9 written in the statute that are designed to assure that products that are really needed get
10 reviewed faster.
11 Q Okay. To your knowledge, was there any dissenting opinion with respect to
12 that COVID vaccine being a priority review under the statute?
13 A No, I don't think so.
14 Q And to your knowledge, what factors allowed OVRR in this case to finish the
15 review, the BLA review faster than it would have in other cases that might have taken
16 8 months?
17 A So -- well, I'm just trying to think -- so, well, one reason is that the review
18 involved a larger team of people and experts. So this really was an all-hands-on-deck
19 situation where OVRR, especially as its review was prioritized, put all -- as many resources
20 as it could into this review. And so, that was one thing.
21 Of those who were playing critical roles in this review, many of them put in extra
22 hours, including nights, weekends, and really worked very, very hard on the review. It
23 surely contributed to the review that Seiber had been involved in -- well, in discussing the
24 studies before they were conducted, looking at the study results in the context of
25 evaluating the EUA based on that same study. And so, having that experience with this

1 data set probably also sped things up over who would otherwise have happened.
2 It's also the case that even when there's a priority review, reviewers often have
3 multiple simultaneous tasks because that's the nature of business at the FDA. There's a
4 lot of work to do and a lot of things are priorities. In this case, there was a desire to
5 complete this even faster than the normal priority review timeline, which meant that the
6 people who were working on it couldn't be working on other things.
7 Q So the desire that you spoke of to review the process more quickly, was that
8 a desire that was shared among the FDA's scientists?
9 A Well, I can't speak for other specific FDA scientists. The -- we haven't gone
10 through all of these exhibits yet obviously, but Dr. Woodcock and Dr. Marks indicated
11 from their perspective the great importance of rapidly reaching the conclusion of this
12 review. And the organization ultimately is responsive to its leadership, and so if
13 people -- and so the reviewers did what they were asked and told to do.
14 Q In the -- you're talking about the review process, the BLA review process writ
15 large?
16 A Well, and the individual reviewers --
17 Q Right.
18 A -- who put in a lot of extra time and a lot of extra effort to make it possible to
19 review this BLA so quickly.
20 Q Okay. Is it fair to say that, you know, these employees who are working
21 extraordinarily hard under these circumstances are motivated at least in part because
22 they have their own concerns about the COVID pandemic and as it was unfolding in the
23 country?
24 A I think that everybody who was working there at the time, myself included,
25 had concerns about the COVID pandemic and how it was unfolding in the country. And

1 we all wanted to in general do what we could to facilitate the availability of products that
2 would help.
3 Q Okay. And I think some of this is extremely obvious, but I'm just going to
4 ask it anyway, but why were you concerned about the COVID pandemic at that time?
5 A Well, so many people, of course, had already died of COVID. The vaccines
6 had been available since December of 2020. There were new variants that were
7 evolving at that time, including the delta variant. The delta variant was actually
8 well-protected against by the vaccine, but there -- I think some people had concerns that
9 the -- that not enough people were getting the vaccine.
10 Q Like getting any version of the vaccine?
11 A Getting any vaccine, yes.
12 Q Okay.
13 A And they're -- motivating some people was the hope that if the vaccine were
14 approved, that might motivate more people to get the vaccine.
15 Q And you mentioned this I think in the context of the booster authorization
16 that there were some people in your position or tangent to you that were concerned
17 about the messaging around boosters because they were worried ultimately that it might
18 undermine people getting the original vaccine?
19 A Yeah, that was certainly a statement that I made that was The Lancet article
20 and that I also made in a Washington Post op-ed that was published in late November.
21 Q And what was your concern, just if you could summarize it?
22 A The basic concern was that to the extent that all of the discussion and public
23 discussion centered around boosting people, it meant that the energy that was needed in
24 order to communicate with people who hadn't yet been vaccinated didn't exist. Many
25 of the public -- official public communications really were led off with boosters, and if

1 they mentioned getting the primary series, the first two doses, at all, it, in some cases,
2 appeared as an afterthought.
3 And the -- and so, there was a question of how did that impact the messaging, but
4 then there also was the question that I think I -- I mentioned in the previous interview
5 that to try and simultaneously give people the message that they need to get two doses
6 of vaccine in order to save their lives, but if they had two doses of vaccine they needed a
7 booster to stay alive, is difficult messaging to be giving at the same time, because if the
8 same people hear both of those messages, they're not -- they sound contradictory.
9 Q Right. Is it also a concern -- correct me if I'm wrong, but the booster dose
10 at the time is literally the same product as what somebody would've gotten in part of the
11 original series?
12 A That's correct, yes.
13 Q Was there a scarcity issue in terms of the product itself, or does it depend on
14 what part of the world you were in?
15 A That depended largely on what part of the world you were in. There were
16 large numbers of doses of EUA-authorized vaccine in the U.S. around that time, so there
17 was no -- no shortage of vaccine in the U.S.
18 Q So your concern at that point for the United States was just about messaging
19 more than anything in terms of undermining the message that the original series was
20 important?
21 A Well, both of those things. It was potentially undermining the message
22 that the original dose was important, and that -- that the -- I'm sorry, I don't remember
23 what my other thing was. This is the lunch catching up.
24 Mr. Thomas Krause. Do you want to take a minute?
25 Dr. Krause. Yeah, let me just take 1 minute.

1 [redacted] Sure, of course.

2 Dr. Krause. Okay. Sorry.

3 [Discussion off the record.]

4 Dr. Krause. Yeah, so I'm sorry, I was -- well, we have to resume, don't we?

5 BY [redacted]

6 Q We're back on the record -- or we stayed on the record.

7 A Okay. So I was a little confused by the question.

8 Q I'm sorry.

9 A And so, were you asking about issues that came about with boosters overall

10 or --

11 Q Yeah. I'm sorry, yes. I was talking about the previous discussion that we

12 had where you were raising the concern or you had raised the concern that --

13 A So -- right. So one part of this is, of course, that the boosting message

14 undermined the message to get the first vaccine series, but aside from that, is all of the

15 data that I showed that the boosters themselves weren't needed.

16 Q For the general population?

17 A For the general population, exactly. And the further point made in The

18 Lancet article that boosters would save more lives if those doses were actually given as

19 primary doses.

20 Q Okay. That -- thank you for that clarification. That makes sense. Is

21 there more to it?

22 A No. I think that covers what I believe the question was though.

23 Q Yes. I didn't want to cut you off.

24 Mr. Thomas Krause. Just to clarify, you had switched topics from the BLA

25 approval to boosters, and that kind of --

1 BY [redacted]

2 Q Yeah. Well, one of the reasons -- I was asking about -- I just -- I wondered,
3 when you were talking earlier about the booster and that particular concern about it
4 undermining the original series, I just wondered how it related to -- if scarcity was an
5 issue. And I think you cleared that up. It was just a separate question.

6 A Correct. Scarcity was not the issue there.

7 Q Okay. I'm sorry. So let's just -- I'll try to stay more focused on the -- one
8 process at a time so it's less confusing.

9 You said that the -- back to the COMIRNATY BLA procedure, one of the reasons
10 you indicated that it was possible for the FDA to complete that review in less than
11 8 months was due to staffing and, I guess, choices that the agency made in terms of
12 workload. Is that --

13 A Prioritization, exactly.

14 Q Okay. Who made those decisions about prioritization and staffing?

15 A So the decisions about prioritization and staffing for the BLA review were
16 made by Dr. Gruber, who, together with me, wrote, for instance, the September 15th
17 memo that described why we thought we could not --

18 Mr. Thomas Krause. July 15th.

19 Dr. Krause. Oh, sorry, July 15th memo that described why we thought that we
20 could not further accelerate the BLA promise to action date. And so the -- and of note,
21 when Dr. Marks relieved Dr. Gruber and me of being in charge of that BLA review, he did
22 not add additional staff to that review. So the team was the right team, and it did not
23 need further augmentation.

24 BY [redacted]

25 Q Oh, I see what you're saying. So when you and Dr. Gruber left, there.

1 Was no additional staffing to --

2 A Sorry. We haven't been through all of these events, but there's a memo

3 from July 21 that I found a copy of online that describes the meeting on July 19th during

4 which Dr. Woodcock and Dr. Marks relieved Dr. Gruber and me of responsibility for

5 directing the BLA review.

6 Q Right.

7 A And so -- and put Dr. Marks in charge of managing that BLA review. And so

8 after that point --

9 Q Do you know when that was?

10 A I just said. So that memo was on July -- or that meeting was on July 19th.

11 Q So at the meeting that's when the staffing changed, at the same day?

12 A Dr. Marks said he was taking over right then, yes.

13 Q Okay.

14 A Yes.

15 Q Go ahead.

16 A And so there was no subsequent change in staffing for the review of that

17 BLA.

18 Q So the staffing, I guess the building of the staff happened before that when

19 you were still --

20 A That's exactly right, because the BLA came in according to the timeline

21 May 6th, and the final submission that started the review clock was on May 18th, so by

22 mid-July the review was already -- had already been underway for 2 months.

23 Q Okay. When did the staffing change occur?

24 A There was no staffing change.

25 Q Oh, I'm sorry. I thought you added people or prioritized their work in

1 different ways so that people were more focused on the review.

2 A No. We initially put a robust team on this.

3 Q Is that May, then?

4 A Yes, right from the beginning, yes.

5 Q Okay. So that was a decision that you and Dr. Gruber made during the BLA

6 review process in May?

7 A Or even slightly in advance of it, yes.

8 Q Okay. And can you say, like, did that -- how many people did that -- did it

9 involve actually assigning people who were not working on this, or did it just involve

10 taking the people who would otherwise be looking at it and telling them you're going to

11 work on this only or both?

12 A A little bit of both.

13 Q Okay.

14 A But the total number of people who were engaged in the review of this BLA

15 was certainly over 50, maybe even more.

16 Q From the beginning -- or May, from May --

17 A Well, had some responsibility. Not everybody had responsibility on the

18 first day, but who had some responsibility associated with this BLA.

19 Q Okay. What was it that motivated you and Dr. Gruber to make those

20 staffing decisions to have people prioritize this?

21 A We viewed it as an important BLA, and we knew that a BLA required a much

22 more thorough review than an EUA did, and so -- and we already started off with the idea

23 that we were going to try to finish this BLA that was originally due on January 18th by

24 mid-October. So we knew that we would have to devote substantial resources to

25 rapidly completing that BLA.

1 Q Okay. And was that because you felt pressure from leadership, or was
2 there some other reason, or both?
3 A Early on, no. Early on I think everybody agreed that we didn't know what
4 was going to happen in the pandemic, that this BLA was going to need to be reviewed
5 anyway, and so, that it would be useful and important to complete the BLA review faster
6 than the original January 18th priority review timeline.
7 Q Okay. Was there resistance from staff members when being asked to work
8 these extraordinary hours or to focus exclusively on this matter?
9 A So I do not know that directly, because the additional acceleration in the
10 review occurred after Dr. Marks took over that review. And so, there's no doubt that
11 people on the team worked very, very hard; and without that additional work, it wouldn't
12 have been feasible to further accelerate the review.
13 I think that people who work at the FDA, and this gets back to a question you were
14 asking me earlier, in general, are there because they're highly motivated to make a
15 difference for public health. And they -- they see their work as being very, very
16 important. And so when they're told by leadership that the work is critical, then
17 they -- they go the extra mile.
18 Q And so fair to say that when you and Dr. Gruber were in charge of this BLA
19 review, you understood that the staff was working -- was prioritizing this over other
20 things, and that they were working longer and kind of harder --
21 A Well, they were already working very hard.
22 Q Right.
23 A And after we were relieved of responsibility for this, my sense is perhaps
24 they were working even harder. But I don't have direct knowledge of differences in the
25 number of hours each individual worked.

1 Q Okay. All right. So when I asked you earlier, you know, what was it that
2 made it possible for OVRR to review -- do this review process in more than 8 months, the
3 first thing you said was basically you prioritized it with staffing and people just kind of
4 dropping maybe some other matters and focusing hard on this. Is that --
5 A Correct. That's correct, yes.
6 Q Okay. Were there any other issues that were kind of unique to COVID or
7 this circumstance that helped this review go faster?
8 A I think expertise, right, because we had been living COVID for the last, well,
9 by then, year and a half or so, or more, the experience that everybody had with COVID, as
10 I said, the understanding they had of this particular clinical trial, and they would've gained
11 some facility with the specific databases in which data was presented. These are all
12 things that -- that certainly helped, having that experience, having the people. And
13 some of that experience comes from the EUA; some of it also comes simply from being
14 involved in other COVID-related reviews over a very short period of time.
15 Q Is it true that in kind of your typical BLA review process where it's prioritized
16 and you have 8 months, you may not have had an EUA before that? Is that something
17 that usually comes hand in hand?
18 A You would never have had an EUA before that, because the EUA is
19 something that is unique to an emergency situation. So that requires an emergency
20 declaration, it requires a life-threatening illness, and it, of course, then changes the
21 standard under which the product is reviewed and ultimately authorized.
22 So the Office of Vaccines, before that time it had only one EUA and that was for a
23 different schedule of an anthrax vaccine, so that was on a completely different scale. So
24 the -- the sequence that occurred here was unlike any sequence that had ever occurred in
25 the office.

1 Q In the entire history of the FDA?

2 A Well, in the history of the office for sure.

3 Q Okay. By the OVRR?

4 A Where there was this EUA product which then turned into a BLA with

5 obviously a lot of data.

6 Q Because -- and I think you've already said this. Forgive me for just keeping

7 asking the same thing, but because the EUA process, even though it was a different

8 standard, involved data that you could later analyze in the BLA review process, is it fair to

9 say that the FDA was able to move more quickly because they had already seen some of

10 the data in the EUA process?

11 A So it's fair to say that that helped the FDA move more quickly, but I don't

12 want to downgrade your impression of how much more complicated it is to review the

13 BLA, because the BLA is reviewed to a very different standard. And in this particular

14 case, when the EUAs were authorized, there was clinical data, but it encompassed

15 relatively short follow-up on these people.

16 And by the time that the BLAs came in -- or the BLA came, the duration of

17 follow-up was much longer and the total amount of data to be reviewed was much, much

18 greater. And of course, in the meantime, there also was information about myocarditis

19 that needed to be considered and much deeper dives into all of the individual

20 components of a BLA review and approval to come up with the necessary conclusions

21 that the statutory criteria were met.

22 Q Okay. And you already described the difference between the EUA and the

23 BLA standard, but I don't know if you were asked this before: When Pfizer is submitting

24 its own data for the EUA like initially, are they continue -- like is it a rolling process where

25 they continue to submit data?

1 So like their product is out there under the EUA and then people are using it and
2 then I assume there's data being generated, and then the BLA process is distinct and it's a
3 different standard and everything. But are they continuously submitting data to the
4 FDA, like from that initial period, or is there -- is there a distinction between like when
5 you accept data under the BLA process, and when you accept data under the EUA
6 process?
7 A Right. So for BLA to be reviewed by the FDA it needs to be a self-contained
8 document that has everything in it that is needed in order to support the license. And
9 so that came from Pfizer in two pieces, some of it on May 6th, I think. Right? Or the
10 5th. I get that mixed up. The 6th, and the other on May 18th. And so, that
11 submission between those days needed to include everything that was going to be
12 reviewed as part of the BLA.
13 So the original EUA came in and was approved -- was authorized in December,
14 and, of course, there was additional data that became available after that. Some of that
15 came in in chunks to support EUA authorizations in certain pediatric age groups, and
16 some of that came in as safety reports. But it all came in in a formal way. It's not that
17 there is a pipeline between Pfizer and the FDA where data is constantly being streamed
18 that the FDA has to look at in real time.
19 Q Okay. But still, the EUA process, because the FDA had looked at some data
20 in the EUA process, in some ways it made it easier or faster for the FDA to look at some of
21 that data in the BLA process?
22 A I think to -- so -- very often, the ways in which the databases are organized
23 can be a little bit different from one application to another, and so these are things that
24 would've stayed constant and so would've facilitated reviewing additional data from the
25 same study.

1 Q Okay.

2 A So -- but at the same time, the volume of data that needed to be looked at

3 for the BLA greatly exceeded that, that needed to be looked at for the EUA. So the

4 review of data for the EUA probably didn't appreciably help, but it was really the

5 experience of having been through the data as it was organized for the EUA, in my

6 opinion, that likely made the bigger difference.

7 Q Okay. Thank you for that.

8 I don't think you've mentioned this as a factor in terms of the speed with which

9 the FDA was able to do the BLA review, but let me ask you: Do you think that -- I mean,

10 obviously you're waiting on Pfizer or whoever, the sponsor, you know, the company, to

11 give you information so that you can complete your review, right?

12 A Yes.

13 Q So some of the timing probably is dependent on how responsive they are to

14 your requests. Is that fair to say?

15 A Absolutely.

16 Q And how was Pfizer's responsiveness to the FDA's request? How would

17 you characterize it?

18 A Overall, I would say it was good. My impression is that after the -- after

19 Dr. Marks took over that it was even faster.

20 Q Do you have any opinion about why, or do you know?

21 A I don't know. My -- it would be reasonable to suggest, though, that -- it

22 would be reasonable to imagine that they knew, or were told that FDA was trying to

23 complete the review rapidly, and was hoping that they would cooperate by providing

24 rapid answers to questions.

25 Q Okay. Because it's fair to say, like this BLA process, it involves the FDA and

1 the company, and there needs to be --

2 A Absolutely, yes.

3 Q -- some cooperation between the two --

4 A Correct.

5 Q -- right?

6 A Correct, yes.

7 Q And I take it that when you or Dr. Gruber or anybody in your position is

8 trying to come up with a timeline under this priority review or any other, you have to

9 build in some uncertainty because you don't know how responsive the company is going

10 to be. Is that fair?

11 A No, that's exactly right, and that's what I was trying to say earlier. In

12 coming up with the September 15th deadline, or ADD, that didn't mean that we were

13 sure that it would take until September 15th, but we thought that was a date by which

14 we could reasonably promise the review would be done, based on reasonable

15 assumptions about how long it would take Pfizer to respond to questions, and how long it

16 would take our teams to complete their reviews.

17 Q Right. And you made some effort in your position at FDA to get your

18 people to move faster by doing staffing changes and prioritization, but you don't know

19 what Pfizer was doing on their end, if they were dedicating more people to these

20 responses or anything like that?

21 A That's correct, I don't know that.

22 Q Okay. I'm going to totally switch gears. We can set that subject aside for

23 a second. I have a question that's kind of vexing me in some ways about boosters.

24 And tell me if I'm wrong about this, but initially, when Pfizer's boosters were being, I

25 guess, reviewed under the EUA, was all of -- were the boosters geared toward the alpha

1 variant, or were they -- were the boosters supposed to be like evolving as the variants
2 were changing?
3 A So there was a lot of thought into that, but the boosters as they were
4 originally conceived in the fall of 2021 were exactly the same vaccine as the vaccine that
5 we started off with in December of 2020.
6 Q Was that alpha?
7 A No, it was actually before that.
8 Q Oh.
9 A It's what's called the variant --
10 Q Oh, right.
11 A -- the Wuhan strain. Although, actually, I think it -- there might have been
12 even a couple of modifications from that. But it really -- the vaccines that were made
13 available in December of 2020 were based on the virus that was sequenced much earlier
14 that year in January of 2020. And then the boosters that were made available in the fall,
15 in September of 2021, were that exact same strain also based on the viral sequence from
16 early 2020.
17 Q At that point, when those boosters were being considered by the FDA, were
18 other variants of the virus already circulating in, like, the United States?
19 A Yes, by that time we'd been through the alpha variant, the beta variant, and
20 that was a time for the delta variant. There was a gamma variant also that did not find
21 its way substantially to the U.S. And then you probably remember that not long after
22 that we ended up with -- well, there were actually, if you go through the Greek alphabet,
23 there were other variants, but the one that caught everybody's attention later that fall
24 was the only Omicron variant. And the virus that we have even now is derived from or
25 related to those Omicron variants that appeared at that time.

1 Q So how, if at all, did the change in the different variants that were
2 introduced affect the FDA's review process when it came to -- and how you looked at the
3 data? Like, did you have a consideration for like, say, data that was lagging and that
4 might have been involving one variant versus another?
5 A It was a difficult question. And one of the companies, and I don't recall
6 which one, and it may not even have been one of the mRNA companies, but at least one
7 did some studies, for example, with a vaccine that was directed against the beta variant,
8 and compared the immune responses in people using that kind of a vaccine versus
9 the -- versus the original vaccine when used as a booster.
10 And a beta variant booster actually didn't appear to do substantially better than
11 the original vaccine. And, of course, to switch the vaccine strain, or to switch the
12 vaccine sequence would've been a much more complicated thing that one wouldn't do
13 unless there were strong evidence that that would make a big difference.
14 Q Did considerations of these different strains, did that, in any way, affect your
15 analysis when you looked at data about, say, waning immunity, for example, or the need
16 for boosters in any particular population?
17 A So there were two factors in play when one was thinking about waning
18 numeral immunity, which is antibodies. One of them is that if the virus is changing, the
19 antibody that neutralizes the virus might not neutralize a changed virus as much as it
20 neutralized the original virus. And then, of course, there's also the question of, if you
21 got the vaccine a long time ago, you get some peak antibody level but then that may
22 decline over time.
23 And so, with both of those factors that raised the question of both having some
24 decline in antibody titers, and then those antibodies not being as effective against a new
25 variant was a concern that the antibodies might no longer give the same kind of

1 protection that they were giving before. The good news is that the vaccines were also
2 inducing cell-mediated immunity, just as the natural infection induces both. And the
3 cell-mediated immunity did not wane as rapidly, and also the cell-mediated immunity was
4 not as susceptible to changes in the viral sequence.
5 So the cell-mediated immunity that would back then, for instance, that protected
6 against the original -- original strain as it infected the U.S., was still effective in protecting
7 against the variants as they evolved. And so, the -- even when the antibodies started
8 waning, the cell-mediated immunity provided people with strong protection against
9 severe infection.
10 Q Regardless of the variant?
11 A Regardless of the variant, yes. And that's the immunological or scientific
12 explanation for the data that I showed in The Lancet article, which showed that even
13 though protection against mild disease appear to be lower in some of these studies, the
14 protection against severe disease held up.
15 Q And when people get the vaccine today, are they getting one that's tailored
16 toward a particular variant, or does it remain constant?
17 A So there have been different vaccines, and I'm not sure which vaccine is
18 available is this very day. There is a bivalent booster, which was part Omicron and part
19 original strain, and the rationale for giving that bivalent booster, and that came out last
20 year, roughly in the fall, was to have a viral strain that would protect both if the virus
21 went back to an earlier strain, so was -- or that would provide an immune response that
22 would cover both an earlier strain if the virus turned the clock backwards and evolved in a
23 new strain from something that we'd already seen, but then also, would better cover
24 some of the Omicron strains that were becoming apparent last fall.
25 And so that vaccine had both of those viruses in it. The evaluation of that

1 vaccine covered what was done just by antibody titer. So there still wasn't any clear
2 evidence that immunity protection against severe disease was waning substantially, but
3 the hope was that by increasing the antibody titer, that might reduce the incidents of
4 mild disease.
5 Unfortunately, studies that were done since then suggested that that booster did
6 provide some protection against mild disease, but it was fairly short-lived. And -- and
7 that because people already had pretty good protection against severe disease, there
8 wasn't good evidence that it made a big difference against severe disease.
9 Now, last fall, that was a vaccine that we heard from various public health
10 authorities was absolutely essential, or there would be tens of millions of cases and
11 perhaps millions of hospitalizations, I don't remember the exact numbers, but then, a
12 very small proportion of the population took that bivalent vaccine last fall as a booster.
13 And so, you could say that's bad news, but the good news is that the dire
14 predictions did not come to pass. And so, it seems as though, although many people
15 didn't take it, not taking it didn't harm many of the people who didn't take it. But it was
16 available for the elderly and the immunocompromised, and people who otherwise might
17 have been more likely to succumb to more severe disease.
18 And so, there was a lot of discussion earlier this year to try to figure out what the
19 vaccine should look like this fall given that there was a sense that -- and this was
20 discussed at various Advisory Committee meetings -- that it would be difficult to change
21 the vaccine more than once a year. And so ultimately, the vaccine strain was selected in
22 June, also of an Omicron sub-variant now, and that was set forward to be the vaccine that
23 would be made available this fall.
24 The last I heard, it will be available sometime September. It's now September,
25 and so I don't know if it's available yet or will just be available soon. But that's a vaccine

1 that I think one could expect, based on past experience, will provide some relatively
2 short-term protection against mild infection; and in people who need it, they provide
3 some boosting against more severe infection, but at the same time may also be optional
4 for many people.
5 The -- of course, the other thing that has happened in the meantime is that there
6 have been many, many cases of COVID in the U.S., and many people who are vaccinated,
7 as well as many people who are not vaccinated, have also gotten COVID. So it's very
8 unusual to find somebody, for instance, who's only had a couple doses of the original
9 vaccine and never had a mild case of COVID.
10 And so overall, in the population, except among the most vulnerable people, there
11 is a much higher level of immunity against the virus than we've -- than we've ever had.
12 Although, if you measure that immunity by antibodies as the virus changes, it doesn't look
13 as good. But if you measure it by cell-mediated responses, it still looks pretty good.
14 Q Can you say something, just stepping out, about the nature of COVID in
15 terms of how quickly this was evolving and how much challenge there was to respond to
16 this situation as it evolved so quickly, I mean, in relation to other, you know, flu or other
17 matters that came before the FDA when there was a vaccine available?
18 A Sure. The evolution of COVID was unprecedented. And I remind myself
19 that this evolution perhaps shouldn't have been such a surprise, because however this
20 virus found its way into humans, it probably evolved very quickly and changed a lot in
21 order to gain the ability to be transmitted quickly among humans. And so, even the
22 early strains of COVID probably were based on a lot of evolution from animal precursors.
23 And so the fact that it evolved quickly before it found its way into humans could
24 reasonably have suggested that it was going to continue to evolve after it found its way
25 into humans.

1 Q When you say it's unprecedented, do you mean specifically like the rapid
2 evolution, or do you mean something more?
3 A Well, unprecedented for a virus that causes this much -- this big a public
4 health problem. So, for instance, flu tends to be fairly stable. The flu vaccine has four
5 strains in it, and in any given year two of them might be changed usually on average from
6 the previous year. And sometimes three are changed, but all four are almost never
7 changed.
8 And so, the flu virus, although it changes, doesn't change nearly as fast.
9 Coronaviruses are different viruses though, and coronaviruses can also cause common
10 colds and other diseases where it's -- there's good evidence that the virus is also evolving
11 rapidly.
12 So what made the rapid evolution of coronavirus so difficult was the fact that it
13 was evolving greater infectivity as it was increasing its ability to infect humans while
14 staying pretty pathogenic, and able to cause serious disease in the most vulnerable
15 people, and early in the pandemic in a high proportion of people who weren't vaccinated.
16 Q Would you say -- is it fair to say that, you know, from the FDA's standpoint in
17 making approvals so that people can have these vaccines available, that this COVID
18 pandemic and this process that you had to go through to review the vaccines, was
19 unprecedented from the agency's perspective?
20 A Yes, I will certainly wholeheartedly endorse that idea. What I would say is
21 that the most unprecedented was what we had to do in 2020; next in unprecedented was
22 what we had to do in 2021, and the situation is getting better with time as we understand
23 more. But at the same time, the whole story caused -- necessitated a substantial
24 disruption in the way that FDA did business in order to be able to respond.
25 Q And are you able to learn something looking back, just because in retrospect

1 there are lessons to be learned by seeing what happened, that you couldn't have
2 necessarily responded to in the moment just because it wasn't all clear?
3 A So, of course, the difficulty in the moment is there are many, many different
4 experts, all of whom are saying different things, and it becomes very difficult to figure out
5 who's going to turn out to be right. And so, in retrospect, you can figure out who was
6 right at least, although maybe it doesn't matter who was right because at least then you
7 know what actually happened.
8 And so to me, one of the -- the key lessons from COVID is the extreme importance
9 of paying attention to confidence in vaccines and confidence in public health agencies,
10 because once that starts getting undermined it's a very slippery slope that can create
11 problems not only for the pandemic but for other things.
12 But, you know, we've learned other things as well. There are international
13 efforts now to figure out how to predict the next pandemic, to make sure that vaccines
14 against additional strains of unusual viruses are available or have at least -- have had
15 development initiated, so that there will be opportunities perhaps to come up with
16 vaccines even more rapidly in a future pandemic.
17 And so, by seeing what worked here and what may not have worked as well, and
18 to also apply the best current science, which has evolved even through COVID and even
19 since, the hope is that the world is going to be much better prepared for a future
20 pandemic.
21 Q Is that specifically about mRNA technology that you've learned, or are you
22 talking about more broad issues than that?
23 A Much more broadly. So mRNA technology is -- obviously was very
24 important for the response to COVID, because it allowed a rapid design of vaccines that
25 turned out to be very effective, especially against severe disease. And it was fortunate

1 that technology was ripe at the time COVID came around. It was ripe, and yet largely
2 unproven, and so now it's been proven, at least in this context. But that doesn't mean
3 that mRNA technology is going to save us in the next pandemic, because the next virus
4 might be different, and to control it might require a different kind of immunity than the
5 kind that mRNA vaccines are able to induce, or there may be other complexities
6 associated with getting the kind of protective immune response that we need. So I
7 don't think that anybody can be complacent now that we have the mRNA and imagine
8 that that's going to be the solution to all future pandemics.
9 [redacted] Okay. I think we're actually at the end of our hour. We can go
10 off the record.
11 [redacted] Off the record.

[3:22 p.m.]

[redacted] We can go back on the record.

BY [redacted]

Q Now, Dr. Krause, I apologize for kind of jumping around a little bit. I feel like some of this stuff can be pretty dense for us. So I think there might be a few reiterations or some clarifications or what seems to be similar questions. Hopefully not so much.

But going back to what we marked earlier as exhibit 2 and 3 -- 2 being the email with the timeline and 3 being the email with the memo -- now, I know exhibit 3 came on that Thursday, July 15th, and the timeline was Friday, July 16th. So I kind of introduced those in a little bit of reverse order on accident. But I wanted to get some clarification about a couple things in these emails.

Going back to exhibit 3, with the memo, in the email on page 346, at the very bottom, it's marked 346, Dr. Gruber wrote: "Phil and I further discussed with DVRPA and DVP management the review timeline for the above BLA. As you know, we are targeting September 15 as the ADD." Which we discussed was the action due date. "It will not be possible to move the ADD up further without cutting corners and lowering our review standards and that I would not be able to defend. We have described our rationale and logic in the attached memo. Feel free to share with JW."

What does DVRPA and DVP stand for?

A Those are two divisions that are part of the Office of Vaccines.

Q Okay.

A So DVP is the Division of Viral Products, and that's a division that conducts vaccine-related research, but also contributes a lot of expertise to review of assays and manufacturing processes.

1 And DVRPA is the Division of Vaccines and Related Products Applications -- we
2 called it DVRPA -- and that division comprised two elements. So there were actually two
3 deputy directors who ran that division.
4 One of them was Dr. Doran Fink, who was in charge of the medical officers in that
5 division who were responsible generally for conducting clinical reviews.
6 And the other side was run by Dr. Loris McVittie, and that side was responsible for
7 regulatory project management and for communications with sponsors.
8 So many of these people were highly educated Ph.D.s who needed to be able to
9 understand all of the elements of an ongoing review and then be able to communicate
10 with the companies about that, while then also making sure that all the projects were on
11 track and that all the reviews were meeting their milestones, and everything that was
12 between a milestone, to make sure that we were doing everything that we were
13 supposed to be doing.
14 Q So did these two divisions report up to you, including --
15 A That's correct. They reported up to the Office of Vaccines.
16 Q So Doran Fink technically was a subordinate of yours and Dr. Gruber's?
17 A Correct.
18 Q Okay. And before Dr. Gruber drafted this email, on July 15th of 2021, I
19 remember earlier in your testimony you had discussed the due date had been -- you all
20 had been asked to move the due date up from October to September. Is that
21 correct? Was that --
22 A And we had agreed to that.
23 Q Okay.
24 A And then this is the response to a request to move it up further from
25 September 15th.

1 Q Okay. And who asked for you all to move it up both times?
2 A Both times it was Dr. Marks.
3 Q And do you know, to your knowledge, did the White House ask the FDA to
4 move the due date up at all around this time?
5 A I have no knowledge of any communications between the White House and
6 the FDA.
7 Q Would you, in normal circumstances, pre-COVID and then during COVID,
8 ever have any direct communication with anyone in the White House regarding any of
9 your work at the FDA?
10 A Normally not. Occasionally -- I remember one time I was invited to the
11 White House -- I don't remember if this was related to ebola or Zika -- for some National
12 Security Council subcommittee meeting. It takes a long time to get into the
13 White House, I will say that. But not routinely.
14 Q Now, if corners were ever cut in the BLA approval process, would you or
15 Dr. Gruber be, like, personally responsible for anything going wrong, like -- and I say
16 personally responsible, meaning, like, for the sake of your job or, like, your department?
17 A Obviously, in the Federal employment, everybody is reporting to a
18 supervisor, and there's an annual rating scheme, and there's a personnel system. So as
19 far as job security goes, there are systems in place for dealing with employees who are
20 problematic either due to their conduct or their performance.
21 And, luckily, I don't have so much experience with those systems. But I think,
22 obviously, if something were to go wrong --
23 Q Would it reflect poorly on your work if cutting any of the corners for the BLA
24 approval process, like, in your opinion?
25 A So that's such a hypothetical question I can't even answer it, because neither

1 Dr. Gruber nor I would go along with cutting corners. If somehow we were asked to cut
2 corners, we would object.
3 And if something were to go wrong as a result of something we did, I don't think
4 either of us would have worried about the personnel consequences. But if we felt
5 responsible for something, we would have certainly felt terrible.
6 Q That's perfectly fine, and that's exactly what I was essentially getting at.
7 And "JW" in this email, that refers to Commissioner Janet Woodcock, correct?
8 A Acting Commissioner Janet Woodcock.
9 Q Yes.
10 A Yes.
11 Q And did you personally draft the memo attached, or was that a mixed effort
12 between you and Dr. Gruber? Or who all was involved in that?
13 A I don't recall the number of people who were involved in that. I
14 contributed some sections, but I don't remember what I contributed. And I know that
15 Dr. Gruber, being a very careful person, also ran this by other people within the office to
16 make sure that they found this to be as persuasive as they could.
17 Q And it would be other people within your specific OVRR group, or would it
18 have been other divisions?
19 A So I don't recall whether or not this was sent, for instance, to Mary Malarkey
20 or to Steve Anderson at this stage or not. I see that it was cc'd here to Celia Witten, who
21 was the center deputy director and directly reporting to Peter.
22 And I don't remember who else would have participated in this, but surely this
23 was more than just Marion and me.
24 Marion would have drafted -- well, did draft the first version.
25 Q Was it common for you all to compile a memo like this to discuss any type of

1 BLA to send up to the director of CBER or the acting commissioner? Was this, like, a
2 typical thing for you all to do?
3 A So my recollection at the time is that Dr. Gruber felt under substantial
4 pressure from Dr. Marks and so felt that it was important to document her reasoning in
5 writing.
6 Normally, there might have been a much shorter discussion that wouldn't have
7 required this level of detail.
8 BY [redacted]
9 Q How did you come to that understanding?
10 A I don't recall. Almost certainly, though, because I was talking with
11 Dr. Gruber every day, that this came about in the context of a conversation with her
12 about discussions she had had with Dr. Marks that I was not a part of.
13 Q To the best of your recollection, what were some of the things Dr. Gruber
14 conveyed to you about this pressure she felt from Dr. Marks?
15 A Just that Dr. Marks was intransigent that the action due date, that the ADD
16 should be moved up, and that he was insistent that September 15th wasn't fast enough.
17 Q So as a practical matter, he said there will be no date beyond September
18 15th, as far as you know from your discussions with Dr. Gruber?
19 A I'm not sure I'm understanding the question.
20 So he was pushing for a day earlier than September 15th, and we had already
21 agreed that this BLA, barring some unusual event, could likely be completed by
22 September 15th.
23 Q Okay.
24 A So remember that we started with a plan of mid-October, and then he
25 requested -- he agreed to that first but then requested September 15th, and then after

1 that, came back and requested an earlier date. And it was that, upon the request for a
2 date earlier than September 15th, that we felt that we couldn't, in good faith, promise
3 that.
4 Q Right. I guess my question was -- in some ways it's irrelevant -- was that if
5 he was insisting on a day prior to September 15th, then the notion that you would need
6 more time than September 15th would have been out of the question for Dr. Marks?
7 A Oh, if we'd said we wanted more time, for sure, he would not have gone
8 along with that.
9 Q Okay.
10 [redacted] Did he provide any research or, like, a supportive reason as to why he
11 wanted it to be moved up each time, or was it just, "We need this done sooner"?
12 Dr. Krause. I don't recall. What I remember best are things that were
13 documented in Dr. Gruber's email to him and to Dr. Woodcock after the meeting we had
14 on July 19th. I actually don't have a copy of the email, but I was able to find a FOIA'd
15 copy online.
16 Mr. Thomas Krause. Can we just make it an exhibit?
17 [redacted] Yeah, of course.
18 Mr. Thomas Krause. I'm giving him latitude on the deliberative process because
19 there is so much in these emails already.
20 [redacted] Absolutely.
21 [Krause Exhibit No. 5.
22 Was marked for identification.]
23 BY [redacted]
24 Q I will enter this into the record as exhibit 5.
25 And not to disrupt your answer, if whatever you were saying, if this helps you to --

1 A Sure. Well, the specific concerns expressed in this memo are the ones that
2 I recall being brought up at the time, namely, that there were rising COVID cases in the
3 U.S. and globally due to the delta variant, which is sort of towards the end of the second
4 paragraph; the opinion that absent a license, States couldn't require mandatory
5 vaccination, and that people hesitant to get an EUA-authorized vaccine would be more
6 inclined to get immunized when the product was fully licensed.
7 So those were the three arguments in favor of going faster that had been put
8 forward by -- in that meeting -- by him and Dr. Woodcock; and, in other meetings, in
9 different orders, I recall having heard those but can't specify a meeting or a time.
10 Q Did Dr. Woodcock or Dr. Marks state that the goal was to require mandatory
11 vaccination?
12 A Well, the, as stated in the email, the discussion was about State mandates,
13 and of course there already had been some mandates announced by the Biden
14 administration. There was a so-called vaccinate-or-test rule that they had put in place
15 at some point earlier in August, as I recall.
16 And so there was no doubt, in my recollection, that Dr. Marks and Dr. Woodcock
17 saw the licensure of the vaccine as a prerequisite to mandates.
18 Obviously, it's not up to the FDA to mandate vaccines, and so I don't know beyond
19 what is written in this email exactly which mandates they were thinking of.
20 Q And going back a little bit -- I know we jumped ahead a little on talking about
21 this email, but it lapses in with this exhibit 3 in the memo.
22 In the next section of your memo, it was titled -- it's in the middle of page
23 347 -- the next section, that's titled, "The BLA merits a complete and thorough review," it
24 says: "OVRR's reviews of vaccine BLAs, unlike those of regulators in other countries, do
25 not rely on summary tables that are generated by the developer. OVRR views it as

1 essential that review of the safety and efficacy data not only includes an evaluation of the
2 data analysis conducted by the applicant, but also includes CBER's own analysis of the
3 datasets submitted by Pfizer. This has been OVRR's standard for all other BLAs, and
4 while time-consuming, OVRR believes that confidence in COVID vaccines would not be
5 served by starting to cut corners on this review."
6 Is it fair to say that the FDA's usual practice is to evaluate and analyze BLAs
7 separate and apart from any analysis provided by a pharmaceutical company like Pfizer?
8 A Yes. For BLAs, FDA looks at the analyses provided by the companies, but
9 often does some of their own analyses, and in addition to that, confirms the analyses by
10 going down to the individual source data and making sure that the individual source data
11 supports the analyses that are presented.
12 Q And how long does that dataset analysis usually take?
13 A Depends on the size of the dataset, and it depends on -- and I don't know
14 how big this dataset was in megabytes. But for a trial of, in this case, 43,500 people,
15 that had been going on for, at this point, about a year, I believe that would have been a
16 lot of data and would have taken a lot of effort.
17 Q And can you explain how the FDA's own analysis of a developer's data affects
18 the confidence in the vaccine, in your opinion?
19 A Well, because the FDA states that they perform their own analyses, this way
20 the public knows that the decisions that are made by the FDA are completely supported
21 by the data and that the FDA isn't relying on assertions that are made by the developer.
22 Q And at the end of page --
23 A So it creates confidence in the objectivity of the review because assertions
24 made by the developer might -- might -- be compromised by bias.
25 Q Of course.

1 And at the very end of page 1 of this memo, in the section that's titled, "As
2 compared with other BLAs, the proposed completion date of September 15 would be
3 unprecedented," in that last section, the term "rolling" BLA was used. And I know my
4 colleagues, they had mentioned before, in their last hour, I think they had asked you
5 about the rolling BLA, but would you mind repeating or re-explaining?
6 A Sure. It's funny how I have to keep referring back to this diagram to
7 remember the dates. But you can see above May in this picture in exhibit 2, there's
8 "May 6: BLA Submission," called "Roll 1," and "May 18" BLA Submission," which is called
9 "Roll 2."
10 And so for vaccines that can be reviewed under priority review, and the FDA will
11 sometimes agree to start reviewing parts of the data before the entire BLA is in, it's a
12 normal requirement for the entire BLA to show up at once.
13 But sometimes sponsors have some sections of the BLA ready before others.
14 And if there's a desire to be efficient about the review process, sometimes it can be
15 reasonable for the FDA to start reviewing some sections before all the other sections are
16 there.
17 Sometimes that can also create some inefficiencies because a question might arise
18 in a section and then that may raise a question that could be answered with reference to
19 another section, and if that section isn't there, that actually may make the FDA's review
20 less efficient.
21 But nonetheless with these two rolls -- and I don't remember how they were
22 divided up -- what this just means is that the FDA received the data for this BLA in two
23 tranches. But when there's a rolling review, the action due date is always calculated off
24 of the date in which the BLA is considered to be complete by the sponsor. And so the
25 action due date was calculated off of May 18th, even though some of the data had come

1 in by May 6th.

2 Q Okay. And then going back to exhibit 3 in the memo on page 2, in the

3 section titled, "This is possible only with deprioritization of other reviews, including some

4 related to COVID, and reassignment of work to other experienced medical officers," it

5 says: "We have de- prioritized certain COVID-vaccine related submissions (including

6 some from Pfizer), e.g., amendments pertaining to protocols and studies in pregnant

7 women and immunocompromised subjects, until such time that the BLA review is

8 completed."

9 Does this mean that the BLA review was prioritized over the review of studies

10 related to individuals with underlying conditions receiving their first dose of the COVID

11 vaccine? I just want to get clarification.

12 A I don't know if it was prior to -- probably not prior to getting their first dose.

13 More likely boosting.

14 And also I can't say that these were results of studies. They might also have

15 been planned studies. So what's written here is ambiguous enough, and I don't

16 remember exactly what is being referred to, to know precisely what these studies were.

17 But it does mean that the reviewers, who would otherwise potentially provide

18 more rapid responses on those two topics, were pulled into the review of this BLA.

19 Q Who determined the order of priority for the reviews?

20 A This was -- well, the way that the system worked, this would have been

21 determined within the office. But if something important needed to be deprioritized,

22 the center director would have been informed in order to make sure that the center

23 director was aware that that was happening.

24 Q In the last sentence of that paragraph, it reads: "In addition, if the

25 trajectory of the pandemic/emergence of variant of concerns (i.e., delta variant)

1 necessitates the review of EUA amendments for booster doses for the currently U.S. EUA
2 authorized COVID-19 vaccines, from a public health perspective, these reviews will need
3 to take priority over completing the BLA review by September 15, 2021."
4 What is the difference between the review of the EUA amendments for the
5 booster doses versus the BLA review you were already being asked to perform? I think
6 you started to touch on that, but just to get clarification.
7 A Sure. So this BLA review was to provide full licensure for the two-dose
8 series, the initial two-dose series of the Pfizer Comirnaty vaccine. And so this would
9 take a vaccine that was authorized under emergency use authorization and available to
10 people and change it to a vaccine that was licensed, but it would not change
11 fundamentally the availability of the vaccine.
12 And so what I believe Dr. Gruber is saying here is that if there are new things that
13 might change the availability of specific vaccines, then that might be more important than
14 a review that won't change what vaccine is actually available to people.
15 Q Okay. And then the next section discusses how additional support from
16 outside OVRR would not speed up the review process. Could you briefly summarize
17 why?
18 A The difficulty is that these reviews, in order to be done efficiently, required
19 reviewers who are very experienced with doing these kinds of reviews, and to do them
20 efficiently also required the very reviewers who had already been involved in the Pfizer
21 review.
22 And let's not forget, by the time this memo was written, the review had already
23 been ongoing for a couple of months. So if one were to take somebody who is
24 completely green and put them on that, the people who were busy doing the work would
25 then have to take some time off to bring other people up to speed.

1 And so there certainly are times when you can train people, but right in the
2 middle of a review that is viewed as urgent is not the best time to take the reviewers who
3 need to do that and have them do the training.
4 And by the time that training was completed, the review itself might also have
5 been done.
6 Q That makes sense.
7 And Dr. Marks had then, it looks like either that day or the next day, he had
8 mentioned he forwarded your email -- or Dr. Gruber's email -- to Deirdre Hussey. And --
9 A Yeah. I don't have that here.
10 Q Oh, okay.
11 A Do you have it?
12 Q Oh, I think it's on page 351.
13 A Oh, it's farther. Okay, good.
14 Q Yeah, I'm sorry.
15 A That's fine.
16 Q At the very end.
17 And he wrote that Dr. Gruber declined additional resources from him to expedite
18 the Pfizer BLA review.
19 Is her reasoning consistent with what was outlined in the memo, and did you
20 agree with her?
21 A Yes. Yes, I did.
22 So Deirdre Hussey, just to answer the unanswered question, was the chief -- or
23 the director of our Office of Management. And so she would have been in charge of
24 HR issues.
25 So my interpretation of this email is that Dr. Marks is trying to document

1 Dr. Gruber's intransigence with somebody who might be in a position to create a human
2 resources consequence for her.
3 Q Did this concern you?
4 A I didn't see it. I only saw the --
5 Q Seeing it now, does this concern you?
6 A Yes, of course it does. Dr. Gruber was a highly dedicated Federal employee
7 who gave her career to the Office of Vaccines, who put in countless extra hours, did
8 everything she could to make vaccines available to the public that they could have
9 complete confidence in.
10 And while it seems that Dr. Marks had a relatively minor disagreement with her
11 about his request for a timeline, which I think he'd requested just a few days before but
12 which she could not possibly provide without also involving other people, to send this to
13 somebody in HR is pretty outrageous.
14 On the other hand, that is not the most outrageous thing that happened.
15 Q What was the most outrageous thing that happened, in your opinion?
16 A Well, I mean, from an HR -- from a human relations perspective, removing
17 Dr. Gruber and myself from the review of a BLA that he regarded to be critical and
18 important, when we were the two people in the office who knew the most about it,
19 seems to be counterproductive.
20 Q Now, jumping to that, and this is where we can get back into exhibit 5, which
21 is that email recounting your July 19th meeting with Acting Commissioner Woodcock and
22 Dr. Marks. And I believe the chief of staff, Julia Tierney, was there as well. Is that
23 right?
24 A That's correct.
25 Of course this was an online meeting --

1 Q It was an online --

2 A -- so none of us were in the same room.

3 Q Right. And how long did that meeting last?

4 A According to my recollection, probably a half hour or so.

5 Q And in this July 21 -- I'm sorry -- July 21st, 2021, email Dr. Gruber had

6 drafted, she wrote that during the meeting she made reference to the memo that we just

7 discussed, that was sent to Dr. Marks on July 15th, and it delineated OVRR's rationale for

8 why the review timeline and target action date, September 15th, 2021, for this BLA

9 cannot be compressed further.

10 We discussed before that Dr. Marks was obviously in favor in trying to compress

11 this timeline. Do you know if there was anyone else that was trying to compress this

12 timeline?

13 A Well, based on the opinions expressed during that meeting, it appeared that

14 Dr. Woodcock also wanted the timeline to be compressed.

15 Q Did she explain why?

16 A Well, both of them together expressed the concern about the Delta variant,

17 the need to have a licensed vaccine in order to be able to support mandates, and the idea

18 that a licensed vaccine might engender more confidence than an EUA-authorized vaccine

19 among the vaccine-hesitant.

20 [redacted] Now, you just said the need to support mandates. In your view,

21 was that need part of why you all were being pressured to meet this deadline, or this

22 assumed date?

23 Dr. Krause. Given that they brought it up, it's hard to imagine that that was not a

24 component of this pressure.

25 BY [redacted]

1 Q And she went on to write in the email that the memo to Dr. Marks stated
2 that "the review requires a thorough evaluation and FDA's own analysis of the safety,
3 effectiveness and manufacturing information submitted to support licensure of this
4 vaccine. This has been OVRR's standard for all other BLAs, and while time-consuming,
5 OVRR believes that public confidence in COVID-19 vaccines would not be served by
6 rushing our review and evaluation of the submitted data."
7 And I know earlier -- it was either the last hour or two hours ago -- you discussed
8 your opinion that the FDA did ultimately provide a thorough review of the Pfizer BLA.
9 But was this review done before or after you were relieved from working on this BLA?
10 A Well, the review had been initiated before Dr. Gruber and I were relieved
11 from supervising the BLA.
12 I'll point out, I actually continued to try to contribute to the review even though
13 normally, when Dr. Gruber would leave, I would have been the one who would have
14 taken her place. But I still did my best to contribute to the review while it was ongoing
15 even though I was not leading it.
16 Q And you had mentioned that normally you would be the one to be in charge
17 or step in her shoes if she was gone, and I know that she had been away for a period of
18 time on annual leave.
19 Do you know what the decision was to not have you be the acting director and
20 why Dr. Marks was the one that became the acting director?
21 A I'm very puzzled by that. And what I can tell you is that, if you look very
22 closely at the FOI emails, there may be some hints in there. And I can tell you which
23 ones I think might have some hints, but I can't speak for any direct knowledge, only that
24 some of these emails have some suggestions in them.
25 BY [redacted]

1 Q Well, please provide --

2 A And I don't have any of the emails in front of me, and I don't know if you

3 have them all either, from Judicial Watch. But --

4 Q From your recollection is fine.

5 A Sure. Well, there was a reference from the -- let me just see. One of

6 the those words was in here. There's the timeline and -- 3, 4 -- what did I do with No. 2?

7 Maybe it's in here.

8 Yeah, so there's a hint here in an email on Friday -- the first email in No. 2, which

9 of course I wasn't on but I saw when I looked at the Judicial Watch emails -- and it says:

10 "Please see the attached. Marion finally provided this timeline. I can already see a

11 number of potential efficiencies. Perhaps we can discuss over the weekend briefly in

12 preparation for Monday?"

13 Now, there were other emails that were sent on either Thursday or Friday

14 between Dr. Marks and Dr. Woodcock that -- and there's one, I think, from Dr. Woodcock

15 to Dr. Marks, suggesting that they would need to do certain things after he took over.

16 So it seemed clear that that previous week there was already a plan for Dr. Marks to take

17 over the review.

18 So aside from that, I don't have any basis for knowledge of what the reasoning for

19 that might be. In general, I've learned that usually these things are not personal, and so

20 at the time it occurred to me that there were aspects of the review that he might want to

21 control.

22 Q Is that your --

23 A That he didn't think -- that was my opinion based on the situation, yes.

24 Q Do you have any other opinions on the situation?

25 Mr. Thomas Krause. Want to go outside?

1 Dr. Krause. Yeah, okay, we'll go outside.

2 [redacted] Off the record.

3 [Discussion off the record.]

4 [redacted] We'll go back on the record.

5 Dr. Krause. I think we've covered it. If you go back and look through the

6 Judicial Watch emails, there are a number of emails that address the planning of

7 Dr. Marks to take over.

8 [redacted] In your opinion, would you have been more prepared to lead the team

9 on the Pfizer BLA in Dr. Gruber's absence and even after had she not retired?

10 Mr. Thomas Krause. More than what?

11 [redacted] I'm sorry.

12 Dr. Krause. More prepared than what?

13 BY [redacted]

14 Q To lead the team on the Pfizer BLA, as opposed to Dr. Marks, in Dr. Gruber's

15 absence and then subsequent retirement.

16 A So there I have no doubt that I was fully prepared to step in and lead the

17 team to a successful conclusion of the review.

18 Q And then, going back to exhibit 5, in response to Dr. Woodcock -- I'm

19 sorry -- in response to Dr. Gruber's email, Dr. Woodcock writes back thanking her for

20 summarizing the meeting and noting that, "With respect to the specific timeline for

21 completion that you propose, I do not have enough information to venture an opinion."

22 Based on the previous memo that you both drafted with a team of folks and the

23 updated timeline, and your discussion at the meeting, does her response in this email

24 track with what she said in the meeting?

25 A Well, you're asking me a question that a semanticist might be able to better

1 answer. But I will give you my opinion that she had just decided to relieve Marion and
2 myself from direction of this BLA, it would appear, solely over the question of whether
3 this was the right timeline or not.
4 And based on the emails I was referring to between her and Dr. Marks, it
5 appeared that this was -- she was -- had thought this was the right thing to do for some
6 number of days.
7 And so it's hard to imagine that she did not feel that she had enough information
8 to venture an opinion, or maybe she felt that she had enough information to make a
9 decision but not enough information to venture an opinion.
10 Q And also, in recapping the meeting in Dr. Gruber's email, like we had already
11 discussed, she had said that absent a license States cannot require mandatory vaccination
12 and that people hesitant to get an EUA-authorized vaccine would be more inclined to get
13 immunized when the product is licensed. And that was recapping what Dr. Marks and
14 Dr. Woodcock had said.
15 Do you recall if Dr. Marks or Dr. Woodcock expressed this belief about States
16 requiring mandatory vaccines coming from outside of the FDA?
17 A So the decisions about mandating vaccines, whether for the Federal
18 Government or for the States, did not -- were not made by the FDA. And the FDA
19 normally separates itself substantially from decisions about how vaccines are used
20 because of the need to retain confidence in the FDA's objectivity.
21 And so the FDA, the way the system is set up, performs objective reviews of the
22 data to determine whether the product should be authorized or licensed and to make
23 sure that the claims that the developer might want to make about this vaccine are
24 supported by the data.
25 But the risk, if the FDA starts getting involved in deployment decisions, is that it

1 will appear as though there's a bias there, because if the FDA says, for instance, these
2 people should get that vaccine, these people shouldn't, it should be mandated for these
3 and not those, or whatever, and then what if something goes wrong, then the FDA can't
4 anymore be perceived as an objective arbiter of what to do next.
5 Maybe the vaccine needs to be recalled, but if the FDA said everyone should take
6 it, maybe the FDA will be reluctant to make that decision.
7 And so this is how, when I was at the FDA, I learned was the evolution of the
8 system where the recommendations for how vaccines be used were generally made by
9 the Advisory Committee for Immunization Practices of the CDC and the decisions about
10 what vaccines to authorize and license were made completely independent of any use
11 decisions by the FDA.
12 So a statement that this is necessary for -- in order to mandate vaccines would
13 suggest that that statement is coming from outside of the FDA because it's not part of the
14 FDA's usual function.
15 And in giving you that proviso, I'll add an opinion here. And of course mandating
16 vaccines, just as it was not in Dr. Woodcock's or Dr. Marks' purview, it also was not in
17 mine, but my own opinion at the time was that that was not a sensible reason for
18 speeding up a review. And really I had two main rationales for that.
19 One of them was the concern -- and this was evident just from reading the
20 newspaper around that time -- that if vaccines were mandated, whether at the State level
21 or the Federal level, that many people would resist that, because many people would be
22 against being forced to get vaccinated for whatever reason.
23 And what I thought would likely happen was that that resistance to mandates
24 could then turn into resistance to the vaccines themselves and that mandates themselves
25 might paradoxically increase vaccine hesitancy. And one might be able to force some

1 people to get vaccines, but then that might cause other people to be very reluctant to get
2 vaccines.
3 And of course if there's a mandate and you also are hoping that you're going to
4 convince people that the vaccine works well, then they might reasonably ask: Well, if
5 you're so confident that this is a good and safe vaccine, why do you have to mandate it?
6 Why can't you trust me to make that decision myself.
7 And so I actually thought that moving towards mandates also undermined the
8 very stated purpose of increasing confidence in the vaccine.
9 I will add one other thing, and that is, from a public health perspective -- so I guess
10 actually I'm up to three reasons -- from a public health perspective, for a mandate to
11 make the most sense, it has to be for a vaccine which will interrupt transmission of the
12 virus, because one of the main ideas behind a mandate is that you're trying to protect
13 additional people.
14 So if by insisting that you get vaccinated I can protect many other people, then
15 maybe that's a societal good that comes out of the mandate.
16 But at the time that we at least reached the end of the BLA review, but around
17 that time, there was increasing data that the vaccine wasn't actually substantially
18 reducing transmission from people who were infected.
19 And so it was, while it was still protecting people against severe disease, its impact
20 on transmission was much, much weaker.
21 So the public health case for mandates, I thought, was weak and -- but I was as
22 concerned about the risk that mandates could actually paradoxically reduce confidence in
23 the public health authorities and reduce confidence in the vaccines.
24 [redacted] And did you share this considered opinion with anyone in your
25 office?

1 Dr. Krause. I did discuss this with Dr. Gruber. I don't know whether she shared
2 it with Dr. Marks.
3 You know, these discussions were happening very rapidly under a lot of pressure,
4 and by the time the meeting with Dr. Woodcock occurred, which was just one business
5 day after the timeline was sent and Dr. Gruber and I had a brief meeting with Dr. Marks to
6 explain why we thought the action due date couldn't be sped up faster than
7 September 15th, but there the issue of did we agree with the reasoning didn't really
8 come up.
9 But by the time we were in the meeting with Dr. Woodcock, we'd both been
10 relieved of responsibility, and so it didn't seem as though that was a time when anybody
11 was going to listen to us.
12 BY [redacted]
13 Q When did you -- when were you relieved of responsibility? You said it was
14 before the July 19th meeting?
15 A Well, at the July 19th meeting, Dr. Gruber was told that Dr. Marks was in
16 charge, and I was told that I would not be in charge when Dr. Gruber left.
17 Q So that you were both informed of that on July 19th at that meeting?
18 A That's correct, yes.
19 Q And then, going back to what you mentioned about the mandates, that
20 being part of the discussion in that meeting, had there been any other discussion at the
21 FDA or even just within your OVRR, to your knowledge, about the concern that there
22 needed to be a license in order for these States to mandate the vaccine, like, or was this
23 the first time that this was discussed?
24 A I don't recall. It seemed like this argument was coming out sort of most
25 forcefully right around this time. It's possible that it was mentioned earlier, but I don't

1 recall that.

2 Q And I briefly want to switch gears, going to -- going back to our discussion

3 about your departure from the FDA. And I know that we discussed Dr. Gruber had been

4 on leave, and I believe she was gone for, like, a month, and then she returned.

5 When did you decide to leave the FDA? Was it after this July 19th meeting?

6 When did you make your decision to depart?

7 A I made my decision to depart as I heard that Dr. Gruber was departing.

8 Q And why is that?

9 A The -- well, the -- I had probably -- well, I had stayed at the FDA longer than I

10 had originally intended to. I did not perceive that I would finish my career at the FDA,

11 and I always wanted to do something else. And of course the question always is, then,

12 well, when to do that, as one also gets older, right?

13 And so when the COVID pandemic came around and when I had the opportunity

14 to have, I think, a very substantial influence in favor of public health, there was no

15 question that the FDA was the right place for me to be and to stay.

16 I admit that the events in July and August surrounding the BLA and the booster

17 vaccines made me concerned, without direct knowledge of any specific outside

18 interference, because I didn't know of any communications from the outside, but it

19 appeared as though major decisions that normally would have been within the purview of

20 the office were now being made outside of the office, whether at the center director's

21 level or even elsewhere.

22 And certainly, if one were to read the press at the time, many people interpreted

23 some of these actions as representing political interference, especially around the

24 booster issue.

25 [redacted] Is that how you interpreted it?

1 Dr. Krause. So, as I said before, the President announced that everyone in the
2 country would be boosted, and he made this announcement on September 18th -- on
3 August 18th -- and he said that they would be boosted by September 20th.
4 Also on August 18th, three leaders of public health agencies said, including the
5 acting commissioner of the FDA, said that boosters would be available for everybody by
6 September 20th. So it was at that time there was some data on boosting in-house on
7 the Pfizer vaccine and there was no application in-house from Moderna at that time.
8 And so it was clear that people outside of the FDA were creating an expectation
9 around boosters. And of course they said, well, this is all subject to FDA approval. But
10 the acting commissioner had also signed on to this, and this was the same acting
11 commissioner who had just relieved Dr. Gruber and me of duty when we suggested that
12 we might not be able to meet an aggressive timeline that was favored by other people.
13 And so, given that evidence, it was very difficult to imagine that there was -- that
14 the Office of Vaccines would have the same level of autonomy going forward as it had
15 had in the past.
16 [redacted] And the intrusion upon that autonomy was coming from where, in
17 your opinion?
18 Dr. Krause. Well, in the case of the booster --
19 Mr. Thomas Krause. You don't need to speculate. Go ahead.
20 Dr. Krause. Well, in the case of the boosters, there were announcements
21 simultaneously from the President and three public agency heads, right, Tony Fauci,
22 Rochelle Walensky, and Janet Woodcock was the acting commissioner of the FDA. And
23 so from someplace that impinged upon those levels, it appeared as though that this
24 pressure was coming.
25 BY [redacted]

1 Q Okay. To follow up, during one of our colleagues in the minority's
2 questioning sessions, I believe there was an allusion to potential political pressure during
3 the administration in office in 2020.
4 Given what you've just testified to, is it fair to say that, in your opinion, you've
5 witnessed political pressure in the vaccine and/or booster process from the Biden
6 administration?
7 A I can say that I witnessed political pressure from outside the FDA likely, but I
8 cannot point to any direct evidence of where that pressure came from. Everything else
9 is a conjecture based on the evidence.
10 But there is no smoking gun of somebody who had -- where there's some
11 evidence of a single person outside the FDA directly applying such pressure.
12 Q And I think you very carefully just testified, you didn't base that on direct
13 evidence, but it sounds like you're saying based on the circumstantial evidence there was
14 the political pressure from the administration -- the Biden administration.
15 A There was, again, circumstantial evidence that suggested to me that staying
16 at the FDA didn't make any sense, and it was because of -- well, it was because I was
17 planning to leave anyway, in part, and partly because of that circumstantial evidence.
18 It appeared to many in the press that this pressure came from the White House.
19 I don't know exactly how that would have worked, and so I'm reluctant to say that I know
20 that it came from the White House, but there is certainly some -- there is -- a reasonable
21 person might think that was a possibility.
22 Q Fair enough.
23 [redacted] And in that same vein, I actually want to touch on briefly -- I don't know
24 how much time, I think we are running low on time -- but I want to briefly touch -- cool -- I
25 will enter this article into the record as exhibit 6.

1 [Krause Exhibit No. 6.

2 Was marked for identification.]

3 [redacted] And I won't ask a ton about it. But this might be a little bit about what

4 you were referencing as things you were reading in the news regarding things that the

5 FDA was trying to accomplish.

6 And I know at the time that this article -- and this is a New York Times article

7 published August 27th, 2021, and it said that "Biden Floats Faster Access to Booster Shots

8 Amid Spread of Variant." You were still at the agency at this time.

9 Had you announced at this point, to your recollection, that you were going to be

10 resigning?

11 Dr. Krause. No. I made that announcement on the first business day of

12 September.

13 [redacted] Okay. Did this announcement about the boosters -- I know you

14 started to touch on it -- but this announcement coming from the White House, where

15 President Biden had said, after his meeting with the Prime Minister of Israel, he had said,

16 "We were going to start mid-September, but we're considering the advice that you've

17 given that we should start earlier. The question raised is should it be shorter than eight

18 months? Should it be as little as five months? That's being discussed."

19 And when he says, "That's being discussed," is that something normally that the

20 FDA would be discussing and making that type of determination?

21 Dr. Krause. So, yes, the FDA would normally be responsible for approving or

22 authorizing an indication defining the population of people who would be eligible for

23 boosters.

24 And so in the initial comments I think the suggestion was that people who had had

25 their second dose of vaccine 8 months or more ago might have had sufficient waiting that

they might benefit from a booster, at least as was being described by the people who were in favor of boosters.

And the comment raised by Mr. Biden was: Should that interval between the second dose of vaccine and the first booster be as short as 5 months?

In my view, that's a comment that is pretty damaging to public confidence in the original vaccine series because what you're saying is, initially, well, we think it at least lasts 8 months, but now we're not even sure it lasts 5 months.

And so it's really saying that the White House doesn't have confidence that the original vaccine series will protect people.

Now, I'm willing to accept that this may have been a completely unintentional comment and Mr. Biden may not have thought about the impact of such a comment on vaccine confidence or vaccine hesitancy or on people's willingness to accept the vaccine in the first place.

But of course that's a good reason to consult with vaccine experts before making these kinds of comments, because I'm sure that wouldn't have been his intent.

[redacted] We'll go off the record.

[redacted] We'll go off the record so Dr. Krause can consult with his counsel.

[Discussion off the record.]

1 [4:23 p.m.]

2 [redacted] We'll go back on the record. We probably only need just a few more

3 minutes.

4 Dr. Krause. Can I just back up and make a correction of a statement that I made

5 before where I may have been a little bit too glib in paraphrasing Mr. Biden as saying on

6 August 18th about -- I might have said something like everybody will be eligible for

7 boosters by September 20th.

8 And, of course, that wouldn't have been everybody. As you pointed out here,

9 that would be people who have had their second dose of vaccine at some period of time

10 before.

11 But he was talking about a fairly universal booster campaign. And so I would just

12 like to make sure that I am not misunderstood as to have thought that he literally

13 intended for everybody to get a booster by -- or have a booster available by September

14 20th.

15 [redacted] Thank you for clarifying that.

16 BY [redacted]

17 Q Yeah, thank you very much.

18 And I think just in regards to two more additional questions that I have.

19 Other than you and Dr. Gruber, did anyone else on your team in OVRR decide to

20 leave the FDA as well after or around this timeframe in September, October,

21 November 2021?

22 A In those months, I think it was just the two of us. Since then, Dr. Fink has

23 left the FDA, but it was not at exactly that time in terms of senior people in the office.

24 Q Do you know what Dr. Marks' reaction was regarding your resignation?

25 A I don't have a clear picture of that. He was certainly cordial, and he held a

1 retirement ceremony at which both Dr. Gruber and I were honored and received
2 Distinguished Career Service Awards, and people were -- had an opportunity to give
3 speeches. And so that was his visible reaction.
4 Q Awesome. Now, a little quick switching gears.
5 Did you do any work on Ivermectin?
6 A None.
7 Q None. Okay. That was in a different center then or a different --
8 A That's correct. Ivermectin would have been in the Center for Drugs, and
9 we were in the Center for Biologics.
10 Q Who would have been the director, deputy director around this time, in
11 2021, that worked on that?
12 A That's a great question. There's an office of antivirals, and the director of
13 that office is John Farley, I think, unless he's moved.
14 I don't know whether Ivermectin would have received a review through that office
15 or through an antiparasitic drugs office, though, because that's the major indication for
16 Ivermectin, and I don't know who's in charge of antiparasitics.
17 Q Okay. Well, I just didn't know if you did any work on that, so that's all I
18 need. And then I think my colleague has a question, and then I'm --
19 [redacted] If I could just conference with my colleague for one second.
20 [redacted] We'll go off the record for a moment.
21 [Discussion off the record.]
22 [redacted] We'll go back on the record.
23 [redacted] Back on the record. I have one last question for you, Dr. Krause,
24 and my colleague, [redacted] will ask a question.
25 You had indicated previously that at some point you were ready to step down and

1 do something different. Is it fair to say -- from the FDA. Is it fair to say that you made
2 the decision to leave when you did because of Dr. Marks' sort of interference in the work
3 that you were doing at the FDA?
4 Dr. Krause. So there are two ways in which I would slightly quibble with your
5 statement.
6 So I wouldn't personalize this to Dr. Marks. I think that there was enough
7 evidence of outside interference, without it being completely clear where it came from,
8 that it made me uncertain that I would be able to do my job effectively as I thought it
9 needed to be done.
10 And I suspect if this had not happened and there had been no pandemic, I would
11 have left long before this. And so while, of course, the pandemic was a lot of work, and
12 it was very important, and it was exhilarating to be involved in that work and to know
13 how important it was to so many people, perhaps by contrast that also made the sudden
14 change in how it was that the work of the office was being managed, it turned it into a
15 more obvious difference.
16 And so I don't know if that's a fair answer to your question. So I wouldn't say it's
17 just because of Dr. Marks. I would say that the situation, given the pandemic, made me
18 more likely to leave at that time.
19 BY [redacted]
20 Q Yeah. Thanks for your endurance. I'll be quick here.
21 If I understood you correctly in the first hour, it seemed that you indicated that
22 you were kind of aware of this phenomenon of groupthink, and you would actively stoke
23 debate in your team to bring out minority opinion. Is that right?
24 A Absolutely, yes.
25 Q And it seems like that contrasted with what Dr. Marks did with you guys in

removing you and Dr. Gruber. Is that right?

A I have wondered, if he was convinced that he had a solution for how to speed up the review, why he wouldn't have just told us what that solution was and we could have implemented it. There was certainly nobody who -- in the Office of Vaccines -- who was resistant to brilliant management suggestions.

Q Right. Right. So you were relieved along with Dr. Gruber because you had a minority opinion and Dr. Marks sought consensus?

A Well, I'm not sure how we define the word -- I'm not sure that "consensus" is the word that --

Mr. Thomas Krause. What do you mean by "minority opinion"?

[redacted] Well, it seems like you had a different perspective on what a reasonable timeline was, and rather than engage with you on the logic for your perspective on the timeline, you were just removed from the conversation.

Dr. Krause. I think that's fair. Of course, he might say that he attempted to engage and we came back to him and told him why we didn't think we could promise better.

But you're right, then he took over and did not officially change the ADD either. He just worked until the job was done, which is, of course, what I would have done in that position as well.

[redacted] Right.

Dr. Krause. But there's no doubt that he and I have contrasting management styles.

Mr. Thomas Krause. Do you want to address whether yours was a minority view of the timeline?

Dr. Krause. Well, again, I guess the question is, minority compared to what?

1 Certainly, his desire for a more rapid timeline was held by himself and Dr. Woodcock. It
2 may well be that -- it seemed like, when you look at the number of office directors who
3 were also contributing to Dr. Gruber's assessment of what the most appropriate timeline
4 to promise would be, is his actually was the minority opinion.
5 [redacted] Understood.
6 Just one final question on this. To me, this appears that the graph in the Lancet
7 article, it appears to me that the data very much supported your conclusion. I think you
8 had said earlier that to look at this data would force you to this inescapable conclusion
9 that the booster was not necessary.
10 Dr. Krause. That was my conclusion. And of course this paper, you didn't
11 reproduce it because it's hard to find online, but there's also an appendix which lists all of
12 the individual studies that were reviewed and what the individual results in those
13 individual studies were.
14 And there are about 100 of them that were available at this time that met the
15 criteria for this analysis of having -- of presenting credible analyses that would allow one
16 to both look at efficacy in -- efficacy against severe disease and efficacy against
17 symptomatic disease.
18 [redacted] Right. And in spite of the strength of the data that you
19 presented, it was overwhelmed by another force, and that was what exactly, just the
20 political pressure?
21 Dr. Krause. Well, so based on what I was reading at the time, the White House
22 COVID task force was a strong believer in the Israeli data, and they were afraid that Israeli
23 would be a harbinger for what would happen here, and so it would be a harbinger, and
24 that we would soon find in the U.S. that there would be reduced efficacy even against
25 severe disease.

1 I don't know how they came to that conclusion, because on looking at the Israeli
2 data I did not find it to be persuasive, and I suspect other people with experience in
3 epidemiology could have looked at that and come to the same conclusion.
4 But there certainly were scientists out there who I think may have been
5 operating -- and I don't know if this was in the White House -- but who may have been
6 operating as much out of fear as out of logic, and they were afraid of the Delta variant
7 and were afraid that something might happen and wanted perhaps to be seen as doing
8 something.
9 [redacted] And fear is not science?
10 Dr. Krause. Are you sure?
11 [redacted] I'm asking.
12 [redacted] That's all.
13 [redacted] All right. We can go off the record. Thank you.
14 [Discussion off the record.]
15 [redacted] Okay. We can go back on the record, please.
16 All right. I'm going to introduce for the record exhibit 7, and this is the actual
17 FDA approval letter dated August 23th, 2021, for the BLA.
18 [Krause Exhibit No. 7.
19 Was marked for identification.]
20 Dr. Krause. Thank you.
21 BY [redacted]
22 Q Have you seen this before?
23 A I have, yes.
24 Q Okay. And can you just turn to the very last page? And there's two
25 names on it that were the approving officials for this BLA review. Can you tell us who

1 they were?

2 A Sure. Mary Malarkey and Marion Gruber.

3 Q Okay. So a couple of -- and Marion Gruber is Dr. Gruber that we've been

4 talking about throughout this TI, right?

5 A Yes.

6 Q So can you explain -- as you might be aware, Dr. Gruber came before this

7 committee as a witness and was asked a series of questions about this approval process

8 just as you were, and she testified that she approved and signed the approval letter.

9 Does that surprise you, that she testified to that effect?

10 A No.

11 Q Okay. So you knew that she actually did participate in this process, the BLA

12 review and approval?

13 A Yes, of course. I was there, yes.

14 Q Okay. So when you say that she was removed by Dr. Marks, can you

15 explain what that means in light of the fact that she actually signed the approval letter?

16 A Yeah. I'm not exactly sure how that came to be, because Dr. Marks was

17 supervising the approval process from the time he took over until the end. But in the

18 end, Dr. Gruber signed as the director of the Office of Vaccine Research and Review. But

19 she was not supervising the review process up until August 23rd.

20 Q While she was on leave?

21 A Well, she was on leave until early August, perhaps August --

22 Q August 7th, correct, or do you know?

23 A You know better than I then.

24 Q Well --

25 A Somewhere around there. That's consistent.

1 But just as I did, I think she attempted to help as much as she could to make sure
2 that the review was complete and thorough.
3 And, indeed, she reviewed many, if not all of the documents in the approval file.
4 I reviewed many of these documents also and had a few comments on them. I made
5 recommendations for how the benefit-risk analyses could be improved, and those
6 recommendations were accepted.
7 And so she and I were both involved in doing everything we could to make this
8 process as robust as possible.
9 Q Okay. So fair to say that you both participated in the approval process, but
10 you were not the supervisor at that stage?
11 A That's correct, yes.
12 Q Okay. And your input was considered by the people who were supervising?
13 A Absolutely, yes.
14 Q Okay. Was there anything at the end of the day, when you came to be
15 aware that this approval was granted by the FDA, that concerned you about the
16 conclusions that are inherent in that approval?
17 A No. I completely agreed that the product met the standard for approval
18 and that it was appropriate to approve the BLA.
19 Q Despite the compressed timeline that had you concerned at some points?
20 A So the compressed timeline had us concerned not because -- so what we
21 were concerned about wasn't that -- wasn't the compressed timeline, per se. What we
22 were concerned about was we were being asked to promise that the review would be
23 completed on a certain date that we were not sure was a promise that we would be able
24 to keep.
25 Q And ultimately Dr. Marks never promised that the FDA would complete the

1 approval process on August 23rd. Is that right?

2 A I don't know what he promised external to the FDA. There are some emails

3 that suggest that he had had a notional approval date of August 20th.

4 And there are some emails in the Judicial Watch tranche, which I'm sorry I can't

5 provide you with, but if you are willing to dig through many, many pages -- or maybe it

6 isn't even Judicial Watch, it's another one -- you could find those that imply that he was

7 aiming initially for the 20th, but then it appeared that he wasn't -- that the team was not

8 going to be able to meet that. The 20th was a Friday, and so it was ultimately approved

9 the following Monday.

10 Q Okay. But he never moved the -- what was it again, the date is called the

11 ADD?

12 A That's correct. So what he said was that the review was proceeding

13 without an ADD. It was proceeding with the goal of completing it as quickly as possible.

14 This is my recollection of what he said, and I was at many of those meetings.

15 Q Okay.

16 A I don't remember which meeting he said that at.

17 So what he did then obviously was operating under a somewhat different set of

18 rules than the one that he was requesting that the office operate under. He requested

19 that the office provide a certain date by which it would be finished as opposed to simply

20 proceeding until it was done and hoping to get it done as rapidly as possible.

21 Q But ultimately exactly what happened was it got done as fast as possible

22 without a required date, right?

23 A Yes. Yes.

24 Q And you have no concerns about the process itself as it was completed by

25 the 23rd of August?

1 A So as I mentioned earlier, the one concern that I do have is that, while this
2 was within the range of activities that the FDA could -- within the range of appropriate
3 process for the FDA, I think that confidence in the approval in the FDA would have been
4 enhanced if there had been an Advisory Committee meeting. But that would have taken
5 longer, probably, even than September 15th, to put that together and do that, because
6 an Advisory Committee meeting for a BLA is very complicated.
7 So while I -- and I did not think, as I mentioned earlier, that the Advisory
8 Committee was required in order to provide key advice to the FDA, which is one reason
9 for calling the Advisory Committee, but I did think that overall confidence in the decision
10 and public confidence in what the FDA was doing could have been increased if there was
11 an Advisory Committee.
12 Q But you, yourself, when you were in charge of the supervision, along with
13 Dr. Gruber, accepted that September 15th was a reasonable date, right? That was one
14 of your recommendations?
15 A Well, Dr. Marks originally was the one who said that he wanted it to be
16 September 15th instead of mid-October, but we ultimately agreed with that.
17 And, again, that's a suboptimal situation where you don't have the Advisory
18 Committee. But if your goal is to approve quickly, then you have to sacrifice the
19 Advisory Committee. The Advisory Committee was a nice-to-have but not a
20 need-to-have.
21 Q And I'm just asking because you agreed to that September 15th. Under the
22 circumstances, the extraordinary circumstances of this pandemic and the priority review,
23 that was not something you disagreed with at that point when you and Dr. Gruber said
24 September 15th is reasonable?
25 A At that point, we -- that's correct. We would have -- well, we did agree to

1 an action due date of September 15th.

2 Q And it actually became problematic later than that, in your view, because

3 they were trying to push the date earlier than September 15th. That's when it became

4 more of a concern for you?

5 A I'm not sure I can agree exactly with your characterization of "concern,"

6 right? What we said was that we couldn't promise an ADD before September 15th

7 based on what the people who needed to do this work and the accounting were telling

8 us, and the accounting that we needed to do for the interactions with Pfizer.

9 And so we were concerned that if there were an ADD before September 15th that

10 that might create problems. Dr. Marks proceeded, and he also did not have an ADD

11 before September 15th.

12 Q Exactly.

13 A And so --

14 Q So it didn't change?

15 A That didn't change.

16 Q Right.

17 A So I did not fundamentally have any concerns with the idea of saying let's

18 proceed as quickly as we can. If the goal is to do it quickly, then that's a reasonable

19 thing to do.

20 But if you asked me were there ways in which this process could have been better,

21 right, I think you asked did I have any concerns about the process, although I don't

22 remember exactly what the question was --

23 Q Well, I was asking you to kind of describe how your concerns kind of evolved

24 with these different decision points.

25 A Right. So -- right.

1 So once the decision is made that this needs to be done by September 15th, then
2 there cannot be an Advisory Committee meeting anyway; and yet, this approval would
3 have engendered more confidence if there had been an Advisory Committee meeting.
4 And so the question then is just, was the added transparency, which could have
5 been accomplished with an Advisory Committee meeting, worth the amount of time it
6 would have taken to do that?
7 Q And in your opinion, at least as of the time that you signed on to the
8 September 15th goal, you decided what in terms of that balance, that it was not --
9 A Well --
10 Q -- outweighing the benefit of going ahead on this --
11 A So it's difficult, because when you're in a hierarchical organization like the
12 FDA and your supervisor is saying it's very important to me that this get done by a certain
13 day, then one has to, of course, weigh the potential advantages of getting it done by that
14 certain day and what the cost of that is in terms of transparency.
15 Q And is that what you did when you and Dr. Gruber said September 15th is
16 one possibility here?
17 A Well, again, Dr. Marks was the one who suggested September 15th.
18 Q But you agreed, correct?
19 A And we agreed to do that, that is correct.
20 Q Okay. And by agreeing that, you had decided, at least with respect to this
21 Advisory Committee, that on balance you were willing professionally to let that go?
22 A Yes. On the other hand, one could argue that if one understood
23 completely -- and of course, by the time that he said September 15th we didn't know
24 that -- one could argue that if the consequence of this approval would be mandates, or if
25 the consequence of this approval would be other things, then the importance of public

1 confidence in that decision would be increased.

2 And so at the time that we agreed to September 15th we had no knowledge that

3 there was a plan or that there was a likelihood that this decision would then be used to

4 justify downstream decisions that might actually require an even higher level of public

5 confidence in the decision.

6 And so that calculus, at the time we agreed to change the action due date to

7 September 15th, was different from the calculus once we understood all of the rationale

8 for speeding things up even further.

9 Q Sure. Because at the time, like, none of those things existed, and you were

10 trying to make a decision at the moment in time when it was presented to you?

11 A That's correct, yes.

12 Q Okay. I'm going to talk a little bit about public perception, because you've

13 mentioned that that is kind of an overarching concern, is, like, how the public views the

14 FDA and whether they could trust the decisions that are being made.

15 And you have -- I'm going to ask some questions about exhibit 6, which is this New

16 York Times article that quotes President Biden.

17 Do you have that article in front of you?

18 A I'll find it here.

19 Q Okay. I can give you another copy.

20 A No. All right. Sounds good. Six.

21 Q Yep. Okay. So in the very first line, you see it says: "President Biden

22 suggested on Friday that the government could offer coronavirus vaccine booster shots to

23 most vaccinated adults sooner than eight months after a second shot, underscoring the

24 administration's concerns about the spread of the Delta variant."

25 And it's interesting, I mean, they say he suggested on Friday. Is there anywhere

1 in this article, or to your knowledge are you aware of any statements that Mr. Biden
2 made with respect to this booster shot that are stronger than a suggestion as they're
3 characterized in this New York Times article?
4 A I do not have articles that -- actually, let me just look at something here. I
5 don't think I have something that suggests that -- I don't have a copy of what he said on
6 August 18th. But what he said on August 18th I recall as being more definitive than a
7 suggestion.
8 Q Okay.
9 A But I could be -- but I can't -- I don't have a copy of that. And so it is
10 possible that my memory is incorrect on that.
11 [Krause Exhibit No. 8.
12 Was marked for identification.]
13 BY [redacted]
14 Q I'm going to go back to that in a minute. But for right now, I'm going to
15 introduce for the record exhibit 8, which is a tweet from former President Donald Trump.
16 And I have copies for you guys.
17 A Fantastic.
18 Q It's short so you can just look at it real quick.
19 A It's a tweet, right? 140 characters.
20 Q Very brief, yep. Right to the point.
21 Okay. So this tweet, as you'll see, is dated October 6th, 2020, 9:09 p.m., and it's
22 from President Trump while he was in office. And the tweet reads, quote: "New FDA
23 rules make it more difficult for them to speed up vaccines for approval before Election
24 Day. Just another political hit job!" And then he tags @SteveFDA, so directly meaning
25 to communicate to the FDA.

1 Now, earlier in the hour when you were asked about Mr. Biden's statements you
2 hesitated to say that there's any direct evidence that the White House was trying to
3 influence the process, but you said maybe circumstantially you could argue that.
4 Well, what about this? Like, would you consider this some direct evidence that
5 the occupant who was the President at the time, the occupant of the White House, made
6 this statement directly to the FDA, would you consider that direct evidence of a political
7 effort to influence the FDA?
8 A It certainly looks like it's direct evidence of such. Of course, it's -- and it's
9 certainly a complaint. It's not completely clear what it is that he wants the FDA to do as
10 a result of this.
11 Q Well, it seems to say -- he's complaining about FDA rules that make it, quote,
12 "more difficult for them to speed up vaccines for approval before Election Day," unquote.
13 Would it be of concern to you if political operatives or actually the President of
14 the United States wanted to speed up vaccines for approval before election day? I
15 mean, is election day a consideration for the FDA when they make approval decisions?
16 A No, of course not. Election day is not a consideration.
17 Q So would that be a concern?
18 A And so it -- this does look like direct interference in the FDA's work.
19 Q I mean, it's pretty clear on its face, right? Like, election day is the concern
20 for the President, right?
21 A Yes.
22 Q He says so.
23 A Yes, that is correct.
24 Q And this is a direct communication from the President himself to the FDA,
25 right?

1 A Well, to Dr. Hahn, I assume, yes.

2 Q Right. I mean, his -- that's who's tagged there, right?

3 A Right, yes.

4 Q Okay. I think, just for the record, the one I read I labeled as exhibit 9. So

5 let me introduce both of these. I have exhibit 8, which is the August 22nd --

6 [redacted] No, exhibit 8 is the October one.

7 [redacted] Oh, that's --

8 [redacted] Exhibit 9 is this --

9 [Krause Exhibit No. 9.

10 Was marked for identification.]

11 BY [redacted]

12 Q Okay. The one I read is exhibit 8, sorry.

13 And then I'm going to introduce exhibit 9, which is another tweet from Donald

14 Trump on August 22nd. So this is actually an earlier tweet but a later exhibit number.

15 I'll give that to you. Again, it's brief.

16 Okay. So the tweet says, quote: "The deep state, or whoever, over at the FDA

17 is making it very difficult for drug companies to get people in order to test the vaccines

18 and therapeutics. Obviously, they are hoping to delay the answer until after

19 November 3rd. Must focus on speed, and saving lives!" And, again, tagging

20 @SteveFDA.

21 Did I read that correctly?

22 A You did, yes.

23 Q Okay. And this was August 22nd, one day before the approval. Is

24 that -- or this is, sorry, one year and one day before the final approval.

25 A Yeah, I think this may have been in very close proximity to the authorization

1 of convalescent plasma that I described earlier.

2 Q Okay. So how close, in your recollection, was this tweet to that

3 authorization?

4 A Within a day or two, I think.

5 Q Hmm. And do you find that timing suspicious or at least potentially

6 damaging to the view of the public of the FDA?

7 A Yes.

8 Q Why is that?

9 A Well, because if FDA is perceived to be making decisions as a result of this

10 kind of a statement then that can damage the credibility of the agency.

11 Q Do you think that this tweet could have had any influence on the FDA

12 officials who did approve that therapeutic that you testified earlier you didn't think was

13 effective or based on science?

14 A The convalescent plasma?

15 Q Yes.

16 A So I don't know all the ways in which communication occurs between higher

17 levels of government and government agencies. I would be surprised if this was the

18 only -- if, in fact, there was political interference there, I would be surprised if this was the

19 only thing that happened. This might be -- if there were political interference, this might

20 be the only readily available or openly available evidence of that. But -- so I don't know.

21 But --

22 Q You mean, like, if there were a FOIA request, there might be emails out there

23 that show more communications between White House officials and FDA officials?

24 A That I don't know. But if -- I've certainly read in various articles that people

25 were suspicious of the authorization of convalescent plasma around this time. And so if,

1 in fact, that authorization had something to do with this tweet, then there might sort of
2 be other documentation of that.
3 Q Okay. But @SteveFDA, do you have an opinion about who that is, or do
4 you have knowledge of who that might be?
5 A Well, just as I said in the previous one, it's likely Stephen Hahn, who at the
6 time was the commissioner of FDA.
7 Q Okay. And what would his role have been with respect to any of the
8 approvals of convalescent plasma, for example?
9 A Probably very little, because those decisions were made within the centers.
10 So I think Dr. Marks may have been the one who signed off on the authorization of
11 convalescent plasma.
12 Whether -- but it's clear that -- well, not clear. It seems as though the President
13 is trying to apply pressure on the commissioner so that the commissioner will apply
14 pressure on other people who would make this decision, and I don't know how the
15 commissioner responded.
16 And I also don't know whether the President making a statement of what he
17 wanted that happen might have also influenced other people besides the commissioner.
18 Obviously anybody can read a tweet.
19 Q Right. It could have influenced Dr. Marks in this instance potentially? He
20 was in the same position that he was later?
21 A So you would have to ask him. I've probably already speculated too much.
22 That's beyond what I'm willing to say.
23 Q Do you know if he was in the same position --
24 A Yes, he was. He was the center director.
25 Q Okay. And so his role in the approval of convalescent plasma, was it the

1 same as his role in the approval of these other vaccines and things we've discussed?
2 A So I'm not completely sure how his role in the approval of convalescent
3 plasma was defined. But he played a pivotal role in that approval.
4 Normally convalescent plasma would have also been signed off on by -- well, the
5 review would have occurred within an office, and then an emergency use authorization
6 would have been issued by the FDA's Office of Chief Scientist.
7 And so I don't know whether he -- I don't know the degree to which his signature
8 is on various documents related to that authorization, but he certainly was a strong
9 proponent for it within FDA.
10 Q So you wouldn't have had any role with respect to the approval of
11 therapeutics like convalescent plasma. Is that right?
12 A It is true that I did not have any role, but when I heard that this was
13 imminent -- and I don't remember if it was this week or the previous week -- I did actually
14 send an email to Dr. Marks asking him if he was sure that this was the right thing to do,
15 because it seemed like the evidence was very weak.
16 Q Did he respond to you?
17 A I don't recall.
18 Q Okay. Do you know if the person -- there must be a person who's in the
19 equivalent of your position that would have been the expert underneath Dr. Marks, right,
20 with respect to the convalescent plasma therapy?
21 Mr. Thomas Krause. We might be getting into deliberative process on -- we don't
22 have the emails.
23 BY [redacted]
24 Q I'm not asking about the deliberation. I'm just saying, is there a person?
25 A So the answer is the convalescent plasma would have been covered by the

1 Office of Blood. Dr. Nicole Verdun at that time was the office director. She's actually
2 now the director of the -- they've changed the name, the replacement for OTAT, the gene
3 therapy and cell therapy office, Office of Therapeutic Products, I think it's called.
4 Q Would it be fair to say that, to the extent that you have concerns about any
5 outside pressure from the White House or from anywhere else that's making the
6 FDA -- influencing the FDA's decisions in a political manner, those concerns that you have,
7 would they be the same concerns in the process, like, of approving convalescent plasma
8 when there was no data that it was effective and when there's evidence of direct
9 influence politically from the President of the United States?
10 A So I would have those concerns there as well, yes.
11 Q And does it surprise you that there was never a congressional investigation
12 with respect to that decision, the approval of convalescent plasma ignoring science and in
13 light of political influence?
14 A I know very little about how Congress works and what are the bases for
15 congressional investigations. But I do understand that -- well, and so I know that at
16 various times since then different parties have been in control of the House and the
17 Senate. Either branch could launch investigations, I guess, but I don't know how the
18 branches prioritize the investigations that that they would perform.
19 Q Sure. But in an ideal world, from the perspective of somebody who cares
20 about how the FDA is perceived and how much trust people have in that regulatory
21 process, would you like to see Congress interested in political influence over decisions like
22 this in a nonpartisan way?
23 Like, say, if the FDA is being influenced unfairly by political pressure, would you
24 like to say that that Congress is going to be just as interested if that political influence
25 comes from a Republican President as if it comes from a Democratic President?

1 A Of course, I would hope that. But, honestly, it's very easy to look
2 backwards and see problems. And so, to me, the critical question is, how can one devise
3 systems going forward to reduce the likelihood that in a subsequent pandemic or a
4 subsequent emergency especially that the temptation for political pressure is reduced?
5 And that involves making sure that the Federal organizations are strong enough
6 that they can do their job, and if they're not doing their job, it will become apparent that
7 they're not doing their job.
8 And so this gets back to the suggestion that I made earlier, that regardless of
9 whether or not specific interference occurs, it's clear that in many of these cases there is
10 good reason for a public perception that there at least have been attempts at
11 interference.
12 And so the question is, how can one -- how can we devise a stronger system, a
13 stronger -- stronger Federal agencies such that that is less likely to happen?
14 And it's difficult when you look at the EUA standard, which of course was the
15 standard for convalescent plasma and was the standard for boosters as well.
16 And so finding a way to make the work of the Federal agencies more transparent
17 so that people can understand the basis on which these decisions are made, and how it is,
18 especially that an EUA, which is such a remarkable mechanism for making products
19 available and only can be used during an emergency, to create a situation where, as I said
20 before, the public, physicians, other public health agencies, everybody can really
21 understand what the evaluation that went into an EUA is and how it is that that might
22 differ from, at least from the FDA perspective, full licensure of that product, I think would
23 help, because that might then reduce these kinds of temptations and would then also
24 reduce public perceptions, which then could be easily addressed by careful
25 communication about what it is that the agencies actually did.

1 Q My colleague is going to ask you a couple questions.

2 A Sure.

3 BY [redacted]

4 Q Thank you.

5 I just have a couple questions.

6 So in the previous hour you had stated something to the effect of scientists

7 working under fear rather than logic. I just wanted to clarify, the fear that you had

8 spoke of is related to the pandemic and all the kind of health consequences that would

9 come with that specifically?

10 A Yes. I don't remember how much of that I said. But to me, I thought that

11 some of the decisions were driven by fear of the evolution of the pandemic. So that was

12 in the context of worry about what would happen with the Delta or a subsequent variant,

13 where, although there wasn't any good evidence that vaccine protection against severe

14 disease caused by the Delta variant was fading, nonetheless, some people may have

15 worried that it would.

16 And yet the question is, how does one -- how can one make decisions based on

17 science and data versus conjecture or in some cases fear? But the fear I was referring to

18 was fear for the outcome in terms of public health.

19 Q And not political fear?

20 A Exactly, yes.

21 Q Okay. And then I just have a question, referring back to the

22 September 17th meeting in 2021, in the Advisory Committee.

23 A Yes.

24 Q You had mentioned that FDA members do not vote during those meetings?

25 A Correct.

1 Q Would you -- do you happen to know why that is?

2 A It's a general rule that it's an outside Advisory Committee that is intended to

3 provide objective advice from outside experts. If FDA employees were to vote, then

4 FDA employees might then drown out the voice of those outside experts.

5 It's an Advisory Committee, and so the purpose is to bring together people who

6 know a lot and have thought a lot about the issues and to present data to them, some of

7 which they might not have seen before, but to get their reaction to it as an independent

8 check on what the FDA is doing.

9 And so while the FDA can play some role in what data are presented, and the FDA

10 normally presents its evaluation of the data that the sponsor might present, it's very

11 important for the integrity of an advisory process that the people we're advising not be

12 the advisees, if that makes sense.

13 So these are outside advisers, and the FDA is not bound to accept their advice.

14 But of course if a well-constituted Advisory Committee makes a recommendation to do

15 something -- or not to do something -- and the FDA rejects that advice, people ask a lot of

16 questions why.

17 And so there is -- the FDA had better have good answers for why they would reject

18 the advice of people who represent the scientific and medical community at large; also

19 includes patient representatives and representatives of the public. And so there is very

20 broad expertise on the committee.

21 But, I don't know, I hope that answered the question. So it would really fly in the

22 face of an advisory process for the FDA to vote on what its own advisers are telling them

23 they recommend should be done.

24 Q That makes sense. Thank you.

25 [redacted] I don't have any other questions. We can go off the record.

1 [Discussion off the record.]

2 [redacted] Back on the record.

3 BY [redacted]

4 Q Dr. Krause, our colleagues from the minority showed you what's been

5 marked as exhibit 8 and 9. These are two tweets from President Trump when he was in

6 office, correct?

7 A That is correct.

8 Q And President Trump was known for, among other things, tweeting publicly,

9 correct?

10 A Correct.

11 Q And, as far as you know, these two tweets -- which were public for the world

12 to see, correct?

13 A Correct, yes. That's my understanding of Twitter, although I admit my

14 understanding is incomplete.

15 Q Fair enough. So this is transparent, what he's saying, this complaint, as you

16 called it?

17 A It is transparent, yes.

18 Q It's open for everyone to see it, correct?

19 A Correct.

20 Q Okay. But the pressure, the political pressure or external pressure, as you

21 perceived it, was done internally, privately, not for the world to see. Fair to say?

22 A Well, a mix perhaps. Obviously, the pressure that was created for the

23 boosters was also publicly based on the announcement made that boosters will be

24 available and the -- a statement made by Doctors Fauci, Walensky, and Woodcock that

25 they would move to make boosters available by September 20th.

1 And so that was public as well. And so that also created a kind of a pressure on
2 the FDA, especially when their own acting commissioner was saying this is what was going
3 to happen, subject to the approval of the FDA, which I also control and can make sure
4 that -- right, then we will make this happen, is perhaps an imprudent way to
5 communicate, because it creates for the people of the FDA the impression that an
6 outcome is foreordained, and for the public it creates an impression that this outcome is
7 foreordained.
8 Q But as far as you know, Dr. Marks didn't tweet his internal discussions with
9 you publicly?
10 A About?
11 Q The September 15th deadline and/or advancing that even earlier.
12 A Oh, so you're mixing the -- well, right now I was talking about the
13 announcement about the boosters.
14 Q Correct.
15 A And the September 15th deadline was related to the approval of the
16 Comirnaty vaccine.
17 Q No, I'm just -- I'm referencing that in which you did speak of feeling some
18 pressure, and your understanding is Dr. Marks, others, there was an external pressure.
19 That was internal discussions, correct?
20 A That's correct, yes.
21 Q And as far as you know, Dr. Marks did not tweet his views on that deadline
22 or any other day publicly, correct?
23 A That's correct. There was no tweet or public announcement that, to my
24 knowledge, that mandates or an approved vaccine would -- well, I mean, there was
25 actually the CNN article that Dr. Gruber referred to that said that they thought that the

1 vaccine would be approved by -- in 2 months from July 16th. And so that somehow

2 found its way out.

3 Q Right.

4 A But I can't -- so I think it's very difficult to line the situations up, though. I

5 take your point.

6 [redacted] Thank you.

7 [redacted] I have another question, then.

8 [redacted] Off the record and back on the record.

1 BY [redacted]

2 Q Okay.

3 So Dr. Marks was -- what's his position? What's his title?

4 A Director of the Center for Biologics Evaluation and Research.

5 Q Okay. He doesn't work for the White House?

6 A No.

7 Q No. And he worked during the Trump administration and the Biden

8 administration, right?

9 A Correct. Yes.

10 Q And he was in the same position to approve the convalescent plasma

11 therapy that was not supported by the evidence as he was when he encouraged the rapid

12 BLA approval process for COVID, right?

13 A He was in the same position during both of those episodes, yes.

14 Q Okay. And so his -- whatever pressure he might have put on you or other

15 people in similar positions within the FDA, the theory is that if there's political pressure

16 it's coming from the outside, going to him, and then being kind of dispersed onto the

17 people in your position. Is that what you understand is being said here?

18 A Well, so some of the circumstantial evidence about political pressure comes

19 from public statements that have been made by people, right?

20 Q Right.

21 A And so -- and some of this comes from private statements that are in these

22 emails. And so --

23 Q These are statements from Dr. Marks in the emails? Is that what you're

24 referring to?

25 A Well, for instance, if one thinks, for instance, about the question of

1 mandates, that was in the email that summarized the discussion with Dr. Woodcock and
2 Dr. Marks, and so that was in an email obviously.
3 Q Okay.
4 A And yet, one could -- a reasonable person would think that a concern over
5 mandates would not be something that would be within the purview of a center director
6 or even a commissioner at the FDA. And so that must have -- may have come from the
7 outside, without knowing where from the outside that came.
8 Q Right. So the speculation is that there's outside pressure above them in the
9 political world, right, that is influencing their decisions or the pressure that they then put
10 on the FDA employees?
11 A Well, I think it would be irresponsible for them to put pressure based on
12 their own opinion about mandates given that that has nothing to do with their jobs.
13 Q Okay. I guess my point is this. Dr. Marks was in the same position under
14 President Trump as he was under President Biden, right?
15 A Correct.
16 Q Okay. So whatever political pressure was coming from either party, if
17 Dr. Marks is now being accused of private pressure or something to that effect, it was
18 coming from Trump when he was in the position of approving convalescent plasma and it
19 was allegedly coming from Biden when he was in the position of the BLA for the COVID
20 vaccine approval, right?
21 A Well, as I stated, I don't know where the outside pressure, for instance in
22 favor of mandates, would have come from in the context of the BLA approval. It may
23 have come from many different places.
24 Q But if Dr. Marks was inappropriately influenced in that instance, clearly the
25 implication is that it's coming from the administration that's in power at that time, right?

1 Mr. Thomas Krause. Her premise is if he was inappropriately influenced --

2 BY [redacted]

3 Q If he was. I'm not saying he was. I'm saying -- that's what we keep talking

4 about here, right, a suggestion?

5 A If he was inappropriately influenced, yes, or from the acting commissioner, I

6 suppose.

7 Q Okay. But the same thing is true when he is in the position in 2020 and

8 there's the suggestion that he may have approved convalescent plasma without evidence

9 or inappropriately or in response to political pressure, he would have done that in

10 response to the administration that was in power, right, that was exerting the pressure, if

11 he did it?

12 A So -- yes. So I don't know if he did that.

13 Q Right. But if he did, right?

14 A And so, yes, I've seen that asserted. So, yes.

15 [redacted] Okay. That's the only question I had. We can go off the record.

16 Thank you so much.

17 [Discussion off the record.]

18 Mr. Thomas Krause. Can I say something on the record still? I'd just like to

19 renew my request for a copy of the transcript or even access to the video in the event

20 that this proceeding is publicly disclosed in some manner outside the subcommittee.

21 And I just want to state that Mr. Krause -- Dr. Krause -- has come here as a

22 scientist. He has been completely nonpartisan. I think he's provided great testimony

23 of significant importance to the public, which should not be used in a partisan manner.

24 And to the extent that it is, we would like to be able to have access to his testimony so as

25 to be able to rebut or to put it in the broader context with which he's come here today on

1 a completely voluntary basis.

2 And you said you'd take that request to the chairman, and I'm just reiterating

3 here, we're willing to sign any kind of NDA that would be appropriately tailored to allow

4 us to make limited use but to place whatever gets out to the public into the proper

5 context.

6 [redacted] Thank you, Mr. Krause.

7 As previously indicated earlier, prior to the interview, all requests are subject to

8 the chairman's discretion. And we're happy to take those requests to the chairman.

9 We make no such representations here; that's the chairman's call.

10 But our standing policy is, as you know, the transcripts are committee property

11 and we do not make them available, but we do make them available for you and your

12 client to review, as long as you need, to go over the transcript. And ultimately, if there's

13 issues that you have with any of the transcription, you are free to make those and submit

14 those to the committee.

15 That's standing policy. And your requests are on the record and will be

16 submitted to the chairman for a decision.

17 Mr. Thomas Krause. Okay. Appreciate that.

18 One question, though. Will parts of this potentially go into a report that's made

19 public? Is that part of the conclusion of an investigation like this?

20 [redacted] These questions are ultimately subject to the chairman. Nothing

21 has been decided at this point.

22 Mr. Thomas Krause. Thank you very much.

23 [redacted] Off the record.

24 [Whereupon, at 5:23 p.m., the interview was concluded.]

1 Certificate of Deponent/Interviewee

2 I have read the foregoing ____ pages, which contain the correct transcript of the

3 answers made by me to the questions therein recorded.

4

5 _____

6 Witness Name

7 _____

8 Date

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: THOMAS J. SOBOCINSKI

Thursday, September 7, 2023

Washington, D.C.

The interview in the above matter was held in room 2237, Rayburn House Office Building, commencing at 10:02 a.m.

Present: Representative Jordan.

1 Appearances:

2

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted], COUNSEL

8 [redacted], GENERAL COUNSEL

9 [redacted], COUNSEL

10 [redacted], COUNSEL

11 [redacted], PROFESSIONAL STAFF MEMBER

12 [redacted] CHIEF COUNSEL FOR OVERSIGHT

13 [redacted], MINORITY CHIEF OVERSIGHT COUNSEL

14 [redacted], MINORITY OVERSIGHT COUNSEL

15 [redacted], MINORITY STAFF ASSISTANT

16

17

18

19

20 For the U.S. DEPARTMENT OF JUSTICE:

21

22 [redacted] DEPUTY ASSISTANT ATTORNEY GENERAL,

23 OFFICE OF LEGISLATIVE AFFAIRS

24

25

1

2 For the FEDERAL BUREAU OF INVESTIGATION:

3

4 [redacted] ASSISTANT GENERAL COUNSEL,

5 OFFICE OF GENERAL COUNSEL

1 [redacted] Good morning.

2 This is a transcribed interview of Special Agent in Charge Thomas Sobocinski of the

3 Baltimore Field Office of the FBI. Chairman Jordan has requested this interview as part

4 of the committee's oversight of the Department of Justice commitment to impartial

5 justice and integrity of the Hunter Biden prosecution of which numerous irregularities

6 have been reported.

7 Mr. -- or, Agent Sobocinski, would you please state your name for the record?

8 Mr. Sobocinski. Thomas J. Sobocinski.

9 [redacted]. And you are joined here today with agency counsel as opposed to

10 personal counsel?

11 Mr. Sobocinski. Correct.

12 [redacted] Would agency counsel please state their names.

13 [redacted] [redacted] from the FBI's Office of General Counsel.

14 [redacted] [redacted] from the Department of Justice.

15 [redacted]. And you understand that agency counsel represents the Department

16 and the FBI, not you personally.

17 Mr. Sobocinski. I do.

18 [redacted] And you're comfortable with proceeding that way.

19 Mr. Sobocinski. I am.

20 [redacted]. Okay.

21 On behalf of the committee, I want to thank you for appearing here today to

22 answer our questions. The chairman also appreciates your willingness to appear

23 voluntarily.

24 Initially, a deposition subpoena had been issued for today, and we have

25 withdrawn that in lieu of today's voluntary transcribed interview. Obviously, if we don't

1 get very far and you're not able to answer the questions we have, we may have to revisit
2 the subpoena for a deposition.
3 My name is [redacted]. I'm with Mr. Jordan's Judiciary Committee staff. I'll
4 have the staffers here in the room introduce themselves.
5 [redacted] with Mr. Jordan's staff.
6 [redacted], Mr. Jordan's staff.
7 [redacted]. [redacted] Mr. Jordan's staff.
8 [redacted]. [redacted] Ranking Member Nadler's staff.
9 [redacted], Ranking Member Nadler's staff.
10 [redacted] Mr. Jordan's staff.
11 [redacted], Mr. Jordan's staff.
12 [redacted]. I'll go over the ground rules and guidelines that we will follow during
13 today's interview.
14 Our questioning will proceed in rounds. The majority will ask questions first for
15 an hour. Then the minority will have a chance to ask their questions for an equal period
16 of time. We'll alternate back and forth. They'll actually come over and sit in these
17 seats to help the court reporter best capture what we're saying.
18 Ordinarily we take a break at the end of each hour if you need it, but it's entirely
19 up to you. We will only take breaks if you need them. The same goes for if you need
20 lunch, if it's going too long. It's up to you. A lot of times we power through.
21 Sometimes we don't. So it's your call.
22 If you need to confer with agency counsel, just let us know, and we'll just go off
23 the record.
24 There's an official court reporter taking down everything we say and make a
25 written record, so every now and then we need to prompt witnesses to give a verbal

1 response if you had just nodded your head and so forth.

2 We'll do our best to limit the number of people questioning you at once during

3 any given hour. Usually it's just one staff person. And if the members join us, of

4 course, we defer to the members to ask their questions. So then it would be a situation

5 where it's more than one person asking the questions. But that's the way it works with

6 the Members of our Congress.

7 We ask you, of course, to please speak clearly so the court reporter can accurately

8 make a record and so that the people at the end of the table can hear.

9 We want you to answer our questions in the most complete and truthful manner

10 possible, so we'll take our time. If you have any questions or if you don't understand

11 one of our questions, please let us know. Our questions may cover a range of topics.

12 So if you need clarification at any point, please let us know.

13 If you don't honestly know the answer to a question or do not remember, it's best

14 not to guess. However, if you do remember and you say you don't remember, that of

15 course is a problem when it comes to 18 United States Code 1001, which I'm sure you're

16 familiar with.

17 Witnesses that knowingly provide false testimony could be subject to criminal

18 prosecution for making false statements. You understand that, correct?

19 Mr. Sobocinski. I do.

20 [redacted]. And we say that to all witnesses, so certainly mean no disrespect of

21 somebody of your caliber here today.

22 We try to keep the information that we talk about during these sessions

23 confidential. We don't have anything like Rule 6(e) that makes it unlawful to discuss.

24 What we discuss, however, we do our best to keep it confidential. So to the

25 extent we mark exhibits, we will retain those exhibits. And sometimes if a witness

1 provides us a document and then we want to keep it, it gets a little awkward, but you
2 haven't provided us any documents. But just for the sake of mentioning it, we will
3 collect the exhibits.
4 That's the end of my welcoming remarks.
5 [redacted], do you have anything?
6 [redacted] Not at this time. Thank you.
7 [redacted] [redacted] would you mind if I jumped in with a couple quick things --
8 [redacted]. Of course.
9 [redacted] -- before you start your round?
10 [redacted]. Of course.
11 [redacted] Thank you.
12 As you noted, Mr. Sobocinski is here voluntarily, and we really appreciate the
13 committee's willingness to proceed with a voluntary transcribed interview and in
14 particular the work that the staff did jointly with the Department and the Bureau to get us
15 to this point.
16 As you know, your inquiry implicates an ongoing criminal investigation. We've
17 talked about this. We've also talked about the fact that at this point Mr. Sobocinski is
18 going to be able to address questions that can be answered without compromising the
19 ongoing investigation and prosecution.
20 Specifically, the Department has authorized him to discuss U.S. Attorney Weiss'
21 authority, as well as the October 7th, 2022, meeting, subject to some constraints around
22 the ongoing investigation issue. There may be some additional information he can share
23 as well, depending on the questions and, again, consistent with our need to protect the
24 ongoing investigation.
25 We understand the committee may have a broader universe and does have a

1 broader universe of information that you're interested in. To the extent you have
2 questions that go beyond the scope of what he has been authorized to get into at this
3 juncture, we reiterate our willingness to continue the discussion with the committee on
4 those topics and our willingness to consider additional accommodations down the line.
5 That said, our goal today is very much to facilitate Mr. Sobocinski in sharing as
6 much information as he can, consistent with his authorization.
7 So I just wanted to put all of that on the record before we get started.
8 [redacted] Okay.
9 EXAMINATION
10 BY [redacted]:
11 Q Mr. Sobocinski, did the Department send you a letter --
12 A They did.
13 Q -- about what you can or can't speak to?
14 A They did.
15 Q And is that a letter that -- would that be helpful for us to have, or are we not
16 allowed to have that letter?
17 [redacted] The letter is consistent with what I just described and what we have
18 talked about before. I'm not sure the letter adds anything to that. But if you're asking
19 for a copy of the letter, I don't have it with me today.
20 [redacted] Okay.
21 [redacted] But we can talk about getting that to you.
22 [redacted]. Okay.
23 Chairman Jordan. When did they send that to you?
24 Mr. Sobocinski. Yesterday.
25 [redacted] And I understand you're not allowed to talk about ongoing matters,

1 and it would be helpful for us to know exactly what's ongoing. There's the tax charges
2 from 2014 and '15. The statute of limitations has expired for that, correct?
3 Mr. Sobocinski. I'm not -- as the FBI I'm not -- I have no general knowledge of
4 what the IRS charges are as far as when they lapse or when they don't lapse.
5 [redacted]. Okay.
6 [redacted] And, [redacted] I think -- we may well have a difference of opinion on
7 what does and does not relate to the ongoing matter. So what I can say is when
8 we -- when and if we get to those points, we may jump in and convey that that is a thing
9 that we believe involves the ongoing matters.
10 [redacted]. Okay.
11 [redacted] But, again, we're happy to continue working with the committee
12 going forward.
13 [redacted]. Okay. But just at the top, I was just going to ask a couple questions
14 about is the 2014 tax matter, is that something you can help us understand about?
15 Mr. Sobocinski. At this point I'm not in a position to talk about that.
16 [redacted]. Okay. So that is -- even though the statute of limitations has
17 expired, you can't help us with that?
18 Mr. Sobocinski. Not today.
19 Chairman Jordan. Is that specifically in the letter saying you couldn't talk about
20 that?
21 Mr. Sobocinski. I don't recall the specifics, if it said that. It was a general
22 overview of what is ongoing or not. Those -- what were being discussed right there,
23 those are tax charges --
24 [redacted]. By the way, I started the clock.
25 [redacted] I would just say, on the particular tax charges, I don't want to talk

1 past what information the witness may or may not have on that, particularly as it relates
2 to Mr. Weiss' authority. So if there are questions about his authority, the witness can
3 answer what he knows --
4 [redacted]. Okay.
5 [redacted] -- regardless of the charge.
6 [redacted]. Okay.
7 BY [redacted]:
8 Q But the fact that the 2014 and '15 tax years were subject to a tolling
9 agreement, you're aware of that, correct?
10 A What do you mean by that?
11 Q That the Department entered into an agreement with defense counsel to toll
12 the statute of limitations.
13 A I'm not aware of the specifics of any -- of that agreement.
14 Q Okay. You're aware it was discussed at a 6/15/22 meeting that you
15 attended, correct?
16 A Can you be more specific on that meeting?
17 Q Well, there was a June 15th, 2022, meeting --
18 A Correct.
19 Q -- at Department headquarters with DOJ Tax Division officials, Mr. Goldberg,
20 Mr. Daly, Mr. Morgan. You attended, I believe, and there was IRS personnel there as
21 well, correct?
22 A Correct. I now know which meeting you're talking about.
23 Q Okay. And so at that meeting, it's our understanding, that a discussion of
24 the statute of limitations expiring for the 2014, 2015 tax years was discussed. Is that
25 correct?

1 [redacted] I'm sorry. Before the witness answers, the meeting you're
2 describing is outside the scope of his authorization --
3 [redacted]. Okay.
4 [redacted] -- unless you have some basis to think that there was a discussion
5 about the issue of Mr. Weiss' authority at that meeting --
6 [redacted] Okay.
7 [redacted] -- in which case he's welcome to talk about it. But --
8 [redacted]. Okay. And we flagged that in our email, that we were interested in
9 that meeting, and that meeting was the subject of -- it was discussed in the Ziegler and
10 Shapley transcripts.
11 [redacted] Right. And we understand. And that's an example of what I mean
12 when I said that we may just have to agree to disagree in the room today on our
13 respective views on what is and is not encompassed in the ongoing matter.
14 [redacted] Okay.
15 [redacted] But I also want to emphasize that Mr. Sobocinski is here to talk to
16 some of the issues that the committee has identified as being kind of a central interest
17 and focus, and I don't -- I don't want to spend too much time getting into what he can't
18 address since he is here to answer --
19 [redacted] Well, I understand that. But I'm just trying at the top here to figure
20 out what I can and can't have productive Q&A with him on.
21 BY [redacted]:
22 Q And so, as I understand it, the fact that the 2014 and '15 tax years expired,
23 you can't help us here today with facts relating to that?
24 A Yeah, I'm not in a position to talk about the ongoing investigation.
25 Q Okay. So, in your mind, that's considered part of the ongoing investigation,

1 even though the statutes expired?

2 A Without addressing that question directly, as the FBI, IRS tax charges are

3 not -- those are not my violations that I was investigating. So I'm not in a position to

4 discuss the minutia of that.

5 Q Okay. But during the 6/15 meeting, you did have some communications

6 with Gary Shapley, correct, sort of offline?

7 A Yeah, Gary was in the meeting. Mr. Shapley was in the meeting.

8 Q And did you speak with him on the sidelines of that meeting?

9 [redacted] And, [redacted] again, I'm sorry, but this meeting is outside the scope of

10 and particularly deliberations that may have happened at that meeting, discussions

11 around --

12 [redacted] Okay.

13 [redacted] -- the status of the investigation that may have happened at that

14 meeting.

15 [redacted]. Okay.

16 [redacted] The Department views all of that as part of the ongoing matter.

17 [redacted]. Fair enough. But asking the witness whether he attended a

18 meeting doesn't implicate any ongoing investigation.

19 [redacted] And he just answered that question.

20 [redacted]. Asking a witness whether he remembers whether Agent Shapley

21 was at the meeting implicate any ongoing investigation.

22 Asking whether the witness had communications with Agent Shapley at the

23 meeting, on the sidelines of the meeting, that doesn't implicate any ongoing

24 investigations, correct?

25 [redacted] It all involves an ongoing investigation.

1 [redacted]. Okay.

2 [redacted] He has answered those types of logistical questions --

3 [redacted]. Okay.

4 [redacted] -- that you just asked him.

5 [redacted] Okay. I'll just ask one more time. I don't want to be

6 argumentative here. I'm just trying to get the lay of the land here so we can be as

7 efficient with our time as possible. I've got a whole lot of questions about the

8 2014-2015 tax year. I've got a whole lot of questions about meetings that happened.

9 And I guess I'm not going to answer them because we've had this preliminary back and

10 forth.

11 BY [redacted]:

12 Q So I'll just ask one more time. Do you recall having communications with

13 Agent Shapley at the 6/15/22 meeting sort of the sidelines of that meeting?

14 A I was in a meeting with a bunch of people. In a general sense I would have

15 talked -- I don't necessarily remember it, but it's not abnormal that I would.

16 Q Okay. So if Agent Shapley remembered something vividly and told us

17 about it, you would have no basis to suggest that was inaccurate, right?

18 A I'm not going to comment on what Agent Shapley said or didn't say about

19 that meeting.

20 Q Okay.

21 Sir?

22 Chairman Jordan. Can I just go back to the letter? You got the letter yesterday

23 from the Department of Justice. Who signed the letter?

24 Mr. Sobocinski. I don't know.

25 Chairman Jordan. Was it the Attorney General, was it the DAG, was it the

1 counsel's office? Who sent you the letter?

2 Mr. Sobocinski. I just don't remember who --

3 [redacted] Was it FBI or DOJ?

4 Mr. Sobocinski. It was a DOJ letter.

5 [redacted]. Was it Weinsheimer.

6 Mr. Sobocinski. I don't remember who sent the letter.

7 Chairman Jordan. Special Counsel David Weiss' office?

8 Mr. Sobocinski. No.

9 [redacted]. [redacted] do you know who signed the letter?

10 [redacted] We are happy to get you a copy of the letter, but it was a letter signed

11 by the Department.

12 [redacted]. Okay. But you won't tell us who signed it.

13 [redacted] It was Mr. Weinsheimer.

14 [redacted]. It was Mr. Weinsheimer. Okay. We got an answer there.

15 BY [redacted]:

16 Q So sort of the next -- I understand the tax years 2017, '18, and '19 are part of

17 the ongoing investigation and you can't talk about that. Is that correct?

18 A I can't talk about the ongoing case.

19 Q Okay. The prospect of bringing FARA charges, is that something that is part

20 of the ongoing investigation?

21 A I cannot comment on anything about potential ongoing investigative activity.

22 Q Okay. If I ask you questions about FARA then, are you going to be able to

23 help us? I mean, if it's not part of an ongoing probe, then I would hope that the answer

24 would be yes.

25 A Are you asking about my understanding of FARA and what FARA charges

1 look like, or are you asking is it relating to an ongoing investigation?

2 Q Well, I don't know in if it's ongoing or not. That's the question.

3 Are the questions about Hunter Biden and FARA, is that part of the ongoing

4 investigation?

5 A I'm not going to classify what is and what isn't currently involved in a

6 potential ongoing investigation.

7 Q Okay. But if I ask you questions about Hunter Biden and FARA, are you

8 going to be able to answer them here today?

9 A Let's see.

10 Q Okay. Are you aware of any FARA investigation currently ongoing?

11 A Yeah. Once again, that is something I cannot talk about. You're asking

12 me about a potential ongoing case.

13 Q Okay.

14 All right. When did you -- you're currently the special agent in charge of the

15 Baltimore Field Office?

16 A I am.

17 Q And when did you commence those duties?

18 A July of 2021.

19 Q And how involved have you been in this particular case since you joined the

20 office?

21 A This, like every other -- all the other cases in Maryland and Delaware, I have

22 responsibility for as the senior leader for the FBI.

23 Q And is that the Baltimore Field Office's jurisdiction, Baltimore and -- I'm

24 sorry, Maryland and Delaware?

25 A It is.

1 Q The whole State of Maryland?

2 A Correct.

3 Q And as it relates to the Hunter Biden investigation, did you receive any

4 transition meetings or communications when you took over the office from, I believe it

5 was the special agent in charge, Boone?

6 A So when I came in, yes, I received updates, verbal and in written material,

7 reviewed written materials about what investigations were currently open.

8 Q And what were you told about this particular case?

9 A Because it's ongoing, I can't go into the specifics other than it existed and

10 that I was made aware of it.

11 Q And how often did you join prosecution team meetings on this case? Was

12 it regular or was it just a handful that you can recall?

13 [redacted] Could we cabin to a time period perhaps to help him to start to

14 answer? Are you talking about when he first joined the Baltimore Field Office?

15 [redacted] Since July 2021.

16 Chairman Jordan. Yeah.

17 Mr. Sobocinski. Yeah, I don't -- less than 12.

18 BY [redacted]

19 Q Okay. And would that include meetings in Delaware with the U.S. attorney

20 and Main Justice?

21 A Yeah. So let's talk about that.

22 So what do you mean by investigative -- what are you asking for in investigative

23 meetings?

24 Q Meetings with the -- investigative or prosecutorial meetings with the U.S.

25 Attorney's Office about this case, with Main Justice about this case.

1 A So I regularly meet with all of my team on a fairly regular basis. So
2 meetings with the U.S. Attorney's Office and my team in certain instances, I'm going to
3 say less than 20.
4 Q Okay. But I'm talking about specific meetings just about this case, like the
5 10/7 meeting that Mr. -- Agent Shapley identified.
6 A I don't have a real sense of what that number looks like.
7 Q Okay. And when you communicate with Main Justice -- I'm sorry -- FBI
8 headquarters, who at the headquarters do you ordinarily communicate with? Like if
9 headquarters is contacting you to ask about a particular investigation, how would that
10 communication work generally?
11 A Unfortunately, it runs the gamut. So depending on what I'm working, it
12 could be the deputy director. It could be assistant directors in charge of various lines of
13 authority that they have. It could be their follow-on agents. I mean, so it's a mixture
14 of folks that will contact me.
15 Q Okay. As it relates to this particular case, who at FBI headquarters would
16 contact you for updates and potentially give you guidance on the case?
17 A This case was managed out of our Criminal Investigative Division, and so it
18 would have been probably at a deputy assistant director level for the majority of it,
19 potentially a section chief level.
20 Q And who were those folks?
21 A The DAD at the time was Aaron Tapp. The section chief would have been
22 Joe Rothrock.
23 Q And how frequently did headquarters reach out to you about this particular
24 investigation?
25 A I don't know how -- whether I precipitated it or whether they called me.

1 It's fuzzy. I just don't know. We talked fairly regularly around this and other cases.
2 Q Okay. Was it any more common -- or any more frequently for this case
3 than any of your other cases?
4 A In the recent few months, it's gotten more and more communication.
5 Q Okay. But largely that communication is at the DAD level?
6 A Correct.
7 Q Have you had communications with the deputy director or anyone more
8 senior than the DAD?
9 A I have.
10 Q And how frequently?
11 A Yeah, I mean, the numbers for me are -- I just don't have a clear, consistent
12 number that you're looking for.
13 Q Okay.
14 A But it's something I talk to them about.
15 Q But did they have their pulse on the case?
16 A I can't comment on whether -- they absolutely had awareness of the case.
17 Q Uh-huh. Witnesses have testified -- and I'm sure you're aware -- Agent
18 Shapley and Agent Ziegler, that during the entire pendency of the investigation their
19 efforts to conduct what they considered ordinary investigative techniques were curtailed,
20 and sometimes they said they were curtailed by FBI officials.
21 Do you have any awareness of that?
22 A I'm not aware of that at all.
23 Q Okay. So to the extent they were curtailed by FBI officials, you wouldn't
24 know who that was or how that originated?
25 A I have no knowledge of FBI curtailing their investigative activity.

1 Q Okay. And when you have communications with Main Justice, different
2 from FBI headquarters, who is your point of contact that you normally speak with?
3 A So the way we work, I do not go direct with the Department of Justice.
4 Procedurally, in general, that's a headquarters function. I go to headquarters.
5 Headquarters then facilitates that communication with the Department of Justice.
6 Q Okay. So you don't ordinarily have incoming phone calls from Main
7 Justice?
8 A I do not.
9 Q Okay. So Stuart Goldberg doesn't call you?
10 A I'm trying to be as open as I can.
11 Q Sure.
12 A I don't know who he is.
13 Q Okay.
14 A And so then that's an easy one. But I don't want to get into specifics of,
15 like, is somebody from the Department talking to me about this case. I don't know that
16 person.
17 Q During the pendency of the case, did you have communications with the Tax
18 Division lawyers, Jack Morgan or Mark Daly? Is that something that happened at the
19 SAC level, at your level?
20 A Who are those people? Do you know -- can you describe their roles for
21 me?
22 Q They're lawyers in the Tax Division of Main Justice.
23 A So without going into specifics of the ongoing case, you brought up that
24 meeting that we had this discussion about --
25 Q Right.

1 A -- I don't have an ability to talk about. If they were in that meeting, then
2 they would have been in that meeting.
3 Q Okay.
4 A I may have met them there.
5 Q But outside of a meeting like that, you don't have regular communications
6 with the Tax Department officials?
7 A I do not.
8 Q Okay. Can you help us understand -- this particular case had IRS
9 investigators and had FBI investigators -- how that was split up and how the duties were
10 divided and how they work together?
11 A So, once again, cannot talk about this particular case, but I can talk about in
12 general how cases like this work.
13 Q Okay.
14 A And depending on what the thing we're looking at is, whether it's an
15 investigation or an intelligence operation, different agencies have different authorities.
16 The FBI regularly partners with these folks.
17 I think at a basic level we have task force officers. Those are officers, State and
18 local partners, that are given authorities for the FBI. They sit in our office. They work
19 our investigations.
20 We also have joint investigations where components are assigned to work a
21 similar case. They vary from -- all these cases vary. But in general you split up based
22 upon what your organization does most.
23 And so, hypothetically, if it was -- if this was a tax case, IRS is going to usually work
24 the tax component of a joint investigation. Terrorism, which is what I mostly worked my
25 career, you would then -- we would be in charge of the terrorism side charges.

1 Q Okay.

2 A And at some point they'd come together for prosecution, close the case,

3 move on, resolution.

4 Q Okay. But it's fair to say sometimes IRS criminal investigators are working

5 hand in hand with FBI agents to go interview witnesses and conduct investigative activity?

6 A Yes.

7 Q And when that's happened, is there any rules of the road about how those

8 duties are split, or do they just operate as a team?

9 A You know, in a general sense you want to record information in one place.

10 So my hope is that before that meeting, that interview, or whatever happens, they've

11 agreed in advance that one of the persons is going to make the -- to record what just was

12 discussed. One person is going to take items, evidence, things like that.

13 Q Okay. Agent Shapley talked about a day of action, for example, that was

14 scheduled to occur in I believe it was December of 2020. And he spoke about how [redacted]

15 [redacted], an FBI official, and himself were on the ground in California and were getting

16 ready to go do interviews.

17 How would something like that, how would the duties be split?

18 A You know, so, once again, can't talk about that. I wasn't even in this

19 position during that frame.

20 Q Fair enough.

21 A But, yeah, we regularly send agents over. And from my current position

22 other levels would discuss in advance, "Hey, we're sending you to Milwaukee." "Why

23 are you going to Milwaukee? Why couldn't Milwaukee handle it if we are sending

24 agents out together?" I mean, at this point that's an agent-level decision on how that

25 usually gets split when they're doing it.

1 Q Okay. Now, if there's an investigative decision about whether they're going
2 to approach a witness cold, who makes that decision? Is that IRS or FBI or is that made
3 jointly, knock on a door and just try to get a witness in a candid moment to talk?
4 A Yeah, that's an agent decision.
5 Q Okay. And if there was a plan to talk to a particular witness -- I'm just
6 talking generally -- if there was a plan to talk to a particular witness and catch that
7 witness cold, if someone at FBI or a different -- or Main Justice tipped off that witness
8 that the FBI agent and the IRS agent were going to talk to cold, would you consider that
9 to be problematic?
10 A There are different strategies for interviews. And in my almost 30-plus
11 years of law enforcement, I've done different things.
12 Q But if the game plan was to catch a witness cold, knock on his door and see if
13 he's willing to talk, would you consider it problematic if someone else in the mix alerted,
14 say, the defense attorney for that witness that perhaps the FBI was going to knock on
15 their door the next morning?
16 [redacted] Are you asking him to speculate on an actual thing that you believe
17 happened in this specific case?
18 BY [redacted]
19 Q I'm just saying generally. You know, you've been with the FBI how many
20 years?
21 A 25, going on 25.
22 Q So you have an incredible wealth of experience about best practices for
23 conducting investigative work, correct?
24 A At this point I'm dangerous enough to kind of know what I'm doing a little
25 bit.

1 Q So if the plan -- generally speaking, not talking about anything specific -- but
2 if the plan generally was to catch a witness by surprise, which you do from time to time,
3 correct, you try to get witnesses to talk to you, right, without the benefit of their lawyer,
4 without the benefit of too much opportunity to think things through, correct?
5 A Have I done that in the past? Sure.
6 Q But that's something the FBI and IRS criminal investigators do all the time,
7 correct?
8 A Interview people? Absolutely.
9 Q And try and take them by surprise and get them in a candid moment?
10 A You know, I've done hundreds of interviews, and there are a hundred
11 different ways I come about each one of those interviews.
12 Q But that's one of the regular ways, right?
13 A Trying to surprise people? It may very well be, but --
14 Q Maybe "surprise" is the wrong word, but just try to visit with them and see if
15 they'll talk?
16 A I and my agents every day are visiting with people trying to get them to
17 talk --
18 Q Right.
19 A -- and get information from the community.
20 Q And sometimes the game plan is try to get them to talk without them
21 knowing you're coming, correct?
22 A Sure, that's absolutely an option.
23 Q Okay. And if that was the plan with a particular witness -- generally
24 speaking -- and someone at DOJ or somebody else at FBI tipped that witness off, that
25 would not be a best practice, would it?

1 A You're asking me to speculate. There may have been a justifiable reason of
2 why that happened that I wasn't aware about in your hypothetical situation.
3 Q Okay. Do you know Agent [redacted] that I mentioned? He was in the --
4 A Can I go off, have a moment here?
5 [redacted]. Sure.
6 [Discussion off the record.]
7 Mr. Sobocinski. Yes, I know [redacted]. I would ask that he is not an executive
8 in the FBI and that as best as we can we keep his identity as it relates to my testimony
9 here anonymous.
10 [redacted] Okay. At the end of the interview, we'll give you a -- I'm going to
11 stop the clock here for recordkeeping purposes. At the end of the interview, the court
12 reporters, they'll turn it around pretty quickly, you can come in and review the transcript
13 for accuracy.
14 Mr. Sobocinski. Okay.
15 [redacted]. And agency counsel, those that are in the room, can come in and
16 look at the transcript. And if there's any inaccuracies, you can identify them for us. If
17 there's any proposed redactions, we'll take that into consideration.
18 And also, just when you're reviewing the transcript, if you realize that you got
19 something wrong or you remembered something, you can tell us. You can tell us at that
20 time.
21 And so if you or FBI, DOJ counsel thinks that a particular name needs to be
22 redacted, they can propose it, and then we'll consider it. A lot of times we're okay with
23 that redaction. Sometimes we're not.
24 With Agent [redacted] in particular, he's testified for a different committee, so --
25 [redacted] The committee did redact his name and has not released his name,

1 however, so I think that's --

2 [redacted] OGR did that?

3 [redacted] Yeah.

4 [redacted]. Is that true, [redacted]?

5 [redacted] Correct.

6 [redacted]. Okay. All right.

7 [redacted] And I think there were -- just on this point -- there were a few of the

8 Tax Division attorney names also fall into this category.

9 But appreciate the offer, and we're happy to look at that after the fact.

10 [redacted]. Yeah, just so you understand how the transcript review works.

11 Usually the court reporters give it to us pretty quickly too. They're awesome.

12 Anyway, we'll go back on the clock here.

13 [redacted] Got to praise the court reporter.

14 [redacted]. Absolutely.

15 BY [redacted]:

16 Q So Agent [redacted], he was under your purview?

17 A He was a supervisor that worked for me for a time, yeah.

18 Q Okay. And how long did he work for you?

19 A I think maybe a year.

20 Q Okay. And was he based in Wilmington?

21 A He was.

22 Q Okay. And he was one of the main agents on this case?

23 A He was a supervisor in the office.

24 Q How many folks are in the office up in Wilmington?

25 A Yeah, I can't -- we don't regularly give out the numbers of our office.

1 Q Okay. So you know the answer, but you're not going to tell me the
2 answer?
3 A I have a general sense of the answer.
4 Q Okay.
5 A I would say I would love more. But I don't have a --
6 Q So you know the answer, but you're not going to give me the answer. Is
7 that what you're saying?
8 A I have a general sense of the numbers, yes.
9 Q I want to turn our attention to the October 7th meeting.
10 A Uh-huh.
11 Q And we'll mark as an exhibit -- it will be exhibit 1 for us, but it was exhibit 10
12 for Agent Shapley's deposition.
13 [Sobocinski Exhibit No. 1
14 Was marked for identification.]
15 BY [redacted]
16 Q Is this the first time you've seen this document?
17 A It's not.
18 Q And when have you seen this document before?
19 A Sometime in the last week.
20 Q Okay. So these are contemporaneous notes prepared by Agent Shapley of
21 the IRS summarizing a meeting that happened on Friday, October 7th, 2022. And it's my
22 understanding you attended this meeting?
23 A I attended a meeting around that date, yes.
24 Q And do you remember who was in that meeting?
25 A Yeah, in a general sense I do.

1 Q Okay. And can you tell us who?

2 A So, yeah. Myself, would have been my assistant special agent in charge.

3 Q And who is that?

4 A She is not an SES employee, so right now I'm not going to give you her name.

5 Q Is that Agent [redacted]?

6 A I'm not going to discuss her name right now.

7 Q Okay. I mean, we sent a subpoena to her. She's slated to testify on

8 Monday. So, okay.

9 A The SAC for IRS. Other SACs --

10 Q And who was that?

11 A I believe it was Darrell Waldon.

12 Q Okay.

13 A And then other IRS employees. I don't have a -- I don't know the specifics

14 of who there was in there. I do believe Mr. Shapley was one of them. David Weiss,

15 the U.S. attorney, was in there, and then members of his staff. But, once again, it's just

16 a general sense of who they were. Specifics I don't recall from that.

17 Q And what was the purpose of the meeting?

18 A You know, the purpose -- why I showed up for the -- why I went to this

19 meeting is there had been a media leak reported in one of the papers, and I was there to

20 discuss the media leak.

21 Q What do you remember about the leak?

22 A That it was -- it appeared to reference ongoing investigative activity in this

23 case.

24 Q Do you remember what publication it was in?

25 A I believe it was The Washington Post.

1 Q And what was the gist of the article or the gist of the concern?
2 A That potentially somebody was working -- a law enforcement investigation
3 was talking to a reporter.
4 Q Did you have an idea who that was?
5 A Yeah, I didn't speculate at that point. It could have been quite a few
6 people.
7 Q Like who do you -- this case obviously has been the subject of a lot of
8 reporting and leaks, whether they're authorized or unauthorized. Who's talking to the
9 press on this case?
10 A Yeah, you're asking me to speculate. I don't know.
11 Q But you're not?
12 A I am not.
13 Q Okay. And, to the best of your understanding, nobody at the FBI is,
14 correct?
15 A I'm not aware of -- I can't speculate on who the leaks are.
16 Q Okay. So the meeting was called to talk about the leak?
17 A Yeah, to reference the leak and to make sure we were focused on the
18 investigation and moving it forward to a resolution.
19 Q Did U.S. Attorney Weiss, did he exhibit concern about the leaks?
20 Do you know who called the meeting? Was it a regularly scheduled meeting or
21 was it a --
22 A Yeah, I don't --
23 Q You don't remember?
24 A I don't have a sense of whether it was previously scheduled or it was we
25 were showing up because of that. My memory is it was -- I was there because of the

1 timing as it related to that leak.

2 Q But you drove up to Baltimore?

3 A Wilmington.

4 Q I'm sorry. You drove from Baltimore to Wilmington?

5 A Correct.

6 Q Did you drive specifically to Wilmington for the meeting, or did you have

7 business there that you were already scheduled to be there?

8 A Yeah, I don't know. I regularly go up. It's part of my -- I have teams there.

9 I try to go there regularly. I try to do as much -- to cram as much in as I can.

10 Q Okay. And do you remember any other purpose that the meeting was

11 called?

12 A Other than what I just talked about, no.

13 Q Yeah. Looking at -- let me just ask you one question.

14 FBI Form 302s are reports of interviews that FBI agents prepare, correct?

15 A Correct.

16 Q For the most part, do you think FBI 302s are reliable documents?

17 A I do.

18 Q And why are they reliable?

19 A Because it is by which the way the FBI records -- and has for some

20 time -- records interviews.

21 Q Okay. So FBI investigators are trained to interview witnesses, correct?

22 A Correct.

23 Q And write up the contents of their interview in a contemporaneous fashion,

24 correct?

25 A Correct.

1 Q And the same goes for IRS criminal investigators. They write up their
2 interview summaries and reports much in the same fashion, correct?
3 A Yeah, I can't comment on what their process is. But I think law
4 enforcement worldwide writes up interviews of --
5 Q And from your perspective the 302s are reliable because they're
6 contemporaneous, and they're written by a professional whose job it is to conduct
7 interviews and write reports about those interviews, correct?
8 A Yes.
9 Q Okay. So exhibit 10 here is a contemporaneous report, in effect, of the
10 October 7th meeting prepared by Agent Shapley. And Agent Shapley identifies in this
11 particular document that Mr. Waldon, the special agent in charge, asked him for this
12 report.
13 So, for the most part, this type of contemporaneous capture of a meeting is, in
14 essence, a reliable document, correct?
15 A I can't comment on the veracity of this. You have what looks like an email
16 chain. I really don't know who wrote it. I was not referenced in it. But I can talk
17 about what it states.
18 Q Uh-huh. But you don't have any evidence to suggest --
19 A No.
20 Q -- that Mr. Shapley didn't write this, correct?
21 A No. But we are in a conversation. You're asking me to be truthful, and I
22 just don't know the veracity and when this was written.
23 Q Okay.
24 A And I do see regularly emails that are manipulated in my course of business.
25 Q Okay.

1 A And so I just want to put that out there.

2 Q Okay. Fair enough. I mean, for the record, Agent Shapley testified under

3 oath. He brought this document to that deposition. And he articulated that he

4 prepared this email contemporaneously because his special agent in charge asked him to.

5 So with that sort of stipulated to, there's no reason that these notes would be

6 unreliable?

7 A Okay.

8 Q So you understand that, you don't have any evidence or suggestion that

9 these are unreliable?

10 A No. I appreciate your statement, yeah.

11 Q Okay. And so this is a two-page document, and it talks about six

12 enumerated items.

13 Number 2 on here is: "Weiss stated that he is not the deciding person on

14 whether charges are filed. I believe this to be a huge problem -- inconsistent with DOJ

15 public position and Merrick Garland's testimony."

16 You were in the meeting. Did that -- do you remember that occurring?

17 A I don't.

18 Q So you do not remember the U.S. attorney stating that he is not the deciding

19 person on whether charges are filed?

20 A Yeah, I do not.

21 Q Okay. Now, at this point in time in the investigation, who did you think had

22 authority to bring charges?

23 A David Weiss.

24 Q Okay. And if David Weiss wanted to bring charges outside of his

25 jurisdiction, who had authority to make that happen?

1 A David Weiss.

2 Q Okay. So if David Weiss brought the 2014-2015 tax cases to D.C., to the

3 U.S. attorney, Matthew Graves, whose call was it to bring those charges?

4 A Once again, I'm not aware of that discussion. I was consistently aware that

5 David Weiss had the authority in the U.S. to bring the charges where venue presented

6 itself.

7 Q Okay. Wherever he wanted? He could bring it in California? He could

8 bring it in D.C.?

9 A Correct.

10 Chairman Jordan. And on what basis did you understand he had that authority?

11 Because that's not normal. He can bring them in his district. On what basis did you

12 understand he had that authority?

13 Mr. Sobocinski. So from when -- the minute I got there in July of '21, it was

14 always the understanding and the communication between David Weiss and myself is

15 that he had that authority to bring it on behalf of the Department.

16 Chairman Jordan. So you believed that he had this authority when, where, and

17 whether?

18 Mr. Sobocinski. Yeah.

19 Chairman Jordan. Okay.

20 BY [redacted]

21 Q And so you are aware that charges were brought to Matthew Graves in D.C.,

22 correct?

23 A I am not.

24 Q So you don't remember being at any meeting or at any point during the

25 investigation where you learned that the U.S. attorney for D.C. denied David Weiss the

1 ability to bring charges?

2 A Without getting into the specifics of an ongoing case, it did come -- it was

3 brought to me at some point -- probably the summer that I arrived, maybe a little bit

4 later -- that they had been exploring where to bring charges, and one of those locations

5 was D.C.

6 Q Okay.

7 A I'm not aware of a declination. I'm not aware of what that -- that occurred

8 prior to me getting involved. But I was aware that there had been discussions.

9 Q Right. Well, I don't think it happened -- I think it happened during your

10 pendency that the 2014 and '15 tax charges were brought to D.C. But you don't

11 remember that?

12 A You know, as we started, the tax charges were IRS. And so for me and my

13 role, yeah, I didn't have visibility into that.

14 Q Okay.

15 [redacted] Could we go off the record for just one second?

16 [redacted] Okay.

17 [Discussion off the record.]

18 Mr. Sobocinski. So, yeah, I want to give you context on what we talked about,

19 what the cases look like. So I want to be as expansive as I can so you have an

20 understanding of this.

21 So for us, when it comes to charging decisions, that's not an FBI role. I always

22 assume that the U.S. Attorney's Office that I am working with has some authority to do it

23 in their venue. And if they don't, there are administrative ways in which cases are

24 brought to other districts in the U.S. That's something I've worked with regularly

25 throughout my career.

1 There are various ways that happens. We can transfer a case. I have a general
2 sense that David could go to -- Mr. Weiss could go to another district. He could ask to
3 have that joined. If it's not, then he goes back for an administrative authority to bring
4 the case on his own.
5 But it's administrative in nature. At no point did I think he did not have that
6 authority to do all of those steps with all that we were looking at.
7 [redacted]. So as I understand your testimony, you were unaware that in March
8 of 2022 -- this is after you, you know, this is after you joined the Baltimore Field Office, in
9 March of 2022 they brought -- the prosecution team brought the case to Matthew
10 Graves, the U.S. attorney for D.C., and asked him to prosecute the tax years of 2014 and
11 2015.
12 You're saying you're unaware of that?
13 Mr. Sobocinski. Once again, I can't comment on the specifics of an investigation.
14 But I know that from my role, I was looking to support David Weiss' office to bring a
15 resolution to this, whether it's charges or whatever it may be.
16 [redacted]. I mean, you have responsibility to this case. Certainly you were
17 curious whether this was going to be brought in D.C., in Delaware, in California, correct?
18 You were tracking that. You were managing that. You're the manager here.
19 Mr. Sobocinski. I was not curious as to, like, the minutia of this process. It's not
20 something that fell to me. I absolutely wanted to get a resolution in this investigation.
21 Chairman Jordan. You always thought that Mr. Weiss had the authority to bring
22 charges wherever and whenever he wanted to?
23 Mr. Sobocinski. Correct.
24 Chairman Jordan. You thought that the entire time?
25 Mr. Sobocinski. Correct.

1 Chairman Jordan. From July 2021 when you got there all the way through, you
2 thought he could bring them wherever he wanted to bring them?
3 Mr. Sobocinski. Correct. And that there was an administrative process that I
4 don't know the minutia of that the Department -- then he would work within the
5 Department to have that authority to do that within whatever venue this ultimately
6 resided in.
7 BY [redacted]:
8 Q And do you ever remember David Weiss stating that he was denied by the
9 U.S. attorney in D.C. to bring those charges?
10 A Once again, I don't want to go -- I'm not going to -- I can't go -- I don't want
11 to go into deliberative process about what he did or didn't. It was my general sense is
12 I'm aware that there had been conversations with venues and then we were continually
13 looking to support him as he was trying to figure those venue issues out. But it was my
14 understanding that he had the authority -- ultimate authority to work through the
15 administrative process to bring these cases.
16 Q To bring a case in D.C.?
17 A To bring a case where he deemed appropriate.
18 Q If that's the case, why did he feel the need to ask for any special authority in
19 August of this year?
20 A You'll have to ask Mr. Weiss that.
21 Q Uh-huh. So when did you learn that the 2014 and 2015 tax cases which
22 had venue in D.C. weren't going to be able to go forward?
23 A Once again, I cannot comment on the specifics of the case. I will say I'm an
24 FBI agent. I'm not an IRS agent. Those charges solely were led within IRS. And I was
25 looking on bringing the totality of this investigation to a close.

1 Q Right. But this is a high-profile investigation. It's the son of the President
2 of the United States. You were managing it. You were following it. Okay? You've
3 got to be able to tell us when you realized you can't bring the 2014 and '15 tax charges in
4 D.C. and how you learned that.
5 A I can't get into the minutia of the actual case. I will say if you've ever sat in
6 a room with IRS agents and lawyers talking about taxes, unless you're an expert and you
7 are engrossed in the minutia of that, they get very complicated.
8 Q Okay. Fair enough.
9 But he had millions of dollars in income from Burisma, right, for a no-show board
10 appearance. Okay? And that income was about to escape taxation because the
11 statute of limitations were expiring. I mean, you as the head of the relevant FBI field
12 office had to be tracking this, correct?
13 A Tracking -- when you -- by "this," what do you mean "this"?
14 Q That millions of dollars of income subject to the 2014 and '15 tax years were
15 about to expire that needed to be prosecuted, otherwise the statute of limitations would
16 be -- would lapse. You had to be tracking this. So what can you tell us about it?
17 A Without going into specifics of the actual investigation, I was focused on
18 bringing this case to a resolution.
19 Q Okay. I mean which case? Like the whole case or the tax part?
20 A I was focused on bringing cases -- everything -- you know, the hundreds of
21 cases I have, we want to get them to end. Whatever those charges ultimately end up is
22 not up to me as the FBI. I'm putting the evidence together, providing it to a prosecutor.
23 Q Okay.
24 A They're working those issues on what charges actually are brought.
25 Q Okay. At some point you learned that the 2014-'15 cases couldn't be

1 prosecuted in D.C. and couldn't be prosecuted at all. When was that?

2 A I'm not commenting on the specifics of ongoing cases.

3 [Outside interruption.]

4 Q Sorry.

5 A Yeah, I'm not going to comment on the dialogue of what we were discussing

6 as the case is --

7 Q Is it because you know and you're not going to tell me, or is it because you

8 don't know?

9 [redacted] I think it's -- [redacted] it's the reason we said earlier, the 2014 and 2015

10 tax years, and these questions get at issues that are outside the scope of what --

11 [redacted]. This is at the heart of what we're looking into, Weiss' ability to bring

12 charges in D.C., Weiss' ability to bring charges in California, his authority to do that. He

13 tried to do that, he tried to bring it in D.C., and he was denied. And I'm simply trying to

14 ask the witness when he learned that.

15 [redacted] You were asking him about specific tax years, and I think he's spoken

16 to your question.

17 BY [redacted]

18 Q Well, I think we can stipulate that '14 and '15 are D.C. So, I mean, this is at,

19 like, the heart of our, like, interest, the heart of Weiss' authority.

20 So, I mean, I think we're going to be disappointed if you're not able to tell us about

21 that. And if you're not going to tell us about it, I'd like to know whether you know the

22 answer and you're just not telling us or whether you just don't know the answer.

23 A Are you asking me that question?

24 Q Yes.

25 A I am not going to specifically talk about prosecutorial decisions.

1 Q Okay.

2 A What charges are brought or not brought, that's up to the U.S. Attorney's

3 Office.

4 Q But my question is, do you know the answer of when you learned they

5 weren't bringing the case in D.C. for 2014 and 2015 tax years?

6 [redacted] Can we pause, go off the record?

7 [redacted] Sure.

8 [Discussion off the record.]

9 Mr. Sobocinski. Yeah, so as I mentioned earlier, I was around the tax portion of

10 this case. The minutia of what years, what not years had been discussed throughout

11 that process. I have no real direct knowledge of how they ultimately were resolved and

12 the time frame of when they ultimately resolved.

13 BY [redacted]:

14 Q Okay. Are you aware that the 2014 and '15 tax years had a lot of money

15 coming in from Burisma?

16 A I cannot comment on ongoing aspects of this case.

17 Q And, again, do you know the answer to my question or do you -- and you're

18 not willing to tell me because of the direction from the Department, or do you not know

19 the answer?

20 A I have a -- can you rephrase that question for me?

21 Q I'm just wondering whether you know the answer to my question about the

22 2014 and '15 tax years encompass, like, millions of dollars untaxed income coming in from

23 Burisma, which he was sitting on the board in case you haven't -- are you aware that he

24 was sitting on the Burisma board?

25 A I have seen open-source media reporting that he sat on a Burisma board.

1 Q Okay. And he was paid a handsome annual fee to sit on that board. Are
2 you aware of that?
3 A I can't comment on what I know about his financial activity as it relates to
4 this investigation.
5 Q Okay. And is it because you don't know the answer to that or you're not
6 able to comment because it's an ongoing investigation?
7 A I'm not able to comment because it's an ongoing investigation.
8 Q Okay. Fair enough.
9 So my question about the 2014 and '15 tax years, when that statute of limitations
10 was about to expire, there's, like, millions of dollars in untaxed income that was just
11 about to go away. And I'm just asking you if you were tracking that.
12 A I had a very high-level sense of IRS charges. IRS and the U.S. Attorney's
13 Office were in the weeds on what that process would like and what the minutia of their
14 ability to charge would be.
15 Q Okay. But at some point there was a resolution that they're not charging
16 2014 and 2015 and they can't charge it because the statute has expired, correct?
17 A I can't comment on a charging decision by the U.S. Attorney's Office.
18 Q But did you know that was happening?
19 A I have an ongoing case. I cannot talk about aspects of that case that might
20 be continuing.
21 Q Okay.
22 [redacted] Do you have a specific recollection that goes to the question?
23 Mr. Sobocinski. Yeah, I don't. You're asking me about tax years, and I go back
24 to I'm not -- I and my agents are not tax agents. The minutia of tax law is very
25 complicated. We have the -- there's a whole government entity. There's various

1 lawyers that specialize in this. I had a general sense of this.

2 Chairman Jordan. Yeah, but this is simple. He got a boatload of money and

3 didn't pay -- this wasn't complicated. This is, like, he just failed to pay the taxes on a

4 boatload of money he got. So this is as simple as it gets. And this has got to be the

5 highest profile -- well, one of the highest profile investigations your office is doing.

6 And [redacted] is asking a simple question. Did you know when they decided not to

7 do it?

8 Mr. Sobocinski. No, I have no direct date or knowledge of when any of those

9 decisions may or may not have happened.

10 BY [redacted]

11 Q But you know that the decision did happen, correct?

12 A When -- once again, I refer -- I'm not going to speculate on what they

13 decided as far as potential charges in an ongoing investigation.

14 Q But you knew, for example, they couldn't bring those charges in Delaware,

15 right?

16 A It is my understanding, based upon the U.S. Attorney's Office and

17 prosecutors making that determination, that Delaware was not the appropriate venue.

18 Q That they had to go to D.C. or California to do the tax charges, right?

19 A That they were actively exploring other locations.

20 Chairman Jordan. And you thought they had the authority to do so?

21 Mr. Sobocinski. Correct.

22 Chairman Jordan. You were always under that assumption?

23 Mr. Sobocinski. Correct.

24 Chairman Jordan. Which sort of begs the question [redacted] asked earlier. If they

25 already had it, why does he need it? If they already had the authority to bring it, which

1 you thought they did, why does he need the special counsel designation now?

2 Mr. Sobocinski. That's a conversation with somebody else other than me. I

3 was not a part of that.

4 Chairman Jordan. Okay.

1 BY [redacted]

2 Q You said that you weren't tracking these tax -- the tax part because you're

3 FBI, not IRS.

4 What were you tracking? Like, what part of the investigation were you tracking?

5 A I can't comment on ongoing portions of this investigation.

6 Q Okay.

7 A But I was regularly working with the U.S. Attorney's Office.

8 Q Okay.

9 [redacted] At a general level?

10 Mr. Sobocinski. Meaning? Excuse me.

11 [Discussion off the record.]

12 Mr. Sobocinski. Yeah. So as I talked about earlier with moving forward, is that

13 regardless of what the U.S. Attorney's Office chose to charge, my team and I were

14 collecting information to be used however he deemed to use it for whatever specific

15 charges he wanted to use. I wanted to keep that momentum going so that we got to an

16 end point, whatever that end point would be.

17 BY [redacted]:

18 Q Okay. And what were the venues that that end point could have been that

19 you were tracking so carefully?

20 A So I had awareness of previous discussions in D.C. and then I did have

21 awareness in L.A.

22 Q Okay. And then there was a point where Graves said no, correct?

23 A I'm not personally aware of that, of what actually happened.

24 Q Okay. Did you know that they stopped working towards prosecuting a case

25 in D.C. at any point in time?

1 A You know, that's a question for David W eiss. I don't know what his -- what
2 they were doing on their side.
3 Q But at some point you're managing this and you're thinking, "Hey, this case
4 that I'm managing, I'd like to bring it to a resolution," and that resolution is either going to
5 happen in D.C., Delaware, or L.A., right?
6 A That -- I -- well, first, it wasn't up to me, and I didn't -- I didn't care about
7 what venue we went to. I just wanted to bring it forward to resolve this case.
8 Q But you said you'd been in meetings, in 12 or 20 -- I forget the number -- but,
9 obviously, you were tracking where the cases were going to be, how they were going to
10 be put together, and where they were going to be brought, right?
11 A Yes.
12 Q Okay. And you knew it was either D.C., L.A., or Delaware, right? There's
13 no other venue I'm missing, is there?
14 A I can't go into the specifics of what DOJ and the U.S. Attorney's Office
15 explored as far as potential venues.
16 Q But as far as your awareness, those are the three venues, right?
17 A Those were three venues that were discussed.
18 Q Okay. And at some point D.C. dropped off the map, it wasn't an option,
19 right?
20 A I think the dropped off the map is clear.
21 Q Okay. And did you ever have any communications with David Weiss about
22 that?
23 A I can't go into specifics. But, once again, conversations with David Weiss
24 always were focused on he had the authority to bring this case wherever he felt the
25 venue was most appropriate.

1 Q Okay. And did David Weiss ever explain to you why he was just going to let
2 go of the 2014 and 2015 tax years?
3 A You know, I have no -- that was -- no, that was not a discussion. Taxes
4 were not a discussion that Dave and I regularly had. It was whatever the full case
5 resolution would look like. And so, yeah, the tax years was not something that David
6 and I regularly talked about.
7 Q Okay. Turning back to this exhibit 1.
8 Number 2: "Weiss stated that he is not the deciding person on whether charges
9 are filed."
10 2a: "I believe this to be a huge problem -- inconsistent with DOJ public position."
11 So you don't remember Weiss saying that at the 10/7 meeting?
12 A That he was not the deciding person?
13 Q Correct.
14 A Correct. I do not remember -- I don't -- he didn't say that. In my
15 recollection, if he would have said that, I would have remembered it.
16 Q Okay. So you're saying in your recollection that didn't happen?
17 A Correct.
18 Q Okay. "Process for decision: Needs DOJ Tax approval first -- stated that
19 DOJ Tax will give 'discretion.' (We explained what that means and why that is
20 problematic)."
21 Do you remember that part of the discussion?
22 A Without going into specifics, there were discussion about taxes and venue.
23 And, once again, Mr. Weiss had the authority to bring it.
24 Q So he didn't need DOJ Tax's approval?
25 A There was, like, a bureaucratic administrative process he had to work

1 through, but I never viewed it as or talked about it as approval. I don't remember David
2 saying approval. It was solely a process that he had to work through.
3 Q And we've discussed a good bit that -- Shapley writes here: "U.S. Attorney
4 Weiss requested Special counsel authority when it was sent to D.C. and Main DOJ denied
5 his request and told him to follow the process."
6 Do you have any awareness of that?
7 A I don't.
8 Q Flipping the page.
9 "Mid-September they sent the case to the central district of California" -- Los
10 Angeles -- "coinciding with the confirmation of the new Biden-appointed U.S.
11 attorney" -- Martin Estrada.
12 Do you have any recollection of that being discussed at the meeting?
13 A Once again, I can't get into the specific conversations as it relates to the
14 ongoing case. But, yeah, I had a general sense that there were discussions in California,
15 as we talked about.
16 Q Okay. But my question was do you remember this being discussed at the
17 10/7 meeting?
18 A I don't, but it wouldn't be abnormal.
19 Q Okay. So you don't remember it being discussed, but there's no reason to
20 believe that it wouldn't if Shapley writes this up?
21 A In most of the meetings I was -- let me be really clear here. Most of the
22 meetings I was in with David and everybody else, it was the process of moving this
23 forward, that that's what my focus was, to move this case to a resolution.
24 Q What would a resolution look like in your mind?
25 A You know, the case is going to close, we're going to have charges or we're

1 not going to have charges. That's up to the U.S. Attorney's Office. But to do
2 everything within the FBI's power to get the evidence we need to have somebody
3 else -- the prosecutors -- make those charging decisions.
4 Q Okay. I want to jump down. Number 3 was: "They are not going to
5 charge the 2014/2015 tax years."
6 Do you have any recollection of that topic being discussed at this meeting?
7 A I'm not trying to be argumentative, but when it comes to the -- we talk about
8 whether this was simple or not.
9 Q Uh-huh.
10 A I have found in my time that every time IRS and tax attorneys talk, it
11 becomes overly complicated. And so for me, I have no general sense of tax years, when
12 and when we discussed those.
13 Q But there's -- fair enough. And I admit that's a point I'll concede there.
14 But, generally speaking, the issues with 2014 and '15 related to the Burisma
15 income, correct?
16 A I cannot comment on an ongoing case.
17 Q Do you know the answer, or are you just not --
18 A Do I know the answer of those years --
19 Q Yes.
20 A -- were there Burisma income?
21 Q Yes.
22 A I can't comment on that.
23 Q Okay. And, for example, in 2018, he was expensing sex clubs and
24 prostitutes. Are you aware of that allegation?
25 A I can't comment on any of that.

1 Q Okay. So, again, you don't -- you're not going to comment or you don't
2 know the answer? You know the answer and you're not going to tell me or --
3 A I'm not going to comment.
4 [redacted] The question was, are you aware of the allegation?
5 Mr. Sobocinski. That -- I'm sorry? That I was aware of the allegation of
6 Burisma, that I was aware of the allegation of prostitutes, which --
7 BY [redacted]
8 Q Well, he expensed, like, a sex club on his 2018 tax return, and that, as you
9 can imagine, is a problematic deduction.
10 A I am aware of the allegation.
11 Q And there were a lot of deductions like that in 2018. And so if you're trying
12 to identify the different issues of the different tax years, 2018 is, like, there's a lot of
13 issues of that sort. I'm asking you whether you're aware of that.
14 A Once again, I can't talk about ongoing cases. However, I'm not in the
15 minutia of what --
16 Q Number 4 on here: "The FBI SAC" -- presumably that's you -- "asked the
17 room if anyone thought the case had been politicized."
18 Do you remember saying that?
19 A I do.
20 Q And what do you mean by that? I mean, in general that's somewhat
21 ambiguous. So can you tell us what you meant by that?
22 A Yeah. At the time I hope it wasn't ambiguous.
23 There was the media leak. Obviously, that was incredibly troubling to me and
24 any potential investigation that we were going to continue to do. I think -- I have a
25 general sense that that was part of it, is that this was being politicized.

1 I, at the time -- I did not think that it was. And so I wanted to go on record in the
2 room of the leaders who were involved in this investigation, I wanted to say I didn't, offer
3 my team the opportunity to do that, to say it there, and offer the other individuals in the
4 room this was the appropriate venue to bring that up and let's discuss it. Because if it
5 was, that was going to be a problem, and we needed to work through it because, for me, I
6 wanted to get this case resolved.
7 Q At that point were you aware that the day of action -- which, in fairness, was
8 before you joined the office, it was December 8th, 2020 -- that the day of action the
9 investigators, Joe Gordon, Gary Shapley, wanted to go talk to Hunter Biden?
10 And were you aware that somebody in the U.S. Attorney's Office or somebody in
11 the FBI tipped off the transition team, the political transition team? Were you aware of
12 that fact?
13 A I was not in this role at that time.
14 Q But were you aware of that fact, or is it the first time you're hearing about
15 it?
16 A Can I go off the record?
17 [redacted] Sure.
18 [Discussion off the record.]
19 Mr. Sobocinski. Yeah. At some point when I came onto the job, I was aware
20 that there had been an attempt to interview Hunter Biden in California. The minutia of
21 what that process was, approvals, things like that, I was not directly involved in.
22 BY [redacted]
23 Q But would you agree -- and this will be my last question, my hour is up
24 here -- would you agree that if somebody had tipped off the transition team, the political
25 transition team, that that would have politicized the investigation?

1 A I can't comment about specifically this case. But you haven't asked, but I'll
2 say it. I was a Secret Service agent. And it would have been expected for me, and I
3 would expect an investigative entity if they were going to want to interview a protectee
4 of mine, to come directly to me.
5 And so I don't know what that process would look like during that moment in time
6 to get to that protectee. I just don't know what that would look like.
7 Q Okay.
8 A But it would definitely be of concern to me if I was a Secret Service agent
9 and somebody's knocking on my door -- an armed individual claiming to be somebody is
10 knocking on my door. Yeah, that would have been a concern for me.
11 Q Okay. But when you asked whether the case had been politicized, in
12 essence, is it fair to say you were asking whether there had been any political favoritism?
13 A I was asking in a room of leaders on this case to say, "Hey, we are working
14 together. We're moving this thing forward. Do you think there's any manipulation
15 from the outside that's stopping us from what we're doing?"
16 Q And you thought at that point the answer was no?
17 A Thought that it was no, and nobody in that room raised their voice to say
18 anything other.
19 Q Okay.
20 A Because I -- because that -- like, that's what we do, and our job is to make
21 sure we are leading groups of people who feel that they're doing the right things.
22 Q Okay.
23 A And if you as a leader, no matter what your rank is, sitting in that room are
24 choosing not to do that, then that's of concern to me. That's what I wanted that space
25 to be, like, communication is really important to me amongst teams working cases like

1 this.

2 [redacted]. Okay. My hour is up.

3 [redacted] Take 5 minutes?

4 [redacted]. Yeah, take as much time as you need.

5 [Recess.]

6 [redacted]. It is 11:26. And we can go back on the record.

7 Thank you again for joining us. I'm [redacted]. I'm the Democrats'

8 oversight counsel in this case.

9 EXAMINATION

10 BY [redacted]

11 Q Mr. Sobocinski, I want to take a step back from where we were and talk

12 about your background. And I think at the end of the last hour you mentioned your

13 prior work as a Secret Service agent.

14 When did you actually -- when did you join the FBI?

15 A 1998.

16 Q Okay. And before you joined the FBI, were you working? Were you in

17 school?

18 A I was a Secret Service agent. And then before that I was a police officer for

19 a few years.

20 Q Okay. Where were you a police officer?

21 A Here in Washington, D.C., with the U.S. Park Police.

22 Q Okay. And then what was your first position with the FBI?

23 A I was a case agent in North Carolina.

24 Q Okay. And what kind of cases did you have? What were your

25 responsibilities?

1 A So when I first started, it was rural North Carolina. It was drugs, violence,
2 things like that.
3 9/11 happened, and then I found myself at the Pentagon for digging through the
4 rubble. And then my entire career was counterterrorism and working overseas on those
5 type of cases.
6 Q Okay.
7 A And working and living overseas on those type of cases.
8 Q And then you were actually named deputy assistant director of the FBI's
9 International Operations Division in 2019, right?
10 A Correct.
11 Q What did that position entail?
12 A I ran operations for -- FBI's worldwide operations, their employees, facilities,
13 hiring operations.
14 Q And that's a pretty big office, right?
15 A It was COVID, so it was even more complicated than I expected.
16 Q How many employees does that office have?
17 A You know, in a general sense, there are over a thousand, I think, worldwide.
18 Q Okay. And the annual operating budget is, like, $170 million, right?
19 A Sounds about right.
20 Q Okay. So you had a lot of people and a lot of budget under your purview.
21 Is that fair to say?
22 A Correct.
23 Q Okay. And then you said that you were named special agent in charge in
24 Baltimore in July of 2021?
25 A Correct.

1 Q So not great at math, but that's about 25 years as a career FBI employee,
2 correct?
3 A Correct.
4 Q Okay. And it's fair to say that you've done everything from being a line
5 attorney -- or I'm sorry -- a line agent investigating matters to supervising line agents and
6 then actually managing pretty large components -- or large divisions?
7 A Yeah, that's fair.
8 Q Okay. Have you been awarded any awards or commendations during your
9 time with the FBI?
10 A I have.
11 Q What are those?
12 A Internally, monetary awards, letters of commendations. I've received
13 awards from various U.S. Attorney's Offices, from the Department of Defense, from the
14 CIA, from the State Department, and other foreign governments, partners, governments.
15 Q Okay. Is there anything you can tell us about that, or is that kind
16 of -- because I know you're doing counterterrorism.
17 A Yeah. No, I mean, that's pretty much a good summary of what that is.
18 Q Okay. Now I want to focus more on the Baltimore Field Office specifically.
19 A Sure.
20 Q The Baltimore Field Office is one of the larger field offices geographically
21 speaking. Is that right?
22 A It's considered one of the largest -- one of our large offices.
23 Q Okay. And I think you said earlier it's all of Maryland and all of Delaware is
24 the territory it covers?
25 A Correct.

1 Q How many -- I know you can't talk about specifics for number of employees
2 in an office, but can you talk about writ large how many employees the FBI Baltimore
3 Field Office has?
4 A Hundreds.
5 Q Hundreds. Okay.
6 Is it possible for you to estimate how many individual criminal matters the
7 Baltimore Field Office handles in a year?
8 A Hundreds. And they're rotating. I mean, regularly they open, they close,
9 they open, they close. So I would say as a general sense hundreds.
10 Q Okay. And that's in addition to counterintel work, right?
11 A Correct.
12 Q I want to introduce as exhibit -- I guess we're on exhibit 2, a February 6th,
13 2023, Baltimore Field Office press release entitled "Maryland Woman and Florida Man
14 Charged Federally for Conspiring to Destroy Energy Facilities."
15 We'll mark this as exhibit 2.
16 [Sobocinski Exhibit No. 2
17 Was marked for identification.]
18 BY [redacted]
19 Q And I know this is a potentially an ongoing matter, so I'm not going to ask
20 you about anything that's nonpublic. I just kind of want to get a sense of the work that
21 your office does and the work that it did around this case in particular.
22 Are you familiar with this matter?
23 A I am.
24 Q And can you broadly describe what happened in this case?
25 A In general there were two racially motivated -- racially and ethnically

1 motivated individuals who were looking to conspire to destroy an energy station in and
2 around Baltimore.
3 Q Was this a domestic terrorism case?
4 A It was.
5 Q What role did the FBI play in disrupting this plot?
6 A Without getting into the specifics of what we did, we were -- this was our
7 investigation where we worked with our State and local partners to fully identify these
8 people and to be able to figure out what they were trying to do and then ultimately get
9 the evidence to charge them, working with the U.S. Attorney's Office in Baltimore.
10 Q And can you talk about, broadly speaking, the type of resources your office
11 had to devote to this case?
12 A Yeah, in a general sense this or anyone else who I've talked about. So
13 we've had case agents. We've had analysts, analytical support on this. There's
14 technology that we use that is incredibly time-consuming, cumbersome to go through.
15 There are surveillance assets.
16 We worked this one with multiple field offices throughout the U.S., working with
17 State and local partners to assist us with this, and then also with our local power industry,
18 had to work really closely with them.
19 Q Are you proud of the work that your team did on this case?
20 A I am. This is a good one, but this is just one that you're seeing about.
21 There's plenty that we're not talking about today, and there's even more that don't make
22 the news because we're able to disrupt them in other ways.
23 Q Can you estimate what percent of your office's work is focused on Delaware
24 as opposed to Maryland?
25 A Percentages are going to be fuzzy, but it's a smaller footprint for us, and it's

1 a -- geographically it's a smaller population, so it's -- Maryland definitely dwarfs it.
2 Q I want to turn back, I want to go, move on to the October 7th meeting that
3 we were talking a little bit about earlier, and I want to turn back to what was marked as
4 exhibit 1.
5 We walked through this email a little bit in the prior hour. I want to go through it
6 just a little -- in a little more detail.
7 So if you recall that number 2 on the first page of this -- "Weiss stated that he is
8 not the deciding person on whether charges are filed" -- you were asked about that
9 statement, and you said: I don't recall him saying that.
10 Do you recall that?
11 A Correct.
12 Q And you said: If he had said that, I would have remembered it.
13 Do you recall that?
14 A I do.
15 Q Okay. So I want to go through some of the other statements in here and
16 ask if you have a specific recollection, if you think you would have recalled them.
17 A Uh-huh.
18 Q Under 2b -- well, the very last sentence. I'm not going to try and do the
19 math there.
20 A Yeah.
21 Q But it says: USA Weiss requested Special counsel authority when it was
22 sent to D.C. and Main DOJ denied his request and told him to follow the process."
23 Do you see where it says that?
24 A I do.
25 Q Do you have any recollection of Mr. Weiss saying that?

1 A I don't have a recollection with him saying that there or at any point in my
2 communication with Mr. Weiss.
3 Q Okay. And you think that if he had said that, here or otherwise, you would
4 have remembered that?
5 A Yeah. That would have been a total 180 from all our previous
6 conversations about authorities.
7 Q Okay. Turning the page, it's Roman numeral v.1, I guess, it's the third bullet
8 down, it says: "He" -- which refers to Mr. Weiss -- "would have had to request
9 permission to bring charges in California from the Deputy Attorney General or the
10 Attorney General (unclear on which he said)."
11 Do you see where it says that?
12 A No -- oh, got it. Yep.
13 Q Do you recall Mr. Weiss saying that?
14 A No. Like, this, like several other meetings I have had with Mr. Weiss, there
15 was a process within the Department of Justice that he would have to go through to bring
16 charges outside of his assigned district, which was Delaware.
17 You know, we had high-level conversations of what that looked like. But as far
18 as seeking approval or permission, I don't ever remember that. And my memory of this
19 is that it was a process or a bureaucracy thing he moves through, not a permission or
20 authority issue.
21 Q And do you think that if he had been said that he needed to seek permission
22 or to obtain permission, that's something you would have remembered?
23 A Yeah, I would have thought I would have remembered something like that.
24 Q Okay. You were asked a little bit ago about number 4, which is when you
25 asked the room whether anyone thought the case had been politicized.

1 A Uh-huh.

2 Q And just again for the record, you do recall saying that?

3 A I do.

4 Q And do you recall anybody responding in the affirmative?

5 A No.

6 Q Okay. And do you recall if there was a discussion around that?

7 A There was. I mean, I opened it, I talked about my personal view, once

8 again talked about on the need for us to come together, there's a media leak.

9 Obviously, media leaks are very important for us in the FBI. We have a process we go

10 through then to make a referral so that other entities within the Department will look

11 into that. It's not my responsibility.

12 My responsibility is to work this with my team to continue moving it forward,

13 although I had -- you know, the FBI were my direct reports. I felt we were working as a

14 team on this case. We each had our own role. And if we wanted to move this forward,

15 now was the time to talk about any concerns at the U.S. attorney, the SAC for IRS, and

16 myself to at least, at our level, discuss if there were concerns.

17 And so I took the lead at that and opened it up and said, "Hey, I didn't, but I want

18 to hear if anybody else does and let's move through that."

19 Q And did anybody say that they had concerns that the investigation had been

20 politicized?

21 A No.

22 Q And you, sitting here today, you would recall if somebody had said that,

23 correct?

24 A I would have.

25 Q And if somebody had raised such a concern, what specific steps do you think

1 you might have taken in response to that?

2 A I would have tried to get a better understanding of what they thought.

3 Obviously, people can have different perspectives for things that are going on.

4 But for me, in the time I've spent in law enforcement, it's important for us to be

5 apolitical. That is what makes the FBI so good at what we do. We work these cases to

6 resolution regardless of what that target is, and it's important to replicate that in a

7 nonpolitical way. That's a core function of what we do. And so if something is

8 interfering with that, then I find that to be incredibly troubling.

9 Q Okay. And so, again, you asked if anyone in the room had concerns. Mr.

10 Shapley did not say he had concerns, for example?

11 A He did not.

12 Q Okay. And so to the extent that there are I guess what could be described

13 as concerns expressed in this email, this email is the first time that you're hearing of that.

14 Is that fair to say?

15 A There are things in -- so I can't speak into the mind of Shapley, but I do -- you

16 know, there is one part in here where he talks about communication issues. That is

17 something I and my team regularly talked about in this group, which was, "Hey, we need

18 to communicate more. We need to make sure we're all on the same page."

19 So when we talk about the politicization of this, I'm also talking about

20 communication. I'm, like, "Hey, let's continue to talk. If there are problems, if there

21 are problems within your team, this is the venue to do that."

22 Q And is it fair to say that in a case like this where there's an IRS investigative

23 team, there's an FBI investigative team, there's the U.S. attorney from Delaware, a case

24 where there's a lot of players, I guess is the point, is communication something that can

25 be a challenge in these kind of cases?

1 A Yes.

2 Q Okay. And so it's not specific to this; it's this is a big investigation with a lot

3 of moving pieces. Is that fair to say?

4 A Correct.

5 Q Okay. I want to introduce -- I'm going to change subjects a little bit here.

6 You've said repeatedly that you were always under the impression that Mr. Weiss

7 had authority to bring charges, that there perhaps would be a process, an administrative

8 process, but that he had that authority.

9 Broadly speaking, what do you mean by an administrative process?

10 A There were steps that he was going to have to take with -- originating in

11 districts he was looking to explore. I think I mentioned earlier he goes to that district.

12 He asks if they want to join with them. I don't know what that looks like. I don't know

13 what the reasons for and against are. But that's what happens.

14 Then, if they agree, then I think it's a joint case. They bring USAs. But if they

15 don't, then it goes back to the Department. The Department can then give them some

16 type of status that allows them to bring this case in other venues.

17 Q Okay. So, one way or the other, he could bring the case. It's just a matter

18 of how you get to that point?

19 A Correct.

20 Q Okay. Are you aware that Chairman Jordan and other Members of

21 Congress wrote to Attorney General Garland about the scope of Mr. Weiss' authority

22 earlier this year?

23 A I have a general sense. I don't know if I read the actual letter, but I'm

24 familiar with, in general, with that.

25 Q And are you aware that Mr. Weiss responded directly to a number of these

1 letters?

2 A Yes.

3 Q Okay. I'm going to walk through those letters. And I know some of them

4 you may have seen. Some you might not have. So I'm happy to give you, as I walk

5 through them seriatim, if you need a minute to review, you have that.

6 A Great.

7 Q On May 25th, 2023, Chairman Jordan wrote to the Attorney General about

8 individuals from the IRS who testified before the Ways and Means Committee. That

9 letter was forwarded to Mr. Weiss, who responded on June 7th, 2023.

10 And I want to introduce that June 7th, 2023, response as exhibit 3.

11 A Okay.

12 [Sobocinski Exhibit No. 3

13 Was marked for identification.]

14 BY [redacted]

15 Q Have you seen this before?

16 A Yeah, I believe so.

17 Q Take as long as you need to review.

18 A Yes.

19 Q Do you understand this to be a letter in response to questions about the

20 matter involving, among others, Robert Hunter Biden, or Hunter Biden as he's more

21 commonly known?

22 A I am.

23 Q Okay. And that's the matter to which Mr. Weiss was ultimately appointed

24 special counsel, correct?

25 A Yes.

1 Q The second paragraph of this letter reads, quote: "While your letter does
2 not specify by name the ongoing investigation that is the subject of the Committee's
3 oversight, its content suggests your inquiry is related to an investigation in my District.
4 If my assumption is correct, I want to make clear that, as the Attorney General has stated,
5 I have been granted ultimate authority for this matter, including responsibility for
6 deciding where, when, and whether to file charges and for making decisions necessary to
7 preserve the integrity of the prosecution, consistent with federal law, the Principles of
8 Federal Prosecution, and Departmental regulations."
9 Do you see where it says that?
10 A Do you have the page number?
11 Q Sorry.
12 A Oh, sorry. Got it. Yes, I do.
13 Q Okay. And specifically with respect to, "I want to make clear that, as the
14 Attorney General has stated, I have been granted ultimate authority for this matter," to
15 the end of that sentence, are you aware of any information that contradicts Mr. Weiss'
16 statement that he was granted ultimate authority over this matter?
17 A No, I have no direct knowledge that counteracts that.
18 Q And do you believe that to be a true statement?
19 A I do.
20 Q Are you aware of any information that contradicts Mr. Weiss' statement that
21 his authority over this matter includes responsibility to decide where, when, and whether
22 to file charges?
23 A No, I have no direct knowledge that would contradict that.
24 Q And do you believe that to be a true statement?
25 A I do.

1 Q Are you aware of any information that contradicts Mr. Weiss' statement that
2 his authority over this matter includes making all decisions necessary to preserve the
3 integrity of the prosecution?
4 A No. I believe that to be true.
5 Q Okay. And I want to turn to the very last paragraph of this letter, right
6 above the signature block.
7 Is says: "In February 2021, I was asked to remain as United States Attorney for
8 the District of Delaware to continue my oversight of the matter. Since that time, I have
9 fulfilled my responsibilities, consistent with Department practices and procedures, and
10 will continue to do so. Throughout my tenure as U.S. Attorney my decisions have been
11 made -- and with respect to the matter must be made -- without reference to political
12 considerations."
13 Did I read that correctly?
14 A You did.
15 Q And are you aware of any information that contradicts Mr. Weiss' statement
16 that his decisions in this matter have been made without reference to political
17 considerations?
18 A I'm not.
19 Q And do you believe that to be a true statement?
20 A I do.
21 Q So following Mr. Weiss' June 7th response, Chairman Jordan then wrote to
22 Mr. Weiss directly -- this was actually in response to a letter, this June 7th response was in
23 response to a May 25th letter to the Attorney General. Chairman Jordan then wrote to
24 Mr. Weiss directly.
25 Mr. Weiss responded on June 30th, 2023, and I'm going to introduce that as

1 exhibit 4.

2 [Sobocinski Exhibit No. 4

3 Was marked for identification.]

4 BY [redacted]:

5 Q And I'll give you a minute to review.

6 A Okay.

7 Q Have you seen this before?

8 A I have.

9 Q Okay. The third paragraph on the first page reads: "First, the Department

10 of Justice did not retaliate against 'an Internal Revenue Service ("IRS") Criminal

11 Supervisory Special Agent and whistleblower, as well as his entire investigative team...for

12 making protected disclosures to Congress.'"

13 Do you see where it says that?

14 A I do.

15 Q Are you aware of any information that contradicts this statement?

16 A I'm not.

17 Q Okay. Do you believe that to be a true statement?

18 A I have no -- nothing to disprove it.

19 Q Weiss' June 30th letter then quotes the statement that I read earlier from his

20 June 7th letter stating that he's been granted ultimate authority over this matter. He

21 then states that: "I stand by what I wrote and wish to expand on what this means."

22 So if you can turn to the following page. And I'm going to go through this top

23 paragraph sentence by sentence, but before I do that, I do want to note for the record,

24 you're not an attorney, correct?

25 A That's correct.

1 Q Okay. So -- but notwithstanding that, given your 25-plus years with the
2 Bureau and your time in law enforcement before that, it's fair to say that you've been
3 involved in discussions regarding whether to charge somebody, right?
4 A Uh-huh.

1 [11:48 a.m.]

2 BY [redacted]

3 Q And those decisions sometimes involved discussion about what jurisdiction

4 an individual can be charged in, correct?

5 A Correct.

6 Q And that's generally known as venue, correct?

7 A Correct.

8 Q Okay. So turning back to this paragraph, the first sentence of the

9 paragraph reads, quote, As the U.S. Attorney for the District Attorney of Dela- -- for the

10 District of Delaware, my charging authority is geographically limited to my home district.

11 Do you see where it says that?

12 A I do.

13 Q What's your understanding of what that sentence means?

14 A That U.S. attorneys are appointed for a specific geographical area to

15 prosecute cases, and if various elements of a crime occur within that, they have the

16 authority to prosecute in that area, that district.

17 Q And then the second sentence for that reads: If venue for a case lies

18 elsewhere, common departmental practice is to contact the United States Attorney's

19 Office for the district in question and determine whether it wants to partner on the case.

20 What's your understanding of what that sentence means?

21 A That if a U.S. Attorney's Office, I think, comes to a resolution in a particular

22 matter and they find that venue either does not exist in their own district or the case

23 would be a stronger case in another district, they contact that district to work through

24 how that case would be prosecuted.

25 Q And specifically the term "partner." Are you familiar with that term as used

1 in this context?

2 A In a general sense.

3 Q What's your understanding of what that term means?

4 A That they would both have AUSAs assigned to the particular case.

5 Q Okay. And partnering is different than seeking permission, for example,

6 right?

7 A I believe it is.

8 Q Okay. And is it fair to say that partnering means that both of those U.S.

9 Attorney's Offices will work together on a case as opposed to one kind of ceding

10 prosecutorial authority to another?

11 A I believe so.

12 Q Okay. Have you been involved in matters in which one U.S. Attorney's

13 Office investigated a matter but partnered with another for purposes of prosecution?

14 A I have.

15 Q And that's not uncommon, maybe it doesn't happen in every case, but it

16 happens, right?

17 A Correct.

18 Q Okay. And is it fair to say that when a particular United States Attorney's

19 Office or an FBI field office begins investigating a matter, they might not actually know

20 where venue may ultimately lie, correct?

21 A That's correct.

22 Q And that's because, in investigations, you follow the facts where they lead,

23 correct?

24 A Correct.

25 Q Okay. Going back to this paragraph. The third sentence reads, If

1 not -- meaning if another U.S. Attorney's Office does not wish to partner on the
2 case -- quote, I may request special attorney status from the Attorney General pursuant
3 to 28 U.S.C. Section 515.
4 Do you see where it says that?
5 A I do.
6 Q Are you familiar with 28 U.S.C. Section 515?
7 A I'm not familiar with the actual -- with that code in specifics, but what it's
8 referencing in that process, I am familiar with.
9 Q And what's your understanding of that?
10 A That the Attorney General or somebody within that chain has the authority
11 to provide authority for somebody to prosecute that -- to prosecute that case in another
12 venue that's not an AUSA assigned to that. And I do have experience that that's not
13 abnormal.
14 Q Okay. And just so we have a complete record, I'm actually going to
15 introduce the statute.
16 A Okay.
17 [redacted]. That'll be exhibit 5.
18 [Sobocinski Exhibit No. 5
19 Was marked for identification.]
20 BY [redacted]
21 Q So 28 U.S.C. Section 515 is entitled "Authority for legal proceedings;
22 commission, oath, and salary for special attorneys."
23 And I do want to note this is special attorneys, not special counsel, right?
24 A Yes.
25 Q So it's different. It's two different provisions.

1 Paragraph A of this section says: The Attorney General or any other officer of the
2 Department of Justice, or any attorney specially appointed by the Attorney General under
3 law, may, when specifically directed by the Attorney General, conduct any kind of legal
4 proceeding, civil or criminal, including grand jury proceedings, and proceedings before
5 committing magistrate judges, which United States attorneys are authorized by law to
6 conduct, whether or not he is a resident of the district in which the proceeding is brought.
7 Did I read that correctly?
8 A Yes.
9 Q Okay. So this provision specifically permits anybody who's appointed as a
10 special attorney to conduct any kind of legal proceeding; it's not limited, correct?
11 A I believe so.
12 Q Which U.S. attorneys are authorized to conduct, quote, whether or not he is
13 a resident of the district in which the proceeding is brought, correct?
14 A Yes.
15 Q Okay. So if the Attorney General -- if Mr. Weiss had requested status,
16 Section 515 status, and if the Attorney General had granted that to him, Mr. Weiss would
17 have been permitted to bring a case in, for example, Washington, D.C.?
18 A Based on what you're showing me, that looks like the bureaucratic process
19 that I had mentioned earlier.
20 Q Okay. And the same, he could have brought a case in the Central District of
21 California under this authority, correct?
22 A It appears so, yes.
23 Q Okay. The last sentence -- going back to the June 30th letter. The very
24 last sentence of that third paragraph reads: Here, I have been assured that, if necessary
25 after the above process, I would be granted Section 515 authority in the District of

1 Columbia, the Central District of California, or any other district where charges could be
2 brought in this matter.
3 Are you aware of any information that would contradict that statement?
4 A I'm not.
5 Q Do you believe that to be a true statement?
6 A I do.
7 Q To your knowledge, did Mr. Weiss ever actually request Section 515
8 authority?
9 A Yeah, I'm not aware.
10 Q You don't know?
11 A I don't know.
12 Q And is it fair to say that Mr. Weiss would be the better witness to testify as
13 to that point?
14 A It would.
15 Q And are you aware that he's said he's willing to come before the committee
16 when he's able to?
17 A I am.
18 Q So finally, Senator Lindsey Graham -- and moving on from this
19 letter -- Senator Lindsey Graham, who is the Republican ranking member on the Senate
20 Judiciary Committee, wrote to Mr. Weiss on June 28th, 2023, and Mr. Weiss responded
21 on July 10th, 2023.
22 [redacted] I want to introduce that as well as exhibit 6.
23 [Sobocinski Exhibit No. 6
24 Was marked for identification.]
25 BY [redacted]:

1 Q Okay. Have you seen this before?
2 A I have.
3 Q Okay. The first sentence of the third paragraph, which is on the first page,
4 it reads: To clarify an apparent misperception and to avoid future confusion, I wish to
5 make one point clear: In this case, I have not requested special counsel designation
6 pursuant to 28 CFR Section 600 et seq.
7 You see where it says that?
8 A I do.
9 Q That's the regulation that gives the Attorney General the authority to
10 appoint a special counsel, correct?
11 A I believe so.
12 Q Are you aware of any information that contradicts Mr. Weiss' statement that
13 as of July 10th, 2023, he had not requested that special counsel designation?
14 A I don't.
15 Q Okay. The letter continues, rather -- quote, Rather, I had discussions with
16 departmental officials regarding potential appointment under 28 U.S.C. Section 515,
17 which would have allowed me to file charges in the district outside my own without the
18 partnership of the local U.S. attorney. I was assured that I would be granted this
19 authority if it proved necessary. And this assurance came months before the
20 October 7th, 2022, meeting referenced throughout the whistleblowers' allegations.
21 Did I read that correctly?
22 A You did.
23 Q So you just, a couple minutes ago, already confirmed that you have no
24 information to contradict Mr. Weiss' statement that he was assured that he would be
25 granted 515 authority if it proved necessary. But looking specifically at the statement

1 that this assurance came months before October 7th, 2022, do you have any information
2 to contradict that statement?
3 A I don't.
4 Q And to the best of your knowledge, is that accurate based on --
5 A It is.
6 Q So looking quickly back at exhibit 1, which is that -- so the -- I'm sorry, the
7 Shapley email, that what I just read to you from that response to Senator Graham, that
8 would seem to directly contradict Mr. Shapley's statement that USA Weiss requested
9 special counsel authority when it was sent to D.C.
10 Do you see where it says --
11 A Yes, I do.
12 Q Okay. And it would likely seem to contradict the statement that he would
13 have to request permission to bring charges in California, correct?
14 A It does.
15 Q Okay. In -- turning back to the July 10th letter. In -- Mr. Weiss' letter
16 continues: In this case, I followed the process outlined in my June 30th letter and have
17 never been denied the authority to bring charges in any jurisdiction.
18 To the best of your knowledge, is it accurate that Mr. Weiss was never denied the
19 authority to bring charges in any jurisdiction?
20 A I have nothing to re -- personal knowledge to refute that.
21 Q Okay. So do you believe that to be an accurate statement?
22 A I do.
23 Q So in March of -- in March 2023, the Attorney General testified before the
24 Senate Appropriations Subcommittee on Commerce, Justice, and Science. Senator
25 Grassley, who is also on the Senate Judiciary Committee, asked the Attorney General to

1 address concerns that, if Mr. Weiss was not given special counsel authority, he might
2 need permission from another U.S. attorney to bring charges outside of the District of
3 Delaware.
4 The Attorney General responded, quote, the U.S. Attorney in Delaware has been
5 advised that he has full authority to make those kinds of referrals that you are talking
6 about or bring cases in other jurisdictions if he feels it's necessary, and I will assure you
7 that if he does, he will be able to do that.
8 To the best of your knowledge, was that an accurate statement by the Attorney
9 General?
10 A I believe so.
11 Q Okay. The Attorney General also told Senator Grassley that Mr. Weiss,
12 quote, has been advised that he is not to be denied anything he needs, and if that were to
13 happen, it should ascend through the Department's ranks, but I have not heard anything
14 from that office to suggest that they're not able to do everything the U.S. attorney wants
15 to do.
16 To the best of your knowledge, did any Justice Department official ever prevent
17 U.S. Attorney Weiss from taking any steps or from accessing any resources he requested
18 for this investigation?
19 A Not that I'm aware of.
20 Q Okay. Did anybody at FBI headquarters ever prevent U.S. Attorney Weiss
21 from taking any steps or accessing any necessary resources?
22 A Not that I'm aware of.
23 Q Okay. Did anybody else, to the best of your knowledge, ever prevent U.S.
24 Attorney Weiss from taking any investigative steps or from accessing any resources that
25 he might need for this investigation?

1 A Not that I'm aware of.

2 [Sobocinski exhibit No. 7

3 Was marked for identification.]

4 BY [redacted]:

5 Q Okay. I want to introduce as exhibit 7 remarks that Attorney General

6 Garland delivered on Friday, August 11th, 2023, in which he announced that he was

7 appointing Mr. Weiss as special counsel in the investigation concerning allegations of

8 certain criminal conduct by, among others, Robert Hunter Biden.

9 Do you know if you're familiar with those remarks?

10 A I am.

11 Q So not to make you count, but the eighth paragraph down -- and I realize this

12 is printed off from the website and I think the formatting's a little funky, but these are the

13 remarks as delivered.

14 In the eighth paragraph down, the Attorney General said, quote, On Tuesday of

15 this week -- which I will represent to you was August 8th, 2023 -- Mr. Weiss advised

16 me -- meaning the Attorney General -- that in his judgment, his investigation has reached

17 a stage at which he should continue his work as a special counsel, and he asked to be so

18 appointed.

19 To the best of your knowledge, is it accurate that Mr. Weiss first requested special

20 counsel status on August 8th, 2023?

21 A Yeah, I have no direct knowledge on when he requested that status.

22 Q Okay. But to the best of your knowledge, that's approximately the

23 timeframe? In other words --

24 A Yes.

25 Q So you don't have any knowledge of him having requested it, for example, in

1 March of 2023?

2 A I don't.

3 Q Okay. So August 2023 is approximately the right time?

4 A Sounds about right.

5 Q Okay. Do you recall how you learned that Mr. Weiss had requested this

6 special counsel status?

7 A I officially learned from the AG's remarks, but I had had a conversation

8 earlier in the day with Mr. Weiss where it was discussed but not confirmed that he was

9 going to be given the status.

10 Q Okay. The Attorney General's remarks continue in the following paragraph:

11 Upon considering his request -- meaning David Weiss' request -- as well as the

12 extraordinary circumstances relating to this matter, I have concluded that it is in the

13 public interest to appoint him as special counsel.

14 And I'm just going to -- to make a complete record, I'm going to introduce the

15 actual appointment order.

16 A Okay.

17 [redacted]. We'll mark that as exhibit -- it'll be exhibit 8.

18 [Sobocinski exhibit No. 8

19 Was marked for identification.]

20 BY [redacted]

21 Q Have you seen this before?

22 A I have not.

23 Q Okay. Is it your unders- -- I'm sorry, I'll give you a second to review.

24 A I'm good.

25 Q Okay. So this is signed August 11th, 2023, correct?

1 A Yes.

2 Q And it's signed by the Attorney General?

3 A It is.

4 Q So -- and this appoints David Weiss as special counsel over the matter -- the

5 investigation and prosecutions referenced and described in United States v. Robert

6 Hunter Biden, and it provides the case numbers, correct?

7 A Correct.

8 Q Okay. So, in fact, Mr. Weiss first requested special counsel authority

9 approximately on or about August 8th, 2023. On August 11th, so roughly 3 days later,

10 the Attorney General granted him that authority, correct?

11 A Yeah, that's my general understanding.

12 Q Okay. So just to sum up kind of what we just talked about. Do you have

13 any reason to believe that David Weiss lied to Congress about the extent of his authority

14 that he had been granted by the Attorney General?

15 A I don't.

16 Q Okay. Do you have any reason to believe that the Attorney

17 General prevented -- that Attorney General Garland prevented Mr. Weiss from taking any

18 particular investigative step in this case?

19 A No, I don't.

20 Q Do you have any reason to believe that Attorney General Garland denied

21 Mr. Weiss any resources for this investigation?

22 A No.

23 Q Okay. Do you have any reason to believe President Biden interfered in this

24 investigation in any way?

25 A No.

1 Q There have been allegations that the FBI and the Delaware U.S. Attorney's
2 Office handling of this case is an example of two-tiered system of justice. What's your
3 reaction to those allegations?
4 A Speaking on my behalf of my team, we've worked this as diligently as we
5 work all the cases we do. And as we referenced my discussion about politics and my
6 belief of where that should play in our cases, it has no role. And so my goal as the
7 leader of this team has been focused on getting a resolution in that case.
8 Q Thank you.
9 I want to turn back to there was conversation earlier about trying to surprise a
10 witness, to conducting interviews, whether it might be advantageous to surprise a
11 witness. And I think you had said that you had -- as a former Secret Service agent
12 yourself, there are certainly certain particular considerations to be taken into account.
13 Do you recall that?
14 A I do.
15 Q And can you explain a little bit further what those considerations may be?
16 A So it's been over 25 years, but, you know, as a Secret Service agent, you
17 know, you're there to protect individuals as designated by law. And so that is a full
18 encompassing protection of them. Depending on the proctectee, you prohibit people
19 from coming in contact with them or restrict that or protect them. And so as a Secret
20 Service agent, anybody knocking on their door is somebody that they're interested in, and
21 somebody interested who is obviously carrying a gun and potentially in an adversarial
22 issue is something that they would want to know about in advance.
23 Q And is it fair to say that that's for the safety of everybody involved?
24 A Correct.
25 Q Because if somebody who's carrying a gun shows up at the home of a

1 proctectee, the instinct of the Secret Service officer would be to protect the proctectee,
2 correct?
3 A Correct.
4 Q Okay. And it's also the case -- again, you talked about having -- over your
5 course of your 25 years, you've been involved in many interviews, you've supervised
6 agents who have done many interviews, correct?
7 A Correct.
8 Q Is it fair to say that each one of those interviews is different?
9 A Yes, it is.
10 Q And the facts in each one of those interviews is different?
11 A Yes.
12 Q Okay. And so there's a question about taking a witness, quote/unquote, by
13 surprise. That could be a tactic in some cases, and in some cases it might be ill advised.
14 Is that fair to say?
15 A Correct.
16 Q So, for example, in the case where an individual has security?
17 A Correct.
18 Q Okay. Is it also the case that even if you take a wit- -- even when an FBI
19 agent takes a witness by surprise, that witness can still decline to talk to them, correct?
20 A Correct.
21 Q And if somebody is an attorney who has an understanding of the law, they
22 might be more inclined to decline to have that voluntary conversation?
23 A I have found that to be true.
24 Q And if somebody is represented by counsel, they might also decline to take
25 part in a voluntary interview without counsel present?

1 A Corre -- yeah, I find that to be true as well.

2 Q Okay. And so, again, these are all fact-specific situations, but the idea of

3 taking somebody by surprise doesn't necessarily mean that, even if that was the plan,

4 that that would have played out anyways, right?

5 A Yeah. You never know how those are going to end.

6 Q Okay. All right. You spoke earlier -- in the earlier hour, we talked a little

7 bit about who has ultimate charging decision -- and I'm talking about within a case, not

8 different venues, but -- and you said that the ultimate charges are up to the prosecutors.

9 Do you recall that conversation?

10 A I do.

11 Q Okay. And, again, you're not an attorney, but in your experience, have you

12 been in situations where you thought that prosecutors -- that you hoped prosecutors

13 would bring charges that they ultimately decided not to bring?

14 A Yes.

15 Q And without getting into specifics, can you describe any of the circumstances

16 around those?

17 A Yeah. In a general sense, I mean, the FBI opens cases on people we

18 think -- criminal cases on people we think have broken the law. We put a lot of time,

19 effort, and energy into gathering the evidence. And when we get to a point where we

20 think there's enough evidence for an arrest and an ultimate prosecution, yeah, we

21 are -- you know, our goal is to get that there. But as I said, the U.S. Attorney's Office or

22 State prosecutors are the ones that make that ultimate decision, and they may have a

23 difference of opinion.

24 Q And is it fair to say that -- and I want to get back to that difference of opinion

25 in a second. But you said that you put -- your agents put a lot of work into these cases.

1 Is it fair to say that they in some cases get kind of personally invested in these cases?
2 A Yes.
3 Q And so if somebody spent a lot of time, a lot of energy working on a
4 particular case, they might be disappointed if a prosecutor decides not to bring a
5 particular charge, correct?
6 A Yeah, if they feel it should be, yeah, there is that.
7 Q And as a supervisor, have you experienced instances in which agents you
8 manage have had disagreements with prosecutors about investigative steps?
9 A Yes.
10 Q And is that sometimes a challenging issue to manage as a supervisor?
11 A It is.
12 Q And why is that?
13 A Becau- -- first of all, each circumstance is different, but this is something I
14 regularly have dealt with in my career, if weekly, if not daily. And listen, we are putting
15 time and effort into this. We think we've gotten to certain standards, but ultimately it's
16 not our decision.
17 And so I have two-pronged approaches. The first is to support my investigative
18 team, the employees that are working this case that are actually out there putting in
19 time, putting their lives in danger to do this. And so part of that is to hear what they
20 have to say and advocate on their behalf, as each leader in my office does. And then
21 there are times when I will have conversations with U.S. attorneys on these cases.
22 There are times when I have to communicate, you know, bad news to these teams even
23 before the communication. I may agree with the prosecutors in certain circumstances.
24 So all of these are varied, but, yeah, those can be tough conversations.
25 Q And they happen often?

1 A They happen often.
2 Q Okay. Ultimately, you said this earlier, it's up to the prosecutors to decide
3 what charges to bring, correct?
4 A Correct.
5 Q And that's because prosecutors are best positioned to understand the
6 relative strength of the evidence, right?
7 A Yes, as it relates to going to court. Absolutely.
8 Q Right. And prosecutors are best positioned to evaluate the weaknesses a
9 case might have if it is tried before a jury, right?
10 A Yes.
11 Q Okay. And is it fair to say that sometimes prosecutors and agents -- when
12 an agent disagrees with a prosecutor, sometimes the prosecutor will sit down with the
13 agent and will talk through and explain here's the strengths and weaknesses, here's why
14 I'm unable to pursue this particular charge, right?
15 A Correct.
16 Q And some prosecutors don't do that, some just don't have that relationship,
17 right?
18 A Correct.
19 Q Okay.
20 A Can I say that my -- as I talk to my --
21 Q Yeah.
22 A -- communication earlier, my hope and what I try to lead and what the U.S.
23 attorneys and I talk about are that communication. And it's really important to have
24 that at that level so that there's no misunderstanding about what's going on. That is
25 something that I personally strive for and I hold my leaders responsible for that. But

1 there are always personalities, and sometimes that just doesn't happen, but it does
2 create problems when it doesn't.
3 Q And sometimes prosecutors are busy or overwhelmed and don't have the
4 time in the moment to sit down with an agent and explain a charging decision too,
5 correct?
6 A Sure.
7 Q There was a discussion earlier about whether the 2014 and 2015 tax cases
8 were open/shut. And I don't want to get into the specifics of that. I do want to note,
9 though, you are not a tax investigator, right?
10 A I am not.
11 Q And you've never done tax investigations?
12 A I have not.
13 Q Okay. And in general, that's actually not something that the FBI generally
14 would do, right?
15 A Correct. We would prefer to have the IRS do those cases.
16 Q Okay. And so there was a comment made earlier that Hunter Biden had
17 received a, quote, boatload of money and he didn't pay taxes, I guess suggesting that that
18 was an open/shut case. But in reality, tax cases can be complicated, right?
19 A Yes.
20 Q And, in fact, they're so complicated that when you're in the meetings,
21 sometimes you don't necessarily track all of the discussion. Is that fair to say?
22 A That is more than fair, yes.
23 Q Okay. And so it's not necessarily a simple charge or don't charge; you
24 know, there might be defenses to a case, for example?
25 A Yeah, to every case. Correct.

1 Q And so in tax cases in particular, there might have been deductions that
2 were taken that have to be assessed whether they were legitimate or not, right?
3 A Once again, that's getting into the weeds of something that -- in a general
4 sense I understand that that is an issue.
5 Q Okay. I'm just -- my point is just that these tax cases are not simple.
6 There's a lot that there are defenses that defendants can raise, correct?
7 A Correct. And IRS and prosecutors and DOJ attorneys are trained in that,
8 and they do it. But I want to bring that back full circle here, which is, you know, as I said,
9 I'm not an absent leader when it comes to this. I was focused on bringing whatever
10 charges this team thought we could bring with the evidence that we've accumulated to
11 get to a resolution. That was the full focus of almost every phone -- every conversation
12 meeting I had with the U.S. Attorney's Office.
13 Q And the -- on that note about -- comment you just made about the evidence
14 and gathering the evidence. Evidence in any case, and it might -- it's fact specific, it
15 could be hard to prove, it could be hard to use to convince a jury, right?
16 A Correct. Absolutely.
17 Q And is it fair to say that prosecutors generally only bring cases where they're
18 reasonably confident that they can obtain a conviction?
19 A I find that to be true.
20 Q Prosecutors like to win, right?
21 A Yes, they do.
22 Q Okay.
23 [redacted]. Just one second. I think we can wrap up my hour, but -- we can go
24 off the record. Thanks.
25 [Recess.]

1 [12:23 p.m.]

2 [redacted]. Back on the record. It's 12:23.

3 BY [redacted]:

4 Q Go back to exhibit 1. Your recollection of the 10/7 meeting had a

5 component where -- discussing the leak -- had a component where you remember

6 discussing whether the case had been politicized, and then you remember talking about

7 coordination and communication issues. From your perspective, was that the only stuff

8 talked about at that meeting?

9 A That was the just of what I remembered from that meeting.

10 Q Do you remember how long the meeting was?

11 A No. It wasn't hours, but it wasn't like a 15-minute meeting.

12 Q Okay. Longer than an hour maybe?

13 A Yeah, give or take.

14 Q Okay. And you have no recollection of discussion about whether Weiss

15 stated that he's not the deciding person on whether charges are filed?

16 A I've never heard Weiss say that he was not the decider or anything other

17 than he had the authority to bring these charges.

18 Q Okay. And do you remember anything in that meeting about the fact that

19 D.C. had declined to bring a case?

20 A I don't remember that portion of this meeting, no.

21 Q So it's possible it came up or you just have no recollection of it?

22 A I was really focused on -- my memory of this meeting is of my concern over

23 the media leak and how to move this case forward.

24 Q How did you think the case needed to move forward?

25 A I just thought that we needed -- the U.S. Attorney's Office needed to use the

1 information he had to make a charging decision. And then short of that, what else
2 would the FBI need to bring them that would help him assist in whatever his decision
3 would ultimately be.
4 Q And at that point, what were the options for bringing the case in terms of
5 venue?
6 A The venue was what it always was, what has been talked about, is wherever
7 he felt that he ultimately had the -- was going to make that decision.
8 Q Okay. But at that point in time, the October 7th meeting, you didn't
9 believe that D.C. was off the table?
10 A Yeah, I don't have a sense of that. Without getting into specifics, I think
11 we've talked about California I think around this timeframe, it might have been that.
12 But that was -- what he -- what and who he was talking to was his decision. I was
13 looking for resolution.
14 Q When the case was presented to the U.S. attorneys in D.C. and California, do
15 you have any awareness who did that?
16 A No. It wasn't the FBI.
17 Q Was the FBI involved at all in the meeting?
18 A In the present -- not that I was aware of, in presentations, no. That's -- my
19 understanding of that that's an internal department process.
20 Q Do you know if it was U.S. attorneys from the Delaware office that did it or
21 the Tax Division?
22 A I don't know.
23 Q And then Shapley's contemporaneous notes from this meeting, number 6
24 states: Both us and the FBI brought up some general issues to include:
25 communication issues, update issues and, C, these issues were surprisingly contentious.

1 What do you recall from that discussion about issues being contentious?

2 A Yeah. I can't comment on what he stated, but, for me, it was -- I would

3 describe this as, you know, we were talking about something that was uncomfortable. I

4 mean, there was a media leak in an investigation. We were all -- my belief was that

5 we're all working towards the resolution of this case. And so areas that I had control

6 over were, hey, communication, let's talk more. Part of that was the politics comment,

7 or discussion that I brought up, and then way forward, how were the teams going to

8 continue to talk about this case for the things -- if and where there were more things we

9 needed to do on the investigation.

10 Q Where did the issues of contention lie? Was it IRS and the U.S. Attorney's

11 Office? Was it the IRS and the FBI?

12 A Yeah, I didn't use the word "contentious." I think you'd have to ask him

13 why he chose that.

14 Q Okay. But from your recollection, the communication issues, was that

15 communication issues between IRS and the FBI or was it between IRS and the U.S.

16 Attorney's Office? I mean, what was the nature of the communication issues?

17 A You know, I think that we as in -- we in general need to communicate -- it's

18 important for us to communicate more. And so I was just -- I reinforce over and over

19 again, there's this media leak, now more than ever we need to all be on the same page to

20 work an investigation that was and continues to be open so that we can move towards

21 that resolution.

22 Q Was Lesley Wolf at that meeting?

23 A I don't have a sense of her being there, but if somebody says she was, I

24 wouldn't disagree.

25 Q Did you ever witness U.S. Attorney Weiss admonish Lesley Wolf?

1 A Yeah, I'm not going to get into any comments of their internal discussions.

2 Q That wasn't the question. The question was whether you witnessed U.S.

3 Attorney Weiss admonish Lesley Wolf. You did, didn't you?

4 A I'm going to take -- I'm going to go off record here.

5 [redacted]. Okay.

6 [Discussion held off the record.]

7 Mr. Sobocinski. Yeah. I've never seen David Weiss admonish anybody.

8 BY [redacted]

9 Q Okay. Do you know if David Weiss communicated in front of you to Lesley

10 Wolf his frustration about the statute of limitations lapsing?

11 A No.

12 Q You didn't witness that?

13 A I have no memory of that.

14 Q You have no memory of that. Okay. But if someone said you did, then

15 maybe you did?

16 A Depends on the circumstances. I don't want to speculate.

17 Q Okay. Did anyone at the FBI, to your awareness, express concern to David

18 Weiss or the Department of Justice that a special counsel needed to be appointed or

19 David Weiss needed special counsel authority?

20 A Yeah, I'm not in a position to talk about ongoing issues within the

21 Department as it relate -- or in the Bureau as it relates to this case.

22 Q That's one of the core things we -- we're here today to talk about is David

23 Weiss' authority and whether he needed special counsel authority and so forth. So --

24 A Yeah. I appreciate that. But I'm being very clear that I as the leader of

25 the field office running this investigation am clear that David -- it was my understanding

1 that David Weiss had the authority, and at no point did I ever differ from that. There's
2 never been anything in my view that changed that.
3 Q Right. According to Shapley's testimony, Joe Gordon told him that his field
4 office thought they should push this case to be given special counsel authority. Do you
5 have any awareness of what [redacted] was referring to?
6 A I have no knowledge of that.
7 Q Okay. To the extent Joe Gordon was representing that his office, meaning
8 the Baltimore office of the FBI, was pushing for that, that didn't include you?
9 A Yeah, I have no idea what [redacted] meant by that.
10 Q Okay. Are you aware of any documents that [redacted] prepared or
11 advocacy that he put together for -- around the special counsel topic?
12 A No. I have no memory of him putting anything together about that.
13 Q We have testimony that in May of 2022, FBI Supervisory Special Agent [redacted]
14 [redacted] reportedly told IRS Supervisory Special Agent Shapley that, my leadership is
15 wondering why your leadership isn't asking for a special counsel in this investigation.
16 I know that's a similar question, but do you have any awareness of that type of --
17 A I don't.
18 Q At any point in time, were you wondering why IRS wasn't pushing for a
19 special counsel?
20 A That's not something that I was -- that's an IRS issue.
21 Chairman Jordan. Let me ask you this. So U.S. Attorney Weiss sent the
22 committee two pieces -- two letters this summer, and I want to see how you reconcile it.
23 Because you've been very clear that you said that he had authority to bring charges
24 wherever. And he said that in his June 7th letter to the committee -- maybe you had
25 chance to review this -- I've been granted ultimate authority over this matter, including

1 responsibility for deciding where, when, and whether to file charges.

2 Are you familiar with that letter?

3 Mr. Sobocinski. I am.

4 Chairman Jordan. And then he wrote me -- wrote the committee 3 weeks later,

5 and said, I stand by what I wrote, but I want to expand on what this means. My

6 charging authority is geographically limited to my home district.

7 Which one is accurate?

8 Mr. Sobocinski. So one is the January 7th, and what was the other one?

9 Chairman Jordan. Oh, excuse me. June 7th, June 30th.

10 Mr. Sobocinski. Yeah. I have no personal knowledge about -- about him

11 writing that. I was not involved in this. So the best of my knowledge, both were -- he

12 was truthful in both. I have nothing that disproves that to me.

13 Chairman Jordan. But the first one is -- the first letter on June 7th is the one

14 that, I guess, would give you the reason to believe what you've said now multiple times,

15 which is that you thought he had ultimate authority to bring charges where he wants.

16 The letter on June 30th, where he says my authority is limited to my home district is -- it

17 can't be both of them. So -- but you said all along you felt he had the authority to bring

18 it. There was no distinction there. That's what I'm trying to reconcile.

19 Mr. Sobocinski. Yeah. You know, my interpretation of these letters are he's

20 expanding upon and providing more information to help you -- that would help you

21 understand what his intent was. That's the bureaucracy, the nuance of what he thought

22 his authority was. And in general, the intent of both letters confirms with my belief,

23 which is he had the authority to bring the case.

24 Chairman Jordan. Well, obviously, he didn't, because it says his charging

25 authority is limited to his home district, and 3 weeks earlier, he had told us, I've been

1 granted ultimate authority -- can't be any stronger language -- including responsibility for
2 deciding where to file charges.
3 So he got ultimate authority to file charges wherever he wants. That's a lot
4 different than I can only do it in my home district.
5 Mr. Sobocinski. Yeah. I refer you to Mr. Weiss to get a more clear answer on
6 that.
7 Chairman Jordan. We're going to ask him too. But we've got you today, that's
8 why I'm asking.
9 Mr. Sobocinski. Yeah.
10 BY [redacted]
11 Q Have you had any communications with Mr. Weiss about this?
12 A About -- specifically "this" --
13 Q About your testimony here today.
14 A He knows I'm testifying.
15 Q And you had a conversation with him about your testimony here today?
16 A That I am going to be testifying, not about the contents of the testimony.
17 Q When did you talk to him about that?
18 A You know, without going into specifics of an investigation, I'm continuing to
19 lead an office that is working with David Weiss and his team on multiple issues. I talk to
20 him regularly.
21 Chairman Jordan. Did you have any conversations him or anyone else at DOJ
22 regarding the correspondence that was just cited in the June 7th, 2023, letter to the
23 committee and the June 30th, 2023, letter?
24 Mr. Sobocinski. No.
25 BY [redacted]:

1 Q Did you have any communications with him about the 10/7 meeting?
2 A Yes.
3 Q And what were they?
4 A As it relates to his author- -- A, that it existed. I think it was -- yeah, that we
5 knew we were in a room together talking about it. I don't remember specifically
6 going -- yeah, I have not gone back with him and outlined certain things or --
7 Q Like, when did you have that conversation?
8 A Yeah, I have no -- it wasn't like it stuck in my mind. I talk to David Weiss
9 and potentially folks in his office regularly.
10 Q Yeah. Just when did you talk to him about the 10/7 meeting?
11 A Obviously, on 10/7, and maybe it would have come up in some other
12 meeting as the leak and the whistleblowers unfolded. I mean, I still had a case to
13 manage.
14 Q Have you talked to him about the 10/7 meeting in the last couple weeks?
15 A Not that I'm aware of.
16 Q The fact that you've got to come to Congress to testify about
17 the -- potentially the 10/7 meeting?
18 A Yeah, I think he had awareness in that, yeah.
19 Q Like, when's the last time you talked to David Weiss?
20 A Sometime this week. It might even have been yesterday.
21 Q Okay. You talked to him yesterday, did you tell him you were coming to
22 testify here today?
23 A He knows. Whether I told him yesterday or another date, I think it's pretty
24 well out there that I'm here today.
25 Chairman Jordan. But you talked to him about the 10/7/22 meeting after the

1 whistleblowers' testimony went public, the transcript went public?

2 Mr. Sobocinski. Yeah. I don't have a sense of when I would have or that it was

3 a specific thing.

4 Chairman Jordan. But it's recent?

5 Mr. Sobocinski. I don't have a sense of that. I mean, I am talking to David

6 about moving this case forward and what does my team need to do to move this case

7 forward as a resolution. That's my sole focus on this.

8 BY [redacted]:

9 Q But what Agent Shapley says in his notes and his testimony is pretty different

10 than what you're saying here today. And first, you said you didn't remember, and then

11 you said if it did -- if it did happen, you would have remembered. But I'm just wondering

12 whether you had any conversations with David Weiss to the extent -- to the effect of can

13 you believe what Shapley is saying?

14 A I don't believe I had that type of conversation with David Weiss.

15 Q Okay. But you would agree what you're saying about the 10/7 meeting and

16 what Shapley's saying about the 10/7 meeting are pretty different?

17 A They are.

18 Q Have you had any conversations with anybody else about the 10/7 meeting

19 and, specifically, how your recollections differ from Shapley's?

20 A Yes.

21 Q Who?

22 A Various members of the team I was working with.

23 Q Okay. Anyone that was in the meeting?

24 A Probably. I mean, the sense was I wanted to make sure that if my team felt

25 that there was any difference in -- if they view this differently, then that becomes an

1 operational matter for me to want to get -- getting resolution. And that's what I was
2 focused on. So not as a he said/she said; as a, hey, did I miss -- did I miss something that
3 you think that may have happened that's going to prohibit or interfere with how we're
4 going to conduct this investigation.
5 Q If Gary Shapley's version of events, if that did happen, would that have
6 interfered with the way you're conducting the investigation?
7 A What about his --
8 Q If what Gary Shapley said happened on October 7th in his contemporaneous
9 notes, if it went down that way, would that impact how the investigation --
10 A I mean, he said a lot. Do you want to identify line by line what you mean?
11 Or is there a general sense of what -- there's a lot in his email.
12 Q I mean, it's two pages. It's not that much.
13 So if Weiss had stated that he's not the deciding person on whether charges are
14 filed -- I mean, if Weiss had said that -- you say you don't remember that. If that was
15 said, would that impact the way this investigation was handled?
16 A If Weiss didn't have authority to bring this case forward, yeah. Absolutely,
17 that would have impacted this case from where I sat at that moment in time.
18 Q Okay. Did you have any communications with [redacted] about this?
19 Did you tell her what you were going to say when asked about the 10/7 meeting?
20 A Here in this -- here? No.
21 Q She's aware you were coming today to testify?
22 A She's my direct support. I talk to her every day. She's got dozens of very
23 complicated cases that she's leading. And so, yeah, I talk to her every day, and she's
24 very much aware that I'm here today and she's here on Monday.
25 [redacted] And I believe the committee made the two subpoenas public, which

1 included the dates.

2 BY [redacted]

3 Q So I'm just asking you whether you had communications with Ms. [redacted]

4 about what you were going to say about the 10/7 meeting?

5 A As -- you know, as my direct support, when this kind of percolated up, she

6 was somebody that I had a conversation about my concerns about authority of, hey, of

7 prosecution, can we do it, do you have a differing opinion of it? When it came to the

8 subpoena and the testimony, no, we've been fairly clear on not having those

9 conversations.

10 Q Okay. Did you have any communications with Weiss or [redacted] about, hey,

11 what Gary Shapley's saying happened didn't happen?

12 A I don't have a concrete mem- -- like a date and a time where I've done it but,

13 yes, I have said that because that is a difference of opinion than what I remember from

14 that meeting.

15 Q Okay. And you had that with [redacted] and Weiss?

16 A Yeah.

17 Q Any other witnesses? Or any other people involved with the 10/7

18 meeting?

19 A Yeah, not necessarily with the 10 -- not that I'm aware of with the 10/7

20 meeting, but in general with my investigative team, I want to make sure that

21 if -- something like this would have been important for us. And so leading a team of

22 investigators in an open case, if all of a sudden somebody found out we don't

23 have the -- there's not an authority issue, yeah, that's going to be an issue. So yeah, we

24 talked about it in that sense.

25 Q Do you have regular communications with Lesley Wolf?

1 A No.

2 Q Do you have regular communications with anyone in the U.S. Attorney's

3 Office other than the U.S. attorney?

4 A Mostly the U.S. attorney and others are very remote.

5 Q Okay. Have you talked to anyone else in the office about this 10/7

6 meeting?

7 A No.

8 Q Just Mr. Weiss?

9 A [No verbal response.]

10 Q I want to go back to testimony from both Ziegler and Shapley about what

11 they have represented their FBI counterparts felt, to see if it rings any bells.

12 Ziegler testified: I recall discussions with our FBI counterparts on the case, the

13 same issue, and I thought they were just trying to raise the special counsel issue up

14 through their leadership. On that note, I just want to let you guys know that the way

15 the FBI and their leadership -- their leadership was very, very involved in this

16 investigation. I heard of multiple times that they were reporting up to their leadership,

17 meeting with their leadership, they had to -- they had to advise them on this.

18 And I'm just, you know, wondering whether that rings any bells.

19 A No.

20 Q So -- and you would have been part of that leadership, right? The FBI

21 counterparts Ziegler's talking about, that would have been people that report to you,

22 right?

23 A I can't speculate on what he meant by that.

24 Q But it would have been folks that reported to you, right?

25 A I have no idea who he was referencing.

1 Q Okay.

2 A I am an FBI official within Baltimore. Yeah, I mean, that's obviously why I'm

3 here.

4 Q Right.

5 A But I have no idea what he meant by that.

6 Q But, I mean, the testimony is that [redacted] told Ziegler that they raised it

7 through their chain of command for at least half of the time the case was going on.

8 That's you.

9 A I have no direct awareness of that.

10 Q And were you aware whether [redacted] had, you know, previously, prior to,

11 you know, under your predecessor, had expressed any --

12 A I'm not aware of that.

13 Q Okay. And did your predecessor, Ms. Boone, did she tell you about the

14 interest in getting a special counsel appointed by any of the folks in your office?

15 A She had left the FBI months before I took the role. So I had no direct

16 conversation with her about any operational matter within the FBI.

17 Q Okay. So you didn't have a real transition with her?

18 A No.

19 Q When did you become aware that the U.S. Attorney for Central District of

20 California wasn't going to be able to bring charges?

21 A Yeah, I have no direct awareness of that to this day other than you say that.

22 I was aware that there were conversations out there.

23 Q And so that was a big part of, you know, Shapley and Ziegler's testimony,

24 that that's become public. Was that the first time you heard that?

25 A No. I had known -- I knew that David Weiss and attorneys were talking

with California.

Q But you didn't know the resolution of that matter?

A Uh-uh.

Chairman Jordan. Back up a second, [redacted].

[redacted]. Sure.

Chairman Jordan. When you took the position in '21, summer of '21, who briefed you up on the case then?

Mr. Sobocinski. Would have been employees within the division; supervisors, case agents.

Chairman Jordan. Some of the people that work for you now?

Mr. Sobocinski. Uh-huh.

Chairman Jordan. Okay.

BY [redacted]:

Q Do you remember who that was?

A I don't.

Q Okay. Was it [redacted]?

A It very easily could have been, but I don't have a direct memory of that.

Q Do you remember how many FBI officials were working on this case as a -- as one of their primary duties? Are we talking two? Are we talking 20?

A When you say officials, we have a -- we in the -- we have a very -- I'm the only FBI official in Baltimore, so it would be solely me. Employees is a different answer, and as we talked about, I'm not going to get into the specific numbers.

Q Somebody like Agent [redacted], like, how many folks were in his -- similarly situated to him?

A Yeah, so he's a supervisor. We have dozens of squads throughout

1 Maryland and Delaware. On each squad, in general, there are 8 to 10 agents and
2 analysts, other support staff working that.
3 Q Was Agent [redacted] highly respected?
4 A Yeah, I thought so.
5 Q So you had no reason to disbelieve his trustworthiness?
6 A Yeah. I'm not going to get into the specifics of that. But [redacted], as
7 we talked about, retired and he retired in good standing as an FBI supervisor.
8 Q Okay. So I mean, if he retired in good standing as an FBI supervisor, he's
9 inherently a reliable person, right?
10 A I would hope so.
11 Q I want to turn to the June 15th meeting. Do you remember, you know,
12 who attended the meeting? And if you don't, I can give you some names and maybe
13 that jogs your memory.
14 [redacted] Didn't we go over this in your first round?
15 [redacted] A little bit, yes.
16 Mr. Sobocinski. Once again, I'm not in the position to talk about the specifics of
17 that meeting.
18 BY [redacted]
19 Q Okay. If I ask you, like, who was there or who wasn't there, can you tell
20 me?
21 A No. I mean, I was there. And there were FBI employees and DOJ
22 employees.
23 Q Okay. Was there U.S. Attorney's Office employees from Delaware?
24 A Yes.
25 Q Okay. And do you remember Jack Morgan and Mark Daly gave a pretty big

1 presentation?

2 A I'm not going to go into the specifics of what transpired in that conversation.

3 But once again, I don't know those -- the names of those people don't ring a bell to me.

4 Q Okay. But two Tax Division lawyers made a presentation?

5 A I'm not going to go into the specifics of that.

6 Q Okay. But you know the answer to my question, you're just not willing to

7 go into specifics, or you don't know the answer to my question?

8 A You had U.S. Attorney's Office, you had FBI, you had IRS, and you had DOJ

9 officials in there discussing what is still an ongoing case.

10 Q Okay. But in terms of among that group, whether any subset of that was

11 doing a huge presentation?

12 A There -- obviously, when you get a group of people in a room to discuss an

13 ongoing case, you're talking about things.

14 Q You remember who called that meeting?

15 A I don't.

16 Q Okay. Do you remember what the purpose of the meeting was?

17 A To discuss an ongoing investigation. But in general -- I mean, I'm not -- I'm

18 literally not trying to be evasive. I want you to know that my role in that meeting was

19 continually to be -- to essentially corral or provide input in a way that provided the FBI

20 and what we represented to bring this to resolution.

21 Q Fair enough. It was just represented to us that you were -- you were -- you

22 asked a lot of pointed questions, it was represented to us, of the Tax Division lawyers,

23 that, you know, you were not necessarily a protagonist to the presentation that the tax

24 lawyers were making, you were asking some tough questions.

25 A So once again, I'm not going to talk about the specifics, but I do -- but

1 my -- but I was trying to move this forward. And I'm trying to get resolution and work
2 with a team of very different individuals to move a case forward.
3 Chairman Jordan. Was this case moving slow? You said like at least --
4 Mr. Sobocinski. Yup.
5 Chairman Jordan. -- three dozen times you wanted to get this thing to
6 resolution. And so that sort of suggests that it wasn't getting to resolution and you
7 thought it should be moving a little faster pace.
8 Mr. Sobocinski. I would have liked for it to move faster.
9 BY [redacted]:
10 Q It was represented to us that at that meeting the FBI special agent in charge
11 asked several questions about the tax case and presented rebuttals to DOJ tax attorneys
12 who were presenting on the defenses raised by Hunter Biden's defense lawyers. Does
13 that ring any bells?
14 A Yeah, I'm not going to get in the specifics of the content of what those
15 conversations were.
16 Q But earlier you said that when it came to the tax charges, you were -- that
17 was not your bailiwick, is my term, but that, you know, the FBI was not experts with tax
18 matters?
19 A Yeah, I am not an expert with tax matters.
20 Q But, you know, it was represented to us that you were presenting rebuttals
21 to the DOJ tax attorneys. And so I'm just trying to see if there's anything you remember
22 from that back and forth.
23 A I'm not going to get into the specifics of that, but I will just reiterate once
24 again is that all my conversations were about moving this forward.
25 Q Do you remember having -- I'm not asking for the content, but do you

1 remember having that back and forth?

2 A I'm not going to get in discussion about that. I'm just giving you what my

3 motivation was during that meeting.

4 [redacted] Can we go off the record for 1 minute?

5 [redacted] Yes.

6 [Discussion held off the record.]

7 Mr. Sobocinski. So, yeah, getting back to that meeting, you know, my focus on

8 that was trying to bring a variety of folks together, leaders and other entities, in a way

9 that, like, this isn't -- I'm not going to say overstepped my boundary, but I was definitely

10 talking about something that I would have much preferred another organization to bring

11 up. It wasn't being brought up, so I as just a general investigator wanted to ask

12 questions so that I could help at least understand what I thought was a very complicated

13 process to move it forward, so that when we came out of that meeting, that wasn't just a

14 meeting to have a meeting, that that was a meeting with clear understanding of where

15 we were going to move forward on it and what the -- in particular what the FBI and my

16 team's role and things that we needed to do to continue to move this forward.

17 BY [redacted]

18 Q Okay. Do you remember telling Special Agent Shapley during a break in

19 that meeting that the issues raised by DOJ tax that might result in not charging are

20 nonsense?

21 A I'm not going to go into the specifics with the individual conversations with

22 anybody in that meeting. But in -- as the chairman said, I was focused on moving the

23 case to a resolution.

24 Q Okay. And again, sorry to ask this. It seems like you hate when I ask this

25 question. But do you know the answer and you're not going to tell us here, or do you

1 not know the answer about whether you used the term "nonsense" to Shapley in relation
2 to characterizing the DOJ tax lawyers' presentation?
3 A I have no recollection of using the word "nonsense."
4 Q Okay. Or a similar word, expressing frustration or crankiness about the
5 presentation you were seeing?
6 A I was in a room full of tax lawyers and other investigators focus on very
7 intricate tax laws. That is not some place I enjoy being. It took much longer than what
8 I expected. But literally, it could have lasted a half an hour; it felt like forever. And I
9 was focused on trying to bring it together so that a layman like me and my team could
10 then understand what we needed to do and what the team needed to do to continue to
11 move this forward and not just have a meeting to have a meeting.
12 Q Okay. At that point, was it just the tax charges that were on the table?
13 A I can't get into the specifics of what was discussed during that meeting.
14 Q If it were just the tax charges, what would be the FBI's role in that? Like, if
15 they decided to just pursue the tax charges, would the FBI still be involved?
16 A Can I go off the record?
17 Q Sure.
18 [Discussion held off the record.]
19 Mr. Sobocinski. If it was just a tax charge, the FBI wouldn't be -- the FBI wouldn't
20 be there.
21 BY [redacted]
22 Q Okay. Let's go back to the 10/7 meeting. In Shapley's contemporaneous
23 notes, on the first page of the exhibit, under B, process for decision, the email states that
24 Weiss needs approval first from DOJ tax.
25 Was that your understanding, that before Weiss was going to bring a case, that

1 part of the administrative approval process inside of DOJ required him to get the okay
2 from the Tax Division?
3 A So I want to start with one thing. You keep saying contemporaneous notes.
4 This is an email that appears to be written hours after that. So I know it's semantics but,
5 for me, contemporaneous notes are something that's generated as it's ongoing. And so
6 for me, I want to say that this was more of a -- I would describe this more of a summary
7 email than contemporary notes. And then, I'm sorry, if you could give me that question
8 again.
9 Q Well, let me -- now that you raise that, did you take any notes during that
10 meeting?
11 A I did not.
12 Q Did you write any emails about what happened in the meeting?
13 A Not that I'm aware of.
14 Q Okay. So going back to the first page -- and this is from the notes prepared
15 the same day that the meeting happened. These notes are the same day the meeting
16 happened, right, Friday, October 7th?
17 A Yeah. I'm not fighting you on this. This is an email that appears --
18 Q Okay.
19 A -- that you keep referring to the notes. I don't remember him in a room
20 with a laptop taking these as this was ongoing. And that would have been abnormal if I
21 saw that amongst investigators, so --
22 Q But it's not abnormal to type up summaries of meetings?
23 A And send emails, absolutely not.
24 Q Okay. So this is the type of, you know, record that would expected to be
25 produced in the ordinary course, right?

1 A Yeah, an email of record, yes. But to keep calling it contemporaneous
2 notes is just not -- you know, I'm just telling you I disagree with that assumption of that,
3 not that it's an email.
4 Q Okay. So I'll just refer to it as an email prepared the same day the meeting
5 happened.
6 A Sure.
7 Q Under the 2.b.i., the needs DOJ tax approval first, states that Weiss needs
8 approval first. Did you understand that he had to go on a tax case to get the approval of
9 the Tax Division officials?
10 A The word "approval" is -- I've never felt that he needed approval. He's -- it
11 was my understanding he had the authority to bring whatever he needed to do. There
12 was administrative charge -- or administrative process, not within DOJ, but also within
13 tax. I don't know the intricacies of that, but it definitely seemed very cumbersome.
14 Q But going back to the June meeting with the DOJ tax lawyers, it's obvious
15 that if you're having like a really long meeting and the DOJ tax lawyers are making a huge
16 presentation and you're rebutting them, you know, it's obvious that these DOJ tax
17 lawyers have a role here. I mean, isn't that fair to say, and they've got to clear this
18 before Weiss can prosecute it?
19 A I have no idea what -- when you say "clear this," I don't know what that
20 looks like. I mean, obviously, DOJ has multiple specialty attorneys, trial attorneys that
21 are involved in a wide variety of cases.
22 Q But you'd agree that Weiss had to get approvals, whether they were
23 administrative or whether they would be a foregone conclusion, that he needed to
24 get -- he needed approvals to bring charges outside of his district, right?
25 A I am not -- approval is not what I thought. He needed some type of

1 author -- some type of something within the Department of Justice. I don't know what
2 it was. Approval means, to me, that's more like, hey, I can say no. I never thought that
3 anybody was there above David Weiss to say no.
4 Q Okay. Do you know if he needed to go through that exercise if he was
5 going to bring the tax charges in Delaware? Did he have to come to Main Justice in
6 Washington D.C. and have that type of meeting?
7 A I, unfortunately, have had experience with this in multiple districts where
8 the process when you work with IRS is there are multiple back and forth within IRS, then
9 there are multiple sideways within the Department to IRS tax attorneys. And it is a
10 circular thing that just keeps churning and churning for long periods of time.
11 Q And just given your substantial experience on that, what's your view of like
12 the DOJ Tax Division? Do they need to sign off on it? Do they need to concur? Like,
13 how do you get through that hurdle? It's obviously a hurdle if you have to come to D.C.
14 and sit in a long meeting.
15 A Yeah, in a general sense, not this case, yes, I think there is an approval
16 process in place, I think different than this. I think this one was clear in all of our
17 discussions that that approval had been delegated to Mr. Weiss. He's had the ability to
18 do it. And then it was just the movement of whatever the specific issues were back and
19 forth to get to that point.
20 Q Do you think the DOJ Tax Division lawyers were trying to convince Mr. Weiss
21 not to bring the tax charges?
22 A I couldn't comment on that.
23 Q Okay. But you know the answer to that question, right, because you were
24 in the meeting and it was long?
25 A I'm not going to talk about the specifics of what was going on amongst those

1 deliberations.

2 Q Okay. But it's not something you forget. It's something you know the

3 answer to and you're not able to tell me here today?

4 A I'm not going to say that either way of whether -- I'm just not going to

5 comment on that.

6 Q Okay.

7 [redacted] We can go off the record.

8 [Discussion held off the record.]

9 [redacted]. So when I asked you if you know the answer and you're just not able

10 to tell me, is it because you don't remember or is it because you believe the Department

11 won't let you?

12 Back on the clock here.

13 [redacted] Do you know what the precise question is?

14 Mr. Sobocinski. Yeah, no. Let's get that question again.

15 BY [redacted]:

16 Q So at the June 2022 meeting, there was -- it's been related to us -- I wasn't in

17 the meeting -- so it's been related to us that the Tax Division lawyers presented a huge

18 presentation, that you asked some pointed followups, some rebuttals, that on the

19 sidelines you mentioned that you thought it was nonsense or words to that effect.

20 And so I asked you about that. And you said that you're unable to comment on

21 that because -- due to the ongoing investigation, due to the instructions from the

22 Department.

23 And my follow-up question was, okay, do you know the answer, and you're not

24 willing to tell me because of the instructions, or do you not know the answer?

25 A I have very limited more information I could give if given authorization by the

1 Department, but it would not be specifics, nor would it be -- it would be context.

2 Q Okay.

3 A And I do not believe it would in any way get you where you wanted to go

4 with the question, like get the answers you're wanting.

5 Q After it became public that Gary Shapley was going to come to Congress and

6 he gave, I think, an interview on CBS in the -- at the end of May before his congressional

7 testimony, who did you discuss that with?

8 A My team within Baltimore, probably folks within the Criminal Investigative

9 Division. Definitely David Weiss.

10 Q And what was the nature of your conversation with David Weiss?

11 A I need to go off the record for a minute.

12 [redacted]. Okay.

13 [Discussion held off the record.]

14 Mr. Sobocinski. Yeah. In general, it was concerns about how this was going to

15 affect the ongoing case and were there issues we needed to take into at least from the

16 FBI side to move forward.

17 BY [redacted]

18 Q After Shapley's testimony became public in June, did you have any

19 conversations with David Weiss about that?

20 A We acknowledged it, but it wasn't -- I mean, we didn't sit there with the

21 transcript going back and forth. We both acknowledged that it was there and that it

22 would have had -- it had an impact on our case.

23 Q Okay. Did any of your conversations with David Weiss, you know, have

24 anything to do with like, can you believe what Shapley's saying, this is totally 100 percent

25 untrue?

1 A I don't remember that level of it.

2 Q If it was --

3 A I was more concerned about how this is affecting my employees. I now

4 have FBI employees that names are out there. I have FBI employees and former FBI

5 retired agents who've served for 20-plus years whose parents are getting phone calls,

6 whose photos with their girlfriends, who their children who are being followed. That is

7 not something that we were prepared for, and I was concerned about having that

8 continue or expand to another one of my employees.

9 Q If what Shapley and Ziegler had testified to was totally fictitious, totally false,

10 totally off base, you would concede you probably would have a conversation with David

11 Weiss about, can you believe these guys are just making up all these facts?

12 A Yeah, I'm not going to go into specifics of what I had or had not as it relates

13 to them. My focus with David was how are we going to move this case forward.

14 Q And likewise, then they testified in July before the Oversight Committee.

15 What types of conversations did you have with David Weiss about that?

16 A Once again, it was -- I'm not going to get into specifics, but in general it was,

17 okay, David, where are we going? Let's move this case forward. What do you need

18 from the FBI and my team that will enable us to continue to move a case?

19 Q Okay. But those conversations didn't involve, can you believe Shapley and

20 Ziegler are totally lying about this?

21 A Yeah, I'm not going to comment on what his opinions was, and I don't

22 remember having what you just said with him.

23 Q You don't remember that?

24 A Yeah, I don't.

25 Q Okay. Presumably, you would remember it if you and Weiss had like a big

1 conversation about, everything Ziegler and Shapley are saying is totally false, they're
2 making this stuff up?
3 A As you're probably aware that -- you know, I joined the FBI 25 years ago. I
4 joined for a reason: to protect the American people and uphold the Constitution. I've
5 been to war. My family's been in bad places. My kids have been evacuated from war
6 zones or quasi-war zones. I've been in some bad things.
7 Q This is --
8 A I've accepted that. No, no, this is important to me. And so when you ask
9 what I remember, what I not, I am solely focused on two things, and they're not mutually
10 exclusive. The first thing is, like every investigation, I want to get to a resolution in a fair,
11 apolitical way. The second thing, and it's becoming more important and more relevant,
12 is keeping my folks safe. And the part that I never expected is keeping their families
13 safe. So that, for me, is becoming more and more of a job that I have to do and take
14 away from what I was -- what I signed up to do, which was investigate and do those
15 things.
16 So when you talk about potential frustrations with communication, I am
17 personally frustrated with anything that places my employees and their families in
18 enhanced danger. Our children, their children didn't sign up for this.
19 Chairman Jordan. No, and we certainly appreciate that and your service to our
20 country. And there's no place for those kind of threats and that kind of thing. But I'll
21 just point out, [redacted] has faced the same kind of thing when -- as our chief counsel a
22 few years ago during the impeachment proceedings that Democrats brought against
23 President Trump. So no place for any of that. We appreciate what you do.
24 BY [redacted]
25 Q So again, you know, the question was, if Shapley and Ziegler are fabricating

1 this entire thing, you probably would have had a conversation with somebody about that.
2 Have you had a conversation with anybody about Shapley and Ziegler fabricating the gist
3 of what their testimony was?
4 A I'm not going to go into speculative content of what I -- I was frustrated with
5 some --
6 Q No, I didn't ask you to speculate. I just said, did you have any conversations
7 with anybody? First I said Weiss, and now I'm expanding it to anybody, about
8 like -- about saying that Shapley and Ziegler are just lying about everything?
9 A No. I've never said those words.
10 Q Okay.
11 Ms. Greer. I would just note for the record, I don't think the witness has stated
12 that they are lying about everything either.
13 [redacted] Okay.
14 BY [redacted]
15 Q Are you -- I'm going to turn to some of the allegations that the agents were
16 obstructed in their investigation. So if you can help us, we appreciate it. If you can't,
17 I'll probably ask you if you know the answer and don't want to tell me or that type of
18 thing.
19 In August of 2021, that's after you became the special agent in charge of the
20 Baltimore field office, correct?
21 A Yes.
22 Q Okay. Shapley and his team told prosecutors about other interviews they
23 would like to conduct, and they were denied. Are you aware of that?
24 A Can we go off the record?
25 Q Okay.

1 [Discussion held off the record.]

2 BY [redacted]

3 Q All right. Do you need me to repeat the question?

4 A I do.

5 Q So in August of 2021, after you became the special agent in charge of the

6 Baltimore field office, Shapley and his team told prosecutors about other interviews that

7 they wanted to conduct, and they were blocked from doing that. Do you have any

8 awareness of that?

9 A Yeah, I'm not going to talk about ongoing investigative activity.

10 Q If you were permitted to talk about ongoing investigative activity, would you

11 be able to answer that question?

12 A In a general sense.

13 Q You would be able to answer it?

14 A I would be able to respond differently.

15 Q In September, Lesley Wolf emailed Shapley and his team saying, I do not

16 think you are going to be able to do these interviews as planned, adding that they would

17 require approval from the DOJ Tax Division.

18 Was that a fact you were aware of?

19 A Once again, it's ongoing investigative matters.

20 Q If David Weiss had complete authority to do -- to bring the cases that he

21 wanted, but yet investigators still had to get DOJ Tax's permission to do like basic

22 investigative steps, aren't those contradictory?

23 A Yeah, I think it's semantics and word choice. I think it was clear to me, as

24 I've stated over and over again, is that I believed and still do that David Weiss had the

25 authority to bring the charges. There was administrative process that people may have

1 referred to as approval within the IRS. I don't know. I don't know what the IRS -- I
2 mean, because that's -- there are ways things rise up. I'm aware of that in a general
3 sense and then they're referred via prosecution reports to prosecutors to prosecute. I
4 don't know what that looks like in the IRS. And so that might be the word choice they
5 use in this, but I am not aware of approval --
6 Chairman Jordan. You've dealt with other tax cases before?
7 Mr. Sobocinski. Yes.
8 Chairman Jordan. Numerous?
9 Mr. Sobocinski. More than I would have liked.
10 Chairman Jordan. Yeah. I mean, I can appreciate that. But again, you've said
11 so many times you were looking to get this resolved as quickly as possible. And yet you
12 tell us time and time again you don't how the process works to get it resolved. So those
13 seem to be contradictory to me.
14 If you wanted this resolved, you would think -- and you've dealt with the IRS time
15 and time again in cases, you would sort of know how the process works to get to
16 resolution. So I don't know how you can say both things, which you've said numerous
17 times here to the committee.
18 Mr. Sobocinski. Yeah. And I've also said that it's a very complex internal
19 process. I don't expect IRS to understand the internal processes of the FBI either. And
20 so for me it is I knew they had things they had to work through, as I've worked with them
21 previously, and I know that takes a long time.
22 Chairman Jordan. Yeah. But this was -- this was not -- this was a pretty darn
23 important case. Again, we can have the court reporter at some point figure out how
24 many times you've said you want to get to resolution as soon as possible. I asked you
25 was this case going slow, and you said yes. So that -- I think all that would, I think,

1 would compel you to say, how does this thing actually work? And you would think you
2 would know that because you've dealt with all kinds of cases, working agents at the FBI
3 with agents at the IRS before, but yet you don't know how process works and/or you
4 won't answer [redacted] questions when he gets into how that process worked.
5 Mr. Sobocinski. So I understand what my role was and what I needed to do as
6 the SAC of the FBI to move that process and continually talked about ways in which or if
7 there was things we needed to do within my control. I had a general sense of what
8 other individuals needed to do, but I also knew that I as the FBI SAC didn't have a role in
9 that and there was no administrative way for me to interject myself into that.
10 [redacted] Can we go off the record for 1 minute?
11 [Discussion held off the record.]
12 BY [redacted]:
13 Q So back to my question. Lesley Wolf emailed Shapley and his team saying, I
14 do not think you're going to be able to do those interviews, adding that they would
15 require approval from DOJ Tax Division.
16 How do you reconcile on one hand David Weiss says he's got authority to
17 do -- charge whatever he wants, but on the other hand, basic interview steps -- you know,
18 basic investigative steps, such as conducting interviews, appear to be blocked?
19 A I wasn't a participant of that. I have no awareness of that.
20 Q You have no awareness of that?
21 A [No verbal response.]
22 Q In October, Wolf emailed Shapley and his team saying that it will get us into
23 hot water if we interview the President's grandchildren, after investigators determined
24 that talking to grandchildren was pertinent to the investigation. Were you aware of
25 that?

1 A Once again, this line does appear that I am unable to -- because this is an
2 ongoing case, I am unable to talk -- to answer that question.
3 Q Okay. So, generically speaking, if you're working a tax case and there's a
4 deductions claim for children's education, is it fair to go and interview the beneficiary of
5 that deduction?
6 A Once again, thankfully, I don't work tax cases. I work adjacent to them.
7 And you'd have to ask the IRS that.
8 Q Okay. Were you aware that they were blocked from interviewing the
9 grandchildren?
10 A Yeah, I'm not in a position to talk about investigative steps and what did or
11 didn't happen.
12 Q Do you know the answer to that question or are you just not able to talk
13 about it?
14 A I have an answer to that question.
15 Q You know the answer to that question?
16 A I have an answer to that question from my -- from where I sit in this chair.
17 Q Okay.
18 A But I'll go back to there's nothing nefarious in what that answer would be,
19 and there's nothing in my answer that would bear on whether David Weiss had authority
20 to or not bring this case forward or the investigative steps in this case forward.
21 Q Were you aware of the instance where a search warrant was going to be
22 executed on a storage unit?
23 A Can you be more -- like in this case?
24 Q Yes.
25 A I'm not going to talk about ongoing things in this investigative matter.

1 Q So Hunter Biden had a storage unit, and there was a request for documents
2 that everybody knew was in the storage unit. And so there was a plan to monitor the
3 storage unit and see if anybody from the Biden camp went to look for it. And if they
4 didn't look for it, that would be telling that they weren't complying with the records
5 request.
6 Do you have any recollection of that? Was that during your tenure?
7 A Do you have a date?
8 Q I don't have a date handy. But I'm just asking you whether that was
9 something that you remember happening during your tenure?
10 A Well, I think the first step is if we have a date, I could tell you whether it was
11 during -- whether it's something happened in my tenure.
12 Q Fair enough. Do you remember that?
13 A Once again, I'm not in a position to talk about ongoing investigative steps.
14 Q Okay. Once again, do you know the answer to the question and you're just
15 not willing to talk about it, or would you need to rack your brain a little bit more and have
16 your memory jogged?
17 A No. I think that I -- this is going to be a repetitive process where I am going
18 to say I'm unable to answer that question because of an ongoing investigative matter.
19 You're asking me yes or no questions. So obviously, all of these are going to a resolve to
20 a different answer than that.
21 Q Okay. Were you aware on the day of action, which was before your tenure,
22 okay, this is December of 2020, there were specific guidelines given to the investigators
23 about what they can and can't ask witnesses they were going to go interview? Were
24 you aware of that?
25 A Once again, I can't comment on any investigative activity in this case.

1 Q If investigators were told that they couldn't ask about President Biden or
2 couldn't ask about what 10 percent for the big guy meant, if that happened, do you think
3 that would have an impact on the investigation?
4 A I have no comment. I don't know what that really -- what that is.
5 Q You don't know what what is?
6 A What you're asking me. I have no idea the context of what that is. I don't
7 know what you're referencing. And if it is an ongoing investigation, I'm going to be
8 unable to discuss it.
9 Q Okay. In the runup to the day of action, U.S. Attorney's Office, specifically
10 Lesley Wolf, provided instruction to Agent [redacted] and Agent Shapley and other agents
11 that were going to be participating in the day of action, that they were prohibited from
12 asking questions about Joe Biden. They were prohibited from asking questions about
13 what 10 percent for the big guy meant.
14 Do you -- if that's the case, do you believe that impacts the integrity of the
15 investigation?
16 A You know, first off, that didn't happen. That was before my tenure.
17 And --
18 Q It didn't happen or it didn't happen during your tenure?
19 A So two issues. The date you referenced was before I was in this position.
20 The second thing is you keep referring to the day of action. What do you mean by that?
21 Q So in 2020, it was an election year, they were -- the agents told us they were
22 prevented from taking any overt acts until after the election. After the election, they
23 wanted to go and interview people, take overt action. They wanted to go to Hunter
24 Biden's house in California and see if he'd be willing to talk to them. They wanted to go
25 visit Rob Walker in Arkansas, see if he was willing to talk to them. Turns out Rob Walker

1 was willing to talk to them. So they got some information out of Rob Walker.

2 But they had a day of action planned. That's how they characterized it. It was

3 December 8th, 2020. And in the runup to the day of action, they were given all these

4 guidelines about you can't ask about Joe Biden, you can't ask about 10 percent for the big

5 guy.

6 And so what I'm asking you as a real experienced FBI person, whether you have a

7 problem with that type of limiting apparatus being placed on the investigation?

8 A So once again, wasn't there during that timeframe. I'm not in a position to

9 talk about any investigative steps that may or may not. However, it's a regular course of

10 levels of authority within an organ -- within the FBI of when we do or do not authorize

11 certain investigative steps. And so I can't opine to this parti- -- I'm not going to opine to

12 this particular one, but in general, I regularly have conversations and make decisions on

13 investigative steps that agents may be or other employees may be conducting.

14 Chairman Jordan. Were you comfortable with the proposed plea agreement?

15 Mr. Sobocinski. Yeah, that's a U.S. Attorney's Office decision. DOJ.

16 Chairman Jordan. I understand it's their decision. I'm asking were you

17 comfortable. You told us you weren't comfortable with the pace of the investigation.

18 I'm asking, were you comfortable with the plea agreement as proposed to the judge?

19 Mr. Sobocinski. This is an ongoing case. And so with that, I'm just going to

20 defer my personal opinion on that.

21 Chairman Jordan. You can give us a personal opinion on the pace of the

22 investigation, but you can't give us a personal opinion on what was going to be the

23 outcome of the investigation. And you've said, again, at least a dozen times, probably

24 multiple times, that you were focused on resolving this case. And I'm asking -- that was

25 your focus, you said it time and time again -- were you comfortable with how it was going

1 to be resolved if the judge had not declined?

2 [redacted] I think the distinction between those two personal opinions is that he

3 has been providing his personal opinion on the pace as it relates to the questions that he

4 has been asked about some of the meetings and the issue of his authority which he is

5 authorized to discuss. But questions about his personal view on a potential plea

6 agreement relates directly to the underlying investigation, and it's not within the scope of

7 what he has been authorized to talk about today.

1 [1:28 p.m.]

2 Chairman Jordan. This plea agreement was put forward. The whole country
3 knew about the plea agreement. I'm just asking the guy who did the work, the guy who
4 oversees the people doing the work, what he thought of it. That seems like an entirely
5 appropriate question, particularly in light of the fact he was willing to tell us he was not
6 comfortable with the pace of the investigation.

7 Mr. Sobocinski. This isn't resolved. I mean, this is an ongoing issue that I am
8 currently managing, and I do not think it's appropriate for me to discuss my opinion of
9 that right now.

10 [redacted]. I went 1 minute over last time, so I will stop short 1 minute.

11 [redacted] For the record, I think I stopped 10 minutes early last time.

12 Chairman Jordan. You can keep doing that.

13 [Recess.]

14 [redacted]. It is 1:40 in the afternoon. We can go back on the record.

15 BY [redacted]

16 Q Before I get going, Mr. Sobocinski, did you have something you wanted to
17 say?

18 A Yeah, I did.

19 So with majority counsel, when they were talking to me about my meetings with
20 David Weiss, I think -- I continue to have this case as an ongoing investigation, but I am
21 running an office that has ongoing cases with David.

22 And so I don't want to give it the perception of we are having these one-off
23 conspiratorial conversations about anything. He is my main point of contact for the
24 prosecution's office in Delaware. My team is working with him. Our teams are
25 working together every day. I talk to him regularly about our ongoing cases. And so I

1 just want to make sure that that's the intent of what those meetings look like.
2 I also to be clear, I did not talk about what I was going to -- my testimony here
3 today with him or anyone else about that.
4 Q Thank you for that.
5 I want to talk -- elaborate a little further on something you said in the prior hour
6 about exhibit 1, which is the Shapley October 7th email.
7 You said -- made the point earlier about the distinction between
8 contemporaneous notes and a summary written up after the meeting, right?
9 A Uh-huh.
10 Q And you said that, to the best of your recollection, Mr. Shapley was not in
11 there taking notes during the meeting. Is that fair to say?
12 A Yeah, I can't comment of whether he was taking notes. I don't have a
13 distinct memory of him with a laptop open creating this email.
14 Q Okay.
15 A And so that's really more what I was meaning.
16 Q And so he wasn't taking notes on the computer at least?
17 A Not that I'm aware of.
18 Q Okay. And you would have probably remembered that, if he'd had a
19 computer open in front of him?
20 A Yeah, if he had. In the Federal Government, that's still pretty rare.
21 Q Okay. Do you know if anybody else had a computer open and was taking
22 notes?
23 A Not that I'm aware of.
24 Q Okay. And this meeting was largely in person, right? There was not -- it
25 wasn't partially over Zoom, was it?

1 A No, I believe everybody was in the room.

2 Q Okay. In the prior hour you said -- and I think the chairman picked up on it

3 as well -- you said that you wanted to keep the case moving forward.

4 Do you recall saying that?

5 A I do.

6 Q You said that a couple of times?

7 A I have.

8 Q What does that mean, keep the case moving forward?

9 A So the FBI, we have more than enough work, and what we do is really

10 important. And so for me it is about prioritizing our time and the time and energy of

11 what the FBI does.

12 And so for me when we open a case is we don't open them up forever. There's a

13 variety of reasons why we want to get to a resolution.

14 And so for me, without going into specifics, I -- but I will when I talk about this

15 case, which is what does the FBI need to do or provide to a prosecutor that's going

16 to -- they're going to use and they need as far as information to bring the case to

17 prosecution or not.

18 Q Okay. And actually you just said there are a variety of reasons you want to

19 bring the case to a resolution, and that's across all cases, right? Not just this case, it's

20 every case that you work on?

21 A Correct.

22 Q And what are those reasons? You don't have to give me the exhaustive list,

23 but can you explain some of them for the record?

24 A Yeah. In general what we do is we arrest bad people who are doing bad

25 things. And that may be anything from white collar crime, like what we're talking about

1 here today. It's nation-state actors coming after us. It is, especially in Maryland and
2 Delaware, it is violent folks killing people on a regular basis.
3 And so it's really important for us to get involved and to get involved quickly and
4 have that immediate impact to protect the American people and save lives.
5 Q And if a case -- when a case is going forward, you have resource -- I mean
6 people, employees -- that are tasked to it that then maybe can't be working on other
7 matters as well, right?
8 A Correct.
9 Q And so it may be the case that you also want to move a case forward
10 because you have other matters that you need to focus on?
11 A Correct.
12 Q Okay. Over the course of your 25 years with the FBI, you've worked with a
13 number of different U.S. Attorney's Offices, correct?
14 A Correct.
15 Q So you've worked with -- now you work with Maryland?
16 A Correct.
17 Q And you work with the U.S. Attorney's Office in Delaware?
18 A I do.
19 Q You've worked with the U.S. Attorney's Office in Washington, D.C.?
20 A I have.
21 Q Any other jurisdiction that I'm not thinking of? North Carolina, I guess?
22 A Yeah. Two or three in North Carolina, EDVA, a couple in New York. And
23 then when I was overseas there were dozens more that I would work with that had
24 international nexus.
25 Q And is it fair to say that each office -- each U.S. Attorney's Office that you've

1 worked with has had a different approach to how it handles cases?

2 A Yeah, I think there was -- the approach was always the same, the intent was

3 the same, but they had different cultures.

4 Q What do you mean by different cultures?

5 A I think just really in a concrete way. Some were slower; some were faster.

6 Q Okay. So some office maybe are more deliberative. They take a longer

7 time to mull over decisions. Is that fair to say?

8 A Yes.

9 Q And how would you describe the pace at, for example, the U.S. Attorney's

10 Office for Maryland?

11 A They're fast.

12 Q They're fast?

13 A Uh-huh, they're responsive.

14 Q So they make decisions quickly?

15 A Uh-huh.

16 Q And Washington, D.C.?

17 A Fast -- yeah, they're in the middle. I'll say they're in the middle.

18 Q Okay. Are there any jurisdictions that you've worked with that you'd

19 consider a little more deliberative, like they take a little longer to make a decision?

20 A Delaware would fall under that.

21 Q Okay. And that's in all the cases that you work on with Delaware. Is that

22 fair to say?

23 A It is.

24 Q Okay. Thank you.

25 I want to go back to the discussion about the Tax Division meeting. And I

1 know -- I understand you can't get into the specifics of that meeting, so I'm going to try
2 and stay away from that. But if you can answer a question, I don't want to put you in a
3 position you can't answer.
4 A Uh-huh.
5 Q There was a suggestion made that there was a -- some presentation made by
6 the Tax Division attorneys.
7 Do you recall that suggestion being made by the Republican staff?
8 A I do.
9 Q Okay. And the claim was that that was because the Tax Division had to
10 clear the charges. Do you recall that?
11 A I believe that's what he said.
12 Q Okay. So in that case would it be logical for the entity that has to clear to
13 provide a presentation to try and persuade somebody?
14 A Yeah. Taking it out of the context of that case, sure, that sounds -- that's
15 the process, you're trying to persuade somebody.
16 Q Right. But if you actually had sign-off authority, you wouldn't need to
17 persuade anybody, right? If you were the ultimate decisionmaker, you wouldn't need to
18 persuade anybody?
19 A Yeah, I don't -- I think they're not mutually exclusive. I think that, at least
20 now in the environment we live in, yes. So for me, in particular, I'm the SAC. I can
21 make a decision, and people are going to have to live with it.
22 Q Right.
23 A My hope is that not only am I providing information as to why I'm making
24 that decision, but I'm also getting my employees the ability to give their counternarrative
25 of what that is.

1 And so two things. There's, one, for them they are -- they have an
2 understanding of my thought process and so what I -- my expectations; and, two, I
3 actually am still learning, and so I do get information that changes my mind.
4 Q Okay. And so in that case you might actually solicit that information
5 because, for example, you want to know what the weaknesses in an investigation might
6 be, correct?
7 A Correct.
8 Q And that might help you formulate a stronger case. Is that fair to say?
9 A Correct.
10 Q Okay. I want to move on to a discussion about leaks. And you talked
11 earlier about the concerns about -- around the October 7th meeting and potential leaking
12 in that case. But I want to talk about just leaks, take a step back and leaks more
13 generally.
14 Are you familiar with the term "law enforcement sensitive information"?
15 A I am.
16 Q And what's your understanding of what that term means?
17 A It is one of several classification levels.
18 Q It's not actually classified material, right, necessarily?
19 A Wow, now you're going to get me in -- I better not fail this test.
20 You know, there's top secret, compartmented secret, confidential, and law
21 enforcement sensitive is the bottom of those four.
22 Q Right. And you don't need to be in, for example, a SCIF to do law
23 enforcement sensitive information?
24 A That's correct.
25 Q Okay. Law enforcement sensitive information often encompasses

1 information about ongoing investigations, right?

2 A Correct.

3 Q So information maybe isn't classified, but it could still be law enforcement

4 sensitive?

5 A Correct.

6 Q And is it fair to say that the FBI works to keep such things close-hold or

7 works to keep them from being broadly released even if the information itself isn't

8 actually classified?

9 A Yes.

10 Q Why is that?

11 A As it relates to ongoing cases, I mean, we're doing certain things in our

12 investigations against people that we don't want them to know about what we're doing.

13 And so for us, twofold. It is -- it keeps what we're trying to do protected, but then also

14 there are safety issues with that information getting out and potentially could have

15 negative consequences on our employees.

16 Q And is it fair to say that if the information gets out, your employees could be

17 at personal risk?

18 A Yeah. Some of this, yeah.

19 Q Okay. And is it fair to say that if that information got out, it could actually

20 compromise the investigation?

21 A Yes.

22 Q How so?

23 A In a perfect world, people don't know we're investigating them. That's why

24 they -- unless they're engaged in immediate violence, we watch them and gather

25 evidence that's going to enable us to work with the U.S. Attorney's Office or State and

1 locals to prosecute them. And if people know we're watching them, they have a
2 tendency to stop doing that.
3 Q Okay. And so it actually might prevent you from completing an
4 investigation or it might prevent prosecutors even from obtaining a conviction. Is that
5 fair to say?
6 A Yes.
7 Q Okay. And is it fair to say that the release of information about ongoing
8 investigation also creates a risk that the reputation of the individuals involved in the
9 investigation -- I'm not talking about the agents, but, like, the witnesses or the targets or
10 even the subjects -- that those reputations could be impacted even if ultimately there are
11 no charges brought?
12 A Correct.
13 Q So that's another reason that the FBI works to keep that type of information
14 from being broadly released?
15 A It is.
16 Q Okay. Without getting into the -- and I'm not asking about this case
17 specifically, but over the course of your career, have you ever worked on an investigation
18 where there were leaks of information to the press?
19 A I don't recall ever being an investigator investigating the leaks, but I've been
20 involved in investigations that had information leaked about what I was doing.
21 Q And has that impacted those cases in those situations?
22 A Yeah. Yeah, me personally, without going into details, it was a
23 counterterrorism case and a foreign government, and specific things about what we were
24 doing and descriptions of things about us was released at a time I was investigating
25 people that had killed Americans and were very interested in probably harming more

1 Americans and now to include myself. So, yes, I was very upset by it.

2 Q So those are pretty serious?

3 A That was not a happy day.

4 Q And that sounds like a pretty serious leak. But even leaks in -- I don't want

5 to say lesser cases, but cases that don't necessarily involve counterterrorism, that can still

6 potentially impact the case.

7 It can also impact how agents work together on a case, right? Could it

8 potentially sow distress among a case team?

9 A Yeah, I think that's fair.

10 Q Okay. When a leak occurs, does the FBI conduct an investigation to

11 determine what happened?

12 A The FBI, amongst many, the executive branch entities will do that

13 investigation. But yes.

14 Q Okay. And that investigation sometimes takes -- could take a long time to

15 complete, right?

16 A Correct.

17 Q And while that investigation is ongoing, it's possible that the person or the

18 persons who did the leaking, if they still have access to the information, could continue to

19 leak more information, right?

20 A Yes.

21 Q Okay. So there are circumstances in which a concern about a leak might

22 justify removing an investigative team, for example, to protect the integrity of the

23 investigation?

24 A Yeah, in a general sense I could see that happening.

25 Q Okay. And ultimately when the FBI or whoever is investigating the leak

1 determines the source of the leak, there are likely to be ramifications for the individual
2 involved, correct?
3 A Correct.
4 Q For example, somebody who leaks sensitive information to the media could
5 lose his or her security clearance, right?
6 A Yes.
7 Q And FBI employees are required to maintain a security clearance to do their
8 jobs, right?
9 A Yes.
10 Q Do you know if IRS investigators are likewise required to maintain a security
11 clearance to do their jobs?
12 A I don't know, but I would assume so.
13 Q Okay. So if they are, if someone is at risk of losing his or her clearance and,
14 accordingly, his or her job, then it would make sense for them to try to take steps to
15 prevent that from happening, correct?
16 A Yes.
17 Q Moving on, are you familiar with the term "sensitive investigative matter"?
18 A I am.
19 Q Sometimes abbreviated as a SIM, correct?
20 A Uh-huh.
21 Q What's your understanding of what a SIM is?
22 A SIM is a category of or a designation that we give to certain investigative
23 matters that put a higher level of scrutiny or oversight approvals, process in motion.
24 Q Are you familiar with the FBI's Domestic Investigations and Operations
25 Guide?

1 A I am.

2 Q Sometimes referred to as the DIOG, correct?

3 A Yes.

4 Q Can you explain for the record what the DIOG is?

5 A DIOG is based upon the Attorney General guidelines that dictate how the FBI

6 does what it does and our authorities. The DIOG then goes into more granular detail on

7 how we do things, the process of doing things, and then the corresponding authorities

8 that we need to do the things we do.

9 Q I'm going to introduce section 10 of the DIOG. This is the section on

10 sensitive investigative matters. And I should say I think the DIOG itself -- the current

11 DIOG is law enforcement sensitive. This is the 2021 version, which is available online.

12 [Sobocinski Exhibit No. 9

13 Was marked for identification.]

14 BY [redacted]

15 Q And I'm not going to ask you about the whole thing. I think it's 17 pages as

16 printed.

17 A Okay.

18 Q Okay. Just on the very first page, under "Sensitive Investigative Matters,"

19 the overview section, that very first paragraph on that first page says that: "Certain

20 investigative matters should be brought to the attention of FBI management and

21 Department of Justice officials because of the possibility of public notoriety and

22 sensitivity."

23 Do you see where it says that?

24 A I do.

25 Q What's your understanding of what "public notoriety and sensitivity" means?

1 A I think things that would, if the general public knew we were doing them,
2 would raise concern.
3 Q And I want to be clear here. This says that -- this sentence says certain
4 matters should be brought to the attention of management. It does not say that they
5 require additional approval from management, right?
6 A It does not say that.
7 Q Okay. It does. And then it says: "Assessments and predicated
8 investigations involving 'sensitive investigative matters'" do have "special approval and
9 reporting requirements," right?
10 A You have now lost me. Where are we on this?
11 Q The second sentence of the first paragraph.
12 A Okay. Yes.
13 Q Continues on, and it defines -- under 10.1.2.1, there's the definition of a
14 sensitive investigative matter, and I'm just going to summarize it quickly.
15 Among other things, it says members of the news media, religious and domestic
16 political organizations, academic -- matters with an academic nexus. And it also says the
17 activities of a domestic public official or domestic political candidate and, quote, "any
18 other matter which, in the judgment of the official authorizing the assessment, should be
19 brought to the attention of FBI HQ and other DOJ officials."
20 Do you see where it says that?
21 A I do.
22 Q Is all of this generally consistent with your understanding of what a SIM is?
23 A It is.
24 Q Okay. And then in the next paragraph it says that, while the definition of a
25 SIM generally pertains to the behaviors and/or activities of the subject, target, or subject

1 matter, quote, "This definition does not, however, prohibit a determination that the
2 status, involvement, or impact on a particular witness or victim would make the
3 Assessment or predicated investigation a SIM," right?
4 A Uh-huh.
5 Q So, in other words, a matter could be classified as a SIM even if the target is
6 not -- the subject of the investigation is not necessarily a protected person. It's if one of
7 the witnesses or somebody that's potentially involved in it could be enough to trigger the
8 SIM designation. Is that fair to say?
9 A Yes.
10 Q Okay. Who actually designates a matter as a SIM?
11 A Yeah, that's a bureaucratic question. I think the authority, depending on
12 what the case type is, resolves at different levels.
13 I think, with everything, it comes into a first-line employee, a special agent, an
14 intelligence analyst, or other employee. They recognize this as a potential.
15 Sometimes it's very clear-cut. So then they look within the updated version of
16 DIOG and make a decision and put it into, like, essentially a chart and say, "Okay, I need
17 to do that," depending on what level of investigation it is.
18 And then other times that it's not as clear-cut. And so you may bring in your
19 supervisor. You may bring in our chief division counsel, which is the lawyers within a
20 field office. Sometimes that, the discussions go to headquarters, OGC. And at times
21 we discuss that with the U.S. Attorney's Office as well on occasion.
22 But the approval -- the actual approval really depends on what's the facts of the
23 individual case and then what's the case type and what we're being asked to do.
24 Q And regardless of who actually signs off on the designation or makes the
25 designation, the FBI is required to notify both FBI headquarters and DOJ leadership that

1 that designation has been made, right?

2 A Yes.

3 Q Okay. So the investigation into Hunter Biden was opened in

4 November 2018, correct?

5 A I don't have a -- I don't know what the date was.

6 Q Okay.

7 A I do know that it was years ago.

8 Q I'll represent to you that it was in -- according to the testimony from Mr.

9 Shapley, it was November 2018.

10 In 2018 -- in November of 2018, the Department of Justice was under the

11 leadership of first Attorney General Jeff Sessions and then Acting Attorney General Matt

12 Whitaker, correct?

13 A Give me the years again.

14 Q November 2018. So we're looking at -- it would have been right around the

15 midterm elections?

16 A Yeah, that sounds about right.

17 Q Okay. And both Attorney General Jeff Sessions and Acting Attorney

18 General Matt Whitaker were appointees of President Trump, correct?

19 A I believe so.

20 Q Okay. And then Attorney General Bill Barr was confirmed by the Senate in

21 February 2019, if you recall?

22 A That sounds about right.

23 Q Okay. And Attorney General Barr was appointed by President Trump as

24 well, correct?

25 A Yes.

1 Q So any notifications, for example, about a sensitive investigative matter,
2 2019, 2020, those would have ultimately gone up to Attorney General Barr, who was a
3 President Trump appointee, right?
4 A Yeah. I don't know the internal process of where the -- how that
5 notification goes within the Department.
6 Q But he was the head of the Justice Department?
7 A Yes.
8 Q I want to turn to section 10.1.3, which I realize this would be easier if it had
9 page numbers, but take that back to FBI leadership. It's on the -- I think it's on 10-4.
10 A Okay.
11 Q And about halfway through, so under section 10.1.3, there's a list of factors
12 regarding the authorization of SIMs.
13 And then immediately after that list of factors there's a short paragraph, and it
14 says: "In the context of a SIM, particular care should be taken when considering
15 whether the planned course of action is the least intrusive method if reasonable based
16 upon the circumstances of the investigation?"
17 Do you see that?
18 A I do.
19 Q What's your understanding of what that means?
20 A I think the difference with this one is "particular care." I mean, in general
21 least intrusive method is the way we work our cases. We want to do this as
22 unintrusively as we can. When it becomes a SIM, it's just highlighting that you need to
23 even do more for that, that it's more important.
24 Q Okay. I want to move on from the DIOG and turn to the Justice
25 Department Tax Division's Criminal Tax Manual. And I know this is probably not

1 something you've reviewed before because you are not a tax -- you don't do a lot of tax
2 investigations. But we'll have -- we'll walk you through the document.
3 A Sounds good.
4 Q And this will be exhibit 10.
5 [Sobocinski Exhibit No. 10
6 Was marked for identification.]
7 [redacted]. I've got too much paper in front of me.
8 And we're going to look at 9.4.9.3.3.3, which is at the bottom of the page and on
9 to the next page. There's got to be a better way to do this.
10 [redacted] Which is the --
11 [redacted] Oh, I'm sorry. I actually just gave you the IRS. We're going to look
12 at both of them, but if I can pull those back.
13 Mr. Sobocinski. Okay.
14 [redacted] That is the IRS manual. This is the DOJ manual.
15 [redacted] What's that number?
16 [redacted]. So this will be exhibit 10 and the next one will be -- end up being
17 exhibit 11. I'm sorry about that.
18 BY [redacted]:
19 Q All right. So we are looking at section 1.05[3][b]. This is "Exclusive
20 Authority Retained by the Tax Division." And this is from the DOJ's Criminal Tax Manual.
21 So the section immediately above this -- this is 1.05[3][a] -- provides U.S.
22 Attorneys with authority to execute search warrants in tax investigations, but that's
23 qualified by the following section, which is 1.05[3][b], which provides that the Tax
24 Division, meaning the Tax Division of the Department of Justice, "retains exclusive
25 authority to approve a search warrant that is directed at offices, structures, or premises

1 owned or controlled by the following," and then there's a list.

2 Do you see that list?

3 A I do.

4 Q Okay. Number two on that list is a lawyer, correct?

5 A It is.

6 Q And number four on that list is a local, State, Federal, or foreign public

7 official or political candidate, correct?

8 A Correct.

9 Q And so in the case of both an attorney -- and I will represent to you that the

10 storage unit in Virginia was owned by an attorney, Hunter Biden -- or controlled by an

11 attorney or property owned by a political official -- such as, for example, a garage owned

12 by the then Vice President -- that would -- to execute a search warrant on either one of

13 those, the Tax Division would have to clear that search warrant, right?

14 A Yeah, I'm not going to comment on the specifics of the investigation.

15 However, yeah, Hunter -- my awareness is Hunter Biden is a lawyer and Joe Biden is the

16 President of the United States.

17 Q And if you turn the page to page 23 -- it's just the back side of the papers I've

18 given you -- it lists a number of factors that the Tax Division should consider before

19 approving a warrant. Do you see where it has that list that's in the paragraph itself?

20 A Got it.

21 Q The third factor is "whether the particular evidence at issue can be secured

22 without a warrant (i.e., whether a search warrant is the 'least intrusive means' to obtain

23 the evidence)" correct?

24 A It does.

25 Q And so the Tax Division is required to consider if, for example, a subpoena

1 that an individual could voluntarily comply with might be an option.

2 A Yeah, I think that would fit the definition of least intrusive.

3 Q Or I guess there are --

4 A Or less intrusive.

5 Q Or they could just ask for it without a subpoena, right?

6 A Yes.

7 Q Okay. So under this the Tax Division is -- this is a guideline that's been in

8 place for a long time, and in the case of property owned by an attorney or a public official,

9 the Tax Division must sign off on it, and the Tax Division must consider less intrusive

10 means, right?

11 A It does appear to say that.

12 Q Okay. Now we're turn to the Tax Division's -- the IRS guidelines.

13 [Sobocinski Exhibit No. 11

14 Was marked for identification.]

15 BY [redacted]

16 Q And we're not going to spend a long time on this, but we're going to look

17 quickly at 9.4.9 -- I'm sorry, that is not where I'm going to go quickly -- at 9.4.9.3.3.3.

18 A Okay.

19 Q I think I can see why you get frustrated in tax meetings.

20 A Right. It's all becoming clear. Yeah.

21 Q This section -- have you ever reviewed this before?

22 A I have not.

23 Q Okay. So paragraph 1 of this section says that the DOJ, Tax Division retains

24 exclusive authority to approve search warrants directed at offices, structures, or premises

25 owned or controlled by a lawyer or a Federal official, among others, right?

1 A Okay. Where is that on this?

2 Q So that is on -- we have the wrong number in front of us.

3 A Okay.

4 Q I will represent to you that the IRS manual mirrors the Tax Division Code.

5 And actually we'll come back to this because there's a line that I do not have printed off

6 here.

7 A Okay.

8 Q Sorry.

9 All right. You would agree in general that property owned by an attorney, for

10 example, there are additional factors to consider beyond just probable cause when

11 seeking a search warrant?

12 A In a general sense, yes.

13 Q In a general sense.

14 And the Tax Division in particular has to consider less intrusive means?

15 A Outlined in these memos -- or in these manuals, yes.

16 Q Okay. And that's because searches of attorneys actually present particular

17 challenges, right?

18 A Correct.

19 Q For example, it might involve coming into contact with material that's

20 protected by attorney-client privilege, right?

21 A Correct.

22 Q And can you explain briefly what your understanding is of attorney-client

23 privilege material?

24 A Yeah. It's protected information that is restricted -- you know, that is

25 protected. It is only the attorney and his client and then other people can get -- can be

1 included in that.

2 But from an investigative standpoint we -- there may be needs to get that type of

3 information. That information may be included in a larger gathering of a bulk of

4 information. And so there are processes that we apply to preserve that protection

5 when we obtain it.

6 Q And is it problematic if an agent working on a case is exposed to material

7 that's protected by attorney-client privilege?

8 A Yeah. From an FBI perspective, if an ongoing case and he was exposed to

9 it, yes, there would be issues with that, administrative issues with that.

10 Q Okay. That attorney -- or I'm sorry -- that agent could potentially be

11 removed from the investigation. Is that right?

12 A I think that's one logical step.

13 Q Okay. And if the prosecutor on a case is inadvertently exposed to

14 attorney-client protected information, that's also potentially problematic, right?

15 A I would think so.

16 Q It's possible that that attorney -- that prosecutor might be removed from the

17 case, correct?

18 A Yeah, I think so.

19 Q And it's possible that, I guess worst-case scenario, that a case actually could

20 be dismissed or potentially charges not brought because of that, right?

21 A Yeah, I believe so.

22 Q Okay. So you mentioned that there are specific steps that you take to

23 prevent against the risk of exposure to attorney-client privilege material. And is it fair to

24 say that the FBI takes this pretty seriously?

25 A Yes.

1 Q So, for one example, if -- even if -- the first option is likely to pursue a less
2 intrusive means in a search warrant, correct?
3 A Correct.
4 Q So, for example, even if a prosecutor has probable cause to seek a search
5 warrant, the prosecutor might instead go with a subpoena or just ask the attorney to
6 produce the information so that presumably that attorney will know it's privileged and
7 can remove it from the production?
8 A Yes.
9 Q And even -- and if the prosecutor determines that a search warrant is
10 necessary, the FBI and the Department of Justice then might create a filter team, right?
11 A Correct.
12 Q And what's your understanding of what a filter team is?
13 A So depending on what the process was to get the documents, it would come
14 to a group of attorneys and/or FBI employees, agents, and others that are separated from
15 the case team.
16 And so they will get those -- the information. They obviously can review
17 the -- whatever the means of what we're looking for, the affidavit, the items of interest.
18 But then they also have a general understanding of what would look like attorney-client
19 material.
20 They would work through it. So essentially then you have two bulk -- two
21 groupings of items. One is agreed that it is not attorney-client privilege, and then the
22 second item is then potential. And then there's -- and I don't know what that next
23 review is -- but then there is yet another review or two to confirm to agree.
24 I think it's then passed to potentially opposing counsel. They talk about it. And
25 then in the times in an ongoing trial I think this can come up again and those

1 determinations can be relooked at.

2 Q Can this process sometimes take some time?

3 A Yes.

4 Q And sometimes it can take a lot of time?

5 A Yes.

6 Q Because I think you just talked through about five or six different steps,

7 correct?

8 A Correct.

9 Q And the goal of this process is to ensure that any privileged information is

10 sequestered, correct?

11 A Correct.

12 Q This is a pretty typical process when a search warrant is executed for

13 property belonging to an attorney, correct?

14 A Yes.

15 Q There's nothing unusual about it?

16 A No.

17 Q And the goal is not to slow down the case, right?

18 A Yeah. This is a mandated process that we have to go through.

19 Q Okay. The goal, as I said, is to protect privileged information?

20 A Correct.

21 Q All right. I want to get back now to something that you talked a little bit

22 about in the earlier hour, but I want to explore it a little more.

23 This investigation has been fairly prominent in the press. Is that fair to say?

24 A Yes.

25 Q And just taking a step back, if you had to put a number on it, how many

1 investigations do you think you've worked on during your time with the Bureau? Is it
2 hundreds, thousands?
3 A It would be -- I've touched thousands of cases.
4 Q Okay. In your experience, has this investigation received more press
5 attention than others you've worked on?
6 A Yes.
7 Q Can you -- do you have anything further to say on that?
8 A Yeah. I think that this investigation, without going into specifics of the
9 investigation, is something that people regularly bring up to me. I am outward facing.
10 I go to media events. I work with State and local partners. People talk and bring this
11 case up. And then in talking with other FBI employees, SACs in particular, they get
12 similar questions about this.
13 Q Have the names of the FBI employees working on this case been made
14 public?
15 A They have.
16 Q And has that had -- is it common for employees' names or agents' names to
17 be made public?
18 A Yes and no. I mean, we are affiants on various processes that go into court.
19 You get to a certain level like myself where I am giving press releases and press
20 conferences. But as a general rule we're not in the media. Most of my 25 years
21 nobody would know who I was.
22 Q In fact, it's fair to say that -- well, thinking about kind of line agents as
23 opposed to supervisors. But the FBI generally works to keep agents' names out of the
24 public eye?
25 A Correct.

1 Q Why is that?

2 A There's a variety of reasons, but I think the main ones are our anonymity of,
3 like, our faces. We're investigating cases, and so if people know who we are and it's
4 during the workday, they kind of know we're doing something for what we do.

5 And then, secondarily, that's becoming more and more prevalent, is there has
6 been a massive increase in personal threats against FBI personnel and the facilities.

7 Q And on that note, in this particular case have the agents or other employees
8 working on it suffered any personal impact based on the fact that their names have been
9 in the press and that this is a very public-facing investigation?

10 A I'm not going to talk about individual people, but in general, yes. There's a
11 large grouping of people, as I talked about earlier, that their names are now out there,
12 and then on social media things are being directed at them. We can handle that. But
13 when their identities, their families, things towards their families, that has absolutely
14 increased.

15 Q And so in this case individuals' families have actually been the target of
16 threats?

17 A I'm not going to get into the specifics of that. I mean, like, there's legal
18 definitions of threats and all that other stuff. I will say the sense of the employees and
19 especially the sense of their families is, yes, they feel threatened.

20 Q Do you have concerns for their safety?

21 A I do.

22 Q Are you taking any steps -- and I don't want to compromise any law
23 enforcement protected information -- but are you taking steps to protect your
24 employees? Do you feel the need to do that?

25 A Yeah, them and family members.

1 Q So there are very specific things that you're doing to ensure the safety of
2 those involved?
3 A Yes.
4 Q Okay. And your name has also been in the press. Your name was on the
5 letter that Chairman Jordan publicly released. Have you personally faced any impacts
6 from this investigation?
7 A Yes.
8 Q Are you comfortable describing any of those?
9 A You know, as a general sense of -- you know, we do this job for a reason.
10 We are -- you know, I have a goal. I talk about the process. I'm trying to move things
11 forward. That's a -- it sounds very administrative and bureaucratic, but it's not.
12 I mean, I wanted to do this job to protect people in an apolitical way to keep this
13 country safe. And that changed throughout the career of what that looked like and
14 expanded into counterterrorism and more worldwide operations, and that was a great
15 opportunity that the Bureau gave me and I'm proud to do it.
16 But for the first time in recent years I have people coming up to me recognizing
17 me or showing up at events and questioning my personal ethics and the ethics of the
18 team and the ethics of the FBI. It's just different. We can handle that. Like I said, I'm
19 comfortable with that. It's when you start looking at family members that it becomes
20 more disconcerting.
21 Q Do you have any concerns for your safety?
22 A Sure.
23 Q Do you have concerns for the safety of your family?
24 A I do.
25 [redacted]. We can go off the record.

1 [Recess.]

2 [redacted]. Back on the record. It's 2:23.

3 BY [redacted]

4 Q You mentioned that Shapley's email wasn't what you considered

5 contemporaneous notes, and you said you didn't know -- you didn't see him taking notes

6 at the meeting. Is that right?

7 A I don't have a remembrance of him with a -- of anybody with a laptop.

8 Q But if he had contemporaneous notes, would that be more reliable than this

9 email?

10 A I don't know.

11 Q But you did take issue with the terminology "contemporaneous." And so I

12 guess my question is, if there was a snapshot in time, like if he had notes, is that

13 something that you would find more valuable than his email?

14 A Not necessarily. They might be the exact same thing. I just don't know.

15 And you just kept using "contemporaneous notes." I just wanted the record to

16 show that it was an email, and it appeared to be hours after that meeting. And so for

17 me that was not contemporaneous --

18 Q But if it were --

19 A -- and it didn't appear to be notes.

20 Q -- if it were contemporaneous, it would be better?

21 A No, I don't know.

22 Q Do you think it was reasonable for any attendee in the 10/7 meeting to

23 conclude that U.S. Attorney Weiss wasn't the deciding official?

24 A Yeah, I can only speak for myself, and I believed him to be the -- I went in

25 believing he was the deciding official, and I left believing the same.

1 Q But the question was, do you believe it would be reasonable for other
2 attendees in the meeting to determine otherwise?
3 A Yeah, I'm not going to comment on what they -- I don't know what they
4 heard, speculate on that, or how they perceived the conversation.
5 Q Right. But if the tax years couldn't be charged in 2014 and 2015, and that
6 was announced at the 10/7 meeting, doesn't that call into question whether David Weiss
7 had ultimate authority?
8 A You know, I'm not going to comment on ongoing discussions of this case. I
9 will say in a general sense the meetings I'm involved with are discussing things about
10 cases throughout them, and you're not at the end until you're at the end.
11 Q You said a number of times that the case was moving very slowly, you had
12 concerns about that, that your focus was bringing the case to resolution. You also said
13 that you talk to David Weiss all the time.
14 So I'm wondering, what did you do to bring the case to resolution as the top FBI
15 official here?
16 A So without going into specifics about this particular case, what I do in every
17 case is try to identify if there are any barriers or things that need to be done that's within
18 the responsibilities of FBI Baltimore, which is what I -- which incorporates Delaware, and
19 if there are, identify them, assign folks to work that, and then move that forward and get
20 the prosecution the information they needed to make that decision.
21 Q But you were concerned about the pace, and you were concerned about
22 bringing the case to resolution, and you talk to Weiss all the time, but you never had
23 discussions with David Weiss about bringing the case in D.C. and what the impediments
24 were to doing that?
25 A That was David's decision to make. And whatever decision he made that

1 was going to get us there, that's the decision I was going to live with.

2 Q But you never had discussions with Mr. Weiss about his efforts to bring the

3 case in D.C.?

4 A I'm not going to discuss my -- you know, the ongoing deliberative discussions

5 about this. But it is David -- I new it was David Weiss' decision to make that decision.

6 It wasn't mine.

7 Chairman Jordan. It was his decision, but did you recommend it? What did you

8 recommend?

9 I see how investigations work. You guys are doing the investigating. You're

10 looking at the facts, the evidence, and you're making recommendations to prosecutors.

11 Did you recommend that he go to D.C. particularly about these particular tax years that

12 [redacted] is talking about?

13 Mr. Sobocinski. I --

14 [redacted] I'm sorry. He can answer that question if there's a way to do so

15 without getting into particular deliberations around charging decisions or the ongoing

16 investigation.

17 Mr. Sobocinski. Yeah, I recommended he make whatever decision with

18 whatever venue he needed to do to move it.

19 [redacted]. But if you're so focused about bringing the case to resolution, it's

20 hard to believe you didn't have a conversation with him like, "David, what are you going

21 to do? Are you going to bring it in D.C.? Are you going to bring it in Delaware? Are

22 you going to bring it in California?"

23 Chairman Jordan. Or all three.

24 Mr. Sobocinski. My conversations were, like, bring it, and I'm in control of giving

25 him the information he needed to bring it, and it was up to him to bring it where he felt

1 he had the best opportunity or the venue to do that.

2 BY [redacted]

3 Q I mean, at some point -- and it was way earlier than October 7th, 2022 -- the

4 investigators have told us that there were no other investigative actions needed to bring

5 the case.

6 So if that's the case, then for you to bring the case to resolution it would seem

7 that you would be talking to U.S. Attorney Weiss and trying to figure out, like, where's the

8 case going to be brought, since nothing else has to be done.

9 A Not going to get into the weeds back and forth with David Weiss. My thing

10 was, "Do you need anything from the FBI that would help you make your prosecutorial

11 decision?" And it's with him.

12 Q Like, if you're hyperfocused on bringing the case to resolution, if you're

13 hyperfocused on the fact that the case was moving slowly, and you talked to Weiss all the

14 time, it just seems hard to believe that you didn't know they brought the case to D.C. and

15 it was denied, that they brought the case to California and it was denied.

16 A Is there a question?

17 Q Yeah. It's hard to believe. Like, so you have no recollection of talking to

18 David Weiss about bringing the case to D.C., having it be denied? No recollection of

19 talking to David Weiss about bringing the case to the Central District of California and

20 having it be denied?

21 A Once again, I'm not going to discuss the internal deliberative process. But I

22 will state, once again, I believed, and I still believe, David Weiss had the authority to bring

23 the charges.

24 I, as the SAC for the FBI, was responsible for providing him information and

25 evidence for the things that I was involved in. And if there were things he needed as it

1 related to whether he was going to make the prosecution decision and the venue he was
2 going to choose, that was up to him.
3 Q Do you remember when you came on board in 2021 there was -- we've been
4 told David Weiss was hyperfocused on the statute of limitations running out, and he
5 admonished Lesley Wolf in front of, we're told, you and other people that you need to
6 bring this case, we need to bring this case before the statute expires.
7 Do you have any recollection of that?
8 [redacted] And we've already gone over the fact that he can't get into specifics of
9 any internal deliberations that may or may not have occurred about investigative and
10 prosecutorial decisionmaking on this case. It's the same response as the last time you
11 asked that question.
12 BY [redacted]
13 Q Yeah, the question is, I'm just asking, do you remember the Weiss-Wolf
14 discussion in front of you about the statute of limitations expiring?
15 A And I'm going to be consistent. I'm not going to talk about the deliberative
16 discussions we had on -- which is now -- which is an open investigation, which I'm still
17 leading, and I still have a team that's out there doing this to move this forward to get --
18 Q Isn't there a way to bring charges on these -- on the statutes that have
19 expired?
20 A I'm not going to -- that's a decision for the U.S. Attorney's Office and IRS to
21 discuss whether things have expired or not and whether you're allowed to use that in
22 court right now, whether it's a legal charge.
23 Q Okay. You said you were doing your best to push the case forward. Can
24 you just tell us, like, specifically what you were doing, other than attend meetings? Like,
25 what were you doing from a leadership standpoint to get your -- to get this initiative

1 moving, to bring this case to a close?

2 A Once again, I'm not going to talk about the deliberative process. But it's a

3 general sense of -- as the chairman mentioned, I'll say -- I'm going to say it again -- which

4 is I had a -- we, the FBI, had a role in this investigation.

5 I asked -- I have a clear understanding of what that role was. I asked if there was

6 things that needed to be done within what the FBI's purview was, made in general

7 communication about if there was anything needed, and that's what that was.

8 And so things that needed to be followed on with other entities or decisions by

9 other people, I wish the FBI SAC had that authority to make things happen, but,

10 unfortunately, we don't.

11 Chairman Jordan. When did you first learn of the FD-1023 form?

12 [redacted] That's also outside of the scope of what he's authorized to get into.

13 Chairman Jordan. I'm not asking him to get into it.

14 I'm just asking, when did you learn of it?

15 [redacted] And I'm indicating that he is not authorized to answer questions

16 about the 1023.

17 Mr. Weiss has said in a recent letter that that is part of an ongoing investigation,

18 and so the Department is not able to authorize this witness or any other witness to speak

19 about anything having to do with a 1023 at this point.

20 But, again, the Department is happy to continue these discussions, and to the

21 extent we can share additional information at some future date, we are happy to

22 continue talking.

23 Chairman Jordan. Can I ask this? Have you reviewed the 1023 form?

24 Mr. Sobocinski. As counsel just stated, I'm not able to answer that question.

25 BY [redacted]:

1 Q Do you know the answer or do you -- do you know the answer to that
2 question?
3 A As counsel stated, I'm not at liberty to discuss that 1023.
4 Q You don't have to discuss it by saying you know the answer to the question.
5 A You're asking for a response that means -- you're asking me a question.
6 You're asking for a response. That's a discussion I cannot --
7 Q Well, either you read it or you didn't read it, and then you know the answer
8 to that question.
9 A Yeah, I'm not at liberty to talk about that.
10 Chairman Jordan. What about the laptop? When did you first become aware
11 of that?
12 Mr. Sobocinski. Once again, there is an ongoing criminal investigation and I'm
13 not at liberty to discuss that.
14 Chairman Jordan. How about the -- was the Baltimore Field Office in any way
15 involved with the memorandum from the Richmond Field Office regarding radical
16 traditional Catholics?
17 Mr. Sobocinski. Not that I'm aware of. And -- yeah, not -- what are you
18 referencing?
19 Chairman Jordan. It's been in press reports about the memorandum put out of
20 the domain perspective of the Richmond Field Office. Other field offices we've
21 subsequently learned were involved. Originally we were told by the FBI it was just the
22 Richmond Field Office. I'm just curious if Baltimore had any involvement with the
23 development of that product.
24 Mr. Sobocinski. I have no awareness into that.
25 Chairman Jordan. Okay.

1 BY [redacted]

2 Q Any communications you had with David Weiss or anyone involved with the

3 10/7 meeting about the veracity of the whistleblower's testimony?

4 A No. I'm not going to get into, like, specifics of what that looked like. But

5 in general, regardless of what they said, usually they were doing -- somebody was

6 providing information to motivate folks. And so for me it was the results of it. What

7 do I -- it's out there. Something is there. How's that going to affect us? How do we

8 move forward?

9 Q But you didn't have any discussions about the veracity of the testimony

10 being true or false?

11 A Yeah, I'm not going to get into the specifics of that.

12 Q And who, again, did you have those discussions with among the 10/7

13 meeting participants?

14 A You're saying -- by your question, you're saying I answered that I had

15 discussions. I'm not saying that. I'm saying I'm not going to be discussing that, those

16 aspects of that meeting.

17 Q I thought you did tell us that you had discussions, at least with David Weiss,

18 about the whistleblower testimony. Certainly you've had it with ASAC [redacted].

19 A The purpose of that meeting -- part of that meeting was to discuss the

20 whistleblower. When you say specifics of it --

21 Q At the 10/7 meeting?

22 A Correct. When you say specifics, I'm not going to get into specifically what I

23 said or didn't say and with who and with the team.

24 Did I -- obviously, I've said in general that's what at least my intent of that meeting

25 was because I was concerned that it was jeopardizing what was and continues to be an

1 ongoing criminal investigation. And so I was looking to get those folks together so that
2 we could attempt to continue to get a resolution on that.
3 Q But you're not providing any testimony here today that you raised veracity
4 issues with anyone following the publication of the whistleblower testimony?
5 A Yeah, I'm not going to go into specifics of what I did or didn't say in that
6 meeting like that.
7 Q Are you aware of anyone calling into question the veracity of the testimony?
8 A Yeah, I'm not going to speculate on other people's opinions.
9 Q No. I'm just asking if you're aware.
10 A I'm not going to speculate on that.
11 Q So you're not aware?
12 A I'm not going to speculate on that.
13 Q I'm not asking you to speculate. I'm saying, are you aware of anyone calling
14 into question the veracity of the testimony?
15 A Want to go off the record?
16 [Discussion off the record.]
17 Mr. Sobocinski. Yeah, as we've talked about earlier, this is all over the media.
18 So I've seen media reporting on whether this was or wasn't true. And so, yeah, I'm
19 aware of those conversations.
20 Chairman Jordan. Did you have any conversations with U.S. Attorney Weiss
21 about -- we briefly touched on this, I think, the first hour -- about the two pieces -- the
22 two letters he sent to the committee, the June 7th letter and the June 30th letter, where
23 he said he had ultimate authority to determine where, when, and whether to file
24 charges? And then he follows up 3 weeks later and says, I can only do charges in -- bring
25 charges in the Delaware U.S. attorney's district.

1 Did you have any conversation with him about those conflicting things? And it's
2 been in the press that the Attorney General said one thing. David Weiss seems to
3 indicate two different things there. Any discussions with Mr. Weiss about that issue?
4 Mr. Sobocinski. I'm not going to go into specifics. However, I think the
5 Attorney General, David Weiss, and these two letters to my -- you know, and I just saw
6 them -- all fit. I don't see differences in the three of those.

1 [2:39 p.m.]

2 Chairman Jordan. But that's not what I asked. I said, did you have any
3 discussions about what Mr. Weiss conveyed to the committee, what's been reported in
4 the press about this concern, whether he could bring charges anywhere, when, where,
5 and whether, or whether he couldn't and was limited to his U.S. attorney's district?

6 Mr. Sobocinski. So I -- as to the letters, I'll take the first piece -- the letters, I
7 never had conversations with David about his letters. Beforehand, he may have made --
8 I'm not -- in a general sense, he may have made reference to them. I saw them in the
9 media like a lot of other people.

10 And then the second piece is his -- in a general sense, he's been consistent with
11 he's had authority to bring this case, where the venue -- whatever venue that is, if he
12 chooses to bring the case forward.

13 Chairman Jordan. Well, it took him three letters to tell us that he had -- you
14 know, to be consistent. So, I mean, I've done a lot of correspondence with the agencies
15 over the years, 17 years. [redacted] and I have written the DOJ and the FBI tons of time, and
16 this was the most unusual correspondence. So it's been anything but consistent. You
17 can describe it that way, but that is certainly not the case. Because he wrote a third
18 letter to Senator Graham and said something different in that letter as well 2 weeks after
19 the June 30th letter.

20 And I'm just asking, did you have a discussion with him regarding -- not the letter
21 specifically, but about that issue and whether he had been consistent and whether he had
22 this authority? Even the Attorney General said in his August 11th statement, as I said
23 before, David Weiss has always had the authority to do this. So that's what -- I keep
24 coming back to that fundamental question: If he always had the authority, why does he
25 need it now?

1 And I can't -- you can't give us an answer. You've been trying, but -- maybe
2 you've been trying, but you haven't given us one. I want to know what the answer to
3 that question is. And we'll ask the Attorney General when he's here in a week and a
4 half, but I kind of like to know what you know.
5 Mr. Sobocinski. Yeah, I refer to the -- I think the Attorney General is an
6 appropriate person. The FBI does not have a role in that designation.
7 Chairman Jordan. As I've said before, Mr. Weiss would be permitted to continue
8 his investigation, take any investigative steps he wanted, and make the decision whether
9 to prosecute in any district.
10 Well, obviously he didn't have that authority or he wouldn't need special counsel
11 authority. So how is it all consistent?
12 Three different things he's said to Congress, two to our committee, one to Senator
13 Graham. And then this statement on August 11th. It makes no sense to anyone with
14 common sense. And I'm asking the guy who ran the investigation. And you say it's
15 consistent? It's anything but.
16 Mr. Sobocinski. So I appreciate that. But it is -- I felt and still believe that David
17 Weiss had the authority to bring a case forward, whether -- what determination or
18 what --
19 Chairman Jordan. Well, that's different. That's different. A case forward is
20 different than I can bring a case in any jurisdiction I want to bring it. That's different.
21 Mr. Sobocinski. Then I'll use your words. I still think and thought then and
22 throughout this investigation that he had the authority delegated to him to bring this case
23 forward in any prosecutorial district within the Federal system of the United States of
24 America.
25 Chairman Jordan. Do you think it was -- do you think that he needed special

1 counsel designation?

2 Mr. Sobocinski. That's a decision that you're going to have to refer to the DOJ on

3 that one.

4 Chairman Jordan. And we will. We'll ask them. But we have you here today.

5 I want to ask you. You've been willing to answer about the pace of the investigation,

6 given us somewhat of an answer on another question about how the plea agreement

7 worked.

8 I'm asking you: Do you think the special counsel designation was warranted

9 after 4.5 years?

10 Mr. Sobocinski. I'm not a lawyer, and I don't think it's appropriate for me to give

11 my opinion on that. It's an ongoing case that I'm continuing to work.

12 Chairman Jordan. And that's to speed up the resolution of this case, which you

13 talked about numerous times, or slow it down?

14 Mr. Sobocinski. My goal is to make this thing go fast. If that's one thing you get

15 after this testimony is I am trying to move this as fast as we can using all of the effort

16 we -- all of our authorities to do that in a professional and apolitical way.

17 Chairman Jordan. Has your involvement and your investigation changed now

18 that there's a new distinction for the U.S. attorney as special counsel? You guys still

19 investigating?

20 Mr. Sobocinski. I'm going to have to go off the record on that.

21 [Discussion held off the record.]

22 Mr. Sobocinski. Yeah, without getting into specifics, I still have -- I'm still leading

23 a team of agents that have an ongoing investigation.

24 Chairman Jordan. So 6 weeks ago, there was a plea agreement, which would

25 indicate the investigation was complete. Both sides decided here we're going to take

1 this to the court. Plea agreement.

2 What new things are you investigating?

3 Mr. Sobocinski. I am not at liberty to discuss the ongoing investigation.

4 [redacted] You ever discuss with David Weiss what a mess this case has

5 become?

6 Mr. Sobocinski. I'm not going get into direct -- you know, I'm not going to go into

7 the details of what David Weiss and I did or didn't say as this thing's moving forward.

8 [redacted] I mean, you're trying to bring the case to a close you said, but you

9 have a case involving the President of the United State's son. It just seems that this case

10 presents some unique challenges that have never really been dealt with before by a

11 Justice Department. And just asking about your discussions with David Weiss about

12 navigating that.

13 [redacted] And he, the witness, is not authorized to talk about the ongoing case,

14 his discussions and deliberations on the ongoing case.

15 BY [redacted]:

16 Q Are you happy with, are you proud with the way the case been conducted

17 from an investigative standpoint?

18 A I'm not going talk about the details. When I'm talking about the

19 performance of my employees, yeah, I am -- they have worked hard on this matter.

20 They continue to work hard, regardless of what obstacle has come in front of them, with

21 potentially great personal issues being brought up. So yeah, I'm proud of their actions.

22 Q A lot of the investigative techniques that they tried to implement were

23 blocked by, whether it be the Tax Division or the U.S. Attorney's Office in Delaware. Do

24 you have concerns about that?

25 A I'm not going to agree or disagree with that statement. I'm not at liberty to

1 talk about the ongoing investigative matter.

2 Q Do you think the volume of issues raised about that type of thing has been a

3 little bit larger than any other case you've been involved with?

4 A No.

5 Q So this is an ordinary case for you?

6 A You want to talk about cases, I'll talk about what we're doing in a general

7 sense every day. I mean, I've got hundreds of cases that are going on.

8 Q Having the U.S. attorney like tip off the defense counsel --

9 A And so I'm continually managing this. And so my team is continually

10 managing it. Let's look at today, or the last week, I've had guns pulled on agents. I've

11 had agents that are going into buildings this morning attempting to arrest -- no, this is

12 important. You're asking me how this is in context of what my life looks like and what

13 this office looks like. That's what we're doing every day. I have folks that are going

14 after foreign nation-state actors, spies that are trying to do bad things with us today, this

15 week. We're doing those things.

16 And so, for me, I think that's important that this is in perspective of what my office

17 and the team in this office are doing every day. And so, yes, this is important, but it is

18 also important to recognize everything else that they're doing and putting their, you

19 know, families' lives, their personal safety, you know, out there every day.

20 Chairman Jordan. You ever have a case where the subject of the investigation's

21 defense counsel tells you if you continue to press charges, they're going to put the

22 President of the United States on the witness stand?

23 Mr. Sobocinski. You know, as it relates to other cases, no. And I don't know

24 that -- you know, as it relates to this case, I don't know anything about that.

25 [redacted]. You haven't had any discussions with defense counsel, have you?

1 Mr. Sobocinski. I'm going go off the record.

2 [Discussion held off the record.]

3 Mr. Sobocinski. No, I have not.

4 Chairman Jordan. Were you aware that defense counsel had made that threat?

5 Mr. Sobocinski. I had no direct conversations with defense counsel.

6 Chairman Jordan. We didn't ask that. I said, are you aware that that

7 was -- that was something they had conveyed to the U.S. Attorney's Office?

8 [redacted] To the extent that is true, which we are not saying whether it is or

9 whether it isn't, but that relates directly to the ongoing case, and he's not authorized to

10 talk about it.

11 BY [redacted]

12 Q You'd acknowledge notifying defense counsel of a pending search warrant

13 would be a problem in an ordinary investigation?

14 A I'm not going to talk about the specifics of this case, but there are moments

15 in time. Every case is different. And there are times I've done that and been aware of

16 that previously.

17 Q That you've notified defense counsel in advance of an upcoming search

18 warrant? I mean, the whole purpose of a search warrant, correct me if I'm wrong, I'm

19 not an FBI official, but the whole purpose of a search warrant is to go in and grab

20 evidence because you're afraid it's going to get away. Someone's going to throw it

21 away, right?

22 A The purpose is to gather evidence, correct.

23 Q Right. But you're concerned that you can't just ask for it voluntarily. You

24 need to go in and take it, right? That's why you have to go to court and get a search

25 warrant.

1 A The search warrant allows us to legally get evidence. Each situation is very
2 different. There are reasons why we may go through defense attorneys. There are
3 reasons why we go directly to the subject of cases. So each case is very different.
4 Q Okay. So as a general matter, you don't have any issue with notifying
5 defense counsel of a pending search warrant?
6 A As a general matter, I hope that the investigative team was reviewing the
7 facts of that particular investigation, and they are doing what they need to do to keep
8 agents safe as well as balancing getting the evidence we need.
9 [redacted]. Let's go off the record.
10 [Discussion held off the record.]
11 [redacted] Go back on the record.
12 Mr. Sobocinski. Sure.
13 BY [redacted]:
14 Q What can you tell us about the removal of the investigative team from the
15 case?
16 A I'm not going to talk about any administrative actions with this investigation.
17 And I'm not going to -- I'm also not stipulating that I know that that's true or not true.
18 Q Okay. Are you aware that Shapley and Ziegler have said that they've been
19 taken off the team?
20 A I've seen that in media reporting.
21 Q And have they been taken off the team?
22 A I'm not going to comment on administrative matters relating to this
23 investigation.
24 Q How does it work? The IRS has said that this is a DOJ decision. How does
25 it work, in theory, taking investigators off a case that don't belong to Justice Department

1 components?

2 A Yeah. In theory, I couldn't tell you that. I know from an FBI perspective, I

3 think I have sole authority on who I designate to be the investigators on cases. There's a

4 variety of reasons why or why not they would be on there, but I -- from the FBI's

5 perspective, I think that solely resides with me.

6 Q And the person you communicate with from IRS standpoint is Waldon. Is

7 that correct?

8 A Waldon is the correspon- -- was at the time the SAC for a certain amount of

9 time, but I'm -- and so he was my counterpart.

10 Q Did you have any communications with Waldon about taking Shapley and

11 Ziegler off the case?

12 A I'm going to go off the record on that.

13 [Discussion held off the record.]

14 Mr. Sobocinski. Yeah, I've had maybe three or four conversations with him. So

15 without getting into specifics, I think the last one would've -- I think the last time I talked

16 to him was that October meeting.

17 [redacted]

18 Q Okay. Do you have any idea why Lesley Wolf has been taken off the

19 pleadings?

20 A Once again, I'm not going to talk about ongoing personnel matters.

21 Q Do you know the answer?

22 A I'm not going to talk about ongoing personnel matters.

23 Q That's not the question. I said, do you know the answer? I guess you're

24 not going to answer my question, right?

25 A Based on guidance from the Department, I'm not allowed to discuss

1 ongoing --

2 Q I'm not asking you to discuss. I'm asking you if you know the answer. Do

3 you know why Lesley Wolf was taken off the pleadings?

4 A I don't -- you're asking me to -- I don't know that your statement is factually

5 correct.

6 Q Okay. Well, I don't think her name's on the pleadings, is she?

7 You -- sorry.

8 Chairman Jordan. In the Attorney General's statement on August 11th, you said

9 on Tuesday of that week, August 8th, Mr. Weiss advised me that in his judgment, his

10 investigation has reached a stage at which he should continue his work as special counsel

11 and asked to be so appointed. What stage of the investigation are you in?

12 Mr. Sobocinski. I'm not at liberty to discuss where I am in this case. We've

13 acknowledged there's an ongoing criminal investigation.

14 Chairman Jordan. But that's not what the Attorney General said. He

15 said -- there's a statement David Weiss asked him about. He says we're in a stage where

16 I need to be special counsel.

17 I just would kind of like to know, are we in the beginning stage, in the middle

18 stage? Are we in the I don't know what's going on? What kind of stage are we in?

19 Mr. Sobocinski. I'm not at liberty to discuss the ongoing investigation.

20 Chairman Jordan. You think you're close to being done?

21 Mr. Sobocinski. I'm not at liberty to discuss the ongoing case. But I will say, as

22 you've heard me say over and over again, I on behalf of the FBI and my team is doing

23 everything we can and using all of our resources to effectively investigate this case, bring

24 it forward to the Department of Justice, to the lawful person we think currently has that,

25 which is now special counsel. And we're doing everything we need to get there.

1 Chairman Jordan. I'm just curious. I think the country would like to know when
2 the Attorney General and the U.S. attorney, who is now special counsel, use the term
3 "stage," they'd like to know what stage we're in. But we'll have to wait for someone
4 else to give us that answer, I guess.
5 BY [redacted]
6 Q In the October 7th notes, exhibit 1, I just want to be clear that my
7 understanding's correct. When Shapley writes that Weiss stated that he's not the
8 deciding person on whether charges are filed, you don't have a recollection of that being
9 said, correct?
10 A I'm sorry. We've gone through this one again. Can you point out here
11 which part you're talking about?
12 Q Yeah, it's on the exhibit 1.
13 A Yup.
14 Q Page 1.
15 A Yup.
16 Q Item No. 2.
17 A Yup.
18 Q Weiss stated that he is not the deciding person on whether charges are filed.
19 A As I think I've said almost as much as I've said I'd move this case forward,
20 that is not what I heard. I went into that meeting believing he had the authority, and I
21 have left that meeting believing he had the authority to bring charges.
22 Q But is it not what you heard or is it not what you remember?
23 A You have continually asked me in various ways of whether or not what my
24 perception of his authority was.
25 Q Right. Is that discussed at all or is this part of a meeting just --

1 A My perception of his authority was he had the authority to the bring
2 charges.
3 Q But at the 10/7 meeting, did this -- was this discussed or was this just not
4 part of the meeting? Are you surprised that that shows up in the notes?
5 A As it relates to this meeting and his authority, without going into
6 specific -- nothing was said in that meeting by anybody that led me to believe that David
7 Weiss did not have the authority to bring this case.
8 Q Was he talking about his authority in that meeting? Squarely in the scope
9 of the -- today's interview.
10 A Yeah. I -- it's kind of like, are we breathing air? We all were working
11 under the impression that he had the authority. Whether -- I don't have a memory of
12 that particular moment, bringing it up. But like I've said, I've talked to David quite a bit.
13 I talk to him regularly. And throughout that, I've assumed he's had and believe he has
14 authority.
15 Q I guess, last question I said was, did it surprise you that this showed up in the
16 notes, that you didn't remember it from the meeting? You said it was a long meeting
17 and, you know, it's two pages of notes. There's not that much stuff here.
18 A Once again, it's an email, 6, 7 -- 5 or 6 hours afterwards. I -- there was
19 nothing in that meeting that changed my belief that David Weiss had the authority to
20 bring this case forward.
21 Q Okay. But the question was: Are you surprised it showed up in the notes,
22 then, if you don't remember it being discussed at the meeting?
23 A Yeah, these aren't my notes. This is not my email.
24 [redacted] I think we're all done on our side.
25 Chairman Jordan. Thank you.

[redacted]. Go off the record.

[Recess.]

1 [2:57 p.m.]

2 [redacted] We're going to go back on the record. It's 2:57 p.m.

3 BY [redacted]

4 Q You were asked I don't know if it was in the earlier hour or 2 hours ago at

5 this point, but if you had any discussion with anybody about the testimony that

6 Mr. Shapley gave?

7 A Yeah. Can I just go back to one thing, because as we just shifted here, I just

8 want to make it clear is that, you know, I've talked to David regularly. This is part of

9 what I do. I hope you would expect the SAC of the FBI to have regular conversations

10 with his U.S. Attorney counterpart.

11 And so when you asked for specific moments of time and specific things, all I'm

12 going to give you is that I, you know, unfortunately at this point in my career, you have

13 dozens of meetings. Something as significant as this would be memorable. I don't

14 remember a specific meeting, but I do not have any memory of David altering or changing

15 his ability or discussion about his ability or anybody in his office to have the authority to

16 bring this case forward. That's it.

17 Q Thank you for that.

18 You were asked earlier if you had discussions about Mr. Shapley's testimony. Do

19 you recall that conversation?

20 A I do.

21 Q Okay. And I think the statement was made that if you totally disagreed

22 with it or if you thought it was offensive, you and him would probably would have had a

23 discussion about that. Do you remember that statement being made?

24 A Yeah, in general.

25 Q Is it fair to say that following -- after you learned about Mr. Shapley's

1 testimony, your number one concern was the integrity of the case and the ability for it to
2 move forward?
3 A Combined with, you know, the morale and safety of my folks, yeah.
4 Q And that was my second question. And your secondary concern, maybe
5 equal concern, was the safety of your employees?
6 A Correct.
7 Q So that was your real focus, not the veracity of the testimony?
8 A Correct.
9 Q Okay. You were asked some questions about statements allegedly made
10 by a defense attorney --
11 A Yes.
12 Q -- in this prior -- just a couple minutes ago. Without getting into those
13 statements specifically, would you agree that the job of the defense attorney is to
14 zealously represent their clients?
15 A Yes.
16 Q And in your experience, are defense attorneys sometimes unpleasant to
17 work with?
18 A Yes.
19 Q They can be jerks, right?
20 A Yes, they can.
21 Q Okay. And that's pretty standard. I'm not saying that all defense
22 attorneys are jerks, but it's standard that, you know, there may be headbutting?
23 A Yeah. Let's be fair, there are prosecutors that are jerks. So, yes, it's
24 very -- there are even -- I'll even admit FBI agents that might be jerks as well.
25 Q You were asked different questions about Lesley Wolf and whether she's still

1 assigned to the case or not. You are not a supervisor for Ms. Wolf, correct?

2 A I am not.

3 Q Okay. To the best of your knowledge, does Ms. Wolf primarily -- outside of

4 this case, does she primarily handle tax cases? Is that fair to say?

5 A I'm not aware of her role.

6 Q Okay. Do you know if Ms. Wolf has faced threats personally because of this

7 investigation?

8 A There has been greater interest in her and things about her.

9 Q Okay. So is it fair to say she may have concerns for her own safety?

10 A I think that's fair.

11 Q Okay. One --

12 A And let me -- you know, when you talk to the FBI about threats, it's a very

13 legal definition and things like that. We -- without going into specifics, my office and the

14 FBI have done things and initiated things to ensure that she remains safe.

15 Q I want to turn quickly back to these June 7th and June 30th and July 10th

16 letters. And I don't want to talk through them in detail. I think we did that during my

17 first hour of questioning. But I did want to just note for the record that in this -- you had

18 said that you don't see inconsistencies between these letters, correct?

19 A Correct.

20 Q And I do want to note that in the June 30th letter, and we talked through

21 this earlier, that the first sentence of the first paragraph on the second page says that

22 the -- my charging authority is geographically limited. But then it does go on to discuss

23 his ability to obtain authority in other districts under that 28 U.S.C. Section 515, correct?

24 A It does.

25 Q And as we talked through earlier, that Section 515 authority is the special

1 attorney status, correct?

2 A Yes.

3 Q And you said that you had no reason to disagree with his statement that he

4 would have authority -- he would be able to be granted that authority if he had so

5 requested it?

6 A Correct.

7 Q And you believe that to be a true statement?

8 A I do.

9 [redacted]. Thank you. We don't have anything further. We can go off the

10 record.

11 [Whereupon, at 3:03 p.m., the interview was adjourned.]

1 Certificate of Deponent/Interviewee

2

3

4 I have read the foregoing ____ pages, which contain the correct transcript of the

5 answers made by me to the questions therein recorded.

6

7

8

9 _____

10 Witness Name

11

12

13 _____

14 Date

15

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: RYESHIA HOLLEY

Monday, September 11, 2023

Washington, D.C.

The interview in the above matter was held in room 5480, O'Neill House Office Building, commencing at 10:07 a.m.

Present: Representative Jordan.

1 Appearances:

2

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted] COUNSEL

8 [redacted] GENERAL COUNSEL

9 [redacted] COUNSEL

10 [redacted], DEPUTY GENERAL COUNSEL

11 [redacted], PROFESSIONAL STAFF MEMBER

12 [redacted] COUNSEL

13 [redacted], CHIEF COUNSEL FOR OVERSIGHT

14 [redacted], MINORITY OVERSIGHT COUNSEL

15 [redacted] MINORITY CHIEF OVERSIGHT COUNSEL

16 [redacted], MINORITY OVERSIGHT COUNSEL

17 [redacted], MINORITY STAFF ASSISTANT

18 [redacted], MINORITY OVERSIGHT COUNSEL

19

20 For the U.S. DEPARTMENT OF JUSTICE:

21

22 [redacted] DEPUTY ASSISTANT ATTORNEY GENERAL,

23 OFFICE OF LEGISLATIVE AFFAIRS

24

25

1 For the FEDERAL BUREAU OF INVESTIGATION:

2

3 [redacted] ASSISTANT GENERAL COUNSEL,

4 OFFICE OF GENERAL COUNSEL

1

2 [redacted] We'll go on the record. This is a transcribed interview of Assistant
3 Special Agent in Charge Ryeshia Holley with the FBI. Chairman Jordan has requested
4 this interview as part of the committee's oversight of the Justice Department's
5 commitment to impartial justice and its handling of its investigation into Hunter Biden.
6 Will the witness please state your name for the record?
7 Ms. Holley. Ryeshia Holley.
8 [redacted] And you're joined here today with agency counsel as opposed to
9 personal counsel? Is that correct?
10 Ms. Holley. Yes.
11 [redacted] And do you have personal counsel at all for this matter?
12 Ms. Holley. I do not.
13 [redacted] Okay. And you understand agency counsel represents the interests
14 of FBI and DOJ and not you personally?
15 Ms. Holley. Yes.
16 [redacted] And you're comfortable moving forward with their counsel?
17 Ms. Holley. Yes.
18 [redacted] Okay.
19 And, Agency Counsel, could you please put your name on the record here?
20 [redacted] [redacted] from the FBI's Office of General Counsel.
21 [redacted] [redacted] from the Department of Justice.
22 [redacted] On behalf of the committee, I want to thank you for appearing here
23 today to answer our questions. We appreciate that you're here voluntarily. Initially a
24 deposition subpoena was issued to secure your testimony. We've withdrawn that with
25 the hope that we can get as far as possible today in a voluntary setting.

1 I'd like to go over the ground rules and guidelines that we will follow during
2 today's interview. Our questioning will proceed in rounds. The majority will ask
3 questions first for 1 hour, and then the minority will have a chance to -- we'll actually
4 switch seats, they'll come over, and they'll get a chance to ask questions for an hour.
5 We can take breaks at the end of each hour, but you can also take a break
6 whenever you need to, or if you need to confer with counsel, just let us know.
7 We have an official court reporter here taking down everything we say to make a
8 complete written record. So, from time to time, we will have to remind each other not
9 to talk over one another, and sometimes if you give a nonverbal response, we'll need to
10 go back and get you to provide a verbal response as opposed to a head shake or a nod.
11 Do you understand that?
12 Ms. Holley. Yes.
13 [redacted] We want you to answer our questions in the most complete and
14 truthful manner possible, so we'll take our time. If you have questions or if you do not
15 understand one of our questions, please let us know.
16 If you honestly don't know the answer to a question or do not remember, it's best
17 not to guess, but we do ask that you give us as much information as possible. So give us
18 your best recollection, and it's okay to tell us if you learned information from someone
19 else. Just indicate how you came to know the information.
20 If there are things you don't know or can't remember, just say so. But, if you say
21 you don't remember, but in fact you do remember, that's a violation of 18 United States
22 Code 1001. And do you understand that?
23 Ms. Holley. Yes.
24 [redacted] Witnesses that knowingly provide false testimony could be subject
25 to criminal prosecution. Is there any reason that you are unable to provide truthful

1 answers here today?

2 Ms. Holley. No.

3 [redacted] We'd like to keep the content of what we discuss here today

4 confidential. If there are -- and there will be marked exhibits, and we will collect them.

5 We're not going to let the exhibits leave the room. So, if you could cooperate with that,

6 we'd appreciate that. Is that okay?

7 Ms. Holley. Yes.

8 [redacted] That's the end of my opening remarks.

9 [redacted], do you have anything you want to say?

10 [redacted] Not at this time. Thank you.

11 [redacted]. [redacted]

12 [redacted] Thank you, Steve. As you noted, Ms. Holley is here voluntarily.

13 The Department and the FBI appreciate the committee's willingness to proceed with a

14 voluntary appearance, and I might add, we also appreciate the committee and the staff's

15 willingness to work with us, including over the weekend on the logistics associated with

16 today's appearance.

17 We went over this last week, but just so there's a complete record for today, as

18 you are aware, this inquiry implicates an ongoing criminal investigation and prosecution.

19 At this juncture, Ms. Holley is going to be able to address questions that can be

20 answered without compromising the ongoing investigation and prosecution, and

21 specifically the Department has authorized her to discuss U.S. Attorney Weiss' authority

22 as well as the October 7th, 2022, meeting, subject to some constraints around the

23 ongoing investigation.

24 There may well be some additional information that Ms. Holley can share

25 depending on the question and, again, consistent with our need to protect the ongoing

matter.

We understand the committee likely has additional questions that you would like to ask, and to the extent you do have questions that go beyond the scope of what the Department has authorized, at this point, we, again, reiterate our willingness to continue engaging with the committee in good faith and to consider further accommodations at the appropriate time.

That said, our goal today very much is to facilitate Ms. Holley sharing as much information as she can today, consistent with the scope of her authorization.

So, if you have questions that she can't answer, again, we are committed to taking them back and continuing to work with you.

[redacted]. Okay. And I understand there's an authorization letter?

[redacted] There is, and I gave you a copy --

[redacted]. Okay.

[redacted] -- when I came in the room.

[redacted] When you came in the room. So we're trying to make photocopies of that so everyone here can have a copy, but we don't have those copies yet.

So I'll just ask Ms. Holley, if we can go on the clock for our hour --

[redacted] Sorry. Before we start, for the record, on behalf of the FBI, it is extraordinary to make an assistant special agent in charge available for a congressional interview. I understand we'll have an opportunity to request redactions of her name of a non-SES individual in the transcript.

I would just add, for the record, that this witness' name has been disclosed by Congress in connection with this investigation, and we would just ask that to the extent it is not necessary to further put the witness' name out there, we would very much appreciate it.

1 [redacted]. Okay. And just a counter point to that, we asked for a voluntary
2 transcribed interview long before the deposition subpoena came to a head. So you
3 could've cooperated at that point and minimized the disclosure of the agent's name.
4 Ms. Greer. Understood. I was not referencing the subpoena. There were
5 other materials released from Congress --
6 [redacted] So --
7 Ms. Greer. -- which were put --
8 [redacted]. And the sensitivities around this, this is the first we've, you know,
9 the first we heard about it was last week. So, if you would've come to us in a proactive
10 way and helped us understand the concerns, we might've been able to do things
11 differently.
12 Ms. Greer. We have been clear about our concerns with non-SES employees.
13 [redacted] Yeah, but not about this particular non-SES employee, correct? I
14 mean, did you bring up anything regarding Ms. Holley before last -- before
15 Mr. Sobocinski's interview?
16 Ms. Greer. The FBI has not been part of all discussions with the committee
17 about the transcribed interview requests.
18 [redacted]. Okay. But the first time I heard about these issues was at
19 Mr. Sobocinski's interview, so.
20 Ms. Greer. Again, the FBI has been clear about our concerns about all of our
21 non-SES witnesses --
22 [redacted] Okay.
23 Ms. Greer. -- throughout this time.
24 [redacted] Okay. But over the weekend you provided us with some specific
25 information about Ms. Holley, which is the first we've heard about it. So it's hard for us

1 to tailor our behavior, you know, that's already occurred. Would you agree with that?

2 [redacted] I'm just asking the committee not more than necessary put the

3 witness' name out in the public.

4 [redacted] Okay. And also, before we go on the record, just so everyone is

5 clear on how the transcript review works, after we get the transcript in, usually it comes

6 in relatively fast. The agency -- the witness and the agency counsel that were in the

7 room will have a chance to come in and review the transcript -- we don't email it to FBI or

8 DOJ -- to come into our offices to review the transcript for, you know, any errors or -- of

9 the like.

10 Also, at that time, the Department, the witness can propose redactions. We

11 can't promise that we will comport with those recommendations, but we will take them

12 into consideration.

13 And also, during the transcript review process, if there's anything you realize in

14 hindsight that maybe you forgot or you said inaccurately, you could flag for us at that

15 time.

16 I'll go on the record -- or go on the clock. It's now 10:16.

17 EXAMINATION

18 BY [redacted]

19 Q Ms. Holley, you received an authorization letter from the Department of

20 Justice dated September 8th. What is your understanding of this authorization letter or

21 the scope?

22 A That I have been authorized to discuss matters involving Hunter Biden

23 investigation at -- obviously recognizing that it's an ongoing investigation, but also in

24 reference to Mr. David Weiss' authority and the -- a meeting that occurred on October

25 7th, 2022.

1 Q And also the run-up to that meeting? Any communications about how the
2 meeting was set up and so forth?
3 A Potentially.
4 Q Okay.
5 A Depending on what the questions are.
6 Q And how about the June 15th meeting, which I understand you attended at
7 Main Justice, are you going to be able to help us with the information from that meeting?
8 A Yes.
9 Q With largely, you know, some of the same players?
10 A Yes.
11 Q But DOJ Tax officials were at that meeting as well?
12 A Yes. I'm not sure of the date, but I recall the meeting.
13 Q Okay. And will you also be able to answer questions about the process for
14 Mr. Weiss bringing charges?
15 A To my understanding, yes.
16 Q Okay. And you're going to have to maybe help us understand, but as we
17 have come to learn, Mr. Weiss can bring charges in D.C. if the U.S. attorney for D.C. is
18 willing to partner. If the U.S. attorney for D.C., or a particular district, isn't willing to
19 partner, then there's other -- there's other things that Mr. Weiss can do.
20 And are you aware of the other things Mr. Weiss can do as part of that process?
21 A I am aware that if he is not able to partner with a particular district, that
22 there are other processes he can go through --
23 Q Okay.
24 A -- to move forward --
25 Q Okay.

A -- in the investigation.

Q So we may get into some of those questions, and if you're able to help us, we would appreciate it.

A Okay.

[redacted]. I'm going to stop the clock briefly. We've heard -- my oversight, we forgot to announce everyone in the room. So we'll do that. My name is [redacted]. I'm a staffer with the House Judiciary Committee. I work for Mr. Jordan. And we'll go around the room.

[redacted] Mr. Jordan's staff.

Chairman Jordan. Jim Jordan.

[redacted], Mr. Jordan's staff.

[redacted] Mr. Jordan's staff.

[redacted], Ranking Member Nadler's staff.

[redacted], oversight counsel for the Democrats.

[redacted], Ranking Member Nadler's staff.

[redacted], Ranking Member Nadler's staff.

[redacted], Mr. Jordan's staff.

[redacted] with Chairman Jordan.

[redacted] Chairman Jordan's staff.

[redacted] All right. Did you receive this authorization letter?

Do we have enough copies to make an exhibit?

[redacted]. Uh-huh.

[redacted] We can just make it exhibit 1, so you have it in front of you.

[Holley Exhibit No. 1.

Was marked for identification.]

1 Ms. Holley. Thank you.

2 BY [redacted]:

3 Q It's dated last Friday. Is that when you received it?

4 A Yes.

5 Q All right. Prior to you agreeing to appear here with agency counsel in this

6 setting, we had asked for an interview with you as well as 10 other officials involved with

7 this matter. When's the first time that you learned the committee was interested in

8 meeting with you?

9 A I do not remember the date. I think it's been a couple of months.

10 Q Okay.

11 A But I'm not positive.

12 Q Okay. And who told you the committee was interested in speaking with

13 you?

14 A Someone from our general counsel's office. Again, I don't remember the

15 name.

16 Q Okay. And what did they relate to you about that request?

17 A That I had been requested to speak with the committee and that -- I don't

18 remember if that time it was a subpoena or if it was an initial request and then a

19 subpoena came but basically that the request had been made, and we would -- they

20 would let me know if it was going to be something that came to fruition.

21 Q Okay. Did they provide you a forecast on whether it was likely that you

22 would have to come in and provide an interview or whether it was unlikely that it would

23 come to an actual interview?

24 A No. It was unknown.

25 Q Okay. And did you have discussions with -- your supervisor is the Special

1 Agent in Charge of the Baltimore field office, Mr. Sobocinski, correct?

2 A Yes.

3 Q And did you have discussions with him about the committee's request?

4 A We both knew that -- so, yes, in the sense that we both had been

5 requested --

6 Q Okay.

7 A -- yes.

8 Q And what did he relate to you about the committee's request or the

9 likelihood that one or both of you would have to come in for questions?

10 A Just that our OGC, our Office of General Counsel at the FBI and possibly

11 Congressional Affairs would be involved to determine if this was going to, again, happen.

12 Q And, at any point in time, did you consider having personal counsel help you

13 think through these issues?

14 A No.

15 Q Okay. And did the FBI's General Counsel's Office let you know that you

16 were authorized to seek personal counsel if you wanted to?

17 A Yes.

18 Q Okay. And did they provide pros and cons of doing that? Did they give

19 you any -- did they try to convince you not to get personal counsel?

20 A No.

21 Q Okay. Special agent -- supervisory special agent with the FBI, Gary Shapley,

22 and Special Agent Ziegler of the IRS provided testimony to the Ways and Means

23 Committee earlier this year. Mr. Shapley came in May 26th, and Mr. Ziegler came in

24 June 1st. Are you aware of that?

25 A I am aware that they came in, and I just wanted to correct, Mr. Shapley is

1 also with the IRS.

2 Q I'm sorry, did I --

3 A You said FBI.

4 Q Oh, that's my mistake. I'm sorry.

5 Both Mr. Shapley and Mr. Ziegler are with the IRS. Mr. Ziegler is a special agent

6 with the IRS Criminal Investigative Division, and Mr. Shapley's a supervisory special agent.

7 Is that correct?

8 A Yes. To my -- my knowledge, yes.

9 Q Okay. So you're aware they provided testimony to the Ways and Means

10 Committee, correct?

11 A Yes.

12 Q And that committee was made public in June. Is that correct?

13 A I think so.

14 Q Okay.

15 A I didn't track the dates.

16 Q And, when it was made public, how did you -- did you read the copies of the

17 transcripts? Did you look at news reports? What did you do to learn about that

18 testimony?

19 A I don't remember how I initially became aware of it, but I did skim the

20 transcript because I was looking to hopefully not see any of my team members' names in

21 the report. But I didn't read it in its entirety.

22 Q Okay. Was there anything about the testimony that, you know, concerned

23 you as being, you know, untrue or problematic on that front, either in the testimony that

24 you read or the news reports about the testimony?

25 A My concern was only that it potentially could prolong an investigation that

1 was already ongoing.

2 Q Okay. But you didn't see anything in the testimony that jumped out at you

3 and made you think, "That's not true, I was a part of these -- part of these meetings"?

4 A Again, I didn't read it in its entirety, but what I -- what I remember of what I

5 did see, not that anything was untrue, just that I didn't have the same recollection of

6 everything or the same understanding.

7 Q Okay. And was that with regard to the 10/7 meeting, the 6/15 meeting, or

8 everything?

9 A So the only thing that I mostly remember is the October 7th --

10 Q Okay.

11 A -- generally speaking, again, not specifically, but only in reference to

12 that -- that meeting.

13 Q Okay. And, after the testimony was made public, did you have any

14 communications with people in that meeting about what Mr. Shapley or Mr. Ziegler had

15 said?

16 A No.

17 Q Okay. So, after the testimony was made public in mid-June -- there were

18 news reports -- you didn't talk to Mr. Sobocinski about what happened in the 10/7

19 meeting?

20 A Oh, only that, again, I didn't remember the meeting being extremely

21 important as it appeared to be in the media and -- yeah, that's it.

22 Q How many times have you talked with Mr. Sobocinski about the 10/7

23 meeting since it was made public, the transcripts?

24 A I don't know exactly how many. I don't think it's been a lot of times.

25 Q Okay.

1 A I mean, as you know, Mr. Sobocinski is my supervisor --
2 Q Correct.
3 A -- so not only in this ongoing matter but others --
4 Q Sure.
5 A -- talk often, but I don't remember talking to him a large amount of times or
6 even anything memorable as far as this meeting is concerned.
7 Q Okay. Now, as far as your testimony here today, did Mr. Sobocinski urge
8 you to provide a certain type of testimony?
9 A No.
10 Q Okay. And did you have any communications about the content of your
11 testimony or his testimony to the committee?
12 A No.
13 Q Okay. So, since Mr. Sobocinski came in last week, have you had any
14 communications with him about his testimony?
15 A No. Only we talked, not about his testimony, just that obviously him
16 recognizing that this is the first time for me, that I would be okay.
17 Q Okay. And when you met with DOJ or -- the Department of Justice lawyers
18 or FBI lawyers, did they tell you anything about Mr. Sobocinski's interview?
19 A No.
20 Q Okay. So they didn't tell you what types of questions we asked him?
21 A No, they did not.
22 Q Okay. And they didn't recommend ways that you can testify to us?
23 A No.
24 Q We're going to get into the 10/7 meeting in some detail as I'm sure you're
25 aware. Do you recall, as you sit here today who was at that meeting?

1 A At the October 7th meeting?

2 Q Yeah.

3 A I remember that there were --

4 [redacted]. And we can actually maybe -- because it might help jog your

5 memory, we can mark as exhibit 2 --

6 Ms. Holley. Okay.

7 [redacted] -- Mr. Shapley's notes that he sent to his supervisor, his SAC --

8 Ms. Holley. Okay.

9 [redacted]. -- Mr. Waldon.

10 [Holley Exhibit No. 2.

11 Was marked for identification.]

12 Ms. Holley. Okay.

13 BY [redacted]

14 Q Understanding this is an IRS agent's internal notes to other IRS people.

15 So getting back to the attendees for the 10/7 meeting, can you remember who

16 was there?

17 A I remember Mr. Weiss, SAC Waldon -- is that his last -- yes -- Mr. Shapley, my

18 SAC, Sobocinski. I think Mr. Weiss had two people from his office there, but I'm not

19 positive.

20 Q Okay. Could they have been Mr. Weed?

21 A Yes. The people that I'm thinking that might have been there is Mr. Weed

22 and -- Shannon's last name -- I think Ms. Hanson.

23 Q Ms. Hanson. Okay.

24 And what's your understanding of their roles in responsibilities in the AUSA -- I'm

25 sorry -- in the U.S. Attorney's Office?

1 A I think Ms. Hanson is the first assistant in Delaware U.S. Attorney's Office,
2 and Mr. Weed is the criminal chief.
3 Q Okay. And was Ms. Lesley Wolf in attendance at that meeting?
4 A I do not remember Ms. Wolf being there.
5 Q Okay.
6 A I don't think so.
7 Q And do you know why she wasn't there?
8 A The meeting was -- the plan for the meeting was to have supervisors from
9 the different agencies that are part of this ongoing matter. So I think that's why she was
10 not.
11 Q Okay. So Mr. Ziegler wasn't there?
12 A No, he wasn't.
13 Q Along the same lines?
14 A Right. And none of the FBI investigative personnel -- the other investigative
15 personnel weren't there either.
16 Q Were you aware of any tensions that had developed between the
17 investigative team and Ms. Wolf?
18 A What do you mean by "tensions"?
19 Q Tensions -- the investigative team, you know, ordinarily would want to take
20 interviews, you know, have interviews with specific witnesses, request documents, take
21 investigative actions such as search warrants. Are you aware of any tensions that had
22 existed between the investigative team and Ms. Wolf?
23 [redacted] And she can answer that to the extent there's sort of a general
24 response to the existence of tensions, but to the extent it gets into specific investigative
25 steps --

1 [redacted] Okay.

2 [redacted] -- she's not authorized to get into that.

3 Ms. Holley. I am aware, like many of the investigations that I've been a part of

4 and have overseen, that sometimes there can be disagreements between investigative

5 parties and AUSAs, U.S. Attorney's Office. So, other than that, no, I'm not aware of

6 any --

7 [redacted] Okay.

8 Ms. Holley. -- real tension.

9 BY [redacted]

10 Q So the working relationship was fine from a professional standpoint?

11 A Yes.

12 Q With Mr. Shapley and Ms. Wolf and so forth?

13 A To my knowledge, yes.

14 Q Okay. And did that change at any point in time?

15 A I don't know if it changed. This matter has been -- or Ms. Wolf is, you

16 know, was a part of the ongoing matter. So, to my knowledge, it had not changed.

17 Q It's our understanding that, shortly after the October 7th meeting, Mr. Weiss

18 had communications with the IRS and basically said he didn't want to work with

19 Mr. Shapley anymore. Were you aware of that?

20 A No.

21 Q Okay. Or Mr. Ziegler?

22 A No, I don't have that awareness.

23 Q Okay. What is your understanding of how the 10/7 meeting for supervisors

24 came to be scheduled?

25 A There had been ongoing meetings as this investigation has been ongoing,

1 and so often the meetings were to discuss, you know, overall status and progression of
2 the matter. So that was my understanding, that it would be those conversations. I
3 can't remember if they were other things that were specifically outlined.
4 Q Okay. And do you remember who asked for the meeting, was it the
5 investigative, team or was it the prosecutors?
6 A I don't remember.
7 Q Okay. And did you meet with Mr. Shapley in response in mid= or late
8 September about this meeting?
9 A I had met with Mr. Shapley once in person. We may have also talked on
10 the phone in the past. I don't remember when it was.
11 Q Okay. And in mid- to late September, you met with Mr. Shapley. I
12 understand it was in your office?
13 A We did have a meeting in my office.
14 Q And do you remember what you talked about at that meeting?
15 A Best I can remember is the ongoing investigation and just, you know, overall
16 as to the progression of it and continuing to keep it moving.
17 Q Okay. Did he ask for that meeting, or did you ask for that meeting?
18 A He asked for that meeting.
19 Q Okay. And do you remember at the time what his concerns were about the
20 progression of the case?
21 A I know that, from my general memory, that Mr. Shapley definitely wanted
22 the case to continue to move forward. I think that he had some -- he definitely wanted
23 it to ensure that it was thorough and diligent, but specifically I can't tell you specifically
24 what it was that we talked about.
25 Q Did you review any -- in preparation for today, did you review any email

1 chains or notes about the 10/7 meeting?

2 A No.

3 Q Okay. So you didn't review the notes that you took at the 10/7 meeting?

4 A I didn't take -- well, I don't remember taking notes at that meeting, so I can't

5 tell you if I have any because I don't remember taking notes.

6 Q Okay. So you didn't review --

7 A No, I didn't review --

8 Q Okay.

9 A -- review any notes.

10 Q Did you review any email exchanges?

11 A No.

12 Q Heading into the 10/7 meeting, would it be fair to say that both IRS and the

13 FBI wanted to raise issues with Mr. Weiss?

14 A I don't know if we wanted to raise issues but definitely wanted to, again,

15 have a discussion on, as far as like the status, because, again, that was an ongoing -- an

16 ongoing discussion because we want the case to move forward to its resolution.

17 Q And did you have any role in trying to set that meeting up? Did you have

18 any email exchanges with anyone in the U.S. Attorney's Office?

19 A I don't remember if I did. I may have --

20 Q Okay.

21 A -- but I don't remember.

22 Q Okay. Would it surprise you if there's email exchanged where you

23 represented that it was important to wait until Gary is back -- he was traveling

24 overseas -- to set the meeting up?

25 A No, it would not surprise me. If it's a meeting that we were having as a

1 collective group, then I would've wanted him to be there.

2 Q Okay. So it would not surprise you if you were advocating that Mr. Shapley

3 was included in that meeting?

4 A No.

5 Q Okay. And also was the meeting important that it was conducted in

6 person?

7 A Yes. I mean, I would say most meetings we tried to have in person when it

8 came to -- to leadership and even some of our investigative teams. It's just

9 better -- better communication flow when you have something in person.

10 Q So you're based out of the Baltimore office?

11 A Yes.

12 Q You and Mr. Sobocinski drove to Wilmington, Delaware, for this meeting?

13 A Yes.

14 Q And presumably Mr. Shapley also drove to Wilmington for the meeting?

15 A Possibly. I actually don't know where Mr. Shapley was --

16 Q Okay.

17 A -- situated. But it's also not uncommon for us to go up to Delaware with

18 having other squads that work there.

19 Q Okay.

20 Chairman Jordan. Who ran the meeting?

21 Ms. Holley. Who ran the meeting? Probably Mr. Weiss. And just in the sense

22 that it was in his office and his office's conference room, but I don't know if there

23 necessarily was a true point person.

24 BY [redacted]

25 Q Before the meeting, did you have any exchanges with Mr. Shapley about

1 getting on the same page so the investigative elements can present a united front?

2 A I don't remember if -- like I said, I know that we had met prior to that

3 meeting in my office, may have had a conversation. That I'm not sure about but

4 possibly. I'm not sure.

5 Q Okay. And did Mr. Shapley or did you recommend that you come up with

6 three or four topics that you both could settle on?

7 A Not sure of the topics, but I can remember wanting to just kind of make sure

8 that we had, like, an agenda. So I may have, like, checked with the SAC -- my SAC, to see

9 if we were on the same page, and at that time, if Mr. Shapley told me what he

10 wanted -- or what he and his SAC were going to talk about --

11 Q Okay.

12 A -- just made sure that the information was relayed.

13 Q And do you remember if Mr. Shapley indicated that the IRS wanted to talk

14 about special counsel authority?

15 A I don't remember.

16 Q Okay. That the IRS investigators were concerned about delays in the

17 election?

18 A I know that that had come up.

19 Q Delays related to the election?

20 A Yes, I noted that had come up.

21 Q And what was your understanding of those delays? Because this is in the

22 middle of the run-up to the midterm elections, so there was no Presidential component

23 here.

24 [redacted] And -- finish your question. I'm sorry.

25 [redacted]. So the question is, what did the midterm elections have to do with

1 any delays?

2 [redacted] And she can answer that question to the extent she has a general

3 understanding of the impact that elections may have on Department and FBI actions but

4 not to the extent it gets into specific decisions or delays to the extent there were any

5 delays in this case.

6 Ms. Holley. So my understanding generally as a FBI employee is, you know, if

7 there is an election that is coming about, whether it's midterms or so forth, obviously

8 actions that may involve or may be related are -- are done to -- in a way to make sure that

9 it does not hinder or cause any issues with an election.

10 BY [redacted]

11 Q Okay. Are you aware of any other issues Mr. Shapley wanted to bring up or

12 the IRS? Do you remember if he wanted to talk about venue?

13 A Venue was a conversation that had happened in more than one meeting, so

14 it's possible that that was something that was being discussed in this meeting as well.

15 Q Okay.

16 A And I think, again, just overall conversation as to the status of the

17 investigation and moving it forward.

18 Q Okay. And what were the topics the FBI wanted to talk about at the 10/7

19 meeting, do you remember?

20 A I don't.

21 Q Do you remember if delays was one of them?

22 A I don't.

23 Q Venue, do you remember if that was one of the issues the FBI wanted to talk

24 about?

25 A I don't remember if -- if there were specifics that I or SAC Sobocinski laid out

1 prior to, I don't remember what they specifically were, but I would say it's not uncommon
2 to have had conversations about both venue and just generally how are we moving along.
3 Q Okay. And communication, was communication an issue?
4 A Communication in many investigations that we work in -- well, shoot,
5 investigations that we've worked in both Maryland and Delaware, sometimes
6 communication is an issue. I think that that's just generally speaking in my experience
7 no matter what, but, yes, communication was something that we had discussed in the
8 past and possibly at this meeting.
9 Q Okay. What were the specific communication issues that were going on?
10 A Just generally speaking sometimes communication was delayed.
11 Q Delayed from who? From what standpoint?
12 A As far as information that was coming from the U.S. Attorney's Office. So I
13 think it was just -- wasn't anything intentionally or malicious, just sometimes just wasn't
14 the thought initially to share and then -- normally they would.
15 Q So is it fair to say there was frustration from the investigative components
16 with communication issues?
17 A Again not specific to this investigation, but generally speaking, sometimes
18 there were frustration as far as communication is concerned and just general frustration
19 in the sense of, again, wanting to move the investigation forward and continue.
20 Q Okay. I mean, it's our understanding that communications were an issue
21 with this specific investigation. Is that correct?
22 A I would say communication overall sometimes was an issue of discussion.
23 Q Okay. And that ended up being a topic of discussion at the October 7th
24 meeting, correct?
25 A Possibly.

1 Q Okay. What do you remember about that topic being discussed at the
2 October 7th meeting?
3 A Because communication had come up before, again, it very well could've
4 come up at this meeting, and so if it did, it probably was something in the sense of like it
5 had been in the past, of, you know, we are looking for things to be communicated sooner
6 than maybe they had been.
7 Q Okay. Do you remember this part of the meeting being contentious?
8 A I don't.
9 Q Okay. What was your understanding of the -- the process for bringing
10 charges, you know, for David Weiss to bring charges in this matter?
11 A So overall my understanding is, U.S. Attorney's Office will make that
12 determination and will proceed in, you know, having a grand jury and obviously bringing
13 in witnesses to charge an investigation.
14 As we've already noted here, if there are venue discussions, then there will be
15 another process that Mr. Weiss or a U.S. attorney will go forward with to bring charges in
16 a different venue.
17 Q And what was the status of that at the time of the October 7th meeting?
18 A I know that there had been conversations with, I want to say, both D.C. and
19 Central District, California. I don't remember what the status of those were.
20 Q Okay.
21 A At that time.
22 Q I mean, were you aware that the 2014 and '15 tax charges had to be brought
23 in D.C., and the rest of the charges had to be brought in California, relating to tax?
24 A I'm aware that obviously charging discussions were happening, and, yes,
25 there was a difference in the venue for some of those charges.

1 Q And were you aware that the case was presented to the U.S. attorney for
2 D.C., Mr. Graves, and that he decided not to partner, which is, I guess a euphemism for
3 saying -- for denying?
4 A I don't remember when that determination was made or when that
5 conversation was had. So, if it was around that time, I don't remember that it was.
6 Q But do you remember learning that the U.S. attorney for D.C. decided not to
7 partner with Mr. Weiss on bringing the tax charges for 2014 and 2015?
8 A I remember learning at some point in the investigation that Mr. Weiss would
9 have to go through his other processes because the U.S. Attorney's Offices had, I guess, in
10 that sense, using that terminology, wasn't going to partner.
11 Q Okay. So -- but you don't remember when the U.S. attorney for D.C.
12 denied the ability to bring the case, at least through him?
13 A I don't.
14 Q Okay. And do you remember who presented that case to the U.S. attorney
15 for D.C.?
16 A No. I don't have knowledge of who presented that.
17 Q Okay. So before it was presented, you weren't aware that it was going to
18 be presented, for example?
19 A Not that I remember.
20 Q Okay. And same question for bringing the case to the Central District of Los
21 Angeles -- or Central District of California in Los Angeles. Do you remember when the
22 case was presented to Mr. Estrada in California?
23 A I don't remember when that was presented. I thought it was before
24 October, but I don't remember --
25 Q Okay.

1 A -- if that's correct.

2 Q Okay. And do you remember that Mr. Estrada also decided not to bring the

3 case?

4 A Yes.

5 Q Okay. So he decided not to partner or he rejected the case, whatever the

6 term is?

7 A I understand that, yes, that a decision had been made that the Central

8 District of California wasn't going to, I guess -- my understanding is that they weren't

9 going to bring the case on their own.

10 Q Okay. And, at this point in time, the types of charges that were going to be

11 brought were tax charges, the gun charge. Any other types of charges that were on the

12 table at this point?

13 [redacted] And, Steve, this is getting into the -- excuse me -- the scope of the

14 ongoing investigation prosecution, and it's beyond the scope of what Ms. Holley is

15 authorized to discuss.

16 BY [redacted]

17 Q And do you know the answer to the question I just asked?

18 A Can you ask the question again, please?

19 Q What types of charges were being pursued at this point in time? And I

20 mentioned tax charges, the gun charge.

21 A I am aware of what charges were being pursued at that time.

22 Q Okay. And I asked, were there other charges that were being pursued, and

23 then Department counsel said you can't answer that. And my question was, do you

24 know the answer?

25 A I don't know that the answer is different. I don't think the answer is

1 different.

2 Q Okay. And what was your understanding of how Mr. Weiss could bring

3 charges if Mr. Estrada, Mr. Graves said no?

4 A My understanding is that -- and, again, I don't -- I don't know the specifics

5 but that Mr. Weiss could -- and I could be incorrect in the terminology, but basically be

6 like a special -- special counsel, special AUSA -- I'm sorry, not special counsel but like a

7 special AUSA, partnering AUSA, in an attorney's office that is outside of his own.

8 So, again, there had been a process. He would still have the authority to do so.

9 It's just that now he would do it differently.

10 Q Okay. And did Mr. Weiss pursue that avenue, to your knowledge?

11 A My understanding is from that -- the meeting in October is that that is the

12 process that he was discussing with us, that he was walking us through that he was going

13 to be taking.

14 Q Okay. And what do you remember of him saying at the 10/7 meeting?

15 A Just generally that, you know, now not necessarily having the U.S. attorney

16 in -- and, again, California sticks out in my memory more than D.C., but that since that

17 was not going to be worked by the Central District of California, he would then go

18 forward with his process to still -- and again I don't know the specifics but still move

19 forward to bring the case in the Central District of California. So basically where I think

20 normally if a U.S. attorney's office partners, it makes it easier when an outside district has

21 to come in and they haven't worked in that district before.

22 But, since that was appearing not to happen in this situation, he would still

23 proceed with doing it and just would do it without that U.S. attorney.

24 Q Okay. So Mr. Weiss was preparing to send his AUSAs from Delaware out to

25 California? Was that your understanding?

1 A That eventually that would be some part of the process, but I didn't know
2 when that was going to happen.
3 Q And what was your understanding at this point in time of the 2014 and '15
4 charges which had venue in D.C.?
5 [redacted] And again this is getting beyond the scope of what she's authorized to
6 talk about. To the extent we're talking about specific charges, prosecutorial decisions,
7 she's not authorized to address that because it goes to the ongoing investigation and
8 prosecution.
9 BY [redacted]
10 Q Okay. I'm not sure -- yeah, at the heart of this is the 10/7 meeting and
11 what happened in the 2014 and '15 charges if he couldn't bring them in D.C. What was
12 your understanding of what happened -- what was going to happen with those charges?
13 A My understanding is that the U.S. Attorney's Office, Mr. Weiss and his team,
14 were making a determination of what charges were going to be brought.
15 Q Okay. And was it your understanding that he could bring them in D.C. if he
16 needed to?
17 A Yes. My understanding is, whenever they decided what charges were
18 going to be brought, they could pursue those charges wherever they needed to.
19 Q Okay. Even if Mr. Graves didn't want to partner?
20 A Yes.
21 Q Okay. And what was the role of DOJ Tax -- the DOJ Tax Division in that
22 process?
23 A Not being an IRS agent, I don't know all the ins and outs of what DOJ Tax
24 does, but my understanding in this matter was that they would have some type of consult
25 in the investigation.

1 Q Okay. And what was your understanding of DOJ's tax position -- DOJ Tax
2 Division's position as of the 10/7 meeting?
3 A I don't remember, because I don't remember when, you know, specific
4 decisions were made or not made, so I don't remember what the determination was at
5 that time.
6 Q Okay. But you do remember DOJ Tax Division officials changed their tune
7 on the charges, correct?
8 [redacted] This is getting into deliberations around the ongoing investigation and
9 prosecution, and it is beyond the scope of what she's authorized to discuss.
10 [redacted] Okay. I mean, this really is at the heart of what we're looking for.
11 So this is the type of question -- and also Mr. Sobocinski, you know, there are some of
12 these questions that his failure to answer is going to be a real -- a real roadblock, you
13 know, in this process.
14 So, if you can help us get a little bit better understanding of this timeline of when
15 DOJ Tax Division changed their tune, that would, I think, help us move forward without
16 taking the next step of deposition subpoena and that type of thing.
17 [redacted] Okay. As I said last week, we are happy to take those questions back
18 and consider whether there is more information that can be shared on the tax piece of
19 this, but for the time being, what you're asking her goes beyond the questions of David
20 Weiss' authority and the 10/7 meeting that she is authorized to discuss today.
21 [redacted] Yeah. I would -- I would say that that may not be accurate because
22 if DOJ -- I'm stopping the hour here as I correspond with you -- if DOJ Tax authorizes David
23 Weiss to move forward, he has much -- much more leeway to move forward.
24 If DOJ Tax withdraws their approvals, then David Weiss has a harder time.
25 Would you agree that that's the case?

1 [redacted] I would -- I would agree that there are going to be issues throughout
2 the course of today that you may think relate to the issue of the authorization and that
3 we think relate directly to the ongoing investigation, and we are going to have to agree to
4 disagree today on those.
5 [redacted] Okay.
6 [redacted] She will answer the questions she can, and to the extent there
7 continue to be areas of disagreement, we will take those back and follow-up with the
8 committee.
9 [redacted] Okay. Sure.
10 Chairman Jordan. Ms. Holley, I just want to make sure I understand, and, again,
11 thanks for being here today. So I think you said you knew before October 7th that the
12 U.S. attorney in California had said no to partnering with Mr. Weiss. Is that right?
13 Ms. Holley. So I -- my recollection is more about Central District of California. I
14 don't remember when it was -- that decision had been made. I don't remember the
15 date. So I think it was before the October 7th, but I'm not positive.
16 Chairman Jordan. Okay. And then you, I think -- I don't want to -- I just want to
17 make sure I got you right. You learned at the October 7th meeting, or sometime around
18 the October 7th, 2022,.
19 Mr. []. Meeting, that D.C. was also not going to partner. Is that accurate?
20 Ms. Holley. I don't remember when I learned that, sir.
21 Chairman Jordan. But you did learn that at some point prior to the last few
22 months when it's been in the public eye?
23 Ms. Holley. I learned that prior to today, for sure, but I can't tell you when
24 exactly it was.
25 Chairman Jordan. Okay. Okay. Thank you.

1 BY [redacted]

2 Q Getting back to the subject of the 10/7 meeting, was there a leak that had
3 occurred that was of concern, especially to Mr. Sobocinski?

4 A There was a suspected leak, and the reason I say suspected is also ongoing
5 matters, but I think that that was -- the suspicion of that was a concern, I would say, to
6 both SAC Sobocinski, myself, and at least -- I can't speak for others, but I would say at
7 least. And Mr. Weiss, I would also say Mr. Weiss.

8 Q Okay. And what was the nature of the leak to the extent you remember?

9 A There was an article. I don't remember which newspaper it was that had
10 information that seemed pretty close to meetings we had had in the past in reference to
11 the ongoing matter, so that is why there was a decision of some type of leak.

12 Q Okay. And what's your recollection of the discussion at the 10/7 meeting
13 of the process to bring charges and specifically of what Mr. Weiss was talking about?

14 A Just that, again, not -- not necessarily having those U.S. Attorney's
15 Offices -- or whichever one, again, I don't remember -- both of them at the time -- but he
16 would then move forward, he would continue in the process of, my understanding, I
17 think, would be to have conversations with potentially others in the Department of
18 Justice but move through a process that was already present and already, you know, in
19 place, and is done in the past, to continue those cases.

20 And so what I equated it to was, in working cases in the past with sections from
21 Department of Justice and their trial attorneys will come out to a U.S. Attorney's Office to
22 prosecute a case, that is what I understood that he was going to do, a similar process to
23 that.

24 Q With Tax Division attorneys or with his own attorneys?

25 A With his -- his AUSAs from his office.

1 Q Okay.

2 A If he was going to have other attorneys, Department of Justice attorneys, I

3 didn't who they would be.

4 Q Okay. In Mr. Shapley's notes, he says that Weiss stated that he's not the

5 deciding person on whether the charges are filed. Item No. 2. Is that a fair statement

6 from what you remember from the meeting?

7 A I don't remember him saying that.

8 Q Okay. Underneath -- by the way, do you know if anyone recorded this

9 meeting --

10 A I don't think so.

11 Q -- on their phone?

12 A I don't think so, but I don't know.

13 Q Okay. Under 2B, the process for decision, do you remember any of this

14 discussion? Needs DOJ approval -- Tax approval first, stated that DOJ Tax will give

15 discretion, we explained what that means and why that is problematic.

16 A No. The only thing that I remember and what I currently understand is that

17 DOJ Tax provides their discretion when it -- when it comes to tax charges in any case.

18 But I don't know that they have to provide approval or do not have to.

19 Q Okay. But what does "discretion" mean?

20 A Generally speaking, you know, reviewing an investigation and looking at the

21 elements of the investigation and whether or not the elements are there and they are

22 able to proceed.

23 Q Right. And do you remember that the investigative team, including DOJ

24 Tax, had asked for the special agent report -- this is going back to earlier in the year

25 2022 -- but DOJ Tax was pushing for the special agent report from IRS on this case?

1 [redacted] And this is getting into internal deliberations potentially around the
2 ongoing investigation and prosecution, and so it's not within the scope of what she's
3 authorized to discuss.
4 BY [redacted]:
5 Q Okay. Notwithstanding that, do you know the answer to the question I just
6 asked?
7 A I don't know the answer.
8 Q Okay. What is your awareness of the discussion around the statute of
9 limitations expiration or extension agreement?
10 [redacted] And that's the same objection. It gets into deliberations and
11 discussions around the ongoing matter.
12 BY [redacted]
13 Q Okay. Were you aware that there was a statute of limitations issue with
14 the 2014 and '15 tax years?
15 A Just generally knowing some statutes and how they have a statute of
16 limitations, I would think eventually. But I don't know if there was a -- a specific issue.
17 Q So you don't remember any meetings or discussions around that topic?
18 A That -- of the statute of limitations?
19 Q Of certain statutes getting ready to expire.
20 A No, I don't.
21 Q Okay. The June 15th meeting, do you remember that being referred to as a
22 tax summit?
23 A I don't.
24 Q Okay. And who do you remember being in attendance at the June 15th
25 meeting?

1 A FBI personnel, IRS personnel, Delaware U.S. attorney's office, and personnel
2 from Main Justice, Main Department of Justice, I think DOJ Tax.
3 Q Okay. Do you remember the names of the folks?
4 A From the Department of Justice?
5 Q Right.
6 A No.
7 Q If I gave you the names, would you be able to -- like, Stuart Goldberg, was
8 he -- was he --
9 A I would not be able to tell you.
10 Q Okay. How about Mark Daly, do you know who Mark Daly is?
11 A I've heard the name before, but I don't know.
12 Q How about Jack Morgan?
13 A I don't know.
14 Q Okay. And who from the U.S. attorney's office in Delaware was at that
15 meeting? Mr. Weiss was there, correct?
16 A Mr. Weiss was there. Bless you. I remember --
17 Q AUSA Wolf?
18 A I remember -- yes, AUSA Wolf. I don't remember if any of the other AUSAs
19 were there.
20 Q Okay. And then from IRS?
21 A From IRS, Mr. Shapley, Mr. Ziegler. I think there were other people there
22 from IRS, but I don't remember who.
23 Q Okay.
24 A And there were personnel. As I said before, Mr. Sobocinski and I, and
25 personnel from --

1 Q Okay. Mr. Waldon, was he there?

2 A I don't remember if Mr. Waldon was there.

3 Q Okay. And do you remember the posture of that meeting as to, like, who

4 was presenting? Like, whose meeting was it, and who was conveying the information?

5 A I just remember it being a meeting that was talking about the ongoing

6 investigation and the discussions of that. I don't remember specific presentations or

7 who specifically was presenting -- yeah.

8 Q Do you remember why the meeting occurred or had to occur?

9 A So my understanding and thought was that the meeting, again, like many

10 others, had just been talking about the -- the investigation as a whole, obviously the

11 prosecutors having opportunities to discuss matters, but again just talking about the

12 status and making some decisions or leading to some decisions as the case moves

13 forward.

14 Q Okay. Do you remember any feedback that Mr. Sobocinski gave during the

15 course of that meeting?

16 A No.

17 [redacted] This gets -- this gets into potential deliberations around an ongoing

18 issue. So, if you have some reason to believe that the issue of Mr. Weiss' authority was

19 discussed at this meeting, that's within the scope of what she's authorized to discuss, but

20 beyond that, specific discussions, deliberations, not within the scope.

21 [redacted] Okay. If DOJ Tax personnel basically says you can't bring the case

22 and Mr. Sobocinski, you know, pushed back and grumbled about, you know, various

23 aspects surrounding that, I would say that goes pretty much to the heart of what we're

24 agreed to talk about here today.

25 [redacted] We agreed to talk about her firsthand knowledge and understanding

1 of Mr. Weiss' authority as well as the October 7th meeting. She is able to discuss issues
2 related to this June meeting at a high level of generality. She has answered some of
3 your questions already on the logistics of the meeting.
4 What I am saying is, when you get into specific deliberations and discussions, that
5 relates to the ongoing matter, and today she is not authorized to discuss that.

1 [11:06 a.m.]

2 BY [redacted]

3 [redacted] Do you remember at the 6/15 meeting that DOJ Tax had been

4 recommending that the tax charges not be prosecuted?

5 A I don't remember what the specifics of those discussions were.

6 [redacted] And do you remember any issues that Mr. Shapley and the IRS had

7 articulated back to the DOJ tax lawyers --

8 A No.

9 [redacted] when they were doing this presentation.

10 A No, sir.

11 [redacted]. Okay. I want to go back to exhibit 2. We left off at 2B, Process

12 for Decision, and we talked a little bit about "Needs DOJ tax approval first. No venue in

13 Delaware."

14 You know, as I understand it, the FBI officials, maybe including yourself, wanted to

15 talk about venue at this meeting in the preliminary email exchanges that occurred.

16 A Okay.

17 [redacted] Do you remember if venue was discussed at the 10/7 meeting.

18 A I don't remember if it was, but I'm not -- I wouldn't be surprised if it was.

19 [redacted]. Okay. And I have three little "i"s here in Mr. Shapley's notes, and

20 he prepared these notes just -- he prepared these notes on October 7th, the day the

21 meeting occurred, and he emailed them to his supervisor, Mr. Waldon, who replied up

22 top: Thanks, Gary. You covered it all.

23 So these notes are in effect relatively contemporaneous. Is that the case?

24 A It appears so.

25 [redacted]. So iii at the bottom of the page was: Went to D.C. U.S. Attorney's

1 Office in early summer to request charge there. The U.S. Attorney said they could not
2 charge in his district.
3 With the benefit of these notes being contemporaneous, does that refresh your
4 recollection at all about whether the D.C. portion of the case had been denied at that
5 point in time?
6 A It doesn't refresh my recollection, but I don't have a reason to, you know --
7 [redacted]. Dispute it.
8 A -- dispute it.
9 [redacted] Okay. Item No. 1 under here is: U.S. Attorney -- under iii: U.S.
10 Attorney Weiss requested special counsel authority when it was sent to D.C. and Main
11 DOJ denied his request and told him to follow the process.
12 What's your recollection of that topic?
13 A I don't remember Mr. Weiss telling us that.
14 [redacted]. Okay. Do you remember any discussion of special counsel
15 authority --
16 A No.
17 [redacted]. -- at this meeting.
18 A No.
19 [redacted] But you told us before that if the U.S. Attorney for D.C. or the U.S.
20 Attorney for the Central District of California decided not to partner, that it was your
21 understanding that Mr. Weiss had the authority to bring the case on his own.
22 A Yes.
23 [redacted] Okay. And was that special counsel authority as you understood it.
24 A No. What I understood that to be is still outside of special counsel
25 authority.

1 [redacted]. Okay. And so, at this point in time, to your knowledge, he hadn't
2 requested special counsel authority.
3 A I don't know if he had or had not, but I don't remember him telling us that
4 he had.
5 [redacted] Okay. The second page of these notes --
6 A Okay.
7 [redacted] -- it indicates: Mid-September they sent the case to the Central
8 District of California, which coincides with your recollection where you believe that the
9 Central District of California component of the case was discussed at this meeting. Is
10 that right.
11 A I just remember the Central District -- that component being discussed in
12 this timeframe.
13 [redacted] Okay.
14 A It might have been at this meeting. It might have -- yeah, I don't remember
15 that part.
16 [redacted]. Okay. But, if Mr. Shapley's notes that he prepared the same day of
17 the meeting happened, I mean, it's more likely than not that --
18 A Possibly, yes.
19 [redacted]. -- that it was discussed at this meeting?
20 Roman V: If California does not support charging, USA Weiss has no authority to
21 charge in California, he would have to request permission to bring charges in California
22 from the Deputy Attorney General or the Attorney General. And Mr. Weiss says it's
23 unclear on which he said.
24 Do you remember a discussion of that process?
25 A So I remember this is a little bit similar to the process that I understand that,

again, he would still have the authority. He would do it separately from the U.S. Attorney in those districts. Now what specifically he has to do and the Department of Justice I don't know.

[redacted]. Okay. So it was your understanding that he could have gone to the Deputy Attorney General or the Attorney General for that authority.

A My understanding is that he was still able to move forward and bring charges if that was what the determination was and he would go forth in doing that.

[redacted]. Okay. But do you remember any discussion at the meeting involving the types of approvals he would need to seek.

A I don't.

[redacted]. Okay. Roman numeral VI: With DOJ tax only giving discretion, they're not bound to bring the charges in California and this case could end up without any charges.

Do you remember that, that prospect, that the charges in California may not be able to move forward?

A No. My memory is, as with any investigation, like, it's a possibility of charges, and it's a possibility of not. And so my understanding is that as this investigation was continuing, those deliberations and discussions were continuing. And so I don't know what that determination was or that this was -- I don't remember him saying this.

[redacted]. Item No. 3, they are not going to charge the 2014 and 2015 tax years.

Do you remember that being discussed?

A I remember overall charges for being a conversation in the sense that that is something that they are still deciding. I don't remember if it was stated at this meeting

1 that that was not -- those tax years were not going to be charged. I just know that,
2 again, those tax years and others were part of the overall discussions.
3 [redacted]. Okay. But, if Mr. Shapley wrote this in his notes that he prepared,
4 you know, contemporaneously, we would have no -- you don't have any --
5 A I don't have any --
6 [redacted]. -- reason to suggest that that's inaccurate or he lied about that.
7 Right.
8 A I don't have anything to say or provide that would say otherwise.
9 [redacted] Okay. In your experience in working with Mr. Shapley, did you ever
10 notice him misrepresenting facts or lying about anything.
11 A My experience with Mr. Shapley is very limited. And so, with that limited
12 experience, no, I didn't have any thoughts that he had lied about anything.
13 [redacted]. Okay. So there's nothing about your collaborative work experience
14 that led you to think that he was somebody that would misrepresent facts or lie about
15 something. Correct.
16 A No, I don't have that experience to say that.
17 [redacted] Mr. Shapley in his notes, 3A writes: I stated for the record that I
18 did not concur with that decision and put on the record that IRS will have a lot of risk
19 associated with this decision because there is still a large amount of unreported income in
20 that year from Burisma that we have no mechanism to recover.
21 Do you remember that being discussed?
22 A I remember Mr. Shapley bringing that up in the past, so it could have been at
23 this meeting.
24 [redacted]. Uh-huh.
25 A It could have been in our previous conversation, but I do remember him

1 bringing up this point.

2 [redacted] Okay. So the 2014 and 2015 tax years, there was a lot of Burisma

3 income that was unreported at that point.

4 Do you remember that being the issue?

5 Mr. [redacted] And, again, we're not going to get into the substance of the

6 underlying investigation, analysis of the evidence, prosecutorial deliberations. And the

7 question you just asked goes to all of those potentially and is outside the scope of her

8 authorization.

9 BY [redacted]

10 [redacted] Okay. There has been a lot of news reports about the Burisma

11 income escaping taxation, and the bulk of that is in 2014 and 2015. There's some in

12 2016 as well, but 2014, 2015, the bulk of that.

13 So do you remember discussions about the 2014 and 2015 tax years being, you

14 know, a real issue if you can't prosecute them?

15 Mr. [redacted] It's the same objection because it was the same question. She's not

16 authorized to discuss that.

17 BY [redacted]

18 [redacted] Okay. And so then my next question is, do you know the answer to

19 my question, even if you're not going to answer it?

20 A And because of the -- I apologize. Because of the back and forth, can you

21 ask that question one more time?

22 [redacted] Were you aware that the Burisma income was the source of the

23 2014, 2015 tax years and there was a lot of -- I mean, it's like millions of dollars in income

24 that had escaped taxation at that point in time.

25 Were you aware of the answer to that question?

1 A So, again, sir, with it being an ongoing matter and the authorities that I have,
2 I'm not going to be able to answer that.
3 [redacted] I understand you're not going to answer the question, but I said -- I
4 guess my question is, do you know the answer to my question.
5 A I would say generally no.
6 [redacted] Okay.
7 A Because I would have to look at the overall investigation again to understand
8 what was in what years.
9 [redacted]. Okay. I only have a couple of minutes left, sir. Do you have
10 anything?
11 BY [redacted]
12 [redacted]. Item 3A is, Mr. Shapley stated for the record. And you said you
13 don't remember him saying that for the record in the meeting?
14 A I remember Mr. Shapley bringing up this subject matter in letter a, 3A.
15 [redacted] Okay.
16 A So, if he says that he -- you know, he stated it during the meeting, I have no
17 reason to dispute that.
18 [redacted]. Okay.
19 Chairman Jordan. Because he had brought it up at previous meetings.
20 Ms. Holley. I remember him bringing it up before with me.
21 Chairman Jordan. Yes.
22 BY [redacted]
23 [redacted] Okay. And do you also remember him also bringing up the special
24 counsel authority?
25 A I don't.

1 [redacted] Okay. Item 4 -- and I'm running out of time here so maybe I will
2 stop here. I'm running out of time on my hour. So I will stop here.
3 [Recess.]
4 [redacted] All right. It's 11:26. We can go back on the record.
5 EXAMINATION
6 BY [redacted]:
7 [redacted] Ms. Holley, good morning again. I'm [redacted]. I'm the
8 counsel for Ranking Member Nadler.
9 A Good morning.
10 [redacted]. Ms. Holley, how long have you been with the FBI.
11 A A little over 16 years.
12 [redacted] Okay. So have you testified in cases before.
13 A Yes.
14 [redacted] And you've seen investigations go from beginning
15 through -- opening through investigation through actual trial through conclusion. Right.
16 A Yes.
17 [redacted]. Okay. You referenced earlier the authority that -- the special
18 attorney authority that Mr. Weiss could seek.
19 Do you recall talking about that?
20 A Yes.
21 [redacted] Okay.
22 [redacted] I want to introduce as exhibit 3 a statute. It's 28, U.S.C., Section
23 515, and we'll introduce this as exhibit 3.
24 [Holley Exhibit No. 3.
25 Was marked for identification.]

1 BY [redacted]:

2 [redacted]. And I will give you a minute to review, and let me know when you're

3 ready to proceed.

4 A Thank you. I'm ready.

5 [redacted] Okay. So the title of this statute is "Authority for legal proceedings;

6 mission, oath, and salary for special attorneys." Correct.

7 A Yes.

8 [redacted]. And in paragraph (a) of this statute, it says that: The Attorney

9 General or any other officer of the Department of Justice, or any attorney specially

10 appointed by the Attorney General under law, may, when specifically directed by the

11 Attorney General, conduct any kind of legal proceeding, civil or criminal, including grand

12 jury proceedings and proceedings before committing magistrate judges, which United

13 States Attorneys are authorized by law to conduct, whether or not he is a resident of the

14 district in which the proceeding is brought.

15 Did I read that correctly?

16 A Yes.

17 [redacted] So, under this provision, somebody appointed as a Special attorney

18 is able to conduct any legal proceeding in any jurisdiction. Is that fair to say.

19 A Yes.

20 [redacted]. Is this consistent with the type of authority that you understood Mr.

21 Weiss could seek.

22 A Yes.

23 [redacted]. And this would permit him to bring a case in California if he chose.

24 A Yes.

25 [redacted]. And this would permit him to bring a case in the District of Columbia

1 as well. Correct.

2 A Yes.

3 [redacted]. Before I showed you this statute just now, were you familiar with

4 this, the actual statute itself I mean -- not the authority but the actual statute.

5 A No, I was not.

6 [redacted] And you're not a lawyer. Right.

7 A I am not.

8 [redacted] Do you agree that, if somebody is not familiar with this statute, they

9 might not understand what it says?

10 In other words, let me rephrase that. That's confusing. If somebody hasn't

11 actually read this word for word, they might not be familiar with what special attorney

12 status is. Correct?

13 A I think that's possible, yes. If they are not familiar with the statute as a

14 whole or have read this, yes.

15 [redacted] Okay. And, as you said, you've been with the FBI for 16 years.

16 Right.

17 A Yes.

18 [redacted] And you yourself hadn't seen this before I showed it to you today.

19 Correct.

20 A I had not.

21 [redacted]. Okay. I want to turn back to what was marked as, I believe,

22 exhibit 2. It's the email from Mr. Shapley.

23 A Okay.

24 [redacted] And I seem to have lost my copy.

25 You were at the October 7th meeting. Correct?

1 A Yes.

2 [redacted] And you said that everyone attended that meeting in person.

3 A Yes.

4 [redacted]. Do you recall seeing Mr. Shapley at that meeting.

5 A Yes.

6 [redacted] Do you recall if Mr. Shapley had a laptop with him.

7 A I don't recall.

8 [redacted] Do you recall if he was taking notes during that meeting.

9 A I don't -- I do not recall.

10 [redacted] Okay. So the comment was made earlier that these were

11 contemporaneous notes. Do you recall what time the meeting took place.

12 A I think it was in the afternoon, not positive.

13 [redacted] Do you recall what time it ended.

14 A I don't.

15 [redacted] Okay. Do you recall if it ended before close of business say.

16 A Yes, it did.

17 [redacted] Okay. These notes are marked, Friday, October -- I'm sorry. The

18 sent time on these notes are, Friday, October 7, 2022, at 6:09 p.m.

19 Do you see where it says that?

20 A Yes.

21 [redacted]. So these notes were actually taken -- or I'm sorry -- this email was

22 actually typed up after the fact. Is that fair to say.

23 A Yes.

24 [redacted]. So these aren't actually notes of the meeting. Right.

25 A No.

1 [redacted] This is actually his recollections of the meeting that he wrote down
2 after the meeting. Correct.
3 A Yes.
4 [redacted]. I want to go through point by point kind of like [redacted] was just
5 doing a few minutes ago.
6 On No. 2, which is: Weiss stated that he is not the deciding person on whether
7 charges are filed. You said you don't recall him saying that. Do you remember -- do
8 you agree that you don't recall him saying that?
9 A Yes, I agree.
10 [redacted]. If he had said that, is that something that would have stuck out to
11 you.
12 A Yes.
13 [redacted] You would remember that.
14 A I think so.
15 [redacted] Okay. Under 2B, Roman numeral I, Needs DOJ Tax Approval First,
16 do you recall him using the word "approval" with respect to DOJ Tax.
17 A I don't. My only understanding was that DOJ Tax provides some type of
18 discretion.
19 [redacted]. Okay. And, if he said that he needs to get permission, for example,
20 from DOJ Tax before bringing charges, is that something that you would probably recall.
21 A I think so.
22 [redacted] And you don't recall that.
23 A I do not.
24 [redacted] Okay. Under Roman numeral IIB, small Roman numeral iii, reads:
25 Went to D.C. USAO in early summer to request to charge there. Biden appointed USA

1 said they could not charge in his district.

2 Do you recall the words "could not charge in his district" as opposed to "would not

3 partner with him"?

4 A I don't remember any specifics about D.C.

5 [redacted]. Okay.

6 A And, particularly in this meeting. So, no, I don't remember it as this

7 statement.

8 [redacted] Okay. So, if Mr. Weiss had said that he did not have permission to

9 bring charges in Washington, D.C., is that something that you would recall.

10 A Yes, I think so.

11 [redacted] So earlier you said you didn't have anything to dispute Mr. Shapley's

12 recollection here, but you personally, you don't recall Mr. Weiss saying that he had been

13 denied permission to bring charges in Washington, D.C. Correct.

14 A That is correct.

15 [redacted] And you would recall that if he had said that.

16 A I think so.

17 [redacted] Okay. You said you don't recall any discussion of special counsel

18 authority. Correct.

19 A No, I do not.

20 [redacted] And do you think that that's something you would recall if that had

21 been discussed.

22 A Yes.

23 [redacted] Turning the page, under Roman numeral V, letter -- I'm sorry, No. 1:

24 He would have to request permission to bring charges in CA from the Deputy Attorney

25 General/Attorney General.

1 Do you recall specifically him using the word "permission"?

2 A No.

3 [redacted] Do you think that you would recall if he had used the word

4 "permission".

5 A Yes.

6 [redacted] Going into this meeting, were you under the impression that Mr.

7 Weiss would have the authority to bring charges -- whatever charges he wanted to bring

8 in any district he wanted to bring them in.

9 A Yes.

10 [redacted] Leaving the meeting, were you under the impression that Mr. Weiss

11 had the authority to bring whatever charges he wanted to bring in whatever district he

12 wanted to bring them in.

13 A Yes.

14 [redacted]. Moving on to No. 4, it says: The FBI SAC -- that means special

15 agent in charge. Right.

16 A Yes.

17 [redacted]. -- asked the room if anyone thought the case had been politicized.

18 We can discuss this if you prefer.

19 The FBI special agent in charge was Mr. Sobocinski. Correct?

20 A Yes.

21 [redacted] Do you recall him asking this question.

22 A I don't.

23 [redacted] You don't recall that question.

24 A I do not recall that question.

25 [redacted] Do you recall if anybody said they thought the case had been

1 politicized.

2 A I don't.

3 [redacted] And, if somebody had said that they thought the case had been

4 impacted by any type of political pressures, would you have recalled that.

5 A I think so.

6 [redacted] If somebody had said that, are there steps that you think you might

7 have taken in response to those concerns.

8 A Yes.

9 [redacted] What steps might you have taken.

10 A Well, I probably -- if I'm in a room to hear it, I would say from my opinion

11 that it has not been politicized by the investigators. I think everybody that was -- is and

12 is working this ongoing matter are doing their jobs and are doing their jobs to the best of

13 their ability. And, if there's any political, you know, or anything being politicized, that is

14 outside of the investigative entities.

15 [redacted] I want to talk about the communications issues that are referenced.

16 That's number -- it's reference 6A here, and we talked about it a little bit in the earlier

17 hour.

18 You said that communication issues are frequently an issue. What did you mean

19 by that?

20 A Just that, in my experience and in various investigations, so outside of this

21 one, there have been times that things that are happening in the investigation were not

22 communicated immediately.

23 [redacted]. Okay. And is that communication top down, so from supervisors to

24 line personnel; bottom up from line personnel up to supervisors, or both directions?

25 A I would say, generally speaking, almost as a 360.

1 [redacted]. Yes.

2 A So -- and I believe that includes both U.S. Attorney's Offices and the

3 investigative entities as well. So comprehensive of the whole team I think that there

4 have been communication issues.

5 [redacted] And, in this case specifically, there were teams working on this case

6 from the Baltimore Field Office, and I mean Baltimore proper, not the Delaware. So, in

7 other words, you and Mr. Sobocinski were both based out of Baltimore. Correct.

8 A So, yes. But I will say that the Baltimore Field Office covers Maryland and

9 Delaware.

10 [redacted]. Yes.

11 A So although we sit there --

12 [redacted]. I understand.

13 A Okay.

14 [redacted]. So you sit in Baltimore. Correct.

15 A Yes.

16 [redacted] And you also had a case team sitting in Delaware working on this

17 case. Correct.

18 A Yes.

19 [redacted] And there were IRS agents working on this case as well. Correct.

20 A Yes.

21 [redacted] And where were they located.

22 A I'm not sure.

23 [redacted] Okay.

24 A I found that other agencies -- locations of their personnel is a little -- and

25 how they have their personnel dispersed and handling the areas that we handle out of

1 the Baltimore office are a little different, so it's sometimes hard to keep track.

2 [redacted] Fair enough.

3 But they weren't sitting with you in Baltimore in your office. Right?

4 A That is correct.

5 [redacted] And they weren't sitting with your team members in Delaware.

6 Correct.

7 A That is correct.

8 [redacted] And then there was the Delaware U.S. Attorney's office as well.

9 Correct.

10 A Yes.

11 [redacted] And then Delaware was talking with the U.S. Attorney's Office in the

12 District of Columbia.

13 A I believe so.

14 [redacted] And Delaware was talking with the U.S. Attorney's Office in the

15 Central District of California as well. Correct.

16 A Yes.

17 [redacted]. So that's one, two, three, four, five -- approximately six different

18 teams that are involved in this. Is that fair to say.

19 A Yes.

20 [redacted] Would you agree that in that situation where there's a number of

21 teams and they are geographically dispersed like that, that can make communication

22 even more challenging.

23 A Yes, I would agree.

24 [redacted] Have you worked other cases where there's been a number of teams

25 located in different locations.

1 A Yes.

2 [redacted] Is it your experience that in general communication can be harder in

3 those situations.

4 A Yes. Communication, as I stated earlier, is often a matter that we can all do

5 better.

6 [redacted]. And I think you had said earlier that there was some concerns about

7 the degree to which U.S. Attorney Weiss or his team were communicating with both the

8 FBI and with IRS. And that came up at this October 7th meeting. Right.

9 A Yes.

10 [redacted] Did you ever get the sense that U.S. Attorney Weiss was withholding

11 information from you or from anyone else for any malicious reason.

12 A No.

13 [redacted] Did you ever get the sense that he was withholding information for

14 any political reason.

15 A No.

16 [redacted] Did you ever get the sense that he was intentionally withholding

17 information from you or from anyone else.

18 A No.

19 BY [redacted]

20 [redacted] One followup question from what [redacted] asked you.

21 You testified clearly that you did not feel like the case was being politicized by the

22 investigative entities. And those were the words you used, "investigative entities." I

23 just want to clarify, do you also feel that the case was free from politicalization from the

24 prosecutory entities, so the U.S. Attorney and the other trial attorneys?

25 A Yes. And I apologize. When I -- most of the time when I say

1 "investigative," I'm thinking of the whole team, and so maybe I will try and be clearer in
2 saying "the team" or just really specify in this sense. But I think of it as a team
3 atmosphere because, again, we're working the cases together, although we have our
4 specific roles. But, yes, I was talking about everyone, that I did not think anyone
5 involved in the ongoing matter was politicizing it.
6 [redacted] And you also testified that you hadn't -- I believe you said you had
7 never seen these typed email notes before today.
8 A No. No, I'm sorry. I had seen this first page, but I hadn't seen the second
9 page.
10 [redacted] Okay. But these notes, as far as you know, you don't know when
11 they were taken. Correct.
12 A Other than what this email looks like -- it looks like it's a copy of an email and
13 what it states, no.
14 [redacted] I think you had testified very clearly in the first hour that you had no
15 reason to believe that Mr. Shapley would have been lying, in this sense, in any of the
16 notes that he took. Is that fair to say.
17 A Yes.
18 [redacted]. Is it possible that he could have been confused about some of the
19 conclusions that he drew based on that meeting and the communications that were
20 heard.
21 A Yes, I think it's possible. And, again, of my understanding, as well as my
22 recollection of the meeting, I definitely think there is either some confusion or
23 misunderstanding in things that were communicated.
24 [redacted] And you indicated when [redacted] went through some of the
25 specific words that were used in these notes, like "permission," for example, and others,

1 that you were surprised to see those words because that wasn't how you felt the case
2 was going. Is that fair to say that some of the words he chose to describe the authority
3 of Mr. Weiss, for example, are not the words you might have chosen because the
4 understanding could be different between what Mr. Shapley believed and what you
5 believed based on your position in the case.
6 A Yes, that is correct.
7 [redacted]. Can you elaborate on that in any way?
8 A Just that, again, my understanding generally of that meeting is that Mr.
9 Weiss was just giving us an overhead of where we were and things that were still ongoing
10 and just the steps that he would generally be taking to move forward. And, again, like I
11 said, for whatever reason, California sticks out in my mind more, that they were not
12 moving forward solely. And so, again, he would have to do, like, a special
13 AUSA -- special attorney process.
14 [redacted] But your general understanding at the time of this meeting was that
15 Mr. Weiss had the authority to pursue whatever charging decisions he chose as a
16 prosecutor in any venue in the United States. Is that fair.
17 A Yes.
18 [redacted]. And, to the extent that these e-mailed notes that Mr. Shapley
19 prepared sometime after the meeting suggest otherwise, that understanding that Mr.
20 Shapley has expressed is not consistent with the understanding that you have.
21 A That is correct.
22 BY [redacted]
23 [redacted] I'm going to move on from the October 7th meeting, and I actually
24 want to take a step back and talk about your background a little bit. And I want to be
25 clear I'm not asking for law enforcement sensitive information. I just want to get just

1 more of a general sense.

2 You said you joined the FBI 16 years ago. Right?

3 A Yes.

4 [redacted]. Why did you decide to join the FBI?

5 A The FBI was always, like, a long-term goal. It's just something that I guess

6 kind of, you know, pulled at the heartstrings, so to speak. But it really is about and has

7 been about helping others, being able to serve others.

8 My interest in coming into the FBI shifted some in the sense that I initially wanted

9 to pursue the Behavioral Analysis Unit while still being a special agent and working in

10 those type of investigations. But it's just always been wanting to serve, wanting to be in

11 law enforcement, and this was the only place that I could think to be ultimately.

12 [redacted]. And, broadly speaking, can you describe your duties in your current

13 position.

14 A Sure. So, as an assistant special agent in charge, I am responsible -- I'm one

15 of four in this particular office, and I'm responsible for a branch that has various criminal

16 violations, as well as administrative violations. And my responsibility is to ensure that

17 my team are staffed as best as possible, has the resources that they need to be able to do

18 their work, so to facilitate those things for them but also to ensure accountability and

19 building relationships not only internally but also externally.

20 [redacted]. How long have you been assigned to the Baltimore Field Office

21 specifically.

22 A Just a little over 2 years.

23 [redacted] How large is the Baltimore Field Office in terms of employees.

24 A So professional staff and special agents -- and that professional staff

25 category includes several different roles -- I believe it's approximately 480 or

1 4 -- something between 470, 480, I think.

2 [redacted]. And you said earlier that the Baltimore Field Office covers both

3 Maryland and Delaware. Correct.

4 A Yes.

5 [redacted]. Is it fair to say that Baltimore is one of the largest geographic regions

6 in terms of FBI field offices.

7 A Yes, we are one of the large field offices.

8 [redacted] Okay. How much of your work in that -- I mean, the investigations

9 that you personally work or you personally oversee is focused on Delaware as opposed to

10 the District of Maryland.

11 A I don't know specifically. There's a good number of investigations in both.

12 Kind of hard to say.

13 [redacted] Okay. But you oversee investigations in both Delaware and

14 Maryland. Is that fair to say.

15 A Yes.

16 [redacted]. And do you work with both the District of Maryland and the District

17 of Delaware U.S. Attorney's Offices.

18 A Yes.

19 [redacted]. Have you worked with other field offices over the course of your

20 career.

21 A Yes.

22 [redacted] Can you name some of those for us.

23 A The New York Field Office, as well as the Los Angeles Field Office.

24 [redacted] Okay. Would you agree that each of these offices has a different

25 approach to handling cases.

1 A Yes.

2 [redacted]. Can you describe those different approaches.

3 A So I would say, first and foremost, I think all the field offices in the FBI as a

4 whole approach is to be thorough and take every logical step there is to, you know, see

5 an investigation to its end. However, based on the different localities, there are

6 sometimes situations where an investigation may move a little bit quicker than others.

7 It depends on staffing in those field offices and the partners that we're working with, and

8 it also depends on maybe a little bit of the culture. But I really think it comes down to

9 just staffing and, you know, what the availability is of resources.

10 [redacted] And what about the U.S. Attorney's Offices that you work with? Do

11 the different U.S. Attorney's Offices take different approaches to cases.

12 A Yes.

13 [redacted] Is it fair to say that some U.S. Attorney's Offices move more quickly

14 and some U.S. Attorney's Offices are more deliberative and perhaps move a little slower.

15 A Yes. I think just in the same similarities that I mentioned about field

16 offices, you would also see that in -- or I have seen that in my experience with U.S.

17 Attorney's Offices as well.

18 [redacted] So, for example, could you describe -- in your opinion, does the Los

19 Angeles U.S. Attorney's Office, do they tend to move more quickly or are they more

20 deliberative in nature.

21 A More deliberative from my experience.

22 [redacted]. What about the District of Maryland's U.S. Attorney's Office.

23 A Deliberative but maybe not as deliberative as the Central District of

24 California and Delaware.

25 [redacted] And have you worked with offices that you think tend to move more

1 quickly than other offices.

2 A New York.

3 [redacted]. Let the record reflect that there was no hesitation there.

4 What about the District of Delaware? Do they tend to move more quickly, or do

5 they tend to move more slowly, or somewhere in the middle?

6 A They were more deliberative.

7 [redacted]. More deliberative.

8 A Yes.

9 [redacted] And, without getting into the specifics of any pending matters and in

10 particular this pending matter, can you explain broadly what you mean by that.

11 A Across the board, you know, we have three different squads that handle a

12 number of violations in that area. They basically are covering everything in Delaware

13 that we cover in Maryland, and working with the Delaware U.S. Attorney's Office, I have

14 seen that across the board, so violent crime, financial crimes, national security. It

15 doesn't matter. They are just a very deliberative U.S. Attorney's Office in the processing

16 of investigations.

17 [redacted]. So, in the earlier hour, you said a number of times that you were

18 interested in keeping the case moving forward. What did you mean by that.

19 A I meant, again, just wanting to ensure that the teams had everything that

20 they needed to move a case forward and just understanding, again, wanting it to get to its

21 resolution.

22 [redacted]. And why was it important for you to get this case to its resolution.

23 A Like all investigations, we don't want anything that's lingering. It's not

24 beneficial to the entities or -- individuals, entities that are being investigated, as well as to

25 the U.S. Attorney's Office and the different law enforcement partners that are doing the

1 investigations.

2 So the whole purpose of doing an investigation is obviously, you know, reviewing

3 any allegations and determining if there's evidence there, being able to present that, and

4 there being a decision to, you know, move forward and determine if there are going to be

5 any charges, and so forth, if that turns out to be a trial or whatever that may be. So it's

6 not helpful to anyone for those things to linger.

7 [redacted] And that's in every case that you work on. Correct.

8 A That is correct, every case.

9 [redacted]. Okay. Earlier in the first hour, you were asked about

10 disagreements between investigators and prosecutors. And you said that, like in many

11 investigations, prosecutors and investigators don't always see -- didn't always see eye to

12 eye in this case. Is that -- do you recall saying that.

13 A Yes.

14 [redacted] Okay. And we just discussed different U.S. Attorney's Offices, and

15 you said that some offices move more quickly than others and that your interest was

16 always in bringing a case to conclusion or bringing an investigation to conclusion. Is that

17 right.

18 A Yes.

19 [redacted]. So I take it from that conversation and from the conversation in the

20 earlier hour that it's fair to say that, in some cases over the course of your career, you've

21 had disagreements with prosecutors about, for example, particular investigative steps.

22 Is that fair to say.

23 A Yes.

24 [redacted] And, as a supervisor, have you experienced instances in which the

25 agents that you supervise have had disagreements with prosecutors about particular

1 investigative steps.

2 A Yes.

3 [redacted] Have you also had disagreements with other law enforcement

4 entities, meaning either State and local law enforcement or maybe DHS, Homeland

5 Investigative Services, or the IRS, where you were jointly working an investigation and

6 your investigators -- or investigators that you oversaw disagreed with the investigators

7 from another law enforcement entity.

8 A Yes.

9 [redacted] Okay. Is it fair to say that it's fairly common for FBI agents to have

10 disagreements with prosecutors and other law enforcement entities about investigative

11 steps.

12 A I think it's -- yes, it's fairly common, definitely not unusual for there to be

13 disagreements and differences of opinions.

14 [redacted] And why do you think that is.

15 A I believe that's based on, first and foremost, people being different, you

16 know, from the job, as well as having different experiences, investigative experiences,

17 prosecuting experiences. All of those things are going to come into play, their

18 understanding of a matter versus, you know, what someone else's understanding is. All

19 of those things, I believe, come into play as to why everyone is not going to be in

20 lockstep.

21 [redacted] Have you had instances where you thought a prosecutor should

22 bring a particular charge and the prosecutor disagreed with that assessment.

23 A Yes.

24 [redacted]. It's ultimately the prosecutors who make the decision in that case.

25 Right.

1 A Yes.

2 [redacted] And that's because prosecutors are best positioned to understand

3 the relative strength of the evidence and how it might appear to a jury. Is that fair to

4 say?

5 A I definitely think we have different specific roles when it comes to that, and

6 so, yes.

7 [redacted] Okay. And prosecutors are the ones who actually have to argue

8 the case in court. Right.

9 A That is correct.

10 [redacted]. And they're the ones that have to present it to the grand jury to get

11 an indictment. Correct.

12 A Yes.

13 [redacted]. And they might be in the best position to evaluate the strengths and

14 weaknesses of a witness and how a witness might appear before a jury. Correct.

15 A Yes.

16 [redacted] And is it fair to say that, in those instances where prosecutors and

17 investigators perhaps disagree about what charges might be brought, in some cases the

18 prosecutor will sit down with the investigators and explain why particular charges are

19 being brought and why particular charges are not being brought.

20 A Yes, that happens.

21 [redacted]. And sometimes prosecutors don't do that. Right.

22 A That happens as well.

23 [redacted] And, in those cases, it may just be the case that the prosecutor is

24 busy; it might be just a different style, but it happens.

25 A Yes. There would be various reasons as to why.

1 [redacted]. And there's not necessarily a malicious reason behind it. It might
2 be they were busy or perhaps it was -- you know, the timing didn't work out.
3 A Yes.
4 [redacted]. Have you ever had cases or supervised cases where agents take it
5 kind of personally when a prosecutor disagrees with them about charges, especially if
6 they have spent a long time building up a case and the prosecutor declines to bring
7 charges in that case.
8 A Yes.
9 [redacted]. Can you describe those situations broadly.
10 A Just generally speaking. And, you know, over the years of experience, I've
11 seen where -- because people are invested in seeing an investigation come to a
12 conclusion. And, again, as we talked about having different experiences and opinions,
13 there have been, I would say, occasions that I've seen people I think take things
14 personally and have to be, you know, reminded that we have a job and sometimes what
15 your ultimate opinion is, is not necessarily how things are going to turn out. Because,
16 again, you've investigated a case. You've brought the information to the prosecutor,
17 and the prosecutor has now that responsibility to make that determination.
18 [redacted]. And would you agree that prosecutors generally only bring cases
19 when they have a reasonable chance of securing a conviction in that case.
20 A Yes.
21 [redacted]. In other words, prosecutors like to win. Correct.
22 A Generally, yes, I would think so.
23 [redacted]. Okay. So, with this discussion of the ways that investigators and
24 prosecutors maybe don't always see eye to eye and prosecutors ultimately have the
25 ultimate charging authority in a case, getting back to the comment earlier about, as in

1 many investigations, there were disagreements between investigators and prosecutors, in
2 this case, was there anything remarkable in this case as opposed to other cases that
3 you've worked on.
4 A No, not in my opinion.
5 [redacted]. I want to turn to the release of information in cases or what
6 sometimes is referred to as a leak or leaking.
7 Are you familiar with the term "law enforcement sensitive information"?
8 A Yes.
9 [redacted]. What's your understanding of what that term means.
10 A That that is a classification, as you will, of information that is -- should be
11 kept -- held closely for law enforcement versus release to the public and, again, for those
12 who may not have a need to know.
13 [redacted] Does it encompass information about ongoing investigations.
14 A Yes.
15 [redacted]. And what's the potential harm if that information is released to the
16 public.
17 A So, like, having an investigation that is, you know, not being worked and
18 potentially around for an exhaustive amount of time, it can be harmful for, you know, not
19 being able to proceed in the investigation thoroughly as well as it can be harmful to the
20 individual or individuals that are being investigated.
21 [redacted]. And could it, for example -- could that release of that information
22 prevent investigators from gathering additional information going forward.
23 A Yes.
24 [redacted]. Because it could tip off other potential subjects or other potential
25 witnesses. Is that fair to say.

1 A Yes, it could do both.

2 [redacted] And it also could lead people to potentially conceal evidence or

3 prevent documents, for example, from being obtained.

4 A Yes.

5 [redacted]. Could it impair prosecutors' ability to use evidence effectively at

6 trial.

7 A Yes.

8 [redacted]. Could it even maybe prevent prosecutors from obtaining a

9 conviction in a case.

10 A Yes.

11 [redacted] Is it fair to say that the release of information about ongoing

12 investigations also creates a risk that the reputation of individuals involved in the

13 investigation, so maybe witnesses, but also potentially even targets or subjects, that

14 could injure their reputations even if they're not ultimately charged in that case.

15 A Yes.

16 [redacted] So, for all of these reasons, is it fair to say that the FBI takes a

17 pretty -- they work pretty hard to keep law enforcement sensitive information and

18 information about ongoing cases from being broadly released.

19 A That is correct.

20 [redacted]. Okay. When a -- and the release of that information is commonly

21 referred to as a leak. Is that fair to say.

22 A Yes.

23 [redacted] When a leak occurs, does the FBI conduct an investigation to

24 determine what might have happened.

25 A There is a process that will occur, but the FBI at least, depending on where

1 that potential leak is coming from, there's a referral process that's made. And so the FBI
2 may be working internally within different divisions or also with OIG.
3 [redacted]. Okay. But there's an investigation that takes place. Is that fair to
4 say.
5 A Yes.
6 [redacted] And those investigation can be pretty thorough.
7 A Yes.
8 [redacted] They might take a long time to complete.
9 A Yes.
10 [redacted]. And, while that investigation is ongoing, it's possible that the person
11 or the persons who released that information, the people who are responsible for that
12 leak could continue to release that information if they still have access to it. Right.
13 A Yes.
14 [redacted] So there are circumstances where a leak of sensitive information
15 about a case could actually justify removing an investigative team to protect the integrity
16 of that ongoing case. Right.
17 A Yes.
18 [redacted]. Okay. Ultimately, when whoever is conducting the investigation,
19 whether it's the FBI, the Inspector General's Office or, I guess, the inspection office of
20 another law enforcement entity, when that entity determines the source of the leak or
21 the identity of the leaker, there are likely to be ramifications for that person. Right.
22 A Yes.
23 [redacted]. For example, someone who leaks sensitive information to the media
24 could lose their security clearance. Is that right.
25 A Yes.

1 [redacted] And is it your understanding that FBI employees are required to
2 maintain a security clearance to do their jobs.
3 A Yes.
4 [redacted] Do you know if IRS agents are also required to maintain a security
5 clearance to do their jobs.
6 A I am not -- I do not know.
7 [redacted]. Okay. But, if an IRS agent was required to maintain such a security
8 clearance and that was imperiled because they had potentially leaked information to the
9 media, they would then have incentive or be motivated to prevent that from happening.
10 A Yes.
11 [redacted] I want to introduce -- okay.
12 BY [redacted]
13 [redacted] Just one other quick question, Special Agent, on this subject of leaks.
14 If it were the case that an investigator who was working on a criminal investigation had
15 leaked information inappropriately and shared law enforcement sensitive information,
16 could one of the repercussions of that be that the case itself was so weakened that it
17 would affect the prosecutor's decision to go forward in that case?
18 A Yes.
19 [redacted]. And that could be for a variety of reasons. Right.
20 A Yes.
21 [redacted] Some of that might be, like [redacted] was saying; it might affect the
22 additional evidence that you could obtain in the future. Correct.
23 A Correct.
24 [redacted] But it also could be fundamentally problematic because the leak or
25 inappropriate conduct by the investigator, who would be potentially a serious witness in

1 that case, could undermine the integrity of that witness, create discovery problems for
2 the prosecutor, and other weaknesses in that case that are particular to the investigator.
3 Is that correct.
4 A Yes.
5 BY [redacted]
6 [redacted] Just a couple of followup questions. I'm going to jump around a
7 little bit, so bear with me.
8 But, in the first hour, the statement was made by the Republican counsel that
9 partner, meaning partnering with the -- one U.S. Attorney's Office partnering with
10 another, that partnering and declining to partner is a euphemism for denying the right to
11 bring charges. Is that your understanding of what it means to partner? In other
12 words, does the U.S. Attorney's Office with whom another U.S. -- so, when Mr. Weiss was
13 seeking to partner with the District of Columbia, for example, and they declined to
14 partner with him, does that mean that they were denying him the right to bring charges?
15 A No.
16 [redacted]. Okay. He still had another route to bring charges.
17 A Yes.
18 [redacted] Okay. You said that, when the Shapley testimony, the transcript
19 came out, you skimmed it -- skimmed the transcript primarily because you were
20 concerned about seeing your team members' names in that transcript. Do you recall
21 saying that.
22 A Yes.
23 [redacted] Why was that a concern to you.
24 A Because I did not want them, one, you know, to be -- their names to be
25 published in the media and that it could potentially harm not only the ongoing matter,

the discussion here, but also other ongoing matters that they are involved in. And also I just don't think that they deserve that. So I want to be able to protect them from that as much as possible.

[redacted]. And, when you say that you don't think they deserve that, what do you mean by that.

A Meaning that they're trying to do their jobs. They are focused on doing their jobs, and it's important to me and, I think, to SAC Sobocinski and them particularly to be able to do that and to do that, you know, free from any potential attention that can come from the media.

[redacted]. I think we can go off the record.

Thank you.

[Recess.]

BY [redacted]

[redacted] Good afternoon.

A Good afternoon.

[redacted] I want to ask you a couple of questions about what's been marked as exhibit 3. If you can pull that one out for me.

A Okay.

[redacted] And, when we were speaking previously about exhibit 2, we were talking about DOJ Tax and whether approval was discussed or discretion, all sort of related to the process that Mr. Weiss would have to undertake to bring a case in another jurisdiction.

Do you remember that general discussion?

A Yes.

[redacted]. So, looking at exhibit 3 and the statute you were shown, 28, U.S.C.,

515, it's pretty short. Based on your understanding here, if U.S. Attorney Weiss wanted to bring a case in another jurisdiction and those jurisdictions would not partner with him, what would he have to do under this statute to make that happen.

A Well, he would have the authority from this statute, and my understanding is he'd be able to proceed.

[redacted]. So, if you look at the second line of subsection A, it reads that when specifically directed by the Attorney General. Do you see that.

A Yes.

[redacted]. So he would have to be directed by the Attorney General to proceed. Is that correct.

A Yes.

[redacted]. Okay. So, to be directed by the Attorney General, he would have to ask for that direction. Is that fair?

A Based on, yeah, my reading of this, yes, it seems like he would have to have some kind of consultation there.

[redacted] Okay. So he would have to ask, and then the Attorney General would have to say yes, and then Mr. Weiss could proceed. Is that your understanding of this?

A Yes.

BY [redacted]:

[redacted]. But, as of the October 7th meeting, that hadn't occurred. Is that correct?

A I don't -- I don't think it had because my understanding at that meeting is that he was generally walking us through this process.

[redacted] Okay. So, as of the 10/7 meeting, he still had to seek the

1 authorization of the Attorney General to proceed as a special counsel or a special
2 attorney under the statute. Correct.
3 A My understanding is that he still had and was going to proceed with, you
4 know --
5 [redacted] Getting that approval.
6 A If that -- yeah, if that's what it is.
7 [redacted] But, as of the 10/7 meeting, he did not have the authority all by
8 himself to bring those cases. Correct?
9 A Based on seeing this document now -- I still thought at that time and think
10 that he has the authority, but it looks like from this description here of this statute that
11 there was more entailed that I was not aware of.
12 [redacted]. Okay. The minority asked you a number of questions about
13 whether you remember something, and then they followed it up with, "Do you think that
14 that is something you would remember."
15 Do you remember them asking you that?
16 A I do.
17 [redacted]. Now, when you're asked do you think that's something you would
18 remember about a fact and you say yes, I mean, is it fair to say that's almost a way to
19 dispute a fact that was discussed in the meeting.
20 A I think that, as I had said earlier, I didn't think -- well, I have no reason to
21 believe that Mr. Shapley is not being truthful. But, at the same time, my understanding
22 and recollection is different than his as noted in his document.
23 [redacted] Okay. If you look at the second page of the notes, No. 4: The FBI
24 SAC asked the room if anybody thought the case had been politicized.
25 Now, do you see that on there?

1 A I see it.

2 [redacted]. You were asked if you remembered that -- and correct me if I'm

3 wrong, but you said you didn't. And then you were asked, "Do you think that's

4 something you would remember if that did happen?" And you said yes.

5 Did I get that right?

6 A Yes.

7 [redacted]. Okay. So you don't remember Mr. Sobocinski asking the room if

8 anyone thought the case had been politicized.

9 A I do not.

10 [redacted] Okay. And your testimony still is, if he did say that, you think that

11 is something you would remember.

12 A I think I would.

13 [redacted] Okay. Now, we spoke with Mr. Sobocinski last week, and as you

14 can imagine we asked him about that.

15 A Uh-huh.

16 [redacted]. And so, you know, if for the sake of argument he acknowledged that

17 he said that, then would you agree that, you know, your recollection was different from

18 his.

19 A Yeah. I mean, again, based on my recollection, something that happened

20 almost a year ago, I don't remember that.

21 [redacted]. Okay. But when the minority asked you, Do you think that's

22 something that you would remember, and you said yes, as it relates to what the FBI

23 special agent in charge said -- I mean, that was something that the minority asked you.

24 You don't remember that, but you think you would remember it. Correct.

25 A I think I would, but I may not.

1 [redacted] Okay. And if we have testimony from Mr. Sobocinski where he
2 acknowledges that he said that, you would defer to that memory, wouldn't you.
3 A Whatever Mr. Sobocinski or anybody else has testified to, I would definitely
4 let that be their record, and my recollection is that I don't remember him saying that.

1 [12:16 p.m.]

2 BY [redacted]

3 [redacted] Okay.

4 Now, do you have any recollection of Mr. Shapley being concerned about the

5 special counsel issue?

6 A I don't have any specific recollection on that.

7 [redacted] Okay.

8 Now, I believe you were asked that if that was part of the meeting, I believe you

9 said that it's probably something you would remember, correct?

10 A Probably.

11 [redacted] Now, do you have any recollection at all of Mr. Shapley asking about

12 special counsel status or being concerned about it in his discussions with you.

13 A I don't remember.

14 [redacted] Okay. But do you know if there's any emails where he emailed you

15 about that very topic.

16 A I don't remember.

17 [redacted] Okay. But if he did email you about that topic, then is it fair to say

18 that he was bringing that issue up to you.

19 A You'd have to ask Mr. Shapley or check his email. I don't remember seeing

20 an email or discussing that with him.

21 [redacted]. So you knew when you were coming here today we were going to be

22 talking about the October 7th meeting, right.

23 A Yes.

24 [redacted]. What did you do to refresh your recollection about what happened

25 at that meeting.

1 A I didn't.

2 [redacted] You didn't do anything.

3 A No.

4 [redacted] Okay.

5 A Just, again, understanding what my authority was. That's it.

6 [redacted]. Okay. So you didn't go back and look at any of the email traffic

7 that you may have had with Mr. Shapley.

8 A No.

9 [redacted]. Or any email traffic that you had at all surrounding the October 7th

10 meeting.

11 A No.

12 [redacted] Is it possible you had emails with Mr. Sobocinski about, "Hey, we're

13 having this meeting, they're asking you to come," that type of thing.

14 A Probably. I mean, because we work in the same office and very close in

15 proximity, I probably just talked to him.

16 [redacted] Okay.

17 Did you and Mr. Sobocinski drive to the meeting together or did you drive

18 separately?

19 A Separately.

20 [redacted]. What was your understanding around the 10/7 meeting time frame?

21 What was your understanding of the way forward with these charges.

22 A I don't remember having a clear understanding other than now, again,

23 generally, I remember there being conversation of the Central District of California and

24 that that likely was not going to proceed with the U.S. attorney partnering.

25 So what my recollection is, is that Mr. Weiss would continue in his process to be

able to move forward in whichever districts he needed to, and the ongoing matter would continue.

[redacted] Okay.

We talked a little bit in the last -- the minority was asking you about the leak. Are you aware that Mr. Shapley has categorically denied being involved with any type of communication with reporters?

A No.

[redacted] On this issue.

A No, I wasn't. I was not.

[redacted] Were you aware that Mr. Shapley specifically authorized the Washington Post reporter to disclose him as a source if he was a source? Were you aware he did that.

A No, I was not.

[redacted]. And The Washington Post, I can stipulate, has not identified Mr. Shapley as a source. Are you aware of that.

A I am now.

[redacted] Okay.

And these types of leaks that happen in high profile cases, is it fair to say that they very infrequently come from an FBI source?

A I don't know.

[redacted] The stakes are really high for an FBI official who leaks something to a reporter, correct.

A Yes.

[redacted] If an FBI official is found leaking to a reporter, they could lose their clearance immediately, couldn't they.

1 A I don't know how quickly. But, yes, they could definitely lose their
2 clearance.
3 [redacted] So that's a real danger that in many respects prevents the FBI being
4 the source of a lot of leaks. Isn't that fair to say generally.
5 A I would hope so.
6 [redacted] Okay.
7 A But I can't speak for everyone in the Bureau.
8 [redacted]. Right.
9 And is it the same issue at hand for IRS criminal investigators? I mean, aren't the
10 stakes really high if they're the leaker?
11 A I would generally think that anyone in law enforcement, particularly if you
12 have to have a security clearance like we have to have in the FBI, that you would consider
13 those high stakes.
14 [redacted]. And you're aware of the taxpayer confidentiality statute, 26 United
15 States Code 6103.
16 A No.
17 [redacted] That bars disclosure of taxpayer-specific information.
18 A Okay. I'm not aware of the specific statute.
19 [redacted]. Okay.
20 A Obviously, I understand when it comes to taxpayers and tax records. But
21 didn't know the statute.
22 [redacted] And so it's a felony if somebody in the IRS discloses taxpayer
23 information. So to suggest -- and counsel for Hunter Biden has suggested that Gary
24 Shapley was the leak for the October 6th story -- but to suggest that -- and I got the
25 impression that was sort of where my minority counsel was going with that, is that

1 Shapley was the source of the October 6th leak.

2 And I just would like to make sure we're all on the same page, that the stakes are

3 pretty high for the IRS investigators as well for leaks.

4 A Again, I don't know what their specific policies and procedures are, but I

5 would think overall they would be high for anyone.

6 [redacted] Okay.

7 And are you aware of anybody inside of the IRS identifying Mr. Shapley as the

8 leak, such as TIGTA, which is the IG over IRS matters?

9 A I'm not aware of anyone being identified as the leak.

10 [redacted] Okay.

11 So I'm not aware of any evidence, and you are not either, of Mr. Shapley being

12 identified as a leaker for the October 6th story.

13 A Yeah, I have no awareness of their investigation, TIGTA, OIG, or anyone else

14 as far as the leak is concerned. So I don't know who has been identified, if anyone.

15 [redacted]. Okay.

16 [redacted] And to clarify, did you intend to insinuate that anyone was

17 responsible for the leak to your knowledge?

18 Ms. Holley. I have no idea as to who or how the reporter received some of the

19 information that was in that article.

20 BY [redacted]

21 [redacted]. Are you aware of the allegation that Assistant United States

22 Attorney Lesley Wolf was having frequent communications back and forth with defense

23 counsel over the propriety of bringing charges?

24 A No. You said the allegation?

25 [redacted] Yes.

1 A No.

2 [redacted] Did you see the news articles published, I believe it was last month.

3 Was it the month of July or -- we're going to mark two news stories.

4 A Okay.

5 [redacted] Was it August 19th?

6 August 19th there were two stories that came out.

7 What number are we?

8 [redacted] 4 and 5.

9 [Holley exhibits Nos. 4 and 5.

10 Were marked for identification.]

11 BY [redacted]:

12 [redacted] These are two articles, one from Politico, exhibit 4, and one from

13 The New York Times, exhibit 5, published on August 19th of this year.

14 Did you -- have you seen these articles before?

15 A No.

16 [redacted] Did you hear about them.

17 A No.

18 [redacted]. Are you still working on the case.

19 A I'm still involved in the ongoing matter.

20 [redacted]. Okay. And you weren't aware of these two news articles.

21 A I try my best to not read the articles that come out.

22 [redacted] Okay.

23 Exhibit 4, the Politico story, it's 18 pages. I mean, it's a pretty meaty news

24 article.

25 And then exhibit 5, the New York Times article, is also -- it's pretty long and

1 it's -- this printout, which the font's a little bit smaller, but it's nine pages. And I'd note
2 exhibit 5, if you look at the fourth paragraph, it's talking about the Hunter Biden plea deal
3 collapsing.
4 So exhibit 5, the New York Times article, paragraph four, states: "The deal's
5 collapse -- chronicled in over 200 pages of confidential correspondence between
6 Mr. Weiss's office and Mr. Biden's legal team, and interviews with those close to
7 Mr. Biden, lawyers involved in the case and Justice Department officials -- came after
8 intense negotiations that started with the prospect that Mr. Biden would not be charged
9 at all and now could end in his possible indictment and trial."
10 So, I mean, this is a news article published by The New York Times that had access
11 to, like, 200 pages of confidential communications, as reported, between Mr. Weiss,
12 Mr. Weiss' office, and Mr. Biden's legal team. I mean, isn't it fair to say that somebody
13 packaged up these materials and handed them to a reporter?
14 A I don't know how the reporter received or has access to this information, so
15 I'm not sure.
16 [redacted] Okay. Oftentimes isn't it true that it's defense counsel that is the
17 source of these leaks.
18 A In my -- I've never been involved specifically in a suspected leak
19 investigation, but I've heard of it being defense, other people outside of the whole
20 investigative unit. So it varies.
21 [redacted]. Okay. But the stakes are a lot higher for an FBI official to leak that
22 type of correspondence, correct.
23 A I would think, yes, that the stakes are higher for a law enforcement
24 individual. But whether or not someone still would I think is that person's personal
25 choice.

1 [redacted]. This story, and we don't need to really go through it, but it
2 essentially chronicles Chris Clark, the defense counsel's communications with Lesley Wolf.
3 A Okay.
4 [redacted] Okay. And the same thing for the Politico story. It talks about
5 Clark writing a 32-page letter that has been reviewed by Politico. This is on page 2 of
6 exhibit 4.
7 A Uh-huh.
8 [redacted]. And no one's alleged that Mr. Shapley had any role in leaking to
9 Politico or The New York Times for these stories that you're aware of, correct.
10 A No, I'm not aware of that.
11 [redacted]. And if you look at these stories, and I guess you haven't read them,
12 but I'll stipulate to you it's really the saga between Chris Clark and Lesley Wolf, suggesting
13 that either Lesley Wolf leaked it or Chris Clark leaked it or Chris Clark leaked it through
14 the assistance of somebody.
15 [Holley exhibit No. 6.
16 Was marked for identification.]
17 [redacted]
18 [redacted]. And so now I want to mark exhibit 6, which is the Washington Post
19 story from October 6th. This is the Washington Post story from the day before your
20 meeting.
21 Was this the story that was the subject of the leak that you were discussing?
22 A I think so.
23 [redacted] And did you read the article at the time.
24 A I did back then.
25 [redacted] Okay. And do you remember during the 10/7 meeting whether

1 there was any discussion of how the leak occurred.

2 A I don't remember the specific conversation. I just remember, generally

3 speaking, that the potential or possibility of a leak had come up and what each entity a

4 part of that meeting, so the U.S. Attorney's Office, FBI, and IRS, would do in referring it to

5 their appropriate processes.

6 [redacted] Did anyone suggest that maybe Chris Clark is the leaker.

7 A I don't remember any suggestion of anyone particularly or anything.

8 [redacted] Okay. Because at this point in time, if Chris Clark had been having

9 ongoing discussions with the U.S. Attorney's Office in Delaware, it may have been in his

10 interest -- perceived interest -- to put a story out there like that. Isn't that possible.

11 A I have not made any surmise as to who leaked any information.

12 [redacted]. Okay. But unquestionably you have no evidence or suggestion that

13 Gary Shapley was the source of the story.

14 A I have no idea as to who it is.

15 [redacted] Okay. And nobody at the meeting had any suggestion that it was

16 Gary Shapley or Joseph Ziegler that was the source of the leak.

17 A No one.

18 [redacted] Okay. And is it fair to say that everyone was jointly as concerned

19 about the leak as everyone else.

20 A It appeared so.

21 [redacted] Okay.

22 On page 2 of exhibit 2, item 4 -- and this is on the second page of Mr. Shapley's

23 notes. And I know we're -- I guess we started to quarrel over whether it's fair to

24 characterize these notes as contemporaneous. But I think where we left off with that

25 quarrel is these were -- the meeting happened in the afternoon?

1 A Yes.

2 [redacted]. And these notes were prepared dated 6:09, correct.

3 A Yes.

4 [redacted] And you said you didn't see Mr. Shapley taking any notes.

5 A I don't remember if anyone took notes.

6 [redacted] But you don't remember whether he did or not, right.

7 A I don't.

8 [redacted] So for all we know, he could put them out on his own today, and we

9 would say, "Okay, there's Mr. Shapley's notes." Is that right.

10 A Yes.

11 [redacted] Okay.

12 You indicated that you had seen page 1 of these notes but not page 2? Did I get

13 that?

14 A Yes.

15 [redacted]. So can you help me understand that.

16 A Just in my discussion with counsel to my right, just asking if I remembered

17 this meeting and what I remember about this meeting.

18 [redacted]. Okay. But you didn't -- because this -- our exhibit 2 was exhibit 10

19 to Mr. Shapley's transcribed interview.

20 A Okay.

21 [redacted] And so it was released. It's been out there since mid-June. You

22 didn't look at it when it was released in mid-June.

23 A No.

24 [redacted] Okay. Did you have any discussions with anybody back then before

25 you started talking to counsel.

1 A No.

2 [redacted]. Okay. And so when counsel showed this to you as part of a prep

3 for today, was that --

4 A Yes. They asked me if I was familiar with it, and I told them no.

5 [redacted] Okay. And at that time, you didn't flip it over to look at page 2?

6 You just looked at page 1.

7 A I don't -- I remember one page.

8 [redacted] Okay.

9 A So if there was a backside, if it was, like, copied with double sides --

10 [redacted] Okay.

11 A -- I just -- I only remember the first page.

12 [redacted] Oh, okay.

13 And did you read it when they showed it to you, or did you just glance at it?

14 A No, I read it.

15 [redacted] Okay. And when you reviewed it, it was the first time you had seen

16 it.

17 A Yes.

18 [redacted] Okay. And what were your initial impressions.

19 A Just that a lot of the information that was there on the -- or is here on the

20 first page isn't as I remember the meeting.

21 [redacted] Okay. But you never got through to the second page.

22 A Not until today.

23 [redacted] Okay.

24 You said you didn't pull your emails for this time frame. Like, what did you do to

25 prepare for today?

1 A Just try to think back to the different meetings, the meeting that is called the
2 tax summit and the October meeting.
3 [redacted] Okay. But you didn't look at any documents? You just tried to
4 remember.
5 A Correct.
6 [redacted] And that's the extent of your preparation.
7 A Yes.
8 [redacted] Okay.
9 Were you presented with any other documents that you were asked if you
10 remembered?
11 A No.
12 [redacted] So it was just one document that you were showed.
13 A Just this.
14 [redacted] Okay.
15 On page 2, Mr. Sobocinski, according to Shapley's notes -- which were prepared
16 relatively close in time to the meeting. We can all agree to that, right?
17 A I would say it was definitely on the same day.
18 [redacted] Okay. But the same -- I mean, the same afternoon. You said it
19 was an afternoon meeting, and these were prepared at 6 o'clock.
20 A Yes.
21 [redacted] Okay.
22 "The FBI SAC asked the room if anyone thought the case had been politicized."
23 And you don't have any recollection of that?
24 A I don't.
25 [redacted] Okay. As you sit here today, what do you think that means.

1 A Only an opinion, because I don't have firsthand knowledge since I was not
2 the one that said this, is just that if this is what SAC Sobocinski said, he's asking the room
3 whether or not anyone believes that the investigation is not proceeding because of
4 political beliefs or opinions.
5 [redacted] Okay. Are you aware of the various investigative avenues that the
6 investigative team, whether it be FBI agents or the IRS agents, are you aware of any
7 avenues that they tried to pursue that were shut down by the U.S. Attorney's Office.
8 [redacted] And, again, this gets into the ongoing investigation and prosecution,
9 and she's not authorized to discuss that.
10 BY [redacted]
11 [redacted]. So are you aware of those allegations?
12 A No. I'm sorry, let me -- aware? Yes, I'm aware of allegations.
13 [redacted] Okay. But you're not aware of the underlying fact, whether it's
14 true or false.
15 A No, I have no awareness of that.
16 [redacted]. Okay.
17 So I'm going to go through some of those.
18 A Okay.
19 [redacted]. And we're probably going to have this back-and-forth where they
20 ask you not to answer and then I'm going to ask you whether you remember it. So here
21 we go.
22 Are you aware of a search warrant discussion about a storage unit for documents
23 belonging to Hunter Biden?
24 [redacted] And this is, to the extent whatever you're asking about occurred, it
25 involves the ongoing investigation and prosecution, and she is not authorized to discuss it

today.

Ms. Holley. So I'm aware of various discussions of various steps in the ongoing matter. That's the extent I can speak to.

[redacted]. Okay. Are you aware that Mr. Shapley had a back-and-forth with the Delaware U.S. Attorney's Office about how to get at the material inside of Hunter Biden's storage unit?

[redacted] That sounds like a deliberation about the ongoing investigation. So, again, she's not authorized to discuss that.

BY [redacted]

[redacted] Okay. But do you know the answer to that question?

A I do not.

[redacted]. Okay.

When did you join the investigative team for this matter?

A I was assigned to and reported to Baltimore Field Office in July 2021.

[redacted]. Okay. Fair enough, because the storage unit issue happened in 2020.

Did anyone bring that to your attention after you joined in July of 2021?

[redacted] That's the same concern that involves the ongoing investigation. So she's not authorized to discuss it.

[redacted] Okay.

In September of 2021, are you aware that Lesley Wolf emailed Gary Shapley stating, "I do not think you are going to be able to do these interviews as planned," adding that they would require approval from DOJ Tax Division? Are you aware of that?

[redacted] Same objection.

[redacted] And so my follow-up question is, do you know the answer to that

1 question?

2 Ms. Holley. No.

3 [redacted]. Okay.

4 Are you aware in October of 2021 Lesley Wolf emailed Gary Shapley and the

5 investigative team that, "It will get us into hot water if we interview the President's

6 grandchildren"?

7 [redacted] Same concern. This involves the ongoing investigation, and she's

8 not authorized to discuss it.

9 [redacted] Okay.

10 Do you know if you were on that email?

11 Ms. Holley. I don't remember if I was on that email. I don't think so.

12 [redacted]. Okay. Do you remember any discussion about interviewing the

13 President's -- members of the President's family?

14 [redacted] And, again, that goes straight to steps that may have been taken

15 during an ongoing investigation, and it's beyond the scope of what she is authorized to

16 discuss.

17 [redacted] Okay. But do you know the answer to the question?

18 Ms. Holley. No.

19 [redacted]. Okay.

20 Are you aware in February of 2022 -- again, this is after you've been on the

21 case -- that the IRS sent a Special Agent Report -- is that what SAR stands for?

22 [redacted]. Yes.

23 [redacted]. Special Agent Report recommending tax charges for 2014, 2015,

24 through 2019?

25 [redacted] And, again, this gets into internal communications and deliberations

about an ongoing investigation and prosecution. So she's not authorized to discuss it.

[redacted]. Okay.

BY [redacted]

[redacted]. Do you know the answer to that question?

A What's the question again?

[redacted]. In February of 2022 the IRS sent a Special Agent Report to the Tax Division recommending tax charges, including felony counts, of the years 2014 through 2019.

A And your question is do I know the answer to that question?

[redacted] Yes.

[redacted] Can we go off the record for a minute?

[Discussion off the record.]

Ms. Holley. I'm sorry. Can you ask the question one more time?

[redacted] This is my third try.

In February of 2022, are you aware the IRS sent a memo recommending tax charges, and it's called a Special Agent Report in IRS terminology, recommending tax charges, including felony counts, to the DOJ Tax Division? And these were tax charges for the years 2014 through 2019.

So I asked whether you were aware of that, and then [redacted] lodged -- [redacted] sorry --

[redacted] That's fine.

[redacted]. -- lodged the objection. And then you comported with the objection.

So then my follow-up question was whether you know the answer to the question.

1 Ms. Holley. Thank you for reading -- or restating the question.

2 Outside of the ongoing matter, I'm not normally provided those reports. So to

3 that extent.

4 BY [redacted]

5 [redacted] So you may not know -- even know the answer to the question?

6 A To that extent, in the sense of I'm not normally given those reports. If

7 anything, that might be something at more of a case agent level.

8 [redacted] Okay. I mean, you're pretty close to a case agent, though. So, I

9 mean, have you worked DOJ -- have you worked cases with the IRS before, or is this one

10 of your first tax cases.

11 A So, yeah, my experience with IRS is not extensive.

12 [redacted]. Okay.

13 A So, no, I don't have a lot of experience to speak to what their process is or

14 how cases are worked with them, being an FBI employee.

15 And as the ASAC, although I may be closer to the case team than potentially the

16 SAC or someone at headquarters, I am still not going to have the specific awareness of

17 every detail in the case because I'm not the supervisor of the squad, nor the actual case

18 agent, or another role that is helping to support the case.

19 [redacted] Okay.

20 How many of your people worked on this matter? So how many special agents

21 did you have reporting in to you that were on this case?

22 A There have been a few folks over my time period here at the office. I

23 believe three.

24 [redacted] Okay. So there's --

25 A Correction. Four.

1 [redacted] So the universe of FBI special agents below you that worked on this
2 is three or four.
3 A Correct.
4 [redacted]. And Special Agent Gordon, is he one of them, or did he -- does he
5 predate your tenure.
6 A So that would actually make it like four or five --
7 [redacted] Okay.
8 A -- because I was not thinking about the supervisor. And there was -- yes,
9 there was a time period of crossover, overlap, with former, retired now, Special Agent
10 Gordon.
11 [redacted]. Okay. Was he a supervisory special agent, or was he a special
12 agent.
13 A He was a supervisory special agent.
14 [redacted] Okay. So as the structure works, there's the special agent in charge
15 and then there's the assistant special agent in charge, of which that's you, and then
16 there's supervisory special agents.
17 A Yes.
18 [redacted]. And then there's special agents.
19 A Correct.
20 [redacted] And among the universe of supervisory special agents and special
21 agents, you're suggesting there's four or five that worked on this case.
22 A Yes.
23 [redacted] And pardon me for just asking the same question again, but was
24 Gordon, did he predate you, or did you supervise him for a time, period of time.
25 A I supervised him for a period of time.

1 [redacted]. Okay. And what was that period of time, if you can remember.

2 A Just a little less than a year.

3 [redacted]. Okay. And do you remember at any point during his tenure him

4 bringing up the question of special counsel status --

5 A No.

6 [redacted]. -- or being concerned about it.

7 A No, I do not.

8 [redacted] So we asked you whether you remember Gary Shapley bringing up

9 the special counsel status. We asked you now whether special agent -- Supervisory

10 Special Agent Gordon brought it up.

11 Do you remember anyone on this case raising the question of whether David

12 Weiss needed special counsel status?

13 A I don't remember anyone raising that need. I do remember, and I couldn't

14 tell you when exactly, but just in general conversation with Mr. Gordon, that I -- that it

15 had at least come up between he and I.

16 [redacted] It had come up between --

17 A Between Mr. Gordon and I, but not in the need of raising it, just in more of a

18 question of if that was something that happens down the road, just kind of like how the

19 Bureau, or should I say how we, as the Baltimore team, would potentially be involved.

20 But, again, don't remember specifically when. It wasn't raising a need for it.

21 And it wasn't a request.

22 [redacted]. Okay.

23 Chairman Jordan. Before or after October 7th?

24 Ms. Holley. That would have been before.

25 [redacted] And just for clarity, we've talked about special counsel and special

1 attorney at various points throughout today. Is there a distinction in your mind
2 between those in terms of this recollection?
3 Ms. Holley. Yes, in the sense that my understanding is the special counsel is
4 something that is much more separate from the Department of Justice and -- well, yeah,
5 from the Department of Justice. So I understand the two to be different.
6 BY [redacted]
7 [redacted]. Do you have any other understanding of what the differences are?
8 A Just that with the special attorney that's -- my understanding is, again, that's
9 a process that a U.S. attorney or maybe a DOJ trial attorney would go through to bring a
10 case in another district.
11 [redacted] Okay.
12 A And special counsel is a little bit similar in the sense that they can still bring a
13 case in any district but at the same time will have some separate authorities and be more
14 separate from the Department of Justice.
15 [redacted] Okay. So in your mind a special counsel has more authorities than
16 a special attorney.
17 A In my mind it is more separate. Whether or not they have special authority
18 or different authority, more authority, I don't know.
19 [redacted]. Okay.
20 In your mind, when you think of special counsel, what types of special counsels do
21 you think of? Is it Robert Mueller? Is it -- do you have anyone in mind when you think
22 of a special counsel being different from a special attorney?
23 A Yes. So, like you just pointed out, Robert Mueller. I believe -- I don't
24 know his -- it might be Jack Smith. That's another one that I have some awareness of.
25 But, again, never having been on those, I don't know what it all entails.

1 [redacted]. And John Durham.

2 A That wasn't one that I just thought about, but, yes, now that you mention it.

3 [redacted]. Now, is it your understanding that when you're a special counsel you

4 get a whole separate office and you get dedicated employees.

5 A Yes, that's my understanding.

6 [redacted]. And when Robert Mueller was the special counsel he had his own

7 team of lawyers. They rented office space over here not too far from where we sit

8 today and they stood up a whole office. He had a press person, support staff. Is that

9 your understanding of a special counsel.

10 A That they will be separate. They will have their dedicated personnel.

11 [redacted]. And Jack Smith, for example, I mean, he has his own special office.

12 He detailed officials from FBI -- or he has detailed officials from the FBI, from Main

13 Justice, to support his special counsel's office, correct.

14 A Yes.

15 [redacted]. Jack Smith has National Security Division lawyers, such as Jay Bratt,

16 who have been detailed to his office. Is that your understanding.

17 A I don't know who is a part of it. But, again, my general understanding is

18 that there will be personnel that are specifically working the matter and detailed to that

19 team.

20 [redacted]. Okay. And they often have separate office space, correct.

21 A Possibly.

22 [redacted]. What can you tell us about U.S. Attorney Weiss, about his -- the

23 separate office space he has now that he's a special counsel.

24 A I'm not able -- again, ongoing matter as far as this investigation is concerned.

25 Generally speaking, my understanding is Mr. Weiss is still in the Delaware U.S. Attorney's

1 Office.

2 [redacted]. Okay. Do you know if he has special counsel status or special

3 attorney status.

4 A Based on the -- I'm sorry, media reporting and the Attorney General, my

5 understanding is, yes, he has special counsel -- yes, special counsel.

6 [redacted]. But you're still part of the team, right? In fact, you've been asked

7 not to answer certain questions because if you do answer them, it would compromise,

8 allegedly, the ongoing -- the alleged ongoing investigation, correct.

9 [redacted] And before she answers, to be clear, that is a concern irrespective of

10 whether someone is currently part of the special counsel team or not.

11 [redacted]. Okay.

12 Are you currently working with U.S. Attorney Weiss' investigation that has now

13 become a special counsel investigation?

14 Ms. Holley. Being so this investigation is still a Baltimore Field Office matter, I

15 am still overseeing the ongoing investigation.

16 [redacted]. Okay.

17 To your knowledge, has anyone from the FBI been detailed specifically to work

18 exclusively with U.S. Attorney Weiss on this matter?

19 [redacted] And I think at this point we're getting a little bit beyond the scope

20 when we start talking about the composition of the new special counsel's office.

21 [redacted]. Yeah, I would disagree. The question is whether he's a legitimate

22 special counsel.

23 [redacted] Well, I thought the question was whether he had the authority at the

24 time of the October 7th meeting to pursue charges in any venue. You're asking what

25 type of office space and staffing he has currently. That's a different question.

1 [redacted] Right, because if he's got new and different authorities now, then he
2 didn't have it then. So that would raise significant issues that at the time of
3 October 7th, 2022, he didn't have the necessary authorities to bring any case at any time
4 in any jurisdiction.
5 [redacted] And I didn't understand you to be asking about his authority. I
6 understood you to be asking about his office space and his staff.
7 [redacted]. Right. So if he didn't have special office space then, but he's got it
8 now, that would signify something has changed.
9 So do you know if he has --
10 [redacted] The witness has answered that she's continuing to work on this
11 matter, and she's not able to discuss specifics of the ongoing investigation beyond that.
12 [redacted] Okay.
13 Do you know if he has formed a team that's different than he had back on
14 October 7th?
15 Ms. Holley. I know that U.S. Attorney Weiss is still a part of the ongoing
16 investigation, and so he's still overseeing -- currently now as special counsel -- but he is
17 still overseeing the investigation.
18 [redacted] Okay.
19 I want to go back to whether anything in the case has been politicized, which,
20 according to --
21 Chairman Jordan. Can you tell me if you've met with U.S. Attorney Weiss since
22 the August 11th announcement from the U.S. -- from the Attorney General?
23 Ms. Holley. Yes.
24 Chairman Jordan. On this subject?
25 Ms. Holley. No.

1 [redacted]. So you haven't had any meetings with Mr. Weiss on the Hunter
2 Biden case?
3 Ms. Holley. On the ongoing matter, yes.
4 Is that what you're asking, sir?
5 Chairman Jordan. Yes, I am.
6 Ms. Holley. Okay. So, yes, on the ongoing matter.
7 BY [redacted]
8 [redacted] Okay. So you're still part of the ongoing team?
9 A Yes.
10 [redacted] Are you aware of allegations Mr. Shapley and Mr. Ziegler have made
11 about they believe search warrants were slow-walked.
12 A No.
13 [redacted] Are you aware of allegations that Mr. Shapley and Mr. Ziegler have
14 made that unnecessary approvals, unusually unnecessary approvals, were instituted for
15 certain investigative activities.
16 A No.
17 [redacted] Are you aware of allegations made by Mr. Shapley and Mr. Ziegler
18 that U.S. Attorney Wolf prohibited them from interviewing certain people.
19 [redacted] And just to clarify for the record, you have now been asking her
20 whether she is aware of allegations that the two IRS individuals have made, and she is
21 welcome to continue answering whether she has awareness of the allegations as
22 expressed by them.
23 But to the extent you are asking her about her awareness of any underlying facts
24 or the veracity of those allegations, that involves the ongoing investigation, and she can't
25 answer it.

1 Chairman Jordan. The Attorney General sent his announcement on August 11th
2 that earlier that week, "On Tuesday of this week, Mr. Weiss advised me that in his
3 judgment, the investigation has reached a stage at which he should continue his work as a
4 Special Counsel, and he asked to be so appointed."
5 Did U.S. Attorney Weiss consult with you or anyone else on the investigative team
6 before making that ask to the Attorney General?
7 Ms. Holley. No, he did not consult with me, and I'm not aware of him consulting
8 with anyone else on the team.
9 [redacted] Were you aware he was going to make that request when he did?
10 Mr. Holley. No.
11 [redacted]. After the October 7th, 2022, meeting and the August of 2023
12 request for special counsel status, do you remember any discussion of how to bring the
13 case forward in that almost one-year period, or at least three-quarters of a year? What
14 was going on for the three-quarters of the year between October 7th, 2022, and August
15 of this year?
16 [redacted] She can answer that at a high level of generality if she's able to, but
17 obviously not to the extent it involves specifics about the ongoing case.

1

2 BY [redacted]

3 [redacted] So if Mr. Weiss had the authority to bring the case in any jurisdiction

4 he wanted -- which was your belief, correct?

5 A Yes.

6 [redacted] Okay. What was happening between October of 2022 and August

7 of 2023? Because he didn't bring a case in Los Angeles. He didn't bring a case in D.C.

8 He tried to bring a case in Delaware, although it fell apart rather quickly.

9 What was going on in terms of bringing the case to a close?

10 A So, again, it's an ongoing matter. So there are other things and the

11 investigation is continuing.

12 As an ongoing matter, specifically what Mr. Weiss and his team were doing, I can't

13 really go into that, but I would say that the investigation was continuing.

14 [redacted] Okay.

15 Gary Shapley in his notes, number 5 on the exhibit 2, he states: "No major

16 investigative actions remain." Do you remember that being a source of discussion at the

17 October 7th meeting?

18 A I remember that we discussed the case. We discussed various aspects of

19 the case that we've talked about. But going into specifically investigative actions or

20 steps, again, because it's ongoing, I won't be able to really go into that.

21 [redacted] But do you remember if that was discussed at the 10/7 meeting,

22 what investigative steps needed to occur? Was there anything that had to happen? I

23 mean, I don't think we have heard of any -- anybody say that there needed to be any

24 further investigative activity after the October 7th meeting.

25 [redacted] And I think she's just indicated that she's not able to talk about

investigative activity to the extent it was discussed at that meeting because the investigation is ongoing.

BY [redacted]

[redacted] Okay. Well, these notes state: "No major investigative actions remain." So do you have a different recollection?

A The investigation is ongoing, and so that includes many different facets. And so I would, yes, have a different recollection and --

[redacted]. So at the October 7th meeting, you have a different recollection that investigative actions still did remain and were discussed.

A Again, sir, not going into specifics, but, yes, that the investigation is ongoing and has been ongoing. It was at that time and there were still things that were proceeding.

[redacted] So, I mean, you've been authorized to tell us all about the October 7th meeting.

[redacted] Subject to constraints around ongoing investigations.

Chairman Jordan. When did the investigation open?

Ms. Holley. I don't remember the exact date --

Chairman Jordan. Were you briefed -- when you were brought on board -- it opened before you got there.

Ms. Holley. It was, yes, sir.

Chairman Jordan. Yes. And you're aware when the press reported that it was open?

Ms. Holley. I've heard 2018, but I don't remember the exact date that the press --

Chairman Jordan. Were you given a briefing when you came in 2021 about what

had happened between '18 and 2021?

Ms. Holley. An overall general briefing, but that was not just specific to this investigation --

Chairman Jordan. I understand.

Ms. Holley. -- but many investigations in the division.

Chairman Jordan. I understand.

And then you said many times you wanted to keep the case moving forward. And I think what [redacted] getting at here, here we are on October 7th, and Mr. Shapley says there was nothing left to do.

Were you a little frustrated with the pace of everything?

Ms. Holley. Overall frustrated, yes, but I was frustrated in not just this investigation. Again, as I had mentioned earlier, the process, processing of investigations in the office were a little bit slower than what I was used to. So general frustration, yes.

Chairman Jordan. Okay. But, I mean, it's been 5 years, 2018 to 2023. Is that normal, for cases you deal with to take 5 years?

Ms. Holley. Some cases, yes, sir, they have taken that amount of time, if not longer. It really just depends on what all is included and happening in the investigation. I cannot say that every case is like a hard and fast that this type of case is going to be this period of time.

Chairman Jordan. Okay.

BY [redacted]:

[redacted] Turning back to exhibit 2, the first page, item number 2, where Gary Shapley says: "Weiss stated that he is not the deciding person on whether charges are filed." And I think you testified that you understood at this time that he could bring

1 charges in any jurisdiction he wanted. Is that right?

2 A Yes.

3 [redacted] Okay. And you were shown exhibit 3, which is 28 U.S.C. 515, and

4 we walked through that. And now that you've read that, do you still think that was the

5 case.

6 A Yes.

7 [redacted] We walked through 28 U.S.C. 515, and you responded to my

8 questions that he would have to ask the Attorney General and the Attorney General

9 would have to say yes in order for him to get this authority. Is that right.

10 A Yes, but my understanding is that that wasn't going to be an issue.

11 [redacted]. So he expected that he could get that authority.

12 A My understanding is that he had the authority and that he was going to

13 continue in the process of proceeding to move forward in those jurisdictions.

14 [redacted]. Okay. So you --

15 A Now reading this statute, I understand that there are more specifics involved

16 in the process than I originally was aware of, but that doesn't change my view that he had

17 the authority then to continue.

18 [redacted]. With approvals. Is that right? He had the authority if he got the

19 approvals. Is that correct.

20 A I'm not an attorney, and oftentimes, yes, when I read a statute, I have an

21 understanding, but I do sometimes seek the counsel of the AUSA or attorneys that we're

22 working with because I recognize some things can be interpreted differently. And so,

23 again, my understanding is that he had the authority and was able to proceed.

24 [redacted]. Okay. And I understand that during the 10/7 meeting that was

25 your understanding.

1 A Uh-huh.

2 [redacted] But now that we've walked through this and you've indicated that,

3 yes, he would have to ask the Attorney General and the Attorney General would have to

4 grant him that authority, do you now agree, sitting here today, that there was another

5 person involved before Mr. Weiss could bring charges in another jurisdiction.

6 A Yes, I agree that there is someone else involved in the process.

7 [redacted]. So when Mr. Shapley says, "Weiss stated that he is not the deciding

8 person," whether you remember that being said at that meeting or understood at the

9 time, that's correct, right.

10 A I don't know what Mr. Shapley meant by this statement. I don't know if he

11 meant because of this statute here or if there was something else. So I can't speak to

12 what he meant in this statement.

13 [redacted] Okay. But based on what we just discussed, it's true that

14 Mr. Weiss alone was not the deciding person on whether charges are filed.

15 A I would say, based on the statute, seeing that, as it reads here, the Attorney

16 General or any other officer of the Department of Justice or any attorney specifically

17 appointed to the Attorney General under law may, when specifically directed by the

18 Attorney General.

19 So, yes, I would say that there is someone else, the Attorney General, as it's noted

20 here in the statute, that is involved in this process.

21 [redacted] Okay. And I want to -- and I understand and absolutely respect

22 that you want to make sure you're getting that right in reviewing that, but the answer to

23 my question is yes, right.

24 [redacted] The witness can't provide a legal conclusion as to what authority

25 was. She can provide her understanding at the time, which she has done now several

1 times. But in terms of coming to a legal conclusion, she's not in a position to make that.

2 BY [redacted]

3 [redacted] I'm not asking you for a legal conclusion. I'm asking you, is it your

4 understanding today that there is another person involved in whether Mr. Weiss could

5 bring charges in another jurisdiction?

6 A Yes.

7 [redacted] And Chairman Jordan read to you the statement from Attorney

8 General Garland about his request last month, in August, about becoming a special

9 counsel. So separate from special attorney but becoming a special counsel.

10 And when he, Mr. Jordan, read you that statement, and Attorney General Garland

11 said that Mr. Weiss went to the Attorney General and said the investigation had reached

12 that stage and he asked to be named a special counsel, is that a correct -- is that

13 consistent with what Mr. Jordan read to you?

14 A That's consistent, yes.

15 [redacted]. Okay. So he had to ask the Attorney General to become a special

16 counsel. Is that right.

17 A Yes.

18 [redacted] Okay.

19 [redacted]. In August of 2023?

20 Ms. Holley. Yes.

21 BY [redacted]

22 [redacted]. So under either scenario, Mr. Weiss was not the only person that

23 would have to decide whether -- not the only deciding person on whether charges could

24 be filed in another jurisdiction?

25 A I'm sorry. One more time.

1 [redacted] Okay. I'll rephrase the question.

2 Whether what we discussed about the special attorney status or the request for

3 special counsel status, is it your understanding that under either scenario, Mr. Weiss was

4 not the only person involved in deciding whether charges could be filed in any

5 jurisdiction?

6 A I think the two are different. As of August 2023, Mr. Weiss was asking for

7 special counsel. That's separate to me from actually bringing charges in a particular

8 district, although I thought that he had and believed he has the authority.

9 Again, as I stated earlier, seeing the statute, I see that there is someone else

10 involved in the process. But, again, as I'm reading this, this is to make him a special

11 attorney in another district, not necessarily saying that he has to go back to the Attorney

12 General to say that, "I want to now bring charges against this individual or not." So I

13 think that there is a difference.

14 [redacted] Okay. And I think they are different. I'm just asking whether you

15 understand that there is a similarity here that in both cases he would have to make a

16 request of the Attorney General and the Attorney General would have to say yes. Is that

17 correct.

18 A Yes. But I still feel like there is a difference in the two. So --

19 [redacted] I'm not saying they're identical. I'm just saying on this one thing --

20 A No, I --

21 [redacted] -- he would have to ask -- he would have to make a request and did

22 in the special counsel case make a request to the Attorney General.

23 A I understand and, yes, would agree with you that there is a difference in

24 special counsel and special attorney. And, again, maybe it's me since I'm not a lawyer,

25 but I also still feel like there's another step that's being taken here in the sense of

1 whether or not he's able to bring charges once he has special attorney and special
2 counsel, and I think that that's separate.
3 So, again, answering your question initially, yes, there appears to be that there is
4 someone else involved in this process.
5 [redacted] And are you aware that the U.S. Attorney's Office determined that
6 there were felony charges worth prosecuting?
7 Ms. Holley. Outside of what is public, I'll leave it at that.
8 [redacted] Okay.
9 In March of 2022 the IRS, the investigative team, including FBI officials, which
10 presumably you were one of them, the U.S. Attorney's Office put together the papers
11 recommending the felony charges for this case, but they weren't -- they never came to
12 fruition.
13 [redacted] And, again, this gets straight to the ongoing investigation and
14 prosecution, and she's not authorized to discuss it.
15 [redacted] Well, there wasn't a question posed. What's the question?

1

2 BY [redacted]

3 [redacted] Are you aware?

4 A I am aware -- so papers, charges, again, that's the U.S. Attorney's Offices.

5 That's going to be the attorneys in any case to make that determination. And aware

6 of -- you're asking yes or no, am I aware of March '22?

7 [redacted] In the year 2022, in March.

8 A If -- I'm sorry, sir.

9 [redacted]. If everyone had agreed that felony charges were to be brought.

10 A Not going into any specifics of deliberations, I am aware that throughout this

11 ongoing investigation charges are being considered.

12 [redacted]. Okay.

13 When special -- when Ziegler, Special Agent Ziegler, prepared his Special Agent

14 Report, that was after he received the go-ahead from the U.S. Attorney's Office and the

15 investigative team.

16 I mean, he didn't write that because he thought that was a great use of his time.

17 He wrote that because that was the consensus decision of the team.

18 Am I not correct?

19 [redacted] Again, she can't speak to specific charging recommendations,

20 decisions, deliberations because that all involves the ongoing investigation.

21 BY [redacted]

22 [redacted] Are you aware of the answer to the question, though? Just yes or

23 no?

24 A No.

25 [redacted] You're not? You don't even know.

A No.

[redacted] Okay.

[redacted] My time's up.

[Recess.]

[redacted] Okay, we can go back on the record. It's 1:22.

Ms. Holley. I just generally wanted to go back to the last question that was asked in reference to, I believe, that was Mr. Ziegler's SAR, and the question was asked if I have an awareness that he produced one in March or February.

And so, generally speaking, I just wanted to note that, as I mentioned before, I don't have -- I don't know all of the workings of IRS and what reports are done when and specifically where they may go to.

So speaking to that specifically, I don't have a recollection of that specifically. But, again, in an ongoing matter and other, I don't know that I would, because, again, that's something so specific to their agency.

[redacted]. Thank you.

Ms. Holley. Sure.

BY [redacted]

[redacted]. I want to get back to kind of where we left off with the discussion about what's been marked as exhibit 2. But before I get there, you mentioned a couple times during the course of today that there was discussion about venue.

What's your understanding of what venue is?

A My understanding is venue will include potentially where a criminal act has occurred and/or there may be a victim and where that victim may be.

And so, for example, if a criminal violation has occurred in Maryland, that the Maryland U.S. Attorney's Office would have venue for charging and proceeding with that,

1 particularly charging directly and not having to go to any other sources because, again,
2 the violation occurred in the State of Maryland.
3 [redacted]. So, generally speaking, venue is where a case can be brought. Is
4 that fair to say.
5 A Yes.
6 [redacted] Is it your -- a U.S. attorney generally can't bring a case in a
7 jurisdiction other than their own, correct.
8 A Generally, yes.
9 [redacted] There is a process they have to go through to do so, correct.
10 A Yes.
11 [redacted] And was it your understanding going into the October 7th meeting
12 that Mr. Weiss could go through a process in order to bring a case in another jurisdiction.
13 A Yes.
14 [redacted] And was it your understanding leaving the meeting that Mr. Weiss
15 would have to go through a process to bring a case in another jurisdiction.
16 A Yes.
17 [redacted] You just didn't understand the particulars of the process. Is that
18 fair to say.
19 A That is fair to say. I had the -- prior to that meeting and during and leaving
20 that meeting my understanding was the same, that he had the authority, if that's what
21 we're calling it, to do so, and he was proceeding through that.
22 [redacted]. And was it ever -- do you have any reason to believe that the
23 Attorney General would prevent him from moving forward to bring cases in any
24 jurisdiction.
25 A No.

1 [redacted] Did he say anything at the October 7th meeting that might lead you
2 to believe that he would be denied permission or denied the ability to bring a case in
3 another jurisdiction.
4 A No.

[1:25 p.m.]

[redacted]. Okay. I want to introduce as exhibit 7 a June 30th letter from Mr. Weiss to Chairman Jordan.

[Holley Exhibit No. 7.

Was marked for identification.]

BY [redacted]

[redacted]. Have you seen this before?

A No. No, I haven't.

[redacted]. I'll give you a minute to read it, and let me know when you're ready to proceed.

A Thanks.

[Reviewing.]

[redacted] You've had a minute to review this letter, right?

A Yes.

[redacted] And this is a June 30th, 2023, letter from United States Attorney David Weiss to Chairman Jordan, correct?

A Yes.

[redacted] At the bottom of the page here, the last paragraph on the first page, Mr. Weiss says: "Second, in my June 7 letter I stated, 'I have been granted ultimate authority over this matter, including responsibility for deciding where, when and whether to file charges and for making decisions necessary to preserve the integrity of the prosecution, consistent with federal law, the Principles of Federal Prosecution, and Departmental regulations.' I stand by what I wrote and wish to expand on what this means."

Did I read that correctly?

1 A Yes.

2 [redacted]. Do you have any information to dispute Mr. Weiss' statement that

3 he was granted ultimate authority over this matter?

4 A No.

5 [redacted]. And do you have any information to dispute Mr. Weiss' statement

6 that his authority over this matter -- his ultimate authority over this matter includes

7 responsibility for deciding where, when, and whether to file charges?

8 A No.

9 [redacted]. And for making decisions necessary to preserve the integrity of the

10 prosecution?

11 A No.

12 [redacted] Turning the page.

13 At the top of the top paragraph of the second page, Mr. Weiss says: "As the U.S.

14 Attorney for the District of Delaware, my charging authority is geographically limited to

15 my home district."

16 Do you see where it says that?

17 A Yes.

18 [redacted]. And that's consistent with what we just spoke about, that U.S.

19 attorneys generally have authority to bring charges in their own district, correct?

20 A Yes.

21 [redacted]. And then it continues on: "If venue for a case lies elsewhere,

22 common Departmental practice is to contact the United States Attorney's Office for the

23 district in question and determine whether it wants to partner on the case."

24 What's your understanding of what "partner" means here?

25 A Partner in the sense of collaboratively, collectively bringing the case together

1 in the district where there's venue.

2 [redacted] So it's jointly prosecuting the case. Is that fair to say?

3 A Yes.

4 [redacted] And then it goes on: "If not, I may request Special Attorney status

5 from the Attorney General pursuant to 28 U.S.C. Section 515. Here, I have been assured

6 that, if necessary after the above process, I would be granted Section 515 authority in the

7 District of Columbia, the Central District of California, or any other district where charges

8 could be brought in this matter."

9 Do you see where it says that?

10 A Yes.

11 [redacted] Do you have any information to dispute that Mr. Weiss has said that

12 he has been assured that he would be granted Section 515 authority if he were to request

13 it?

14 A I have -- no.

15 [redacted]. And in fact, it was your understanding that there would be no issues

16 with obtaining 515 authority, correct?

17 A Correct.

18 [redacted] It was just a procedural step.

19 A Correct.

20 [redacted] And I'm sorry, turning back to the first page, as long as we're on this

21 letter, the third paragraph from the bottom -- from the top says: "First, the Department

22 of Justice did not retaliate against 'an Internal Revenue Service (IRS) Criminal Supervisory

23 Special Agent and whistleblower, as well as his entire investigative team...for making

24 protected disclosures to Congress.'"

25 Do you see where it says that?

1 A Yes.

2 [redacted] Do you have any information to dispute Mr. Weiss' statement that

3 there was no retaliation against an Internal Revenue Service criminal supervisory special

4 agent and whistleblower?

5 A No.

6 [redacted] Or against his entire team?

7 A No.

8 [redacted]. David Weiss told Congress that as of July 10th, 2023, he had not

9 requested special counsel status.

10 Do you have any reason to believe that David Weiss was not being truthful when

11 he told Congress that as of July 10th, 2023, he had not requested that status?

12 A I do not.

13 [redacted]. In fact, do you have any reason to believe that David Weiss

14 requested special counsel status any earlier than August 2023?

15 A No.

16 [redacted] There have been allegations that the Department of Justice has

17 limited Special Counsel Weiss' authority. Are you familiar with those allegations?

18 A Yes.

19 [redacted] To the best of your knowledge, has Attorney General Merrick

20 Garland placed any limitation on the type of cases that Mr. Weiss can bring?

21 A No.

22 [redacted]. Has anyone else at the Department of Justice placed such a

23 limitation on Mr. Weiss?

24 A No.

25 [redacted] Has FBI Director Wray placed any limitation on any steps that

1 Mr. Weiss can take?

2 A No. All --

3 [redacted] Has anyone else at the FBI?

4 A No. And I was just going to conclude that with none of this -- I have no

5 knowledge of any of this.

6 [redacted] Okay. Has President Biden ever placed any limitation on the -- on

7 any type -- on the type of case that Mr. Weiss can bring?

8 A No.

9 [redacted] To the best of your knowledge, has Mr. -- has President Biden had

10 any interactions with the Attorney General about this case at all?

11 A I'm unaware of any type of interactions.

12 [redacted]. To the best of your knowledge, has President Biden had any

13 interactions with Mr. Weiss about this case?

14 A No.

15 [redacted] Realizing that there are preexisting limitations on U.S. attorneys

16 can't bring cases outside of their district absent that authority, has Attorney General

17 Garland placed any limitation on the location in which Mr. Weiss can bring a case.

18 A No, not to my knowledge.

19 [redacted] And as you said, it was your understanding that it was -- seeking 515

20 authority was essentially a procedural step, correct?

21 A Yes.

22 [redacted]. And you never had any doubt that Mr. Weiss would be granted that

23 authority?

24 A No, I did not.

25 [redacted] Okay. And he said that he was, in fact, taking steps as necessary to

make sure he could bring cases?

A Yeah. I mean, as he walked through that process, it was continuing to that next step.

[redacted]. So ultimately the decision about whether to charge or not was up to Mr. Weiss. Is that fair to say?

A Yes.

[redacted]. And I think we went through this a little bit ago, but, again, just to make it clear for the record, to the best of your knowledge, has there been any inappropriate political interference in this case?

A No.

[redacted]. And does that include -- when you say no, that includes there's been no interference by -- any inappropriate political interference by anybody at the FBI, correct?

A That includes I have no awareness of any political influence from the FBI, from the IRS, from the U.S. Attorney's Office. None.

[redacted] What about from President Biden or from the White House?

A I have no knowledge of any influence from the White House.

[redacted]. There have been allegations that FBI's and the Delaware U.S. Attorney's Office's handling of this case is an example of a two-tiered system of justice. What's your reaction to that allegation?

A I think the investigation is being worked thoroughly, and I don't have a concern that there is a two-tiered system being applied to this investigation.

[redacted] I want to ask -- sorry, hold on one second.

I want to switch topics a little bit.

You said you've been with the FBI for 16 years, correct?

1 A Yes.

2 [redacted] Over the course of your time at the FBI, have you conducted

3 voluntary interviews of subjects or of witnesses?

4 A Yes.

5 [redacted]. What is a voluntary interview?

6 A An interview that an individual consents to and they are not in custody, not

7 arrested nor restrained or unpermitted to leave.

8 [redacted] And individuals -- and it's a voluntary interview, so they can decline

9 to talk to the FBI, correct?

10 A Yes. At any point of the interview.

11 [redacted]. So they can say -- you can go to their door and they can say, "No, go

12 away," correct?

13 A Yes.

14 [redacted] Or they can shut it down after 10 minutes?

15 A Yes.

16 [redacted]. Or they can shut it down after some other period of time?

17 A Yes.

18 [redacted]. In your -- have you ever interviewed an attorney as part of a

19 voluntary interview?

20 A I don't think so.

21 [redacted]. Have you ever interviewed somebody -- have you ever attempted to

22 interview -- to conduct a voluntary interview of an attorney?

23 A I don't think -- I don't recall ever interviewing an attorney.

24 [redacted]. Okay.

25 BY [redacted]

1 [redacted] Real quick, just to follow up on the question that [redacted] asked
2 you.
3 Do you have any sort of opinion, in your experience as an investigator, about why
4 it might be difficult to have an attorney submit to an interview, like why an attorney
5 might decline to submit to an interview if they were known to be a criminal subject or a
6 target?
7 A I mean, generally speaking, I think that an attorney, having a much more
8 in-depth legal expertise and education, and an -- probably knowing the legal system much
9 better than a layperson, would be hesitant and/or decline in volunteering for a
10 consensual interview without trying to know as much as they possibly could about what it
11 entails.
12 [redacted]. Because you understand, as an investigator, that every American
13 who is subject to criminal investigation has a Fifth Amendment right to remain silent,
14 right?
15 A Yes.
16 [redacted] And most attorneys have a better, probably -- are more likely to
17 understand that. Is that fair to say?
18 A Yes.
19 [redacted]. Okay. And if you in your investigation would like to talk to a
20 subject, certainly you can imagine that that would be on your mind as an investigator, to
21 try to get statements, because if you do elicit statements from the criminal subject you
22 could use them in your case, correct.
23 A Yes.
24 [redacted]. But you have no right to force them to provide those statements,
25 correct.

1 A Correct.

2 [redacted] And an attorney, if he were the subject of a criminal investigation, is

3 more likely to understand that, correct?

4 A Yes.

5 [redacted] And maybe that explains why, in your experience, you've never had

6 the occasion to interview a criminal subject that is an attorney, potentially?

7 A Potentially. And I just, off the top of my head right now, I can't think of

8 cases that I have worked in the past that involved an attorney as a specific subject.

9 [redacted]. Okay.

10 In the very first set of questions, I think a couple hours ago, you were asked -- or

11 you made an answer to a question where you kind of explained some of the experience

12 that you've had with different types of subject matter investigations, and I don't

13 remember if you gave an example.

14 But in your career as an FBI agent, have you ever investigated matters that kind of

15 fall within a specialized section at DOJ, like, for example, child sexual abuse or terrorism

16 or something where DOJ Main Justice has its own dedicated group of subject matter

17 experts?

18 A Yes.

19 [redacted]. And what kind of experience have you had generally with regard to

20 those specialized subjects?

21 A So in past investigative work -- and I will just say, this is something I would

22 ask to be redacted because --

23 [redacted] Well, don't share anything that you think is sensitive.

24 A Okay.

25 [redacted] I guess what I'm trying to get at is, like, in your experience have you

1 experienced, like, a concurrent jurisdiction with respect to DOJ attorneys?

2 And by that I mean sometimes the same kind of criminal offense, like a Federal

3 criminal offense, could be handled by DOJ's main prosecutors, people who work out of

4 Main Justice, or it could also be handled by an assistant United States attorney in a

5 specific geographic jurisdiction.

6 Do you know what I'm saying --

7 A Yes.

8 [redacted] -- by concurrent jurisdiction?

9 A Yes.

10 [redacted]. What's your understanding just generally of what concurrent

11 jurisdiction means in terms of where you would go if you were investigating an offense

12 that had specialized attorneys at Main Justice and also AUSAs in a district?

13 A Generally speaking, the U.S. Attorney's Office in the specific district is

14 possibly going to work, or can work, that particular violation with that specific entity from

15 Main Justice. I'm not sure if I'm answering or understanding the question properly.

16 [redacted]. That's fine. It might not be something that is within your

17 experience either, and that's a fair answer.

18 I guess what I'm trying to get at is, can it add confusion, from the investigator's

19 perspective, as to which element of justice you might be working with if you have a

20 specialized subject area that you're investigating?

21 A I think it just depends on the violation and the matter that's being

22 investigated.

23 [redacted]. Okay.

1

2 BY [redacted]

3 [redacted]. I want to talk a little bit about the impact that this investigation has

4 had on your team, on the FBI, on you.

5 If you had to put a number on it, how many investigations do you think you've

6 worked on during your time with the Bureau?

7 A I cannot put a number on it --

8 [redacted] That's fine.

9 A -- without taking some time to really think about it.

10 [redacted] Is it -- do you think it's over a hundred.

11 A Possibly, or close to.

12 [redacted] Okay. In your experience, has this investigation received more

13 press attention than others that you've worked on?

14 A Yes.

15 [redacted] The names of the agents working on this investigation have been

16 made public in some cases. Is that right?

17 A Yes.

18 [redacted] Is it common for the FBI to make agents' names public, particularly

19 during the course of an ongoing investigation?

20 A No.

21 [redacted] And why not?

22 A Just kind of explained earlier, it can hinder the investigative -- in their

23 investigation it can hinder not only being able to conduct that investigation thoroughly

24 but potentially anything afterwards. And so it's practice and it's something that you

25 strongly try to adhere to of keeping the active investigators' names out of the media.

1 [redacted] When you say it can hinder their ability to work on the investigation
2 they're working on or on other investigations in the future, what do you mean by
3 "hinder"? How can it have that impact.
4 A Just potentially stopping from other people cooperating and/or being able to
5 elicit information during interviews, being able to obtain other evidence. It can,
6 depending on how people are portrayed, it may harm their integrity. And so it -- it
7 is -- it's a hindrance, for sure.
8 [redacted]. In this particular case, have the press attention and the other
9 attention that has been on this case and the fact that these agents' names have been
10 made public in some instances, has that impacted those agents in any way?
11 A Yes. It can also add stress. Some stress is common and expected, but it
12 can definitely add additional stress. It can cause issues for their families, depending on
13 what information has been put out there, their families and friends.
14 And potentially one of the really big things, it could be a safety concern and cause
15 potential safety issues for them.
16 [redacted] And do you have concerns for the individuals who are working on
17 this case?
18 A Yes.
19 [redacted]. Can you -- and safety concerns?
20 A Yes. As best as possible, want to make sure that their names are not put
21 out there in the public while the ongoing matter continues.
22 And obviously with that don't want anybody to have the opportunity potentially
23 to locate where they reside or any of their family members.
24 And so those type of things are being taken into precaution, and working
25 internally obviously with the FBI to try to best ensure that their safety is of the utmost.

1 [redacted] And that was going to be my next question. Has the FBI taken any
2 particular steps to ensure that the agents in this case are being kept safe?
3 A We do.
4 [redacted]. And have there been -- has there been a particular need to do that
5 in this case?
6 A Yes. There have been contacts to an agent and family and friends. And
7 so wanting, again, to make sure that that agent is safe, that they're safe in their home
8 when they are not working, as well as making sure that their family and friends are safe,
9 just trying to take all the precautions that we can.
10 [redacted]. And were those contacts that were made of a threatening nature?
11 A They were of a concerning nature.
12 [redacted]. We spoke earlier about Lesley Wolf. Who is Ms. Wolf?
13 A She's an AUSA at the Delaware U.S. Attorney's Office.
14 [redacted]. Has Ms. Wolf suffered any personal impacts from her name being
15 made public in this investigation?
16 A My understanding is some of the same stresses and some of the same
17 precautions are being taken and have been taken by the U.S. Marshals Service to assist
18 Ms. Wolf and anyone else over at the U.S. Attorney's Office.
19 [redacted]. And do you know if there have been kind of communications of a
20 threatening nature made to her.
21 A I believe that there have been some concerning comments and things. I
22 don't know specifics.
23 [redacted]. Do you have any concerns about your own safety because of this
24 investigation?
25 A Generally speaking, yes, but I'm more concerned about the people that work

for me.

[redacted]. I appreciate that.

[redacted]. Okay. I think we can go off the record.

[Recess.]

[redacted]. We'll go back on the record. It's 1:51.

BY [redacted]

[redacted] The process for which Mr. Weiss would be able to bring charges, do you remember that being discussed at the October 7th meeting?

A Yes.

[redacted] So I'd just refer to exhibit 2 under the heading, "Weiss stated that he is not the deciding person on whether charges are filed." Under 2b, there's a set of notes about the process for decision.

Was it your understanding that he needed DOJ Tax approval first?

A No, that wasn't my understanding.

[redacted] Okay. What was your understanding of what he needed from DOJ Tax?

A My understanding was just that DOJ Tax would provide some type of discretionary opinion.

[redacted]. Okay. Do you know what their ultimate opinion was?

A Generally speaking, I know that they provided an opinion. I don't know the specifics or when that occurred.

[redacted]. Okay. At the end of our last round, I asked about the Special Agent Report prepared by Mr. Ziegler.

Do you remember when that was -- do you remember that being prepared?

A I don't know the -- like, I'm not familiar with the Special Agent Report, and so

1 I don't know when that may have been prepared or provided.

2 [redacted]. Okay. And the reason I ask is because it was related to us by

3 Mr. Shapley and Mr. Ziegler that there was a meeting before Special Agent Ziegler

4 prepared that report.

5 So before he prepared the report, there was a meeting of FBI personnel, IRS

6 personnel, and DOJ Tax personnel, and the U.S. Attorney's Office. And there was a

7 consensus that Ziegler would go away and prepare this report, that they were going to

8 charge -- recommend charges on felony tax matters.

9 And I'm asking, were you a part of that process?

10 Ms. Zdeb. And if there was such a meeting, it's outside the scope of what she's

11 authorized to discuss today.

12 [redacted]

13 [redacted] So were you part of that process?

14 A I was not a part of every meeting that has been had in this matter. So I'm

15 not sure if I was a part of that particular meeting.

16 [redacted]. Okay. You don't remember that at all?

17 A I don't recall that meeting.

18 [redacted]. Okay. Returning back to exhibit 2, bottom of the first page. "No

19 venue in Delaware has been known since at least June of 2021."

20 Are you aware of the mechanism with which they were going to bring the case

21 this past August in Delaware if they didn't have venue? Because it wasn't just the gun

22 charge that they were going to -- be part of the plea agreement.

23 A The mechanism that I'm familiar with was just kind of as we've talked about

24 earlier with he would talk to -- if it wasn't in the District of Delaware, he would talk to the

25 respective U.S. attorneys in that respective district --

1 [redacted] Right.

2 A -- look to partner. And if not, go through the -- now I know for sure -- the

3 special attorney process.

4 [redacted] Special attorney process or special counsel process or either/or?

5 A So my understanding is the special attorney process. Didn't know that that

6 was the specific name of it, but that is the process that I understood that would occur.

7 [redacted] Okay. And my original question, though, just now was that there

8 was no venue in Delaware, but yet in July of this year there were a series of charges that

9 David Weiss was trying to bring. It was the gun charge and then there were some other

10 items that were brought in Delaware.

11 Do you know the mechanism by which he was able to do that?

12 A No. I don't know any specifics other than what I've already discussed.

13 [redacted] Okay. The last item, iii, number 1. "U.S. Attorney Weiss

14 requested Special counsel authority when it was sent to D.C. and Main DOJ denied his

15 request and told him to follow the process."

16 Do you know what the process was that he was supposed to follow?

17 A No. I can only speak from what I'm understanding what Mr. Shapley has

18 written here, and I would refer back to the process of the special attorney process.

19 [redacted]. Okay.

20 A But I'm not familiar with the statement by Mr. Weiss or what Mr. Shapley

21 means here.

22 [redacted] Okay.

23 Chairman Jordan. Is it your understanding that Mr. Weiss is a special attorney or

24 a special counsel?

25 Ms. Holley. So at this time, my understanding was Mr. Weiss was the U.S.

1 attorney of the District of Delaware and would use the special attorney process to --

2 Chairman Jordan. I'm talking about right now. What is --

3 Ms. Holley. Oh, my understanding, based on what Attorney General Garland has

4 stated, is that he's the special counsel.

5 Chairman Jordan. Special counsel, right.

6 Why did he request special counsel status?

7 Ms. Holley. I think that would be best to ask Mr. Weiss.

8 Chairman Jordan. But I'm asking you. You said you've had meetings with U.S.

9 Attorney Weiss since the August 11th and now it's been since you went to the Attorney

10 General on August 8th and requested special counsel, not special attorney. I'm just

11 wondering, why did he need it?

12 Ms. Holley. Sir, again, I think that's a question best asked of him.

13 Chairman Jordan. But did he, in the conversation you've had there, did he give

14 you any indication why he was looking for that status?

15 Ms. Holley. No.

16 Chairman Jordan. Okay.

17 Earlier, with the Democrat counsel, you said that you'd done approximately a

18 hundred cases in your tenure with the FBI?

19 Ms. Holley. I'm really not sure. I'm estimating. It could be less, it could be

20 more.

21 Chairman Jordan. Well, you said approximately a hundred. And of those a

22 hundred cases, how many of them take 5 years or longer? Any idea? Is it most of

23 them? Is it --

24 Ms. Holley. There have been a few.

25 Chairman Jordan. A few meaning 20? A few meaning two?

Ms. Holley. A few meaning -- I would say a handful, maybe five or so.

Chairman Jordan. Maybe five. Okay.

Okay, I'm fine.

BY [redacted]:

[redacted]. Of course the significance of this case is that Hunter Biden is the son of the President of the United States, right?

A It depends on, I guess, who you ask.

[redacted]. Doesn't that make it more complicated?

A I think -- so I've worked and overseen cases that have complications for various reasons. Yes, I'll acknowledge the fact that I think the media has made it seem like it's more significant in that sense, but that is not how we picture it, and "we" as in the FBI.

[redacted]. So at any point in time during the investigation you don't think that the decisions made by the U.S. Attorney's Office were made to give Hunter Biden some favoritism.

A I do not.

[redacted]. So you don't think when Hunter Biden's lawyers were notified of pending search warrants, that wasn't an example of favoritism?

[redacted] She's not in a position to get in -- she can provide a general answer, like what she just did, but she's not in a position to get into any specific investigative steps that did or did not take place.

Ms. Holley. So, generally speaking, from my investigative experience, it's not uncommon for investigators and U.S. Attorney Offices to have dialogue with a subject's counsel when that subject and it's known that that subject has counsel. And that dialogue could be a multiple number of things to potentially elicit some cooperation or a

1 self-surrender, whatever.

2 So I would say, generally speaking, that's not uncommon. Again, speaking on

3 this ongoing matter, that's as far as I can speak to at this point.

4 BY [redacted]

5 [redacted] Notifying defense counsel of a pending search warrant when the

6 investigator and the U.S. attorney had agreed that would be a bad idea certainly is an

7 example of political favoritism.

8 A I am not able to comment specifically on this particular matter. I think that

9 would probably be more -- best to get that answer from those that were involved in that

10 conversation or discussions.

11 [redacted] You'd acknowledge that in some cases a search warrant is used to

12 take a defendant or target by surprise, correct?

13 A It depends on the situation, sir. I mean --

14 [redacted]. No, no, it's just that sometimes you want to use a search warrant to

15 get evidence when you're afraid that if the target would know you're coming that the

16 evidence might disappear.

17 A Search warrant could be for, yes, in advance, or it could be because that is

18 the best way to make sure that you avoid any legal issues down the road but you've

19 already elicited that person's cooperation. It just really depends.

20 [redacted] Fair enough. But sometimes you use search warrants in a surprise

21 fashion, correct?

22 A Yes, sometimes we do.

23 [redacted]. Do you think it's an example of political favoritism to limit the

24 number of interviews that investigators would be able to conduct?

25 [redacted] Do you mean political favoritism in this case --

1 [redacted] Yes.

2 [redacted] -- or just as a general matter?

3 [redacted]. Yes.

4 [redacted] If it's this case, then she can't speak to it.

5 BY [redacted]

6 [redacted] If members of the Biden family had information relevant to this

7 investigation, would it be an example of political favoritism to shut down those interviews

8 and not allow the investigators to conduct them?

9 A In this ongoing matter and generally speaking, why someone may have

10 information, how they received it, what is done with it, it's difficult to speak to because

11 there are various reasons for why those things may occur.

12 [redacted] Okay. If investigators were prohibited from referring to "the big

13 guy" on the day of action, December 8th, 2020, is that an example of political favoritism

14 when there's a real question of whether "the big guy" is the President?

15 A Right. Not sure of "the big guy." But also if there is some type of

16 legal -- wanting to make sure that legal process was followed, that potentially they're not

17 going outside of that, I think it just depends. There's consultation that will happen with

18 a prosecutor when conducting interviews.

19 [redacted] But if the investigators are trying to ascertain who "the big guy" was,

20 wouldn't it be helpful to ask a witness who might know the answer to that question?

21 A I think it depends on the situation. And this particular investigation, I can't

22 go into specifics of investigative steps that was before I came to Baltimore.

23 [redacted] After you came to Baltimore, though, did you learn about it?

24 A Did I learn about?

25 [redacted]. That when they went to interview Rob Walker, they were told you

can't reference "the big guy."

[redacted] This is getting into a specific aspect of an ongoing investigation.

BY [redacted]

[redacted] I mean, wouldn't that be an example of political favoritism?

A I don't know that it would be an example of political favoritism.

[redacted]. What do you think would be an example of political favoritism? Just --

A I mean, it depends. It's just you're asking me to infer on a matter that I wasn't specifically involved in at that time. I don't know all the facts surrounding it. And so it's very difficult to make that inference.

[redacted]. In and of itself, if one of these things had happened, I might be a little bit more amenable to agree with your point, being the fact that you're an experienced FBI official.

But when you add it all up, I mean, there were examples of suggested -- where they were told to remove the subject's name from certain documents and DOJ officials said: Well, it'll get us most of the information we're looking for.

That statute of limitations were specifically allowed to lapse.

Certain types of investigative actions were prohibited or delayed.

The investigative team was excluded from certain meetings that in their own mind they weren't felt they were ordinarily excluded from.

Defense counsel was notified prior to the execution of search warrants when the agreement was supposed to -- that they were supposed to be conducted as a surprise.

Specific questions, like not asking about "the big guy" or "dad", were prohibited.

The U.S. attorney, Lesley Wolf, barred the investigators from interviewing certain members of the Biden family.

1 Investigators were prohibited from interviewing other family members about
2 certain payments that relate to the core of some of the tax charges.
3 When you add all these up, I mean, isn't it difficult to say that there wasn't
4 political favoritism?
5 A When I add that up, and as I am trying to understand what may have
6 happened before I arrived, and just what little bit I know of the folks presently, I don't
7 surmise that it had political affiliation.
8 [redacted]. Okay. What do you attribute it to?
9 A I attribute it to being very deliberate and trying to not -- trying to make sure
10 that, speaking in this case of Ms. Wolf, that she's trying to follow every process that there
11 is and make sure every "i" is dotted and "t" is crossed.
12 [redacted]. Okay. If U.S. Attorney Weiss has all the authority he needs to bring
13 whatever type of case he needs, is that not contradicted by the fact that his investigators
14 on the case needed permission from the Tax Division to conduct certain types of
15 interviews?
16 A I don't know how the DOJ Tax works and how -- what it is that they
17 absolutely would require and/or -- again, I just go back to what my understanding was, is
18 that they provided discretionary opinion. But I don't know of them that prohibit
19 someone from conducting interviews.
20 [redacted]. Do you think questions about the types of tactics used by the
21 investigators is fair for us to ask about?
22 A Fair as in you --
23 [redacted]. Yes.
24 A -- asking me?
25 [redacted] Well, just the subject of -- we're trying to get to the bottom of what

1 was Mr. Weiss' authority and when did it change and what was his authority at specific
2 points in time.
3 So the question is, do you think it's fair for us to ask about certain types of
4 investigative tactics that were denied according to the investigators on the case?
5 [redacted] And she's here to talk about her personal knowledge about the
6 authority issue, not to opine on the fairness of your questions or not.
7 [redacted]. So what I'm trying to get to, though, is if avenues of investigation are
8 shut down -- I mean, you can say Weiss has all the authority he needs, but if in practical
9 effect Avenue A, B, C, D, E, and F have been foreclosed to him, there's no way for him to
10 get to the bottom of the case that he supposedly has all the authority in the world to
11 pursue.
12 [redacted] I'm not sure she's agreed that anything has been foreclosed to him.
13 She has shared her firsthand knowledge, and beyond that, she has not gotten into the
14 specifics of the ongoing investigation.
15 [redacted] Okay. In your firsthand -- from your firsthand knowledge, are you
16 aware of any witness interview that was denied?
17 [redacted] And can't address that.
18 [redacted] Are you aware of any search warrant that was -- where defense
19 counsel was tipped off?
20 [redacted] Same objection.
21 [redacted]. And are you aware of any lines of questions that were -- the agents
22 were told they couldn't pursue?
23 [redacted] Same objection.
24 [redacted] Okay.
25 [redacted] That involves the ongoing investigation.

1 [redacted]. Okay. So it's kind of hard for us to get to the bottom of what we're
2 looking for when we're not able to ask, like, basic questions like that.
3 Chairman Jordan. In the month since the special counsel was named, how many
4 times has the team gotten together on this investigation?
5 Ms. Holley. So I think the last month, but the team, again, has been continuing
6 to work this and work the ongoing matter a couple times.
7 Chairman Jordan. So he was named August 11th, today is September 11th, and
8 twice the investigative team and the prosecutors have gotten together?
9 [redacted] And we're now getting into kind of internal deliberations around an
10 ongoing special counsel --
11 Chairman Jordan. I'm not asking about deliberations. I'm just asking how many
12 times they met.
13 Ms. Holley. So as far as -- there have been variations. So obviously want the
14 team to continue. As I mentioned before, every meeting that has happened throughout
15 my time assigned to Baltimore office I have not been a part of. Some of the meetings
16 are more team-specific. Some of the meetings involve myself.
17 Chairman Jordan. Well, let's ask it --
18 Ms. Holley. So there's been a variation of meetings.
19 Chairman Jordan. Thank you.
20 Let's ask it this way. How many times have you talked to U.S. Attorney Weiss or
21 anyone else in the U.S. Attorney's Office about this case since August 11th?
22 Ms. Holley. Again, I would say it's a handful of times. I can't say specifically,
23 but it's been a handful of times.
24 [redacted] But it hasn't been a full-time job. Is that correct?
25 Ms. Holley. My job is full-time and then some. And so this matter, along with

all other matters, are full-time for me.

Chairman Jordan. So you're working on the special counsel investigation and you're doing all your other duties too?

Ms. Holley. I am still the ASAC in the Baltimore Field Office that has responsibility of this matter and other matters.

Chairman Jordan. Well, we appreciate that. Thanks.

BY [redacted]

[redacted] I want to go back to some questions that we had about former FBI Supervisory Special Agent Joe Gordon.

According to Gary Shapley, Agent Gordon told him that his field office thought they should push for this case to be given a special counsel.

Did you have any awareness of that?

A No.

[redacted]. And the reference to his field office, from an outside perspective, you would think that would include the chain of command that you're in.

A I don't know what Mr. Gordon specifically meant by that. It could mean a variation of things. It could mean just the office itself. It could mean leadership. It could mean headquarters. I don't know what he meant by it. I think it would be best asking him.

[redacted]. Okay. In May of 2022 -- now, that's after you came to the Baltimore Field Office, right?

A Correct.

[redacted] Agent Gordon told Agent Shapley that, "My leadership is wondering why your leadership isn't asking for a special counsel in this investigation."

Does that ring any bells or --

1 A No.

2 [redacted]. Okay. It doesn't change anything?

3 A No, sir.

4 [redacted]. Okay. But he worked for you at that time?

5 A Yes.

6 [redacted] And he was stationed in Wilmington?

7 A Yes.

8 [redacted] Okay. During the pendency of the investigation, did he bring any

9 concerns to your attention that he needed his boss' help with?

10 A No. The thing mostly, again, was just wanting to make sure that the

11 investigation continues and moves forward, communication, just understanding, as things

12 are developing, just making sure that he and the team were being -- that conversation

13 and communication was happening with the U.S. Attorney's Office and their partners

14 with IRS.

15 [redacted] Can we go off the record for 1 minute?

16 [Discussion off the record.]

17 Ms. Holley. So you were just asking in reference to -- you said Mr. Gordon made

18 a -- or Mr. Shapley said Mr. Gordon said his leadership? Can you repeat that, please?

19 BY [redacted]:

20 [redacted] So in May 2022, Agent Gordon reportedly told Agent Shapley that,

21 "My leadership is wondering why your leadership isn't asking for a special counsel in this

22 investigation."

23 A Okay. So just going back to what I had said earlier, I don't remember the

24 specifics of a general conversation that Mr. Gordon and I had about special counsel, but

25 I -- again, I do remember not asking for it, not saying that there was a need, and I do not

1 remember at all saying that IRS should be asking for it.

2 So like I said with that earlier, if Mr. Gordon made that statement, I don't know,

3 other than what I've just said, what that was in reference to.

4 [redacted] Okay. Do you know if Mr. Gordon ever expressed concern for

5 himself, trying to investigate the Bidens and living in Delaware?

6 A No. I don't remember anything specific, just, again, generally everyone was

7 aware that there had been some folks on the team who had had things put out there

8 about them or had been contacted. And so, generally speaking, I think everybody had

9 that awareness, but anything specifically I'm not aware from Mr. Gordon.

10 [redacted]. Because it's pretty complicated trying to investigate a Biden in

11 Delaware, right?

12 A I mean, it's a State.

13 [redacted] Pretty influential family in the State of Delaware, correct?

14 A I would just say that there are influential families in a lot of places that we

15 work and do investigations that sometimes cross over with their family, so I can't say

16 more than that.

17 [redacted] But you'd agree that he's possibly the most influential person in the

18 U.S., the President, correct?

19 A I would agree with that.

20 [redacted] Okay. And he's from Delaware. So this case presents that unique

21 complication, right?

22 A It presents a fact, but whether or not that presents a unique complication, I

23 think, like I said before, we have lots of different cases that are complicated for various

24 reasons.

25 [redacted]. But trying to investigate a Biden in Delaware is pretty complicated, I

1 would surmise?

2 A It depends on where the investigation is going to take you.

3 [redacted] Special Agent Ziegler testified -- this is different from Agent Shapley:

4 "I recall discussions with our FBI counterparts the same issue, and I thought they were

5 trying to raise the special counsel issue up through their leadership. On that note, I just

6 want to let you guys know that the way the FBI and their leadership -- their leadership

7 was very, very, very" -- three verys -- two verys -- "very much involved in this

8 investigation. I heard of multiple times that they were reporting up to their leadership,

9 meeting with their leadership, and they had to advise them on this."

10 Do you think that was you that they're referring to or that was the special agent in

11 charge?

12 A Not knowing who specifically told Mr. Ziegler that and what they meant by

13 that, "that leadership" could mean personnel within the Baltimore Field Office or it could

14 be mean personnel outside of the field office at FBI headquarters.

15 [redacted]. Okay. Was FBI headquarters interested in this case?

16 A Our FBI headquarters has a responsibility, as program managers, over all

17 cases that are worked in the field, and so they are interested in all cases that are worked.

18 [redacted] Right. But they don't ask about all cases?

19 A Yes, sir, they do.

20 [redacted]. So -- okay. You're saying the FBI leadership asks about all your

21 cases?

22 A There is leadership in FBI headquarters that will inquire about all matters

23 that their unit and section are responsible for.

24 [redacted]. So they weren't asking about the Hunter Biden case any more than

25 any other case?

1 A That's correct.

2 [redacted]. Okay.

3 Are you aware that Special Agent Gordon prepared a briefing in May of 2020,

4 which is before your time, for FBI leadership, recommending that the investigation should

5 be overseen by a special counsel?

6 A Again, knowing it's an ongoing matter, but, no, I have no awareness of this.

7 [redacted]. That he had prepared a briefing?

8 A I don't know anything specifically about that, or prepared a briefing, no.

9 [redacted] So after you became the ASAC, you didn't have any communications

10 with Mr. Gordon where he told you about that?

11 A So when I became the ASAC, amongst other cases that Mr. Gordon and my

12 other supervisors briefed me on, I do remember -- sorry -- like a collective PowerPoint

13 that he put together --

14 [redacted] Okay.

15 A -- to try to provide some background. But whether or not he did that

16 earlier or --

17 [redacted] Was it a PowerPoint on the Hunter Biden case?

18 A It was on this ongoing matter, so --

19 [redacted]. Okay. So it was limited to the case. It wasn't all the matters that

20 he was working on?

21 A It was on this one as well as I received briefings by PowerPoint on other

22 matters too.

23 [redacted]. Okay. But Joe Gordon put together a PowerPoint on this matter?

24 A I believe it was him.

25 [redacted] Okay. And do you remember when that was?

1 A No.

2 [redacted]. Okay. But is it, like, right after you took over, or was it part of your

3 onboarding experience or --

4 A It would probably be pretty soon after I arrived there. I would -- I think

5 sometime in 2021 possibly.

6 [redacted]. Okay. Was it an effort to bring you up to speed on the case?

7 A Yes.

8 [redacted] Okay. Did you ask for it or did he just initiate it himself?

9 A No. This was, I believe, something that he may have already had

10 or definitely did himself.

11 [redacted]. Okay. And did he give you the PowerPoint presentation in

12 Baltimore or Wilmington.

13 A I think it was in Baltimore.

14 [redacted] Okay. And so he came to Baltimore to give you this PowerPoint

15 presentation?

16 A Yes.

17 [redacted] When he did that, was he also meeting on other matters, or did he

18 come to Baltimore specifically just to talk about this case?

19 A I don't remember.

20 [redacted]. You don't remember. Okay.

21 When did you learn that there was a plea agreement in this case? Ultimately the

22 plea agreement fell apart.

23 [redacted] And she can answer that question with respect to the date on which

24 she may have become aware of it, but the plea agreement itself is outside the scope of

25 what she's authorized to talk about today.

BY [redacted]:

[redacted] Did you learn about it in the news media, or did you learn about it internally before it was announced publicly?

A The plea agreement?

[redacted]. Yeah. Hunter Biden's plea agreement this past July.

A I believe it was internally.

[redacted]. Okay. And how much earlier from when it was publicly announced?

A Oh, I'm sorry. Yes, it was internally. And it was prior to the public announcement.

[redacted]. But shortened time, like right before it became public or --

A Not wanting to really go into the specifics of the ongoing investigation, yes, I had awareness of deliberations that the U.S. Attorney's Office was engaged in.

[redacted]. Okay. And at that point when the plea agreement was announced did the investigation stop?

[redacted] She can't get into that because it involves the investigation and prosecution, and she is not authorized to discuss that.

BY [redacted]

[redacted]. Do you know the answer to the question?

A It's an ongoing matter, sir.

[redacted]. Right. I understand you're not going to answer my question. But just do you know the answer to my question? If DOJ wasn't blocking you from answering that question, would you be able to answer it?

A I know the answer to your question.

[redacted]. Okay.

1 So what can you tell us about what happened between October 7th, 2022, and
2 July 26th, which was the date of the plea hearing? Like, what types of investigative
3 activity were occurring during that time period?
4 [redacted] That is also outside the scope of what she is authorized to discuss
5 because it involves the ongoing investigation and prosecution.
6 Chairman Jordan. Did you have any conversations with U.S. Attorney Weiss
7 between June 20th, when the plea deal is announced, and July 26th, when there's the
8 actual hearing, about this case?
9 Ms. Holley. Not that I can think of at this time.
10 Chairman Jordan. Okay. So then let's back up to [redacted] point -- question.
11 Between October 7th, the meeting we've spent the bulk of our time on here this
12 morning and this afternoon, October 7th meeting, 2022, and June 20th, 2023, when the
13 plea deal is announced, how often did you meet with U.S. Attorney Weiss from -- in that
14 time frame?
15 Ms. Holley. I don't --
16 Chairman Jordan. On this subject.
17 Ms. Holley. I don't know. So on the subject of the ongoing investigation?
18 Chairman Jordan. Between October 7th and June 20th, how often did you get
19 together, how many times did you get together with Mr. Weiss to talk about this
20 investigation?
21 Ms. Holley. I don't know.
22 Chairman Jordan. Can you give us a guess?
23 Ms. Holley. I can't.
24 [redacted]. Was it regular?
25 Ms. Holley. I would say regular in a sense that, I don't believe it was weekly, but

1 regular that it hadn't been from October to June.

2 [redacted]. And ultimately the question we're getting to is, what was going on

3 between October 7th and June 20th?

4 [redacted] And she's not authorized to answer that question.

5 [redacted]. After the plea agreement fell apart, did meetings start back up

6 again?

7 Ms. Holley. The investigation has continued. Meetings are not necessary all

8 the time, and investigation still continues.

9 [redacted] In a typical case, not this case, in a typical case, when prosecutors

10 reach a plea agreement with a defendant, do you continue taking investigative steps,

11 issuing search warrants, et cetera?

12 Ms. Holley. It depends the case. So in a typical case, I don't want to use the

13 word "typical," but in prior experience, yes, there could be other investigative actions

14 that are occurring.

15 [redacted]. Let's go off the record.

16 [Discussion off the record.]

[2:30 p.m.]

[redacted] We can go back on the record. It's 2:30 in the afternoon.

BY [redacted]

[redacted]. Ms. Holley, in the prior hour, earlier in the hour, the Republican counsel went through a list of supposed investigative steps, allegations about search warrants being delayed and individuals not being able to be interviewed, and he asked if you thought that was an example of politicization. And you said you thought that was an example of an individual being very deliberative.

When you said that, you did not mean to suggest that any of the actions he had stated had actually occurred, correct?

A That is correct.

[redacted] Okay. There was a discussion about Mr. Gordon giving you a PowerPoint briefing when you came on board at the Baltimore Field Office.

A Yes.

[redacted]. That PowerPoint, did the PowerPoint say anything at all about a special counsel.

A No.

[redacted]. Did it recommend that -- did it say that he recommended that anybody from FBI should advocate for a special counsel.

A No.

[redacted] To the best of your recollection.

Ms. Holley. Yes.

[redacted] To the best of your recollection.

Ms. Holley. Yes. I don't remember exactly slide for slide, but I do not recall anything in reference to a special counsel in that briefing.

1 [redacted] Okay. And I think that's it. We can go off the record.

2 Thank you.

3 [Whereupon, at 2:32 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: TIMOTHY THIBAULT

Tuesday, September 12, 2023

Washington, D.C.

The interview in the above matter was held in room 2237 Rayburn House Office Building, commencing at time 10:00 a.m.

Present: Representatives Jordan, and Gaetz.

1 Appearances:

2

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted] SENIOR PROFESSIONAL STAFF MEMBER

8 [redacted] SENIOR COMMUNIICATIONS ADVISER

9 [redacted] SENIOR ADVISOR

10 [redacted] DIGITAL DIRECTOR

11 [redacted] SENIOR ADVISOR

12 [redacted] DIGITAL ASSISTANT

13 [redacted] CHIEF COUNSEL FOR OVERSIGHT

14 [redacted] COUNSEL

15 [redacted] MINORITY CHIEF OVERSIGHT COUNSEL

16 [redacted] MINORITY INTERN

17 [redacted] MINORITY PROFESSIONAL STAFF MEMBER

18 AND LEGISLATIVE AIDE

19 [redacted] MINORITY LEGAL INTERN

20 [redacted] MINORITY STAFF ASSISTANT

21 [redacted] MINORITY OVERSIGHT COUNSEL

22

23

24

25

1 For TIMOTHY THIBAULT:

2

3 MARK LYTLE, ESQ.

4 NIXON PEABODY, LLP

5 CHARLES DUROSS, ESQ.

6 MORRISON FOERSTER

1

2 [redacted] We'll go on the record.

3 Good morning. This is a transcribed interview of Mr. Timothy Thibault, former

4 FBI Assistant Special Agent in Charge.

5 Chairman Jordan has requested this interview as part of the committee's oversight

6 of the Federal Bureau of Investigation.

7 Would the witness please state your name for the record?

8 Mr. Thibault. Timothy R. Thibault.

9 [redacted] We encourage witnesses who appear before the committee to

10 freely consult with counsel if they so choose. And it is my understanding that you are

11 appearing today with personal counsel. Is that correct, sir?

12 Mr. Thibault. Yes, ma'am.

13 [redacted] Could counsel please state your name for the record?

14 Mr. Lytle. Mark Lytle, L-y-t-l-e, with Nixon Peabody on behalf of Tim Thibault.

15 Mr. Duross. Charles Duross, D-u-r-o-s-s, on behalf of Tim Thibault.

16 [redacted] On behalf of the committee, I want to thank you for appearing here

17 today to answer our questions.

18 The chairman also appreciates your willingness to appear voluntarily.

19 My name is [redacted] and I'm with Chairman Jordan's staff.

20 I will now have everyone else from the committee who is here in the room

21 introduce themselves, as well.

22 [redacted] [redacted] Chairman Jordan's committee.

23 Mr. Thibault. Thank you.

24 [redacted] [redacted] Oversight counsel for the Democrats on the

25 Judiciary Committee.

1 [redacted] with Ranking Member Nadler's staff.

2 [redacted] legal intern, House Judiciary Democrats.

3 [redacted] legal intern for House Judiciary, Democrats.

4 [redacted] Chairman Jordan's staff.

5 [redacted] Chairman Jordan's staff.

6 [redacted] Chairman Jordan's staff.

7 [redacted] Chairman Jordan's staff.

8 [redacted] Thank you.

9 I'd like to now go over the ground rules and guidelines we will follow today during

10 the interview.

11 Our questioning will proceed in rounds. The majority will ask questions first for

12 one hour, and then the minority will have an equal opportunity to ask questions if they so

13 choose. We'll alternate back and forth until there are no more questions and the

14 interview is over.

15 Typically we take a short break at the end of each hour. But if you need a break

16 apart from that, please just let us know.

17 As you can see, there's an official court reporter taking down everything we say to

18 make a written record. So we ask that you give verbal responses to all questions.

19 Do you understand that?

20 Mr. Thibault. Yes, ma'am.

21 [redacted] So the court reporter can take down a clear record, we'll do our best

22 to limit the number of staff directing questions to you during any given hour to those

23 people just on the staff whose turn it is.

24 Please try and speak clearly so the court reporter can understand and so the folks

25 down at the end of the table can hear you as well.

1 It is important that we don't talk over one another or interrupt each other if we
2 can help it. That goes for everybody present at today's interview.
3 We want you to answer our questions in the most complete and truthful manner
4 as possible. So we'll take our time.
5 If you have any questions or don't understand one of our questions, please just let
6 us know.
7 Our questions will cover a wide range of topics. So if you need clarification at
8 any point, just say so.
9 Mr. Thibault. Great.
10 [redacted] If you honestly don't know the answer to a question or do not
11 remember, it is best not to guess. Please give us your best recollection, and it is okay to
12 tell us if you learned information from someone else. Just indicate how you came to
13 know the information.
14 If there are things you don't know or can't remember, just say so and please
15 inform us who to the best of your knowledge might be able to provide a more complete
16 answer to the question.
17 You should also understand that by law you are required to answer questions
18 from Congress truthfully.
19 Do you understand this?
20 Mr. Thibault. I do.
21 [redacted] This also applies to questions posed by congressional staff in an
22 interview.
23 Do you understand this?
24 Mr. Thibault. I do.
25 [redacted] Witnesses that knowingly provide false testimony could be subject

1 to criminal prosecution for making false statements under 18 United States Code Section
2 1001.
3 As a tenured FBI professional, we're sure you understand that.
4 But do you understand this?
5 Mr. Thibault. I do, yes.
6 [redacted] Is there any reason you are unable to provide truthful answers to
7 today's questions?
8 Mr. Thibault. No.
9 [redacted] Finally, I'd like to make note that the content of what we discuss
10 here today is confidential. We ask that you not speak about what we discuss in this
11 interview to any outside individuals to preserve the integrity of our investigation, for the
12 same reason that marked exhibits we will use today will remain with the court reporter so
13 they can go in the official transcript and we'll collect any exhibits at the end of the
14 interview.
15 I know I think we've had new staff walk in so I'll have her introduce herself for the
16 record.
17 Ms. Fontenot. Cierra Fontenot. I'm a professional staff member for the
18 Democrats.
19 Mr. Thibault. Good morning.
20 [redacted] Thank you. All right, that's the end of my preamble.
21 Is there anything my colleagues from the minority want to add?
22 [redacted] Just we thank the witness for appearing today.
23 Mr. Thibault. Thank you.
24 [redacted] Mr. Thibault, I understand you have an opening statement you'd like
25 to provide.

1 Mr. Thibault. Yes, ma'am, if I may.

2 [redacted] Please go ahead.

3 Mr. Thibault. Good morning.

4 I appreciate the opportunity to talk to you today and welcome the opportunity to

5 discuss my official actions as an FBI supervisor and special agent.

6 Let me start by making one point clear. I never used my position in the FBI to

7 advance a political agenda, not once in the 26 years I worked for the Bureau and not once

8 in the 4 years before that, that I worked for the Air Force Office of Special Investigations.

9 Any and all assertions to the contrary are false.

10 In 1996, I joined the FBI as a Special Agent assigned to the Washington Field

11 Office, or WFO, which is was my professional home for my entire career except for

12 periods where I was assigned to FBI headquarters.

13 I spent 22 years of my 30-year career as a case agent, specifically and successfully

14 investigating complex, high-profile public corruption in government fraud matters.

15 From 1999 to 2014, I was assigned to the FBI's flagship Federal Public Corruption

16 Squad currently known as CR-15.

17 In January 2019, I was promoted to Supervisory Special Agent.

18 Mr. Duross. 2014.

19 Mr. Thibault. January 2014, I was promoted to supervisory Special Agent of a

20 Financial Institution Fraud Squad.

21 In October 2014, WFO executive management selected me to lead CR-15.

22 In December 2018, I was promoted to Assistant Section Chief in the International

23 Operations section with the bureau's Counterterrorism Division, or CTD. At CTD, I

24 worked to detect and prevent international terrorist threats outside the United States.

25 On August 30th, 2020, I was again promoted to serve as the Assistant Special

1 Agent in Charge, or ASAC, in WFO's Criminal division.

2 I retired on August 26th, 2022, after 26 years of FBI service and a total of 30 years

3 Federal Government service.

4 In 2022, my social media activity on LinkedIn and Twitter came under scrutiny.

5 While the First Amendment protects my ability to express my personal opinions, including

6 political ones, within the limits of the Hatch Act, I deeply, deeply regret my social media

7 activity became a distraction for the FBI and created appearance issues which resulted in

8 false allegations that my work in the FBI was impacted by political bias or partisanship. I

9 should have exercised better judgment and refrained from such social media activity.

10 Regardless of my social media activity, I have always taken great care not to let my

11 personal beliefs or political opinions affect my work at the bureau. My record both as

12 an agent and supervisor reflects that my leadership, decisionmaking, and investigations

13 were never impacted by political bias or partisanship. My decisions as an agent and

14 supervisor were always consistent with the FBI's high standards for ethics and integrity.

15 In fact, even a cursory review of my record reveals that.

16 During my time at the FBI, I supervised and led investigations into public officials

17 of both political parties without regard for their political affiliation. I personally

18 conducted investigations that resulted in the convictions of two Democratic Members of

19 Congress, and I supervised an investigation that resulted in a conviction of one

20 Republican Member of Congress.

21 I was also involved in the opening -- in the opening of the investigation into the

22 Clinton Foundation, which is now public.

23 My job required me to professionally investigate powerful and influential people

24 without fear or favor, and my record of service demonstrates that I did precisely that.

25 In performing my official duties, I did the right things in the right ways and for the

1 right reasons. None of my official actions or decisions, not a single one, were affected
2 by my personal views including political opinions.
3 I welcome the opportunity to discuss my actions today with the committee. I
4 must state at the outset that I am limited in what I can say by DOJ and FBI policy
5 regarding ongoing investigations. But within those limits, however, I will try to answer
6 the committee's questions to the best of my ability.
7 Again, thank you for your time and this opportunity to answer questions.
8 [redacted] Thank you, sir. We appreciate your opening statement.
9 You also provided a written statement that we'll mark as exhibit number 1.
10 Mr. Thibault. Great. Yes, ma'am.
11 [Thibault Exhibit No. 1
12 Was marked for identification.]
13 [redacted] Mr. Lytle, do you have any other opening remarks or anything you
14 wish to say?
15 Mr. Lytle. No, thank you.
16 [redacted] Okay. The clock now reads 10:08 a.m.
17 We'll start with the first round of questioning.
18 EXAMINATION
19 BY [redacted]
20 Q Mr. Thibault, I know in your opening statement you kind of just walked
21 through your tenure at the Federal Bureau of Investigation, and I kind of just want to
22 highlight some of those, some of your tenure at the FBI.
23 You said you joined in 1996. Is that correct?
24 A Yes, ma'am. August 18th.
25 Q And what was your motivation for joining the FBI?

1 A I had worked previously as an 1811, which is a criminal investigator, for the
2 Air Force Office of Special Investigations. It was just a natural progression to continue
3 the work of the FBI.
4 The Air Force wanted me to move from Atlanta to Houston.
5 Q Uh-huh.
6 A And I wasn't prepared to move there at that point, and I started looking for
7 other opportunities. And I applied for the bureau.
8 And, you know, I've -- my dad served the country for 40 years and I -- that's
9 exactly what I've always wanted to do.
10 Q Uh-huh. And during your opening statement, you kind of walked through
11 your tenure at the FBI and said that you were mostly assigned to the Washington Field
12 Office but you did do some time at headquarters.
13 Can you help identify which positions you were assigned to the WFO and which
14 positions you were assigned to headquarters?
15 A Sure. As a Special Agent --
16 Q Uh-huh.
17 A -- coming out, after I graduated from the academy in December of 20 -- of
18 1996, I was immediately assigned to Washington Field Office. And during that period, I
19 worked as a special agent at WFO --
20 Q Uh-huh.
21 A -- until the September 11th attacks. On the September 11th attacks, I
22 spent maybe a week or to 10 days, something like that -- it's fuzzy at this point --
23 Q Uh-huh.
24 A -- at the Pentagon.
25 And then I was moved on a temporary basis. That was not a TDY.

1 Q Uh-huh.

2 A I was then TDY'd to the FBI director's detail because, as a part of the SWAT

3 team, Director Mueller was new and didn't have a protection detail. So I was TDY'd to

4 headquarters. I can't remember the exact number of months, but it was probably

5 around 4 months.

6 Q Okay.

7 A Spent that time and then went back to Washington Field Office --

8 Q Uh-huh.

9 A -- as a special agent.

10 And then I was a special agent the entire time up until 2014, in January --

11 Q Uh-huh.

12 A -- where I was promoted to a supervisory special agent of the Financial

13 Institution Fraud Squad.

14 In --

15 Q Was that Washington Field Office?

16 A Yes, ma'am.

17 Q Or headquarters?

18 A Washington Field Office.

19 Q Okay.

20 A So I was a line supervisor at the --

21 Q Uh-huh.

22 A -- field office.

23 After about a year -- I think it was around October or November 2014 -- executive

24 management moved me.

25 Q Uh-huh.

1 A It was just a regular position transfer, not a promotion to CR-15.

2 Q Uh-huh.

3 A So I literally picked my bags up and went next door and worked on CR-15

4 from January -- from October 2014 until December, first week of December 2018.

5 Q Uh-huh.

6 A I was promoted at that point to really my first true headquarters job. Okay.

7 Q Uh-huh.

8 A So that was as an Assistant Section Chief in the Counterintelligence Division.

9 And I -- I worked there until I think my official transfer date was August 30th of

10 2020. And I was assigned back to WFO.

11 Q Uh-huh.

12 A And then I worked there at WFO until the end of May, beginning of June.

13 And I did a TDY at headquarters after that briefly until my retirement.

14 Q Okay. And so the last position you held at the FBI was the Assistant Special

15 Agent in Charge at Washington Field Office. Is that correct?

16 A That's correct, yes, ma'am.

17 Q And you were over the criminal elements of the Washington Field Office. Is

18 that correct?

19 A Yes. There's three branches --

20 Q Uh-huh.

21 A -- within the criminal division at WFO.

22 Q Okay.

23 A There's Cyber, Violent Crime, and the White Collar section.

24 Q Uh-huh.

25 A I had the White Collar section. I believe there were 12 squads that I

1 supervised.

2 Q Okay.

3 A I think it's 12.

4 Q And who was your direct supervisor when you were the ASAC?

5 A My first direct supervisor was Jim Dawson.

6 Q Okay.

7 A Now he was the SAC --

8 Q Uh-huh.

9 A -- when I first got there.

10 Q Uh-huh.

11 A But I also believe he was dual hatted. He was also the acting ADIC.

12 Q Okay.

13 A He was still working both jobs, but we also had Rob Bornstein that would

14 pick up some of his jobs --

15 Q Uh-huh.

16 A -- because Rob Bornstein was an ASAC like myself.

17 Q Uh-huh.

18 A I think he was acting SAC for that period, too, but they worked together.

19 But I reported to both of them.

20 Q Okay.

21 A And then he left.

22 Q Uh-huh.

23 A And then Rob Bornstein again spent a month or two as acting SAC.

24 Q Uh-huh.

25 A And then a gentleman by the name of Wayne Jacobs --

1 Q Uh-huh.

2 A -- came in and Mr. Jacobs became the SAC throughout my tenure until I left.

3 Q And so the SAC of the Washington Field Office would have been your direct

4 supervisor.

5 And then was the Assistant Director in Charge above the SAC?

6 A Yes, ma'am.

7 Q Okay. And how many people reported to you as an ASAC?

8 A There was about 130.

9 Q Okay.

10 A About 110, I believe, were FBI agents. And the rest were -- FBI agents and

11 their supervisors.

12 Q Uh-huh.

13 A And the rest were Financial Analysts --

14 Q Okay.

15 A -- and their supervisors.

16 Q And you said that there were 12 squads?

17 A I think there's 12 squads. If you want me to go through them all, I could,

18 make sure. It's about 12.

19 Q Okay. And all 12 squads focused on white-collar crime. Is that correct?

20 A White collar. Some people would say that public corruption wasn't exactly

21 white collar.

22 Q Uh-huh.

23 A But it fell under me, and also Civil Rights fell under me.

24 Q Okay.

25 A So your traditional financial crimes, healthcare fraud, public corruption, civil

1 rights.

2 Q And how many squads focused on public corruption?

3 A There were traditional public corruption. There were three squads.

4 Q Uh-huh.

5 A That was a D.C. Public Corruption Squad --

6 Q Uh-huh.

7 A -- which also handled a little bit of Federal corruption --

8 Q Okay.

9 A -- in additional to the city corruption.

10 Then you had CR-15, which I had supervised previously, all Federal corruption.

11 Q Okay.

12 A And then you had a squad that was known as Northern Virginia Public

13 Corruption Squad --

14 Q Uh-huh.

15 A -- which also had some fraud work that they did, government fraud work.

16 There is a nontraditional Corruption Squad also.

17 Q Uh-huh.

18 A It's a Foreign Corrupt Practices Act Squad.

19 Q I'm sorry you said?

20 A It's a nontraditional corruption squad. It's international.

21 Q Uh-huh.

22 A They investigated Foreign Corrupt Practices Act violations, antitrust. That's

23 basically what they looked at.

24 Q And was the Federal Public Corruption Squad, also known as CR-15, was that

25 unique to the Washington Field Office or were there Federal corruption squads

1 throughout the Nation?

2 A Yes, ma'am. There's Federal corruption squads throughout the Nation.

3 Q Uh-huh.

4 A And the offices vary in size.

5 Q Okay.

6 A So they might not be specific to just investigating public corruption, but

7 certainly Baltimore has one.

8 Q Uh-huh.

9 A You know, they may do all corruption.

10 Q Uh-huh.

11 A Right? It just depends on what -- Chicago, for instance --

12 Q Uh-huh.

13 A -- they may have a couple squads just doing city corruption in Chicago.

14 Q Okay. And when you led CR-15, can you kind of quantify how large that

15 squad was?

16 A Sure. So the FSO which is --

17 Q Uh-huh.

18 A -- is basically the manning, how many spots there are in that squad --

19 Q Uh-huh.

20 A -- was I believe 15.

21 Q Okay.

22 A Very seldom did we get to 15.

23 Q Uh-huh.

24 A It was usually between 13, 14 agents, always trying to recruit, and then

25 people would leave but about 15.

1 Q And when you were the ASAC who was supervising the 15 or -- excuse
2 me -- the 12 squads, was the size the same for CR-15?
3 A Same. Right.
4 Q Same? Okay. So it never fluctuated.
5 A Between 13 and 15 at any one point.
6 Q Uh-huh. When you were the Assistant Special Agent in Charge, how often
7 did you interact with the FBI deputy director?
8 A Very seldom.
9 Q Uh-huh.
10 A I briefed him one time --
11 Q Okay.
12 A -- on a case.
13 Q Okay.
14 A I don't believe I briefed him on any other cases.
15 Q Can you describe the case that you briefed him on, just high level?
16 A Yes, ma'am.
17 Q Uh-huh.
18 A It was a case involving two subjects --
19 Q Uh-huh.
20 A -- that were impersonating secret service --
21 Q Okay.
22 A -- agents and there was a concern that they had co-opted some people in
23 the Secret Service.
24 Q Okay.
25 A And that was it.

1 Q And did you ever have the opportunity to interact with the FBI Director
2 when you were at the ASAC?
3 A No ma'am.
4 Q How often would you say that you interacted with individuals at
5 headquarters when you were ASAC?
6 A It was a regular basis.
7 Q Uh-huh.
8 A At least weekly, if not sometimes -- it would depend on what's going on.
9 Sometimes it was daily. Like when that case was going on --
10 Q Uh-huh.
11 A -- that I just mentioned, it was every day.
12 Q Uh-huh.
13 A I was writing briefing sheets to them every single day.
14 Q And when you interacted with headquarters, was there a main point of
15 contact that you would go through?
16 A Yes, ma'am.
17 Q And who was that main point of contact?
18 A So the main -- depending on the subject matter --
19 Q Uh-huh.
20 A -- if it was public corruption --
21 Q Uh-huh.
22 A Can I say names? I guess I don't have to but the public corruption --
23 Q Uh-huh.
24 A -- I would talk to the Public Corruption Unit chief.
25 Q Okay.

1 A I would talk to the section chief over Public Corruptions and Civil Rights.
2 Q Uh-huh.
3 A I would talk to -- over Financial Crimes there's also a section chief.
4 Q Uh-huh.
5 A Talk to them. But mostly I would spend a lot more time interacting with on
6 the Public Corruption side --
7 Q Okay.
8 A -- So the section chief for Public Corruption.
9 Q Uh-huh.
10 A When you're -- when you're working financial crimes --
11 Q Uh-huh.
12 A -- like when I was a supervisor, a CR-11 --
13 Q Uh-huh.
14 A -- The Financial Fraud Squad, I hardly ever talked to anybody at FBI
15 headquarters.
16 Q Uh-huh.
17 A When I was a CR-15 --
18 Q Uh-huh.
19 A -- it was almost every day because of the sensitivity of the cases --
20 Q Uh-huh.
21 A -- and what headquarters would want to know about.
22 Q Uh-huh.
23 A Anybody else that I talked to, on occasion, on occasion I would talk to
24 supervisors that oversaw the financial analysts.
25 Q Okay.

1 A A lot of that was trying to increase their ability to work --

2 Q Uh-huh.

3 A -- and their job satisfaction, how can we make their job better.

4 Q Uh-huh.

5 A And that's mostly it.

6 Q Okay. And how often would you interact with Main Justice?

7 A Regularly.

8 Q Uh-huh.

9 A I made it a point to -- to -- to talk to them regularly.

10 My main point of contact would have been the -- within the Criminal Division --

11 Q Okay.

12 A -- Public Integrity.

13 Q Uh-huh.

14 A So maybe, when I say regularly talking with Public Integrity, that's a monthly

15 basis.

16 Q Uh-huh.

17 A So --

18 Q Okay.

19 A -- on a monthly basis.

20 Q And who at the Public Integrity Division at the Department of Justice would

21 you interact with?

22 A Usually it would be the deputy chief.

23 Q Okay.

24 A There were some contacts as well with the Fraud section --

25 Q Uh-huh.

1 A -- because of some of their initiatives. So from time to time I would
2 interact with high-level people in the Fraud section --
3 Q Okay.
4 A -- as well.
5 Q And during your tenure at the FBI, did you ever work or were you ever
6 detailed to any of the special counsel investigations?
7 A No.
8 Q So you never worked for Special Counsel Mueller?
9 A No, I did not.
10 Q Special counsel Durham?
11 A I did not.
12 Q Okay. In your opening statement, you stated that you retired on August
13 26, 2022. Is that correct?
14 A Yes, ma'am.
15 Q And can you kind of tell us what brought about your retirement? Was it
16 planned?
17 A Well, I decided to retire in July.
18 Q Okay.
19 A And so I began the process in July to retire.
20 Q And why did you decide to retire?
21 A I think it was at that point it was I just made it my best interest.
22 Q Uh-huh.
23 A You know, i had worked for 30 years.
24 Q Uh-huh.
25 A I think I was just as what most people, do they're assessing, hey, what do

1 you want to do.

2 Q Uh-huh.

3 A And given, you now, where I was --

4 Q Uh-huh.

5 A -- and everything that was, you know, I had -- so to back up, I actually

6 considered retiring in 2018.

7 Q Uh-huh.

8 A The reason I stayed is because the job kept pulling me back and back.

9 Right? So I loved the operational aspect of the bureau. And so I was continually

10 assessing, even when I was with counterterrorism, I thought about getting out.

11 And so, you know; in July I made that decision what was best for me and my

12 family.

13 Q Okay. And to the extent there is, you know, media reporting that you were

14 forced out or escorted out of the FBI, is that accurate?

15 A I can't emphasize how inaccurate that was.

16 Q Uh-huh.

17 A No one ever asked me --

18 Q Uh-huh.

19 A -- to leave. It was a personal decision, and I did so voluntarily.

20 Q Uh-huh.

21 A And I notified my bosses I intended to retire. So --

22 Q Okay. I want to turn to part of your tenure at the Washington Field Office

23 and kind of focus on any role that you had investigating the events that occurred at the

24 Capitol on January 6th, 2021.

25 What position were you in on that date?

1 A I was an ASAC.

2 Q Un-huh. And, you know, in testimony to the committee, several individuals

3 who had worked at the Washington Field Office on that day said that they had been

4 dispatched to the Capitol.

5 Were you one of the individuals that was dispatched to the Capitol that day?

6 A No, I was not.

7 Q Did you play any role in, you know, any investigations or awareness of

8 planned protests that were going to occur on January 6th?

9 A No, I did not.

10 Q On the day, January 6th, did you have any awareness of what was going on

11 at the Capitol? Were you getting briefs?

12 A In the morning?

13 Q Uh-huh.

14 A I just had the TV on in my office.

15 Q Uh-huh.

16 A And that's it. I actually went to lunch, and at lunch I received a text

17 message from my boss --

18 Q Uh-huh.

19 A -- Mr. Jim Dawson --

20 Q Uh-huh.

21 A -- that told me to prepare to have agents respond to D.C.

22 Q Uh-huh.

23 A And so I put that announcement out to have my agents prepare, make sure

24 their radios were coded.

25 Q Uh-huh.

1 A And then not long after, he said, hey, have your agents come down to D.C.
2 So I did. And I also --
3 Q Uh-huh.
4 A -- drove in from northern Virginia to D.C. I just drove to the Washington
5 Field Office --
6 Q Okay.
7 A -- and was there until midnight maybe --
8 Q Uh-huh.
9 A -- maybe a little later.
10 Q Uh-huh. And what was your role on that day?
11 A I was available at the command post.
12 Q Uh-huh.
13 A I didn't really have a formal role. I was there just trying to support --
14 Q Uh-huh.
15 A -- however was needed. If -- whatever taskings came through --
16 Q Uh-huh.
17 A -- I was there to support that.
18 Q Okay.
19 A I didn't make any decisions with regard to the Capitol.
20 Q Uh-huh.
21 A I wasn't down there. So --
22 Q And how many of your agents were dispatched to the Capitol that day?
23 A I don't exactly know --
24 Q Uh-huh.
25 A -- because what happened was they were told to report to the Washington

1 Field Office.

2 Q Uh-huh.

3 A But at some point they were diverted to a parking lot.

4 Q Uh-huh.

5 A Some of them were, not all of them. I'm not sure what squads were.

6 Q Uh-huh.

7 A My boss was running that. So he wasn't at the Washington Field Office.

8 Neither was the ASAC over Violent Crimes. He wasn't at the Washington Field Office.

9 He was actually with my boss.

10 Q Uh-huh.

11 A They were sort of at -- in the parking lot, providing direction.

12 Q And your boss at the time was Mr. Dawson?

13 A Yes, ma'am.

14 Q Is that correct?

15 And so you said you had 110 agents that you supervised.

16 A Right.

17 Q Did all 110 get the notification that they needed to dispatch to the Capitol?

18 A I sent an email to all the supervisors.

19 Q Uh-huh.

20 A My intent was that they all would --

21 Q Uh-huh.

22 A -- get the email to go to, excuse me, Washington Field Office, not the Capitol.

23 Q Uh-huh.

24 A I think at some point, because of traffic, because of traffic issues, they were

25 told to go to a parking lot.

1 Q Uh-huh.

2 A But I wasn't -- at that point I was in the car. I was outside of comms really.

3 Q Uh-huh.

4 A I wasn't inside, so I just stayed in my lane and didn't have any role in sending

5 who was going to go to who. What I think happened --

6 Q Uh-huh.

7 A -- was certain squads were assigned to go one place and I'm pretty sure that

8 certain squads that I supervised probably went to Washington Field Office.

9 So between parking lot and the Washington Field Office, there are probably a mix.

10 Q And did you ever get any sort of back-briefing on what the squads were

11 doing that day from the squad supervisors or individuals on the squad?

12 A Not a formal brief.

13 Q Uh-huh.

14 A At -- during the -- during the actual January 6 --

15 Q Uh-huh.

16 A -- activity, I was just in the command post --

17 Q Uh-huh.

18 A -- trying to understand what was going on --

19 Q Yeah.

20 A -- and trying to be helpful and not get in the way.

21 Q Uh-huh.

22 A Afterwards, my boss came back to the office and gave me a little, sort of a

23 informal brief --

24 Q Uh-huh.

25 A -- about what he experienced.

1 Q Okay. And do you remember any sort of content of that brief that you
2 received?
3 A A little bit, a little bit. He was told to help clear the Capitol --
4 Q Uh-huh.
5 A -- and to assist MPD and the Capitol Police --
6 Q Uh-huh.
7 A -- with anything they needed outside of the Capitol.
8 Q Okay. And how many supervisors did you oversee of the squads?
9 A So if there are 12 squads --
10 Q Uh-huh.
11 A -- I'm hoping I'm right on that. God, my memory.
12 I think there are 12 squads.
13 Q Uh-huh.
14 A So there would have been a supervisor for each squad.
15 Q Okay.
16 A There were -- nine of those would have been Supervisory Special Agents.
17 Q Uh-huh.
18 A The other three --
19 Q Uh-huh.
20 A -- would have been Supervisory Forensic Accountants.
21 Q Okay. And to the extent you needed to know what was going on with one
22 of your squads, would you go to the supervisor?
23 A I was in contact with them --
24 Q Uh-huh.
25 A -- a lot, yes, I was.

1 Q Daily basis?

2 A Daily basis.

3 Q Okay. Focusing back in on January 6th, 2021, after that day, did you have

4 any involvement in the ongoing investigations?

5 A Limited.

6 Q Uh-huh.

7 A So I was in the command post --

8 Q Uh-huh.

9 A -- for a period of time.

10 Q Okay.

11 A The exact number of days escapes me but it was -- it was probably between

12 the 6th I had a couple days off between the 6th and the inauguration.

13 Q Uh-huh.

14 A And so I was going into the command post regularly --

15 Q Uh-huh.

16 A -- working a shift. All the ASACS received shift work.

17 Q Okay.

18 A So there wasn't a specific tasking that they gave to Tim Thibault.

19 Q Okay.

20 A It was go in. You're relieving this ASAC before you.

21 Q Uh-huh.

22 A You need to make sure that any taskings that they have that they didn't

23 finish, you pick up.

24 Q Uh-huh.

25 A Provide a -- be there for the out-brief of agents were coming off shift and

1 prepare to do an in-brief for the agents coming on the shift.

2 Q Uh-huh.

3 A So for a period it was 24-7.

4 Q Uh-huh.

5 A And so trying to keep continuity of information --

6 Q Uh-huh.

7 A -- that was a role.

8 And then I was in support. I was handling any number of taskings which could

9 have involved -- there might have been some evidence that needed to be reviewed by

10 headquarters.

11 Q Uh-huh.

12 A Hey, an agent's having a problem getting this done. Can you help them

13 make some calls?

14 I was basically in a support role.

15 Q Uh-huh.

16 A I was also regularly in touch with my supervisors, making sure my agents

17 were okay.

18 Q Uh-huh.

19 A Because they were working off shift, a lot of people work white collar.

20 Q Uh-huh.

21 A And because it's -- you're not responding in the middle of the night.

22 Q Uh-huh.

23 A Or so it's a regular basis. So some of them have childcare issues. Right?

24 Q Uh-huh.

25 A So I'm in touch with my supervisors, making sure my people were okay.

1 And then also it was a complex, complex time --

2 Q Uh-huh.

3 A -- with so much information coming in to Washington Field Office during the

4 situation. I was actually around, as I said, on 9/11.

5 Q Uh-huh.

6 A I was in the command post during periods on 9/11.

7 Q Uh-huh.

8 A This morphed it, not because of -- not because of the -- not because of 9/11.

9 Q Uh-huh.

10 A But -- not because this was more devastating from 9/11. I'm not saying

11 that. It was just the amount of sheer data that we deal with nowadays in cases, the

12 amount of video coming in, the amount of potential subjects.

13 Q Uh-huh.

14 A And so those cases -- those cases were -- there was -- there was a forward

15 command post.

16 Q Uh-huh.

17 A The FBI and the Capitol Police had a forward command post.

18 Q Uh-huh.

19 A They were -- they were sort of getting things from an Intake Squad.

20 Q Uh-huh.

21 A They would get the information. They would try to put it together and

22 assign case numbers to subjects --

23 Q Okay.

24 A -- potential subjects. So they -- they were beginning to open a lot of cases.

25 Q Uh-huh.

1 A And they needed agents to work those cases.

2 Q Uh-huh.

3 A Because WFO, while it's a large field office, it's not that large, so if you only

4 had a few cases, they would most likely have been assigned to the Violent Crimes

5 Squads --

6 Q Uh-huh.

7 A -- or Domestic Terrorism Squads.

8 Here, there's so many cases that every squad was taking cases. My branch had

9 more case agents than any other branch at WFO.

10 Q Uh-huh.

11 A And so my squads took on approximately 20 to 25 cases.

12 Q Uh-huh.

13 A And I just needed to make sure that my supervisors were getting cases

14 assigned --

15 Q Uh-huh.

16 A -- because what happened for that short period of time is agents stopped

17 working other cases and they started. So, like, my -- my case agents were working bank

18 fraud.

19 Q Uh-huh.

20 A They weren't going to be working bank fraud for a month or so. They had

21 these cases to kind of work.

22 And those -- that direction, right, so that direction came from executive

23 management, hey -- and commander's intent is, like, you're going to work -- we're going

24 to work these cases and we got to get them assigned.

25 Q Uh-huh.

1 A And so I had a support role, not in investigating those cases --
2 Q Uh-huh.
3 A -- but making sure those cases were assigned as sort of as a resource. I was
4 an admin guy.
5 Q Uh-huh.
6 A When those -- when those case are were assigned, now I had all my agents
7 who, in addition to their full case load, now had some other cases that they had to work.
8 Q Uh-huh.
9 A Most of those cases were called -- I think they were called 176 cases --
10 Q Uh-huh.
11 A -- trespassing type of cases. Those weren't cases in my portfolio.
12 Q Uh-huh.
13 A We also had some cases that were assault on Federal officers.
14 Q Uh-huh.
15 A Those cases weren't in my portfolio, meaning I shouldn't be reviewing those
16 cases.
17 Q Uh-huh.
18 A Okay. When -- so I didn't have an operational role in oversight. I just had
19 a role in making sure my agents were accountable to be working any cases assigned to
20 them, whatever they were.
21 Q And so who was supervising those cases then if they weren't in your
22 portfolio that your agents were handling?
23 A They were being supervised by, if it was assault on Federal officers --
24 Q Uh-huh.
25 A -- they were being supervised by the ASAC for the Violent Crimes.

1 Q Okay.

2 A Okay. If they were 176, I believe that's a domestic terrorism classification.

3 That would -- they'd be supervised by the ASAC for Domestic Terrorism.

4 There were a small number of cases that within that branch --

5 Q Uh-huh.

6 A -- that were for one reason or another -- and I don't know why this

7 happened. I have a sense of why. But there was a small number of assault on media

8 cases that were assigned to my case agents, and I was to oversee them.

9 Q Okay.

10 A I think the reason that was made, that decision was made, was because any

11 cases that involved media --

12 Q Uh-huh.

13 A -- involved some sort of sensitivity or additional approvals to --

14 Q Uh-huh.

15 A -- either if the media person is a subject or a victim. I didn't make that

16 decision, and I didn't make the decision either on how cases were classified with

17 respect --

18 Q Uh-huh.

19 A -- to 176 or assault on Federal officers. Those were made by other people.

20 Q Were those made at people -- at the Washington Field Office or at

21 headquarters?

22 A My understanding is, is that ultimately the decision was at headquarters

23 between the Criminal Division and Counterterrorism Division.

24 Q Uh-huh.

25 A At the beginning I think that, like, in the first number of days I think that the

1 Washington Field Office between Domestic Terrorism section and Violent Crime section,
2 they were making the decisions at the very beginning because of everything that was
3 going on. And I think headquarters later reviewed that.
4 Q Uh-huh.
5 A I don't have any direct knowledge of that. I wasn't in those meetings.
6 Q And when you said that some of your agents had to stop working their other
7 cases to work their assigned January 6th cases, was that for an extended period of time?
8 A It differed between case agents.
9 Q Uh-huh.
10 A So they were responsible for working with their prosecutors.
11 Q Uh-huh.
12 A And the ASAC has very little insight. When a case is open for instance, if it's
13 an assault on a Federal officer case, I don't have any insight as to how that case is being
14 worked really. I didn't see the communications with the prosecutors.
15 Q Uh-huh.
16 A I didn't see the complexity of a case or not, if it was --
17 Q Uh-huh.
18 A -- an unknown subject or a known subject. It would really depend on what
19 the case was and what the agents were working on.
20 Now, for instance, if there was a case that was going to trial, obviously, that case
21 agent would not be --
22 Q Uh-huh.
23 A -- able to take on that load. Right? So they'd have to prioritize. So 110
24 agents, I would say there's probably 110 different formulations. But as a general rule,
25 for a couple months at least, they were working, most agents were working primarily

1 their cases from January 6th.

2 Q And that general rule, did that come down from Washington Field Office or

3 headquarters? How was that known that there was this general rule?

4 A I got direction from my bosses, Jim Dawson and Steve D'Antuono.

5 Q Okay.

6 A Sort of commander's intent, here is what we're working.

7 Q And Dawson was the Special Agent in Charge, and D'Antuono was the ADIC.

8 Is that correct?

9 A Yes, ma'am.

10 Q And when -- did you kind of have a sense of how your agents were working

11 their January 6th cases?

12 A I did -- I did because I required daily updates --

13 Q Uh-huh.

14 A -- for -- the supervisors gave me daily updates. Sometimes they'd have a

15 day where they didn't have anything. But if something was going to be indicted or there

16 was going to be a search warrant, I just asked them to inform me, because I wanted to

17 know what my folks were doing --

18 Q Uh-huh.

19 A -- number one. Number two, I wanted to know what the op tempo was

20 because I wanted to keep sort of a health measure on how my folks were doing.

21 Q Uh-huh.

22 A This was during COVID.

23 Q Uh-huh.

24 A Like I said, they had different family situations. So I wanted to make sure

25 my folks were okay.

1 Q Uh-huh.

2 A I was not generally able to review the cases that weren't under my portfolio.

3 Q Uh-huh.

4 A So when I review cases, I do it on a quarterly basis.

5 Q Uh-huh.

6 A Every -- every ASAC has to do it. The supervisor first does the first review.

7 I would do the second. I would review every case --

8 Q Uh-huh.

9 A -- that people have assigned. And generally those cases wouldn't

10 allow -- they wouldn't pop up in the FBI system to allow me to look at them.

11 Q Uh-huh.

12 A I could -- I want to be clear. I could look at them -- at them if I wanted to

13 but they didn't appear on the file review for my agents.

14 Q Okay.

15 A So I just didn't regularly look at the file, unless there was an actual reason for

16 me to do it.

17 Q Uh-huh.

18 A I don't recall looking at that many of them.

19 Q Uh-huh.

20 A So --

21 Q Did you have an understanding if your case agents were reaching out to

22 other field offices across the country to work leads?

23 A I did.

24 Q What can you tell us about that?

25 A A couple -- a couple times. So there came a time --

1 Q Uh-huh.

2 A -- when someone at headquarters, and I don't know who, made a decision

3 that a case would be opened, sort of maybe dual captioned or in such a way that, for

4 instance, Dallas would open the case on the same subject that WFO would have the case

5 open.

6 Q Uh-huh.

7 A I don't know who made that decision. That's not -- that's not how it was at

8 the very beginning.

9 Q Okay.

10 A I understand that decision, again, might have been meat at Counterterrorism

11 Division or Criminal Division.

12 Q And why do you think that decision was made?

13 A So as a -- as a long-term FBI --

14 Q Uh-huh.

15 A -- guy, I thought it was made because a lot of the people that were being

16 investigated lived outside of Washington, D.C.

17 Q Uh-huh.

18 A But the prosecution was going to be in Washington, D.C.

19 Q Uh-huh.

20 A So I thought that the decision was made -- what made sense to me was they

21 would open it in another field office. So that field office would, one, have situational

22 awareness if there --

23 Q Uh-huh.

24 A -- was an issue there. Also, logistically it just made sense because maybe

25 some of the leads, most of the leads might be done in that field office.

1 Q Uh-huh.

2 A Washington Field Office, though, had the interaction piece with the

3 prosecutor.

4 Q Uh-huh.

5 A Now that was good. Right?

6 Q Uh-huh.

7 A But also the downside is there had to be really good communication

8 between --

9 Q Uh-huh.

10 A -- the field office out in, say, Dallas or whatever and Washington Field Office.

11 Q Uh-huh.

12 A Some agents had a couple of cases that they were working towards

13 prosecution, and a couple of times I was asking about that case --

14 Q Uh-huh.

15 A -- because it maybe it was an interesting case or something had come up to

16 spark my attention. And so I would ask a case agent, hey, how's it going.

17 Q Uh-huh.

18 A How you doing on this thing? What are your challenges?

19 Q Uh-huh.

20 A Because some of the -- some of the work being done was actually pretty

21 cool.

22 As a old guy, it's, like, how did you find this person? Right. You have this video

23 of these people. How did you locate who this person was?

24 And so I was just interested to see what type of work they were doing. It

25 was what challenges they faced. That's how I came across knowing.

1 Q Uh-huh.

2 A Right?

3 Q And the committee has received testimony from former officials that -- and

4 current officials that there was sometimes some tension between the Washington Field

5 Office and other field offices across the country where Washington Field Office would

6 send a lead to the, you know, home field office, if you will, and the home field office

7 would do some investigation and say there's nothing here. And then Washington Field

8 Office would say go back and look again.

9 Do you have any knowledge of that occurring?

10 A No, I really don't.

11 Q Uh-huh.

12 A I -- anytime you have a case, especially if you're working a case together, I

13 don't think it's unreasonable that there's disagreements or -- but that -- I can't think of an

14 instance where I had to get involved.

15 Q Uh-huh.

16 A You know, but there are -- I could -- when I say that, now I remember.

17 There was one case --

18 Q Uh-huh.

19 A -- where there was an arrest of a subject. I forget where. But it was in a

20 place that was sort of we would call nonpermissive.

21 Q Uh-huh.

22 A It was hard to get to where this person lived and the person might have

23 been -- they might have been a little bit of risk when you do this arrest.

24 And I think our field office was, like, hey, why is this taking so long.

25 Q Uh-huh.

1 A And then that field office was, like, here's why. Here's what the situation
2 is. It's hard and there's a risk and we need to balance the risk with your timing or your
3 prosecutor's timing.
4 Q Uh-huh.
5 A So there's always that tension. But on a regular basis I didn't see it. I
6 certainly didn't get involved much at all in that.
7 Q And do you know if the case that was opened in the Washington Field Office,
8 was it classified as a domestic terrorism case and then the case that the other field office
9 would be opened as a domestic terrorism case? Did you have any awareness of that?
10 A No. And I would say that the Domestic Terrorism ASAC would have been
11 the one that was most in tune to those issues.
12 Q Uh-huh. Okay.
13 And the committee has also been told about information that was received from
14 Bank of America. Do you have any awareness of information coming in from Bank of
15 America related to January 6th?
16 A No, ma'am, I don't remember specifically that.
17 Q Okay. Do you have you any familiarity with the FBI's investigation of the
18 pipe bombs that were placed near the DNC and the RNC on that day?
19 A I have a -- a knowledge of it, of course.
20 Q Uh-huh.
21 A But I wasn't directly involved in anything with regard to that case. Most of
22 my knowledge comes from just being a bystander in the command post when that was
23 happening --
24 Q Okay. And what --
25 A -- The investigation. So I saw some video.

1 Q Okay.

2 A And I'd be there because there were -- in the command post you have

3 regular briefings. So they're called situational reports.

4 Q Uh-huh.

5 A And So I would be in the -- in the room when people were reporting new

6 facts with regard to that.

7 Q Okay. And did you have any awareness of the ongoing investigation

8 between January 6th and the inauguration? I know you said you were in the command

9 post. Do you have a general sense of the pace of the investigation?

10 A It was -- well, the pace of the investigation, I just know that people were

11 working 24-7 shifts.

12 Q Uh-huh.

13 A And that there was a lot of potential video and a lot of potential leads

14 coming in. We had a whole section that was just doing intake or taking phone calls.

15 And so they were also providing in the situational reports how many leads were

16 coming in, how many cases were being opened. And so I saw the numbers and the

17 Washington Field Office kept records --

18 Q Uh-huh.

19 A -- like of those four at least a month that would come out on a regular basis.

20 So anybody that was -- probably it went out to most supervisors but I didn't have any

21 special knowledge.

22 Q And did you ever have an understanding of who was running that

23 investigation? Was it the Washington Field Office or was it FBI headquarters?

24 A It was the Washington Field Office.

25 Q And who did you perceive to be in charge of that investigation? What was

1 the level?

2 A So Steve D'Antuono was the ADIC.

3 Q Uh-huh. Uh-huh.

4 Mr. Lytle. Are you -- I'm sorry.

5 You're referring to the bomb investigations?

6 [redacted] Correct.

7 Mr. Lytle. I just want to make sure.

8 Mr. Thibault. Oh, the bomb investigations.

9 [redacted] The bomb investigations.

10 Mr. Lytle. Just want to be correct.

11 Mr. Thibault. I just put them all together. I'm sorry.

12 BY [redacted]

13 Q That's okay.

14 A So I don't have any special insight into the bomb investigation. But

15 working -- working in International Terrorism --

16 Q Uh-huh.

17 A -- when there's a terrorism case, I know how involved headquarters is.

18 Q Uh-huh.

19 A Okay? They -- Domestic Terrorism Operations section I think would have

20 been deeply involved --

21 Q Uh-huh.

22 A -- not so much running the case, because I think that, you know, field offices

23 run the cases. But with regard to just any general terrorism case --

24 Q Uh-huh.

25 A -- I mean, I've been there when the Pensacola bombing happened.

1 Q Uh-huh.

2 A Right? When -- I think that was the first bombing since 9/11 on U.S. soil. I

3 was there in -- at headquarters and I saw how involved it was.

4 So I would say that headquarters had a supportive role and they were engaged.

5 Q Uh-huh.

6 A But WFO was running that case I believe from what I saw. But, again, they

7 were on a separate floor, and the information was siloed.

8 Q Uh-huh.

9 A I don't know anything about that case except what was briefed in the

10 situation reports.

11 Q And when you were at the command post from January 6th until the

12 inauguration, did you receive briefings on the pipe bomb investigation?

13 A There would be high-level sort of snippets that were given on that

14 situational reports.

15 Q Uh-huh.

16 A But I didn't receive in-depth reporting. I don't know how many leads

17 specifically that they had. I don't recall. I think those were in the sheets, but I really

18 wasn't paying attention to that much at all.

19 Q Uh-huh.

20 A I was in a support role, looking at things other than --

21 Q Uh-huh.

22 A -- that case. I was sort of siloed.

23 Q Okay. And as your tenure went on at the Washington Field Office from

24 after the inauguration until your retirement in August of 2022, did you have any other

25 awareness of how the pipe bomb investigation was progressing?

1 A No, ma'am.

2 Q Okay. I want to turn to another subject. I'll enter as exhibit number 2 a

3 July 25th, 2022, letter from Senator Grassley to Attorney General Garland and FBI

4 Director Christopher Wray.

5 A Sure.

6 [Thibault Exhibit No. 2

7 Was marked for identification.]

8 BY [redacted]

9 Q Thank you.

10 A Thank you.

11 Q And I'll give you a moment to review the letter.

12 A Okay. Yes, ma'am.

13 Q Have you had sufficient time to review?

14 A Yes, ma'am. Thank you.

15 Q Were you aware of this letter prior to today?

16 A Yes, ma'am.

17 Q And kind of the, you know, gist of this letter is regarding information that

18 Senator Grassley received from whistleblowers regarding some Hunter Biden

19 information.

20 During your tenure at the FBI, were you involved in any matters or investigations

21 related to Hunter Biden?

22 A I was involved in a supporting role. First of all, let me say --

23 Q Uh-huh.

24 A -- I did not manage the Hunter Biden case.

25 Q Uh-huh.

1 A I had no role at all in the Hunter Biden laptop.

2 Q Uh-huh.

3 A I didn't even have access to the Hunter Biden case, meaning I never looked

4 at it in the FBI's system.

5 Q Uh-huh.

6 A My first knowledge of the -- of really anything about the case in a working

7 matter was shortly after I got to the Washington Field Office.

8 Q Uh-huh.

9 A So I got there in August 30th, 2020, and sometime -- sometime in

10 September -- and this is a recollection. The FBI did not allow me to go back and

11 review --

12 Q Uh-huh.

13 A -- a source file.

14 Q Okay.

15 A Okay? I have a recollection of a 1023 --

16 Q Uh-huh.

17 A -- which is a source report, raw source report, and of reviewing it and/or

18 approving it.

19 Q Uh-huh.

20 A I wanted to make sure that I -- what I told you today was absolutely as

21 accurate as could be.

22 Q Absolutely.

23 A The reason why I say I approved it, sometimes it's -- it involved a sensitive

24 source, I believe. Somehow I saw that source report.

25 Q Uh-huh.

1 A And I believe I approved it.

2 Q Okay.

3 A At the very least I reviewed it, I believe.

4 To me, when I first saw it, it didn't stick out.

5 Q Uh-huh.

6 A And then fast-forward to sometime in October, I received an unsolicited

7 call --

8 Q Uh-huh.

9 A -- from the supervisor of the Hunter Biden case. I knew him because he

10 had been assigned to Washington Field Office as the case agent.

11 Q Uh-huh.

12 A My squad was right down the hallway from him. And he was also a medic

13 on SWAT team.

14 Q Okay. Uh-huh.

15 A And so I got to know him really well. He's a smart guy. So when he calls

16 me, I'm going to listen to him. Right?

17 He calls me and says: Hey, I have concerns about a CHS that has been opened by

18 the Washington Field Office and sent us a 1023.

19 Q Uh-huh.

20 A And I said: Okay. What are your concerns?

21 And basically said: Look, the information isn't of any value to us, number one.

22 My -- I deduced from everything he said that they already had the information --

23 Q Uh-huh.

24 A -- from some other source, some other channel, maybe not a human source

25 but some other channel. He also said that that person was politically connected --

1 Q Uh-huh.

2 A -- and partisan in his view and he was concerned about the source being on

3 media platforms. I -- at the time I, you know, was fairly new.

4 Q Uh-huh.

5 A And we a lot of sources and a lot of cases. So I was so learning. And so I

6 confirmed with him. Who is this?

7 Q Uh-huh.

8 A And he told me. And I said: Okay. I get it.

9 Mr. Jordan. Wait. Who's this? Who's the source or who's the --

10 Mr. Thibault. The source.

11 Mr. Jordan. Okay.

12 Mr. Thibault. The source.

13 And so at that point it was clear to me that -- and we talked a little bit about, wow,

14 there could be a problem. He felt there could be a problem because when you have a

15 source --

16 BY [redacted]

17 Q Uh-huh.

18 A -- as he characterized it, it could harm a case. It could cause problems

19 when you get to prosecution --

20 Q Uh-huh.

21 A -- and to open doors for defense attorneys.

22 Q Uh-huh.

23 A The last thing I wanted WFO to do was hurt any other office's case.

24 And a little bit of background. Any field office should not be taking, especially in

25 a sensitive case like that, should not be taking any actions that are not explicitly directed

1 by that case team.

2 Q Uh-huh.

3 A Why? One, they have a case file. They've been investigating this for 2

4 years, 2 years.

5 Two, we're not in their strategy meetings with their AUSA's. And so being an FBI

6 agent for 26 years and working complex matters and running sources like myself, it's so

7 important to vet your sources.

8 Q Uh-huh.

9 A So I was getting a call from this supervisor. And my -- my takeaway was we

10 don't need your source reporting and also: Why are you sending a file to our -- to our

11 case file that we didn't know about? Right? So Washington Field Office wrote this

12 1023 and it went to headquarters and it went to Baltimore. And so when I get this call,

13 I'm a little defensive --

14 Q Uh-huh.

15 A -- because I'm there to defend my agents.

16 Q Uh-huh.

17 A And I was like, okay. Let me get to the bottom of it.

18 Q Uh-huh.

19 A I understand you don't need the reporting anymore. I understand that if

20 this goes to trial, Hunter Biden's attorney --

21 Q Uh-huh?

22 A -- could have some ammunition.

23 Q Uh-huh.

24 A And it shocked me a bit because I'm, like, the purpose of us -- a confidential

25 informant is to support a case. It's to get information from some place that you might

1 not be able to otherwise get information from.

2 There's always a value risk assessment here. It's like a -- it's a value proposition.

3 So Washington Field Office in this example is the originator. Baltimore Field Office is the

4 consumer.

5 Q And is that the individual who called you, that was person to from the

6 Baltimore Field Office?

7 A Yes, ma'am. He was the supervisor of the Hunter Biden case.

8 Q Okay.

9 A Right. And so --

10 Q What was his title?

11 A Supervisory Special Agent. He was in the Wilmington Field Office.

12 Q Okay.

13 A He's the guy that I knew.

14 Q Okay.

15 A So in this value proposition, what he's telling me is there's no value. So

16 why was a CHS opened in the first place? That's what's going through my mind.

17 And then I also, in the FBI, just so you know, you may have heard this before.

18 The FBI rates agents' performance on source. You know, part of it is how you

19 investigate, how you collaborate, how many sources you have, and how good they are.

20 And a lot of agents, it's heart -- there's heartburn with that because sometimes

21 you work on a Bank Fraud Squad. How many sources do you need? Not as much as on

22 a Drug Squad.

23 Q Uh-huh.

24 A Sometimes it's not easy to get sources. And so we have a source. Do I

25 have to -- what am I going to do now, you know? Do I keep the source open? Is there

1 any value at all whatsoever now? The supervisor of the Baltimore -- let me make this
2 clear. The supervisor of the Baltimore case, the Hunter Biden case, didn't say close the
3 source down.
4 Q Uh-huh.
5 A Because in that -- and he would have never done that because he didn't
6 have access to the source file.
7 Q Uh-huh.
8 A For all he could have known, the source could have been reporting on
9 something unrelated to his case. He was just like, hey, you're feeding me stuff I don't
10 need.
11 Q And so the source reporting came into the Washington Field Office at 10:23,
12 was recreated, that you approved. Is that correct?

1 [10:59 a.m.]

2 Mr. Thibault. I think I approved it.

3 BY [redacted]

4 Q Okay.

5 A I have a recollection, but I wasn't able to review -- I asked if I could review

6 the file. I wasn't allowed to.

7 Q Uh-huh.

8 A I approved it or I reviewed it. There's a possibility I didn't approve it, but I

9 wasn't there when the source was opened.

10 Q Uh-huh.

11 A And so my recollection is because -- and the reason I'm thinking this is

12 because when I got the call from the Baltimore supervisor, I kind of -- in the back of my

13 mind, I had some recollection of what he was talking about. But I wanted to confirm it,

14 so I asked him the name.

15 Q Uh-huh.

16 A Right?

17 Q Uh-huh.

18 A So I want to be real careful. Because if you get the source report, it could

19 say that I didn't approve it, but I think I at least looked at it.

20 Q Did you have any other conversations with the Baltimore Field Office or the

21 Wilmington resident agency regarding the Hunter Biden investigation?

22 A Around that time or --

23 Q Throughout your whole tenure.

24 A I had a few.

25 Q A few?

1 A I had a few.

2 Q And who was your point of contact at the Baltimore Field Office? Was is

3 this SSA?

4 A It was that SSA --

5 Q Uh-huh.

6 A -- for a few of the conversations.

7 Q Uh-huh.

8 A And then with respect to, well, a matter I think you will get into --

9 Q Uh-huh.

10 A -- Tony Bobulinski, it was Alfred Watson.

11 Q Okay.

12 A And then later on, almost towards the time I was going to leave, it was

13 another ASAC, and her name escapes me. I think it was Holley.

14 Q Ryeshia Holley?

15 A Yes.

16 Q And Alfred Watson, was he the ASAC before Ms. Holley?

17 A Yes, ma'am.

18 Q And so you had a conversation with the SSA regarding this FD-1023. Is that

19 correct?

20 A Right.

21 Q What were your other discussions -- involved Mr. Bobulinski. Is that

22 correct?

23 A Well, yes, yes, ma'am.

24 And if I might. So I left that conversation thinking, okay, I've got a pause

25 reporting to the Baltimore case file.

1 Q Uh-huh.

2 A That was obvious to me. So I would have had a conversation with the SSA

3 on CR-15 who supervised the two agents who had -- were running that source.

4 Q Okay.

5 A Okay. So my thought process was, okay, there's a breakdown.

6 Q Uh-huh.

7 A And trying to figure out, you know, with positive intent, you know, like, why

8 was that source opened in the first place and what am I missing? Where did the

9 communication break down? Because I didn't want to have that happen again. I was

10 going to treat it as a lessons learned.

11 Q Uh-huh.

12 A But then a short -- and when I say "short," it was probably within a week, a

13 week and a half --

14 Q Uh-huh.

15 A -- I get another unsolicited call from the Public Corruption Unit chief. The

16 Public Corruption Unit chief --

17 Q This is at FBI headquarters?

18 A Yes, ma'am. And the Public Corruption Unit chief is very well respected,

19 and his job is to have an idea -- he has a number of supervisors that work for him that

20 cover the entire FBI, all the regions. So they have a different perspective than I might

21 have.

22 Q Uh-huh.

23 A He calls me, and he says, Hey, personnel at the FBI are advocating that this

24 source be closed. And I thought what source? It's the same one. And I said, I know

25 about Baltimore. And he goes, It's not about -- specifically he wasn't calling me about

1 Baltimore.

2 Q Uh-huh.

3 A He told me that -- and I said, Well, look, before I close any source, can you
4 give me the facts? Why? And he tells me it's a classified conversation. And So I said,
5 okay, got it. And I said, Hey, can I get the information that you have? He said, Sure, I
6 can arrange for a classified meeting.

7 And I said the second thing I want is I want my supervisor, the SSA of CR-15 in the
8 meeting, and I want my two handling agents, the two supervisory -- the two agents that
9 are working this source in the meeting. Why? I was a new ASAC of WFO. I wanted
10 transparency.

11 Q Uh-huh.

12 A I wanted the -- and I was like, okay, this will help me explain, because no
13 case agent -- I was a case agent for 22 years.

14 Q Uh-huh.

15 A No case agent likes to be told --

16 Chairman Jordan. How long did the source -- how long was the -- how long was
17 this conference from the source -- how long had you worked with him, had the agents
18 worked with him?

19 Mr. Thibault. So I wish I could begin to answer your question. I wanted to
20 review a file to see that. I don't think it was very long, but I -- I don't recall that in the
21 file, sir.

22 Chairman Jordan. So you had a source who came to the agents -- to some of the
23 agents who worked for you, who gave you this information. You reviewed that
24 information, and you think you approved that information. And then within a week and
25 a half you have two people from other locations -- one is the Wilmington guy running the

1 Hunter Biden case -- call you up and say, This source is no good. And then you get a call
2 from headquarters telling you this source is no good.
3 Mr. Thibault. The Baltimore office didn't tell me the source was no good.
4 Chairman Jordan. The information was no good?
5 Mr. Thibault. The Balt -- no, he didn't.
6 Chairman Jordan. What did he say?
7 Mr. Thibault. He didn't. He just indicated that the information wasn't of value,
8 so I had no way to characterize that information. I didn't because I didn't have access.
9 Chairman Jordan. So it could have been accurate information?
10 Mr. Thibault. Pardon?
11 Chairman Jordan. It could have been accurate information? It just wasn't of
12 value to them because they already had it?
13 Mr. Thibault. I just didn't characterize it. Right? Because I didn't know. So I
14 don't even know that it was the actual -- like the 1023 --
15 Chairman Jordan. Uh-huh.
16 Mr. Thibault. -- I don't think conveyed the information that was going to be
17 passed. I think it described it.
18 Chairman Jordan. Okay.
19 Mr. Thibault. Okay. And so Joe Gordon was cryptic with me, not because he
20 didn't trust me, but I think in working these sensitive type of cases, you get really used to
21 not talking about your case with people and not giving information that you don't need.
22 And so I had to, like, drag information out of Joe in our conversation, like, Is this helpful?
23 Is this useful? Is this of value? And he's, like, It's not of value. We are good.
24 I got the impression and the conclusion that I drew from this is they don't need
25 the information. His -- based on not needing the information and also based on the

1 risks, how it could potentially hurt the Hunter Biden case, because when you take a case
2 to trial, the defense attorneys will scrutinize everything, how you got the information.
3 So that's where he was coming from. But, again, I -- you know, that was --
4 Chairman Jordan. So a week and a half later you get a call from headquarters?
5 Mr. Thibault. Headquarters.
6 Chairman Jordan. Tell us about that call.
7 Mr. Thibault. Sure. So in that call the first conversation was pretty much
8 nothing other than there's a problem with the source that we see. Now, I didn't just say
9 I'm going to close this based on this phone call. I -- I wanted to know more. I was
10 curious --
11 Chairman Jordan. Is that a normal course of business for headquarters to call a
12 field office and tell them, Hey, one of the sources that your agency is using is not up to
13 snuff? Is that normal?
14 Mr. Thibault. I had only been an ASAC at that point in time for a short period, so
15 I hadn't been there long enough to say it's not -- it's normal or it's not. What is not --
16 Chairman Jordan. Had that happened before?
17 Mr. Thibault. What is not --
18 Chairman Jordan. Had that happened before?
19 Mr. Thibault. Not in my -- as a case agent, I can't remember it happening.
20 Now, people have said, hey, we need to close a source at the field office level because the
21 source may have gotten into trouble. The source may have provided inaccurate
22 information or something at the field office level when I was a case agent. But I was
23 new in my position.
24 What was surprising to me was when Joe Gordon called me and said we didn't
25 need the information because -- and I'll tell you why -- when you go and -- when you sign

1 up a source, you've got to vet them.

2 And you've got this Hunter Biden case that's been going on for 2 years. For any
3 agent that's going to recruit a source on a Hunter Biden case, there's got to be a phone
4 call and discussion with the Baltimore Field Office to say, Okay, we potentially have a
5 source. The source has this information. So they're talking case agent to case agent --

6 Chairman Jordan. Uh-huh.

7 Mr. Thibault. -- do we -- is this valuable to you or not? Those discussions
8 should be happening at the case agent level. The ASAC wouldn't have any insight into
9 that.

10 Chairman Jordan. Right.

11 Mr. Thibault. I just don't. Then, in a big case again like this, as a case agent I
12 was involved in some pretty significant cases. One case I was involved in where we
13 were looking at running a source out of New Orleans to support my case, we actually
14 traveled down, traveled down to New Orleans to meet the guy that was handling the
15 source. Not only I traveled down, my supervisor traveled down, and Noel Hillman who
16 ran the Public Integrity Unit traveled down to make sure that before the source was
17 signed up by us that we knew everything we could get.

18 My sense is that that may not have happened, but I can't say for sure because I
19 wasn't involved in the recruiting of this source. So what surprised me was why is
20 Baltimore even calling me with this? There should have been conversations between
21 those case agents and Baltimore in the Hunter Biden case and the CR-15 agents that were
22 handling this source. That -- so that's something that I identified. Okay.

23 Now, the call I had from headquarters, sir --

24 Chairman Jordan. Do you know what -- but there may have been that. That
25 may have happened. Right?

1 Mr. Thibault. I wasn't there. It could have. But given my fact pattern, the
2 fact that the supervisor from the Hunter Biden case -- again, 2 years of working a case like
3 Hunter Biden and I don't know who the case agents were on that case. I was not
4 involved in the supervision. But I know -- I've worked big cases before. That's the
5 only -- when I was working the case against William Jefferson out of New Orleans, that's
6 really the only case I was working. That was my life --
7 Ms. Lytle. As a case agent?
8 Mr. Thibault. As a case agent. That's the only case I had. So if that's the case
9 with the Hunter Biden case agent, that's their life. So are you telling me that a
10 Washington Field Office agent -- it could happen, but you're telling me that they came up
11 with a source for singular information unknown to Baltimore? It's possible, but there
12 should have been that communication before.
13 And, again, I was -- I was new at WFO. I didn't know what conversations were
14 there. But based on my -- just my conversation with the supervisor of the Hunter Biden
15 case, he's, like, Hey, Tim, this is problematic. And he came to me. I was happy to look
16 over that -- I didn't close the source on my own. And if I had continued, you know, I
17 think that whoever made the allegation that I closed the source --
18 Chairman Jordan. I think we're done with our first hour. But did you view the
19 call from headquarters then as a follow-up to the call you received from the Baltimore
20 Field Office?
21 Mr. Thibault. No, sir. It was -- and to my surprise it was totally different.
22 Chairman Jordan. But it was about the same individual?
23 Mr. Thibault. It was the same -- it was about the same source. And I was, like,
24 Are you kidding me? I mean -- and so I received that call, and I wanted -- I was a case
25 agent for 22 years. One of the handling agents was a close friend of mine. I brought

her -- I was her first supervisor on CR-15. I wanted them to have an opportunity to defend their source. I wanted them to come to that meeting.

And the second call I got from the Public Corruption Unit chief I learned a little bit more. He said, Okay, the meeting is going to occur at the FITF, in a SCIF. So I understood, okay, a little bit about what that meant. And he said also, You can come and the supervisor can come, but the two handling agents can't. I protested a bit. I was, like, Why not? That doesn't make sense to me. But it was nonnegotiable. I tried to get them there. I didn't understand it at that point. I would learn later why.

[redacted] Uh-huh.

Mr. Thibault. But I went to the meeting, and it was classified.

[redacted] And we'll discuss this meeting during our next hour.

Mr. Thibault. Okay.

[redacted] We'll go off the record.

[Recess.]

[redacted] We can go back on the record.

EXAMINATION

BY [redacted]

Q Good morning, Mr. Thibault.

A Good morning.

Q Thanks again for agreeing to talk with us voluntarily here today.

I want to start right back up with the subject you were having with the counsel's first hour.

You were starting to describe your involvement with an FD-1023. Right?

A Yes, ma'am.

Q And you had said that you may have -- but you don't know for sure. You

1 may have reviewed and approved that source at one point when you were ASAC at WFO.
2 Is that right?
3 A Not the source but the actual 1023.
4 Q Okay. Can you explain what that means, first of all? What's the
5 difference between approving the 1023 and approving the source or opening the source?
6 A Sure.
7 Q Just the terms, please.
8 A So FBI agents will be the ones to recruit a source.
9 Q Yep.
10 A And they're responsible for conducting all the administrative background in
11 the recruiting process. They have to do checks on their criminal history. They have to
12 make sure that they're not sources for some other field office or some other agency so
13 there's not a conflict of interest. They've got to make sure they don't fall into a special
14 category such as an attorney or a priest or some other sensitive position. But the most
15 important thing that they have to do is vet the source.
16 Q And what do you mean by "vet the source"?
17 A They have to understand what the information is that's being provided.
18 They have to understand if there's any motivations. You know, what are the source's
19 motivations? They have to understand -- and sometimes you do tests to see if the
20 source is actually good.
21 For instance, I'll come back to the source in the William Jefferson case. She had
22 alleged serious criminal activity on the part of a Democratic Congressman. And she had
23 alleged that there were certain meetings that took place.
24 So prior to opening her as a source, I asked if she could confirm those meetings.
25 She said that they occurred in New Orleans. Okay. Do you have plane tickets? Do

1 you have emails? That sort of vetting to kind of understand if the information is
2 accurate.
3 So the case line agents will do all the vetting, and then when they're done with
4 that, they have to fill out a form to open the source. And that form consists of, you
5 know, the background checks that they've done, telling management who needs to help
6 them open the source what the motivations of the source are.
7 And so once that occurs, then it will go to a supervisor, and the supervisor will
8 look over the source opening documentation and make sure everything is there. And
9 then that source can be approved for opening before the source has reported any
10 information officially.
11 When the -- after the source is opened, any information that source provides
12 should be documented in a 1023. All contacts with that source, whether there's
13 information or not provided, should be documented. It could be just a contact form, no
14 information provided.
15 Anytime that source does something that the FBI should know about, such as if
16 they get into trouble, for instance -- not this source, not any particular source, but any
17 source, if they have a contact with law enforcement, it should be provided to the FBI so
18 that we understand that. If they get into the news -- in news, right, media reports, that
19 should be fronted to the FBI.
20 And then they're also told about -- during this phase they're also told about, you
21 know, confidentiality requirements, how payments work because some sources are paid.
22 Some aren't. And so there's an agreement that takes place between the FBI and the
23 source.
24 Q Okay. So fair to say that in your career as a line agent, you have had the
25 experience of handling sources like, for instance, in your Jefferson investigation. Is that

1 right?

2 A Yes, ma'am.

3 Q And also as the ASAC in WFO, you had at least this occasion that you're

4 describing to deal with other line agents who are handling human sources. Is that fair to

5 say?

6 A And as a supervisor, as line supervisor as well, yes, ma'am.

7 Q Right, in between those two positions.

8 Okay. So let's get to this source in particular that you were talking about in the

9 first hour. This is the person that you refer to in your written statement, which is

10 marked as exhibit 1, as CHS 1. Is that correct?

11 A Yes, ma'am.

12 Q Okay. And CHS stands for confidential human source?

13 A Yes, ma'am.

14 Q Okay. And I think that you've helpfully described here the difference

15 between opening a confidential human source at the FBI and then later documenting

16 what information that the CHS provides in the course of that relationship. Is that --

17 A Yes, ma'am.

18 Q -- what you're trying to explain; that there's a difference between the

19 opening of the source and then later receiving information from that source?

20 A Yes, ma'am.

21 Q And the 1023 is a document that the FBI uses to memorialize the

22 interactions between the line agent and the CHS after it has been open. Is that right?

23 A Yes, ma'am.

24 Q Okay. And I think that you said earlier that this CHS 1 that you refer to in

25 your statement is some person that had been opened as a source prior to your

1 involvement as the ASAC at WFO. Is that right?

2 A Yes, ma'am.

3 Q So you did not participate in any way in the approval or review of the

4 opening of that source. Is that right?

5 A That's right.

6 Q Okay. The first time, as far as you know, that you became aware that this

7 CHS 1 was being used by -- or handled by an agent at WFO was when you saw this 1023

8 that was memorializing some of the information that this person had given. Is that

9 right?

10 A The first time I became aware was just when I was going around talking to

11 agents and supervisors, and the supervisor of CR-15 said, Hey, there's a source being run

12 by this case agent, but didn't go into details, so I didn't know who it was at that time.

13 Then the next thing was the 1023 that I reviewed and/or approved.

14 Q Okay. So when that supervisory special agent came to you, was he or she

15 raising concerns about the use of that source at that time or just sort of mentioning it to

16 you?

17 A Just mentioning it to me.

18 Q Okay. Do you know when that was roughly in time?

19 A It would have been sometime in September.

20 Q Of which year?

21 A Of 2020.

22 Q Okay. And then you said sometime later is when you actually had occasion

23 to come across this 1023 that you were talking about. Is that right?

24 A Yes, ma'am.

25 Q And approximately when was that?

1 A My best guess is sometime early October.
2 Q 2020 again?
3 A Yes, ma'am.
4 Q Okay. And you indicated that you did not have a chance to review that file
5 so it's maybe not fresh in your mind at this point. Is that right?
6 A That's correct.
7 Q But based on your recollection when you drafted this statement and as
8 you're testifying here today, do you know why it is that you were looking at the 1023?
9 Like, how did it come to your attention?
10 A My best recollection is it would have maybe because it was a sensitive
11 source. And so if it's a sensitive source, sometimes 1023s are routed to the ASAC. So
12 after they're written by the line agent, it goes to the supervisor, and then the ASAC --
13 Q Okay.
14 A -- who I believe, has to review it.
15 Q Okay. So when you saw this 1023 for the first time, tell us what you can
16 about what you were looking at. What was in the document?
17 A My only recollection is it wasn't anything that I -- that's okay. It wasn't
18 anything that I really understood because -- and that's not unusual because sometimes a
19 1023 will contain raw intel or my assumption is that it's going to be valuable because the
20 agents below me are doing their job. And so this is my -- I also believe that there's a
21 reason that the case would need this information, so I just approved it.
22 Q So you're trusting the agent who is handling the source to be doing things
23 properly at this point. Right?
24 A The agent and the supervisor.
25 Q Okay. But you didn't actually review any of their work before that point.

1 Right?

2 A I was brand new there, so I didn't -- I didn't have occasion to review in depth

3 that source, the source file at that point.

4 Q Okay. And at that point when you're looking at the 1023, you don't

5 actually know who the source is. Correct?

6 A I don't have a recollection that I knew who the source was at that point. At

7 some -- that's what's fuzzy to me is did I look at -- did I look in the system and identify the

8 source? Because it's not on the 1023. It would have required me to go into the source

9 file, and I can't recall if I did or not. It might have been that I didn't have access. It was

10 so early in my tenure, I wasn't given access to that source file. I just can't remember.

11 Q Okay. But the document itself does not identify that person in terms of

12 who they are? It's actually masked on purpose. Is that right?

13 A Correct.

14 Q Okay. The case agents who were handling CHS 1, was it one or more case

15 agent who was handling that source?

16 A I believe it was two. There will normally be a primary handling agent and a

17 secondary handling agent.

18 Q And how are those case agents identified in your statement, exhibit 1 here?

19 A Special Agent No. 1 I believe would have been the secondary handling agent,

20 and Special Agent No. 2 would have been the primary handling agent. And, again, I

21 didn't review the source file, so that's my -- the best of my recollection.

22 Q Did you personally know Special Agent No. 1?

23 A I didn't know him well.

24 Q What was your experience with him at that point?

25 A So I left -- if you recall, I left CR-15 in December of 2020. I do not believe he

1 was on CR-15 squad when I left. When I came back in -- on August 30th, he was on
2 CR-15. So that would have -- I remember my first -- what I believe is my first occasion to
3 meet him. Him and another agent came into my office to discuss another case. I think
4 that's the first time I met him. It wouldn't have -- there may have been an occasion
5 prior to when I left WFO when he came into my office looking to maybe move to the
6 squad, but that's foggy. I just don't remember. But I didn't know him. I didn't know
7 his work.
8 Q Okay.
9 A I had no history with him.
10 BY [redacted]
11 Q And I'm sorry. You said that he wanted to be moved onto the squad?
12 A Well, that's my impression is he would have -- I don't have firsthand
13 knowledge of that. Usually the people that want to get on the CR-15 that are already in
14 the FBI come in and talk to the supervisor.
15 Q Okay.
16 A I don't have a recollection that I approved his move on the CR-15. I think it
17 occurred after I left.
18 Q Okay.
19 A But I didn't know him. I didn't know his work. And so in early September
20 of 2020, I just really didn't know who he was.
21 BY [redacted]
22 Q And I don't -- I'm just going to ask you to jump ahead in time just a little bit,
23 but that Special Agent No. 1 who at the time you didn't know well, do you know whether
24 he is a current or a former FBI agent as we sit here today?
25 A My -- my belief is he retired a week -- 2 weeks after me. And the only

1 reason I know that is because when I scheduled my debrief with the FBI, his name was on
2 the calendar.
3 Q Okay. And since he's no longer an FBI agent, would you be willing to state
4 his name?
5 A Tom Olohan.
6 Q Okay. And Mr. Olohan, to your knowledge -- do you know that he works
7 for the Heritage Foundation now?
8 A I don't have direct knowledge of that. I've seen -- I've seen -- I've heard
9 that he might.
10 Q Okay. And do you understand what the Heritage Foundation is?
11 A I'm not very familiar with it. I think it's a think tank. I've seen the
12 website.
13 Q Does it have any political or partisan affiliation, to your knowledge?
14 A I think it might be conservative leaning.
15 Q Okay. And in your experience with Mr. Olohan while he was at the FBI, did
16 you ever have any concerns or have any concerns brought to you about Mr. Olohan's
17 political partisanship?
18 A Yes.
19 Q And can you describe those?
20 A Sure. Like I said, I did not know him in September 2020. I wanted both of
21 the agents to go to the FITF meeting. Most of the FITF meeting was classified. There
22 was a small portion at the very end --
23 Ms. Lytle. She asked you if he had partisan leanings. I thought that was the
24 question you asked.
25 BY [redacted]

1 Q I did, yeah. I was just --

2 A Yeah. So I don't know a lot about it. In talking with the supervisor for

3 CR-15, a couple of comments that he made led me to believe there might be an issue

4 there with -- but at that time it wasn't reflected in anything that I saw.

5 Q Okay.

6 A I'm very hesitant to make an overall characterization of anybody without a

7 lot of evidence. And so I don't have like direct knowledge of it.

8 Q Okay. I'm just going to ask you some very direct questions so we don't go

9 off too much.

10 A Sure.

11 Q But are you -- or were you aware that while Agent Olohan was working as an

12 agent on CR-15 he had a daughter that was in media who was writing about subjects that

13 related to Mr. Olohan's investigations on CR-15?

14 A Yes.

15 Q How did you become aware of that allegation?

16 A So after the FITF meeting was closing down and the classified portion was

17 done, we were ready to leave. And someone in that meeting told me and the supervisor

18 of CR-15 that they had come across some potential articles that were written by Mr.

19 Olohan's children. One of them was in a -- something called The Daily Wire. I think it

20 was The Daily Wire. The other one was an academic piece. And I turned to the

21 supervisor from CR-15, and I said, Are you aware of this? And he said, No, I wasn't

22 aware of this.

23 And then the supervisor said, But I should have been told this, because there was

24 a conversation between him and Mr. Olohan predating the time I was there that he said

25 this information should have come out.

1 Q Okay. So -- sorry. Did you want to --

2 Okay. Can you just explain what you just described that relationship in writing

3 about these investigations that her father was working on CR-15, why would that be

4 problematic for the FBI?

5 A If it were to go to trial, it could have an appearance issue.

6 Q Of impartiality or bias?

7 A It could be raised by the defense, yes.

8 Q And that could hurt your case?

9 A It could hurt the case. It could also hurt the case agent and his daughter.

10 Q Okay. Let's --

11 BY [redacted]

12 Q Just a couple of quick follow-up questions.

13 You said that the supervisor said he should have been told about that information

14 sooner?

15 A Yes.

16 Q By Mr. Olohan?

17 A Yes.

18 Q Can you explain why he believed he should have been told? What were

19 the circumstances around that?

20 A We didn't have an in depth discussion at all at that time about this. I later

21 asked some questions regarding just the general climate on the squad, and he had told

22 me that there were some discussions of partisan discourse that took place in the squad

23 that some of the older agents had raised. And I was led to believe that he might have

24 been one of them that participated in it.

25 And I asked, Well, what happened? He said, We just had a meeting and told

1 people to cut it out. I said, Okay, let's make sure you continue to make sure that that
2 happens. And that was the end of it. I didn't do an investigation into any of that.
3 I later had a meeting with Mr. Olohan and his supervisor to just ask him if it was
4 true. And I said, Hey, did your daughter write an article about a subject in your case?
5 And he said, Yes. And I asked him if he provided any FBI operational information to his
6 daughter. He said, No. And so I just indicated that, Look, I talked to the legal people
7 with WFO to see what their response would be, you know, and I talked to my boss about
8 what we should do. And I think the decision, the collaborative decision was just to
9 remove him off that one case, not remove him off the squad, just remove him off that
10 one case because of the appearance issue, and we're all good.
11 And my -- then he -- at that meeting he indicated that he might want to leave the
12 squad. And I told him, Hey, I don't want you to leave the squad. I'm not asking you to
13 leave the squad. But he was not happy with me at that point, and he indicated there
14 might be another squad he wants to work on.
15 And so within a couple of days he e-mailed me and said, Hey, I would like to go to
16 an organized crime squad. And I said, Okay, if you're sure, I'll help you get there if you
17 want to go. It's voluntary on your part. I did not take any management action to move
18 him off the squad. I want to make that clear.
19 I went to the ASAC in charge of that organized crime squad, and he goes, Hey, Tim,
20 I'd like to help you out, but they don't have people -- we don't have any FSL there for him.
21 And so I said, Look --
22 Q And I'm sorry. What is FSL?
23 A FSL is like the manpower level, so they were full.
24 Q Okay. They didn't have an open spot?
25 A They didn't have an open spot. So I said, Hey, I have an open FSL that I

1 have. I'll loan you it to see if he likes the squad. And so he was able to move to the
2 squad he wanted to move to.
3 Q Okay.
4 A So there was no action taken against him other than taking him off of that
5 one case.
6 [redacted] Sorry. I didn't mean to get you off track.
7 [redacted] No. That's okay.
8 BY [redacted]
9 Q I'm going to go back to the source itself that we were talking about, your CHS
10 1.
11 A Sure.
12 Q So CHS 1 was being handled by Agent Olohan and another agent that you
13 identify in your statement as Special Agent 2. Is that right?
14 A Yes.
15 Q Okay. And Special Agent 2, do you know Special Agent 2?
16 A I know her very well.
17 Q Okay. And how do you know her? What's your experience with her?
18 A So she was a law enforcement officer before she came into the bureau.
19 She came onto my squad when I was supervisor of CR-15. I tried my best to develop all
20 of my newer agents, especially when they're being sent to CR-15. It's a hard squad to
21 work because some of the cases can be hard. It's not like you get a case and there's a
22 violation of a crime, you know. So you might work a case for a couple of years, and
23 you're spinning your wheels.
24 So I took a lot of effort with her and all the agents that were newer on the squad,
25 and I became -- not only was I her supervisor, but we became friends. I went to her

1 wedding. The person that I'm in a relationship with lives in St. Pete. Her -- this agent's
2 mother was ill, and the person I'm in a relationship with from one time or another helped
3 her mom, went to her mom's funeral in May of 2022. So I would consider her a friend.
4 We didn't socialize outside the office in events that were sort of extra FBI events, except
5 the point I went to her wedding.
6 Q Okay. Now, at the time in October of 2020, around the time of this
7 FD-1023 and this source that we've been talking about, did you know Special Agent 2 well
8 at that time?
9 A Yes.
10 Q Okay.
11 A I hadn't really -- I had been away for over a year and a half, and I really
12 hadn't seen her in all that time, but we still had that fond relationship of each other, I
13 think.
14 Q Okay. Let's talk about what you learned about CHS 1.
15 So you indicated in the first hour that at some point you got information from two
16 completely different sources within the FBI that there might be concerns with this source.
17 Is that right?
18 A Yes, ma'am.
19 Q All right. And I think that you indicated the first information you got in that
20 regard came from the Baltimore Field Office agent. Is that right?
21 A Yes, the supervisor.
22 Q And about what time was that in terms of month and year?
23 A The best of my recollection it was sometime in early October.
24 Q Okay. So soon after you first discovered the 1023 and reviewed it. Is that
25 right?

1 A It would have been, I think, a week or two after it. I had some -- something
2 in my mind that I referenced when he called me.
3 Q Okay. And you, I think fairly clearly, indicated that that agent approached
4 you because his concern was this WFO-handled source information could potentially
5 cause problems in his case, which was the Hunter Biden investigation. Is that right?
6 A It could potentially hurt their prosecution, yes.
7 Q And you indicated one of the ways that he thought it might hurt their
8 prosecution was it appeared to him that this source was not properly vetted. Is that
9 right?
10 A He didn't say those words specifically, but he had questions about the
11 motivations.
12 Q Okay. What were those concerns that he expressed to you?
13 A Just that, you know, Hey, this is who the source is. This is what he -- and he
14 provided a little bit of information about who the source was and there could be a
15 motivational issue there.
16 Q Okay. Let's stop right there.
17 A Sure.
18 Q I'm sorry to interrupt you.
19 So he provided a little information about who he was. Did he identify that
20 source to you at that point?
21 A Yes, because I wanted to make sure we were talking about the same person.
22 So I asked him. I said, Okay, got you. I got it.
23 Q Okay. When he identified the source to you, was the source a person that
24 was known to you?
25 A Yes, ma'am.

1 Q Was he a person that was a public figure?

2 A I think I -- you could say that.

3 Q Okay. Was he a person that made --

4 A I want to be very --

5 Ms. Lytle. He doesn't want to identify sources.

6 [redacted] I understand. I'm just trying to get why it was a problem.

7 Mr. Lytle. So as he rules things out, it becomes problematic for him to do that.

8 BY [redacted]

9 Q Okay. I'll be careful with the questions, and obviously I'll defer to your

10 attorney's advice here.

11 But I'm trying to understand why was it a problem, this particular source. Right?

12 So he's a person that's known to people because he makes media appearances. Is that

13 fair to say?

14 A I think --

15 Ms. Lytle. I don't think you can answer it.

16 Mr. Thibault. My response is -- what?

17 Ms. Lytle. I don't think -- he doesn't want to identify the source. He's wed to

18 that policy, and so these questions that narrow it down would do that.

19 BY [redacted]

20 Q Can I just ask you, based on the statement that you provided, on page 3 of

21 your statement, the last paragraph on that page, it says: The SSA told me that using CHS

22 1 likely posed an unnecessary risk to the case's operational security and prosecutorial

23 integrity --

24 A Yes.

25 Q -- because CHS 1 had numerous political ties and made frequent media

appearances on political issues.

So you stand by that statement?

Ms. Lytle. Yes, that's about as far as we're going to go.

Mr. Thibault. Right. And just as background with any source -- and you've got to remember at this point I didn't know what the Hunter Biden case was focused on. I didn't know anything about the case. When a case is tight hold -- close hold just within the FBI and not even outside of the case team, they're really careful about even having a source that you could ask questions of because, by the very nature of you asking questions, someone might be able to glean what the case is looking at, which it hadn't been public I think at that point?

BY [redacted]

Q Sorry. When you say "ask questions of," what does that mean? Like a public -- like people in the outside world can ask questions of a prosecutor, a defense attorney might ask questions? What do you mean?

A So those FBI agents who don't -- who aren't involved in the Hunter Biden case on a daily basis, who aren't in strategy meetings could just by asking a question of the source give away information that the Hunter Biden team doesn't want anybody to know.

Q I see.

A Because sometimes, you know, there's an advantage to the FBI when the subject of a case doesn't know you're looking at them, you know. Very, very regularly you try not to -- you try to keep the case covert so the subject can't take actions which would hurt your ability to gain evidence. And so that's going through my head --

Q Uh-huh.

A -- when Joe's talking to me. And, again, I can't make -- based on what Joe's

1 telling me, I can't make a characterization of the information. I'm just -- I'm taking
2 orders from him at that point. You know, Hey, you fed us something and we've got
3 concerns about it.
4 BY [redacted]
5 Q Okay. And Mr. Gordon had told you that he already had the information
6 that was supposedly being relayed to him by the source. Right?
7 A In so many words he basically did. But, again, he was being very -- I was
8 having to pull information out of him. But I recall after getting off the phone call with
9 him, I was curious, so I did my own couple searches on like -- not on FBI systems, but I go,
10 oh, okay, here's two other channels the information could have come from. But he
11 never told me where that information came from on their case. He never told me how
12 he got it.
13 Q Okay. Now, the portion of your statement on page 3 that [redacted] just
14 read that described the source as somebody who had, quote, numerous political ties and,
15 quote, made frequent media appearances on political issues, end quote.
16 I want to ask you a little bit about frequent media appearances. What -- does
17 that mean television?
18 A I can't -- I don't want to get into it.
19 Q Okay. All right. Let me ask you this then. You just said that one of the
20 reasons that you might concerned about a source who made frequent media
21 appearances is because you think it's possible that the source could be actually providing
22 information about the investigation and, like, broadcasting it out since he's so visible? Is
23 that what you were saying could be one concern, let's say for Mr. Gordon and the case
24 agent?
25 A I can't -- I don't know that I know of any source I've ever worked or any

1 source that I've had supervision over that have been in the media. That's a -- that's like
2 a high-level issue. And I didn't hear that from anybody except Joe Gordon -- oh, I
3 couldn't say his name -- the supervisor of the Hunter Biden team.
4 Q You already said his name.
5 A Sorry. So I heard it from him. Again, it's not my case. I'm trying to
6 take -- I'm trying not to hurt their potential case.
7 Q I understand. I'm just trying to understand that concern in particular.
8 But is it correct to say that the concern that you're describing here with a source
9 that does make public media appearances, this one concern that is being articulated is
10 that that person might be spreading information about the case because they're so visible
11 and out there and making media appearances?
12 A Any source that's talking to the media, the concern would be that, yes, that
13 somehow something that was important to an FBI case could be shared --
14 Q Okay.
15 A -- publicly.
16 Q Thank you for that clarification.
17 And then you also described CHS 1 as somebody who had, quote, numerous
18 political ties, end quote.
19 Is there anything more you can tell us about that? Does this mean that this
20 person was running for office?
21 Ms. Lytle. Say you can't get into it.
22 Mr. Thibault. I can't get into it?
23 [redacted] Okay.
24 BY [redacted]
25 Q Can you explain why it would have been of concern that an individual might

1 have numerous political ties, not -- maybe not this specific individual.

2 A Sure.

3 Q But in general if a source has -- is known to have political ties, is that a

4 concern?

5 A So in the FBI's CHS handbook, I think it actually talks about a source that may

6 have partisan views. It doesn't say they can't be opened, because they can. The FBI

7 will take information from anybody. It's up to the FBI to vet that information. It just

8 means extra scrutiny should be provided, and that would be one of the reasons why I

9 believe that the ASAC would have to review reporting. And it just means a little extra

10 attention should be given, because the FBI doesn't want to be in a position to get into the

11 political -- you know, there's sensitivities with elections and politics that you want to be

12 careful about.

13 Q And is it fair to say that with political ties in particular one concern is that

14 that could also create a trial issue? In other words, that could also create a risk to the

15 case at trial?

16 Ms. Lytle. We're speaking generally?

17 [redacted] Yes, generally, definitely. Again, generally speaking.

18 Mr. Thibault. Generally there are lots of issues. One, if a source has a criminal

19 background, that could create an issue because prosecutors have to handle that issue.

20 If a person has a certain political leaning, it could be a concern for a prosecutor going to

21 trial, and you have to just take that into consideration in weighing the value of the

22 information and also being able to show why it's not a concern. Right?

23 [redacted] Right. Could it also create -- I'm sorry.

24 [redacted] No.

25 BY [redacted]

1 Q Could it also create a concern about the reliability of the information? In
2 other words, if an individual has a particular motivation for providing it for the FBI,
3 perhaps for political purposes, that could just -- you have to look at the information a
4 little differently in that light?
5 A It goes with vetting. It's the same with any information we get. It's a
6 factor that you look at, and you try to make sure -- and you -- the way you do that is you
7 talk to prosecutors. You talk to other case agents. You talk to your supervisor. You
8 talk to your ASAC and go, Here's what we are dealing with.
9 But it's so important to talk to your prosecutor when you sign up a source. And
10 when you sign up a source, you've actually got to get the concurrence of a prosecutor. I
11 can't remember if the prosecutor in the Hunter Biden case was ever consulted on this.
12 He should have been. If the case is going to be reported to the Baltimore case team,
13 you should consult with the AUSA. And, again, I was unable to -- they may have done it.
14 They may not have done it. I just don't know because I wasn't there when they opened
15 it, and I didn't see the file -- I saw the file, but I can't remember it.
16 BY [redacted]
17 Q All right. And just for completeness on this subject, as you described the
18 source CHS 1 in your statement here on page 4, second paragraph, you said -- the first
19 sentence of the second paragraph, it says: Quote, I came to understand that CHS 1 was
20 a middleman relying on another source, end quote.
21 Can you explain why that was a concern to you with respect to this source, the
22 fact that he was a middleman relying on some other person?
23 A Why this was --
24 Q A concern to you or why you note that in your statement?
25 A A concern? It's not so much a concern about the source.

1 Q Uh-huh.

2 A It just -- it just helped me to understand, okay, Baltimore must have gotten it

3 from somebody else that they viewed the information coming from that other

4 source -- not someone else, but some other source. Could be a person, could be

5 something else, could be a search warrant. Right?

6 Q Right.

7 A I don't know. It just helped me to understand that our information wasn't

8 singular in nature, and by not providing reporting to Baltimore, it wasn't going to hurt

9 their case.

10 [redacted] Okay.

11 [redacted] And is it also fair to say -- I'm sorry.

12 [redacted] No, that's okay.

13 BY [redacted]

14 Q Is it fair to say that if CHS 1 was a middleman and didn't have first knowledge

15 of the information, whatever CHS 1 was relating was hearsay effectively. Right?

16 A Hearsay really doesn't apply --

17 Q Okay.

18 A -- I think. It applies to the case agent trying to characterize the

19 information. It didn't apply to me because all I wanted to know was is anything I'm

20 doing going to hurt their case.

21 Q Okay.

22 A That's it.

23 Q Understood.

24 A That's it.

25 [redacted] Okay. In the same paragraph in your -- page 4 of this statement,

1 the next sentence reads: Quote, I also learned that CHS 1 publicly disclosed information
2 in the media that -- I'm sorry. Am I reading that right.
3 [redacted] Yes.
4 BY [redacted]
5 Q -- in the media that CHS 1 was planning to provide or had provided to the
6 handling agents, end quote.
7 I read that terribly, but do you recall writing that? I apologize for my situation.
8 A I do recall writing that.
9 Q Okay. So basically this person did publicly disclose information that was
10 either the same information or related information to what he was providing the FBI. Is
11 that right?
12 A Or was planning to provide. And that's my belief.
13 Q Okay.
14 A Based on just knowing what the description of the info was.
15 Q Can you explain what that means? I'm a little confused. So why did you
16 think that?
17 A Well, the source had a -- I understood what the description of the
18 information was that was going to be provided to some extent, and then --
19 Q Is that from the 1023?
20 A From the 1023 and talking with the handling agents --
21 Q Okay.
22 A -- and talking with the supervisor from the Hunter Biden case.
23 Q Okay. And so you also understood, though, that that information that was
24 supposed to be provided was also being provided by the source to the media?
25 A That's my belief. It was provided publicly. That's my belief.

1 Q But provided by this source or by someone else?
2 A By the source.
3 Q Okay. And what led you to believe that?
4 A Just the information I received from numerous channels.
5 Q Okay. Including publicly available information?
6 A Yes, ma'am.
7 Q Like Googling?
8 A Yeah, I don't want to get into the information.
9 Q Got it.
10 Okay. So now that I think is what you described as -- sort of the first approach
11 that you received about this potentially problematic source. And then you said that
12 there was a completely separate approach from somebody in the Public Integrity or
13 Public Corruption Unit --
14 A Public Corruption Unit.
15 Q -- who came to you with some concerns about CHS 1. Is that right?
16 A Yes, ma'am.
17 Q Can you, again, sort of tell us, how did that information come to you?
18 A So the Public Corruption Unit chief called me and said that personnel -- he
19 didn't identify them, but personnel headquarters had concerns about the source. I
20 asked what those concerns were. He told me they were classified, couldn't talk on the
21 open phone about them. I asked for that information. He said he could set up a
22 meeting, and that's when I asked that four people from my office, the supervisor and the
23 two handling agents, attend along with myself.
24 I received a call a couple of days later from the same person. He let me know
25 that the meeting was going to be in the FITF. That's the first time I heard that, and

1 that's the time he told me that only myself and the supervisor could get.

2 Q What's the FITF?

3 A It's the Foreign Influence Task Force.

4 Q Okay. And do you know what their concerns are generally?

5 A Generally. I had very little direct contact with them. I think their -- when

6 I was a supervisor I think they were being newly formed, but I just didn't have a lot of

7 contact with them during my career.

8 Q Okay. So you went to this meeting. Is this also October 2020?

9 A This is October 2lst, I believe, 2020.

10 Q Okay. And this is the meeting at the FITF in WFO or headquarters?

11 A This is at headquarters in a SCIF.

12 Q Okay. And the CHS 1 is discussed during this classified meeting. Is that

13 right?

14 A I -- yes, but I don't want to get into anything regarding the details of what

15 was told to me.

16 Q Okay.

17 A I was a consumer. I don't even know what parts were classified and what

18 parts weren't or what the sources of their information were.

19 Q Okay. Let me ask you this. Was it clear to you that the information that

20 you were being provided at this meeting was about the same source that you had been

21 concerned about when the other -- the Baltimore office folks had approached you?

22 You're talking the same person?

23 A The same -- among other things, the same person was raised.

24 Q Okay.

25 A But they talked about other things as well.

1 Q Okay. So just with regard to the CHS 1, what can you tell us about the
2 concerns or the nature of the concerns that were raised about CHS 1?
3 A At that meeting?
4 Q At that meeting.
5 A I can't tell you anything about it.
6 Q Okay.
7 BY [redacted]
8 Q So you said that you are -- the FITF is the Foreign Influence Task Force.
9 Right?
10 A Right.
11 Q Are you familiar with the purpose of the Foreign Influence Task Force, the
12 mission of that task force?
13 A Generally, yes.
14 Q And what is your understanding of that?
15 A They're looking to see if foreign actors are trying to influence governmental
16 decisions or even elections.
17 Q And in your statement -- and so I assume this is unclassified -- you reference
18 that there were 10 to 12 FITF and PCU agents and analysts in the room. So there was
19 approximately, along with the PCU unit chief, myself, and the CR-15 SSA. So that's
20 probably 12, 13, 14 -- 15 people, thereabouts?
21 A About there.
22 Q Okay.
23 A It's a small room. A lot of people for that room.
24 Q And what's the PCU stand for here?
25 A Public Corruption Unit.

1 Q Okay. So you had individuals both from the Foreign Influence Task Force,
2 which you just said is tasked with investigating efforts to influence -- foreign influence to
3 influence the United States --
4 A Yes.
5 Q -- and individuals from the Public Corruption Unit all in the same -- all in this
6 small SCIF with you?
7 A Yes, ma'am.
8 Q Okay. And the SCIF was at FBI headquarters?
9 A Yes, ma'am.
10 Q And you said it was classified. Can you tell us what level the classification
11 was, if it was top secret, top secret SCI, secret?
12 A I don't recall.
13 Q Okay.
14 BY [redacted]
15 Q You indicate in your statement on page 4, which is the third paragraph and
16 the end of the first sentence, you're referring to this mid-October 2020 meeting with the
17 PCU unit chief, and it says that at that meeting, quote, FBIHQ were advocating that CHS 1
18 be closed for additional reasons unrelated to Baltimore's concerns, end quote.
19 Is this the meeting that you're discussing?
20 A That wasn't the meeting. That was a telephone call.
21 Q Okay.
22 A That was the initial telephone call from the unit chief --
23 Q Got it.
24 A -- from the Public Corruption Unit.
25 Q So you had a phone call before you had the meeting at the SCIF?

1 A Correct.

2 Q Okay. And it was at the phone call that you were told that you should close

3 CHS 1?

4 A I wasn't told -- to close the CHS 1? I was told that people were advocating

5 for the closure.

6 Q Okay. So there's a difference between advocating for and being ordered to

7 do it, for example. Is that what you're saying?

8 A Yes, ma'am.

9 Q Okay. So tell me, in your own words, what was it that you were they were

10 trying to express to you about CHS 1 in that phone call, the unclassified?

11 A Sure. That they had a perspective that I didn't have. And so I needed to

12 listen to what their perspective was, and I asked for the underlying information because I

13 was trying to do my due diligence, you know, trying to be curious about it and not just

14 rubber stamp something that headquarters was advocating.

15 And so, you know, that's why I asked for a meeting. That wasn't something that

16 he called me up and said, Let's have a meeting and discuss it. It was I had asked for it.

17 Q Okay. The reason that you asked for it was because you just wanted to

18 better understand where they were coming from when they advocated for the CHS 1

19 being closed?

20 A Yes. I needed to be able to understand it because I have a boss who might

21 ask me, Well, why? And also I have agents that work hard, and they work hard to run

22 investigations and to get sources. And I owed it to them as well to have an

23 understanding of what the factual basis was and why they were recommending

24 something one way or the other.

25 Q Okay. Let me just ask you this without disclosing anything that you learned

1 in that classified setting or elsewhere about this CHS 1.

2 Did you -- after you attended that meeting in the SCIF, did you have any doubt

3 whatsoever that that CHS 1 should be closed?

4 A I didn't think it was a difficult decision, and I'll tell you why. And I followed

5 back with Special Agent No. 2 to discuss the closing.

6 Q Uh-huh.

7 A But I didn't have any information to suggest that Baltimore needed the

8 information, number one. So no one had told me what the value of the source was, but

9 I had learned from Baltimore that there was risk and what -- sort of what their feeling was

10 about source reporting. And then the information provided by the FITF sort of gave me

11 a whole different perspective.

12 And at that point in time, the logical decision seemed to be to close the source.

13 And so I would have discussed it with two units at headquarters, my supervisor, the

14 supervisor of CR-15, the supervisor of the Hunter Biden case, and I talked to one of the

15 handling agents, Supervisory Agent No. 2. Never did I receive information that would

16 have provided some objective where the source was needed. Okay? And also I

17 understood at the same time that there's nothing to prohibit a source from being

18 reopened.

19 As I said in my statement, if I had made a mistake and misunderstood Baltimore,

20 Baltimore could have opened that source the very next day, the very next day. I think I

21 was accused of closing a source forever. I didn't understand that.

22 And, look, I -- you know, reading the source -- the confidential human source

23 manual, my understanding is that when you close a source, you can close them for -- two

24 ways. You can just close them, and it can be reopened at any time by an agent with the

25 approval of their supervisor, or if you close a source for cause, that has to be approved by

1 the supervisor, but then the head of the office of the SAC, and then an executive at the

2 intel branch. So it could have been reopened.

1 [12:11 p.m.]

2 Mr. Thibault. So it could have been reopened.

3 But, here, look, I didn't make a mistake. I'd make the same decision again today

4 based on the facts that I had.

5 I -- because of transparency and because I felt bad that the handling agents were

6 not in the -- in the meeting with the FITF, I came back and wanted to discuss this with

7 Special Agent No. 2. Special Agent No. 1, the FITF had a problem and headquarters had

8 a problem with him being at the meeting.

9 BY [redacted]

10 Q And that's Olohan we've already discussed.

11 A Yes.

12 Q Right?

13 A So that's one reason I didn't invite him into the meeting with the supervisor

14 and Special Agent No. 2.

15 The second reason was because he had requested to voluntarily leave the squad

16 and was in the process, and I had helped him get on a squad that he wanted to go to.

17 So he wasn't going to be working the source on a squad anymore.

18 Q There was no need to another that classified information --

19 A Right.

20 Q -- by that point.

21 A Right. And I didn't -- and, again, the information provided by the FITF, I

22 don't have a CI background. I'm always a little uncomfortable --

23 [redacted] CI is "counterintelligence"?

24 Mr. Thibault. Counterintelligence. I'm always a little uncomfortable in the

25 counterintelligence realm because I never worked it.

1 And so I wanted to meet with Special Agent No. 2 and my supervisor to give her a
2 bit of an understanding of what I -- the information I was provided with.
3 And, at that meeting, I knew that she was unhappy with me in this decision, and I
4 was trying to explain the best I could in a unclassified environment what it was. And at
5 one point I even offered to call the FITF to see if she could get some time up there to get
6 their perspective, and she declined that, but I tried.
7 BY [redacted]
8 Q So it was Special Agent 2 that refused to go to FITF to receive the briefing
9 and not the other way around?
10 A Well, she refused my assistance in helping to arrange that meeting.
11 Q Okay.
12 A I wanted them both there.
13 Q Right.
14 A And, again, like, I tried to get them both there. And so it would have been
15 helpful to me because, as a leader, you want people to have confidence in the decisions
16 you make. It's hard to say no sometimes.
17 Q Special -- sorry. Go ahead.
18 [redacted] No. Go on.
19 BY [redacted]
20 Q Special Agent 2, it sound like she wasn't happy with the decision you made
21 to close the source. Is that fair to say?
22 A I think -- I can't get in her head, but that's why I was -- I think it's -- I can't get
23 in her head. That's my impression was that I -- that that was occurring. Right.
24 Q But she didn't give you any compelling reason to keep that source open at
25 that point. Is that fair to say?

1 A That's correct.

2 Q And she didn't take you up on your offer to get more information from FITF

3 regarding this source?

4 A My assistance in arranging a separate avenue for her to learn.

5 Q Okay. As far as you know, did Special Agent 2 make any complaints to your

6 supervisor or anyone else in the FBI about your decision to close that source?

7 A No, ma'am.

8 Q As far as you know, did she do anything with that information, go to any

9 other body to complain about your decision?

10 A Not that I know of.

11 [redacted] Okay. Sorry.

12 [redacted] Are you done with Special Agent 2?

13 Ms. Slezak. You go ahead.

14 [redacted] Can I ask some questions? Okay.

15 BY [redacted]

16 Q In the bottom paragraph on page 4, you say you met with Special Agent 2

17 and: During this meeting, I passed along information about the source that had been

18 presented to me by Baltimore.

19 With respect to that, to the extent that you recall, did you tell her both that there

20 were concerns about the possible motivations or the possible media ties that the

21 individual had?

22 A I don't have a clear recollection of everything I said.

23 Q Uh-huh.

24 A I was trying to be a bit gentle.

25 Q Uh-huh. Right.

1 A I was trying to treat it as a learning experience.
2 Q Uh-huh.
3 A And I -- but I made clear that there was no value.
4 Q Uh-huh.
5 A My trying to assume positive intent --
6 Q Uh-huh.
7 A -- as an ASAC, I'm the second-level supervisor. I didn't want to get into the
8 lane of her first line supervisor. So I wasn't there to -- I didn't -- I wasn't there to -- I was
9 just there to provide sort of my overall --
10 Q Uh-huh.
11 A -- impression of why the source should be closed.
12 Q And during that, did either you or did Special Agent 2 mention anything
13 about the process by which the source had been opened?
14 A Not that I recall.
15 Q Okay. So it wasn't like she said, "Well, we vetted this person when we
16 brought them -- when we brought them in"? Anything like that, nothing like that came
17 up?
18 A She might have said: Hey, the information's verified.
19 Q Uh-huh.
20 A But, at that point, you know, what was clear to me was that Baltimore didn't
21 want the source information.
22 Q Uh-huh. And they had it from another source.
23 A Right.
24 Q They didn't need it.
25 A Right. And my hope -- and I don't know what happened after this. My

1 hope was that the supervisor and her would kind of work to understand what the issues
2 were.
3 Q And, when she said the information was verified, she might have said that,
4 do you have any knowledge if that's true or not?
5 A Verified or verifiable.
6 Q Oh, verifiable. Okay --
7 A Either one --
8 Q That's different, yeah.
9 A It's hard for me to verbatim but there's something in my head that, you
10 know, she -- there was some reason she brought up that: Hey, you really shouldn't close
11 this source --
12 Q Uh-huh.
13 A -- and here's why.
14 Q Uh-huh. And in your opinion that didn't overcome the concerns raised by
15 Baltimore?
16 A No.
17 Q Okay. And then you say: And, to a lesser extent, FBI HQ, because we're
18 an unclassified office space.
19 What did you tell her about what happened in that FITF meeting or generally?
20 A I would have just said that the FITF had concerns --
21 Q Okay.
22 A -- and about -- about the source. And, again, I'm sure I said more, but I just
23 can't remember --
24 Q Huh.
25 A -- what -- what exactly I said.

1 Q Okay.

2 A And, look, I -- I was trying to be clear. But not having a -- I hadn't worked in

3 public corruption at that point for, like, over a year and a half. I'd been at the

4 Counterterrorism Division. I was not paying attention to the things that I was briefed on

5 by the FITF. I did not feel like I had expertise in that area.

6 And I was -- not only was I concerned about the classification, but I was also

7 concerned about not being accurate with the information I was portraying. I didn't take

8 notes when I went into that FITF meeting.

9 Q Because it was in the SCIF.

10 A Yeah. And so but it -- her supervisor was right there with me.

11 Q Uh-huh.

12 A And, you know, I hoped that there would be some interaction there.

13 Q Do you know if the supervisor ever did speak with her directly?

14 A I don't know what their conversations were.

15 Q Okay. And just real quick, I know we already talked about the FITF

16 meeting. But talking about all the personnel in that small SCIF, the 15 or so people in

17 that small room, did that strike you as a lot of individuals?

18 A I had not really been in a meeting with the FITF before. So I didn't know.

19 Q Okay.

20 A But you have two units there.

21 Q Right. And so it seems like it was something that they were taking pretty

22 seriously. Is that fair to say?

23 A It was certainly serious content matter, and it was information I was

24 unaware of.

25 [redacted] Okay. Thank you.

1 BY [redacted]

2 Q All right. You indicated that your decision to close that source, you made

3 that decision after getting input from the Baltimore special agent, two FBI Headquarters

4 units, and the CR-15's supervising special agent. Is that right?

5 A And I would have talked to my boss as well.

6 Q Okay. And your boss was the SAC.

7 A Yes, ma'am.

8 Q Okay. And did any of those people object to your decision to close that

9 source?

10 A No.

11 Mr. Lytle. Are you referring to page 5?

12 [redacted] Yeah, sorry. Sorry about that.

13 BY [redacted]

14 Q Paragraph 2 on page 5.

15 A Yes.

16 Q Yeah. Okay. Sorry.

17 Did they concur with your decision or just give you any opinion whatsoever when

18 you made that consultation?

19 A These are sort of informal processes where you're just briefing and talking.

20 And no one raised an issue contrary. You know, my biggest concern was: Again, is it

21 going to hurt the Hunter Biden case? Because they were the consumer.

22 And so if -- let's just say that Baltimore didn't want the source closed. That

23 would have been -- that would have let to a whole bunch of other meetings.

24 Q Right.

25 A No one came to me and said: You're making the wrong decision, or we

1 don't agree with what decision you're making.

2 Q Okay. Is it fair to say the consumers, the people who are prosecuting or

3 investigating Hunter Biden in that criminal investigation, didn't want their case messed up

4 and thought that this information could potentially cause problems for them? Right?

5 A Right.

6 Q So the source in your mind and in their mind had no value to their

7 investigation and actually might have detracted from it.

8 A Right.

9 Q Is that right?

10 A Right. And put another way, if the people that are saying that I shut this

11 down and hurt the case maybe, let's -- if I had okayed and they received other 1023s on

12 this, I wouldn't have been the one receiving the call. It would have been my boss saying:

13 What are you doing?

14 Right?

15 So Baltimore controlled their case. I never took any action with regard to

16 Baltimore's case without the express direction from them. Right?

17 So there's sort of two stages. You had the Baltimore stage where they called for:

18 We don't need the information anymore.

19 And then you had the stage from headquarters where there's another problem, a

20 more comprehensive issue.

21 And I took both of those into consideration, looking across at what the objectives

22 of the source are, looking at the options, and I could find no value at that point that

23 anybody provided to me.

24 Otherwise, I would have done what I always do. And what's evident here is I'd

25 ask questions and try to coordinate and collaborate and understand what the best

1 decision is.

2 Q Okay. And I think, in the first hour, you indicated with respect to the

3 opening of that source, again, you had no role in approving or reviewing that opening.

4 Right?

5 A Correct.

6 Q But did you later at any point look back and try to see why your case agents

7 wanted to open the source or how that process might have broken down?

8 A I viewed that as the frontline supervisor's role. I routinely, every place I've

9 been, whether it's a supervisor of a squad or even at Counterterrorism Division, I

10 provided training on how to run sources properly and how to vet sources.

11 I was going to provide training to my folks as I was there longer. So I would

12 have -- I looked at it as a lessons learned. Right?

13 Q Did you find problems in the opening of that source?

14 A I did not. I did not, no.

15 Q Did you review it?

16 A I did -- I don't believe I reviewed it for -- for the -- for that issue.

17 Q Okay. Do you know if the supervisor reviewed it?

18 A I don't, no.

19 Q OKAY.

20 BY [redacted]

21 Q On page 4, turning back to -- and I'm sorry. I know we're jumping around a

22 little bit here, but this should be kind of a concise question line.

23 On page 4, the one, two, three, the fourth paragraph down talking about Special

24 Agent 1, who you previously said was Mr. Olohan. Correct?

25 A Yes.

1 Q You say: Around the same time, the section chief of the Public Corruption
2 and Civil Rights section, which oversees PCU, sent me an email with an attached 40-plus
3 page electronic communication, EC, written by Special Agent 1.
4 What is an electronic communication, first?
5 A It's an FBI memo.
6 Q Okay. And this 40-page -- 40-plus page electronic communication, do you
7 remember what it said?
8 A I remember portions of it. It was a long EC.
9 Q Uh-huh.
10 A There's not many ECs that are that long --
11 Q Okay.
12 A -- ever in the Bureau. So I don't remember everything it said. Two things
13 stuck out to me. One, well, it was written in October -- it was written in, like, 2019. I
14 was no longer there. It was sent to me with no context by the section chief.
15 Q Uh-huh.
16 A I think as a reason, because I was protesting, I wanted the -- I wanted them
17 there at the FITF meeting.
18 Q Right.
19 A And I think he sent it because of that. I don't know. He never told me,
20 and we never talked about this. He just sent it to me.
21 I think he was -- I think there -- it was indicative of why someone might be
22 concerned, because of some of the content. Now it's a classified EC. So I can't get too
23 much into it. There's certain things in there, though, that would cause concern.
24 Q And the -- I'm sorry. You said that the EC was actually written by
25 Mr. Olohan in 2019.

1 A Right. And I'll be clear about this, too.

2 I didn't review that until much later. Because there was no content, I think I

3 responded when I got the -- when I got it, I was, like: Thanks.

4 Q Uh-huh.

5 A But there was no: Hey, you need to read this or this related to something.

6 Q Uh-huh.

7 A I never went back and reviewed it until much later. It just got lost in all of

8 my emails --

9 Q Okay.

10 A -- because was no content. I don't even know if there was a subject

11 heading.

12 Q Okay.

13 A But Dave Scott is the -- he's an SESer.

14 Q Uh-huh.

15 A He was the boss of the people in the Public Corruption Unit. And he

16 probably heard from them that: Hey, Tim's not too happy that his case agents can't

17 attend this meeting.

18 Q Okay.

19 A So I am -- so that was sent and then the little snippet at the end of the

20 meeting and that --

21 Q And that was enough to give you --

22 A It just helped me understand why FBI didn't want Mr. Olohan in that

23 meeting.

24 Q Okay. And did you ever sit down with Mr. Olohan the way you sat down

25 with Special Agent 2 to describe to him why he hadn't been able to attend that meeting?

1 A No.
2 Q Okay.
3 A We didn't really discuss why he couldn't come to the meeting.
4 Q Uh-huh.
5 A So, after the information I received from the FITF about him, I knew that that
6 was going to be pretty sensitive. It would be for me if someone said had to talk about
7 your daughter.
8 Q Right.
9 A It wasn't something that I was looking forward to.
10 Q Uh-huh.
11 A And so I took a week or two or a short time period to let it settle --
12 Q Okay.
13 A -- and to understand how I was going approach this meeting because you try
14 to be good to people.
15 Q Right.
16 A And you try not to overreact. And so I just asked them the question of if
17 this happened. He said it did. And I tried not to be confrontational at that point.
18 Q Uh-huh.
19 A And that wasn't the purpose of the meeting. It was just to say, to make a
20 determination about this one case.
21 Q Uh-huh.
22 A And, at that meeting, that's when he said: I may want to move squads.
23 And that kind of shocked me a little bit.
24 But I said I would do everything I can to get you on the squad you want to be to
25 including given an FSL.

A couple of weeks later I received a phone call from my boss, Jim Dawson, that the deputy director had been told by a retired agent that knew Mr. Olohan, I think he told him that I removed him from a case because his daughter was a reporter.

I have some recollection of people, and I don't know if it was that in a conversation I had actually removed him from the squad. That wasn't true. I don't know where the disconnect came. It could have been a simple miscommunication that -- but I remember having that communication.

So I just clarified that it wasn't because his daughter worked for the media. It was because of the case issue.

Q Uh-huh.

A And the deputy director was okay with that, and so nothing happened. I never brought it up again. But we didn't discuss at that point in time anything about the FITF meeting except for that one little piece. And then, when he said he wanted to leave the squad and asked for my assistance to leave the squad, that's kind of what I was focused on was helping him --

Q Understood.

A -- out.

[redacted] Understood. All right. Thank you. Our hour is up. So we can go off the record.

[Recess.]

[redacted] We'll go back on the record?

It's 10:10 -- or excuse me -- 1:10 p.m.

BY [redacted]

Q Mr. Thibault, at the end of our first hour, we were kind of discussing this 1023 involved in the Hunter Biden investigation. And we were talking about a meeting

1 that you had had with the FITF.

2 A Yes, ma'am.

3 Q So I kind of just wanted to briefly, on the FD-1023, I know you spoke with my

4 minority colleagues about kind of the content of the 1023.

5 Would you define the information that was in the 1023 as derogatory Hunter

6 Biden information?

7 A It was laying out what could have been in there. I never looked at that

8 information --

9 Q Uh-huh.

10 A -- specifically --

11 Q Uh-huh.

12 A -- in the course of my -- as an FBI agent.

13 And so I'm unable to characterize it based on --

14 Q Uh-huh.

15 A -- what was said to me about it by Baltimore.

16 Q And so, in exhibit No. 2, the letter from Senator Grassley, it talks about a line

17 of derogatory information that was closed.

18 Do you infer that derogatory information to be the FD-1023?

19 A The FD-1023, to the best of my knowledge, described what information

20 could be provided. I think the reference is to whatever information could have been

21 provided. I don't think it was in the 1023.

22 Q Uh-huh.

23 A My recollection is the 1023 is, like, a one-pager.

24 Q Uh-huh.

25 A It was whatever was described in there.

1 Q Uh-huh.

2 A Right.

3 Q The information that that source could have provided, would that have been

4 derogatory information regarding Hunter Biden?

5 A It could have been.

6 Q Uh-huh.

7 A Or it might not have been.

8 Q Okay.

9 A But it certainly could have been. I just wasn't in a position -- I -- since I

10 didn't know anything about the Hunter Biden case.

11 Q Uh-huh.

12 A -- and I didn't know anything about that information, I never looked at it, I

13 never made that judgment myself.

14 [redacted] Okay.

15 [redacted] So it just laid out the placement and access of the source?

16 Mr. Thibault. Pardon?

17 [redacted] It just laid out the placement and access of this particular source.

18 Mr. Thibault. Yeah, and what the source could provide. Okay?

19 BY [redacted]

20 Q Okay. And so you get this call from SSA Gordon. You said -- was it

21 mid-September to October, or was it in October 2020 that you received the call from SSA

22 Gordon?

23 A It was October 2020. And, to be clear, we didn't discuss the character of

24 the information on that call.

25 Q Okay. He was just calling because he had seen the FD-1023, and he said he

1 already had that information; it wasn't necessary.

2 A Yes.

3 Q Is that a correct --

4 A Yes.

5 Q -- characterization?

6 A Yes, ma'am.

7 Q So then, in mid-October 2020, you receive a call from the PCU unit chief. Is

8 that correct?

9 A Yes, ma'am.

10 Q And how many calls did you have with the unit chief?

11 A Two that I recall.

12 Chairman Jordan. Let me back up a second.

13 When the Baltimore Field Office called you, did they specifically critique the 1023,

14 or did they go right to the source who provided the information on the 1023?

15 Mr. Thibault. The initial concern was: Hey, there's a 1023 in our file, which we

16 didn't -- appeared, and it came from WFO, and we didn't know anything about it. So

17 that's a concern for us because we should know everything that's going into the file.

18 And then it turned to the concern about the CHS. Right.

19 Chairman Jordan. Okay.

20 BY [redacted]

21 Q So then you have the calls with the PCU unit chief, and then the meeting

22 with the FITF happened on October 21st? Is that correct?

23 A Yes, ma'am.

24 Q And had you ever had any meetings with the FITF prior to October 21st,

25 2020?

A Not that I can recall. You know, there might have been some conference calls that they might have been in, like, nationwide.

Q Uh-huh.

A But that's the first time I ever had a direct, one-on-one meeting with a FITF that I can ever recall.

Q And, in the FITF briefing, understanding that it was classified, so I don't want you to reveal any classified information, was there any discussion of a potential hack-and-leak operation?

A Hack-and-leak. I don't recall that --

Q Uh-huh.

A -- specifically at all.

Q Was there any information about communications that they had with social media companies in that briefing?

Mr. Lytle. So, if I could -- I mean, it's classified briefing.

[redacted] Uh-huh.

Mr. Lytle. He doesn't want to cross that line in discussing the classified briefing. If it starts to go through, like, a process of elimination --

[redacted] Uh-huh.

Mr. Lytle. -- it does start to reveal maybe what it was.

[redacted] Uh-huh.

Mr. Lytle. So I don't know if -- I don't think --

Mr. Thibault. Yeah.

Mr. Lytle. -- he should talk about that briefing. It's kind of a line he's drawn on talking about classified information.

BY [redacted]

1 Q At a high level, did you have any awareness of conversations that the FITF
2 was having with social media companies?
3 A At a high level?
4 Q Uh-huh. At a high level, not talking just about the briefing but at a high
5 level, did have you an awareness?
6 A Not before that meeting, I did not.
7 Q Not before that meeting.
8 Did you ever have any interactions with social media companies?
9 A No, ma'am.
10 Q And what was your awareness of the interactions that FITF was having with
11 social media companies?
12 A I just know that the FBI had relationships with commercial firms. I knew it
13 because I worked in counterterrorism.
14 Q Uh-huh.
15 A And so, when you're looking at threats, from a counterterrorism perspective,
16 they would rely on social media providers --
17 Q Uh-huh.
18 A -- and others to be able to do their work.
19 Q Uh-huh.
20 A So that's what I understood.
21 With regard to the FITF, I didn't know anything about -- I just really didn't have a
22 good understanding of what the FITF was at that time. I learned it later, of course,
23 because it's been in the news.
24 Q Uh-huh. When you were having calls with the PCU unit chief in that
25 mid-October 2020 range, did discussion of this New York Post story that broke about the

1 Hunter Biden laptop on October 14th come up on those discussions?

2 A No, ma'am.

3 Q Did it come up in any of your conversations with the FITF?

4 A No, ma'am, not -- not that I recall.

5 Q And, in your conversations with the FITF or regarding this FD-1023, was

6 there any discussion of an open letter that 51 former intel officials publicized on October

7 19th, 2020?

8 A Just to correct on a question --

9 Q Uh-huh.

10 A -- the 1023, I can't remember what was discussed in the FITF about that

11 1023.

12 Q Okay.

13 A Okay. But otherwise, no.

14 Q Okay. But the 1023, was that the subject of the reason that that meeting,

15 that briefing was called?

16 A It was broader. It was --

17 Q Uh-huh.

18 A -- much greater context. It's much greater context.

19 Chairman Jordan. About the source.

20 Mr. Thibault. Overall. The source and other things. It was broader is all I

21 could say.

22 BY [redacted]

23 Q And, after this October 21st, 2020, meeting with the FITF, have you ever had

24 any other interactions with the FITF?

25 A I don't believe so.

1 Q And do you remember who was in charge of the FITF at the time of the
2 October 21st briefing?
3 A No, ma'am.
4 Q Did you know any of the individuals on the FITF at the time of the October
5 21st briefing?
6 A No, ma'am. It's quite possible I could have been in meetings with them,
7 you know, online or something. But I didn't have relationships with them at all.
8 Chairman Jordan. Did you know at the time that the FITF that was -- that they
9 were having regular meetings with Big Tech companies? And as it got closer to the
10 election in this time period, it was actually like weekly meetings that they were having
11 with tech companies?
12 Mr. Thibault. I didn't know how frequent the meetings were. I think I
13 understood at some point. I'm not exactly sure that there -- there were meetings with
14 private sector people because -- and I just equated that, again, to my work with
15 counterterrorism because it was so important to our work.
16 But I don't know -- I didn't really understand how involved or who was doing it.
17 Chairman Jordan. Uh-huh.
18 Mr. Thibault. But it didn't -- didn't surprise me. I learned about it some, from
19 some location. I just can't recall where.
20 [redacted] So, during the meeting, were they -- were they pushing to close
21 that source? Was that one of the topics of the discussion?
22 Mr. Thibault. So, you know, they never brought up, that I can recall, saying:
23 We want to you close the source because of this.
24 They were just providing information that they felt was relevant to enable me to
25 make a decision.

1 BY [redacted]

2 Q And, in regards to, you know, any aspect of the Hunter Biden investigation, I
3 know we kind of talked about your communications with FBI Baltimore. And you said
4 you spoke with, obviously, SSA Gordon. And then you said you had one
5 conversation -- was it one conversation with ASAC Alfred Watson? Or how many
6 conversations did have you with him?

7 A I didn't have any conversations with him --

8 Q Okay.

9 A -- concerning Hunter Biden at all.

10 Q Did you have any conversations with ASAC Holley?

11 A Let me correct that. With regard to what we were talking about on this
12 source.

13 Q Okay.

14 A Later, with regard to Tony Bobulinski, I did.

15 Q Okay. So you had a conversation about Bobulinski with ASAC Alfred
16 Watson. Correct?

17 A Yes.

18 Q And then, regarding all aspects of the Hunter Biden investigation, not just
19 the FD-1023, which we've been speaking about, did have you conversations with ASAC
20 Ryeshia Holley?

21 A No.

22 Q So no discussions with Ms. Holley?

23 A No.

24 Q Did you have any discussions with SAC Thomas Sobocinski about the Hunter
25 Biden investigation?

1 A Oh, are we talking about not just the 1023?

2 Q Correct.

3 A Okay.

4 Q Very broad.

5 A Okay. I'm sorry.

6 Q No, you're okay.

7 A So with regard to Ms. Holley --

8 Q Uh-huh.

9 A -- I didn't have any conversations regarding the case that they had opened --

10 Q Uh-huh.

11 A -- on Hunter Biden.

12 Q Okay.

13 A I was involved in a conversation unrelated to that case about another topic

14 involving Hunter Biden that I can't get into because I don't know if that was ever looked

15 at at all. So I don't want to get into that conversation, but Joe Gordon is aware of that.

16 Q Uh-huh.

17 A Ms. Holley and people from headquarters are aware of that conversation.

18 Q And did at the time that this conversation between you and Ms. Holley was

19 occurring, was headquarters aware that that WFO was reaching out to Baltimore?

20 A Well, we didn't reach out to Baltimore with regard to that conversation.

21 Q Okay.

22 A Headquarters in Baltimore reached out to me.

23 Q Okay. About a specific aspect of the Hunter Biden investigation.

24 A Not that ongoing investigation. It was another matter.

25 Q Uh-huh.

1 A I don't believe that they had officially opened the case on --
2 Q Okay.
3 A -- that other matter.
4 Q Uh-huh.
5 A And because I -- and I don't even know if they -- I don't even know if they
6 looked -- if they got that case, you know, if it's looked on. So I don't know if that's open
7 or not.
8 Q Uh-huh.
9 A So I want to be careful about this.
10 Q But it's accurate to say that Ms. Holley and headquarters connected to you
11 them. Is that correct?
12 A They called me.
13 Q Okay.
14 A They called me and said -- and asked me some questions.
15 Q Uh-huh.
16 A And asked me -- it's almost like, you know, my background was public
17 corruption and whatnot. So it was about: Hey, in your experience, what do you think
18 about this?
19 Q Uh-huh. So was there someone from headquarters on the call with
20 Ms. Holley and you?
21 A Yes.
22 Q Okay.
23 A It was the -- it would have been the acting -- it would have been the acting
24 section chief or the section chief.
25 Q Okay.

1 A And it would have --

2 Mr. Lytle. You spoke earlier. You said Baltimore headquarters. You mean FBI

3 Headquarters in Washington, D.C.?

4 Mr. Thibault. Yes. And then also it would have been the ASAC Holley --

5 BY [redacted]

6 Q Uh-huh.

7 A -- and Joe Gordon.

8 Q And the acting section chief over what division?

9 A It was the -- over the Public Corruption and Civil Rights.

10 Q Okay. And then sticking with the Baltimore Field Office, prior to SAC

11 Sobocinski coming on board, there was an SAC named Jennifer Boone. Did you ever

12 have any conversations with her regarding any matter related to Hunter Biden?

13 A No, ma'am.

14 Q Did you ever have any conversations or intersections with F -- the FBI Field

15 Office from Pittsburgh regarding Hunter Biden investigation?

16 A No, ma'am.

17 Q What about the U.S. Attorney's Office from Pittsburgh, which would be the

18 Western District of Pennsylvania? Any conversations?

19 A No, ma'am.

20 Q Okay. And I'm just speaking very broadly about the Hunter Biden

21 investigation --

22 A Of course.

23 Q -- right now when I'm asking but these interactions. Did you ever interact

24 with U.S. Attorney David Weiss from Delaware?

25 A No, ma'am.

1 Q Did you ever interact with anyone from his office?

2 A No, ma'am.

3 Q Did you ever interact with anyone from U.S. Attorney Estrada's office from

4 the Central District of California?

5 A No, ma'am.

6 Q Did you ever interact with anyone from U.S. Attorney Matthew Graves'

7 office for the District of Columbia?

8 A Um --

9 Mr. Lytle. Regarding Hunter Biden?

10 BY [redacted]

11 Q Right.

12 A Regarding the case on Hunter Biden, no.

13 Q But you -- did you engage with him over other matters related --

14 A This other matter that I just talked about?

15 Q Uh-huh.

16 A Baltimore asked me to reach out to him.

17 Q And you spoke --

18 A Not Mr. Graves. I spoke to a gentleman named J.P. Cooney.

19 Q And had you spoken with Mr. Cooney prior to this?

20 A No. It was only one phone call.

21 Q And that --

22 A It was at the request of the Baltimore Field Office and headquarters that I

23 make that call.

24 Q And was the call that they would, you know, push for a prosecution --

25 A I don't want --

1 Q -- in the District of Columbia?

2 A I don't want to get into it because I don't know if that matter was opened or

3 not.

4 Q Okay. Wouldn't the venue have been in D.C.?

5 A They were talking about a matter that maybe could have been venued in

6 D.C.

7 Q Did you ever have any conversations with anyone from the DOJ Tax Division

8 related to any Hunter Biden investigation?

9 A No, ma'am.

10 Q And you said you have had intersections with the Public Corruption Division

11 related to the Hunter Biden investigation? Is that accurate?

12 A Very narrow scope.

13 Q Okay. And was it just that one call when the acting section chief was on

14 the phone with Ms. Holley?

15 A Well, that wasn't -- again, that --

16 Q Uh-huh?

17 A -- wasn't about an ongoing case.

18 Q Uh-huh.

19 A It wasn't -- it wasn't opened --

20 Q Okay.

21 A -- that I knew of.

22 Q Uh-huh.

23 A Okay? My interactions with Baltimore were regard to CHS 1.

24 Q Uh-huh.

25 A Mr. Bobulinski.

1 Q Uh-huh.
2 A I think that there were some legal process --
3 Q Uh-huh.
4 A -- that was being served one day, and my agents were serving legal process.
5 Q Okay. In regards to the Hunter Biden investigation?
6 A Yes.
7 Q Okay.
8 A That's all that comes to mind right now.
9 Q So how many times did you speak with the Public Corruption Division in
10 regards to any aspect of the Hunter Biden investigation, open or not opened?
11 A Okay. To the Hunter Biden investigation that's opened, there were two
12 phone calls, which I've already talked about extensively.
13 Q Uh-huh.
14 A There was the meeting at the FITF. I received a phone call the day that
15 Tony Bobulinski was interviewed --
16 Q Uh-huh.
17 A -- because they didn't know I wasn't at work that day. So I got a call from
18 Dave Scott, the section chief. I told him I wasn't working. I think there was one phone
19 call after --
20 Q Uh-huh.
21 A -- the Mr. Bobulinski interview. That's all I can recall right now for that.
22 And then there was probably two or three interactions on the matter that I don't
23 know if it was open or not.
24 Q Uh-huh. And did these phone calls or interactions with the Public
25 Corruption Unit chief, did they happen in a short period of time, or was it kind of

1 throughout your tenure as ASAC?

2 A With regard to the Hunter Biden case?

3 Q Correct.

4 A They didn't happen very much at all. It was right around the time with

5 regard to CH 1.

6 Q Uh-huh.

7 A And then there was the one call about Mr. Bobulinski that I can recall.

8 Q Uh-huh.

9 A Which --

10 Chairman Jordan. Go ahead and finish.

11 Mr. Thibault. And then, at some later time, there was the other series of calls

12 with regard to something that I don't know if it was open or not.

13 Chairman Jordan. Okay. That's what I want to know.

14 Mr. Thibault. Yes.

15 Chairman Jordan. What was the timeframe for that?

16 Mr. Thibault. Yes, sir.

17 Chairman Jordan. What was the timeframe for that?

18 Mr. Thibault. I want to -- I believe it was sometime in the spring of 2022.

19 Chairman Jordan. Spring of '22.

20 Mr. Thibault. Yes, sir. Best of my recollection, it was the spring of '22.

21 Chairman Jordan. Okay. Thank you.

22 And you said there was some calls you had regarding that issue. You had contact

23 with the U.S. Attorney here in D.C.

24 Mr. Thibault. One of his prosecutors.

25 Chairman Jordan. Okay.

1 Mr. Thibault. I just made a quick call and that -- the Baltimore Field Office --
2 Chairman Jordan. It was prompted by that whole issue.
3 Mr. Thibault. Baltimore Field Office asked me to do it.
4 Chairman Jordan. Okay.
5 [redacted] And kind of moving to -- I know there are different portions of the
6 Hunter Biden investigation. You know, there was the FD-1023 and then we've
7 also -- you've mentioned Tony Bobulinski. Can you tell us about your involvement with
8 Mr. Bobulinski?
9 Chairman Jordan. Let me do one other thing real quick, and then we'll go to
10 Mr. Bobulinski.
11 I want to make sure I got the story, the framework exactly right. So your agents
12 put together a 1023 on Confidential Human Source No. 1.
13 Mr. Thibault. Yes, sir.
14 Chairman Jordan. And that gets sent to the Baltimore office.
15 Mr. Thibault. Yes, Baltimore and I believe headquarters.
16 Chairman Jordan. So both Baltimore and headquarters get it.
17 Subsequent to that, you get a call from the Baltimore Field Office, saying, hey, we
18 don't need this.
19 Mr. Thibault. Yes, sir.
20 Chairman Jordan. We don't need the information. We don't want it. Don't
21 send it to us.
22 Mr. Thibault. Yes, sir.
23 Chairman Jordan. And you were somewhat surprised that that hadn't been
24 coordinated ahead of time with the two agents who had worked on the case from your
25 office and the folks from Baltimore. Right?

1 Mr. Thibault. Yes, sir.

2 Chairman Jordan. Okay. And then, a week and a half after that, you get a call
3 from headquarters, saying the same thing: Hey, we don't like this 1023 and no
4 confidential human source. We don't want that.

5 Mr. Thibault. Well, they -- they were advocating -- some people who they didn't
6 identify on the phone were advocating that probably should be closed.

7 Chairman Jordan. Okay. So get rid of that source.

8 So you get a call from headquarters. And they're saying people higher up than
9 them, whoever called you, are advocating to get rid of this source.

10 Mr. Thibault. I didn't know where those people were assigned, and that was a
11 bit frustrating. And, you know, I wanted to know, and I couldn't get the information
12 over the phone because it was classified.

13 Chairman Jordan. And then it escalates even further because they give you a
14 classified briefing, and the Foreign Influence Task Force is in this briefing on this subject.

15 Mr. Thibault. I requested that briefing.

16 Chairman Jordan. You requested it?

17 Mr. Thibault. Yes, sir.

18 Chairman Jordan. Okay. And so FITF and all come to that briefing. And you
19 request it because your case agent said: No, no, no, we should keep this source; we
20 should use this information.

21 Is that right?

22 Mr. Thibault. They didn't say anything to me. I just -- I wanted to know before
23 I was going to close the source, why, why were people advocating for that.

24 Chairman Jordan. But, after you close the source, the case agents were
25 concerned that you did closed the source. Is that right.

1 Mr. Thibault. One case agent I don't believe agreed with me. That's correct.
2 Chairman Jordan. Okay. Okay. And, again, this was a 1023 form that you had
3 reviewed and approved on the front end of all this.
4 Mr. Thibault. My statement was I may have approved it, but I believe I reviewed
5 it and/or approved it. I couldn't remember. If I approved it, my name's going to be on
6 that form and I was unable to --
7 Chairman Jordan. Is it accurate? I want to make sure I have --
8 Mr. Thibault. Sure.
9 Chairman Jordan. -- the case agents right. The case agent who strongly
10 disagreed with that is also the case agent who said: I want to be assigned somewhere
11 else now.
12 Mr. Thibault. No.
13 Chairman Jordan. It's the other one.
14 Mr. Thibault. It's the other one.
15 Chairman Jordan. So it's not Mr. Olohan. The one who disagreed the most was
16 not Mr. Olohan. Is that right?
17 Mr. Thibault. I didn't have a conversation after the FITF meeting with Mr.
18 Olohan concerning that.
19 Chairman Jordan. That's what I thought. So it's the other agent --
20 Mr. Thibault. Yes.
21 Chairman Jordan. -- who strongly disagreed.
22 Mr. Thibault. Well, she disagreed. I don't know. You know, she just -- I
23 believe she disagreed --
24 Chairman Jordan. Okay.
25 Mr. Thibault. -- with my decision.

1 Chairman Jordan. I just want to make sure I had it clear.

2 Mr. Thibault. Yes, sir.

3 Chairman Jordan. Thanks.

4 BY [redacted]

5 Q You mentioned that you requested the briefing where FITF attended?

6 A Well, well, FITF -- the Public Corruption Unit was telling me: Hey, there's

7 some people that are advocating that maybe the source be closed.

8 And I was like: Well, who are they and why?

9 And the response was: I can't talk bit over the phone.

10 And so I said: Can I get the information?

11 And he said: Well, I'll try to schedule a meeting.

12 And so that's how that happened.

13 Q And so did you find out in the meeting that FITF would be attending or --

14 A The second phone call from the public corruption supervisor, the unit chief?

15 He told me it was going to be at FITF in a SCIF.

16 Q And, when you had that second phone call, at that point in time, did you

17 know what FITF was?

18 A Yes.

19 Q And you hadn't had any interactions with them previously?

20 A Not very many, not very many. You know, back in two thousand -- so I'd

21 been from late 2018 through the time that this occurred, I had been working at

22 Counterterrorism Division and really don't recall having much interaction with the FITF at

23 all. I don't even know when they began.

24 Q Do you recall in the briefing if it was leadership members within FITF?

25 A I didn't know anybody in FITF, and so I didn't know their names. I don't

1 think I had any conversations with them before or after, no.

2 Q Did they identify during the meeting how FITF was structured, whether

3 there's a unit devoted to China or to Russia?

4 A No, sir.

5 BY [redacted]

6 Q So, in your written testimony, you talk about your interaction, you know,

7 with Mr. Bobulinski, as well as his attorney.

8 You know, there's been some reporting, as you mentioned in your written

9 testimony, about how you were designated as the point man to manage Mr. Bobulinski.

10 What can you tell us about that?

11 A Yes, ma'am. Yes, ma'am. So I believe he was interviewed --

12 Q Uh-huh.

13 A -- by the Washington Field Office on October --

14 Q Uh-huh.

15 A -- 23rd, 2020, which was a Friday. I was on leave that day, and so I wasn't

16 involved in the logistics for setting that up meeting. I got a call and kind of really kind of

17 learned.

18 Dave Scott called me and said: Hey, Tim, what's going on with this meeting?

19 Dave was calling me from headquarters. And I said: Dave, I don't know, and

20 I'm on leave. Call Giulio Arseni.

21 Q Uh-huh.

22 A Giulio was acting as my acting that day, and I didn't get involved in any of

23 that. Right?

24 Q Uh-huh.

25 A So things were obviously going on. People were busy. I wasn't going to

1 try to get in the middle of it because I could have messed things up.

2 Q Uh-huh.

3 A So that meeting happens.

4 Q Uh-huh.

5 A That interview happens. I still don't know much about it. That Saturday, I

6 was off, of course. I got an email from my boss, Jim Dawson.

7 Q Uh-huh.

8 A I was unable to review that email. So I'm working off memory. But that

9 email went something to the effect of:

10 Mr. Bobulinski has some devices he'd like to turn over to the FBI. Your contact

11 for that is Mr. Stefan Passantino. Call him.

12 Q Uh-huh.

13 A So I got that information on an afternoon, Saturday. Within an hour or two

14 after I got that, I called Mr. Passantino and left a voicemail on his phone. That was first

15 communication --

16 Q Uh-huh.

17 A -- that I ever had was on Saturday with Mr. Passantino. I think

18 Mr. Bobulinski said I had an hour a and half interview with him on a Friday. That wasn't

19 me. I didn't talk to him on Friday.

20 Q And so Mr. Arseni, did you understand that he was in the interview with

21 Mr. Bobulinski?

22 A Usually in an interview --

23 Q Uh-huh.

24 A -- is just case agents like line case agents.

25 Q Uh-huh.

1 A I would never want a supervisor in an interview --

2 Q Uh-huh.

3 A -- because that's not really their job.

4 Q Uh-huh.

5 A I don't know who was in the interview with him.

6 Q Were they line agents for CR-15?

7 A There were -- I believe that there were two line agents, but they were from

8 CR-10.

9 Q Uh-huh.

10 A CR-10 is a D.C. Corruption Squad. They also do some Federal.

11 Q Uh-huh.

12 A I believe they picked them because they're in Chinatown.

13 Q Okay.

14 A So they're close to the field office at WFO --

15 Q Uh-huh.

16 A -- where the interview was prearranged, and I had nothing do with how that

17 was arranged.

18 Q Uh-huh. So what was Mr. Arseni's development or, excuse me,

19 involvement?

20 A Just he was standing in for me on Friday.

21 Q So --

22 A That's it.

23 Q What did he have to do in regard to the Bobulinski interview that occurred?

24 A I'm not sure exactly what he did because it was being overseen by Mr.

25 Dawson.

1 Q Uh-huh.

2 A So Mr. Dawson and Mr. Arseni would have been working that matter

3 together.

4 Q And what did -- was it just this email from Mr. Dawson, was that the total

5 sum of the information he conveyed to you about the Bobulinski interview?

6 A Well, he just said: Hey, you're tasked with making contact with

7 Mr. Bobulinski's counsel --

8 Q Uh-huh.

9 A -- and facilitating the turnover of the devices for the FBI.

10 Q And why would you have been that individual that Mr. Dawson would have

11 gone to for that?

12 A Because I worked for him directly.

13 Q Uh-huh.

14 A I oversaw the squad that did the interviews.

15 Q Uh-huh.

16 A That's why.

17 Q So you oversaw the CR-10?

18 A CR-10 was one of the squads I supervised. Now I believe he could have said

19 to me: Tim, either you or Giulio --

20 Q Uh-huh.

21 A -- make this contact.

22 Q Uh-huh.

23 A And, just because I didn't want to have Giulio to do more work for me --

24 Q Uh-huh.

25 A -- I made the contact on Saturday. I left the voicemail.

1 Q And so did you ever get any sort of briefing from the CR-10 case agents
2 regarding the Bobulinski interview?
3 A No. The 302, I think I took a quick look at it, which was the write-up of the
4 interview.
5 Q Uh-huh.
6 A But, after I received my instructions from Mr. Dawson and called and left a
7 voicemail, I asked Mr. Passantino to call me back when he could but do it before 8 o'clock
8 because I was going to be tied up after 8.
9 Q Uh-huh.
10 A I think he called me sometime after 8 and left a voicemail. So we never had
11 a conversation that Saturday.
12 Q Uh-huh.
13 A The next day, on Sunday, sometime around 11 a.m., I called Mr. Passantino,
14 and we had a brief -- it may have been a 5-minute conversation. And he laid out his
15 concerns. He wanted -- advised that his client had some devices to turn over, and he
16 asked a couple of things. There were conditions.
17 He said: Hey, can the FBI selectively image parts of the devices but not anything
18 personal that Mr. Bobulinski doesn't want imaged? The second was, if that's impossible,
19 can the FBI authorize the FBI -- can the FBI authorize Mr. Bobulinski to I don't know if it
20 was delete information or modify information.
21 I told him to be -- that I wanted to be absolutely sure the device I gave him was
22 correct. So I said: Look, I need to talk to some attorneys with the FBI and let me know
23 what the policy is.
24 And we agreed. So that conversation ended.
25 The next morning, Monday morning, I met with chief division counsel on this

1 matter.

2 Q Uh-huh.

3 A And he said: Look, the policy of the FBI is we can't selectively image.

4 That's not the way our CART people or the people that do computer investigations --

5 Q Uh-huh.

6 A -- it's against their policy.

7 I said: Okay. Roger that.

8 And he said, with regard to authorizing Mr. Bobulinski to do it, he said, since it's

9 private, he told me, since it's private devices and the FBI isn't asking for it, that we can't,

10 like, give them FBI authorization to do it. Right?

11 Q Uh-huh.

12 A The point is, is that we were going to accept whatever they gave us. But

13 we couldn't as the FBI do those two things.

14 So then we had a call. I made the call from my office. The -- Dennis Kompf (ph)

15 was the assistant division counsel attorney in my office when I made the call to

16 Mr. Passantino.

17 Q Uh-huh.

18 A And that call may have lasted 10, 15 minutes at the most.

19 Q Uh-huh.

20 A I relayed that information to Mr. Passantino.

21 Q Uh-huh.

22 A And he told me, he said that he was going to -- at that point in time, they

23 were not going to provide the devices to us --

24 Q Uh-huh.

25 A -- but maybe later. He said he would secure them in his office safe.

1 I let him know that -- for some reason -- I don't know why -- I thought he was in
2 Los Angeles.
3 Q Uh-huh.
4 A But I'm not sure. In my mind, I thought he was in L.A.
5 Q And so, turning to your written statement on page 8, you know, after your
6 interactions regarding the Bobulinski interview, as well as your communications with
7 Passantino, it says: Apart from the above -- this is the kind of the last full paragraph.
8 A Yes.
9 Q Apart from the above, I took several actions to ensure continuity between
10 WFO and Baltimore on the Bobulinski interview and communication with Mr. Passantino.
11 I called and emailed the Baltimore ASAC to ensure that he and his investigative team
12 knew about all actions WFO took on their behalf concerning Mr. Bobulinski.
13 Was the Baltimore ASAC you referred to here, was that Mr. Watson?
14 A Yes, ma'am.
15 Q And were you told to interact with the Baltimore Field Office, or how did you
16 know to send the information to Baltimore?
17 A It's what I do.
18 Q Uh-huh.
19 A Just, look, there's a lesson learned and you try to learn your lessons. But
20 you want to make sure there's nothing lost in emails. Right?
21 Q Uh-huh.
22 A You want to make sure there's nothing lost in phone calls.
23 The first concern was to make sure that Baltimore got the FD-302s --
24 Q Uh-huh.
25 A -- that the agents had written and to also make sure that anything he had

1 turned over to the agents got there.

2 And so I called the supervisor for CR-10 and said: Hey, how are you sending this

3 information to Baltimore.

4 And I was advised it was like an e-Guardian system. So there's receipts for that.

5 So we can show.

6 Q Uh-huh.

7 A I said: Okay, great.

8 I asked to see a copy of the written FD-302 just so I knew, hey, it was done good.

9 I just reviewed it really quickly. Made no comments. Didn't have any followup

10 questions. That information was going to be sent. I was good with it.

11 I called Alfred Watson to let him know how we were going to send it.

12 Q Uh-huh.

13 A Alfred Watson told me: Hey, that's great.

14 But with regard to -- I think there might have been some loose media or

15 something. He said: Can you have your agents send it a certain way so we can get it

16 quicker?

17 Q Uh-huh.

18 A I relayed that information to the supervisor of CR-10. So that was handled.

19 What -- and then I needed to do something so that they understood that I had

20 conversations with Mr. Passantino because I didn't want these devices to get lost.

21 Right? Because we didn't take custody of them.

22 Q Uh-huh.

23 A And I was not in a position. I wasn't on the Hunter Biden case. I didn't

24 want someone just to forget about them absentmindedly or something.

25 Q Uh-huh.

1 A So my recollection is I did a Memo for Record --

2 Q Uh-huh.

3 A -- identifying all my interactions with Mr. Passantino.

4 Q Uh-huh.

5 A I had the CDC review it. He actually made a couple of edits, as I recall.

6 And I sent that also to Mr. Watson out of continuity.

7 And let me tell you. There was a case that the FBI was involved in, involving

8 some sexual abuse of gymnasts in Michigan --

9 Q Uh-huh.

10 A -- or something up there in the north.

11 Q Uh-huh.

12 A Indianapolis I think was involved. The lesson learned there is you got to

13 communicate, you know.

14 Q Uh-huh.

15 A One of them has got to pass the baton. And So I got a good handshake

16 from them and so that -- that answers your question.

17 Q And --

18 Chairman Jordan. So your contact -- oh, I'm sorry.

19 Your contact was with the, first, the voicemail you left for Passantino and then

20 two calls with him after that.

21 Did you have any other contact with Mr. Bobulinski or Passantano -- tino, excuse

22 me -- after that?

23 A I never talked with Mr. Bobulinski at all, and I did not have any contacts

24 afterwards. I know there's an allegation made against me that I should have been the

25 one scheduling, like, a followup call with Mr. Bobulinski.

1 I don't -- in the light most favorable to Mr. Bobulinski, I don't know what he was
2 told by any other agent. I don't know if he was told that the FBI was going to follow up.
3 I'm sure he was told that I was the point of contact on the Hunter Biden matter
4 with respect to him. In the light most favorable to him, he could have thought: Oh,
5 this is the guy.
6 What he didn't know was I was the point of contact on this very small item.
7 The whole idea that he came to WFO is they were trying not to disclose that there
8 was an investigation in Baltimore is my belief. I don't understand otherwise why he
9 came to Washington Field Office.
10 Chairman Jordan. You didn't have any contact with Mr. Bobulinski during this
11 whole time --
12 Mr. Thibault. Right.
13 Chairman Jordan. -- certainly not subsequent to the interaction with his
14 attorney. Has anyone in the FBI had any contact with Mr. Bobulinski since then?
15 Mr. Thibault. I don't know, sir. I don't know.
16 BY [redacted]
17 Q And, in your written testimony, it says, when you're talking about conferring
18 with the Baltimore ASAC, you wanted to let him know about all actions WFO took on their
19 behalf.
20 A Yes.
21 Q Was this a Baltimore request to hold the interview at the WFO, or how did
22 the interview occur at the WFO rather than Baltimore?
23 A I was on leave that day. So those communications with that --
24 Q Uh-huh.
25 A -- that is a question that would best be addressed by Mr. Dawson.

1 Q Uh-huh.

2 A I was on the of the loop on that.

3 Q Okay. Turning back --

4 Chairman Jordan. No one told you why? I mean --

5 Mr. Thibault. I --

6 Chairman Jordan. -- a 302.

7 Mr. Thibault. I ascertained and later asked Mr. Dawson why. And he told me

8 what I believe was because Baltimore case, I don't know that it was public at that time.

9 And so someone made a decision.

10 And so my -- it's secondhand information?

11 Chairman Jordan. Uh-huh.

12 Mr. Thibault. But I would confirm that with Mr. Dawson.

13 BY [redacted]

14 Q And, if we look back at the letter from Senator Grassley on July 25th, 2022,

15 at the bottom of the first page, it says: It is further alleged that, in August 2020, FBI

16 Supervisory Intelligence Analyst Brian Auten opened an assessment which was used by an

17 FBI Headquarters team to improperly discredit negative Hunter Biden information as

18 disinformation and caused investigative activity to cease.

19 Based on allegations verified and verifiable, derogatory information on Hunter

20 Biden was falsely labeled as disinformation.

21 Are you familiar with SIA Brian Auten?

22 A I don't know him. I've heard his name before because of all this, but I

23 never knew him. He may have been in the meeting with me. I suspect he was. But I

24 don't know him personally.

25 Q So he wasn't on the CR-15 squad on under your leadership?

1 A That's correct.

2 Chairman Jordan. He was in the FITF meeting.

3 Mr. Thibault. I don't know for sure. It wouldn't surprise me if he was.

4 Mr. Lytle. But he was not in CR-15 as far as you know.

5 Mr. Thibault. That's correct. And I couldn't -- I couldn't point out Mr. Auten if

6 he was in this meeting to you. I just don't know him.

7 [redacted] What about Laurie Dehmlow?

8 Mr. Thibault. I don't know her either. I've heard her name since then but only

9 since then because of the news.

10 BY [redacted]

11 Q Did have you familiarity with the -- we'll call it for these purposes the Auten

12 assessment prior to this letter becoming public?

13 A No, ma'am.

14 Q Did you have during your tenure as ASAC, did you ever learned of this

15 assessment that Mr. Auten had put together?

16 A No, ma'am. In this letter --

17 Q Uh-huh.

18 A -- is actually first time I heard about it, I think, is from this letter.

19 Q Okay.

20 [redacted] Does Round River ring a bell --

21 Mr. Thibault. No, sir.

22 [redacted] -- for that assessment?

23 Mr. Thibault. No, sir. And, as matter of fact, there's a mention of -- on some

24 file that was in the -- that the FITF kept. I did haven't access to that file. I didn't know

25 about the file either. Right? I didn't know about it until one of these letters came out.

1 BY [redacted]

2 Q And so, when you were looking at the Hunter Biden investigation as a whole,

3 you had involvement with this one FD-1023. Is that correct?

4 A Yes.

5 Q And then you had involvement, you know, with the followup from the

6 Bobulinski interview. Is that correct?

7 A Yes.

8 Q And then you had the one engagement with Baltimore and headquarters

9 regarding this investigation that wasn't old, but they wanted your expertise on. And

10 then you reached out to the U.S. Attorney for D.C. Is that correct?

11 A Yes, ma'am.

12 Q Is that the sum total of your involvement in any aspect of the Hunter Biden

13 investigation?

14 A There was one other issue I think I might have mention --

15 Q Okay.

16 A -- which was the legal process.

17 Q Okay.

18 A And I didn't have any involvement in that other than Baltimore had sent a

19 lead to one of my squads.

20 Q Uh-huh.

21 A And there was some deconfliction with that that was needed.

22 And so, actually, Mr. D'Antuono, Steve D'Antuono, wanted the Secret Service --

23 Q Uh-huh.

24 A -- involved in the legal, and that's it. And I really -- I just made -- I just acted

25 as the communicator between Baltimore and my ASAC -- my ADIC, Steve D'Antuono, and

1 Alfred Watson, the ASAC in Baltimore.

2 Mr. Lytle. If I could clarify something. I think you said the US Attorney in D.C. --

3 [redacted] Uh-huh.

4 Mr. Lytle. -- on the Hunter Biden, but it was actually J.D. Cooney, who was the

5 U.S. Attorney.

6 Mr. Thibault. He was an assistant.

7 Mr. Lytle. Yeah.

8 BY [redacted]

9 Q So the U.S. attorney. Okay. So, for the legal process, what was the legal

10 process? Was it a subpoena?

11 A I can't --

12 Q Was it a warrant?

13 A I can't disclose that information because of Federal criminal law.

14 Q And you said that the -- it was coming from Baltimore.

15 A From Baltimore. It was just legal process on something that needed to be

16 handled -- handed to somebody.

[1:50 p.m.]

BY [redacted]

Q And, when you say "deconflicted," what do you mean by "deconflicted"?

A So the person had Secret Service detail.

Q Okay.

A And, generally, when we had to do whatever we were going to do, you just do it. Right, but, because of that detail, there's a concern -- always a concern of blue on blue.

Q Uh-huh.

A And so Mr. D'Antuono said notify the Secret Service so we don't have a blue-on-blue issue.

Q And what was the timeframe for this legal process when it was --

A I'm guessing here.

Q Uh-huh.

A -- because it was such a small minor thing.

Q Uh-huh.

A It might have been between October and December of 2020.

Q Of 2020?

A Yes, ma'am.

Q And so was that the -- with the legal process, was that it in the sum total of your involvement with any aspect of the Hunter Biden investigation?

A To the best of my knowledge, yes, and I think a total of 4, 5 hours of my 26 years in the Bureau.

Q Uh-huh.

A That's what it amounted to.

1 Q And recently there have been some IRS special agents that have come to
2 Congress to talk about some deviations from standard practice at the Department of
3 Justice regarding the Hunter Biden investigation.
4 Are you aware of the whistleblowers that have come forward and made public
5 testimony regarding the investigation?
6 A I've read agent reports.
7 Q Did you have any involvement in the matters that they were related with?
8 A No, ma'am. You know, I didn't even know -- when the initial stuff was
9 going on with the CHS 1, I didn't even know IRS was involved in the case. I didn't know
10 what they were really looking at.
11 Q Okay. So --
12 A They -- I don't know -- I didn't know. I didn't have any involvement with
13 any of those agents from the IRS.
14 Q So your awareness only came from the public reporting. Is that correct?
15 A Of that, yes, ma'am.
16 Q Okay. I want to turn our attention to the CR-15.
17 A Okay.
18 Q And you said, at one point, you were the lead for CR-15, the squad lead.
19 What was that timeframe again?
20 A October -- October 2014 through December 2018.
21 Q And you said you handled several high-profile cases. Is that correct?
22 A Well, throughout my career --
23 Q Uh-huh.
24 A -- there's been several high profile cases, yes, ma'am.
25 Q So was your tenure as quad supervisor, was that the first time that you had

1 dealt with the CR-15 squad?

2 A No. So I had been front line -- a frontline agent from --

3 Q Uh-huh.

4 A -- 1999 until January of 2014. I had been assigned to CR-15. For a period,

5 it was known as CR-20, up until -- from '99 until maybe 2003 or '4, and they merged two

6 squads, and it became CR-15 at that point.

7 Q Okay. And then, you know, your next role in supervising CR-15 came when

8 you were ASAC at WFO. Is that correct?

9 A Yes, ma'am.

10 Q At what point in your tenure -- in your written testimony you talk about

11 opening of the Clinton Foundation investigation.

12 A Uh-huh.

13 Q What part of your tenure did that occur in?

14 A It was early 2016.

15 Q And was that the same Clinton Foundation that was discussed in the Durham

16 report?

17 A Yes, ma'am.

18 Q Okay.

19 [redacted] We'll enter that as exhibit number -- I'm sorry -- 3.

20 [Thibault Exhibit No. 3

21 Was marked for identification.]

22 BY [redacted]

23 Q We're not going to enter the whole Durham report --

24 A Of course.

25 Q -- just the front cover and then the relevant portions of that.

1 A Of course.

2 Do you want me to read the whole thing you gave me?

3 Q If you need to refresh your recollection, please do.

4 Ms. Lytle. Is there a part you're focused on, or is it the whole thing?

5 [redacted] Definitely the first paragraph for sure and then just kind of the

6 interactions that are discussed in here.

7 Mr. Thibault. Okay.

8 Ms. Lytle. Just take your time and read it.

9 Mr. Thibault. Okay.

10 BY [redacted]

11 Q Okay. And had you read this portion of the Durham report prior to today?

12 A Yes, ma'am.

13 Q Okay. Were you interviewed by Special Counsel Durham?

14 A I was interviewed just in regard to the case on the Clinton Foundation --

15 Q Uh-huh.

16 A -- and the other matter that involved a source out of a western office.

17 Q Okay. But you were interviewed by Mr. Durham's team. Is that correct?

18 A I was interviewed, and I believe it was recorded.

19 Q Okay.

20 A I mean, I was a witness.

21 Q Yeah, okay. And, looking at page 78 of the Durham report, again the first

22 sentence says: Beginning in January 2016, three different FBI field offices, the New York

23 Field Office, the Washington Field Office, and the Little Rock Field Office, opened

24 investigations into possible criminal activity involving the Clinton Foundation.

25 Is this the investigation that you refer to in your opening or your written

1 testimony?

2 A Yes, ma'am.

3 Q And a little bit further down, it says: The WFO investigation was opened as

4 a preliminary investigation because the case agent wanted to determine if he could

5 develop additional information to corroborate the allegations in a recently-published

6 book, "Clinton Cash" by Peter Schweizer, before seeking to convert the matter to a full

7 investigation.

8 What was your role and involvement in opening the Washington Field Office's

9 Clinton Foundation investigation?

10 A Okay. So I was a supervisor of the CR-15. I might have been acting ASAC

11 at the time. Prior to the opening, my boss, the SAC -- and I forgot his last

12 name -- Timothy -- he was the ADIC before Steve D'Antuono. The name is escaping me.

13 Q That's okay.

14 A Anyway, we had a discussion about the book.

15 Q Uh-huh.

16 A And that prompted me to buy the book and read it.

17 Q Uh-huh.

18 A So I read the book. And then, at some point, in time, he called me and

19 said: Hey, New York is getting ready or they've drafted an opening EC --

20 Q Uh-huh.

21 A -- regarding the Clinton Foundation. And I said, Well, I think it might be

22 better worked out of WFO --

23 Q Uh-huh.

24 A -- because of venue issues anyway raised in the book with regard -- and

25 Secretary Clinton was in D.C. at the State Department, so I said it only -- I believe -- and

1 we had really good relationships with the State Department OIG. And so he was, like:
2 Well, draft an opening EC, but you've got to do it quick. I might have done it without
3 even his -- but he's, like: We need to do it quickly because New York is trying to get the
4 case.
5 Q Uh-huh.
6 A Sometimes that's how you get a case in the FBI, the first one that can get it
7 open.
8 And so I -- since I had read the book, I couldn't give it to an agent on the squad to
9 draft it within a day or two. They just didn't have the information. And so I was, like,
10 I'll just draft it myself. So I drafted it.
11 Q Uh-huh.
12 A Under DIOG, it was self-source, so it was only one source, and it was a book.
13 So you really can't hope a full on one source. Right?
14 Q Uh-huh.
15 A So it appeared to me and in talking with the CDC, the lawyers in the office,
16 preliminary is what you probably want to open it as.
17 Q Uh-huh.
18 A So I remember drafting it. I think I had one of the case agents on my squad
19 look at it, review it, make sure that, you know, I was -- just to get their opinion on it.
20 Q Uh-huh.
21 A -- what they thought. And then I -- we went through the approval process.
22 I reached out to the D.C. U.S. Attorney's office.
23 Q Uh-huh.
24 A I never heard back from them really. And I was talking to headquarters
25 because I couldn't get a prosecutor to kind of approve and concur with the Bureau.

1 Q Uh-huh.

2 A And usually you need to do that before a case is opened. But I was working

3 really closely with the SAC. He was, like: Write it up; we'll get it approved; get it up to

4 headquarters.

5 And so that's what I did.

6 Q So, when you opened this investigation as a preliminary investigation, the

7 SAC was involved. And then was someone else at headquarters involved as well?

8 A Yes, ma'am. I think high levels at headquarters like the assistant director.

9 Q And did the assistant director kind of approve of the preliminary

10 investigation, that it could, you know, go forward and see what was there?

11 A I don't think that the ADIC would have signed off on it or the SAC would have

12 signed off on it --

13 Q Uh-huh.

14 A -- if it had not had buy-in from headquarters.

15 Q Okay.

16 A So they had those discussions. I really worked on the lower end of it.

17 Q Uh-huh.

18 A And then that got sent up to headquarters, and then they had three

19 openings, but they had to make a decision who was going to open up the case.

20 Q And so, in the first paragraph here, it kind of characterizes what the Little

21 Rock investigation, you know, centered on large monetary contributions in exchange for

22 favorable government action or influence. Was that kind of similar to what you were

23 investigating at the Washington Field Office?

24 A I think it was laid out -- there were several allegations in that book.

25 Q Uh-huh.

1 A And that's the basis for it --

2 Q Uh-huh.

3 A -- was -- you know, was there any evidence that there was a potential bribe

4 or conflict of interest or anything like that.

5 Q Besides reading through the book, were there any other investigative steps

6 that were taken by the Washington Field Office on this specific preliminary investigation?

7 A Sure. So there was a big meeting, and it was at headquarters. I don't

8 believe it was at any of the meetings referred to in this.

9 Q Okay.

10 A Okay. So it was a meeting between the heads of the Washington Field

11 Office, case agents --

12 Q Uh-huh.

13 A -- me -- middle management, me. Little Rock flew in for it. So they had

14 Little Rock; they had the ADIC and agents from New York; Diego Rodriguez I think because

15 he's the former SAC so I remember -- or ASAC. I remember him. And it was chaired by

16 Joe Campbell, who was the assistant director.

17 Q Okay.

18 A And I think the EAD was there as well.

19 Q Uh-huh.

20 A He's mentioned in here somewhere. So it was a meeting of a lot of people.

21 Q Uh-huh.

22 A I didn't really have a speaking role.

23 Q Okay.

24 A But they were kind of going through sort of the laying out -- each office had

25 something to say.

1 Q Uh-huh. Each field office involved?

2 A Each field office got to speak up.

3 Q Okay.

4 A And they were generally the same, except for New York because New York

5 had some CHS they said. I don't know who it was, but us at WFO are, like: Sure,

6 they've got a CHS. Right?

7 Q Uh-huh.

8 A You know, that's their in. Our strength was we're in D.C. We think we

9 have venue. So we were lobbying to get that case.

10 Q Uh-huh.

11 A The instructions -- and, at one point, Mr. Campbell -- and I remember talking

12 to Mr. Durham's team. There was a DOJ buy-in at that point in time. I don't know

13 what meetings they had or they didn't have, but I remember Mr. Campbell pounding his

14 fist on the table going: We're the FBI. We can investigate this.

15 Q Uh-huh.

16 A The problem is for everybody is you've got to do it with a prosecutor.

17 Q Uh-huh.

18 A You're not going to get anywhere in a case if you don't have legal process.

19 Q Uh-huh.

20 A So --

21 Q But you said there wasn't Department of Justice buy-in at that time?

22 A Not at that point in time.

23 Q Okay.

24 A So then they decide to have each of the offices open up a case.

25 Q Uh-huh.

1 A So how is that going to work? Right? That's odd.

2 Q Uh-huh.

3 A So three offices open up a case and -- so go back to our office, and we'll

4 wait -- and they say: But don't do anything just yet.

5 Q Okay.

6 A So we went back to our office. And, in the weeks later, they basically said:

7 Hey, offices can do whatever internal searches they want to do.

8 Q Uh-huh.

9 A They can query CHSs, but they can't do any overt outward investigation at

10 that time.

11 Q Uh-huh.

12 A The three offices are doing this. And so I had some of the agents just run

13 some public --

14 Q Uh-huh.

15 A -- available public information. We didn't have any sources that I can

16 remember that we had to use. So the case kind of sits there for a number of months --

17 Chairman Jordan. Is that unusual that they limited what you could do?

18 Mr. Thibault. Well --

19 Chairman Jordan. It's not October 2016. It's January.

20 Mr. Thibault. Well, it's unusual that there's three cases open because you never

21 want to have different offices running into each other. It's unusual that we have a case

22 open without DOJ involvement yet or buy-in.

23 [redacted] Uh-huh.

24 [redacted] These were all PIs, all three were PIs?

25 Mr. Thibault. Mine was a PI. It says in here that one of them, I think, was a full.

1 [redacted] What office?

2 Mr. Thibault. I think it was maybe New York was a full.

3 BY [redacted]

4 Q But, beside this meeting that you just discussed, you had -- at some point,

5 there started to be these coordination meetings. Is that correct?

6 A I wasn't involved in any of those.

7 Q You weren't involved in any of those?

8 A No.

9 Q Okay. Was there anyone from the WFO that was involved in the

10 coordination meetings?

11 A It may have been at a very high level. I just don't know.

12 Q Uh-huh.

13 A I was not involved in them.

14 Q Were you ever briefed on what occurred at the coordination meetings?

15 A No, ma'am -- well, except for in August of 2016.

16 Q Okay.

17 A In August of --

18 Q Uh-huh.

19 A We all have points of contact at headquarters in the Public Corruption Unit.

20 So my point of contact, I was probably pinging him going: Hey, we should be working

21 this. Right?

22 Q Uh-huh.

23 A WFO, we felt strongly that we were in the best position. And we fought

24 with New York on cases before.

25 Q Yeah.

1 A So it's not unusual. So that's it. And I pinged the public corruption
2 program manager and trying to say: Hey, we're here. We're doing this. But it was
3 clear to me that, hey, you can't do any more than this.
4 Q Uh-huh.
5 A Not that we could have anyway. We could have done interviews, but we
6 didn't have a prosecutor, so there was no providing of grand jury subpoenas --
7 Q Uh-huh.
8 A -- which is what you want to get out. I did make contact with -- I think I
9 made contact with the OIG with the State Department.
10 Q Okay.
11 A We had another case involving a subject --
12 Q Uh-huh.
13 A -- that would have been interviewed -- which would have been in a close
14 relationship with the Clintons.
15 Q Uh-huh.
16 A And we had pause to get information on that case that might overlap.
17 Q Uh-huh.
18 A And so that was also one of our selling points is we got a case on this guy.
19 Q Uh-huh.
20 A We think it would help us on the Clinton case.
21 So -- but the point was, you know, the Bureau believed we should be involved in
22 this case investigating it.
23 Q Uh-huh.
24 A My sense is that the problem was we couldn't get DOJ to help us.
25 Q And, between that January 2016 and August 2016 timeframe, did you ever

1 get the impression that there was Department of Justice buy-in? Did you ever get a
2 prosecutor?
3 A No, no, ma'am.
4 Q Okay.
5 A In August, I was called by my contact at the Public Corruption Unit and told
6 that we were to close our case and that we were to forward any information that we had
7 up to New York. And so I did -- I think I did the closing EC.
8 Q Uh-huh.
9 A I may have been put in something, like: I still feel we're the best
10 person -- best office to do this, and here's a list of investigative steps I would do if I were
11 in charge of this case.
12 Q Uh-huh. And did the New York case, to your knowledge, ever move
13 forward on the Clinton Foundation?
14 A I don't know what happened with their case.
15 Q Uh-huh.
16 A But eventually it was sent to Little Rock.
17 Q Okay. And did you ever -- do you know if the Little Rock investigation ever
18 progressed?
19 A From time to time, the supervisor in the Little Rock case would call me --
20 Q Uh-huh.
21 A -- just, I think, asking information -- for information about maybe another
22 case that we had that might be similar.
23 Q Uh-huh.
24 A Or not similar, but there might be a nexus.
25 Q Uh-huh.

1 A I had a friend in Little Rock --

2 Q Uh-huh.

3 A -- that was a really good public corruptionist. And, from time to time, I

4 would -- you know, we would talk, and I'd say: Hey, how's it going?

5 It's just, like: Oh, it's going.

6 But I never knew how well or what they were doing. That wasn't related to me.

7 [redacted] We'll go off the record.

8 [Recess.]

9 [redacted] We can go back on the record, please. It is 2:17.

10 BY [redacted]

11 Q Okay. Mr. Thibault -- hold on just a second -- let's go back to the subject at

12 hand according to the Republicans who asked you to come here today.

13 There were a number of allegations waged against you regarding generally

14 political bias that you're alleged to have expressed in your investigative decisions at the

15 FBI. And I just want to return to that subject of the CHS 1. We discussed at length the

16 problems with that source according to the Baltimore Field Office and the Public

17 Integrity -- or in the FITF and other FBI sources. And I think that we also talked quite a

18 bit about your -- who you refer to in your statement as Agent 1.

19 A Yes, ma'am.

20 Q That's Olohan. Right?

21 A Yes, ma'am.

22 Q Okay. So let's talk about Agent 2. You said a little bit about that agent is

23 somebody that you knew pretty well. She had worked for you a bit, and you considered

24 her -- or you considered yourself sort of a mentor in some ways?

25 A A mentor and a friend, yes.

1 Q Okay.

2 A Professionally though.

3 Q Yes. You made that clear.

4 And she, you indicated, was maybe frustrated -- or I don't know what word you

5 used -- when the CH 1 -- CHS 1 was closed. Correct?

6 A Yes.

7 Q Okay. But she also was not able to give you any compelling reason to keep

8 that source open given what you already knew about the source. Correct?

9 A Correct.

10 Q And she wasn't interested in taking up on your offer to facilitate her

11 receiving that classified briefing that you had received from FITF. Right?

12 A Right. And it was more than just a classified briefing. It was: Hey, do

13 you want to go up there and get their perspective? Because I think for agents it's always

14 useful to do that, right, to cross-train a little bit --

15 Q Yeah.

16 A -- and to understand why they're making this decision.

17 Q Okay. Now, let's talk about that agent's experience in other contexts that

18 you had with her. Did there come a time when you had learned that that agent was

19 trying to open a source or trying to investigate something that had been referred to in the

20 media as Italygate?

21 A Yes, ma'am.

22 Q Okay. Can you first tell us, what is Italygate? What's your understanding

23 of what that means?

24 A I didn't really know it at the time. I hadn't -- it hadn't come to my

25 attention. But what I understood that to be was an allegation that came up in -- I don't

1 know -- November, December of 2020. And it alleged that U.S. Government entities, to
2 include the CIA, were working with the U.S. Embassy and others to include a guy who was
3 a hacker that had worked for an Italian defense company, and they had a way to hack
4 into election machines on the evening of the 2020 election and change votes real-time
5 using Italian government satellite -- satellites to do so.
6 Q What was your reaction to that theory when you first heard about it?
7 A You know, it was a little bit distressing because I didn't learn about it from
8 my agents. I only learned that they wanted to interview -- initially they wanted to
9 interview someone over in Italy. I learned about it because I was trying to -- to back up
10 a little bit, it first came to my attention when I got a call from -- a call from this supervisor,
11 Special Agent from CR-15, and he said: Look, my agents are trying to do an interview of
12 a subject with regard to election fraud, and the subject is in Italy. And he told me that
13 they had tried to get the Legal Attache Office in Rome to do the interview and that they
14 had declined.
15 Then they had tried to get funding through FBI Headquarters, Public Corruption
16 Unit, to travel over to Italy to do the interview of this person, a potential witness who was
17 in jail. And so I just got briefed on that. It was a phone call --
18 Q Okay. Can I stop you just one second?
19 A Sure.
20 Q When you say "they," who were you referring to; they were making these
21 efforts?
22 A It was CR-15. So it was the supervisor in CR-15, and it was Special Agent
23 No. 2, and there was another agent that Special Agent No. 2 was having help her with it.
24 I don't know how involved he was or not. He was a really good agent, though.
25 Q Okay.

1 A So he had worked some really good cases, and so he was also involved.
2 And I had asked basic questions when they called me. They were trying to get me to
3 help them get funding, and this is for this travel. And so I said: Okay, give me some
4 background.
5 And they basically told me it's an allegation of election fraud. I don't know if
6 they said 2020 Presidential election -- they might have or they might not have -- that
7 Rome had turned them down as far as doing the interview. And I said: Okay, good,
8 good to go. Let me call --
9 Q Did you know why Rome turned them down or what reason --
10 A Initially I was told Rome is too busy.
11 Q Okay.
12 A I'm not sure if that was the right -- the reason or not.
13 Q Okay.
14 A So I got off the phone with them, and my next call was to the Public
15 Corruption Unit chief at headquarters, and I said: Hey, what's the problem with
16 funding?
17 And he goes: Are you kidding me, basically.
18 And I go: No.
19 And he goes: Do you know that this is to support an opening of a case that's
20 been sent to the Public Corruption Unit as a draft?
21 I said: I don't know about that.
22 Q What does that mean "as a draft"?
23 A So sometimes FBI agents will try to get a prosecutor opinion before they
24 open a case.
25 Q Okay.

1 A So that wouldn't be unusual that -- in some cases. But, if you're trying to
2 open up a case on a Presidential election, you're not going to be sending draft openings
3 outside the office before you kind of brief up to your management that we want to open
4 up this big case. Right?
5 Q Okay. So some special agent had asked an attorney at the Public
6 Corruption Unit for this sort of draft opinion with respect to this theory?
7 A They sent over an email. So Special Agent No. 2 asked another agent who
8 was working a lot of cases and had a really good reputation --
9 Q Uh-huh.
10 A -- to send an email to Public Integrity Section.
11 Q A lawyer there?
12 A Yes, to the same prosecutor that he was working with on another case.
13 Q Do you know if that --
14 Ms. Lytle. Sorry. Can we clarify something? So, when you say Public
15 Corruption Unit --
16 Mr. Thibault. Public Integrity Unit.
17 [redacted] Oh, I'm sorry. At DOJ?
18 Mr. Thibault. DOJ.
19 Ms. Lytle. Public Corruption is at FBI Headquarters?
20 Mr. Thibault. FBI Headquarters.
21 Now, the first conversation I'm having with funding is with the Public Corruption
22 Unit.
23 BY [redacted]
24 Q Okay.
25 A He's telling me that he has received a communication from Public Integrity

1 about a draft case opening.

2 Q DOJ?

3 A DOJ. He's assuming at the time that I would have seen this because --

4 Q This is from your agent?

5 A Yes.

6 Q Okay.

7 A Because of the gravity of the allegation and what it meant, he couldn't

8 believe that I hadn't been briefed on it. He actually thought, I think, that I was

9 approving it --

10 Q I'm sorry. Before you continue, so this is Special Agent No. 2, as you've

11 identified her in your statement, exhibit 1, and she has asked another special agent on

12 CR-15 to send this email to the Public Integrity attorney on her behalf?

13 A Yes. And it has an attachment, and it's a draft -- like, it's a draft opening.

14 And what they're seeking is sort of a prosecutive opinion: Is this worth investigating --

15 Q Okay.

16 A -- type of thing.

17 Q And would that in some way support their efforts to travel to Italy and be

18 able to interview these people? Is that the effort or --

19 A I don't think what their effort was. I think in the light most favorable to

20 her, to Special Agent No. 2, it could have been just trying to get a prosecutor on board to

21 support an opening eventually. But they could have traveled without that case even

22 being open.

23 Q Okay.

24 A So this is what's interesting. So the head of the Public Corruption Unit tells

25 me that he has received an email forwarded to him from Public Integrity, and it contains a

1 draft opening language, and he was shocked that I didn't know about this. Because of
2 the type of case it was, you would expect that the ASAC would be in the loop.
3 Q Because it was related to election --
4 A Because it was sort of -- it's a big deal. Right? It's a Presidential -- 2020
5 Presidential case.
6 Q Would it be considered a sensitive investigative matter under --
7 A Yes. It would be -- it would be -- so when I opened up the William Jefferson
8 case, before I opened that up, my boss, the supervisor, knew. My ASAC had been
9 briefed. The SAC knew. The ADIC knew. People at headquarters knew before that
10 case was even opened.
11 Q Okay. So would you say it's fair to say that this email that went eventually
12 to the DOJ Public Integrity lawyer was proceeding in unusual channels for the type of case
13 that this was meant to open?
14 A It should have been vetted through FBI executive management.
15 Q And it wasn't?
16 A It wasn't.
17 Q Okay. So what did you learn then at that point?
18 A So I asked him to send it to me, so he did. And he also said this. He
19 goes -- he said: Tim, in my conversation with Public Integrity -- I'm not sure who he was
20 talking with -- he goes: They were kind of laughing.
21 And I came to understand why because I reviewed the EC.
22 Q What's the EC again?
23 A It's a draft opening EC.
24 Q The electronic communication?
25 A Right. Now, they weren't looking for it to be opened by sending it to the

1 Public Integrity Unit at that point. I think they were looking for a prosecutor opinion.
2 Q Okay.
3 A Okay. So I receive this email and attachment, and I read it, and that's when
4 I understand, I believe, what Italygate is. I was able to put 2 and 2 together, and it was
5 Italygate.
6 Q Okay. So what was in the email?
7 A Well, it was a draft EC, and then it was the communications from Public -- it
8 was a communication from the Washington Field Office which had the attachment to a
9 line prosecutor at Public Integrity. And then it was an email from the deputy, I believe,
10 deputy chief at Public Integrity to the Public Corruption Unit, and then that was sent to
11 me.
12 Q Okay. And why did the deputy chief of the Public Integrity Unit send the
13 email to the Public Corruption? What was the point of him trying to
14 communicate -- him or her trying to communicate with the Public Corruption --
15 A So I wasn't involved in that communication.
16 Q Okay.
17 A I don't want to speculate what the conversations were.
18 Q Okay.
19 A They talk routinely, I would imagine, on any big case.
20 Q I'm talking about this particular communication.
21 A This particular communication, I don't recall what was in the email. There
22 might have been some texts in the email.
23 Q Okay.
24 A I don't recall what he said.
25 Q Okay. And why was it eventually forward to you from the Public

1 Corruption Unit?

2 A Because it was then obvious to the Public Corruption Unit supervisor that I

3 didn't know what was going on. He would have assumed that I did know, and I think the

4 Public Integrity prosecutors would have assumed that I would have known.

5 Q Okay.

6 A And they never reached out to call to me because I think they would have

7 said: What's going on with Tim Thibault, like --

8 Q Why would they have said that?

9 A Because the draft EC --

10 Q Uh-huh.

11 A -- is not -- is not of the quality that one should be being sent out. And,

12 number two --

13 Q I'm sorry. But what do you mean it's not of the quality that should be sent

14 out?

15 A It didn't contain enough predication, in my opinion, to even talk about a.

16 Q Was it well below professional standards in terms of predication, would you

17 say?

18 A It just lacked predication, in my opinion.

19 Q Completely or --

20 A Well, you have to -- there's several layers to that, and I can get into that a

21 little bit.

22 Q Do that and elaborate. It would be helpful.

23 A So the first -- I spent a number of hours. I'm talking more than 5 -- 5 to

24 8 hours over the course of a number of days looking into, one, the allegation itself,

25 because I didn't really understand it, and I didn't have the background. This is the same

allegation that, 6 months prior to, the then Acting Deputy Attorney General Donahue --

Q Uh-huh.

A -- said was -- characterized as pure insanity.

Q Could you pause right there?

A Sure.

[redacted] All right. I'm going to mark this as exhibit 4.

[Thibault Exhibit No. 4

Was marked for identification.]

BY [redacted]

Q This is a Washington Post article, dated June 15, 2021, entitled "Pure Insanity: Here's perhaps the craziest election fraud conspiracy the Trump team pushed."

Have you seen this article before?

A Yes, ma'am.

Q Okay. Take a minute to look at it if you need to kind of refresh yourself.

A I remember enough about it.

Q Okay. So this article refers to I think the email that you just mentioned where Donahue essentially characterizes this Italygate conspiracy as, quote, pure insanity. Correct?

A Correct.

Q Okay. And can you tell us, why do you think it is that he characterized this theory or this conspiracy theory in that way?

A I don't want to put words in his mouth, but it seemed sort of fantastical. But you know what? I didn't take his word for it either. I spent time asking questions.

1 For instance, one of the questions I asked the case agents is, is this technically feasible?
2 Can a defense satellite manipulate voting machines that aren't connected to the internet?
3 Can that happen? Has there been any evidence that a crime has occurred, a hacking
4 crime has occurred? I didn't get those basic answers.
5 So I dug deeper. And in the opening draft -- it was a draft. Right? So this
6 wasn't -- it's not like these agents were going to say this is a finished product. They
7 would probably say: Look, we just sent this over. We knew it wasn't finished. We
8 knew there wasn't, like, full predication. But there was three sources mentioned in that
9 opening draft memo.
10 Q Uh-huh.
11 A And so one was a source that I would describe as having political ties,
12 partisan political ties, even maybe an operative. One was a subsource to that same
13 person who I would say that description may apply to that person as well. And then a
14 third was an ongoing source that the FBI had been using for a while that had, I think,
15 provided some good information on other cases.
16 And so my next due diligence, right -- so I'm trying to do due diligence. And,
17 look, this isn't the ASAC's job. But, at this point, I was sort of losing some confidence.
18 Q Why were you losing confidence?
19 A Because I wasn't told about this, and even in my -- I wasn't told about it,
20 number one. But, number two, when I was having conversations with people about
21 this, no one told me -- they didn't raise Italygate. I wasn't told about what -- the
22 allegation that this had previously been reviewed by, like, the Deputy Attorney General
23 had made that comment. I wasn't provided situational awareness. Right?
24 Q So it's your understanding that this Italygate allegation or the information
25 from these three sources that you just described somehow made its way to the Deputy

1 Attorney General, and he had dismissed it as, quote, pure insanity before your agents
2 tried to raise it again 6 months later?
3 A Six months before.
4 Q Okay. So, first, it was raised to the Deputy Attorney General and dismissed
5 as pure insanity, and then, 6 months later, someone tried to raise it without your
6 knowledge within CR-15?
7 A Right. And, to be fair, I don't know if the Deputy Attorney General asked or
8 tasked headquarters to look at this or not. I just don't know. I don't know what the
9 basis of him saying that is. I'd be speculating. But then, 6 months later, people want
10 to travel halfway around the world to talk to someone who's in prison. Any FBI agents
11 knows, number one, first of all, an argument can be raised -- and it was raised by people
12 when we were discussing this at the squad level: Well, Tim, we talk to people all the
13 time that appear to have kind of whacky theories.
14 And I was, like: Yeah, we might. We might go down the road to Manassas and
15 talk to someone about some whacky theory. On a low-level case, we do do that.
16 But I think, you know, the situational awareness that I was gaining as an ASAC and
17 working consistently with headquarters and learning, that Public Corruption Unit chief
18 was unbelievable in terms of his knowledge of foreign influence. I had the benefit of
19 that information. The case agents here did not.
20 And so, while I was losing faith, I also wanted to be in a position where I could
21 come back and ask them questions. Because, if they could have answered my
22 questions, who knows if I would have said: Okay, let's keep these sources open.
23 Q I'm sorry. You're talking about foreign influence. What is the relevance
24 of that here? Can you explain?
25 A Well, all it is, is that it's obvious to me that -- while the time I was at

1 Counterterrorism Division and before that, there are people that have an interest in
2 influencing an election. Right?
3 Q Right.
4 A And the Public Corruption Unit chief had to work really closely with the FITF.
5 In my discussions with him with regard to CHS 1, I mean, he would just tell me: Hey,
6 here's what's some issues are. It's classified.
7 Q Uh-huh.
8 A That was information I didn't have.
9 Q Right.
10 A So I looked to him as sort of -- like a vast wealth of knowledge. So, when I
11 got into this, you know, I was trying to explain to the case agents that there's a difference
12 between going and interviewing someone that's in jail in another country on a case that
13 involves the 2020 election and on some small case that it doesn't matter where the
14 person is in Manassas. Okay. I was trying to give them that perspective, not that we --
15 Q Was there some hint of foreign influence here that you're --
16 A I'm not saying that.
17 Q Okay.
18 A Right? I'm not saying that on this case.
19 Q Okay.
20 A What I'm saying is there's just another perspective which the case agents
21 might not have had which I tried to share with them --
22 Q Which was what in this case? What were you trying to share with them?
23 A Well, the national perspective of whenever there's a -- you know, there's a
24 perspective other than just theirs, that if you go and interview someone in jail
25 without -- on a big case without really good foundation, first of all, you've got to have

1 your ducks in a row, number one. You know, you've got to have a predicated case
2 opened probably to do those things. You've got to have headquarters buy-in --
3 Q Okay. So, in this case, was there a predicated case?
4 A No, there wasn't.
5 Q Was there headquarters buy-in?
6 A No.
7 Q Did you even have knowledge that they were seeking to open this source?
8 A Well, the sources were -- the source was opened previously.
9 Q Okay. But they were seeking to, I guess, proceed with this interview in
10 Italy?
11 A Alls I knew at the initial point was they wanted to do an interview. Maybe
12 they believed that that interview would help them predicate a case.
13 Q Okay.
14 A That's a possible answer right there --
15 Q Okay.
16 A -- to their benefit. But why I was doing the work is because I was trying to
17 understand if there was anything in there that would have allowed us to open up a case.
18 I didn't go into this saying: This is preposterous. You're not going to do anymore on
19 this.
20 I actually took time to go through and actually try to understand where the
21 information was coming from.
22 Q Okay. And did you find anything to lead you to believe that it was anything
23 other than preposterous?
24 A I couldn't find a reason to predicate the case. And my review included a
25 review of the source file.

1 Q Uh-huh.

2 A And my review included open source queries of who the one CHS was and

3 the CHS' subsource. And that provided concern enough for me that those sources were

4 problematic.

5 Q Is that because you found them to be political partisans or political

6 operatives?

7 A It's always more than that.

8 Q Okay.

9 A I would never close a case down just because someone is politically partisan

10 unless someone else tells me that's going to hurt a Bureau case or hurt the Bureau.

11 Q Okay.

12 A So it has to be something more.

13 Q What more did you see here?

14 A There were credibility issues.

15 Q Like what?

16 A There were things that were being stated by both -- one of the CHSes and

17 the CHS' subsource that I found difficult to believe and unsupported.

18 Q Can you explain why you felt that way?

19 A Without getting into the information and identifying the sources, I can't.

20 Q Is it classified?

21 A No, it's not classified, but it's a CHS.

22 Q Okay.

23 A So what I don't want to do here is identify a CHS.

24 Q Okay. But you found that the issues were related to credibility?

25 A Credibility, yes. Credibility, reliability issues.

1 Q Okay. And can you characterize how significant your concern was with
2 respect to credibility and reliability? I mean, you have evaluated witnesses and sources
3 throughout your career --
4 A Right.
5 Q -- had, I imagine, sometimes a feeling that maybe this person isn't credible,
6 and then maybe had a feeling sometimes of definitely isn't credible. How would you
7 characterize the level of concern that you had for the credibility of these -- the source and
8 the subsource?
9 A It was significant.
10 Q Okay.
11 A There was significant issues.
12 Q And is it something that you would have expected your agent, Ms. -- I guess
13 agent number -- Special Agent 2 to recognize herself as an experienced agent, these
14 credibility issues?
15 A I would have expected more vetting, more investigative rigor and more
16 socialization before the fact.
17 Now, I don't believe that CHS 2 actually opened this source --
18 Q You mean Special Agent 2?
19 A Special Agent 2.
20 Q Yeah.
21 A I don't believe that was opened by Special Agent 2. We have what's called
22 in the FBI as HUMINT squads. There was a HUMINT squad that is tasked with recruiting
23 sources where there's intelligence gaps. I believe that this source was recruited by
24 somebody else and then transferred to Special Agent No. 2.
25 Q Okay. Nevertheless, though, you found that you were surprised or

1 concerned that she didn't vet this source better before relying on it to try to take these
2 investigative steps in Italygate. Is that fair?
3 A Yes.
4 Q Okay. Can you explain -- I mean, what happened when you discovered this,
5 that she was trying to rely on this source that you found had significant credibility issues
6 and then trying to take this investigative step without your knowledge or without your
7 consultation and kind of in contravention of normal processes for these type of cases?
8 A Well, I was trying to give the agent the benefit of the doubt. And it raised
9 questions for me. So, again, I wasn't trying to be accusatory. I was trying to be a good
10 mentor and a good supervisor --
11 Q Uh-huh.
12 A -- and to explain, you know, what I had found and to ask questions. And, in
13 the meeting -- you know, I had a meeting with Special Agent No. 2, the supervisor from
14 CR-15, and another agent, and I tried to ask relevant --
15 Q About this?
16 A About the source, about the source --
17 Q Okay.
18 A -- and the subsource.
19 Q Okay.
20 A And I tried to ask questions about things I had learned, and it didn't seem to
21 me that they knew -- I mean, I spent a day or two vetting myself, but it didn't seem like
22 the agents knew the information that I knew.
23 Q So did that lead you to believe that they hadn't done the due diligence that
24 you had done in the last few days?
25 A That's what I believed.

1 Q Okay.

2 A At one point I said, like: What are you doing here?

3 And I remember Special Agent No. 2 saying to me: I'm peeling the onion from

4 the outside.

5 Q What does that mean?

6 A I don't know.

7 Q Did you ask?

8 A I just assumed that -- that it was some excuse for a lack of rigor, right, like a

9 lack of getting into the facts and details. Maybe it was a fact that that source was

10 passed off from a HUMINT agent. And those HUMINT agents, that's what they do all

11 day. So maybe she was putting the credibility of the source and saying: Hey, a

12 HUMINT agent actually recruited this source so it has to be good.

13 Ms. Lytle. Is that an acronym? What are you --

14 Mr. Thibault. HUMINT. It's the Human Intelligence -- Human Intelligence

15 Squad.

16 Mr. Lytle. So HUMINT for short for Human Intelligence Squad?

17 Mr. Thibault. Yeah, Human Intelligence Squad.

18 And so, you know, maybe she thought that that was the case.

19 BY [redacted]

20 Q I mean, you're saying maybe. Does that mean she didn't actually say that?

21 You're just thinking it's possible?

22 A I'm giving the benefit of the doubt. Right?

23 Q But, just factually, in terms of that meeting and what she said to you, did you

24 raise your concerns with her about the lack of vetting and the fact that she hadn't

25 discovered the things that you had pretty easily discovered when you did your due

1 diligence?

2 A Yes. And there's a term in the Bureau I learned a long time ago. You're

3 either working a source, or they're working you. I was concerned that there wasn't an

4 element of savviness here on the agent's behalf, that maybe this source was working her.

5 Q In what way?

6 A It just seemed to me that, you know, you're going and you're trying to open

7 a case, but you haven't asked the very basic questions, like who -- I couldn't understand

8 how they were trying to work a case without -- we've got all the resources in the Federal

9 Government to find out if a breach of information or a breach of data had occurred.

10 We've got CISA. We've got the NSA. And, you know, I think I misspoke a second ago

11 about foreign influence because there was the whole Italy connection. Right? There

12 was a subject in Italy. And so there -- of course, there could have been some element in

13 my mind that was thinking, you know, foreign influence because the general allegation is

14 that this person was working and somehow the Italian Government was involved too.

15 Q Oh, okay. Right.

16 A So I may have misspoke. There just wasn't a rigor there --

17 Q Right.

18 A -- either with the opening of the case or with how the CHSes -- the CHS was

19 being worked.

20 Q Okay. So you confronted the agent in this meeting about that lack of rigor,

21 the failure to discover these credibility issues. And her response was something to the

22 effect of: I was peeling the onion from the outside.

23 A Yes. I just -- that sticks in my mind. I'm sure she said some other things.

24 Q Yeah.

25 A But that phrase stuck in my mind.

1 Q Did she say anything to you in that meeting that led you to change your
2 opinion that she had been careless or improperly vetted this source?
3 A Again, I was trying not to break anybody's spirit.
4 Q I know, but I'm just trying to get an answer first --
5 A Right.
6 Q -- and then you can explain it.
7 A Yeah.
8 Q Did she say anything that --
9 A No, not that I recall.
10 Q So your concern remained after she spoke to you during that meeting?
11 A Yes.
12 Q Okay. But go on. You said you were trying to --
13 A So I was trying to use the meeting again as a lessons learned. I wasn't
14 trying to break anybody's spirit; I wanted this to be another lessons learned. But, after
15 the meeting, I did ask the CR-15 supervisor: Is something else going on?
16 Q With who?
17 A It was just me and the CR-15 --
18 Q I mean, something else going on with --
19 A With the squad.
20 Q With the squad?
21 A Right.
22 Q Okay.
23 A Why is this case being opened?
24 Q What led you to ask that question of the supervising special agent?
25 A Because I was concerned that --

1 Q About what?

2 A About this case being sent to Public Integrity without my review. I was
3 concerned about the lack of investigative rigor with regard to the CHS and the subsource.
4 I was concerned about the lack of communication. Why didn't I receive a full briefing on
5 everything that was going on? And so, you know, I just asked the question, like: Is
6 there something I should be concerned about here?

7 Q Were you worried that your agents, as you said, were being kind of worked
8 by other people from the outside or kind of exploited in some way here?

9 A I was concerned. I was concerned about this CHS potentially trying to work
10 someone in the FBI, yes.

11 Q And when you say "work them," do you mean -- what do you mean?

12 A Trying to get a case opened that shouldn't be opened, trying to influence the
13 Bureau maybe for their own motivations. Now, I don't know if that's the case or not
14 because I never met the source, but that's always a concern. And here -- that's why I
15 took an interest in it. It just seemed -- it seemed very odd, very odd.

16 In my experience on CR-15, all the years I was a case agent, I had never seen
17 anything like this before.

18 Q In what way?

19 A The lack of investigative rigor, the lack of follow-through. I mean, we
20 have -- when you're talking about a potential of the CIA being involved, the U.S. Embassy
21 being involved, foreign countries being -- a foreign citizen being involved --

22 Q Was that part of the allegation?

23 A Yes.

24 Q Okay.

25 A And, also, you know, that you're going to go halfway around the world and

1 do an interview of someone in prison. You know, usually that involves notifying the
2 foreign government. That's why I say it's not like going down the street in Manassas and
3 interviewing someone. You've got to notify the foreign government. When that
4 happens it could become public. Sometimes you'd have to do an MLAT. How are you
5 going to get into a prison with a potential witness on the case? And you could
6 unintentionally provide the imprimatur of legitimacy that the election from 2020 was
7 undermined here after the Deputy Attorney General says it's pure insanity? Yes, I was
8 concerned. I was really concerned. Okay?
9 Q And did your concern extend specifically to Special Agent No. 2 and her
10 judgment?
11 A I was concerned that there was a lack of investigative rigor and the judgment
12 issue, yes, because I wasn't allowed to intervene, you know, where an ASAC is there for to
13 help guide. This isn't how CR-15 works cases. I was on that squad. We're the
14 flagship public corruption squad in the country. This isn't how it's done.
15 Q Would you say this was sort of an embarrassment if it were to get out that
16 the FBI agent on CR-15, this Special Agent No. 2, the way she was handling this particular
17 matter? It would be kind of embarrassing to the FBI if it was public?
18 A Yes, ma'am.
19 Q And why is that?
20 A Because there was a lack of investigative rigor. There was a lack of
21 communication. There was a lack of source vetting.
22 Q Okay. What happened to this particular request or effort on the part of
23 Special Agent 2 and the other agent to try to continue with this investigation?
24 A So I closed the source for cause.
25 Q Okay.

1 A I directed -- I can't close a source in Delta. Only a case agent can do that.
2 Q What's Delta?
3 A Delta is the case file system for sources.
4 Q Okay.
5 A Sentinel is for cases.
6 Q Uh-huh.
7 A Delta is for sources.
8 Q Okay.
9 A So I can't as an ASAC actually go in there and close a source.
10 Q Okay.
11 A So I directed CR-15 to close the source for cause.
12 Q Does that require any further approval or review above you or --
13 A I socialized it as I always do with my boss.
14 Q Okay.
15 A Excuse me.
16 Q Did he agree?
17 A I believe so, yes.
18 Q Okay.
19 A I socialized it with headquarters, of course, because I wanted to let them
20 know that, you know, first of all, I wasn't aware of this. And I even followed back with
21 the Deputy Chief for Public Integrity and said: Hey, I didn't know about this, and next
22 time, if you see something that's this questionable, please call me. Don't assume that I
23 know about this.
24 Because of my reputation as a public corruption supervisor and agent, I think that
25 they were shocked. They assumed I already knew about it.

1 Q They were shocked because they would have assumed that someone of your
2 stature would never have gone along with this kind of ridiculous --
3 A Well, I wouldn't say "stature." I would say they would be shocked that any
4 supervisor -- in a case of this nature, you're alleging -- what they're alleging here, that
5 case is going to be socialized up and down WFO executive management.
6 Q Because it relates to election fraud and the --
7 A It's a significant case.
8 Q Okay. So they would be shocked if you had bought onto this because it was
9 so insane basically what was being alleged and the thing was so unpredicated? Is that
10 why they would be shocked?
11 A I would say they would be shocked because of the quality of the case --
12 Q Uh-huh.
13 A -- and just the fact that something was being contemplated being opened
14 would be shared outside of Washington Field Office without my knowledge.
15 Q Uh-huh.
16 A And so they didn't -- they decided not to call me. And so I directed the
17 source to be closed.
18 Q Uh-huh.
19 A So, effectively, after reviewing -- you know, I didn't do this on my own, first
20 of all. I talked to numerous people. I reviewed the source file. I did my own due
21 diligence. I asked questions. And, when I couldn't get those questions answered, I
22 directed that the source CHS 2 be closed for cause.
23 Q When you say you couldn't get your answer -- the questions answered, does
24 that mean you couldn't find the answer or just that the information that you learned just
25 didn't substantiate any of the allegations?

1 A I couldn't be told how this was feasible, technically feasible. I didn't think
2 that the rigor had been done by running down angles which would give me the necessary
3 feeling that, hey, it's -- there's a factual predication for this case --
4 Q Uh-huh.
5 A -- that there's a factual pattern that would predicate a case like this. I
6 didn't have that. I also wasn't getting answers that I felt comfortable with that the CHS
7 and the subsource were properly vetted.
8 So, based on that, I ordered the source closed for cause.

[2:57 p.m.]

BY [redacted]

Q Okay. And when was the source closed for cause?

A It would have been sometime in I think July of 2021.

Q Okay.

A And so I never had to close or I -- I never had to refuse to open a case. It was never brought up to me formally.

Like it never came to me as, okay, here's a case. We've gone back. We've got new information. We've answered your questions. Here's another case.

It never came back up to me ever.

Q Okay.

A So if it had, I would have welcomed it. Because you know what? I try to not take anything for granted, and I'm not going to blow off case agents. I'm not going to -- even if something sounds fantastical, I didn't just say this is fantastical. No way. I tried to do my due diligence to make sure I was making the best decision.

Q Did it sound fantastical?

A Well, given the information that I received and that I gleaned, yes, it seemed -- it seemed like it wasn't -- it seemed like a theory that was impossible.

Q Okay. And I think you've made it clear that, despite this theory being fantastical or impossible, you still gave your Special Agent No. 2 the credit for you to actually look into what she was saying and to hear her reasons. Correct?

A Yes.

Q And at the end of all of that, you heard nothing that changed your mind that this was fantastical and sort of an impossible theory. Right?

A Yes. And -- and impossible just because I was never told anything

1 to -- to -- to show me that this -- that this happened.

2 Q Uh-huh.

3 A That this could happen.

4 Q Right. Okay. So July 2021, this particular source is closed by you for

5 cause. Was there any complaints from anyone about that decision that you made, that

6 was directed to you?

7 A No, ma'am.

8 Q Okay. This article that we've marked as exhibit 4, it refers to -- I'm sorry.

9 Let me find it. Okay. I'm sorry. On the very first page, this is the last paragraph,

10 beginning on January 1. That paragraph indicates that:

11 White House Chief of Staff Mark Meadows forwarded Acting Attorney General

12 Jeffrey Rosen a YouTube video of a former intelligence officer named Brad Johnson,

13 detailing what had been dubbed the Italygate conspiracy theory.

14 Have you heard of Brad Johnson?

15 A Yes, ma'am.

16 Q What's your association with him, if any?

17 A None.

18 Q Okay. When did you hear of him?

19 A When I was researching the basis for this potential case.

20 Q Okay. And did you come to understand from that research that Brad

21 Johnson was somehow the source of this information or this allegation?

22 A Yes.

23 Q Okay. And do you --

24 A One of the sources.

25 Q Okay. Who are the others, if you know?

1 A I kind of don't want to get into those.

2 Q According to this article, one of the other people working with Johnson was

3 Rudy Giuliani.

4 Do you see that on page 2? It's like the second -- the first full paragraph on page

5 2.

6 And that full sentence says: Rosen seemed to agree with the characterization.

7 That was referring to that pure insanity characterization.

8 A Right.

9 Q Replying that he had been aware Johnson was working with Trump's

10 personal lawyer, Rudolph W. Giuliani, and that he had been asked to meet with Johnson.

11 He said he had declined to do so.

12 So according to the article, Mr. Johnson was working with Mr. Giuliani. Right?

13 A According to the article.

14 Q Okay. Did any of your research indicate to that you that Mr. Giuliani was

15 involved in the Italygate conspiracy theory?

16 A It doesn't. I can't remember. It's not something that sticks in my mind.

17 Q Okay. This also says, according to the article, Rosen said he became of

18 Johnson -- he became aware of Johnson working with Giuliani and says that Rosen was

19 asked to meet with Johnson.

20 Like do you have any idea from your research or any of your work with the FBI

21 how that request was made? So it sounds like what they're saying is that somebody

22 asked for Johnson to meet with Rosen to kind of advance this Italygate theory.

23 A Right. I didn't follow that. It wasn't of much interest to me at that point.

24 Q Okay. And there actually, this contact with the DOJ with Rosen and Richard

25 Donoghue, that happened before the events that you described with Special Agent 2

1 Italygate. Right?

2 A I think so, yes, ma'am.

3 Q Okay. But when you were coming to kind of investigate this on your own,

4 as you said, and doing your due diligence, were you already aware of this interaction that

5 was reported with Rosen?

6 A No. I came upon it when I was doing my due diligence. I really hadn't

7 paid much attention to this -- this line of belief prior to when it was raised to me.

8 Q Okay. So when I started this line of questioning about Special Agent 2, I

9 was actually asking kind of as a follow-up to our prior conversation with respect to your

10 CHS 1 -- I'm sorry. That's really confusing.

11 But your CHS 1 that was in your statement in our exhibit 1 had two agents that

12 were handling him or her, that was Special Agent 1 which is Olohan, we've determined,

13 and then Special Agent 2. And Special Agent 2 is the same person here that, you know,

14 lost a little bit of credibility in your mind because of this Italygate affair. Correct?

15 A Yes. I was losing -- I wouldn't say credibility.

16 Q Sorry.

17 A I just lost a little confidence, and I thought it was a training issue at the time,

18 you know. Maybe needs more training.

19 Q Okay.

20 A So I wouldn't say credibility. I'm trying -- that wasn't in my mind at the

21 time. I'm brand new there. I'm trying to be a good leader, and I'm trying to train

22 people. And I saw this as a way to -- it's lessons learned. Okay. Let's learn from this.

23 Q Right.

24 A Okay?

25 Q Which issue are you saying she needed to learn from? The Italygate thing?

1 A Both of them.

2 Q Okay.

3 A Right?

4 Q Right. But the one that happened first in time was the first, the CHS 1 --

5 A Sure.

6 Q -- which you had -- which was closed. Right?

7 A Right.

8 Q But at that time you didn't know about how she would handle the Italygate

9 thing because that hasn't happened yet. Right?

10 A Correct.

11 Q Okay. As far as you knew.

12 A Correct.

13 Q All right. So when this Italygate thing happened, this was I guess almost a

14 year later?

15 A It was --

16 Q Right?

17 A It was a year, 7, 6 or 7 months later.

18 Q Okay. This was the second incident or at least the second incident in which

19 you found that Special Agent 2 was handling a source in a way that raised some concerns.

20 A Yes, ma'am.

21 Q Okay. Were there any other instances that you had with Special Agent 2

22 that caused you to have the same concerns or similar concerns?

23 A These are the only two instances, and they both dealt with CHSs.

24 When I supervised her directly in, know, the 2016, '17 timeframe, while she had

25 some prior law enforcement, it was -- I don't believe it was public corruption. I was

1 trying to develop her as a really good case agent, along with the other new agents on my
2 squad.
3 It's not -- it's a hard assignment. It's hard job. New agents don't come to CR-15
4 that often. And so I was trying -- I had some empathy with them that it's difficult.
5 They're just trying to make good cases usually. Right?
6 And so that was my mindset here is how can I help them. And one of the
7 conversations hi right after my meeting with her was, look, there's a lot of other things
8 that we work on CR-15. They're not all -- I know people want to work the big cases, but
9 the way you really learn how to work good cases is to work sometimes the smaller cases
10 and the nuts and bolts -- that's the way I learned. -- and to also, know, work with
11 your -- work with your senior agents and continually ask questions and check yourself.
12 And so that's what I was trying to be a good -- a good mentor and leader.
13 Q Uh-huh.
14 A I wasn't trying to nail her to the wall or categorically say that she had lost
15 credibility. I didn't believe that at the time. I really didn't. I just thought it was a
16 training issue --
17 Q Okay.
18 A -- you know?
19 Q In retrospect and now that time has passed, do you still believe it was a
20 training issue with respect to Special Agent 2?
21 A It was definitely a training issue.
22 Q Uh-huh.
23 A And there could have been more.
24 Q Like what, for example?
25 A A judgment issue and a leadership issue, the supervisor on the squad, these

1 are decisions that normally aren't made by an ASAC. These are decisions --
2 Q The decision to close the sources or --
3 A The decision to review sources --
4 Q Okay.
5 A -- to question sources, to understand the larger perspective.
6 Q So you're saying that maybe there was a gap and somehow your Supervisory
7 Special Agent should have caught some of the judgment problems --
8 A Yes.
9 Q -- that Special Agent 2 was exhibiting?
10 A Absolutely.
11 Q Okay.
12 A Absolutely.
13 Q Did Special Agent 2 remain on CR-15 after these two instances of maybe
14 problems with handling these sources?
15 A Yes, ma'am.
16 Q And was there ever any effort on your part or anyone else's to either get her
17 additional training or some kind of remedial instruction on how to keep -- improve her
18 handling of sources?
19 A That was in the plans for all the agents on CR-15 to get some training.
20 Q Was it as a result of this, like finding this problem here with the sources?
21 A Part of it was. It just reminded me, hey, we need training here.
22 Q Okay.
23 A And I actually engaged in an effort across all my programs to increase
24 awareness. I had each of the supervisors come to me with a plan on how to increase
25 CHS recruitment, how to do it properly. I actually put that into place. I had them do

1 papers on how they were going to do it. I had them give presentations on how they
2 were going do it.
3 So I was actively engaged in trying to make people better at recruiting and
4 handling CHSs across all the programs.
5 Q When was it that you were doing this, like, remedial training or whatever
6 you want to call it?
7 A Yeah. So it was more I wasn't giving remedial training. It was -- it was
8 asking the supervisors to come up with a plan on how they could do it. And each -- each
9 supervisor, there had to be a training component to it.
10 That would have been I would say maybe the fall of 2021 into the spring of 2022.
11 I don't have the exact dates, but they did PowerPoints. The SAC attended. I even had
12 the HUMINT supervisor come in and review the presentations we were giving. So I was
13 actively trying to make things better.
14 Q Okay. And just so I can be clear, like, that effort that you made in the fall of
15 2021 and spring of 2022 to help these agents on CR-15 to better handle sources, was that
16 motivated, in part at least, by this incident like the handling of CHS 1 in your statement
17 and the handling of this other source with Italygate?
18 A It may have played a part, but also I knew that that's an area in white collar
19 that can always be improved.
20 Q Okay.
21 A So that's, like, an easy problem for a supervisor to address. It's not an easy
22 problem to find the solution necessarily, but I wanted to work with my supervisors to
23 focus on it, because it's always been sort of a, if you look at WFO on -- we're really good
24 at making cases. Our stats are incredible.
25 But every time we're evaluated on our ability to get good sources, it's always one

1 of those things where you can do better. Right?

2 Q I'm just trying to get a sense. I don't mean to interrupt you.

3 A Sure.

4 Q I'm trying to get a sense of where this incident rated, specifically the

5 Italygate incident that we just discussed. Like you -- you seem like you were kind of

6 shocked by it.

7 A I was.

8 Q And you acknowledged that the FBI would probably have been embarrassed

9 if the public were to see what information these agents were relying on, this fantastical,

10 impossible theory to open investigations and to, you know --

11 A Yes.

12 Q -- potentially move forward even in an unpredicated, unexamined manner.

13 Like how did this rate in your experience? Is this something that really caught

14 your attention and you wanted to do something about it or was it something that you just

15 thought, well --

16 A No, it really caught my attention.

17 Q Okay.

18 A And I wanted to improve upon it --

19 Q Okay.

20 A -- in a way that was positive. Right.

21 Q Right.

22 A I didn't sanction anybody. I wanted to look for a way that was positive to

23 correct the issue.

24 Q Okay. And did you identify -- did you -- did you raise this issue or your

25 concern with anyone above you, at headquarters or elsewhere?

1 A I would have talked to my SAC about it.

2 Q Uh-huh.

3 A For sure.

4 Q Do you recall what it is that you said generally to him?

5 A I think I just may have talked about the case and what was happening.

6 Q Did you talk specifically about Special Agent No. 2?

7 A I night have or I probably did, but I don't have, like, a clear recollection.

8 Q Okay.

9 A But he -- he was also of the same mind as me is sort of giving people the

10 benefit of the doubt and trying to improve.

11 Q Okay. And I just want to ask a little bit more about this particular special

12 agent. Like when we talked about CHS 1 and the inadequacies or the problems that you

13 saw with respect to that source, you mentioned, you know, it -- that person had a

14 partisan affiliation. Like that was one of the particular concerns you had with CHS 1.

15 Right?

16 A Yes. A partisan -- our political --

17 Q Like a --

18 A -- meetings one way or the other?

19 Q Right. That were apparent.

20 A Right.

21 Q Right? Okay. And that maybe, see, in this case Special Agent 2 didn't

22 seem to fully appreciate how that could be a problem if she were relying on this source

23 with those kind of affiliations.

24 A I don't want to speak to her -- what she was thinking.

25 Q Okay.

1 A I was trying to impress upon her that operating these types of sources is
2 difficult.
3 Q Uh-huh.
4 A And you've really got to do good vetting --
5 Q Right.
6 A -- because they can cause you and the FBI some problems.
7 I would never say you can't operate. As a general rule, I wouldn't say you can't
8 operate a source that works in -- that's partisan.
9 Q Right. You just wanted her to understand what --
10 A Yes.
11 Q -- the potential dangers were.
12 A Yes.
13 Q Right? And in this case CHS 1, the partisan connection or leanings that that
14 person displayed were conservative partisan leanings. Right?
15 A I don't want to get into that. I don't want to get into anything that --
16 Q Was nit your statement or no?
17 A I don't think so.
18 Q No? Okay.
19 Well, let me ask you this. The second source that was underlying the Italygate,
20 you mentioned that source was also unduly partisan, obviously, if anyone were to look at
21 it. Right?
22 A I would say partisan.
23 Q Uh-huh.
24 A I don't want to, like, qualify it unduly.
25 Q Okay.

1 A Because, again, I would be willing to work with a partisan source and it's
2 going to be more than that.
3 Q I understand.
4 A Okay.
5 Q I'm just saying that you want your agents to know that partisanship in a
6 source is relevant consideration. Right?
7 A It's in FBI guidelines.
8 Q Of course. Right?
9 A So it's in FBI -- I want them to understand that you got to vet.
10 Q Got it.
11 A And you got understand what the motivations are.
12 Q Right. And you saw some deficiency with respect to Special Agent 2
13 because she was maybe not appreciating the partisan leanings or the implications of the
14 partisan leanings of SHS 1 and also the source in the Italygate. Same thing, right?
15 A I would say not necessarily the partisan leanings. I would say the impact
16 that someone who is a source that has partisan leanings can have on a case --
17 Q Absolutely.
18 A -- if not checked. So Baltimore --
19 Q Right.
20 A -- Baltimore said they had an issue but they said they had the information
21 from somewhere else.
22 Q I understand that.
23 A Okay.
24 Q Yep.
25 A Here, I would have been okay with the source if -- if there weren't credibility

1 issues, meaning the information that was being passed couldn't be verified. It -- it -- you
2 know?
3 Q Okay.
4 A Okay.
5 Q So you said, right, like, that allegation in Italygate was impossible. So you
6 just -- you were not going to get past that to a certain extent.
7 A The information that I received made it so there was no logical explanation
8 how that could have occurred from the information I received.
9 Q Okay. So again, Special Agent 2 --
10 A And there was no crime -- there was no factual articulative basis that a crime
11 had occurred.
12 Q Okay. That's another problem.
13 A Right.
14 Q So Special Agent 2 has, you know, relied on CHS 1 who has some problems
15 related to partisanship. And then she later relies on a source in Italygate who also has
16 problems related to partisanship potentially or at least things you would want her to
17 recognize in the balance. Right?
18 A I would say -- I would say there's always that potential.
19 Q But in these particular cases, when she relied on CHS 1, that one potential
20 thing she didn't fully understand in your view was the ramifications of that person's
21 partisanship. Right?
22 A She may have, or she may not have.
23 Q Were you concerned about that?
24 A I was concerned about, yes, I wanted people to understand the
25 possible -- possible implications --

1 Q Uh-huh.

2 A -- of not fully vetting a source and understanding what the motivations are.

3 Q Right. Including partisanship of the source. Right?

4 A That, along with --

5 Q Right.

6 A -- case facts.

7 Q Sure.

8 A But, again, a partisan source will not eliminate them from being an FBI

9 source.

10 Q Right. It's just one factor, right?

11 A It's one factor.

12 Q And you wanted her to understand the potential relevance of that factor.

13 Right?

14 A I made it clear that my expectations with regard to how you open a case

15 were not met here --

16 Q Right.

17 A -- and understanding that there they were in the process of doing it but,

18 larger, the implications of traveling halfway around the world --

19 Q Yeah, I understand.

20 A -- were a problem.

21 Q Right.

22 A Right.

23 Q Okay. Okay. Did it at all bother you that there was sort of a pattern here

24 with Special Agent 2 that it just so happened that the two sources that were partisan,

25 that she didn't seem to really appreciate, happened to be partisan in the same direction?

1 A It bothered me to the -- but only to the extent that I needed -- it was my -- it
2 was my responsibility to make sure she was trained.
3 Q Did you ever have any concerns that she herself was partisan?
4 A At that point I did not.
5 Q Did you later get -- have those concerns?
6 A I began to wonder --
7 Q Okay.
8 A -- later.
9 Q When?
10 A I asked -- I asked Eric Miller at one point who -- the supervisor of CR-15 at
11 one point.
12 Q Yep.
13 A Like what's going on with stuff on the squad? Right? You're telling me
14 that you had a conversation with Mr. Olohan that should have been a response that he
15 had a daughter that had written a case.
16 So we -- while I didn't go into that with Mr. Olohan, I didn't feel the need to at that
17 point, we -- at some point me and the SSA from CR-15 had a discussion.
18 And he said that senior members of CR-15, he didn't tell me who, but had raised
19 concerns to him that there was uncharacteristically partisan discussions happening on the
20 squad floor.
21 Q Did you have those concerns about Special Agent 2?
22 A I didn't know she was involved or not. Okay.
23 Q Did you have any concerns about her with respect to partisanship?
24 A Not really. And here's why.
25 Q Okay.

1 A Every FBI agent that I know of -- not every FBI. I hate to say "every." But
2 a lot of FBI agents that I know of have thoughts and beliefs and opinions.
3 Q Sure. Did you think they were affecting her evaluation of sources like with
4 respect to --
5 A No.
6 Q -- CHS 1 or --
7 A No.
8 Q -- Italygate source?
9 A No, I did not.
10 Q Never had that concern.
11 A I didn't think -- I couldn't get into her head.
12 Q Sure.
13 A It could have been a number of reasons, and I can't tell you which one
14 because I wasn't in her head.
15 It could have been: I want to work a good source. The FBI is making me recruit
16 sources. I've got a good source.
17 It could have been -- it -- it could have been that she wanted to run a big case.
18 Q Okay. But just in these two cases, she was relying on two conservative --
19 A Yes.
20 Q -- leaning sources?
21 A And I spoke to her about that.
22 Q Did she rely on a liberal-leaning source that you thought was --
23 A I don't know.
24 Q Okay.
25 A Okay.

1 [redacted] I think we're out of time.

2 Mr. Thibault. Okay. Can I finish one thought?

3 [redacted] Sure.

4 [redacted] Yeah, please go ahead.

5 Mr. Thibault. There are agents on CR-15 that have political views. They have

6 personal views.

7 BY [redacted]

8 Q Uh-huh.

9 A FBI office space is really a different -- and especially on CR-15, I was on there

10 for a long time. And you really never talked about political leanings on that squad. It's

11 almost like talking about religion.

12 Q Expect for Olohan. Right?

13 A Well, look, I wasn't on the squad and so --

14 Q You heard about it from your supervisor?

15 A Well, I heard --

16 Q Supervisor --

17 A I heard about it that it was a number of people.

18 Q Including Olohan?

19 A Including him.

20 Q Okay.

21 A But I thought to myself at this point, okay. Everybody has political leanings.

22 I didn't call to talk to them.

23 Q Uh-huh.

24 A I didn't take managerial action. I said to my supervisor, you know, just out

25 of respect to everybody else on the squad, make sure people kind of knock it off and

1 respect each other.

2 FBI agents -- and this is the last thing I'll say. FBI agents, like, they worked cases

3 against Robert Hansen. They worked cases against child predators. Those FBI agents

4 have to work those cases and, I can assure you there's probably not a soft spot in their

5 heart for those subjects.

6 But they're able to lay those feelings at the door before they walk into that FBI

7 office space, and they're able to investigate those objectively and do it. And it's called

8 professionalism, and they're able to do it. I saw it day in and day out.

9 In my years as a squad agent on CR-15, I never saw a case opened or closed or

10 anything for a political reason. So my -- my time, when I'm going through this, the last

11 thing on my mind is someone's opening a case because of politics.

12 Q Because you never saw that.

13 A I never saw it happen.

14 Q Okay.

15 A Never saw it happen.

16 Q Including by you. Right?

17 A Of course not.

18 Q Despite the allegation of this committee.

19 A Well, people can make all the allegations against me. The good thing about

20 me is I have 14-year record of investigating for the FBI. And that record, I've

21 opened -- there's only one agent that I know of that's successfully prosecuted two

22 members of Congress in two separate cases in the last 30 years and that's me and they

23 are both Democrats.

24 Q Right.

25 A And if you go back -- and I asked. If anybody goes back and takes a look at

1 all my cases, one, they're well-predicated. I will swear on a Bible. I would love for
2 someone to go look at them because really that's the only way I'm going to gain any
3 sense of reputation back.
4 Excuse me.
5 Q No, I mean, actually, please, like, how do you feel that your reputation has
6 been lost?
7 A Well, look, because I involved myself in social media, which was wrong, and I
8 didn't recognize the appearance issue in my own actions.
9 So, look, I've worked cases. I know they're hard. And when I was a case agent
10 and when I was a supervisor on -- on CR-15, I was so diligent and I kick myself.
11 But so to have it -- any FBI agent do something that's political wasn't in my mind at
12 the time. And I wasn't thinking -- I was thinking, okay, they're talking about politics?
13 Okay. Everybody has a political leaning. Just make sure they're respectful of other
14 agents and let's not do it on CR-15.
15 I was just told they had a meeting while I was at Counterterrorism Division where
16 they addressed it.
17 Q Uh-huh.
18 A And I was, like, okay. I'm good with that. Maybe you have to have
19 another meeting, Eric.
20 And that's it. I didn't take managerial action against anybody for their beliefs.
21 Q Were you surprised by the allegations this committee raised that you had
22 been partisan and that those partisanships, that partisanship was affecting your
23 decisions?
24 A I was surprised by the FBI -- there's some FBI agents that made some
25 statements about me that I took someone off a squad because of their vacc status. Not

1 true. That I was fired. Not true. That I hurt the Hunter Biden case. Not true.
2 That, you know, there may be some other ones, you know.
3 And that led to no one on this committee, but it led to media then saying I was
4 involved with Mar-a-Lago. Not true. That I was involved with Twitter and Hunter
5 Biden laptop. Not true. That I was involved with the laptop. Not true.
6 So this is first time I've spoken publicly about this issue and I -- I appreciate that.
7 Okay.
8 But I want you just to know that my time as a case agent and a supervisor, it never
9 occurred to me that anybody would do something because of politics because really all an
10 FBI agent wants to do is open a good case. We don't get paid to open crap. That's not
11 what pays the bills. One, we want to open good cases.
12 And, two, I have never -- okay. I've actually opened more cases against
13 Democrats or Democratic associated. Now I've opened a fair share of cases against
14 Republicans, too. But I have never been a source of leaking information on a case
15 against a Member. Why?
16 And when I -- when I've gone through and I've taught people, because I taught a
17 lot of corruption classes, I was proud of the fact that I understood that just the mere
18 allegation or just the mere appearance of the FBI's investigating someone could hurt a
19 Member's career. That didn't happen under me.
20 What I tried to do was find inculpatory and exculpatory information and then
21 provide that to the prosecutor and say, here, make a prosecutive decision. That's what
22 you're supposed to do. So that's the way I've always handled cases.
23 And so, yeah, I -- I would have been shocked. And that's why it wasn't in my
24 mind, and that's why I didn't take, like, affirmative action and say there's a problem here
25 because it's -- it would have -- it's foreign to me.

1 I'm sorry I went over.

2 [redacted] That's okay. We'll give you a break now.

3 We'll go off the record.

4 [Recess.]

5 [redacted] We'll go back on the record.

6 It's now 3:3 p.m.

7 BY [redacted]

8 Q Last hour you talked to my colleague about an investigation related to the

9 2020 election.

10 I want to talk to you about a different investigation that was related to the 2020

11 election and one that was -- you mentioned in your written statement regarding the

12 Georgia electors. Do you remember writing about that, the Presidential electors case?

13 A Yes, ma'am.

14 Q I'll enter as exhibit number 5 the July 18th, 2022, letter from Senator

15 Grassley to the Attorney General and the FBI Director.

16 [Thibault Exhibit No. 5

17 Was marked for identification.]

18 Mr. Thibault. Thank you.

19 BY [redacted]

20 Q Take your time to review, please.

21 A Yes, ma'am.

22 Q Have you had sufficient time to review, sir?

23 A Yes, ma'am.

24 Q Okay. I'm going to direct you to page 2 --

25 A Okay.

1 Q -- of the letter. In that first sentence of the second paragraph, it states:
2 According to CNN, the FBI is investigating former President Trump's campaign and
3 its advisors, and the Justice Department has issued subpoenas to individuals linked to
4 electors during the 2020 election.
5 Are you familiar with this case that's referred to here?
6 A I'm familiar with a case that was opened which I believe it references.
7 Q Okay. And what was your role in that case?
8 A As in any other case.
9 Q Uh-huh.
10 A I had some managerial role in it --
11 Q Uh-huh.
12 A -- To make sure that, one, it was assigned, the case was assigned, it was
13 vetted, it was assigned to a good to good case agents.
14 Q Uh-huh.
15 A It was vetted, that case agents were doing their job.
16 Q Uh-huh.
17 A Also had a role in coordinating with headquarters, with U.S. Attorney's
18 Office, and my upper management.
19 Q Okay. And your upper management being the SAC and the ADIC?
20 A The SAC --
21 Q Uh-huh.
22 A -- in this instance I was the Acting SAC.
23 Q Okay.
24 A So I would go right to the ADIC --
25 Q Uh-huh.

1 A -- and also the chief investigative counsel --
2 Q Uh-huh.
3 A -- The head lawyer in our office.
4 Q Uh-huh. And what was the timeframe that your work began on this
5 specific investigation?
6 A Yes, ma'am. I think it was -- I want to say February or March of 2022.
7 Q And did your work, you know, prior to your retirement ever end on this
8 investigation or was it going throughout the end of your tenure?
9 A No. It ended beginning of June, end of May 2022.
10 Q And did it end because it was, the case was switched to a different field
11 office? Or why did your management role end?
12 A Right. So an appearance issue on my part.
13 Q Okay.
14 A And so I was temporarily assigned to headquarters.
15 Q Uh-huh.
16 A So it stayed in Washington Field Office to the best of my knowledge --
17 Q Uh-huh.
18 A -- until -- and through my retirement which could would have been a couple
19 of months later.
20 Q Okay. So in May of 2022 were you reassigned to headquarters?
21 A Yes, on a temporary duty basis.
22 Q Okay. And what was your role there at headquarters from May until
23 August?
24 A I was just working in one of, like, the facilities. It was an admin branch.
25 And so I was just doing work, helping them.

1 Q Okay. And was this because of the information that had come out about
2 your social media posts and then you were transferred to the headquarters?
3 A Yes. Yes.
4 Q Okay.
5 A I actually, when it was brought to my attention, I initially volunteered
6 because I understood --
7 Q Uh-huh.
8 A -- the appearance issue.
9 Q Uh-huh.
10 A Somehow I had -- you know, when it came to my attention, I had to look
11 back to my social media. And I was like, oh, my God. Right?
12 Q Uh-huh.
13 A I get it. It's an --
14 Q Yes.
15 A -- appearance issue.
16 Q Uh-huh.
17 A So I, you know, not that it was going be left up to me but I volunteered at
18 first. And then the decision was made by the ADIC and maybe others that, hey, it's a
19 good move for the FBI at this point --
20 Q Uh-huh.
21 A -- on a temporary basis and I understood that.
22 Q And during the February, March to May timeframe, did you have any
23 correspondence on this case with FBI headquarters?
24 A I would always have correspondence in any case.
25 Q Uh-huh. And who would be have been your primary point of contact on

1 this case? Was there a certain division you would have acted with the? The Public
2 Corruption Unit?
3 A Just as in any case --
4 Q Uh-huh.
5 A -- it would have been the Public Corruption Unit, the section chief --
6 Q Okay.
7 A -- of the Public Corruption Civil Rights Section --
8 Q Uh-huh.
9 A -- would be my main points of contact there.
10 Q Uh-huh.
11 A And I would also have had contacts with the D.C. U.S. Attorney's Office.
12 Q Okay. And who was your main point of contact at the D.C. U.S. Attorney's
13 Office?
14 A Mr. Crabb.
15 Q Okay. I know you mentioned him earlier: J.P. Cooney. Did have you any
16 conversations with him about this case?
17 A Not that I can recall specifically.
18 Q Okay. And in regards to the Washington Field Office, did you have
19 correspondence with, you know, the case agents that were working the case?
20 A Yes. And also to some extent, although not a lot, but Mr. Thomas Windom.
21 Q Okay. And what was Mr. Windom's --
22 A He was assigned to the U.S. Attorney's Office in D.C.
23 Q Okay. Was he out of the Justice Department?
24 A I don't know where he came from before. I thought for some reason he
25 came from, like, Baltimore.

1 Q Okay.
2 A But I wasn't sure what -- I think he reported to Mr. Crabb --
3 Q Okay.
4 A -- my understanding.
5 Q Uh-huh.
6 A But most of my conversations --
7 Q Uh-huh.
8 A -- were with Mr. Crabb.
9 Q Oh, okay. And so Mr. Windom, I believe -- is that who you said?
10 A Yes, ma'am.
11 Q Was he an attorney?
12 A He's a prosecutor.
13 Q Okay. And was there any other, you know, other than managerial
14 responses, what was your role in the investigation?
15 A So in the ASAC role --
16 Q Uh-huh.
17 A -- I was -- and I was Acting SAC for this case here.
18 Q Uh-huh.
19 A My role was to sort of got the -- you know, I was the initial point of contact
20 with the D.C. U.S. Attorney's Office --
21 Q Uh-huh.
22 A -- and helping to get an agent assigned --
23 Q Uh-huh.
24 A -- To basically do all the investigative, pre-investigation work that one would
25 do.

1 Q Uh-huh.

2 A And to -- and then my role was to, like, review documents --

3 Q Uh-huh.

4 A -- review documents as they -- meaning opening draft documents --

5 Q Uh-huh.

6 A -- as I would do from time to time.

7 Q Uh-huh. The next sentence in that paragraph says: Whistleblowers have

8 indicated that Thibault and Richard Pilger, director of the Election Crimes branch within

9 the Justice Department's Public Integrity Section, were deeply involved in the decision to

10 open and pursue this investigation.

11 Did you review the opening documentation for this investigation?

12 A So there were a lot of reviewers.

13 Q Uh-huh.

14 A I was just one of the people that had to review the case.

15 Q Uh-huh.

16 A I never talked to Richard Pilger --

17 Q Uh-huh.

18 A -- about this case here.

19 Q Uh-huh.

20 A My last recollection of talking to Mr. Pilger was in, like 2018.

21 Q Uh-huh.

22 A However, according to FBI guidelines --

23 Q Uh-huh.

24 A -- before you open a public -- a case on election crimes --

25 Q Uh-huh.

1 A -- case agents should confer with -- with the Public Integrity Section. So as I
2 said in my written statement, it wouldn't be unusual for a case agent to have talked to
3 Mr. Pilger but I never did.
4 Q Do you know if Mr. Pilger was involved in this case?
5 A I believe he was involved in getting concurrence from Public Integrity, but I
6 don't think that Public Integrity was involved in the actual case. You know what I'm
7 saying?
8 Q Uh-huh.
9 A So California's got a case open.
10 Q Uh-huh.
11 A They are -- maybe they're working with the Northern District of California.
12 They still have to call Public Integrity. Public Integrity might have the option to join or
13 not. I'm not sure how they worked that out. That's their internal process, but in here I
14 don't believe that Public Integrity was a participant.
15 Q And what do you mean by they needed a concurrence from Public Integrity?
16 A So it's a -- it's in the DOJ -- it's in the FBI DIOG guidelines that says that any
17 election crimes case has to -- you have to consult with Public Integrity --
18 Q Uh-huh.
19 A -- on election crimes matters.
20 Q Uh-huh.
21 A I think there he they there are similar guidelines with respect to, say, if you
22 have maybe a case on RICO or something like that where you may have to go to a specific
23 DOJ unit to get approval.
24 Q Uh-huh.
25 A But that stands out as any case I've ever had to open, you know, at some

1 point I think you have to get, as long as the DIOG been the effect --

2 Q Uh-huh.

3 A -- because before that I think maybe you didn't have to. Maybe you could

4 go to the U.S. Attorney's Office.

5 Q Uh-huh.

6 A But we're talking about making sure you have a U.S. -- an attorney, a

7 prosecutor on board.

8 Q Uh-huh.

9 A But regardless of that, you have to go to Public Integrity.

10 Q And so, you know, in an election crimes case, if someone from your squad

11 went to Richard Pilger to get a concurrence, would they need that concurrence in order

12 to move forward on the investigation?

13 A That's my understanding, yes.

14 Q Okay. And do you know if that occurred here in this case?

15 A I believe it did.

16 Q Okay.

17 A But I wasn't, again, involved in the discussions with Mr. Pilger.

18 Q Was there a Supervisory Special Agent hat was in charge of the investigation

19 that was one step below you?

20 A Yes, ma'am.

21 Q Uh-huh.

22 A I think it was an acting supervisor.

23 Q Uh-huh.

24 A It may have been an acting supervisor. I'm not sure when Josh -- I'm not

25 sure when Mr. Miller left.

1 Q Okay.

2 A He left the Bureau. We had a -- a number of acting supervisors.

3 Q Uh-huh.

4 A But there was one, sure.

5 Q And can you tell us about the review process for the opening

6 documentation? You said there were levels of review. Would Mr. Miller have had to

7 review this opening document before it would go to you?

8 A The SSA would review the document --

9 Q Uh-huh.

10 A -- whoever that was.

11 Q Uh-huh.

12 A The -- someone from the Chief Division Counsel's Office --

13 Q Uh-huh.

14 A -- would have to review that document.

15 Q Uh-huh.

16 A Then it would come to me.

17 Q Okay.

18 A Then I -- and I would be -- this kind of case --

19 Q Uh-huh.

20 A -- would be being reviewed by headquarters --

21 Q Uh-huh.

22 A -- along the way, sort of an incremental review, meaning socialized with the

23 Public Corruption Unit and the section chief and his people.

24 Q Uh-huh.

25 A And the ADIC would have to review it.

1 Q Okay.
2 A And then, you know, when you get to the point where it's actually a
3 document that is -- and you're also talking about the prosecutor. So you've got a
4 number --
5 Q Uh-huh.
6 A -- of prosecutors that are reviewing it. I don't know how far it went up
7 their chain.
8 Q Uh-huh.
9 A It may have gone as far up as the U.S. Attorney separately from us. And
10 that's when be the office, D.C. U.S. Attorney's Office might say, okay, we approve this or
11 not.
12 Q Uh-huh.
13 A But the prosecutor's working hand in hand with the case agents at this point
14 in time.
15 Q Uh-huh.
16 A Really making sure that everything in the document is accurate and there's
17 predication.
18 Q Uh-huh.
19 A But then at the headquarters level, you have a section chief that's looking at
20 it and approving it.
21 Q Uh-huh.
22 A Above them, have you an assistant director. Then you have an executive --
23 Q Uh-huh.
24 A -- assistant director. And then you have the deputy director's office --
25 Q Uh-huh.

1 A -- and then the FBI Director and then the Attorney General. So there's a lot
2 of people.
3 Q Uh-huh.
4 A So I wasn't actually even responsible for openings the case. It doesn't get
5 opened until the highest level approves it.
6 Q Uh-huh. But you reviewed the predicating document as the opening
7 document, if you will, before it went up to the director and the Attorney General? Is
8 that correct?
9 A Yes, ma'am.
10 Q In this paragraph, the next sentence says: Based on allegations, the
11 investigation's predicating document is based in substantial part on January 2022 CNN
12 news articles which relied on information derived from a liberal nonprofit, American
13 Oversight, in reference to a Boris Epshteyn interview on MSNBC.
14 Do you remember any sort of the sources that were cited in the predicating
15 document?
16 A So because it's an ongoing case --
17 Q Uh-huh.
18 A -- I'm not going to get into what's in the document.
19 Q Uh-huh.
20 A Okay? I will say with any case, it's never going to be -- a case that's going to
21 be opened as a full investigation is never going to substantially rely on just one element.
22 Q Uh-huh.
23 A There's going to be multiple. I -- this appears to me to be a
24 mischaracterization --
25 Q Uh-huh.

1 A -- of what actually happened or what was actually in the document. I think
2 I state it best in my -- I address it in my written statement.
3 Q So was CNN cited in the predicating document?
4 A I can't get into that. Now if the FBI would okay me to talk about it, happy
5 to do that.
6 Q Do you remember what sources? I'm not asking you about the specific
7 sources. But do you remember what sources were in the predicating document?
8 A I don't remember specifically.
9 Q Uh-huh.
10 A I don't remember specifically that item.
11 Q Uh-huh.
12 A I'd have to review it.
13 Q Do you remember if it cited to an MSNBC interview?
14 A Again, I just don't -- I don't recall what the -- the document over the course
15 of 2 months went through --
16 Q Uh-huh.
17 A -- quite a few revisions. People at all levels were suggesting things to go in
18 and being taken out --
19 Q Uh-huh.
20 A -- for different reasons, you know.
21 Q In the DIOG and the AG guidelines, does it reference what kind of sources
22 such as media sources as like CNN and MSNBC can be cited to in a predicating document?
23 A I don't -- I don't believe so.
24 Q Okay.
25 A But I will say that what you want to see --

1 Q Uh-huh.

2 A -- is never an overreliance on any one source. It should be balanced. It

3 doesn't preclude a media source from being referenced.

4 Q Uh-huh.

5 A But what's behind that, right? So I will point to a case I opened before

6 it -- before DIOG was even in existence but it was, like, one of the first cases I worked on.

7 Q Uh-huh.

8 A So since DIOG wasn't in existence, I was using a different, different -- I think

9 it was called MIOG or something like that, MAOP or MIOG.

10 Q Uh-huh.

11 A I opened a case. It was one of my first cases. I opened a case. The

12 source was a media source, I believe. But it was more than that because there was

13 information within that media source on, like, property records where I was able to go,

14 for instance, and I maybe double-check and see if those --

15 Q Uh-huh.

16 A -- see, check the accuracy. So you're always trying -- just like we try to vet

17 human sources, we're trying to vet any other information we're getting. You know, is it

18 accurate?

19 Q Uh-huh.

20 A You know, I -- I -- and so I just know that that EC was looked at by a lot of

21 people, and I think it was taken into consideration that it needs to be really

22 well-predicated.

23 Q Uh-huh.

24 A And there has to be a -- there has to be a good factual basis and there has to

25 be an authorized purpose.

1 Q Uh-huh.

2 A And I believe that it was accurate, that there was an authorized purpose, and

3 it was -- there was clear predication in my -- my belief or I wouldn't have -- I wouldn't

4 have signed my name to it.

5 Q And so with the case that you were just referring to when the predicating

6 document relied upon news sources, there was also another element that you could go

7 check and see for the accuracy. Is that correct?

8 A Well, I'm saying that not specifically to this case but --

9 Q Yes.

10 A -- generally --

11 Q Generally, uh-huh.

12 A -- generally because I don't recall.

13 Q Uh-huh.

14 A I asked --

15 Q Uh-huh.

16 A -- To see this from the FBI and I wasn't given permission to review it.

17 Q Uh-huh.

18 A And, again, I can't get into just, like, the source information that might --

19 Q Uh-huh.

20 A -- be used. I don't want to get into the --

21 Q But if this was just based in the -- in the letter it says in substantial part on

22 reporting, would that have been enough for the predicating document?

23 A I don't want to get into that. I just think that's a mischaracterization.

24 Q Uh-huh.

25 A I'll tell you what I mean is if we're able to sit down here --

1 Q Uh-huh.
2 A -- with that document and --
3 Q Uh-huh.
4 A -- and look, I think that the end conclusion would be it's a
5 mischaracterization.
6 Q Yeah, we're just trying to understand, given your written testimony that says
7 with the sound articulated factual basis --
8 A Right.
9 Q -- establishing clear predication.
10 There's this other letter that says it was substantially based on biased news
11 sources.
12 So I'm just trying to understand how we jive those two together.
13 A Well, I would just say there's -- there's information out there from other
14 sources --
15 Q Uh-huh.
16 A -- not necessarily media, that helped to predicate that case.
17 Q And you talked about different -- you know, as the document went through
18 review process, it changed.
19 A Uh-huh.
20 Q Is that correct?
21 A Yes, ma'am.
22 Q Do you know how much the document changed between your review and
23 then the review by the director and the Attorney General?
24 A No, because there were several iterations of it going up the chain and
25 coming back and up the chain and coming back and up the chain and coming back.

1 And then even that last review, that was done, like, at the high level of the FBI
2 and --
3 Q Uh-huh.
4 A -- the chief division counsel at Washington Field Office and I wasn't even
5 involved in that. They were talking about, hey, these things need to be done.
6 And one of the reasons why, I think, is because Attorney General Barr put into
7 place guidelines to -- and that kind of strengthened DIOG.
8 Q Uh-huh.
9 A And this was one of the first cases I think that implicated it, so meaning the
10 Attorney General Barr's guidelines. So we had to comply with that, and so we were
11 trying to make sure that we were in compliance with all FBI and AG guidelines.
12 Q Uh-huh. And who put the predicated document together? Was that a
13 CR-15 case agent?
14 A It was a conglomerate of --
15 Q Uh-huh.
16 A -- the U.S. Attorney's Office.
17 Q Uh-huh.
18 A -- the case agents. I was -- certainly had a role in the document, as did the
19 prosecutor's office.
20 Q Uh-huh. The next -- not the very next sentence but the sentence after that,
21 it says: Based on allegations, the opening memo that you approved -- meaning the AG
22 and the director --
23 A Yes.
24 Q -- included selective assertions created in large part by Thibault and either
25 moved or watered down material connected to the aforementioned leftwing entities that

1 existed in previous versions and recommended that a full investigation, not a preliminary
2 investigation, be approved.
3 Was there any sort of back and forth regarding whether this was going to be a
4 preliminary investigation or a full investigation?
5 A Well, let me address the first thing first.
6 Q Uh-huh.
7 A I never tried to strengthen information or water it down.
8 Q Uh-huh.
9 A My sole goal was to make sure that whoever read this document after I did
10 would have accurate information, that -- that if there were sources there, if there were
11 media sources, that they were actually sourced.
12 I wanted people to know where the information came from, whether it -- you
13 know, in today's world, everything it seems like it's either conservative media or
14 progressive liberal media. So it's important to source that information so the reader
15 knows where it's coming from.
16 I wanted everything in there to be crystal clear and accurate. That was -- that
17 was my goal.
18 Q And did you suggest changes to the --
19 A Watered down --
20 Q -- document at any point?
21 A Oh, of course. I would have had my own suggestions, as did case agents.
22 Q Uh-huh.
23 A They had the main role of, you know, hey, dig in and write what you think
24 and then let us -- let us look at it. But headquarters had opinions on it. The
25 prosecutors, the prosecutor had an important role in it.

1 Q Uh-huh.

2 A So a number of people did. I was just one of the people that did.

3 Q And did you see the final opening document before it went up to the

4 director and the Attorney General?

5 A Yes, ma'am.

6 Q And did you review that document at all?

7 A Yes, ma'am.

8 Q And was that document different than what you had previously reviewed

9 before it went through the ladder of review?

10 A It went up and down numerous times, and it changed.

11 Q Uh-huh.

12 A Based on people's inputs, yes, and that's not unusual.

13 Q Uh-huh.

14 A In any big case, that would happen when you're working with prosecutors.

15 We just -- you know, Attorney General Barr, what is unusual is we had to deal with

16 some new guidelines. And so this is one of the first times we would have to do that.

17 Q Uh-huh.

18 A And so, you know, it went -- it was reviewed. And once it went up to

19 headquarters in either a draft, you know, in draft form --

20 Q Uh-huh.

21 A -- there were discussions that I wasn't involved with between Mr. D'Antuono

22 and headquarters and our attorneys at Washington Field Office with the CDC and

23 headquarters. I wasn't involved in a lot of those discussions.

24 Q Uh-huh. And when you were doing your review of the document, you said

25 that you wanted to make sure that everything was sourced appropriately and accurately.

1 Was that in regards to news articles that were used?

2 A It was in regards to everything including any -- any media that might have

3 been cited.

4 Q During your role in this investigation from the beginning of 2022 until you

5 were temporarily placed at headquarters, was there any sort of conversation about this

6 case going to special counsel?

7 A No.

8 Q Did you have any interactions with --

9 A Not that I can recall.

10 Q Okay.

11 A It wasn't even -- I don't think so.

12 Q Did you ever have any interactions with individuals from the Fulton County

13 District Attorney's Office?

14 A No, ma'am.

15 Q In sum total or --

16 A Never.

17 Q -- just in relation to -- never?

18 A Never.

19 Q Did any -- were you aware of any of your individuals under your leadership

20 having conversations with Fulton County?

21 A No, ma'am. Although --

22 Q Uh-huh.

23 A -- I will say that there was an acting section chief.

24 Q Uh-huh.

25 A He was there was for, like -- he was doing like a one-month TDY at

1 headquarters.

2 Q Uh-huh.

3 A And he reviewed the thing, and he was from Atlanta.

4 Q Okay.

5 A I don't remember his name, but he was from Atlanta. I did know that

6 Atlanta FBI, I -- at no time was I advised that Atlanta FBI had a case open.

7 Q Okay.

8 A Right?

9 Q Uh-huh.

10 A So could he have? Maybe. I don't know.

11 Q Did you have any conversations with FBI Atlanta about --

12 A No, ma'am.

13 Q -- any sort of elector's case?

14 A No, ma'am.

[4:04 p.m.]

[redacted] We're going to jump around a little bit now. I apologize.

BY [redacted]

Q Do you know who Laura Dehmlow is?

A I've come to learn that she was at the FITF, but I don't have a recollection of meeting her.

Q What about Brad Benevidas (ph)?

A That name doesn't sound familiar. What's his last name?

Q Benevidas (ph).

A No, sir.

Q Do you know who Elvis Chan is?

A I've seen his name in news articles. And I think, like, way back when, there might have been a chance I might have seen him when I was working on CR-15 at some point. I'm just not sure. That would have been totally unrelated to anything, but I only have seen Elvis Chan in news articles.

Q To your understanding, what does FITF do?

A FITF is concerned with malign foreign influence.

Q And, if you could just walk me through again. So the FITF meeting is October -- I think it was in your statement -- 2lst of 2020?

A 21st, yes, sir.

Q And there were two phone calls or conversations that predated that?

A With the Public Corruption Unit chief.

Q And it's in the second one where you learned FITF was the entity behind the concern with the --

A I think the concern was with both the Public Corruption Unit and FITF, but

1 you're correct in saying that the name wasn't raised to me until the second conversation.
2 Q Okay. And, in that second conversation -- well, first, let me take a step
3 back.
4 Do you recall how soon before the meeting those two conversations occurred?
5 A I think it was a matter of days. So 2 to 5 days maybe.
6 Q Yeah.
7 A Yes, 2 to 5 days.
8 Q For total, during the first phone call and the meeting?
9 A Yes. It could have been a week between the first call and the meeting, but
10 it wasn't that long. It was pretty quick.
11 Q During that second call, do you -- when you were -- when you hear for the
12 first time that FITF has these concerns, did you at that time have an understanding of
13 what FITF was and what FITF did?
14 A I understood what they did. I certainly didn't have a great understanding
15 because I had never really met them, and I never worked counterintelligence. So I'm
16 sure that they get into things that I don't know anything about. And when I went to the
17 briefing, it was sort of like my aperture was opened up. I didn't know about the
18 information they were telling me about.
19 Q And you said this meeting took place in a SCIF?
20 A Yes, sir.
21 Q So it was in person?
22 A Yes, sir.
23 Q Do you recall how many people attended this meeting?
24 A It was like 10 to 12, and they were both -- I don't know that everybody
25 identified themselves, or if they did, I can't remember, but it was a mix of agents,

1 supervisors, and analysts from both the FITF and Public Corruption Unit.

2 Q And, of that 10 to 12, do you recall how many approximately were from

3 FITF?

4 A No, sir. I think most of them were just because I think I had gone to the

5 Public Corruption Unit first to kind of meet up with the unit chief and walked over with

6 him, and I don't recall there being a huge gaggle. So I think it was mostly FITF people.

7 Q And, during this meeting, did you have, I guess, a kind of sufficient base

8 understanding of what FITF did that you could just jump right into the matter at hand, or

9 did FITF have to explain what their role was?

10 A I don't think they went into in large detail. I think they generally said:

11 Hey, here's what we do.

12 But they didn't go really deep into what they did. They gave me sort of a

13 baseline. And then, through their briefing, I came to understand more, of which I

14 didn't -- hadn't known beforehand.

15 And, again, it's because, when I was in the public -- doing public corruption work,

16 for the most part, FITF didn't exist. I heard a little bit about them when they were

17 formed. I'm not even sure what date they were formed on. But then I went to public

18 corruption -- then I went to the Counterterrorism Division and kind of brain dumped

19 everything. And, when I came back, it was a whole new perspective for me, I'll just say

20 that.

21 Q And, as they're presenting evidence and they're laying out their concerns,

22 did you have the opportunity to question the veracity of that evidence or what they're

23 basing their claims off of?

24 A I had the opportunity. Mostly I just listened.

25 Q And did you find it persuasive?

1 A It was a lot of information I didn't know anything about. So, yes, I found it
2 compelling, and I found it enlightening because I just didn't -- I just didn't have that
3 perspective, and I wasn't involved in that.
4 Q Other than this instance, are you aware of FITF having similar meetings
5 regarding confidential human sources?
6 A No, sir.
7 Q And was this a confidential human source that worked in any way with FITF,
8 or did FITF just have information on the source?
9 A Can you repeat that question? I'm sorry.
10 Q Sure. I'm just trying to understand the nature of FITF's involvement or the
11 awareness of.
12 A Yeah. So --
13 Mr. Lytle. Was CHS 1 a source for FITF?
14 Mr. Thibault. I don't believe so, but it appeared to me -- I mean, that meeting
15 was -- it was sort of a broad meeting. It just wasn't focused on the source. It was
16 broader.
17 BY [redacted]
18 Q But part of the focus was on the source?
19 A Certainly.
20 Q And is the concern with the source that the source was a victim of a foreign
21 influence?
22 Mr. Lytle. So he can't talk about this meeting because it's classified, so I would
23 ask you --
24 Mr. Thibault. That might implicate me in providing classified information. And
25 I don't even know -- like oftentimes when you get a brief, whether it be counterterrorism

1 or whatnot, you're never told what the source is, you know, because it might be really
2 sensitive. They may not even raise it. But, look, they were the subject matter experts.
3 I was a neophyte. I knew public corruption. But, with regard to the FITF stuff, I was
4 absolutely relying on them. And they were bolstered because -- and I'll tell you this,
5 because of the fact that the Public Corruption Unit chief was in there, he did a lot of the
6 briefing. Okay. So it wasn't just FITF briefing it. He did a lot of the briefing. And a
7 lot of the credibility came from him because I knew he was solid. I knew it just from him
8 presenting himself. I think I had some idea of his background and his reputation, and it
9 was stellar. He was a hardworking dude. And so that gave me a comfort.
10 BY [redacted]
11 Q And is he -- when you say he lends his credibility and he's also talking at this
12 meeting, is he bolstering the evidence that FITF is providing, or are they presenting two
13 different types of --
14 A It's them in concert, hand in glove.
15 Q Okay. When did you first become aware of the New York Post article about
16 the Hunter Biden laptop story?
17 A I don't know. It was maybe around the election when everybody -- when it
18 all came out, right, when it all came out.
19 Q And do you recall having any discussions with anyone at the FBI about that
20 story?
21 A No, sir. It wasn't on my radar. I had nothing to do with the Hunter Biden
22 case. I didn't know what was true and what wasn't. I didn't even have access to the
23 case file. And when -- I don't even think -- that never came up in my conversation with a
24 supervisor, just didn't. It would have been inappropriate for me to ask at that time.
25 Q Prior to your meeting on October 2lst with FITF, did you know whether the

1 FBI was in possession of Hunter Biden's laptop or not?

2 A No. You know, look, I think I -- just because I was interested, at some

3 point, I was reading an article, and I saw a receipt, property receipt. It was, like, public.

4 Now, I don't remember if it was that time or later, but I just saw that. But I didn't know

5 if they had an image of it, if they had a laptop. I knew nothing about it at all, because

6 the way it works is, you know, usually the field office or the -- and the RA would seize

7 material. And so I didn't know how -- if it was seized, how it was seized. I didn't know

8 if it was a search warrant or consensual. I didn't know any of that stuff. I knew

9 nothing about the Hunter Biden laptop at all.

10 Q In October of 2020, were you coming into the office every day?

11 A October? Yes, I was.

12 Q Yeah. And were most people in the office?

13 A Mixed bag. Right? It was COVID. We were just beginning to try

14 to -- because people had family issues. A lot of people by that time had gotten FBI

15 laptops, and so we were trying to be cognizant that some people had childcare issues. I

16 was leaving it at that point in time to the supervisors to kind of follow gently what we've

17 been doing, but I wanted my supervisors in the office. Right? Some of them weren't

18 coming in as much as I wanted them to. And so I was trying to get the supervisors back

19 in. Right?

20 Q Did you have any interactions with FITF after this October 2lst meeting?

21 A Not that I recall.

22 Q There was some discussion -- this might have been 1 hour earlier or 2 hours

23 earlier -- regarding your decision with respect to the confidential human source?

24 A Number one?

25 Q Yes.

1 A Okay.

2 Q Were you able to -- and since you had to, to your colleagues you were
3 talking about, when explaining your decision, reference anything that was raised in the
4 meeting?

5 A I did, but at a very high level. And, because I wasn't -- one, the information
6 I was getting, I wasn't taking notes. Two, I wasn't sure what was classified and what
7 wasn't. I just gave a very high level.

8 And part of me was thinking, okay, maybe I'm not doing a very good job of
9 communicating that aspect of it. Like, I communicated the Baltimore stuff, which I also
10 expected the case agent to understand. I'm just assuming that they're talking the
11 Baltimore team. And I didn't want to be, like, too hard. And that's why I said, you
12 know, it wouldn't be a bad idea for you to go to the FITF and get the perspective.
13 Because, as an ASAC, I don't have the -- it's not my job and I couldn't go to the FITF and
14 dig into their intel and punch holes in it. Okay? I expected a case agent, a handling
15 agent who's working a source that, if they had an issue and someone is calling -- someone
16 is making a characterization or Baltimore is saying, "We don't need it," I expect them to
17 tell me what's wrong with it. Right? Go to the FITF, be intellectually curious, and
18 punch holes in it and maybe come back and say: Tim, you're wrong. That never
19 happened. But I didn't discourage it. Right? I wanted that. And that's why I
20 wanted those two in the meeting to begin with.

21 BY [redacted]

22 Q And jumping topics again to, you know, some -- an aspect that the
23 committee has written to you about regarding domestic violent extremism cases and the
24 classification of cases, in your written statement, you know, you say that you never told
25 any agents to reclassify a case.

1 Did you have any involvement in domestic terrorism or domestic violent
2 extremism cases?
3 A No. I will say that -- I'll give you a little bit of background.
4 Q Uh-huh.
5 A So the supervisor -- the ASAC would have been Lyonel Myrthil.
6 Q Uh-huh.
7 A He was the supervisor over domestic terrorism. He was my counterpart
8 over domestic terrorism.
9 Q Uh-huh.
10 A When January 6th happened, it was all hands on board. There were some
11 agents that were assigned to me --
12 Q Uh-huh.
13 A -- that got leads.
14 Q Uh-huh.
15 A They got leads into what turned out to be, I think, the Oathkeepers case.
16 Q Uh-huh.
17 A That was, I think, a 262, which was a domestic terrorism matter. While
18 they were initially assigned to me, that team was moved off into another offsite. I no
19 longer had any role, either managerial role or oversight of their case. That was an
20 instance where it was a DT case removed, and my -- and two or three of my agents went
21 with that case, and I never saw it, never supervised it.
22 Q Uh-huh.
23 A There were cases that came to my agents that were working. To my
24 recollection, there were no 262 domestic terrorism cases that my agents were working
25 other than maybe that. Maybe some of my agents worked on Proud Boys. I don't

1 remember.

2 Q Uh-huh.

3 A But I had no authority over those.

4 Q And, in regards to the January 6 cases that your agents were working, would

5 the agents kind of brief you on what was going on in the cases or no?

6 A Generally not.

7 Q Uh-huh.

8 A Every now and then, I would walk around the squad areas --

9 Q Uh-huh.

10 A -- and talk to my agents --

11 Q Uh-huh.

12 A -- about stuff: Hey, what are you doing? And, for a couple of months,

13 they were working on these cases, and they might say: Hey, we've got somebody that

14 we found.

15 And they'll tell me about it, just because I was interested about what they were

16 working on.

17 Q Uh-huh.

18 A Do you need any help with anything?

19 Q Uh-huh.

20 A You know, I know these cases are being supervised by domestic terrorism

21 or -- not really domestic terrorism in the sense of a terrorism case, but like the 176 cases,

22 those were more riot, trespassing --

23 Q Uh-huh.

24 A -- still being supervised by domestic terrorism. Are you getting the support

25 you need? How can I help?

1 Q Uh-huh.

2 A So, in that instance I am. I also want to make sure that we're reporting to

3 my bosses any investigative activity that could hit the news that agents that work for me

4 are provided because they may not get it at their meetings with the domestic terrorism

5 folks.

6 Q Uh-huh.

7 A So just giving them situational awareness. But the reclassification issue --

8 Q Uh-huh.

9 A -- I saw that, and I just didn't understand what it was.

10 Q Uh-huh.

11 A Because I've never -- I can't recall ever being involved in decisionmaking

12 about reclassification. That wasn't something -- that's a program level issue at

13 headquarters, I think.

14 Q Uh-huh.

15 A I don't know where that came from.

16 Q And, in the January 6 cases, if any of your case agents were talking to you

17 about the January 6 cases they were working, you know, they said there's no more

18 investigative work to do, would you ever suggest that they go back and do more on those

19 cases?

20 A That wasn't a role I had.

21 Q Uh-huh.

22 A I don't ever recall doing that.

23 Q Uh-huh.

24 A Even on the cases -- the few cases that I did have managerial control over --

25 Q Uh-huh.

1 A -- like the violent -- where media was involved, where there was an assault
2 on media --
3 Q Uh-huh.
4 A -- I don't recall an instance where I did that. That would be more of a
5 supervisory role.
6 Q Uh-huh.
7 A And another ASAC is reviewing those cases on a quarterly basis. I think
8 there are one or two times where somehow one of those cases got into my bucket where
9 I'm reviewing a case on a case file.
10 Q Uh-huh.
11 A I just don't remember that happening.
12 Q And, in the time period when you were in the command post and
13 involved -- also after that and involved in some of the January 6 investigations that your
14 case agents were working, were you ever in sort of nationwide calls focusing on the
15 ongoing efforts regarding January 6 related investigations?
16 A So, when I was in the command post, they were having situational reports.
17 Q Uh-huh.
18 A And those were open calls --
19 Q Uh-huh.
20 A -- you know, in which, from time to time, I had to relay information. I was
21 relaying information, like: Here's some stats.
22 So I was involved in that.
23 Q Uh-huh.
24 A As far as other nationwide calls, I don't recall being involved in any. There
25 was a call one time --

1 Q Uh-huh.
2 A -- that I think it was maybe nationwide.
3 Q Uh-huh.
4 A I may have listened in to it, but I was, like, it had no speaking role, and I
5 quickly figured out there was no role for me.
6 Q Uh-huh.
7 A I will say this. There -- it was brought to my attention that an agent
8 accused me of hyperbole, or something like that, or acting unprofessionally in a meeting.
9 Q Uh-huh.
10 A But he also referenced Steve Jensen being in that meeting --
11 Q Uh-huh.
12 A -- and Mr. D'Antuono.
13 Q Uh-huh.
14 A If Steve Jensen was in that meeting, the ASAC would have been Lyonel
15 Myrthil.
16 Q Uh-huh. So you were never involved in a call with Steve Jensen regarding
17 January 6?
18 A Well, not a nationwide call involving -- other than outside of Sit reports in
19 the first 2 weeks of the investigation.
20 Q Uh-huh.
21 A But I had a very limited role, and nothing I said --
22 Q Did you have a speaking role on those calls?
23 A On a couple I did, but it was only -- it wasn't arguing anything. It was, like,
24 providing stats, like: Here's how many cases are being worked by the Criminal Division.
25 Q Uh-huh.

1 A It wasn't anything where I would have acted un -- and, generally, I didn't act
2 unprofessional in these meetings anyway. Nationwide calls, I can't think of one time
3 where someone could accuse me of acting unprofessionally or using hyperbole.
4 Q But you do remember a call where Steve Jensen was also on the call
5 regarding January 6th and you had a speaking role?
6 A No -- well, it wasn't -- I remember a situation report --
7 Q Uh-huh.
8 A -- which was hosted by WFO where Steve Jensen may or may not have been
9 on the other end of headquarters.
10 Q Uh-huh.
11 A There would have been people from CTD, from Criminal.
12 Q Uh-huh.
13 A I don't remember specifically if he was there or not.
14 Q Okay.
15 A But I don't recall any other matters where Steve Jensen would have been on
16 the call and I would have been in those meetings.
17 Q Uh-huh.
18 A I recall being in some meetings, because I had a weekly call with the U.S.
19 Attorney's Office --
20 Q Uh-huh.
21 A -- with my SAC and my counterparts -- my counterpart ASACs in Cyber and
22 Criminal.
23 Q Uh-huh.
24 A And we were talking just with the prosecutors in D.C. U.S. Attorney's office,
25 but that was not a nationwide call. I've wracked my brain --

1 Q Uh-huh.

2 A -- because I cannot for the life of me understand where that came from.

3 Q Uh-huh.

4 A And, if there's any information which would help me do that, I would

5 appreciate it because I just don't know where it came from. I can't say anything to fight

6 that. Right? I don't know where it came from.

7 Q So, in even some of these situation -- situational reports that you were on,

8 do you ever remember when Steve Jensen said something and you said something on the

9 same call related to January 6?

10 A No, ma'am.

11 Q Switching to your social media posts, when did you kind of learn or figure

12 out that there may be an appearance problem with some of your posts with regards to

13 your work as an FBI ASAC?

14 A The end of May when it first came out.

15 Q And you said you kind of did a review of your social media. Is that correct?

16 A I looked at those -- what was referenced in Senator Grassley's letter.

17 Q And, after Senator Grassley sent his letter on May 3l, 2022, did you take any

18 steps in regards to your social media?

19 A Yes. I shut it off to the public. Right? And that's all I did.

20 Q And what did you think was problematic with the posts that you made?

21 A So the posts that I made gave an appearance -- they created an appearance

22 issue because of my private views. Okay?

23 Q Uh-huh.

24 A And it created an appearance issue, and for that I was -- deeply regretted

25 that --

1 Q Uh-huh.

2 A -- and was also surprised because I was -- it was kind of click and forget on

3 some of it. I just didn't -- I wasn't careful enough. And, look, I shouldn't have been on

4 social media. I realize that. And, you know -- but let me underscore --

5 Q Uh-huh.

6 A -- that never affected anything I ever did officially in the Bureau, ever. It

7 just didn't.

8 Q And, after the May 3l, 2022, letter from Senator Grassley, did you remain

9 active on social media?

10 A No. I stopped. I stopped.

11 Q Even with your personal accounts you stopped?

12 A Well, they were personal accounts, and so I -- yes. I sort of -- certainly I

13 saw some things that were said about me, you know, in social media and whatnot, but

14 largely stopped posting anything and wanted to avoid media altogether.

15 Q And have you only used the social media accounts that are under your name

16 to make posts on social media?

17 A Yes, I've only used my accounts to make posts.

18 Q And what are your accounts?

19 A So I had a few Twitter accounts, a Facebook account, a TikTok account, I

20 think, and a couple of LinkedIn accounts.

21 Q And the few Twitter accounts, what were the handles for your --

22 A So I don't recall, but I think my attorneys would be happy to provide them,

23 yeah.

24 Q Okay. And to the extent there are, you know, reporting that you're using a

25 different account other than yourself, is that accurate?

1 A No.

2 Q Okay.

3 A Which accounts specifically are you saying?

4 Q There's an individual that was kind of posting in your defense, and there was

5 maybe some allegations that that was you and not the individual?

6 A Missy Morgan?

7 Q That's correct.

8 A Yes. No, I never used her account.

9 Q Okay.

10 A I never collaborated with her on her postings. I never logged onto her

11 account. That was never under my control.

12 Q Okay. And, in regards to -- I'm sorry to jump around. Just a couple more

13 questions from me.

14 On the January 6th front, during the time that you were at the command post and

15 even when your agents were still working the cases, did you ever become aware of

16 confidential human sources, the FBI's confidential human sources that were at the Capitol

17 on January 6th?

18 A Not that I can recall.

19 Q Not that you -- so you've never become aware of any CHSes in attendance?

20 A No, I don't. Someone called me from Counterterrorism Division for some

21 reason about something out of the Miami office, and they asked me if I knew about it

22 and -- just because I was at WFO. And I said: No. You're going to have to talk to

23 Miami.

24 I don't know if there were or weren't.

25 Q Uh-huh.

1 A Never came to understand that whole issue.

2 [redacted] Okay. Can we go off the record?

3 [Discussion off the record.]

4 [redacted] Can we go back on the record.

5 BY [redacted]

6 Q I apologize. I just have a couple more questions.

7 A Sure.

8 Q The FITF briefing that we've been referring to, the August -- or excuse me,

9 the October 2lst meeting, do you remember how long that briefing lasted?

10 A It was a couple hours.

11 Q And you said that you told your agents high level what went on at that. Is

12 that correct?

13 A Very high level.

14 Q Okay. And --

15 A One agent, Agent No. 2.

16 Q And was the information that you told that agent at a high level classified?

17 A No. I kept it unclassified, and that was part of the problem was I couldn't --

18 Q Uh-huh.

19 A -- adequately discuss it. And that's why I encouraged her to go talk with

20 the FITF.

21 Q And do you remember what you told her about the briefing, the high level?

22 A Not specifically.

23 Q Okay.

24 A Not specifically.

25 Q You don't remember anything that you discussed with her about the

1 briefing?

2 A I just told her that, you know, there's a problem with the source and

3 potentially information from the source, not --

4 Q Uh-huh.

5 A And I don't recall that that specifically characterized the information from

6 Baltimore, if you understand what I'm saying.

7 Q Uh-huh. Okay.

8 A It was a larger briefing that talked about other things.

9 Q And, with the individuals under your command on the CR-15 squad, did you

10 expect them to keep their political leanings out of their investigative work?

11 A Yes.

12 Q Did it ever come to your attention that they did not?

13 A With specific -- with respect to specific investigations?

14 Q Uh-huh.

15 A I didn't have any information at that time to make it clear to me --

16 Q Uh-huh.

17 A -- that they had not. Right?

18 [redacted] Okay. We can go off the record.

19 [Recess.]

20 [redacted] I'm going to go back on the record, please. It's 4:33.

21 BY [redacted]

22 Q Okay, Mr. Thibault, almost done.

23 A couple of quick questions on the subject of January 6. I think that, in the very

24 first or second hour, you were asked some questions about the pipe bomb investigation,

25 and you indicated that you actually didn't have any role in that investigation, supervising

1 it or working on it. Is that right?

2 A That's correct.

3 Q Are you aware that Mr. D'Antuono testified before this committee that he

4 actually did supervise that and that he was sure that he and his agents did everything

5 they could to take that seriously, to turn over every rock, and to make sure that they got

6 everything they needed to prioritize that investigation? Do you have any information

7 that would suggest that that is not true?

8 A No, ma'am.

9 Q Okay. January 6 cases you were told -- or it was alleged that you somehow

10 tagged or reclassified January 6 cases to make it look like they were more domestic

11 terrorism related cases than they really were. And you've made clear that you had no

12 such role. Is that right?

13 A Correct.

14 Q Okay. You did indicate, though, that your WFO employees did have quite a

15 few cases that were January 6 related. Is that right?

16 A Yes, ma'am.

17 Q And that you supervised those cases at some point?

18 A I didn't supervise most of them. There's a very small subset that were

19 assault on media --

20 Q Okay.

21 A -- that I supervised.

22 Q Got it.

23 A -- with regard to, you know, the traditional January 6 or people that entered

24 the Capitol.

25 Q Right. The trespass?

1 A Correct.

2 Q Okay.

3 A The other cases that were not assault on media were either supervised

4 by -- they were supervised by the Domestic Terrorism, so it would have been Lyonel

5 Myrthil was the ASAC.

6 Q Okay.

7 A He was over Domestic Terrorism at WFO, or Robert Borstein, who was over

8 violent crimes.

9 Q Okay. I just want to make clear, you, I think, were saying something to the

10 effect of, because of the volume of cases related to January 6 that came to WFO, there

11 was some adjustment of priorities with some of the case agents in terms of having to

12 focus on those at least initially as they came in?

13 A Yes.

14 Q Is that right?

15 A Yes, ma'am.

16 Q Did you have any objection to that focus?

17 A No, ma'am.

18 Q Do you -- in your opinion, do you believe that those cases that they were

19 asked to focus on are serious cases and that it merited the attention of the FBI?

20 A Well, you know, I think the cases were predicated. Some of them they

21 might have found lacked evidence, and so those cases could have been closed. So the

22 January 6 certainly was a serious investigation. And, you know, commander's intent is

23 important in the FBI, and I certainly got commander's intent from Steve D'Antuono that

24 said: Hey -- and he said this to all agents. He said: We're going to be working these

25 cases for a little while until we can get a handle on them.

1 And there were exceptions made for people that were going to trial or had to
2 testify in the grand jury. But, over the course of time, people got back to their own
3 investigations.
4 Q Did you see any problem with that decision from D'Antuono or others that
5 they had to focus on this for a little while?
6 A No, ma'am.
7 Q Is that because those cases were serious and you agreed that it was
8 important that the FBI look at them at least initially to see whether they needed to go
9 prosecuted?
10 A I respond to bosses. And when the boss says, "This is how it's going to
11 work," as long as there's nothing ethically problematic with his decision, yeah, you're
12 going to follow it. And he has the right to set his priorities, and that's what I took my -- I
13 took my, you know, commander's intent from.
14 Q Okay. So, moving on from the January 6 subject, I wanted to ask you a little
15 bit more about just how this congressional investigation has impacted you.
16 And I think I understand, but I want you to tell me if I'm wrong about the timing
17 here. When was the first time that you became aware that your name was kind of out
18 in the public as somebody who had been accused of, you know, having political bias that
19 was affecting your job at the FBI?
20 A It was like June 1st or right around there.
21 Q Of what year?
22 A Of 2022.
23 Q So was that -- so that was a day after the May 3lst -- no. I'm sorry.
24 A It was the same day that the press came out with Mr. Grassley's initial letter.
25 Q Okay. So it was the May 31, 2022 --

1 A Okay.

2 Q -- letter that was the instigating kind of event for what happened to you --

3 A Yes, ma'am.

4 Q -- in terms of your experience?

5 Okay. Did you -- so you read about the letter in a media setting or did you

6 receive the letter or --

7 A I think my bosses gave it to me.

8 Q Okay.

9 A And then I saw a reporting. It came out simultaneously with, like, reporting

10 from newspapers.

11 Q Okay. What was your reaction?

12 A I was heartbroken that I made that decision.

13 Q Oh, you mean about the social media posts?

14 A Yes.

15 Q Okay.

16 A I was accountable. The first I learned was just my media posts.

17 Q Right.

18 A But I -- and I didn't even realize. Right? And I was, like, oh, my God.

19 And I went back and looked because it's very odd that you make -- you can make social

20 media posts and not even realize because you don't go through your timeline. And I

21 was, like, yeah, this is an issue, and I'm going to be accountable for it. This is my

22 mistake. And I shouldn't have let it happen, and I let myself down, and I let people who

23 counted on me down, so --

24 Q I think you've made it clear in your written statement and other testimony

25 that you regret the appearance that was created by those social media posts. Right?

1 A Absolutely, yes.

2 Q But you also have stated clearly that none of those political or personal

3 views that you had affected any of the decisions that you ever made in the FBI.

4 Do you stand by that?

5 A I do. And, you know, if you look at just the cases I worked on that were

6 prosecuted, no one has -- look for agents who have prosecuted cases like I have, and you

7 can't reconcile the two. Right? You can't say that I'm partisan and look at the matters

8 that I worked on. It can't be reconciled. So I'm confident in my own record and -- yes.

9 Q And that letter that you became aware of in early June or May 3lst, that was

10 not the -- that was the beginning, but it wasn't the end of the attention that you were

11 going to sort of have directed at you from Congress. Correct?

12 A I would say from the media --

13 Q Well, you also got additional letters from Congressmen. Correct?

14 A Right.

15 Q Including Senator Grassley. Right?

16 A Right.

17 Q And communications from the chairman of this committee, Mr. Jordan?

18 A Right.

19 Q And those letters contained various allegations of partisanship on your part

20 or basically poor behavior at the FBI. Right?

21 A Yes. I was accused of -- and, look, the underlying accusations come from

22 some whistleblowers. I don't know who they are. But, if that had been raised and

23 those were true, people have every right to ask questions about me.

24 Q Sure. But what was your reaction when you saw those particular

25 allegations?

1 A Oh, sure.

2 Q We have gone through a number today. We talked about the idea that you

3 were somehow suppressing information regarding the Hunter Biden investigation, talked

4 about Mr. Bobulinski. We talked about the January 6 stuff. We talked about you

5 inappropriately opening an investigation in the Trump electors. We went through them,

6 like, methodically here today.

7 A Yes.

8 Q And those were all outlined in some fashion in these letters. So, when you

9 saw those allegations, again, what was your reaction to those allegations?

10 A I could not believe that FBI agents would present information which was not

11 accurate or lack candor to Members of Congress.

12 Q And is that what you believed is that the people who were making these

13 accusations were lacking candor?

14 A Again, I don't know who the whistleblowers are.

15 Q I understand, but whoever they were.

16 A But I believed -- here's what I believed, that if the information was accurately

17 portrayed in the letters by Members of Congress, if that information was accurately

18 portrayed from people, then I -- there's obvious defenses because it just wasn't true.

19 Q Right.

20 A And you don't have to believe me. You don't have to believe me. With

21 regard to Hunter Biden, you can talk to the Hunter Biden team all day long. With regard

22 to the electors case, you can talk to my bosses, Mr. D'Antuono. You can talk to the

23 Public Corruption Unit. You can talk to the U.S. Attorney's office. With regard to DT

24 matters, you can talk to WFO. With regard to if I was fired or not, that's evident.

25 What I wanted was someone from the FBI -- because they know the truth -- was

1 someone to defend me after 26 years. I understand they can't defend every allegation
2 that's made, so -- I wish they would have. Right? I didn't have that. And so that's
3 how I felt was I just wanted a defense. And I'm not blaming the FBI, because if they
4 would respond to accusations against FBI agents from the media, they would be doing
5 that a lot. So I'm not special.
6 But, when those accusations were made against me in July, I was, like, outraged.
7 Why -- no FBI agent that I know would put their reputation and honor on the line just to
8 square up. They wouldn't do that.
9 Q Because those allegations were just not true. Right?
10 A They're extremely serious, and it makes me look like a corrupt FBI agent.
11 Q And none of those allegations were true. Correct?
12 A No, they weren't. What I did do is I screwed up on social media, and I
13 should be accountable for that, and I have been. But those other allegations are just not
14 true.
15 Q And I know that, you know, you're a witness here today, and you don't have
16 visibility in the congressional investigation, but were you aware that this committee has
17 had testimony from 18 FBI -- former or current FBI agents with respect to allegations of
18 weaponization of the FBI, some of which involve these allegations that are directed at
19 you?
20 A I assume that there were FBI agents being called, sure.
21 Q And are you aware that not a single one of them when asked about you or
22 your conduct ever corroborated any of those allegations?
23 A It doesn't surprise me at all.
24 Q Does it surprise you that, despite the fact that this committee has heard
25 from 18 witnesses who are former or current FBI agents that really offer evidence that

1 those allegations against you were not true, that the public push or allegations that were
2 being sort of repeated by this committee never stopped? In other words, they
3 continued to make comments, and the media -- no one ever stopped the media from
4 inferring that you -- these allegations against you were true?
5 A Right. So I put that on whoever initiated these allegations against me.
6 I'm not accusing anybody. You know, I look at, potentially, if you're told something that
7 isn't completely honest or lacks candor, you're sort of a victim too. So I put that on
8 whoever, either through just not knowing or gross misrepresentation or -- but not
9 checking the facts or shading the truth, I put that on them. And I understand how the
10 media is today, believe me.
11 Q Uh-huh.
12 A And, yes, it's ongoing, and it will be. And I take responsibility for my part of
13 it too because guess what? If I wasn't on social media, no one would have had a
14 foothold to come after me. So I'm responsible too.
15 Q Well, that's one thing is the social media posts which, as you said, created an
16 appearance.
17 A But, if I hadn't done that, there's no foothold.
18 Q Okay.
19 A Because there's nothing I did as an FBI agent or supervisor to support any of
20 it.
21 Q Okay. How about are you aware that currently, as we speak, this
22 committee's website, the House Judiciary Committee's majority website, refers to a
23 Breitbart article, January 7, 2023, in which a GOP aide is quoted as saying that you,
24 Timothy Thibault, are a top priority for Republicans on this committee, and it describes
25 you as, quote, Public Enemy No. 1. Are you aware of that?

1 A I learned about that sometime at the end of the year.

2 Q Did that affect you in any way?

3 A I never want to be labeled Public Enemy No. 1, number one. No one does.

4 But, look, again, that's a person speaking to a media --

5 Q Well, that's this committee's website as we sit here today.

6 A Well, this committee I think was lied to. Okay? And it's within the

7 jurisdiction of Congress. Look, if I was that corrupt agent -- I fought corruption my

8 entire career, and I'm probably too passionate about corruption because I don't like it at

9 any level. If I was that corrupt, they should be investigating me, but I'm not. I was a

10 good agent who made a mistake on social media.

11 So, you know -- but, you know what? I'm here today because I want people to

12 know I'm not Public Enemy No. 1. And I appreciate that opportunity. Right?

13 Q Did you ever receive any threats that you think might be directed to the fact

14 that your name is out there and you've been labeled by prior partisans and others as

15 Public Enemy No. 1?

16 A I'm aware of some social media, you know, threats of doxing. I received

17 some hate mail, that kind of thing.

18 Q Do you think it has affected you professionally in any way in terms of your

19 reputation?

20 A Well, my reputation has definitely been affected. Again, I have a role in

21 that and I own my role. What I -- you know, you can't put toothpaste back in a tube.

22 And a lot of things are highly political these days. And, you know, I don't want to be a

23 victim, okay, at all. I just don't want to be a victim. But, yeah, I've received some stuff.

24 I mean, before I left the Bureau, there was an insider threat case against somebody that

25 was opened up. I don't know if they ever knew that they sent hate mail or someone put

1 a screw in the side of my FBI tire, you know. It was done intentionally. I don't know if
2 that was someone who did it on the street or if it was done while it was parked in an FBI
3 space. But I had two -- you know, another nail in my personal vehicle's tire while it was
4 parked there.
5 I don't know -- I don't want to be a conspiracy theorist. I don't want to be a
6 victim. Some things have happened. It's definitely affected me, but I had a role in it,
7 and I want to own that role. And if there's anything that can come out of this, FBI
8 agents, stay off of social media. Because I'm going to be the poster boy for that, and it's
9 a shame because I had a damn good career.
10 Q Well, I mean, to be fair too, I mean, you're not the only one who is an FBI
11 agent, former or current --
12 A Right.
13 Q -- who's been publicly -- whose name has been thrown out there publicly by
14 members of this committee --
15 A Sure.
16 Q -- who have not had social media posts.
17 A So, for instance, those two agents that worked on the Tony Bobulinski EC,
18 I'm aware that they received significant backlash for only doing their job. Why?
19 Because of my social media conduct and Mr. Bobulinski thinking I was a bad agent, that
20 put them in a bad spotlight. Those are the guys that are the victims, the true victims.
21 And no one came and spoke on their behalf. Right? They -- they're just line agents
22 doing their darn job.
23 Q Right.
24 A And so, hopefully, we'll get past this time, hopefully, but -- and I don't want
25 to be a victim here, so I'll tell that to the camera.

1 Q Okay. And there's a couple of questions I wanted to ask you about the
2 subject of the fake electors scheme.
3 A Sure.
4 Q You were asked in the last hour about your role in, I guess, reviewing the
5 predicating document in that case or that investigation. Is that right?
6 A Yes.
7 Q And there was an allegation specifically that there was an unbalanced type
8 of reliance on a media source that could be considered bias.
9 Do you recall those questions?
10 A Yes.
11 Q Okay. And I just want to ask you -- I know that you're not going to talk
12 about what was inside that document. But, hypothetically speaking, when you as an FBI
13 agent are evaluating media sourcing or stories as a basis for predication in an
14 investigation, does it matter what is inside that story? Like, for example, if you're
15 looking at a piece of reporting that is just based on, say, anonymous people's words,
16 maybe you would be a little bit more skeptical of what you were reading than if you were
17 looking at a piece of media that was, like, a live interview with a person making a
18 confession and you could see that for yourself. Like, do you understand the difference
19 that I'm trying to say?
20 A Oh, absolutely, yeah.
21 Q So, if you had a situation where a witness or even a subject or target in an
22 investigation was essentially confessing on live TV to his part in the fake electors scheme,
23 would you be able to dismiss the alleged bias of the media outlet that was airing that live
24 interview to some extent because you were seeing the witness make a confession live on
25 TV?

1 A I think I've sort of answered your question because I talked about --
2 Q Yeah.
3 A -- hey, you're able to go outside and look at property records.
4 Q Yes.
5 A Right? So, yes, we would definitely evaluate. If it's an anonymous source,
6 it's going to be harder to evaluate. But I don't want to go any further than that.
7 Q Okay. But the fake electors scheme eventually resulted in an indictment.
8 Are you aware of that?
9 A Yes, ma'am.
10 Q Okay. And, in that case, that was an indictment that was filed in the United
11 States District Court for the District of Columbia on August 1, 2023, and it's the United
12 States v. Donald J. Trump, where he is charged with three counts of conspiracy under 18,
13 U.S.C., 371, 1812(k), and 1512(c)(2),2 -- actually, four counts. Sorry -- and 18, U.S.C.,
14 241.
15 You're aware of that indictment. Correct?
16 A Yes, ma'am.
17 Q In some ways --
18 A I haven't read it, but I'm aware of it.
19 Q Okay. But the investigation that we talked about, the fake electors
20 investigation that you -- the predicating document for which you reviewed, eventually
21 grew in part into this indictment. Correct?
22 A It's my belief, yes.
23 Q And an indictment means that a grand jury found probable cause to believe
24 there was enough evidence to level these charges against the defendant. Correct?
25 A Right.

1 Q You had no role in that process. Right?

2 A I had no role. But I do want to say that an indictment and an

3 opening -- even if you were to get an indictment, but you were to have an opening EC

4 that's not written properly --

5 Q Yes.

6 A -- that's a problem. That's going to undergo scrutiny --

7 Q Uh-huh.

8 A -- at pretrial hearings and during a trial. And so that opening -- what I'm

9 trying to say is that doesn't excuse a document that's not well predicated. Just because

10 they're able to get there doesn't mean, oh, you just take shortcuts on an opening

11 document. And that didn't happen. So I'm saying the document as it was opened is

12 squared away and solid.

13 Q And so is the indictment, as far as you know?

14 A Well, I'm not going to comment on that. That's not -- no.

15 Q Okay. All right. What else do we got here?

16 I guess the last thing I want to offer to you is just the opportunity to tell the

17 committee anything that you feel like we haven't asked you that you think it's important

18 for them to know about either your experience or any of the subjects that have been

19 raised here today?

20 A No. I think you've been pretty comprehensive. I want to be cooperative.

21 I regret that there's some things I couldn't fully discuss. I'm confident that, if there's a

22 time that comes later when I'm able to discuss that because something gets closed,

23 something goes to trial, I want to be completely cooperative. I owe it to myself. I owe

24 it to you guys to do that. So, you know, my cooperation may not end here.

25 Q Well, thank you for your cooperation, Mr. Thibault. Appreciate it.

A Thank you.

[redacted] We can go off the record.

[Whereupon, at 4:55 p.m., the interview was concluded.]

1 Certificate of Deponent/Interviewee

2

3

4 I have read the foregoing ____ pages, which contain the correct transcript of the

5 answers made by me to the questions therein recorded.

6

7

8

9 _____

10 Witness Name

11

12

13 _____

14 Date

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5 COMMITTEE ON THE JUDICIARY,
6 U.S. HOUSE OF REPRESENTATIVES,
7 WASHINGTON, D.C.
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13 INTERVIEW OF: [redacted]
14
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16
17
18 Tuesday, September 19, 2023
19
20 Washington, D.C.
21
22
23 The interview in the above matter was held in room 164, Cannon House Office
24 Building, commencing at 10:06 a.m.

1

2 Appearances:

3

4 For the COMMITTEE ON THE JUDICIARY:

5

6 [redacted] RESEARCH ASSISTANT

7 [redacted] SENIOR COMMUNICATIONS ADVISOR

8 [redacted] COUNSEL

9 [redacted] MINORITY LEGAL INTERN

10 [redacted] MINORITY STAFF ASSISTANT

11 [redacted] MINORITY COUNSEL DETAILEE

12 [redacted] MINORITY OVERSIGHT COUNSEL

13

14 For the SUBCOMMITTEE ON CRIME AND FEDERAL GOVERNMENT SURVEILLANCE:

15

16 [redacted] MINORITY DETAILEE

17

18 For [redacted]:

19

20 REGINALD J. BROWN, ESQ.

21 MAUREEN M. GALLAGHER, ESQ.

22 Kirkland & Ellis, LLP

23 1301 Pennsylvania Avenue NW

24 Washington, D.C. 20004

1

2 [redacted] This is a transcribed interview of [redacted].

3 Chairman Jordan has requested this interview as part of the committee's

4 investigation of how and the extent to which the executive branch has coerced and

5 colluded with companies and other intermediaries to censor speech.

6 Would the witness please state your name for the record?

7 [redacted] My name is [redacted].

8 [redacted] On behalf of the committee, I want to thank you for appearing here

9 today to answer our questions. The Chairman also appreciates your willingness to

10 appear voluntarily.

11 My name is [redacted] and I am with Chairman Jordan's staff. I'll now have

12 everyone else from the committee who's here at the table and in the room introduce

13 themselves as well.

14 [redacted] [redacted] Chairman Jordan's staff.

15 [redacted] [redacted] minority intern for House Judiciary Democrats.

16 [redacted] [redacted] with Ranking Member Nadler.

17 [redacted] [redacted] with House Judiciary Democrats.

18 [redacted] [redacted] with Ranking Member Nadler.

19 [redacted] [redacted] Jordan's staff.

20 Mr. Brown. Sorry. Could you spell your last name, please?

21 [redacted] [redacted]

22 Mr. Brown. Thank you.

23 [redacted] I'd like to now go over the ground rules and guidelines that we will

24 follow during today's interview.

25 Our questioning will proceed in rounds. The majority will ask questions first for 1

1 hour, and then the minority will have an opportunity to ask questions for an equal period
2 of time if they choose. We will alternate back and forth until there are no more
3 questions and the interview is over.
4 Typically, we take a short break at the end of each hour, but if you would like to
5 take a break apart from that, please just let us know.
6 As you can see, there is an official court reporter taking down everything we say to
7 make a written record, so we ask that you give verbal responses to all questions. Do
8 you understand?
9 [redacted] Yes.
10 [redacted] So the court reporter can take down a clear record, we will do our best
11 to limit the number of people directing questions at you during any given hour to just
12 those people on the staff whose turn it is.
13 Please try and speak clearly so the court reporter can understand and so the folks
14 down at the end of the table can hear you. It is important that we don't talk over one
15 another or interrupt each other if we can help it, and that goes for everybody present at
16 today's interview.
17 We encourage witnesses who appear before the committee to freely consult with
18 counsel if they so chose. It is my understanding that you are appearing today with
19 counsel. Is that correct?
20 [redacted] Correct.
21 [redacted] Could counsel please state your name for the record?
22 Mr. Brown. Reg Brown, Kirkland & Ellis.
23 Ms. Gallagher. Maureen Gallagher, Kirkland & Ellis.
24 [redacted] Thank you.
25 We want you to answer our questions in the most complete and truthful manner

as possible, so we will take our time. If you have any questions or if you do not understand one of our questions, please just let us know. Our questions will cover a wide range of topics, so if you need clarification at any point, just say so.

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

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

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

[redacted] Yes.

[redacted] This also applies to questions posed by congressional staff in an interview. Do you understand this?

[redacted] Yes.

[redacted] Witnesses that knowingly provide false testimony could be subject to criminal prosecution for perjury or for making false statements under 18 U.S.C. section 1001. Do you understand this?

[redacted] I do.

[redacted] Is there any reason you are unable to provide truthful answers to today's questions?

[redacted] Not that I know of.

[redacted] Finally, I'd like to make a note that the content of what we discuss

1 here today is confidential. We ask that you not speak about what we discuss in this
2 interview to any outside individuals to preserve the integrity of our investigation.
3 For the same reason, the marked exhibits that we will use today will remain with
4 the court reporter so that they can go in the official transcript, and any copies of those
5 exhibits will be returned to us when we wrap up.
6 That is the end of my preamble. Is there anything that my colleagues from the
7 minority would like to add?
8 [redacted] No, thank you.
9 [redacted] Counsel, I understand you --
10 Mr. Brown. Before we start, in addition to the court reporter, the interview
11 today is being videotaped, unlike in prior hearings. There are multiple cameras and
12 additional audio equipment.
13 We would like to object to videotaping, given the nature of the work that the
14 witness does in both his current and former employment.
15 To the extent the committee decides it would like to release some video of the
16 witness, we'd respectfully request the opportunity to be heard by the committee prior to
17 the release because of the potential risk to the safety of the witness.
18 [redacted] Thank you.
19 We will now start the first hour of questioning. The clock reads 10:11.
20 EXAMINATION
21 BY [redacted]
22 Q Could you state your full name again for the record, please?
23 A My full name is [redacted].
24 Q And what is your current place of employment?
25 A Meta.

1 Q And what is your current title?

2 A I'm a security engineering manager.

3 Q And how long have you worked in that role?

4 A At -- sorry -- Meta or in this role?

5 Q In this specific role.

6 A About 4 years.

7 Q Beginning with college, what is your educational background?

8 A I went to college at Boston University.

9 Q And what degree did you receive?

10 A I finished in 2003 with an aerospace engineering degree.

11 Q And after college?

12 A I went to graduate school.

13 Q And where did you go?

14 A The Georgia Institute of Technology in Atlanta.

15 Q And what degree did you receive?

16 A A master's degree in aerospace engineering.

17 Q Did you receive any other post-college degrees?

18 A Yes. Later, I went to New York University.

19 Q And what degree did you receive?

20 A A master's degree in cybersecurity.

21 Q Starting with your first job after college, what is your professional

22 background?

23 A Right after college, I went into the FBI -- sorry, after graduate school. After

24 college, I went to graduate school. After graduate school, I went to the FBI.

25 Q Okay. And what year was that?

1 A '05.

2 Q And when you joined the FBI, what was your first position and with which

3 division?

4 A Special agent. My first -- I mean, first, I went into the training academy.

5 And when I graduated, I went to the New York Field Office.

6 Q And what was your next position at the FBI?

7 A I was in the New York Field Office for a number of years before going to

8 headquarters.

9 Q When did you move to headquarters?

10 A It was in 2013.

11 Q What was your position in the New York Field Office prior to moving to

12 headquarters?

13 A I was a special agent for the entirety of my time in the New York Field Office.

14 Q And just at a very high level, what were you working on?

15 Mr. Brown. With respect, he can tell you things that are in the public domain.

16 The FBI is not here, and he's here to talk about his role at Meta. So I'm going to ask the

17 witness to keep it at a very high level. And if you want to know more about his FBI

18 work, you'd need to talk to the Bureau.

19 [redacted] At a high level, I worked on national security issues.

20 BY [redacted]

21 Q And what was your position when you moved to headquarters?

22 A Supervisory special agent.

23 Q And at a high level, what were your responsibilities in that position?

24 A I was in the Cyber Division.

25 Q How long were you in this role for?

1 A Eighteen months.

2 Q And what was your next position?

3 A Moved back to the New York Field Office. This was a temporary

4 assignment to headquarters, a typical assignment for 18 months. After that, I returned

5 to the New York Field Office.

6 Q And did you continue to do work that you were doing prior to your move to

7 headquarters?

8 A At a high level, yes. And then I became a supervisory special agent in the

9 field office.

10 Q And how long were you in the New York Field Office after your move back?

11 A Until -- came back in 2014, until about 2017.

12 Q And in 2017, what was your next position?

13 A I had another temporary duty assignment to headquarters in the FBI.

14 Q And at a high level, what was your assignment?

15 A It was related to foreign influence.

16 Q And how long was this assignment for?

17 A Five to 6 months, if I recall.

18 Q At the conclusion of the assignment, where did you --

19 A I returned to the New York Field Office.

20 Q And how long were you in the New York Field Office at that point?

21 A Just several months, until I left the FBI.

22 Q So what was your final position at the FBI?

23 A Supervisory special agent in the New York Field Office.

24 Q And when you left the FBI, what was your next position?

25 A Facebook, now Meta.

1 Q And when did you join Facebook?
2 A 2018.
3 Q And what was your position when you joined the company?
4 A I was a threat investigator.
5 Q Which team were you part of when you first joined?
6 A I was part of the integrity organization within Meta.
7 Q And how long were you a threat investigator for?
8 A About a year. Maybe just a bit longer than a year.
9 Q And what was your next position?
10 A Manager.
11 Q And is that the same position you hold today?
12 A Roughly. The scope has changed somewhat and grown over time, but it's
13 the same position, yeah. I manage people at Facebook.
14 Q How has the scope changed over time?
15 A Over time, my role has expanded to include additional teams and additional
16 responsibilities.
17 Q Which additional teams and responsibilities?
18 A Do you mean currently, at the time, or --
19 Q Just from the time you became manager, you mentioned that your
20 additional teams, responsibilities as part of the scope expanded. If you could just say a
21 little bit about what teams, what responsibilities. How did your role change --
22 A Sure.
23 Q -- if it's the same position?
24 A So, when I started as a manager, I managed a threat intelligence team that
25 was focused on state-sponsored actors. And over time, I helped manage additional

1 teams. I helped manage the influence operations team, another threat intelligence
2 team within our group. And I currently manage a number of groups within the
3 department.
4 Q When you were a threat investigator, who did you report to?
5 A I think I had two managers during my time as a threat investigator. One
6 was [redacted], who is my current manager as well.
7 Q And who is [redacted]?
8 A He's my current manager.
9 Q What's his title?
10 A He is the director that runs my department.
11 Q And what's the name of your department?
12 A Integrity, Investigations, and Intelligence.
13 Q Who was your other manager when you were a threat investigator?
14 A [redacted].
15 Q And who is [redacted]?
16 A She was my former manager and a colleague later.
17 Q What was her title when she was your manager?
18 A I believe it was security analyst manager or something like that, but I don't
19 have a perfect recollection of what the exact title was.
20 Q What's her title today?
21 A She is no longer with the company.
22 Q When did she leave?
23 A To the best of my knowledge, it was during this past summer, but I don't
24 know the exact date.
25 Q What was her title before she left the company?

1 A She was in a different role that was outside of my department. I'm not
2 sure what her exact title was.
3 Q Do you know which department she was with?
4 A I don't actually know exactly. It was within the larger integrity
5 organization. I don't know exactly what the department was called.
6 Q When did she leave your department for this other department?
7 A I don't recall the exact date. I want to say about a year prior, but that's a
8 guess. I don't have a perfect recollection.
9 Q And you said Bill's current title is director of integrity investigations. What
10 was his title when he was your --
11 A My manager?
12 Q -- manager?
13 A I think security engineering manager or something like that.
14 Q When you first joined, how large was your team?
15 A The team that I joined?
16 Q Yeah.
17 A I don't recall the precise number of people on that team.
18 Q Do you have a ballpark sense?
19 A The team was growing rapidly at that time, so I'd rather not guess. I don't
20 exactly recall what the total number was.
21 Q Where were you located? Which office?
22 A D.C. office.
23 Q Do you know how many people on your team were in the D.C. office?
24 A I don't.
25 Q Do you have a ballpark sense?

1 A Several people, but I don't have a precise number.

2 Q The team as a whole -- well, let me ask -- let me strike that.

3 When you first joined, was it Bill or Susan who was your first manager?

4 A Let me try to recall.

5 I believe it was Bill at first, and then changed to Susan.

6 Q You mentioned that the team was expanding when you joined. By how

7 much did it expand?

8 A We hired several new teammates during my first few months there.

9 Q So we'll say by end of 2018 or 2019, do you have a sense of how big the

10 team was at that point?

11 A Not really. Not that I'm comfortable guessing.

12 Q Was it more or less than 50?

13 A I don't have anything to add beyond my previous answer.

14 Q You're not sure.

15 A I'm not sure.

16 Q How many offices had people on your team?

17 A How many offices?

18 Q Uh-huh.

19 A At least two, the office in California and D.C., but there may have been more

20 offices.

21 Q So in 2019 you become manager? Is that right?

22 A Yes.

23 Q At that point, in 2019, who were you reporting?

24 A Bill Slattery.

25 Q And in your first role, when you were a threat investigator, was there anyone

1 that reported to you?

2 A No. I was an individual contributor.

3 Q When you became manager, did you have anyone reporting to you?

4 A Yes.

5 Q How many people?

6 A Approximately eight.

7 Q Did you have a primary deputy or anyone assisting you?

8 A I did not.

9 Q At this time, how many people were reporting to Bill?

10 A I don't know.

11 Q What were the roles of the eight people who were reporting to you?

12 A They were all threat investigators.

13 Q Has the size of your team changed since 2019?

14 A To today?

15 Q Yes.

16 A Yes.

17 Q How so?

18 A I manage multiple teams now. And so they all have people on those teams

19 that are managed by managers. So my scope is larger in terms of the people, overall, in

20 my organization.

21 Q And how many managers do you oversee?

22 A I oversee three managers now.

23 Q And who are they?

24 A Is there a specific reason or person that you're interested in?

25 Q I'm just here to gather information on your role.

1 A I'd rather not provide the names of the people that I currently manage.
2 Q What are their three titles?
3 A They're all security engineering managers.
4 Q How long have you been supervising these three individuals?
5 A Since April of this year, 2023.
6 Q And what about before April of this year?
7 A I had a different role. We -- I mean, the same department. We
8 restructured, and so my role changed.
9 Q What was the structure before the restructuring in April of 2023?
10 A I had a little bit less of a scope. So I still was responsible for some of the
11 teams that I manage now, but my scope expanded in April.
12 Q Do each of these managers manage one team or multiple teams?
13 A One team.
14 Q And what is the name of each of those three teams?
15 A One is called counterespionage. It's a state-sponsored hacking team. The
16 other is influence operations. And the third is dangerous organizations and individuals.
17 Q You mentioned that the scope of your responsibilities changed when you
18 became a manager in 2019. Of those three teams, what was added to your portfolio
19 and when?
20 A Okay. So the first team that I managed was the counterespionage team.
21 Over time, I helped manage the influence operations team in addition to my
22 counterespionage team. There were other teams that I managed in the interim period.
23 And then, today, I manage those three teams. It's a branch of my organization that I
24 manage.
25 Q Is there anyone you oversee besides these three teams?

1 A I do.

2 Q Who else do you oversee?

3 A I oversee two senior individual contributors in my organization. And then I

4 am also helping to cover while someone is on leave for an additional team.

5 Q So the two senior contributors, what is their role? What are they

6 responsible for?

7 A They are threat investigators, and they help -- because of their level and

8 position, they help run the department, part of my department, and help across all of the

9 teams.

10 Q And who are they?

11 A Same answer as before. I'd rather not provide their names.

12 Q And what is the team that you're managing while someone is on leave?

13 A Say that again?

14 Q What team are you helping to cover?

15 A Oh. I help manage one of our threat intelligence teams while someone is

16 on leave.

17 Q How many threat intelligence teams are there?

18 A In my department?

19 Q Uh-huh.

20 A There are a number of teams in my department that are focused on

21 different problem areas. I don't have the exact number off the top of my head.

22 Q Do you have a ballpark sense?

23 A There are a number of teams.

24 Q More than 12?

25 A I don't have anything to add. I just don't have the exact number off the top

1 of my head.

2 Q Do you have sense of -- you manage three teams, two senior contributors,

3 and are covering for one additional team -- what percentage of the department that

4 accounts for?

5 A There are three pillars in the department, and I manage one of them.

6 Q And what are the names of the three pillars?

7 A I don't think that they have precise names.

8 Q Okay. How --

9 A They're just groupings of teams.

10 Q How are the groupings of teams understood internally?

11 A We don't have a precise nomenclature to describe them. They're just

12 groupings with three leaders that report to Bill.

13 Q Okay. Who are the other two leaders besides you?

14 A They're my counterparts that help run the other pillars.

15 Q And what are their names?

16 A I'd rather not provide their names.

17 Q Are you refusing to answer?

18 A If you have a specific question about, like, an issue, I'm happy to talk about

19 it, but just don't want to provide the names generally of people that work there if it's not

20 relevant to the topic today.

21 Q Happy to discuss with your counsel, but, as discussed, if there's an objection,

22 that needs to be stated and the grounds need to be stated. So, again --

23 Mr. Brown. He just gave you an answer. His answer was, if it's particularly

24 relevant to something, you know, he's happy to give you names, but he doesn't want to

25 give you the names otherwise, given the nature of the work that they do.

1 He's here voluntarily. If there are specific questions that you want to ask where
2 the name of the individual, as opposed to the work that they do, is important, perhaps
3 he'll feel comfortable answering.
4 [redacted] If --
5 Mr. Brown. He's answered your question. You might not like the --
6 [redacted] Well, so far, he hasn't identified what the three pillars are.
7 Apparently they don't have names.
8 Mr. Brown. If they don't have names, then --
9 [Cross-talk.]
10 [redacted] -- practically.
11 Mr. Brown. I mean, what's he supposed to tell you? Is he supposed to make
12 up a name? I don't understand what you want him to do.
13 [redacted] Well, there's some sort of internal organization to have three pillars
14 and to have three managers.
15 Mr. Brown. If you want an org chart from me, you're free to ask for that. In
16 fact, we suggested that many months ago.
17 But the -- you know, the witness is going to give you honest answers, and as long
18 as he's giving you honest answers, I feel like he's doing his job here today, so I don't want
19 to badger him.
20 But I think he specifically said, if you had a particular reason for needing to know
21 someone's name and you articulated it, then he would respond.
22 [redacted] It's not a matter of an honest answer or a dishonest answer. He said
23 he's not providing an answer.
24 Mr. Brown. No, he said he'd rather not, and if you have a specific question, if
25 you could articulate the reason why you need the names --

1 [redacted] We are not going to go through and have to justify every single
2 question. We --
3 Mr. Brown. I didn't ask you to.
4 [redacted] There's not a practical way to ask about relationships if we're not sure
5 who the individuals are.
6 Mr. Brown. Why don't we go off the record, if that's okay?
7 [redacted] We can go off the record.
8 [Discussion off the record.]
9 [redacted] Back on the record.
10 BY [redacted]
11 Q Are you familiar with the terms "misinformation," "disinformation," and
12 "malinformation"?
13 A I am.
14 Q To your understanding, what is the difference between those terms?
15 A I think so. Oh, sorry, what --
16 Q What is the difference between --
17 A Oh, what is the difference?
18 Misinformation is, to my understanding, information that is erroneous or wrong
19 that's shared to someone without realizing that fact.
20 The other terms, I think you said "disinformation" and "malinformation"?
21 Disinformation, to me, means information that is shared with the intent to
22 deceive, so there's a purpose behind sharing that information. It could be truthful; it
23 could be erroneous.
24 Malinformation, I'm actually not quite sure about the definition of that term. I
25 don't use it frequently.

1 Q Have you heard the term "malinformation" used before?
2 A I have, yeah.
3 Q In what context?
4 A Like, reading online, people mentioning it, using that term sort of somewhat
5 interchangeably with the previous two terms that you mentioned. But I don't tend to
6 use it.
7 Q To your understanding, what is the most common definition of
8 "malinformation"?
9 A I wouldn't want to speculate because I don't typically use the term, so I'm
10 not sure how other people define it. I typically use the terms "misinformation" or
11 "disinformation" in my work.
12 Q At Meta, do others use the term "malinformation"?
13 A They might. Not frequently. Not in conversations with me that I recall.
14 Q What about when you were at the FBI, did --
15 A "Malinformation"? It's not a term I frequently used or heard.
16 Q Have you ever heard any individual from a government agency use the term
17 "malinformation"?
18 A I don't recall a specific instance. It's certainly possible. It doesn't stick out
19 in my mind of someone that has used it.
20 Q Do you work with the public policy or government relations team at --
21 A At Meta?
22 Q -- Meta?
23 A We've had interactions. There are a number of teams that work in that
24 capacity, and I've had interactions with them, but not, like, super-closely.
25 Q And for those interactions you did have, what's the nature of those

1 interactions?

2 A Sorry. Let's go over specific teams that you're interested in.

3 Q Well, let's take a step back. What is the name of the public policy or

4 government relations team?

5 A I don't actually know their exact names, but there are a number of people

6 that work with issues related to government interaction. So, if you give me, like, a

7 specific instance or an example, I can talk about that team.

8 Q Which team do you have in mind?

9 A I'm just trying to answer your question. So, maybe, could you repeat your

10 question?

11 Q Sure. Have you worked with individuals whose primary responsibility is

12 interfacing with the U.S. Government?

13 A Yes.

14 Q And what is the name of that team or of those teams?

15 A I think a number of teams would fit that description, and I don't know

16 exactly all of their names. One of the teams that I recall that I worked with is LE

17 outreach, or law enforcement outreach, team.

18 Q Okay. And who leads that team?

19 A I don't actually know who leads that team currently.

20 Q What about previously?

21 A I don't know who the head of the department is for that team, or was.

22 Q When you have interactions with that team, who do you interact with on

23 that team?

24 A On that team? One name I recall is [redacted] on that team. But I've

25 interacted with a number of individuals on that team.

1 Q Any others that came to mind?

2 A Not currently.

3 Q Do you know what [redacted] title is?

4 A I don't know his precise title.

5 Q Do you know who [redacted] is?

6 A I do.

7 Q And who is he?

8 A He is the director of security policy at Meta.

9 Q Do you work with him?

10 A Yes.

11 Q And what's the nature of your interactions?

12 A [redacted] is a close partner, his team is a close partner to the teams that I run.

13 Q And is he in a department different than yours, or a different division within

14 the same department?

15 A Different department and division. It's a totally different function. He's in

16 the policy function.

17 Q What about [redacted]?

18 A I do know [redacted], yes.

19 Q And do you work with him?

20 A Yes. Not as closely as with [redacted] but I do work with [redacted]

21 Q When you're working with [redacted] what's the nature of your interactions?

22 A Sure. So we are cross-functional partners that are focused on disruptions

23 of threat actors on the platform. And our roles are different, but the mission or the

24 function that we collaborate on is the same, which is disruption of threat actors on the

25 platform.

1 Q And how are your roles different?

2 A So David is responsible for the security policy function, and I'm responsible

3 for the threat intelligence and investigative function.

4 Q And how do those two responsibilities interact with each other?

5 A There are a number of cross-functional partners that collaborate closely,

6 with different, you know, skill sets and disciplines that they bring to the table. But we

7 are all focused on the application of our discipline for the disruption of threat actors on

8 the platform. So the nature of my work is threat investigations and intelligence.

9 Q And so, when you and your team are conducting analysis, are you

10 communicating that to David?

11 A Among other partners, yes.

12 Q Who are some of the other partners you will pass your analysis to?

13 A There are legal partners that are part of our cross-functional group. There

14 are strategic communications partners that are part of our group. And there are a

15 number of others at times that we interact with as part of that work.

16 Q Are you familiar with Facebook's community standards?

17 A Generally.

18 Q At a high level, what are those?

19 A At a high level, they are terms of service, or rules, that people should follow

20 when they are interacting with our platform.

21 Q As part of your responsibilities, do you play any role in shaping these

22 policies?

23 A My team has played a role, to provide input into the shaping of some of

24 those policies. But, typically, we don't -- my team does not write policies or create

25 them. We sometimes provide input.

1 Q And for which policies did your team provide input?
2 A Over time? In general?
3 Q Yes.
4 A Probably a number of policies. One that comes to mind is brigading, for
5 example.
6 Q What is that?
7 A Brigading is a policy that prohibits coordinated harassment of people on the
8 platform.
9 Q Which other policies has your team provided input on?
10 A That's the one that comes to mind right now.
11 Q Have you or anyone on your team provided input on the
12 coordinated-inauthentic-behavior-related policies?
13 A It's one of the -- CIB, coordinated inauthentic behavior, is one of the policies
14 we enforce. If we did provide -- your question was about input into that policy?
15 Q Yes.
16 A If we did provide input into that policy, it was prior to my time. I think the
17 policy was formed before I joined Meta.
18 Q What about the hack-and-leak policy?
19 A Yes. I'm familiar with this policy.
20 Q And have you or your team provided input on that policy?
21 A Yes. I believe we provided some input into, like, the thresholds for that
22 policy. But I wasn't involved in writing the actual policy.
23 Q When, approximately, did your team provide input on the thresholds for this
24 policy?
25 A It was during 2020, but I don't remember the exact date or month.

1 Q Did you, specifically -- you mentioned your team -- you, specifically, provide
2 input on this as well?
3 A I was involved with the discussions around the policy. I don't recall
4 whether it was -- it would've been a group discussion, so I don't recall the specifics of who
5 may have provided specific inputs.
6 Q And by "group discussion," do you mean individuals from multiple teams?
7 A Yeah.
8 Q And which other teams?
9 A So the two that come to mind would have been security policy team, and
10 then my team would've had a role in providing input.
11 Q Do you recall if [redacted] was involved in these discussions?
12 A I don't recall specifically, but likely he would've. He was part of the security
13 policy team at the time.
14 Q What about [redacted]?
15 A Same answer.
16 Q Did you have any discussions with [redacted] regarding this policy?
17 A Not in person, no.
18 Q What about otherwise?
19 A I just mean not directly with [redacted].
20 Q When you said "thresholds" a couple answers earlier, what did you mean by
21 that?
22 A Right. So the role of my teams is investigations and intelligence, so we
23 provide input into how threat actors might manifest on the platform and what we might
24 observe and how we might detect their behavior on the platforms. So that would've
25 been -- that's what I'm referring to.

1 So describing the type of evidence or information that we would try to look for or
2 collect or how we would frame that information is the nature of the discussions that
3 would've been the input that I would've -- me or my teams would've provided.
4 Q Have you or your team provided any input on any of the
5 misinformation-related policies?
6 A Not to my knowledge.
7 Q Do you recall the reason why the company developed a hack-and-leak policy
8 during 2020?
9 A Generally I do. And this was a number of years ago, so my recollection isn't
10 perfect, but I understand why you're asking the question. It's an important question.
11 So, to my knowledge, in preparation for the major elections generally, we conduct
12 a risk assessment to understand what types of -- basically, like a threat-modeling exercise
13 to understand what types of risks might be likely and where we need to prepare.
14 And so my understanding is that this was one of the risks that we highlighted as
15 potentially likely. And so we would've wanted to prepare for that risk by understanding
16 what our policy landscape was, what our processes were, and then preparing the teams.
17 Q Do you recall how long you spent helping to prepare this policy?
18 A Like, over time?
19 Q Sure. Just from when you first started to when the policy was adopted, do
20 you have a ballpark sense of --
21 A I don't have a precise recollection, because there was a number issues that
22 we would've been discussing. This wasn't a singular issue that I was focused on at the
23 time, so it would've been part of a lot of work that we were doing at that time. So I
24 don't recall, like, when we first started and then ended the discussions on the
25 hack-and-leak policy, but months.

1 Q What other issues were you working on?

2 A So, generally, I was covering issues related to threat actors on the platform.

3 So there were a number of investigations that we -- me or my teams would've been

4 conducting across a number of problem areas. That's the majority of my work, is

5 tracking threat actors, supporting the teams that are doing that, enforcing against and

6 removing them from the platform.

7 Q So which policies in the community standards is your team responsible for

8 helping to enforce?

9 A So you mentioned CIB already. The other policies: cybersecurity policy,

10 which deals with instances of hacking or attempted hacking on the platform; and then a

11 set of policies related to dangerous organizations and individuals.

12 Q And when it comes to your team's assistance with enforcing --

13 A Uh-huh.

14 Q -- it sounds like you're providing analysis. Is it your team -- is it responsible

15 for ultimately making the decision of whether to enforce or not?

16 A Whether to enforce or not?

17 Q Yes.

18 A Typically, no, not my team. We provide an assessment and a

19 recommendation. And then there's a cross-functional group of partners that makes a

20 decision based on the analysis and the evidence that we provided of whether the policy

21 thresholds have been met. And if there is a consensus decision that they have, then my

22 team would enforce it.

23 Q And who is part of this cross-functional group?

24 A So I mentioned the security policy team is one of those core partners; legal

25 team; communications -- security communications; and then I3 are some of the ones that

1 come to mind.

2 Q What is I3?

3 A Sorry. That's my organization -- integrity, investigations, and intelligence.

4 Q When you provide an assessment and a recommendation, is that provided in

5 writing?

6 A Typically. And sometimes with a brief as well, verbal brief.

7 Q And as manager, do you review every recommendation that your team

8 makes?

9 A That has changed over time. In the current role, I have frontline managers

10 that manage specific areas. It's more their responsibility to, you know, review -- I do

11 read them and I review them, but probably not every one of them. When I was the

12 frontline manager, I did review every one of them.

13 Q So, once your team has passed along your assessment and recommendation,

14 do you always hear back, one way or another, from the cross-functional group on what

15 the decision is?

16 A I would say typically. There may be instances in which that didn't happen,

17 but typically that's the process.

18 Q And do they provide any rationale regarding their decision, or do they

19 provide just the decision itself?

20 A Typically, there's some rationale, and that could take several shapes.

21 Q Such as?

22 A It could be, you know, discussed verbally during our briefing. It could be,

23 you know, followed up on with a written note.

24 Q And then it goes back to your team, because your team is responsible for

25 actually executing the decision?

1 A Right, on the set of issues that we investigate and enforce. I want to be
2 clear, we're not the only team that disables accounts or enforces at Meta. But for the
3 issues that we investigate, yes, it would come back to one of my teams, and then they
4 would actually, you know, enforce on the accounts.
5 Q How frequently -- or, I shouldn't say "how frequently." For the typical case,
6 how long does it take from when the recommendation is given to when a decision is
7 made?
8 A That can fluctuate. So there is a range of time.
9 Q Do you have a -- what is that range?
10 A It could be a number of factors. For example, we may be asked, if there is
11 an additional piece of evidence that, you know, we can investigate or provide, maybe
12 there's additional analysis. It really can range from a few days to a few weeks.
13 Q Are you familiar with the term "attribution"?
14 A Yes.
15 Q And what does that term mean?
16 A I mean, I think I know what you're referring to, but could you give -- like, that
17 term can be used in --
18 Q Sure. The way I'm intending to use it -- and correct me if you have a
19 different understanding -- is, in your line of work, part of the analysis might be whether
20 an account is foreign or domestic --
21 A Sure.
22 Q -- so that'd be analysis for an attribution. Is that right?
23 A Yeah. I understand your question.
24 Yes, "attribution" refers to who is behind a specific operation, whether we can
25 make a connection to a specific department, agency, country -- so, whatever level, the

1 threat actor behind the operation.

2 Q Since you've been at the company, has the

3 coordinated-inauthentic-behavior policy changed?

4 A Not materially, to my knowledge. I think it still has the same elements that

5 I was aware of when I first joined the company.

6 Q Are you familiar with policy forums that the company has?

7 A I have a vague understanding of what they are.

8 Q Have you ever attended one?

9 A No. Not to my knowledge, I don't think.

10 Q Have you had any interactions with [redacted]?

11 A I'm trying to recall any inter- -- it's possible I may have been on group calls

12 with her. I don't recall any specific ones. And I don't recall any ones in, you know,

13 one-on-one settings with her.

14 Mr. Brown. Could we go off the record for a second?

15 [redacted] Yeah, we can go off the record.

16 [Discussion off the record.]

17 Mr. Brown. We're ready to go back on the record.

18 [redacted] Could I go back to your previous question about [redacted]?

19 [redacted] Yes.

20 [redacted] It's possible I was on group calls with her. I don't recall any

21 specific calls, but, having been at the company for just this long, it's possible I've been on

22 email exchanges where, you know, we were both on the "To" or "CC" line, or group calls.

23 But I don't have specific meetings that come to mind.

24 BY [redacted]

25 Q With respect to your line of work, do you work with or have any interactions

1 with the U.S. Government?

2 A Yes, periodically.

3 Q And which agencies do you interact with?

4 A Mostly -- the two agencies that come to mind is the FBI and DHS.

5 Q And which offices or sub-agencies within DHS do you most frequently

6 interact with?

7 A Not recently -- I haven't interacted with DHS recently. In the past, it was

8 mainly CISA, Cybersecurity -- sorry.

9 Q Infrastructure and Security Agency?

10 A Yes.

11 Q And what was the nature of your interactions with CISA?

12 A We had regular meetings as part of election preparedness with DHS. So

13 most of the meetings that I was a part of or that I'm aware of were usually around

14 election integrity.

15 Q And were these meetings the, quote/unquote, "USG-industry meetings" with

16 multiple members of --

17 A Sorry. With both industry and government?

18 Q Yes.

19 A I think we had both -- with just government, and then industry and

20 government.

21 Q For the ones with just government, who from the government side would

22 attend those meetings?

23 A The names, you mean?

24 Q Let's start first with just the agency and --

25 A Are we still talking about DHS --

1 Q Yes.

2 A -- specifically CISA? So I don't know the specific departments. I'm not

3 familiar with the structure of the agency. But it was DHS -- as far as I knew, it was CISA,

4 but I didn't know specific departments.

5 Q And who from CISA?

6 A Two names that come to mind was Chris Krebs and -- I think his name was

7 Matt Masterson. But there were others; I just don't recall their names.

8 Q How many government officials would be on a typical call?

9 A I don't recall. I think it might vary. And some of them may have been

10 video calls, like, video meetings, and some may have been phone calls, so I'm not

11 precisely sure how many people would attend each one.

12 Q Who from Facebook would attend?

13 A It was -- I don't know that there was, like, a standard set of people that

14 would attend.

15 Q Who from Facebook most frequently attended?

16 A [redacted] would have been one person, or [redacted] that would've been regular

17 in those meetings.

18 Q And, to your recollection, these meetings were just CISA and Facebook?

19 A This specific -- I think this specific set of meetings was CISA and Facebook,

20 yeah.

21 Q Do you recall when these meetings started?

22 A I don't.

23 Q Did they start prior to the 2020 U.S. election?

24 A Yes.

25 Q Do you know how long they continued?

1 A I don't.

2 Q Did they continue in the lead-up to the 2022 midterm election?

3 A I don't recall.

4 Q In the lead-up to the 2020 election, how frequently did these meetings

5 occur?

6 A I don't know about the -- they were regular. I don't know the specific

7 interval that they were on. I didn't own those meetings; I was an attendee. And I

8 didn't attend every one of them. So I'm not exactly sure.

9 Q Were you invited to every meeting?

10 A Every meeting? I'm not sure. I think I was regularly invited.

11 Q Maybe another way to ask the question is: Were you attending the

12 meetings because you were invited due to the subject matter of that specific meeting, or

13 were you invited to all of them and sometimes you had a conflict and just couldn't make

14 the regular scheduled meeting?

15 A I think it's the latter.

16 Q And during these -- we'll call them the CISA-Facebook meetings, who is

17 sharing information with who?

18 A Sharing information?

19 Q Who's presenting at these meetings? Who's speaking?

20 A So I think it was -- there would typically be an agenda. Both sides would

21 speak.

22 I'm also trying to recall whether -- I don't have a perfect recollection of whether

23 they were only CISA-Meta or whether the FBI -- I know that there are meetings in which

24 CISA, FBI, and Meta met together, but I don't know if it's a separate series of meetings or

25 the same series where just one of the agencies attended.

1 Q And I think you said earlier it was regarding election-security-related issues?
2 A Yes. Yeah.
3 Q Were there any other topics raised during these meetings?
4 A The recollection I have is, the central kind of theme for all of the meetings in
5 which CISA was present was around election integrity or, you know, protecting the
6 elections.
7 Q And in advance of a CISA-Facebook meeting or if it's CISA and perhaps other
8 government agencies and Facebook, would there be an internal Facebook meeting first to
9 prepare for that meeting?
10 A Not that I'm aware. Not typically.
11 Q Do you know if anyone took notes during these meetings?
12 A I don't know.
13 Q Do you recall ever seeing meeting minutes circulated by anyone at Facebook
14 or by the government?
15 A No, I don't.
16 Q For the set of meetings attended by CISA, FBI, perhaps others, for the
17 individuals from the FBI who would attend these meetings, were all those individuals
18 from the FBI part of the Foreign Influence Task Force?
19 A I don't know if they were all part of the Foreign Influence Task Force.
20 Foreign Influence Task Force people usually were on those calls. I don't know who else
21 may have attended.
22 Q And then you said there were meetings with multiple agencies and industry,
23 multiple companies --
24 A Uh-huh.
25 Q -- is that right? How frequently would you attend those meetings?

1 A I think they were held, again, regularly. I don't know the specific interval.
2 And I would attend -- it would fluctuate over time. I would attend most of them at some
3 points and then some of them at other points.
4 But in -- I think the time period you were interested in is 2020 -- I would attend
5 fairly regularly, I would say, unless I had a conflict.
6 Q In advance of these meetings, would there be internal Facebook meetings to
7 prepare for them?
8 A Meetings, no. I don't recall any, like, preparatory meetings at the time.
9 Sometimes we would chat, you know, about any topics that we would want to share or
10 topics that we had to share.
11 Q Who from Facebook would most frequently attend these USG-industry
12 meetings?
13 A So I think the meeting series was owned by Nathaniel. He would be the
14 most frequent person to organize them and speak at them and attend them.
15 Q How many people from your team would attend?
16 A From I3? From the org that I run?
17 Q Uh-huh.
18 A There may have been more than me that attended at different times.
19 Maybe several people. But I don't have, like, an exact number. It wasn't a standard
20 attendance.
21 Q Were you the one from your team that would most frequently attend?
22 A Those USG-industry meetings?
23 Q Yes.
24 A From I3? I think that's likely. But I'm not sure.
25 Q Is there anyone else that attended most of them?

1 A Most of them? I don't know. I don't think so.

2 Q What about the CISA-Facebook meetings? Who else from your team would

3 attend?

4 A It's possible that others attended, but I don't recall specific names, besides

5 me, who would've attended.

6 Q And for the CISA-FBI-Facebook meetings?

7 A Sorry. What was the previous question?

8 Q Sure. Who would most frequently attend from your team for those

9 meetings?

10 A I meant, the previous question you asked me was about which set of

11 meetings?

12 Q The previous question was just about the CISA-Facebook ones, and I was

13 going to ask CISA-FBI- --

14 A Same answer probably. Those tend to blend in my mind, and I don't recall

15 if it was the same series of meetings that CISA and FBI attended or a separate set of

16 meetings with CISA. But I'm sure I also wasn't in all of those meetings that were

17 happening.

18 Q Do you know what the Global Engagement Center is?

19 A Generally, I do, yeah.

20 Q To your understanding, what is it?

21 A In my understanding? It's a department of the U.S. State Department.

22 Q At your role at Meta, have you had any interactions with the Global

23 Engagement Center?

24 A I think I have. I think I've been on calls in which they may have been

25 present. I don't have a specific recollection.

1 Q Do you recall, high level, what the subject matter would've been for these
2 meetings?
3 A I don't. I remember, I did meet with an analyst from the Global
4 Engagement Center, maybe in 2018 or '19 timeframe.
5 Q Do you remember the analyst's name?
6 A I don't.
7 Q For the meetings between industry and the U.S. Government, in addition to
8 CISA, the FBI, do you recall which other government agencies would attend?
9 A Those were the regular ones that I'm aware of.
10 Q Do you recall the Global Engagement Center ever attending?
11 A I don't recall them attending. I think we may have had discussions about
12 them attending, but I now -- it was quite a while ago, so, just looking back, I don't
13 remember if they actually joined or if they joined and I wasn't in those meetings. I don't
14 have a perfect recollection of it.
15 Q Do you recall any opposition from Facebook or other industry partners about
16 the Global Engagement Center joining those meetings?
17 A I remember seeing discussions about it. I wasn't involved in those
18 discussions.
19 Q Do you have an understanding of why there was opposition?
20 A Not a precise one, no.
21 Q What about at a general level?
22 A I think there were just questions about, you know, what they would bring
23 into that forum and what role they had in election integrity, which was the general focus
24 of the conversations we were having with DHS and FBI at the time.
25 Q Do you communicate with government officials via Signal?

1 A Not typically, no.

2 Q Have you ever?

3 A I have, yes.

4 Q And what's the nature of those Signal communications?

5 A So there's one person that I am aware of that I can recall right now that I've

6 communicated via Signal with, with the FBI. The nature is -- like, I think I recall, like,

7 sharing information with this person that we were approved to share. But I don't know

8 if it was -- I actually don't have a perfect recollection of if it happened via Signal or

9 WhatsApp or another means, but I've communicated with this person.

10 Q And who is that?

11 A [redacted].

12 Q Who is [redacted]?

13 A Sorry, say again?

14 Q And who is that?

15 A [redacted] is -- he is an FBI agent that I know.

16 Q Did you have to get approval from the company or the FBI before sharing

17 information over Signal or WhatsApp?

18 A Certainly before sharing information, regardless of the means, I had to get

19 approval, if there was any information that we were sharing. Signal, specifically, I don't

20 recall getting any special permission to use it.

21 Q Okay. Who did you get approval from to share the information?

22 A Oh, that typically goes through our legal department.

23 Q Are you aware of group Signal channels between industry and the FBI?

24 A Industry and the FBI? I am not.

25 Q So, for your line of work, do you receive tips or reports from the U.S.

1 Government?

2 A Sometimes.

3 Q And which agencies will --

4 A Typically, the FBI.

5 Q And which division or which office in the FBI typically will communicate

6 these to you?

7 A So the origin of the information is not always transparent to me, meaning

8 I'm not sure, like, which division it may have come from or which field office it may have

9 come from. But, typically, it would either be shared by someone at the Foreign

10 Influence Task Force or a liaison out of San Francisco Field Office of the FBI.

11 Q And is that Elvis Chan?

12 A Yes. Or others in that field office.

13 Q How frequently would it be Elvis Chan as opposed to someone else in that

14 office?

15 A To share information?

16 Q Yes.

1

2 [11:12 a.m.]

3 [redacted]. So I'm sure that it's changed over time, and I don't have a

4 specific current understanding of who the most, like, frequent sharers are.

5 Elvis was one of the people that was the conduit for the information frequently

6 back in the timeframe that we're talking about.

7 BY [redacted]

8 Q I don't know if we've asked this yet. To your understanding, what is the

9 Foreign Influence Task Force?

10 A Foreign Influence Task Force? My understanding is it's a cross-functional

11 unit at FBI headquarters that looks for -- that investigates foreign interference from

12 foreign threat actors or foreign influence in the U.S. democratic process from foreign

13 threat actors.

14 Q And when you were at the FBI, did you have any interactions with the task

15 force?

16 A I did.

17 Q What was the nature of those interactions?

18 A I was the acting unit chief of the task force.

19 Q Were you the first acting unit chief of the task force?

20 A Yes.

21 Q Was that the 2017 assignment that you received?

22 A Yep.

23 Q Who assigned you to the task force?

24 Mr. Brown. I would ask, we're encroaching here on FBI-related information, and

25 he's here as a witness for Meta about his work at Meta. I'm not his lawyer as to

1 FBI-related activities, and so I guess I would ask that you defer this or if you can make
2 representations that the FBI has no objections. I wasn't prepared for him to be talking
3 about FBI-related roles, and they would be his counsel for those issues.
4 So I'm wondering if it makes sense to defer this line. If this is the only question,
5 we could possibly work through it. But if you've got a series of questions about work
6 that happened at the FBI, then that should be discussed with the FBI.
7 [redacted] We'll continue this discussion. We've got about 5 minutes left, so
8 we'll talk at the next break.
9 Mr. Brown. Okay. Good.
10 [redacted] Are you instructing him not to answer that question?
11 Mr. Brown. I'm going to ask him to defer answering questions about his work at
12 the FBI so we can have another discussion, because I'm not his lawyer for that time
13 period, I don't know what the sensitivities are on the FBI.
14 And I don't want you to take that as a negative against the witness. But he's a
15 witness here for Meta, not a witness for the FBI, and they may have concerns about these
16 issues.
17 BY [redacted]
18 Q Starting then with when you joined Meta, did you have interactions with
19 FITF?
20 A After I joined Meta?
21 Q Yes.
22 A Yes.
23 Q And what's the nature of those interactions?
24 A So, first, we had regular calls, regular meetings with the FITF, and I would
25 typically attend -- maybe not every one of them, but most of them. That probably is the

1 main nature of those interactions.

2 Q Okay. And when the meetings first started -- or I shouldn't say

3 meetings -- the communications generally first started, how frequently were they

4 occurring?

5 A I recall -- I'm not sure initially if there was actually a cadence to them or if

6 they were more ad hoc meetings. But we would talk about different topics related to

7 threat activity that we were tracking, and usually that was related to the mission of the

8 Foreign Influence Task Force. Later those meetings became more regular.

9 Q Do you recall when approximately they became more regular?

10 A Sometime in 2020, but I don't recall the specific date. It could -- actually it

11 could have been even before 2020 that they became regular. I'm not sure.

12 Q Do you know why they became regular?

13 A One of the reasons was that we were preparing for the upcoming elections,

14 and so we wanted to make sure that we had regular interactions that were around

15 sharing of threat information or trends that we were observing. But, again, I don't recall

16 a specific date when that happened.

17 Q And how frequently did these FITF-Facebook meetings occur in 2020?

18 A I recall them being quarterly at first and then becoming more frequent as we

19 got closer to the election.

20 Q And did you attend all of these meetings or most of these meetings?

21 A I would say most. I'm not sure if I missed some.

22 Q How many members of your team would attend a typical meeting?

23 A That depended on the topics that we would discuss. So if there was

24 analysts working on specific issues that were relevant or on the agenda, they would

25 attend, but they may not attend the next time if those topics were not on it.

1 Q How many people from Facebook would typically attend?

2 A That also fluctuates. There were some of the people that were probably

3 regular in those meetings and some would attend periodically, but I'm not sure if there

4 was, like, a specific core group that would attend every meeting.

5 Q Did they typically attend in person or over Zoom?

6 A Oh, the meetings?

7 Q Yes.

8 A They were typically not in person, though it's possible we had some in

9 person as well. We probably used -- I don't recall the specific software we would use.

10 I don't think it was Zoom. Maybe Webex or something like that.

11 Q And would there be internal Facebook meetings in advance of these

12 Facebook-FITF meetings?

13 A Typically not a meeting, but sometimes we would chat and discuss. If there

14 were topics that we wanted to share or there were threat indicators we wanted to

15 approve for sharing, we would sometimes have a chat to coordinate that.

16 Q And would [redacted] or [redacted] attend these meetings?

17 A It's possible they attended sometimes. I don't remember [redacted] being a

18 regular attendee. I don't recall specifically whether they attended or not.

19 Q So there's your team, I3. There's [redacted] team, Security Policy.

20 A Yes.

21 Q Is that right?

22 A Uh-huh.

23 Q Which other teams would typically attend these Facebook-FITF meetings?

24 A So typically our legal team would be on the call. And sometimes a

25 representative from the Law Enforcement Outreach team would be on the call or would

1 help organize the meeting.

2 Q Besides those four teams, are there any other teams that would typically

3 attend?

4 A Those are the ones that come to mind.

5 Q And for the FITF meetings, for the FBI personnel, would it be only individuals

6 who are part of FITF, or would the FBI bring in other people?

7 A I don't know. There were instances in which other FBI people -- like, not

8 people assigned to the FITF would attend if we were discussing a specific threat issue.

9 For example, I recall getting specific briefings on a threat actor that were shared with us

10 that would have been shared by the case agent or the office working those matters.

11 Q And what about other government agencies?

12 A Not that I'm aware of.

13 Q Did these meetings continue past the 2020 election?

14 A Yes.

15 Q And how long did they continue to?

16 A They continued regularly, though I think the cadence may have changed.

17 I'm not sure.

18 Over time I've attended them less and deferred to other folks on attending them.

19 So I'm actually not sure what the current state is of who attends them or how frequent

20 they are.

21 Q When was the last time you attended a FITF meeting?

22 A I don't have a particular recollection of the last one. It's been some time.

23 Q Was it this year?

24 A It's possible, but I don't have a -- I don't recall exactly.

25 [redacted] Can we go off the record, please?

1 [Recess.]

2 [redacted] We can go back on the record.

3 [redacted] thank you so much for joining us today. We appreciate it.

4 EXAMINATION

5 BY [redacted]

6 Q As a security manager at Meta, you focus on or you oversee Meta's

7 disruption of influence operations and cyber espionage networks, correct?

8 A Among other areas, yes.

9 Q Among other areas. And you mentioned some of those areas include

10 dangerous operations and individuals.

11 A Dangerous organizations.

12 Q Organizations. Thank you.

13 A Yeah.

14 Q And you also work on coordinated inauthentic behavior or work to disrupt it.

15 A That is the influence operations area, yes.

16 Q Thank you.

17 And, generally speaking, your work at the FBI before you got to Meta also focused

18 on cybersecurity and counterespionage work.

19 A Generally speaking, it was really international security work.

20 Q And I believe you said at some point you were working in the field of

21 cybersecurity.

22 A Say again?

23 Q One of your assignments was specifically in the field of cybersecurity.

24 A Right.

25 Q So your work at Meta builds on your government service at the FBI.

1 A In some way.

2 Q And in your work as a security manager, you do not engage in content

3 moderation at Meta.

4 A What do you mean by "content moderation"?

5 Q You were not determining whether the content of a post violates Meta's

6 community standards.

7 A That's typically not my role.

8 Q Okay. Thank you.

9 So the three types of threats that you talk about, influence operations,

10 counterespionage, and dangerous organizations and individuals.

11 A Uh-huh.

12 Q Can you talk about the types of threats they pose to American society?

13 A Generally?

14 Q Yes.

15 A I mean, it could be a range of -- it's hard to kind of talk about all of the

16 potential threats, but it could be a range of threats that any one of those can pose to the

17 safety of our users on our platform, which is why we track those threat actors and disrupt

18 them.

19 Q Can we try and be a little more specific? Let's talk about, for example,

20 cyber espionage.

21 A Sure.

22 Q Can you talk about some of the tactics that the threat actors use and how

23 specifically those tactics can endanger your company's users?

24 A Sure. So typically state-sponsored hackers are after information that's not

25 publicly available and they use a range of techniques at their disposal to try to get at that

1 information.

2 Our platform is just one of the platforms on which we typically -- in which those

3 threat actors would typically prosecute their operations. But they may use specifically

4 our platform to conduct surveillance on those users, try to hack into their accounts, try to

5 get sensitive information in some other ways, or use it as part of a broader operation

6 across the internet, including other platforms, to obtain information that's sensitive from

7 their targets.

8 Q And you focus on state-sponsored espionage?

9 A Primarily, yes.

10 Q And you work on something called surveillance for hire or countering

11 surveillance for hire?

12 A I do.

13 Q Can you describe a little bit what surveillance for hire is and --

14 A Sure.

15 Q -- the targets?

16 A Sure.

17 So surveillance for hire industry or set of companies or vendors are those that

18 provide capabilities to conduct surveillance, hacking-for-hire operations on behalf of their

19 clients. And oftentimes those clients are governments or state-sponsored

20 organizations.

21 So generally the industry exists to provide those services and lower the barrier for

22 entry for governments that don't have their own native capabilities to be able to do that

23 by purchasing those capabilities or services.

24 Q And who are the targets of surveillance-for-hire operations, either unwitting

25 or intentional?

1 A It's really wide-ranging, and we've seen targets in that specific set of
2 operations across probably most countries in the world and across a number of industries
3 or occupations in the world. It's very wide-ranging.
4 Q And have you seen surveillance-for-hire operations target, for example,
5 journalists?
6 A We have.
7 Q Dissidents?
8 A Yes.
9 Q Critics of authoritarian regimes?
10 A Yes.
11 Q Families of opposition members?
12 A I don't recall a specific instance, but that sounds likely.
13 Q And human rights activists?
14 A Yes.
15 Q And the dangerous organizations that -- your Dangerous Organizations and
16 Individuals team, can you talk a little bit about that? You don't have to name the
17 specific organizations, but what types of organizations you're talking about.
18 A Sure. Generally they fall in three different areas. One is terrorism.
19 Another is, like, transnational criminal organizations, well-financed transnational criminal
20 organizations. And then hate organizations.
21 Q Can you talk about how those organizations use or try to use Meta's
22 platforms to advance their criminal activity?
23 A Sometimes it's about advancing their criminal activities, like recruitment, for
24 example, trying to recruit new members. Other times it's not specifically advancing
25 their criminal activities but their presence on the platform is banned.

1 So it could be, like, praise, support, and representation. Someone might
2 associate with a certain group that we don't allow on our platform.
3 They're not particularly advancing -- or maybe they're, like, praising their group,
4 but they're not particularly advancing a criminal conspiracy on our platform, but they are
5 still not allowed on our platform. So we will find them and try to remove them.
6 Q And are they banned from your platform -- if you don't know the answer to
7 this, this is fine -- because you don't want, for example, terrorist organizations using the
8 platform to gain influence, to gain members, that sort of thing?
9 A Yeah. Generally, we don't want our platform to be used in a way that
10 compromises the safety or the experience of users on our platform. And there are
11 certain organizations that we don't allow to be on our platform for those reasons.
12 Q And I imagine that the work of detecting those organizations that are trying
13 to be on your platform but know that they are banned is something that -- they're using
14 tactics to disguise their presence I imagine?
15 A Sometimes.
16 Q Can you explain how some of the threat actors that you work to counter
17 have attempted to or successfully used Meta's platforms to interfere specifically in
18 elections?
19 A Elections? In a couple of ways.
20 One would be attempted reconnaissance or compromise of civic actor accounts.
21 And, again, we don't always know the intent or the purpose behind the activity, but
22 that's --
23 Q What does that look like? When you say "civic actor accounts," what do
24 you mean?
25 A Like, individuals involved in civics or politics in a specific country. So

1 attempts to compromise their accounts, we don't know always the purpose of that
2 activity, but it could be related to an election in a specific country.
3 Another way we would see it is in our influence operations domain where
4 coordinated inauthentic networks of threat actors are using political narratives that
5 sometimes align with one or the other political side in a given electoral context that
6 would try to make those narratives seem as though they're grassroots or authentic, but
7 our investigations would point out some deception or inauthenticity behind it.
8 Q And you work to counter those types of influence operations regardless of
9 what the actual message is that they're attempting to spread, correct?
10 A Correct.
11 Q And with respect to the hacking, for example, of civic actors, you work to
12 protect all civil actors on your platform, correct?
13 A Correct, yes.
14 Q Regardless of where they fall on the political spectrum?
15 A Correct.
16 Q And regardless of what country they're in?
17 A Correct.
18 Q Influence operations, the types of organizations that you work to counter,
19 they're not active only in the United States, correct?
20 A That's right.
21 Q And they have targeted elections throughout the world.
22 A The team has a global remit.
23 Q I'm sorry. The team has a global --
24 A Remit.
25 Q Thank you.

1 What types of activity would you expect to see on Meta's platforms if your teams
2 did not engage in the work that you do?
3 A Sure. And I appreciate the question.
4 My teams are part of the integrity organization. So there are a number of teams
5 that work on trust and safety of our users.
6 My team's specific focus is on the more advanced or sophisticated or persistent
7 ends of the threat actors. So typically we focus on the most organized groups, the
8 groups that are most persistent on our platform, groups that try to evade our detection
9 or come back persistently.
10 So I think your question was what it would look like. I mean, it would look like
11 there is no team responsible for investigating some of the most persistent and likely risky
12 threat actors, so high severity type of threat actors on our platform, that both understand
13 how those threat actors target our users and protecting those users and then
14 understanding how to scale that understanding to protect users more globally.
15 Q And the work that you do, you say that it -- it's not just about protecting
16 individual users but also national security?
17 A At Meta?
18 Q Uh-huh.
19 A We are focused on protecting the platform and the users on our platform.
20 It often has context that's related to national security. If you're referring to the national
21 security of the United States?
22 Q I am. Thank you.
23 A It can have relevance to it, for example, when we're talking about potential
24 election interference or issues like that, but it's not specifically focused on national
25 security.

1 Q And the types of threats that you talked about, the three main areas that
2 you focus on, I imagine there's some overlap, that some of the dangerous organizations
3 and individuals engage in counterespionage -- I'm sorry, engage in cyber espionage, for
4 example, or use coordinated inauthentic behavior?
5 A I suppose it's possible. I don't have specific instances that come to my
6 mind right now.
7 Q So you see them as three distinct threats?
8 A We treat them as distinct threats, but we certainly coordinate. If we do
9 have instances of where one actor might be deploying several different techniques, we
10 will coordinate across the teams and look for commonalities.
11 Q I want to talk a little bit about coordinated inauthentic behavior specifically.
12 A Sure.
13 Q Meta prohibits people from misrepresenting themselves about who they are
14 on its platforms, correct?
15 A That's my understanding.
16 Q And -- well, can you explain what your understanding of coordinated
17 inauthentic behavior is, what that term means?
18 A I can. I just want to preface I'm not a policy expert.
19 Q Right.
20 A So I can give you my understanding of what it is.
21 Q Okay.
22 A There are essential elements to the policy that are in the name, coordination
23 and inauthenticity. So my teams, when they investigate, look for those elements. Do
24 we see coordination? In other words, is there -- is this a coordinated network, a group
25 of accounts working together. That's the first element.

1 The second element is inauthenticity. Are they trying to -- are they inauthentic
2 in some way? Are they misrepresenting who they are? Is there deception behind that
3 representation?
4 So when those two elements are working together, we will investigate, collect the
5 evidence, and present the case for enforcement.
6 Q And, for example, if you have a network of Facebook pages designed to look
7 like independent news organizations but they're all being controlled by a government
8 somewhere, a foreign government somewhere, but they're misrepresenting themselves
9 as an independent news organization, that would be prohibited by your platform.
10 A It's hard to talk about a hypothetical. I would need to see the evidence.
11 But general -- the general shape of the policy is, so yes.
12 Q And your team does work on enforcing against that type of activity?
13 A Investigating and enforcing, yeah.
14 Q Okay. And if this is outside the scope of what you do, please let me know.
15 But when Meta removes accounts for engaging in coordinated inauthentic
16 behavior, it's because of the deceptive nature? It's not based on the content that those
17 accounts are posting, correct?
18 A It's based on the determination that the behavior of the threat network we
19 were investigating crossed the thresholds of the CIB policy. Content is not one of those
20 thresholds.
21 Q Thank you.
22 You talked in the first hour about some of your work with various government
23 agencies while you've been at Meta.
24 A Yeah.
25 Q I want to start by talking about FITF, the Foreign Influence Task Force.

1 You had mentioned that your work with CISA was focused on election integrity.
2 Was your work with FITF also focused on election integrity or does FITF have a broader
3 scope?
4 A It's broader. It was certainly at times related or coincided with our
5 preparatory activities ahead of elections. But generally threat actors don't always
6 engage around the time of elections on our platform. So we discuss threats to the
7 platform, the threat landscape that we're observing, general trends about threats that
8 we're observing, not exclusively in the context of elections.
9 Q And your -- the company's participation, first Facebook, now Meta, in the
10 task force, as you understand it, is voluntary, correct?
11 A Sorry. Could you repeat your question?
12 Q Your work with the task force.
13 A Right. Just to be clear, we're not participating in the task force. The
14 company is not part of it.
15 Q Yeah, I know. That was inelegant.
16 A Right. Is -- what was the question? Is --
17 Q It's voluntary.
18 A Correct.
19 Q Right? Meta could choose not to send any representative to those
20 meetings or have them --
21 A I suppose that's true.
22 Q And you have at times chosen not to attend or been unable to attend some
23 of the meetings that your team would normally have somebody present at.
24 A Sure.
25 Q And, to your knowledge, has any government official ever told Meta, or

1 someone at Meta or then Facebook, that it had to participate in meetings with the task
2 force?
3 A Had to participate?
4 Q Yes.
5 A Not to my knowledge.
6 Q And, to your knowledge, was there ever pressure on Meta to participate in
7 those meetings?
8 A I'm not aware of any specific pressures.
9 Q Why did you choose to attend the meetings with the Foreign Influence Task
10 Force that you chose to attend? What was the value in your eyes?
11 A For me? You mean, like, for my teams more generally or for me personally
12 or --
13 Q For the teams. Or we can do both.
14 A So generally we would talk about -- the general topics would include
15 discussions of maybe specific threat actors or threat trends that we're observing and that
16 has relevance to our work, since we track some of the similar threat actors across the
17 foreign influence spectrum on our platform.
18 So the general value proposition is that we can compare notes on different trends
19 that we're seeing from -- in the threat space. We would sometimes share more specific
20 information, like threat indicators, bidirectionally.
21 And so those exchanges of information help us collect an additional data point
22 from a government partner in addition to the investigations that we're conducting
23 independently on the platforms.
24 Q So you said it's bidirectionally. That means that the company is providing
25 information to the government and the government is also providing information to the

1 company.

2 A Right. Both have happened.

3 Q And is it fair to say that there are circumstances where it's the company that

4 has more information about a particular threat network that the government doesn't

5 have?

6 A It's hard for me to know that because I don't have visibility of what the FBI

7 might have access to on the other side. But there are certainly instances in which we

8 would provide information that we observe that we have not received previously from

9 the FBI.

10 So, to my knowledge, it's the first time that we're sharing that information, but I

11 don't know what other information the FBI or government in general right have or receive

12 from other sources.

13 Q And have there been instances in which the information you've received

14 from the FBI are about -- are threat actors that you had not detected or information

15 about those threat actors that you did not have and that you could not have had without

16 the FBI? I shouldn't say could not have had, but that you did not have prior to receiving

17 the information.

18 A Yeah, I understand the question.

19 There are some instances in which the information we received or the indicators

20 we received were new to us. It doesn't always mean that we weren't aware of that

21 specific threat actor, but in some cases would enhance our understanding or even point

22 us to new activity on the platform.

23 [[redacted] Exhibit No. 1

24 Was marked for identification.]

25 Mr. Brown. This is exhibit 1?

1 [redacted] This is exhibit 1, yes.

2 And, [redacted] I'm going to be showing you a few emails just to get a sense

3 of the types of interactions you would have with the FBI.

4 So once you've had a few minutes to review this, just let me know.

5 [redacted] Are these related?

6 Mr. Brown. No, they're the same.

7 [redacted] They're the same.

8 [Witness reviewing.]

9 [redacted] Okay.

10 [redacted] Great. So --

11 Mr. Brown. Could we have 1 more minute?

12 [redacted] Sure.

13 Mr. Brown. Go ahead.

14 [redacted] Thank you.

15 BY [redacted]

16 Q First, as a threshold question, what does IOC stand for?

17 A Indicator of compromise.

18 Q Indicator of compromise. Thank you.

19 Okay. So we're looking at an email from FBI Agent Elvis Chan to you, with

20 several others cc'd, on October 29th, 2020. And this email contains a series of questions

21 that the FBI is asking you about Facebook's attribution of activities to something called

22 Poison Carp.

23 A Uh-huh.

24 Q Do you remember Poison Carp?

25 A Quite vaguely.

1 Q Okay. Can you tell us what your recollection is?

2 A I don't recall this specific interaction, but I believe it refers to one of the sets

3 of indicators we passed at this time to the FBI on threat activity that we observed on our

4 platform.

5 The name of the group -- the Poison Carp refers to a threat group. That is the

6 industry name for it. I just don't recall the specifics of it.

7 [Discussion off the record.]

8 [redacted] Right. And from this email -- or from the questions back, it

9 looks like the details that we provided referred to the targeting of Congress Members

10 that we shared with the FBI.

11 BY [redacted]

12 Q And their accounts on Meta's platform it appears were targeted, correct?

13 A That's my understanding just by reading this, yes.

14 Q Okay. And in this email it appears that an FBI agent in New York is asking

15 then Facebook for details about its investigation and the indicators of compromise that it

16 found relating to these attempts to attack --

17 A Uh-huh.

18 Q -- Congress Members' accounts?

19 A It looks like it's this way, yeah.

20 Q Okay. So this is an example of Facebook providing the FBI with information

21 that the FBI then sought follow-up assistance from Facebook? Is that a fair

22 characterization?

23 A Yes, I think so.

24 [[redacted] Exhibit No. 2

25 Was marked for identification.]

1 [redacted] This next exchange is a little bit longer, so it might take a few
2 minutes.
3 Mr. Brown. Thank you.
4 [redacted] There's just one, right?
5 Okay.
6 [redacted] Thank you.
7 Reg, let me know if you need more time.
8 Mr. Brown. We're good.
9 [redacted] You're good? Thank you.
10 So we're looking at an exchange from December of 2020 that --
11 Mr. Brown. This is January.
12 [redacted] I'm sorry. January 2020, yes.
13 [redacted] Yes, January.
14 [redacted] Apparently I need a stronger prescription.
15 BY [redacted]
16 Q It began with Agent Chan asking [redacted] -- I'm not sure if I'm
17 pronouncing that correctly, but one of your colleagues at Facebook -- a series of
18 questions about a takedown -- a series of takedowns that had been publicly announced
19 by Facebook. Is that what this appears to be?
20 A Just from my reading of this, it looks like he's asking questions related to
21 takedown and then specific questions related to GAN detection.
22 Q Can you explain what GAN is?
23 A I'm not an expert in this. To my knowledge, GAN stands for generated
24 adversarial networks, which is a machine learning technique to generate images and
25 videos.

1 Q And one of these questions was specifically routed to you, correct?
2 A Yes.
3 Q And that was a question about Facebook's detection of GAN-generated
4 images and videos, correct?
5 A Yes. It looks like Elvis here is asking about -- he's sharing that the FBI is
6 investigating techniques for detecting GAN-generated images and videos and referring to
7 a recent takedown in which we might have mentioned this and he's asking for a
8 follow-up.
9 Q And the follow-up he was asking is if you could provide the FBI with "the
10 relevant accounts, images, and videos," correct?
11 A That's what he's asking, yes.
12 Q And then he says, "so we can serve legal process to obtain it," correct?
13 A Can you point me to the line where --
14 Q I'm sorry. I'm on page 678.
15 A The last line here?
16 Q Yep.
17 A "Can you send it to us when you get a chance so we can follow up with legal
18 process?" Correct.
19 Q Can you what legal process means?
20 A My understanding is it typically refers to a legal instrument that the
21 company responds to, like a subpoena or a search warrant.
22 Q And that's part of the company's relationship with the government is it
23 sometimes receives legal process and then has to provide whatever documents, whatever
24 information is referenced in the subpoena or the legal instrument, correct?
25 A That is my general understanding. However, I don't work in the

1 department that responds to legal process, so I don't have the specifics on how that
2 works.
3 Q Fair enough.
4 Going back to the nature of the request, this is another example of the FBI asking
5 for information to assist in its own investigations, correct?
6 A It appears so.
7 Q And this was not -- there's nothing in here that you interpreted to be a
8 demand, correct?
9 A Reading this now, it doesn't appear to be a demand.
10 Q Does it appear to be coercive to you?
11 A This looks like a request for a follow-up. I'm not interpreting this as
12 coercive.
13 Q And is this the type of request that Facebook could say, "I'm sorry, we can't
14 provide that information"?
15 A It's hard to talk about a hypothetical. It looks like here I followed up with
16 trying to track down this information. I don't recall what happened afterwards. But
17 it's hard to kind of talk about a hypothetical where this didn't happen.
18 Q Is it fair to say that the tone of this request is typical of the requests you
19 would receive for assistance from the FBI, outside of legal process?
20 A Nothing about this exchange strikes me as unusual.
21 Q Okay.
22 A Hard to comment on tone.
23 Q Fair. Thank you.
24 Now, you mentioned -- I think you just touched on this in the last hour -- that
25 Facebook or Meta would sometimes receive tips from the FBI --

1 A Yes.

2 Q -- about accounts that might violate its community standards, correct?

3 A Generally correct. Not just accounts.

4 Q Okay. What else?

5 A We call them threat indicators. So it could be accounts, it could be IP

6 addresses or other types of threat indicators that could point us to activity on our

7 platform that's violating our standards.

8 Q Thank you. I appreciate that.

9 A Okay.

10 [[redacted] Exhibit No. 3

11 Was marked for identification.]

12 BY [redacted]

13 Q Okay. So we're looking at an email from September of 2020 where the FBI

14 notified Facebook about an account impersonating a senator in Puerto Rico. Is that

15 correct?

16 A That's what it looks like, yes, from the email.

17 Q And in that email Elvis Chan states -- or in the email from September 8th,

18 2020 -- "We just got a tipper from the San Juan field office. Please see below. This

19 appears to violate your terms of service but we'll defer to you. Let us know if you take

20 any actions."

21 A Uh-huh.

22 Q Is this typical of the types of tips that Facebook receives?

23 A I don't recall the specific interaction. I know I'm on the "to" line here, but

24 I'm not sure how I engaged with it at the time.

25 This is -- I'm not sure actually how typical this is. I've seen instances similar to

1 this in the past, but I'm not sure how frequent.

2 Q And in this situation there's no request for action, correct, other than, "Let

3 us know if you take any actions"?

4 A Right. Elvis is stating here, "We'll defer to you," which I interpret to mean

5 it's your determination on whether this activity violates the terms of service or not. And

6 there's a request to share whether we've taken any action or not.

7 Q And regardless of whether or not Agent Chan had said, "We'll defer to you,"

8 when Meta receives tips about -- whether it's from the government or elsewhere -- about

9 potential violations of its terms of service, it conducts its own investigation, correct?

10 A That's correct.

11 Q It never just takes down an account because somebody says they think it

12 violates -- somebody outside of Meta thinks it violates Meta's terms of service.

13 A So I can talk about how my teams operate or within my area.

14 Q Thank you.

15 A I'm not sure -- you know, I don't know all of the decisions that are made by

16 the company.

17 But certainly in my area we conduct our independent assessment and

18 investigation. We receive tips from a number of different partners or sources, and we

19 usually use those tips to conduct our own assessment, to confirm their validity or

20 veracity, and corroborate the information.

21 Q And, ultimately, it's Meta who decides whether or not to take any action on

22 an account, on an IP address, on any of the threat indicators that you mentioned earlier.

23 A That's my understanding.

24 Q And if your investigation determines that there is no violation, then no

25 action is taken, correct?

1 A That is -- if you have a specific example, it's easier to talk about it. But
2 that's my general understanding, is that if we don't find our own independent
3 corroboration or additional information to verify the lead, then we wouldn't take action.
4 Q In your time at Meta has -- well, let me back up actually.
5 I just wanted to ask you briefly, you spoke about your interactions with CISA and
6 meetings that you would attend with CISA. Like the meetings with FITF, it was your
7 choice to attend those meetings, correct?
8 A That's my understanding.
9 Q Okay. And it's your understanding that if Meta did not want to work with
10 CISA, it could choose not to attend those meetings and not to have a relationship with
11 them.
12 A That's my understanding. But, again, those meetings weren't scheduled by
13 me or -- and I wasn't always in attendance for those meetings.
14 Mr. Brown. Can we go off the record?
15 [redacted] Sure.
16 [Discussion off the record.]
17 Mr. Brown. We can go back on.
18 [redacted] Thank you.
19 BY [redacted]
20 Q In your time working at Facebook and now Meta, has any government
21 official ordered you to remove an account or a post or demote an account or a post?
22 A Not that I'm aware.
23 Q And has anyone in the government in your time at Meta threatened Meta,
24 to your knowledge, with any adverse consequences if Meta did not remove a particular
25 piece of content or an account?

A Not to my knowledge. To be clear, you're referring to the U.S. Government?

Q Correct, yes.

A Not to my knowledge.

Q Any other governments?

A Also not to my knowledge.

Q Okay. Thank you.

You do not experience unrelenting pressure from the U.S. Government to take certain actions or any actions?

A I personally have not experienced pressure to take any actions.

[redacted] I think that's it for now. Thank you.

We can take a break and then --

Mr. Brown. That's great.

[Recess.]

1

2 [1:04 p.m.]

3 [redacted] Can we go on the record, please?

4 BY [redacted]

5 Q What is Teleporter?

6 A What is Teleporter? My understanding is, it's a -- I don't know the specifics

7 of how it works, but I believe it's a file transfer site that the FBI has used to either receive

8 or send the information to Meta.

9 Q Okay. And during your time at Meta, have you been on the receiving end

10 of any Teleporter links or messages, whatever --

11 A I have.

12 Q -- the proper term is?

13 A Yes.

14 Q And how frequently have you received Teleporter links from the FBI?

15 A Periodically. Not very frequently.

16 Q And at a high level, what is contained in a Teleporter link?

17 A In the link? Usually it's a path to download a file or a path to upload a file

18 to the FBI.

19 Q And then is there information that is transmitted once the file has been

20 uploaded?

21 A You mean, like, metadata around the --

22 Q Or, what is being communicated?

23 A Oh, the nature of the files themselves. Usually it's an exchange of threat

24 intelligence information or indicators.

25 Q Okay. And I think you went over this a little bit in the last hour, but

1 indicators would include IP addresses? Accounts?

2 A Yes, a range of identifiers that can be used in further investigative activity.

3 And that could include the things that you mentioned, yes.

4 Q And, then, when identifiers are sent, how many might be included in a

5 message?

6 A That really depends. Depending on the circumstances of what is being

7 shared, sometimes few, sometimes many, sometimes a table. So it really does depend

8 on the specific issue.

9 Q When you say "many," are we talking hundreds? Thousands?

10 A It could be, like, a spreadsheet, so it could involve a number of indicators,

11 yeah.

12 Q When the FBI is sending this information -- we talked earlier about

13 attribution -- will they provide an assessment of whether an account or when an identifier

14 is domestic or foreign?

15 A I recall instances in which the information we received would be attributed

16 to a foreign actor. So it does happen.

17 Q And what about to a domestic actor?

18 A I don't recall any instances in which they passed information on a domestic

19 U.S. actor.

20 Q And how confident are you that -- is it you don't recall or that you believe

21 they did not pass --

22 A So the areas I focused on largely deal with foreign actors, so, in my area of

23 competence, I don't recall specific instances in which threat information on a U.S.

24 domestic actor was passed. I'm not confident that it didn't happen outside of my area,

25 but --

1 Q Do you recall ever hearing from one of your colleagues at Meta that the FBI
2 passed along information related to a domestic account or user?
3 A Not that I recall.
4 Q Do you recall ever disagreeing with the FBI's assessments as it related to
5 attribution?
6 A I don't remember specific instances in which I questioned the attribution or
7 disagreed with it. Typically, we would receive the information and conduct our own
8 investigation after that information was received.
9 Q Do you recall instances where you did that -- received the information,
10 conducted your own investigation, and reached a different conclusion?
11 A As to attribution specifically?
12 Q Yes.
13 A No. I'm happy to take a look if you have any, like, records or documents
14 that can help me with my recollection, but I don't recall, like, specific instances in which I
15 would disagree.
16 Sometimes we would investigate and find additional information on our platform
17 or, like, you know, facets of it that happened on our platform that may not have been
18 familiar to the FBI. But I don't recall specific instances in which I, like, disapproved of
19 the attribution, I think is what you're asking.
20 Q Yeah. And just to clarify, for the sake of your response, regardless of
21 whether you recall, like, a specific instance and you can provide details on that instance,
22 just at a high level, do you recall ever receiving information, your team conducts a
23 separate analysis, and your team looks at it and reaches a different conclusion with
24 respect to attribution?
25 A I don't recall.

1 But, also, typically, the information that's provided to us is provided with very
2 high-level attribution, so, like, to a specific country, and we don't typically get information
3 on, you know, very granular attribution, you know, like, a specific department or an
4 individual. So, when we conduct our investigation, we may find additional details
5 behind that attribution, but I don't recall instances in which we would be completely
6 wrong about the country.
7 Q You mentioned earlier there might be a whole spreadsheet of identifiers.
8 Would it be -- the description, would it be that the whole spreadsheet of identifiers is
9 attributed to a particular country?
10 [Discussion off the record.]
11 [redacted] I'm sorry. Could you repeat the question?
12 BY [redacted]
13 Q Sure. So, in an earlier response, you said that there might be a whole
14 spreadsheet of --
15 A Uh-huh.
16 Q -- I think you used the term "identifiers"?
17 A Uh-huh.
18 Q And, then, in the answer before this, you had said that the attributions at a
19 high level might be just generally to one country, let's say --
20 A Uh-huh.
21 Q -- right? I guess I'm asking, is it correct to piece those two things together,
22 where a spreadsheet might be attributed to a particular country?
23 A So, like, one particular example could be: If we are conducting a disruption
24 or enforcement against a network of actors that we've found, and we've attributed that
25 network or are going to attribute it publicly to a foreign threat actor, we would share a

1 list -- "spreadsheet" is, like, a formatting term; it can be a list or a spreadsheet; you know,
2 I'm not exactly sure which format we would share that with -- but a list of indicators
3 related to the accounts that we were disrupting related to this specific disruption.
4 So, in that instance, it would be clear which, you know, country attribution that
5 specific network is referring to.
6 Q And have there ever been instances where your team has conducted its own
7 assessment and is going through the different identifiers and reaches a different
8 conclusion, that either this identifier is not part of the network or this is an account that's
9 not part of the foreign country but just part of the U.S.?
10 A Are you talking about just an investigation that we are conducting? Any
11 general investigation?
12 Q No, no, no. Any instance where the FBI has provided --
13 A Oh.
14 Q -- information. And then you said -- correct me if I'm wrong -- every time,
15 your team conducts its own investigation?
16 A Generally, if we conduct an investigation, we conduct our own investigation.
17 We don't always conduct an investigation, if we receive indicators that may not be
18 relevant or we may not prioritize them.
19 And, sorry, what was the question after that?
20 Q Sure. Going back to the list of identifiers, if it's, as part of the message that
21 the FBI is communicating to Meta, attributing to a foreign country, have there been
22 instances where your team, because it's chosen to conduct its own investigation, digs in
23 deeper, gains additional information, and realizes that some of the identifiers on that list
24 or on that spreadsheet are, in fact, not part of that same network and do not have the
25 attribution that the FBI believed that it did?

1 A I don't recall a specific instance or example to give you, but I am fairly certain
2 that that has happened.
3 Q And in instances where that may happen, is that something where you
4 would communicate that back to the FBI, with your team's findings?
5 A I don't think in all cases. There wasn't an expectation that I would share
6 what we found or what we didn't find in all of the cases. I think it's possible that in
7 some cases we did it and in some that we didn't.
8 Q In addition to the FBI, were there other government agencies that played a
9 similar role and provided information to you and your team?
10 A Not that I'm aware of. The information that we typically would receive
11 related to threat activity would come through the FBI. I don't know who the original,
12 you know, creator or source or owner of that information may have been, but we would
13 typically receive it through the FBI.
14 Q As far as you know, was that intentional? Did the FBI ever say, we're going
15 to serve as the point for other communications from the U.S. Government?
16 A I'm not aware of what the discussions or policy was on the FBI side. I know,
17 for our side, they were the primary interlocutor in conversations around threat
18 intelligence and threat-sharing.
19 Q Did they ever say, you know, in passing information, "Here is something
20 that's relevant for your team, but, by the way, this was not FBI originally, we're just
21 passing it along"? I guess my question is, how did you know that it wasn't always FBI?
22 A Oh, I -- there is -- you know, there's lots of government agencies that the FBI
23 works with, so I don't know, like, what discussions happened on the other end of it. The
24 information that came to us usually came to us through the FBI, so I have no basis to
25 know, like, where it originated from.

1 Q Okay. Would the FBI ever say, this came from a different agency?

2 Mr. Brown. Could we go off the record?

3 [redacted] Yes.

4 Mr. Brown. Thank you.

5 [Discussion off the record.]

6 [redacted] Can we go back on the record, please?

7 BY [redacted]

8 Q So the question was, were there ever instances where the FBI was passing

9 information and would say, this is coming from a different government agency?

10 A There are no specific instances that I recall.

11 Q Do you recall any instances where -- or, actually, let me take a step back.

12 Did you ever receive direct communications from anyone at CISA where they

13 would forward information regarding election security or anything relevant to your team?

14 Mr. Brown. I'm sorry. What's the second half of that?

15 [redacted] Or anything relevant to his team.

16 [redacted] From CISA?

17 [redacted] Yes.

18 [redacted] It's possible there was on the email exchanges, like, group email

19 exchanges with CISA, but I don't recall specific instances in which information was passed

20 directly to me or my team from CISA.

21 BY [redacted]

22 Q Do you recall any instances where the FBI was passing something on behalf

23 of CISA?

24 A I don't recall specific instances. If you have any documents that I can take a

25 look at to refresh my memory, I'm happy to do that. But off the top of my mind, I don't

1 recall any specific instances like that.

2 Q To your understanding, what is CISA's responsibility as it relates to the space

3 you work in?

4 A So I can talk very generally about it. You know, I never worked at DHS or at

5 CISA, and I'm probably not comfortable speculating on what they do or what their mission

6 is. Generally, I know that they work on protecting the integrity of elections, at least in

7 the departments that we've interacted with.

8 Q And when you would participate in USG-industry meetings and the different

9 agencies would present information, it sounds like the FBI had information that was

10 relevant to your team. Do you recall what type of information CISA would present at

11 these meetings?

12 A Sure. The meetings that I attended focused more generally on, kind of,

13 like, electoral calendar and electoral process just for, like, awareness of the different, you

14 know, timelines; focused on just general -- sometimes general threat landscape or

15 concerns that CISA had. And I think one of their concerns was election infrastructure,

16 specifically.

17 There was no -- I don't recall any, like, specific threat briefings or discussions

18 about it. It was quite high-level. But those were the general topics that we would go

19 into.

20 Q Do you know who Brad Benavides is?

21 A I generally know the name, yes.

22 Q And have you worked with him at all in your role at Meta?

23 A We've interacted, typically in group conversations, a few times.

24 Q And what was his role during these interactions?

25 A I knew him as -- I believe he was the section chief -- I believe that was his

1 role -- that oversaw the Foreign Influence Task Force.

2 Q And during your time at Meta, did you interact with him as part of his role,

3 the section chief of FITF?

4 A I would say infrequently. I think sometimes he would be in FITF meetings

5 or calls. But, typically -- I think there were some times that he was on those calls or

6 meetings, but I don't know if it was regular.

7 Q Do you know who Laura Dehmlow is?

8 A I do.

9 Q And who is she?

10 A I don't know the role that she has now. At the time, she was, I believe, one

11 of the unit chiefs in the FITF.

12 Q And would she frequently attend the FITF calls?

13 A I think so, yes. More regularly.

14 Q We spoke about Elvis Chan earlier.

15 A Uh-huh.

16 Q Would Agent Chan attend the FITF meetings?

17 A I think sometimes. He wasn't part of the FITF, but I think he would attend

18 as the, like, liaison.

19 Q We've identified Teleporter -- let me take a step back.

20 Who from the FBI would send the Teleporter links most frequently?

21 A Elvis was one of those people. There were others as well.

22 Q Besides the Teleporter links, the FITF meetings, scheduling the FITF

23 meetings, what other interactions did you have with Elvis Chan?

24 A Elvis Chan? We would communicate -- so, in the context of -- so you

25 mentioned the FITF meetings. We would communicate in the context of meetings

1 related to state-sponsored cyber activity that were typically not part of the FITF
2 discussions since it's a different, kind of, set of units at the FBI that runs those
3 investigations. Elvis would be the liaison that would help, like, bring those teams
4 together and facilitate those discussions.
5 We've also had some one-on-one interactions with Elvis, as well, throughout, you
6 know, my time working at Meta.
7 Q At the end of the first hour, we sort of touched upon briefly that the FITF
8 meetings, you recall, were ongoing for a little while --
9 A Uh-huh.
10 Q -- but you don't recall the last one that you attended?
11 A Yes -- I don't recall the specific last one that I attended. But I more recently
12 have attended fewer of them, because I have folks on my teams that more regularly
13 attend now, and I attend just generally fewer of them.
14 Q When you have folks on your team who attend, do they brief you afterwards
15 on what happened?
16 A Sometimes I'll ask, was there anything relevant, anything specific that was
17 discussed. Sometimes the topics tend to be general enough where I don't need a
18 readout afterwards.
19 Q Do you recall whether any of your team members have attended a FITF
20 meeting this year?
21 A This year? I believe the answer to that is yes. I just don't recall the
22 specific date.
23 Q Have you had communications with Elvis Chan this year?
24 A No, not that I recall.
25 Q With respect to the FITF meetings or with anything?

A I don't remember any interactions this year with Elvis Chan. It's possible I'm maybe on group emails with him, but I don't take as central of a role in, like, organizing the FITF meetings or participating in them, so I don't recall any specific interactions with Elvis this year.

Q And what about, like, the Teleporter links?

A I'm not really involved anymore in sending those or receiving Teleporter links. So I'm not sure if someone on my team may be using them or sending them, but I haven't this year.

Q Do you know who [redacted] is?

A I do.

Q Who is he?

A [redacted], at the time, was -- I used to work with him at the FBI, and he was in the Foreign Influence Task Force at the time.

Q Would he attend the FITF meetings with Facebook?

A I think, typically, yes. He had a similar role to Laura's.

Q And by that, you mean he was one of the unit chiefs?

A He was one of the unit chiefs in the FITF, yeah.

Q Do you recall which unit?

A One of the units, but I can't go into the specifics without naming, like, the area that it worked on -- the unit worked on.

Q During these FITF meetings, how many representatives from the FBI typically would attend?

A That's hard for me to know, because I don't -- I typically don't get, like, an attendance sheet from the FBI side, and I don't always -- you don't always see each other, because some people may be off-video or may be dialing in by phone. So I don't know

exactly, like, which units or how many people would attend.

Q How many people would speak at a typical meeting?

A In number? It would depend on the topics we were discussing. If we were, you know, talking -- typically, there's an agenda that we would go through, you know, a number of threat actors or a number of countries that we would be discussing. So each one of those would represent a separate either unit or expert that would provide a briefing or ask for questions. Sometimes various people from different field offices would attend to provide us, you know, more detail. And so it really varied by meeting.

Q Do you know who [redacted] is?

A I do.

Q And who is he?

A He's a colleague at Meta.

Q Which department is he in?

A He's in the -- he's one of the legal teams.

Q And do you know who [redacted] is? Am I pronouncing the last name --

A What's his last name?

Q [redacted].

A [redacted]? Yes, I do.

Q Who is that?

A He's a former employee of Meta.

Q In which department?

A He was in my department. He was one of the threat analysts in my department.

Q Do you know who [redacted] is?

A I do.

1 Q Who is that?

2 A A former colleague at Meta.

3 Q Which department?

4 A My department. We were peer managers together.

5 Q Do you know who [redacted] is?

6 A I do.

7 Q Who is that?

8 A He's a current colleague at Meta, and he reports to me.

9 Q For [redacted], would he typically attend the Facebook-FITF meetings?

10 A He would be a frequent attendee. I don't know how typically or regularly

11 he would attend, but he did definitely attend some of them.

12 Q With these meetings, was there any sort of written readout or notes that

13 would be produced afterwards?

14 A Like, minutes afterwards?

15 Q Yeah.

16 A Not that I recall.

17 Q Do you recall the scope of the FITF meetings changing during your time at

18 Meta?

19 A How do you mean?

20 Q If I understood you correctly, there would be an agenda in advance and --

21 A Uh-huh.

22 Q At a high level. It sounds like there was a consistent subject matter, but I

23 guess the question is to confirm that.

24 So, from when the FITF meetings started to at least when you were still attending

25 regularly, did the scope or the subject matter change during that time?

1 A Not generally. They stayed pretty consistent in the general agenda and the
2 purpose of the meetings. We do discuss different topics in different meetings, but the
3 general scope is similar to when we started, as I remember.
4 Q Would you present at these meetings?
5 A Typically, no. By presentation, if you mean, like, a formal briefing, typically,
6 no. I would ask questions or maybe have a discussion, but I wouldn't have, like,
7 prepared remarks.
8 Q This will be exhibit 4.
9 [[redacted] Exhibit No. 4
10 Was marked for identification.]
11 BY [redacted]
12 Q Do you recall if you had attended this FITF meeting?
13 Mr. Brown. Which one? There's a bunch of different ones referenced on here.
14 BY [redacted]
15 Q With reference to the August 10th, on page 1, Bates number 889.
16 A I don't specifically recall whether I attended this particular meeting or not.
17 Q Do you recall any meetings where you discussed planning for U.S. elections
18 and discussed the FBI's posture as well as the company's posture?
19 A Yes.
20 Q And what was the FBI's posture in August or in the lead-up to the 2020
21 election?
22 A What I remember is, in the context that was relevant to me, we would talk
23 about specific threat actors and, kind of, discussing the prioritization of those actors
24 based on their relevance and the threat that they posed to the U.S. electoral process.
25 So, as one of the -- when we talk about FBI posture, you know, the company posture, we

1 would talk about which threat actors that we considered to be the high-risk.
2 And we would also talk about -- I think your question was about FBI posture.
3 What I recall is getting, kind of, like, a high-level overview of how the FBI was preparing to
4 run the command center during the election process and whom to contact if, you know,
5 we found information that was relevant, or how to best communicate.
6 And then we would discuss our posture, as well, and how we were preparing for
7 the elections.
8 Q And what did you tell the FBI was the company's posture?
9 A Sure. So we talked about generally, again, the threat actors that we were
10 preparing or tracking, kind of, like, which teams were involved in that preparation, what
11 processes we would have in place to be able to react quickly to issues if they came up.
12 We generally talked about, you know, the company -- we don't call it a command
13 center, but there's, you know, kind of, like, a war room that gets set up around election
14 time, as well. So we would just generally talk about how that process would run at the
15 company and then how my teams would interact with that process.
16 It was mostly centered around how to communicate in a crisis if we had any
17 indicators to pass to each other.
18 Q To that end, the bullet point below "Your Posture" says, "Information sharing
19 channels and methods."
20 A Uh-huh.
21 Q What forms of information-sharing existed between Meta and -- or, at this
22 time, Facebook and the FBI?
23 A So email was one of them. And, then, for actually passing of the
24 information back and forth, I believe we were using Teleporter around that time.
25 Q Is Teleporter something that Facebook would send to the FBI, or was it just a

1 one-way?

2 A It was a tool or a process owned by the FBI. But I think your question is

3 about whether we would share information bidirectionally through it. I believe it was

4 bidirectional. We would both receive and share information.

5 Q Do you recall discussions during these ongoing FITF meetings regarding the

6 risk of a potential hack-and-leak operation?

7 A I generally recall the topic of hack-and-leaks as being a commonly discussed

8 risk around the election timeframe, around that time period. I don't recall, like, a

9 specific meeting with the FBI in which this was discussed in detail, but it's likely that it did

10 come up in some of those meetings, because it was just kind of, like, a general risk that

11 we were aware of.

12 Meta was attuned to it independently, and we had discussed it in a number of

13 venues, so it's very likely that it came up in some of those meetings. I just don't recall

14 the specific ones in which we may have discussed it.

15 Q You mentioned that Meta was independently aware of it. Did Meta

16 provide information regarding the risk of a hack-and-leak during these FITF meetings?

17 A There was no specific information, if that's what you mean. Or, like, the

18 general process of preparation? Or --

19 Q With whatever -- to the extent that the issue was raised --

20 A Yeah.

21 Q -- whatever information was provided with respect to that issue.

22 A We would probably discuss that this was one of the risks that we were

23 considering and preparing for, but speaking in general terms.

24 Q Did the FBI provide information relevant to either a specific risk or a general

25 risk of a hack-and-leak operation?

1 A So I just generally recall that this was a topic that would -- I don't recall a
2 specific meeting or the way in which it was discussed. But we had a number of
3 interactions and discussions around hack-and-leak generally, so it's hard to kind of recall
4 now what the FBI specifically said. But, from what I recall, it was just the general, kind
5 of, risk around hack-and-leaks that was top of mind.
6 Q But, to your recollection, there was information being provided by both
7 parties, Facebook and the FBI? It was not just one direction?
8 A Specific to hack-and-leak?
9 Q Yes.
10 A So I don't have any specific information that comes to mind that was shared,
11 more just the general awareness of that risk. And, you know, from our side, I could
12 speak to what we -- you know, how we were preparing for the process generally.
13 Q But do you recall ever receiving any information from the FBI regarding
14 hack-and-leak?
15 A You mean, like, any specific hack-and-leak? Or --
16 Q Well, I suppose the -- I'll ask the question both ways. To a specific
17 hack-and-leak or just -- you've mentioned a couple times now there was a general
18 awareness of the risk. So in either scenario.
19 A I recall general conversations about the risk of hack-and-leaks. There was
20 also a lot of information in the public domain about hack-and-leaks at the time, so it's
21 hard for me to recall whether that content was mentioned in specific meetings by the FBI
22 or I knew about it independently from, you know, like, our own research or press reports.
23 In terms of specifics, I don't recall any specific indicators shared with us by the FBI
24 regarding any particular hack-and-leak.
25 Q Do you recall any discussions of which foreign state was most likely to

1 attempt a hack-and-leak operation?

2 A Well, I recall that from, like, public discussions and things that were publicly

3 stated.

4 Q What about these discussions between Facebook and the Foreign Influence

5 Task Force?

6 A I think they would largely have reflected the public discussions that were

7 going on at the time of things that we already knew or independently considered.

8 Q If the information that is relevant to hack-and-leak is already out in the

9 public domain, why are you and the FBI spending time discussing it during your

10 Facebook-FITF meeting?

11 A Again, I think it was, like, a general topic of discussions that would come up,

12 but I don't recall specific meetings in which it was discussed in detail. As a general

13 threat matter or general risk matter, it was current in our minds at that time throughout

14 the preparation for the 2020 elections.

15 Mr. Brown. Are we done with this document?

16 [redacted] We'll hang on to it just for the moment, but --

17 Mr. Brown. Okay.

18 BY [redacted]

19 Q Taking one step back, outside of hack-and-leak and the risk there, are these

20 meetings between Facebook and the FBI -- are you discussing information that's not

21 public?

22 A So sometimes there were indicators that we would share that were not

23 public during those meetings. So we would, you know, pass threat information to the

24 FBI that was approved for passage, and, you know, that information was not always

25 public. And sometimes we would receive information from the FBI that was not always

1 public. And then we could, in some of the FITF meetings, discuss the context behind
2 that information that wasn't public.
3 But that's not related to hack-and-leak; that's generally how those meetings might
4 go. I don't recall any specific indicators passed related to hack-and-leak in particular.
5 Q Okay. What about that second half of your sentence, that the context
6 behind --
7 A Uh-huh.
8 Q -- or the contents might not involve public information? Do you recall any
9 discussions to that end regarding hack-and-leak?
10 A I don't recall any discussions with the FBI about any specifics behind any
11 hack-and-leak operations that I wouldn't have already known from, like, the public -- that
12 I would've not known independently from the public conversation at that time.
13 Q Did the FBI know that you already knew this information independently?
14 A So I don't have any specific instance in which, like, particular information
15 was shared, that I recall. So just general atmospherics or risks around hack-and-leak
16 was something that I was familiar with and I think that most people in the industry were
17 probably familiar with.
18 Q Okay. If most people in the industry are familiar with it, why are you
19 spending the time discussing it?
20 A Well, I can speak for, like, why my team thought it was important to have
21 those discussions. We would talk about just general preparation, or how the companies
22 would share information in case of an incident, whether it was a hack-and-leak or not. I
23 remember we did a tabletop exercise with the companies just to kind of prepare for any
24 potential, you know, circumstances.
25 Q Did you ever discuss with the FBI that the company was developing a

1 hack-and-leak policy?

2 A I don't recall specifically whether we had that discussion or not. It's

3 possible.

4 Q Do you recall ever receiving questions from the FBI about whether you had a

5 hack-and-leak policy?

6 A I don't recall receiving specific questions about a hack-and-leak policy.

7 Q What about generally, questions about what Facebook would do if there

8 were a hack-and-leak?

9 A Oh, general questions about, like, process? No, I don't remember specific

10 questions about hack-and-leak. The discussions I do recall were just general risk

11 assessments related to the possibility of hack-and-leaks.

12 Q And what was the risk assessment?

13 A Well, our independent risk assessment at the time was -- this was, as I

14 mentioned before, something that Meta was independently attuned to. Our

15 assessment was that it was one of the risks that we should prepare for in coming up to

16 the election, based on a number of factors.

17 Q What was the FBI's risk assessment?

18 A I don't know what their risk assessment was.

19 Q Did they share it with you?

20 A Not that I know. Not that I recall.

21 Q If the FBI was not sharing their risk assessment, what information were they

22 sharing as it related to hack-and-leak?

23 A Oh, sorry, when I say "risk assessment," I just mean a more formal exercise

24 at Meta that we would do -- we would call it threat modeling or threat ideation -- to kind

25 of assess what is the possible universe of risks that we might be confronted with in the

1 context of a high-risk event like elections.

2 I don't know if the FBI did similar analysis or not. They didn't share that.

3 Generally, they -- I think I recall discussions in which the topic of hack-and-leak

4 would come up as a risk. So my assumption is that the FBI would consider that to be a

5 risk, or one of the risks, to the election. But we certainly did, independently of the FBI,

6 at the time.

7 Q How many times did it come up in the lead-up to the 2020 election?

8 A I don't recall. There wasn't, like, a specific set of agenda points that I recall

9 that specifically talked about hack-and-leak policy.

10 So we had a number of discussions about the risk of hack-and-leaks at the time

11 across industry. It's possible that they came up in conversations with government as

12 well. But I don't recall the specifics.

13 Q With your meetings between just CISA and Facebook, were there discussions

14 regarding hack-and-leak?

15 A Not that I recall. It's possible, but I don't recall specifics.

16 Q Okay. What about the CISA-FBI-Facebook meetings?

17 A Same answer; I don't recall the specifics. It's possible that they came up,

18 but, again, as a mentioned, it was a common topic, a common concern across the

19 industry at the time.

20 Q Okay. What about the USG-industry meetings?

21 A Same answer.

22 Q In the USG-industry meetings -- well, let me take a step back.

23 A Uh-huh.

24 Q By "same answer," it's possible it came up because it was a general topic but

25 you don't recall any specific instances?

1 A I don't recall a specific discussion or, like, specifics about a particular
2 hack-and-leak operation that would've come up. But, generally, the topic of the risk of
3 hack-and-leaks generally was top of mind across the industry, and it would've up in a
4 number of conversations. I just don't recall the specific ones.
5 Q Okay.
6 For the USG-industry, to the extent hack-and-leak came up during the discussion,
7 do you recall if any government agency other than the FBI commented in any relation to
8 hack-and-leak?
9 A Sorry, could you repeat the question?
10 Q Sure. In the USG-industry meetings, for any discussions -- the extent
11 hack-and-leak was raised as a discussion --
12 A Uh-huh.
13 Q -- whether by an industry member, by the FBI, or whoever, do you recall any
14 of the other government agencies commenting on anything related to the risk of
15 hack-and-leak?
16 A Commenting?
17 Q Yes.
18 A I don't recall specifically, no.
19 Q Okay. What about generally?
20 A It's possible, but I don't recall specifically.
21 Q Who is William Glass?
22 A Yeah, Will Glass is a former Meta employee.
23 Q What department?
24 A Will was in my department. He was one of the threat analysts in my
25 department.

1 Q You mentioned that there was a tabletop exercise that the industry partners
2 did; is that right?
3 A Uh-huh.
4 Q When did that tabletop exercise take place?
5 A It was sometime -- some months before the election. I don't recall
6 specifically which month. But it was in the, you know, months running up to the
7 election.
8 Q Did you participate?
9 A Yes.
10 Q Who else participated?
11 A It was a number of industry partners from the common firms that we -- or
12 companies that we work with in the sector.
13 Q Okay. Who else from Facebook participated?
14 A A number of folks from, you know, my teams and sister teams across the,
15 like, threat intelligence space.
16 Q Okay. Individuals. Who else participated?
17 A Oh. One name that comes to mind -- so we had several different, you
18 know, like, topics for the exercise that we discussed. It was in the context of a broader,
19 kind of, like, threat-sharing conference that we had with the industry peers at the time,
20 all aimed at information-sharing ahead of the elections. So one of the topics or tracks in
21 that conference was this tabletop exercise.
22 I don't recall -- there were other people from Meta that participated in the overall
23 conference. I just don't recall if all of them -- not all of them would've participated in
24 this specific tabletop exercise.
25 Q Okay. Who else was at the conference?

1 A So some of my analysts at the time were at the conference. Some of them
2 are here on this email, like [redacted] and I think Lisa was another person. I don't know if
3 [redacted] on this email. But a number of my analysts would've participated.
4 Q Is that [redacted]?
5 A Yes.
6 Q And she currently is or was a --
7 A She is not with Meta any longer, but she was at the time an analyst on my
8 team, and she helped organize the conference.
9 Q Were you referring to [redacted]?
10 A Yes.
11 Q And who is [redacted]
12 A Similar position to [redacted] She's no longer with the company, but at the
13 time she was one of the threat analysts on my team.
14 Q What was the name of this conference that had the tabletop exercise?
15 A I don't think we gave it a particular name. It was just an informal -- like, we
16 organized it ourselves. It wasn't, like, an industry conference. So I don't know if we
17 called it anything other than, like, an industry meeting.
18 Q Was it in person or --
19 A No. It was dial-in.
20 Q Which other industry partners participated?
21 A Sure. Some of the ones I recall are Twitter, Microsoft. I believe Verizon
22 Media or Yahoo -- I forget what they were called at the time -- participated. And I think
23 Google. I'm not certain about those. I think those were the typical companies I
24 would've assumed would've been invited.
25 Q And what was the tabletop exercise? What was the --

1 A Yeah. The exercise would focus on, like, a hypothetical scenario and would
2 sort of test - if you're familiar with, like, crisis response or incident response
3 methodologies, you know, just kind of test our responses, how we would coordinate or
4 deconflict. So it was focused on, kind of, you know, hypothetical injection points or, you
5 know, hypothetical scenarios that would evolve over time.
6 And then we would -- I ran the exercise, and it was run as, you know: "Here is an
7 additional bit of information. Imagine this has happened. What are your typical
8 responses?" And then we would kind of go around the room, and each of the
9 companies would share, okay, in this situation, we would do X or we would do Y.
10 And it was aimed at a couple things: one, just kind of general familiarization with
11 how each company would approach the risk, how would they assess that risk, and what
12 actions they would take; and then focusing on how we would share information in case
13 there was any information to share.
14 Q During this exercise, what did Facebook tell or present to the other industry
15 partners of how Facebook would respond to a potential hack-and-leak?
16 A Oh, I don't actually -- the tabletop exercise wasn't specifically focused on
17 hack-and-leak --
18 Q Okay.
19 A -- to my recollection.
20 Q What was it focused on?
21 A I'd need to refresh my memory. I don't recall. It was a completely, you
22 know, hypothetical scenario of -- the details I recall right now is, you know, a hypothetical
23 in which a government agency, like the FBI, shares some threat indicators with us, and
24 then the, you know, investigation proceeds after that based on what we discover with
25 those threat indicators.

1 I don't recall it being particularly tied to a hack-and-leak scenario. It's possible
2 there were some elements of that, but I would need to refresh my memory. I haven't
3 seen that documentation in a number of years.
4 Q I apologize if I'm getting her pronunciation of her name wrong. Is it [redacted]
5 [redacted]?
6 A [redacted] I think.
7 Q [redacted]?
8 A Uh-huh.
9 Q Who is she again? I know you covered it in the last hour.
10 A Emily worked for the law enforcement outreach group at Meta.
11 Q During the Facebook-FITF meetings, do you recall any discussions regarding
12 the company's content moderation policies?
13 A Maybe, can you help me, what do you mean by "content moderation
14 policies"?
15 Q Sure. The community standards -- how they're developed, how they're
16 applied, and how they're enforced.
17 A Not that I recall.
18 Q Following a FITF meeting, if there was -- sounds like there was discussions of
19 things that were both public and not public. For the things that were not public, who
20 would you -- first, let me take a step back. Who at the company would you be able to
21 share that information with?
22 A Typically, folks to whom it was relevant. So one example is, if we received
23 indicators or, you know, contextual information about what a threat actor might be trying
24 to do on our platform, internally my department shared with -- if the analyst that typically
25 works that issue or, you know, problem area, wasn't at the meeting, we would share it

1 with that team or analyst so they could take further action to document it and investigate
2 it.
3 Q How frequently, at the end of a FITF meeting, would there be a situation
4 where --
5 A That happens?
6 Q -- you'd have to share -- yeah.
7 A So, typically, we actually wouldn't receive that information at the FITF
8 meeting. It would either proceed it or follow it afterwards. We might discuss it, you
9 know, the topic, there. So, in a scenario where we received information prior, they may
10 ask, do you have any questions about this information? Do you have any feedback on
11 this information?
12 In some cases, they would, you know, give us a threat brief or preview some issue
13 and then share information afterwards.
14 But a lot of the discussions didn't involve, you know, passing of specific threat
15 indicators. It was just more high-level, kind of, threat landscape and trends that they
16 would make us aware of. In some cases, we knew about this; in some cases, we didn't;
17 in some cases, it was relevant; in others, it wasn't.
18 Q And when these high-level discussions are occurring regarding
19 hack-and-leak, was there discussion about the risk of a hack-and-leak operation from
20 Russia?
21 A Generally, we were attuned to that risk independently of discussions with
22 the FBI because of everything that was going on at the time. So I don't recall a specific
23 discussion in which specific information was passed by the FBI, but it's a discussion that,
24 when we were talking about hack-and-leak, the primary discussion would be around the
25 hack-and-leak threat from Russia.

1 Q Was there discussion of timing of when a hack-and-leak might occur?

2 A Not that I recall specifically. But, you know, generally, hack-and-leak

3 around election time would be the timeframe of the elections. But that is something

4 that we were independently attuned to and aware of. I don't recall specific details

5 about the timing of a hack-and-leak.

6 Q During these high-level discussions at the FITF meetings with the FBI, were

7 there any discussions regarding whether a hack-and-leak would target particular

8 American politicians?

9 A That information was -- we were attuned to that independently from public

10 knowledge. So there was a statement that was published, I think, months before the

11 election via the -- I think it was called the National Counterintelligence and Security

12 Center, NCSC, that talked about -- I think it broke down, kind of, like, country threats by

13 country -- Russia, China, and Iran. So we would've been aware of that. Like, that's an

14 example of, you know, a public statement that we would've been aware of.

15 We were also aware of a number of other issues at the time, such as, like,

16 historical precedent of Russian threat actors targeting, you know, the U.S. 2016 elections

17 or the French 2017 elections.

18 We were aware of public reporting around Russian alleged compromise of

19 Ukrainian energy company Burisma by Russian military intelligence actors that came out

20 that year, I believe early in 2020.

21 We would've been aware of statements made by a Ukrainian -- he was a

22 parliamentarian in Ukraine with suspected Russian intelligence ties -- his name was Andrii

23 Derkach -- who had made statements about, you know, information related to the

24 political figures in the U.S.

25 So all of that would've, kind of, made it into our analysis all together.

1 Q And if you're aware of that, presumably the Foreign Influence Task Force
2 would be aware of that information as well?
3 A Yeah, I assume so. It should.
4 Q Okay. And when you're having discussions with the Foreign Influence Task
5 Force, are you discussing these sorts of materials?
6 A So there was nothing that I recall that went beyond what was publicly
7 already available. So, you know, I don't recall a particular instance in which we would've
8 discussed in more detail that information.
9 Q But do you recall discussing all the different facets you laid out regarding --
10 A Not how I laid them out. Like, I was explaining to you, like, why we were
11 independently aware of that risk or considered it a risk at the time. But I don't recall
12 going through those reasons or that assessment with the FBI.
13 Q Well, you recall multiple discussions in this area. You're not sure about the
14 facts you just laid out. I guess the question is, what was being discussed, then, between
15 Facebook and the FBI on this matter?
16 A Again, I don't recall specific discussions in which we talked about
17 hack-and-leak. It was a common topic of discussion at the time, so I don't -- you know,
18 it was -- I appreciate the question, and I understand why you're asking it. It was a
19 number of years ago, and because there was so much conversation generally about
20 hack-and-leak, I don't recall the specific discussions in which it would've come up with the
21 FBI.
22 Q Were you asking questions about hack-and-leak, asking the FBI, "Hey, do you
23 have anything more you could tell us about this risk?"
24 A About the risk generally? I don't recall asking such questions about the risk
25 generally.

1 Q Okay. About anything related to hack-and-leak?

2 A When you say "hack-and-leak," do you mean any specific -- like, do you

3 mean the policy or our preparation process, just generally what was going on, or any

4 specific issue?

5 Q All of the above. Hack-and-leak, a specific operation --

6 Mr. Brown. Can we pick one question at a time for the witness?

7 [redacted] Sure. We'll go through each of these.

8 BY [redacted]

9 Q We'll start first with a specific hack-and-leak operation.

10 A And what's the question?

11 Q Do you recall asking the FBI any questions?

12 A Yes.

13 Q Okay. And what do you recall?

14 A I recall a conversation with the FBI in which -- so I don't know if the FBI

15 considered it hack-and-leak or not. I can speak only for the activity that we were

16 conducting at the time.

17 And I recall having a conversation around -- there was a story in the New York Post

18 about a laptop that allegedly belonged to Hunter Biden. And I recall having a

19 conversation with the FBI asking whether there was any evidence behind that

20 information that would indicate foreign direction or sponsorship of that. That's the only

21 instance in which I remember specific discussions.

22 Q And during those discussions, what did the FBI respond?

23 [Discussion off the record.]

24 [redacted] I remember -- sorry, could you repeat the question?

25 BY [redacted]

1 Q Sure. I said, you recall one instance of where you asked about a specific
2 hack-and-leak operation.
3 A Right.
4 Q What did the FBI respond?
5 A So let me just correct that. I didn't know if it was a hack-and-leak
6 operation. You know, as, sort of, the circumstances unfolded, I remember asking the
7 FBI whether there was any information that they could share that would indicate any
8 foreign direction or sponsorship behind this information.
9 Did that answer your question? Sorry.
10 Q And what did the FBI respond?
11 A Oh. My takeaway from those conversations was that there was no such
12 indication.
13 Q You say your "takeaway." What was said specifically?
14 A That it wasn't a matter related to foreign influence or national security.
15 That was my takeaway.
16 Q Taking a step back, I'm not asking necessarily what your takeaway was.
17 A Uh-huh.
18 Q What were the words? What was said by the FBI to either you or to the
19 company?
20 A I don't recall the specific, like, phrasing that was used. But my questions
21 would've been whether there was any additional information, and my reason for asking
22 those questions was to assess whether there was any foreign direction or sponsorship.
23 I don't recall the particular phrasing around the response, other than that the
24 groups responsible for working foreign influence and national security were not looking at
25 this matter. Something to the effect.

1 Mr. Brown. We've given you documents on the topic, and if you want to share
2 the documents with him, it might help refresh his memory.
3 I know we're just about at time. So, if you want to take a break and come back
4 at it later, that's fine.
5 [redacted] Yeah. I will ask a few more questions.
6 Mr. Brown. It's 2 o'clock. Would it be a decent time to just take a break and
7 pick up?
8 [redacted] Yeah. Yeah. Certainly.
9 [redacted] You know, I only have -- based on what you've done, I have a very
10 short amount of questioning. I'm happy to save it, to let you just continue.
11 [redacted] Okay.
12 [redacted] I mean, we can take a break, obviously, but --
13 Mr. Brown. Let's take a break.
14 [redacted] We can go off the record.
15 [Recess.]

1

2 [2:06 p.m.]

3 BY [redacted]

4 Q So right before we broke, we started talking about a story -- just so we're

5 clear for the record, we're talking about the October 14th, 2020, New York Post story

6 about Hunter Biden's laptop?

7 A Yes.

8 Q When did you first become aware of the laptop story?

9 A I think it was that day when it came out.

10 Q And did you know prior to that story's publication whether the FBI was in

11 possession of a laptop or a hard drive or anything similar related to that story?

12 A No. No, I did not.

13 Q To your recollection, walk me through the day.

14 Did you find out about the story early in the morning when it was first published?

15 A Yeah. I appreciate the question. I can talk about the general timeline if

16 you'd like, but also it was -- it's hard to recall when I first saw the story or how I became

17 aware of it. It was just a number of issues I was handling on that day.

18 So I don't recall the specifics of how the story -- whether I saw it or someone

19 forwarded it to me or someone mentioned it. I don't recall how I initially came to be

20 aware of it. But I do believe I became to be aware of it on the 14th.

21 Mr. Brown. Can you just walk him through what you know? He said walk him

22 through.

23 [redacted] Oh, sure. What I know about the story generally?

24 BY [redacted]

25 Q No. No. Just the reaction of -- you said you're tracking a lot of things.

1 This was one of them. You become aware of the story. What happens next? We'll
2 start first in the early hours of the morning.
3 A Early hours of the morning. I remember that day I was at an in-person
4 on-site event, meeting, at my manager's house with some colleagues. So we were at
5 that meeting. I think we were planning to be at that meeting for the full day talking
6 about organizational strategy, issues like that, team strategy, things like that.
7 And then the story -- I don't recall the specific time it was published or came out,
8 but I believe it was in the morning I would become aware of it. I think I probably had a
9 number of internal discussions with people about the story. I don't recall the specific
10 ones, but it's likely that I would have.
11 Then, later in the day, we had a previously scheduled meeting with the Foreign
12 Influence Task Force that I dialed into. So we had that meeting.
13 And I don't recall the specific activities after that related to the story. But things
14 related to it sort of followed for the next few days.
15 Oh. Just to go back to the Foreign Influence Task Force meeting. I believe it
16 was me who asked -- Meta asked a question, and I think it was me who asked that
17 question about whether the FBI had any additional information -- this is what I was
18 referring to earlier -- additional information behind the story that they were able to share
19 at the time.
20 I think your question was, what was said? And so I recall that at that time there
21 was no additional information that the FBI was able to provide related -- or that the FBI
22 had at the time related to any foreign aspect or directional sponsorship behind this
23 information.
24 BY [redacted]
25 Q Did they provide any information, if it was related to a criminal matter?

A I believe I recall someone indicating that this was a criminal matter, or that it was a matter -- I forget the specific wording, but a matter that was being handled or addressed by the Criminal Division of the FBI. And my takeaway was that the national security or foreign influence folks at the FBI were not tracking this.

Q Do you know if anyone else at Facebook that day reached out to anyone else at the FBI?

A I don't know.

Q We're going to run through a couple exhibits here.

A Sure.

[[redacted] Exhibit No. 5

Was marked for identification.]

BY [redacted]

Q The first is exhibit 5.

This is exhibit 5.

[Witness reviewing.]

A Okay.

Q So, first, is this the same [redacted] as you referenced earlier from Meta's legal department?

A Yes.

Q If you turn to the back of the first page at the top, [redacted] writes, "I forwarded the invite to Security Policy, [redacted] and [redacted] And I forgot to forward to [redacted]

Who are [redacted] [redacted] and [redacted] that he's referring to there?

A So as I think we mentioned, [redacted], who is a colleague, current colleague at Meta. [redacted] was a peer at the time. She's no longer with Meta. And then [redacted] was also a peer manager at the time. Also no longer with Meta.

1 Q And, at the bottom, you say, "Yes, outside in [redacted] backyard." Who is that
2 referring to?
3 A [redacted], my manager.
4 Q At the next line, [redacted] asks, "Who else should I send an invite?" You
5 mentioned [redacted] [redacted] [redacted] and [redacted] Who is he referring to there?
6 A All of these folks are analysts -- or former -- they're all actually former
7 analysts at Meta in my department.
8 Q And can you say their full names for us?
9 A Is there, like, a particular name that you're interested?
10 Q We're interested in each of the names listed there.
11 Mr. Brown. Can you tell us why you need the last names? I mean, he has
12 indicated previously that he's concerned about the security of his team members.
13 You're videotaping this. And a fear is that their names will be put in the public to
14 intimidate them.
15 And so we prefer not to provide the last names here. We'd be happy to get
16 them to you in another form if that is useful for you. But putting them on a videotape
17 that could be made public might result in and then they're subject to harassment.
18 We'd be happy to get you the names. But it should be possible to track who said
19 what and all that without the last names for this purpose. But I'd be happy to get that
20 to you in writing.
21 [redacted] Are you instructing the witness not to answer?
22 Mr. Brown. I'm just asking if we could get this kind of an accommodation given
23 the security concerns. You want this individual to put the names -- you're asking him to
24 publish their names so you can put it on videotape, and that would potentially result in
25 them being intimidated.

1 So we're prepared to get you that in writing if that would work, and if there is
2 some reason why you couldn't follow on, this is the comfort of the witness. He doesn't
3 want to be in a position of publishing for the world the names of his employees so they
4 could be intimidated about this topic.
5 So I was hoping you could accommodate that. If you're instructing the witness
6 that he has to do that or he's not cooperating with the inquiry, then we'll -- I want you to
7 say that.
8 [redacted] Just so we're clear on the basis here, the witness is appearing
9 voluntarily. I'm asking you as counsel, are you instructing the witness not to answer?
10 Mr. Brown. I'm telling you what the witness told you. Obviously, you have a
11 legal right to ask him to give you the last names. He told you he was uncomfortable
12 giving the last names because he's worried about the security of his people.
13 I think you could follow this without the last names here. I'm happy to give them
14 to you after we're done with the session so he's not put in a position of publishing the
15 names of his employees in a way that might lead to them being intimidated.
16 But if you want him to give you those names and you instruct him that the
17 committee's not worried about that and you want him to give you the names, just say
18 that.
19 [redacted] Yeah. There's no basis to accuse the committee of improperly
20 disclosing names or using it to intimidate.
21 Mr. Brown. There's a video camera here, and there are one, two, three, four,
22 five, six microphones.
23 [redacted] Yes. It's a transcribed interview, and this is consistent with the
24 committee's protocol with every other interview that we've done.
25 Mr. Brown. This is the only person that has got security people on his team, and

he's concerned about that. But if you're instructing him to give you the last names, then he will --

[redacted] These names are on documents that have been produced to the committee.

Mr. Brown. That's correct. Which is why you don't --

[redacted] You did not flag that these individuals, that there's a particular sensitivity --

Mr. Brown. We're comfortable giving you the names. He doesn't want to repeat the names on a video that you might make public. He has asked you at the beginning of this to not make the video public.

[redacted] But that objection was not raised at any point prior to this interview. You produced these documents.

Mr. Brown. This is a concern of the witness, and I'm sharing it with you now. If you want to insist that he disclose the names, just do it. Insist it.

[redacted] The protocol here is I will ask the questions. And if you, as counsel, instruct him not to answer or if there is an objection to be made, it needs to be stated why the witness --

Mr. Brown. We have articulated the nature of the objection. If you want him to give you --

[redacted] You're conflating an objection. Is he still willing to answer?

Mr. Brown. Are you going to instruct him to answer? If you want to instruct him to answer, please do, and we'll go from there.

BY [redacted]

Q Does [redacted] refer to [redacted]?

A Yes.

1 Q And does [redacted] refer to [redacted] (ph)?

2 A I believe so.

3 Q Does [redacted] refer to [redacted]?

4 A I believe so.

5 Q And does [redacted] refer to [redacted]?

6 A I believe so.

7 Q Okay. At the bottom of that page, 59914, there's a text from [redacted] where

8 he says, "Did Elvis send the leads to you?"

9 Do you recall receiving any leads from Elvis Chan related to hack and leak?

10 A Sorry. I see the line, which is, "Did Elvis send the leads to you?" I believe

11 he is referring to the line -- if I could just call your attention to the line above that,

12 6:46:07. "Also [redacted] since they sent IR leads yesterday." I believe this is the lead that

13 Steve is referring to.

14 Q And what is "IR leads"? What does IR stand for?

15 A IR stands for Iran.

16 Q Independent of that, do you recall Elvis Chan sending you any leads related

17 to hack and leak or anything related to the article?

18 A I don't recall any specific leads related to the hack and leak or the article.

19 Q We can take these back.

20 Mr. Brown. For the record, in our cover letter to you along with this

21 production --

22 [[redacted] Exhibit No. 6

23 Was marked for identification.]

24 [redacted] This is exhibit 6.

25 Mr. Brown. Excuse me. I was speaking.

1 In our cover letter in connection with production of these documents we did ask
2 for confidential treatment of the names of any employees.
3 [redacted] Okay. During the preamble, we mentioned that what's discussed
4 here today is intended to be kept confidential and we asked the parties not to discuss
5 what we discuss here today.
6 BY [redacted]
7 Q The first message from you says, "TD is starting to look at first posters."
8 Who does TD refer to?
9 A I believe this refers to initials for one of our threat intelligence teams, threat
10 discovery in my department.
11 Q Your next message, you say, "We also have a call with LE today." First,
12 does LE refer to law enforcement?
13 A Yes.
14 Q Is that in reference to the FITF call or something else?
15 A No. I believe it's in reference to the FITF call, the meeting with FITF that we
16 previously had scheduled.
17 Q Your next message you say, "I think we should be on the record asking the
18 question."
19 A Uh-huh.
20 Q What are you referring to there?
21 A So I think, if you refer to [redacted] message at 9:16, where one of her questions
22 is, "if it's being amplified or originating in some way from foreign actors," et cetera, so
23 then I say at 9:32, "We also have a call with LE today and will try to get a sense from
24 them." I'm referring to the sense of whether there's any -- whether there is any
25 evidence that the FBI can share to suggest any foreign direction or amplification.

1 Q Okay. And why did you think it was appropriate to ask FITF that question?
2 A Why was it appropriate?
3 Q Yes.
4 A Well, I thought it was -- it would be useful to know what the assessment was
5 at that time as one of the data points that we would use in our analysis.
6 I didn't expect the FBI to be able to share the details of their sources or methods,
7 but asking the question would help us assess whether they were a partner, one of our
8 partners with whom we were communicating at the time, whether they had any
9 information to suggest any foreign direction or amplification of the story.
10 Q And if they did, how would that impact how the company decided to handle
11 the story?
12 A It would have been one of the data sources that we would have collected,
13 much like we've had an earlier discussion about what happens when they share threat
14 indicators. We would have conducted our own investigation to verify or corroborate
15 the information. But having knowledge that your partner has some additional
16 information to share would have been useful in our investigation as one of the data
17 points.
18 Q And why did you think the Foreign Influence Task Force may have
19 information on this?
20 A I didn't know whether they would have information on this or not. This
21 was a due diligence check. So we wanted to ask the question to see if there was any
22 additional information. But I had no way of knowing one way or the other whether they
23 would or not.
24 Q But, generally, does the Foreign Influence Task Force conduct analysis or
25 time share information related to hack-and-leak operations?

1 A So I don't recall any specific instances, but we do discuss generally threat
2 trends or share indicators related to threats. So I didn't know whether they would have
3 information on this topic or not, but wanted to ask the question to check.
4 Q But isn't the concern that this hack and leak may be from foreign actors? I
5 mean, that was the question.
6 A Right. That was my question, is whether there was any information at the
7 time to suggest whether there was any foreign direction or sponsorship, which was the
8 role of my team, to assess whether there was that information or not.
9 Q Sure. But within the FBI, what is the best division or team or task force to
10 reach out to?
11 A Oh. So regarding the question of foreign, like, direction or foreign
12 sponsorship, our primary interlocutor would have been the FITF.
13 Q And is that because this is the kind of issue that they work on?
14 A They work on foreign influence generally. So, yes.
15 Q We can take these back.
16 Do you know if [redacted] spoke to the FBI independent of the FITF meeting that
17 same day?
18 A I don't know.
19 Q What is the nature of your -- I understand you're in different departments.
20 Is Steve more senior than you? Were you roughly equals within the company?
21 A Like levels-wise?
22 Q Yes.
23 A His title is director.
24 Q And how does that compare to your title?
25 A Say that again. Sorry.

1 Q How does that compare to where you were at this time?

2 A I am a senior manager, so different titles, different -- like, general different

3 roles. But he's in a different department. He's in the legal department. So if your

4 question's around scope, I couldn't really compare that. We work on similar issues as

5 partners.

6 Q Less scope, but there's discussions, obviously, he and you are speaking or

7 texting early in the morning. Is it a dynamic where one of you could instruct the other

8 to reach out to the FBI?

9 A I don't really think of it as instruction. We were close partners at the time.

10 We still are. So we have -- I have frequent discussions with [redacted] And so we would

11 have a discussion. I didn't perceive this conversation to be an instruction.

12 Q Outside of the texting, did you speak to [redacted] on the phone that morning?

13 A I don't recall.

14 Q Who is [redacted]?

15 A Who?

16 Q [redacted], [redacted].

17 A I interacted with [redacted] around this time. I know who she was, but I don't

18 know where she is now. She was a Meta employee at the time that I knew her.

19 Q In which department?

20 A It was a different department of mine, and I don't exactly know what the

21 name of the department was.

22 Q Do you know who [redacted] is?

23 A I do.

24 Q Who is he?

25 A [redacted] is still -- he's a Meta employee. He's in a different department now,

1 but at the time he was the head of my department.

2 Q Which department is he with now?

3 A He's with the internal security, like, organization. I don't exactly know what

4 the formal name of the department is.

5 Q Were you planning to be on this FITF call before the story broke?

6 A I don't recall. I likely would have been invited, as I generally was. And I

7 don't remember whether I was planning to attend that particular call or not.

8 Q Do you recall if there's anyone from Facebook who was at that meeting who

9 normally did not attend FITF?

10 A Normally did not attend? No, I don't recall. I don't recall who from

11 Facebook was on that call, who dialed in.

12 Q Do you recall any discussions about -- went over the one text thread -- about

13 who best to include in the meeting? Do you recall was there an effort or -- let me

14 restart that.

15 Without having to identify each and every person from Facebook that was on that

16 call, do you recall if there were people on that call who normally would not be on a

17 Facebook-FITF call?

18 A I think that same answer as before. I don't recall -- so the attendance of

19 the meetings is generally rotating. Not everyone would dial in every time. People

20 would dial in based on their availability or the topics that were being discussed.

21 So I don't -- nothing sticks out as unusual in my mind for someone who attended

22 the call that would have never been on other calls, if that's your question.

23 Q There was an effort, that you and Steve were texting in the morning about

24 adding members of your team to the call. Why was there a discussion about adding

25 members of your team?

1 Mr. Brown. I'm going to instruct the witness, one thing you should not do is
2 disclose any legal advice that you were given by [redacted]. He's an attorney for the
3 company, and the company is not intending to waive any privileges. So if there was any
4 legal advice given to you by [redacted], you should not answer the question.
5 [redacted] Understood.
6 Sorry. Could you repeat the questions?
7 BY [redacted]
8 Q Sure. Why was there a discussion about members of your team joining this
9 call?
10 A The analysts whose names we went through earlier?
11 Q Yes.
12 A I believe it was because the topics on the agenda may have related to the
13 issues or threat investigations that those analysts were involved with.
14 Q Were these analysts involved with efforts related to a potential hack and
15 leak?
16 A Not to my knowledge.
17 Q So it's your understanding that that discussion with Steve was not because of
18 the story, but was independent of it?
19 A To include those analysts?
20 Q Yeah.
21 A That's my understanding. It was related to other topics.
22 Q Was there an internal Facebook meeting in advance of the FITF meeting?
23 Mr. Brown. Stop. Can we go off the record?
24 [Discussion off the record.]
25 Mr. Brown. We can go back on the record. And we're going to ask to pull

exhibit 6 back out to answer the question you were -- sorry, exhibit 5. This would be the "chat transcript."

Go ahead.

[redacted] Right. So if you don't mind referring to, I think it's the third page, 6:46:07, regarding the Iran leads, 6:45:25 (sic), Mexico lead, where I say, "If so, we should invite Luis."

Then, on the next page, 6:52:37, we were talking about the Iran leads again. And then 15:50:56, [redacted] is telling me about the Sandworm indicted -- sorry, Sandworm indictment. Sandworm refers to a particular threat actor that we would have been tracking at the time.

So I believe those were the general topics that would have been topics on the agenda for the conversation.

[redacted] At the bottom of the first page, the text from [redacted] it says, "Think we want to get more info on the email leak in NY Post from today."

[redacted] Yup.

Mr. Brown. Well, that's not what it says. It says, "Think we want to get more info on the email leak in the New York Post from today and also on China based on the DNI's statement that they are more prolific at IOs now than Russia." So it's multiple topics.

BY [redacted]

Q Okay. And it's your understanding that those next texts, about forwarding invites to Security Policy, [redacted] [redacted] as well as to [redacted] related to the second half of that text, the and China based on the DNI's statement that they are more prolific at influence operations now than Russia?

A I don't know what the intent is behind [redacted] -- like, I don't know what [redacted]

1 is thinking in adding these folks, but none of them would have been unusual to invite to
2 this meeting. All the functions here and people would have been in previous FITF
3 meetings.
4 Q So you are unsure, you do not know if part of [redacted] sending the invite to
5 those folks is related to his desire to get more info on the email leak and the New York
6 Post story?
7 A I don't.
8 Q All right. Was there an internal Facebook meeting in advance of the FITF
9 meeting?
10 A Not that I recall.
11 Q Prior to the FITF meeting, did you or anyone at the company have
12 knowledge of whether the FBI was in possession of Hunter Biden's laptop, hard drive,
13 anything related to it?
14 A I think you asked that question before. No, I was not aware of that.
15 Q Are you aware with -- are you aware of the company's decision on how to
16 handle the New York Post story?
17 A In general terms.
18 Q Okay. And how did you get that awareness? How did you learn of that?
19 A I don't actually know. I don't remember how I came to be aware of it.
20 Q Do you know if the company had made a decision prior to the FITF meeting?
21 A I don't know when that decision was made.
22 Q Were you involved in the decisionmaking process?
23 A Could we clarify which decision are you referring to?
24 Q Sure. Let's take one step back.
25 Your understanding of what steps did the company take with respect to New York

1 Post story?

2 A So I'm not -- I wasn't part of that decision, so I don't want to speculate on

3 the specific steps that were taken, that I think my recollection happened on that day, on

4 the 14th. But I don't know the exact, like, steps that were taken or the decisions that

5 led to it. I wasn't part of those decisions.

6 Q To your understanding, who were part of those decisions?

7 A I don't know.

8 Q Was it decided in advance of the FITF meeting if you were the one who

9 would ask the question?

10 A The specific question regarding the laptop?

11 Q Yes.

12 A I don't remember having a specific discussion determining who would ask

13 that question. I believe that it was me who asked that question, but I don't remember,

14 like, coordinating or agreeing that it would have been me to ask that question.

15 Q Do you recall if [redacted] was on the FITF call?

16 A I don't specifically recall whether Steve was on that call. It's possible, but I

17 don't remember.

18 Q Was [redacted]?

19 A I don't think so. I don't recall [redacted] being on that call, but he didn't

20 frequently attend those calls. So I don't remember exactly whether he was on or not,

21 but I don't think so.

22 Q Was [redacted] on that call?

23 A I don't remember.

24 Q Is there anyone from Facebook that you remember joined you on the call?

25 A That was on the call?

1 Q Yes.

2 A One name that comes to mind is [redacted] who was in the chat with [redacted]

3 Q You were in person in [redacted] backyard?

4 A Yes.

5 Q Was there anyone who was with you in person that day who also joined the

6 call?

7 A There were people who were with me there in person. I don't recall

8 whether they joined or not, the call. Because, as you recall, we were there for a

9 strategy session with [redacted] So I don't remember if I stepped out to dial into this meeting,

10 or if there were others that dialed in. I'm not exactly sure.

11 Q Okay. Do you recall where you took the call? I mean, did you step out of

12 the house altogether? How did you join?

13 A I mean, I don't remember the specific details, but I think I stepped out of -- I

14 think it was all outside in the backyard. And I think I probably stepped into, like, a

15 different area of the backyard and dialed into the meeting.

16 Q Do you recall if Elvis Chan was on this FITF call?

17 A I don't recall specifically whether he was on that call or not. It wouldn't

18 have been unusual for him to attend. But I don't remember the specific call.

19 Q Do you recall who from the FBI provided a response?

20 A I don't. But also, I dialed in by phone, so I didn't have the benefit of seeing

21 people in front of me. And I don't know all their voices, so I'm not sure who answered

22 the question.

23 Q Okay. At the end of the -- before we took a break, or maybe the start of

24 this hour, sounds like there were a couple statements or pieces of communications or

25 pieces of information were communicated.

1 First was with respect to if there was evidence of foreign sponsorship or anything
2 related to that.
3 And then the second was whether there was a criminal investigation or something
4 like that separate from the foreign sponsorship.
5 Is that consistent with your recollection before I ask the next set of questions?
6 A I don't remember the specific, like, phrasing that was provided back. The
7 question I would have asked would have been, is there any additional information the FBI
8 could share about the laptop or the story itself.
9 And I remember that my takeaway was that there were two we went over.
10 One was that there was at that time no reason or no involvement of the foreign
11 influence folks in this. They were not aware or involved in the story.
12 And the other piece was the FBI indicated that there was the Criminal Division that
13 was looking at this matter. We didn't go further than that.
14 So my takeaway was that there was no, at the time, any evidence or reason to
15 believe or that the FBI could share about any foreign direction or sponsorship behind the
16 story.
17 Q I guess the parts -- for the foreign sponsorship aspect, was the answer we do
18 not have any information regarding foreign sponsorship, or we're not able to share
19 information regarding foreign sponsorship?
20 A It was basically no answer, we're not looking at it, that type of answer. The
21 specific phrasing I don't recall, but it was not a long discussion.
22 Q And do you recall who from the FBI said that?
23 A No, I don't.
24 Q Do you recall if it was a man or a woman?
25 A I don't.

1 Q Okay. What about with respect to the Criminal Division, someone else is
2 looking into it? Was it the same person or did someone else say something?
3 A I believe it was a different person that said it, gave some indication that this
4 was -- that the Criminal Division was looking at this.
5 Q Do you know who from the FBI?
6 A I don't.
7 Q Do you know if Laura Dehmlow was on the call?
8 A I don't know whether she was -- I don't remember whether she was on this
9 specific call or not. I mean, she frequently attended FITF calls, but I don't know if she
10 was on this one.
11 Q Was [redacted] on this call?
12 A Same answer. It's likely he was, but I don't recall specifically.
13 Q In the midst of these two answers, the first regarding foreign sponsorship,
14 the second regarding the Criminal Division, did the FBI say anything that informed you
15 and the others from Facebook on the call that the FBI was in possession of a laptop?
16 A Uh-huh. Sorry. Yes.
17 Q Which answer did that come up in?
18 A I recall a confirmation that the laptop existed, that it was real, which I think
19 answers your question, that that was my recollection of the conversations, it was
20 confirmed that there was a laptop.
21 Q Did the person from the FBI who said no foreign sponsorship also say that, or
22 the person who was commenting about the Criminal Division taking a look, or was there a
23 third person?
24 A Just to be clear, no one from the FBI said there's no foreign sponsorship.
25 That's not the phrasing that they would have used. And I don't recall the specific

1 phrasing.

2 But the essence of it was that the foreign influence folks or the national security

3 folks at the FBI were not tracking this, which I took to mean that at the time the FBI had

4 no information to share about any -- or knowledge of any information related to foreign

5 origin sponsorship of the story. I don't recall who said that on the call.

6 Q When you say they were not tracking this, do you mean the New York Post

7 story? What do you mean by that?

8 A They were not involved with any follow-on actions related to the New York

9 Post story or any investigation related to that story on the foreign influence side. That

10 was my understanding of how the -- the input that we received.

11 Q Did you ask any follow-up questions?

12 A On this specific topic?

13 Q Yes.

14 A No. I think I got my answer. Oh. Do you mean in this meeting or

15 follow-up?

16 Q First, in this meeting, then we'll get to other.

17 A I think in this meeting, no. I recall it was a short interaction, we asked our

18 question, we received a response, and then there was a number of other topics, as I

19 recall, that we talked about during this meeting. So I don't recall any further discussion

20 on this topic.

21 Q Did you -- do recall when in the meeting you asked this question? Was it

22 the beginning? Was it the end?

23 A I'd be guessing. I don't remember.

24 Q Did anyone else from Facebook ask a question?

25 A On this topic?

1 Q Yes.

2 A I don't think so. It's possible there was cross-talk or maybe people

3 clarifying things, but I don't remember.

4 So I had a follow-up after this meeting, so I'm happy to go into that unless you

5 have questions further about this FITF meeting.

6 Q Yes. We can -- yeah. We'll go into the follow-up discussions you had.

7 A Sure. So I remember following up the following day with the FBI to see if

8 they had any additional information to share, which it wasn't a scheduled meeting. It

9 was -- I believe it was a quick call with Elvis Chan that I had the following day in which I

10 would have asked whether there's any new or additional information that the FBI could

11 share, and I got the same response back.

12 Mr. Brown. And, [redacted] that's memorialized in a document which the company

13 provided to you all.

14 BY [redacted]

15 Q Why were you following up with the FBI?

16 A I think I was just doing my due diligence. It was a day later. The story was

17 very new when we initially spoke to FITF at that pre-scheduled meeting that we had on

18 the 14th.

19 So I followed up a day later to see if there was any more information since they

20 didn't have much information to share the previous day. I wanted to do my due

21 diligence and follow up to see if there was any more information that was discovered.

22 To my recollection, there wasn't.

23 Q Besides Elvis Chan, who else at the FBI did you reach out to, to follow up?

24 A I had a different or separate conversation with Marc Cappellini regarding a

25 different topic. It was a topic of sharing indicators. I believe it was Meta sharing

1 indicators with the FBI that I shared through Marc. And I believe in that conversation
2 the topic of the New York Post story also came up with the same answer, that foreign
3 influence folks weren't tracking this or weren't involved in this investigation. I don't
4 recall which day it was. It's possible it was also that day or maybe the day after.
5 Q Remind me which division Marc is with?
6 A Marc is or was at the time -- I don't know where he is now, I think he's still
7 there -- but he was at the Washington Field Office.
8 Q And what did Elvis Chan say on the -- as the document memorializes -- on
9 the 15th, the call you had?
10 Mr. Brown. Can we have the document so he doesn't put himself in a position of
11 misremembering information that's on a document that you have in your possession?
12 [[redacted] Exhibit No. 7
13 Was marked for identification.]
14 [redacted] This is exhibit 7.
15 Mr. Brown. We're ready.

1

2 BY [redacted]

3 Q Is the summary you provided here consistent with your recollection of what

4 Elvis Chan told you on the 15th?

5 A It is.

6 Q How long did your call last?

7 A I remember it was a very short call. I don't exactly remember how long it

8 lasted. And this is probably the essence of the discussion on the call.

9 Q Okay. And it sounds like there was a -- two pieces of information going on.

10 First, the question of whether there was foreign sponsorship. And then second -- this

11 was during the FITF call -- second about the Criminal Division.

12 When Chan says -- this is what your summary states -- "advised that he was up to

13 speed on the current state of the matter within the FBI," what was he referring to?

14 A I'm not sure what Elvis is referring to here.

15 Q Did Elvis mention that there was an investigation by the Criminal Division?

16 A You know, I don't recall specifically. It's not documented here in my notes

17 after the call. I don't recall him mentioning specifically whether this was a criminal

18 investigation or not.

19 Q Do you recall him mentioning the laptop?

20 A In this call?

21 Q Yes.

22 A I don't remember the words that he used. We talked about the New York

23 Post story generally, and the central sort of piece of that story was the laptop, so it's

24 possible that he used the word "laptop" in our discussion.

25 Q Did he say who brought him up to speed?

1 A I don't think so. I don't recall him saying anything specific beyond what is
2 in here.
3 Q Just based off the context, was he talking about the -- any analysis or lack
4 thereof conducted by the Foreign Influence Task Force or folks looking for foreign
5 sponsorship, or was he referring to the Criminal Division's investigation?
6 A I'm not sure what he is referring to. My takeaway was that I was interested
7 in the follow-up call to see if there was any new information that was discovered as part
8 of my due diligence of conducting this investigation to see if there was any foreign
9 connection or any evidence of foreign connection.
10 And my takeaway was that, from my notes with Elvis, that there was no current
11 evidence at the time to suggest any foreign connection or direction. That's my
12 recollection.
13 Q Was Elvis typically kept up to speed with the Foreign Influence Task Force
14 and what was going on?
15 A He was a central point of contact in the FBI, like a liaison. His duties include
16 being liaisoned with Meta and Facebook at the time.
17 So as a matter of frequently meeting with the Foreign Influence Task Force, he
18 would have been like a common partner who would have been aware of the Foreign
19 Influence Task Force. He helped organize some of the calls, bring specific parties into
20 those calls if we were talking about specific threat issues. He would arrange those
21 experts to come in.
22 So he was generally in communication, I assume, with the Foreign Influence Task
23 Force, but he wasn't a part of it.
24 Q Again, I'm trying to parse out what he meant by caught up to speed on the
25 current state of the matter. You said your takeaway from the FITF call was that the

1 foreign influence guys were not tracking this?

2 A Uh-huh.

3 Q So did that takeaway change after this call with Elvis Chan?

4 A No. I think the call with Elvis confirmed that there was no additional

5 information to share at that time. He also mentioned that if there were any additional

6 information that was later developed, he would be in contact -- or the FBI would be in

7 contact.

8 Q Yeah. But I guess my question is, if there's no foreign -- no evidence of

9 foreign sponsorship on this, and your takeaway from the FITF folks is they're not tracking

10 this, what is there to get caught up to speed on?

11 A Are you referring to Elvis, what he's saying?

12 Q These are your notes about what Elvis told you, and I'm just trying to

13 understand what it is Elvis is communicating to you based on what was discussed at the

14 FITF call?

15 A Again, I don't know what Elvis is referring to when he says he's up to speed.

16 Q You didn't ask?

17 A No.

18 Q Okay. Did you have any other communications with Elvis Chan on this

19 issue?

20 A I don't recall conversations with Elvis Chan on this issue. I had a

21 subsequent conversation with [redacted] several days later that I'm happy to talk about,

22 but I don't believe we had any more exchanges with -- we had a number of exchanges

23 with Elvis around that time, but I think on this specific issue, I don't recall any other

24 conversations.

25 Q Okay. What were your communications with [redacted] a few days later?

A I remember there was a story in -- and I forget the publication in which it came out --

Mr. Brown. There's a document that reflects that communication, which we also provided to the committee. It might be useful to look at that.

[redacted] Are there other communications besides --

Mr. Brown. If there's something other than what's in the email, you can tell him about that. If it's the email, it would be great to look at the actual document.

[redacted] It would be great if we could have the witness have the opportunity to answer first.

Mr. Brown. Sure. Go ahead.

[redacted] Sorry. Could you repeat your question?

BY [redacted]

Q Yes. You mentioned that there was communication or communications you had with Brady Olson during this time. To your recollection, what were those?

A Right. So there was a story -- I forget the publication in which it came out -- about the Ukrainian politician, Andrii Derkach, whom I mentioned earlier, kind of alluding to the existence of a second laptop, if I recall correctly.

That came out -- don't know the specific date, but several days after these interactions that we just spoke about.

So I recall that I reached out to [redacted] I think I sent him an email and forwarded him the publication, the link to the publication, and asked whether that changed any assessment previously provided by the FBI.

And then we had a short call, I believe, after my email to [redacted] if I recall correctly.

Q And what did [redacted] say on the call?

A I don't remember the specific phrasing, but my -- again, my takeaway was

that he recommended that we treat the Derkach narrative as either a parallel or aligned narrative to the story.

And I was -- basically that it was unrelated to the initial allegations in the New York Post story, but to treat it with suspicion as a, like, an aligned narrative or parallel narrative. I forget the phrasing.

Q Why did you speak to [redacted] about this -- or why did you choose to tell Brady about this?

A [redacted] at the time was the unit chief of one of the units in the Foreign Influence Task Force and one with whom I believe we had communicated about Derkach specifically previously.

Q Had you worked with [redacted] when you were at the FBI?

A I did.

Q Do you know what [redacted] current role is?

A No, not exactly. I don't.

Q Do you know is he at the FBI still?

A To my knowledge, but I don't think he's at headquarters any longer.

Q Going back to the FITF meeting on the 14th, do you recall any of the FBI agents, personnel who were on the call, did anyone say "no comment" initially?

A I don't recall that specific phrasing.

Q Who did you debrief with after the end of the FITF call on the 14th?

A I believe it was -- I believe there was an internal chat in which we talked about it generally. But I don't remember all of the people who -- it was a group chat, I think, and I don't remember all of the people who would have been on that chat. Steve would have been one of the people on that chat most likely.

Q And by this point, post-meeting, has the company made a decision yet on

1 how to handle the story?

2 A I don't know the timing of when that decision -- I believe it was made on the

3 14th by the company, but I don't know -- like, the timeline is not clear to me when the

4 decision was made or enforced.

5 Q And you said that you weren't part of the decisionmaking process?

6 A Right.

7 Q But you said you're providing information to folks. Was it your

8 understanding that a decision had not yet been made, or that the decision could be

9 changed based off information the FBI was providing?

10 A I'm not aware of the timing or how the decision was made or who was in the

11 room to make that decision. So it's hard for me to speculate.

12 So maybe just to clarify what my role was, my teams would provide analysis

13 related to the hack-and-leak policy we were talking about earlier.

14 And so our input into that process, into that protocol would be to provide an

15 assessment for whether we believed based on the evidence available to us whether there

16 was any foreign sponsorship or direction behind -- whether there was a hack of

17 information obtained illicitly, whether there was any foreign direction or sponsorship for

18 that, whether there was any evidence that there was foreign direction or sponsorship of

19 the subsequent release or leak of that information, and then whether there was any

20 evidence of amplification by foreign actors of that information once it was released.

21 So my team's role was to conduct that analysis and then share that with our

22 cross-functional partners who would then use it for a decision on the basis of the

23 hack-and-leak policy protocol.

24 But at the time, we hadn't completed our analysis yet, so we had no information

25 to share. We just had the FITF meeting that we were just discussing.

I think -- I believe there was a subsequent group discussion in which I would have shared a quick readout of what the FBI shared with us at that meeting, but we hadn't yet completed our investigation or analysis to share as part of the hack-and-leak protocol.

Q Do you recall when your team finished its analysis on this issue?

A I remember that was ongoing for several days, maybe even longer, a week or longer. And the reason I remember that is because when the Derkach story came out and I reached out to Brady, there was an additional input for us to consider. And then I remember updating our, based on that story, kind of like updating our analysis.

But I don't know -- I don't have, like, a formal completion date for the investigation. It just kind of evolved over several days.

Q In October of 2020, what is [redacted] title?

A She was a manager. I believe her exact title was security analyst manager in charge of the threat discovery team.

Q So was she --

A She was a peer to me.

Q Okay.

[[redacted] Exhibit No. 8

Was marked for identification.]

[redacted] This will be exhibit 8.

[3:00 p.m.]

Mr. Brown. Can we go off the record?

[Discussion off the record.]

[redacted] We can go back on the record, please.

BY [redacted]

Q Do you recall this text exchange with [redacted] before and after the FITF meeting on the 14th?

A Yes, now that I've read it.

Q Okay. And I think I asked this earlier, but your recollection, was [redacted] on the FITF call?

A It seems from reading this that she was, yeah.

Q The second message from the bottom on Bates number 60152, there's a message from [redacted] --

A Uh-huh.

Q -- who's talking about the laptop, you know, that finishes with, "Never told FITF or anyone on the national security side."

A Uh-huh.

Q Did you find it strange that the FITF appeared unaware of the laptop?

A I don't know if I found that particular aspect strange. My recollection is the FITF wasn't aware or wasn't tracking on this, but I don't know that I had an opinion on whether that was strange or not.

Q Okay.

Taking one step back, independent of this text, your recollection of that meeting, when FITF is answering the question --

A Uh-huh.

Q -- was it your understanding they were just unaware of the facts generally related to the laptop, or that they were aware of the laptop but that it was a Criminal Division matter and, therefore, outside their scope?

A You know, my recollection is that they were not familiar with this matter generally, like, not tracking it. And I think that's what [redacted] and I are -- that is our impression here in discussing this as well, is that they seemed -- I think I read somewhere, "clueless" is the word that we used, meaning not familiar with this at all, at the time that we had the call.

Q And does this refresh your memory at all, as far as what was said by the FITF folks, in particular, that would lead you guys to -- or, at least, [redacted] to use the word -- I think [redacted] used the word "clueless" -- but that the FITF folks seem unaware?

A So there's general -- 10:49:26, [redacted] was referring to someone saying "he could confirm that such a laptop existed."

And then later, next statement, I say, "I thought he said it was a criminal matter on the Bu crim side," meaning the Bureau criminal side.

Q Uh-huh.

A So those are the specific -- so the confirmation that the laptop existed and then there was a criminal matter on the Bureau criminal side is my recollection.

Mr. Brown. And that the gender was male?

[redacted] Yeah. It looks like the person who said it was a he. I referred to them as "he."

BY [redacted]

Q So, I guess, to spell out your answer a little bit more: So you have evidence on the call that the Bureau's Criminal Division is aware of the laptop.

1 A Yes.

2 Q Was there a reaction by the FITF folks on the call when he revealed that

3 information?

4 A I don't recall a specific reaction, other than they didn't -- my impression was

5 that they didn't seem to be aware of it. Perhaps because the story was new. I'm not

6 sure. But my recollection is that they weren't familiar with the investigation or the

7 background.

8 Q Do you recall any discussions with Elvis Chan regarding whether Elvis Chan

9 spoke to anyone at the Criminal Division?

10 A I only had one followup -- so, on this matter, I had one followup, you know,

11 the next day, my quick followup call with Elvis. I don't recall him mentioning what he

12 knew or how he knew it. I just remember him, you know, confirming that it was a

13 criminal issue and that there was no foreign influence or direction that they were aware

14 of at that time. But I don't think he shared how he knew that.

15 Q But it's your recollection that he confirmed, kind of, both pieces of

16 information -- both that there's no additional information of any evidence of foreign

17 sponsorship and that it was a criminal matter?

18 A I'm just trying to go back to the document you previously shared with me,

19 the exhibit --

20 Q The document -- I'd be happy have you look at it again -- just says that he's

21 up to the current state of the matter.

22 A That's my --

23 Q So I'm just trying to get your sense of your memory of what Elvis Chan told

24 you.

25 A That's my recollection, is that he was up to speed on it. I don't remember a

1 particular discussion about details of the matter or, you know, whether it was criminal or
2 not; just that he was up to speed on the context and that there was still no indication of
3 foreign influence or sponsorship at that time.
4 Q Did you reach out to anyone in the Criminal Division?
5 A No. No, not that I'm aware of.
6 Q Did anyone from Facebook reach out to anyone in the Criminal Division?
7 A Not that I know.
8 [Discussion off the record.]
9 [redacted] I'm not aware.
10 BY [redacted]
11 Q I mean, as someone who works in this space, was there not -- if one of the
12 FBI divisions is saying they have a laptop and your team is trying to help [redacted]
13 and his team figure out, hey, does this apply to our hack-and-leak policy -- you've done
14 tabletop exercises -- would it not have been appropriate to reach out to the Criminal
15 Division to see if they could provide any additional information?
16 A So the question that we were most interested in understanding the answer
17 to was whether there was any foreign direction or sponsorship of the information. That
18 was the scope of our hack-and-leak policy, right, the context behind it and the reason that
19 we highlighted that as a risk.
20 So I feel like, in these interactions, I have gotten that answer -- or, at least, you
21 know, based on what the information was that was available to be shared at that time,
22 that there was no such indication that the FBI was able to share at that time. There was
23 no foreign influence connection or direction behind this operation. And that was the
24 information I was seeking.
25 So the details of the actual criminal investigation were not as relevant.

1 Q But did you find it concerning that the foreign influence folks appeared to be
2 unaware of what the Criminal Division knew?
3 A I don't know if I found it concerning. I mean, I think, like, reading this
4 exchange with Susan, we both find it to be a strange situation, probably just referring to,
5 you know, just a lot of fog and ambiguity around it on its first day. But I don't find it
6 concerning that another FBI division would've known or not known something that a
7 different FBI division is involved in.
8 Q So, to kind of build that out a bit, as you mentioned, Susan is texting you
9 about this on 60153. She says, "But either way hard to imagine all of the impeachment
10 stuff going on in [December] that this didn't make its way to FITF or at least national
11 security side."
12 Do you agree with [redacted]
13 A Can you point me to the timestamp?
14 Q Sure. Sure. Timestamp is 10:34:48. The second message from the
15 bottom on 60153.
16 A Sorry, what was the question? Whether I agree with [redacted] --
17 Q Yeah. [redacted] says, "But either way hard to imagine all of the impeachment
18 stuff going on in [December] that this didn't make its way to FITF or at least national
19 security side."
20 A Look, it's hard to speculate. This was very early in the day, and this was,
21 you know, two people that were, kind of, like, spitballing a situation that seemed strange
22 at the time. I don't want to speculate on whether I agree with her statements or not.
23 Q Okay. Well, you've got a lengthy tenure at the FBI --
24 A Uh-huh.
25 Q -- have worked in multiple offices, been at Meta for a while.

1 Based off the information going into this day and then the information that was
2 provided at the FITF meeting, do you recall if you shared a similar sentiment to [redacted]
3 that it was difficult to imagine that FITF would be unaware of the Criminal Division's
4 possession of the laptop?
5 A I don't recall my specific impression at the time, other than general
6 confusion around the story. There was a lot happening, and we didn't have a lot of
7 information at that time.
8 Q Would FITF ever receive information from the Criminal Division?
9 A I don't know. I wasn't, at this time, at the FITF, so I'm not sure.
10 Q Do you recall any FITF meeting between FITF and Facebook where FITF
11 referenced communications with the Criminal Division?
12 A No, not in particular.
13 Q Okay. But there were Criminal Division FBI agents on the FITF call?
14 A So there were -- at the time that I was at the FITF, there were Criminal
15 Division representatives within the FITF.
16 Q If I could have you flip to 60155. The Bates stamp is 10:49:26. [redacted]
17 [redacted] says, "Bu crim guy said he could confirm such a laptop existed is what he said?"
18 Is she referring to a crim guy who's part of the Foreign Influence Task Force, or
19 were there individuals there from the Criminal Division?
20 A I'm not sure.
21 Q Did either occur previously?
22 A I don't recall specific instances where someone had identified themselves
23 as -- yeah, I don't recall specific instances where someone had identified themselves as
24 specifically being detailed, you know, or being part of the Criminal Division.
25 But, you know, here, [redacted] says at 10:50:09 that she noted that he said he was

1 from Criminal Division. And I'm not sure whether he was part of Criminal Division
2 attending the meeting or detailed to the task force or not.
3 Q Okay. When people would identify themselves and say they were from the
4 Foreign Influence Task Force, would they say, "I'm part of the Foreign Influence Task
5 Force," or would they say wherever they were from before they got to the task force?
6 A They may generally identify the unit or area that they would work on as part
7 of the Foreign Influence Task Force. Or if they were in a -- I guess, if they were in a
8 different division, they may identify which division they were with. Like, if we had a
9 field office that was dialing in, they may say, we're from a different field office, talking
10 about this specific threat actor.
11 Q Okay. So, with field offices, folks would come in, dial in, say where they're
12 from.
13 A Uh-huh.
14 Q Folks from the Criminal Division would do that as well?
15 A This is a -- I don't recall other instances in which someone specifically
16 identified themselves as part of the Criminal Division on my calls with FITF --
17 Q Okay.
18 A -- other than this one.
19 Q I guess, then, back to the question a couple minutes earlier: So FITF is
20 divided -- the portfolios are divided geographically. Is that right?
21 A I don't know how they're divided now.
22 Q Okay. In your experience?
23 A I'm not comfortable talking about my experience at the FBI without
24 discussing it first.
25 Q In your experience at Facebook?

A In my experience at Facebook, we would discuss different topics regionally with different individuals from the FITF.

Q Would they identify themselves as working on units devoted to specific geographical regions?

A They did.

Q Okay. Is there a unit devoted to the Criminal Division within FITF?

A I'm not aware of such a unit.

Q So, to your knowledge, if someone says they're from the Criminal Division, they're referring to the actual Criminal Division? This is not a subsection of FITF or anything else?

A I actually don't know what they're referring to.

Q Okay. Did you ask for clarification when they gave that --

A I don't recall asking for a clarification. No.

Q Okay.

On the previous page, 60154, [redacted] responds -- you and her were going back and forth on what it would be, what's behind it.

A Uh-huh.

Q Susan sends a few messages in a row, dating back from the previous page. And then at the top of the page says, "Could be, but still would think national security side of the house would know."

Actually, first, let me -- before we get into this message, did [redacted] ever work for the FBI?

A Yes, to my knowledge, she did.

Q How long did she work at the FBI for?

A I think she retired from the FBI.

Q And then joined Meta? Or --

A Yes.

Q So she had an entire career at the FBI first?

A That's my understanding, yeah.

Q Which division or divisions was she with?

A I don't know. I don't recall. I didn't work with [redacted] while we were both at the FBI, so I'm not sure.

Q Okay. But as colleagues at Meta, did she ever share with you her bio and background?

A I think she had a number of postings. For example, I know she had a posting overseas in the Legal Attache Office. So I think she had a generally -- I mean, she had a long career there, so she probably moved around. But I don't recall specific units that she worked on.

Q So this is someone who's familiar with the FBI.

A [redacted]

Q Yes.

A Sure.

Q And this is someone who's familiar with how the divisions would communicate with each other?

A I'm not sure what she's specifically familiar with, but it's fair to say that [redacted] you know, was an experienced FBI agent; she would've been familiar with the Bureau.

Q Okay. So this is an exchange between two folks with a good amount of FBI experience between the two of you.

A Sure.

1 Q Okay. Why does she think that the national security side of the house
2 would know?
3 A I'm not sure why she's -- you know, what she's referring to, why she thinks
4 this.
5 Q So, given her context of having a whole career at the FBI and your context,
6 having served a number of years at the FBI previously, you don't know what she means by
7 this statement?
8 A It's hard for me to speculate on what Susan means by her statement here.
9 Q The text is to you, yes?
10 A Right, but it's her saying that.
11 Mr. Brown. You're asking him to read somebody else's mind.
12 [redacted] No, no, no.
13 Mr. Brown. You're asking why somebody else thinks something.
14 BY [redacted]
15 Q Okay. How did you interpret this message?
16 A I don't have a specific recollection of, you know, interpreting this message or
17 responding to it. I can direct you to two texts below where it says 10:47:24. I found
18 the entire situation somewhat strange at the time.
19 And, if you recall, this was early in the day. The story had just come out. We
20 had just had the meeting with the FBI. There was a lot of fog that I recall around and
21 just a lot of ambiguity around the story.
22 I recall thinking that it was a strange story. But I'm not sure what [redacted] was
23 referring to.
24 Q Okay. So here you recall that you're referring to the story being strange,
25 but you're not referring to the dynamic between the two divisions from the FBI being

1 strange?

2 A It looks to me like I'm making a general comment here, "It's all very fishy,"

3 about just about the general, kind of, story and what we were learning on that day.

4 Q Okay.

5 What is your recollection of what your impression was after the meeting that the

6 Criminal Division knew about the laptop and the FITF did not?

7 A What was my impression of that?

8 Q Yes.

9 A My takeaway was that -- and I think I remember communicating my

10 takeaway -- was that there was no information that the FBI had regarding any foreign

11 direction or sponsorship of this matter. That was my takeaway and the reason why I

12 asked the call, to get that information.

13 So the whole, like, you know, "Criminal Division versus the FITF" issue wasn't

14 prominent in my mind. I got the answer that I was looking for, which was, at the time,

15 there was no information that the FBI had to suggest any foreign direction or sponsorship

16 behind this.

17 Q Okay. Sitting here today, looking at the facts as they were unfolding, do

18 you find it strange that the Criminal Division had this information that the Foreign

19 Influence Task Force was unaware of?

20 A I have no opinion on this matter.

21 Q Do you think Susan was out of place to have this concern?

22 A What I would just say about this exchange generally is that these are just

23 two colleagues that are kind of discussing a story that appears strange to both of them at

24 the time. I can't comment on the specific concerns that she may have had.

25 Q Well, she's not talking just about the story. She's talking about why

apparently a relevant division in the FBI did not know about it.

A Right. I can't comment on what [redacted] means by this.

Q Well, I mean, the messages are to you. I respectfully don't agree with the fact that you can't comment on it. These messages are to you. You both have experience with the FBI.

A But you're asking me to analyze what [redacted] might mean by her messages. I'm not comfortable doing that.

Q The messages were sent to you.

A By [redacted]

Q That's right. So asking how you interpret them or understood them is completely appropriate.

You and [redacted] go back and forth on page 60156 about what you distinctly remember and what [redacted] remembers.

A Uh-huh.

Q And, actually, it starts on the previous page, 60155.

Do you recall how you ultimately confirmed, one way or the other, about what was said regarding the laptop and whether it was a criminal matter?

A So I think we were having a discussion here about the specific nature of the criminal investigation. [redacted] is asking some questions here, whether this was an FBI or maybe another agency criminal matter.

But, again, the takeaway wasn't, like, what the nature of the criminal investigation was. The main reason for having that discussion or asking the question was to see if there was any foreign direction or sponsorship behind this. And I do think that I got that answer at that time. So the whole criminal aspect of it was, kind of, not as important to me at the time.

1 Q So whether the Criminal Division is in possession of a laptop is not relevant
2 to your team's analysis?
3 A To the extent that it confirms that there is a laptop and confirms, you know,
4 that that's true, that the story refers to a laptop that exists, and then to the extent that it
5 was not the foreign influence people or the national security people that were working
6 that matter, that is what is relevant to me.
7 Q But, again, the text chain here seems to imply that the foreign influence folks
8 were unaware of the matter, not that they were aware of it and chose not to work on it.
9 Is that correct?
10 A That's correct.
11 Q So, at the time this is happening, the laptop could be relevant.
12 A It's possible -- I guess -- I think you're referring to, maybe there is additional
13 information that could be discovered later. But, at the time, there was no indication
14 given to us that there was any foreign influence concern or information to suggest any
15 foreign influence direction that the FBI had in their possession at the time.
16 Q Okay.
17 On page 60158, timestamp 10:57:50, [redacted] texts you, "Somehow the laptop
18 should have surfaced to the national security folks at the bureau before today."
19 A Uh-huh.
20 Q This statement is different than the others. She is saying: This is what
21 should have been done at the FBI. Based off your experience at the FBI, do you agree?
22 A I don't have all the facts -- it wouldn't be appropriate for me to agree or
23 disagree. I don't have all the facts that the FBI might've used in determining whether it
24 should've been referred or should not have been referred. So I don't feel comfortable
25 speculating on whether it should've been referred or not. I wasn't at the FBI at that

time.

Q So you were unit chief for the Foreign Influence Task Force?

A Acting unit chief.

Q Okay. How long were you in that role for?

A I believe it was 5 to 6 months.

Q Did you interact with the Criminal Division during those 5 to 6 months?

Mr. Brown. We're not going to talk about this without the FBI clearing it. I asked you all to give me a contact at the FBI so I could see if they were comfortable with it, and no one has given me a contact.

And we're happy to follow up on these topics later if they say that it's okay for him to talk about his work at the FBI, but without having spoken to them, it's not appropriate for him to talk about the FBI.

[redacted] Okay. But this objection was not raised before this morning.

Mr. Brown. I had no idea what your questions were going to be in advance. You didn't send them to me, [redacted]

[redacted] That's correct. Did you not know that he was acting chief of the --

Mr. Brown. I did know --

[redacted] -- Foreign Influence Task Force?

Mr. Brown. I knew that you wanted to talk to him about Meta and the New York Post story. That's what you all asked him to come in and talk about. He's done that for, I think, almost 2 hours straight right now.

The conversation about the FBI -- I'm not saying he's unwilling to talk about the FBI. I'm saying, the FBI needs to be consulted first before somebody talks about the work that they did for them. Right?

We were happy to make that call during the lunch break if you all had given us a

1 point of contact. Obviously, you're in touch with the FBI on a regular basis. If you'd
2 shared that information with me, we would've followed up promptly and in good faith.
3 It just is what it is. I'm not blaming you or accusing you, and I don't think you
4 should blame or accuse us. But the reality is, that relates to one of his prior employers.
5 That employer is involved in this controversy. They have equities. We need to make
6 sure that they're comfortable with him talking about this without them being here.
7 [redacted] Is your instruction to the witness not to answer?
8 Mr. Brown. My instruction to the witness is to be prepared to answer the
9 question as soon as we're allowed to consult with the relevant people at the FBI.
10 [redacted] Well, there was no one that prevented you from consulting with the
11 FBI --
12 Mr. Brown. I couldn't consult with the FBI because I didn't know -- I -- for all I
13 know, you could've asked him about the Justice Department, the State Department,
14 whatever. I don't know what you're going to ask in advance, other than you told me you
15 wanted to talk to him about his work at Meta.
16 He answered those questions voluntarily, fulsomely, on every single topic you
17 asked him about with respect to the FBI, including -- with respect to his work at Meta,
18 including names of personnel that he didn't want to actually disclose because of concern
19 about their safety.
20 As to the FBI, we're not refusing to answer questions. We're saying, we need to
21 be given an opportunity to consult with the FBI first to make sure that they're
22 comfortable with him talking about his work for them without them being in the room.
23 [redacted] Okay.
24 BY [redacted]
25 Q Do you stay in touch with your colleagues at the FBI?

A So, over time, that has lessened, because some of them have left. I don't -- I would say sporadically is probably a fair answer right now.

Q Okay. Do any of them know that you're interviewing before the committee?

A Yes, one of them knows.

Q And who is that?

A He's no longer with the FBI, actually. He's a former FBI agent that's left that's a close friend of mine.

Q When did he leave the FBI?

A Prior to me leaving. Maybe 7 or 8 years ago.

[redacted] Can we go off the record, please?

[Recess.]

[redacted] I just want to clarify that --

Mr. Brown. Are we going to go back on the record?

[redacted] Oh, I thought we were. Sorry.

Mr. Brown. Okay. Let's go back on the record.

[redacted] Okay. So the witness has left. And I don't think this comment was on the record, but I just wanted to be clear. We did give up our time, because it didn't make sense to go through the switching of the seats so that I could ask two questions. But in the previous -- you know, in the additional hour or so of testimony after the first hour, we had more questions, and had the witness stayed, we would've asked them.

So I just wanted to be clear that we were not ceding our time. We were just trying to be more efficient so that we were not wasting time switching seats.

Mr. Brown. The witness has a train to catch --

1 [redacted] Sure.

2 Mr. Brown. -- to go home to his family. It's the only train. He's got to pick up

3 his luggage, and so he's gone to do that.

4 I hope you got a lot of the answers that you needed. The company has made the

5 documents available to you. He came in voluntarily.

6 If you have additional questions that need to be answered, we're happy to work

7 with you to try to get answers to those questions.

8 With respect to the FBI and his time working for the FBI, he is not refusing to

9 answer questions. He wants to consult with the FBI first to understand what his

10 obligations are to the Bureau before he answers questions about his prior employment

11 without the Bureau in the room.

12 So that's kind of where we are. If we need to pick this up again, we'll figure out a

13 way to pick it up again.

14 [redacted] Okay. Yeah. We have an interest in bringing him back, so we will

15 figure out how to best do that.

16 Mr. Brown. Great. Terrific.

17 [redacted] Off the record.

18 [Whereupon, at 3:34 p.m., the interview was concluded.]

1 Certificate of Deponent/Interviewee

2

3

4 I have read the foregoing ____ pages, which contain the correct transcript of the

5 answers made by me to the questions therein recorded.

6

7

8

9 _____

10 Witness Name

11

12

13 _____

14 Date

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COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: MATTHEW MASTERSON

Tuesday, September 26, 2023

Washington, D.C.

The interview in the above matter was held in room 2237, Rayburn House Office Building, commencing at 10:00 a.m.

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2 Appearances:

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5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted], RESEARCH ASSISTANT

8 [redacted], SENIOR STAFF

9 [redacted], DIGITAL ASSISTANT

10 [redacted], SENIOR COUNSEL

11 [redacted], RESEARCH ASSISTANT

12 [redacted], COUNSEL

13 [redacted] MINORITY CHIEF OVERSIGHT COUNSEL

14 [redacted], LEGAL INTERN

15 [redacted], MINORITY LEGAL INTERN

16 [redacted], MINORITY PROFESSIONAL STAFF MEMBER

17

18 For MATTHEW MASTERSON:

19

20 DAVID LELAND,

21 SKADDEN, ARPS

22

23 For MICROSOFT CORPORATION:

24

25 KAREN CHRISTIAN

1 AKIN GUMP STRAUSS HAUER & FELD

1

2 [redacted]. Thank you again for joining us.

3 Can we go on the record, please.

4 [redacted]. This is a transcribed interview of Matthew Masterson.

5 Chairman Jordan has requested this interview as part of the committee's

6 investigation of how and to what extent the executive branch has coerced and colluded

7 with companies and other intermediaries to censor speech.

8 Would the witness please state their name for the record?

9 Mr. Masterson. Sure. It's Matthew Masterson.

10 [redacted]. On behalf of the committee, I want to thank you for appearing

11 here today to answer our questions. The chair also appreciates your willingness to

12 appear voluntarily.

13 My name is [redacted]. I'm with Chairman Jordan's staff.

14 I'll now have everyone else with the committee who is here introduce themselves

15 as well.

16 [redacted]. [redacted], Chairman Jordan's staff.

17 [redacted]. [redacted], Chairman Jordan's staff.

18 [redacted]. [redacted], senior staff.

19 [redacted]. [redacted], Chairman Jordan's staff.

20 [redacted]. [redacted], Chairman Jordan's staff.

21 [redacted]. [redacted], Ranking Member Nadler's staff.

22 [redacted]. [redacted], Ranking Member Nadler's staff.

23 [redacted]. I would like to now go over the ground rules and guidelines we

24 will follow during today's interview.

25 Our questioning will proceed in rounds. The majority will ask questions first for 1

1 hour, and then the minority will have an opportunity to ask questions for an equal period
2 of time if they so choose. We will alternate back and forth until there are no more
3 questions and the interview is over.
4 Typically, we take a short break at the end of each hour. But if you would like to
5 take a break apart from that, please just let us know.
6 As you can see, there is an official court reporter taking down everything we say to
7 make a written record. So we ask that you give verbal responses to all questions.
8 Do you understand?
9 Mr. Masterson. Yes.
10 [redacted]. So the court reporter can take down a clear record, we will do
11 our best to limit the number of people directing questions at you during any given hour to
12 just those people on the staff whose turn it is.
13 Please try and speak clearly so the court reporter can understand and so the folks
14 down at the end of the table can hear you.
15 It is important that we don't talk over one another or interrupt each other if we
16 help it, and that goes for everybody present at today's interview.
17 We encourage witnesses who appear before the committee to freely consult with
18 counsel if they so choose.
19 It is my understanding that you are appearing today with counsel. Is that
20 correct?
21 Mr. Masterson. Yes.
22 [redacted]. Will counsel please state their name for the record?
23 Mr. Leland. David Leland of Skadden, Arps on behalf of Mr. Masterson
24 personally.
25 Ms. Christian. Karen Christian from Akin Gump Strauss Hauer & Feld on behalf of

1 Microsoft.

2 [redacted]. Thank you.

3 We want you to answer our questions in the most complete and truthful manner

4 as possible. So we will take our time.

5 If you have any questions or if you do not understand one of our questions, please

6 let us know. Our questions will cover a wide range of topics. So if you need

7 clarification at any point, please just say so.

8 If you honestly don't know the answers to a question or do not remember the

9 answer, it is best not to guess. Please give us your best recollection, and it is okay to tell

10 us if you learned information from someone else. Just indicate how you came to know

11 that information.

12 If there are things you don't know or can't remember, just say so. And please

13 inform us who, to the best of your knowledge, may be able to provide a more complete

14 answer to the question.

15 You should also understand that, although this interview is not under oath, by law

16 you are required to answer questions from Congress truthfully.

17 Do you understand this?

18 Mr. Masterson. I do.

19 [redacted]. This also applies to questions posed by congressional staff in an

20 interview.

21 Do you understand this?

22 Mr. Masterson. Yes.

23 [redacted]. Witnesses that knowingly provide false testimony could be

24 subject to criminal prosecution for perjury or for making false statements under 18

25 United States Code 1001.

1 Do you understand this?

2 Mr. Masterson. Yes.

3 [redacted]. Is there any reason you are unable provide truthful answers to

4 today's questions?

5 Mr. Masterson. No.

6 [redacted]. Finally, I'd like to make note that the content of what we discuss

7 here today is confidential. We ask that you not speak about what we discuss in this

8 interview to any outside individuals to preserve the integrity of our investigation.

9 For the same reason, the marked exhibits that we will use today will remain with

10 the court reporter so that they can go in the official transcript. And any copies of those

11 exhibits will be returned to us when we wrap up.

12 All right. That is the end of my preamble.

13 Is there anything that my colleagues from the minority would like to add at this

14 time?

15 [redacted] We just thank the witness for taking time out of your schedule to join

16 us today.

17 [redacted]. The clock now reads 10:05.

18 We will start the first hour of questions.

19 EXAMINATION

20 BY [redacted]:

21 Q Could you state your full name again, please?

22 A Sure. Full name is Matthew Vincent Masterson.

23 Q And what is your current place of employment?

24 A Microsoft.

25 Q And what is your current title?

1 A I am the Director of Information Integrity within the Democracy Forward
2 program.
3 Q And how long have you been in that role for?
4 A Since March of 2022.
5 Q Beginning with college, what is your educational background?
6 A So I received a B.A. and B.S. from Miami University in Oxford, Ohio.
7 I then went to the University of Dayton where I received a J.D. from the University
8 of Dayton School of Law. That's it.
9 Q Well, then starting after law school, what is your professional background?
10 A So after graduating from law school and being admitted to the bar in the
11 State of Ohio, I started at the Election Assistance Commission in 2006 as a legal intern to
12 then Republican Chairman Paul DeGregorio.
13 After the departure of his special assistant, I became his specialty assistant for a
14 very short amount of time and then went on to become his -- or went on to become the
15 Deputy Director of the Testing and Certification Program within the Election Assistance
16 Commission.
17 After spending some time as the Deputy Director of the Testing and Certification
18 Program at the EAC, I moved on to the Ohio Secretary of State's office under Secretary of
19 State John Husted. I served in three roles there. I started as the Deputy Director of
20 Elections, became the Chief Information Officer, and then went on to become the Deputy
21 Chief of Staff and briefly served as his interim Chief of Staff until my departure in 2015.
22 I departed in 2015 from the Ohio Secretary of State's office in order to take an
23 appointment to the U.S. Election Assistance Commission as one of the Republican
24 commissioners at the EAC. I served as a commissioner at the EAC from 2015 to 2018.
25 I departed the EAC in 2018 to become the Senior Cybersecurity advisor at CISA,

1 the Cybersecurity and Infrastructure Security Agency.

2 I served in that role from 2018 until December of 2020, at which point I departed

3 and went to be a nonresident fellow at Stanford University in March of 2021. I was at

4 Stanford from March of 2021 until taking the role at Microsoft in 2022.

5 Q And do you recall when in 2022 you left Stanford and joined Microsoft?

6 A I believe it was February, March.

7 Q Before we get any further, are you familiar with the terms misinformation,

8 disinformation, and malinformation?

9 A I am.

10 Q And to your understanding, what is different between those terms?

11 A So, disinformation is the intentional spreading of false or misleading

12 information to confuse, mislead.

13 Misinformation is the unintentional spreading of false or misleading information

14 that can lead to confusion or, what, nonbelief.

15 And then malinformation is the intentional sharing of facts out of context to

16 mislead someone.

17 Q During your tenure at the EAC, just at a high level, what were your

18 responsibilities as commissioner?

19 A As a commissioner, so in my time as commissioner.

20 Q Yes.

21 A Yeah, so, generally speaking, the role of the commissioner is defined in the

22 Help America Vote Act. The commissioners are the policy-setting body for the

23 commission. So they handle all policy decisions. The commissioners also serve as the

24 faces of commission, particularly to the State and local election officials that they serve.

25 I served as chairman in 2017 of the EAC. And the chairman, whilst the same as

1 the other commissioners, typically just per designation of the commissioner serves as the
2 chief spokesperson for the agency, taking press calls, doing congressional hearings if
3 necessary, although oftentimes, it will be handled in a bipartisan manner at the EAC.
4 And so a lot of my work at the EAC focused on rebuilding the commission. At the
5 time that I became a commissioner at the EAC in 2015, the EAC had been without
6 commissioners or quorum of commissioners for almost 5 years. And so, a lot of my
7 work at the EAC, along with my fellow commissioners, was spent traveling out to the
8 elections community, meeting, talking, reestablishing the role, understanding the needs
9 that they had, and how the EAC can contribute to their work.
10 Q For these questions related to the EAC, unless I say otherwise, just refer to
11 your tenure as commissioner.
12 A Uh-huh.
13 Q During -- when working with the EAC, did your work involve anything related
14 to mis-, dis-, or malinformation?
15 A I don't remember those terms being used.
16 But false or misleading information, whether intentional or not, has been a part of
17 the elections world that I've known since 2006 when I started working in this space.
18 On -- in almost every election, you see folks not understand the process, not
19 understand the work that election officials do, how things like canvassing, auditing, voting
20 machines, voter registration work and election officials working to ensure that the facts
21 about the process, the facts about the work they do, the facts about the security,
22 integrity, accessibility of the process are available to their voters, both before the
23 election, during, and after but also in response to claims.
24 So for instance, in my time in Ohio, I was frequently asked about the 2004 Ohio
25 election and narratives that implied the rigging of the 2004 election.

1 I didn't work elections in Ohio in 2004 but was very familiar with the claims,
2 including that a voting system company had rigged the election in Ohio and so very
3 frequently had to respond questions and correct the facts about what happened in Ohio
4 generally, about how we secured the process, but also, you know, the security of the
5 2004 election specifically.
6 And so in my time at the EAC, we spent a lot of time producing best practices,
7 producing information, working collaboratively with State and local election officials in all
8 50 States, the five territories to ensure that voters, policymakers, and others had access
9 to trusted information from State and local election officials about the process, to, you
10 know, either respond to or get out in front of possible narratives around the election.
11 Q To your knowledge, is the EAC currently involved in work related to mis-,
12 dis-, or malinformation?
13 A I don't know.
14 Q You said you joined CISA in 2018?
15 A Yes.
16 Q Was that shortly after the agency was created?
17 A To the best of my recollection, when I joined, it was still NPPD. And I
18 cannot remember what those initials stand for, to be honor with you.
19 And then at some point when I was there, the CISA bill was signed by President
20 Trump. But I can't remember the timing exactly.
21 Q Including both NPPD and CISA, what positions did you hold at that agency?
22 A I was the senior cybersecurity advisor the entire time I was at NPPD and
23 CISA.
24 Q And what were your responsibilities in that position?
25 A My primary responsibility was to lead the election security work within the

1 agency, whichever one, NPPD or CISA. For purposes of this conversation, I'll refer to it
2 as CISA. Is that okay?
3 Q Yes.
4 A Thanks. So just as background on those responsibilities, in January of 2017,
5 in response to the Russian activity targeting election infrastructure and the 2016 election,
6 then Secretary Jeh Johnson declared elections as part of the Nation's critical
7 infrastructure. So it joined the 18 other sectors and subsectors, things like the
8 electrical-water sectors, financial services sectors, to be part of critical infrastructure.
9 I was at the EAC at the time, and the election community as a whole responded
10 with skepticism, concern, some fear about what was the role of the Federal Government;
11 what was the role of DHS in this; what could this look like; a lot of, I think, healthy
12 concern about what this could look like.
13 And I share that only because at that time, I was the chairman at the EAC, and part
14 of my responsibility as chairman was to work with the elections community to
15 understand the designation.
16 So we created a number of products. We hosted a number of conversations.
17 Part of our role at the EAC, we thought, was to help support the creation of what's called
18 the Government Coordinating Council, or GCC.
19 The Government Coordinating Council is a kind of common structural aspect of
20 areas of critical infrastructure. There's a govern -- typically a Government Coordinating
21 Council and a Sector Coordinating Council within an area of infrastructure.
22 And the Government Coordinating Council, in this case, was made up of State and
23 local election officials. The Sector Coordinating Council was made up of the private
24 sector companies that support elections, voting machine providers, voter registration
25 providers, folks like that.

1 And so, when the designation was made at the EAC, we -- we helped to bridge
2 that gap and really support and communicate to DHS and others within the Federal
3 Government the concern, the fear. The election officials were doing that also, I think,
4 effectively.
5 And so from 2017 until I left in 2018, a lot of my work was spent around, one,
6 understanding the risk environment that election officials were now operating in,
7 following the activity of Russia targeting the infrastructure itself, understanding the steps
8 election officials could take, but also then, helping to bridge the gap and understand the
9 impact of what the critical infrastructure designation could or couldn't mean, and really,
10 to help shape it so that it benefited the community and many of the fears that the
11 community had wouldn't come about.
12 So I share that only because then I get to CISA in 2018, and my responsibility was
13 to go work within the community that I worked in my entire career, to support them, to
14 build trust with them, to build out the sector, which included things like creating formally
15 the GCC and SEC, creating the Information Sharing and Analysis Center, ensuring that
16 State and local officials had access to the services that NPPD, CISA could provide to them,
17 ensuring that those services were actually useful and just generally providing value to the
18 community because every day at CISA we had to reestablish trust with the community.
19 There was -- there was no room for error or mistake because they rightfully were
20 highly skeptical of what this partnership could look like, what this designation could look
21 like.
22 So I spent the vast majority of my time at CISA, the entire time I was there,
23 traveling to State and local official offices, conferences, talking, engaging, doing anything I
24 could to understand the risk environment, to understand the support we could provide,
25 and to build trust with the community.

1 Q A couple of times during your answer you mentioned skepticism and
2 concern from people in this space. I don't want to put words in your mouth. It
3 sounded like from State and local election officials. Is that --
4 A That is correct.
5 Q Is that right?
6 Why -- why was there skepticism from these officials about the Federal
7 Government having a potential role?
8 A Sure. So in my experience, there's always rightful skepticism from State
9 and local election officials when the Federal Government's involved in the space.
10 I remember this exact same reaction when I started at the EAC in 2006 when the
11 EAC was created, coming out of the Help America Vote Act of 2002.
12 The State and local election officials, in my opinion, rightfully are very protective
13 of their constitutional role to run elections, and are very skeptical of any Federal activity
14 in and around elections.
15 And so, at the EAC we had to demonstrate, for instance, that the voting system
16 testing and certification process was, in fact, voluntarily, right, that there was no intent to
17 make that a mandatory process for them. But, instead, it existed for them to take and
18 use in whatever way they see fit.
19 The State of Ohio has their own Board of Voting Machine Examiners that uses EAC
20 results, but then also does their own testing. Other States take and use EAC certification
21 completely. Other States ignore it and don't use it at all. Right?
22 And so, that kind of -- that same kind of approach was critical as we looked at the
23 critical infrastructure designation and ensuring that they understood that they were the
24 system owners and operators. They managed the risk. They understood the process
25 and were constitutionally empowered to run an election.

1 And our job was to support them, to make sure they had the information they
2 needed to manage risk, to understand the threat environment, and to secure the people,
3 processes, and systems needed to run the process.
4 And so, I mean, I remember vividly then-Secretary of State Brian Kemp, who I'd
5 known for quite some time, now Governor Kemp, accusing DHS of trying to hack them in
6 and around that designation time and in and around the election.
7 That was the trust deficit we were operating in when I walked into CISA in 2018.
8 Q You mentioned in your previous answer part of your efforts were convincing
9 the State and local officials that any help was voluntary, they had the option.
10 Was there a fear then, based off what you were hearing from the State and local
11 officials, that just practically it wasn't voluntary, that there was a either -- I don't want to
12 put words in your mouth. Is that -- was that -- spell it out a little bit more. Was that
13 what the fear was?
14 A Yep, absolutely. It was either that it wasn't voluntarily, that, in fact, critical
15 infrastructure meant some sort of regulations. It doesn't. But, you know, it behooved
16 us to constantly engage, to talk about what it did mean.
17 There was concern about, even if it was voluntary, that it would become sort of
18 obligated through, what, actions, right, as other States used it, would there be pressure
19 put on, a very legitimate concern, something we had heard at the EAC about the Testing
20 and Certification Program many times.
21 And so, again, you know, then Republican Secretary of State of Indiana, Connie
22 Lawson, referred to it as an arranged marriage at one point, right, where it was like, okay,
23 like, we're going to give this a go. But every day we're going to make sure that you're
24 doing this in a way that supports us and empowers us, not in a way that dictates to us,
25 right?

1 And so, the work for us was all about understanding and supporting the risk that
2 they were managing across 8,800 election jurisdictions in the United States, right? And
3 everyone is different. Every State is different. Every county, township, city, they're
4 different.
5 And so, really digging in and understanding that was my job. That was my job to
6 do that, and the fears they had, or anxiety they had, was not new to me. I recognized it.
7 I shared it when I was in Ohio, right, as Deputy Elections Director and working in Secretary
8 Husted's office.
9 And so for me, it was really about supporting a community that I knew deeply.
10 Q From the perspective of the State and local officials, what were some of the
11 ways that the Federal Government could apply pressure or create a situation where it felt
12 like an obligation to work with the Federal Government in this space?
13 A So I don't know -- outside of fear of regulations, right, that was a big -- big
14 concern, I don't know that they had specific actions other than voluntary becoming
15 involuntarily, whatever -- whatever that would mean.
16 And so the actions we took, the way that services -- and this is true, by the way,
17 across all of critical infrastructure for CISA, right? This is not unique to elections. CISA,
18 in providing services and being the risk areas of critical infrastructure, it's all voluntary.
19 It's all support. It's all based on partnership. It's not based on regulation, with the
20 exception of one sector that I didn't work in.
21 And so their -- their concerns were just a, I think, a general concern of does this
22 grow into a Federal overreach, and more importantly, we're going work you with to
23 ensure it doesn't grow into a Federal overreach.
24 [redacted]. Which sector?
25 Mr. Masterson. I believe, the best of my recollection, the chemical sector has

1 some regulatory component it to but I don't -- I don't know it.

2 BY [redacted]:

3 Q During this -- so let me make sure I have the timeline correctly. End of

4 2016, beginning of 2017, elections are declared a critical infrastructure. Is that right?

5 A January of 2017.

6 Q Great. So starting from that time up until you joined CISA and then once

7 you're at the agency, when you're hearing feedback from State and local officials, did any

8 of it concern -- concerns related to speech or misinformation, disinformation,

9 malinformation?

10 A Yes. So one of the concerns for the community, generally, were narratives

11 targeting the trust in the process that they administer, right?

12 So, I remember vividly 2018, 2019, Secretary of State Mac Warner, in West

13 Virginia, engaging with us heavily, and then eventually going around the State of West

14 Virginia and to other States, talking about how adversaries, Russia specifically, would

15 attempt to undermine your confidence in the election process and the steps you as a

16 voter, you as an election official otherwise could take to be resilient to those attempts.

17 He had an entire PowerPoint presentation he would give on this to his voters

18 about, you know, sort of preparing for those possible narratives, and understanding the

19 process and understanding how your vote is counted and audited and all of those things.

20 I mean, in my work at CISA, that was part of the concern. And the work we did

21 with State and local election officials to secure the systems, to improve the resilience, to

22 share threat intelligence, in part, was to empower them to have those conversations with

23 their voters about the security and integrity of the process.

24 Q Whether you were at EAC or at CISA, when you're hearing feedback from

25 State and local officials, we discussed concerns about what the Federal Government's role

1 would be. There was concerns about influence operations.

2 Were there any concerns about the constitutional implications of having the

3 Federal Government play a role related to issues concerning speech?

4 Ms. Christian. When this is, [redacted]?

5 [redacted]. Anytime during Mr. Masterson's tenure at EAC or at CISA.

6 Mr. Masterson. Not that I recall regarding speech. It was about the State and

7 local role, constitutionally empowered role to run elections.

8 BY [redacted]:

9 Q When you were at CISA, who did you report to?

10 A I reported to Emily Early.

11 Q And who is she?

12 A I believe she was the Chief of Staff.

13 Q To the director?

14 A Yes.

15 Q And how many people did you have reporting to you?

16 A None.

17 Q Did you work with Brian Scully while you were at CISA?

18 A I did.

19 Q And who is Mr. Scully?

20 A Currently?

21 Q During this time, I believe, while you were at CISA.

22 A So to my recollection, he held several roles. I think he actually worked in

23 Infrastructure Protection when I started there, though I'm not positive exactly. At some

24 point, he worked for the lead of the Foreign Influence Task Force, and then eventually led

25 the Foreign Influence Task Force.

1 Q Is that the Countering Foreign Influence Task Force, the --

2 A Yes.

3 Q -- not the FBI's foreign --

4 A Yes, yes, apologies for that.

5 Q So for the -- is there an internal acronym, the CFITF? Or what would you

6 call it when you were at CISA?

7 A Man, I think we called it the CFI team, if I recall correctly.

8 Q For the -- what is the CFI team or what was if it's different now?

9 A I don't know if it's different now. When I was there, what I recall is the CFI

10 team was created by then-Secretary Nielsen, Kirstjen Nielsen, in response to the Russian

11 activity in 2016, and the sort of overwhelming congressional expectation that we, the

12 USG, would be better prepared if a foreign government attempted to interfere in our

13 elections including through information operations.

14 And so my understanding of their work, not working -- I didn't work within the CFI

15 team. My understanding of their work was to coordinate with other Federal agencies

16 around foreign influence operations targeting our election.

17 Q What were your day-to-day responsibilities while you were at CISA?

18 A Again, the vast majority of my time was spent on the road at State and local

19 election official conferences, meeting with State and local election officials, building trust,

20 understanding the risk environment. If I wasn't traveling, I spent a great deal of time

21 engaging the interagency about how elections are run in the United States, the

22 differences.

23 When I was at the EAC, and then in CISA, it was clear that the Federal

24 Government, in general, with the exception of the EAC, did not understand how elections

25 operate in the United States. They hadn't done a lot of elections work.

1 I remember vividly in August of 2016, as an EAC commissioner, being called into a
2 meeting with a number of Federal Government agencies where, I believe, ostensibly, they
3 were going to talk to us a little bit about the activity targeting election infrastructure.
4 We didn't have clear answers at the time. So what could be shared was limited.
5 But the meeting that was supposed to be 30 minutes turned into a 3, 3-1/2-hour meeting
6 of us, myself, representatives of the National Association of Secretaries of State, National
7 Association of State Election Directors, other EAC personnel and employees, walking
8 them through how elections are operated in the United States, because they did not
9 understand sort of the posture of elections in the United States.
10 And so that, you know, that one meeting didn't bridge that gap, right? And so
11 there was a lot of work to be done, working within the interagency, and then briefing Hill
12 staffers, Members of Congress about the work we were doing.
13 We did dozens of briefings to staff and Members, both publicly and privately,
14 about the work we were doing and how we viewed the rest of the systems.
15 Q You said that you didn't have anyone reporting to you. Were you a part of
16 a team, or were you operating more or less on your own? This is during your time at
17 CISA.
18 A Yeah, so when I arrived at CISA, there was the -- I think it was called the
19 Election Task Force, ETF. That was already formed and sort of running, coming out of
20 2017, right, and the critical infrastructure designation.
21 Obviously, administrations had changed by that point. So you had gone from
22 one administration to the other, and I was brought in as a political appointee in the
23 Trump administration to lead the election security work.
24 And so my, first team that I worked with was the Election Task Force, but they did
25 not report to me because I was a political appointee in the Trump administration, and so

1 could not have direct reports that were not political.

2 And then, it became the Election Security Initiative, or ESI, at some point in my

3 time. And my perception of the name change or importance of the name change is it

4 moved it from, you know, a quasi, sort of, temporary task force that had people detailed

5 to it to having full-time employees and a full-fledged initiative within at that time NPPD

6 and then CISA.

7 Q By 2020, how big was ESI?

8 A I don't recall an exact number. If I had a range, I would say eight to twelve

9 maybe. I really don't recall the exact number. And the part -- part of the reason I

10 don't, for what it's worth, is a big part of our job as a team was to work across CISA within

11 the various division to ensure that we were supporting election officials.

12 And so, the reason I sort of pause on the number is at times we would have

13 people from other divisions working directly with us to accomplish a tabletop exercise,

14 right, for the entire community. And then those folks would remain with their exercise

15 team, but for me, they were part of the team in that time period.

16 And so it's hard for me to put an exact number because we might be working with

17 Vulnerability Management for a while and the exercises team and folks like that, the

18 regional teams, right? So that's the best guess I have on numbers.

19 Q For some of the other teams that would work with ESI, would that include

20 the CFI team?

21 A It would. We -- we would, what, coordinate with them, be in the same

22 meetings with them because it was all geared around protecting the election. And so, I

23 recall when the, what, in 2018, when I, either when I arrived, or close to when I arrived,

24 having the CFI team, you know, join meetings, things like that.

25 Q And just to clarify, for ESI, by 2020, are you the head of this team, a member

1 of this team?

2 A So it's a little bureaucratic. So I apologize for that.

3 I was not the head of the team, because I wasn't allowed to manage the folks in

4 the team. Geoff Hale was ostensibly the head of the team, but I led all of the work, set

5 the priorities for the election security work that we did.

6 Q And who is Mr. Hale?

7 A He was, what, the -- I don't know his exact title. But I was the lead for the

8 nonpolitical staff on the ESI team, and he had previously worked on -- he was part of the

9 ETF when I arrived in 2018.

10 Q ETF being the Election Task Force?

11 A Yes, sir. Sorry.

12 Q And had you worked with Mr. Hale prior to joining CISA?

13 A Yes, yes, I knew Mr. Hale. He was not the lead for the work that was being

14 done there, but he was one of the folks working on the issue.

15 Q Do you know what his current role is?

16 A I don't know his current title or position.

17 Q Do you know where he's -- who he's employed by?

18 A My understanding he's still employed at CISA.

19 Q What about Mr. Scully? Do you know what his current role is?

20 A I don't know what Mr. Scully's current role is.

21 Q Do you know if he's still at CISA?

22 A Honestly, no, I'm not sure if he's still at CISA or not.

23 Q Do you know who [redacted] is?

24 A I do.

25 Q Who's that?

1 A [redacted] in my experience and time at CISA was a junior staffer that
2 helped support the team, so schedule meetings, ensure that, you know, we were
3 coordinated, things like that.
4 Q Do you know who Robert Shaul is?
5 A I do.
6 Q And who's that?
7 A In my time at CISA, he was a staff member of the Foreign Influence Task
8 Force or -- sorry -- the Countering Foreign Influence Task Force.
9 Q Do you know who Kim Wyman is?
10 A I do.
11 Q And who is she?
12 A Wow. So Kim Wyman's someone I've known for almost 20 years. She
13 was a former local election official in the State of Washington that became the Secretary
14 of State of Washington, Republican Secretary of State. For many years, I worked with
15 her in all of my roles. And then left to being Secretary of State of Washington to
16 become the, you know, the ostensible lead of the Election Security Initiative in CISA after
17 my departure.
18 Q Did you have any role in helping find or pick your successor in this role?
19 A From what I recall, I was -- I was asked. But I don't -- I didn't have any
20 formal role. I was not part of any interview process. I did not make a formal
21 recommendation for her hiring. From what I recall, I was asked if there was anyone I
22 thought would be good.
23 Q And did you think she would be good for this role?
24 A Yes.
25 Q Do you know who [redacted] is?

1 A I do.

2 Q And who is he?

3 A At my time at CISA, I believe -- this is the best of my recollection because he

4 had several positions. So I may have this wrong. I think he was worked in

5 Infrastructure Protection for some time while I was there, and then at some point,

6 worked in the Countering Foreign Influence Task Force, CFI.

7 Q Do you know [redacted] is?

8 A I do.

9 Q Who is she?

10 A She was -- I don't know her exact job title, but she was -- it's -- I chuckle only

11 because technically I'm not allowed to say, like, chief of staff. That wasn't her role or

12 title.

13 But she was sort of the -- the one that kind of organized and kept us all going,

14 handled things like hiring into the team, managing the team day to day on many issues,

15 not all, as far as, like, managing, like, ensuring we're in the right places and -- and, you

16 know, attending the right meetings and meetings were covered, and getting us organized,

17 as well as handling much of the bureaucracy that comes with working within the Federal

18 Government.

19 Q I know you said you didn't have anyone directly reporting to you. And

20 whether that's because of you were a political appointee or regardless of the reason, did

21 have you a primary deputy or assistant or someone that would assist you day-to-day with

22 what you were doing?

23 A I did not have an -- that's -- so I -- there were executive assistants that came

24 and went to support the team. They weren't directly -- and I don't even mean from a

25 management standpoint. They were not directly assigned to me and I did not really

1 use -- it was infrequent I would say that I had someone like that.

2 Q And, again, I think, so just to make sure we're clear, you were never part of

3 the CFI Task Force. Is that right?

4 A No.

5 Q Do you know who was responsible for determining who would be part of the

6 CFI Task Force?

7 A When?

8 Q During your time at CISA.

9 A I don't -- I don't really know how assignments to the task force were made.

10 I mean, I knew who was leading the task force at any given time, but I don't know how

11 personnel decisions within the task force were made.

12 Q And who were the leaders of the task force during your tenure at CISA?

13 A To the best of my recollection, it started with Dan Sutherland, I believe, is

14 who Secretary Nielsen appointed to lead the task force.

15 At some point, I don't recall when, I believe Nate Blumenthal became the head of

16 the task force. And then at some point -- again, I don't recall the timing -- I believe Brian

17 Scully became the head of the task force.

18 Q By 2020, do you recall how big the CFI Task Force was?

19 A I don't.

20 Q Do you recall if it was bigger or smaller than ESI?

21 A I don't recall. If I had to guess, it would be smaller. But I don't recall.

22 Q Who was your primary point of contact for the CFI Task Force?

23 A It changed over time. So it went from Dan to Nate to Brian.

24 Q Were you ever asked to join the CFI team?

25 A No, not that I recall.

1 Q To your understanding, did the CFI team's work relate to mis-, dis-, and
2 malinformation?
3 A Yes.
4 Q How so?
5 A Again, my understanding of their mission and work was to anticipate work
6 across the Federal Government, to ensure that we were, what, prepared for possible
7 foreign -- attempts by foreign adversaries to interfere in the election.
8 What that meant day to day for them, I don't know, but that -- generally, I think
9 their mission was based around that in response to the 2016 election.
10 Q Did the CFI team's work, was any of it domestic-facing?
11 A I mean, not that I know of. The focus, obviously, was countering foreign
12 influence, per the name. Some of the products that they produced around, you know,
13 general mis-, dis-, or -- yeah, like, the products that were up on the website were just
14 general, right? They weren't focused on any content at all. They were around things
15 like thinking before you link or reading beyond a headline, not content specific or actor
16 specific.
17 Q Do you recall anything that was content specific that related to domestic
18 actors?
19 A Can you define "content specific" at least in the context of this question?
20 Q Sure. So I was referencing your previous response.
21 A Sure.
22 Q You mentioned content. You mentioned actors. Process, it's good to
23 make sure we're using them the same way.
24 To your understanding, as you were using it in your response, what did you mean
25 was the difference between content and actors?

1 A So it didn't -- actors would be a product that focuses on the, for instance, as
2 an example, the tactics and techniques that a given actor -- Russia, China, Iran -- might
3 use to either execute an influence operation or support one.
4 Content specific, at least, in my view would be focused on a specific piece of
5 content, right, whether that's an article, post, whatever the case may be.
6 Q Did the CFI team work on products related both to actors and content?
7 A Actors, yes. So, for instance, the pineapple on pizza products that was
8 created took a controversial issue, I guess we'll say, that being whether pineapple belongs
9 on pizza, to use as an example to show how the steps a -- in particular, specifically, a
10 Russian campaign might take to influence. So that's an example, right, where it very
11 specifically on the product talks about Russian tactics.
12 I don't recall a content specific, like a product focused on specific pieces of
13 content. I can't say for sure, but I don't recall that being part of their work.
14 Q You were talking earlier about the different terms, misinformation,
15 disinformation, malinformation. You mentioned intent with respect to disinformation
16 and malinformation, and intent would imply an actor.
17 Regarding the CFI team's work related to misinformation, how would that work
18 apply to an actor? I'll start -- stop there first.
19 Mr. Leland. Can you restate that question?
20 BY [redacted]:
21 Q Sure. Take one step back. We covered this. But to your knowledge, the
22 CFI team worked on disinformation, misinformation, and malinformation issues. Is that
23 right?
24 A To my -- I mean, as I described before, to my knowledge, the CFI team
25 focused on foreign influence, the threat of foreign influence in our elections process,

1 right? That was my experience with the CFI team. That may include the use of mis-,
2 dis-, or mal-.
3 But they're focus, their work as I understood it was to understand the risk and
4 coordinate with other Federal agencies to manage that risk within the elections process,
5 whatever that meant.
6 Q Okay. And understanding that risk, are they looking only at actors? Are
7 they looking at both actors and content?
8 A I don't know exactly how they approached it, except in my experience there
9 was -- there was a focus on tactics and techniques, not -- not content, right?
10 Again, using the pineapple-on-pizza product is kind of the simplest example I can
11 give you. That wasn't specific to any known piece of content. I don't know that
12 Russia's taken a position on pineapple on pizza for sure. But the focus was on what are
13 the tactics and techniques that played out there.
14 So that's -- that's an example of sort of how they, you know, attempted to engage
15 or educate around that.
16 Q And what sort of tactics and techniques would use misinformation?
17 A I don't know. That -- that wasn't a focus of my work. I'm sure there are
18 products that may have been produced by the team around that, but it wasn't a focus of
19 the work I did.
20 Q During your tenure at CISA, did the scope of the CFI team's work change?
21 A I don't know.
22 Q So were your interactions with the CFI team consistent during your tenure at
23 CISA?
24 A Generally, yes. I mean, the -- it depends what you mean by consistent.
25 They were consistent in that we worked together. We understood, you know, the

1 community together. I didn't notice any change in the way we operated together or the
2 work that we did together throughout my time at CISA.
3 Q To your knowledge, did any entity within CISA have the responsibility to
4 work on countering mis-, dis-, and malinformation as it related to content?
5 A I don't -- I don't recall that being a mission for anyone within CISA but I don't
6 know for sure. That certainly wasn't the focus of my work and the work that I did with
7 the community.
8 Q Regardless of whether it was part of the stated mission or not, are you -- do
9 you know whether anyone at CISA, any entity within CISA, was working to counter mis-,
10 dis-, and malinformation as it related to content?
11 A I mean, I don't know, because I don't -- I'm hung -- I apologize.
12 I'm hung up on the word "countering" in relation to con -- I mean, again, as I said,
13 my understanding of the countering -- Countering Foreign Influence Task Force job was to
14 anticipate and be prepared to, in coordination with the State and local election officials in
15 the USG, to counter a possible foreign influence operation and that -- so in my -- let me
16 give you an example. That may be helpful.
17 In my experience in the 2020 election, part of the role that both my team played
18 and the CFI team played around the Iranian activity, so in the 2020 election Iran targeted
19 our election with attempt to interfere both on the cyber side, so targeting election
20 systems, similar to what we saw from Russia, as well as narratives.
21 They sent emails to voters, purporting to be from the Proud Boys, saying, We
22 know how you're going vote, you know. There are consequences for that, right, trying
23 to intimate, trying to target them.
24 Our team, the CFI team, the whole of USG, working with State and local election
25 officials who reported that activity and, Hey, our voters are receiving these emails, within

1 24 hours was able to respond, counter that activity by, one, engaging the election officials
2 and alerting them to that activity; two, holding a press conference where the FBI Director,
3 the National Security Advisor, and Director Krebs briefed the public on this activity, right,
4 and, you know, countered it, right, publicly exposed it, and ensured that the American
5 public understood the facts around that activity.
6 And so that -- that, to me, is, you know, it was countering foreign influence,
7 including the specific content related to the emails that were sent to voters, right?
8 So that's an example of the type of activity that I saw that countered those Iranian
9 attempts to interfere in the election.
10 Q Are you familiar with the FBI's Foreign Influence Task Force?
11 A I am.
12 Q And to your understanding, what is their mission?
13 A I don't know their specific mission. My interactions with the FITF were
14 limited to their participation in meetings that I was also in, and, you know, attending
15 briefings with them, things like that. And so, I don't know their specific mission.
16 I mean, I take their name for what it's worth. I think their specific mission was to
17 identify and counter foreign influence, specifically in my experience in elections, but I
18 don't know their specific mission.
19 Q To your knowledge then, what was the difference and the responsibilities of
20 the mission between the FBI's Foreign Influence Task Force and CISA's Countering Foreign
21 Influence Task Force?
22 A So I don't know, again, because I don't -- I don't fully know what the FITF
23 mission was.
24 In my experience, I mean, this is the most obvious statement. There's law
25 enforcement involved when you have the FBI involved. I don't know sort of how that

1 was leveraged specifically within the FITF, but that's the largest difference that I would
2 identify is that the FBI obviously has a law enforcement capability that CISA has no
3 responsibility for, role for.
4 So that, to me, would be the largest difference.
5 Q To your knowledge, do you know which came first, the FBI's or CISA's?
6 A I do not.
7 Q Do you recall, during your tenure at CISA, whether anyone was concerned
8 that CISA's CFI team's work was duplicative of what the FBI was already doing?
9 A I don't know.
10 BY [redacted]:
11 Q You said earlier that you weren't sure if there was a CISA subcomponent
12 tasked with counting MDM. Is that correct?
13 A If that was their -- I don't remember how the question was phrased, but if
14 that was their primary component. Again, my understanding was that the Countering
15 Foreign Influence Task Force was focused on countering foreign influence, which may
16 include mis-, dis-, and malinformation.
17 Q Was there a CISA subcomponent that was primarily responsible, relative to
18 the other subcomponents, for the assessment of MDM, rather than countering?
19 A What do you mean by assessment of MDM?
20 Q That could be anything from sort of monitoring or, you know, determining
21 the truth of certain narratives or anything of that nature without actively countering it.
22 Sort of in a general sense, was there a subcomponent most responsible for handling or
23 assessing MDM?
24 A I mean, I don't -- certainly don't recall -- I don't know the full activities of the
25 Countering Foreign Influence Task Force, that team, to know. Certainly, I would -- my

1 experience would be that they played some sort of but not -- I don't recall them, for
2 instance, monitoring activity. That was not something I understood or experienced in
3 their role, but --
4 Q Were there other CISA subcomponents that played any sort of
5 MDM-adjacent or MDM-facing role?
6 A Not that I recall. It's possible.
7 BY [redacted]:
8 Q Are you familiar with the term "switchboarding"?
9 A I am.
10 Q What does it mean?
11 A Within my experience at CISA, it was a process for me by which if I received,
12 which only happened a handful of times, a small number of times, if I received reporting
13 from State or local election officials about activity, narratives targeting the process that
14 the trusts or veracity of the process, for me, switchboarding meant forwarding any of
15 those reports on to Brian and team who then had a process to share that with social
16 media platforms.
17 Q When did that process first start?
18 A I don't know. I don't know when that first started happening.
19 Q Did you join CISA prior to the 2018 midterm election?
20 A I did.
21 Q Was switchboarding occurring prior to the 2018 midterm election?
22 A Honestly, I don't remember. I -- it's possible but I do not remember
23 whether or not it took place leading up to 2018.
24 Q Do you recall who first at CISA told you about -- actually, let me strike that.
25 While you were at EAC, were you familiar at all with the process of

1 switchboarding?

2 A I don't recall hearing that term in my time at the EAC. My pause is only

3 that in my time at EAC, 2016 specifically, there were certainly concerns that I heard from

4 State and local election officials about narratives targeting trust in the process and sort of

5 how to handle that.

6 But I don't recall the term "switchboarding" being used in my time at the EAC.

7 Q What about the process being used, maybe under a different name, but as

8 far as passing along these concerns that are then passed along to the relevant social

9 media companies?

10 A Not that I recall. I don't know.

11 Q Do you understand, was switchboarding used prior to the 2020 U.S.

12 election?

13 A Yes, I recall at least some of that activity prior to 2020.

14 Q And who at CISA had primary responsibility for managing the messages

15 being sent to social media platforms?

16 A Again, my experience with the process was if I received, on the limited

17 number of occasions that I did, information from State or local election officials, in my

18 experience I shared it with Brian to put into the process.

19 So I don't know from there sort of who or what did -- you know, executed the

20 process. I just know I sent it to Brian.

21 Q What sort of processes did you have in place regarding when it was

22 appropriate to send a message from a State and local officials on to Brian?

23 A My instruction for the process was, if I received reporting from any State or

24 local election official, to share it into the process, that there was not discretion used by

25 me to determine just if you receive it, share it.

1 Q So you wouldn't look at what the State or local official was saying and
2 conduct your own analysis first. Is that right?
3 A That's correct.
4 Q When the State and local official is sending you a concern, a report, is the
5 message that's being sent, does it identify concerns related to who the actor is behind the
6 post?
7 A I don't recall specific messages, to be honest. It may have. It may not
8 have. I don't -- I don't know. I just knew, if I received something from State or local
9 officials, to share it into the process and it would move from there, whatever needed to
10 happen.
11 Q Were there ever instances where a State and local official was flagging
12 something, or they didn't know who the actor was, didn't know if it was foreign, didn't
13 know if it was domestic, but they were saying the post here is wrong, it's factually
14 incorrect, it relates to elections, and so it was just content focused and they were passing
15 that along to you?
16 A Again, I don't recall specific messages. That is possible, but I don't -- I don't
17 remember sort of what was sent to me in that timeframe.
18 Q What about with respect to Brian? Did -- once he receives the
19 forwarded -- I assume this is taking place over email. I shouldn't assume. So is this
20 taking --
21 A That's my --
22 Q -- place by email?
23 A That's my understanding, yes.
24 Q So when you received the -- or when he receives the email that's been
25 forwarded from you, does he then conduct any sort of analysis regarding the message

1 itself?

2 A I don't know for sure. My understanding of the process for myself and the

3 team was that there was no analysis to be conducted, that you receive a message, you

4 pass it on. That was my understanding and my experience with the process.

5 Q So your understanding is that a State and local official would send a message

6 sometimes to you. You would not conduct any analysis of the underlying message,

7 forward it to Brian Scully. He, likewise, would not conduct any analysis of the underlying

8 message and then direct it to what CISA understood to be the appropriate party, the

9 relevant social media platform?

10 A Again, I didn't run the process. But that was my understanding and

11 experience with the process, yes.

12 Q Did you ever have any conversations with Brian Scully about

13 switchboarding?

14 A I don't recall a specific conversation with Brian, but I was certainly in

15 meetings in which it was discussed. But I don't recall a specific switchboarding

16 conversation with Brian.

17 Q You left CISA at the end of 2020, went to Stanford, then to Microsoft. To

18 your understanding, did CISA engage in any switchboarding efforts prior to the 2022

19 midterm election?

20 A I don't -- I don't know.

1

2 [11:01 a.m.]

3 BY [redacted]:

4 Q Once you're at Stanford, or during your tenure now at Microsoft, did you

5 ever engage in switchboarding to the extent you would either flag posts directly or you

6 would receive a post from State and local officials that would send it to you and you

7 would send to CISA?

8 A I don't recall -- I don't recall doing that at either Stanford or Microsoft.

9 Yeah, that was not part of my job at either one of those places. So I don't recall doing

10 that, no.

11 Q Do you know whether CISA engages in switchboarding today?

12 A I do not.

13 Q Do you recall anybody within CISA raising concerns regarding the process of

14 switchboarding during your tenure at CISA?

15 A I don't recall the specific conversation about that. I recall being in meetings

16 with the lawyers about the process generally, but I don't recall anyone specifically, any

17 specific conversation raising those concerns. It was more conversations about how the

18 lawyers were thinking about it.

19 Q You mentioned many times, obviously, you were previously a State and local

20 election official.

21 A Just State, never local.

22 Q Previous State official, and engaged with State and local officials in a number

23 of roles. During your tenure at CISA, while this switchboarding process is ongoing, to

24 your understanding, did the State and local officials understand the switchboarding

25 process, insofar as, if they send something to CISA that ultimately it would get its way to

1 the appropriate social media platform?

2 A So in my limited experience receiving, right, reports, I don't, I think their

3 understanding was that was the expectation. I don't know that they understood sort of

4 how the process might or might not work and whether there was sort of a expectation or

5 guarantee that it would get to the platform or not. I think they, at least in my

6 experience, knew that if they shared it with me, we -- that the team at least knew the

7 social media platforms. I don't know, I don't remember anyone expressing an

8 expectation of this must go, or something like that. It was just, we know we can share

9 them with CISA.

10 Q To your understanding, how did this process first start, insofar as, State and

11 local officials have concerns regarding these posts, or whatever else it might be with?

12 When did it first start where they realized that CISA can be a resource in getting those

13 reports ultimately to the social media companies?

14 A Again, I don't recall the timing of sort of when it started. You can tell me a

15 time, and I would say, okay, that seems right. I really don't recall. From my

16 experience, with this, has been or was that State and local officials coming out of 2016

17 into 2017, then when I get to CISA in 2018, but I was hearing it -- again I was hearing it at

18 the EAC even in 2017 -- became increasingly concerned about the information

19 environment that they were operating in and were experiencing -- election officials, in my

20 experience, my entire career faced blow-back, criticism, after every election, right? No

21 one like to lose. I don't like to lose either.

22 But starting really in 2017 and sort of building from there, election officials were

23 expressing to me, right, as I interacted with the community, an increasing weariness and

24 fear that the information environment was going to impact the people, process, and

25 systems that they administered. That they were worried for themselves, they were

1 worried for their personnel, they were worried someone might do something to their
2 warehouse, to their voting systems, and it was growing in concern. And so my
3 experience is that increasingly they needed or felt disconnected or an inability to connect
4 with the platforms that were, you know, they were experiencing these narratives from
5 and were desperate for any avenue to pursue that might help alleviate this risk that they
6 were feeling to the people processes and systems that they administered. So that
7 doesn't answer your timing questions, because candidly except for, in my experience,
8 2017 building from there, this became -- I mean, the number of election officials in 2018,
9 2019, 2020, that would say to me the biggest risk now is not any individual, you know,
10 cyber actor; it is the doubt, distrust, and dissent around the process and the targeting
11 that we are receiving, right?
12 They were worried about the information environment and didn't -- felt like they
13 were just yelling into a chasm because their voices were so limited. They're small, right?
14 They're small. And so that was my experience as information got shared or as the
15 community assessed risk was that they were used to -- and I can't stress this enough.
16 This is a tough community. They do not mind criticism and do not back down. And
17 they were sounding the alarm in a way that I had not experienced before.
18 [redacted]. Can we go off the record, please?
19 [Discussion off the record.]
20 EXAMINATION
21 BY [redacted]
22 Q All right. It is 11:16, we can go back on the record.
23 Mr. Masterson, and thank you again for joining us today. Before we get too far
24 down my line of questions, I want to start with just some definitional questions. There's
25 been some -- a fair amount of discussion today or a fair amount of usage of the term

1 election community and election workers.

2 Can you just describe what's your understanding, or what would your definition

3 be of who -- what is the election community? Who are the election workers?

4 A Sure. And I apologize for not being more specific when I use those terms.

5 Because for me that's the community that I've worked in and built my career with. And

6 so for me the community is State and local election officials, certainly poll workers, and

7 those that helped administer the process, the private sector companies that support

8 State and local election officials.

9 So voting machine, voter registration, electronic poll book providers. And then

10 those that -- of us that work in support of them, right? I certainly viewed my assistant

11 team, the EAC team as part of the election community as well.

12 Q And with respect so the election workers, specifically still thinking about the

13 poll workers, for example, in a lot of cases, are those positions volunteer?

14 A It depends State by State, which is the answer all the time in elections. So

15 most States will pay, it is not very much pay, and it is an incredibly long day, some places

16 there are volunteer opportunities, including for high school or college students. So it

17 just depends.

18 Q And even thinking about the paid positions, though, that's generally not a

19 full-time career, right; it's more of like a stipend for the work that they do?

20 A Yes, correct. It's a day's pay. And, again, it's not very much. It will buy

21 you a cup of coffee and a meal at the end of a long day.

22 Q Okay. You were asked about the Election Security Initiative in the earlier

23 hour. Just briefly, who decided to kind of stand up the Election Security Initiative as a

24 standalone entity?

25 A My recollection is that that was Director Krebs' decision. It may have gone

1 higher than that, but I don't recall.

2 Q And Director Krebs was a Trump appointee, correct?

3 A That's my understanding, yes.

4 Q Why was the Election Security Initiative needed to the extent that you

5 recall?

6 A So my recollection is -- again, I think as I said before that there was a task

7 force and when a arrived at CISA in 2018 or NPPD. And the task force was temporary

8 assignments, right, detailees. And so my understanding of the standing up of the

9 initiative was to take it from a temporary task force detailee to having permanent

10 employees dedicated to the election mission, which would be consistent with how CISA

11 would handle areas of critical infrastructure. Generally, it's a little bit unique because

12 elections is the sector-specific agency for the election security work. And so there's

13 additional responsibilities that come with being the SSA that if you're not, you wouldn't

14 need as much personnel.

15 Q And can you just briefly describe what those additional responsibilities are?

16 A Yeah, so you administer the Government Coordinating Council, the Sector

17 Coordinating Council. There's additional responsibilities in coordinating the,

18 community, bringing the community together when you're the sector-specific agency.

19 Q Okay. You were asked in the earlier hour -- or I think maybe you

20 mentioned it yourself that election security was designated as a critical infrastructure

21 subsector by Secretary Johnson, correct?

22 A Correct.

23 Q So that would have been under the Obama administration, correct?

24 A Correct.

25 Q Do you have an understanding of why that decision was made?

1 A As I recall, the decision was made in sort of response to the Russian attempts
2 to interfere in the 2016 election by targeting State and local election systems. So, you
3 know, the Senate intelligence report following the 2016 election details, scanning or
4 probing of what the Federal Government assessed to be all 50 States by the Russian
5 Government in a limited number of cases actually accessing for the registration data from
6 voter registration databases. And so while I, you know, was not privy to the
7 decisionmaking process, my understanding was that it was to bring the additional support
8 that being in an area of critical infrastructure like the other sectors and subsectors to
9 elections.
10 Q And do you have an understanding of why election security, specifically, was
11 deemed important enough to be designated as a critical infrastructure subsector?
12 A I mean, as I recall Secretary Johnson issued a statement and sort of outlining
13 the importance of protecting the people -- processing systems that underlie our
14 democracy. But I don't recall the exact words he used.
15 Q And then throughout your time with CISA, you served under Secretary
16 Nielsen, correct? You started out starting under Secretary Nielsen?
17 A Correct. I started out serving under Secretary Nielsen.
18 Q And Secretary Nielsen was a Trump appointee, correct?
19 A That is my understanding, yes.
20 Q And then you served under Acting Secretary McAleenan?
21 A McAleenan.
22 Q McAleenan, thank you. Sorry. Correct?
23 A Correct.
24 Q And he was also a Trump appointee, correct?
25 A I don't know -- that's my understanding. But again with the acting role I

1 don't really know how that works.

2 Q But it was under President Trump, correct?

3 A Yes, it was during the Trump administration.

4 Q And then you served under Acting Secretary Chad Wolf, correct?

5 A Correct.

6 Q And Mr. Wolf was also a Trump appointee?

7 A He was part of the Trump administration, yes. Again, I don't know.

8 Q So during your time with CISA, to the best of your recollection, did any

9 Trump DHS appointees from the Secretary level on down ever suggest rescinding the

10 designation of election security as a critical infrastructure subsector?

11 A Not that I recall, no.

12 Q Okay. So the designation was made -- because I am getting at -- the

13 designation was made by Secretary Johnson, but it was upheld throughout the Trump

14 administration with really no question about it?

15 A Again, it's possible -- in my experience, I did not experience anyone

16 questioning or asking if the designation should be removed, but there may have been

17 discussions I wasn't privy to.

18 Q But not to your knowledge?

19 A Not to my knowledge, correct.

20 Q During your time with CISA, and to the extent that you know today, broadly

21 speaking, what did the election security subsector encompass?

22 A So the election security subsector is defined in the sort of designation. So I

23 may miss some areas. But my understanding of the definition of the election security

24 subsector included essentially the people, the facilities, the systems, the companies that

25 support or run the systems that allow for the administration of elections in the United

1 States.

2 Q Okay. And I am just going to go through a list and just to make the record.

3 So, for example, do voter registration databases and IT systems, would that be

4 encompassed under the elections security subsector?

5 A Yes, that's my understanding.

6 Q And what about kind of the IT systems that a State or local official may use

7 to manage an election?

8 A Yes, that's my understanding.

9 Q What about the storage facilities that would hold a voting machine and that

10 might hold ballots?

11 A Yes, that's my understanding.

12 Q And what about the polling places themselves?

13 A Yes, that's my understanding.

14 Q Okay. You were asked a number of questions about, in the earlier hour

15 about what CISA and the CFI team member, in particular, did to quote, unquote counter

16 misinformation or disinformation. And I want to take a step back. During your time

17 with CISA, was an understanding that disinformation posed a particular risk to this

18 election security kind of sectors that we just talked through?

19 A Yes, I mean, I think, as I described at the end of the last hour, there's two

20 facets to this. One is coming out of the 2016 election and the Russian activity targeting

21 the election offices and narratives, there was a growing concern among election officials.

22 Again, I saw election officials out engaging their voters proactively in a way that I hadn't

23 seen before to educate, to talk about the process. I used Secretary Warner of West

24 Virginia for an example. We literally did a tour of the State and went to other States,

25 including Ohio to talk about this.

1 And that was done because there was a growing recognition, in my experience,
2 from the community I worked within that the ongoing narratives targeting elections were
3 posing a risk to those items, right, the people, process system that underlie.
4 In addition to that, in my experience with the CISA, there was a growing
5 expectation coming out of 2016 from both sides of Congress when we would do briefings
6 to staff, when we would do briefings to Members that we were aware of those risks, in
7 coordinating with the State and local election officials to understand the challenges they
8 were facing around that, and working with or at least knew the social media platforms.
9 Because in 2016, business cards were sort of exchanged in the midst of the
10 challenge. So there was an expectation, in my experience, in these briefings that that
11 would not happen again; that folks would know each other if or when a foreign adversary
12 attempted to interfere again.
13 Q And is it fair to say that there was concern, specifically, that these actions by
14 foreign adversaries to push disinformation or to spread disinformation could undermine
15 Americans' face in the Democratic system?
16 A That was certainly the concern of the election community that I was working
17 with, yes.
18 Q And so is it fair to say that CISA was responding to that concern or felt a
19 need to respond to that concern?
20 A Certainly, the work I was doing was responding to that concern, yes.
21 Q I want to talk about the steps that you, specifically, and CISA more broadly, I
22 guess, took to address this concern. In the prior hour, there was the -- the word
23 "countering" was used. And I think there was some confusion maybe about what
24 countering is. What is your definition of the term "countering"?
25 A So, again, I wasn't a member of that team, so I'm not sure how they defined

1 it within their own mission work, right? To me the work that I did with State and local
2 election officials and the private sector entities that support them was amplify their
3 voices as the trusted voices.
4 What steps could we take to ensure that they had a louder megaphone; that their
5 voters were receiving the information they needed, not just on where to vote, when to
6 vote, how to vote, all very important, but also on the resilience of the process; the
7 security steps that had been taken.
8 I'll give an example. We undertook an effort that we called the last mile within
9 the Election Security Initiative that was geared towards reaching mid to small local
10 election jurisdictions. Against, there's 8,800 of these jurisdictions out there.
11 A State like Wisconsin has 1,800 localities that run elections just on its own. How
12 to do we reach those mid to small that otherwise wouldn't know about the services we
13 were offering? In order to both provide the support that we could provide, but then
14 empower them to message their voters about the steps that they were taking to secure
15 the process, to respond to the, you know, new risk environment that is a sophisticated
16 threat actor targeting their systems, and reassure voters that the process was secure, it is
17 resilient, it was accessible for voters.
18 And so the last mile, not earth shattering, was a poster that outlined specific steps
19 within that given jurisdiction and State that were being taken through a checklist. That
20 as they took those steps, they would check it off, and then kind of outline how the
21 process worked within that jurisdiction; what voting machines were used? Was there
22 post-election auditing? How were those audits administered, canvassing, things like
23 that.
24 The importance of that work wasn't just that we, you know, supported the
25 creation of a poster, but in fact, they would take these posters to county fairs, to State

1 fairs, to libraries to public appearance themselves would make and talk their voters
2 through in a very tangible way the steps they were taking to engage and build out their
3 trust with the community further on the steps they had taken to respond to activity
4 targeting their systems.
5 So that's like a really tangible example of us attempting to empower them and
6 amplify their voices. And then we would highlight the work they were doing through
7 those posters as talk to Congress. Right? We bring the posters with us and talk
8 through it, as we talked to the public, as we did interviews so we were amplifying the
9 good work that they were doing consistently.
10 Q And you used a couple of terms just now. You are trying to give the State
11 and local officials, the election workers a louder megaphone and amplify their voices. Is
12 it fair to say that one way you accomplished your goal was by speaking more or by
13 helping them to have their speech heard.
14 A Yes, I mean I think speaking more -- it threw me off a little bit. I speak a lot
15 already. We aggressively tried to support them and amplify them. And I'll give you a
16 couple of examples.
17 One is going to the State conferences that I would go to, and speaking to them
18 was not just about that trust building that was a big part of it, but it was also -- it allowed
19 me to do -- so I remember going to Iowa with Secretary Pate and doing press with him, so
20 that he could say, you know, here's all the work we've done in Iowa with the 99 auditors
21 of elections, and we're working with the Federal Government to ensure the security by
22 taking advantage of their penetration testing and their scanning.
23 And he is one of the ones that brought that poster to the State fair. So it gave
24 Secretaries of auditors of election the opportunity to really talk about the election
25 security community that we had built. That this wasn't -- because one of the big

1 messages from election officials and us was that no one's in this alone.
2 That we are a community together managing this risk together. No one is asking
3 you, Cheryl, in Jackson County Ohio to thwart the Russians. That is not your job. We
4 can all support each other to do that, right? And so that was a big part of the work we
5 did, yes, with speaking with them, with the media. The other was to promote the
6 incredible work they were doing nationally.
7 So Secretary Nielsen was the first Secretary of Homeland Security to speak at the
8 National Association of Secretaries State Conference in Philadelphia. And at a time
9 when certainly when there was plenty of conversation about Homeland Security, the
10 Secretaries gave her a standing ovation because of the way she amplified the good work
11 that they were doing and talked about the importance of their job, right?
12 That was a really important national moment to highlight that in the midst of
13 coming out of 2016 and the critical infrastructure designation, and items like that.
14 Q Thank you for that. And so there's been a lot of discussion here and in the
15 realms of this investigation about content removal or, you know, taking -- addressing
16 misinformation by taking content down. But I think I what I hear you saying is that, in
17 fact, that wasn't what your focus was; that wasn't something you did; that your focus was
18 really on amplifying voices, on amplifying what the election workers had to say and
19 helping them get their message out.
20 A Yeah, certainly for my work I had no content management responsibilities.
21 My job was focused on the community amplifying their voices, but also ensuring that we
22 were all taking the necessary steps to ensure the process was secure, resilient, and
23 accessible, right? Not just talking about it, but making progress towards a more
24 resilient, secure election.
25 Q And what does that mean to make progress towards a more resilient

1 election?

2 A Sure. This can be a long answer. So coming out of 2016, as I have
3 described previously, there was an immense amount of distrust with the Federal
4 Government with the designation. And so progress started with building that trust, and
5 then ensuring that the lines of communication that were needed to respond to a possible
6 nation state, interference in the election were established, trusted, and exercised, right?

7 So we created the Election Infrastructure Information Sharing and Analysis Center
8 or EI-ISAC. The purpose of an ISAC, in general, within critical infrastructure is to serve as
9 a hub of information sharing with that sector, right? So critical infrastructure, sectors
10 have ISACs, traditionally, that share threat intelligence, risk information, mitigation
11 information, you know, whatever is helpful to manage the risks to the sector.

12 The ISAC was established in 2018. It's sort of the sister ISAC to what's called the
13 Multistate Information Sharing Analysis Center, which was an existing ISAC that helped
14 State and local so county administrators, others, administer their systems, but this was
15 focused on elections. And it was the fastest growing ISAC in all of critical infrastructure
16 in 2018 and 2020.

17 We went from literally zero to -- and my numbers may be a little off from 2018 to
18 2020, but as I recall over a thousand members in the ISAC in 2018, and over 2,000
19 members in the ISAC in 2020. So this means we've now established this hub of
20 information sharing and channels of communication.

21 In addition to that, we worked with State and local election officials and built
22 enough trust that we deployed what's known as Albert sensors. These are open-source
23 intrusion detection centers that are deployed on election infrastructure in this case to
24 monitor for malicious traffic targeting that system and then alerts to known malicious
25 traffic.

1 Q And just to jump in, so that's to put it in laymen's terms --
2 A Sorry.
3 Q -- malicious traffic is if somebody is trying to hack into the machine. Is that
4 fair to say?
5 A It could be, although, I caution a little bit on that because there's traffic all
6 the time that appears malicious that may just be a bot looking to scrape data from
7 website or something like that. Right? And it may still flag, depending, but I wouldn't
8 view it as attempting to hack, right?
9 Q Okay.
10 A But, yes, generally, that's what it's supposed to alert to is to bring about an
11 awareness of possible traffic that's attempting to gain illicit access to the system, right?
12 And so in -- I should note also in 2018 we had all 49 of the 50 States as members.
13 And by 2020, we had all 50 States participating. And to put that in context, all of
14 it, and I'm sorry for going a little long, but we went from a trust environment in which
15 States were literally accusing us of trying to hack them, right, and with very legitimate
16 concerns about approach to an environment in which -- that we were actively sharing
17 information with them, all 50 States were participating, and by 2020, all 50 States had
18 allowed us to work with them to put this intrusion detection system Albert on their
19 infrastructure to look for malicious traffic, right? That is exactly the type of work that
20 we felt we needed to do based on the lessons done from 2016 to management risk.
21 In addition to that, we did things like offer free penetration testing, offer free
22 vulnerability scanning, which is just a remote scan, which is just a remote scan looking for
23 vulnerables, proactively alert to unpatched or outdated systems that they had, physical
24 security. We did over a thousand physical security reviews of election offices across the
25 United States in that timeframe.

1 Our protective security advisors across the United States just worked incredibly
2 hard, right? And so we did national level tabletop exercises in 2018, in 2019, in 2020, so
3 that we could exercise those channels of communication within the Federal Government,
4 within State government, within local government, across the private sector such that if
5 something were to happen, we were confident that, one, we would know, and two, we
6 would be able to respond.
7 And as I have described before, so I won't go into it too much, that Iranian activity
8 targeting the 2020 election is the perfect example of how prepared we were. Within
9 24 hours, we were able to respond, and the election officials could move forward.
10 And it had little to no impact because of that. And so we had built a robust
11 community, and it is a credit to the State and local officials, to private sector partners
12 who the entire time demanded that we validate that trust with them, but were willing to
13 work with us in addition to build a more resilient process.
14 I mean, we had in 2020, 95 percent or so of votes cast on audited paper records
15 that could be audited after the election. That is a significant resilience measure that
16 previously in 2016 it was around 80-something percent. Right? That's a huge increase
17 in resilience.
18 Q And the goal of this resilience was to build trust in the election systems. Is
19 that fair to say?
20 A That was one of the goals, yeah. Certainly, I mean one of the goals is to
21 secure process, right?
22 Q Yeah.
23 A But then to be able to message to voters and make sure they understood
24 that the work that had gone on.
25 Q The Iranian example that you just mentioned, that was the example you

1 talked through in the earlier hour involving the Proud Boys?

2 A Correct.

3 Q To the extent you can get in the setting, and I understand there may be

4 some law enforcement sensitive information, can you talk briefly about how that came to

5 your attention or your understanding of that?

6 Mr. Masterson. Sure, I'll share my experience. That activity has been reported

7 publicly, but I won't get into details, because I candidly can't remember sort of how

8 much. But it became or came to my attention when State and local election officials

9 started sharing into the ISAC and contacting me, saying, our voters are receiving these

10 emails, right? What is happening? And it was, you know, a couple States, maybe

11 three. And immediately we sprang into action. We had practiced, right? We had

12 exercised this?

13 Can you send us the headers on the emails? Can you send us more information

14 that we can take in, we're able to pass the information within the U.S. Government as

15 well as, you know, across the ISAC to really analyze it.

16 It was paired with additional context or information that was available working

17 with the IC and was exposed within 24 hours.

18 So it all started with State and local election officials trusting us and sharing it, and

19 it ended with attribution within 24 hours, which is remarkably fast.

20 BY [redacted]

21 Q And when you say that CISA responded, is that -- was that a specific part of

22 CISA, and which part?

23 A Yeah, thank you. I used the Royal we there. So it started with the

24 Election Security Initiative team. That's where the information came into as well as the

25 ISAC. And then it was across CISA, right? So we have cyber experts that can dig in and

1 analyze.

2 We have a, you know, team connected with the intelligence community to begin

3 to coordinate around that right; get it into the necessary channel to begin the share; as

4 well as regional folks on the ground in those States, right; able to coordinate and connect.

5 So it was a whole of CISA and really a whole of USG effort in coordinator with the

6 State and local election officials.

7 Q You've used the term a couple times building -- resilience we talked with

8 that in a couple different terms of what that means. Does resiliency involve also helping

9 State and local officials to be aware of when there might be disinformation or when there

10 might be something targeting false information targeting their processes?

11 A Less when, in my experience, or at least in the work that I did, in more -- so

12 we spent time -- the community knows, right? The community is experiencing it in real

13 time, right? They see the narratives. They see the questions that are getting into their

14 call centers. Items like that.

15 For us it really was about building awareness about the tactic and techniques that

16 described the pineapple on pizza product, but also building awareness to in red-teaming

17 out sort of the areas of the election that might be most likely to be -- to face narratives,

18 right?

19 So if an election night reporting website is hacked, even if it's just defaced, not the

20 numbers changed, are you prepared to message to your community that, one, that has

21 no impact on the integrity of an election. These are unofficial results and not part of the

22 official certification process.

23 Two, can you respond to get that website back up and running. Three, what are

24 your communication channels to make sure that voters know what that looked like.

25 And so we spent -- in the exercises that we did with State and local election officials, at a

1 lot of time kind of talking about not just what could happen from a physical or cyber
2 perspective, but also how will you communicate about what's going on?
3 I remember vividly in the 2018 election in Knox County, Tennessee, there was a
4 mayoral race in which the election night reporting site went down during the Knox
5 County. And the Secretary of State's office, hospital, the county were all over it and
6 responded. But it got some attention because, initially, the county sort of attributed it
7 to nation State activity, to my knowledge.
8 That didn't prove out to be true. But I remember that because it was an exact
9 scenario we had thought through with them in exercise, which is this isn't even a site
10 being defaced, it just went down. And immediately there are questions with what's
11 happening, why don't we know the results? I also remember that because the winner of
12 the race was WWE Superstar Kane, which is a weird twist of events, who I believe may
13 still be the mayor in Knox County.
14 But anyway that's a relief. Like perfect use case of how, the cyber environment,
15 the information environment could have really headed in a different direction, but they
16 were prepared to communicate. So we spent a lot of time talking about not just the
17 systems, but how you communicate about the process.
18 Q And looking back to the how you would help the election workers build
19 awareness or understand what's going on. I do want to turn to the pineapple on pizza
20 example.
21 A Great.
22 Q We'll introduce that as exhibit 1.
23 [Masterson Exhibit No. 1
24 Was marked for identification.]
25 BY [redacted]

1 Q And I'll give you a minute to look it over. Ready to go?
2 A I am.
3 Q And so I just handed you a one-page graphic entitled, The War on Pineapple:
4 Understanding Foreign Interference in 5 Steps. Is this the pineapple on pizza example
5 you were referring to earlier?
6 A It is.
7 Q And this is dated July 2019, which is when you were at CISA, correct?
8 A Correct.
9 Q Were you involved in the creation of this one-pager?
10 A I was.
11 Q Okay. And can you describe both? Can you describe what it says or what
12 it does?
13 A Sure. So the purpose of this product as, as we worked with the
14 community, if I can use that term again, it became clear to us that one of the things that
15 would be useful or helpful to them as they worked to understand how to prepare, how to
16 mitigate the risk of information operations was to lay out what a campaign looks like,
17 what an information operation, how it might play out to understand the tactics and
18 techniques used.
19 And so the purpose of this is to take what I think is a relatively noncontroversial
20 issue, though, I have strong feelings, and use it to educate, not just the election officials
21 but empower them to talk to their voters about how information operations take hold
22 and the steps that they could take to be resilient to it, to not be influenced by it.
23 So that's the the purpose. It goes through five steps from targeting the divisive
24 issue of pineapple on pizza to prepositioning moving accounts into place, to then
25 amplifying and distorting or changing the conversation, to then taking those

1 conversations mainstream. So beyond individual accounts or platforms to other venues,
2 right?
3 And then, finally, taking into the real world. And this is not earth shattering in its
4 steps, this is in part what we saw the Russians do in 2016 when they literally organized or
5 pushed for the organization of protests, counter protests in communities against each
6 other.
7 Q So in the earlier hour, there's some discussion of -- did you put -- were there
8 the CISA or the Counter Foreign Influence Task Force or some entity within CISA put out
9 products focusing on actors, specifically.
10 Is it fair to say that this type of product, meaning this product that describes what
11 all foreign interference might look like without discussing specific actors was more in line
12 with paper products that would have been put out?
13 A Like, again, I wasn't responsible for a lot of that work. I worked with that
14 team. Again, I helped generate this product by arguing with Geoff about pineapple on
15 pizza, but this product, initially, was focused, as you could see sort of in the top box there
16 on Russia, right, the Russian tactic and techniques. But these tactics and techniques are
17 not specific to Russia, right?
18 Q Right.
19 A This is what an information operation generally could look like.
20 Q And this is essentially educational in nature. Is that fair to say?
21 A Yes.
22 Q Okay. Are you familiar with the term prebunking?
23 A Yes.
24 Q What does prebunking refer to?
25 A In my experience, prebunking refers to the ability to anticipate and put out

1 information specific to elections, in my experience, about the process, about the
2 resilience, about the security in advance, factual information about how the process is
3 run by State and local official and others, in order to educate the public voters on it, such
4 that if or when there are attempts to undermine trust in that process or any given access
5 to that process, the systems, whatever the case may be, that that information is already
6 out, is already public, and hopefully they've already been exposed to it and it at least
7 allows those voters to say, oh, I think, I have read something. I think I have seen
8 information.
9 My local election officials talked about this in a press release, in a press
10 conference, in the media on their website in order to sort of slow the acceptance of any
11 given narrative that are false or misleading about the process.
12 Q And so again prebunking is putting information out into the public, correct?
13 A Yes, in my experience, yes.
14 Q Okay. Are you familiar with CISA's rumor control website?
15 A I am.
16 Q What was that?
17 A So rumor control came about as a result of the Iranian activity. I'd like to
18 say that we were original in creating it, but FEMA had a rumor control website
19 around disasters because they had seen at times information operations arise around
20 natural disasters.
21 So we took the rumor control concept from FEMA in order, initially, to counter the
22 narratives around secrecy of the ballot and what the Iranian activity was claiming, right?
23 That we know how you're going to vote.
24 And so then as I recall the initial rumor dealt with secrecy of the ballot and how
25 election officials protect the secrecy of the ballot. The focus of rumor control was to

1 take and amplify what election officials were saying about the process, given any
2 narrative that they were experiencing, and just amplify the facts.
3 So we would sum up -- because, again, elections are different in every State or
4 county, we would sum up the basics. Here is how secrecy of the ballot works; here is
5 how they protect secrecy of the ballot. They may differ State to State, but generally
6 every State protects secrecy of the ballot. And simply state the facts, the rumor, and
7 then the details about in this case how secrecy of the ballot is protected.
8 So it was an attempt to amplify the facts as the election officials were sharing
9 them to voters.
10 Q And so is it fair to say that the rumor control -- again, the focus was on
11 pushing out information, pushing out facts?
12 A Correct. The purpose of rumor control was to share the facts that election
13 officials were sharing more broadly about the process. And I will say -- and this gets
14 back -- to empower them to continue to push that information out.
15 We saw, after the establishment of rumor control, States establishing their own
16 rumor control page that said we're more specific to their processes, more specific to their
17 systems, and that allowed us to better understand sort of the narrative they're
18 experiencing and the answers, right, the facts, so that we can, you know, have our rumor
19 control page. So a big part of it was, again, amplifying their voice and empowering them
20 to speak to their voters.
21 Q So just looking through a fair amount that we had just spoken through,
22 prebunking, the rumor control mill website, the war on pineapple one-pager, all of these
23 methods, as you said, involved pushing information out to the public. Is it fair to say
24 that with respect to your experience at CISA, the focus was on making more information
25 available and not having information taken down?

1 A My experience at CISA, yes. I mean, the focus for me was largely
2 on -- again, I'm sorry for repeating -- but largely on supporting the State and local election
3 officials and private sector entities that support the election and amplifying the
4 information and their voices so that they think felt like they had the support they needed
5 to continue to talk to their voters about the process.
6 Q And I think you answered this question earlier, but just to have it again in a
7 clean form for the record. To your knowledge, did CISA ever monitor social media
8 platforms to determine there was disinformation on their websites?
9 A I'm not aware of that taking place, and it was not part of the work I did.
10 Q Okay. And to your knowledge, did CISA ever instruct or coerce or demand
11 that a platform remove particular content?
12 A In my experience, I never -- that was never part of anything that I recalled
13 doing, and I'm not aware of that being part of CISA's activities. Though, again, I didn't
14 run that program.
15 Q I want to turn to switchboarding and the conversation that started in the
16 prior hour. You described your -- in the prior hour, you described your understanding of
17 what switchboarding was. Is it fair to say that what is referred to as switchboarding, in
18 your experience, is really, essentially, is just forwarding emails?
19 A In my experience, switchboarding was forwarding emails that I received from
20 State or local or private sector partners to Brian to put into the process. That was my
21 experience.
22 Q And so we could just call it forwarding. Switchboarding is a term that I
23 think that maybe it has some entry built up around it, but really it's just forwarding.
24 A Again, that was my experience with how I handled it.
25 Q And I want to look at two examples of emails being forwarded from you to

1 Brian and then from Brian to the social media companies.

2 [Masterson Exhibit No. 2

3 Was marked for identification.]

4 BY [redacted]

5 Q So we will start out with exhibit 2, which is an email exchange dated October

6 5th, 2020.

7 A Sorry, I'm just reading.

8 Q Okay.

9 A Okay.

10 Q Having had a minute to review, do you recall this email chain?

11 A I do not.

12 Q But you see that your name is on the bottom of the first page of it --

13 A It's --

14 Q -- Bates Stamp page 6?

15 A I do.

16 Q Okay. Starting out on -- it's the second and third page of the email Bates

17 stamped -- Bates pages 7 and 8, that last -- the last email in the chain, chronologically -- or

18 the earliest email in the chain, I should say, chronologically.

19 The email shows concerns about Twitter posts suggesting that Russia may be

20 preparing to change votes in Florida, correct? And that's on page 3 of the original

21 underlying Twitter post that's why?

22 A That appears to be what that says.

23 Q Okay. And this information, this Twitter post was originally identified by

24 MITRE, correct?

25 A That appears to be what this says.

1 Q Who or what is MITRE?
2 A Oh, my goodness. So my understanding, MITRE is I think -- well, I mean, I
3 don't really know except I think they're an FDRC and an lab of some sort.
4 Q If I represent to you that they were a contractor retained by the State of
5 Florida, would you have anything to dispute that? I think they do more than that, but
6 for purposes of this.
7 A I did not know that, but okay.
8 Q And do you, sitting here today, do you have any information as to why
9 MITRE have been commended, become aware of this information?
10 A So as I recall, though, I don't know -- again, I didn't know they were working
11 for the State of Florida, as you represented. They ran a program called SQUINT that
12 identified election-related information --
13 Q Okay.
14 A -- apparently for clients.
15 Q And somebody at MITRE, whose the names are redacted, passed it along to
16 an email address that's also redacted, but it's at Escambiavotes.com. Is that correct?
17 A Yes, that appears to be what that says, yes.
18 Q And that's a reference to Escambia County, Florida, correct?
19 A As far as I know, yes. As far as I know.
20 Q And that individual at Escambia County, apparently forwarded it to you,
21 correct?
22 A It appears that way.
23 Q Okay. And so you actually don't have any information about this, this is
24 just an email that was passed along to you that sitting here today you don't recall, and
25 you aren't even really sure why MITRE would have had this information or how, you

1 know, who Escambia County is, right?

2 A I mean I know who Escambia County is, but yes this appears to be an email

3 that was sent to me as you described.

4 Q Okay. And then you forwarded it to Brian Scully and a number of others

5 listed in that email; the "to" line of that email, right?

6 A It appears that way.

7 Q And I want to look at the message that you included with that message.

8 The text, the substance of that message just says: See below info provided by MITRE to

9 some local officials in Florida, correct?

10 A That's what that says, yes.

11 Q You don't weigh in on whether this information is accurate or not, right?

12 A I do not appear to.

13 Q And you don't offer any comment on who MITRE is. You just say MITRE

14 identified it, right?

15 A It appears that way, yes.

16 Q And, again, there's no commentary at all, really. This is the information I

17 received and I'm passing it along?

18 A It appears that way, yes.

19 Q Is this generally consistent -- to the best of your recollection, is this generally

20 consistent with the way that handled emails that were sent to you from State and local

21 officials concerning social media content?

22 A Yes, this would be consistent with, again, what I described in the first hour

23 and what I recall which is to simply forward it on.

24 Q Okay. So you forwarded it to Mr. Scully at 1 o'clock p.m. on October 5th,

25 2020. About 18 minutes later Mr. Scully forwarded it to two addresses, the names are

1 redacted, but they're both at Twitter.com, right?

2 A It appears that way, yes.

3 Q So it appears that Mr. Scully forwarded this to Twitter?

4 A It appears that way.

5 Q And the content of Mr. Scully's email just says: We received the below

6 reporting from a Florida election official via MITRE, correct?

7 A Yes.

8 Q So again, Mr. Scully doesn't offer any commentary on whether the

9 information is true or false or anything else, correct?

10 A He does not appear to.

11 Q Kind of like you did when you forwarded it to him. He just passes it along.

12 Is that fair to say?

13 A It appears that way.

14 Q Okay. And I want to look below Mr. Scully's email. Do you see there's

15 two paragraphs?

16 A I do.

17 Q Would you say that the font in those paragraphs is larger than the font in his

18 actual message?

19 A It appears to be larger than the font in his message.

20 Q Is it fair to say that that's more prominent, or at least at equally as

21 prominent as the content of his message itself?

22 A Yes, I'm no font expert, but sure.

23 Q But just looking at this email, it's not in size five font where it's not readable,

24 right? I mean, it's pretty prominent. It's easy to read this message?

25 A I can read the message, yes.

1 Q And I want to talk through what that message says. The first paragraph
2 reads: The Cybersecurity and Infrastructure Security Agency, CISA, of the U.S.
3 Department of Homeland Security, DHS, is not the originator of this information. CISA is
4 forwarding this information unedited from its original source. This information has not
5 been originated or generated by CISA. This information may also be shared with law
6 enforcement or intelligence agencies. Did I read that correctly?
7 A Yes.
8 Q So CISA made it clear in this forward to social media companies that it was
9 not the originator of the post that was originally by MITRE, correct?
10 A That appears to be what that says.
11 Q And it also made it abundantly clear to Twitter that the information was
12 being forwarded, quote, unedited, correct?
13 A That is what that says.
14 Q And so that means that it is being forwarded without any -- sorry, and it was
15 forwarded without any commentary about the veracity or falsity of the information,
16 correct?
17 A I'm sorry, I am just reading it again.
18 Q Actually, I'll withdraw that.
19 A Okay.
20 Q I will go to the next paragraph.
21 A I was going to say, that is not what that paragraph says.
22 Q Looking at the next paragraph, the first sentence of the second paragraph of
23 this disclaimer message reads: CISA affirms that it neither has nor seeks the ability to
24 remove or edit what information is made available on social media platforms. What's
25 your understanding of what that sentence means?

1 A I mean, I take that sentence to mean what it says, which is that CISA is not
2 seeking the remove the ability to remove or edit what's made available on the given
3 platforms.
4 Q And the second sentence reads: CISA makes no recommendations about
5 how the information it is sharing should be handled or used by social media companies,
6 correct?
7 A That's what that sentence says.
8 Q CISA is plainly saying that it's not asking the companies to do anything, and it
9 doesn't -- isn't making any recommendation about what they should do, correct?
10 A I mean, that's what -- yes, that's what that sentence says.
11 Q And then the final sentence of that disclaimer reads: Additionally, CISA will
12 not take any action favorable or unfavorable towards social media companies based on
13 decisions about how or whether to use this information, correct?
14 A That's what that sentence says.
15 Q What is your understanding of what that sentence means?
16 A I mean, again, I take the sentence for what it says which is that CISA will not
17 take any action towards the social media companies, bad or good, based on how they
18 handled this information.
19 Q So CISA was expressly saying that it's not asking the social media companies
20 to do anything, correct?
21 A That appears to be what that sentence says.
22 Q It's not making any recommendation about what they should do, correct?
23 A That's what the second sentence in the last paragraph appears to say.
24 Q And that it will not take any action, whatsoever, against any social media
25 companies based on their decisions about how to handle this information, correct?

1 A That is what the third sentence in the last paragraph appears to say.

2 Q Okay. Were you part of the -- to your knowledge, was a similar disclaimer

3 included on the email that CISA sent to social media companies?

4 A Again, I wasn't running the process. I was not responsible for the process,

5 but my understanding is that this disclaimer should be included in their emails.

6 Q And were you part of the decisionmaking process by which it was

7 determined that this disclaimer should be included?

8 A I don't recall being part of the decisionmaking process. I recall again being

9 in discussions around sort of the lawyers' conversations, but frankly I don't recall how the

10 decision was made to include this or the language, I don't recall.

1

2 [12:07 p.m.]

3 BY [redacted]

4 Q But is the language in here generally consistent with your understanding of

5 how CISA would handle content that was forwarded to it by State and local election

6 officials?

7 A This language is consistent with my understanding of how I would handle

8 this information, right? This -- this entire exchange is consistent with my experience in

9 that way.

10 Q And is it consistent with your understanding of how CISA would interact with

11 social media companies with respect to this content?

12 A Again, I was not in charge of the process, so -- but generally, it's consistent

13 with my understanding. But I -- I was not in charge of that process or running it.

14 Q Understood.

15 I want to turn to one more chain. And we'll mark this as exhibit 3.

16 [Masterson Exhibit No. 3

17 Was marked for identification.]

18 BY [redacted]

19 Q This is a November 8th email exchange, which is, I believe, 2 days after the

20 election, maybe the day after the election.

21 A Okay.

22 Q Having had a minute to review, do you recall this email exchange?

23 A I do not.

24 Q Okay. But you do see that your name is on this email exchange?

25 A I do.

1 Q Okay. This is an email chain that begins between individuals at the
2 Republican National Committee and Donald J. Trump for President, correct?
3 I mean -- sorry -- an individual at Donald J. Trump for President, I should say.
4 Ms. Christian. Could you repeat that one more time?
5 [redacted] Yeah.
6 BY [redacted]
7 Q So this email exchange -- so I'll just walk through it one by one.
8 A Okay.
9 Q So the email exchange begins with an email at 7:12 a.m. on November 8th,
10 2020, from an individual whose name is redacted, but it's at serykim.com, to a number of
11 individuals at gmail.com, at gop.com, and at donaldtrump.com, correct?
12 A Yes.
13 Q And can you describe, on page -- well, it's page 5 of the production,
14 or -- sorry -- page 5 of the document, page 13 of the Bates stamp, page 13.
15 Can you describe what your understanding is of the underlying concern that this
16 individual identified?
17 A I mean, I don't -- I don't know except for what they say, which is they appear
18 concerned that the dollar amount of the stipend is different than what it should be.
19 Q Okay. And this individual at -- I think it's serykim.com -- identified this and
20 forwarded it to those people. And then an individual at donaldtrump.com -- and, if you
21 look at the signature block, it says it's -- that's an individual at Donald J. Trump for
22 President, Inc. -- forwarded it to somebody in the legal department of the GOP, or the
23 Republican National Committee, correct?
24 A That appears to be the case.
25 Q And then there was some internal discussion at the GOP between GOP Legal,

1 GOP Political. Somebody is asking, Is this real? Who is this person at gmail.com?
2 Why is he sending around a list offering a $350 a day volunteer stipend, right?
3 A That appears correct.
4 Q And then, in the next email -- it's 12:28 p.m. -- somebody at gop.com says,
5 It's not real. I've been telling everyone to delete the email, and then suggests who the
6 person might be.
7 It goes -- there is a couple more internal email exchanges at gop.com, right?
8 A It appears that way.
9 Q And then, eventually, on -- this is on page 2 of the document, or
10 page 10 -- Bates stamp page 10. Somebody at Network Operations at gop.com forwards
11 it to you, correct?
12 A That appears to be the case.
13 Q Okay. And then the information that that person passes on to you is, Matt,
14 FYI, we had someone masquerade as a GOP op, sending people a Google form. See
15 below, right?
16 A Yes.
17 Q And that person says -- at GOP says, masquerade, which suggests that the
18 information is false, correct?
19 A That appears to be the case.
20 Q Okay. And then there is actually not the email from you forwarding it to
21 whoever it might have been at the Countering Foreign Influence Task Force, but -- and I'm
22 not sure that -- I think that was a production error by CISA. But somehow, it got from
23 you to somebody at the Countering Foreign Influence Task Force, right, because they then
24 passed this along to Google?
25 A That is the next email, is someone from -- well, I don't know who it's from,

1 because the whole from line is redacted, right?

2 Q Oh, I guess that's right.

3 A But the signature block suggests an analyst from the Countering Foreign

4 Influence Task Force sending it to Google.

5 Q Okay. And I just want to note for the record that the "from" line is

6 redacted, but the redaction is much shorter than your name on the prior page, and your

7 name is not redacted. So I think we can conclude it wasn't you who forwarded it.

8 A I believe that is correct. I --

9 Q You don't recall forwarding this to Google?

10 A I don't recall this exchange at all.

11 Q Okay. So the -- whoever it was that sent this to Google said, Good

12 afternoon, named redacted, please see below reporting from the RNC, correct?

13 A Yes.

14 Q And there is no commentary whatsoever on whether the information

15 contained is true or accurate or false or anything else, correct?

16 A I do not see any content like that, no.

17 Q And, on page 2, there is that disclaimer we talked through before, right?

18 A I haven't matched that statement to the other one, but that -- they appear

19 to be the same or similar.

20 Q Okay. And it's italicized, correct?

21 A It is.

22 Q And it's fairly prominent. Is that fair to say?

23 A Again, it's -- it's certainly readable.

24 Q Okay. And then, after that, somebody at the

25 countering -- somebody -- name is redacted, but it says that they're an analyst

1 countering -- with the Countering Foreign Influence Task Force, relayed back that the
2 information had been reported, and that was the end of the road, correct?
3 A That appears to be the case.
4 Q Okay. So this is another example of what's been referred to as
5 switchboarding, correct?
6 A I think so, yes.
7 Q And it's --
8 A At least my experience of switchboarding.
9 Q And, on the face of this, this is purely just passing and forwarding
10 information along. Is that fair to say?
11 A Yes, with the exception of the email at the top, where it says it has been
12 reported.
13 Q Right, and that's -- but that's back internally. That's reporting back
14 internally.
15 A Okay. Yes.
16 Q But, with respect to the outgoing information to social media companies, it's
17 just forwarding -- in this case, forwarding the information?
18 A Yes.
19 Q The reporting from RNC, correct, with no commentary?
20 A Yes.
21 Q And there is actually a pretty big disclaimer that says, We at CISA are not
22 asking you to do anything, we are not recommending that you do anything, and we're not
23 going to take any action against you either way, correct?
24 A I mean, that's a summary of what is said in that -- in that disclaimer, yes.
25 [redacted] We are out of time, so we can go off the record.

1 [Recess.]

2 BY [redacted]:

3 Q Mr. Masterson, I'm going to start this hour with the two exhibits we were

4 looking at the end of the last hour. This will be exhibits 2 and 3.

5 First, with exhibit 2, which is the one from Mitre and the folks down in Florida, if

6 you go to the, you know, earliest email in the chain, the last page of the exhibit, there

7 looks to be a tweet responding to another tweet, and then there is some back and forth.

8 There is an email middle of page 007 that says, "Thanks for the heads up.

9 Obviously voter registration databases and changing votes are apples and oranges."

10 To your understanding, is that a comment that would get at the actors behind this

11 tweet, or the content of the tweet itself?

12 A I was not the author of this email, so I don't know the exact intent. Based

13 on the content of the tweet, it appears to be addressing the content in the tweet related

14 to voter registration database for every Florida county, so a rush to change votes, but I -- I

15 did not write this tweet, so I don't know, or, I mean, this email.

16 Q Sure. And then, looking at exhibit 3, again with the clear understanding

17 you did not write the previous emails, that these are being reported to -- to CISA, when

18 the -- this is the bottom of page 0010, page 2 of the exhibit. When the GOP is emailing

19 you at CISA, it says, Matt, FYI, we had someone masquerade as a GOP op, sending people

20 a Google form. See below.

21 To your understanding, is that a complaint regarding the actor, or the content?

22 A Again, I -- I didn't write this. And I know you recognize that. So it appears

23 to be a reference to both the person sending it and the contents of the Google form per

24 what's said. So it says, the G -- masquerading as a GOP op appears to reference a

25 person, and then sending people on a Google form appears to reference the content of

1 the form.

2 Q Great. Looking at exhibit 2, which is the other one -- sorry I had to go back

3 and forth.

4 A That's okay.

5 Q At the front page there of one of the exhibits -- 006 is the Bates

6 number -- you answered a few questions about the disclaimer before Brian's signature.

7 Again, just to clarify, to your recollection, you weren't involved in the

8 development of this statement?

9 A Again, my recollection is being in the conversations around, you know, sort

10 of the legal considerations, but I don't recall the specifics of the discussion or sort of how

11 the final content was determined.

12 Q Okay. Do you know how high up the decision was regarding to include this

13 statement?

14 A I do not.

15 Q Do you know if Director Krebs was involved?

16 A I do not.

17 Q The second paragraph refers to actions that will or will not be taken by CISA.

18 Is that right?

19 A In part, yes.

20 Q And it doesn't reference other government agencies in that second

21 paragraph. Is that right?

22 A It does not appear to reference other government agencies.

23 Q And, at the last sentence of the first paragraph of the disclaimer, it says, This

24 information may also be shared with law enforcement or intelligence agencies.

25 Is that right?

1 A It does say that.

2 Q When I asked in the first hour what the difference was between CISA's

3 Countering Foreign Influence Task Force and the FBI's Foreign Influence Task Force, if

4 there was any difference, part of your answer, to make sure I'm including all the

5 necessary context, is that you didn't have, you know, full or direct knowledge of what the

6 FBI's role was, but the answer you provided was the FBI is obviously a law enforcement

7 agency. Is that right?

8 A That is -- yeah. That's an accurate summary of at least, I mean, yeah, my

9 comment. Again --

10 Q Yeah.

11 A -- thank you for noting that I don't know the exact mission of the Foreign

12 Influence Task Force.

13 Q And so, as the last sentence of this first paragraph of the disclaimer is saying

14 that, This information may also be shared with law enforcement or intelligence agencies,

15 do you interpret that sentence to mean that CISA may forward the information to the

16 FBI?

17 A I read that sentence to mean that it could be shared with law enforcement

18 or intelligence agencies. It doesn't specify which law enforcement agencies.

19 Q Sure, but one could be the FBI?

20 A The FBI is a law enforcement agency.

21 Q Okay. And then, first page of exhibit 3 -- this is Bates No. 0009 -- the other

22 document.

23 A Sorry.

24 Q No, you're all right.

25 This appears to be the redactions, but this appears to be either an internal CISA

1 email, but an email that's not going to Google. But someone from CISA says, "For your
2 situational awareness, FYSA, the below has been reported to Google and the FBI."
3 Before reviewing this document, did you know that CISA would forward reports to
4 the FBI?
5 A I don't recall knowing that or not. I don't remember knowing if we would
6 send to the FBI or not, because I wasn't part of, sort of, that process.
7 Q Okay. During your time at CISA, what interactions did you have with the
8 FBI?
9 A Just generally?
10 Q Uh-huh, yes.
11 A Sure. So the FBI was a critical partner for us. I worked very closely, for
12 instance, with the FBI Cyber Division on cyber activity targeting or possibly targeting State
13 and local election officials.
14 I'm trying to think if there was any -- I mean, the main -- the main division that I
15 worked with on the election security side was the cyber division. There were times I
16 recall -- you know, we -- for instance, the FBI participated in Tabletop to Vote, which was
17 our national-level exercise, in 2018, 2019, and 2020. And I believe there were FBI
18 representatives present for those -- a number of FBI representatives.
19 Also, on occasion, would work with -- I can think of at least one occasion -- field
20 offices that were responding to something that a State or a local election official may
21 need.
22 At one point, I recall providing a briefing to then-Governor DeSantis in Florida with
23 the FBI National Cybersecurity Division Field Office and Cyber Division about
24 election-related activity from 2016. So that would be an example where there was
25 multiple FBI participants.

1 The Foreign Influence Task Force, as I think I noted before, would attend some of
2 the same meetings as we would attend.
3 Q When CISA's engaging in switchboarding, to your knowledge, would CISA
4 ever follow up with the tech companies?
5 A I don't -- I don't recall follow-up. That doesn't mean it didn't happen.
6 At -- in my experience, I didn't -- I don't recall following up with tech companies.
7 Q And, in your experience, it appears, at least from the examples we've
8 reviewed, you're not directly at the stage of the switchboarding where it's being passed
9 on to the tech companies. That is typically Brian Scully's role. Is that right?
10 A It was the CFI team's role. I'm --
11 Q Sure.
12 A I'm not sure of how the delegation of labor took place.
13 Q Thank you for clarifying.
14 A Yeah.
15 Q CFI teams.
16 At the start of the interview, we talked about the terms mis-, dis-, and
17 malinformation.
18 During your tenure, either at CISA, Stanford, or now at Microsoft, do you recall
19 any criticism regarding the term "malinformation"?
20 A I don't recall any specific criticism. I will say that, in my experience outside
21 of CISA -- so I think probably at Stanford, though I can't say for sure -- I have heard it, you
22 know, in sort of general convenings that malinformation isn't a term that all at industry
23 use. So I've heard it sort of referenced as some use it, some don't. That's -- that's
24 what I recall around that.
25 Q And, for the folks who don't use it, what is your understanding of why they

1 don't use the term?

2 A I don't know that I have an understanding of why, except for it's not just -- it

3 was not part of how they talked about this work. It was only notable to me because

4 some would use it and some wouldn't. So I would notice that some would include it,

5 and some wouldn't, but I don't know why one would leave it off and one wouldn't. I

6 don't know.

7 Q During your tenure at CISA, the folks you were dealing with at CISA,

8 "malinformation" was one of the terms that would be used?

9 A Towards the end maybe. I don't know when that kind of became common.

10 I don't recall the usage of that term in a product, or when that term was used in a product

11 or not. And so, the hard part for me is splitting sort of the timing when it might have

12 been used more by CISA after I left. And I don't -- I don't have a good feel for the timing

13 on that.

14 Q And so, when you're referring that some folks would use it, some folks

15 would not, do you remember generally or if you remember specifics, too, but, generally,

16 for the folks who did not use it, did they typically come from academia, from industry,

17 from government?

18 A I don't recall. Again, this would be in the context of, you know, a larger

19 roundtable discussion or something like that. So I don't recall the specific people that

20 would or wouldn't use it. I just remember it being notable to me that some would use

21 it, and some wouldn't.

22 Q Do you recall anyone specifically staking their claim in the debate, you know,

23 that you recall specifically either would definitively use the term "malinformation" or

24 made a point to note that they were opposed to the term "malinformation"?

25 A I don't recall a specific conversation like that where I could tell you an

1 individual or an event where that took place.

2 Q When industry and government are meeting -- you mentioned whether it's a

3 roundtable or whatever else -- do you remember there being discussions -- you

4 mentioned that you noticed that some folks would use malinformation, some wouldn't.

5 Do you remember any discussions about the use of malinformation?

6 A So I do not. And also, you know, the -- the events I'm referring to, I didn't

7 specify industry, government, right? It could be academics. It could be nonprofits. It

8 could be, you know, these sort of larger events. And I do not recall someone specifically

9 culling that issue out. Certainly possible, but not that I recall.

10 Q Okay. To your knowledge, does CISA or did CISA have a, quote/unquote,

11 "MDM" team?

12 A To my knowledge, at some point, yes, but I don't know when that occurred

13 or how that change took place.

14 Q To your understanding, is that team the successor to the CFI team?

15 A I think I -- my recollection is yes, but I -- again, I don't know when that took

16 place. Yeah.

17 Q To your understanding, what does the MDM team at CISA do?

18 A Again, I don't know, because it either took place as I was leaving, or after I

19 left. I don't know the timing. I mean, you can see, in some of the emails, it was still

20 the Countering Foreign Influence Task Force after the 2020 election, and I left pretty soon

21 after the 2020 election. But my -- my limited understanding is that they carried on the

22 same or similar mission to what the Countering Foreign Influence Task Force did.

23 Q When you left CISA, did you stay in touch with your former colleagues at

24 CISA?

25 A I did.

1 Q Do you recall if they notified you, or how did you learn of this new MDM
2 team at CISA?
3 A I don't recall specifically how I learned. No one -- I don't recall ever
4 receiving a notice for sure, but I don't know. I don't know how I sort of became aware.
5 I think it -- it just sort of happened, and I was still in the space, but I don't -- I don't recall a
6 specific conversation about it, for sure.
7 Q To your understanding, did the mission change at all from the CFI team to
8 the MDM team?
9 A I don't know.
10 [Masterson Exhibit No. 4
11 Was marked for identification.]
12 BY [redacted]:
13 Q This will be exhibit 4.
14 A Thank you.
15 Okay.
16 Q So this email exchange is dated February 10th, 2021. You have a Stanford
17 email by this point. This is consistent with your recollection that you have since left CISA
18 and are currently a nonresident fellow at Stanford. Is that right?
19 A That's correct, although I will correct -- I mean, now that you've refreshed
20 my recollection, it's February, not March that apparently --
21 Q Yep.
22 A -- I was at Stanford.
23 Q And then there are a number of folks who are still at CISA who are part of
24 this email chain.
25 Who is [redacted]?

1 A I believe -- I believe [redacted] was a member of the Foreign Influence Task Force
2 when I was there, I think.
3 Q And what about [redacted]?
4 A [redacted] was a member of the Countering Foreign Influence Task Force when I
5 was at CISA.
6 Q [redacted]?
7 A I'm not familiar with that name.
8 Q Okay. So the email is -- appears to be consistent with your recollection that
9 the name change occurred after you had left the agency.
10 A It does appear that way, yes.
11 Q Do you recall if you ultimately had a conversation with someone at CISA
12 about what MDM is?
13 A I do not recall ever having that conversation.
14 Q Okay. Taking one step back, the subject, it says, Virality Project weekly
15 briefing February 9th.
16 What is the Virality Project?
17 A The Virality Project was a project led by Stanford Internet Observatory and I
18 believe the University of Washington around the information environment impacting
19 COVID, and specifically, vaccines.
20 Q Okay. Besides the Virality Project, what other sorts of interactions did you
21 have with CISA while you were at Stanford?
22 A I don't recall specific interactions, so I don't know. I -- my guess is I may
23 have had interactions around some of the work I was doing around election security.
24 But I don't recall a specific interaction.
25 Q For the Virality Project, did the Virality Project only look at foreign influence,

1 or did it consider -- I'm reading off the sentence here -- it refers to social media narratives
2 and misinformation.
3 Could that also include domestic actors?
4 A As I recall, yes.
5 Q Do you recall why Stanford is reaching out to CISA regarding the work with
6 the Virality Project?
7 A I don't know specifically why, because I -- I'm not the one that obviously sent
8 this email. So I don't know specifically why this went to CISA, or why CISA was on the
9 distribution list.
10 Q So the email appears -- it's not just a distribution list but is to specific CISA
11 individuals. And, I mean, you're right, you didn't send the email, but you're copied. Is
12 that right?
13 A Yes, that's correct.
14 Q During your experience, either at CISA, or then once you're at Stanford and
15 having engagements with CISA, do you recall if there was any sort of firewall regarding
16 concerns of when CISA could act regarding foreign actors, whether there is something
17 they couldn't do or couldn't act with respect to domestic actors?
18 A I don't recall having a discussion about that with CISA.
19 Q Okay. Regarding the MDM team, with the understanding you don't recall if
20 you had a discussion with the CISA team, you know, post this email, sitting here today, do
21 you have an understanding of what the CISA MDM team does?
22 A I -- sitting here today, candidly, I don't know if there is still an MDM team. I
23 have not interacted with CISA on -- or the MDM team that I recall, at least for a while. I
24 can't recall the last interaction. And, again, as I think I previously indicated, I -- my
25 understanding -- again, it took place after I left -- is that the MDM team was consistent

1 with the Countering Foreign Influence Task Force, so I don't know.

2 Q Okay. Do you recall any discussions during your tenure at CISA regarding if

3 there are any constitutional implications if CISA's work engaged with, we'll say,

4 misinformation, disinformation, malinformation, coming from domestic actors?

5 A I don't recall a specific conversation around that. I recall that -- obviously

6 that CISA lawyers were involved, as I previously indicated, for instance, around the

7 disclaimer conversation, including lawyers around constitutional and civil liberties. But I

8 don't know or recall the specifics of any given conversation around that.

9 Q Okay. Do you recall anybody at CISA that felt frustrated that the focus was

10 on foreign influence as opposed to mis-, dis-, and malinformation being spread by both

11 foreign and domestic actors?

12 A I don't recall a specific frustration about that. No, I don't -- I don't recall a

13 specific frustration about that. I think there was -- I recall just being frustrated by the

14 impact, or by the information environment election officials were operating in, but I -- I

15 do not recall a specific conversation about frustration one way or the other.

16 Q You've talked a couple times about the information environment that

17 election officials are operating in.

18 Is that environment created by both foreign and domestic actors online?

19 A Yes.

20 Q To your understanding, does CISA have the authority to take steps with

21 respect to both foreign and domestic actors as it relates to creating the information

22 environment you've referenced?

23 A I -- I never, as part of my work, had to engage in an analysis sort of, of CISA's

24 authorities or nonauthorities on that. So I don't -- I don't recall -- I don't recall having

25 a -- a view on that, or position, on sort of -- and, also, I mean, I hesitate only because your

1 question says "actions." There are, you know, obviously a lot of actions that could be
2 taken. For instance, like creating the pineapple-on-pizza product, that is educational,
3 informational.
4 That would be an action taken, but I don't recall any specific conversations on sort
5 of -- or doing an analysis on CISA's specific authorities. That would have fell with the
6 legal team that was working on it.
7 BY [redacted]:
8 Q You mentioned that you were involved generally in discussions about the
9 disclaimer.
10 Do you recall generally what concerns led to its inclusion in emails, like the ones
11 that we've seen?
12 A I don't. I don't remember the specifics of that conversation. It was -- it
13 was one that was happening at times with my presence, I think at times without. I'm
14 sure the lawyers had conversations as well, and I don't remember sort of the specific
15 considerations they took into account.
16 Q Well, understanding that you don't recall the specific considerations, do you
17 remember general themes or generally why they decided to include this disclaimer?
18 A I don't. I just recall that it existed.
19 BY [redacted]:
20 Q So you had your election -- your EIS team. You had the CFI team, task
21 force. In addition to those two subcomponents, were there any other subcomponents
22 that would touch upon issues related to mis-, dis-, and malinformation?
23 A Of CISA?
24 Q Of CISA.
25 A Not that I recall. Not -- no, not that I recall.

1 Q Did you -- how frequently would you interact with the Director Chris Krebs
2 when you were at CISA?
3 A Just generally?
4 Q Yes.
5 A The reason I ask is because, in and around election times, it would have been
6 far more frequent than not in and around election times, right? So, generally speaking,
7 depending on his travel schedule and other issues ongoing, once a week.
8 Q And then during the kind of the height of election season, how frequently?
9 A I mean, I don't recall, like, specific numbers. He would frequently say that,
10 in and around elections, he'd spend -- and I forget the exact number, if it's 70 percent of
11 his time, 60 percent of his time on elections. And that was probably reflected in the
12 amount of interaction I would have with Chris. But it was, in and around elections or
13 election events, daily.
14 Q Did you know Mr. Krebs prior to taking the job at CISA?
15 A I had met Mr. Krebs prior to taking the job at CISA, yes.
16 Q Okay. And then, by the end of 2020, you both have -- no longer worked at
17 CISA. Is that correct?
18 A By the end of 2020, that's correct.
19 Q Okay. In 2021 to today, do you have interactions with Mr. Krebs as part of
20 your work?
21 A Not as part of my work, no.
22 Q Okay.
23 BY [redacted]:
24 Q In what capacity did you first meet former Director Krebs?
25 A When I was a commissioner at the Election Assistance Commission, and he

1 was -- and I am going to butcher this, but the senior official serving as the something,
2 something NPPD director. I met him in the course of the work that was happening at
3 EAC and NPPD around standing up the sector.
4 BY [redacted]:
5 Q Again, we've talked a couple times about the -- the information
6 environment -- I want to make sure I'm using the term correctly -- that election workers
7 and folks in this space are dealing with.
8 A [Nonverbal response.]
9 Q To your understanding -- and we'll -- for the sake of the question, we'll focus
10 on the 2020 election timeframe -- what percent of that environment is created by foreign
11 actors as opposed to domestic actors?
12 A I appreciate the question, but I don't -- I don't think I have the expertise or
13 skill set to break down sort of into a percentage. It just -- including not having done the
14 work around sort of understanding the two sides of the activity in that way. My
15 experience is just that. It's the amount of targeting, threatening, harassing of State and
16 local election officials, and the private sector entities that support them has gone up
17 exponentially over the last several years. I don't -- I don't have the knowledge base to
18 give you a percentage on that.
19 Q When you're referring to the information environment, certainly there
20 have -- unfortunate thing -- there are posts that are, as you mentioned, threatening in
21 nature. When you're referring to the information environment, does that also include
22 posts that are not threatening that just contain misinformation about elections?
23 A Yeah. I mean, that's certainly part of the information environment,
24 absolutely, that what we saw in 2016 with some of the activity and then moving forward
25 was an environment in which claims about the process, the security of the process, the

1 accessibility of the process, the integrity of the process that were false or misleading,
2 whether intentionally or unintentionally, increased, which led to an increase of activity
3 targeting the election officials, and, you know, harassing or threatening behavior at times.
4 And, again -- and I know I said this before, but some of the -- false or misleading
5 narratives around elections are not new, right? History is littered with some of that.
6 It's the notable uptick that the community would, you know, bring forward and say, This
7 is -- this is more than we can handle. We can't -- we can't respond quick enough or
8 loudly enough to push back on this.
9 Q Was that the purpose of switchboarding, then? You mentioned, prior to
10 switchboarding, social media companies thought they were, you know, kind of shouting
11 out and no one was listening to them.
12 A Election officials.
13 Q Election officials. Excuse me.
14 A Yeah.
15 Q Did switchboarding allow their complaints, their concerns to get to the front
16 of the line, so to speak, with the social media companies?
17 A I don't know. I don't know how or even if social media companies
18 processed whatever was reported or what -- what that looked like.
19 The purpose for me, in my experience and my work, was to ensure that the risk
20 environment that the election officials were operating in was -- was understood by all of
21 us working in the space, including the social media companies. So I would pass it on.
22 The information would be shared. But it allowed for a fuller understanding of
23 what -- what that environment looked like for those election officials on the ground.
24 Q Did you -- I mean, you mentioned you were in constant contact with
25 different State and local officials. During 2020, do you recall hearing any feedback that

1 the switchboarding was helping their situation?

2 A Can I expand it beyond 2020?

3 Q Sure.

4 A Okay. So the answer is, I don't remember specific, like, this is -- this is

5 awesome, but what I do remember is -- and you're going to have to bear with me,

6 because I can't remember if it was 2018 or 2019. It would be easy to look up, but

7 Secretary of State Michael Adams and his team in Kentucky experienced quite a bit -- it

8 had to have been 2020, I guess, because it involved COVID. Maybe 2019.

9 Anyway -- I'm sorry -- experienced a great deal of false or misleading information

10 around the elections process having to do with vote centers, the availability of vote

11 centers, voter suppression, items like that, to the point where the State election director

12 received death threats, phone messages.

13 And I recall them reporting in to CISA using the switchboarding function and

14 appreciating that that was available. I wouldn't say they, you know, praised it, but that

15 there was appreciation from the State election officials in Kentucky who were facing, I

16 mean, very real threats, that they had that availability to report that information.

17 So I -- that example sticks out in my mind, because I recall it was very bad down

18 there and tough for them. And I believe he -- I believe he's testified in front of Congress

19 on some of those challenges. It was bad.

20 BY [redacted]:

21 Q To your knowledge, could State and local election officials report social

22 media activity of concern directly to the social media platforms?

23 A It's my understanding that some of the platforms had -- well, I shouldn't say

24 all, because I don't know for sure, but the -- many of the platforms have reporting

25 mechanisms, yes.

1 Q And, given that many of the platforms have direct reporting mechanisms
2 and, as you stated earlier, neither you nor Mr. Scully conducted independent analysis or
3 employed any sort of discretion in passing these along, what was the purpose of CISA
4 playing that intermediary role as opposed to the State and local election officials directly
5 reporting?
6 A Yeah. So my recollection and experience is that the State and local election
7 officials were experiencing two things: One is confusion on the exact lines that they
8 could or couldn't use into the social media companies. There was a lot of conversation
9 happening in 2018, 2019, 2020 on sort of how to -- it would change that -- you know, you
10 can imagine if you're a small county election official in Ohio. You've got enough to do in
11 figuring out who exactly you're supposed to be contacting or not. So there was some
12 frustration there.
13 And there was a familiarity with reporting to us because of some of the cyber
14 work we had done. And so the -- my recollection, for me, was that they found -- they
15 just wanted their voice heard. They -- they wanted someone -- us, the companies -- to
16 understand what they were experiencing on the ground. And this was the avenue that
17 some of them chose to use to do that, because it was available to them.
18 BY [redacted]:
19 Q I don't think we've covered it yet. If we have, I apologize for the repeat
20 question. Do you know what the Center for Internet Security is?
21 A I do.
22 Q And what is CIS, if I can call it that?
23 A CIS?
24 Q Yeah.
25 A I never heard it called CIS, but I'll use it.

1 Q We have CIS and CISA.

2 A Yeah. It's --

3 Q We'll call it CIS.

4 A We love the abbreviations.

5 So the Center for Internet Security, as I understand it, is a nonprofit, run out of

6 Albany, New York, that manages the Multi-State Information Sharing and Analysis Center,

7 which, again, is county and State IT departments, and the information -- Election

8 Infrastructure-Information Sharing and Analysis Center, which is specific to election and

9 election offices.

10 Q Did you work with CIS during your time at CISA?

11 A I did.

12 Q What was the nature of your interactions with CIS?

13 A The majority of my work with CIS was focused on work with the EI-ISAC, so

14 the team that led the ISAC on, one, standing up the ISAC, the creation of the ISAC; two,

15 ensuring that the channels for information distribution to State and local election officials

16 and back from State and election officials was functioning properly, was responsive; and,

17 three, getting as many State and local election officials as we could to be members of the

18 ISAC so they could benefit from the information that was being generated. And so I

19 worked most closely with the team at the ISAC to do those things.

20 Q And I know we discussed this in the previous hour, but what was the EI-ISAC

21 first stood up?

22 A 2018 --

23 Q Okay.

24 A -- as I recall.

25 Q Do you recall whether there were discussions between CISA and CIS in early

1 2020 regarding setting up a misinformation reporting portal separate from the EI-ISAC?
2 A I recall -- yes. I recall those discussions happening. I don't remember the
3 specifics of sort of how that happened, but I recall the conversation.
4 Q And to what extent you recall, you know, what was the purpose or the need
5 that was spurring these considerations?
6 A Again, from my perspective -- and I can't speak for CIS, right? They have
7 their own considerations.
8 My perspective or understanding was that State and local election officials were
9 being inundated with false or misleading information and needed an avenue or wanted
10 an avenue to try to share that information as appropriate.
11 Q And was the EI-ISAC not filling that need?
12 A I don't recall, but I don't think the EI-ISAC did that. But I don't recall
13 specifically if, for instance, a State or local could report something like that into the ISAC.
14 I don't know.
15 Q So you're not sure about the EI-ISAC, if that's an avenue to report. There is
16 the switchboarding that we've gone over some examples of where they're just emailing
17 you or someone at CISA directly and CISA then would forward along as appropriate.
18 And to your recollection, there was discussion of a third option, a portal devoted
19 specifically to misinformation reports?
20 A I recall a general discussion around that, yes.
21 Q Do you recall if that portal was ever created?
22 A I don't -- I don't know. I don't know. No.
23 Q Okay. Do you know who [redacted] is?
24 A I do.
25 Q Okay. Who is [redacted]?

1 A At the time, in 2020, [redacted] was an employee of CIS.

2 Q How frequently would you interact with [redacted] while you were at CISA?

3 A Not very regularly. From time to time. Again, he was on calls from time

4 to time, but he was certainly not my primary point of contact at CIS.

5 Q Who was your primary point of contact?

6 A EI-ISAC staff that were working with the election officials primarily, which

7 wasn't [redacted]'s role.

8 Q Okay. Would you have a primary point of contact among that EI-ISAC staff?

9 A I did.

10 Q And who was that?

11 A [redacted].

12 Q With respect to the misinformation portal idea, did you have discussions

13 with social media companies regarding this potential portal?

14 A I don't recall ever having discussions with social media companies about

15 that.

16 Q Okay.

17 BY [redacted]:

18 Q Independent of the misinformation reporting portal, to your knowledge, did

19 the EI-ISAC, independently of CISA, forward reports of social media activity from State

20 and local election officials to the social media companies?

21 A So did the EI-ISAC communicate directly with social media companies?

22 Was that the question?

23 Q Did the EI-ISAC also serve a similar switchboarding role independently of

24 CISA?

25 A I don't know.

1 [Masterson Exhibit No. 5
2 Was marked for identification.]
3 BY [redacted]:
4 Q This will be exhibit 5.
5 A Okay.
6 Q Do you recall whether you attended this meeting or not?
7 A I do not recall this meeting.
8 Q Okay. Do you recall if you had discussions with Brian Scully about setting
9 up a misinformation reporting portal?
10 A I don't recall it being specific, just Brian and I, but, again, I recall a general
11 discussion of the portal.
12 Q Of all the different folks at CISA who could be looped into these discussions,
13 why were you looped in to that?
14 A I don't recall specifically why, and I don't -- I don't want to speculate except
15 for the presence of State election representatives on here, NASS and NASED, who I
16 worked very closely with.
17 Q So among the folks at CISA, were you the one that had the best or most
18 relationships with State and local officials?
19 A Yes.
20 Q And that's based off your prior experience?
21 A Well, I -- I think prior experience, yes. I mean, I -- I've worked in the -- this
22 community for a long time, as well as the work we had done at CISA up until May 11th,
23 2020.
24 Q And, at the bottom, three bolded lines up, there is reference to CIS, [redacted]
25 [redacted] and [redacted]. Who is [redacted]?

1 A In my time at CISA, [redacted] was a contractor for CIS.

2 Q Do you recall how Twitter responded to the proposal of a misinformation

3 portal being created?

4 A I don't. I don't recall this conversation, or how Twitter responded.

5 Q Do you recall it even in a general sense, if they were in favor or not in favor

6 of the idea?

7 A I do not.

8 Q To your understanding, how would this misinformation portal work if it were

9 to be created?

10 A I -- I don't -- I don't know exactly how they envisioned it to work. I mean,

11 there is a description on here that I could use to sort of inform it, but I don't know exactly

12 how they -- they intended it to work, except for what's referenced here. Generally

13 speaking, it appears that they -- they intended a portal for State and local election

14 officials to be able to report.

15 [redacted]. We can -- we can take these back. Thank you.

16 BY [redacted]:

17 Q Do you know if similar discussions occurred with other tech companies?

18 A I don't recall those discussions, but it's possible.

19 Q Do you know who [redacted] is?

20 A [redacted], when I was at CISA, was an employee of Facebook, I believe.

21 Q And how did you know [redacted]?

22 A I had -- I had met [redacted] in meetings. She -- the first interaction I

23 remember having -- and this may not be the first, but in my recollection -- was that she

24 came to the CISA offices in 2018 during Election Day to say hello, to, like, meet us.

25 That's the first interaction I remember having with [redacted].

1 Q During your tenure at CISA, what was the nature of your interactions with
2 [redacted] as part of your work?
3 A Primarily, she was on, you know, calls that I would have. Occasionally, I
4 think she might email me about a specific question of elections. But my recollection
5 with [redacted] is largely, sort of, setting up a meeting or attending a meeting or being in
6 the same, sort of, general sphere of meetings that we had together.

1

2 [1:16 p.m.]

3 [redacted]. This will be exhibit 6.

4 [Masterson Exhibit No. 6

5 Was marked for identification.]

6 Mr. Masterson. Can I ask: Is it better to start from the back in reviewing this,

7 do you know, like the order in which these go?

8 BY [redacted]:

9 Q Yes, yes.

10 A Okay. Thank you.

11 Sorry. It's a lot of questions.

12 Okay.

13 Q Great. First off, do you recall these discussions taking place between CISA,

14 CIS, and Facebook in the summer of 2020?

15 A I do not.

16 Q To your understanding with respect to the potential of a Misinformation

17 Reporting Portal being created, do you recall CIS being in favor of the creation of this

18 portal?

19 A Yeah, I mean, I recall CIS -- in favor's a hard one for me. I recall CIS sort of

20 leading the discussion, I would say.

21 Q Before reaching out -- so, obviously, multiple people from CISA are copied

22 including yourself. Would CIS ever undertake this type of engagement with Facebook

23 without having prior discussions with CISA first?

24 A I don't recall prior discussions, but CIS is free to operate as a nonprofit in

25 anyway they need to.

1 So I don't -- I don't know that they sought CISA's feedback or not. I see,
2 obviously, CISA people on the email but I don't -- generally speaking, CISA wouldn't -- I
3 mean, CIS wouldn't need CISA's approval to pursue any line of work.
4 Q But what about pursuing a line of work and copying CISA on it?
5 A I see that's what they did, yes.
6 Q And how do you interpret that?
7 A Again, I can only speak from my experience that they were working with or
8 interacting with State and local election officials who I worked closely with.
9 And so I -- my read on that is these were people that all of us had daily contact
10 with and they put me on the email. But I don't recall the nature of the discussion itself.
11 Q I guess, taking even one step back from that, not necessarily the nature of
12 any specific discussion, but as you mentioned, CIS is a nonprofit, can engage with
13 whomever it would like to. Right?
14 But in this instance CIS is engaging with CISA on the email chain. Right? The
15 emails are addressed to Facebook but copy multiple people from CISA.
16 Was that standard practice for CIS, or is this reflective of CIS and CISA had
17 discussions previously about the Misinformation Reporting Portal?
18 A Again, I don't recall specific prior discussions with CIS. I see that we're cc'd.
19 My recollection generally around this, as I've said, and I think as reflected at least
20 in part in this email exchange, is that the election community was the one asking for
21 support and help. And all of us were trying to understand the risk environment in which
22 they were operating in and ways to support them. Right?
23 And so I see that reflected in some of the verbiage here, as well, and in some of
24 the language somewhere in here. It may have been in the prior one where, you know,
25 NASS, NASS said -- the outline above talks about the -- the -- how challenging the

1 information environment was for them.

2 And so that's reflective of, I think, what this email exchange. But I don't recall a

3 specific discussion that didn't include, you know, a broader group including State or local

4 election officials about the portal.

5 Q In your current role at Microsoft, if there's a proposal that comes only from

6 CIS, as opposed to a proposal that comes from CIS and copies individuals from CISA, when

7 you report to the rest of your team members at Microsoft, how would you interpret that

8 second hypothetical?

9 A How would I interpret -- can you -- can you -- I'm sorry.

10 Q Sure.

11 A Can you lay that hypothetical out for me.

12 Q So CISA is contacting in this case Facebook. Right? But for your role at

13 Microsoft, if CIS were to contact Microsoft and it was only CIS, as opposed to if CIS were

14 to contact Microsoft with a proposal and copy multiple members of CISA, is that

15 something that would be a notable difference to you?

16 A It's -- candidly, it's hard for me to operate in this hypothetical in part because

17 it would depend on the topic. It would depend on the people included and the current

18 work that I would be doing at that time.

19 It may or may not be notable, depending on a variety of factors including what I'm

20 working on, who I've been working with, who's included from any given organization.

21 Q Okay. We'll use the factors then from this exhibit. The -- you reviewed

22 the email chain. The back and forth, it's addressing to Facebook, asking for Facebook's

23 input. Is that right?

24 A I mean, I -- I read this as Facebook seeking input from CIS as I read the

25 context of these emails, which is Facebook asking a list of 22 questions around the portal.

1 Q Okay. Is -- who is proposing the idea of a Misinformation Reporting Portal?

2 A It appears [redacted] is seeking to engage in a conversation or hold a meeting

3 based on the email in the back, or I guess [redacted] is seeking to hold a meeting to

4 discuss this portal.

5 Q And then based off the questions that Facebook is asking, the 22 that start

6 on Bates number 26420, does this sound like an idea that Facebook is proposing or an

7 idea that CIS is proposing?

8 A This would appear to be Facebook asking questions in response to a

9 proposal that CIS has brought to them.

10 Q Okay. And is there anything in the email chain where CISA is objecting to

11 this proposal?

12 A I see -- let me look.

13 Ms. Christian. Do you have a recollection of this aside from this document?

14 Mr. Masterson. What is "this"? Of this exchange?

15 Ms. Christian. Yeah.

16 Mr. Masterson. Again, I have a recollection of discussions about the portal. I

17 do not recall sort of this specific exchange or if the call happened.

18 I'm sorry. What was your question? Apologies. Oh the question was do I

19 see -- I don't see in this email exchange that you've provided any interaction from CISA at

20 all.

21 BY [redacted]:

22 Q Okay. Do you recall any objections from CISA, whether in discussions with

23 CIS, a social media company, and CISA, or discussion between CIS and CISA where CISA

24 objected to the idea of a Misinformation Reporting Portal?

25 A I don't recall a specific conversation about that in that way, no.

1 Q And what about generally?

2 A Again, I generally remember conversations about the portal. But I don't

3 recall any specific support or objections that went on.

4 Q Do you recall a neutral posture from CISA? Or you don't recall either way,

5 whether CISA was supportive or not supportive of the idea?

6 A I don't recall it either way.

7 Q Okay. We'll take these back.

8 Who took over your responsibilities once you left for CISA?

9 A Short-term or long-term?

10 Q I'll ask both.

11 A Short-term, I mean, I think the team as a whole filled the gap with Geoff Hale

12 primarily. And then Kim Wyman was hired eventually.

13 [redacted]. Okay. Can we go off the record, please?

14 [Recess.]

15 [redacted] It is 1:50. We can go back on the record.

16 BY [redacted]

17 Q Mr. Masterson, I want to talk about some of the challenges that face

18 election workers today.

19 But before we get there, and I know you talked through your background earlier.

20 I want to just go through it again. That was a couple of hours ago.

21 So you worked -- you twice worked for the U.S. Election Assistance Commission.

22 Correct?

23 A I did, yes.

24 Q And you started your career there and then you went back there after you

25 started at the Secretary of State's office and you were actually a commissioner there.

1 Right?

2 A Correct.

3 Q Okay. And you worked for -- you said you worked for the Ohio Secretary of

4 State. Correct?

5 A Correct.

6 Q And who was the Secretary of State?

7 A John Husted.

8 Q And that was -- he was a Republican, correct?

9 A He's a Republican, yes.

10 Q Okay. Can you describe the process by which you joined CISA?

11 A As I recall, I think I -- as I've noted before, I knew some of the folks at NPPD

12 from the work we were doing at EAC to help support the community's understanding of

13 critical infrastructure designation.

14 And so as I recall, I had an informal conversation with [redacted] who was at that

15 time was leading the election security work at NPPD after I had been informed that I

16 would not be reappointed to the EAC and then had a discussion with [redacted]

17 who is the cyber lead at NPPD, again, informally and then had a formal conversation with

18 Director Krebs in which he expressed interest in me joining NPPD to lead the election

19 security work.

20 Q Is it fair to say you were brought into CISA because of your election security

21 expertise?

22 A Yes.

23 Q Are you familiar with Alex Stamos?

24 A Yes.

25 Q And briefly who is he?

1 A Currently I believe Alex is still employed at the Stanford Internet Observatory
2 and also runs his own consulting company. He was the head of the Stanford Internet
3 Observatory when I worked there.
4 Q I'll represent to you that Mr. Stamos appeared before this committee. He
5 was asked about you, and he said that are probably, quote, the man who knows more
6 about election security than any other living American, end quote.
7 A Well, that's very kind.
8 Q Is it fair to say that you are widely considered to be an expert in election
9 security?
10 A Yes, I think that's fair.
11 Q And is it fair to say that you're something of an expert on election processes
12 and procedures specifically?
13 A Yes.
14 Q Okay. And you've spoken earlier that -- about your interactions with State
15 and local election officials. Is it fair to say that you've had the opportunity to work
16 extensively with State and local election officials?
17 A Yes.
18 Q So based on that experience, working with State and local election officials,
19 are you familiar with the challenges that these officials face when administering
20 elections?
21 A Yes.
22 Q Have the challenges that they face changed since you first started with the
23 election -- with the EAC in 2006, 2007?
24 A Yes and no. So there have been some challenges that have been consistent
25 within the community. For instance, adequate resourcing --

1 Q Uh-huh.

2 A -- not just money but also staffing and personnel and the ability to hire the
3 folks that they need to manage the process, as well as modernization, right, being able to
4 maintain a modern process, serve their voters in the way that they need to. But then
5 every election has its own story that presents its own challenges that at times are unique.

6 So I think back to the 2000 election and the challenges -- this is where I'm dating
7 myself. But the challenges of butterfly ballots and hanging chads were not new.
8 Election officials had experienced that. But it brought to the surface around voter
9 intent, voter interpretation, things like that, that, as well as accessibility issues, things like
10 that.

11 2016 changed in my estimation election administration in a way that we hadn't
12 seen really since 2000 when a nation state adversary targeted our election infrastructure.

13 We always, those of us who worked in and around election security, always
14 recognized that as a risk, you know, talked and worked with election officials as that
15 being a possibility. But this is first time we saw it actually come to fruition.

16 And So that changes the risk environment. It immediately, obviously led to a
17 response by the community, by all of us working on securing the systems to invest in the
18 overall resilience of the process, the systems, the people in response.

19 And then some items are present but ebb and flow or get worse. So as I've said,
20 the information environment and the challenges around misunderstanding of the
21 process, every election official I've ever worked with, with the exception of perhaps
22 elected secretaries, because it's the nature of their job, their goal, every local election
23 official, their goal is to not be anywhere in the newspaper the next day.

24 They want the candidates. They want the issues to be front and center and their
25 name to show up nowhere.

1 And in the last several years themselves, their staff, their systems, their work have
2 been brought to the forefront and targeted in way that I'd seen on small scales before but
3 never this broadly.
4 Q Why do you believe that they've been brought to the forefront more in the
5 last several years?
6 A I mean, I think we've seen the information environment change to where
7 they have been targeted and harassed in a way that previously they weren't. Every
8 election produces questions from voters, and the vast majority of election officials I know
9 embrace those questions, want to be transparent with voters.
10 But the -- really since 2016, the ability for them to constantly respond to
11 inaccurate, false claims about the administration of the process has increased and made
12 it more difficult for them.
13 Q And the specific driver of that increase and just thinking back to -- and I think
14 you said earlier that there's always been false information, that it happened in 2004. It
15 happened in 2000.
16 In your opinion, has the growth of the internet and the growth of internet
17 technologies helped to drive that, helped to fuel part of that increased threat
18 environment?
19 A I think it's a contributing factor, but I think there's a lot of factors. So, sure,
20 it's a contributing factor, but I think there's a lot that goes into that.
21 Q And can you speak to some of the other contributing factors?
22 A I mean, I -- one is that the attention to election administration has increased,
23 which isn't, again, a bad thing. Voters deserve to know how the process works.
24 But the combination of the speed at which information can be shared with the
25 additional attention, as well as the continued misunderstanding of the process, has led

1 to -- has all contributed to the factors.

2 People -- people think they know because they vote and so it leads to assumptions

3 that aren't correct about the process or theories about what happened or claims about

4 what happened. I think the availability of not just technical platforms which is I think

5 what you said --

6 Q Uh-huh.

7 A -- but technology in general, so the existence of cameras on cellphones,

8 right, is both positive and negative in this because people can take and use a video in

9 anyway that they see fit.

10 And that's contributed to the challenges at times but also allowed for greater

11 transparency, which is a good thing.

12 I mean, I think of an example of a narrative that I've seen over my career that has

13 come back around voting machines, rigging of voting. That's sort of one that, again, I

14 mentioned in Ohio in 2004 was present and completely false. And it kind of has found

15 its way back and then died down again and then found its way back again in the last

16 several years. Right?

17 And so these weaving of narratives have been consistent, but the way in which

18 election officials are being targeted with them and sort of harassed them -- with them has

19 changed.

20 Q In the prior hour, you were talking about the information environment or

21 the threat environment. And you said that claims about the process being false or

22 misleading or increasing and that led to the increase in activity -- the increase in threat

23 activity against election officials. I want to play that out a little bit.

24 Can you describe how claims that might in and of themselves not contain a threat

25 against an election official might fuel threats or might fuel other actions against election

1 officials?

2 A Sure. So an example would be from Ottawa, Michigan, in the 2020

3 election. The local election official in Michigan, a woman named [redacted]. She was

4 a wonderful election official.

5 On election night, there was a mistake with the configuration of their database

6 that misreported the vote totals. They spotted it in their process, fixed the problem,

7 publicly talked about what the issue was, and reversed it, you know, saying here's what

8 happened. Here's how this played out.

9 Before or while they were attempting to do that, the information environment

10 and sort of the virality of the message became that it was rigid, right, that it wasn't any

11 sort of mistake that could be fixed but, in fact, intentional and resulted in threats against

12 [redacted] for quite sometime against her and her family.

13 Q Looking at this -- I'm sorry.

14 Actually, before I get there, the misinformation, putting aside the question that it

15 might fuel threats, it also can undermine confidence in the election process itself.

16 Correct?

17 A Yes, it certainly could result in that.

18 Q So, for example, if there's information spreading, suggesting that ballots

19 are -- ballots aren't valid, that could dissuade people from casting a ballot. Right?

20 A It could. I'm not aware of sort of any measurable impact in that way --

21 Q Okay.

22 A -- but it's possible but --

23 Q Are --

24 A We -- there's been enough research --

25 Q Uh-huh.

1 A -- conducted, polls conducted about sort of Americans' confidence in the
2 elections process that suggests impacts on things like confidence --
3 Q Okay.
4 A -- generally.
5 Q Are you familiar with the Sonoma County ballot allegations?
6 A It sounds familiar, but I don't know that I could give you specifics about that.
7 Q Okay. Talking through broadly the challenges, kind of this environment,
8 this information or threat environment, is this something that in your experience officials
9 across the country are facing?
10 A Yes, in my experience officials at the State and local level, in small, medium,
11 rural city, Republican, Democrat, Independent are facing these challenges.
12 Q And in your experience, looking at State and local election officials in
13 particular, do they have the resources to address those challenges without extra
14 assistance?
15 A Generally speaking, no. This is why we did the work we did both to
16 support, when I was at CISA and the EAC, both to support both improvements to the
17 process, better security, better resilience, when I at the EAC, accessibility, but also to
18 empower them to message and talk about it. Right?
19 Q Uh-huh.
20 A This is why -- this is why we focused so much on this.
21 Q And along those lines, is it fair to say that State and local election officials
22 don't necessarily have the competency or the expertise to deal with the challenges posed
23 by false narratives without assistance?
24 A Some do. Some don't.
25 Q Uh-huh.

1 A I think there are very sophisticated offices that have done a very, an
2 exceptional job messaging, providing facts, getting out in front -- in front of their
3 community and talking about the security of the process and responding. Some don't.
4 Some don't have comms departments at all or IT departments. Some are one person
5 that works 3 days a week. Right?
6 So I hesitate only because that is a true statement. Again, as I think I indicated
7 earlier, part of what we attempted to do and hopefully accomplished was create a
8 community that made sure that no one felt like they had to do it all by themselves, right,
9 whatever that challenge was that they were facing.
10 And so no one should have to face some of those challenges by themselves, but
11 there are certainly some -- many election officials that do an incredible job around this.
12 Q You -- there was some discussion in the earlier hour about the Election
13 Infrastructure Information Sharing Analysis Center. It's also known as EI-ISAC. And
14 there's also some discussion about the Multi-State Information Sharing and Analysis
15 Center which is MS-ISAC.
16 With regard to EI-ISAC specifically, I think there was discussion around it but not
17 specifically. What is the actual mission of the EI-ISAC to the extent you're familiar with
18 it?
19 A Yeah, my -- I don't know their exact mission statement. Right. I'm sure
20 there is one. But their mission, as with any ISAC in an area of critical infrastructure, to
21 be the information sharing hub for that critical infrastructure sector -- so in this case State
22 and local election officials, the private sector partners -- around risk mitigation, risk
23 management, threat intelligence and threat management, and best practices.
24 Q And I'm sorry. What's the mission of the MS-ISAC?
25 A So same concept but for county, State, city, governments generally, not

1 specific to elections.

2 Q Who manages the EI-ISAC?

3 A The person or the entity?

4 Q The entity. The entity.

5 A The Center for Internet Security.

6 Q Okay.

7 A Currently.

8 Q And is the -- and who manages the MS-ISAC?

9 A The Center for Internet Security.

10 Q And who manages the Center for Internet Security?

11 A The person?

12 Q Is it -- is it run by a board? Is it run by a chief executive, to the best of your

13 knowledge?

14 A I don't know specifically. I believe they have a president or executive

15 director and also a board, but I don't know their governance structure.

16 Q Okay. Is CIS an arm of CISA?

17 A No. I mean, I -- you'd have to -- no. The answer's --

18 Q Is it --

19 A -- no. It's a non -- an independent nonprofit.

20 Q Is it under the control of the CISA?

21 A Not that I know of.

22 Q Okay. Have you to the best of your knowledge, just based on your

23 experience with CISA, do you know if CISA ever vetoed an act that CISA might have -- that

24 CIS might have taken?

25 A I'm not aware of that occurring or an ability for CISA to do so.

1 Q Okay. Are you aware of CISA ever conditioning CIS funding or grants on CIS
2 taking a particular action?
3 A I'm not familiar enough with sort of the process by which the award happens
4 to create the MS-ISAC, EI-ISAC to know what conditions are present or not present within
5 that documentation. I don't know.
6 Q There have been allegations that during the 2020 election CISA, quote,
7 funded and utilized CIS for the purpose of having social media companies moderate
8 content.
9 Are you familiar with that allegation?
10 A Generally, yes.
11 Q Do you believe that allegation is accurate, that CISA used CIS to enact
12 content moderation that it couldn't do itself?
13 A That -- in my experience, that is not correct in my experience.
14 Q Okay. And you have no information to support that allegation. Is that fair
15 to say?
16 A I'm not aware of any information to support that.
17 Q Okay. There have been allegations that during the 2020 election the
18 EI-ISAC, quote, facilitated attempts to sensor core political speech.
19 Are you familiar with that allegation?
20 A No.
21 Q To your knowledge, during the 2020 election did the EI-ISAC take any steps
22 to sensor political speech?
23 A Again, I didn't run the EI-ISAC. But I'm not aware of anything to support
24 that.
25 Q Are you aware of any information to support an allegation that the MS-ISAC

1 took any steps to sensor political speech during the 2020 election?

2 A I'm not aware of anything like that. But, again, I also didn't run the

3 MS-ISAC.

4 Q To your knowledge during the 2020 election, did the EI-ISAC have employees

5 engaged in monitoring social media for election-related misinformation or

6 disinformation?

7 A I don't know.

8 Q Okay. To your knowledge during the 2020 election, did the EI-ISAC monitor

9 social media for election-related disinformation using any other method, so not talking

10 employees but a contractor or some other method having a software program, for

11 example?

12 A I don't know.

13 Q Okay. There was some discussion -- actually, we talked a little bit just now

14 about the election workers and the threat environment that they're facing. I want to

15 talk about that in a little more detail.

16 A Okay.

17 Q You said that you are generally familiar with the circumstances

18 that -- that -- that -- the threat environment facing election workers.

19 A Yeah, I'm very familiar.

20 Q Have you heard about these threats from election workers themselves?

21 A From State and local election officials? Absolutely.

22 Q Can you describe some of the things that you've heard from State and local

23 election workers?

24 A Sure. And, you know, it's fairly well-documented.

25 But I know State and local election officials that have received consistent threats,

1 death threats, have had to get restraining orders, have had to engage local or State law
2 enforcement to patrol more regularly around their house or even sit in front of their
3 house.
4 I know some State or local election officials that have relocated for a period of
5 time out of fear for their safety and their family's safety.
6 I mean, there's some pretty well-documented cases of charges being brought
7 against folks that have been targeting or threatening election offices. I know some
8 election offices where the entire staff has quit because they did not want to face the
9 harassment any longer.
10 I mean, those are just a few examples.
11 Q And the examples you just provided, are those from within the past couple
12 of years? Is that fair to say?
13 A Couple of years? I mean, over the last 3 to 4 years I would say, yes.
14 Q So since 2020, approximately.
15 A Or even before. I mean, again, the example I used with Kentucky, it may
16 have been like 2019, 2020, somewhere in there.
17 Q Okay. Are you familiar with the Justice Department's Election Threats Task
18 Force?
19 A I'm familiar that it exists, yes.
20 Q Okay. What's your understanding of what it is?
21 A I mean, I -- very limited. I believe that it's intended to be a task force
22 looking into possible criminal activity targeting election officials, but I don't know
23 specifically how they operate.
24 [Masterson Exhibit No. 7
25 Was marked for identification.]

1 BY [redacted]

2 Q I want to introduce exhibit 6 -- 7 -- sorry -- a threat sheet that the Justice
3 Department's Election Threats Task Force put out at the end of August of this year.
4 A Okay.
5 Q So what I just handed you is a list of 13 cases that the Justice Department's
6 Election Threats Task Force has brought. They're enforcement actions involving threats
7 to the election community, and the Justice Department has brought these since the task
8 force was established in 2021. Correct?
9 A I believe that's what the -- the paragraph after discusses, as well as the sort
10 of introduction, yes.
11 Q And these are threats against election officials and poll workers and in some
12 cases candidates, as well. Correct?
13 A Yeah, it appears that this says threats of violence against election workers
14 and then some of the descriptions do include -- at least one can -- said a candidate, it
15 appears.
16 Q So I'm looking at, for example, the first listed is the District of New Mexico
17 case in which an individual allegedly went on a shooting spree, targeting the homes of
18 elected officials and a candidate for office. Right?
19 A Yes.
20 Q And then the ninth case is from the Northern District of Texas. It says that
21 the defendant was sentenced to 3 years in prison for, quote, suggesting a mass shooting
22 of poll workers. Correct?
23 A Yes, that's what that says.
24 Q And so are these kind of threats that are documented and here, are these
25 consistent with what you've heard anecdotally from election workers over the past

1 several years?

2 A Yes. These would be some examples of --

3 Q Correct.

4 A And I'm familiar with some of these examples specifically.

5 Q And which ones specifically are you familiar with?

6 A I'd have to go through, but the one that jumped out was the one that you

7 just shared from Arizona. I was familiar with that one specifically.

8 Q And can you share why you're familiar with that?

9 A I think just public reporting --

10 Q Okay.

11 A -- and conversation.

12 Q You didn't know the individuals involved there.

13 A No.

14 Q Okay.

15 A Although the -- it doesn't matter.

16 Number five, I'm familiar with the person that they're speaking about.

17 Q This is the list of 13, and these are the cases that have actually been charged.

18 But it sounds like based on what you are saying a couple of minutes ago that what you're

19 hearing anecdotally is that this is probably a small subset of what election workers are

20 actually experiencing. Is that fair to say? In other words, you've heard about many

21 more than 13 threats or 13 dangerous situations.

22 A Yeah, I hesitate only because there's a very specific definition for the DOJ

23 and FBI --

24 Q Absolutely.

25 A -- on sort of what would arise to criminal conduct.

1 Q Uh-huh.

2 A What I'm aware of is anecdotally, yeah, a broad environment of harassment

3 and threats. Whether or not would raise to legal prosecution --

4 Q Uh-huh.

5 A -- I don't know.

6 Q And looking at the environment as a whole, so both the situations that rise

7 to the level of actually being legally prosecutable and also just the situations that create a

8 threatening environment for workers, are you familiar with reports that individuals are

9 less willing to serve in these election worker roles or less willing to serve as part of the

10 election community because of this threat environment?

11 A I'm familiar with that assertion. I don't know its veracity. My experience

12 has been that certainly there's been greater turnover among election officials.

13 So if we could kind of take poll workers off of it, there's, you know, depending on

14 the numbers that you see, you know, I saw a report today that in Arizona over 50 percent

15 of the election officials have changed or left. That's unusually high in my estimation.

16 As far as people refusing, I mean, I've seen the reports of that. I've also heard

17 from some election officials that they've got folks who sort of want to show resilience in

18 the face of that and are serving.

19 So I don't -- I don't know how -- whether it's true or not.

20 Q With respect to the -- well, with respect to the individuals who are hoping to

21 show resilience and who want to show that they can withstand this type of threat

22 environment, are you hearing that they are looking for additional support in doing that

23 and showing that resilience and facing those threats?

24 A I don't know that it would be specific to that class of people.

25 Q Uh-huh.

1 A But what I hear consistently from State and local election officials is that an
2 ongoing need, desire, at times frustration that they aren't receiving the support that they
3 need from whether it's law enforcement, other officials, even sometimes the Federal
4 Government, that they at times feel isolated and on an island.
5 Q Do you have concerns that that feeling of isolation might impair their
6 election -- those election workers' willingness to continue doing the work they're doing?
7 A Again, we've seen quite a bit of turnover. I don't know if that's specifically
8 why. Some have cited that. For instance, a county in Texas where essentially the
9 whole office resigned cited specifically basically not wanting to continue the abuse.
10 Q Uh-huh.
11 A So it just -- it's dependent.
12 Q Are you familiar with reports that members of academia who study
13 disinformation are also facing threats?
14 A Yes, I think I recently saw something than.
15 Q Some have expressed concern that the threats that -- academia, that
16 members of academia are facing, so people like Stanford, right, so the people like the
17 employees at the Stanford Internet Observatory, it might chill their willingness to
18 continue doing disinformation research in the future. Are you familiar with those
19 concerns?
20 A Again, I'm generally familiar based on, I think, a recent report.
21 Q A recent public report.
22 A Yeah.
23 Q Okay. Has your name been in the public eye because of this investigation
24 or other investigations?
25 A I'm not aware of my name arising as a result of this investigation or others.

1 It's possible.

2 Q Do you have concerns about what the implications might be for yourself and

3 for your safety if your name were to be made public as part of this investigation?

4 A As part of this investigation?

5 Q Or as part of, broadly, this, you know, the Twitter Files reporting, the

6 reporting around this investigation.

7 A I mean, I wouldn't cite it specifically to anything here. I have concerns and

8 have experienced a little bit, although not anything near what some election officials

9 have, some targeting. And I have two young children and a wife.

10 And so do I worry about that? Yes. But I -- I can't say as though I've

11 experienced anything near what many of my colleagues in the elections field have

12 experienced and certainly can't cite to any specific actions I've had to take as of yet.

13 [redacted] Okay. Thank you.

14 We don't have anymore questions this round. We can go off the record.

15 Mr. Masterson. Thank you.

16 [Recess.]

17 [redacted]. Can we go back on the record, please.

18 BY [redacted]:

19 Q Mr. Masterson, when you were at CISA, do you recall ever receiving a

20 briefing from CISA lawyers or anyone, leadership, about what could or could not be said

21 when CISA personnel were interacting with social media companies?

22 A I do not recall specific briefing on that.

23 Q Okay. What about generally? Do you recall receiving any instructions

24 about --

25 A Again, I recall conversations around the language on the emails. I don't

1 recall a specific conversation beyond that. It's possible. I knew, you know, the lawyers
2 were involved, but I don't recall anything specific on that.
3 Q Do you recall if the social media companies prior to that disclosure language
4 being added had said anything to CISA?
5 A I do not.
6 Q During your time at CISA, did you have any standing meetings with social
7 media companies?
8 A Yes.
9 Q And what were those standing meetings?
10 A We had a -- I probably won't get the title exactly right but a
11 government-industry sync that I was invited to and participated in.
12 Q And when did these government-industry sync meetings begin?
13 A I don't -- I don't recall when they started. I don't recall when they started.
14 Q Do you recall if they had started prior to the 2018 midterm election?
15 A I don't, no.
16 Q Do you recall if they had started prior to the 2020 U.S. election?
17 A Yes, they had started prior to the 2020 U.S. election.
18 Q Okay. How frequently would these meetings occur?
19 A As I recall, they were -- I may have this wrong. To the best of my
20 recollection, they were monthly and increased in frequency as we got closer to the
21 election to maybe biweekly or maybe weekly. I can't remember.
22 Q And based off that frequency that you recall, how frequently would you
23 attend those meetings?
24 A That -- that was entirely dependent on what else was going on. So, I mean,
25 I would say I tried to attend. But there, as you might imagine, was a lot going on. So I

1 can't tell you sort of a percentage or amount that I attended.

2 Q For the -- you mentioned government industry. Were there multiple

3 Federal Government agencies represented at these meetings?

4 A Yes.

5 Q To your recollection, which -- which agencies?

6 A As I recall, CISA, the FBI, ODNI, DOJ. That's who I recall. There may have

7 been others.

8 Q Do you recall any components of DHS outside of CISA that would attend?

9 A Yes. DHS I&A. Thank you.

10 Q As during your tenure at CISA, did have you interactions with ODNI outside

11 of these standing meetings?

12 A Yes.

13 Q And at a high level, what was the nature of those interactions?

14 A So and I won't get the dates right. So I apologize. Somewhere I think in

15 2019, it may have been 2018, then Director of National Intelligence Dan Coats appointed

16 a Election Threat Executive named Shelby Pierson who was then became the ODNI

17 representative for election intelligence work.

18 And so we regularly met with and engaged with Shelby throughout her tenure.

19 And, again, I can't quite remember when that took place. I remember when it

20 happened and Director Coats, who was a Trump appointee, being on the call with us,

21 appointing her. And so I would regularly sync with Shelby.

22 And so their role, as I understood it or experienced it, was largely one of ensuring

23 that all of the USG that was working the election security work had access to and was

24 coordinated around the intelligence that was available specifically to protect the election.

25 Q And was this, again, high level, intelligence and reporting as it related to

1 foreign influence operations? Was it broader than that?

2 A It was broader than that, as I recall. It -- from what I recall, it was any cyber

3 or information operations that foreign adversaries may undertake to target the election.

4 Q To your understanding -- so certainly the ODNI had access to classified

5 materials. Setting that aside, in terms of scope, the subject matter of this element of

6 ODNI's mission, how did that compare to CISA's CFI team's mission?

7 A So I don't -- you know, I probably didn't have full visibility into the full scope

8 of what the election threat executives' agreement was but I --ply experience with the two

9 is that they had very different agreements.

10 ODNI, my experience was very focused on the intelligence side of things and

11 ensuring, again, that the whole of the USG and, therefore, the election community -- so,

12 for instance, ODNI, with us, led the intelligence briefings to the election officials, right, the

13 classified briefings that we would do, which was something that prior to us doing that in

14 2018 had never taken place before.

15 That's very different than at least what I perceived the Foreign Influence Task

16 Force -- I'm sorry -- the Countering Foreign Influence Task Force, the CISA Task Force

17 agreement around tangible products around like the pineapple product around foreign

18 influence.

19 That pineapple product isn't something I perceived that ODNI would do. I might

20 be wrong, but that's very different. ODNI was specifically intelligence focused.

21 Q For these USG Industry sync meetings, was the information being shared

22 classified or sensitive or is this -- let me stop there -- to your recollection?

23 A I don't recall there ever being a classified government-industry sync.

24 Q Okay. And so to your recollection, when ODNI -- well, would ODNI present

25 at these, to your recollection, to these Government Industry Sync meetings?

1 A I don't recall a presentation from ODNI. They would participate. They
2 would be present. I don't recall any specific sharing they did, but that doesn't mean it
3 didn't take place.
4 My experience in the government-industry syncs was largely that the private
5 sector participants, when they had something to share, it was typically a report on
6 coordinated inauthentic behavior that they either had already reported publicly on or
7 were about to report publicly on and then, you know, just general updates.
8 I don't recall ODNI giving a specific presentation or something like that.
9 Q Would CISA provide information during these meetings or participate in
10 these meetings?
11 A Yes. So we would participate.
12 Q Yeah, and what types of information would CISA share?
13 A So my experience was that I was, because I was the one on the call that
14 understood the election process the best, the systems, procedures, and otherwise, most
15 of what I would share related to understanding of risk in the process, both from a cyber
16 side but also from an information side generally on how, how -- what areas of the process
17 could be targeted with both cyber activity and narratives to undermine trust or to call
18 into question the integrity of the election.
19 So I spent some amount of time on the calls kind of generally laying out where the
20 risk in my estimation existed within the process that narratives could be targeted.
21 So, again, to use an example that I used before, election night reporting systems,
22 generally the public doesn't understand the unofficial nature of election night reporting,
23 doesn't understand the entire canvas process and auditing process that exists in the vast
24 majority of States.
25 And, therefore, it is sort of a fertile ground for confusion and possible narratives

1 targeting it. So that would be an example of an area that we would -- we identified as a
2 possibility and had seen. Right?
3 Russia in Ukraine in 2014 did exactly that around election night reporting and
4 attempted to manipulate the election night reporting results in Ukraine in 2014. So it's
5 something we had seen in the Russian playbook before, as well.
6 Q In your previous answer you mentioned both risks as they related to cyber
7 and risks as they related to narratives. Just so we're on the same page, can you say a
8 little bit more about what you mean by each of those risks?
9 A Sure. So, you know, there's cyber risk with any process that uses IT
10 systems. Right? Systems can be hacked. Systems cannot work. Systems can be
11 targeted for manipulation or even just targeted to appear not to have functioned
12 correctly.
13 And then those incidents or perceived incidents can be used to message about the
14 process in a way that allows for questions and/or distrust of the results or the integrity of
15 the process.
16 And so the -- they're not two separate pillars but, in fact, overlap where a cyber
17 incident can result in narratives that lead to confusion, distrust of the process.
18 Q Are there any risks that CISA had identified with respect to narratives that
19 did not share an overlap with the cyber risk?
20 A That's a good question. Yes, there's general -- the one that comes to
21 mind -- and I don't know that CISA specifically identified it but it's certainly one I was
22 keenly aware of and had experienced.
23 It was one around how vote -- election night results and the winner or perceived
24 winner can change over time as early ballots, mailed ballots, provisional battles, or
25 counted. Right? That is a common narrative where, you know, understandably some

1 people don't understand that votes continue to be counted until you count every vote.
2 That's the election official's job, count every eligible vote.
3 And in some States, that's done fairly quickly. In some States it takes a while.
4 And so there's a lack -- there's at least confusion about how that works that I had seen
5 over my entire election career.
6 Q Who else from CISA would -- actually, let me take one step back.
7 So just from -- when CISA's making these, sharing information on this, are you the
8 one that's typically participating on the call or is it -- who on behalf of CISA is speaking?
9 A It just depended on sort of what was happening, who was on the call. You
10 know, if I wasn't on the call, obviously, I wasn't participating. What I was sharing is my
11 experience of what I tended to share, which was a very election administration-focused
12 either what election officials were actually experiencing and/or where I saw risks play out.
13 Q Who else from CISA would regularly attend these meetings?
14 A As I recall, Brian, Geoff, perhaps other ESI or Countering Foreign Influence
15 Task Force members as well.

1

2 [2:37 p.m.]

3 BY [redacted]:

4 Q And for Brian and Geoff, do you recall what type of information, or what sort

5 of things they would be sharing when they participated?

6 A I don't recall a specifically what update or not. I mean, there were several

7 of these calls, right? No, I don't recall specifically what they might have shared on there.

8 Q What about sort of general level?

9 A I mean, again, I don't recall specifically, but Brian would have shared about

10 the work of his team, presumably, and Geoff may have updated on the work we were

11 doing if I wasn't on, or if it was something additional that we had heard from the State or

12 local election official, private sector entity, or something going on. But it would have

13 related to work we were doing.

14 Q Would there be a government-only synch prior to these

15 government-industry syncs or agency priors who would preview what we discussed on

16 the upcoming call?

17 A I recall that may have occurred on occasion. I don't recall that being a

18 regular thing. It is possible. But I don't -- I don't recall, you know, sort of a standing

19 government synch in that way, but it is possible that on occasion that occurred.

20 Q Do you recall who, whether on the government side or the industry side,

21 took the lead in scheduling these meetings?

22 A As I recall -- which meetings, the government?

23 Q The full government industry standing meetings.

24 A As I recall, it was -- I think it was Brian and/or a member of his team.

25 Q Do you recall any discussion during these government-industry synch

1 meetings in 2020, do you recall any discussion regarding the potential risk of
2 hack-and-leak operation?
3 A I don't recall a specific discussion on that, but hack and leak, I do recall
4 generally. So, again, not a specific call, but generally hack and leak being, one, a
5 recognized common adversary tactic, especially at Russia. As there are endless
6 examples of Russian cyber operators hacking and leaking information that the Russians
7 will use to leverage for any number of purposes, right? And so, hack and leak would fall
8 into sort of the red-teaming risk bucket as we looked at possible tactics and techniques
9 that could be used to target and undermine the process for the people involved,
10 especially since we had seen Russians do that before, right? The Russians hacked and
11 leaked into our registration data. The Iranians hacked and then used email information
12 that they got -- well, they accessed it, in some cases, because it was public and other
13 cases it's not, but that's a hack and leak. And we had seen that take place in other
14 elections around the world from adversaries. So hack and leak unquestionably would
15 have been in the sort of playbook that we would have perceived as a possibility. And I
16 recall that being part of the discussion what that could look like had that been able to
17 play out?
18 Q You mentioned a couple of times tabletop exercises. Do you recall any
19 occurring in 2020 or where the tabletop exercise was about how to handle a potential
20 hack-and-leak operation?
21 A I don't recall the scenario from 2020 or scenarios. There's multiple
22 scenarios within the tabletop. It kind of is like the progressively worst day ever, right?
23 And so, I don't recall if hack and leak was part of the 2020 scenario. But, again, hack and
24 leak would have been a pretty common tactic that we would have identified as a
25 possibility.

1 Q In the government industry synch meetings, do you recall which government
2 agencies discussed and any sort of high-level or more specific, the risk of hack-and-leak
3 operation?
4 A I don't recall the specific discussion on it to know the specific agencies. But
5 again, hack and leak would have been something we all recognized as a risk, and the
6 election officials recognized as a risk.
7 Q With respect to these discussions of a potential hack and leak, do you recall
8 any of the industry government synch meetings, whether there was a discussion of
9 whether the Ukrainian company, Burisma, was at risk of being part of hack-and-leak
10 operation?
11 A I do not recall a specific conversation about that, no.
12 Q Do you recall on a general level whether that was ever discussed?
13 [redacted] Would you please speak up.
14 Ms. Christian. Yeah, I'm having a hard time?
15 BY [redacted]:
16 Q Do you recall whether at a general level whether that was ever discussed?
17 Ms. Christian. May I ask what you're referring to?
18 [redacted]. Yeah, sorry, the reference to Burisma and one of the government
19 industry synch standing meetings from 2020.
20 Mr. Masterson. No, my recollection, again, was on general conversations about
21 hack and leak as a tactic that could be employed.
22 BY [redacted]:
23 Q Was there ever discussions about timing of one hack-and-leak operation
24 would be likely to take place?
25 A I don't recall that specifically, no, but it is possible only in the sense that

1 we -- at CISA, as we evaluate a risk, and you can see this in some of the published
2 products that we had. We evaluated risks sort of in the preelection timeframe, in and
3 around Election Day, and then post-election timeframe, and sort of what systems were in
4 use, what processes were being used. And so it is possible that was part of the
5 discussion, but I don't recall that being the specific conversation about sort of when hack
6 and leak can take place and what time -- or even what hack and leaks could take place at
7 the different points in the process, I don't recall that.
8 Q Do you recall Hunter Biden ever being mentioned in one of these standing
9 U.S. Government industry synch meetings?
10 A I do not.
11 Q Do you recall Hunter Biden ever being mentioned in any meetings with social
12 media companies prior to the 2020 election?
13 A I do not recall that, no.
14 Q Do you recall any mention of Hunter Biden in government-only meetings
15 prior to the 2020 election?
16 A I do not recall that, no.
17 Q This will be exhibit 8.
18 A Okay.
19 [Masterson Exhibit No. 8
20 Was marked for identification.]
21 BY [redacted]:
22 Q If I can have you turn to the back half of the page. It will be Bates No.
23 36979. There's an email from [redacted]. Is that the same [redacted] that we had
24 discussed earlier? Your contact at META?
25 A I presume so. Is that who you are referring to?

1 Q Yes. Her email -- so this is about four or five lines from the bottom. She
2 references G-E-C or the GEC. Do you know what the GEC is?
3 A I'm familiar with the GEC, yes.
4 Q And to your understanding what is it?
5 A It is the Global Engagement Center within the State Department. Candidly,
6 I don't know, specifically, what they do.
7 Q Was there consideration about whether to add the GEC to these, the
8 standing government industry synch meetings?
9 A Based on this email, it appears there was. I don't recall the specific
10 conversation. Although, I do recall them not being added to the synchs, but I don't
11 know why, or recall why.
12 Q [redacted] references that it sounds like speaking on behalf of the industry that
13 they would prefer not to add new participants referring to the GEC. Do you know why
14 industry referred to not have the GEC join these meetings?
15 A I don't recall, specifically, why they didn't.
16 Q So [redacted] sends you an agenda for one of the upcoming synch meetings.
17 Would you typically go back and forth with industry about what would be on the agenda
18 in advance of one of these meetings?
19 A I don't -- so the answer is, I don't know. I don't recall being a big part of
20 that process. I may have added items. I see that I later say we haven't heard anything
21 back. I wouldn't say that that was typical, which is the word you used. My -- at least
22 recollection, is that typically came from Brian or someone on that team, not me, but
23 there could be reasons why that occurred this way this time. But from what I recall, I
24 may have added items to the agenda, but I don't recall being sort of the agenda setter.
25 Q And so you recall Brian Scully playing the primary role of getting the agenda

1 set?

2 A Brian or someone on the team, as I recall. It may have been, you know,

3 someone else I don't know. But I just don't remember it being my primary responsibility

4 most of the time.

5 Q If you flip the page, Bates No. 36978, you said: We have not heard back on

6 agenda from other Feds, so we will report back. Just to piece together your previous

7 answers, is it your understanding that typically Brian Scully would hear from the other

8 government agencies on what they would be interested in, adding to the agenda and

9 incorporate that in?

10 A That's my recollection of how the process works.

11 Q We can take these back. Thank you. We're not using them anymore.

12 Are you generally familiar with The New York Post article published on October 14th,

13 2020, regarding Hunter Biden's laptop?

14 A I have not -- I don't recall reading the article. I guess I have heard the

15 kerfuffle around it.

16 Q Fair enough. Are you aware of the steps that social media platforms took

17 to reduce the circulation of that story?

18 A I'm not familiar with the specific steps any company took. I am just kind of

19 generally aware of the existence of the story.

20 Q Okay. Are you generally aware that some social media companies took

21 some steps regarding the circulation of the story?

22 A I mean, kind of, right? I'm generally aware that this is a conversation that is

23 happening, I would say. I haven't paid a lot of attention to it.

24 Q You mentioned that these government industry sync meetings occurred with

25 an increased frequency ahead of the 2020 election. Is that right?

1 A That's my recollection, yes.

2 Q Do you recall in any of the government industry meetings following the

3 story's publication whether the story was raised during any of these meetings?

4 A I do not. I do not recall a specific conversation about it.

5 Q Do you recall any discussions regarding the story with social media

6 companies outside of these standing meetings that were scheduled to occur?

7 A I do not recall him participating in any discussion specific to that, no.

8 Q Of the different subcomponents at CISA, your ESI team, you have CFI team,

9 which team had primary responsibility when it came to trying to assess the risk of

10 potential hack-and-leak operation?

11 A I don't know that any one team had primary responsibility. Again, from my

12 perspective in work, hack and leak I viewed as a possible tactic that could be used

13 targeting the election officials to process the systems to cause confusion or distrust to the

14 process. So that's -- my recollection is in my work, it being a possible tactic that could

15 be used. I don't know that anyone was primarily responsible for that, right? I mean, it

16 could be part of a number of sort of risk assessment or equations that we would look at.

17 Q Do you recall if anyone at CISA conducted some sort of risk assessment after

18 the story came out about whether it was the product of a Russian hack-and-leak

19 operation?

20 A No, I'm not aware of that taking place.

21 Q Do you recall anyone from industry reaching out to anyone at CISA about

22 whether CISA had any information to share regarding whether the story was related to a

23 Russian hack-and-leak operation?

24 A I don't recall that taking place, no.

25 Q While you were at CISA, did you have interactions with the Stanford Internet

1 Observatory?

2 A Yes.

3 Q And at a high level, what were those interactions?

4 A As I recall, we received at least one briefing or presentation from them at

5 some point on the creation, or possible creation, of the Election Integrity Partnership.

6 Q And what is the Election Integrity Partnership?

7 A The Election Integrity Partnership, as I recall, was a collaboration between

8 Stanford Internet Observatory, University of Washington, I believe, DFR Lab and Graphika

9 possibly were partners in it as well to identify and expose mis- or disinformation around

10 the election process or procedures.

11 Q And this initial meeting between Stanford and CISA, do you recall when

12 approximately that was?

13 A I don't recall specifically when it was. My guess is maybe late summer, but

14 I don't know the exact day, no.

15 Q And what was the purpose of the meeting?

16 A My recollection is it was simply sort of an update about what Stanford was

17 going to do or did. I don't recall if the EIP was in place or about to be in place.

18 Q You mentioned DFR Lab. Just very briefly what is DFR Lab?

19 A Wow, as I recall -- I don't know the specifics on DFR Lab, but I believe DFR

20 Lab is a nonprofit research entity that looks at information operations probably, I think.

21 Q And what is Graphika?

22 A I believe Graphika is a company -- they may be nonprofit. I don't know. I

23 don't know sort of their status, I guess, that identifies and tracks mis- and disinformation,

24 actors, and narratives.

25 Q Who is Renee DiResta?

1 A Renee DiResta is an employee at the Stanford Internet Observatory. I don't
2 know her title.
3 Q And did you work with her while you were at CISA?
4 A I don't recall working with Renee at my time in CISA. It was possible at that
5 time she was on that call, but I don't recall her participation in that.
6 Q Who from Stanford do you recall participating as it related to the EIP?
7 A I remember Alex Stamos sort of leading the call. I don't recall who else was
8 on.
9 Q Do you know who [redacted] is?
10 A She is an employee at the Stanford Internet Observatory, or was. I don't
11 know if she still is.
12 Q Actually, did you have interactions with her while you were at CISA?
13 A Again, it's possible, but I don't recall a specific interaction with [redacted].
14 Q Following the meeting between the EIP and CISA, or Stanford and CISA,
15 depending on who was on the call exactly in late summer 2020, what was the result of
16 that meeting? Were there any do-out, did CISA have any continuing communications
17 with the EIP?
18 A I don't recall any do-outs, and it is possible -- I don't recall having continuing
19 conversations or interactions with the EIP, but it is certainly possible. It was not -- if it
20 occurred, it was not something that was a big part of my work, and so I don't -- I don't
21 remember that taking place.
22 Q Do you recall if other people from CISA attended this initial meeting?
23 A I believe Brian was there, as I recall.
24 Q Do you know if Brian continued to have communications with Stanford
25 regarding the EIP after this first meeting?

1 A I don't know.
2 Q Do you recall having any sort of role or receiving information from the EIP
3 following this first meeting?
4 A I don't recall any specific communication or receiving anything specifically
5 from them. It's possible, but not that I recall.
6 Q To your understanding, why did EIP, or why did Stanford want to inform CISA
7 about EIP?
8 A No. I don't know. I mean, Stanford could certainly answer that question.
9 I think it was -- I think it was an update on what they were doing. I don't know why that
10 was important to them except for, you know, we knew of them, right?
11 Q How did you know of them?
12 A We had had Stanford interns work for us previously.
13 Q Did you have any other interactions or connections with the Stanford
14 Internet Observatory, part of the intern starting CISA?
15 A Yeah, I don't know if it -- honestly, I don't know if Alex was at Stanford
16 Internet Observatory yet, but I attended at least one meeting, as I recall, that Alex was
17 present at, but I don't know his status at that point in time. And so, I knew Alex -- I had
18 met Alex a couple of times as I recall. But I don't recall any -- any specific sort of work
19 we had done together when I was at CISA.
20 Q When you were at CISA when CISA was having the Stanford students as
21 interns, do you know how many interns there were?
22 A As I recall, four or five.
23 Q And who did they work for at CISA?
24 A I don't recall. I recall them generally their work being divided between the
25 election security work and the task force, but I don't know sort of the divide or how that

1 works. I don't recall.

2 Q So by election security work, you said you recall their time is divided

3 between your team and Brian Scully's team?

4 A Yes, yes.

5 Q Can I have 3C141?

6 Ms. Christian. Is this 9?

7 [redacted]. Yes, this will be exhibit 9.

8 [Masterson Exhibit No. 9

9 Was marked for identification.]

10 BY [redacted]:

11 Q First, do you recognize this email exchange?

12 A I do not.

13 Q Do you know who [redacted] is?

14 A Based on an email, she is an employee at the University of Washington, and

15 she is someone I am familiar with and have heard of.

16 Q Do you know who Graham Brookie is?

17 A I believe -- I believe Graham -- I don't know his title -- but works at DFR Lab, I

18 think.

19 Q [redacted] -- this is in the first sentence, second clause. She is saying: We

20 thought it would make sense to bring together those who played a management or

21 leadership role in the 2020 EIP work. Do you think she is including -- also you are copied

22 on the email -- is it your understanding that she is referring to you as one of the people

23 who would be understood to play a management or leadership role in the 2020 EIP work?

24 A I don't know what -- how [redacted] considered me -- I'll be honest. I don't know

25 that I recall meeting [redacted] in my time at CISA. It's possible. And so, I don't know what

her intent is at this point on November 30th, 2021, obviously, almost a full year after I had left CISA. She didn't include me on the initial email because, I guess, she didn't have my email, but I don't know the intent there.

Q Would you describe what role you had with respect to the work EIP did in 2020? Would you describe that role as a management or leadership role?

A No.

Q All right. This is the deposition of Brian Scully from the Missouri v. Biden case. It's going to be exhibit 10. This is -- we'll direct you to the specific page numbers. We're going to ask about only a couple, but we want to make sure your counsel and you have a full copy. If you have any questions, you know, I don't know if you've had --

Ms. Christian. What is the deposition?

[redacted]. This is Brian Scully's deposition in the Missouri matter.

[redacted] Are you entering the whole deposition into the record?

[redacted]. Yeah, we're only going to reference a few pages. The deposition is publicly available.

[redacted] Oh, no, no. It's just going to make it a massive transcript for us, but that's fine.

[redacted]. Okay.

[Masterson Exhibit No. 10
Was marked for identification.]

BY [redacted]:

Q If I can have you turn to pages 83 and 84. And if you want to have a chance to review the full context, you're happy to read back a couple of pages. But the part we'll question about starts midway through page 83 that comes back through some technical difficulties, and then there's a couple of questions regarding you and Mr.

1 Scully's recollection of what role you had, if any, in EIP.

2 A Do you want me to read all of page 84 as well or just --

3 Q Yes. We're going to ask down to line 18, but to the sense you feel

4 comfortable, make sure you have an opportunity to review before and after.

5 A Sorry, I went back just to get context. Okay.

6 Q So regarding back and forth, starting in the middle of page 83, Mr. Scully had

7 asked about you and whether -- what role you had, if any, in originating the concept for

8 EIP. Mr. Scully responds: So his primary role was the same as mine, in terms of just

9 clarifying the gap that election officials faced for the folks at the Stanford Internet

10 Observatory early on in the process. To your understanding, what sort of gap was EIP

11 trying to fill?

12 A I don't know, specifically, what the gap referred to here that Brian is

13 speaking of. In my work in support to State and local election officials, as I think I have

14 expressed, there was a growing concern of an inability or disconnect between the

15 election officials' ability to keep up with the emerging narratives that were targeting the

16 process themselves, the systems, and their ability to both identify and respond. They

17 felt ill-equipped to both understand the speed at which it was coming at them, the impact

18 it was having, how to sort of push back, and how to connect with the platforms in a way

19 that would allow them to respond, right, to impact it.

20 So the perceived gap, at least for me, in time in that work was election officials

21 had no ability to keep up and understand the information environment that was a direct

22 risk, or at least as they viewed it, to the people processing systems they were running.

23 Q And how what was the plan? How would EIP property address this gap as

24 you understood it?

25 A I don't know specifically. I mean, they wrote their plan. I mean, I guess

1 could you look at the work that they did throughout and the reporting that they
2 published as a means to publicly report on those narratives that could help support
3 election officials understanding of that information environment. But you would have
4 to ask them sort of what the plan was for them.
5 Q In terms of different ways to address this gap, what other options being
6 considered by CISA?
7 A I don't recall discussing other options with regard to the gap -- or that
8 environment except for, you know, my ability to take, if they shared something with me
9 and provided as part of the switchboarding activity. That's all I recall. I don't -- I think
10 from CISA's perspective, our work -- well, I should say that's not true. The tool for us
11 was to simplify their voice, right? To take and use what they were saying to
12 communicate broadly to the public about the security resilience and integrity of the
13 process. Right? For us that was, or at least for me, I'll speak for me, that was my
14 avenue to amplify their voice, to allow them to share about the work that they were
15 doing, and to respond to growing concerns about the people processing systems.
16 Q So to your understanding, switchboarding was one tool that could be used to
17 help someone ameliorate this gap that had been identified?
18 A Not specific to the gaps. Switchboarding was, at least for me, one way in
19 which I took what election officials were providing me and supported them. They
20 wanted -- they were concerned that there wasn't that connectivity. And for me, if they
21 provided it to me, I could get it into the process. That was -- but my primary avenue was
22 one in which I tried to amplify their concerns, right? That's what rumor control was,
23 right? Rumor control was my and our attempt to amplify their messaging about the
24 process, and the steps they had taken to ensure the integrity of it.
25 Q We mentioned the connectivity. You're talking about the State and local

1 officials and the social media platforms. Who's trying to get connected?
2 A Yeah, right, I think as I've expressed previously, what I was hearing
3 overwhelmingly was that they felt like their voice wasn't heard, that they weren't
4 connected. And so for me, if I received something, I could put it in the process and
5 know that at least that their voice had been passed on in that way. That was what I did
6 with it.
7 Q To your understanding, going back to switchboarding, when state and local
8 officials are flagging pieces of content that are part of the information environment that
9 are leading people to question the integrity in elections, in your earlier responses you said
10 you are not conducting an analysis of the post-deflagging, whether it's true or false.
11 When you passed it to Mr. Scully, you said, you know, obviously, you said, you're not in
12 his head, but you understand he also was not performing some sort of analysis, whether
13 that was true or false. To your understanding, is anyone in the process taking a look to
14 see if the flag post is problematic as the initial State and local official claims it is?
15 A I don't know. I'm not aware of any review of that taking place. Again, as I
16 said, I didn't do that. But I don't think that was part of the process. I didn't perceive
17 that as part of the process, but I can't say for sure.
18 Q Regarding the concerns of connecting State and local officials to social media
19 platforms -- again, we've talked a lot about switchboarding where the discussions that CIS
20 was proposing, the misinformation reporting portal, another tool that was trying to be
21 considered as a way to help connect State and local officials to social media companies.
22 A I mean, you'd have to ask CIS their intent behind that. But based on what I
23 understood, I think that was what was considered.
24 Q To your understanding, was EIP engaging directly with social media
25 companies?

1 A So just to distinguish, at the time I was at CISA, I didn't have any knowledge
2 about sort of how EIP was operating. When I arrived at Stanford, I had a better
3 understanding in that, yes, they were connected with social media companies, but I don't
4 recall like needing or wanting, you know, understanding that at the time. But once I got
5 to Stanford, because the work at Stanford, I understood that.
6 Q Once you get to Stanford, what is the State of EIP, obviously, it's
7 post-election at this point.
8 A Yeah.
9 Q Yeah, I'll stop there. You joined in early 2021 at Stanford. Is that correct?
10 A That is correct.
11 Q When you joined, what is the state of EIP?
12 A As I recall, EIP was in the final stages of writing their final report. It was
13 largely completely written, as I recall at that point, and had sort of completed their
14 activity from what I recall.
15 Q Did you play any role in preparing or finalizing that report?
16 A I do not play any role in preparing the report. I was asked to review the
17 report, specifically, around some of the description of the Iranian activity and sort of the
18 general election administration work and activity, but was not asked to edit or write any
19 sections of it. Just to look at specific areas and just read the report for consistency as a
20 whole.
21 Q Did you see any versions of the report while you still were at CISA?
22 A No, I don't recall that taking place.
23 Q Once the report comes out in 2021, for the rest of your tenure at Stanford,
24 did EIP still exist, and if so, did you have any interactions with it?
25 A So it existed in the sense that it was, as I recall, a project that they just

1 wrapped up, but I don't recall that work continuing because the -- as I recall, the
2 resources sort of pivoted toward the Virality Project. So I think when the report was
3 released, as I recall, the EIP sort of wrapped up that portion of the work.
4 Q And it's your understanding, was EIP -- did EIP do work with respect to the
5 2022 election?
6 A I don't know.
7 Q Were you involved with the Virality Project?
8 A I was.
9 Q What was your role?
10 A My primary role was to draft, publish recommendations around policies and
11 policy approaches. So there's two or three blog posts, and then I contributed that
12 portion of the report around kind of structuring and policy discussions on how State and
13 local officials, nonprofits, government academia, policy-wise could work to respond to the
14 sort of information environment that exists around the vaccines.
15 So that was primarily my role. And then I was responsible for distribution of the
16 public reporting that would come out to subset of folks like the National Governors
17 Association, the National Conference of the State Legislators, the National Association of
18 Counties that I had known from my time in elections that I could distribute the reporting.
19 So every week I'd send out the email and distribute the reporting to them.
20 Q Can we go off the record, please.
21 [Discussion off the record.]

1

2 [3:32 p.m.]

3 [redacted] It is 3:32. We can go back on the record.

4 BY [redacted]

5 Q I want to pick up where we left off -- kind of -- at the end of the last hour.

6 There was a discussion about switchboarding, and the question was posed whether

7 anyone in the process was taking a look at the information in the email itself before

8 passing it along.

9 I just want to reiterate that the process that is referred to, which we talked

10 through in some length -- at some length earlier, is forwarding emails, right? It's

11 not -- there is not a platform that's used or a special portal or anything like that. It's

12 forwarding an email, correct?

13 A I'm not aware of a platform or portal that was used.

14 Q But, with respect to your own personal experience --

15 A Yes.

16 Q -- it was purely forwarding emails, correct?

17 A As I recall, yes.

18 Q Okay. And after the information was sent along to social media companies,

19 which, again -- and you didn't send anything to social media companies directly, correct?

20 A I don't recall doing that.

21 Q To the best of --

22 A Yeah.

23 Q To the best of your recollection.

24 And are you aware of what social media companies might have done with that

25 information after they received it?

1 A No. Again, I didn't, that I recall, contact them or follow up in any way.
2 Q Is it your understanding or -- we've heard that social media companies would
3 then assess that against their own content moderation policies.
4 Given what you do now, would that make sense to you?
5 A I don't have that responsibility at Microsoft, so I don't know sort of how the
6 social media companies handled that.
7 Q To the extent that social media companies did then assess that information
8 against their own content moderation policies, that would effectively be looking at the
9 information to determine its truth or falsity or what proper steps to take, right?
10 A That may be the process that they use. I don't know.
11 Q Did you ever provide any input on social media company content
12 moderation guidelines?
13 A In my time at CISA?
14 Q Uh-huh.
15 A I do not recall ever doing that.
16 Q Okay. Are you generally familiar with community guidelines or user
17 guidelines or the -- they have different names at different social media companies.
18 A I'm familiar with the -- yeah, the concept. I'm not familiar with the specifics
19 of any given platform's guidelines or policies.
20 Q Okay. I want to turn back to the discussion about CISA's engagement with
21 the Election Integrity Partnership, or the EIP.
22 You were asked a number of questions about Mr. Scully's deposition, and so I
23 want to turn back to that deposition.
24 On page 49, Mr. Scully is asked: "Did CISA have any involvement in the Election
25 Integrity Partnership?" This is lines 5 to 7 down there, 5 to 7.

1 And then his response was: "Involvement in the sense that a couple of our
2 interns came up with the idea and that we had some communications with them, yes."
3 Is this consistent with your understanding of the extent of CISA's involvement with
4 the EIP?
5 A Do you mind if I read --
6 Q Uh-huh. Take as long as you need.
7 A Thank you.
8 Okay. I'm sorry.
9 Q So is that consistent with your understanding of the extent of CISA's
10 involvement with the EIP?
11 A Generally, yes. I mean, again, I think Brian likely had a better
12 understanding than I did, but it seems consistent with his recollection.
13 Q Okay. On page 55, Mr. Scully is asked -- and the actual content of this is he
14 was asked -- I'm sorry. I'll let you --
15 A It's okay.
16 Q He was asked if they had been invited -- if CISA had been invited to
17 participate again in 2022. This is at lines 11 to 12.
18 And he responds: "No. CISA didn't -- I mean, I wouldn't say CISA participated in
19 2020."
20 Do you see where it says that?
21 A I see where it says that, yes.
22 Q Do you agree that it would be mischaracterizing CISA's role to say that CISA
23 participated in the EIP in 2020?
24 A Do you mind if I read the --
25 Q Of course.

1 A Sorry. I just want the context.

2 Q Sure. Absolutely.

3 A I'm sorry. Do you mind repeating the question?

4 Q Yeah. So at lines 13 to 14, Mr. Scully says that he wouldn't say that CISA

5 participated, meaning participated in the EIP in 2020.

6 A So I can --

7 Q Uh-huh. And I'm just asking, do you agree that CISA didn't participate in

8 the EIP in 2020?

9 A That was certainly my experience. I wouldn't say that I was a participant in

10 the EIP in my time at CISA.

11 Q There has been an allegation made -- I'm turning away from the transcript.

12 A Okay.

13 Q There has been an allegation made that the EIP was thoroughly intertwined

14 with CISA.

15 Do you believe that's an accurate characterization of CISA's interactions with the

16 EIP, that it was thoroughly intertwined?

17 A Again, my experience with my work was not that we had a thoroughly

18 intertwined relationship. That was not my experience at CISA.

19 Q Is it fair to say that your interactions with EIP during your time at CISA could

20 be characterized as, frankly, very limited?

21 A Yeah. I think, as I said earlier, I don't recall very much interaction at all with

22 EIP.

23 Q Okay. There has been an allegation made that CISA, quote, "aided EIP in

24 the process of reporting undesirable election-related speech to social media platforms."

25 Do you believe this is an accurate characterization of CISA's interactions with EIP?

1 A That would not be an accurate characterization of my experience and work
2 at CISA.
3 Q Okay. To your knowledge, did CISA, quote/unquote, "flag content for EIP
4 for the purpose of having social media companies delete that content"?
5 A I don't know. I did not participate in that, that I recall.
6 Q And do you know if anybody else did?
7 A I don't know.
8 Q Okay. I want to turn back to this conversation about the gap that we had
9 earlier. There was a reference to -- I think it was page 89, I want to say -- the
10 reference -- where the gap was -- the discussion of the gap was raised. And you said
11 that you don't know what Scully meant when he said that.
12 He actually described what he meant when he said the gap, and that's at page 57
13 in this transcript.
14 I'm sorry. It actually begins at the bottom of page 56 to the top of page 57.
15 And he was asked -- so the question was asked: "What's the gap that you're referring
16 to?"
17 And the answer was: "Sure. So we had a conversation with the interns, and
18 they were asking questions about the kind of needs that the election officials have,
19 generally. One of the gaps that we identified from 2018 is, as you know, most election
20 officials, their offices are fairly low staff, low resourced, and so there was no -- they didn't
21 have the capabilities to try to identify disinformation targeting their jurisdictions.
22 "And so it was -- essentially the gap is that most election offices throughout the
23 country just didn't have the capacity or capability to be monitoring anything -- to be
24 monitoring so they could identify anything that would potentially target their
25 jurisdictions, so that was the gap?"

1 Do you see where it says that?

2 A I do.

3 Q Is that consistent with your understanding of what this gap was?

4 A Do you mind if I read for context?

5 Q Uh-huh. Absolutely.

6 A Okay.

7 Q So is Mr. Scully's description of his understanding of the gap consistent with

8 your understanding of what this gap was?

9 A I think, as I described earlier, in the previous hour, this description is

10 consistent with my understanding or what I was hearing from State and local election

11 officials, which was a lack of resources and time to understand the narratives and

12 information environment that they were operating in. They didn't have that capability.

13 Q So is it fair to say that this gap was actually with the capabilities that State

14 and local election workers have or had?

15 A That was at least my experience of the challenge that they were facing, what

16 I was hearing on a consistent basis from them.

17 Q Okay. So there has been an allegation made that CISA helped to establish

18 the EIP to fill a gap in -- quote/unquote, "gap" -- in the government's -- the Federal

19 Government's ability to, quote, "police disinformation."

20 Are you aware of that allegation?

21 A I don't -- I mean, vaguely. I don't know that specifically. But, vaguely, I'm

22 aware that that has been a conversation.

23 Q Is it fair to say that that's not an accurate characterization of what this gap

24 refers to?

25 A Again, in my experience, in the work that I did, the State and local election

1 officials were struggling to understand and identify the information environment and the
2 emerging narratives that they were working in. That, to me, was what I was hearing
3 from the community on a consistent basis.
4 Q Okay. And is it your understanding -- putting aside Mr. Scully's
5 understanding of the gap in general, just looking at the EIP writ large -- to your
6 knowledge, did CISA work to establish the EIP in order to, quote/unquote, "police
7 disinformation"?
8 A In my experience, I didn't work to establish EIP in any way.
9 Q Okay. So that's an inaccurate statement. Is that fair to say?
10 A In my experience, yes.
11 Q Okay. Moving on, you were asked a couple questions -- or several
12 questions in the earlier hour about the purpose of -- about the meetings between CISA
13 and --
14 A Can I close this?
15 Q We're going to go back to that.
16 A Sorry. Okay. Thank you.
17 Q Different section, different topic.
18 A Okay.
19 Q But just going to stick with the transcript for a minute.
20 There was a discussion in the earlier hour about meetings between CISA and other
21 Federal Government agencies and private sector entities with the tech companies.
22 Do you recall that conversation?
23 A I do.
24 Q Okay. Mr. Scully said that the purpose of these meetings was to share
25 information about -- from a CISA perspective, to share information about resilience

1 building. That's at page 45 to 46 of the transcript. It's the bottom of page 45,
2 beginning on line 22 and carrying on to the next page.
3 A Okay.
4 Q Is that generally consistent with your understanding of the purpose of these
5 meetings?
6 A No, because my focus was much more on -- I mean, generally, resilience
7 building could probably cover a variety of functions. And I don't fully understand,
8 candidly, some of what's being referenced here, because he referenced -- "So there are
9 some other countries that are much more mature." I'm not sure what that's in
10 reference to.
11 In my experience, those government-industry syncs were, for me, much more
12 about carrying forward what was happening throughout the election cycle, what State
13 and local election officials, like, where in the process they were, sort of where their
14 preparations were, what they were experiencing.
15 And then really thinking through, kind of as we play this out, where the risks lie
16 and what -- how we could sort of prepare and work with them to amplify their voices in
17 advance to really highlight where we were in the process.
18 So if we were approaching registration deadlines, we're really talking about the
19 security of voter registration databases. And so there is a common misperception about
20 what's public and not public about voter registration data, how do we get out in front of
21 that so voters don't think their information is being leaked, things like that.
22 And so, for me, it was very much focused on the State and local election officials
23 and conveying to the folks in that meeting sort of where we were in the process and
24 where identified risks might exist.
25 Q Okay. I'm looking -- and thank you for that -- looking specifically at -- he

1 references, from his perspective -- and his job was different than yours, right?

2 A Uh-huh.

3 Q So his perspective on the purpose of these meetings might have differed

4 from yours. But, specifically, he said the purpose was to share information.

5 Would you agree that the purpose of these meetings was to share information

6 with the private sector and to have the private sector share information with you -- with

7 CISA?

8 A At a very high level, yes.

9 Q Okay.

10 [redacted] All right. I think we can go off the record.

11 [Recess.]

12 BY [redacted]:

13 Q I know it's been a while since we first went over these questions, but could

14 you say again your current role at Microsoft?

15 A Sure. So I'm the director of information integrity within the Democracy

16 Forward Program at Microsoft.

17 Q And what is the Democracy Forward Program?

18 A The Democracy Forward Program is a program focused on support to and

19 defense of critical democratic institutions.

20 So we do everything from cybersecurity support to election officials and

21 campaigns, to media and information literacy work, to support to journalists and

22 newsrooms, cybersecurity, legal support, otherwise.

23 Q And have you been in this role since you joined the company?

24 A I have, yes.

25 Q How big is your team?

1 A We have -- sorry for the pause. We literally just restructured, so I have to
2 add it up. So we have three people on my team that are full-time FTEs.
3 Q And what about before the restructuring?
4 A It wasn't a team that sort of has the three pillars that we have now, so it's
5 just me. I didn't have anyone else underneath me at that time.
6 Q And both before this restructuring and afterwards, who do you report to?
7 A I report to [redacted], who is the director of the Democracy Forward
8 team.
9 Q In your role at Microsoft, which government agencies do you interact with?
10 A Ever, or regularly, or both?
11 Q Well, let's start with regularly.
12 A I don't believe I interact with -- well, U.S. or worldwide?
13 Q For this question and the others, only U.S. agencies.
14 A Okay. Thank you.
15 I don't believe I have regular interaction with any U.S. Government agencies as
16 part of my role currently.
17 Q Okay. What about, I guess, on an ad hoc basis, which Federal agencies
18 have you interacted with?
19 A Yeah. In my time at Microsoft, as I recall, I've had some interaction with
20 CISA, very limited interaction with -- oh, that's not true. Sorry. I'd like to correct a
21 point. I do have interactions with USAID on a journalism project that we're doing.
22 Apologies for that. So USAID.
23 I have had maybe one interaction with the FBI FITF. That was to set up a
24 meeting that I don't recall ever occurred. It's possible I've had other limited
25 interactions, but it would have been like a one-off kind of interaction, as I recall.

1 Q Those government-industry sync meetings we were discussing back in 2020
2 when you were at CISA, are those still ongoing, and do you participate in them on the
3 industry side now?
4 A So, as I recall, when I started at Microsoft they were still ongoing. But I
5 don't recall attending them anytime recently. So I think at some point either I stopped
6 attending, or they stopped.
7 Q When you were attending as a -- as part of Microsoft, who else from
8 Microsoft would attend those meetings?
9 A As I recall, a representative from the Microsoft Threat Intelligence Group, or
10 MSTIC, as they're known, occasionally, and possibly one of my other teammates on
11 Democracy Forward.
12 I don't -- [redacted] may have attended at some point. I don't recall that. And then
13 maybe another member of the team. But I don't think it was consistent.
14 Q When was the last government-industry sync that you recall attending?
15 A I honestly don't recall when the last one was that I attended.
16 Q Do you think it was sometime this year?
17 A I really don't remember. I don't know.
18 Q When answering about which personnel from Microsoft may be attending,
19 would that include personnel from LinkedIn as well?
20 A That is possible, though I don't recall. It's certainly possible, but I don't
21 recall LinkedIn's participation.
22 Q Okay. For Microsoft's Threat Intelligence team, do you know if that's for
23 the company-wide or as including both LinkedIn and the rest of Microsoft, or only
24 Microsoft?
25 A I don't know the relationship between MSTIC and LinkedIn. I know

1 LinkedIn has their own capability as well, but I don't know if they coordinate regularly on
2 information or not.
3 Q Other than these standing government-industry sync meetings, does your
4 team have interactions with the MSTIC team?
5 A Yes, around cyber threats to some of the democratic institutions that we
6 work on.
7 Q Do you have familiarity with LinkedIn's content moderation policies?
8 A No.
9 Q Do you have familiarity with any of the content moderation policies for any
10 product or company within Microsoft?
11 A Familiarity? I'm aware of their existence. I have at times been asked to
12 look at -- I wouldn't even call them content moderation policies, per se.
13 So, for instance, I have looked at Search's general policies around -- that are
14 published publicly, but I wouldn't call those content moderation policies, per se. So
15 occasionally I'm asked to look at those.
16 Q And when you're asked to look at Search's policies, who is asking you to take
17 a look?
18 A It could -- just generally speaking, not even specific to Search, it could come
19 from the product team, or it could come from one of the lawyers that works for the
20 product team.
21 Q Do you recall approximately on how many occasions you've been asked to
22 take a look at Search's policies?
23 A Search specifically?
24 Q Yes.
25 A I don't. Not -- it's not a regular occurrence. Maybe once or twice.

1 Q And was there a particular aspect of the policies, or what was the purpose of
2 having you take a look at them?
3 A So my recollection generally is that -- well, specifically -- is that we had, in
4 June of 2022, we had adopted Microsoft's information integrity principles. They're
5 publicly available on our Democracy Forward website. There's four of them.
6 And so I was asked to look quickly, you know, quick review to ensure that I
7 thought that Search's approach generally aligned with the principles.
8 Q Other than assessing Search's policies and whether the policies are
9 consistent with the information integrity principles, do you recall other examples where
10 you were asked to take a look at content moderation policies?
11 A Again, I wouldn't define what Search's policies were as content moderation
12 policies. It's different. Microsoft's hard or different because we have so many
13 different product lines, many of which aren't -- we're not a traditional social media
14 company in that way, right?
15 So, yes, the search engine, we have things like Xbox, GitHub, that have policies as
16 well that are very different. They differ so wildly. And so that's why I hesitate a little
17 bit, because it's so different product to product.
18 To my recollection, I think I've been asked on one occasion to look at ads policy
19 sometime ago.
20 And then that may be it. My hesitation is only because the information integrity
21 principles were adopted across many product teams, but I wasn't asked to look at the
22 corresponding policies in all the cases of those product teams. And my review would be
23 just for the consistency to those -- that approach.
24 Q With the understanding that these -- you wouldn't describe them precisely
25 as content moderation policies, but for any policies related to the different products

1 within Microsoft, when you've been asked to conduct any sort of assessment or take a
2 look, has it been in any scenario other than to see if those policies are consistent with the
3 information integrity principles?
4 A Yes. I mean, I think generally I've been asked to look at, again, ads, just at a
5 high level, like take a look. But I don't recall specifically it having to apply to the
6 principles. I think it was, "Hey, can you look at these policies or this change in policy?"
7 just if there's any feedback.
8 Q And with respect to if there is any feedback, would these policies, as they
9 related to ads, did the policies relate to election-related ads?
10 A No. No. Not that I recall.
11 Q Okay. Was there a certain aspect within the policy or a particular concern
12 that the company was hoping you could assess when looking at the ad-related policies?
13 A I don't recall a specific concern. I think it was a change in the general
14 review around this. "Do you have thoughts on this approach?" Not even -- if it's
15 helpful.
16 At Microsoft, which I think is different, at least in my perception, than some of the
17 other companies, each individual product team sets their own policies, procedures,
18 process for how they administer that.
19 And so they may seek advice from a number of teams -- any number of teams. I
20 don't know how that works within any given product team. But they make the decisions
21 around how their policies or procedures are written, how they implement them. I have
22 no sort of authority to tell them what policies should or should not exist.
23 And so, for me, if, for example, the ads team comes, it's just a general feedback of,
24 "Oh, here are some thoughts on this." They may take them. They may not take them.
25 It's just feedback for them.

1 Q We'll stick with the ads example.

2 I mean, certainly you've got some expertise and experience as it relates to

3 elections and security.

4 To your understanding, why was the ads team coming to you to take a look at the

5 policy?

6 A Because of -- I mean, this is my perception -- because of my experience in

7 having the information integrity principles adopted.

8 Q When the Search team came to you, do you recall who specifically at Search

9 you interacted with?

10 A Yes.

11 Q And who was that?

12 A [redacted] -- I don't know how to -- [redacted].

13 Q Okay. And do you know who the leader of that team is, the Search team?

14 A I don't know who the sort of senior vice president or vice president might be.

15 Q Do you have any other points of contact besides [redacted] on the Search

16 team?

17 A I think he has a new employee, but I have not done any work with that

18 person that I recall. I think they may be on an email or something. But the prior

19 employee that I worked with is no longer at Microsoft.

20 Q And who is that?

21 A I don't know her last name. Her first name was [redacted] (ph).

22 Q And for the ads team, do you recall specifically who your point of contact

23 was, or who reached out to you to take a look at the policies?

24 A Yes. There is an attorney, a CELA attorney, named [redacted].

25 Q And do you know who the head of the ads team is?

1 A I do not.

2 Q You mentioned you can recall one brief interaction with the FBI's FITF

3 regarding potentially scheduling a meeting. You're not sure if the meeting ultimately

4 occurred or not.

5 To your understanding, since you've joined the company, have there been FBI FITF

6 meetings with Microsoft?

7 A Not in my experience. Again, I do not believe that meeting happened.

8 Q So, if a meeting were to have occurred, you would have been one of the

9 participants, is your understanding?

10 A I don't know. I don't know. It is certainly possible. Microsoft is a very

11 large company, as I learn every day, so it is possible that others have interactions. But I

12 don't know for sure.

13 Q Okay. What about prior to your time joining the company? Do you have

14 any knowledge of whether Microsoft was meeting with the FITF -- the FBI's FITF?

15 A I don't.

16 Q Do you recall who at the FBI you spoke to about potentially scheduling a

17 meeting?

18 A I don't recall her name, no.

19 Q You also said CISA was one of the agencies you've had some interactions

20 with since joining Microsoft. Do you recall the nature of those interactions?

21 A I recall providing a briefing -- well, being part of a briefing; it wasn't me

22 briefing -- on a project, I guess you'd call it, called ElectionGuard. And that

23 was -- ElectionGuard is an end-to-end verifiable election auditing technology, open

24 source, that State or local election officials and vendors could use to offer end-to-end

25 evidence of the integrity of the election.

1 And so I remember providing or being part of, in attendance at the briefing for
2 CISA on what ElectionGuard was and talking to them just about that.
3 And then -- I mean, I interact with CISA. they're at the same election meetings
4 that I would attend. The National Association of Secretaries of State, State election
5 directors. But that's not a formal Microsoft meeting. I will see them there.
6 I attended a call that CISA hosted around the war in Ukraine that had just started
7 in which they provided a briefing around the possible implications of the war to the
8 information environment around the critical infrastructure sectors. I recall that call.
9 There may have been other limited calls, but I don't recall any specific calls outside
10 of that.
11 Q Are you familiar with the Global Disinformation Index?
12 A I am, yes.
13 Q And what is that?
14 A GDI is a -- they're a nonprofit or a company -- again, I don't know their
15 status -- that identifies and I'll say rates sources of information, domains, news sources
16 and otherwise.
17 Q Did you work with GDI while you were at CISA?
18 A No, I don't recall working with GDI in my time at CISA.
19 Q What about while you were at Stanford?
20 A No, I don't recall working with GDI in my time at Stanford.
21 Q Have you worked with GDI while at Microsoft?
22 A Yes.
23 Q And what was the context of those interactions?
24 A So when I arrived at Microsoft there were already in place negotiations
25 around using GDI data to help inform various product teams' work around what we would

1 call trustworthiness indicators, so the ability to identify sources of information.
2 And so when I joined Microsoft I inherited sort of the finalization of the work with
3 GDI that had started, getting the contract finalized, and the product teams implemented
4 it however they needed to.
5 Q Which product teams were involved?
6 A By that point, I don't recall, because it was late enough in the process that I
7 think the product teams had already weighed in in some way, shape, or form. It was
8 kind of just finishing it.
9 Q And, to your knowledge, whatever was being negotiated, was it ultimately
10 finished? Was an agreement reached?
11 A There is an agreement to use GDI data that was reached, yes, or to have
12 access to GDI data. That's probably a better way to say.
13 Q Who is the primary person responsible at Microsoft for having the right to
14 access this GDI data?
15 A For having the right to access the data?
16 Q Well, or just for this issue, for the fact that Microsoft negotiated to be able
17 to access the -- to be able to access GDI's data, who is the point person at Microsoft with
18 the responsibility for overseeing it?
19 A So it's a difficult question to answer, only because each product team
20 decides what data they want to access and use and how to use it, and so I don't know
21 that there is a primary point person in that the data is made available and then the
22 product teams can take and use the data sort of as they see fit.
23 Q Do you know, for the Search team, who would be responsible for that?
24 A My experience is that [redacted], again, sort of does that, but I can't say for
25 sure. I don't know that that's -- he may have a totally different team that deals with

1 that. I don't know.

2 Q Yeah. What about LinkedIn?

3 A I don't know if LinkedIn uses or doesn't use that data or who would do that.

4 Q Do you have a primary point of contact at LinkedIn?

5 A So my primary point of contact at LinkedIn is largely related to work that we

6 do around the European Union code of practice, not these types of issues.

7 Q With any issues regarding -- we'll just stick broadly -- with the United States,

8 do you have a primary point of contact at LinkedIn?

9 A It would -- I mean, yes, but it's relatively infrequent.

10 So there is an attorney at LinkedIn named [redacted] (ph). I don't know

11 [redacted]'s (ph) last name. But he would be the --

12 Q Do you know if the ads team accesses GDI's data, if they're one of the

13 products?

14 A Yes, I believe they have. I don't know currently what they do with the ads

15 data or the GDI data.

16 Q And, to your understanding of the agreement with GDI, is it for a time period

17 that the company has access to GDI's data? Is GDI updating what's being provided?

18 A So I don't access the GDI data to be able to sort of give you a good feel for it.

19 But my understanding is, generally, at some point there is a -- there is data provided by

20 GDI that may include prior data or not. I don't know. And then it's -- it could be pulled

21 by the product teams if they need or use it.

22 Q Do you know what NewsGuard is?

23 A I do.

24 Q What is NewsGuard?

25 A NewsGuard is, again, a third-party, I think, company, I think, that provides

1 ratings of news sites per transparent journalistic processes. So they have criteria that
2 they assess news sites against that are public on their website.
3 Q Did you work with NewsGuard while you were at CISA?
4 A I do not recall working with NewsGuard in my time at CISA.
5 Q What about while you were at Stanford?
6 A I do not recall working with NewsGuard in my time at Stanford.
7 Q What about while at Microsoft?
8 A Yes.
9 Q Okay. What's the nature of your interactions with NewsGuard?
10 A So NewsGuard is another data set that we have available for the product
11 teams. I have regular meetings with NewsGuard in which we simply check in. They'll
12 update on sort of processes, more ratings that they've done or countries that they're
13 operating in, things like that.
14 Q Does Microsoft provide any updates in these meetings?
15 A Occasionally they'll ask me if I'm aware of if a product team needs something
16 or something like that.
17 Q With respect to GDI or NewsGuard, are you aware of any consideration
18 internally within Microsoft about how to account for any political bias from GDI or
19 NewsGuard?
20 A So, again, I don't know how the individual product teams implement the use
21 of the data. That's entirely in their purview or how they assess the information.
22 I do know that NewsGuard data or GDI data that is made available is just one of a
23 multitude of data points that they may have available to them. Again, it depends on the
24 product team and sort of how they implement. So I don't know how they assess, except
25 for these are two possible sources of data that they can use in sort of a myriad of possible

1 other ones.

2 Q When was the NewsGuard agreement negotiated?

3 A Before I was at Microsoft. I don't know.

4 Q During your time at Microsoft has anyone ever expressed any concerns

5 about if there is bias with the data that NewsGuard and GDI are providing?

6 A Internally, externally, both?

7 Q Both.

8 A So, with respect to NewsGuard, I mean, I'm not aware of any -- I have not

9 received any specific complaints as far as their bias or nonbias or sort of approach. I'm

10 aware that they've been asked about that and that there's been public reports about it,

11 but I don't -- it has not come directly to me in my time at Microsoft.

12 GDI, I'm aware of public reporting as well that led to a discussion that I was, what,

13 invited to or privy to around process improvements for the product team around sort of

14 how to implement and use any data and ensuring that no one singular data source was

15 determinative on making decisions, whatever those decisions might be for a product

16 team.

17 Q Just to clarify, the discussions you were privy to were internal Microsoft-only

18 discussions?

19 A Yes.

20 Q And when did those discussions occur?

21 A They've been ongoing.

22 Q When is the first time you recall having those discussions?

23 A I don't recall. Some months ago, but I don't recall sort of the timeframe.

24 Q Who from Microsoft has participated in these discussions?

25 A I don't recall every -- I mean, myself, [redacted], my boss, and then members of a

1 product team or CELA lawyers. But I don't recall sort of specifically all the people that
2 participated.
3 Q Which product teams do you recall participating?
4 A Specifically, as I recall, the ads team.
5 Q What about Search?
6 A I don't recall their participation, but that's possible.
7 Q Do you recall anyone from LinkedIn attending?
8 A I don't recall anyone from LinkedIn attending.
9 Q Do you recall how these discussions occur, if they were an in-person
10 meeting, an email chain?
11 A I believe, as I recall at least, that there was calls, conference calls.
12 Q And you mentioned that the discussions are ongoing. But since they
13 started to this point, what has been the takeaway, or has any agreement been reached
14 on --
15 A So I don't recall the specifics. I know there were -- I know that the team
16 worked to take some sort of actions -- I don't know the specific actions that were
17 taken -- and then to reevaluate, again, sort of generally their approach, not specific to any
18 one source of data, but to ensure that there was multiple data points used in their
19 process.
20 And I don't know where that stands as far as sort of whether it's been adopted or
21 not or implemented or not yet. I don't know.
22 Q And why were you included in these discussions?
23 A I mean, I don't know for sure except for my prior work with the GDI work.
24 Q And that's in reference to your finalizing negotiations when you first joined
25 the company?

1 A Yeah. Sort of finalized the last part of that, to bring the data on board.
2 Q For these internal discussions, at least among the folks from Microsoft who
3 were part of these discussions, what is their understanding of what bias GDI may have?
4 A I mean, I think you'd have to ask them what their sort of perception or
5 understanding was. I think there was just generally a recognition that having multiple
6 data points is beneficial to being able to administer the policies.
7 Q What's your understanding of what bias GDI may have?
8 A I don't know that I have an -- because I don't review or look at their data
9 specifically, I don't know that I have a deep understanding of their data or possible bias.
10 I know what the public conversation was around it and sort of the response.
11 Q What's your understanding of what the public allegations are regarding bias
12 in GDI?
13 A Yeah. My understanding was that, per some sort of article, that there was
14 concerns about GDI data targeting conservative groups in some way, shape, or form.
15 Q And is it that public reporting that spurred the ongoing discussions?
16 A I don't know. I was pulled in after the discussion started, so I don't sort of
17 know the genesis or how that began.
18 Q Okay. Do you know if there's internally been any sort of assessment to try
19 to determine the veracity of those allegations?
20 A Again, I don't know -- I know that there's sort of an ongoing review of the
21 policy surrounding just use of data in general to ensure greater use of multiple data
22 sources.
23 Q But what about are you aware of any internal assessment done by Microsoft
24 with respect specifically to GDI?
25 A I'm not aware -- that may be a thing that is taking place or took place, but

1 I'm not aware of sort of a formal review or report or something like that. It's certainly
2 possible, but not something I'm aware of.
3 Q In these ongoing discussions, it sounds like related, in part, to GDI, is it GDI
4 only, or are there other data sources that are being discussed?
5 A Well, yeah. But by the nature of needing to use more than one data
6 source, you'll have multiple data sources kind of considered saying, "We have to have
7 multiple sources to kind of make determinations here."
8 Q All right. What other data sources besides GDI have been referenced in
9 these internal discussions regarding the risk of bias?
10 A I don't recall the other specific ones, because, again, product teams have
11 access to multiple data sources. I just know that there has been a conversation around
12 the desire to use multiple data sources that could include any number of the ones that
13 are available to the teams.
14 Q Are you aware of any other data sources from Microsoft that have been
15 accused of targeting conservatives?
16 A Not that I recall, no.
17 Q Okay. Who is your point of contact at GDI?
18 A Probably [redacted] [redacted]. Is that his name? Or [redacted]. I always get [redacted]
19 and [redacted] --
20 Q Anybody else at GDI that you recall being in touch with?
21 A I mean, there are other folks that are -- I think I've emailed with or been on
22 emails with, but I don't recall besides sort of [redacted] and [redacted].
23 Q Is GDI aware of the ongoing discussions that Microsoft is having?
24 A I don't know. I think so, but I don't know for sure.
25 Q Okay. Has GDI provided any sort of response to Microsoft about the public

1 allegations that have been made against GDI?

2 A I'm not aware of any response from GDI regarding the public allegations.

3 Q Are you familiar with the advisory MDM Subcommittee to CISA?

4 A I am, yes.

5 Q And what's your understanding of what that was?

6 A I believe that was a advisory committee to the Director around -- I mean, it's

7 pretty self-explanatory, but I guess around issues of MDM. But I don't know their exact

8 sort of charter or role.

9 Q And this all postdates -- well postdates your time at CISA?

10 A I was not aware of the existence of something like that in my time at CISA.

11 Q Yeah. And did you overlap at all with Jen Easterly?

12 A I did not, no.

13 Q No? Did you attend one of the MDM Subcommittee meetings?

14 A I believe I did.

15 Q Do you have any memory of who invited you?

16 A If I recall, I was invited by -- I don't recall. I think it might have been

17 Kim Wyman, but I cannot say for sure.

18 Q When you attended, was it while you were at Microsoft?

19 A I don't know the timing.

1

2 [Masterson Exhibit No. 11

3 Was marked for identification.]

4 BY [redacted]:

5 Q This will be exhibit 11. So I'll give you a moment to review. These are the

6 meeting minutes from February 15th, 2022, of this advisory subcommittee. And the

7 notes reflect that you provided a briefing at some point during the meeting.

8 A Okay.

9 Q Does this refresh your memory at all about presenting at this meeting?

10 A I mean, vaguely, yes. I recall the meeting.

11 Q Okay. Do you know who Kate Starbird is?

12 A I do, yes.

13 Q Who is she?

14 A According to this document, she's the associate professor for Human

15 Centered Design and Engineering at University of Washington.

16 Q Prior to this meeting, what interactions had you had with Dr. Starbird?

17 A So in my time at Stanford I attended meetings and interacted with

18 Dr. Starbird as part of the Virality Project work.

19 Q And what about during your tenure at CISA?

20 A I don't recall interacting with Dr. Starbird at CISA. It's possible. But I don't

21 recall her being on any of the calls.

22 Q Have you interacted with her during your time with Microsoft?

23 A I mean --

24 Q Outside of this meeting. Sorry.

25 A Yes. So we -- there was an existing relationship before I got to Microsoft

1 with UW, as you might expect being a company being based in Redmond, Washington,
2 and had had conversations with Dr. Starbird about her work, support for her work, as well
3 as support to UW in general.
4 Q Regarding support of her work, could you spell out a little bit more regarding
5 Microsoft's support of her work?
6 A Possible support to her work or UW's work in general.
7 So, for instance, Microsoft supported prior to -- sort of as I was arriving, work
8 around a -- sort of like a media and information literacy escape room, virtual escape room
9 concept. So we supported that work at UW, items like that. And we had
10 discussed -- they sort of would send us proposals.
11 I don't recall any specific support to her. We may have, like, Azure credits
12 sometimes or things like that. But I don't recall specifically what we did or didn't
13 support specific to Dr. Starbird.
14 Q Has, to your knowledge, Microsoft provided any sort of support to EIP?
15 A Not to my knowledge, no.
16 Q If I could have you -- call your attention to the last big bullet point on page 1,
17 Bates number 4576. It details -- whoever the notetaker is -- what they understood you
18 were presenting on.
19 A couple sentences in it says: "The CISA MDM mission dates back to 2018 when
20 a task force was created to work with election teams to understand what election MDM
21 would look like."
22 To your understanding, is that -- the task force being referenced, is that CISA's
23 Countering Foreign Influence Task Force?
24 A That would be my assumption. I did not obviously take these notes or
25 approve these notes, so I can't say for sure, but that would be my assumption, that that's

1 a reference.

2 Q A few lines down there is a question: "What would the conversation look

3 like coming in from a foreign adversary as well as inside the domestic space?"

4 Do you recall, during your briefing, if there was any discussion about foreign and

5 domestic actors playing a role in the information environment?

6 A I don't recall that specific discussion, no.

7 Q What about just generally? Was there discussion about foreign and

8 domestic actors?

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

10 Q To your understanding, does CISA have a role to play with respect to both

11 foreign and domestic actors as it relates to MDM?

12 A I mean, I think, at least as I -- as noted here, we'll say, and as I've said I think

13 multiple times today, actor agnostic, CISA's role, or at least my role as I perceived it when

14 I was at CISA, was, as it says here, to build a community that allows and amplifies the

15 voices of the trusted sources of information around elections, which is the State and local

16 election officials.

1

2 [4:34 p.m.]

3 BY [redacted]:

4 Q Besides amplifying, does CISA play a role in countering mis-, dis-, and

5 malinformation?

6 A I mean, again, I don't know if you count something. I consider rumor

7 control to be that amplification. And that would be, in some sense, I guess, sort of

8 countering narratives that are targeting the election's process, and ensuring that we're

9 amplifying the facts as per what the State and local election officials are doing and

10 supporting that community. That's how I viewed my work at CISA.

11 Q To your understanding, does CISA play any role, in addition to any

12 amplification efforts, with respect to assessing the veracity of content or facilitating the

13 removal of content online?

14 A That is not -- that is not work that I did in my time at CISA, no, that I recall.

15 Q To your knowledge, has CISA ever done either of those?

16 A Will you restate what the two are?

17 Q Sure. Assessing the veracity of content or facilitating the removal of

18 content online.

19 A The only aspects of that that I might consider "yes" is that rumor control

20 directly states the facts about any given -- not a specific piece of content. It was never

21 focused on a specific piece of content. But, you know, certainly offers -- says right there,

22 "fact," about the election administration process as per what State and local election

23 officials may be saying about a given narrative, right, so not a specific piece of content,

24 but certainly a given narrative.

25 Q With the understanding it was not your specific team, but with the CFI team,

1 with the tools and techniques and authority that they had to try to counter foreign
2 influence, was there anything that they were able to do with respect to foreign actors
3 that they were not able to do with respect to domestic actors?
4 A I don't know. I don't know.
5 Q Who would best know the answer to that question?
6 A I mean, presumably, those who ran the Countering Foreign Influence Task
7 Force, and I would say specifically when it was chartered by Secretary Nielsen. I mean,
8 there was -- there's a document that sort of outlined their purpose. I don't know the
9 details of, sort of, what it laid out, but that, to me, would sort of lay out their purpose at
10 least.
11 Q Who was in charge of the team, and this is either end of 2020, beginning of
12 2021, when the CFI Task Force is renamed as the MDM team?
13 A I wasn't at CISA at that time, but my understanding is that Brian Scully was in
14 charge. But I can't say for sure because I wasn't there.
15 Q We can take these back. Thanks.
16 During your year at Stanford, you mentioned work with the Virality Project. To
17 your recollection, what subject areas did you work on with respect to mis- or
18 disinformation?
19 A So my -- my role at the Virality Project, again, was -- and it's public, so I
20 assume you already have it -- but to provide blog posts and then -- blog posts and analysis
21 around policies, and possible approaches, proposing possible approaches for
22 government, nongovernment, a little bit platform -- but I didn't do a lot of platform policy
23 recommendations, that wasn't my area -- and then also distributing the reports, the
24 weekly reports to sort of those groups that I mentioned before.
25 Q Who from Stanford do you recall would conduct sort of analysis or reports

1 on platforms policies?

2 A So, I mean, there's public reports that folks have conducted. A number of

3 people I'm sure did it. I don't recall all the people that did it. But I recall, you know,

4 some students and Renee and Alex possibly. But, I mean, again there's public reports on

5 the Virality Project website that would outline that.

6 Q Did you ever meet with HHS as -- while you were at Stanford?

7 A Yes, I think so.

8 Q And do you recall the context?

9 A The context I recall was a meeting that we hosted with the Surgeon General,

10 and I believe HHS was on that. But I can't say for sure like sort of the planning.

11 Q And for the call that you remembered with respect to the Surgeon General's

12 office, or -- let me clarify. Was it the Office of the Surgeon General or the Surgeon

13 General himself?

14 A It was a meeting with the Surgeon General himself. So there was a public,

15 sort of, I don't know, public meeting, event. That's the better word.

16 Q Other than the public meeting with the Surgeon General, do you recall any

17 meetings with the Office of the Surgeon General or just HHS generally?

18 A I don't recall. It's possible, but it was not -- certainly not a standing

19 meeting or a regular meeting that occurred that I remember.

20 Q How would you say -- how much of your bandwidth was spent working on

21 the Virality Project during your first we'll say 6 months at Stanford?

22 A I don't recall, like, a percentage. The other item I was working on at the

23 time was an election security report that was published, as well as a sort of video

24 lookback at the 2020 election from the perspective of election officials, right, almost like a

25 video diary from the perspective of election officials.

1 So I was working on those reports throughout my time at Stanford, as well as on
2 the Virality Project work. So I don't know an exact breakdown, but those were the sort
3 of core things I was working on after the first month or so.
4 Q Prior to your work at Stanford, had you had any experience working with
5 health-related misinformation, disinformation issues?
6 A Not that I recall.
7 Mr. Masterson. Thank you.
8 [redacted]. This will be exhibit 12.
9 [Masterson Exhibit No. 12
10 Was marked for identification.]
11 Mr. Masterson. Is it safe to assume I don't need to be able to read the sort of --
12 BY [redacted]:
13 Q Yes.
14 A Okay. Just making sure because I can't and I'm old.
15 Q I can't either for the record.
16 A Okay.
17 Q First, just at a high level, do you recall this email exchange or the context at
18 all?
19 A No.
20 Q Do you know who [redacted] is?
21 A I don't recall knowing a [redacted].
22 Q The -- first, the email address is to [redacted].
23 A Uh-huh.
24 Q Do you know who that is?
25 A I recall her being someone that I interacted with from time to time at my

1 time at Stanford. I don't know her exact position.

2 Q To your understanding, what was the purpose or nature of when you were

3 interacting with her?

4 A Specifically I remember working or being in communication with her, along

5 with others, around the Surgeon General's event, but I don't -- I don't know what her role

6 was.

7 Q And do you recognize the name Ann Kim from HHS?

8 A I don't, but --

9 Q On the second page, Bates number 8578, there's a -- a message from

10 Cam -- that's how he signed it in his email -- where he says:

11 Ignoring the fact that Ivermectin is a useful drug for humans undermines trust in

12 the voices raised in concern about use for COVID.

13 And it goes on to say: The tone has been condescending, leaves out half the

14 story, and thus reinforces many existing conspiracy theories about why this cheap drug is

15 being ignored in favor of the new hot and expensive thing.

16 Independent of this specific email exchange, do you recall, during your time at

17 Stanford, being part of any discussions about how to counter narratives with respect

18 specifically to Ivermectin?

19 A I do not. That wasn't -- that wasn't a big focus of my work, sort of the

20 countering or analyzing narratives.

21 Q Okay. Do you recall being part of any discussions related to Ivermectin that

22 HHS was a part of?

23 A I don't, no.

24 Q Do you know who Cam is referring to when he says the tone has been

25 condescending?

A I do not. I don't recall this exchange at all.

[redacted]. We can take these back.

Ms. Christian. Is this 13?

[redacted]. Yes. This will be exhibit 13.

Mr. Masterson. Okay.

[Masterson Exhibit No. 13

Was marked for identification.]

BY [redacted]:

Q The second page, which is Bates number 7861, there's an email from you. A couple of paragraphs down you say:

We would love to find some time next week to talk about the model we created at SIO and how we believe it can support CISA's ongoing MDM activities.

Which SIO are you -- what are you referring to?

A So I don't recall this exchange specifically. I don't know. I don't know what model I might be referring to. It may -- may be about the approach to one of the projects but I don't know specifically what I'm referring to there. And I don't recall -- I don't recall this conversation.

Q In September of 2021, you were still working on the Virality Project?

A Yes.

Q Okay. Is there any other projects that you were working on at this time that you recall?

A Yes, the election security projects that I was working on.

Q You mentioned the one that you, if I quote you correctly, is almost like a video diary?

A Uh-huh.

1 Q Were there other election security projects besides that that you were
2 working on?
3 A Yes, there's a report that I published on, sort of, lessons learned and
4 approaches to improving election security and resilience moving forward.
5 Q Okay. Besides the video diary and that report, were there other
6 election-related projects that you were working on?
7 A Not that I recall.
8 Q Of those projects that you recall working on, do any of those fit into
9 the -- what type of model SIO had created?
10 A I mean, some -- some of the information in the report may be useful. I
11 don't -- I don't know. I don't know -- I really don't know what that's referencing to.
12 Q At the bottom, there's -- the last sentence from Geoff, it says:
13 Last, we'd love to find time to speak with you about the Election Integrity
14 Partnership and the Virality Project and what those models look like in support of larger
15 efforts to counter MDM.
16 Did you receive a briefing from Stanford about what EIP was and its role?
17 A So I was at Stanford at this time.
18 Q Yes. But you weren't during the Election Integrity Partnership, right?
19 Ms. Christian. I'm sorry. Could you point me to where you are? I was flipping
20 back and forth.
21 [redacted]. Sure. And we are a couple of minutes over. So this will be the
22 last --
23 [redacted] You can finish the question.
24 [redacted]. Thanks.
25 [redacted]. We are looking at --

1 Ms. Christian. It's down at the middle.

2 [redacted]. -- it's Bates number 7861.

3 Ms. Christian. Okay.

4 [redacted]. Last sentence.

5 Ms. Christian. Okay.

6 Mr. Masterson. So I apologize. What was the question?

7 BY [redacted]:

8 Q Sure. I guess the email exchange suggests that when you're referring to

9 the model in your response that you're referring to EIP and the Virality Project.

10 In the earlier hour, we were discussing, you said you weren't part in any

11 meaningful sense EIP while you were at CISA.

12 Did you get a briefing from Stanford? How did you come to, you know, feel

13 prepared to talk about or perhaps you don't? But at this point in September 2021,

14 would you have been in a position to talk about the EIP model to your former colleagues

15 at CISA?

16 A So my read of this, as documented, is that -- is that others at Stanford also

17 would participate, right? So I don't know that I perceived -- again, I don't -- I don't recall

18 this exact exchange but that I perceived myself as needing to be the one to do that.

19 Also that by this point, the EIP report had been released and it sort of outlines at

20 least how the EIP approach worked, and I would have read that. So I at least had that

21 understanding from reading the report.

22 So I don't -- I don't -- I mean, I don't know, one, that I would have been the one

23 that would have had to do that. And two, you know, there was public information out

24 there about the approach EIP was taking through the report at that point.

25 [redacted]. Okay. Can we go off the record?

1 [Discussion off the record.]

2 [redacted] It's 5:02. We can go back on the record.

3 BY [redacted]

4 Q Mr. Masterson, I want to return to the discussion of GDI and NewsGuard

5 that we had in the prior hour.

6 Just again, for the record, can you state what kind of products these companies

7 produce?

8 A So my understanding of the data that they provide to Microsoft is ratings of

9 news or other information sources.

10 Q And Microsoft has a contract with both GDI and with NewsGuard, correct?

11 A That's my understanding, yes.

12 Q So is it fair to say that Microsoft has determined that those ratings are useful

13 for it?

14 A So, again, the product teams sort of determine use of that information. So

15 we wouldn't -- the product teams have determined some usefulness from using that data.

16 What it is or how they use it, I'm not positive.

17 Q Okay. Is it fair to say you don't know the value of the contract, do you?

18 A I don't.

19 Q Is it fair to say that Microsoft generally doesn't have contracts with

20 companies if there's not some use to be derived from whatever service or product it's

21 getting from that company?

22 A Again, my experience with this is that the product teams have found use in

23 the data --

24 Q Okay.

25 A -- in some way.

1 Q Okay. And my point is just that this is a business decision, right? Like it's
2 Microsoft wouldn't have a contract. They wouldn't spend the money on a contract if
3 the product wasn't of some use to it.
4 A I would think not.
5 Q You referenced that you had heard about something about GDI and
6 allegations about bias at GDI through public sources. Do you recall what public sources
7 those were?
8 A I don't recall the sort of news outlet or news story that was run. I don't.
9 Q You don't recall, for example, if it was Fox News or if it was another source?
10 A I don't.
11 Q Okay. But you had said that you'd not -- you didn't recall internal
12 conversations about those allegations specifically?
13 A Again, what I recall is conversations around the use of data from or sources
14 generally and finding, or the product teams evaluating their policies and procedures to
15 use multiple data points.
16 Q But you've not been part of any internal conversations at Microsoft that
17 commented on allegations about bias at GDI specifically?
18 A I don't recall any specific conversations. Again, I've been sort of on the
19 email chain around this issue, but I don't recall any specific conversations about that.
20 Q Okay. In your current position at Microsoft, you don't do content
21 moderation, correct?
22 A Correct, I do not.
23 Q But you do, on occasion, as you talked through, have interactions with
24 Federal Government agencies?
25 A On -- yeah, on rare occasions, yes.

1 Q So I think you mentioned CISA you've had conversations with, for example.
2 A Yes.
3 Q Throughout these conversations, has anybody from the Federal Government
4 ever ordered you to remove a post, an account, or other content from Microsoft's
5 platforms?
6 A Not in my experience, no.
7 Q Okay. Has anyone from the Federal Government ever tried to pressure or
8 coerce you into removing a post, an account, or other content from Microsoft's
9 platforms?
10 A Not in my experience, no.
11 [redacted] Okay. Thank you. We can go off the record.
12 [Discussion off the record.]
13 [redacted]. Can we go back on the record, please?
14 BY [redacted]:
15 Q Mr. Masterson, when you left Stanford, was there anyone who filled your
16 role or was it intended to be a kind of short-term stint?
17 A I'm not aware of anyone taking my role. And, yeah, it was a fellowship. It
18 was intended to be a temporary.
19 Q With EIP, to your knowledge, did CIS participate?
20 A I don't know. I know they're not listed as partner, but I don't know if they
21 participated or not.
22 Q To your knowledge, did the EI-ISAC participate?
23 A I don't know.
24 Q Do you know what a Jira ticket is?
25 A Generally or specifically?

1 Q Specifically with reference to the EIP.

2 A So specifically -- well, so I know what a Jira ticket is specifically to Virality

3 Project, So I would assume it might apply in the same or similar way to EIP, though I can't

4 say for sure.

5 So Jira is a ticketing system used by any number of organizations and companies

6 to allow for tracking of a ticket, right? So Help Desk will use it in the IT sense, right?

7 And so my understanding is that Jira was used as part of EIP. I know it was used as part

8 of Virality Project to track and escalate tickets that they were following.

9 Q For the tickets as they were used for the Virality Project, who had access to

10 we'll say comment on those tickets?

11 A I don't --

12 Ms. Christian. I couldn't hear you. What did you say?

13 BY [redacted]:

14 Q To comment on those tickets if that's the proper term or --

15 A I don't know. I actually don't know. I don't recall -- so I may have had

16 access but I don't recall ever accessing the Jira system and it certainly was not part of

17 regular work that I did. I don't recall using the Jira system in my time at Stanford.

18 Q Do you recall anyone explaining to you the differences of how Jira was used

19 previously for EIP?

20 A No.

21 Q When communicating with people by -- with the Virality Project, when you

22 were doing the communications, was it always by email to your recollection?

23 A I mean, I certainly had phone calls and, you know, meetings. Email would

24 be another primary source. Again, I don't recall ever using the Jira system as part of my

25 work. So it would have been email or conference calls or the like.

1 Q Do you know if anyone at Stanford was communicating with social media
2 companies via the Jira ticket for the Virality Project?
3 A I don't know for sure. I think the ticketing system was possibly used in that
4 way, but I don't for sure because I didn't -- I didn't use it. There's a description in the
5 Virality Project document, I believe, about sort of how Jira was used, I think.
6 Q Who at Stanford was responsible for the day-to-day management of the
7 Virality Project?
8 A I mean, I think Alex, and possibly Renee. That was at least who I
9 understood to be in charge.
10 Q When you joined Stanford, did you know that you'd be working on the
11 Virality Project?
12 A I don't recall. I want to say no, that I don't recall sort of the existence of
13 the Virality Project. But there was, you know, there was a statement of work. I don't
14 recall it including the Virality Project, but I can't say for sure.
15 Ms. Christian. [redacted], this is 15?
16 [redacted]. I think 14.
17 [Masterson Exhibit No. 14
18 Was marked for identification.]
19 BY [redacted]:
20 Q Do you recognize this email chain?
21 A I do not.
22 Q If I could have you turn to Bates number 952. Take a look at [redacted]
23 [redacted]'s email at 1:12 p.m. The second sentence says:
24 We just got misinformation@cisecurity.org up and running this morning. We
25 have some additional configuration to do on the back end to alert CISA and EIP.

1 Do you recognize the email address misinformation@cisecurity.org?

2 A Vaguely. I think I recall, perhaps, knowing of its existence. I don't know,

3 like, when I learned of it, right? It could have been at my time at CISA or afterwards.

4 Q What was its purpose?

5 A I don't know.

6 Q Is it still in use today?

7 A I don't know.

8 Q [redacted] writes in that next sentence:

9 We have some additional configuration to do on the back end to alert CISA and

10 EIP.

11 Do you know what he's referring to?

12 A I don't.

13 Q To your knowledge, was there a system by which CIS would alert both CISA

14 and EIP?

15 A I don't know.

16 Q There are -- looks like four people from CISA included on this email chain,

17 not including [redacted], which I understand is one of the interns. Is that right?

18 A Yes.

19 Q You, [redacted], Brian Scully, Geoff Hale, those are all full-time CISA

20 personnel. Is that right?

21 A Yes, at the time of this email.

22 Q Do you recall any sort of alert system between CIS and CISA, independent of

23 whether EIP was also part of that alert system?

24 A In general? So the ISAC had an alert system of sorts for reporting of cyber

25 and physical security threats, incidents, threat intelligence, items like that, right?

1 So they had an alert system that utilized the traffic light protocol, you know,
2 green, yellow, red, as far as how information could be shared.
3 Specific to this, I don't -- I don't recall being, in my work, being a part of an alert
4 system, no.
5 Q What about anyone else at CISA? Was Brian Scully ever part of a different
6 alert system other than the EI-ISAC one you just referenced?
7 A I don't know if he was part of an alert system. I don't know.
8 Q Do you recognize the email addresses on Bates number 948 from [redacted]'s
9 email to [redacted] and the CFI team? There's a reference to
10 jira@2020partnership.atlassian.net. And then there's the one email address we were
11 discussing earlier, the misinformation@cisecurity.org, and then, also,
12 misinformationreportingportal@cisecurity.org.
13 Let me just restate that question.
14 Do you recognize the Jira email address?
15 A I do not, no.
16 Q Do you recognize the longer cisecurity.org email address, Misinformation
17 Reporting Portal?
18 A That -- no, I don't recall that email address.
19 Q To your knowledge, was there ever a Misinformation Reporting Portal
20 created other than, or independent from, EIP, the EI-ISAC, and the switchboarding
21 forwarding of emails?
22 A I don't know whether CIS ever stood up a Misinformation Reporting Portal or
23 not. I don't -- I don't recall.
24 Q Who at CISA during this time, fall 2020, would be most likely to know if CIS
25 were to stand up a Misinformation Reporting Portal?

A In all likelihood, Brian would have been the most likely to know.

[redacted]. We can take these back.

[redacted]. This will be exhibit 15.

Mr. Masterson. Okay.

[Masterson Exhibit No. 15

Was marked for identification.]

BY [redacted]:

Q Do you -- do you recall a meeting taking place in late October 2020 between EIP and the EIS team?

A I do not.

Q During this time, you were head of the EIS?

A Yes.

Q And you received the meeting invite. Is that right?

A It appears I did based on this email.

Q To your knowledge, why would a meeting like this be taking place?

A Based on just this email -- again, I don't recall this meeting taking place, or if it did take place, or what the nature of the discussion was. I -- I don't know honestly.

It -- it reads to me like EIP wanted to share with us something they were about to perhaps report on, but I cannot say for sure. And I don't recall this. It's only a 15-minute meeting. I don't know.

Q If CISA was receiving Jira tickets from EIP, is that something you would have had knowledge of, given your role at CISA?

A I don't recall having knowledge or lack of knowledge whether or not anyone was receiving Jira tickets. I don't know that.

Q Independent of whether you have knowledge or not, if CISA were to be on

1 the receiving end of Jira tickets, is that something that likely would have gone across your
2 desk or your team's scope of responsibilities?
3 A I don't know. Not necessarily, but I can't say for sure whether or not it
4 would have or not, given, you know, the responsibilities I had around ESI and election
5 security and Brian's responsibilities. I don't know whether that would have and I don't
6 recall myself receiving Jira tickets, certainly not something I recall happening, or the team,
7 my team's, receipt of Jira tickets. I don't know.
8 Q How frequently were you talking to Brian Scully during September and
9 October of 2020?
10 A Frequently. He was located close to us, and there was, you know, shared
11 work around the election.
12 Q Would you say daily?
13 A Again, it's hard for me to say. I'm really not trying to be dodgy, because I
14 may have been traveling, right? I may have been out of the office. It's hard for me to
15 say at any given time whether or not it was daily, weekly, whatever the case may be,
16 depending on what I was doing in the midst of that.
17 Also at this time, 10-29-20, I was located in Cincinnati, right? I had moved to
18 Cincinnati by this point. And so it's harder for me to sort of estimate, but I had regular
19 interaction with Brian for sure.
20 Q What about with CIS? How frequently would you interact with CIS in
21 September or October of 2020?
22 A Independent of the ISAC?
23 Q We'll ask both ways, first independent of the ISAC and then including.
24 A So I'm going to reverse it, if that's okay.
25 Q Sure.

A I interacted with the ISAC regularly, I mean, virtually every day, because of the need to want to ensure that information was reaching election officials, that they were sharing information, you know, any threat indicators, anything like that. So I certainly would have been communicating with the ISAC.

CIS is harder for me to estimate. I don't -- I don't recall. I mean, you know, I had interactions with [redacted], or primarily [redacted], I would say, at CIS. I knew [redacted] and [redacted]. I interacted with [redacted], and [redacted], but I wouldn't say it was common for me.

Q Do you know if Brian was interacting with [redacted] and [redacted]?

A I don't know both whether he was or how much he was.

Q When you're interacting, when you say you're interacting with the ISAC, are the personnel you're interacting with at the ISAC, are they ultimately CIS personnel? Is that just for the same clarity?

A My understanding, though you should ask them, is that EI-ISAC employees are CIS employees. That's my understanding.

[redacted]. We can take these back.

This will be exhibit 16.

Mr. Masterson. Okay.

[Masterson Exhibit No. 16
Was marked for identification.]

BY [redacted]:

Q First, with the understanding that there's not -- there's redactions, but it does not appear your email is on this chain. Does this email chain look familiar at all to you? Do you recognize any parts of it?

A No.

Q If I could have you turn to the second page, which is Bates number 123,

1 there's a "from" at the top of the page that says Misinformation Reports. And it says at
2 cisecurity.org. Obviously, there's a redaction, but that's the same email domain name
3 we looked at a couple of minutes ago. Is that right?
4 A It appears to be.
5 Q And then it's sent to Brian Scully, CISA Central, CFITF, multiple Atlassian
6 email addresses.
7 First, are those Atlassian email domains, are those the same as the -- same domain
8 as the email address we looked at two exhibits ago?
9 A Is it okay for me to look at the exhibits?
10 Q Yes, please.
11 A Also there's a redaction.
12 Q Yes. But the part after the "at," this would be Bates number 948 CIS.
13 A It appears to have the same after the "at."
14 Q If I could have you turn to the front page of this exhibit, which is Bates
15 number 122. Again, there are redactions, but the "from" is from a cisa.dhs.gov email
16 address, sending it to multiple Twitter addresses. It's addressed to the Twitter Gov
17 Team, and it says in the second sentence:
18 The ticket is also tagged EIP-572.
19 To your understanding of how Jira tickets worked at least with respect to the
20 Virality Project, is that in reference to an EIP Jira ticket number?
21 A I don't -- I don't know. And I promise I'm not being difficult in that
22 I -- again, I don't recall accessing the Jira ticketing system at any point. It is possible I
23 did, but I don't recall doing so. And so don't know that I'd be familiar with what the
24 tagging on the ticketing system might be.
25 Q To your understanding, how would someone from CISA know what the EIP

1 number was for this report?

2 A I don't know. Again, I'm not familiar with both the process or what the

3 ticketing system produced.

4 Q As mentioned earlier, we got the similar disclosure. Got perhaps identical

5 to the ones we were looking at the other switchboarding exhibits in the first and second

6 hour of this interview.

7 Because the email appears to be being forwarded, would Twitter be able to see

8 what's beneath the email, including the prior message showing that CISA is receiving

9 communications from CIS the same time EIP is?

10 A I don't know. I mean, I wasn't included on this email, as you noted. I

11 mean, based on what you've presented to me here, one might be able to say yes. But I

12 don't know how the process sort of produced it and specific to this one to say for sure

13 yes.

14 But based on what you've given me here, it would appear that you could have the

15 email history, which is what I think you're asking, but I don't know, having not been on

16 this.

17 Q To you, does this suggest involvement of CISA in EIP?

18 A I don't know. I don't know how you would define "involvement." This

19 suggests to me that there are emails with CISA and EIP on them.

20 Q There's an email at the very top of the chain, and the whole "to" line is

21 redacted. The Bates numbers reflect this was produced to the committee by CISA.

22 In November of 2020, CISA is forwarding the email to someone else, saying, you

23 know:

24 Please find reporting forwarded to Twitter below.

25 Do you know what the purpose of that top email being forwarded?

1 A I -- I don't know what the purpose is or who sent it even, given the "from."
2 So I don't know who sent it to even be able to guess at the purpose.
3 Q With respect to CISA in the context that this is, you know, it says from CFITF,
4 there's CISA email addresses, what would you understand the terms "OCC" and "Privacy"
5 to mean for an internal CISA document?
6 A So, again, without knowing here, OCC was counsel's office and Privacy was
7 the privacy lawyer's office, generally speaking. I don't know -- that could be who this
8 went to here, but I don't know for sure.
9 Q Do you know if CISA had any sort of protocol or communications with social
10 media companies had to be forwarded to OCC and Privacy?
11 A I don't know.
12 [redacted]. We can take these back.
13 Mr. Leland. Counsel, how much longer do you think you'll have? We're getting
14 to the point you're presenting the witness with documents he's not on and asking him
15 what the recipients of those documents and how they might interpret it.
16 [redacted]. Well, he's been on the other exhibits, and the exhibits are directly
17 relevant to that one. But I don't think we'll have much longer. We'll certainly -- this
18 will be our last hour.
19 BY [redacted]:
20 Q To your knowledge, while you were at CISA, did CISA make any efforts to try
21 to counter disinformation sent via text message?
22 A To my knowledge, I don't recall that specifically taking place. It is possible
23 that, for instance, a State or local election official received something via text message,
24 text message, and screenshotted and shared it or something, but I don't recall a specific
25 incident or issue around that.

1 Q And you don't recall just at a general level, right? Like, certainly, everyone
2 is well aware there's research being done on misinformation on social media platforms.
3 Do you recall just even general discussions of CISA's work in that space and how it
4 might apply to communications being sent via text message?
5 A I do not, no.
6 Mr. Masterson. Karen, can I get a bottle of water?
7 Ms. Christian. Sorry. I should have shared it earlier. There you go.
8 Mr. Masterson. Thank you.
9 [redacted]. This will be exhibit 17.
10 Mr. Masterson. Okay.
11 [Masterson Exhibit No. 17
12 Was marked for identification.]
13 BY [redacted]:
14 Q Do you recognize this email exchange?
15 A I do not.
16 Q Who's [redacted]?
17 A [redacted] was a staff member of the Internet Observatory towards the
18 end of my time at Stanford.
19 Q Do you remember just a high level, what sorts of projects or what you were
20 doing with [redacted] while you were at Stanford?
21 A I don't specifically. I believe [redacted] was brought in to deal with policy and
22 issues around policy. He was, if I recall correctly, D.C.-based. So it was a
23 policy-centered discussion, but I don't recall working with [redacted] on anything specific.
24 Q Do you recall any discussions with CIS directly or with others regarding CIS
25 near the end of your time at Stanford about what sort of role CIS could or should play in

1 the upcoming 2022 election?

2 A I don't. I don't recall a specific discussion. I mean, I see, you know,

3 obviously, the content of the email, but I do not recall the specific call or sort of the

4 purpose of what it was.

5 Q With the understanding you don't recall this specific email exchange, your

6 email at the bottom of 15533 says:

7 I've been pounding on them for 2 months to do what they do best.

8 To your understanding, what is that it CIS does best, at least in the context of your

9 interactions with them?

10 A Yeah, and just to be clear, I can't say for sure this is what I'm referring to

11 here because I don't recall sort of the specific conversation.

12 But generally speaking, my experience with CIS is what they do best is providing,

13 well, twofold:

14 One, best practices and services to improve the sort of security and resilience of

15 an operation, so they issue a number of tools, best practices around Windows security

16 database security, things like that. And so, that's one.

17 And then, two, obviously my experience with CIS with the ISAC is that they, you

18 know, did a very effective job in my experience operating the elections ISAC and

19 supporting the election community with the risk information they needed, threat

20 information they needed, best practices, regular kind of contact, but not to overwhelm

21 them so they don't read the emails anymore.

22 So they did a very good job in sort of that communications and hub role that they

23 served within the EI-ISAC.

1

2 [5:45 p.m.]

3 BY [redacted]:

4 Q Do you recall at any point, in 2020, anything related up to the 2020 election,

5 anything related up to the 2022 election, where CIS was considering expanding their

6 responsibilities further than you thought they were capable of or should be trying to do?

7 A I don't recall, except for generally I recall CIS on occasion looking for

8 additional business opportunities.

9 And so, again, I don't know specifically what this was referring to, but at times CIS

10 in their sort of quest to identify additional opportunities lost focus on what they did well.

11 But I don't know what this is specific to.

12 Q Do you recall any opportunities in particular that you recall CIS trying to

13 pursue?

14 A So I remember at one point they considered some sort of work around

15 doxxing and an anti-doxxing campaign around election officials -- so providing support or

16 services to election officials to help them remove their information off the web, respond

17 to a report of doxxing -- and thinking, "Well, I think that would be useful. I don't know

18 that CIS would be the right one to do that."

19 Q So Graham responds to you. And a couple sentences into the middle

20 paragraph there he says: "The primary logistical concern is that it seems like CIS, which

21 does some really great work, essentially described EIP and sees it as a growth area and

22 consistent funding source."

23 Do you recall any discussions with CIS or regarding CIS where CIS would try to

24 adopt a role similar to what EIP served?

25 A I don't -- no, I don't recall specific conversations except for I think there was

1 a point where everyone was sort of evaluating next steps to 2022.

2 But I don't recall specific conversation around CIS wants to stand up an EIP or

3 monitor social media platforms in that way. It would not -- again, I just don't recall that

4 it -- it could be in reference to that. I don't know.

5 Q Did you participate in any discussions while you were at Stanford about what

6 EIP would look like for the 2022 election?

7 A I don't recall doing that. I don't know that that had begun when I got there

8 or not. It is possible, but I don't recall specific conversation around sort of EIP 2022 and

9 what it could look like.

10 [redacted]. Can we go off the record, please?

11 [Discussion off the record.]

12 [redacted] We can go back on the record.

13 BY [redacted]

14 Q I want to go back to what's been marked as exhibit 13 (sic). It's the

15 September 10th, 2020, email thread.

16 A Yes. Okay.

17 Q So there are two individuals, and we can just look at the very top email. I

18 think their names are throughout this, but I want to look -- we can just look at the first

19 one.

20 [redacted]? I think I'm pronouncing that right.

21 A Yes.

22 Q [redacted] was a CISA intern, correct?

23 A Yes.

24 Q And she was also a Stanford University student, correct?

25 A Yes.

Q And so she -- and she was a -- do you know whether she was a research assistant for the Stanford Internet Observatory?

A Yes. Yes.

Q Okay. And so she used her CISA email address here, but in fact she was also a Stanford student at the time?

A I believe that's correct.

Q Okay. What about [redacted]? Was he a Stanford -- was he a CISA intern?

A Yes.

Q And was he also a Stanford student?

A Yes.

Q And was he a research assistant at the Stanford Internet Observatory?

A I believe so, yes.

Q Okay. Thanks. We can go off the record.

[Whereupon, at 5:51 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: BRADLEY BENAVIDES

Thursday, September 28, 2023

Washington, D.C.

The interview in the above matter was held in room 2237, Rayburn House Office Building, commencing at 10:06 a.m.

1

2 Appearances:

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted] RESEARCH ASSISTANT

8 [redacted] SENIOR STAFF

9 [redacted] DIGITAL DIRECTOR

10 [redacted] SENIOR SPECIAL COUNSEL

11 [redacted] COUNSEL

12 [redacted] MINORITY INTERN

13 [redacted] MINORITY OVERSIGHT COUNSEL

14 [redacted] MINORITY PROFESSIONAL STAFF MEMBER

15

16

17 For the FEDERAL BUREAU OF INVESTIGATION:

18

19 [redacted] ASSISTANT GENERAL COUNSEL, OFFICE OF GENERAL COUNSEL

20 [redacted]

1 [redacted] This is a transcribed interview of Bradley Benavides. Chairman
2 Jordan has requested this interview as part of the committee's investigation of how and
3 the extent to which the executive branch has coerced and colluded with companies and
4 other intermediaries to censor speech.
5 Would the witness please state your name for the record.
6 Mr. Benavides. Yes. Bradley Benavides.
7 [redacted] On behalf of the committee, I want to thank you for appearing here
8 today to answer our questions. The chairman also appreciates your willingness to
9 appear voluntarily.
10 My name is [redacted] and I am with Chairman Jordan's staff. I'll now have
11 everyone else from the committee who is here at the table introduce themselves as well.
12 [redacted] Chairman Jordan's staff.
13 [redacted] Chairman Jordan's staff.
14 [redacted] Chairman Jordan's staff.
15 [redacted] Chairman Jordan's staff.
16 [redacted] Chair Nadler's staff.
17 [redacted] Ranking Member Nadler's staff.
18 [redacted] Chair Nadler's staff.
19 [redacted] with FBI.
20 [redacted] from FBI's Office of General Counsel.
21 [redacted] I'll now go over the ground rules and guidelines that we will follow
22 during today's interview. Our questioning will proceed in rounds. The majority will ask
23 questions first for 1 hour and then the minority will have the opportunity to question for
24 an equal period of time. We will alternate back and forth until there are no more
25 questions and the interview is over.

1 Typically, we take a short break at the end of each hour, but if you would like to
2 take one before that, just let us know.
3 As you can see, there is an official court reporter taking down everything we say to
4 make a written record, so we ask that you give verbal responses to all questions.
5 This is your first test: Do you understand?
6 Mr. Benavides. Yes.
7 [redacted] So the court reporter can take down a clear record, we will do our
8 best to limit the number of people directing questions at you during any given hour to
9 just those people on the staff whose turn it is.
10 Please try and speak clearly so the court reporter can understand and so the folks
11 down at the end of the table can hear you. It is important that we don't talk over one
12 another or interrupt each other if we can help it, and that goes for everybody present at
13 today's interview.
14 We encourage witnesses who appear before the committee to fully consult with
15 counsel if they so choose. It is my understanding that you are appearing here today
16 with counsel. Is that correct?
17 Mr. Benavides. I am.
18 [redacted] Now, you all are counsel with the FBI. Correct?
19 [redacted] Correct.
20 [redacted] So we typically give an -- I won't say admonishment, but you're no
21 longer with the FBI, correct, Mr. Benavides?
22 Mr. Benavides. That is correct.
23 [redacted] So we typically just like to inform witnesses that agency counsel is
24 ultimately representing the interest of the agency, and we ask if you are aware of that as
25 a witness.

1 Are you aware of this?

2 Mr. Benavides. I am aware of that.

3 [redacted] Is that permissible to you?

4 Mr. Benavides. It is.

5 [redacted] We want you to answer our questions in the most complete and

6 truthful manner possible, so we will take our time. If you have any questions or if you

7 do not understand one of our questions, just let us know. Our questions will cover a

8 wide range of topics, so if you need clarification at any point, just say so.

9 Mr. Benavides. Thank you.

10 [redacted] If you do not know the answer to a question or do not remember,

11 it's best not to guess unless we specifically ask you to speculate. That's unlikely but if

12 we do, so be it.

13 Please give us your best recollection, and it is okay to tell us if you learned

14 information from someone else. Please indicate how you came to know that

15 information.

16 If there are things you do not know or cannot remember, just say so, but inform

17 us to the best of your knowledge who might be able to provide those answers to us.

18 You should also understand that, although this interview is not under oath, that by

19 law you are required to answer questions from Congress truthfully.

20 Do you understand that?

21 Mr. Benavides. I do.

22 [redacted] This also applies to questions posed by congressional staff in this

23 interview.

24 Do you understand this?

25 Mr. Benavides. I do.

1 [redacted] Witnesses that knowingly provide false testimony can be subject to
2 criminal prosecution for perjury or for making false statements under 18 United States
3 Code, section 1001.
4 Do you understand this?
5 Mr. Benavides. I do.
6 [redacted] Is there any reason today you are unable to provide truthful
7 answers to our questions?
8 Mr. Benavides. No reason.
9 [redacted] Finally, I would like to make a note that the content of what we
10 discuss here today is confidential. We ask that you not speak about what we discuss in
11 this interview to any outside individuals to preserve the integrity of our investigation.
12 Similarly, we will show you exhibits, and we will be collecting those exhibits at the
13 end.
14 Can I get a -- can I ask you for a commitment that you will not share the contents
15 of this information with anyone?
16 Mr. Benavides. I will not share the contents with anyone.
17 [redacted] Thank you.
18 For the same reason, the marked exhibits we use today will remain with the court
19 reporter and go into the official transcript, but we will return them when we wrap up.
20 I think I jumped the gun on that instruction.
21 In any event, this is the end of my preamble. Is there anything from my
22 colleagues in the minority would like to add?
23 [redacted] Just thank you for coming voluntarily here today, Mr. Benavides.
24 Mr. Benavides. Yes, ma'am. Thank you.
25 [redacted] Before we start the hour, if I could, you referenced questions from

1 the chairman regarding the social media investigation. The witness can certainly answer
2 what questions he can on that.
3 The letter that he received from the chairman was specific to the defensive
4 briefing from 2020, which he is certainly prepared to talk about here today. And, on
5 that point, a note I made before, the FBI typically doesn't talk about specific defensive
6 briefings given to an individual member, but in this instance, given Senator Grassley and
7 Senator Johnson's public statements and request that the committee conduct this
8 investigation, we are proceeding with the understanding that they consent to us sharing
9 details of that briefing here today.
10 [redacted] I appreciate you making that record. I will just respond, as you
11 know, notwithstanding the indications in the initial letter, the committee recognizes no
12 limitations on its right to conduct its oversight, particularly when it has a witness in front
13 of it. So, obviously, your client, Mr. Benavides is here voluntarily, so. But we do intend
14 to probe on the tech investigations and the like, and we'll ask the questions that we need
15 to ask, ultimately, and you all respond how you respond.
16 [redacted] Yep.
17 [redacted] Okay. The clock now reads 10:13 a.m. We will start the first
18 hour of questions.
19 EXAMINATION
20 BY [redacted]
21 Q Good morning.
22 A Good morning.
23 Q Could you state your name again for the record, please.
24 A Bradley Benavides.
25 Q And what is your current place of employment?

1 A I am currently employed in a contract position with Battelle Savannah River
2 Alliance.
3 Q And how long have you been in that role for?
4 A A couple weeks. Brandnew.
5 Q And where were you before this?
6 A Prior to that, I was employed by Amazon.
7 Q And what was your position at Amazon?
8 A I was a senior manager over a program generally referred to as fraud and
9 abuse prevention.
10 Q Beginning with college, what is your educational background?
11 A I have a bachelor's degree in chemistry and practiced as a chemist for some
12 time in the private sector before going into the FBI. I had a couple of certificates from
13 other universities. I have a certificate, like a leadership certificate from Northwestern
14 and a national security certificate from the Kennedy School at Harvard.
15 Q And, following college, what is your professional background?
16 A After college, I took a job in the private sector working as a scientist, a
17 chemist. I did that for about a decade and then decided that I was going to join the FBI.
18 I joined the FBI, spent a little more than 20 years with the FBI, retired, and then
19 took a job with Amazon, left Amazon after about a year, and am currently employed with
20 Battelle Savannah River Alliance.
21 Q When did you join the FBI?
22 A March of 2002.
23 Q And what positions have you held at the FBI?
24 A A variety of positions. Overall, I was an FBI special agent. From that, I
25 then moved into the supervisory special agent role. I then did an assistant section chief

1 role. I then did an assistant special agent in charge role. I then did a section chief role,
2 and then ultimately finished my career as the Deputy Assistant Director.
3 Q In these roles, which divisions were you in at the FBI?
4 A All national security. If you were to cut it up nicely, about 10 years of
5 counterterrorism, about 10 years of counterintelligence, and about a year of cyber.
6 Q For the year of cyber, which role is that?
7 A I would have been an acting in the Cyber Division. I can't remember which
8 part, but altogether I had an acting assistant section chief role in Cyber and then I had the
9 cyber program from a national security perspective when I was an assistant special agent
10 in charge out of the Denver division. So a little bit of time at headquarters and a little
11 more than a year in Denver.
12 Q For which position or positions were you in at headquarters for?
13 A Headquarters? So the acting assistant section chief for Cyber. I think that
14 was around 4 months. I did a 2-year, about 2-year TDY to Counterterrorism Division as
15 an assistant section chief where I ran a program there. I was a section chief in
16 Counterintelligence Division and then the Deputy Assistant Director position was also in
17 Counterintelligence.
18 Q In addition to Denver headquarters, where else were you based?
19 A Chicago.
20 Q Anywhere else?
21 A So FBI headquarters, Denver, Chicago.
22 Q Your second to last role at the FBI, the section chief role?
23 A Yes.
24 Q Was that the Foreign Influence Task Force?
25 A It was.

1 Q What years were you the section chief?

2 A From 2019 to 2020.

3 Q And then could you state your title again for the role after you were section

4 chief?

5 A After section chief, it would be Deputy Assistant Director for the China

6 Branch, Counterintelligence Division.

7 Q When you were section chief of the FITF, who did you report to?

8 A My direct boss would have been Nicky Flores. She would have been the

9 Deputy Assistant Director, Intelligence Branch, Counterintelligence Division.

10 Q As part of your role as unit chief of FITF, did you have --

11 A Assistant or section chief.

12 Q Excuse me, section chief of FITF. Did you have interactions with the FBI

13 Director?

14 A I did.

15 Q And what were the nature of those interactions?

16 A We had meetings with the Director to bring the Director what it was that the

17 U.S. intelligence community was assessing with regards to the upcoming election. So it

18 would have been a general FITF brief to the Director.

19 Q How frequently were you providing briefings?

20 A I want to say it was monthly. As my recollection, I think it was monthly.

21 Q Were these briefings in person?

22 A They were.

23 Q When in 2020 did you leave the position as section chief of FITF?

24 A Yeah, thank you.

25 So I competed for the Deputy Assistant Director job while I was a section chief in

1 FITF. I was awarded the Deputy Assistant Director job in, by my recollection, either late
2 September or early October of 2020. I would have essentially wore two hats at that
3 time. I would have technically been the Deputy Assistant Director of the China branch,
4 but I would have also helped the FITF section chief mission leading up to the election.
5 So kind of between two worlds but serving both.
6 Q When did you stop serving the role as section chief of FITF?
7 A It's hard for me to properly assess, but I would have stayed on working as a
8 section chief right up to the election, so sometime in November.
9 Q And, prior to your new position of Deputy Assistant Director, what were your
10 day-to-day responsibilities as section chief of FITF?
11 A So FITF was, in FBI terms, it was a section, right, with a section chief. There
12 were other sections within the intelligence branch. So I would have had a variety -- I
13 would have had an assistant section chief. I would have had a unit chief or two. I
14 would have had some supervisors.
15 And the way that that construct comes together is it's a variety of professional
16 support, analysts, agent roles, but ultimately coming up to the section chief.
17 Q Who was your assistant section chief?
18 A That is a non-SES position -- at the time.
19 [redacted] Is the individual SES?
20 Mr. Benavides. The individual is SES now.
21 [redacted] Okay. Who?
22 Mr. Benavides. [redacted]
23 BY [redacted]
24 Q How many people did you have reporting to you while you were section
25 chief?

1 A This would be a ballpark. Approximately -- you mean like from working
2 level all the way up to my assistant section chief?
3 Q I guess both. You mentioned an assistant section chief, a couple unit
4 chiefs.
5 A Yeah.
6 Q So the first question is just how many direct reports and then how big the
7 task force would have been.
8 A My assistant section chief would have been my direct report.
9 Q And then how big was the task force at the time?
10 A Approximately 50, maybe a little more.
11 Q And do you recall when in 2019 you took the position of section chief?
12 A Mid to late summer. I'm going -- my best recollection would be July or
13 August of 2019.
14 Q And who was the section chief before you?
15 A I don't think there was one. I don't think that the FITF had a section chief
16 prior to me. I think it was still being formed.
17 Q How big was the task force when you started as section chief?
18 A Again, my best guess would be 50 plus.
19 Q To your understanding, did the size of the task force change at all in the
20 roughly year, year and a half when you were section chief?
21 A If anything, it grew, but resource constraints being what they are, it was not
22 significant growth based on my recollection. We had the personnel that we had, and if
23 anything, it grew. It didn't shrink, but I don't recall it growing significantly.
24 Q Prior to your joining as section chief in the summer of 2019, or thereabouts,
25 what was your prior role?

1 A I would have been the assistant special agent in charge of national security in
2 Denver, the Denver division.
3 Q Just at a high level, are you familiar with the terms "misinformation,"
4 "disinformation," and "malinformation"?
5 A Generally, yes.
6 Q And, to your understanding, what's the difference between those terms?
7 A I'm not an attorney, make no mistake about it. My best assessment is a lot
8 of it goes back to intent: Am I trying to deceive you versus did I accidentally put out,
9 you know, incorrect information? That would be my best way of trying to push it:
10 Intent versus this is wholly incorrect, but I don't necessarily know that the person who
11 released it had an intent to deceive or mislead.
12 So that would be the way I would try to differentiate.
13 Q When you were section chief, how frequently did you interact with the FBI
14 field offices?
15 A With the FBI field offices? With the FBI field offices, depending on the
16 topic, monthly, sometimes biweekly. It really would be specific to what it was that I was
17 trying to do with a particular field office. But to generally say, the frequency of contact
18 with field offices, there's 56 field offices. FITF is a headquarters component. Monthly,
19 monthly plus.
20 Q Were there any field offices that you recall interacting with more than
21 others?
22 A Yes.
23 Q Which ones?
24 A This is going to be a reflection of area of responsibility and size. The New
25 York field office is a big field office. San Francisco Division. Those would be the two

1 that immediately come to mind. Maybe Los Angeles, again, because of how big it was,
2 but New York for sure and San Francisco.
3 Q Do you recall why you had more interactions with the San Francisco Field
4 Office than the rest of the ones at large?
5 A San Francisco? It would be that the San Francisco Division would have had
6 close proximity to Silicon Valley.
7 Q And, as a section chief of FITF, were you having interactions with Silicon
8 Valley?
9 A The FITF held --
10 [redacted] You. The question was you.
11 Mr. Benavides. I was --
12 [redacted] Sorry.
13 Mr. Benavides. Thank you.
14 The FITF did hold engagements with tech companies and social media companies,
15 and on at least one or two occasions, I would have provided opening comments.
16 BY [redacted]
17 Q You said the task force is a headquarters component. So was everyone
18 part of the task force based in headquarters?
19 A If you were FITF, you would have been, by my chair, by my position, that
20 would have been a headquarters component.
21 Q To your understanding, how frequently were members of the FITF meeting
22 with social media companies during your tenure as section chief?
23 A Monthly.
24 Q And, to your recollection, you only appeared once or twice for these
25 meetings?

1 A Yes.

2 Q Do you recall why you appeared for those couple of meetings?

3 A This is very consistent with how executives engage. It is literally to show

4 appreciation. It is to show appreciation for people taking time out of their schedule, to

5 taking the time to dial in and be part of understanding threat, understanding

6 counterintelligence. It would have been that sort of thing.

7 I had done that a number of times in multiple different positions, but it would

8 have been a 5-minute introduction to just thank people for their time.

9 Q Do you know which position within the task force was typically in charge of

10 leading the meetings for the other ones, except for the couple that you participated in?

11 A I don't think that would have been the structure. What you have is me as a

12 section chief. I had an assistant section chief. For the record, my assistant section

13 chief, it took a while for me to actually pick one and onboard. So I was without an

14 assistant section chief for some amount of time.

15 And so then, if you look at the construct, you have a unit chief that might be

16 responsible for a particular threat vector, and so each of those unit chiefs would have

17 been participated to inform their particular area of responsibility. I don't think it would

18 be correct to say that there was a single person in charge, in other words. As you work

19 your way through the engagement, you would have gone from one briefing to another

20 briefing to another briefing based on the area of responsibility, if that makes sense.

21 Q When did you have an assistant section chief join you?

22 A I don't know how long it took. FITF is a cross-programmatic construct, and

23 as I recall, I was doing my best to get another component of FBI to pay for my assistant

24 section chief. My assistant section chief would have technically been a cyber body and

25 bureaucracies being what they are, it's: Will you please pay for this individual for me?

1 This is an important mission. I need it.

2 I want to say we were without [redacted] for maybe 2 months.

3 Q Is it your recollection that he was your assistant section chief before the end

4 of 2019?

5 A Yes. Yes, that would be my recollection.

6 Q How frequently were you having interactions with Nikki Floris during your

7 time as section chief?

8 A Daily, daily interactions.

9 Q How did you first hear about the position of section chief of FITF before you

10 joined?

11 A I believe Nikki called me while I was in Denver.

12 Q Prior to taking the role of section chief, were you familiar with FITF and its

13 role?

14 A I was not.

15 Q And, prior to taking the job, what was your understanding of -- either when

16 Ms. Floris called you or when you first learned about the position, what, you know, what

17 was the FITF doing at that time?

18 A I don't know what FITF was doing at that time. I do remember I ran the

19 Syria-Iraq task force out of Counterterrorism Division. Again, a cross-programmatic

20 construct, the whole of the USIC coming together to counter ISIS in particular.

21 The way she described FITF sounded very similar to my time as FITF Syria-Iraq task

22 force. My immediate assessment was it sounded like something that I would be

23 comfortable doing, this type of work. The mission was different than counterterrorism,

24 but the construct resonated with me, and I was interested.

25 Q During your tenure as section chief of FITF, what was FITF's mission?

1 A FITF's mission would have been to interact with the U.S. intelligence
2 community, Department of Homeland Security, others within the U.S. intelligence
3 community, the usual cast or characters.
4 Every member of the USIC brought something to the table. In other words, you
5 might get something from one member of the USIC that the FBI wouldn't necessarily have
6 immediate access to, and what the FITF was trying to do is have a common operating
7 picture across the USIC on foreign malign influence efforts from nation-state adversaries.
8 Importantly, it was also meant to be proactive. In other words, if the FITF
9 learned of a particular account or selector and the assessment was that it was foreign
10 adversary attributed, we would then want to pass it so that a private sector company
11 might be able to take some sort of situational awareness and potentially take some sort
12 of protective measure.
13 Q Besides the intelligence agency, which other Federal agencies did the FITF
14 work with?
15 A Can you please restate the question?
16 Q Sure. So --
17 A I'm so sorry.
18 Q In your prior response, it sounded like part of FITF's mission is engaging with
19 some of the intelligence agencies. Is that an accurate restatement?
20 A Yes. Yes.
21 Q Setting aside any intelligence agencies that FITF was interacting with, were
22 there any other Federal agencies that the FITF was engaging with?
23 A You mean non-USIC Federal agencies?
24 Q Yes.
25 A I don't remember -- not based on my recollection, no.

1 [redacted] You said DHS earlier. Were you counting them?

2 Mr. Benavides. I think Department of Homeland Security is part of the intel

3 community, yeah.

4 BY [redacted]

5 Q Are you familiar with CISA, the Cybersecurity and Infrastructure Security

6 Agency within DHS?

7 A Yes.

8 Q Did you work with CISA as part of your role as section chief of FITF?

9 A Again, FITF was cross-programmatic, so we would have had a cyber

10 component that we would have worked with. For foreign malign influence threat

11 narratives, we would -- the FITF would have engaged with CISA. Otherwise, if it were

12 like infrastructure, cyber attacks, indicators of compromise, that likely would have gone

13 from FITF to Cyber into CISA.

14 Q Are you familiar with the Countering Foreign Influence Task Force within

15 CISA that existed at the same time?

16 A I'm not. I'm not.

17 Q About CISA's MDM team, mis-, dis-, and malinformation team?

18 A No.

19 Q Who are your unit chiefs in 2020?

20 A These would be non-SES employees.

21 [redacted] You can describe the different units, but he's not authorized to

22 disclose the names.

23 Mr. Benavides. I had a unit chief that would have been over -- the description

24 would have been global. But when you're racking and stacking threats, it would have

25 been an Iran and DPRK focused. I had a China mission, and then I had a Russia mission.

1 BY [redacted]

2 Q What is your -- or excuse me.

3 When you were at Amazon, as of just a few weeks ago, you said you were senior

4 manager for the --

5 A One of many senior managers.

6 Q For fraud and abuse prevention?

7 A The program, the Director that I would have reported up through would

8 have been fraud and abuse prevention.

9 Q And what were your day-to-day responsibilities in that role?

10 A Efforts to prevent bad actors from taking advantage and defrauding

11 Amazon.com.

12 Q And who did you report to in that role?

13 [redacted] Can we go off the record for a second?

14 [redacted] Yes, of course.

15 [Discussion off the record.]

16 [redacted] Okay. Thank you.

17 [redacted] Can we go back on the record, please.

18 Mr. Benavides. Yeah, I'm not comfortable giving the name. I can give you the

19 title.

20 BY [redacted]

21 Q What was the title?

22 A Director of fraud and abuse prevention.

23 Q Did you interact with Federal agencies as part of your role as Amazon?

24 A I did not.

25 Q To your knowledge, were there any teams or divisions within Amazon that

1 were interacting with the foreign influence task force?

2 A No. No, none that I'm aware of.

3 Q Now, when did these -- actually, let me rephrase that question.

4 You mentioned that the FITF would have maybe monthly meetings with the social

5 media companies. Were those meetings ongoing when you took the position of section

6 chief?

7 A I don't recall.

8 Q Did they change in any frequency in the lead up to the election? The 2020

9 election, for clarity.

10 A I don't recall.

11 Q When you took the position sometime in 2019, you said roughly maybe 50

12 people were in the task force, were you responsible for the hiring and firing of folks

13 during your tenure as section chief?

14 A I would have been responsible for hiring my assistant section chief. I would

15 not have been responsible for hiring others.

16 Q Who was ultimately the decisionmaker to hire you as section chief of FITF?

17 A Oh, I think it goes through a panel. The ultimate decider would have been

18 the Assistant Director of Counterintelligence Division.

19 Q Who was that at the time?

20 A I believe it was [redacted].

21 Q Are you familiar with the term "attribution"?

22 A Yes.

23 Q And, to your understanding, what does that mean in the context of the work

24 you used to do?

25 A In the context of the work that I used to do or lead, attribution is an

1 assessment that informs who owns a particular -- perhaps an account or a selector, like
2 an email or a telephone number. Attribution is an overall assessment to inform
3 ownership.
4 Q In an earlier response, you mentioned there would be times where the FITF
5 may share information with social media companies regarding the actions of foreign
6 adversaries. Piecing the two answers together, and I don't want to put words in your
7 mouth, is it fair to say then the information being shared was when the FITF could
8 conduct that sort of assessment and be confident that, when it comes to attribution, it
9 was a foreign actor as opposed to a domestic actor behind the account?
10 A I have absolutely no recollection of ever sharing U.S. person information
11 with anyone. Attribution would have been absolutely critical before information would
12 have been passed to a social media or a tech company.
13 [redacted] May I ask a question?
14 [redacted] Yes.
15 [redacted] How do you define "U.S. person"?
16 Mr. Benavides. I would define "U.S. person" as fairly liberally: a green card
17 holder, a lawful permanent resident, a naturalized U.S. citizen, a U.S. person, a person
18 born here. Again, I'm not an attorney, but it would hit each of those categories I would
19 assess as U.S. person for purposes of the way the FBI conducts its investigations and its
20 work.
21 BY [redacted]
22 Q So being on U.S. soil itself would not be a bucket in which you would
23 consider somebody a U.S. person?
24 A If I had attribution that the person was on U.S. soil, I would U.S. person that.
25 I think I would include that bucket.

1 Q Without regard to any of the prior categories that you've listed?

2 A I don't think I understand. You mean in addition to those other categories?

3 Q In addition to.

4 A Yes, sir. Yes.

5 Q Thank you.

6 A In other words, if I -- you may be from another country, but if I have

7 attributed or if I have knowledge that you're in the United States of America, I would treat

8 you as a U.S. person, if that helps clarify.

9 BY [redacted]

10 Q Can you describe as you understood it the practice or the process of how,

11 from when the assessment is being conducted to whatever is being shared with social

12 media companies, what did that process look like during your tenure of section chief?

13 A I did not lead that or I didn't conduct that type of work. I could give you my

14 understanding of how that type of work would be done.

15 Because FITF was meant to be an inject into the whole of the U.S. intelligence

16 community, there were members of the U.S. intelligence community that might have

17 intelligence that they want to pass to the FBI. Looking at that intelligence would be able

18 to inform the assessment of attribution, if that makes sense.

19 I'm not a practitioner. I don't sit in front of a computer and actually make the

20 assessment, but there are standard practices that multiple U.S. intelligence community

21 employees would use in order to gain a high level of confidence that a particular account

22 or selector is attributed to a foreign actor.

23 Q And then, once that assessment is made -- first, let me ask, is there an

24 internal term that the FBI uses? Like, what was the threshold called that you -- before

25 information would be considered being shared with a social media company?

1 A I don't know that there is a term.

2 Q Who is making the decision? Like, what level at the FITF is making the

3 decision that, yes, we have a high enough confidence level that we can attribute this to a

4 foreign source?

5 A If it comes from a member of the USIC that wanted to downgrade

6 information and pass it to FITF, I think their assessment would have been part of the

7 overall assessment. I don't know like how exactly one would make that final decision,

8 we feel confident or we feel -- we have high confidence, or whatever the term would be,

9 that this is foreign actor attributed. But it would be signed off through the normal chain

10 of command, likely a supervisor or a unit chief.

11 Q To your understanding, if someone from the USIC has their high confidence

12 this is foreign actor attributed, was it always the case that the FBI would still conduct its

13 own analysis, or was it ever the case that the FBI would pass information to social media

14 companies relying on the assessment done by a different agency?

15 A I don't know.

16 Q If we could finish kind of walking through the process, so some sort of

17 assessment is conducted. Maybe it's someone from USIC. Maybe it's from the task

18 force. Maybe it's both. A determination is made at a supervisory level, maybe a unit

19 chief. What is the next step in the process then before it goes to a social media

20 company? And I'll stop there.

21 A I think that a meeting would be scheduled where the social media company

22 or tech company would have been informed: This is downgraded information. We're

23 passing it to you for your own assessment.

24 And so the U.S. intelligence community may form an assessment. A social media

25 or tech company forms their own assessment, quite frankly. And sometimes they are

1 simply going to say: We don't agree.

2 Or sometimes they may say: We agree.

3 The foreignness of the attribution on the U.S. intelligence community side is

4 important from my chair. From the social media and tech company's position, it would

5 be a look for activity that violates their terms of service. It is truly a private sector view

6 of what is it that the FBI has passed or, you know, with little regard to anything that the

7 FITF or the FBI might say. It is truly looking at it from a private sector equity what

8 activity is occurring on our platform that may violate a terms of service at a point that

9 they might take some action against what was passed.

10 Q How do you know that sometimes social media companies did not agree or

11 did not take action following a tip or information from the FBI?

12 A Perhaps the account stayed up.

13 Q To your knowledge, would members of the FITF keep track initially of

14 accounts that were flagged and try to see if they were taken down shortly thereafter?

15 A There was a lot of work going on. I am unaware of a tracking mechanism

16 or something that would inform a tickler to follow up. I'm unaware of that, but there's,

17 in the totality of things that are going on, a particular account may be linked to other

18 accounts, and so an analyst somewhere, perhaps in the FITF or perhaps in the USIC, may

19 be looking at something and then see that this other account is still up.

20 And so there are a variety of ways that you would come back, if you were doing

21 the work, to say that account stayed up. Isn't that an account that we know was foreign

22 actor attributed, blah, blah, blah, which is a reflection of just the difference between the

23 private sector and the government in the United States of America.

24 It's completely different in other forms of government, but here there is truly a

25 line between the two, and that to me is a reflection of that.

1 Q In that sort of situation you just were describing where maybe you've
2 identified accounts that are part of the same network and you notice the accounts you
3 flagged previously are still --
4 A I would not.
5 Q Not you personally, but the FITF, I should say.
6 A Or, or, I mean, there was a lot of work from other components of the U.S.
7 intelligence community.
8 Q In those situations, would the FITF ever follow up with the social media
9 companies and ask again about a specific account?
10 A I don't know. I don't know.
11 [redacted] You don't have any firsthand experience?
12 Mr. Benavides. I don't have firsthand experience of that, no.
13 BY [redacted]
14 Q To your understanding, would the social media companies ever say one way
15 or another if they were taking action, like voluntarily say what they were doing?
16 A They may, yes.
17 Q Is that something that your unit chiefs would brief you on? What level of
18 the FITF is having these sort of engagements?
19 A My type of engagement, I couldn't -- I would not have a recollection of any
20 time that someone came to me and said a particular selector or account has been taken
21 down. That's just not how, at my level, how that -- that type of information would not
22 have come up to me.
23 Q Are you aware of any instances during your tenure as section chief where
24 either the FBI or someone in the USIC determined an actor to be a foreign actor but the
25 social media company's assessment was different?

1 A No. I'm not aware of that.

2 Q If there were a situation where there was a difference in the social media
3 company's assessment regarding a foreign actor, U.S. actor, and someone from -- an
4 assessment from USIC or the FBI, is that a type of issue that would be raised to your
5 level?

6 A The way that you phrased your question, the U.S. intelligence community
7 would be overindexing on the foreignness. The private sector entity, I don't even know
8 if foreignness even was part of their world view. It would have been a terms of service
9 violation.

10 And so I would not be aware of an instance where the private sector company
11 said: We think you're wrong. We think this is a U.S. person or U.S. account.

12 I would not -- I cannot recall anything like that.

13 Q Are you familiar with the Global Engagement Center?

14 A I am.

15 Q And what is that?

16 A I want to make sure that I'm right. I think that the GEC was U.S. State
17 Department, if my memory serves.

18 Q Yeah, please.

19 A And my recollection of the GEC would have been informed by my time in the
20 Syria-Iraq task force. That's when I think I first learned of the GEC.

21 Q Just at a high level, what was the nature of your interaction with the GEC
22 during your time with the Syria and Iraq task force?

23 A My engagement with the GEC would have been based on -- if I remember
24 correctly, the way we were going to counter ISIS was through LOEs, lines of effort, of
25 which the FBI had a particular line of effort or two, which would be disruptions and

1 arrests and the normal things that you hear in the counterterrorism arena.
2 GEC would have been a State Department construct for talking to other
3 likeminded countries with regards to ISIS but not necessarily along the lines of like an FBI
4 counterterrorism mission. Theirs would have been, I believe, unclassified threat
5 warnings for particular regions, areas that might impact State Department equities.
6 I am not a GEC professional. That is my best understanding.
7 Q To a certain degree, you already answered this, but to your understanding,
8 what is the GEC's mission or what was the GEC's mission during your time with the FBI?
9 A I think that they were an unclassified -- they were unclassified broad threat
10 narratives and understanding with specific regards to ISIS travelers, areas, conflict zones,
11 areas that could potentially represent either threat or danger to State Department
12 employees.
13 Q And did you have interactions with the GEC during your time as section chief
14 of FITF?
15 A I did not.
16 Q Do you know if anyone at the FITF was working with the GEC?
17 A No.
18 Q Just at a high level, so we've kind of gone over the structure of the FITF
19 during your tenure. There is you. There is the assistant section chief. There is, it
20 sounds like, a couple of unit chiefs.
21 A I believe three.
22 Q What type of roles were the folks underneath the unit chiefs? And, based
23 off of title, responsibility, who comprised the task force, the actual members?
24 A I mean, the way the FBI is just generally run, you have professional support
25 employees, you have analysts, and then you have, you know, for lack of a better

1 description, special agents. So agents, analysts, professional support. We all, every FBI
2 employee falls into one of those categories. Despite the title, they fall into one of those
3 categories. And so it would have been a mix of those three responsibilities.
4 Q And then would there be -- let's say, analysts -- analysts devoted only to the
5 China Unit?
6 A Yes. I would have expected to have an understanding of collectively, you
7 know, threats against the upcoming election, threats against polling stations and civil
8 rights and that sort of thing, but there would have been special -- there would have been
9 specialty in aligning with Russia or China or the global mission.
10 Q You were talking a short while ago about the USIC would conduct certain
11 assessments. The FBI might independently conduct its own assessments or might be
12 receiving assessments from those other intel agencies. To your knowledge, were there
13 ever instances where an intelligence agency was telling the FBI, "We have a high degree
14 of confidence that this is a foreign actor," and that the FBI conducted its own assessment
15 and disagreed?
16 A I'm not aware of that.
17 Q Is that a type of situation that you would be made aware of as section chief
18 of FITF?
19 A If it was a friction point where the FBI or the other agency couldn't reach
20 alignment without it being raised higher, if it reached a point where they wanted
21 someone like me to intervene and make a phone call or sit down, they would have
22 pushed it to me.
23 Q And, to your recollection, that never happened?
24 A No.
25 Q You mentioned a couple times that social media companies would conduct

1 assessments based off of their terms of service. To your understanding, did members of
2 the FITF ever ask social media companies what their terms of service were?
3 A I don't know. I don't know. If you've ever signed up for an account, I
4 think the terms of service are voluminous. So I don't know that there would have ever
5 been that type of dialogue.
6 Q Is it your understanding that, during your tenure as section chief of FITF, that
7 social media companies had terms of service, had sections within those terms of service
8 that were specifically devoted to coordinated inauthentic behavior or hacked materials?
9 A Both I believe, yes.
10 Q And, to your understanding, were members of the FITF ever in discussions
11 with social media companies about how those specific provisions might apply?
12 A I would not be aware of that, no.
13 [redacted] May I?
14 [redacted] Yeah, of course.
15 BY [redacted]
16 Q According to your experience, it would make sense if the task force was
17 notified of a social media actor, this foreign individual or group seeking to interfere, it
18 would make sense for someone to know the term of service that would be applicable to
19 get the account flagged or taken down?
20 A I actually don't agree. Respectfully, I don't agree. An assessment of
21 account attribution being passed to a social media or tech company, I don't think any
22 member of the USIC or member of the FITF would feel like they need to be aware of what
23 the company's terms of service might look like. Everyone has their expertise. I can't
24 imagine that that would be something that they would -- they would have a vague or
25 broad awareness, but I don't think that they would pass something and say: This is for

1 this particular terms of service violation.

2 I just can't imagine that that would happen.

3 Q But if the impetus is to -- if the information is deemed seeking or attempting

4 to interfere in U.S. election, the idea is presumably to have the account taken down to

5 essentially vitiate the foreign actor's scheme to interfere in U.S. election. Correct?

6 A I want to be really careful with the way that you worded it. If it were to

7 interfere in the election, an upcoming election, that would likely fall under the

8 notification framework from the ODNI. So that is the piece of your question that is -- I'm

9 now going to try to separate the two.

10 If the U.S. intelligence community or the FBI had intelligence that a particular

11 account or selector, foreign actor attributed that was not deemed assessed as interfering

12 with the election, that's the category that I was speaking of. Does that make sense?

13 Q I think. And it may be just that my question was too specific.

14 I'm speaking now broadly. You are attributing an account to a foreign actor.

15 Presumably the intent is to malign and notify the social media actor. I guess what I'm

16 suggesting is, in an ideal world, that account would be flagged and the post would be

17 removed. Correct?

18 A Yes. In an ideal world, yes.

19 Q Okay.

20 A Otherwise, it wouldn't have been passed.

21 Q And so then, building upon that predicate, my initial question, relating to my

22 initial question, it would behoove the task force to know the provision of the terms of

23 service in the event there is pushback by, as you say, these private actors who do not

24 have the same interest as the task force?

25 A The private sector?

1 Q Private sector.

2 A Yeah, again, if you've ever signed up for an account, the terms of service is

3 voluminous. I am unaware of -- this goes back to my time in counterterrorism. I am

4 unaware of anyone who was steeped in understanding terms of service violations.

5 Q Okay, but that isn't my question.

6 A Okay.

7 Q So, just as a practical matter, I'm the person notifying a social media

8 company that there is an account, foreign attribution, malign intentions. This is

9 essentially a big part of what the task force was doing. Correct?

10 A It was a part.

11 Q A part.

12 A Yes.

13 Q So, notwithstanding the voluminous nature of the terms of service, I have to

14 imagine the Federal Government has the resources to figure out where does this

15 particular activity fall under their terms of service, and let's instruct them, because we

16 want them to act in a certain way, as to where we think it falls?

17 A I am unaware that that would have been the way the engagement works.

18 It typically would have been: We have some level of confidence that this is foreign actor

19 attributed. We're passing it for your situational awareness. Do with it as you see fit.

1

2 [11:07 a.m.]

3 BY [redacted]

4 Q So that was how it was framed in each case: Do with it as you see fit?

5 A Based on my understanding, yes.

6 [redacted] From the FBI's perspective?

7 Mr. Benavides. From the FBI's perspective, which -- yeah. Yeah.

8 [redacted] Okay.

9 BY [redacted]

10 Q But why is the FBI going through the effort to flag -- actually, let me take one

11 step back.

12 To your understanding, do the social media companies have teams of folks who

13 look for things like coordinated inauthentic behavior?

14 A Yes. I believe they do.

15 Q If the social media companies are engaged in that type of activity, why is the

16 FBI flagging accounts for social media companies?

17 A So it wouldn't always be the FBI. It could be a member of the U.S.

18 intelligence community. I believe after 2016, there was a fair amount of criticism on

19 information sharing between the Federal Government and the private sector.

20 Members of the U.S. intelligence community might have technologies that might

21 inform of foreign actor activity that a private sector company wouldn't necessarily be able

22 to detect. But there's, you know, a reasonable expectation that the Federal

23 Government would work very hard to be able to pass information to the private sector so

24 that they could perhaps take some sort of protective measures.

25 I don't think it's a -- I don't think that anyone would be able to say the private

1 sectors are wholly capable of protecting their platforms, and I also don't think it would be
2 fair to say that the Federal Government should try to protect private sectors. I don't
3 think it works that way. I think that there is a private sector and there is a Federal
4 Government in the United States of America. Other countries, completely different.
5 But, here, there is that line. And the FBI, in the domestic space, does try to work
6 with the private sector -- universities, academia, across an entire spectrum, interagency,
7 within the Federal Government, to share information where applicable.
8 Q But what is the FBI's interest in sharing this information with the social
9 media companies?
10 A I think it would be so that private sector companies would be able to
11 potentially take proactive protective measures. That would be the FBI's interest.
12 It's difficult for me to say interest, but I think that there isn't a reasonable
13 expectation that the FBI be as proactive and share with academia, with other members of
14 the U.S. intelligence community, particularly after 9/11.
15 For example, the private sector would be no different. The Federal Government,
16 in the way that our government is structured, there is a clear line. And in the domestic
17 space, I think the FBI works diligently to share as much as possible so that private sector
18 and academia, universities can have situational awareness and potentially take protective
19 measures.
20 Q Are some of the measures that a company could take with the FBI's, you
21 know, providing this information account takedowns?
22 A I think that if information that was passed to a private sector entity -- if their
23 assessment was that it violated some terms of service, they -- it would be within their
24 power to do something about the account, such as take it down.
25 Q I guess, you know, asking the question, putting yourself in the shoes of one

1 of your analysts, say in the China Unit, conducts this assessment, is putting all this effort
2 into it, the information then goes up through the chain of command, it meets all the
3 thresholds, you're only sending out the information that's got the highest level
4 threshold -- you're confident it's a foreign actor attribution -- it's being sent to the social
5 media companies at that point. From the view of the members of the FITF, you know,
6 what is the -- what is the purpose of going through all that effort to share with the social
7 media companies at that point?
8 A To ensure that we're not -- that the FBI is not targeting U.S. persons. I -- I
9 can't state that -- I can't state that firmly enough.
10 BY [redacted]
11 Q But that's one consideration?
12 A That is the consideration, as far as I'm concerned. That is a -- that is a big
13 deal.
14 Q Well, to ensure you're not targeting, but, again, I think what my colleague's
15 question is: The interest or the stake the FBI has, proactive, what is its objective? It's a
16 Federal law enforcement agency, right?
17 A It's an intelligence apparatus and law enforcement. The FBI has both sides
18 of that coin.
19 Q So in this particular context, one, ensuring U.S. persons are protected,
20 granted.
21 A The whole of the FBI has to ensure that.
22 Q Right. But, again, if we're talking about foreign attribution, the reason you
23 have been saying protective measures -- they, social media companies, may want to take
24 protective measures. The implicit assumption of that claim is that there's something off,
25 there's something worth taking protective measure. Fair?

1 A Potentially.

2 Q And that protective measure may be the removal of the account?

3 A I can't speak for the private sector entity, but that is something that

4 potentially, based on a terms-of-service violation, the company could take the account

5 down.

6 Q And the FBI thought enough of it to notify them?

7 A To notify, yes, or share.

8 Q Yeah.

9 A Share the information. But also other members of the U.S. intelligence

10 community as well.

11 [redacted] Okay.

12 [redacted] But from the -- again, based off your answers of what the FITF's

13 mission was, again, once this assessment's been conducted and you're getting to the

14 point where the information is being shared, from the viewpoint of your team, these are

15 accounts of a foreign adversary, use of malign influence. Isn't it the viewpoint of the

16 FITF from that point that these accounts should be taken down?

17 Mr. Benavides. No. No. No. No.

18 [redacted] Why engage in the effort, then, to find out who they are?

19 Mr. Benavides. The FBI has a responsibility to reach out to private sector entities

20 and share information as proactively as possible. The beauty of this government, there

21 is a clear line been the Federal Government and the private sector. There is a clear line

22 between the Federal Government and universities.

23 The FBI would -- doesn't have the authority, doesn't have the power to compel.

24 Our government just doesn't work that way. But we also have a responsibility to share.

25 And it might be frustrating to an analyst to learn that an account wasn't taken down or

actioned. That's too bad. That's just the way it works.

[redacted] Can we go off the record, please?

[Recess.]

[redacted] We can go on the record, please. It is 11:26.

EXAMINATION

BY [redacted]

Q Good morning again, Mr. Benavides.

A Good morning.

Q I just want to ask you a couple questions about your background. You went through a lot of your positions at the FBI, but I noticed that you joined the FBI in 2002. Is that right?

A Yes, ma'am.

Q And a lot of people who joined the FBI around that year, it had something to do with 9/11. Is that true in your case?

A It is not.

Q No?

A I applied to the FBI prior to 9/11.

Q Okay. But you worked in counterterrorism. Is that right?

A I started my career in counterterrorism.

Q And at one point, I think in your LinkedIn, I saw that you had done like a deployment with the DOD, while you were an FBI agent, overseas. Is that right?

A I did a deployment with Department of Defense into Iraq.

Q And can you explain at all what that was -- what the mission was there, if it's, I mean, unclassified, or just high level?

1 A It's classified.

2 Q Okay. Well, we won't get into it then.

3 Fair to say that you've had a long career in the FBI and that the bulk of your

4 subject matter has been either counterterrorism or counterintelligence?

5 A Yes, ma'am.

6 Q Okay. Let's talk about some of the information-sharing relationship that

7 you talked about in the first hour. This is when you were at FITF in the section chief

8 position. You had a series of questions about what kind of information your employees

9 in FITF would share with social media companies.

10 Do you recall those questions?

11 A Yes.

12 Q You personally were never involved in that type of information sharing with

13 the social media companies. Is that fair?

14 A That is correct.

15 Q Instead, you were above the employees who were actually in those

16 relationships, right?

17 A That is correct.

18 [Benavides Exhibit No. 1

19 Was marked for identification.]

20 BY [redacted]

21 Q Okay. I want to show you a letter -- this will be marked as exhibit 1, I

22 believe.

23 A I knew I was going to need these.

24 Q You're going to need them. I'm going to need mine too.

25 A There we go.

1 Q This is a -- what year is this? Sorry.

2 This is a letter from Assistant Attorney General [redacted] to ranking -- or

3 sorry -- to Chairman Jordan -- yes -- to Chairman Jordan dated June 21st, 2023.

4 Okay. I'll hand you a copy, and you can take a look at that while we're passing

5 these out.

6 Have you seen this letter before, Mr. Benavides?

7 This is a couple pages. Just take a minute to look at it. You don't have to read

8 it. I'm just asking if you're familiar with it now. If not, I'll direct you to where I'm going

9 to ask questions.

10 A Ma'am, I -- I don't know that I'm familiar with this letter.

11 Q Okay. I'll have you turn to page 2, if you don't mind, and there is a section

12 entitled Countering Foreign Malign Influence Operations.

13 A Okay.

14 Q I'm just going to read this, and you can read along with me, and I'll ask you a

15 couple questions.

16 A Okay.

17 Q The letter states: The identification and disruption of foreign malign

18 influence operations is a longstanding and critical concern for the Department and the

19 FBI. Foreign influence operations include covert actions by foreign governments

20 intended to affect U.S. political sentiment and public discourse, sow divisions in our

21 society, or undermine confidence in our democratic institutions to achieve strategic

22 geopolitical objectives. These concerns are not hypothetical. For example, in 2018,

23 the United States Government obtained an indictment of Russian individuals and entities

24 for Federal crimes in connection with efforts to interfere in the 2016 election, an effort

25 the Russian defendants refer to as, quote, "information warfare," unquote. In 2020,

1 then-Attorney General Barr joined numerous other officials in a joint statement advising,
2 quote, "We continue to work with all 50 States, U.S. territories, local officials, political
3 parties, and private sector partners to keep elections free from foreign interference," end
4 quote. The statement continues, quote, "Americans must also remain aware that
5 foreign actors continue to try to influence public sentiment and shape voter perceptions.
6 They spread false information and propaganda about political processes and candidates
7 on social media in hopes to cause confusion and to create doubt in our system," end
8 quote.
9 Let me stop right there and ask you: Are you familiar, first of all, with the
10 indictment that's referred to in that paragraph? This was an indictment in 2018 of the
11 Internet Research Agency and Yevgeniy Prigozhin, among others.
12 Are you familiar with that indictment?
13 A I am.
14 Q Do you know who Yevgeniy Prigozhin was?
15 A Well, he had a storied career, but at one point, I believe he was Vladimir
16 Putin's chef and recently died. His plane went down, as I recall.
17 Q At the time of the indictment in 2018, were you aware that he was the
18 controller of the Internet Research Agency?
19 A That is our assessment and, more importantly, part of the criminal
20 indictment.
21 Q Are you familiar with that indictment?
22 A I may have read it at some point. It would have been a long time ago. I
23 certainly don't have it fresh in my mind or recollection.
24 [Benavides Exhibit No. 2
25 Was marked for identification.]

1 BY [redacted]

2 Q Okay. I'm going to mark for exhibit 2 that indictment. And just keep that

3 letter next to you --

4 A Okay.

5 Q -- because I'm going to ask you a couple questions kind of going back and

6 forth.

7 Okay. Now, with regard to the indictment, if you would look at paragraph 4,

8 which is on page -- let's see. It's on page 3. It should be highlighted in the exhibit that

9 you have in front of you. I'm going to read this paragraph to you as well.

10 Paragraph 4 states, quote, "Defendants, posing as U.S. persons and creating false

11 U.S. personas, operating social media pages and groups designed to attract U.S.

12 audiences. These groups and pages, which addressed divisive U.S. political and social

13 issues, falsely claimed to be controlled by U.S. activists when, in fact, they were controlled

14 by defendants. Defendants also used the stolen identities of real U.S. persons to post

15 on organization-controlled social media accounts. Over time, these social media

16 accounts became defendants' means to reach significant numbers of Americans for

17 purposes of interfering with the U.S. political system, including the Presidential election

18 of 2016."

19 Did I read that correctly?

20 A Yes, ma'am.

21 Q Are you familiar with that particular allegation that's included --

22 A Yes.

23 Q -- in the indictment?

24 A Yes.

25 Q Did you in any way work on that case?

1 A I did not work on that case. You mean as an investigator --

2 Q Yeah. In your --

3 A -- or an FBI agent?

4 Q Yeah. As an FBI agent.

5 A No, ma'am.

6 Q Okay. Now, the conduct described in that paragraph is colloquially known

7 as like a troll farm. Is that fair to say?

8 A Yes.

9 Q And do you have any -- anything further you can add in terms of what troll

10 farms are and what they do in the foreign influence sector?

11 A My understanding is a troll farm would be responsible for setting up fake

12 accounts or otherwise compromising the accounts as a way to, you know, disseminate

13 their propaganda, for lack of a better description, without attribution -- without

14 attribution to the foreign actor, the foreign adversary, which I think is incredibly

15 important, because with attribution, it is straight-up propaganda, and the United States is

16 fine with that as long as you let the recipient know that you're a foreign government,

17 regardless of which government it is. But without attribution, it becomes problematic.

18 And so a troll farm would attempt to disseminate pieces of information with an

19 agenda, without attribution to the foreign adversary.

20 Q Okay. And so that's the point that the FBI is concerned with. It's the fact

21 that they're hiding their identity or trying to deceive people as to who they are. Is that

22 fair to say?

23 A That is -- that is a fair assessment, yes, ma'am.

24 Q But the FBI is not interested in the actual content or what you called

25 propaganda. It's not the message. It's the fact that the speaker is hiding who they are.

1 Is that right?

2 A That is right. I'll -- I'll state this as the section chief. I went out of my way,

3 every opportunity -- the FBI does not look at content. I don't care what the content

4 says, to be perfectly honest with you. You start with a seed account and work your way

5 through attribution.

6 Content, I personally -- and I would have instructed -- the FBI does not occupy

7 itself with content. I'm not the only FBI agent that has ever said that either. It is

8 working from the account looking for attribution. Content is not even part of the

9 equation.

10 Q Okay. And just continuing with respect to this exhibit 2, the IRA

11 indictment, if you would turn to page 6, it's paragraph 10(c) that we've highlighted.

12 That paragraph states, quote, "The organization sought, in part, to conduct what it

13 called, quote, 'information warfare against the United States,' quote, through fictitious

14 U.S. personas on social media platforms and other internet-based media," end quote.

15 Did I read that correctly?

16 A Yes, ma'am.

17 Q Are you familiar with the fact that, as alleged in this indictment, the Internet

18 Research Agency and the other defendants in this case actually referred to their own

19 conduct as information warfare against the United States?

20 A I am aware of that, yes, ma'am.

21 Q Okay. And you can set the indictment aside. I don't have any more

22 questions about that for the moment.

23 But turning back to the letter, exhibit 1. Okay. Now, we have read the first -- I

24 guess it was the -- the paragraph under Countering Foreign Malign Influence Operations,

25 and that is supposed to be a general statement from the DOJ about what that mission is

1 within the FBI.

2 As it's stated there, do you -- is that generally consistent with your understanding

3 of the FBI's foreign influence mission?

4 A Can I reread it, please?

5 Q Of course, yeah. I'm sorry. I should have stayed with you.

6 A No. That -- I apologize.

7 Q Yep.

8 A I am aligned with the way this paragraph is written.

9 Q Okay. I'm going to have you turn to the next page of the letter. And here,

10 there's a paragraph that describes the origin of the Foreign Influence Task Force. The

11 letter states -- this is on the top of page 3 -- quote, The FBI established the Foreign

12 Influence Task Force in 2017 to identify and counteract foreign malign influence

13 operations targeting the United States. The FITF investigates and seeks to disrupt

14 actions including: Attempts by adversaries, hoping to reach a wide swath of Americans

15 covertly from outside the United States, to use false personas and fabricated stories on

16 social media platforms to target U.S. individuals and institutions; targeting U.S. officials

17 and other U.S. persons through traditional intelligence tradecraft; criminal efforts to

18 suppress voting and provide illegal campaign financing; and cyber attacks against voting

19 infrastructure, along with computer intrusions targeting elected officials and others.

20 Did I read that correctly?

21 A Yes, ma'am.

22 Q And is that your understanding of the mission of the Foreign Influence Task

23 Force as you performed it?

24 A Broadly, yes.

25 Q Okay. So the first bullet point there, which refers to attempts by

1 adversaries to use false personas and fabricated stories on social media platforms to
2 discredit U.S. individuals and institutions, is that referring to sort of what you were saying
3 earlier, the foreign malign influence, the hidden attribution?
4 A Yes, ma'am.
5 Q Okay. Why, in your opinion and your experience, is it important for the FBI
6 to try to have countermeasures with respect to that foreign influence operation?
7 A I think that the Federal Government, not just the FBI, has to be concerned
8 with any attempt to undermine what it is that this country represents, our democracy,
9 the way that we do our business, the way that we conduct ourselves, our elections,
10 et cetera.
11 The FITF is a small -- a small part of this. But without attribution, it's incredibly
12 easy to potentially mislead someone who's consuming, you know, unattributed
13 propaganda. This would have been the FBI's attempt to bring together the whole of the
14 FBI to work these types of threats in a way to inform, illuminate -- the best way to deal
15 with this type of work is sometimes cast a light on it, illuminate, bring it out into the open.
16 And so that -- that is one of many things that the FITF was attempting to do, if that makes
17 sense.
18 Q Yeah. Could you expand on that a little bit? You're saying that the main
19 kind of weapon that the FITF was using was illuminating things that were hidden. Is that
20 correct?
21 A I think that this indictment is an example of that. Anytime that you can
22 downgrade classified information, for example, and pass it for someone to look at and
23 make an assessment, that is a way of casting light on something that might otherwise stay
24 obfuscated.
25 Q Okay. And even -- you stated that, clearly, I think, on several occasions in

1 the first hour, that the FBI doesn't necessarily have an interest in, like, social media
2 companies, for example, taking down accounts or taking any action with respect to
3 content. But the FBI does have an interest in illuminating the attribution, right, like of
4 who is speaking in that case, so sharing information about who is speaking, so that private
5 actors can take whatever action they choose?
6 A The FBI's interest is in sharing. I think I would -- I would phrase it that way.
7 The FBI's interest is in sharing with not just the private sector, but universities,
8 interagency -- the FBI is in the business of sharing, when possible, so that someone might
9 be able to take a protective or gain a better understanding of what it is that we've
10 learned.
11 Q Okay. I just want to take a step to the side for a second. In your
12 experience with the FBI generally, are there other examples that you can think of where
13 the FBI tries to share information with private sectors in order to help them protect their
14 own industry? I mean outside of the social media context.
15 A Oh, absolutely.
16 Q What are some other examples of that that you know?
17 A I was a squad supervisor in Chicago 5 years working PRC/China matters. A
18 significant -- a significant way that the FBI conducts counterintelligence is through
19 outreach. And in that instance, it could be with academia or with the private sector.
20 But it would have been protect your intellectual property. Your intellectual property has
21 value.
22 And so, in that, the FBI would have worked with the private sector or with a
23 university to understand what it is that foreign adversaries may want in terms of
24 intellectual property, cutting-edge technologies.
25 And then, also, it would have been a way to educate what it means to do this,

1 which is a criminal indictment. And so understanding how to prove in a court of law
2 that you took measures to protect your intellectual property is incredibly difficult
3 sometimes. We would provide a threat warning that would say, here, you -- here are
4 some best practices that you yourself can enact to protect your intellectual property.
5 So that, to me, would be an example.
6 Q Yeah. Let me just ask you a couple questions about that. So you're
7 talking about a company that might have a cutting-edge technology, an American
8 company, right, some kind of valuable technology that you're interacting with?
9 A Yes.
10 Q And your concern is, say, China or some other foreign state might be trying
11 to steal that intellectual property in some way?
12 A Yes.
13 Q Now, in an ideal world, as my colleague said, the FBI or everybody would
14 want that private company to take some action, right, to keep, you know, China from
15 stealing that technology. Fair to say?
16 A That is fair to say.
17 Q But the FBI is not going to order that company to take any action with
18 respect to their own intellectual property, are they?
19 A No.
20 Q Why not?
21 A Well, that's not what the FBI does. That's not what the Federal
22 Government does really. A private sector company is independent, separate, and apart
23 from an organization like the FBI, but the FBI has an obligation to share what it knows
24 about activities so that private sectors, companies, or universities, could protect
25 themselves. And we've gotten much, much better at that over time.

1 There are all kinds of different things that private sector companies don't always
2 or universities don't always take into account: insider threat, cyber attacks, the benefits
3 of filing and holding on to a patent. You know, all of those things, the FBI has gained a
4 substantive understanding, and it's our responsibility to share.
5 Q And is that responsibility because you are one of the main Federal law
6 enforcement agencies in the United States and the FBI sees its mission as helping all
7 Americans, including American companies, to protect themselves?
8 A Yes.
9 Q Okay. Even though the FBI itself might not have a particular interest in any
10 action that that company might take to protect itself?
11 A We have an interest in sharing, and I personally would take that serious.
12 But what the recipient does with that information or intelligence is up to the recipient.
13 Q Okay. And not to beat a dead horse here, but another example that occurs
14 to me is, in the counterterrorism field, when 9/11 happened and the U.S. intelligence
15 community suddenly became aware that one of the tactics that foreign malign states or
16 actors wanted to use against the United States was to take airlines and to use those as
17 weapons against us. After that happened on 9/11, was there an interest on the part of
18 the U.S. Government, the FBI and others, in having a relationship with airlines, private
19 sector airlines, to try to let them be aware of what you knew about that threat?
20 A Yes.
21 Q Now, the airlines themselves, they're private companies, right?
22 A Correct.
23 Q So the FBI can't order them to take any particular action to protect
24 themselves, right?
25 A The FBI cannot.

1 Q But you can share information with them about what you might know about
2 foreign malign actors planning to use them to hurt Americans, right?
3 A That is correct.
4 Q And did that happen in that case before 9/11, if you know? I know that you
5 may not know anything about this.
6 A I don't know about prior to 9/11. That was a long time ago. But certainly
7 after 9/11, the FBI really established ways to share information as broadly and as
8 proactively as possible.
9 Q Okay. Now, getting back to the purpose here of this discussion and your
10 presence here today, there is an allegation that some on this committee have that the FBI
11 is attempting to coerce social media companies into taking certain action with respect to
12 accounts or other content on their platforms.
13 What is your response to that allegation?
14 A It's -- it would be an untrue allegation.
15 Q And what instead, in your view, is the FBI trying to do with that
16 information-sharing relationship?
17 A Do what the FBI should do, which is seek to downgrade information and pass
18 it to private sector, universities, academia, others within the Federal Government; seek to
19 share as broadly and as proactively as possible so that they may be able to take some sort
20 of protective measure.
21 Q Okay. And I'm just going to ask you a couple of these questions for clarity.
22 Is it fair to say that the FBI shares information with social media companies,
23 including threat indicators, with the expectation that the companies will use their own
24 means of verifying these indicators and will ultimately make their own determination as
25 to whether the identified accounts or postings violate the company's own terms of

service?

A That is accurate.

Q Does the FBI ever ask the social media companies to remove any account or any particular content from their platforms?

A No.

Q Does the FBI ever decide to share information regarding an account or post based on the nature of the content rather than the attribution of foreignness?

A No.

Q Why not?

A I mentioned it earlier. Content is -- is not part of the calculation. The effort is to disseminate and share, as broadly and as proactively as possible, what foreign adversaries are up to so that the recipient may be able to take some sort of protective measure. Content is -- it's just not part of the calculation.

[redacted] Can I go back to a prior question, which was about the whole of the FBI in terms of content?

[redacted] Sure.

[redacted] You're not speaking for criminal investigations or instances where there might be, say, CSAM online or something like that where the FBI might be involved with social media companies about content? That's not what you're talking about --

Mr. Benavides. That's not --

[redacted] -- correct?

Mr. Benavides. That's not what I'm talking about.

[redacted] That's not within your bandwidth.

[redacted] Sorry. I meant to clarify. I'm asking you in the context here of FITF and their interaction with social media companies about foreign influence.

1 [redacted] Thank you.

2 [redacted] But thank you for that clarification.

3 BY [redacted]

4 Q Mr. Benavides, I noticed on your LinkedIn profile, your description of what

5 FITF does or what you did with FITF, and you used some interesting words I just wanted

6 to ask you about. I apologize I don't have this in front of me. I'm just going to read my

7 recollection of what your LinkedIn says, and you can tell me if it's right.

8 But with regard to your experience at FITF, you said that FITF was, quote, "the

9 primary effort for proactive" --

10 [redacted] You do have it. Look at you.

11 Okay. I'm going to mark this as exhibit 3, because we actually do have a copy of

12 your LinkedIn page.

13 Mr. Benavides. Oh, interesting.

14 [redacted] Thank you.

15 [Benavides Exhibit No. 3

16 Was marked for identification.]

17 BY [redacted]

18 Q All right. So your FITF experience is -- where is it?

19 A It's not on here.

20 Q Actually, it's not on here. Sorry. We're going to have to go back to what I

21 was reading. I think you had to expand it to see this part because you have a lot of

22 experience.

23 My recollection, though, is that you said FITF is, quote, "the primary effort for

24 proactive engagement with other intelligence community partners, Congress, the White

25 House, and technology and social media companies to identify and confront foreign

1 malign, i.e., subversive, undeclared, coercive, and/or criminal activities in the United
2 States," end quote.
3 And the thing I want to ask you about first is, you talked about foreign malign
4 influence as, quote, subversive, undeclared, coercive, or criminal. Why did you choose
5 those words to illuminate the idea of foreign influence? What's important about those
6 words?
7 A Again, in this country, you can -- you can talk propaganda with attribution,
8 and that -- that's just part of the way this country is structured. That is acceptable and
9 okay. You need to comport with certain rules and regulations, but generally, we are an
10 open, free, and -- society.
11 So for the FBI's mission, you're looking for something that falls into that area that
12 is outside being open. And the way that's described, I think, captures the difficulty of
13 the space that we would occupy in the domestic space. That subversive, undeclared,
14 coercive, and/or criminal, I think, captures that area that is the purview of the Federal
15 Bureau of Investigation. That would be my best description of how I wrote that.
16 Q Okay. Thank you for that.
17 And you also said that the FITF is, quote, "the primary effort for proactive
18 engagement."
19 Does that mean that the FITF, in your experience, is, I mean, the main tool that
20 the FBI uses to fight or counteract foreign malign influence?
21 A For foreign malign influence, the FITF would be that component of the FBI
22 that is cross-programmatic in nature, housed under the Counterintelligence Division's
23 intelligence branch.
24 Did that answer your question?
25 Q I think so. And I noticed that the -- I mean, you said primary and you said

1 proactive, and I assume that, by proactive, you mean what that word means, like, you're
2 going out there and you're trying to confront this foreign malign influence before damage
3 is done necessarily, right? You're trying to share the information early. Is that fair?
4 A That is fair. That is a reflection of my personality as well. I -- I was -- I still
5 feel like I'm part of the FBI. It's been a year, but I -- it's hard for me to shed
6 it -- proactive, proactive, proactive. That is what the FBI should be. Every FBI agent,
7 quite frankly.
8 Q And in this case, proactive in sharing information that the FBI has --
9 A Yeah.
10 Q -- about foreign malign influence, correct?
11 A Yes.
12 Q And sharing that with other intelligence community partners and also with
13 the private sector, correct?
14 A Yes.
15 Q Okay. What would happen, in your experience or in your opinion, if the
16 FITF were no longer able to engage in that mission of proactively sharing this information
17 with social media companies and other partners?
18 A It's difficult for me to speculate. And I apologize. Can you please restate
19 the question?
20 Q Well, just if you have any concerns -- do you have any concerns if the FITF
21 were no longer able to share the information that they're sharing or they have been
22 sharing with social media companies about these foreign attributions, for example?
23 A Would my -- again, I'm not -- I'm not trying to -- I'm not -- I am trying to
24 answer your question.
25 Are you asking if I have concerns that if FITF were to no longer be in existence,

1 would social media and tech companies suffer, like, that the FBI wouldn't have a
2 mechanism to share? I don't think I understand.
3 Q It's not so much that the social media companies would suffer. My
4 question is about -- you know, you said before in the first hour that part of when -- the
5 reason that FITF was stood up was due to criticism, right, that --
6 A Part of it, yes.
7 Q -- happened after the 2016 election. Is that right?
8 A Yes. I believe so, yes.
9 Q And tell me what you mean by that. I'm not going to ask. You tell me.
10 A After the 2016 election, there was criticism of the Federal Government, the
11 FBI, and others on its ability to share what it knew. Sitting in classified holdings, you
12 need a mechanism to take that information and then proactively share it with
13 stakeholders, with an entity that might be able to take proactive measures.
14 And so after the 2016 election, in the malign foreign influence space, the FITF
15 would be stood up to be cross-programmatic, the whole of the FBI coming together in
16 order to help the FBI, the USIC, share as -- as allowed, share proactively with an entity
17 that might be able to take proactive measures.
18 And so, in that, that criticism after 2016 election is, did the Federal Government
19 have pieces of information that they could have proactively shared? I think the answer
20 is yes. That assessment would be yes.
21 Okay. How do we get to a better state where we are doing our very best to
22 share proactively? For the FBI specifically, this FITF construct would have prompted
23 that.
24 Q Okay. And that's kind of what this letter that we had marked as exhibit 1 is
25 explaining when they talk about why FITF was created. They specifically reference the

1 indictment that we talked about, our exhibit 2, the indictment against the IRA and
2 Yevgeniy Prigozhin, because the conduct, the troll farms and other activity that were
3 described in that indictment, that was happening during the 2016 election, correct?
4 A Yes.
5 Q And there were probably agencies in the U.S. Government that knew about
6 that. Is that fair to say?
7 A I can't speak for other --
8 Q Okay.
9 A -- members of the U.S. intelligence community.
10 Q But the criticism is, if information was out there, it would have been nice to
11 have some mechanism to share that with stakeholders like social media companies or
12 others that were being used by these foreign actors to commit what they called
13 information warfare against the United States, right?
14 A I think that it would have been appropriate -- I think it was fair criticism and I
15 think appropriate for the Federal Government to do its absolute best to share proactively
16 pieces of information with a stakeholder that might be able to take some sort of proactive
17 protective measure.
18 Q Okay. And asking you to look back to the beginning of your career -- and
19 you may not recall this, but, after 9/11, was there not a similar criticism about the FBI and
20 the intelligence community, that there was information out there about what al-Qaida
21 and others were trying to do, even sort of discussion of airplanes, but there was no
22 mechanism for that to be shared in a way that would cause someone to be able to take
23 proactive measures to protect Americans? Do you recall that?
24 A I do recall that.
25 Q Do you see any similarities here in terms of the FBI and the U.S. Government

1 coming up with FITF as a way to proactively deal with this threat that we knew was there
2 and we needed to kind of confront?
3 A Yes.
4 Q Okay.
5 A Yes. Broadly, yes.
6 Q Okay. So I'm asking you now: If there were any reason -- a court order,
7 for example, or some other pressure from Congress or elsewhere -- that caused FITF to no
8 longer engage in this mission of sharing foreign malign influence attribution with social
9 media companies, do you have any concerns about what would happen if that mission
10 were no longer able to be carried out by FITF?
11 [redacted] So he's not a current FBI official.
12 [redacted] Understood.
13 [redacted] But you can provide a personal opinion, if you have one.
14 Mr. Benavides. My personal assessment is FITF occupies a space in the foreign
15 malign influence arena that if it were to no longer do that particular piece, which is
16 proactively sharing with, fill in the blank, private sector entity, I think that that would be a
17 detriment to what it is that the FBI and others within the U.S. intelligence community
18 attempted to do more of post-2016 in particular.
19 BY [redacted]
20 Q The kind of harms that were described in the IRA indictment, correct?
21 Those are the things that would be harder to prevent?
22 A I think that that would be a reasonable assessment -- a reasonable potential
23 conclusion, but --
24 Q Thank you for sharing that.
25 Now, in the first hour, you started to make a distinction between the FITF's work

1 in sharing accounts and indicators that had foreign attribution with the defensive
2 notification framework and matters that were specifically meant to interfere in elections,
3 correct?
4 A Yes.
5 Q Can you elaborate a little bit on those two differences in terms of what the
6 FITF's mission is, like, when they confront those two problems?
7 A Well, there are -- again, FITF is meant to be cross-programmatic, having the
8 whole of the FBI coming together in order to share and pass information. This is a
9 nuance, but I think it is an important distinction between like a counterintelligence threat
10 awareness briefing versus what I believe a defensive briefing would be.
11 The defensive briefing was born from the notification framework with particular
12 focus on threats to election and that sort of mind set. So a defensive brief would be
13 appropriately -- that term would be appropriately attributed to the notification
14 framework, where you do have a -- the FBI's always had, since it had its
15 counterintelligence stood up, a need to share counterintelligence information that we
16 had with other stakeholders.
17 So you have a counterintelligence awareness piece and then you have a defensive
18 brief per the notification framework. It's slightly different, but in my mind -- it's clear in
19 my mind the difference between the two mechanisms.
20 Q Is the notification framework, does that -- I understand that that applies to
21 defensive briefings, but does it also apply to, like, public announcements, like, when there
22 would be like an IC community statement that was put out to the public to warn the
23 public about something?
24 A To warn about election --
25 Q Election threats, for example.

1 A Or what we knew about elections? That would be housed under the
2 notification framework, yes.
3 Q And they also have -- the notification framework also has a mechanism for
4 informing people who are specifically targeted in the defensive briefing context, right?
5 A That is correct.
6 Q And those are private briefings?
7 A Defensive briefs can be privately given, yes.
8 Q Okay. Now, did FITF have a specific function with respect to election
9 interference and threats that were being seen in that space?
10 A We -- I want to make sure that I understand your question.
11 Q Uh-huh.
12 A There are all kinds of things that can go wrong in an election. You could
13 have threats against a polling station. You could have disinformation that confuses the
14 public on which day to vote, some of which are civil rights violations, some of which are
15 potentially cyber attacks, some of which may be foreign malign influence.
16 So the FITF would have needed to have situational awareness. But there
17 are -- let's say it's perceived as a civil rights violation. There would be a mechanism
18 within the FBI to investigate that civil rights violation.
19 Q On the criminal side?
20 A That would be on the criminal side of the house, yes.
21 Q Okay. But then there's also -- that's not FITF's responsibility. Is that right?
22 A That would not be FITF's responsibility.
23 Q But you would potentially have some responsibility if you saw, like, a foreign
24 malign actor trying to interfere with the election?
25 A Yes.

1 Q Okay. And --

2 [redacted] What is that? Sorry.

3 Mr. Benavides. What would the FITF -- what would the FITF role be?

4 [redacted] Yeah. Is it to investigate?

5 Mr. Benavides. It would be to be able to investigate, gain an understanding

6 within the FBI and then also across the U.S. intelligence community as to what that

7 foreign adversary may be up to. And if it's regarding the election, if some sort of

8 warning or public statement or a defensive brief was warranted, it would fall under the

9 notification framework to be acted upon.

10 [redacted] Okay. And earlier, you were distinguishing between information

11 that is provided under the notification framework and then information that is shared

12 with social media companies. Is that what you were distinguishing?

13 Mr. Benavides. There are -- the notification framework is an ODNI construct that

14 deals with threats and anything that might impact the upcoming election, the election

15 space.

16 There is a space where sharing something with a social media or tech company for

17 them to assess and do what they want to do that might not necessarily be a threat to the

18 election, but it may actually be something that the FBI or a member of the USIC wants to

19 proactively share.

20 [Benavides Exhibit No. 4

21 Was marked for identification.]

22 BY [redacted]

23 Q Okay. I'm just going to show you the -- this will be our exhibit 4. It's

24 called the "Overview of the Process for the Executive Branch to Notify the Public and

25 Others Regarding Foreign Malign Influence and Interference Operations Targeting U.S.

1 Elections."

2 Take a minute to look at that, and let me know if it's familiar to you.

3 A Yeah. I am familiar with this document.

4 Q Okay. Is this the notification framework or does that refer to something

5 else?

6 A I would call this as part of the notification framework, yes. I would refer to

7 this as the notification framework, yes.

8 Q Okay. This notification framework was approved under the Trump

9 administration on October 31st, 2019. Are you aware of that?

10 A I am aware that this was approved under the previous administration, yes,

11 under the Trump administration.

12 Q Okay. This framework is an interagency framework which standardizes the

13 process for notifying potentially impacted parties, including Members of Congress,

14 political candidates, private sector entities, and the public that they may have been

15 targeted by foreign attempts to influence the U.S. democratic process. Is that correct?

16 A I think that that's accurate, yes.

17 Q Okay. Now, at the beginning of the third paragraph, beginning with the

18 words "public exposure," the framework recognizes, quote, "public exposure and

19 attribution of foreign election influence and interference can render these operations less

20 effective," end quote.

21 Do you have an understanding about what that means?

22 A I have my understanding of what that means.

23 Q What do you think that means?

24 A When you let the public know that there is a foreign adversary behind a

25 particular piece of information, it could shed a light on the activity of the foreign

1 adversary and potentially allow the public to better contextualize what it is that they're
2 consuming. It puts the public in the position to know by providing attribution. That's
3 how I would interpret this.
4 Q And so tell me if this is consistent with your understanding. By putting
5 information out there, the FBI -- in terms of the attribution, the FBI or the intelligence
6 community is trying to give the American public more information, not take away
7 information that they deem propaganda or something else. Is that fair to say?
8 A That is correct, yeah.
9 Q Because you think that by giving them more information based on what you
10 know, that's arming the American people to understand the context better. Is that fair?
11 A I think that that is a fair assessment, the way you describe that, based on the
12 way this sentence is written.
13 Q And is that the way you've seen it operate in your own experience in terms
14 of a focus on giving out information to the American people rather than trying to
15 suppress or coerce others to suppress information?
16 A Correct.
17 Q Okay. This continues, the same paragraph. It says -- the framework goes
18 on in that paragraph to recognize that nonpublic notification to targets of election
19 interference, quote, "may also mitigate the impacts of these operations by providing
20 accurate and reliable information and by enhancing resilience against future attempts."
21 Do you see that?
22 A Where are you?
23 Q I'm sorry. That's supposed to be in the same section. It's actually right
24 after the first sentence that I read you. It says -- this is paragraph 3.
25 A Ah, I see it. Thank you.

1 Q The first sentence that starts "public."
2 A Yep.
3 Q Yep. So I guess what I'm saying is, these two sentences appear to me to
4 describe two different processes. One is the public exposure, and the other is like the
5 private exposure of somebody who's been specifically targeted. Is that right?
6 A Correct.
7 Q Okay. So the defensive briefings that you've referred to, those are the
8 private notifications?
9 A In this construct, yes. Yes.
10 Q Okay. And then the public would be like a notice going out to the public
11 about something that the IC sees?
12 A I think that for public -- for public it would be still the whole of the U.S.
13 intelligence community coming together. And perhaps -- I'm going to use as like for an
14 example a published op-ed or something like that to broadly inform the public. It would
15 not necessarily be something specifically from the FBI. It would be the whole of the
16 U.S. Government coming together.
17 Q Okay. There's quite a bit of description in this framework about the
18 mechanics of this notification framework. And I don't know if you've been in a position
19 to actually be a part of these decisions. Have you?
20 A My role, I would have reported to a deputy assistant director. That role
21 would have been the appropriate rank to participate. I would have been involved as an
22 executive at the section chief level. And so for these type conversations, it would be
23 myself and Nikki in the conversation, but -- which is different than, you know, like the FBI
24 is making a decision. Sometimes that would even be something that would have to be
25 pushed up even higher.

1 So there's participation, and then there's like the moment a decision has to be
2 made.
3 Q Okay.
4 A I'm just --
5 Q Yep.
6 A I'm not trying to be -- I'm trying to separate the two. I would have been
7 involved in these type conversations.
8 Q Okay. And I'm just trying to be clear, because I know it can get a little bit
9 dense. And there's a difference between you describing what you think might happen in
10 a position where you haven't actually been a part of it, and then there's your own
11 personal experience. So if you could clarify as I ask these questions --
12 A Okay.
13 Q -- which ones you actually have been a part of and which ones it's just your
14 understanding is what happens, I would appreciate that.
15 When you refer to Nikki, are you talking about Nikki Floris, your --
16 A Yes, ma'am.
17 Q -- boss -- okay -- at the time at FITF?
18 The framework has a description -- where is this? This is page -- so the
19 framework describes the process by which notification decisions are made in the last four
20 bullet points in the right column of the document, so right-hand column, last four bullet
21 points. This is like the process that's described in the framework for how these
22 decisions are made --
23 A Uh-huh.
24 Q -- and I'm just going to read them.
25 A Uh-huh.

1 Q All right. It says, quote, When relevant foreign intelligence is identified, the
2 ODNI will convene a Credibility Assessment Group, CAG, comprised of experts from
3 different intelligence community, IC, agencies, to conduct a credibility assessment of the
4 intelligence.
5 When appropriate, the ODNI will provide the CAG assessment to an experts group
6 comprised of senior representatives of the IC elements within the CAG and the
7 Department of Defense, Treasury, Justice, and Homeland Security, which will evaluate
8 whether a public or nonpublic notification is appropriate under the notification
9 framework.
10 When the experts group recommends a nonpublic notification, the FBI and/or DHS
11 will provide the notification.
12 When the experts group recommends a public notification, the Director of
13 National Intelligence will convene a leaders group comprised of the Secretaries of State,
14 Defense, Homeland Security, and the Treasury, the Attorney General, and the directors of
15 the Central Intelligence Agency, FBI, Cybersecurity and Infrastructure Security Agency,
16 and the National Security Agency, to determine if a public notification is appropriate, the
17 nature of the notification, and the notification agency, end quote.
18 All right. Are you familiar generally with that process?

1

2 [12:14 p.m.]

3 Mr. Benavides. I am familiar generally with that process.

4 BY [redacted]

5 Q Have you ever been a part of the Credibility Assessment Group or the

6 experts group determinations?

7 A Not the Credibility Assessment Group. That would be subject-matter

8 experts by my understanding of what the CAG would convene, but I would have been a

9 part of the experts group. I never used the term "experts group." I would have said

10 subprincipals because they're certainly below the Director of the FBI, who in my mind

11 would be like a principal.

12 So, if I'm reading this and contextualizing, I would consider myself to be part of

13 the experts group, but I would have referred to it likely as subprincipals.

14 Q Okay.

15 [redacted] Were you the designee or Nikki on behalf of the FBI?

16 Mr. Benavides. Nikki on behalf of the FBI.

17 [redacted] Okay.

18 BY [redacted]

19 Q The framework describes several, quote, principles, which guide the

20 decisions of the intelligence community whether or not to provide notifications to targets

21 of foreign influence operations. Starting at the bottom of the left column and

22 continuing to the top of the right column, do you see that? There is sort of a bold that

23 says: The executive branch relies on guiding principles. And then it has a couple

24 bullets. The bottom of the first column.

25 A Oh, the bottom of the first column?

1 Q Yes. And there is like a small bullet point.

2 A I see it. I see it. Yes. Yes.

3 Q The notification framework refers to these as, quote, guiding principles.

4 They are supposed to guide the decision on whether to provide notifications.

5 Do you see that?

6 A Yes.

7 Q Okay.

8 And the framework states, first bullet point: Notification decisions shall serve

9 U.S. national security interests consistent with the responsibility to protect the American

10 people and to uphold the Constitution.

11 The next bullet point says: Partisan politics shall not play a role in the decision to

12 provide notifications.

13 Next: Notification decisions shall not be intended to censor or chill political and

14 social discourse or other First Amendment protected activities. Notification decisions

15 shall be intended to support broader Federal Government efforts to protect U.S.

16 democratic institutions and processes, including elections, and to counter foreign malign

17 influence.

18 Are you familiar with those principles?

19 A Yes.

20 Q In your experience, are these principles adhered to when the notification

21 decisions have been made while you were at the FBI?

22 A Yes.

23 Q Have you ever been called upon to give defensive briefings on behalf of the

24 FBI and to the IC community?

25 A I have been called on to be part of a defensive brief, but based on rank, I

1 would not have delivered the defensive brief, but I would have been in the room.

2 Q So you would have heard the defensive brief being given?

3 A Yes.

4 Q Okay. But you haven't yourself given them?

5 A I don't think that I have.

6 Q Do you know how many times you've given defensive briefings or been a

7 part -- I'm sorry -- or even witnessed them, as you just described?

8 A I'm going to approximately say 10.

9 Q Okay.

10 A Maybe a little more but I'm going to -- approximately 10.

11 Q In those 10 times, have some of those been you actually giving the briefing?

12 A I don't recall ever giving a defensive brief but certainly in the room when

13 given.

14 Q Okay. During those experiences when the defensive briefings have been

15 given, have you and others that you've witnessed followed the guidance that we've

16 discussed that's listed in these principles in the ODNI defensive notification framework?

17 A By my assessment, yes.

18 Q Okay. Have you ever been called upon to participate in a decision to notify

19 a target of a foreign influence operation?

20 A I, as described earlier, would have been part of that experts group,

21 subprincipal group where I would have been in the room with Nikki Floris when the

22 conversation occurred.

23 Q Okay. How many times have you participated in that type of

24 decisionmaking process with respect to targets of foreign malign influence operations?

25 A At the expert group level?

1 Q Sure.

2 A Again, I'm going to say approximately 10. It may be more.

3 Q Okay. So all of the times that you've described giving a defensive briefing

4 or participating, it's always been about targets of foreign malign influence?

5 A For defensive briefs, it would be under the notification framework per the

6 ODNI.

7 Q Okay.

8 When you've participated in these decisions, have you adhered to the principles

9 listed in the framework?

10 A Yes.

11 Q In particular, when you've participated in a notification decision, have you

12 rigorously adhered to the principle articulated in the framework that states, quote,

13 "partisan politics shall not play a role in the decision," end quote?

14 A Absolutely.

15 Q Have you observed similarly strict adherence to this principle from the other

16 members of the IC community and the FBI who were involved in these notification

17 decisions?

18 A Yes.

19 Q When you've participated in a notification decision, have you rigorously

20 adhered to the principle articulated in the defensive framework that, quote, "notification

21 decisions shall not be intended to censor or chill political and social discourse or other

22 First Amendment protected activities," end quote?

23 A Of which I have been in the room when defensive briefs have been given, my

24 assessment is that was adhered to strictly.

25 Q Okay.

1 The same with the principle that the notification decision shall be intended to
2 support broad Federal Government efforts and protect U.S. democratic institutions and
3 processes, including elections, and to counter foreign influence?
4 A Yes.
5 Q Okay.
6 Have you ever seen anybody in the FBI participate in one of these decisions for
7 any reason other than those stated in the guiding principles of the notification
8 framework?
9 A No, ma'am.
10 [redacted] We can go off the record.
11 [Recess.]
12 [redacted] Back on the record.
13 BY [redacted]
14 Q Mr. Benavides, do you recall that, on August 6, 2020, you and Ms. Nikki
15 Floris provided a defensive briefing to Senators Chuck Grassley and Ron Johnson?
16 A I would have been in the room for that. I would not have delivered the
17 defensive brief.
18 Q So Ms. Floris gave the defensive briefing, to your recollection?
19 A Yes, sir.
20 Q Who is Nikki Floris?
21 A Nikki Floris at the time would have been the Deputy Assistant Director for
22 the Intelligence Branch within the Counterintelligence Division of the FBI.
23 Q And, as far as you know, what were her responsibilities in that role?
24 A She ran a branch, the Intelligence Branch, and her role would have been a
25 senior executive over intelligence, intelligence products, the part of the

1 counterintelligence division's intelligence apparatus, if that make sense.

2 Q Yeah.

3 And you may have testified to this already, so forgive me, but was she your

4 supervisor at the time?

5 A She would have been my supervisor at the time.

6 Q Before we get into the particulars of the briefing, I want to discuss an

7 investigation that Senators Grassley and Johnson were conducting in 2019. Were you

8 aware that, in August of 2019, Senator Grassley of the Senate Finance Committee, and

9 Senator Johnson of the Senate Homeland Security and Governmental Affairs Committee

10 opened an investigation into potential conflicts of interest involving the Biden family's

11 foreign business ventures while Joe Biden was Vice President?

12 A I am generally aware that that was an investigation.

13 Q Okay. When and how did you become aware of this?

14 A Probably through maybe reading an article. It certainly would have been in

15 some of the prep material. I would have saw it there as well.

16 Q Prep material?

17 A Yes.

18 Q For?

19 A For this particular engagement.

20 Q How large was the prep material that you reviewed?

21 A It was articles.

22 Q Okay.

23 A Primarily articles.

24 Q The Senators' investigation, that's how I'll refer to it, into the Biden family's

25 foreign business dealings, did this in any way -- were you in any way involved in that from

1 the -- withdraw.

2 Did the Senators' investigation in any way affect your role at the FBI?

3 A It did not.

4 Q Did it in any way relate to your role at the FBI?

5 A Their investigation?

6 Q Yes.

7 A Did not.

8 Q And what was your understanding or is your understanding of their

9 investigation?

10 A I don't have a good understanding of their investigation.

11 Q Are you aware that, upon concluding their investigation, the staff of the

12 Senate Finance Committee and the Homeland Security and Governmental Affairs

13 Committee issued a report in September of 2020?

14 A I am not immediately aware of that.

15 [redacted] I'm going to mark as exhibit 5 and enter into the record the "Hunter

16 Biden, Burisma, and Corruption: The Impact on U.S. Government Policy and Related

17 Concerns," a report from the Senate Committee on Homeland Security and Governmental

18 Affairs and the Senate Committee on Finance.

19 [Benavides Exhibit No. 5

20 Was marked for identification.]

21 BY [redacted]

22 Q Now, this is only 6 pages of a much larger document. It contains the table

23 of contents and the executive summary. I am not asking you to read this right now,

24 Mr. Benavides, but I will direct your attention to specific --

25 A Okay.

1 Q -- key findings.

2 A Okay.

3 Q I'd like to discuss those.

4 But I will ask, having reviewed the cover page and the executive summary, have

5 you seen this report in part or in full before?

6 A I don't think I have.

7 Q I'm going to direct your attention to page 4 under the rubric key findings.

8 [redacted] I'm sorry. I think you stated it, but what was the date of the report?

9 [redacted] September 2020. I will make that representation.

10 [redacted] Thank you.

11 [redacted] I realize there is no date on this particular document.

12 BY [redacted]

13 Q Directing your attention to the second paragraph under key findings, it

14 reads: In October 2015, senior State Department official Amos Hochstein raised

15 concerns with Vice President Biden, as well as with Hunter Biden, that Hunter Biden's

16 position on Burisma's board enabled Russian disinformation efforts and risked

17 undermining U.S. policy in Ukraine.

18 In your briefings with Senator Grassley -- when I refer to your briefing, I'm talking

19 about on August 6th with Ms. Floris.

20 A Yes.

21 Q Now, I understand you're saying you did not provide the -- you did not make

22 oral representations to the Senators. Correct?

23 A That is correct.

24 Q But you were there?

25 A I was in the room, yes.

1 Q So in that briefing, did you or Ms. Floris mention that the FBI or FITF had
2 similar concerns?
3 A Although Nikki Floris and myself would have been employees of the FBI, we,
4 or Nikki, would not have attributed the defensive brief to the FBI. I don't even know
5 that the FBI's name was brought up in the defensive brief other than a standard preamble
6 that would describe we're here on behalf of the U.S. intelligence community. We are
7 executives -- or Nikki is an executive from the FBI. I don't recall the FBI being brought up
8 with the Senators directly, not based on my recollection.
9 Q I'm going to probe more of the actual details of the briefing.
10 A Okay.
11 Q So I appreciate the sort of comprehensive response. But for purposes of
12 going through these findings --
13 A Okay.
14 Q And, again, it may be that it's your recollection that there was no response
15 to it, but I'm asking specifically this key finding, was this something that Ms. Floris
16 mentioned in this briefing?
17 A This key finding?
18 Q Yes.
19 A No, sir.
20 Q Okay.
21 A Not based on my recollection.
22 Q Fair enough.
23 Let's move on to the fifth page of this document. Directing your attention to the
24 second -- the first second full paragraph where it reads: Hunter Biden was serving on
25 Burisma's board, supposedly consulting on corporate governance and transparency

1 when -- I'm going to butcher these names -- Zlochevsky allegedly paid a $7 million bribe
2 to officials serving under Ukraine's prosecutor general, Vitaly Yarema, to, quote, shut the
3 case against Zlochevsky.
4 Kent, who was former acting deputy chief of mission at the U.S. Embassy in Kyiv,
5 Ukraine, George Kent, testified that this bribe occurred in December of 2014, 7 months
6 after Hunter joined Burisma's board and after learning about it, he and the resident legal
7 advisor reported this allegation to the FBI.
8 Did you or Ms. Floris discuss this allegation in your August 6th briefing with the
9 Senators?
10 A I don't recall that.
11 Q Do you have any information as to this -- in your role at the FBI, did you
12 come across this allegation?
13 A Not this specific allegation in my role at the FBI.
14 Q Anything related, if not specific?
15 A Not to my recollection.
16 Q Were you aware of this allegation generally?
17 A No, sir.
18 Q Do you know if the FBI did anything about this allegation?
19 A I don't know.
20 Q Okay.
21 Directing your attention to the third paragraph from the bottom of page 5, it
22 reads: In addition to the over $4 million paid by Burisma for Hunter Biden's and
23 Archer's -- and that's referring to Hunter Biden's business partner, Devon Archer that's
24 been in the news as of late -- Archer's Board memberships, Hunter Biden, his family, and
25 Archer received millions of dollars from foreign nationals with questionable backgrounds.

1 Do you know if this allegation came up in the August 6th briefing?

2 A Not to my recollection.

3 Q Okay.

4 Were you aware that Burisma paid Hunter Biden and his partner over $4 million?

5 A Not personally.

6 Q Were you aware that those two made millions more from foreign nationals

7 with questionable backgrounds?

8 A I am not aware of that specific allegation.

9 Q Let me ask you: Do you know if this was a concern for the FBI?

10 A I do not know.

11 Q Given your vast experience with the FBI, would this be the sort of thing the

12 FBI should be concerned about?

13 A My career with the FBI is the national security side of the house. The FBI

14 has a large investigative purview. I don't know that that would have necessarily been

15 something -- it would not have been something that would have hit my charter in my

16 career.

17 Q Well, let me ask you this: What's your personal impression?

18 A My personal impression?

19 Q Your personal impression of your own experience. I understand your

20 caveat is this is not your lane.

21 A Uh-huh.

22 Q But, you are not a potted plant. You have experience. You've worked at

23 the FBI many years. You pay attention to what's going on in the world, presumably. Is

24 this the sort of allegation the FBI would be concerned with, your personal opinion, or

25 should be, for that matter?

1 A You're asking my personal opinion. My personal opinion is an allegation is
2 an allegation. The veracity behind an allegation, where the allegation originated, who
3 gave the allegation, where it came from.
4 You're right, I have been an FBI agent for some amount of time. An allegation is
5 an allegation. How did you form the allegation? Where did it come from? Do I trust
6 the allegation? Those are questions me personally, as an FBI agent, I would ask as an
7 investigator. Once those questions were satisfied, this would be an allegation that I
8 think I would potentially look into, perhaps.
9 You're asking me to speculate. I'm doing my very best. But I had an over
10 20-year career. Allegations are what they are, but where did you get it? And prove to
11 me, show me, I'm an FBI agent, that you know what you're talking about. Not you
12 specifically, sir, but a confidential human source or something that's passed to the FBI for
13 action. A walk-in wants to give a tip to the FBI.
14 It is part of the initial investigative steps to really dig in to, can I trust the person?
15 Do I have a reason to believe that what they are alleging might be true?
16 So, for me, you're asking me personally. Those are the types of steps that I
17 would have gone through in my career when someone made an allegation.
18 Q No, that's fair.
19 So I'm not going to ask you to -- we're not going to spend the remainder of the
20 time going into your personal opinion, but it is relevant for Congress' oversight to get an
21 understanding of how these things unfold, and when we have someone with your
22 experience, we're, obviously, going to take advantage of that.
23 So, assuming the concern as to reliability, which is what I think you're saying, have
24 been satisfied. This is a credible source. It all checks out, the substance of the
25 allegation itself. Again, assuming its credibility, based on all the factors you, in your

1 experience, would use to make that determination, is this something the FBI should be
2 concerned with?
3 A It's incredibly difficult for me to answer. Again, I'm looking at this bullet
4 with questionable backgrounds. I have no idea what that means. It's incredibly
5 difficult for me to say based on what I'm looking at should the FBI -- I think you used
6 should the FBI.
7 Q I did.
8 A I don't know.
9 Q Okay.
10 Let's go to the first key finding on page 4. It reads: In early 2015, the former
11 acting deputy chief of mission at the U.S. Embassy in Kyiv, Ukraine, George Kent raised
12 concerns to officials in Vice President Joe Biden's office about the perception of a conflict
13 of interest with respect to Hunter Biden's role on Burisma's board. Kent's concern went
14 unaddressed, and in September of 2016, he emphasized in an email to his colleagues,
15 quote: Furthermore, the presence of Hunter Biden on the Burisma board was very
16 awkward for all U.S. officials pushing an anticorruption agenda in Ukraine, end quote.
17 Do you know if the FBI did anything with respect to this concern?
18 A I do not know.
19 Q I'm going to come back to a hypothetical. Given your vast experience with
20 the FBI and your personal experience, and, again, things you may have reviewed in
21 preparation for this interview, is George Kent's concern something that -- withdrawn.
22 Given your vast experience with the FBI, would you agree with George Kent's
23 assessment that this creates a potential conflict of interest given those facts?
24 A I don't see facts. It is impossible for me to answer your question. Kent's
25 concerns went unaddressed. I have no idea what that means. I also don't know that

1 that's true or untrue. I honestly have no idea. He emphasized in an email to his
2 colleagues: Furthermore the presence of Hunter Biden on the Burisma board was very
3 awkward --
4 Q So that's a fact, right?
5 A -- awkward for all U.S. officials pushing an anticorruption agenda in Ukraine.
6 I can't speak to that.
7 Q But, in terms of the facts, Hunter Biden is on the Burisma's board. That's a
8 fact.
9 A Okay.
10 Q Joe Biden was Vice President under the Obama administration, and they
11 were pursuing an anticorruption policy in Ukraine.
12 So, again, this is just an interview. You're a witness with a lot of experience.
13 You don't have to be necessarily an ambassador to the Ukraine to sort of help us get a
14 sense of where the FBI might stand. And I agree, the word "awkward," as used, is not
15 very precise, and that's an opinion, right.
16 But the larger context on which this is operating is that Hunter Biden is being paid
17 millions of dollars by Burisma. It's a credible allegation that it's a corrupt energy
18 company in Ukraine. And his father is pursuing anticorruption in Ukraine. That creates
19 an appearance of a conflict of interest.
20 That's the central premise here. In your view, is this something the FBI generally
21 should have been concerned with?
22 A This is outside of my area of expertise.
23 Q Then that is the answer.
24 Let us go to the defensive briefing. Are you familiar with a letter sent to the FBI
25 on July 13, 2020, from Senator Chuck Schumer, Senator Mark Warner, then Speaker

1 Nancy Pelosi, and then chairman of the House Permanent Select Committee on
2 Intelligence Adam Schiff to Director Wray expressing their belief that Congress was the
3 subject of a foreign disinformation campaign?
4 A I am aware generally of that letter.
5 Q Okay.
6 [redacted] I am entering into the record as exhibit 6 the letter we just
7 referenced.
8 [Benavides Exhibit No. 6
9 Was marked for identification.]
10 BY [redacted]
11 Q If you would, Mr. Benavides, take a look at the first paragraph and then the
12 penultimate paragraph of the first page. Have you reviewed this letter before today?
13 A I don't know that I have reviewed this letter before today.
14 Q So it doesn't look familiar?
15 A The topic is familiar to me. I don't know that I've read this where I've seen
16 these signatures below.
17 Q Was it your understanding that Congress may have been subjected to a
18 concerted foreign interference campaign?
19 A A defensive brief to like the Members of the House of Representatives, a
20 request that Congress appears to be -- we are gravely concerned, in particular, that
21 Congress appears to be the target of a concerted foreign influence campaign, which seeks
22 to launder and amplify disinformation in order to influence congressional activity.
23 What's your question?
24 Q Was it your understanding that Congress may have been subjected to a
25 concerted foreign influence interference campaign?

1 A I don't know that that would have been my understanding. The way this
2 reads to me, this would fall under the notification framework. This would fall under the
3 whole of USIC discussing a request for a defensive brief be made to Congress.
4 This looks like a request for a defensive brief, and it coming to the FBI, my
5 assessment is that this would have been then moved into the notification framework
6 where the notification framework would have been triggered in a way that an
7 agreed-upon script or narrative across the USIC, if this defensive brief occurred, would
8 have been given to Members.
9 Q Well, let me ask you this, because this is a letter from partisan Democrats.
10 So let's put this to the side for a second.
11 Was it your understanding, in the role of FBI, that Congress may have been
12 subjected to a concerted foreign interference campaign? Just put this aside. Just your
13 basic understanding.
14 A I would need more information. To broadly say Congress is the target of a
15 malign foreign influence campaign, I would need much more information to know
16 precisely what this foreign interference campaign would look like.
17 Me, as a national security person in the FITF -- Congress is this large body.
18 Malign foreign interference has a broad definition -- I would need much more information
19 in order to then understand what this is saying. I don't know what this is saying.
20 Q Let me -- again, let's put this out of view for a moment.
21 A Are you requesting that I turn it over?
22 Q If you want.
23 A Done.
24 Q In your capacity at the FBI, did you have specific intelligence to some sort of
25 malign operation or influence campaign against Congress or Members of Congress?

1 A In my capacity as section chief of FITF, I would have been made aware if
2 Members of the Congress broadly and/or the Senate would be potentially targeted in a
3 foreign malign influence campaign. I would have been made aware of that.
4 Q Perfect.
5 So now my question is, were you made aware of that?
6 A In some instances, yes.
7 Q When?
8 A What does that mean, when? Like a date?
9 Q An approximate date, a timeframe.
10 A Sometime in 2020.
11 Q Okay. Before July 2020, if you know?
12 A I don't know.
13 [redacted] For the times that you remember, was it the Congress as a body or
14 was it individual members?
15 Mr. Benavides. I remember sitting in I would call it a defensive brief where many
16 Members of Congress were in the room. I do recall that. I also recall one on one
17 defensive briefs given to particular individuals.
18 BY [redacted]
19 Q Do large-scale defensive briefing with Congress, would you apprise a group
20 that individual members were targeted?
21 A If an individual -- if the FBI and the USIC has specific information that not just
22 Members of Congress but staffers, anyone is being specifically targeted, we would have
23 worked to do a defensive brief, and it would have likely been one on one. And so, if you
24 think of it as concentric circles, you can harden the target as you move out or move in.
25 As you move in, it may be one on one. As you move out, it may be everyone in this

1 room. As you move out any further, it might be an op-ed to the American people. It's
2 just the way it kind of worked.
3 I do remember a defensive brief broadly given to Members.
4 Q Would this letter prompt the FBI to give a defensive briefing to Members?
5 A I don't know. I don't know if that letter would. I think specific and
6 actionable intelligence that a body like the Congress could be the target of foreign malign
7 influence campaign would trigger a defensive brief. I don't know that that would spur
8 the USIC into action.
9 Q Okay. In your experience, has requests from Members of Congress,
10 powerful Members of Congress making claims that they are subjected to malign foreign
11 influence campaign, could that prompt a defensive briefing generally for other Members
12 of Congress?
13 A Not that I'm aware of.
14 Q Okay.
15 A No.
16 Q But do you see the logic of my question?
17 A I do see the logic of your question. Yes, sir.
18 Q That's kind of -- if it's inartfully asked, just let me know.
19 And I guess I ask that because you have the chair of the intelligence committee.
20 You have the Speaker of the House essentially saying: Congress is being targeted. Can
21 somebody come and talk to us about it, right -- because they're not an intelligence
22 agency.
23 But in your experience, you don't know of that specifically happening?
24 A No.
25 Q Okay.

1 Let's turn to the August 6, 2020, defensive briefing. At whose request was that
2 briefing provided to Senators Johnson and Grassley?
3 A It would have been at the request of the ODNI, for lack of a better
4 description.
5 Q Other than Ms. Floris, did you speak to anyone else at the FBI about this
6 defensive briefing?
7 A I don't think I understand the question.
8 Q Well, let me ask you this. You briefed Senators Grassley and Johnson
9 separately. Correct? If you recall.
10 A I believe so, yes.
11 Q Is that your recollection?
12 A That's my recollection, yes.
13 Q You spoke with Ms. Floris in advance of giving the briefings to the Senators?
14 A Yes.
15 Q Did you speak to anyone else at the FBI about these particular briefings?
16 A Before the briefing?
17 Q Before you gave them, yes.
18 A Oh, for situational awareness, the front office would know that Nikki and I
19 planned to deliver a defensive brief to the Senators.
20 Q You would inform the front office, the front office would inform you that you
21 were going to give this briefing?
22 A The front office would have had awareness that the notification framework
23 had been triggered in a way that allows the USIC to come together and develop a script, a
24 narrative, the date of which the engagement might not have been fully determined. But
25 there would have been an awareness of the front office that this activity was taking place.

1 Q And the notification framework, you get some sort of notification from the
2 Office of the National Director of Intelligence, who I'll call ODNI. Is that correct?
3 A I don't understand the question.
4 Q The triggering, the framework or the triggering event that makes you and
5 Ms. Floris go give a defensive briefing to two United States Senators, that's a notification
6 from ODNI. Correct?
7 A Maybe a bit more nuanced than that.
8 Q Please.
9 A Any member of the USIC can nominate a piece of intelligence into the
10 notification framework, which then prompts the USIC to come together and assess, based
11 on those guidelines, the merit of a defensive brief, for example.
12 At that point, the ODNI's role would have been to coordinate how that script is
13 crafted in a way that allows the recipient of the defensive brief to take some measure.
14 Q In terms of the actual notification, it goes to -- it went to Ms. Floris?
15 A When you say "actual notification," you mean saying that we are going to
16 deliver a defensive brief to two Senators and a script has been generated. Is that the
17 notification?
18 Q I think that's right. Are there more notifications? Well, let me say this.
19 ODNI works on the script without input from the FBI?
20 A I think that the whole of the USIC comes together, but it may not be FBI
21 intelligence that prompts the notification.
22 Q So let me be a little more specific. How did you and Ms. Floris come to
23 learn that you would be giving a defensive briefing to Senators?
24 A Once a piece of intelligence was put into the notification framework, was
25 nominated for consideration.

1 Q Okay.

2 And then how are you actually notified? Is there an email? Is there somebody

3 that knocks on the door?

4 A That someone notified a piece of intelligence?

5 Q Yes.

6 A Oh, it would have been perhaps, perhaps via email or through a SVTC, a

7 secure video call with other, for lack of a better description, subprincipals.

8 Q And it's the FBI's role to actually, in the end, give these defensive briefings.

9 Correct?

10 A Or the Department of Homeland Security, but more often than not, it would

11 be the FBI in the domestic space being the mouth piece for the defensive brief.

12 Q Okay.

13 And your office is chosen because the targets -- your office is chosen because

14 these Senators are actually in Washington, D.C. Correct? That's how the Washington

15 office is involved in giving this particular defensive briefing?

16 A Are you meaning that the recipients are in Washington, D.C. proper, for lack

17 of a better description, and the foreign influence task force is at FBI headquarters? Is

18 that what you're asking? Why Nikki gave a defensive brief?

19 Q Yes.

20 A Okay.

21 Q Yes, that is my question.

22 A I think it's a little more complicated than that. I think that -- these are

23 sitting Senators. Nikki is a Deputy Assistant Director who has given an uncountable

24 number of briefings broadly, defensive briefings notwithstanding, where there would

25 have been a high level of competence in her proficiency in engaging Senators in a way

1 that represented what was being done well, if that makes sense.

2 Q Yeah.

3 A In other words, you're not going to send a low-level person into a Senator's

4 office. You're just not going to do that. I think there is some protocol here. There is

5 some rank here, and then there is also just breadth of experience.

6 Q Okay.

7 A Some of that is taken into account.

8 Q Okay.

9 So what was the subject and the purpose of that defensive brief?

10 A It has been a while since I read through that particular defensive brief.

11 Based on my recollection, the USIC came together, developed a script to provide to the

12 Senators that the USIC has the following information. And the defensive brief would

13 have been classified. There would have likely been some level of detail sufficient so that

14 the recipient could contextualize what was being said and then, perhaps, take that into

15 account for their own personal situational awareness.

16 Q Does anyone at the FBI assist in drafting the script or editing or providing

17 comments?

18 A If it were FBI intelligence being nominated into the framework, the FBI

19 would take a proactive role. Part of this is to ensure sensitive sources, means, and

20 methods are protected. And so, if the FBI had an equity, it's our intelligence, we would

21 certainly want to have a hand in developing the script.

22 [redacted] But here.

23 Mr. Benavides. Oh, for this one?

24 [redacted] Yes.

25 Mr. Benavides. I'm sorry. That is not, based on my understanding, FBI

1 intelligence that was nominated.

2 BY [redacted]

3 Q Right.

4 But you and Ms. Floris are going to convey this defensive briefing?

5 A Yes.

6 Q To two sitting United States Senators?

7 A Yes.

8 Q So presumably the equity is: We're going to meet with these men. We

9 may have certain objections to things in the script, and maybe we want to take an

10 editorial pen to it.

11 A Are you saying does the notification framework allow that?

12 Q I'm saying, did that happen in this case?

13 A Oh, I don't know.

14 Q So you did not --

15 A No.

16 Q -- make any changes or edits to the script?

17 A Not that I'm aware of.

18 Q To your knowledge, did Ms. Floris make any edits?

19 A I don't know.

20 Q Did anyone at the FBI edit the script, as far as you know?

21 A Not as far as I know.

22 Q And, in this particular instance, the script came from ODNI?

23 A The script would have been coordinated through the ODNI framework and

24 then delivered, in this instance, by Nikki Floris, and I would have been in the room with

25 her.

1 Q Now, you testified the intelligence underlying the script was not FBI
2 intelligence.
3 A My understanding is it was not nominated by the FBI.
4 Q So my question is: Did you vet the intelligence in the script at all?
5 A Me personally?
6 Q Yes.
7 A I did not.
8 Q Do you know if Ms. Floris did?
9 A I don't know.
10 Q Do you know if anyone at the FBI did?
11 A I don't know.
12 Q If you did not vet the information contained in the script -- well, withdrawn.
13 Were you confident that the information contained in -- let's go back.
14 You gave a criteria earlier when I asked about the key findings in the Hunter Biden
15 report of an allegation is just an allegation. Who did it come from. You know, you
16 make credibility assessments.
17 Did you make credibility assessments with respect to the script?
18 A I want to make sure that I understand what you're asking.
19 Q Please.
20 A We, Nikki and I, would have concurred with the script or otherwise pushed
21 back on the script and not delivered it or had -- requested modification. So the fact that
22 Nikki read the script, I assess that Nikki was comfortable with the script and agreed with
23 the underlying intelligence that generated the script.
24 Q Even though it was not FBI intelligence?
25 A The U.S. intelligence community has multiple ways of generating

1 intelligence. Some agencies have a particular focus and other agencies have a slightly
2 different focus, and so the fact that it's not FBI intelligence does not surprise me or it
3 doesn't alarm me or surprise me.
4 Q Okay.
5 The fact that Ms. Floris concurred with these intelligence assessments, did she
6 have a conversation with you about that?
7 A No, she didn't. Not that I'm aware of. Not that I recall.
8 Q Did you have an inquiry for her as to "you're comfortable with this? Why,
9 I'm curious?"
10 A If I was comfortable with the script?
11 Q Well, no. She was comfortable with it. So I'm asking you did you say,
12 "Hey, I see you're comfortable with the script. May I ask why? Did anything like that
13 transpire?"
14 A No, I would not have asked that.
15 Q So, in terms of the veracity of the underlying intelligence, you did not do
16 anything to vet one way or the other?
17 A Me personally?
18 Q Yes.
19 A I did not.
20 Q And you're comfortable with -- well, withdrawn.
21 How does one determine its reliability? This is a general question.
22 A I think, generally, if you go back to the notification framework, the CAG,
23 Credibility Assessment Group, if I'm getting the acronym correct --
24 Q I think it's CAG, yes.
25 A -- would have been a part of that.

1 Q And now I'm just surmising, based on your testimony, you could not
2 definitively say that the information contained in the script came from a reliable
3 intelligence source?
4 A I would have high confidence that it came from a reliable intelligence source
5 because of the way that -- the way the framework is structured. It is meant to be -- it is
6 meant to be inspected. It is meant to be questioned. It is meant to provide high
7 confidence so that individuals or large bodies could take some level of protective stance.
8 You inherently undermine that if the process doesn't have those inspection points.
9 I would have high confidence that the Credibility Assessment Group and that the agency
10 nominating the intelligence into the framework, that it would have been argumentative in
11 nature, potentially, to arrive at a script that the USIC and the ODNI agreed would have
12 merit and actionable and action items in it.
13 Q It sounds like you're saying: I have high confidence in the process and, as a
14 result, I have high confidence in the assessment.
15 But my question to you is you cannot definitively say the intelligence underlying
16 the script that formed the basis of the defensive briefing to the two United States
17 Senators is reliable. I'm asking you definitively. I'm not asking about confidence. I'm
18 saying you personally do not -- cannot definitively say that.
19 A Repeat the question one more time. I apologize.
20 Q No, that's okay. That's a long question.
21 I understand you to be testifying as to the high confidence you have in the
22 process, and as a result of that process, you tend to have high confidence in the
23 conclusions drawn. Correct?
24 A Yes.
25 Q In this particular instance, you have high confidence in the assessment

1 because of your general high confidence in the process. Correct?

2 A Yes.

3 Q Okay. But you cannot definitively say -- and this is not a trick question.

4 You cannot definitively say in this particular instance -- you cannot vouch for the

5 veracity of the intelligence?

6 A I cannot.

7 Q That was my question.

8 And you and Ms. Floris did not do anything additionally to try to vet that

9 underlying intelligence?

10 A I don't know if I can answer that with a simple yes or no. The way that this

11 notification framework is set up, the way the process is set up would have allowed

12 multiple iterations, perhaps multiple iterations of a script being brought together. It is

13 meant to be argued and inspected in a way that resulted in a script of high confidence so

14 that the recipient could take some level of situational awareness and take

15 protective -- but also, if someone comes -- someone from the U.S. intelligence community

16 sits across from a sitting Senator, that Senator has to have some level of confidence that

17 the individuals that are delivering this, that the script that's being delivered, that the USIC

18 assesses that this is an important topic to be discussed.

19 And so I don't want to downplay the seriousness of which high confidence would

20 be attributed to something like that, if that make sense.

21 Q It does. And, again, I think we're sort of speaking broadly about the

22 process. You're saying: Hey, if we come in, a Senator should take that seriously. And

23 we'll speak specifically about these Senators in a moment.

24 It's meant to be an argumentative process, but did you do anything specific? I

25 think you've answered this, but I want to be very clear for the record. In this particular

1 script, for these particular Senators, did you have any pushback or questions about it?
2 A Not that I recall.
3 Q And you don't recall Ms. Floris conveying to you concerns that she had about
4 the script?
5 A No.
6 Q Okay.
7 Now, let's talk about the briefing. Where did you brief Senator Chuck Grassley?
8 A In an office.
9 Q Was it a SCIF?
10 A It would have been a classified briefing. I would have relied on our Office
11 of Congressional Affairs. I don't know why I'm pointing at her. I would have relied on
12 the mechanisms by which Senators received classified -- I don't know if it was in a SCIF.
13 It certainly would have been in an environment that a Senator would have received
14 classified information.
15 Q Okay. So it wasn't in Senator Grassley's office?
16 A I don't think so.
17 Q Okay.
18 Did you brief Senator Johnson in the same office?
19 A I don't recall. In an office. I don't know if it was the same office.
20 Q Okay.
21 Well, let me just ask. Again, these may just seem like minor details, but we have
22 a method to our madness.
23 Who did you brief first that day on August 6th?
24 A I don't recall.
25 Q Okay.

1 A I don't recall who we briefed first. It was 3 years ago, more or less.

2 Q During the briefing, did you provide any documents to the Senators?

3 A I don't think we did.

4 Q Okay. Did you say anything at all to Senator Grassley other than "good

5 morning" or something, I mean?

6 A Yeah, I would have thanked him at the end.

7 Q But the briefing was done by Ms. Floris?

8 A Yes.

9 Q Now, to the best of your recollection, what did Ms. Floris say to Senator

10 Grassley at the briefing?

11 A Oh, she would have read verbatim the contents of the script.

12 Q Now, you say would. Your specific recollection, what is your specific

13 recollection that day? Are you saying she did read it, or are you saying she would have

14 read it? There is a difference.

15 A She did read it.

16 Q Okay.

17 A And, based on my recollection, I likely -- I did have a copy of the script, and I

18 would have followed along to ensure that Ms. Floris didn't accidently maybe leave

19 something out.

20 Q Okay.

21 What did Senator Grassley say to Ms. Floris during this briefing?

22 A Based on my recollection?

23 Q Yes.

24 A I found Senator Grassley's response to be he was the epitome of a

25 gentleman. He was thankful. He expressed gratitude. I don't recall specific

1 questions. His overall posture was consistent with when I briefed Members or staffers
2 on other topics. He was very -- he was a gentleman.
3 Q So these are impressions, but you don't recall specifically what he said?
4 A I don't recall specifically what he said.
5 Q Okay.
6 What about Senator Johnson?
7 A Specifically what he said at the end?
8 Q Yeah, what did he say in response to the briefing?
9 A I remember him asking Ms. Floris -- and it's not a verbatim. It is a
10 paraphrase -- who sent you? I remember him telling Ms. Floris that he felt like he had
11 an obligation to continue his investigation. And, based on my recollection, that
12 prompted Ms. Floris to reiterate: In no way, shape, or form is this meant to derail or
13 quash or stop what you, sir, are doing.
14 She was there to deliver a defensive brief, and it was relatively clear to me that he
15 had -- he felt compelled to say: I feel like I have an obligation. I have an investigation,
16 and I'm going to proceed -- which, again, prompted Nikki to reiterate: Do your job. Do
17 what you need to do. I'm here to give you this defensive brief.
18 Those two points, he asked who sent us, and then he made a general statement
19 that he felt like he had a job to do. He had an investigation to conduct.
20 Q So the substance of the briefing was related to Hunter Biden's overseas
21 activities?
22 A I honestly don't remember Hunter Biden's name coming up.
23 Q Or, well, what about Joe Biden?
24 A I think, based on my best recollection, the Biden family might have been
25 included but --

1 Q Because why else would he say, "I'm not going to stop my investigation," if
2 it's an investigation into the Biden family?
3 A I'm giving you my best recollection, but I absolutely don't know precisely
4 what was going on in the Senator's mind.
5 Q But you think the Biden family did come up in that briefing?
6 A Based on my best recollection, potentially. But remember, the briefing
7 itself is classified.
8 Q Yes.
9 A And I feel like I might not have should have said that now and I apologize.
10 Your question -- I was trying to be responsive to your question, but I am now saying that I
11 recall -- I know the script is classified, and so the contents of the script -- it was
12 inappropriate for me to say that.
13 [redacted] And in terms of the content of the script, we've said before ODNI
14 owns that script, so we would refer you to them for what the actual content is.
15 [redacted] Right, but the FBI -- well, let me ask your client.
16 BY [redacted]
17 Q Mr. Benavides, the FBI still has that script in its possession. Correct? That
18 script as to Senators Grassley and Johnson.
19 A I don't know.
20 [redacted] He's no longer at the FBI.
21 Mr. Benavides. I don't know.
22 BY [redacted]
23 Q Did either Senator ask to review the script that Ms. Floris read from?
24 A I don't recall.
25 Q Did they ask for the underlying intelligence information that informed the

1 script?

2 A I don't recall.

3 Q Were you aware that Senator Grassley did not believe that there was a,

4 quote, real purpose, end quote, for the briefing you and Ms. Floris provided?

5 A Who did you attribute that to?

6 Q Senator Grassley.

7 A I don't recall.

8 Q How do you respond to that?

9 A I respond positively to it, to be perfectly honest.

10 Q Elaborate, please.

11 A The whole point of a defensive brief is to provide intelligence in a way that

12 allows someone to contextualize and understand what it is the U.S. intelligence

13 community may have with regards to them specifically or a process or a group. For a

14 highly intelligent person to then respond, "Thanks, but I don't really see the point here,"

15 would inform me that he contextualized the information and did precisely what the

16 defensive brief was meant to do: He drew some sort of conclusion.

17 That would be my best assessment.

18 Q Oh, we'll get to some of the conclusions Senator Grassley drew in a moment.

19 Following the briefing, did you provide anyone at the FBI a breakdown of what

20 happened at the briefing?

21 A I did not.

22 Q Do you know if Ms. Floris did?

23 A I believe she did.

24 Q Okay. Do you know to whom she provided that breakdown?

25 A It would have been, again, to the front office.

1

2 [1:23 p.m.]

3 BY [redacted]

4 Q Now, Mr. Benavides, did you receive a letter from Senators Grassley and

5 Johnson dated August 25th, 2022, in relation to the briefing you provided?

6 A I would like to know if this is the letter that went to Amazon.

7 Q I don't think so. I think you were at the FBI when this went out. Let me

8 see.

9 A Oh, then, I'm not --

10 Q You're going to see it.

11 A Yeah. Okay.

12 Q Give this to you.

13 [Benavides Exhibit No. 7

14 Was marked for identification.]

15 BY [redacted]

16 Q Mr. Benavides, before we return to what I've marked as exhibit 7, how did

17 you respond to Senator Johnson's question, "Who sent you"?

18 A For this letter?

19 Q No. Ignore that letter.

20 A Oh, I'm sorry.

21 Q I'm sorry. Just a moment ago, we were discussing Senator Johnson's

22 interactions during the defense briefing, yes?

23 A Yes.

24 Q You said he asked, Who sent you? What was your response, or Ms. Floris'

25 response?

1 A I think, as I recall, Ms. Floris' response would have been, We're here on
2 behalf of the U.S. intelligence community.
3 Q Did he have a reply to that?
4 A No, not that I recall.
5 Q Okay. Let's take a look at exhibit 7, entering that into the record. It is a
6 letter, August 25th, 2022, from Senators Charles Grassley and Ron Johnson, directed to
7 Ms. Nikki Floris and Mr. Bradley Benavides.
8 I'm not going to ask you to read the entire thing, but why don't you take a couple
9 minutes, Mr. Benavides, to review, and then I'll direct you to specific passages.
10 A I would not have been with the FBI during this. I retired in July of 2022.
11 Q Did you not -- is this the first time -- is this your first time seeing this letter?
12 A For this particular letter, this is the first time I'm seeing it, sir.
13 Q Okay. Well, in the interest of time, let me go through specifics. It looks
14 like -- wow, the time is going fast. Let's go through some specifics in the next 6 minutes.
15 Page 1, first, second -- second sentence, the Senators state, "As we have publicly
16 and privately stated to you and Director Wray since that briefing" -- they're referencing
17 the August 6, 2020, defensive briefing -- "the briefing was unnecessary and was only done
18 because of pressure from our Democratic colleagues, including Democratic leadership, to
19 falsely attack our Biden investigation as advancing Russian disinformation."
20 Did the Senators state this to you at the time of the briefing?
21 A Not that I recall explicitly, no.
22 Q Well, what do you recall implicitly, if it's not an explicit?
23 A As I mentioned earlier, I remember Senator Johnson stating he had a job to
24 do, he had an investigation to conduct.
25 Q You would agree that being accused by a United States Senator or providing

1 a politically motivated briefing to advantage one party over the other is a very serious
2 allegation?
3 A The allegation made in this letter?
4 Q Yes.
5 A I --
6 Q You just read this. It's quite serious.
7 A I would assess the allegation to be serious.
8 Q Okay.
9 A Yes.
10 Q Next, the Senators state -- I want to -- stop.
11 [redacted] Did either Senator or anyone from their staff follow up after the
12 defensive briefing and communicate this to you?
13 Mr. Benavides. Not that I'm aware of. I received a letter through Amazon
14 headquarters --
15 [redacted] But it postdates this letter?
16 Mr. Benavides. I'd have to see it to be -- but it was the -- it was a letter that I
17 received asking would I be willing to come in for a transcribed interview. And that letter
18 prompted me calling the FBI and saying, Hey, I received this letter. Tell me more.
19 BY [redacted]
20 Q Was that from Senator Grassley's office or from what institution?
21 A I would have to look at the letter.
22 Q I want to direct your attention to page 2, it looks like the last paragraph.
23 "With respect to the substance of the briefing, it consisted primarily of
24 information that we already knew and information unconnected to our Biden
25 investigation. We made clear to you at the briefing that it was not relevant to the

1 substance of our work. In response, you stated that the FBI is not attempting to -- it's in
2 quotes -- 'quash, curtail, or interfere,' end quote, in the investigation in any way."
3 Did the Senators properly characterize you or Ms. Floris' response to their
4 concerns?
5 A I think -- it's quoted. There's no way for me to recollect if that was
6 specifically what was -- was the response, but it generally fits with how Ms. Floris
7 responded.
8 Q Okay. And what do you think she meant by that phrase?
9 A I think that -- again, I don't -- with regards to Senator Grassley, I remember
10 him being receptive, thankful, and relatively -- he was a gentleman. With regards to
11 Senator Johnson, I remember him feeling compelled to say, I have an investigation. I
12 have a job to do, which that likely prompted Nikki -- Ms. Floris to say, Look, we're not
13 here to interfere in your investigation in any way.
14 Q Okay.
15 A I don't recall Nikki saying that the FBI is not attempting -- my recollection is
16 Nikki would have reminded the Senator that she was there on behalf of the U.S.
17 intelligence community. Her employment notwithstanding, that would have been a
18 point that she would have continued to drive home.
19 Q Right, but you don't have a specific recollection as to this. You're saying
20 what would have.
21 A Oh, she -- I think it's -- I believe it's in the script that it is -- this is intelligence
22 being shared with the recipient -- in this instance, a Senator -- so that they could know
23 what the U.S. intelligence community knows so that they could take some level of
24 protective measure and have situational awareness.
25 The entire script is structured around the U.S. intelligence community, and it

hammers, U.S. intelligence community, and it goes --

Q Yeah, but you're both from the FBI.

A That is a fact. We were both from the FBI. In the domestic space, the FBI and/or Department of Homeland Security, just based on the way that this government is structured, it would make sense that the FBI would deliver the intelligence because of our space in the domestic arena, but Nikki would have emphasized that it was U.S. intelligence community -- an assessment from the U.S. intelligence community.

Q Fair enough.

[redacted] We'll go off the record. We're out of time.

[Recess.]

[redacted] We can go back on the record. It is 1:36.

BY [redacted]

Q All right. I just want to clarify a few things really quickly.

Exhibit No. -- what was this? I don't remember. What exhibit was this? This was the Senate majority's --

[redacted] Five.

[redacted] Yeah, 5.

BY [redacted]

Q You were asked a couple of questions about the key findings in this -- I guess it's a report. It doesn't have a date or anything on it -- page 4. The key finding, which is under this, like, little arrow kind of symbol, the first one, I think that [redacted] asked you something about, given that you're in the FBI, would you be concerned about what he characterized as allegations that are reported in this key finding.

Do you recall those questions?

A I do.

1 Q And I guess -- I mean, what I see here is the allegation is, quote, a perception
2 of a conflict of interest, unquote, regarding Hunter Biden.
3 Does the FBI investigate perceptions of conflicts of interest, to your knowledge?
4 A That, again, is a very difficult question to answer. The FBI would seek to
5 understand the origin and the veracity behind an allegation before feeling comfortable
6 conducting an investigation. So, I mean, as a special agent, the term "perception" would
7 be something that I would want to definitely understand more about, but -- if that makes
8 sense.
9 Q Okay. But do you -- I know you didn't spend a lot of time in your career on
10 the criminal side, but are you aware of any Federal criminal statute that would criminalize
11 a, quote, perception of a conflict of interest?
12 A I'm not aware of a --
13 Q Neither am I.
14 A -- a criminal statute.
15 Q But fair to say that you have no personal experience at all with any of the
16 so-called allegations that are discussed in this exhibit?
17 A I do not.
18 Q Okay. We can set that aside.
19 Let's look at -- back to the defensive framework generally. I think it would be
20 helpful to get a little bit of clarification again just on what that defensive framework is
21 meant to do, right? Like, when there's going to be a notification, we talked earlier about
22 nominations of information into the -- I think it's the Credibility Assessment Group. Is
23 that right?
24 A [Nonverbal response.]
25 Q What -- sorry.

1 A Yes. That is correct.

2 Q Can you explain what it means to nominate information?

3 A It's as it sounds. A member of the U.S. intelligence community might have

4 a piece of intelligence in their possession that they assess is meaningful to get to a

5 individual or the broad public or to a particular group so that they would have the same

6 level of understanding that the intelligence community has so that they then would be

7 able to understand what it is that the U.S. intelligence community is tracking and

8 understanding. It is meant to provide a defensive brief so that the recipient would then

9 be in the position to know, in essence, what the U.S. intelligence community knows --

10 Q Okay.

11 A -- about a particular threat.

12 Q And you talked -- when you were discussing with me the notification

13 framework, you talked about the principles that guide those decisions, correct?

14 A Yes.

15 Q When information is nominated, it's fair to say that is actually coming from

16 inside the intelligence community somewhere. Is that right?

17 A Yes.

18 Q So somebody who sees information, they think this might be something that

19 we need to evaluate under the notification framework, right?

20 A Correct.

21 Q Okay. Did you have any role in nominating the information that later

22 resulted in the defensive briefing to Senators Grassley and Johnson?

23 A I did not.

24 Q Okay. And you've been retired from the FBI now for more than 2 years.

25 Is that right?

1 A One year.

2 Q Okay.

3 A One year this past July.

4 Q Okay. Have you had any occasion to review any emails or documents that

5 had to do with the nomination of that information that led to Senators Grassley and

6 Johnson's --

7 A No. I have not.

8 Q Okay. Are you aware that Nikki Floris testified in front of this committee on

9 Wednesday, July 19th, 2023?

10 A I am aware that Nikki did a transcribed interview. I don't know the date.

11 Q Okay. And she was asked a series of questions about this same defensive

12 briefing that you and she participated in of Senators Grassley and Johnson on August 6th,

13 2020.

14 Were you aware of that?

15 A I don't know what was asked of Nikki.

16 Q Okay. Well, I'll represent to you that she was asked about the nomination

17 of the information that led to the defensive briefing so that -- who nominated it and

18 when, and then kind of the process of how that went through the defensive notification

19 framework and ended up with the defensive briefing.

20 And Ms. Floris testified -- this is her transcript before the committee.

21 On page 25, lines 12 through 13, she said, quote, And I say all this because your

22 question, as far as the July 13th letter, the Credibility Assessment Group, the information

23 was nominated into that, I think, July 8th. The experts group, so my colleagues, we met

24 on July 17th and confirmed that, yes, a defensive briefing is warranted. But that experts

25 group who caucused on the accuracy of that intelligence, met, I would say, July 8th, which

1 was a Friday, and probably early into the next week. So doing my math -- 9, 10, so
2 probably 11, 12th, 13th of that week.
3 Okay. So what she was doing there is explaining to this committee that the
4 information was nominated on July 8th.
5 Do you have any reason to doubt that Nikki Floris was correct when she said that?
6 A I have no reason to doubt that.
7 Q Okay. And she explained further that she had reviewed her emails in
8 advance of testifying before the committee --
9 A Oh.
10 Q -- and that's how she knew that that information was nominated on the 8th,
11 which was before the letter that was written by the -- I guess it was Nancy Pelosi,
12 Charles Schumer -- this is our exhibit 6 that was referred to in the previous hour. I don't
13 know if you have that in front of you.
14 A No.
15 Q But exhibit 6 is this July 13th letter --
16 A Oh, okay.
17 Q -- written to Director Wray by various Democrats in Congress asking for a
18 counterintelligence briefing.
19 A Okay.
20 Q I point that out because -- are you aware that the allegation in this
21 committee and that Senators Johnson and Grassley has raised is that you all at the FBI
22 and the intelligence committee -- or community -- gave that defensive briefing because
23 you were responding to this July 13th letter, because you were being asked by the
24 Democrats to make that defensive briefing? Are you aware of that allegation?
25 A I am generally aware of that allegation, yes.

1 Q And when Nikki Floris testified that, actually, the nomination of the
2 information that led to the briefing happened before this letter, she was making the point
3 that, no, we were not responding to this letter; there was something else that prompted
4 that defensive briefing.
5 Do you have any reason to dispute what she testified to?
6 A I have no reason to dispute what she testified or spoke about.
7 Q Do you have any other information that would lead you to believe that the
8 FBI or the intelligence community was motivated by partisan interests or any kind of
9 influence from Democrats or anybody else outside of the intelligence community to give
10 that briefing to Johnson and Grassley on that day?
11 A No.
12 Q Why do you think that that briefing was given?
13 A My assessment is the briefing -- the defensive brief was given so that these
14 sitting Senators would have the same level of understanding that the U.S. intelligence
15 community had with regards to threat information by foreign adversaries.
16 Q So somebody inside the intelligence community, apparently on July 8th,
17 nominated information that they thought the Senators should have. Is that fair to say?
18 A Yes.
19 [Benavides Exhibit No. 8
20 Was marked for identification.]
21 BY [redacted]
22 Q I'm going to mark as exhibit 8 a press release from the Office of the Director
23 of National Intelligence, dated August 7th, 2020.
24 Okay. If you would turn to the second page, please, Mr. Benavides, we have a
25 highlighted portion there.

1 A Okay.

2 Q Actually, first of all, on the first page, since you're still there, can you see the

3 date on that?

4 A I see a date.

5 Q Yep. August 7th, 2020, correct?

6 A Yes. For the news release, if I'm attributing August 7th correctly.

7 Q Okay. And that was the day after your defensive briefing to Senators

8 Grassley and Johnson, correct?

9 A Yes.

10 Q Okay. If you look on the second page, please, the highlighted portion

11 under the heading "Russia." That portion reads, quote, We assess that Russia is using a

12 range of measures to primarily denigrate former Vice President Biden and what it sees as

13 an anti-Russia, quote, "establishment." This is consistent with Moscow's public criticism

14 of him when he was Vice President for his role in the Obama administration's policy on

15 Ukraine and its support for the anti-Putin opposition inside Russia. For example,

16 pro-Russia Ukrainian Parliamentarian Andrii Derkach is spreading claims about

17 corruption, including through publicizing leaked phone calls, to undermine former Vice

18 President's -- sorry -- former Vice President Biden's candidacy and the Democratic Party.

19 Some Kremlin-linked actors are also seeking to boost President Trump's candidacy on

20 social media and Russian television, end quote.

21 That assessment that's included under the Russia piece there, were you familiar

22 with that at the time in 2020 when it came out in this public announcement?

23 A These broad things, yes.

24 Q Okay. And this notice itself, it was a public notice, correct?

25 A It says press release, and I don't see classification. Yes, I think this was

1 meant for public consumption.

2 Q Okay. Would this public notice have been of the sort that was

3 contemplated in the framework that we discussed earlier, like, this would be the public

4 version and then the defensive briefing that you gave would be the private version. Is

5 that fair to say?

6 A I would not want to link the two.

7 Q Okay.

8 A But this is a public version -- or this is a public release meant for a broad

9 audience, the American people, to consume. And that would have been guided under

10 the notification framework for a public release of threat intelligence.

11 Q Can you explain what, if any, difference there is in the notification

12 framework when information is nominated to be released publicly versus when it's

13 nominated to be released privately in a defensive briefing?

14 A I don't know the answer. In other words, it would be -- it would be

15 dependent on the type of intelligence and how the intelligence was being nominated into

16 the framework. That might dictate what further mechanisms would need to play out in

17 order to get the intelligence into the public domain or get the intelligence into a script

18 meant for an individual.

19 Q Do you know if the public release, like this one in exhibit 8, if the nomination

20 and experts group and assessment process is the same up to the point of the release of

21 the information? Like, does this information get nominated initially by someone within

22 the intelligence community just like the information that would end up in a defensive

23 briefing is nominated? Is that how it starts?

24 A I don't know the answer. I don't know the answer to that.

25 Q Okay. Do you know if there is a convening of a experts group for the public

1 release of intelligence like this, like there is with the defensive briefing?

2 A I think the experts group or the subprincipals group, which would be the

3 term that I would tend to use, would have awareness that a release of -- a compilation, a

4 summary of threat information was being contemplated and then drafted in a way that

5 would go public. The experts groups would have awareness of that.

6 Q Okay. And the initial step in the notification framework for both public and

7 private, as it's described in that notification framework exhibit, the initial step is

8 credibility assessment, correct?

9 A That is a step, yes.

10 Q Actually, the initial step is nomination, right? I should say that, but that's

11 not discussed in the framework.

12 A I mean, are you asking what I think the initial step is for the framework?

13 Q Yes. I'm trying to sort of understand the process. If you're following

14 through like the nomination of information that's within the intelligence community to be

15 shared, either publicly or in the defensive briefing context, what happens after the

16 nomination of that information? Does it always go to the Credibility Assessment Group

17 first? Is that the first step after the nomination, if you know?

18 A I don't know if there's a mechanism. Generally, yes, but I don't know if

19 there's a mechanism where you might not invoke the CAG. That would be a question

20 for the ODNI. I would not know.

21 Q Okay. And I don't want to push you on something that you don't know, but

22 is it fair to say that you believe that the CAG is something that is used in the ordinary

23 circumstance before information is released?

24 A That would be my assessment, yes.

25 Q Okay. So what you're saying is, like, there might be some extraordinary

1 situation where that wouldn't happen, but you just don't know of that?

2 A That is correct.

3 Q Okay. So in the normal course of business here, when this information was

4 released in exhibit 8 to the public, it's fair to assume that somebody within the

5 intelligence community nominated some version of this information to the Credibility

6 Assessment Group to be evaluated, correct, before release?

7 A I think that that would be correct.

8 Q Okay. And I don't know if you have participated in those. Have you ever

9 participated in the --

10 A In a CAG?

11 Q -- CAG?

12 A No.

13 Q Okay. My understanding of those is that subject matter experts will discuss

14 what the intelligence community knows and that the focus of that credibility assessment

15 is not on the information itself; it's the source. Again, you're trying to figure out, with

16 your intelligence gathering, who the source is, is it foreign attributed? That's what

17 you're trying to figure out, is that intelligence credible, right, that this information is

18 coming from a foreign source? Is that the focus of the CAG?

19 A I think the focus of the CAG broadly is to assess the credibility of the source

20 of intelligence.

21 Q And the intelligence -- what you're talking about in terms of foreign

22 influence is where information is coming from, like the foreign attribution of the speaker.

23 Is that right?

24 A I think it's more complicated than that.

25 Q What else is there to it that you could explain?

1 A In an unclassified setting, is the source of the information from a human or
2 from a technical collect effort? I think that the credibility of the source of information,
3 there's more to be considered.
4 Q I see what you're saying.
5 Let's just look at the example of this public release, because it's unclassified and
6 we can talk about what is in here. Again, this is exhibit 8, and the Russia portion that's
7 highlighted.
8 The information that was released to the public, here, what they're saying is that a
9 state actor, Russia, is using a range of measures to denigrate former President -- former
10 Vice President Biden, and they're talking about using another person -- here, they identify
11 him as Andrii Derkach -- to spread claims about corruption. And they specifically say,
12 including publicized leaked phone calls to undermine former Vice President's candidacy.
13 The point I'm trying to have you explain to us here is the distinction between the
14 focus of the intelligence community on the speaker and his motivations, like the fact that
15 it's Russian and the fact that the Russian has a motive that the intelligence community
16 assesses to interfere with our election, right? That's the focus of the intelligence
17 community. It's not the information itself that they're spreading. Is that fair to say?
18 I'm sorry if that wasn't clear. I can repeat it.
19 A Well, I mean, if you read the paragraph --
20 Q Uh-huh.
21 A -- it says, "to primarily denigrate former Vice President Biden and what it
22 sees as an anti-Russia establishment," so it is Russia-attributed intelligence that does have
23 a theme.
24 Q Right.
25 A And so I don't know that you can separate the two.

1 Q But the FBI is not interested in the content of the message, correct? And to
2 the extent that -- it's not a problem if it's propaganda, like you said earlier, right?
3 A Yeah. You are correct in that propaganda, if attributed to a nation-state
4 actor, is a completely different concept than covert misinformation or disinformation
5 being disseminated without attribution.
6 The Russia piece of this gives you the foreign attribution.
7 Q And that's what the intelligence community is meaning to put out there for
8 the public, is what they thought was covert, which is the Russian attribution, correct?
9 A Attributing this type of information to Russia would allow the recipient to
10 understand what the Russians are potentially attempting to do without attributing it back
11 to Russia.
12 Q Okay. So the attribution is the point, correct?
13 A Yes.
14 Q Okay. And if for some reason that an overt Russian actor like RT or some
15 media organization that has the Russian flag and says, We're Russian, if they had said
16 something about Vice President Biden's candidacy or corruption, the FBI would not be
17 interested in providing any kind of notice about that or warning about that to Americans,
18 because that information is being shared overtly by Russians, and so there's nothing for
19 the FBI to add.
20 Is that fair to say?
21 A That is correct.
22 Q Okay. So I guess getting back to my point about what the Credibility
23 Assessment Group is doing when they're trying to decide what to release to the American
24 people, their focus isn't on the message or the propaganda necessarily. It's on
25 the -- they're trying to figure out if they have credible intelligence to attribute that to

1 Russians, in the case of Russians?

2 A Yes, and in a way that a recipient could then contextualize or potentially take

3 some sort of situational awareness, countermeasures, protective measures.

4 Q Okay. Now, the information that was nominated that eventually resulted

5 in this public notification under the framework that we have here in exhibit 8, could that

6 information have also led to private notifications if it involved some kind of specific

7 information about specific people being targeted?

8 A Yes.

9 Q Is it possible that the Credibility Assessment Group that evaluated the

10 information resulting in the press release in exhibit 8 was the same group that evaluated

11 the information that resulted in defensive briefings around that time?

12 A I wouldn't know.

13 Q Okay.

14 A I mean, to go on record, this is an ODNI press release --

15 Q Yes.

16 A -- so --

17 Q But it went through the same notification framework that the information

18 leading to the Grassley and Johnson briefings went through, correct?

19 A I mean, if you are -- you would need to ask ODNI.

20 Q Well, it's fair to say, and don't you -- can you say with confidence that the

21 defensive briefing that you participated in on August 6th had to have gone through the

22 defensive -- sorry --

23 A Oh.

24 Q -- the defensive network framework?

25 A The defensive brief that Nikki Floris and I worked to deliver went through the

1 notification framework, of which included the Credibility Assessment Group.

2 Q Okay. And it went through around the same time as the information that

3 resulted in this public release on August 7th, correct?

4 A The dates and timeline tend to support your statement.

5 Q Okay. You had a couple questions in the previous hour about whether you

6 personally participated in the validation or assessment of the information that you passed

7 in the defensive briefing.

8 A Uh-huh.

9 Q Do you recall those questions?

10 A Yes.

11 Q And you said, no, you didn't personally validate that information, correct?

12 A Correct.

13 Q But, yet, you have confidence in it. Is that fair to say?

14 A I have high confidence in the information that was shared with the Senators.

15 Q Okay. And when your colleague, Nikki Floris, testified on July 19th, she was

16 asked the same question, and she testified, quote, I'm not assuming it was validated. I

17 know it came from reliable collection, unquote.

18 Do you have any reason to dispute what she says is true?

19 A I don't have any reason to dispute what you conveyed to me.

20 [Benavides Exhibit No. 9

21 Was marked for identification.]

22 BY [redacted]

23 Q Okay. I'm going to mark for identifica- -- or for -- exhibit 9. It's a Politico

24 article entitled, "Democrats: Packets sent to Trump allies are part of foreign plot to

25 damage Biden."

1 This is dated July 19th, 2023. Oh, no, that's when I printed it. I'm sorry. This
2 was dated July 23rd, 2020. That makes more sense.
3 Are you familiar with this article?
4 A I am not.
5 Q Take a couple minutes just to look at it. It's a few pages, but it's big font.
6 A Okay. I read through this.
7 Q Okay. Thanks for taking the time to do that.
8 Have you read that article before?
9 A I have not.
10 Q Okay. Does it refresh your recollection at all about what was in the public
11 domain at the time of July 2020, shortly before your defensive briefing to Senators
12 Grassley and Johnson?
13 A I think that it does inform that there were pieces of information and
14 intelligence that a news source such as Politico had access to and would have pushed out.
15 Q Okay. Now, according to this article, someone by the name of
16 Andrii Derkach, who is a Ukrainian former parliamentarian, I believe, was meeting with
17 Trump's personal lawyer, Rudy Giuliani, in Kyiv in December of 2019 to discuss
18 investigations of the Biden family.
19 That's according to the article, correct?
20 A Yes.
21 Q Do you have any reason to believe that that's not true?
22 A I wouldn't have firsthand information, but I don't have information that
23 would say that it's not true.
24 Q Okay. And Derkach himself said publicly that he had sent materials to U.S.
25 lawmakers, including Lindsey Graham, Chuck Grassley, Devin Nunes, and also to

1 then-White House Chief of Staff Mick Mulvaney, about alleged corruption in Ukraine,
2 specifically alleged involvement of some of the Biden family, correct, according to the
3 article?
4 A According to the article.
5 Q Okay. Now, the fact that you have -- and Mr. -- sorry. Mr. Derkach was
6 referred to in our exhibit 8, the public release of -- this intelligence information
7 specifically referred to Andrii Derkach as spreading claims about corruption, including
8 through publicizing leaked phone calls to undermine Vice President Biden's candidacy in
9 the Democratic Party.
10 And then, later -- actually, do you know who Andrii Derkach is?
11 A I have an awareness that Andrii Derkach is an individual associated with the
12 Ukrainian Parliament, and my understanding is that he was a KGB operative.
13 Q He was directly linked to Russian intelligence, correct?
14 A That is my understanding.
15 Q Okay. So if the Politico reporting is true and what Andrii Derkach himself
16 claims is true, that he was passing information to sitting U.S. Senators and Congressmen,
17 as well as people in the White House, about alleged corruption of the lawmakers' political
18 rivals, would that have been of concern to FITF?
19 A That would have been of concern to FITF and, more broadly, the U.S.
20 intelligence community.
21 Q What's the concern there?
22 A A concern would be having an individual at the behest of the Kremlin
23 attempt to insert information into the United States without fully attributing that
24 operation to the Kremlin or to an intelligence service.
25 Q Okay. So if some intelligence analyst within the U.S. Government, in the IC

1 community, were to come across information about what Andrii Derkach was doing, say,
2 for example, by actually watching the press conference or the announcement that he
3 publicly made -- Derkach made --
4 A Uh-huh.
5 Q -- about passing information to sitting U.S. lawmakers, is it possible that that
6 analyst would, you know, reasonably nominate that information into the CAG for
7 notification?
8 A What would the source of the information or intelligence be?
9 Q Let's just suppose it's, like, public information. They see Andrii Derkach,
10 they know who he is because they're an intelligence officer in the United States, they
11 know he's Kremlin linked, and they see him out there saying, I'm passing packets of
12 information to Senators Grassley and Johnson.
13 Would that alone be of concern, just the fact that a Russian agent is saying out
14 loud that he's passing information to U.S. Congressmen?
15 A It would be a concern for the missing piece of information or intelligence
16 that is absent from what Andrii Derkach would have said publicly, which is that attribution
17 and affiliation with the Kremlin, with the KGB, with what that intel analyst knows
18 additionally about Andrii Derkach.
19 Q Okay.
20 A Having said that, what Andrii Derkach put out in the public domain likely
21 would not have preoccupied the analyst. It would have been the affiliation and the
22 pieces of information absent that would have preoccupied the intelligence analyst.
23 Q Okay. So if Andrii Derkach was out there saying, I'm Andrii Derkach, I'm a
24 KGB agent, the FBI wouldn't have been as concerned because that information wouldn't
25 have been missing? Is that fair to say?

1 A The fact that this individual would have affiliated with a foreign intelligence
2 service would have allowed any person to understand what Andrii Derkach was saying
3 was -- helps with his bona fides, so to speak. And so that would be of less concern; not
4 just the FBI, but everyone within the intelligence community.
5 Q Okay. So, again, as you've been saying all along, the FBI's interest here was
6 putting out the information about Andrii Derkach, or whoever, and his affiliation, his
7 foreign attribution that had been hidden. That was the information that you wanted to
8 put out or you would want to put out if you were making a notification?
9 A If the FBI had intelligence attributed to Andrii Derkach that the FBI assessed
10 would be of defensive value, a defensive brief, the FBI could have nominated that
11 intelligence into the framework such that that information could then be even given
12 one-on-one or potentially to a broader audience.
13 Q Okay.
14 A But the FBI is a piece of the overall U.S. intelligence community apparatus.
15 Q So the information itself that Andrii Derkach, in this example, is a
16 KGB-affiliated person or Russian-affiliated actor, that could be information that is owned
17 by someone else in the intelligence community, a different agency?
18 A That is correct.
19 Q But they're bringing it together in this notification process, and somebody is
20 evaluating that, right, in the CAG?
21 A Yes. If it is nominated into the notification framework, it would have
22 allowed the CAG to come together to assess the credibility of the intelligence and the
23 source of the intelligence, which could have resulted in a defensive briefing.
24 [Benavides Exhibit No. 10
25 Was marked for identification.]

1 BY [redacted]

2 Q Okay. I'm going to mark as exhibit 10 -- this is a U.S. Department of
3 Treasury sanctions notice, dated September 10th, 2020.
4 Mr. Benavides, have you seen this exhibit before?
5 A I have not seen this exhibit.
6 Q Okay. This is a little bit shorter, but if I would just direct your attention to
7 the highlighted portion in page 1. The title is, "Treasury Sanctions Russia-Linked Election
8 Interference Actors."
9 And the highlighted portion reads, quote, "Treasury designated Andrii Derkach
10 pursuant to Executive Order 13848 for his efforts to influence the 2020 U.S. Presidential
11 election. Derkach, a member of the Ukrainian Parliament, has been an active Russian
12 agent for over a decade, maintaining close connections with the Russian Intelligence
13 Services. Derkach has directly or indirectly engaged in, sponsored, concealed, or
14 otherwise been complicit in foreign interference in an attempt to undermine the
15 upcoming 2020 U.S. Presidential election," end quote.
16 So fair to say, like, this notice is a further action taken by the Treasury based on
17 what U.S. intelligence assesses is Mr. Derkach's foreign affiliation and his actions taken to
18 interfere with the U.S. Presidential election in 2020, correct?
19 A As I read this, my assessment is the U.S. Treasury Department pulled
20 together information that would allow them to sanction this individual. I don't work for
21 Department of Treasury, and I don't know their process. But if I read this at face value,
22 the way it's described is exactly as you described it.
23 Q And the underlying intelligence here, is it apparently consistent with what
24 we've read in the exhibit 8 press release from the ODNI regarding Mr. Derkach and his
25 intent to interfere with the election?

1 A I want to make sure that I understand.

2 Q Yeah.

3 A Are you asking me to compare what was in the Treasury Department's

4 announcement to the public statement from the ODNI?

5 Q Yes. Just generally, does it appear to be based on the same general

6 category of intelligence about Mr. Derkach, the same type of information?

7 A I mean, broadly, yes. Broadly, yes, but unless I'm overlooking it, I don't see

8 in the public statement from the ODNI attribution to the Kremlin or to the KGB, for

9 example, an intelligence service.

10 Q Okay. So actually --

11 A It is explicitly stated here in the Treasury Department.

12 Q You're right there. It looks like the Treasury went further in describing that

13 attribution.

14 A My total understanding of Andrii Derkach, neither of these contradict each

15 other's, but each of these have a small piece of information that might be missing.

16 Q So it seems like, as time went on, maybe from the month that the public

17 notice went out, which was August 7th, 2022, about a month later, September 10th,

18 when the Treasury notice went out, more information was added? I'll just put it that

19 way.

20 A I -- I don't know.

21 Q Okay. All right. So going back to the defensive briefing. Again, this is

22 the context where you and Ms. Floris gave a defensive briefing to Senators Grassley and

23 Johnson. Exhibit 8, this press release came out a day later. The Treasury sanction of

24 Mr. Derkach came out a month later.

25 What can you say about what motivated the FBI to give that defensive briefing at

1 that time?

2 A I think it's a mischaracterization to say what motivated the FBI. The FBI

3 occupies in the domestic space a unique position within the U.S. intelligence community.

4 The fact that it's in the domestic space would have been why the FBI would have

5 delivered information from the whole of the U.S. intelligence community per the

6 notification framework.

7 So what motivated the FBI would have been our duty in the domestic space to

8 deliver the defensive brief. That would've -- if you want to use the term "motive," what

9 the motivation would have been, that would have been the motivation.

10 Q Okay. And the motive that was attributed to you in the letter from

11 Senator Grassley and Senator Johnson, which was to respond to a request from

12 Democrats or some partisan motive, can you confidently reject that as the motivation?

13 A I can confidently reject that.

14 Q Okay. And I think we've already said this very clearly, but the origin of that

15 defensive briefing was in some analyst within the IC nominating information into the CAG,

16 correct?

17 A Into the notification framework.

18 Q Okay. And according to Nikki Floris, that notification happened on July 8th,

19 2020, and you have no reason to dispute that, correct?

20 A I have no reason to dispute that.

21 Q Okay. And that came before the letter from the Democrats that we've

22 talked about, correct, which was July 13th?

23 A Looking at the dates that have been presented, I agree.

24 Q Okay. And you have no reason, as you sit here, to believe that there was

25 any reason for the IC community or the FBI to have that defensive briefing with Senators

1 Johnson and Grassley other than to give them information that you thought they should
2 have about foreign attribution?
3 A That is correct.
4 [redacted] We can go off the record. I have no other questions right now.
5 [Recess.]
6 [redacted] Back on the record.
7 BY [redacted]
8 Q All right. Mr. Benavides, I'm going to ask you to look again at the
9 August 25th, 2022, letter from Senators Grassley and Johnson to you and Ms. Floris.
10 A Okay. We'll keep going until we find it. This one? Yes. Found it.
11 Q I'll direct your attention to page 3.
12 It's the first full sentence on page 3: "We also made clear our concern that the
13 briefing would be subject to a leak that would shed a false light on the focus of our
14 investigation. Indeed, on May 1, 2021, The Washington Post did exactly that and so did
15 the other inaccurate media articles during the course of our investigation which falsely
16 labeled our investigation as advancing Russian disinformation."
17 Do you see that?
18 A Yes, sir.
19 Q How do you respond to that concern? Or how did you respond to that
20 concern?
21 A I don't recall the Senators clearly stating something like -- that this
22 information would be leaked. The way this reads, I don't remember either
23 Senator stating that.
24 Q Okay. What is your view today as you sit here on that allegation?
25 A On the allegation?

1 Q Uh-huh, or the statement they claim -- the statement they say they made to
2 you and Ms. Floris.
3 A I don't remember the statement and -- I guess I don't have a strong opinion.
4 Q Okay.
5 A If you -- well --
6 Q Well, no. We can move on.
7 According to the Senators, your briefing was leaked and permitted a major
8 newspaper to, quote, "falsely labeled," end quote, an investigation by the United States
9 Senate as, quote, "advancing Russian disinformation," end quote.
10 How do you account for this?
11 A Again, I don't know what you're specifically asking. The Washington Post
12 did exactly what they apparently said. I attribute this to The Washington Post
13 attempted to tie the investigation to advancing Russian disinformation. Nikki Floris nor I
14 would have said anything like that.
15 Q No, but he's saying that the briefing was subject to a leak, and he's
16 suggesting that that briefing was leaked to The Washington Post, permitting it to falsely
17 label an investigation by the United States Senate as advancing Russian disinformation.
18 So I'm asking you how you respond to that, because you and Ms. Floris gave the
19 briefing that he's referring to.
20 A I have no idea how The Washington Post would have gotten that type of
21 information.
22 Q We will direct your attention to the same paragraph, where it reads:
23 "Moreover, whistleblowers have recently alleged that in August 2020, the same month
24 you provided the briefing to us, FBI officials initiated a scheme to downplay derogatory
25 information on Hunter Biden for the purpose of shutting down investigative activity

1 relating to his potential criminal exposure by labeling it, quote, 'disinformation,' end
2 quote. Whistleblowers have also alleged that local FBI leadership instructed employees
3 not to look at the Hunter Biden laptop immediately after the FBI had obtained it."
4 Are you familiar with these whistleblower allegations about FBI officials
5 downplaying or scheming to downplay derogatory information by labeling it -- derogatory
6 information about Hunter Biden by labeling it disinformation?

1

2 [2:35 p.m.]

3 Mr. Benavides. In the context of reading this, I am familiar with this.

4 BY [redacted]

5 Q Okay. Why are the Senators -- wait. Withdrawn.

6 You're familiar -- what specifically are you familiar with?

7 A Having read this, I am seeing that, in this letter, the Senators articulate that

8 they feel like that there are whistleblowers alleging that, on August 2020, that the same

9 month, provided the briefing, FBI officials initiated a scheme to downplay -- I am not

10 familiar with the activity. I am seeing this, and I have read this before.

11 Q This letter or this allegation? Just so I know.

12 A This letter.

13 Q Okay. When did you read this letter last?

14 A It might have been, it might have been in the prep material. I'm certainly

15 reading it now. I would have been out of the FBI by August 25th.

16 Q Do you have knowledge about local FBI leaderships instructing employees

17 not to look at the Hunter Biden laptop immediately after the FBI obtained it?

18 A No.

19 Q Why do you think the Senators are tying this allegation to you and

20 Ms. Floris?

21 A They are tying it to whistleblowers. They are not tying it to Ms. Floris.

22 Q Well, this letter is directed to you and Ms. Floris.

23 A I see. I see your point. Okay. You're asking me why?

24 Q Do you have an opinion on why this is even included in the letter directed to

25 you about a defensive briefing?

1 A No. I don't know.

2 Q Let's go to the next paragraph on page 3, at the briefing.

3 The Senators indicate, quote: At the briefing, as well as after we requested
4 relevant records relating to what happened at the briefing, including the 302 or similar
5 summary, the intelligence basis for the briefing and the personnel involved in making the
6 decision to brief us. On August 12, 2020; May 3, 2021; July 25, 2022; and August 11,
7 2022, those requests were made. The FBI has consistently failed to respond in full to
8 each request and failed to provide those critical records, which cast further doubt on the
9 true purpose for the briefing.

10 To your knowledge, why has the FBI failed to respond to these requests?

11 A Oh, I don't know that the FBI has failed to respond to these requests. I
12 know it's articulated in this letter.

13 The way the FBI responds to requests for information is completely outside of my
14 job at this time. I mean, I was retired at this time, but there are mechanisms for how
15 the FBI responds to information that I don't necessarily have a full comprehensive
16 understanding of.

17 Q When did you leave the FBI again?

18 A I believe my last day was July 29th.

19 Q Of 2022?

20 A Yes, sir.

21 Q So they began making requests for documents in 2020. So, while you were
22 employed by the FBI, had you been approached in connection with the Senators' request
23 for these documents?

24 A I had not.

25 Q Have you been asked to provide any documents responsive to the Senators'

1 request?

2 A Me personally --

3 Q Yes.

4 A -- I have not.

5 Q Do you have any documents responsive to their request, given what you've

6 read in this paragraph?

7 A I do not.

8 Q Do you know if the FBI has them?

9 A I've been out of the FBI for more than a year. I don't know what the FBI

10 has.

11 Q Going back to, prior to July 29th, 2022, do you have a reason to suspect the

12 FBI has these documents that are being requested? Then?

13 A I understand, yes. I have no reason to believe that the FBI has a 302. The

14 intelligence basis for the briefing and personnel involved in making the decisions to brief

15 this, that would fall outside of the FBI. That would fall to -- I think it would fall to the

16 ODNI, but a 302 is a document that belongs to the FBI. It's a classification of document,

17 but I am unaware of an FD-302. They don't use the term FD-302. They just say 302,

18 but in the FBI, it would be called an FD-302.

19 Q So you can't say one way or the other if these documents exist --

20 A I can't.

21 Q -- at the FBI?

22 A I can't.

23 Q Let's look at the last paragraph on page 3.

24 And it reads, the Senators write: Simply put, the unnecessary FBI briefing

25 provided the Democrats and liberal media the vehicle to spread their false narrative that

1 our work advanced Russian disinformation. Although you stated that the FBI didn't
2 intend to, quote, interfere, end quote, in our investigation, the practical effect of such an
3 unnecessary briefing and the subsequent leaks relating to it created interference, which
4 frustrated and obstructed congressional oversight efforts.
5 Again, Mr. Benavides, can we stipulate this is a very serious allegation from two
6 United States Senators?
7 A The way this is written, I would want to take it line by line. I don't recall
8 Nikki nor I saying that the FBI didn't intend. It was two FBI employees delivering a
9 defensive brief, and when Senator Johnson expressed that he had a job and an
10 investigation, it would have prompted: We are not here to interfere with your work.
11 I don't recall Nikki saying the FBI. So I would take issue with the FBI didn't intend
12 to interfere in our investigation. It wasn't an FBI briefing. Again, I know that -- I am
13 trying to be as precise with you as possible. This was not an FBI briefing. I absolutely
14 do not agree with that statement.
15 Q But let's just focus on -- maybe that level of precision is getting in the way of
16 our understanding. You and Ms. Floris work for the FBI. That's a statement of fact at
17 the time.
18 A That is correct. At the time, yes.
19 Q I read this paragraph to be saying the issue is the defensive brief, and when I
20 see in this particular instance the FBI, whether they're speaking broadly about the agency,
21 your view, I just want to speak precise here, were conveying a script that -- whether the
22 intelligence comes from another intel community, it comes through the ODNI. I
23 understand that. I think the record is pretty clear on that.
24 I think in just sort of reading this, these Senators, and tell me if that's your
25 understanding as well, just the plain reading of this paragraph is the defensive briefing

1 you and Ms. Floris provide helped to frustrate and obstruct their oversight efforts.
2 That's the thrust of the allegation in this paragraph. Is that fair to say?
3 A Sir, with all due respect, I don't think that's fair to say --
4 Q Tell me.
5 A -- because what the paragraph says is the FBI briefing provided the
6 Democrats and liberal media the vehicle to spread their false narrative that our work
7 advanced Russian disinformation. That is a position that I don't have the information to
8 make this type of assessment.
9 Number one, it was not an FBI briefing. So you are substituting FBI briefing for
10 the defensive brief, and you have the right to do that. The problem that I've got is that
11 the letter doesn't state that, and so I wholly disagree with the way this is written, and I
12 don't know enough about what the Senators' intent in writing this where I would feel
13 comfortable stipulating to you inserting -- remove FBI and replace it with defensive brief.
14 I just don't have enough information --
15 Q Let me just understand --
16 A -- to stipulate to that.
17 Q Sorry to interrupt, but let me understand the nature of the confusion. Is it
18 your testimony that where the Senators reference in this paragraph the unnecessary FBI
19 briefing, are you saying you're not confident, based on this, that they are discussing the
20 August 6, 2020, defensive briefing?
21 A I don't -- it was not an FBI briefing. Simply put, the unnecessary FBI briefing
22 provided --
23 Q Okay, Mr. Benavides, I'm sorry. I won't belabor this, but you're a
24 sophisticated guy and a long time with the FBI. Reading this -- we went over this letter
25 fairly detailed, some of these paragraphs. It's directed to you and Ms. Floris. It opens

1 with August 6, 2020, and your concern is that when they say "the unnecessary FBI
2 briefing," you don't think they're talking about the August 6, 2020, defensive briefing you
3 and Ms. Floris gave to them?
4 A The opening paragraph states: On August 6th, as we were finishing our
5 September 23rd, 2020, report on Hunter Biden's financial connection to foreign
6 governments and questionable foreign nationals, you provided a briefing to us on behalf
7 of the FBI and intelligence community.
8 Again, August 6th, Nikki and I were in a position to provide a defensive brief. It
9 was not on behalf of the FBI. It was on behalf of the intelligence community. The fact
10 that it says intelligence community and August 6th in the opening paragraph, I can see
11 where you're coming from that they are referring to the August 6th defensive brief. I
12 will tie those two together because of the date.
13 Q Well, and the next sentence says it as well, right -- you stated, right. The
14 next sentence directly seems to relate to the first one, which is the briefing.
15 A I don't know that anyone -- I don't know that Nikki said the FBI didn't intend
16 to interfere in our investigation. I don't know that she mentioned the FBI. It says it in
17 this letter. I don't believe that she would have mentioned the FBI.
18 Q Okay. So let's move on.
19 Did you create a record after you provided the defensive briefing to these
20 Senators on August 6th or memorialize in any way what was stated in that briefing?
21 A I did not create a record.
22 Q Do you know if Ms. Floris created a record?
23 A I don't. I don't know.
24 Q Did you and Ms. Floris promise these Senators confidentiality at the
25 defensive briefing?

1 A I don't recall.

2 BY [redacted]

3 Q What's the FBI's standard practice for when the FBI provides a defensive

4 briefing to U.S. Senators? Is it to create a record of some kind afterwards?

5 A You mean to memorialize the engagement?

6 Q Yes.

7 A I think that there would have been an effort to memorialize the engagement.

8 Q And who would have been responsible for that?

9 A Based on my understanding, it would have been the Office of Congressional

10 Affairs, perhaps.

11 Q And who did you speak to at the Office of Congressional Affairs?

12 A I didn't speak to anyone.

13 Q Who did Nikki Floris speak to?

14 A I don't know. I don't know.

15 Q Who was your point of contact at the Office of Congressional Affairs prior to

16 the briefing?

17 A I don't remember. I don't remember.

18 Q Who was your most frequent point of contact in the Office of Congressional

19 Affairs in the summer of 2020?

20 A In the summer of 2020? It is a non-SES employee.

21 [redacted] Give a title.

22 Mr. Benavides. Huh?

23 [redacted] You can give a title if you have it.

24 Mr. Benavides. Her title?

25 [redacted] Uh-huh.

Mr. Benavides. Office of Congressional Affairs person, liaison. I don't know what her title would be.

BY [redacted]

Q Was she in the briefing?

A It would have been classified. I would think no. I don't recall her being in the briefing.

Q Then how was she able to memorialize what happened in the briefing?

A Well, I don't know that it would have been meant to memorialize what happened in the briefing. The briefing is a one-way door. It is: Here is intelligence. Do with this intelligence as you see fit. Any attempt to memorialize would have been: On such and such a date, Nikki Floris, Brad Benavides would have provided a defensive brief to Senators Grassley and Johnson. And that may be all that it stated.

This is meant to be -- there is one thing to say we need to memorialize an engagement. There's another thing to say: Behind closed doors to Senators, we're here on behalf of the USIC. This is the script. Read it verbatim. Do with it as you understand.

I am unaware of any attempt to memorialize that.

[redacted] But the script is a record.

Mr. Benavides. The script was classified. I do believe the script -- the script would be a record. Is it a record within the FBI, or is it a record within the ODNI, I'm not immediately -- I don't immediately know.

BY [redacted]

Q But the FBI meets with two sitting Senators who provide reactions and responses in real time. Those aren't memorialized in any way?

A Are you asking would, like, the atmospherics of how these Senators

1 responded be memorialized?

2 Q Yes.

3 A No.

4 BY [redacted]

5 Q You, Ms. Floris, and there was a third person with you at the briefing with

6 Senator Grassley and Senator Johnson?

7 A I don't know. You mean with the FBI?

8 Q With you, yes.

9 A No, I think it was just me and Nikki.

10 Q That's it?

11 A Yes.

12 Q But you indicated before that the FBI is part of the intelligence community.

13 Correct?

14 A That is correct.

15 Q So, at the briefings on behalf of the intelligence community, it's also, in part,

16 on behalf of the FBI. Fair to say?

17 A For a defensive brief?

18 Q Yes.

19 A That is -- no, that is incorrect.

20 Q How does that work then? It's part of the intel community but not part of

21 the defensive brief?

22 A Part of the intelligence community is a fact. The FBI is part of the

23 intelligence community. Through the ODNI construct, a mechanism was created so that

24 the U.S. intelligence community could push pieces of intelligence that it had in its

25 possession and share it with someone, perhaps a large body, perhaps a company, you

1 name it, in a way that they could then understand what the U.S. intelligence community
2 had.
3 In the domestic space, the FBI would have been primarily responsible for
4 delivering that narrative. It would not have been the FBI delivering the narrative from
5 the FBI. It would have been, in the domestic space, the FBI occupies a specific position,
6 and the FBI would have delivered the defensive brief.
7 Q So it still would be in part, though. Correct?
8 A I don't know what you mean by "in part."
9 Q Well, I guess I can appreciate the precision here.
10 A And I think it's precise on purpose and not by me. By everything that's
11 here.
12 Q It's important to be precise. I don't disagree.
13 So, as sort of the larger point, it just seems semantic hair splitting to the point of
14 being I don't want to say intentionally evasive. It just -- the notion that he is not -- that
15 the Senators are not referring to the August 6th briefing, whatever they call it, it just
16 seems in some ways it's difficult to understand the sort of objection to that or the view
17 that that's not what they're referring to. It's a little confusing.
18 A Sir, I actually said, after I read the first paragraph, it is clear that they are
19 referencing August 6th and briefing on behalf of the intelligence community. It is
20 reasonable to assess that they are referring to the August 6th defensive brief in their final
21 paragraph.
22 Q Okay. So thank you for that.
23 A I said that earlier after looking at the opening paragraph.
24 [redacted] I'm just going to share with you two articles. The first I'm marking
25 as exhibit 11. It's a Washington Post story: Senate Republicans advance Ukraine probe

1 aimed at Biden despite foreign interference concerns.

2 [Benavides Exhibit No. 11

3 Was marked for identification.]

4 BY [redacted]

5 Q In the interest of time, I won't get into too many specifics. So this article

6 discusses the Senators' investigation involving Hunter Biden, Joe Biden, Burisma, Ukraine.

7 I'm going to direct your attention to the second page, the first full paragraph. It

8 reads: Senator Johnson is diverting his committee from oversight of the failing response

9 to the pandemic, even though over 4.5 million Americans have been affected, and instead

10 is facilitating a foreign influence operation to undermine our democracy. Biden

11 campaign spokesman Andrew Bates.

12 Do you see that?

13 A I do.

14 Q Were you familiar with the media coverage of the Grassley-Johnson

15 investigation that we're discussing?

16 A Not specifically, no.

17 Q Were you aware that Senator Richard Blumenthal published an op-ed piece

18 in the Washington Post on August 7th, 2 days after this article and 1 day after you briefed

19 Senators Grassley and Johnson, claiming that their investigation was perpetrating Russian

20 disinformation in the U.S. Senate?

21 A I am not. You would have to show it to me.

22 Q I will do that.

23 [redacted] I am marking as exhibit 12 an op-ed in the Washington Post by

24 Richard Blumenthal dated August 7, 2020.

25 [Benavides Exhibit No. 12

1 Was marked for identification.]

2 Mr. Benavides. Thank you.

3 I have not seen this article.

4 BY [redacted]

5 Q Okay. I direct your attention to the second page.

6 A Of the Blumenthal?

7 Q Of the Blumenthal.

8 A Yes, sir.

9 Q Now, this is dated, as far as you can tell, right, looking at page 1, August 7,

10 2020?

11 A Yes.

12 Q Okay. And you gave your defensive briefing on August 6, 2020?

13 A Yes, sir.

14 Q At the bottom of page 2, the op-ed references an August 5th Washington

15 Post story that Senator Johnson's investigation into Joe Biden's family is relying on

16 debunked Kremlin conspiracy theories. It's the penultimate paragraph on page 2.

17 A I am sorry. Where are you?

18 Q Right here. Page 2.

19 A Okay. I'll read that.

20 Q Do you see that?

21 A I do see it.

22 Q And then the very next line says: There is no excuse for perpetuating

23 Russian disinformation in the U.S. Senate.

24 Do you see that?

25 A I do see that.

1 Q So, Mr. Benavides, we'll cut to the chase, because there is more to cover.
2 August 5th, 2020, we have a Washington Post article in which the claim is being made
3 that two U.S. Senators investigating the Biden family is advancing Russian disinformation.
4 August 6th, 2020, you and Ms. Floris give a defensive briefing to Senators Grassley and
5 Johnson, which they say is leaked. August 7th, Senator Blumenthal, a Democrat, writes
6 an op-ed saying that Russian disinformation is being pushed in the U.S. Senate by Ron
7 Johnson.
8 These three consecutive unifying events, the Washington Post story, your
9 defensive briefing, the Blumenthal op-ed led Senator Grassley to testify before the Select
10 Subcommittee on the Weaponization of the Federal Government that this was out of a
11 fiction spy thriller, and he places you and Ms. Floris as primary players in this spy thriller.
12 Given how this unfolded, August 5th, 6th, and 7th, can you understand why that
13 is?
14 A No. I am not a character in a spy thriller, period.
15 Q But you understand why the Senator might draw that conclusion?
16 A I do not. I also don't know -- perhaps the August 7th opinion is referencing
17 content, perhaps, from -- I haven't read these but, perhaps, from August 5th. So you
18 have an August 5th prior to August 6th defensive brief and then an August 7th op-ed. I
19 would --
20 Q It's smack in between those two defensive briefings.
21 A Absolutely smack in between. I'm not going to argue the dates. I don't
22 know where the content for this came from, and I don't know if the article references the
23 same type of stuff that might be in this August 5th article. I don't know.
24 Q Understood.
25 BY [redacted]

1 Q Do you know who Elvis Chan is?
2 A I do.
3 Q Who is he?
4 A Elvis Chan is an FBI agent in the San Francisco Field Office.
5 Q During your time at the FBI, did you have any interactions with Elvis Chan?
6 A At the FBI?
7 Q Yes.
8 A Yes.
9 Q What was the nature of those interactions?
10 A When I led the Syria-Iraq task force, ISIS prolifically used social media to
11 disseminate their jihadist points of view in an attempt to recruit operatives. I would
12 have known Elvis during that time.
13 Additionally, when I was a supervisor in Chicago, al-Qaida's attempt to recruit
14 operatives via the internet during that time, I would have also known Elvis. And then,
15 more recently, I would have known Elvis Chan through my time on FITF, the Foreign
16 Influence Task Force.
17 Q What was the nature of your interactions with Mr. Chan as part of
18 your -- when you were section chief of the FITF?
19 A I don't recall interacting with Elvis Chan. I knew that Elvis Chan, because of
20 my time in Counterterrorism Division, that Elvis would be working out of the San
21 Francisco division because of his proximity to Silicon Valley to help facilitate points of
22 contact within the tech and social media companies.
23 Q When did you last speak to Mr. Chan?
24 A Several years ago. I don't recall exactly the date. I spoke to Elvis to get
25 his point of view on someone that I was considering to hire. It would have been -- now I

1 can be more precise. It would have been during my time as Deputy Assistant Director of
2 the China Branch. I was attempting to hire someone, and I felt that Elvis might be able
3 to give me insight into the qualifications of the candidate.
4 Q Do you know who Laura Dehmlow is?
5 A I do.
6 Q And who is she?
7 A Laura Dehmlow was a unit chief in FITF and later served as section chief of
8 FITF.
9 Q Was she the section chief immediately after you?
10 A I believe so, yes.
11 Q Did you have any say in who would be the section chief after you?
12 A No.
13 Q Was she the unit chief of the China Unit?
14 A Yes.
15 Q Was she part of FITF when you became section chief of FITF?
16 A Yes.
17 Q Had you interacted with Ms. Dehmlow prior to that?
18 A No.
19 Q After you left the FITF, did you continue to work with her in any capacity?
20 A We would have attended the same like daily operational meetings, but my
21 portfolio would have been as the Deputy Assistant Director Over the China Branch, and
22 she would have remained under the Intel Branch.
23 Q And have you spoken with Ms. Dehmlow since she left the FBI?
24 A Yes.
25 Q How recently?

1 A I don't recall exactly, but the topic of the conversation would have been, I
2 believe, her going away.
3 Q Do you know who [redacted] is?
4 A I do.
5 Q And who is he?
6 A Is his name -- he's a GS employee. Is he part of this?
7 [redacted] You can answer the question.
8 Mr. Benavides. Oh, he would have been the unit chief for the Russia portion of
9 the Foreign Influence Task Force.
10 BY [redacted]
11 Q During your tenure?
12 A Yes.
13 Q Was he the unit chief when you took the role?
14 A Yes, I believe so.
15 Q Had you worked with him previously prior to taking --
16 A No. No.
17 Q To your understanding, would the unit chiefs attend most of the FITF
18 meetings with the social media companies?
19 A I believe so, yes.
20 Q And how frequently would your unit chiefs provide briefings or updates to
21 you?
22 A About specific social media engagement?
23 Q Providing engagement with the social media companies.
24 A Only if there was like a perceived problem or something like that, or I might
25 have like asked, oh, how did the engagement go? But it was general just kind of update.

1 Q What sort of perceived problems do you recall arising in the context of the
2 unit chief's communications with the social media companies?
3 A I don't. I don't recall any problems.
4 Q You don't recall any specifically, or you don't recall ever having unit chiefs
5 raise concerns?
6 A With social media, I don't recall. I don't recall specific concerns.
7 Q Do you have a sense of what information the unit chiefs were sharing with
8 the FITF -- or excuse me, with the social media companies?
9 A I think it would run the spectrum that I have attempted to describe, general
10 threat understanding, things that the U.S. intelligence community were tracking for
11 situational awareness, all the way over to instances where a selector or an identified
12 account where we had confidence was attributed to a foreign actor could be passed. So
13 some information that could be passed where a social media company could look at it
14 and say: I might be able to look into this and be able to do something about this.
15 Thank you for passing that over -- to just broad, general understanding as we led up to
16 the 2020 election.
17 Q And, before there is a meeting between the FITF and social media
18 companies, would members of the FITF, you know, internally get together to determine
19 an agenda or what information is going to be shared?
20 A Yes.
21 Q Would you participate in those internal meetings?
22 A I would not have participated.
23 Q Were you ever given the opportunity to review an agenda or made aware of
24 what information would be shared in advance of a meeting?
25 A For FITF engagement with social media?

1 Q Yes.

2 A I don't recall an instance.

3 Q We, in the first hour, were talking about -- I believe the title was your

4 assistant section chief?

5 A Yes.

6 Q Would he attend the FITF meetings between the FITF and the social media

7 companies?

8 A I think if he had time on his calendar, he may.

9 Q And remind me his name. I know you provided it earlier.

10 A [redacted]

11 Q And, in terms of the hierarchy of the FITF, was [redacted] as part of his

12 responsibilities, overseeing the three unit chiefs?

13 A Yes. They would have been direct reports to the assistant section chief.

14 Q And, when FITF has these internal meetings in advance of a FITF social media

15 company meeting, would [redacted] partake in those meetings?

16 A My best assessment is, if he had time in his calendar, he would have.

17 Q So it's your understanding if he had time in his calendar, he would attend

18 both the internal pre-meeting, as well as the actual FITF meeting with the social media

19 companies?

20 A Yes.

21 [redacted] Do you know that for sure?

22 Mr. Benavides. I don't know it for sure. Again, the assistant section chief is a

23 relatively senior role. This would have been -- I think he would have done what he

24 could, but it would be based on his calendar and availability. I'm not saying that

25 it's -- I'm not saying that it's 100 percent yes. I'm not saying it's 100 percent no. I'm

1 saying that, in his role, if he had time, I'm sure he would have tried.

2 BY [redacted]

3 Q Do you know whether the potential of a hack-and-leak operation was

4 discussed during any FITF meeting with a social media company in the lead up to the 2020

5 election?

6 A It would not -- I am not aware of specific hack-and-leak narratives being

7 shared out of FITF. I'm not aware.

8 Q If FITF was in possession of information to suggest there was a heightened

9 risk of a potential hack-and-leak operation in the lead up to the 2020 election, is that the

10 type of information that could be shared in a meeting between FITF and the social media

11 companies?

12 A Potentially. A lot of this goes back to sensitive sources, means, and

13 methods and whether or not the information could be conveyed in an unclassified

14 environment in a meaningful way.

15 Q Are you aware of whether the social media companies provided any

16 information to the FITF regarding concerns of a potential hack and leak operation?

17 A No.

18 Q Do you know if the companies were ever warned to be suspicious if a trove

19 of documents or emails appeared online?

20 A I would need a bit more attribution. A trail of documents to appear online?

21 That would be a difficult thing to convey to a social media tech company because you've

22 not given them enough context to understand what they might be looking for. So, if you

23 say documents related to a particular intelligence apparatus of the Iranian regime, that

24 would be a way of conveying it, but not just broadly documents.

25 Q What about documents targeting a particular political candidate?

1 A If the U.S. intelligence community or the FBI had intelligence that we could
2 pass to social media companies to inform them of threats and threat narratives, we
3 would have done so. You're asking me a very specific instance, and I don't recall a
4 specific instance of that.
5 Q Other than members of the FITF, would other members of the FBI attend
6 these FITF meetings, these kind of standing meetings between FITF and the social media
7 companies?
8 A So I want to be precise. The purpose of FITF is cross-programmatic. So
9 FITF is a construct in that you might have someone from the FBI's Cyber Division leverage
10 an opportunity to discuss with social media and tech through the FITF construct, an
11 opportunity to engage social media and tech on, you know, cyber activity, you know,
12 ransomware, things of that nature. If they knew of it, they could potentially leverage
13 that engagement.
14 It wouldn't necessarily be coming from FITF, but it could certainly be through the
15 FITF meeting.
16 Q To your understanding, and using the hypothetical that you gave, would the
17 individual from the Cyber Division actually attend the meeting between FITF and the
18 social media companies, or would the member provide the information to FITF and only
19 FITF members were on the call?
20 A It could be either or.
21 Q To your understanding, would that include individuals from the Criminal
22 Division?
23 A Yes.
24 Q Just at a high level, what is your understanding of the types of matters that
25 would involve a representative from the Criminal Division to be part of the meetings with

1 the social media companies?

2 A Violations of civil rights. And, to give a hypothetical, Republicans are going

3 to vote on this day, but Democrats are going to vote on this day. Something that would

4 confuse in a way that would rise to a violation that could be investigated and potentially

5 indicted.

6 Q In a situation like that, if there is an ongoing investigation, could the Criminal

7 Division provide any sort of information?

8 A I don't understand your question.

9 Q Sure. So let's use your hypothetical. There is a concern about civil rights.

10 If I understood the example correctly, someone is sharing information online that could

11 lead people to believe the election is on a different day than it actually is. Is that right?

12 A I think that the way it would go it would be that the agent or analyst

13 participating would say: Be aware that that type of activity occurs, and it's a violation of

14 Federal law. It's a violation of civil rights. If you see something like that, please report

15 it.

16 Q And what about if there were examples, real-life examples that the FBI was

17 aware of? Could those examples be shared with the social media companies?

18 A I don't think I understand the question.

19 Q Sure. So there is -- it sounds like they would be permitted, "they" being the

20 FBI, would be permitted to share the risk. Be on the lookout for this type of criminal

21 wrongdoing. Is that fair to say?

22 A Yes.

23 Q I guess two questions. First, if there is information or intelligence that is

24 supporting that conclusion, can members of the FITF or other members of the FBI share

25 that with the social media companies to explain why they are saying be on the lookout for

1 this?

2 A It is, I think, established that this type of activity has occurred, either in print

3 or across a social media channel, in various areas across the country. There is enough

4 information there. There is enough activity where the FBI would be able to say: Be on

5 the lookout for this type of behavior. It's a violation of Federal statute, and please

6 report it to us.

7 So, in that instance, you would be able to share that, with a high level of

8 confidence, that this activity has occurred and could occur and so please be on the

9 lookout for it.

10 Q And, to your knowledge, did the FBI have evidence to that threshold that

11 would permit the FBI to share information about the risk of a hack-and-leak operation?

12 A I am not tracking a hack-and-leak operation.

13 Q Do you know if anyone in the FITF was?

14 A I don't know.

15 Q Do you know who Yoel Roth is?

16 A Yes, only -- yes.

17 Q And how do you know who he is?

18 A I recall seeing his name. I recall seeing his name in, I believe, in the prep

19 material.

20 Q To your knowledge, have you ever communicated with Mr. Roth, had any

21 interactions with him?

22 A There is a chance that he would have been a recipient of me doing an

23 introduction and thanking everyone for their time. I don't recall ever having a specific

24 engagement with him.

25 Q Did you have a primary point of contact at any of the social media

1 companies during this time?

2 A Me personally?

3 Q Yes.

4 A No.

5 Q So, in addition to -- you have the members of FITF. Depending on if it's

6 appropriate, there may be someone from the Cyber Division or someone who is not part

7 of the task force itself. Would there ever be members from other Federal agencies that

8 would attend a call, calls between --

9 A From other Federal agencies?

10 Q Yes.

11 A I'm not aware.

12 Q Are you familiar with the October 14th, 2020, New York Post story regarding

13 Hunter Biden's laptop?

14 A Only in the -- from the prep material. I read through it.

15 Q Do you recall if you were aware of it in October of 2020, when the story

16 came out or shortly thereafter?

17 A I don't know if I would have gotten it from the story, but I was aware of a

18 Hunter Biden laptop narrative that was out in the public domain in 2020.

19 Q And, to your understanding, what was that Hunter Biden laptop narrative?

20 A My understanding, and I'll be honest, some of this came from 2 days ago. I

21 was on Wikipedia, anticipating what might be asked. There was a purported laptop

22 dropped off at a repair shop attributed to Hunter Biden.

23 Q And, to your knowledge, is the FBI in possession of that laptop?

24 A Only because of the Wikipedia article, my understanding is, according to that

25 article, the FBI is in possession of the laptop.

1 Q So, until a couple days ago, you didn't know whether the FBI was in
2 possession of the laptop?
3 A I was absolutely aware of a narrative that was being discussed about a
4 laptop attributed to Hunter Biden. I don't know when I would have been made aware
5 that the FBI has the laptop or has a laptop. I did see it in the Wikipedia article.
6 Q Were you ever made aware that the FBI was in possession of the laptop
7 while you were section chief of FITF?
8 A I remember a question being posed broadly if there was a laptop purported
9 to be attributed to Hunter Biden, is it possible that a foreign adversary, like the Russians,
10 could be using that as a way to insert into the U.S. political system false information, bad
11 information, corrupted information, all kinds of things that could be on the laptop? Is it
12 possible, FITF, that the Russians are capable of doing this? And my response would have
13 been yes.
14 Q And who asked that?
15 A At the time, my recollection is it would have come from the EAD, Executive
16 Assistant Director for National Security.
17 Q And who was that at the time?
18 A John Brown.
19 Q And when was this?
20 A Sometime in 2020.
21 Q Do you recall roughly when it was?
22 A Mid, late -- sometime in late 2020.
23 Q Before or after the election?
24 A I don't know -- it would have been before the election because I would have
25 moved on to Deputy Assistant Director.

1 Q Was it before or after the New York Post story came out?

2 A I don't know.

3 Q How did he ask the question? Was it verbally?

4 A It was broad. It would have been, is it possible that the Russians had the

5 sophistication, the capabilities to potentially insert a laptop purported to be associated

6 with Hunter Biden? It would have been a broad question based on my recollection.

7 Q And do you recall the context in which it occurred? Did you receive a

8 phone call? Did you get an email one day?

9 A It would have been face to face.

10 Q Face to face? Here in D.C.?

11 A Yes.

12 Q And the gentleman's name, I'm sorry, was John Brown?

13 A John Brown.

14 Q How frequently did you interact with John Brown as section chief of FITF?

15 A Frequently, relatively frequently.

16 Q And so your recollection is he asked you this broad question, and you

17 respond broadly, just yes?

18 A I mean, without more information, is it conceivable that something like this

19 could happen, my answer would have been yes.

20 Q Did you have to take anything back to your team or conduct your own

21 analysis, or you just were able to provide an answer immediately?

22 A I would have provided the answer immediately based on my understanding

23 of sophisticated Russian operations.

24 Q Did you do anything else after this conversation with him?

25 A Not that I immediately recall. Not that I recall.

1 Q Did you have any discussions with your assistant section chief?

2 A With my assistant section chief? Not necessarily with my assistant section

3 chief. It is likely, because I know myself, that I would have asked: Please be mindful.

4 Look for chatter that might inform this type of question.

5 Q And who would you have said that to?

6 A I would have said that to my assistant section chief, my unit chiefs, et cetera.

7 Q Would [redacted] have been the most appropriate unit chief to talk to?

8 A Yes.

9 Q During your tenure as section chief of FITF, did [redacted] ever raise, you

10 know, concerns or notify you regarding chatter of a Russian hack and leak?

11 A No, not that I'm aware of.

12 Q Did Mr. Brown ever follow up with you?

13 A Say that one more time.

14 Q Did Mr. Brown ever follow up with you after his initial question?

15 A I don't recall a specific instance of a followup.

16 Q Are you aware of the statements from various whistleblowers that the FBI

17 was first in possession of the laptop as early as the end of 2019?

18 A No.

19 Q Even today? You don't have any knowledge of that?

20 A No.

21 Q Are you aware that Laura Dehmlow testified before this committee?

22 A I am.

23 Q Are you aware that she was asked if she knew whether the FBI was in

24 possession of a laptop?

25 A No.

1 Q To your understanding, did other members of the FITF know whether the FBI
2 was in possession of this laptop?
3 A I don't know.
4 Q Did you ever have any conversations with them about it?
5 A Broadly, from a FITF perspective, could it be a Russia intelligence operation?
6 Please be mindful and be on the lookout for anything that might inform that type of
7 question that came down from John.
8 Q Prior to John, your conversation with John Brown, did you have any
9 conversations with anyone in the FITF regarding the FBI's possession of the laptop?
10 A No.
11 Q Did you have any -- prior to your conversation with John Brown, did you
12 have any conversations with anyone in the FBI regarding the FBI's possession of the
13 laptop?
14 A I don't recall having those types of conversations, no.
15 Q Okay.
16 Prior to your conversation with John Brown, did you have any discussions with
17 anyone in the government regarding the FBI's possession of the laptop?
18 A I would not have discussed anything about the laptop within the
19 government. If I knew that the FBI had possession of it, that would have been outside of
20 FITF.
21 Q What do you mean by that?
22 A Meaning that there would not have been a FITF part of our mandate.
23 Knowing that the FBI had the laptop, the FITF would not have had the laptop. I would
24 have known that the FITF had the laptop, in other words.
25 Q Sure, sure.

1 To your understanding, which division would have had the laptop?
2 A Likely the Criminal Division.
3 Q Did you have any discussions with anyone from the Criminal Division
4 regarding the FBI's possession of the laptop?
5 A I did not.
6 Q To your knowledge, did anyone part of the FITF have any conversations with
7 anyone in the Criminal Division regarding the FBI's possession of the laptop?
8 A Regarding the FBI's possession of the laptop? I don't know. But FITF
9 would have been in a position to inform of general threat understanding of what a
10 foreign adversary could be up to.
11 Q Taking the related issue, to your understanding, did anyone from FITF have a
12 conversation with anyone from the Criminal Division regarding whether a foreign
13 adversary was working to possibly conduct a hack-and-leak operation as related to
14 Hunter Biden?
15 A A hack-and-leak operation? I don't have knowledge of that, no.
16 Q Knowledge of the operation or knowledge of any conversation between the
17 FITF and the Criminal Division?
18 A Specifically on hack and leak?
19 Q Yes.
20 A No, I don't.
21 Q Anything related to the laptop.
22 A I think, again, the FITF would have been in a position to provide general
23 threat understanding of what a foreign adversary like Russia would be capable of doing.
24 Q To your knowledge, did anyone from the FITF share information with any
25 social media company on the day the story broke about the FBI's possession of the

1 laptop?

2 A I am not sure that FITF did that or that FITF would have done that.

3 Q Why do you say you're unsure?

4 A The FITF would have provided broad threat understanding. The FITF on the

5 other end could have provided actionable intelligence, such as a selector or an account.

6 The FITF I don't assess would have been discussing a laptop with social media or tech

7 companies.

8 Q Do you know if the FITF was being asked by the social media companies the

9 day the story broke whether the FBI has the laptop?

10 A As part of my prep material, I know that that question was asked to Laura, I

11 believe.

12 [redacted] At the time, you were section chief of FITF did you know that?

13 Mr. Benavides. Not at the time I was section chief of FITF, no. Apologies.

14 BY [redacted]

15 Q So your assistant section chief and none of the unit chiefs raised the issue

16 with you?

17 A Not that I'm aware of.

18 Q Do you know if it was raised by -- in multiple meetings, multiple FITF social

19 media companies, the same question?

20 A I don't.

21 Q Are you aware of any discussions among FITF and other FBI personnel about

22 how to respond to that question?

23 A Only because of the prep material.

24 Q So, during your time as section chief, you were unaware of the internal

25 discussions that FITF members were having about how to respond to this question?

A I was not aware of that.

Q Is that a set of issues that should have been raised to you as section chief of FITF?

A I don't know. I don't know. Typically, if the FBI has an investigation, that would be outside -- that would be outside of what FITF would be attempting to do. FBI predicating -- the FBI doesn't really comment on investigations. The FBI doesn't comment on investigations generally.

Q To your understanding then, why did there have to be internal discussions among FITF members following a meeting with -- between FITF and the social media company where this question was asked?

A Oh, I don't know.

Q You don't know.

How frequently were you in touch with your unit chiefs in October of 2020?

A Daily.

Q Daily?

What was the threshold as far as what issues would be raised to your desk?

A If there was a friction point where an executive could potentially remove the barrier or otherwise reach alignment or otherwise reach some sort of consensus.

Q Ms. Dehmlow testified that, during these internal discussions, a decision was made and that she was not the decisionmaker. If you were not part of these discussions, who are the decisionmakers above Ms. Dehmlow that could have made that decision?

A I don't know. I mean, if you look at the way FITF is structured, it would only be potentially [redacted] or myself above Laura Dehmlow. Outside of that, you've got the national security law branch. You have all kinds of components within the FBI that

1 could be consulted. I don't know.

2 [redacted] Can we go off the record, please.

3 [Recess.]

1

2 [3:38 p.m.]

3 BY [redacted]

4 Q A couple clarifying questions about what we were just covering at the end of

5 the previous hour.

6 Are you aware of any element of the FBI that was warning about hack and leak

7 narratives and was sharing that with social media companies?

8 A No.

9 Q In your conversation between you and Mr. Brown, was it just the two of

10 you?

11 A I don't recall.

12 Q Okay. And when you provided your response, walk me through what your

13 exact -- was it just a short yes? Did you provide --

14 A I think it was a short yes.

15 Q Did you provide any sort of detail?

16 A There would not have been a need to do that.

17 Q Why not?

18 A John Brown is a counterintelligence professional.

19 Q And what do you mean by that would not need any further detail to --

20 A The -- for all I know, the question could have been rhetorical. I don't know.

21 I mean, John is steeped in counterintelligence methodologies. There would not have

22 been a need for me to contextualize for John Brown.

23 Q Why did he need to ask you the question?

24 A Again, it might have even been rhetorical. He might have been thinking out

25 loud. I don't know. But it is my assessment that he asked the question and I said, yes,

1 of course. And that would -- that was the end of the conversation.

2 Q Do you recall any meetings with anyone in FBI leadership in between when

3 the New York Post story came out and the days that followed -- we'll say, before the

4 election -- regarding the laptop?

5 A Ask the question again, please?

6 Q Sure. Just from October 14th until election day, early November of 2020,

7 did you have any discussions with anyone in FBI leadership regarding the laptop?

8 A Not to my recollection, outside of the conversation with John.

9 Q Okay. Are you aware of whether social media companies continued to

10 contact the FBI requesting information on --

11 A I am unaware of that.

12 Q Are you aware that Ms. Dehmlow testified that she believed you were aware

13 that the FBI had the laptop?

14 A Based on what I saw in the prep binder, I don't think that those would have

15 been the words, sir. I think, for what -- based on my recollection, if the laptop was real,

16 which is a completely different issue in my mind as opposed to Hunter Biden laptop

17 generically.

18 Q Okay. How so?

19 A I don't know what real means, and I would need context for that. And I

20 can't put myself in Laura's testimony to understand what she might have been trying to

21 convey based on the question that was asked to her.

22 Q Did you have any knowledge of the FBI's possession of any laptop, regardless

23 of whether the laptop had been authenticated, determined to be Hunter Biden's laptop,

24 determined to be a version of Hunter Biden's laptop possibly corrupted, possession of any

25 laptop whatsoever connected to this issue?

1 A I was aware of a public narrative around this generally. I assessed, based
2 on John's question, that the FBI might be in possession of the laptop. I was never told,
3 nor would I have asked, Does the FBI have this laptop? I would not have done that.
4 Q Why would you not have asked?
5 A This is important for you to understand. Years of experience in the FBI,
6 there are policies and protocols. There are ways that the FBI conducts -- comports itself,
7 conducts. There are crimes against children, which are egregious, and there are
8 protocols to protect that. There are counterterrorism investigations that may be
9 incredibly sensitive, counterintelligence investigations that may be incredibly sensitive.
10 I would not have asked because it would not have been within my purview at that
11 time on if a component of the FBI had Hunter Biden's laptop. That's why I would not
12 have asked.
13 I would have known if the FITF had the laptop. I would have known that, but I
14 would not have asked proactively if some other element within the FBI had it.
15 Q How do you think members of the FITF learned that the FBI was in
16 possession of the laptop?
17 A There was a public narrative about this. I don't know that the FITF actually
18 knew that the FBI had possession of the laptop. I don't know that.
19 Q Are you aware that Ms. Dehmlow testified that during one of the meetings
20 between the FITF and the social media companies, that someone from the FBI answered
21 affirmatively when asked about the laptop?
22 A I am vaguely aware of that because of the prep material, but I don't know
23 the exact details of that.
24 Q Okay. Given what you stated two answers ago about the FBI's protocol,
25 does that surprise you?

A You mean if true?

Q If true.

A It would surprise me if true. The FBI doesn't comment on investigations, but it's also a human -- it's a human -- it's a human entity where people, if asked a question, could respond.

So, if true, would I be surprised? Yes, potentially.

Q Are you familiar that Ms. Dehmlow testified that when that meeting occurred on the 14th, that was not when she learned about the laptop's existence?

A Oh, I don't know.

Q She knew prior to that meeting?

A I don't know.

[redacted] Are you referring to her transcript, a certain page, or what testimony are you referring to?

[redacted] Yeah. I'm referring to her testimony before the committee.

[redacted] Can you just give us a cite so we can confirm that that's accurate?

[redacted] Sure. I mean, we have the -- we can go through the --

[redacted] Just the page would be fine.

[redacted] -- testimony itself right now.

[redacted] Just the page from what you just said, for the record.

[redacted] I want to make sure I read it correctly, then, for the record.

[redacted] To be clear, [redacted] is doing a courtesy for the minority request. There is no requirement that we cite to this document. If he asks a question and he represents that this is what was testified to, we still expect an answer to that question.

[redacted] I think to the extent that the question is precise, we've been talking about whether the laptop was real and what that means versus whether the FBI had it in

its possession. So I just want to be very clear that he knows what exactly -- which one of those questions Ms. Dehmlow was responding to.

[redacted] Okay. This is on page 37 of the transcript, lines 2 to 5.

Question from staff: When the information was relayed to you following the Twitter call, the first agent had said the laptop was real. Just to clarify, you knew prior to that conversation that the laptop was real. Is that correct?

Ms. Dehmlow answers: I did, yes.

BY [redacted]

Q Mr. Benavides, given your understanding of the FITF's interactions with the Criminal Division, to your understanding, how would have Ms. Dehmlow learned that information?

A The FITF is a cross-programmatic construct. It is possible that Laura did receive that type of information from -- from the Criminal Division. That is a possibility.

Q And she's on the China Unit at this time. Is that right?

A Yes.

Q So if Ms. Dehmlow's receiving that information, do you think it's likely members of the Russia Unit were receiving this information?

A It is plausible.

Q But your testimony is that you did not receive any information?

A I do not remember -- I do not recall a moment where I was given information that the FBI was in possession of a laptop.

[redacted] That's not what the excerpt said. It said that the laptop was real.

Mr. Benavides. But that wasn't your question. You weren't asking me if the laptop is real.

BY [redacted]

1 Q That's right. The question was about possession.

2 A You were asking me about possession of the laptop.

3 Q We'll ask the same set of questions regarding whether the laptop was real.

4 A Okay.

5 Q So, first, did you have knowledge in the fall of 2020 that the laptop was real?

6 A I don't know what real means, and in my mind, if someone says "the laptop

7 is real," it is a real laptop, not a thumb drive, not a compact disk, not an external drive.

8 In other words, a real laptop, not to be confused with a desktop. It was how I would

9 understand if someone says "the laptop is real." It is a real thing in existence, which

10 would be completely different than authenticated or attributed.

11 Q Okay. Not saying authenticated, not saying attributed. Did you have any

12 knowledge about whether the laptop was real?

13 A That a laptop was being discussed in a public narrative, a public way, I was

14 aware that that was being discussed. And after John asked me the question, I assessed

15 that John had some understanding that there was a laptop.

16 Q And what led you to that assessment?

17 A No, I don't recall anyone telling me the FBI has possession of a laptop.

18 Q Okay. What about -- what was it about John's question that led you to that

19 assessment?

20 A John is a counterintelligence professional who I respect. If he asked the

21 question, it is reasonable to assess that John is tracking a laptop.

22 Q Did he ask anyone else this question?

23 A I don't know if anyone else was in the room. He -- I remember him asking

24 me this question.

25 Q So it's possible others may have heard the question?

A I don't know. Yes, if others were in the room, it would be plausible that they would have heard. I can't recall if anyone else was in the room.

[redacted] Can you speak to other conversations that John Brown had with others that you weren't a party to?

Mr. Benavides. No. Yeah. I mean, I can, but I am unaware of other conversations that John Brown had.

BY [redacted]

Q Okay. In an earlier response, you had said it would have been likely -- you don't have a specific recollection -- but you might have spoken to [redacted] about this.

A I do not recall a direct conversation with [redacted]

Q Under standard protocol of how FITF operates, if John Brown asks you a question as it relates to Russia's capabilities, would you convey that question to [redacted]?

A I don't know that I would have conveyed it as a John Brown question. It would have been reasonable for me to say, Be mindful, let's make sure that we are tracking if anything comes across for us to inform our understanding to better understand, is a foreign actor up to something. That would have been exactly what the FITF would have been meant to do.

Q And if you had said that to [redacted] would he have reached a similar conclusion to you that there must be something else going on here?

A I think that it would have -- he could have assessed that, but I think it would have been reinforcing that there was a -- there was a public narrative about this already. I think that he -- he could have assessed that. I don't know what he thought, but he could have assessed it. I don't -- I do not have -- I don't recall having a direct conversation with [redacted]

Q In the lead-up to the 2020 election, did you learn of any nonpublic information regarding the laptop?

A No.

Q All right. To your knowledge, did anyone part of the FITF at the time, did they learn of any nonpublic information regarding the laptop?

A I don't know.

Q So based off your recollection, the whole extent of your knowledge as it relates to the laptop is a single question and a single conversation from John Brown?

A At the time that I was in the FITF, it would have been a public awareness -- a general understanding that this narrative was out and in John asking, Is this something that the Russians could be capable of doing?

Q When did you learn that there was a criminal investigation ongoing related to the laptop?

[redacted] Can we go off the record for a minute?

[redacted] Yes.

[Discussion off the record.]

[redacted] Are we back on the record?

[redacted] Yes. Mindful of the ongoing investigation, we need to be careful about questions regarding specific investigative activity, but he can answer this question.

Mr. Benavides. Can you ask the question again, please?

[redacted] Sure.

BY [redacted]

Q When did you learn that there was an ongoing criminal investigation related to the laptop?

A The Wikipedia page.

Q In prep for today?

A Yes.

Q So you had no knowledge during your tenure at the FBI?

A Of an investigation related to the laptop?

Q Yes.

A No.

Q Are you familiar with the October 21st, 2020, briefing that the FITF provided to [redacted]?

A No.

Q Do you know who [redacted] [redacted] is?

A I don't. I mean, I know that his name is out there, but I've never met him, that I recall. I don't know him as a person.

Q Did you work on the investigation into the DNC hack in the summer of 2016?

A I did not.

Q Did you work on the Crossfire Hurricane investigation?

A I did not.

Q Have you ever worked with Jim Baker?

A I've never worked with Jim Baker. I know who Jim Baker is.

Q Have you ever worked on any investigation involving Hunter Biden?

A No.

Q Do you know if FITF would provide briefings regarding whether a confidential human source was the victim of a foreign influence operation?

A Briefings to whom?

Q To other members of the FBI.

A Yes.

1 Q And how frequently would those occur?

2 A I don't know the frequency of which that would have occurred.

3 Q When a briefing like that occurs, who from the FITF attends those meetings?

4 A It would likely be the unit chief.

5 Q Do you know what switchboarding is?

6 A Not without more context.

7 Q Okay. Are you familiar with -- the agency CISA says it engages in

8 switchboarding or used to engage in switchboarding and no longer does.

9 Does that term mean anything to you?

10 A It does not.

11 Q Now, when the FBI would send materials to social media companies --

12 A I don't know that the FBI sent materials to social media companies.

13 Q Are you familiar with what teleporter is?

14 A No.

15 Q Are you familiar with -- that Elvis Chan provided a deposition in the Missouri

16 v. Biden case?

17 A No.

18 Q You're unaware of that?

19 A I'm unaware of that.

20 Q Are you familiar with the ODNI's Foreign Malign Influence Center?

21 A Broadly. That -- I have -- I think I've heard that, yes.

22 Q Do you recall if you worked with them in any capacity?

23 A No, I did not. Not that I'm aware of.

24 Q Do you know if ODNI personnel would ever attend the FITF meetings with

25 the social media companies?

1 A I don't know.

2 Q Now, what is Sentinel?

3 A Sentinel is the FBI's investigative and intelligence system of record, would be

4 my best way to describe Sentinel.

5 Q Do you know if following a meeting between the FITF and a social media

6 company, if anyone from the FITF or from the FBI generally would memorialize that

7 meeting in any way?

8 A I think that that would be standard, yes.

9 Q Okay. And to your understanding, based under the FBI's protocols, would

10 those records from meetings with social media companies in 2020 be available still?

11 A If it occurred and was uploaded into Sentinel, that would be available.

12 Q Besides the meetings that would take place, are you aware of other forms of

13 communication between the FBI -- I'll start specifically between the FITF and social media

14 companies?

15 A No.

16 Q You testified earlier you have a general awareness of or knew of Mr. Chan

17 from some prior interactions.

18 A Yes.

19 Q And then, if I understood your testimony correctly, while you were part of

20 FITF, you were not directly engaged with Mr. Chan, but you were aware that members of

21 your team were. Is that right?

22 A Yes.

23 Q Do you have an awareness of how Mr. Chan was interacting with the social

24 media companies?

25 A No.

1 Q Do you know if he ever sent -- would communicate materials via text
2 message or via Signal --
3 A I don't know.
4 Q -- to members of the social media companies?
5 A I don't know.
6 Q Are you familiar in any context of the FBI communicating with private
7 partners via Signal?
8 A No.
9 Q To your understanding, is that consistent with the FBI's standard practices,
10 protocols?
11 A What's the que- -- I don't --
12 Q To communicate with private partners via Signal.
13 A I would -- I'm not aware of that.
14 Q We were discussing -- I think this was back in the first hour -- the whole
15 process by which the FITF would conduct assessments if they determine that there was a,
16 you know, foreign state attribution, foreign actor attribution, it would -- you know, if it
17 met a certain threshold, at that point, it would be potentially communicated to the social
18 media companies.
19 A Potentially.
20 Q Yeah. During your tenure as section chief of the FITF, do you know how
21 many accounts --
22 A No.
23 Q -- were communicated to --
24 A No, sir.
25 Q Who at the FITF would probably know that, the answer to that question?

1 A Oh, I -- I don't know.

2 Q To clarify an earlier answer, you said that if you were to have spoken to

3 [redacted] following your conversation with Mr. Brown, you might have said something

4 like, Be mindful of this, look for chatter for this.

5 Independent of whether it was actually following that conversation with

6 Mr. Brown, do you recall any conversations with [redacted] in 2020 regarding, Be on the

7 lookout for chatter regarding a Russian hack and leak operation?

8 A Not specifically with -- with [redacted] or a hack and leak operation.

9 Q Okay. What about with others within the FBI?

10 A I would have broad -- it would have made sense for me to broadly state, Be

11 mindful, this narrative is out there. Look for evidence. Look for -- look for this to

12 inform the threat picture.

13 Q So I appreciate your response, start off with it would make sense. Do you

14 have any recollections of actually doing that?

15 A No.

16 Q Even in a general sense?

17 A Even in a general sense.

18 Q When, like, a issue would occur, you know, where your unit chiefs had an

19 issue that they felt they needed to raise to you, in the fall of 2020 -- obviously this is

20 during COVID -- is everyone in person? Is everyone remote? How do you -- how are

21 you typically communicating with your team?

22 A In person.

23 Q And so these typically would be in-person conversations then?

24 A Yes. Or secure email or something like that.

25 Q And to your recollection, were there any conversations you had with the unit

1 chiefs regarding a laptop that may or may not be real? Not necessarily Hunter Biden's
2 laptop, not necessarily that the FBI is or is not in possession. Just generally the same
3 kind of broader issue we were discussing earlier, did you have any discussions with your
4 unit chiefs on this issue?
5 A I don't recall a general discussion with my unit chiefs on this. It would have
6 made sense that, after John asked the question, that I would have said, Let's inform this
7 and understand that there is a threat. I don't recall saying -- I don't recall doing that.
8 Q And as we've been going back and forth on this for a little bit now and you're
9 thinking about it, do you have any sense of whether -- of when that conversation with
10 Mr. Brown occurred in 2020?
11 A Sometime in late 2020.
12 Q Okay. Do you think it was more than a month before the election?
13 A I don't know.
14 Q And given his title, I would assume Mr. Brown is working in D.C. every day.
15 Is that a correct assumption?
16 A At the time?
17 Q At the time.
18 A Yes, he would have been in Washington, D.C.
19 Q Was the entire FITF Task Force working in person?
20 A Are you asking did every FITF member come to the office each day?
21 Q No.
22 A Okay.
23 Q Just during 2020, some folks were working remotely. Some folks were
24 working in person. The office of the FBI --
25 A The FBI doesn't work remote.

Q Okay.

A Yeah.

Q So everyone, barring sickness or vacation days, from FITF was in the D.C. -- was in headquarters. Is that right?

A It was a headquarters construct, yes.

Q Okay. All right. Independent of the FITF social media standing meetings, did you have any primary points of contact at any social media company?

A No.

Q Even from prior roles at the FBI?

A No.

Q When you became section chief of FITF, was Elvis Chan already serving his role as the conduit between social media companies and FITF?

A Yes.

Q You testified you only attended a couple meetings, but for the couple meetings you did attend, is it your understanding whether Mr. Chan would attend those meetings?

A It would be likely that he would have.

[redacted] Do you recall?

Mr. Benavides. I don't recall specifically.

[redacted] Can we go off the record, please?

[Discussion off the record.]

[redacted] Okay. Can we go back on the record, please?

BY [redacted]

Q Okay. I just want to clarify some of the language that was being used in the questioning and answers, especially last hour, that seemed sort of hypothetical, like

1 questions that used the word "would you" or "could you" or "if this happened."

2 Can you just help clarify for the record: What part of what you said is things that

3 happened and what part of what you said is sort of like speculation that's hypothetical?

4 And specifically regarding this conversation that you had with John Brown, I think that

5 you indicated that there was a narrative, is how you put it, about a laptop.

6 Do you recall talking about a narrative about a laptop?

7 A With John?

8 [redacted] Public narrative?

9 [redacted] Yes.

10 Mr. Benavides. Public narrative? My understanding is that there were things

11 out discussing a laptop purported to be associated with Hunter Biden in the general

12 public.

13 BY [redacted]

14 Q Okay. And when you said narrative, are you talking about just, again,

15 information out there in public?

16 A Yes.

17 Q Okay. And you said that you did have a conversation with John Brown that

18 actually happened. It wasn't hypothetical, right?

19 A That is correct.

20 Q Okay. But that conversation, was it about a narrative about a laptop or was

21 there something that led you to believe that John Brown had -- or did he tell -- let me just

22 ask this: Did John Brown tell you he had a laptop?

23 A John Brown did not tell me that.

24 Q Okay. Did he tell you that he had knowledge that there was a laptop?

25 A He did not.

1 Q Okay. Did you and John Brown discuss a narrative about a laptop?
2 A No.
3 Q Okay. And so when you responded to John Brown, you I think made this
4 clear, but just for further clarification, you had no knowledge of a laptop purported to
5 belong to Hunter Biden outside of whatever narrative you were speaking of?
6 A That is correct.
7 Q Okay. And as far as you know, John Brown didn't either?
8 A Oh, I -- I can't speak for John Brown.
9 Q Okay. So that conversation was mostly about narratives in the public
10 domain and hypothetical --
11 A Based on my recollection, it was a -- it was a broad question, Is this
12 something -- is something like this something that the intel -- Russian intel apparatus
13 could potentially be capable of doing. And my response would have been yes.
14 Q Okay. And as far as you know, when you say this, like something like this,
15 he could have been referring to the story or the narrative that he had come across?
16 A Yes.
17 Q He's not necessarily talking about the laptop itself?
18 A I don't think so.
19 Q Okay. You mentioned that at some point -- I think you said, when you were
20 reading a Wikipedia article, you came to learn that there was an ongoing criminal
21 investigation that related to a laptop?
22 A I don't recall that from the Wikipedia. I was made aware per the Wikipedia
23 article that the FBI had taken possession of a laptop circa December of 2019.
24 Q Okay. You didn't have that knowledge from your role in the FBI?
25 A Absolutely not.

1 Q And you don't know anything about whether there was a criminal
2 investigation. Is that fair to say?
3 A A criminal investigation into a laptop?
4 Q Yeah. Let's --
5 A I'm unaware of that.
6 Q Okay. I just want to clarify, because some of the questions were just so
7 broad and so hypothetical. Like, let's be really specific.
8 Do you have any knowledge that the FBI has an ongoing criminal investigation
9 related to a laptop purported to belong to Hunter Biden?
10 A I do not have firsthand knowledge of that.
11 Q Okay. Do you have any knowledge outside of the Wikipedia or media
12 articles that you would have read?
13 A No.
14 Q Nothing specific to your time in the FBI?
15 A No.
16 Q And you never had that kind of knowledge, is that fair to say, that was
17 specific to your role in the FBI?
18 A In the investigation into a laptop, no.
19 Q Okay. Going back to the time when, you know, these defensive briefings
20 occurred and a lot of the other timeframe that we were discussing in previous hours. So
21 this is 2020 right before the 2020 election. I think that you made this clear, but FITF and
22 your role that you were occupying there at the time was not interested in criminal
23 investigations. You were interested in foreign influence operations, right?
24 A I can't speak to investigations. I can't speak to investigations.
25 Q FITF didn't conduct investigations, right?

1 A FITF did not conduct investigations like -- FITF did not -- FITF is a
2 headquarters component. The FBI headquarters components typically do not conduct
3 investigations. Field offices conduct investigations.
4 Q Okay. Are you familiar with FARA, the Foreign Agent Registration Act?
5 A Generally, yes. I'm not an expert.
6 Q Okay. You've never been in a role where you were investigating those
7 offenses?
8 A Where I was investigating those offenses? No. I would not have been the
9 primary investigator, no.
10 Q Okay. In your role in counterintelligence or specifically with FITF, would
11 there ever have been a point where you needed to work with investigators on the
12 criminal side who were prosecuting those offenses?
13 A Yes. Potentially, yes.
14 Q Did that ever actually happen in your experience?
15 A You said in my time in counterintelligence plus FITF.
16 Q Yes.
17 A Specifically with regards to the criminal side of the house, I don't recall an
18 instance of that.
19 Q The FITF sometimes was charged with sharing information to people on the
20 operations and investigations side. Is that right?
21 A Yes.
22 Q I mean, your information would have been related to foreign influence,
23 right?
24 A Our information would have been related to malign foreign influence and
25 what foreign adversaries may be up to.

Q So if there was, hypothetically, some kind of investigation on the criminal side that involved foreign influence, like, say, a FARA-type charge, for example, there's a possibility that FITF might have been involved in giving information or sharing information with an operational team in that context. Is that fair?

A I think that that is a hypothetical, but it would have been -- if the FITF had information that another component within the FBI needed to understand what it is that FITF knew, FITF would have had a mechanism to share that.

Q Okay. In 2020, leading up to the election, we talked a lot about kind of what was going on. We shared some articles that had public information about certain actors -- Rudy Giuliani, for example, and Andrii Derkach, and the foreign information that they were pushing to Senators Grassley and Johnson and other people.

Did you ever have any role in providing information to investigators that was related to the placement of that foreign -- of that information?

So, like, we talked about this Andrii Derkach's information that came from Ukraine related to the Bidens, allegedly. There's lots of information now in the public record that that was foreign-attributed to Andrii Derkach and others in the Russian Government.

Was there ever any criminal investigation that you were aware of regarding the foreign, like, placement of that information, FARA investigation, anything in that regard?

A Not that I'm immediately aware of.

Q Okay.

[redacted] All right. I don't have any further questions. Go off the record.

[Discussion off the record.]

[redacted] If we can go back on the record, please.

BY [redacted]

Q Do you know who [redacted] [redacted] is?

1 A The name does not ring a bell.

2 Q Okay. Do you know who [redacted] is?

3 A The name does not immediately ring a bell.

4 Q To clarify, I guess, a couple rounds of questions on this, your conversation

5 with Mr. Brown, it was your testimony earlier that although the laptop wasn't mentioned

6 by Mr. Brown directly, that your assessment walking away from that conversation was

7 that the laptop -- that there was a laptop that was real because of it?

8 A My assessment would have been -- if John is asking if the Russian

9 Intelligence Service is capable of an operation, my assessment would have been that

10 there was potentially a laptop.

11 Q Independent of whether it's related to a laptop or not, did FITF personnel

12 ever escalate to your attention concerns related to Hunter Biden?

13 A I don't know. What context do you mean?

14 Q So you have your unit chiefs.

15 A Uh-huh.

16 Q During your tenure at FITF from 2019 to 2020, obviously there is -- you

17 testified earlier only issues of a certain threshold are going to get raised for your

18 consideration. Was there ever an instance where an issue that was raised to your

19 attention related to Hunter Biden?

20 A Not that I recall.

21 Q What about the Biden family generally?

22 A There was a tremendous amount of information being provided in various

23 ways that the Russia Intel Service sought to denigrate the Biden family.

24 Q And was there anything that you recall, you know, separate from whatever is

25 out in the public domain, where your unit chiefs raised an issue to you?

A Specifically about Hunter Biden?

Q Specifically about anything related to the Biden family.

A Not that I'm aware of.

Q And for these questions, your unit chiefs or your assistant section chief, it's the same answer?

A Yes.

Q Do you recall receiving -- or do you recall having anything escalated to your attention from either your assistant section chief or any of the unit chiefs regarding Burisma?

A No.

Q Do you recall any discussions with anyone at the FBI regarding Burisma?

A No.

[redacted] Can we go off the record, please?

[Whereupon, at 4:26 p.m., the interview was adjourned.]

1 Certificate of Deponent/Interviewee

2

3

4 I have read the foregoing ____ pages, which contain the correct transcript of the

5 answers made by me to the questions therein recorded.

6

7

8

9 _____

10 Witness Name

11

12

13 _____

14 Date

15

[redacted] (OGC) (FBI)

From: [redacted] (OGC) (FBI)
Sent: Tuesday, August 27, 2024 1:58 PM
To: [redacted]
Subject: RE: [redacted]

Sounds good - next week (or whenever is most convenient for you all) works too. I'm around. 😊

Thank you!

-----Original Message-----
From: [redacted]@mail.house.gov>
Sent: Tuesday, August 27, 2024 1:32 PM
To: [redacted](FBI) [redacted]@fbi.gov>
Subject: [EXTERNAL EMAIL] - RE: [redacted]

Thanks, [redacted]! Let me get back to you a good date to you soon about a good date to review Floris, if not tomorrow.

-----Original Message-----
From: [redacted]@fbi.gov>
Sent: Monday, August 26, 2024 4:06 PM
To: [redacted]@mail.house.gov>
Subject: RE: [redacted]

Hi [redacted],

Hope you had a great weekend!

For [redacted], I have not been able to find any notes from an errata review. If possible, I'm happy to come up this week to review if there's a time that works on the Committee's end? Perhaps Wednesday afternoon?

For Benavides, I tracked down the errata we provided (my understanding is that OLA sent this by email as part of a submission of multiple interview errata responses):

Bradley Benavides Transcribed Interview, September 2023

Errata:

- Pg. 5, ln 5: Should be a space in "Brandnew"
- Pg. 9, ln 19: "Denver headquarters" should be Denver Field Office
- Pg. 10, ln 12: "assistant or section chief" should be Assistant Section Chief

Redactions:
Please redact any mention of the names [redacted] and [redacted], including those listed below.

- Pg. 11, ln 23: Please redact "[redacted]"
- Pg. 16, ln 3: Please redacted "[redacted]"
- Pg. 20, ln 21: Please redact "[redacted]"
- Pg. 139, ln 4: Please redact "[redacted]"
- Pg. 141, ln 11: Please redact "[redacted]"
- Pg. 141, ln 12: Please redact "[redacted]"

- Pg. 141, ln 16: Please redact "[redacted]"
- Pg. 145, ln 16: Please redact "[redacted]
- Pg. 146, ln 21: Please redact "[redacted]
- Pg. 149, ln 8: Please redact "[redacted]"
- Pg. 149, ln 10: Please redact [redacted]
- Pg. 153, ln 25: Please redact [redacted]
- Pg. 161, ln 8: Please redact "[redacted]
- Pg. 161, ln 10: Please redact "[redacted]
- Pg. 161, lns 19-20: Please redact [redacted]
- Pg. 167, ln 3: Please redact [redacted]
- Pg. 174, ln 25: Please redact [redacted]
- Pg. 175, ln 2: Please redact [redacted]

Thanks!
[redacted]

-----Original Message-----
From: [redacted]@mail.house.gov>
Sent: Monday, August 26, 2024 12:20 PM
To: [redacted](OGC) (FBI) <[redacted]@fbi.gov>
Subject: [EXTERNAL EMAIL] - Re: [redacted]

Hi [redacted] — following up on the [redacted] and Benavides transcript reviews that we discussed. Thx!

[redacted]

> On Aug 20, 2024, at 1:02 PM, [redacted]@mail.house.gov> wrote:
>
> Just tried you. Call me when you can: [redacted].
>
> -----Original Message-----
> From: [redacted]fbi.gov>
> Sent: Monday, August 19, 2024 3:32 PM
> To: [redacted]@mail.house.gov>
> Subject: RE: [redacted]
>
> Great, 1pm is perfect - I'm at [redacted]
>
> Thanks!
>
> -----Original Message-----
> From: [redacted]@mail.house.gov>
> Sent: Monday, August 19, 2024 12:05 PM
> To: [redacted](OGC) (FBI) <[redacted]@fbi.gov>
> Subject: [EXTERNAL EMAIL] - RE [redacted]
>
> Thanks [redacted]. No worries at all! Yes, tomorrow will work. How's 1pm? I need less than 5 minutes.
>
> [redacted]
>
> -----Original Message-----
> From: [redacted]@fbi.gov>

> Sent: Monday, August 19, 2024 11:24 AM
> To: [redacted]@mail.house.gov>
> Subject: RE: [redacted]
>
> Hi [redacted],
>
> I apologize for the delay - I was out of the office the end of last week and just catching up! Would tomorrow afternoon work for you by chance?
>
> Thanks so much,
> [redacted]
>
> -----Original Message-----
> From: [redacted]@mail.house.gov>
> Sent: Monday, August 19, 2024 11:18 AM
> To: [redacted](OGC) (FBI) <[redacted]@fbi.gov>
> Subject: [EXTERNAL EMAIL] - FW: [redacted]
>
> Following-up on the below. I just have a quick question related to [redacted] and Brad Benavides. Please let me know some times that you have to speak this week. Thanks.
>
> [redacted]
>
> -----Original Message-----
> From: [redacted]
> Sent: Thursday, August 15, 2024 4:42 PM
> To: [redacted]@fbi.gov
> Subject: [redacted]
>
> Hi [redacted],
>
> Do you have time for a quick call today or tomorrow afternoon?
>
> Best,
> [redacted]
>
> [redacted]
> Senior Special Counsel
> House Judiciary Committee
> [redacted]
>

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: MATTHEW M. GRAVES

Tuesday, October 3, 2023

Washington, D.C.

The interview in the above matter was held in room 2237, Rayburn House Office Building, commencing at 10:00 a.m.

Present: Representatives Jordan, Gaetz, Biggs, and Swalwell.

1 Appearances:

2

3

4 For the COMMITTEE ON THE JUDICIARY:

5

6 [redacted] COUNSEL

7 [redacted] GENERAL COUNSEL

8 [redacted] COUNSEL

9 [redacted] COUNSEL

10 [redacted] DEPUTY GENERAL COUNSEL

11 [redacted] PROFESSINAL STAFF MEMBER

12 [redacted] COUNSEL

13 [redacted] CHIEF COUNSEL FOR OVERSIGHT

14 [redacted] MINORITY CHIEF OVERSIGHT COUNSEL

15 [redacted] MINORITY STAFF ASSISTANT

16 [redacted] MINORITY OVERSIGHT COUNSEL

17 [redacted] MINORITY PROFESSIONAL STAFF MEMBER

18

19

20 For the U.S. DEPARTMENT OF JUSTICE:

21

22 [redacted] SPECIAL COUNSEL, OFFICE OF LEGISLATIVE AFFAIRS

23 [redacted] DEPUTY ASSISTANT ATTORNEY GENERAL, OFFICE OF LEGISLATIVE AFFAIRS

1

2 [redacted] Good morning.

3 Mr. Graves. Good morning.

4 [redacted] This is a transcribed interview of United States Attorney for the

5 District of Columbia Matthew Graves.

6 Chairman Jordan has requested this interview as part of the committee's oversight

7 of the Justice Department's handling of the Hunter Biden investigation.

8 Would you just please state your name for the record?

9 Mr. Graves. Matthew Graves.

10 [redacted] And you're joined here with agency counsel. I'll have them

11 introduce themselves.

12 [redacted] [redacted] Department of Justice.

13 [redacted] [redacted] Department of Justice.

14 [redacted] And you understand agency counsel has a fiduciary duty to the

15 Department and not you personally?

16 Mr. Graves. Yes.

17 [redacted] And you've decided to proceed with agency counsel as opposed to

18 personal counsel, correct?

19 Mr. Graves. That is correct.

20 [redacted] Okay.

21 On behalf of the committee, I want to thank you for appearing here today

22 voluntarily to answer our questions.

23 My name is [redacted] I'm with Mr. Jordan's Judiciary Committee staff. I'll

24 have the staffers here in the room introduce themselves.

25 [redacted] [redacted] with Chairman Jordan's staff.

1 [redacted] Chairman Jordan's staff.

2 [redacted] Ranking Member Nadler's staff.

3 [redacted] Ranking Member Nadler's staff.

4 [redacted] Ranking Member Nadler's staff.

5 [redacted] Chairman Jordan's staff.

6 [redacted] Chairman Jordan's staff.

7 [redacted] Chairman Jordan.

8 [redacted] Chairman Jordan's staff.

9 [redacted] Chairman Jordan's staff.

10 [redacted] Ranking Member Nadler's staff.

11 [redacted] The staff participation here is limited to the committee staff, so we

12 won't have additional staffers -- if other folks come in the room, we might stop and have

13 them announce themselves for the record.

14 I'll go over the ground rules and guidelines that we'll follow during today's

15 interview.

16 Our questioning will proceed in rounds. The majority will ask questions first for 1

17 hour, and then the minority will have an opportunity to also ask questions for an hour.

18 We will alternate back and forth until the interview is complete.

19 Ordinarily, we take a break at the end of each hour, but if you'd like to take a

20 break apart from that, just let us know.

21 As you can see, there's an official House reporter taking down everything we say.

22 So we will, from time to time, need to make sure you give a verbal response, if you nod

23 your head and that type of thing.

24 Do you understand that?

25 Mr. Graves. Yes.

1 [redacted] We want you to answer our questions in the most complete and
2 truthful manner possible, so we'll take our time. If you don't understand our question,
3 just ask, and we can go back.
4 The Rules of Evidence don't apply, and so if a question calls for hearsay, you can
5 just tell us that you didn't learn something firsthand, but maybe you could just tell us how
6 you did learn it. Is that okay?
7 Mr. Graves. Yes.
8 [redacted] You understand you're required to answer questions before
9 Congress truthfully?
10 Mr. Graves. Yes.
11 [redacted] And 18 United States Code, 1001, covers false statements before
12 Congress and proceedings like this. You understand that, correct?
13 Mr. Graves. Yes.
14 [redacted] We try to keep the information that we talk about confidential. A
15 lot of times that doesn't happen. Sometimes the transcripts come in and they get sent
16 to The Washington Post. So we don't like the fact that that happens, but we do try to
17 keep things confidential. So, to the extent we mark exhibits, we'll collect them.
18 That's the end of my welcoming remarks.
19 [redacted] do you have anything?
20 [redacted] We just thank the witness for joining us today.
21 Mr. Graves. Thank you.
22 [redacted] [redacted] do you have any welcoming remarks?
23 [redacted] I do. Thank you --
24 [redacted] Okay, good.
25 [redacted] -- [redacted]

1 As you're aware, the committee's inquiry implicates an ongoing criminal
2 investigation and prosecution. At this juncture, Mr. Graves is going to be able to
3 address questions that can be answered without compromising the ongoing matter.
4 Specifically, the Department has authorized him to discuss U.S. Attorney and
5 now-Special Counsel Weiss's authority. And that would include the committee's interest
6 in whether Mr. Graves and his office prevented or denied Mr. Weiss the ability to bring
7 charges related to his investigation in the District of Columbia.
8 There may be some additional information Mr. Graves can share, depending on
9 the question, but, again, consistent with the Department's need to protect the ongoing
10 investigation.
11 I think you know, but to the extent you have questions that are outside the scope
12 of what Mr. Graves has been authorized to discuss at this point, we reiterate our
13 willingness to take those questions back and consider further accommodations at the
14 appropriate time.
15 All that said, our goal today is very much to facilitate Mr. Graves sharing as much
16 information as he can consistent with the scope of his authorization.
17 [redacted] Great.
18 We'll start the clock. It's 10:05.
19 EXAMINATION
20 BY [redacted]
21 Q When were you nominated to be the U.S. attorney for D.C.?
22 A I was nominated in July of 2021.
23 Q And you were confirmed by the United States Senate when?
24 A October of 2021, I believe.
25 Q Okay. And then you were sworn in as the U.S. attorney?

1 A In November of 2021.

2 Q Okay.

3 Prior to joining the U.S. Attorney's Office in November of 2021, what was your

4 experience with the Justice Department?

5 A I had been a career prosecutor at the Justice Department, serving both as a

6 line assistant and as a career supervisor.

7 Q Okay. And for how many years?

8 A Collectively, a little bit under 10.

9 Q Okay. And in what sections or what divisions of the Department did you

10 work?

11 A So I worked in the U.S. Attorney's Office for the District of Columbia in a

12 number of different capacities.

13 Q Okay. But never Main Justice?

14 A That is correct; I never worked at Main Justice. Some of my investigations

15 involved me working with Main Justice, though.

16 Q Okay.

17 And your office right now, how many attorneys work in your organization?

18 A Counting temporary attorneys and attorneys on detail to us, ballpark,

19 roughly 450.

20 Q Okay.

21 And can you articulate for us your interactions with Main Justice? Do you

22 consider the DAG your supervisor or your direct -- the person you report to?

23 A And just to be clear, we're talking in my current capacity?

24 Q Yes.

25 A I think the way that it's articulated is, my direct supervisor is the Attorney

1 General --

2 Q Uh-huh.

3 A -- but there's a dotted line reporting to the Deputy Attorney General --

4 Q Okay.

5 A -- in her capacity as chief operating officer of the Department.

6 Q Okay. And in your day-to-day report, like, who do you ordinarily

7 communicate with at Main Justice? Is it Ms. Monaco or Mr. Miller?

8 A So I think the question assumes a level of coordination or communication

9 that doesn't necessarily exist.

10 Q Uh-huh.

11 A As U.S. attorneys, in general, we don't have day-to-day communication with

12 either the Office of the Deputy Attorney General or the Office of the Attorney General.

13 Q Okay. How often do you speak with Ms. Monaco?

14 A Ms. Monaco herself?

15 Q Uh-huh.

16 A Probably once a month, once every other month.

17 Q Okay. And Mr. Miller, Marshall Miller, the PADAG?

18 A Probably the same.

19 Q Okay.

20 A And it's changed over time in the role. I would say less now.

21 Q Okay. And is there anyone in the DAG's Office that you talk to more than

22 that, on a frequent basis?

23 A Yes. I talk to and members of my team talk to people on their staff more

24 than we talk to the principals.

25 Q Okay. And for you personally, who's the person in the DAG's Office that

1 you have the most frequent communications with?

2 A So it varies depending on the issue that's covered.

3 Q Okay.

4 A They're kind of divided into subject-matter expertise.

5 Q Okay.

6 A So at different times it's been different people, depending on the issue being

7 discussed.

8 Q Okay. With regard to the Hunter Biden matter, who in the DAG's Office did

9 you have communications with?

10 A To the best of my recollection, I don't think I had communications with

11 anybody in the DAG's Office.

12 Q Okay. So you didn't speak with Lisa Monaco about the Hunter Biden case?

13 A Certainly not --

14 Q Okay.

15 A -- her.

16 Q And Marshall Miller?

17 A No.

18 Q How about Mr. Weinsheimer, Brad Weinsheimer?

19 A I mean, other than --

20 Q About the Hunter Biden case.

21 A No.

22 Q Zero communications with Brad Weinsheimer?

23 A None.

24 Q Okay. Any other official in the DAG's Office that you had communications

25 with about the Hunter Biden case?

1 A So I can't recall. At that point in time, we were having more conversations
2 than we typically were with members of the Office of the Deputy Attorney General, given
3 what was occurring in our office at that point in time.
4 Q Okay.
5 A It is possible that the subject came up, but I have no recollection of it in one
6 of those communications.
7 Q So you have no specific recollection of any communications with anybody in
8 the DAG's Office about the Hunter Biden case.
9 A That is correct.
10 Q How about anybody in the Attorney General's Office?
11 A No.
12 Q About the Hunter Biden case.
13 A Absolutely not.
14 Q Okay. So you didn't speak to the Attorney General?
15 A That is correct.
16 Q Okay.
17 The chairman has joined us.
18 Mr. Graves. Chairman.
19 Chairman Jordan. Mr. Graves, thank you. Thanks for being here.
20 Mr. Graves. Thank you for having me.
21 BY [redacted]
22 Q Along the same lines, how often do you interact with the Tax Division in your
23 current role?
24 A Attorneys from the Tax Division?
25 Q Uh-huh.

1 A To the best of my recollection, I don't think I've interacted with them at all in
2 my current role.
3 Q Okay. But to bring a tax case, the lawyers in your department have
4 interactions with the Tax Division, correct?
5 A That is correct.
6 Q And how would you describe that?
7 A I'm sorry. Can you reframe the question?
8 Q How would you describe the communications on an ordinary basis that your
9 U.S. attorneys, your AUSAs, would communicate with the Tax Division lawyers?
10 A Yeah, so it depends on a variety of factors. And I did this when I was a
11 career prosecutor.
12 Q Uh-huh.
13 A There are cases where you're jointly prosecuting matters with them. The
14 contact looks different in that context than cases where you're prosecuting the case on
15 your own but, per the Justice Manual, there are certain authorizations you need to obtain
16 from the Tax Division in connection with those prosecutions.
17 Q Okay. And so it is fair to say, in Federal criminal tax cases, approval from
18 DOJ Tax is required before a U.S. attorney's office may issue subpoenas or undertake
19 other investigative actions?
20 A There are various steps along the investigative process that have to be
21 approved by the Tax Division in connection with the prosecution or investigation of tax
22 charges.
23 Q Okay. And so, if a U.S. attorney, whether it's yourself or Mr. Weiss, wanted
24 to bring tax charges against an individual, it would require the approval of the Tax
25 Division, correct?

1 A That is correct.

2 Q Under the Justice Manual.

3 A That is correct.

4 Q Okay.

5 If there is a disagreement, ordinarily, between a U.S. attorney's office and DOJ

6 Tax, in your experience, how is that sorted out? If, for example, the AUSA or the

7 U.S. attorney wants to bring tax charges and the Tax Division is balking, how does that

8 ordinarily get sorted out?

9 A So, first and foremost, in my experience -- and I'm drawing on my experience

10 as a career prosecutor, not my current role -- that is handled at the line level. And if

11 things need to be elevated, they're elevated in normal order up the career supervisory

12 chain.

13 Q Uh-huh.

14 A In my experience, generally, the Department arrives at consensus on --

15 Q Okay.

16 A -- how we should proceed.

17 Q Are there ever instances that you're aware of where the DOJ tax lawyers

18 wanted to bring a tax case but the local U.S. attorney or the AUSA assigned to it did not?

19 A To the best of my recollection, when I was on the line and when I was

20 supervising line attorneys, I can't recall that situation occurring.

21 But an important caveat to that is, I can't remember many cases where we

22 actually partnered with the Tax Division, as opposed to interacting with the Tax Division --

23 Q Okay.

24 A -- to get their approval.

25 Q Okay. And how is that different? If there's a tax prosecution in D.C. that

1 your AUSAs are working, how does the partnership work with the Tax Division?

2 A So, in general, when we're partnering with any Main Justice component, Tax

3 Division or otherwise, they're fully fledged on the case; both supervisory chains have to

4 approve all actions --

5 Q Okay.

6 A -- that are taken in connection with the prosecution.

7 Q Okay. Are there ever instances where you'll bring a tax case without the

8 assistance of the Tax Division lawyers?

9 A Yes. So that's what I was saying before. All of the cases that I can recall

10 that I worked on or supervised where there were tax charges, we were doing those cases

11 on our own without the Tax Division.

12 Q Okay. And why was that, or why would that occur, where you wouldn't

13 lean on Tax Division resources to prosecute a case?

14 A It's actually fairly normal --

15 Q Okay.

16 A -- in my experience. There is, unfortunately, lots of tax evasion out there,

17 and the Tax Division, it isn't structured to have prosecutors --

18 Q Okay.

19 A -- in all of them. The idea is that the U.S. attorney's offices in general will

20 handle a lot of those cases.

21 Q Okay. So the Tax Division reviews the charges, okays them, and then your

22 office would move forward?

23 A Correct.

24 Q Okay.

25 Has there ever been an instance where a U.S. attorney from a different district

1 came to you with a case that needed to be prosecuted in D.C.?

2 A So I think, outside of this situation, the technical answer to your question is

3 no, because it's assuming that those communications are occurring at the U.S. attorney

4 level.

5 There have been instances where other offices have reached out to career people

6 in my office and said, for a variety of reasons, there's this investigation that we have here,

7 where it's actually -- the venue is appropriate in your jurisdiction.

8 Q Okay. And so how does that ordinarily work? The line AUSAs talk to each

9 other and reach a conclusion?

10 A That's correct, the line AUSAs or -- usually, the interaction is at the line level.

11 It's a career supervisor reaching out to another career supervisor, because people in

12 general know each other.

13 This most commonly happens, in my experience, for our office with the Eastern

14 District of Virginia and Maryland --

15 Q Uh-huh.

16 A -- because you can be in an investigation in one jurisdiction and realize,

17 because of our proximity, that, actually, the better venue is another jurisdiction.

18 Q Okay. And so, ordinarily, those types of decisions don't make their way up

19 to the U.S. attorney for approval?

20 A What I would say is, they certainly don't require U.S. attorney approval

21 necessarily. I am briefed when those happen as part of my normal briefing on what is

22 happening in our Criminal Division.

23 Q And when these types of situations occur, how does the prosecution move

24 forward? Let's say it's an AUSA in Maryland that realizes venue's appropriate in D.C.,

25 wants to bring a tax case, confers with your line AUSAs, decide that they will take the

1 case. How does that work?

2 A It varies, and it's very case-specific. It can be what you just described, that

3 we actually take the case and then we try it with our prosecutors. It can be that

4 assistant United States attorneys from other jurisdictions get designated as special

5 assistant United States --

6 Q Okay.

7 A -- attorneys in our jurisdiction --

8 Q Okay.

9 A -- and then prosecute the case that way.

10 Q Okay. And how often would you say it happens? What's the more

11 ordinary situation? Is it your prosecutors taking the case, or is it you, your office,

12 designating the lawyers from Maryland or Virginia as special AUSAs?

13 A It's -- I'm sorry, I just want to clarify. Are you saying, what's more

14 common --

15 Q Yeah.

16 A -- for prosecutors from another jurisdiction to come here and try the cases

17 or for us to take the case in its entirety? Is that the question?

18 Q Yes.

19 A Okay. I think, in general, in my experience, it's prosecutors from other

20 jurisdictions coming or --

21 Q Okay.

22 A -- us going out and trying. But it depends.

23 Q Uh-huh.

24 A A big factor is going to be, like, how far along are you in the investigation.

25 Q Right. Okay.

1 Is there a difference in the DOJ Tax world between approval of charges and
2 discretion? Are you aware of that distinction?
3 A No.
4 Q Okay. So, as far as you're concerned, DOJ Tax, they either approve or
5 decline to recommend charges?
6 A In my experience, that's been the case --
7 Q Okay.
8 A -- yes. You either get approval or you don't get approval.
9 Q Okay. So there's no middle ground, something called "discretion"?
10 A In my experience. I can't claim that I've seen every iteration possible of a
11 tax case.
12 Q Okay. Fair enough.
13 Now, as far as the Hunter Biden case is concerned, what is your awareness of DOJ
14 Tax's position on that?
15 A I have no knowledge from within the Department.
16 Q Okay.
17 A I mean, there are things that I've seen in public reporting, but I have no
18 job-related knowledge of what the Tax Division's position is.
19 Q So you're unaware of whether the Tax Division recommended charges or not
20 in the Hunter Biden case?
21 A That is correct.
22 Q Okay.
23 Can you walk us through your recollection of how the Hunter Biden case was
24 brought to your office?
25 A Yes. To the best of my recollection, in late February or early March of

1 2022, then-U.S. Attorney Weiss, now-Special Counsel Weiss, called me directly.

2 Q Okay. And what did he say?

3 A To my recollection, he said that he had a case where there was a component

4 of that case that he had deemed he wanted to bring in the District of Columbia.

5 Q Okay. And what did you say?

6 A So, at a high level, without getting into the case specifics, my recollection

7 was generally saying -- asking him whether he was just looking for the kind of normal

8 administrative support that any U.S. attorney would need if they were going to come and

9 bring a case in another jurisdiction or have their people bring a case in another

10 jurisdiction, or whether he was asking for us to join the investigation.

11 Q And what was his answer?

12 A To the best of my recollection, his answer was that, at a minimum, it was

13 providing the support but we could discuss further joining or not.

14 Q And what happened next after that telephone call? Did you resolve

15 anything on the call?

16 A Nothing other than a high-level commitment that we would provide

17 whatever logistical support that he needed, and I would work with my career people to

18 put them in touch with his career people.

19 Q Okay. And that was the end of the call?

20 A Yes.

21 Q And do you remember how long that lasted?

22 A Best recollection, roughly 10 minutes.

23 Q And then what did you do next?

24 A I went to the then-head of our Criminal Division.

25 Q And who's that?

1 A Well -- so, in general, I would prefer, in the context of this interview, given
2 what you referenced before about, despite all of our best efforts, some of these
3 transcripts becoming public, giving positions as opposed to names. We can work with
4 OPA if this really does become --
5 Q I mean, we'd ask you for the name of the head of the Criminal Division; we
6 might ask, you know, your first assistant. I think we're looking for those two names, but
7 about other than that, I think we can --
8 A So can we -- my request to you would be that we kind of work this through
9 OLC as opposed to putting it in an official transcript. I'm already dealing with enough
10 threats and harassment of my assistant United States attorneys --
11 Q Okay.
12 A -- who are career prosecutors.
13 Q So you're unwilling to tell us who the head of the Criminal Division is?
14 A So --
15 Q I mean, we can probably look that up on the internet, can't we?
16 A So I'm not sure that you could look it up at that point in time. But what I
17 am saying is, I would like to work this out so that it's not in the official transcript.
18 Q Okay.
19 So you had a telephone call with the head of the Criminal Division?
20 A No. I went to the head of the Criminal Division's office.
21 Q Okay. And what did you say, to the best of your recollection?
22 A To the best of my recollection, I relayed what had just been conveyed to me.
23 I asked the head of the Criminal Division to have some of our career prosecutors work
24 with their counterparts in Delaware to get a briefing on the case --
25 Q Uh-huh.

1 A -- to make a recommendation about how we should proceed, in terms of
2 whether we would continue to seek to potentially join the investigation.
3 Q And did you have any communications with your first assistant on this
4 matter?
5 A My first assistant was present for a number of these conversations -- well,
6 sorry. Strike that.
7 I just want to be crystal-clear. Technically, we don't have a first assistant.
8 There's no one who had that title in our office.
9 Q Okay. So what title does the person who serves effectively -- effectively as
10 the first assistant?
11 A It's the principal assistant.
12 Q Okay. So it's just a different name, principal assistant as opposed to a first
13 assistant?
14 A It's a different name and -- it's a different name.
15 Q Okay.
16 So tell us about the communications you had with your principal assistant.
17 A So my principal assistant, to the best of my recollection, was present for this
18 meeting and a couple other limited meetings that occurred, but my principal assistant
19 didn't take any active role in moving anything forward in our office or having
20 communications with anyone outside of our office.
21 Q Okay.
22 Now, you indicated that you went down the hall to speak with the head of the
23 Criminal Division, correct?
24 A That is correct.
25 Q Now, was it just a -- was it an official meeting, in your view, or was it just a

1 conversation?

2 A I'm not sure of the distinction you're trying --

3 Q Well, was something on a calendar that you scheduled?

4 A No, there was no calendar invite.

5 Q Okay. So you just walked down the hallway and the head of the Criminal

6 Division was able to talk to you about this?

7 A That is correct.

8 Q And do you remember any other communications or meetings like this that

9 you had on the case?

10 A So I -- there was one other meeting that I recall.

11 Q Okay. With the head of the Criminal Division?

12 A Just in general, there's one other meeting that I recall.

13 Q Okay.

14 And so what was the next step after you had this discussion with the Criminal

15 Division head?

16 A So the next step was for the Criminal Division head to reach out to the

17 appropriate section within our office that does tax investigations to have the matter

18 staffed for an assessment and to get back to me quickly with their recommendation.

19 Q Okay. And what did they do, as far as you know, next? Did they go to

20 Delaware? Did they communicate with the AUSAs in Delaware on the phone? How

21 did they conduct their assessment?

22 A My understanding at a high level is, there was some interaction with the

23 AUSAs in Delaware. They got some case-related or investigation-related material. I

24 don't know specifically who the individuals were that they interacted with or what

25 materials they reviewed or gathered.

1 Q Okay. Now, did you review any materials?

2 A To the best of my recollection, no, I didn't review any underlying case

3 materials.

4 Q Okay.

5 So you had the conversation with Mr. Weiss; then you had that conversation with

6 the head of the Criminal Division. The head of the Criminal Division, as far as you know,

7 instructed the AUSAs in your office to communicate with the AUSAs in Delaware. Some

8 materials were exchanged, but you don't know what materials they were?

9 A That is correct.

10 Q Okay. And then what happened?

11 A Well, during the course of all of this, we're taking steps to facilitate whatever

12 then-U.S. Attorney Weiss would need in terms of bringing a case in the District --

13 Q Okay.

14 A -- separate and apart from whether we would join the investigation.

15 Q Okay. And tell us what that is.

16 A So some of it is protected, but what I can say at a high level, in general:

17 Whenever you're trying to return an indictment, if it's a felony charge, we can't just bring

18 those charges on our own. We have to present evidence to a grand jury, and a grand

19 jury has to --

20 Q Of course.

21 A -- vote those charges. So that's a key step that's done in any case where

22 someone wants to bring charges, and kind of facilitating that process.

23 Q Okay. And did you facilitate that process?

24 A So I can't speak specifically about the case, but what I'm telling you generally

25 is that that's what we would do when we receive requests to help with returning an

1 indictment in our jurisdiction.

2 Q Okay. And what else?

3 A At a high level, without getting into case specifics, I think that generally

4 describes what was occurring at that point in time.

5 Q Okay.

6 What feedback did you receive from your people after the interactions that they

7 had with the U.S. Attorney's Office in Delaware?

8 A To my recollection, they had a meeting with the relevant career supervisors

9 and the career prosecutor who was assigned to the matter, where they provided their

10 assessment.

11 Q And what was their assessment?

12 A So I can't get into what their assessment was, because it concerns an

13 ongoing investigation.

14 Q Okay.

15 So is that the universe of meetings you had in this case? You had the -- or,

16 meetings or calls? You had the call with Mr. Weiss. You had the drop-by meeting with

17 the head of your Criminal Division. And then now you said you had a meeting with your

18 AUSAs.

19 A Those are the most prominent.

20 Q Uh-huh.

21 A It's possible -- because, I mean, my Criminal Division chief and I, at that point

22 in time, were in daily contact --

23 Q Uh-huh.

24 A -- I mean, multiple times per day.

25 Q Right.

1 A So it's possible, in any one of our other various times that we were together,
2 the issue came up.
3 But those are kind of the three most prominent events that I recall.
4 Q And -- go ahead.
5 Chairman Jordan. Earlier, Mr. Graves, you said you had one other meeting, 2
6 minutes ago, and you described it as a general meeting. Is that related to all this? Or
7 tell me about that meeting.
8 Mr. Graves. That is the meeting that I was describing where I met with the
9 career prosecutor, yep, yes.
10 Chairman Jordan. Fine.
11 BY [redacted]
12 Q And when was that?
13 A I think it was March 19, 2022.
14 Q And was a decision made at that meeting?
15 A Yes.
16 Q Okay. And the decision was made not to move forward with the case,
17 correct?
18 A So I wouldn't describe it that way.
19 Q The decision was made not to partner with the U.S. Attorney's Office from
20 Delaware, correct?
21 A So I think what has obviously been publicly reported and is known -- and I'm
22 trying to be careful, given that there's an ongoing investigation -- is that we ultimately did
23 not join.
24 And recall, when this came up, to my recollection, I was the first person to raise
25 whether they wanted a local counsel on the case. And I think the best way of

1 characterizing the decision was, we instructed -- I instructed to say that we weren't going
2 to pursue being a local counsel on the case.
3 Q So the meeting that you had on March 19th, the decision was made not to
4 join.
5 A So, not to continue to pursue to see if they'd be willing to allow us to serve
6 as local counsel, but to provide all assistance that was necessary for them to do whatever
7 they wanted to do in our jurisdiction.
8 Q So the decision was made to invite them into your jurisdiction and let them
9 prosecute the case?
10 A That decision had been made when then-U.S. Attorney Weiss called me.
11 Q Okay.
12 A Then I made the decision, we were going to do whatever he needed --
13 Q Okay.
14 A -- done logistically in our jurisdiction.
15 Q Okay. So you were going to welcome the prosecutors from Delaware into
16 D.C. and let them prosecute the case?
17 A Yes. The only issue was whether we were going to seek to join their
18 investigation or not.
19 Q Okay. And you decided not to join their investigation.
20 A That is correct.
21 Q And can you tell us why?
22 A So I unfortunately cannot get into the why without getting into the case
23 specifics of an ongoing investigation.
24 Q Okay.
25 And how was the decision not to partner or not to join -- everyone's got a

1 different way of saying it -- how was that communicated to the Delaware U.S. Attorney's
2 Office?
3 A Instructed it to occur at the line level.
4 Q At the line level?
5 A Yes.
6 Q Did you have any telephone calls or anything of that nature with Mr. Weiss?
7 A To the best of my recollection, no. I only recall that first conversation. It's
8 possible that we had one. I'm talking about, like, a year and a half ago. But that's all I
9 recall.
10 Q Okay.
11 And in the March 19th meeting, were all the officials in the meeting your staff?
12 A That's correct.
13 Q Okay. And who was in that meeting?
14 A The --
15 Q How many people?
16 A Roughly, to the best of my recollection, five or six.
17 Q And who were those five or six people?
18 A The principal assistant; Criminal Division chief; the head of our fraud, public
19 corruption, and civil rights practice; the head of our Fraud and Public Corruption Unit; and
20 a line assistant, I believe.
21 Q And can you tell us anything more about the March 19th meeting, about
22 what was communicated to you and what decision -- what types of things led to the
23 ultimate decision?
24 A So I understand the question, and in the constraints we're operating under, I
25 can't answer it directly.

1 What I can say generally, in terms of how I run these meetings, is, if it's a decision
2 that rises to my level, I make everyone present give their view of how we should proceed.
3 Q And was the view unanimous?
4 A So I can't get into this case specifically. I will say, in general, in my
5 experience, most of the things that come to me, the overwhelming majority are
6 unanimous.
7 Q Uh-huh.
8 A There are some times where there's disagreement among various
9 supervisors, and that's where I have to decide with one camp or another.
10 Q Okay. But this is a very unusual case, correct? I mean, this doesn't fall
11 into the ordinary type of matter, right?
12 A In what sense?
13 Q Well, it's the son of the President of the United States.
14 A So I understand where you're coming from, and I get your point. Being in
15 D.C., we have a good number of cases that involve very prominent individuals.
16 Q Okay, but nothing like the son of the President of the United States.
17 A I would actually -- I mean, I can't get into all of it, but I'd actually disagree. I
18 think there are things of that level that --
19 Q So this was common?
20 A I didn't say "common."
21 Q Uh-huh.
22 A I didn't say "common" at all.
23 Q Right.
24 A But it's not unusual or a one-of-a-kind to have a family member of someone
25 who is prominent, or someone who is prominent themselves, under investigation in our

office.

Chairman Jordan. When did U.S. Attorney Weiss call you? In March of 2022?

Mr. Graves. So, to the best of my recollection, it was late February or early March.

Chairman Jordan. So, in 3 weeks' time -- so you've got the U.S. attorney calling you about an important case, as [redacted] just talked about, a somewhat unusual case. He calls you and asks that you partner with them and assist them, right? I think you made those two distinctions.

And -- go ahead. Correct me if I'm wrong.

Mr. Graves. So I just want to clarify. He asked for assistance. I asked if he needed us to partner or if he wanted us to partner. And he said he was open to a conversation about that --

Chairman Jordan. Okay.

Mr. Graves. -- but needed the assistance.

Chairman Jordan. Okay.

But in 3 weeks' time, you decide not to partner. On March 19th you have the meeting, and the determination is made you were not going to partner with the U.S. attorney.

Mr. Graves. We decided that we were not going to join the investigation. And, again, the context here is, I was the one who brought it up, not them. And I understood, for a variety of reasons, it was important for us to move quickly.

Chairman Jordan. And then you didn't call David Weiss; you just let your assistant attorneys let Delaware know.

So the only conversation you had with David Weiss was, he calls you up about a pretty important case and asks for your assistance. You raise the issue of whether you

1 can partner or not. Three weeks later, you decide you're not going to. And then you
2 don't communicate back to him.
3 Mr. Graves. So --
4 Chairman Jordan. You, personally, don't.
5 Mr. Graves. So me, personally? No. I instructed my career prosecutors to
6 convey the decision and the basis for the decision to his career prosecutors.
7 Chairman Jordan. Okay.
8 BY [redacted]
9 Q Now, you're a big-time Democrat, correct?
10 A I wouldn't describe it that way, but okay.
11 Q You were nominated by the President of the United States to be the U.S.
12 Attorney for D.C., correct?
13 A That is correct.
14 Q You worked on the Biden campaign, right?
15 A That is -- I understand where your question is coming from. I actually
16 wouldn't characterize it that way.
17 Q You had a role with the Biden campaign?
18 A So do you want me to actually clarify what that was?
19 Q Sure.
20 A So I knew someone who had some affiliation to the campaign; said that I was
21 interested in criminal justice issues. I got put on this committee, and my
22 responsibilities, being on this committee, consisted of receiving emails from the
23 committee that anybody -- basically, almost anybody who contributed. I had no direct
24 interaction --
25 Q Okay.

1 A -- or indirect interaction with anybody on the campaign.

2 Q Contributed money?

3 A I did contribute money.

4 Q Okay.

5 Mr. Swalwell. Sorry, what was it?

6 Mr. Graves. I did contribute money.

7 BY [redacted]

8 Q And you also had a role with the Kerry campaign, as I understand it?

9 A So the firm that I was working with at the time provided some support to the

10 Kerry campaign in connection with its vetting process for Vice Presidential candidates.

11 Q Anything else with the Kerry campaign?

12 A No, that was it. And I had no direct interaction or indirect interaction with

13 anyone from the Kerry campaign. It was strictly working for people within the firm.

14 Q Okay.

15 I mean, this isn't surprising. I mean, you know, you're the U.S. attorney pick for

16 President Biden.

17 A Yes.

18 Q Obviously you're aligned with his political party and so forth. So, you know,

19 you shouldn't be, you know, alarmed that we're asking these questions or that the

20 answers are, yes, I'm somebody that's been affiliated with the Biden campaign, the Kerry

21 campaign, and also the Clinton-Gore campaign. Is that correct?

22 A Yes. The Clinton-Gore campaign, my sophomore -- junior year of college, I

23 took off my fall semester to work advance for that campaign.

24 Q Okay. And did you ever work on any Republican campaigns?

25 A I did not work on any Republican campaigns. I worked for a Republican

1 State senator.

2 Q Okay. Any other bipartisan elected work, work for elected officials?

3 A Other than -- I mean, I had very limited work for elected officials. And,

4 again, the only time that I worked directly for an elected official, not in the campaign

5 context, was when I worked for a Republican State senator.

6 Q Okay.

7 Now, let me take a step back. In the Hunter Biden case, do you think a

8 special-counsel situation would've made sense from the outset?

9 A So, you know, I've been authorized to discuss U.S. Attorney Weiss's authority

10 and the circumstances around his interaction with our office about bringing charges.

11 That kind of goes outside of it. And, candidly, I don't know that I have enough

12 information about the investigation to make that kind of assessment.

13 Q Uh-huh. But you understand the perception problem. You're an

14 appointee of President Biden, and, here, you've been asked to weigh in on a prosecution

15 involving his son. I mean, certainly, there's an obvious perceived -- at least the

16 perceived conflict of interest, correct?

17 A I don't -- I don't see it that way.

18 Q Okay. And why is that?

19 A So we have investigations all the time --

20 Q Uh-huh.

21 A -- the Department does, of individuals who are members of the

22 administration.

23 Q Uh-huh.

24 A A family member of the administration? I don't see it as necessarily a

25 conflict of interest or perception of a conflict of interest.

1 Q Uh-huh. So you don't believe you should've recused yourself?
2 A No.
3 Q And in your communications with Mr. Weiss, did he alert you that he
4 believed he had ultimate authority to bring this case?
5 A The subject of his authority never came up, to the best of my recollection,
6 because it was just assumed that, from the moment I got on the call, he was gonna be
7 able to do whatever he needed to do in our jurisdiction to bring the case, if that was his
8 prerogative.
9 Q And do you know if, ultimately, the line -- when your line AUSAs were talking
10 to his line AUSAs, do you know if they made any requests of -- like, what did they need
11 from your office other than help with the grand jury --
12 A So --
13 Q -- to bring the case?
14 A Yeah. So, again, it's hard to get into this without getting into the specifics
15 of the case. But I would say, in any case, the primary thing you need, once you're at the
16 stage where a charging decision has ostensibly been made, is the logistical support and
17 the grand jury -- getting before a grand jury, securing time in a grand jury --
18 Q Right.
19 A -- presenting evidence to a grand jury, and ultimately asking a grand
20 jury -- presenting charges to the grand jury, and ultimately asking a grand jury to return
21 an indictment.
22 Q And so your testimony is, your office was willing to facilitate that fully.
23 A Those were my instructions from the first.
24 Q And do you know if your staff communicated that to the Delaware U.S.
25 Attorney's Office?

1 A My understanding is, that was communicated instantly.

2 Q Uh-huh.

3 And after the March 19th meeting where the decision was made not to join, not

4 to partner, did you give any instructions to your staff to go back and tell the Delaware

5 U.S. Attorney's Office that, while you weren't joining and you weren't partnering, you

6 wanted to make all the resources available?

7 A So we had already made that clear at the outset, so I didn't feel like I needed

8 to give the instruction. And based on what was happening, I knew that there was no

9 reason that I needed to give that instruction again.

10 Chairman Jordan. So, then, tell me what the distinction is. In this March 19th

11 meeting, when you decide that you're not going to do some things but you are going to

12 do others, what is the actual distinction? What did you decide not to do?

13 Mr. Graves. So let me take a step back and just talk about this in general.

14 So, as we were talking about before, there are some times, where we have

15 neighboring jurisdictions, where they realize that, for whatever reason, something they

16 were investigating is better venued in D.C. We work with them all the time -- not "all

17 the time." It comes up not infrequently, and we have mechanisms for working with

18 them to be able to, like, get their charges brought in the District. And we work through

19 that. We often don't join those cases, but we support them.

20 We also have Main Justice components that will come into our jurisdiction and

21 want to bring cases, where, for a variety of reasons, either because we don't want to or

22 they don't want to, we don't partner and they just do it in our jurisdiction. They have all

23 kinds of questions -- because they don't prosecute here -- about the practicalities. Like,

24 what do the templates look like? Who do you contact in the clerk's office? Like, all of

25 those things are the questions that come up. Just as, if I went into Delaware, like, I

1 would have no clue. I couldn't just go in and say, "Hey, I'm a U.S. attorney from D.C. I
2 want to enter in a grand jury." I would need Delaware to facilitate that.
3 Chairman Jordan. I just want to -- you told the Delaware U.S. attorneys that "we
4 don't want to join, but we'll assist with the grand jury." Does that cut to the chase?
5 Mr. Graves. No. Cutting to the chase is, "We'll do whatever you need done to
6 bring this case. And we're kind of withdrawing our request or our interest -- the
7 question we asked about whether you want local counsel, we're kind of tabling that issue
8 and not interested in pursuing that."
9 [redacted] So you weren't willing to offer your AUSAs to sit at the table?
10 Mr. Graves. So -- I want to be clear on this. I had raised -- and let me take a
11 step back --
12 Chairman Jordan. Is there a distinction between not being local counsel and
13 joining the case, or are those one and the same?
14 Mr. Graves. Those are one and the same, in response to your question.
15 Chairman Jordan. Okay.
16 Mr. Graves. Going back a question, I want to be clear about this from, like, what
17 is happening here.
18 So, in general, putting this case aside, U.S. Attorney's Offices don't partner with
19 other U.S. Attorney's Offices. Each U.S. attorney is the chief law enforcement officer in
20 his or her jurisdiction. They generally stick in their jurisdiction.
21 If there is something that happens where we have, kind of, these venue problems
22 or you realize a case initiated in one jurisdiction has to be brought in another, usually it is
23 the AUSAs from those jurisdictions going to the other jurisdiction and handling it that
24 way.
25 When our office, in general, decides to join with another Department of Justice

1 component, that's usually done at the beginning of an investigation. It's exceedingly
2 rare for an ongoing investigation for someone to join as a partner afterwards.
3 There are a lot of issues. First of all, the component that has been conducting
4 the investigation generally doesn't want another component coming on at the 11th hour.
5 [redacted] Fair enough.
6 Mr. Graves. The challenge is -- particularly when you're talking about U.S.
7 attorney and U.S. attorney -- is you're bringing in another chain of command. And once
8 you're partnered, you have to reach consensus. So, as a manager, in general, we don't
9 want to do that.
10 And on our end of it, if it's an ongoing investigation, there is no way, whether it's 3
11 weeks, 3 months, if it's been a multiyear investigation, that we can get up to speed on
12 everything that has occurred beforehand. So you're kind of buying a mansion without
13 an inspection, and whatever problems exist, you are buying those.
14 Chairman Jordan. I understand.
15 But you said earlier, U.S. attorneys don't partner with other U.S. attorneys. But
16 that's not what the Attorney General told us; that's not what David Weiss told us.
17 We've got all kinds of correspondence that uses that exact language, that you do partner.
18 And that was the question. And that's why we're asking the questions we're asking.
19 Mr. Graves. So I've seen some of the correspondence. I don't quite read it the
20 way that you do. I'm telling you, just in general, it would be difficult to find a single
21 prosecution where there are two U.S. attorneys operating in one of their jurisdictions.
22 BY [redacted]
23 Q So what happened next after the March 19th meeting, to the best of your
24 knowledge? Your staff went and communicated the decision to --
25 A The staff went and communicated the decision that we weren't going to

1 seek to join but would continue to support whatever they needed in the jurisdiction.
2 And I don't recall any other subsequent calls.
3 Q Okay.
4 Did your staff, before the March 19th meeting, have any communications that
5 you're aware of with Main Justice?
6 A Who do you mean by "Main Justice"?
7 Q Anybody in the Tax Division, anybody in the DAG's Office, anybody in the
8 AG's Office, anybody in any other office at Main Justice.
9 A So the Tax Division, potentially, though I don't know.
10 Q Uh-huh.
11 A The AG's Office, certainly not.
12 And I am not aware of the Deputy Attorney General's Office. But, at that point in
13 time, I would point out that we were kind of, as I said before, in daily contact with them
14 related to some other prosecutions, so it's possible that it came up.
15 Q Okay. So it's possible.
16 Now, of all the people in the meeting -- the principal assistant; the Criminal
17 Division chief; the head of the fraud, civil division; the head of the public corruption
18 division; or the line assistant -- of that universe of people, who would be the individual
19 having communications with the DAG's Office?
20 A So, after myself, the person who had the most independent -- at that point
21 in time, the most independent conversations with the DAG's Office would've been the
22 Criminal Division chief.
23 Q Okay. So, if anyone was having communications with the DAG's Office on
24 this issue, it was either you or the Criminal Division chief?
25 A I'd be speculating -- I'm speculating now.

1 Q Right.

2 A But I'm just telling you who had the most contact with the Office of --

3 Q Okay.

4 A -- the Deputy Attorney General at that point in time.

5 Q And do you know if the Criminal Division chief -- and you won't give us the

6 name of that person? Is that right?

7 A In the context of the transcribed interview, I am requesting not to.

8 Q Okay.

9 A If this is something that you're interested in, we can work through OLC.

10 [redacted] OLA.

11 Mr. Graves. Oh, sorry. Sorry. OLA.

12 [redacted] Okay. OLC definitely doesn't want to do this.

13 Mr. Graves. Yeah. That would be a very slow process, if we worked through

14 OLC.

15 BY [redacted]

16 Q So the Criminal Division chief, what do you know about the

17 communications -- can we -- is it a he or she? Can we --

18 A Sure. At that point in time, it was a he.

19 Q Okay. So do you know what communications he had with the DAG's Office

20 on this case?

21 A I am not aware of him having any communications. I am just not

22 foreclosing the possibility that the subject --

23 Q Okay.

24 A -- maybe came up.

25 Q Okay. So, to the best of your knowledge, nobody on your team, including

1 yourself, had any communications with the DAG's Office on the Hunter Biden case.

2 A Correct.

3 Q Or anybody at Main Justice, other than the Tax Division.

4 A Correct.

5 Q And who from your office was working with the Tax Division at Main Justice?

6 A So I'm not aware. Given the -- it is possible that individuals, either career

7 supervisors or the career prosecutor, had communications. I just don't know.

8 Q Okay.

9 Now, are you aware that the whistleblower testimony from the IRS

10 whistleblowers -- Mr. Shapley, Mr. Ziegler -- tell of a conversation that Mark Daly -- Mark

11 Daly is a Tax Division lawyer. Mark Daly related to Mr. Ziegler that he had conversations

12 with -- it was described as your first assistant, but presumably it was the principal

13 assistant.

14 Are you aware of that testimony?

15 A I've generally seen some public reporting around that testimony.

16 Q And do you know if that's accurate?

17 A So, again --

18 Q At the time, was your principal assistant -- is it a he or a she?

19 A A she.

20 Q Okay. So do you know if your principal assistant had communications with

21 Mark Daly on this topic?

22 A So, again, we're kind of straying very close to the subject matter of the

23 investigation. What I can say at a high level with respect to the principal assistant: I do

24 not recall her doing anything other than attending meetings that I happened to be at in

25 connection with this case.

1 Q Okay. So you're not aware of her having a conversation with Mark Daly on
2 this issue? That wasn't reported back to you?
3 A That is correct.
4 Q Okay. Is it possible the Criminal Division chief was the one talking with
5 Mark Daly?
6 A So, sure, anything is possible. And this is why I was saying earlier the
7 principal assistant versus first assistant wasn't, like, a distinction without a meaning.
8 Q Okay.
9 A I do not think the principal assistant was involved. So if whoever this
10 conversation --
11 Q But who do you think was talking to Mark Daly?
12 A I don't know. It could've been -- with the people that were involved, I think
13 there could've been a lot of assumptions that they were the first assistant when they
14 weren't the first assistant. I don't know. I'm --
15 Q Fair enough.
16 A -- speculating.
17 Q But it was someone from your office.
18 A Someone from my office, sure.
19 Q Like, who do you think that was?
20 A One of the people that I just described --
21 Q Okay.
22 A -- that was at that March 19th meeting.
23 Q Okay.
24 Chairman Jordan. One of those five to six people --
25 Mr. Graves. Yeah.

1 Chairman Jordan. -- at the March 19th --

2 Mr. Graves. Yes.

3 Chairman Jordan. -- meeting? Okay.

4 Mr. Graves. Yes.

5 BY [redacted]

6 Q And did you learn about that communication from them? Or did you learn

7 about that apparent communication from Mr. Ziegler's testimony or Mr. Shapley's

8 testimony?

9 A The first time I heard about the communication was the public reporting.

10 Q Okay. And did you go back and circle up with your staff to see what they

11 remembered when that became public?

12 A No.

13 Q You did not.

14 A No.

15 Q Okay.

16 After the whistleblower testimony became public and there was news stories

17 about it, did you read the whistleblower testimony?

18 A The whole testimony? No. I've seen news coverage.

19 Q Okay. So you didn't read any of the transcripts?

20 A I mean, I might have seen portions of transcripts in news --

21 Q In news stories.

22 A -- coverage, but I did not, like, pull a transcript and read it from beginning to

23 end.

24 Q Okay.

25 And did you talk with any of the people that were in this meeting about what the

1 public reporting was?

2 A Not in any great substance.

3 Q I mean, were you surprised by the public reporting?

4 A Yes.

5 Q And why is that?

6 A I'm trying to think of how to best answer this without getting into the

7 substance.

8 So let me take a step back and talk about why I was surprised and why I was not

9 surprised.

10 So why I was not surprised is that I have worked, personally, a number of

11 whistleblower investigations and kind of understand how these things can unfold and the

12 garble that can happen when you layer hearsay on top of hearsay on top of hearsay.

13 And when you look at a lot of this, it's someone said that someone said that someone

14 said. So, not surprised that these things can happen.

15 Q Uh-huh.

16 A But definitely surprised by the allegation, because it's not consistent with my

17 recollection.

18 Q Which allegation?

19 A Well, the allegations, as I understand them, have evolved over time.

20 Q Okay. So what do you understand are the allegations?

21 A So, in the first, it was that the U.S. Attorney's Office in the District of

22 Columbia blocked charges.

23 Q Okay.

24 A I understand from the public reporting that that has shifted --

25 Q Uh-huh.

1 A -- and I've seen the letters from USA Weiss denying that that occurred.
2 So -- so there's that.
3 Q Okay.
4 I mean, witnesses have phrased it, you know, in different ways -- that the U.S.
5 Attorney's Office in D.C. declined to partner, that they rejected the case. But, at the end
6 of the day, it's consistent that your office didn't want to move forward as a partner on the
7 case.
8 A I would describe those as radically different, right? If we are taking steps to
9 stop an investigation from going forward, that is markedly different from whether we are
10 facilitating --
11 Q Uh-huh.
12 A -- whatever another U.S. attorney wants to do and giving them all of the
13 logistical support they would need to do that.
14 Q Okay. And so you maintain here today that your office was willing to give
15 the Delaware U.S. Attorney's Office all the logistical support they needed to come into
16 your district and prosecute that case.
17 A Yes.
18 Q Now, did you ever follow up to make sure something wasn't lost in
19 translation between your office and the Delaware U.S. Attorney's Office?
20 A No.
21 Q Okay. I mean, is it possible that after the March 19th meeting your staff
22 communicated to Mr. Weiss's staff and something got lost in translation, that they
23 interpreted the message incorrectly?
24 A I mean, anything is possible.
25 Q Uh-huh.

1 A I was very clear in my initial conversation with U.S. Attorney Weiss that we
2 would provide support.
3 Q Uh-huh.
4 A I know that we took steps that would signal that we were very clear in that
5 commitment. And I was very clear with my staff about what they should communicate
6 about our decision about whether we would seek to join the investigation and the basis
7 for our decision to their counterparts.
8 Q Okay.
9 This is in March of 2022. As it reached, like, later parts in the year 2022, did you
10 ever have any followups with your staff, like, "Hey, are you sure that we haven't assured
11 the Delaware U.S. Attorney's Office that they have the green light to walk into our
12 jurisdiction and we'll help them with the logistical aspects?"
13 A I did have a conversation or two along those lines. I can't really get into the
14 specifics of the conversation.
15 Q When were they?
16 A Best of my recollection, that spring.
17 Q Okay. Like, April/May?
18 A That timeframe, yes.
19 Q Okay. And who were they with?
20 A The Criminal Division chief and potentially the principal assistant.
21 Q Okay. And what do you remember saying to them, at a high level?
22 A So I can't get into the specifics of, or even at a high level, what it was,
23 because it would implicate ethical rules that we operate --
24 Chairman Jordan. What did you say to them? "Hey, what's going on with this
25 case that David Weiss called me about a month ago? What's happening? I know we

1 made a decision on the 19th that we were going to say, you guys can come on in but we
2 ain't joining." Was that the nature of the conversation?
3 Mr. Graves. It was them flagging an issue for me.
4 Chairman Jordan. So they brought up to you that there was still a concern
5 with --
6 Mr. Graves. Not a --
7 Chairman Jordan. -- what was decided on the 19th?
8 Mr. Graves. No, not a concern.
9 Chairman Jordan. Okay.
10 Mr. Graves. Not a concern with what was decided on the 19th. Just kind
11 of -- I'm trying to think of how to do this.
12 I could just say at a high level, they alerted me to something about the status of
13 Delaware's investigation.

1 [11:00 a.m.]

2 BY [redacted]

3 Q Did they say that the investigation was moving forward, or not moving

4 forward?

5 A So --

6 Q Obviously they mentioned it to you that they needed to raise it to your

7 level?

8 A So -- yeah. And, again, I can't get into the specifics. The reason they

9 raised it with me had nothing to do with the investigation itself and more in terms of my

10 situational awareness for managing relationships with the court.

11 Chairman Jordan. Can we go back to the initial call from U.S. Attorney Weiss,

12 now Special Counsel Weiss? Tell me what happened in that call again exactly.

13 Mr. Weiss calls you and says: We want to bring charges in D.C.

14 Tell me what happens.

15 Mr. Graves. Sure. So Mr. Weiss said that he had an investigation that he had

16 been conducting. Some of the charges related to that investigation needed to be

17 venued out of the District, and he described the logistical support that he needed.

18 I told him we would provide the logistical support and asked him if he was also

19 interested in us joining the investigation as effectively local counsel once charges are

20 brought.

21 Chairman Jordan. You said a couple times you brought that up.

22 Mr. Graves. Yes.

23 Chairman Jordan. Okay. And then what did he say again?

24 Mr. Graves. He said: Definitely need the logistical support, and we can talk

25 about joining the investigation.

1 Chairman Jordan. But then you never talked to him about that. But you and
2 your team, your chief of the Criminal Division, the principal assistant, and one other
3 individual in the next 3 weeks, looked at whether you're going to become local counsel
4 and join. And then, on the 19th, you have a meeting, and you decide you're not going to
5 do that?
6 Mr. Graves. So trying to -- there was a lot in the question. I just want to make
7 sure.
8 So let me just state it to make sure that we're on the same page.
9 Chairman Jordan. Sure.
10 Mr. Graves. I tasked our Criminal Division chief with immediately taking steps to
11 provide the logistical support, asked him to assign the section leadership and an AUSA
12 from the relevant section to do a quick assessment because time was of the essence, and
13 we had to make a decision quickly, and --
14 Chairman Jordan. Why did you have to make a decision quickly?
15 Mr. Graves. For a variety -- I can say, at a high level, we needed to make a
16 decision quickly. I understand your question about the 3-week timeframe --
17 [redacted] He can't answer that.
18 Mr. Graves. -- but why specifically, I can't get into.
19 Chairman Jordan. I get it.
20 Mr. Graves. So we had to make a decision quickly, and I instructed my team to
21 move with all speed, and they did.
22 Chairman Jordan. And then, on the 19th, the day you decided, is that the day
23 you also communicated?
24 Mr. Graves. I don't know if it was the exact day. And I'm saying the 19th. I'm
25 relying on my calendar for that being the day. It's possible that I'm looking at the wrong

1 meeting, but it would have been sometime then, like mid- to late March.

2 BY [redacted]

3 Q Were you aware around that time that the White House Communications

4 Office was issuing public statements --

5 A No.

6 Q -- about this case, that -- so you don't remember anything that was said from

7 the podium at the White House?

8 A Sorry. I should have let you finish your question.

9 No, I do not.

10 Q Okay. Do you remember anything that was said on the Sunday shows?

11 A No.

12 Q Okay. Were you aware of the President's position that, you know, he didn't

13 think his son had done anything wrong?

14 A I don't -- I actually don't think so. Yeah.

15 Q Did you hear him at the debate?

16 A Which debate?

17 Q You know, during the debate.

18 A Oh, like during the --

19 Chairman Jordan. Campaign.

20 Mr. Graves. -- campaign?

21 Chairman Jordan. Yeah.

22 [redacted] Yeah.

23 Mr. Graves. I watched the debates, so I'm sure that I did. That's not something

24 that sticks out in my mind.

25 BY [redacted]

1 Q So, after March 19th, your office communicates to Weiss' office that you're
2 not going to join the case. You said that there were two other times that this case sort
3 of was brought to your attention by the Criminal Division chief, right, in the spring of
4 2022?
5 A No. I was saying there were two times total that I recall --
6 Q After the 19th?
7 A Not after the 19th. Including the 19th. The 19th and the original
8 conversation --
9 Q Okay.
10 A -- were the two meetings that I recall. I'm sure there was intervening
11 where we talked about it.
12 Q But didn't you say -- and maybe I misunderstood, but didn't you say
13 subsequent to the 19th --
14 A Oh --
15 Chairman Jordan. The conversation with the Criminal Division and during the --
16 [redacted] Can we go off the record for one second?
17 [Discussion off the record.]
18 [redacted] Go ahead.
19 Mr. Graves. Yes. So yes. They were not full-blown meetings. It was in the
20 context of another conversation or meeting, something that I was told for my situational
21 awareness about aspects of the support that we had agreed to provide to Delaware and,
22 in fact, had provided to Delaware.
23 BY [redacted]
24 Q And did you instruct anyone to call Weiss' office and say, "Hey, to be sure,
25 you can do whatever you need, and we will assist you"?

1 A I did not because I was incredibly clear in my conversation -- and I know the
2 subsequent steps that we took would have left no doubt that they knew they had all the
3 support they needed in D.C.
4 Q My time is up, but the subsequent steps you took, you're not willing to tell
5 us what they are?
6 A I'm not able to tell you what they are.
7 Q Okay.
8 [redacted] Our time is up, so we'll --
9 [redacted] Off the record.
10 [Recess.]
11 [redacted] All right. It is 11:15. We can go back on the record.
12 EXAMINATION
13 BY [redacted]
14 Q Mr. Graves, before we get into our case in chief, or most of our questioning,
15 I wanted to clarify. In the prior hour, you had previously referenced the Criminal
16 Division. Do you recall that?
17 A Yes.
18 Q Was that a reference to the Criminal Division at Main Justice, or was that a
19 reference to the Criminal Division at the U.S. Attorney's Office?
20 A Thank you for clarifying that. That was a reference to the Criminal Division
21 within the D.C. U.S. Attorney's Office, not Main Justice.
22 Q Okay. And, just to put a finer point on this, the head of the Criminal
23 Division at Main Justice at that time period would have been Kenneth Polite. It wasn't
24 Kenneth Polite that you were having conversations with, correct?
25 A That is correct.

1 Q Okay. In the prior hour, we also talked about the Tax Division's
2 responsibility over certain matters and the way that you would consult with Tax Division
3 in certain instances, and I want to return to that discussion.
4 The responsibility that you're referring to is actually -- it's laid out in the Justice
5 Manual, correct?
6 A Correct.
7 Q So it's not specific to any particular case. It's guidance that applies to any
8 case?
9 A That is correct.
10 Q Okay. What's your understanding of why the Justice Manual grants the Tax
11 Division responsibility over these matters?
12 A So, at a high level, my understanding is that the Tax Code is one of the most
13 complicated criminal regimes that we have. It has, among the various levels of scienter,
14 kind of mental intent, the highest mental intent. There are all kinds of violations of the
15 Tax Code that don't rise to the criminal level. And you want a centralized group that is
16 very much steeped in these issues and able to make sure that tax prosecutions across the
17 country are being implemented uniformly.
18 [redacted] I want to introduce -- I think this is actually exhibit 1, Justice Manual
19 section 6-1.000, which is entitled "Department of Justice Policy and Responsibilities, Tax
20 Division."
21 [Graves Exhibit No. 1
22 Was marked for identification.]
23 [redacted] There is a couple copies.
24 [redacted] Oh, I think you have a couple copies there.
25 Mr. Graves. Oh, I have a couple copies. Sorry.

1 [redacted] If you can pass them down.

2 BY [redacted]

3 Q Have you had a minute to review?

4 A I have reviewed exhibit No. 1, yes.

5 Q And have you seen this before?

6 A I have, yes.

7 Q So I want to look at specifically the very first sentence here. It reads: The

8 Assistant Attorney General for the Tax Division, subject to the general supervision of the

9 Attorney General and under the direction of the Associate Attorney General, is

10 responsible for conducting, handling, or supervising the following matters, correct?

11 A Correct.

12 Q And it specifically uses the word "responsible," correct?

13 A Correct.

14 Q It doesn't say "has authority over." It says "he's responsible for doing these

15 things"?

16 A Correct.

17 Q And then there is a list of seven bullet points?

18 A Yes.

19 Q Okay. So, while the Tax Division is responsible for conducting, handling, or

20 supervising these matters, the entire division is actually directed by the Associate

21 Attorney General, correct?

22 A Correct.

23 Q And the Attorney General himself, or herself, I guess, has supervisory

24 authority over all the matters, correct?

25 A Yes.

1 Q And that's true actually for everything the Department of Justice does, right?
2 A Correct.
3 Q So, if a U.S. attorney disagrees with the decision that the Tax Division makes,
4 they can appeal that to the Attorney General, correct?
5 A Correct.
6 Q And, if the Attorney General has, for example, assured a U.S. attorney that
7 that U.S. attorney will have full authority over a matter, then the Attorney General could
8 overrule the Tax Division and grant the U.S. attorney whatever it is he's seeking?
9 A Yes. That is correct.
10 Q Okay.
11 BY [redacted]
12 Q I mean, just to be clear, prosecuting authority in the Department of Justice
13 ultimately lies with the Attorney General in all cases. Is that fair to say?
14 A Correct.
15 Q And he can delegate -- he or she can delegate that authority as he wishes
16 within the Department of Justice or the U.S. Attorney's Offices as he chooses?
17 A That's my understanding.
18 Q Okay. So, when we had some discussion in the previous hour about
19 approvals or responsibilities of the Tax Division, all of that authority is ultimately derived
20 from the Attorney General himself, correct?
21 A That's correct.
22 Q And, if the Attorney General says that someone -- in this case,
23 Mr. Weiss -- has the authority to make charging decisions, do you have any reason to
24 believe that Mr. Weiss did not have that authority?
25 A I have no reason to believe Mr. Weiss did not have that authority, and, yes,

1 the Attorney General can supersede anything in terms of the structure that's laid out in
2 the Justice Manual.
3 Q Okay.
4 BY [redacted]
5 Q Thank you.
6 I want to take a step back. You talked a little bit about your background in the
7 first hour, but I want to talk about that in a little more depth. So I understand that you
8 were appointed U.S. attorney in 2021, but way back in the 2000s, you actually worked at
9 the U.S. Attorney's Office as a career employee, correct?
10 A That is correct.
11 Q When did you actually first join the District of Columbia U.S. Attorney's
12 Office?
13 A May 2007.
14 Q And what was your role at that time?
15 A I was a line assistant in our Superior Court Division.
16 Q What type of cases did you prosecute in that role?
17 A Started off prosecuting misdemeanors. We have a rotation system in the
18 U.S. Attorney's Office for the District of Columbia because we are responsible for
19 prosecuting local crimes as well as Federal crimes, and you kind of work your way up from
20 misdemeanors all the way up to very serious felonies.
21 Q You stayed at the D.C. U.S. Attorney's Office for a fair number of years,
22 correct?
23 A Yes. I left in October 2016, so 9.5 years.
24 Q So almost a decade. Is that fair --
25 A Yes.

1 Q -- to say?

2 And, during that entire time, you were a career prosecutor?

3 A That's correct.

4 Q During that time, did you have the opportunity to try cases before a jury?

5 A Yes.

6 Q How many cases did you try before a jury?

7 A Roughly two dozen.

8 Q Okay. And, during your time as a line prosecutor, did you hold any

9 supervisory positions?

10 A Yes, I did.

11 Q So I guess at that point you're not a line prosecutor; you're a supervisory --

12 A Yes.

13 Q -- prosecutor?

14 Could you describe those positions?

15 A I was an acting assistant chief of our Fraud and Public Corruption Section in

16 our Criminal Division, which is what we refer to as our division that prosecutes Federal

17 crimes as opposed to local crimes. And then I ultimately became the acting chief of that

18 section.

19 Q And when did you become the acting assistant chief?

20 A Acting assistant chief, I believe that was in 2015.

21 Q Okay. And then when did you become the acting chief?

22 A That would have been early spring of 2016.

23 Q Okay. What type of cases did you oversee as a supervisor?

24 A The whole gamut of fraud, public corruption, and civil rights cases. So,

25 in -- I can expand on that if you want, or --

1 Q Yeah. I mean, I think what I'm -- did you oversee white-collar crime cases
2 specifically?
3 A Yeah. It was exclusively what -- well, it was almost exclusively what people
4 would call white-collar crime cases. The only one that was different is civil rights, which
5 involved officer -- which a component of that involved use of force and use of deadly
6 force by officers, which we conceptualize as a public corruption crime.
7 Q And did your duties sometimes involve overseeing or prosecuting tax fraud
8 cases specifically?
9 A Yes.
10 Q Okay. And, in fact, you were the lead prosecutor in United States v. Jesse
11 Jackson, Jr., and Sandra Stevens Jackson, correct?
12 A That is correct.
13 Q Who was Jesse Jackson, Jr., or who is Jesse Jackson, Jr.?
14 A Jesse Jackson, Jr., is a prominent political figure and, at the time of the
15 investigation, was an elected Member of Congress.
16 Q What political party does he belong to?
17 A Democrat.
18 Q And, in that case, Sandra Jackson actually pleaded guilty to filing false tax
19 returns, didn't she?
20 A That is correct.
21 Q So that was actually a tax fraud case involving a Democratic politician that
22 you prosecuted?
23 A Two Democratic politicians. She was a local alderman.
24 Q A Democratic alderman?
25 A Correct.

1 Q And you also prosecuted Neil Rodgers, correct?

2 A That is correct.

3 Q Who was Mr. Rodgers?

4 A Mr. Rodgers was a staffer to a D.C. Council member, D.C. Council member

5 Harry Thomas.

6 Q And what political party was Mr. Thomas a member of?

7 A Mr. Thomas was a member of the Democratic Party.

8 Q And can you briefly describe the facts of that case?

9 A Yes. Mr. Thomas, who I also was part of that prosecution team, because he

10 also was prosecuted, had directed city funds to charitable organizations that he was

11 affiliated with and then had conduits at those charitable organizations who funneled the

12 money back to him.

13 Q And was that around the time of President Obama's first inaugural?

14 A Yes. That would -- the conduct occurred around the time of the first

15 inaugural.

16 Q And was some of the money actually used to fund an event of the first

17 inaugural?

18 A Yes. He had like -- yes. There are -- obviously a number of people have

19 events associated with the inaugurals that might not be official inaugural event but in

20 honor of the inauguration, and some of the money was used to fund an inaugural party,

21 celebrating President Obama's first inaugural.

22 Q So these were Democratic political figures who were using money to fund an

23 event around President Obama's first inauguration, correct?

24 A That's correct.

25 Q And you were the -- you prosecuted that case?

1 A That is correct.

2 Q Okay. So, taking a step back, it's fair to say you've had experience

3 overseeing white-collar cases and, specifically, tax fraud cases, both as a line prosecutor

4 and as a supervisor, correct?

5 A Yes. And if I could just add one thing --

6 Q Sure.

7 A -- to your finer point, I also was part of the prosecution team that

8 prosecuted another Democratic member of the D.C. Council for bank fraud.

9 Q Who was that?

10 A Kwame Brown.

11 Q And what timeframe was that?

12 A The same timeframe as the -- it happened around the exact same time as

13 the Harry Thomas, so kind of the 2012-2013 timeframe.

14 Q Thank you for that?

15 A Yeah.

16 Q Is it fair to say, talking about white-collar cases specifically, that they can be

17 complex in nature?

18 A Yes.

19 Q Are you familiar with the complexities that are associated with white-collar

20 cases?

21 A Yes.

22 Q And with tax fraud cases as well?

23 A Yes.

24 Q Okay. And so you are familiar specifically with the considerations that

25 might arise when deciding whether to bring charges in a white-collar case, correct?

1 A Yes.

2 Q And in tax fraud cases specifically?

3 A Yes.

4 Q So I want to turn to some of those considerations and the considerations

5 that prosecutors take into account when deciding whether to bring charges in any matter,

6 but especially in complex matters like white-collar case and tax fraud cases.

7 We discussed the Justice Manual earlier. Are you familiar with the principles of

8 Federal prosecution in the Justice Manual?

9 A Yes.

10 Q Okay. It's section 9-27.

11 A Yes.

12 Q Okay.

13 [redacted] Let me introduce as exhibit 2 section 9-27.220.

14 [Graves Exhibit No. 2

15 Was marked for identification.]

16 Mr. Graves. Okay. Thank you.

17 BY [redacted]

18 Q And this is the section entitled "Grounds for Commencing or Declining

19 Prosecution."

20 A Yes.

21 Q And I believe it's on the second page.

22 A I'm very familiar, yes.

23 Q Okay. And I'm actually -- we're going to look at the very first paragraph

24 under 9-27.220. That section reads: The attorney for the government, which is the

25 prosecutor, right?

1 A Uh-huh.

2 Q -- should commence or recommend Federal prosecution if he or she believes

3 that the person's conduct constitutes a Federal offense and that the admissible evidence

4 will probably be sufficient to obtain and sustain a conviction unless, number one, the

5 prosecution would serve no substantial Federal interest; number two, the person is

6 subject to effective prosecution in another jurisdiction; or, number three, there exists an

7 adequate, noncriminal alternative to prosecution.

8 Did I read that correctly?

9 A Yes. I'm very -- I know that off the top of my head, but I was struggling to

10 find exactly where you were reading from at first, but yes. You --

11 Q But -- so I read that correctly?

12 A You read it correctly, yes.

13 Q So, under these principles, prosecutors should only bring charges when,

14 among other considerations, they believe that the admissible evidence will probably be

15 sufficient to obtain and sustain a conviction, correct?

16 A Correct.

17 Q In layperson's terms, what does "admissible evidence" mean?

18 A "Admissible evidence" means that, when you get to trial, you're going to be

19 able to introduce witness statements or documents that a court is going to say: Yes, this

20 can come in at this trial.

21 Q And it's evidence that meets the standards of the Federal Rules of Evidence.

22 Is that fair to say?

23 A Correct. Yes.

24 Q Okay. What type of considerations might a prosecutor take into account

25 when weighing whether the admissible evidence will probably be sufficient to obtain and

1 sustain a conviction?

2 A Their experiences with similar cases comparing it to other cases. They'll

3 look at defenses, particularly in the white collar context, where usually, unlike the violent

4 crime context, in the white collar context, there is actually a complete agreement on

5 what factually occurred and it's all about what is in a person's head, which is what makes

6 white-collar cases so difficult, but kind of what the defenses might be and how you're

7 going to prove beyond a reasonable doubt the significant scienter or mens rea

8 requirements.

9 Q And are you familiar with the term "sufficiency of the evidence"?

10 A Yes.

11 Q What does that term refer to?

12 A So, I mean, in general, "sufficiency of the evidence" is whether you have a

13 sufficient -- whether you have enough evidence to get over whatever the evidentiary

14 burden is at that point in the process.

15 Q Is that something that prosecutors would take into account when

16 considering whether to bring charges?

17 A Yes. It's whether you have sufficient evidence to prove the case beyond a

18 reasonable doubt, which is obviously the highest standard in the legal system.

19 Q Okay. And I want to turn back to that in a minute. But, along with

20 sufficiency of the evidence, does a prosecutor also consider the ability to explain the

21 charges and the evidence to a jury?

22 A Yes.

23 Q Why is that important?

24 A Because of the nature of the trial process, you don't get to often kind of

25 cleanly put in, from beginning to end in a logical fashion: This is what happens.

1 You have to introduce evidence through witnesses, and witnesses usually only
2 know a portion. So, as you're talking about, in the white collar context, a complex fraud
3 scheme, you're constantly thinking through how am I going to prove this in a way that a
4 lay jury is going to understand, assuming as -- you know, take the same approach that the
5 journalism industry takes, that you're talking to people with a middle school education.
6 Q And that's because jurors are any -- they're anybody, right? They're drawn
7 from the people of the community, right?
8 A Correct.
9 Q And they maybe are not lawyers?
10 A Correct.
11 Q They maybe aren't accountants?
12 A That is correct.
13 Q They may not be familiar with the rules of evidence, for example?
14 A That is correct.
15 Q Okay.
16 A Or, because we actually do tend to have a lot of lawyers and accountants in
17 this jurisdiction in particular that practice in areas other than the area that is the subject
18 of the case, they think they know things about the law that they actually don't know --
19 Q And that's --
20 A -- which is another complication for trying these cases.
21 Q In a tax case specifically, might it be relevant if the potential defendant had
22 actually paid the taxes due?
23 A Yes.
24 Q Why would that be relevant?
25 A So, in tax cases, as I was saying earlier, the Tax Code, as we probably know

1 through all of our limited experiences and then jurors would know from their limited
2 experiences, is incredibly complex, so there is lots of room for good-faith mistakes. And
3 that's why people have all kinds of experience with people who either come under audit
4 or get a notice of tax deficiency, just paying it and it never amounting to a crime.
5 So, when someone immediately turns around and pays, you have to deal with the
6 defense, as soon as they're alerted to an issue, that this was a good-faith mistake that
7 does not rise to the level of intentionality required for a criminal violation.
8 Q Again, speaking of things that a prosecutor might consider with respect to
9 bringing a case before a jury, might it be something to consider if the potential defendant
10 has a sympathetic personal story?
11 A Yes.
12 Q How can that impact a prosecutor's thinking?
13 A So it can impact on at least two levels in the context of a tax prosecution.
14 One, you're always worried in these kinds of cases, where no one was actually
15 hurt, about juror nullification, and you have to guard against that, just because they feel
16 bad for the defendant. But, more importantly, depending on what the sympathetic
17 nature of the story might be, that can get intertwined with the intent issue.
18 Q How so?
19 A So, like, hypothetically speaking, the person is going through some kind of
20 trauma or some -- or there is documented evidence of substance abuse, right? Now
21 you're getting into defenses of: My client was so distracted by X, or my client was under
22 the influence of Y, that, when they were filling out -- when they were working with their
23 return preparer, they just were, like, not focused on this. That's why this was wrong,
24 not because they were trying to be evasive.
25 Q And, to obtain a conviction in a tax fraud case, for example, is the prosecutor

1 required to prove intent?

2 A Yes.

3 Q And can you briefly describe in layperson's terms what that means?

4 A It's that you knew exactly what the Tax Code required and you intentionally

5 didn't do that, which is exceedingly hard to prove in tax cases because of how complex

6 the Tax Code is.

7 Q Thank you for that.

8 We just talked through many concerns or many issues that prosecutors should

9 consider when deciding whether to bring charges. How do prosecutors learn to assess

10 and evaluate these types of concerns?

11 A Some of it is through experience and supervisors who have been through

12 these cases before who will say, you know: Well, this is how I would defend this case.

13 What are you going to do in response if that's the defense, and kind of talking through

14 those kinds of issues.

15 But, in my view, there is nothing -- no greater teacher than experience, which is

16 why, like, the supervisory chain is so important, because they've seen these cases before.

17 Q And prosecutors -- you don't start out prosecuting white-collar crime, right?

18 A That is correct. Well, I mean, I should say that, in our office, you don't start

19 off prosecuting white-collar crime. There are places within the Department you can go

20 where you can specialize in white-collar crime.

21 Q But, in the U.S. Attorney's Office in particular, you might start off

22 prosecuting misdemeanors, right?

23 A Yes.

24 Q And you learn from experience doing misdemeanors, right?

25 A Yes.

1 Q And then you may be assigned to progressively more complex cases,
2 correct?
3 A Yes.
4 Q And you may be paired up with a more senior attorney to have them mentor
5 you on a more complex case, right?
6 A Yes.
7 Q And so my point is that there is learning -- there is a learning process that is
8 garnered through experience as a prosecutor?
9 A That is correct, and that's just on the violent crime. And then, when you
10 get over to the fraud and public corruption, you're not immediately by yourself doing
11 multimillion-dollar fraud cases. It's like 100,000, 200,000, $300,000 embezzlement.
12 And then you kind of start the process all over again in the white collar context of learning
13 those cases, because prosecuting white collar is like a different animal than violent crime.
14 Q So it's fair to say that prosecutors have fairly unique training, learn on the
15 job, and experience in assessing things like the sufficiency of admissible evidence?
16 A That is correct.
17 Q And it's fair to say that prosecutors have unique training and experience in
18 assessing the likelihood that the admissible evidence will be persuasive to a jury, correct?
19 A Correct.
20 Q So it's fair to say that prosecutors have unique training and experience in
21 assessing whether the admissible evidence is reasonably likely to result in a conviction
22 ultimately, correct?
23 A Yes.
24 Q In your experience, is it fair to say that investigators, whether they're from
25 the FBI or from the IRS or some other investigative entity, don't have the same

1 experience specifically with regard to assessing the admissible evidence and whether it
2 would be persuasive to a jury?
3 A Yes.
4 Q And is it fair to say that one unique difference between investigators and
5 prosecutors is that investigators generally do their work -- so investigators do their work
6 before the stage when the evidence is tested by trial, and prosecutors are looking at it
7 specifically with respect to the trial itself?
8 A In general, yes.
9 Q In some cases, the investigation might continue?
10 A Yes. So, I mean, just to expand on your point, I agree with the premise
11 behind the question. So the investigators are gathering evidence and often don't see
12 how the evidence plays out in court. Even when they themselves are called to testify,
13 they're only there for their period of when they're testifying and maybe closing
14 arguments. So they don't see the trial process and how all this plays out, with the
15 limited exception of sometimes, in Federal cases and white-collar cases, you can have an
16 agent sitting with you -- a law enforcement agent sitting with you for the entire trial.
17 And I only raise that because that is one of the best experiences that a law
18 enforcement officer can get, because sometimes they sit through the whole trial and they
19 say: Oh, now I see why we were having those conversations before that I didn't
20 understand.
21 Q And, if they don't sit through that, or if they haven't had the opportunity to
22 sit through that, they might not really understand how the trial process works?
23 A Correct.
24 Q And they might not really understand the prosecutor's thinking?
25 A Correct.

1 Q Given the difference in roles between investigators and prosecutors, it's not
2 surprising that there might be differences in opinion among investigators and prosecutors
3 about the strength of the evidence and the likelihood of success at trial, correct?
4 A Not only is it not surprising, but, in my experience, in Federal charges, blue
5 collar or white collar, it's kind of more often than not that there is some disagreement,
6 with the agents usually thinking that more charges should be brought than the attorneys.
7 Q And, in those cases where the agents think more charges should be brought
8 than the attorneys do, the prosecutors have the final say, correct?
9 A They have -- yes. Well, yes. I -- in my office, we try to do things
10 collaboratively because the agents have spent so much time and we try to talk through
11 the issues and explain to them, like: This is -- these are the challenges we see.
12 And you hope to be able to get and we often do get to a consensus of: Yeah, I
13 wanted to do A, B, C, X, Y, and Z before, but now I understand A, B, C.
14 There are some times where they are like: I still think X, Y, Z, but I respect the
15 decision that you're making.
16 Q And I appreciate that.
17 A Yeah.
18 Q But, ultimately, if there is -- if you can't get them to see your point of view,
19 at the end of the day, it is the prosecutors whose word goes, right?
20 A Yes.
21 Q And that's because prosecutors have that specialized experience we talked
22 through, correct?
23 A Yes. And that's our role in the process.
24 Q Right. They're the ones that have to present the case to the jury?
25 A Yes. Yes.

1 Q So, when Mr. Weiss approached you at the end of February in 2022 and
2 asked you to consider or asked you to support -- provide administrative support in the
3 potential tax-related or potential prosecution of Hunter Biden and you asked if he wanted
4 you to join the case, he said, "We can talk about that," and then you went back and had
5 some further conversations, right, or your investigator -- your staff looked into the case a
6 little bit more, correct?
7 A Yes.
8 Q As they were doing that additional look into the case, was there examination
9 guided by the consideration of the Justice Manual principles we just talked through, so
10 sufficiency of the evidence, the ability to present the charge to the jury, for example?
11 A Yeah. I think, at a high level, I can say -- I can say yes to that.
12 Q Okay. Without revealing any of the actual deliberations, realizing this is an
13 ongoing case, did they consider whether there was sufficient admissible evidence such
14 that prosecutors could probably sustain a conviction from a jury in the District -- in your
15 district.
16 [redacted] And I think, before he answers, he can certainly talk in general about
17 the types of considerations in any case, but obviously not the specifics.
18 [redacted] Understood.
19 BY [redacted]
20 Q And I'm asking, you know, if these are considerations that apply to every
21 case, were they applied here?
22 A So I am trying to thread this needle. I think I am authorized to say, in any
23 case, we are going to go through these Justice Manual factors, like sufficiency of the
24 evidence. In terms of making an assessment about whether we should proceed with the
25 case, join a case, whatever, is kind of like the process, and the normal order is that starts

1 at the line level, and that recommendation makes its way up the supervisory chain.
2 Q And, in this case, like in any case, the prosecutors would have to show that
3 the evidence was probably sufficient to convince a D.C. jury of the defendant's guilt
4 beyond a reasonable doubt, correct?
5 A Correct.
6 Q So the burden of proof, we've said earlier, is beyond a reasonable doubt.
7 That's actually the highest evidentiary standard in the law, correct?
8 A That is correct.
9 Q Can you briefly describe what beyond a reasonable doubt is?
10 A Yes. It's not beyond any doubt, not beyond imagined or a fantastical
11 doubt, but beyond any doubt that any reasonable person would have about the outcome;
12 as our very good public defender service says, it's a higher standard than what you need
13 to take a child away from his or her mother.
14 Q And it's also a higher standard than probable cause, correct?
15 A Much higher than probable cause.
16 Q So what's the standard for probable cause?
17 A Probable cause is, is it likely?
18 Q And beyond a reasonable doubt is a higher standard than the
19 preponderance of the evidence standard that's needed to obtain a judgment in a civil
20 case, correct?
21 A Yes. It -- yes. Exactly.
22 Q And --
23 A Probable cause, preponderance of the evidence, reasonable doubt.
24 Q And so preponderance -- what is preponderance of the evidence?
25 A Preponderance means majority.

1 Q So it's more than 50 percent?
2 A Yeah.
3 Q In your experience as a Federal prosecutor, is it fair to say that it can be
4 difficult to convince a jury, quote, "beyond a reasonable doubt," even when you have a
5 significant amount of evidence that a defendant may have actually committed a crime?
6 A It certainly can be, yes.
7 Q And, in order to obtain a criminal conviction, you need to not only establish
8 that the defendant is guilty beyond a reasonable doubt, but you also have to convince 12
9 jurors that you've met that standard, correct?
10 A Correct.
11 Q And that jury's decision has to be unanimous, correct?
12 A Correct.
13 Q That means that, if even one single juror has a doubt or has what he or she
14 considers to be a reasonable doubt about the sufficiency of the evidence that you've
15 presented, then that juror will be instructed to find your defendant not guilty, correct?
16 A So what will happen is, if the jury cannot reach unanimity, if 11 jurors agree
17 a conviction and one doesn't, eventually a mistrial will be declared.
18 Q Have you ever had the experience as a prosecutor where you felt very
19 strongly that you had presented the jury with sufficient evidence to prove a case beyond
20 a reasonable doubt, but there was one juror who didn't agree, and so the defendant
21 wasn't convicted?
22 A Yes.
23 Q Can you describe broadly the circumstances of that case --
24 A Yes.
25 Q -- or cases?

1 A Yes. I can. Case or cases. One that comes to mind, one of my first jury
2 trials, an individual was riding in the back of a car that got stopped. Officers see in plain
3 sight a bag that contains 20 Ziplocks of an illicit substance by his feet. They step him out
4 of the car, and they search him, and they find additional illegal drugs on him. That was
5 an 11-1 hang for conviction.
6 Q And, in that case, there had been evidence found in the car?
7 A Yes.
8 Q There had been --
9 A Two officers testified in basically unimpeached fashion that: I saw drugs
10 sitting next to the person. I stepped him out of the car and found additional drugs.
11 The jury was shown those drugs. The jury was shown photos from the scene of where
12 the drugs were, and there was one juror who held out.
13 Q So it can be difficult to convince 12 jurors to convict a defendant?
14 A That is correct.
15 Q Okay. And prosecutors, as we talked through a couple minutes ago, have
16 to consider the perspective of jurors when they make charging decisions?
17 A That's correct.
18 Q How do those considerations play out in your experience when prosecutors
19 are making those decisions?
20 A I'm sorry. In what sense?
21 Q So, for example, might prosecutors have discussions with other prosecutors
22 to assess how the evidence might play out before a jury?
23 A Yes. Particularly in the white collar context, you'll have discussions with
24 your supervisors, in our office, at both the indictment phase and at the trial phase.
25 We'll assemble other people who haven't worked on the case. We try to -- really try to

1 bring in professional staff who are not lawyers, particularly at the trial phase, to say:
2 Hey, is this all making sense?
3 Q And, among other things, the prosecutors might discuss what's happened in
4 other similar cases, right?
5 A That is correct.
6 Q So, using the drug case as an example, you might say: Well, I had a case
7 where the officers found drugs on the person of this defendant, and we still had an 11-1
8 split.
9 Right?
10 A Yes.
11 Q And that would inform the prosecutors as to their charging decisions?
12 A Yes.
13 Q Okay. In addition to the probability of obtaining a conviction at trial, the
14 Justice Manual's principles of Federal prosecution also instruct that prosecutors must
15 consider whether there exists an adequate noncriminal alternative to prosecution,
16 correct?
17 A That's correct.
18 Q Was this something that you were required to consider or that your career
19 prosecutors were required to consider when deciding whether to join Mr. Weiss' case?
20 A So it's in the Justice Manual, so on any case -- I wouldn't limit it to
21 Mr. Weiss' -- we would be required to consider that.
22 Q And so they would be required to consider the fact that, in tax-related cases,
23 there are alternatives to criminal prosecution that are routinely pursued, such as the
24 payment of civil penalties?
25 A So what I -- yeah. What I can say in general is this is a regular conversation

1 that we have in the context of tax cases and other cases where there is a regulatory or
2 civil remedy. Why are we doing this criminally as opposed to regulatory or civil?
3 [redacted] And I want to introduce as exhibit No. 3 the civil complaint in a case.
4 It's United States of America v. Robert J. Shaughnessy and Susan J. Shaughnessy.
5 [Graves Exhibit No. 3
6 Was marked for identification.]
7 BY [redacted]
8 Q And this is a 2022 civil case from the United States District Court for the
9 District of Columbia.
10 A Okay.
11 Q Do you recall this case?
12 A I don't, and I don't think that this is a case that our office brought.
13 Q So this was actually brought by the Tax Division, correct?
14 A I believe so, although, as luck would have it, we have a member of our team
15 who is also named Emily Miller, but I believe it is a different Emily Miller.
16 Q And we'll ask to redact that from the transcript --
17 A Yeah.
18 Q -- because I believe that's a line attorney.
19 A Okay.
20 Q But it is a tax case --
21 A Yes.
22 Q -- that was brought in the District of Columbia Federal district court, correct?
23 A Yes, correct.
24 Q In 2022?
25 A Correct.

1 Q And, if you look at page 2 of this complaint, the civil complaint, there is a
2 table, right?
3 A Yes.
4 Q And, at the table, it says that the total outstanding balance or -- refers to the
5 total outstanding tax balance as of April 18th, 2022, was almost $7 million, correct?
6 A Yes.
7 Q And then, on page 3, paragraph No. 8, it says that the defendants in this
8 case, despite being given notice of those taxes due, they neglected or refused to make full
9 payments of those assessments to the United States, correct?
10 A Yes.
11 Q And then, further down on page 3, under the prayer for relief, it says that
12 the United States respectfully prays that this court enter judgment in favor of the United
13 States. And then it says in the amount of roughly $7 million, plus interest, correct?
14 A Yes. Yes.
15 Q So this is an example of a tax case where taxes were not paid, correct?
16 A Correct.
17 Q And the government did bring a case, but it brought a civil case?
18 A Correct.
19 Q And the demand for relief was that the defendants pay the taxes due?
20 A Correct.
21 Q All right. So you've explained that, when Mr. Weiss first contacted you in
22 February of 2022 and that you raised the possibility of joining the case, that your team's
23 consideration as they were evaluating that was guided, as in all cases, by consideration of
24 the Justice Manual's principles of Federal prosecution, correct?
25 A Yes.

1 Q Was their consideration influenced in any way by personal or political or
2 partisan considerations?
3 A I -- it's across the board, no. In none of our cases does that ever come up.
4 Q Was the evaluation of the case influenced in any way by people outside of
5 your office, such as individuals at Main Justice, the White House, or elsewhere, who
6 sought to impact your decision?
7 A No.
8 Q And you said that you did offer to provide any and all logistical support,
9 correct?
10 A Correct.
11 Q And you instructed your team to provide any and all logistical support?
12 A Correct.
13 Q In light of that, what impact do you believe that your decision not to actually
14 join the case would have had on Mr. Weiss' efforts to prosecute Mr. Biden in the District
15 of Columbia if he chose to do so?
16 A I, at the time, believed that my decision had no impact, and the first time
17 that I heard concerns about the decision that we reached was in the public reporting
18 around the whistleblowers' allegation.
19 Q So in the past couple months?
20 A Yes.
21 Q And, if anything, your determination that you would provide him with any
22 and all administrative and logistical support actually would have made it easier for him to
23 bring the case if he so chose?
24 A Yes. I believe we had done everything we needed to do in order for him to
25 bring a case if he chose to bring a case.

1 Q Okay. And it was never your intent to block Mr. Weiss from pursuing
2 charges that he, meaning Mr. Weiss, wished to pursue against Hunter Biden, correct?
3 A Absolutely not.
4 Q Okay.
5 BY [redacted]
6 Q Mr. Graves, Mr. Weiss never actually asked you directly to be local counsel in
7 the Hunter Biden case. Is that fair to say?
8 A That's my recollection, that I was the first one to raise it. And that kind of
9 informed my thinking that that was an ask from me as opposed to an ask from him.
10 Q Okay. So it's fair to say that Mr. Weiss, no one on his staff, as far as you
11 know, asked anyone at the U.S. Attorney's Office in D.C. to be a local prosecutor and was
12 denied that request?
13 A As far as I am aware, yes.
14 Q Okay.
15 [redacted] Yes, that's accurate, what Karen said?
16 Mr. Graves. Yes. What you said is accurate as far as I am aware.
17 [redacted] Thank you for that clarification.
18 BY [redacted]
19 Q And, also to be clear, you personally, in your position as the United
20 States attorney for the District of Columbia, never took any action to block Mr. Weiss or
21 anyone from his office from bringing any charges against Hunter Biden within the District
22 of Columbia?
23 A No.
24 Q And you indicated that you had some familiarity based on press reporting of
25 what the whistleblower allegations in this case have suggested, and that is generally that

1 you did block Mr. Weiss in some manner from bringing charges in the District against
2 Hunter Biden.
3 Are you aware of that allegation generally?
4 A I am generally aware of that allegation.
5 Q Okay. And what is your response to it as you sit here today based on
6 everything that you know and you can share with us?
7 A So my -- allegation or my response or my position is that that is not accurate.
8 I want to be careful and respectful, because I've worked with whistleblowers my entire
9 career. I believe these people are saying what they believe to be true. But, if you look
10 at a lot of the communications, it's second or thirdhand, never direct communication with
11 us after a decision was made.
12 Q Is it fair to say that you think there may be some confusion on the part of the
13 whistleblowers as to what you did in this case in your communications with Mr. Weiss?
14 A So I don't want to get into the specifics of this case, but I have been around
15 large institutions -- and the Department is a large institution enough -- to see the garbles
16 that can occur when there are communications across different components and people
17 aren't talking directly to each other.
18 Q Okay. But, to the extent that there has been public reporting that the
19 whistleblowers have said that you blocked Mr. Weiss in some manner in bringing charges
20 against Mr. Biden in the District, that is incorrect. Is that fair to say?
21 A The -- I'm just -- there is -- constitutionally, I don't like taking issue with what,
22 like, whistleblowers are saying. I'd rather speak directly. I did not take steps to block
23 any investigation by Mr. Weiss in the District of Columbia. I offered to help.
24 Q Okay. And, Mr. Graves, do you know who Ken Wainstein is?
25 A Yes, I do.

1 Q How do you know him?

2 A He was the U.S. attorney for the District of Columbia during the kind of -- the

3 early part of the George W. Bush administration.

4 Q Did he happen to hire you when you became a prosecutor at the

5 U.S. Attorney's Office?

6 A So it's -- it's funny. He was the U.S. attorney when I started the process. I

7 knew him from before. We had multiple rounds of interviews.

8 He saw me at the first-round interview, and he asked what I was doing there.

9 And I told him I was interviewing.

10 And he asked if he wanted me to hire him on the spot.

11 And I said, I don't think it works that way. I think we have to go through this

12 process.

13 By the time I got to the third round, which is the interview with the U.S. attorney,

14 he had actually transitioned out of that role, and Jeff Taylor was in that role.

15 Q Okay. Mr. -- sorry. Go ahead.

16 A Yeah. Mr. Taylor is a lifelong Republican, had worked in the White House

17 and had worked in Senate Judiciary Committee, and so I had my final interview with him.

18 Q And Mr. Taylor hired you then?

19 A Yes.

20 Q Did you have any concerns about becoming a prosecutor under a Republican

21 U.S. attorney?

22 A So not necessarily, but a little bit of context and a story that I think goes to

23 your question. So this was right around the period of the point when there were a lot of

24 inquiries into whether there was political influence on career hires. And we were kind

25 of the first U.S. attorney class coming up, and the person who had just put in this -- been

1 put in this role and had no connection to D.C. -- and Mr. Wainstein had had a connection
2 to D.C. and had all of this political background in addition to being a career
3 prosecutor -- was the person I was interviewing with.
4 So I didn't quite know what to expect. I tell this story all the time. We got in.
5 He saw my resume, saw that I had done advance for Clinton-Gore and started asking
6 about politics.
7 And I was like: Oh, no, here we go.
8 And he said: I don't care about your political background. I'm a lifelong
9 Republican. When we do this job as prosecutors, we prosecute. Can you check politics
10 at the door whenever you do anything?
11 I said: Absolutely.
12 He's like: You're hired.
13 So -- well, he didn't say it in the interview, but, like, that was the question -- the
14 real question he wanted to ask. And he was one of the greatest U.S. attorneys I served
15 under, and it's a conversation that I remember and I repeat often.
16 Q And so, when you became a prosecutor at the U.S. Attorney's Office, it was
17 your intention to be a career prosecutor and not to be influenced in any way by politics of
18 the person who was at the head of the office. Is that fair to say?
19 A That is correct.
20 Q And, in your experience in that office for 10 years as a career prosecutor, is
21 that the way you were allowed to do your work?
22 A Absolutely.
23 Q Nonpartisan?
24 A Absolutely.
25 Q And, as a U.S. attorney currently, do you have anything that you would like

1 to share about how partisanship does or doesn't influence the decisions that you make?
2 A It doesn't influence in any way whatsoever. As you pointed out in the
3 earlier questioning, every elected official that we've ever ultimately prosecuted was a
4 Democrat. That is irrelevant to us. It is simply these Justice Manual requirements and
5 whether they are met.
6 Q Okay. So there has been an allegation made that Mr. Weiss, quote, "went
7 to D.C. U.S. Attorney's Office in early summer to request to charge there," and the, quote,
8 "Biden-appointed U.S. attorney," end quote, said that you couldn't charge in the district.
9 Do you have any response to being referred to in that context as the, quote,
10 "Biden-appointed United States Attorney"?
11 A I mean, it is true, like every other presidentially appointed, Senate-confirmed
12 U.S. attorney that is currently serving, that I was appointed by the President. But the
13 fact that I was appointed by the President, if this is the insinuation, has absolutely nothing
14 to do with the charging decisions that we make in any case.
15 Q I'm sorry. Mr. Graves, let me just -- one last set of questions.
16 You were asked a little bit about your experience as a prosecutor when there was
17 a disagreement between what investigators saw in the evidence and what prosecutors
18 might see in the evidence. Do you have any opinion based on your experience as to why
19 investigators tend to sometimes overvalue evidence as compared to what prosecutors
20 might think?
21 A It's because they're looking at it -- in my experience, first, they're kind of not
22 seeing how all this plays out in trial. Second, their job is to kind of assemble facts and
23 build a narrative, and they do a great job of that in general, by the way. But they
24 don't -- because this isn't their job or their training, they don't see the ways in which that,
25 you know, house they assembled can be taken apart brick by brick.

1 Q Does it surprise you when investigators complain that prosecutors are trying
2 to block them, for example, or not allowing them to take investigative steps that they
3 think that they should be able to take?
4 A That can happen from time to time, for sure, in all kinds of different cases.
5 Q It's not that uncommon for that kind of complaint to happen, right, in the
6 context of a criminal investigation, that an investigator might think that the prosecutor is
7 holding them back in a sense?
8 A Yes. That can happen, particularly in complex cases. There are all kinds
9 of really complex strategy decisions you have to make, and looking at a proposed action
10 in isolation, you might have one view of it. But, if you're the attorney and you're
11 thinking about how this might play out before a court or before a jury, you might have a
12 different view of it.
13 Q And often the investigators are not lawyers. Is that right?
14 A That is correct. They are often not. They are typically not.
15 Q And they may not have the same responsibility as prosecutors to consider a
16 defendant's constitutional rights, for example?
17 A I think they have a duty to consider the constitutional rights, but I don't think
18 they are as necessarily attuned to all the nuances because they're not attorneys.
19 Q Understood.
20 [redacted] Thank you. We can go off the record.
21 [Recess.]
22 BY [redacted]
23 Q I want to go back to that 3-week period that you testified about, in March
24 of 2022.
25 First, Mr. Weiss called you, and you told him that you'd be able to assist with

1 whatever he needed, correct?

2 A That is correct. And I just want to clarify. I'm going off my best of my

3 recollection. Roughly 3 weeks.

4 Q Okay. And then you went through a process where your principal assistant,

5 the Criminal Division chief, the head of the Fraud Civil Division and the Public Corruption

6 Division, and your line AUSAs evaluated something, correct?

7 A Correct.

8 Q And do you know if those meetings occurred in person that they had?

9 A I do not know.

10 Q Do you know if Lesley Wolf, the AUSA in Delaware, came to D.C.?

11 A I don't know. But, just to reorient, that's at a time when we are still under

12 maximal telework, so that would -- I could speculate. That would -- a lot was probably

13 done virtually.

14 Q Okay. Do you know if any of your personnel went to Delaware?

15 A I am not aware of that.

16 Q And do you know what type of paper was exchanged?

17 A I do not know.

18 Q Do you know if your team reviewed the special agent report prepared by

19 Agent Ziegler?

20 A So I know they have reviewed investigative material. What investigative

21 material specifically, I don't know.

22 Q And were you aware that DOJ Tax had also prepared a report recommending

23 charges?

24 A Not aware.

25 Q Okay. So you didn't review that report?

1 A I did not review any underlying case material.

2 Q Okay. And you didn't review any PowerPoint presentations that may or

3 may not have been made?

4 A No.

5 Q Okay. So you didn't evaluate any paper?

6 A No. My briefing from my team was oral.

7 Q Okay. Now, there is a little bit of a disconnect. I mean, during the last

8 hour, there was some back and forth about how D.C. juries are very tough, and you

9 walked us through a case that I believe you said you were involved with where they found

10 all the evidence you would ordinarily need to --

11 A Yes.

12 Q -- convict somebody, and yet you were unable to get that conviction.

13 A Correct.

14 Q Did your team communicate that to the Delaware U.S. Attorney's Office, that

15 D.C. juries are real tough?

16 A I think what I can say at a high level was that I told my team to explain why

17 we weren't going to seek to join the investigation.

18 Q Now, earlier this morning, you said that joining an investigation after it's

19 already started, like halfway through, would be very unusual, correct?

20 A In my experience, yes. Usually, if you join or partner, it's at the beginning

21 of an investigation, not the end.

22 Q Right. So the Hunter Biden investigation began in -- at least the IRS portion

23 of it began in 2018, and then the Justice Department portion began in 2019. So several

24 years had unfolded by the time you evaluated whether to join, correct?

25 A So I am not tracking all those details. What I can say at a high level --

1 Q Right.

2 A -- was that I was aware that U.S. Attorney Weiss had been a U.S. attorney in

3 the prior administration, and he was one of two of those U.S. attorneys held over because

4 he had an ongoing investigation involving Hunter Biden. But, prior to him calling me, I

5 think I don't know much -- I didn't know much more than that. So whether it started

6 in -- by definition, it would have had to have started before the current administration

7 came in. How long he was doing it, I don't know.

1 [12:12 p.m.]

2 BY [redacted]

3 Q Now, the fact that he was held over, was it your understanding that he was

4 held over particularly for this case?

5 A So I'm just going off of public reporting, nothing internal, but that was my

6 understanding from public reporting.

7 Q And why do you think whoever made that decision wanted to hold Mr.

8 Weiss over?

9 A I couldn't -- I mean, I could only speculate.

10 Q Is it because he was a Republican-appointed U.S. attorney and the

11 investigation involved the son of a Democrat Presidential --

12 A So, I mean, anything is possible. It's also, if there is a long-running

13 investigation, there's continuity in keeping the entire --

14 Q Uh-huh.

15 A -- supervisory chain in place.

16 Q Right. Have you heard the Attorney General state, though, that the reason

17 he was kept was that he was a Republican-appointed U.S. attorney?

18 A I certainly haven't heard the Attorney General say that, and I haven't seen

19 that in any of the reporting.

20 Q So, no?

21 A Yeah, no. I mean, like, I've had no conversations with the Attorney General

22 about this issue generally, and in public reporting I don't recall seeing anything along

23 those lines.

24 Q Have you recalled anyone at the Justice Department touting the fact that

25 Weiss was a Trump appointee that made him a good prosecutor for this case, because

1 he's supposedly not aligned with President Biden?

2 A No, I don't -- no. No.

3 Q No?

4 A No.

5 Q So the only reason, in your mind, that Mr. Weiss was held over was because

6 he had this investigation ongoing.

7 A So that's the thing I knew for certain. I could speculate about other

8 reasons. I'm not saying what you're saying is necessarily unreasonable. I just don't

9 know that. I've never heard that.

10 Q Do you think there's a perception that maybe Weiss could be viewed as

11 more fair because he's not a Democrat-appointed U.S. attorney to begin with?

12 A Um --

13 Q It's a good look, isn't it? It's certainly a good look.

14 A I understand what you're saying. I understand what you're saying.

15 Q You knew it was a good look, right?

16 A I mean, kind of in the way "good look" -- I mean, I understand the optics

17 issue there, yes.

18 Q And it's a good look optically, right?

19 A Well, you're leaving in place the person who was in charge of the

20 investigation before you were -- before the administration changed.

21 Q Okay.

22 And along the same lines, I mean, you can certainly understand how some

23 Republicans might have concerns that a U.S. attorney appointed by President Biden might

24 have some conflict-of-interest types of issues, weighing in on a case against the

25 President's son.

1 A I mean, people can have whatever concerns they might have. I do not view
2 it that way. And I'm not aware of any ethical canon that says that U.S. attorneys have
3 an obligation to recuse whenever --
4 Q But you can --
5 A -- a family member of the President is implicated.
6 Q But you can certainly understand a reasonable person might wonder
7 whether a U.S. attorney appointed by President Biden can fairly make a decision on a
8 case involving his son.
9 A So, kind of -- I mean, I wouldn't -- I don't even know that I would necessarily
10 go that narrow. I understand that people have questions when we make
11 determinations about matters of significant public consequence all the time about the
12 basis.
13 Q What would be the process in your office today if you did have a conflict of
14 interest? Who would be the decision-maker?
15 A So we have an ethics officer within our office who is the first line that we run
16 potential conflicts of interest past. That can lead to -- from there, it can go to the
17 General Counsel's Office of the Executive Office for United States Attorneys. And the
18 Associate Deputy Attorney General who's responsible for ethical matters can also become
19 involved when there are questions about whether recusal is required.
20 Q So, hypothetically, let's say you did have a conflict of interest. You ran it
21 through that process --
22 A Yes.
23 Q -- and it was determined that, in fact, you did have a conflict of interest.
24 Who would then be the decision-maker in your office?
25 A So --

1 Q Who would you defer to?

2 A -- I mean, it depends. I mean, sometimes the conflict is resolved by -- it

3 could be deemed a district-wide conflict, and it's taken away from the district and

4 assigned to another U.S. Attorney's Office.

5 Q Uh-huh.

6 A In other instances, it could be -- you know, within our office, it

7 would typically become -- the Principal Assistant United States Attorney would be the

8 final decision-maker. And if she had a conflict like me, then it would go --

9 Q Okay.

10 A -- to one of our division chiefs.

11 Q So, in your office, is the principal assistant considered the number two?

12 A The principal assistant is the number two, yes.

13 Q Okay. And did you ever contemplate deferring this matter to her?

14 A No.

15 Q Why not?

16 A Because there was no conflict of interest and no reason for me to do so.

17 Q You may have felt that way, but others looking from the outside optically

18 might have felt differently, that a U.S. attorney appointed by President Biden wasn't a fair

19 arbiter of a case involving President Biden's son.

20 A So --

21 Q I mean, that's not an outlandish thing to suggest.

22 A I understand what you're saying.

23 Q Uh-huh.

24 A I am saying there is no ethical reason for me to put this decision on someone

25 else. And, in my experience, when you start trying to do things that aren't required to

1 placate people on the outside --

2 Q Uh-huh.

3 A -- you still wind up with those accusations despite what you did.

4 Q Okay. Do you think U.S. Attorney Weiss was kept in his position to placate

5 people on the outside?

6 A No.

7 Q No?

8 Do you know who kept U.S. Attorney Weiss on, whose decision that was? Was

9 that the decision of the Justice Department, or was that the decision of the White House?

10 A I don't know.

11 Q Now, during the last hour, counsel asked you questions about the types of

12 considerations that you went through, citing the Justice Manual. And I was a little, I

13 guess, confused, because it seemed like you were walking us through potentially the

14 decision-making process that your office made with respect to this particular case.

15 And that just struck me as a little bit different than what you had said in the first

16 hour when we were speaking with you, that this was a decision for the U.S. attorney in

17 Delaware to make. Could you help us resolve that?

18 A So what I was trying to do in the last hour when I was getting asked

19 questions about specifically was this factor considered in the context of this case, to say,

20 in general, in all cases, the principles of Federal prosecution, factors like sufficiency of the

21 evidence, are things that we are considering at all points, and taking it out of the context

22 of an assessment about whether we should seek to join this particular case.

23 Q Right. But you also have said that the decision whether you would join this

24 case would be unusual, because the case had been ongoing for a number of years.

25 And so I took -- and maybe you can correct me if I misunderstood what you were

1 saying. But I took what you said this morning, in the first hour, that after the case had
2 been up and running for a couple years, it would be very unusual for you to join. In your
3 experience, you hadn't had any case in your experience where after a number of years
4 had unfolded that you would decide to join it.
5 A It would be -- so, yes, it would be unusual to -- in my experience, it would be
6 unusual to join an investigation, just in general, that is late in the process. In my
7 experience, if a component has been conducting an investigation for a period of time,
8 they, in general, don't want to bring in another supervisory chain, because they've
9 already gotten all the sweat equity and now you're just adding additional layers of
10 supervision.
11 Q So --
12 A In --
13 Q Go ahead. I'm sorry.
14 A In terms of the jurisdiction in which the case is gonna be brought, it's a really
15 complicated analysis. There's, in general, all the concerns I was talking about before
16 about, kind of, buying an investigation largely sight unseen. On the other side, people
17 are gonna be in your jurisdiction litigating potentially complex issues that could result in
18 case authority that you are then subsequently stuck with.
19 So there's, like, a whole host of complications that weigh for and against in any of
20 these cases where you're considering getting involved.
21 Q Right. But, you know, you told us about that you spent 3 weeks going
22 through this analysis. And I'm just confused, why you didn't tell Mr. Weiss from the
23 beginning, hey, whatever you need, you just come into D.C. and we will help you get the
24 grand jury set up and we'll give you a copy of the local rules, that type of stuff. Like, you
25 went through a 3-week process that ended in either a declination or a decision not to

1 partner.

2 So I'm just trying to reconcile those two things.

3 A That's a good question that it's hard to get into without case-specific, but I

4 think you are absolutely right. If one were inclined not to join from the outset, that

5 conversation could've gone a very different way.

6 Q Right.

7 A I could've not even brought up joining, and I could have simply said, we'll

8 provide you whatever support you need.

9 Q Right. So don't you think going through the process, the 3-week process,

10 you know, sends the message to Delaware that this is a loser of a case and you shouldn't

11 bring it?

12 A No. I mean, I've told you I didn't know anything factually about the case

13 before that call.

14 Q But I'm talking about the end of the 3-week process.

15 A I'm sorry. Can you repeat the question then?

16 Q At the end of the 3-week process, you told Delaware that you didn't want to

17 partner or you didn't want to join, whatever words you want to use. Don't you think

18 that may have had the effect of trying to convince them not to bring the case?

19 A No, not -- no. No, I don't. And that certainly, just to be clear, was not the

20 intent of why we went through the 3-week process.

21 Q Okay.

22 A number of witnesses -- and it's not just Ziegler and Shapley. We've heard from

23 two FBI officials. We've heard from IRS officials. If there's one thing that's clear,

24 nobody thinks that your office was willing or interested to partner on this case. You

25 know, whatever semantics you want to use -- you either denied the case, you didn't want

1 to partner, you neglected to join, like, whatever. And Shapley and Ziegler testified that
2 Weiss himself, you know, characterized your decision as, you know, a failure to partner.
3 And that's very different than, "Hey, you can have anything you need, and you're
4 welcome to bring a prosecution, and we'll help you."
5 A So, I mean, I can't get into and I'm not tracking the details of what everyone
6 said. I can just tell you -- and lay out the chronology again.
7 And one thing I want to be clear on: A lot of your questions are assuming that
8 the conclusion of that process was known at the outset. And --
9 Q Right.
10 A -- that's not the case.
11 Chairman Jordan. Why'd you --
12 [redacted] Go ahead, sir. Sorry.
13 Chairman Jordan. Well, why'd you offer it on the front end, then?
14 You said earlier that U.S. attorneys don't like to partner, you don't want two cooks
15 in the kitchen. But this is a -- they'd already done 3 years of investigation. And he calls
16 you and says, hey, we're looking to bring this case. And then he said you volunteered to
17 partner with him or potentially partner with him.
18 So why'd you offer it on the front end?
19 Mr. Graves. So I just want to clarify something you said. In general, if you're
20 the U.S. attorney who has been conducting an investigation for a long period of time, you,
21 in general, don't want to bring another U.S. attorney into the decision-making chain.
22 The calculus is different if you're the recipient of the request, if the investigation is
23 coming to your jurisdiction.
24 And, I mean, what I can say at a high level, I think, is, I made the ask because it
25 was something I wanted to explore.

1 BY [redacted]

2 Q And at the end of the 3-week process, you communicated to Delaware,

3 through your staff, that you didn't want the case to be brought. Is that correct?

4 A I had my staff reach out and explain that we weren't going to seek to join

5 and explain why.

6 One other point that hasn't come up: I did follow up to confirm that that

7 conversation occurred, and I asked if --

8 Q Which conversation?

9 A The conversation I just described, my staff communicating our decision --

10 Q Okay.

11 Chairman Jordan. After the 19th meeting.

12 Mr. Graves. -- to them --

13 Chairman Jordan. Got it.

14 Mr. Graves. -- to ask how the meeting went or if any additional information was

15 learned.

16 BY [redacted]

17 Q And what did they tell you?

18 A They told me how the meeting went. And I did not receive any additional

19 information.

20 Q And that communication you had was with your first assistant or who -- head

21 of the Criminal --

22 A I can't remember whether it was the head of the Criminal Division or --

23 Q Or your principal assistant?

24 A -- lower-level supervisors. It might've been directly with the lower-level

25 supervisors.

1 Chairman Jordan. And how did that meeting go? What was the feedback?

2 Mr. Graves. I can't get into specifics, but, like, at a high level, I think I am

3 authorized to say that they conveyed that we weren't going to seek to join, our rationale

4 and our thought process about why we weren't going to seek to join, and we did not

5 receive any information back that would cause us to change our analysis.

6 BY [redacted]

7 Q And, during the course of that, did your staff communicate to Delaware that

8 they were welcome to bring the case themselves, that you would do everything possible

9 to facilitate that?

10 A So I don't know if that happened during the course of that conversation,

11 because I didn't participate in that conversation. Based on what I know was occurring at

12 that time in terms of what we were facilitating, there is no doubt in my mind that they

13 understood they could bring whatever charges they wanted in the District.

14 Q And do you know why they later characterized your decision as blocking the

15 case?

16 [redacted] Who is "they"? The whistleblowers?

17 Mr. Graves. So I think -- and this is what I was referring to earlier. I think I have

18 seen the whistleblowers initially use language of "blocking." I've definitely seen

19 correspondence from now-Special Counsel Weiss saying there was no blocking, and then

20 this shifting to "partnering" and "not partnering."

21 BY [redacted]

22 Q What was your understanding of Mr. Weiss's authority to bring this case?

23 A So, from my perspective, I never thought about it in terms of his authority.

24 It's a fellow U.S. attorney that has a matter that he believes needs to be brought.

25 Q Uh-huh.

1 A I'm not saying, "What is your basis for doing so in D.C.?" I'm immediately
2 shifting to, "What do you need from us?"
3 Q Uh-huh. Did he ever communicate to you that the Attorney General had
4 given him authority to bring the cases he needs?
5 A I don't recall if that came up in our conversation. And, again, that would be
6 of no significance to me. The last thing I'm thinking when he's calling is, "Well, what is
7 your basis for doing these charges in D.C.?" It's, "You're doing an investigation that you
8 say you've realized you have to bring charges in D.C. Let's talk about how you get it
9 done."
10 Q Uh-huh. So you didn't have a discussion with Mr. Weiss about special
11 counsel authority?
12 A No.
13 Q When was the first time you learned that he was interested in special
14 counsel authority?
15 A Through the public reporting of the Attorney General naming him to be
16 special counsel.
17 Q Okay. But before that, there was -- I mean, the Attorney General testified
18 on a couple different occasions. I'm sure you were watching the letter exchange that
19 Mr. Weiss sent to the Hill, correct?
20 A That is correct. And, like, at a high level, my understanding was, the
21 Attorney General was of the position that then-U.S. Attorney Weiss had not asked to be
22 special counsel. And I hadn't seen anything from then-U.S. Attorney Weiss saying that,
23 at a point in time earlier to him being named special counsel, he needed to be named
24 special counsel.
25 Q Right. But, during that letter exchange, didn't it strike you as maybe a

1 point in time that you needed to call and clarify to Mr. Weiss that if he needed to bring
2 anything in D.C. that he would have your support?
3 A During the letter exchange? No. And my chronology could be off,
4 because I am following this as a recipient of news, but, like, in the middle of all this, there
5 was a negotiated resolution as well.
6 Q Uh-huh.
7 Well, in June of this year -- that was before any negotiated resolution -- Weiss
8 wrote to Mr. Jordan and stated, "I've been granted ultimate authority over this matter,
9 including responsibility for deciding where, when, and whether to file charges and for
10 making decisions necessary to preserve the integrity of the prosecution."
11 Is that, like, accurate?
12 A To my understanding, yes.
13 Q Because before getting special counsel authority, for Mr. Weiss to bring
14 some of these charges, he would've needed, as we discussed this morning, the approval
15 of the Tax Division.
16 A So, again, I don't know the specifics of this case. The way the Justice
17 Manual is set up, certainly Tax Division approval would be required.
18 Q Uh-huh.
19 A But the Justice Manual exists under the Attorney General's authority. So, if
20 he wants to say in a particular case that consultation and approval is not going to be
21 required, he can say consultation and approval is not required.
22 Q But doesn't he have to go through the 28 United States Code 515 process?
23 A Well, I guess that's a process one could go through. I'm not sure that 515
24 would necessarily take you out of Tax Division approval necessarily.
25 Q Is there another way the Attorney General can grant Weiss ultimate

1 authority?

2 A So I'm not sure of all the ways. I mean, from my perspective -- because I

3 can tell you, as U.S. attorney, 515 is not something that I have ever dealt with --

4 Q Right.

5 A -- these are just worked out more informally, which is my frame of reference

6 of, "Okay, you have charges you want to bring. We'll work it out. You'll get charges

7 brought here."

8 Q When Weiss said, "I've been granted ultimate authority over this matter,

9 including responsibility for deciding where, when, and whether to file charges," did that

10 strike you as a little odd? I mean, he's essentially saying he can walk right into D.C. and

11 file charges without your input.

12 A In the context of the investigation, no, it didn't strike me as odd. And, like I

13 said, it's an -- it was a preexisting investigation, and I understand the reasons for having

14 him continue to run it.

15 Q But as of June 7th, that's a totally untrue statement, what Weiss said here.

16 I mean, he did not have ultimate authority. He had to go through the Tax Division.

17 And if he was going to bring charges in Los Angeles or D.C., he had to go through the U.S.

18 attorney.

19 A So I don't know that that's -- again, I don't know that that's an untrue

20 statement. I mean, again, I never got to the intellectual point of what happens if I just

21 say, no, we're not going to facilitate you doing anything in here, what's going to happen

22 next, because it never crossed my mind to do that.

23 Q Right.

24 But then he follows up on June 30th, okay -- this is well before the special counsel

25 status in August -- and he essentially acknowledges that his June 7th letter was incorrect.

1 And he writes, "I stand by what I wrote" -- which, of course, is an euphemism for
2 "I need to correct it" -- "but wish to expand. As the U.S. Attorney for the District of
3 Delaware, my charging authority is geographically limited to my home district." Okay?
4 So, going back to what he said on June 7th, he did not have ultimate authority to
5 bring cases in D.C. Isn't that correct?
6 A I'm not sure.
7 Q He didn't have the ultimate authority to bring cases in Los Angeles, right?
8 A I don't know.
9 Q Well, I mean, he now, on June 30th, he's saying that is, in fact, the case,
10 which totally contradicts the June 7th letter.
11 "If venue for a case lies elsewhere, common departmental practice is to contact
12 the United States Attorney's Office for the district in question and determine whether it
13 wants to partner on the case."
14 Now, you've testified that you went through a 3-week process and determined
15 that you did not want to partner on the case, correct?
16 A So I'm not sure what he means by "partner" in that context, but, yes, we
17 weren't going to join.
18 Q Right.
19 A Now, if he means, by "partner," are they going to support us, then we'd
20 already said in the initial call, we'll support you guys returning whatever charges you want
21 to return in our district.
22 Q Right.
23 "If not, I may request special attorney status," which, as of June 30th, he didn't
24 request special attorney status, pursuant to 28 United States Code 515.
25 "Here I have been assured that, if necessary, after the above process, I would be

1 granted 515 authority in the District of Columbia."

2 So isn't he saying that, for him now to bring charges, he needs 515 authority in

3 D.C.?

4 A So I'm -- I can hear the words you're saying as you're reading it. I have no

5 firsthand knowledge, so I can just kind of surmise, in the way that you can surmise, what

6 he is saying.

7 Q But what he says in the June 30th letter, in fairness, contradicts what he said

8 in the June 7th letter and contradicts what you've told us.

9 A So, I don't see it that way.

10 Q Okay.

11 A I mean, I see the June 30th letter as a clarification of the June 7th letter,

12 which is consistent with --

13 Q Uh-huh.

14 A -- my understanding of where things were, which is that he is running an

15 investigation and he has authority to bring the charges, and the Attorney General is going

16 to work to make sure, if it comes to it, that he can bring charges in whatever jurisdiction

17 he wants.

18 Q But --

19 Chairman Jordan. Could you tell him "no"?

20 Mr. Graves. So, could I have told him, "No, we're not going to support you, I'm

21 not going to make my grand jury available"? I mean, I never considered it, but I guess I

22 could've told him "no."

23 Chairman Jordan. Okay. So, then, where's the authority coming from?

24 Mr. Graves. Because I could get a call from the Office of Attorney General

25 saying, "You are going to."

1 Chairman Jordan. Well, based on what [redacted] just read you, what authority does
2 he have that says he can bring the case when, where, and whether he decides to bring
3 charges at all? What authority is that?
4 Mr. Graves. So, as I --
5 Chairman Jordan. And how does he get that authority? Because you said it's
6 not 515, so what is it?
7 Mr. Graves. So, as I understand the letters and the public reporting, he was
8 given assurance by the Attorney General, who heads our department, that he is going to
9 be able to bring whatever charges wherever he wants to bring charges that he thinks are
10 appropriate.
11 So, I mean, I can -- this has never happened, but I can make all kinds of
12 determinations I want to make on my own. If the Deputy Attorney General or the
13 Attorney General calls me up and says, you are going to do the opposite of what you said,
14 I am going to do the opposite of what I said. That's the way the Department works.
15 BY [redacted]
16 Q If this was real, if this was actually the case, don't you think the Deputy
17 Attorney General's Office or the Attorney General's Office would've looped you in before
18 these letters were sent?
19 Like, if Weiss was really going to bring a case in D.C., okay, if that was a genuine
20 possibility, okay, don't you think they would've looped you in, rather than just, like, have
21 you learn about this in the letter exchange?
22 A No, not really. I mean, I think this is --
23 Q No?
24 A Again, while the situation is unique, it is not uncommon for cases to start in
25 one jurisdiction and venue to lie in another jurisdiction, and we all just work it out

1 amongst each other. We're not saying, what authority are you acting pursuant to?
2 We are one Department. And if we have someone else who is, you know, the head of
3 an office, and in this case a Presidentially appointed Senate confirmed head of his office,
4 that wants to bring charges --
5 Q Uh-huh.
6 A -- the immediate mindset is, we're going to support it.
7 And I think the Attorney General and the Deputy Attorney General know that's
8 out there, and they don't need to kind of lay the groundwork for the request that's
9 coming in.
10 Q Right.
11 But isn't it likely that your office, when you communicated back in March of '22,
12 on March 19th -- subsequent to March 19th, that the message received from Mr. Weiss
13 was, no, you can't do it in D.C.?
14 A I cannot -- I don't know, since I didn't have conversations with him, what
15 message he heard when he got briefed.
16 Q Right.
17 A I'm presuming he got briefed by his team.
18 Q Right.
19 A It would be hard for me to believe that, given the steps that we had taken,
20 but anything is possible.
21 Q Okay.
22 Weiss sent another letter in July, July 10th --
23 A Uh-huh.
24 Q -- a couple weeks later, and he asserted to Senator Graham, "I have not
25 requested special counsel designation pursuant to 28" -- the CFR -- "CFR section 600.

1 Rather, I had discussions with departmental officials regarding potential appointment
2 under 28 U.S.C. 515, which would have allowed me to file charges in a district outside my
3 own without the partnership of a local U.S. attorney."
4 So Weiss is now saying that, for him to bring a case outside of the District of
5 Delaware, he needed to go through, you know, 515 or at least through senior officials of
6 the Department.
7 A Sorry, what's the question?
8 Q So this -- I mean, these words indicate, in Weiss's own mind, he didn't have
9 the ability to bring the case in D.C. like you've testified.
10 A So I don't read the correspondence that way.
11 Q Okay. So your testimony is, if Weiss wanted to bring a case in D.C., he
12 could've done it and you would've assisted, without 515 authority.
13 A So let me take a couple steps back.
14 My understanding, which was largely informed by public statements, is that the
15 Attorney General had given his assurance to U.S. Attorney Weiss that he would get
16 whatever he needed from the Department in order to bring the charges that he thought
17 was appropriate in the venue that he thought was appropriate.
18 Which would include, from my reading of the public statements and what I've
19 heard, if he ultimately needed it, a grant of 515 authority to act outside of Delaware.
20 There are all kinds of ways short of 515 that these charges could have been brought in
21 D.C.
22 Q Right. But, according to your testimony, he didn't need 515 authority,
23 because you were gonna let him come into D.C. and do it if he really wanted to. You
24 weren't gonna partner --
25 A So we didn't --

1 Q -- but you were gonna facilitate.

2 A Yeah, so we didn't have conversations along those lines. But, like, what

3 one could do, right, if you wanted to proceed, is, he could ask to have all of his trial team

4 designated as special assistant United States attorneys in D.C., and they would be

5 designated as such, and --

6 Q And did you tell him you were willing to do that?

7 A Never -- that never came up. But they would be designated as such, and

8 then a grand jury indictment would be returned under my name.

9 Q Right. But your conversation in March of 2022, you said you told him that

10 he could have whatever he needed to bring the charges. And there was a question of

11 whether you'd officially partner or join --

12 A Uh-huh.

13 Q -- but, regardless of whether you'd officially partner or join, you'd still

14 facilitate him bringing a case.

15 A Correct.

16 Q Okay. But that's, like, totally different than what he says in the July 2023

17 letter and these letters where he says, if I need to bring charges outside of my district,

18 without the partnership of a local U.S. attorney, you know, I had to go through either 515

19 authority or some other, you know, process.

20 So does he misunderstand, like, what you communicated to him?

21 A I mean, I can only speculate as to what is going on in his mind.

22 Q Uh-huh.

23 A The solution that I just laid out, if we weren't going to put our own AUSAs on

24 the trial team, he might've deemed that inadequate and he might've preferred 515 over

25 that solution.

1 Q Uh-huh.

2 A I don't know. We never had that conversation.

3 Q Okay.

4 How frequently, in your experience, do you decline to partner when a U.S.

5 attorney from -- you know, AUSA from Maryland or AUSA from Virginia or some other

6 State asks you to partner?

7 A So it doesn't happen -- it happens; it doesn't happen all that -- well, let me

8 strike that.

9 It's not framed that way. It is framed as -- and, again, this doesn't happen all that

10 often -- "We have this case that we need to bring," and they're usually not looking for us,

11 in those instances, to staff the cases. They're usually looking to figure out a way of

12 getting the cases charged in our district. And we work with them on that, as we offered

13 to work with --

14 Q Okay.

15 A -- U.S. Attorney Weiss here.

16 Q So is it fair to say there's, sort of, two tracks when venue lies outside of your

17 district? Track one is you join, you partner, you team up; and then, if you join, if you

18 partner, if you team up, you put your AUSAs on the trial team. Correct?

19 A No. I thought you were going to describe two different tracks.

20 Q Okay. Well, what are the two tracks, in your mind?

21 A The two tracks, in my mind, are the AUSAs from the other jurisdiction just

22 come in and handle everything themselves --

23 Q Okay.

24 A -- or the other jurisdiction just transfers the case to us and then we

25 prosecute it.

1 Q Okay.

2 A I can't think of a situation where it's the hybrid model that you just --

3 Q Okay.

4 A -- described, where it's two offices joining --

5 Q So what was Weiss looking for here?

6 Chairman Jordan. Yeah. Was he track one, track two, or hybrid?

7 Mr. Graves. So, again, this wasn't explicitly said, but he was talking about -- my

8 recollection of the conversation was, he was immediately talking about what he needed

9 to do and the support that he needed to complete that. So my frame of --

10 Chairman Jordan. Was it track one or track two?

11 Mr. Graves. -- my frame of reference, how I'm hearing it, is, he is most focused

12 on getting his charges brought by his people in the District.

13 I am the one that introduces the idea of, "Hey, can we maybe join up with this?"

14 And he says, "We can discuss that."

15 Chairman Jordan. Well, why would you do that? If that's not one of the two

16 tracks, why would you do that?

17 And you just told us earlier that U.S. Attorney's Offices, when they're on the

18 receiving end, someone's coming in, they don't like that. The investigation's been going

19 for 3 years; you've got, as I said before, two cooks in the kitchen then.

20 Why would you offer that?

21 Mr. Graves. So the giving end, in my experience, rarely -- the end that already

22 has the case very rarely wants to do that, for all of the reasons you just articulated.

23 Chairman Jordan. Right.

24 Mr. Graves. The end that's on the receiving end of it is looking at things

25 differently. And I laid out some of the considerations before.

1 Like, you know, particularly in complex matters where there's gonna be a lot of
2 litigation, you can have authority generated in the course of those cases that you're stuck
3 with. And if you have a bunch of people who aren't from the jurisdiction litigating those
4 issues -- and this has happened to us with Main Justice components before -- that can
5 have massive programmatic consequences for you.
6 Chairman Jordan. And 3 weeks later, you decided you didn't want to go that
7 route.
8 Mr. Graves. Yes, that is correct.
9 Chairman Jordan. Okay. So you can't have it -- I guess the point we're making
10 is, you can't have it every way. You can't say there's two tracks, but then you
11 offered -- and you don't like the second track, necessarily, or you do like the second track
12 because it's gonna be in your district and you're gonna work with them, and then 3 weeks
13 later decide you don't want to do it and there's this hybrid model.
14 I mean, that's what's creating all the confusion, not to mention the three different
15 things we got from U.S. Attorney Weiss in the correspondence to Congress.
16 Mr. Graves. So let me try to unpack everything. So what I'm talking
17 about -- because we are talking about two tracks in a different context.
18 Putting aside this investigation, the cases that I've typically seen where there has
19 been a venue issue -- a gun case where someone is going back and forth over Eastern
20 Avenue, which is the dividing line between us and Maryland in one quadrant, and the
21 case actually should've been brought in a different jurisdiction -- those cases, the
22 conversations are, are we gonna bring people in as SAUSAs, special assistant United
23 States attorneys, or are we going to transfer the case to the right jurisdiction? Like, how
24 are we logistically gonna make it work?
25 I agree that, in general, I can't think of a time where in an ongoing case U.S.

1 Attorney's Offices have teamed up.

2 As a career prosecutor, I had a case where I had an investigation, the Southern

3 District of New York had an investigation; the same company was the target of the

4 investigation. We ultimately agreed that we should do it in one jurisdiction and we

5 would team up and have our resolution together. But that wasn't talking about trying a

6 case together, which is a different animal.

7 There are a host of reasons not to join an existing -- any existing investigation.

8 There are also countervailing reasons to join an investigation that is gonna come into your

9 jurisdiction that might be of some significance and likely will lead to the creation of

10 binding authority. And those weigh against each other. And that's what we had to

11 weigh against each other on an incredibly short and compressed timeframe.

12 BY [redacted]

13 Q It's very unusual for Weiss to call you directly, right? You've only had one

14 conversation during this saga, right?

15 A So, I mean, I don't know that I'd characterize it as unusual. I would say, in

16 the past, that when these issues have come up, they've kind of started at the line level

17 and worked their way up. There are some obvious sensitivities around this one --

18 Q But, clearly, Weiss called you because he wanted to bring a case in D.C.,

19 right?

20 A Yes.

21 Q So he wanted to bring a case in D.C. And, you know, as I understand what

22 you're saying, there are two tracks: Either you take over the case for him, or you

23 facilitate him prosecuting the case.

24 A Yes.

25 Q So that 3-week process, was that an evaluation of whether you were gonna

1 take the case over for him?

2 A It was an evaluation of whether we would continue the conversation that I

3 started about whether he'd be open to us joining the case.

4 Q Okay. And so would that have been a hybrid model?

5 A That would've been the rare hybrid model that we were proposing --

6 Q Okay.

7 A -- yes.

8 Q So there are three tracks.

9 A I've never seen track three before, in all candor.

10 Q Okay.

11 So Weiss wanted, though -- Weiss wanted to bring the case. Did he tell you he

12 needed your help, your partnership? Did he need that hybrid model?

13 A No. And that was after our communication -- after we communicated that

14 we were not gonna explore potentially joining the investigation, I never heard anything

15 about that decision.

16 Q So I think we're just wondering why you couldn't have just facilitated track

17 one and let Weiss bring the case himself with his own U.S. attorneys.

18 A We could have started in that position. And that's where we ultimately

19 landed of what we were going to do. From my perspective, we were back in what we

20 are now calling track one.

21 Q Uh-huh. But, unquestionably, I mean, Weiss believed that you had denied

22 him the ability to bring a case in D.C.

23 A I don't know what he believed, and that's not my read of the letters,

24 necessarily.

25 Q It's not just what he wrote in the letters. It's what was related to the

1 witnesses that we have subsequently spoken with -- I mean, all the witnesses, from, you
2 know, the two FBI officials, who aren't whistleblowers by any stretch --
3 A Uh-huh.
4 Q -- you know, in addition to the two whistleblowers, and then the IRS officials
5 who are more senior than the whistleblowers, who had direct communication with Weiss.
6 A Uh-huh.
7 Q I mean, universally, their understanding was, the D.C. U.S. Attorney's Office
8 denied us the ability to bring the case, or declined to partner, or whatever word you want
9 to use.
10 [redacted] I think those are two separate things. And I am concerned that what
11 you just said mischaracterizes at least some of the testimony that witnesses have
12 provided.
13 Mr. Graves. So I have never heard that the ability to go forward was predicated
14 on our decision of whether we should assign one of our own AUSAs to the case or not.
15 Which is essentially what we're talking about: Are we gonna have an assistant United
16 States attorney from the District of Columbia on the case?
17 Chairman Jordan. I just want to make -- we can simplify this. Like, it's either
18 they bring the case or you take over the case. That's how it's always worked, until this
19 one.
20 And, in this one, there was this hybrid model put forward where -- and it was
21 offered by you. And you said, we can partner with you, you know, like we're a partner,
22 whatever, we can join with you, we can -- this different model than what's ever been
23 used, this different model. And then you take 3 weeks to discuss it and decide, no,
24 we're not gonna do that, and it's back to they bring the case.
25 Mr. Graves. So --

1 Chairman Jordan. Is that summarizing it?

2 Mr. Graves. Yeah, so let me clarify. When I'm saying "not used," it's not

3 something we typically do with other U.S. attorneys -- it's not something we do generally

4 with other U.S. Attorney's Offices, because, in general, U.S. Attorney's Offices don't work

5 together.

6 What I had in the back of my mind and what I've definitely seen before is, when

7 Main Justice components come into our jurisdiction, special counsel's offices come into

8 our jurisdiction, it's not uncommon for us to assign an assistant if that component wants

9 an assistant on those cases as special counsel.

10 Chairman Jordan. But that wasn't this case. This is just another U.S. attorney.

11 This wasn't Main Justice; this wasn't a special counsel.

12 Mr. Graves. It is another U.S. attorney, but it is another U.S. attorney -- this isn't

13 some gun case that happened to go across Eastern Avenue. This is a white-collar case

14 where they're -- this is a white-collar case where, based on the nature of the charges

15 contemplated, you could expect that there is gonna be a lot of litigation and litigation

16 that might create binding precedent in our jurisdiction.

17 BY [redacted]

18 Q Were you aware that a statute of limitations was about to expire?

19 A I don't think I'm allowed to get into that, given the contours of what I've

20 been authorized to discuss.

21 Q Were you aware of the nature of the 2014 and 2015 income at issue here

22 that was not reported?

23 A Yeah, I don't think I'm allowed to get into that, given the contours of what I

24 have been allowed to discuss.

25 Q But do you know the answer?

1 A So, again, if I get into that I know the answer, then that's a backdoor way of
2 getting into --
3 Q I don't think so. You either know the answer or you don't know the
4 answer, but that doesn't get into the substance.
5 A Um --
6 Q If all the restrictions the Justice Department has imposed on you were lifted,
7 would you be able to answer my question?
8 A So, to be clear, the reason the restrictions exist is because we are trying to
9 protect the integrity of an investigation that is very much ongoing. Like, what is and is
10 not in that investigation I don't know, and I, candidly, in my role, should not know.
11 So I'm trying to be very careful not to say anything which we acknowledged at the
12 outset might become public that could be deleterious to that investigation.
13 Q Okay.
14 Can I have that exhibit?
15 This is exhibit 4?
16 The Reporter. Uh-huh.
17 Mr. Graves. Well, this is convenient.
18 [redacted] Yeah.
19 [Graves Exhibit No. 4
20 Was marked for identification.]
21 BY [redacted]
22 Q This is an email from Eric Schwerin, one of Hunter Biden's business
23 associates.
24 A Uh-huh.
25 Q In the fourth paragraph -- take your time reading it. I'm gonna direct your

1 attention to the fourth paragraph, though, when you're ready.

2 A Okay, I've read it.

3 Q Page 2 is an easier one to read.

4 A Yes, page 2 was very easy to read.

5 Q Were you aware that, in 2014 and 2015, in the Hunter Biden case -- we're

6 talking about the Burisma income. I mean, he's making, like, a million bucks a year for

7 doing nothing except, potentially, political favors.

8 Were you aware that the 2014 and 2015 income hadn't been captured for tax

9 purposes?

10 A So, again, I appreciate -- and I'm reviewing the exhibit. Again, I can't get

11 into the ongoing investigation and facts that were considered and not considered during

12 the course of it, because it gets into our internal deliberations.

13 Q Last hour, Democratic counsel asked you -- you know, you were talking

14 about how intent is very tricky with tax cases sometimes. Is that right?

15 A Yes, it can be, in general.

16 Q Okay. But if you have an email from your business partner whose -- you

17 know, Eric Schwerin's job was to manage this money for Hunter Biden. If you have an

18 email to the potential defendant which states, "In 2014" -- this is the fourth paragraph

19 down, second sentence of the fourth paragraph.

20 "In 2014 you joined the Burisma board and we still need to amend your 2014

21 returns to reflect the unreported Burisma income. That is approximately $400,000 extra

22 so your income in 2014 was closer to [$1.2 million]."

23 This is a pretty good piece of evidence that goes to intent, isn't it?

24 A So what I can say in general, in the context of -- in general about tax returns

25 is, in my experience, individuals who have businesses and complicated taxes are not

1 preparing their tax returns themselves. There is a tax-return preparer. So, in tax cases
2 in general, it often comes down to what was and was not communicated to the tax
3 preparer --
4 Q Okay.
5 A -- and what the taxpayer directed others to tell.
6 Q Uh-huh.
7 A So it could be that you have a communication where someone is talking
8 about income. Well, then you have to trace down, did the taxpayer expect that person
9 to tell the tax preparer? Did the person actually forward the --
10 Q Okay.
11 A -- document to the tax preparer and it --
12 Q I mean, you sound --
13 A -- got lost?
14 Q -- like a defense attorney for Hunter Biden.
15 A No, but this is -- but, like, this is very serious. This is what you have to do as
16 a prosecutor.
17 Q Right.
18 A You have to think through all the defenses and how we're going to disprove
19 it.
20 I have to go down and deal with, if I'm in a tax case like this, saying, "In addition,
21 you reported a million dollars of income that all went to RSB, and you report 180,616 --
22 Q Right.
23 A -- in income that also went to RSB. You didn't receive this in cash, and it is
24 really phantom income. So, like, I have questions about, did you over-report?" And all
25 of that gets complicated in a tax-evasion scheme.

1 So that's just one example of --

2 Q But Schwerin is telling Hunter Biden, "You didn't report your Burisma

3 income." He's getting a million bucks a year -- you know, $83,000, I think, a month. I

4 mean, isn't this at least a good piece of evidence that goes to intent?

5 A I can't judge from the outside of the investigation. I'd also note that this is

6 in 2017, so it's clearly some retrospective. I'd have questions about whether the taxes

7 were paid, because that could be consistent with a good-faith mistake. So it's very

8 complicated.

9 Q Okay.

10 During your discussions with your team in March of 2022, was statute of

11 limitations brought up?

12 A Again, I can't get into internal deliberations. What I can say at a very high

13 level -- and I have acknowledged today, we were -- I instructed my team to operate on a

14 very tight and compressed timeframe and to do the best we could do. And that wasn't

15 arbitrary, that we were doing that.

16 Q Do you think Weiss and his team believed you had a gatekeeper role here?

17 A I don't know. I had always assumed not, because of the steps we were

18 taking to facilitate the bringing of charges.

19 Q What did your team tell you about the result of the -- you had your meeting

20 March 19th. Your team then communicated to the U.S. Attorney's Office in Delaware

21 the outcome of that meeting, that you weren't gonna join, you weren't gonna partner.

22 What feedback did you get from your team about how Weiss reacted?

23 A So, to my understanding, U.S. Attorney Weiss was not part of that

24 conversation that occurred at the career level.

25 Q Okay.

1 A At a high level, what I can say is, there certainly weren't concerns raised
2 about an inability to go forward if we didn't assign an assistant to the case.
3 Q Uh-huh.
4 A And to the extent substance of the investigation and that kind of stuff was
5 discussed, there was nothing that I learned that was new --
6 Q Okay.
7 A -- that was from that conversation.
8 Q Do you think Weiss thought he needed a D.C.-based U.S. attorney from your
9 office on the trial team?
10 A So I'd always been under the impression -- my belief was, no, he didn't think
11 that.
12 Q Okay.
13 A Because, remember, when I raised, would you be open to us adding
14 someone, he said that's something we would discuss. It wasn't, like, "Absolutely. We
15 can't go forward without you adding someone."
16 Q Right.
17 A That was not the response that I recall.
18 Q Okay. So, then, were you surprised when you saw his letters, which -- you
19 know, the plain language of the letters indicates that he thought he needed you.
20 A I don't read the letters that way, necessarily, collectively. I read the letters
21 as saying either I was gonna partner with them, whatever partnership looks like --
22 Q Uh-huh.
23 A -- whether that's just them kind of making my people special assistants or
24 them adding an assistant to the case so that we're full-fledged partners --
25 Q Uh-huh.

A -- or I was gonna get authority under 515. And I knew that I would get authority under 515, because the Attorney General told me, if it came to that, he would do that.

Q Uh-huh.

Who is J.P. Cooney?

A He is a career prosecutor who was in our office.

Q Is he one of the people involved with the March 19th meeting?

A So, again, I'm gonna go through Office of Legislative Affairs in, kind of, providing specific names.

Q I mean, I just want to know if he was involved with this particular meeting. Was he one of the four -- he was not the principal assistant, we know that, right?

A So --

[redacted] I'm sorry. I think what Mr. Graves has said a couple of times now is that, to the extent you have questions about individuals --

[redacted] I do.

[redacted] -- who participated, that we are happy to discuss those with you offline, but, given the concerns he has expressed about the safety of his prosecutors, that we would prefer not to discuss names --

[redacted] Yeah. I'm very sensitive --

[redacted] -- in a transcript -- in a transcript.

BY [redacted]

Q I'm very sensitive to safety concerns, but come on. I'm asking you whether J.P. Cooney was in the March 19th meeting. Let's get real. That's not going to, you know, invoke safety concerns here.

A What I can tell you is, I've unfortunately had way too many instances of

1 documents getting into the public domain that have our prosecutors' names in them and
2 me receiving what we call urgent reports about security concerns because of threatening
3 or harassing behavior that they're receiving --
4 Q Uh-huh.
5 A -- and that we've had to take steps for a number of people in our office to
6 mitigate the risk.
7 Q Okay. So you're refusing to acknowledge whether he was in this March
8 19th meeting?
9 A I am laying forward what I would believe to be a very reasonable
10 accommodation, not to have this in a transcript which we all acknowledge might become
11 public at some point in time.
12 Q Okay. Do you want to go off the record and tell us?
13 [redacted] Are you going to redact his name?
14 [redacted] I said go off the record and you can tell us.
15 [redacted] Why don't we take this question back, [redacted]
16 [redacted] So you're not willing to go off the record and tell us; then it wouldn't
17 be in the transcript. And then -- so it's like a totally different answer now.
18 Mr. Graves. So --
19 [redacted] I'm inviting you to go off the record, and then it's not in the
20 transcript.
21 [redacted] The scope of what he's here to talk about and --
22 [redacted] That's a whole different topic.
23 [redacted] Well, I understand, but he has been here for some time now
24 discussing --
25 [redacted] It's 1 o'clock. It's not been that long.

1 [redacted] -- the scope of Mr. Weiss's authority and --

2 [redacted] Right.

3 [redacted] -- the issue of the perception or lack thereof of him being blocked in

4 the District.

5 [redacted] Uh-huh.

6 [redacted] It does not explicitly include the name and identity of every person in

7 his office or any other office that may have participated in that process.

8 [redacted] But when I first started asking about the 3/19 meeting, I was told

9 that, yeah, you can have the names, you just can't do it on the record.

10 So now I'm inviting everyone to go off the record to give us the name, and now I'm

11 getting a different answer, correct?

12 [redacted] I think what he said was, let's confer -- why don't you confer with the

13 Office of Legislative Affairs.

14 [redacted] I'm conferring with you right now.

15 [redacted] And we are happy to continue conferring after the interview is done.

16 [redacted] Okay. So you're not willing to go off the record and tell us.

17 [redacted] I'm not willing to do that right now, given the concerns that have

18 been expressed.

19 [redacted] Okay.

20 We've got, like, a minute left, boss. Got anything else?

21 Chairman Jordan. Off the record.

22 [redacted] Okay. We're done with our hour.

23 Mr. Graves. Great.

24 [Recess.]

25 [redacted] It is 1:16. We can go back on the record.

1 BY [redacted]

2 Q U.S. Attorney Graves, we had talked through the letters that Mr. Weiss sent
3 to Congress in the prior hour pretty extensively, but I don't think the letters were actually
4 put in front of you at any stage. So I want to walk through the letters themselves and
5 just ask you if you have any information that contradicts them.

6 So we will start with the June 7, 2023, letter from Mr. Weiss to Chairman Jordan.
7 We'll mark that as exhibit 5.

8 [Graves Exhibit No. 5
9 Was marked for identification.]

10 Mr. Graves. Okay, I'm prepared.

11 BY [redacted]

12 Q Have you seen this letter before?

13 A I have.

14 Q Okay. And so you know that this letter, it's actually -- it's a response that
15 Mr. Weiss sent to a May 25th letter from Chairman Jordan.

16 A I see that in the body of the letter. I have not seen the May 25th letter.

17 Q Okay. And this letter is a response to Chairman Jordan's letter about the
18 matter involving, among others, Robert Hunter Biden, correct?

19 A That is my understanding from reading the June 7th letter, correct.

20 Q Okay.

21 The second paragraph of this letter reads, quote, "While your letter does not
22 specify by name the ongoing investigation that is the subject of the Committee's
23 oversight, its content suggests your inquiry is related to an investigation in my District.
24 If my assumption is correct, I want to make clear that, as the Attorney General has stated,
25 I have been granted ultimate authority over this matter, including responsibility for

1 deciding where, when, and whether to file charges and for making decisions necessary to
2 preserve the integrity of the prosecution, consistent with federal law, the Principles of
3 Federal Prosecution, and Departmental regulations."
4 Did I read that correctly?
5 A You read that correctly.
6 Q Are you aware of any information which contradicts Mr. Weiss's statement
7 that he was granted ultimate authority over this matter?
8 A No.
9 Q Are you aware of any information that contradicts Mr. Weiss's statement
10 that his authority over this matter includes responsibility to decide where, when, and
11 whether to file charges?
12 A No.
13 Q And are you aware of any information that contradicts Mr. Weiss's
14 statement that his authority over this matter includes making all decisions necessary to
15 preserve the integrity of the prosecution?
16 A No.
17 Q And I want to turn to the last paragraph of this letter, which is actually on
18 page 3 of the letter.
19 That paragraph reads, quote, "In February 2021, I was asked to remain as United
20 States Attorney for the District of Delaware to continue my oversight of the matter.
21 Since that time, I have fulfilled my responsibilities, consistent with Department practices
22 and procedures, and will continue to do so. Throughout my tenure as U.S. Attorney my
23 decisions have been made -- and with respect to the matter must be made -- without
24 reference to political considerations."
25 Did I read that correctly?

1 A You read that correctly.

2 Q Are you aware of any information that contradicts Mr. Weiss's statement

3 that his decisions in this matter have been made without reference to political

4 considerations?

5 A I am not aware of any such information.

6 Q Okay.

7 So, following Mr. Weiss's June 7, 2023, letter, Chairman Jordan wrote to Mr. Weiss

8 directly. Mr. Weiss responded on June 30, 2023, and I'm going to introduce that letter

9 as exhibit 6.

10 [Graves Exhibit No. 6

11 Was marked for identification.]

1 [1:21 p.m.]

2 Mr. Graves. All right.

3 BY [redacted]

4 Q Have you seen this letter before?

5 A I have.

6 Q Okay. The third paragraph of this letter reads: First, the Department of

7 Justice did not retaliate against, quote, an Internal Revenue Service, IRS, criminal

8 supervisory special agent and whistleblower, as well as his entire investigative team, for

9 making protected disclosures to Congress.

10 Are you aware of any information that contradicts this statement?

11 A I am not.

12 Q The June 30th letter then quotes his June 7th letter. That's at the bottom

13 of the first page.

14 A Yeah.

15 Q And then it continues on, on the second page. As the U.S. attorney -- I'm

16 sorry.

17 It says that: I stand by what I wrote and wish to expand on what this means.

18 And then it continues: As the U.S. attorney for the district of Delaware, my

19 charging authority is geographically limited to my home district. If venue for a case lies

20 elsewhere, common departmental practice is to contact the United States Attorney's

21 Office for the district in question and determine whether it wants to partner on the case.

22 If not, I may request special attorney status from the Attorney General pursuant to 28

23 U.S.C., section 515. Here, I have been assured that, if necessary after the above process,

24 I would be granted section 515 authority in the District of Columbia, the Central District of

25 California, or any other district where charges could be brought in this matter.

1 Did I read that correctly?

2 A You read that correctly.

3 Q Are you aware of any information that contradicts Mr. Weiss' statement that

4 he was assured that he would be granted by section 515 authority if another U.S.

5 Attorney's Office declined to partner with him on the case?

6 A I am not aware of anything that contradicts that statement.

7 Q And, finally, Senator Lindsey Graham, who is the Republican senior ranking

8 member on the Senate Judiciary Committee, wrote to Mr. Weiss on June 28, 2023, and

9 Mr. Weiss responded on July 10th, 2023.

10 [redacted] We'll introduce that as exhibit 7.

11 [Graves Exhibit No. 7

12 Was marked for identification.]

13 Mr. Graves. Okay.

14 Q The first sentence of the third paragraph on the first page of this letter

15 reads, quote: To clarify an apparent misperception and to avoid future confusion, I wish

16 to make one point clear. In this case, I have not requested special counsel designation

17 pursuant to 28 C.F.R., section 600, et seq.

18 28 C.F.R., section 600, et seq, gives the Attorney General authority to appoint a

19 special counsel, correct?

20 A Yes.

21 Q Okay. Are you aware of any information that contradicts Mr. Weiss'

22 statement that, as of July 10th, 2023, the date of this letter, he had not requested special

23 counsel designation pursuant to 28 C.F.R., section 600, et seq?

24 A I am not.

25 Q Okay. The July 10 letter continues, quote: Rather, I had discussions with

1 departmental officials regarding potential appointment under 28 U.S.C., section 515,
2 which would have allowed me to file charges in a district outside my own without the
3 partnership of the local U.S. attorney. I was assured that I would be granted this
4 authority if it proved necessary. And this assurance came months before the October 7,
5 2022, meeting referenced throughout the whistleblower's allegations. In this case, I've
6 followed the process outlined in my June 30 letter and have never been denied the
7 authority to bring charges in any jurisdiction.
8 Did I read that correctly?
9 A Yes, you did.
10 Q To the best of your knowledge, is it accurate that Mr. Weiss was never
11 denied the authority to bring charges in any jurisdiction?
12 A Yes.
13 Q And is it true specifically with respect to the District of Columbia that Mr.
14 Weiss was never denied authority to bring charges in the District of Columbia?
15 A Yes.
16 Q Okay.
17 BY [redacted]
18 Q Okay. Mr. Graves, on September 20th of this year, Attorney General
19 Garland testified before the House Judiciary Committee, and he told the committee that,
20 quote: Mr. Weiss has full authority to conduct his investigation however he wishes,
21 unquote.
22 Do you have any information to contradict that portion of the Attorney General's
23 statement?
24 A No.
25 Q The Attorney General also said, quote: Mr. Weiss had, as I said from the

1 beginning -- at the very beginning -- that he had authority over all matters that pertain to
2 Hunter Biden, end quote.
3 Do you have any information to contradict the Attorney General's statement in
4 that respect?
5 A No.
6 Q To sum up, do you have any reason to believe that David Weiss lied to
7 Congress about the extent of the authority -- excuse me, not Weiss -- but that the
8 Attorney General had lied to Congress about the extent of the authority he had been
9 granted?
10 A Absolutely not.
11 Q I want to ask you just a little bit -- there's some confusion, I think, on this
12 committee and in the public about the authority that Mr. Weiss had.
13 And do you understand, just generally as a prosecutor, the difference between a
14 factual question and a legal question?
15 A Yes.
16 Q And generally, witnesses who are involved in testimony like you are today
17 are asked factual questions, correct?
18 A Correct.
19 Q But we may have to ask you a legal question, if you wouldn't mind giving me
20 a little bit of latitude here, because it seems to me that the confusion is a legal question
21 and not so much a factual question.
22 There, in the previous hour, were suggestions that the Attorney General may not
23 have had the authority in some respect under statutes to allow Mr. Weiss to bring
24 charges in the District of Columbia. Do you recall those questions or suggestions from
25 the previous hour?

1 A Yes.

2 Q Okay.

3 A Yes.

4 Q And, I mean, as you sit here before us, you don't have a statute in front of

5 you, but you do have the experience of being a United States attorney in the District of

6 Columbia, correct?

7 A Correct.

8 Q Okay.

9 [redacted] I'm going to show you what we're going to mark as exhibit 8, and this

10 is a statute.

11 [Graves Exhibit No. 8

12 Was marked for identification.]

13 BY [redacted]

14 Q It's 20 U.S.C., section 509. Just the first page, I think, is what you'll have in

15 front of you.

16 Let me ask you first, are you familiar with this statute, Mr. Graves?

17 A I am not.

18 Q Okay. Just direct your attention to section 509, which is the bold part of

19 the first column. It's entitled "Functions of the Attorney General."

20 If you just want to review that brief section.

21 A Yes.

22 Q Let me know when you've had a chance to see it.

23 A Yes.

24 Q Okay. Now, this statute says, quote: All functions of other officers of the

25 Department of Justice and all functions of agencies and employees of the Department of

1 Justice are vested in the Attorney General except these functions.

2 And then it lists, under paragraph 1 there, vested -- those vested by subchapter 2

3 of chapter 5 of title 5, administrative law judges?

4 A Yes.

5 Q And then it accepts certain responsibilities in the Federal Prisons Industries,

6 correct?

7 A Correct.

8 Q And, finally, it accepts certain responsibilities in the board of directors and

9 offices of the Federal Prison Industries, Inc., correct?

10 A Correct.

11 Q But everything else, at least according to this statute, is vested in the

12 Attorney General by 28 U.S.C 509, correct?

13 A Correct.

14 Q Okay. Based on your experience as a lawyer and particularly a United

15 States attorney in your reading of the statute, is there any reason that you would have to

16 believe that Attorney General Garland did not have the authority to delegate to Mr.

17 Weiss the ability to bring any criminal charges against Hunter Biden anywhere in the

18 United States in any venue he chose?

19 A I'd have no reason to doubt that the Attorney General has that authority,

20 and it is my belief that the Attorney General has that authority. We all act at the

21 direction of the Attorney General unless the Attorney General directs us to do something

22 illegal, immoral, or unethical. We have an obligation to file. And, to be clear, the

23 Attorney General has never directed me or anyone else, to my knowledge, to do anything

24 illegal, immoral, or unethical.

25 Q Okay. So we talked at length about certain policies of the Department of

1 Justice and certain, I guess, procedures that are outlined in the Justice Manual. For
2 example, in tax cases that you might have to go to the Tax Division to get certain
3 approvals or permissions.
4 All of that approval or permission of policy, those are policies that are at the
5 discretion of the Attorney General of the United States. Is that fair to say?
6 A That is my understanding, yes.
7 Q Okay. So, if he promises to Congress -- the Attorney General, that is -- that
8 Mr. Weiss is going to have the authority to bring any charge anywhere in the United
9 States in any district, there's no reason, as far as you understand it, that that was not the
10 case here?
11 A Correct. And he has the authority to deliver on that -- he uniquely has the
12 authority to deliver on that commitment.
13 Q Okay. And I think that when [redacted] earlier was going through his
14 interpretation of Weiss' letters before we had entered them into the record, he was
15 suggesting to you that Attorney General Garland couldn't have promised Weiss the
16 authority that he said he did because of section 515, for example, or because of these
17 policies in the Justice Manual that talk about approvals from the Tax Division.
18 But Mr. Garland has explained that what he meant was: Mr. Weiss had the
19 authority because I said I would give it to him.
20 Do you have any reason to believe that Mr. Garland was being insincere in that
21 respect when he said that Mr. Weiss did have that authority?
22 A Absolutely not.
23 Q Okay.
24 BY [redacted]
25 Q There was discussion earlier about option one, option two, option three.

1 And I lost a little track of it, but I think option one was just offering administrative
2 assistance, and that's it.
3 And there was a statement made that, ultimately, you did offer administrative
4 assistance, but it came at the end of this 3-week period. But that wasn't accurate, right?
5 A That is -- that is correct that that was inaccurate.
6 Q Okay. So when did you agree to provide any logistical or administrative
7 support that Mr. Weiss could need?
8 A From the first call that Mr. Weiss made to me, we immediately began taking
9 steps on providing support.
10 Q And he was aware that you were doing that?
11 A My understanding is, yes, his people were made aware of what we were
12 doing and -- yes, of what we were doing.
13 Q Okay. And I think you said you could have declined to do that, correct?
14 A Yes.
15 Q And you used the phrase: You could have said I wasn't going to give him
16 my grand jury, for example.
17 A Yes. Yes. In theory, yes.
18 Q Okay. Can you explain broadly how it works when you let another U.S.
19 Attorney's Office or somebody or a Main Justice component use the grand jury?
20 A So we often refer to the grand jury. In actuality, at least in the District,
21 there are multiple grand juries sitting at any point in time. We maintain a schedule of
22 the grand jury. So, if you want time before a grand jury, you have to go to the
23 scheduler. If you're coming from our office and they know who you are, you can
24 request your time, and that's how you get authority to enter the grand jury.
25 If you're coming from a Main Justice component and we've what we call

1 deconflicted with them, and they're going it alone in our jurisdiction, they can reach out
2 to our coordinator, and our coordinator knows that it is a case that has been authorized
3 to be brought in our district. That's generally the process you have to follow.
4 You can't just show up at the Federal courthouse and say: I'm a Federal
5 prosecutor and I'd like to go into a grand jury now.
6 Q So, in addition to potentially making it possible for Mr. Weiss to schedule
7 time before the grand jury, was there any other logistical or administrative support that
8 you were offered to provide or, you know, could have provided?
9 A So I can't get into the specifics here. I think one thing I could generally note
10 is the extremely high number of Federal district court cases that were being brought in
11 that period of time. There were a lot of logistical demands on the court. So taking
12 steps to find available time is not -- was not necessarily an easy thing.
13 Q Okay. And so by saying "I will give you whatever support you need," what
14 you meant is: If you need time before a grand jury, we will make that happen. If you
15 need trial time or if you need time before a judge, we can make that happen. Right?
16 [redacted] And I'm sorry. But I think he can answer that hypothetically with
17 respect to such a conversation with any prosecutor looking to come into here, but I want
18 to be very careful not to get into specific steps that he may or may not or that his team
19 may or may not have offered to make available in this case.
20 Mr. Graves. Yeah. And so -- and I think I can clear this up even without going
21 to the hypothetical to more just, like, general.
22 As I recall the conversation, my question is -- was: What do you need?
23 And my attitude was: Of course we're going to provide it to you.
24 So, you know, how he heard it, what he expected, and the long litany of things
25 one could need in returning, I don't know, but I could just say my immediate response is,

1 "What do you need"; I was trying to signal we will give you whatever you need logistically.
2 BY [redacted]
3 Q And you never heard anything from Mr. Weiss directly suggesting that he
4 thought he would not get the support that he needed from your office?
5 A I never heard anything from him directly, and I never indirectly heard they
6 thought that something we were doing in D.C. was preventing them from taking some
7 step that they wanted to take.
8 Q Okay. And you said that, after the March 19th meeting or the meeting that
9 took place approximately on March 19th -- after your team made the decision not to join
10 the case, that was relayed back to Mr. Weiss?
11 A So I didn't get into the specifics because I'm precluded of what happened at
12 the March 19th and what the decision was.
13 I said what my direction to the team was when they were tasked. I said that
14 there was a conversation. And then after that meeting was when we conveyed to the
15 District that we would not be looking -- when we conveyed to Delaware that we wouldn't
16 be looking to add our own prosecutor to the case.
17 Q Thank you for that clarification.
18 A Yeah.
19 Q So that information was relayed back to Delaware late March 2023
20 approximately?
21 A I believe so.
22 Q Or 2022. I'm sorry.
23 A 2022. Yes. I believe so. And I'm kind of going off of a calendar entry for
24 the March 19th date to help me kind of -- whatever it is -- a year and a half after the
25 fact -- kind of repiece together the chronology.

1 Q Okay. And you said, based on what was occurring at that time -- again,
2 getting back to the question of logistical support.
3 You said, based on what was occurring at that time, there could be no doubt that
4 Weiss knew he had the administrative and logistical support that he needed?
5 A So, from my perspective, based on what we were doing, I would be surprised
6 if he didn't think he had -- I would be surprised if he didn't know that we were serious
7 about providing the support that he needed to get the case indicted if he wanted to indict
8 the case.
9 Q And is that because support had been provided at that stage?
10 A It was because of specific steps that we had taken, yes.
11 Q Okay. Have you ever had a case where -- and I'm sorry. I'm talking about
12 grand juries broadly, not with respect to this or any other case.
13 Grand juries serve a number of functions, right?
14 So they can return a true bill?
15 A Correct.
16 Q But grand juries can also authorize certain investigative steps to be taken,
17 right?
18 A So you would technically need to have an open grand jury matter to cut
19 grand jury subpoenas, for instance. Yes.
20 Q Okay. Have you ever had a case where a grand jury has declined to issue
21 an indictment?
22 A I am sure, at some point in time, I've seen a no-true bill. I can't think of a
23 specific instance off the top of my head.
24 Q But it does happen?
25 A It does happen.

1 Q And if the grand jury declines to take that step, then the case is effectively
2 over, right?
3 A It's a little bit more complicated than that, but that would be a serious
4 impediment to overcome.
5 Q And short of returning a true bill, as you said, you have to have an open
6 grand jury to take certain investigative steps, correct?
7 A Yes. You are supposed to have an open grand jury before you issue any
8 grand jury subpoenas in connection with that investigation.
9 Q And so, if a grand jury subpoena -- sometimes those grand jury subpoenas
10 are issued, and that brings back returns with relevant information for the case, correct?
11 A Correct.
12 Q And that can help inform whether to move forward with the case, correct?
13 A That is correct.
14 Q Okay. All right. I want to move on to something else that you've referred
15 to a couple times over the course of today.
16 In the very first hour, you said that you were already dealing with enough threats
17 to your career prosecutors?
18 A Yes.
19 Q And, in the last hour, you referenced urgent concerns being brought to your
20 attention about threats to the prosecutors. And I want to go through both of those
21 statements in a little bit of detail.
22 What is an urgent concern?
23 A So we have a mechanism within the Department for filing what we call
24 urgent reports, which is when something of significance needs to be elevated. And one
25 of those things is when there is a threat on prosecutors.

1 Q And, when you receive an urgent concern, what's the response in your
2 office?
3 A So we have a district office security manager -- DOSM is what we call
4 them -- who helps to ensure our safety. We also have Federal 1811 agents who are in
5 our office. We, in general --
6 Q Sorry to interrupt you, but what is an 1811 agent?
7 A Sorry. They are agents who are authorized to -- with arrest authority and
8 to carry firearms.
9 Q Thank you.
10 A They will often be alerted -- an assessment will be done of a security
11 situation in terms of, like, how credible the threat is, and then there will be mitigation
12 measures that are put in place depending on how credible the threat is.
13 Q When you previously served in the U.S. Attorney's Office as a line attorney,
14 were you aware of urgent concerns being brought to the office?
15 A Yes. I mean, we prosecute -- in, like, violent crime context -- cartels and
16 gang members, and there have been times when people who have done violent crime
17 cases where an assessment has been done that security measures had to be
18 implemented.
19 Q In your time now as a U.S. attorney, would you say that there are more
20 urgent concern matters being brought to your attention than in your time previously as a
21 line attorney?
22 A So, in my prior role, I wouldn't have had visibility into the totality and all of
23 that. I mean, from what I hear from those that did, though, yes, there are
24 greater -- there are a greater number of threats, and the nature of the threat is more
25 pervasive than what we've seen in the past.

1 Q What do you mean by "more pervasive"?

2 A So, in what I was used to and what I saw before, if you were prosecuting a

3 gang, a threat potentially could emanate from that gang, right? And so there is one set

4 of mitigation measures for that.

5 What we're seeing now is individuals from across the country who are not directly

6 affiliated with any of the subjects of our investigation engaging in threatening and

7 harassing conduct, which is harder to get your arms around because you know you're

8 seeing effectively the tip of the iceberg. You know that this is -- the sentiment is out

9 there. That people are trying to fuel the sentiment of stoking ire against these

10 dedicated civil servants. And you really don't even know the extent of it because it's not

11 group-affiliated.

12 If I am prosecuting a crew, I know the people -- you generally know who is in the

13 crew, and it's easier to take mitigation measures there.

14 Q Have you had to take specific mitigation measures to protect the

15 prosecutor -- and I don't want to get into specific cases, but have you had to take broadly

16 mitigation measures to protect the prosecutors in your office?

17 A Yes. We've had to do that, and I personally have had to do that.

18 Q For yourself?

19 A Yes.

20 Q Do you have concerns sitting here today for the safety of your office's

21 employees?

22 A Yes. Yes. Absolutely, which is why I am so hesitant to put on a public

23 record of a document -- that we all acknowledged at the outset might become

24 public -- individual names because, given the subject matter, the trajectory I've seen is as

25 soon as those individual names get out in the public, there's immediately, at a minimum,

1 harassing, if not legally threatening conduct that ensues.

2 Q And, sitting here today, do you have concerns for your own personal safety?

3 A Less of concerns for my safety than for my people's safety. More concerns

4 for my family's safety than my safety.

5 [redacted] Okay. All right.

6 We can go off the record. Thank you.

7 [Discussion off the record.]

8 [redacted] Back on the record. It's 1:45.

9 BY [redacted]

10 Q A couple questions about January 6 cases.

11 How many prosecutors do you have working on January 6 cases?

12 A So we have less than 3 percent of our full-time prosecutors working on

13 January 6 cases currently.

14 Q What's that number? 3 percent of 400?

15 A So it's 3 percent of, like, 370. We have less -- we have fewer than 10

16 people who all they do full time is work on January 6. There are a number of term

17 AUSAs who are specially designated for a brief period of time who we otherwise wouldn't

18 have and people who are on detail from other components that are prosecuting those

19 cases.

20 Q Can you give us any insight into the Ray Epps case and why he's only been

21 charged with one count of disorderly -- or disruptive conduct?

22 A So I obviously can't get into an ongoing investigation.

23 Q Okay. There's been some public outcry over some of the defendants, little

24 old ladies, that have been sentenced to long prison terms. What's your response to

25 that?

1 A So, without getting into any specific case, what I can say is, to my knowledge,
2 every sentence that we have asked for in the context of our January 6 cases has been
3 compliant with the United States sentencing guidelines, which is where we start our
4 analysis and, in this context, end our analysis.
5 Q So the age of a defendant isn't something you consider?
6 A So you, under what we call the 3553 factors, can consider personal
7 characteristics of a defendant, but the sentencing guidelines themselves -- which is where
8 we're supposed to begin our sentencing analysis -- do not take into account the
9 individual's age.
10 Q January 6 defendants haven't been awarded time served. Why is that?
11 A I am not aware of that. I think they have.
12 Q They have been awarded time served?
13 A Yes.
14 Q So they've been held pending trial?
15 A Yes. It should be automatic. Yes.
16 Q Okay. How many individuals are you currently trying to hunt down for
17 January 6-related crimes that you haven't indicted yet?
18 A So the FBI has received numerous tips about individuals who illegally -- not
19 only illegally entered the Capitol Grounds that day because the grounds outside the
20 Capitol are restricted, but the building itself -- and/or engaged in acts of violence or
21 destruction. There are estimates that there were thousands of individuals who might
22 fall into that category.
23 The Attorney General said we will seek to hold individuals accountable for their
24 conduct. Those -- FBI continues to investigate those leads, and we continue to assess
25 the results of their investigative fruits.

1 Q So how many people are you currently in the process of hunting down or
2 collecting that you haven't indicted yet?
3 A So there's no, like, set figure out there of we have to get this many people.
4 We are getting cases and considering cases as they're being presented to us, and if we
5 think -- consistent with the principles of Federal prosecution that we discussed
6 today -- the prosecution is warranted, we're going to go forward.
7 Q Okay. Have you been prosecuting individuals that were on the Capitol
8 Grounds but not -- that did not enter the building?
9 A Usually, for those prosecutions, it's only if there is some type of what we
10 would call aggravating factor: assaultive conduct, destructive conduct, interfering with
11 police officers, inciting others to enter the building even if you haven't yourself entered
12 the building.
13 Q And what's the charge for somebody that is accused of inciting others to
14 enter the building?
15 A So everybody -- to be clear, everybody who was on Capitol Grounds in the
16 context of January 6 -- there is probable cause that they have violated 18 U.S.C. 1752, and
17 we are exercising our prosecutorial discretion not to charge most of them.
18 Q But there's an intent element, if they didn't know the Capitol Grounds were
19 closed?
20 A Oh, absolutely. We have to prove that in all the cases. But in those
21 cases -- and it is the most photographed crime scene ever. There are bike racks that are
22 overturned, snow fencing that's overturned, officers that are trying to restrict, alarms
23 blaring. It's not that difficult to prove.
24 Q What's the charge for inciting others to enter the building?
25 A So, again, we're choosing to -- I mean, you can charge a number of different

1 of things, but you have to come back to the first principle of, just by being out there, even
2 if you weren't inciting anyone else, there is a valid 1752 charge there.
3 Q But what are some of the charges one could be charged with for inciting
4 others to enter the building?
5 A It depends on the evidence. It could be -- depending on the fact-specific
6 evidence, you could have an 18 U.S.C. 231. You could also have an 18 U.S.C. 1512. It
7 just depends.
8 Q And what are they? What are those two?
9 A 1512 is obstruction of an official proceeding, and 231 is civil disorder.
10 Q And what are the penalties for those?
11 A Well, there are statutory maximums, and then there's guidelines. The 231,
12 the statutory maximum is a 5-year penalty. 18 U.S.C. 1512 is a 20-year maximum. But
13 the guidelines in general are nowhere near the maximums, particularly for the 1512.
14 Q Mr. Epps was, you know, photographed on video -- captured on video
15 encouraging people to go into the Capitol. It's pretty demonstrative. Have you seen
16 that video?
17 A I believe I've seen some video, but to where your ultimate question is, I can't
18 get into the specifics of Mr. Epps' prosecution.
19 Q Have you seen the public video, though, about Mr. Epps?
20 A I believe I've seen some at some point in time.
21 Q But he hasn't been charged with 1512 obstruction?
22 A No. That is not the current charge. That is not the charge.
23 Q And he hasn't been charged with 231, has he?
24 A No. That is not the charge.
25 Q Okay. So he's not facing a 5-year penalty or a 20-year penalty?

1 A No. That's not the statutory maximum.

2 Q But others in similar circumstances have been facing those?

3 A Again, I can't get into the specifics of his prosecution. But I would say, in
4 general, we take great pains to try -- even though there was collective action that was
5 engaged on in that day -- to look at the individual and what they specifically did because
6 there's a pretty wide range of conduct, and it's a fact-intensive inquiry as to where people
7 should fall on the spectrum.

8 Q There's been a lot of criticisms from our Members that the January 6
9 defendants have been held pending trial unfairly. What's your response to that?

10 A We seek detention where we're lawfully able to do so and we believe it is
11 appropriate. I'd also note, in terms of our overall Federal prosecutions -- and I could get
12 you the specific numbers, but just kind of knowing our docket -- the percentage of
13 January 6 defendants that are detained or have been detained pretrial is greatly smaller
14 than, in general, our Federal defendants who are detained pretrial.

15 Q Okay. I mean, there's no bail in the Federal system. But what is the
16 analysis that goes through to determine whether someone is held over to trial?

17 A In general, it comes down to, are they at risk of flight, or are they a danger?

18 Q Okay. And everyone that's been held is either one or the other?

19 A Correct.

20 Q Is there any opportunity for those defendants waiting trial to appeal?

21 A Yes. And, to be clear, we don't unilaterally make the determination. We
22 seek detention. It goes to a magistrate judge. A magistrate judge makes the
23 determination. That magistrate judge's determination can be appealed by either party
24 to the Article III district court judge. The district court judge then can hear an appeal.

25 And defendants who are still detained after that process have the ability to take

1 an expedited appeal to the D.C. Circuit, which several defendants have done in the
2 January 6 context.
3 Q Do you believe some of the reporting on the January 6 cases and some of
4 the criticism you've received has been unfair?
5 A I'm not sure what you're talking about, like, with the reporting generally.
6 Q Just about individuals being treated more harshly because of their role in
7 January 6 than they would in a similarly situated crime.
8 A What I can say generally is I am not aware of a similarly situated crime to
9 January 6.
10 Q I want to call your attention to exhibit 5.
11 A Is that the June 7 letter?
12 Q Yeah. I just wanted to point out for the record the procedural history for
13 this letter is remarkably odd.
14 Mr. Weiss responds to Mr. Jordan -- he responds to -- Mr. Jordan writes the
15 Attorney General in May, and apparently, the Attorney General forwarded it to Mr. Weiss
16 to respond. Have you ever seen anything like that before?
17 A I mean, I don't know, with the caveat that I, in general, don't track filings
18 going back and forth between Congress and the Department.
19 Q No, but has the Attorney General ever asked you to respond to a letter
20 directly?
21 A Me to directly respond? No.
22 Q To Congress?
23 A Yeah.
24 Q The first sentence of the second paragraph states: While your letter does
25 not specify by name the ongoing investigation that is the subject of the committee's

1 oversight, its content suggests your inquiry is related to an investigation in my district.
2 Isn't that a weird sentence?
3 A I don't know.
4 Q It's sort of jumping to a conclusion that, although your letter doesn't specify
5 by name an ongoing investigation, I'm going to answer it anyway. I'm going to answer a
6 letter that's not written to me.
7 A [Nonverbal response.]
8 Q The letter goes on to -- are you familiar with the Linder letter?
9 A Not the letter itself.
10 Q The concept of it?
11 A The principle, yeah.
12 Q And the Linder letter lays out all the reasons Congress doesn't want to -- or
13 the executive branch and Justice Department doesn't want to give information to
14 Congress, right?
15 A I mean, I think specifically, it's about the dangers of ongoing investigations,
16 as I understand it. But I haven't reviewed the letter.
17 Q But there are other -- I mean, I can represent to you there's other topics in
18 there --
19 A Yeah. Okay.
20 Q -- that sort of covers the whole list of reasons why DOJ doesn't cooperate
21 with Congress. And a lot of that is included in this letter.
22 And I was just curious as to whether letters of this sort -- do you have any idea
23 who prepares them? Is it drafted by somebody in Main Justice?
24 A These kinds of letters, I have no -- I don't know.
25 Q You've been on the receiving end of letters from Congress?

1 A Yes.

2 Q How does the process normally work to respond?

3 A So, as with all things with elected Representatives, our responses are

4 coordinated through the Office of Legislative Affairs.

5 Q And do they just take that off your plate and handle it for you?

6 A I mean, no. I mean, while they take the lead on it, by definition, there's

7 information that only the component knows, so they have to work with the component

8 sometimes.

9 Q So how does it ordinarily work? Would you or your staff draft the response

10 for the Office of Legislative Affairs?

11 A So I don't know that I can speak to how it ordinarily works because, while

12 I've gone through this, my experience has been pretty limited.

13 Q Okay. In the limited experience that you do have, how has it worked?

14 A It was a collaborative effort in the limited experience I do have.

15 Q And who writes the first draft?

16 A I can't recall --

17 Q Okay.

18 A -- about who -- I can't recall.

19 Q During your prep for today, how many prep sessions did you have before

20 you came here today?

21 A I think that we had three sessions where the subject of the meeting was

22 today's appearance.

23 Q Okay. And were you shown any documents?

24 A I was not shown any documents in those meetings.

25 Q Okay. And did Department counsel tell you the types of questions we have

1 asked other witnesses?

2 A No.

3 Q Okay. Did they give you any guidance as to whether the interview would

4 proceed if there was a government shutdown?

5 A We did discuss that at one point in time. We did discuss that at a couple

6 points in time last week.

7 Q Okay. And what was the plan? Were you going to be appearing?

8 A Well, I was ready to follow the direction. I understood, I mean, like --

9 Q What was the direction, I guess?

10 A Whatever ultimately was reached with the committee. I mean, I think

11 there were practical questions about, if we were going to shut down, whether, for

12 instance, we'd be authorized to have a court reporter here. Things like that.

13 Q We would. We would.

14 A Yeah. So I think those were the kinds of practical things that people were

15 wondering about, but it wasn't -- I mean, I was ready to appear one way or another.

16 Q Of course. I appreciate that.

17 But, if there was a government shutdown, was it your -- did you believe you would

18 not be appearing today?

19 [redacted] This is getting into internal deliberations at the Department around

20 the impacts of a potential shutdown that didn't ultimately materialize. He's here today

21 voluntarily, and beyond that --

22 [redacted] It's not a hard question. He can either answer it or not. It's a

23 voluntary question. A voluntary interview.

24 Mr. Graves. I agree with the scope. I hope this puts it to an end. I thought it

25 was a possibility, like all of us, up until late Saturday night. It was uncertain as to what

1 was going to happen this week on a number of different fronts.

2 BY [redacted]

3 Q So there was a possibility if there was a shutdown you wouldn't be able to

4 come?

5 A I thought that that was a possibility. I thought it was a possibility that I

6 would be able to come. You're asking, like, my view.

7 Q Okay. But you didn't receive ultimate guidance before the shutdown?

8 A To my recollection, it was still -- we were trying to work through the issue

9 over the weekend.

10 Q Okay. I think I understood what you were saying before that you have

11 worked with special counsels in your role as U.S. attorney. Probably not Mueller, but

12 Durham. Is that right?

13 A I can't get into --

14 Q Well, the Durham matter is over with.

15 A Yeah. So -- but, again, it would be internal deliberations.

16 Q Okay. Any other special counsels? How many special counsels have you

17 worked with? The number, not names.

18 A So, I mean, it depends. I've had interactions with, I guess, now four special

19 counsel's offices.

20 Q And would that be Hur, Durham, Smith, and what's the fourth?

21 A We're getting into, like, specifics now, and this is so far beyond my

22 conversations with then-U.S. Attorney Weiss about proceeding in my jurisdiction.

23 Q Okay. I mean, it has a relationship here because of Weiss' special counsel

24 status.

25 A Yes.

1 Q So I'm just asking for your experience, like -- okay. So it's four or five
2 special counsels that you've worked with?
3 A Yes. To my best recollection, it was four that I've had interactions -- I want
4 to be very clear --
5 Q Right.
6 A -- that I or my office have had interactions with.
7 Q And so how does it work with the special counsels? Do they have their
8 own prosecution teams, or do they use AUSAs from D.C.?
9 A Special counsels, in general, form their own prosecution teams. But, I
10 mean, they often go to preexisting people who are already prosecutors within the
11 Department to form their teams.
12 Q Okay. And so what types of coordination has to happen with your office
13 for a special counsel to bring a case?
14 A That is -- well, coordination to bring a case?
15 Q You know, you used the grand jury.
16 A A special counsel in general? They don't have to coordinate --
17 Q Well, the ones you've worked with.
18 A They don't have to do anything with our office to bring a case. That's the
19 virtue of special counsel in terms of --
20 Q So they have to coordinate with the grand jury?
21 A They have to coordinate with grand jury, yes.
22 Q Okay. Have you proposed with any of the special counsels you worked
23 with -- other than Weiss -- that they should form a hybrid type of prosecution team?
24 A So I'm not going to get into the deliberation and the ongoing -- and the
25 communications we've had with the special counsel in the ongoing investigations.

1 Q Okay. So the situation that you were working through with Weiss'
2 office -- which I guess we resolved after a bunch of back-and-forth -- that it was a bit of a
3 hybrid that you were evaluating?
4 A I think it is fair to say that -- I think the easiest way to say it to get past, like,
5 the labeling issues that we're all struggling with -- is whether we were going to cross-staff
6 the investigation or the investigation would just be his existing investigators.
7 Q Are you cross-staffing any other investigation with special counsels? Or
8 have you?
9 [redacted] That's a little outside the scope of what he's authorized to talk about,
10 staffing of other special counsel investigations.
11 BY [redacted]
12 Q So you're not going to answer?
13 A I agree it's outside the scope. I could say it's a matter of public record that
14 the office has cross-staffed with other special counsels.
15 Q Okay. Have you ever recommended to another special counsel that they
16 shouldn't move forward with a case?
17 A I could say, in general, I don't recall weighing in or opining on a matter that is
18 not in my office what that component head should or should not do, special counsel or
19 regardless. That's for them to decide.
20 Q Okay. Do you recall any discussions about a campaign finance charge
21 related to the Hunter Biden tax matter?
22 [redacted] Just even answering yes or no to that question, as I think you know,
23 gets into questions associated with the ongoing investigation and prosecution, and it's
24 outside the scope of what he's authorized to discuss.
25 BY [redacted]

Q And do you know the answer to the question?

A So, again, if I said I knew the answer to the question, that would be a backdoor way of answering a question I have not been authorized to cover.

Q No, it wouldn't because your answer might be no. So your answer to my subsequent question is, do you know the answer, is yes. And so I don't think that is a backdoor way of getting information here.

A So, I mean, I guess we just see it differently.

Q So you're not willing to testify whether you're aware of a campaign finance allegation that some -- you know, a Democrat donor paid off Hunter Biden's taxes? Whether that was a campaign finance issue?

A I am not authorized to discuss anything substantively to the case because this is an ongoing investigation, and none of us want to do anything that in any way compromises the ongoing investigation.

[redacted] Okay. I think we're done.

We can go off the record.

[Discussion off the record.]

[redacted] It is 2:08. We can go back on the record.

BY [redacted]

Q I actually want to clarify my own line from the previous round.

We were talking about grand jury and steps that they might take, and you said you didn't actually know if you'd ever been in a situation where a grand jury had declined to indict, correct?

A I was saying I couldn't recall a specific case. I generally recall that having happened and having to deal with it. I don't think it was -- I mean, it was not one of my cases.

1 Q So it's pretty rare that a grand jury doesn't indict somebody when a true bill
2 is sought?
3 A That is correct.
4 Q Okay. And we also said that grand juries can issue subpoenas. There can
5 be grand jury subpoenas that bring back relevant information?
6 A That is correct.
7 Q And it may be the case that a grand jury subpoena produces relevant
8 information that could help the prosecutors decide not to move forward and seek a true
9 bill, correct?
10 A That is correct.
11 Q And so just the process of having the grand jury can help to inform the
12 investigation?
13 A Yes. The grand jury, in most investigations, is the main investigative tool.
14 Q Okay. Thank you.
15 You were asked some questions just now about the potential for a government
16 shutdown and what may or may not have happened.
17 You're appearing today willfully of your own accord, correct?
18 A That is correct.
19 Q Voluntarily, I should say.
20 A Voluntarily, yes. Correct.
21 Q And you've sat here for 5, 6 hours and answered, to the best of your ability
22 and consistent with your authorization, every question presented to you?
23 A That's correct. I think we're -- what are we -- a shade over 4 now. Yes.
24 Q I'm terrible at math.
25 A Yes.

1 Q Okay. And so it was never your intent to obstruct this investigation,
2 correct?
3 A That is correct.
4 Q Okay. The fact of the matter is, there was a lot of news about a
5 government shutdown, and nobody really knew what might happen?
6 A That is correct.
7 Q Okay. You were asked a number of questions just now about Ray Epps?
8 A Yes.
9 [redacted] I want to introduce as exhibit 9 an AP News article dated September
10 20th, 2023.
11 [Calce Exhibit No. 9
12 Was marked for identification.]
13 BY [redacted]
14 Q It's entitled "Ray Epps, Trump supporter targeted by January 6 conspiracy
15 theory, pleads guilty to Capitol riot charge."
16 A Yes.
17 Q Have you seen this before?
18 A I have not seen this article before.
19 Q I'll give you a minute to review it.
20 A Do you want me to read the whole --
21 Q I can tell you, I'm going to focus on -- actually, I'll just ask the question.
22 A Okay.
23 Q On page 2 of this article, the -- I guess it's the third full paragraph down, it
24 says: After the riot, Epps -- meaning Ray Epps -- became the focus of a conspiracy
25 theory echoed by right wing news outlets that he was a secret government agent who

1 incited the Capitol attack.

2 Are you familiar with that conspiracy theory?

3 A I am familiar with that conspiracy theory.

4 Q Do you have any information to suggest that Mr. Epps is, in fact, a secret

5 government agent who incited the Capitol attack?

6 A No. And, in fact, at his plea hearing, we put on the record that he -- and in

7 as a clear and unambiguous fashion as we could -- that he has never been a source,

8 government agent, or anything of that nature.

9 Q And, in fact, that's reflected in this article at the bottom of this page,

10 correct?

11 It says: Assistant U.S. Attorney -- it provides the name of the U.S. attorney --

12 A Yeah.

13 Q -- said during the hearing that Epps was not a confidential source for the FBI

14 or any other law enforcement agency.

15 A Yes. That's correct.

16 Q And that is a true statement that was made by that assistant U.S. attorney?

17 A Yes. That's correct.

18 Q And, in fact, on the next page, about halfway down, it says: A barrage of

19 death threats would force Epps and his wife to sell their home in Mesa, Arizona, and live

20 in a recreational vehicle in the Rocky Mountains, he said in an interview this year on CBS'

21 60 Minutes.

22 Are you aware of the fact that Mr. Epps has had to sell his home because of the

23 conspiracy theory and the impact that's had on him?

24 A I was not aware that he had to sell his home. I was aware that he was the

25 subject of harassment and threats.

1 Q Okay. And, in fact, as reflected here, he has said publicly that, because of
2 those threats which resulted from that conspiracy theory, he's had to sell his home, and
3 it's had a pretty profound impact on him and his wife, correct?
4 A I am generally aware that he has made public statements describing the
5 impact that these false allegations have had on his life.
6 Q Okay. Thank you.
7 I don't have any further questions, but I did want to ask, do you have anything
8 that you wanted to add based on the questions that you have not been able to address?
9 A I don't think there's anything else that we want to add that we haven't
10 covered in the last 4 or so hours.
11 [redacted] Great. All right. Thank you.
12 We can go off the record.
13 [Whereupon, at 2:13 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

DEPOSITION OF: ELVIS CHAN

Thursday, October 5, 2023

Washington, D.C.

The deposition in the above matter was held in room 2237, Rayburn House Office Building, commencing at 10:12 a.m.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

[redacted], RESEARCH ASSISTANT

[redacted], GENERAL COUNSEL

[redacted], SENIOR ADVISOR

[redacted], SENIOR STAFF

[redacted], CHIEF COUNSEL FOR OVERSIGHT

[redacted], RESEARCH ASSISTANT

[redacted], COUNSEL

[redacted], MINORITY CHIEF OVERSIGHT COUNSEL

[redacted], MINORITY STAFF ASSISTANT

[redacted], MINORITY OVERSIGHT COUNSEL

[redacted], MINORITY PROFESSIONAL STAFF MEMBER

1 [redacted]. Good morning. This was supposed to be a deposition of Federal
2 Bureau of Investigation Assistant Special Agent in Charge Elvis Chan.
3 Chairman Jordan requested this deposition as part of the committee's oversight of
4 how and to what extent the executive branch has coerced and colluded with companies
5 and other intermediaries to censor speech.
6 Mr. Chan is not here. The time is 10:12. The deposition was scheduled to start
7 at 10 a.m.
8 I'm going to make part of the record the subpoena issued for Mr. Chan on
9 September 15, 2023, for a deposition that was originally scheduled on September 21,
10 2023. We agreed to move that date, via letter, on September 21, 2023, to
11 accommodate Mr. Chan, who was traveling for work internationally.
12 So, on September 21st, we sent another subpoena, Mr. Jordan did, dated -- or the
13 return date was October 5, 2023. I'll make the two letters and subpoenas exhibit 1.
14 [Chan Exhibit No. 1
15 Was marked for identification.]
16 [redacted]. We'll mark exhibit 2 a copy of the notice sent out by the Judiciary
17 Committee's clerk on September 27th noticing today's deposition for 10 a.m. this
18 morning, Thursday, October 5th. Mark that as exhibit 2.
19 [Chan Exhibit No. 2
20 Was marked for identification.
21 [redacted]. I'm going to walk through the timeline of the committee's efforts to
22 speak with Mr. Chan.
23 On November 18th of 2022, Mr. Jordan, then the ranking member, first requested
24 testimony of Mr. Chan.
25 On January 17, 2023, after Mr. Jordan became the chairman of the committee, we

1 wrote to the FBI asking again for Mr. Chan's testimony, along with other key witnesses
2 the committee had been seeking.
3 On March 3, 2023, the committee reiterated its request that Mr. Chan appear
4 voluntarily for a transcribed interview.
5 On May 22nd of this year, committee staff again reiterated our request to
6 schedule a transcribed interview with Mr. Chan on a telephone call with FBI personnel.
7 On June 21st, July 5th, August 8th, and August 17th of this year, committee staff
8 again communicated with FBI personnel in an attempt to schedule Mr. Chan's voluntary
9 transcribed interview.
10 On August 30th of this year, the committee alerted the FBI that the chairman had
11 authorized a subpoena for Mr. Chan's testimony at a deposition. It was only then that
12 FBI and DOJ agreed to schedule Mr. Chan for a voluntary transcribed interview. That
13 was originally scheduled for September 15th.
14 On September 14th, the day before the scheduled transcribed interview, we were
15 informed by Mr. Chan's personal counsel, Larry Berger, that Mr. Chan will not appear on a
16 voluntary basis to the committee's transcribed interview unless he was permitted to bring
17 personal counsel and agency counsel.
18 At 4:34 on September 14th, committee staff emailed DOJ and FBI, communicating
19 again that the committee's practice is to allow the witness to pick either personal counsel
20 or agency counsel, but not both.
21 At 7:37 that evening, committee staff emailed Mr. Berger, DOJ, and FBI, stating:
22 Mr. Chan can have either agency counsel or personal counsel accompany him at a
23 transcribed interview, not both. It's Mr. Chan's choice.
24 At 7:57 that evening, Mr. Berger emailed committee staff to state that Mr. Chan
25 will appear with personal counsel. Berger did not make any objections to the

1 committee's practice of conducting transcribed interviews with either personal counsel or
2 agency counsel, but not both.
3 At 10:07 p.m. that evening, after Mr. Berger stated that Mr. Chan would appear
4 with personal counsel the next day, DOJ staff interjected and asserted: We've spoken
5 with Mr. Chan and his strong desire is to be represented by both personal and agency
6 counsel. We look forward to seeing you at 10 a.m.
7 At 11:13, committee staff emailed Mr. Berger, DOJ, FBI again, communicating the
8 committee's practice, stating: This is not an option we are offering. Mr. Chan has
9 requested personal counsel. We respectfully ask that you do not attempt to join.
10 On September 15th, the morning of the scheduled transcribed interview, Mr.
11 Chan did not appear.
12 Later, on September 15th, the committee issued a subpoena for Mr. Chan to
13 appear at the deposition, which we marked as exhibit 1, originally scheduled for
14 September 21st. After Mr. Chan communicated with the committee that he's traveling
15 on business, we reissued the subpoena for today.
16 The committee's practice of permitting witnesses to attend with personal or
17 agency counsel is something that has been communicated since the beginning of the
18 Congress.
19 On January 31st, counsel to the committee communicated to the FBI:
20 Witnesses -- I'm quoting from an email from committee counsel: "Witnesses appearing
21 for transcribed interviews can attend with personal or agency counsel but not both. It's
22 up to the witness." That was an email dated January 31st, and it was sent by me, the
23 committee's general counsel, to FBI, [redacted] at the FBI's Office of General Counsel.
24 Off the record for a second.
25 [Discussion held off the record.]

[Chan Exhibit No. 3

Was marked for identification.]

[redacted]. I'm going to mark as exhibit 3 the Judiciary Committee rules. On page 7 of the rules, Rule XI, with regard to depositions, Rule XI(k)(3): "Persons permitted to attend depositions. Deponents may be accompanied at a deposition by two designated personal, nongovernmental attorneys to advise them of their rights. Only members, committee staff designated by the chair or ranking minority member, an official reporter, the witness, and the witness's two designated attorneys are permitted to attend. Other persons, including government agency personnel, may not attend."

[redacted], do you have --

[redacted]. I do. Thank you.

[Chan Exhibit No. 4

Was marked for identification.]

[redacted]. I want to introduce as exhibit 4 an October 4, 2023, 7:35 p.m. email from Larry Berger to committee counsel. And we've redacted the names on this, but I'll represent that it involved [redacted] and myself, among others.

This email reads: "As you know" -- this is from Mr. Berger, who is Mr. Chan's personal counsel. It reads: "Good evening. As you know, I represent Assistant Special Agent in Charge (ASAC) Elvis Chan. This evening, a short time ago, I received a letter from the Department of Justice informing me that ASAC Chan is directed not to appear before the committee, tomorrow, October 5, for a deposition, without his firm choice of counsel, which includes agency counsel.

Based on this unequivocal direction, as well as the belief of my client and I that the committee's subpoena is unenforceable for reasons previously stated, please be advised that ASAC Chan will not appear for a deposition tomorrow, October 5, before the

1 Committee, if the Committee continues to insist that agency counsel be precluded from
2 attending the deposition.
3 ASAC Chan stands, as he always has, ready, willing and able to attend the
4 deposition voluntarily, on October 5, or any other designated date, with his choice of
5 counsel, which includes agency counsel."
6 [Chan Exhibit No. 5
7 Was marked for identification.]
8 [redacted]. I want to introduce as exhibit 5 a September 19, 2023, letter from the
9 Federal Bureau of Investigation to Chairman Jordan concerning the deposition subpoena
10 request.
11 [Chan Exhibit No. 6
12 Was marked for identification.]
13 [redacted]. Introduce as exhibit 6 a September 29, 2023, letter from Mr. Berger
14 to Chairman Jordan on the same issue; and as exhibit 7 an October 3, 2023, letter from
15 Carlos Uriarte, Assistant Attorney General for the Office of Legislative Affairs, the
16 Department of Justice, to Chairman Jordan, again, concerning this deposition.
17 [Chan Exhibit No. 7
18 Was marked for identification.]
19 [redacted]. Each one of these letters makes clear that Mr. Chan was voluntarily
20 willing to appear, but was not willing to do so without his choice of agency counsel.
21 We are not taking a position on the validity of the subpoena or not, but I do want
22 to state for the record that it is my understanding that Mr. Chan has always been willing
23 to appear voluntarily and that he has always been firm in his position that he would like
24 to be represented by both personal counsel and agency counsel. There has been no
25 change in that position.

1 I also want to note for the record -- there was a reference to the practice of the
2 committee. It is my understanding that there is no past precedent for denying
3 witnesses the right to their choice of counsel in this committee. I understand that may
4 be the practice in the Oversight Committee, but in the Judiciary Committee that has not
5 been precedent.
6 And I would also note that in this investigation, there have been situations in
7 which we've had witnesses from technology companies who have been permitted to
8 appear with counsel for both their companies and personal counsel as well. So the
9 reference to practice that was made earlier does appear to be a practice of the 118th
10 Congress that Chairman Jordan has adopted.
11 I also want to note that it is my understanding that Mr. Chan did fly from San
12 Francisco to Washington, D.C., both on September 15, 2023, which was the original date
13 of the transcribed interview, was here and willing to voluntarily appear, and did also fly in
14 from San Francisco to Washington, D.C., today and is here and is willing to voluntarily
15 appear should the chairman be willing to permit him to appear with his choice of
16 representation.
17 We can go off the record -- or not.
18 [redacted]. I'd just like to -- we have had FBI witnesses, for example, Jill
19 Sanborn, Steven D'Antuono that have appeared for transcribed interviews with personal
20 counsel. Both of those witnesses asked for agency counsel as well, and after being
21 advised of the rule they selected personal counsel. And both of those happened during
22 the 118th Congress.
23 I'm also going to make part of the record --
24 [redacted] [redacted], can I respond to that quickly?
25 [redacted]. I'm just going to make --

1 [redacted]. Go ahead.

2 [redacted]. -- some additional letters, correspondence part of the record.

3 [Chan Exhibit No. 8

4 Was marked for identification.]

5 [redacted]. Exhibit No. 8 is a letter dated September 20th to the FBI Director

6 from the chairman.

7 [Chan Exhibits Nos. 9 and 10

8 Was marked for identification.]

9 [redacted]. Exhibit No. 9, a letter earlier this week from the chairman to Larry

10 Berger on this very issue; exhibit 10, a letter from the chairman dated October 4th,

11 yesterday, to the Attorney General, stating our position on that.

12 [redacted]. And if I can quickly respond, I would note for the record that both

13 Ms. Sanborn and Mr. D'Antuono were former FBI employees. Mr. Chan is obviously a

14 current agency employee.

15 I would also note that Mr. Chan, again, it is my understanding that he has a

16 number of significant concerns about his personal safety related to the broader litigation

17 here, and his interests in this -- I think he believes very strongly that his interests compel

18 him to have personal counsel.

19 [redacted]. Fair enough. I mean, on October 4th we offered what we

20 considered a fair accommodation, offering Mr. Chan the ability to have Justice

21 Department agency counsel available to him immediately outside the room. We offered

22 him the opportunity to stop the deposition at any point after any question, and he was

23 free to get up with his personal counsel, walk into the hallway, or we could have made a

24 separate room available for Mr. Berger to confer with Mr. Chan and agency counsel at

25 any time.

1 So we believe that that was a fair accommodation that would have allowed Mr.
2 Chan to consult with agency counsel without violating the rules of the House. So we
3 were disappointed they didn't take us up on that accommodation.
4 I'd also note with regard to Ms. Sanborn and Mr. D'Antuono, the purpose of the
5 questioning of both of those officials related to their official duties with the FBI. Both
6 asked for personal and agency counsel. And when we communicated to them the basis
7 for that rule -- and the basis for the rule is we allow agency counsel in instances where a
8 witness may not be able to afford personal counsel or where a witness may not have
9 access to one.
10 And so, allowing agency counsel is an accommodation to begin with to allow these
11 question-and-answer sessions to proceed.
12 When a witness does have personal counsel, the presumption is that personal
13 counsel would attend and agency counsel would not. And that's consistent with the
14 House rules for depositions and the committee's rule for depositions.
15 [redacted]. And briefly, I'm not sure that I -- that we accept your premise that the
16 basis for the rule is monetary in nature. These witnesses are testifying about events
17 that occurred when they were working in their professional capacities, so just put that on
18 the record.
19 I would also note that that accommodation offered to this witness to have agency
20 counsel outside the door I believe is the same accommodation that was offered to [redacted]
21 [redacted] in the prior administration. And the prior administration also declined to consider
22 that a valid accommodation, or a sufficient accommodation I should say.
23 [redacted]. I don't remember the circumstances of [redacted] other than I
24 remember taking his deposition myself so -- or whether it was a transcribed interview. I
25 don't know. I'm not sure who was there in the room with [redacted], but he appeared

1 and he answered our questions. So --

2 [redacted]. We don't have anything further.

3 [redacted]. Thank you.

4 [Whereupon, at 10:32 a.m., the interview was concluded.]

5

6

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: CHRISTOPHER KREBS

Wednesday, October 11, 2023

Washington, D.C.

The interview in the above matter was held in room 2237, Rayburn House Office Building, commencing at 10:00 a.m.

1 Appearances:

2

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted] RESEARCH ASSISTANT

8 [redacted] DIGITAL ASSISTANT

9 [redacted] CHIEF COUNSEL FOR OVERSIGHT

10 [redacted] LAW CLERK

11 [redacted] SENIOR COUNSEL

12 [redacted] RESEARCH ASSISTANT

13 [redacted] COUNSEL

14 [redacted] MINORITY CHIEF OVERSIGHT COUNSEL

15 [redacted] MINORITY STAFF ASSISTANT

16 [redacted] MINORITY OVERSIGHT COUNSEL

17 [redacted] MINORITY PROFESSIONAL STAFF MEMBER

18

19

20 For CHRISTOPHER KREBS:

21

22 JIM WALDEN, PARTNER,

23 WALDEN MACHT & HARAN,

24 250 VESEY STREET, 27TH FLOOR,

25 NEW YORK, NY 10281

1 [redacted] We'll go on the record.

2 Good morning. This is a transcribed interview of Mr. Christopher Krebs.

3 Chairman Jordan has requested this interview as part of the committee's oversight of

4 how and to what extent the executive branch has coerced and colluded with companies

5 and other intermediaries to censor speech.

6 Would the witness please state your name for the record?

7 Mr. Krebs. Christopher Cox Krebs.

8 [redacted] We encourage witnesses who appear before the committee to

9 freely consult with counsel if they so choose, and it is my understanding that you are

10 appearing today with personal counsel. Is that correct, sir?

11 Mr. Krebs. That's correct.

12 [redacted] Could counsel please state your name for the record?

13 Mr. Walden. Jim Walden, W-a-l-d-e-n, Walden Macht & Haran, 250 Vesey

14 Street, New York, New York.

15 [redacted] On behalf of the committee, I want to thank you for appearing here

16 today to answer our questions. The chairman also appreciates your willingness to come

17 here voluntarily.

18 My name is [redacted] and I am with Chairman Jordan's staff. I will now

19 have everyone else from the committee who is here in the room introduce themselves as

20 well.

21 [redacted] [redacted] Chairman Jordan's staff.

22 [redacted] [redacted] chief oversight counsel for Ranking Member Nadler.

23 [redacted] [redacted] oversight counsel for Ranking Member Nadler.

24 [redacted] [redacted] with Ranking Member Nadler.

25 [redacted] [redacted] with Ranking Member Nadler.

1 [redacted] [redacted] with the Judiciary Committee.

2 [redacted] [redacted] with Mr. Jordan's staff.

3 [redacted] [redacted] Chairman Jordan's staff.

4 [redacted] [redacted] Chairman Jordan's staff.

5 [redacted] [redacted] Chairman Jordan's staff.

6 [redacted] Thank you.

7 I'd like to now go over the ground rules and guidelines that we'll follow during

8 today's interview.

9 Our questioning will proceed in rounds. The majority will ask questions first for 1

10 hour, and then the minority will have an opportunity to ask questions for an equal period

11 of time if they choose. We'll alternate back and forth until there are no more questions

12 and the interview is over.

13 Typically, we take a short break at the end of each hour, but if you would like to

14 take a break apart from that, please just let us know.

15 As you can see, there is an official court reporter taking down everything we say to

16 make a written record. So we ask that you give verbal responses to our questions. Do

17 you understand that?

18 Mr. Krebs. Yes, I do.

19 [redacted] So the court reporter can take down a clear record, we will do our

20 best to limit the number of people directing questions at you during any given hour to

21 just those people on the staff whose turn it is.

22 Please try and speak clearly so the court reporter can understand and so the folks

23 down at the end of the table can hear you as well.

24 It is important that we don't talk over one another or interrupt each other if we

25 can help it, and that goes for everybody present at today's interview.

We want you to answer our questions in the most complete and truthful manner as possible, so we will take our time. If you have any questions or if you do not understand one of our questions, please just let us know.

Our questions will cover a wide range of topics, so if you need clarification at any point, just say so.

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

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

You should also understand that by law you are required to answer questions from Congress truthfully. Do you understand that?

Mr. Krebs. I do.

[redacted] This also applies to questions posed by congressional staff in an interview. Do you understand this?

Mr. Krebs. I do.

[redacted] Witnesses that knowingly provide false testimony could be subject to criminal prosecution for making false statements under 18 U.S.C., Section 1001. Do you understand this?

Mr. Krebs. I do.

[redacted] Is there any reason you are unable to provide truthful answers to today's questions?

Mr. Krebs. I don't believe so.

[redacted] Finally, I'd like to make note that the content of what we discuss

here today is confidential. We ask that you not speak about what we discuss in this interview to any outside individuals to preserve the integrity of our investigation.

For that same reason, the marked exhibits that we will use today will remain with the court reporter, and any copies of those exhibits will be returned to us when we wrap up the interview.

That is the end of my preamble.

Is there anything my colleagues from the minority would like to add?

[redacted] We just thank the witness for taking time out of his schedule to come and join us today.

[redacted] Is there anything --

Mr. Walden. Yeah. So Mr. Krebs has a short opening statement, if we may.

[redacted] Yes. Please go ahead, sir.

Mr. Krebs. Great. Thank you.

Thank you for inviting me to testify today.

As you know, I was the CISA director until November 17th, 2020. After that date, I had no role in the Agency's operations or policies. I have no intention today to comment on or speculate about what the Agency did after my departure.

Because I have been gone from the Agency for so long, I'll let you know if I believe I cannot reliably answer a question, and if I cannot, where I think you can go get that answer -- get an answer.

I want to start by clarifying issues that seem to be the subject of serious misunderstandings, and I'll limit myself to five points.

First, in the aftermath of the 2016 election, there was a pervasive and bipartisan agreement among State election officials that Russia was responsible for sweeping malign activities to interfere in the election and influence public discourse. Those officials

1 made the case for CISA to take an active role in addressing future interference campaigns.
2 One of the most ardent proponents was Mac Warner, who was then
3 West Virginia's secretary of state. He actually went on a road show of sorts to explain
4 Russia's activities, including its deployment of misinformation and disinformation. I've
5 marked the PowerPoint he used as Krebs Exhibit 1 and ask for it to be entered into the
6 record.
7 Slide 25 of exhibit 1 describes misinformation and disinformation using commonly
8 accepted definitions, which includes the rule -- the use of partial truth with an intent to
9 mislead.
10 Second, these State election officials asked CISA to help them connect with social
11 media platforms in an effort to convey mis- and disinformation that threaten local
12 elections.
13 As a result, the Countering Foreign Influence Task Force, which later became a
14 part of the Election Security Initiative during my tenure, started the switchboarding
15 effort, which did what its name implies -- passing information from those officials to
16 social media platforms.
17 Third, CISA was mindful of protecting Americans' freedom of speech and civil
18 liberties, which is why CISA saw its role as merely serving as a pass-through for the
19 information.
20 Any decision what about what to do with the information was left to each
21 platform, which had to make its own decisions based on its own terms of service.
22 During my tenure it was not a policy objective to advocate for or even try to
23 persuade social media platforms to alter their own content moderation policies, and I'm
24 not aware of any CISA employees having done so during my tenure.
25 Fourth, the switchboarding initiative was not some secret or shadow program.

1 For example, I recall that Matt Masterson, who headed the ESI, talked about the program
2 at a field hearing before the Committee on Homeland Security on October 15th, 2019.
3 In response to a question from Representative Underwood, Masterson, who I will
4 remind you is a Republican like me and a former election official from Ohio, explained:
5 "We have direct lines of contact with all the major social media companies.
6 Throughout 2018, State election officials and local election officials reported activity that
7 we were able to pass on not just to the platform that had the activity but to all the
8 platforms so they could see if it was cross-platform activity.
9 "We don't recommend any actions to take on the activity, but we are able to pass
10 it on and say, here is the activity that has been reported to us, here is the contact for the
11 State and local election official reporting it.
12 "I will say, when it comes to responding to disinformation around the elections
13 process, of misleading on where to vote, when to vote, things like that, the social media
14 companies took an aggressive posture and have published policies about takedown
15 processes regarding that kind of activity, and we are able to push that to them."
16 I've marked his testimony as Krebs exhibit 2 and ask that it be included in the
17 subcommittee's record.
18 Fifth and finally, it was my decision, and one that I'm proud of, to address false
19 rumors that were intended to interfere with or influence the outcome of elections. We
20 primarily did this on CISA's website, and we debunked false rumors with truthful
21 information and resources.
22 To the extent that anyone says that this rumor control effort was outside of CISA's
23 scope, I disagree. But more importantly, no one disagreed at the time since everyone,
24 including Congress, was fully aware that CISA viewed it as a core part of its election
25 security mission.

1 Indeed, at least one of the rumors CISA debunked during the 2020 election was
2 identified as problematic by the White House directly.
3 Having made these points, I am prepared to answer relevant questions. Thank
4 you.
5 [redacted] Thank you, sir.
6 Before we start our first hour of questioning I'll mark some exhibits here.
7 I'll do the PowerPoint that's marked Krebs Exhibit 1 as exhibit No. 1.
8 [Krebs Exhibit No. 1.
9 Was marked for identification.]
10 Mr. Krebs. Great.
11 [Krebs Exhibit No. 2.
12 Was marked for identification.]
13 [redacted] And then I'll mark the hearing transcript that's marked Krebs Exhibit
14 No. 2 as exhibit No. 2.
15 [Krebs Exhibit No. 3.
16 Was marked for identification.]
17 [redacted] And then I'll mark the opening statement that you provided as
18 exhibit No. 3.
19 Mr. Krebs. Thank you.
20 [redacted] The clock now reads 10:08 a.m. We'll start with the first hour of
21 questioning. I'll turn it over to my colleague [redacted]
22 EXAMINATION
23 BY [redacted]
24 Q Mr. Krebs, could you state your full name again for the record?
25 A Yeah. Christopher Cox Krebs.

1 Q And what is your current place of employment?

2 A Partner at the Krebs Stamos Group.

3 Q And what's your current title? Partner?

4 A Partner, yeah.

5 Q And what is your educational background, beginning with college?

6 A University of Virginia, environmental sciences, bachelor of arts, and then

7 juris doctorate from the Antonin Scalia Law School, George Mason University.

8 Q Starting with after law school, what is your professional background?

9 A Immediately upon completing law school, taking the bar. I then worked as

10 a schedule C political appointee in the Department of Homeland Security during the Bush

11 administration till 2009.

12 After that, went and established a risk management firm at Dutco Global Risk

13 Management. Then, a couple years later, moved on to Obsidian Analysis, also as a

14 consultant, risk management consultant.

15 And then ended up at Microsoft in 2014 or so, through 2017, as director of U.S.

16 cyber policy. And then, following that, took a schedule C appointment in the Trump

17 administration as a senior counselor to Secretary John Kelly.

18 Ultimately was -- well, not ultimately -- next, assistant secretary for infrastructure

19 protection in the National Protection and Programs Directorate, where, given I was the

20 senior ranking, was the senior official performing duties of the under secretary through

21 2018, February or so.

22 And I was nominated as the under secretary for the National Protection and

23 Programs Directorate, nominated by President Trump. I was confirmed in June of 2018.

24 Served in that role till November of that year, when the Cybersecurity and

25 Infrastructure Security Act -- Agency Act, rather -- was passed into law, signed into law by

1 the President.

2 And I then transitioned to the director of the Cybersecurity and Infrastructure

3 Security Agency. Played that role till November 17th of 2020.

4 Q And after November 2020, what was your --

5 A I had a bit of a break in employment till January, and then established, in

6 January of 2021, the Krebs Stamos Group and served in various academic and adviser

7 relationships as well.

8 Q What are some of the academic and adviser?

9 A University of Virginia Center for Politics. I was a fellow at the Harvard

10 University Belfer Center.

11 Q At a high level, what were your responsibilities as director of cyber policy at

12 Microsoft?

13 A Mainly taking a look at emerging cybersecurity-related policy issues, lawful

14 access policy issues, including encryption, that were emerging during the Obama

15 administration, and working with the technical teams, the leadership at Microsoft,

16 helping them understand what the impacts could be across potential products, services,

17 offerings.

18 Q From when you were under -- make sure I have your career timeline

19 correct -- from June to November 2018, you were the under secretary at NPPD.

20 A Yes.

21 Q Is that correct?

22 A Yes. Yes, that's correct.

23 Q Okay. And, again, at a high level, what were your responsibilities in that

24 role?

25 A So I led the agency. NPPD at the time was a combination of physical

1 security, cybersecurity, Federal Protective Service, emergency communications, and the
2 Office of Biometric Identity Management.
3 It was approximately 5,000 Federal employees, 10,000-plus contractors -- a lot of
4 those made up from the Federal Protective Service -- about a budget of, all told, including
5 fees, over $4-, $4.5 billion. So a very large organization.
6 So the day-to-day management of that organization. Some of the policy issues
7 that were emerging at the time with influencing the upcoming cyber strategy.
8 But probably top-line priority was the passage of the Cybersecurity and
9 Infrastructure Security Agency Act.
10 Q And who did you report to during this time?
11 A At that time it was the Secretary, Kirstjen Nielsen.
12 Q And you became director of CISA in November of 2020 -- or excuse
13 me -- November 2018?
14 A That's correct.
15 Q When you first became director, who did you report to?
16 A Same, Secretary Nielsen.
17 Q And how many people reported to you?
18 A I don't recall specifically how many, but there was a reporting structure
19 where some of the seniors would report to me but then also to the -- or rather to the
20 deputy under secretary, who was Matt Travis. Don't recall specifically. A handful.
21 Q Approximately how many seniors were there?
22 A The definition of "senior" varies, but as I would view it, it would be the
23 political leadership. So we had the assistant secretaries of cyber, assistant secretary of
24 infrastructure security. We'd have the chief of staff. We'd have the deputy under
25 secretary. And then there would be some senior other staff advisers. And then you'd

1 have emergency communications as well.

2 Q Who was your chief of staff when you first took the job?

3 A Timeframe?

4 Q Late 2018.

5 A I don't recall if I specifically had a chief of staff at that point, but ultimately

6 the chief of staff was Emily Early, who was also a schedule C political appointee.

7 Q I think this is covered in one of the exhibits you provided. Before we get

8 any further, how do you understand -- let me take one step back.

9 Are you familiar with the terms misinformation, disinformation, and

10 malinformation?

11 A Yes.

12 Q And do you understand what is the difference among those terms?

13 A I do.

14 Q And what's your understanding of what each term means and how they're

15 different?

16 A So I'll give you my view. It may not be the academic or some of the things

17 that have been specifically referenced in the documents.

18 But misinformation is false information that's shared with no ill intent necessarily.

19 Disinformation is false information that is shared with intent to deceive or harm. And

20 then malinformation is factual, true information that is shared out of context or

21 otherwise angled, slanted to deceive.

22 Q Do you recall the term "malinformation" being used around the time you

23 took the job as director of CISA?

24 Mr. Walden. Can you be more specific? Used by whom?

25 [redacted] Used by personnel at CISA.

1 Mr. Krebs. My recollection is that "malinformation" came into vogue a little bit
2 later on, but it was more about some of the operations that the Russians conducted in
3 2016 against political parties.
4 BY [redacted]
5 Q You said it came into vogue a little bit later on. Do you recall when
6 approximately?
7 A I do not. I don't recall.
8 Q Was it before the 2020 election?
9 A Again, I don't recall specifically when it came into the regular parlance. It
10 was used, but it wasn't necessarily an everyday term.
11 Q Do you recall if this was a term, in addition to being used by personnel at
12 CISA, by any industry partners?
13 A I think by then it had been established as part of the academic record.
14 Claire Wardle's First Draft, I think it identified it as an element of information disorder.
15 Q What is First Draft?
16 A First Draft, I think I said, it's either an academic research group or a nonprofit
17 that studies information disorder.
18 Q Did you work with them while you were director of CISA?
19 A No.
20 Q Had you worked with them prior to becoming director?
21 A No.
22 Q Have you worked with them since your tenure at CISA?
23 A I don't believe so, no.
24 Q Do you recall receiving any or hearing of any criticism regarding the term
25 "malinformation"?

1 Mr. Walden. Can you be more specific, counsel? You mean, first of all, time
2 period and who? Criticisms by who?
3 [redacted] The question is not restricted by a time period. At any point --
4 Mr. Walden. Like from --
5 [redacted] It sounds like the term didn't come into vogue until a few years ago.
6 So the time period --
7 Mr. Walden. Yeah, yeah, yeah, it's totally fine, but we're talking about a huge
8 period of time, assuming it was somewhere around the 2020 election. Are you saying at
9 any period of time, including this committee's own report? Because he certainly read
10 that, and it was critical of the -- of "malinformation." So that answer would be
11 responsive. I'm just trying to make sure he knows what he's asking -- or answering
12 rather.
13 [redacted] Sure.
14 BY [redacted]
15 Q I'll start with, during your tenure at CISA, do you recall hearing any criticism
16 from anybody regarding the use of the term "malinformation"?
17 A Not that I recall.
18 Q Okay. What about after your tenure at CISA?
19 A I don't recall any specific criticisms of the term.
20 Q Okay. What about generally?
21 A I think as a term it is not particularly specific. I think that's some of the
22 general criticisms. But, again, nothing. I don't recall a specific party necessarily
23 criticizing it.
24 Q Okay. Do you agree with that criticism?
25 A Honestly, I haven't really thought about whether I agree with it or disagree

1 with it.

2 Q Okay. You provided a definition for "malinformation."

3 A Right.

4 Q Are you familiar with any other definitions of "malinformation"?

5 A I think I can think of examples of malinformation, and I think the

6 typical example, one that was cited in the 2016 or 2017 Intelligence Community

7 Assessment, is hack and leak.

8 Q Regarding the criticism or concerns by other folks that it's not specific, to

9 your understanding has "malinformation" been used to apply to other examples besides

10 hack and leak?

11 A I'm sure it has. I don't know if I can give you an example right now.

12 Q Are you familiar with any conversations or did you ever partake in any

13 conversations or discussions where it seemed like two folks in the conversation had

14 different understandings of what "malinformation" meant?

15 A Not that I recall.

16 Q During your tenure at CISA, do you recall attending any meanings where the

17 term "malinformation" was used?

18 A Just my time with CISA or prior with NPPD?

19 Q No. During your tenure at CISA.

20 A Again, not that I recall specifically, but more broadly to the context point,

21 this was my earlier point about "malinformation" not being a specific term. It doesn't

22 tell you what it is necessarily on its face. And that's what I was getting at earlier.

23 Q Do you know who Brian Scully is?

24 A I do.

25 Q During your tenure at CISA, what was his role at CISA?

1 A I don't remember his specific title, but he was a part of our Election Security
2 Initiative efforts and handled some of the Countering Foreign Influence Task Force work.
3 Q How frequently did you interact with Mr. Scully?
4 A During what time period?
5 Q During your tenure at CISA.
6 A So do you have a specific time period? The reason I ask this question,
7 because it varied, and the variations were depending on where we were in our election
8 security efforts.
9 [redacted] Why don't you tell us about the variations then. If you can tell us
10 the various positions that he held during your tenure at CISA.
11 Mr. Krebs. Again, I can't tell you the specific position or titles he held. But if it
12 was in a cycle, if it was 2018 or 2020, I would have more regular contact with him rather
13 than if it was in between election cycles.
14 BY [redacted]
15 Q Okay. In 2019, an off-cycle year, how frequent would you have interactions
16 with him?
17 A I don't recall.
18 Q Would it be once a week?
19 A It was -- I would -- I couldn't put a number around it, but it would be more
20 infrequent.
21 Q And in the lead-up to an election -- we'll use the 2020 election as an
22 example -- how frequently were you in contact with him?
23 A So specific to Brian Scully, I can't say. I don't recall. But with the election
24 security team, I would get briefings on a regular basis, and that would be on a weekly
25 basis probably.

1 Q And who on the election security team was providing these briefings to you?
2 A Those briefings were usually Matt Masterson, Geoff Hale, and Scully would
3 attend those. And, again, there may have been meetings where it was just Matt and
4 Geoff. Sometimes Scully would or wouldn't be there.
5 Q Okay. Besides Mr. Masterson, Mr. Hale, Mr. Scully, and you, who else
6 would attend these briefings?
7 A On a regular basis, I don't recall. But generally speaking for meetings,
8 internal meetings with teams, I would usually see my chief of staff that would be there.
9 Emily Early. I mentioned her earlier.
10 Q Okay. So then other than your chief of staff, you, and then, again, either
11 Mr. Masterson, Mr. Hale, Mr. Scully, or some combination of them, would anybody else
12 attend these briefings?
13 A Not that I recall.
14 Q Okay. How were the briefings delivered?
15 A We typically had a standard format with slides. I don't recall specifically
16 what was in those slides, but we would work through updates on the various lines of
17 effort, and they would provide oral updates around the content.
18 Q And would you receive these slides or any other written work product in
19 advance of the meeting?
20 A I don't recall. I may have, but I don't recall if I would get them in advance.
21 Q And when the briefing was occurring with slides, obviously this is 2020, this
22 is happening over video conference? Is this in person?
23 A It depended on where we were in the COVID cycle. There were times when
24 all meetings were virtual. As I think we got through the summer closer, then they were
25 in person if people were available.

1 Q When did these briefings first start?

2 Mr. Walden. Can I just be clear, you're talking about the briefings on the run-up

3 to the 2020 election, those specific briefings?

4 [redacted] Yes.

5 Mr. Walden. Not briefings -- yeah, just the record was a little bit unclear. So I

6 just wanted to make sure that we're clear on that.

7 Mr. Krebs. So I think it would vary, of course, depending on my travel schedule,

8 depending on where we were in January -- or rather in the -- in 2020 in the run-up to the

9 election. I'm sure I had updates throughout the year. I can't tell you specifically when

10 they started, though.

11 BY [redacted]

12 Q Did the frequency ever change?

13 A I think, much like all our election security-related briefings, including

14 briefings at the White House with the National Security Council where the chief of staff

15 and the National Security Advisor would attend, as we approached the election, they

16 became more frequent, as we get closer to the date of the election. And also if there

17 were specific incidents that were emerging, then we would have more regular

18 discussions.

19 Q What was Matt Masterson's role in 2020 at CISA?

20 A Matt Masterson, as I think I mentioned earlier, was a schedule C political

21 appointee in CISA. He had the nominal title at least of our election security lead and

22 was a senior counselor or senior adviser, I think, if you looked at his -- whatever his billet

23 title was. Again, I don't remember his specific title. But he effectively ran our election

24 security efforts.

25 Q And how frequently were you interacting with Mr. Masterson in 2020?

1 A I think probably as the lead for election security I spoke to him quite
2 regularly, particularly if there were issues emerging. So more than once a week, I can
3 say that, but I can't tell you beyond that with any specificity how often.
4 Q What was Geoff Hale's title in 2020?
5 A I don't recall Geoff's title.
6 Q Do you know which team he worked with?
7 A He was within the National Risk Management Center, and he was a part of
8 the Election Security Initiative.
9 Q Did the Election Security Initiative fall within the National Risk Management
10 Center?
11 A From an organizational perspective and kind of an org structure, that's
12 where we put emerging initiatives, and so ESI was one. Supply chain risk management
13 was another one, for instance.
14 Q Who was the head of the National Risk Management Center in 2020?
15 A Bob Kolasky.
16 Q We've mentioned it a couple times already. What is the Countering
17 Foreign Influence Task Force?
18 A The Countering Foreign Influence Task Force was the group that was
19 established earlier in my tenure -- I can't tell you when -- that brought together CISA and
20 Intelligence and Analysis analysts, I&A, DHS I&A analysts, to look at the broader
21 disinformation, foreign influence challenge that stemmed from the 2016 election.
22 Q Do you recall if it was created before 2020?
23 A Yes. Yes, it was created before 2020.
24 Q Okay. So your recollection is sometime after you became director, in
25 November 2018, to sometime in 2019 is when this task force was created?

1 A I don't recall specifically when it started or when it was stood up, but it was
2 sometime in the -- in or around 2018, prior to 2018 election timeframe.
3 Q Okay. Who from CISA played a role in its setup?
4 Mr. Walden. I'm sorry. Just to be clear, played a role in its setup, meaning who
5 was responsible for the decision to set something like it up, or who was on the task force
6 itself?
7 [redacted] Who was responsible for helping to create the task force? Who from
8 CISA was responsible?
9 Mr. Krebs. Yeah. No. Okay.
10 Mr. Walden. He's smarter than me.
11 Mr. Krebs. No.
12 Mr. Walden. Sometimes he understands, and I missed it.
13 Mr. Krebs. For one, it was under the direct guidance and leadership of -- and just
14 to clarify, my recollection is that it started, at least as kind of an ongoing effort, prior to
15 CISA, under the NPPD structure. So sometime likely in the spring probably of 2018.
16 And the direct guidance of this task force, or at least the direct -- it was stood up
17 under the general counsel, so Dan Sutherland. So he was the NPPD general counsel,
18 subsequently the CISA chief counsel. He'd been in the Department for several years.
19 In fact, in the Bush administration he was nominated to be the civil rights and civil
20 liberties leader -- or nominee -- at DHS.
21 BY [redacted]
22 Q Okay. We'll take it one step back then.
23 Were you one of the individuals that played a role in both the consideration of
24 and then the steps in creating the Countering Foreign Influence Task Force?
25 A So I can't recall specifically kind of the pathology of it and whether -- who

1 had the original idea. But as we were talking about it within the Department, I was, of
2 course, part of the decisionmaking process.
3 Q And was the Secretary of DHS involved in these discussions in 2018?
4 A So, again, I don't recall the specific whose idea was it all, but there were
5 initial ongoing efforts as I came into the Department in 2017 and through 2018 around
6 countering terrorism online.
7 I don't know if you're familiar with the Global Forum for Countering Terrorism,
8 GFCT, which is obviously relevant today. Those were some of the original conversations
9 in the Department post the 2016 election in looking at Russian, Iranian, and Chinese
10 foreign influence that stemmed from some of those internal conversations at DHS.
11 Q To your recollection, when is the first time that a task force, whether it's
12 called the Countering Foreign Influence Task Force or something else, when is the first
13 time it stood up and there were people who were assigned to the task force?
14 A I don't recall. 2018 sometime.
15 Q Do you recall --
16 A To the best of my recollection.
17 Q Do you recall if it was before or after the creation of CISA?
18 A Oh, well, my recollection is, is it was before, because my recollection is that
19 there were efforts under the Countering Foreign Influence Task Force prior to the 2018
20 midterms, and CISA was established after the 2018 midterms.
21 Q Did you work with Brian Scully before the creation of CISA?
22 A He worked for me as a employee of NPPD. Whether I had regular
23 interactions I don't recall.
24 Q To your understanding, so if there's folks who have been assigned at a high
25 level to this role, or if there's efforts that are going on pre-2018 midterms -- let me take

1 one step back.

2 When that was the case, do you recall what the -- who the task force was

3 comprised of at a high level, not specific names, but were there folks from I&A that were

4 pulled in to join this task force?

5 A I think I mentioned that already. There were detailees, or whatever you

6 want to call them, assignees from I&A. I don't recall how many or who they were, but

7 there were members. So it was not just a CISA effort. It was CISA and I&A. Hence,

8 intradepartmental task force.

9 Q But if it predated CISA --

10 A I'm sorry.

11 Q Yeah.

12 A Yeah. NPPD and I&A pre-CISA. And then after that, and whether it

13 continued in that name or form after the 2018 election, I don't recall, but at some point,

14 there were NPPD and I&A members on the task force.

15 Q Post-CISA, now that you're -- CISA's created, you're the director, who is

16 responsible, we'll say at the end of 2018, post-election, for leading the Countering Foreign

17 Influence Task Force?

18 A An individual?

19 Q Yeah.

20 A Solely responsible for the CF- -- the Countering Foreign Influence Task Force?

21 Q Well, who was the lead of the team?

22 A I don't recall.

23 Q Okay. At this time who would the lead of the team report to?

24 A So, again, it rolled up into, at some point, the Election Security Initiative.

25 The Election Security Initiative was in the National Risk Management Center. The

1 National Risk Management Center was run by Bob Kolasky.

2 Below that, at some point, I don't recall specifically when, but Matt Masterson

3 came into the Department from the Election Assistance Commission, and Matt had some

4 leadership over this.

5 And then below that, at some point, it was Brian Scully and that team.

6 Q Okay. So to your understanding, who was responsible for assigning, of

7 hiring who would join the task force?

8 A I'm sorry. What are you asking specifically?

9 Q Sure. So at the end of 2018, whether you know the person's name or their

10 title, who was responsible for determining who is on the Countering Foreign Influence

11 Task Force?

12 A I don't recall. I mean, that's an organization-level decision six layers below

13 the director's office.

14 Q So is it your understanding that Matt Masterson had oversight or

15 management responsibilities related to the Countering Foreign Influence Task Force?

16 A From an organizational perspective, whether it's -- I don't -- you know, I

17 couldn't tell you if Matt Masterson had administrative management responsibilities down

18 into the task force. I don't know if I ever knew what his specific responsibilities were for

19 management.

20 Q Okay. Do you know how big the task force was at the end of 2018?

21 A At the end of 2018 or around the 2018 election?

22 Q Well, I'll ask it both ways. First around the 2018 election.

23 A Well, I mean, I think the answer is going to be the same. I don't recall

24 specifically the numbers. I know it was likely larger around the 2018 election because of

25 the tempo, the operational tempo.

1 As an operational agency, we were quite busy around the 2018 election. By the
2 end of the 2018 calendar year, it was likely smaller because the demand was not what it
3 was in early November.
4 Moreover, there was probably no one working on the task force at the end of
5 2018 because we were all furloughed -- they were all furloughed -- because the
6 government was shut down.
7 Q How big was the task force in the lead-up to the 2020 election?
8 A I think that -- I don't recall if the task force, as an organization, was -- the
9 way I thought about the efforts in 2020 was that it was the Election Security Initiative. I
10 don't recall specifically if the task force was even a thing in 2020. I thought about these
11 efforts as Election Security Initiatives.
12 Q Okay. Were there any other task force or divisions -- actually, let me just
13 take one step back.
14 During your tenure as director of CISA at a high level, what was the nature of your
15 Agency's interactions with I&A?
16 A So they would provide intelligence on cyber and physical risks to us in
17 various forms.
18 Q Were there any other task forces that would have detailees from I&A?
19 A Not that I recall.
20 Mr. Walden. And I just want to be clear. Any CISA groups or whatever they're
21 called, any other places within CISA other than the Countering Foreign Intelligence (sic)
22 Task Force that had I&A appointees?
23 [redacted] Correct.
24 Mr. Walden. Okay. Got it.
25 Mr. Krebs. And are these task forces that CISA leads or task forces -- I'm just

1 trying to understand the scope of the question because obviously the Department's
2 massive.
3 BY [redacted]
4 Q Yeah. Task forces that CISA leads or that CISA participates in. I'm just
5 trying to get a sense of how your -- how CISA is interacting with I&A during this time in --
6 A Sure.
7 Q -- 2020.
8 A I think I get the question. Just I'm trying to -- I haven't thought about these
9 things in 3-plus years, right, and it's a massive -- or DHS is massive. And so I don't recall,
10 again, specific whether these were task forces established by a secretary or an under
11 secretary, something like that.
12 But there were concerted efforts within the Department where CISA employees
13 participated that there are naturally very likely going to be I&A members, and, for
14 example, southern border, COVID.
15 I suspect there were CISA employees alongside I&A employees around Portland
16 and the violence of the summer of 2020.
17 So I can't give you specifics of, yes, this person was doing that thing, but naturally,
18 because it was a fairly collaborative department, there were going to be CISA and I&A
19 employees working alongside each other.
20 Q Who was your counterpart at I&A in 2020?
21 A So there's a history here. I don't recall when Glawe, Dave Glawe, who was
22 the Senate-confirmed under secretary, I don't recall when he departed I&A, but his
23 deputy under secretary, whose name was Brian Murphy, Brian Murphy was the acting.
24 He was relieved at some point over, I think, some controversy about I&A. That's,
25 I don't know, summer or fall.

1 And then at that point it was Joe, the deputy general counsel, Joe -- God, I'm
2 blanking -- Joe Maher was the -- designated by Acting Secretary Wolf as the interim acting
3 under secretary or senior official performing the duties of the under secretary.
4 Q Are you familiar with the FBI's Foreign Influence Task Force?
5 A Yes.
6 Q And to your understanding, what is the mission of the FBI's Foreign Influence
7 Task Force?
8 A I don't know if I can tell you exactly what it was. I mean, this was, again,
9 this was years ago. But it was their effort to look at, under their authorities, what they
10 could do to [inaudible] foreign influence.
11 Q Were you familiar with the FBI's Foreign Influence Task Force during your
12 tenure as director of CISA?
13 A Was I aware of it? Yes.
14 Q To your understanding, was there any overlapping responsibilities between
15 the FBI's Foreign Influence Task Force and CISA's Countering Foreign Influence
16 Task Force?
17 A I don't remember if there were overlapping authorities or efforts.
18 Q Do you recall there being any meetings with folks at the FBI to discuss how
19 there's these two task forces that are working on similar issues?
20 A Oh, there were several meetings through the normal policy process at the
21 White House or through the National Security Council. There was the Pan Cyber (ph), so
22 the cyber team would have IPCs that there would be representatives from CISA and FBI
23 that would brief out their efforts.
24 I don't recall if there were one-to-one interactions between CISA and the FBI on a
25 regular basis, but there were, just given the way the interagency works, there were touch

1 points.

2 There was a separate set of touch points that was coordinated out of the Office of

3 the Director of National Intelligence. Those were led by the cyber threat executive,

4 Shelby -- I can't recall her last name.

5 Q Pierson?

6 A Yes, that's it.

7 I don't recall the frequency of the meetings that Shelby and her team pulled

8 together, but those were, again, going to be natural touch points for CISA and the FBI to

9 contact.

10 Q Going back to NPPD and when there are still discussions about the

11 Countering Foreign Influence Task Force, who was involved in, from an interagency

12 perspective, who was involved in those discussions to your recollection?

13 Mr. Walden. Do you understand what discussions he's talking about?

14 Mr. Krebs. No, I'm --

15 Mr. Walden. Because I got a little bit lost with the question.

16 Mr. Krebs. Yeah. Sorry.

17 BY [redacted]

18 Q So you said that Dan Sutherland was the one, the lead, at NPPD who was

19 taking the charge, leading discussions as it led to whether to stand up and how to stand

20 up the Countering Foreign Influence Task Force. Is that right?

21 A I'm not -- I don't disagree with your characterization.

22 Q Okay. Were these discussions internal to DHS only, or was there an

23 interagency discussion that took place as well?

24 A You know, I don't recall if there were external conversations about what

25 CISA or what -- sorry -- what NPPD at the time, what their mission was going to be. But,

1 again, if I can just step back and provide a little context around the time.
2 As we looked at the Intelligence Community Assessment of 2017 about the
3 Russian interference, that was then backed up by the Senate Intelligence briefs and some
4 of the other reports, there were three lines of effort -- around the hacking of election
5 equipment, election systems; the hacking of political campaigns and candidates; and then
6 there was this broader disinformation effort that the Russians had been conducting for
7 several years and continue, in fact, to this day, in fact, through this weekend, if you look
8 at some of the stuff that's been going on around Hamas in Israel.
9 And as we -- across the interagency there were conversations around, okay, who
10 is on point for each of those three work streams.
11 And I can't get into the deliberations around who does what and why and where,
12 but CISA -- or NPPD -- and this is -- these are Cabinet-Level conversations -- NPPD was
13 tapped with that first piece around election security and then providing assistance to
14 campaigns and candidates as needed, as requested.
15 And then the third was the intelligence community. And mainly the FBI would
16 have the lead on the third piece of broader disinformation with support from other
17 agencies, including NPPD.
18 Q When it came to that third line of effort regarding state-sponsored
19 disinformation efforts, what sort of support was NPPD, and then later CISA, able to
20 provide to the FBI or to whoever's taking the lead?
21 A It was actually fairly minimal, to the best of my recollection. In fact, it was
22 mainly around awareness and information sharing, so really getting to kind of core
23 authorities of the Department of Homeland Security, and particularly as it relates to
24 critical infrastructure.
25 And so from an awareness perspective, we're talking about understanding the

1 elements of how an information operation works, and then distilling that down into some
2 kind of public service campaign, the equivalent of "See something, say something."
3 Q Are you familiar with ODNI's Foreign Malign Influence Center?
4 A I have heard of it. I don't believe that was in -- was operational in my time
5 at CISA. I think that was something that came in, in fact, probably 2020.
6 Actually, I'll stop there, just because I don't recall specifically when it was stood
7 up.
8 Q Regardless of whether it was operational by the time you were not with CISA
9 anymore, do you recall participating in any discussions with the interagency regarding the
10 creation of the ODNI's Foreign Malign Influence Center?
11 Mr. Walden. So, again, so your question was a little bit unclear to me. It may
12 have been clear to Chris, so I apologize.
13 What discussion -- you're saying any discussions -- you said any discussion
14 interagency. So maybe just break it down. Was there discussion within CISA about
15 whether this ODNI was going to be created, and then discussions with other agencies, or
16 you only care about if there were discussions with other agencies?
17 [redacted] The question is about discussions with other agencies, so --
18 Mr. Walden. Okay.
19 [redacted] -- ODNI's separate from CISA.
20 Mr. Walden. Yeah.
21 BY [redacted]
22 Q So another way of asking the question, as director of CISA, were you brought
23 into any discussions --
24 A I don't recall specifically engaging in conversations. There may have been
25 recommendations that were happening within the National Security Council.

1 I recall at some point, I don't recall specifically when, but there was some
2 conversation of -- on the Hill about a statutory requirement to establish some function on
3 foreign malign influence.
4 You know, my main interactions with ODNI at the time or with the -- you know,
5 were with the ODNI leadership on election security threats. And how that manifested in
6 my one-to-one engagement, it didn't matter to me whether there was a center or a
7 threat executive or I was talking to the acting or Senate-confirmed Director of National
8 Intelligence or their deputy.
9 Q And for election security concerns, was your main point of contact Shelby
10 Pierson during this time, during 2020?
11 A So that I don't recall. But to step back again, context, if you recall, in 2020
12 it was a bit of a turbulent time for the DNI leadership. And I worked throughout my
13 tenure, and preceding 2020, with DNI leadership from Dan Coats and Sue Gordon.
14 And then when they left their positions, then it was Joe Maguire and
15 Andrew Hallman.
16 And then when they were relieved, there was a bit of a break in the conversation
17 with Ambassador Grenell and Kash Patel.
18 And then after that, I had known Congressman Ratcliffe for years, and so it was
19 good to see him come into that role, and so would talk to him and his team.
20 And those tended to be my primary point to points the staff would work with.
21 Masterson would talk to Shelby on a regular basis.
22 Q Do you know who Elvis Chan is?
23 A Yes.
24 Q And did you work with him during your time at CISA?
25 A Not that I recall.

1 Q Okay.

2 A I mean, he could've been in meetings, but I don't recall whether he was in

3 meetings with me.

4 Q Do you know who Laura Dehmlow is?

5 A I'm aware of who she is. Same. Like I don't recall what role she was in or

6 if she was in meetings that I was in.

7 BY [redacted]

8 Q And how did you come to know who Mr. Chan or Ms. Dehmlow were?

9 How did you become familiar with them?

10 A Well, I -- good question, right? I mean, I've read since media reports and

11 other case filings and things specific to Elvis and then similar sort of filings, whether it's

12 Fifth Circuit stuff, on Ms. Dehmlow.

13 Q During your tenure at CISA, did you have any interactions with Mr. Chan or

14 any interactions with Ms. Dehmlow?

15 A Not that I recall.

16 Well, can we split that up, though?

17 Q Uh-huh.

18 A Like, again, I don't recall having interaction with Mr. Chan.

19 Q Uh-huh.

20 A Don't recall having any interactions with Ms. Dehmlow. It's possible that

21 there were briefings delivered. I just don't recall who provided delivering -- briefings on

22 any given time -- at any given time.

23 BY [redacted]

24 Q Did you receive -- during your tenure at CISA, did you receive briefings from

25 the FBI's Foreign Influence Task Force?

1 A So stepping back, there were FBI liaisons and attaches, and there were
2 Secret Service attaches, there were Coast Guard attaches, there were Cyber Command
3 attaches embedded within CISA.
4 So my regular interactions with the FBI were either with leadership -- the director,
5 the deputy director, or the head of FBI Cyber -- or directly from the FBI staff that would sit
6 in my intelligence briefings. But they also had open-door privileges and could come in
7 and we could talk about things.
8 Specific to the task force, I don't recall a directed, one-to-one, this is an FBI Task
9 Force briefing. But it's possible that an FBI Task Force member briefed -- participated in
10 a set of briefings to me.
11 Q During your time at CISA, did you have any interactions with the Global
12 Engagement Center?
13 A I recall having a -- I recall hosting at my office the head of the Global
14 Engagement Center. I don't recall her name at this point -- or at this time. I recall at
15 least one meeting with her.
16 Q Okay.
17 A And it was an introductory meeting, "get to you know you" type meeting.
18 Q During your tenure as director of CISA, was CISA working directly with the
19 Global Engagement Center?
20 A I know there was contact, but I don't recall the depth of conversation. My
21 interactions with the GEC were very infrequent.
22 Q To your understanding, members of your team at the Agency, are you aware
23 of any ongoing meetings or projects that were -- GEC and CISA were working on during
24 your tenure?
25 A So meetings, projects, that's a whole group of things.

1 Q Sure, I'm just trying to --

2 A You know, I mean, the simple answer here is I don't recall this -- or I'm not

3 even sure I was aware of any -- the extent of how often they would work with the GEC.

4 If the GEC released a report, if it was brought to my attention. But beyond that tracking

5 the GEC was not something that I was doing on a regular basis.

6 [redacted] Were you aware of any interactions that anyone at CISA, under your

7 role as the director, anyone at CISA, were they interacting with anyone at the GEC?

8 Mr. Krebs. I don't recall.

9 [redacted] Was it anyone's role to interact with the GEC?

10 Mr. Krebs. I don't know if anybody had that specifically in their job title. They

11 could've interacted during some of those IPC meetings focused on election security.

12 BY [redacted]

13 Q Are you familiar with the Center for Internet Security?

14 A Yes.

15 Q And what is CIS?

16 A CIS is a nonprofit organization based in New York that has been a -- it's a

17 partner of CISA's. They host the Multi-State ISAC. They host the Election

18 Infrastructure ISAC. They're a grantee of CISA.

19 Q And as a grantee of CISA, what do they provide?

20 A So they are a grantee, but my recollection is they are a statutorily-funded

21 grantee CISA provides grant funding to. They host, as I mentioned, the Election

22 Infrastructure ISAC. They stood that up in, I want to say, February of 2018.

23 By the 2018 midterm election, all 50 States were participating in the Election ISAC.

24 The Election Infrastructure ISAC provides cyber threat intelligence to the members.

25 They provide network security tools. Albert, you may have heard of the Albert tool,

1 which is an intrusion detection system that the EI-ISAC provides out to the members, has

2 data, information-sharing via platforms, rooms. So key partner.

1

2 [10:58 A.M.]

3 BY [redacted]

4 Q Did you have a main point of contact at CIS or at the EI-ISAC?

5 A No. Again, these are grantees contact issues. These are operational

6 issues that are managed by staff.

7 Q Did you have a main point of contact at Facebook during your tenure at

8 CISA?

9 Mr. Walden. This is the second question now that you've asked for a main point

10 of contact. I just want to make sure that I'm clear. Like, what do you mean by "main

11 point of contact"? Someone that he was contacting regarding CISA programs or election

12 interference work?

13 [redacted] During your tenure at CISA, who were you most frequently in contact

14 with at Facebook?

15 Mr. Walden. Counsel, so this is why I'm trying to clear -- and I hope you

16 understand I'm trying to be helpful. You mean on election security stuff? You don't

17 mean like any other reason that CISA would have to be in contact with Facebook?

18 [redacted] No. Any reason.

19 Mr. Walden. Any reason. Okay.

20 Mr. Krebs. I think I'd say the person I mainly interacted with would be probably

21 [redacted], and I had known him for years when he was at DOJ and National

22 Security Council.

23 BY [redacted]

24 Q And what was the nature of your interactions with [redacted] specific to

25 when you were at CISA?

1 A As I mentioned, I had known Nathaniel for years. I would see him at
2 industry events. I would, you know, when they had a report on coordinated inauthentic
3 behavior, that they, you know, they do fairly regular -- now they do quarterly. I don't
4 recall what the tempo was then. He would send them to the team. He would send
5 them to me. Those are the -- I mean, that's the nature of the relationship and the
6 contact then.
7 Q Anything else with respect to [redacted]?
8 A I mean, within that sort of engagement, there is -- you know, I assume you'll
9 ask about industry meetings. He was in those industry meetings.
10 Q With respect to those industry meetings, to your understanding, when did
11 those first start?
12 A So, as I mentioned earlier on, there were already efforts underway, again, at
13 some point. I don't recall when these specifically started, but around the GFCT, and
14 Nathaniel was participating in those. I mean, these were meetings that happened
15 across the interagency all the way up to G7. There were G7 meetings on these sorts of
16 counterterrorism activity online. So I can't -- I don't recall specifically when these sorts
17 of industry meetings initiated.
18 Q Were they ongoing when you were Under Secretary for NPPD?
19 A Were they ongoing, meaning were they underway? What's the --
20 Q Yes.
21 A Again, I don't recall specifically.
22 Q Okay, well, I'll rephrase the question.
23 While you were Under Secretary at NPPD, were there ongoing meetings between
24 folks at NPPD and industry partners?
25 A I believe so, yeah.

1 Q And what was the purpose of those meetings?

2 A So the nature of those discussions were threat sharing, and it was CISA
3 sharing with the platforms here are the things that we've threat modeled out all of the
4 bad things that could happen around the 2020 selection. These are the things we're
5 worried about.

6 And it's the same playbook that we saw the Russians play in 2020 -- or 2016,
7 excuse me, 2016, yeah, targeting election systems, targeting campaigns, and then
8 broader, you know, sowing distrust and dis-info, info operations.

9 Q Were one of the operations, one of the risks of the operation, were one of
10 those discussed was the risk of the hack-and-leak operation?

11 Mr. Walden. I'm sorry. Do you mean at these industry meetings, while he was
12 Under Secretary of -- Under Secretary -- I'm sorry. Under Secretary of NPPD?

13 Mr. Krebs. NPPD.

14 Mr. Walden. Yeah, thank you. Sorry. During those meetings specifically, I'm
15 trying to get at are you talking about time period? Are you talking about --

16 [redacted] Well, he was answering in the lead up to the 2020 elections. So
17 we're at CISA at that point. We're not with NPPD anymore.

18 Mr. Walden. That's what I was trying to clarify.

19 Mr. Krebs. No, I can answer. So again --

20 Mr. Walden. Just answer with the time period so I can follow. I was in a
21 different time period.

22 Mr. Krebs. So it doesn't matter if it was 2016 or through 2020, hack and leak was
23 a risk. We saw hack and leak in 2016. So, as we were preparing for 2018, naturally we
24 would include what had happened in the past in our current threat model, and that
25 extended through 2020.

1 In fact, what we saw in 2020 was a hack and leak operation by the Iranians where
2 they were able to get into a voter registration database. They did a screen cap and then
3 you might recall in late October they released a video to the backdrop of a Metallica song,
4 "Enter Sandman," of them doing something manipulating, and then they pushed that out
5 on social media.
6 So, yes, that was in the threat profile, and, in fact, we were right.
7 BY [redacted]
8 Q So, for the ongoing U.S. Government industry meetings that we're referring
9 to that CISA is partaking in and taking the lead in, those meetings that were ongoing in
10 2020, were they ongoing in 2019? I'm just trying to get a sense of when did they first
11 start?
12 A Again, just 4 -- this is 4-plus, 5-plus years ago we're talking about at this
13 point. So do I recall the month of the year when they started? No. My recollection is
14 there were some meetings before the 2018 election, and there were meetings through
15 2019. I don't recall how the meetings transpired in 2020 during COVID where we
16 weren't doing in-persons.
17 But, yes, I recall there were meetings in 2019. I think you probably have that I
18 attended at least two of them, and, you know, one was at LinkedIn, the other was at
19 Facebook.
20 Q In 2020, how frequently would you attend these meetings?
21 A Frankly, I don't recall attending any of them, and the model of the
22 engagements were different because of COVID. So I just don't recall.
23 Q With respect to when these --
24 A Let me just put a little bit more detail on that, right. You remember
25 walking into Facebook headquarters for a meeting. In 2020, I don't recall the thousands

1 of Zooms and Teams I attended. So I just don't recall what the tempo was like.

2 Q So pre-COVID, these meetings would occur in person?

3 A Some of them occurred in person. I don't recall, don't know if there were

4 other forms of meetings.

5 Q And, for the in-person meetings that you can recall, roughly how many

6 people would attend these meetings?

7 A Oh, again, we're talking 4 years ago. I don't recall. I mean, I don't recall

8 the companies that were, you know, in the meetings. The usuals would have been

9 there. I can tell you, on the CISA side, it was -- or NPPD side, either one, it was me, and

10 then there was always right there a lawyer. So one of the general counsel or the chief

11 counsel's office. And then there were other representatives from NPPD or CISA. There

12 were FBI there as well, and then there were the platforms.

13 Again, I don't recall the specific platforms other than, you know, the obvious

14 Facebook and Twitter and YouTube. I don't recall beyond that, and there would usually

15 be a primary and then a plus one.

16 Q And, for these, again, in-person ones, do you recall would there be CISA only

17 meetings to prep for these meetings in advance?

18 A Would we do prep meetings for these?

19 Q Yes.

20 A I don't recall. I had, you know, a lot of meetings. Not every meeting

21 would get a prep meeting just because time in the day. That I don't recall.

22 [redacted] Can we go off the record, please.

23 [Recess.]

24 [redacted] It's 11:18. We can go back on the record.

25 EXAMINATION

1 BY [redacted]

2 Q Mr. Krebs, thank you again for joining us today.

3 A Thank you.

4 Q I want to take a couple steps back. You were asked a lot of questions in the

5 earlier hour about CISA and about meetings you might have attended as part of CISA, but

6 we kind of glossed over the circumstances around CISA's creation. And you said at the

7 beginning that one of your major priorities when you initially started at DHS was getting

8 the act that formed CISA off the ground or getting it passed, right?

9 A Yes.

10 Q So can you describe for us the circumstances surrounding the creation of

11 CISA?

12 A So I came in in 2017. It was one of the Secretary's priorities, Secretary John

13 Kelly, Secretary's priorities.

14 Q And sorry. Not to break in, but why was it one of Secretary Kelly's

15 priorities?

16 A I think, by 2017, it was clear after a decade of Chinese intellectual property

17 thefts, Russian attacks on the 2016 election, Iranian attacks against the banking industry,

18 that the executive branch needed a civilian cybersecurity-focused agency, and there had

19 been conversations underway for the prior couple years led by Congressman McCaul,

20 who is chairman of House Homeland, now Foreign Affairs, to help stand up this agency.

21 Q And is it fair to say because at -- the impetus for setting up the agency was

22 really to protect national security?

23 A Absolutely, yes.

24 Q And so this was a priority for Secretary Kelly, and so what did you

25 actually -- what steps did you actually take towards helping CISA be set up?

1 A I worked with House Homeland majority and minority staff, say Republican
2 and Democratic staff, on the actual negotiating the language, devising the name of the
3 agency, would also work with Senate staff, worked with Energy and Commerce,
4 Transportation and Infrastructure Committee staff on kind of the contours of the
5 authorities and how this would happen.
6 Q And the act that actually created CISA was the Cybersecurity and
7 Infrastructure Security Agency Act of 2018. Correct?
8 A Yes.
9 Q And that ultimately passed the House Homeland Security Committee. It
10 passed out of committee unanimously by voice vote. Correct? If you recall.
11 A That is my recollection. In fact, that was I think in 2017.
12 Q And do you recall that it also passed out of the House Oversight Committee
13 by voice vote, so unanimously?
14 A Yes, that's my recollection.
15 Q And are you aware that Chairman Jordan, now chairman of the Judiciary
16 Committee, was on the House Oversight Committee at that time?
17 A I don't recall specifically whether he was on the -- but that sounds right.
18 Q And then, continuing on with the legislative process, in 2017 and 2018, the
19 House was under the control of the Republicans. Correct?
20 A Yes.
21 Q And the Cybersecurity and Infrastructure Security Agency Act of 2018 passed
22 the full House by voice vote. Correct? Or I'm sorry -- on suspension of the rules.
23 Correct?
24 A And I recall that was late 2017, November, December.
25 Q So it passed the Republican --

1 A Yes.

2 Q -- House unanimously --

3 A Yes.

4 Q -- without objection. Is that fair to say?

5 A That's my recollection, yes.

6 Q And it also passed the Senate unanimously. Correct?

7 A In November of 2018, yes.

8 Q And the Senate at that time was also controlled by Republicans. Correct?

9 A Yes, I believe that's right.

10 Q And then, after the bill passed the Senate, it was signed into law by

11 President Trump. Correct?

12 A Yes.

13 Q Who is also Republican. Correct?

14 A Yes.

15 Q CISA considers election security a critical infrastructure subsector. Correct?

16 A Yes. That was the destination made in January of 2017 by the prior

17 Secretary and then reaffirmed by John Kelly.

18 Q And what's your understanding of why CISA or DHS writ large I guess

19 considers election security a critical infrastructure subsector?

20 A It is a critical infrastructure subsector, which is just a detail of kind of how

21 working with the critical infrastructure sector matters. But I think it was clear after the

22 2016 election that across the 8,000-plus jurisdictions, State and local election officials,

23 that they were under direct attack and threat from foreign cyber actors, and there were

24 also some physical considerations here as well and that they needed additional support

25 and more than anything focus from the Federal Government to help them secure their

1 systems.

2 Q And what do you mean by "focus"?

3 A They needed dedicated support, dedicated effort. Prior to the 2016

4 election, there was no, within NPPD, there was no election security initiative. There

5 was, in fact, no election security efforts at all, and my understanding is that the prior

6 administration was taken completely unawares by the Russian efforts in 2016. And, in

7 2017, as part of the Trump administration, as part of John Kelly's team, we were not

8 going to let that happen again.

9 Q And so, by maintaining the designation of election infrastructure as a critical

10 security subsector, did that help you obtain additional resources, additional personnel to

11 more directly confront this problem?

12 A Yes. We reaffirmed that designation. We provided multiple briefings. I

13 testified about election security multiple times. It was a priority wedge in our budget

14 and budget request, and we, you know, we were constantly, as I saw it, allocated funding

15 by the Congress to, you know, to continue those efforts through 2020.

16 Q In the prior hour, you were asked for your definition of the terms

17 "disinformation" and "misinformation" and "malinformation." Do you recall that?

18 A Yes.

19 Q And, when you provided your definitions, you made it clear. You said:

20 These are my definitions, not necessarily the academic definitions.

21 Do you recall saying that?

22 A Yes.

23 Q Can you explain why you made that distinction?

24 A Well, for one, I don't have a photographic memory to repeat whatever the

25 definitions are, but, again, this is a more recent field of study, and I think there are

1 probably variations in specific definitions.

2 Q And so it's fair to say this is an emerging field. Is that fair to say?

3 A Yes. And, relatedly, an emerging risk area for the national security

4 community.

5 Q And focusing on the emerging risk area, the fact that academic research is

6 still ongoing, that I think a lot of the academic programs are potentially still in their early

7 stages, that doesn't mean that the risk is any less to national security, right?

8 In other words, would you agree that misinformation, disinformation, and

9 malinformation, under whatever definition, pose a risk to national security?

10 A Yes. And I submit that what we've seen since the Russian invasion of

11 Ukraine and the Hamas attack on Israel is that it is more prevalent than ever.

12 Q And I want to turn back to that in a minute.

13 A Okay.

14 Q You were asked in the prior hour a number of questions about

15 malinformation specifically, and you said that malinformation is information which may

16 be true but that's manipulated or taken out of context. Is that a fair summary of what

17 you said?

18 A Yes.

19 Q In your opinion, as the former head of CISA and somebody who has

20 continued to work in the field of disinformation since leaving CISA, do you think that

21 malinformation specifically poses a risk to national security?

22 A I do, and I think that there is a direct link between the core cybersecurity

23 mission of CISA and malinformation. Again, I don't love the term, but this is part of what

24 we were doing, working with State and local officials to help them understand that bad

25 actors, cyber actors were looking to hack into their systems and not just disrupt the

1 systems but steal information from their systems that could then be released later to
2 undermine confidence in the process.
3 Q And can you explain how that works? How does the release of that
4 information, which may be true information, how does the release of that information
5 work to undermine confidence in the system?
6 A So I'll just use the example of the Iranians in 2020 that had gained access,
7 reportedly, to a State voter registration database. They screen-capped it. They
8 developed a video that showed them initially accessing that database and the reports and
9 the files, and then subsequently, they, again, taking it out of contact, said: We have
10 access to the database. We know who you're registered to vote for. We know who
11 you're going to vote for, and if you don't vote this way, then we're going to come after
12 you.
13 Again, they were posing as the Proud Boys, and the attempt there was to
14 intimidate voters to vote a certain way.
15 Q So is it fair to say that that could undermine confidence in the election by
16 discouraging people -- by making people concerned that, if they vote in the wrong way,
17 they could be harmed?
18 A Well, I mean, it's not just undermining confidence in the election. It's
19 intimidating voters one way or the other.
20 Q So would you say that posed a threat to the democratic process in 2020?
21 A Yes.
22 Q And, just on that example specifically, did CISA take particular steps to
23 counteract that intimidation?
24 A So this is one where I think, due to some of the classified information, we'll
25 need to tread carefully here. But I think it's fair to say that the specific Iranian Proud

1 Boys campaign of late October was the specific genesis of CISA's Rumor Control program
2 that I mentioned in my opening remarks, and that was a list of narratives around the
3 election that we provided information to the American public on how whether, you
4 know, whatever this claim is, how it's either not possible or it couldn't make an effect on
5 the election casting, counting, certification process.
6 Q Okay.
7 [redacted] And I want to introduce as exhibit 4 the Rumor Control website as it
8 appeared on November 1st, 2020.
9 [Krebs Exhibit No. 4.
10 Was marked for identification.]
11 [redacted] And I should say this is -- we took this off of the internet archive, and
12 when we printed it, there was actually a video that appears on the first page. It didn't
13 print in the printed version, but the text is the same.
14 And I'll give you a minute to review. Let me know when you're ready to
15 continue.
16 Mr. Walden. Yeah, but you're not going to ask him to authenticate this, right?
17 [redacted] No, I'm just going to talk through what it says.
18 Mr. Walden. Okay.
19 [redacted] And ask, you know, the purpose of the different sections. I'm not
20 really sure how you authenticate the Wayback Machine.
21 Mr. Walden. Okay.
22 BY [redacted]
23 Q So, having had a minute to recall or to review this, do you recall this as being
24 the Rumor Control website in early November 2020?
25 A Yes, I do. And specific to the Iranian Proud Boys campaign, I mean, a

1 number of these were specifically developed to get at some of the core elements of that
2 campaign.
3 Q And can you explain that? Can you talk us through those?
4 A Yeah, so, you know, the last -- page 5 of 7, at the bottom, safeguards are in
5 place to protect against fraudulent voting using Federal write-in absentee ballots, as I
6 recall, there was a campaign at the time that somebody was using the DOD Federal
7 write-in absentee for expats and those overseas to manipulate the votes.
8 So, as soon as we saw that, we worked with the Federal voting -- whatever FVAP,
9 that team, I think it's related to the Department of Defense -- to, once again, provide, you
10 know, here's how this actually works, and, most importantly, as I see it to this day and
11 saw it then, was the useful sources.
12 So, if it was available, we always would lead with U.S. Code. So, you know, the
13 legislative branch and then any executive branch information and then, you know, third
14 parties like National Conference of State Legislatures.
15 So another one is page 4 of 7. It says, the rumor: If State or local jurisdiction
16 information technology has been compromised, the election results cannot be trusted.
17 So this was specific to that video with the "Enter Sandman" video trying to get at
18 like, look, they were in the voter registration database, which is separately maintained
19 than any of the information that is associated -- or the systems that count ballots.
20 Again, trying to separate out and provide information to the public to help them kind of
21 interpret what they're seeing in the video.
22 Q So is it fair to say that the goal of the Rumor Control website was to educate
23 the public so they would have accurate information available to them?
24 A Rumor -- it's now -- maybe it's now called rumor versus reality, whatever.
25 So the idea here, again, was, understanding that there would be claims coming up around

1 the security of the election we could anticipate due to some of that threat modeling that
2 we had done for the year and a half prior, and we could provide: You may hear that or
3 you may be seeing that this -- you may be seeing this claim. Let us explain how that
4 couldn't happen. And, you know, with useful sources, it's: Don't believe us. Here's
5 some authoritative sources.
6 And, just as a matter of background, we shamelessly stole Rumor Control from
7 FEMA. FEMA had been doing this exact same model of public awareness for years.
8 Their theory was that, in the wake of a hurricane, for example, after 3 or 4 days, once
9 public assistance is made available to the public, then fraudsters start showing up and
10 demanding -- you know, asking for: Hey, if you give me this money, I can do this thing
11 for you; or you need to file your money with me -- and so people would turn over
12 their -- or file your information with me, and I'll go get you your public assistance. So
13 they then used the personally identifiable information to go get some of that public
14 assistance money.
15 So FEMA did it. Thought it was an effective model, and we lifted and shifted and
16 dropped it in place in late October.
17 Q So, just kind of to sum up what we just talked through, you described the
18 example of the Iranians posing as the Proud Boys to hack and effectively release
19 information in a way that could intimidate voters, right?
20 A Yes.
21 Q And that's an example of malinformation being used to intimidate voters?
22 A Yes.
23 Q And that was a concern to CISA because it could undermine voters'
24 willingness to participate in the Democratic process, right?
25 A Yes.

1 Q And so CISA responded to that malinformation by putting up a website,
2 among other things, to educate the public and give them accurate information.
3 Correct?
4 A Yes.
5 Q And is it true that there was also a press conference as part of the response
6 to the Proud Boys, the Iranians posing as Proud Boys incident?
7 A That's right.
8 Q Can you describe that?
9 A There was a press conference the evening of Wednesday, October -- I don't
10 remember if it was the 23rd or something like that, but it was at FBI Headquarters.
11 Director of National Intelligence Ratcliffe was there. Director Wray of the FBI was there.
12 Assistant Attorney General John Demers from the National Security Division was there,
13 and I was there.
14 So there was a press conference about the Iranian effort, publicly attributing the
15 activity to the Iranians, and talking about some of the things that we were doing to
16 counter. And I believe Director Wray or Director Ratcliffe even mentioned Rumor
17 Control, but that was, you know, a real -- that was kind of the breakout, coming out party
18 for Rumor Control.
19 Q And, again, the purpose of that press conference was to educate the public
20 and to provide them with information about what was happening so they wouldn't be
21 deceived if they saw the video?
22 A Yeah, I mean, again, this is about public awareness. Rumor Control is one
23 way to do it, but, of course, getting a press conference together with senior Trump
24 administration officials talking about these attacks on the election we all thought was
25 important. In fact, you know, we had had, without getting into specifics of various

1 conversations, you know, there were numerous National Security Council meetings,
2 including with the Chief of Staff and the National Security Advisor on what was happening
3 and what we were going to do about it.
4 And Rumor Control was CISA's contribution to the response that, as I recall at
5 least, was widely viewed and applauded, widely viewed as a positive thing and applauded
6 by the White House.
7 Q And do you recall -- when you say "the White House," does that mean
8 National Security Council? Does that mean -- well, what does "the White House" mean?
9 A Well, my, you know, recollection of the meetings was that there were senior
10 officials that were not just National Security Council staffers or the National Security
11 Advisor, but, you know, beyond that, others that were senior officials in the White House.
12 Q Do you recall who?
13 A You know, yes. The Chief of Staff was -- Chief of Staff Meadows was in
14 some of these meetings. Some of the public affairs and communications people were in
15 the meetings as well.
16 Q Was the White House press secretary, for example, in the meetings?
17 A I don't recall specifically. There was a lot going on at that time. I don't
18 recall, but there were definitely comms people there.
19 Q So it's fair to say that at least Chief of Staff Mark Meadows and other senior
20 White House officials were in support of the Rumor Control website?
21 A As we were briefing it out, and the initial returns, that's my recolle0ction.
22 Q I want to turn back. We talked through the concern inherent to
23 disinformation and associated with malinformation. Specifically with respect to election
24 workers, so I'm talking about poll workers, secretaries of State, the individuals who
25 administer elections in the States. Can disinformation undermine those officials' ability

1 to do their jobs?

2 A So, in the wake of 2016, one of the uniformly -- one of the requests that we
3 got the most from State and local election officials on a broadly bipartisan basis was to
4 help them communicate, help them engage their communities on disinformation, on the
5 threats to democracy from disinformation, specifically some of the stuff that they
6 experienced, that we experienced in the 2016 election, that we expected to continue,
7 that we did see continue.

8 And that's why I felt it was important to provide Secretary of State from West
9 Virginia Mac Warner's presentation that he both briefed at the National Association of
10 Secretaries of State, as well as with travel around West Virginia to speak to his
11 constituents about the risk.

12 And, you know, his, as I recall, his common plea or refrain was: Don't let them
13 hack your brain. That's what they're trying to do. They're trying to hack your brain.

14 Q And what does that mean? What does "hack your brain "mean?

15 A Well, so -- all right, stepping back a little bit, and I'm sorry --

16 Mr. Walden. No.

17 Mr. Krebs. So we have a certain view of how cyber and influence operations
18 work. The Russians and Chinese have a different view. The Russians, within
19 particularly the GRU, which is the main intelligence directorate at the military, their
20 operations, their information operations, as they call it, is the name of the overarching
21 doctrine; that doctrine is split up into two parallels lines of efforts that are correlated.
22 There is the technical operations, and then there is the psychological operations.

23 So what they do is they chain together technical attacks on infrastructure to
24 generate psychological effects, and the Iranians have copied that playbook, as we saw
25 with the hack and leak. So they would use a technical attack or compromise a voter

1 registration database that they could then repackage into an information operation, a
2 psychological operation.
3 The Russians have done the same thing. They did it at the beginning of or
4 throughout the Russian invasion of Ukraine. I suspect that we are seeing some of it
5 right now. There is a group called Anonymous Sudan who is linked to Russian
6 intelligence, allegedly, that conducted a denial-of-service attack on The Jerusalem Post
7 and knocked it offline for several hours on Saturday and Sunday.
8 This shows how they link together technical attacks with an impact on
9 psychological operations. So what would be the effect of a Jerusalem Post outage?
10 Well, people can't get information. At a time when everybody wants to know what's
11 happening in a country, their trusted source of information, The Post, is not available.
12 So this is how those things work. Our partners in State and local -- again, Mac
13 Warner is a Republican secretary of state who is running for Governor right now, and he
14 was one of our most ardent supporters and really the most frequent demand signal we
15 had from across our constituents for some help: We've got to do this.
16 Q So is it fair to say that State and local election officials like Mac Warner, like
17 secretaries of state across the country reached out to CISA for help because they might
18 not on their own have the expertise to combat this kind of psychological welfare you've
19 described? Is it fair to say it's "psychological welfare"? "Psychological operations" I
20 guess would be the better term?
21 A So, yes, that's -- I think that's correct. I think a lot of our activities in the
22 run up to 2020 specifically were informed by our partners, our stakeholders about their
23 requests for support. We moved away I guess from a -- well, again, we were responding
24 to requests for support from our partners.
25 Q And do you believe your efforts to respond to support those partners were

1 successful in 2020?

2 A I don't know how to measure success, but I think Rumor Control, for

3 example, was an effective program that I think still gets referred to as a, you know,

4 innovation and an example of how government should engage in this space, countering

5 disinformation and information operations.

6 Q Let me put it a little differently.

7 In your opinion, was CISA able to effectively counteract efforts by foreign malign

8 interests to interfere using kind of the psychological tactics in 2020?

9 A Again, I don't know if we were effectively able to counteract. I know that

10 we -- that there are people that found the information that we provided beneficial to

11 helping them understand the claims that they were being constantly bombarded with

12 from all over.

13 Q In your opinion, do foreign actors like Russia, like Iran, like China, have a

14 motivation to attempt to interfere in the 2024 election?

15 A This gets into speculation, and I don't have access to intelligence right now,

16 but they have previously had motivations in prior elections, and I don't really see a lot

17 that would -- that has changed to make them pull back.

18 Q If CISA or the Federal Government writ large were to be prevented from

19 taking steps to counteract foreign efforts to interfere, do you think that would potentially

20 be harmful for the 2024 election? In other words, do you think that foreign malign

21 interest might be able to successful interfere in the 2024 election?

22 A It's possible but, again, I don't think we need to even look out to the 2024

23 election. I think we can see it happening right now with Hamas and Israel.

24 Q And I'd like to talk about that a little bit. So you referenced the

25 denial-of-service attack. Can you explain in a little more detail what you were talking

1 about with that?

2 A So, according to reports and cyber threat intelligence companies,

3 Anonymous Sudan, which is -- they claim to be an activist group, but there are some

4 indications that they are linked to Russian intelligence -- conducted a denial-of-service

5 attack, and a denial-of-service attack is simply where you use techniques, including bots

6 and other, you know, hack devices across the internet to direct website access -- URL

7 requests to a webpage, and you overload the server's ability to render the URL, render

8 the page, causes the server on the back end to crash.

9 And these are more nuisance tactics without much in terms of a kind of long-term

10 technical impact, but it's the psychological impact of that, in the moment, can be quite

11 significant. And, yes, denial-of-service attacks against election night reporting, for

12 instance, in 2020, was one of the things that we had kind of threat modeled out, and

13 that's why -- I don't think I see it in here but -- oh, yeah.

14 Q I'm sorry. You're referring back to the rumor --

15 A I'm sorry, in the Rumor Control.

16 Q It's exhibit 4.

17 A I don't know if I see it in here. I'd have to look back, but I do believe at the

18 time there was a Rumor Control entry about the role that election night reporting plays

19 and how it's unofficial data. Yes, that's the bottom -- I'm sorry -- the top of page 7 of 7.

20 The reality, it says: Election night results are not official results. And the rumor is, if

21 election night reporting sites experience an outage, vote counts will be lost or

22 manipulated.

23 So that's the false, and there were claims that election night reporting is

24 authoritative or gets spun that way. So, again, going back to denial of service, it's just

25 bad guy overloads webpage; server crashes; you can't see the website anymore. And it

1 can create confusion, panic, you know, what's going on across the viewership, leadership.
2 Q Are you familiar with reports of other types of disinformation being spread
3 in the wake of the attack in Israel this past weekend?
4 A Yeah, so I'm aware of one where there was a report of a church that had
5 been attacked or bombed in Israel, and the church actually got on Twitter and said: No,
6 we're still here.
7 But it just kind of spins out of control.
8 Q And, when you say it spins out of control, does that mean online?
9 A Yes, online. It gets, you know, promoted, amplified. And, of course, there
10 is -- you know, there are other examples of harmful content that has been amplified,
11 that's getting spun out of control, and that includes executions of hostages, of some of
12 the dead, the deceased bodies throughout the country that have been amplified on these
13 platforms.
14 And, you know, in some cases the content moderation tools that are on the
15 platforms don't always catch them, so people report into the platforms: Hey, this is
16 harmful material. My understanding was that some of the schools in Israel and the UK
17 and even here in the U.S. were sending notes home to parents saying: Hey, you should
18 remove YouTube, TikTok, X, all of these from any of your kid's social media or any of their
19 devices because, if they see this, you know, they are long-lasting impacts.
20 Q Is the spread of that type of information online something that the United
21 States Federal Government would be concerned with in your experience?
22 A So this, you know, this goes to some of I think the prior efforts I mentioned
23 with the GFCT, you know, for instance, in the wake of the Christ Church shooting that
24 streamed online, that, you know, again, I can't speak to what the FBI was doing, but I
25 know that there were concerns across the government of the platforms, you know,

1 allowing content like that to propagate, and I don't see any difference now of both
2 allowing, you know, of that content appearing now on platforms.
3 Q And can you describe -- and can you explain why the government would be
4 concerned with that type of information proliferating on platforms?
5 A So, again, this goes into more of the kind of counterterrorism space, which is
6 not core to CISA, so I don't want to get too much into speculating why, what the kind of
7 policy elements are of that. It wasn't core to CISA but, you know, my understanding, it
8 was a concern of the government.
9 Q Let's turn back to CISA and turn back specifically to CISA's preparation or
10 CISA's work around the 2020 election.
11 A Uh-huh.
12 Q We talked through the Rumor Control website in some detail. Are you also
13 familiar with CISA's Protect 2020 campaign?
14 A Yes.
15 Q What was that?
16 A Protect 2020 was the tagline that ultimately -- that was created in 2019 to
17 create awareness around public awareness, both State and local partners, also the
18 general public of the various things we were doing to secure election systems and work
19 with election officials, in part, to instill confidence in the public, the voting public
20 specifically that we were taking this seriously and that we were improving the security
21 and resilience of our election systems.
22 And this is, you know, honestly, this was an initiative that President Trump, you
23 know, he endorsed and encouraged us to get more out there and talk about the things
24 we were doing to secure elections and get more paper ballots out there. He's a big
25 proponent of paper ballots. And that became kind of -- it started a tagline, but I think it

1 ultimately was maybe -- well, I don't know if it was the initiative name. It was a big part
2 of our messaging.
3 Q When you said that President Trump endorsed it, how did you know that he
4 endorsed it?
5 A You know, without getting too much into details of White House meetings,
6 there were briefings on our efforts that he supported, and there were other meetings
7 that I was not in that my staff felt the President supported our efforts.
8 Q Did you have any conversations with President Trump directly about the
9 Protect 2020 campaign?
10 A Not specifically.
11 Mr. Walden. Never mind. Go ahead.
12 Mr. Krebs. No.
13 [redacted] I want to introduce as the exhibit 5 CISA's protect 2020 website,
14 again, as it appeared on November 1st, 2020.
15 [Krebs Exhibit No. 5.
16 Was marked for identification.]
17 BY [redacted]
18 Q And I should note on the actual website, on page 2, there is a "Why Do We
19 Need Protect 2020"; page 3 is "Protect 2020 Resources"; those are all -- we clicked to
20 expand them here. So, as it appears on the actual website, they're all individual
21 headlines, and we expanded them all for purposes of this document.
22 A Okay.
23 Q Are you ready to continue?
24 A Yes.
25 Q So the section on page 2, it says: Why do we need protect 2020?

1 And I'm just going to briefly paraphrase. It says that CISA is working to help
2 secure election infrastructure and ensure an election free from foreign influence, and
3 that Protect 2020 outreach enables CISA to build on the trust, expertise, and
4 relationships -- it looks like there is a section blacked out -- through our election security
5 work to broaden our State and local cybersecurity risk-management efforts.
6 Do you see where it says that?
7 A Yes.
8 Q So the purpose of Protect 2020 is to work with State and local officials to
9 help broaden your efforts to counteract malign foreign influence. Is that a fair summary
10 of the purpose of it?
11 A Yes.
12 Q Okay.
13 And, following that, there is a whole list of protect 2020 resources. Do you see
14 that? It's the very next section.
15 A Yes, so this note, it looks like it's an interstitial, but the note says it's
16 committed to providing -- that, I think, box is just dropped in there because the list goes
17 on.
18 Q Right. And there is a list of probably two dozen, maybe more bullet points
19 of resources. Correct?
20 A Right.
21 Q Who is the target audience for this, if you recall?
22 A It depends. So I'll give you an example. Physical security of voting
23 locations and election facilities. This is a guide that was developed for State and local
24 officials that maintained, you know, whether it's election offices, to secure them against
25 robberies, break-ins, theft of equipment, but also the physical security of voting locations

1 for, you know, physical attack. So that's State and locals.

2 Election disinformation toolkit. So this was I think a part of a campaign that we
3 were working alongside the National Association of Secretaries of State, which represents
4 the secretary of states; the National Association of State Election Directors, which
5 represents secretaries -- or State election directors. I think it was trusted info
6 2020 -- but, you know, helping them, again, as a part of the demand we were hearing
7 from secretaries of state like Mac Warner of the basics of how a State official or local
8 official could help stylize kind of higher-level documents to local communities.

9 So, again, some of these were for State and locals, but if you look at the third, the
10 three P's of voting, that was for the general public, and that was, you know, be prepared,
11 participating, and patient. I actually came up with that. But, when you break those
12 down, prepared means, you know, in advance of the election, make sure you know where
13 you're supposed to vote. Make sure you're registered. Make sure you're registered.
14 So this is all just kind of mental resilience.

15 The participating, part of the concern at the time -- and this was a request that we
16 got for help from the Election Assistance Commission and State and locals was due to
17 COVID and a number of election officials that were immunocompromised, were
18 otherwise incapable of continuing volunteering, there were a lot of openings. And so,
19 you know, there was a national campaign, including up here on the Hill, to get more
20 people to volunteer as election officials.

21 And then, being patient, this was a, hey, you know, due to kind of the shifts in
22 policies and regulations around voting, but it's always been the case that it takes a little
23 bit longer to tally votes, and as a part of our threat modeling, we anticipated foreign
24 threat actors to kind of take advantage of that. And so concern around, you know, how
25 votes are being manipulated so this person wins or that person wins. So just be patient.

1 It takes time.

2 And I think the average person doesn't understand that certifications happens in

3 different States at different times and, you know, there is a lead time.

4 Q Okay. So it's fair to say that this is a list of resources for both local officials

5 and for the general public. Correct?

6 A Yes, that's correct.

7 Q And then the website goes on, and it provides a section on understanding

8 foreign influence that has a list of bullets of things that people should think about when

9 they see things online. Is that fair to say?

10 A Yes, yes, yes.

11 Q And then there is some additional information that follows that about

12 enhancing election infrastructure resiliency and additional election security, GCC and SCC

13 resources?

14 A Yes. And, you know, again, these, you know, tips to the public are

15 consistent with -- on page 5, these are consistent with some of the other public

16 awareness campaigns that CISA and NPPD before had undertaken for years.

17 So October is National Cybersecurity Awareness Month, and right now you'll see it

18 online, you'll see it on TV, you'll see various adds of, you know, understanding

19 cybersecurity risks and the steps you can take.

20 And like, think before you link is, you know, a parallel, right. It's like think before

21 you click. And you'll see the same thing right before Black Friday, the day after

22 Thanksgiving. You know, pay attention to scams. You know, when you get an email,

23 you know, think, take a look at it before you click on that link and provide a credit card.

1 [12:07 p.m.]

2 BY [redacted]

3 Q Is it fair to say that this type of public awareness campaign and the

4 educational efforts that CISA engaged in, that that really was CISA's focus with respect to

5 2020 election security vis-à-vis the general public, that the focus was on pushing out

6 information and educating the general public?

7 A So, in terms of engaging the general public, yes, it was helping them

8 understand all the things that we had been doing to make sure their vote was secure.

9 Q And with respect to countering disinformation, misinformation,

10 malinformation specifically, CISA's focus was on pushing out additional information,

11 pushing out accurate information that would help the general public have the real facts at

12 their fingertips. Is that fair to say?

13 A It was pushing out information to the American public on how things work,

14 this is how the process works, so that they're knowledgeable on the underlying processes,

15 so when a claim comes in, they can put it into the proper context of, oh, that actually

16 can't happen because now I know that this is how elections work and these are the

17 processes in place.

18 Q Are you familiar with allegations that CISA, in fact, was intimidating or

19 coercing platforms into removing disinformation?

20 A Am I aware of --

21 Q Of --

22 A -- allegations?

23 Q -- allegations to that effect.

24 A Certainly not at the time. I mean, now I'm aware that that's been claimed.

25 Q I mean, sitting here today, are you aware that those allegations are out

1 there?

2 A I'm aware that that's kind of core to Missouri v. Biden, yes.

3 Q To your knowledge, did CISA ever monitor platforms, social media platforms,

4 to determine whether election-related misinformation or disinformation was present on

5 their websites?

6 A I'm not aware of whether we monitored.

7 Q To your knowledge, did CISA ever instruct or coerce any platforms into

8 removing particular misinformation or disinformation or malinformation?

9 A I'm not aware of any coercion or instruction by CISA.

10 Q So what is your response to allegations -- again, allegations that have been

11 made recently -- that CISA, in fact, did instruct or pressure or coerce social media

12 platforms into removing content?

13 A It's at odds with my understanding of how our relationship with the social

14 media platforms worked.

15 I've talked about switchboarding. That was State and local officials, connecting

16 them with the platforms as a pass-through.

17 I'm not aware of any requests to take down content.

18 Q And, in reality, to the extent CISA --

19 A By CISA, by CISA, to be clear.

20 Q And, in reality, to the extent that CISA was working to counteract

21 disinformation or misinformation or malinformation, CISA was doing that by working to

22 educate the public about the true facts of a situation or the true facts about allegations

23 that might be online. Is that fair to say?

24 A CISA was working to provide awareness and educate on election systems

25 and processes, and provided them resources -- Federal, and State and local government,

1 and other resources -- on how to better understand how those things worked.

2 Q Thank you.

3 A Uh-huh.

4 BY [redacted]

5 Q Okay, Mr. Krebs, I just want to have a more broad conversation with you to

6 kind of get a little bit more from you in your own words about what you see going on

7 here, specifically with respect to the allegations against CISA that we just discussed that

8 are in Missouri v. Biden and also held by members on this committee and probably are

9 part of the reason that you were brought here today. So, just directing you to that

10 subject.

11 When I read your opening statement, I was struck by the fact that, you know, you

12 came right out and said that there are what you considered, quote, "serious

13 misunderstandings" here. Is that right?

14 So, I'm sorry --

15 A Serious mis- --

16 Q -- do you want to look at your --

17 A Serious misrepresentations?

18 Q Well, the word here --

19 A Do I say "misunderstandings"? Okay.

20 Q You can use your own words.

21 A Okay. No, it's fine.

22 Q Tell me what you --

23 A I'm sorry. No, no, no. Sorry.

24 Q I'm trying to figure out what you want to say. I just want to give you an

25 opportunity to kind of elaborate a little bit.

1 You started your statement with what seems to be an intent to clear up some
2 misunderstandings. Is that fair?
3 A Yes.
4 Q Okay. And tell me, what is it? Just broadly, first, what are those
5 misunderstandings, as you sit here today, that led you to be asked to testify in this
6 committee, perhaps, or led to some of the allegations that are in the Missouri v. Biden
7 litigation?
8 A Look, I can just point to the letter -- no, not that, but the letter that invited
9 me and said that CISA engaged in censorship and monitoring of American speech. And
10 that is not my recollection --
11 Q Right.
12 A -- of how things worked in 2018 or 2020.
13 We worked with our partners in State and local election offices from across the
14 political spectrum. We connected them with social media platforms so they could work
15 with them. And that was, you know, I wouldn't even say uniformly bipartisan; there was
16 significant Republican election official participation, beyond Mac Warner.
17 Rumor control was one of those efforts. Hardening systems was one of those
18 efforts.
19 But, you know, it was certainly not a policy objective, from where I sat, to censor
20 political -- or American speech. It was not an objective to have platforms change their
21 content moderation policies. We were doing what was core within the DHS and CISA
22 mission of information-sharing and connecting partners.
23 Q Okay. And I just want to highlight a few things that you said, again, in your
24 statement.
25 The very first paragraph, when you list the misunderstandings as you see them,

1 addresses what you characterize as bipartisan agreement after the 2016 election among
2 State election officials that Russia was responsible for sweeping, malign activities.
3 So you go right to pointing that out, right? And tell me if the reason that's your
4 point number one is because you're trying to emphasize there that this 2016 interference
5 by the Russians is clear and uncontroversial. Is that one of the points you're trying to
6 make there?
7 A Yes, as documented in the intelligence community assessment of 2017,
8 which was not recalled or rescinded by the last administration.
9 Q Absolutely. So are you trying to suggest there that there is some
10 misunderstanding today about what happened in 2016? Is that why you brought that
11 up in your statement?
12 A My primary point here is that there were risks -- threats to elections in 2018
13 and 2020 based on our understanding of the 2016 efforts by the Russians, and those
14 continue. Russia is still there, their intelligence services are still there, and so this is an
15 ongoing concern.
16 Q Okay.
17 And you emphasize also that the concern, as it was expressed after 2016, was
18 bipartisan, and then you elaborated that it might have even been heavily within
19 Republican circles. You were hearing from State elected officials like Mac Warner, for
20 example, that this was a big concern and they wanted something done under the Trump
21 administration. Fair to say?
22 A It was a significant concern by Republicans and Democrats, yes.
23 Q And do you feel like that has changed, as you sit here today in 2023? Is this
24 no longer a bipartisan concern?
25 A I can tell you that, at the State and local level, that there are still concerns

1 from Republican secretaries of state and Democratic secretaries of state on foreign
2 influence and foreign threats to elections. That has not changed.
3 Q And, you know, it sounds like you follow the Missouri v. Biden litigation to
4 some extent. Is that fair?
5 A I mean, I was named in at least one filing, so --
6 Q Okay. So yes?
7 A Yes.
8 Q Okay. And some of the plaintiffs are State secretaries of state, correct?
9 A That is correct.
10 Q And Republicans? Fair?
11 A I --
12 Q Well --
13 A I believe so.
14 Q -- Republican secretaries of state.
15 A Um --
16 Q Attorneys general. Pardon me.
17 A I believe so.
18 Q Okay.
19 I understand from your background, as you've described it, you're a Republican
20 official and you're someone who cares about national security and particularly about
21 fighting foreign influence in elections. Fair to say?
22 A Yes.
23 Q What is your reaction to the State elected officials and to parts of the
24 Republican Party now no longer agreeing that that's a valid mission of the U.S.
25 Government -- fighting foreign influence, for example?

1 A Well, on Missouri v. Biden specifically, I noted with, you know, just a touch of
2 irony that Louisiana was also a party to the case, plaintiff, and the secretary of state in
3 Louisiana, Kyle Ardoin, and his office were one of the users of the switchboarding
4 process. There were also Missouri local officials who participated in switchboarding.
5 So --
6 Q So, in your opinion --
7 A -- I --
8 Q -- what's behind that change?
9 Mr. Walden. Can he just finish his answer? I'm sorry.
10 BY [redacted]
11 Q Sorry.
12 A So, you know, I'm not sure if this is a -- you know, I -- I'll just leave that there.
13 I think that it's my belief that that the external -- that the foreign-threat-actor
14 activities and threats facing American elections and the general public, I don't think those
15 have gone away. And I think it's a national security imperative that we continue to
16 address these challenges.
17 Q So do you think, for example, that the Louisiana official that you mentioned
18 who was once on board with CISA's mission, personally, and was asking to take advantage
19 of some of the tools that the organization offered but then changed his mind to some
20 extent, apparently, and joined this lawsuit to enjoin CISA --
21 Mr. Walden. So I'm not sure it's the same official.
22 [redacted] It's not? I'm sorry.
23 Mr. Walden. I'm not sure that it's --
24 [redacted] It's just his position?
25 Mr. Walden. Yeah.

1 [redacted] Okay.

2 Mr. Krebs. So it's the -- yeah, Louisiana attorney general, I think, is the named

3 party.

4 [redacted] Okay.

5 Mr. Krebs. The Louisiana secretary of state, as I understand it, according to

6 public reports, has decided not to run for office again, and, in his words -- well, I'm

7 paraphrasing his words -- the election disinformation has gotten too bad out there, that

8 he just can't do his job anymore.

9 BY [redacted]

10 Q Okay. That was the person that had --

11 A Kyle Ardoin --

12 Q -- partnered with CISA?

13 A -- is the secretary of state, yes.

14 Q Okay.

15 I'm trying to just get your opinion and your experience -- because you're in a

16 position, having worked in the position you were in at CISA and then having, you know,

17 remained kind of following, at least, the Missouri v. Biden lawsuit, I'm trying to

18 understand -- I'm sorry.

19 Were you trying to get my attention?

20 Mr. Walden. No. I was trying to get her attention. But, please, go ahead.

21 BY [redacted]

22 Q I'm just trying to understand what you think changed, from the position that

23 you're in.

24 You saw at one point after 2016 pretty broad, bipartisan Republican enthusiasm

25 from State officials and others to fight foreign influence in elections. And these people

1 seemed to be supporting you, up and to including President Trump.

2 But, then, after 2020 -- and you famously said it was the most secure election in

3 our history, correct?

4 A The executive committee of the Election Infrastructure -- those executives,

5 they made that statement, that --

6 Q You agree with that statement, fair?

7 A I do.

8 Q Okay. And in response to that, you were fired, essentially, right?

9 A That was likely an element of reasons I was fired.

10 Q So what changed? What changed from the point, in your opinion, from

11 when Republicans were on board with this mission to when they are actively fighting

12 against this mission?

13 A I -- something political changed. I think I'll --

14 Q Okay.

15 A I can leave it at that.

16 [redacted] We can go off the record.

17 [Recess.]

18 [redacted] Back on the record.

19 BY [redacted]

20 Q Mr. Krebs, to your knowledge, when did CISA first begin engaging in

21 switchboarding?

22 A I don't recall the specific date. I believe it was underway, at least, you

23 know, consistent with Matt Masterson's earlier testimony, at least in 2019, but I believe it

24 was also in effect in 2018.

25 Q And, to your understanding, if it was in effect in 2018, was this predating

1 CISA then?

2 A Yes. So that would've been during the NPPD days.

3 Q And was NPPD the agency that was conducting the switchboarding?

4 A So NPPD was the sub -- the element of -- there was an element of NPPD,

5 whatever the -- Election Security Initiative, that team, and its subcomponents was, yes,

6 taking submitted information from State and locals and sending it to platforms.

7 Q And which element was that?

8 A I don't recall whether it was -- again, from 2017-'18 through 2020, there

9 were renamings and restructurings within the National Risk Management Center and the

10 Election Security Initiative, so I don't recall at which moment which title team was doing

11 it.

12 Q Okay. From when you became Under Secretary until the creation of CISA,

13 which team was in charge of switchboarding at NPPD?

14 A Again, I don't recall the name at the time, but it would've been the team

15 within the National Risk Management Center that was responsible for election security.

16 Q And were you involved with that team?

17 A It was a part of NPPD, and, therefore, I was the direct -- or, the Under

18 Secretary.

19 Q When switchboarding first began -- actually, I'm going to take a step back to

20 even before that. To your understanding, who was involved in the discussions prior to

21 the approval of any agency partaking in switchboarding?

22 A What do you mean, "any agency"?

23 Q Okay. Prior to NPPD assuming the responsibility, I guess the question is,

24 who was involved in the discussions about whether NPPD should be permitted to engage

25 in switchboarding?

1 A I don't recall specifically within NPPD who was involved in the conversations.
2 However, any decision that would result in an effort like switchboarding would've had
3 legal counsel advising and reviewing whatever the process or procedure was.
4 Q And were you part of these discussions?
5 A I would've been generally aware of our election security efforts, but in a
6 granular, operational conversation around switchboarding and the process? No, not
7 that I recall.
8 Q Was this an interagency discussion?
9 A I think -- Jim, based on authorization, kind of, like, the predecisional --
10 Mr. Walden. Yeah, yeah.
11 Mr. Krebs. -- conversation point.
12 But I think within -- generally speaking, I think within CISA -- or, sorry, DHS, NPPD,
13 and in CISA's authorities, the authorities are all there for -- as an information-sharing and
14 partnership connection effort.
15 BY [redacted]
16 Q So, to your understanding, the authorities were there prior to the creation of
17 CISA as well. Is that right?
18 A CISA's authorities are derived from the Secretary's authorities, established
19 by the Homeland Security Act of 2003. The creation of CISA did not add any new -- net
20 new authorities on information-sharing.
21 Q When it came to the approval of CISA engaging in switchboarding, is that
22 ultimately something that went up to the Secretary?
23 A I don't recall, again, the process for the approval of switchboarding. But,
24 you know, again, for context, it was within the authorities delegated to the Under
25 Secretary for NPPD to conduct these activities.

1 Q You mentioned having a general awareness of different initiatives. Do you
2 recall if anyone ever raised concerns about CISA's or, then, NPPD's switchboarding
3 operation?
4 A I don't recall any specific concerns about switchboarding. But, again, I'll
5 point you to the close legal oversight of CISA programs -- NPPD programs and the CISA
6 programs specifically around elections and information-sharing here. So, if there were
7 concerns, they would've been evaluated and dealt with appropriately to ensure that First
8 Amendment protections are firmly in place.
9 Q And who would've been involved in those discussions?
10 A So I mentioned earlier Dan Sutherland was the primary legal representative
11 at the beginning of the Countering Foreign Influence Task Force efforts. And then,
12 subsequently, there was dedicated election security -- there was dedicated legal counsel
13 assigned to oversee election security. And that, I believe, for some period at least in the
14 run-up to 2020 was an attorney, Brian Eschels.
15 Q Were you in favor of switchboarding?
16 A We had heard clearly from our State and local representatives -- or, our
17 partners, rather, election partners, that they needed help connecting with platforms.
18 They didn't have the capacity; they didn't have the relationships. So we played a role to
19 connect them.
20 Q And prior to switchboarding occurring, were the State and local officials
21 reporting concerns directly to the platforms?
22 A I don't recall how they were doing it, but my understanding was, however
23 they were connecting, they were not connecting in a way that they felt was effective.
24 Q And, I guess, walk me through the rationale. Why is it that CISA is able to
25 get those reports heard better by the social media companies than --

1 Mr. Walden. Just to clarify, are you asking what the State and local officials said
2 when they asked us to get involved or why CISA thought it would be more effective?
3 [redacted] Yeah, what is CISA's thinking?
4 Mr. Walden. Okay.
5 BY [redacted]
6 Q You know, CISA -- and correct me if I'm wrong -- CISA doesn't have to take
7 this step. Is that right?
8 A CISA plays a role across the 16 sectors of critical infrastructure of connecting
9 various partners in -- partners in the space to both directly, point to point, CISA shares
10 information, but also connect relationships so that those organizations can talk to each
11 other.
12 And that's the role that we played here, was connecting State and local officials
13 with the platforms in a way that introduced -- you know, it was an efficient workflow.
14 Q Uh-huh.
15 A So they passed to us; we passed it to the platforms. They have contact
16 information. They can then go back directly.
17 Q Is it your understanding whether CISA engages in switchboarding today?
18 A I don't know. I don't know if they do or not.
19 Q Is it your understanding whether CISA engaged in switchboarding any time
20 following the 2020 election cycle?
21 A As I mentioned in my opening, you know, I left. My contact with programs
22 is done. So I don't know.
23 Q So you have not stayed in touch with individuals from CISA following your
24 departure?
25 A I have relationships, yeah, with CISA people, but I don't ask about specific

1 programs and the status of various programs.

2 Q Okay. Are you familiar with the testimony from Jen Easterly where she

3 testified that CISA no longer engages in switchboarding?

4 A Jen testifies a lot. I don't review the transcripts.

5 Mr. Walden. And, Counsel, how is this relevant? You told him at the beginning

6 of this that you wanted him to keep this confidential. I know that there hasn't been a

7 public report of what she said here unless you're going to point me to something. So

8 you realize the implication here, after he just said that he --

9 [redacted] Her testimony was in a hearing.

10 Mr. Krebs. Public testimony.

11 Mr. Walden. Public testimony.

12 Mr. Krebs. Public testimony.

13 Mr. Walden. Okay. Sorry. Go ahead.

14 [redacted] Okay --

15 Mr. Walden. My point is that you're coming across as if he's not being truthful

16 with you. And I said in the hallway to you earlier, that's not an effective way to go.

17 He's here to tell the truth.

18 [redacted] Okay. The accusation is uncalled for.

19 BY [redacted]

20 Q The question -- the original question, before these subsequent ones, is

21 whether CISA is required to engage in switchboarding.

22 I am happy to represent -- and I know our counsel is here -- that CISA no longer

23 engages in switchboarding.

24 A Okay.

25 Q So it seems that CISA had an option. Is that --

1 A Sorry. That --

2 Q It seems like it's a pretty basic question.

3 A So you just said "requires."

4 Q Yeah.

5 A That's the first I've heard you ask that question, unless I misinterpreted an

6 earlier question.

7 Q Yeah. Well, I think that's the case then, but that's fine.

8 Is CISA -- under its authorities, your understanding is it has the option to engage in

9 switchboarding. Is that right?

10 A So, generally speaking, the majority of CISA's authorities are voluntary.

11 They're public-private partnerships. We have some requirements in, like, the CFATS

12 program. There are some programs on Federal network security.

13 But when it comes to the private sector, when it comes to State and local partners

14 in our voluntary space, a lot of these are demand-oriented around what our

15 partners -- what help they need. And this is an example of request, demand, listening to

16 what our partners say, and saying, "Okay, we can connect you."

17 Was it mandatory? Was it in statute? No.

18 Q Okay.

19 And from CISA's perspective, when deciding whether to start to engage in

20 switchboarding, was it the belief that, via switchboarding, CISA would be able to put the

21 request from the State and local officials to the front of the line or get them more

22 attention to the social media platforms? What was the rationale?

23 A Well, again, the primary rationale was listening to our partners and helping

24 them connect with State and local. Beyond that, I don't believe there were any

25 expectations or any further rationale. It's connecting them together.

1 Q Okay. Well, what is the benefit, if there is any, from CISA engaging in the
2 switchboarding process as opposed to State and local officials directly submitting reports
3 to social media companies?
4 A The benefit for CISA was that we listened to our partners that needed help
5 connecting with the platforms, and so we connected them with the platforms.
6 Q Okay.
7 A That's the benefit to CISA, is that we listened to our partners and connected
8 them.
9 Q State and local officials have the ability to report things directly to social
10 media platforms. Is that your understanding?
11 A I think the ability and the capacity are probably two different things.
12 Q Okay. So they have the capacity to report to CISA --
13 A No. That's --
14 Q -- but they do not have the capacity to report to social media companies?
15 A Because they know they were working with us and we were partners with
16 them. They were not necessarily partners with the platforms. So we played, again, a
17 pass-through role. State and locals go to us, and it goes to the platforms. The State
18 and locals, as I understand it, did not have those relationships, where they could go
19 directly to the platforms.
20 Q Okay. So, again, is it, because they don't have the relationships, their
21 reports and concerns are not being heard?
22 A Again, you're asking me to speak to the mind of the State and local officials.
23 I'm telling you what we heard from them. They said they needed help connecting with
24 the platforms. We provided that connection.
25 BY [redacted]

1 Q Why didn't CISA provide the contact information for the social media
2 platforms to the State and local election officials, as opposed to forwarding the emails
3 themselves and acting as an intermediary directly? They could've connected them by,
4 for example, providing the email address for the person who would later receive the
5 email from CISA. What was the rationale behind taking that particular approach?
6 A I don't know if I recall the specific rationale, but there are multiple platforms,
7 and consolidation seems to be an efficient process.
8 Q And that would've been more efficient than, say, CISA providing all the State
9 and local election officials who had concerns with a list of people that they could contact
10 directly?
11 A I mean, again, this is providing -- you know, we're talking 8,000 jurisdictions.
12 Q Did CISA at no other point provide information to all of the jurisdictions,
13 through public materials or private materials?
14 A I'm trying to --
15 Q At any point, did CISA provide informational bulletins to all 8,000 of those
16 jurisdictions?
17 A Informational bulletins of what? I mean --
18 Q About anything. They had the capacity -- CISA had the capacity to
19 communicate with those jurisdictions; is that correct?
20 A Do we -- yeah. I mean, as you see here, there are materials that went out
21 to State and locals.
22 Q And so it would've been possible, then, to provide all of the State and local
23 election officials with the contact information for them to submit requests directly.
24 A I think there were perhaps some sensitivities around, you know, contact
25 information, providing it in a public bulletin.

1 But, again, at the time, the request from State and local partners was, "Help us
2 connect with platforms," and this was the way that it was determined to do it.
3 BY [redacted]
4 Q How resource-intensive did CISA view this request?
5 A How did we evaluate the, kind of, resource implications?
6 Q Exactly. Yeah.
7 A I don't recall.
8 Q Okay. I mean, do you recall any discussions?
9 The reason I ask is, Brian Scully testified in the Missouri v. Biden case --
10 A Uh-huh.
11 Q -- that switchboarding was resource-intensive. Is that your understanding
12 as well?
13 [redacted] I'm sorry. If you're going to quote the transcript, could we see the
14 quotation?
15 [redacted] We'll get it to you at the break. It's in our report; it's quoted.
16 [redacted] I just want to make sure that it's in the record.
17 [redacted] Sure.
18 Well, I'm not trying to --
19 Mr. Walden. He didn't read the testimony.
20 [redacted] I'm trying to get a sense of what --
21 Mr. Walden. He didn't read the testimony.
22 Did you think it was resource-intensive? Did you know whether it was
23 resource-intensive?
24 Mr. Krebs. I'm not sure I was aware of the resources required for
25 switchboarding.

1 BY [redacted]

2 Q Okay.

3 At any point, did Mr. Scully or Mr. Masterson or anybody raise to your attention

4 concerns about the resources -- the degree of resources being devoted to

5 switchboarding?

6 A Not that I recall.

7 Q Were there ongoing conversations with State and local officials regarding

8 whether switchboarding was serving the beneficial purpose they were hoping for?

9 A I wasn't involved in any of those conversations, and I'm not aware of any

10 that were happening at the staff level.

11 Q Okay. Would those be appropriate conversations for your staff to be

12 having?

13 A Whether it's effective?

14 Q Yes.

15 A I would not be surprised if there were conversations about, you know, are

16 you getting -- are you connecting with the platforms? I assume that would be -- you

17 know, I wouldn't be surprised if that conversation was happening.

18 Mr. Walden. Can I ask -- I'm sorry to interrupt your questioning, but I hope this is

19 actually helpful.

20 Do you remember anyone complaining, saying switchboard wasn't achieving some

21 goal or it wasn't doing something that it was intended to do?

22 Mr. Krebs. No.

23 Look, switchboarding was one of many different election security efforts that we

24 were involved in and, as I recall it, one of the more minor ones. And, you know, I don't

25 recall getting any feedback or pushback on the program from election officials.

1 BY [redacted]

2 Q Okay. But you recall election officials having discussions with CISA where
3 they're raising this issue that ultimately leads to CISA's decision to start to engage in
4 switchboarding. I'm just trying to get a sense of, do you have --
5 A Yeah, I mean --
6 Q -- any recollection of conversations -- CISA is now doing it. You said that
7 one of the benefits was listening to your partners. Okay, you listened to the partners.
8 What is the feedback after you started to engage in switchboarding?
9 A I assume that if I wasn't getting any additional feedback, then something's
10 happening here. So they are being connected.
11 Q Okay. I mean, they were not being -- switchboarding is not connecting
12 them directly. Switchboarding is, if I understood your testimony correctly, passing
13 information along from the State and local officials to the social media companies, right?
14 A State and local election officials, to the social media platforms, with, "Here's
15 contact information. If you have questions about this, go call the State and local
16 election officials." That's the process.
17 Q Yes. So CISA is passing along the reports via email to the social media
18 companies. When you're forwarding them, are you copying the State and local officials?
19 A I don't recall the specifics of the process and who was on the CC line. But,
20 again, part of the purpose here was to connect the two, saying, "This is a report that's
21 coming in. If you have questions about the report, you need to talk to this person at the
22 State and local level."
23 Q But the connection is with that report.
24 And the reason I ask is, let's say -- you mentioned the Louisiana secretary of state
25 as one party that was engaged in this, right? The Louisiana secretary of state sends in

1 their first report via switchboarding to CISA. CISA sends it on to, we'll say, Facebook,
2 right? To a certain degree, as your testimony said, that's making a connection.
3 If there's a second report a couple weeks later that the Louisiana secretary of
4 state wants to pass along, does that secretary of state now have the option to contact
5 Facebook directly? Or is it, when switchboarding is being used, they continue to go
6 through CISA to Facebook?
7 A Switchboarding is not mandatory. Could they go outside directly to
8 Facebook? If they had the contact information to do so, then that's possible.
9 Q Is CISA providing the contact information?
10 A If they were contacted by State and locals -- a State and local went through
11 switchboarding and there was a followup from Facebook, then I assume they would have
12 that ability to contact them directly, if Facebook followed up with Louisiana, as in your
13 example.
14 Q Is it your understanding that State and local officials were submitting
15 multiple reports via switchboarding to CISA?
16 Mr. Walden. If you knew.
17 Counsel, you know that in the entire life of this program there's, like, 200
18 requests, right, for 8,000 jurisdictions. So what are you talking about?
19 Like, be fair in your questioning at least. Seventy percent of the requests, if my
20 numbers are right from CISA, 70 percent of them were from Republicans. And the
21 contact information for the Republican officials was given to the social media platforms.
22 So I don't understand the import of your questioning, but could you just be clear?
23 Because I don't know what you expect him to know.
24 [redacted] Yes. His testimony is that the switchboarding is helping to connect
25 State and local officials with social media platforms.

1 Mr. Walden. No. That misstates his testimony.

2 He said the State and local officials asked for it. He gave it. The innovation was
3 that it went to all of them together, right? So, if there's cross-platform -- if it's
4 appearing -- if the disinformation from Louisiana is appearing on Facebook today, Twitter
5 knows about it today so that they can stop it tomorrow if they want to -- if they want to.
6 That's the innovation.

7 And the information to the election official was given. So, if Facebook calls the
8 Louisiana commissioner for elections, then there's a direct connection there. And then
9 the election director can keep calling them or can submit another switchboarding request
10 if there's a new piece of disinformation.

11 But you're not asking him whether he knows any of this stuff. That's why I'm
12 getting confused about the questioning.

13 [redacted] As I understood Mr. Krebs's testimony, the complaint from the State
14 and local officials was not that they needed CISA to be sending it across all platforms.
15 Now, maybe that's an innovation and an extra benefit. But it sounded like the problem
16 was State and local officials could not get their reports heard by social media companies,
17 and they went to CISA for help.

18 CISA believes it has the legal authority to engage in switchboarding --

19 Mr. Walden. Which I assume this committee is not denying, that they did have
20 the authority to do it. The question is, how did it happen?

21 So everyone's entitled to their own opinions. We don't have any. We just want
22 the facts clear.

23 And the facts are that the State and local officials were complaining. Some of
24 them had contacts with some of the platforms, but most of them didn't, right? And
25 even if they had individual contacts, they couldn't do cross-platform communications.

1 So they said, can you get us a place where we can have these effectively dealt with?

2 And CISA said, "Sure, we can help." And that's why they provided the contact

3 information for the complaining official, so that there could be outside CISA

4 communication after the original complaint. And that did happen from time to time for

5 the 200 or so people that used this during the program.

6 So, again, he's the Director. I just -- I want to be effective and fair with you, but I

7 don't understand what you're asking him. You're asking him for an entire category of

8 things that are each sui generis, but none of them were at his level. The only thing he

9 would've heard is the initial complaint, the solution, and then whether there were

10 problems with the solution.

11 And he didn't -- that's why I wanted you to have that information. No one

12 complained about it. So, as the Director, he's thinking, okay, this is working okay. No

13 one's raising concerns about it. So, you know, on to the next 30 billion things he's got to

14 deal with.

15 So, if you could just make your -- if you think that he was aware of certain

16 problems, like, we want to get the information to you. That's why we came here

17 voluntarily. So could we focus on things that you think that he knew, and maybe he can

18 help with you some of the problems that you're looking at from a later period?

19 [Krebs Exhibit No. 6.

20 Was marked for identification.]

21 Mr. Walden. So I'm just -- I just -- this is exhibit 6. It's an October 27, 2020,

22 email that he wasn't on, unless he's one of the redacted. Is he one of the -- am I missing

23 something?

24 [redacted] Well, there are redactions, but it's our understanding that Mr. Krebs is

25 not personally --

1 Mr. Walden. Not personally --

2 [redacted] -- on this chain. We're not asking about --

3 Mr. Walden. Okay. Yeah, yeah, yeah.

4 [redacted] -- the content --

5 Mr. Walden. No problem. I'm sorry. I was asking something different, which

6 is, is this the whole email chain?

7 [redacted] No. And this production was -- you know, this is one page of a

8 production. We're going to ask about the disclaimer. So --

9 Mr. Walden. Okay.

10 BY [redacted]

11 Q Are you ready?

12 A Yeah.

13 Q Are you familiar with the disclaimer at the bottom of Brian Scully's email?

14 Mr. Walden. So, just so we're clear, we're talking about the language in the

15 middle of the page that says that "CISA affirms that"? Or both of these?

16 [redacted] Both paragraphs.

17 Mr. Walden. Okay.

18 [redacted] Two paragraphs.

19 Mr. Walden. Okay.

20 BY [redacted]

21 Q Are you familiar with the disclaimer?

22 A So this is what we call "the banner" --

23 Q Uh-huh. Are you familiar with it?

24 A -- or "the disclaimer." Yes. Obviously, it's been several years since I've

25 seen it, but --

1 Q And what was its purpose?

2 A To very clearly state -- and this is, you know, once again, legal

3 guidance -- that we were sensitive to First Amendment protections and CISA is not asking

4 the platforms to take any action. There's no coercion, there's no encouragement. This

5 is bringing this to your attention.

6 Q When was the need for a disclaimer first discussed?

7 A I don't recall.

8 Q Was it prior to CISA, or NPPD, engaging in switchboarding?

9 Mr. Walden. So I just want to make the record clear, to the extent that he even

10 knows, which -- I thought you were first asking whether he knew, which I don't know that

11 you're going to be happy with the answer to that, because I think the answer is going to

12 be "I don't know."

13 But even if he was part of that conversation, it would've been advice of counsel,

14 which is CISA's attorney-client privilege and work product.

15 So could you just ask him, in the first instance, whether he knew that there was a

16 conversation concerning whether a disclaimer was advisable?

17 [redacted] Sure.

18 Mr. Krebs. As I've said a couple times today, from the very beginning, from the

19 get-go, we had legal counsel involved in reviewing our various efforts here. And it

20 would've been my expectation, therefore, that legal protections would've been baked in

21 to any of our initiatives from the beginning.

22 That was the entire purpose of having Dan Sutherland involved in the Countering

23 Foreign Influence Task Force, is that legal protections were a feature, not a bug, that they

24 were involved from the beginning and not bolted on later.

25 BY [redacted]

1 Q Okay. Were you involved in these discussions?

2 A Which discussions?

3 Q The discussions regarding the --

4 A The banner?

5 Q -- the drafting of the banner.

6 A Not that I recall.

7 Q Was Mr. Masterson involved?

8 A I don't recall when the first switchboarding text came or the process was

9 implemented, and I don't recall when Masterson came onboard. So I can't say

10 specifically if Masterson was involved at the beginning.

11 Q Okay. After Masterson joined, was he involved in ongoing discussions

12 regarding the banner?

13 Mr. Walden. You realize, his question is just about the drafting and the language

14 of the banner. That's all he's asking about.

15 Mr. Krebs. Right.

16 Mr. Walden. Do you know whether Masterson was involved in any of those

17 discussions at all?

18 Mr. Krebs. Again, this is kind of a time-distance problem. I don't know.

19 [redacted] Okay.

20 Mr. Krebs. I don't recall.

21 BY [redacted]

22 Q Do you know if other agencies had a say in the language of the banner?

23 A I don't recall.

24 Q Do you know if other agencies were given the opportunity to comment on

25 what disclaimer was included?

1 A Not that I recall. I mean, this is, again, 5 years ago or so, 4 or 5 years ago.

2 Q Do you recall if there were ongoing discussions regarding the disclaimer's

3 language?

4 A I don't recall.

5 Q Do you recall if there were any incidents that spurred the disclaimer -- that

6 required the disclaimer to be revised?

7 Mr. Walden. Can you restate that question? Is that a representation by you,

8 that you were actually -- I was going to ask you that very question. Did the disclaimer

9 change over time?

10 [redacted] Yes.

11 Mr. Walden. Oh. Well, then, can you establish whether he has a factual basis

12 to even know that? Because --

13 [redacted] He was the Director of CISA.

14 Mr. Walden. I know, but do you think that he's really comparing the languages

15 in different versions of the disclaimer? I'm just asking if you can establish whether he

16 knew that the disclaimer changed over time.

17 [redacted] I'm asking if he recalls an incident that spurred any change in the

18 disclaimer's language.

19 Mr. Walden. Are you aware of the disclaimer's language changing over time?

20 Mr. Krebs. I don't recall any shift in the language or, to your point, an incident

21 that would've --

22 BY [redacted]

23 Q Do you recall any incidents -- regardless of whether the language ultimately

24 changed or not, do you recall any incidents that required CISA to consider changing the

25 language of the banner?

A Not that I recall.

[Krebs Exhibit No. 7.

Was marked for identification.]

Mr. Krebs. Is this another exhibit, Jim?

Mr. Walden. Is this exhibit 7?

[redacted] It is.

Mr. Walden. I'd just note for the record it's an email chain that ends on October 28th and begins seemingly incompletely on October 28th at 5:06 p.m.

I just want you to look at the subject line.

Okay. Just so we're clear, I just want to make sure that we have the facts straight. The disclaimer didn't change, in the sense that the first two paragraphs are identical I think. We've never -- I have never seen this. It's the addition of the third paragraph that's the change that you're asking about?

[redacted] Yes.

Mr. Walden. Okay. Got it. Thank you. That's super-helpful.

So do you know when this paragraph was changed? Do you know when this was added?

Mr. Krebs. Well, by looking at the date stamps, about 24 hours after the first one.

Mr. Walden. Okay. Do you know what it was that caused that change to the banner, to the disclaimer, that addition?

Mr. Krebs. I don't recall, don't know if I was aware of anything to spur that.

Mr. Walden. Do you remember noticing?

Mr. Krebs. I did not see on a daily basis the workflow.

BY [redacted]

1 Q Okay. On October 28, 2020, who would have the responsibility for
2 updating the banner?
3 A The responsibility, or who would've been involved? Legal counsel, of
4 course. Chief counsel would've been involved.
5 Q Uh-huh.
6 A So someone in the chief counsel's office.
7 Q And who would be responsible for ultimately approving any change?
8 A Legal counsel would've been.
9 Q Anyone else?
10 Mr. Walden. His question, I just want to be super-clear about it. He's asking
11 you whether or not there was a requirement on something like this that anyone above
12 the chief counsel also sign off on the change. That's what he's asking.
13 Mr. Krebs. Is that --
14 [redacted] Yes.
15 Mr. Krebs. I don't recall any additional requirement for something above to add
16 this language -- someone above the chief counsel.
17 BY [redacted]
18 Q Are you familiar with the language in this third paragraph?
19 A You know, I'm not sure the last time I saw the banner or the language, so I
20 don't know, you know, which version is the one I'm familiar with or recall.
21 Q In your understanding of CISA's switchboarding function, did CISA have the
22 authority to follow up with the social media platforms?
23 A What does "follow up" mean?
24 Q Engage in email correspondence after the initial pass-through function has
25 been completed, at a later date ask to see if action was taken.

1 A Did they have the authority -- did CISA have the authority to follow up?

2 Mr. Walden. Wait. So I want to make sure that I'm clear about your question,

3 because you changed the question slightly. Because "follow up" doesn't necessarily

4 mean ask them to take it down or ask them to act at all. It could be more information.

5 "Louisiana just sent us this thing. Did you see it anywhere else on your platform?"

6 That could be a followup.

7 So are you asking him whether or not CISA was authorized to follow up for any

8 information? And then, secondly, were they authorized to ask the platform to do

9 something with the information? Are those two different questions?

10 [redacted] Yeah, the question at no point, you know, stated that CISA was making

11 a direct request for anything. It just --

12 Mr. Walden. Oh, then I misunderstood your question. I thought that you

13 actually said that. So, if I just misheard you, that's fine.

14 So do you know whether or not CISA is authorized to follow up with the platforms,

15 however the followup was? I'm not asking about taking action, the platform taking

16 action. I'm asking, was CISA authorized to follow up?

17 Mr. Krebs. Did they have the authority -- did CISA have the authority to follow

18 up? I believe so. Was it common practice? I don't know.

19 BY [redacted]

20 Q Okay. Regardless of whether it was common practice, do you know if it

21 occurred? And by "it," I mean, did CISA follow up with social media companies?

22 A I'm not sure I was aware of any specific followups with the social media

23 platforms at the time.

24 Q Did anyone from the social media companies contact CISA regarding

25 concerns about CISA following up with the switchboarding reports?

1 A Not that I was made aware of, at least to the best of my recollection.

2 Mr. Walden. No, no, no. I'm trying to be helpful, trying to be helpful here,

3 right? If you have a basis to believe that someone did and you tell him who it was, that

4 might jar a recollection.

5 So, I mean, again, I'm trying to learn this in real-time, because I didn't have

6 documents, so just a suggestion.

7 Mr. Krebs. To the point, CISA is a big agency. So, I mean, if you've got

8 something to share here, I --

9 BY [redacted]

10 Q I'm not trying to pin you down. And this is, again, going off of your

11 recollection. Just to your understanding, obviously -- I shouldn't say "obviously"; there

12 are redactions -- but it appears you are not the one engaging in switchboarding. Is that

13 right? Not you personally.

14 A Okay. So I think maybe this is a good baseline opportunity, right?

15 By 2020, CISA was a $2-billion-plus organization budget-wise, 2,500-plus

16 personnel. Physical security of infrastructure, cybersecurity of infrastructure,

17 emergency communications -- several initiatives. We were in the midst of hurricane

18 season. We had the Iranian disinformation campaign that we were just on the heels of.

19 We also had to deal with -- there was Russian activity against airports and State and local

20 governments.

21 There was a lot of activity. The election infrastructure piece was a small slice of

22 CISA. It was a priority, but it was a small slice.

23 And you're asking me if I recall specific emails or contacts from platforms to CISA.

24 Q No, that's not what I'm asking if you recall. I'm asking of your general

25 awareness of -- at minimum, you have awareness that switchboarding is occurring. You

1 have an awareness of what problems State and local officials flagged that spurred CISA's
2 decision to begin engaging in switchboarding.
3 A Right.
4 Q I'm asking if you had awareness of any complaints from social media
5 companies.
6 You've mentioned that you've had points of contact at social media companies,
7 many of whom -- I shouldn't say "many" -- some of whom you knew before your tenure.
8 A Yeah, that's fair.
9 Q Did you hear from any social media companies concerns or complaints about
10 CISA's requests and specifically -- or, excuse me, not "CISA's requests" -- CISA's
11 communications and, specifically, if there were concerns regarding CISA's followup
12 communications?
13 A So, to address your last point, I do not recall any outreach from the
14 platforms that they had concerns about CISA providing that contact information.
15 From a general concern from within the program, there was a day-to-day team
16 running the activities. I don't recall anyone flagging that there was a concern or a
17 problem within the program. And this is a team that, if there were significant concerns,
18 would've raised the flag. But I do not recall anyone saying that there was an issue that I
19 needed to be aware of.
20 Q Do you recall any discussions, whether in October 2020 or any point during
21 your tenure at CISA, whether followup communications implicated the First Amendment?
22 A I don't recall a conversation about a followup conversation implicating the
23 First Amendment.
24 Q Just to clarify so I understand your answer and so you understand what the
25 question was, any conversations regarding whether followup communications from CISA

1 could implicate in the First Amendment because, whether it did or not, it could create the
2 perception of pressure or coercion with respect to whatever is being emailed?
3 Mr. Walden. Can I just say this? I thought you were asking about from the
4 social media communications. Right? To the extent you're talking about internal
5 communications, they would've been with counsel. So I still think the answer to that is
6 "no," and you could phrase the question a little bit differently to elicit that answer.
7 But the way you've asked the question, you've asked for privileged information,
8 and CISA has directed him that he can't answer, to the extent it reflects a lawyer's
9 communication. So could I suggest a way to rephrase the question?
10 [redacted] Please.
11 Mr. Walden. Okay.
12 Do you recall CISA making a decision to change the disclaimer because of any
13 concern that followup communications violated the First Amendment?
14 Mr. Krebs. I don't recall.
15 Mr. Walden. Okay.
16 BY [redacted]
17 Q Do you recall any discussions within CISA regarding whether switchboarding
18 implicated the First Amendment?
19 Mr. Walden. Other than with legal counsel. Not including legal counsel.
20 Mr. Krebs. But I think there's --
21 [redacted] He can say if he consulted with counsel. He just can't get into the
22 discussions.
23 Mr. Walden. About the topic he can't, right? If you seek legal advice because
24 you want to know if murder is a crime in Texas, a Texas prosecutor could use that as
25 evidence that you committed a murder. I mean, I hate to --

1 [redacted] Right.

2 Mr. Walden. -- use that analogy, but you can't ask him whether or not he had

3 communications with lawyers about certain topics. That's why I was trying to get at the

4 decision to be helpful.

5 Could you just state your question again and let me see if I can just make a

6 suggestion for a workaround?

7 [redacted] Sure.

8 Are you aware of any internal CISA discussions regarding whether switchboarding

9 implicated the First Amendment?

10 Mr. Walden. Okay.

11 You can answer that "yes" or "no" -- "yes," "no," or "I don't remember."

12 A I don't recall.

13 But to provide you some context again, across the Election Security Initiative, this

14 was one of many different initiatives. And we had considerable and considered legal

15 counsel and oversight on all aspects of our election security efforts. And this was by

16 design, baked in from the beginning.

17 Again, that is precisely why Dan Sutherland was running the Countering Foreign

18 Influence Task Force from the beginning, so that everything that would result in a

19 program, a process, a workflow had legal considerations and First Amendment and

20 Fourth Amendment protections baked in from the very beginning and, again, not bolted

21 on at the end.

22 Mr. Walden. And you said this before, but I just want to make sure that it's clear.

23 Was one of the reasons that Sutherland was picked was because he had civil rights and

24 civil liberties experience?

25 Mr. Krebs. Yes. He was the nominee in the Bush administration for the DHS

1 Civil Rights/Civil Liberties Office.

2 BY [redacted]

3 Q To your recollection, did CISA work with CIS to try to set up a misinformation

4 reporting portal in 2020?

5 A I -- I don't -- I don't have any recollection of that.

6 Q Okay.

7 [Krebs Exhibit No. 8.

8 Was marked for identification.]

9 Mr. Walden. Exhibit 8. Just for the record, exhibit 8 is an email dated January

10 3, 2020, at 11:09 a.m. It's a single email.

11 I'd just note for the record that Mr. Krebs does not appear to be a recipient.

[1:16 p.m.]

Mr. Walden. [redacted] can I ask you a question? It refers to a writeup. Is it possible that we can show him the writeup?

[redacted] I don't know if we have access to that --

Mr. Walden. Okay.

[redacted] -- document or not.

Mr. Walden. Okay. Only because, I mean, this might not refresh his recollection, but the writeup might.

Mr. Krebs. Geoff Hale.

Mr. Walden. I know.

Mr. Krebs. Yeah.

Mr. Walden. Isn't that a lawyer?

Mr. Krebs. No.

Mr. Walden. Okay.

Mr. Krebs. No. These are all -- so the CISA employees are Masterson, Scully, and Hale. And I guess there's a contractor, but I don't know who that is.

Mr. Walden. [redacted] just give me 1 second, okay?

Okay. Sir, go ahead.

Mr. Krebs. Sorry.

BY [redacted]

Q I think I asked this at the very start, but just to -- if this triggers your memory at all. Do you recall what Geoff Hale's role was in 2020 at CISA?

A So Geoff was -- I think best way to characterize him was the senior career official on the Election Security Initiative.

Q Mr. Masterson testified that there were different rules about what a political

appointee could oversee as opposed to like a career. Is that your understanding?

A It depends. For instance, Jeanette Manfra was a political appointee -- a schedule C political appointee, and she was the executive assistant director for the cybersecurity directorate, and she had a budget of over a billion dollars and thousand-plus people.

So it depends on the billet. It's not necessarily is the person a political appointee or not.

Q Do you know who Aaron Wilson is?

A I don't recall. I don't -- doesn't ring a bell.

Q Okay. Does this document refresh your memory at all about whether there was any discussions with CIS regarding the creation of the misinformation reporting portal?

A So this is an email I'm not copied on, I'm not on.

Q Yes.

A It reflects a conversation, a proposal -- unsolicited proposal from CIS, by the looks of it, to Masterson and Scully. I mean, was there a request to set up a misinformation portal? I don't --

Mr. Walden. No. His question to you specifically was, does this refresh your recollection -- what was the end of the question?

Mr. Krebs. About.

[redacted] About whether there was consideration creating -- of CIS creating a misinformation reporting portal.

Mr. Krebs. So -- so CIS' expectations are not necessarily CISA's expectations, and whether they self-deployed or directed into setting up a misinformation portal, I can't speak to that. Was I briefed on this email? No, not that I recall.

1 [redacted] Do you recall receiving any briefings from anyone in CISA about
2 whether CIS was considering the creation of a misinformation reporting portal?
3 Mr. Walden. I'm sorry. Got to stop you for a second, and this is why I'm
4 confused by your line of questioning. You started this line of questioning by implying,
5 you didn't say, but you implied that there was a collaboration between CISA and CIS to
6 create one together. This email doesn't say that they're creating one together, unless
7 I'm just misunderstanding the relationship --
8 [redacted] My question didn't imply anything. I asked if anyone from CISA
9 briefed Mr. Krebs about CIS considering the creation of a misinformation reporting portal.
10 Mr. Walden. Okay.
11 Mr. Krebs. So CIS is also the home -- or the parent to the Election
12 Infrastructure-ISAC.
13 BY [redacted]
14 Q Yes.
15 A So was I briefed on Election Infrastructure-ISAC, and would the name CIS
16 come up in relation to that? Yes. Do I recall a specific conversation or briefing from
17 my team that said CIS wants to set up a misinformation reporting portal? I don't recall.
18 Q Okay. And just for clarity's sake -- so this email is dated January 3rd,
19 2020 -- the EI-ISAC had been stood up long before this?
20 A Correct.
21 Q Okay. And CISA's engaging in switchboarding long before this?
22 A Correct.
23 This is also January 3rd, 2020. This is the day after -- and let's see, this is
24 11:09 a.m. -- at 7 o'clock p.m. the day before it was announced that the U.S. had
25 launched a drone strike against General Soleimani of the Iranian Revolutionary Guard and

1 that for the following week and a half after that, 2 weeks after that, we were deeply
2 engaged in what was the first iteration of the Shields Up campaign.
3 So this could've been happening, but I was dealing with potential Iranian cyber
4 attacks against United States Government and an escalation in the Gulf, just to put, again,
5 some temporal context around what was happening at the time this email came forward.
6 Q Again, independent of this email and independent of January 2020, do you
7 recall any discussions at any point in 2020, any discussions with personnel at CISA
8 regarding whether CIS was considering the creation of a misinformation reporting portal?
9 A Not that I recall.
10 Q Okay. I'll take these back.
11 Mr. Krebs. Let me get -- we're going to hand them back, so go ahead.
12 Do you have blue ones? Can I have a blue one?
13 Mr. Walden. Oh, I thought you liked the green ones.
14 Mr. Krebs. Trade you a green one.
15 Mr. Walden. Yeah. I hate the green ones.
16 Mr. Krebs. Oh.
17 Mr. Walden. I got the green ones because I thought that's what you wanted.
18 Just make sure to capture all this on the record, please. My client's service needs
19 to be documented.
20 Mr. Krebs. Oh, here, take these if you hate the green ones.
21 Mr. Walden. No, I've got another pack.
22 Mr. Krebs. Oh.
23 Mr. Walden. I come prepared.
24 You're not at your time. If you need a couple minutes, can I just step outside
25 with him?

1 [redacted] Sure.

2 Mr. Walden. Literally 30 seconds I'll be back.

3 [redacted] We'll go off the record, please.

4 [Recess.]

5 [redacted] Can we go back on the record, please?

6 [Krebs Exhibit No. 9.

7 Was marked for identification.]

8 [redacted] So we just introduced exhibit 9. I'll give you a moment to review.

9 Mr. Walden. While he's reading, it's an email between February 10th, 2020, and

10 February 20th, 2020.

11 Mr. Krebs. Yeah.

12 BY [redacted]

13 Q Okay. First, do you know who Renee DiResta is?

14 A I do.

15 Q Who is she?

16 A Renee is a -- I think she's a part of the Stanford Internet Observatory. I

17 don't know her specific title.

18 Q Okay. Do you recall, just at a high level, whether the meeting occurred or

19 not, the planning about hosting a meeting with experts to discuss disinformation in

20 February of 2020?

21 A So -- so that the meeting request was for March 9th. The email went out

22 February 10th.

23 Q Yes.

24 A Okay. Got it.

25 Q The consideration ended February 2020.

1 A Yeah, yeah. I recall talking to the team and having a conversation with the
2 election security team about getting some of the leading thoughts around disinformation,
3 what we should be thinking about and how to engage the public. I don't know if the
4 meeting happened. If you have that, can confirm that, that would be helpful, but I don't
5 know if it matters.
6 March 9th was the Monday -- the last Monday that we were in person. On
7 Friday, everybody broke out with COVID. Schools were canceled. Saturday, Sunday.
8 We went remote.
9 I recall at some point after that, I don't remember when, but during the
10 next -- you know, I don't know what the following period was, but that we had a virtual
11 discussion with a number of thought leaders in disinformation research.
12 Q Regarding the planning and then -- again, regardless of whether the meeting
13 ultimately occurred or not --
14 A Yeah.
15 Q -- the four bullets points that Brian Scully has laid out in his email, is that
16 consistent with your recollection of what you wanted to discuss in this meeting?
17 A So I think let's kind of break up a couple things. One is my name gets -- got
18 used for various reasons, and whether these are the four points that I specifically
19 requested, I don't recall that. Are these things that we would've been thinking about at
20 the time? Probably.
21 Q Okay. The third bullet point says, How should we be thinking about
22 domestic versus foreign interference.
23 Was that something that CISA was thinking about during this time?
24 A Well, at a minimum, someone was thinking about it at CISA. It's a bullet
25 there. So whether it was Scully or someone else, you know, obviously someone was

1 thinking about it.

2 Q Okay. And are these internal discussions at CISA regarding domestic versus

3 foreign interference?

4 A What are you -- I'm sorry to interrupt you. Go ahead, please.

5 BY [redacted]

6 Q Sure. I'll help restart the question.

7 To your knowledge, were there discussions internally at CISA at this time

8 regarding domestic versus foreign interference?

9 A So I think there's kind of a definitional clarification we need to make here.

10 So when you talk about interference -- as it's kind of grown up in the last couple years,

11 there's interference and there's influence. Interference tends to get used to describe

12 actual attacks, attempts to change the voting process, counting, certification. So

13 thinking about more technical attacks. Sometimes, though, it gets moved over into

14 more of the influence and information operation space.

15 So I wouldn't necessarily think about this just as disinformation. This could also

16 include domestic attacks on critical election systems.

17 Q Were there discussions at CISA internally during your tenure as director of

18 CISA regarding domestic influence, to use the --

19 A Uh-huh.

20 Q -- correct term? Not necessarily interference.

21 A You know, in February of 2020, I don't recall what the -- you know, the state

22 of the discourse was around domestic verse foreign interference.

23 Q Not specific to February 2020, do you recall there being discussions

24 internally at CISA about domestic versus foreign influence?

25 A I think ultimately we became aware that there were, you know, concerns of,

1 you know, domestic originating claims around election -- election security issues. And I
2 think through that evaluation, the -- you know, given our -- our authorities and
3 capabilities, it was still within scope of CISA's authorities and -- you know, you can talk
4 about the edu- -- again, rumor control. Doesn't matter. We're educating on the
5 process and the work flow and how elections work.
6 Q When did these discussions regarding domestic influence first start?
7 A I don't recall.
8 Q Okay. Were they ongoing by beginning of 2020?
9 A Again, I don't recall the moment in time or the periods of time within which
10 we were thinking about the distinction between domestic and foreign interference.
11 Again, I think this gets to, as we ultimately saw with rumor control, narratives are
12 narratives, and we're providing explanations on how the things actually work. So, again,
13 it would not matter if it was foreign or domestic for the context, again, of rumor control.
14 [redacted] Can we go off the record, please.
15 [Recess.]

1 [1:50 p.m.]

2 [redacted] We can go back on the record. It's 1:50 in the afternoon.

3 Mr. Krebs, I want to return to what was marked as exhibit 7, and that's the email

4 from the Kentucky election workers.

5 Mr. Walden. Hold on a second.

6 [redacted] Okay. And I'm actually going to introduce as exhibit 10 the

7 complete chain, so --

8 Mr. Walden. Oh.

9 [redacted] You're welcome to go back to it if you want to compare the two, but

10 we're going to introduce the full chain as exhibit 10.

11 Mr. Krebs. Thank you.

12 [Krebs Exhibit No. 10.

13 Was marked for identification.]

14 [redacted] And the new material section is on the second page.

15 Mr. Krebs. Okay.

16 BY [redacted]

17 Q So on the earliest part of the chain, the part that was not produced in the

18 prior hour, it's an email that appears to be from somebody at Kentucky.gov, dated

19 October 28th, 2020, time-stamped 4:43 p.m., to Misinformation Reports -- which is an

20 email address that's redacted -- @cisecurity.org, and then copying a number of other

21 ky.gov email addresses. Do you see that?

22 A I do.

23 Q Okay. And I want to look at the -- and I realize you weren't on this email

24 chain --

25 A Right.

1 Q -- at any part, so I realize you're not familiar with this, but I want to look at
2 the very last sentence of the second paragraph.
3 A Uh-huh.
4 Q The email describes an incident involving a camera that may have been in an
5 election place or a polling place. And then that last sentence says, The county clerk has
6 been warned she needs to be armed.
7 Do you see where it says that?
8 A Yes.
9 Q So that suggests that the county clerk has either been threatened by
10 somebody, saying she needs to be armed, or somebody has told her she should be armed
11 for her own safety, correct?
12 A That's what I read from that.
13 Q Okay. And, again, you weren't on this chain, and we're not interviewing
14 the person who wrote this chain.
15 A Right.
16 Q But that's what's apparent on the face of this document.
17 A Right.
18 Q And the majority didn't present that to you earlier, correct?
19 A That page was not in the prior appen- -- or exhibit, rather.
20 Q And so what actually was transmitted to CISA from Kentucky, from the
21 assistant secretary of state general counsel's office with the Kentucky secretary of state,
22 was an email that said whatever is -- whatever misleading post is identified in this email
23 actually potentially involves something that could pose a risk of harm to the individual
24 involved, correct?
25 A Yes.

1 Q Okay. Are you familiar -- there have been a lot of reports of election
2 workers facing increased threat due to the work they do. Are you familiar with these
3 reports?
4 A I am aware of threats against election officials across the country, yeah.
5 Q And broadly speaking, what's your understanding of those threats?
6 A Well, I think a lot of them, as I understand it, stem from claims around the
7 2020 election being stolen and that election officials were either complicit or otherwise
8 incompetent, and as a result, there's been, you know, both public and also private
9 communications -- I've received, of course, a number of threats myself -- and I think these
10 are kind of pretty -- pretty prevalent, you know, both at senior officials, secretaries of
11 state, as well as, unfortunately, county clerks at a local level, so kind of equal opportunity
12 threats.
13 Q And I want to focus on the State and local workers in particular. When
14 we're talking about State and local election workers, who are those people? What are
15 their jobs?
16 A Again, it kind of -- it varies. So you have, at the top, secretaries of state.
17 Those are constitutional officers typically in State outside of the chain of command of the
18 governor, you know, elected by the citizens of the State, the voters of the State, all the
19 way down to IT technicians that make sure that the computers in the election offices run
20 on time.
21 And then you also have volunteers, so election officials that volunteer to be poll
22 workers. And, you know, I don't think threats have been spared against any of them,
23 and it's resulting in fairly broad resignations and attrition across the election workforce in
24 advance of 2024. And it's one of the things I'm worried about, is we're going to have
25 fewer election workers come the next election.

1 Q And I want to talk about that a little more. When you say that there's been
2 broad attrition or a number of people leaving these positions, how do you know that?
3 A From, you know, conversations I've had with election officials, but also, you
4 know, there's plenty of media reporting on, you know, the state of election attrition,
5 election hiring.
6 Q And why does that concern you about -- with respect to 2024?
7 A Well, I think on the -- the first point is that, if you have fewer staff to conduct
8 an election, there's a capacity challenge, so we're going to have fewer opportunities for
9 people to vote. So you could have reduced polling hours. You could have statutory
10 requirements to be open certain periods of time, but then you're going to have
11 overworked election officials. So, you know, there are a range of different risks here.
12 Q Are you familiar with the Justice Department's Election Threats Task Force?
13 A I've read about that, yes.
14 Q Okay. What's your understanding of what it is?
15 A My understanding is that they investigate threats of violence and, you know,
16 similar activity against election officials across the country.
17 [Krebs Exhibit No. 11.
18 Was marked for identification.]
19 [redacted] Okay. I'm going to introduce as exhibit 11 an August 31st, 2023,
20 fact sheet on the Justice Department's Election Threats Task Force. And I'll give you a
21 minute to review it.
22 Mr. Walden. I'm sorry. This may be obvious, but while he's reading it, is there
23 some distinction between the ones that are in blue and underlined and those that are
24 not?
25 [redacted] The ones that are in blue and underlined are hyperlinks to, I believe,

1 to the actual criminal complaints, and the ones that are not -- I'm not sure why they're
2 not hyperlinked, but this is from the Justice Department's website. We can get you the
3 source if you'd like.
4 Mr. Walden. Oh, no, that's okay. I should've thought of that, but I couldn't
5 imagine that there wouldn't be hyperlinking to number 10 and 13.
6 [redacted] Yeah. I'm not --
7 Mr. Walden. Okay. Sorry. Go ahead.
8 BY [redacted]
9 Q Have you had a minute to review?
10 A Yes.
11 Q Okay. A couple minutes ago you said that you had spoken with people,
12 election workers and others, who had received threats. I want to go through just a
13 couple of the threats described here and ask if they're consistent with the type of things
14 that you're hearing, without getting into your personal conversations.
15 A Sure.
16 Q So, for example, the -- and I'm sorry, there's a list on this page of 13 criminal
17 cases involving threats to election workers or State officials that are involved --
18 A Right.
19 Q -- in administering elections, correct?
20 A Yes.
21 Q So, for example, the sixth example on this list, it's United States v. Walter Lee
22 Hoornstra in the Western District of Missouri.
23 A Right.
24 Q The individual -- the defendant was charged for allegedly leaving a voice mail
25 containing a threat on the personal cell phone of an election official in the

1 Maricopa County Recorder's Office in Maricopa County, Arizona.
2 A Uh-huh.
3 Q Correct?
4 A Correct.
5 Q Is that type of threat consistent with what you've heard through your
6 conversations with others in the election worker community?
7 A Yes. And I believe 6, so Walter Lee Hoornstra, those threats are against
8 Stephen Richer, who's a Republican. The second -- the next one down, 7, U.S. v.
9 Mark Rissi, Maricopa County Board of Supervisors, a number of those officials were
10 Republicans.
11 The official in the Office of the Arizona Attorney General, if I recall at the time,
12 that was a Republican attorney general.
13 So I think the -- the thing that I think is particularly concerning is that these threats
14 are against all political stripes. It's not Republicans or Democrats. It's everyone. And
15 so this should be a -- as I see it at least -- a bipartisan concern on threats to election
16 officials.
17 Q You've worked -- you worked at CISA beginning -- or I guess the predecessor
18 of CISA beginning in 2017, then were at CISA in 2018 when it got underway, and stayed
19 through 2020.
20 A Uh-huh.
21 Q And obviously today you're still following election security in the news,
22 right?
23 A Yes.
24 Q During that time period, have you observed an increase in threats against
25 election workers?

1 A Based on my understanding and what I have viewed, it seems as if there's an
2 increase in threats. I assume the Justice Department would have a authoritative set of
3 metrics that would be able to characterize that.
4 Q Are you familiar with reports about threats against members of academia
5 who study disinformation?
6 A Yes, I am.
7 Q Can you describe your -- what you know about those reports?
8 A I am aware of threats against researchers affiliated with the Election
9 Integrity Partnership, so Kate Starbird at University of Washington. We talked about
10 Renee DiResta earlier with Stanford. Alex Stamos with Stanford as well. So they -- I
11 both know from conversations with them that they have received significant, you know,
12 very specific, graphic threats.
13 Q And what's your understanding of why they've received those threats?
14 A Because of the research they conducted around the integ- -- the SIOEIP, the
15 2020 election.
16 Q And the SIOEIP is the Stanford Internet Observatory Election Integrity
17 Partnership, correct?
18 A It's the Election Integrity Partnership, which included, as I understand, SIO,
19 University of Washington. And they also had follow-on work with The Virality Project.
20 Q Okay. Some have expressed concerns that threats targeting academic
21 researchers who work in the disinformation sphere might have a chilling effect on
22 researchers' interest or willingness to do research into disinformation in the future.
23 Do you agree with that concern? Do you share that concern, I should say?
24 A I -- my understanding is that, yes, there has been a chilling effect, that there
25 are programs across the country that are shutting down or backing away. And I think

1 we're seeing similarly kind of a chilling effect across platforms, and as a result, again,
2 we're seeing platforms kind of pull back.
3 And if anyone was on Twitter, or X, over the weekend, you would've seen the
4 impact of the disbanding of trust and safety teams, the impact of shifting the verified blue
5 checkmark approach. And then you also would've seen the impact of some of the tools
6 that they've scuttled of -- of the level of manipulation and abuse of the platform and the,
7 you know, the quality of the information on the platform.
8 Q Looking ahead to 2024, do you think this pulling back, as you said, on the
9 platforms' behalf, and their -- the dismantling of the trust and safety team at Twitter, for
10 example, do you think that has -- creates a risk that foreign influence campaigns may, in
11 fact, have a chance at being more successful in 2024 than they did in 2020?
12 A I mean, they're certainly creating the circumstances where a motivated actor
13 could abuse the platform. But, you know, for Twitter, I'll say that at least in the
14 United States, these are decisions that -- that the Twitter/X leadership team can make,
15 and they get to decide how they run their platform until they run afoul of some law here
16 or in the EU, and they get to determine how their terms of service and then how content
17 on the platform complies with their terms of service.
18 Q Understood. And I'm not challenging that, but it does create a risk,
19 wouldn't you agree, that if a motivated foreign actor wanted a platform to spread
20 disinformation, you know, to interfere in the 2024 election, that could make platforms
21 that are not taking action against disinformation a more appealing target, correct?
22 A That's, yes, one of the many different ways that -- one of the many different
23 kind of events that -- that threat actors are going to manipulate the platform.
24 And it's not just the U.S. election, to be clear. In 2024, there are probably over a
25 billion people that will go vote across the world -- Russia, Taiwan, Mexico, the European

1 Union -- many different voters -- elections.

2 Q And a motivated foreign actor could have an interest in interfering in any of

3 those elections. Is that fair to say?

4 A Correct.

5 Q I want to return to exhibit 8, but we're actually going to introduce

6 as -- you're welcome to pull it out, but we're actually going to introduce as exhibit 11

7 the -- I'm sorry, exhibit 12, the proposal from CIS. I think the majority indicated they

8 didn't have it available to them. So I want to complete the record on that.

9 A Thank you.

10 [Krebs Exhibit No. 12.

11 Was marked for identification.]

12 BY [redacted]

13 Q And this was actually the next page in the production. So the exhibit 8 was

14 CIS-JUDCOM910. This is CIS-JUDCOM911.

15 Have you had a minute to review?

16 A Yes.

17 Q Okay. So there was discussion in the earlier hour about this portal and, you

18 know, what discussions there were around the setting up of the portal. And you said

19 that you weren't -- you don't recall having been involved in any discussions to that effect,

20 right?

21 A That's correct.

22 Q So I want to look at the actual proposal, and I just want to highlight a couple

23 of things in this proposal. So the very first sentence, it says -- reads, CIS is

24 proposing -- and then it continues on, correct?

25 A Right.

1 Q And then the third paragraph down reads, Alternatively, CIS is
2 proposing -- and then it continues on, correct?
3 A Uh-huh.
4 Q And then in --
5 A Yes. Sorry.
6 Q -- in the fourth paragraph, again it reads, CIS proposes, correct?
7 A Right. Yes.
8 Q So over and over again in this document, it makes it clear that this is a
9 proposal from CIS, correct?
10 A Yes.
11 Q And this was not -- there's nothing here that suggests CISA solicited this
12 proposal, correct?
13 A I -- that's my -- that's my understanding, I guess. But there's nothing -- yes,
14 I'm not seeing anything --
15 Mr. Walden. She's just asking you, on the face of this document, there's nothing
16 that says --
17 Mr. Krebs. In response to.
18 Mr. Walden. -- at CISA's request --
19 Mr. Krebs. Yes.
20 Mr. Walden. -- we did X, Y, Z?
21 BY [redacted]
22 Q So this was -- this was an unsolicited -- based on all appearances --
23 A Yes.
24 Q -- this was an unsolicited proposal from CIS, correct?
25 A Correct.

1 Q And then the very last paragraph where it's italicized, I'm going to read that
2 out loud. It says, The Center for Internet Security Election Best Practices Team has
3 funding from the Democracy Fund to build and maintain a mis/disinformation reporting
4 portal through the 2020 election cycle.
5 Do you see where it says that?
6 A Yes, I do.
7 Q Are you familiar with the Democracy Fund?
8 A I've heard of it. So I've heard of it.
9 Q Is the Democracy Fund part of CISA?
10 A It is not.
11 Q Okay. What's your understanding of what the Democracy Fund is?
12 A It's some nongovernmental organization -- let me leave it at that.
13 Q And to your knowledge -- and I realize this may have been couple layers
14 below you, but to your knowledge sitting here today, did CISA provide any funding for the
15 Democracy Fund?
16 A I'm not aware of any funding that would go to the Democracy Fund,
17 no -- from CISA, no.
18 Q In the very first hour today, CIS came up, and you made the comment
19 that -- there was a question about how CIS is funded. And obviously it gets funding from
20 different sources, right, not just from CISA, correct?
21 A So I -- that is -- that is correct. CISA provides funding to CIS. I assume
22 they have other funding from elsewhere.
23 Q Okay. So, for example, from the Democracy Fund potentially?
24 A And that seems to suggest that, yes.
25 Q Okay. You said that CIS was a statutor- -- I'm sorry -- CIS was a statutorily

1 funded grantee. Do you recall saying that?

2 A Yes.

3 Q What's a statutorily funded grantee?

4 A Well, so my recollection specific to CIS and activities they -- MS-ISAC, that

5 Congress has set a set of funds available that would go to the projects like maintaining

6 the election -- or I'm sorry -- the Multi-State ISAC, because it has turned, over time, into a

7 competitive grant process.

8 But CIS has the infrastructure, has the systems and the relationships, and they

9 competitively have been awarded those over time, at least, again, up till my time.

10 Q Okay. And a statutorily funded grant program -- and I realize it has

11 changed over time, but a statutorily funded grant program means that Congress has

12 appropriated the funds, and it has to go --

13 A Yes.

14 Q -- to that entity, correct?

15 A It has appropriated funds, and over time I believe that that turned into, like I

16 said, a competitive grant program.

17 Q Do you know when that turnover happened?

18 A During, you know, my tenure.

19 Q Okay.

20 A So, you know, the tail end of the last decade.

21 Q Okay. Is CIS under the control of CISA?

22 A No.

23 Q Who manages CIS?

24 A My understanding is they have a board of directors or board of something.

25 They have an executive director or CEO. I don't know if I recall who the CEO is right

1 now.

2 Q In your role as the director of CISA, did you ever direct CIS to take any

3 particular steps, to the best of your recollection?

4 A Not that I recall, no.

5 Q Okay. In your role as the director of CISA, to the best of your recollection,

6 did anyone reporting to you ever direct CIS to take any particular steps?

7 A Not that I -- not that I recall.

8 Q Okay. Are you familiar with the election infrastructure information sharing

9 and analysis --

10 A I'm sorry. Let me go back to -- so under the terms of the grant, which is a

11 contract effectively, just like other government contractors, there were certain tasks that

12 CIS agreed to perform under the terms of the grant.

13 And so there was effectively a grant management position, I believe, that came

14 out of the cyber directorate -- cybersecurity directorate -- or division, I'm sorry. So there

15 were likely specific tasks or asks under the execution there for the execution of the grant.

16 Q Understood. But I'm talking about the day-to-day management of CIS.

17 A No, not that I recall.

18 Q Okay. Are you familiar with the Election Infrastructure Information Sharing

19 and Analysis Center, which is also known as the EI-ISAC?

20 A Yes.

21 Q What is the EI-ISAC?

22 A So information sharing and analysis centers exist across the 16 sectors and

23 then some, and it's effectively a community group within that sector that gets together

24 and shares best practices, cyber threat intelligence, conducts exercises and things like

25 that.

1 Prior to, you know, 2017, no such center existed for the -- for the election
2 community, and CIS under, you know, kind of based on its role with the Multi-State ISAC,
3 established the Election Infrastructure ISAC, and I think, believe, they use CISA grant
4 funding to set that program up.
5 Q And is it fair to say that the mission of the EI-ISAC was focused on
6 information sharing among the different -- information sharing between different
7 election workers?
8 A That was a key component.
9 Q Okay.
10 A There were -- there were, as I mentioned earlier with the Albert sensors,
11 there was also some technology deployments that would happen. But generally
12 speaking, the first order of business tended to be information sharing as the name would
13 imply.
14 Q Was the EI-ISAC under the control of CISA?
15 A No.
16 Q Was the EI-ISAC managed by CISA?
17 A No.
18 Q Who managed the EI-ISAC?
19 A There were personnel that were CIS personnel that managed the day-to-day
20 operations of the EI-ISAC.
21 Q Okay. And you referenced the MS-ISAC, which is the Multi-State
22 Information Sharing and Analysis Center, correct?
23 A Yes.
24 Q And what is the MS-ISAC?
25 A So the MS-ISAC was an ISAC that was established several years ago -- I

1 can't -- I don't recall the year it was established, but managed by CIS, also, as I recall,
2 grant funded by CISA. And it was the same -- you know, this is one where you didn't
3 have to be a State and local -- I'm sorry -- election official. You were any type of State or
4 local IT program out there, and so we worked with all sorts of different agencies up and
5 down from local communities to State-level government agencies.
6 Q And was the purpose of MS-ISAC, again, information sharing?
7 A Information sharing, and also as I mentioned earlier, deploying Albert
8 sensors.
9 Q Was the MS-ISAC under the control of CISA?
10 A No.
11 Q Was the MS-ISAC managed by CISA?
12 A No.
13 Q And who actually managed the MS-ISAC?
14 A The Center for Internet Security.
15 Q Okay. There have been allegations made that, during the 2020 election,
16 CISA, quote, funded and utilized CIS for the purpose of having social media companies
17 moderate content. Have you heard that allegation?
18 A I have seen that allegation, yes.
19 Q Do you believe that's an accurate allegation?
20 A I do not believe that is accurate.
21 Q And what is your response to that allegation?
22 A Again, we were focused on the -- the EI-ISAC aspects, and I'm not aware of
23 any funding that went to anything that would be censoring or monitoring speech around
24 the election.
25 Q And to your knowledge, did CIS direct social media companies to moderate

1 content? I'm sorry. Withdrawing that.

2 Did CIS direct social media companies to moderate content?

3 A I -- I don't know.

4 Q Okay. And you have no knowledge that they did. Is that fair to say?

5 A Not that I'm aware of, no.

6 Q Okay. There have been allegations that, during the 2020 election, the

7 EI-ISAC, quote, facilitated attempts to sensor core political speech. Are you familiar with

8 that allegation?

9 A The EI-ISAC?

10 Q Uh-huh. Are you --

11 A I'm not -- I mean, I'm not sure if I've heard that specific allegation. It

12 sounds a lot like the prior, but I'm not sure I've seen that, but --

13 Q Is it true or accurate that the EI-ISAC facilitated attempts to sensor core

14 political speech?

15 A Not that I'm aware of.

16 Q Do you have a reaction to that allegation?

17 A Certainly not within any of the activities that CISA was working with the

18 EI-ISAC on would that have been anywhere near the mission of the EI-ISAC.

19 Q To the best of your knowledge, during the 2020 election, did the EI-ISAC

20 have employees engaged in monitoring social media for election-related disinformation?

21 A I'm -- I'm not aware of any EI-ISAC employees ever doing that, particularly,

22 again, under any sort of CISA-funded activities.

23 Q To your knowledge, during the 2020 election, did the EI-ISAC monitor social

24 media for election-related disinformation using any other method? So using software,

25 for example.

1 Mr. Walden. If you know.

2 BY [redacted]

3 Q If you know.

4 A I'm not aware of that.

5 Q You're not aware of that happening. Okay.

6 A No. For the record.

7 Q And to your knowledge, during the 2020 election, did the MS-ISAC have

8 employees engaged in monitoring social media for election-related disinformation?

9 A Not to my knowledge.

10 Q Okay. And to your knowledge, during the 2020 election, did the MS-ISAC

11 monitor social media for election-related disinformation using any other method, such as,

12 for example, by using software?

13 A Not that I'm aware of.

14 Q There was some -- actually, I'll withdraw that.

15 I want to return to the discussion about switchboarding that began in the prior

16 hour. Switchboarding at -- do you know who came up with the term "switchboarding"?

17 A I do not know.

18 Q Is it fair to say that what's referred to as switchboarding is actually

19 forwarding emails along?

20 A I think that's an accurate description.

21 Q Okay. So it could've just -- instead of saying, you know, we're -- this is

22 going to be switchboarded, or, we are going to do switchboarding, it could've -- CISA

23 could've just said, we're going to forward emails along, right?

24 A I think that's fair.

25 Q Okay. You, yourself, generally weren't the recipient of emails from State

1 and local election workers regarding disinformation, correct?

2 A That's correct.

3 Q They generally went to people on your team?

4 A That's correct.

5 Q And we actually looked at one of those earlier, right?

6 A Yes.

7 Q Okay. Do you recall if you provided instructions to your team on how they

8 should handle those emails when they received them?

9 A No, I don't believe I was involved in the process or policy development.

10 Q Okay. I want to look at an example. You referenced earlier the secretary

11 of state from Louisiana --

12 A Uh-huh. Yeah.

13 Q -- participating in switchboarding, what's now known as switchboarding, and

14 I want to look at an example of that.

15 A Okay.

16 Q This will be exhibit 13.

17 [Krebs Exhibit No. 13.

18 Was marked for identification.]

19 Mr. Walden. Just noting for the record that, while the witness is reading it, it

20 appears to be an email between September 14th and September 15th of 2020.

21 Mr. Krebs. All right. Okay.

22 BY [redacted]

23 Q So this email originated -- as counsel said, this was originated on Monday,

24 September 14th, 2020, at 10:27:22 p.m. The email address and then the signature -- the

25 name and the signature block are redacted, but it comes from sos.la.gov, correct?

1 A Yes. Yes.

2 Q And so that's the secretary of state for Louisiana, correct?

3 A Yes.

4 Q And the secretary of state was Kyle Ardoin?

5 A Ardoin.

6 Q And Mr. Ardoin is a Republican, correct?

7 A That's correct.

8 Q So we don't have the attachment for this one. It wasn't produced in order,

9 but the forward from Matthew Masterson on September 14th, 2020 at 10:30 p.m., reads,

10 See attached from LA SOS -- the Louisiana secretary of state -- he called and views this as

11 coordinated disinfo campaign. Please pass ASAP to Facebook and FBI as well as other

12 platforms.

13 Do you see where it says that?

14 A I do.

15 Q What's a coordinated disinformation campaign?

16 A A coordinated disinformation campaign implies that there's a threat actor

17 that is leading a information operation across, in some cases, multiple platforms.

18 So it could be, I think, as Scully implies at the top, that it could be happening

19 across Facebook, it could be happening across Twitter, there could be stuff on YouTube.

20 But it tends to be, you know, coordinated in the sense that it's not just hitting one

21 platform, it's hitting multiple platforms.

22 Q And so Mr. Masterson passed this along to Scully. That's Brian Scully,

23 correct?

24 A Yes.

25 Q Okay. And then Mr. Scully sent it along to Twitter, correct?

1 A Uh-huh, yes.

2 Q And the email addresses are redacted, but it's a twitter.com email extension,

3 correct?

4 A Yes.

5 Q And that happened -- so the email came in from Louisiana at 10:27:22 p.m.

6 on September 14th. This was passed along to Facebook -- or I'm sorry -- to Twitter at

7 9:18 a.m. the following morning, correct?

8 A Yes.

9 Q Okay. And I want to look at the disclaimer here, and I want to compare it

10 quickly to -- sorry --

11 A Exhibit 6.

12 Q -- exhibit 6. Thank you.

13 And there's been some discussion about the third paragraph of the banner, as you

14 call it, correct?

15 A Yes.

16 Q And this is an email dated September 15th, 2020, and it does, in fact, include

17 that third paragraph, correct?

18 A Yes.

19 Q And exhibit 6 is dated October 27th, 2020, and it doesn't include the third

20 paragraph, correct?

21 A Correct.

22 Q And so it appears that the third paragraph at least was in existence, it had

23 been written, prior to October 27th, 2020, correct?

24 A Correct.

25 Q And actually I want to look at the language of the disclaimer a little -- or I'm

1 sorry, the banner a little more close --
2 A Disclaimer is fine.
3 Q Okay. I want to look at the language of the banner a little more closely.
4 And first, would you agree that the banner is italicized in exhibit 13, correct?
5 A Yes, it is.
6 Q So it stands out a little bit. Is that fair to say?
7 A It's italicized and it's different -- it distinguishes itself from the other text,
8 yes.
9 Q And in exhibit 6, the font size of the banner is larger than the font size of the
10 body of the message. Is that fair to say?
11 A Yes.
12 Q Okay. So it's also distinguished in that way. Is that fair to say?
13 A Yes.
14 Q Okay. I want to go through -- and you said you were not involved in the
15 drafting of the language for the banner, correct?
16 A Correct.
17 Q But you were aware that the banner existed?
18 A Yes.
19 Q And you were aware that it was regularly being attached to emails being
20 sent to the social media companies, correct?
21 A As a matter of policy, it would've been default included, yes.
22 Q So the very first paragraph reads -- and I'm looking -- sorry, I'm looking at
23 exhibit 13 --
24 A Yeah.
25 Q -- the longer version of the banner.

1 Mr. Walden. I'm sorry. Can we just get our exhibits straight?

2 [redacted] Yeah.

3 Mr. Walden. I apologize. I want to just be able to follow this, because we've

4 got really three exhibits. We've got 6, we've got 13 -- this is 13, right?

5 [redacted] Yeah.

6 Mr. Walden. And then we've got the one that has the additional information,

7 and I didn't write the -- is that 11 or 10? Yeah, 10, exhibit 10.

8 [redacted] That's 10.

9 Mr. Walden. So we actually have, just so the record's clear, in a sense, three

10 different banners, right, because the language of 13 is not the same as exhibit 10 or the

11 portion of 6 that 10 represents.

12 [redacted] Right.

13 Mr. Walden. Okay.

14 [redacted] So we're going to go through them --

15 Mr. Walden. Okay.

16 [redacted] -- and I understand that the language is different.

17 Mr. Walden. Okay.

18 [redacted] But I want to talk about how essentially they're conveying the same

19 message over and over again despite the differences in language.

20 Mr. Walden. Yeah.

21 BY [redacted]

22 Q So looking at exhibit 13, it reads, Neither the U.S. Department of Homeland

23 Security, nor the Department's Countering Foreign Interference, CFI, Task Force is the

24 originator of this information. The CFI Task Force is forwarding this information,

25 unedited, from its originating source. This information has not been originated or

1 generated by DHS or the CFI Task Force. Correct?

2 A Yes.

3 Q And it says, This information may also be shared with law enforcement or

4 intelligence agencies. Correct?

5 A Yes.

6 Q Looking at exhibit 6, it's fundamentally the same message that the entity is

7 not the originator of the information, and the information is being forwarded unedited.

8 It's just the names of who is --

9 A Right.

10 Q -- sending it are different, correct?

11 A Right.

12 Q And the same with, looking at exhibit 10, which is the complete version of

13 the Kentucky email. Again, the information relayed is that CISA is forwarding this

14 information, unedited, from its originated source, and it may be shared with law

15 enforcement or intelligence agencies.

16 So fundamentally it's conveying the same message. It's just the names of the

17 entities involved have changed.

18 A Yes.

19 Q Is that fair to say?

20 A Yes.

21 [2:28 p.m.]

22 BY [redacted]

23 Q Okay.

24 Again, looking at exhibit 13, it says, "DHS affirms that it neither has nor seeks the

25 ability to remove or edit what information is made available on social media platforms,"

1 correct?

2 A Correct.

3 Q And that language says pretty straightforwardly that DHS doesn't have the

4 ability to tell social media companies what to do, correct?

5 A Yes.

6 Q Looking at exhibit 6, it says, "CISA affirms that it neither has nor seeks the

7 ability to remove or edit what information is made available on social media platforms,"

8 correct?

9 A Yes.

10 Q And so it's the same message. It says CISA instead of DHS, correct?

11 A Yes.

12 Q And CISA is an agency of DHS, correct?

13 A Correct.

14 Q And then exhibit 10, again, it says, "CISA affirms that it neither has nor seeks

15 the ability to remove or edit what information is made available on social medial

16 platforms." So fundamentally the same message, correct?

17 A Yes.

18 Q Going back to exhibit 13, the second line, "DHS makes no recommendations

19 about how the information it is sharing should be handled or used by social media

20 companies," correct?

21 A Correct.

22 Q Do you remember, to the extent that you know, what was the purpose of

23 including that line in this banner? What was it trying to convey to social media

24 companies?

25 Mr. Walden. Honestly, I think that he testified previously that he didn't notice it.

1 So are you asking him as he reads the language now why he thinks -- what policy he
2 thinks drove it?
3 [redacted] Yes.
4 Mr. Walden. Okay.
5 Mr. Krebs. So just to be clear, the line that's blank, makes no recommendations
6 about the information it is sharing should be handled or used by social media companies,
7 is that the line we're talking about?
8 BY [redacted]
9 Q Yes.
10 A Are you asking why we would have included that?
11 Q To the best of your knowledge.
12 A Because CISA, CFI TF, DHS, we're not telling them to do anything.
13 Q Thank you.
14 Again, exhibit 6 and exhibit 10, the second line is, "CISA" -- the second line of the
15 second paragraph.
16 Mr. Walden. The second or the third?
17 [redacted] The second.
18 Mr. Walden. Okay.
19 [redacted] Second line of the second paragraph.
20 Mr. Walden. Okay.
21 BY [redacted]
22 Q Is that, "CISA makes no recommendations about how the information it is
23 sharing should be handled or used by social media companies," correct?
24 A Correct.
25 Q Fundamentally the same message. It just says CISA instead of DHS.

1 A Okay, I got it.
2 Q Correct?
3 A Yes. Yes.
4 Q Okay. And in all three of these instances with this banner, DHS and CISA
5 are making it clear to the social medial companies that they are not telling the social
6 media companies what to do, correct?
7 A Correct.
8 Q Okay.
9 And then the third line of that second paragraph reads -- I'm looking at exhibit 13.
10 A Yes.
11 Q It reads, "Additionally, DHS will not take any action, favorable or
12 unfavorable, toward social media companies based on decisions about how or whether to
13 use this information," correct?
14 A Correct.
15 Q So the banner is making it abundantly clear that DHS is not going to take any
16 action against social media companies. It's up to them to do whatever they will with the
17 information. All that DHS is doing is passing it along, right?
18 A Neither carrots nor sticks. That's what that is.
19 Q And then, looking at exhibit 6 and exhibit 10, it reads, "Additionally, CISA will
20 not take any action, favorable or unfavorable, toward social media companies based on
21 decisions about how or whether to use this information," correct?
22 Fundamentally -- sorry.
23 A Yes. Yes. Sorry, yes.
24 Q Fundamentally the same message is being conveyed --
25 A Yes.

1 Q -- across all three versions of this banner, correct?

2 A Yes.

3 Q Okay. And then let's look at that third paragraph. The third paragraph is

4 on exhibit 13 and exhibit 10 but not exhibit 6.

5 The third paragraph says -- and this is exhibit 13 -- it reads, "In the event that the

6 CFI Task Force follows up to request further information, such a request is not a

7 requirement or demand. Responding to this request is voluntary and DHS will not take

8 any action, favorable or unfavorable, based on decisions about whether or not to respond

9 to this follow-up request for information," correct?

10 A Yes.

11 Q And that language is substantially similar in exhibit 10. It just reads CISA

12 instead of the CFI Task Force and DHS, correct?

13 A Yes.

14 Q Okay. So what you just said about the second paragraph, neither carrots

15 nor sticks, that's essentially repeated in the third paragraph, correct?

16 A Yes.

17 Q So the third paragraph adds to the banner, but it doesn't take away from the

18 points already made in the second paragraph, that there will be no action taken against

19 the social media companies, either favorable or unfavorable, based on what they do with

20 the information, correct?

21 A Yes.

22 Q And, again, looking at exhibit 6, you're not on this exhibit. You're not on

23 the email here, correct?

24 A Correct.

25 Q So, for example, you don't know if when Mr. Scully included the banner

here, maybe he copied and pasted the banner and he didn't copy and paste it on that third paragraph for this one instance. Is that possible?

A I don't know. I would hate to speculate on why there's differences across different ones. So I don't know.

Q Right.

Mr. Walden. I'm sorry. I'm going to do the same thing to you that I did to your colleague on the other side of the aisle.

I don't know if you can share this with us, but to the extent that it refreshes Mr. Krebs' information, has there been any reason offered to the committee by Mr. Scully or someone else why there's three different banners in the same period of time?

[redacted] No.

Mr. Walden. Okay.

[redacted] And my point is that the banners --

Mr. Walden. The substance is the same.

[redacted] But you would agree that substantively the banners are substantively similar throughout.

Mr. Walden. Yes, yes. No, no, no. I understand. I'm not trying to make that point. I'm not trying to make that point.

[redacted] And with respect to this one, where the one paragraph was not added, we don't know why it wasn't there. It might have just been a drafting error, correct?

Mr. Walden. I was just asking. I was just asking. Okay.

[redacted] Yeah. So that could have just been a drafting error, correct? Possible. We don't know.

Mr. Krebs. I, again, would hate to speculate on why. I mean, it could be

multiple reasons.

[redacted] We can put those aside.

I think we can go off the record. I think we're good.

[Recess.]

[redacted] Can we go on the record, please.

Counsel.

Mr. Walden. Thank you.

So this is just FYI. Before anyone attributes significance on either side to the differences in the disclaimers, I would suggest that you check the devices on which these emails were sent, because I don't know if you've seen this in other investigations, but sometimes a device will have a footnote specific saved profile. And so if you send from your telephone, it could have a different disclaimer than if you send from your laptop, which could have a different disclaimer than if you send from your mobile device.

And here we have SCIFs that are involved. And depending on which SCIF you're using, there could be a saved profile. That could account for some of this back-and-forth thing between the language.

So I just ask you to look into that before anybody attributes intentionality there, because it may just be sloppiness, because if you don't have a disclaimer editing system built into your agency, you're going to have competing and inconsistent disclaimers.

[redacted] Thank you.

We'll start the --

[redacted] Just to clarify, I don't necessarily think they are inconsistent.

Mr. Walden. Oh, inconsistent in the sense that there is different language.

[redacted] The language may be but not necessarily --

Mr. Walden. Yes. I'm not the witness, so I'm not making points. I'm just

1 making suggestions. Sorry.

2 [redacted] We will start the next hour.

3 I'm planning to introduce exhibit 14.

1

2 [Krebs Exhibit No. 14.

3 Was marked for identification.]

4 Mr. Walden. While the witness is reading, this is a multipage email that has a lot

5 of questions.

6 [redacted] I'm happy to --

7 Mr. Walden. Oh, sure.

8 [redacted] -- represent that Mr. Krebs is not directly on this email chain. There

9 is an email dated March 13th, 2020, which claims to summarize what Mr. Krebs had said

10 during a meeting. Those Bates numbers are 8049 to 8050.

11 We will give you an opportunity to review as long as you'd like, but that's what

12 we'll be asking about.

13 Mr. Walden. I'm sorry. I didn't understand the two different Bates numbers

14 things.

15 So I see that the first email looks like a set of notes from -- dated March 13th.

16 And then there is something also dated March 13th that says "a more complete set of

17 notes."

18 I'm sorry. So there are two sets of notes but we only have one set of the notes?

19 [redacted] Yes. This is the full email chain. The Bates numbers, referring to

20 8049 and 8050, is the part of the email that summarizes Mr. Krebs' comments during the

21 meeting.

22 Mr. Walden. Just to be clear, have you ever seen these notes before?

23 Mr. Krebs. I have never seen these notes before.

24 Mr. Walden. Okay.

25 Mr. Krebs. I recall the call, but the notes, no.

1 Mr. Walden. Okay, thank you.

2 Counsel.

3 BY [redacted]

4 Q Well, that was going to be the first question.

5 You do recall this call?

6 A Yes. I mentioned previously that March 13th, Friday, the 13th, was the last

7 day in operations, which is then I actually mentioned it in the notes, that we did a practice

8 telework trial run.

9 This call I think was -- it was, like I said, the first in a series of calls. I bet if you

10 went and looked, you could -- there would be something on the order of like 6,000 or

11 7,000 people dialed in on this call. This was, as I recall, a pretty significant call from a

12 participation perspective.

13 Q I want to call your attention to about halfway down of 8049. There is your

14 name and title. And then there are some bullet points that start to lay out four core

15 lines of effort.

16 A Yes.

17 Q Do you recall speaking about these four core lines of effort?

18 A I do.

19 Q And then if I can call your attention to the top of 8050, there is a focal point

20 that says "Monitoring Disinformation."

21 Do you recall saying that monitoring disinformation was one of the core lines of

22 effort?

23 A I don't recall if "monitoring disinformation" was a specific word, but that was

24 an area that we were looking at.

25 Q Okay. And can you say more. By "we," you're referring to CISA, yes?

1 A CISA, yes, but I think, more broadly, the government was concerned.
2 And just to put this in context, the disinformation that we were talking about at
3 the time, I have two examples.
4 One is that 5G towers were spreading COVID. That was literally a theme at the
5 time, there is something to do with microwaves and radiation, all that. But that was one
6 of the things.
7 And so, you know, a natural rumor control. And FEMA, by the way, had a
8 COVID-related rumor control at the time or immediately thereafter, and they specifically
9 posted a rumor control on 5G towers do not, in fact, spread COVID.
10 The second example, which I think is probably a little bit more problematic than
11 what's obviously crazy, but this second one, which you might recall if you all were in the
12 D.C. area, is that there were text chains going around at the time that the Reserves, the
13 National Guard, was about to come in and federalize Washington, D.C., lock down New
14 York City. Those were the sorts of threats.
15 And that's why when you see in these notes that, hey, your best source of
16 information remains your State and local officials, that was the disinformation we were
17 concerned on in the pivot to don't listen to the people on text chains.
18 And there was some -- there was, as I recall, some sourcing of those efforts to
19 Chinese-based actors that were spreading those domestically.
20 So that's the disinformation that we were talking about.
21 Q Okay. Can you say more about during this time what was CISA considering
22 regarding how to monitor disinformation?
23 A I mean, I think we have it in -- I think it's in here, and I think at the time we
24 had a button on the CISA web page, but it's if you see anything that you have questions
25 about or concerned about, send it to us, report it to us.

1 But there are no -- there were no, at least that I was aware of, any sort of social
2 media monitoring tools deployed within CISA or maintained or managed by CISA.
3 Q Were there any tools that were under consideration?
4 A At that time, I don't believe so, no.
5 Q At any time during your tenure at CISA?
6 A Not that I had initiated. I am aware of reports previously that a data miner
7 may have been considered but before my time.
8 Q Do you know who was considering that?
9 A No, I don't recall.
10 Just to clarify, that CISA has a set of authorities we talked about. There are other
11 parts of the Department that have authorities. CBP and ICE have authorities that they
12 use. DHS I&A have authorities that they use. I don't -- I can't speak to those
13 authorities, and they may have actually deployed stuff. I don't know. I'm just telling
14 you about CISA and NPPD, which substantially similar authorities.
15 Q How did CISA become aware of disinformation being spread on text chains?
16 A Those, you know, I can't tell you the kind of first specific notification that
17 came in. I think some of our field agents, field -- like, I'm going to give you an example
18 of how that may have come in, and it would be a protected security adviser that is
19 working with the State or local official may have gotten a question: Hey, we're hearing
20 this. What do you guys know about it?
21 Or, for example, in these calls, somebody could ask: Hey, I got a text or I got
22 something like that.
23 And so, again, these calls were intended to both raise awareness, as well as
24 identify issues and concerns that our stakeholders were seeing.
25 And so it could come in, again, through a call like this: Hey, I heard about this

1 thing. What do you know? I don't know. We'll chase it down. We'll get back to
2 you.
3 And subsequent, we would take, if we couldn't answer a question, we would ask
4 that person to send us an email. And then we'd either respond directly or, you know,
5 say: Hey, somebody asked a question on the last call. Here's the answer as we
6 understand it on the second call.
7 We did these calls, I don't recall if it was twice a week or once a week, but these
8 became part of a regular cadence from which we got overwhelmingly positive feedback
9 from our partners that: Hey, these are really helpful to help us understand what the
10 government is doing beyond the regular kind of White House press. This is really
11 directed at critical infrastructure stakeholders.
12 Q Were there any efforts in 2020 to try to monitor or assess disinformation
13 that's being spread on text chains?
14 A We wouldn't have had a capability to do that. So I don't believe so, no.
15 Q Again, regarding any tools or techniques that you are aware of that were
16 being discussed in 2020, were you aware of any tools or techniques, not necessarily just
17 CISA, but any entity within DHS to monitor disinformation?
18 A I don't recall any specific examples, and particularly in 2020. Again,
19 not -- certainly not within CISA, as I recall. Elsewhere, I don't know.
20 Q We touched upon this at the end of our previous hour --
21 Mr. Walden. Are you done with this exhibit?
22 [redacted] I going to ask the next last question.
23 Mr. Walden. Oh, okay.
24 [redacted] I have a question.
25 [redacted] Sure.

1 BY [redacted]

2 Q Generally speaking, what kinds of stakeholders were on this particular call?
3 What was the general audience being addressed with these comments?

4 A Yeah. No, that's a great question, particularly if we're talking like 6.000
5 people.

6 It was a mix of State and local election officials, State and local government
7 officials, college and university, like business continuity managers, executives from power
8 companies and healthcare, hospitals. I mean, you name the 16 sectors and we tended
9 to have representation across all those sectors.

10 This -- these -- the invitations to these calls went out through kind of a number of
11 different mailing lists. One of them would have been like the Sector Coordinating
12 Council mailing list, boom, that goes out.

13 It could have gone throughout, like, the US-CERT alert list. So sign up for that
14 and every time there is a cyber threat, you get -- or cyber alert -- you get that.

15 So, I mean, these went out. I mean, we had -- you know, it's a good problem to
16 have, but so many people want to get on these calls that the bridge crashed the first time
17 because we only had, like, 3,000 tickets, or whatever, sign-ins. And literally demand -- I
18 think we had one call that was like close to 10,000 people.

19 Now, I mean, like reporters would jump on and dig in. But it was a -- again, these
20 were, I think, fairly successful calls in terms of getting information out there, and just
21 like -- I'll stop.

22 But there's one -- kind of like my -- one of my favorite parts of these calls was
23 this -- so this is the 13th, again. That weekend the world changed, but for the preceding
24 2 or 3 weeks we would have -- even 3 to 4 weeks, when everybody kind of saw the cases
25 ticking up, some of the executives and officials would keep asking the question of CDC

1 like: Hey, guys, when are we going to know when we need to switch to work from home
2 and like get out of the offices?
3 And, you know, the CDC would give these answers like: Well, it's not a switch.
4 It's not a trigger. It's more of a dial. You'll kind of get through it.
5 No. Boom. March 14th, 15th, when the schools in the D.C. area sent the kids
6 home for like early spring break for 2 weeks, that was it. You know, you lost daycare.
7 You had to be home to manage the kids. That was the trigger and, boom, everything
8 from there changed.
9 So it was just -- it was interesting being able to kind of see some of these things
10 coming and see it happen in real time that, you know, just those little stories of the early
11 days of COVID.
12 Sorry for --
13 Q And do you agree with the characterization in these notes that in the context
14 of the discussion about monitoring disinformation, you said that the best source of
15 information is always your State and local officials?
16 A That is -- yes, that was one of our -- my principles, I guess, is one way to put
17 it.
18 Q And are the State and local officials you're referring to here, would that be
19 election officials or just generally?
20 A No, again, because this is a broader call, it would have been State and local,
21 like health officials mainly.
22 Q So, for example, one of the concerning narratives that you mentioned was
23 text chains that the National Guard was going to federalize D.C. or lock down New York.
24 In that case, how would the State and local election officials be the best source of
25 information?

A So specific to that, the National Guard is under the command of the governor. So the Guard would have been deployed at the behest of the governor. So if the governor, if Governor Cuomo at the time was going to lock down New York City, you probably would have heard that from him first rather than them just rolling out and blocking the Holland Tunnel. But those are the sorts of examples.

Again, it's like don't believe everything you hear on Twitter or get in a text chain. Go seek an authoritative source of information to confirm that information.

Q And you mentioned that on calls like this and others State and local officials would often have questions for CISA. Is that right?

A Well, State and locals, but private sector, academia, yes.

[redacted] So setting aside whether CISA was trying to develop any tools or techniques regarding monitoring disinformation, during 2020 did CISA work with any third parties where the third party was monitoring disinformation?

Mr. Walden. Monitoring through some sort of mining tool you mean? Because that's what you were asking about before. You mean like just monitoring --

[redacted] Any sort of monitoring. It does not have to be specific to that tool.

Mr. Walden. [redacted] that's an impossible question. I monitor social media for misinformation. So, I mean, you're saying -- you must be saying something more official than the way I'm understanding the question.

Unless you just understand him better than I do.

Mr. Krebs. No. I mean, what are we -- I guess what I'm trying to get at here is, like, are you talking about do we have a contractor, like a --

BY [redacted]

Q No, no.

So you testified that CISA is not monitoring disinformation.

1 A Correct.

2 Q Is that right?

3 And there are third-party groups, there are researchers that we've discussed who

4 monitor, who research disinformation online.

5 I'm asking, during 2020, was CISA working with any third party where the third

6 party was monitoring disinformation?

7 A I don't believe -- I certainly don't recall tasking anybody. I mean, I think the

8 definition -- like, the definition of working here.

9 So did third parties send us disinformation that they had seen? I assume so.

10 Did we tell anybody to do this work for us? Not to my recollection.

11 Q Okay. And maybe not tell or instruct, but did CISA request information

12 from any third party that was monitoring disinformation?

13 A I don't recall any specific CISA mandate to go request information. Might

14 somebody -- I mean, we just saw it in an email from Brian Scully.

15 Mr. Walden. Yeah, can I just stop you for a second?

16 Because, [redacted] look at me. I'll really having an honest disagreement -- not

17 disagreement, misunderstanding of what you're getting at.

18 CISA was -- he never said that CISA wasn't monitoring misinformation in the sense

19 that they were in communication with State and local officials, and they were getting

20 information from those officials about misinformation at the local level.

21 So in that way, you could call that monitoring in the sense that there was an

22 ongoing conversation with State and local election officials about misinformation that

23 they were seeing.

24 So I'm taking what you were asking about before [redacted] cut in with his questions

25 about tools to monitor, as opposed to like informal discussions, what people say, I'm

seeing text chains with the National Guard closing down New York, or I'm seeing Hammer and Scorecard -- evidence of Hammer and Scorecard, whatever.

Do you understand the difference and why I don't understand your question?

[redacted] I'm not sure what part you don't understand. State and local officials --

Mr. Walden. Differentiate tools to mine from just having conversations with people about misinformation they're seeing.

[redacted] Okay. Regardless of whether the third party is using a particular tool or it's just, I don't know, if the researchers -- setting aside whatever tools or techniques they may or may not be using, the question is: Which third parties are in contact with CISA when the third party is monitoring disinformation?

Yes, State and local officials we talked about. We talked about switchboarding. I'm asking about, generally speaking, which third parties were in contact with CISA.

Mr. Walden. Okay. I need a minute with Mr. Krebs. We'll be right back. Can we go off the record, please?

[Recess.]

[redacted] Can we go back on the record?

BY [redacted]

Q Would you like me to repeat the question?

A Yes, please. Thank you.

Q Okay. During 2020, was CISA receiving information from third parties that were monitoring disinformation?

A So, okay, thank you for clarifying that, the working vice receiving.

There were a bunch of organizations out there that were studying disinformation. They would issue reports, and they'd share the reports with us.

1 Q Was CISA ever requesting information from third parties that monitor
2 disinformation?
3 A Whether we request -- I don't recall requesting specific information. But,
4 again, they would send us reports. Groups would send us reports and we'd look at it.
5 Q So setting aside sending the report, two things that aren't captured by that
6 answer.
7 So, first, is CISA, to your recollection, during 2020, ever making the request to the
8 third party where the third party is monitoring disinformation?
9 A I think -- I don't -- I don't know specifically if CISA, anyone down at CISA -- I
10 mean, this could be as simple as going to a website and signing up, subscribing to a
11 newsletter, effectively, when you issue your weekly or quarterly reports, please send one
12 to me.
13 That's possible that happened. And sometimes when these reports come out,
14 they also send them to people that they have emails for and say: Hey, let's take a look
15 at this.
16 Q Did CISA receive information from third parties that were monitoring
17 disinformation where the information was not a public report?
18 Mr. Walden. Can you please be a little bit more specific? I feel like you're
19 playing this guessing game where you know something and you're trying to figure out
20 whether he's going to be honest with you.
21 [redacted] Okay. No, you've made multiple accusations. That's not fair.
22 Mr. Walden. I'm not -- it's not -- [redacted] it's not an accusation.
23 [redacted] The question is broadly asked. You've provided very specific
24 examples in response. So you said, for example, that public reports would be provided
25 to CISA personnel. But the question is about information from third parties that are

1 monitoring disinformation.

2 So the most recent question is: Was CISA receiving information from third

3 parties that monitor disinformation where the information is not a public report, it's not a

4 newsletter, it is something that the third party knows privately?

5 Mr. Krebs. No, I get the question. And what I'm telling you is I'm telling you

6 what I'm aware of. I'm aware that we received the regular reporting, the publicly

7 available reporting from the EIP, for instance, the Election Integrity Partnership. They

8 would send those out. We were on the mailing list and the distro list.

9 Am I aware of any specific, discrete, you know, one-to-one contacts with CISA with

10 me or with someone else? I don't recall that. But there were a lot of people that were

11 monitoring, even at the platform level.

12 So, again, Facebook would issue their coordinated information -- coordinated

13 inauthentic behavior reports. They send those out. They would send them to us.

14 That's how I recall the workflow.

15 [redacted] Do you recall any internal CISA discussions regarding what types of

16 information CISA could solicit with respect to third parties that were monitoring

17 disinformation?

18 Mr. Walden. Did you understand that question?

19 Can you read back that question, please?

20 [redacted] No. The court reporter's equipment doesn't allow them to read back

21 quickly.

22 Mr. Walden. Oh, oh, oh.

23 Can you say it again, please?

24 [redacted] Yes.

25 Mr. Walden. Thanks.

1 [redacted] Do you recall any internal CISA discussions regarding whether CISA
2 could solicit information from third parties that were monitoring disinformation?
3 Mr. Walden. Okay, [redacted] that is such -- listen, you're an amazing questioner, but
4 that was not your high point.
5 Is he aware of internal discussions where the topic of the discussion was whether
6 or not there was legal authority for CISA to ask third parties for information about
7 disinformation?
8 Is that another way of saying: Were you aware of whether there were legal
9 limits on your ability to ask for information on disinformation?
10 [redacted] That would be part of it. It's not limited to that.
11 Mr. Walden. Okay. But do you see that there is a good faith lack of
12 understanding here like exactly what you're questioning? Because we want to answer
13 the question. So can we start there? Can we start there?
14 [redacted] No, I think the question was plainly asked, and I'm going to ask it
15 again, which is do you -- asking a witness whether he recalls discussions of a particular
16 topic is completely reasonable and it's completely par for the course with witnesses.
17 Mr. Walden. It was not -- that was not the problem I had with your question, but
18 I'm getting the sense that you're getting impatient with me and you don't want to
19 understand the legitimate question I have about what you're seeking.
20 Is what you're seeking legal advice that he got about whether, no, we can't get
21 this report because there is a legal limit on it?
22 Your question does not -- it does not give any parameters on exactly what you're
23 seeking?
24 [redacted] Either the witness recalls discussions or he doesn't. If there are legal
25 privileges you want to claim, then he can do so. But even the question itself wouldn't

implicate. He can say yes or no whether these discussions occurred.

Mr. Walden. And with most of these things he's probably going to say: I don't remember. That's not the problem I have.

[redacted] Well, you haven't given him an opportunity to even respond.

Mr. Walden. [redacted] I really -- we have not had protracted -- we've had a couple protracted moments. This is one of them. I'd like to get through it because I'd like to get you an answer to your questions.

So are you saying legal limitations, technological limitations, like any limitations on their ability to get information from third parties about disinformation?

[redacted] It does not have to be restricted to limitations.

Mr. Walden. That's what you're --

[redacted] Regarding CISA, anything regarding CISA's solicitation of information from third parties monitoring disinformation. It could be legal. It could be practical. It could be technological.

Do you recall any discussions? Yes or no?

Mr. Krebs. Look, so you have an exhibit that has Brian Scully asking Facebook whether they're seeing something that was also reported to Twitter. So clearly we have at least one example of someone asking: Hey, are you seeing this? But that's to a platform.

Do I remember or recall any other conversations about, you know, what the go and no-go zones were? No, I don't recall that. That doesn't necessary happen at my level.

[3:15 p.m.]

BY [redacted]

Q Do you recall any discussions taking place or were you aware of any discussions taking place about the go versus no-go zones, to use your terminology?

A So do I recall any conversations? No, I don't. If you have something, an email or something you want to share to refresh, fine.

The second part, was I aware of conversations? I was aware of general conversations about the approach we were taking to ensure that we were protecting the First Amendment-protected speech of Americans.

Q Okay. And other than legal counsel, who at CISA was partaking in these conversations?

A Those conversations would have been an ESI-plus-legal counsel conversation. So a Matt Masterson and a Geoff Hale conversation.

Q Okay. And to your understanding, they were having conversations regarding interactions with third parties that were monitoring --

A I did not say that.

Q I know you didn't. I'm asking.

A I did not say that.

Q Did you -- do you have --

Mr. Walden. He's talking -- listen, [redacted] he's talking about the disclaimer. You know it. I know it. Everyone in the room knows it. Okay? So don't say that you're asking a different question. He's answering the question on how did you protect, and it was the question on the disclaimer.

[redacted] The question was not about the disclaimer.

Mr. Walden. Well, that's the question he was answering. He just told you that

he didn't remember --

[redacted] I don't think that's -- were you referring to the disclaimer?

Mr. Walden. Give me a second, please.

[redacted] I don't think so.

Mr. Walden. Excuse me. I'm talking to you.

You're asking for conversations about limitations --

[redacted] That's not right.

Mr. Walden. -- conversations about limitations on their ability to collect information from third parties, right? He's answered that question numerous times, saying he doesn't remember those conversations.

He then said: I do remember conversations about the way to protect people's liberties, and that was by not coercing them, which is the disclaimer. That's what he was answering.

What are you asking about -- him about now? Was there some conversation that he had with someone where it said: Hey, boss, we can't ask for information in this way. If so, then ask him the question.

Did anyone tell you, you weren't allowed to get information in certain ways from third parties, as far as you recall?

Mr. Krebs. I'm not aware of conversations around whether they could go task EIP, for instance, to go monitor and collect information and send it back for their own purposes.

BY [redacted]

Q You're not aware?

A I'm not aware.

Q Okay. Not limited to EIP, any third party?

A I was giving you an example.

Q Sure.

A Yeah. Again, like to the point, like, I'm trying to be helpful. I know you're probably going to ask about EIP and all that at some point in greater depth. I mean, let's cut to the point here. I'm giving you an example.

And I'm not aware of any tasking or even asking whether we could task the EIP. Might a staff member have asked that question of legal counsel? Maybe, but I don't know. I'm just not privy to those conversations.

[Krebs Exhibit No. 15.

Was marked for identification.]

[redacted] This will be exhibit 15.

Mr. Walden. While he's reading the email, let the record reflect it's a two-page email, starting on November 4th and ending on November 4th of 2020, between Bret Schafer and Robert Schaul.

You ready?

Mr. Krebs. Yeah.

Mr. Walden. Shoot.

BY [redacted]

Q Do you know who Robert Schaul is, if I'm saying his last name right?

A Yeah. That last name is right, yeah. And I don't recall if he goes by -- yeah, he goes by Rob or Bob. Rob. Yeah.

Q And who is he?

A He was a part of the -- well, he's a lawyer for one, but also part of the Countering Foreign Influence Task Force. So, as I recall, he's a member of that team that was working on disinformation issues.

1 Q And during 2020, how frequently were you interacting with Rob?

2 A Again, as I mentioned earlier, my main interactions were with Masterson

3 and Geoff Hale. I don't really remember how often I met with Schaul.

4 Q Less frequently than with Mr. Masterson?

5 A Yes, I'd say so.

6 Q Are you familiar with the Alliance for Securing Democracy?

7 A I've heard of them. And I don't know who -- I don't recall who supports

8 them, whatever.

9 Q Were you familiar or were you aware that members of CISA were

10 communicating with the Alliance for Securing Democracy?

11 A As I -- to your point about, like, who are they, are these the guys that were

12 Atlantic Council?

13 Q That's DFRLab.

14 A Okay. Sorry.

15 Q They're within the German Marshall Fund.

16 A These guys are German Marshall Fund?

17 Was I aware that they were talking to them? I don't think I was -- I don't know if

18 I was directly aware, but it would make sense that they would talk to people.

19 Q On the back page, Rob says he wants to know if there's "anything of

20 particular concern that might be worth elevating to Director Krebs."

21 When it came to various narratives -- the date of this email is November 4th,

22 2020 -- was the Countering Foreign Influence Task Force elevating particular narratives up

23 to -- for your awareness?

24 A So just kind of like, again, context, people include lines like that to get a

25 response. They use the principal's name to elicit a response sometimes.

1 Was I aware? Again, this was November 4th, so the day -- this is Wednesday.
2 We're in the thick of it. I think there was a general tracking of themes popping up
3 because that's, in part, how we informed the rumor control, how we -- if we needed to
4 create a specific entry or repurpose a specific entry for rumor control, edit, revise,
5 whatever.
6 So how those came up to me, I don't recall. But usually the team would say:
7 Hey, this is trending. Do we have an entry that could address that?
8 Q So in early November 2020, who at CISA is responsible for maintaining this
9 internal awareness of that you referenced --
10 A Again, it was -- the day-to-day job of the Election Security Initiative was
11 Masterson and Hale, and that was their full-time job.
12 Q There's a back-and-forth that you've had a moment to review. There's an
13 email from Rob where he says, "Mail-fraud disinfo is in-bounds for us this time, domestic
14 or foreign."
15 First, is that line consistent with your understanding of what CISA was engaging in,
16 in November of 2020?
17 A Yeah. And I can point back to a prior exhibit that talks about the
18 documentation that was on rumor control that talked about the Federal voter absentee
19 ballot program. That is a mail-in fraud claim that was being boosted by the Iranian
20 intelligence services.
21 So when it comes and punches you in the face, you don't know if it's domestic or
22 foreign. And the way we address these things, again, is just through publicly posting
23 factual information that links to authoritative sources -- again, starting with statute, going
24 down to third parties that provide that information.
25 Q Was there an effort during this time to try to determine if the source was

1 domestic or foreign?

2 Mr. Walden. Is that limited to the CISA or throughout the Federal Government?

3 [redacted] CISA.

4 Mr. Walden. Oh, okay.

5 Mr. Krebs. So we certainly would look to the intelligence community if they

6 made a determination on foreign threat actor intelligence.

7 But, again, as these things pop up, things like Hammer and Scorecard, it doesn't

8 necessarily matter whether it's foreign or domestic.

9 Again, our authorities are rooted in the Homeland Security Act, which enables us

10 to act on domestic or foreign threats. And, again, they don't come waving a flag.

11 But our response here -- and perhaps "Countering Foreign Influence" is a

12 misnomer, because we didn't have necessarily active authorities. Our role was rumor

13 control. Government has a First Amendment right to speech as well, and that was our

14 way of exercising that, of posting on rumor control: We're seeing this theme, here's the

15 rumor, here's the reality, here's the useful context, here are the authorities.

16 [redacted] You mentioned that the "Countering Foreign Influence" might be a

17 misnomer. Are you aware that the team was renamed the Mis-, Dis-, and

18 Malinformation, the MDM team, later?

19 Mr. Walden. You mean after he left?

20 [redacted] Yes.

21 Mr. Krebs. I had heard that.

22 BY [redacted]

23 Q Were there any discussions that took place about renaming the team prior

24 to your departure from CISA?

25 A Sorry for laughing. It's just that things -- we were not worried about labels

at the time I was still on the job, from the election through the time I was terminated, that we weren't moving deck chairs around the Titanic here. We were focused on mission, and changing names was the last thing that I was worried about at the time.

Q So you don't recall any discussions?

A I don't recall any discussions.

Q Rob's email -- again, in the middle of the page -- he says, "Mail-fraud disinfo is in-bounds for us this time," which seems to suggest that either it wasn't, that it perhaps wasn't earlier.

To your understanding, was there a change in what CISA considered to be within the scope of its authority?

A Look, that's Rob's email. You could ask him why he put that in there. I don't know.

No, I don't recall any shift of perspective.

Q At any point during your tenure at CISA?

A Not that I recall, no.

BY [redacted]

Q You said that CISA was conducting a general tracking of themes for rumor control. Was that general tracking based exclusively on external reports or was part of that internal detection by CISA officials?

A Sorry. What do you mean by internal detection?

Q As in they would be monitoring social media, not necessarily using a tool, but they themselves would go on social media to try to identify particular narratives.

A Look, I think that internal, as you put it, internal monitoring could manifest in a bunch of different ways.

One of them is you have a TV on and you see someone that's at a podium talking

about Hammer and Scorecard or Hugo Chavez flipping votes. And I think that is entirely in-bounds. I see something with my own eyes. I'm not excluded from being part of a reporting process.

And so if it was media, if I would see something on a social media platform, I could -- we could send that over.

I would get requests like that. I mean, I mentioned in my opening the White House would send us stuff. I would have notes from Acting Secretary Wolf that would say: Hey, what is this? What can you guys do? And if you dig into it and, okay, this is pretty pervasive, so let's put up a rumor control entry.

Q So it would be accurate to say that some part of that general tracking of themes that you mentioned was internal detection by CISA officials?

Mr. Walden. No, I'm sorry. You're completely misstating his testimony.

[redacted] That was a question. That was a question. I wasn't --

Mr. Krebs. Was there a systematic internal monitoring function? Not that I recall.

[redacted] The question was, was any part of that general tracking of themes the result of internal detection, which can include things like watching a TV or monitoring social media?

Mr. Walden. [redacted] you're asking if he's sitting at someone's cubicle looking to see if they checked Facebook and saw something pop up? Come on. That question -- what are you asking him?

[redacted] Is there anybody --

Mr. Walden. How is he supposed to know, if somebody floated something up, whether they happened to see it on Twitter?

[redacted] Well, there had been previous testimony about the basis for

1 CISA's actions being external reports exclusively and that CISA was not conducting
2 monitoring of disinformation by itself. So I was trying to clarify --
3 Mr. Walden. CISA the agency --
4 [redacted] I was attempting to clarify.
5 Mr. Walden. CISA the agency had no policy of monitoring. Now you're asking
6 him whether or not anything that was given to him was the product of somebody else's
7 monitoring. And all I'm saying to you is, how the hell is he supposed to know that?
8 [redacted] If the witness doesn't know then the witness can say so.
9 Mr. Krebs. So in external reporting, can you point back to where I said that just
10 for clarification.
11 [redacted] I believe earlier there was some testimony about CISA not having
12 a policy of monitoring disinformation by themselves. And so I was attempting --
13 Mr. Krebs. Right.
14 [redacted] -- to clarify whether that was a total blanket ban on internal
15 detection by CISA or that some part of the general tracking of themes that you have
16 testified about previously was the result of CISA officials going on social media and
17 identifying narratives themselves.
18 Mr. Krebs. Yeah. No, I hear you.
19 So particularly when it comes to switchboarding, that was third-party reporting.
20 When it comes to just general awareness, there are multiple ways of things coming in.
21 One is the reports from Securing Democracy or whatever.
22 And, again, like, there were ad hoc inputs to awareness, but there was no
23 systematic tracking process. We didn't have somebody, for instance, literally sitting
24 there 8 hours a day looking at the TV or on Twitter 8 hours a day. So that -- it was,
25 again, as I mentioned, ad hoc, as I recall.

1 BY [redacted]

2 Q Regarding the Countering Foreign Influence Task Force and its chosen name
3 and purpose, we've gone over a series of questions. And you provided your testimony
4 about how CISA's focus was on rumor control and during one of your answers said it
5 doesn't matter if it's domestic or foreign, ultimately, the focus is on what's being said.
6 Do you recall any discussions about -- with individuals involved in the task force or
7 on the task force -- about what the mission of the Countering Foreign Influence Task
8 Force should be?
9 A Do you have a time period?
10 Q During your tenure at CISA.
11 A During my tenure?
12 Q Yes.
13 A On the focus, the remit of the group?
14 Q Yes.
15 A I don't recall. Certainly not from me pointing down and saying: This is
16 what our focus is. Again, the part of setting up the CFI Task Force under legal was to
17 give us bounds of operation, as Jim mentioned earlier, just parameters, what are the
18 parameters.
19 And so those parameters would have been set through the legal review and
20 establishment of the task force and then subsequently -- subsequent, rather -- playbook
21 for how that was going to work.
22 Q To your understanding, for the parameters, the bounds that were set, were
23 they different depending on if the actor was domestic or foreign?
24 A I don't recall.
25 Q Do you recall any discussions on that topic?

1 A I don't recall. I mean, if there's a policy somewhere you can show me.
2 But I don't recall what the rules of the road were.
3 Q Do you recall anyone within CISA raising a concern that the parameters
4 should be different for domestic actors than for foreign actors?
5 A I don't recall anyone -- you know, I don't recall any specific conversation
6 around that.
7 But, again, I go back to the FEMA example and the FEMA rumor control. That's a
8 domestic activity typically, and that's what they use their rumor control for.
9 Again, our approach was to identify a narrative or a theme and then release how
10 things work, context, authorities.
11 Q I understand. But FEMA you've brought up a couple times. That's
12 obviously dealing with natural disasters, whatever it might be.
13 Take this as one example. Mail-fraud disinformation, right, that's a mode of
14 voting. That is a political issue.
15 Did anyone within CISA ever raise a concern to you about whether the parameters
16 as it relates to domestic actors were appropriate?
17 A I'm not sure I agree with your distinction with FEMA and their mission being
18 disasters being any different. When we talk about, again, mail-fraud disinfo in the
19 context of the Iranian Federal Voting Assistance Program, efforts like that, that's clearly
20 within bounds. It's mail-in fraud.
21 And per the content and context of that, that would have been consistent with my
22 understanding of how CISA was able to operate or was operating at the time.
23 Q You've pointed to the Iran example multiple times now, but that is a foreign
24 actor. So I guess what the question is trying to get at is --
25 Mr. Walden. Pretending to be the Proud Boys. Under your -- the implicit

1 meaning of your questions, the minute CISA sees Proud Boys, they should stand down
2 because it's a domestic actor. Only once the agencies go beyond that do they figure out
3 that it's Iran.
4 Now, in this case it happened within whatever it was, 48 hours. But oftentimes
5 it takes longer than that. So the whole point of --
6 BY [redacted]
7 Q Are you familiar with the term "attribution" in this context?
8 A Yes.
9 Q Okay. In instances where the government has conducted some sort of
10 assessment and has made the determination that they can attribute it to a domestic
11 actor, does -- do the parameters that we've been discussing, do they change for CISA at
12 that point?
13 A Look, I think if there's a narrative or a theme or an allegation out there that
14 misrepresents the electoral process, the infrastructure side, then it is in-bounds to
15 provide clarifying information on how things work. Sharpie-gate in Arizona is a great
16 example.
17 Q And, again, I'm not trying to needlessly play semantics here. Your answer is
18 about what CISA could do. So, again, I want to ask, again, a very simple question.
19 As far as what CISA could do when it is ultimately -- when an assessment has been
20 conducted, it's been determined that it can be attributed to a foreign actor, the
21 authorities, what CISA has available to it, is it your understanding, if the attribution is it's a
22 domestic actor, do the authority, what CISA has available to do, is it any different?
23 A Or a lack of attribution. There's a third option here.
24 Q Okay, or a third option.
25 A If there is no attribution. And it could be foreign, it could be domestic, it

1 could be both.

2 Q Yes.

3 A And that, as we see, it doesn't matter. Again, we could use Sharpie-gate as

4 an example. Sharpie-gate in Arizona, are you familiar with that?

5 Q I'm familiar, yes.

6 A Right. And as we engaged with the election officials and they explained:

7 Here's how the bleed-through on the Sharpie, on the bubble doesn't matter on the other

8 side because there's no scannable or readable content or space on the other side of the

9 ballot.

10 And yet, what they are doing is telling -- the people that are spreading this are

11 saying: Bring in a ballpoint pen. A ballpoint pen doesn't bleed through. Fine, but it

12 also leaves residue on the scanner, which creates malfunctions on the tabulation or

13 tallying of the votes.

14 What do we do? We identify the issue. We break it down. We point them to

15 the secretary of state or the recorder's office in Arizona and provide clarifying

16 information. They can go search for themselves.

17 We don't know necessarily who did it, whether it was domestic or foreign. So

18 we're in the ambiguous phase. But on what we've done there, particularly in light of

19 legal counsel, that was within our authorities and ability to do it.

20 Q Okay. And I guess my question is, yes, understanding that in this case it's

21 either domestic or we don't know, if it had been attributed to a foreign actor, were there

22 steps or authorities that CISA had that it wouldn't have absent that attribution?

23 A I mean, [redacted] I just got to say, I'm kind of losing the plot here. Is there a

24 more specific point you want to make here? Because I want to -- I do want to answer

25 the question, but I think I've made clear several times now that whether it was foreign or

1 it was domestic, from a rumor control perspective it doesn't matter.

2 Our authorities, CISA's authorities are domestic and they are foreign. We

3 protect against -- the same thing goes for Moore County and the energy grid last

4 December. Domestic shooter. We can work with the energy company on addressing

5 the risks to the critical infrastructure. It's the same set of authorities.

6 Q Okay. The question, just so we're on the same page, you're testifying

7 there's no difference between what CISA's authority would be, regardless if it's a foreign

8 or domestic actor?

9 Mr. Walden. [redacted] he's answered that question like ten times. But by you

10 continually asking it, here's the thing that I just -- like, I don't want to see ghosts where

11 there are none, but you're implying that there are authorities.

12 And you have to have a good faith -- as counselor, as a lawyer, you have to have a

13 good faith basis for your question.

14 So I'm going to ask you -- hold on -- I'm going to ask you very clearly, what is the

15 committee's good faith basis for asking whether -- repeatedly -- whether there are

16 authorities that constrain what he --

17 [redacted] Yes, the First Amendment.

18 Mr. Walden. Other than the First Amendment. That deals with coercion and

19 intimidation or favoritism. It doesn't deal with rumor control. The Federal

20 Government has a First Amendment right as well, as you well know. Your committee

21 has used it.

22 So I'm going to take that as a concession that there is no difference in authorities

23 other than the First Amendment.

24 [redacted] There is no concession whatsoever, and this exhibit shows that third

25 parties who were engaging with CISA in 2020 -- I will read it for the record: "Obviously,

1 what we're seeing domestically, particularly around mail-in fraud, is very concerning, but I
2 know that's outside your purview."
3 Mr. Walden. That's some third party's belief as to what the remit of a Federal
4 agency is. And the last time I checked, a private citizen doesn't get to tell a Federal
5 agency what the remit is.
6 I don't know what those people were talking about in an email, but what I do
7 know is that there is no authoritative difference between the way CISA can act with
8 respect to a domestically initiated rumor that deals with infrastructure versus a foreign
9 one. And I'm asking you whether or not you're aware of any authority that suggests
10 that I'm wrong.
11 [redacted] Yes. The First Amendment applies differently to domestic actors
12 than to foreign actors.
13 Mr. Walden. That's actually not completely true, but not in a way that we have
14 to debate right now. But happy to have that conversation with you off the record.
15 I'm talking about authorities other than the First Amendment. I have a reason to
16 ask you whether there are authorities other than the First Amendment that would lead
17 one to believe CISA had constraints on dealing with domestic misinformation or
18 disinformation other than the First Amendment, which we both know doesn't apply to
19 the way they deal with it as long as it's not coercion or favoritism. You're not giving me
20 an answer, so the record should be clear on that.
21 BY [redacted]
22 Q When did you first become aware of the idea for EIP?
23 A EIP?
24 Q Yes.
25 A Probably when I first -- when I saw one of its first reports or one of

1 the -- they would issue on Twitter like a, "Hey, we're seeing this thing."

2 Q Okay. You don't recall any discussions with Alex Stamos in the summer of

3 2020?

4 A I don't recall any conversations with Alex.

5 Q Not just the 2020. In the lead-up to the 2020 election, did you have any

6 conversations with Mr. Stamos regarding EIP?

7 A Not that I recall, no.

8 Q Were you aware that members of CISA were having discussions with

9 Mr. Stamos and others at EIP?

10 A Are we talking about interns or are we talking about Federal employees?

11 Q Federal employees.

12 A No, I was not aware.

13 Q You were not aware that Matt Masterson was having conversations with

14 EIP?

15 A Conversations about what? Well, you know what, let me just nip this in the

16 bud. No, I don't recall that.

17 Q Had you worked with Mr. Stamos prior to your tenure at CISA?

18 A So Alex is a recognized member of the cybersecurity community. Had I

19 bumped into him when I was at Microsoft? Probably. But not sure we did anything

20 notable from "working" together, as you put it. I was using air quotes around

21 "working."

22 Q Okay. How well did you know Mr. Stamos by the summer of 2020?

23 A I mean, look, again, he's a recognized member of the cybersecurity

24 community from his time at Facebook and Yahoo before that. I don't know how to say

25 how well I knew him, but knew him well enough. Were we friends? No.

1 Acquaintances? Yes.

2 Q By summer of 2020, how frequently were you interacting with him, if you

3 recall?

4 A I don't recall. I mean, I'm trying to even think about how I would even

5 characterize.

6 I mean, 2020, right? Summer of 2020 was weird, so certainly wasn't seeing him

7 in person. Don't think I was doing phone calls.

8 Would he pop up? You know, he was probably at some of those expert meetings

9 that -- our meeting that was referenced in the earlier exhibit.

10 Mr. Walden. It's getting late. Do you recall? If you don't recall, just --

11 Mr. Krebs. Yeah, sorry. No, I just -- I don't recall.

12 BY [redacted]

13 Q He was your business partner by January 2021, right?

14 A Correct. Right.

15 Q Over the second half of 2020, when did you begin to get to know Mr. Stamos

16 better than you had by the summer of 2020?

17 A So I think like right after I got fired he was one of the many people that

18 reached out. You know, I liked Alex -- like Alex. And he asked: What's next?

19 And at that point, I didn't really have many things in mind. But as things got kind

20 of heating up through the rest of the year and I got a call from the SolarWinds CEO that

21 said they wanted help and I felt like I needed some technical help, Alex was one of the

22 first people that came to mind, given his expertise and his resume.

23 Q Following the 2020 election, and this is into the early part of 2021, EIP issued

24 a report entitled "The Long Fuse." At a high level, are you familiar with the report?

25 A Yes. Yeah.

1 Q Did you play any role in the preparation of that report?
2 A No.
3 Q Are you familiar with the software program called Jira?
4 A Yes.
5 Q And are you aware that EIP used the Jira system during the 2020 election
6 cycle?
7 A I've after the fact become aware of that, yes.
8 Q How did you become aware of that?
9 A I think it was reading the majority report, your report.
10 Q Did you have any awareness prior to the 2020 election about EIP's use of the
11 Jira ticketing system?
12 A No.
13 Q And so did you have any awareness of whether anyone from CISA had access
14 to EIP's Jira system?
15 A I did not know that, wouldn't have been aware of that.
16 Q We had in an earlier response clarified interns versus Federal employees.
17 Were you aware during the summer and fall of 2020 that there were CISA interns who
18 were Stanford students?
19 A Yes, I was aware of it. We had interns from a number of different colleges
20 and universities, and I was aware that the Stanford team was there, yes.
21 Q Were you aware that they were affiliated with the Stanford Internet
22 Observatory?
23 A I don't know if at the time I was aware that they were SIO interns or
24 whatever. I assumed they were computer science, but SIO specifically, I'm not sure.
25 Q And did you have any awareness that they were working on EIP?

1 A No, I did not know that.

2 Q You've mentioned that you were reading or at least had some awareness of

3 EIP's public reports. Is that right?

4 A Yes.

5 Q Issued in the lead-up to the 2020 election?

6 A Yes.

7 Q So, to your understanding, was EIP monitoring both domestic and foreign

8 misinformation?

9 Mr. Walden. During what period of time? In the pre-election?

10 [redacted] Yes.

11 Mr. Krebs. Sorry. I don't know why I'm looking at you.

12 I mean, I think if you look at their reports then you could see that, yes, they were

13 monitoring -- they were reporting on domestic and foreign actors' disinfo.

14 [redacted] Can we go off the record, please?

15 [Recess.]

16 [redacted] We can go back on the record. It is 4:01 p.m.

17 BY [redacted]

18 Q Mr. Krebs, I want to get back to the conversation near the end of the last

19 hour about domestic authorities regarding domestic versus foreign actors.

20 You recall that conversation?

21 A Yes.

22 Q And the statement was made that the First Amendment applies differently

23 when you're considering domestic actors versus foreign actors.

24 Do you recall that statement being made?

25 A Yes.

1 Q Okay. You understand that the primary -- one of the major arguments
2 in -- that the plaintiffs are making in Missouri v. Biden is that CISA censored the First
3 Amendment rights -- censored domestic actors, violating their First Amendment rights,
4 correct?
5 A I'm aware of that, yes.
6 Q Okay. So when CISA became aware of information regarding
7 disinformation that may have originated with domestic actors or may have been
8 unattributed, in general, CISA's reaction was to put out true information, correct?
9 A Correct.
10 Q In other words, CISA had an education mission, it worked to educate the
11 general public about accurate facts, correct?
12 A Correct.
13 Q CISA did not work to take down content from domestic actors. Is that fair
14 to say?
15 A I would agree with that.
16 Q Okay. So all the discussion about authorities of domestic versus foreign
17 actors, ultimately, what CISA was doing was exercising its own First Amendment right to
18 put out information. Is that fair to say?
19 A Specifically with our awareness and education products and rumor control,
20 yes.
21 Q I want to turn to the discussion about the Election Integrity Partnership that
22 was begun at the end of the last hour.
23 A Yes.
24 Q Briefly, can you just describe again for the record what your understanding
25 of what EIP was?

1 A A research partnership, colleges -- or universities, like Stanford and
2 University of Washington -- and NGOs, so I guess Atlantic Council, DFIR, that studied
3 narratives that went viral during the 2020 election.
4 Q Did CISA participate in the EIP?
5 A Not that I'm aware of.
6 Q Okay. There's been an allegation made that EIP was thoroughly
7 intertwined with CISA. Are you familiar with that allegation?
8 A I believe I've seen that in Missouri v. Biden, yes.
9 Q Do you believe that that is an accurate statement, that CISA was
10 thoroughly -- or, I'm sorry, that EIP was thoroughly intertwined with CISA?
11 A That is not my recollection of how things worked.
12 Q And why do you say that?
13 A It was an independent project that released public reports that CISA may
14 have consumed after they were publicly released.
15 Q And, to your knowledge, did you personally, in your capacity as the director
16 of CISA, for example, identify social media posts that EIP should look at?
17 A I don't recall doing that, no.
18 Q Are you aware if anybody that reported to you did that?
19 A I'm not aware that anyone did that.
20 Q Okay. There's been an allegation that CISA, quote, "aided EIP in the
21 process of reporting undesirable election-related speech to social media platforms."
22 Are you aware of that allegation?
23 A I believe I've read that, again, in Missouri v. Biden.
24 Q Do you believe that it is accurate that CISA aided EIP in the process of
25 reporting undesirable election-related speech to social media platforms?

1 A I don't know how we would have done that. They had their own
2 relationships with platforms.
3 Q Again, to your knowledge, did CISA flag content for EIP for the purpose of
4 having social media companies delete that content?
5 A Not that I'm aware of.
6 Q To your knowledge, did EIP ever tell CISA or report back -- and I'm not talking
7 about the after -- the report that came out afterwards -- but in the course of the lead-up
8 to the 2020 election, did EIP report back to CISA on the outcome of social media flags?
9 A Not that I'm aware of.
10 Q There have been allegations that the EIP was established to fill the gap in the
11 government's ability to police disinformation. Are you aware of that allegation?
12 A I am.
13 Q Is that an accurate allegation?
14 A Not -- you know, certainly not from a CISA perspective. I didn't ask
15 anybody to do anything along those lines.
16 Q Okay. So EIP, in other words, was not established for the purpose of doing
17 work that CISA could not do, to the best of your knowledge?
18 A EIP's establishment was independent of CISA and CISA's, you know, the
19 things that we were doing.
20 Q I want to turn to the discussion about some election narratives. Some of
21 them have come up earlier and some have not come up in detail today, but I just want to
22 ask you for some more detail on it.
23 You've referred repeatedly to the Hammer and Scorecard narrative today.
24 A Yes.
25 Q Can you explain for the record what the Hammer and Scorecard narrative is?

1 A Hammer and Scorecard was a theme that was -- that emerged on social
2 media and then actually on mainstream media in, what, late October-early November.
3 And the allegation is that a CIA supercomputer, Hammer, and Scorecard, a
4 software program, were being used by the CIA to go into State election systems and
5 manipulate votes.
6 Q And was that --
7 A Vote tallies, right.
8 And so as it emerged -- and it was quite pervasive. Again, when we talk about
9 me looking at a TV and seeing someone at the sticks, at a podium talking about Hammer
10 and Scorecard and CIA computer programs and then Hugo Chavez and all that, obviously,
11 it kind of reached across the threshold. And so the team took a look at the underlying
12 allegations.
13 And, most importantly, in rumor control, which is, again, where we broke down
14 these sorts of claims, we explained why this fanciful notion of a CIA supercomputer and
15 software program could not, in fact, change vote tallies because of the number of paper
16 ballots, 95 percent votes cast on a paper ballot, including all swing States, because you
17 would know, the proof's in the ballots. You go recount and count and audit.
18 And in all those cases, there was no evidence of any sort of manipulation of vote
19 counts.
20 Q Do you recall if the Hammer and Scorecard narrative -- which was a false
21 narrative, it's fair to say that, right?
22 A Yes.
23 Q Do you recall if the Hammer and Scorecard narrative was being spread by
24 domestic or foreign actors?
25 A So there was, I think, some evidence that it was being amplified by foreign

1 actors as well as put out there by domestic actors.

2 Q And was it often the case, or at least did it sometimes happen, that false

3 narratives were, in fact, amplified by both domestic and foreign actors?

4 A Yes, you could say that's happened.

5 Q And in the case of Hammer and Scorecard, CISA addressed that false

6 narrative by publishing on the rumor control website accurate information, correct?

7 A That is correct.

8 Q CISA did not contact the social media companies and say, "Please take this

9 narrative down," correct, to the best of your knowledge?

10 A That is my recollection.

11 Q Okay.

12 A And this is no different than elected officials on the Hill, when they hear

13 claims that are made and they will go to the sticks or they will issue press releases or they

14 will have FAQs on their own page.

15 So this is entirely consistent with how government does business and has always

16 done business. When there are claims made you disagree with, you have a government

17 First Amendment right to provide information. And that's consistent with how we did

18 rumor control.

19 Q In your opening statement you referred to -- I'll just read the sentence out

20 loud. It says: "Indeed, at least one of the rumors CISA debunked during the 2020

21 election was identified as problematic by the White House directly."

22 Are you able to identify what rumor that was?

23 A To the best of my recollection, that was the Antrim County tabulation error

24 that happened immediately after the 2000 -- sorry, the 2020 election. And we -- you

25 know, you get them circuitously, but there's a request that comes in. It says: Hey,

1 what's this? Can you get back to us?

2 And so as we look at it, we go out and see that this is emerging, that Antrim

3 County is an example of an election that was manipulated. And we then talk about

4 on rumor control how the counting and certification process works and how there are

5 errors sometimes that get caught and fixed, but it happens early in the process and you

6 get through it.

7 Q And do you recall who at the White House or what entity at the White House

8 identified that narrative as problematic to CISA?

9 A I don't recall.

10 Q I want to, in the couple minutes that I have left, I want to turn to something

11 that you had mentioned I think in my last hour of questioning, but it could have been

12 earlier in the day.

13 You referred to -- we were talking about the threats that election workers had

14 faced, that academics had faced, and you said that you yourself had also faced threats.

15 Do you recall talking about that?

16 A Yes.

17 Q And I know -- I don't want to get into the details around the circumstances

18 that you left CISA, but in the immediate aftermath of that did you face threats?

19 A Absolutely, foreign and domestic.

20 Q And do you continue to face those threats today?

21 A Less frequent than then, but they pop up every now and then.

22 Q Do you have concerns for your safety as a result of, for example, this

23 investigation potentially putting your name out in the spotlight again?

24 A It has generated some, you know, some attention, yes, that I'd rather not

25 have to deal with.

1 Q And are you -- do you have concerns for the safety of your family, for
2 example?
3 A Well, I would just go back to some of the threats I faced immediately after
4 the 2020 election, to me, to my children, and the fact that I had to expend personal
5 resources to have a guard -- armed guard -- outside my house for 2 months.
6 I had to expend personally $130,000, so kids' college tuition, because I had threats
7 against my family and my wife didn't want to stay in our house. So I had to get an
8 armed guard.
9 So I'd really rather not that happen again. And I'm never getting that money
10 back. Because I was not a Federal employee, I had to pay out of pocket 130 grand. I'm
11 still pissed off about that. No tax break, no nothing.
12 And that's just me. I could figure it out. There are others that can't. So sorry,
13 hit a sore spot there.
14 Q No, understood. And you were a civil servant, effectively --
15 A Yes.
16 Q -- when you were at the Department of Homeland Security, correct?
17 A Yes.
18 Q And these threats came after you left your service with DHS, correct?
19 A That's right.
20 Q Do you think others who see what happened to you might be dissuaded
21 from, for example, pursuing Federal service in the future?
22 A I mean, I've heard stories of people that are less incentivized to come into
23 the government now. I think we're seeing the same thing, as I mentioned, with election
24 officials, people that it used to be a civic duty to work in some of these jobs.
25 Now you don't get paid great, you don't get thanked a lot, and you get death

threats. So I don't think there's going to be a lot of -- as many volunteers and people rogering up for jobs.

[redacted] Thank you. We can go off the record.

[Discussion off the record.]

[redacted] We can go back on the record, please.

BY [redacted]

Q Are you familiar with the ODNI notification framework?

A Generally, yes. I don't remember the specifics of it.

Q Were you involved in the drafting of the framework or its approval process?

A There was a, what do you call it, an IPC process that -- a policy process that ran through the NSC. And I was aware of it and contributed comments, yeah.

Q To your knowledge, do entities involved in the drafting of the script used for defensive briefings retain a copy of that script after the briefing is delivered?

A I don't recall.

Q Just one high-level question. We've received different testimony.

When people refer to the intelligence community, is CISA part of the IC?

A Absolutely not.

Q Thank you.

During your tenure at CISA or at NPPD, did you participate in any meetings involving the setup of a defensive briefing process?

A I don't believe so.

Q And were you ever briefed or provided a summary of conclusions related to any notification framework meetings?

A Not that I recall. I mean, and just to clarify, are we talking about the FBI process or the ODNI process?

1 Q The ODNI, but I'll ask the question as it relates to the FBI process.

2 A Yeah. No. I just -- I mean, obviously, if it was an FBI defensive briefing,

3 like your boss might get, like less than a chance of zero that we would ever get any sort of

4 feedback on that.

5 But the DNI defensive briefing mechanism, I don't believe I got any sort of readout

6 on those briefings.

7 Q Are you generally familiar with the New York Post article published on

8 October 14th, 2020, regarding the content of a laptop owned by Hunter Biden?

9 A Yeah. I mean that article, yeah.

10 Q Do you recall any discussions with personnel at CISA regarding that article in

11 the days following its publication?

12 A I don't recall any conversations either after that article or before about that

13 laptop.

14 Q And any conversations with industry partners?

15 A I don't recall any inquiries. If they asked, you know, it's not our space to

16 comment on.

17 Q Did you ever receive a briefing on the 2016 DNC hack?

18 A I don't know if I got like a focused, detailed briefing. I think it was part of

19 one of my initial here's what the intelligence community saw happen with some input

20 from the FBI. And I can't speak to the contents of that briefing, obviously. It's

21 classified. But, yes.

22 Q Do you recall when, approximately, that briefing occurred?

23 A Within the first 6 months of being on the job. So December -- sorry, not

24 December, but 2017 sometime through -- into the summer.

25 Q And do you remember which agencies delivered the briefing?

1 A I don't recall if it was just a DHS I&A briefing or -- but, obviously, the content
2 of the intelligence collected was from a patchwork of agencies that all rolled up into the
3 total report.
4 Q Do you recall if they identified which agencies were involved during the
5 briefing?
6 Mr. Walden. Are you allowed to answer this question?
7 Mr. Krebs. What? Whether I got a briefing or this --
8 Mr. Walden. What agencies were involved in what I'm understanding is a
9 classified briefing.
10 Mr, Krebs. I mean, I think if you read the intelligence community assessment
11 that was the unclassified version, it shows some of the agencies that contributed to it.
12 So do I recall the specific pieces of finished intel I read that were kind of all up in
13 that bucket? No, I don't recall.
14 [Krebs Exhibit No. 16.
15 Was marked for identification.]
16 Mr. Walden. It's a two-page email chain all on September 25th of 2020.
17 Go ahead. I didn't want anyone waiting for me.
18 BY [redacted]
19 Q First, do you recall reaching out to Alex Stamos on or around September
20 15th, 2020, regarding the claim here about ballots being dumped?
21 A I don't recall specifically reaching out to Alex on this issue, but I'll take it for
22 face value.
23 Q Okay. Independent of this specific email chain and EIP ticket, do you recall
24 generally reaching out to Mr. Stamos regarding narratives that were of particular
25 concern?

1 A I think like you have like Scully reached out, did I reach out to Alex on: Hey,
2 what's going on with this thing? I recall doing that a couple times. I can't tell you the
3 specifics. I mean, obviously, Sonoma. But this is, again, it's awareness, trying to figure
4 out what's going on.
5 Q And why were you contacting Mr. Stamos?
6 A To understand what -- so an issue is raised and: Hey, Alex, do you -- what
7 do you have on this?
8 Q Do you recall how many times you reached out to Mr. Stamos prior to the
9 2020 election?
10 A I don't.
11 Q During this time, do you recall how you were communicating with
12 Mr. Stamos?
13 A I don't know if I was sending him text messages or emails.
14 Q Does this document refresh your memory at all regarding what EIP was
15 tracking with respect to narratives and posts that they were not making public or not yet
16 making public?
17 A I mean, it says they did make it public. They published a Rapid Response
18 blog post.
19 And I think that's what I was talking about earlier, where they would have like
20 end-of-week roll-ups -- at least this is how I recall it -- end-of-week roll-ups; or they would
21 do these flash Rapid Response as it -- as something kind of broke the -- sort of their
22 threshold for reporting.
23 Q If I could have you flip the document over.
24 So the email is from an atlassian.net email, which is the company that runs Jira.
25 And so happy to represent that this is a -- the initial email is being forwarded to Alex

1 Zaheer. And then if you look down at the bottom lines in the light gray text, it says:
2 This is shared with EI-ISAC, Twitter, and then an individual.
3 To your understanding, were folks at CISA, was anyone receiving updates prior to
4 a Rapid Response blog post or EIP somehow making the information public?
5 A Not that I'm aware of.
6 Q During this time were you aware that the EI-ISAC was participating with EIP?
7 A That the EI-ISAC was participating with the EIP? No.
8 Q Were you aware that CIS was participating with EIP?
9 A No.
10 [redacted] You said you reached out to Mr. Stamos on several occasions for
11 awareness purposes and to gain an understanding of particular narratives. Who in
12 those cases would have raised the issue to you originally that would have prompted you
13 to reach out to Mr. Stamos?
14 Mr. Walden. Just -- we can go back to the record -- but I think he said a couple of
15 occasions, not several, but --
16 [redacted] In whatever number of occasions.
17 Mr. Krebs. Oh, I -- again, there's -- if you're looking for a systematic method of
18 raising these issues, it was not that refined at the time. Again, we're talking about ad
19 hoc stuff that I would see, stuff that people would report up, stuff that was on the news.
20 So there's no like -- I don't think there was a single source that would spark me to
21 want to understand an issue more thoroughly.
22 [redacted] Once you reached out to Mr. Stamos and in cases that he
23 provided you with information, did you then share that information with anybody at
24 CISA?
25 Mr. Krebs. I may have passed an update on here, you know, here's what Alex

1 says. But, again, I assume you all requested my emails, so I don't believe I put -- you
2 know, I emailed that around.
3 And it was a fairly infrequent occurrence, and sometimes it was good enough to
4 hear: Oh, it's this, that, or the other.
5 Or typically, it was like you see the Rapid Response blog post, it's we're going to
6 issue a blog post on this. Looking forward to seeing the blog post.
7 [redacted] Are you familiar with the Global Disinformation Index?
8 Mr. Krebs. Doesn't ring a bell. Is there -- I mean, maybe there's something you
9 could refresh me. But don't -- I'm not recalling it immediately right now.
10 [redacted] Are you familiar with NewsGuard?
11 Mr. Krebs. Yeah.
12 Mr. Walden. I'm sorry, what is it?
13 [redacted] NewsGuard.
14 Mr. Krebs. I've heard of NewsGuard, yes.

[4:29 p.m.]

BY [redacted]

Q During your tenure at CISA, did you have any interactions with them?

A Not that I recall.

Q Are you familiar with the Center for Countering Digital Hate?

A I've heard about it recently due to threats of lawsuits by Twitter, but I don't if I was tracking them as an organization in 2020 -- or my tenure at CISA, to be clear.

Q Are you familiar with The Aspen Institute?

A Yes, I am.

Q What are your -- what's the nature of your interactions with The Aspen Institute?

A So right now I'm a fellow with The Aspen Institute.

Q And how long have you been a fellow for?

A Since 2021, yeah.

Q Are you familiar with the Commission on Information Disorder?

A Yes.

Q And what is that?

A It was a group that was established after -- sometime in probably, I guess -- I don't know, sometime in 2021, that was studying broader information disorder, including the prevalence of dis- and misinformation across social media and, like, what are some of the contributing factors, and what are some maybe recommendations that -- that, you know, public discourse.

Q And when were you invited to join?

A I was co-chair, and there were -- you know, Will Hurd, former Congressman Will Hurd was a member as well. And that was, you know, again, January -- sometime in

like January through March or April.

Q It was after your tenure at CISA?

A Oh, yes. Yeah, yeah, yeah. Yeah, I had no formal relationship with Aspen before I departed. I participated in some of their cyber working group meetings, but -- here -- here in D.C., but, yeah, all the, like, fellow, after CISA, information disorder commission, after CISA.

Q Did you attend any tabletop exercises hosted by The Aspen Institute in 2020?

A No, I did not.

Q Does the Krebs Stamos Group have any government clients?

A No, we do not.

Q To your knowledge, we -- I think this might have been back in the first hour. We were discussing the ongoing U.S. Government/industry meetings.

A Yeah.

Q Do you know if anyone on the U.S. Government side was tasked with recording notes from those meetings, putting together meeting minutes?

Mr. Walden. Wait, wait, wait. I'm sorry. Since he's left, is he aware of meetings at which --

[redacted] No. During his tenure.

Mr. Walden. Oh, I got it. Sorry, sorry, sorry.

Mr. Krebs. At least the meetings that I attended, I don't recall that there were specific meeting minutes recorded. I don't recall if I saw any particularly afterwards. That said, there was Brian Eschels or some other CISA attorney there, and I suspect that they were taking contemporaneous notes, but I don't know.

BY [redacted]

1 Q Do you know if there were any requirements or other obligations for
2 someone from the government side to record notes from those meetings?
3 A I -- I don't recall what the legal guidance was for the -- for those -- those
4 meetings. Sorry.
5 Q Did anyone from CISA consult with you earlier this year regarding what
6 should be shared on CISA's website?
7 A Did somebody ask me?
8 Q Yes.
9 A This year?
10 Q Yes.
11 A So --
12 Mr. Walden. Can you give some context, like --
13 [redacted] Sure. I mean, this is in our report.
14 Mr. Walden. Yeah, yeah.
15 [redacted] I'm not trying to hide the --
16 Mr. Walden. Yeah.
17 [redacted] CISA changed its MDM page earlier this year.
18 Mr. Krebs. Okay. All right. The reason -- thank you, Jim.
19 Mr. Walden. Yeah, yeah, yeah.
20 Mr. Krebs. But as I go back, like, CISA does a lot of different stuff, right,
21 and -- but did anybody specifically ask me about updating the web page? No. But I'll
22 tell you this much. The overall redesign of the CISA web page has -- what year is it,
23 '23 -- has been under way since 2019.
24 In fact, that was probably, of my greatest frustrations with my time at CISA, the
25 number one. You know, like best job ever, worst job ever, seriously. But the biggest

1 frustration is Saint Elizabeths and getting a CISA headquarters.

2 So we've been in rented -- so I was a contractor for CISA and -- I will give you this

3 time back. I'm sorry I'm eating into your time.

4 Mr. Walden. Well, don't bargain for -- I'm the one with the --

5 Mr. Krebs. I'm paying for your time.

6 Mr. Walden. Yeah, yeah, yeah. Allegedly.

7 Mr. Krebs. So as a contractor in like 2005, I was one of the first contractors to

8 move into the CISA building at Glebe Road. So if y'all have ever been there, to see like

9 the -- used to call it the end kick. And then I came back as the director in, you know,

10 2017 or whatever, the acting. It was the same carpet. It was the exact same carpet.

11 Like, 15 years later, whatever, it's the same carpet.

12 And we were scattered at one point within the D.C. area, CISA had eight different

13 offices. It's like the most ridiculous, inefficient thing. And so what -- you know, we

14 always wanted to get into a single consolidated space. GSA wouldn't let us do it

15 because they were trying to get away from -- from leased buildings.

16 So then we get into this Saint Elizabeths thing with DHS headquarters, and it's just

17 a nightmare. Like, you have to work with the city council to get it done, you have to get

18 the appropriations. And I guess they finally agreed to it. But like if that gets finished

19 by 2030, and y'all are out of government by then, I'll buy you drinks. Like, I will -- you

20 know, I got it covered, because I don't think it's ever going to happen.

21 The second -- sorry.

22 Mr. Walden. MDM page, are we going to get back to the MDM page?

23 Mr. Krebs. The second frustration, though, was just how, kind of like, piss poor

24 the CISA web page was. And, you know, we had a complete redesign in process under

25 2018 and 2019, and I guess they finally got it done this year.

1 So I don't know if part of the MDM page getting re-architected was part of that,
2 but just, you know, I'll put the marker down, the web page redesign had been underway
3 for 4 years. So maybe that's context for what happened. Sorry for the rant, but --
4 BY [redacted]
5 Q No. Appreciate the context. And just to clarify then for the banter, the
6 short answer is no?
7 A No, I -- yeah, sorry. To answer your question, no, I don't recall anybody
8 reaching out and saying what should we put on the website on MDM, no.
9 Q Do you think CISA should be a stand-alone agency?
10 A These guys are red-zoned by op-eds. I think there are multiple different
11 ways that CISA could exist in the future. I think number one is you cut the Department
12 of Homeland Security in half. You take CBP and ICE and CIS and their own min- -- you
13 know, Department of Interior, something like that, with a different name.
14 I think the second is TSA, CISA, FEMA, they have theirs.
15 I think a second option is, yeah, CISA's a NASA subagency equivalent.
16 And the third option is you kind of grab other bits and pieces and have one digital
17 focused agency with NIST and NTIA and parts of Treasury and Commerce. I think that
18 would be interesting and effective. Do I think that's going to happen anytime soon?
19 No. But it's a long way of saying, as an -- you know, an independent agency is one
20 possibility.
21 Q During your time as director of CISA, do you recall having any disagreements
22 with the DHS Secretary regarding CISA's purview or mission?
23 A I gen- -- sorry, go ahead.
24 Mr. Walden. Is this -- are we -- is there something specific? Because I'm
25 getting worried about deliberative process privilege.

1 Mr. Krebs. So -- yeah. No, I -- let me just put it this way. I generally recall
2 being left alone, that the DHS Secretary was worried, you know, had his arms -- hands full
3 with border and immigration issues.
4 Mr. Walden. Good thing that's changed.
5 Mr. Krebs. So -- well, never mind. I'm not going to waste your time. I've got
6 stories here, but -- not about those conversations, just about one reason for DH -- for
7 breaking the Department off in half as I suggested, because when you have a Cabinet
8 agent -- head that's focused on border and immigration issues, that's all they're focused
9 on, in the current political climate, and I think rightly so as we're seeing what's
10 happening.
11 And so giving those other agencies -- FEMA, TSA, CISA -- some room to breathe
12 and executive Cabinet-level attention I think would be helpful for -- would be beneficial
13 for everybody, including, you know, whoever is the Secretary at the time. But that's just
14 my opinion. Sorry.
15 BY [redacted]
16 Q Following your -- after the end of your tenure at CISA, at any later point, did
17 you have any contracts or agreements or, you know, consulting agreements with CISA?
18 A No. I've intentionally kept them at arm's length for their own sake and
19 mine.
20 Q And setting aside any personal friendships you may have with personnel at
21 CISA, have you had any other interactions with personnel at CISA following the end of
22 your tenure?
23 A It's the same thing, right, arm's length, that it's Jen's agency now, not mine.
24 You know, they've called me back for -- you know, I think I did one of the CISA
25 Summit -- the Cyber Summit video sit-downs with Jen, which is, you know, publicly

1 streamed. I may have -- I don't know if I did a all-hands -- maybe I did an all-hands at
2 one point, but, no, there's no meaningful relationship with CISA right now.
3 Q Did you know who Brian de Vallance --
4 A De Vallance?
5 Q Do you know who he is? De Vallance. That's d-e and then V-a-l-l-a-n-c-e.
6 A Yeah. So that name rings a bell. He was an Obama front office guy. And
7 is he back now in the DHS front office?
8 Q I'm just asking if you -- did you have any interactions with him during --
9 A No. No, no, no.
10 Q -- your tenure at CISA?
11 A No. I mean, it's like that's a -- that's kind of like Obi-Wan's name. I
12 haven't heard it in a very long time.
13 [redacted] Can we go off the record, please?
14 [Whereupon, at 4:41 p.m., the interview was adjourned.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: SCOTT BRADY

Monday, October 23, 2023

Washington, D.C.

The interview in the above matter was held in room 2237, Rayburn House Office Building, commencing at 10:01 a.m.

Present: Representative Jordan.

1 Appearances:

2

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted], COUNSEL

8 [redacted], GENERAL COUNSEL

9 [redacted], COUNSEL

10 [redacted], COUNSEL

11 [redacted], SENIOR COMMUNIICATIONS ADVISER

12 [redacted], DEPUTY GENERAL COUNSEL

13 [redacted], SENIOR ADVISOR

14 [redacted], PROFESSIONAL STAFF MEMBER

15 [redacted]

16 [redacted], DIGITAL ASSISTANT

17 [redacted], CHIEF COUNSEL FOR OVERSIGHT

18 [redacted], MINORITY OVERSIGHT COUNSEL

19 [redacted] MINORITY CHIEF OVERSIGHT COUNSEL

20 [redacted], MINORITY OVERSIGHT COUNSEL

21 [redacted], MINORITY PROFESSIONAL STAFF MEMBER

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1 For SCOTT BRADY:

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3 ANDREW LELLING

4 BRITTANY WILHELM

5 Jones Day

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1 [redacted] Good morning. This is a transcribed interview of Mr. Scott Brady,
2 former U.S. Attorney for the Western District of Pennsylvania. Chairman Jordan has
3 requested this transcribed interview as part of the committee's oversight of the Justice
4 Department's commitment to impartial justice in its handling of its investigation into
5 Hunter Biden.
6 Would the witness please state your name for the record.
7 Mr. Brady. Scott Brady.
8 [redacted] We encourage witnesses who appear before the committee to
9 freely consult with counsel if they so choose. And it is my understanding that you are
10 appearing today with personal counsel. Is that correct?
11 Mr. Brady. That's correct.
12 [redacted] Could personal counsel please state your name for the record.
13 Mr. Lelling. Andy Lelling.
14 Ms. Wilhelm. Brittany Wilhelm.
15 [redacted] Thank you.
16 On behalf of the committee, I want to thank you for appearing here today to
17 answer our questions. The chairman also appreciates your willingness to appear
18 voluntarily.
19 My name is [redacted] and I'm with Chairman Jordan's staff.
20 I'm going to have everyone else from the committee who is here in the room
21 introduce themselves as well.
22 [redacted] [redacted] with Mr. Jordan's staff, the House Judiciary Committee.
23 [redacted] [redacted] Chairman Jordan's staff.
24 [redacted] [redacted] Oversight counsel on Mr. Nadler's staff.
25 [redacted]. [redacted] Ranking Member Nadler's staff.

1 [redacted] Oversight counsel with Mr. Nadler's staff.

2 [redacted] Chairman Jordan's staff.

3 [redacted] Chairman Jordan's staff.

4 [redacted] Chairman Jordan's staff.

5 [redacted] Chairman Jordan's staff.

6 [redacted] Chairman Jordan's staff.

7 [redacted] Chairman Jordan's staff.

8 [redacted] I'd like to now go over the ground rules and guidelines that we'll

9 follow during today's interview.

10 Our questioning will proceed in rounds. The majority will ask questions first for 1

11 hour, and the minority will have an opportunity to ask questions for an equal period of

12 time, if they so choose. We'll alternate back and forth until there are no more questions

13 and the interview is over.

14 Typically, we take a short break at the end of each hour, but if you would like to

15 take a break apart from that, please just let us know.

16 As you can see, there is an official court reporter taking down everything we say to

17 make a written record, so we ask that you provide verbal responses to all questions.

18 Do you understand?

19 Mr. Brady. Yes.

20 [redacted] So the court reporter can take down a clear record, we'll do our best

21 to limit the number of people directing questions at you during any given hour to just

22 those people on the staff whose turn it is. Please try and speak clearly so the court

23 reporter can understand and so the folks down at the end of the table can hear you as

24 well.

25 It's important that we don't talk over one another or interrupt each other, if we

can help it, and that goes for everybody present at today's interview. We want you to answer our questions in the most complete and truthful manner as possible, so we will take our time.

If you have any questions or if you do not understand one of our questions, please let us know. Our questions will cover a wide range of topics, so if you need clarification at any point, just say so. If you honestly don't know the answer to a question or do not remember, it is best not to guess. Please give us your best recollection, and it is okay to tell us if you learned information from someone else. Just indicate how you came to learn that information.

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

You should also understand that, by law, you are required to answer questions from Congress truthfully.

Do you understand that?

Mr. Brady. Yes.

[redacted] This also applies to questions posed by congressional staff in an interview.

Do you understand this?

Mr. Brady. Yes.

[redacted] Witnesses that knowingly provide false testimony could be subject to criminal prosecution for making false statements under 18 U.S.C., section 1001.

Do you understand this?

Mr. Brady. Yes.

[redacted] Is there any reason you are unable to provide truthful answers to

1 today's questions?

2 Mr. Brady. No.

3 [redacted] Finally, I'd like to make note that the content of what we discuss

4 here today is confidential. We ask that you not speak about what we discuss in this

5 interview to any outside individuals to preserve the integrity of our investigation.

6 For the same reason, the marked exhibits that we will use today will remain with

7 the court reporter to go into the official transcript, and any copies of those exhibits will be

8 returned to us when we wrap up.

9 That is the end of my preamble.

10 Is there anything my colleagues from the minority would like to add?

11 [redacted] No. We just thank the witness for joining us today.

12 [redacted] And I understand your counsel, Mr. Lelling, has some statements

13 that he'd like to make.

14 Mr. Lelling. Thank you.

15 I just wanted to note that Mr. Brady has received an authorization letter from DOJ.

16 I've given the committee a copy. I'd ask you to make it part of the record.

17 I think, following the guidelines they followed in the past when having witnesses

18 before the committee, they have basically told him to abide by the attorney-client

19 deliberative process privileges when testifying today, and also, whatever ethical

20 obligations cover the use of confidential client information.

21 They have also directed him to identify by name only senior supervisory personnel

22 in the course of his testimony but others by title only. So that may come up from time

23 to time.

24 And that's it. Thank you.

25 [redacted] Could we have a copy, please?

1 [redacted] Yes. We're going to make it exhibit No. 1.

2 [Brady Exhibit No. 1

3 Was marked for identification.]

4 [redacted] Okay. The clock now reads 10:06 a.m. We'll begin with our first

5 hour of questioning.

6 EXAMINATION

7 BY [redacted]

8 Q Mr. Brady, can you tell us a bit about your professional background?

9 A Sure. I attended Harvard University undergraduate, had a bachelors in

10 government.

11 I spent 7 years working in the field of international relief and development,

12 including 4 years overseas in Europe, the Caucasus region, and the Middle East.

13 I came back to law school at Penn State, started my career as an associate at Reed

14 Smith in Pittsburgh, and then clerked for a Federal judge, Tom Hardiman, when he was on

15 the U.S. District Court in WDPA. Now he's on the Third Circuit.

16 And was an AUSA in WDPA for 6 years. Three years, approximately, was doing

17 drugs and guns. The second three was doing white collar and antiterrorism work.

18 Then was an associate at Jones Day for roughly 2 years, and then was head of

19 litigation for a public financial services company in Pittsburgh for five.

20 Was then appointed U.S. attorney in the last administration by President Trump.

21 Served from 2017 to 2021.

22 And then was a partner at Jones Day in the white collar practice, and recently

23 moved to be chief compliance officer for a public company in Pittsburgh.

24 Q And when were you nominated by President Trump to become the U.S.

25 attorney for the Western District?

1 A I was nominated in the summer of 2017, and then, actually, was sworn in
2 and took office on December 23rd of 2017.
3 Q And were you asked to resign by the Biden administration at the beginning
4 of President Biden's Presidency?
5 A Yes. It was roughly the middle of February, and our exit date, for those of
6 us who were holdovers, was I think the 28th of February. So the end of February.
7 Q So how many years did you spend at the Department of Justice in total?
8 A Total? I think 9 or 10 years.
9 Q Did you ever do any time at Main Justice or just at the Western District?
10 A Just in the Western District, but I was on General Barr's advisory committee.
11 So I spent a good bit of time at Main Justice but no positions at Main Justice.
12 Q Okay.
13 [redacted] Let me ask one question.
14 [redacted] Uh-huh.
15 BY [redacted]
16 Q Whose decision was it to ask you to -- and the rest of the U.S. attorneys -- to
17 depart? Was it the White House counsel's office? Does that come from DOJ?
18 A I don't know who made the decision, but the Acting Attorney General had a
19 conference call with all of us who were remaining and thanked us for our service and told
20 us that they would request our resignation that day, effective the end of February. So it
21 was, roughly, you know, February 15th or so.
22 Q But, ultimately, it's the White House's decision. Correct? DOJ doesn't get
23 to pick its own U.S. attorneys, right?
24 A I don't know. I assume but I don't know.
25 Q And for those U.S. attorneys that did stay on, do you know who made that

1 decision?

2 A No.

3 BY [redacted]

4 Q So you left the Western District's office in February 2021. Is that accurate?

5 A That's right.

6 Q While you were serving as the U.S. attorney, did then Deputy Attorney

7 General Rosen assign you the responsibility of vetting information related to Ukraine?

8 A I don't -- it wasn't DAG Rosen. I got that information from the PADAG that I

9 had been given this assignment.

10 Q And who was the PADAG at the time?

11 A It was Seth DuCharme.

12 Q And when did Mr. DuCharme reach out to you?

13 A I think it was January 3rd of 2022.

14 Q And who had been vetting the information coming in related to Ukraine prior

15 to your assignment?

16 A I don't know.

17 Q You don't know, okay.

18 [redacted] I'll mark as exhibit No. 2 a February 18th, 2020, letter from Assistant

19 Attorney General Stephen Boyd to then Chairman Nadler.

20 [Brady Exhibit No. 2

21 Was marked for identification.]

22 Take a moment to review.

23 Mr. Lelling. What number.

24 [redacted] This is No. 2.

25 BY [redacted]

1 Q I'll direct your attention to the third paragraph on that first page, and I'll just
2 read it into the record.
3 It says: In light of several open matters being handled by different U.S.
4 attorneys' offices and Department components that in some way potentially relate to
5 Ukraine, the existence of which have been publicly reported, Deputy Attorney General
6 Rosen has assigned Richard Donoghue the U.S. Attorney for the Eastern District of New
7 York to assist in coordinating such matters.
8 The Deputy Attorney General implemented this policy to avoid duplication of
9 efforts across Department offices and components, to facilitate information sharing, to
10 ensure there are no conflicts among potentially overlapping matters, and to efficiently
11 marshal the resources of the Department.
12 To protect the integrity of ongoing matters, particularly with respect to unsolicited
13 information offered to the Department, the Deputy Attorney General has also assigned
14 Scott Brady the U.S. Attorney for the Western District of Pennsylvania to assist in the
15 receipt, processing, and preliminary analysis of new information provided by the public
16 that may be relevant to matters relating to Ukraine.
17 So, with respect to your responsibilities, does the last sentence of that paragraph
18 accurately depict what your responsibilities were?
19 A Yes.
20 Q And can you provide any additional context as to what the process looked
21 like for incoming information?
22 A Well, as Stephen Boyd describes to Representative Nadler, ours was an
23 intake and a vetting process, kind of akin to a due diligence, where we were to take
24 information provided by the public, including Mayor Giuliani, relating to Ukrainian
25 corruption. We were to vet that, and that was how we described it internally, a vetting

1 process.

2 We did not have a grand jury. We did not have the tools available to us that a

3 grand jury would have, so we couldn't compel testimony. We couldn't subpoena bank

4 records.

5 But we were to assess the credibility of information, and anything that we felt was

6 credible or had indicia of credibility, we were then to provide to the offices that had

7 predicated grand jury investigations that were ongoing.

8 Q And how many people within your office worked on vetting information?

9 A Including me, there were five of us.

10 Q And were all of those other individuals AUSAs or --

11 A Yes.

12 Q -- what was their role?

13 A Yes.

14 Q Okay.

15 And how did you assess the credibility of information coming in?

16 A Well, we would look at public sources. General Barr in other public

17 statements had said that we are to coordinate with the FBI and intelligence services, so

18 we did. We asked -- we met with them on a regular basis, asked to, you know, run

19 names, emails, bank account numbers through their existing files. We would vet that

20 against information that was provided by the public. And, again, open source

21 information, and then make a determination about credibility or next steps.

22 Q And so, after you made an assessment regarding the credibility, then you

23 would pass that information along to other offices who had predicated grand jury

24 investigations. Is that correct?

25 A That's right. At the end of our process, we then would brief those offices

1 with information that we believed was either credible or had indicia of credibility and we
2 felt, in our judgment, required some additional investigation, probably using tools
3 available to a grand jury. But, ultimately, it was their decision. Our visibility beyond
4 that point was over.
5 Q And were those briefings ongoing, or did they all happen at one point in
6 time?
7 A We would have ongoing conversations with the different offices to
8 coordinate and to apprise them of what we were doing, but at the end of our vetting
9 process, we provided substantive briefings to each of the offices, which was the handoff
10 of any information we felt they might want to look at or should be interested in.
11 Q And, when you say "offices," are you referring to other U.S. attorneys' offices
12 or FBI field offices? What are you referring to?
13 A Other U.S. attorneys' offices. So our interface was U.S. attorney's office to
14 U.S. attorney's Office. So specifically, I'm talking about Delaware, EDNY, SDNY.
15 Q And, when you were speaking with those other offices, did you have direct
16 points of contact?
17 A We did. We had multiple points of contact. So there were FBI contact to
18 FBI contact in the FBI field offices that were supporting the U.S. attorneys' offices. Our
19 litigation team, as it were, had primary interface with AUSAs that were running those
20 investigations in those offices, and then I would usually interface with the U.S. attorneys
21 or the first assistants from those offices.
22 Q And so, when you reached out to the other U.S. attorneys' offices, was it first
23 at the line level between AUSAs, or did you make the first contact with the other U.S.
24 attorneys?
25 A I made the first contact with other U.S. attorneys.

1 Q Okay.

2 On the second page of the letter, at the top, it says: Nor do these procedures

3 grant any individual unique access to the Department. Indeed, any member of the

4 public who has relevant information may contact the Department and make use of its

5 intake process for Ukraine-related matters.

6 So did this mean that any member of the public could reach out to you, or was this

7 just for Mr. Giuliani to reach out to you?

8 A No, this was any member of the public. And that happens in other types of

9 investigations where, if people from the public have information they want to provide to

10 Federal law enforcement, they will reach out to the FBI, to the U.S. attorney's office, any

11 number of Federal agencies. It's not uncommon.

12 Q And it wasn't unusual for the Deputy Attorney General or the PADAG to

13 assign these responsibilities to you, as that happened before. Is that correct?

14 A That I can't speak to.

15 Q In the letter, going from the first page to the second page, it says: The

16 Department regularly assigns U.S. attorneys to coordinate or focus on certain matters.

17 Did you have any awareness of other assignments similar?

18 A I know that Jeff Jensen was assigned to look at the matter involving General

19 Flynn. I had no interface with him during the pendency of his inquiry.

20 You know, because we were on AJC, I know from time to time, and I can't provide

21 specifics, but I know that different U.S. attorneys were given different assignments, some

22 involving investigations, some involving new initiatives, some involving task forces that

23 we all sat on at different times at the pleasure of either the Attorney General or the

24 Deputy Attorney General.

25 So it wasn't uncommon.

1 Q And, further on in this paragraph, it states that all information provided
2 through this process will be treated just like any other information provided to the
3 Department.
4 So would you say it's accurate that the information that you would have received
5 as part of this vetting process was not afforded any sort of special treatment?
6 A No. No, it was not.
7 Q So the Deputy Attorney General gave you the authority to vet new
8 information. Would you say that your role was limited in what you could do with that
9 information?
10 A Yes, it was. And it was limited by both the scope of what we were to look
11 at and the tools that were available to us, as I mentioned. It really was a vetting to
12 assess credibility. It was not to make determinations about whether there was evidence
13 sufficient to open criminal investigations, anything like that.
14 It was really to say, yes, we believe that this, again, as I said, is credibility, has
15 indicia of credibility, and then pass it on to one of the offices with the predicated jury
16 investigation.
17 Q And can you just tell us again which tools were not available to you to use?
18 A Sure. Anything that could compel testimony or the production of
19 documents. Witnesses, bank records, emails, we weren't able to access any of those
20 kinds of things or compel them from third-parties.
21 Q Could you interview any individuals involved with the information or no?
22 A We could. So that was something that was available to us and that we did.
23 Q And so you weren't able to act upon the information to open an assessment
24 or preliminary or full investigation. Is that correct?
25 A That is -- those are administrative categories that the FBI has pursuant to

1 their DIOG. That is not how we do things in the Department. In the Department, we
2 open a matter, and then we assess whether, in a traditional investigation, whether a
3 grand jury should be impaneled to investigate that, and then that case moves forward.
4 Our tasking was more narrow. We opened a matter, and then we did our task.
5 The FBI has different steps administratively that they identified and that we
6 discussed with them, but, ultimately, that didn't impact what our job was.
7 Q So could you close any matter?
8 A Internally, in the U.S. attorney's office? Yes.
9 Q But, after you passed that information along to another U.S. attorney's office
10 or you could -- were you involved in the investigation at all?
11 A Not after we gave the briefing. We weren't involved. We had no visibility
12 into what they did with that after we gave our briefings.
13 Q And can you kind of quantify, if you can, how much information you received
14 when you were vetting?
15 A I'm not sure I can quantify that. You know, there were a number of names
16 and information relating to those names, including phone numbers, email addresses,
17 bank account numbers that were provided to us, some of which we were able to look
18 into, some of which we were not.
19 Q And how much time would you say was devoted by the Western District and
20 the other five individuals that worked on this information? How much time did they
21 spend on these matters?
22 A With stops and starts, they worked -- our final briefings were in
23 mid-October. So, from January 3rd, when we were given this assignment, for two of our
24 members, it was their full-time assignment. And two of the supervisory AUSAs who
25 were more senior would be involved on an as-needed basis but provided significant

1 support.

2 And then I was involved as well on a regular basis.

3 Q But you continued doing your other duties as U.S. attorney, is that correct, in

4 addition to these duties?

5 A Yes, that's correct.

6 Q As part of this work, did your office obtain an FD-1023 dated June 30th,

7 2020?

8 A We did not obtain a physical copy, but there was one that was generated

9 from the investigation. That's correct.

10 Q And so how did this information come in then?

11 A Well, again, respecting the privileges that attach to this, during the course of

12 our investigation, we were made aware of a confidential human source who -- and

13 because the 1023 is public, I can speak to that.

14 A confidential human source in a previous 1023 had identified an interaction with

15 a Ukrainian national who discussed -- it wasn't the focus of that 1023 from several years

16 prior but had made reference to Hunter Biden serving on the board of Burisma.

17 At my direction, we asked the FBI to re-interview the CHS. And, again, in the

18 previous 1023, it wasn't really the focus of the information that was being provided to the

19 FBI. It was just one sentence. And so we said, "We need to understand what this is or

20 is not, so can you please re-interview him or her," which they did, and that then resulted

21 in the January 2020, 1023.

22 [redacted] And we'll offer that as exhibit No. 3, just so you can have it in front

23 of you while we're talking about it.

24 [Brady Exhibit No. 3

25 Was marked for identification.]

1 Mr. Brady. Sure.

2 BY [redacted]

3 Q Can you detail for us what an FD-1023 is?

4 A Sure. A 1023 is a report of a confidential human source. They are very

5 sensitive because, obviously, the FBI and the Department of Justice want to protect the

6 identities of the confidential human source. They assist in investigations.

7 And so the normal form for memorializing interviews during the course of an

8 investigation is an FD-302. Because of the sensitivity and how they are handled, they

9 are categorized differently, and they are -- you know, the number assigned is an FD-1023.

10 But they assist in ongoing information. It could be an investigation. It could

11 just be background information about certain subjects or targets. That's what's, you

12 know, that's what's represented here.

13 Q And so, when your office discovered the information in the previous 1023,

14 did you have an understanding of whether the field office in possession of that 1023 was

15 doing any sort of investigating regarding the information that was contained in the 1023?

16 A We did not. We don't believe that it was because it wasn't the focus of the

17 previous 1023. That was about a different subject but also interfacing with a Ukrainian

18 national.

19 Q You said that you had an interaction with the FBI asking them to re-interview

20 the CHS. Can you tell us a little bit more about that interaction? When did it occur?

21 Mr. Lelling. You can say when it occurred, if you remember.

22 Mr. Brady. Yeah, so we identified the previous 1023 probably at the beginning of

23 June and then went back and forth with the FBI about reaching back out to the CHS and

24 doing a full interview on the line referencing Hunter Biden and Burisma. But it took a

25 while.

1 BY [redacted]

2 Q And when you say there was a back and forth, what do you mean by that?

3 Was there pushback from the FBI?

4 Mr. Lelling. I would describe it generally.

5 Mr. Brady. I think there was concern by the FBI about the sensitive nature of

6 both the information and also the fact that this was an important confidential human

7 source who had provided information to them in the past, that had been used in other

8 investigations. So it was an important CHS to them.

9 [redacted]

10 Q And, when you say that the information was sensitive, what do you mean by

11 that?

12 A Certainly anything relating to Ukraine, Ukrainian nationals that intersected

13 with Hunter Biden and his role serving on the Burisma board was sensitive and certainly

14 in 2020, months before an election cycle when different policies kick in for the

15 Department and for the FBI.

16 Q And was it sensitive because Hunter Biden's father, Joe Biden, was running in

17 the 2020 election?

18 A Yes.

19 Q And talking about the CHS a little bit, you said that the CHS was important to

20 the FBI. Did you get a sense of the CHS' credibility from the FBI?

21 Mr. Lelling. I would ask you not to answer that.

22 [redacted]

23 Q The FBI has said that they had a pre-existing relationship with this source, as

24 well as they had been used in multiple investigative matters, including during the Obama

25 administration. Are you aware of those public statements from the FBI?

1 A I'm not aware of those, but that's consistent with my understanding.

2 Q The FBI has also said that they've reviewed information that the CHS has

3 provided and found them to be, quote, highly credible. Have you seen those public

4 statements?

5 A I have not, but that's consistent with my understanding.

6 Q And can you tell us about the process that your office went through to vet

7 the information that's now contained in this FD-1023?

8 Mr. Lelling. You can speak generally to that. I would not get into details.

9 Mr. Brady. So we attempted to use open-source material to check against what

10 was stated in the 1023. We also interfaced with the CHS' handler about certain

11 statements relating to travel and meetings to see if they were consistent with his or her

12 understanding.

13 [redacted]

14 Q And did you determine if the information was consistent with the handler's

15 understanding?

16 A What we were able to identify, we found that it was consistent. And so we

17 felt that there were sufficient indicia of credibility in this 1023 to pass it on to an office

18 that had a predicated grand jury investigation.

19 Q And did you determine that the CHS had traveled to the different countries

20 listed in the 1023?

21 Mr. Lelling. I would decline to answer that.

22 [redacted]

23 Q And what did -- after you corroborated some of the information that was

24 obtained in the FD-1023, what did you do next?

25 A So we received this at the end of June. We did what we could to

1 corroborate certain things, and then that was a part of the briefing that we gave to, in this
2 case, the District of Delaware.
3 Q So you passed this information along to the District of Delaware. Is that
4 correct?
5 A We did and confirmed that the FBI -- we did not have physical possession of
6 the 1023, though we saw it and reviewed it. We also then, after a briefing, confirmed
7 that the FBI provided a copy of the 1023 to not only the Baltimore Field Office, which
8 supported the District of Delaware, but also the U.S. attorney's office in the District of
9 Delaware, and the FBI confirmed that they had done so at our request.
10 Q And so, regarding this 1023, when you were passing this information along
11 to the USAO in Delaware, did you have a communication with Mr. Weiss, the U.S.
12 attorney there?
13 A I did.
14 Q And was that the first time you had spoken with Mr. Weiss?
15 A No. Mr. Weiss and I had spoken on a number of occasions. We also
16 overlapped on AJC, so I knew Mr. Weiss well.
17 But, concerning this particular assignment by DAG Rosen relating to Ukraine, we
18 had several conversations and interactions, both between David and me and then
19 between our respective teams that were running our -- vetting on our side, investigation
20 on their side relating to the sharing of information from, you know, January, let's say,
21 10th through mid to late October when we provided the final briefing to the District of
22 Delaware.
23 Q And how would you describe how regular those interactions occurred
24 between you and Mr. Weiss specifically?
25 A They were really on an as-needed basis. So they might be every, you know,

1 4 weeks, 6 weeks.

2 Mr. Lelling. Just to clarify for the record, this is you personally, not your

3 subordinates?

4 Mr. Brady. Yes. This is between David and me, between Mr. Weiss and me.

5 He and I would speak on a semi-regular basis, but usually it was when certain issues

6 would rise up to us that we needed to speak directly and resolved.

7 BY [redacted]

8 Q And this was regarding specifically the assignment from DAG Rosen

9 regarding vetting Ukrainian information. Is that correct?

10 A That's correct.

11 Q And did you pass a lot of information that your team had vetted and deemed

12 credible to the U.S. attorney in Delaware?

13 A I'm not sure what you mean by a lot of information, but we gave a

14 substantive briefing with the information, including the 1023 that we thought would be of

15 interest to them or that they should investigate further, and made other

16 recommendations about possible investigative avenues that we would recommend that

17 they take.

18 Q So the October, the late October briefing, did it include materials additional

19 to the FD-1023?

20 A Yes.

21 Q And so was that a final briefing of everything that you had sent over to the

22 Delaware office?

23 A That's correct.

24 Q But you had had interactions with Mr. Weiss leading up to the October 2020

25 briefing. Is that correct?

1 A Yes, that's correct.

2 Q Besides you, who communicated with the Delaware U.S. Attorney's Office?

3 Mr. Lelling. I would identify them by title only.

4 Mr. Brady. My first assistant would communicate with the Delaware first

5 assistant. They had a professional relationship prior. And then most of the regular

6 communication would be between -- there were particularly two AUSAs that were kind of

7 leading the day-to-day taskings and interfaced with the FBI on our process, and they

8 would interface with AUSAs on Mr. Weiss' team that were leading the investigation.

9 BY [redacted]

10 Q Did you ever have any interactions with an AUSA in the U.S. attorney's office

11 for Delaware named Lesley Wolf?

12 A I believe I was on some initial calls in which Ms. Wolf was a participant. I

13 believe we also had a global meeting with members of various U.S. attorneys' offices and

14 leadership in the FBI in April that Ms. Wolf attended. Otherwise, after that, all my

15 interaction was with Mr. Weiss directly.

16 Q And, when you were on that call where Ms. Wolf was a participant, was

17 Mr. Weiss on that call as well?

18 A On the early calls, yes. Yes. I was never on a call with Ms. Wolf that

19 [redacted] was not a part of.

20 Q And did the AUSAs from your team correspond regularly with Ms. Wolf, to

21 your understanding?

22 A Fairly regularly, as needed, but, yes, on a regular basis over the course of our

23 process.

24 Q And were there other AUSAs that your team would reach out to at Delaware

25 besides Ms. Wolf?

1 A I am not familiar with any. I believe the primary interface was with
2 Ms. Wolf.
3 Q And do you remember the date of the October 2020 briefing at all?
4 A I want to say it was October 20th or 22nd. It was the final briefing of the
5 three briefings that we gave to other U.S. attorneys' offices.
6 Q And so the other U.S. attorneys' offices that you interfaced with, other than
7 the District of Delaware, what were those U.S. attorneys' offices again?
8 A SDNY, the Southern District of New York, and EDNY, the Eastern District of
9 New York.
10 Q And did you have a final briefing with the Southern District and Eastern
11 District around the same time?
12 A Yes, earlier in October, and each briefing was separate. So the information
13 was limited to and provided to only members of that office. So we had one for SDNY,
14 one separate one for EDNY, and one separate one for Delaware. There were no kind of
15 shared communications where one would sit in on another's briefing.
16 And those briefings were provided by my team, and the FBI participated, but the
17 briefings were given by members of my team.
18 Q And similar to your interactions with the U.S. attorney's office for Delaware,
19 did you have ongoing communications with the Southern District and the Eastern District
20 of New York?
21 A Again, on an as-needed basis. There were more at the beginning of the
22 project because we were trying to define the rules of engagement among the offices to
23 understand how information would be shared and utilized and what information would
24 come back to us and be shared with us.
25 But, yes, Geoff Berman was the U.S. attorney for the Southern District of New

1 York, so he and I would speak occasionally. Rich Donoghue at that time was the U.S.
2 attorney for EDNY before he became PADAG and replaced Seth DuCharme later in the
3 administration.
4 And, as the letter from Stephen Boyd to Mr. Nadler, Representative Nadler states,
5 Rich and I would also speak on a regular basis because he was responsible for overseeing
6 all of the Ukraine-related investigations that were going on, was kind of an air traffic
7 controller to make sure, you know, we weren't duplicating efforts, that we were aware of
8 the things that were going on in the other offices.
9 Q And I think you mentioned FBI, the Pittsburgh Field Office being involved
10 with the 1023 and passing that along to Baltimore. Is that correct?
11 A That's correct.
12 Q And did they have any involvement in the vetting process, FBI Pittsburgh?
13 A Yes. FBI Pittsburgh was our primary support on a day-to-day basis in, you
14 know, running things to ground, looking at FBI files, and anything that we asked them
15 relating to the vetting process.
16 Q And were there regular points of contact at FBI Pittsburgh that you would
17 work with?
18 A Yes, I and my team.
19 Q And who was your primary point of contact by title?
20 A Mine was mostly the SAC or one of the ASACs, one of the senior ASACs.
21 And then my team worked on a regular basis with, to a lesser degree, the ASACs but
22 primarily an SSA, supervisory senior assistant.
23 Mr. Lelling. Supervisory special agent.
24 Mr. Brady. Supervisory special agent. Thank you.
25 And, as I say, and the special agents who were on the vetting team for the

1 Pittsburgh Field Office.

2 BY [redacted]

3 Q And how many individuals were involved in the vetting team at FBI

4 Pittsburgh, to your knowledge?

5 A To my knowledge, it was unclear. There was a small group that did

6 day-to-day assignments. There was a larger group at the FBI, including FBI

7 Headquarters, that had eyes on what was happening and which required signoff for any

8 investigative steps that FBI Pittsburgh was asked to take by us.

9 Q Okay.

10 And so they would only elevate an investigation if you had asked them to take

11 investigative steps?

12 A It was my understanding that they could not take any steps absent the

13 approval, the review and approval of FBI Headquarters, not just the leadership of FBI

14 Pittsburgh.

15 Q And when you would reach out to Delaware or the Eastern District of New

16 York or Southern District of New York, did FBI Pittsburgh also reach out to the

17 corresponding field office for that district?

18 A I don't know what the regularity of their communications was. Sometimes

19 our conversations were just U.S. attorney's office to U.S. attorney's offices to make sure

20 we were sharing information, communicating. The interaction regularity, content

21 among the different FBI field offices I'm not aware.

22 Q And you were aware that the FBI Pittsburgh Office sent the 1023 to the FBI

23 Baltimore Field Office. Is that correct?

24 A That's right. That was at our request/direction.

25 Q Did you have any understanding of how regularly FBI Pittsburgh

1 communicated with FBI Baltimore?

2 A I don't but I think it was regular.

3 Q Did you have any interactions with the FBI Field Office?

4 A I did not personally, no. I think my team did. So, for example, when we

5 did the briefing to Delaware, I think there were members of the Baltimore Field Office

6 who participated in the call, in the briefing. It was my understanding that Lesley Wolf,

7 perhaps another AUSA, and unknown number of special agents for FBI Baltimore were on

8 the receiving end of our briefing.

9 Q And, when did you give the direction to pass the FD-1023 on to the U.S.

10 attorney's office in Delaware and FBI Baltimore?

11 A I can't remember if it was prior to the briefing or during the briefing, but we

12 requested that, and FBI Pittsburgh ASAC confirmed that they would and then, after the

13 fact, confirmed that it had been transmitted.

14 Mr. Lelling. You're referring to the briefing in October 2020?

15 Mr. Brady. Correct, yeah, our briefing in October 2020 to the Delaware U.S.

16 Attorney's Office.

17 Ms. [redacted] And, when you passed the FD-1023 along to the other offices, did

18 you let them know that you had concluded the information in the FD-1023 was credible?

19 Mr. Lelling. I don't know that he can accept that as phrased, characterization.

20 Mr. Brady. Yes, and I can explain.

21 We were not making a representation that everything in this 1023 was credible.

22 That was not our process. We didn't have the tools to do so. We were not making

23 that kind of representation.

24 What we were doing was, as a part of the briefing, giving them the investigative

25 steps that we had taken within our limited ability to corroborate the information that the

1 CHS had provided us, and we informed them that we felt that the 1023 had indicia of
2 credibility sufficient to merit further investigation.
3 And so that's what we communicated to them.
4 BY [redacted]
5 Q And you did this in the form of the October 2020 briefing. Is that correct?
6 A That's correct.
7 Q And do you remember who was present for this briefing? Who from your
8 office was present for the briefing?
9 A The two AUSAs who were running points on the investigation and really had
10 the most substantive knowledge were present. I believe at least one or two of the FBI
11 special agents in the Pittsburgh Field Office were also present. And, as I sit here, I don't
12 recall whether either of the two senior members of our office were a part of that briefing
13 or not. I was not; neither was David Weiss.
14 Q And do you know who attended from [redacted] office?
15 A Lesley Wolf. Ms. Wolf attended. There may have been another AUSA
16 from Delaware and then unknown number of special agents from the Baltimore Field
17 Office.
18 Q And who gave the briefing? Who was in charge of providing the
19 information?
20 A It was the lead AUSA on my team.
21 Q And did you ever receive information on how the briefing went from your
22 team?
23 A Yes.
24 Q What was there overall characterization of how the briefing went?
25 A All of our information that we wanted to have communicated to Delaware

1 was communicated.

2 Q And was the Delaware U.S. Attorney's Office receptive of the information

3 that you provided?

4 A I can't characterize their receptivity. As I mentioned, I wasn't a part of it.

5 It was received, however, and we gave that full briefing.

6 And then, as I mentioned, after we provided the briefing, any documents we sent

7 to them, including the 1023, then our tasking was done, and our visibility into what any of

8 the offices did with that information ended.

9 BY [redacted]

10 Q Did you have any issues developing a channel of communication initially with

11 the Delaware U.S. Attorney's Office?

12 A Yes.

13 Q And could you talk to us about that?

14 A Speaking generally, from a process perspective, I think there was both a

15 skepticism of the information that we were developing, that we had received, and

16 skepticism and then weariness of that information. I think they were very concerned

17 about any information sharing with our office.

18 It became problematic at different points, which required Mr. Weiss and me to get

19 involved and level set, as it were, but it was regularly a challenge to interact with the

20 investigative team from Delaware.

21 Q Why do you think that was? I mean, your office contacts their office. I

22 mean, what was the harm in having a telephone call and sharing information? I mean,

23 you certainly don't have any authority of the Delaware U.S. Attorney's Office. What do

24 you think was going on there?

25 A That's absolutely correct in terms of having no authority to dictate anything

1 that Delaware did or looked at.

2 I don't want to speculate as to why, but I know that there was no information

3 sharing back to us about what they were -- or very limited. And, at one point, the

4 communication between our offices was so constricted that we had to provide written

5 questions to the investigative team in Delaware, almost in the form of interrogatories,

6 and receive written answers back.

7 Q Okay.

8 Now, do you think their reluctance was because Hunter Biden was involved?

9 A I can't speak to that, but, obviously, this is a very sensitive investigation, and

10 it was an election year.

11 Q Did you have to have interactions with the DAG's office to facilitate

12 communications with the District of Delaware?

13 A Most of our interactions with the DAG's office was to facilitate

14 communication with the FBI. We did, on occasion, have to involve the DAG's office to

15 facilitate communication with Delaware as well.

16 Q Okay.

17 So you were having trouble talking with [redacted] office, so you went to the

18 DAG's office. Who did you go to in the DAG's office?

19 A It was usually the PADAG.

20 Q And you told the PADAG, like, they're not willing to have an information

21 sharing dialogue. Can you help us?

22 A That's correct.

23 Q And how did that ultimately get resolved? Did the PADAG then call

24 [redacted] or?

25 A If he did, I'm not aware. I know from public reporting there was a later

1 communication between then PADAG Rich Donoghue and either [redacted] or his team
2 ordering them to meet with us for the briefing.
3 Q So he had to order them to meet with you?
4 Mr. Lelling. This is not your personal knowledge.
5 Mr. Brady. This is not my personal knowledge. I've only read that in public
6 sources from Mr. Shapley's testimony.
7 BY [redacted]
8 Q But, based on your experience, that doesn't conflict with anything you're
9 aware of?
10 A I'm sorry. I don't -- what doesn't conflict?
11 Q The public reporting, what Mr. Shapley said.
12 A No, I have no knowledge one way or the other --
13 Q Right.
14 A -- relating to that.
15 Q But, if the District of Delaware was enthusiastic to meet with you, you
16 certainly wouldn't have to go through the DAG's office. Correct?
17 A Typical U.S. attorney to U.S. attorney office communication, even on
18 sensitive matters, is fairly clear and transparent. We're all professionals. We all
19 understand our ethical obligations, especially for 60-year grand-jury-derived information.
20 So that happens on a regular basis on investigations that are being run by multiple offices.
21 So this was unusual.
22 Q So you don't ordinarily have to get the DAG's office involved to pass
23 information?
24 A Not to pass information. Sometimes the DAG's office has to get involved
25 when two U.S. attorneys' offices or multiple U.S. attorneys' offices are investigating the

1 same course of conduct or crime, and then which office is the lead office, essentially, for
2 indictment purposes. This was not that.
3 So this was very unusual, but we had to involve the DAG's office with Delaware
4 and the FBI on a regular basis.
5 Q And did your AUSAs ever communicate to you issues they were having with
6 Ms. Wolf?
7 A Not with Ms. Wolf specifically -- well, no strike that.
8 There was an occasion with Ms. Wolf as well, but they would communicate to me
9 the issues that we were having, our investigative team was having with both the FBI and
10 with Delaware and with SDNY. Really the only office we didn't have any issues with was
11 EDNY. It was Rich Donoghue's office.
12 Q Okay.
13 And so, before you communicated with the PADAG that you needed assistance,
14 did you have an initiative to talk with Mr. Weiss?
15 A Yeah, I wouldn't always run to the principal right away, right. I would try to
16 go professional to professional, you know, U.S. attorney to U.S. attorney, and we would
17 try to resolve things. And, only when we couldn't, would we elevate it to the DAG's
18 office and involve the PADAG.
19 Mr. Rosen was never involved directly in our communications. It was always the
20 PADAG.
21 Q Okay.
22 And what feedback was Mr. Weiss giving you during that time period before you
23 had to involve the PADAG?
24 Mr. Lelling. Only in general terms.
25 Mr. Brady. Usually Mr. Weiss was in receiving mode and would say that he

1 would talk to his team to try to resolve it?

2 BY [redacted]

3 Q At any point did you have to advise Mr. Weiss that you've been, you know,
4 you've been charged by the DAG to collect this information, and part of your charge and
5 your duty, and correct me if I'm wrong, is to analyze it and hand it off?

6 A That's correct and to coordinate with other offices. And, yes, I reminded
7 Mr. Weiss of that obligation that we have, of that requirement, and the FBI on a regular
8 basis as well.

9 Q And you certainly weren't trying to go into the District of Delaware and open
10 your own grand jury. You're simply trying to hand this information off.

11 A That's correct. And what we wanted to do and the whole -- one of the
12 reasons, at least subjectively, my understanding was that this process was set up to
13 protect the predicated grand jury investigations. And so one thing that the coordination
14 would allow us to do would be to make sure that we weren't duplicating any efforts that
15 they had had.

16 For example, creating two 302s of witness interviews, which might conflict. We
17 didn't want to do that. We didn't want to do anything that would make any of the
18 offices' jobs more difficult or complicate cases. And so we felt that that kind of
19 coordination would obviate that. It wasn't always viewed that way by the other office.

20 Q And were you aware of what the PADAG did ultimately to get Delaware to
21 take your calls, essentially?

22 A Not always. No, I didn't always have visibility into that. Sometimes
23 resolutions would be, as I mentioned, you know, we would have to submit interrogatories
24 to get information. Sometimes, again, from Mr. Shapley's testimony, I understand that
25 they were ordered by PADAG Donoghue to participate in our briefing. There was

1 apparently reluctance to participate in that briefing at the end of our process.

2 Q And, even if you were presenting a case to Mr. Weiss that was airtight, which

3 I'm not suggesting this was, but even if you were presenting a case that was airtight, and

4 you had everything, it was still Mr. Weiss' call whether to prosecute, whether to open up

5 a grand jury matter. Correct?

6 A Yes. I understand your question. Yes, we had no ability to direct the

7 actions of what the offices with predicated grand jury investigations would do with the

8 information that we believed was either credible or had indicia of credibility. We could

9 only present what we had identified, explain to them the sources by which we believed

10 something had indicia of credibility, and then make recommendations about what we

11 think they might want to do with that. But that was it.

12 Q Did you ever have any discussions with the DAG's office about the prospect

13 of special counsel being named here?

14 A No.

15 Q Do you think -- at this point, you know, October 2020, did you think that a

16 special counsel was warranted?

17 Mr. Lelling. Don't answer that.

18 Mr. Brady. That was beyond my purview.

19 BY [redacted]

20 Q But clearly there was a potential conflict here. Mr. Weiss was U.S. attorney

21 in the District of Delaware, which is the home district of the Democratic nominee for

22 President.

23 Mr. Lelling. I'm instructing the witness not to answer that.

24 BY [redacted]

25 Q So did you have any communications with anyone on your team about that

1 prospect?

2 A Of the appointment of a special counsel?

3 Q Yes.

4 A No.

5 And, just to be clear, separate and apart from Mr. Weiss and his tasking, U.S.
6 attorneys' offices investigate highly sensitive matters, including matters of potential public
7 corruption in cities across the United States. We do that on a regular basis. And,
8 because of the ethical obligations and the professionalism of the offices and the agencies
9 that support DOJ, we understand what our marching orders are. We, they, understand
10 what the marching orders are and abide by those.

11 Q So you weren't particularly invested in encouraging Mr. Weiss to prosecute
12 or not prosecute? You were simply handing off information. Is that correct?

13 A That's absolutely right. My goal was for us to do our task, our job that we
14 were given by AG Barr, DAG Rosen. Do it effectively and professionally, with integrity.
15 Make sure that there was no information that was going to the public outside of our
16 team, and then hand that off to those offices and allow them to do with it as they felt
17 best.

18 Q So you weren't advocating for any type of prosecution by Mr. Weiss?

19 A No, nor would it have been my place to do so.

20 Q Okay.

21 And so the fact that Mr. Weiss wasn't receptive to taking your calls didn't
22 necessarily, you know, frustrate you other than you're just trying to do your job? You
23 weren't out to get the particular targets of this information that you acquired?

24 A No, not at all. And he wasn't reluctant, just to clarify the foundation of
25 your question. He wasn't reluctant to take my calls. We usually just had to solve a

1 problem, and we would engage, U.S. attorney to U.S. attorney, to try to solve the working
2 relationship between our teams.
3 Q But, at some point, the DAG's office had to get involved to facilitate that?
4 A Occasionally, yes.
5 Q So that seems like you weren't always able to resolve it with Mr. Weiss.
6 A That's correct. Sometimes.
7 Q Did you ever suggest to Mr. Weiss, like, "We're just looking to have a
8 telephone call, we're just looking to have a meeting, we're just looking to give this
9 information to you, and you can do with it whatever you deem appropriate"?
10 A Yes.
11 Q But still you had to get the DAG's office involved?
12 A On occasion. Not every time.
13 Q Okay.
14 BY [redacted]
15 Q And, when you said you had to communicate using written questions, how
16 many occasions did you have to do that?
17 A We did that one time, and I don't remember the number of questions but in
18 excess of probably 20.
19 Q And that was prior to the October 2020 briefing; Is that correct?
20 A Yes, that was much earlier.
21 Q Do you kind of remember the general timeframe?
22 A I want to say that was around -- that was prior to this, which was June. So I
23 want to say maybe April or May.
24 Q And the point of the written questions was to obtain information from the
25 District of Delaware; Is that correct?

1 A Yes, to understand what they had looked at, what they had not looked at to
2 make sure we weren't, again, to [redacted] point, duplicating efforts, stepping on toes,
3 doing anything that would in any way complicate their lives and their investigation.
4 Q And, at that point, you had an understanding that Mr. Weiss was looking
5 into some of the matters in which you were looking into as well regarding the information
6 that was coming into your office?
7 A Yes.
8 Q And you said that you had some communication troubles with the FBI as
9 well; Is that correct?
10 A That's correct.
11 Q Was that a specific field office?
12 A We had -- my knowledge is limited to the issues that we had with the
13 Pittsburgh Field Office and, by extension, FBI Headquarters.
14 Q And how would you characterize those problems that you were having?
15 A It was a challenging working relationship. I think there was reluctance on
16 the part of the FBI to really do any tasking related to our assignment from DAG Rosen and
17 looking into allegations of Ukrainian corruption broadly and then specifically anything
18 that intersected with Hunter Biden and his role in Burisma. It was very challenging.
19 Q And you said reluctant. Did you get a sense of why the FBI was reluctant to
20 take any action?
21 Mr. Lelling. You can characterize that generally.
22 Mr. Brady. I don't know why they were reluctant. I know that, because of what
23 they deemed to be the sensitive nature, and this was sensitive, as it related to Mr. Biden,
24 that there were a lot of steps of approval and a lot of eyes that had to look at things and
25 sign off on any action that the special agents that were doing the day-to-day work and

1 interacting with our team would take.

2 It was my understanding that FBI Headquarters had to sign off on every

3 assignment, no matter how small or routine, before they could take action, which then

4 just lengthened the amount of time, you know, between us asking them to do something

5 and them actually performing it.

6 BY [redacted]

7 Q And, in your dealings with the FBI, was this level of signoff regular, that the

8 special agent would have to get signoff to take any little investigative action?

9 A Not in my experience. In my experience, on most investigations, even

10 sensitive investigations, and/or public corruption investigations, it was usually contained

11 within the field office. So you would have special agents interacting with their

12 immediate supervisor, the SSA, who would bring in maybe an ASAC on occasion or read in

13 the SAC.

14 Even something as simple as extending the assessment that we talked about, that

15 requires a renewal every 30 days under the FBI DIOG. Normally that, either opening or

16 renewal, can be by -- at the SSA level. In this case, it required 17 different people,

17 including mostly at the headquarters level to sign off on it before the assessment could be

18 extended.

19 And so, at different times, we were told by the special agents that they had to go

20 pens down sometimes for 2 or 3 weeks at a time before they could re-engage and take

21 additional steps because they were still waiting on, again, someone within the 17 chain

22 signoff to approve.

23 Q And had you ever seen a 17-person signoff required by the FBI?

24 A Never in my career.

25 Q And you had to go to the DAG's office to kind of rectify some of this

1 challenging relationship and the reluctance. Is that correct?

2 A That's correct.

3 Q And how many times did you have to go to the DAG's office for help?

4 A With the FBI specifically?

5 Q Correct.

6 A It's fairly regular. I want to say at least five or six times on a myriad of

7 different issues.

1 [11:01 a.m.]

2 BY [redacted]

3 Q And did you get a sense of where the reluctance and the root of the

4 challenges were coming from? Was it coming from FBI headquarters, or was it specific

5 agents within the Pittsburgh office? Did you get a sense of where that was coming

6 from?

7 A Typically, when we would elevate an issue that required the attention of

8 senior management of the FBI, the PADAG would interact with the Deputy Director.

9 Q Uh-huh.

10 A The Deputy Director at that time was David Bowdich. And Mr. Bowdich

11 was terrific. We would meet, sometimes Seth would talk to Mr. Bowdich directly, and

12 that problem would be solved. Sometimes the three of us would confer and huddle,

13 and I would apprise him, and he would say, "I will take care of it," and he would.

14 So usually the issues were not at the Pittsburgh Field Office, including the ASACs or

15 SAC levels. It was somewhere at FBI headquarters, and I had no visibility into where

16 that choke point was.

17 Q And what did the challenging relationship that was going on with the FBI and

18 the reluctance on the part of the FBI to, you know, look into some of the information you

19 were receiving, what did that mean for your process and your assignment?

20 A It meant, as I stated earlier, there were a lot of stops and starts.

21 Even the process by which the FBI categorized the opening of the assignment -- as

22 I said, they have their administrative procedures that are governed by the DIOG. We

23 could simply open a matter and then move forward. I don't believe, from the time we

24 were given this assignment and it was made public, including when we met with Mr.

25 Giuliani -- that all happened in January. I don't believe that the FBI opened this as an

1 assessment until the end of March.

2 And, for a period, they were pens down and not able to do anything until it was
3 both approved as an assessment and then signed off on. And then, again, it required
4 every 30 days a renewal. And so there were several times, because of the sign-offs
5 required, where the agents would go pens down for weeks at a time. And so that was
6 incredibly frustrating.

7 Q And did these challenges continue throughout your whole assignment from
8 January until, we'll say, October of 2020? Were the challenges consistent? Did they
9 just happen at one period of time?

10 A It happened at the beginning and then through -- the SAC in Pittsburgh, I
11 believe, retired at the end of March. He was replaced with an acting SAC through
12 perhaps May and June and then was replaced around that same time -- I don't remember
13 the dates exactly -- with a permanent SAC. Once that SAC got in place, then things got
14 moving, and the relationship was much, much better. However, though, there was still
15 interaction with headquarters and sign-off required by headquarters.

16 So, in that last period, once the new SAC came on board, it was much better and
17 we could get things moving. So, really, from January until, again, end of May, it was
18 incredibly challenging and we did not make much progress at all.

19 Q And when you had to, you know, have these meetings between you, the
20 PADAG, and the Deputy Director at the FBI, was the Deputy Director receptive to what
21 the PADAG was saying?

22 Mr. Lelling. You can describe those meetings in very general terms.

23 Mr. Brady. Yes, Deputy Director was effective. He understood our tasking.
24 He wanted the FBI to be supportive, and so, to the extent there were issues or problems,
25 he did his best to solve those. And then we didn't have visibility in what his

1 communication downstream was, but they were usually resolved.

2 BY [redacted]

3 Q And was there a point in time when the FBI got rolling with their

4 assessment?

5 A Yes. Later, again, in June-ish of 2020, when the new SAC for Pittsburgh was

6 appointed, he and I had a meeting where we sat down, I explained what our tasking was,

7 what we were trying do, what the history had been, including some of the problems in

8 the working relationship, and things were much better after that point.

9 [redacted] We can go off the record.

10 [Recess.]

11 [redacted] Go on the record, please. It is 11:14.

12 Hi again, Mr. Brady.

13 Mr. Brady. Hi.

14 EXAMINATION

15 BY [redacted]

16 Q I have a couple questions just really briefly on the appointment process that

17 we mentioned before.

18 You were asked a series of questions about whose decision it was to remove you

19 from office. Do you recall those questions?

20 A Yes.

21 Q Do you know who your predecessor was when you became U.S. attorney in

22 the Western District?

23 A The Presidentially appointed U.S. attorney was Dave Hickton.

24 Q Okay.

25 A And then Soo Song was first assistant and then acting in the interim.

1 Q So was your predecessor asked to be removed, as well, when there was a
2 new change in administration?
3 A I have no idea.
4 Q Okay. Is that common, in your experience or to your knowledge, that
5 Presidents remove U.S. attorneys when there's a new administration coming in?
6 A It's regularly understood that at the end of an administration that's a change
7 that the U.S. attorneys will resign and then be replaced by nominees, you know, from the
8 party of the incoming administration. That's understood by all of us. We are know
9 that we have a shelf life and that we'll be replaced.
10 Q But you didn't think anything unusual happened in your case, is that fair to
11 say, when you were asked to step down?
12 A No. No. We knew it was coming; we just didn't know the timing.
13 Q Okay.
14 And moving on from that, let's talk about your January 2020 assignment. You
15 characterized that as an assignment to vet information. Is that what you would say?
16 A That's correct. And that's what Attorney General Barr, when he spoke of it
17 publicly, also described it, as I recall.
18 Q Okay. So the task that you were given came ultimately from Attorney
19 General Barr. Is that right?
20 A I believe so, yes.
21 Q And the scope was for you to vet information related to Ukraine that was
22 coming into the Justice Department from members of the public, including, particularly,
23 Mr. Giuliani and his lawyer, Bob Costello, correct?
24 A I don't know about "particularly," but, yes, any member of the public,
25 including Mayor Giuliani.

1 Q Okay. So, in your experience, are you saying that you didn't have any
2 expectation that you were going to be receiving information particularly from Mr.
3 Giuliani?
4 A We knew he would be one of the members of the public that would be
5 providing us with information --
6 Q Okay.
7 A -- but the process was open to any member of the public that had
8 information relating to Ukrainian corruption.
9 Q Okay. How did you know that the information coming to you was going to
10 be coming from Mr. Giuliani?
11 A His attorney reached out to our office once the process had been identified
12 and asked to set up a meeting with our office to provide us with the information that
13 Mr. Giuliani had.
14 Q Okay. And his attorney was Bob Costello; is that correct?
15 A That's correct.
16 Q Okay.
17 Who was the person at the Attorney General's Office who gave you your
18 assignment or informed that you would be the person responsible for this assignment?
19 A Seth DuCharme, the PADAG.
20 Q Okay. And do you recall how it was that you were informed?
21 A I believe I received an email that's in the public, I believe, pursuant to FOIA
22 requests, that he wanted to speak with me and, then, about a new assignment.
23 Q Okay.
24 And I am going to mark for the record as exhibit 4 an email.
25 [Brady Exhibit No. 4

1 Was marked for identification.]

2 BY [redacted]

3 Q This is the email I think you were referring to, right, Mr. Brady?

4 This is an email dated January 3, 2020. It's from you to Seth DuCharme. And

5 then underneath it is the original message which came from Mr. DuCharme to you on

6 Friday, January 3rd, correct?

7 A That's correct. This was the first I was made aware and/or asked about this

8 assignment.

9 Q Okay.

10 And the actual message is brief. Mr. DuCharme simply asked you, quote:

11 "Scott do you have time for a quick call today in re a possible discreet assignment from

12 OAG and ODAG?", unquote. Is that right?

13 A Correct.

14 Q Okay. Do you -- oh, first, just for the record, "OAG" is the Office of the

15 Attorney General; is that right?

16 A Correct.

17 Q And "ODAG" is the Office of the Deputy Attorney General, correct?

18 A That's correct.

19 Q So those were the sources of your assignment, correct?

20 A Correct.

21 Q And Mr. DuCharme refers to your assignment as a, quote, "discreet

22 assignment," correct?

23 A Yes. And I think what he meant by "discreet" was limited in scope and

24 duration.

25 Q Oh, "discreet" means limited in this case?

1 A My understanding was that it was "discrete" meaning limited in scope and
2 duration.
3 Q Okay. Did you think in any way that he was implying that it ought to be
4 kept out of the public, this assignment?
5 A No. I -- no, because, on the one hand, the Attorney General was speaking
6 publicly of the assignment.
7 However, it should be kept secret, to use your words, just as any investigation
8 would be, any process would be that -- whether vetting or an investigation between the
9 U.S. attorney's Office and the FBI or any Federal agency.
10 Q You mean the information itself that you were discussing or coming upon in
11 the investigation, that should be kept discreet or out of the public eye?
12 A The investigation, the process, all of that -- none of that is public --
13 Q Got it.
14 A -- when we do that.
15 Q And you indicated that you believe that the Attorney General at that time
16 was discussing your assignment publicly? Is that -- in your recollection, was he doing
17 that publicly on January 3, 2020?
18 A No. I mean subsequent comments.
19 Q Okay. So, after it became known that this investigation or assignment had
20 been given to you, Attorney General Barr did make public comments. Is that right?
21 A Yes.
22 Q Okay.
23 So I am going to mark as exhibit 5 -- this is also part of the FOIA production.
24 [Brady Exhibit No. 5
25 Was marked for identification.]

1 BY [redacted]

2 Q Oh, sorry. Oh, this is the other version.

3 Sorry. I'm sorry. It's not that.

4 A Not this first one?

5 Q I'm going to give you the transcript. It's easier.

6 A No problem.

7 Q Sorry. So sorry. Thank you.

8 A This is 5?

9 Q Yes, sir, exhibit 5.

10 This is another email. There's actually a Bates number, just for the record, on

11 the bottom. This is part of an American Oversight FOIA case, DOJ-20-0220-A. And the

12 Bates number is 20-0221-B-000002.

13 At the top of this exhibit, you'll see that this is an email from Kerri Kupec to Bill

14 Ahern. Do you see that?

15 A Yes.

16 Q Okay. And "Bill Ahern" is an alias for the Attorney General, Mr. Barr. Is

17 that correct?

18 A I am not aware of that.

19 Q Okay. Well, it says "OAG." Does that, again, stand for the Office of the

20 Attorney General?

21 A Correct.

22 Q Okay. And do you know who Kerri Kupec is?

23 A Yes. She was in the Office of Public Affairs.

24 Q Okay.

25 And if you flip through it -- you don't need to read all of it, but this is a series

1 of -- actually, I only really need you to look at the first page. The first page, these are
2 transcribed comments from an interview that Senator Lindsey Graham gave to CBS.
3 And if I can direct your attention to the second page -- this is on the back, I think,
4 maybe, of the document that you have.
5 A Uh-huh.
6 Q Yeah. This is Mr. Graham telling a CBS News affiliate -- middle of the page,
7 this is highlighted: "No, the Department of Justice is receiving information coming out
8 of Ukraine from Rudy."
9 Brennan says: "Already?"
10 Graham responds, quote: "He told me that they had created a process that Rudy
11 could give information and they would see if it's verified," unquote.
12 Do you see that part?
13 A Yes.
14 Q Okay. Did you hear those comments when Senator Graham made them?
15 A No, I did not.
16 Q Did you become aware of them at some point?
17 A I don't know that I was aware of Senator Graham's comments relating to
18 this.
19 Q Okay.
20 And you indicated that you're not familiar with the alias "Bill Ahern"?
21 A I am not.
22 Q Okay.
23 Do you have any idea whether Attorney General Barr was made aware of Senator
24 Graham's comments?
25 A I have no idea about General Barr's knowledge.

1 Q Okay. And you never discussed it with General Barr?

2 A No.

3 Q And you never discussed it with Seth DuCharme?

4 A No.

5 Q Okay.

6 At some point, did you become aware from the public or news coverage that

7 Senator Graham had made comments about this process of receiving information from

8 Rudy?

9 A I don't believe so. I don't remember --

10 Q Okay.

11 A -- as I sit here.

12 Q Okay.

13 Now, this email was sent February 9, 2020, so approximately a little bit over a

14 month after your "discreet assignment" was given, correct?

15 A Correct, after my assignment was given.

16 Q Okay. Do you recall at that point the Attorney General making public

17 comments about the fact that this process existed and that the public could send in

18 information about Ukraine?

19 A The only comments that I'm aware of were in response to a -- there was a

20 question at a press conference, I believe around this same time, where he explained the

21 intake process for information relating to matters of Ukrainian corruption from the public.

22 And then the letter between -- well, from Steven Boyd to Representative Nadler,

23 which also explained it.

24 And then, I believe, the other comment I'm aware of is in the summer, when

25 General Barr testified before -- and forgive me, I might be misremembering this -- I

1 believe it was the House Judiciary Committee, and there was one brief exchange about
2 my tasking and assignment.
3 Q Okay.
4 And I recall the letter that you mentioned from Mr. Nadler came in response to
5 Senator Graham's comments. Were you aware of that?
6 A I was not. I was only aware of exhibit 2, the response from Steven Boyd to
7 Representative Nadler.
8 Q Okay. Did you ever discuss Representative Nadler's letter with anybody in
9 the Attorney General's Office during your assignment?
10 A I don't believe I did.
11 Q Okay.
12 When we look at the transcript of Senator Graham's comments, again, the ones
13 that I just pointed out on the second page, do you agree with Senator Graham's
14 characterization of your assignment from Attorney General Barr, as he describes it, quote,
15 "a process that Rudy could give information and they would see if it's verified," unquote?
16 A I'm sorry. Where is that in the transcript?
17 Q That's the second page. So, if you can turn it over to the second page,
18 there's a ton of highlighting, but the beginning of that quote is, like, in the middle. It
19 says, "GRAHAM:".
20 A I'm sorry. So your question is, do I agree with Senator Graham's
21 characterization of the process?
22 Q Well, as -- yeah, the terms that Senator Graham used to characterize the
23 process as: "He told me that they had created a process that Rudy could give
24 information and they would see if it's verified," unquote. That's Senator Graham's
25 description of the process that you were undertaking.

1 So, again, the process is, quote, "a process that Rudy could give information and
2 they would see if it's verified."
3 A And, I'm sorry, so "he" refers to Attorney General Barr?
4 Q Exactly.
5 A I don't know that I would agree or disagree with that characterization. It
6 was irrelevant to my tasking. My understanding of my assignment was that it was for all
7 members of the public who ever had information, including Mr. Giuliani.
8 Q Okay. So Senator Graham mischaracterized your assignment in this sense?
9 A I can't speak to Senator Graham's knowledge or understanding of, you know,
10 what my assignment was on that day.
11 Q Okay.
12 A So I won't characterize it.
13 Q And just record for the record, I want to explain that this highlighting on this
14 document is not highlighting that we did. It was a part of the production under the FOIA
15 case. I don't know who did it.
16 A Okay.
17 Q And we can set that aside for a second.
18 So this is going to be our exhibit No. 6, please.
19 [Brady Exhibit No. 6
20 Was marked for identification.]
21 BY [redacted]
22 Q Okay. So you indicated your understanding of your assignment was to
23 receive information regarding Ukraine from anyone in the public, not just Rudy Giuliani,
24 correct?
25 A That's correct.

1 Q Okay. But, in fact, the person that you first received information from was
2 Rudy Giuliani, fair to say?
3 A That's correct.
4 Q Okay. And the connection that was made actually came via the PADAG.
5 Once again, Mr. DuCharme is the one who put you in touch with Rudy Giuliani's attorney
6 to start receiving this information. Is that fair to say?
7 A That's correct.
8 Q Okay.
9 And so exhibit 5 is an email, again from the American Oversight production, with
10 Bates number at the end C-00019.
11 A I don't mean to interrupt you. Exhibit 6?
12 Q It is, yes.
13 Right?
14 Thank you.
15 This is an email from you to Seth DuCharme at the top, but the original email
16 comes from Mr. DuCharme to you, January 7, 2020, correct?
17 A Correct.
18 Q And this was the -- no -- a few days after your January 3rd assignment,
19 correct?
20 A That's correct.
21 Q All right. And, in this email, Mr. DuCharme provides you -- the subject
22 matter is "contact information," correct?
23 A Correct.
24 Q So he's giving you contact information for Rudy Giuliani's attorney, right?
25 A He's giving me the contact information for Mr. Costello. That's correct.

1 Q Okay. And do you understand Mr. Costello to be Rudy Giuliani's attorney?
2 A Yes.
3 Q Okay. And it gives you his name, his phone number, and a way to get in
4 touch with him, correct?
5 A That's correct.
6 Q Okay.
7 The purpose of this email was for Mr. DuCharme to put you in contact with Mr.
8 Giuliani's attorney so that he could start giving you the information that Mr. DuCharme
9 knew was coming into the Department from Mr. Giuliani, right?
10 A I don't know what Mr. DuCharme's thought process was, but my
11 understanding was it was to give me Mr. Costello's information to coordinate with him if
12 there was information that his client had to give to the Department.
13 Q Okay. But the information or the contact initially with Mr. Costello was
14 between Mr. Costello and Mr. DuCharme? Or was it between Mr. Costello and you?
15 A I'm sorry. Could you repeat that?
16 Q Sorry. That was a terrible question.
17 A No, that's okay.
18 Q What I'm trying to say is, who was it that first contacted the -- who at the
19 Department did Mr. Costello first contact? Somebody at the Attorney General's Office
20 or you?
21 A It was someone in the Department of Justice at Main Justice. How it
22 arrived on Seth's desk I don't know, but Seth communicated it to me.
23 Q Okay.
24 A So Mr. Costello did not reach out to us directly.
25 Q Got it.

1 All right. Now, as your assignment progressed and you were vetting information
2 provided by Mr. Giuliani, did you keep Mr. DuCharme and others in the Attorney
3 General's Office informed as to what you were doing?
4 A Yes.
5 Q And how did you do that? What was the process of keeping them
6 informed?
7 A At a high level, I would -- Mr. DuCharme and I would speak periodically or on
8 an as-needed basis. And there were a few occasions where I provided an update to the
9 Attorney General.
10 Q Personally, you updated the Attorney General?
11 A Personally.
12 Q Okay. In person or on the phone or something else?
13 A In person.
14 Q Okay. And about how many times did you update Attorney General Barr
15 about your assignment?
16 A Perhaps two?
17 Q Okay.
18 A Most of it went through the PADAG.
19 Q Understood. And how many times would you say that you gave updates to
20 the PADAG?
21 A Most of my interaction with the PADAG, either Mr. DuCharme or, later, Mr.
22 Donoghue, was to talk about issues that we might be having, so we would speak on a
23 semi-regular basis about that. And then, in those conversations, I would apprise him of,
24 kind of, what our next steps were or where we were in the process.
25 Q Okay. Did you ever receive any direction from Mr. DuCharme?

1 A No, not that I recall.

2 Q Before I move on, could we just pick up exhibit No. 6 again?

3 A Uh-huh.

4 Q This is the one we just looked at.

5 In the body of the email that came from Mr. DuCharme to you on January 7th, Mr.

6 DuCharme indicates, quote, "Give him a call sometime today whenever you're ready,"

7 unquote.

8 Do you see that?

9 A Yes, uh-huh.

10 Q And what he is saying there is, he wants -- he, Mr. DuCharme, wants you to

11 call Mr. Costello sometime today, the day of the email, correct?

12 A Yes.

13 Q Do you consider that direction?

14 A Oh, forgive me. I thought you meant "direction" in terms of how we

15 conduct our investigation or vetting process.

16 Q Okay.

17 A So, yes, in this email, he's saying, get in touch with Mr. Costello. If that's a

18 direction, then, yes, I agree. Beyond that, in terms of steps we were to take in our

19 investigation or how to run ours, no, he left that to my discretion as a United States

20 attorney.

21 Q Did you ever consult with him about steps in your investigation?

22 A Yes.

23 Q Such as asking him whether he would concur with a decision that you made

24 to interview a witness, for example?

25 A I can't remember specifically, but, yes, in the course of me giving him

1 updates or talking about issues we were having, yes. Mr. DuCharme had previously
2 been the criminal chief of EDNY, was very experienced, very thoughtful, very professional.
3 And so I valued his input when he would give it. But in terms of direction or marching
4 orders, no, that was not our interaction.
5 Q Okay. But because of his experience in the Criminal Division, you're saying
6 that you would ask sometimes his advice or his concurrence on decisions that you were
7 making in your role? Is that fair to say?
8 A Yes, sometimes. I can't remember specifics, but, yes, sometimes we would
9 have those conversations.
10 Q Okay.
11 Would it surprise you that at one point during your investigation, specifically on
12 January 15, 2020, Mr. DuCharme and you exchanged emails, and Mr. DuCharme informed
13 you in an email that he, quote, "concurs with your proposal" to interview a witness in
14 your probe?
15 A I would have to see the email.
16 Q Okay. You don't recall that, as we sit here?
17 A As we sit here? No.
18 Q Okay.
19 A So, if you have the email and can show it to me, I'd be happy to see it.
20 Q I'll show it to you, but I don't have it for everyone else. I'm going to get a
21 copy.
22 A Okay.
23 Q Moving on, though, would it be unusual, in your experience as a United
24 States attorney, to -- like, for you, personally, I am asking right now, not Mr. DuCharme.
25 A Uh-huh.

1 Q Is it unusual for a United States attorney to participate in witness interviews
2 directly, personally?
3 A No. It depends on the scope and sensitivity of the matter.
4 Q Okay. And have you, as a U.S. attorney, ever participated in a witness
5 interview in an investigation or matter under your direction?
6 A As U.S. attorney, I have been involved in many meetings with the line AUSAs
7 and agents, including our Tree of Life prosecution for the synagogue shooting. We had a
8 number of high-level investigations and indictments of the Russian intelligence
9 directorate of the GRU, and I was in the room and a part of those meetings. I can't
10 remember if we had a witness interview that I was involved in, but I may have been.
11 So, again, if the matter were important or sensitive, it would not be unusual for
12 the U.S. attorney to be involved. On regular cases, line cases? No.
13 Q Okay. So, when the U.S. attorney is involved in a witness interview, in your
14 experience, that is because of the sensitivity of the matter, fair to say?
15 A It can be. Not limited to that. That would be, you know, a determination
16 by each U.S. attorney, him- or herself, and the size of the office and the type of matter.
17 For me, I felt it was important to be involved in some of those so I also had an
18 understanding of what was going on.
19 Q Okay. And with respect to this "discreet assignment" that we're talking
20 about here today, did you ever participate personally in a witness interview?
21 A Yes.
22 Q More than once?
23 A In this vetting assignment, I only participated in one.
24 Q Okay. Did you actually conduct the interview, I mean, ask questions of the
25 witness, yourself?

1 A I did not conduct the interview. I was present.

2 Q Okay. Who conducted the interview?

3 You can use just a title. I'm not looking for a name.

4 A I don't recall, but I believe it was the SSA from the FBI. Typically -- in typical

5 cases or investigation, the agents of the investigative agency would conduct the

6 interview, and an AUSA would participate. Not exclusively, but that was what happened

7 in this case.

8 Q Okay. And the interview that you were present at of the witness, do you

9 recall when that interview was conducted?

10 A Yes. January 29, 2020.

11 Q Okay. And do you recall where it was conducted?

12 A It was conducted at FBI Pittsburgh.

13 Q That's the field office there?

14 A Yes.

15 Q Okay.

16 So you indicated it's not unusual for a U.S. attorney to participate in a witness

17 interview like this, correct?

18 A For particularly sensitive or important matters, yes.

19 Q And this was -- I know you may not recall this. When you participated in

20 that interview, was this the interview that you had consulted Mr. DuCharme about and he

21 indicated that he, quote, "concurred" with your proposal to interview that witness?

22 A Again, it would be best if I could see the email, and then I can speak to it.

23 [redacted] You can show it to him to just refresh his recollection, and then you

24 can --

25 [redacted] Sorry for the logistics --

1 Mr. Brady. No, no, no. It's okay.

2 [redacted] Yeah. Thank you.

3 I am going to mark this exhibit 7.

4 [Brady Exhibit No. 7

5 Was marked for identification.]

6 [redacted]

7 Q And I'll get copies for everyone. It's very short.

8 This is an email from Seth DuCharme to you, subject: "Interview." The date is

9 Wednesday, January 15, 2020.

10 And, for the record, the text of the email is, quote, "Scott I concur with your

11 proposal to interview the person we talked about - would feel more comfortable if you

12 participated so we get a sense of what's coming out of it. We can talk further when

13 convenient for you. Best, Seth."

14 And tell me if you recall that email.

15 A Yes, I do recall it.

16 Q Okay. And the date, again, is January 15, 2020, correct?

17 A That's right.

18 Q So that was 14 days before the interview that you just described at which

19 you were present, correct?

20 A Correct.

21 Q Does that help you recall whether this email between you and Seth

22 DuCharme was referring to the witness that you participated in the interview of on

23 January 29, 2020?

24 A Yes, it definitely did.

25 Q Okay. Just for clarity, yes, this email is about that witness?

1 A Yes, that email is about setting up a meeting and interview of Mr. Giuliani.
2 Q Okay. So the witness was Mr. Giuliani? That's who you're talking about?
3 A Yes.
4 Q Okay. And it was, in your judgment, important to get Mr. DuCharme's
5 opinion or, quote, "concurrence" about interviewing Mr. Giuliani. Is that fair to say?
6 A As I sit here, I don't know if it was about interviewing Mr. Giuliani or just the
7 logistics of where the interview would take place -- Pittsburgh, New York, D.C. It
8 might've been about that.
9 Q So you needed Mr. DuCharme's opinion about where the interview would be
10 taking place?
11 A No, I didn't need his opinion.
12 Q Oh. I'm just trying to --
13 A Yeah.
14 Q -- understand, what was the reason, if you can recall, why you consulted
15 with Mr. DuCharme about that particular decision, about whether or not you should
16 interview Mr. Giuliani and any other aspect of that decision?
17 A Yeah, I -- I don't know. I may have just been circling back to him, saying,
18 "Hey, here's the plan." And he said, "Yeah, that sounds fine."
19 BY [redacted]
20 Q Okay. Well, he also said that he would feel more comfortable if you
21 participated, right?
22 A In that email, he did, yes.
23 Q Yeah. Was that consistent with what your experience with Mr. DuCharme
24 was when you discussed interviewing Mr. Giuliani, or is there something unusual about
25 the email?

1 A I don't remember that there's anything unusual. I would've sat in on that
2 interview anyways, in all likelihood.
3 Q Okay.
4 And just -- I don't want to take this away from you, because I know you and I --
5 A Oh, sure.
6 Q -- just have one copy. But just, again, what this email says is, "I concur with
7 your proposal to interview the person we talked about."
8 And then he says, "Would feel more comfortable if you participated so we get a
9 sense of what's coming out of it."
10 Do you see that?
11 A Uh-huh.
12 Q Okay.
13 A Yes.
14 Q So what did he mean by "we"? Who was he referring to by "we"? Do you
15 know?
16 A I don't know.
17 Q Okay. Is it fair to infer that he is referring to the Attorney General and the
18 Office of the Deputy Attorney General where he was working?
19 A I don't know. Yeah, some group of people at Main Justice, but I don't know
20 specifically if it was DAG Rosen, Attorney General Barr, or the people that were
21 supporting them in ODAG and OAG.
22 Q Okay. But they wanted to, quote, "get a sense of what's coming out of it,"
23 correct?
24 A From the email, yes.
25 Q Okay. Well, from your experience with Mr. DuCharme and others in Main

1 Justice, did that seem to be fair, that they did want to know what came out of the
2 interview?
3 A Yes, I think that's fair. I don't think that would be uncommon for sensitive
4 cases.
5 Q Okay.
6 In other experience that you've had as a United States attorney, some of the
7 matters that you discussed in your earlier answer, like the synagogue shooting or other
8 high-profile matters --
9 A Uh-huh.
10 Q -- have you had the experience of Office of the Deputy Attorney General or
11 the Attorney General himself asking to hear what's coming out of your witness
12 interviews?
13 A Yes. And I can explain.
14 Q Yeah.
15 A Kind of a basic management rule is: No surprises.
16 Q Uh-huh.
17 A Right? And so it's important that the people who report up the chain
18 understand, if there are things that are either public or in the news or particularly
19 sensitive, that they are not surprised by things.
20 So, for example, for the synagogue shooting case, I received a call from both
21 then-DAG Rosenstein and from Attorney General Sessions. And then, after we had met
22 with the victims' families, had a prosecution plan in place, talked about when the
23 President was coming, I needed to keep them informed, again, so they were not surprised
24 by things.
25 So that's my understanding, as a good U.S. attorney, that you should interface

1 with ODAG and OAG on an as-needed basis.

2 Q And this was definitely a sensitive matter, correct?

3 A This was sensitive given that it was an election year and possibly involved

4 the now-President's son, then-Vice President's son.

5 Q Absolutely. And it also involved the attorney, the personal attorney, of the

6 sitting President of the United States, correct, during your investigation?

7 A Yes. That was not a part of our conversation at any level, that he

8 represented the President, but I do understand that Mr. Giuliani was the personal

9 attorney of the President, yes.

10 Q So you're saying that wouldn't have been a concern and even for the

11 appearance of, you know, some kind of sensitivity in public.

12 Was that a concern of the Department of Justice, that you were interviewing the

13 private attorney of the President of the United States, who was very publicly trying to

14 push information about his election opponent into every corner of the Federal

15 Government that he could find? Was that a concern of the Department at the time that

16 this was happening?

17 A What was a concern was that this process be conducted in a way that would

18 be consistent with other cases -- so the same professionalism, the same objectivity be

19 with Mr. Giuliani versus any other member of the public who would bring us information.

20 So the fact that we would give any kind of preferential treatment was not a part of

21 the conversation. I was informed that Mr. Giuliani had information, and we were the

22 intake for that, and so we set up a meeting to receive that. But it wasn't a part of -- him

23 representing the President, that was not a part of our conversation or my tasking.

24 Q Okay.

25 When you got your tasking in January 2020, were you aware that Mr. Giuliani had

1 been pushing information to other areas of the government, like the State Department,
2 for example?
3 A I believe I was aware that he had given information to Secretary Pompeo.
4 Q Okay. And what was your understanding about the information that he
5 was passing to Mr. Pompeo at that time?
6 A I didn't really have a specific understanding. I believe it was similar to the
7 information that he provided to us, but I don't know. I did not see what he provided
8 Secretary of State.
9 Q Okay. So you didn't see the packet of information that he gave to Pompeo.
10 A I don't believe I did, no.
11 Q Okay. But what makes you say that you believe it was similar to the
12 information that you received in your capacity with this assessment?
13 A I am trying to remember if, on the day, there was a representation made by
14 Mr. Costello that much of the information was similar to but wasn't complete. I think
15 there was additional information that he was providing us that maybe he hadn't provided
16 Mr. Pompeo.
17 So I think it was a representation. It wasn't anything that I received information
18 from the State Department or ODAG or OAG.
19 Q Okay. So it was from Mr. Costello, that --
20 A I believe so. Yeah, I believe so.
21 Q Okay. Did you talk to Mr. Costello before you interviewed his client Mr.
22 Giuliani?
23 A There may have been one coordination call that I was on. Most of the
24 interaction was between the first assistant from my office and Mr. Costello, for logistics.
25 Q Okay. But fair to say that Mr. Costello gave you some kind of preview

1 about what was to come when you interviewed Mr. Guiliani?

2 A I don't remember that was a part of it. It was really just the logistics of

3 setting up, you know, where, when are we going to conduct this.

4 Q Okay. I'm just trying to drill down on what you just said about it was

5 Costello that was source of your understanding that the information you were about to

6 receive from Mr. Giuliani was similar to what the State Department had received.

7 A Sorry. Yeah, I believe that was a part of the conversation on the 29th --

8 Q Okay.

9 A -- but I don't remember specifically as I sit here.

10 Q Okay. That was the day that you participated in the interview of Mr.

11 Giuliani.

12 A That's correct.

13 Q Okay. And Mr. Costello was present; is that right?

14 A He was.

15 Q Okay.

16 So this will be our exhibit No. --

17 A Eight.

18 Q -- 8. Thank you.

19 [Brady Exhibit No. 8

20 Was marked for identification.]

21 BY [redacted]

22 Q So, for the record, exhibit No. 8 is -- it's a letter on letterhead from Rudolph

23 Giuliani, PLLC. The date is November 22, 2019. And it's directed to Lindsey Graham,

24 who was then chairman of the Senate Judiciary Committee. This is part of the American

25 Oversight production, bearing Bates number 000109.

1 November 22, 2019, Mr. Brady, that was a few months before your assignment
2 began, correct?
3 A Correct.
4 Q Okay. Have you ever seen this letter before?
5 A I think I have seen it as a part of -- I have seen the FOIA productions that
6 were provided to American Oversight on their website. So I'm aware of those
7 productions. Whether I saw it prior to that, I don't remember.
8 Q Okay.
9 The production to American Oversight from the Department of Justice was
10 documents that were provided to your office during your assessment, correct?
11 A Not exclusively.
12 Q Okay. So, then, to your knowledge, was this letter produced to your office
13 from Mr. Giuliani, Mr. Costello, or anyone related?
14 A I don't remember.
15 And, also, just as a matter of practice, the U.S. attorney's offices, we don't usually
16 pay attention to what -- no offense -- Congress is talking about or doing. Different
17 branch, different motivations, different assignments. So I can't remember if I saw this or
18 not, but our playbook is different.
19 Q Okay. So I'm assuming that you don't know what's inside this letter as you
20 sit here today?
21 A Again, I read it as part of the publicly available production on American
22 Oversight's --
23 Q Okay.
24 A -- website, but the details I don't remember as I sit here. I could read it if
25 you want me to.

1 Q No, you don't need to read it.

2 A Okay.

3 Q Just based on your recollection as you've described it, is it fair to say that this

4 letter contains a range of allegations against Democrats, Joe Biden, the American

5 Ambassador to Ukraine, and other embassy staff?

6 A I would have to read it again.

7 I mean, in a quick reading, it appears to be that.

8 Q Okay. Were you familiar with any of these allegations before you started

9 your assignment?

10 A I was aware that Hunter Biden was on the board of Burisma.

11 Q Uh-huh.

12 A I was aware that then-Vice President Biden was Obama's, quote, "point

13 man," on page 2, for the Ukraine.

14 Q How about, were you aware of Mr. Giuliani's allegation that the United

15 States Ambassador to Ukraine, Ms. Yovanovitch, and others of her staff were doing some

16 kind of cover-up of investigations that he was pushing in Ukraine?

17 A I don't believe I was aware of that at the time.

18 Q Okay. And were you aware of Mr. Giuliani's claim that Ukraine had

19 interfered in the 2016 Presidential election?

20 A I don't believe I was aware of that.

21 Q Okay. And just -- were you aware of the intelligence community's

22 conclusion that Russia actually interfered in the 2016 Presidential election?

23 A Wait. Let's unpack that. So -- could you ask that again, please?

24 Q Are you aware of the U.S. intelligence community's conclusion that Russia

25 interfered in the 2016 Presidential election?

1 A I am aware of allegations of Russian interference. Conclusive
2 determinations by the entire intelligence community of the United States, I'm not certain,
3 especially in light of the Crossfire Hurricane investigation.
4 Q Have you read the Mueller report?
5 A The whole Mueller report? Parts of it. I have read parts of it.
6 Q Marking as exhibit 8 -- 9, sorry -- 9.
7 [Brady Exhibit No. 9
8 Was marked for identification.]
9 Mr. Brady. This is 9?
10 [redacted] Yes.
11 [redacted] Do you want me to --
12 [redacted] Uh-huh, yep.
13 [redacted] Okay.
14 BY [redacted]
15 Q Have you seen this before?
16 A What is this, please?
17 Q All right. So what we just introduced is entitled "Background to 'Assessing
18 Russian Activities and Intentions in Recent US Elections': The Analytic Process and Cyber
19 Incident Attribution." It's dated January 6, 2017. And it's a report from the Office of
20 the Director of National Intelligence and the Office of the -- I'm sorry, the National
21 Intelligence Council.
22 A Was this under DNI Ratcliffe?
23 [redacted] Yes.
24 Mr. Brady. Under --
25 [redacted] 2017.

1 Mr. Brady. -- DNI Ratcliffe?

2 [redacted] No. This would've been prior to DNI Ratcliffe.

3 [redacted] 2017.

4 Mr. Brady. Oh, 2017. I apologize. I was thinking of the 2021 report that he

5 released.

6 BY [redacted]

7 Q So --

8 A I don't know that I've read this --

9 Q Okay.

10 A -- particular -- but generally I understand --

11 Q So you understand that the intelligence community in 2017 concluded that

12 Russian intelligence agencies conducted cyber operations against targets associated with

13 the 2016 election?

14 Mr. Lelling. Why are we asking Scott Brady about this? The report says what it

15 says --

16 [redacted] Because of his answer.

17 [redacted] I'm just asking if he's familiar with this report.

18 Mr. Lelling. What difference does it make?

19 [redacted] Because he just said he wasn't aware of the --

20 Mr. Lelling. And he's said he's -- he's said he's aware of allegations of Russian

21 interference.

22 [redacted] Right, but he wasn't aware of the conclusions.

23 [redacted] Sorry, can I --

24 Mr. Lelling. So?

25 [redacted]. [redacted] Let's confirm that.

1 BY [redacted]

2 Q So I can just wrap this up real quickly.

3 Are you -- do you have any -- have you reviewed this report before?

4 A I have not.

5 Q Okay. And so you don't have any opinion of whether the findings, the

6 conclusions of this report are true and accurate or not?

7 A Well, I don't know what the findings are.

8 I am generally aware of allegations of Russian interference in U.S. elections. My

9 office has investigated Russian investigations -- I'm sorry. My office has investigated

10 Russian interference in French elections, Georgian elections.

11 Q Uh-huh.

12 A So I have no doubt that Russia and other adversaries attempt to interfere in

13 our elections on a regular basis.

14 Q And you have no evidence to dispute the findings of the Director of National

15 Intelligence in this report?

16 A Other than what is publicly available given Mr. Mueller's report and then his

17 appearance before Congress and then General Barr's disposition of that matter.

18 Q But you have no personal knowledge. In other words, you have not

19 personally investigated the matter.

20 A Could I have a moment, please?

21 [Discussion off the record.]

22 Mr. Brady. I am aware of this.

23 [redacted] Uh-huh.

24 Mr. Brady. The Pittsburgh office, the U.S. Attorney's Office in the Western

25 District of Pennsylvania, had an investigation into the hacking of the DNC.

1 [redacted] Uh-huh.

2 Mr. Brady. We were investigating that until it was transmitted to Director

3 Mueller's office for part of his investigation. So, yes, I am -- I am aware.

4 [redacted] Okay.

5 Mr. Brady. I'm not aware of the conclusions --

6 [redacted] Okay.

7 Mr. Brady. -- drawn from that.

8 [redacted] Sorry. Go ahead.

9 [redacted] So you have no reason to dispute the conclusions that are in that

10 document?

11 Mr. Lelling. He hasn't read it.

12 Mr. Brady. I haven't read it.

13 BY [redacted]

14 Q Okay.

15 All right. Let's bring out exhibit 3 again, which is the 1023. You had a series of

16 questions about that -- or, I'll wait until you grab it. Do you have it in front of you?

17 A Yes. Sorry. Let me just put these in order here.

18 Okay.

19 Q Okay. First, a little bit of high-level. You said in the first hour that you

20 were aware that the FBI had determined that the CHS was credible. Is that fair to say?

21 A That's correct.

22 Q Okay. And then you indicated that your investigation or assessment found

23 indicia of credibility with respect to what was in the 1023, correct?

24 A Some indicia of credibility, yes.

25 Q Okay. And, just to clarify, when you're talking about "indicia of credibility,"

1 you're referring to, first, the CHS, him- or herself. Is that fair to say?
2 A That's correct. And the FBI's assessment of his or her credibility and what
3 he or she has done in prior investigations, correct. Their history with the CHS.
4 Q Okay. But when you were conducting this assessment, you were not in
5 position, as you've already explained, to look into the information that's recorded in the
6 1023 and to assess the credibility of the claims writ large. Is that fair to say?
7 A I don't know about writ large, but we were able to corroborate certain
8 information that was represented by the CHS and is memorialized in this 1023. Some of
9 the underlying allegations relating to Hunter Biden and President Biden by Mr. Zlochevsky
10 we were not in a position to investigate further or determine whether they were true or
11 false.
12 Q Okay.
13 This document contains several layers of hearsay, fair to say?
14 A I mean, it's all hearsay, right? It's secondhand from the CHS.
15 Q Right. So anything that the CHS is attributing so some other speaker is
16 hearsay, correct?
17 A If this were a trial, perhaps. But --
18 Q Okay. Well --
19 A -- this is how reports are drafted up by witnesses.
20 Q Okay. So what I'm saying is, there's, you might call it a sub-source, more
21 than one, who is described, or statements attributed to sub-sources are within this 1023,
22 correct?
23 A I'm sorry. I don't know what you mean.
24 Q There are statements attributed to sub-sources or people other than the CHS
25 that are contained in this 1023.

1 A Yes.

2 Q Is that correct?

3 A Uh-huh. Correct. Yep.

4 Q Okay. And with respect to those people that I am going to call

5 "sub-sources," not with any particular, I don't know, legal reasoning -- but I'm talking

6 about the people who are speaking who are not the CHS whose --

7 A Sure.

8 Q -- statements are attributed in here.

9 A Yes.

10 Q With respect to those individuals, was your office in a position to evaluate

11 the credibility of those people?

12 A I don't know if I can answer that. We were not in a position to interview

13 those sub-sources, and that was not a part of our credibility determination relating to the

14 1023.

15 Q Okay.

16 So let's just get right down to it. In this 1023, the CHS is reporting alleged

17 statements made by individuals in Ukraine, including Mr. Zlochevsky, correct?

18 A Yes.

19 Q All right. The statements that are attributed to Mr. Zlochevsky, did you do

20 any work, you or anyone on your team, to determine whether those statements are

21 consistent or inconsistent with other statements made by Mr. Zlochevsky?

22 Mr. Lelling. He's not going line by line from a 1023. He's not discussing at that

23 level of detail.

24 [redacted] Okay.

25 Could you answer the question that I asked you though?

1 Mr. Lelling. No. Do not answer.

2 [redacted] That was not a line-by-line question.

3 Mr. Lelling. Do not answer the question.

4 You picked the line. You read it. You were asking him --

5 [redacted] That's not -- no, I didn't. What line did I read from?

6 Mr. Lelling. Okay. I'm being figurative.

7 [redacted] Okay. I'm asking --

8 Mr. Lelling. He is not going to go detail by detail through the 1023.

9 [redacted] I'm not asking that. No, I'm not going to ask that. I am asking a

10 general question about whether he tried to determine whether there were consistent or

11 inconsistent statements made by one of the sub-sources, generally.

12 Mr. Lelling. Yeah. No. He can't answer that. This is too much --

13 [redacted] So we're going to keep asking the questions -- I understand he may

14 not want to answer. We're going to keep asking the questions to make a record.

15 If you decline to answer --

16 Mr. Lelling. Sure. I understand. And some maybe he can. This is --

17 [redacted] We're going to keep asking the questions though.

18 Mr. Lelling. This is a blurry line, a --

19 [redacted] Understood.

20 Mr. Lelling. -- deliberative-process question. And I'm sort of making those

21 judgments question by question. So, maybe, categorically, he can't answer any of the

22 questions you're about to ask. Maybe he can. So --

23 [redacted] Well, if you let me ask them, then we can have your response.

24 Mr. Lelling. Sure.

25 [redacted] Fair? Okay.

1 So the sub-source, Mr. Zlochevsky, did you make any effort in your investigation to
2 look in public sources, for example, whether Mr. Zlochevsky had made statements
3 inconsistent with those attributed to him by the CHS in the 1023?
4 Mr. Brady. I don't remember. I don't believe we did.
5 I think what our -- broadly, without going into specifics, what we were looking to
6 do was corroborate information that we could receive, you know, relating to travel,
7 relating to the allegation of purchase of a North American oil and gas company during this
8 period by Burisma for the amount that's discussed in there. We used open sources and
9 other information to try to make a credibility assessment, a limited credibility
10 assessment.
11 We did not interview any of the sub-sources, nor did we look at public statements
12 by the sub-sources relating to what was contained in the 1023. We believed that that
13 was best left to a U.S. attorney's office with a predicated grand jury investigation to take
14 further.
15 BY [redacted]
16 Q And you've used the word "limited" here with us just now and you used it in
17 the prior hour a little bit as well. When you're using the word "limited," how did you
18 define that? What does that mean to you, specifically?
19 A You mean our limited, kind of, tasking and what --
20 Q When you were using -- just sitting here today, you've used the word
21 "limited."
22 A Right.
23 Q What does "limited" mean to you? Can you explain what you mean by
24 "limited"?
25 A Sure. I mean that our tasking was to vet --

1 Q Uh-huh.

2 A -- to basically conduct due diligence, on the credibility of the information

3 that was provided to us by members of the public. And it's limited in the sense that we

4 did not have the tools of a grand jury. We are never going to have the tools of a grand

5 jury. It was never going to develop into a grand jury investigation in the Western District

6 of Pennsylvania. And so that's when I mean by "limited."

7 Q And so some of the things that you just described, for example, the purchase

8 of an oil and gas company, for example, or the attempt to purchase an oil and gas

9 company, that's the type of thing that would be in public records, correct?

10 A Correct, open-source records or possibly in existing FBI files. But, yes,

11 those were the limitations of what we could look at.

12 Q Okay. So kind of the low-hanging fruit. Is that fair to say?

13 A I don't know if it's low-hanging fruit. It's just a level of process that every

14 investigation goes through.

15 Q Okay. Thank you.

16 BY [redacted]

17 Q All right. You indicated, I think, in the earlier hour that you did interview

18 some witnesses during the course of your assessment, correct?

19 A That's correct.

20 Q Other than Mr. Giuliani?

21 A Yes.

22 Q Okay. And did you interview any witnesses based on the information that

23 you received in this 1023?

24 A Other than the confidential human source, no.

25 Q Okay. And you're saying that was part of the limitation that you found was

1 on you in terms of the scope of this assignment, correct?

2 A Yes.

3 Q Okay. But open-source -- so, other than witness interviews, you did do

4 some open-source or your team did some open-source review to attempt to corroborate

5 some of what was in the 1023? Is that fair?

6 A Just limited to the 1023?

7 Q Well, let's start with that.

8 A Yes.

9 Q Okay. And what does that generally involve, in terms of the open-source

10 investigation?

11 A It could be looking at -- it could be looking at public financial filings. It

12 could be looking at news articles. It could be looking at foreign reporting as well, having

13 that translated.

14 Anything that is not within a government file would be open-source, and it could

15 be from any number of -- any number of sources.

16 Q So, when you look at news reports, for example, would you note if there was

17 a witness referred to in the 1023 that had made a statement that was reported in the

18 news article, for example? Would that be of note to your investigators?

19 A Relating to the 1023? No. We had a more limited focus, because we felt

20 that it was more important to do what we could with certain of the information and then

21 pass it on to the District of Delaware, because then they could not only use other grand

22 jury tools that were available but, also, we didn't have visibility into what they had

23 already investigated, what they had already done with Mr. Zlochevsky, with any of the

24 individuals named in this CHS report.

25 [redacted]

1 Q When you say "we didn't have visibility" -- you talked in the earlier hour
2 about trying to get information from the District of Delaware.
3 A Correct.
4 Q And when you say you didn't have visibility, that was part of -- you were
5 trying to get visibility into what they had already done maybe so that you didn't duplicate
6 efforts? Is that fair to say?
7 A That's right.
8 Q Okay. And so the -- I think you said you passed along -- or, not you
9 personally, but your office passed along interrogatories or questions for them.
10 A That's right.
11 Q That was along the lines of asking them what steps they had taken. Is that
12 fair to say?
13 A Some limited steps. Correct.
14 Q Okay. So you were asking them about their investigation to help inform
15 your investigation.
16 A Yes, to help focus our process so that we weren't doing anything that, as I
17 mentioned, would be duplicative or would complicate their investigation in any way.
18 Q Okay. And so -- okay. Thanks.
19 A Sure.
20 BY [redacted]
21 Q Well, on that topic, since we're there -- so you indicated that there was some
22 back-and-forth of information flow, not just you sending information to other districts but
23 districts sending information to you. Is that correct?
24 A It was almost all a one-way street with all of the offices. There was very
25 limited information that was coming back to us from EDNY, SDNY, District of Delaware.

1 Q Okay. With respect to Delaware in particular, I think you said earlier, in the
2 first hour, that there was frustration that they weren't giving you information, correct?
3 A Correct.
4 Q And by that, are you talking about information about their investigation or
5 some other kind of information?
6 A Mostly about, as I mentioned, things that they had done, steps they had
7 taken. Not what they had received. We didn't want to see the underlying evidence.
8 We just wanted to know, have you looked at these bank records? Have you looked at,
9 you know, foreign bank accounts that are bringing information into -- or, bringing funds
10 into Mr. Biden's accounts?
11 So, broadly, we were just trying to understand what they had done and what they
12 had not done. Beyond that, we were not asking for specific information, specific
13 evidence that they had received.

1 [12:09 p.m.]

2 BY [redacted]

3 Q Okay. And you wanted to know that because you didn't want to start doing

4 the same investigative steps that they were doing?

5 A Correct.

6 Q But you indicated before that you didn't have the power to get bank records,

7 for example; is that right?

8 A Correct.

9 Q So was there a reason that you would need to know whether the other

10 district had subpoenaed something if you weren't able to subpoena bank records

11 yourself?

12 A Yes. For example, if we were given a bank account number and wanted to

13 see if they had already looked at that, we would want to know if they had visibility and

14 say, you know: Here's a bank account that we had received; have you, you know, have

15 you subpoenaed these records, have you -- can you examine whether this bank account

16 has sent funds into other Burisma-related accounts or Biden-related accounts?

17 Q So you were looking to sort of use their grand jury or subpoena authority to

18 learn information because you didn't have that tool in your own investigation?

19 A We weren't really looking to learn information about their investigation.

20 We just wanted to know if we needed to do anything with that, to try to corroborate it

21 through perhaps other sources or through the FBI, or if we should even hand it over,

22 again, if it was credible or not credible. If there is nothing to be gained, I don't want to

23 waste their time if they said: Oh, yeah, we've looked at that, and this bank account

24 doesn't show up anywhere in our records.

25 Q So, if you had some kind of information or question about a bank account,

1 was there anything stopping you from just passing that onto Delaware without asking
2 them also to tell you whether they had received any information pursuant to a subpoena
3 or any other lawful process?
4 A We could have, but that wasn't my understanding of our assignment. Our
5 understanding of the assignment was to really separate the wheat from the chaff and not
6 waste their time with a dump of information, maybe, you know, a percentage of which
7 would be credible or have indicia of credibility. So they have limited resources. They
8 have, you know, a broad tasking. So we didn't want to waste their time by doing that.
9 We thought it would be more efficient to engage them, ask them: Have you seen this?
10 Yes, no. And then pass it on, make a determination of what to pass onto them.
11 Q So you were looking out for the Delaware office's time, that's why you
12 wanted to get more information from them about their subpoena practices, and what
13 they received in response to a subpoena?
14 A Well, as I stated, what we were primarily concerned with was protecting the
15 existing grand jury investigations.
16 Q In Delaware?
17 A In any of the offices that had predicated investigations that we intersected
18 with and/or briefed. That was our primary intent. And so that was what our
19 interactions consisted of.
20 Q Okay. I just -- let's move on.
21 Do you want to do that?
22 [redacted] Yeah.
23 So, sorry. Turning back to exhibit 3. We only have a couple minutes left, and I
24 do want to note for the record, that turning to page 3 of 4 here, the second full paragraph
25 on this page, I want to look at this paragraph quickly.

1 Mr. Lelling. Is this the one that starts with "regarding"?

2 [redacted] Yeah. Regarding.

3 BY [redacted]

4 Q And this is -- again, you said your office took limited steps to corroborate,

5 but there were other steps you could not take, right?

6 A That's correct.

7 Q And so here, the confidential HUMINT source himself said, quote:

8 Regarding the seemingly open and unsolicited admissions by Pojarski and Zlochevsky be

9 about their purpose for their attention of Hunter Biden and the forced payments

10 Zlochevsky made to the Bidens, CHS explained it is very common for businessmen in

11 post-Soviet countries to brag or show off, right?

12 A Correct.

13 Q So, when he said that it was common for them to brag or show, but again

14 that was hearsay that he was relaying. So some people might make untrue statements

15 as part of bragging, correct?

16 A Well, that's not hearsay. That's his estimation based on his experience.

17 Q Correct. Referring specifically to the bragging, though?

18 A Correct. And then, below that, he said: CHS did not perceive Pojarski or

19 Zlochevsky's statements to be unusual, self-serving, or pretextual. So, again, we felt

20 that that was best left in the hands of Delaware to run that to ground to understand that,

21 you know, does puffery exist in conversations with Russian or Ukrainian oligarchs? Yes.

22 Q Right.

23 A Is this that? We don't know, as we sit here in Pittsburgh, so Mr. Weiss and

24 team, you guys might want to look at this.

25 Q And that last sentence of that paragraph provides: However, has CHS only

1 met Zlochevsky in person on one occasion and has spoken to him only twice on the
2 telephone. As such, CHS is not able to provide any further opinion as to the voracity of
3 Zlochevsky's aforementioned statements, correct?
4 A That's absolutely correct, that we were unable to -- the CHS, as my
5 understanding, did not see the recordings Mr. Zlochevsky claimed to have or the
6 documentation relating to wire transfers and payments that Mr. Zlochevsky claimed to
7 have. So, correct.
8 Q And the CHS said that you upfront, correct?
9 A In the document, yes.
10 Q He wasn't trying to hide that fact. He said: This is what I've heard; do
11 with it what you will.
12 A Correct.
13 Q And you were not in a position from where you sat to do any further
14 investigation on that?
15 A In Pittsburgh, correct.
16 [redacted] You have 30 seconds.
17 Mr. Brady. Short question.
18 [redacted]
19 Q You indicated that most of the information flow was coming your office to
20 the other U.S. attorney's offices that had some interest in the information that you were
21 gathering, correct?
22 A Correct.
23 Q But sometimes you actually did receive information from those offices to
24 you; is that right?
25 A Not evidence, not --

1 Q No. Information. I'm sorry.

2 A Information. Yes, I believe so. I'm not sure I understand specifically.

3 Q Okay. Let me be more specific. At some point, the U.S. Attorney for the

4 Southern District of New York, Mr. Berman, wrote you a letter or email that provided

5 information he thought that you should have because of the material that he knew you

6 were reviewing, that he thought might be inconsistent with what you were finding; is that

7 correct?

8 A That's correct. And then we wrote him an letter back saying that some of

9 the contents in his letter was incorrect.

10 Q Okay. So you had some kind of dispute with Mr. Berman about the

11 information that they had versus the information that you had, the subject had seemed

12 inconsistent. Is that fair to say?

13 A I think there was a clarification process that was important that we shared

14 information and made sure that they especially had an understanding because they had a

15 predicated grand jury investigation, what was in our estimation and our limited purview

16 correct and incorrect. So we wanted to make sure they had the correct information.

17 [redacted] Okay. We're out of time. We'll get back to that. Thank you.

18 [Recess.]

1 [12:21 p.m.]

2 [redacted] Back on the record. It's 12:21 p.m.

3 BY [redacted]

4 Q Mr. Brady, at the end of our first hour, we were talking about interactions

5 that your office had had with the FBI and interactions that you had had with PADAG and

6 the Deputy Director regarding challenges that you had had at the FBI.

7 Were there any other -- besides the reluctance to, you know, pursue investigative

8 actions, additional signoffs that were required, were there any other challenges that you

9 experienced with the FBI?

10 A Yes. There was one occasion where we were informed by members of the

11 Pittsburgh FBI team that was conducting this investigation, this vetting process with our

12 U.S. attorney team in Pittsburgh, that they were told by someone at FBI Headquarters

13 that they were not to affirmatively share information with us but that they were only to

14 share information with us if we asked them a direct question relating to that information,

15 which is not typically how the investigative process goes.

16 At one point, when we were setting up the entire vetting process, and there was a

17 discussion with the FBI about whether -- how, in their administrative process, it should be

18 characterized, and I said: Well let's all sit together around a table and talk this out;

19 could you please share with me your DIOG, which is the FBI's bible for their processes and

20 procedures.

21 We were told that someone at FBI Headquarters, unknown to me, said: Don't

22 share that with the U.S. attorney's office, to which I said: I'm a presidentially appointed

23 United States attorney. We're on the same team, part of the Department of Justice.

24 What do you mean you can't share your DIOG with me.

25 They said: That's what we were told, so we can't, sir.

1 Q And you said that it wasn't the typical investigative process for you to have
2 to ask the specific question to the FBI for them to give you information.
3 What was the normal kind of reporting process between your office and FBI
4 Pittsburgh?
5 A I mean, on a normal case, it's an iterative process, a collaborative process
6 between agent, investigator, and AUSA and prosecutor. There's mutuality of
7 information sharing. There's a certain transparency because, you know, the goal is to
8 conduct an investigation and make a determination at some point with the agency's
9 recommendation about prosecute, not prosecute. But, even short of that, make
10 a -- take investigative steps that you discuss and agree on, and you know, to move an
11 investigation forward or to open other avenues, identify potential witnesses, subjects,
12 targets. This was not that dynamic.
13 Q And, with the FBI not following the typical investigative process at the
14 direction of FBI headquarters, what did that mean for your assignment in vetting
15 Ukraine-related information?
16 A It just meant, as I testified earlier, there were stops and starts. It was
17 sometimes difficult to get full information back from the FBI. Again, as I mentioned,
18 sometimes they had to go pens down while they were awaiting approval from
19 headquarters. There were delays when we were trying to re-interview the CHS in June
20 of 2020. It was challenging.
21 Chairman Jordan. Did they tell you why?
22 Mr. Brady. No, sir.
23 Chairman Jordan. The Attorney General of the United States has appointed you
24 as a clearinghouse for this investigation. You're supposed to get the information to
25 figure how it goes, how it works, and you've got people at the FBI telling you: We can't

1 give you that information, things you're specifically asking for.

2 No one told you why?

3 Mr. Brady. Our interaction was with members of the Pittsburgh Field Office, so

4 special agents, supervisory special agents, ASAC, SAC. Whatever orders related to

5 information sharing, not sharing, approvals, delays came from somewhere in FBI

6 Headquarters below the Deputy Director. As I testified earlier, when we needed to

7 elevate these issues, they were elevated to Deputy Director Bowdich and PADAG

8 DuCharme or later PADAG Donoghue, and then they were resolved. So I didn't have

9 visibility into what was happening at that headquarters level below the Deputy Director

10 and above the SAC.

11 Chairman Jordan. Okay.

12 BY [redacted]

13 Q Did you raise these specific issues of the not sharing unless it was

14 affirmatively asked or not being able to obtain the DIOG to the PADAG and the Deputy

15 Director? Was that something that was brought up at one of those interactions?

16 A I believe so. I can't remember specifically. But, when we would have

17 those conversations, those would have been the types of issues that we were raising to

18 try to make sure that we could remove those obstacles, do our jobs, do them with

19 integrity and professionalism, and then brief the other offices, and move on with our

20 lives.

21 Q And were these obstacles ever removed, the having to affirmatively ask the

22 FBI for information or able to obtain the DIOG?

23 A No, never received a copy of the DIOG. I found a redacted declassified

24 version online that I used in our meeting to refer to. Some were. Some were not. As

25 I mentioned earlier, the interaction between the FBI and our office was improved when

1 the replacement SAC was appointed in, I think, June of 2020. And then we met, had a
2 very productive conversation, and then they were more responsive. So I don't know
3 what his interaction with headquarters or with other people in that approval chain was,
4 but things became markedly better.
5 Q Did that reluctance go away? Was FBI Pittsburgh more willing to take
6 investigative action into the information that you were receiving?
7 A Yes. There was a different appetite to move things, and the SAC owned, I
8 think, more of the decisions. One of the complicating things was, in the interim
9 between the SAC when this assignment began, so from January through the end of
10 March, and then let's say June forward until October when our tasking was completed,
11 there was an Acting SAC who was brought in from main -- from FBI's Headquarters. And
12 so, I don't know whether he felt he had the authority to make those decisions, or they
13 had to go up to headquarters. So that was an internal conversation that I wasn't privy
14 to.
15 Q When you said there were points in time when the FBI had to go pens down,
16 does that mean that all investigative activity ceased? Was that your understanding?
17 A Yes. When they were, for example, seeking reauthorization of the
18 assessment every 30 days because it required, my understanding was, 17 different
19 approvals at headquarters, the agents told us they were not permitted to do any
20 investigative work until that was reauthorized. Sometimes that would be 2 or 3 weeks,
21 so they had to go, quote, pens down. They couldn't do any investigative work.
22 Q And the 17 approvals that were required for the assessment, were those
23 approvals all at headquarters, or were there some that needed to be obtained from FBI
24 Pittsburgh as well?
25 A I don't know. I assume that that chain from SSA, ASAC, SAC was still

1 present, but that would have been, you know, perhaps 3 layers of 17. So I'm not
2 certain.
3 Q And was the three layers more regular than the 17 that were required for
4 the specific assessment?
5 A I'm sorry. I don't understand your question.
6 Q The three layers of signoff at the Pittsburgh office, you know, the ASAC, SAC
7 that needed to sign off on the assessment, was that a more regular signoff process than
8 the 17 signoffs that were required for this assessment?
9 A No. Under the DIOG, when an assessment, a type one or type two
10 assessment is opened, the idea is for a regular case, let's say, you receive information;
11 you have certain information identified that may develop into a full investigation, and so
12 you open an assessment that's limited in duration and scope to probe that information,
13 to see if it's something that should be brought before a grand jury and then use the full
14 tools of a grand jury.
15 So, because it's supposed to be short in duration, the DIOG has a 30-day time
16 period on that. It should be short because that determination should be made early.
17 Then it requires an additional approval to extend it, and an -- in that authorization, a
18 justification for that to extend it an additional 30 days. In this case -- and normally that
19 is at the SSA level as I testified to before. This having to go through those 17 layers was
20 unusual. I had not seen that before. But it extended the time in which, you know, we
21 could do work. So that was a challenge.
22 Q And were those all of the challenges that you faced with the FBI, the not
23 being able to obtain the DIOG, having to affirmatively ask questions, and then, you know,
24 the reluctance on the part of the FBI to do investigative actions? Were those all of the
25 challenges that you faced with the FBI, or were there additional?

1 A There were additional. And, without disclosing privileged communications,
2 there were representations made to senior leadership of the FBI about what we were
3 doing or not doing that were not true that we had to correct, both internally at DOJ, with
4 ODAG, and General Barr, and then subsequently with the Director and Deputy Director,
5 but we resolved that. But there was information that was being shared up that chain at
6 the FBI that was incorrect.
7 Q And, when you say what you were doing, that's in reference to what the
8 Western District of Pennsylvania was doing regarding your assignment from Mr. Rosen?
9 A That's correct.
10 Q According to public statements by Attorney General Barr, your office in
11 vetting the information provided by the CHS for the FD-1023, you went back and
12 developed more information that apparently had been overlooked by the FBI.
13 Is that an accurate statement?
14 A I can't say "overlooked." I don't know that I agree with that
15 characterization because I don't know what -- again, because this was referenced in a
16 previous CHS report, I don't know what the focus of that investigation was. So it might
17 have been ancillary information that wasn't directly related to what they were looking at
18 in 2017. But it had not been developed. It's fair to say that it had not been looked into
19 or developed any further.
20 Q And so it was by your directive that the information that's included in the
21 FD-1023 was developed; is that correct?
22 A That's correct. Once we were made aware of it, and my -- the AUSAs who
23 were running point on this project requested to see that underlying 1023, the previous
24 one, identified that line relating to Mr. Biden and his role at Burisma. They brought that
25 to my attention, and we then engaged the FBI and said we need to understand what this

1 is or what this is not; can you please go out and re-interview the CHS and develop this.
2 That then led to this June of 2020 1023.
3 Q And when did you make the request for the re-interview of the CHS?
4 A I think we identified that in early June, so perhaps the first week of June.
5 And then there was some back and forth between us and the FBI. And then they
6 interviewed him and memorialized this on 6/30.
7 Q When you say "back and forth," are you referring to some sort of reluctance
8 on the part of the FBI, or there was just conversations that needed to be engaged in?
9 A There were conversations. There was reluctance. Again, this was a CHS
10 that was known to the FBI, was credible, had been used -- had provided information that
11 was used in other investigations. And so, there's always a sensitivity in engaging CHSs.
12 You know, the FBI wants to make sure it's for a purpose that they agree with. So we had
13 discussions. I think there was initial reluctance, and then through, you know, a series of
14 conversations they agreed to go out and re-interview.
15 Chairman Jordan. Can you further describe that initial reluctance?
16 Mr. Lelling. I don't know that you can go into additional detail.
17 Mr. Brady. And, sir, as I sit here, I don't remember specifically what those
18 conversations were, that they would have shared with me their internal deliberations, but
19 there was resistance.
20 BY [redacted]
21 Q And the original FD-1023 that you're referring as information was mentioned
22 about Hunter Bidden and the board of Burisma, how did that information come to your
23 office?
24 A At a high level, we had asked the FBI to look through their files for any
25 information -- again, limited scope, right? And by "limited," I mean, no grand jury tools.

1 So one of the things we could do was ask the FBI to identify certain things that was
2 information brought to us. One was just asking to search their files for Burisma,
3 instances of Burisma or Hunter Biden.
4 That 1023 was identified because of that discreet statement that just identified
5 Hunter Biden serving on the Burisma board. That was in a file in the Washington Field
6 Office. And so, once we identified that, we asked to see that 1023. That's when we
7 made the determination and the request to re-interview the CHS and led to this 1023.
8 Q And when did you make that initial request for the FBI to do a search of its
9 databases?
10 A I don't remember specifically. I mean, it was an ongoing conversation.
11 These were things, these were taskings that we needed to perform. So, sorry, I don't
12 remember when it was, but I'm sure when we made that in May, and they performed it, it
13 was likely not the first time we made that request.
14 Q And did you make those requests to FBI Pittsburgh or to FBI Headquarters?
15 A We would make them to FBI Pittsburgh. They would be, again, per their
16 reporting channels. It was our understanding they were reporting that up to
17 headquarters. Again, when we would have challenges or issues, and we would elevate
18 it to the PADAG and the Deputy Director, we would, you know, inform the Deputy
19 Director of things that we were -- steps that we were taking, some of which he was aware
20 of already. So mostly it was through Pittsburgh.
21 Q And at what point in time did your investigators become aware of first
22 FD-1023 with just the discreet mention of Hunter Biden and Burisma?
23 A I think it was at the beginning of June.
24 Q At the beginning of June?
25 A Early June of 2020.

1 Q Okay.

2 [redacted] And I'll mark as exhibit 10, an article from The Federalist from

3 July 24, 2023, titled "FBI told Delaware U.S. attorney it had already partially corroborated

4 Biden bribery claims, source says."

5 That will be exhibit No. 10.

6 [Brady Exhibit No. 10

7 Was marked for identification.]

8 [redacted] And I'm going to point to specific portions of it. Please take a

9 moment to review.

10 [redacted]

11 Q The pages aren't numbered, but if you count from the first page, the fourth

12 page, the first full paragraph states, following the late June 2020 interview with the CHS,

13 the Pittsburgh FBI Office obtained travel records for the CHS, and those records

14 confirmed the CHS had traveled to the locales detailed in the FD-1023 during the relevant

15 time period. The trips included a late 2015 or early 2016 visit to Kiev, Ukraine, a trip a

16 couple months later to Vienna, Austria, and travel to London in 2019.

17 Does this kind of match your recollection of what actions the Pittsburgh FBI Office

18 was taking in regards to this.

19 Mr. Lelling. Don't answer that. Too specific a level of detail.

20 [redacted]

21 Q You had mentioned last hour about travel records. Did your office obtain

22 travel records, or did you have knowledge that the Pittsburgh FBI Office obtained travel

23 records?

24 Mr. Lelling. That you can answer yes or no.

25 Mr. Brady. Yes.

1 [redacted] Okay. And then, in -- so the CHS is interviewed June 2020, late
2 June 2020, and then your office briefs the Delaware U.S. Attorney's Office and the
3 Baltimore FBI Field Office at the end of October; is that correct?
4 Mr. Brady. That's correct.
5 [redacted] And I'll mark as exhibit No. 11, you referenced last hour some
6 testimony by Mr. Gary Shapley. So this is a September 20, 2023, statement of
7 supervisory special agent Gary Shapley. We'll mark that as 11.
8 [Brady Exhibit No. 11
9 Was marked for identification.]
10 [redacted] Focus on number four here, paragraph four.
11 Mr. Brady. Paragraph four.
12 [redacted] Yes.
13 Mr. Lelling. Is this an attachment to his testimony? Is that why it says
14 attachment one? I'm just curious.
15 [redacted] These were documents that were provided to the Ways and Means
16 Committee, and then, following an executive session business meeting, they made these
17 documents public. So it was just an attachment that Mr. Shapley provided.
18 Mr. Lelling. I was just curious. Thank you.
19 [redacted] Uh-huh.
20 BY [redacted]
21 Q Have you had sufficient time to review?
22 A Yes.
23 Q Okay. So, looking at paragraph four on page 2, as it continues onto page 2,
24 the second full sentence, it says: The prosecution team discussed the Hunter Biden
25 related work of the Pittsburgh USAO on several occasions, as it was a line item on the

1 recurring prosecution team's call agenda for a long period of time. Assistant U.S.
2 Attorney Lesley Wolf told us the Pittsburgh USAO and U.S. Attorney Scott Brady requested
3 to brief the Delaware USAO's Hunter Biden's investigative team on multiple occasions,
4 but they were turned down by AUSA Wolf and the Delaware USAO.
5 Is it accurate that you had requested multiple times, you or your office, to brief
6 the Delaware U.S. Attorney's Office?
7 A Yes.
8 Q And do you recall whose decision it was at the Delaware U.S. Attorney's
9 Office not to accept the briefing?
10 A I don't know.
11 Mr. Lelling. Do you have personal knowledge of that?
12 Mr. Brady. I don't have -- yeah, I don't have personal knowledge of it.
13 BY [redacted]
14 Q So those interactions that would have occurred between Ms. Wolf and your
15 team, would that have been at the AUSA level?
16 A Correct, and they would have been with Ms. Wolf.
17 Q And were you ever told that the Delaware U.S. Attorney's Office did not want
18 a briefing from your office?
19 A I believe I was. I don't remember. But I know that we had trouble
20 scheduling it.
21 Q Okay. And then, further down, it states AUSA Wolf's comments made clear
22 she did not want to cooperate with the Pittsburgh USAO, and that she had already
23 concluded no information from that office could be credible stating her belief that it all
24 came from Rudy Giuliani.
25 Were you ever made aware of Ms. Wolf's processing and decisions regarding this

1 briefing, and why she didn't want the briefing?

2 A I was not. We did, however, make it clear that some of the information

3 including this 1023 did not come from Mr. Giuliani.

4 Q And did your team ever tell you that they were receiving comments from

5 Ms. Wolf that she didn't find the information your office was receiving credible?

6 A I don't remember that, no.

7 Q If those conversations took place, would those have been between a AUSA

8 at your office and Ms. Wolf?

9 A If they would have shared that with us at all, yes, likely, and had I been made

10 aware, I would have called Mr. Weiss directly.

11 Q When you would have called Mr. Weiss directly, would you have told him

12 the information the 1023 wasn't coming from Mr. Giuliani, is that accurate?

13 A Yes, I would have, and that was already communicated to their office, that

14 the 1023 was from a credible CHS that had a history with the FBI, and that it was not

15 derived from any of the information from Mr. Giuliani.

16 Q And how did you know that that information had already been

17 communicated to Mr. Weiss' office? Was that a communication between you and

18 Mr. Weiss?

19 Mr. Lelling. Wait a minute. What information?

20 [redacted] The information that the FD-1023 did not come from Mr. Giuliani.

21 Mr. Lelling. Thank you.

22 Mr. Brady. That would have been relayed to me by my AUSAs who were in

23 communication with Ms. Wolf, and you know, members of Mr. Weiss' team.

24 [redacted]

25 Q So one of your AUSAs would have communicated to Ms. Wolf that the 1023

1 did not from Mr. Giuliani; is that correct?

2 A That's correct. And should have been aware in the FBI as well. The FBI

3 Baltimore Field Office should have been aware of that as well, but I can't speak to that.

4 Q Did you ever get a sense of why Ms. Wolf was under that belief?

5 A No, I did not.

6 Q A little bit further on the next sentence, it states, on the October 22, 2020,

7 prosecution team call, AUSA Wolf informed us that because the Delaware U.S. Attorney's

8 Office had been ordered by the principle deputy attorney general at Justice Department

9 headquarters to receive the briefing from the Pittsburgh USAO, it would be happening the

10 next day, October 23, 2020.

11 Does that match your recollection of how things went down, the PADAG

12 communication?

13 A I didn't have specific knowledge that that was what happened between the

14 PADAG and the Delaware U.S. Attorney's Office until I saw Mr. Shapley's testimony.

15 Q Did you bring this concern that the USAO in Delaware was not wanting a

16 briefing from you? Did you bring that concern to the PADAG?

17 A I'm sure I did. I don't remember the specific conversation. Rich and I

18 talked on a regular -- Mr. Donoghue and I talked on a regular basis, especially once we

19 had transmitted a report to him, and with our recommendation to brief the separate

20 offices.

21 Q Did you ever get a sense that there was tension between U.S. Attorney

22 Weiss and AUSA Wolf?

23 A I have no knowledge for that, no basis for knowing that.

24 Q And the briefing on October 23, 2020, you said you did not attend that

25 briefing; is that correct?

1 A I did not. Correct.

2 Q Do you know if that occurred in person?

3 A No, it did not occur in person, and neither I nor U.S. Attorney Weiss were

4 present at that briefing.

5 Q And, to kind of just go back to the last hour where we were discussing this,

6 you said that two of you AUSAs that were kind of the principle on this assignment, they

7 attended the briefing, one to two FBI special agents from Pittsburgh. You weren't sure if

8 your senior AUSAs attended the briefing, and that was all that you could recall from your

9 office that attended; is that correct?

10 A Yes. That's correct. And, as I mentioned, the briefing was conducted by

11 our AUSAs, not by the FBI. It was AUSA to AUSA and team.

12 Q And, after the briefing, when you were told how it went, did you get a sense

13 of what actions U.S.A. Delaware planned to take on the information that your team had

14 provided?

15 A No. None. Once we provided the briefing, our assignment was

16 completed, and we passed that information and recommendations. And then we had

17 no visibility on what they did, nor did they share with us what they planned to do.

18 Q So, as part of the briefing, did your office recommend certain actions?

19 A We did.

20 Q Were those -- did you want them to look further into the allegations in the

21 FD-1023, and the information that you had provided them?

22 Mr. Lelling. I don't think you can answer that as phrased. You need something

23 more general. I don't think he can testify here to his characterization of the quality of

24 the evidence when he gave it over to Delaware.

25 BY [redacted]

1 Q So the process of how -- the specific assignment that you were given by DAG
2 Rosen was that you would vet the information and kind of make a preliminary
3 determination about credibility; is that correct?
4 A That's correct. The credibility of the information that we were receiving.
5 Q And then, if you determined that that information was credible, then you
6 would pass it on to a U.S. attorney's office; is that accurate?
7 A Yes. Credible or had indicia of credibility, we would then pass it on to the
8 U.S. attorney's office with a predicated grand jury investigation, including the District of
9 Delaware.
10 Q And the U.S. attorneys' offices were the ones that could kind of escalate the
11 information that you found had some indicia of credibility into a preliminary investigation
12 or a full investigation; is that correct?
13 A That's a different -- that's FBI nomenclature. That's not how DOJ does that.
14 Q So it was on the USAO and their FBI counterparts to kind of further the
15 investigation; is that correct?
16 A Right. So two separate streams, right; how the FBI characterized their
17 opening of the work that they were doing, together with us as part of this vetting
18 assignment, was under their DIOG as I mentioned was unique to them. Delaware had a
19 grand jury investigation open, right? So our recommendation and our briefing was on
20 information that we believed in our limited ability to vet information coming from the
21 public should be looked at, required further analysis, further investigation, including using
22 the tools of a grand jury. We made that -- those recommendations, and that briefings
23 and that included information, including this 1023.
24 Q So you provided information in that briefing that you thought needed
25 further analysis or investigation; is that correct?

1 A That's correct, and made specification recommendations that I can't share.
2 Q And you passed along the information that your office had deemed had
3 some sort of indicia of credibility; is that correct?
4 A Broadly, yes, and specifically relating to the 1023, yes.
5 Q And so, in terms of briefing the USAO Delaware's Office, you only had one
6 briefing; is that correct? Your office only had one briefing with them?
7 A Yes. As I mentioned, we had several conversations along the way, but at
8 the end of our tasking, as I mentioned, I wrote a formal report, our team wrote formal
9 report that went to the PADAG. In that, we made recommendations that -- we made
10 recommendations consistent with our original tasking that we would provide briefings to
11 the SDNY, EDNY, and the District of Delaware, we laid those out in our report to Rich.
12 He and I spoke. He concurred, and as a result, then we scheduled those. And I believe
13 it went SDNY, EDNY, and then Delaware in October. So the report went to Rich's desk in
14 September with those recommendations. He and I spoke. He agreed, and then we
15 scheduled the briefings.
16 Q So, after the briefing on October 23, 2020, with the U.S. attorney's office in
17 Delaware, did you have any other interactions with -- either between you and Mr. Weiss
18 or your team and Delaware?
19 A No. That was the end of your tasking. We pulled up our stakes and
20 folded our tent and went on to other things.
21 Q So when did your assignment officially end?
22 A To my understanding, it ended when we did the final briefing to Delaware,
23 and then our tasking was done. We had done everything we deemed important and
24 that, you know, we could look at and we could vet the credibility of, and then passed it
25 onto the offices that had grand juries.

1 Q So, after you passed the information along to the Delaware U.S. Attorney's
2 Office, did Mr. Weiss ever follow up with you --
3 A No.
4 Q -- regarding his taskings?
5 A No. Nor did anyone from the U.S. attorney's office there.
6 Q And how was it communicated to you that kind of your assignment
7 regarding the Ukrainian-related information had ended or wrapped up? Was that your
8 decision?
9 Chairman Jordan. One second. Did anyone from Southern District of New
10 York, Eastern District of New York, did any of them follow up with you after that similar
11 briefing was given to them?
12 Mr. Brady. No to SDNY. We had a different interaction with EDNY for different
13 purposes that I can't get into, but relating to what we communicated to them, I don't
14 believe so, sir. I think that was the end of our assignment.
15 Chairman Jordan. Okay. I'm sorry.
16 BY [redacted]
17 Q There have been some public statements that, you know, your office closed
18 the investigation of the allegations documented into the FD-1023. Are those statements
19 accurate?
20 A I know have been several statements from General Barr, some from
21 Representative Raskin. I'd be happy to talk about either or both of those, but probably
22 need to separate them.
23 Q Okay. So, to the extent that, you know, Mr. Raskin has claimed that you
24 shut down the investigation of the FD-1023 information, specifically focusing on
25 Mr. Raskin, are those allegations correct?

1 A My understanding of Mr. Raskin's public statements is that, based on the
2 determination that I and my team found the allegations in the 1023 not credible or other
3 information not credible, we did not escalate the assessment to a limited or full
4 investigation. That's not true. What General Barr said publicly is true.
5 What is true is, that the nomenclature of the FBI was immaterial to us. How they
6 characterized the administrative title of what they needed to assign to begin to work
7 under their DIOG had nothing to do with our tasking, had nothing to do with our
8 assignment.
9 We discussed very frankly with the FBI that this would never be developed into a
10 full investigation. This would never be a grand jury investigation out of the Western
11 District of Pennsylvania. Everyone knew that. There was no confusion about that.
12 So it would never escalate into a full investigation under the lexicon of the FBI.
13 What happened was, once we had written our report, our memo to Mr. Donoghue
14 as the PADAG, we made our recommendations about briefing the offices. From our
15 perspective, A, we wanted to get those to the grand jury investigation sooner rather than
16 later. We had already had a myriad of delays in this process. The then SAC of
17 Pittsburgh called me and said: Is there anything left for us to do on your punch list.
18 I said: No, you know, thank you for your help in this.
19 He said: Then, is it okay if we close this assessment?
20 And I said: Yes, that's fine. I don't care what you guys called it from the
21 beginning, but yeah, there's no more work for us to do. Now we pass it off to the offices
22 with the grand juries, and our job is done.
23 Q Okay. And, to the extent that Attorney General Barr had stated publicly in
24 regards to Mr. Raskin's claims, quote, "It's not true, it wasn't closed down, on the
25 contrary it was sent to Delaware for further investigation," end quote, that's accurate to

1 your recollection?

2 A General Barr's statements are all accurate, including his statement that the

3 information contained in the 1023 was not derived from any Giuliani-related information

4 and are not from -- this is General Barr's public statement -- not from known sources of

5 Russian disinformation.

6 Q And, in fact, the FBI has stated publicly, and you said it matched your

7 recollection earlier, that the source was highly credible, the FBI deemed the source was

8 highly credible, and they had used that source in other investigative matters; is that

9 correct?

10 A That's correct.

11 Q To the best of your knowledge, after the FD-1023 and the briefing occurred

12 with the Delaware U.S. Attorney's Office, do you know if the Delaware U.S. Attorney's

13 Office or FBI Baltimore shared that 1023 with their FBI investigative team?

14 A I have no idea.

15 Q Do you have any knowledge as to whether they shared it with the IRS

16 investigators?

17 A No contemporaneous knowledge in 2020. I know from public reporting

18 that it was -- they were not a part of the briefing. That I knew at the time, that it was

19 only Ms. Wolf as I mentioned, perhaps another AUSA from the Delaware team and special

20 agents from the Baltimore Field Office of the FBI. There was no IRS involvement in the

21 briefing. And I know from, you know, Mr. Shapley's testimony, I believe, that the 1023

22 was not shared with him or his team or anyone at the IRS.

23 Q And did you know contemporaneously that the IRS investigators had asked

24 to be a part of that briefing that your office was providing?

25 A No, I had no visibility into that.

1 Q When you did learn from Mr. Shapley's testimony that the IRS investigators,
2 you know, weren't told about or the FD-1023 wasn't shared with them, did that surprise
3 you?
4 A Yes.
5 Q Why did that surprise you?
6 A Typically, not specific to this, but in investigations where you have multiple
7 agencies that investigative team; AUSAs, Federal prosecutors, investigators, agents from
8 sometimes, you know, agencies with overlapping or concurrent jurisdiction, you share
9 information pretty transparently, and you know, on a realtime basis.
10 Because even though they might have different jurisdiction and might be looking
11 at different agency specific statutes and potential charges as part of their investigation,
12 you want your team to have kind of full knowledge of everything that is coming; good,
13 bad, credible, not credible. And so I would have expected that that would have been
14 shared with the IRS.
15 Q And, prior to your departure from the Western District of Pennsylvania in
16 February 2021, did you ever become aware of attorney -- the tasking being made to U.S.
17 Attorney Weiss that he would be -- have full authority over the Hunter Biden
18 investigation?
19 A Only from -- only what's publicly reported. That's the only knowledge I
20 have. I haven't spoken to Mr. Weiss since we left the Department, since I left the
21 Department.
22 Q Okay. Are you aware of an August 2020 assessment that was opened by an
23 FBI supervisory intelligence analyst, Brian Auten, regarding the Hunter Biden information?
24 A At the time, I was not. I am now from public reporting.
25 Q So you didn't became aware during your tenure at the Western District of

1 the Auten assessment?

2 A This was never shared with me by the FBI, but there was many things. I

3 was not aware of that the FBI was in possession of the Hunter Biden laptop. There were

4 many things that were not shared back with the Pittsburgh Office.

5 Q So when did you become aware that the FBI had the Hunter Biden laptop?

6 A When it was first reported publicly, I think, December of 2020. I don't

7 remember.

8 Q It was October 14, 2020. Is that kind of -- that was when the New York Post

9 article came out regarding the Hunter Biden laptop?

10 A Yeah. That was when I was first aware, and I was surprised.

11 Q You were surprised. Why were you surprised by that?

12 A I would have thought that would be something, especially as has been

13 publicly reported, there's information relating to Hunter Biden's activities on the board of

14 Burisma in Ukraine, that might have been helpful in our assessment of the information

15 that we were receiving about him. I would have expected that be shared. However,

16 not knowing the source, now I know the source. But, you know, if it had been grand

17 jury derived or subpoenaed or seized as a result of a search warrant, that wouldn't

18 surprise me it wouldn't be shared with us. But, yeah, we were all surprised.

19 Q And to the extent that you had asked the FBI to do a search of their

20 databases regarding information relevant to your assignment, do you think the laptop

21 information would have been part of that?

22 A I would have expected -- if it were information or evidence that the FBI had, I

23 would have expected that to be part of that search.

24 Q And, in regards to the Auten assessment, we'll call it, you said you became

25 aware of that after your tenure at the Western District. And what did you learn about

1 the Auten assessment?

2 A Only what was public and broad brushstrokes there was an assessment, that

3 Mr. Auten identified all of the information relating to allegations of corruption, of, you

4 know, Hunter Biden and Ukraine and Burisma to be not credible and/or sourced by

5 Russian mis- or disinformation, and that assessment was closed. That's all I know. I

6 don't know if information that came through the Pittsburgh Office as a part of this vetting

7 process was included in that, excluded from that. I don't know.

8 Q So, if that was -- the assessment was done in August of 2020, how did that

9 kind of jibe with the work that you were doing?

10 A Separate work streams. We had no visibility into what headquarters was

11 doing. They did not share with us. They were only watching and approving our

12 investigative steps that we requested.

13 Q And were you surprised to learn that there was this kind of assessment

14 conducted?

15 A Not necessarily surprised an assessment would be conducted, but knowing

16 so little about it, the genesis the scope of it, I would have thought -- I would expect that if

17 it intersected with what we were doing, that someone would have talked to us. Now,

18 maybe that was just headquarters to FBI Pittsburgh conversation. But I would have

19 thought that we would be read into or be a part of that conversation.

20 Q And did you have any communications with the Washington Field Office of

21 the FBI?

22 A Yes.

23 Q And how many communications did you have with the Washington Field

24 Office?

25 A They were limited. So headquarters versus Washington Field Office, our

1 interaction with the Washington Field Office related to the underlying 1023 that predated
2 this one that we looked at and then gave rise to our request to re-interview the CHS in
3 the June-2020 1023.
4 Q And so did the underlying 1023, did that come from the Washington Field
5 Office? Was that why there was interaction?
6 A Yes.
7 Q Who did you interact with at the WFO?
8 A I don't remember. It would have been my AUSAs, I think, that were
9 interacting with -- AUSAs and Pittsburgh special agents that were interacting with special
10 agents from WFO.
11 Q Were there any other interactions that occurred between your office and
12 the WFO?
13 A Not that I recall.
14 Q Do you know if there was any interaction with the FBI's Public Integrity
15 Section Or Division?
16 A No.
17 Q Any DOJ Public Integrity Division interactions that your office had?
18 A Relating to this?
19 Q Correct.
20 A No.
21 Q Did your office regularly communicate with Main Justice?
22 A Yes.
23 Q And who was your point of contact? Was that the PADAG?
24 A Yes. It would have primarily been the PADAG, first Mr. DuCharme, then
25 Mr. Donoghue.

1 Q And so, besides the SDNY, the Eastern District of New York, and the U.S.
2 Attorney's Office for Delaware, did you have any other interactions any other U.S.
3 attorney's offices regarding your assignment?
4 A Yes.
5 Q What other U.S. attorney's offices did you have contact with?
6 A Northern District of Illinois, and Northern District of Ohio.
7 Q And did you give briefings to the Northern District of Illinois and the
8 Northern District of Ohio?
9 A No. As part of our initial tasking and Mr. Donoghue's role as kind of
10 quarterback or air traffic controller for all Ukraine investigations, there was an
11 investigation in the Northern District of Illinois. So I spoke with the U.S. District
12 Attorney, talked with him about what we were tasked with doing, what I believed the
13 scope of that to be, asked him if that intersected at all with his case and investigation.
14 He said: No.
15 And so we had no further interaction.
16 The Northern District of Ohio had a -- it's public -- an investigation into PrivatBank
17 and Mr. Kolomoisky for a series of activities that were occurring in the Northern District
18 of Ohio and elsewhere. There was some interaction with PrivatBank in this case. And
19 so I wanted to, again, do the same thing, talk with the U.S. attorney, say: Here's what
20 we're looking at. Here's where PrivatBank plays a role in this. And does this intersect
21 with yours?
22 And we determined that it did not. And so, didn't have any followup
23 communications with them.
24 Q And did you provide any sort of report or product to the PADAG regarding
25 this information?

1 A This information, meaning ND Illinois and ND Ohio?

2 Q Correct. Correct.

3 A I don't know that it would have been written, but I certainly would have

4 apprised him, that yes, I talked with ND Illinois, you know, no intersection. Talked with,

5 you know, Justin in the Northern District of Ohio. We talked about PrivatBank. Theirs

6 is separate from what we're looking at. As I mentioned, all of our work with SDNY, EDNY

7 and the District of Delaware was summarized in our final report and recommendations to

8 Mr. Donoghue. I think we sent that in September.

9 Q And did you have an understanding whether the Northern District of Illinois

10 or the Northern District of Ohio had grand jury investigations regarding the information

11 you were passing along?

12 A They did. That's why I spoke with them.

13 Q And, for the FBI, I know we've spoken about the FBI Pittsburgh Field Office,

14 the Baltimore Field Office, the Washington Field Office.

15 Were there any other field offices that your office communicated with regarding

16 your task?

17 A New York. The New York Field Office, which supported both EDNY and

18 SDNY.

19 Q And, when you needed to interact with those field offices, was that normally

20 the FBI Pittsburgh Field Office that was interacting with them, or was it the individuals

21 within your office?

22 A Normally, that was -- it depended on what was going on, right? So the kind

23 of normal interface was AUSA to AUSA, special agent on an investigative team to special

24 agent. At times when there were issues with, for example, SDNY, which is supported by

25 the field office, the New York Field Office, then that would be elevated, and we would

1 speak AUSA to AUSA and either SAC to SAC. Sometimes we had to involve the Deputy
2 Director. So that happened on occasion with the New York Field Office.
3 Q And, when your office was conducting your review to determine whether
4 the information that was coming in had some sort of indicia of credibility, would your
5 team undertake interviews of individuals?
6 A For the 1023 specifically?
7 Q Related to any Ukrainian information that came in?
8 A Yes.
9 Q And were those individuals pertinent to the investigation -- or the
10 information that you were receiving as well as individuals who were providing
11 information?
12 A Yes. They were potential witnesses who may or may not have had
13 information, you know, relating to Ukrainian corruption. So we identified, there were
14 many that were identified that were in the Ukraine. We did not interview them. There
15 were some that were in the United States. So we did conduct interviews in the United
16 States.
17 Q So your office had additional interviews or meetings with people other than
18 Mr. Giuliani; is that correct?
19 A That's correct.
20 Q Did you get a sense of why Mr. DuCharme and the Deputy Attorney General
21 had tasked you with this assignment?
22 A I think there was -- could I have a moment to talk to Andy?
23 [redacted] Absolutely. We'll go off the record.
24 [Discussion off the record.]
25 [redacted] We can go back on the record.

1 Mr. Lelling. I'm afraid he can't answer that question.

2 [redacted] Can't answer why he was tasked with this?

3 Mr. Lelling. Correct.

4 Mr. Brady. I do think -- so separate and apart from specific conversations, I think
5 we were tasked with this, as was Mr. Jensen and the Flynn investigation, as were other
6 U.S. attorneys, because General Barr and DAG Rosen had confidence that we would
7 conduct our assignment with professionalism, that we would, you know, uphold the best
8 principles of the Department, and that we would do it discreetly to the previous
9 questioning, and we would be thorough and thoughtful.

10 When I put my team together, without identifying certain names, I put a team of
11 Republicans and Democrats together. Again, we were politically appointed, but the
12 work of the Department of Justice shouldn't matter. And so, as I mentioned, there were
13 two supervisory AUSAs, senior, our most experienced white collar investigators. One
14 was my FAUSA, a Democrat, and one was my head of white collar, a Republican. My
15 two AUSAs, Democrat, unknown because it didn't matter. You know, what my tasking
16 to them was that we are going to run this to ground, and if we do everything ethically in
17 the right way, then we will never have to worry about what the outcome is. Then we'll
18 do our job. We'll do it professionally, ethically, and then we will pass it off to the other
19 offices that have grand juries.

20 [redacted] We can go off the record.

21 [Recess.]

1 [1:24 p.m.]

2 [redacted] Back on the record.

3 BY [redacted]

4 Q In the last hour, you were talking about how the original 1023 came to you.

5 So I'm talking about the 1023 from 2017.

6 A Yes.

7 Q And you said that you asked the FBI to search its files for the word

8 "Burisma."

9 A Yes. I believe that's how that was identified.

10 Q Okay. What led you to ask the FBI to search its files for "Burisma"?

11 Mr. Lelling. Well, wait a minute.

12 Did you ask the FBI to search its files for "Burisma"?

13 BY [redacted]

14 Q Or somebody in your office. Maybe not you personally.

15 A I don't remember if this was identified because we asked specifically for

16 "Burisma," but "Burisma" appeared in a lot of the material we received from Mr. Giuliani.

17 So, to try to narrow the scope of --

18 Q Okay.

19 A -- the universe of information, we thought that would be one of the work

20 streams that we would try to at least wrap our arms around.

21 Q Okay. So your request that the FBI look in its files for "Burisma" or

22 whatever the actual search term was, that was because you had gotten information from

23 Giuliani, correct?

24 A Yes.

25 Q Okay.

1 And so, in the -- actually, in the first and second hours, you said pretty extensively
2 that your role was to vet information provided from the public, correct?
3 A Correct.
4 Q And so the 1023, the original 1023, was not information provided from the
5 public, correct?
6 A That's correct --
7 Q Okay.
8 A -- yes.
9 Q But it came up because you'd received information from Mr. Giuliani and, in
10 your vetting of that information, you ran a search?
11 A Correct.
12 Q Okay.
13 A And just to clarify, I don't remember if we asked the FBI to search for
14 "Burisma" --
15 Q Right.
16 A -- or "Zlochevsky."
17 Q Understood.
18 A But I think it's all equal, to the premise of your question.
19 Q Right.
20 And the 1023 itself, which is exhibit 3, this refers over and over again to
21 Zlochevsky, correct?
22 A Correct.
23 Q And we talked through -- you said in the earlier hour that the FBI deemed
24 the source highly credible. And the source was the confidential human source that
25 actually provided the interview that led to the 1023, right?

1 A Correct.

2 Q That's not Zlochevsky, though, right?

3 Mr. Lelling. Don't answer.

4 [redacted] Oh. Understood. Withdrawn.

5 BY [redacted]

6 Q The source discusses conversations with Zlochevsky, correct?

7 A That's correct.

8 Q Okay. It was beyond the scope of what you were able to do to actually

9 assess Zlochevsky's credibility directly, correct?

10 A Correct. We had no basis of assessing that or tools to --

11 Q Okay.

12 A -- determine whether what he claimed was true or not.

13 Q So this is essentially a report of what a confidential human source told you

14 about his or her conversations with Zlochevsky, correct?

15 A Correct.

16 Q And, in this, the source, himself or herself, actually directly says that -- and

17 this is, again, on page 3; we talked through it in my prior hour -- that the "CHS is not able

18 to provide any further opinion as to the veracity of Zlochevsky's aforementioned

19 statements."

20 A That's correct. And that's why we thought Delaware would be in the best

21 position to take that further or not.

22 Q Understood.

23 Okay. Go ahead.

24 [redacted] Okay.

25 BY [redacted]

1 Q So let's talk a little bit about Zlochevsky. I understand why you weren't in a
2 position to interview him as far as -- actually, I don't even think anyone knows where he
3 was at that point, but he wasn't in the United States, right?
4 A Correct.
5 Q So you were limited in scope and also just as a practical matter.
6 But I think in the first hour or one of our hours you said that you did do some
7 open-source -- or, you or someone on your team did open-source searching to see
8 whether information could be corroborated, right?
9 A Correct. Yeah. We and the FBI.
10 Q Sure. I mean your team when I say "you."
11 A Oh, yes. Yeah.
12 Q So, with respect to Zlochevsky's statements in particular, like the ones that
13 are memorialized in the 1023, or attributed to him, were you able to find -- or, you or
14 anyone on your team able to find in open-source reporting that Mr. Zlochevsky had made
15 statements inconsistent with those that were attributed to him in the 1023?
16 A No. We didn't find statements one way or the other relating to that.
17 Q Okay.
18 You did interview Rudy Giuliani, correct?
19 A Correct.
20 Q Did you ever have occasion to interview a person associated with
21 Mr. Giuliani, Lev Parnas?
22 Mr. Lelling. I don't want him to get into -- I was going to allow him to identify
23 Rudy Giuliani because it's now so widely known that DOJ interviewed Giuliani, but going
24 past that is problematic.
25 [redacted] Okay.

1 BY [redacted]

2 Q Do you know who Lev Parnas is?

3 A I know of him based on the SDNY investigation.

4 Q Okay. He was indicted, correct?

5 A Indicted, correct.

6 Q Right. And he was associated with Mr. Giuliani, correct?

7 A Correct. That's my understanding.

8 Q Okay. Did Mr. Giuliani disclose the fact that he had a relationship with Lev

9 Parnas?

10 Mr. Lelling. Don't go into that.

11 [redacted] Okay.

12 This is going to be marked as exhibit 12.

13 [Brady Exhibit No. 12

14 Was marked for identification.]

15 [redacted]

16 Q This is a document that includes typed questions and answers. This

17 document was provided by Mr. Parnas to Rudy Giuliani.

18 Mr. Giuliani directed Mr. Parnas and another person by the name of Vitaly Pruss

19 to directly interview Mr. Zlochevsky, to ask these questions, and these are the answers

20 that they received.

21 Have you ever -- oh. Sure.

22 [redacted] And just to make it clear for the record, this document, in the form

23 we're producing it to you today, was subsequently produced by Mr. Parnas to Mr. Raskin,

24 and Mr. Raskin has made it available on his website. That's how it came into our

25 possession.

1 Mr. Brady. Oh, I see. Okay. Thank you.

2 [redacted] Go ahead.

3 BY [redacted]

4 Q I understand it's also available -- it was part of the impeachment inquiry to

5 Trump's first impeachment, and it's part of the HPSCI investigation. I don't know if

6 you've had a chance to look at that or if you did during the assessment.

7 A Not all of it, no.

8 Q Okay. But have you seen this document before?

9 A I don't believe I have.

10 Q Okay. The -- I'll just give you a second to look at it, actually, then, if you've

11 never seen it before. It's three pages -- two pages. Let me know when you've had a

12 chance to look at it. Take your time too.

13 A Okay.

14 Q Have you had a chance to review it?

15 A Yes.

16 Q Okay. And just to be clear, I think my colleague has already explained this,

17 but this document was provided to investigators on the House Permanent Select

18 Committee on Intelligence in 2019, before your assessment began, in relation to the first

19 impeachment inquiry of President Trump.

20 But you indicated you were not aware that that evidence was in the record of that

21 investigation?

22 A Correct.

23 Q Okay.

24 A And I'm sorry, could I just clarify?

25 Q Sure.

1 A Who's answering the questions?

2 Q Yeah, let me -- I'll explain.

3 A Oh, I'm sorry.

4 Q Sorry. I know it's a little confusing.

5 Mr. Lelling. Don't jump ahead.

6 [redacted]

7 Q That's a good question.

8 All right. So my understanding, again, from the evidence in the previous

9 impeachment inquiry and our investigation and other ways, is that this interview was

10 conducted in July of 2019. The person who was actually doing the questions directly to

11 Mr. Zlochevsky was a man by the name of Vitaly Pruss, V-i-t-a-l-y, Pruss, P-r-u-s-s. And

12 Mr. Pruss was in direct contact with Lev Parnas, who was also in contact with Giuliani.

13 So there's a little string here. Mr. Giuliani is asking Mr. Parnas to ask Mr. Pruss to

14 ask these questions directly of Mr. Zlochevsky. Does that make sense?

15 A Yes.

16 Q Okay. And that was explained during the HPSCI investigation, as well, in

17 the context of this document being produced in that investigation.

18 So, on July 7, 2019, Mr. Pruss sent these written summaries -- which is the exhibit,

19 No. 12 -- sent these answers that Mr. Zlochevsky had given to Lev Parnas and to

20 Mr. Giuliani in the form of a Word document. That's why it looks the way it does.

21 A Sure.

22 Q Okay. So you indicated you've never seen this document before. May I

23 actually ask you, before we go through it: You, during the course of your investigation,

24 you asked the FBI or directed others to ask the FBI to review their holdings for any

25 information related to Burisma or Zlochevsky, correct?

1 A Yes. We asked them, for certain specific questions, to look in open-source,
2 as we talked about, and then to look in their investigative files to see if they had
3 intersected with these names or, you know, this topic before.
4 Q Okay. And they yielded this 2017 1023 that then led you to interview the
5 CHS, correct?
6 A Yes.
7 Q Okay. But you never asked, for example, the House Permanent Select
8 Committee investigators or anyone associated with that investigation to do a similar
9 inquiry for evidence relating to Zlochevsky?
10 A No, I don't believe we did.
11 Q Okay. And, like you said, you were not aware that this interview had taken
12 place in 2019. Is that fair to say?
13 A I don't believe I was, no.
14 Q Okay. And anyone on your team, as far as you know, was not aware that
15 Mr. Zlochevsky had been interviewed at the direction of Giuliani before your assessment
16 began?
17 A I don't believe so.
18 Q Okay. So let's go through it, then, since this is the first time you've seen it.
19 The first question, for the record, states, quote, "What caused you to hire Devon
20 Archer and Hunter Biden in 2014?"
21 And the answer from Mr. Zlochevsky is, quote, "We wanted to" -- and there's a
22 typo. It says "uild." I think it means "build" -- "Burisma as international company. It
23 was very important to have strong board. So when we review resumes of Biden and
24 Archer they both had great resumes. We also thought it would help in Ukraine to have
25 strong international board figures with great relationships in the United States and

1 Europe," end quote.

2 Let's move to question -- oh, actually, let me ask you about this. There's nothing

3 in Mr. Zlochevsky's answer to question 1 that says he needed the Bidens in order to,

4 quote, "take care of Shokin," correct?

5 A Nothing in that answer, no.

6 Q And there's nothing at all with respect to any investigation of Burisma,

7 correct?

8 A Oh, in the answer?

9 Q In the answer.

10 A No. No.

11 Q I'm sorry. I'm just asking you about his answer.

12 A Yeah. No, no. No.

13 Q So, to that extent, the answer that Mr. Zlochevsky gave to the question of

14 why you hired Hunter Biden and his associate Mr. Archer is inconsistent with this claim

15 that Mr. Zlochevsky is attributed -- or the statement that is attributed to Mr. Zlochevsky in

16 the 1023, correct?

17 A I'm sorry. Could you ask that again?

18 Q Yeah.

19 A I'm sorry.

20 Q That's okay.

21 To the extent that Mr. Zlochevsky is asked in this interview why he hired Biden,

22 Hunter Biden, to be on his board -- and he answers the way we just described, right?

23 Because he wanted a strong board. He did not say anything about investigations of

24 Burisma, correct?

25 A Not in that answer, no. Correct.

1 Q No. And not in that answer does he say anything about protecting Burisma
2 from investigations, correct?
3 A Correct.
4 Q Or protecting Burisma from anything, correct?
5 A Correct.
6 Q So, to that extent, the answer he gave here is inconsistent with the
7 statement attributed to him in the 1023, that he hired Hunter Biden to protect him?
8 A Oh, I see. I'm sorry. Yeah -- yes, they seem to be inconsistent.
9 Q Okay.
10 Question number -- let's see -- 8, which is I think on the second page, the question
11 asks, quote, "Did you ever learn why VP Joe Biden asked for Shokin to be fired as PG?"
12 Do you see that question?
13 A Yes.
14 Q Okay. And, to be clear, "VP" stands for "Vice President," I believe, and "PG"
15 probably stand for "Prosecutor General."
16 Are you aware that Mr. Shokin was the Prosecutor General of Ukraine during the
17 time that this allegation arose?
18 A Yes, for a discrete period in 2015-2016, I believe.
19 Q Okay. But the allegation about bribery and the firing of Shokin --
20 A Oh, yes.
21 Q -- had to do with his role as Prosecutor General, correct?
22 A Correct.
23 Q Okay.
24 The answer that Mr. Zlochevsky gave to that question of why did Biden ask for
25 Shokin to be fired, he responds, quote, "We learned about it from newspapers and

1 internet. We never had contacts with VP Biden during his visits to Ukraine," end quote.
2 Do you see that answer?
3 A Yes.
4 Q Okay. And you had never, before today, learned through your investigation
5 that Mr. Zlochevsky told Giuliani's investigators that?
6 A Not that I recall. Correct.
7 Q Okay.
8 Mr. Zlochevsky's answer also includes the statement, quote, "We never had
9 contacts with VP Biden during his visits to Ukraine," end quote. Do you see that
10 answer?
11 A Yes.
12 Q Okay. Did you ever learn of that part of his statement, that Mr. Zlochevsky
13 had told Rudy Giuliani's investigators in 2019 that he, quote, "never had contacts with
14 Vice President Biden during his visits to Ukraine"?
15 A No, not that I recall.
16 Q Okay.
17 All right. Anywhere in Mr. Zlochevsky's statement -- and you can take a minute
18 to review it if you need to review it further -- did Mr. Zlochevsky say that he paid either
19 Hunter Biden or Joe Biden to pressure Poroshenko to fire Shokin?
20 A No.
21 Q Okay.
22 Now, the answers that we've discussed here that Zlochevsky gave in this 2019
23 interview are inconsistent with the statements attributed to Mr. Zlochevsky in the 1023,
24 to some extent, correct?
25 A Yes.

1 Q Specifically on the key point that Mr. Biden is alleged to have received a
2 bribe to pressure Poroshenko to fire Shokin, correct?
3 A Correct.
4 Q If you had known during the course of your investigation that Mr. Zlochevsky
5 had made these statements that are inconsistent with what was attributed to him in the
6 1023, would that have affected your investigation in any way?
7 A Had we been aware of this, we would've definitely shared that with
8 Delaware when we shared the 1023 with them and allowed them to reconcile the two, do
9 further investigation or not, based on their discretion and knowledge.
10 Q Because that's just a normal thing that an investigator would do, is assess
11 credibility by looking to see whether there were prior inconsistent statements from a
12 witness, right?
13 A Correct.
14 Q And, in this case, you were not aware of the prior inconsistent statement
15 when you did your investigation, correct?
16 A Correct. I can't speak for my team, but I don't believe that we were aware
17 of these.
18 Q If someone on your team were aware of this prior inconsistent statement,
19 you would've expected them, as professionals, to bring that to your attention, correct?
20 A Yes, absolutely. We would've put that in our report to Mr. Donoghue.
21 We would've absolutely put that in the briefing to Mr. Weiss's team.
22 Q And you have no reason to think that anyone on your team was hiding this
23 or trying to keep it from you?
24 A No.
25 Q Okay.

1 Then the other question I think that I have to ask about this is: This is a prior
2 inconsistent statement of Mr. Zlochevsky that your investigation did not uncover, but it's
3 a statement that Mr. Giuliani was certainly aware of. Would you agree?
4 A Yes, if -- based on your representation, yes, absolutely.
5 Mr. Lelling. Well, wait a minute. Do you have any personal knowledge of
6 whether Rudy Giuliani was aware of that?
7 Mr. Brady. No, only counsel's representation.
8 Mr. Lelling. Okay.
9 [redacted]:
10 Q Okay. Well, right, and the record in the impeachment inquiry, I suppose,
11 and other evidence. But you're not familiar with that evidence, correct?
12 A I'm not.
13 Q And you didn't familiarize yourself with that evidence at the time that you
14 conducted your investigation, correct?
15 A Correct.
16 Q Okay. But you knew that it had happened though, right? Like, that the
17 investigation that preceded Mr. Trump's first impeachment, that that investigation had
18 happened in Congress before your investigation started, right?
19 A Yes. And, forgive me, can you remind me of the dates of the first
20 impeachment? I just --
21 [redacted] So it would've been Septem- -- well, approximately September 2019.
22 And then I think the impeachment vote was December of 2019, thereabouts.
23 Mr. Brady. Yes. Thank you.
24 We were aware --
25 [redacted] Sorry. To clarify, that's just the House impeachment vote. And the

1 Senate trial would've been January and February of 2020.

2 Mr. Brady. Of 2020.

3 Yes, we were certainly aware. I was not familiar with the record, and I don't

4 believe that our team looked into the record.

5 BY [redacted]

6 Q I mean, you personally had no role in it as an investigator, correct?

7 A No, not -- no.

8 Q But you were the sitting U.S. attorney at that time in Pittsburgh?

9 A Correct.

10 Q Okay.

11 But when you got this assignment to investigate or to receive information from

12 Giuliani and others, was there any kind of a recollection on your part, just from reading

13 news articles or other exposure, that this information associated with Giuliani had just

14 passed through the investigative process in the impeachment?

15 A I wasn't sure what, of the information that he presented to us, was a part of

16 the impeachment.

17 I think what General Barr said was that we were to treat any information relating

18 to Ukrainian corruption with skepticism --

19 Q Right.

20 A -- because there were a lot of cross-currents and mixed motives. And so

21 we had that view with the information we were receiving from Mr. Giuliani as well.

22 But, to your specific question, no, as to the information before the House or the

23 Senate for the impeachment inquiry.

24 Q Okay. And, just to be very clear, Mr. Giuliani himself never gave you a copy

25 of this statement, fair to say?

1 A Fair to say. Not that I recall. And, as you said, had my team been aware,
2 it would have been elevated.
3 Q Okay.
4 A Mr. Giuliani gave a series of podcasts. I don't know if this was a part of
5 his -- if this was a part of his public podcast. I just don't know, as I sit here.
6 Q Okay. And he never told you that he had interviewed or spoken to
7 Mr. Zlochevsky or anybody had spoken to him on his behalf?
8 Mr. Lelling. Can't answer that.
9 [redacted] Okay.
10 Mr. Brady. And could I clarify one thing?
11 [redacted] Of course. Yes.
12 Mr. Brady. So, just to clarify, without going into detail, because Mr. Parnas had
13 been indicted by SDNY, we didn't develop any information relating to Mr. Parnas that
14 either Mr. Giuliani gave us or that we received from the public, and we felt that it was
15 best handled by SDNY, since they had that full investigation.
16 [redacted] Okay.
17 Mr. Brady. So I can't speak to whether SDNY has that. I just don't know.
18 BY [redacted]
19 Q Okay. I guess my question was just more based on your own description of
20 your own investigative efforts. I mean, you went on your own, on your own initiative, to
21 search FBI records that had anything to do with Zlochevsky, correct?
22 A Correct.
23 Q Or Burisma, but you don't know what the search term was.
24 A Correct. There were multiple, but yes. I can't remember the specific one
25 that uncovered the underlying 1023.

1 Q Okay. But you didn't make a similar effort to search the impeachment
2 investigative files that were released and public at that time and dealing with the same
3 matter. Is that --
4 A Correct. To my knowledge, yes --
5 Q Okay.
6 A -- that's correct.
7 Q Thank you. Okay.
8 Okay. Switching gears a little bit --
9 A Sure.
10 Q -- do you know who Vitaly Kasko is? Spelled V-i-t-a-l-y, Vitaly, K-a-s-k-o,
11 Kasko.
12 A I'm not sure. I don't remember.
13 Q Okay.
14 I'm going to mark this as exhibit 13.
15 [Brady Exhibit No. 13
16 Was marked for identification.]
17 BY [redacted]
18 Q This is a news article from Bloomberg, dated May 7, 2019, entitled, quote,
19 "Ukraine Ex-Official Casts Doubt on Biden Conflict Claim," end quote.
20 Have you seen this article before?
21 A I don't believe I have, no.
22 Q Please just take a minute to review it.
23 Have you had a chance to review it?
24 A Yes.
25 Q Okay. So Vitaly Kasko, as reported in the article, was Viktor Shokin's

1 deputy when Shokin was the Prosecutor General of Ukraine, correct?

2 A Correct, according to this article, yes.

3 Q Okay. I mean, in your investigation, did you ever, sort of, look into who

4 Shokin's associates were?

5 A I can't remember as I sit here. I think we did. And we knew Mr. Shokin

6 had several roles in the PGO prior to becoming the Prosecutor General as well.

7 Q Okay.

8 Are you aware that Mr. Kasko made public statements about the Burisma

9 investigation that was happening under Shokin's leadership?

10 A I may have been aware at the time, but I don't remember as I sit here.

11 Q Okay. Would that have been something that your open-source review, you

12 or your team's review, would've looked to look into, just any statements that Shokin or

13 his other prosecutors had made about the Burisma investigation?

14 A Yes, both in U.S. reporting and in Ukrainian reporting or European reporting.

15 Q Okay. And, I'm sorry, did you indicate you've never seen this article before,

16 though?

17 A I don't believe I have, no.

18 Q Okay.

19 Let's look at the statements made by Mr. Kasko that are contained in the

20 reporting on page 2, at the bottom of the first paragraph.

21 Okay. Mr. Kasko stated that the probe into Burisma had been, quote, "long

22 dormant," end quote, at the time that Vice President Biden made his comments about

23 firing Shokin.

24 Kasko further stated that "there was no pressure from anyone from the U.S. to

25 close cases against Zlochevsky. It was shelved by Ukrainian prosecutors in 2014 and

through 2015," end quote.

Had you ever discovered in the course of your investigation that Mr. Kasko had made that statement?

A No.

Q On the third page, in the fourth paragraph, the article states that the case against Zlochevsky and Burisma was assigned to Shokin when Shokin was a deputy prosecutor, but, according to the reporting, quote, "Shokin and others weren't pursuing it," end quote, according to internal reports from the Ukrainian prosecutor's office that were reviewed by Bloomberg.

Were you aware of this reporting, that Shokin was not pursuing the case against Burisma when he was the deputy prosecutor?

A Not this specific reporting, but we had seen information that was consistent with that as well.

Q Okay.

Were you aware in your investigation that internal reports from the Ukrainian prosecutor's office documented the fact that Shokin and others were not pursuing the case at this time?

A Could I have a second to ask Andy?

Q Of course.

[Discussion off the record.]

Mr. Brady. Thank you.

So we did make some effort to secure files from the Prosecutor General's Office in Ukraine.

BY [redacted]

Q I think you indicated earlier you didn't have any subpoena authority; is that

right?

A That's correct.

Q International.

A There's some information regarding the docket and filings that is public --

Q Okay.

A -- and so we were going through the FBI legat in Kyiv to try to secure those.

Q Okay.

[redacted]:

Q This statement in the -- turning back to this article, on page 2, the statement from Mr. Kasko that there was no pressure from anyone from the U.S. to close cases against Zlochevsky, that would be inconsistent with some of the statements made in the 1023, correct?

A I'm sorry. Could you just tell me where that is? Generally, or --

Q It's the -- no, it's a direct quote.

[redacted] Second page, bottom of the first paragraph.

BY [redacted]

Q Yeah. Second page, right after the first paragraph, there's a little mini standalone paragraph. That first sentence is, "'There was no pressure from anyone from the U.S. to close cases against Zlochevsky.'"

A Yes, that's inconsistent with the 1023.

Q Okay. Do you know if this is the type of information that your team had access to through its open-source investigation research?

A We would've had access to public reporting like this, articles, yes.

Q Do you know if this particular statement was something that was passed along to Delaware?

1 A I don't recall.

2 Q Okay. Would it have been potentially relevant to Delaware's investigation?

3 A Yes, if they were looking at Zlochevsky and Burisma, yes.

4 Q Because it could potentially go to Zlochevsky's credibility, correct?

5 A Absolutely. Yes.

6 Q Okay.

7 Go ahead.

8 BY [redacted]

9 Q Can you explain a little bit, though? You indicated before that you were

10 here to vet information from Giuliani and others, correct?

11 A Correct.

12 Q But not to investigate with any kind of legal process, correct?

13 A Yes. We didn't have a grand jury, so we couldn't do that. We couldn't

14 compel testimony or documents.

15 Q Okay. And you indicated earlier that you did interview witnesses, correct?

16 A Correct. Voluntary interviews.

17 Q And you reviewed FBI systems, correct?

18 A Correct.

19 Q But now you are also indicating that you contacted foreign countries to ask

20 for documents voluntarily? Like, for them to consensually just turn them over to you?

21 A The legat is FBI personnel. So we would go through the FBI if there was

22 public information or if we had to run something down. And we did that with several

23 things that came to our attention.

24 Q Oh, I misunderstood. So you were just asking the legat if the legat had FBI

25 documents? You weren't asking the legat to then reach out to Ukrainian counterparts?

1 A No, we were asking the legat to reach out to counterparts to see what was
2 publicly available on dockets, for example, or pleadings and to, if possible, pull that
3 information and provide it to us.
4 Q Okay. So you were looking at, like, Ukrainian foreign government
5 documents, essentially.
6 A We were trying to.
7 Q Okay.
8 Mr. Lelling. Publicly available information, correct? Meaning publicly available
9 in Ukraine.
10 Mr. Brady. Yes. That's correct.
11 [redacted] Okay.
12 Okay. We're marking for the record exhibit No. 14.
13 [Brady Exhibit No. 14
14 Was marked for identification.]
15 BY [redacted]
16 Q This is a Washington Post article dated September 25, 2023. The title is,
17 quote, "The Republican Case Against Biden Takes a Body Blow...from Fox News," end
18 quote.
19 Have you seen this article before?
20 A I don't believe I have.
21 Q Okay. This was a more recent article. As I indicated, it's from 2023, so
22 this was after you left the Department and after your assessment was completed.
23 So -- and also after the release of the 1023 that we've discussed here today.
24 Were you following the fact that Chairman Comer had released the 1023 to the
25 public?

1 A Yes. Yeah.

2 Q Okay. And when did you become aware of that?

3 A I was aware of, broadly speaking, the conversation between the House and

4 the FBI about that and the briefings. Followed just the public reporting about the FBI

5 briefings. And then followed General Barr's statements and some of Representative

6 Raskin's statements.

7 Q Okay. But you knew that the actual document had been released to the

8 public?

9 A Oh, yes. I'm sorry. Yes, I did.

10 Q Okay.

11 Now, let's -- focusing on the reporting here in exhibit 14, this is referring to a

12 television interview on Fox News. One of the reporters had interviewed

13 Mr. Poroshenko.

14 Do you know who Mr. Poroshenko is?

15 A Yes.

16 Q And who is he?

17 A He was the President -- the then-President of Ukraine.

18 Q Okay. And Mr. Poroshenko, would you agree, is relevant to your

19 investigation to the extent that the accusation that was made in the 1023 was that Biden

20 had put pressure on Poroshenko to fire Shokin, correct?

21 A Broadly speaking, yes.

22 Q Okay.

23 So, when Poroshenko was interviewed by the Fox News host, he was asked about

24 the claim that Shokin was fired from his position as Prosecutor General due to pressure

25 from Biden to interfere with the investigation of Burisma, which is the allegation that is

central -- or one of the allegations that's central to the 1023, correct?

A Yes.

Q Okay.

And, in response, Poroshenko said in this televised interview, quote, "First of all, this is the completely crazy person," referring to Shokin. Poroshenko continued, quote, "This is something wrong with him. Second, there is no single word of truth," end quote. And here, he's referring to Shokin basically repeating the claim that he had been fired because of the Burisma investigation.

Were you familiar with that interview and the statement that Poroshenko made during that televised interview?

Mr. Lelling. When was --

Mr. Brady. I'm sorry. Yeah. When was it?

BY [redacted]

Q Just ever. Did you know it happened, as you sit here today? And then we can --

A I apolo- -- I'm not trying to be obtuse.

Q Yeah.

A What --

Q Did you know that Mr. Poroshenko was interviewed on Fox News in 2023?

A No, I did not.

Q Okay. On the subject of Shokin's firing.

A No. No, I didn't.

Q Okay. So this is the first time, today, that you've learned that Mr. Poroshenko made these comments about why Shokin was fired?

A In this interview, correct, yeah.

1 Q Okay.

2 A I can't remember if -- there may have been contemporaneous reporting that

3 we looked at during our vetting process, but, yeah, this is all new to me.

4 Q Okay.

5 BY [redacted]

6 Q In the course of your investigation in 2020, did you look at other statements

7 that Mr. Poroshenko had made to see if they might be inconsistent with information in

8 the 1023?

9 A We may have. And the problem was, as we got further attenuated from,

10 kind of, the actionable information, as it were, then it seemed less the best use of our

11 limited resources and --

12 Q Why is that?

13 A Well, because if we didn't have any ability to interview Mr. Shokin, President

14 Poroshenko, Mr. Zlochevsky, we thought it best to pass that to, you know, in this case,

15 the office with the grand jury.

16 And, also, recognizing that it was an election year, particular sensitivities about

17 possibly interviewing people in Ukraine, we thought that was best handled by someone

18 that had the full view of that investigation, like Mr. Weiss and his team.

19 Q So can you explain to me, you -- it was not beyond the scope of what you

20 could do to reach out to the legat in Kyiv to try and get information, but interviewing

21 actual witnesses was a step too far? Is that what you're saying?

22 A So let's differentiate between U.S.-based witnesses and Ukrainian-based

23 witnesses. And then within the Ukrainian-based witnesses, you could have individual

24 witnesses who may have been former employees of Burisma and then people like the

25 former Prosecutor General, the former President of the country.

1 We made the tactical decision to, where possible, interview U.S.-based fact
2 witnesses and then memorialize that and send that to the appropriate offices.
3 Given the sensitivity in an election year, the possibility of manipulation of what we
4 were doing and why we were doing it, we felt it best not to go to Ukraine, you know,
5 2 months before the election and try to interview these folks. Because, again, if Weiss
6 and his team were looking at bank records, emails --
7 Q Uh-huh.
8 A -- you know, texts, things like that, they would be in a much better position
9 to understand what was --
10 Q Right. But you didn't have the same concern when it came to documents
11 from the Prosecutor General's Office which could've potentially been produced by some
12 of these Ukrainian-based witnesses?
13 Mr. Lelling. That's not what he said.
14 Mr. Brady. Yeah.
15 BY [redacted]
16 Q So what I'm not understanding is, why did you, given the sensitivities, the
17 election-year sensitivities that you described, why didn't you have any hesitancy when it
18 came to reaching out to the legat in Kyiv to try and get, you know, documents from the
19 Prosecutor General's Office?
20 A So we --
21 Mr. Lelling. Well -- are you concerned about whether you can give the answer?
22 I was drawing a distinction between publicly available documents and not publicly
23 available documents. Anybody can walk in and get documents off a court docket. Are
24 you concerned about --
25 Mr. Brady. No. I can --

1 Mr. Lelling. -- this issue?

2 Mr. Brady. No. I think I can explain broadly.

3 BY [redacted]

4 Q Okay.

5 A We were concerned about interfacing with NABU or the PGO --

6 Q Uh-huh.

7 A -- because of just a lack of confidence in, again, motivation. As General

8 Barr said, treat all this information with extreme skepticism. Be worried about different

9 motivations, cross-currents.

10 And so, when we would reach out to the legat, it was FBI-to-FBI. And is there a

11 discreet, non-public way of securing information about these cases, including from

12 publicly available documents or dockets, in a way that then wouldn't, you know --

13 Q Uh-huh.

14 A -- raise a flag and make the Ukrainian media, the national media aware?

15 Because we were very concerned --

16 Q So "discreet" here means quietly, basically. You could do that quietly. Is

17 that fair to say?

18 A Yes, quietly, as an investigation is --

19 Q Okay.

20 A -- usually conducted.

21 BY [redacted]

22 Q Okay. So you were looking for things that you could find without making a

23 lot of noise, correct?

24 A Correct.

25 Q All right. But you would be interested to know that Mr. Poroshenko had

1 made prior inconsistent statements if you could find that out through open-source, right?

2 A Yes, but, again -- and I'm not disputing the premise of your question -- I think

3 those credibility determinations would be best done by Weiss and his team based on

4 their full view of all the evidence that they had compiled.

5 Q Sure.

6 A So we were less worried -- if we could find these things, we would try to

7 memorialize those in our reports. That wasn't most specifically what we were looking

8 for.

9 Q Okay.

10 I'm going to mark for the record exhibit 15.

11 [Brady Exhibit No. 15

12 Was marked for identification.]

13 BY [redacted]

14 Q This is a Politico article dated June 21, 2020, and the title is, quote, "Former

15 Ukrainian president says Biden never pressed him on Burisma," end quote.

16 Have you seen this article before?

17 A I have not. I don't know if my team has.

18 Q Okay. Just take a quick second to look at it.

19 A Uh-huh.

20 Q And note the date is June 21, 2020, and the interview that's reported in it

21 happened the day before, which would be June 20, 2020.

22 This is a brief article, so it shouldn't take too long to look at.

23 And just for time purposes, if you could focus on the first paragraph, I'll just ask

24 you about that.

25 A Sure. Sorry. Just have a couple more paragraphs.

1 Q Yeah, no worries.

2 A Sure. Okay.

3 Q Okay. So this article discusses a CNN televised interview of Petro

4 Poroshenko that occurred on June 20, 2022, when he was interviewed by Fareed Zakaria.

5 According to the first --

6 [redacted] You misstated the date. June 20, 2020.

7 BY [redacted]

8 Q I'm sorry. June 20, 2020. Yeah. That is important.

9 So this interview happened during the course of your assessment, correct?

10 A Yes.

11 Q And it would've been available to anybody looking in open sources to learn

12 that this statement had been made on television, correct?

13 A Correct.

14 Q And so, according to this reporting, in the first paragraph, the article reports

15 that Poroshenko was asked whether Joe Biden ever approached him about Burisma, and

16 he responded, quote, "My absolutely clear answer: no, never," end quote.

17 Had you ever heard that Mr. Poroshenko had made that statement before today?

18 A Not this specific statement.

19 But just one thing that our team was doing is they were looking at open-source

20 information and then summarizing those statements, even inconsistent statements. We

21 summarized those in the report to Mr. Donoghue and said that, you know, there's a lack

22 of clarity about several of the key aspects, you know, relating to Mr. Shokin, the existence

23 or nonexistence of PGO investigations relating to Burisma and Mr. Zlochevsky, you know,

24 what happened with the U.K. case and how that was resolved and then how the fine was

25 paid downstream from that in the Ukraine.

1 So some of this type of information -- I don't know if it's this specifically -- you
2 know, our team did put together. We didn't -- you know, we focused -- strike that. If
3 there were inconsistent statements that they were aware of, they'd put that in there and
4 summarize that in a memo to Rich Donoghue.
5 BY [redacted]
6 Q Was that also passed along to Mr. Weiss and Mr. Weiss's team?
7 A I don't remember as I sit here. They did not receive the report that was
8 sent to Mr. Donoghue unless Mr. Donoghue shared it.
9 Q Okay. So it's possible that there were, kind of, inconsistent statements
10 from Mr. Poroshenko that were not passed along to Weiss's team then?
11 A There certainly could be, yes.
12 Q Okay.
13 A Yeah, there certainly could be.
14 Q Okay.
15 A And as I mentioned, I have no knowledge of what they knew relating to
16 those.
17 Q Yep.
18 A So that might've been part of their investigation.
19 BY [redacted]
20 Q Okay. I'm marking for the record exhibit 16.
21 [Brady Exhibit No. 16
22 Was marked for identification.]
23 BY [redacted]
24 Q This is a Reuters news report dated June 4, 2020. The title is "Ukraine
25 found no evidence against Hunter Biden in case audit: former top prosecutor."

1 Have you seen this article before?

2 A I don't remember it, but --

3 Q Okay. This is very brief, so you can review that, if you would, please.

4 A Okay.

5 Q Okay. So do you know who Ruslan Ryaboshapka is?

6 A Forgive me. I knew in 2020. I don't remember if he was a subsequent

7 Prosecutor General or if he was the head of NABU.

8 Q Okay.

9 A I assume he was the Prosecutor General.

10 Q Okay. So, according to the article, he was the Prosecutor General of

11 Ukraine in 2020. Is that fair to say?

12 A Yes.

13 Q Okay. And, according to the article, Mr. -- I'm just going to call him

14 "Mr. R" -- conducted an audit. During the time that you were leading your assessment,

15 he conducted an audit of cases involving Hunter Biden. And that was because of the

16 controversy that was brewing all over the world after the impeachment inquiry and other

17 matters.

18 Were you aware that this Prosecutor General, who was sitting at the time of your

19 assessment in Ukraine, had done an audit of Burisma, Hunter Biden, and Biden-related

20 matters that were in his office?

21 A As I sit here, I don't remember. I believe we did, and I believe my team was

22 aware.

23 Q Okay.

24 And, in the article, Mr. R says specifically, quote, "I specifically asked prosecutors

25 to check especially carefully those facts about Biden's alleged involvement. They

1 answered that there was nothing of the kind," end quote.

2 Were you aware that the Prosecutor General of Ukraine had made this request of

3 his prosecutors during his audit in 2020?

4 A I don't remember, as I sit here, if I knew that at the time.

5 Q Okay. And were you aware that his prosecutors had found no evidence of

6 any involvement by the Bidens in the cases that they were prosecuting?

7 A I don't remember. My team may have been.

8 Q Okay.

9 BY [redacted]

10 Q Do you know if that information was passed -- if your team had been aware

11 of it, if it was passed along to Mr. Weiss?

12 A It may have been summarized in the report to Mr. Donoghue --

13 Q Uh-huh.

14 A -- which talked about some of these broader issues. Our readouts and

15 briefings to the specific U.S. attorney's offices related to specific investigatory leads, so it

16 may not have been part of the Delaware briefing.

17 Q Okay.

18 I want to turn to the discussion earlier about the FBI and your interactions with

19 the FBI.

20 A Sure.

21 Q There was a reference a number of times to, I think, 17 steps or 17 layers of

22 approval. Was that an actual number, or was that just hyperbole? Were there

23 17 boxes to check? Can you explain that?

24 A Yeah. So it was our understanding, related by someone on the FBI team in

25 Pittsburgh, that that was an actual number, that there were 17 approvals that were

1 required to extend the assessment an additional 30 days.

2 Q Okay.

3 I want to introduce as exhibit 17 a February 5, 2020, memorandum from the

4 Attorney General entitled "Additional Requirements for the Opening of Certain Sensitive

5 Investigations."

6 [Brady Exhibit No. 17

7 Was marked for identification.]

8 BY [redacted]

9 Q Have you seen this before?

10 A Yes.

11 Q I want to look -- and this came out -- you were tasked with your "discreet

12 assignment" approximately January 3, 2020, correct?

13 A Correct.

14 Q And so this would've come out a little over a month afterwards.

15 A Correct.

16 Q Were you aware of it when it was released?

17 A This? Yes, uh-huh.

18 Q And it was sent to all United States attorneys, of which you were, correct?

19 A Correct.

20 Q All Department component heads, so that would've been, like, DOJ Criminal

21 or DOJ Tax, right?

22 A Yes.

23 Q And then all law enforcement agency heads, correct?

24 A I believe so, yes.

25 Q So that would include the FBI.

1 A Yes.

2 Q Okay.

3 So the second and third sentences of the very first paragraph here read, "While
4 the Department must respond swiftly and decisively when faced with credible threats to
5 our democratic processes, we also must be sensitive to safeguarding the Department's
6 reputation for fairness, neutrality, and nonpartisanship. In certain cases, the existence
7 of a federal criminal or counter-intelligence investigation, if it becomes known to the
8 public, may have unintended effects on our elections."

9 Correct?

10 A Yes.

11 Q And so this was actually an advisory of sorts sent out by the Attorney
12 General at the time, Attorney General Barr, correct?

13 A Correct, and, I believe, a process for opening these types of investigations.

14 Q Right. And it specifically laid out concerns about the potential impact that
15 a sensitive investigation might have on the 2020 election, correct?

16 A That's correct.

17 Q Okay.

18 The paragraph continues, "For this reason, the Department has long recognized
19 that it must exercise particular care regarding sensitive investigations and prosecutions
20 that relate to political candidates, campaigns, and other politically sensitive individuals
21 and organizations -- especially in an election year."

22 Correct?

23 A That's correct.

24 Q Okay. And so, realizing that this pertains to the opening of investigations,
25 would you agree that these types of concerns also pertain to investigations while they're

1 ongoing in an election year?

2 A Yes. Absolutely.

3 Q And what's your understanding of what a politically sensitive investigative

4 matter is?

5 A It's, especially during a Presidential year, as described in detail on page 2,

6 that, broadly speaking, any investigation, any investigatory steps, especially grand jury

7 steps, which could include subpoenas or compelled testimony of anyone, relating to a

8 political candidate at certain levels or members of their staff or family should be deemed

9 sensitive. And, in an election year, there are different requirements and processes and

10 approvals that are triggered once that takes place.

11 Q And do you know if FBI, in particular, has specific guidelines for the

12 processing of politically sensitive matters in an election year?

13 A I believe they do. I don't know what specifically is in the DIOG relating to

14 that. Certainly, anything that the Attorney General requires would be required of the

15 FBI as well.

16 Q Okay.

17 And you reference the DIOG earlier, and you said that you weren't able to get a

18 copy of, I guess, the law enforcement sensitive version of the DIOG, but you did receive

19 an unclassified version or a publicly available version. Is that correct?

20 A Right. I found it. But yes, uh-huh.

21 Q Okay. You found it.

22 A Yes.

23 Q And did you ever look in that copy to see if there were guidelines on

24 politically sensitive investigations in that DIOG?

25 A I don't remember that I did. You know, our guidance that applied to me

1 and our team of AUSAs was certainly DOJ policy, which is very explicit, and then this
2 additional guidance from the Attorney General.
3 Q Okay. And what's your understanding of the DOJ policy?
4 A Well, that, before cases are opened, before certain investigatory steps are
5 taken, there must be, kind of, a consultation or a notification with usually the DAG's
6 office. And then they will either weigh in on that, approve, disapprove; that'll be a part
7 of a conversation. But they need to be notified -- again, their, kind of, "no surprise"
8 rule -- but especially of sensitive investigations during a Presidential year.
9 Q And that's laid out in the Justice Manual, correct?
10 A Yes.
11 Q And what is the Justice Manual, for the record?
12 A The Justice Manual used to be called -- what did it used to be called?
13 Mr. Lelling. The U.S. Attorneys' Manual.
14 Mr. Brady. Doggone it. Yes. Sorry. The U.S. Attorneys' Manual.
15 The U.S. Attorneys' Manual/the Justice Manual provides the guidelines but also
16 specific processes for everything from identifying subjects and targets, to notification, to
17 how certain investigations and certain subject matter areas are to be taken; if approvals
18 are required within the DOJ, what those are, what those steps are.
19 But it was also just kind of a practical handbook for AUSAs, as well, to understand
20 how they are to conduct themselves, conduct investigations, interface with Federal
21 agencies and defense counsel.
22 [Discussion off the record.]
23 [redacted]
24 Q You mentioned earlier that you had briefings -- that you passed along
25 information via briefings to Mr. Weiss in Delaware. But you also referenced the Eastern

1 District of New York and the Southern District of New York.

2 A Correct.

3 Q Very briefly, who was your contact at the Eastern District of New York?

4 A Eastern District was, at the time, Rich Donoghue until late summer, and then

5 he and Mr. DuCharme changed places. Rich became the PADAG; Mr. DuCharme became

6 the U.S. attorney in EDNY.

7 It was Geoff Berman through, I believe, most of that, Audrey Strauss, maybe, at

8 the end, when she was acting U.S. attorney, in SDNY.

9 Q Okay.

10 With respect to the Eastern District of New York, in particular, Mr. Donoghue and

11 then Mr. DuCharme, can you talk broadly to what their investigation concerned?

12 A Could I have a minute? I don't --

13 Q Yeah.

14 Mr. Lelling. I don't know that he can go into that.

15 [redacted] Okay.

16 [redacted]

17 Q With respect to the Southern District of New York, can you talk broadly as to

18 what their investigation concerned?

19 Mr. Lelling. I don't think you want to do that.

20 Mr. Brady. I think it's public.

21 Mr. Lelling. Oh, it's public?

22 Mr. Brady. In Geoff's book.

23 Mr. Lelling. Oh, yeah. Well --

24 Mr. Brady. Per publicly available sources, including Mr. Berman's book, he was

25 looking at Mr. Parnas, Mr. Fruman, and Mr. Giuliani for potential FARA violations, among

1 other things.

2 BY [redacted]

3 Q Okay. And so your office did develop information which you deemed either

4 credible or that had sufficient indicia of credibility to pass along to the Southern District of

5 New York in that investigation into Mr. Giuliani and others, correct?

6 A Yes.

7 Q Okay.

8 Go ahead.

9 BY [redacted]

10 Q Quick question on the closing of the matter. It sounds like, and I think you

11 clarified in the previous hour, that there is some difference in nomenclature between the

12 DOJ and the FBI. Is that right?

13 A That's right.

14 Q So, when they talk about "assessments," that's an FBI word, not a DOJ word?

15 A Correct.

16 Q And DOJ talks about "matters," among other things?

17 A "Matters," "cases," yes, uh-huh.

18 Q Okay.

19 So you indicated in your testimony that you spoke with the SAC in Pittsburgh and

20 discussed your concurrence or permission for him to close an assessment because there

21 was no further investigative activity to undertake. Is that right?

22 A That's right.

23 Q Okay. So that language that appeared in Mr. Raskin's letter about closing

24 an assessment may very well have come from that experience, like, the closing of the FBI

25 assessment? Is that fair to say?

1 A Yes as to the administrative closing. No as to the basis for why it was
2 closed. It wasn't because we deemed it not credible or felt that it didn't merit, you
3 know, continuing into a preliminary or full investigation.
4 Q Right. Because you weren't even in a position to really opine on that,
5 right?
6 A It wasn't our tasking. It was never going to become a full investigation or
7 grand jury investigation.
8 Q Right. That wasn't your role, right?
9 A Correct.
10 Q Okay.
11 And the FBI, they were being tasked by you and they have language about
12 assessments, and they just wanted to administratively close that assessment because
13 there was no further investigative work for them to do under that tasking. Is that right?
14 A That's right.
15 Q Okay. And do you know, did that happen in August of 2020?
16 A I don't remember specifically. I believe it would have happened in August,
17 because our report to Rich was in mid-September. So we wouldn't -- I believe that's
18 right. I believe our conversation with the SAC, yes, I signed off on closing, and then we
19 write the reports to Rich and do the briefings.
20 Q Okay.
21 And, from your perspective, when you passed on the 1023, in particular, to those
22 other U.S. attorney's offices, it was, in your judgment, their providence to then look into
23 whether that was credible and to do further investigation if they deemed it appropriate,
24 correct?
25 A That's absolutely right. Just a --

1 Q Uh-huh?

2 A -- small clarification: The only office that received a 1023 was Delaware.

3 Q Oh.

4 A Neither SDNY nor EDNY did.

5 Q Were they briefed on it, or just --

6 A No.

7 Q Not at all. Okay. So we're just talking about Delaware?

8 A Could I talk to him for one second?

9 Q Oh, sure.

10 A Sorry.

11 [Discussion off the record.]

12 Mr. Brady. Okay. Sorry. Not with SDNY.

13 [redacted] Uh-huh.

14 Mr. Brady. We did with EDNY. As I testified previously and as Mr. Barr stated

15 publicly, the 1023, the CHS, was vetted against known sources of Russian disinformation.

16 It was found that it was not sourced from Russian disinformation. To do analysis, we

17 interacted with EDNY.

18 [redacted] Okay.

19 Mr. Brady. So they were aware, but it wasn't part of their investigation.

20 BY [redacted]

21 Q Okay.

22 You're aware that the 1023 was publicly released, correct?

23 A By Senator Grassley?

24 Q Or, well, Comer.

25 A Yes.

1 Q Right.

2 A Oh, yes.

3 Q I don't know, maybe Grassley too.

4 Okay. And you indicated that the FBI, at certain points when they were working

5 with you, was reluctant to do certain things and seemed to be protective of their CHS. Is

6 that fair to say?

7 A Yes. Kind of two different buckets. They were very protective of their

8 CHS --

9 Q Let's talk about that for a minute. Did you get the impression that the FBI

10 was trying to protect him as a source so that they could continue to use him or her?

11 A Yes.

12 Q Okay. And do you think that's a valid concern of the FBI?

13 A Yes, absolutely.

14 Q Okay. And now that the 1023 has been released after, you know, being

15 exposed to this kind of politicized process, do you think that some of their fears kind of

16 came to pass, in the sense that now it's more difficult to use that CHS?

17 A I do. I think they would say that. And, yeah, it's a concern.

18 Q Okay. Could the FBI and the DOJ -- even though they work together, they

19 do have different interests at different times. Is that fair to say, in your experience?

20 A Yes, I think that's fair.

21 Q Okay.

22 And another one might be between U.S. attorney's offices. You also discuss

23 some, kind of, differences or frustrations about communications and other matters,

24 information flowing between you and particularly the Delaware office. Is that right?

25 A That's right.

1 [2:24 p.m.]

2 [redacted]

3 Q And I think you said that the fear that they expressed was not wanting to

4 kind of give out information about their case. They were keeping it close hold. Is that

5 right?

6 A That's right.

7 Q Can you imagine reasons why they might have wanted to do that for

8 legitimate reasons for the protection of their own cases?

9 A Sure, one is an ethical and statutory obligation of under 60, any grand jury

10 information should not be even shared unless there's a legitimate investigatory purpose,

11 you know, that other members, that somehow it might be exposed to the public. And

12 with respect to your question about CHSs. The recruitment of CHSs, that's a valid

13 concern of the FBI. That's within their domain. And I think if the FBI is saying it would

14 become more difficult to recruit CHSs and utilize them in investigations if their identities,

15 even reverse engineered, would be made public, that's a valid concern.

16 Q It's bad for the FBI, right?

17 A Bad for the FBI.

18 Q And it's also bad for the CHS who might be harmed or killed, correct?

19 A It could be, yes. Absolutely.

20 Q We're out of time. Let's go off the record.

21 [Discussion off the record.]

22 [redacted] Back on the record.

23 Chairman Jordan. Mr. Brady, when did you learn about the laptop?

24 Mr. Brady. When it was -- there was public reporting about its existence.

25 Chairman Jordan. So you didn't learn about it until the story in the Post on

1 October 14th or thereabouts?

2 Mr. Brady. Yes, sir.

3 Chairman Jordan. Okay. Did you raise that on the 23rd when you did the final

4 briefing with Delaware U.S. Attorney's Office; did you bring up the laptop?

5 Mr. Brady. We did not because our purpose during that briefing was a one-way

6 flow of information to them.

7 Chairman Jordan. Okay. Okay. Let me just go back. I just want to make

8 sure I got the story line down. So you get the job, the task coming to the clearinghouse

9 on February 18, 2020. Is that right?

10 Mr. Brady. January 3rd of 2020.

11 Chairman Jordan. January 3rd. That's when it was official?

12 Mr. Brady. That's when internally PADAG Seth DuCharme told me that I had

13 been assigned this task.

14 Chairman Jordan. Okay. January 3rd, 2020. And then what I am

15 understanding is, right, throughout the winter and spring, you're asking the FBI for

16 information they have regarding Ukraine and Hunter Biden, you're requesting that you

17 get information they may have?

18 Mr. Brady. We're trying to identify investigative leads, and from the information

19 we had received from the public, including information about Hunter Biden and Burisma,

20 and then asking the FBI -- and we were also tasked with coordinating this is public from

21 Attorney General, Attorney General Barr, how to coordinate also with intelligence

22 services. And so we were interfacing with them relating to that tasking. It wasn't

23 everything that they had because certainly Delaware with the grand jury investigation

24 would have had a lot of information relating since it began in 2019.

25 Chairman Jordan. Okay. But there's communication back and forth with the

1 FBI and other agencies on what your task involves, information they may have that's
2 relevant to the task you have been assigned by the Attorney General?
3 Mr. Brady. That's correct.
4 Chairman Jordan. Okay. And every 30 days, there has to be a new, kind of a
5 re-up and a signoff on how your task as the clearinghouse, how that continues. Is that
6 right?
7 Mr. Brady. Not from the DOJ side. Administratively from the FBI side for the
8 assessment?
9 Chairman Jordan. Right. And you said, I think, earlier, maybe the first hour
10 before I was here, but then subsequently talked about there was 17 individuals involved
11 in signing off on this every 30 days. Is that right?
12 Mr. Brady. That's what we were told by the Pittsburgh FBI agents.
13 Chairman Jordan. Seventeen people had to sign off on you to continue your
14 task?
15 Mr. Brady. For the FBI to continue. Our guys kept running. It was the
16 FBI -- for any FBI agents to continue to do any functions that we requested of them.
17 Chairman Jordan. And I think you said in your experience, that was unusual?
18 Mr. Brady. Yes, sir.
19 Chairman Jordan. You had never seen that before?
20 Mr. Brady. Never.
21 Chairman Jordan. And then you also asked, I think specifically of the FBI to get
22 the DIOG, which is like this sort of manual on how things are done, what are the process
23 and steps involved in the investigation, and you were not permitted to have access to
24 that. Is that right?
25 Mr. Brady. That's correct. Because at the beginning, we were trying to just talk

1 through -- they said we want to open an assessment. We said, Well, let's talk about
2 that. What does that mean? What does that require under your processes under the
3 DIOG? So the best way to do that is let's just look at the book and understand that.
4 And they said we can't share that with you.
5 Chairman Jordan. Did the book follow the book, and they said, No, we're not
6 even going to look at the book?
7 Mr. Brady. They were. We were not permitted to look at it. Yes, sir.
8 Chairman Jordan. Right. They weren't going to let you. Okay. Then you
9 had communications with the PADAG and the FBI over this fact that there seemed to be a
10 reluctance -- I think is the term you used -- reluctance of the FBI to work with you and
11 give you the information that you thought was pertinent to your investigation. Is that
12 fair?
13 Mr. Brady. Yes, we had multiple conversations about specific issues that would
14 arise.
15 Chairman Jordan. And throughout this time when you're doing this back and
16 forth, have to go to the PADAG, all this going on, you finally get -- and let me make sure
17 I'm characterizing this right -- you finally get the original 1023 in early June of 2020. Is
18 that right?
19 Mr. Brady. That's correct.
20 Chairman Jordan. And did you feel like you should have had that information
21 sooner?
22 Mr. Brady. I don't --
23 Chairman Jordan. From January -- it took you 6 months, you've been asking for
24 it. You had to go to PADAG. They don't show you the DIOG. You finally get this
25 information in 6 months later.

1 Mr. Lelling. Well, was that initial reluctance from the FBI tied to the 1023, or it
2 was more generally?
3 Mr. Brady. Yeah, I think there were two different things at play here. I think
4 one was the general resistance, perhaps bureaucratic inertia of characterizing how we
5 were going to, you know, start our task, the steps, how that was going to work, the
6 approval process. When the 1023 was identified, the underlying 1023 in early June, we
7 were moving a little better. We were working together better. So I think that was a
8 function of just identifying that Washington Field Office, the WFO file that it contains, and
9 having that as a part of the search of what they were looking for. So I am not trying to
10 confuse, but just to kind of clarify there were issues throughout.
11 Chairman Jordan. Well, let me ask it this way: Were you a little surprised you
12 hadn't gotten that underlying kind of original 1023 sooner?
13 Mr. Wilkerson. Given the stops and starts and the issues that we had, I don't
14 know that I was surprised. We had a lot of issues with just having them follow our
15 requests.
16 Chairman Jordan. Okay. So you weren't surprised because it had been
17 a -- there had been a reluctance to accommodate a reluctance to work a slow walking
18 from the get-go. So it wasn't like, Oh, well, we got this information, we should have had
19 it sooner, but we finally got it now.
20 Mr. Brady. It was an ongoing issue.
21 Chairman Jordan. Got it. Got it. Now, also, based on what you said,
22 throughout the process, you said that the Delaware U.S. Attorney's Office wasn't willing
23 to cooperate, so much so that you had to send interrogatories?
24 Mr. Brady. Yes, we had conversations, asked for communication and a flow of
25 information, mostly one way from us to them, but also, as I testified, we wanted to make

1 sure we weren't duplicating what they were doing. They would not engage. And so
2 finally, after me calling Mr. Weiss and saying can you please talk to your team, this is
3 important, this is why we want to interact with them, the response that we got back is
4 you can submit your questions to our team in written form, which we did.
5 Chairman Jordan. And that was unusual?
6 Mr. Brady. I had never seen it before.
7 Chairman Jordan. Did the conversation go like you called up and say, Hey, David,
8 we're working together here. Can you start working with us? And then you get back,
9 send us the questions in writing. Is that how it went?
10 Mr. Brady. Yes, perhaps a little more colorful language. And then he said, I will
11 talk with my team, and then he got back to us.
12 Chairman Jordan. Can you give me any idea how colorful that language was?
13 Mr. Brady. I don't remember, sir.
14 Chairman Jordan. But it was colorful?
15 Mr. Brady. We're peers and friends, and we can speak frankly with each other.
16 Chairman Jordan. Okay. But that is -- in your time as an assistant U.S. attorney,
17 U.S. attorney, you ever seen anything like that?
18 Mr. Brady. Not where an office had to submit written interrogatories to another
19 office for permission.
20 Chairman Jordan. Okay. Now on the 14th, so just days before you're going to
21 have this final briefing with Delaware, on the 14th the story broke, that's when it went
22 public. Were you surprised that you didn't know about the existence of this laptop?
23 Mr. Brady. Yes.
24 Chairman Jordan. All right. I think anyone would be surprised. How about on
25 the 19th when 51 former intel officials signed a letter that -- you know, again, the context,

of course, is we're just weeks before the most important election we have, the election of the President, 51 former intel officials signed this letter that then goes public. And then that letter is cited in the final debate and the Presidential campaign. Did that also surprise you as well?

Mr. Brady. I really didn't have a basis to know why they signed or did not sign to that letter given my purview of it.

Chairman Jordan. But the fact that the story broke on the 14th, that there was this laptop that the FBI had since prior to you even being assigned this task, had the laptop in the late fall of 2019, the fact that you didn't know about it, was -- is it fair to say, shocking?

Mr. Brady. It was surprising, yes, sir.

Chairman Jordan. Okay. And then finally on the 23rd when you had this briefing, the laptop didn't come up in the briefing from Delaware talking to you or you talking to Delaware; it didn't come up at all in that briefing.

Mr. Brady. Our briefing was us to them. They were in pure receipt mode. I don't know that they were offering anything about what they were doing. So we didn't bring it up in our briefing, no.

Chairman Jordan. Okay.

Mr. Brady. And again, our briefing was, here are specific actionable items and recommendations for your investigation.

Chairman Jordan. Did it come up in the briefing with the Eastern District of New York and the Southern District Of New York?

Mr. Brady. No, sir.

Chairman Jordan. Okay. Go ahead, [redacted]

BY [redacted]

1 Q And you said you were surprised about -- that you didn't know about the
2 laptop. Did you share that surprise with anyone, or did you get any other reactions from
3 individuals within your office?
4 A Just perhaps our team. We discussed it internally and --
5 Q So no one on your team knew about the laptop. Is that correct?
6 A No.
7 Q Did you get a sense of whether anyone in the Eastern District of New York or
8 Southern District of New York knew about the laptop prior to the October 14th story?
9 A I don't know. I have no knowledge.
10 Q At one point you --
11 Chairman Jordan. Let me ask you this: When you talked with your team, how
12 was that, if you can kind of characterize those conversations, was it like, can you believe
13 they didn't -- give me the tone. I don't know how I would -- I can't believe they wouldn't
14 share this with us. The Attorney General of the United States tasked us with coming to
15 the clearinghouse for this information on this very subject, and there's an important piece
16 of evidence they don't share with us? Was that the tone?
17 Mr. Lelling. Was your team surprised, too?
18 Mr. Brady. We were all surprised we would share that surprise. Yes.
19 Chairman Jordan. Okay. Thank you.
20 [redacted]
21 Q During one of our hours of questioning, you stated that there was false
22 representation, I believe, by the FBI, about what the work that you were doing. Do you
23 remember that conversation we were having?
24 A Yes.
25 Q And can you provide a little bit more context about who was making those

representations? Was it headquarters? A field office?

A I don't know. Could I talk to Andy for one second?

Q Sure. We'll go off the record.

[Discussion off the record.]

Mr. Lelling. I'm sorry. I will instruct him not to answer that.

BY [redacted]

Q Okay. Is there anything else you can go into detail about regarding those representations that were made?

A We resolved them.

Q You resolved them. And did you have to reach out to anyone in order to resolve those? We'll go off the record.

[Discussion off the record.]

BY [redacted]

Q Back on the record.

A We resolved it through direct communications with senior members of the Department of Justice and senior members of the FBI.

Q Okay. And at the end of the last hour, you were discussing regarding the publication of the FD-1023. So there were two buckets. The protection of the CHS that there was FBI concern of the protection of the CHS, and then you also -- I think the second one was about reluctance. And I know you had an opportunity to talk about the first CHS protection, but can you expand upon the reluctance regarding the 1023 the FBI giving you?

A I'm sorry. I don't fully understand your question. So.

Q Yeah, at the end of the last hour, you described two buckets, and I just wanted to get a sense of the second bucket that you were talking about. You said CHS

1 protection and then reluctance. And the topic was the publication of the FD-1023 by
2 Senator Grassley and Representative Kilmer.
3 A So reluctance by the FBI? I am sorry, I don't --
4 Q I believe that's what you were saying, but I just wanted to give you an
5 opportunity if you wanted to talk about the second bucket of worry regarding the
6 publication of FD-1023.
7 A I could be misremembering this. I think what I was trying to differentiate
8 was that there was general reluctance with the tasking and issues that we had with the
9 FBI as bucket one. And then there was the 1023, specifically, in our interaction with the
10 FBI on that. So --
11 Q Okay.
12 A So I think the first bucket we kind of unpacked a good deal.
13 Chairman Jordan. Go to that second bucket. Tell me about -- so you learned in
14 early June about the original 1023. You want to talk to the confidential human source,
15 which you do, I think, on June 26th. What happened in that interim? Was there
16 pushback from the FBI there in those 20-some days?
17 Mr. Brady. There was. They were concerned with the protection of the source.
18 This was a valued CHS. Again, as we discussed in the previous hours, this was someone
19 known to them, was credible, they had -- he or she had given information in previous
20 investigations. And so, reengaging and having a follow-up interview, there was general
21 concern.
22 Chairman Jordan. Okay. There were concerns. This was the valued source,
23 and they had used this source before. And there's always those concerns when they are
24 going to be interviewed. But you felt it was important to do this interview nonetheless?
25 Mr. Brady. Correct, yes.

1 Chairman Jordan. And when you did the interview, you determined, you
2 reached the same conclusion that the FBI did that this individual was credible and what
3 he was saying -- you made the same determination that he was credible?
4 Mr. Lelling. I don't think you can answer that.
5 Well, you have discussed indicia of credibility.
6 Mr. Brady. Yeah, I think there's two different things, sir.
7 Chairman Jordan. Okay.
8 Mr. Brady. And perhaps parsing it this way might be helpful. I relied on the
9 FBI's assessment of the credibility of the CHS as a trusted source. I didn't have any
10 independent knowledge of that.
11 Chairman Jordan. Okay.
12 Mr. Brady. With respect to what's contained in the 1023, the indicia of
13 credibility were things that we were able to run to ground without a grand jury, and then
14 felt that it was sufficient, had sufficient indicia of credibility to then pass on to Delaware.
15 Chairman Jordan. Fair enough. Okay.
16 [redacted]
17 Q In the last hour, there was a discussion of some of the substance of the
18 FD-1023 and Mr. Shokin. And you discussed how in the final report, you noted a lack of
19 clarity. Can you describe that a little bit more? Was that based on publicly available
20 information?
21 A Yes, most of it was -- there was information we received from Mr. Giuliani on
22 a broad range of topics. But then we, our team, the FBI, in coordination with the
23 intelligence community, aggregated information, including inconsistent statements.
24 We're examining that. Again, our tasking was not to determine the basis and validity of
25 Mr. Shokin's firing and why that took place. We were running to ground investigatory

1 leads, and then passing that off to an office that had a broader purview of all of that and
2 the tools to run some of the specific allegations to ground.
3 So in our report to Mr. Donoghue in September, we summarized some of the
4 allegations that had been brought or alleged by Mr. Giuliani and noted where there
5 was -- either we had no basis of opining, or there was conflicting information. To the
6 best of our ability, again, we weren't going to draft a, you know, a comprehensive memo
7 just on that specific issue. But we tried to aggregate what we could.
8 Q Okay. And I know last hour there was also discussion about the DOJ policy
9 regarding elections and stopping, you know, DOJ actions prior to an election. Are you
10 familiar with Mr. Shapley's testimony that Delaware delayed, you know, some of its
11 investigative work to get into that 60- or 90-day window that the FBI would have to stop
12 overt actions?
13 A Generally aware, yes.
14 Q Did it concern you that the fact that the FBI had to go pin down several times
15 and stop their investigative activity that it would get closer and closer to the 2020
16 election?
17 A I viewed our entire tasking once Vice President Biden declared and was a
18 candidate for President. Even though there's that 60- or 90-day window in the policy, I
19 viewed that as incredibly sensitive from the very beginning and was to be treated as such
20 from January 3rd forward. So that was how our team kind of viewed that and dealt with
21 that. And then only later does that intersect with the specific date ranges in the DOJ
22 policy.
23 Q We can go off the record.
24 [Discussion off the record.]
25 [redacted]

1 Q It is 2:46. We can go back on the record. Mr. Brady, you made some
2 references earlier to Pittsburgh FBI field office having an acting SAC, that's an acting
3 special agent in charge, right?
4 A Correct.
5 Q I want to talk through the timeline on that.
6 A Okay.
7 Q So when you were -- first received the tasking on January 3rd, 2020, did FBI
8 Pittsburgh field office have an acting SAC at that time?
9 A No, not an acting. They had a regular SAC.
10 Q And then how long was that SAC there?
11 A I think he retired at the end of March of that year.
12 Q Okay. And on March 13th of that year, it was 2020, so that would have
13 been when the first COVID work-remote directives came into place, correct?
14 A I believe, yes. In the middle of March, correct.
15 Q So there's a permanent SAC, but at some point in mid-March, things kind of
16 get turned upside down. Is that fair to say?
17 A Yes.
18 Q So he retired at the end of March, and then there was -- and he was, I guess,
19 in January, or February, March, until he retired, he was kind of in the last, the end of his
20 career, correct?
21 A Yes.
22 Q He retired -- or she retired, they retired, and then there was some period of
23 time there was an acting SAC?
24 A Right. That's right.
25 Q How long was that?

1 A Certainly through -- I believe it was through April and May.
2 Q Okay.
3 A And then, I could have my dates wrong. I believe there was a replacement
4 that was either the end of May or the beginning of June.
5 Q Okay. So for approximately, probably all of April, maybe all of May into
6 early June, there was an acting SAC?
7 A That's right.
8 Q Okay. And during that time, it's still COVID, so there was still, you know,
9 everyone was still working remotely. There were the separation orders and everything
10 else in effect, right?
11 A Absolutely, yes.
12 Q Would you say that that impacted your office?
13 A Yes, it impacted every office, DOJ and FBI.
14 Q And could you briefly describe the impacts it had?
15 A We had to quickly move to an all-remote working environment, which was
16 certainly new to the Department. All the agencies had IT issues with that quick change.
17 It impacted our investigations, big and small. There was difficulty in traveling, in
18 meeting with witnesses in person. We had to have briefings and meetings that were
19 mostly remote and through video conference. So there was definitely an impact.
20 Q And this was across all of your investigations, right?
21 A Yes. Absolutely.
22 Q So not just this investigation but every investigation your staff worked on
23 was impacted by the COVID, the shutdowns, and the remote work requirements, correct?
24 A Yes, absolutely.
25 Q And FBI was also dealing with similar requirements, correct?

1 A They were, yes.

2 Q So FBI, again, looking at April, May, mid-March on, then had some

3 combination of an acting special agent in charge and also the office was dealing with

4 shutdowns and remote work situations, correct?

5 A Yes, absolutely.

6 Q Okay. And then you said that once there was a permanent SAC put in

7 place, that would have been early June-ish?

8 A Yes.

9 Q Things improved?

10 A Yes, this did.

11 Q And do you think that the assignment of a permanent SAC helped in that

12 process?

13 A I believe so. It was SAC who was experienced who had worked previously

14 in the Pittsburgh office, in the Pittsburgh field office and knew our office. I think he was

15 either vested with, or assumed more authority for decisionmaking. And so -- and also

16 understood that, you know, these were taskings that we needed to complete. They

17 were assigned by the Attorney General, so we needed to get them moving and complete

18 them, especially as we got further in the election season.

19 Q And you just said that he assumed more responsibility for decisionmaking.

20 Is it your experience that individuals in acting roles are sometimes reluctant to make

21 decisions?

22 A Yes.

23 Q And is that true in your experience with the prosecutor's offices as well?

24 A Yes, absolutely.

25 Q The Western District of Pennsylvania, specifically.

1 A Yes.

2 Q And why do you think that is?

3 A I think the authority granted to someone in an acting position, whether real
4 or perceived, is just more limited than someone who was either presidentially appointed,
5 or in the case of the FBI has, you know, been given the position of SAC by the director and
6 deputy director. I think the people who were acting are usually, in the near-term, after
7 we departed, there's turnover. First assistants. The first assistants are among the
8 most experienced prosecutors in the office. However, there's still a bit of reluctance to
9 make those decisions without, on either side, going up the chain for review and approval
10 in a different way than U.S. attorneys or SACs would.

11 Q And, again, that's kind of across the board in your experience in all
12 investigations, not this particular investigation, right?

13 A Yes, I think smaller ones. Certainly if it's, you know, drug, gun cases, they
14 have more confidence in making those kind of decisions locally. And sensitive
15 investigations are ones that impact the election year policy, they're certainly going to
16 treat that differently.

17 Q And it may be the case that an acting official hasn't handled many sensitive
18 investigative matters, correct?

19 A That could be yes, not in that position.

20 Q And so they may not feel confident in making those decisions for that reason
21 as well?

22 A Yes, that's fair.

23 Q With regard to the FBI, you referenced the deputy director a couple times.
24 That was David Bowdich. Is that right?

25 A Yes.

1 Q Okay. And it was the case that when you -- when David Bowdich got
2 involved, that kind of cleared up the blockages, correct?
3 A Yes, absolutely.
4 Q It made things move through more quickly?
5 A Yes, so it resolved issues that required his opinion and intervention, yes.
6 Q So it's fair to say that the senior executives at the FBI, you know, had an
7 interest in making sure that this matter could proceed, right?
8 A Yeah, whether the deputy director or the director, we never had any issues
9 with them, and they were fully supportive of what we were doing.
10 Q Okay. Sorry for the pause.
11 A No, that's okay.
12 [Brady Exhibit No. 18
13 Was marked for identification.]
14 [redacted]
15 Q We want to introduce as exhibit No. 18 an October 17, 2020, article from the
16 Daily Beast. This is entitled: "Rudy: Only 50/50 Chance I Worked with a Russian Spy
17 to Dig Dirt on Bidens and Ukraine." Have you seen this before?
18 A If I could just have a minute to review it.
19 Q Absolutely. And I can tell you we have highlighted a sentence on page 5
20 that we're going to focus on, but feel free to take as long as you need to review it.
21 A Sure. Okay.
22 Q Have you had a chance to, a minute to review?
23 A Yes.
24 Q Okay. And this article, I want to note for the record, it is a Daily Beast
25 article, but it reports on an hour-long interview that the Daily Beast journalist had directly

1 with Mr. Giuliani, right? That's the text of the article.

2 A Yes.

3 Q So according to this article, Mr. Giuliani had a copy of the laptop, correct?

4 A I believe that's what it says, yes.

5 Q And you said in the prior hour that Mr. Giuliani passed along a lot of

6 information to you, right?

7 A Correct.

8 Q Can you describe the volume of information Mr. Giuliani passed along to

9 you?

10 A There were a lot of names, which included details allegedly derived from

11 those people, including, as I mentioned before, possible bank account records -- or I'm

12 sorry, bank account numbers, email addresses, cell phones that would purportedly point

13 towards evidence. There were a lot of -- there was information about a variety of

14 schemes and accusations not limited to Burisma and Mr. Biden. Some of it has been

15 part of a FOIA production, I believe.

16 Q So, but Mr. Giuliani had a copy of the laptop, he claimed. Did he provide

17 that to you?

18 A He did not.

19 Q So when you said earlier that you were surprised you hadn't seen the laptop,

20 were you surprised that Mr. Giuliani didn't produce it to you?

21 A Yes.

22 Q And why is that.

23 Mr. Lelling. I don't think you can go into that. You can say you were surprised.

24 [redacted]

25 Q You can't tell us why you were surprised?

1 Mr. Lelling. He can't characterize his rationale for his surprise. That's correct.

2 [redacted] Why is that? Just for the record, what is the reason?

3 Mr. Lelling. Because it gets too close to deliberative process concerns that the

4 Department has.

5 [redacted] It's deliberative process to explain why he was surprised that Giuliani

6 didn't give him something that Giuliani said he had public access to?

7 Mr. Lelling. Correct.

8 [redacted] Or publicly say he had access to.

9 Mr. Lelling. Well, if you want to fill in the answer to your question, that's fine.

10 I'm just telling you, you can't ask him.

11 [redacted] Okay. I am just noting the objection for the record. I understand

12 where you're coming from.

13 Mr. Brady. I was surprised.

14 BY [redacted]

15 Q Mr. Giuliani, in this article, says that he was the person who obtained the

16 laptop, correct?

17 A I'm sorry, I'm not trying to be obtrusive. Where does it say that?

18 Q So he said that he -- I'm sorry, that you were asked in the earlier hour about

19 The New York Post article regarding the laptop. And Mr. Giuliani says he was the source

20 of the leak to The New York Post?

21 A Oh, I see. Yes.

22 Q Okay. And Mr. Giuliani actually said that he -- and this is on page 5, this is a

23 quote from the article. And he gets paraphrasing Mr. Giuliani, but it's not a direct quote

24 from him -- but Giuliani said he viewed his latest leak to The New York Post as an

25 extension of his years'-long efforts to work with Ukrainians to dig up dirt on the Bidens,

1 correct?

2 A Correct.

3 Q So Mr. Giuliani is saying that the laptop that he had a copy of, he had

4 obtained from -- through his years' long work, or as an extension of his years' long work

5 to dig up dirt on the Bidens with the Ukrainians, right?

6 A That's a fair assumption. I don't know how we got there.

7 Q And turning back to page 3, we've had like -- and these highlightings, we did

8 add to that article. It's not highlighted in the article on the website.

9 A Sure.

10 Q Halfway down it says, Asked, for instance, whether he was concerned if the

11 material he may have obtained, in reference to the laptop, might be, in some way, be

12 linked to the hacking of Burisma last year, an act attributed to Russian intelligence.

13 Giuliani said, wouldn't matter, what's the difference. I read that correctly, right?

14 A You did, yes.

15 Q Would it have mattered to you as somebody reviewing evidence, vetting

16 evidence for, you know, indicia of credibility if it was possibly Russian sources, possibly

17 Russian intelligence?

18 Mr. Lelling. Don't answer that. They're essentially asking him for an expert

19 opinion on something Giuliani might have said.

20 BY [redacted]

21 Q Well, I'm just saying that -- would it have been -- as you were vetting the

22 information that you received, was it something -- would it have been of concern to

23 you -- let me rephrase that.

24 Was something that you were looking out for was whether the information could

25 be disinformation?

1 A Yes. That was a concern. That was an act of an ongoing concern with the
2 information that we received, including from Mr. Giuliani.
3 Q And that's actually a concern that Mr. Barr had said publicly as well, correct?
4 A Yes, I don't know if he said that specifically, but it was definitely a concern.
5 And he may have said that publicly.
6 Q And here Giuliani himself was saying, It might be Russian intelligence, it
7 might not, what's the difference. That's what Giuliani said here.
8 A That is, yes.
9 Q Okay.
10 A I'll turn it over to you.
11 BY [redacted]
12 Q Okay. You indicated during previous questioning a distinction between
13 information that you received during your assessment from Giuliani and information that
14 was not received or sourced from Giuliani. Is that a distinction that you wanted to
15 emphasize?
16 A I'm not sure if I am -- forgive me, I might be misremembering my testimony.
17 The distinction I made was that the 1023 wasn't derived from information we received
18 from Mr. Giuliani. We had the information from Mr. Giuliani, and then we had
19 developed work streams through discussions with other, either components within DOJ
20 or other Federal agencies to run certain things to ground. But it wasn't limited to just
21 Mr. Giuliani's information, yes.
22 Q Okay. Well, I think you indicated, and maybe this was in discussion of the
23 reluctance on the part of the -- some other DOJ officials in Delaware to receive
24 information from Giuliani. Did they express that kind of reluctance that was related to
25 Giuliani originating information?

1 A I saw what Mr. Shapley said. I don't remember those concerns being
2 expressed in that way. I think there was a general concern, a skepticism by everyone
3 involved relating to Mr. Giuliani's information. I think some of the concerns that
4 Delaware may have dealt with, not just keeping a close hold on very sensitive information
5 and what they're doing in their investigation, but making sure there are no leaks outside
6 of that, but it doesn't become public, and especially in an election year, which are
7 absolutely valid concerns.
8 Q Okay. But I thought you said something, specifically, when you were
9 talking about AUSA Wolf, that maybe she had expressed concerns about the credibility of
10 information that had come from Giuliani. Did you say something about that, or did I
11 misunderstand?
12 A I think the question was asked based on Mr. Shapley's testimony, and I said I
13 wasn't aware of those statements by Ms. Wolf.
14 Q Oh, okay.
15 A I wasn't personally aware.
16 Q Got it. Okay. Let's talk a little bit more. We just went through the
17 article that discussed, you know, some people's concerns about information originating
18 from Mr. Giuliani.
19 A Yes.
20 [Brady Exhibit No. 19
21 Was marked for identification.]
22 BY [redacted]
23 Q I want to mark as exhibit 19, another article. This is an October 24th, 2020,
24 article from Politico, entitled: Former Giuliani Associate Raises Questions About Hunter
25 Biden's, quote, "Hard Drive from Hell," end quote. Have you seen this article before?

1 A I'm not sure.

2 Q Okay.

3 A I may have.

4 Q Just take a minute to look at it, if you wouldn't mind. And as you look at it,

5 just kind of on the reporting that talks about the May 30th, 2019, meeting that Lev Parnas

6 described involving Giuliani and others.

7 I don't want to stop you reading the whole article, especially if you want the

8 context, but I am going to ask you about paragraph -- I guess it's the third full paragraph

9 on page 3, just so you understand where I am going.

10 A Okay. Oh, page 3?

11 Q Yeah, and it's the May 30th, 2019, there's reference to that, on the second

12 page also, so I just wanted you to be aware of that.

13 A Okay.

14 Q And then it kind of just goes into the middle of page 3.

15 A Okay. I'm almost done.

16 Q No worries. Take your time.

17 A Okay. Thank you.all right. Thanks. I am going to direct your attention,

18 first, to briefly to the second page and the third paragraph. There's just one line. In

19 this portion of the article, Mr. Lev Parnas is being quoted, and he is discussing a May 30th,

20 2019, meeting that he had involving Mr. Giuliani, Vitaly Pruss, who you mentioned earlier,

21 and himself. Did you glean that from your reading of the article?

22 A Yes.

23 Q And according to Mr. Parnas in this reporting, the first time that he and

24 Giuliani and the associates learned of this derogatory information that was on the hard

25 drive that people sometimes referred to as a laptop of Hunter Biden's was May 30th,

1 2019. So Mr. Parnas is identifying that date as the date that Giuliani and his associates
2 learned of this derogatory information, correct?
3 A Yes.
4 Q According to the article?
5 A Yes.
6 Q Okay. During the course of your investigation, had you ever received any
7 information that -- to that effect, that Mr. Giuliani was aware of this -- I keep calling it the
8 laptop because that's what people call it, but actually are you aware that it's just some
9 hard drives?
10 A Yes, but --
11 Q Okay.
12 A No, I was not aware.
13 Q Okay.
14 A I'm sorry, maybe I cut your question off.
15 Q No, no, no. So Mr. Giuliani first learned of the -- I am going to call it the
16 hard drive, because that's what it was, the hard drives, multiple. He learned of the
17 existence of those hard drives that were circulating around the world on May 30th, 2019,
18 according to the article, correct?
19 A Yes, that's correct.
20 Q Okay. And what I am asking you is, have you ever heard that during the
21 course of your investigation that Mr. Giuliani actually learned of the hard drive material
22 on May 30th, 2019?
23 A No, not during our 2020 vetting process, no.
24 Q Mr. Giuliani never shared anything about the hard drives or the laptop or
25 any of that in his material with you?

1 Mr. Lelling. Don't answer that.

2 BY [redacted]

3 Q Oh, you are not going to answer?

4 Mr. Lelling. I instruct him not to answer.

5 [redacted] He did answer earlier that the hard drive. That Mr. Giuliani did not

6 provide a hard drive.

7 Mr. Lelling. Okay.

8 Mr. Brady. He did not provide it. We were unaware of it.

9 BY [redacted]

10 Q All right. So moving on. To the third page in the article, this is, I guess,

11 the third full paragraph again. In here there's a description of this May 30th, 2019,

12 meeting involving Mr. Parnas, Vitaly Pruss, and Giuliani, and according to Mr. Parnas'

13 telling, there were some statements of Mr. Zlochevsky that were discussed, correct?

14 A Correct.

15 Q And these statements that are attributed to Mr. Zlochevsky here were again

16 about the Bidens, correct?

17 A Correct.

18 Q Okay. And according to the article Press told Giuliani at the May 30th,

19 2019, meeting that Mr. Zlochevsky had stated that he had, quote, "derogatory

20 information about Biden, and he was willing to share it with Giuliani if Giuliani would help

21 Zlochevsky, 'curry favor with the Department of Justice and help him with an extradition

22 request or other efforts by DOJ to investigate or prosecute Zlochevsky.'" Do you see

23 that allegation in the report?

24 A I see the first part, I'm sorry. I don't see the extradition.

25 Q Okay. So what it says in the article is that Zlochevsky was interested in

1 currying favor with the Department of Justice, correct?

2 A Yes.

3 Q Are you aware that Mr. Zlochevsky was accused of money laundering among

4 other financial crimes?

5 A I'm sorry, by which jurisdiction? I'm aware that there were allegations

6 regarding potential money laundering and Mr. Zlochevsky that were investigated by the

7 U.K. and by Ukrainian prosecutors. Could I just have one second?

8 Q Sure.

9 Mr. Lelling. I don't think he can give you further detail.

10 BY [redacted]

11 Q Okay. The allegation in this article is that Zlochevsky asked Giuliani to help

12 curry favor with the Department of Justice in exchange for derogatory information on the

13 Bidens, correct?

14 A Correct.

15 Q And regardless of what the favor was or what the curry favor was about, had

16 you ever heard that allegation that there was a proposal from Zlochevsky to Giuliani that

17 an exchange for some kind of favor with the Department of Justice, Mr. Zlochevsky would

18 offer Giuliani dirt on the Bidens?

19 A I don't believe I did at the time.

20 Q Okay.

21 A In 2020, I don't believe I was aware of that.

22 Q Of the allegation?

23 A Of that allegation, yes.

24 Q You're aware of it now as you sit here today?

25 A I am now.

1 Q Because of this article or something else?

2 A I believe because of this article.

3 Q Okay.

4 A There were a lot of statements made about that intersection among those

5 people and Mr. Zlochevsky. So I don't remember that specific allegation, but I am now

6 aware of it.

7 Q Okay. And in the course of your investigation, though, you had not

8 uncovered any reports of Zlochevsky making statements or asking Giuliani for favors. Is

9 that fair to say?

10 A Yes, I believe that's fair to say.

11 Q Okay.

12 A And just to be clear, there were other allegations relating to Mr. Zlochevsky

13 and actions he may or may not have taken allegedly in Ukraine and with respect to

14 certain prosecutions, but I don't remember that one specifically.

15 Q Okay. Did you remember any allegations that you came across involving

16 Zlochevsky and Giuliani, like, together, like their relationship?

17 A I don't remember, as I sit here.

18 Q Okay. When -- now Mr. Parnas --

19 A Oh, I'm sorry, could I clarify one thing? I know that as we talked about

20 earlier, Mr. Giuliani has had a number of podcasts, and has interviewed Shokin and a

21 number of people in Ukraine, that may have included Mr. Zlochevsky, I can't remember.

22 But as to your specific question, this allegation, I don't recall that.

23 Q Okay. Mr. Parnas, we talked about him a little bit earlier. You indicated

24 that you did not speak to Mr. Parnas during the course of your investigation?

25 A That's correct.

1 Q But you were aware that he was an associate of Mr. Giuliani, correct?
2 A Yes.
3 Q And you were aware that he had made statements regarding the matters
4 that were kind of at the subject of your investigation, the Ukraine, Bidens, and other
5 matters?
6 A Yes.
7 Q Okay. Were you also aware that he had provided evidence and
8 information to investigators during the impeachment?
9 A I don't believe I was.
10 Q Okay. And you already indicated that you didn't know about that
11 statement, that Mr. Giuliani had directed his associates to obtain for Mr. Zlochevsky,
12 correct?
13 A Correct.
14 Q Okay. And nothing else that Mr. Parnas had been involved in with respect
15 to that?
16 A That's correct. And as I said, you know, we cordoned that off as an SDNY
17 matter. So, any information that we received from Mr. Giuliani, for example, relating to
18 Mr. Parnas, we relayed to SDNY.
19 Q Okay. And I think that you had have made this clear, but I just want to be
20 very, very clear here. You've talked about indicia of reliability, or credibility, as you put
21 it, that were in the 1023. But you did not make an effort to, during the course of your
22 investigation, to determine whether Mr. Zlochevsky himself was a credible witness,
23 correct?
24 A Yes, that's fair. Yes, that's correct.
25 Q You were focused on the CHS when you talk about credibility as a source.

1 You said that the FBI had deemed him credible, correct?

2 A Yes.

3 Q And you understood that he had indicia of credibility, correct?

4 A Correct, from the FBI, yes.

5 Q But you didn't make an effort to determine whether Zlochevsky was a

6 reliable narrator, for example?

7 A That's correct, because of those conflicting statements that were in the

8 public.

9 [redacted] And along the same lines, you didn't make any effort to determine

10 what Zlochevsky's motivation might have been for providing information either to the

11 confidential human source or to Giuliani, correct?

12 Mr. Brady. That's correct.

13 BY [redacted]

14 Q I think this is going to be a brief line of questions. But in the previous hour,

15 you were asked some questions about the Auten assessment. It might have been the

16 first hour. Do you recall that?

17 A Yes.

18 Q And you said that you had no exposure to that or knowledge of whatever

19 that is from a professional standpoint within the DOJ. Is that right?

20 A Yes, I was not aware of that in 2020.

21 Q Okay. And the term "Auten assessment," as far as you know, you heard

22 that from public sources, news articles, or even this investigation. Is that fair?

23 A Public sources. I couldn't pick Brian Auten out of a lineup. I had no

24 knowledge of who he was or what he was doing.

25 Q Okay. So you don't even know if there was a quote, "Auten assessment."

1 Is that fair to say?

2 A That's correct. I have no knowledge of tat.

3 Q No more than any other person in the public would have, right?

4 A That's correct.

5 Q And you don't know who Brian Auten is?

6 A That's correct.

7 Q Okay. Can we just talk a little bit too. I have tried this once before. I

8 just want to be more precise when I'm asking these questions. You talk about, or you

9 talked about reluctance that you perceived on the part of the Delaware office to engage

10 with you. Is that right?

11 A Yes.

12 Q Okay. And you kind of parsed that out a little bit in the other hour. I want

13 to ask you about reasons that one might be reluctant in that position. And this is, you

14 know, I am going to try to be specific here. Do you understand, as a United States

15 Attorney, the sensitivities and the legal requirements of protecting 6(e) material, correct?

16 A Yes.

17 Q And I know that you're an expert, so can you explain for the record. What

18 is rule 6(e)?

19 A 6(e) governs grand jury secrecy, and that any information that appears

20 before the grand jury that's derived as a part of the grand jury investigation -- and, in fact,

21 the existence or nonexistence of a grand jury investigation, and also including targets,

22 subjects, witnesses, is all covered by Rule 6(e) which is a rule that applies to all

23 prosecutors that that shall not be made public in any way.

24 Q And --

25 A -- with the exception of identifying a witness, I'm sorry. Strike that.

1 With the exception of identifying a subject or a target of the investigation at the
2 appropriate time in an investigation.
3 Q Okay. Rule 6(e) carries criminal penalties for violation in some instances,
4 correct?
5 A That's correct.
6 Q So it's a very serious matter for prosecutors to follow the rules under rule
7 6(e), correct?
8 A Absolutely, yes.
9 Q And at the time that your office was interacting with Lesley Wolf and other
10 members of the Delaware office, they had an open grand jury investigation, correct?
11 A Correct.
12 Q And so rule 6(e) applied to them with respect to any information that they
13 were sharing, correct?
14 A Yes, correct.
15 Q Okay. Do you think that it's a valid concern on the part of those AUSAs to
16 be very careful about the information that they're sharing when they have an open grand
17 jury investigation?
18 A Yes, absolutely.
19 Q Okay. Could that be one of the reasons that they chose to communicate in
20 writing versus in a less formal way?
21 A Possibly. Typically, U.S. attorney to U.S. attorney and AUSA to AUSA
22 communication is a little more open, but I don't want to opine as to, you know, what
23 Lesley Wolf or, you know, Mr. Weiss' motivations were. But 6(e) is always a concern,
24 and that is always one of the primary concerns in any investigation.
25 Q I just want to get down to something. With respect to this relationship, in

1 particular, that you had at this time between the district in Delaware and yourself, it was
2 sort of unusual, would you agree, to be in a position where you're in one U.S. attorney's
3 office district, and you're being asked to communicate with another district who has an
4 open grand jury investigation about their matter, right? That doesn't happen every day
5 when you don't have joint venue issues, or you're not prosecuting something that just
6 happens to be in your district that's related to their case, right?
7 A It was unique. I mean, as you identify sometimes, there are dual
8 investigations going on among U.S. attorney's offices. Sometimes the U.S. attorney's
9 office will, as a part of a separate investigation, identify and develop information and
10 evidence that they will share with a different office if they have an investigation into that
11 subject or target or matter.
12 Q Right.
13 A Again, that's kind of a one-way, one-way sharing. So, yes, this was a unique
14 arrangement in my experience.
15 Q And it was unique, in particular, because you didn't have an investigation.
16 You had this kind of unique assignment about vetting information that might relate to
17 other investigations, correct?
18 A Yes.
19 Q So you're being asked by a U.S. attorney who has an active grand jury
20 investigation and a full investigation that they're handling, you're being asked by them,
21 you know, to share information back and forth. Can you think of another time when
22 you were in that position where you didn't have a related investigation, but you had
23 information that might be relevant to their investigation, and you had to have a
24 relationship developed that would involve two-way sharing of information?
25 A That has happened.

1 [3:26 p.m.]

2 BY [redacted]

3 Q Okay.

4 A Not looking the same as this relationship, but I have had that, certainly

5 where we have to coordinate activities and make sure there's no conflict, there's no

6 overlap.

7 Q But I mean, vetting information, where your role is simply to vet information

8 and not, you know, conduct your own investigation. You're just vetting information,

9 right, in this case?

10 A Correct. Yes.

11 Q And the Delaware office is actually conducting a grand jury investigation,

12 right?

13 A Correct.

14 Q Okay. So have you ever had that situation before, where you're over here

15 vetting and then you're asked to interact with somebody who is actually conducting a

16 grand jury investigation?

17 A No.

18 Q Okay. So when Delaware is receiving information from you, there's no 6(e)

19 concern, right?

20 A Receiving from us --

21 Q From you. When it's going from you to them, there's no 6(e) concern

22 because you don't have a grand jury open, right?

23 A That's true. There's law enforcement information. There's high side or

24 classified or top secret information which we have to transmit in a SCIF.

25 Q Sure.

1 A But 6(e) is not a concern from our information unless it's information derived
2 from a grand jury investigation.
3 Q Okay. But in this case, you didn't have a grand jury, right?
4 A Correct. We did not, yes.
5 Q Okay. So you're not worried about 6(e) when you're sending information
6 to other offices, right?
7 A Not 6(e) specifically. That's fair. Yes.
8 Q But Delaware is potentially worried about 6(e) when they're sending
9 information your way. Is that right?
10 A 6(e) is always a concern, but typically prosecutors because we have the same
11 ethical obligations, if we receive 6(e) information, we have to treat it the same as if we
12 generated it.
13 Q Right.
14 A So typically, I have not seen that type of reluctance before. We always are
15 careful in sharing information back and forth, and make sure that only people who
16 absolutely need to know that will receive it.
17 Q Okay.
18 A But that was also a little unique in my experience. Both things were
19 unique.
20 Q I just want to drill down, when you say "reluctance," you're talking about
21 reluctance on the part of the Delaware Office to share information about their case with
22 you, right?
23 A That's correct. Yes.
24 Q And one of the reasons could be that they have concerns over 6(e) material;
25 fair to say?

1 A Fair. Possible. Yes.
2 Q Among other reasons, right?
3 A Yes. Uh-huh.
4 Q Okay. You also said that you wanted to give information to them, and you
5 did, in fact, brief them on the 1023 and other matters, correct?
6 A That's correct.
7 Q And they received that information, right?
8 A That's right.
9 Q Okay. They didn't tell you, no, keep it to yourself. Eventually, they
10 received the information that you wanted them to have, correct?
11 A Yes. Just going back to the public testimony relating to DAG Donoghue
12 ordering the Delaware Office to meet with us and receive that briefing, but I can't agree
13 with the premise, but eventually, we did the briefing, yes.
14 Q Okay. So you're saying that there was some reluctance, but eventually
15 they received the information that you wanted them to have?
16 A That's correct.
17 Q Okay. And that they did with it, you don't know because you weren't in a
18 position to be part of the investigation any longer?
19 A That's correct. Our tasking was complete.
20 Q Okay. And throughout this whole time when you're interacting with the
21 Delaware office and they're acting however they act, the person who is in charge of the
22 DOJ is who?
23 A Oh, General Barr.
24 Q Okay.
25 A Attorney General Barr.

1 Q And who is in charge of that investigation of Hunter Biden, Mr. Weiss,
2 correct?
3 A Mr. Weiss, correct.
4 Q And Mr. Weiss was an appointee of President Trump, correct?
5 A That's correct.
6 Q Do you have any reason to believe that Mr. Weiss was uninterested in fairly
7 and honestly prosecuting the case that he had in front of him?
8 A No.
9 Q Okay. You also mentioned that there was some friction or -- I don't know,
10 "friction" is the word I'm going use. But you can choose the word you want -- between
11 yourself, or your team, and some of the FBI officials when you were asking them to
12 perform specific tasks.
13 Is that fair to say?
14 A Yeah. So it wasn't friction as much as they weren't able to perform them
15 perhaps in the timing that we wanted because of the approval process the FBI had set up.
16 Q Okay. We talked about that quite a bit before. Would you attribute most
17 of that delay to the formal layers of approval that they now needed to deal with sensitive
18 matters like this?
19 A Yes. Yes. The layers of approval were unique, in my experience, but that
20 was a part of the reason for the delay, yes.
21 Q Okay. Did you have any reason to believe that the FBI agents and officials
22 you were working with were unprofessional, biased, or, in any way, unwilling to do their
23 jobs?
24 A The FBI agents that I had direct contact with, including SAC down in the
25 Pittsburgh field office, deputy director, and Director Wray, no, not at all. Very

1 professional, outstanding agents.

2 Q Okay. And ultimately, they did perform the tasks that you asked them to

3 perform, correct?

4 A That's correct.

5 Q Was there ever anything that you wanted to do in your investigation or

6 assessment that DOJ officials refused to let you do or FBI officials?

7 A No.

8 Q Okay. So you're satisfied that you did your job thoroughly when you were

9 asked to make this assessment?

10 A I am.

11 BY [redacted]

12 Q Mr. Weiss has told Congress that as of July 11 or July 10, 2023, as of

13 mid-July 2023, he had not requested special counsel status. Obviously, he later did in

14 August.

15 But do you have any information that would contradict that statement that prior

16 to July of this year, Mr. Weiss had never requested special counsel status?

17 A I have no information or knowledge about that topic at all.

18 Q Okay. Do you have any information or knowledge about the Central

19 District of California preventing Mr. Weiss from bringing any type of case?

20 A I do not.

21 Q Do you have any information or knowledge about the District of Columbia

22 preventing Mr. Weiss from bringing any type of case?

23 A Personal knowledge, no. I do not.

24 Q In fact, Mr. Weiss has said that nobody has ever stopped him or blocked him

25 from bringing charges in any judicial district in the country.

1 Do you have any information to contradict what Mr. Weiss has said?

2 A I do not.

3 Q Okay. Couple of quick wrap-up questions.

4 The name, Vitaly Pruss, has come up a couple of times.

5 Can you tell us if you were able to interview Mr. Pruss?

6 Mr. Lelling. No, he can't say that.

7 BY [redacted]

8 Q He was in the United States at that time, correct?

9 Do you know?

10 A I don't remember if he was or not.

11 Q Okay. All right. I think we're almost done.

12 You were U.S. attorney in Pittsburgh through, I think, you said the end of

13 February 2021, correct?

14 A Correct.

15 Q So you were there during the 2020 election, correct?

16 A Yes.

17 Q Are you aware of allegations that there was widespread voter fraud in 2020?

18 Mr. Lelling. You're a little outside the scope.

19 [redacted] All right. So he's declining. It's fine. I'm just making a record.

20 You're declining to answer?

21 Mr. Lelling. He's declining to answer.

22 BY [redacted]

23 Q Are you aware of allegations that President Biden was not fairly elected in

24 2020?

25 Mr. Lelling. Same. He's not going to answer questions on that subject.

1 [redacted] Okay.

2 BY [redacted]

3 Q And do you believe that President Biden was fairly elected in 2020?

4 Mr. Lelling. He's not going to answer that question.

5 [redacted] No more questions.

6 [redacted] All right. So we can go off the record.

7 [redacted] Thank you.

8 [Whereupon, at 3:33 p.m., the interview was concluded.]

9

1 Certificate of Deponent/Interviewee

2

3

4 I have read the foregoing ____ pages, which contain the correct transcript of the

5 answers made by me to the questions therein recorded.

6

7

8

9 _____

10 Witness Name

11

12

13 _____

14 Date

15

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: ESTEBAN MARTIN ESTRADA

Tuesday, October 24, 2023

Washington, D.C.

The interview in the above matter was held in room 2237, Rayburn House Office Building, commencing at 10:00 a.m.

1

2 Appearances:

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted] COUNSEL

8 [redacted], GENERAL COUNSEL

9 [redacted], COUNSEL

10 [redacted], COUNSEL

11 [redacted], DEPUTY GENERAL COUNSEL

12 [redacted], PROFESSIONAL STAFF MEMBER

13 [redacted] COUNSEL

14 [redacted], CHIEF COUNSEL FOR OVERSIGHT

15 [redacted], COUNSEL

16 [redacted], MINORITY OVERSIGHT COUNSEL

17 [redacted], MINORITY CHIEF OVERSIGHT COUNSEL

18 [redacted] MINORITY OVERSIGHT COUNSEL

19 [redacted], MINORITY PROFESSIONAL STAFF MEMBER

20

21 For the SUBCOMMITTEE ON CRIME AND

22 FEDERAL GOVERNMENT SURVEILLANCE:

23

24 [redacted] MINORITY DETAILEE

1

2 For the U.S. DEPARTMENT OF JUSTICE:

3

4 GRETA GAO, SPECIAL COUNSEL,

5 OFFICE OF LEGISLATIVE AFFAIRS

6 SARA ZDEB, DEPUTY ASSISTANT ATTORNEY GENERAL,

7 OFFICE OF LEGISLATIVE AFFAIRS

1 [redacted] Good morning. This is a transcribed interview of Mr. Martin
2 Estrada, the U.S. Attorney for the Central District of California.
3 Chairman Jordan has requested this transcribed interview as part of the
4 committee's oversight of the Justice Department's handling of the investigation of Hunter
5 Biden.
6 The Committee on the Judiciary has legislative and oversight jurisdiction of the
7 Department pursuant to rule X of the Rules of the House of Representatives.
8 My name is [redacted]. I'm a staffer with the House Judiciary Committee with
9 Mr. Jordan.
10 I'll have the rest of my colleagues introduce themselves for you, starting with
11 [redacted]
12 [redacted] with Chairman Jordan's staff.
13 [redacted], Chairman Jordan's staff.
14 [redacted] Ranking Member Nadler's staff.
15 [redacted] Ranking Member Nadler's staff.
16 [redacted] Ranking Member Nadler's staff.
17 [redacted], Ranking Member Nadler's staff.
18 [redacted], Ranking Member Nadler's staff.
19 [redacted], Chairman Jordan's staff.
20 [redacted], Chairman Jordan's staff.
21 [redacted], Chairman Jordan's staff.
22 [redacted], Chairman Jordan's staff.
23 [redacted] Chairman Jordan.
24 [redacted] Chairman Jordan's staff.
25 [redacted] I understand you're here with DOJ counsel.

1 Would you introduce yourselves for the record.

2 Ms. Zdeb. Sara Zdeb, Department of Justice.

3 Ms. Gao. Greta Gao, Department of Justice.

4 [redacted] And you understand the Department lawyers have a duty to

5 represent the Department, not you personally?

6 Mr. Estrada. I understand they represent the Department and I'm an employee

7 of the Department.

8 [redacted] Okay. But, to the extent your interests diverge, they represent the

9 Department, and you're comfortable with that?

10 Mr. Estrada. I'm comfortable with them representing the Department and me

11 being an employee of the Department and testifying here voluntarily.

12 [redacted] Okay. We will have questions for you. We'll go in rounds. First,

13 the majority will ask questions for an hour. Then the minority will go for an hour. We

14 often takes breaks at the end of each hour or whenever you'd like. You're here

15 voluntarily, of course, so to the extent you want to confer with DOJ counsel or take a

16 break for any reason or no reason, feel free to do that.

17 We'd like to make your experience here today as comfortable as possible, given

18 the fact that we have a court reporter, and it's not necessarily a, obviously, comfortable

19 environment.

20 We'll do our best to limit the number of people asking you questions just for the

21 benefit of the court reporter. Usually, it's just one person per round, and then maybe a

22 second jumps in to ask a clarifying question, but we will do our best to keep it limited.

23 We want you to answer our questions in the most complete and truthful manner

24 as possible. If you have any questions or if you don't understand one of our questions,

25 let us know.

1 If you don't know the answer to a question or you don't remember, it's best not to
2 guess. Please give us your best recollection, and it's okay to tell us if you learned of
3 information from somebody else. The hearsay rules and so forth don't apply in this
4 setting.
5 You understand you're required to be truthful in the questioning with Congress?
6 Mr. Estrada. Yes.
7 [redacted] And 18 United States code 1001 makes it a crime to knowingly
8 provide false or misleading information to Congress.
9 You're aware of that?
10 Mr. Estrada. Yes. I'm familiar with 1001.
11 [redacted] And we say that to all witnesses, so certainly mean no disrespect.
12 Obviously, as a U.S. Attorney, you are very familiar with those obligations.
13 Mr. Estrada. Understood.
14 [redacted] We will -- to the extent we mark exhibits, we'll keep them. So, you
15 know, we try to keep as much of the proceedings confidential as we can.
16 That's the end of my welcoming remarks.
17 [redacted] do you have any greetings?
18 [redacted]. We would just thank the witness for traveling cross-country to join us
19 today.
20 Mr. Estrada. Thank you.
21 [redacted]. Ms. Zdeb, would you like to offer your welcoming remarks?
22 Ms. Zdeb. I would. Thank you. As you acknowledged, Mr. Estrada is here
23 voluntarily and, as you know, the committee's inquiry implicates an ongoing criminal
24 investigation and prosecution.
25 At this juncture, Mr. Estrada is going to be able to answer questions that can be

1 answered without compromising the ongoing matter. Specifically, the Department has
2 authorized him to discuss United States Attorney Weiss' authority, and this includes the
3 committee's interest in whether Mr. Estrada and his office somehow prevented or denied
4 Mr. Weiss the ability to bring charges related to his investigation in the Central District of
5 California. There may be some additional information Mr. Estrada can share, depending
6 on the question and, again, consistent with the need to protect the ongoing investigation
7 and prosecution.
8 To the extent you have questions outside the scope of what the Department has
9 authorized him to discuss at this juncture, we reiterate our willingness, as always, to take
10 those questions back and consider what additional information might be able to be
11 shared at a future juncture. But, that said, our goal is to facilitate Mr. Estrada in sharing
12 as much information as he can today, consistent with the scope of his authorization.
13 [redacted] All right. Thank you.
14 EXAMINATION
15 [redacted]
16 Q Sir, when were you nominated to be the U.S. Attorney?
17 A I don't recall the exact date, but I believe it was in June of 2022.
18 Q Okay. And you were confirmed by the Senate subsequently in September,
19 as I understand it?
20 A I was confirmed by the Senate. I don't know the exact timeframe, but I
21 believe it was around the September timeframe.
22 Q Okay. And you were sworn in as the U.S. Attorney shortly thereafter?
23 A Yes.
24 Q And do you know the date?
25 A I know the date I took the seat, which was September 19th of 2022.

1 Q Okay. And, prior to joining the U.S. Attorney's Office, what was your
2 experience with the Justice Department?
3 A Can you repeat the question, please?
4 Q Prior to joining the U.S. Attorney's Office in September of 2022, what was
5 your DOJ experience?
6 A Okay. So my DOJ experience was I previously served as an Assistant United
7 States Attorney for about 7 and a half years, from 2007 through 2014. I externed for the
8 U.S. Attorney's Office as well in the summer of 2000.
9 Q Okay. How many attorneys are there in your office?
10 A There are about 300 attorneys that cover both civil matters, tax matters,
11 criminal matters and national security matters.
12 Q And how is your -- how is the office organized?
13 A So we have five divisions. We have an Administrative Division, which is
14 mostly staff and -- professional staff and nonattorneys. Then we have a Tax Division,
15 which handles mostly civil tax matters. We have a Civil Division, which handles defense
16 of the government and also forms of litigation dealing with civil rights and civil fraud.
17 We also have a National Security Division, which handles matters of national security and
18 cyber matters. And we have a Criminal Division, which handles all criminal prosecutions
19 that don't fall within the ambit of national security.
20 Q Okay. And, as far as reporting up to Main Justice, how does that work for
21 you in your office? Who do you report to at headquarters?
22 A So, in terms of the organizational chart, I am under the Deputy Attorney
23 General, who is currently Lisa Monaco. But, in terms of reporting, we operate
24 somewhat independently. And certainly in terms of the cases we choose to litigate on
25 the civil side, tax side, criminal side, national security side, we operate independently.

1 But, obviously, there's a collaborative relationship with the folks at Main Justice.

2 Q In terms of the DAG's office, who is your primary contact?

3 A Primarily, the Deputy Attorney General and also her principal assistant.

4 Q Is that Mr. Miller?

5 A Yes.

6 Q Anyone else in the DAG's office that you have frequent communication with?

7 A I have communications on occasion with others in the Deputy Attorney

8 General's Office in different areas, such as national security, when we talk about cyber

9 matters, things of that sort, but no regular communication.

10 Q Okay. As it relates to the Hunter Biden matter, did you have any

11 communications with the DAG's Office?

12 A None.

13 Q So you didn't have any emails or telephone calls with Marshall Miller, the

14 PADAG, on this topic?

15 A No. But I should qualify that. When you're talking about the Hunter

16 Biden matter, I'm referring to my dealings with Mr. Weiss. I did have communications

17 with a career attorney within the Office of the Deputy Attorney General, Brad

18 Weinsheimer, when I got contacted by the media in the spring of 2023 and also with

19 regard to the testimony I'm giving here today. But that's the only contact I've had with

20 anyone within the Office of the Deputy Attorney General.

21 Q And what were the nature of the contact you had with Mr. Weinsheimer?

22 A So, most recently, I received a letter on October 18th of 2023, authorizing

23 me to appear before this committee but also limiting the scope of what I can discuss

24 before this committee. And then, previously, in the spring of 2023, when I received

25 media inquiries to discuss what statement I would be making to the media.

1 Q Okay. And what statement did you make to the media?

2 A I don't know the exact statement. It's probably a matter of public record.

3 But it was something to the effect of, as the Attorney General has stated, U.S. Attorney

4 Weiss had full authority to conduct the investigation, prosecute the case as he saw fit.

5 Q Okay. And the letter from Mr. Weinsheimer about your testimony here

6 today, is that something you can provide to the committee?

7 A It is something that I had received, but in order to provide anything, I need

8 to consult with Department of Justice attorneys, given I'm an employee of the

9 Department of Justice. So I'll consult with them and see what their position is.

10 Ms. Zdeb. If the committee is requesting the letter, we can provide it. I don't

11 have it with me today, but we can share it with you.

12 [redacted]. That would be great. Thank you. Is this the same basic letter that

13 we've seen for other witnesses?

14 Ms. Zdeb. I think that the letter will speak for itself. It is tailored to Mr.

15 Estrada, but otherwise it is the same.

16 [redacted]. But is it materially different than the one we had for Mr. Graves, the

17 other U.S. Attorney that we spoke with?

18 Ms. Zdeb. Well, insofar as it pertains to the Central District of California and not

19 the District of Columbia. Otherwise, the scope of the authorization is the same in that

20 neither one of them can speak about the ongoing investigation.

21 [redacted] Okay. But you'll give us a copy of that?

22 Ms. Zdeb. Yes.

23 [redacted]. Okay.

24 [redacted]

25 Q How often does your office interact with the Tax Division out of Main Justice,

1 and can you explain that ordinary relationship?

2 A So there's some interaction between my office and the Tax Division. We

3 need Tax Division authorization to file certain tax charges. I don't know those specific

4 code sections off the top of my mind, but there are certain ones that we need

5 authorization for. But that would be done at the line and supervisory level, not myself.

6 Q Okay.

7 A I have had no interactions directly with the Tax Division myself since

8 becoming U.S. Attorney.

9 Q Okay. So you haven't had any communications with Mr. Goldberg,

10 the head of the Tax Division?

11 A No, I have not.

12 Ms. Zdeb. Could I just clarify for the record. Mr. Goldberg is not the head of

13 the Tax Division. And I know that the committee is scheduled to hear from him.

14 [redacted] Okay.

15 Ms. Zdeb. But he is an Acting Deputy Assistant Attorney General in the Tax

16 Division.

17 [redacted]. Is he the top official in the Tax Division?

18 Ms. Zdeb. Well, you can ask him tomorrow.

19 [redacted] Okay. Is there someone more senior to him? I mean, should I be

20 asking about a different witness -- or a different individual?

21 Ms. Zdeb. You should -- I wouldn't presume to tell you who you should be asking

22 about. I'm simply saying he is the Acting Deputy Assistant Attorney General.

23 [redacted] Okay.

24 BY [redacted]

25 Q Do you know who is the top official in the Tax Division --

1 A No.

2 Q -- at Main Justice?

3 A I do not.

4 Q You do not, okay.

5 A No.

6 Q If there is a disagreement between your office and DOJ Tax about

7 proceeding on a tax matter, how is that ordinarily resolved?

8 A I haven't had that situation come up during my tenure, so I don't know how

9 it's normally resolved. But the Tax Division can, just like many components of the

10 Department of Justice, I believe can bring cases in whatever district they would choose to

11 bring the cases, just like my office can bring cases in our district that we believe are

12 appropriate to bring.

13 Q Right. But, if your office is bringing a tax case, there's certain types of tax

14 cases where before you bring it you have to get the okay, the authorization of DOJ Tax

15 out of headquarters, correct?

16 A Certain statutes you need to get authorization from the Tax Division, yes.

17 Q Okay. And, in your experience, has there ever been a disagreement

18 between your line AUSAs and the Tax Division on how to proceed?

19 A Not that I'm aware of. But, again, these issues and questions don't usually

20 rise to my level. I usually don't deal with disputes between line attorneys and folks in

21 the Tax Division about tax prosecutions. So they may have happened. I'm just not

22 aware.

23 Q Okay. How does it ordinarily work when a U.S. Attorney from outside of

24 your district has a case that needs to be venued in your district?

25 A So there are often prosecutions by other districts that touch on our district.

1 Generally speaking, those are cases that can be venued in multiple jurisdictions, and they
2 happen to be prosecuted by a different jurisdiction.
3 We generally will support that prosecution. If search warrants need to be
4 executed, if process needs to be done, we'll support that. But, generally, they are
5 prosecuted out of the district where the investigation arose.
6 Q Okay. And how does it ordinarily work? Like, what does support look like
7 when you need to support a U.S. Attorney from a different district move a case in your
8 district?
9 A So I think -- I just want to be clear on what we're talking about, move a case
10 in our district. The more typical thing -- I'll give you an example: Varsity Blues, which
11 was prosecuted by the District of Massachusetts. It was -- involved many defendants in
12 our district, so they executed search warrants there, and we assisted with those search
13 warrants.
14 But, ultimately, all those defendants were called to appear in the District of
15 Massachusetts, and the case was prosecuted in the courts of the District of
16 Massachusetts. That is a more typical scenario.
17 Q Okay. Is it ever the case where a U.S. Attorney from outside of your district
18 prosecutes a case in the Central District of California?
19 A I have not had that occur during my tenure.
20 Q Okay. Are you aware, has it occurred in the past before your tenure?
21 A I'm not aware of it occurring in the past. It could have happened. It could
22 not have happened. I'm just not aware.
23 Q So, if a case arises in a different district but has venue in your district, how
24 does that ordinarily resolve, get resolved?
25 A So I don't think there's an ordinary process there that I'm familiar with.

1 Generally speaking, that situation doesn't arise where another district is prosecuting a
2 case that can only be venued in our district.
3 I'm aware of at least one instance in the past where a court issued an order that
4 venue was improper in a certain district so it had to be transferred to our district. And
5 the AUSAs from that office prosecuted the case in our office because it was transferred,
6 but that was under a court order.
7 Q Okay. And how did that work? Did you need to provide them special U.S.
8 Attorney status or --
9 A So they would become appointed special assistant United States attorneys,
10 otherwise known as SAUSAs. That gives them the permission to litigate within our
11 district. And that's my understanding what occurred. And then those attorneys from
12 the other district handled the case entirely.
13 Q Okay. So you didn't -- there wasn't an AUSA from the Central District of
14 California on that prosecution team?
15 A On the prosecution I'm thinking of, there was not.
16 Q Was that particular matter -- did that occur before you were the U.S.
17 Attorney?
18 A That occurred when I was an Assistant United States Attorney.
19 Q During your tenure as an AUSA, did any other case like that occur?
20 A Not that I'm familiar with, but I was one AUSA, one criminal AUSA out of
21 180. So that's all I was aware of.
22 Q Okay. When did you first learn that the Hunter Biden case might have a
23 nexus with your district?
24 A I first learned about -- that there was a Hunter Biden investigation touching
25 on our district shortly after taking the seat. So it would have been late September 2022

1 or early October 2022.

2 Q How did you learn about that?

3 A I learned from attorneys in my office, career attorneys in my office, that
4 there was a request from the District of Delaware to partner or cocounsel on certain
5 charges that they were investigating; that our career attorneys had communicated that
6 they were recommending against partnering or cocounseling in the charges being
7 contemplated; and that the District of Delaware, through Mr. Weiss, wanted to speak to
8 me about that.

9 Q When did the District of Delaware Attorneys first contact your office on this
10 case?

11 A That I don't know, when they first contacted -- my office -- just to give some
12 context, we have 300 lawyers but, at the time I came in, about 140 criminal AUSAs. We
13 were down about 40 bodies in the criminal section. But nonetheless, we have a district
14 of almost 20 million people, the largest district in the country.

15 I don't deal with cases on a day-to-day basis. I rely on section chiefs. The
16 Criminal Divisions are separated into sections, and there are deputy chiefs within those
17 sections. They deal with the day-to-day running of cases. I don't deal with those
18 matters unless, of course, it -- they rise an issue -- they raise an issue that I need to look
19 at.

20 So there may have been interaction at the line level or the deputy chief or the
21 chief level with the District of Delaware, but I would not be aware of when that would
22 have started.

23 Q So what do you recall when this matter was first brought to your attention?
24 Like, who brought it to your attention and when was it? Was it late September or early
25 October?

1 A There's a few questions there. So the timing, late September-early October
2 2022. With regard to your question of who brought it to my attention, my then First
3 Assistant United States Attorney, otherwise known as a FAUSA, which is the only AUSA
4 that I have a direct report to --
5 Q And who is that?
6 A So I'm not comfortable giving names of AUSAs, and I won't be doing that
7 going forward in this -- in this interview. They sacrifice enough financially, in terms of
8 time and in terms of safety, with regard to the cases that we prosecute in our district, and
9 I'm not comfortable giving up names here.
10 I'm here voluntarily. I'm happy to talk to you all voluntarily. But my AUSAs
11 didn't sign up for this, so I'm not going to give individual names.
12 Q Okay. So your first assistant brought this matter to your attention?
13 A My first assistant, my then First Assistant United States Attorney
14 brought -- told me that there had been this request from the District of Delaware to
15 cocounsel or partner on the case; that the chief of my Major Frauds Section, who would
16 be the person who makes these decisions, was recommending against doing so; and that
17 that had been communicated to the District of Delaware.
18 Q And this occurred before you were installed?
19 A I don't know if that occurred before I was installed because the issue came
20 to me in late September-early October, and I came in on September 19th. So I don't
21 know if it occurred before or after I was installed.
22 Q Okay.
23 A But, going back, I was told that this issue had arose, and there was this
24 request there, and my Major Frauds chief was recommending not partnering or
25 cocounseling; my criminal chief, which would be the person directly above the Major

1 Frauds Section chief, was agreeing with that recommendation to not partner or
2 cocounsel; and that the District of Delaware, through Mr. Weiss, wanted to speak to me
3 about that.
4 Q What is the difference between partner or cocounsel?
5 A I see them as the same.
6 Q The same, okay. And how would that work if you had reached a different
7 conclusion, your office had wanted to proceed as the District of Delaware had requested?
8 A I don't understand your question.
9 Q So, if your office did want to partner or cocounsel with Mr. Weiss, how
10 would that have looked? Would your AUSAs have been on the prosecution team, or
11 would the District of Delaware lawyers, AUSAs, be granted Special Assistant U.S. Attorney
12 status?
13 A So a couple things there, and I should have mentioned this. It's a good
14 point you raised. My understanding when the issue was brought to my attention was
15 that certain attorneys within the District of Delaware -- I didn't know their names or who
16 they were -- had already been appointed Special Assistant United States Attorneys in my
17 district.
18 Q Okay.
19 A So they were SAUSAs able to litigate in my district. That had already
20 happened before the question came to me.
21 In terms of how that would look, I don't have personal experience with ever
22 cocounseling with another U.S. Attorney's Office during my time as U.S. Attorney or
23 during my time as an Assistant United States Attorney.
24 Q Okay. Who made them Special Assistant United States Attorneys?
25 A That needs to get approved by the U.S. Attorney. So it would have been

1 my predecessor, either the Acting U.S. Attorney or the Acting U.S. Attorney before that
2 person.
3 Q Okay. And who was that?
4 A So, again, I don't want to give names, but I'm sure it's public record.
5 Q Okay. So you're not willing to tell us who the Acting U.S. Attorney for your
6 district was?
7 A I don't want to give names of people who didn't voluntarily come before you
8 to testify.
9 Q Okay. I mean, that's kind of ridiculous.
10 A I'm sure --
11 Q I mean, we can look it up on the internet. And you're not willing to just tell
12 us the name?
13 A You can look it up on the internet if you like, but I'm not willing to give
14 names of people who didn't voluntarily come before this committee.
15 Q Okay. How many Delaware AUSAs were granted the SAUSA status?
16 A I don't know how many. I just know that it was more than one.
17 Q And do you know what timeframe that happened in?
18 A When they were appointed?
19 Q Yes.
20 A I do not.
21 Q Did you ask?
22 A I did not.
23 Q Okay. Why not?
24 A I didn't ask because it didn't seem relevant. At the time I was being asked
25 the question I had been told that they had already been appointed special Assistant

1 United States Attorney status and can litigate in the district.

2 Q Okay. And so what did they -- what did they need from your office then?

3 Like, why did they request to partner or cocounsel?

4 A So I can't get into the mind of Mr. Weiss or his staff as to why they were

5 making that request. So I don't know why they were asking for this. But I do know

6 that --

7 Q Presumably, you asked the chief of the Major Frauds Section or you asked

8 the criminal chief that question, right?

9 A What I was going to say before you cut me off is that I can't get into the mind

10 of what -- of what they were thinking. They had the ability to litigate in my district.

11 And they were asking me this question, which I was going along with the

12 recommendation of my career attorneys.

13 Q Okay. Did you then make that decision based on the recommendation?

14 A Based on the recommendation of my major frauds chief and my then

15 Criminal Division chief who, combined, had over 40 years' experience as prosecutors, I

16 agreed that we would not partner or cocounsel in the prosecution; but I did tell Mr. Weiss

17 that we'd provide office space and administrative support for his attorneys in their

18 prosecution.

19 Q How many meetings did you have with your chief of the Major Frauds

20 Section and the then criminal chief on this topic?

21 A I had two meetings with them on this topic.

22 Q And when was the first meeting?

23 A The first meeting was sometime in early October 2022, before my phone call

24 with Mr. Weiss, which would have been October -- sorry -- yes, October 19th of 2022.

25 Q Okay. So the first meeting happened in early October 2022. And who

1 was in that meeting with you?

2 A So in that meeting was my First Assistant United States Attorney, was my

3 then chief of the Criminal Division, and my Major Frauds Section chief.

4 Q Anyone else?

5 A That's it.

6 Q And what information did they convey to you during that meeting?

7 Ms. Zdeb. And he can answer that question to the extent it doesn't implicate

8 deliberations or other information related to the ongoing investigation and prosecution.

9 A So the -- before the meeting, I had been provided with materials to review,

10 which I did. And we discussed those materials and their analysis with regard to the

11 question of whether to partner or cocounsel in the charges that were being

12 contemplated.

13 BY [redacted]

14 Q And what materials were provided?

15 A So I'm limited in what I can discuss. I've been given a letter which limits

16 what I can discuss. I have to be very careful about not getting into specifics. But it was

17 memoranda analyzing facts and law.

18 Q Just one or more than one memo?

19 A Multiple.

20 Q Okay. How many?

21 A There were three that I reviewed.

22 Q And what were the differences in the three?

23 Ms. Zdeb. And he's not able to get into the differences. He just made clear

24 that they analyzed the facts and the law, and he is not able to talk about the specifics of

25 the memos that are part of an ongoing case.

1 BY [redacted]

2 Q Okay. So you received three memos prior to your first meeting. You read
3 those memos and then you had the meeting.

4 What else can you tell us happened at that meeting, the first meeting?

5 A So, again, I'm limited in what I can discuss with regard to the process of
6 reviewing and analyzing charges and the specific charges, but that is generally what we
7 discussed.

8 Q Okay. And was there a conclusion reached by the four of you at the end of
9 that meeting?

10 A Ultimately, it was my -- my conclusion. They had already made
11 recommendations. And having reviewed the materials and doing analysis and then
12 speaking with them about materials and analysis, I agreed with their recommendation.

13 Q Okay. And then when was your second meeting on this topic?

14 A The second meeting was after my call with Mr. Weiss.

15 Q Okay. So maybe just going chronologically, the next key event was a call
16 with Mr. Weiss?

17 A Yes.

18 Q Okay. And when was that call?

19 A That was October 19th of 2022.

20 Q And you said the meeting where you reached the decision was early October
21 2022, and then the call was October 19th. So a couple weeks had elapsed?

22 A I can't say whether a couple weeks, 1 week, days. I can't be more specific
23 than what I gave you.

24 Q Okay. Did anything else occur during the -- after the conclusion of your
25 meeting and before your call with Mr. Weiss relative to the case?

1 A I don't know what else might have occurred that I was not privy to, but in
2 terms of my dealings, after that meeting I had no other interactions or discussions of the
3 case until the call with Mr. Weiss.
4 Q Okay. And who initiated the call with Mr. Weiss?
5 A Sorry; I don't understand your question.
6 Q Well, you had a telephone call with Mr. Weiss.
7 A Uh-huh.
8 Q The question is, who initiated that call? Did he call you? Did you call
9 him? Did you schedule the call? Did he schedule the call?
10 A Mr. Weiss asked for a call and we scheduled a call.
11 Q And who was on the call?
12 A The call was me and Mr. Weiss.
13 Q No other staff on the call?
14 A No. Well, not that I'm aware of. I don't know who was on his line. On
15 my line, it was just me.
16 Q Okay. And what did you communicate to Mr. Weiss on the October 19th
17 call?
18 A So, again, I have to be careful about what I discuss. I can't get into the
19 deliberative process. But I discussed our analysis of facts and law to explain to him why
20 we would not be cocounseling on the case, but then I told him that we were happy to
21 provide office space, administrative support for his attorneys. He thanked me for that
22 and the call ended.
23 Q In terms of office space and administrative support, did you also make
24 available the grand jury, the grand jury process in your district?
25 A I'm concerned about answering that question because it might get into the

1 deliberative process, but all administrative support would have been available to Mr.
2 Weiss.
3 Q So, if his AUSAs that had been granted SAUSA status wanted to prosecute a
4 case on their own in your district, they had the ability to do that?
5 A To -- my understanding is if they wanted to prosecute the case as SAUSAs,
6 they had the ability from my standpoint to do that. It would have been supported
7 administratively from my standpoint to do that.
8 I can't speak to any limitations within the District of Delaware or within Maine, but
9 I can just talk about my office.
10 Q As the U.S. Attorney, did you have the ability to revoke the SAUSA status?
11 A Yes.
12 Q And was the SAUSA status -- and correct me or --
13 A And I'll just clarify. I never revoked the SAUSA status. To my knowledge,
14 they're -- I never revoked the SAUSA status.
15 Q And how many -- how many lawyers have this SAUSA status, do you know?
16 A All I can say is more than one.
17 Q Okay. More than five? Like, more than five? Like, what's the ballpark?
18 What's the upper -- if you don't know the specific number, what's the range?
19 A I can't say more than -- more than one; that's all I can say.
20 Q Is that something you could take back and get a definitive answer, how many
21 Delaware U.S. Attorney AUSAs have the SAUSA status?
22 A I'm happy to consult with the attorneys for the Department and see if that's
23 something I can discuss or provide or whether I'm even able to provide it at this point.
24 But I'm happy to discuss it with the Department's attorneys.
25 [redacted]. Okay. I think we'd like to know the number of SAUSAs and the

1 date that they were granted that status, if you could take that back, Sara.

2 Ms. Zdeb. We can certainly take that back.

3 BY [redacted]:

4 Q How long was the call with Mr. Weiss on October 19th, to the extent you

5 remember?

6 A I don't know specifically, but I would approximate 5 minutes maybe.

7 Q It was a very short call. Okay.

8 And you said you discussed your analysis, the facts and the law, and why you

9 didn't want to take the case.

10 Was there any other information you provided Mr. Weiss on the call?

11 A So I didn't say why I didn't want to take the case. So it was his case, his

12 investigation.

13 Q But you didn't want to partner with him on the case.

14 A The question was whether to cocounsel on the case that he had been

15 investigating and was done by his office for many years. So that was the only question

16 on the table.

17 Q Okay. Did you communicate anything else to him that you haven't told us?

18 A In broad strokes, I communicated to him analysis of the facts and law and

19 general reasons why we would not be able to cocounsel on the case; but that

20 nonetheless, we would offer office space, administrative support for his people.

21 Q And then you said you had a second meeting with your team about this topic

22 after the Weiss call?

23 A Correct.

24 Q And when was that?

25 A Shortly after the call with Mr. Weiss on October 19, 2022.

1 Q Okay. And was it a meeting or a conference call with your staff?
2 A It was a meeting.
3 Q Okay. And what do you remember about that meeting? Was it the same
4 group of individuals?
5 A It was the same group of individuals. I told them about my call with Mr.
6 Weiss.
7 Q Was that largely it, just a readout of the call?
8 A That was it.
9 Q And then anything else in terms of meetings or calls on this topic with that
10 group of people?
11 A What do you mean by "anything else," because --
12 Q Did you have any additional meetings or telephone calls deliberating about
13 the decision on this case with that group of people in your office?
14 A So I had one meeting where we discussed the materials that had been
15 provided and their recommendation --
16 Q Right?
17 A -- of the career attorneys not to cocounsel on the case. The second
18 meeting was just me speaking, telling him what occurred in the call.
19 Q No, no, I got that. I'm just sort of -- I'm getting ready to pivot here, to move
20 on. I'm just saying, were there any other meetings or calls? You told us about two
21 meetings with your staff and a call with Mr. Weiss. Were there any other meetings?
22 A Meetings or calls with whom?
23 Q On the Hunter Biden case with either your staff or with the staff from the
24 District of Delaware.
25 A So I've been instructed to not discuss the deliberative process and potential

1 charges and a potential investigation. I will say there has been one subsequent call with
2 Mr. Weiss.
3 Q Okay. When was that?
4 A Fairly recently, which would have been in September, September 19th of
5 this year. But I can't get into the substance of that, because I've been instructed not to
6 discuss the deliberative process or the ongoing investigation.
7 Ms. Zdeb. Can we go off the record for a second.
8 [Discussion off the record.]
9 Mr. Estrada. So the recent call did not involve the question of whether to
10 cocounsel on contemplated charges against Hunter Biden, just to clarify.
11 BY [redacted]
12 Q What did it involve?
13 A So I can't discuss that, because it goes to an ongoing investigation.
14 Q Was that -- the second call that you just identified, were those the only two
15 calls that you had with Mr. Weiss?
16 A Yes.
17 Q Did you have any telephone calls with anyone else in his office?
18 A No. I never had any calls with anyone else in his office.
19 Q And did you have any meetings with anyone in his office?
20 A No.
21 Q The AUSAs in Delaware that have SAUSA status in your district, have they
22 ever come out to your district that you're aware of?
23 A I don't know.
24 Q So you've never met them?
25 A I've never met them, no.

1 Q Do you know if the District of Delaware had meetings with your staff on
2 these topics?
3 A Whether attorneys in the District of Delaware?
4 Q Yes.
5 A I don't know. They may have. I know there was communication between
6 my Major Frauds chief and Attorneys of the District of Delaware. I know there was
7 communication back and forth there. But I'm not aware of any specifics about meetings
8 or calls or whatnot.
9 Q Do you know if these happened in person or on the telephone?
10 A I don't know.
11 Q So, to your knowledge, the District of Delaware lawyers, have they ever
12 come to your district on this topic?
13 A I don't know. And I'll just say this is normal for every case. I don't interact
14 with SAUSAs on a case-by-case basis. We have SAUSAs from almost all the district
15 Attorney's Offices in our 20 million-person district.
16 They do cases from those kind of cases, fentanyl death cases. We need those
17 resources, but I don't meet with them on their cases on an individual basis. So that's a
18 typical practice not to meet with the SAUSAs on any sort of case.
19 Q Right. I was wondering if the SAUSAs had met with your staff in person
20 that you're aware of.
21 A Not -- well, I don't know one way or the other. It's a typical practice that
22 SAUSAs interact with the line attorneys. That's typical. So I would expect that, but I'm
23 not privy to those meetings.
24 Q Okay. I mean, this is a potential prosecution of the President's son. If the
25 lawyers from the District of Delaware were out in your district discussing the case, don't

1 you think you'd know about it?

2 A So I think a little context would be helpful. So, as I said, we have the largest
3 district in the country. We have a Fentanyl epidemic which is one of the worst in the
4 country's. We've done more death-resulting cases than any other district in the
5 country. We're on pace to do more this year than we ever had before.

6 We've got a violent crime epidemic with firearms. We've done more Hobbs Act
7 cases than we ever have in the past 2 years. We have a National Security Section, a
8 division, unlike most other offices, because we're the gateway to Asia. And we have the
9 People's Republic of China trying to influence our elections, trying to target some of our
10 individuals. We have a lot of high-profile cases. We have a Public Corruption Section
11 which has indicted three City Council members in the past few years and including the
12 sitting sheriff of Los Angeles County. There are a lot of high-profile cases, so I don't
13 meet with attorneys on every single high-profile case.

14 Q Okay. I was just asking you if you were aware of the meetings that the
15 District of Delaware had had with your staff and whether those meetings were in person.

16 A I thought I answered that before, that if there were meetings that occurred,
17 they might have happened, but I wouldn't be privy to those.

18 Q So was that discussed at your meeting when you reviewed the three
19 memoranda?

20 A At the meeting where we discussed the memoranda and the analysis, legal
21 and factual analysis, we didn't discuss meetings with folks from the District of Delaware.
22 But I understood there were communications between my major frauds chief and
23 attorneys in the District of Delaware.

24 Q Okay. Do you know if they prepared any presentations for your staff?

25 A By "presentations," you mean PowerPoint presentations?

1 Q Something along those lines, yeah.
2 A I'm not aware.
3 Q Do you know what type of materials they did submit to your office?
4 A Yes, but I'm not sure I can discuss the nature of those materials. But, as I
5 said, there were many legal memoranda that were written and presented to me in
6 making this decision of whether or not to agree with the career attorneys.
7 Q Who wrote the memoranda?
8 A So, again, I want to be careful about getting into the substance of the
9 deliberative process. Some memoranda were written, as I understand it, by attorneys
10 from the District of Delaware and the Tax Division, and other -- others by folks in my
11 office.
12 Q There were three memos. Do you remember who wrote each one?
13 A Yes.
14 Q Okay. And was there one from the District of Delaware, one from the Tax
15 Division, and one from your office?
16 A I can't get into specifics. I'll just say that there was work done analyzing
17 this by attorneys in the District of Delaware, by attorneys in the Tax Division, and by
18 attorneys in my office.
19 Q Okay. Do you know who from the District of Delaware was the primary
20 point of contact for your office?
21 A I do not.
22 Q Was that discussed during any of your meetings?
23 A The primary point of contact from the District of Delaware, no.
24 Q When you had the subsequent call with Mr. Weiss on September 19th of this
25 year, you mentioned that was your second call with Mr. Weiss?

1 A Sorry; you're asking about what date?

2 Q The one that occurred last month.

3 A That was the second call I've had with Mr. Weiss, yeah.

4 Q So you've only had two calls with him --

5 A Yes.

6 Q -- or have you had subsequent?

7 A I've had two calls with Mr. Weiss since becoming U.S. Attorney and just

8 during my lifetime.

9 Q Okay. The second call, how long did that last?

10 A Maybe 5 minutes or so.

11 Q Did he initiate the call, or did you initiate the call?

12 A He initiated the call.

13 Q Okay. And was he asking for something?

14 Ms. Zdeb. And, at this point, we're getting well beyond the scope of what Mr.

15 Estrada is authorized to discuss. This call, as you know from the dates, took place after

16 the events related to the question of whether to partner or cocounsel. And so he is not

17 able to get into the specifics of the more recent call with Mr. Weiss.

18 [redacted] All right.

19 BY [redacted]

20 Q Have you received any other materials other than the three memos on this

21 case?

22 A I'm trying to think. The materials I've received on the question of whether

23 to cocounsel was limited to the three memoranda.

24 Q What was your understanding of Mr. Weiss' ability to bring charges in this

25 case?

1 A My understanding was that Mr. Weiss had been doing this investigation for
2 several years, was leading the investigation, and would bring charges if he believed they
3 were appropriate.
4 Q And if charges needed to be brought in your district, what did he need to do
5 to do that?
6 A My understanding was that he could bring charges in my district.
7 Q And how would that work?
8 A I don't know the specifics of how it would work. He had SAUSAs in my
9 office. When I offered him administrative support and office space, he thanked me for
10 that. So it was my belief that he was going to be able to do that.
11 Moreover, DOJ components often litigate in my district and have the authorization
12 to do that. I don't know the specific code that necessarily gives that authorization, but
13 they have the ability to do that.
14 So my understanding was that, if he wanted to bring those charges in my district,
15 he could bring those charges in my district.
16 Q What is the difference between what you offered Mr. Weiss and what he
17 was requesting?
18 A He requested to cocounsel on the case, which, in my experience, having
19 practiced for over 20 years, including in private practice, which is most often where
20 I've -- in fact, I shouldn't say most often. That's my experience cocounseling, in private
21 practice.
22 In private practice, when you cocounsel, you're in completely. You litigate
23 everything. You're at every hearing. You're an equal member for trial. Every aspect
24 of the case you litigate, which obviously entails significant resources and entails
25 significant time on behalf of the attorneys involved.

1 Q Okay. Are you aware of any instance where your office agreed to
2 cocounsel or partner with a different U.S. Attorney's Office?
3 A No, I'm not, with a different U.S. Attorney's Office. We do partner quite
4 often with different components at Main Justice.
5 Q Okay.
6 A But I'm not familiar myself with partnering with another U.S. Attorney's
7 Office on litigation.
8 Q And did you communicate that to Mr. Weiss, that this was a request that
9 was out of the ordinary?
10 A I didn't communicate that it was a request -- that the request was out of the
11 ordinary. I mean, I was -- my goal was to be as polite and helpful to Mr. Weiss as
12 possible.
13 I was down 40 AUSAs at the time, so we were very resource-strapped. We were
14 trying to hire as much as possible and had very limited resources. And every attorney
15 you assign to a case means you can't do another case.
16 And it seemed -- and he didn't push back on -- when I told him the situation, that
17 we wouldn't be cocounseling, but he did express appreciation when I offered
18 administrative support.
19 Q So was his request out of the ordinary?
20 A I don't know if I could characterize it as out of the ordinary, because all I
21 know is my district. I was an AUSA in my district, and I am the U.S. Attorney in my
22 district. Our district is pretty unique.
23 Q Right.
24 A It's different from any other district. We have more than we can handle in
25 our district, so we typically do not go and litigate in other districts. But that may be

1 different, as there's 94 districts in our great country. So I don't know what the typical
2 practice is in other places.
3 Q Okay. But, in your experience -- I mean, before becoming U.S. Attorney
4 you'd been with the office for just shy of 8 years. Is that correct?
5 A Yes.
6 Q And you hadn't witnessed any U.S. Attorney from a district, different district
7 cocounseling or partnering with someone in your district, correct?
8 A In the Central District, that was not my experience. But, again, we are
9 unique. We are, unfortunately, the gang capital of this country. We're also the hub
10 for every cartel in this country.
11 So that means we may prosecute activity that occurs in other parts of the country,
12 but we have venue in our district to prosecute those conspiracies. We do national
13 security cases that go to other districts as well, but we generally have venue because so
14 much activity occurs in our district.
15 So our district is unique. So I would never presume to say that my experience in
16 the Central District of California somehow dictates what is typical for the rest of the
17 country.
18 Q When you told Mr. Weiss that you were unwilling to partner, that you
19 weren't interested in being -- having a cocounsel arrangement, did he indicate to you that
20 he was interested in taking you up on your offer of administrative support and office
21 space?
22 A The only indication he gave me was he thanked me when I told him that, and
23 that's all I can say.
24 Q Okay. Did it seem like Mr. Weiss was relying on you to give an up-or-down
25 decision on whether a case could be brought in your district?

1 A That was not my understanding, given that he had attorneys SAUSAed to my
2 district and that he thanked me when I told him I wouldn't be cocounseling but offered
3 administrative support.
4 Q Okay. Did he indicate to you that he was going to take you up on that offer
5 of administrative support?
6 A All I can say is he thanked me.
7 Q Okay. Can you tell us why your office decided not to cocounsel or partner
8 with Mr. Weiss on this case?
9 A So, again, I don't want to get into the deliberative process of how we analyze
10 which cases to do, which cases not to do.
11 What I can say at a high level is, generally, when we evaluate cases, we do so
12 under the Justice Manual guidelines. We look at whether a Federal offense has been
13 committed and whether we believe that there is admissible evidence sufficient to prove
14 to an unbiased trier of fact that an individual has committed an offense beyond a
15 reasonable doubt.
16 So we follow those guidelines. We also look to the practical impact of limited
17 resources. As I mentioned, we have over -- we have about 20 million people in the
18 district, yet, at the time I came in, about 140 AUSAs. That's just over one AUSA per
19 100,000 people in the district. At the same time, we're dealing with -- as I said, we're
20 the gang capital. We, unfortunately, export MS-13, Crips gangs, Hispanic gangs,
21 Mexican mafia to the rest of the country. Our cartels infect the rest of the country.
22 The fraud we have here infects the rest of the country.
23 So there were a lot of issues I needed to deal with right there and then which
24 called for resources.
25 Q Did you express to Mr. Weiss that your decision not to cocounsel with him or

1 not to partner with him on this case had more to do with the law and the facts, or was it
2 more of a resource issue, from your perspective?
3 Ms. Zdeb. And he's not able to get into the specifics of what he communicated
4 to Mr. Weiss or what his analysis was, as he has made clear.
5 BY [redacted]:
6 Q I think that's a pretty important question, so -- I mean, we're talking about a
7 time period that's relevant for this transcribed interview.
8 So I just ask you again, are you willing to tell us whether you communicated to Mr.
9 Weiss that your decision to, you know, deny him the ability to partner with you had more
10 to do with your resources, or did it have more to do with other issues?
11 A So I've been given very specific instructions in terms of what I'm authorized
12 and not authorized to speak about by Mr. Weinsheimer in the October 18th letter. I do
13 not want to violate those restrictions, so I can't get into the specifics. But, as I
14 mentioned to you, there were two general principles that we look at in terms of whether
15 we're going to devote resources to any case.

1

2 [10:58 a.m.]

3 BY [redacted]:

4 Q Okay. Did you have any additional communications on the Hunter Biden

5 case that you haven't told us about here today?

6 And I can cabin that off to the communications that occurred prior to the plea

7 bargain falling apart, the plea bargain in Delaware falling apart.

8 A Can you give me a date? I don't follow this stuff terribly closely and have

9 the dates in mind. So what date are you giving me?

10 Q Well, you told us about the communications that you had in 2022, in

11 October of 2022.

12 A Uh-huh.

13 Q And then you brought up a call that you had with Mr. Weiss in September

14 of 2023, and I'm just asking, is there any other communications you had either internally

15 or externally of your office on the case?

16 A There were communications that I had with my press folks in the spring of

17 2023 when we started getting press inquiries. As I mentioned to you, that was limited

18 to issuing a brief statement which I described to you earlier.

19 Q Okay. But did you have any communications with Main Justice, either the

20 DAG's office or the Tax Division?

21 A I had the communication with Brad Weinsheimer with regard to that brief

22 statement which I issued.

23 Q Okay.

24 A But beyond that, no.

25 Q Okay. Prior to his appointment as special counsel --

A Should we not be concerned about that buzzer?

[redacted]. Off the record.

[Discussion off the record.]

[redacted] Going back on the record.

BY [redacted]

Q Prior to his appointment as special counsel at the end of the summer, did you believe that Mr. Weiss had ultimate authority over the Hunter Biden prosecution?

A So I would disagree with the way you phrased the question.

Q Okay.

A My understanding, through all of my interactions with Mr. Weiss in Delaware, was that he was leading the investigation and was able to bring whatever charges he wanted at any point.

Q Okay. I mean, whether he had ultimate authority or not is a -- I mean, those are words that Mr. Weiss has used. So I was just asking you about that.

A I thought he had authority to bring the charges wherever he chose to when he was U.S. Attorney and certainly as he is now special counsel.

Q What's your understanding of the meaning of ultimate authority inside of DOJ?

A I don't know what that means within DOJ. It could mean lots of different things.

Q Okay. If someone has ultimate -- if a U.S. Attorney has ultimate authority to bring charges, does that mean they're the final decisionmaker?

A It could. I just don't use that term.

Q Okay. Well, Mr. Weiss has used it. So, you know, you're a U.S. Attorney, and so I'm just asking you. So that the term "ultimate authority" doesn't have meaning

1 to you?

2 A It has no special meaning for me in the context of being U.S. Attorney. I

3 would use authority. I have the authority to bring criminal charges, civil offense

4 charges, national security charges, many different types of charges.

5 Q According to the Justice Department's Justice Manual, the final authority for

6 the prosecution or declination of all criminal matters arising under the Internal Revenue

7 laws rests with the.

8 Assistant Attorney General for the Tax Division.

9 Is that something that you're aware of?

10 A So what I'm aware of is that, for certain tax charges, you need authorization

11 from the Tax Division to bring those charges and then also to dismiss those charges --

12 Q Okay.

13 A -- if you choose to dismiss them.

14 Q All right. But if the -- what's the Justice Manual -- maybe we can start

15 there -- to you? What does it mean to you?

16 A So the Justice Manual is what used to be the United States Attorney Manual.

17 Q Okay.

18 A And it is a lengthy set of guidelines for how offices operate and how

19 litigation should be conducted. So it pertains to criminal prosecutions. It pertains to

20 national security matters. It pertains to civil matters, administrative. There are many

21 different provisions.

22 Q Okay. And the Justice Manual with regard to tax matters states: The final

23 authority for the prosecution or declination of all criminal matters arising under the

24 Internal Revenue laws rests with the Assistant Attorney General of the Tax Division.

25 Is that something that you are aware of and something you're familiar with?

1 A I'm familiar with the fact that the Tax Division must approve certain tax
2 charges --
3 Q Okay.
4 A -- in order to have those filed, but also approve the dismissal of those
5 charges if a prosecutor wishes to dismiss them.
6 Q Okay. But, if the Justice Manual says that the Assistant Attorney General
7 for the Tax Division has the final authority, how do you reconcile that with Mr. Weiss'
8 statement that he had ultimate authority?
9 A I'm not going to attempt to reconcile anything. I can't get into the mind of
10 Mr. Weiss of what he meant by the term. You would have to ask him. And my
11 understanding of what the Tax Division's role is as I stated to you.
12 Q Okay. Are you familiar with 28, United States Code, 515, the special
13 counsel authority statute?
14 A I'm aware of 515 in the context of authorizing litigation by components and
15 also by U.S. Attorneys and attorneys for -- and even attorneys outside of the Department.
16 It's a very -- it's a general statute which pertains to the Attorney General being able to
17 authorize litigation. So I don't know that it is a special counsel statute.
18 Q Okay. Outside of 515, is there another way that the U.S. Attorney for
19 Delaware could have acquired ultimate authority from the Attorney General that you're
20 aware of?
21 A I don't know what the ultimate authority -- that's a vague term to me,
22 "ultimate authority."
23 Q Okay.
24 A It's not something I use, not a specialized term I'm familiar with. So I can't
25 answer that.

1 Q Okay. Outside of 515, are there other mechanisms the Department has to
2 grant charging authority to a U.S. Attorney that would supersede the Justice Manual?
3 A I mean, I have charging authority for cases. I don't know if that comes from
4 515 or elsewhere.
5 Q But your charging authority, I mean, you can't -- you can't go against the
6 Justice Manual. Correct?
7 A I don't know what you mean by "go against." They're principles. They're
8 general principles that we're supposed to follow, but the principles are general. So the
9 principle we most often deal with is deciding whether we believe there's sufficient
10 admissible evidence to prove a case beyond a reasonable doubt. That is a principle.
11 It's not going against or not going against. If we believe there's evidence, we believe
12 there's evidence.
13 Q Okay. I mean, what's not a principle, though, is the Justice Manual says the
14 final authority in tax cases, you know, rests with the Assistant Attorney General for the
15 Tax Division. Correct?
16 A I don't know the Justice Manual provision you're talking about. I can tell
17 you my understanding of what the Tax Division's authority is. They approve charges,
18 and you need approval if you're going to dismiss certain charges.
19 Q Right.
20 A Not all tax-related charges, but certain tax charges.
21 Q Right. So, if you're bringing a tax case in your division, you need the
22 approval -- the authorization from the Tax Division? Correct?
23 A I don't -- I can't say in all instances -- I can't say in all instances what the
24 requirements would be.
25 [redacted] Okay. We're out of time. We'll stop there.

1 [Recess.]

2 [redacted] It's 11:22. We can go back on the record.

3 EXAMINATION

4 BY [redacted]

5 Q Good morning again.

6 A Good morning.

7 Q I want to start off with just some followup questions from the prior hour.

8 You mentioned that you talked to a gentleman named Bradley Weinsheimer in

9 the --

10 A Brad Weinsheimer, correct.

11 Q Who is Mr. Weinsheimer?

12 A My understanding is he's the most senior career official in the Department

13 and sits within the office of the Deputy Attorney General. Beyond that, I don't have

14 more on his title.

15 Q And you spoke with him this past spring about media contacts that you had

16 received. Correct?

17 A Correct.

18 Q Why was Mr. Weinsheimer the person that you talked to?

19 A Because he was the person I understood that was handling questions in this

20 regard.

21 Q And, again, he's a career official. Correct?

22 A Yes, that was my understanding -- well, he is a career official. I know that

23 to be a fact, yeah.

24 Q Okay. And you spoke with him again in the lead up to today's interview.

25 Correct?

1 A I did not. So I received a letter from him --
2 Q I'm sorry.
3 A -- on October 18th regarding the scope of my authority to speak today.
4 Q And is it your understanding that you received that letter from him again
5 because he is the highest ranking career official?
6 A I don't have an understanding beyond the fact that he's the person that's
7 designated to handle this, and he's the highest ranking career official.
8 Q Okay. I want to turn to the discussion of SAUSAs again and just make sure
9 that I have my facts straight on this.
10 A SAUSA is a Special Assistant United States Attorney; correct?
11 A Correct.
12 Q And is it correct that the SAUSAs from Mr. Weiss' office that were appointed
13 as SAUSAs in the Central District of California had already been so appointed by the time
14 that you came to the office in September of last year?
15 A They had been appointed already, yes.
16 Q Okay. So you don't recall the exact date -- or you can't recall the exact
17 date, but it was before you came to the office?
18 A So, when I -- I usually get the request to authorize a SAUSA or to terminate a
19 SAUSA, and that request is made by folks at the line level, and it goes up through
20 the -- that division without attorneys, the Administrative Division. And then it comes to
21 me for signature. So I did not -- the authorization came before, and that's the extent to
22 which I know, and I've never authorized termination.
23 Q Okay. And, with respect to SAUSAs, just generally speaking, what can a
24 SAUSA do in your office when they're assigned to your office?
25 A So a SAUSA has full authority to litigate within our office. Most often

1 SAUSAs come from State practice. So, right now, I mentioned before we have a fentanyl
2 epidemic, and the State is unable to prosecute those cases as homicides. They're
3 limited in their authority of what they can do on those cases. So many of the State
4 District Attorney's Offices have given us State prosecutors to work as SAUSAs to do what
5 we call death resulting cases. Those are title 841 -- or section 841 cases, 21, 841, where
6 an individual sells a controlled substance, and that results in the death of another person.
7 That's a statute we didn't used to use very often before. But now that kids are taking
8 what they think is an Oxy or what they think is a Percocet and waking up dead the next
9 morning and the State is hamstrung by what they can do, we're getting more and more
10 SAUSAs to do those cases. The SAUSAs have the authority to investigate the cases, to
11 indict the cases, to try the cases, and they do that. We have a lot of those cases in our
12 district.
13 Q When a SAUSA is assigned to your office, can they consult with other
14 attorneys in the office, meaning, for example, regular assistant U.S. attorneys?
15 A They generally do because they don't know all the practices. So, just like
16 other AUSAs, they will consult with a supervisor. If there are questions about an
17 indictment or how to get grand jury time, or any sort of questions they may have, they
18 consult with supervisors in the office.
19 Q Okay. So they're not walled off. They're effectively part of the office. Is
20 that fair to say?
21 A Generally speaking, I'm not aware of any SAUSAs being ever walled off, so I
22 don't even know what necessarily that would mean. But I -- yeah, I'm not aware of
23 SAUSAs ever being walled off.
24 Q I want to move on and talk about your background a little bit and especially
25 prior to joining -- prior to your appointment as the U.S. Attorney in the Central District.

1 You said you first joined the Central District of California as an assistant U.S. Attorney in
2 approximately 2007. Is that right?
3 A Correct.
4 Q What was your role?
5 A When I first started I was in the General Crimes Section. I was a rookie, so
6 that was my role. I was a rookie learning how to prosecute cases.
7 Q And those were criminal cases?
8 A Those were criminal cases because I was hired for the Criminal Division. So
9 I started out learning how to do criminal prosecutions. I was in the General Crimes
10 Section for about 6 months. Then I went to what's known as the Violent Organized
11 Crime Section. And so, for the rest of my career I became a supervisor there and was
12 the international organized crime coordinator, which meant that I handled mostly
13 organized crime work in the office. I did mostly Eurasian organized crime,
14 Russian-Armenian organized crime cases. I also did gang cases in the context of
15 Mexican Mafia cases. We indicted one of the largest Mexican Mafia cases in the country
16 involving eight verified members. I also did some work on Crips gangs that were
17 manufacturing and distributing PCP and some cases on MS-13, which is a gang that
18 originated in Los Angeles but is largely Central American and is now present all over the
19 country, including in this area.
20 Q During that time, did you have the opportunity to try cases before a jury?
21 A Yes.
22 Q Could you estimate approximately how many cases you tried before a jury?
23 A Yes. I tried -- as an AUSA, I had 22 cases. I tried 22 cases. And, in
24 general, in my overall practice, I've tried over 35 cases in Federal and State court.
25 Q And, when you say "in general," that includes your time in private practice?

1 A Correct.

2 Q I want to talk through some of the cases that you have overseen since you

3 became the U.S. Attorney in September of last year.

4 Are you familiar with a defendant named Jose Huizar?

5 A Yeah. Jose Huizar was a member of the Los Angeles City Council for about

6 15 years. He was one of the highest ranking members in the city council. He was the

7 first Latino to be a fellow of Princeton University. He was a very sort of high-riser in

8 California politics. We indicted him actually on RICO charges, and he pled guilty I believe

9 either late last year or early this year.

10 Q And which political party was Mr. Huizar a member of?

11 A He was a Democrat.

12 Q So is it fair to say that, while -- and was he also -- did he also plead guilty to a

13 count of tax evasion?

14 A My understanding is yes.

15 Q Okay. So is it fair to say that while you were serving as U.S. Attorney, your

16 office actually prosecuted a Democratic politician for tax-related crimes?

17 A While I've been U.S. Attorney, we've prosecuted several Democratic

18 politicians for a variety of crimes. The most prominent one, we tried an individual

19 named Mark Ridley-Thomas. He was one of the most powerful African-American

20 politicians in the State, if not the country. He served in the city council but also as a

21 member of the county board of supervisors, also in the State assembly and also in the

22 State senate. We charged him with bribery with regard to funneling money to his son

23 who had left his position in the State senate after there were allegations of sexual

24 harassment. And his father, Mark Ridley-Thomas, funneled money through USC to his

25 son inappropriately.

1 But there's many beyond that. We've indicted three different city council
2 members in the last few years, all Democrats. We also have indicted several other
3 politicians in the L.A. area. L.A. is not just the city of Los Angeles. There are many
4 other cities around there, and we've indicted many individuals.
5 Q Is it fair to say that your office is not swayed by political party when
6 considering whether to charge an individual?
7 A We are -- we adhere to the Justice Manual and the principle of validating
8 cases unbiasedly and just based on the facts and law, and we take the facts and law
9 where they take us. And that could mean any individual, regardless of his or hers fame,
10 position, power. It doesn't matter.
11 Q I want to turn to the Justice Manual. And you've mentioned it a couple of
12 times that your office follows the Justice Manual.
13 [redacted] I want to introduce as, I guess it's exhibit number 1 --
14 Mr. Estrada. Okay.
15 [redacted]. -- an excerpt from the Justice Manual's principles of Federal
16 prosecution. It's section 9-27.220, and it's entitled "Grounds for Commencing or
17 Declining Prosecution."
18 [Estrada Exhibit No. 1
19 Was marked for identification.]
20 Mr. Estrada. Is it just these two pages?
21 BY [redacted]
22 Q So this is the cover page of the section, and then it's section 9-27.220. So it
23 is on the bottom of the second page -- of the third page, I guess.
24 A Okay.
25 Q And I should say we printed this off online. The full section; I think it's

1 30-some pages. So, in this exhibit, we're only including the excerpt that we're going to
2 talk through.
3 A Understood.
4 Q I'm going to read out loud the section entitled "Grounds for Commencing or
5 Declining Prosecution."
6 It says: The attorney for the government should commence or recommend
7 Federal prosecution if he or she believes that the person's conduct constitutes a Federal
8 offense, and that the admissible evidence will probably be sufficient to obtain and sustain
9 a conviction, unless, number one, the prosecution would serve no substantial Federal
10 interest; number two, the person is subject to effective prosecution in another
11 jurisdiction; or, number three, there exists an adequate noncriminal alternative to
12 prosecution.
13 Did I read that correctly?
14 A Yes.
15 Q Okay. This section refers to the term "admissible evidence." And you also
16 used it in the first hour.
17 In layperson's terms, what does "admissible evidence" mean?
18 A It means evidence we can present to a jury. So, in many instances, we may
19 be aware of information, scuttlebutt that may be out there. For instance, very often in
20 gang murders everyone in the neighborhood knows who did it. It doesn't mean we can
21 admit that at trial. That would often be hearsay or lack of foundation, so it wouldn't be
22 admissible.
23 So we need to be sure that the evidence that we're admitting is admissible under
24 the Federal Rules of Evidence, and it's sufficient to sustain a conviction beyond a
25 reasonable doubt. And sustain is important because that means not just obtaining a

1 conviction but also making sure that we will sustain that throughout the appellate
2 process.
3 Q And you referenced "beyond a reasonable doubt." "Beyond a reasonable
4 doubt" is actually the highest evidentiary standard in law; correct?
5 A As defense attorneys always like to say, yes, it is.
6 Q And it's a higher standard than, for example, the probable cause standard
7 that is needed just to obtain an indictment; correct?
8 A Correct.
9 Q And it's a higher standard than the preponderance of the evidence standard
10 that's often needed to obtain a judgment in your favor in a civil case. Correct?
11 A Correct, yes.
12 Q In layperson's terms, to the best of your ability, can you explain what
13 "beyond a reasonable doubt" is?
14 A So "beyond a reasonable doubt" is evidence -- there's a Ninth Circuit
15 instruction on this -- that leads you firmly convinced in the guilt of an individual. It's not
16 beyond all possible doubt, but it's based on reason and common sense. But it is the
17 highest standard that exists under law.
18 Q So --
19 A The other important part of that when we talk about sustaining a conviction
20 is, to get a conviction under criminal law, you need a unanimous jury of all 12 jurors
21 voting to convict. And that's an important distinction from civil practice where you
22 don't need a unanimous jury to find even by a lesser standard, which is the
23 preponderance standard.
24 Q Have you ever had an experience as a prosecutor where you felt strongly
25 that you had presented the jury with sufficient evidence to prove a case beyond a

1 reasonable doubt and sustained that conviction, but there was maybe one juror who
2 didn't agree, and so, as a result, that defendant was not convicted?
3 A I've had that occur several times in my career, yes.
4 Q Can you describe those cases just broadly speaking for us?
5 A Sure. Those are known as often hung juries where the jury can't come to a
6 decision. I've had that occur at least four, five times. That's why I've tried so many
7 cases. I've had to repeat some of them. You know, it helps you understand the
8 difficulty of proving proof beyond a reasonable doubt because one person can be
9 unconvinced and prevent a conviction from going forward.
10 I had one instance in my career where we had an individual visiting the United
11 States from Armenia, from the Sochi area -- not Armenia, but Russia, from the Sochi area.
12 He was kidnapped and shot several times by an Armenian group that wanted to extort
13 him and demand money from him. He was held for 5 days and forced to different stash
14 locations. We rescued him on fourth day. SWAT went in. There's videos of SWAT
15 going in rescuing him. He was suffering from significant injuries from the untreated
16 gunshot wound.
17 And I'll never forget the testimony from the trauma surgeon who testified that,
18 when he made the first incision into the individual's stomach, out erupted a fountain of
19 liquid stool. He had to go through four different surgeries. He ultimately survived
20 after 2 months.
21 We tried three individuals for the kidnapping, and it hung, and it was two jurors
22 who hung it, and it was largely what we call jury nullification. They didn't like the
23 prosecution because they believed that the victim was himself involved in criminal
24 activity and had connections to powerful people in Russia, what's known as thieves in
25 law, which is essentially the godfather in Russian organized crime. And, because of that,

1 they didn't want to convict. So we had to retry that case, much shorter, and ultimately
2 got a conviction on that case.
3 But we had -- the evidence was, in our view, extremely strong, but still some
4 jurors didn't agree in the first instance.
5 Q So, turning to the Hunter Biden investigation specifically -- and I don't want
6 to ask you about deliberations, but I want to talk about the kind of considerations that
7 your office had to think through under the Justice Manual and in particular the
8 decision -- or the recommendation that was made to you by the chief of the Major Frauds
9 Section and the Criminal Section.
10 And you said -- before I go there, the chief of the Major Frauds Section and the
11 Criminal Division chief in the Central District are both career employees. Correct?
12 A They are, yes.
13 Q And can you say again for the record how many years of experience they
14 have?
15 A They have at least over 40 years of experience combined, probably more in
16 the ballpark getting to 50 years.
17 Q So, without revealing -- and they made a recommendation to you; correct?
18 A Correct.
19 Q And you accepted that recommendation?
20 A The recommendation was not to cocounsel on this matter, yes, and I
21 accepted that.
22 Q Without revealing your actual deliberations or your discussions on the
23 matter, was one thing that you considered whether there was sufficient admissible
24 evidence such that prosecutors could sustain a conviction from a jury in your district?
25 Ms. Zdeb. And he can answer that question, not about this case specifically

1 because that involves the ongoing case, but he can talk about his general process. To
2 the extent he can talk about his general process, he needs to do it with respect to broadly
3 speaking in all cases. But he cannot speak about the considerations that he evaluated in
4 this case.
5 A So I can't get into the specifics what was discussed and what law or facts
6 were analyzed in this case. I'll say the general matter that we discuss when looking at all
7 matters are the Justice Manual requirement that we only prosecute cases where we
8 believe a Federal offense has been committed and where we believe there will be
9 sufficient admissible evidence to prove a case beyond a reasonable doubt to an unbiased
10 trier of fact.
11 And we also discuss the second principle of ensuring the practical aspect of having
12 limited resources and ensuring we prosecute cases in light of those limited resources.
13 BY [redacted]
14 Q And that's the case -- and you said you apply those principles -- or you
15 consider those two principles in all cases that come before you. Correct?
16 A Yes.
17 Q And this was one of the questions that came before you was pertaining to
18 the Hunter Biden matter. Correct?
19 A The question of whether to cocounsel on this investigation, which was being
20 led by the District of Delaware.
21 Q In addition to the probability of obtaining and sustaining a conviction at trial,
22 the Justice Manual's principles of prosecution also instruct prosecutors to consider
23 whether there exists an adequate noncriminal alternative to prosecution; correct?
24 A Yes.
25 Q And that applies in all cases; correct?

1 A Yes. We have what's known as a CASA program, which is Conviction
2 Alternative and Sentencing Alternatives program, in which some individuals we send to a
3 program where they go through course work for a period of time, and after that, either
4 they receive a probationary sentence or, in a different, track the charges are dismissed.
5 Those are often for individuals who commit crimes as a result of substance abuse,
6 but -- and also as a result of being pressured into committing crimes by gangs and cartels
7 and things of that sort.
8 So we do have a program for that, which I believe ours was one of the first in the
9 country, so we're proud of it.
10 Q And, in tax-related cases in particular, there are alternatives to criminal
11 prosecution that are routinely pursued, such as a payment of civil penalties. Correct?
12 A In our district, we actually have a Tax Division. We have a Tax Division
13 which handles tax matters, and they do it on the civil side, not criminal. But, even their
14 cases largely pertain to tax preparers and accountants and firms that on a routine basis
15 are helping individuals not pay their full amount of taxes. And they'll also prosecute
16 cases against individual taxpayers where they fail to pay the tax or hiding accounts
17 overseas or things of that sort. But those are all done generally on the civil side.
18 Q To the best of your knowledge, has the Central District ever prosecuted an
19 individual for tax-related crimes when that individual has paid the taxes in question? I
20 mean criminally prosecuted.
21 A My understanding is where an individual has not paid taxes in the first
22 instance but later paid those taxes with penalties and interest before a prosecution is
23 initiated or an investigation is initiated, we have never brought criminal charges.
24 Q Is willfulness something that prosecutors have to prove in a tax evasion
25 case?

1 A Under most tax statutes, felony and misdemeanor, for a criminal case, one
2 would need to prove willfulness.
3 Q And what does "willfulness" mean again in layman's terms?
4 A Willfulness means the knowing violation of a legal duty. So it's
5 essentially -- specific intent is another way it's sometimes described -- that you know
6 you're violating the law, not just that you violate the law, but you know you're violating
7 the law.
8 Q If an individual has paid taxes that are due, might that make it challenging to
9 prove willfulness?
10 A That could add to the defense argument that the individual did not
11 knowingly violate the law. But there's lots of factors that go into whether an individual
12 knowingly violated the law, such as whether they hired an attorney or a tax
13 preparer -- that's often part of a defense because they hired trained individuals to do it
14 for them -- whether an individual falsified books and records or kept double books, so
15 that's another factor as to whether or not there's willfulness, and whether or not there
16 was concealment of assets from the IRS. That's another factor that goes to willfulness.
17 When we don't have those facts, it becomes much harder to prove willfulness.
18 Q Can it matter if an individual was suffering from substance abuse, for
19 example, at the time that they allegedly failed to pay their taxes?
20 A It depends on the facts and circumstances. If the defense becomes that
21 the substance abuse was such that they did not have full control of their faculties or
22 unaware of actions they were doing, I'm sure they would present that as a defense and
23 try to convince a jury they didn't act -- they were in violation of a legal duty.
24 Q You said over and over again that, when Mr. Weiss asked your office to join
25 or cocounsel on this prosecution, your response was guided by -- or your response and

1 your office's recommendation and, ultimately, your decision was guided by consideration
2 of the Justice Manual's Principles of Federal Prosecution. Correct?
3 A Yes. That was at least guided by those principles.
4 Q Was your response and your decision influenced in any way by personal,
5 political, or partisan considerations of any kind?
6 A It was not.
7 Q Was your decision influenced in any way by people outside your office, such
8 as people at the White House or the Deputy Attorney General or the Attorney General's
9 Office who sought to affect your decision?
10 A No. And I had no contact with those individuals when making decisions.
11 Q What impact, if any, do you believe that your decision not to cocounsel on
12 this case had on Mr. Weiss' efforts to potentially prosecute Hunter Biden in the Central
13 District of California?
14 A None. I believe then, I believe now that he had full authority to bring the
15 case if he chose to do so. It was his investigation. He knew it best. His prosecutors
16 knew it best. They've had it for several years, and it was up to them to decide whether
17 to bring it or not. And whether or not we cocounseled would be immaterial to whether
18 he could bring the charges that he found appropriate.
19 Q And is it fair to say that you never took any steps to block Mr. Weiss from
20 bringing charges in the Central District of California?
21 A Never. In fact, to the contrary, my office before I had come in had
22 appointed as SAUSAs people from his office, and I had offered him administrative support
23 and office space to pursue his case, which he thanked me for.
24 Q And, when you say "administrative support," can you explain what that
25 means?

1 A It can mean a lot of things. And I use the term in part because I don't want
2 to reveal aspects of the deliberative process. But it could involve secretarial support,
3 filing support, how to file in the Central District, how many copies are required, paper, IT
4 support, trial presentation support, how to do a PowerPoint, folks that help you prepare
5 the PowerPoint, and we have a grand jury administrator who reserves grand jury time,
6 the number of copies that need to be filed with the court after you get a true bill from a
7 grand jury, a lot of things that, thankfully, lawyers don't have to work on, but we have
8 great staff that handle those things.
9 Q And, when you offered Mr. Weiss all administrative support, he understood
10 that this was the type of support you were providing to him?
11 A I believed that he had that understanding given how he thanked me for it,
12 but I always say I can't get into his head.
13 Q You said in the earlier hour that, when you relayed to Mr. Weiss that you
14 weren't interested in cocounseling, joining as cocounsel, but you would be willing to
15 provide any administrative support that he might need, he didn't push back on the
16 decision not to join as cocounsel.
17 Do you remember saying that?
18 A I don't recall specifically, but if you say so.
19 Q Well, what does not push back -- does that mean that he didn't try and
20 convince you to join?
21 A We didn't have a discussion, a back-and-forth, about whether or not to
22 partner on the case or a discussion about the charges he was contemplating. It was
23 simply him listening to me for a short period of time. It seemed like he already had an
24 understanding of my reasons, given that there was little discussion, and it was such a
25 short conversation; I didn't need to say much to him. And then I proceeded to tell him

1 he would have support and administrative support, and he thanked me for it.

2 Q You were nominated in June 2022. Correct?

3 A I believe so.

4 Q As part of your nomination, did you make any assurances or promises to

5 anybody regarding how you would handle the Hunter Biden matter?

6 A No. Sorry to laugh. I was not aware of the Hunter Biden matter until late

7 September, early October of 2022.

8 Q So, during the entirety of your nomination and ultimate confirmation, you

9 had no knowledge of the Hunter Biden matter whatsoever?

10 A I did not have any knowledge of it. But also I partly laugh because of the

11 absurdity of agreeing on any particular case of how I would handle it. I wouldn't have

12 taken the job if I had to make assurances to people of how I would handle the criminal

13 cases. The reasons to do the job is for the love of the office, for the love of the country,

14 and to do the right thing. So I would have never made such assurances.

15 Q The suggestion was made in the earlier hour that perhaps this case should

16 be treated differently because it involves the son of the President, so, for example,

17 perhaps you should be talking to the SAUSAs on the case or something like that. But, in

18 fact, you have treated this case like any other case; correct?

19 A Yes. In terms of how to analyze whether to cocounsel on the case, I've

20 treated it like every case we get.

21 Q And why is that?

22 A Because that's the appropriate way for the Department of Justice to conduct

23 its business. The Department of Justice is not partisan. That's always been one of the

24 abiding principles of the Department. That's why we get some of the best lawyers in the

25 country to work for us because -- and they're of all different stripes, every associated

1 background, every part of the country. They want to work for us because we play it
2 straight, and we take every case where the facts and the law go, regardless of any
3 considerations -- inappropriate considerations who the individual is. That's the reason
4 people love the job, love the office, love the Department and are so proud to serve our
5 client which is the United States of America.
6 [redacted] Thank you.
7 I'm going to turn it over to my cocounsel, [redacted]
8 BY [redacted]
9 Q Hi, Mr. Estrada.
10 A Hello.
11 Q I just want to ask you a couple of questions about your experience with the
12 need to go to the Tax Division on certain types of charges.
13 In the previous hour, you indicated that for certain tax charges you need authority
14 to bring or dismiss those. Is that your understanding?
15 A My understanding is, for certain tax charges, you need authority from the
16 Tax Division to indict them, to file them, and also if you later want to dismiss them.
17 Q Okay. And, when you are referring to that authority from the Tax Division,
18 is that something in the Justice Manual that led you to believe that you needed that
19 authority from the Tax Division?
20 A So I acquired that understanding from my time as an AUSA. I had
21 matter -- another organized crime matter where there was a group of individuals who
22 were stealing identities and submitting false tax returns on a massive scale and made over
23 $20 million through that scheme. And, when I was investigating that case and looking at
24 what charges I could bring, I looked into potential tax charges since they were false tax
25 returns and consulted with the Tax Division and came to the understanding that they

1 needed to approve any sort of specific tax evasion type charges if I was to file those.

2 Q And so the Tax Division was referring themselves to the Justice Manual in

3 terms of the need to get that authority. Is that right?

4 A I was told by a supervisor you have got to go to the Tax Division if you want

5 to bring these charges.

6 Q Okay. But you, yourself, never looked at the Justice Manual with respect to

7 that authority or --

8 A I can't recall if I did or not. This would have been probably 13, 14 years

9 ago, so --

10 Q I understand.

11 A -- I can't recall.

12 Q Okay.

13 [redacted] I'm going to introduce as exhibit 2 -- this is a part of the Justice

14 Manual.

15 [Estrada Exhibit No. 2

16 Was marked for identification.]

17 BY [redacted]

18 Q It's section 6-1.100 entitled "Department of Justice Policy and

19 Responsibilities - Tax Division."

20 A So the previous document I can give back or --

21 Q You can set it aside or -- either way.

22 This one is just one page --

23 A Okay.

24 Q -- the first part of that section.

25 A So you're asking about which provision?

1 Q So, yeah, let me direct your attention. The first section of the sentence
2 actually -- this is that bold paragraph there underneath the headline. It says: The
3 Assistant Attorney General for the Tax Division, subject to the general supervision of the
4 Attorney General and under the direction of the Associate Attorney General, is
5 responsible for conducting, handling, or supervising the following matters.
6 And then it lists certain types of cases; correct?
7 A I see that.
8 Q Okay. I guess what I want to emphasize is the very first part that says that
9 these matters, even these specific ones that are identified as kind of special under the Tax
10 Code, these are under the general supervision of the Attorney General according to the
11 Justice Manual.
12 Is that fair to say? I'm sorry. That's the very first line of the --
13 A Subject to the general supervision of the Attorney General and under the
14 direction of the Associate Attorney General, yes.
15 Q Right. Okay. And the Justice Manual itself, you indicated earlier it's a set
16 of principles in your mind?
17 A Many of them are principles. It's a very extensive document, so I wouldn't
18 attempt to characterize the entire thing, but there are many principles that we need to
19 follow.
20 Q They're regulations; is that right?
21 A I don't know if it's in the Code of Federal Regulations, if they're CFRs or not.
22 Q I need you to look at the bottom of the page here. You can see a cite to 28,
23 CFR, sections .70 and .71, but I don't want to --
24 A Apparently they are.
25 Q But they're not statutes. Is that fair to say?

1 A I never understood it to be a statute.

2 Q And you indicated earlier that you understand, as the United States

3 Attorney, that you have authority to bring criminal charges in your district; correct?

4 A Yes.

5 Q And that authority does derive by statute, correct, section 515?

6 A That's my understanding.

7 Q Okay. And the statutory authority to prosecute Federal offenses in the

8 United States rests in the Attorney General ultimately. Correct?

9 A That's my understanding. We have an org chart. I report technically to

10 the Deputy Attorney General, and the Deputy Attorney General reports to the Attorney

11 General.

12 Q Okay. And the Attorney General can delegate authority as he wishes within

13 the Department of Justice --

14 A Yes.

15 Q -- to some extent?

16 A Yes.

17 Q I guess my point is this. If there's something in the Justice Manual that asks

18 an attorney to seek approval or authority from another part of the Justice Department

19 like the Tax Division, do you see any reason that the Attorney General, him or herself,

20 could not make an exception to that policy just because it's written down in the Justice

21 Manual? Do you think that they would have the authority to direct the Tax Division, for

22 example, to allow charges to go if that's what he chose?

23 A So I've never encountered any situation of that sort. Every Attorney

24 General has broad powers to delegate within the Department and revise aspects of the

25 Justice Manual. The Attorney General is the ultimate authority for the entire

1 Department of Justice.

2 Q Okay. So, if the Attorney General Merrick Garland says with respect to the
3 issue that we've been discussing today that a U.S. Attorney, Mr. Weiss, had full authority
4 to bring charges with respect to a certain person, Mr. Biden, do you believe -- do you
5 have any reason to believe that he was not being truthful when he said that just because
6 there might be something in the Justice Manual that asks for consultation or authority
7 from the Tax Division?

8 A I had no reason to believe that the Attorney General's statement was not
9 accurate. I believe it was accurate, given that was my understanding when Mr. Weiss
10 and his office first sought to have us partner on the case and my career folks
11 recommended not doing it. So my understanding was and is that he, Mr. Weiss, had the
12 authority to bring the case where he chose. And, when the media reached out, that's
13 why we put out a very brief statement echoing what the Attorney General had stated.
14 As the Attorney General stated, Mr. Weiss had full authority over the investigation.

15 Q And, if a career attorney or supervisor or someone else in Main Tax had
16 decided "I'm going to advise you not to bring these charges," do you think that the
17 Attorney General himself could have weighed in on that and made sure that, like he said
18 publicly, Mr. Weiss had ultimate authority to bring those charges, notwithstanding what
19 some other person in Tax Division's opinion might have been?

20 A I would think so, but I never worked in the Tax Division. I don't know how
21 they operate. I don't know how they do things. I only had that one interaction. And
22 we actually declined to bring tax charges because we didn't want to have to go to the Tax
23 Division to decide whether to dismiss them. So it was a limited interaction with the Tax
24 Division that I had.

25 Q Okay. But, in your position with the Justice Department and various

1 positions that you've held, can you imagine situations where you might have to deviate
2 from something that is policy within the Justice Manual by going higher up and asking for
3 permission to deviate in a special circumstance?
4 A I can imagine situations even with the Deputy Attorney General or the
5 Attorney General to directing certain courses of action or changing aspects of the Justice
6 Manual, it's certainly possible. I just haven't encountered it myself.
7 Q All right. And through your career as the former U.S. -- it was actually
8 formerly called the U.S. Attorneys' Manual, and then it changed to the Justice Manual?
9 A It was the USAM, U.S. Attorneys' Manual, yes.
10 Q So, through your career, have you ever seen changes to policies as they've
11 been sort of memorialized in those manuals?
12 A Very frequently.
13 Q Okay.
14 A In fact, this one says: Updated June 2020.
15 [redacted] Okay.
16 BY [redacted]
17 Q And so I think just to wrap up what [redacted] was asking, ultimately the
18 Attorney General is in charge of Justice Department; correct?
19 A Correct.
20 Q And the Attorney General has final say over what happens in the Justice
21 Department; is that fair to say?
22 A Yes, yeah.
23 Q And so, ultimately, if the Attorney General wants to effectively override
24 what's written down in the Justice Manual, the Attorney General can do that; correct?
25 A That would be my understanding, but I've never had a situation where I have

1 encountered that.

2 Q I want to move on. You've mentioned a couple of times resource

3 considerations --

4 A Yes.

5 Q -- in your office.

6 A Uh-huh.

7 Q And I want to talk about that in a little more detail. The Central District of

8 California covers the largest Federal district in the Nation; correct?

9 A We're the largest district in the country, correct.

10 Q How many people does the Central District of California cover?

11 A We have just under 20 million people, seven counties, going from Los

12 Angeles County, Orange County in the south, which has about three-something million

13 people. We have the Inland Empire, Riverside, San Bernardino -- San Bernardino being

14 the fastest growing county in the country, about 4 million something -- and to the north

15 we have Ventura, Santa Barbara, and San Luis Obispo.

16 Q And you said I think earlier that your office currently employs around 300

17 Assistant U.S. Attorneys. Is that right?

18 A We have 300, but that's overall. Criminal prosecutors, we have about 170.

19 Q 170. And I think you also said that, in September of last year, so when the

20 decision about whether to cocounsel on this case was first brought to you, you were

21 down about 40. So you would have had 130, approximately, Criminal Division

22 prosecutors?

23 A We were down 40. It was more like 140 because at the same time that I

24 had been hiring as much as possible, we had continued attrition. Our office is one

25 where people often leave for different opportunities, whether it be judgeships, whether it

1 be private practice, whether it be going to another public sector office. So we get
2 attrition too. So I think we're more at the 140 area and are now at 170.
3 Q And you said earlier that 140 -- approximately 140 is equal to one U.S.
4 Attorney for every 100,000 citizens or residents of your district; correct?
5 A Just around that. I mean, just to put it into perspective, it was a crisis mode
6 when I came in because one of the major areas we have is national security. National
7 Security covers not just foreign actors. It includes terrorist actors. It includes domestic
8 extremism. And I've had to double the size of that division during the time I've been
9 there, and we still can't handle all of the cases we have there.
10 Q And that's today, even doubled, you don't have sufficient attorneys to
11 handle all of the cases?
12 A Well, that's true in every one of our areas. We don't have enough AUSAs
13 to handle our national security matters. We could be doing -- every AUSA in my office
14 could be doing PPP fraud cases we have so much PPP fraud. Every --
15 Q PPP is the --
16 A That's the COVID fraud, COVID-19 money fraud. Every AUSA in my office
17 could be doing healthcare fraud cases we have so much healthcare fraud. We have to
18 deploy our resources in the most effective manner to address the needs of the district.
19 As I mentioned, we have a fentanyl epidemic. That includes not just death-resulting
20 cases, it includes going after cartels which are distributing these pills, not just in powder
21 form but in pill form. We routinely seize over a million pills at a time from vehicles, and
22 we need to prosecute those cases. Each pill could be a death. And routinely now
23 we're finding cartels transporting fentanyl in liquid form, which is a new thing that they're
24 doing. So we have to do those cases.
25 We have a violent crime crisis where, for a variety of reasons, including some of

1 the local policies, there has been an increase, certainly in our view, of violent crime and
2 use of handguns in crimes. We have taco vendors on the streets getting robbed at
3 gunpoint. So we are doing more of those types of offenses than we ever have before.
4 We don't have enough resources to do those.
5 And, as I mentioned, the public corruption area is one where we've been very
6 active. We've been trying to do as much as we can there, but even there it's very
7 resource strapped.
8 BY [redacted]:
9 Q You've talked a lot about the different types of cases that your office
10 handles. Some of those fall outside of the typical buckets, and I just want to ask you one
11 question about one of those.
12 While you're sitting here today answering questions about your decision not to
13 partner on the prosecution of Hunter Biden, your office is beginning trial in a case
14 involving the death of 34 individuals who were killed in a fire on a dive boat; correct?
15 A Uh-huh.
16 Q And that's starting today?
17 A Yes. Sorry.
18 Q I'm sorry to bring up an emotional subject. I will ask one followup
19 question.
20 A Uh-huh.
21 Q Do you feel that your time would be better spent if you were in the office
22 supporting your team on that case?
23 A So we have a -- I'm sorry to get a little emotional, but it's 33 individuals who
24 died. It's a ship called the Conception, which was out on Labor Day weekend of 2019.
25 It was all families, young people, retirees went out for a diving expedition off Santa Cruz

1 Island, which is an island that's rural, has no development, no gas stations, no
2 convenience stores, nothing. And, because the captain hadn't trained his crew on how
3 to use fire equipment that was on the ship, did not, contrary to Coast Guard regulations,
4 have a watch person at all times, allowed a small fire to become a conflagration, which
5 erupted and killed all of the passengers on board except for the captain and a few crew,
6 who were first off the ship and allowed this tragedy to happen.
7 And I get a little emotional because we've been dealing a lot with the victims on
8 the case, the victims' families, and they have been going through hell on the case. So it's
9 a very difficult matter to talk about.
10 [redacted] Thank you. And I apologize.
11 BY [redacted]
12 Q I want to move on to -- we have a little bit of time left.
13 A Sure.
14 Q -- to another topic that I guess might also be a little emotional.
15 You referenced the media inquiries that you received for the handling this case in
16 the spring of this year.
17 A Uh-huh.
18 Q Is it fair to say that this investigation, the Republican investigation, into Mr.
19 Weiss' investigation in particular has received substantial press coverage?
20 A I am aware that there has been press coverage. I don't track this on a
21 day-to-day basis. In fact, as executives of the Department, we get a daily email which
22 has snippets from various criminal prosecutions and issues around the country, and that's
23 where I've seen some articles on this topic. But I don't track it myself, but I've seen
24 articles on this topic.
25 Q And your office specifically has been in the public eye because of this

1 investigation; correct? I mean, you got a media inquiry.

2 A I've gotten media inquiries. I wouldn't say we're -- we're not obsessing

3 over the media inquiries that we get. We get a lot of media inquiries. We respond to

4 those media inquiries and move on.

5 Q Have you personally received any incoming communications from the public

6 about this investigation?

7 A Those I wouldn't categorize as media inquiries. But, yes, I have received

8 what I would categorize as hate mail, hate emails on this matter.

9 Q Can you estimate how many hate emails you've received because of this

10 investigation?

11 A Dozens. I don't fixate on it because I try to move those and not let it take

12 up most of my days. I don't focus on it, but it's been dozens of hate communications.

13 Q Can you describe any of the hate communications that you've received?

14 A Again, I don't focus a lot on it. I try to leave it aside, but I have been

15 slandered using epithets, the N word, certain derogatory terms reserved for Latinos. So

16 I've gotten a lot of communications from the public showing a lot of hatred.

1

2 [12:11 p.m.]

3 BY [redacted]

4 Q Do you have any concerns for your safety because of these communications?

5 A So I've forwarded many of the communications to the Marshals Service, so

6 they've been assisting with security issues.

7 Q Uh-huh.

8 A I have confidence in the Marshals Service, but I've always -- because of the

9 nature of the work I do and what I did as an AUSA with organized crime work, I've always

10 taken precautions. So, if you notice, I don't have a wedding ring. I tend to not -- and I

11 don't have, generally, screensavers with my kids and things like that. So I try to -- I take

12 precautions always because of the nature of the work we do.

13 Q And the work you did prior, in your prior time with the U.S. Attorney's Office,

14 was violent-crime- and organized-crime-focused. Is that right?

15 A Yes.

16 Q And it's fair to say that you were the target of some threats or other

17 threatening communications because of that work?

18 A I received seven verified threats during the time I was an AUSA.

19 Q In your time now, is it fair to say that you're also receiving threats and hate

20 mail because of your work and because of the investigation into Hunter Biden

21 specifically?

22 A I receive a lot of hate mail and threats as a result of doing this work, and

23 there was certainly an uptick when the news came out in the spring regarding the Hunter

24 Biden investigation.

25 BY [redacted]:

1 Q Mr. Estrada, you mentioned during the previous hour --
2 A Uh-huh.
3 Q -- your office, when you were a line AUSA, there was a case that was
4 prosecuted in your office from another district where venue had been transferred to the
5 Central District of California, correct?
6 A Yes.
7 Q And that was a case that came from North Carolina, correct?
8 A No. The case I was thinking of was one that came from the Eastern District
9 of New York.
10 Q So you're not aware of a case from North Carolina, U.S. v. Avedis Djeredjian,
11 that was prosecuted by prosecutors from North Carolina while you were an AUSA?
12 A That one doesn't ring a bell with me, no.
13 Q Okay. Fair enough. And the one that you recall was from the Eastern
14 District of New York?
15 A Yes.
16 Q And that's Brooklyn and Queens?
17 A I don't know if they have Queens. They definitely have Brooklyn. I think
18 it's Long Island. I'm not sure of their full district.
19 Q Fair enough. And, in that case, do you know, was your office asked to
20 partner?
21 A We were not asked to partner. It was transferred by a judge out to our
22 district, so the AUSA on that case had to come out to our district. I know because I
23 helped that AUSA navigate our court system and filing system and things like that.
24 Q Is that the type of administrative support that you offered to Mr. Weiss?
25 A Yeah. Well, that sort and more. I mean, I got direction from the

1 supervisor, you're going to help with this case. But I'm sure that person got other
2 support from our staff, IT support, things of that sort, that I wasn't directly involved in.
3 Q Fair enough. And are you aware of whether that case concluded? Was it
4 a jury trial? Do you know what happened?
5 A Ended up as a change of plea, as a plea agreement, later while it was being
6 litigated in our district.
7 Q And the defendant was sentenced in your district as well?
8 A Yes.
9 Q Okay.
10 [redacted] Thank you. We can go off the record.
11 [Recess.]
12 [redacted] Back on the record.
13 BY [redacted]:
14 Q At the end of our last hour, when I was asking you questions, I asked you
15 about Mr. Weiss's use of the term "ultimate authority," and I think you characterized that
16 as not a very precise --
17 A Well, I cannot say what he meant by "ultimate authority." It's not, sort of,
18 terminology that I use as U.S. Attorney, so I can't say what he meant by "ultimate
19 authority."
20 Q But could there be anything more than ultimate authority? Like, just as an
21 American reading those words, like, what else could he have meant? Like, if he didn't
22 have ultimate authority, I mean, like, who else could block his attempt to prosecute?
23 A I mean, I would just be guessing. All I know is that, in my situation, my
24 understanding was he had the authority to proceed on the charges he was
25 contemplating.

1 Q Okay. Do you know if the Tax Division had signed off on the charges?
2 A I do not.
3 Q Okay. But you had received the Tax Division's memoranda in your October
4 meeting.
5 A So I have limitations in terms of what I can testify to --
6 Q Right.
7 A -- in terms of the decision-making process.
8 Q Right.
9 A So I'll say, I received memoranda --
10 Q Uh-huh.
11 A -- and they were authored by attorneys in the three different areas I
12 mentioned -- my office, Delaware, and the Tax Division.
13 Q So you weren't aware that the Tax Division had told Mr. Weiss he couldn't
14 prosecute?
15 A Are you saying the Tax Division, in fact, told Mr. Weiss he couldn't prosecute
16 and you're asking me if I know that?
17 Q Yeah, I'm asking you if you know that.
18 A I'm not aware of whether that's a fact --
19 Q Okay.
20 A -- whether they, in fact, told him that, or anything that would've transpired
21 there. All I know is the specific question that was before me --
22 Q Right.
23 A -- and what I told him.
24 Q But if Mr. Weiss characterized his authority as "ultimate authority" going
25 back to last June, you know, before he was the special counsel, do you think that meant

1 that he had received the okay from the Tax Division to prosecute?

2 A I don't know what that means. I don't know what he did with the Tax

3 Division. My understanding was, if he wanted to bring those certain tax charges in my

4 district, he had full power to do so.

5 Q Okay.

6 You indicated that you offered resources to him, including office space, access to

7 your grand jury, I presume --

8 A I said office space and administrative support.

9 Q Uh-huh.

10 A And I don't want to get into the specifics of the grand jury, because I'm

11 concerned it goes beyond the scope of what I'm permitted to testify about.

12 Q But -- and correct me if I'm wrong, but I understood your use of the word

13 "administrative support" to include that, if he needed to use the grand jury, that you

14 would allow him to schedule it.

15 I mean, to schedule a grand jury in the Central District of California, certainly a

16 prosecutor has to go through an individual that arranges that. That's under your

17 purview, correct?

18 A We have staff that help schedule grand jury time.

19 Q Uh-huh. Under your purview, right?

20 A What do you mean by under my purview?

21 Q It's staff of the U.S. Attorney's Office in the Central District of California,

22 which you're U.S. Attorney for.

23 A I don't look at the grand jury schedule on a weekly basis and see who's

24 scheduled for what time or -- I don't micromanage that.

25 Q Of course not.

1 A There's staff that handle those issues.
2 Q But they work for you.
3 A I have various supervisors, so that person would report to a different
4 person --
5 Q I understand you're a very high-level guy. But, ultimately, they work for
6 you. Like, you know, if somebody is going to need access to a grand jury, they would
7 have to ask somebody who works for you, maybe very far down the chain, but ultimately
8 there is somebody that is under your purview, correct?
9 A I'm not trying to say I'm a high-level person. What I'm trying to give you an
10 understanding of is the size of the office and how I don't know specifics of who's using the
11 grand jury on a particular day. I need to, as a matter of functioning and running the
12 office, delegate that to others. It --
13 Q Of course.
14 A -- has nothing to do with self-importance or anything. It's just a matter of
15 running an office.
16 Q Understood. But if Mr. Weiss -- you said Mr. Weiss could prosecute a case
17 in your district, correct, if he wanted to?
18 A My understanding was he could do that.
19 Q And if he needed the use of the grand jury to prosecute the case, you were
20 going to make that available to him, correct?
21 A He could have any administrative support he needed to prosecute the case.
22 Q And do you consider access to a grand jury part of that?
23 A Yes.
24 Q Okay. Do you know if he took you up on any of your -- you know, you
25 invited him to avail himself of some of these resources. Do you know if he took you up

on any of that?

Ms. Zdeb. And, at this point, we're getting a bit beyond the question of whether Mr. Estrada blocked Mr. Weiss from pursuing charges, which I think he has clearly said he did not.

And your question is more getting into whether certain steps were or were not taken subsequent to that as part of an investigation that is ongoing. And so that is outside the scope of what he is authorized to testify about.

[redacted] Okay. Well, I was asking about the grand jury to see if that fell into the basket of administrative offerings. And, as I take it, it was.

Ms. Zdeb. He just answered that question. But the question you had just posed, unless I misunderstood it, was whether Mr. Weiss, in fact, availed himself of various types of administrative support. And my point is that the answer to that question necessarily --

[redacted] Okay.

Ms. Zdeb. -- gets into an ongoing investigation and --

[redacted]. Okay. I can unpack that.

BY [redacted]

Q Do you know if anyone in the District of Delaware has an office in the Central District of California? You said you offered office space. Do you know if anyone has taken you up on that offer?

Ms. Zdeb. And I'm not sure unpacking it helps, because the question you just asked is a subset of the broader question.

[redacted] He doesn't have to answer it, Sara. Like -- you know. So, it's a voluntary interview. He said he offered office space, and now I'm asking the question, do you know if they took you up on that offer?

1 Mr. Estrada. So I want to be cautious not to get into the details of an ongoing
2 investigation, and because your question has no, sort of, scope in time --
3 [redacted] Okay.
4 Mr. Estrada. -- it's hard for me to answer that.
5 BY [redacted]
6 Q Okay. What types of scope in time would you like me to put on that
7 question? How about, do you know if anyone from the District of Delaware took you up
8 on the offer of office space prior to June of 2023?
9 A That I don't know. I don't know if anyone took us up on office space,
10 whether they did or did not.
11 Q Okay. Do you know if anyone in the District of Delaware took you up on
12 your offer of office space after June of 2023?
13 A There have been requests made since that time, yes.
14 Q Okay. And have they, in fact, occupied any offices?
15 A I can't get into that. All I can say is, the offer was made, and I don't want to
16 reveal an ongoing investigation.
17 Q So you know the answer to my question, then?
18 A Which question?
19 Q About whether they've occupied offices.
20 A I don't know the answer to that. I don't know the answer to that.
21 Q Even subsequent to June 2023?
22 A I don't know that, and I'm concerned that it's going into territory that might
23 reveal an ongoing investigation.
24 Q I understand you don't want to answer the question, but I'm just saying, if
25 you did want to answer the question, would you be able to answer it accurately?

1 A It's not that I don't want to answer the question. It's that I have an
2 obligation not to reveal an ongoing investigation --
3 Q Okay.
4 A -- being handled by others.
5 Q Okay.
6 A I mean, it's a courtesy --
7 Q I understand --
8 A -- it's a courtesy to others not to reveal their ongoing investigation.
9 Q Okay. Whether it's -- okay. Whether it's a courtesy or not, I'm just -- as I
10 understand your testimony, you're not going to answer the question.
11 And so my followup is: Do you know the answer to that question of whether
12 they've availed themselves of office space?
13 A I don't know.
14 Q You don't know the answer?
15 A No.
16 Q Okay.
17 And as we discussed this morning, the number of AUSAs from Delaware that have
18 the SAUSA status, you don't know the answer to that question either?
19 A I know it's more than one.
20 Q It's more than one?
21 A I know it's plural.
22 Q Okay. But you don't know whether it's more than two?
23 A I just know more than one.
24 Q Okay. But it's less than 10, right?
25 A All I know is it's plural. That's all I can tell you.

1 Q Okay.

2 And the question -- and I apologize for asking this again, but do you know the

3 answer to the question and you don't want to tell me? Or you can't tell me because of

4 what DOJ has --

5 A I don't know the answer to the question.

6 Q You don't know the answer. Okay. Fair enough.

7 Getting back to Mr. Weiss's use of the term "ultimate authority," would you agree

8 that someone who has ultimate authority does not require someone else's permission to

9 act with regard to the matter?

10 A I don't understand your question.

11 Q Okay.

12 In a letter to Chairman Jordan in June of 2023, Mr. Weiss wrote, quote, "I have

13 been granted ultimate authority over this matter, including responsibility for deciding

14 where, when, and whether to file charges and for making decisions necessary to preserve

15 the integrity of the prosecution, consistent with Federal law, the Principles of Federal

16 Prosecution, and Departmental regulations."

17 So that's the context in which Mr. Weiss identified his authority as being the

18 ultimate authority.

19 A Uh-huh.

20 Q And so my question is, would you agree that someone that has ultimate

21 authority, as Mr. Weiss said he did in June of 2023, does not require another official at

22 the Department to act with regard to that matter?

23 A I don't know what he meant when he wrote that.

24 Q Okay.

25 A I don't speak that way. I don't tell folks in my office I have ultimate

1 authority.

2 Q Okay.

3 A So I don't know what he meant by that.

4 Q Okay.

5 A You know, I can interpret it as it's written, just like you can, and --

6 Q Right.

7 A -- that's all I can say.

8 Q Okay.

9 I mean, he said, "I have been granted ultimate authority over this matter,

10 including responsibility for deciding where, when, and whether to file charges."

11 That statement seems pretty comprehensive. Do you see it a different way?

12 A I understood it as being consistent with my understanding in October of

13 2022 when we spoke --

14 Q Uh-huh.

15 A -- that he had the authority to bring the charges that were being

16 contemplated in the Central District of California. And when I offered him support and

17 he thanked me for it --

18 Q Okay.

19 A -- that further confirmed my view.

20 Q Okay. And do you know whether he had that authority specifically from

21 the Attorney General or through the Attorney General under 28 U.S.C. 515?

22 A At that time, I didn't know exactly where, except for the fact that he had

23 SAUSAs in the district which could litigate. It seemed like he was partnering with the

24 Tax Division.

25 Q Uh-huh.

1 A So it appeared to me and I was under the understanding that he could bring
2 the case in the district. And his response to our phone call further confirmed that for
3 me.
4 Q Okay.
5 What was your understanding of his partnership with the Tax Division?
6 A My understanding was that attorneys from his office and attorneys from the
7 Tax Division were working on the matter.
8 Q Okay. And was it your understanding as of October 2022 that they had an
9 agreement on how to proceed?
10 A I didn't know one way or the other.
11 Q Okay. And the memorandum that you read in advance of the October
12 2022 meeting didn't further inform you, the Tax Division component of the
13 memorandum?
14 A That what? What's the question?
15 Q I'm just asking whether it was your understanding that the Tax Division and
16 Weiss's office were on the same page, that they were partnering.
17 A It seemed to me that certain attorneys in the Tax Division were working with
18 attorneys in the District of Delaware.
19 Q And do you know whether the Tax Division at that point in time had reached
20 a final determination?
21 A That I don't know. I don't know how high up this was being reviewed or if
22 final authorizations had been granted. That I don't know.
23 Q Were you aware of any dissent within the Tax Division?
24 A I was not.
25 Q Okay.

1 Mr. Weiss followed up on his June 7th letter on June 30th, and he -- to Mr. Jordan,
2 and he wrote, "I stand by what I wrote and wish to expand on what this means. As the
3 U.S. Attorney for the District of Delaware, my charging authority is geographically limited
4 to my home district. If venue for a case lies elsewhere, common Departmental practice
5 is to contact the United States Attorney's Office for the district in question and determine
6 whether it wants to partner on the case. If not, I may request Special Attorney status
7 from the Attorney General pursuant to 28 U.S.C. 515. Here, I have been assured that, if
8 necessary after the above process, I would be granted 515 Authority in the District of
9 Columbia, the Central District of California, or any other district where charges could be
10 brought in this matter."
11 Were you aware of Mr. Weiss's letter to Mr. Jordan? Had you reviewed, sort of,
12 this correspondence as it was occurring?
13 A So there's two questions there. Am I familiar with it? Yes. As it was
14 occurring? No.
15 Q Okay. And when did you become familiar with it? Was it in prep for
16 today?
17 A More recently.
18 Q Okay. In prep for the questioning that you were getting ready for here?
19 A I don't want to reveal any attorney-client communications or work product.
20 I know that, as an employee of the Department --
21 Q Yeah. I mean, there's no attorney-client privilege between you and Ms.
22 Zdeb, but --
23 A Well, my understanding is different, actually --
24 Q Okay.
25 A -- that, as an employee of the Department, there is a privilege. And I'm not

1 authorized to reveal --

2 Q Okay.

3 A -- privileged communications.

4 Q Okay.

5 Going back to the -- do we have a copy of the June 30th letter? Maybe we

6 should just make it an exhibit. What number are we up to?

7 [redacted]. Three.

8 [redacted]. Okay. I'm going to make this No. 4. Because we have the first

9 letter, the June 7th letter -- so the June 7th letter I'll make exhibit 3, and then the

10 June 30th -- sorry.

11 [Estrada Exhibit No. 3

12 Was marked for identification.]

13 [Estrada Exhibit No. 4

14 Was marked for identification.]

15 Mr. Estrada. Thank you.

16 BY [redacted]

17 Q So the June 7th letter, you know, the statement I read about "granted

18 ultimate authority over this matter, including responsibility for deciding where, when, and

19 whether to file charges," that seems to me to be consistent with your understanding as of

20 October 2022. Is that correct?

21 A That he had authority to bring the case?

22 Q Yeah.

23 A That was my understanding. He had authority to bring the case in my

24 district.

25 Q Okay. But then his June 30th letter sort of goes the opposite direction.

1 Do you see where it does that?

2 A Where are you looking?

3 Q "I stand by what I wrote" is at the bottom of the first page. And then the

4 first paragraph on the second page --

5 A Uh-huh.

6 Q -- "As the U.S. Attorney for the District of Delaware, my charging authority is

7 geographically limited to my home district. If venue for a case lies elsewhere, common

8 Departmental practice is to contact the United States Attorney's Office for the district in

9 question and determine whether it wants to partner on the case. If not, I may request

10 Special Attorney status from the Attorney General pursuant to 28 U.S.C. 515. Here, I

11 have been assured that, if necessary after the above process" -- "after the above

12 process" -- "I would be granted 515 Authority in the District of Columbia, the Central

13 District of California, or any other district where charges could be brought in this matter."

14 It seems to us that this paragraph is in conflict with what your understanding was

15 in October of 2022 and with the June 7th letter. What are your thoughts?

16 A I don't read them as being in conflict, because he quotes that statement on

17 the first page and is expanding on it. So the way I interpret it is: I have authority to

18 bring charges in my district; some of those charges I, nonetheless, need to get approval

19 from Main on.

20 Q Uh-huh.

21 A So, for instance, national security cases, I need to get approval from the

22 Assistant Attorney General for National Security. On civil rights cases --

23 Q Right.

24 A -- I need to get approval from the Assistant Attorney General for the Civil

25 Rights Division. But it's a collaborative process.

1 Q Right.

2 A We provide our case, provide the facts of the case, and get approval, and

3 then we file the charges.

4 Q But he makes it clear that, if venue for a case lies elsewhere, he needs to

5 contact the U.S. Attorney's Office for the district in question and determine whether it

6 wants to partner on the case.

7 That's what happened in October of 2022. Your office decided that you did not

8 want to partner, or co-counsel, or whatever term you used or want to use.

9 So, because you didn't want to partner, he didn't have the authority -- under his

10 words of the June 30th letter, he didn't have the ability to just bring the case, which is in

11 conflict with the June 7th letter and also what he told you or what your understanding

12 was of the October 22nd call -- October of 2022, the call you had.

13 A So my understanding was, he could bring the case in my district if he chose

14 to.

15 Q Uh-huh.

16 A The mechanism by which he would need to do that I don't know. I don't

17 know what mechanisms he would need to do that.

18 Q Okay.

19 A He'd already had SAUSAs. He had administrative support if he needed it.

20 It seemed to me he was working with the Tax Division. Components of DOJ file cases in

21 other districts all the time.

22 So I don't know the specific mechanism --

23 Q Okay.

24 A -- but my understanding was, he had the ability to do it if he thought it was

25 appropriate.

1 Q Okay.

2 And then on July 10, 2023 -- I don't know that we need to mark this, but -- he

3 clarifies in a letter to Senator Graham that, as of July of 2023, he had not requested

4 special counsel designation under the CFR or under the statute, which would've allowed

5 him to file charges in a district outside of his own without the partnership -- and, again,

6 he uses the term "partnership" -- of the local U.S. Attorney.

7 And my question is: His letters to us make it seem like, in his own mind, he

8 needed you to partner with him to bring these cases, whether it was in D.C. or the Central

9 District of California. What are your thoughts?

10 A I can just tell you my understanding. When we were having the

11 conversation, my understanding was he could bring the case if he so chose, given that he

12 had SAUSAs, given that I had offered him administrative support and he thanked me for

13 it, didn't say anything else regarding that.

14 I don't know what mechanisms he would need to use.

15 Q Uh-huh.

16 A I bring cases in the hate-crime context all the time, and I believe I have the

17 authority to bring hate-crime charges, but I still need to go through the AG to get

18 approval on those.

19 Q Uh-huh.

20 A That often happens within a day.

21 Q Uh-huh.

22 A So I thought he had the ability to do it. I believed he did. All indications

23 were. That was my understanding.

24 Q Okay. Do you know why he didn't bring them in the October 2022

25 timeframe?

1 A I, one, will not get into deliberative process of whether or not to bring
2 charges.
3 Q Uh-huh.
4 A And, two, I'm not going to speculate and try to jump into the head of
5 another person and figure out why they did or did not do something.
6 Q Right. But I'm not asking you to jump into his head. But, you know, your
7 staff has been in communication with their staff. Do you have any idea, you know, from
8 talking with your staff, as to why they had not proceeded?
9 A Had not proceeded on what?
10 Q On bringing a case in the Central District.
11 A On filing -- my understanding was, there was some sort of plea deal that was
12 reached.
13 Q Okay. In the District of Delaware?
14 A I don't know the full contours of it. I don't know if certain charges were
15 waived, venue, or whatnot. I don't know. But I understand there was a plea deal that
16 was reached.
17 Q Okay.
18 After the whistleblowers came forward, this case received more public attention.
19 You talked about working with your press office. Did you have any communications
20 with your staff, when this became public, about what's been going on since October
21 2022?
22 A I had communications with my public affairs person in terms of the
23 appropriate response to the media inquiries we were getting.
24 I had communications with my first assistant U.S. Attorney and the executive
25 United States Attorney on the threats I was receiving and what to do about the threats

1 and who to send those to. I had communications with the Marshals Service about those
2 threats.
3 But in terms of the decision of whether or not to co-counsel, that wasn't discussed
4 at all.
5 Q You mentioned you were dealing with your first assistant and then the chief
6 of the Major Frauds division and the chief of the Criminal Division? Or was it the chief of
7 the Major Frauds Section?
8 A What time context are you referring to?
9 Q In October 2022.
10 A October 2022, it was the First Assistant United States Attorney, the Criminal
11 Division chief, and the Major Frauds Section chief.
12 Q Okay.
13 When the whistleblowers came forward and this was in the news, did you have
14 any communications with these three officials on an update on, you know, what has
15 Delaware tried to do in our district, if anything?
16 A I did not. No.
17 Q Okay.
18 Off the record for a second.
19 [Discussion off the record.]
20 [redacted]. My colleague [redacted] has some questions.
21 [redacted] Good afternoon.
22 Mr. Estrada. Good afternoon.
23 BY [redacted]
24 Q You testified that after you took your post and you met with your team and
25 learned about the Hunter Biden matter that the request was pending on whether or not

1 your office would partner with the District of Delaware and that Mr. Weiss wanted to talk
2 to you about that.
3 Do I have that right?
4 A So my understanding was that, at some point shortly after I started, I was
5 told that there was a request from the District of Delaware to co-counsel, partner on the
6 case; that my career attorneys had recommended against doing so; that had been
7 communicated to the District of Delaware; and the District of Delaware then, through Mr.
8 Weiss, wanted to talk to me about it.
9 The timing in terms of when those communications happened, because I came in
10 on September 19th and I was told about this late September/early October, I can't say
11 whether it was before or after the 19th.
12 Q You can't say whether the request to your office came before or after the
13 19th?
14 A You had stated that there were communications between my office on this
15 request before September 19th. I can't say whether it was before or after.
16 Q And do you know if the assistant United States attorneys from the District of
17 Delaware who were designated special assistant United States attorneys, were they
18 already designated on the date you took your post?
19 A Yes, I know that, because I was not the one who approved it.
20 Q And you don't -- do you know whether the request to designate those
21 assistant United States attorneys came before or after the request to partner on the
22 case?
23 A I don't know the timing of that.
24 Q And I'm sorry if you answered this already, but do you know when the
25 request for -- to designate special assistant United States attorneys came to your office?

1 A Can you repeat the question?

2 Q So I'm trying to -- do you know -- you said you're not sure of the timing of

3 the request for partnering on the case. Is that right?

4 A I know that it was presented to me in late September/early October that the

5 career attorneys had recommended against it; communicated that to Delaware; now

6 Delaware wanted to talk to me about it.

7 Just for context, when I came into the seat, I mentioned we were down 40 AUSAs.

8 We had to hire a lot. So I was out there hiring as much as possible. I was meeting with

9 the assistant director in charge of the FBI, meeting with the chief of the LAPD, meeting

10 with the then-sheriff of Los Angeles Sheriff's Department, making the rounds through the

11 seven counties to meet with all the law enforcement.

12 So there were a lot of things on the plate, and there were things waiting for me to

13 decide, like hiring decisions. So there were a lot of things that were happening. This

14 issue did not arise, to my recollection, until late September/early October 2022.

15 Q Do you know whether an Acting U.S. Attorney could make the decision to

16 agree to partner? Hypothetically. Not on this case, but on any case. A request like

17 this, would your predecessor, who was an acting United States Attorney, have the

18 authority to say yes or no?

19 A I believe so.

20 Q I'm trying to understand whether this request was waiting for you to be

21 confirmed so that you could make the decision or whether or not it was requested after

22 you took the position.

23 A I mean, I don't know for certain, but I know some of the memos were dated

24 after I took the seat.

25 Q And --

1 A So it would seem to me that, once the package was prepared, they
2 presented it to the person who was sitting in that chair, which happened to be me at the
3 time.
4 Q And I know you said that this kind of thing doesn't happen very often or
5 perhaps hasn't happened in your time as U.S. Attorney, but do you have any sense for
6 how long it would take your team to do an evaluation and make a recommendation to
7 you in a case like this?
8 A Well, yes. I think it would take several weeks of analysis, legal research.
9 Usually -- I shouldn't say "usually." It's the case that my staff does a thorough analysis
10 before it's presented to me, and I generally expect a memorandum to be drafted. That
11 all takes time. So I would expect a thorough analysis.
12 Q So, if you received, you know, the information at the end of September or in
13 early October, is it fair to say that this request was made either before the 19th or very
14 shortly after the 19th for your staff to get up to speed and be prepared to make a
15 recommendation and brief you?
16 A I can't say. I can't say.
17 Q But if it takes weeks, generally, to do that -- the 19th to even early October
18 would be 2 weeks, approximately, maybe 3.
19 A I can't say about the timing. I know when -- I expect my attorneys to do a
20 thorough analysis. A thorough analysis was done in this case. So -- I don't make
21 decisions until I get a thorough analysis.
22 [redacted]. That's all I have.
23 [redacted] Okay.
24 [Recess.]
25 [redacted] It is 12:59. We can go back on the record.

1 BY [redacted]

2 Q In the prior hour, you were asked some questions about the administrative
3 support that your office offered to Mr. Weiss. And I understand you can't get into the
4 specifics, but I just want to ask some overarching questions.

5 Did you ever receive any indication from Mr. Weiss that he did not have the
6 support he needed from your office?

7 A No.

8 Q To the best of your knowledge, did any of your staff ever receive any
9 indication from Mr. Weiss that he did not have the support he needed from your office?

10 A I was never informed of that.

11 Q And, to the best of your knowledge, did anyone in your office receive any
12 indication from anyone on Mr. Weiss's staff, such as the SAUSAs, that they did not have
13 the support they needed from your office?

14 A I never heard that, and I would've expected to get a call from Mr. Weiss if
15 that were the case.

16 Q Okay. And you didn't get such a call?

17 A No.

18 Q Okay.

19 You were just asked some questions about the timeline of the decision coming to
20 you or being presented to you. Was it your impression that the decision was held for
21 you, you know, pending your confirmation?

22 A I did not get that impression.

23 Q It just happened that that was the timeline that it came to you,
24 late-September-ish?

25 A So what I can say is that I was made aware of this and presented with a

1 package of material, and the package included materials dated after I had taken the seat.

2 BY [redacted]

3 Q Okay.

4 Moving on, in our first hour, so the second hour of questioning overall, we talked

5 through some of the considerations that prosecutors take into account when deciding

6 whether to bring charges. Do you remember that conversation?

7 A Yes.

8 Q Okay. How do prosecutors learn how to assess and evaluate the type of

9 concerns that you described, such as having to prove cases beyond a reasonable doubt,

10 sustain a conviction? How do prosecutors learn that?

11 A Through experience, through having done many cases and seeing what is

12 required. Through legal ability, knowing the elements of an offense, knowing the law

13 that pertains to an offense, and analyzing those facts and the law together, and having

14 the experience to know that.

15 So experience matters a lot in this context, including having seen many other

16 cases.

17 Q Okay. So it's fair to say that prosecutors have unique training and/or

18 experience, as you said, in assessing the sufficiency of the admissible evidence. Is that

19 fair to say?

20 A I think so. And I think the more experience a prosecutor has, generally, the

21 better at evaluating those sorts of things.

22 Q And along the same lines, prosecutors have unique training, unique

23 experience in assessing the likelihood that the admissible evidence will be persuasive to a

24 jury, correct?

25 A Yes.

1 Q And again along the same lines, it's fair to say that prosecutors have unique
2 training, unique experience in assessing whether the admissible evidence is reasonably
3 likely to result in a conviction, correct?
4 A Doing the analysis required under the Justice Manual -- doing that analysis is
5 something that takes training, takes experience, and consultation with supervisors.
6 Q Now, when prosecutors are working on a case, they work with investigators,
7 correct?
8 A We work generally with agencies, and the agencies will have investigators.
9 Q Okay. And the investigators that prosecutors work with, so the
10 investigators, the people who actually help gather the evidence for the case, for example,
11 they generally don't have the same experience in assessing the admissible evidence -- in
12 other words, in assessing how that evidence -- whether that evidence might be
13 convincing to a jury?
14 A Generally, they do not.
15 Q Okay.
16 Is it fair to say that one, kind of, unique difference between investigators and
17 prosecutors is that investigators typically do their work before trial, before the stage
18 where evidence is tested by defenses at trial, and before jurors are asked to confront the
19 contested evidence?
20 A I mean, it depends, honestly, on the investigator and how experienced that
21 person is. But, I mean, generally speaking, the attorneys are the ones that have the
22 experience, the know-how, the training to determine whether a case can be proven
23 beyond a reasonable doubt.
24 Q Okay. And it's prosecutors that actually have to present the evidence in
25 court, correct?

1 A Correct.

2 Q So it's prosecutors that have to consider the adversarial setting of the trial,

3 including how the evidence will look in light of possible defenses, correct?

4 A Correct.

5 Q And prosecutors are the ones who have to consider how persuasive the

6 evidence will ultimately be at a trial, where 12 jurors have to consider whether it proves a

7 charge beyond a reasonable doubt?

8 A That is our job, yes.

9 Q Okay.

10 Given the differences between what prosecutors do and what investigators do, is

11 it surprising that there might be differences in opinion among investigators and

12 prosecutors about the strength of the evidence and the likelihood of success at trial?

13 A There are sometimes disagreements between agents and AUSAs about a

14 case, whether it should proceed or not. That will occur on some occasions.

15 Q And as a supervisor, you've seen that happen with cases under your purview.

16 Is that fair to say?

17 A It happens fairly often.

18 Q In those cases where prosecutors and investigators disagree about the

19 likelihood of success at trial, it's prosecutors that have the final say on whether to bring

20 charges, correct?

21 A Absolutely.

22 Q And why is that?

23 A Well, because we have the training, we have the know-how, the experience.

24 We can play devil's advocate and see what the defenses will be.

25 Just about in every gang case I've done, the agents have wanted to indict those

1 extra 10 defendants or extra 12 defendants. And it's the prosecutor's job to look at the
2 evidence objectively, not emotionally, and determine whether it can really be proven
3 beyond a reasonable doubt and whether it serves the interest of justice.
4 Q Thank you.
5 I want to move on and talk about questions of venue and plea agreements. This
6 came up briefly in the prior round of questioning.
7 Briefly, in layperson's terms, what's your understanding of what "venue" means?
8 A So "venue" refers to the location. In the Federal context, it would be the
9 district where the misconduct or conduct took place. "Venue" also factors in where
10 defendants, witnesses can be located. But generally it's where the conduct took place.
11 Q And if prosecutors don't bring cases in the appropriate jurisdiction or the
12 appropriate venue, then the court can dismiss the charges, correct?
13 A The court can dismiss. The court can also transfer venue.
14 Q Okay. All that said, a defendant can waive his or her right to challenge
15 venue as part of a plea agreement, correct?
16 A Venue can be waived, correct.
17 Q Okay.
18 I want to introduce as exhibit 5 the memorandum of plea, of the plea agreement,
19 in United States v. Robert Hunter Biden.
20 [Estrada Exhibit No. 5
21 Was marked for identification.]
22 BY [redacted]
23 Q This document was signed on July 26, 2023, and filed in the Delaware District
24 Court on August 2, 2023.
25 A It's just the one stapled copy?

1 Q Yes. Sorry. I think we gave you extras for your counsel.
2 It's Document No. 28 in Delaware Federal District Court case number
3 1:23-mj-00274-MN.
4 A I see that.
5 Q And I just want to look at the very first paragraph here, the -- sorry, I should
6 say the paragraph numbered 1, not the official first paragraph but the first numbered
7 paragraph.
8 A Okay.
9 Q That paragraph reads, "The defendant waives any challenge to the
10 Information based on venue and agrees to plead guilty in the United States District Court
11 for the District of Delaware to: Counts One and Two of the Information, which charge
12 the defendant with willful failure to pay tax, in violation of Title 26, United States Code,
13 Section 7203."
14 Did I read that correctly?
15 A I see that. Yes.
16 Q So, putting aside the process around the plea agreement and what
17 happened after it was signed --
18 A Uh-huh.
19 Q -- the defendant in this case, Robert Hunter Biden, did agree to waive venue,
20 correct?
21 A It appears so. The defendant waived any challenge based on venue.
22 Q Okay.
23 And the paragraph also says that the charges against Mr. Biden were laid out in an
24 information, correct?
25 A Yes.

1 Q An information is different than an indictment, correct?
2 A Yes. An information is something a defendant can agree to. It doesn't
3 require presentation to a grand jury.
4 Q And are you familiar with the difference between a pre-indictment plea
5 agreement and a post-indictment plea agreement?
6 A Yes.
7 Q Can you explain what that is?
8 A So a pre-indictment plea agreement is one that's reached before charges are
9 filed through the grand jury process. And a post-indictment plea agreement is one
10 where the indictment is issued and then a plea agreement is arranged to one or more
11 charges in the indictment. Although it doesn't have to be that way. You could do an
12 information after an indictment's been issued too.
13 Q And can you also explain, if you know, what a global plea agreement is?
14 A So a global plea agreement will often be in the context of where charges
15 either are pending or could be brought in multiple jurisdictions, and the global will cover
16 all the defendant's exposure in those different jurisdictions.
17 Q So, just to sum up, if a prosecutor and a defendant are working towards a
18 pre-indictment global plea agreement in which venue is waived, then there would be no
19 need to bring charges before a grand jury seated in the district where the alleged criminal
20 conduct actually took place. Is that fair to say?
21 A Yes. But, also, there'd be -- the plea agreement already covers that, so -- I
22 don't know if I fully understand the question.
23 Q My point is that, in a case like this, where there is a pre-indictment global
24 plea agreement that waives venue -- and, in this case, you know, the venue might have
25 been in Central District of California, for example --

1 A Uh-huh.

2 Q -- venue is waived. And so U.S. Attorney Weiss, for example, wouldn't

3 really need to do anything in your district in that case, because venue has been waived.

4 Is that fair to say?

5 A Yeah. They've already wrapped up the entire case.

6 Q Okay.

7 I want to move on and turn to the letters that we walked through --

8 A Okay.

9 Q -- in the prior round. And I know you've answered a lot of questions about

10 these already, but I just want to make a clean record so there's not any confusion in the

11 record.

12 A Okay.

13 Q So, looking at what's marked as exhibit 3, it's the June 7th letter.

14 A Okay.

15 Q The second paragraph of the letter reads, "While your letter does not specify

16 by name the ongoing investigation that is the subject of the Committee's oversight, its

17 content suggests your inquiry is related to an investigation in my District. If my

18 assumption is correct, I want to make clear that, as the Attorney General has stated, I

19 have been granted ultimate authority over this matter, including responsibility for

20 deciding where, when, and whether to file charges and for making decisions necessary to

21 preserve the integrity of the prosecution, consistent with Federal law, the Principles of

22 Federal Prosecution, and Departmental regulations."

23 Did I read that correctly?

24 A Yes.

25 Q Are you aware of any information that contradicts Mr. Weiss's statement

1 that he was granted ultimate authority over this matter?

2 A I'm not.

3 Q Okay. Are you aware of any information that contradicts Mr. Weiss's

4 statement that his authority over this matter includes the responsibility to decide where,

5 when, and whether to file charges?

6 A I am not.

7 Q Are you aware of any information that contradicts Mr. Weiss's statement

8 that his authority over this matter includes making all decisions necessary to preserve the

9 integrity of the prosecution?

10 A I'm not.

11 Q Okay.

12 And I want to turn to the last paragraph in this letter, which is on page 3.

13 A Okay.

14 Q That paragraph reads, quote, "In February 2021, I was asked to remain as

15 United States Attorney for the District of Delaware to continue my oversight of this

16 matter. Since that time, I have fulfilled my responsibilities, consistent with Department

17 practices and procedures, and will continue to do so. Throughout my tenure as U.S.

18 Attorney my decisions have been made -- and with respect to the matter must be

19 made -- without reference to political considerations."

20 Did I read that correctly?

21 A Yes.

22 Q Are you aware of any information that contradicts Mr. Weiss's statement

23 that his decisions in this matter had been made without reference to political

24 considerations?

25 A I am not.

1 Q All right. Thank you.

2 I want to move on to exhibit 4, which is the June 30th letter. And I want to look

3 at the third paragraph on the front page of this letter.

4 A Okay.

5 Q It says, "First, the Department of Justice did not retaliate against 'an Internal

6 Revenue Service ("IRS") Criminal Supervisory Special Agent and whistleblower, as well as

7 his entire investigative team... for making protected disclosures to Congress.'"

8 Did I read that correctly?

9 A I see that.

10 Q Are you aware of any information that contradicts this statement from Mr.

11 Weiss?

12 A I am not.

13 Q Okay.

14 The letter then quotes his June 7th letter saying that he had been granted ultimate

15 authority over the matter.

16 And then on the second page, at the top of the second page, he continues, "As the

17 U.S. Attorney for the District of Delaware, my charging authority is geographically limited

18 to my home district. If venue for a case lies elsewhere, common Departmental practice

19 is to contact the United States Attorney's Office for the district in question and determine

20 whether it wants to partner on the case. If not, I may request Special Attorney status

21 from the Attorney General pursuant to 28 U.S.C. Section 515. Here, I have been assured

22 that, if necessary after the above process, I would be granted Section 515 Authority in the

23 District of Columbia, the Central District of California, or any other district where charges

24 could be brought in this matter."

25 Did I read that correctly?

1 A Yes.

2 Q Were you aware of any information that would contradict Mr. Weiss's

3 statement that he had been assured that he would be granted Section 515 authority if

4 another U.S. Attorney -- if necessary, if, for example, another office declined to partner

5 with him?

6 A I'm not aware of any information of that kind.

7 Q Okay. To your knowledge, did Mr. Weiss ever actually request Section 515

8 authority?

9 A I don't know one way or the other.

10 Q Okay.

11 And I want to introduce as exhibit 6 a letter that was referenced in the prior hour

12 but not actually introduced.

13 A Uh-huh.

14 Q It is the July 10, 2023, letter from Mr. Weiss to Senator Lindsey Graham.

15 Lindsey Graham is the Republican ranking member on the Senate Judiciary Committee.

16 A Okay.

17 Q This will be exhibit 6.

18 [Estrada Exhibit No. 6

19 Was marked for identification.]

20 BY [redacted]

21 Q Have you seen this letter?

22 A I don't believe I have.

23 Q Do you want to take a minute to read it?

24 A Sure.

25 Okay. I see it.

1 Q I want to look at the third paragraph. The first sentence of that paragraph
2 reads: "To clarify an apparent misperception and to avoid future confusion, I wish to
3 make one point clear: in this case, I have not requested Special Counsel designation
4 pursuant to 28 CFR Section 600 et seq."
5 Did I read that correctly?
6 A Yes.
7 Q 28 CFR Section 600 et seq gives the Attorney General authority to appoint a
8 special counsel, correct?
9 A I am not completely familiar with the regulation. If he writes that, I have
10 no reason to not agree with it.
11 Q Okay.
12 A I've never had occasion to request to be special counsel.
13 Q Okay.
14 We'll introduce for the record the special counsel regulations. It's 28 CFR Section
15 600.1. This will be exhibit 7.
16 [Estrada Exhibit No. 7
17 Was marked for identification.]
18 Mr. Estrada. Okay. I see that.
19 BY [redacted]
20 Q So, having had a minute to review 28 CFR Section 600.1, you agree that
21 these are the regulations that give the Attorney General the authority to appoint a special
22 counsel when he or she determines that it's appropriate?
23 A It appears to be so, yes.
24 Q Okay.
25 Turning back to the Senator Graham letter, are you aware of any information that

1 contradicts Mr. Weiss's statement that, as of July 10, 2023, when this letter was sent, he
2 had not requested special counsel designation pursuant to 28 CFR Section 600.1?
3 A I'm not aware of any information that contradicts that.
4 Q Okay.
5 That July 10 letter continues, quote, "Rather, I had discussions with Departmental
6 officials regarding potential appointment under 28 U.S.C. Section 515, which would have
7 allowed me to file charges in a district outside my own without the partnership of the
8 local U.S. Attorney. I was assured that I would be granted this authority if it proved
9 necessary. And this assurance came months before the October 7, 2022, meeting
10 referenced throughout the whistleblowers' allegations. In this case, I've followed the
11 process outlined in my June 30 letter and have never been denied the authority to bring
12 charges in any jurisdiction."
13 Did I read that correctly?
14 A Yes.
15 Q To the best of your knowledge, is it accurate that Mr. Weiss was never
16 denied the authority to bring charges in any jurisdiction?
17 A I have no reason to think he was denied that authority. Certainly, in my
18 district, I never denied him the ability to bring the case. In fact, I offered him support to
19 bring the case if he chose to.
20 Q On September 20th of this year, Attorney General Garland testified before
21 the House Judiciary Committee. He told the committee that, quote, "Mr. Weiss has full
22 authority to conduct his investigation however he wishes."
23 Do you have any information to contradict the Attorney General's statement?
24 A No.

1

2 [1:20 p.m.]

3 BY [redacted]

4 Q The Attorney General also told the committee that, quote, "Mr. Weiss had,

5 as I said at the very beginning, that he had authority over all matters that pertained to

6 Hunter Biden."

7 Do you have any information to contradict the Attorney General's statement?

8 A I do not.

9 Q To sum up, do you have any reason to believe that David Weiss lied to

10 Congress or was misleading to Congress when he described the extent of authority he

11 had been granted by the Attorney General?

12 A I have no reason to think he lied. And what he did say seems consistent

13 with my experience in dealing with him in October of 2022.

14 Q Okay.

15 Do you have any reason to believe that the Attorney General prevented Mr. Weiss

16 from taking any particular investigative step?

17 A I have no reason to believe that.

18 Q Do you have any reason to believe that Attorney General Garland denied Mr.

19 Weiss any resources for his investigation?

20 A I have no reason to believe that.

21 Q Do you have any reason to believe that President Biden interfered in this

22 investigation in any way?

23 A I have no reason to believe that.

24 Q Did you ever tell Mr. Weiss that he could not bring charges in the Central

25 District of California?

1 A I never told him he couldn't bring charges. To the contrary, we had allowed
2 attorneys from his office to be SAUSA'ed to litigate in our district, and we had offered him
3 administrative support. So it's quite the opposite.
4 Q Did you ever take any steps to prevent Mr. Weiss -- I'm sorry.
5 To the best of your knowledge, did anyone else in your office ever take any steps
6 to prevent Mr. Weiss from bringing charges in the Central District of California?
7 A No.
8 Q Okay.
9 Did you do anything to delay the investigation into Hunter Biden?
10 A No, I did not.
11 Q Okay.
12 Throughout your tenure as U.S. Attorney, have you made all decisions without
13 reference to political considerations?
14 A Throughout my tenure as U.S. Attorney, Assistant United States Attorney,
15 frankly as a practicing lawyer, yes.
16 Q Okay.
17 [redacted] All right. We can go off the record. Thank you.
18 [Whereupon, at 1:22 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: STUART GOLDBERG

Wednesday, October 25, 2023

Washington, D.C.

The interview in the above matter was held in room 2141, Rayburn House Office Building, commencing at 10:04 a.m.

Present: Representative Jordan.

1

2 Appearances:

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted], COUNSEL

8 [redacted], GENERAL COUNSEL

9 [redacted] COUNSEL

10 [redacted], PROFESSIONAL STAFF MEMBER

11 [redacted] COUNSEL

12 [redacted], COUNSEL

13 [redacted], CHIEF COUNSEL FOR OVERSIGHT

14 [redacted], MINORITY OVERSIGHT COUNSEL

15 [redacted], MINORITY CHIEF OVERSIGHT COUNSEL

16 [redacted] MINORITY OVERSIGHT COUNSEL

17 [redacted], MINORITY PROFESSIONAL STAFF MEMBER

18

19

20 For the U.S. DEPARTMENT OF JUSTICE:

21

22 GRETA GAO, SPECIAL COUNSEL, OFFICE OF LEGISLATIVE AFFAIRS

23 SARA ZDEB, DEPUTY ASSISTANT ATTORNEY GENERAL,OFFICE OF LEGISLATIVE AFFAIRS

1 [redacted]. Good morning.

2 Mr. Goldberg. Good morning.

3 [redacted] This is a transcribed interview of Mr. Stuart Goldberg with the

4 Justice Department's Tax Division. Chairman Jordan has requested this interview as part

5 of the committee's oversight of the Department's commitment to impartial justice and its

6 handling of the Hunter Biden investigation.

7 Would the witness please state your name for the record?

8 Mr. Goldberg. Stuart Goldberg.

9 [redacted] And you're here with DOJ counsel.

10 Please state your name for the record.

11 Ms. Zdeb. Sara Zdeb, Department of Justice.

12 Ms. Gao. Greta Gao, Department of Justice.

13 [redacted] And, Mr. Goldberg, you understand that agency counsel has a

14 primarily duty to represent the agency and not you personally?

15 Mr. Goldberg. I do.

16 [redacted]. And you've selected them to be in the room here with you today?

17 We gave you the option to have personal counsel or agency counsel?

18 Mr. Goldberg. Yes.

19 [redacted]. On behalf of the committee, I want to thank you for appearing here

20 today to answer our questions. The chairman also appreciates your willingness to

21 appear voluntarily.

22 My name is [redacted]. I'm with Mr. Jordan's staff on the House Judiciary

23 Committee. I'll now have my committee colleagues introduce themselves.

24 [redacted] [redacted] [redacted] Chairman Jordan's staff.

25 Chairman Jordan. Jim Jordan.

1 [redacted], Chairman Jordan's staff.

2 [redacted], Ranking Member Nadler's staff.

3 [redacted], Ranking Member Nadler's staff.

4 [redacted], Ranking Member Nadler's staff.

5 [redacted], Ranking Member Nadler's staff.

6 [redacted], Chairman Jordan's staff.

7 [redacted], Chairman Jordan's staff.

8 [redacted] Chairman Jordan's staff.

9 [redacted], Chairman Jordan's staff.

10 [redacted] I'll go over the ground rules and guidelines that we will follow during

11 today's interview.

12 Our questioning will proceed in 1-hour rounds. The majority will go first, then

13 we'll switch sides and the minority will have a chance to ask you questions.

14 We often take a break at the end of each hour, if you'd like to, but the breaks are

15 totally up to you.

16 There is an official court reporter taking down everything we say, so we'll go do

17 our best not to talk over one another. We'll also do our best to have a small number of

18 individuals asking you questions.

19 Mr. Goldberg. Okay.

20 [redacted] So you're not fielding questions from various parts of the room.

21 If you need to go off the record to confer with DOJ counsel or your personal

22 counsel, who I understand is stationed in a nearby room, please let us know.

23 Mr. Goldberg. Thank you.

24 [redacted] If you need to take a break for any other reason, that's also fine.

25 We want to make your stay here as comfortable as possible, given the circumstances.

We want you to answer our questions in the most complete and truthful manner possible, so we'll take our time.

If you have any questions or don't understand what we're asking, just let us know. Our questions may cover a wide range of topics. If you need clarification, please feel free to ask.

You should also understand that by law you're required to answer questions before Congress truthfully. You understand that?

Mr. Goldberg. Yes.

[redacted] And there's a false statement statute that we remind all witnesses about, 18 United States Code 1001, which subjects witnesses to criminal prosecution for knowingly making false statements. You're aware of that?

Mr. Goldberg. I am.

[redacted]. And we mean no disrespect by bringing that up. Obviously, you're a senior DOJ official and presumably have an appreciation for that. We just mention that to all witnesses.

Mr. Goldberg. That's fine.

[redacted]. We like to keep the content of what we discuss confidential. To the extent we have exhibits and we mark them, we'll collect them at the end of the process, even if they're documents that are publicly available. So we appreciate your cooperation with that.

At 10:08, I'll get going with the first Republican round.

Ms. Zdeb. [redacted] I'm sorry. Before you do, could I make a couple of quick remarks?

[redacted]. Of course.

Ms. Zdeb. And actually, I'm sorry, before I do, does your minority colleague

1 have --

2 [redacted] [redacted], do you have any? I didn't give you a chance to offer

3 welcoming remarks. So I apologize, and please go forward if you do.

4 [redacted] No. We will note the sound system is definitely working now.

5 [redacted] Okay.

6 [redacted] No, we just thank the witness for taking time out of your busy

7 schedule to join us today.

8 Ms. Zdeb. Thank you.

9 As you're aware, the committee's inquiry implicates an ongoing criminal

10 investigation and prosecution. At this juncture, Mr. Goldberg is going to be able to

11 discuss questions that can be answered without compromising the ongoing matter.

12 Specifically, the Department has authorized him to discuss the scope of David

13 Weiss' authority. He is also authorized to discuss the Tax Division's role in criminal

14 investigations and prosecutions arising under the Internal Revenue laws, and that

15 includes the process that the Tax Division follows when working with U.S. Attorney's

16 Offices to investigate and prosecute criminal tax offenses.

17 There may be some additional information Mr. Goldberg can share, depending on

18 the question and, again, consistent with our need to protect the ongoing investigation

19 and prosecution.

20 And as always, if you have questions that he is not able, due to the scope of his

21 authorization, to answer today in the room, we are always happy to take those back and

22 continue engaging with the committee.

23 [redacted]. It now is 10:09. We'll go on the clock for the first hour.

24 EXAMINATION

25 BY [redacted]

1 Q Mr. Goldberg, how long have you been with the Justice Department?
2 A Since January 1988.
3 Q And have you always worked at Main Justice?
4 A No. I've worked in the U.S. Attorney's Office in Maryland as well.
5 Q Okay. Could you just give us a -- maybe starting with your current position
6 and duties -- and just give us a recap of your career?
7 A Okay. Currently, I'm the Acting Deputy Assistant Attorney General for
8 Criminal Matters at the Tax Division. I joined the Tax Division in 2015, I think around '15,
9 February 2015. My title at that time was Senior Counselor to the Assistant Attorney
10 General.
11 Before that, I was in the Deputy Attorney General's Office where I was the
12 Principal Associate Deputy Attorney General. A slight period of time before that, chief
13 of staff to the Deputy Attorney General.
14 Before that, I was the first assistant at the U.S. Attorney's Office in Maryland.
15 Prior to that, I was at the Public Integrity Section, where I was the Principal Deputy Chief,
16 and before that the Deputy Chief for Litigation, and before that a trial attorney in Public
17 Integrity.
18 Q All right.
19 How many lawyers report up to you as part of the criminal function within the Tax
20 Division?
21 A So there are roughly 100 lawyers doing criminal-related work in the Tax
22 Division. I have, I think, four or five direct reports.
23 Q Can you explain the leadership of the Tax Division? There's been some
24 question about whether you're the senior-most official in the Tax Division or exactly what
25 your responsibilities are in terms of leadership?

1 A Sure. So there are no political appointees in the Tax Division right now.
2 And I oversee the criminal side. There's another individual, David Hubbert, who is the
3 head of component. He's basically the head of the Tax Division. He oversees the civil
4 side and the appellate side, and I guess the admin side, too, though I kind of help in that.
5 So I'm on top of the criminal side, though I help with the direction of the Tax
6 Division overall. But Dave Hubbert's the head of the Tax Division.
7 Q Okay. But as far as criminal matters are concerned, you have the ultimate
8 responsibility within the Tax Division?
9 A There are particular things where Dave Hubbert might have some ability to
10 do something that I cannot do, in which case he would have to take that action.
11 Q Okay. Can you explain how DOJ Tax interacts with the U.S. Attorney's
12 Offices around the country?
13 A Sure. So we use, as a rough rule of thumb, about 90 percent of all the tax
14 cases that get brought by the U.S. Attorney's Offices and 10 percent the Tax Division.
15 So cases get referred out to the Tax -- to the -- well, there are several ways U.S.
16 Attorney's Offices can get cases, sometimes from the Tax Division. Sometimes they can
17 invite the IRS in and then expand an existing non-tax investigation.
18 And then, on occasion -- most of those cases just the U.S. Attorney's Office
19 personnel are working that case. Occasionally the U.S. Attorney's Offices ask for
20 litigation assistance from the Tax Division or we might see a case where we think this
21 would benefit from having our technical expertise or we have somebody who can
22 contribute from a resource standpoint, in which case we talk to the U.S. Attorney's Office
23 and we will work jointly with the U.S. Attorney's Office on the case.
24 Q Can you explain the role of the Tax Division in approving criminal
25 investigations?

1 A So there are various approval functions that the Tax Division has that might
2 come up in the course of a particular case. Some of those deal with whether or not a
3 grand jury investigation can be opened, whether or not a prosecution can be brought
4 generally.
5 There are investigative steps that are reserved for the Tax Division, and somebody
6 in my position would have to sign off on things like attorney subpoenas, for instance.
7 That's overall what it looks like.
8 Q According to the Department of Justice, the Justice Manual, only after the
9 Tax Division has authorized a grand jury investigation may a United States Attorney's
10 Office issue subpoenas and undertake other investigative actions.
11 Is that consistent with your understanding?
12 A In terms of directly working a tax case. Sometimes there are overlapping
13 Title 18 charges where they might be able to collect information that's useful. But, yes,
14 before they issue a tax-related subpoena should have a grand jury authorization.
15 Q And isn't it also true that under the Justice Manual DOJ Tax's approval is
16 required before the U.S. Attorney's Office may bring charges for felony cases?
17 A Yes, that is true, though there are a very small number of cases, I think, that
18 under the regulations -- I think there are a small number of cases, excise tax cases and
19 things like that, where I think it's possible for a U.S. Attorney's Office to get a direct
20 referral and actually bring the case. But those are small and unusual.
21 Q Are there any instances where a U.S. Attorney's Office would be able to
22 override the Tax Division on questions of prosecution of a felony tax case?
23 A Well, I'm not sure I understand what you mean by override. Can you
24 expand that a little bit?
25 Q Well, if the Tax Division recommends not prosecuting a felony tax case or

1 doesn't provide the required authorizations, are there instances where a U.S. Attorney's
2 Office may go forward anyway?
3 A In that instance we would expect to have a conversation with the U.S.
4 Attorney's Office about it and what their concerns were and see if they can be resolved.
5 They might decide they don't want to go forward or they may decide -- we may decide we
6 missed something and change our views. But they also could go up the line and appeal
7 what we decided to the Deputy Attorney General's Office.
8 Q How would that work? How would the appeal process work?
9 A Generally, they would contact the Deputy Attorney General's Office and they
10 would then decide how they wanted the process to work.
11 Q The DAG's office would?
12 A Yeah.
13 Q How does the process work currently?
14 A Well, it's idiosyncratic. I think a lot of times it has to do with who's there
15 and what the particular case is.
16 Q Okay. Has that situation unfolded during your tenure in the last 3 years?
17 A Yes.
18 Q And could you tell us how that process worked from a general standpoint?
19 I'm not asking about the Hunter Biden case yet.
20 A Just generally, I think the U.S. Attorney's Office indicated -- the DAG's
21 office -- they disagreed with something we had done. And the DAG's office I think
22 solicited memos from them and memos from the Tax Division and had a meeting to talk
23 about it.
24 Q Is there a particular person in the DAG's office that has responsibility for that
25 or is that the PADAG?

1 A I think the PADAG can do that, but it's up to the Deputy Attorney General or
2 the Deputy Attorney General's office to decide who would field that particularly.
3 Q Okay.
4 Chairman Jordan. How often has that happened in the last 3 years, that
5 situation?
6 Mr. Goldberg. Not frequently.
7 Chairman Jordan. Can you give us a number?
8 Mr. Goldberg. I can recall one instance.
9 Chairman Jordan. Okay.
10 BY [redacted]
11 Q Does DOJ Tax just approve whether a U.S. Attorney's Office may bring
12 criminal tax charges against a particular individual or does it have to approve the specific
13 charges that the U.S. Attorney's Office may bring?
14 A Generally speaking, we approve specific charges. But we might provide an
15 option, I guess. In some tax cases the Tax Division might say, "U.S. Attorney, you have
16 discretion to bring this charge or this other charge."
17 Q When does the Tax Division get involved to make a decision on a set of
18 charges against a particular person. It is -- as we understand the processes, the
19 criminal investigative team prepares -- at least in the Hunter Biden case there was a
20 special agent report that was prepared and was sent to DOJ Tax with the concurrence of
21 the U.S. Attorney's Office in Delaware. Is that the process, how it ordinarily unfolds?
22 A Are you talking about prosecution or are you talking about grand jury?
23 Q Prosecution, correct.
24 A So that's my understanding, is that there typically would be a special agent's
25 report from the IRS.

1 Q And in this case we've learned from two whistleblowers that the special
2 agent report was prepared, sent to DOJ Tax with the concurrence of the U.S. Attorney's
3 Office in Delaware.
4 And then DOJ Tax lawyers, what is their next step? Do they prepare a report or
5 do they just review the papers and make a recommendation?
6 A I'm sorry, I didn't follow who "they" was.
7 Q The DOJ Tax lawyers that are assigned to review the matter.
8 A So just without talking about the Hunter Biden case in particular and lay this
9 out?
10 Q Uh-huh.
11 A When it comes in, generally we have three regional trial sections. And so
12 the report would go to a trial section that had jurisdiction over where the venue for this
13 was or where the field office was that was referring this.
14 And it would come in, it would get assigned typically to a line person to write a
15 memo, I think which we call a pros memo typically. And then they would review the
16 SAR, the special agent report. They would talk to the U.S. Attorney's Office. They
17 would review.
18 We get a memo from CT counsel, which is the lawyers to the Criminal
19 Investigation Division. They would review that as well.
20 Then that memo would typically go to another person, usually an assistant chief in
21 that section, who would read that memo and maybe consult with some of the other
22 materials.
23 Depending upon what the issues are, they would write a review note. And then
24 that would go to a chief in most instances. And that chief would sometimes write
25 something, sometimes not.

1 But that's the typical case, that's where the line would go.

2 Q Okay. Is it fair to say that there's an approval, a declination -- approval or

3 declination given from the Tax Division?

4 A Sometimes cases get sent back for more work. So that is an option. And

5 there is declination, approval, or prosecution with discretion or prosecution authorized.

6 Q And what's the difference between approval and with discretion and a

7 straight approval?

8 A So in approval prosecution authorization there is an expectation the case

9 would be brought by the U.S. Attorney's Office. If it is prosecution with discretion then

10 the U.S. Attorney's Office has the ability to decide not to bring the case. That is within

11 their purview. They don't have to come back to the Tax Division.

12 Q So when DOJ Tax approves an outright approval --

13 A Right.

14 Q -- the thinking is that the prosecution will happen?

15 A It's the expectation. Occasionally U.S. Attorney's Offices come back and

16 they say, "We've looked more at this case and we don't think it should be brought," or

17 they don't act on it.

18 Q And approval with discretion the Tax Division is basically saying, "Yeah, we're

19 okay with these charges but it's up to you whether you file them"?

20 A I don't think we'd frame it as informally as that. But it's --

21 Q Right. Like, how would you frame it?

22 A Well, that generally the case is back to you. It came up because there was

23 an interest in us looking at the case. And so the U.S. Attorney's Office typically in those

24 cases is engaged with the case and has some knowledge of the case.

25 Q Okay. When did the Hunter Biden case specifically come to your attention?

1 A 2019.

2 Q Okay. Is it fair to say that it's notable because it's the son of, at the time,

3 former Vice President Biden?

4 A When it came in, I think people in the Tax Division recognized that it was the

5 son of Joseph Biden, yes.

6 Chairman Jordan. When in 2019?

7 Mr. Goldberg. I'm not precisely sure. I think sort of midyear-ish, but I'm not

8 sure.

9 [redacted] And can you just explain to us how the case was handled from your

10 perspective inside the Tax Division?

11 Ms. Zdeb. And if I could just interject.

12 He is not authorized to talk specifically about this investigation and prosecution.

13 And so to the extent there is a generic response related to the overall processes of the

14 Tax Division and how it works with U.S. Attorney's Offices, he's able to get into that. But

15 if it pertains to the specific investigation, there's not a whole lot he can say.

16 [redacted] Okay. So what can you say?

17 Mr. Goldberg. Can you restate the question slightly?

18 [redacted]. I'm just trying to understand the procedural history of the Hunter

19 Biden case. You said it was first brought to your attention, the Tax Division's attention,

20 midyear 2019.

21 What can you tell us about how the case was handled? Who was it brought to?

22 What work was done? What was requested? And if you can only answer in a privilege

23 log level, it's better than nothing.

24 Ms. Zdeb. Can we go off the record for a quick second?

25 [Discussion off the record.]

1 Mr. Goldberg. Okay. So when the case came in, just for clarity, I was not in
2 charge of the criminal side of the Tax Division. Richard Zuckerman, who was the
3 political appointee, was the Principal Deputy Assistant Attorney General and the Deputy
4 Assistant Attorney General for criminal matters. So he was the one overseeing any steps
5 that took place at that time.
6 The case came in and there needed to be a decision about whether or not to open
7 a grand jury in the case. And that decision was made. And the U.S. Attorney's Office
8 asked for litigation assistance, is my recollection, in connection with the case.
9 So people from the Tax Division were assigned to work with the U.S. Attorney's
10 Office on the case as well. My knowledge is that the U.S. Attorney's Office had a non-tax
11 as well as tax things that they were reviewing. And then the case proceeded to be
12 worked.
13 BY [redacted]
14 Q And how many Tax Division lawyers were working with the U.S. Attorney's
15 Office in Delaware at this time?
16 A I think there was a person that was initially involved and dropped off of it
17 from the Tax Division. And then, my recollection, there were two people that were
18 assigned and actively were working.
19 Q And for the tenure of the case, did DOJ Tax have lawyers on the team?
20 A Yes.
21 Q Ultimately, do you know whether DOJ Tax provided authorization to pursue
22 criminal tax charges?
23 A As I understand the line, I'm not sure I can answer that question.
24 Q You're not permitted to tell us whether DOJ Tax authorized felony tax
25 charges?

1 Ms. Zdeb. That's getting a little bit away from the question of Mr. Weiss'
2 authority and into specific charging decisions and internal decisionmaking.
3 [redacted]. Did the U.S. Attorney's Office in Delaware and the Tax Division come
4 to an agreement on the types of charges to be pursued at the outset of 2022?
5 Ms. Zdeb. And, again, that is also getting into specific internal decisionmaking
6 around charging decisions?
7 BY [redacted]:
8 Q Between DOJ Tax and the U.S. Attorney's Office in Delaware, who would you
9 say is the primary decisionmaker on this case with regard to the tax component?
10 A So from my perspective, David Weiss in the U.S. Attorney's Office was
11 leading the case and running the case and were doing that and that Tax Division had
12 responsibilities under the Justice Department procedures and policies to review certain
13 things and approve certain things, yes.
14 Q And if there was a disagreement between David Weiss' office and the Tax
15 Division, how was that resolved in terms of activity during the course of the investigation?
16 A So I expect that during that investigation stages, that there was ongoing
17 discussions back and forth. So any disagreement or difference of opinion as to certain
18 perspectives would be discussed, I think, and if some resolution couldn't be reached, then
19 it would have to be decided by somebody else in higher authority.
20 Q Is it fair to say the whistleblowers provided testimony that the U.S.
21 Attorney's Office in Delaware would often say, "We need to get DOJ Tax's approval for
22 that type of investigative steps"?
23 A Okay.
24 Q Is that fair, is that a fair thing to say?
25 A Without commenting specifically on the Hunter Biden case, there were

1 specific things that I think I alluded to before, like an attorney subpoena in a tax case,
2 where Tax Division has to sign off in order for the U.S. Attorney's Office to take that step.
3 Q Was the fact that Hunter Biden was involved here, did that require DOJ Tax's
4 sign-off because it's a sensitive matter?
5 A Well, without getting into the case, again trying to answer a question at a
6 slightly higher level, there are cases that are sensitive, people -- some would say sensitive,
7 sometimes say significant cases. And those cases typically have closer supervision than
8 other, more run of the mill cases.
9 Q And if there's a target of an investigation that has some political significance
10 attached to him or her, is that -- does that trigger any heightened review process within
11 DOJ Tax?
12 A So if something can be termed as sensitive pursuant to the case it might be
13 because it's a public official or it's a person that has a noteworthy profile or it's going to
14 generate a lot of media attention, or might be congressional interest. It could be a
15 corporation or an individual. That might mean that the case would come to my level for
16 ultimate sign-off on the case as opposed to be handled at the chief's level.
17 Q Okay. And is it fair to say that the Hunter Biden case fell into that
18 category?
19 A Yes.
20 Q On specific investigative steps, did the U.S. Attorney's Office in Delaware
21 have the ability to overrule a DOJ Tax decision on whether a certain grand jury subpoena
22 was issued or a certain witness was interviewed?
23 A I think typically U.S. Attorney's Office, if we were working with a U.S.
24 Attorney -- and, again, I'm going to try to keep it at a more generic level so that I can
25 respond -- if DOJ Tax is working on a case with a U.S. Attorney's Office, that U.S.

1 Attorney's Office often is the lead in that case and they would be making most of the
2 ultimate decisions. But we would expect them, if we have people on the case, to be
3 consulting with our folks about the investigative steps that were taken and there would
4 be discussions that would be had about those.
5 Q What timeframe did you assume responsibility for the criminal component?
6 A After Mr. Zuckerman left in January 20th, 2021.
7 Q And had you been involved prior to that in terms of the day-to-day approval
8 process?
9 A So I don't believe I had day-to-day involvement in this case at any stage
10 particularly. But I was somebody who Richard Zuckerman consulted with on criminal
11 matters, and this is one of the matters, yes, that he consulted with me on.
12 Q Okay.
13 A The other thing that I would say is, if he was unavailable and there was any
14 action that needed to be taken with regard to a case, he would often ask me to handle
15 that as Acting Deputy Assistant Attorney General, and I might approve that particular
16 action in his stead.
17 Q Okay. So going back to midyear 2019 through the present, you've had a
18 consistent supervisory responsibility over the decisions made in this case?
19 A I wouldn't say it's been consistent, because Richard Zuckerman was
20 interacting with David Weiss and other people in the Department in connection with this
21 case and I wasn't typically during the period when he was there.
22 Q But he kept you looped in, correct?
23 A He shared with me whatever he shared with me. I don't know what he
24 didn't share with me. I'm not suggesting he did anything wrong or that he should have
25 shared anything. But he had dealings with the U.S. Attorney's Office and with others in

1 the Department where I was not involved.

2 Q Special Agent Ziegler testified that an AUSA in Delaware -- that DOJ Tax

3 didn't expect the case to be indicted until 2023 because there were various levels of

4 approvals that needed to be secured.

5 Is that consistent with your understanding?

6 Ms. Zdeb. And, again, this is getting into decisions in an ongoing case. And so

7 to the extent he can provide a general answer about approvals that are needed in any

8 case, he's able to do that. But he can't speak specifically to what did or did not happen

9 in this case.

10 [redacted] Okay.

11 Mr. Goldberg. Cases at some point come to -- as I described the process before,

12 they have to get evaluated and analyzed by the line level, the assistant chief level, the

13 chief level. And if it's coming to me, those three things definitely happened.

14 BY [redacted]

15 Q Can you tell us, when a case is being worked by FBI criminal investigators

16 and IRS criminal investigators relating to tax charges, how the duties and responsibilities

17 are divided?

18 A So I'm trying to rely on what I've seen over the years in different jobs.

19 So IRS Tax has a particular role, a very unique role in a criminal investigation,

20 Federal criminal investigation. That is that they have access to tax information more

21 easily than other parts. So there are restrictions on what can be pushed through. That

22 means that IRS Tax handles certain things.

23 But, generally speaking, where I've seen IRS and FBI in cases together, they work

24 closely together and share information relevant to the cases. Generally, the reason the

25 FBI is on the case is because there are potential non-tax charges, Title 18 charges, and so

1 they would have an interest in things the IRS was doing and vice versa, but they would
2 have their own jurisdictions and responsibilities.
3 Q And did you have contact with the FBI field office about this case?
4 A I did not. I met a couple of the supervisors from that office, but I did not
5 have contact with them.
6 Q How frequently did you have contact with David Weiss?
7 A I would -- not that frequently. If something came up that required my
8 attention or he -- or I thought I needed to talk to him. Typically things came through our
9 chain of command, so my main contact on this case would be through the chief of our
10 northern section.
11 Q Okay.
12 A Because Delaware was in the northern section.
13 Q Okay. And it's been well documented that the two IRS Tax Division
14 lawyers, Mark Daly and Jack Morgan, were the primary points of contact for the IRS
15 criminal investigators and the U.S. Attorney's Office. Is that your understanding?
16 A Before I answer that, I've been asked by the Department of Justice to avoid
17 using names of people who are non-supervisory. So I would request that the committee
18 consider redacting their names in the transcript. But both Mr. Daly and Mr. Morgan
19 were assigned to the matter, yes.
20 Q And what were their duties or the differences, how did they split up their
21 responsibilities?
22 A Between each other?
23 Q Yes.
24 A Mark Daly is more senior, he's a senior litigation counsel. Had more
25 experience. Both of them are very smart, hardworking people. But I think they

1 worked along with each other deciding how to split up things in consultation with their
2 supervisor in the northern region.
3 Q Are you familiar with the special agent report that was prepared by the IRS
4 in this matter, in the Hunter Biden matter?
5 A I'm aware that there was such a report, yes.
6 Q And do you know when DOJ Tax received the report?
7 Ms. Zdeb. And, again, we're -- well, he can answer that yes or no if he knows the
8 answer. But he's not able to get into specific documents, specific steps in the
9 investigative process.
10 Mr. Goldberg. I think it was received in February 2022.
11 [redacted]. Okay. And prior to the preparation of the special agent report,
12 there was a consensus developed, as it's been represented to us, a consensus developed
13 by the prosecution team.
14 And by prosecution team, I mean the U.S. Attorney's Office in Delaware, the IRS
15 criminal tax investigators, the FBI agents came to a determination that they were going to
16 move forward with criminal tax charges against Hunter Biden late in 2021.
17 It's been represented to us through testimony that Special Agent Ziegler at the IRS
18 prepared the special agent report the latter part of 2021 and it was available, submitted
19 to DOJ Tax in, like you said, February of 2022.
20 Is that your recollection of the process?
21 Ms. Zdeb. And there was a lot baked into that question about the ongoing
22 investigative process and decisions, whether or not there was consensus, what happened.
23 All of that involves the ongoing matter and is beyond the scope of what he's able to speak
24 to.
25 If you have a general question about kind of the role of the special agent's report

1 relative to a pros memo, those are the sorts of things he can speak to.

2 [redacted]. Were you aware before the special agent report was drafted that

3 the U.S. Attorney's Office in Delaware and everyone on the team presumably agreed to

4 move forward with the special agent report?

5 Ms. Zdeb. And it's the same objection.

6 BY [redacted]:

7 Q Do you know whether Mr. Daly or Mr. Morgan were involved with those

8 meetings and that determination that Special Agent Ziegler would draft that report?

9 A Whether they were involved in the decision to have him draft a report?

10 Q Right.

11 A I don't know for sure. I assume there were some discussions, though,

12 between Mr. Daly or Mr. Morgan and the investigators while they were doing that report.

13 Q Do you know -- I mean, the special agent report is a pretty sophisticated

14 document, correct? It's long, it contains recitation of all the evidence collected, correct?

15 A It's a compilation of a lot of evidence, but it doesn't necessarily address all

16 aspects of a case.

17 Q But is it fair to say it's a big project --

18 A Yes.

19 Q -- for the IRS to prepare a special agent report?

20 A It's going to require work. If in a larger case would require more work, yes.

21 Q And Special Agent Ziegler and Supervisory Special Agent Shapley

22 represented to us that before they set out to prepare this document that they wanted to

23 make sure everybody was on the same page. And they represented to us that everyone,

24 in fact, was on the same page. And the question to you is whether that's consistent

25 with your recollection.

1 Ms. Zdeb. And that question also gets into deliberations about the ongoing case
2 and he's not able to speak to that.
3 BY [redacted]
4 Q Do you remember how long the special agent report was?
5 A I don't.
6 Q And did you read it?
7 A I did not read the special agent report.
8 Q Was it provided to you? Did you examine it? Did you flip through it to get
9 a sense of what was included?
10 A I might have seen pieces of it but I didn't read it. Typically, I don't read
11 those reports. They get distilled by the pros memo, the assistant chief and the chief, the
12 relevant parts, or they talk about it in various ways.
13 Q And what was the process here? The special agent report you said came in
14 in February of 2022. What were the next steps inside of DOJ Tax Division? And if you
15 don't want to talk -- if you're not able to talk specifically about the Hunter Biden case,
16 maybe you could just give a general process, how the process would unfold.
17 A So I'm trying to take this up a level.
18 The special agent's report comes in. And it depends upon where you are in the
19 case. The case might require a grand jury investigation, it might require additional
20 investigation that was not covered. People read the investigative report and decide that
21 there needs to be additional investigation that has to be undertaken in connection with it.
22 Sometimes there's a conference, a tax conference that's afforded to the target of
23 the report, in which case that occurs, and that information then gets analyzed.
24 There's thought about how the case is going to put together from the standpoint
25 of the Federal Principles of Prosecution. Lawyers look at cases a little differently

1 generally from agents in terms of admissible evidence and order of proof, who the
2 witnesses are going to be.
3 Q And are you able to tell us anything about what happened with the Hunter
4 Biden case in terms of the process?
5 Ms. Zdeb. He is not.
6 [redacted] Do you know whether a prosecution report was drafted by DOJ Tax
7 after receiving the special agent report?
8 Ms. Zdeb. To the extent there is a general process that applies in all cases, he
9 can speak to that.
10 [redacted] Well, no, I'm asking about the Hunter Biden case.
11 Do you know whether a prosecution report was prepared by DOJ Tax?
12 Ms. Zdeb. And I'm saying he can't speak about the ongoing investigation. And
13 so if there --
14 Chairman Jordan. He's not asking what was in the report, he's asking was it
15 prepared.
16 Ms. Zdeb. Right. Yes, I understood the question. But the scope of his
17 authorization does not allow him to speak about the ongoing investigation, whether it
18 involves the contents or the fact of something that is prepared as part of the process.
19 BY [redacted]
20 Q Do you know the answer to my question?
21 A As I understand my direction from the Department, I can't say yes or no.
22 Q Well, I understand you're not going to answer the question. But were you
23 permitted to answer the question, would you be able to? Do you know the answer?
24 A Like I said, I feel like I can't answer that question given the direction I've
25 gotten from the Department.

1 Q Well, there was either a prosecution report prepared or not. And my
2 question is whether you know the answer to that question, not whether there was one
3 produced.
4 A I'm trying to think of how I can answer this question in a way that doesn't
5 require me to go back to the Department.
6 Ms. Zdeb. I mean, I think he's conveyed what he is comfortable conveying.
7 But, again, if you want to ask him if that is something that happens in a typical case and
8 what the typical process is, he can speak to that.
9 BY [redacted]
10 Q Okay. But I'm asking about the Hunter Biden case.
11 Do you know whether a prosecution report was prepared, yes or no? Like, yes,
12 the report was prepared, or no, the report wasn't prepared. I mean, if you know the
13 answer to that question, I guess that's what I'm looking for, do you know the answer to
14 the question, not whether the prosecution report was prepared or not prepared.
15 A Let me -- I was the supervisor of that case. I am the supervisor of that
16 ongoing case. So I'm familiar with any significant matters that took place in that case, to
17 keep that at eye level and answer your question.
18 Q Did you participate in any meetings in person with the Delaware U.S.
19 Attorney's Office?
20 A Yes.
21 Q How many?
22 A One.
23 Q And when was that?
24 A January 2023.
25 Q And who was in attendance?

1 A The U.S. Attorney.

2 Q Mr. Weiss?

3 A Yes. Several assistants from his office.

4 Q Was Lesley Wolf there?

5 A Yes. The lawyers from the Tax Division were there.

6 Q Mr. Morgan and Mr. Daly?

7 A Yes. And defense counsel representing Mr. Biden.

8 Q And who was representing Mr. Biden?

9 A Chris Clark.

10 Q Anyone else?

11 A There were two other lawyers there.

12 Q Associates of his from his firm?

13 A I don't remember whether exactly his firm, but they were working with him

14 on the case.

15 Chairman Jordan. Where was the meeting?

16 Mr. Goldberg. Pardon me?

17 Chairman Jordan. Where was the meeting?

18 Mr. Goldberg. At the U.S. Attorney's Office.

19 Chairman Jordan. In Delaware?

20 Mr. Goldberg. Yes.

21 [redacted] You traveled to Delaware for that meeting?

22 Mr. Goldberg. Yes.

23 [redacted] And what happened at that meeting?

24 Ms. Zdeb. He can't speak to what happened at a meeting about the case.

25 BY [redacted]

1 Q Certainly you can tell us at least what Mr. Clark, from that standpoint of the
2 conversation, what Mr. Clark said.
3 A He was making a presentation on the case.
4 Q A PowerPoint presentation? Did he have a slide deck?
5 A I think he did, yes.
6 Q And how long was the presentation?
7 A I'm not sure. I think it was about an hour maybe.
8 Q Okay. And was it customary for you to attend that type of meeting or did
9 you only attend here because of the significance of the target and the investigation?
10 A I attended because Mr. Weiss asked me to come up for the meeting.
11 Q Okay. How frequently do you travel to U.S. Attorney's Offices for meetings
12 of that sort? Was that unusual for you to --
13 A For me to go to a U.S. Attorney's Office on a case?
14 Q Yeah.
15 A It's not something that I would commonly do.
16 Q Okay. How many times have you done it?
17 A In the Tax Division or in other supervisory --
18 Q In your current role?
19 A I think it's the only time I've done it. But I think this is a matter -- the case
20 was being run out of the U.S. Attorney's Office in Delaware and everybody else was going
21 to be there, so they asked me to tag along as well.
22 Q Okay. But you hadn't been a part of any of the in-person meetings prior to
23 that outside of the presence of Mr. Biden's lawyers?
24 A That was a complicated question. Could you rephrase that?
25 Q I'm sorry. Was that the first time that you had an in-person meeting with

1 David Weiss?

2 A No.

3 Q Okay. On this case?

4 A I had had other meetings with David Weiss prior to that meeting, yes.

5 Q On the Hunter Biden case?

6 A Yes.

7 Q And can you tell us how many? In-person meetings.

8 A Yes.

9 Q Like, how many times have you been to the U.S. Attorney's Office in

10 Delaware? Maybe that's a good place to start.

11 A I think you asked that question. One.

12 Q Okay. So that was the only time?

13 A Yes.

14 Q One visit to Delaware on this case and it was the meeting with Chris Clark?

15 A It was a meeting that David Weiss asked me to attend in connection with the

16 case.

17 Q Okay. But Chris Clark was there making a presentation, right?

18 A Yes.

19 Q Okay. And then how many meetings with David Weiss in person did you

20 attend in other locations, presumably D.C.?

21 A I would say -- I'm guessing -- maybe seven or eight.

22 Q And do you remember roughly the dates of those?

23 A I don't. I don't. Some of them were short, some of them less.

24 Chairman Jordan. Those were all in person?

25 Mr. Goldberg. Yes.

1 Chairman Jordan. The many times you met in person, Mr. Weiss would be here
2 in D.C.?
3 Mr. Goldberg. Yeah, all the meetings I had with him were in D.C.
4 Chairman Jordan. So you had seven or eight meetings with him in D.C., then one
5 meeting was in January 2023 at the U.S. Attorney's Office in Delaware?
6 Mr. Goldberg. He set up a meeting in D.C. -- in Delaware -- and asked me to
7 attend, along with the other people from my office and people from his office that were
8 at the meeting.
9 BY [redacted]
10 Q Did you attend a meeting in June of 2022 at Main Justice --
11 A Yes.
12 Q -- on this?
13 Do you remember who attended that meeting? And if you don't, I can --
14 A I have a general recollection of they were --
15 Q Was Gary Shapley there?
16 A Yes.
17 Q Darrell Waldon?
18 A I don't know him very well, but I know that there were IRS supervisors there.
19 So that sounds right.
20 Q And David Weiss?
21 A David Weiss was there, yes.
22 Q Lesley Wolf?
23 A Yes.
24 Q Mr. Daly? Mr. Morgan?
25 A Yes.

1 Q And then two FBI officials, Mr. Sobocinski and Ms. Holley?

2 A Yes. And I think there was other IRS agents there and some FBI agents

3 there as well.

4 Q And do you remember the purpose of the meeting?

5 Ms. Zdeb. And once we start getting into purpose, what happened at the

6 meeting, those go beyond the scope of his authorization.

7 BY [redacted]:

8 Q Do you remember who requested the meeting, who set it up?

9 A David Weiss asked for the meeting to be set up.

10 Q And do you remember if David Weiss was in charge of inviting and

11 assembling the individuals that attended the meeting or was that handled by somebody

12 else?

13 A I don't know who logistically contacted people or decided who should

14 attend.

15 Q I guess my question, though, is, did David Weiss say, "Hey, we need to get

16 everyone in the room, let's get FBI, let's get the IRS, let's get the Tax Division people"?

17 Was that David Weiss' initiative or Lesley Wolf's initiative to assemble everyone?

18 A My recollection is that David Weiss wanted to have a meeting with people

19 involved in the case.

20 Q And we received testimony that Mr. Morgan and Mr. Daly gave a

21 presentation regarding the reasons why the case should not be charged. Is that your

22 recollection?

23 Ms. Zdeb. He can speak to whether there was a presentation, but he is not able

24 to get into what any presentation consisted of.

25 Mr. Goldberg. Yes. There was a presentation that was made.

1 BY [redacted]

2 Q And do you remember who provided the presentation?

3 A Mr. Daly and Mr. Morgan.

4 Q And anyone else have a presentation or a counter-presentation?

5 A I don't recall a counter-presentation. There were other people there who

6 made comments during the course of it.

7 Q Okay. Do you know if anyone, any of the participants, expressed

8 frustration that the purpose of the meeting had been misrepresented to them?

9 Ms. Zdeb. And, again, this is getting into the contents of the meeting on the

10 ongoing investigation, so he's not able to address that.

11 [redacted] Do you remember whether this particular meeting dealt with the

12 2014 and 2015 tax years?

13 Ms. Zdeb. And that also relates to the contents of the meeting on the ongoing

14 investigation.

15 [redacted]. So I guess the question is, was the meeting related to the global case

16 or was it specific to a couple tax years? I mean, at the time they were -- we've received

17 testimony pursuing tax -- criminal tax charges for 2014, 2015, 2018, and 2019. And the

18 question is, was this meeting dealing with all of those issues or just the 2014 and 2015 tax

19 years?

20 Ms. Zdeb. And I think that's essentially the same question. It's seeking the

21 contents of a meeting on the case.

22 [redacted]. Were you aware that the statute of limitations was about to expire

23 on the 2014 and 2015 tax years?

24 Ms. Zdeb. And, again, that relates to the ongoing case and he's not able to

25 address it.

1 [redacted] Were you aware that there was a tolling agreement arranged with
2 Hunter Biden's lawyers to extend the statute of limitations?
3 Ms. Zdeb. He can answer if he is aware of a tolling agreement. But if what
4 you're asking is whether something like that was discussed at this meeting or any other
5 particular meeting, he can't get into that.
6 Mr. Goldberg. Could you repeat the question? I'm sorry.
7 BY [redacted]
8 Q Are you aware of whether or not there was a tolling agreement on the 2014
9 and 2015 tax years?
10 A I don't believe that -- I believe there was a tolling agreement, but I'm not
11 sure it was restricted to particular years.
12 Q Okay. Can you tell us how tolling agreements ordinarily work?
13 A So in a general case, whether it's a tax case or not, sometimes there are
14 discussions between the Department of Justice and people who are targets of
15 investigations, because there are statute of limitations that might come into play at some
16 point and there may be requests by the Department or an offer by the target to extend
17 that statute through the course of a tolling agreement.
18 Usually there's a request made by a defendant -- or not defendant -- a target
19 prior, that in exchange for that they might want to make a presentation or do other
20 things. And there is a written agreement that gets executed that -- typically there are
21 different variations of it -- that excludes time.
22 Q And why would a target want to enter into a tolling agreement to allow the
23 government more time to bring a case?
24 A You know, I've asked myself that question sometimes. And I think it's
25 because a target sometimes thinks that then they will get an opportunity to provide a

1 more fulsome presentation about things.

2 Other times I think defense attorneys, they are in favor of pushing things down

3 the road a little bit. Maybe they feel like they need time to get up to speed on their own

4 case. But they make their own decision from the perspective of their client.

5 Chairman Jordan. What happened before the meeting? So Mr. Daly and

6 Mr. Morgan make a presentation at this meeting. Were you fully abreast of what they

7 were going to present at the meeting with Mr. Weiss and other people, part of the

8 investigative team?

9 Ms. Zdeb. You can answer yes or no.

10 Mr. Goldberg. Fully abreast is -- I was aware that they were going to make a

11 presentation. I had a sense of that presentation.

12 Chairman Jordan. And you were fine with them presenting the material in the

13 way they were going to present it?

14 Mr. Goldberg. I don't recall I had a detailed knowledge of exactly what they

15 were going to present. I didn't review their slides. I think I had some notion of some

16 of the documents that they had.

17 Chairman Jordan. Were you in agreement with what they presented to the rest

18 of the investigative team, to Mr. Weiss and his team?

19 Mr. Goldberg. I think this was a presentation that was being made by them

20 about the case. I'm not sure I can go into that more given the line I have given me.

21 BY [redacted]

22 Q Did you have a pre-meeting with Morgan and Daly and the Tax Division

23 officials that were in attendance to iron out of what was going to be discussed?

24 A I don't think so, not in the way you're talking about. I know I talked to

25 them beforehand that there was going to a meeting and got some sense of what was

1 going to be covered at the meeting.

2 Q Were there any levels of supervisors between Daly and Morgan and yourself

3 involved with this case at DOJ Tax?

4 A Yes.

5 Q And who is that?

6 A So the chief of northern, Jason Poole, and another individual who is an

7 assistant chief in northern as well.

8 Q And did those two officials attend the meeting?

9 A I'm pretty sure that almost assuredly Jason Poole was there, and I think the

10 other assistant chief was there as well.

11 Q Okay. And did Jason Poole, would he be the primary person you would

12 interact with on the contents of matters like this? Or were you dealing more directly

13 with Morgan and Daly, I guess is my question.

14 A Generally speaking, on this case I observed the chain of command.

15 So most of my dealings on the case were through Jason Poole. Occasionally the

16 lawyers that were involved, Mark and Jack, would also be on a call or at a meeting or

17 sometimes they might reach out directly or --

18 Chairman Jordan. Yeah, but we're not talking about generally, we're talking

19 about what happened in June of '22. What happened here?

20 Mr. Goldberg. I can't remember whether or not I talked -- whether Jason Poole

21 or the assistant chief were present before the meeting when we talked at all. I think I

22 talked to Mark Daly and Jack Morgan prior to this.

23 Chairman Jordan. Before the meeting you talked to Mr. Daly and Mr. Morgan,

24 and Mr. Poole and the other assistant may have been there or may not have been there.

25 But you definitely talked to Mr. Morgan and Mr. Daly prior to the meeting?

1 Mr. Goldberg. Yes, yes, yes.

2 Chairman Jordan. Just prior?

3 Mr. Goldberg. I don't know if it was just prior. It could have been 2 days

4 before. But prior to the meeting.

5 [redacted]. Who would have reviewed their presentation and okayed it?

6 Mr. Goldberg. I don't know the answer to that particularly. Remember, this is

7 a joint case with the U.S. Attorney's Office and I don't know what interaction -- and David

8 Weiss had asked for this meeting to happen. So I don't know what interactions there

9 were between the U.S. Attorney's Office and them as well regarding the presentation.

10 Chairman Jordan. Did David Weiss call you to make this meeting happen? Or

11 how did it get coordinated?

12 Mr. Goldberg. I think I got contacted that said -- through one of my folks -- that

13 said David Weiss wants to have a meeting in Washington with folks about the case.

14 That's how I think I got it. It's my recollection.

15 [redacted] Do you recall any differences of opinion that occurred during that

16 meeting?

17 Ms. Zdeb. And that also gets into the substance of the meeting, which he is not

18 authorized to discuss.

19 BY [redacted]

20 Q Agent Ziegler testified that the special agent in charge of the Baltimore Field

21 Office, Agent Sobocinski, asked several questions about the tax case and presented

22 rebuttals to DOJ Tax attorneys who were presenting on defenses raised by defense

23 counsel. Do you recall that?

24 Ms. Zdeb. That also involves the contents of the meeting on the ongoing

25 investigation. He's not authorized to discuss it.

1 BY [redacted]

2 Q But do you know the answer to that question?

3 A I'm not sure how I can answer that question and stay --

4 Q Well, you're here voluntarily.

5 A Yes.

6 Q And so if we ask a question and you don't want to answer it, we need to

7 make the determination whether that type of question -- at the end of the interview we'll

8 make a list of the information we were seeking from you that we were unable to get and

9 we'll make a decision about whether we need to compel your testimony. And, granted,

10 if we compel your testimony you may come back and refuse to answer.

11 But before we do that, we'd like to know whether, if we are successful in

12 compelling your testimony, whether you know the answer to the question, because if we

13 ask you something and you say, "Well, we can't get into it," but it turns out you don't

14 even know the answer to the question, then it's not really worth the quarrel.

15 Ms. Zdeb. But I think you've asked him whether he recalls a specific thing

16 happening at that meeting.

17 [redacted] Yes.

18 Ms. Zdeb. And there's no way that he can answer whether he knows the answer

19 to that question or not without revealing the answer to the underlying --

20 [redacted]. I disagree, I disagree, because -- and my time's up here and so

21 we'll -- this will be it for the first round.

22 But I disagree because I articulated a vignette that Agent Ziegler testified to. And

23 Mr. Goldberg, I think, is in a position to say, "Yes, I remember that," or, "No, I don't

24 remember that," and so that's going to be his answer. But if he can't answer that, then

25 my question is, are you able to say yes or no?

1 Ms. Zdeb. Right. I know what your question is, and my point is that it -- he
2 cannot answer that question without revealing the answer to the other question he is not
3 authorized to speak to.
4 And more broadly, this meeting in general is not within the scope of what he's
5 authorized to speak to. He's happy to speak to Mr. Weiss' authority, to general
6 processes, but he simply cannot get into the substance of the meeting on the case?
7 [redacted] Okay. That's the end of our hour.
8 [Recess.]

1

2 [11:26 a.m.]

3 [redacted] It is 11:26. We can go back on the record.

4 EXAMINATION

5 BY [redacted]

6 Q Mr. Goldberg, good morning again. I'm [redacted]. I'm with Ranking

7 Member Nadler's staff.

8 I want to go back. We talked through, at the very beginning of the first round,

9 your background, and I want to just touch on that again.

10 You said you first joined the Justice Department in January 1988, correct?

11 A Yes.

12 Q And you've served in every -- roles from a trial attorney in the Public

13 Integrity Section, supervisory level in the Public Integrity Section. You were in the U.S.

14 Attorney's Office in Maryland for a period of time, then you were in the Deputy Attorney

15 General's Office for a time before you went to the Tax Division.

16 Is that a good summation?

17 A Yes.

18 Q And so it's fair to say that you've seen cases both at a line attorney level, at

19 the supervisory level, and also at kind of the Department management level?

20 A Yes.

21 Q Okay. You received a Director's Award in 2010, correct?

22 A Yes.

23 Q What was that award for?

24 A It was when I was the first assistant in the U.S. Attorney's Office, and it was

25 for my job overseeing things, in particular white collar cases in the U.S. Attorney's Office.

1 Q Thank you.

2 So is it fair to say that you are a longtime career-level employee of the

3 Department of Justice?

4 A Yes.

5 Q And in that capacity you've served under both Republican administrations,

6 right?

7 A Yes.

8 Q And you've also served under Democratic administrations?

9 A I have, yes.

10 Q Okay. I want to look at the Tax Division specifically.

11 I think in the first round you said that right now there's no political appointees at

12 the Tax Division. Is that correct?

13 A Yes.

14 Q Is that typical?

15 A It's not typical for most components of the Justice Department, but the Tax

16 Division has had a lot of vacancies over the years in their political positions.

17 Q Okay. So is it fair to say that right now certainly everybody in the Tax

18 Division is a career employee?

19 A Yes.

20 Q Okay. And with regard to the Hunter Biden investigation specifically, you

21 said in the earlier hour that when the case first came to DOJ Tax the person who handled

22 it was Richard Zuckerman. Is that correct?

23 A He was the supervisor of criminal matters at that time, yes.

24 Q Okay. And who was Mr. Zuckerman?

25 A He was a political appointee during the Trump administration. He was a

1 guy who begun his career, I think, in the Department of Justice for a couple years, and
2 then had been a white collar lawyer out in Detroit for a number of years before he
3 became the DAG for criminal matters at the Tax Division.
4 Q Okay. And he was, you said, an appointee of former President Trump?
5 A Of that administration, yes.
6 Q Okay. So is it fair to say that with respect to the Hunter Biden matter -- I'm
7 sorry, and other than Mr. Zuckerberg -- Mr. Zuckerman, I'm sorry -- everybody who has
8 touched the Hunter Biden matter has actually been a career employee, is that fair to say,
9 with respect to Tax Division specifically?
10 A Yes.
11 Q Okay. Over the course of your career at the Department, and looking in
12 particular, for example, at your time with the Public Integrity Section, did you prosecute
13 both Republican and Democratic politicians?
14 A Yes. When we were -- when I was an attorney there and a supervisor, yes.
15 But we didn't put people in those buckets. We prosecuted public officials and
16 employees who committed violations. We didn't keep track of how many were
17 Republican or how many were Democrat.
18 Q Okay. And can you explain that a little more? When you say, we didn't
19 put people into buckets, why was that?
20 A Well, it's important, particularly in public corruption cases, that partisan
21 politics plays no role in criminal prosecutions.
22 And so we investigate people following the evidence, and then make a judgment
23 based on the evidence that's been developed and the Principles of Federal Prosecution
24 what should be done with the case. Sometimes we declined the case; sometimes we
25 went forward and prosecuted the case. It was based on that evidence and not political

1 labels.

2 Q Okay. And you said that's important in particular with respect to the Public

3 Integrity Section.

4 A Yes.

5 Q But do you think that's also important, for example, when you're prosecuting

6 white collar cases at the District of Maryland?

7 A Yes. Yes. And I think it's important across the Department in everything

8 we do, and criminal cases shouldn't have partisan elements in the middle of them.

9 Q And what about the Tax Division, is it important --

10 A Yes.

11 Q -- for the Tax Division to not look at political labels but follow the facts and

12 the law where they lead?

13 A Yes.

14 Q There have been allegations that the Justice Department Tax Division's

15 decision-making in the Hunter Biden case specifically was driven by some decision to

16 protect Hunter Biden from prosecution because of who his father is.

17 What's your reaction to that allegation?

18 A So just keeping things at a very high level, partisan politics, in my view,

19 played no role and hasn't played and I expect will play no role in the way the Tax Division

20 in the Department of Justice handles the Hunter Biden case.

21 [redacted] Okay. Go ahead.

1 BY [redacted]

2 Q On the subject of Mr. Zuckerman's involvement in this case, can you repeat
3 again for the record what his position was when he was ultimately responsible for
4 approving decisions in that case?

5 A Sure. He wore two hats. One was as the Principal Deputy Assistant
6 Attorney General, so he was the head of the Tax Division. But he also wore the hat of
7 the Deputy Assistant Attorney General for Criminal Matters, which is the position I'm in,
8 where he oversaw directly the criminal side of the Tax Division.

9 Q Okay. And the only person during the pendency of the Hunter Biden
10 matter who was a political appointee in that position was Mr. Zuckerman. Is that
11 correct?

12 A Yes. We had a couple of other political appointees in the Tax Division
13 during the Trump administration, but I don't believe they had, to my knowledge, any
14 involvement in the Hunter Biden case.

15 Q And I believe you said in the first hour that one of the case-related decisions
16 that Mr. Zuckerman made with respect to Hunter Biden was the decision to open a grand
17 jury. Is that fair? I say that because I thought that was the testimony in the first hour.
18 If I'm wrong, you can correct me.

19 A So a grand jury was opened during that period of time.

20 Q Was that decision ultimately under the supervision and ultimate approval of
21 Mr. Zuckerman?

22 A Yes, though I don't know if I can get in any further into this given the
23 Department's direction to me.

24 Q Okay.

25 BY [redacted]

1 Q When did Mr. Zuckerman leave the Department, if you remember?
2 A I believe it was January 20th, 2021.
3 Q Okay. So he was there pretty much through the end of the Trump
4 administration?
5 A Yes.
6 Q You mentioned earlier, and I know you've asked for the names to be
7 redacted from the final transcript, but Jack Morgan and Mark Daly. Those are -- they're
8 both Tax Division employees, correct?
9 A Yes. Well, Jack Morgan is not currently a Tax Division employee.
10 Q Okay. Where is he -- who is he an employee of right now?
11 A He's an Assistant U.S. Attorney in the Eastern District of Virginia.
12 Q Okay. And is that recent?
13 A It's as of, I think, August 2022, so late 2022, maybe.
14 Q Okay. To the extent that you worked with Mr. Morgan and Mr. Daly and
15 interacted with them in this case, but also just generally as a supervisor in the Tax
16 Division, is it your opinion that they, like you, followed the facts and the law wherever
17 they might meet in a case?
18 A Yes. They're two very dedicated, hardworking, smart prosecutors who are
19 trying to follow the evidence and the law, yes.
20 Q Did you ever have any indications or any reason to believe that partisan
21 political opinion or bias might be playing a role in their decision-making?
22 A No.
23 Q Okay. In the earlier hour, you were discussing the difference between a
24 special agent report and a prosecution memo, and I don't think you really got the chance
25 to explain in detail how they differ from each other.

1 So for the record, briefly, can you explain what a special agent report is?
2 A It's the formal referral from the IRS to the Tax Division asking the Tax
3 Division to authorize charges in a tax prosecution.
4 Q And what type of things might a special agent report contain?
5 A Copies of interview reports, copies of significant evidence, bank statements,
6 or things along those lines. There's generally some overview text that's written by the
7 special agent as well.
8 Q You said in the earlier hour that the special agent report is a compilation of a
9 lot of things, but it doesn't address everything. I think you said something along those
10 lines.
11 A Yes.
12 Q What might not be included in a special agent report?
13 A Just talking generally, there often may not be a well-developed analysis of
14 the defenses in a particular case. And that may be largely because of the agent doesn't
15 have the information at that time or hasn't focused on it. But it also doesn't contain a
16 lot of information that a prosecutor might want and require in order to apply the
17 Principles of Federal Prosecution.
18 It doesn't get into evidentiary questions generally, in my view. It doesn't get into
19 the elements of particular -- I think it has very broad brush typical discussion of elements,
20 but it's not the sort of in-depth analysis that lawyers tend to do.
21 So what the lawyer is looking at in a case may be different from what's in that
22 report. So they may be interested -- the prosecutor may think that upon reading that
23 report that additional evidence needs to be developed further, for instance.
24 Q And that's because a prosecutor is ultimately the individual who would have
25 to try the case, so they have to have a better sense of what evidence might be needed at

1 trial. Is that fair to say?

2 A Yes. And prosecutors are obliged under our role in the Justice Department

3 to evaluate whether something meets the Principles of Federal Prosecution in order to

4 proceed with a case.

5 Q Okay. The things that are not contained in the special agent report, things

6 like evidentiary considerations -- and that would be, for example, whether evidence

7 would be admissible, correct?

8 A Yes. I guess, it's possible there's some reference to that, but certainly there

9 wouldn't be in-depth analysis, in my experience.

10 Q Okay. So things that are not in the special agent report, like evidentiary

11 consideration, like a more extensive discussion of the elements of particular charges, are

12 those the type of things that would be included in a prosecution memo?

13 A Yes.

14 Q Okay. And can you describe what a prosecution memo is, just generally,

15 not with respect to this case in particular?

16 A Generally, it's a memo that reviews the relevant facts in the case and the

17 relevant law. Often there's a discussion of the -- an evaluation of the potential

18 witnesses and maybe their credibility, maybe other assessments about them. There

19 may be discussions of venue or other aspects, legal aspects of a case, as well.

20 Q Who prepares the prosecution memo?

21 A In a tax case, it's generally assigned by the chief of the section to a particular

22 attorney to prepare.

23 Q Okay. And then who would review a memo after it's -- after an attorney

24 prepares it?

25 A It would go up to the next level, which is typically an assistant chief in the

1 Tax Division in a tax case.

2 Q Okay. And then sometimes these memos, in fact, reach up -- they reach

3 you, correct?

4 A Sometimes. If it comes to me, there's usually on top of that a chief's

5 review note as well.

6 Q Okay. You've mentioned the Principles of Federal Prosecution a couple

7 times.

8 A Right.

9 Q And I want to look into those in a little bit of detail.

1 [Goldberg Exhibit No. 1

2 Was marked for identification.]

3 BY [redacted]

4 Q I'm going to introduce as exhibit 1 Section 9-27.220 from the Justice

5 Manual's Principles of Federal Prosecution, which is the section entitled, "Grounds for

6 Commencing or Declining Prosecution." And we're going to look at -- 9-27.220 is at the

7 bottom of the second pages printed.

8 And I should say, we've printed this off. It is, oh, maybe three dozen sections

9 long. So we've only included the one section we're going to go through here. The

10 actual full section is, I think, 30 pages.

11 A Okay.

12 Q I'm going to read the very first paragraph under 9-27.220. It reads,

13 "Grounds for commencing or declining prosecution. The attorney for the government

14 should commence or recommend federal prosecution if he or she believes that the

15 person's conduct constitutes a federal offense, and that the admissible evidence will

16 probably be sufficient to obtain and sustain a conviction, unless, number one, the

17 prosecution would serve no substantial federal interest; number two, the person is

18 subject to effective prosecution in another jurisdiction; or, number three, there exists an

19 adequate non-criminal alternative to prosecution."

20 Did I read that correctly?

21 A Yes.

22 Q So under these principles, prosecutors should only bring charges when,

23 among other considerations, they believe that the admissible evidence will probably be

24 sufficient to obtain and sustain a conviction, correct?

25 A Yes.

1 Q In layperson's terms, what does admissible evidence mean?

2 A It's evidence that a court is going to allow the finder of fact, which typically is

3 a jury, to see and consider in a criminal case.

4 Q So what are examples of evidence that might not be admissible?

5 A It could be evidence that's barred by hearsay or where there is not a witness

6 that's going to have personal knowledge, that you bring in somebody to testify about

7 things that he or she did not directly observe or learn.

8 Q The burden of proof for a criminal prosecutor to obtain a conviction at

9 trial -- so this goes to the obtain and sustain a conviction -- the burden of proof is beyond

10 a reasonable doubt, correct?

11 A Yes.

12 Q What does beyond a reasonable doubt mean?

13 A That's something that's usually left up to juries to decide, and often courts

14 are reluctant to define that. But it's only a doubt for which you have a reason, really, is

15 what courts sometimes say. It doesn't have to be beyond a shadow of a doubt, but it

16 needs to -- it's a fairly high -- it's a pretty high standard.

17 I think the principle we have in the United States is that rather have a guilty

18 person go free rather than -- not that you want that -- rather than have an innocent

19 person convicted.

20 So we have a very high burden of proof, and the jury needs to be unanimous in

21 finding that it's beyond a reasonable doubt.

22 Q Okay. And it's actually -- beyond a reasonable doubt is actually the highest

23 evidentiary standard in the law, correct?

24 A Yes.

25 Q So it's higher than, for example, probable cause?

1 A Yes, significantly higher.

2 Q And it's higher than preponderance of the evidence, correct?

3 A Yes.

4 Q Okay. I want to talk through some of the considerations that a prosecutor

5 might take into account when weighing whether the admissible evidence is sufficient to

6 obtain and sustain a conviction, so sufficient to convince a jury beyond a reasonable

7 doubt.

8 Is sufficiency of the evidence something that a prosecutor might take into

9 consideration?

10 A Yes. Now we're talking generally about --

11 Q Yeah, just generally. Yep.

12 A -- general criminal cases.

13 Q What does sufficiency of the evidence mean?

14 A Whether there is enough evidence that a fact finder, let's say the judge,

15 would determine it could go to a jury because there is enough evidence that if, taking the

16 inferences in the government's favor, that there are elements that -- that there's

17 evidence that meets all the elements of the crime, of a particular crime, and that it's

18 proven beyond a reasonable doubt.

19 Q Okay. Do prosecutors take into account their ability to explain the charges

20 to a jury effectively? So in other words, very complicated evidence might be challenging

21 to present to a jury?

22 A Yes, though, particularly in the Tax Division, we try to work at doing that in

23 our cases. We handle more complex cases generally.

24 Q Are prosecutors required to take into account or should they take into

25 account potential defenses that might be raised by the defense attorney for the

1 witness -- or for the defendant?

2 A Yes. I think both in terms of knowing what those are and then thinking

3 about ways to neutralize those defenses or otherwise show that the person is still guilty

4 despite their bringing up particular defenses.

5 But, yeah, prosecutors need to kind of focus on that as well and try to make an

6 assessment of how the evidence and the defenses that are likely to be offered are going

7 to be perceived by the jury, yes.

8 Q And in tax cases in particular, and this is speaking about tax cases broadly,

9 might one defense that an attorney could raise be that the defendant had actually paid

10 the taxes that he or she owed?

11 A That's something that they may attempt to do, yes, and the Tax Division

12 might attempt to bar that particular testimony.

13 Q But they might raise it, and it might -- if it's allowed in, it could be persuasive

14 to a jury. Is that fair to say?

15 A If it's allowed in, yes, it's possible that a jury might seek to nullify, have a

16 verdict -- would reach a conclusion that the person shouldn't be convicted. We might

17 try to exclude that, yes.

18 Q In a tax case, is a prosecutor required to prove that a defendant's conduct

19 was willful?

20 A Yes.

21 Q And what does willfulness mean?

22 A It's a voluntary and intentional act that violates a specific known legal duty.

23 Q What factors might a prosecutor consider in assessing whether they can

24 prove willfulness to a jury?

25 A So willfulness in tax cases is the highest level of specific intent, highest level

1 of proof we have to show someone -- that they're intent in a case would render them
2 liable for.
3 There are lots of different factors. It may have to do with a person who is
4 knowledgeable about their tax obligation, that they believe that that obligation had not
5 been entirely met, that willfulness is not mistake, it's not negligence, it has to be sort
6 of -- our obligation is really kind of show it's beyond that.
7 Q Okay. So in a situation where a defendant, for example, had a -- was going
8 through challenging personal times at the time of an alleged tax non-payment, that might
9 tend to be used by a defense attorney to show that that defendant was not acting
10 willfully, they were just -- they had other things going on. Is that fair to say?
11 A Yeah, I think in those cases a defense attorney might try to show that
12 somebody was impaired in some way and was not able to assess what their obligation
13 was or to make a deliberate step not to meet that obligation.
14 And in a tax case we would have to confront, if that's the case, what the particular
15 evidence is, and then try to show that we could prove otherwise.
16 Q Okay. We've talked through some of the considerations that prosecutors
17 take into account, and you referenced earlier the need to convince 12 jurors.
18 The jurors' decision must be unanimous to convict, correct?
19 A Yes.
20 Q And so that means that if, considering all these factors, if even only one
21 single juror has what he or she considers to be a reasonable doubt about the sufficiency
22 of the evidence or whether willfulness has been shown or whether defenses outweigh
23 the sufficiency of the evidence, that juror will be actually instructed to find your
24 defendant -- to find the defendant not guilty, correct?
25 A Well, there are general instructions to jurors about they should

1 individually -- they should deliberate with each other but make a judgment about the
2 case, yes.
3 Q Have you ever had the experience as a prosecutor or as a supervisor
4 managing other prosecutors where you felt strongly that you had presented a case to a
5 jury with sufficient evidence to prove the case beyond a reasonable doubt, but there was
6 one juror who did not agree and so, as a result, the defendant was not convicted?
7 A So there are cases where the Justice Department goes forward in the case
8 and does not secure a conviction, and that is a surprise, yes. We're not always allowed
9 to talk to the jurors afterwards. We don't necessarily know why that happens.
10 Q But there have been times when you've presented a case you thought, this is
11 a slam dunk, we've lined up all the evidence, and then sometimes the jury still comes
12 back and it's a hung jury or they don't convict.
13 A There are cases that I've supervised where we've gotten a not guilty verdict
14 when we were expecting to get a guilty verdict, yes.
15 Q We talked through these various considerations that prosecutors make
16 when determining whether to charge or -- to bring charges or not. How do prosecutors
17 learn how to assess and evaluate these considerations?
18 A They learn from training from other prosecutors. They learn from trying
19 cases, observing other people try cases. They learn from participating in what we call
20 indictment reviews, where the goal is to take a case and figure out what the right way to
21 charge it is, to present it in a way that we can get our evidence in and neutralize defenses.
22 They learn it from what we call postmortems, where after someone has a
23 case -- sometimes they win, sometimes they lose -- there's a presentation to other people
24 in the office or the division about that case, and prosecutors talk about what the
25 weaknesses were or what they could've done better or why they thought the case went

1 one way or the other.

2 They learn about it through what we call trial reviews where we -- before the trial

3 somebody might participate in a trial review about someone else's case and you get to

4 see how people think about a case, how you put together a case, and how senior people

5 think it's effective to make your prosecution.

6 Q Okay. So it's fair to say that prosecutors have pretty extensive and unique

7 experience in training and assessing whether -- the sufficiency of the admissible evidence,

8 for example?

9 A That's a central job of the prosecutor.

10 Q And it's fair to say that prosecutors have pretty extensive and pretty unique

11 training in assessing the likelihood that the admissible evidence will actually be

12 persuasive to a jury. Is that right?

13 A They get both training and on-the-job experience on that, yes.

14 Q Okay. And along the same lines, prosecutors have both extensive training

15 and extensive on-the-job learning by doing in assessing whether the evidence that's

16 admitted is likely to result in a conviction.

17 A Yes.

18 Q Okay. As a prosecutor, you have worked with investigators who are

19 responsible for gathering evidence in a case, correct?

20 A Yes.

21 Q Is it fair to say that investigators working on a case generally do not have the

22 same kind of extensive experience that prosecutors do in assessing whether the

23 admissible evidence is likely to result in a conviction?

24 A They have different jobs, so their focus tends to be different from a

25 prosecutor.

1 Q And as part of their focus being different, investigators are not necessarily
2 the best positioned to look at the evidence that's been gathered and decide whether or
3 not that evidence is sufficient to convince a jury. Is that fair to say?
4 A Yeah, I don't want to comment about any particular investigator or not.
5 Some have good insights and good experiences.
6 But the role of a Justice Department prosecutor is to make these sorts of
7 judgments, and they're trained and supervised by other people to ensure they do it in a
8 way that's smart and effective.
9 Q And given the difference, this difference in roles that you've described, is it
10 sometimes the case that there are differences in opinion between investigators and
11 prosecutors about, for example, the strength of the evidence and the likelihood of
12 success at trial?
13 A Yes.
14 Q Over the course of your career, have you had such disagreements with
15 investigators about particular investigative steps or about charging decisions?
16 A Yes.
17 Q Have you supervised other prosecutors who have had disagreements with
18 investigators about particular investigative steps or charging decisions?
19 A Yes. And typically in those instances you try to have a conversation and
20 understand why the other person has a particular view, make sure they get the benefit of
21 everybody's thoughts on it.
22 Q And after you have that conversation, if there's still a disagreement, it's
23 ultimately the prosecutors who make the decision about whether to take a particular
24 investigative step or whether to charge a case.
25 A Particularly when it comes to charging a case, that's the Justice Department

1 prosecutor's job. We've got to make the ultimate call under Department rules.
2 Q Okay. In the first round you talked through the difference between
3 approving, the Tax Division approving charges versus denying charges versus granting
4 discretion over a matter. Do you recall that conversation?
5 A Yes.
6 Q And I just want to sum up for the record and make sure I'm clear on this.
7 What specifically does it mean when the Tax Division grants a United States
8 Attorney's Office discretion over a matter?
9 A It's usually in the context of specific charges in a tax case. So the Tax
10 Division grants discretion regarding those charges, and it means that the
11 U.S. Attorney's Office is free to decide not to go forward on those particular charges.
12 Q Okay. But they can also go forward on the charges if --
13 A Yes, they can.
14 Q -- they choose to do so?
15 A Yes, they can.
16 Q Okay. And by contrast, when the Tax Division grants approval, the
17 U.S. Attorney's Office must bring the charges, right? They don't have the discretion to
18 say: Actually, on further review, we don't think these are -- this is a very strong case.
19 A There is an expectation. I think occasionally the U.S. Attorney's Office
20 might come back and ask us to reconsider. But, yes.
21 Q Okay. And then denying approval means that the U.S. Attorney's Office
22 cannot bring the charges, correct?
23 A It means the Tax Division has decided that those charges should not be
24 brought. If the U.S. Attorney's Office disagrees, it could take that up the line.
25 Q So of these three options -- approval, denial, or discretion -- granting

1 discretion actually gives the U.S. Attorney's Office the most authority over whether to
2 bring charges, correct, because they can bring them if they choose to do so, but they can
3 also decide not to bring them?
4 A It gives substantial flexibility to the U.S. Attorney's Office, yes.
5 Q Can you estimate how often the Tax Division grants a U.S. Attorney's Office
6 discretion as opposed to approval or denial?
7 A I can't come up with that number in particular. I'd say it's not uncommon.
8 Q I want to turn to this case in particular.
9 You said that Mr. Weiss -- or the Hunter Biden matter first came to the Tax
10 Division in early 2019, correct?
11 A Yes.
12 Q And you said that at some time in 2019 it was determined that attorneys
13 from the Tax Division would actually become part of the prosecution team. Is that
14 right?
15 A That they would work with the U.S. Attorney's Office in Delaware on the
16 case, yes.
17 Q Okay. How did that happen? How did it come to be that they were
18 effectively -- that they were assigned to work on the case in Delaware?
19 A I think Richard Zuckerman indicated that we should be helping out on this
20 case. And when there was contact with the U.S. Attorney's Office they asked us for
21 litigation assistance. Because sometimes we can just be a consultant on a case or just
22 provide advice or we can actively provide litigation assistance. And my recollection is
23 that the U.S. Attorney's Office wanted litigation assistance in this case.
24 Q And do you have an understanding of why they wanted litigation assistance
25 in this case?

1 A I don't. I mean, it could be because they likely, in my mind, would be that
2 they wanted tax expertise on it, but sometimes U.S. Attorney's Offices also like additional
3 bodies, additional resources to help out on a case.
4 Q Understood. Is it fair to say that tax prosecutions in particular -- and just
5 speaking broadly -- can be somewhat complex?
6 A Yes.
7 Q And is it fair to say that DOJ Tax attorneys have specialized experience in tax
8 cases?
9 A Yes.
10 Q And Tax Division attorneys also have particular expertise in prosecuting such
11 cases. Is that fair to say?
12 A Yes. Tax cases are not commonly done like a violent crime case or
13 immigration case at a U.S. Attorney's Office. They might not have that many people that
14 do tax cases, but they would have lots of other people that do many other Federal
15 offenses on a regular basis.
16 Q So it can be helpful for U.S. Attorney's Offices to have these specialized Tax
17 Division attorneys working with their office directly on cases. Is that fair to say?
18 A Yes. Yes.
19 Q Okay. And the Department of Justice also has an interest in ensuring that it
20 only prosecutes tax cases which are reasonably likely to result in a guilty verdict, correct?
21 A When we bring a case, we want to win, yes.
22 Q Okay. And is it fair to say that tax attorneys who -- or attorneys from the
23 Tax Division who have this specialized expertise are more likely to have experience in
24 ensuring that there is sufficient evidence to support and sustain a conviction in a tax
25 matter?

1 A I think they're knowledgeable about what the elements are and what
2 particular pieces of evidence that are commonly found that might help meet those
3 elements and persuade a jury, yes.
4 Q And an Assistant U.S. Attorney in a U.S. Attorney's Office, who maybe
5 prosecutes a wide range of crimes, wouldn't have that specialized knowledge. Is that
6 fair to say?
7 A Wouldn't have the experience dealing with these issues, right.
8 Q And the Justice Department also has an interest in ensuring that like cases
9 are treated alike. Is that right?
10 A Yes.
11 Q What does that mean?
12 A It means, particularly in the tax area, Tax Division overall is interested in
13 having uniformity, so that a case, a tax case that's brought in one geographic area is
14 comparable to, in terms of the level of conduct and things like that, to another
15 geographic area.
16 Not that they have to be identical in any way, but that, given the nature of tax
17 enforcement, where there are various levels -- people can be audited, there could be a
18 civil lawsuit in tax court against them, or they can be criminally prosecuted -- and try to
19 treat criminal prosecutions the same way, and that they're different from civil
20 enforcement, they're different from audits.
21 Q Okay. So if a case with similar facts in, say, the District of Maine and similar
22 facts in the District of Arizona, the Tax Division wants to ensure that those cases are
23 treated the same. Is that fair to say?
24 A I think it's the nature of the conduct. Every jurisdiction is different. The
25 juries may be different. The level of -- in New York City a $250,000 case, it may not be

1 very significant; in another part of the United States it might be much more significant.
2 When dollar amounts are lower, from the jury's perspective, it can be harder to prove
3 willfulness.
4 Q Okay. And why is that?
5 A Just because a jury might look at it and say: I'm not sure that this is worthy
6 of labeling this criminal conduct or that an individual wouldn't have taken a criminal step
7 just to get that small amount of money.
8 Q Okay. And is it fair to say that DOJ Tax Division attorneys, again, with their
9 specialized experience, their specialized training in this, in these matters, would help to
10 ensure that cases are treated the same regardless of what jurisdiction they're prosecuted
11 in?
12 A Yes. One of our goals is to make sure that there's uniformity, yes.
13 Q Okay. There have been allegations made that having DOJ Tax involved in
14 the Hunter Biden case, in particular, somehow led to delays or blockages in that case, and
15 I want to walk through some of those.
16 Did --
17 A Just to interject for a second. I've got a line from the Department in terms
18 of where we can respond and where we can't necessarily respond about things directly
19 related to the Hunter Biden case, as I understand the line that I've been told.
20 Q Understood. And I will try and keep these at a very high level, and I will try
21 not to take up too much time on them, because I understand that that's the line that
22 you're trying to walk.
23 A I feel like I'm obligated to actually walk.
24 Q To the best of your knowledge, did the Justice Department's Tax Division
25 block or prevent Mr. Weiss from bringing charges in the Hunter Biden case?

1 A I don't think I can answer that question given the line that the Department
2 has given me.
3 I can say that the -- just at a very high level -- that partisan politics played no role,
4 as far as I've observed, in the Hunter Biden case.
5 And any dealings with the U.S. Attorney's Office were based on the Tax Division's
6 efforts to ensure that case was being handled the way cases should be handled, and that
7 the facts and the law were developed and the correct conclusion would be made.
8 BY [redacted]
9 Q You indicated in the first hour that it was your belief throughout the
10 pendency of this matter, the Hunter Biden case, that Mr. Weiss was the one who had
11 ultimate authority to make charging decisions. Is that correct?
12 A That he was the lead of the case, yes.
13 Q Okay. And when Mr. Weiss indicated to Congress that he had the ultimate
14 authority to make charging decisions, do you have any reason to believe that he was not
15 being truthful?
16 A So I can't really comment on what David Weiss said. He's the best person
17 to talk about that. And I think you're referring to a letter that he sent. Is that what this
18 is referencing?
19 Q A couple of letters, yes.
20 A So the Tax Division has responsibility to authorize cases or not authorize
21 cases. That's what we're required to do under the Department's policies.
22 My recollection is that David Weiss in his letter qualified or recognized that he
23 was -- I can't remember if it's ultimate authority, I don't have this memorized by any
24 means -- but that he was in that position to make certain appraisals consistent with -- and
25 it's Department's rules, the Federal rules -- the Federal Principles -- Principles of Federal

1 Prosecution, other departmental policies.

2 That's my recollection of what Mr. Weiss communicated. But the letter speaks

3 for whatever it speaks for.

4 Q Right. And when you were talking about -- and throughout this discussion

5 here today you've talked about grants of authority, denials of authority that lie in the Tax

6 Division, you're referring to the Justice Manual, is that right, the procedures that are laid

7 out in the Justice Manual?

8 A Yes, and there may be other policy documents, yes.

9 Q Okay. But you're not referring to statutes, is that correct, that actually lay

10 out where denial of authority within Justice Department procedures would derive?

11 You're talking about the manuals and procedures?

12 A There's a regulation, 28 CFR 0.70, which specifically says that Tax Division

13 has authority over matters arising under the Internal Revenue laws.

14 Q Okay.

15 A That's where the fount of our authority, I think, comes from.

16 [Goldberg Exhibit No. 2

17 Was marked for identification.]

18 BY [redacted]

19 Q Are you familiar with -- I'm going to mark this as exhibit 2. This is 28 U.S.C.

20 Section 509, entitled, "Functions of the Attorney General."

21 A Yes.

22 Q Are you familiar with the statute?

23 A I have seen it, not recently, but I have seen it before, yes.

24 Q Okay. Just take a minute to look at it under Section 509, if you would. It's

25 the first column.

1 A Okay.

2 Q It's brief. So the statute says, quote: "All functions of other officers of the

3 Department of Justice and all functions of agencies and employees of the Department of

4 Justice are vested in the Attorney General."

5 And then it lists a few exceptions. None of those have to do with what we're

6 here for today. They talk about administrative law judges, for example, the Federal

7 Prison Industries, and Board of Directors for the Federal Prison Industries.

8 Is that correct?

9 A Yes.

10 Q Okay. So fair to say that prosecuting authority -- all prosecuting authority

11 within the Department of Justice ultimately lies with the Attorney General of the United

12 States? Do you agree with that?

13 A I think that's a fair characterization of this.

14 Q Okay. And the Attorney General, who holds that authority under the

15 statutes, is able to delegate his authority, his or her authority, as he wishes within the

16 Department of Justice. Is that fair?

17 A I'm not an expert in this area.

18 Q I understand.

19 A There are certain things that are not delegable, that the Attorney General

20 himself has to do.

21 Q That's what I'm talking about, though, is that the authority given to the

22 Attorney General by the statute --

23 A Right.

24 Q -- can be delegated by the Attorney General. In some cases it's delegated

25 to U.S. Attorneys to prosecute Federal offenses within their districts. In other cases,

1 there are policies and procedures, such as in the Justice Manual, where certain Main
2 Justice elements are given approval processes or other kind of discretion over matters.
3 But what I'm asking you is if you understand, within your experience in the Justice
4 Department, that ultimately the statutory authority to prosecute a Federal offense within
5 the United States lies at the highest level with the Attorney General of the United States,
6 and that that authority is then delegated in different ways throughout the Department of
7 Justice and the various United States Attorney's Offices according to the Attorney
8 General's process.
9 A I guess I agree that he has the authority over everything the Justice
10 Department does. There may be -- and like I said, I'm not an expert in this area. I'm
11 not from the Office of Legal Counsel.
12 Q Right.
13 A But my recollection is there is a statute that deals with U.S. Attorneys --
14 Q Yes.
15 A -- that gives them authority.
16 So the authority for a U.S. Attorney, for instance, doesn't derive exclusively from
17 509. So I'm not trying to parse this in some sort of detail, but --
18 Q Yeah, and I'm not trying to ask you for legal expertise.
19 A Right.
20 Q I'm just trying to -- I'm trying to understand just why we're here. I mean,
21 we're here today because we're trying to understand whether the Tax Division had some
22 authority over the decisions that Mr. Weiss has told --
23 A Yes.
24 Q -- us that he had ultimate authority to do, because he had been given that
25 authority in this case by the Attorney General of the United States.

1 And I guess I can get right down to this question. I mean, if there had been some
2 kind of agreement, just hypothetically, between opinions or conclusions that the Tax
3 Division had with respect to some matter -- with respect to this matter -- and the
4 Attorney General himself had a different sense of what should happen, the Attorney
5 General's opinion could ultimately prevail. Do you agree?
6 A Yes. I think with regard to any matter being handled by the Tax Division or
7 probably any component of the Department of Justice, if the Attorney General wanted to
8 take a contrary action, that he was within his authority to do that.
9 Q Okay. And so he could then offer that same authority or delegate that
10 same authority to Mr. Weiss in this example.
11 A He could take steps where he exercised his authority to ensure that a
12 particular decision was made one way or another, yes.
13 Q Okay. So ultimately, when the Attorney General said, I -- sorry. Okay.
14 Go ahead. Do you want to --
15 [redacted] Yeah.
16 Sorry for the back and forth.
17 On September 20th of this year, so a couple weeks ago, Attorney General Garland
18 testified before this committee, and he said that, quote, "Mr. Weiss has full authority to
19 conduct his investigation however he wishes."
20 Do you have any information to contradict the Attorney General's statement?
21 Mr. Goldberg. No.
22 [redacted] Okay. And the Attorney General also said, quote, "Mr. Weiss had, as
23 I said from the beginning -- at the very beginning -- that he had authority over all matters
24 that pertain to Hunter Biden."
25 Do you have any information to contradict the Attorney General's statement?

1 Mr. Goldberg. I don't have anything to contradict the Attorney General's
2 statement, but I do believe that the Attorney General in his statements is implicitly saying
3 that -- when he says people have full authority -- it's to conduct their work subject to the
4 standard policies and rules of the Department of Justice, unless the Attorney General
5 specifically disagrees with that.
6 And the reason I'm saying that is that special counsels, for instance, in my
7 recollection, the regulations require them to abide by the Department's policies.
8 BY [redacted]
9 Q I want to ask you just generally your experience at the Department of
10 Justice.
11 Have you ever seen a situation where Justice Department officials have asked for
12 some deviation in procedures in order to avoid the appearance of impartiality in a
13 politically sensitive case? And, for example, someone recusing themselves because they
14 might have -- be in a political position where it might create the appearance of
15 impartiality in public? Have you ever seen anything like that?
16 A Where people have recused themselves rather than be a decision-maker?
17 Q That's an example, yeah.
18 A Yes.
19 Q So there's some deviation from the policy. The person who's in a position,
20 according to the Justice Manual, to make a decision --
21 A Yes.
22 Q -- to approve or deny.
23 A Yes.
24 Q Can you give an example of that?
25 A I think, just to give an example in a general way, so a U.S. Attorney

1 sometimes might recuse from a case in their district because they got their position with
2 the help of a particular individual who is under investigation.
3 So rather than them specifically working on that case, they recuse themselves.
4 Actually, they need to contact the Department of Justice to formalize that. But, yes.
5 Q Okay. Because, like, there might be some procedure that in the normal
6 circumstance within the Department of Justice would require that person to be the
7 person who gave an approval or made a decision.
8 A Yes.
9 Q Correct?
10 A Right.
11 Q But there was deviation for that procedure because there was a need,
12 someone thought, to avoid the appearance of impartiality, at least in this example, is that
13 correct, in the example that you're giving?
14 A Yes.
15 Q And in order to allow the deviation to happen from procedures within the
16 Justice Manual or some other part of the Justice Department, they had to go up the chain
17 towards the Attorney General, the Deputy Attorney General, to approve that deviation
18 from policy. Fair to say?
19 A Yes, they can recuse the situation. Often they have to get the approval of
20 the Deputy Attorney General's Office if someone else could be appointed to handle the
21 case.
22 Q Okay. And ultimately someone, the Attorney General himself, is the person
23 who's able to allow the deviation from procedure to occur, right?
24 A He can do that, yes.
25 Q Okay. Now, can I just say, Mr. Zuckerman -- you spoke about

1 Mr. Zuckerman earlier. Mr. Zuckerman was a political appointee, correct?

2 A Yes, he was, he was a political appointee.

3 Q Okay. And at the time he was in a position, according to the Justice

4 Department's procedures, within the Tax Division to be the person who made a decision

5 about whether to open a grand jury with respect to Hunter Biden, correct?

6 A Yes. Ultimately, he was responsible. Whether somebody at a lower level

7 made the actual decision, I can't tell you for sure. But, yes.

8 Q He was in the position to approve that decision as it was made, correct?

9 A Yes.

10 Q Okay. Was there any discussion, to your knowledge, that Mr. Zuckerman

11 should recuse himself from that decision given that this was a highly sensitive political

12 matter involving the son of the candidate who was going to challenge the President who

13 had appointed that person to his position?

14 Ms. Zdeb. That gets into deliberations and decision-making on an ongoing case,

15 and I think that it's beyond the scope of what he can speak to.

16 BY [redacted]

17 Q Okay. He didn't recuse himself, to your knowledge?

18 A No.

19 Q Okay. When politically sensitive matters in general are being handled by

20 DOJ, you indicated that sometimes procedures can be deviated from, correct?

21 A I wouldn't frame it like that because --

22 Q With the provision of the Attorney General, I'm sorry, or someone in his

23 office?

24 A The Attorney General has the ability to order that different decisions are

25 made or different paths are taken in connection with cases being handled by people

1 beneath him, yes.

2 Q Okay. And in this case the Attorney General has deviated from procedure

3 in several ways, according to his own public statements, including by keeping the

4 Trump-appointed U.S. Attorney, Mr. Weiss, in place so that he would avoid the

5 appearance of impartiality by letting the prosecution of Hunter Biden be undertaken or

6 continued by someone who was a political appointee of the President.

7 Do you understand that process here of what's happened?

8 A Yeah. Mr. Weiss was held on, but I can't say exactly who made that

9 decision or what the exact reasons were for it.

10 BY [redacted]

11 Q And just -- we're almost out of time, but I did want to ask, in the prior round,

12 the meeting that you attended in Delaware in January, 2023, was discussed.

13 A Yes.

14 Q That was a meeting with defense -- where defense counsel presented a

15 presentation to a number of individuals from the Delaware U.S. Attorney's Office, to

16 yourself, and some others. Is that right?

17 A Yes.

18 Q Okay. Is that type of meeting, at which defense attorneys effectively

19 present a case to prosecutors, is that uncommon?

20 A No. I think it's common in a white collar case for defense attorneys to

21 make a presentation to the government in an effort to try to persuade the government

22 not to take certain actions.

23 Q So that's happened in a number of other cases that you've worked on?

24 A Yes.

25 Q Has it happened many times? Is that fair to say?

1 A Well, I think it's common for that to happen in a case. And in Tax Division
2 there's a mechanism called the conference where they afford people the opportunity to
3 do that.
4 Q Okay. And why did those meetings take place, just generally speaking, not
5 the January 2023 one specifically?
6 A Well, I think one is it's an effort to provide the defense an opportunity to
7 show facts or make legal arguments that demonstrate that their client should not be
8 charged. And if there are facts that we don't know about or that we've missed or don't
9 understand or legal aspects that we didn't pick up on, we want to hear that to get to the
10 right decision.
11 At the same time, I think it's very valuable from the standpoint of the Department
12 of Justice, because we get to hear ahead of time what the defenses are going to be. And
13 that allows us to kind of kick the tires on that and figure out if there are ways to
14 neutralize those defenses or collect additional evidence while we still have an open grand
15 jury to run down facts that might be useful for us in proving our case.
16 Q So in other words, the presentation from the defense attorneys might
17 actually help inform your case as prosecutors?
18 A Yes.
19 [redacted]. Okay. All right. Thank you.
20 We can go off the record.
21 [Recess.]

1

2 [12:30 p.m.]

3 [redacted] Good afternoon. We're back on the record. It's 12:30.

4 Mr. Goldberg. Good afternoon.

5 [redacted]

6 Q In March of 2022, David Weiss and U.S. Attorney's Office in Delaware staff

7 brought a case to the D.C. U.S. Attorney Matthew Graves. Are you aware of that?

8 A Yes.

9 Q And were you aware -- before that presentation was made to Matthew

10 Graves, were you aware that it was going to happen?

11 A Yes.

12 Q And did you concur with the presentation that was made by Mr. Weiss?

13 A I wasn't part of the conversation that Mr. Weiss had with Mr. Graves.

14 Q Okay. What did you know about that presentation going into it?

15 A That there was going to be a contact with Mr. Graves about bringing a case

16 in D.C.

17 Q Okay. And did the Tax Division support that initiative?

18 Ms. Zdeb. And I think at this point, we're getting a little bit far into internal

19 decision-making and deliberations around this particular episode during the case.

20 BY [redacted]

21 Q Okay. Did you oppose that?

22 Ms. Zdeb. It's the same question.

23 BY [redacted]

24 Q Do you know when the presentation occurred?

25 A Mr. Weiss' call?

1 Q Yeah. Well, as we understand it, the U.S. Attorneys and his office had been
2 working with Mr. Graves' staff.
3 A So my recollection is there was a call between the two of them, and then
4 there was interaction between AUSAs and D.C. and people working on the Hunter Biden
5 case.
6 Q And do you know what the outcome of it was?
7 A Yes.
8 Q Mr. Graves declined to partner with Mr. Weiss, correct?
9 A Yes. Yes.
10 Q And do you know why?
11 Ms. Zdeb. And that, again, gets into deliberations about the ongoing case, and
12 he's not able to address it.
13 BY [redacted]
14 Q How would Mr. Weiss be able to bring a case in D.C. without Mr. Graves'
15 okay?
16 A So to take this up a level so that I can try to address it as much as possible:
17 If a U.S. Attorney wanted to bring a case in another district, and the U.S. Attorney there
18 was not agreeing to -- didn't want to be partnered with it, didn't want to sign on to the
19 indictment, then the U.S. Attorney would need to secure a 515 letter in order to bring
20 that case in that district.
21 Q Okay. And do you know if Mr. Weiss sought a 515 letter?
22 A I don't know the answer to that.
23 Q Do you know if Mr. Weiss has 515 authority now?
24 A I don't know the answer to that.
25 Q And 515 authority is 28 United States Code 515?

1 A 515. Yes.

2 Q And that's the special counsel --

3 A Not special counsel.

4 Q Special attorney?

5 A It's special attorney. Yeah.

6 Q And is that the designation that Mr. Weiss is operating under currently?

7 A Is what the designation? He's under a special counsel designation.

8 Q It's not under the special attorney provisions of 28 United States Code?

9 A I only know -- I know about the public reports. I wasn't involved in the

10 appointment. I'm not exactly sure. But I believe he has got a special counsel

11 designation, and that's what he is operating under.

12 Q Okay. Were you aware that Mr. Weiss also was interested in bringing

13 charges in California?

14 A I'm aware that he had contact with the U.S. Attorney's Office in California,

15 yes.

16 Q In the Central District of California?

17 A Yes.

18 Q The Los Angeles office?

19 A Right.

20 Q Do you know when that occurred?

21 A I'm not entirely sure when he actually made that outreach. Possibly

22 September.

23 Q And do you know what the outcome of that was?

24 A Yes.

25 Q And what was the outcome?

1 A That U.S. Attorney's Office did not want to partner with the case either.

2 Q And so, at that point, what were Mr. Weiss' options? I mean, he went to

3 D.C., and they said no. He went to Los Angeles, and they said no. What, in your mind,

4 were Mr. Weiss' options at that point?

5 A If he wanted to proceed with the case, he was to obtain 515 authority.

6 Q Okay.

7 [redacted] Let's see. What are we up to? 3?

8 [redacted] 3.

9 [redacted] Marking exhibits 3, 4, and 5.

10 [Goldberg Exhibits Nos. 3,4, and 5

11 Were marked for identification.]

12 BY [redacted]

13 Q I just marked three letters that we received from Mr. Weiss. The first is

14 exhibit 3. It's a letter on June 7th to Chairman Jordan.

15 Exhibit 4 is a letter to Mr. Jordan from Mr. Weiss dated June 30th.

16 And the third letter, which is exhibit 5, is a letter to Senator Graham from David

17 Weiss dated July 10th.

18 Have you seen these letters before?

19 A I have.

20 Q Did you see them in real time, or did you see them in your preparation for

21 today?

22 A I saw them when they came out, roughly. I think they appeared in the

23 media, a number of them.

24 Q Okay. We talked about earlier this morning that the final authority for

25 prosecution or not of criminal matters arising under the Internal Revenue laws rest with

1 the Tax Division, correct?

2 A We have approval authority, though someone can appeal us if they disagree.

3 But, yes, it's our responsibility in the first instance to do that.

4 Q Okay. So if felony tax charges are going to be brought, the Tax Division has

5 to sign off? Has to okay it?

6 A In a typical case, yes, we would have to okay that. But if somebody

7 thought we should have okayed it and we didn't, then they could appeal. But, yes, it's

8 our responsibility.

9 Q Okay. And if someone -- if Mr. Weiss gets 515 authority, he would still be

10 required to go through the Tax Division to get approval of tax charges. Is that correct?

11 A Yes.

12 Q Okay. So even if Mr. Weiss had been afforded special attorney status or

13 special counsel status, he would still be operating within the Justice Department's

14 guidelines in the Justice Manual, correct?

15 A Yes.

16 Q The June 7th letter, exhibit 3, states in the second paragraph -- it's the

17 second sentence of the second paragraph where Mr. Weiss states, quote, "I have been

18 granted ultimate authority over this matter, including responsibility for deciding where,

19 when, and whether to file charges, and for making decisions necessary to preserve the

20 integrity of the prosecution consistent with Federal law, the principles of Federal

21 prosecution, and departmental regulations."

22 Do you see that sentence there?

23 A Yes.

24 Q Is that consistent with your understanding of how things work at the

25 Department?

1 A Well, these are not my words, so --

2 Q Fair enough.

3 A -- I'm not in a position to interpret them exactly how the writer -- whoever

4 the writer was of this -- meant it.

5 My understanding is that if you're a U.S. Attorney who is leading a prosecution,

6 that you can make recommendations on your case, but that you -- if you want to bring a

7 tax case, you need to get Tax Division authority.

8 Q So just the plain reading of this part of the letter, I mean, isn't true, right?

9 A Well, it does reference departmental regulations, and 28 CFR 0.70 is the

10 regulation that talks about the Tax Division being vested with authority. So I don't know

11 if the author meant that as a shorthand as a list of these kind of qualifiers in here.

12 Q But when he said that he had been granted ultimate authority, I mean, he

13 did not have ultimate authority. He needed to make sure that the Tax Division

14 authorized the charges, correct?

15 A I don't know what the writer meant by "ultimate authority" here.

16 Q Okay. And he certainly didn't have ultimate responsibility for deciding

17 where, when, and whether to file charges, correct?

18 A Again, the phraseology of the words that were used here, I don't know

19 exactly what the writer was trying to convey.

20 Q Okay. Turning to exhibit 4, the next letter from Mr. Weiss.

21 A This is June 30th?

22 Q The June 30th letter.

23 A Okay. All right. Mine are not marked. They don't have numbers on

24 them.

25 Q Oh, fair enough. The June 30th letter to Mr. Jordan from Mr. Weiss.

1 I want to call your attention to the last sentence on the first page and then the
2 first paragraph on the second page, whereas in the June 7th letter, Mr. Weiss had made a
3 pretty sweeping statement that -- he said, "I have been granted ultimate authority over
4 this matter, including responsibility for deciding where, when, and whether to file
5 charges."
6 In the June 30th letter, he seems to walk that back a good bit, and he states, "I
7 stand by what I wrote" -- but, of course, he doesn't stand by what he writes -- but "I stand
8 by what I wrote and wish to expand on what this means. As the U.S. Attorney" -- and
9 this is the top of page 2 of the June 30th letter.
10 A Okay.
11 Q "As the U.S. Attorney for the district of Delaware, my charging authority is
12 geographically limited to my home district. If venue for a case lies elsewhere, common
13 departmental practice is to contact the U.S. Attorney's Office for the district in question
14 and determine whether it wants to partner in the case. If not" -- and, of course, he had
15 done that.
16 He had taken the case to two separate United States Attorneys. He took it to the
17 U.S. Attorney for the district of D.C., and he took it to the U.S. Attorney for the Central
18 District of California, and both U.S. Attorneys declined to partner, correct?
19 A That's my understanding, that they did not want to partner on the case.
20 Q So, again, "If venue for a case lies elsewhere, common departmental practice
21 is to contact the United States Attorney's Office for the district in question and determine
22 whether it wants to partner." They didn't want to partner.
23 "If not, I may request special attorney status from the Attorney General pursuant
24 to 28 United States Code 515. Here, I have been assured that, if necessary after the
25 above process, I would be granted 515 authority in the District of Columbia, the Central

1 District of California, or any other district where charges could be brought."

2 Are you aware if he -- after the declination from Mr. Graves and Mr. Estrada, are

3 you aware of whether he sought 515 authority?

4 A I wouldn't really characterize it as declination. That's your word.

5 Q He declined to partner. Is that a word we can agree on?

6 A Yes. I'm not going to get hung up on it, but declination is different than

7 decline to partner.

8 My understanding is that they did not want to join the case. Whether he sought

9 515 authority, I think, like I said before, I'm not aware of whether he did or didn't.

10 Q During times relevant, the Tax Division was intricately involved with what

11 the U.S. Attorney's Office in Delaware wanted to do on these cases, correct?

12 A We were working with them and consulting with them, yes.

13 Q And so you were aware that there was an avenue to bring a charge -- for

14 2014, 2015, to bring that case in D.C., correct?

15 Ms. Zdeb. I think he can speak generally to avenues to bringing any charges.

16 He is not able to get into specific tax years and venues for those tax years.

17 BY [redacted]

18 Q So presumably, if Mr. Weiss brought a case to D.C., at that point in time, the

19 Tax Division had okayed that. Is that a fair assumption?

20 A Well, I think I mentioned that I talked to Mr. Weiss before he contacted Mr.

21 Graves about bringing the case there.

22 Q So if it's felony tax charges -- as we understand it was -- in D.C., then the Tax

23 Division had okayed that. It had given Mr. Weiss the approval to move forward. Is

24 that fair to say?

25 A Well, he was contacting the U.S. Attorney's Office about venueing a case in

1 D.C. That's what the discussion was, as I understood it.

2 Q And had the Tax Division already rendered a decision?

3 A Based on the direction that I've gotten from the Department of Justice, I

4 don't think I can answer that question.

5 Q Okay. But you were working -- the Tax Division was working collaboratively

6 with Mr. Weiss --

7 A Yes.

8 Q -- on the team? Mr. Morgan, Mr. Daly, yourself as the senior person with

9 criminal responsibility in the Tax Division, correct?

10 A We were working with him on the case. I did not have day-to-day

11 involvement in the case, as opposed to Mark Daly and Jack Morgan, who were

12 involved -- actively involved.

13 Q So isn't it fair to say that if the Tax Division did not okay the charges, then it

14 would be fruitless for Mr. Weiss to go to Mr. Graves and ask to partner on the case?

15 A I think we're -- I don't think I can answer the question given the directions

16 I've gotten from the Department of Justice on this.

17 Q Okay.

18 A He contacted them.

19 Q Okay. To bring a case? To partner?

20 A To -- you know, partnering on a case means working ultimately with a case.

21 It doesn't necessarily say what stage of the case and where the case is or anything like

22 that. I can't really get into that.

23 Q Right. But before he did that, he would obviously need to check the

24 appropriate Justice Department boxes, right?

25 A This is about moving the case from Delaware to D.C. That's what the

1 contact was. It was an ongoing case that got moved from Delaware to D.C.

2 Q But was it about bringing charges, or was it about just conducting additional

3 investigative activity?

4 Ms. Zdeb. I think he said he understood it to be about potentially partnering,

5 and beyond that, whether it involved investigative activity or charging activity gets into

6 the ongoing matter.

7 BY [redacted]

8 Q But the statute of limitations was about to expire, correct?

9 A I don't remember the exact chronology on that in terms of that time period.

10 Q Okay. And then the third letter to Senator Graham. Calling your attention

11 to the third paragraph that begins "to clarify."

12 A You said third paragraph? Oh, I see it.

13 Q Yeah. The third paragraph on the first page. "To clarify."

14 A "To clarify." Okay.

15 Q "To clarify an apparent misperception and to avoid future confusion, I wish

16 to make one point clear. In this case, I have not requested special counsel designation

17 pursuant to 28 CFR Section 600 et seq. Rather, I had discussions with departmental

18 officials regarding potential appointment under 28 USC 515, which would have allowed

19 me to file charges in a district outside my own without the partnership of the local U.S.

20 Attorney."

21 But it's clear from this letter that he didn't have special counsel authority under

22 the statute or the regulations, correct?

23 A I'm just reading the rest of the letter. Sorry.

24 I'm not sure I can answer that question.

25 Q Okay. Well, do you acknowledge that he writes, "In this case, I have not

1 requested special counsel designation pursuant to the CFR"?

2 A That's what that lines says, yes. "One point clear. In this case, I have not

3 requested special counsel designation." Yes.

4 Q Okay. And then he states, "Rather, I had discussions with departmental

5 officials regarding potential appointment under 28 USC 515, which would have allowed

6 me to file charges in a district outside my own without the partnership of a local U.S.

7 Attorney," correct?

8 A Yes.

9 Q So at this point, on July 10th, 2023, Mr. Weiss is asserting to Senator Graham

10 that he didn't have special counsel authority under the regs or special attorney authority

11 under 515?

12 A I don't read it exactly that way.

13 Q Okay.

14 A I didn't write it, and it's a little confusing --

15 Q Okay.

16 A -- honestly to me. So it is not clear what tense this was in.

17 Q Okay. What was your understanding at this point in time of Mr. Weiss'

18 authority?

19 A Whether he had 515 authority? I don't know whether he asked for it or

20 not. I know that he was aware of 515 authority, and I think he expected and I expected

21 that he would get it if needed.

22 Q Okay. Without that authority, he was unable to bring charges in a district

23 not his own, correct? Without --

24 A Correct. Yes.

25 Q Okay. What was your understanding of Mr. Weiss' intention to use the

1 authority of 515? Was there a discussion that he was going to seek special counsel
2 status? Was that part of the --
3 A Not with me. He didn't have any discussion with me about seeking special
4 counsel status.
5 Q And did he have any discussion with your people?
6 A Not that I'm aware of.
7 Q Okay. And so what were you thinking was the resolution of these matters,
8 both in D.C. and California?
9 A As I said, I expected that he would be able to get 515 status if he asked for it.
10 Whether he, in fact, asked for it, I don't know, but I expected that he would get it. It's
11 not -- it's authority that is given in the Justice Department all the time.
12 Q It is given all the time?
13 A Yeah. With some frequency, sure.
14 Just to be clear, you know, in the Tax Division, we send people out to go to a U.S.
15 Attorney's Office. I sign a letter, a 515 letter, so that they can go and operate in that
16 district.
17 Q Okay.
18 A If, let's say, a U.S. Attorney in a particular district is recused, and they need
19 to bring another U.S. Attorney's Office in to handle that case in that district, then the
20 DAG's office typically issues 515 letters in that context.
21 Q Okay. But for this particular case, no request was made for that type of --
22 A That's the part that I don't know.
23 Q Okay.
24 A Right.
25 Q And do you think, in this particular case, would it have been you that would

1 have signed the 515 letter?

2 A No. No.

3 Q Who would have signed it?

4 A I'm guessing somebody in the DAG's office.

5 Q Going back to the June 7th letter.

6 After looking at the -- all sort of talking about all three letters, I would just like to

7 go back to the statement that he made that he's been granted ultimate authority, but he

8 hadn't. Nobody gave him 515 designation. Nobody gave him any other type of

9 authority, whether it be through the regs or otherwise, correct?

10 A So, like I said, I don't know exactly what was meant by "ultimate authority."

11 My understanding is that he was the lead on his case. He was in a position where he

12 was going to make a recommendation --

13 Q Right.

14 A -- regarding the prosecution, and that -- and we had advised him that he

15 was -- if we authorized charges that he was seeking, that it was going to be with

16 discretion, so he had the ability to not bring the charges or not. That's my

17 understanding of where it is. And that if he disagreed with our determination in the

18 case, he could take it to the DAG's office or the AG. That's my understanding.

19 Whether that amounts to ultimate authority, I think that's for somebody else to --

20 Q Did he do that, to your knowledge?

21 A Did he do what?

22 Q Did he take it to the DAG or the AG?

23 Ms. Zdeb. That's getting into the ongoing case.

24 [redacted] But it also gets into Mr. Weiss' authority.

25 Ms. Zdeb. Well, I think Mr. Goldberg has addressed his authority as it pertains to

1 the ability of the U.S. Attorney to take something up the chain to the DAG or the AG.
2 Whether that actually happened involves the case.
3 BY [redacted]
4 Q Okay. But the term, "ultimate authority," is certainly something Mr. Weiss
5 did not have. And he couldn't override the Tax Division, and he couldn't override the
6 two U.S. Attorneys. Is that correct? Without some special authority that he didn't
7 have?
8 A And I don't know what conversations he had with people at other levels in
9 the Justice Department that might have told him that he could do certain things or not.
10 Q But as of June 7th, he didn't have that authority, correct?
11 A Like I said, I don't know what -- you know, he had conversations with people
12 in the DAG's office. I was not present for those conversations. What the nature of
13 them or what was said, I can't say. And I wasn't involved in writing this letter or drafting
14 the words in it.
15 Q But the Tax Division was intricately involved with the prosecution's efforts
16 here. I mean, Mark Daly, Jack Morgan, they're in this day to day.
17 And so, if Mr. Weiss, as of June 7th, did indeed have ultimate authority, you would
18 most likely know it, correct?
19 A Well, like I said, I'm not sure exactly what was meant by this. And I go back
20 to -- because I'm just trying to read it and understand it -- is that it's qualified. It says, "I
21 have been granted ultimate authority," and it says, "consistent with," and then it says,
22 "Federal law principles, Federal prosecution, and departmental regulations," which -- and
23 I read that -- just trying to read this language in a coherent way -- as saying that it's
24 subject to limitations that are placed on departmental prosecutors.
25 Q Right. But I could say the same thing. I've been granted ultimate

1 authority over a matter consistent with Federal law, the principles of Federal prosecution,
2 and departmental regulations, and I can't go prosecute a case.
3 A No, but he was actually the U.S. Attorney. He had been running this case.
4 He was going to be making a recommendation on the case.
5 Q Right.
6 A He's in a different posture than you are.
7 Q Right. But he hadn't -- you know, the way he makes it sound, it's as if it's
8 his authority and not the Tax Division's. I mean, isn't that a fair reading of it?
9 A I've told you what I think is my best reading about it.
10 [redacted]. Okay.
11 [redacted]
12 BY [redacted]
13 Q Who made the decision to keep U.S. Attorney Weiss in place around the
14 time of the new administration coming in January 2021?
15 A I don't know.
16 Q Were you consulted about that decision?
17 A No.
18 Q Okay. Do you know anything about why the prior U.S. Attorney would be
19 kept on?
20 A No.
21 Q In your career at the Justice Department, have you seen U.S. Attorneys held
22 over from one administration to the next when the party switches?
23 A Yes. I can think of instances, but I'm not sure about the party switching. I
24 think so. I think so.
25 Q And it's common for U.S. Attorneys to offer their resignation at the end of a

1 Presidential term. Is that right?

2 A It's become more common. There was a period of time where people were

3 refusing to, I think, resign. So I think Rod Rosenstein was held on and continued

4 as -- and then there were two other people as well. Maybe George Holding. I'm trying

5 to reach back into memory, but --

6 Q That's okay. I'm just trying to get a sense of how common it is from a

7 general perspective.

8 A Generally, there aren't a lot of them. There are few that are held over or

9 none.

10 Q When a U.S. Attorney changes -- when a U.S. Attorney moves on and a new

11 U.S. Attorney is installed, there are typically pending cases, right?

12 A Yes.

13 Q Okay. So cases are handed from one U.S. Attorney to a new U.S. Attorney

14 commonly?

15 A Yes.

16 Q Okay. So do you have any sense as to why this case needed to be -- needed

17 to have a U.S. Attorney kept in place?

18 A I was not involved in the decision. I don't know why they made that

19 decision.

20 Q Do you have an opinion about it, just from your own observation?

21 A I don't want to speculate on it.

22 Q Do you think it was because the target of the investigation was the son of

23 the incoming President?

24 A I don't want to speculate on that.

25 Q In your role at DOJ Tax Division, do you interact frequently with the IRS?

1 A I wouldn't say frequently. I would say I have some regular interaction with
2 the head of the CI, the Criminal Investigations Unit. I have some -- I attend some
3 meetings with other senior folks at the Chief Counsel's Office. Occasionally, I intersect
4 with an agent or two in a case.
5 Q And line level attorneys that report to you, do they interact more frequently
6 with the IRS?
7 A Yes.
8 Q Okay. You know, for example, we've been talking about Mr. Daly and Mr.
9 Morgan. Do they interact frequently with IRS agents investigating a case?
10 A In the course of their duties at the Tax Division, yes.
11 Q Is that typical on investigations of criminal tax cases?
12 A That there would be interaction with IRS agents, yes.
13 Q Okay. In your career, have you interacted with the civil side of the IRS or
14 just the criminal side?
15 A A little bit on the civil side.
16 Q Okay. More so with the criminal side?
17 A Yes. Though limited, like I said, on the criminal side, but yes.
18 Q Okay. So our understanding from the testimony we've received on this
19 matter is that it began as a spin-off of another criminal tax investigation, and so, the
20 matter began at IRS CI as a criminal investigation. Is that consistent with your
21 understanding?
22 A Yes.
23 Q And our understanding is that, when IRS CI is doing a criminal tax
24 investigation, the civil side is paused during that time. Is that consistent with your
25 understanding?

1 A Sometimes that's true, and other times, I think, it's not true.

2 Q So sometimes, from your understanding -- and I know you're not at IRS.

3 You're at DOJ.

4 A Right.

5 Q But can a civil audit proceed alongside a criminal investigation? A criminal

6 tax investigation?

7 A I'm not an expert on this, so -- but my understanding is that you can't

8 leverage a civil audit for criminal purposes. That would be impermissible. But there

9 may be ways to have things in a different channel. But other times, they stop them, yes.

10 Q Okay. So sometimes they do stop --

11 A Yes.

12 Q -- the civil side while a criminal investigation goes forward?

13 A Yes.

14 Q So our understanding from the testimony we received is that that was the

15 case here, that the civil audit side was paused, and that, as we discussed, the tax years

16 2014 and 2015 statute of limitation was allowed to expire.

17 Do you know whether the civil side was paused for Hunter Biden in this case?

18 Ms. Zdeb. Whether -- I'm sorry. Are you asking about the IRS's investigation?

19 [redacted] Yes. Does he know whether the civil audit procedures were

20 paused for Hunter Biden?

21 Ms. Zdeb. Can we go off the record for a second?

22 [redacted] Can we go off the record?

23 [Discussion off the record.]

24 [redacted] We'll go back on the record.

25 Mr. Goldberg. All right.

1 BY [redacted]

2 Q So we discussed whether a civil audit can be paused while criminal tax

3 investigations proceed.

4 A It doesn't mean that there is a civil audit, though, right?

5 Q True. Yeah, I'm not --

6 A Are you suggesting that there was a civil audit?

7 Q No. There may never --

8 A Okay. That's the part I'm confused about.

9 Q I guess I should ask you --

10 A I can't comment if there was because it would be 6103 information.

11 Q Okay. But it's possible for there to be a criminal tax investigation without a

12 civil audit. Is that correct?

13 A Yes.

14 Q Okay. And if it begins on the criminal side and the civil audit side is paused

15 or --

16 A But there may not be.

17 Q -- or is not allowed to go forward, you don't open a civil audit if you've

18 started it as a criminal tax matter. Is that correct?

19 A I think that -- I'm not an expert in this area. I think that's probably true,

20 though civil audits can get opened, I think, later in later stages depending upon. So you

21 can -- you don't have to wait until the end of a criminal case in order to green-light

22 civil -- taking action on a case.

23 Q Okay.

24 A So, you know, I'm aware of that happening in other cases where the agents,

25 the IRS CI agents -- told us they can go ahead and look at certain things.

1 Q And do you know if that decision or procedure is an internal IRS process
2 determination?
3 A The IRS would have to make a determination of whether to go forward on a
4 civil matter.
5 Q Okay. So our understanding is that it began as a criminal matter inside the
6 IRS and the civil audit -- a civil audit didn't go forward.
7 And our understanding is also that the statute of limitations expired for tax years
8 2014 and 2015. And our understanding is also that, because of the rules, the look-back
9 period for civil audit, that a civil audit -- the timeframe for a civil audit has now passed.
10 In other words, there is no way for a civil audit to be opened in this matter.
11 Would that be consistent with your understanding?
12 Ms. Zdeb. And, I'm sorry, but that is getting into the ongoing investigation.
13 And I urge him to also express some concerns about questions related to potential
14 civil audits in a specific case also implicating 6103.
15 BY [redacted]
16 Q Okay. I can ask it at a general level. I'm just trying to understand your
17 understanding of how these tax cases work across from one agency to another. There's
18 civil. There's criminal. There's DOJ. There's DOJ Tax. It's a little complicated. I'm
19 just trying to understand the issues here based on what we've been told.
20 Our understanding is that it's possible in a criminal case for a civil audit to not be
21 opened because it's already being criminally investigated. And if a statute of limitations
22 is allowed to expire, or an investigation lasts for a number of years -- 6 years or 7
23 years -- that you get beyond the civil look-back period, and an audit can no longer be
24 opened. Is something like that possible?
25 A It's very speculative to me. I don't know a lot about the civil area, except

1 my understanding is there is no civil statute of limitations. IRS can go -- it's unlike in the
2 criminal area. So the IRS can go back, theoretically, and assess any case if there is fraud
3 or false -- or evasion. Those are the circumstances that are required for that.
4 So that, I know. But internal IRS procedures beyond that, I don't know.
5 Q Okay. But with a showing of fraud or evasion, you could -- your
6 understanding is that the IRS could open a civil audit that would otherwise be past the
7 look-back period?
8 A I don't know what you mean by "look-back period."
9 Q It's the equivalent of a statute of limitations. I think it's typically 6 years for
10 most tax issues on the civil audit side.
11 A Like I said, my understanding is -- and I'm not a civil tax lawyer, so I'm not
12 going to get in a dangerous area for me -- is that there is no statute of limitations if there
13 is fraud in connection with a civil collection case. That's what my understanding is.
14 Q If there's fraud?
15 A There has to be fraud or evasion. I don't have the statute in front of me,
16 but yes. If there was fraud or false statements or evasion. I don't remember the exact
17 wording of the statute.
18 Q Okay. So we've received testimony that, if the statute of limitations has
19 expired, that there's no way for the U.S. Government to recover unpaid tax liabilities
20 going back to 2014, 2015.
21 Is that a possible outcome in a situation like this?
22 A Like I said, I have exhausted my knowledge of civil tax.
23 Q Would you be concerned if it was the case that the length of a criminal
24 investigation could prevent the IRS from collecting unpaid taxes?
25 A I don't think I should speculate about this.

1 Q About whether that would concern you?

2 A No. About the premise that there's a bar because of this or that. That's

3 where this is coming from.

4 Q I'm asking you to accept the hypothetical now. If that were the case, would

5 that be a concern?

6 A And I don't want to get in hypotheticals about this. You're talking to a

7 criminal prosecutor, really.

8 Q I understand. Okay.

9 In the last hour, you were asked some questions about considerations that the

10 Department of Justice and the prosecutors have to take into account when determining

11 whether or not to bring charges. Things like chances of success, admissibility of

12 evidence, proving a case beyond a reasonable doubt. Do you remember that line of

13 questioning generally?

14 A Yes.

15 Q In your career at the Department of Justice, have you worked with a large

16 number of prosecutors?

17 A Yes.

18 Q And would you say that the Department of Justice has skilled prosecutors in

19 its employ?

20 A Yes.

21 Q Yesterday, we interviewed U.S. Attorney Estrada, who detailed some of the

22 horrible crime going on in his district. He talked about cartels, gangs, Mafia, some pretty

23 difficult and challenging cases and potential defendants involved in his work in that

24 district.

25 Do you think that the Department has prosecutors talented enough to prosecute

1 cases related to activities of individuals like that? Cartel members? Mafia members?
2 A Yes.
3 Q In your experience, are DOJ prosecutors typically afraid to bring cases
4 against those individuals?
5 A Cartel members or things like that? I think we're lucky to have a number of
6 career narcotics prosecutors that are willing to take those cases on. Sometimes they do
7 get threats or have to have protection from the Marshals Service, so.
8 Q But they don't usually stand down and drop their cases in those situations?
9 A You know, there may be individual prosecutors that are concerned about
10 themselves or their family and want to stay -- move into another part of the Justice
11 Department, yes.
12 Q But the Department wouldn't drop a case because of a threat?
13 A The Department? No.
14 Q Okay. And do DOJ attorneys interact with defense counsel frequently?
15 A Yes.
16 Q And, in your experience, are prosecutors you've worked with typically afraid
17 of or intimidated by defense counsel?
18 A No. I don't think they should be intimidated by -- but sometimes defense
19 attorneys attempt to do that, yes.
20 Q Are you aware of testimony that says that Chris Clark told DOJ officials that
21 bringing charges against Hunter Biden would be career suicide?
22 A I recall seeing something like that. You know, in my experience, having sat
23 in on some meetings where defense attorneys make -- not necessarily those statements,
24 and I'm not saying Chris Clark said that or not because I wasn't present -- but I think it's
25 counterproductive. That tends to solidify prosecutors in the Justice Department not to

1 put their head down and try to do their job.

2 Q Okay. And so you weren't present when -- if that was said, you weren't

3 present for it?

4 A No.

5 Q Okay. Did anyone ever report that to you?

6 A I don't recall it. You know, I know that there was, you know, often

7 contentious discussions between defense counsels and prosecutors, and I think some of

8 that happened here. But I don't recall the specific verbiage, no.

9 Q Okay. And are you aware of reporting that Chris Clark stated that he would

10 call President Biden as a witness if DOJ moved forward with the case?

11 A I saw that mentioned somewhere.

12 Q Were you aware of that beyond the public reporting?

13 A No, I wasn't. But I don't think it's relevant at all to how we would handle

14 the case.

15 Q So you don't think prosecutors involved in the case were concerned or

16 worried or intimidated by that statement?

17 A I don't know if the statement was actually made because I wasn't there.

18 But prosecutors in the Tax Division were engaged in the case and trying to get to the right

19 decision on it without any external comments that may be made.

20 Q So prosecutors don't typically fold under pressure from defense attorneys?

21 A Not in my experience.

22 Q If someone meets all the elements for a felony tax evasion case, and later

23 gets caught for tax evasion and then, once caught, pays tax liabilities off, pays the IRS the

24 money that they should have that they previously evaded, was a crime still committed if

25 all the elements of tax evasion were there?

1 A Can you restate that again? I'm having trouble following.
2 Q So if all the elements of the crime of tax evasion are met, but the target or
3 the defendant later pays off the liability of the amount of tax due, has a crime still been
4 committed?
5 A The question would be whether -- I'd have to know the whole -- all the facts.
6 But the defense would try to argue that somehow -- that that payment showed what
7 willfulness the defendant had in his or her mind.
8 Q But what if they pay it back after they've been caught?
9 A Right. Right. Right. The Department -- like I said, that's what the
10 defense would argue. In some courts, they may admit that payment. In other courts,
11 they may not. It depends upon what the circuit is. It depends upon what other -- what
12 the circumstances are. I can't really opine on a case like that.
13 If they came up with the money -- they had no money initially and then they came
14 up with the money, and as soon as they came up with the money, they paid it, that might
15 be more relevant, right?
16 Q My question isn't whether it would be relevant or admissible. It may be
17 relevant or admissible to any sentencing in whatever the case may be.
18 But if the elements of the crime are met, does paying off the liability alleviate you
19 from the criminal conduct? Have you still committed a crime if you initially evaded
20 taxes?
21 A And I'm just trying not to opine on a case where I don't have all the facts.
22 You say the crime has been committed, but the question is what the evidence is relating
23 to that. And whether this payment -- subsequent payment has an impact or not, I can't
24 say. So it's hard for me to opine on that.
25 Q Okay. I'm just trying to understand if paying off your taxes after you get

1 caught for any tax crime alleviates you of criminal liability. Is that the Department's
2 position?
3 A So no. If you commit a crime -- like, just take this. Let's take bank
4 robbery, right? You rob a bank, and you get caught, and you hand the money back later.
5 That's not going to alleviate you for liability for the crime. That's clear.
6 And in many respects, similar -- in a tax case, we have to prove willfulness, which
7 is the highest level of intent. And all the circumstances about how that person reacts in
8 connection with his or her tax liabilities are going to be relevant to whether or not
9 willfulness is proven. And it is possible that the way they handle this repayment may be
10 relevant to that.
11 So without knowing all the little pieces, I can't say. But I can tell you that defense
12 attorneys try to bring that stuff in all the time in regular cases, and the government often
13 tries to exclude that.
14 Q In the testimony we've received, we've also been interested and concerned
15 about how the different agencies and different parts of the agencies involved in a
16 tax -- criminal tax matter work together, or fail to work together in some cases. You
17 have IRS CI. We talked about the possible role of civil, but put that to the side for now.
18 FBI, U.S. Attorney's Office, Main Justice, Main DOJ, DOJ Tax. It's a lot of entities.
19 Throughout your career, how have you found the working relationship to be
20 between all of those entities in the coordination necessary for investigation?
21 A I've been lucky enough to find that I think there generally is pretty good
22 coordination, though there in cases where a case is going for a while, there can be bumps
23 in the road in terms of people don't see things exactly the same or that there's change in
24 personnel when -- but DOJ does a pretty good job, I think, working within itself. And Tax
25 Division has a good relationship, my impression is, with IRS CI. And that's how we make

1 our cases. We have the IRS CI in every one of our cases. So I think we navigate those
2 things.
3 BY [redacted]
4 Q In late March of 2022, we've been told that Mark Daly contacted Special
5 Agent Ziegler to say that, in his communications with the first assistant in the D.C. U.S.
6 Attorney's Office, that the first assistant was optimistic that the case would be permitted
7 to be brought in D.C.
8 Did that fact ever make it to your attention? That before Mr. Graves declined to
9 partner, the staff-to-staff communication of your staff, Mr. Daly, and Mr. Graves' staff has
10 been -- you know, we have testimony to say that Mr. Daly believed that the first assistant
11 was very encouraged that Mr. Graves would be able to, you know, allow the case to be
12 brought. Had that been brought to your attention?
13 A That the first assistant in D.C. said --
14 Q That Mr. Daly was encouraged by his communications with Mr. Graves' staff.
15 A We're getting into deliberations, I think, right? So based on the line that
16 the Department is drawing, I'm not sure I can get into conversations that may have taken
17 place.
18 Q Did Mr. Daly keep you updated on the blow-by-blow?
19 A I don't know whether I was updated on the blow-by-blow, but it was
20 reported back to me about the dealings with the U.S. Attorney's Office, at least in some
21 instances or some level. Whether there were -- how many interactions and whether I
22 received information after each one, that I can't say.
23 Q Did you have an idea that Mr. Graves was going to decline to partner before
24 he did?
25 A I don't -- I'm not sure I understand the question. Could you ask it again in a

1 different way?

2 Q Of course. Was it your expectation that Mr. Graves was going to partner or

3 not going to partner before he made his final decision?

4 A I'm not sure when he made his final decision exactly. I'm a little -- I don't

5 have a current recollection. As I said before, they -- I learned that he was not interested

6 in partnering with us and that he was willing to give us a point of contact and things like

7 that.

8 Q Okay. Leading up to that, did you have any inclination -- did you have an

9 expectation that he would or would not partner?

10 A I don't know that I can answer that question without getting into what

11 conversations -- deliberative conversations might have taken place.

12 Q How common is it for a U.S. Attorney, like Mr. Graves, to decline to partner

13 when the U.S. Attorney from the different jurisdiction, Mr. Weiss, apparently has the

14 support of the Tax Division? How common is that?

15 A I know it occurs. I can't tell you how common it is because I don't know the

16 full universe of people. I don't think it's all that common for U.S. Attorney's Offices to

17 move white-collar cases from one place to another. It happens occasionally.

18 Q Well, for tax cases, though, are venues pretty certain?

19 A Right. But sometimes that decision is made at an earlier stage, or if it's at a

20 later stage, then I think U.S. Attorney's Offices might carve up their own case in a way that

21 didn't require them to move.

22 Q Why did it take Mr. Weiss so long to bring the D.C. component to Mr.

23 Graves?

24 Ms. Zdeb. That gets into the ongoing case, and it's beyond the scope of his

25 authorization.

1 BY [redacted]

2 Q Do you remember when the case was brought to Mr. Graves?

3 A I think in March of 2022.

4 Q And the case had -- at least the tax part of the case had began in 2019,

5 correct?

6 A Yes.

7 Q You had a supervisory role during that whole time period, right?

8 A Even though it was a different role, I would say that I had a supervisory-type

9 role, though Richard Zuckerman, between 2019 and 2021 -- beginning of 2021 -- was the

10 one supervising the case.

11 Q But it was clear all along that for the tax years 2014 and 2015, the venue was

12 appropriate in D.C., and for the other years, the venue was appropriate out in Malibu and

13 the Los Angeles area?

14 Ms. Zdeb. That gets into internal analysis and deliberations around venue, and

15 it's not something he is authorized to discuss.

16 BY [redacted]:

17 Q So I'm just wondering why it took so long. That's sort of a big question. I

18 mean, I guess that's one of the reasons we want to speak with Mr. Daly and Mr. Morgan

19 because they're much more involved with the day-to-day blow-by-blow.

20 So had anyone brought concerns to you or maybe Mr. Poole about what was

21 taking so long in bringing these cases to the respective U.S. Attorneys?

22 Ms. Zdeb. That question seeks deliberations about the ongoing investigation.

23 And whether you're speaking to Mr. Goldberg or any other witness at this point, the

24 Department hasn't authorized testimony on that sort of topic.

25 BY [redacted]

1 Q Who is John Kane?

2 A John Kane is an assistant chief in the Tax Division.

3 Q Does he work for Mr. Poole?

4 A Yes.

5 Q Earlier, you mentioned -- we had asked you which personnel in the Tax

6 Division were working on this case, and I think we agreed it was Mr. Morgan, Mr. Daly,

7 Mr. Poole, and then there was --

8 A I said assistant chief because I'm trying to follow the direction --

9 Q No, I understand.

10 A -- given from the Justice Department. And I'm going to request again that

11 you redact his name from the transcript.

12 Q So Mr. Kane would be the fourth person?

13 A He would be the assistant chief I was referring to, yes.

14 Q Okay. But do I have that right, that essentially there were four people

15 involved with the consideration of this case from a Tax Division standpoint other than

16 yourself?

17 A Yes. Yes.

18 Q And is it fair to say that he was assigned to review the special agent report

19 that Mr. Ziegler prepared?

20 A We're getting into details about how the case was conducted, right? So I'm

21 not sure I can get to that.

22 [redacted]. Okay. It looks like my time is up, so we need to stop here.

1

2 [2:11 p.m.]

3 BY [redacted]

4 Q It's 2:11 in the afternoon, we can go back on the record.

5 I want to circle back to some conversations from the prior round of questioning.

6 The comment was made that the U.S. Attorney's Office in Delaware couldn't override the

7 tax division's decision and I wanted to explore that a little more. If, not necessarily this

8 U.S. Attorney's Office, any U.S. Attorney's Office if they disagree with the tax division

9 maybe they can't just say, No, we're going to disregard what you say and move forward,

10 but they do, there's a mechanism for them to have your decision overridden, correct?

11 A Yes, there is.

12 Q What is that mechanism?

13 A They can go to the Deputy Attorney General's Office or the AG.

14 Q Okay. And the Deputy Attorney General or the AG can say tax division, I'm

15 going to grant the U.S. Attorney's Office the authority that they are seeking, right?

16 A Yes.

17 Q And if the tax division grants discretionary authority over a matter, there is

18 nothing to override, right, because in that case the U.S. Attorney's Office gets to decide

19 whether to bring charges or not?

20 A Yes, they are unlikely to complain, yes.

21 Q I want to turn back to Goldberg -- what's marked as exhibit 5, this is the

22 July 10th letter and I want to look at, I think we talked through a couple of the earlier

23 sentences in that third paragraph, but I want to look at the sentence that begins at the

24 end of the fifth line down that says, I was, it begins I was.

25 A Right.

1 Q It says, I was assured that I would be granted this authority if it proved
2 necessary and this authority is a reference to 28 U.S.C. section 515.
3 Do you have any reason to believe that Mr. Weiss was not being truthful when he
4 said he had been assured that he would be granted 28 U.S.C. section 515 authority if it
5 proved necessary?
6 A No reason to believe that.
7 Q And you can set that aside.
8 I want to talk a little bit about the interactions between Mr. Weiss and both the
9 U.S. Attorney's Office in the District of Columbia and the Central District of California that
10 came up a little bit in the prior round. I think there's a statement made the U.S.
11 Attorney's Offices declined to bring charges, and I want to explore that a little bit. To
12 the best of your knowledge, did U.S. Attorney Matthew Graves ever tell David Weiss that
13 he, meaning David Weiss, could not bring charges in the District of Columbia?
14 A No, that's not my recollection at all.
15 Q Okay. And what is your recollection?
16 A That night, I thought we had discussed this earlier, but that they decided not
17 to partner with him on the case. They didn't tell him he couldn't bring the case himself
18 in that district. They just decided they didn't want to partner their offices with David
19 Weiss.
20 Q And partnering is not the same as prosecuting a case, right? Somebody
21 can -- U.S. Attorney Weiss can still prosecute a case?
22 A Yes.
23 Q Even if U.S. Attorney Graves decided not to partner with him, correct?
24 A Right. My understanding is that he was saying he didn't want to partner,
25 that the U.S. Attorney's Office indeed said that they would facilitate, they give us a point

1 of contact or David Weiss a point of contact to bring the case if that's what they wanted
2 to do.
3 Q Okay. Do you know if Mr. Graves also offered to provide any
4 administrative support that Mr. Weiss might need?
5 A I don't know, but I assume most U.S. Attorney's Offices in this situation
6 would do that.
7 Q And Mr. Weiss never said that Mr. Graves said he would not provide such
8 administrative support, right?
9 A I don't believe he said that to me, no.
10 Q Okay. And looking at the Central District of California, do you know if U.S.
11 Attorney Martin Estrada ever told Mr. Weiss that he, meaning Mr. Weiss, could not bring
12 charges in the Central District of California?
13 A No, that's not my understanding.
14 Q What is your understanding?
15 A That, again, that he did not want to have his office partner on the case with
16 him. But my understanding is that David Weiss was free to bring them -- bring the
17 charges if he thought it was appropriate in L.A.
18 Q Do you know if in fact there are -- so Martin Estrada I'll represent to you was
19 confirmed by the Senate in September of 2022, so September of last year. Are you
20 aware that at the time that Martin Estrada was confirmed in September of 2022, Mr.
21 Weiss actually already had special assistant U.S. Attorneys already assigned to the Central
22 District of California?
23 A No, I'm not aware.
24 Q You weren't aware of that. Are you aware that there was a phone call
25 between Mr. Estrada and Mr. Weiss in early October of 2022?

1 A I'm not sure I'm aware of that. I know that Mr. Weiss was going to contact
2 the U.S. Attorney's Office, but -- it's possible. I have a vague recollection that there was
3 a contact, but I'm not sure about the timing.
4 Q Do you know if Mr. Weiss asked Mr. Estrada to provide administrative
5 support in the Central District of California?
6 A I don't remember whether he did.
7 Q Do you have any reason to believe that Mr. Weiss did not obtain any
8 requested administrative support from the Central District of California?
9 A No.
10 Q I want to --
11 [Discussion off the record.]
12 BY [redacted]
13 Q I want to turn to section 515 authority briefly. What is, without bringing
14 out the statute, what's your understanding of what 515 authority is?
15 A It provides authority to -- when you're talking with regard to a Department
16 of Justice attorney, it provides authority for that attorney to go into a district and handle
17 civil or criminal cases here before magistrates, and to have authority that's in line with
18 what the U.S. Attorney would have in that district.
19 Q Does the tax division frequently request section 515 authority?
20 A Yes. Those requests come to me in the tax division with regard to tax
21 division personnel.
22 Q And so, are you familiar with the process for requesting section 515
23 authority, then?
24 A I'm familiar with what the process is in the tax division.
25 Q And can you describe that process?

1 A A memo gets written coming from the chief of the relevant geographic
2 section saying there's this case, throwing out some of the facts, and that the chief wants
3 to appoint a specific attorney to that particular case and usually it's in response to a
4 request from the U.S. Attorney's Office. And that memo comes to me with a draft letter
5 from me that gives a person 515 authority.
6 Q And in the earlier hour you said that this happens all the time. Is it fair to
7 say that this is a common thing that happens at the Department of Justice?
8 A In Main Justice components it is, where they are going out and doing cases in
9 U.S. Attorney's Office often without the involvement of the U.S. Attorney's Office in the
10 specific case.
11 Q And when -- would you describe the process for obtaining 515 authority as
12 burdensome, or is it a fairly fast process or do you have any way to evaluate that?
13 A The Tax Division, it's a fairly fast process.
14 Q About low long does it take? Can you estimate is it a week, maybe a couple
15 of days?
16 A As soon as they write the letter -- excuse me, draft the letter and draft the
17 appropriate memo that gets sent up to me. And whether the chief spend time thinking
18 about who the person is that should be assigned, I don't know. I assume they do. So
19 when it gets to me, it doesn't take very long for me to execute the memo so fairly
20 concise. And the format is pretty much the same for each letter. So once I decide after
21 reading the memo that it's appropriate to provide 515 authority I just quickly eyeball the
22 letter, make sure there are no obvious typos and have somebody sign off on it for me.
23 Q And that's with regard to the tax division specifically. Have you been
24 involved in the process when somebody has sought 515 authority from the Deputy
25 Attorney General's Office?

1 A Yes.

2 Q Is the process substantially similar?

3 A I think it's a little more extended process because -- at least my experience in
4 terms of the Deputy Attorney General's Office, often it is in a recusal type situation. So
5 first there needs to be a finding about whether recusal is justified under the Department's
6 rules and whether it should be the whole office or part of the office. And then there
7 needs to be another prosecutive office to take on the case. Sometimes it's the Main
8 Justice component, sometimes it is going to be the U.S. Attorney's Office. At that point,
9 you can issue the letters to the people handling the case.

10 Q Okay. And that's in a situation where one U.S. Attorney is recused from a
11 case?

12 A Right, right.

13 Q Therefore you have to find somebody else to fill in the gap effectively?

14 A Right.

15 Q In your experience, how often do you approve 515 requests? Or maybe a
16 better way to phrase it is how often do you actually deny 515 requests? Are they
17 usually approved or is it sometimes they are denied?

18 A They are almost always approved by me because that's what comes up to
19 me. The chiefs have made a decision that this is the appropriate person. In this case,
20 it's one that we should be supporting. And so, when I look at it, it's usually in line with
21 that. If I have a question, I'm more likely to call them up and ask them about it rather
22 than just deny it.

23 Q And is it your experience that similarly in the rest of the Department 515
24 requests are routinely approved?

25 A So my recollection going back many years in public integrity is it was done on

1 a fairly routine basis.

2 Q Just some kind of final questions here to wrap up. In this case, in the

3 Hunter Biden investigation in particular, do you have any reason to believe that President

4 Biden interfered in the investigation in any way?

5 A So let me just keep it at a very high level so we don't get into line here. I'm

6 not aware of any interference with the case on a partisan political basis.

7 Q Do you have any reason to believe that any of the line attorneys were

8 intimidated or were worried about working on this case because it involved the son of

9 President Biden?

10 A My expectation, based on my involvement with them on this case, is that

11 they were going to make the recommendations they thought were appropriate based on

12 the facts and the law.

13 Q We went through this earlier but one more time for the record.

14 Throughout your tenure at the Justice Department's Tax Division, have you made all

15 decisions without reference to political considerations?

16 A Yes.

17 Q And particularly with respect to the Hunter Biden investigation, have you

18 made all decisions without reference to political considerations?

19 A Yes.

20 Q To the best of your knowledge, has U.S. Attorney Weiss made all decisions in

21 the Hunter Biden matter without reference to political considerations?

22 A Yes.

23 Q To the best of your knowledge, has U.S. Attorney Matt Graves made all

24 decisions in the Hunter Biden investigation without reference to political considerations?

25 A I fully expect to answer yes, but I've had very little dealings -- I've had no

1 direct dealings with Matt Graves.

2 Q Understood. To the best of your knowledge.

3 A Right.

4 Q To the best of your knowledge, do you have any reason to believe that U.S.

5 Attorney Estrada -- I'm sorry, to the best of your knowledge in the Hunter Biden matter,

6 has U.S. Attorney Estrada made all decisions without reference to political

7 considerations?

8 A And I'm not aware of him letting political considerations interfere. But

9 again, I've never talked to Mr. Estrada, so I just want to make that clear.

10 Q To the best of your knowledge in the Hunter Biden matter, have the

11 employees of Mr. Weiss' office made all decisions without reference to political

12 considerations?

13 A Yes.

14 Q To the best of your knowledge in the Hunter Biden matter has assistant U.S.

15 Attorney Lesley Wolf made all decisions without reference to political considerations?

16 A I'm not aware of politics having an impact on the Hunter Biden case, no

17 partisan political considerations to my knowledge have factored into that case.

18 Q And that includes with respect to Lesley Wolf in particular?

19 A It includes everybody involved in the case.

20 Q And one last question on this line, to the best of your knowledge, has all

21 Justice Department Tax Division employees made all decisions without reference to

22 political considerations in the Hunter Biden matter?

23 A Yes.

24 [redacted]. Thank you. We can go off the record.

25 [Discussion off the record.]

1 BY [redacted]

2 Q 2:28.

3 You were asked whether you were aware of any political interference in the case.

4 And I believe you said you're not aware of any?

5 A I'm not aware of political interference in the case, right.

6 Q Are you aware of allegations that special treatment was afforded in this case

7 because the subject was the son of the President of the United States, and before that,

8 the leading candidate for President?

9 A The -- could you just restate that?

10 Q Are you aware of allegations -- the whistleblowers.

11 A Yes, yes, yes.

12 Q When the whistleblowers raised those allegations and we can go through

13 them, they went through a number of instances that they felt political favoritism was part

14 of the equation. And so, I guess the question is, is that the first time you heard about it

15 when the whistleblowers brought it up or were you aware as it was happening?

16 A I wouldn't accept the premise that there was political interference. No one

17 came to me during the course of my supervision on this case and said there's political

18 interference in this case.

19 Q Okay. Were you aware of investigator's plan to search an abandoned

20 storage unit at the end of December 2020.

21 Ms. Zdeb. That involves the ongoing investigation. He's not able to address

22 that.

23 [redacted] Okay.

24 BY [redacted]:

25 Q Are you aware of situations where defense counsel was notified prior to the

1 service of a search warrant?

2 Ms. Zdeb. That also involves the ongoing case and he can't address it.

3 BY [redacted]

4 Q Are you aware of before investigators were able to search the storage unit

5 that I mentioned that DOJ tax attorney Mark Daly and Lesley Wolf, the AUSA, the lead

6 AUSA on the case, wanted to inform the target, Hunter Biden's attorneys, about the

7 search of the storage unit?

8 Ms. Zdeb. It's the same objection because it is essentially the same question.

9 You're asking about an ongoing investigation.

10 BY [redacted]

11 Q When decisions like that were involved, Mr. Daly or Mr. Morgan, would they

12 seek approval up their chain of command before they would provide that authority?

13 A So I can try to answer that at a higher level. Generally speaking, the trial

14 attorneys working on a case would discuss the cases with their supervisors. Whether

15 they discussed every particular contemplated action or not, probably not, but

16 they -- that's typically what happens in a Tax Division or DOJ case.

17 Q So if Lesley Wolf communicated that Mr. Shapley or Mr. Ziegler that they

18 can't do investigative move X or investigative move Y because DOJ tax hasn't approved it,

19 is that the type of decision that would be made at Mr. Daly's level, Mr. Morgan's level, or

20 would that fall to their supervisor, or would that be you?

21 Ms. Zdeb. You're getting into very specific allegations about the ongoing case at

22 this point. If there's something he could say at a high level of generality about how

23 cases typically work in this respect, that's fine.

24 [redacted] I tried to -- I framed it as a generic investigative move that would

25 need DOJ Tax's approval.

1 Ms. Zdeb. But the preamble to your question referred to specific people
2 assigned to this case and specific decisions in this case. If you want to ask him
3 hypothetically about some generic criminal prosecution.
4 BY [redacted]
5 Q What was Mark Daly's title?
6 A Senior litigation counsel.
7 Q And what was Jack Morgan's title?
8 A Trial attorney.
9 Q Would these types of decisions be made at the trial attorney level or the
10 senior litigation counsel level or would they be made at the supervisor level?
11 A Which kinds of decisions?
12 Q Decisions about investigative techniques or procedures, whether you're
13 going to search a storage unit, whether you're going to identify a particular person on a
14 search warrant?
15 A So this case was being run out of the Delaware U.S. Attorney's Office, David
16 Weiss was leading that. My experience generally on cases, there is discussions between
17 the prosecutors and with the agents and the prosecutors about investigator steps that
18 are contemplated, whether they should be taken or not, they talk about that back and
19 forth all the time. I don't think all those discussions get elevated.
20 Q Okay, fair enough.
21 On August 2nd, 2020, Lesley Wolf sent an FBI special agent an email where she
22 wrote, there should be nothing about political figure one, who is Joe Biden, in the draft
23 search warrant. Are you familiar with the search warrant in question that related to Joe
24 Biden?
25 Ms. Zdeb. That involves -- your question involves the ongoing investigation and

1 prosecution, and it is beyond the scope of what he's authorized to discuss.

2 [redacted] In December of 2020, there was an email exchange between Lesley

3 Wolf and Joseph Ziegler regarding managing expectations with regard to timing. In

4 AUSA Wolf's email to members of the prosecution team she wrote that a warrant needed

5 to go through the Delaware U.S. Attorney's Office, DOJ Tax, possibly OEO, the Office of

6 Enforcement Operations, and definitely EDVA, who had never seen a case before. And

7 the question is, how often does a warrant such as this need to be reviewed by so many

8 different offices?

9 A A warrant such as this, what warrant are you talking about?

10 Q This again relates to the search warrant for the storage unit.

11 A So without commenting on this particular case, because I'm directed not to

12 do that, if documents are being sought from -- a search is going to take place of an

13 attorney's office, let's say, then -- and that's out of the district of where U.S. Attorney is,

14 then it would have to get viewed probably under the Department's practices and

15 procedures by OEO because attorney premises are highly sensitive and that was recent in

16 2020, there was recent new guidance about that limiting it. The U.S. Attorney's Office in

17 Delaware would have to be behind it and support it in order -- the U.S. Attorney's Office

18 involved. If it was going to be in a different district, then typically that district, or at

19 least most districts, in my experience, before they bring a search warrant and let

20 somebody bring a search warrant to a judge in their district, they review those things. If

21 it was a tax case, then it would probably implicate potentially tax procedures too,

22 because we have review and approval processes in place for search warrants involving

23 attorneys.

24 Q Would those types of procedures have come into play when decision was

25 being made whether to search Joe Biden's guesthouse?

1 Ms. Zdeb. He can't speak to the specifics of what may or may not have
2 happened in this case.
3 BY [redacted]
4 Q Are you aware the investigators were interested in searching Joe Biden's
5 guesthouse, they believed that relevant evidence existed at that location.
6 Ms. Zdeb. Same objection?
7 BY [redacted]
8 Q Are you aware that Lesley Wolf told the investigators there's no way we will
9 get that approved?
10 Ms. Zdeb. Same objection.
11 BY [redacted]
12 Q And the implication, of course, was they wouldn't get that approved because
13 it involved Joe Biden.
14 Ms. Zdeb. I don't know if that was a question. But if it was, it's the same
15 objection.
16 BY [redacted]
17 Q Are you aware that of that allegation being raised by Mr. Shapley and Mr.
18 Ziegler?
19 A I'm aware of something along those lines, yes.
20 Q Are you aware of it because it came out in their public testimony?
21 A Yes, yes, yes, or news reports, yes.
22 Q Or are you aware of it because in real time you were involved with that
23 decision?
24 Ms. Zdeb. He can't speak to that part of your question because it involves an
25 ongoing case.

1 BY [redacted]

2 Q Are you aware of why the investigators wanted to search the Biden

3 guesthouse?

4 Ms. Zdeb. He can't answer that, and you're free to ask as many questions like

5 this as you want, but I think you know that the scope of his authorization does not enable

6 him to talk about the ongoing investigation.

7 BY [redacted]

8 Q The testimony of special agents Shapley and Ziegler raised a lot of these

9 political concerns, they believe and they testified that the investigative activity was

10 curtailed for political reasons. Were you aware of these allegations in real time, or did

11 you only learn about them when they became public through the whistleblower

12 testimony?

13 A So I -- because I mentioned before, I'm not aware of partisan political

14 considerations playing a role in this case.

15 Q Are you aware that DOJ tax attorney Jack Morgan instructed the

16 investigators to remove Hunter Biden's name from a search warrant?

17 Ms. Zdeb. He's not authorized to discuss that.

18 BY [redacted]

19 Q Are you aware of that allegation?

20 A I'm aware that that was reported, something along those lines.

21 Q But were you aware of it in real time?

22 Ms. Zdeb. He can't answer that, Steve.

23 BY [redacted]

24 Q In the January 2023 meeting that you had in Delaware with Chris Clark, you

25 testified that that wasn't the meeting where Mr. Clark allegedly told the prosecutors this

1 is career suicide?

2 A I think I said that I didn't hear him say that at their -- that the that meeting,

3 to my recollection.

4 Q Were you aware that he said that at a meeting? Was that reported to you

5 in real time?

6 A I think you asked that question previously and my recollection is that it

7 doesn't sound familiar to me, but I know that there was contentious dealings between

8 Mr. Clark and prosecutors at various points.

9 Q Did you witness any of those contentions during your January 2023 meeting?

10 A Nothing more than average prosecutor defense attorney interaction.

11 Q Was Mr. Clark exhibiting brash behavior in trying to get the prosecutors not

12 to move forward?

13 Ms. Zdeb. At this point, we're getting into internal meetings and discussions

14 about the ongoing case, and he's not able to address that.

15 BY [redacted]

16 Q Did you witness Mr. Clark lean on Mr. Weiss about his legacy, that his legacy

17 would be defined by how he handles this decision?

18 Ms. Zdeb. Same, same objection. We're talking about meetings about the

19 ongoing case.

20 BY [redacted]

21 Q After the special agent report was prepared by Agent Ziegler and sent to the

22 Tax Division, according to whistleblower testimony, the Tax Division, under your

23 leadership, requested that Mr. Morgan or Daly prepare a 99-page -- or a memorandum

24 that ended up being 99 pages. Was that something that you tasked out.

25 Ms. Zdeb. That's getting into the ongoing case. He's not authorized to discuss

1 it?

2 BY [redacted]

3 Q And do you know who wrote that memorandum from the Tax Division.

4 Ms. Zdeb. He is not authorized to discuss --

5 [redacted] I think that's a fair question. I mean who wrote a memo. I mean,

6 we're not talking about the content of the memo.

7 Ms. Zdeb. He hasn't said there was or wasn't a memo that was --

8 [redacted] I don't think anyone disputes that DOJ Tax prepared a memo. I

9 mean the special agent report comes in, and then the Tax Division, I think he testified to

10 this earlier, ordinarily would then prepare a document. So I guess the question is who

11 prepared the document, was it Mr. Morgan, Mr. Daly?

12 Ms. Zdeb. Can we go off the record for a second?

13 [redacted]. Yes.

14 [Discussion off the record.]

15 Ms. Zdeb. I think at this point the question of what memos may have been

16 prepared when and by whom are getting into the internal process of the case, and he's

17 not going to address that.

18 BY [redacted]

19 Q From a process standpoint, what types of documents would be prepared by

20 the Tax Division lawyers?

21 A Working on a case?

22 Q Yeah. After the special agent report comes in from the IRS recommending

23 prosecution of a particular person or particular charges, then the Tax Division prepares

24 some paper, correct?

25 A Yes, but there as I laid out previously. There often is ongoing investigation

1 that takes place after the special agent's report and there may be also various legal
2 analyses that are done relating to potential charges themselves, relating to venue of
3 charges, relating to a number of different issues.
4 Q So you're not willing to answer the question about whether a 99-page memo
5 was prepared by DOJ Tax on this matter?
6 A I've been directed not to answer that question.
7 Q Okay. But presumably you know the answer to the question, if we
8 compelled you, you would -- you'd be able to provide a definitive answer on that
9 question?
10 A What?
11 Q If you were compelled and we were able to prevail?
12 A It's a metaphysical question, right?
13 Q Okay.
14 A Whether it exists or does not exist.
15 Q What's that?
16 A Whether something exists or doesn't exist.
17 Q Well really you are aware that it was prepared and exists.
18 A I can say, as I said before, that there's a common process that takes place,
19 and part of that is putting together a pros memo to point, and then review note, and then
20 a chief's note before it comes to me. That's the way the process generally works.
21 Q There's been some discussion that the 2014 and 2015 tax year charges fell
22 off the board because the statute of limitations ran. Are you aware of any mechanism
23 prosecutors have to recapture those tax years once the statute has run?
24 Ms. Zdeb. He can't speak to this specific case. If there's kind of a general
25 principle --

1 [redacted] That could be a general question.

2 BY [redacted]

3 Q If the statute of limitation has run for 2 tax years, let's say hypothetically

4 2014 and 2015, the tolling agreement has expired, is there any mechanism that

5 prosecutors can somehow prosecute that?

6 A You've got baked 2014 and 2015 in here, so you're asking me the same

7 question it strikes me as what I've been directed not to answer.

8 Q The question is, and you're a DOJ Tax official so you're a good person to ask:

9 Once the statute of limitations runs on a particular tax year, is there a mechanism to claw

10 that back and get it back into the zone where it can be prosecuted?

11 A And like I said, it strikes me you're asking me the same question about this

12 ongoing case, that it's in connection with.

13 Q I'm really not, though. I'm just trying to understand are there ways to

14 move on tax case where the statute of limitations has expired after its run?

15 Ms. Zdeb. If there are ways to generalize about that that aren't specific to this

16 case, he can speak to that, but I don't know whether that's the case or not.

17 Mr. Goldberg. I think it is hard to generalize here. I think you need to know

18 specifically the facts, circumstances of a particular case. And then I might be in better

19 position to answering this question.

20 BY [redacted]

21 Q But do tax -- criminal tax lawyers have techniques that they can use to keep

22 alive allegations or, you know, tax-year charges that have expired?

23 A There's a case general -- if there is a case in which that identified before the

24 statute has lapsed, then often people can use a tolling agreement or attempt to search

25 for other affirmative acts that might provide a more lengthy period of time in which to

1 charge the case if you can find one that's further down the road than that. But short of
2 that, you would want to make a determination whether or not the case was viable prior
3 to the statute of limitations running. And if not, then you would focus on other charges
4 that might cover the same year or might cover other years that are better or properly
5 capture the offense.
6 Q In your experience, have you ever witnessed a case being revived after the
7 statute of limitations has expired?
8 A Well, once this statute has expired, then it's -- I'm thinking there are other
9 exclusions besides the 6 years, there may be time out of the country, there may be
10 foreign treaties that are used that can exclude the time and things like that, but that
11 would extend the statute. So those things exist and those are possible.
12 Q Did you have any communications with Mr. Weiss about Mr. Shapley and
13 Mr. Ziegler?
14 A About their --
15 Q Their involvement in the case.
16 A I don't think so, I don't recall that.
17 Q Are you aware that Mr. Weiss asked the IRS to remove them from the case?
18 A I don't know specifically what was said or not said.
19 Q So you're only aware from news reports?
20 A I'm aware that they were -- the case was transferred to another group, yes.
21 Q And did you have any input on that?
22 A That action I did not have conversations leading up to that action.
23 Q As we understand it, Mr. Weiss telephoned the leadership at IRS, specifically
24 Mr. Waldon. And Mr. Batdorf got involved, Mr. Batdorf is Mr. Waldon's supervisor at
25 the IRS. And a decision was made to take Mr. Shapley and Mr. Ziegler off the case. I

1 guess my question is, did DOJ Tax personnel have any involvement in that?

2 A Not that I'm aware of.

3 Q Okay. Have you had any communications with anyone at the IRS about this

4 case, any meetings with IRS officials?

5 A I did not have any meetings with anybody.

6 Q Other than the June 15th meeting we discussed?

7 A Yes, no, that's right. And I do recall that I -- that, Jim Lee asked me a

8 question about the case while the case was ongoing, yes.

9 Q Had you been in any meetings with Mr. Shapley or Mr. Ziegler other than the

10 June 15th meeting?

11 A I don't think so.

12 Q So that was the only time you met them?

13 A It's possible I met Mr. Shapley at an earlier stage before the Hunter Biden

14 case. I'm not sure.

15 Q How about same question but related to FBI? Did you have any meetings

16 with the FBI other than the June 15th meeting?

17 A No.

18 Q Do you know if any memos that your people prepared in DOJ Tax were

19 presented to Mr. Graves or Mr. Estrada?

20 A I don't -- I don't know the answer to that.

21 Q Okay. Is that something that would ordinarily happen?

22 A It wouldn't surprise me if some documentation was provided, but I don't

23 know.

24 Q So if a prosecution memo was prepared, that certainly could be shared with

25 the relevant U.S. Attorneys?

1 A That's kind of speculative. I'm not sure I understand -- you said if a
2 prosecution memo had been prepared.
3 Q Right. I mean you explained to us that after the special agent report comes
4 in DOJ Tax lawyers would analyze the situation. And you said a prosecution memo could
5 be prepared.
6 A Yes, right.
7 Q So if a prosecution memo is prepared, would that ordinarily be shared with
8 the U.S. Attorney's Office?
9 A Yes, it could be. Sure.
10 Q Who is the consumer I guess for that memo?
11 A In a regular tax case, it's the -- it's both internal to the Tax Division, but it's
12 also for the benefit of the U.S. Attorney's Office where they are going to prosecute the
13 case.
14 Q Okay. And do you know if any memos like that were shared with
15 Mr. Graves or Mr. Estrada?
16 A I don't. It's possible. I have a vague recollection that some
17 documentation was shared, but I'm not sure what it was.
18 Q Some documentation that had been prepared by the Tax Division?
19 A Right, or -- yes.
20 BY [redacted]:
21 Q Mr. Morris (ph) testified that they had asked their leadership for support on
22 charging the 2014, 2015 tax years and that Director of Field Operations Batdorf was going
23 to call you about the IRS's view on the charges. Did you speak with Mr. Batdorf by
24 phone?
25 A No.

Q Ever?

A I don't recall ever talking to him by phone.

Q What about Mr. Waldon?

A I don't believe I've talked to him either.

Q Okay.

[redacted]. We're good.

[redacted] Give us 2 seconds.

[redacted]. Yes.

[Recess.]

[redacted] We're good.

[Whereupon, at 2:59 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: YOEL ROTH

Wednesday, November 1, 2023

Washington, D.C.

The interview in the above matter was held in room 2237 Rayburn House Office Building, commencing at 10:00 a.m.

Present: Representatives Jordan and Issa.

1 Appearances:

2

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted] RESEARCH ASSISTANT

8 [redacted] SENIOR STAFF

9 [redacted] DIGITAL DIRECTOR

10 [redacted] CHIEF COUNSEL FOR OVERSIGHT

11 [redacted] DIGITAL ASSISTANT

12 [redacted] RESEARCH ASSISTANT

13 [redacted] COUNSEL

14 [redacted] MINORITY TECH POLICY FELLOW

15 [redacted] MINORITY CHIEF OVERSIGHT COUNSEL

16 [redacted] MINORITY OVERSIGHT COUNSEL

17 [redacted] MINORITY PROFESSIONAL STAFF MEMBER

18

19 For the SUBCOMMITTEE ON CRIME AND

20 FEDERAL GOVERNMENT SURVEILLANCE:

21

22 [redacted] MINORITY DETAILEE

1 For YOEL ROTH:

2

3 [redacted]

4 [redacted]

5 Nixon Peabody, LLP

1 [redacted] We'll go on the record.

2 Good morning. This is a transcribed interview of Dr. Yoel Roth.

3 Chairman Jordan has requested this interview as part of the committee's

4 investigation of how and to what extent Federal Government coerced or included with

5 social media companies to sensor speech.

6 Would the witness please state your name for the record?

7 Mr. Roth. Yoel Roth.

8 [redacted] Thank you.

9 We encourage witnesses who appear before the committee to freely consult with

10 counsel if they so choose, and it is my understanding that you are appearing today with

11 counsel.

12 Is that correct?

13 Mr. Roth. That's right.

14 [redacted] Could personal counsel please state your name for the record?

15 Mr. [redacted] This is [redacted], [redacted], with the law firm of Nixon Peabody, and

16 with me is [redacted].

17 [redacted] Thank you.

18 On behalf of the committee, I want to thank you for appearing here today to

19 answer our questions.

20 The chairman also appreciates your willingness to appear voluntarily.

21 My name is [redacted] and I'm with Chairman Jordan's staff.

22 I'll now have everyone else from the committee who is here in the room introduce

23 themselves, as well.

24 [redacted] [redacted] Chairman Jordan's staff.

25 Chairman Jordan. Jim Jordan.

1 [redacted] with Ranking Member Nadler's staff.

2 [redacted] with Ranking Member Nadler's staff.

3 [redacted] with Ranking Member Nadler's staff.

4 [redacted] Ranking Member Nadler's staffer.

5 [redacted] with Ranking Member Nadler's staff.

6 [redacted] Chairman Jordan's staff.

7 [redacted] Chairman Jordan's staff.

8 [redacted] Chairman Jordan's staff.

9 [redacted] Chairman Jordan's staff.

10 [redacted] Great.

11 I would like to now go over the ground rules and guidelines that we'll follow

12 during today's interview.

13 Our questioning will proceed in rounds. The majority will ask questions for the

14 first hour, and then the minority will have an opportunity to ask questions for an equal

15 period of time if they so choose. We'll alternate back and forth until there are no more

16 questions and the interview is over.

17 Typically, we take a short break at the end of each hour, but if you need a break

18 apart from that, please just let us know.

19 As you can see, there's an official court reporter taking down everything we say to

20 make a written record. So we ask that you give verbal responses to all of our questions.

21 Do you understand that?

22 Mr. Roth. Yes.

23 [redacted] So the court reporter can take down a clear record, we'll do our best

24 to limit the number of people directing questions to you during any given hour to those

25 people on the staff whose turn it is.

1 Please try and speak clearly so that the court reporter can understand and the
2 folks down at the end of the table can hear you.
3 It's important that we don't talk over one another, and that goes for everybody
4 present at today's interview.
5 We want you to answer our questions in the most complete and truthful manner
6 as possible. So we will take our time.
7 If you have any questions or you do not understand one of our questions, please
8 just let us know.
9 Our questions will cover a wide range of topics. So, if you need clarification, just
10 say so.
11 If you honestly don't know the answer to a question or do not remember, it is best
12 not to guess. Please give us your best recollection, and it is okay to tell us if you learned
13 information from someone else. Just indicate how you came to know the information.
14 If there are things you don't know or can't remember, just say so. And please
15 inform us who to the best of your knowledge might be able to provide a more complete
16 answer to our questions.
17 You should also understand that by law you are required to answer questions
18 from Congress truthfully.
19 Do you understand this?
20 Mr. Roth. I do.
21 [redacted] And this also applies to questions posed by congressional staff in an
22 interview.
23 Do you understand that?
24 Mr. Roth. Yes.
25 [redacted] Witnesses that knowingly provide false testimony could be subject

1 to criminal prosecution for making false statements under 18, U.S.C., section 1001.

2 Do you understand this?

3 Mr. Roth. Yes.

4 [redacted] Is there any reason you're unable to provide answers to today's

5 questions?

6 Mr. Roth. No.

7 [redacted] Finally, I'd like to make note that the content of what we discuss

8 here today is confidential. We ask that you not speak about what we discuss in this

9 interview to any outside individuals to preserve the integrity of our investigation.

10 For that same reason, the marked exhibits will stay with the court reporter to go

11 in the official transcript, and we'll collect any copies of those exhibits as the interview

12 wraps up.

13 That's the end of my welcoming remarks.

14 Just checking to see if any of my minority colleagues have anything to add.

15 [redacted] Nothing. We just thank you for coming in.

16 [redacted] And, Mr. Roth, I understand that you have a document you'd like to

17 make part of the record.

18 [redacted] So we have just the statement that he gave during the February

19 Oversight hearing this year.

20 We've just remarked it for today's date on it. We have a couple of copies if you'd

21 like, but we'd submit that for the record.

22 [redacted] We'll mark that as exhibit No. 1 for today's interview.

23 [Roth Exhibit No. 1

24 Was marked for identification.]

25 [redacted] Okay. The clock now reads 10:05 a.m. We'll start with the first

1 hour of questioning.

2 EXAMINATION

3 BY [redacted]

4 Q Dr. Roth, could you state your full name for the record, please?

5 A Yoel Roth.

6 Q What is your current place of employment?

7 A I am an independent tech consultant, and I'm also employed by the

8 University of Pennsylvania in the Carnegie Endowment for International Peace and have

9 an unpaid affiliation with University of California, Berkeley.

10 Q What is your affiliation with Berkeley?

11 A I'm a tech policy fellow.

12 Q And, as a tech policy fellow, what do you do?

13 A I conduct research into technology policy and related issues.

14 Q And how long have you had the fellowship, or how long have you been a

15 fellow?

16 A Approximately 6 months.

17 Q And what was your affiliation with the University of Pennsylvania?

18 A I'm the -- I'm a Knight Visiting Scholar in the Center for Media at Risk at the

19 University of Pennsylvania.

20 Q And what do you do as part of that role?

21 A Conduct research into online trust and safety and technology policy issues

22 and in the spring semester will be teaching a course about those issues.

23 Q And how long have you been a nonresident solar?

24 A At the Carnegie Endowment for International Peace, I've been a nonresident

25 solar for approximately 6 months.

1 Q Beginning with college, what is your educational background?

2 A I attended Swarthmore College for my undergraduate. I have a degree in

3 political science and film and media studies. After college, I attended the University of

4 Pennsylvania where I received a Ph.D. in communication.

5 Q What year did you receive your Ph.D.?

6 A I completed my Ph.D. in 2015 and graduated in 2016.

7 Q Did you work in between college and your graduate studies?

8 A I worked throughout college. I worked at Apple as a Genius, which is a fun

9 job title, and then proceeded directly from undergraduate to my Ph.D.

10 Q Following your Ph.D., what is your professional background?

11 A During my Ph.D., I was affiliated with the Berkman Klein Center at Harvard

12 University as a researcher with the Dangerous Speech Project. That was concurrent

13 with the work I was doing during my Ph.D. Also, in 2014, I was an intern in the Trust and

14 Safety Department at Twitter. That was while I was working on my Ph.D.

15 And then, after I finished my Ph.D research, I joined Twitter full time and was at

16 the company for just shy of 8 years.

17 Q What was the Dangerous Speech Project at Harvard?

18 A It's a research project led by Professor [redacted] who has studied the

19 effects of potentially dangerous speech around the world, including the possibility for

20 online speech to incite violence and genocide.

21 Q And when did you join Twitter full time?

22 A I joined full time in July of 2015.

23 Q And what was your first position at Twitter?

24 A I was -- the official job title was Product Trust Partner.

25 Q And what were your responsibilities in that role?

1 A In that role, I was responsible for working with software developers in
2 Twitter's Product and Engineering teams on new features that they were developing to
3 help them think about potential vectors for abuse, harassment, spam, and other safety
4 issues so that Twitter could design products that were more resilient to potential abuse.
5 Q How long were you in this role for?
6 A I was promoted a number of times and ultimately came to lead that team,
7 and so there was a bit was a continuum of different roles from 2015 through 2017. But
8 the first major shift in my role at Twitter was in late 2017.
9 Q And what was your next position after this major shift?
10 A My next role at Twitter was at head of Site Integrity.
11 Q And what were your responsibilities as head of Site Integrity?
12 A The position of head of Site Integrity was created following Russian
13 interference in the 2016 U.S. elections.
14 My role was initially to uncover what had happened and the ways in which
15 Twitter's product had been misused and manipulated by a foreign government and then,
16 from there, to prevent that type of activity from recurring in the future.
17 Q Were you the first person at the company to have this role?
18 A I was.
19 Q And just to clarify, you said late 2017 is when you --
20 A That's right. I started taking on responsibility for that work in late 2017. I
21 think the paperwork for my official promotion happened in 2018.
22 Q With this new role of head of Site Integrity, when it was first created and you
23 first took the job, who did you report to?
24 A I reported to Del Harvey, who is the vice president of Trust and Safety.
25 Q And how big was your team when you first took the role?

1 A Initially I was a team of one.

2 Q Did that -- did the size of the team change over time?

3 A Substantially. By 2022, the Site Integrity team was approximately 60

4 people worldwide.

5 Q At a high level, how -- what was the pace of growth? When did the team

6 start to expand?

7 A I don't recall precisely. But, if I had to estimate, it was probably 10 or 15

8 additional staff within the first 1 to 2 years and then accelerating growth from that point

9 onwards.

10 Q Were you responsible for the hiring for your team?

11 A I was.

12 Q Once the team starts to expand, did you have a series of senior managers or

13 a primary deputy who would assist you?

14 A I did. I had a leadership team by 2021 of between 5 and 10 people,

15 depending on how you count it.

16 Q And, based off responsibilities, how was that leadership team divided?

17 A Yeah. There were leaders for both functions itself and different

18 geographies. So there were regional heads of Integrity for the Americas, for Europe and

19 the Middle East and North Africa, and for Asia Pacific. And so there were senior leaders

20 in each of those roles.

21 And then I had leaders in place for key functions within the team, including Threat

22 Disruption which was a role responsible for identifying and disrupting malign activity on

23 Twitter, as well as the policy organization responsible for setting the rules in the space.

24 Q So, for that second function, when you say "setting the rules in the space,"

25 what do you mean by that?

1 A Yeah. Twitter's disruption of threats to the service had to be based in a set
2 of policies and rules that governed what the service was allowed to do and that disclosed
3 clearly to Twitter's users what our expectations for their behavior were.
4 And so some of my employees were focused on drafting and refining the policies
5 that we would publicly share as the ground rules for what you are and aren't allowed to
6 do on Twitter.
7 Q For the process of drafting and refining the policies, who had final say on the
8 approval of a new or revised policy?
9 A Ultimately, I was responsible for the Site Integrity team's policies. But I
10 would note that this is happening in the context of a large corporation. I had a
11 manager. My manager had a manager. My manager's manager reported to the CEO,
12 Jack Dorsey.
13 And so, at some level, ultimately, the CEO is accountable for the company's
14 policies. But I would say, as a day-to-day manager, I take responsibility for the
15 company's rules and policies and was overseen in that work.
16 Q We'll use 2020 as a timeframe. What was the hierarchy between the CEO
17 down to your role, as you can recall?
18 A Yeah. In 2020, I reported to Del Harvey, who was the vice president of
19 Trust and Safety. Ms. Harvey reported to Vijaya Gadde, who is the company's chief legal
20 officer, and Ms. Gadde reported directly to the CEO, Jack Dorsey.
21 Q When you became head of Site Integrity until the end of your tenure at the
22 company, did your title change or did your responsibilities change significantly?
23 A Both changed. Over time, the scope of responsibilities of the Site Integrity
24 team expanded to include misinformation, as well as foreign interference. So there was
25 a broader set of responsibilities.

1 But then also, in late 2021, I took on a broader set of responsibilities in the Trust
2 and Safety department generally.
3 In late 2021, Ms. Harvey departed the company. And I took on her former role
4 as head of Trust and Safety. And so, in late 2021, I began reporting directly to Vijaya
5 Gadde and had a broader set of responsibilities for Twitter's Trust and Safety work.
6 Q What were some of your new responsibilities?
7 A Notably I had taken on managerial responsibility for Twitter's Safety
8 organization. This was the organization that set rules around things like abuse,
9 harassment, violent extremism, child safety, and so on.
10 Q You mentioned misinformation. Are you familiar with the terms
11 "disinformation" and "malinformation," as well?
12 A I am familiar with those terms, yes.
13 Q And to your understanding, what is the difference among those three terms?
14 A I'll say upfront I don't really like any of those terms. I think there's a lot of
15 rhetorical imprecision associated with them. The term "malinformation" in particular I
16 find a business incomprehensible.
17 But, at a broad level, I understand "misinformation" to mean information that is
18 untrue, not necessarily information that is shared maliciously, not necessarily somebody
19 that is willfully wrong, just information that is untrue.
20 In contrast, I use "disinformation" to mean the malicious sharing of information,
21 either true or false, with manipulative intent. And I find those to be the two categories
22 that are the most relevant to the work that my team and I did at Twitter.
23 Q When others use the term "malinformation," what is the most common
24 understanding of the term?
25 A I truthfully couldn't say. I really find it to be a confusing term. As best I

1 understand it, it sort of refers to elements of what I defined as "disinformation," the sort
2 of intentionally malicious sharing of potentially true information. But I find that whole
3 category very confusing.
4 Q As part of your role at Twitter, you would interact with Federal agencies. Is
5 that right?
6 A That's right.
7 Q In those interactions, do you recall personnel from the Federal agencies
8 using the term "malinformation"?
9 A I'm sure it came up, but I don't recall a specific instance where that term was
10 used.
11 Q What about generally? Was the term "malinformation" used more
12 frequently by personnel from the government, as opposed to maybe personnel from
13 industry partners?
14 A To the best of my recollection, it was not a term that industry widely used.
15 We talked about misinformation. We talked about disinformation. We talked about
16 coordinated manipulation or inauthentic behavior. Malinformation wasn't really a term
17 that was broadly used by industry.
18 It -- I'm sure it was mentioned by government agencies and by some of the
19 researchers that we spoke with, as well. But I really I don't recall a specific instance
20 where that term played a major role in any of the conversations that we had.
21 Q With respect to you mentioned coordinated inauthentic behavior and that,
22 when you first took the role, it was concerned with foreign influence.
23 Can you say a little bit -- we'll start with late 2017.
24 A Yeah.
25 Q How did Twitter handle its policies with respect to potential foreign

1 influence or interference, as well as misinformation? Were those separate policies?
2 A In 2017, Twitter did not have any policies related to misinformation. The
3 first policy of misinformation was introduced in 2020. And so, in 2017, our primary
4 focus was on manipulative behavior. And, at the time, our work stemmed primarily
5 from our investigations into spam and platform manipulation.
6 When we were first investigating Russian activity on Twitter, we identified fake
7 accounts that Russian operatives had set up on the service and addressed those, as a
8 policy matter, as a subset of our broader rules around spam and inauthentic behavior,
9 which had been in place for many years.
10 Over the following years, we clarified a number of our policies to differentiate
11 between commercially motivated spam like advertisements for counterfeit products and
12 politically motivated spam, which could be coming from something like a
13 government-backed troll farm in another country.
14 Q When in 2020 was Twitter's first misinformation policy adopted?
15 A Twitter started researching a policy approach to misinformation in late 2019,
16 initially focused on synthetic and manipulated media.
17 And, following a research study that we fielded in late 2019, our first policy
18 related to misinformation, the synthetic and manipulated media policy, was launched in
19 the first quarter of 2020. I want to say January, but I'm not a hundred percent certain.
20 Q And, in January of 2020, both this new misinformation policy, as well as the
21 other existing policies, as it related to spam or inauthentic behavior, all fell under your
22 team's purview. Is that right?
23 A That's right.
24 Q And then, internally within your team, there was one part of it that was
25 responsible for managing the inauthentic behavior aspect, another part of the team

1 responsible for handling the misinformation?

2 A In what was a pretty typical pattern for my team, when we would take on a

3 new area of responsibility, typically it was just me responsible for it.

4 And so, by 2020, I had built out a part of the team that was focused on

5 coordinated behavior and platform manipulation. But, for our earliest work on

6 misinformation, it fell with me specifically. And so I was the person drafting some of the

7 initial policies and helping to develop some of the initial product behaviors.

8 Q During your time at Twitter, was there misinformation policy specific to

9 election-related content?

10 A Yes, there was.

11 Q And when was that policy developed?

12 A Twitter's first policy focused on election integrity was introduced in, to the

13 best of my recollection, in 2018, but it could have been in early 2019.

14 And initially it was specifically focused on voter suppression and specific forms of

15 conduct on the service that could have resulted in voters not participating in elections

16 that they were eligible to participate in.

17 Q Did that policy change post-2020, once you had a misinformation-specific

18 policy developed?

19 A It did. Twitter updated its Civic Integrity Policy in 2020 to cover a broader

20 range of potentially misleading behaviors.

21 Q Can you provide an example of what a misleading behalf would be in either

22 the election integrity or, more broadly, Civic Integrity space?

23 A Sure. One of the most straightforward examples would be saying that if an

24 election -- if election day's November 6th, saying that election day's actually on

25 November 5th would be a form of misleading conduct that fell under Twitter's Civic

1 Integrity Policy.

2 Q Using the terms earlier, "misinformation" and "disinformation," it sounds

3 like the latter was referring to when there's intent. So, for the example you gave, how

4 would that apply if the person was not intentionally trying to spread false information?

5 A Yeah. Oftentimes it can be hard to understand what somebody's intent is

6 when all you have to go on is a tweet. And so, in situations like that, we would try not

7 to rely on discerning the poster's intent but instead would focus on what we could

8 identify in the message and what the most effective strategy for addressing it would be.

9 And so, in a situation like that, where somebody shares incorrect information

10 about how to participate in an election, Twitter would have enforced its policy against it

11 without needing to know whether it was shared maliciously or simply accidentally.

12 Q Can you help me understand a little bit better then the dividing line as far as,

13 pre-2020, if it's focused more on behavior or the actors but you're not looking at intent,

14 was the policy pre-2020 to a certain degree both looking at content as well as the

15 behaviors to inform decisions?

16 A I'd say, pre-2020, Twitter was hardly, if at all, looking at the content of posts

17 in the context of addressing coordinating manipulation and manipulative behavior.

18 In the behavioral space, I think it is possible to discern intent by looking at some of

19 the technical signals of user behavior.

20 For example, when we were investigating Russian activity on Twitter, we would

21 see that the same phone or the same laptop would be logged into Twitter accounts

22 pretending to be Democrats and Twitter accounts pretending to be Republicans. And

23 these accounts would get in arguments with each other.

24 And so, in that situation, I actually don't need to read the content of any of the

25 posts. I can look at that technical behavior that the same device is pretending to be a

1 Democrat and a Republican and is manufacturing this kind of debate to say that that's
2 manipulative conduct that would violate Twitter's policies.
3 Q At any point during your tenure at Twitter, did the policies as it related to
4 election-related content change where it was no longer necessary to have these technical
5 signals that there's coordinated inauthentic behavior, it is an authentic individual posting
6 false information that would still be violative of a policy at Twitter?
7 A Yes. There was a point at which Twitter addressed misinformation as a
8 content issue separate from disinformation as a behavioral issue.
9 Q And when did that change occur?
10 A So I'd say the first broad introduction of misinformation policies happened in
11 2020.
12 But, just in the interest of being comprehensive, I would say Twitter's Civic
13 Integrity Policy, which addressed some types of misleading content like saying the wrong
14 date of an election, were in place earlier than that in 2018.
15 And so you could say that there had been a version of a misinformation policy as
16 early as 2018, but, within Twitter, we regarded the broad introduction of our work here
17 as beginning in 2020.
18 Q Sticking with election-related content, do you recall during your time at
19 Twitter if there was a Content Moderation Policy with respect to mail-in balloting in
20 particular?
21 A There was not a specific policy focused on mail-in balloting, but misleading
22 claims about the safety and security and potential for fraud associated with voting by mail
23 fell under Twitter's Civic Integrity Policy.
24 Q And, when it comes to content as it relates to the integrity or the security of
25 mail-in balloting, were there any policy changes that occurred in 2020 related to that?

1 A Twitter's Civic Integrity Policy was written quite broadly in early 2020, and it
2 was the company's interpretation of the policy that claims like that would fall under the
3 policy as it was written in the first part of 2020.
4 Later on in the year, the company clarified the policy and issued a more detailed
5 public version of it because we felt that it was appropriate to provide more information
6 about the specific types of narratives that we considered under the Civic Integrity Policy.
7 But, as an internal matter, we considered it to all fall within the penumbra of the
8 policy as it was written.
9 Q For this clarification that occurred later in 2020, who at the company
10 internally signed off on that decision to publicly announce that change -- or clarification,
11 to use your word? Sorry.
12 A I mean, ultimately, I directed the development of an updated policy, and the
13 updated policy language was approved by my supervisor, Del Harvey, and by Vijaya
14 Gadde, the chief legal officer. I also assume but don't know for sure that Jack Dorsey
15 was at least made aware of the changes.
16 Q Okay. Did Twitter during your time there have a policy as it related to
17 hacked materials?
18 A It did. Twitter had a Distribution of Hacked Materials Policy.
19 Q And when was that policy first developed?
20 A To the best of my recollection, it was developed and introduced in 2018.
21 Q And did it change during your time at Twitter?
22 A It did. The policy was substantially changed in 2020.
23 Q And how did it change in 2020?
24 A Following Twitter's decision to restrict the New York Post's coverage of
25 Hunter Biden's laptop, the company made a decision to change the scope of Hacked

1 Materials Policy to much more narrowly focus on situations in which there was a clearly
2 confirmed hack that had taken place and to change the remedy under the policy from
3 being the removal of content to the application of labels that would provide additional
4 information.
5 Q And when did this change occur?
6 A The updated policy was developed in October and November of 2020. I
7 don't remember exactly when it was introduced within that window. To the best of my
8 recollection, it would have been in October 2020, but there were public announcements
9 from the company that would have the exact date.
10 Q Okay. And who at the company signed off on this change?
11 A The policy was developed by me and by members of my team and ultimately
12 was signed off on by Del Harvey and by Vijaya Gadde.
13 Q From 2018, when the policy's first introduced, until before October of 2020,
14 were there any changes that you can recall to the policy or how it was enforced?
15 A No, none that I can recall.
16 Q What spurred the development of the policy in 2018?
17 A In January of 2017, the U.S. intelligence community released -- unclassified a
18 report and then released about Russian active measures in the 2016 election.
19 One portion of that report discussed a campaign to hack into the emails of John
20 Podesta and others at the DNC and then to share those emails first through social media
21 and then through WikiLeaks as a potential strategy for trying to impact the election.
22 Following the release of that report, Twitter examined its role in the distribution
23 of John Podesta's emails and other hacked materials. And the company reached the
24 conclusion that we needed to have a policy restricting that type of behavior.
25 Q Okay. Under the policy, as it -- under the Hacked Materials Policy as it

1 stood from 2018 to prior to October of 2020, if the DNC hack from 2016 had occurred,
2 what steps would Twitter have taken than policy?
3 A Twitter would have removed tweets that were sharing the hacked materials,
4 would have banned accounts directly associated with the hackers themselves, which was
5 a tactic in 2016, and, while we didn't discuss it explicitly, likely would have restricted the
6 sharing of links related to the hacked materials.
7 Q Was there any part of the policy that took into account whether the source
8 being hacked was a public filling?
9 A No, that was not a consideration under the policy.
10 Q Was there any part of the policy that covered whether the hacking itself was
11 considered newsworthy?
12 A That was one of the clarifications that was made in 2020, not whether the
13 hack itself was newsworthy but the sources covering the content.
14 In the initial drafting of the policy, Twitter had been focused primarily on the
15 activity that we saw in 2016, which were Russian hackers sharing it themselves. The
16 hackers created Twitter accounts in their own personas and were directly laundering the
17 content on social media using aliases like Guccifer 2.0 and DCLeaks.
18 And so we were focused on restricting that kind of direct distribution. Twitter
19 didn't consider the possibility that the hack would take place or -- excuse me -- the
20 disclosure of the hack would take place through a mainstream media outlet.
21 Q So the policy was just silent on that latter point?
22 A I would say it was a point of ambiguity, yes.
23 Q Okay. Besides the DNC hack, were there other hacking incidents that were
24 considered as the hacked policy was developed?
25 A That was the primary incident that Twitter considered in the development of

1 the policy.

2 Q Are you familiar with the Panama Papers that came out in 2016?

3 A Yes, I am.

4 Q With respect to the Panama Papers, how would Twitter have treated those

5 under the hacked policies that stood from 2018 to pre-October 2020?

6 A As a broad matter, things like the Panama Papers or even Edward Snowden's

7 disclosure of documents obtained from the NSA and then leaked to journalists would not

8 have fallen within the scope of the policy as defined in 2018 because there was not clear

9 evidence that a technical hack had taken place.

10 And so I should say there weren't other hacking incidents that we considered, but

11 we did discuss things like the Snowden revelations and the Panama Papers as potential

12 counterpoints to what fell within the scope of the policy.

13 Q Who at the company, when developing the hacked policy, were you

14 discussing with?

15 A In the initial development of the policy, I recall the folks in the room being

16 myself, Del Harvey, Vijaya Gadde, [redacted], who at the time was the company's head

17 of Global Affairs, and [redacted] who is a senior member of Twitter's legal team. There

18 may have been others, but I don't recall specifically who.

19 Q Are you familiar with the FBI's Foreign Influence Task Force?

20 A Yes.

21 Q And did you have standing meetings with them during your time at Twitter?

22 A Yes, I did.

23 Q In 2020, how frequently did those meetings occur?

24 A There was a meeting scheduled quarterly between Twitter and

25 representatives of the Foreign Influence Task Force and then, as needed, we would

1 schedule additional calls or meetings on an ad hoc basis.

2 Q Did you also participate in standing meetings between industry partners and

3 the U.S. Government?

4 A I did or members of my team on my behalf.

5 Q Okay. How frequently would you attend in 2020?

6 A The cadence of the meetings changed throughout 2020. So, as we got

7 closer to election day in November, the meetings moved from being quarterly to monthly

8 to biweekly to in some cases I recall weekly.

9 And so, in those instances, I would say I probably attended 75 percent of the calls.

10 But there would always have been at least one representative of my organization in those

11 meetings.

12 Q If you were unable to attend a meeting, who from your team was most likely

13 to attend?

14 A It would have evolved a bit over time, but typically it would have been the

15 head of Threat Disruption in my organization.

16 Q And who was that in 2020?

17 A This was a relatively junior employee. So I would note that, while they had

18 responsibility for a technical function here, ultimately I was overseeing their work and I

19 was the primary public representative of this work.

20 Q Okay. We can come back to that, if needed.

21 In 2020, there are the bilateral Foreign Influence Task Force meetings between

22 Twitter and the FBI. Then there's the U.S. Government/Industry meetings.

23 Were there any other standing meetings that you or your team had with U.S.

24 Federal agencies in 2020?

25 A Not to the best of my recollection. There may have been other standing

1 meetings by other Twitter employees but not within my organization.

2 Q As you're well aware, you had a declaration that touched upon the

3 discussion of hack-and-leak and the concerns regarding a potential hack-and-leak in 2020.

4 Were those concerns raised both in the FITF meetings and the U.S. Government/industry

5 meetings?

6 A Could you clarify what you mean by "concerns"? I think I understand the

7 context but want to make sure I respond to the right thing.

8 Q Sure. In either set of standing meetings, do you recall someone -- any

9 party -- raising the concern of a potential hack-and-leak operation occurring in 2020?

10 A Yes. That was broadly discussed in all of those meetings.

11 Q Okay. For the FITF bilateral meetings, who would raise the concern? Was

12 it Twitter, the FBI, or both parties?

13 A To the best of my recollection, both parties would have discussed it. I

14 would say Twitter for its part provided regular voluntary briefings to the FBI and to other

15 parts of the U.S. Government about our assessment of the threat landscape facing

16 American elections, of which the possibility of a 2016 style hack-and-leak was certainly a

17 threat we were considering.

18 And so I'm certain that Twitter raised it in those meetings. I would say it's in my

19 recollection likely that the FBI at least mentioned the possibility of a hack-and-leak as a

20 concern, but I don't recall a specific instance of them doing so.

21 Q Okay.

22 A I would just note that obviously I would love to be as detailed as I can be, but

23 I don't have possession of any of my documents, meeting minutes, any of that. That's

24 all in Twitter's custody.

25 Q At the conclusion of either a FITF bilateral meeting or one of the

1 USG/industry meetings, was it practice of your team to record meeting minutes?
2 A Informally. So I would not say that they were particularly detailed or
3 comprehensive minutes but members of my team certainly had a practice of taking at
4 least some notes from the meetings, and I did so as well if there were topics that were
5 particularly interesting.
6 Q Okay. And how would nose notes be shared?
7 A Typically, they would have been recorded in Google Docs, which was
8 Twitter's primary document system. They could have also been shared in Slack
9 messages amongst members of the team.
10 Q For the bilateral FITF meetings, how many personnel from Twitter would
11 most frequently attend?
12 A I'd say approximately five, but it could go up or down.
13 Q And what about for the U.S. Government/industry meetings?
14 A Typically, two or three.
15 Q And do you recall concerns of a potential hack-and-leak operation occurring
16 in 2020 being raised in the U.S. Government/Industry meetings?
17 A Yes, I recall that being discussed.
18 Q Do you recall how many times?
19 A I would guess more than once, but I couldn't say for sure.
20 Q And do you recall the -- whether industry partners or the government or
21 both discussed the potential of a hack-and-leak operation?
22 A I would confidently say both.
23 Q In either set of standing meetings, do you recall if there were certain
24 countries, certain state sponsors that were likely to be behind a hack-and-leak operation?
25 A I would say that the discussions with the FITF, especially, but then more

1 broadly focused around the big three -- Russian, Iran, and China -- and then, to a lesser
2 extent, there were some discussions of other nation-states of having a track record of
3 foreign interference. Venezuela, Cuba, in particular, emerged as themes.
4 But, in the context of a hack-and-leak targeting American elections, the focus was
5 on Russian, China, and Iran.
6 Q As it related to the focus on a potential hack-and-leak, whether from Russia,
7 China, or Iran, do you recall in either standing meetings whether Hunter Biden was
8 raised?
9 A I recall one meeting in which the topic broadly of Hunter Biden and Burisma
10 came up in this context.
11 I think this is maybe a good moment to clarify -- and I discussed this on the record
12 in my hearing in front of the Oversight Committee, but I'll reiterate here -- that there is a
13 broad misinterpretation of my declaration before the FEC.
14 The interpretation of an admittedly ambiguous sentence is I said the FBI raised the
15 possible of a hack-and-leak and that it was related to Hunter Biden. Those should have
16 been two separate sentences.
17 The FBI discussed the possibility, the risk, the potentiality of a hack-and-leak.
18 They have their preferred term for characterizing it. I don't know what it is.
19 But then my recollection is that another participant in that meeting from industry
20 raised the possibility of that that hack-and-leak could relate to Hunter Biden and Burisma.
21 I don't recall which company raised it specifically, but I do recall that in the context of the
22 FBI discussing a hack-and-leak, somebody from industry suggested that it could relate to
23 Hunter Biden.
24 Q Do you recall if there was any response from anyone in the government to
25 the person from industry raising that?

1 A Not to the best of my recollection, no.

2 Q Okay. As you mentioned, your declaration was in the context of

3 submission before the FEC.

4 Are you familiar with the FEC's decision that came out I think it was in August of

5 2021?

6 A I am.

7 Q And are you familiar with how they characterized your declaration?

8 A It's been a while since I read that decision. So let's say, no, I'm not.

9 Q Okay. We can get into it later, if necessary.

10 Did you, prior to your testimony in early 2023, publicly make any sort of, you

11 know, verbal written record attempting to clarify your declaration?

12 A The only instance that I can recall of even broadly discussing the issue of the

13 hack-and-leak incident and the New York Post laptop was an interview with [redacted]

14 that was conducted shortly prior to my appearance before the Oversight Committee.

15 But, to the best of my recollection, I don't recall any discussions specifically of the

16 FEC declaration, no.

17 Q Okay. So and the declaration itself is from December of 2020 or

18 thereabouts.

19 A I'll take your word for it.

20 Q Who were your most frequent contacts at the FBI during 2020?

21 A In 2020, overwhelmingly the person I spoke with most was Special Agent

22 Elvis Chan.

23 Q Did you have interactions with Laura Dehmlow?

24 A I did. Ms. Dehmlow was a frequent participant in meetings with the FITF.

25 Q Did you have interactions with [redacted]?

1 A I did.

2 Q And who is [redacted]?

3 A I don't recall his exact role, but I know [redacted] was involved with the FITF.

4 He may have been a section chief for one part of the FITF. It may have been Russia or

5 China. I'm not certain which.

6 Q Did have you interactions with [redacted]?

7 A That name sounds familiar, but I couldn't place it exactly.

8 Q Did you have any interactions with Bradley Benavides?

9 A Again, the name sounds familiar, but I couldn't say exactly.

10 Q After you left Twitter, have you had any interactions with Elvis Chan?

11 A I've spoken with Mr. Chan, to the best of my recollection, once since leaving

12 Twitter.

13 Q And what was the context of that interaction?

14 A Mr. Chan reached out to me after news had been made publicly available

15 that I had to leave my home and sell it following a series of threats that I received, and

16 Mr. Chan reached out in a personal capacity to check in on how I was doing.

17 Q Turning to the October 14th, 2020, New York Post story, do you recall how

18 you first became aware of the story?

19 A I was alerted to the story by a member of my team I believe via Slack

20 message. This was a member of my team based in Dublin. So I woke up in San

21 Francisco to an alert from my team about the story.

22 Q Okay. Do you recall how early in the morning it was?

23 A I'm a pretty early riser. So let's say between 7 and 8 a.m. Pacific.

24 Q Prior to the morning of the 14th, did you have any knowledge of whether

25 the FBI had any ongoing investigations related to Hunter Biden?

1 A I don't believe so, no.

2 Q Did you have any knowledge of whether the FBI was in possession of Hunter

3 Biden's laptop?

4 A No.

5 Q Once you found out about the story, again, to your recollection, walk me

6 through what you did next.

7 A Yeah. My first step was to ask a member of my team to develop what we

8 called a policy assessment of the situation, a brief document that compiled the available

9 evidence about what had happened and to make a recommendation under Twitter's rules

10 for what the company should do.

11 I recall the situation at that point being pretty ambiguous. There was one article

12 or perhaps a series of articles from the New York Post discussing the incident, but there

13 wasn't a lot of available factual evidence at the time.

14 And so my recollection is that the member of my team working on the policy

15 assessment struggled to identify what the right course of action here would be.

16 From that point, I discussed the issue with Del Harvey, who was my supervisor,

17 and I represented to her that I didn't believe that the activity in question warranted

18 enforcement under Twitter's distribution of Hacked Materials Policy.

19 But, based on the available evidence that seemed to indicate a laptop of unknown

20 provenance, a laptop that potentially had been broken into and the contents of which

21 were being divulged, I made the recommendation to my supervisor that Twitter should

22 take steps to not recommend or amplify the circulation of this content.

23 That is, I didn't recommend that Twitter delete the story or block its distribution

24 entirely, just that Twitter take steps to not actively recommend it to users, which was a

25 content moderation action we would take in ambiguous cases.

1 It's my understanding that Ms. Harvey discussed that with Ms. Gadde, and the
2 decision was communicated to me at some point in first half of the day -- but I couldn't
3 exactly say when -- that Ms. Gadde had decided that the content was a violation of
4 Twitter's policy and that we should enforce against it under the Distribution of Hacked
5 Materials Policy.
6 Q Okay. When you're first offering your recommendation about to not
7 amplify the story, how are you delivering that recommendation to Ms. Harvey?
8 A It would have either been in a meeting by video conference or by chat. I
9 don't recall which.
10 Q The memo that your team member was working on initially, was that memo
11 completed, and was it a written work product that could be shared?
12 A I don't recall. I think in part because of the ambiguity of the situation, at a
13 certain point, I just took it out of that employee's hands and was talking about it with
14 executive leadership. And so I don't recall whether there was ever a finished work
15 product or not.
16 Q Do you recall approximately how long you spoke to Ms. Harvey the first time
17 with respect to what your recommendation was?
18 A I don't recall no.
19 Q Do you recall how long it was from when you had that conversation with
20 Ms. Harvey to when you heard back from her following her discussion with Ms. Gadde?
21 A I would really be guessing. It wasn't long. I think all of this happened
22 within a matter of a couple of hours, at most, but I don't recall. It's been a very long
23 time.
24 Q Okay. Do you know whether Ms. Harvey and Ms. Gadde spoke to anyone
25 else in the company senior leadership about the decision?

1 A I would be speculating. I don't know. I had heard, I believe, that
2 Ms. Gadde may have discussed it at a meeting of Twitter's staff, which is the C-suite, but I
3 don't know what was discussed, who was in attendance, in what detail it was discussed,
4 or even if that happened at all. That's sort of pure speculation.
5 Q With respect to the hacked policy, independent of this story but just in
6 general, prior to October 14th, 2020, if there's a situation where Twitter determines it's
7 violative of the Hacked Materials Policy, is the prohibiting the sharing of the story via
8 direct message an automatic enforcement step?
9 A In situations where the hacked materials are being distributed via a link to an
10 outside website, yes, it was Twitter's standard enforcement practice to mark the link as
11 bad, which would have a number of actions taken automatically, including restricting its
12 sharing by direct message.
13 Q Okay. And, in addition to the restrictions regarding sharing it by direct
14 message, what were some of the other automatic actions?
15 A Tweets that had already shared that link would be visibility filtered. That is,
16 their appearance in places like Search would be restricted or eliminated.
17 Q Anything else?
18 A The other big restriction would be the creation of new tweets that also
19 shared that link. So, if you -- after the link had been marked as bad, if you tried to
20 compose a tweet that shared that same link, Twitter would return a sort of inscrutable
21 error message saying that a problem had taken place.
22 Q Were there any action items that were available to the team with respect to
23 enforcing the Hacked Materials Policy that were not taken with respect to the New York
24 Post story?
25 A Do you mean were there types of content moderation Twitter could have

1 employed but didn't with regards to that story, or do you mean moderation actions that
2 were a part of the standard operating procedure of the policy as it stood that Twitter did
3 not employ?
4 Q I meant the latter, but I'll ask both questions. Thank you.
5 A I should have known.
6 In the case of the latter, no, Twitter followed the standard operating procedure of
7 the policy.
8 [redacted] Can I ask for one sec, which one's the latter, and which one's the
9 former? I'm sorry. I'm confused.
10 [redacted]. Do you want to cover it one at a time?
11 Mr. Roth. Yes.
12 [redacted]. Just for the clarity of the record.
13 BY [redacted]
14 Q Yeah, with the latter question, and make sure I'm actually repeating,
15 understanding what you were saying correctly, under the Hacked Materials Policy, there
16 were, once it's found to be violative, there were actions that Twitter would take under
17 the terms of enforcing that policy.
18 A Yes.
19 Q As it related to the New York Post story, Twitter determined it was violative.
20 Were there any actions that Twitter did not take that they would have under the terms of
21 the enforcement of the policy?
22 A Yep, as part of the standard operating procedure --
23 Q Yes.
24 A -- under the policy, the policy allowed for the permanent suspension of
25 accounts that were engaged in the distribution of hacked materials. This was primarily

1 written to deal with the accounts of hackers themselves.

2 And so, while that remedy was a part of the policy, we didn't believe that that was

3 applicable in the case of the New York Post.

4 Q And then, for the first question, and, again, to make sure I understood what

5 you were saying, as far as just, more broadly, content actions --

6 A Yes.

7 Q -- that could be taken, were there any that were declined too -- Twitter

8 declined to do so the morning of October -- I shouldn't say the morning -- the day of

9 October 14th, 2020?

10 A Yes.

11 Q And what were, at a high level were there --

12 A Yeah.

13 Q -- some that you recall being considered that were not taken?

14 A So the one that I had recommended was actually to not amplify or

15 recommend the content in question, which was a technology that Twitter had developed

16 and had available, but it didn't fit within the standard operating procedure of the policy.

17 And my understanding is that that disjuncture between my recommendation and

18 the policy was why Ms. Gadde disagreed with my recommendation and overruled it. I

19 had been recommending something that didn't fit exactly within the rules. I believed it

20 was appropriate in that situation. She disagreed.

21 The other technology that existed at Twitter at the time that we didn't employ

22 were labels on misinformation, which was a product that we had introduced in early

23 2020. And so Twitter had the technical capability to apply a visible label. But, similar

24 to restricting the amplification of the content, that didn't fit within the policy as drafted

25 pre-October 14th.

1 Q Did you ever have an opportunity to talk directly to Ms. Gadde about her
2 decision?
3 A Only after it had been made and implemented.
4 Q And when approximately was that?
5 A I would say Ms. Harvey and I were speaking directly and in a group with
6 Ms. Gadde about how to handle the situation by the afternoon of the 14th.
7 Q Do you recall whether you had any of the standing FITF meetings or U.S.
8 Government/industry meetings the day of the 14th?
9 A I know there was a meeting around then, but without the ability to look at
10 my calendar, I don't -- I don't exactly remember the timing from 2020. I'm sorry.
11 Q Do you recall if it was a FITF meeting or a U.S. Government/industry
12 meeting?
13 A It would likely have been a U.S. Government/industry meeting, not a FITF
14 meeting.
15 Q Okay. And do you recall if the New York Post story was discussed during
16 this meeting?
17 A To the best of my recollection, it was.
18 Q Okay. And do you recall who spoke about the story?
19 [redacted] Please.
20 Chairman Jordan. Was that meeting prior -- so my understanding is you learned
21 about 7 a.m. from a colleague, a team member in I think you said Dublin.
22 Mr. Roth. Yep.
23 Chairman Jordan. And then, by 10:20 Pacific time, you had implemented the
24 enforcement action. Is that right?
25 Mr. Roth. That sounds right, yes?

1 Chairman Jordan. So, 3 hours and 20 minutes after you get notice of this, you
2 guys take action.
3 Did the meeting with the U.S. Government agencies happen in that time span or
4 after the 10:20?
5 Mr. Roth. To the best of my recollection, it would have been after.
6 Chairman Jordan. After. So you took action before you talked with the
7 government that day.
8 Mr. Roth. Yes.
9 Chairman Jordan. Were there any phone calls or any other kind of
10 correspondence that you or your team had with the Federal Government between 7
11 when you learned and 10:20 when you guys take action?
12 Mr. Roth. Not to the best of my knowledge, no.
13 Chairman Jordan. Okay.
14 BY [redacted]
15 Q When -- the morning when the story broke, did you reach out to any of your
16 colleagues at other social media companies to see how they were handling the story?
17 A Yes.
18 Q Who did you reach out to?
19 A I recall discussing the issue with [redacted], who was the head of
20 security policy at Meta. It's possible that I discussed it with others as well, but that's the
21 only one I remember.
22 Q And do you recall when in the day approximately you spoke to -- or I
23 shouldn't say you spoke -- communicated with [redacted]?
24 A I would assume it was somewhere after 7 a.m., and I believe we spoke prior
25 to Twitter taking enforcement action at -- Representative Jordan said 10:20. So I'll

1 accept that as the time.

2 So my assumption would be somewhere in that window, but I don't recall.

3 Chairman Jordan. Do you recall if he had talked to the government, and, if so,

4 did he relay that to you?

5 Mr. Roth. If he did, he did not specify that, no.

6 BY [redacted]

7 Q Do you recall what was shared between the two of you?

8 A My recollection was it was just a broad comparing of notes about the

9 situation. We both acknowledged that there was a lot we didn't know about it.

10 I believe at some point I communicated to [redacted] that Twitter's executive

11 leadership had made the decision to restrict the story. I believe at some point

12 [redacted] communicated to me that Meta had taken steps to -- I don't know what their

13 term is -- suppress or down-rank the content on their end.

14 But I recall it being a fairly broad, high-level conversation where we compared

15 notes and not anything more detailed.

16 Q Do you know if anyone from Twitter reached out to the FBI for information?

17 A To the best of my knowledge, no.

18 Q Did anyone reach out to the New York Post directly?

19 A It's my understanding that a member of Twitter's News Partnerships Team

20 was in contact with the New York Post during this incident, but they're not a member of

21 my organization. They didn't play a part in the moderation decision. And certainly

22 they -- I don't believe they were in communication before Twitter took action at 10:20.

23 Q Did anyone from Twitter reach out to the DNC?

24 A Not to the best of my knowledge, no.

25 Q Did anyone from Twitter reach out to the Trump White House?

1 A Not to the best of my knowledge, but it's possible.

2 Chairman Jordan. Is there a reason you didn't contact the New York Post?

3 Mr. Roth. Are you asking about me specifically or about Twitter?

4 Chairman Jordan. Twitter, your team and Twitter.

5 Mr. Roth. So, for my team, the answer is we would never contact the target of

6 an enforcement action prior to taking that action because it would be inappropriate.

7 In that situation where we believe somebody has violated or potentially violated

8 the rules, we try to maintain a strict firewall between the teams making that policy

9 decision and the external party.

10 It's also my belief that it would be inappropriate for Twitter to contact anybody

11 about a potential enforcement action because it would be unfair. If a random person on

12 the street violates the Twitter rules, Twitter enforces its rules against them without prior

13 notice; it would create a unequal system of enforcement if powerful people, celebrities,

14 organizations, businesses got preferential treatment and advance notice so that they

15 could change their behavior ahead of time.

16 That said, Twitter had a Partnerships Team. Their job was maintaining these

17 partnerships. And so I couldn't really say for sure whether or not those communications

18 happened, but we tried to maintain a strict separation there.

19 [redacted] When -- sorry.

20 Chairman Jordan. Was that 3-hour timeframe from when you learned about it

21 and when you take action, was that rapid? Was that normal? Was that longer than

22 normal?

23 Mr. Roth. I would say that's pretty normal. To an incident of this scale and

24 magnitude, 3 hours was I would say about right.

25 Chairman Jordan. When you say "this scale and magnitude," what is this?

1 What do you mean? Is this one of -- is this a big incident? Is this a minor one? How
2 would you describe it?
3 Mr. Roth. I would say this was a fairly major incident. An election security
4 incident impacting the United States, involving a major news outlet is a fairly significant
5 incident by any measure.
6 Chairman Jordan. Yeah, that would be my definition, too.
7 Okay. So, if I go to No. 11 on your declaration, you said -- well, I'll start with No.
8 10: Since 2018, I've had regular meetings with the Office of Director of the National
9 Intelligence.
10 We can probably get you your statement.

1 [11:01 a.m.]

2 Mr. Roth. Yes. If there is a copy, I can look at that. Thank you.

3 [redacted] Are we marking this?

4 [redacted] This will be exhibit 2.

5 [Roth exhibit No. 2

6 Was marked for identification.]

7 Chairman Jordan. I wanted to focus on 10, 11, and 12 since we were on the

8 subject.

9 Mr. Roth. Yep.

10 Chairman Jordan. If you want to review it. But number 10, it says you had

11 regular meetings.

12 Mr. Roth. Yes.

13 Chairman Jordan. Number 11, you described in greater detail what took place in

14 these meetings. You say they happened weekly. You said that the government

15 communicated to you that they expected hack-and-leak operations, and that those were

16 expected to happen before the Presidential election, likely October. So weekly

17 meetings, hack and leak expected -- expected to happen in the timeframe of in October

18 before the Presidential election.

19 Near the bottom of 11 you said, These expectations were discussed throughout

20 2020. So numerous times, weekly meetings, hack and leak, going to happen sometime

21 before October. And then the last sentence there you said that there were rumors a

22 hack-and-leak operation would involve Hunter Biden.

23 Did the fact that that had happened, weekly meetings throughout 2020 where

24 they tell you what's likely to take place, did that influence the actions you guys took on

25 the 14th?

1 Mr. Roth. It's hard to say whether it had a direct or a causal impact. Certainly,
2 we had discussed the possibility that a scenario like this would transpire, but we talked
3 about it independent of those meetings as well. And so while I would say it was possible
4 that the regular discussion of these issues influenced Twitter's interpretation of what
5 happened that day, I do think it's noteworthy that I was the primary participant in these
6 meetings, and I actually didn't believe that it was a hack and leak. And so if they
7 were -- if this was an attempt to influence Twitter or to guide the company's
8 decision-making, it didn't persuade me.
9 Chairman Jordan. Uh-huh. Okay.
10 BY [redacted]
11 Q In the New York Post story, there's reference to an FBI subpoena. There's
12 obviously been significant discussion in the years following about what the FBI knew.
13 If the FBI had shared with Twitter that there was an ongoing investigation or that
14 it was in possession of the laptop, would that have been information that was relevant to
15 your team's decision-making?
16 A Yes, that absolutely would've been relevant information.
17 Q Okay. And would it have been information relevant enough to share with
18 Ms. Harvey?
19 A You're asking if I had become aware of that information, would I have
20 discussed it with Ms. Harvey as part of the incident?
21 Q Yes.
22 A Yes, absolutely.
23 Q Okay.
24 BY [redacted]
25 Q In your discussions with [redacted], you said that there was some

1 correspondence between the two of you regarding you didn't have a lot of information
2 about the New York Post story from October 14, 2020. What information did you have?
3 Did you discuss the information that both companies had at that time?
4 A We just had the New York Post story to go on, so we were all operating from
5 a shared set of facts. And then I recall that morning I was scrolling through Twitter and
6 reading people's commentary about the incident and about what was going on, but I
7 didn't regard that as anything other than sort of rumors and speculation.
8 Q So would you say that the enforcement decision was based upon the
9 New York Post story itself, as well as you said it was kind of influenced by the discussions
10 that you had had previously with the U.S. Government partners?
11 A I wouldn't accept the latter part of that characterization.
12 Q Okay.
13 A I would say Twitter made a decision to enforce its policies based on the
14 company's independent judgment. And I would note that, in particular, [redacted] was
15 responsible for a decision that I personally disagreed with. And so a policy that I had
16 written and that my team was responsible for enforcing, I was overruled on by one of the
17 company's executives here.
18 But I wouldn't accept the characterization that the company's decision was
19 influenced in some way by these discussions with government. We developed the
20 policy in 2018 independently. We chose to do it because we acknowledged, as the
21 intelligence community had disclosed, that Russian activity had taken place and that we
22 had a part to play in addressing it. And it was ultimately the company's independent
23 decision to apply its rules here.
24 Chairman Jordan. So the fact that you had been repeatedly told that there was a
25 hack-and-leak operation coming right before the Presidential election and it was likely to

1 involve Hunter Biden had no influence on your decision?

2 Mr. Roth. I mean, it's hard --

3 Chairman Jordan. I find that hard to believe when you just said that you

4 would've loved to have the information relative to the FBI having the laptop. That

5 would've been pertinent information. But the fact that the government told you this

6 repeatedly had no impact on your decision?

7 [redacted]. Well, can we just clarify, were you told it was likely to involve Hunter

8 Biden?

9 Mr. Roth. So this is where, again, my recollection is fuzzy. I have no notes, no

10 meeting minutes, nothing like that to go on. It was discussed in these meetings, and I

11 would say it was discussed by many participants in these meetings. Certainly, I recall

12 instances in which the FBI discussed the possibility of a hack and leak. There were

13 instances in which the Department of Homeland Security and CISA discussed the

14 possibility of a hack and leak, and also other companies discussed this possibility. I

15 recall Meta talking --

16 Chairman Jordan. So is it fair to say you're hearing from everyone?

17 Mr. Roth. And Twitter was an active participant too. I briefed in these

18 meetings --

19 Chairman Jordan. You're hearing it from the tech community. You're hearing it

20 from numerous Federal agencies.

21 Mr. Roth. And we ourselves were briefing others on what we believed was a

22 possibility.

23 Chairman Jordan. Fair enough.

24 [redacted]. But just to clarify for the record, a generic hack and leak is different

25 than specifically a Hunter Biden action.

1 Mr. Roth. That's right. And so I think in terms of a broad awareness of this
2 possibility, like, that wouldn't be dispositive one way or the other for me or, I think, for
3 the company. If we had specific information that said, yes, this laptop exists, yes, it is
4 authentic, that would've meaningfully impacted the way that we were approaching our
5 enforcement actions that day.
6 Chairman Jordan. Yeah. I was just reading from your declaration.
7 Mr. Roth. Yeah.
8 Chairman Jordan. These expectations of hack-and-leak operations were
9 discussed throughout 2020 during weekly meetings. I also learned -- I being you -- these
10 meetings that there were rumors that a hack-and-leak operation would involve Hunter
11 Biden. I'm just reading directly from your statement where those are fundamental
12 facts. Weekly meetings, throughout 2020, hack and leak expected right before the
13 election, also I heard that it would involve Hunter Biden. Five key facts in that number
14 11. That's all I'm reading.
15 Mr. Roth. Yeah.
16 Chairman Jordan. Okay.
17 [redacted] Can we go off the record, please?
18 [Recess.]
19 [redacted] Okay. It is 11:19, and we are back on the record.
20 EXAMINATION
21 BY [redacted]
22 Q Hi, Mr. Roth. How are you?
23 A I'm doing all right. How are you?
24 Q Good. Thank you.
25 I'm going to start by just clarifying a few things from the previous hour. Looking

1 at your declaration before the FEC, in paragraph -- excuse me, paragraph 11, during these
2 weekly meetings, just to clarify, the meetings were not weekly throughout all of 2020,
3 were they?
4 A That's right. The cadence changed throughout the year.
5 Q Okay. And I believe you said earlier they were quarterly for most of the
6 year and then the cadence picked up as you got closer to elections?
7 A That's my recollection, yes.
8 Q Okay. Thank you.
9 And the declaration's reference to Hunter Biden and your recollection
10 independently of the declaration is that somebody at the meetings, somebody not
11 government, at one meeting maybe mentioned rumors that a hack-and-leak operation
12 would involve Hunter Biden?
13 A That's right.
14 Q That rumor was not discussed on an ongoing basis throughout 2020?
15 A No, it was not.
16 Q Okay. And although you don't remember who brought it up, you do
17 remember that it was a private industry partner?
18 A Yes.
19 Q Okay. And -- hold on. Give me one moment, please.
20 Turning to the New York Post story itself, you were asked in the previous hour
21 about whether your meetings with the government informed your decision. And I just
22 want to be clear, your recommendation was not to enforce the distribution of Hacked
23 Materials Policy, correct?
24 A That's right.
25 Q Okay. And you were overruled by Ms. Gadde?

1 A That's right.

2 Q Okay. Were you present for the conversations in which it was decided by

3 people above you to overrule your decision?

4 A No. The decision was communicated to me. And I should say I disagreed

5 with the recommendation but not enough so to, you know, threaten to resign over the

6 decision or something like that. I felt that reasonable minds evaluating the same

7 evidence could arrive at different conclusions. Ms. Gadde's decision was communicated

8 to me, and I then directed my team to implement that decision, even though I personally

9 disagreed with it.

10 Q Okay. And -- so you don't know the extent of the conversations that

11 Ms. Gadde had with others in the company in arriving at the decision to overrule your

12 recommendation?

13 A No, I don't.

14 Q Okay. And you don't know -- well, is it fair to say that you had more

15 information based on, not just your meetings but your many years of experience and your

16 study and your training, about threats to U.S. -- I'm sorry, about intelligence -- the U.S.

17 intelligence community about foreign influence operations? That's your area of

18 expertise, correct?

19 A I would certainly say it was one of my areas of greatest experience at

20 Twitter, and I had been doing that work for a number of years by that point.

21 Q Okay. Fair enough. I don't want to -- I don't want you to have to embrace

22 the word "expert" if you don't feel comfortable. It was something that you had more

23 experience in than Ms. Gadde and the decision-makers. Is that fair to say?

24 A Again, I'll say Ms. Gadde is a very experienced attorney. She is deeply

25 knowledgeable about content moderation broadly and about governance of a platform

1 like Twitter. But as a matter of practice, I had been closer to election security work than
2 she had.
3 Q Thank you. And that is a much more articulate way of saying what I was
4 trying to get at.
5 And I believe you made this clear in your prior state -- testimony in the prior hour,
6 but also the many times you've been asked to speak about this, your -- to your
7 knowledge, the FBI had no role in Twitter's decision to enforce on that story?
8 A That's right.
9 Q And we discussed in the previous hour whether there was a meeting of the
10 industry working group or the Foreign Influence Task Force that day, and I believe you
11 said it was either that day or sometime around then?
12 A That's right, within a day or two of that time. And it could've certainly been
13 that day --
14 Q Okay.
15 A -- but I don't recall exactly.
16 Q And -- so fair to say that the discussions during that meeting were not
17 memorable enough for you to know exactly when it happened?
18 A No.
19 Q Okay. But you're confident that it happened after Twitter had made the
20 decision?
21 A Yes.
22 Q Okay.
23 A I recall in that meeting Twitter communicating at least some part of the
24 decision that we had made and implemented in that case, but I don't recall any of the
25 other discussions in that meeting being at all relevant to the incident.

1 Q But because your memory is of communicating that enforcement decision,
2 by definition it had to have happened after the enforcement division would've made --
3 A It's a fact that we would've made the decision prior, yes.
4 Q Exactly. Thank you.
5 And when the decision was made by your supervisors to enforce the
6 hack-and-leak policy on the story, that enforcement lasted approximately 24 hours,
7 correct?
8 A That's right.
9 Q And then the decision was reversed?
10 A That's right. Twitter reversed its action under the policy and unblocked the
11 sharing of the New York Post story.
12 Q Okay. And during that time, anybody who wanted to see -- during that
13 24 hours when it was blocked on Twitter, any Twitter user who wanted to look at the
14 story could still go to NYPost.com or NewYorkPost.com, whatever their website is, and
15 read the story themselves?
16 A That's right. And there was broad discussion of the story that day and in
17 following days, both from the New York Post and other news outlets. The story was in
18 broad circulation.
19 Q Thank you.
20 I want to back up a little bit and talk about just some of the work that you did at
21 Twitter more broadly and why you did that work. So as someone whose work focused
22 on foreign influence operations, do you believe that foreign malign influence operations
23 pose a threat to American democracy?
24 A Absolutely, without hesitation.
25 Q Okay. And why -- can you explain why that is?

1 A I think there's a few areas of concern for foreign interference in elections.
2 The first and most overt is that malign foreign influence divides Americans and increases
3 polarization. When we find that Americans are not having policy debates with each
4 other but instead are observing manufactured drama between agents of a foreign
5 government, I think that makes it less likely that we can connect with our fellow citizens
6 and operate as a representative democracy should.
7 Q When you say manufactured drama between agents of a foreign
8 government, are you referring to the types of examples you mentioned earlier where you
9 saw accounts that appeared to be American Democrats and American Republicans
10 arguing with each other, but they were actually being operated by the same Russian
11 agent?
12 A That's right.
13 Q Okay. And that's an example of what you just mentioned?
14 A That's right.
15 Q Okay. And how else did these sorts of influence threaten -- incidents of
16 operations threaten American democracy?
17 A Yeah. I think the existence of hack and leak as a strategy undermines the
18 cybersecurity of American institutions. The incentive to try to influence an American
19 election by breaking into the email accounts of politicians and political operatives and
20 then disclosing those emails publicly makes it so that there is a clear security risk to those
21 individuals. Everyone becomes a target. Their communications become a target.
22 And I think that collectively makes us less secure.
23 Q And it's fair to say that that sort of activity, breaking into the accounts,
24 whether it's email accounts or the Twitter accounts, of elected officials, that would be
25 against Twitter's terms of service, correct, against Twitter's rules?

1 A Yes. Hacking of Twitter accounts is prohibited under our policies.
2 Q And it's also prohibited under Twitter's policies to -- for a user to
3 misrepresent who they are with respect to their geographic location. So, for example,
4 pretending to be [redacted] from Wisconsin when you're really somebody in Russia,
5 that is prohibited under Twitter's policies?
6 A That's right.
7 Q Okay. And you've seen foreign malign actors from Russia and China and
8 Iran and other countries abuse Twitter's platform to interfere in elections in the United
9 States, correct?
10 A Absolutely.
11 Q But it's not just the United States. These malign actors have used Twitter
12 and other social media platforms to interfere in elections around the world, correct?
13 A That's right.
14 Q And your team worked to combat foreign malign influence not just in the
15 United States. Is that fair to say?
16 A Yes. My team had a global mandate and focused on this activity wherever
17 we saw it emerging.
18 Q And you focused on that activity regardless of the political leaning of the
19 content of the activity?
20 A That's right. I would say Twitter had a clear business imperative to address
21 this conduct. Independent of whether I think it's good or bad for democracy -- and I
22 think it's clearly bad for democracy -- it's also bad for business for Twitter to allow bots
23 and inauthentic accounts to run rampant on the service.
24 Q Let's talk about that, because it might not be obvious. Why is it bad for
25 Twitter's business? How does it hurt Twitter's bottom line if bots are running rampant

1 on Twitter's service?

2 A Yeah. First and foremost, Twitter is a platform that relies on people, users

3 voluntarily contributing content to the service and engaging in conversations. That can't

4 happen if people don't want to use Twitter and don't trust the service. And what we

5 observed following the 2016 election was that people would tell us, I'm not going to

6 bother participating on Twitter because I don't trust the integrity of the conversations on

7 the service. I don't trust that the person I'm speaking with is another American as

8 opposed to a Russian bot.

9 And that was an existential risk for Twitter's business. It undermined the

10 viability of the service, the ability to sell ads, the ability to attract new users. And so

11 from the company's perspective, addressing these types of issues was a matter of core

12 business strategy, and also, separately, a good thing to do for democracy and for the

13 world. But it was a self-interested business decision to address these matters.

14 Q To the point where you felt that Twitter had a fiduciary duty to its

15 shareholders to address these matters?

16 A Absolutely.

17 Q Okay. And to invest in things like election security?

18 A I felt that and Twitter's executive leadership and board of directors also felt

19 that and enacted that in funding the substantial growth of my team over time.

20 Q You talked briefly in the earlier hour about Twitter's -- I'm not -- I don't recall

21 exactly what the phrase was. Was it election integrity policy?

22 A Depending on the timeframe.

23 Q Civic -- I believe it was civic integrity.

24 A It became civic integrity in 2020. Prior to that, it was called the election

25 integrity policy.

1 Q Okay. But throughout that time period, Twitter prohibited users from
2 engaging in tactics that would be considered voter suppression tactics, correct?
3 A That's right.
4 Q Okay. So, for example, encouraging people -- you've seen campaigns
5 where users would encourage people to vote by text?
6 A That's right.
7 Q And it's an objective fact that you cannot vote in a U.S. election by text, at
8 least not now?
9 A Yes, that's right.
10 Q Okay. And so if somebody posted a tweet encouraging people to vote by
11 text, you would remove that?
12 A Yes.
13 Q And you would remove that regardless of whether the poster appeared to
14 be coming from a conservative orientation or a liberal orientation?
15 A That's right. Across the board, that type of activity was a violation of
16 Twitter's policies. And we were enforcing a version of that policy in 2016 and then
17 throughout the years following.
18 Q Okay. Now, I want to talk about Twitter's hack-and-leak policy. You
19 mentioned that the hack-and-leak policy was adopted in 2018.
20 A That's right.
21 Q And you were involved in drafting that policy and in the adoption of that
22 policy at Twitter?
23 A Yes.
24 Q And just for the record, who was the President of the United States in
25 October of 2018?

1 A It was Donald Trump.

2 Q Thank you.

3 And when you made those changes, I imagine it wasn't something that just

4 popped out of your head in 2018. I imagine it took some time to consider and develop

5 those policies?

6 A That's right. There had been a series of meetings at Twitter between

7 myself, Del Harvey, Vijaya Gadde, and others to reflect on what had happened during the

8 2016 election in terms of foreign interference and develop a strategy for what we needed

9 to do to prevent that activity from happening again in the future.

10 Q And -- so the goal of the policy was to avoid the mistakes of 2016?

11 A That's right.

12 Q Okay. Did the government play -- any government agents play any role in

13 Twitter's decision to adopt a hack-and-leak policy in October of 2018?

14 A No, I wouldn't say so.

15 Q Okay. You didn't call the FBI and say, hey, what do you think about this

16 policy?

17 A No.

18 Q Okay.

19 A And I can -- I can clarify why I paused for a minute and was thinking about it.

20 Q Sure.

21 A I think in the last hour, a lot of questions were raised about, you know, if this

22 was discussed, did it influence your decision-making. And I'm not a psychologist. I

23 can't speculate as to sort of how decisions get made in the brain or how influence works

24 there, right. Like, I think you are exposed to information, you process it, you integrate it

25 with what you know and what you've heard from other sources, and you ultimately reach

1 a conclusion.

2 I don't believe that there was a determining characteristic to any of the

3 conversations that I had or others at Twitter had with the FBI or the U.S. Government.

4 They didn't determine the decision the company ultimately made.

5 Ahead of introducing the policy in 2018, Twitter briefed the U.S. Government on

6 our efforts. We reported to bipartisan committees in Congress who were investigating

7 Russian interference about our efforts. Twitter executives testified before the House

8 and Senate Intelligence Committees about our work. We announced the introduction of

9 our policies. I believe I briefed representatives of the FBI about our policies, but we

10 didn't take direction from the FBI or from anybody else about the development of those

11 policies.

12 Q Thank you. And that was -- that was exactly what I meant, and I appreciate

13 you drawing the distinction between whether your work and your meetings had any

14 psychological impact that you can't pinpoint.

15 What I was asking -- and, again, you were more articulate than I was -- was did

16 they play a more active role in shaping those policies, in asking you to implement those

17 policies, and your answer to that is no.

18 A To the best of my recollection, the answer is absolutely not.

19 Q Okay. You are familiar with the litigation of Missouri v. Biden, correct?

20 A I am.

21 Q And in that case, the district court stated that platforms, including Twitter,

22 updated their policies in 2020 to provide that posting hacked materials would violate

23 their policies. Is that an accurate statement with respect to Twitter?

24 A I don't believe that's accurate, no.

25 Q Why not?

1 A Twitter introduced its policy regarding the distribution of hacked materials in
2 2018. And while the policy changed following the Hunter Biden incident in October
3 of 2020, the broad enforcement of rules against hacked materials substantially predated
4 that incident.
5 Q And I believe what you stated earlier was that when the policy changed in
6 2020 it was narrowed?
7 A That's right.
8 Q Okay. So it wasn't that you -- you introduced a more broader policy; you
9 narrowed your policy?
10 A That's right.
11 Q Okay. And is it fair to say that Twitter was well aware -- separate and apart
12 from meetings with government agents, Twitter was aware from publicly reported
13 information by 2017 of the problem of hack-and-leak operations on social media?
14 A Absolutely.
15 Q So I want to talk to you a little bit about Twitter's collaboration with U.S.
16 Government agencies, these meetings that we've been discussing, but I want to step back
17 and just talk more generally.
18 Why -- well, was it important and, if so, why, for Twitter to attend these meetings
19 and to collaborate with government agencies in fighting foreign influence operations?
20 A It was my belief and ultimately the strategy that I implemented at Twitter
21 that collaboration between platforms and government was an essential part of a security
22 strategy. And it was essential because I looked at the lessons of 2016 and observed that
23 parts of the United States Government had material intelligence and information about
24 foreign activity targeting American elections, and that information could've allowed
25 platforms to step in and stop the activities of the troll farm, stop the distribution of

1 hacked materials, and platforms didn't, and part of why we didn't was because we lacked
2 the information about what was happening.
3 It's my belief that platforms should also exercise their own diligence and research
4 these issues and try to identify them, but we can't do that alone. And so I think
5 collaboration has to exist there.
6 Q And in addition to the fact that the government and agencies like the FBI
7 have access to information through their own investigative techniques and tools that
8 platforms like Twitter do not have, platforms like Twitter have operational capacity to
9 disable bot farms, accounts on a massive scale, that the FBI simply does not have as well?
10 A That's right.
11 Q Each side brings something to the table?
12 A Yes.
13 Q Okay. And you've mentioned occasions where you would brief the FBI on
14 what Twitter was doing. Did you sometimes solicit information from government
15 agencies like the FBI to help Twitter root out foreign malign influence on its platforms?
16 A On limited occasions, yes. I can broadly recall instances where Twitter
17 would brief the FBI about investigations or activity that we had identified and would in
18 sort of an open-ended way say, if you have any further information about this, please feel
19 free to let us know. There were also instances where the FBI would brief Twitter about
20 activity, and we would ask clarifying questions or solicit more information. And so it was
21 sort of a regular, ongoing exchange focused on malign foreign influence.
22 I would clarify, especially because it came up in the last hour, that these
23 exchanges were seldom -- I can't recall a single instance where they were focused on
24 activity happening in the moment and immediate content moderation decisions
25 happening in the moment. They were broadly focused on threats that were emerging,

1 patterns of behavior, technologies of manipulation, not sort of day-to-day,
2 account-to-account individual issues.
3 Q Okay. And you're talking about the types of discussions that you would
4 have in your meetings with, for example, the Foreign Influence Task Force?
5 A That's right.
6 Q Okay. And I'm sorry, but can you remind me again when those meetings
7 that -- when Twitter started engaging in those meetings or participating in those
8 meetings?
9 A Bilateral meetings between Twitter and the FBI, to the best of my
10 recollection, started in 2018. Some of the first meetings were multilateral, so there
11 were representatives of the FBI, of ODNI, of DHS, and then multiple technology
12 companies. And then over time, those evolved into the multilateral meetings and then
13 also into the bilateral discussions between Twitter and the FBI.
14 Q Okay. And so the bilateral is exactly what it sounds like; it's just the two
15 parties: Twitter, FBI?
16 A That's right.
17 Q Okay. And were Twitter's meetings, whether bilateral or multilateral, with
18 the Foreign Influence Task Force, they were voluntary on Twitter's part, correct?
19 A Absolutely.
20 Q Okay. No government official ever told Twitter that you had to participate
21 in those meetings?
22 A Yes.
23 Q It was -- okay.
24 A We were never told --
25 Q Thank you.

1 A -- that we had to participate in those meetings.

2 Q And if you decided that the meetings weren't helpful, you could've chosen

3 not to attend?

4 A That's right.

5 Q And I assume you chose -- well, I don't want to assume. Is it fair to say that

6 you chose to attend because, as you just discussed, you felt that receiving information

7 from government investigators like those on the Foreign Influence Task Force was critical

8 to prevent foreign malign actors from abusing Twitter's platforms?

9 A Yes.

10 Q Okay. And just as your team focused on global threats, was the Foreign

11 Influence Task Force, were those meetings talking about global threats as well or only

12 foreign malign influence in the United States?

13 A The meetings were predominantly focused on threats targeting the United

14 States, but I would say at times the scope was slightly broader. Typically, the meetings

15 would involve briefings from four constituencies within the FITF: FITF Russia, focused on

16 Russia; FITF China, focused on China; and then FITF -- like Iran emerged as sort of a

17 regular theme; but then there was FITF global, which had a broader mandate to focus on

18 foreign interference and influence campaigns coming from different countries around the

19 world.

20 And I would say in that context, at times, the focus expanded to impacts on

21 American interests around the world. I would say South and Central America were sort

22 of the topics that most frequently came up, activity from Venezuela and Cuba. And

23 certainly, there was a nexus to American interests, but that was sort of where things, I

24 would say, got the furthest away from a direct impact on American elections.

25 Q Okay. And as you've made clear, the meetings with the task force

1 were -- the communication was shared in both directions, correct? Twitter was
2 providing information and Twitter was receiving information from the government?
3 A That's right.
4 Q Okay. And was that the case also in the U.S. Government industry working
5 group meetings that you had?
6 A That's right.
7 Q Okay. And those meetings, like the meetings with the Foreign Influence
8 Task Force, or FITF as it is sometimes referred to and I might refer to it, those were
9 voluntary as well, correct?
10 A That's right.
11 Q Twitter could've chosen not to attend those meetings?
12 A That's right.
13 Q But you chose to attend because you felt it was valuable to prevent the
14 abuse of your platform by foreign malign actors?
15 A I would go further than that even and say I was one of the driving forces
16 behind the creation of those meetings in the first place.
17 Q Can you explain that a little bit?
18 A In 2018, as every tech company was developing its strategy for the midterms
19 and for election security more generally, it was my belief that collaboration within the
20 tech industry and between the tech industry and government was a key part of what we
21 needed to do to secure American elections.
22 And so I reached out to my counterparts at Facebook and suggested that, not only
23 should our teams talk with each other about the work we were doing, but that we should
24 create an industrywide forum for engagement across companies and between companies
25 and government. Facebook were the initial conveners of some of these early

1 discussions. The first meeting happened at Facebook's headquarters in Menlo Park in
2 2018, but the driving force behind the creation of those meetings was industry
3 recognizing the importance of creating a forum like this and then driving its creation.
4 Q Okay. So these meetings that have received so much attention and so
5 much criticism with Twitter being referred to as a subsidiary of the FBI or, you know,
6 referred to as being the -- you know, the target of government censorship, what you're
7 saying is you were actually proactively seeking out that sort of communication?
8 A Absolutely.
9 Q Okay. And those meetings were not secret, were they?
10 A We regularly put out press releases about those meetings. I would say
11 some of the earlier ones, especially when we were first feeling out what those
12 interactions were, I don't think were immediately made fully public, but there was no
13 particular secrecy around any of it. Twitter and Meta and others put out press releases.
14 I spoke with journalists about engagements across companies. There was no -- there
15 was no mystery about companies talking with each other and companies talking with
16 government.
17 Q Okay. You didn't think that you were doing anything that needed to be
18 hidden from the public?
19 A Certainly not.
20 Q Okay.
21 A I would actually say, in the other direction, I think it was a part of Twitter's
22 strategy to rebuild trust post-2016 to be public about what we were doing. We wanted
23 people to know about it and that we were investing in securing elections.
24 [redacted] If we can go off the record for 1 minute.
25 [Discussion off the record.]

1 [redacted] Okay. We can go back on the record. Thank you.

2 BY [redacted]

3 Q So you -- you've talked about your efforts to develop and implement policies

4 at Twitter that would protect the platform from various types of abuse, including abuse

5 by foreign malign actors.

6 Does the platform formerly known as Twitter still have those policies in place, to

7 your knowledge?

8 A As best I can tell, at least some of the policies are still in place. It's less

9 clear whether the capability to enforce those policies remains in place.

10 Q Okay. Can you explain what you mean by that?

11 A Yeah. A policy is ultimately just that; it's a document that lays out rules and

12 expectations. But more important than just the existence of the policy is its

13 enforcement. And especially when you're talking about malign foreign influence, telling

14 Yevgeny Prigozhin and the operators of a Russian troll farm not to do that is not going to

15 deter their activities. They are knowingly violating Twitter's rules. And so the key task

16 is detecting when those violations happen and proactively banning those accounts from

17 the service.

18 And so a significant portion of my former organization at Twitter was dedicated to

19 identifying and proactively removing malign foreign interference from the service. That

20 requires advanced technology and it also requires people to do this work. It's my

21 understanding that very few, if any, of the staff responsible for this work remain at the

22 company today.

23 Q Okay. And I believe you said there were 60 people on your team when you

24 left, or did I --

25 A Yeah. The Site Integrity organization was approximately 60 people at the

1 time of my departure from the company.

2 Q And what about Trust and Safety overall?

3 A The overall Trust and Safety team was approximately 120 people globally.

4 Q Okay. Do you know what the size of that team is now?

5 A At this stage, I don't know a single employee by name who is still at the

6 company.

7 Q Okay. And are you -- are you still a user or somebody who visits the

8 platform?

9 A I don't actively use Twitter anymore, no.

10 Q Okay. And by use, I mean, do you see what's on there as part of your

11 research of one of your -- your many positions that you have, are you tracing the content

12 that's on Twitter --

13 A Episodically. I would say, Twitter is not my primary focus for research, but I

14 am -- I periodically see content on the service and am studying it.

15 Q And are you seeing any change in the type of content that when you do

16 episodically look at the platform formerly known as Twitter -- very difficult for me to get

17 myself to say X -- are you seeing content that would've been removed and enforced

18 against under the policies and the personnel in place when you were at Twitter?

19 A Yes, absolutely.

20 Q Can you explain some of what you're seeing?

21 A I think, especially in the current moment following the atrocities in Israel and

22 in Gaza, I think we're seeing a proliferation of content on Twitter that would've run afoul

23 of a variety of the service's rules, including content sharing, hateful speech, and attacks

24 on both Palestinians and Jews and Israelis.

25 We're seeing images of atrocities and gore that are proliferating on the service.

1 And we're seeing a wide variety of forms of misinformation about the conflict that are not
2 just proliferating on the platform but also have been monetized by Twitter. The
3 creators of misinformation now get paid by the service when they attract attention.
4 None of that would've been the case prior to the acquisition of the company.
5 Q And what do you think are the potential ramifications of allowing that type
6 of content to proliferate and, in fact, to encourage it to proliferate?
7 A I think there's both short-term and long-term ramifications. In the short
8 term, the proliferation of misinformation makes people less informed. It makes them
9 less able to advocate for policies that they believe in and to engage with a major global
10 crisis unfolding in the Middle East. And that's just one example of one crisis.
11 We're headed into a year where 3 billion people around the world are going to
12 vote. In each of those elections, there are the same risks of misinformation, the same
13 possibilities of incitement of violence that we saw on January the 6th, and all of that
14 potentiality exists in a less moderated or unmoderated Twitter.
15 And that's not even beginning to touch the question of nation-states conducting
16 malign influence campaigns on Twitter. We know that governments target their own
17 citizens with disinformation. We know that governments target the United States and
18 our allies with disinformation campaigns. And I would expect that all of those threats
19 will be present in 2024 and that they will make it harder for people to understand the
20 facts of elections, to participate meaningfully, and to turn to social media as a source for
21 information.
22 Q And even some of the more, you know -- the types of election integrity
23 threats that you discussed earlier, the basic encouraging people to vote by text, that sort
24 of, you know, the time, place, and manner misrepresentations, those appear that they
25 would be allowed on Twitter now as well?

1 A I mean, nominally the company says they are still banned under their rules,
2 but rules that nobody enforces are not worth the paper they're written on. And I worry
3 about the lack of capacity at Twitter right now to even enforce a very straightforward
4 policy like not misrepresenting the time, place, and manner of an election.
5 Q I want to shift gears and touch on something that you mentioned earlier.
6 You were asked about your contact with Agent Chan since you left Twitter, and you
7 mentioned that he reached out to you in the wake of some news about your personal
8 circumstances. And I want to just back up and say, how has -- well, you -- you said that
9 you had to move from your home because of threats that you received?
10 A That's right.
11 Q When did you start receiving threats as a result of your work at Twitter?
12 A It began years ago. Some of the first threats that I received actually had
13 nothing to do with politics. They were from a group of teenagers that were really angry
14 that we banned their Twitter accounts. And so in 2019 -- actually, one of the first times
15 that I met Special Agent Chan was in connection with those teenagers calling in a bomb
16 threat to the Twitter office pretending to be me. And I was played a recording of them
17 mispronouncing my name as they called in a bomb threat pretending to be me. It
18 was -- it was a pretty amateurish thing. But the threats against me never went away
19 after that. They, sadly, only grew in magnitude.
20 In May of 2020, after Twitter fact-checked one of Donald Trump's tweets, I was
21 put in the center of a fire storm led by the New York Post, by White House Senior Advisor
22 Kellyanne Conway, and others that painted me as sort of the primary figure driving the
23 censorship of conservatives on Twitter. And this wasn't the case, but it led to a
24 substantial escalation in the volume of threats that I received on Twitter, by email, by text
25 message.

1 And then in 2022, after I departed the company, a series of homophobic
2 conspiracies advanced by Elon Musk and others further ratcheted up the level of violent
3 rhetoric that I was facing.
4 Q Can you describe a little bit, you know, and you don't have to go into great
5 detail, but just give us some sense of the nature of the types of threats and violent
6 rhetoric that you were receiving?
7 A Yeah.
8 Q And I'm sorry, I know this is likely to be emotional, but I think it's important
9 for the record.
10 A One of the most common tropes was about being thrown alive into a wood
11 chipper, which is very specific rhetoric, but it was -- it's something that is considered by
12 some corners of extremists on the internet to be the appropriate punishment for
13 suspected pedophiles. And this was based directly on Elon Musk's misrepresentation of
14 my Ph.D. research, research that was focused on advocating for tech companies to offer
15 better safety solutions for kids; and instead, Mr. Musk misrepresented that work to
16 suggest that I somehow condone or tolerate pedophilia.
17 And on the basis of that language, entire communities on Twitter started to email
18 me, direct message me, text message me to suggest that I should be thrown into a wood
19 chipper alive as punishment for the exploitation of children that I allowed to happen on
20 my watch.
21 Others suggested that the correct punishment for somebody who had committed
22 treason against their country was death by firing squad and that, on the basis of Twitter's
23 decisions to ban Donald Trump, that I should be executed for my role in that. And this
24 was common rhetoric, not -- not just one or two, but hundreds of posts and emails
25 advanced exactly these same claims.

1 Q And it wasn't just to your public Twitter profile, but you received it on text
2 messages and emails, you said?
3 A That's right.
4 Q And at some point, was your personal residence address publicly disclosed?
5 A It was by the Daily Mail. So it was -- it is not even what, sadly, most victims
6 of abuse experience, which is somebody on social media posting their address. For me,
7 it was the Daily Mail publishing a tabloid-style expose about what they called my
8 mansion, a two-bedroom suburban home, and in so doing they revealed exactly where I
9 live. And that was the day that my husband and I left our home and didn't return.
10 Q What other steps have you had to take to protect yourself in light of the
11 threats that you've received?
12 A While I was an employee of Twitter, the company regularly provided armed
13 security outside my home and would also provide security when I was traveling, as
14 needed.
15 Q And fair to say the harassment got worse after the release of The Twitter
16 Files?
17 A Certainly, that was a driving factor.
18 Q Did you receive -- but you did receive -- I'm sorry. Some of the threats, the
19 homophobic rhetoric was publicly posted on Twitter?
20 A A significant amount of it was, yes, thousands and thousands of posts.
21 Q And do many of those remain up on X to this day?
22 A Yes.
23 Q Okay. Do you recall seeing a post that said: You need to swing from an
24 old oak tree for the treason that you have committed. Live in fear every day?
25 A Yes, I recall that one.

1 Q And that is still up, correct?

2 A I haven't checked in the last couple of weeks, but I believe I reference that

3 post in an op-ed that I wrote for The New York Times, and at the time that that article

4 was published it was still live on Twitter.

5 Q Did you live in fear every day?

6 A For a time, yes.

7 BY [redacted]

8 Q Mr. Roth, I'm going to switch gears just a little bit and go back to a subject

9 that they -- that the majority brought up in the previous hour focusing on the New York

10 Post article. I think that you indicated, just broadly, that you didn't have a lot of

11 information when you were trying to make a decision or make a recommendation about a

12 decision. Is that fair to say?

13 A That's right.

14 Q And can you just tell us, with the kind of high level, what it is that -- what

15 information did you have as you walked through that recommendation for your Twitter

16 executives?

17 A Really just what we read in the New York Post that morning. My --

18 Q The story itself?

19 A That's right. My broad recollection of the story was that it described some

20 of the contents of emails. It included some screenshots of messages. I confess I

21 wasn't especially interested in the content of the messages. Like, it wouldn't really have

22 been dispositive under the policy, and I didn't find it that interesting. But I remember

23 reading the stories, and they mostly focused on characterizing the content of the

24 messages and then only to a limited extent the provenance of the laptop.

25 My recollection is that, later that day and subsequently, we got some more

1 information about the repair shop owner and the laptop and Rudy Giuliani's involvement
2 and sort of the whole story there. But that morning, as Twitter was making a decision,
3 we pretty much just could go on what was in the New York Post's original reporting.
4 Q Okay. And I think you've just said this, but to be clear, do you recall that
5 the title of that article, the New York Post article, was, quote, "Smoking-gun email reveals
6 how Hunter Biden introduced Ukrainian businessman to VP dad"? Do you recall it being
7 something to that effect?
8 A Yeah. Broadly, yes.
9 Q So the main subject of the article as you just described it was these alleged
10 emails that came to Hunter Biden from this Ukrainian businessman. That was sort of
11 the gist of the smoking-gun, quote, emails that they were allegedly revealing?
12 A Derkach or something like that, yeah.
13 Q Well, like, we don't have it in front of you, and I apologize. I could get it if
14 I'm going to ask you more specific questions. But do you recall that the article also
15 contained PDFs or some kind of images of these alleged emails?
16 A That's my broad recollection. And, again, there were multiple articles
17 posted over the course of the day, and I know some of them contained PDFs. Some of
18 them contained screenshots. And so I don't remember exactly which ones were in
19 which articles, but broadly, yes, I remember that.
20 Q Okay. And so what you -- your main source of information that you had to
21 go on at that point was the article itself. Fair to say?
22 A That's right.
23 Q Okay. And in the previous hour, you were asked some questions about,
24 you know, what went into your decision in terms of your recommendation, and if you had
25 known some other information that you didn't have, how would that have affected your

1 decision. And I just want to clarify the answers that you gave in the first hour, so let me
2 walk it through.
3 My recollection is that, in the first hour, you were asked if your recommendation
4 would've been influenced by knowledge that the FBI had a laptop that was purported to
5 be from Hunter Biden. Do you recall that question?
6 A I do.
7 Q Okay. And your answer was, yes, that would've been important
8 information. Is that fair?
9 A Yes.
10 Q Okay. Now, let's talk about the information. You, at the time, didn't have
11 any information from the FBI regarding any purported laptop that was from Hunter
12 Biden. Is that fair?
13 A That's right.
14 Q Okay. Now, some of the questions that you were asked in the first hour
15 included sort of a preamble about what the FBI allegedly had in its possession. But I
16 want to be clear, you didn't work for the FBI, correct?
17 A No.
18 Q And you don't know what the FBI indeed had in possession at that time, do
19 you?
20 A That's right. I had no knowledge of it.
21 Q Okay. So if someone said to you in a question, if you had known that there
22 was a laptop from Hunter Biden in the FBI's possession at the time, you're just accepting
23 the premise of the question today. You actually don't know what the FBI had in their
24 possession at the time. Is that right?
25 A Yes. That's a fair -- that's a fair clarification.

1 Q Okay. So I just want to be clear on that. When someone in the first hour
2 put in their question the characterization of the laptop as authentic, do you have any
3 information, as you sit here today or at any point, that the, quote, laptop in the
4 possession of the FBI was authentic?
5 A I mean, in the years since, I've read public reporting discussing the
6 provenance of the laptop. My understanding, and, again, this is a broad recollection, is
7 that Hunter Biden or people acting on his behalf have initiated some type of legal
8 proceedings against the repair shop based on an invasion of privacy. To me, that
9 intuitively suggests that the laptop is authentic, but I'm going on public reporting. I
10 don't have firsthand knowledge of this. I don't have law -- knowledge from law
11 enforcement. I -- I only know what's been talked about publicly.
12 Q Okay. So when you said in the first hour that information about the FBI
13 having some laptop purported to be from Hunter Biden would've been relevant to your
14 recommendation, can you just explain in your own words how would that have been
15 relevant?
16 A Yeah. Under the distribution of Hacked Materials Policy as it existed prior
17 to October of 2020, one of the standards that Twitter looked at was whether the material
18 had been obtained through a hack. And this was actually to differentiate it from things
19 like the Panama Papers or the Snowden revelations where it was a leak from an employer
20 or somebody with direct access. We were focused on specific technical intrusions, like
21 the hacking campaign carried out by APT 28, a Russian Government-backed hacking group
22 targeting the DNC and John Podesta.
23 And so it would have been material to know that day whether what we were
24 seeing was somebody who had broken into Hunter Biden's email account or somebody
25 who had leaked those communications through another channel or -- you know, it

1 would've been a question we had to wrestle with about whether an intrusion into a
2 laptop in your physical possession is hacking. The CFAA has opinions on that subject. I
3 won't profess to be an expert. But it would have certainly triggered a different set of
4 conversations about the definition of what a hack is, which was the foundational element
5 of policy analysis.
6 Q Okay. So the fact that there was an allegation that a laptop existed that
7 had at one point belonged to Hunter Biden, that ownership would've been important to
8 you in evaluating whether this policy would've come into place?
9 A That's right.
10 Q What about if you had had information that the laptop that was given over
11 to the FBI eventually was actually not ever in the possession of Hunter Biden but that it
12 had been used to house a hard drive that, you know, may or may not have contained
13 some information from Hunter Biden, but it also may have been manipulated? Would
14 that information have affected the way you made your recommendation that day?
15 A It's a little hard to speculate on a hypothetical, but I like to think that we
16 would've considered that and it would have been impactful. And I would say, in the
17 subsequent clarifications to the policy that we issued after this incident, we explicitly
18 contemplated the possibility of doctored and manipulated content being released here
19 and made for provisions in the policy for what we would do in cases where we suspected
20 the content was doctored or manipulated.
21 Q But that was after --
22 A That was after this incident.
23 Q Okay. If you had information that the FBI was investigating at the time
24 whether the information purported to come from Hunter Biden, this laptop, the hard
25 drives or other things, at the time they were investigating whether those materials

1 actually came from Rudy Giuliani and were part of a Russian disinformation campaign,
2 would that information have affected your hack and leak -- your decision regarding the
3 hack-and-leak policy enforcement?
4 A If there was reliable information that the content was Russian in origin and
5 was being laundered in some kind of way through somebody, certainly that would've
6 impacted our decision-making.
7 Q Okay. So if there was information like the metadata, for example, on the
8 emails that were contained in that article, the New York Post article, if there were
9 evidence that that metadata showed the emails were actually created after they were
10 allegedly dropped off or that the laptop was allegedly dropped off in April 2019, would
11 that information have affected your recommendation?
12 A It certainly would've complicated the decision-making, yes.
13 Q Okay. And also with regard to metadata, one of the emails that was sort of
14 screenshotted or a PDF in that article was purported to be from a Ukrainian businessman
15 by the name of Vadym Pozharskiy. I'm not going to spell that just because part of my
16 point is that there was a difference in spelling. And if, you know, analysis with the
17 government or otherwise had shown that the spelling of Mr. Pozharskiy's name in the
18 purported email was actually incorrect, it was not the way the man spells his name, it was
19 a Russian version of the spelling versus Ukrainian, would that kind of metadata analysis or
20 information that that evidence existed have affected your recommendation at that time
21 that this material might have been hacked and might have needed to be enforced
22 against?
23 A I mean, that's a very nuanced version of that analysis.
24 Q Sure.
25 A So I think like it -- on one of our best days I think the investigators on my

1 team could've figured that out and it would have been important to know. But I would
2 say, like, looking back on it with hindsight, this was a complex situation. Any additional
3 information we could've gotten from any source that reliably pointed to the origin of the
4 content, its authenticity, any of that would've been absolutely essential in our
5 decision-making.
6 Q Okay. And I'm just going to have one more example. I'm not going to
7 torture you any further with this. But if you had known that there was evidence at the
8 time that this email regarding Mr. Vadym Pozharskiy was actually fake in the sense that it
9 was supposed to be a Gmail email, and it had at the top, and you can see this in the
10 article, had the letters VP, meaning Vadym Pozharskiy, that appeared in this email that
11 was supposed to have come from Pozharskiy to Hunter Biden. And if metadata's
12 analysis showed that that's actually not how email from Gmail works because those only
13 appear -- this had to be a sent email --
14 A Yes.
15 Q -- because those only appear to the person sending it, would that kind of
16 analysis or that evidence that this email was faked have affected your recommendation
17 with respect to enforcing under that hack policy?

1 [12:12 p.m.]

2 Mr. Roth. It would have, yes.

3 BY [redacted]

4 Q Okay. But just to sum up, fair to say you were making a recommendation

5 in a fast-moving situation? Fair to say?

6 A Yes.

7 Q And you did not have a lot of information about the metadata, for example,

8 in these emails?

9 A That's right.

10 Q Or the source of this information that the government was also looking into,

11 whether it had been part of a Russian disinformation campaign?

12 A Yeah. We didn't know that when we were making the original decision.

13 [redacted] Okay.

14 [redacted] I think we can go off the record.

15 [Recess.]

16 [redacted] Can we go back on the record, please? It's 1 o'clock.

17 EXAMINATION

18 BY [redacted]

19 Q Dr. Roth, did you work with Nick Pickles during your time at Twitter?

20 A I did.

21 Q And what was his role?

22 A He had a few different roles in my time at the company, including serving as

23 head of the U.K. public policy and then certainly as head of, I think it was something like

24 public policy strategy and programs, but he was a senior member of Twitter's Public

25 Policy Team.

1 Q Okay. Was he involved in any of the discussions on October 14, 2020,
2 regarding how to handle The New York Post story?
3 A Not to the best of my recollection, but I'm not certain.
4 Q Did you work with Jim Baker during your time at Twitter?
5 A I did.
6 Q And what was the nature of your interactions?
7 A Mr. Baker was a vice president in the legal department, and so, he was one
8 of the advisors to the company on legal matters and advised me and my team on the laws
9 as they applied to our policies.
10 Q Did you consult with Mr. Baker on October 14, 2020, as it relates to The New
11 York Post story?
12 A My recollection is that Mr. Baker, or a member of his team, or multiple
13 people on his team, were involved in some of the later discussions in the day, but I don't
14 recall consulting with him prior to the original enforcement action the morning of the
15 14th, but that's -- again, that's just my recollection. I'm not certain.
16 Q And then during this time of fall 2020, did Mr. Baker report to Ms. Gadde?
17 A My recollection is that he reported to [redacted] who is Twitter's general
18 counsel, and [redacted] reported to Ms. Gadde.
19 Q During your time at Twitter, was there a team known by the name SCALE in
20 all caps?
21 A Yes, Safety, Content, and Law Enforcement.
22 Q And where did SCALE fit in the organization compared to Trust and Safety?
23 A SCALE was the legal team that advised Trust and Safety. So they reported
24 in to Mr. Baker and were a team of attorneys that advised the Trust and Safety Team.
25 Q Okay. In the fall of 2020, just approximately how big was this team?

1 A My best guess would be about 10 lawyers globally, but it could have been a
2 little more or a little bit less.
3 Q During your time at Twitter, was there a team that went by the name of the
4 Strategic Response Team or the Global Escalation Team?
5 A Yes.
6 Q And what was the proper name of that team just so we --
7 A Both of those are proper names of that team.
8 Q Okay. We'll go with Strategic Response Team.
9 What were the responsibilities of that team, and where did it fit in relation to
10 Trust and Safety?
11 A Yeah. The Strategic Response Team was a part of Twitter Service, which
12 was the operations organization at Twitter. They were responsible for the scaled
13 enforcement of Twitter's policies. So when it came to the frontline review of individual
14 tweets or posts or responses to user reports, Twitter Service was the organization with
15 the mandate of performing most of those actions.
16 The Strategic Response Team was an escalated team within that organization that
17 would deal with employee escalations of issues, so if an employee was reporting
18 something or with otherwise prominent or attention getting instance.
19 Q Okay. What was the threshold of what would be appropriate to escalate to
20 this Strategic Response Team?
21 A That was never precisely defined.
22 Q As it relates to The New York Post story, was that an incident that was
23 escalated to the Strategic Response Team?
24 A My recollection is no. My recollection is that that incident was handled
25 primarily through the Trust and Safety Team directly, and was not something that was

1 delegated, at least at first, to the Strategic Response Team or to any part of Twitter
2 Service.
3 Q What about with respect to Twitter's decision to remove President Trump
4 from the platform in January of 2021?
5 A That decision was made by members of Twitter's executive team, I was part
6 of that group, but that was not handled by the Strategic Response Team. Other content
7 moderation actions regarding the President's account were handled by the Strategic
8 Response Team.
9 Q Are there any that come to mind?
10 A I mean, between Election Day in 2020 and January the 6th, I believe over 140
11 separate posts from the former President's account were labeled as misinformation.
12 The Strategic Response Team applied the overwhelming majority, if not all of those
13 labels.
14 Q What is Twitter's Site Integrity Policy Escalation Support Team, if I got that
15 right?
16 A I know the acronym that you're referring to, but it actually didn't refer to Site
17 Integrity. SiP stands for site policy, which is a different -- it all gets a little confusing.
18 Site policy is the part of Trust and Safety that I referred to as the safety team, so that was
19 the part of the organization I became responsible for only in late 2021. But they were
20 capital S, lower case i, capital P, site policy is the abbreviation. They did safety, abuse,
21 harassment, child safety, extremism. And then PES stands for policy escalation support.
22 So essentially, if there were cases of ambiguity regarding the enforcement of a policy, a
23 prominent instance that required some additional scrutiny, that team would be consulted
24 as part of the enforcement decision.
25 Q Turning to the U.S. Government, industry meetings we were discussing

1 earlier, during 2020 did those meetings occur via video conference, like Zoom or
2 something similar?
3 A Certainly many of them did. Some of them were over Zoom. Some of
4 them may have been over Webex at one point. Some of them may have been
5 conference calls by phone. I think especially early in the pandemic, we were sort of
6 figuring out what the right technology to use was.
7 Q Prior to the pandemic, did these tend to be in-person meetings or were they
8 still someone joining via some kind of a conference line?
9 A My recollection is that most of them, if not all, were in person.
10 Q And where would they be hosted when they were in person?
11 A They varied. A number were hosted by Facebook at their headquarters in
12 California. At least one was hosted by Twitter at our headquarters in San Francisco, but
13 they sort of moved around.
14 Q For the in-person ones pre-pandemic, do you recall approximately how
15 many people would attend these meetings?
16 A I would say somewhere north of 20 and under 50.
17 Q And then once they move online because of the pandemic, do you recall if
18 the number of folks attending changed in that general range?
19 A No. I think it still stayed about that same range. I mean, my recollection
20 was that sometimes there would be a conference room dialed in and the camera would
21 be at a weird angle, so we couldn't see exactly how many people were in that room, but I
22 think it's still roughly in that same range.
23 Q Would people generally -- did they have the cameras on for this meeting?
24 A For the most part, yeah, that's my recollection.
25 Q Now, we touched upon this a little bit in the previous hour. I just want to

1 make sure it's clear for the record. We were discussing about October 14th, first
2 realized -- you know, find out about the article. You have a more junior team member
3 who's working on a memo, and then you're ultimately delivering some sort of
4 recommendation to Ms. Harvey.
5 In the memo, or in your recommendations to Ms. Harvey, was there any reference
6 to, as you put it, the awareness by social media companies and the government of the
7 risk of hack and leak generally that was included?
8 A Let me first say, like, I recall a member of my team working on a document
9 about it. I don't recall there ever being a finished document that I saw, so I don't want
10 to, like, talk about the contents of a document that I'm not actually sure existed.
11 But in terms of my discussions with Del Harvey, it would have gone without saying
12 that there was sort of a broad recognition of the risks of hack and leaks. We didn't
13 discuss it prior to that original decision in any specific way that I recall.
14 Q Independent of The New York Post story, but just generally around this time,
15 the fall of 2020, how frequently was it the case you had to elevate something like that to
16 Ms. Harvey where you're making a recommendation?
17 A Maybe once a week, if that. I would say on the whole the goal of a trust
18 and safety organization is to reduce the number of times that senior executives have to
19 be involved. So I would try to reduce how often Del had to make a decision. My team
20 would try to reduce how often I had to make a decision. But, obviously, when you're
21 talking about moderation in the context of an election, those are big decisions with very
22 serious consequences. And so, especially in the context of elections and moderating
23 politicians, many of those decisions would be escalated from my team to me, from me to
24 Del Harvey, from Del Harvey to Vijaya Gadde and others.
25 Q For the instances where -- and we'll stick with the fall 2020 timeframe.

1 How frequently was your recommendation overruled either by Ms. Harvey or Ms. Gadde
2 when you were in a position where you had to elevate a question?
3 A I don't recall a sort of direct yes-to-no or no-to-yes overruling happening in
4 cases other than this one. There would certainly be discussions where there would be
5 disagreements, sometimes heated disagreement, but this is the only instance I can recall
6 where there was sort of a direct reversal of a recommendation.
7 Q Uh-huh. When Ms. Harvey is coming back to you and saying what the
8 decision was and asking you to implement it, as part of the conversation, was there an
9 acknowledgment of it sounds like a somewhat unique situation where you're kind of
10 the -- I know you didn't like the term earlier -- but expert in this field and made a
11 recommendation and now are effectively getting overruled?
12 A To the best of my recollection, I think it was mentioned, like, a different
13 decision came down. But we were trying to move quickly, and I think in that
14 moment -- thinking about my own experience of it, I don't recall disagreeing vehemently
15 enough to object in that moment. And so I just said, Okay, and then we implemented
16 the decision.
17 Q When you were -- ultimately you said you were responsible for the Trust and
18 Safety Team. Did you have an opportunity early in the morning to consult with other
19 team members -- you mentioned one, but just even more broadly than that -- before
20 delivering your recommendation to Ms. Harvey?
21 A It would be completely standard for that to have happened, but I don't recall
22 specifically.
23 Q Are you familiar with Twitter's L3 deamplification tool?
24 A The L3 is throwing me a little bit. I know there's been a lot of public
25 discussion of some of these tools through the Twitter Files and elsewhere. That doesn't

1 ring a specific bell. Deamplification certainly does ring a bell and I am familiar with that,
2 yes.
3 Q Okay. Building off public reporting, including the Twitter Files, but there
4 were a number of terms that have come around. Just trying to get a better sense of
5 what they meant.
6 So, first, was there anything within the company -- a term referring to a search
7 blacklist?
8 A Yes.
9 Q And what was a search blacklist?
10 A Most commonly that would refer to a label, such as a designation or a flag,
11 that could be applied to a tweet or an account that would remove that account from
12 search results. Most commonly, that label was used as a way to enforce against spam.
13 Q Was this a designation that could be applied automatically or only manually?
14 A Predominantly it was applied automatically. In a limited number of cases,
15 it could be applied manually, but that was not a commonly deployed mechanism.
16 Q Was there a designation during your time at Twitter called "Do Not amplify"?
17 A Yes.
18 Q And what was the effect or purpose of that designation?
19 A Pretty much what it says on the label. It would restrict any algorithmic
20 amplification of a piece of content or an account in the Twitter product. So it wouldn't
21 delete the conduct. If a viewer navigated to it directly and tried to view it, that would
22 still be possible for them, but it would make it so that Twitter would not, through its
23 product, elevate the prominence of that content. It would not amplify it.
24 Q And was this designation -- did it tend to be applied automatically or
25 manually?

1 A Both.
2 Q Was one more common than the other?
3 A I couldn't really say with certainty. That sort of calls for the prevalence of
4 those applications. That's data I'm sure Twitter has, but off the top of my head, I don't
5 know.
6 Q Was there a designation within Twitter called "shadow ban" or "shadow
7 banning"?
8 A There was not.
9 Q What about with respect to visibility filtering?
10 A Visibility filtering was the name of a -- we called it surface, but you could
11 think of it as a feature of the Twitter product that was responsible for deciding when and
12 where to show specific pieces of content or accounts.
13 Q And for this designation, was it applied automatically or manually?
14 A This was a system for designations to be applied in the product. So, for
15 example, search blacklist which you referenced earlier is one of those designations. The
16 visibility filtering system would say for a user labeled with, search blacklist, don't show
17 them in X, Y, and Z locations. Do show them in A, B, and C.
18 And so it was a system that was the integration point for labels, if that makes
19 sense.
20 Q It does. Did the term "visibility filtering" change at all during your tenure at
21 Twitter? Was it called different things at different times?
22 A That's a good question.
23 That's the only term that I recall off the top of my head.
24 Q For the designation "recent abuse strike," what did that mean and how long
25 was it in effect for?

1 A That was a label that would be applied to accounts if they had recently
2 violated the Twitter rules and had an enforcement action taken against them. It would
3 typically be applied automatically by Twitter's enforcement systems, and it would persist
4 on accounts for a variable period of time, sometimes for 1 month, 3 months, 6 months.
5 It could be configured in different ways.
6 Q Did the length depend on the type of abuse that, you know, was purported
7 to have occurred?
8 A That's right. The severity of the violation typically -- a more severe
9 violation would result in a longer duration of that label being applied.
10 Q What did the designation "trends blacklist" mean?
11 A That one is a bit of a confusing one. And I'll say in the public reporting
12 about that label, including the Twitter Files, it has been broadly mischaracterized and
13 misrepresented. Trends blacklist was a label that would mark an account ineligible as
14 being counted towards trends. It would not restrict the visibility of their content.
15 Their content would still show up in trends and in search results. That's the basic thing
16 that the reporting gets wrong. It would just mean that if you're counting up the number
17 of tweets about a topic to see whether it should appear in the list of trending topics, that
18 one user wouldn't count towards the computation of a trend. So it was a very, very
19 mild, primarily, way of dealing with spam.
20 Q Did it tend to be applied automatically or manually?
21 A In nearly every instance, if not every instance, it would have been applied
22 automatically.
23 Q Okay. What does the designation "strike count" mean?
24 A That was a newer system that Twitter had been developing to track the
25 number of enforcement actions that had been taken against an account. So if you

1 repeatedly violate the Twitter rules, you accumulate what are called strikes, and then,
2 you know, if it's -- like in baseball, three strikes and you're out.
3 And so the strike count designation in Twitter's internal tools was meant to tally
4 up those strikes. It was never fully implemented, at least in my time at the company,
5 and so it focused instead on repeated takedowns of content under the Digital Millennium
6 Copyright Act where, for repeated copyright takedowns, those strikes would be tallied.
7 And once a user had had, I believe, six takedowns, their account would be banned.
8 Q For the designation or label "notification spike," what did that mean and
9 what was the effect of it?
10 A Yeah. That label had no effect on user account experience. It would just
11 indicate that they had started receiving an abnormally large number of verification -- of
12 notifications relative to the number that they typically received. So usually, if you're
13 mentioned once or twice a day on Twitter, and all the sudden you're mentioned 1,000
14 times a day, Twitter systems would recognize that and apply that designation to the
15 account, but it had no effect on user experience.
16 Q Okay. So not for that most recent one, but some of the terms we are going
17 through, it sounds like in many cases it's applied automatically, but for the instances
18 where its applied manually, which team is responsible for applying or, you know, bringing
19 into effect those designations?
20 A The teams that most often would have applied those designations, if it were
21 applied manually, or removed manually, which was more common, would have been the
22 Strategic Response Team and then less frequently the Trust and Safety Team.
23 Mr. Issa. When you say "team," how many human beings? How many
24 different people could have access to one or the other of those capabilities?
25 Mr. Roth. The ability to apply labels directly was relatively uncommon. So I

1 would say within the Trust and Safety Team, approximately 50 or 60 people would have
2 had access to it. And within the Twitter Service Team and Strategic Response, it would
3 have been probably between 20 and 50 individuals.
4 Mr. Issa. And was that password-controlled?
5 Mr. Roth. Yes, it was strictly access controlled, so at several layers. First, with
6 the ability to log in and access these tools, not every Twitter employee could get into the
7 tools at all. That was heavily locked down. Second, within the tools, not everybody
8 had the same capabilities, so that was heavily restricted. A random employee who
9 didn't have a need to apply or remove labels couldn't do it. And then, finally, usage of
10 these tools was carefully audited. And so between the Trust and Safety Team and
11 Twitter's Information Security Team, if there was evidence that somebody was accessing
12 and using tools without a legitimate business purpose or is doing so outside of Twitter's
13 policies, there were systems to detect that and prevent it.
14 Mr. Issa. But were those systems sophisticated enough to detect one
15 occurrence? You know, if an individual using his password or someone else's password
16 logged in and restricted what we call throttling sometimes in generic terms, somebody
17 would -- would there be a way to determine that or could you, in fact, randomly pick
18 somebody?
19 Mr. Roth. It depends. I would say for particularly prominent accounts,
20 especially elected officials or celebrities or news sites, the auditing on access to those
21 accounts was significant and real time. Alerts would go off if somebody tried to open
22 the account of the President or a Member of Congress, and those alerts would trigger
23 investigations by people on Twitter's Security Team.
24 Mr. Issa. So it's fair to say, even though it could be done manually, it would have
25 to be done manually and with more than one person being aware and involved in the

1 process of allowing that, you know, whatever change to occur, putting something on or
2 taking something off?
3 Mr. Roth. I would say it's possible somebody could perform the action on their
4 own without authorization, but it would be detected quickly, and unauthorized usage
5 would be reversed quickly.
6 Mr. Issa. That's what I'm saying is --
7 Mr. Roth. Yeah.
8 Mr. Issa. -- you have to have, for a high-profile person, a person who does it and
9 a person who is responsible to say it's okay. But if you have those two, then that could
10 occur?
11 Mr. Roth. Not in every instance. I mean, I would say Twitter didn't have a
12 formal, kind of two-party verification system. There was no, like, somebody gives the
13 launch order and then somebody gives the code to confirm it. Most of the time,
14 content moderators could act on their own to enforce these policies, but there was
15 after-the-fact auditing. And so, if somebody made a mistake or acted without
16 authorization, that action could be rolled back.
17 Mr. Issa. So I'm getting two answers. If you don't mind, one more follow-up.
18 People can do it on their own, a single individual. In most cases, you believe an
19 auditor would determine that, and if it was wrong, roll it back, most, but not all?
20 Mr. Roth. That's my belief, yes.
21 Mr. Issa. Then to use what this committee would often look at, if it occurred one
22 or more times, then it wasn't likely to be the action of an individual, but in fact, using our
23 term, a conspiracy of two or more in order to make it happen when it shouldn't have
24 happened, the individual and the auditor?
25 Mr. Roth. I'm struggling with the word "conspiracy" in that context.

1 Mr. Issa. Well, conspiracy is any time more than one person decides to do
2 something, and they conspire together. So it would have to be a coordination, based on
3 what you told us, in order for this to happen, particularly if it happened to more than one
4 person over a period of time. And that's why I'm asking is if more than one person,
5 more than one time were, in some way, wrongfully reduced in their effectiveness or
6 taken down, so to speak, that would have to have an individual doing it and an auditor,
7 correct?
8 Mr. Roth. Another scenario that could result in that is an ambiguity in the policy
9 or a mistake. And I would not characterize that as a conspiracy or collusion or people
10 coming together. There could simply be a thing that is poorly understood and people
11 can independently arrive at the wrong conclusion.
12 And so I -- certainly what you described could happen. I don't recall instances in
13 which I became aware of multiple parties colluding in some fashion to enact incorrect
14 content moderation decisions. But also Twitter made content moderation errors all the
15 time. Every tech company does. There are millions of moderation decisions made
16 each month, and a tiny percentage of those are mistakes. I believe that many of those
17 mistakes get caught and get rolled back successfully. I'm sure some of them don't. But
18 I don't -- for me, it's hard to see it as a form of conspiracy that those mistakes happen.
19 Mr. Issa. So if you misunderstand a policy, that's a mistake. If you choose to
20 have a bias in the policy, what is that?
21 Mr. Roth. I'm not sure I understand the meaning of the --
22 Mr. Issa. There's a pattern, as has been alleged publicly, that conservatives got
23 different treatment than liberals in how often these takedowns and throttlings, and so
24 on, occurred. If that is true, is it a mistake? Is it a bias? Is it both?
25 You know, you say you have controls, but what I'm hearing is that if people choose

1 to interpret something in a certain way and they collectively interpret it that way, then, in
2 fact, it's not going to be picked up by your system as an error. So then the question is, is
3 that a mistake if it affects one group disproportionately over another, or is it a bias?
4 How would you characterize it?
5 [redacted]. If you know anything about this.
6 Mr. Issa. Because we've been told until -- quite frankly, until Twitter was bought
7 out, that all of these were algorithms and they were benign and we didn't understand.
8 Your testimony, and testimony we've had before, now indicates there's a lot of
9 human intervention.
10 Mr. Roth. Yeah.
11 Mr. Issa. So that's why I'm asking about how human intervention potentially
12 could cause that, just to understand it, because we're no longer talking about algorithms
13 that just did it. We're talking about human intervention, and we're trying to figure out
14 what it takes to have that human intervention have an outcome.
15 Mr. Roth. Yeah. I mean, I think there's a lot of components to what you just
16 asked, and so I'll try to parse it out a little bit.
17 First, I wouldn't accept the characterization that it's somehow new that there
18 were humans involved in the moderation process. Twitter has, for years, going back to
19 2010, 2012, '14, spoken publicly about humans involved in the moderation process. My
20 former supervisor, Del Harvey, gave a TED Talk in 2014 about this very topic and the way
21 that humans are involved. And so, it's always been a mixture of algorithms and people,
22 and both of those are fallible. Algorithms are fallible. People are fallible.
23 I'd also say that while there are allegations that circulate that conservatives were
24 dis -- American conservatives were disproportionately affected by Twitter's content
25 moderation, first, that's not borne out empirically in any of the peer-reviewed studies

1 that I'm aware of, so most of the studies that I've seen -- I'll say all of the studies that I've
2 seen -- suggest that conservatives actually enjoyed greater amplification on Twitter than
3 their liberal counterparts. And this is peer-reviewed academic research coming from
4 Twitter and coming from others.
5 And so, I understand that people have that feeling and that experience. It's not
6 borne out in the evidence that I've seen.
7 But then, finally, like, if we accept even the premise that there are unequal
8 outcomes, the question is, is it unequal because of unfairness in the process or is it
9 unequal because the rate of violations amongst different groups is different? Do
10 Democrats violate the Twitter rules as often as Republicans do?
11 Now, Twitter's rules don't care if you're a Democrat or a Republican. It was my
12 job and the company's job to enforce those policies impartially. But if the rates of
13 violations were different, you would see an unequal outcome. I wouldn't call that bias,
14 but it could represent a skew in the population that we're talking about.
15 Mr. Issa. Thank you.
16 BY [redacted]
17 Q Turning back to October 14, 2020, and The New York Post story, the morning
18 of the 14th -- or actually any time during the day, besides the hacked materials policies,
19 did Twitter consider whether other content moderation policies were applicable?
20 A Yes.
21 Q Which other policies were considered?
22 A I recall the company specifically considering whether the policy around
23 posting private information might be applicable in this circumstance.
24 Q Any other policies that come to mind?
25 A That's the only one that I recall the company discussing.

1 Q Do you know if any enforcement actions were taken with respect to the
2 posting private information policy?
3 A At various points, yes. So over the course of the day as additional
4 information came to light, and as additional stories were published, some of those stories
5 included unredacted email addresses and contact information for some of the people
6 that I believe Hunter Biden had been communicating with or is alleged to have
7 communicated with. And so, in situations where there was unredacted private personal
8 information, my recollection is that Twitter removed some of those instances as well.
9 There was also about a week later, in my recollection, a separate release of
10 primarily photographs and images, again, alleged to have come from the laptop that were
11 primarily sexual images of Hunter Biden. Twitter removed a number of those under its
12 nonconsensual and nudity policy, so the policy prohibiting revenge porn. But that was
13 separate from the original New York Post coverage.
14 Q On the 14th, you mentioned -- excuse me. In this interview, you
15 mentioned on the 14th you had discussions or some sort of communications with [redacted]
16 [redacted] at Facebook. Was it your understanding, based off of those early
17 communications, whether Facebook was looking at whether to take action or not under
18 its -- the corresponding Hacked Materials Policy at Facebook or the misinformation policy
19 at Facebook?
20 A I don't recall.
21 Q We were, in the first hour, discussing about how the election integrity and
22 civic integrity policy at Twitter changed over the years and then into the second half of
23 2020, there was a focus on content and truthfulness that fell under this misinformation
24 umbrella. To your recollection, was that set of policies ever considered for taking action
25 against The New York Post story?

1 A No, not to the best of my recollection.

2 Q Okay. And if it were to be considered, if action were to be considered

3 under that set of policies, that would primarily start with your team's analysis. Is that

4 correct, or is there --

5 A That would have been with my team, yes.

6 Q Again, during the first hour we discussed kind of the different options that

7 were available to Twitter once the decision is made to enforce the story.

8 When Ms. Harvey is telling you the decision that had been made, was she also

9 providing detail on what enforcement steps would or would not be appropriate in this

10 case?

11 A My recollection is that when the decision was communicated to me, it was

12 something along the lines of this is a violation. We should just take it down. And from

13 there, I interpreted that as a call to block the distribution of the link and remove the

14 specific post from The New York Post.

15 Q Okay. What about the account suspensions that occurred that day?

16 A Could you clarify which ones you're thinking of?

17 Q Sure. We'll start first with The New York Post account itself.

18 A So I would say then The New York Post account was not suspended. The

19 New York Post was what, in Twitter parlance, we call "bounced." What that means is

20 the account was put in a read-only state pending the deletion of a tweet that violated the

21 rules.

22 So if The New York Post had deleted that post, their account would have been

23 immediately reinstated. They could have posted as usual. And The New York Post

24 objected to Twitter's enforcement decision and would not delete that post. And,

25 consequently, their account was locked in a read-only state.

1 Even after Twitter changed its enforcement decision regarding the story broadly,
2 it was Twitter's standing practice not to retroactively change its enforcement actions.
3 And so, for a period of time, there persisted a standoff between Twitter and The New
4 York Post where Twitter didn't want to retroactively change its decision, The New York
5 Post wouldn't delete its post, and so I believe they were locked out of their account for
6 2 weeks, or something like that, until Twitter ultimately retroactively changed its policy
7 and reinstated them.
8 Q Who at Twitter made that decision to retroactively, you know, reverse its
9 policy from before and reinstate them?
10 A Ultimately was Vijaya Gadde.
11 Q In those 2 weeks, were there ongoing discussions? How many times was
12 the decision revisited internally at Twitter?
13 A Constantly.
14 Q And who was participating in these discussions?
15 A Primarily the discussions included me, Ms. Harvey, Ms. Gadde, [redacted],
16 Mr. Baker, members of Mr. Baker's team. I also recall [redacted], who was
17 the vice president of public policy for the United States and the Americas, being involved
18 in those discussions. I recall [redacted], who was an attorney on the legal team,
19 being involved. There may have been others, but I believe that's the core group.
20 Q Okay. And what was your recommendation?
21 A I drafted an updated version of the distribution of Hacked Materials Policy
22 that provided primarily for labeling suspected hacked materials rather than removing the
23 content in its entirety, so it would apply additional context.
24 So in a situation like The New York Post story, if there had been evidence that it
25 was, in fact, the product of a hack, which I didn't believe it was, but if there had been that

1 evidence, then instead of deleting the tweet, Twitter would have applied a label to it that
2 said: This is suspected to have originated with a hack.
3 And so, I developed that updated policy, and at some point after the 14th -- I
4 forget precisely when -- Twitter introduced the updated policy publicly.
5 Q Did the introduction of the new policy and the decision to -- I don't know
6 what the right word would be -- but unbounce The New York Post account --
7 A That is the right word.
8 Q Okay. Did that occur simultaneously? Was it the same decision, or was
9 there a gap?
10 A No. They were separate decisions. And, again, I'll say, like, in my nearly
11 8 years at the company, I can only recall one instance of the company retroactively
12 changing its policies. In every other instance, Twitter would say: Our rules have
13 changed from this day forward. If you previously were enforced against under these
14 rules, the past is the past.
15 And in this instance Ms. Gadde made a single, one-time exception for The New
16 York Post and said that because their objections had directly triggered the policy change,
17 we would reinstate their account. But that was a unique occurrence in my experience.
18 And it's why she made the decision directly.
19 Mr. Issa. If I could ask a follow-up question on that. It's a hypothetical.
20 If they had deleted their material, and the next day put it back on, would they, in
21 fact, have not violated anything?
22 Mr. Roth. Yes, because 24 hours after Twitter's original decision, we reversed
23 course on the designation of this as being hacked materials. That was the point of
24 original disagreement, and so --
25 Mr. Issa. Right. So having said that, you discovered that it wasn't hacked

1 material, but for 2 weeks kept it locked up because it had been banned for being hacked
2 material. Isn't that, by definition, refusing to admit you're wrong while, in fact,
3 admitting you're wrong but not changing your decision for 2 weeks?
4 Mr. Roth. I mean, I'll clarify here. Like, my personal view on this was that it
5 was not hacked materials. The company's action was for 24 hours to treat it as hacked
6 materials, and then separately, there was -- I would describe it as digging in one's heels as
7 a company on persisting with that decision.
8 Now, my personal judgment, looking back on all of this, is that that doesn't seem
9 like a fight worth having, and it was perhaps a refusal to admit fault. It was a
10 fast-moving and complicated situation. I think the company made the best decisions it
11 could make. But in that moment, 24 hours later Twitter said, This is not hacked
12 materials. Anybody could post that content and share it without restriction. The New
13 York Post were stuck in this standoff because of the retroactive policy.
14 Mr. Issa. Is that policy still in place such that you can tell the truth, be accused of
15 not telling the truth, and then be banned until you're willing to remove the truth even if
16 you can repost it?
17 Mr. Roth. I don't know that Twitter has a policy in those terms, so I --
18 Mr. Issa. Well, we are talking about truth versus accused not truth. They told
19 the truth. Twitter was wrong about it being hacked material, 24 hours later, admitted it
20 was wrong, and for 2 weeks would not allow the truth to come out unless you were
21 willing to delete it and, I guess, resubmit it. I just want to understand --
22 [redacted]. Is that an accurate description?
23 Mr. Issa. Is that an accurate description?
24 Mr. Roth. Again, I object a little bit to truth versus falsehood. We talk about
25 this in terms of violations of policy, and so, there was what was understood by the

1 company to be a violation of its rules. The company then reversed course on that
2 policy. And then, after that point, future activity that didn't violate the rules would have
3 happened without restriction. If I understand the question correctly, it's --
4 Mr. Issa. Do you follow sports at all?
5 Mr. Roth. I don't, no.
6 Mr. Issa. Okay. Well, you follow it enough to know that in football, they have
7 cameras and somebody calls out something, and then if someone objects, they look at
8 the camera, and the outcome is then reconsidered de novo. And they say, What does
9 the camera show?
10 What I want to understand is isn't it the case that Twitter recognized that this was
11 not hacked material 24 hours later as though they looked at the camera, if you will, in
12 the -- for deciding whether the referee had made the right call, and then for 2 weeks,
13 said, but we don't go back -- we don't do retroactive changes in policy.
14 I'm not seeing a policy. I'm asking in my terms -- and you objected to the word
15 "truth." But you accused The New York Post of having used hacked material.
16 [redacted] He didn't. Twitter did.
17 Mr. Issa. Twitter, you, the company. They substantiated that they hadn't.
18 Twitter agreed with that, but then you're calling it a policy change when, in fact, it really
19 was just a matter of the truth, right, that it wasn't hacked material?
20 Mr. Roth. I'm not exactly sure I follow -- I mean, broadly, I think the strokes of
21 how you're describing those 24 hours are right. Let me maybe, like, take a step back
22 and explain why Twitter had this seemingly stupid policy of not retroactively changing
23 things.
24 It's built primarily because content moderation decisions are seldom about one
25 tweet from one prominent account. They are about thousands of tweets from millions

1 and millions of accounts. And so it would be a logistical impossibility for Twitter to
2 retroactively go back and say, You know what, we blew this call. We're going to
3 reinstate all of these posts. Like, that's not possible for the company to do. If we're
4 talking just about this one narrow case of The New York Post, it is clearly possible to do,
5 and, ultimately, the company relented and did it.
6 But we tried, in every instance, to be as consistent in the application of policies
7 across all of Twitter's hundreds of millions of users. And so, you can characterize it as
8 stubbornness, as rigidity, as digging in heels, as a stupid policy, but it was rooted in a
9 desire to be absolutely consistent at scale which resulted sometimes in these slightly
10 absurd outcomes.
11 Mr. Issa. Thank you.
12 BY [redacted]
13 Q You'd mentioned that there was only the one instance you could recall of
14 this kind of retroactive. Was that in reference to The New York Post story or one
15 instance in addition to?
16 A That was in reference to The New York Post story.
17 Q Okay. With respect to other accounts that were tweeting the story, so the
18 White House press secretary tweeted the link, those enforcement actions, like, against
19 her account, were those automatic? Were they manually enforced? And is it the same
20 term as bounced?
21 A Bounced.
22 Q Yeah.
23 A My recollection is that one of [redacted] tweets was bounced, yes.
24 That would have, I believe, been performed by the Strategic Response Team, but I don't
25 recall specifically.

1 Q Okay. We'd spoken earlier about if anyone at Twitter reached out to
2 particular groups. Just a couple more. I don't know if we covered them in the first
3 one.
4 Did anyone reach out at Twitter to the Biden campaign?
5 A Not to the best of my knowledge.
6 Q Did anyone reach out -- anyone at Twitter reach out to anyone affiliated with
7 or representing Hunter Biden?
8 A Let me clarify the timing. Is this before Twitter took its enforcement action
9 that morning?
10 Q Anytime, we'll say the week of October 14th.
11 A Was anyone at Twitter during that week in contact with anyone representing
12 Hunter Biden?
13 Q Yes.
14 A To the best of my knowledge, no.
15 Q Okay.
16 A Certainly I can say with confidence, nobody involved in content moderation
17 decisions directly made any contact with anybody representing Hunter Biden.
18 Q In terms of your team's analysis and understanding things are moving
19 quickly, but even once the initial analysis is done and you're, you know, looking for
20 additional information, was there any internal discussions about reaching out to either
21 the Biden campaign or someone affiliated with Hunter Biden to see if they were willing to
22 say whether the laptop was his or not?
23 A I recall the subject coming up, but nobody seriously pursued direct outreach
24 to the individual because that would be quite far outside of our standard enforcement
25 procedures. I recall a discussion where we said, Let's wait and see if they acknowledge

1 it. And I believe that was where the company left it.

2 Q Are you familiar at a high level with the statement that 51 former

3 intelligence officials issued about 5 days after The New York Post story where they said

4 the story bore all the classic earmarks of a Russian information operation?

5 A Yes, I have.

6 Q Did you -- did any of the 51 former intel officials, to your knowledge, reach

7 out to anybody at Twitter?

8 A I'm trying to remember the specific timing, but I believe one of the former

9 intelligence officials was an employee of Twitter. I don't know whether she was actively

10 employed by Twitter at that point, or if she became employed by Twitter subsequently,

11 but I know there's that one connection.

12 Q And who are you thinking of?

13 A This was, again, a relatively junior employee. So if the name is relevant, we

14 can talk about that later, but I'd rather not provide their name on the record unless it's

15 necessary.

16 Mr. Issa. Per standards -- there's 51 names on a piece of paper that's been

17 widely spread. You're saying that we wouldn't be able to find out that one of them was

18 an employee of Twitter and what their dates were?

19 Mr. Roth. I'm sure that would be knowable.

20 Mr. Issa. That's all I think we want to know is when she started, and whether she

21 was employed during that time would be relevant.

22 Mr. Roth. Yeah. I don't recall this individual's specific dates of employment, so

23 I can't provide that. But also I'll just say, like, I -- having suffered pretty significant

24 personal safety consequences in relation to information being disclosed about this, it's

25 my preference not to expose any of my former employees to that potential targeting.

1 I'd prefer not to provide their names on record, but we can certainly follow up about it if
2 it's needed.
3 BY [redacted]
4 Q But she signed the statement, right, so --
5 Mr. Issa. Yeah, these are not -- these are people that already would have been
6 exposed, sadly, but exposed. If there is anything, there's nothing -- they're not going to
7 be more upset with her because she worked for Twitter than they are that she was one of
8 the 51 that was outright wrong.
9 Mr. Roth. I couldn't say.
10 Mr. Issa. Okay. Well, we'll ask for it in a different venue.
11 [redacted] I would like to introduce -- I think we're only to exhibit 3.
12 [Roth Exhibit No. 3
13 Was marked for identification.]
14 BY [redacted]
15 Q And I will represent this is taken from the Twitter Files. The committee has
16 done its best to recreate it in a more likeable format. But I'm going to be asking about
17 the screenshots and what they mean.
18 A Okay.
19 [redacted]. Okay. What is this? Could you just describe it?
20 [redacted] So at a high level -- I know Dr. Roth is familiar. They're the Twitter
21 Files. This is pulled from one of the Twitter Files editions. I'm not going to ask about
22 the text above or below the screenshots. I'm just going to ask about the screenshot
23 itself. But to reveal how the committee got it, it's publicly available.
24 Mr. Roth. I recognize this as publicly I believe from Matt Taibbi's reporting in the
25 Twitter Files.

1 [redacted]. Is there a date on these at all?

2 [redacted] Well, there's some numbers -- it looks like there's a time stamp from

3 the screenshot, and then Mr. Taibbi's -- we can get it to you during the break, but it's

4 from either December or January.

5 [redacted] Okay.

6 Mr. Roth. This was posted by Mr. Taibbi in December of 2022. The exact date

7 of the screenshot is an interesting question. From context, it looks like it would have

8 been either the 14th or the 15th, but I couldn't say for sure. Only Mr. Taibbi has that

9 information and has chosen not to include it.

10 [redacted]. Have you had a chance to look it over?

11 Mr. Roth. Yes.

12 [redacted]. Okay.

13 BY [redacted]

14 Q So, first, if we could even take one step back from even a potential date, can

15 you describe, just briefly, what we're looking at with the screenshot, what the bot

16 application is, and how this sort of message is generated?

17 A Yep. This is, as far as I can tell, a screenshot taken from Twitter's internal

18 Slack Instance, which is a chat app used by Twitter employees. It was my practice for

19 my employees, which I also adopted, to provide what we called a weekly check-in. So

20 we would use an internal tool to submit a brief write-up of what we had been doing that

21 week, and it was a way for me to see what my employees were working on and for my

22 employees to hear from me about what I was working on.

23 And so, this appears to be a screenshot of one of my check-ins that had been

24 shared to Slack, and the bot application refers to the automation that would take that

25 check-in and automatically repost it in Slack.

1 Q And when it's automatically reposted, this is to a Slack channel that you and
2 your team had access to?
3 A Not my entire team. My check-ins would have gone to a much smaller
4 group, which was my core leadership team, but it would have gone into a group channel
5 that a number of people had access to.
6 Q And again, with the understanding you only have the screenshot here, the
7 16:19:26, you know, back in the fall of 2020 when you were using this, would that be a
8 time stamp?
9 A Yeah, although I don't even know what time zone that is. Maybe UTC. I
10 couldn't say.
11 Q Okay. Understanding that you've seen this before in the public reporting,
12 but re-reviewing this now, does this refresh your memory regarding meetings you had
13 either the day of or shortly thereafter with the government?
14 A Not in any way that reminds me of something new that differs from what we
15 spoke about earlier.
16 Q Okay. There's a reference to weekly sync with FBI/DHS/DNI regarding
17 election security. It's about four lines -- five lines from the bottom. Is that in reference
18 to the USG industry meetings?
19 A That would be my understanding, yes.
20 Q Starting third line from the bottom and going into the second line from the
21 bottom, it says: The government declined to share anything useful when asked.
22 A Yeah.
23 Q Do you recall who asked the government for information?
24 A I don't recall specifically, no. I know it was discussed during that call, but I
25 don't recall who asked the questions.

1 Q Do you recall if it was someone from Twitter or someone -- a different
2 industry partner?
3 A I don't recall. It was somebody in industry, but I just -- I don't remember.
4 Q Okay. Then there's a dash: Monthly meeting with FBI FITF.
5 Do you recall if that was then a second FITF meeting that same day or shortly
6 thereafter?
7 A That certainly sounds right. I mean, I know there were meetings around
8 that time. I don't recall the specific sequencing of them.
9 Q Do you recall --
10 [redacted]. Can I just interrupt? I would like to go off the record for just a brief
11 moment. I want to talk to my client about something.
12 [redacted] Sure. Let's go off the record.
13 [Discussion off the record.]
14 [redacted] We can go back on the record, please.
15 Was there anything that you wanted to clarify or --
16 [redacted]. No. I think we're okay. I just wanted -- I think it was more for my
17 understanding than anyone else. I appreciate it.
18 BY [redacted]
19 Q Do you recall any internal discussions at Twitter about raising the issues of
20 The New York Post story, or any information it can gather to raise it during the next FITF
21 meeting that would be available to you?
22 A I don't recall any conversations like that specifically. It wouldn't surprise
23 me if those conversations had happened. I just -- I don't remember any of them in any
24 detail.
25 Q Okay. What was the date that you left Twitter?

1 A It was in November of 2022. I want to say it was November 10th, but I
2 could have that date off by a couple of days.
3 Q Do you know why Jim Baker was fired?
4 A I don't have specific firsthand knowledge, no.
5 Q It was before you had left the company. Is that right?
6 A No. My understanding is Mr. Baker was terminated after I had already left
7 Twitter.
8 Q Okay. To your knowledge, did Mr. Baker destroy or attempt to destroy
9 documents upon learning that Twitter was being purchased by Elon Musk?
10 A I have no knowledge of that.
11 Q To your knowledge, did anyone at Twitter destroy or attempt to destroy
12 documents upon learning that Twitter was purchased by Mr. Musk?
13 A Not to the best of my knowledge, no.
14 Q When did you first learn that journalists would have access to internal
15 Twitter documents for the purposes of the Twitter Files reporting?
16 A When Mr. Musk tweeted it out publicly.
17 Q Okay. You had no awareness prior to that?
18 A No.
19 Q We've talked about a couple industry government meetings on or about
20 October 14th. Independent of October 2020, in advance of most government industry
21 meetings, would there be industry only kind of pre-meetings to discuss what industry was
22 interested in talking about?
23 A There wouldn't necessarily be a meeting. There would typically be some
24 conversation by email or by chat about potential agenda items, but it was usually quite
25 brief.

1 Q Do you recall having any sorts of those discussions prior to the government
2 meetings where someone asked about The New York Post story?
3 A No, I don't recall that specifically.
4 Q Do you know who [redacted] is?
5 A I do.
6 Q And who is he?
7 A [redacted] leads the threat analysis group at Google.
8 Q Do you believe having discussions with [redacted] about The New York Post
9 story or how it should be handled?
10 A When I said earlier that it's possible I spoke with other folks, [redacted]
11 would be in that small group of people who I possibly would have spoken with. I don't
12 recall doing so. I only recall specifically speaking with Mr. [redacted], but [redacted] was
13 in the small group of my peers and counterparts at other companies. So it wouldn't
14 surprise me to know that. I just don't remember it.
15 Q Okay. Do you know who at the company was responsible for preparing the
16 documents for the Twitter Files journalists to review?
17 A No, I have no direct knowledge of that.
18 Q To your knowledge, did that process start after you had left the company?
19 A To the best of my knowledge, yes. But again, that's speculation.
20 Q You wrote an op-ed in the New York Times after you left the company and
21 discussed a couple of points, one of which was the power that Google and Apple have
22 over Twitter just as a function of operating the App Stores.
23 Did you have any discussions with company leadership about the power that
24 Google and Apple were able to wield over the company?
25 A Not really in those terms, but certainly the subject had come up on a

1 number of occasions. I would say I have been writing about the power that App Stores
2 have over Twitter and other platforms for almost 15 years at this point. I wrote about it
3 in my Ph.D. dissertation, and I think it's a real concern. And during my tenure at Twitter,
4 there were a number of instances where Apple in particular reached out to the company
5 about concerns they had regarding content available in Twitter. Primarily it was about
6 pornography and adult content. And Twitter had to make changes to its product and its
7 policies in order to address Apple's concerns.
8 And so, those issues had come up on a number of occasions, but I don't ever recall
9 a specific discussion that was about, you know, their power as an abstract notion. It was
10 really about dealing with the problem in front of us.

1 [1:59 p.m.]

2 BY [redacted]

3 Q With respect to dealing with the problem in front of you, the kind of
4 concrete examples, setting aside the pornography concerns, do you recall any instances
5 where you were part of discussions at Twitter where there was a concern about Apple
6 maybe taking some steps against the company, again, because of issues other than the
7 pornography related ones you identified?

8 A I recall two other issues. The first one was about the incitement of violence
9 following the events of January the 6th. And the second, shortly before I departed the
10 company, related to hate speech and hateful rhetoric on the service following Elon
11 Musk's acquisition of the company.

12 Q Starting with the first one, to your recollection, what -- first off, did you have
13 any discussions directly with Apple as it related to that issue?

14 A Not that I recall. Again, if I could have looked in my calendar from the time,
15 I'd be able to give you a definitive answer. I don't remember a meeting, but it certainly
16 could have happened.

17 Q Okay. Do you recall participating in internal Twitter meetings about this
18 issue?

19 A I recall there being discussions about this issue, yes.

20 Q And for the discussions you participated in, who else from the company was
21 involved?

22 A I would be speculating. I don't recall specifically.

23 Mr. Issa. Pardon me. Did you say that you don't have access to your calendar
24 for that period of time?

25 Mr. Roth. That's right. When I left the company, Twitter took possession of my

1 computers, disabled my access to my internal email account. And so like there was
2 nothing I could do to prepare for this interview or my hearing before the Oversight
3 Committee.
4 Mr. Issa. You never exported a .pst or any other form of saving of any of your
5 calendars?
6 Mr. Roth. No, sir. That would have violated Twitter's employment policies.
7 Mr. Issa. Thank you.
8 BY [redacted]
9 Q Did these discussions, the company's discussions internally as it related to
10 concerns with Apple on this first issue you identified, did they predate, occur
11 simultaneously, or postdate Twitter's decision to suspend President Trump's account?
12 A I don't recall.
13 [redacted] Can we go off the record, please?
14 [Recess.]
15 [redacted] We are back on the record at 2:15.
16 BY [redacted]
17 Q And I just want to follow up on a few things that came up in the previous
18 hour.
19 The employee -- the Twitter employee, the one-time Twitter employee whose
20 name you declined to provide, who was on one of the 51 former intelligence officials who
21 wrote the letter that was referenced earlier, that employee played no role in the
22 decisions -- Twitter's enforcement decisions regarding the New York Post story regarding
23 Hunter Biden's laptop, correct?
24 A That's right.
25 Q Okay. And that employee, in fact, did not even start working for Twitter

1 until September of 2021. Does that sound right?

2 A That certainly could be right. I'm not sure, but --

3 Q And if I told you that we actually verified that her employment was from

4 September 2021 through November of 2022 --

5 A That sounds correct.

6 Q -- would that sound right? Okay. Thank you.

7 And this letter of 51 former intelligence officials that came out on October 19th,

8 2020, did that letter have any impact on Twitter's enforcement decision regarding the

9 New York Post story?

10 A It did not.

11 Q And, in fact, it could not have because the enforcement decision initially was

12 made on the 14th, correct?

13 A That's right.

14 Q And then it was reversed on the 15th.

15 A That's right.

16 Q And when the decision was reversed -- well, when asked about the reversal

17 in the previous hour, I believe it was said that Twitter learned that the laptop had not

18 been hacked.

19 Was the reversal due to a factual determination by Twitter that the laptop had not

20 been hacked? Was that the basis for the reversal as you understand it?

21 A No, I wouldn't say so. I don't believe that the company became aware of

22 materially new facts in that day. The company realized that its interpretation and I

23 would say specifically the executive team's interpretation of the facts as they were

24 available was flawed.

25 Q So it wasn't new facts. It was the interpretation of the policy or the

1 application of the policy to the facts, the same set of facts --

2 A Yes.

3 Q -- that you all knew on the 14th.

4 A I mean, I can really only speak to my knowledge. And I would say that in

5 that 24-hour period, we learned a lot more information, but it was not information that

6 changed my assessment.

7 A lot came to light about the repair shop guy and Rudy Giuliani and all of that.

8 But, like, all of that just contributed to the situation seeming ambiguous and messy.

9 And for me, the threshold decision was, was this conclusively a hack? And the morning

10 of the 14th, I believed that we didn't have the evidence to conclude that. The afternoon

11 of the 14th, I still held that view. And on the 15th, I still held that view.

12 In that intervening period, the company's executive leadership, I believe, came to

13 agree with me that we didn't have enough of a conclusive understanding one way or the

14 other. But I don't know that, at least as I understood them, the facts really changed all

15 that much.

16 Q And having -- deciding that you didn't have a conclusive understanding is not

17 the same as concluding that it was not hacked?

18 A That's right.

19 Q And you did not do the latter.

20 A That's right.

21 Q Okay. Now, I just want to go back to exhibit 3, the screenshots from The

22 Twitter Files that were discussed in the previous hour.

23 You mentioned a meeting that happened 15 minutes after the aforementioned

24 hacked materials implosion, correct?

25 A I should clarify that these were internal messages between me and my direct

team, and that I pretty frequently wrote with colorful language. Matt Taibbi parses some abbreviated profanity in this post.

And so I would say, like, I don't believe I was saying that there was a meeting actually 15 minutes after a decision was made here. I think it was just sort of bemoaning the proximity of some of these conversations to an ongoing stressful event. I don't think it was a literal representation of the timeframe involved.

Q Thank you. I appreciate that clarification.

And if you recall, the use of the word "implosion," were you referring to -- well, let me ask a different story -- a different question.

Earlier in this message, you said: We blocked the New York Post story, then we unblocked it.

Was the meeting that you're referring to here after taking both of those actions?

A I don't recall. It -- in looking at this context, it sounds -- it reads to me as though this message were sent on the 15th, not on the 14th. But because the check-ins were sort of an aggregate of a week of information and were sent after the fact, it's really hard to know from just this small excerpt what the true context was or when it was sent or what was meant.

Q Okay. And just as in your declaration to the FEC, when you're referring to a weekly sync, you're referring to something that was only weekly for a short period of time before the election, correct?

A That's right.

Q It was not weekly throughout the year.

A That's right.

Q Okay.

[redacted]

1 Q Mr. Roth, just quickly on this particular exhibit No. 3 and the reporting
2 around it, I just want to open the floor a little bit to you and ask: First of all, did
3 Mr. Taibbi ever reach out to you to confirm or to get comment on anything that he was
4 about to publish with respect to your own messages?
5 A Several minutes before The Twitter Files were due to be published, I believe
6 Mr. Taibbi sent me a direct message on Twitter asking if I cared to comment on
7 something. And I didn't take him up on that offer, in part, because I wasn't really on
8 Twitter at the time. And then --
9 Q When you say something, was there something he sent you that he asked if
10 you wanted to comment on or was --
11 A He didn't provide specific source materials. I don't even recall a specific
12 question. I just think it was sort of an offer to connect. And it was -- again, my
13 recollection is it was just before The Twitter Files started to come out.
14 Q And at that point when he asked if you wished to comment, you didn't know
15 specifically what he was going to publish or what he was asking for comment on. Is that
16 fair to say?
17 A That's right.
18 Q Do you have any response to that now that you know what he did publish
19 and what happened afterward in terms of what Mr. Taibbi offered you --
20 A Yeah.
21 Q -- in terms of opportunity to add context or truth?
22 A I mean, I should say, months later, Mr. Taibbi emailed me and said that he
23 would be very happy to speak with me confidentially if I cared to help inform his future
24 reporting on this subject, and offered very deferential terms of engagement. But by this
25 point we were months into the disclosure of the so-called Twitter Files, and we saw the

1 way that Mr. Taibbi, Bari Weiss, Michael Shellenberger, and others paired out of context
2 screenshots like this one with incredibly inflammatory commentary that often bore no
3 resemblance to what was in the source material.
4 It didn't strike me -- as somebody with a Ph.D. in communication and the study of
5 journalism, this didn't strike me at all as ethical journalistic practice, and I had no intent of
6 engaging with Mr. Taibbi.
7 [redacted] Did you have anything?
8 [redacted] Just 1 minute.
9 BY [redacted]
10 Q Do you think if you had had more of an opportunity to comment or follow up
11 before the publication of these materials, that you could have -- you could have offered
12 more context, for example, so that some of the misinformation or the -- that resulted
13 from this reporting wouldn't have been so severe?
14 A I think that would have been in the public's interest. I've, for my entire
15 career, been a proponent of transparency. I've advocated for companies like Twitter to
16 do more to explain themselves and their reasoning, and I had a track record in my 8 years
17 at the company of helping the company push its own limits on what it would share.
18 The idea of disclosing internal company deliberations about key content
19 moderation decisions is an interesting one to me. It's a provocation, and I would have
20 liked to see it carried out with ethics and with rigor. And I do think the reporting would
21 have benefited from engagement with the people depicted in it and experts.
22 For example, Bari Weiss' commentary on visibility filtering labels and trends
23 blacklists actually gets the facts wrong. At multiple key points, Ms. Weiss asserts things
24 that are not true demonstrably, not a matter of opinion, not a matter of policy, just
25 wrong. And if she or others had thought to ask questions or seek comment, perhaps

1 they could have reported these issues of significant public importance more accurately.

2 Q Did it seem to you that Mr. Taibbi was interested in getting the facts right or

3 that he might have had some other agenda?

4 A I couldn't say what his intent was. But it certainly didn't strike me that this

5 was intended to be neutral, just-follow-the-facts reporting.

6 BY [redacted]

7 Q Along those lines, one of -- you mentioned the inflammatory commentary

8 that was released along with out-of-context screenshots of messages.

9 In one of those messages, and I don't recall which of the reporters said this, but

10 they used examples of some of your communications with the FBI to refer to Twitter as a

11 subsidiary of the FBI.

12 Do you agree with that classification?

13 A I do not in any way.

14 Q Okay. Why not?

15 A Subsidiary to me suggests that Twitter was following orders or directions

16 from the FBI, that we were acting at their behest and turning over data or suppressing

17 content in way that was somehow improper or outside of the law or outside of Twitter's

18 established policies and practices. And that was never my experience.

19 When I interacted with the FBI, it was because I wanted to and because I believed

20 it was in Twitter's interests and the interests of Twitter's users that the company have

21 these engagements.

22 Elsewhere in that installment of The Twitter Files, there's a suggestion that

23 because the government reimbursed Twitter for expenses that it incurred in complying

24 with legal demands, that somehow that was, you know, like money lining the pockets of

25 Twitter in order to, you know, acquiesce to government. It's not. It was a payment in

1 accordance with the law associated with expenses that Twitter as a private entity
2 incurred in obeying lawful search warrants and subpoenas for Twitter data.
3 This was business as usual. These were completely standard, law-abiding
4 interactions. And to see them misrepresented in that way strikes me as wholly
5 disingenuous.
6 Q And it's fair to say that as the reporters who posted Twitter Files even
7 recognized, you often would push back against requests that you got from the FBI if you
8 thought those requests were for something that you were not authorized to give or did
9 not, just did not want to give.
10 A Commonly. I would say I did this regularly, and Twitter as a company
11 regularly pushed back on improper requests.
12 There were multiple instances documented in The Twitter Files of me pushing
13 back on requests from the FBI and other parts of government for access to Twitter data.
14 There were instances where the FBI reported what they suspected to be malign foreign
15 influence and Twitter disagreed with their conclusions and didn't enforce against that
16 activity.
17 We were not sort of blindly following directives and reports from the FBI. We
18 scrutinized and evaluated every single one against our policies.
19 Q So along those lines, you mentioned that the FBI would sometimes point out
20 accounts that they believed to be agents of malign foreign influence, correct?
21 A That's right.
22 Q And whenever the FBI would pass along that sort of information, did they
23 ever -- did that information come along with a request to remove the accounts?
24 A No.
25 Q What would those communications look like?

1 A The FBI, to my recollection, was fastidious almost to the point of it being a
2 little absurd about using caveated language that never ever demanded Twitter do
3 anything. The language typically would say things like, Here's information for your
4 awareness, or, We request that Twitter review this under your policies.
5 It would not assert violations of the policies. It would not demand or assert that
6 Twitter had a responsibility or a duty to remove content. It would simply be shared as
7 material for our awareness.
8 And I don't -- you know, I don't have access to every communication that I
9 received. But from what's in The Twitter Files and from what I remember, every one of
10 these messages was absolutely careful to always just say we are sharing this for your
11 awareness.
12 Q And did that, those careful messages, they never included even a request,
13 albeit a polite one, to remove an account or a tweet?
14 A Not to the best of my recollection, no.
15 Q And when you would receive these communications, did you feel, even
16 though the words on the paper did not include any sort of request or demand, did you
17 feel any internal pressure or any implied pressure, because this was coming from a
18 government agency, we have to do -- we have to look into these tweets and we have to
19 remove them?
20 A No. I would say that that was something Twitter selected for in executive
21 leaders. Deference to outside authority is not something that you want in the people
22 responsible for making these kinds of decisions.
23 Q And what -- so would Twitter handle the information that it received from
24 agencies like the FBI the same way that it would handle information received from private
25 parties in terms of how it would go about deciding whether to enforce?

1 A In terms of the sort of standard of scrutiny and the rules application, it was
2 all exactly the same standards. We did have some additional security procedures that
3 we put around content received from the FBI. I chose to handle those within the
4 investigations group in my direct organization just as a matter of trying to preserve the
5 confidentiality of information that had been shared to Twitter from the FBI.
6 To be clear, none of it was classified, and the FBI never specified that they
7 expected us to do that. But I felt that it was good practice to keep that information
8 need to know instead of making it more broadly available. But that was truly the only
9 difference in handling.
10 Q And so with respect to what Twitter would do in terms of its analysis of any
11 information, anytime Twitter would receive information about an account or a tweet that
12 might be in violation of its terms of service, Twitter, whether it was your group or another
13 group, would conduct its own independent evaluation of the material and make its own
14 determination of whether or not there was a violation. Is that fair to say?
15 A That's right.
16 Q And, in fact, is it fair to say that it's an essential nature, essential part of
17 content moderation that there be independent evaluation by the company whose
18 policies are being enforced?
19 A That's right. That's the entire job of Twitter's content moderation
20 apparatus.
21 Q And sometimes if a, you know, a tweet or an account that was pointed out
22 to you by the FBI as potentially being in violation of your service, if you conducted the,
23 you being Twitter, conducted the analysis, your own independent analysis and
24 determined that it was in violation, then you would enforce against it, correct?
25 A That's right.

1 Q And there were many times, I believe as you just mentioned, where you
2 concluded that there was no violation of your policy and there would be no enforcement?
3 A That's right.
4 Q And each time it was Twitter's decision whether or not to enforce, not the
5 government's?
6 A Every time.
7 Q And -- give me one second, please.
8 [Discussion off the record.]
9 BY [redacted]
10 Q And you mentioned that The Twitter Files themselves contained some
11 examples of you pushing back against the FBI.
12 A That's right.
13 Q I'm going to introduce some of those for the record.
14 [redacted] And we are on No. 4, correct?
15 [Roth Exhibit No. 4
16 Was marked for identification.]
17 BY [redacted]
18 Q Okay. Do you recognize this as being part of an email exchange that was
19 released as part of The Twitter Files?
20 A I actually didn't remember this one specifically, but that wouldn't surprise
21 me.
22 Q And in this -- in this exchange, somebody whose name is redacted from the
23 Counterintelligence Division of the Foreign Influence Task Force recognizes that providing
24 the IP addresses of certain VPNs would likely require legal process, but asked if Twitter
25 would be open to sharing which service providers those VPN IP addresses resolved to,

1 correct?

2 A That's right.

3 Q And can you summarize your response?

4 A I said no. It was Twitter's view that even aggregated in this way, even

5 providing descriptive context about those IP addresses represented a form of basic

6 subscriber information for which legal process, i.e., a subpoena or search warrant, would

7 be required. And I told the FBI we would not be able to provide it without that.

8 Q And that was not -- again, that was not the only instance of you pushing back

9 in that way?

10 A No, not at all. I would say these types of requests were rare, in part,

11 because I so summarily dismissed them whenever they came up that at some point the

12 FBI stopped trying and wouldn't make these kinds of requests anymore.

13 Q And do you recall another exchange in The Twitter Files with a reference to

14 the fort?

15 A I do.

16 Q Can you describe that?

17 A Yeah.

18 Q And explain what the fort is.

19 A Well, my understanding is that refers to Fort Meade, i.e., the National

20 Security Agency. But my recollection of that interaction in The Twitter Files was about

21 Twitter's refusal to allow parts of the intelligence community to directly access Twitter's

22 APIs, so to access the stream of tweets in real time.

23 We had a policy of not permitting parts of government to directly ingest that

24 stream of data from Twitter because we were worried about the privacy and surveillance

25 risks associated with that. And that had been a controversial position that the company

had taken. And at various points different folks in government had applied pressure to Twitter to change that policy, which I was responsible for, and Twitter declined on every occasion.

And so at one point, a contact at the FBI -- it might have been Special Agent Chan, I don't recall -- reached out and said that the fort were requesting that Twitter change its policy to allow them to collect this data. And I responded that we were not willing to change our policy, and that was that.

Q And do you recall that Agent Chan also suggested that the folks at the fort would like to have a meeting to discuss it?

A Yes. And I believe I turned down that meeting request.

Q Right. You wouldn't even meet with them to discuss it.

A That's right.

Q And you felt --

A I felt it would be inappropriate.

Q And you felt comfortable enough to say, I won't even meet with you, National Security Council. Thanks but no thanks.

A That's right.

[redacted] That's it for now. We can go off the record, take a break.

[Discussion off the record.]

[redacted] Can we go back on the record, please?

BY [redacted]

Q Dr. Roth, during the course of your work at Twitter, did you communicate with government officials via Signal?

A I did.

Q And how many Signal channels did you have that included government

1 officials?

2 A To the best of my recollection, one.

3 Q To your recollection, what was that one and what was its purpose?

4 A As part of the USG/Industry working groups during election periods, we tried

5 to identify ways to streamline information sharing from government to platforms when

6 the government would need to communicate with the tech sector broadly all at once and

7 wanted to ensure that there was a shared understanding of different pieces of

8 information.

9 And so as part of that process, we established a group chat where the FBI or

10 potentially other parts of government through the FBI could disseminate information

11 rapidly to the appropriate stakeholders at the various tech companies that were a part of

12 this group.

13 Q Okay. What role did you play in the creation of this Signal channel?

14 A I developed it.

15 Q And who at the FBI did you consult with prior to developing it?

16 A I recall speaking with Elvis Chan about it. I don't recall speaking with

17 others, but it's certainly possible.

18 Q Was there a reason Signal was considered as opposed to email?

19 A We wanted a channel where everybody could be present in the discussion at

20 once. So that was sort of the first consideration. And then the second was we wanted

21 an encrypted messaging channel where information could be relayed securely, and Signal

22 was the best fit for purpose/solution.

23 Q Do you know if the FBI retained records as it related to this Signal channel or

24 other similar Signal channels?

25 A It was my understanding that they did. Specifically, my understanding from

1 those interactions was that the FBI had obtained specific phones for the purpose of being
2 in this group chat and they expressed the need for Twitter to not add individual agents
3 directly but instead add these FBI group phones for document preservation purposes.
4 And I was never exactly clear on the logic, but it was my understanding at the time that
5 part of their motivation for how they were handling this was about document
6 preservation.
7 Q When the FBI would communicate on the Signal channel, could you tell who
8 from the FBI was communicating?
9 A I remember the communications saying that it was FBI HQ or the San
10 Francisco Field Office. I don't -- I don't recall whether specific agents identified
11 themselves in the chat. It wouldn't surprise me if they did. I just -- I don't remember.
12 Q Did you receive Teleporter attachments during your time at Twitter?
13 A Yes, I did.
14 Q And just at a high level, what is Teleporter and what are the -- how does it
15 work?
16 A Teleporter is a U.S. Government system that's used to securely transmit files
17 to external recipients. So the basic idea of the system is if you need to send an
18 attachment to somebody and you want to make sure it's getting to the right person and
19 hasn't been intercepted by somebody in the middle, you can send them a link to that
20 content using Teleporter.
21 On my end, I would receive a file via Teleporter. I would click a link to access it.
22 The Teleporter system would then send my email automatically a code to confirm that I
23 was, in fact, the recipient of that link. I would enter the code on the Teleporter website,
24 and then I would be able to download the attachment.
25 Q So is it a one-way form of communication where the government could send

1 you information but Twitter could not --

2 A That's my recollection, yeah.

3 Q With respect to the Signal channel, could any of the participants -- I guess in

4 a typical Signal channel, the folks can add in friends or whoever. Were there any sort of

5 restrictions on who could be added to the Signal channel?

6 A Not as a technical matter, but as a matter of policy, yes, we had decided the

7 list of participants well in advance. And I had actually collected the list of phone

8 numbers from industry and then received the list of phone numbers from Special Agent

9 Chan and that was the list of participants in the group chat.

10 [redacted] Are we up to exhibit 5? Yeah.

11 [Roth Exhibit No. 5

12 Was marked for identification.]

13 [redacted] This will be exhibit 5. This is a reproduction of this chat that's been

14 produced to the committee. We're only going to ask about a couple of messages, but

15 we want to give you a few moments to review, get a sense to refamiliarize yourself with

16 it.

17 Mr. Roth. I won't read through all of it in detail, but if there's specific messages, I

18 can --

19 [redacted] Great. And if you, after any question, feel that you need some time

20 to review the context, more than happy to give you that.

21 [redacted]. And just to clarify, it's 33 pages, double-sided in this exhibit --

22 [redacted] Five

23 [redacted]. -- exhibit 5. Thanks.

24 So do you have particular pages you want to ask about?

25 [redacted] Yes.

1 [redacted] Okay. Go ahead.

2 BY [redacted]

3 Q If I could you have turn, it's page 10 of the 33, Bates No. 15047.

4 A Yep.

5 Q There's a message from you where you say: Hi all. I'll shortly be adding a

6 number of contacts from DHS-CISA to this group.

7 First, I think we've covered this at various points in the interview. But CISA's the

8 Cybersecurity and Infrastructure Security Agency and the same system that participated

9 in the USG/Industry meetings. Is that right?

10 A That's right.

11 Q About the middle of the page, it says that you added [redacted] of CISA. Do

12 you recall who that is?

13 A I don't, no.

14 Q Does [redacted] ring a bell?

15 A No, truthfully.

16 Q There are two more names a little bit further down on the page, [redacted]

17 [redacted] and [redacted].

18 Do you recognize either of those names?

19 A I don't, no.

20 Q If I could have you flip the page, Bates No. 15048. At the very bottom, you

21 add someone named [redacted].

22 Do you know who that is?

23 A I don't recall, no. I'm sure at the time I at least had some knowledge of

24 who they were or somebody at their agency had told me to add them, but I don't -- I

25 don't recall specifically.

1 Q Okay. For the previous names, and, again, just based off the context of the
2 chat, it looks like it could be people from CISA. Do you recall having any discussions with
3 the FBI where the FBI was saying we want some non-FBI government employees to be
4 added to the chat?
5 A I don't recall those conversations. I mean, it stands to reason that either
6 that happened or CISA reached out directly and requested to be added. But I -- I don't
7 remember at all what the sequence of events was.
8 Q If I could have you turn to page 14, which is Bates No. 15051.
9 A Yeah.
10 Q And it looks like [redacted] is posting, which it starts on the bottom of the
11 prior page.
12 A Yep.
13 Q But there's a post about a misinformation report. There's some looks like
14 the header of an email that's posted in, and then there's, you know, additional
15 information provided.
16 At the middle of the page, there's an email address,
17 misinformation@cisecurity.org. Do you recognize that email address?
18 A I recognize the domain cisecurity.org as being the Center for Internet
19 Security, or information security, I'm not sure. CIS was one of the entities involved in
20 sort of managing reporting of misinformation during the 2020 election.
21 I believe that was an email address that they used as a reporting clearinghouse,
22 but I don't know anything more specific than that.
23 Q For the purposes of this chat, and, again, happy to give you an opportunity
24 to review it if you'd like, but just based off your recollection of when it was getting set up,
25 was it concerned -- was it a way to -- an avenue to report concerns or information as it

1 related to inauthentic behavior or as it related to post concerns regarding content
2 misinformation or both?
3 A My recollection was that the intent of the group was to focus on inauthentic
4 behavior, but it would appear from context that the scope of it expanded over time to
5 include other types of misinformation about elections.
6 Q Okay. And then taking a step back, independent of this particular Signal
7 channel, you spoke in one of the earlier hours about your interest and the interest of
8 industry partners in setting up information-sharing meetings with the government.
9 We've discussed a bit about Twitter's own policies as they initially were focused on
10 foreign -- potential foreign influence operations and expanded to include other
11 misinformation categories.
12 The standing U.S. Government/Industry meetings that were ongoing for a number
13 of years, to your recollection did the scope of those meetings change over time?
14 A I mean, that question's very broad. So, yes, but I think to -- what I think
15 you're asking is did the scope of the meetings expand to also include discussions other
16 than malign foreign interference. And on that point I would say, actually from some of
17 the earliest meetings, that was already on the table as part of the discussions.
18 My recollection is that some of the earliest meetings included discussion of what
19 the Department of Justice characterized as illegal voter suppression through social media
20 and that those remained themes infrequently but consistently throughout industry's
21 engagement with government on election security.
22 Q Okay. Did those -- the frequency of those themes change during your
23 experience at attending those standing USG/Industry meetings?
24 A It's hard to generalize about it. I mean, in my recollection of it, not really.
25 I would say the meetings still were mostly focused on foreign interference, but it's really

1 hard to say without, you know, being able to review any kind of notes, meeting minutes,
2 any of that.
3 Q At a high level -- so correct me if I'm wrong, the standing FITF meetings that
4 Twitter had also related to, you know, concerns relating to foreign malign influence
5 campaigns. Is that correct?
6 A That's right. I would note just briefly that while my team's primary goal in
7 those meetings was to get information from the FITF, there, I believe, were
8 representatives of other parts of DOJ at at least some of those meetings who during that
9 same Twitter-FBI bilateral meeting would talk about subjects beyond just foreign
10 interference.
11 And, again, specifically illegal voter suppression schemes came up on at least
12 some occasions. That was, to the best of my recollection, not the focus of the vast
13 majority of those meetings, but it did happen periodically.
14 Q Okay. Regarding the scope of the FITF meetings and the scope of the U.S.
15 Government/Industry meetings, was there anything that one set of meetings covered
16 that the other meetings did not with respect to the reach of the scope?
17 A That's a really broad question. So I would say, like, some of the meetings
18 were different because DHS was present and ODNI was present. I would say that
19 generally the FBI engagements were more focused on cybersecurity activity and foreign
20 influence specifically, while the broader USG/Industry meetings were related to election
21 security as a more general topic, including voter suppression schemes and, you know,
22 readouts about critical infrastructure protection and various other things.
23 So the focus was slightly different in each of the meetings. But, again, that's
24 really at a broad level of generalization.
25 Q If I could have you turn to page 27, which is Bates No. 15064, and then

1 there's a series of messages from you, until --

2 A There we go.

3 Q -- page 29, which is Bates 15066, the top of the page. I'll give you a

4 moment to review.

5 A You said starting on 27?

6 Q Yeah. So starting on 27 and finishing the top of 29.

7 A Okay.

8 Q So your message on the top of 29 says: My error - wrong channel but all

9 info is public anyway.

10 Reviewing this, does this refresh your memory at all? Were there other similar,

11 you know, reporting channels either with the government or with other entities?

12 A There was -- there were two channels that I created as part of this process.

13 One of them was with government. One of them was only within industry.

14 And my recollection of what I meant here was that I sent a message intended for

15 just other tech companies instead in the channel titled Broadcast-Election/Industry,

16 which was meant to be the government broadcasting information to industry.

17 Q Gotcha. Great.

18 We can take these back or if you want to set them aside for now.

19 Exhibit 6 will be the industry-only Signal chat, and it will be a few posts we'll go

20 over.

21 [Roth Exhibit No. 6

22 Was marked for identification.]

23 Mr. Roth. A binder this time.

24 [redacted] So this one's significantly longer than the other exhibit, so if you want

25 to take a few moments to flip through, but we'll just maybe make more sense to --

1 Mr. Roth. I'll read through it when there's specific ones that we want to focus
2 on.
3 [redacted]. Let me just take a minute and take a look at it. So exhibit 6 is 136
4 pages?
5 [redacted] Yes.
6 [redacted]. It is from Yahoo?
7 [redacted] That's correct.
8 [redacted] Entitled, Industry Election Integrity Working Group, WG?
9 [redacted] That's correct, yes.
10 BY [redacted]
11 Q If I could have you turn first, it's going to be Bates No. 16075, which is page
12 4.
13 A Yep.
14 Q There's a post, it's actually by [redacted], but it's about the middle of the
15 page. It says: A couple of the accounts link back to some Iranian stuff a way back
16 tipped by FireEye, but no activity I can see on out platforms.
17 I think they meant "on our platforms."
18 Are you familiar with FireEye?
19 A I am.
20 Q And what is FireEye?
21 A FireEye is an old name for Mandiant, which is a cybersecurity consultancy.
22 They have since been acquired by Google.
23 Q How frequently did -- during your time at Twitter, how frequently did you
24 interact with FireEye?
25 A Periodically throughout my tenure. At various points, Twitter considered a

1 commercial engagement with FireEye to receive threat intelligence reporting from them.
2 But to my recollection, we never actually signed a contract or fully pursued that
3 engagement.
4 Q Other than the interactions about potentially pursuing an engagement, what
5 was the nature of your interactions with FireEye as it related to your time at Twitter?
6 A FireEye would publish public reports about security threats and what they
7 perceived to be malign foreign influence. Twitter would read those public reports.
8 And in situations where there was potentially a personal relationship, where we knew
9 somebody at FireEye who'd worked on something, we might have a conversation about
10 some of it. But it was, to my recollection, always focused on specific reports that
11 FireEye had put out about foreign interference.
12 Q If I could have you look at the next page, page 5, which is Bates No. 16076.
13 A Yep.
14 Q There's a message from [redacted] First, you know, with the understanding
15 this has been reproduced to you, to your understanding, would that be [redacted]
16 [redacted] from Facebook who we've been mentioning throughout the interview?
17 A That's the only [redacted] I know in this context, yes.
18 Q He writes: Anyone else want to jump in after [redacted]
19 Do you recall if this channel would be used during the USG/Industry meetings?
20 A Yes, it would.
21 Q Okay. If I could have you turn to page 8, which is Bates No. 16079. There
22 are a series of messages but going to ask in particular about the one about two-thirds of
23 the way down from you, which says: We can touch a bit on the QAnon stuff we've
24 enforced on and footstomp the lack of foreign interference aspect.
25 But we'll give you a moment to review the messages before and after.

1 A Yep.

2 Q First, reviewing this message, do you recall the context in which this message

3 was sent?

4 A I can infer the context from this, but I, you know, don't have a specific

5 recollection of it beyond what I'm reading on the page.

6 Q Okay. With the understanding you don't have a specific recollection, but

7 what are you able to infer?

8 A So in the days following January the 6th, there were either ad hoc or

9 scheduled meetings on election security matters. I don't remember which. But in one

10 of those meetings, I delivered an update about Twitter's actions to ban QAnon from the

11 platform.

12 And so from this message, it sounds like I was going to be briefing on Twitter's

13 enforcement actions against the QAnon conspiracy and also was going to discuss our

14 finding at the time that the activity on January the 6th and activity from QAnon, broadly,

15 did not appear to be malign foreign influence but instead appeared to be domestic in

16 origin.

17 Q Do you recall in the lead-up to this whether the government had either

18 provided information or had raised the possibility that there was a foreign interference

19 aspect?

20 A Not that I recall, no.

21 Q If I could have you turn to page 12, which is Bates No. 16083, and then read

22 through page 14, which is Bates No. 16085.

23 A Okay.

24 Q First, do you recall the context of these messages?

25 A I don't. I can infer some of it from this, but I don't recall why we were

1 having a conversation about this carefully massaged language.

2 Q We'd started to touch upon this a few questions earlier. But the

3 statement, again, we were in a couple of times but, as one example, from the bottom of

4 page 12 onto page 13, [redacted] writes: We could discuss a range of content topics in

5 this context, but our focus should be on the threat actors and behavior rather than the

6 content itself.

7 Do you recall discussions, other discussions within industry about the appropriate

8 scope of industry's meetings with the U.S. Government?

9 A I do.

10 Q And as part of those discussions, what was the perspective of the industry

11 partners?

12 A Going back to some of the very first meetings of companies and government

13 on election security, we talked about the distinction between content moderation

14 focused on the content of messages and a focus on inauthentic behavior. And, broadly,

15 there was consensus that the most straightforward points of collaboration were focused

16 on behavior rather than on the content of messages. Because even if foreign activity

17 does not enjoy the protection of the First Amendment, there was enough ambiguity there

18 that industry preferred to stay focused on behaviors.

19 That was not something that was ever really codified in an explicit way, and the

20 boundaries there become complicated. But, broadly, there was a recognition from

21 some of those earliest meetings that our primary focus was going to be on deceptive

22 behaviors rather than on abusive content or even on, you know, threats of violence or

23 extremism.

24 There were other channels for engagement about extremism or things like that.

25 This group was going stay focused on inauthentic behavior.

1 Q Do you recall any communications from the government or any meetings
2 where the government appeared to be interested in increasing or -- "increasing" is the
3 wrong word -- expanding the scope of the meetings to include things more about the
4 content itself as opposed to actors or behavior?
5 A I recall two ways in which that happened. The first was the focus on illegal
6 voter suppression which, again, was something that had come up as early as 2018. And
7 there was a consistent interest from the Department of Justice in particular in exchanging
8 information about that.
9 I would say, for Twitter, we had no objection to it because all of that work fell
10 under my organization. At Facebook, they had a slightly different organizational
11 structure where those content questions fell under different teams and, therefore, it was
12 challenging for them to navigate that. So that was one category of engagements.
13 The other area of overlap was around violent extremism and terrorism where,
14 again, Twitter didn't really have any objections to having those conversations in one
15 place, but because that related to specific actors and extremist groups that could be
16 domestic in origin, could be foreign in origin, some companies, notably Facebook,
17 expressed a preference that those conversations happen in other settings.
18 Q You mentioned DOJ's interest for the first bucket. Which agency or
19 agencies were interested with it as it related to violent extremism-related content?
20 A My recollection is it was the FBI.
21 Q And do you recall if these discussions occurred in the context of one of these
22 USG/Industry meetings or were there emails related to them?
23 A I don't recall, no.
24 Q If I could have you turn to page 19, which is Bates No. 16090. And actually,
25 if I could have you read on to page 20, there's a -- for the rest of [redacted] message.

1 A Okay.

2 Q If I could call your attention first to [redacted] message in the middle of the page

3 on page 19, asking about the NSC. Do you recall if the National Security Council was

4 ever invited to attend the U.S. Government/Industry meetings?

5 A I can infer from this context that that may have been a discussion, but I don't

6 recall it specifically.

7 Q Okay. And do you recall any meetings where there were representatives

8 from the NSC on one of the calls?

9 A I'll say it was sometimes hard to tell. As I spoke about earlier, there were

10 instances where there would be a camera at one end of a room somewhere in a

11 government office and it would be kind of pointed towards people. And sometimes you

12 could make out who was there and sometimes you'd just kind of see a blob in a suit.

13 And so is it possible that somebody from the NSC was present? Perhaps, but I

14 couldn't say for sure.

15 Q [redacted] message at the bottom of page 19 and then carry on to the next

16 page, he says: The answer we agreed on was we'll talk about it and want to focus on

17 partners that are, (a) operational, (b) defensive, and (c) apolitical.

18 First, reading his message, did you understand that to mean to be referring to

19 government partners?

20 A That's right.

21 Q Do you agree with [redacted] that these are three criteria that are

22 appropriate when considering which government partners to work with?

23 A I believe those criteria originally came from me, so yes.

24 Q Do you recall which agencies in the government may not have met these

25 criteria?

1 A The primary source of contention reflected on the next page of this chat
2 relates to the State Department's Global Engagement Center.
3 Q First, taking one step back, what is the Global Engagement Center?
4 A I couldn't say exactly what their official mandate is, but my understanding
5 was that the Global Engagement Center was a part of the State Department that
6 investigated and reported on what they believed to be malign foreign influence and
7 disinformation campaigns. They may have had other responsibilities as well.
8 Q And happy to give you a moment to review the discussion on the Global
9 Engagement Center. It continues on for a few more pages.
10 A Yep. Okay.
11 Q First, independent of this particular Signal channel, during your time at
12 Twitter, do you recall having interactions with the Global Engagement Center?
13 A I do.
14 Q And what was the nature of those interactions?
15 A I recall at least one meeting, if not two, with representatives of the Global
16 Engagement Center where they discussed some of their research regarding Russian and
17 Chinese influence campaigns. And there may have been other exchanges by email as
18 well.
19 Q Reviewing this channel and, you know, having sort of discussed it a bit, do
20 you recall what the group's concerns were with whether the Global Engagement Center
21 should join or not?
22 A I would say most of those concerns were driven by me and came from me.
23 And so I can't speak to what others in the group believed or represented. But I believed
24 that the Global Engagement Center were an inappropriate partner to have in this
25 particular group because I had concerns about them failing to meet the second criteria in

1 [redacted] message, i.e. defensive. And then also separately, I had concerns about the
2 quality of their analytical products.
3 Q Taking that first part, the defensive part, to your understanding, I guess -- I'll
4 rephrase that.
5 What do you mean by that?
6 A Yeah. In 2019, I became aware of the State Department and specifically
7 the Global Engagement Center's funding of something called the Iran Disinformation
8 Project. And I'd note this was happening in 2019, so during the Trump Presidency.
9 But my understanding was that the Iran Disinformation Project was an outside
10 group that engaged in disinformation to counter Iranian disinformation. And,
11 specifically, there was public reporting that the State Department-funded initiative was
12 trolling and harassing activists who were discussing Iran and related issues online.
13 When it came to light that this is what the Iran Disinformation Project was doing,
14 the State Department say that they ceased funding it. But in my interpretation, that
15 incident reflected the fact that the State Department's mandate went beyond just
16 identifying and defending against foreign interference campaigns and towards taking a
17 more active or offensive posture on the subject.
18 In my view, that made them an inappropriate party to join a group focused on
19 defending against foreign influence.
20 Q And to your understanding, were State Department personnel directly
21 involved in this Iranian disinformation project or were they funding a different entity to
22 actually partake?
23 A My understanding is it was funding a separate entity, but I'm not certain.

[3:14 p.m.]

BY [redacted]

Q Was the Department of Defense ever considered for this group?

A I think it depends how you define Department of Defense. I'd say that some representatives of various parts of things proximate to the DOD were in some of these meetings. There were folks from the NSA who at -- I can recall at least on one instance, were invited to some of these discussions. And so, in general, I would say the military proper was not invited to these meetings and was not a part of it, but could folks who are ultimately on the DOD payroll have been considered part of this group, it's possible, yes.

Q Are you familiar with whether the DOD had requested from Twitter to white list certain accounts?

A Yes, I am aware of that incident.

Q Did that incident have any connection to the GEC State Department incident regarding the Iranian disinformation project?

A To the best of my knowledge, no. The incident I think you're referring to was activity conducted by a contractor to, I believe it was Central Command, but I'm not exactly sure which part of the DOD. But I am not aware of any connection between that activity and the Iran disinformation project.

Q For the DOD's white listing request, how did you find out about this incident?

A I became aware of it when another Twitter employee, a more junior member of staff, approached me to ask a technical question regarding how to apply this white listing to accounts. And when I asked them why they needed to apply this white listing, they explained a request that had come to them from a mid-level contact at the

1 FBI who was passing it on on behalf of the Department of Defense, and it was related to a
2 counterterror matter, which was why it had gone to a different team.
3 As soon as this employee explained what was going on to me, I told them, in no
4 uncertain terms, that we should not do this and that it would be a violation of Twitter's
5 policies to do it. And I requested that they turn over to me all information about these
6 conversations. Once I reviewed that information and saw the scope of the Department
7 of Defense's activity, and also what that junior Twitter employee had done, I directed my
8 team to, first, undo that employee's actions. So a few accounts had been marked as
9 exempt from some things. I told them to immediately undo that.
10 Second, I directed my team to investigate the broader network at hand and
11 identify all of the accounts connected to it.
12 And then third, I instructed my team to ban those accounts and cease the activity.
13 Q Following those steps, did you hear from someone in the Federal
14 Government?
15 A Yes, and I'm trying to remember whether that came to me directly or
16 through channels. But as Twitter was investigating this activity, we had a series of
17 internal discussions not about whether to ban these accounts, but about whether to
18 disclose the activity publicly and how to disclose it.
19 I'll add as kind of context here that it was Twitter's standing policy whenever we
20 discuss -- whenever we found a state-backed influence operation, that we would not only
21 remove it from the service but share data about it publicly. And this activity, in my
22 assessment and my team's assessment, met all of those standards, and, therefore, was
23 eligible to be publicly disclosed.
24 But it was the first time that we had identified specifically American originating
25 activity on the service that was targeting other countries, and so we had an internal

1 discussion about exactly how to handle it. Ultimately, it was Twitter's decision that we
2 should disclose this activity, and we did, but there were a series of conversations there.
3 And on one occasion we did have a conversation directly with representatives of the DOD
4 about our findings and about Twitter's policies.
5 Q And what did the DOD say in those interactions?
6 A My recollection was that on this phone call a representative of the DOD read
7 a prepared statement three times, and the prepared statement said something along the
8 lines of, Twitter should enforce its policies as it sees fit, and the Department of Defense
9 has no other comment.
10 Q Regarding the internal Twitter discussions as it relates to this matter, how
11 senior of folks were roped in as part of these discussions?
12 A I mean, I would say, it was largely happening at my level, which was at the
13 executive level. I discussed it with Vijaya Gadde, I discussed with Jim Baker and with
14 [redacted], and so it was happening at a quite senior level. I'm not aware of whether
15 that discussion -- whether Vijaya had a discussion with Jack Dorsey about this activity as
16 well or if it stopped at her level.
17 Q If I could have you turn back to the Signal channel, have you flip to Bates No.
18 16121, which is page 50.
19 A Okay.
20 Q There's one message from [redacted] I'll give you a moment to review the
21 messages before and after so you can view the context. But the message -- it's in the
22 middle of the page, and it says, "If we end up having to use MDM, I may just quit. I'm
23 not sure I can take it."
24 A Okay.
25 Q In this context, would you understand MDM to mean mis-, dis-, and

1 malinformation?

2 A I would, yes.

3 Q Do you recall the context of [redacted] seeming dissatisfied with the term?

4 A I don't recall the specific context, but I know he shares my distaste for it.

5 Q Yeah. And speaking on, at least just for your behalf, what is the distaste for

6 it?

7 A The analytical imprecision of the term. It lumps together misinformation,

8 which could come from real people who are just wrong; disinformation, which is

9 intentional and malicious; and malinformation, which means who knows what, and it sort

10 of mushes them all together into a single acronym that, in my view, and I believe in his,

11 does not represent an analytically precise framework for characterizing activity on social

12 media.

13 Q So this is the industry only Signal channel. Do you recall who was using the

14 term "MDM," or who he may be referring to?

15 A I have no idea, no.

16 Q Are you familiar with whether CISA had an MDM team?

17 A I'm aware that there was, I forget if it was called a task force or an advisory

18 board or a working group or something, but I'm -- I'm aware that CISA had a group of

19 folks who were looking at MDM issues.

20 Q Do you recall, whether CISA or otherwise, personnel from Federal agencies

21 using the term "MDM" in the context of discussions with industry?

22 A I mean, I can infer from this context that they did and that -- it wouldn't

23 surprise me to know that, but I don't recall specifically.

24 Q Okay. Do you recall any discussions with personnel at Federal agencies

25 where the imprecision with the term "MDM" became a problem with respect to the

1 group's work?

2 A I don't, no. I think -- to my recollection, whenever we were having

3 conversations about specific activity, it was always precise and caveated, and we could

4 understand what was going on. I think to the extent there were kind of broader

5 strategic discussions that might have used that term, like, I wouldn't really consider that

6 operational information anyway.

7 Q If I could have you turn to page -- it's page 81, which is Bates No. 16152.

8 A Okay.

9 Q If I could call your attention specifically to [redacted] response -- or

10 message at the top of page 81. He again is talking about mis-, dis-, and malinformation.

11 He says, Think it's possible for all of us to refuse to participate if they keep calling it mis-,

12 dis-, and malinformation, and then there's a smiley face. And he says, kidding, kidding.

13 Given the context of this Signal channel, did you interpret that "they" in the

14 message to refer to the government?

15 A That would be my interpretation, yes.

16 Q If I could have you turn to page 84, which will be Bates No. 16155, and then

17 there are messages that continue onto page 87, which is Bates No. 16158.

18 A Okay.

19 Q So I want to call your attention to the top of page 86. There's a message

20 from [redacted]. First, do you recognize who that likely is?

21 A I do. I believe it's [redacted], who was an attorney at Google.

22 Q All right. He says, I think this is a flex by CISA. Whether specific to this

23 particular message or just more generally, do you recall there being any turf battles

24 between the various government agencies in this space?

25 A I think turf battles is probably overstating it a little bit, but I think there was

1 some amount of jockeying for prominence on these issues. I would say, from 2018
2 onwards, there was a lot of attention being paid, especially from Congress, to the
3 question of how government was securing American elections. And in that context,
4 both the FBI and the Department of Homeland Security emerged as leading voices on
5 these issues. The FBI got its act together faster than DHS and built strong and trusted
6 relationships with industry where they shared information with industry, and industry
7 found it useful.
8 DHS was always an engaged partner and a valuable partner, but was just a little bit
9 slower to get going. And so, my interpretation was that there was some amount of
10 push/pull between FBI and DHS about who would -- you know, who would be the leading
11 dance partner in these engagements. But I'll say, I personally never paid very much
12 attention to it, because it just didn't seem like it mattered.
13 Q Are there any examples or instances you recall that help provide the color
14 for that recollection?
15 A You know, the only one that I recall was about these war rooms that various
16 folks would host on Election Day. The FBI would set up a war room in a field office, or I
17 think perhaps here in Washington, and would sort of say, like if people want to come to
18 the FBI war room on election stuff and be here in person, you can do that. They always
19 invited me, and I always declined, because it would be inappropriate for me to be doing
20 content moderation work within a government building.
21 But -- it could be other Twitter employees were there not on the moderation
22 team. I'm not sure about that. But then there was discussion of would there be
23 multiple war rooms, would the DHS have their war room, and would there be this battle
24 of war rooms, and it just all struck me as deeply silly. Like I -- I was securing American
25 elections. I was not there for an interagency fight, and I had absolutely no interest in

1 engaging with it.

2 Q In this context you're describing, as related to ODNI, was there a similar

3 dynamic, or how did ODNI fit into the picture?

4 A ODNI -- or representatives of ODNI were present beginning at the very first

5 meetings that took place at Facebook's headquarters. And I would note that some of

6 the early friction in the industry USG relationship was primarily driven by ODNI.

7 Specifically, in one of the early meetings, there was a confrontation between an attorney

8 from Twitter and a representative of ODNI regarding proactive referrals of information

9 from industry to the government.

10 And this representative of ODNI suggested that platforms should voluntarily,

11 without the need for legal process, refer information about specific accounts to the

12 government. And a Twitter attorney, in my opinion correctly, pushed back on this and

13 said, if you want information about specific users, come with a subpoena or a search

14 warrant, and we will provide that information consistent with legal process.

15 And ODNI pushed back and suggested that in service of a shared goal of

16 combating foreign interference, we could dispense with, you know, all of the formalities

17 of legal process. And that nearly derailed the entire engagement between government

18 and industry. The meeting nearly ended. The Twitter attorney nearly walked out of

19 the room. And part of what we had to do over the following years was rebuild trust

20 from that incident that neither side would cross a line that was unlawful in terms of the

21 disclosure of confidential user data.

22 And so, there was not a rehash of an incident like that. I would say it was a -- it

23 was a major learning, I think, for ODNI and for the government generally about

24 appropriate limits. But ODNI were present in subsequent meetings to the best of my

25 recollection, though they never made a similar request to that.

1 Q Do you recall who from ODNI was representative in that meeting?

2 A I don't recall everyone who was there. I am only remembering her first

3 name, Shelby something.

4 Q Shelby Pierson?

5 A Yes, Shelby Pierson. That's right.

6 Q Do you recall the attorney from Twitter who pushed back?

7 A I believe that was [redacted]

8 Q And this was an in-person meeting?

9 A That's right. It was at Facebook's headquarters.

10 Q And I'm sorry if you said this at the beginning, do you recall when it took

11 place?

12 A 2018 or '19. I couldn't say for sure.

13 Q Did any other industry representatives in the room take the side of Twitter in

14 this discussion?

15 A It was deeply awkward. Like the -- the meeting was -- the room was dead

16 silent other than two people yelling at each other, is my recollection of it. I could've

17 now dramatized it years later, but my recollection was that there was a heated debate

18 between these two people, and everybody else kind of sat in stunned silence, myself

19 included.

20 Q And your recollection is it was heated to the point of both parties were

21 shouting?

22 A I recall that, yes.

23 Q Do you recall how long the, I was going to say discussion, but the fighting

24 went back and forth?

25 A A few minutes.

Q Yeah. And at the end of that, you know, was there some sort of agreement, or how did it end ultimately in that particular meeting?

A I think we just agreed to move off of that topic, in part because it was not really germane to what the meeting was supposed to be about. Like the overall meeting was about election security collaborations, and we'd somehow started pigeonholed on this subject of legal process for -- it was irrelevant to the subject of the meeting.

Q At a high level, independent of that particular meeting and independent of this chat, when engaging with the U.S. agencies, the fact the FBI's got the Foreign Influence Task Force, CISA has task forces that are involved, ODNI has a center, was it clear, as an industry partner, what the responsibilities were for each agency as it related to this space?

A It wasn't always clear to me, no. But I also was never particularly bothered to get to perfect clarity about that in my head.

Q I'll have you turn back to the Signal channel and flip to page 98, which is Bates No. 16169.

A Yep.

Q I'll give you a chance to review. There's -- the messages before are from earlier dates and don't appear to be relevant, but it continues on to the next page.

A Uh-huh. Okay.

Q So two-thirds of the way down, [redacted] says, Interesting to see them trying to grapple with the domestic side. And then [redacted] says, So hard to navigate.

First, if you have a specific recollection, interested to hear that too, but inferring from this -- the context of this, did you understand [redacted] to be referring to the government when saying interesting to see them trying to grapple with the domestic side?

1 A I truly don't know what he might have meant.

2 Q Independent of this particular exchange in March of 2022, do you recall any
3 instances where the government was presenting information and there were concerns, at
4 least among the industry partners, about whether it implicated domestic actors?

5 A The word that I'm thinking about is "concerns." I don't recall concerns
6 being raised by members of the industry group. There were certainly instances as in the
7 other chat that we reviewed where CISA and others shared reports regarding
8 misinformation from domestic audiences, and in some cases, that converged with the
9 FBI's interest in illegal voter suppression efforts.

10 I think some individuals in this group, like [redacted], whose mandate extended
11 only to inauthentic behavior and foreign activity, they might have found it irrelevant. I
12 don't know if they were concerned about it. I didn't feel concerned about it in this
13 context.

14 Q Independent of this particular exchange, do you recall any of the discussions
15 with the U.S. -- or with the Federal agencies where the Federal agencies represented that
16 they had certain authorities as it related to foreign actors, but it did not have those
17 authorities as it related to domestic actors?

18 A I recall one interaction in a quarterly bilateral meeting between Twitter and
19 the Department of Justice where a DOJ attorney opened the meeting by discussing the
20 First Amendment, and sort of offered, I remember it being about 5 minutes, a speech of
21 sorts about the focus of the FBI on malign foreign interference, and on illegal voter
22 suppression, but about, you know, needing the -- to emphasize the utmost respect for the
23 First Amendment rights of Americans. And it was a perfectly fine speech, and we all sort
24 of smiled and said thank you and then the meeting proceeded, but that's my only specific
25 memory about somebody from the government in detail talking about that particular

1 question.

2 Q And do you recall when approximately that was?

3 A I don't. I want to say maybe 2020 or 2021, but I -- I don't recall. I know

4 the meeting happened at Twitter's offices, but I don't remember exactly when. So it

5 likely would not have been in 2020 if it was at Twitter's offices, because they were closed

6 for the pandemic.

7 Q Uh-huh. Independent of, again, this particular exchange and independent

8 of the example you provided, at a high level, do you recall -- when receiving information

9 from Federal agencies, do you recall instances where the Federal agency is identifying

10 accounts as foreign accounts, but Twitter internally has awareness that they're domestic

11 accounts?

12 A I can -- I have a broad recollection of at least one instance of that. I think it

13 may have been mentioned in the Twitter Files, and I'm sure there were other instances of

14 that as well.

15 Q Yeah. Again, not necessarily a specific recollection, but just do you have

16 any general recollections of how frequently that may have occurred?

17 A Pretty infrequently would be my -- my broad impression here. I'd say part

18 of why I valued and Twitter valued engagement with the FBI was that they were right

19 more often than they were wrong, a lot more often than they were wrong. And

20 especially on the subject of attributing activity to a foreign government, they hardly ever

21 were wrong.

22 I think there may have been one instance in which my recollection was that the

23 FBI may have been passing on information from another party. I don't know if it was in

24 the government or from researchers. They had all sorts of other engagements, and they

25 sometimes would pass on this information without attribution, and my recollection is that

1 in one of those cases, we disagreed with the attribution. But I would say, those
2 were -- those were quite uncommon.
3 Q Do you recall any instances with agencies other than the FBI?
4 A Where --
5 Q Sorry.
6 A Where U.S. Government agencies rendered incorrect attribution of activity?
7 Q Yes.
8 A Not with any specifics, but I would say that my broad concerns about the
9 State Department Global Engagement Center included concerns about the quality of their
10 attribution. Sometimes their reports were quite accurate. I would say, many of their
11 reports about Russia were quite good. I had concerns about the quality of some of their
12 analyses of China-related activity. I don't remember any of those concerns specifically
13 at this point, but I remember, at least on some occasions, getting information from the
14 State Department that didn't quite ring true.
15 Q Regardless of the agency, if it's FBI, the Global Engagement Center, or
16 whoever it might be, when there were instances of where there was misattribution, do
17 you recall the most common reason why that occurred, or if there was a fact that Twitter
18 had knowledge of or access of that likely led to the mistake?
19 A You know, taking a step back, like there's lots of different ways of trying to
20 characterize suspected malign foreign activity. And as a former employee of a tech
21 company, I had a particular set of tools and access to a particular type of data that would
22 enable a certain type of investigation. I could look closely at how accounts were
23 registered on Twitter, the technical infrastructure they used to access our service, but
24 that knowledge really only extended as far as the limits of Twitter itself.
25 And there's lots of other ways that you can investigate this activity. The

1 intelligence community has spies on the ground. They have the ability to conduct signal
2 intercepts. There's lots of information they would have that Twitter would not that
3 would potentially enable other types of findings.
4 And similarly, outside researchers scrutinizing public data could look for things like
5 linguistic patterns in posts to try to say, these posts are very similar to posts from a
6 Russian troll farm, and therefore, we think that this stuff is the Russian troll farm.
7 And people can disagree about these conclusions. There have been lots of
8 instances, many of them documented colorfully in the Twitter Files, where I disagreed
9 with people's analytic conclusions. There's lots of instances where people disagreed
10 with mine. And I think that disagreement is healthy and productive, but ultimately, my
11 job at Twitter was to enforce the company's policies in a manner -- in a manner
12 consistent with my best judgment of the evidence in front of me. And so in those cases,
13 if I found the evidence I was presented with to be lacking, I would direct my team not to
14 enforce against that activity.
15 [redacted] Can we go off the record, please.
16 [Discussion off the record.]
17 BY [redacted]
18 Q Okay. All right. We're back on the record.
19 Mr. Roth, you mentioned -- well, we spent a lot of time in the last hour talking
20 about these two Signal channels. And I'd like to introduce an email for the record.
21 If you could get me an exhibit. Thank you.
22 This is exhibit 7. It's actually an email exchange.
23 A Thank you.
24 [Roth Exhibit No. 7
25 Was marked for identification.]

1 BY [redacted]

2 Q So fair to say, Mr. Roth, that it wasn't just that you developed these

3 channels, but it was your idea to create them and to use them to begin with?

4 A That's right.

5 Q And that's reflected in this email?

6 A That's right.

7 Q And the choice of Signal as the messaging platform, that was your idea?

8 A That's right.

9 Q Okay. So it's been suggested before, at least hinted, that the choice to use

10 Signal was some sort of attempt by the FBI to hide its censorship machine from the

11 American people. Is that accurate?

12 A No, I wouldn't say so at all.

13 Q Okay.

14 A I -- I can add a little bit of color about the selection of Signal in particular.

15 Q Sure.

16 A I mean, the essential context for this is that we were trying to counteract

17 malign foreign influence campaigns, attempts by another government in their security

18 services to interfere in American elections. I can assume that just as the United States

19 has the ability to intercept communications, so do foreign intelligence services.

20 And so, when we were selecting a communication channel, it was imperative, in

21 my estimation, and in that of my colleagues, that we have a secure communication

22 channel that was end-to-end encrypted to protect against the possibility of foreign

23 intelligence services figuring out what we were doing to shut down their activity. Signal

24 is an industry-standard product. It uses audited, well-known security protocols, and in

25 my view, it was the best available option for cross-platform messaging.

1 Q And the security protocols were necessary, as you just said, to protect those
2 communications from outside malign foreign influence?
3 A That's right.
4 Q Okay.
5 A But I would say, we -- what we didn't do was have the messages disappear.
6 None of the communications, as these exhibits demonstrate, none of these
7 communications were self-destructing. They were all preserved. I was aware that in
8 the broadcast channel the FBI intended to preserve their communications, and that never
9 even entered into the conversation as something that we needed to work around,
10 something that we saw as a problem. We were doing this work in a manner that we
11 thought was above board and appropriate.
12 Q Thank you. Now, you mentioned in the previous hour that there was, I
13 believe you said, consistent interest from the Department of Justice in sharing
14 information between Department of Justice and the platforms about illegal voter
15 suppression methods that were taking place on social media platforms, correct?
16 A That's right.
17 Q And we're talking about voter suppression that constitutes Federal crimes or
18 that they believed constituted Federal crimes?
19 A That's how they represented it.
20 Q Okay. And that interest dates back to when the meetings began in 2018?
21 A I would say, potentially even prior to that. I mean, some of the more
22 recent convictions that the Department of Justice has secured for illegal voter
23 suppression date back to activity in 2016.
24 Q But their interactions with the platforms and the interest that they were
25 conveying, you recall that interest being conveyed as early, if not earlier, than 2018?

1 A That's right.

2 Q So during the Trump administration?

3 A That's right.

4 Q Okay. And on another timeline issue -- well, actually, let me just -- one

5 follow-up question. Despite the fact that the Department of Justice was interested in

6 the use of your platforms to commit actual crimes relating to voter suppression, at no

7 time were you personally ever asked to remove a tweet or an account for violation of

8 those -- of your own rules?

9 A Never.

10 Q Okay. Now, the -- shifting topics, the Department of Defense white listing

11 accounts that occurred that you learned about only after they'd been going on for some

12 time, that operation, I can't recall what it was called, the Iranian -- if you can help me out

13 with that?

14 A The Iran Disinformation Project.

15 Q The Iran -- yeah?

16 A But those were distinct.

17 Q Oh, I'm sorry.

18 A The DOD's campaign and the Iran Disinfo Project were separate efforts.

19 Q Fair enough. The DOD's campaign was -- that began with Twitter using

20 white-listed accounts from other employees at Twitter began in 2017. Does that sound

21 right?

22 A That does sound right, yes.

23 Q Now, you described a very colorful incident between a Twitter attorney and

24 somebody from ODNI that you recall regarding whether or not Twitter would provide

25 information that the Twitter attorney believed was necessary to have legal process for.

A Yes.

Q And you couldn't recall if it was in 2018 or 2019, but you do recall that it was at Twitter's headquarters?

A It was at Facebook's headquarters.

Q I'm sorry, at Facebook's headquarters.

A Yes.

Q And it was an in-person meeting?

A Yes.

Q And is it fair to say that that was pre-pandemic?

A Yes.

Q Okay. So -- so pre-March of 2020?

A That's right.

Q So it was ODNI under the Trump administration that was asking for that information?

A That's right.

BY [redacted]

Q Good afternoon, Dr. Roth. I'm [redacted] with the minority staff. I know in the last hour, we discussed a lot of different government agencies, and I just want to ask you some questions to clarify the record. We asked questions along these lines earlier today, so I apologize if they get a little bit repetitive, but I just want to make sure we have a clear record here.

So first, we talked about the Cybersecurity and Infrastructure Security Agency, CISA. Were any of Twitter's policy decisions the result of improper coercion by CISA, to your knowledge?

A Not proper, not improper, not any form of coercion or influence.

1 Q Were any of Twitter's enforcement decisions on any pieces of content or
2 accounts the result of coercion or influence by CISA?
3 A Not to the best of my knowledge or recollection.
4 Q Were any of Twitter's policy decisions the result of coercion by DOJ?
5 A Again, not to the best of my knowledge.
6 Q How about any enforcement decisions, were those the result of coercion by
7 DOJ?
8 A No.
9 Q Can you say the same thing about policy decisions not being the result of
10 coercion by the State's Global Engagement Center?
11 A Certainly.
12 Q Why do you say certainly?
13 A I would say broadly, Twitter's engagement with the State Department was
14 more limited in nature, and I don't even recall specific conversations with them about
15 individual accounts or individual pieces of content. And so, I -- I don't think there was
16 even the potentiality for them to influence policies or enforcement decisions.
17 Q And were any of Twitter's policy decisions the result of coercion by ODNI?
18 A To the best of my knowledge, no.
19 Q Were any of Twitter's enforcement decisions on pieces of content or any
20 accounts the result of coercion by ODNI?
21 A To the best of my knowledge, no.
22 Q And lastly, we talked about a non-government entity, the Center for Internet
23 Security, CIS. You're familiar with them?
24 A Yes.
25 Q Were any of Twitter's policy decisions the result of coercion from CIS?

A To the best of my knowledge, no.

Q Were any of Twitter's enforcement decisions on any pieces of content or any accounts the result of improper coercion by CIS?

A To the best of my knowledge, no.

[redacted] We can go off the record.

[redacted] We can go off the record.

[Pause.]

[redacted] Can we go back on the record, please.

[redacted] Thank you. And know that we're back on the record, I just wanted to clarify that the email exchange that was just introduced by the minority as exhibit 7 has some highlighting on it, the phrase "action items for this group." And I just wanted to clarify that this exhibit was produced with that highlight on it. It is not our work product. Thank you.

BY [redacted]

Q Thank you.

Dr. Roth, do you recall other interactions with Shelby Pierson during your time at Twitter?

A I do.

Q What was the nature of those interactions?

A I recall having dinner with Ms. Pierson and a number of other folks from platforms and from the government following an in-person meeting. I don't recall exactly when it was, but I believe it was somewhere around Menlo Park, so I assume the meeting had been somewhere there with the tech company. And I recall one, perhaps two phone calls with Ms. Pierson as she was, I believe, changing her role within the government, so she was leaving ODNI, and she called to apprise me of that change, and

1 really to exchange pleasantries.

2 Q For the dinner you mentioned, was that after a U.S. Government industry

3 meeting?

4 A Probably, but I don't -- I don't remember specifically.

5 Q Did Ms. Pierson tend to attend most of the U.S. Government industry

6 meetings that you can recall?

7 A For a time, yes. And then I believe as her role changed, and I forget exactly

8 to what, she no longer was attending those meetings.

9 Q Are you familiar with who Rob Flaherty is?

10 A No, I'm not.

11 Q Do you know who Andy Slavitt is?

12 A That name rings a bell, but I couldn't say for sure.

13 Q During your time at Twitter, did you have any interactions with the Biden

14 White House?

15 A To the best of my recollection, no.

16 Q During your time at Twitter, did you have any interactions with

17 representatives from pharmaceutical companies?

18 A Again, to the best of my recollection, no.

19 Q Do you recall having the -- any interactions with Scott Gottlieb, whether

20 when he was in government or in industry?

21 A I don't believe so, no.

22 Q We've talked extensively about Twitter's election integrity, civic integrity

23 policies. Which team was responsible for Twitter's content moderation policies for

24 content related to COVID-19?

25 A Responsibility for those policies fell under the Site Integrity team, and

1 ultimately I built out a misinformation policy team that was specifically responsible for
2 that, but the policies fell within my organization's purview.
3 Q Who was the head of the Site Integrity team in 2020?
4 A I was.
5 Q Did you eventually have a senior manager or somebody who was in charge
6 of overseeing the application of the content moderation policies as they related to
7 COVID-19-related content?
8 A I did.
9 Q And who was that?
10 A This was, again, a relatively junior employee organizationally. They were
11 not external facing. I was ultimately responsible for the policies themselves and
12 oversaw the team's work.
13 Q What would the title of that individual have been?
14 A Senior manager misinformation policy.
15 Q For the content moderation policies as they related to both the virus
16 and -- actually, let me rephrase that question. Did Twitter have any content moderation
17 policies with respect to content that concerned discussion of where the virus originated
18 from, SARS-CoV2 virus for clarity in the record?
19 A No. And I would note, this is a particular point of departure between
20 Twitter's policies and Facebook's, and something that has been publicly misrepresented.
21 Twitter never regarded claims about the virus's origins, lab leak, Wuhan, any of that as
22 being within the scope of our COVID-19 misinformation policies. We never once
23 enforced against that content.
24 Q And whose decision was that?
25 A That was mine.

1 Q Was that a decision that required consultation with Ms. Harvey or anybody
2 more senior to you?
3 A I mean, in the early days of the pandemic, we were inventing new policies.
4 The first version of Twitter's COVID-19 misinformation policy I wrote a couple of days
5 after the Twitter office closed early in the pandemic. I was sitting in my bedroom
6 writing it. We were all working from home, and it was an uncertain time.
7 And certainly, I communicated often with Ms. Harvey as my direct supervisor and
8 with Ms. Gadde about the pandemic and what our response should be. But on that
9 particular issue, there was broad consensus that it simply did not fall within the
10 parameters of what our policies were meant to do.
11 Q In an earlier hour, we discussed that one of the first times Twitter had
12 fact-checked President Trump was around May of 2020. Is that right?
13 A That's right.
14 Q In the lead-up to that decision, who from Twitter's leadership was involved
15 with the decision to add a fact-check label, take some sort of step with respect to the
16 President's account?
17 A I recall that present in some of these discussions were myself; [redacted]
18 who was the acting general counsel at the time; [redacted] who was the
19 company's vice president of communications, I'm pretty sure -- I'm pretty sure he was
20 involved. I know that was his title. And it's possible that several members of Twitter's
21 public policy team in Washington, D.C. were involved in the decision as well, but I don't
22 exactly remember who was part of the discussion.
23 Q And do you recall how long these discussions predated the ultimate decision
24 to label one of President Trump's -- excuse me, one of President Trump's tweets?
25 A I would say that we'd had broad discussions about the application of the

1 civic integrity policy through misinformation labels going back weeks, if not months.
2 We'd introduced labels as a product feature in the first part of 2020, and we had sort of
3 always planned to use those labels in the context of the civic integrity policy as well, but
4 the discussion about the specific tweets from President Trump's account that ultimately
5 were labeled happened that day. Those discussions were always happening a la minute.
6 Q Prior to January 2021, do you recall discussions of any other world leaders
7 and about whether to remove their accounts from the platform?
8 A I do.
9 Q And which world leaders?
10 A I recall particular discussions about then-President of Brazil Jair Bolsonaro.
11 Q And when did those discussions occur?
12 A I don't recall specifically.
13 Q Okay. And what decision was ultimately made?
14 A I believe his account is still active on Twitter. While Twitter enforced
15 against rules violations from his accounts on several occasions, none of them rose to the
16 level of warranting a permanent ban.
17 Q I'm going to ask a few questions about January 6th, January 7th, January 8th.
18 To your recollection, the action taken against President Trump on January 6th, was that
19 to bounce his account in the same use of the term we've used earlier?
20 A That's right.
21 Q Okay. Who made the ultimate decision to bounce President Trump's
22 account on January 6th?
23 A The decision -- the recommended action was -- I wrote the document that
24 made that recommendation, so the policy memo evaluating -- it started as one tweet,
25 then two, then ultimately three was authored by me. It was reviewed by Del Harvey,

1 who was my supervisor at the time.

2 And in fact, our initial recommendation on January the 6th was that on the basis

3 of three tweets that were ultimately bounced, Ms. Harvey and I believed that the

4 President should have been suspended that day. In particular, a tweet that he posted

5 that attacked Vice President Mike Pence we felt was a particular incitement of violence

6 and was particularly dangerous.

7 We communicated that recommendation to Ms. Gadde, who disagreed with it.

8 And it was communicated to us by her that she wanted us to rewrite our

9 recommendation to be a milder enforcement, bouncing the tweets instead, which I did.

10 That document, I believe, was then reviewed by Ms. Gadde with other members of

11 Twitter's executive team, including, I believe, Jack Dorsey. And ultimately, she then

12 communicated to me that the executive team had approved the language in my policy

13 memo.

14 Q To your recollection, how much time was there between when you first

15 prepared the memo to Ms. Gadde rejecting the initial recommendation?

16 A I don't recall. I believe broadly all of this happened within a span of a

17 couple of hours, but I'm not sure.

18 Q And on January 6, 2021, are folks in the same office? Are people working

19 from home? How are these communications occurring?

20 A We were all working remotely, and so, this was happening over chat and

21 over videoconferences.

22 Q Were you allowed to attend or listen in on any of the -- you're senior

23 leadership yourself, but the leadership senior to you, the discussions they were having

24 about how to handle --

25 A Neither Ms. Harvey nor I attended the staff meeting, i.e., the C-suite meeting

1 about those actions on the 6th.

2 Q Do you recall the development of a repeat offender system around this

3 time?

4 A I do.

5 Q And what is your recollection of when that was developed?

6 A I don't recall the specific timeline, but I know that Twitter's most -- most of

7 Twitter's policies already had a repeat offender policy where repeat violations would, you

8 know, the "three strikes you're out" thing. And Twitter's misinformation policies were

9 somewhat distinct in not having explicit repeat offender guidelines.

10 And so one of the changes Twitter made proximate to the 6th, but I don't recall

11 exactly when, was introducing a repeat offender framework whereby repeatedly posting

12 misinformation that violated the rules would result in escalating punishments, including

13 time-outs and then ultimately suspension.

14 Q Was this change in this part of the policy directly because of the steps the

15 company was taking about how to handle President Trump's account?

16 A No.

17 Q Did it predate January 6th?

18 A I don't recall, but I would say these documents are in Twitter's possession,

19 and so, I would encourage the committee to either invite a witness who currently works

20 at Twitter or request these documents from Twitter directly. They exist. I -- I wrote

21 many of them. I reviewed many of them. But I don't recall.

22 Q Regarding this change for repeat offenders as it relates to that part of the

23 misinformation policy, who within the company ultimately signed off on that change?

24 A Ultimately, I did. I discussed it with Ms. Harvey and with Ms. Gadde. I

25 believe it was potentially discussed with Mr. Dorsey and others, but ultimately, I had

1 responsibility for the company's policies at this moment.

2 Q Do you recall any discussions -- did you have any discussions with Mr. Dorsey

3 on or around January 6th?

4 A Not directly. To the best of my knowledge, Mr. Dorsey was on an island in

5 French Polynesia.

6 Q Other than -- actually, let me rephrase this -- this question. From

7 October 14th, The New York Post story, to January 6, 2021, were there any other

8 decisions that you can recall where Ms. Gadde overruled your recommendation?

9 A Could you give me the date range again?

10 Q Sure. October 14, 2020, which is the day that The New York Post story

11 comes out, to January 6, 2021, which is the line of question we just went over where

12 you --

13 A Yeah.

14 Q -- issued a recommendation.

15 A None that specifically come to mind, no. There were, obviously, a number

16 of cases where we had debates about content moderation but none of them that, in my

17 recollection, were her unilaterally overruling me.

18 Q Okay. To your recollection, who made the ultimate decisions to suspend

19 President Trump from Twitter on January 8th of 2021?

20 A The policy memo, which was published almost in its original form by Twitter

21 as a blog post, was authored by me and by Del Harvey. The decision was directly

22 approved by Ms. Gadde. It's my understanding that Ms. Gadde discussed it with

23 Twitter's C-suite, and also with Twitter's board of directors.

24 [Roth Exhibit No. 8

25 Was marked for identification.]

1 BY [redacted]

2 Q This will be exhibit 8. And similar to one of our earlier exhibits, this is the

3 committee's recreation of some of the Twitter Files reporting. We'll give you an

4 opportunity to review.

5 [Pause.]

6 A Okay.

7 [redacted] Okay.

8 BY [redacted]

9 Q Ready, counsel?

10 So again, as represented in the Twitter Files, the representation is that these

11 screen shots are from January 8th. At a high level, is that consistent with your

12 recollection?

13 A Yeah, that seems right.

14 Q Okay. There is discussion about employees are not responding well to the

15 30-minute brief. To your recollection, was there a, you know, wide staff meeting? Do

16 you recall what was, you know, happening, you know, in the middle of January 8th?

17 A Yeah. My recollection is that on the 8th or at some point around that,

18 there was an -- a meeting open to every employee at the company where Mr. Dorsey,

19 dialing in remotely, and other company executives heard employee feedback and

20 answered questions about the events of January the 6th and what the company would be

21 doing.

22 Q And to your recollection, what was the employee feedback?

23 A Not positive.

24 Q And of the different perspectives shared, what was the most common one of

25 what employees thought the company should be doing?

1 A I don't know that I could kind of characterize it in a rigorous way. I would
2 say, my impressionistic recollection was that many employees were dissatisfied that the
3 company had not banned former President Trump's account on January the 6th. But I
4 don't recall the specific conversations beyond that.
5 I would say, Twitter, especially on Slack, had an internal culture of fearless
6 communication. And many employees, in my opinion, crossed the line of what
7 appropriate conversation and feedback would be in a workplace, but people were quite
8 upset and registered their discontent with the company's actions publicly.
9 Q Do you recall profanity being used?
10 A I'm sure it was.
11 Q Did you speak up during this meeting?
12 A No, I was not a speaker at that meeting, at least to the best of my
13 recollection.
14 Q In the second screen shot on what's been marked as page 69, but, again, this
15 is a recreation of the Twitter Files, there is a message from you saying, Del is rewriting the
16 doc per requests from Jack to make it simpler.
17 Do you recall, first off, which document she's referring to -- or that you're
18 referring to that Del is talking about?
19 A Yeah. This refers to the policy analysis memo that Twitter ultimately
20 published publicly. At the time, there had been a version of the document that had
21 been written by the safety team, which Del and I then rewrote and then which Del was
22 sort of performing final edits on as there were discussions about the action that we were
23 going to take.
24 Q And for the discussions that Ms. Gadde is having with the C-suite and the
25 board of directors, to your knowledge, was Ms. Harvey -- did she also attend those

1 discussions, participate in those discussions?

2 A My understanding is she did not.

3 Q Okay. And to your understanding, was Ms. Harvey receiving everything

4 then, as far as what Mr. Dorsey or someone else would want, through Ms. Gadde?

5 A That's my understanding, yes.

[4:18 p.m.]

BY [redacted]

Q The text is, again, from The Twitter Files reporting, and it says: One hour later, Twitter announces Trump's permanent suspension.

Do you recall, at just a high level, how quick the turnaround was from when you authored -- this is, again, for clarity sake -- the memo on January 8th, to any feedback you got, to when you sent the final version, to when you ultimately -- the decision was made to suspend President Trump's account?

A It would've been within a matter of a couple of hours. But, again, Twitter has the records that could conclusively answer that question.

Q Do you know if the company notified the Trump White House first?

A My best recollection is that we had a conversation about whether to do that and decided not to.

Q To your understanding, who participated in that discussion?

A It would've been senior members of Twitter's public policy team; notably, [redacted] and [redacted]. There may have been others, but that was my recollection.

Q And did you hear this secondhand or were you part of these discussions?

A I was part of those discussions. Again, to the -- this is my recollection. It's been awhile, and that was an exceedingly stressful day. There may have also been other conversations I wasn't a part of, but I do have a memory of some discussion of providing advance notice. And even for this decision, my recollection was, no, he will receive a notice when his account is suspended.

Q Do you know who made, at least for the discussions that you're aware of, who made the ultimate decision about to not provide an advance notice?

1 A I recall it being a consensus of the assembled group and not one individual
2 making a decision.
3 Q Was Ms. Harvey part of these discussions?
4 A Probably, but I'm not sure.
5 Q What about Ms. Gadde?
6 A Almost certainly.
7 Q At the end of one of the hours, we were starting to discuss the role that
8 Apple and Google play over providing the two App Stores and the impact that can have
9 on Twitter and other, you know, similarly situated companies. And if I recall your
10 testimony correctly, you recall there was a whole subset as it related to pornography, but
11 there were two other instances that you remember; one as it related to, let's just say
12 broadly, January 6th or President Trump or that time period, and then one around the
13 time Mr. Musk acquired the company. Is that correct?
14 A That's right.
15 Q I want to pick back up with the question as it relates to the first of those two.
16 I guess one point of clarity, to your understanding, what was the concern that was
17 being communicated by Apple to Twitter?
18 A I'll say, broadly, Apple communicated publicly that they had a concern with
19 the use of social media apps to incite violence. And my recollection at the time was that
20 whether or not there were specific discussions with representatives at Twitter -- and I'm
21 not certain of that. I just don't remember -- there were enforcement actions that Apple
22 took against a number of other social media apps, including, I believe, Gab and Parler,
23 that restricted their presence on the App Store. And so my recollection was that Twitter
24 wanted to make sure that it was prepared as a company to respond adequately to
25 potential concerns about the incitement of violence and to differentiate our moderation

1 approach from that of Gab and Parler.

2 Q And what discussions do you recall internally as they relate to that?

3 A Really just about documentation, about making sure that we could explain

4 adequately that, yes, we were moderating incitement of violence, that we had the

5 appropriate policies in place, that we were enforcing those policies, and that Twitter was

6 not sort of permitting unrestricted incitement of violence the way a number of other

7 platforms were.

8 Q For the second of the two examples you provided, around the time Mr.

9 Musk acquired the company, what is your recollection of the internal company

10 discussions as it related to concerns about Apple?

11 A I was approached by a member of the team at Twitter that interfaced with

12 Apple who shared that Apple had read public reports about an increase in the presence of

13 racial slurs on the service around and following Mr. Musk's acquisition of the platform.

14 This was activity that I had been investigating and had, in fact, discussed at length with

15 Mr. Musk. And Apple reached out to express their concern about the presence of this

16 activity.

17 At the urging of a member of the team that regularly worked with Apple, I joined a

18 video conference that included representatives of the App Store team and

19 representatives from Twitter, where I explained to them Twitter's moderation policies

20 regarding hate speech. In particular, I was trying to clarify with them why the presence

21 of one particular term in the abstract on the service didn't necessarily represent a

22 violation of the Twitter rules.

23 You could imagine, for example, a slur that in the context of interactions between

24 friends wouldn't be offensive or as part of a musical lyric wouldn't be offensive. And so I

25 was explaining to representatives from Apple that if they simply searched for a slur on

1 Twitter and found that there were search results returned, that wasn't indicative of
2 violations of the Twitter rules. They had seemed to be applying a standard where if
3 there were any search results for a given term at all, that de facto was a problem. And it
4 was not Twitter's position that it was. I recall even pointing out to them that some of
5 these words were in songs on Apple Music, and they understood that. They were
6 reasonable in those conversations.
7 And at the conclusion of the discussion, they said they would share a couple of
8 examples that they had come across that seemed more problematic. I recall reviewing
9 those examples. I believe most, if not all, of them, in fact, were violations of the Twitter
10 rules, which we removed. And at that point, Apple said that the issue had been resolved
11 to their satisfaction.
12 Q How long did this meeting last?
13 A Probably 30 minutes.
14 Q Do you recall when, approximately, it occurred?
15 A I don't know.
16 Q So was it your understanding, based off what they were saying, that Apple
17 had conducted some sort of its own internal analysis of Twitter's -- of the speech being
18 used on Twitter at this time?
19 A That's right.
20 Q You referred a couple of times to the Twitter team that interfaced with
21 Apple. What was the name of that Twitter team?
22 A I don't remember. Yeah, I don't recall. I'm sorry.
23 Q Do you recall who from Twitter asked you to attend the meeting?
24 A I don't recall this individual's name. They weren't somebody that I worked
25 with closely.

1 Q Do you recall any other discussions related to this concern broadly during
2 this time at the company?
3 A As in the issue of hate speech on Twitter and its rise on the service after the
4 acquisition or about Apple specifically?
5 Q Apple specifically.
6 A The day that I resigned from Twitter, one of the last Slack messages that I
7 received before I turned off my company laptop was from an employee interfacing with
8 Apple who said that Apple had reached out to express concern about impersonation on
9 the service. This was after what I would say was the disastrous launch of Twitter Blue,
10 which let anybody pay $8 to get a blue verification checkmark. And somewhat
11 predictably, in my view, impersonators and scammers were exploiting that system to
12 mislead people, and it was resulting in significant impacts to advertisers and businesses.
13 Eli Lilly, in particular, had their stock drop significantly as a result of an impersonation
14 scheme. And Apple reached out to -- it was characterized to me as ask questions about
15 what we were doing to stop the impersonation. And I told this employee that I had just
16 resigned my job at the company and this was no longer my problem.
17 Q For these two incidents, the one in January 2021 and then this is late fall
18 2022 it sounds like, were there similar discussions or concerns with Google?
19 A I don't recall specific discussions with the Google team or this coming up
20 specifically from them. It's possible there were; I just wasn't necessarily aware of it.
21 Q To your recollection, do you know how many accounts of Members of
22 Congress have faced some sort of action taken against them?
23 A I don't. Twitter would be able to answer that question.
24 Q During your tenure, do you have a ballpark sense of how frequently that
25 would occur?

1 A Relatively infrequently, but I would be guessing.

2 Q Okay. We can introduce the exhibit if we need to, but if we don't need to,

3 we can go faster through it.

4 Are you aware of when Congressman Massie was tweeting about natural

5 immunity that Twitter took steps to prevent responses to his tweets?

6 A I don't recall that specific incident. Like, broadly, that sounds like

7 something that could have happened, but I don't recall the specific case.

8 Q As it related specifically to COVID-19, enforcement of Twitter's content

9 moderation policies as it related to COVID-19, who at the company was ultimately

10 responsible for decisions like that?

11 A Individual moderation decisions would've been made by, in some cases,

12 individual content moderators located around the world or by members of the Strategic

13 Response Team or by members of the Misinformation Policy Team. Ultimately, I was

14 responsible for the policies.

15 Q For Members of Congress, of the different folks you outlined, were there

16 certain groups where it always at least be escalated to that group or could any content

17 moderator take a step against a Member of Congress' account?

18 A Typically, there would be an escalation, and there were several steps of

19 escalation. Twitter had procedures in place where verified accounts -- pre-Twitter Blue

20 verified accounts typically couldn't be actioned by a frontline very junior content

21 moderator and would have to be escalated. And then there were standing instructions

22 that accounts of political figures that might be eligible for the public interest exception

23 should be further escalated and that Trust and Safety would need to be involved. Those

24 restrictions were not programmatically implemented at Twitter. It was just a policy.

25 And so it could possibly have happened that a member of the Strategic Response

1 Team would take action on a Member of Congress that would not have been something
2 that should have happened.
3 Q Are you aware of any instances where it did happen?
4 A None that come to mind specifically, no.
5 Q Again, this has been part of The Twitter Files reporting. Do you recall what
6 role you had when it came to Twitter's consideration of how to handle Congressman Matt
7 Gaetz' account around January 6th?
8 A I don't recall it specifically, no. I'm sure those discussions happened. I'm
9 sure I was at least aware of it, but at this point it's been a number of years, I just -- I don't
10 remember.
11 Q What about the -- and this was covered partly in the Oversight hearing as
12 well. For members that were shadow banned, does your answer change at all with
13 respect to what teams that decision should have been escalated to?
14 A The term "shadow ban" is sort of analytically imprecise, and it's not one that
15 Twitter used. And so I don't know -- I don't know that I can answer that question about
16 shadow banning. I think if there's a question about whether there were enforcement
17 decisions involving the restriction of the visibility of content in some cases, that would
18 have been a standard content moderation procedure.
19 Q Yes. So I'll rephrase the question, then, with respect to visibility filtering.
20 Taking the last part of your answer as far as what the standard procedure for it would be,
21 is it the same case that the standard procedure would be what you had answered earlier
22 for Members of Congress, where that is something that should be escalated?
23 A Typically, restricting the visibility of an account would be sort of a
24 consequence of an enforcement decision. And so the policy decision to say a given post
25 violates the rules would be something that should be escalated. And so one of the

1 consequences of that verdict would be visibility filtering. It typically wouldn't be
2 something where we would do, you know, a line item review of the consequences. It
3 was all or nothing.
4 Q Okay. Do you remember any posts for accounts of Democratic Members of
5 Congress being considered during your time at Twitter?
6 A None with any specificity. I'm sure -- to be clear, I'm certain that it
7 happened. I just don't recall any specific instance.
8 Q Do you recall the context in which it might have happened?
9 A I don't. I'm sorry.
10 My best recollection -- and, again, this is quite, quite broad and vague -- is in
11 relation to Twitter's synthetic and manipulated media policy, specifically I remember a
12 video that went somewhat viral on Twitter that purported to expose Vice President
13 Pence, you know, showing he was lifting a heavy box, but actually the box was empty, and
14 this video was purporting to expose it. The video had been doctored. And so Twitter
15 enforced its policy against a number of left-leaning accounts that were sharing that video
16 to try to mock Vice President Pence. It's possible Members of Congress were in that.
17 Certainly, members of the media were in that.
18 But that was one incident that stands out to me as Twitter's enforcement of its
19 misinformation policies against individuals on the left.
20 Q During your time at Twitter, did you have interactions with the CDC?
21 A None that I can recall.
22 Q What about the Office of the Surgeon General?
23 A None that I can recall.
24 Q Anybody with HHS broadly?
25 A None that I can recall.

1 Q Do you recall with what degree of frequency at the FITF meetings there
2 would be representatives from OGA, Other Government Agency?
3 A Again, with the caveat that sometimes we couldn't exactly tell who was on
4 the line, and especially for some of the quarterly bilateral meetings which were
5 conducted by phone call, we truly couldn't know who was on the line because the
6 conference call was managed by the FBI. I couldn't say with certainty. There were
7 certainly some instances where OGA was represented, but I don't know how often.
8 Q Did you know that Ms. Gadde was serving on CISA's Advisory MDM
9 Subcommittee in 2022?
10 A I was aware of that, yes.
11 Q Did you ever attend any of the meetings?
12 A No.
13 Q Did you have any discussions with Ms. Gadde about her time on the
14 subcommittee?
15 A She mentioned it to me at one point in one of our one-on-one meetings,
16 really just as like broad awareness, I think in the context of meeting with somebody else
17 on the committee that I was also in contact with in other settings. Like, it was a brief,
18 momentary mention of her presence on the committee.
19 Q Do you recall who the mutual contact was in that case?
20 A It was Dr. Kate Starbird.
21 Q Okay. What work had you done with Dr. Starbird during your time at
22 Twitter?
23 A I had followed with great interest Dr. Starbird's research into foreign
24 interference and disinformation and had communicated with her and with a number of
25 her students regarding foreign disinformation and the tracking of those activities across

1 social media.

2 Q At a high level as somebody engaged or was at least receiving

3 communications from the FBI, based off, again, the accounts and the posts that the FBI

4 would flag for Twitter, do you think that was a good use of the FBI's time?

5 A I think the vast majority of what the FBI shared with Twitter was absolutely a

6 good use of the agency's time. Sending information to platforms about malign foreign

7 interference was not just good, not just valuable, but essential. There were a number of

8 instances where the FBI flagged or passed on reports related to illegal voter suppression

9 that, in my estimation, as I testified to the Oversight Committee, was not a great use of

10 the FBI's time, but that represented a small proportion of our interactions with the FBI.

11 Q For that subset of interactions, why do you think that?

12 A In general, that type of content, while problematic certainly and potentially

13 illegal, it never really got that much traction across Twitter or other social media. It

14 doesn't mean it's not a problem, to be clear. But the scope of impact of the Russian troll

15 farm in 2016 was attaining millions of followers, tens of millions and hundreds of millions

16 of views on their content. And, in contrast, some of the incredibly clumsy and

17 rudimentary voter suppression schemes that we saw attained basically no traction on the

18 service at all.

19 And so when we would get reports of a tweet from an account with like five

20 followers that nobody had seen, sure, it violated our rules, but it just didn't strike me as

21 being that important in the grand scheme of things.

22 Q Do you recall if anyone from Twitter expressed that view to the FBI as it

23 relates to the subset?

24 A No, I think we were too polite to mention that.

25 Q Switching gears a bit. Do you recall any discussions with CIS or with CISA

about the development of a misinformation portal that would be run by CIS?

A I only recall one conversation I ever had with CIS directly, and it was not about anything tactical. It was about the broad idea of establishing an ISAC, sort of a formal mechanism for information sharing and collaboration in the election security space. And CIS expressed some interest in convening that, and I remember Twitter kind of demurred and the rest of the industry demurred, and nothing ever came of it.

I know CIS was engaged with the Election Integrity Project, but our primary engagement with EIP was through the Stanford Internet Observatory rather than with CIS or with the Department of Homeland Security.

Q Okay. What is your recollection of what Twitter's involvement was with the EIP?

A Twitter had, for a number of years, had a working relationship with the Stanford Internet Observatory regarding malign foreign interference. Specifically, we knew a number of the researchers there, including Alex Stamos and Renee DiResta and [redacted], and had been reading their work analyzing foreign disinformation campaigns across social media.

And so in 2018, when Twitter started to publish data sets of state-backed influence operations, we had the Stanford Internet Observatory as an early partner in our disclosure of that data, where we would give them early access to some of those data sets and they would publish reports on the basis of that. They wouldn't get any kind of special information. They would just get it a little bit sooner than everybody else.

And as -- I wouldn't even say as an extension of those engagements, but in part because we knew each other and were talking, we were approached by Alex Stamos and Renee DiResta and others about whether we would be interested in participating in the Election Integrity Partnership as a recipient of reports about misinformation that they

1 identified.

2 And from Twitter's standpoint, it was really just about having an intake channel

3 for receiving reports from the EIP. We didn't really know a lot about what the structure

4 of the EIP was, who was going to be generating those reports. There were some

5 meetings and discussions, but for us it was a very simple tactical question which was, are

6 you open to receiving these reports? And the answer was absolutely, yes. We were

7 open to receiving reports from anyone, and EIP were some of the most sophisticated and

8 experienced academic researchers studying these issues. And so it was really a

9 no-brainer to receive reports from them.

10 Q Who from Twitter was involved in the decision to work with the EIP?

11 A I made that decision.

12 Q Did you consult with anyone senior to you?

13 A I informed others, but that was a decision that I felt very comfortable making

14 independently.

15 Q To your understanding, were there any government agencies involved with

16 EIP?

17 A It was my understanding that the Department of Homeland Security was

18 engaged somewhere in the EIP process. But, truthfully, my knowledge of DHS'

19 involvement only came much later as EIP received a degree of public scrutiny. But I

20 would say, even if I'd had perfect and complete knowledge then, it wouldn't have

21 changed my decision, and it wouldn't have changed how Twitter handled those reports.

22 Q Who on Twitter was responsible for receiving the intake of the EIP reports?

23 A The reports were created through a system called Jira, which is just a

24 ticketing system. It's not a censorship tool or anything like that. And there would be

25 email notifications of tickets created in the Jira system that would go to me and probably

1 a few others on my team. I don't recall everybody who received them, but I know I did.
2 Q And for Jira, did your team use Jira -- not this --
3 A Not the EIP Jira.
4 Q -- but use Jira in other contexts?
5 A Absolutely. It was a standard project management and ticketing tool.
6 Twitter extensively used it to manage every element of our software development and
7 engineering work. And Jira was also used for project and task management by
8 operational teams, including the Strategic Response Team and my team directly.
9 Q Do you recall if Twitter played a role with the EIP in 2022?
10 A I don't recall. If it existed, I'm sure we did, but I don't recall specifically.
11 Q Okay. Are you familiar with the Virality Project?
12 A I am.
13 Q Did Twitter have some degree of participation or involvement with the
14 Virality Project?
15 A We did. We received reports from the Virality Project. I don't recall it
16 being very many. I don't recall it being especially useful, but we did receive reports.
17 Q Are you familiar with the Center for Countering Digital Hate?
18 A Only indirectly and largely in connection with Mr. Musk's lawsuit against
19 them.
20 Q Okay. Do you recall interactions during your time at tenure -- or during
21 your time at Twitter with them?
22 A Not directly. I was aware of a report that CCDH had put out about the
23 so-called Disinformation Dozen, which is a very evocatively branded list of Twitter
24 accounts that they objected to. But I was -- my team and I were more engaged with the
25 substance of the report and not with the organization that had created it. It was not

1 really that important to us.

2 Q Did you think there was merit to the substance of the report?

3 A It's a complicated question. I think CCDH's methodology, to me as a social

4 scientist, didn't seem to be as rigorous as I would have wanted it to be. Why these

5 dozen accounts? And they made some argument for how they selected them and how

6 they evaluated it. And, ultimately, like, the point of a public research process is that you

7 can have good research and bad research, and people debate it, and that's that. But it

8 was not my view that the evidence presented alongside the Disinformation Dozen was

9 especially clear or persuasive.

10 The report also conflated activity from across Twitter, Facebook, and other

11 platforms, and it criticized social media generally, which made it very hard to respond to

12 because people would be upset about the Disinformation Dozen, and most of the activity

13 was on Facebook, but Twitter would get yelled at about it.

14 And so there was some frustration about that, but, you know, ultimately, the

15 company's viewpoint, prior to Mr. Musk's acquisition, was we're not the arbiters of good

16 or bad research. People can publish all the bad research they want.

17 Q Did you -- do you recall any conversations with any industry partners

18 about -- specifically to the Disinformation Dozen -- research that CCDH was putting out?

19 A Not that I recall specifically, no. It certainly could have come up in

20 conversations, but I don't remember any specifically.

21 Q Are you familiar with Clemson's Media Forensics Hub?

22 A I am.

23 Q All right. At a high level, do you recall how frequently you would interact

24 with Clemson in this context?

25 A Sporadically. Researchers associated with Clemson had been studying

1 Russian disinformation since sort of the earliest days following the IC's disclosure in 2017
2 and, in my estimation, had a bit of a mixed record. The Twitter Files -- again, I've shared
3 some of my more colorful emails about this that I won't rehash -- but I found that the
4 researchers at Clemson sometimes were right and sometimes were wrong. But we were
5 particularly frustrated with their tendency to -- instead of sharing information with
6 Twitter first so that we could review it and discuss it with them and exchange findings,
7 they would go to the press first, and we would hear about their findings from the press,
8 or they would go to the FBI, and then we'd hear about their findings from the FBI. And
9 given their mixed track record, this could sometimes result in major negative press cycles
10 that, in Twitter's estimation, weren't supported by the evidence.
11 Q Did you ever share these frustrations with the professors at Clemson?
12 A I did.
13 Q And what was their response?
14 A They politely disagreed.
15 Q For the instances where they shared information with the press or with the
16 government, where Twitter had evidence or based off its own analysis would have
17 disagreed, when you had discussions with the press and with the government, were they
18 receptive to what you were trying to explain to them?
19 A Sometimes. And I would say more so over time. But especially in 2017
20 and '18, there was enormous distrust of large tech companies, Twitter included, and I
21 think that distrust was on -- Twitter and Facebook and Google had missed the mark on
22 preventing Russian interference in 2016, and people were right to criticize us.
23 And so I think the press were skeptical of what tech companies were saying, even
24 when we were right, and it was only by, over time, being public about our findings,
25 providing transparency that we started to earn more of their trust. And even when

1 reporters would then write about some of these more sensationalized findings, usually
2 we would see that the tenor of the coverage was a little bit more caveated and
3 circumspect than it had been in years prior.
4 Q Do you recall any press cycles in particular where someone in the company
5 senior to you came to you about concerns about the press cycle?
6 A I mean, it happened regularly. I don't recall any specifically. But, you
7 know, senior leaders in the product management organization would, you know,
8 approach me and ask questions about bots and spam and, you know, the Hamilton
9 dashboard, and all of these things that were in the news, and I spent an enormous
10 amount of time between 2017 and my departure from the company patiently answering
11 those questions.
12 Q Are there any senior leaders at Twitter that you recall in particular would be
13 concerned about the negative press cycles?
14 A I recall Twitter's former head of product, [redacted], being concerned
15 about it and asking questions.
16 Q All right. To your knowledge, did Apple ever threaten to kick Twitter off
17 the App Store during your time at Twitter?
18 A The phrase "threaten to kick off" is an interesting one. Apple never
19 threatened. They were never -- to the best of my knowledge, there was not a moment
20 where Apple or its representatives specifically said that they were going to kick Twitter
21 off or would kick Twitter off if X didn't happen. The structure of the interactions was
22 more like Twitter would submit an update of its app for review and then would hear that
23 the review team had questions. And the review process would sort of grind to a halt
24 until those questions were resolved, but it was never an open confrontation, it was never
25 a direct threat. It was, we have questions and this review is in progress,

1 euphemistically, until those questions are resolved.

2 Q And were those questions the questions we've discussed throughout the

3 interview, concerns about pornography, the ones in January 2021, and then the ones

4 around Mr. Musk's acquisition?

5 A That's right. There may have been others, but those are the ones I was

6 aware of.

7 Q Are you familiar with an entity called New Knowledge?

8 A I am.

9 Q And what is that, to the best of your understanding?

10 A I don't know exactly what their business model was, but they were, circa

11 2017 and '18, a company that was studying disinformation and reporting about it. I

12 believe they were a consultancy as well.

13 Q Did you have an awareness or knowledge of their involvement in the

14 Alabama Senate race in 2018?

15 A I did.

16 Q And how did you come to learn this information?

17 A I don't recall whether Twitter became aware of it independently and banned

18 the accounts or if it was publicly reported and then we became aware of it and banned

19 the accounts. But I remember some awareness of some number of inauthentic social

20 media accounts in connection with the Alabama race that clearly violated our rules and

21 would have been enforced against.

22 Q And what's your understanding of why New Knowledge engaged in this

23 activity?

24 A I couldn't speculate. I don't know.

25 Q To your understanding, was Renee DiResta involved?

1 A I know Ms. DiResta at some point was employed by New Knowledge in some
2 capacity. I don't know whether she had any involvement in this particular campaign. I
3 would say the timing of her employment with New Knowledge and this specific campaign,
4 like, that's a fairly straightforward to determine factual matter. I just -- I don't know
5 offhand.
6 Q All right. Other than the incident with the Alabama Senate race, do you
7 recall any other interactions that -- or know of any other interactions that Twitter had as
8 it related to New Knowledge?
9 A Yeah. I remember there being a number of cases where New Knowledge
10 would publicize findings about alleged disinformation, and Twitter sometimes agreed and
11 sometimes disagreed. I don't recall the specifics of those conflicts or disagreements
12 specifically, but I remember there were moments where we would read in the news
13 findings from New Knowledge and say like, this doesn't ring true to us.
14 Q Are you familiar with the Hamilton 68 dashboard?
15 A Extensively.
16 Q Just a high level, can you state your -- Twitter's involvement -- or not
17 involvement -- Twitter's -- any interactions as it relates to the Hamilton 68 dashboard?
18 A The dashboard was created using publicly available Twitter data using the
19 Twitter APIs. So representatives of the Alliance for Securing Democracy and the German
20 Marshall Fund registered for access for Twitter's developer APIs and were automatically
21 approved for it, and collected Twitter data to produce this dashboard. Twitter learned
22 about it when we started reading about it in the press, and it was cited authoritatively as
23 a chronicle of what Russian bots were talking about on Twitter. And it drove public
24 narratives about Russian disinformation in 2017, '18, and onwards.
25 And first, we were aware that because every time one of these stories was

1 written, which was on a near daily basis, my team had to investigate it and often push
2 back on those findings. And so, second, we tried to figure out how the dashboard had
3 been constructed. There was a list of accounts that made up the dashboard. The
4 Alliance for Securing Democracy did not disclose those accounts, and so there was a bit of
5 a tension between Twitter and ASD and GMF about what's in the dashboard. And there
6 was some interaction at some point -- I think I was in at least one call between
7 representatives of ASD and folks from Twitter, myself and Nick Pickles, to urge them to
8 disclose the list of accounts in the dashboard. They declined to do so.
9 I reverse-engineered the dashboard and identified the list of accounts, and found
10 that the dashboard included some Russian accounts and then a whole bunch of accounts
11 that were not Russian at all. And I expressed my concerns about the methodology
12 associated with this dashboard to ASD directly in no uncertain terms. And it took awhile
13 but, ultimately, they published a clarification about how the dashboard should be used
14 and then, ultimately, released a second version of it that dispensed with this list of
15 accounts and instead turned the dashboard into an account of what Russian, I believe
16 later Chinese as well, state media were discussing.
17 Q How long was it from when the Hamilton -- press reports are coming out
18 based on Hamilton's 68 work until you're able to reverse engineer and figure out the
19 accounts that are behind it?
20 A I remember it being pretty quick, a matter of weeks maybe.
21 Q And then once you, you know, share with Hamilton 68 your findings, how
22 quickly was it from that first discussion until they issued some sort of clarification?
23 A I don't believe we ever told them that we uncovered the accounts. I think
24 that only became public through The Twitter Files. And it was largely about relationship
25 management. We didn't want to burn bridges with them. Again, like, we disagreed

1 with their research and with the quality of their findings. But I didn't believe it was in
2 Twitter's interest to adopt an antagonistic posture towards researchers, and so I didn't
3 share with them that I had reverse-engineered their dashboard. I just knew it, and it
4 gave me confidence in pushing back on findings that cited Hamilton 68.
5 Q When you first pushed back, and with the understanding you hadn't
6 revealed how you knew this, what was their reaction?
7 A I don't recall specifically, but broadly I remember them defending their
8 methodology and saying that they believed these were, you know, Russian associated or
9 affiliated accounts. And, you know, they defended the legitimacy of the dashboard.
10 Q You participated in the Aspen Institute's September -- or we'll just say
11 broadly summer 2020 tabletop exercise?
12 A That's right.
13 Q Do you recall if you were part of the planning for that scenario?
14 A I don't believe I was and certainly not in any detailed way. But I think I may
15 have been in a call about whether Twitter would participate and about the broad scoping
16 of the event, but nothing about the development of the scenario.
17 Q Okay. To your understanding, who was involved in the -- or who was
18 primarily involved in the development of the scenario?
19 A My understanding is mostly it was developed by Garrett Graff and Vivian
20 Schiller of the Aspen Institute.
21 Q Do you know if anyone from the Federal Government was involved?
22 A To the best of my knowledge, no. And I don't believe anybody from the
23 Federal Government attended the tabletop scenario.
24 [redacted] Can we go off the record, please?
25 [Recess.]

1 [redacted] We can go back on the record, please.

2 BY [redacted]

3 Q In The Twitter Files, there's a reference to a Project Birmingham. Do you

4 recall what that was in reference to?

5 A You said Project Birmingham?

6 Q Yes.

7 A I don't, no.

8 Q What about a Project Hernon, H-e-r-n-o-n?

9 A No, I don't recall.

10 [redacted] I'm going to introduce another couple of screenshots from The Twitter

11 Files. We are up to exhibit 9? This will be exhibit 9.

12 [Roth Exhibit No. 9

13 Was marked for identification.]

14 [redacted] I'll give you a moment to review. Again, this has been recreated by

15 committee staff.

16 [redacted]. So on this exhibit, are there any statements that are Mr. Roth's?

17 [redacted] The statement in question doesn't have an author, but I'm going to ask

18 about his familiarity with the middle image.

19 [redacted]. The box -- which one?

20 [redacted] The box referring to the external offboarding policy, and there's a

21 second paragraph regarding internal guidance.

22 [redacted]. Okay.

23 BY [redacted]

24 Q First, at a high level, do you recognize this document or the language

25 that's -- or the screenshot, I should say, and the language in it?

1 A That's in reference to the middle box?

2 Q Yes.

3 A Broadly, but I would note that Twitter's advertising policies were managed
4 by a different team and, I would say, don't fall within the scope of content moderation as
5 I understood it or as I worked on in my time at the company. The Ads Team had their
6 own standards for what you could advertise, and often they were different and much
7 stricter than the policies that Twitter had for organic content on the surface.

8 Q During your time at Twitter, how frequently would you interact with the Ads
9 Policies Team?

10 A Regularly. I mean, at one point, my team shared a desk with them, but ads
11 were sort of their own universe at the company and were -- especially on some of these
12 issues -- "these" being foreign interference issues in 2017 and '18 -- sort of operated as an
13 independent unit.

14 Q Okay. Who is the head of the Ads Policy Team while you were at Twitter?

15 A There were a few different people, but for most of my tenure, the head of
16 Ad Policy was [redacted].

17 Q Do you recall any similar dynamics where Twitter's policies would depend on
18 whether the user had been identified by the U.S. intelligence community as part of an
19 operation?

20 A No. And I would actually say, like, I pretty stridently disagree with the
21 characterization of this language in The Twitter Files. Like, to put this message in
22 context and this policy in context, in January 2017, the intelligence community released
23 an assessment of Russian active measures. It discussed the role that Russia Today and
24 Sputnik had played in disseminating Russian Government talking points as part of an
25 election interference campaign. And in the aftermath of that, Twitter made the decision

1 to prohibit RT and Sputnik from advertising on Twitter and drafted policy language that
2 turned to intelligence community attribution as a source of evidence here.
3 But when The Twitter Files characterized this as letting the intelligence community
4 into its moderation process, I object to that in two parts. The first being, this is not
5 about moderation in any way that The Twitter Files discuss it. It's about how Twitter
6 chooses to make money, which is a bit of a different space. And then, second, this is
7 really narrowly about state-backed information operations like what we had seen in 2016
8 where the team was turning to that type of evidence.
9 Q Did you receive -- or not you, but did Twitter receive emergency disclosure
10 requests from the FBI?
11 A Yes, Twitter did.
12 Q Okay. And just at a high level, what's the nature of those requests?
13 A I'll note those requests were handled by a different division of the company
14 than mine, and so I never once handled an emergency disclosure request myself. But,
15 broadly, an EDR is a request from a law enforcement agency for the provision of data in
16 certain life-or-death situations where obtaining legal process to request that data could
17 happen too slowly to save somebody's life. So a situation like receiving a report that
18 somebody may be committing suicide.
19 In situations like that, local law enforcement might send an emergency data
20 request to Twitter requesting information about that user's account. Twitter would
21 review those EDRs. We had internal policies. There would be a group of people who
22 adjudicated the legitimacy of the request, and potentially Twitter would supply that
23 information ahead of receiving a formal subpoena or search warrant.
24 Q And which team at Twitter was responsible for handling those requests?
25 A The Legal Policy Team.

1 Q I want to return to your declaration one more time. Again, just so we're
2 clear on the record, the only instance you can recall where you were publicly trying to
3 correct the record, so to speak, was before your testimony before the Oversight hearing?
4 A I'm not sure I take your meaning of correct the record.
5 Q Okay. To clarify what you understood your declaration to mean with
6 respect to paragraph 11 in particular.
7 A I know I discussed it during the Oversight hearing, yes.
8 Q Okay. Had you discussed it publicly, other than the one interview you
9 identified and the Oversight hearing, before then?
10 A Not to the best of my recollection. And even in that interview, I don't think
11 I discussed the FEC declaration at all. I discussed the broad matter of Hunter Biden's
12 laptop in the New York Post.
13 Q Do you recall what spurred you to -- let me rephrase that.
14 Prior to testifying before the Oversight Committee, were you aware that some had
15 interpreted your declaration to mean that someone from a Federal agency had brought
16 up Hunter Biden in one of these USG/Industry meetings?
17 A Yes, I was aware of that.
18 Q And how did you become aware of that?
19 A I read press coverage of Special Agent Chan's deposition, I believe in the
20 Missouri case, but it could have been in some other case, where as part of a very lengthy
21 deposition, Mr. Chan discussed his interpretation of my FEC declaration and shared his
22 recollection of the meeting.
23 Q Did you have any discussions with Mr. Chan, other than the one personal
24 interaction you referenced, after your departure at Twitter?
25 A To the best of my recollection, no.

1 Q Okay. I think his deposition occurred after you had left Twitter. But
2 either way, do you recall any conversations with Mr. Chan regarding either his deposition
3 or your declaration?
4 A No. I think in my phone call with him I may have said, I saw your
5 deposition. Sorry you had to do that. But that was the extent of it.
6 Q To your recollection, nothing regarding the substance?
7 A Certainly not.
8 Q With respect to the USG/Industry meetings, you mentioned a few times the
9 government a lot of times would be in a conference room, it was difficult to tell who was
10 there. Would industry partners ever be similarly situated?
11 A As in multiple participants in a conference room where --
12 Q Yes.
13 A Yeah, that seems likely.
14 Q Okay. And during 2020, whether it's Webex, whatever the forum that's
15 being used, do you recall approximately how many participants were attending these
16 meetings?
17 A Still be about what I said earlier, 20 to 50, somewhere in that range.
18 Q How is it, you know, looking back now, years later, that you recall -- you're
19 not able to recall who it was but that it was an industry partner in particular? Do you
20 recall if it was one of the major social media companies like Google or Facebook?
21 A I'd be -- I feel like I'm sort of being led to an answer there. And so, like, I
22 don't remember, genuinely. Most of the time the companies that spoke in those
23 meetings were Twitter, Facebook, and Google, sometimes Microsoft, sometimes Yahoo,
24 sometimes Reddit. But primarily the meetings were Twitter, Facebook, Google.
25 It wasn't Twitter, to the best of my recollection. Could've been the others, but I

genuinely don't remember.

Q Okay. How confident are you in your recollection that it was not someone from a Federal agency?

A Quite confident.

Q All right. And to your understanding, were the rumors of -- as it related to Hunter Biden, were they ever raised in an industry-only call?

A Not that I recall specifically. I mean, coincidentally, the Aspen Institute event related to a laptop -- or a hack and leak involving Hunter Biden. So there was, I'm sure, discussion of that in various settings, but I don't -- I don't recall anything, like, specifically as opposed to about a fictional scenario.

[redacted] Can we go off the record, please?

[Discussion off the record.]

[redacted] We can go back on the record. Thanks.

BY [redacted]

Q I just have a question about something you said during the last hour. You mentioned a meeting with CIS where you discussed the possibility of an election ISAC. Am I summarizing that correctly?

A That's right.

Q Do you remember about when that meeting was?

A I would guess in 2018, but I'm not certain.

Q And you said that Twitter and other industry companies demurred. Am I saying that right?

A Yeah.

Q Could you explain what you meant by that?

A Yeah. So we were aware that there was already an ISAC focused

1 specifically on critical infrastructure related to elections and sort of voting machines and
2 things like that. And then also with an industry we had just started to build
3 information-sharing relationships between the company, so signing NDAs and legal
4 agreements to allow us to talk to each other in a safer way. And so we felt -- I felt and
5 my understanding is that my colleagues at other companies agreed that trying to
6 institutionalize this through something like an ISAC would be adding a lot of scaffolding
7 and a lot of bureaucracy around a relatively new process that we were all kind of figuring
8 out together. And so it felt to me like formalizing something that wasn't ready to be
9 formalized.
10 Q So when you said you demurred, you weren't talking about from the Election
11 Integrity-ISAC; it was a idea for a new one?
12 A That's right.
13 Q So Twitter did not have any objection to the formation of the EI-ISAC?
14 A We didn't have any role in it whatsoever.
15 BY [redacted]
16 Q You spoke during the last hour about the suspension of former President
17 Trump from Twitter. He was suspended because he violated Twitter's policies against
18 incitement to violence, correct?
19 A Yes. The exact policy is glorification of violence, of which incitement is a
20 subset. But, yes, that was the basis of the suspension.
21 Q He was not suspended based on your political beliefs or affiliations?
22 A Certainly not.
23 Q And the memo that you wrote explaining the policy analysis, it's my
24 understanding you wrote the memo, and then Ms. Gadde analyzed it, and then the
25 ultimate decision was made by members of the C-suite, perhaps a consultation with Mr.

1 Dorsey?

2 A For the suspension of Mr. Trump?

3 Q Correct.

4 A Yes, that's my understanding.

5 Q So Ms. Gadde could have overruled you?

6 A Yes.

7 Q As she had before?

8 A Yes.

9 Q And the C-suite could have overruled you and her?

10 A Yes.

11 Q And Mr. Dorsey could have overruled all of you?

12 A And the board of directors could have overruled everyone, yes.

13 Q And everybody was in agreement about that?

14 A I don't know whether there was sort of universal consensus, but certainly

15 there was not dissent to the point where anybody pushed back on the decision.

16 Q And you were not made aware of any dissent?

17 A I was not. I was aware of unease certainly, and I felt unease. Like,

18 banning a sitting President, even in the aftermath of the 6th, is not an easy decision. It's

19 a terrifying amount of power for a tech company to have. I felt uncomfortable with

20 making that decision then. I feel uncomfortable with it now. But I wasn't aware of

21 dissent about that decision; just everyone wrestling with the gravity of the decision that

22 we had to make that day.

23 Q And what you're saying is it's not a decision that you took at all lightly?

24 A Certainly not.

25 Q And you analyzed it from all angles?

A To the best of our ability.

Q And you determined that that was the safest course for Twitter?

A Not just for the company, but for the country, right. My concern that day and that of Ms. Harvey and Ms. Gadde was avoiding a resurgence of violence the way that we had seen on the 6th. By the time there was violence in the Capitol on the 6th, there was not much that Twitter could do. The organization of that activity, it happened on other platforms. And on the 6th, it wasn't like people were inciting each other. They were already in the Capitol. And so my concern was how to prevent that type of violence from ever happening again and certainly from happening days after the insurrection in the Capitol.

Q And you and others at Twitter determined that banning the former President was the only way to avoid it?

A On the basis of his continued use of Twitter to share inflammatory rhetoric and the way that his posts were received by many of his supporters, yes, we felt that was the only responsible course of action.

[redacted] Okay. Thank you.

We can go off the record.

[redacted] Can I just ask one last followup to that? Are we on the record still?

BY [redacted]

Q You said that based on what you saw at that time, that was your decision to suspend him from Twitter to avoid this incitement to violence happening in the future, right?

A That's right.

Q Was it specifically the tweet about the Vice President, or was there just more

1 context that you wanted to explain?

2 A My belief on the 6th was that the tweet about the Vice President was a

3 particularly extreme example of directing violence towards one individual, in fact,

4 towards his own Vice President and that, in my estimation, that warranted a ban.

5 On January the 8th, the reasoning was a little bit different. On the 8th, the

6 President's rhetoric was about inauguration and about not attending inauguration. And

7 then his second tweet that day was about his supporters having a prominent voice long

8 into the future, or something along those lines, and that language we observed was

9 received by his supporters as a call to violence. We observed discussions happening in

10 various online forums off Twitter where that language was being cited by people as

11 evidence that President Trump would have their back, that he would pardon them if they

12 committed acts of criminality or violence, and that they should continue to carry out acts

13 of violence on his behalf. And we felt that that rhetoric was too dangerous to leave up

14 on the platform.

15 Q So it wasn't the tweet itself. It was the interaction between that tweet and

16 what you were seeing on the platform in terms of other people actually reacting to it in a

17 way that it seemed like it foretold some more violence?

18 A That's right. It was about the way that the tweet landed in the world and

19 the way that it was being interpreted and received.

[5:20 p.m.]

BY [redacted]

Q And you said just a few minutes ago that you had some concern that this was a grave decision to remove the sitting President from the platform because that suggested some awesome power on the part of Twitter.

Fair to say?

A That's right.

Q Would it also suggest some pretty frightening power on the part of the President if he were permitted to incite violence and treated unlike any other person, allowed to produce more violence, without Twitter stopping the use of its platform for that purpose?

A Yeah, certainly. I would say that, as the President of the United States and as somebody with an outsized media and reach, I don't think Mr. Trump needs Twitter to incite violence and reach mass audiences. Like that happens independently.

And part of the discussion that we had was that, while banning Mr. Trump from Twitter was a terrifying and enormously consequential decision, we did so with the recognition that, you know, if there was an emergency and the Commander in Chief needed to address the American public, he could do so, and every network would carry it live from the White House in real time.

So, we felt that Twitter as a company and as a platform didn't want to be complicit in the incitement of violence, and that we could do so responsibly without inhibiting the ability of the Commander in Chief to do his job.

Q And it sounds like you went out of your way at Twitter to allow Mr. Trump to remain on the platform, despite violations that, if anyone else had committed them on Twitter, they would have been removed.

1 Fair to say?

2 A I think the company wrestled with the enormity of that decision. I know
3 that former members of Twitter staff have characterized it as the company going out of
4 its way. I wouldn't fully agree with that characterization.

5 I would say these are hard decisions, and particularly the company wrestled with
6 this question of the public interest. We talked a lot about, What is the worst thing that
7 can happen to an elected official if they post something horrible on social media? And
8 the discussion that was the worst thing that happens is that they lose an election and get
9 booted out of office.

10 And so, when we thought about what Twitter's role was there, we felt that there
11 was an important public interest in making speech from elected officials available to
12 voters and to their constituents.

13 But there were limits to that. And on January the 6th and on January the 8th, we
14 encountered directly what the limits of that public interest approach were, even for a
15 sitting President.

16 And with 2020 hindsight, you know, I wish Twitter had listened to me on the 6th
17 and had banned the President that day. But it was an enormously challenging decision
18 with no precedent and no clearly right answer, and I believe the company did its best to
19 balance many competing factors in that moment.

20 [redacted] Thank you for that.

21 [redacted] We can go off the record.

22 [Discussion off the record.]

23 [redacted] Can we go back on the record, please?

24 BY [redacted]

25 Q Dr. Roth, we were talking in a couple of the earlier hours actually about the

1 power that Google and Apple can have over Twitter, but anybody who has to rely on the
2 app store, the equivalent.
3 Did you have any discussions with senior leadership of the company during your
4 time at Twitter about the power that advertisers had over Twitter?
5 A I wouldn't say in those terms but it was certainly widely recognized that
6 advertisers were an influence on the company's decisions and had power to shape the
7 company's policies. And I wrote about that in my op-ed in The New York Times.
8 Q Do you recall any particular time periods during your time at Twitter where
9 either you heard directly from advertisers or there was a concern within the company
10 that there would be pressure from advertisers regarding the company's actions?
11 A I mean, the pressure was omnipresent, and I think is just a reality of what
12 ad-supported platforms deal with.
13 But in -- I don't remember the exact dates. I want to say somewhere in the
14 window of 2018 to 2022 there was a campaign called Stop Hate for Profit which was a
15 coalition of advertisers that criticized tech companies for inaction against hateful and
16 violent content on the service.
17 Twitter met with representatives of that coalition on a number of occasions. I
18 believe I was in at least some of those meetings. And we heard their feedback and their
19 criticisms of the company's moderation approach. Sometimes we changed our
20 approach. Sometimes we didn't. But there was an ongoing dialogue between that
21 coalition and others and the company.
22 Q Do you recall any internal discussions with leadership in the company more
23 senior than you about this issue?
24 A The structure of that question threw me off a little bit.
25 Q Yeah.

A Could you ask it a different way?

Q Sure. Sure. Whether specific to this particular campaign or just generally this issue and concern of, you know, advertisers wanting the company to either make another change or the company's concern that advertisers may want the company to make a change, do you recall any internal discussions at Twitter with senior leadership?

A Yes, frequently. This was -- this was a very regular subject of discussion.

Q And when you had these types of discussions with senior leadership, who would they be with?

A Typically involved in those conversations would be myself, Del Harvey, other individuals from Trust and Safety, Vijaya Gadde.

And then representatives of the Twitter ad sales team, it could have been somebody like [redacted] who was the head of the ad sales team for a period of time at the company. There were a number of others who were involved.

And for some of the more prominent ad agencies or, you know, I think Fortune 10 or Fortune 50 companies that advertised on Twitter, their sales representatives might have been involved in those discussions, as well.

And my understanding is that at least some of those conversations, I can't recall specifics, but broadly I recall that some of those happened at staff meetings which others would be invited to so with some or all of the C-Suite present.

Q Uh-huh. Did you ever attend staff meetings? Were you ever invited to present at them or --

A At a number of occasions, yes.

Q Just at a ballpark level, do you know how frequently?

A A handful of times a year.

[redacted] Okay. Can we go off the record, please?

1 [Whereupon, at 5:27 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

Transcribed Interview Transcript Errata Form

Interviewee	Yoel Roth
Date of Interview	Nov. 1, 2023
Date of Review	June 18, 2024
Name of Reviewer	[redacted]
Signature of Reviewer	[redacted]

Page	Line	Suggested Correction
25	6	"nose notes" - should be just "notes"
48	23	"that that" - check/verify double wording
111	18	"hid hid" - verify double wording

Transcribed Interview Transcript Errata Form

Interviewee	YOEL ROTH
Date of Interview	11/1/2023
Date of Review	7/18/2024
Name of Reviewer	[redacted]
Signature of Reviewer	[redacted]

Page	Line	Suggested Correction
25	6	change "nose" to "those"
26	15	change "possible" to "possibility"

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: [redacted]

Thursday, November 2, 2023

Washington, D.C.

The interview in the above matter was held in room 2237, Rayburn House Office Building, commencing at 10:01 a.m.

1 Appearances:

2

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted] RESEARCH ASSISTANT

8 [redacted] SENIOR STAFF

9 [redacted] DIGITAL DIRECTOR

10 [redacted] DIGITAL ASSISTANT

11 [redacted] DIGITAL ASSISTANT

12 [redacted] COUNSEL

13 [redacted] MINORITY CHIEF OVERSIGHT COUNSEL

14 [redacted] MINORITY OVERSIGHT COUNSEL

15 [redacted] MINORITY PROFESSIONAL STAFF MEMBER

16

17 For [redacted]:

18

19 JAMES FLOOD

20 KELSEY CLINTON

21 Crowell and Moring LLP

22 1001 Pennsylvania Avenue NW

23 Washington, D.C. 20004

24

25

1 [redacted] Can we go on the record, please?

2 [redacted] The clock reads 10:01.

3 This is a transcribed interview of [redacted]. Chairman Jordan has requested

4 this interview as part of the committee's investigation of how and the extent to which the

5 executive branch has coerced and colluded with companies and other intermediaries to

6 censor speech.

7 Would the witness please state your name for the record?

8 [redacted] [redacted].

9 [redacted] On behalf of the committee, I want to thank you for appearing here

10 today to answer our questions. The chairman also appreciates your willingness to

11 appear voluntarily.

12 My name is [redacted] and I'm with Chairman Jordan's staff. I'll now have

13 everyone else from the committee who is here in the room introduce themselves as well.

14 [redacted] [redacted] Chairman Jordan's staff.

15 [redacted] [redacted] with Ranking Member Nadler's staff.

16 [redacted] [redacted] with Ranking Member Nadler's staff.

17 [redacted] [redacted] with Ranking Member Nadler's staff.

18 [redacted] [redacted] with Chairman Jordan's staff.

19 [redacted] I'd like to now go over the ground rules and guidelines that we'll

20 follow during today's interview. Our questioning will proceed in rounds. The majority

21 will ask questions first for 1 hour, and then the minority will have an opportunity to ask

22 questions for an equal period of time if they choose. We will alternate back and forth

23 until there are no more questions, and the interview is over. Typically we take a short

24 break at the end of each hour, but if you would like to take a break apart from that,

25 please just let us know.

1 As you can see, there's an official court reporter taking down everything we say to
2 make a written record, so we ask that you give verbal responses to all questions.
3 Do you understand that?
4 [redacted] I do.
5 [redacted] So the court reporter can take down a clear record, we will do our
6 best to limit the number of people directing questions at you during any given hour to
7 just those people on the staff whose turn it is.
8 Please try and speak clearly so the court reporter can understand and so the folks
9 down at the end of the table can hear you. It is important that we don't talk over one
10 another or interrupt each other if we can help it, and that goes for everybody present at
11 today's interview.
12 We encourage witnesses who appear before the committee to freely consult with
13 counsel if they so choose. And it is my understanding that you are appearing today with
14 personal counsel. Is that correct?
15 [redacted] That's correct.
16 [redacted] Could counsel please state your name for the record.
17 Mr. Flood. James D. Flood, F-l-o-o-d, and I go by Jim.
18 [redacted] Thank you.
19 Ms. Clinton. Kelsey Clinton.
20 [redacted] We want you to answer our questions in the most complete and
21 truthful manner as possible so we will take our time. If you have any questions or if you
22 don't understand one of our questions, please just let us know. Our questions will cover
23 a wide range of topics, so, if you need clarification at any point, just say so. If you
24 honestly don't know the answer to a question or do not remember, it is best not to guess.
25 Please just give us your best recollection, and it is okay to tell us if you learned that

information from someone else. Just indicate how you came to know that information. And, if there are things you don't know or can't remember, just say so. And please inform who, to the best of your knowledge, might be able to provide a more complete answer to our question.

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

Do you understand that?

[redacted] I understand.

[redacted] This also applies to questions posed by congressional staff in an interview.

Do you understand this?

[redacted] I understand.

[redacted] Witnesses that knowingly provide false testimony could be subject to criminal prosecution for perjury or for making false statements under 18, U.S.C., section 1001.

Do you understand this?

[redacted] I do.

[redacted] Is there any reason you are unable to provide truthful answers to today's questions?

[redacted] There is not.

[redacted] Finally, I would like to make note that the content of what we discuss here today is confidential. We ask that you not speak about what we discuss in this interview to any outside individuals to preserve the integrity of our investigation. For the same reason, the marked exhibits that we will use today will remain with the court reporter so that they can go in the official transcript, and any copies of those exhibits will

be returned to us when we wrap up.

All right. That's the end of my preamble.

Is there anything that my colleagues from the minority would like to add?

Ms. [redacted] We just thank the witness for being here today.

[redacted] Counsel, I understand you have --

Mr. Flood. I do.

For the record, Jim Flood for Aaron Wilson. I would like to make an objection for the record.

We made the request to Chairman Jordan's office before this interview that it be transcribed but not videotaped. We object to the videotaping of the interview, and I want to state and put the objection on the record.

Thank you.

[redacted] The clock now reads 10:05. We will start the first hour of questioning.

EXAMINATION

BY [redacted]

Q Could you state your full name again, please?

A [redacted].

Q And what is your current place of employment?

A A company called Enhanced Voting.

Q What is your current title?

A President.

Q How long have you worked in that role?

A I started Enhanced Voting in 2013.

Q And have you been president since 2013?

1 A Yes, president and founder.

2 Q And what is Enhanced Voting?

3 A Enhanced Voting is an election technology company.

4 Q Beginning with college, what is your educational background?

5 A My undergrad -- I have an undergrad in computer engineering from Florida

6 State University, and I have a master's in software engineering from the University of

7 North Florida.

8 Q Starting with after undergrad, what is your professional background?

9 A After undergrad -- well, during undergrad, I worked for the Florida Division

10 of Elections. Once I graduated, shortly after graduating, I went to work for a company

11 called Lockheed Martin. I was with Lockheed Martin for a year or so.

12 And then I went to work for Scytl, S-c-y-t-l. It's also an election technology

13 company. I worked for them for a little under 2 years.

14 And I went to work for a company called Greenshades Software. They're an HR

15 and payroll software company. I worked at Greenshades until 2017 when I went to

16 work for Clear Ballot Group. Clear Ballot is an election technology company.

17 From Clear Ballot I went to the Center for Internet Security in 2019. And then, in

18 2021, I left Center for Internet Security and worked full time for Enhanced Voting.

19 Q From 2013 to 2021, what was the nature of your role with Enhanced Voting?

20 A It was a part-time company that I maintained.

21 Q It's your company?

22 A It's my company, yes.

23 Q Understood.

24 Do you recall when in 2019 you joined CIS?

25 A I believe it was spring, early in the year.

1 Q And what was the title of your first position at CIS?

2 A Senior director of election security.

3 Q And what were your responsibilities as part of that role?

4 A My main job was to create election security best practices for use by election

5 officials and technology providers in the election administration space.

6 Q Who did you report to in this role?

7 A [redacted].

8 Q Did you manage a team?

9 A I did not have any direct reports.

10 Q Were you part of a team that reported to [redacted]

11 A Yes.

12 Q And how big was that team?

13 A I believe we started with two other members, and I think we grew to three,

14 maybe four by the time I left. The exact number I'm not sure.

15 Q Around the time you left, who were those four people?

16 A [redacted] -- there was some turnover while I was there, so give me a

17 moment.

18 I do not recall the names of the others, yeah.

19 Q From spring 2019 to 2021, did your title or role change at CIS?

20 A My title did not change. It was a very project-based role, so projects did

21 change over time.

22 Q Okay. At a high level, what types of projects did you work on during your

23 time at CIS?

24 A Right. So predominantly best practice generation. CIS had industry

25 cybersecurity best practices that we -- our primary role was to adapt those for use in the

1 election space and given sort of nuances of the election space. And so we put out -- I
2 think probably the biggest product is what we called it -- was the election security best
3 practices for nonvoting election technology. That was a few hundred page, you know,
4 document on security best practices for nonvoting election technology.
5 We also put out a guide for procurement guidance for State and local
6 governments, what kind of security questions should you ask technology providers to
7 evaluate their security. I can't remember the exact title of that document, but it was
8 procurement best practices, something along those lines.
9 We also developed while I was there more of a process, so it wasn't best
10 practices -- it was best practices in terms of testing. So how do you test election
11 technology? What's the best way to test the security of election technology? We
12 ended up coming up with a proposal called Rapid Architecture- Based Election
13 Technology Verification, or RABET-V, R-A-B-E-T-V.
14 And then, in addition to those sort of best practice related items, I also worked on
15 misinformation reporting.
16 Q Can you provide an example of a nonvoting election technology?
17 A An electronic poll book.
18 Q Okay. For -- not including CIS, but any of the places you were employed
19 previously, did you have any interactions with the National Protection and Programs
20 Directorate or with the Cybersecurity and Infrastructure Security Agency?
21 A Yes. When I was with Clear Ballot Group, I was a member of the Sector
22 Coordinating Council, which has a relationship to those entities you mentioned. The
23 Sector Coordinating Council is a council made up of technology providers. I was the
24 representative on that council from the Clear Ballot Group.
25 Q Do you recall any other interactions with NPPD or CISA prior to your

1 employment at CIS?

2 A All of my interactions would have been as a part of that role. There may

3 have been discrete interactions. I don't recall, but it would have been a part of that

4 role.

5 Q You mentioned misinformation in a couple of responses earlier. Are you

6 familiar with the terms "misinformation," "disinformation," and "malinformation"?

7 A "Malinformation" was not one that was used very commonly in my time at

8 CIS. The other two were used more commonly.

9 Q And, during your time at CIS, what was the most common understanding of

10 "misinformation" and "disinformation" and the difference between those two terms?

11 A The difference was, as I recall, a matter of intent. Whether the information

12 was simply incorrect would be misinformation. Whether it was intentionally incorrect

13 with the intent to mislead people would be disinformation.

14 Q Okay. Do you recall hearing the term "malinformation" used when in

15 discussions with other people in this space?

16 A Only after my time at CIS did I come across that term. I remember

17 specifically I believe there was some guidance issued around how election officials can

18 combat that, use that phrase. And I remember it being a new phrase.

19 Q Uh-huh. Do you recall who that guidance was from?

20 A There was a document produced by the Government Coordinating Council,

21 which is the companion to the Sector Coordinating Council. They had a special working

22 group on misinformation. I believe it was a joint working group -- I'm not sure -- that

23 produced that guidance. And I was not a part of that.

24 Q In the context of that guidance or just more generally, what's your

25 understanding of the most common definition of "malinformation"?

1 A I really -- I don't know.

2 Q And then, just a point of clarity, so when you left CIS in 2021 and you started

3 to work full time for Enhanced Voting, there was no other employment in between there?

4 A There was a contract we were on that was in election -- it was in education

5 technology or education space, and I was not an employee. I was not a W-2 employee.

6 But my LinkedIn file does mention it, so I'll mention it here.

7 Q And, just for the record, what company was that?

8 A It changed names, but Vias was the name, I believe, that we used most. I

9 was the chief technology officer for it.

10 Q Had you had interactions with CIS prior to either applying for your job or

11 being recruited for the job?

12 A CIS has a best practice called the CIS controls. It's an internationally

13 recognized set of best practices. It was one that I happened to use when I was

14 employed at Greenshades. I did not while using it have any interaction with CIS.

15 That's just where I became familiar with the organization.

16 Q Do you recall when in 2021 you left CIS?

17 A April.

18 Q In an earlier response when you were going through some of the projects

19 that you worked on during your time at CIS, you mentioned that at least some them were

20 related to misinformation. Do you recall which projects related to misinformation?

21 A There was only one project. It was related to misinformation reporting:

22 How do election officials report misinformation to the social media companies?

23 Specifically that was the main thrust of the project.

24 Q Do you recall when you worked on that project?

25 A Most of 2020. And I was not full time on the project. We balanced all of

1 these projects. A lot of them overlapped, but I believe we started in that one in 2020,
2 perhaps the beginning of 2019.
3 Q Do you recall who else at CIS worked on this project?
4 A [redacted] had a significant role. We briefed and kept in communication
5 the CEO, John Gilligan. And, as it got closer to the election, we involved other members.
6 Ben Spear, the director of the EI-ISAC, was one of those.
7 Q And, just for the record, what is the EI-ISAC?
8 A The EI-ISAC is the Election Infrastructure, which is the E and the I,
9 Information Sharing and Analysis Center, which is the ISAC.
10 Q Do you know when the EI-ISAC was established?
11 A I do not.
12 Q You mentioned Mr. Spear was responsible at CIS for working with the
13 EI-ISAC?
14 A Yes. He was the director of the EI-ISAC, or a similar title.
15 Q Did you work with the EI-ISAC at all during your time at CIS?
16 A We were in two different parts of the organization. The EI-ISAC was a
17 separate part of the organization, and we interacted because we both dealt with election
18 technology, election-related matters.
19 Q Did you have any interactions with the EI-ISAC prior to your time at CIS?
20 A Not that I can recall.
21 Q What was [redacted] title in 2020?
22 A I don't recall the specific title.
23 Q In the hierarchy of CIS, was he roughly at your level? Was he senior to you,
24 junior to you?
25 A [redacted] had a -- [redacted] was actually a contractor. His placement in the org

1 chart was not -- there was no specific location. In a lot of ways he helped me, so a lot of
2 times he reported to me in a sense, but he also helped others within the organization.
3 He was a man of many talents and could contribute in many areas, and so he did.
4 Q To the extent you have an understanding of this, are employees of the
5 EI-ISAC considered distinct from employees of CIS?
6 A I can't speak to that, no.
7 Q To your understanding, the folks who work on the EI-ISAC, are they all in one
8 way or another affiliated with CIS?
9 A Yes, I believe so.
10 Q For Ben Spear, did he manage a team at CIS? Do you know how many folks
11 were working on the EI-ISAC?
12 A He had direct reports. I do not know how many.
13 Q Do you know where CIS gets its funding?
14 A No.
15 Q Do you know where the EI-ISAC receives its funding?
16 A No.
17 Q Have you had -- first off, are you familiar with the MS-ISAC?
18 A Yes.
19 Q What is that?
20 A That is the Multi-State Information Sharing and Analysis Center.
21 Q Prior to your time at CIS, did you have any interactions or involvement with
22 the MS-ISAC?
23 A No.
24 Q Do individuals from CIS work on the MS-ISAC similar to how they work on
25 the EI-ISAC?

1 A Yes. There's a sharing of resources there.

2 Q And is it the same team at CIS responsible for both ISACs or is there another

3 team?

4 A There's an overlap of the Venn diagram probably that I can't really speak to

5 the specific nature of. But there are roles that, you know, support both organizations,

6 and there are roles that are unique.

7 Q As part of your role at CIS, did you have any involvement or interactions with

8 the MS-ISAC?

9 A I would be on calls where they were on. I did not have any formal role

10 within the MS-ISAC.

11 Q What about the EI-ISAC, would you be on calls for that as well?

12 A We would -- I remember we had a regular call -- I can't remember the

13 frequency -- that -- where both the EI-ISAC and the best practices -- CIS is basically

14 structured you have a best practice side and you have kind of an ISAC side. And, for the

15 most part, those two organizations don't interact, but in the elections space, because we

16 had someone, myself, responsible for security best practices for elections and you had

17 the EI-ISAC, we would have a -- I believe it was monthly, but it may not have been

18 monthly -- call where we all got together and reported out status on what we were doing.

19 And, before I left, there was a restructuring where they put a vice president over

20 elections in general, and I did shift from reporting to [redacted] to reporting to that vice

21 president under the same organization, but -- not underneath the EI-ISAC, but in the

22 same organization as the EI-ISAC.

23 Q And who was that vice president?

24 A His first name was [redacted] and I'm not going to accurately remember his last

25 name. It was a brief time.

1 Q Do you know who [redacted] --

2 A I do.

3 Q Am I saying his last name correctly?

4 A [redacted] is how I would have pronounced it.

5 Q [redacted]. And what was the -- or how do you know [redacted]?

6 A He did work for CIS. He was based in the D.C. area, and I would come to

7 D.C. from time to time to meet with other CIS staff here in the D.C. area, and he would be

8 there.

9 Q Where were you based at this time?

10 A I worked remotely from Jacksonville, Florida.

11 Q And what was his roles or responsibilities at CIS?

12 A I can't speak to that exactly. He was a connector. He would connect us

13 with different members of the government. So my, probably inaccurate, understanding

14 is some government relations role.

15 Q And, to your understanding, did he used to work in the government?

16 A I don't know.

17 Q Do you know who Matt Masterson is?

18 A Yes.

19 Q And how do you know Mr. Masterson?

20 A First met Matt Masterson as a part of my role with the Florida Division of

21 Elections or as I was coming out of that role in the late 2000 -- to 2010. At the time he

22 worked for the Election Assistance Commission. And I met him and have interacted

23 with him from time to time ever since.

24 Q Did you work with him during -- while he was employed by CISA?

25 A Yes.

1 Q And what was the nature of your interactions?
2 A We probably had interactions on a variety of fronts, but I do remember
3 interacting with him on the misinformation reporting project.
4 Q Are you familiar with Brian Scully?
5 A Yes.
6 Q How do you know Mr. Scully?
7 A Mr. Scully worked for the Cyber and Infrastructure Security Agency, and he
8 was our main point of contact there when it came to misinformation reporting.
9 Q Prior to joining CIS, did you know Mr. Scully?
10 A I did not.
11 Q To your understanding, what was Mr. Scully's role at CISA during the time
12 you were interacting with him?
13 A There was a group, I believe they went by the name Countering Foreign
14 Intelligence Task Force, and he headed up that group.
15 Q To your understanding, what were the responsibilities of that group?
16 A I knew they had connections with the social media companies. I do not
17 know their other responsibilities other than what I could infer by the name.
18 Q Do you know Geoff Hale?
19 A Yes.
20 Q And how do you know Mr. Hale?
21 A Mr. Hale works at the Cyber and Infrastructure Security Agency. He
22 presented as just a connection point with the agency and election officials and election
23 vendors.
24 Q Among Mr. Hale, Mr. Scully, Mr. Masterson, who did you interact with most
25 frequently as it relates to the misinformation reporting?

1 A Mr. Scully.

2 Q Do you know Chris Krebs?

3 A I do not know him. I know of him.

4 Q What was the misinformation reporting project that you and CIS were

5 working on?

6 A We had come across a need that was presented to us by election officials

7 who we worked closely with throughout -- all the projects I mentioned were all

8 collaborative with election officials and vendors and others in the election administration

9 space. We had come across a need that they had had a hard time reporting

10 misinformation to the social media companies. Some of those needs had -- you know,

11 were a scaling need; you know, how do we handle it if this grows? Some of them were

12 just practical needs. So we felt like we could assist in that area given the role that CIS

13 played with cybersecurity matters, so we took that on.

14 Q And do you recall when you first started hearing the concerns from -- it

15 sounded like State and local election officials?

16 A Uh-huh. It would have been in 2019. I would not have heard about it

17 prior to my time at CIS, so sometime during the 2019 year.

18 Q Was the project as it relates to misinformation reporting, had that project

19 started before you joined CIS?

20 A No.

21 Q Did you or anyone at CIS consult with members of CISA when first

22 considering this misinformation reporting project?

23 A I don't know if I would use the word "consult." There were two -- the role

24 that we were asked to play by election officials was as a communication hub and basically

25 transferring information they shared with us with social media companies. We had the

1 communications with election officials. We knew how that would work. We did not
2 know how to communicate with social media companies.
3 At some point we became aware that CISA had some relationships there that they
4 could make introductions and assist with that piece of the communication flow, and so
5 we did involve them. And, as I mentioned, we had interactions with Mr. Scully and Mr.
6 Masterson.
7 Q Are you familiar with the term "switchboarding"?
8 A Not as it relates to misinformation, only as it relates to networks.
9 Q To your understanding, did CISA have any involvement prior to -- let's say
10 prior to 2020, with facilitating misinformation reports from State and local officials to
11 social media companies?
12 A Not that I'm aware of.
13 Q For the concerns that were being raised by State and local officials, were
14 they being raised directly to you? Are you meeting directly with them, or are these
15 concerns you're hearing through an intermediary?
16 A Both. We had constant communication with election officials, either
17 relationships that I had going back, other positions or in some of the reports and best
18 practices that we were developing, but we also heard from -- I believe who you would be
19 considering an intermediary would be, like, the National Association of State Election
20 Directors, National Association of Secretaries of State, we heard from that -- from those
21 folks as well that their members had this need.
22 Q Do you recall when you first raised the idea of having some sort of
23 misinformation reporting project to either your superiors or whoever you were reporting
24 to at CIS?
25 A I don't remember the exact date. I remember the reasoning for it.

1 We -- on the best practices side, which I led, we received funding from the Democracy
2 Fund, which is a philanthropic organization that had funded previous projects in best
3 practices at CIS. We were working with them to discuss projects that we could do
4 around the 2020 election, and this was a project that we presented to them. We also
5 presented the other -- all of the other projects I mentioned to you had funding also from
6 the Democracy Fund. I believe we were trying to figure out three projects, and this was
7 one of the three.
8 Q Three projects related to misinformation reporting or just three projects?
9 A Just three projects. The other two were not related to misinformation.
10 Q And, as it relates to the misinformation reporting project, what was
11 the -- how did the misinformation reporting look?
12 A The initial concept was a technology platform to allow the election official to
13 report the -- or -- yeah, to report the sample of misinformation from the social media
14 wherever they discovered it, report that into this portal. The concept was they would
15 report it one time there, and then the portal could communicate out to any of the social
16 media platforms that were appropriate from just that one point of contact.
17 That was one of the big needs that election officials wanted was they had many,
18 many things to manage. They wanted a quick way to report it, and then that would get
19 to who it needs to get to at the social media companies for response.
20 Q And CIS' responsibility would be the entity managing the portal?
21 A Right. The initial -- and it did change over time, but the initial plan was that
22 we would use the funding from the Democracy Fund to build the portal. We would act
23 as system administrators, if you will, just to maintain the portal, let all of the information
24 flow through the portal and, you know, help with things like, you know, just general
25 technical support, password resets, those types of things.

1 Q How did the concept change over time?

2 A Well, so the whole concept was a matter of connecting two different sides to
3 each other, and we ultimately did not have the participation from the social media
4 companies with the portal concept that was necessary to make it viable. I think what
5 ultimately changed it was it got so late that, even if they did buy in, we couldn't roll it out
6 to the thousands of election officials in time for use in 2020.

7 Q Do you recall when in the calendar, approximately, there was, I guess, a
8 recognition that it was maybe too late in the process?

9 A I maintained optimistic for many, many months. I don't know exactly when
10 I changed -- ultimately I think we ended up going with an email alias approach where the
11 election official would email the misinformation report. That came in the September
12 timeframe. So somewhere in there it changed.

13 Q And were you receiving pushback or questions from the social media
14 companies?

15 A It was a conversation -- I can't remember exactly when it started, but it was a
16 conversation that went on for months that -- where they would not -- they would not tell
17 us no, but they would not make movements towards a yes. And I think that
18 ultimately -- again, because that -- it was the rollout, the training of election officials that
19 ultimately was the reason we just couldn't.

20 So I apologize; I can't remember the question that I'm answering.

21 Q Sure. Just at a high level, do you recall if the social media companies raised
22 any concerns; and, if so, what kind of the more common ones were?

23 A The most common concern I remember is that the initial concept was that
24 we would take as many, you know, hands out of the process as possible that were not
25 substantive to the process. Right? We wanted to be able to connect the election

1 official with whatever capabilities the social media companies had to handle
2 misinformation.
3 So we began with an understanding -- and I don't know to what extent this is true,
4 but our understanding was that they had the capability to deal with misinformation, and
5 that capability was buried somewhere inside that social media company's organization.
6 And I do remember thinking that it was -- you know, they must have sophisticated
7 capabilities with all sorts of data analytics and all these sorts of things. And what we
8 wanted to do was basically get the election officials report into a priority queue for them
9 to look at and use whatever capabilities they have to, you know, determine if it violated
10 their policies and do whatever they normally do. Right? We did understand that they
11 had capabilities for this. We were not asking them to create a misinformation process.
12 We were just trying to get the information into that process as quickly as possible and
13 as -- the other concern that we were solving, thought we were solving was that we
14 knew -- we had vetted relationships with these election officials. We could authenticate
15 that they were an election official much quicker than a social media company could. So
16 we were offering to have, you know, vetted, you know, authenticated reports from
17 election officials, and we wanted to get that into their system.
18 So all of that was background to answer they pushed back on any technical
19 changes to allow for that report to get into their internal queues. And so we quickly
20 pivoted from that, and we tried to just match what they had currently.
21 So Facebook had an email-based approach where you would email someone at
22 Facebook. Twitter had a partner support portal, what they called it. So we offered to
23 just match those interfaces so they were not having to change anything about what they
24 were doing. And then that's just when we ran into other pushback, but I don't think any
25 of that was not memorable to me at the time.

1 Q During your discussions with the social media companies, were personnel
2 from CISA included in these discussions?
3 A Often, yes.
4 Q And, whether in those meetings with the social media companies or just
5 meetings between CIS and CISA, did members of CISA generally support the idea of this
6 misinformation reporting portal?
7 A Yes.
8 Q Do you recall which individuals at CISA particularly?
9 A Mr. Scully and Mr. Masterson.
10 Q And do you recall if they shared this support with the social media
11 companies?
12 A I don't remember a specific incident -- instance when they shared it.
13 Q Okay. What about generally? What was the purpose of including
14 personnel from CISA in your meetings with the social media companies?
15 A The purpose was the connection to the social media companies. We didn't
16 know who to contact, and we didn't know how to approach them.
17 Q So CISA facilitated the introductions?
18 A They facilitated the introductions.
19 Q And then, after the introductions have been made and you have had the
20 point of contacts, did you continue to include CISA in discussions with the social media
21 companies?
22 A We continued to include them. However, the burden of getting the social
23 media companies to participate was squarely on us. I remember doing many demos and
24 trying to craft my best proposals to accommodate their concerns.
25 Q At a high level -- I understand there are many State and local officials -- did

1 they support broadly CIS' idea of a misinformation reporting portal?
2 A They did. You know, we had the initial need that was expressed to us.
3 But then, even as we communicated the potential of it out with others, there was positive
4 responses.
5 Q Do you recall, other than CISA, other Federal agencies being involved with
6 the misinformation reporting portal?
7 A We had a very brief interaction with the FBI. There was no one else at the
8 level with CISA, and there were probably emails that involved lots of people from lots of
9 places. I don't know where all they belong.
10 Q The primary agency was CISA?
11 A Federal agency, yes.
12 Q In discussions -- just trying to recreate the timeline as you remember it.
13 The idea with the misinformation reporting portal as based off of discussions with
14 State and local officials, did you first propose the idea or involve in the discussions
15 members of CISA before going to the social media companies?
16 A CISA was prior to -- conversations with CISA were prior to the social media
17 companies, and that was just a -- we didn't know how else to communicate with them.
18 Q What interactions were you having with CISA at CIS prior to working on the
19 misinformation reporting portal?
20 A Personally I did not have many interactions. It's possible that we might
21 have sent Mr. Masterson one of the documents for review, one of the other documents I
22 mentioned, some of the cybersecurity best practices from his election administration
23 experience, would have appreciated his feedback, but they were not involved in the other
24 projects.
25 Q For the social media platforms, you mentioned kind of the primary -- or the

1 concern you recall had to do with, you know, concerns from the companies about not
2 wanting to create a new reporting mechanism, wanted to use what they already had in
3 place. The portals you were describing, at least the original concept of where it was
4 going to multiple social media companies, do you recall any discussions about concerns
5 that the companies would be receiving the same reports and could see reports going to
6 other companies?
7 A There were lots of questions about who would have access to the portal,
8 who would see which reports, and in that specific case, there was not going to be -- the
9 capability -- each platform would basically have its own reports and not see other
10 people's reports.
11 Now, what we were concerned with at the time was something that had crossed
12 platforms that the election official reported existed on both Twitter and Facebook, for
13 example, so they would both see copies of that because the election officials who
14 controlled which platform it went to. The way the platform was being built was the
15 election official would pick the platform, the social media platform that they were
16 reporting on, and they could pick more than one, and those were the entities that would
17 receive the report.
18 Q Do you recall any legal concerns being raised by the social media companies
19 and discussions about the creation of the portal?
20 A There was questions on what our terms of service were, and I remember
21 specifically, coming from a technology background, not completely understanding all of
22 those questions.
23 Q In discussions with the social media companies -- first, it sounds like you
24 were one of the members of CIS that would directly participate in them?
25 A Yes.

1 Q How many people from CIS were participating?

2 A In the conversations with social media companies?

3 Q Yes.

4 A It was myself, [redacted], and [redacted].

5 Q For [redacted] and [redacted], what was the nature of their responsibilities

6 related to the misinformation reporting project?

7 A We were a team. We all took roles. We all took responsibility for various

8 parts of it. [redacted] and myself handled the majority of the -- you know, any day-to-day

9 stuff. But [redacted] was involved in strategy, consulting, and, you know, there were

10 decisions to be made about when we were going to -- how we were going to push, how

11 hard we were going to push, those sorts of things, he would have been involved in those

12 conversations. But the day-to-day was [redacted] and myself.

13 Q In this period, we'll say the first half of 2020, just a ballpark estimate, how

14 much of your day-to-day responsibilities were devoted to working on this project?

15 A In the beginning, 10 percent, yeah, maybe up to 25.

16 Q And did that change as it got closer to the election?

17 A It did. Most of the best practice work is preparatory. Right? And it's

18 not operational. There wasn't a lot for us to do regarding best practices once machines

19 were in the field, you know. So we had more time to work and focus on this. This was

20 a bit more operational for us, manning the inbox and sending emails back and forth, and

21 those types of things, so it did shift to this.

22 Q Do you recall when the email address you referenced earlier came to

23 being -- or came into operation, I should say?

24 A I believe it was September. It could have been August. It could have

25 been October.

1 Q And was that around the same time where CIS decided to not pursue further
2 the creation of the portal?
3 A Correct. We decided to keep the portal for internal use only, meaning -- I
4 mean, the purpose of the portal was a work management, a work flow management,
5 right, among multiple parties. The multiple parties thing didn't work out, but we could
6 still use it to track the emails that came in. So, when an email came in, we could put
7 that information into the portal. It felt like, number one, it would be easier for us to
8 manage it there than managing -- it's a team inbox, so, you know, that can get very
9 hairy -- so creating a case number in our portal, having it sort of centralized there, which
10 is how we decided to manage it internally.
11 Q Okay. So the portal was created, so to speak, but there either wasn't
12 enough time or too many concerns to resolve that --
13 A Yeah.
14 Q -- you weren't able to get buy in from the social media companies. When
15 was the internal release? When was the portal created?
16 A I don't know exactly when it was -- there wasn't a moment in time where it
17 was created. We did a beta with election officials in the summer, so we'd had minimal
18 functionality at that time to get feedback from election officials on the usability of it.
19 And I don't recall -- you know, we got some feedback. We made some changes. When
20 we decided to use it internally, you know, it had enough functionality for us to use it as an
21 internal tool.
22 Q Starting with September 2020 or, you know, the period shortly before the
23 2020 election, what was the functionality of the portal by that point, and how was it
24 being used internally?
25 A To the best of my recollection, you could manage users. Those users were

1 assigned to a jurisdiction. The structure was such that you could -- there was -- I mean,
2 it followed our geography in the United States. States have subjurisdictions, and so
3 users -- you know, you create users and assign them to an appropriate jurisdiction.
4 Those users could create cases, and they could see the cases they created. And we
5 could add -- if you're familiar -- well, I'll go ahead and just articulate it. Each case had a
6 primary name and description, social media platforms that it was seen on, and then you
7 could have sort of a running list of notes and attachments, and so you could keep track of
8 a single case within the system.
9 It did not have any reporting capability to the social media companies or at lease
10 none that had been vetted with the social media companies. We had desire to have it
11 at least emailed from the portal. That, if it exists, was never used or tested. It was
12 mostly a case creation, case updating, and each of the cases had a status or a State so you
13 could close the case if -- you know, once we had finished.
14 Q Just so I can better understand that last part of your response, the -- you've
15 got the case. It's opened. There's comments you can track. Was there a way to
16 share that information with someone outside of the portal?
17 A That was the original intent, but that functionality never went live.
18 Q What about the reports that are being sent to the -- actually, let me take one
19 step back.
20 When you were referring to users as it relates to the portal, are the only users
21 members of CIS?
22 A In the end, the only users were members of CIS.
23 Q And was the process, as it stood in September and October of 2020, a State
24 and local official would email the email address that you had created and then would
25 somehow enter the information into the ticket or someone managing the inbox and

1 would open up a ticket? How did you get from whatever on the outside into, like, the
2 portal itself?
3 A Right. Someone would take the information from the email that the
4 election official sent in and put it into the system. So there were multiple people who
5 had access to that inbox and would have done that.
6 Q And is it a matter of, like, copying and pasting or how do you --
7 A Copy and pasting.
8 Q Yeah.
9 A And part of our procedure was to get the case number from the system and
10 then include that in future emails so that we could track threads better. Right?
11 Because we are taking emails in from election officials, sending that off to the social
12 media company and others, and you might have different replies. It was not as easy as
13 tracking one email thread. So, by having a case number in those emails, we could better
14 understand that this was all related to the same case.
15 Q And so, in the same way the information would come in, so if you wanted to
16 share information that's internally known on the portal, you would have to copy and
17 paste whatever the summary is and whatever else and then put that into an email and
18 send that out?
19 A Right. And, in the end, the portal was predominantly used to get that case
20 number. I do not think we kept up with every email that came through updating the
21 case in the portal. The minimum that we did, create the case initially so we could have
22 that case number, and after that, it was probably mediocre effort at best to keep the case
23 updated within the portal.
24 Q Do you have a -- do you recall approximately, we'll say, September to
25 election day, how many emails CIS was receiving, how many reports from State and local

1 officials?

2 A Not with any accuracy, no. Three years later I'm a little vague on it.

3 Q All right. Do you recall if the frequency would change where --

4 A We had -- it got busier toward the election day, and then, you know, we

5 manned it I think until sometime in December.

6 Q You mentioned that the -- you know, when you received the report and if

7 you submit the report, you could add the CIS case number --

8 A Uh-huh.

9 Q -- and then that could be passed on to the social media companies and you

10 said and others. Who else would you pass along that information on to?

11 A There was a time where we would send the report to CISA, and CISA would

12 send it to the social media companies. That changed at the request of social media

13 companies wanting to receive it directly from us, which we believe was probably our

14 intent to begin with. And so we stopped including CISA in those emails and went

15 directly to -- in Facebook's case it was regional contacts, and in Twitter's case it was -- I

16 think there was two people that we would send it to from Twitter.

17 Q Do you recall when approximately this switch took place?

18 A Mid to late October. That's approximate. I could be off.

19 Q Did the social media companies provide you a reason why they would prefer

20 CIS reporting directly?

21 A I would only be speculating. I don't remember.

22 Q Before the switch was made, was there a, to your understanding, like, a

23 generic email at CISA, or were there particular individuals at CISA you would pass along

24 the reports that they could go to?

25 A Yeah, they had -- it was a generic email that we would send it to.

1 Q Okay. And then, when CISA is still involved in this passing along the
2 information process, if it was necessary, if the social media companies needed to contact
3 you or the State and local official, would they go through CISA, or were they able to
4 contact you directly?
5 A They would have been able to contact us directly. How it happened exactly
6 in every case I don't remember.
7 Q With the understanding you left CIS in April of 2021, were there
8 discussions -- based off of what you were saying earlier, it sounds like you kind of ran out
9 of time in 2020 to set up the portals as first envisioned. Were there any discussions
10 about recreating the portal or some version of it in advance of the 2022 elections?
11 A There were conversations about its use after 2020 to the point that I was
12 brought in on contract to help them -- it had been decommissioned and help them
13 restand it back up. I don't remember the purpose for that. I don't know if it was for
14 internal use or for maybe it's original, although I don't remember the purpose of it.
15 Q And when were you brought back in on the contract?
16 A I don't recall the dates.
17 Q Just as a point of clarity for the record, would this have been before April
18 of 2021 or was that -- or is it until April 2021 when you were a full-time employee and
19 then --
20 A It would have been after April 2021.
21 Q Okay. Do you have a ballpark sense of how close it was to the 2022
22 election?
23 A I really don't. I want to say -- I want to say it was the end of '21, but I really
24 don't remember.
25 Q Do you recall who at CIS reached out to you about coming back for a

1 contract?

2 A Yes; [redacted].

3 Q You mentioned Twitter and Facebook. Do you recall which other social

4 media companies you were -- that CIS was passing reports on to in the lead-up to the

5 2020 election?

6 A I don't recall any others that we would have sent reports to. There were

7 reports about text messages and voicemails. There were conversations about whether

8 we could get a contact with Twilio, which is a mass text -- like a text messaging service

9 that a lot of software uses to send text messages. We didn't end up sending anything,

10 to the best of my knowledge, to Twilio.

11 And there were some other random cases that didn't involve social media at all,

12 but no other social media companies that I recall.

13 Q Those conversations about how and whether to potentially handle text

14 messages, did you have any -- did CIS have any conversations with CISA?

15 A Yes.

16 Q And do you recall what information or what perspective CISA shared in its

17 discussions?

18 A I remember CISA or someone -- it may not have been CISA -- mentioning that

19 the IT-ISAC, the Information Technology ISAC or the Communications ISAC may be good

20 points of contact to send that kind of stuff to. I remember the FBI being listed as a place

21 to send particularly voicemail and use of the phone. And so they just advised on that,

22 and I think they tried to connect us with the other ISACs. I don't think, at least to my

23 recollection, that we ever really got any good contacts or really had a good answer for

24 how to handle those types of reports.

25 Q And the "they" at the end of your sentence there, are you referring to CISA

1 tried to introduce CIS to --

2 A Correct, that was referring to CISA.

3 Mr. Flood. I'd like to take a break to talk to [redacted] but if you're close to the

4 end, I don't want to stop.

5 [redacted] Yeah, we've got just a few minutes, but --

6 Mr. Flood. That's fine.

7 [redacted] If you need to --

8 Mr. Flood. No, no. Unless it becomes urgent, I'll wait.

9 [redacted] Thanks.

10 BY [redacted]

11 Q If you could just at a high level explain a little -- I understand the process as it

12 relates to tweets and Facebook posts. How are -- if it's coming from State and local

13 officials, how are State and local officials becoming aware of content in text messages?

1 [11:01 a.m.]

2 [redacted] In the one case that I recall, they would've heard about it from their

3 constituents.

4 BY [redacted]

5 Q Okay. Do you recall any discussions with the social media platforms, with

6 CISA, with State and local officials, about whether there were any new legal challenges or

7 concerns as it related to text messages as opposed to social media posts?

8 A I remember being asked to collect more information. And there were

9 concerns about the privacy of the additional information we were being asked to collect,

10 such as which technology, like, which telephonic provider they had, that kind of stuff,

11 which we hadn't considered before.

12 Q And who asked you to do this?

13 A I don't -- I don't recall who specifically ask -- I don't -- I don't recall the

14 specific back-and-forths of those conversations and who was on each side.

15 Q With the understanding you don't recall specifically who it was, do you recall

16 if it was someone from within CIS or someone outside?

17 A No.

18 Q The portal as first envisioned, would CIS play any sort of role in filtering the

19 types of submissions in terms of gauging to any degree whether it should be passed on to

20 social media platforms?

21 A There were -- there were specific conversations about this, and we were not

22 going to put ourselves -- we had specifically decided not to make any assessment on the

23 content of it. Our only goal, we had a basic validation role in that, one, we would -- we

24 would validate that the -- that there was an explanation as to why the election official

25 believes it's misinformation. So if they send us a picture, a picture alone does

1 not -- would not have passed that basic validation.

2 So we did some basic validation. The original intent of the portal was to have

3 those as actually a separate field, and so they wouldn't even be able to submit. So no

4 one from CIS would be involved. It would be basic form validation on the site.

5 We carried that through in doing the email, just making sure that it was a -- there

6 was a description belonging to the report.

7 Q So other than making sure there was a description, was there any sort of

8 other criteria that were considered or certain thresholds that had to be met before, as it

9 actually worked in practice in September of 2020, whether CIS would pass along a report

10 to that CIS email address that was created, and pass that on to the social media

11 companies?

12 A Once it moved to email, there were a couple of other considerations. One

13 is, who's it coming from, because they're not a user of the platform at that point.

14 They're an email address. So was it a -- was it an election official, could we validate that.

15 So we added that step.

16 And then the only other consideration that we added was, is this a report on a

17 platform with which we know who to report it to. So there were reports from -- there

18 were random websites reported to us, which we had no control over that website

19 or -- not that we had control over any of it, but we had no contact with who that -- who

20 runs that website.

21 [redacted] Could we go off the record, please?

22 [Recess.]

23 Ms. [redacted] We're ready to go back on the record.

24 You wanted to make a clarification.

25 Mr. Flood. Thank you. So we're back on the record. Jim Flood, counsel for

1 [redacted]

2 [redacted] you were asked by [redacted] before the break about social media

3 companies that CIS sent reports to. Do you recall that?

4 [redacted] Yes.

5 Mr. Flood. Okay. And then you were asked a follow-up question about are

6 there any other social media companies, correct?

7 [redacted] Yes.

8 Mr. Flood. So the record is clear, I want to ask you the question, can you list all

9 of the social media companies that you are aware of that CIS engaged with in any way

10 about the misinformation portal or the misinformation email?

11 [redacted] Facebook, Twitter, Nextdoor, who we had a -- several emails and I

12 believe at least one conversation with. And then there was LinkedIn, which we had just

13 a conversation at a conference with the -- someone from Microsoft, and that didn't go

14 any further.

15 Mr. Flood. And is that to the best of your recollection at this time?

16 [redacted] Yes, best of my recollection.

17 Mr. Flood. Okay. Thank you, Counsel. I appreciate it.

18 Ms. [redacted] Of course.

19 EXAMINATION

20 BY MS. [redacted]

21 Q I want to pick up where we left off talking about the misinformation

22 reporting portal and the project more generally.

23 Talking about the project more generally, you said that that idea came maybe the

24 end of 2019, beginning of 2020. Is that right?

25 A Correct.

1 Q And did that come from the best practices side of CIS or the EI-ISAC side?
2 A It came from the best practices side.
3 Q Did CISA ask you to start that project?
4 A They did not.
5 Q So the misinformation reporting portal wasn't solicited by CISA?
6 A It was not.
7 Q Was it solicited by any Federal Government agency?
8 A No.
9 Q And you said that that project was funded by the Democracy Fund. Is that
10 right?
11 A That's correct.
12 Q To the best of your knowledge, is the Democracy Fund part of the Federal
13 Government?
14 A To the best of my knowledge, no, it is not.
15 Q Why did you see the need to start this project?
16 A We heard from election officials that it was a difficult process for them and
17 one they were concerned about in 2020.
18 Q When you say "we heard," that's you at CIS on the best practices side?
19 A Correct.
20 Q We talked about how you said it was the -- CIS' burden to convince the social
21 media companies to get involved in the portal. Is that a fair summary of what you said?
22 A Yes.
23 Q Why do you say that? Or in other words, like, how -- why did you feel that
24 way?
25 A I felt that way because that is how it was positioned from the very beginning.

1 We -- we were doing -- CIS was doing a project to help election officials. It's CIS' project.
2 It's their idea. They're going to present it to the social media companies for social media
3 companies' involvement.
4 Q So CISA wasn't involved in that process of trying to pitch the idea to the
5 social media companies?
6 A They were included -- they made the introduction. They were included in
7 conversations. They were not in all the conversations, and to the best of my
8 recollection, they were not heavily participatory in those conversations.
9 Q And you said CISA's role was primarily just facilitating introductions. That's
10 right?
11 A Yes.
12 Q Talking about the portal itself, that portal didn't actually get used with social
13 media companies, right?
14 A That's correct.
15 Q It was only used internally within CIS?
16 A That's correct.
17 Q Were any election officials on the final form of the portal when it was
18 actually used during the 2020 election and the lead-up to it?
19 A No, they were not.
20 Q They were only on the beta testing version?
21 A That is correct.
22 Q And no social media companies were on the portal during that time?
23 A That's correct.
24 Q So the actual system that came into place was the email inbox that we
25 discussed. That email address was for State and local election officials to sent their

1 reports to. That's right?
2 A Yes.
3 Q And that email address was a separate thing from the portal?
4 A Yes.
5 Q It wasn't the original concept that y'all had?
6 A Correct.
7 Q So CIS received these email reports and then forwarded them along to the
8 social media companies. Is that right?
9 A We would receive the reports. There was a period of time where we would
10 send those to CISA for CISA to send to the social media companies, and then towards the
11 end we would send directly to the social media companies.
12 Q So CIS' role the whole time was forwarding the reports along to a different
13 entity?
14 A That's correct.
15 Q And you mentioned CIS didn't do any independent validation other than
16 making sure that the person who sent it was an election official and that there was
17 enough information in the report?
18 A Correct. We did not do -- what I think you mean by validation, we did not
19 validate whether it was or was not misinformation.
20 Q And you didn't analyze who the poster of the content was, for example?
21 A No.
22 Q You didn't verify anything other than there was enough information to
23 forward along?
24 A That's correct.
25 Q What was EI-ISAC's role in the process of these forwarding emails?

1 A The EI-ISAC was -- is a membership organization of election officials. We
2 used them to publicize the availability of the email address through regular
3 newsletter-type distributions that they have. And at times we would use the list of
4 membership to vet the email addresses we were getting it from, and then if ever we
5 needed to reach out to a election official, we would also use that same membership list to
6 figure out who to contact at the local or State office.
7 Q So is it fair to say EI-ISAC's role was primarily the contact list that they had of
8 the offices and then the publication of the email address?
9 A Those were definitely the two roles I remember.
10 Q Okay. Why was it necessary for -- you discussed this a little bit. Just can
11 you go in a little bit more detail about why it was necessary for CIS to play the role of
12 receiving the reports and then forwarding them along to someone else.
13 A As opposed to?
14 Q The election officials doing it directly.
15 A Okay. One of the primary concerns from the beginning that we had heard
16 was that election officials wanted a single point of contact to report misinformation
17 versus at least two, right -- Facebook and Twitter being examples of a multireporting
18 structure. So it was primarily to give election officials kind of what they had asked for.
19 Q Was it also useful for CIS to be able to then, like, see patterns in a way that
20 individual election officials might not be able to?
21 A In the original portal concept, having the information in a single place would
22 allow us to spot trends, and there was a feature of the portal that would've allowed us to
23 share the trends more broadly.
24 Q Do you think that the system that you had of the email addresses still
25 allowed CIS or other entities that you were working with, like NASS or NASED, to see

1 those trends or do any kind of analysis?

2 A Not in an efficient way.

3 Q CIS didn't actively monitor social media for misinformation about elections,

4 did you?

5 A Correct, we did not.

6 Q To your knowledge, did anyone else at CIS, other than you and your team,

7 do that kind of monitoring?

8 A I do recall our communications team had a -- or were using a stan- -- what I

9 believe is a standard sort of term-search software that you might use to see if the Center

10 for Internet Security is being talked about in some other publication. I do believe they

11 had certain terms configured around the election, and I think that is in scope of your

12 question.

13 Q Were they reporting that information to you in any way?

14 A I don't recall if we received any reports from them.

15 Q So the election misinformation reports that you were handling were from

16 State and local election officials?

17 A Correct.

18 Q They weren't coming from independent monitoring?

19 A Correct.

20 Q You talked about how at first you were forwarding reports to CISA and CISA

21 was forwarding them on, and then it changed. And I know you mentioned in the earlier

22 hour that you don't recall exactly what the reasons were that the social media companies

23 provided.

24 There's been an allegation that the reason CISA was not the person in the middle

25 anymore was to hide their involvement in the process. Do you think that allegation is

1 true?

2 A I really can't speak to that allegation.

3 Q I want to take a step back and look more broadly at misinformation generally

4 but first talking a little bit more about your background. You mentioned that you've

5 been working with Enhanced Voting for about a decade. Is that fair?

6 A Yes.

7 Q And you've been working on election security issues, would you say, for over

8 a decade?

9 A Yes.

10 Q You worked in the Florida Division of Elections, right?

11 A Yes.

12 Q And you were doing security evaluations of voting systems, right?

13 A Security was a component of our evaluations.

14 Q Would you -- would it be fair to describe you as an election technology,

15 election security expert?

16 A Yes.

17 Q So with that background, do you think that misinformation is an election

18 security threat?

19 A My answer is probably nuanced. Cybersecurity is a different -- is a different

20 domain than mis- and disinformation, and I'm way more qualified to speak on

21 cybersecurity threats than I am on sort of whether misinformation is a threat.

22 Q Okay. Do you think that mis- and disinformation can undermine faith in

23 the election infrastructure?

24 A I believe that factual inaccuracies about how elections are administered is

25 something that I don't want.

1 Q You mentioned earlier that State and local election officials wanted
2 somebody to report misinformation to. Why did they think that that was important?
3 Why did they want to report this misinformation?
4 A There were, as best my recall, at least two issues. One was that the current
5 mechanisms that Facebook and Twitter had made available to them were -- were not
6 efficient. That's number one. Number two, not available. For example, not all local
7 election officials could use those mechanisms for reporting misinformation. So there
8 was a gap there.
9 Q More broadly, why did they see that this mis- and disinformation, to the best
10 of your knowledge, why did they see that as a problem?
11 A I really can't speak to why they saw it as a problem.
12 Q I want to look at specifically how mis- and disinformation campaigns were
13 used to attempt to interfere in previous Presidential elections. So I'm going to introduce
14 for the record as exhibit 1 a statement that I will hand out.
15 [[redacted] Exhibit No. 1.
16 Was marked for identification.]
17 Ms. [redacted] This is an October 7th, 2016, statement from the
18 Department of Homeland Security and the Office of the Director of the National
19 Intelligence Directorate -- or the Office of the Director of National Intelligence.
20 I'll give you a moment to review it. There's a couple of copies if you want to pass
21 them --
22 [redacted] Oh, I'm sorry. I thought I was looking at --
23 Mr. Flood. Thank you.
24 [redacted] I'm ready.
25 BY MS. [redacted]

1 Q Were you familiar with this statement before today?

2 A In specific, no.

3 Q This is a three-paragraph statement that confirms that Russia directed the

4 2016 hack-and-dump operation against Democratic offices -- the DCCC and the DNC -- in

5 order to interfere with the 2016 Presidential election.

6 Were you familiar with that conclusion more broadly?

7 A Yes.

8 Q Was that something that you were thinking about when you were doing

9 election security work for 2020?

10 A Yes.

11 Q Were you also familiar with the conclusion that Russia continued to use both

12 hack and leak and other information campaigns during -- or -- during the 2020 election?

13 A Can you restate that?

14 Q Yeah. Were you familiar with the concern that Russia might continue to

15 use these hack and leak -- hack and leak or other information campaigns during the 2020

16 election?

17 A Yes, I'm familiar with that concern.

18 Q And are you familiar with the conclusion that Russia did, in fact, use

19 information influence campaigns during the 2020 election?

20 A I don't recall specifically that conclusion, but -- yeah.

21 [[redacted] Exhibit No. 2.

22 Was marked for identification.]

23 BY MS. [redacted]

24 Q I'll introduce for the record as exhibit 2, this is the Intelligence Community

25 Assessment from January of 2021. It was declassified in March of that year.

1 I'm not going to ask you to read the whole thing. There's a highlighted section
2 on page small Roman numeral 1.
3 So the highlighted section reads, Key Judgment 2: We assess that Russian
4 President Putin authorized, and a range of Russian Government organizations conducted,
5 influence operations aimed at denigrating President Biden's candidacy and the
6 Democratic Party, supporting former President Trump, undermining public confidence in
7 the electoral process, and exacerbating sociopolitical divisions in the U.S. Unlike in
8 2016, we do not see persistent Russian cyber efforts to gain access to election
9 infrastructure. We have high confidence in our assessment; Russian state and proxy
10 actors who all serve the Kremlin's interests worked to affect U.S. public perceptions in a
11 consistent manner. A key element of Moscow's strategy in this election cycle was its
12 use of proxies linked to Russian intelligence to push influence narratives, including
13 misleading or unsubstantiated allegations against President Biden, to U.S. media
14 organizations, U.S. officials, and prominent U.S. individuals, including some close to
15 former President Trump and his administration.
16 Do you have any information that would disagree with that conclusion?
17 A I do not.
18 Q Do you think the threat from foreign intelligence operations, foreign
19 influence operations poses a threat to election security?
20 A Yes.
21 Q Why do you think that information sharing is important in the election
22 security space?
23 A In the election security space, elections are run by State and local
24 governments. They don't often communicate due to the decentralized nature of our
25 election infrastructure. There are some topics that it will help their election security

1 posture to have information sharing and communication, and cybersecurity is definitely
2 one of those. That's one of the roles of the ISAC.
3 Q Did CIS also play a role in providing information to State and local election
4 officials?
5 A In general or by --
6 Q Yeah, in general about cybersecurity, about anything providing some
7 standard of information.
8 A Yes. As one of my primary responsibilities, it was to promote cybersecurity
9 best practices and distribute that information to State and local election officials.
10 Q Talking specifically about State and local election officials, is it fair to say that
11 a lot of State and local election officials don't necessarily have expertise in cybersecurity?
12 A Yes, that's a correct assessment.
13 Q A lot of them might even be part-time workers?
14 A There are cases where election officials are not full time, yes.
15 Q And they might not -- beyond cybersecurity, they may not have expertise in
16 misinformation or generally the things that CIS is working on?
17 A Yes, that is correct.
18 BY [redacted]
19 Q [redacted] I just want to ask you, when you were implementing the email
20 system when it actually was operational before the 2020 election, did you, yourself, ever
21 see some of the emails that the State and local officials were bringing to the
22 attention -- or trying to bring to the attention of the social media companies?
23 A Yes. I had access to the inbox.
24 Q Okay. And did you have a sense from your review -- did you review all of
25 them, some portion of them, or how would you characterize that?

1 A I would characterize it as majority.

2 Q Okay. Can you share some of the concerns that the State and local officials

3 were sharing from those emails, just generally?

4 A I don't recall specific emails, and I don't recall that many trends that I

5 can -- there were a couple of cases that do stick out, but other than that, I don't recall

6 trends and certainly don't recall the majority of what was reported.

7 Q Okay. Other than trends, like what sticks out in your mind?

8 A I remember early on there being a case about trashing of ballots, and that

9 one was a very interesting one. It was not one that we had reported directly to us. I

10 think we found out about it through the Election Integrity Partnership. And it was a

11 good example of a situation where the social media activity was claiming something that

12 had a very reasonable election administration truth. I mean, the ballots were actually

13 multiple years old and had run out of their date of retention, and so they were being

14 thrown away as a part of that data retention. But the social media activity was claiming

15 that these were 2020 ballots being thrown away.

16 Q This is the Sonoma County incident.

17 A That's correct.

18 Q Is that right?

19 A Yes.

20 Q And correct me if I'm wrong, but it's fair to say that there were reports on

21 social media that the Sonoma County election officials were disposing of ballots illegally?

22 Is that the gist of the claim that was circulating on social media?

23 A That is consistent with how I remember it, yes.

24 Q And the election officials were informed -- were concerned because that

25 wasn't the truth. Fair to say?

1 A My recollection is that the Sonoma County officials actually had come out
2 and put out that information publicly, that this was, in fact, something that we do as a
3 matter of course, not a matter of -- and it doesn't affect the 2020 election.
4 Q Right. Because I believe in that case they were actually disposing of ballots
5 from a previous election, like in 2018. Is that your recollection?
6 A That's my recollection, yes.
7 Q And there were some rules, maybe even laws, that governed the disposal of
8 those ballots, fair to say, if you know?
9 A I don't know specifically what those laws would allow and not allow.
10 Q Okay. But what the election officials were struggling with, if you agree with
11 me, is that the initial sort of disinformation about these ballots being illegally disposed
12 was getting a lot more traction on social media than the true correction that the election
13 officials were trying to put out there, which is, hey, these were from 2018, and we're just
14 legally disposing of these. I think they were actually not even ballots themselves; they
15 were just ballot envelopes.
16 But the difference between the misinformation that was kind of going viral and
17 the correction, which was not as interesting to people, created a problem for the election
18 officials to reach voters with true information. Fair to say?
19 A I've heard that observation, that the misinformation gained more traction
20 than the truth.
21 Q Okay. So that might be one of the reasons that election officials are not in
22 a position to handle this kind of problem in the moment during an election by themselves
23 without reaching out to social media companies. Is that fair?
24 A I don't want to make that assessment myself, but I've heard others make the
25 assessment that that is a challenge for election officials. And I've heard that from

1 election officials, that that's a challenge for them.

2 Q Okay. I don't know -- I understand that this is a long time ago and you

3 didn't have a vision of everything that came before you, but did you ever see any emails

4 from election officials that were complaining about people promoting information on

5 social media that was incorrect, say, about the time, place, or manner of elections, or poll

6 hours, for example?

7 A I do recall cases where people would promote a registration deadline or

8 something akin to that and have that information be wrong, especially when they were

9 publicizing here's a lot of States and their deadlines, and they would get a State here or

10 there, you know, incorrect.

11 Q And election officials might be concerned because they want their voters to

12 be able to access the polls with accurate information, and if there was a wrong

13 registration deadline, that might actually prevent people from participating when they

14 otherwise could. Fair to say?

15 A In that particular case, if the deadline -- if a publicized deadline on social

16 media is after the true deadline, then waiting until the promoted deadline might leave

17 you with the inability to register in that particular State.

18 Q Okay. And with all of these examples, CIS is not interested in taking a

19 position with respect to the information that's being shared on social media. You're just

20 trying to help the election officials with the problem that they've told you that they have;

21 that is, providing true information, accurate information to their constituency, to the

22 voters in their community, correct?

23 A I think that's a fair assessment, yes.

24 BY [redacted]

25 Q Could CIS independently take content off of social media platforms?

1 A We had no ability to take information off social media platforms.
2 Q Could the EI-ISAC independently take content off of social media platforms?
3 A Not to my knowledge.
4 Q To your knowledge, could CISA take content off of social media platforms?
5 A Not to my knowledge.
6 Q So any content moderation decisions were ultimately made by the social
7 media companies?
8 A Yes.
9 Q Did CIS try to coerce platforms into making specific decisions?
10 A We did not.
11 Q To your knowledge, did EI-ISAC try to coerce platforms into making specific
12 decisions?
13 A Not to my knowledge.
14 Q To your knowledge, the platforms didn't take action on every single thing
15 that was reported to them, right?
16 A That's how I recall it, yes.
17 Q To the best of your knowledge, the platforms made their own decisions
18 about what content to remove or label?
19 A Correct. That was my observation.
20 Q And CIS didn't always agree with those conclusions?
21 A CIS didn't have -- CIS took the opinion of whatever the election officials
22 opinion was.
23 Q Okay. Did the election officials always agree with the decisions of the
24 social media companies?
25 A I don't know in every case, but in some cases I'm aware they were not.

1 Q But that didn't change the actual outcome that the social media companies
2 took?
3 A In those cases, it did not.
4 Ms. [redacted] We can go off the record.
5 [Recess.]
6 [redacted] We can go back on the record, please.
7 BY [redacted]
8 Q [redacted] for the CIS portal that was used internally, do you know if that
9 data was archived?
10 A I don't. I don't know.
11 Q Were you able to access it prior to your departure from CIS in April 2021?
12 A I would've been able to access it.
13 Q When -- you mentioned that CISA helped facilitate the introductions to social
14 media companies. Prior to that, when you were having discussions with the officials at
15 CISA, did you, you know, present the idea or, you know, provide to them the proposal
16 that you intended to provide ultimately to the social media companies?
17 A We discussed the concept.
18 Q And did they provide any feedback?
19 A Not that I can recall.
20 Q How frequently were you interacting with officials at CISA in, we'll say, the
21 first half of 2020?
22 A I remember long gaps, so I might say a monthly -- once a month.
23 Q And did it tend to be phone calls, emails, when you were having
24 communications with them? In person?
25 A There was one in-person conversation and then a mixture of phone and

email.

Q Do you remember whose idea it was to reach out to or have some sort of contact with the FBI with respect to the misinformation reporting portal?

A I believe it was mine.

Q And what did you think the purpose of -- or why did you think that would be an appropriate thing?

A I met -- I'd met a special agent in Jacksonville, Florida at a classified briefing that I attended and felt like -- honestly, I don't remember what role I felt the FBI would have. It was mostly a keeping them in the loop with what we were doing around misinformation.

Q Had you had interactions with the FBI prior to that classified briefing?

A Not that I can recall. And my only reason for having interactions with the FBI at that briefing was because the SCIF, the secure room in Jacksonville is the FBI headquarters.

Mr. Flood. Can I interject for the record, please? [redacted] has been advised not to discuss any classified information, and we're assuming this a nonclassified interview.

[redacted] Yes.

Mr. Flood. You'll let us know otherwise. Thank you.

BY [redacted]

Q At a high level, without disclosing any classified information, why were you as a member of CIS receiving a classified briefing?

A There is a -- there's a program for members of election infrastructure which is deemed part of the critical infrastructure, that allows for what I believe is known as private sector security clearances so that certain members of the election infrastructure

1 community could receive classified intelligence about threats to election security. And I
2 obtained that security clearance when I was with Clear Ballot, and I maintained it while I
3 was with CIS.
4 Q You mentioned in our first hour that the social media companies asked, your
5 recollection is maybe around mid-October, to have CIS pass the information along directly
6 as opposed to routing it through CISA. Is that right?
7 A I specifically remember Facebook asking for that, yes.
8 Q Do you recall if any other social media platforms asked?
9 A No, I don't recall.
10 Q After Facebook asked, did you change the process for every social media
11 company or just for Facebook and whoever else may have asked?
12 A I don't recall what the process with Twitter was before, but after I know we
13 communicated with both directly. I just don't recall if we communicated with Twitter
14 directly before that or if we were going through CISA.
15 Q And do you recall for either company if they provided a reason why?
16 A I remember the conversation happening. I remember part of the
17 conversation and just being surprised that that's what they wanted, so --
18 Q Why were you surprised?
19 A They were very reluctant throughout the whole process, so the idea that
20 they would want to be closer was inconsistent.
21 Q And just to make sure I understand your answer correctly, the social media
22 companies had been reluctant throughout the process?
23 A Yes.
24 Q And it was your -- you were surprised that the social media companies
25 wanted to be closer to CIS?

1 A Wanted to get the information directly from us, is how I'd like to reword
2 that.
3 Q Okay. Do you recall how this was communicated to you? Was it a video
4 conference? Was it an in-person meeting?
5 A Video conference.
6 Q Was anybody from CISA on this call?
7 A Yes.
8 Q Do you recall who?
9 A Mr. Scully.
10 Q Do you recall Mr. Scully's reaction?
11 A No.
12 Q Did you talk with Mr. Scully without the social media companies present at a
13 later point about this switch?
14 A Not that I can recall.
15 Q After you left CIS in about April 2021, how many contracts have you taken on
16 with CIS since then?
17 A One.
18 Q Is it just the one you mentioned?
19 A Yeah, it's just the one.
20 Q At any point in your career, have you been brought on as a contractor by
21 CISA?
22 A I've never, no.
23 Q What about DHS more broadly?
24 A No.
25 Q What about with respect to any Federal agency?

1 A I think all my engagements have not involved the Federal Government.
2 And I do want to clarify, I can't remember if the CIS contract was broken down into two
3 contracts. Same effort, but part of my recollection is we might've structured it as
4 two -- two payments -- I can't remember -- two payments, one contract; two contracts,
5 two pay- -- I don't remember, but something along those lines. Same effort, though.
6 Q And you don't recall any examples other than that, this one effort, as related
7 to the portal?
8 A Correct.
9 Q Okay. Do you recall how long you worked on the portal or this project as
10 part of the -- whether it was one or multiple contracts?
11 A I don't recall the specific length.
12 Q Was it longer than a month?
13 A Correct. Less than 6 months. Longer than a month, less than 6 months.
14 Q And in an earlier response to the minority's questioning, I recall you saying
15 something to the effect of -- that cybersecurity is a different domain than mis- and
16 disinformation. Is that --
17 A That's my assessment. That's my opinion.
18 Q Do you think that assessment is shared broadly among cybersecurity
19 experts?
20 A Obviously, it can vary. I believe it's a separate domain.
21 Q Why do you believe that?
22 A Cybersecurity has a -- there are very different facets to network intrusions,
23 account takeovers, the types of things that fall in the cybersecurity domain.
24 Misinformation is a -- or influence operations and those type, you know, to reuse
25 that phrase from earlier, it's the mechanisms it takes, the strategy behind it, the end goal.

1 All of those, you know, can be very different than cybersecurity. I do not consider
2 myself a misinformation or influence operation expert. I do consider myself a
3 cybersecurity expert.
4 Q As part of your work with Enhanced Voting, do you work with CISA still?
5 A Through the Sector Coordinating Council, yes.
6 Q Other than that?
7 A No.
8 Q Are you familiar with the Election Integrity Partnership?
9 A I am.
10 Q And to your understanding, what is the EIP?
11 A EIP, to my understanding, is a collection of -- is a group of entities that came
12 together in 2020 to assist with misinformation reporting to the social media companies.
13 Q To your understanding, which entities were involved with EIP?
14 A The Stanford Internet Observatory or the Internet Observatory of
15 Stanford -- I'm not sure exactly the name -- the -- Graphika and a university in Washington
16 State. I do not know the exact name.
17 Q And did CIS have involvement with EIP?
18 A Yes.
19 Q What was CIS' involvement?
20 A We would -- there were two -- two answers to this. One is we would report
21 the misinformation that election officials would report to us. We would also report that
22 to EIP.
23 And then secondarily, we would ask election officials clarifying questions or to
24 comment on misinformation reports that were sourced by EIP.
25 Q Who at CIS was involved with these efforts as they related to EIP?

1 A Myself, [redacted], and Ben Spear.

2 Q Of the three of you, was one of you the primary point of contact for matters

3 involving EIP?

4 A I was the primary. [redacted] was a very close second.

5 Q When did you first become involved with EIP?

6 A I remember it was late in the process. I don't remember the exact date.

7 Q What do you mean by "late in the process"?

8 A I remember many conversations throughout the summer, so I would say it

9 was after the summer that they were not a part of those conversations. So I don't know

10 exactly when we were introduced to them and sort of when they became a part of the

11 process.

12 Q When you say you remember many conversations throughout the summer,

13 which conversations are you referring to?

14 A Specifically trying to -- again, trying to bring both sides to the table. But

15 social media companies was really what I was referring to.

16 Q And are you referring to the discussions you had with social media

17 companies with respect to the misinformation reporting portal?

18 A Correct, yeah.

19 Q So if I understand your answers correctly, you were having -- you and CIS

20 were having these conversations with the social media companies with respect to the

21 portal, and at some point later in the summer is your first recollection of starting to have

22 interactions with EIP. Is that right?

23 A Correct. I'll say that I don't ever recall a moment where EIP would -- was a

24 stakeholder in the portal -- construction or conversation.

25 Q Okay. Did you know whether -- actually, let me take one step back.

1 Do you recall the context of your first interaction with EIP?
2 A My first one, no. I really don't remember how that relationship got off the
3 ground.
4 Q Okay. Did you know Alex Stamos or Renee DiResta or anyone involved at
5 EIP?
6 A Prior?
7 Q Yes.
8 A No.
9 Q So you don't recall who facilitated the introduction?
10 A No.
11 Q Do you recall if it was someone from EIP reaching out to -- either through an
12 intermediary or directly, reaching out to CIS?
13 A No, I don't recall.
14 Q Do you recall with your early interactions with EIP whether they had any
15 awareness of CIS' work with respect to developing the misinformation reporting portal
16 and efforts to try to work with social media companies?
17 A Yeah, they were -- they were aware that we were attempting to make this
18 reporting process better.
19 Q What was your understanding of why EIP was interested in engaging with
20 CIS?
21 A My understanding of why they were interested in engaging with us was
22 because of our relationship with election officials.
23 Q Did you get a sense of whether the members at EIP had working
24 relationships with members of the social media companies?
25 A At some point I became aware that Alex Stamos was a former employee of

1 Facebook, I believe, and had connections, connections that we had been trying to make,
2 you know, for many months.
3 Q To your understanding, in these early discussions, was there any talk of EIP
4 taking on some sort of a responsibility with respect to the misinformation reporting
5 portal?
6 A Not that I recall, no.
7 Q Do you recall what CISA's involvement was with respect to the EIP?
8 A I don't.
9 Q Do you recall meetings where there'd be members of the EIP, CIS, and CISA
10 attending?
11 A Yes.
12 Q And do you recall the context of those meetings?
13 A I don't recall any specific meeting. I knew there was the relationship there.
14 To us, it was -- EIP was -- honestly, it was all really -- to us, we were interacting with the
15 Stanford Internet Observatory. That's how we viewed it. EIP was its own entity, and
16 many of them were related to Stanford. So it was mostly -- that's how we were
17 perceiving what was happening.
18 Q Perceiving EIP primarily as a Stanford entity?
19 A That's how I perceived it, yes.
20 Q Understood. For these meetings with CIS, CISA, and EIP, do you recall who
21 from CISA attended?
22 A No.
23 Q Did you have a primary point of contact at EIP in the fall of 2020?
24 A We worked primarily with two individuals there, seemingly co-equal.
25 Q And who were those two individuals?

A [redacted] and [redacted] -- and I don't recall how to pronounce her last name.

Q And to your understanding, who were [redacted] and [redacted] what were their roles?

A Their roles -- my understanding was they were kind of the lead for the EIP, or at least as it pertained to CIS' involvement.

Q And do you know if they had any connections to CISA?

A I believe they had a connection to CISA.

Q Do you recall having any direct interactions with Alex Stamos?

A He was on, I would say, one, maybe up to a few, phone conversations. But it was not -- I don't remember interacting with him individually or in any particular case.

Q Are you familiar with the Jira ticketing system that EIP used?

A Yes.

Q And at high level, can you just describe how it worked?

A Well, so Jira is a ticketing system a lot of times used for software development, so I'm familiar with it and others like it. And they had configured it to track these tickets -- these misinformation tickets. We would -- it's what we use to create tickets with EIP if -- if a misinformation report came into us, we would create a ticket within this Jira system.

It's also where we would be tagged. If there was an existing ticket that they wanted the election official to weigh in, we would be tagged and then we would go reach out to the election official.

And then just like any sort of ticketing system, you could track notes from various users and comments and -- so all of that was in that ticketing system.

Q What software system did CIS use for its internal tracking?

1 A The misinformation reporting portal.
2 Q Yeah. And was that just built by CIS itself or was it Jira or, you know --
3 A It was a custom build.
4 Q Okay. Do you recall how many entities were able to access Stanford's, the
5 EIP's Jira ticketing system?
6 A I don't. We had limited -- our visibility was limited to what our accounts
7 created or were tagged in.
8 Q For the tickets where CIS is tagged, for those tickets, were there any
9 limitations on what you could see?
10 A I can't comment. There may have been.
11 Q Did you have an understanding that some of the tickets would be
12 communicated to social media platforms?
13 A Yes, we were aware.
14 Q Could social media platforms, to your understanding, comment on the
15 tickets?
16 A I don't recall. Yeah. They might have -- yeah.
17 Q So during this time, the fall of 2020, there's the EIP, which has tickets that
18 may at some points be shared with social media companies.
19 A Uh-huh.
20 Q There's -- CIS has the email address created and you have an internal system
21 that you're tracking, but you're just using email, it sounds like, to forward to social media
22 companies.
23 Were these two tracks coordinating with one another?
24 A I'll describe it. I don't know if "coordinating" is the right word. When we
25 received a misinformation report, we would send it on both tracks, the EIP track and then

1 also through the original plan which was to go to CISA. So we would send it to both.
2 Q Do you know if that resulted, then, in companies receiving the same report
3 twice? So if -- I'll stop there.
4 A I seem to recall, yes. Yeah.
5 Q And was there a change in the process to account for that at any point?
6 A Not that I can recall.
7 Q To your understanding, did EIP have a numbering system somewhat similar
8 to how CIS would create a number to track cases?
9 A Yes. Each ticket had a ticket number.
10 Q In the early discussions or at any point throughout fall of 2020, what was CIS'
11 envision of how CIS could play a role or contribute to the EIP?
12 A Like I said, there were two -- there were two ways that we interacted with
13 EIP. One was on a election official-sourced misinformation report. We would send it
14 to the EIP, and they would send it to the social media companies. And at times that
15 would receive quicker responses from the social media companies. That was one
16 interaction.
17 The other interaction was if the EIP had a report of misinformation that needed an
18 election officials -- or if they wanted an election official to weigh in on that report -- they
19 didn't have those connections -- they would ask us to reach out to the election official.
20 Election official, you know, would respond, and then we would report that back into the
21 EIP ticket.
22 Q As part of CIS' interactions, involvement with the EIP, was the EI-ISAC
23 involved with EIP?
24 A We utilized the EI-ISAC's contact list. That's how we knew who to contact.

[12:20 p.m.]

BY [redacted]

Q What about the submission of reports?

A Can you be more specific?

Q Sure. If something was submitted via the EI-ISAC, was there any sort of effort by CIS to have that report sent to someone in the EIP?

A If -- are you asking about a situation where they email -- instead of emailing misinformation, they emailed the ISAC?

Q Yes.

A I don't recall if that happened. If it happened and it was misinformation, it would have been routed over to us by the ISAC.

Q You mentioned that you and [redacted] were the primary points of contact at the CIS for interaction with the EIP, but [redacted] was involved also?

A Yes.

Q And what was your understanding of his responsibilities as it related to interacting with the EIP?

A His responsibility was -- he didn't have a responsibility interacting with EIP, except that he was made aware when we were reaching out to election officials using the ISAC's contact list. He was in the loop on that.

Q Do you remember what the email address was that was created specifically for submitting the reports to CIS?

A It was [redacted]@cisecurity.org.

Q Do you recall who at CIS was able to access or see EIP's Jira ticketing system for the tickets that CIS was tagged on?

A I don't know the exhaustive list.

1 Q With the understanding it may not be exhaustive, who were some
2 individuals that you recall were able to access it?
3 A Myself, [redacted], and we had a temporary contractor.
4 Q Do you remember the contractor's name?
5 A [redacted].
6 Q Was he brought in specifically for this project?
7 A Yes.
8 Q And where was he coming from?
9 A He was in Jacksonville, Florida.
10 Q Did he work on, in addition to the involvement with EIP, CIS' handling of the
11 misinformation portal?
12 A His responsibility was to man the inbox, and that predominantly involved the
13 incoming emails from election officials, but it would have also involved the handling of
14 the EIP exchanges. Most of that was done through email.
15 Q To your understanding, when CIS would submit something via ticket to the
16 EIP, what would happen next?
17 A It was our understanding that they would communicate it to the social
18 media companies. It was also our understanding that they could do analysis to
19 determine how big of a footprint the misinformation had.
20 Q When CIS is sending reports to CISA to be sent to the social media platforms,
21 you mentioned you recall it being a generic CISA email address that could be used. Do
22 you know who from CISA was involved in managing either that address or at least as it
23 relates to the email CIS was sending?
24 A I remember Brian Scully being involved in that. And, also, the reason that it
25 was a generic email was because other people had access, but I don't know who they

1 were.

2 Q Do you recall any discussions from, we'll say, late summer until election day

3 2020 about either reconfiguring or reconsidering what CIS' role should be with respect to

4 the EIP?

5 A Not in general terms. Other than the two things I mentioned earlier sort of

6 inbound and outbound, I don't.

7 Q When you switched from -- or when CIS switched from sending reports to

8 CISA and sending at least directly to Facebook and maybe other social media companies,

9 was there any corresponding switch that occurred with respect to how CIS was

10 interacting with EIP?

11 A Not that I can recall.

12 Q Did CIS as part of its internal system or just through some other system

13 tracking emails keep track of whether any action was taken against the content that CIS

14 was passing along?

15 A It was all in email, so yes, through email, yeah.

16 Q And by that you mean would the social media platforms tell you what their

17 response was or --

18 A There were times they told us. There were times we went back to that

19 social media post and realized what they did.

20 Q For that latter example was there any effort to internally track?

21 A I remember at the end going back through a bunch of the emails to sort of

22 reconstruct that, but during the process, no.

23 Q In, say, maybe the 2 weeks leading up to election day, do you recall how

24 many reports might be submitted to CIS?

25 A I don't.

1 Q Was it several per day or --

2 A Several per day is probably accurate. We were not getting -- I mean, we
3 were able to man it with the staff that I mentioned, so it was not an excessive amount in
4 my -- how I would define excessive.

5 Q Did you hear from State and local officials about whether their reports were
6 either more quickly or more effectively being responded to after CIS' involvement?

7 A I remember some anecdotal -- I remember election officials being happy
8 with our response time and keeping them in the loop, but I don't recall anyone making a
9 comparative statement of this is better or this is worse than what it was before.

10 Q There were frustrations from the State and local officials that were being
11 expressed to you and others at CIS either as far back as 2019 at least, it sounds like, which
12 you cited as one of the reasons for the initial switchboarding project?

13 A Yeah.

14 Q Did those concerns and all of that, did they continue to get elevated to you
15 by fall of 2020?

16 A I don't recall any new frustrations. I think in general there was a concern
17 that the social media companies were not being as responsive to their concerns as they
18 would have liked, regardless of our involvement.

19 Q Do you recall whether certain social media platforms were more responsive
20 than others?

21 A I don't. I don't because we had tickets -- I think we had the majority of
22 them were Twitter. I don't remember exactly the number, but -- so it's hard to make an
23 assessment of who's more responsive when the numbers aren't equal.

24 Q With the understanding that you were no longer a full-time employee, do
25 you know what work CIS did as it relates to passing along misinformation reports around

1 the 2022 midterm election?

2 A It was not shared with me to a full extent, if any.

3 Q Going back to an earlier response where, again, you were speaking for your

4 understanding, that cybersecurity is a different domain than misinformation, for the team

5 that you understood Brian Scully to be the head of in 2020, which domain was his team

6 focused on?

7 A I don't know that I have enough of an understanding of what all his team did

8 to really comment on that.

9 Q Did CIS work with vendors in the fall of 2020 on the misinformation

10 reporting project?

11 A They were not initially in scope. I remember being asked if they could start

12 to report misinformation, and it's kind of where my recollection ends. I don't know if

13 we actually received anything from them. I do remember it coming up.

14 Q In this space, what does it mean to have a vendor sending in misinformation

15 reports?

16 A I mean, it would mean an election technology provider. There are -- yeah.

17 Q Are there any big names or notable ones you could provide as an example?

18 A Well, I mean, I tend to look at the industry. You have voting systems which

19 are registered manufacturers with the Election Assistance Commission, so they go

20 through Federal certification programs. They get federally certified, and in certain

21 States, they don't accept that certification. And then you've got other providers that do

22 more auxiliary type services that don't go through the same Federal certification program.

23 I would consider all of them to be vendors, and I would say the closest thing to defining

24 who those are would be sort of members of the Sector Coordinating Council are all

25 vendors.

1 Q During your interactions with social media companies, did you have a sense
2 of the title or responsibilities of the representatives from the social media companies, the
3 companies that were putting on these calls?
4 A My understanding is they were government affairs heads, directors, liaisons.
5 I'm not sure exactly sort of where they fit within any broader organization structure
6 there, but they were government affairs people.
7 Q Do you recall if you had any conversations with anyone that you knew of
8 that worked on the content moderation teams within the social media companies?
9 A To my knowledge, we did not interact with anyone that was directly
10 responsible for that.
11 Q Do you recall in the fall of 2020 how frequently you might provide -- or if you
12 were providing updates to [redacted] about the volume you were seeing or the status of
13 how the project was going?
14 A We were providing him status. I do not think we were providing him
15 real-time or even -- I might say periodic is probably how I would define it.
16 Q Do you recall any reactions, responses from him?
17 A No.
18 Q During your time at CIS, did you have any work or interactions with the
19 German Marshall Fund?
20 A Yes.
21 Q What was the nature of those interactions?
22 A They were a fellow recipient of Democracy Fund grants money, and we
23 attended a meeting of all of the sort of grant recipients, and I remember them being
24 there.
25 Q Do you remember when, approximately, that was?

1 A I don't think I have any date landmark to kind of place it honestly.

2 Q During your time at CIS, did you work with the Aspen Institute?

3 A We did not -- I did not.

4 Q During your time at the CIS, did you have any interactions with Global

5 Disinformation Index?

6 A No.

7 Q During your time at CIS, did you have any interactions with NewsGuard?

8 A I'm not sure who that organization is. That's such a generic name that I'm

9 afraid I don't -- yeah.

10 Q In your meetings with the social media companies, do you recall who your

11 main point of contact was at Twitter?

12 A I believe it was [redacted], or something along those lines.

13 Q What about at Facebook?

14 A I could be getting them confused, but I think it was [redacted] [redacted] might

15 be with Twitter. I'm not sure. But there was a [redacted] and there was an [redacted] I

16 remember that.

17 Q Did you have any -- do you recall having any meetings with representatives

18 from Google or YouTube?

19 A No, I don't recall.

20 Q What about with Reddit?

21 A I do not recall any meetings with Reddit.

22 Q To your understanding, did the EIP system, in addition to having direct

23 access to the Jira ticket that was for the ones that CIS was tagged on, would EIP's Jira

24 ticketing system generate notifications by email?

25 A It would, yes.

1 Q And do you know what could be seen in those email notifications?
2 A I don't recall. Different systems can, you know, send you a link or send you
3 the whole thing. I don't recall what was visible.
4 Q Do you recall if there was any effort within CIS to take any information from
5 the EIP Jira ticket and add it to the internal CIS tickets?
6 A As I mentioned earlier, we mostly used the internal misinformation reporting
7 to create the initial ticket number and then use that to track emails, and our compliance
8 with keeping that updated was very loose. So there may have been times that we
9 updated it with information from the EIP ticket, but it was very inconsistent.
10 Q Did you participate in any, like, post-election, post-EIP debriefing to discuss
11 the work that had been done?
12 A With EIP?
13 Q With EIP.
14 A I don't recall any with EIP.
15 Q Okay. What about with anyone else or internally?
16 A Internally we set up a post-election review. We engaged a couple of the
17 stakeholders that had been with us the whole time, the National Association of State
18 Election Directors and the National Association of Secretaries of State.
19 Q And do you remember what was discussed?
20 A Only in general, pros and cons, what worked well, what didn't work well.
21 Q At a high level, do you remember what did work well or what didn't work
22 well?
23 A I remember certain cases that worked well. I remember observing that the
24 inconsistencies from the social media companies was -- that didn't work well. I
25 remember observing that several of the EIP source tickets -- you know, getting the

1 answers from the election officials and getting that back, that worked well. That's a
2 couple of examples that I remember.
3 Q What did you mean by "the inconsistencies from social media companies"?
4 A We observed that there was no -- there was an unknown response for the
5 reports that election officials would report in. For example, you just -- you didn't know
6 if they would take action or not, even if it matched a very similar report that you had sent
7 in, you know, a day ago.
8 So we had gone into the process understanding that they had policies and that
9 they would apply their policies to the report. And so it was inconsistent, in our view,
10 that certain misinformation or claims of misinformation would be treated differently.
11 Q Do you know if that view was shared with any of the entities involved with
12 the EIP, other than the social media companies themselves?
13 A Can you rephrase that? Ask that again.
14 Q Sure. Yeah.
15 What you just described that, from at least the perspective of CIS, there would be
16 similarly-situated misinformation reports that appeared to be treated differently, did you
17 have any discussions with any other entities that were involved with EIP about that?
18 A About that observation?
19 Q About that observation.
20 A Not that I can recall.
21 Q Did CIS independently conduct any assessments of social media companies'
22 policies during 2020?
23 A What do you mean by "assessment"?
24 Q I guess just kind of building off the previous response, as far as it sounds like
25 there was some awareness of what the social media company responses were and trying

1 to determine why similarly situated reports were treated differently. But, even just
2 taking one step back from that, was there at any point in time where someone from CIS
3 was doing a survey of the differences among different policies or conducting some sort of
4 analysis?
5 A Not that I can recall.
6 Q Okay. Do you know if the EIP was conducting that type of analysis?
7 A I don't know.
8 Q Can CIS have a -- when tagged on a ticket comment on the ticket?
9 A Yes.
10 Q Now, you mentioned one of the things that CIS would check before passing
11 along a report that was submitted to the misinformation email address was who sent the
12 initial report. Do you recall any instances where the person submitting the report was
13 not who they claimed to be?
14 A I don't recall any of those.
15 Q Do you recall any instances where you were unable to pass on a report
16 because of a concern about who submitted the report?
17 A I think there were times we had to do more than others, reach out to a
18 known contact at -- you know, from whatever office to ask if this person, this email
19 address is legit. I don't recall any rejecting any.
20 Q For State and local officials, would they send reports from both their
21 government email address as well as their personal one?
22 A I don't recall. I don't recall any personal. They may have been there, but I
23 don't recall any.
24 Q When you would hear back from a social media platform about what action
25 was taken, was it part of CIS' responsibility to communicate that to the State and local

1 election officials?

2 A Yes.

3 Q And then, when you said you made an effort later on to somewhat

4 reconstruct -- to try to see for some of the posts you didn't hear back on if any action was

5 taken, did you communicate those findings to the State and local election officials?

6 A Like the totality of the different responses? No, we didn't distribute that

7 broadly.

8 Q Did you communicate any sort of high-level information about it, of your

9 findings?

10 A I did speak at a conference in early 2021, and I don't recall -- I may have -- I

11 probably spoke in generalities about it, yes.

12 Q Okay. Do you recall that conference?

13 A It was the National Association of State Election Directors conference.

14 Q Do you recall any discussions with personnel at CISA about whether they

15 faced any restrictions on what they could or couldn't do because of legal or constitutional

16 concerns?

17 A Nothing indepth. I do recall Mr. Scully checking with counsel on various

18 things, but nothing specific. And we were not a party to those.

19 Q How did you have awareness that Mr. Scully was checking with counsel on

20 certain things?

21 A He would tell us.

22 Q And do you recall the context of any of those instances?

23 A I remember the question about vendors, if vendors could submit through.

24 And I remember him checking with his counsel on that, and I don't recall the response.

25 Q Any other instances that you recall?

1 A Nothing specific.

2 Q At a more general level, do you recall any discussions or awareness of any

3 discussions of whether there were limitations on what sorts of communications CISA

4 could have with the social media platforms?

5 A I have a vague memory of an early conversation, but nothing I can speak to

6 specifically.

7 Q With the understanding it's a vague recollection, do you recall in this

8 conversation it was you were having with someone at CISA?

9 A Yes.

10 Q Do you recall anyone else that was involved in this conversation?

11 Mr. Flood. All right. I'm going to object about his recollection of any

12 conversations that CISA is having with its own general counsel. I just don't want to get

13 into their attorney-client privileged communications.

14 [redacted] If he has awareness of it, then that's CISA's problem.

15 Mr. Flood. I understand if he does, they may or may not have waived the

16 privilege. But I think, you know, we've given you a lot of rope on it here. I think it's

17 probably as far as we can go without risking stepping into communications with their own

18 counsel, and I don't want him to speculate on that.

19 [redacted] I don't think that's a privilege you can assert as counsel for [redacted]

20 and as counsel for CIS.

21 Mr. Flood. We can debate that issue for sure.

22 BY [redacted]

23 Q Without wading into communications that you were privy to between CISA's

24 counsel and CISA, do you recall anything else about this conversation?

25 A No.

1 Q Do you recall if anyone else from CIS was part of this conversation?
2 A No, I don't recall who was on the conversation.
3 Q Do you recall what triggered the conversation?
4 A The introduction to the social media companies. This would have been an
5 early conversation about the introduction to the social media companies.
6 Q Is it your recollection that this is around the time of early 2020 where CIS
7 first had discussions with CISA about the misinformation reporting project and then,
8 ultimately, CISA facilitated the introductions to the social media companies?
9 A Correct.
10 Q Did you ever have any interactions during your time at CIS with Director
11 Krebs?
12 A I did not.
13 Q You, again, mentioned cybersecurity and misinformation being separate
14 domains. Were there any individuals at CIS who were involved in that latter
15 misinformation domain?
16 A We were the closest to it. No one else that I haven't mentioned earlier.
17 Q Do you recall, whether from CISA or anybody, anyone raising any legal
18 concerns with respect to text messages when that was -- whether there was some
19 consideration of whether to handle those reports?
20 A I remember conversations about text message handling and, like I
21 mentioned earlier, with the different ISACs being a potential place for those reports to go.
22 Other than that, I really don't recall certainly any specifics about legal concerns or other
23 concerns.
24 Q Does your company, Enhanced Voting -- going back to the domains of a
25 cybersecurity focus versus a misinformation focus, is there any element of your company

1 that has a focus on misinformation-related activities?

2 A No, no.

3 Q Do you have interactions with social media companies as part of your -- as

4 head of Enhanced Voting?

5 A I do not.

6 Q Have you maintained contacts at the social media companies?

7 Mr. Flood. I'm going to object. We agreed to come here and talk about his

8 time at CIS, not his time at his current company.

9 [redacted] Are you instructing him not to answer?

10 Mr. Flood. I'm instructing him not to answer. He's here voluntarily. We

11 talked about this. He's agreed to come and talk about his time at CIS. I've tried to give

12 you latitude on it. I want to be reasonable about it, but I think that, if the line of

13 questioning is going to continue into what he does in his current company, I'm going to

14 object and instruct him not to answer.

15 BY [redacted]

16 Q When you came back to CIS as a contractor, did you have any interaction

17 with social media companies?

18 A I did not.

19 Q When you came back to CIS as a contractor, did you have any interactions

20 with any Federal agencies?

21 A No. In that role, no. I listed earlier through the Sector Coordinating

22 Council --

23 Q Yes.

24 A -- yes, but not as a contractor to CIS.

25 Q Thank you for clarifying.

1 [redacted] Can we go off the record, please?

2 [Recess.]

3 Ms. [redacted] All right. It is 1:47. We can go back on the record.

4 BY MS. [redacted]

5 Q To start off, I wanted to follow up on a couple of things we discussed earlier.

6 You mentioned that your main points of contact at the EIP were [redacted] and

7 [redacted]. Is that right?

8 A That's correct.

9 Q And you said you thought they had some tie to CISA?

10 A Yes.

11 Q Are you aware that they were interns?

12 A Not specifically.

13 Q Are you aware that they were students at Stanford?

14 A That would have been my guess. It was during the pandemic, so things

15 were confusing.

16 Q Okay. That's fair.

17 You also mentioned that you felt like there -- you and other election officials after

18 the 2020 election, you felt like there was inconsistency in how the social media platforms

19 were applying their summaries.

20 Did I summarize that well enough?

21 A That's accurate.

22 Q Could you talk a little bit more about what you meant by that, the

23 inconsistencies you were seeing?

24 A I don't have a lot more to add. It felt like -- it felt more subjective. And,

25 you know, we didn't really do analysis on everything. They didn't really give us detailed

1 answers. They just would say we determined this is not against our policy or it is against
2 our policy. So we didn't really have a lot of information to go on. And, like I said
3 earlier, we just -- you know, we took the opinion of our election officials and, you know,
4 whatever that opinion was.
5 Q Did you feel like there was a bias or that it was just inconsistent?
6 A I do not recall there being a political -- or feeling like there was a political
7 bias.
8 Q Turning more to the Center for Internet Security more generally, is it a part
9 of the Federal Government?
10 A Not that I'm aware of.
11 Q Is it a part of a State government or local government?
12 A This is about which --
13 Q The Center for Internet Security.
14 A Not that I'm aware of.
15 Q It's nongovernmental. Correct?
16 A That is my understanding.
17 Q It's a nonprofit organization?
18 A That is my understanding.
19 Q To your knowledge, does the Cybersecurity and Infrastructure Security
20 Agency operate or manage the Center for Internet Security?
21 A There's a relationship that involves something known as a cooperative
22 agreement. That is as far as my -- that is the extent of my understanding.
23 Q When you worked at CIS, did you take instructions from anyone at CISA?
24 A I did not.
25 Q Did you report to anybody at CISA in your day-to-day work?

1 A I did not.
2 Q Is it your understanding that CIS operates independently of CISA?
3 A Yes.
4 Q Is it your understanding that CIS doesn't take instructions, operational
5 instructions from CISA?
6 A I can't really speak to that.
7 Q Okay. To the best of your knowledge, was CIS acting as a proxy for CISA
8 and its activities?
9 A Can you be more specific?
10 Q Was CIS doing work on behalf of CISA for -- by the bidding of CISA?
11 A Related to misinformation, they were not doing the bidding of CISA.
12 Q We've also discussed the EI-ISAC and the MS-ISAC a little bit today. To your
13 knowledge, is the EI-ISAC part of the Federal Government?
14 A To my knowledge, it is a part of the Center for Internet Security, not a part of
15 government.
16 Q To your knowledge, does the EI-ISAC take direction or instruction from CISA?
17 A I believe there is a customer or similar customer vendor type relationship
18 there when it comes to the EI-ISAC, or at least that's what I observed at times.
19 Q If you describe it as a customer vendor, which party would you describe as
20 the customer, the EI-ISAC or CISA?
21 A CISA.
22 Q And the EI-ISAC is providing a service?
23 A Correct.
24 Q So CISA was not managing EI-ISAC?
25 A No. There was no management, correct.

1 Q Was EI-ISAC being operated by CISA?

2 A To the best of my knowledge. And, remember, I was not a part of the

3 EI-ISAC, so to the best of my knowledge.

4 Q But, to the best of your knowledge, that wasn't happening?

5 A Correct.

6 Q I know you were not -- you were also not part of the MS-ISAC. But, to the

7 best of your knowledge, was the MS-ISAC operated by CISA?

8 A To the best of my knowledge, it was a customer vendor relationship.

9 Q And, similarly, MS-ISAC was providing services to CISA?

10 A Correct, or on behalf, yes.

11 Q Was MS-ISAC taking actions on behalf of CISA, would you say?

12 A I don't know. I don't know.

13 Q During the first hour we were talking about some of the goals for the

14 misinformation reporting project, and you mentioned, in the early stage of the project,

15 one of the things that you wanted was hopefully for reports to get to a priority queue for

16 a social media company review.

17 Do you remember that?

18 A Yes.

19 Q Can you explain what you mean by "a priority queue"?

20 A First off, I do not know the inner workings of the social media companies, if

21 they even have queues. But we were operating under some assumptions. One of

22 those assumptions was that they had a team, teams even that were responsible for

23 addressing misinformation. We wanted to get it in front of those teams and get their

24 attention. That's what I meant by a priority. It was: Hey, this is not just a random

25 report. This is a report from an election official which we believed carried weight.

1 So that's what I meant by that.

2 Q So you weren't speaking from some explicit knowledge of how social media

3 companies do content moderation?

4 A Correct. I still do not have any knowledge of that.

5 Q To the best of your knowledge, the process that was ultimately

6 implemented, the email forwarding process, to the best of your knowledge, did social

7 media companies review those reports in a different way than they reviewed reports

8 from other entities?

9 A After we sent it, I have no idea how they handled it.

10 Q So you don't know anything about the treatment of those reports by social

11 media companies?

12 A That's correct. It was a complete black box to us.

13 Ms. [redacted] We can go off the record.

14 [Discussion off the record.]

15 [redacted] Can we go back on the record, please?

16 EXAMINATION

17 BY [redacted]

18 Q [redacted] I just want to pick back up with the last couple of questions

19 there.

20 With respect to sending out communications with social media companies in

21 order to understand internally how the social media companies were handling it, was it

22 your understanding when sending reports to CISA to then send to the social media

23 companies that those reports would be taken more seriously or more likely to be

24 responded to as a result of CISA's preexisting relationship with the social media

25 companies?

1 A I didn't have any reason to believe that.

2 Q When using the word "priority" earlier, what was your understanding of the

3 role and the value that CISA would be providing -- that CIS would be providing?

4 A Sorry. Can you restate that?

5 Q Sure. In reference to your earlier response about trying to increase the

6 priority of requests that come from State and local officials, to your understanding, what

7 value add was CIS providing toward that end?

8 A There are two things that we articulated to the social media companies.

9 One was that this was a vetted election official, meaning we could assert this report is

10 coming from an election official which had value over sort of a random report as opposed

11 to. The second thing was that we would do some basic validation to make sure that the

12 report had, you know, a sample of what they were referring to and then the description.

13 Q And then why initially -- so you talked about the switch, and, again, your

14 recollection is around mid-October of where CIS began directly submitting the

15 misinformation reports. Why go through CISA initially?

16 A I've tried to remember that, and I don't.

17 Q Okay.

18 A Because that was not our original concept with the misinformation reporting

19 portal. That was how it was originally rolled out. I don't remember why.

20 Q Are you familiar with the Virality Project?

21 A Vaguely.

22 Q If you have an understanding, what is your understanding of what that is?

23 A It came up at the end of our efforts as a follow-on effort that the EIP was

24 doing, and we were not involved.

25 Q Okay. Do you know who made the decision at CIS to not be involved?

1 A My recollection is that we weren't asked, so we didn't make a decision one
2 way or the other.
3 Q Okay. Are you familiar with Graphika?
4 A Yes.
5 Q And what is Graphika?
6 A My understanding is Graphika is sort of a data analytics company that
7 studies the social media data.
8 Q Other than EIP, did you have any interaction -- or did CIS have any
9 interactions with Graphika during your time at CIS?
10 A We had several interactions with Graphika throughout 2020. The CEO,
11 John Gilligan, had met the CEO of Graphika at some point, and they had -- we had a
12 couple of conversations with Graphika prior to the EIP -- prior to the EIP coming into
13 existence.
14 Q And what was the purpose or context of those discussions?
15 A Understanding Graphika's capabilities and if there was a way of utilizing
16 those for election misinformation.
17 Q Was it in the context of -- these discussions between Graphika and CIS, was
18 it in the context of the EIP specifically or just predated?
19 A Predated.
20 Q All right. Did the discussions relate at all to the ongoing misinformation
21 reporting project that CIS was working on?
22 A It was related, yes.
23 Q And were the discussions about how Graphika could play a role in that
24 project?
25 A Yes.

1 Q And what were some of the ideas that were considered?

2 A The only idea I remember goes back to how we presumed or assumed things

3 worked within this misinformation or, really, information system, and that was that, if

4 there was going to be an influence operation that an election official reports, here's

5 misinformation, they report that to us; all we would expect at that time is maybe the one

6 sample of maybe perhaps something larger. And we didn't have the capabilities. That

7 wasn't our forte.

8 The conversations with Graphika centered around whether they had the capability

9 to better inform or fill in the rest of the picture. Right. So that was trying to

10 understand their capabilities for that.

11 Q And do you recall at a high level whether they represented they may or may

12 not have the capability to do something like that?

13 A Those conversations never got real enough. They were all -- my

14 recollection of those conversations were that they were still sort of posturing

15 conversations and not: Hey, let's do -- like, hey, let's have a -- let's work together.

16 It was more feeling each other out and posturing, and it never really became an

17 actual -- there was never any real conversation about what a relationship or what them

18 helping the misinformation reporting project would actually really look like.

19 Q Are you familiar with the DFRLab that is housed within the Atlantic Council?

20 A Okay. What does DFR stand for?

21 Q Digital Forensic Research.

22 A Not enough to be confident.

23 Q Okay.

24 A Yeah.

25 Q So I take it no recollection -- let me -- not necessarily DFRLab. Do you recall

1 any -- during your time at CIS, whether CIS had any interactions with the Atlantic Council?
2 A The Atlantic Council, yes, or someone who's formerly with the Atlantic
3 Council. There was one gentleman who we interacted with who I think was on the
4 Atlantic Council, so I --
5 Q And what's his name?
6 A [redacted].
7 Q And how did you know [redacted]?
8 A [redacted] was a -- just a well-known cybersecurity expert, met him
9 through, you know, sort of just networking, and he participated in our Rapid
10 Architecture-Based Election Technology Verification project, gave us feedback on that.
11 So I interacted with him purely from a cybersecurity perspective, and I believe he had an
12 affiliation with the Atlantic Council.
13 Q Do you recall any interactions with [redacted] as it related to CIS'
14 misinformation reporting project?
15 A I do not recall any conversations with him about misinformation.
16 Q We've spoken a couple of the hours about the perspectives shared by you
17 and it sounds like maybe some others that the social media platforms appeared to be a
18 bit inconsistent with similarly situated reports.
19 Did you or are you aware of anyone at CIS sharing that perspective with the social
20 media companies?
21 A I don't think we directly shared that opinion with them.
22 Q Do you know if it was communicated to them through anyone else?
23 A I believe we were -- I believe it was, yes.
24 Q And how so?
25 A I believe that the other organizations we worked with as stakeholders shared

1 that opinion with them.

2 Q Any stakeholders in particular?

3 A The National Association of State Election Directors in particular.

4 Q Any other entities?

5 A Not that I can recall.

6 Q Do you recall whether it was you or someone at CIS who was sharing this

7 perspective with -- and I'm sorry. Was it the NASS or NAS --

8 A -- ED. NASED.

9 Q NASED.

10 A I'm sorry ask that question again.

11 Q Yes. Do you recall any conversations that you participated in where you

12 shared this perspective with someone from the NASED?

13 A Not in specific, but most likely, yes.

14 Mr. Flood. Could I just clarify? What perspective? I'm sorry.

15 [redacted] The perspective that the social media companies were inconsistent

16 with similarly situated reports.

17 Mr. Flood. Thank you.

18 [redacted] It was a topic of conversation that we probably discussed.

19 BY [redacted]

20 Q Do you know who the main point of contact for NASED was for interactions

21 between the NASED and the social media platforms?

22 A Yes.

23 Q And who was that?

24 A [redacted].

25 Q Other than the NASED, do you recall any other entities that similarly may

1 have passed on or communicated this perspective to social media platforms?
2 A I do not recall any others.
3 Q Are you familiar with an entity called FireEye?
4 A Yes.
5 Q To your understanding, what is it?
6 A A cybersecurity firm, consulting firm.
7 Q During your time at CIS, did CIS have any interactions with FireEye?
8 A There's many aspects to CIS. I can't speak to all of those aspects.
9 Q What about with respect to the misinformation reporting portal?
10 A I do not recall any conversations that I had with FireEye related to
11 misinformation reporting.
12 Q Are you familiar with the entity -- are you familiar with an entity called
13 Moonshot?
14 A I'm not.
15 Q Are you familiar with the Center for Countering Digital Hate?
16 A I am not.
17 Q Are you familiar with Cloudfare?
18 A Yes.
19 Q To your understanding, what is Cloudfare?
20 A Cloudflare is a web application firewall which basically is a -- protects -- help
21 protects networks from cybersecurity threats.
22 Q As part of the misinformation reporting portal, did you have or anyone at CIS
23 have any interactions with Cloudflare?
24 A Not that I'm aware of.
25 Q Are you familiar with an entity called Park Advisors?

A I am not.

Q Are you familiar with a project called Disinformation Cloud?

A I am not.

Q Are you familiar with the Global Engagement Center?

A I am not.

[redacted] Can we go off the record, please?

[Whereupon, at 2:08 p.m., the interview as concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

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5 COMMITTEE ON THE JUDICIARY,
6 U.S. HOUSE OF REPRESENTATIVES,
7 WASHINGTON, D.C.
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13 DEPOSITION OF: ANDREW SLAVITT
14
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16
17
18 Wednesday, January 31, 2024
19
20 Washington, D.C.
21
22
23 The deposition in the above matter was held in room 2237, Rayburn House Office
24 Building, commencing at 10:02 a.m.

1 Appearances:

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3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted], RESEARCH ASSISTANT

8 [redacted], GENERAL COUNSEL

9 [redacted], SENIOR COMMUNICATIONS ADVISER

10 [redacted], DEPUTY GENERAL COUNSEL

11 [redacted], CHIEF COUNSEL FOR OVERSIGHT

12 [redacted], PROFESSIONAL STAFF MEMBER

13 [redacted], PROFESSIONAL STAFF MEMBER

14 [redacted], COUNSEL

15 [redacted], MINORITY CHIEF OVERSIGHT COUNSEL

16 [redacted], MINORITY PROFESSIONAL STAFF MEMBER

17

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19 For the SUBCOMMITTEE ON CRIME AND

20 FEDERAL GOVERNMENT SURVEILLANCE:

21

22 [redacted], MINORITY DETAILEE

1

2

3 [redacted] Good morning. This is the deposition of Andy Slavitt, former White
4 House official, by the House Committee on the Judiciary. Chairman Jordan has
5 subpoenaed Mr. Slavitt. He is not here today, and he will not be appearing. The time
6 is 10:02.

7 We began our efforts to bring Mr. Slavitt in for questions about the White House's
8 role in censoring speech online in June of 2023. We wrote Mr. Slavitt requesting a
9 voluntary transcribed interview from June 29th through the end of November.

10 We tried in good faith to seek his voluntary appearance. We tried to work
11 something out where we would be able to get the information we needed to do our
12 work.

13 There were a series of letters going back and forth from June to November. We
14 can put them all in the record. There was a June 29th letter from the committee.
15 There was a July 11th response from Mr. Slavitt's counsel. There was a September 29th
16 letter from Chairman Jordan back to Mr. Slavitt's counsel. There was an October 13th
17 letter from Mr. Slavitt's counsel to Chairman Jordan. There was also an October 13th
18 letter from the White House to Chairman Jordan. And, finally, on November 30th, we
19 issued a deposition subpoena, and that was accompanied by a cover letter explaining our
20 rationale.

21 On December -- we had additional letter exchanges on December 15th. We got
22 one from the White House on November 30th. We also wrote the White House. On
23 December 19th, we agreed to a new deposition subpoena, changing the date to today.
24 It was originally going to be in December. We moved it to January 31st, today.

25 And, between the December 19th deposition subpoena we sent with a cover

letter and up to last night, we were trying to work through these issues to get Mr. Slavitt here to appear. And we made extraordinary accommodations, we believe.

On January 8th, we wrote a relatively long email to White House staff regarding the types of topics we're interested in. We sent a letter on January 22nd. I'm sorry; that was January 29th. And we had calls this weekend with the White House, and we had calls yesterday with Mr. Slavitt's counsel.

And the bottom line: We offered them what we felt to be a fair accommodation. The accommodation was we would be willing to let Mr. Slavitt appear and any question we asked, any question, we told him -- we told the White House and we told his counsel that he would have an opportunity to push pause on the deposition and to leave the room with his personal counsel and go confer with White House counsel. And, whatever White House counsel told him, he would be able to return to the room. We would restart the deposition, and he would be able to proceed that way. And they did not feel that was an accommodation that they could work with. So we've reached the point where Mr. Slavitt is not here.

The White House claims that our subpoena is defective. And we would just note for the record that the House deposition rule and the committee's deposition rule prevents us from allowing agency counsel and personal counsel in the room for the deposition.

So, like I mentioned, we've got a series of exhibits, 17, that we will mark for the record. And I don't think I need to go through all of them. And I'd let an opportunity -- I'll let the Democratic staff an opportunity to make any remarks they want to.

[redacted] Thank you, [redacted]

We don't take a position on the validity of the subpoena either way. I do want to

1 note that the dispute here really turns on whether Mr. Slavitt was entitled to appear with
2 the counsel of his choice in the room with him.
3 I want to note that Mr. Slavitt, according to the letter -- and I think we would like
4 to introduce the letter that his counsel sent over last night if you didn't mention that.
5 [redacted] I believe that's exhibit 16.
6 [redacted] So the letter that his counsel sent over last night that's marked as
7 exhibit 16, it notes in the second paragraph that Mr. Slavitt has flown at his own expense
8 to Washington, D.C., in anticipation of meeting with the committee. And it also notes
9 that, as you said, that they were trying to negotiate an accommodation through last
10 night. He also says -- his counsel also notes that, "We would be pleased to reschedule
11 for a later date once the Committee and White House are able to reach an agreement."
12 I also want to note that, in the January 22nd letter from the White House -- I'm
13 sorry; I don't know what number that is.
14 [redacted] That is No. 14.
15 [redacted] That the White House acknowledges that the majority sent them a
16 list of topics. They expressed that, "Upon review, we have significant concerns
17 regarding several of the proposed topics."
18 And so I think, based on all of that, it's the White House's position that there's
19 more discussion to be had on the accommodations process. And that's all we have.
20 [redacted] Okay.
21 [redacted]. I would just note for the record --
22 [redacted] Of course.
23 [redacted]. -- I believe the original deposition date was supposed to be
24 January 9th.
25 [redacted] January 9th. My bad.

1 [redacted]. That's okay.

2 [redacted] I think I will just go through --

3 [redacted] That would be great.

4 [redacted] -- and list each exhibit.

5 [redacted] That would be great, because I think I can write it down quick.

6 [redacted] And we have a list that we can give to you so you don't have to --

7 [redacted] That would be great. That would be great. Thank you.

8 [redacted] -- copy down what I say.

9 Exhibit 1 is a letter, dated June 29, 2023, to Andy Slavitt requesting the voluntary

10 transcribed interview from the committee.

11 Exhibit 2 is a letter, dated July 11, 2023, from Andy Slavitt's counsel to Chairman

12 Jordan and the Judiciary Committee.

13 Exhibit 3 is a letter, dated September 29, 2023, from Chairman Jordan to Andy

14 Slavitt's counsel.

15 Exhibit 4 is a letter from Andy Slavitt's counsel to Chairman Jordan, dated October

16 13, 2023.

17 Exhibit 5 is a letter, dated October 13, 2023, from the White House to Chairman

18 Jordan.

19 Exhibit 6 is a deposition subpoena and cover letter to Mr. Slavitt, through counsel,

20 dated November 30, 2023.

21 Exhibit 7 is a letter, dated November 30, 2023, from Chairman Jordan to the White

22 House.

23 Exhibit 8 is a letter, dated December 15, 2023, from the White House to Chairman

24 Jordan.

25 Exhibit 9 is the new deposition subpoena and cover letter, dated December 19,

1 2023, changing the date of the deposition to January 31, 2024. Also included with
2 exhibit 9 is the committee's official notice of today's deposition.
3 Exhibit 10 is a letter, dated December 22, 2023, from the White House to the
4 committee, to Chairman Jordan.
5 Exhibit 11 is a letter, dated January 2, 2024, from Chairman Jordan and the
6 committee to the White House.
7 Exhibit 12 is a letter, dated January 5, 2024, from the White House to Chairman
8 Jordan.
9 Exhibit 13 is an email from committee staff, dated January 8, 2024, to White
10 House staff regarding topics.
11 Exhibit 14 is a letter, dated January 22, 2024, from the White House to Chairman
12 Jordan.
13 Exhibit 15 is a letter, dated January 29, 2024. The letter is from Chairman Jordan
14 to the White House.
15 Exhibit 16 is a letter, dated January 31, 2024 -- that is today -- from Michael Bopp,
16 Mr. Slavitt's counsel, to Chairman Jordan, attaching the White House's letter, which we've
17 attached -- we will make exhibit 17, its own separate exhibit, again, a letter, dated
18 January 31, 2024, from the White House.
19 I misspoke, so I will go back.
20 Exhibit 16 is a letter, dated January 31, 2024, from Michael Bopp, Mr. Slavitt's
21 counsel, to Chairman Jordan. Included in exhibit 16 is an attachment, and that is a letter
22 from the White House Counsel's Office to Mr. Bopp.
23 Exhibit 17 is a letter, dated January 31, 2024, today, from the White House
24 Counsel's Office to Chairman Jordan.
25 And we will give you a list of the exhibits, again, so you don't have to rely on your

1 notes.

2 [Slavitt Exhibit Nos. 1 through 17

3 were marked for identification.]

4 [redacted] And, with that, anybody have any other remarks they want to make?

5 [redacted]. No.

6 [redacted] Okay. With that, we'll go off the record. Thanks, everyone.

7 [Whereupon, at 10:13 a.m., the deposition was concluded.]

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9

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: GEOFFREY HALE

Thursday, February 1, 2024

Washington, D.C.

The interview in the above matter was held in room 2237, Rayburn House Office Building, commencing at 10:04 a.m.

1 Appearances:

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5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted] RESEARCH ASSISTANT

8 [redacted] PROFESSIONAL STAFF MEMBER

9 [redacted] PROFESSIONAL STAFF MEMBER

10 [redacted] COUNSEL

11 [redacted] MINORITY CHIEF OVERSIGHT COUNSEL

12 [redacted] MINORITY INTERN

13 [redacted] MINORITY PROFESSIONAL STAFF MEMBER

14

15

16 For CISA:

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18 [redacted]

19 [redacted]

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1 [redacted] This is a transcribed interview of Geoffrey Hale. Chairman Jordan has
2 requested this interview as part of the committee's investigation of how and to what
3 extent the executive branch has coerced and colluded with companies and other
4 intermediaries to censor speech.
5 Would the witness please state your name for the record?
6 Mr. Hale. Geoffrey Hale.
7 [redacted] On behalf of the committee, I want to thank you for appearing here
8 today to answer our questions. The chairman also appreciates your willingness to
9 appear voluntarily.
10 My name is [redacted] and I'm with Chairman Jordan's staff.
11 I'll now have everyone else from the committee who's here in the room introduce
12 themselves as well.
13 [redacted] [redacted] Chairman Jordan's staff.
14 [redacted] [redacted] Chairman Jordan's staff.
15 [redacted] [redacted] Chairman Jordan's staff.
16 [redacted] [redacted] Ranking Member Nadler's staff.
17 [redacted] [redacted] Ranking Member Nadler's staff.
18 [redacted] [redacted] with Ranking Member Nadler's staff.
19 [redacted] I'd like to now go over the ground rules and guidelines that we will
20 follow during today's interview.
21 Our questioning will proceed in rounds. The majority will ask questions first for 1
22 hour, and then the minority will have an opportunity to ask questions for an equal period
23 of time if they choose. We will alternate back and forth until there are no more
24 questions and the interview is over.
25 Typically, we take a short break at the end of each hour, but if you would like to

take a break apart from that, please just let us know.

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

Mr. Hale. I understand.

[redacted] So the court reporter can take down a clear record, we will do our best to limit the number of people directing questions at you during any given hour to just those people on the staff whose turn it is.

Please try and speak clearly so the court reporter can understand and so the folks down at the end of the table can hear you.

It is important that we don't talk over one another or interrupt each other if we can help it, and that goes for everybody present at today's interview.

We encourage witnesses who appear before the committee to freely consult with counsel if they so choose, and it's my understanding that you're appearing today with agency counsel. Is that correct?

Mr. Hale. That's correct.

[redacted] Could counsel please state your name for the record?

[redacted] [redacted]

[redacted] [redacted]

[redacted] And it's our understanding that you're both counsel for CISA?

[redacted] Yes.

[redacted] Okay. Thank you.

We want you to answer our questions in the most complete and truthful manner as possible, so we will take our time. If you have any questions or if you do not understand one of our questions, please let us know.

1 Our questions will cover a wide range of topics. So if you need clarification at
2 any point, just say so. If you honestly don't know the answer to a question or do not
3 remember -- excuse me -- or do not remember, it is best not to guess. Please give us
4 your best recollection, and it is okay to tell us if you learned information from someone
5 else. Just indicate how you came to know the information.
6 If there are things you don't know or can't remember, just say so, and please
7 inform us who, to the best of your knowledge, might be able to provide a more complete
8 answer to the question.
9 You should also understand that although this interview is not under oath, that by
10 law you are required to answer questions from Congress truthfully. Do you understand
11 that?
12 Mr. Hale. I understand.
13 [redacted] And this also applies to questions posed by congressional staff in an
14 interview. Do you understand this?
15 Mr. Hale. Yes.
16 [redacted] Witnesses that knowingly provide false testimony could be subject to
17 criminal prosecution for perjury or for making false statements under 18 U.S.C. section
18 1001. Do you understand this?
19 Mr. Hale. Yes.
20 [redacted] Is there any reason you are unable to provide truthful answers to
21 today's questions?
22 Mr. Hale. No.
23 [redacted] Finally, I'd like to make a note that the content of what we discuss
24 here today is confidential. We ask that you not speak about what we discuss in this
25 interview to any outside individuals to preserve the integrity of our investigation.

1 For the same reason, the marked exhibits that we will use today will remain with
2 the court reporter so that they can go in the official transcript. And any copies of those
3 exhibits will be returned to us when we wrap up.
4 That is the end of my preamble. Is there anything that my colleagues from the
5 minority would like to add?
6 [redacted] We just thank the witness for being here today.
7 [redacted] Thank you.
8 The clock now reads 10:09. We will start the first hour of questioning.
9 EXAMINATION
10 BY [redacted]
11 Q Would you state your full name again for the record, please?
12 A My name is Geoffrey Lawrence Hale, Geoffrey with a G.
13 Q And what is your current place of employment?
14 A I work for CISA, the Cybersecurity and Infrastructure Security Agency.
15 Q And what is your current titles?
16 A I am the associate director for Election Security and Resilience within the
17 National Risk Management Center at the Cybersecurity and Infrastructure Security
18 Agency.
19 Q And how long have you been in this position for?
20 A Technically, as associate director, that is a new title as of the spring. The
21 role with Election Security has been longer.
22 Q And by the spring, do you mean from 2023?
23 A Yes.
24 Q Okay. Beginning with college, what is your educational background?
25 A I have a master's degree in systems engineering and an undergraduate in

1 political science.

2 Q And starting with your first job after college, what is your professional

3 background?

4 A My first job after college was working for the National Mining Association,

5 followed by a 4-thereabout-year service to a consulting and organization called Nahigian

6 Strategies, before moving into consulting with Booz Allen Hamilton, focusing on

7 technology and interoperability, before in 2015 joining the predecessor to the

8 Cybersecurity and Infrastructure Security Agency.

9 Q Just for the record, can you say what the predecessor to CISA was?

10 A NPPD, which is the National Protection and Programs Directorate.

11 Q When you joined NPPD in 2015, what was your first position?

12 A I was an IT specialist within the Office of Cybersecurity and Communications.

13 The suboffice was the Enterprise Performance Management Office.

14 Q And how long were you in this position for?

15 A Until fall of 2017, I believe.

16 Q And what was your next position?

17 A Cyber operations planner within the NCCIC, National Cyber, I think,

18 commun -- I don't remember the full acronym for NCCIC. Sorry.

19 Q And as a -- I'm sorry -- cyber operations planner?

20 A Yes.

21 Q And what were your responsibilities as a cyber operations planner?

22 A I covered the Iran region and helped to convey the Agency's equities in

23 interagency cyber operations plans really promoting resilience and defense of our critical

24 infrastructure.

25 Q And how long were you in this position for?

1 A Until 2018. This was also the position I was in when I was detailed to the
2 election security mission.
3 Q When were you detailed to election security commission?
4 A November of -- the election security mission.
5 Q Yes. Excuse me.
6 A The -- November of 2017.
7 Q And how long was your detail for?
8 A It was supposed to be for 30 days, but it was extended for -- until I was given
9 an official billeted role in Election Security at some point in 2018.
10 Q And what was the role you had starting in 2018?
11 A Lead of the Election Security Initiative. It was still a -- an IT
12 special -- supervisory IT specialist job.
13 Q What were your responsibilities as lead of the Election Security Initiative?
14 A Coordinating the Agency's effort to provide security support to State and
15 local election officials and their private sector partners.
16 Q Before we get further into the interview, are you familiar with the terms
17 "misinformation," "disinformation," and "malinformation"?
18 A I am.
19 Q Do you understand what's the difference among them?
20 A I do.
21 Q Do you understand what would be -- actually, let me just take a step back.
22 How would you define each of those terms?
23 A Misinformation as defined on our website is false information unknowingly
24 spread or spread without mal-intent. Disinformation would be false information spread
25 with the -- with malicious intent. And malinformation would be, for example, doxing,

1 putting true information online, like the executive director's home address, in order to
2 incite some harm.
3 Q Turning back to your position as lead of the Election Security Initiative, how
4 long were you in that role for?
5 A In some ways I'm still in that role. The title of Election Security Initiative
6 became a subdivision within the NRMC, the National Risk Management Center, as the
7 Election Security and Resilience subdivision.
8 Q And what is the National Risk Management Center?
9 A That is a division within the Cybersecurity and Infrastructure Security Agency
10 focused on risk analysis.
11 Q In addition to the Election Security Initiative, how many other divisions are
12 there within NRMC?
13 A NRMC has gone through a reorganization while I'm there. So, currently, I
14 believe it is the Risk Services division -- subdivision, the Analytic Capabilities subdivision,
15 and a Strategic Foresight subdivision.
16 Q And so when you became lead of the Election Security Initiative, was that
17 when the ESI was created?
18 A So in 2017, the then-director created an election task force made up of
19 detailees. When billets started to be applied to this effort, it became the Election
20 Security Initiative.
21 Q Once it was a formal role, you were no longer a detailee, who did you report
22 to as lead of the Election Security Initiative?
23 A My supervisor at various times included the head of the Initiative
24 Management branch, the head of Planning and Coordination Division, or the associate
25 director of the National Risk Management Center at different times throughout this

1 process.

2 Q And who do you report to today?

3 A My supervisor is the associate director of the National Risk Management

4 Center, Mona Harrington.

5 Q When you first started with ESI, did you have any direct reports?

6 A Not -- I was not a supervisor at that time. Programmatically, there were

7 other detailees.

8 Q How many other detailees were there?

9 A I don't remember exactly.

10 Q Do you have a ballpark estimate?

11 A Six or seven, less than ten.

12 Q When did you first have a supervisory role?

13 A In 2018, when billets were given to this mission.

14 Q And when you first take on a supervisory role, how many people did you

15 have reporting to you?

16 A I believe I had three or four first-line and a handful of second-line

17 employees.

18 Q Did you have a primary deputy?

19 A Not at this time.

20 Q Did the -- from 2018, when you first started in your supervisory role, to

21 today, has the size of the team changed?

22 A Yes.

23 Q How so?

24 A The size of the Election Security and Resilience team has grown to about 24

25 billets, 19 to 21 of them filled at any given time.

1 Q And are you the supervisor over this entire team?

2 A First line or second line supervisor over all of them, yes.

3 Q And from 2018 to today, did you -- was either a position created or do you

4 have someone that serves as a primary deputy to you?

5 A I have a -- one of the direct report branch chiefs that serves in -- it is not a

6 billeted position as deputy but acts as my deputy, yes.

7 Q And who is that?

8 A [redacted].

9 Q As the ESI team has grown over the years, has the mission of ESI changed at

10 all?

11 A Not to my knowledge.

12 Q Within ESI's mission, does that include countering election-related mis- and

13 dis- and malinformation on social media?

14 A No.

15 Q Is there a task force part of CISA that has as part of its mission focus on

16 countering election-related MDM?

17 A So in the caveat of on social media is -- within ESR there is a branch called

18 the MDM team, yes.

19 Q Can you walk me through the organizational structure of ESR? So MDM is

20 one of the divisions or teams within that?

21 A We have three branches. The first branch within ESR is our Program

22 Management and Integration branch. That has two sections, one called Integration and

23 one called Election Assistance and Training.

24 The next branch within ESR -- and tell me if I'm speaking too quickly -- the next

25 branch within -- or quietly. I'm also realizing.

1 The next branch within ESR is our Subsector Risk Management Agency, and that
2 manages our SRMA responsibilities.
3 The third branch is the MDM branch, which helps to build resilience to mis-, dis-,
4 and malinformation and foreign influence operations for critical infrastructure.
5 Q Okay. When was the MDM team first created?
6 A The MDM team began outside of the election security mission as a
7 Secretary-level task force called the Countering Foreign Influence Task Force. Over time,
8 those responsibilities were brought into CISA. And then at some point, I don't recall
9 exactly when, that's -- that became a nested branch within my team.
10 Q What is the Countering Foreign Influence Task Force?
11 A Secretary Nielsen established a Countering Foreign Influence Task Force in
12 May of 2018. That was independent of our election security work at the time, and it
13 was an equivalent -- well, it was actually larger because it was the Secretary's task force
14 but kind of independent work streams at the time.
15 Q How frequently did you interact with the Countering Foreign Influence Task
16 Force?
17 A I don't know exactly.
18 Q Would you say it was on a daily basis?
19 A Depends on the calendar, but daily to weekly, yeah.
20 Q Who was your primary point of contact on the Countering Foreign Influence
21 Task Force team?
22 A When it was established? Initially, Dan Sutherland, followed by Nate
23 Blumenthal, and then ultimately Brian Scully.
24 Q What familiarity did you have -- actually, let me take one step back.
25 Did you have any involvement in the creation of the Countering Foreign Influence

1 Task Force?

2 A No.

3 Q In a previous answer you said you didn't recall exactly when. Do you have

4 a ballpark sense of when approximately the Countering Foreign Influence Task Force fell

5 within the scope of your team?

6 A Yeah, it would be at some point following 2018 or early 2019.

7 Q And who made the decision to move this task force into the ESI?

8 A I don't know exactly.

9 Q Who was the head of the task force when this transition occurred?

10 A It was either Nate Blumenthal or Brian Scully. I don't know exactly. I

11 believe it was Nate.

12 Q Prior to the task force becoming part of ESI, what was the nature of your

13 interactions with the task force?

14 A General threat awareness, where there would be over time an increase in

15 meetings or the opportunity to brief the director or CISA leadership jointly.

16 Q So the task force name, Countering Foreign Influence Task Force, do you

17 recall if there was any discussion about if the task force could play any role in countering

18 domestic mis- or disinformation?

19 A I wasn't part of the task force, so I don't recall that discussion.

20 Q In your, you know, communications, interactions with Mr. Blumenthal,

21 Mr. Scully, did they ever mention whether there was consideration of expanding the task

22 force's mission?

23 A No.

24 Q When the task force is transferred to your team, is that when the name

25 change occurred as well?

1 A No.

2 Q Do you know when the name change occurred?

3 A The name change occurred through a memo in early January of 2021.

4 Q Do you know who prepared that memo?

5 A The memo was signed by the AD -- stands for assistant director -- of the

6 National Risk Management Center.

7 [redacted] I'm sorry. Could you repeat that?

8 Mr. Hale. The memo was signed by the assistant director of the National Risk

9 Management Center.

10 BY [redacted]

11 Q And do you know who was in that position at the time?

12 A Bob -- Robert Kolasky.

13 Q And with the name change, did the mission of the task force, now MDM

14 team, change?

15 A No.

16 Q The MDM team, as it is currently structured, is part of its mission to combat

17 domestic mis-, dis-, and malinformation?

18 A No.

19 Q Does it have a foreign focus?

20 A The MDM team's mission is to build resilience to the tactics of foreign

21 influence operations and disinformation.

22 Q Just so I understand your answer correctly, the current MDM team's mission

23 is focused on building resilience to only foreign influence operations?

24 A To the tactics of foreign influence operations.

25 Q So is it your understanding that from the initial creation of the Countering

1 Foreign Influence Task Force to the MDM team's mission today, the mission has remained
2 consistent throughout?
3 A My understanding is that as a Secretary-level task force, they had
4 intelligence community portions as well as NPPD equities. The NPPD/CISA equities have
5 remained constant. I can't speak for the intelligence community.
6 Q Are you familiar with the FBI's Foreign Influence Task Force?
7 A I am.
8 Q And to your understanding, what is the purpose of that task force?
9 A I believe it is to coordinate FBI equities related to foreign influence
10 operations and whether there's criminality.
11 Q Have you had any interactions with the FBI's Foreign Influence Task Force?
12 A I have.
13 Q And what's the nature of those interactions?
14 A We have common interagency meetings. We attend similar interagency
15 policy meetings.
16 Q How frequently do you attend interagency meetings with the FBI's Foreign
17 Influence Task Force?
18 A There's a variety of meetings. Depending on the calendar, I can be in
19 meetings with them on a weekly basis or a monthly basis.
20 Q Does the cadence change depending on how close we are to the next U.S.
21 election?
22 A I don't know exactly what drives the cadence changes.
23 Q Okay. Are you familiar with ODNI's Foreign Malign Influence Center?
24 A I am.
25 Q Do you have interactions with the Foreign Malign Influence Center?

1 A Yes.

2 Q What's the nature of your interactions?

3 A They are on some of those same meetings.

4 Q To your understanding, is there overlap in the mission between CISA's MDM

5 team and the FBI's Foreign Influence Task Force?

6 A I would not describe it as a overlap, no.

7 Q Okay. What about with respect to if there's overlap between the MDM

8 team's mission and ODNI's Foreign Malign Influence Center's mission?

9 A I would not describe that as being overlap.

10 Q The early July 2021 memo, do you recall what reasons were provided for

11 making this structural change?

12 A January.

13 Q I'm sorry. January 2021.

14 A I don't recall exactly, other than the item stated in the memo, to afford

15 leadership the opportunity to review and lead this mission as they see fit.

16 Q Were you involved in the preparation of this memo?

17 A I don't know. I don't recall exactly. I may have been.

18 Q Do you recall if you were supportive of having the task force ultimately

19 assumed by your team?

20 A Yes.

21 Q And why was that?

22 A This risk is an area that election officials speak about and demonstrated high

23 concern. So understanding and supporting the risk management of election

24 stakeholders has been my team's primary mission.

25 Q How big was the task force, soon-to-be-created MDM team, when it was

1 transferred over?

2 [redacted] Can we clarify? My understanding is the task force was

3 created at one point in time. The name changed happened at a time, but it fell under

4 ESI at a different time. So just to be clear about your question so we have a clear record

5 of what point in time we're talking about.

6 [redacted] Thank you for clarifying.

7 BY [redacted]

8 Q When the name change occurred, how big was the team?

9 A So the name change occurred in January of 20 -- early January of 2021. I

10 believe there were six, seven, or eight individuals.

11 Q And did that include Mr. Scully?

12 A Yes.

13 Q So whoever is the head of the MDM team directly reports to you?

14 A Correct.

15 Q Once the MDM team is -- or the task force previously -- but when the initial

16 transition occurs and it becomes part of ESI, from that point to today, do you recall

17 attending or receiving any briefings about whether that team's work implicated the First

18 Amendment?

19 A That team's work was always designed to promote resilience and

20 educational awareness of the risks of foreign influence operations and disinformation. I

21 don't recall any specific discussion to what you said.

22 Q With the understanding you don't recall any specific discussions, just

23 generally do you recall if you've ever received any guidance or briefings on if the First

24 Amendment is implicated?

25 A So everything that that team, and my team as a whole, does is closely

1 coordinated with our Office of Chief Counsel and our Office of Privacy and Civil Liberties.
2 So those equities would be expected in the close coordination with those offices.
3 Q Once the task force, then the MDM team, is transferred into your broader
4 team, how frequently are you interacting with whoever the leader is of the team?
5 A Daily.
6 Q Do you know who [redacted] is?
7 A Yes.
8 Q In the context of your work at CISA, who is he?
9 A [redacted] was a junior member of the Countering Foreign Influence Task
10 Force and remained an employee through the transition to the MDM team.
11 Q Did he report to Brian Scully then?
12 A Yes.
13 Q During your time at CISA, how frequently do you interact with the director of
14 CISA?
15 A It varies.
16 Q Can you provide a, you know, ballpark estimate?
17 A At times, monthly briefings. If there's more interest in the election security
18 topic, and given the calendar, those briefings may be more frequent.
19 Q Do you know who [redacted] is?
20 A I do.
21 Q And who is she?
22 A [redacted] is a junior staffer on the mis-, dis-, and malinformation branch that's
23 currently detailed.
24 Q And where is she currently detailed?
25 A National Security Council.

1 Q Is Mr. Scully still the head of the MDM team?

2 A Brian Scully is the branch chief over the MDM team.

3 Q Okay. And does he have a primary deputy or someone to assist him with

4 that?

5 A Not at the moment, no.

6 Q Do you know who Elvis Chan is?

7 A Yes.

8 Q Have you had interactions with Elvis Chan?

9 A I have.

10 Q And what's the nature or context of those interactions?

11 A Elvis Chan is FBI. He worked out of San Francisco. He was an individual

12 who had closest coordination with FBI's mission on -- in engaging social media.

13 Q When referencing earlier the ongoing interagency meetings which would be

14 attended by the FBI's Foreign Influence Task Force, would Mr. Chan ever attend those

15 meetings?

16 A No. The meeting I was referring -- the meetings I was referring to were

17 D.C.-based meetings.

18 Q Okay. Do you know who Laura Dehmlow is?

19 A Yes.

20 Q Have you had interactions with her?

21 A In a -- in her previous role, yes.

22 Q And which previous role are you referencing?

23 A When she was part of the Foreign Influence Task Force.

24 Q Okay. Do you know what her current role is?

25 A I do not.

1 Q Do you know who [redacted] is at the FBI?

2 A I do not.

3 Q Do you know who Shelby Pierson is?

4 A Yes.

5 Q Do you have interactions with Ms. Pierson as part of your role?

6 A Years ago when she was election threat executive.

7 Q How frequently did you interact with Ms. Pierson when she was in that role?

8 A It varied.

9 Q If you had to guess, are we talking a monthly basis? More frequently?

10 Less frequently?

11 A Monthly would be safe. There was times there would be more frequent if

12 we were preparing for a Hill briefing or something like that.

13 Q During your role at CISA, do you have interactions with the Global

14 Engagement Center?

15 A At times.

16 Q What's the nature or the context of when you have interactions with GEC?

17 A State's Global Engagement Center has a body of knowledge and expertise

18 that we would attempt to learn from. Them having understood risks of foreign

19 influence operations affecting other countries were able to help us identify tactics to

20 educate the public on.

21 Q During your time at CISA, which other subagencies or divisions within DHS do

22 you most frequently interact with?

23 A There's -- subagencies. I would think you're talking about I engage with the

24 Office of Intelligence and Analysis, the DHS Office of Policy. But in the -- there are also

25 engagements with FEMA, on Homeland Security Grant Programs, or all of the other

1 subdivisions within CISA.

2 Q Are you familiar with -- or actually, I don't know if they're ongoing

3 currently -- but in the previous several years ongoing meetings that CISA had with social

4 media companies?

5 A Yes.

6 Q For these -- we'll call them USG-Industry Sync meetings, based off the

7 meeting invites -- for those set of meetings, would you ever attend?

8 A Yes.

9 Q And how frequently would you attend?

10 A The -- I have not attended all of them. The cadence of those meetings

11 varied. But I would say that for a period of 2019 to 2022, I attended a majority of them.

12 Q Who else from CISA would attend the majority of them?

13 A Potential -- I don't know that there's any one other person that attended the

14 majority of them, but representatives of the MDM team or other aspects of my Election

15 Security and Resilience team.

16 Q Do you know who [redacted] is?

17 A I do.

18 Q When he was at CISA, where did his role fit within the organizational

19 structure?

20 A [redacted] was a senior cybersecurity advisor to the director of CISA.

21 Q So did he fall within, you know, your chain of command or your line of the

22 hierarchy? Was he somewhere else?

23 A We would work closely together, but he was not a supervisor. He was a

24 advisor to the director.

25 Q How frequently did you work with [redacted] when he was at CISA?

1 A Daily.

2 Q Prior to the pandemic, the, you know, CISA-USG Industry meetings that were

3 going on on a regular basis, would those be in person?

4 A There were in-person meetings, yeah.

5 Q Did they take place in D.C.?

6 A No.

7 Q Where did they take place?

8 A In California, the Silicon Valley-San Francisco area.

9 Q Would you or others from CISA fly out for the meetings?

10 A I attended at least one of those.

11 Q Once they -- once the meetings began taking place over video conference

12 after the pandemic hit, did they ever return to in-person meetings, to your knowledge?

13 A No.

14 Q Did the meetings take place in 2023?

15 A No.

16 Q Do you know why they were paused or --

17 A I don't know.

18 Q In advance of a USG-Industry meeting, would you consult with others at CISA

19 about what CISA would like to be discussed during these meetings?

20 A My team would.

21 Q Would you consult with other Federal agencies in advance of the meeting of

22 what the government would be -- what other agencies would be presenting at the

23 meeting?

24 A My team would.

25 Q Okay. Which agencies would you consult with?

1 A DHS Office of Intelligence and Analysis, FBI, and DNI.

2 Q For the purpose of these USG-Industry meetings, who was your primary

3 point of contact at DHS I&A?

4 A I don't remember exactly because it could shift over time. It was typically

5 whomever they had working their foreign malign influence work.

6 Q Any names you remember?

7 A Not exactly. I can -- I can tell you that currently it would be -- the

8 individuals left, we had a [redacted], and the role is a guy named [redacted] [redacted].

9 Q As it related to the USG-Industry meetings, who was your primary point of

10 contact at the FBI?

11 [redacted] And so I don't know that we know if any of these agencies

12 would assert law enforcement privilege over their names. So I think if their names have

13 already come out, it's fine to give them, but I don't know the equities of what the other

14 agencies feel about the names of these individuals.

15 [redacted] I mean, happy to provide you an opportunity to consult and provide

16 the name but, otherwise, I'll ask if you're instructing the witness not to answer.

17 [redacted] I don't know if you recall names and if they're names that

18 have already come up.

19 Mr. Hale. Whomever was leading the FITF at the time would be the appropriate

20 point of contact for coordination.

21 BY [redacted]

22 Q Okay. And for ODNI, do you know who the title was or the person was?

23 A The Election Threat Executive were individuals from that office.

24 Q Do you recall if, during the USG-Industry meetings, if the risk of a potential

25 hack-and-leak operation was discussed during these meetings?

1 A Yes.

2 Q Do you recall who participated in the discussion, who provided information

3 related to the risk of a potential hack-and-leak operation?

4 A To that specific discussion?

5 Q Yes.

6 A I don't recall.

7 Q Do you recall if it was a government partner or someone from the private

8 sector?

9 A I don't recall.

10 Q Did CISA ever provide information related to the risk of a potential foreign

11 hack-and-leak operation?

12 A I don't recall. It is possible.

13 We -- hack-and-leak operations were relevant to election security based on the

14 activities of 2016, and that would have been a potential topic area to discuss, learning

15 from past targets of election -- of election infrastructure security.

16 Q Did you ever participate in any tabletop exercises regarding how to respond

17 to a potential hack-and-leak operation?

18 A I don't recall doing that.

19 Q As it related to the potential risk of a foreign hack-and-leak operation, which

20 team or division within your team would have primary responsibility?

21 A That would be a blended effort in understanding the engagement,

22 assistance, and training where we develop our content and guidance relating to cyber

23 operations, physical security efforts, or operational risks to elections and the MDM

24 branch.

25 Q In these USG-Industry meetings, was there ever a discussion regarding the

1 social media companies' content moderation policies?

2 A Not to my knowledge.

3 Q What about the enforcement of those policies?

4 A Not to my knowledge.

5 Q Are you familiar with the term "switchboarding"?

6 A Yes.

7 Q To your understanding, what is switchboarding?

8 A Switchboarding describes an activity taken in the 2018 and 2020 election

9 cycles where a small number of emails were forwarded, provided by election officials to

10 CISA, to be provided to the appropriate social media points of contact.

11 Q And which team or task force within CISA had primary responsibility for

12 switchboarding during this time?

13 A The -- what is now the MDM branch.

14 Q And so did the -- the switchboarding practice predated the task force

15 becoming part of your team. Is that correct?

16 A In 2018, yes.

17 Q And then once it became part of your team, it continued?

18 A Yes.

19 Q Did you ever directly engage in switchboarding?

20 A I may have been on emails. I was not on the "to" line, to my knowledge.

21 Q To your understanding, who at CISA was primarily engaged in

22 switchboarding?

23 A Individuals on the MDM branch.

24 Q Would that include Mr. Scully?

25 A Yes.

1 Q To your understanding, why did CISA stop engaging in switchboarding?
2 A I don't know.
3 Q Do you recall who made that decision?
4 A CISA leadership.
5 Q To your understanding, does that include the director of CISA?
6 A I don't know. Potentially.
7 Q Do you recall how that decision was communicated to the MDM team?
8 A It would be communicated to the MDM team through me.
9 Q Okay. Do you remember how it was communicated to you?
10 A From my leadership.
11 Q Do you recall if there's any corresponding work product, like a memo --
12 A I don't know.
13 Q -- that came with the decision?
14 A No, I'm not aware.
15 Q Do you recall approximately when the decision was made?
16 A In advance of the '22 election cycle.
17 Q And would that be in 2022 itself or likely earlier?
18 A I don't recall exactly. Likely in '22 itself.
19 Q Are you familiar with the disclaimer that would accompany the
20 switchboarding emails?
21 A Yes.
22 Q Do you recall if you were part of any discussions regarding the inclusion of
23 the disclaimer or what the disclaimer should state?
24 A I was not.
25 Q Do you know who was a part of those discussions?

1 A It was a common practice for everything that we do to be coordinated with
2 chief counsel and the Office of Privacy and Civil Liberties. So I would assume by practice
3 that would be where some of those discussions are held.
4 Q Once the task force, the Countering Foreign Influence Task Force, becomes
5 part of your team, they were already, you know, kind of in the practice of engaging in
6 switchboarding. Do you recall any discussions with that team about whether, you know,
7 you thought the practice was beneficial or worth the CISA's personnels' time and
8 resources?
9 A There were certainly discussions about how resource intensive it might be.
10 Q And in your opinion, did whatever value switchboarding provided
11 adequately compensate for the resources it took?
12 A I don't know.
13 Q What made switchboarding resource-intensive?
14 A The amount of individuals to monitor an inbox, essentially. Ensuring a
15 timely response to emails, burdensome on a small team.
16 Q And that small team was the task force that became the --
17 A Uh-huh.
18 Q -- MDM team?
19 To your understanding, can you just describe at a high level exactly how
20 switchboarding would work? You mentioned a common email inbox.
21 A Uh-huh. CISA would receive reporting from State and local election officials
22 and append the disclaimer that you described and forward it to the appropriate social
23 media company.
24 Q To your understanding, would CISA personnel ever follow up with the social
25 media company?

1 A If they would follow up, the disclaimer indicated that there was no -- that all
2 responses were voluntary and there was no obligation to respond and that it -- whether
3 they do or do not would not change CISA's attitude or engagement with them.
4 Q Do you recall if the -- actually, let me strike that.
5 How did you become aware that switchboarding was resource-intensive?
6 A How did I become aware that switchboarding was resource-intensive?
7 Q Yes.
8 A I was a second line supervisor over that team. So the way they spend their
9 time is my business.
10 Q Did they -- did that team ever state that it was too resource-intensive and
11 recommend to you that they either reduce or stop their engagement in switchboarding?
12 A I don't recall that. The practice was essentially dividing up a day during
13 shifts. So it changed individuals' availability.
14 Q To your understanding, have there been any discussions about CISA
15 engaging in switchboarding again?
16 A We don't have a plan to engage in switchboarding again.
17 Q As part of the -- as part of CISA's practice of switchboarding, would CISA
18 forward reports to law enforcement or intelligence agencies?
19 A If there was indications of criminal activity, CISA would forward to FBI.
20 Q Other than instances suggesting criminal activity that are forwarded to FBI,
21 to your understanding, would CISA forward these emails to other law enforcement or
22 intelligence agencies?
23 A I'm not aware of that happening. I know that our disclaimer language
24 indicated that it was a possibility.
25 Q Do you recall receiving any questions from someone at a social media

1 company about whether CISA was, in fact, forwarding some reports to law enforcement
2 or intelligence agencies?
3 A I don't.
4 Q Other than the USG-Industry Sync meetings that we were discussing earlier
5 in the hour, are you aware of any standing meetings between CISA and social media
6 companies during your time at CISA?
7 A A meeting to prepare for those, those USG-Industry Syncs, but none others.
8 Q And for those we'll call them prep meetings --
9 A Uh-huh.
10 Q -- who would attend those meetings?
11 A Myself or individuals from the MDM team.
12 Q And were there any private sector partners who would attend these prep
13 meetings?
14 A Yes, it was to identify an agenda to make best use of time for the broader
15 group.
16 Q And which private sector partners would attend the prep meetings?
17 A Essentially, Meta.
18 Q Do you recall who your primary point of contact or contacts was or were at
19 Meta?
20 A [redacted].
21 Q Did you have interactions with [redacted] as part of your role at CISA,
22 other than the USG-Industry meetings or the associated prep meetings?
23 A Potentially but not significantly.
24 Q Do you have a general familiarity with the October 2020 New York Post
25 article on Hunter Biden's laptop?

1 A No.

2 Q When there were discussions about a potential foreign hack-and-leak

3 operation, do you recall if there were discussions at which foreign states may be likely to

4 attempt that type of operation?

5 A Discussions of hack-and-leak pertained to activities in 2016 related to the

6 DNC Act and then the French election where Macron's information was hacked and

7 leaked.

8 Q Did the Global Engagement Center attend these USG-Industry meetings?

9 A I don't believe so.

10 Q Do you recall having any discussions with industry about what role, if any,

11 the Global Engagement Center should play?

12 A I don't. It's possible, though.

13 Q Are you familiar with the former Disinformation Governance Board within

14 DHS?

15 A Yes.

16 Q Were you involved in any discussions related to the creation of the board?

17 A I was not involved in the creation of the board. I have had discussions as

18 they were standing up to understand who was doing what within the Department.

19 Q And when did those discussions begin?

20 A I don't recall.

21 Q Okay. In those discussions, what was considered as related to your team's

22 interactions with the newly created board?

23 A My understanding was the individuals who would staff the board wanted to

24 understand each DHS components' equities in this and ensure that there was a standard

25 of care across -- across any mission space that touches this area, foreign influence

1 operations and disinformation.

2 Q Okay. And were you the primary point of contact for your team as it

3 related to these discussions with the new individuals who'd be helping to create the

4 board?

5 A I was one of them, yeah.

6 Q What did you present as your team's equities?

7 A Much the same discussion we've described today.

8 Q Are you generally familiar with the board's dissolution?

9 A Yes.

10 Q Were you involved in any discussions regarding whether to suspend or --

11 A No.

12 Q Other than being a part of the broader engagement the board was having

13 with different teams and offices within the Department, did you have any other

14 interactions with the board that you recall?

15 A There would have been roles for whom individuals were on the board,

16 individuals who were staffed to support the board. I would have been supporting

17 CISA's -- I would have been staff support to whomever was representing to the larger

18 board.

19 Q Do you recall any other additional types of interactions that you or your

20 team had with the board?

21 A A couple of meetings that were in that -- what's going on -- what -- across

22 different components.

23 Q Okay. To your understanding, what was the purpose of the Disinformation

24 Governance Board?

25 A My understanding of the purpose of the Disinformation Governance Board

1 was to acknowledge several different touch points across the Department who interact
2 with this mission space and ensure that they're all upholding a similar standard of care.
3 Q In addition to your team, do you recall which other subagencies or offices
4 were considered some of the touch points?
5 A I don't recall all of them, but --
6 Q So the ones you recall?
7 A Aspects of DHS policy, I&A, Customs and Border Patrol, our Office of Science
8 and Technology that focused in on research, our directorate or office, whichever it is
9 called.
10 Q So to your understanding, there was a team or an office within Customs and
11 Border Patrol, to take one example, that touched upon or handled issues related to
12 disinformation?
13 A To my knowledge, there was a team that engaged with the Disinformation
14 Governance Board. I don't know the full scope of their mission.
15 Q At a high level, do you understand or do you have familiarity with I&A's
16 structure as far as if there was a team that, you know, primarily engaged with like the
17 USG-Industry meetings or -- let me stop the question there.
18 Which team within I&A would engage for the USG-Industry meetings?
19 A I&A's structure is foreign to me. At times we engage with the Cyber
20 Mission Center, and -- but I don't know for where their individuals who work on foreign
21 malign influence always fall.
22 Q Do you recall if there was overlap between the personnel who would attend
23 or participate in the USG-Industry Sync meetings, whether those were the same I&A
24 personnel who were advising the folks who were involved with the Disinformation
25 Governance Board?

1 A I don't recall who they had representing in those Disinformation Governance
2 Board prep meetings.
3 Q During your time at CISA, have you had interactions with the Treasury
4 Department?
5 A Yes.
6 Q And what's been the nature of those interactions?
7 A EO 13848 is -- pertains to mandating certain sanctions in the events of
8 foreign -- in the event of foreign interference in U.S. elections. They have a codified role
9 in that process where if foreign adversaries do make attempts to interfere, they are part
10 of the sanctioning.
11 Q Outside of the sanctions context, have you had interactions as part of your
12 role as CISA with the Treasury Department?
13 A In their role as part of the support to critical infrastructure, particularly the
14 financial sector, yes.
15 Q Besides the two examples you gave, sanctions and the Treasury
16 Department's support of your team's mission with respect to critical infrastructure, do
17 you recall any other interactions that you had as part of your role at CISA with the
18 Treasury Department?
19 A I think everything that I do to interact with them, other than NSC meetings,
20 falls within those two categories.
21 Q So you were at NPPD when elections were added as a component of critical
22 infrastructure.
23 A Yes.
24 Q Is that right?
25 At that point in your career, were you involved in that decisionmaking?

A I was junior staff, but I was supporting the Agency's emerging election security mission.

Q Who was your supervisor at the time that elections, you know, were adopted as a new sector of critical infrastructure?

A At the time, I worked in the Office of Cybersecurity and Communication's Enterprise Performance Management Office. The -- I was -- my direct supervisor was an individual, [redacted], but [redacted] did not work the election security mission. Her supervisor, [redacted], did, and I worked with him on this.

[redacted] Can we go off the record, please?

[Recess.]

[11:20 a.m.]

[redacted] Now we can go back on the record. Thank you.

EXAMINATION

BY [redacted]

Q I want to start off by talking about some of the changes over time for the organizational structure of the different teams.

You said that you started by getting detailed to the Election Task Force in November 2017. Is that right?

A So that was the first formal organization focused on election security.

The election security mission began before then, in advance of the 2016 election, in response to the activities of Russia scanning statewide voter registration databases, conducting a DDoS attack, distributed denial-of-service attack, on the Illinois statewide voter registration database.

We began an election security mission. That led to the critical infrastructure designation. And much of that work was done in my role with the Enterprise

1 Performance Management Office.

2 The first time there was a formal structure working on election security was the

3 Election Task Force in 2017.

4 Q Okay. That's helpful.

5 So you said the election security mission started in response to the Russian attacks

6 on election infrastructure?

7 A Uh-huh.

8 Q Is that a yes?

9 A Yes. Sorry.

10 Q And do you have an understanding of why the Election Task Force was

11 founded in 2017?

12 A I don't know exactly why it was founded. The timing in the calendar was a

13 recognition that in 2017 we needed to improve our support to this new critical

14 infrastructure community, because the most valuable thing for election officials is time

15 and we couldn't afford to waste it.

16 Q Do you have an understanding of why election security was designated as a

17 critical infrastructure sector?

18 A That decision is made at the Secretary's office and with the White House. I

19 understand that the decision to do so is a recognition that impacts to election

20 infrastructure and destruction of these systems would have a devastating impact on the

21 country.

22 [redacted] Can I jump in?

23 [redacted] Uh-huh.

24 BY [redacted]

25 Q You said just now that the most valuable thing for election officials is time.

1 I might be misparaphrasing that. I think I got it mostly right. But can you explain what
2 you meant by that?
3 A The date of the election doesn't move. They have tremendous jobs with
4 few resources. And so we have to provide elements that are tremendously valuable to
5 them and not waste their time.
6 Q So, in other words, if you learn about something on October 1st and the
7 election is November 6th, you need to get -- you need to address that as soon as possible,
8 because the date of the election isn't going to change from November 6th?
9 A Yes, absolutely.
10 Q Okay.
11 BY [redacted]
12 Q So after the Election Task Force was started in 2017, it then became the
13 Election Security Initiative. Is that right?
14 A Yes.
15 Q When the Election Task Force was founded, taking a step back, did you say
16 that it was founded by the Director at the time?
17 A My understanding is he established the Election Task Force.
18 Q And who was that Director?
19 A Director Chris Krebs.
20 Q And Mr. Krebs was appointed by then-President Donald Trump. Is that
21 right?
22 A Yes.
23 Q So when the Election Security Initiative was founded in 2018, did you
24 become the Director at that time?
25 A Yes, I believe so.

1 Q Or the lead of --

2 A Yes.

3 Q And you mentioned that that mission hasn't changed since 2018?

4 A Correct.

5 Q And at that time -- was that at the time that CISA was formed or after CISA

6 was forming?

7 A That was prior to CISA being -- to the act establishing CISA, yeah.

8 Q So that was still with the NPPD?

9 A Yes.

10 Q And you mentioned that the Counter -- Countering Foreign Intelligence -- or

11 Foreign Influence Task Force was started in May 2018, and that was independent of the

12 Election Security Initiative at the time?

13 A Correct.

14 Q And that was created by Secretary Nielsen, you said?

15 A Correct.

16 Q Do you know who appointed Secretary Nielsen?

17 A My understanding is the President at the time.

18 Q And who was the President at the time?

19 A President Trump.

20 Q When did the Countering Foreign Influence Task Force join the Election

21 Security Initiative?

22 A I don't recall an exact date. It would've been between 2018 and 2020.

23 Q And did the task force's mission change between when they joined the ESI?

24 A The task force was initially at least a combination of intelligence community

25 and NPPD equities, among others, done at the Secretary's level. NPPD's portion of this

1 mission did not change.

2 Q Did the NPPD CISA portion of the operations of the task force change

3 significantly?

4 A No.

5 Q And then, at some point, the ESI became the ESR. Is that right?

6 A Yes.

7 Q Do you know about when that was?

8 A 2021 or 2022.

9 Q Did the ESR have more teams or branches than the ESI? Did that

10 organizational structure change?

11 A Not substantially.

12 Q Okay. And then, in January 2021, the Countering Foreign Influence Task

13 Force became the MDM branch. Is that right?

14 A Correct.

15 Q Did the operations or the mission change with the name change?

16 A No.

17 Q You mentioned that the size of the team increased. At first it was just a

18 few and then it grew up to 24 billets. Is that right?

19 A The size of the election security team has grown over time. The size of the

20 MDM team has not really.

21 Q Okay. So where has the growth been in the election security team?

22 A In our subsector risk management agency, in a branch in our program

23 management and integration, and our -- specifically in our election -- our engagement,

24 assistance, and training subsection.

25 Q That's helpful. Thank you for all the clarification of the timelines. That's

1 helpful.

2 I want to talk a little bit more about the MDM's -- the MDM team's mission.

3 You mentioned that it was to build resilience to the tactics of foreign mis- and

4 disinformation. Is that right?

5 A Yes.

6 Q What does it mean to build resilience?

7 A So we put out public guidance and guidance documents that really educate

8 on the approach that a foreign adversary might take.

9 One of my favorites is called "The War on Pineapple," because it takes the divisive

10 issue of pineapple on pizza -- and I just want to get this in the record -- no -- it takes a

11 divisive issue of pineapple on pizza and walks through the steps that an adversary might

12 take to take both sides of the issue and animate action off of it.

13 And we got some good response from election officials who really made it their

14 own. For example, Rhode Island went -- they don't really care about whether pineapple

15 belongs on pizza, but they do care about frozen lemonade and whether you eat it with a

16 spoon or not, and that's the divisive issue that they made the same product and pushed it

17 out to the public with that issue.

18 Q That's helpful. And we'll, as you'll see, we'll definitely come back to that.

19 But before we go more into detail about that product, how do products like that build

20 resilience?

21 A So when you have a well-funded adversarial nation trying to do this, raising

22 education about the risk may make you more prepared to acknowledge it in day-to-day

23 interactions and less susceptible to potentially being subject to the foreign influence

24 operation.

25 Q So when we talk about building resilience, what is CISA trying to build?

1 What does the resilience mean in that?

2 A Really a community that is aware of a broader risk activity that nation-states

3 take targeting them and have opportunities to think critically about what might be

4 pushed in their direction or how they might be emotionally incited so that they can use

5 their best judgment to not fall prey to foreign influence operations.

6 Q Is it fair to say that building resilience generally involves pushing out more

7 information rather than taking information off the internet?

8 A We do try to educate as much as possible, yeah.

9 Q And you also said that the MDM branch strives to build resilience to the

10 tactics of foreign mis- and disinformation. Is that right?

11 A Yes.

12 Q Why did you specifically specify the tactics rather than information

13 generally?

14 A The techniques used by Russia in 2016 became an available playbook for

15 other nation-state adversaries. We've seen China have foreign influence activities.

16 We've seen very prominent Iranian foreign influence activities.

17 For us to just educate on what Russia does would not -- if we're focused on that

18 actor, we would not necessarily be building resilience to the tactics and techniques that

19 may be employed by other actors.

20 So attributing to Russia all of our products wasn't seen as the most effective

21 manner to build resilience.

22 Q And does CISA focus also on tactics because the same tactics might be used

23 about different content or topic areas?

24 A Yes. Those tactics of establishing bot networks or proxy sites can be used

25 for a multitude of foreign influence operations targeting different critical infrastructure or

other topics.

[redacted] So just to break this down a little bit into kind of layman's terms.

We're talking about building resilience to tactics. What we're really saying is we want to educate the public so that no matter who, what foreign actor is trying to do this thing, if they're trying to influence America in some way through the internet using a similar system or method that somebody else has used, the public will be aware of that. Is that fair to say?

Mr. Hale. Would be more resilient to that, yes.

[redacted] Okay.

[redacted] You also mentioned that the MDM branch is focused on foreign influence campaigns. Why is that focus on foreign info specific, and why is that important?

Mr. Hale. So foreign influence operations typically describe a well-funded adversary operating in a manner that is obscured to the general public. So this is the area that seemed to be most ripe for educating and building resilience to.

We've also taken some steps to address education in areas that an individual might be -- or that the topic might be susceptible to foreign influence operations.

So like election security, we educate on what the -- on how elections are secured, the risk management of elections, so that individuals can also find credible sources in that space.

[Hale Exhibit No. 1
was marked for identification.]

BY [redacted]

Q Talking more about CISA-specific work, I want to turn to the "War on Pineapple" example. We'll introduce that as exhibit 1. This is a printout of that

1 product.

2 Did you have a role in creating -- or, starting off, do you recognize this document?

3 A I do.

4 Q Did you have a role in creating it?

5 A I did.

6 Q What was your role?

7 A The concept for this infographic began as an argument within my team. It

8 actually began as individuals discussing whether salt and vinegar chips were delicious or

9 not, and we were divided about 70/30.

10 And then we, realizing that divisive issue was exactly the type of thing that was

11 weaponized in 2016 by Kremlin actors, we looked for a topic that we were more evenly

12 split on, and that was whether pineapple belongs on pizza.

13 So that ceded -- that argument ceded the idea that we could use a playful, non -- a

14 nonpartisan issue to help educate on these topics, and thus, we developed these steps.

15 Q And could you give us an overview of what the document says and why

16 that -- what it's trying to convey?

17 A Absolutely. The main issue to take away from this is that there is a kind of

18 well-funded and multifaceted process for many foreign adversaries to build a foreign

19 influence operation.

20 This includes identifying a subject issue that is already existing and divisive, really

21 sharpening the activity and the dialogue about that.

22 So in order to do so they move accounts into place in a manner that builds trust

23 among communities already in that space. They amplify and distort what that

24 conversation is to help increase the divide.

25 Ultimately, a goal is often to take that conversation off of social media platforms

1 or off of the internet, to bring it into some type of action or incitement into the real
2 world.
3 And so that's where we tried to educate in this example.
4 Q You mentioned that this partially reflects how Russians actually interfered in
5 the 2016 election. Is that right?
6 A Uh-huh.
7 Q Is that a yes?
8 A Oh, yes. It was informed by an understanding of Russian activity in 2016.
9 Q Can you explain how this corresponds to what the Russians were actually
10 doing in 2016?
11 [redacted] And just to be clear, we're not in a classified setting --
12 [redacted] Yes.
13 [redacted] So just to --
14 [redacted] High level is fine.
15 Mr. Hale. I think some of the best examples come from -- actually came from
16 the Hill, where SSCI, Senate Select Committee on Intelligence, put out a report
17 documenting a lot of the activities that Russia undertook in that election in advance of
18 the 2016 election.
19 One of the main takeaways was also that this playbook was now out for multiple
20 countries to use. It's somewhat similar to Iranian activity in 2020. So we were happy
21 to get this out in advance of that work.
22 BY [redacted]
23 Q And when you say get it out, what did CISA actually do with this? I know
24 it's on your website, and you mentioned that you shared it, I guess, with the Rhode Island
25 elections officials. What did you actually do with the product?

1 A So it was published to our website. It was -- sorry. This document was
2 published to our website. It was shared with our critical infrastructure partners in this
3 space, which would be election officials that are secretaries of state, State election
4 directors, local election officials.
5 There was also a small public awareness campaign built around this where the
6 Director conveyed his personal disdain for pineapple on pizza.
7 Q And that was public awareness just for the general public?
8 A Yes.
9 Q Okay.
10 BY [redacted]
11 Q You've talked about this a little bit, but just to put a fine point on it.
12 Why does making the public aware of foreign influence campaigns help?
13 A The goal is to help ensure that the public is less susceptible to being
14 pressured by foreign nation-states.
15 Q And without this, they might think that other Americans are saying these
16 things and be more susceptible rather than knowing that foreign governments or large
17 foreign adversaries are doing them? Is that fair?
18 A Hopefully, yes.
19 Q Okay. Are you familiar with the term "pre-bunking"?
20 A I am.
21 Q What does that refer to?
22 A In understanding the foreign influence activities and the attack surface which
23 may be targeted by foreign influence operations, pre-bunking describes educating in an
24 area that may be subject to those foreign influence operations so that you could get
25 ahead of the foreign -- of the influence operations and help to establish the foundation of

1 credible and authoritative knowledge.

2 This is an opportunity that many election officials have taken to educate on how

3 they administer and secure their elections.

4 Q And by educating, that means pre-bunking involves putting out more

5 information, not taking down any information?

6 A Absolutely, yes.

7 Q Are you familiar with CISA's rumor control website?

8 A I am.

9 Q What was -- what is it? What was it?

10 A So CISA's rumor control website began copying a model that FEMA applied

11 to address misconceptions in hurricane or disaster response. And this was an approach

12 where CISA looked to educate on areas that were generally often misunderstood or

13 opportunities to provide additional clarity on how elections were secured across the

14 country.

15 [Hale Exhibit No. 2

16 was marked for identification.]

17 BY [redacted]

18 Q I want to introduce as exhibit 2 a printout of CISA's rumor control website as

19 it appeared on November 1st, 2020. So this is not current. This is from the Internet

20 Archive.

21 Obviously, this is a printout of the website and not the actual website, but does it

22 look generally familiar to you?

23 A It does.

24 Q So this shows 12 different reality versus rumor sections. Is that right?

25 A Yes.

1 Q That includes rumors that might appear pre-election, rumors that might
2 relate to election day, and rumors about the post-election process. Is that right?
3 A Correct.
4 Q And you said -- is this an example of pre-bunking?
5 A Yes.
6 Q You mentioned the purpose of this is to get out authoritative information.
7 Is that right?
8 A The purpose of this is to get out educational materials that cites to
9 authoritative information about a topic area that may be subject to foreign influence
10 operations and disinformation.
11 BY [redacted]
12 Q So just as an example, the very first one that's printed out as page 2, the top
13 reads -- there's a -- so it reads, "Reality: Malicious actors can use fake personas and
14 impersonate real accounts." Underneath that there's a red X mark. It says, "Rumor:
15 If a social media account claims an identity, the account must be run by that person or
16 organization," right?
17 A Correct.
18 Q And so this first example here -- and then there's "Get the Facts"
19 underneath, and it explains why there's a -- why the rumor is a rumor and not reality.
20 And then there's "Useful Sources" down underneath that. So, for example, I
21 don't -- I think these are hyperlinks. It says, "CISA Disinformation Toolkit;
22 #TrustedInfo2020, NASS; Voter Resources." There's about -- there's six different
23 resources that links to. Is that correct?
24 A Yes.
25 Q Okay. And so just using this first one, this first, rumor versus reality, as an

1 example, the goal of this section is to explain why a social media account that claims an
2 identity might not actually be run by that person or organization, correct?
3 A That's correct.
4 Q And then explains why that's the case, correct?
5 A That is correct.
6 Q And that's how this works to educate the public, correct?
7 A Yes.
8 Q Okay.
9 BY [redacted]
10 Q I want to look at a couple more examples of actual instances where
11 disinformation was spreading about the election and what, if anything, CISA did.
12 In October 2020, there was an incident in which emails purportedly from the
13 Proud Boys were sent to voters threatening them. Are you familiar with that incident?
14 A I am.
15 Q Could you describe generally what happened?
16 A We are not in a classified environment.
17 Q Yes, at an unclassified level.

1 [Hale Exhibit No. 3

2 was marked for identification.]

3 [redacted] If it makes it easier, we can introduce as exhibit 3 a Washington Post

4 article from October 22nd, 2020, entitled, "U.S. government concludes Iran was behind

5 threatening emails sent to Democrats." We'll introduce this as exhibit 3. This, I think is

6 fair to say, it's all public information.

7 Mr. Hale. Okay.

8 [redacted] And if you want to take a minute to review, please do.

9 [Pause.]

10 BY [redacted]

11 Q You're good?

12 A Yeah.

13 Q So, generally, at an unclassified level, Iranian actors posed as Proud Boys and

14 sent threatening emails to voters. Is that right?

15 A Correct.

16 Q Did CISA have a response in this -- to this instance when it happened?

17 A We did. Part of the strength of CISA's work in establishing a robust election

18 security community meant that election officials who were receiving inquiries from their

19 voters, their voting constituency, were -- so some voters went to their election official and

20 said, "What is this? Why am I -- can they really see how I vote?"

21 And then those emails were passed forward to CISA and to the FBI, at which point

22 we, as a government, were able to work with the intelligence community to recognize

23 that this relates to corroborate some information that was on the high side of potential

24 Iranian activity, which then, within 27 hours or so, the Director of National Intelligence,

25 the Director of FBI, the Director of CISA were on a -- at the dais explaining to the public

1 this activity.

2 Before that briefing to the public, we were also able to get information back out to

3 the election security community and brief that this was forthcoming and a

4 recognized foreign influence operation leveraging data from election infrastructure.

5 Q Local election officials who received those emails from voters saying, "I don't

6 know what this email is, can they really see this vote?" do they necessarily have the

7 information to be able to identify that that is from a foreign actor?

8 A No.

9 Q So was CISA's involvement and their relationship with local election officials

10 critical in that instance?

11 A In being part of a larger apparatus that was able to inform of a foreign

12 influence operation and help to address the secure practices of elections in that

13 timeframe, I do think we played a critical role.

14 Q Is it fair to say that the U.S. Government response to this incident included

15 ensuring that the public received accurate information?

16 A Yes.

17 Q And how did the U.S. Government response contribute to the protection of

18 the 2020 election more broadly?

19 A In publicly attributing a foreign influence operation and setting the

20 precedent that activity against election infrastructure and targeting the public would be

21 outed and conveyed broadly, it conveyed the robustness of an election security

22 community, the ties across the intelligence community, law enforcement, and the cyber

23 community, in order to ensure that there were safeguards and detective mechanisms

24 throughout the whole process in administering elections, and that things would be

25 detected, caught, and addressed as quickly as possible.

1 Q So I'm understanding that you're saying that it's not only about telling the
2 voters who got those emails, "Don't worry," but also about deterring future foreign
3 influence? Is that fair?
4 A I believe that's fair, yes.
5 Q Are you familiar with an incident that -- an election incident that's referred
6 to as Sharpiegate?
7 A I am familiar with the concept of Sharpiegate, yes.
8 Q Okay. Generally, can you explain what that was?
9 A My understanding of Sharpiegate is a -- first, the context.
10 Elections are run by States according to State law. They differ wildly across the
11 country. The systems, the components, the processes all differ substantially according
12 to their State law and policy.
13 In some States the voting systems and the ballots that they mark using a Sharpie is
14 a perfectly acceptable and valid way of voting. There are systems for which that would
15 not work.
16 A combined -- a misunderstanding, whether being in receipt of a Sharpie and
17 marking ballots with a Sharpie, was a topic area that was a subject of great confusion and
18 used to potentially make individuals believe that their ballots might have been invalidated
19 because they were using a Sharpie to mark ballots.
20 Q Did CISA have any response related to Sharpiegate?
21 A I don't recall, other than potentially educating on it as a topic for how ballots
22 could be marked.
23 Q So CISA's response would be public education?
24 A Putting out more education materials.
25 [redacted] And to put a finer point on that, CISA never asked any social media

1 platforms to take down any posts concerning Sharpiegate, correct?

2 Mr. Hale. Not to my knowledge.

3 [redacted] Thank you.

4 BY [redacted]

5 Q You mentioned the various parts of election systems that differ across

6 States. Does the election security subsector include all of those parts of election

7 infrastructure?

8 A Yes.

9 Q Can you describe what the different components of that election

10 infrastructure might be?

11 A So there's a multitude. But some of the systems and components, your

12 voter registration databases, whether they're held at the State level or at local levels, but

13 depending on their State policy to determine if they're top down or bottom up.

14 You have some States that use electronic poll books and coordinate data that way.

15 You have election management systems. You have voting systems. You have

16 tabulators. You have election reporting systems. You have the interface with the

17 website. You have the general business IT. You have the vendors that support this.

18 You have voter lookup tools.

19 So it's an expansive environment of systems of systems.

20 Q And CISA's election security mission, is it related only to cybersecurity or to

21 all of those infrastructure components?

22 A Our work is cyber, physical, and operational risk to all of those infrastructure

23 components.

24 [redacted] What does operational risk mean?

25 Mr. Hale. Elements like chain of custody or ways to create a denial of service of

1 the operation, not just the technical -- not simply the technical systems, the ability to
2 function as the infrastructure is intended to function.
3 [redacted] Thank you.
4 BY [redacted]
5 Q So, overall, was CISA's focus with respect to addressing election-related
6 mis- and disinformation to push out true information so that the public would not be
7 persuaded by the false information?
8 A We were -- our goal was to push out well-informed and well-cited
9 information to enable the public to have a resource to identify positive information in this
10 sector.
11 Q Overall, CISA's focus was on pushing out more information, not restricting or
12 having content taken down? Is that right?
13 A Absolutely, yes.
14 Q To your knowledge, does CISA actively surveil internet or social media
15 platforms to determine whether election-related mis- or disinformation is present on
16 those sites?
17 A We do not.
18 Q Does CISA coerce platforms into removing particular content?
19 A We do not.
20 Q Has CISA ever coerced platforms into removing particular content?
21 A Not to my knowledge.
22 Q Are you familiar with allegations that CISA did intimidate or coerce platforms
23 into removing content?
24 A I'm familiar with the accusation.
25 Q What's your response to that accusation?

1 A CISA has not censored or coerced. In sharing information, a broader
2 sharing of information, it is to inform decision-making of all of our partners.
3 Q Have your decisions at CISA been influenced at any time by partisanship or
4 political considerations?
5 A Mine have not.
6 Q Have the actions of your team at CISA been influenced by partisanship or
7 political considerations?
8 A Not to my knowledge.
9 Q If you had found out that your team had acted that way, what would your
10 response be?
11 A It would be wholly inappropriate.
12 Q Would there be repercussions for your team?
13 A Absolutely.
14 [redacted] You're a career employee, correct?
15 Mr. Hale. I am.
16 BY [redacted]
17 Q I want to talk a little bit more about the USG-Industry meetings we discussed
18 in the last hour.
19 Broadly, why did CISA participate in these USG-Industry meetings?
20 A So initially engagement with social media platforms in this manner was a
21 recognition that election security is a foreign community and a foreign topic to a lot of
22 people that haven't addressed it.
23 You can see general knowledge and awareness of how elections are secured or
24 what the canvassing and cure process for elections are or who is responsible for what
25 aspect.

1 It's a complicated matter. We have invested in getting expertise in this exact
2 subject area. And so where we have expertise and we have partners we're there to
3 educate.
4 Q So these were information-sharing educational meetings?
5 A Yeah.
6 Q Does the information -- did the information sharing in these meetings go
7 both ways, or was one side briefing the other side?
8 A It went both ways. The topics for which we would educate differed
9 depending on the agencies' or the entities' equities.
10 Q So the companies might give the government some information and then
11 the government might give some information back to the companies?
12 A Yes.
13 Q Did CISA or any other government agency require that any industry partners
14 participate in these meetings?
15 A Not at all.
16 Q These meetings were entirely voluntarily?
17 A Yes.
18 Q You mentioned the prep meetings that were coordinated by Meta. Is that
19 right?
20 A Yes.
21 Q Did CISA ask for those prep meetings? Did Meta ask for those prep
22 meetings?
23 A My understanding is that they were proposed by Meta to better structure an
24 agenda for the following meeting.
25 Q So the industry asked for government engagement?

1 A In all of this, it was -- in all of those meetings industry coordinated -- Meta
2 coordinated on behalf of industry and invited CISA to coordinate FBI -- invited CISA to
3 coordinate Federal partners, including FBI's engagement there.
4 Q Did CISA flag or report potential disinformation for social media or
5 technology companies during or in connection with these industry meetings?
6 A Not at all.
7 Q We also talked a little bit about switchboarding in the last hour. Do you
8 remember that?
9 A I do.
10 Q To the best of your knowledge, switchboarding is just a word for forwarding
11 emails. Is that right?
12 A Yes.
13 Q And to the extent that the forwarding emails process happened, it was
14 before -- in 2018, when it happened, you were not involved?
15 A Correct.
16 Q In 2020, when it happened, the Countering Foreign Influence Task Force was
17 part of the ESI?
18 A Correct.
19 Q But were you personally very involved in the forwarding email process?
20 A I would not characterize my involvement as very involved. I would've been
21 on some of the emails.
22 BY [redacted]
23 Q I have just a couple questions about the Disinformation Governance Board.
24 A Okay.
25 Q Are you aware of allegations that the Disinformation Governance Board was

1 set up to be what's called a Ministry of Truth to censor -- to monitor and censor
2 Americans online?
3 A I have heard an accusation, yeah.
4 Q What's your reaction to that allegation?
5 A That is not consistent with my understanding of the work of the individuals
6 on the Disinformation Governance Board.
7 Q During your time working with the Disinformation Governance Board, did
8 you ever see anyone working on the board take any actions to monitor Americans online?
9 A So as a premise, I'm not aware of the board itself ever actually having met or
10 been stood up.
11 The staff supporting it, I'm not aware of them ever taking action on monitoring
12 social media or engaging with social media to my knowledge.
13 Q In fact, it was, as set up, and the staff who worked on it realized that this
14 little -- this the board itself never really got off the ground. But the sole focus of the
15 Disinformation Governance Board was internal, looking at DHS, correct?
16 A That's my understanding, yes.
17 Q It was to coordinate amongst different entities within the agency?
18 A Within DHS, yes.
19 Q There's been an allegation made that the MDM task force is the successor to
20 the Disinformation Governance Board. Are you familiar with that allegation?
21 A Not intimately, but it's consistent with some things that I've -- some
22 accusations that I've heard.
23 Q Is the MDM task force's role, in fact, consistent with being a successor to the
24 Disinformation Governance Board?
25 A Not at all.

1 Q And can you describe broadly the differences between what the MDM task
2 force does and what your understanding of what the Disinformation Governance Board
3 was to do?
4 [redacted] And just to clarify if we're talking about the MDM team or the
5 Countering Foreign Influence Task Force. There's a lot of acronyms and names, but just
6 for clarity.
7 BY [redacted]
8 Q I'm talking about the MDM team.
9 A So the MDM team, its mission is still to build resilience to foreign influence
10 operations and disinformation. That mission stems from their work as the Countering
11 Foreign Influence Task Force going back all the way to establishment in 2018.
12 The Disinformation Governance Board was an internal governance body at the
13 DHS level facilitated by the Office of DHS Policy for the purpose of ensuring some
14 common standard of care for any of the activities that DHS components might undertake
15 in this space.
16 Q So it's fair to say that they have pretty starkly different roles.
17 A I would say, yes.
18 Q Okay. And in any event, neither the MDM task force nor the
19 Disinformation Governance Board, to the extent that it existed, ever engaged in the
20 censorship of American citizens online. Is that fair?
21 A That's correct. There wasn't an MDM task force, though, just to --
22 Q Oh.
23 A -- for clarity of language.
24 Q Right.
25 A The MDM branch nor the Countering Foreign Influence Task Force ever

1 engaged in censorship, nor to my knowledge did the Disinformation Governance Board.

2 Q Thank you. And I apologize, I realize that I was saying MDM task force. I

3 meant MDM branch throughout.

4 A Yeah.

5 Q That was an error on my part. Thank you.

6 We can go off the record. Thank you.

7 [Recess.]

8 [redacted] We can go back on the record, please.

9 BY [redacted]

10 Q We were starting to touch upon some of this in the previous hour. But in

11 response to one of your answers from the first hour, you mentioned the tactics that the

12 MDM team was trying to build resilience to.

13 Can you walk us through what you meant by tactics and what would be included?

14 A Sure. In foreign influence operations there's often a structured approach

15 that many adversaries may undertake. They may do some form of social engineering.

16 They may create proxy sites that hides the hand of government influence. They may

17 establish bot networks or inauthentic accounts. Increasingly, they may use new

18 capabilities, like generative artificial intelligence.

19 All of these things are enabling tactics of foreign influence operations that we'd

20 like to put forth educational material on.

21 Q And when assessing these tactics, are these tactics exclusively used by

22 foreign actors or can they be used by domestic actors as well?

23 A In theory, tactics can be used by anyone.

24 Q So going through some of the examples that you mentioned, so something

25 like bot networks, that gets to actors and behavior. Of these tactics, which are content

1 focused?

2 A Tactics -- information on tactics is not content focused. Descriptions of

3 content generation can be relevant to the creation of synthetic media, like artificial

4 intelligence. But tactical education is not normally content focused.

5 Q As part of the MDM team's interactions with social media companies, when

6 you're putting materials out there are these the same types of information that you're

7 sharing with social media companies during like the USG-Industry meetings?

8 A So things that were relevant, we did not discuss tactics -- CISA did not discuss

9 tactics of foreign influence operations with social media entities. There we would do

10 election security education. So what is the timeframe for UOCAVA ballots to go out?

11 What is the timeframe for processing of ballots?

12 Election night reporting is unofficial. What is a canvass process? What is a cure

13 process? What is a post-election certification process? What does risk-limiting audits

14 look like?

15 These are all things that were subject matter to election security that I didn't

16 expect social media to have intimate knowledge or education on.

17 Q In addition to providing information on these subjects to the social media

18 companies, were you flagging content or narratives on these topics where folks were

19 getting the issues wrong?

20 A Not at all for these meetings.

21 [Hale Exhibit No. 4

22 was marked for identification.]

23 BY [redacted]

24 Q This will be exhibit 4. This is an email from Brian Scully to Renee DiResta at

25 Stanford. Mr. Hale is not on this email exchange, but I want to ask you some questions

1 about it.

2 A Okay.

3 Q First, do you know who Renee DiResta is?

4 A Yes.

5 Q And to your understanding, what's her role as it relates to the issues we've

6 been talking about?

7 A I don't know her current role. At the time, I believe she was part of the

8 Stanford Internet Observatory.

9 Q And did you have interactions with Ms. DiResta as part of your role at CISA?

10 A At times.

11 Q Do you recall the context of those interactions?

12 A Awareness of the expertise and activities of the Stanford Internet

13 Observatory.

14 Q Acknowledging that you're not on this email chain, do you recall the

15 discussion, the meetings of experts that Director Krebs was trying to set up in March

16 of 2020?

17 A I do not.

18 Q I want to call your attention to the third bullet point from Mr. Scully's email.

19 One of the proposed discussion topics is, "How should we be thinking about domestic

20 versus foreign interference?"

21 Is that a discussion topic that you ever discussed with Mr. Scully?

22 A That is not.

23 Q Do you know what Mr. Scully meant by this email?

24 A I do not.

25 Q We can take this exhibit back.

1 [Hale Exhibit No. 5
2 was marked for identification.]
3 BY [redacted]
4 Q This will be exhibit 5. This is an email from Robert Schaul to someone
5 affiliated with the Alliance for Securing Democracy. Mr. Hale is not on this email
6 exchange.
7 [Pause.]
8 Have you had a chance to review?
9 A Uh-huh. Yes.
10 Q Do you know who [redacted] is?
11 A I don't.
12 Q Are you familiar with the Alliance for Securing Democracy?
13 A Not particularly.
14 Q I want to call your attention to Mr. Schaul's email at 1:12 p.m. He writes,
15 "Mail-fraud disinfo is in-bounds for us this time, domestic or foreign; so if you see
16 something you're worried about let us know -- especially if our messaging can help
17 counter."
18 Based off what your understanding of what the MDM team -- or at this point the
19 Countering Foreign Influence Task Force -- was responsible for, what was Mr. Schaul
20 referring to?
21 A I don't know Rob Schaul's intent behind this email.
22 Q Okay. To your understanding, what would fall within the mission of the
23 Countering Foreign Influence Task Force that would allow domestic mail fraud
24 disinformation to fall within that team's scope?
25 A Discussions of mail fraud, if they indicate criminal activity, would be of

1 interest to our Federal partners, particularly in law enforcement. However, I'm not
2 aware of us working in mail fraud disinfo particularly.
3 Q Do you know who was supervising Mr. Schaul at this time?
4 A Rob Schaul worked as a junior employee under Brian Scully at this time.
5 Q Do you recall having any discussions with a member from the Countering
6 Foreign Influence Task Force, or later the MDM team, about whether domestic
7 disinformation, regardless of the topic, could fall within that team's scope?
8 A In building resilience to information we're not looking at surfacing
9 information from domestic or foreign. Those two lines of effort were distinct.
10 So if we can educate and talk about our risk management and the activities that
11 work to secure vote by mail, and if it is -- or absentee voting -- if there's an opportunity to
12 put forward that information to -- for an educational purpose, that information push was
13 within scope.
14 However, that's the limits that I understand.
15 Q As part of supporting that informational push, were there individuals at CISA
16 who were tracking or trying to gain awareness of whether there was mis- or
17 disinformation on topics related to mail-in balloting?
18 A I am not aware of anyone tracking this. We have partners who can share
19 information. Election officials can certainly say they're looking to educate in particular
20 topic areas that they're getting questions about.
21 Q Were you aware of partners other than State and local election officials that
22 were sharing information with CISA?
23 A Associations, local associations, associations of election officials would also
24 fall within that realm; vendors in the election community as well.
25 Q Other than State and local election officials, associations comprised of those

1 officials, or vendors, are you aware of any partners that CISA was receiving information
2 from regarding mis- or disinformation?
3 A I'm not sure what Securing Democracy is and -- in this -- but to the extent
4 that that is an external group in this email, that's new to me.
5 Q You've had a chance to review this email exchange. This is November 4th,
6 2020, which is right after the U.S. election. Votes were still being counted.
7 Based off the exchange, do you find anything that Mr. Schaul is saying to be
8 problematic based off your understanding of the mission of the Countering Foreign
9 Influence Task Force?
10 A I wouldn't characterize it as problematic knowing that the work that
11 followed was all public, transparent, and putting forth well-cited information into the
12 public sphere with close coordination with our lawyers and Office of Privacy and Civil
13 Liberties.
14 Q If Mr. Schaul had contacted you and asked if he could send an email to
15 [redacted] saying mail fraud disinfo is inbounds for us this time, domestic or foreign,
16 what would you advise him?
17 [redacted] To be clear, did you actually advise on this issue?
18 Mr. Hale. I did not advise on this issue.
19 The hypothetical, I would describe this as an inarticulate way of supporting our
20 mission.
21 BY [redacted]
22 Q Okay. Why do you think it's inarticulate?
23 A Because it is subject to misunderstanding that -- of how we -- of information
24 we'd want to glean and information we could put forward in CISA's role.
25 Q Are you aware of Mr. Schaul or anyone else on the Countering Foreign

1 Influence Task Force who had a misunderstanding of what the task force's proper mission
2 was supposed to be?
3 A I am not suggesting that he has a misunderstanding. I am saying that this
4 may not be the most articulate way of conveying it. I am not aware of anyone who had
5 a misunderstanding internally to the team about CISA's mission.
6 Q Did Mr. Scully ever discuss with you concerns regarding whether anyone on
7 the team was suggesting to outside partners that domestic disinformation fell within the
8 scope of the Countering Foreign Influence Task Force's mission?
9 A Can you rephrase that question?
10 Q Sure. Do you recall any discussions with Mr. Scully regarding whether
11 anyone on the Countering Foreign Influence Task Force misunderstood the task force's
12 mission to include domestic disinformation?
13 A I do not recall any discussion with Mr. Scully about implying that there was a
14 misunderstanding among the team.
15 Q If someone from the Countering Foreign Influence Task Force wanted to
16 receive information from a partner that did not involve State and local officials and was
17 monitoring content online, who would need to sign off on that, if anyone?
18 A Our practice was that the activities should be and partnerships should be
19 transparent and clear among supervisory chains.
20 However, individual relationships or professional relationships established
21 through conferences or understanding this mission space enabled regular email
22 interaction among partners or leaders in the space.
23 Q In the fall of 2020, you mentioned that Mr. Schaul was a more junior
24 employee. Given your position in the hierarchy, how frequently were you interacting
25 with someone in his position?

A In the fall of 2020?

Q Yes.

A Not often. Every 2 weeks.

Q So as far as having -- I guess, let me strike that, start of that question.

What was your visibility or understanding of the Countering Foreign Influence Task Force's day-to-day operations and handling of issues?

A I understand their mission, their charge, and some of their tasks, and certainly engage at a leadership level.

Q Is, at this time, Mr. Scully the individual affiliated with the task force that you're most frequently communicating with?

A Yes.

Q And his responsibilities are providing updates to you on --

A Yes.

Q We can take these back. Thank you.

[redacted] Off the record really quickly.

[redacted] Can we go off the record?

[Discussion off the record.]

BY [redacted]

Q Without getting into the details of any discussions, when there were discussions with the Office of the Chief Counsel, who from the -- either the Countering Foreign Influence Task Force, or later the MDM team -- who was most likely to attend those meetings?

A Myself and the branch chief, Brian Scully.

Q Do you recall at a high level how frequently you had issues or it became necessary to have meetings with the Office of the Chief Counsel?

1 A It would not require issues to engage the Office of the Chief Counsel. It's
2 our practice to do it for any new product, any new initiative, regular work streams to
3 ensure that our counsel and Office of Privacy and Civil Liberties is well informed.
4 Q So you had regular interactions with those offices?
5 A Yeah.
6 Q Are you familiar with the Center for Internet Security?
7 A Yes.
8 Q And what's your understanding of what CIS is?
9 A The Center for Internet Security is a 501(c)(3), to my knowledge. It is an
10 independent organization for which CISA funds through a series of cooperative
11 agreements to host the Multi-State Information Sharing and Analysis Center and the
12 Elections Infrastructure Information Sharing and Analysis Center.
13 The scope and nature of those cooperative agreements is to provide cybersecurity
14 and network defense information to key State and local partners.
15 At no point has disinformation ever been -- work been funded through those
16 cooperative agreements.

[11:25 a.m.]

BY [redacted]

Q At just a high level, what's the difference between the MS-ISAC and the EI-ISAC?

A Okay. The MS-ISAC, if you think about the stakeholders that they serve, that would be your State CIO or your county CIO or CISO. The EI-ISAC, their core -- and if you know things about the way States are structured, sometimes there's a constitutional and programmatic divide. So the elections organizations do not always fall underneath the governor. Some States they do. It varies wildly.

So recognizing that having the States' CIO and CISO as the primary coordinator for the Multi-State Information Sharing and Analysis Center didn't necessarily serve the election community.

So you can think of the difference between the two as elections infrastructure uses election officials and their network defenders as their primary stakeholders. Multi-State is inclusive of that sometimes.

Q For the -- for CIS, who is the -- who at CISA most frequently would interact with CIS?

A Oh, it's impossible to say because there are different aspects of the mission. So our cybersecurity office would engage with them. The organization overseeing the cooperative agreement would engage with them. I would engage with them, et cetera.

Q As it related to the EI-ISAC, do you know who the -- who at CISA would be the most frequent point of contact?

A During what time period?

Q We'll say fall of 2020.

A Myself, [redacted] likely be key points of contact with the EI-ISAC.

1 Q In 2020, do you recall having any discussions with CIS about creating a
2 misinformation reporting portal?
3 A I don't recall specifically.
4 Q What about generally?
5 A I am aware that they had created an email address and acquired it, but I
6 don't recall the origination of the idea.
7 Q As it related to that idea, who from CISA was most heavily involved in those
8 discussions?
9 A I don't know.
10 Q To your recollection, did it include you?
11 A I don't know. It may have. I don't know.
12 Q As it related to the idea of a potential misinformation reporting portal, what
13 need was the idea trying to address?
14 A So "portal" is one of the terms that's throwing me off. I'm aware of an
15 email address. And what need did it address? State and local election officials didn't
16 have time or awareness of how to report or to whom to report at social media platforms.
17 So this was, to my understanding, an attempt to make that process easier and less
18 burdensome on election officials.
19 Q At the beginning of this interview, we'd mentioned the term
20 "malinformation."
21 A Uh-huh.
22 Q You provided a couple of examples.
23 Do you recall having any discussions with any industry partners or others outside
24 of CISA about if there's any ambiguity with the term "malinformation"?
25 A I don't recall specific discussions.

1 Q What about generally? Do you recall anyone from industry at -- any
2 university experts raising criticisms about the term "malinformation"?
3 A It is a term that often requires explanation. So that'd be consistent, yeah.
4 Q To your recognition, when did CISA start using the term "malinformation"?
5 A I don't recall.
6 Q Do you recall any discussion at CISA about no longer using the term
7 "malinformation" and sticking with the terms "mis- and disinformation"?
8 A I don't recall specific conversations about that, but could be -- but it's very
9 plausible.
10 Q Do you know who Kate Starbird is?
11 A I do.
12 Q And who is she?
13 A She is from the University of Washington and a former WNBA player.
14 Q That's right. When did you, as part of your role at CISA, when did you first
15 meet or start having interactions with Dr. Starbird?
16 A So I had heard of Dr. Starbird before meeting her. My interactions with her
17 began, I don't fully recall the date, but around the Cybersecurity Advisory Committee
18 work.
19 Q Okay. And what is the Cybersecurity Advisory Committee?
20 A The Cybersecurity Advisory Committee is a body that is meant to advise the
21 director of CISA on CISA's missions, made up of external partners and experts in their
22 field.
23 Q Is that referred to as CSAC?
24 A That's correct.
25 Q Did CSAC have an MDM subcommittee?

1 A CSAC had a subcommittee on managing mis- and disinformation for risk to
2 critical infrastructure, yes.
3 Q And do you recall approximately when that subcommittee was in existence?
4 A I would need a refresher.
5 Q Okay. As that subcommittee -- let me rephrase that question.
6 For that subcommittee's focus on mis- and disinformation, was it only in the
7 election space or was it broader than that?
8 A So the subcommittee was made up of primarily external figures to CISA, and
9 so the scope was to discuss mis- and disinformation risk to critical infrastructure. That
10 would be broader than election infrastructure alone.
11 Q What was your involvement with the subcommittee?
12 A I supported and attended -- I supported our senior and attended most of
13 those subcommittee meetings.
14 Q Who is the senior?
15 A At the time, Kim Wyman.
16 Q Okay. And what was her title at the time?
17 A It's either senior advisor or senior advisor for Election Security, something to
18 that effect.
19 Q Do you recall how many people would attend -- excuse me. Do you recall
20 how many people from CISA would attend a typical meeting with this subcommittee?
21 A No. There were different CISA roles. Some would take notes. Some
22 would facilitate the meeting. Some would contribute to conversations.
23 Q How many individuals from CISA would contribute to the conversation?
24 A Two to three.
25 Q And who were those people?

1 A You could typically expect Kim Wyman and myself to do it. I don't -- I don't
2 know a third necessarily.
3 Q During these meetings, was it typically members of the advisory
4 subcommittee proposing ideas to personnel at CISA or both CISA personnel and members
5 of the advisory committee offering ideas and --
6 A It's tough to characterize. The discussions were led by external partners,
7 and we would attempt to provide context to CISA's mission so that -- so discussions could
8 remain productive.
9 Q Do you recall finding the discussions productive?
10 A Not always.
11 [redacted] Okay. This will be exhibit 6.
12 [Hale Exhibit No. 6
13 was marked for identification.]
14 [redacted] There's an associated email chain with it, but the last three pages of
15 the document are the meeting minutes from March 15th, 2022, for this advisory
16 subcommittee.
17 Mr. Hale. Thank you.
18 [redacted] [redacted] there's highlighting on this. Can you clarify for the record if
19 that's on the original document or if that's highlighting that was made on it?
20 [redacted] My understanding is that's on the original document. We'll
21 double-check at the break and let you know if that's not the case, but --
22 [redacted] Thank you.
23 [redacted] -- that's our understanding.
24 BY [redacted]
25 Q Have you had a chance to review?

1 A Yeah.

2 Q So on Bates No. 5373, there are some subheadings. There's the purpose of

3 the meeting, and then there's a discussion. And there's four bullet points laid out.

4 Some of these, you know, appear consistent with some of the answers you've

5 given previously about building resilience, identifying foreign threats, pre-bunking.

6 I want to focus on the third bullet point, "Response: Monitoring, identifying, and

7 addressing specific MDM threats."

8 First, the highlighted bullet, whether it's specific to this meeting or just any of the

9 other meetings, do you recall there being discussions about monitoring MDM threats?

10 A This body of external individuals making recommendations to the director

11 and/or to the full CSAC committee would have had discussions on those four topics.

12 Q And do you recall if, as it relates to this third topic, "monitoring, identifying,

13 addressing specific MDM threats," did CISA ever take those discussions and discuss

14 internally about what role CISA could play regarding monitoring?

15 A Deliberating on whether that was a part of a future mission could have

16 occurred. I don't fully know.

17 Q To your understanding of CISA's legal authorities and mission scope, would it

18 be appropriate for CISA to monitor MDM on social media?

19 A I'm not a lawyer. If in the support of critical infrastructure our lawyers

20 indicated that it was an allowable and permissible activity, I can understand it, but --

21 Q Who was the head of the Office of Chief Counsel in 2020?

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

23 Q What about in 2022?

24 A I don't remember who exactly had -- not to over-volunteer, but Dan

25 Sutherland was at some point the head of our Office of General Counsel. I don't know

1 when Dan left.

2 Q Setting aside any discussions specific to, you know, legal authorities and

3 limitations coming out of that, do you recall any discussions about sensitivities related to

4 the public's reaction regarding what actions -- let me rephrase that question.

5 When considering options CISA could take to support its mission, do you recall

6 there being discussions about how the public would react to finding out about CISA's

7 actions?

8 A I don't recall conversations about the public's reactions. This document

9 describes potentially an external participant discussing some mini sensitivities.

10 Q But to your recollection, you don't recall anyone at CISA discussing those

11 factors?

12 A I don't recall.

13 Q As it's discussed in these meetings and elsewhere, the external advisors had

14 the opportunity to draft recommendations to CISA. Did you play any role in the drafting

15 or review process before those recommendations were finalized?

16 A I don't recall a role in that. I was a participant in the meetings where they

17 would be discussed, but those were put forward by the external individuals to the full

18 committee.

19 Q Did you brief Director Easterly ever on what was being discussed in this -- in

20 these subcommittee meetings or the recommendations themselves?

21 A I don't recall any briefings. It would not be unheard of to brief the director

22 on the activities of my team and myself.

23 [redacted] And we can take these back.

24 This will be exhibit 7. This is one of the pages of the meeting minutes. We will

25 get you the full meeting minutes at the next break.

[Hale Exhibit No. 7

was marked for identification.]

[redacted] Will your questions be limited to the first page?

[redacted] Yeah.

[redacted] Okay. Just to clarify, this is the second page of the meeting minutes. So page 1 is missing, and I don't know what subsequent pages there may be.

I think if you need the full document, just let him know.

Mr. Hale. Okay.

[redacted] So I want to call your attention to the first two kind of sub-bullet points that both address comments that you reported as making.

Independent of whether it's specific to the meeting on April 29th, 2022, or just more generally, do you recall any discussion with personnel at CISA regarding if there were limitations that the Agency faced with respect to countering politically charged narratives?

Mr. Hale. CISA operates in a nonpartisan manner. And so I'm not aware of any policy or guidance, but it would not be our practice to get involved in any political matters.

[redacted] The next sentence in that same bullet point says, "Dr. Starbird recommended that CISA develop a publicized list of what types of claims they will issue a response to."

Regardless of whether you remember or if this was even said in the April 29th, 2022, meeting, are you aware of any efforts within CISA to develop a list of what types of claims CISA would issue a response to?

Mr. Hale. I am not aware of any efforts within CISA to develop a list of what type of claims we will issue a response to.

1 [redacted] We can take these back.

2 BY [redacted]

3 Q Are you familiar with the Election Integrity Partnership?

4 A Yes.

5 Q And just at a high level, what is your understanding of what EIP is?

6 A My understanding, EIP is a private entity made up of the Stanford Internet

7 Observatory, the University of Washington, and two private sector entities who analyzed

8 the information environment in 2020.

9 Q Do you know who -- excuse me. Do you know who Alex Stamos is?

10 A Yes.

11 Q When did you, as part of your role at CISA, first meet or have interactions

12 with Alex Stamos?

13 A Likely in the spring of 2020, spring or summer.

14 Q And was it in connection with EIP?

15 A My understanding is EIP did not exist until the fall of 2020.

16 Q Do you recall what spurred your initial interactions with Alex Stamos?

17 A I don't exactly recall.

18 Q What about generally?

19 A Understanding that the Stanford Internet Observatory is a body of expertise

20 in foreign influence operations and what occurs on the internet, engaging them seemed

21 appropriate.

22 Q Are you familiar with EIP's work in the lead-up to the 2020 election?

23 A Generally.

24 Q Is it your understanding that what the EIP was doing, could that type of work

25 have been done by CISA?

1 A Can you clarify your question?
2 Q Sure. Let me take a step back.
3 What is your understanding of what the EIP was doing in the lead-up to the 2020
4 election?
5 A EIP was a coalition of unique expertise across academia and the private
6 sector, and they would research and analyze the information environment and share their
7 analysis with social media platforms.
8 Q In addition to sharing their analysis with social media platforms, is it your
9 understanding whether the EIP was flagging specific pieces of content to social media
10 platforms?
11 A So that'd be consistent with sharing their analysis, yes.
12 Q As part of sharing their analysis, would they share recommendations on
13 what action social media platforms should take?
14 A I don't know.
15 Q Is that type of -- let me strike that question.
16 Could CISA have done the same type of work as far as sharing analysis with social
17 media companies?
18 A CISA does not conduct analysis on social media platforms or content on
19 social media platforms. CISA has broad information sharing.
20 Q Does CISA not do that because it's resource-intensive or because it's legally
21 not authorized? What's the reason?
22 A I don't know. I wouldn't speculate.
23 Q Could CISA provide recommendations to social media companies on what
24 content moderation enforcement actions the platform should take?
25 A That is not something that CISA would do.

1 Q Are you familiar with the software program Jira?

2 A Generally as a, like, program management program.

3 Q What about with respect to the EIP's use of it?

4 A I'm not specifically aware of EIP's implementation or use. But

5 understanding it as a ticketing and general program management tool, I understand that

6 much.

7 Q Okay. For interactions between CISA and the EIP, whether it's briefings or

8 meetings or whatever else, do you recall who the primary point of contact at CISA was for

9 these types of engagements?

10 A Can you clarify what type of engagements?

11 Q Sure. So from -- let me rephrase the question differently.

12 From the summer of 2020 until election of 2020, who at CISA was most frequently

13 interacting with the EIP?

14 A I don't know most frequently. I would think it's a responsibility of at a

15 leadership level of [redacted] and myself and others, yeah.

16 Q In addition to [redacted] and yourself, was there anyone else?

17 A Engagement with Stanford Internet Observatory or University of Washington

18 or the coalition of the made-up EIP could have included Bryan Scully or members of the

19 MDM team.

20 Q What was the purpose of meetings between the EIP and CISA in the fall of

21 2020?

22 A Pardon?

23 [redacted] And just to clarify, there were actually any meetings in the

24 first instance.

25 [redacted] Well, sure, we'll take a step back.

1 BY [redacted]

2 Q To your understanding, were there meetings between CISA and the EIP in

3 the summer and fall of 2020?

4 A There were meetings with EIP or the private preceding organizations in the

5 summer of 2020.

6 Q And to your understanding, what was the purpose of those meetings?

7 A I'm aware of at least one meeting where the Stanford Internet Observatory

8 briefed their intent to establish EIP.

9 Q Do you recall if CISA was generally supportive or not of what Stanford was

10 proposing?

11 A I don't know that CISA took a overall perspective. You'd have to ask CISA

12 leadership.

13 Q Who at -- would be the best one to contact -- when you mean CISA

14 leadership, who are you referring to?

15 A At the time that would have been Director Krebs.

16 Q During the fall of 2020, CISA was engaged in switchboarding still. Is that

17 right?

18 A Correct.

19 Q Do you recall if there was any discussion of overlap between CISA's efforts in

20 switchboarding and the EIP's efforts in providing analysis to social media companies?

21 A I recall one instance where Twitter indicated that they were receiving

22 duplicative reporting from multiple organizations.

23 Q Do you remember who from Twitter --

24 A I do not.

25 Q -- flagged that concern?

1 Do you recall if it was flagged to you directly or to someone else at CISA?

2 A I don't recall that either.

3 Q Do you recall if the concern was addressed in any way?

4 A I think we had a discussion of whether -- of who should receive that. I think

5 the request included that can CISA be the primary reporter. I don't know that we took

6 any action to resolve duplication.

7 Q When you say we discussed, who are you referring to by "we"?

8 A That the -- Twitter indicated they were receiving duplicative reporting from

9 EIP, CISA, and occasionally CIS. There was a discussion of whether that could be

10 reduced or made or optimized, and I don't think we took any action to do so.

11 Q Do you recall who from CISA participated in that discussion?

12 A I do not.

13 Mr. Hale. Can I do a time check?

14 [redacted] Yeah, we've got about 5 minutes left.

15 Mr. Hale. Okay. Yeah, I can make that. I do have to use the restroom at

16 some point, but the 5 minutes is fine.

17 [redacted] Great.

18 This will be exhibit 8.

19 [Hale Exhibit No. 8

20 was marked for identification.]

21 BY [redacted]

22 Q On Bates No. 474, which is the second page of this document, there's an

23 email from CIS addressed to Brian and EIP. And then there's also a number of email

24 addresses it's sent to, including one with the Facebook email domain, CISA, and then an

25 email domain reading 2020partnership.atlassian.net.

1 For that email address, the Atlassian one, are you familiar with who's associated
2 with that email address?
3 A I understand that to be EIP.
4 Q At the time in the fall of 2020, were you generally aware whether CIS was
5 sending information simultaneously to CISA and to EIP?
6 A I see this as CIS is sending information to the platform with CISA and EIP
7 made aware.
8 Q At the time in the fall of 2020, were you aware of this?
9 A I don't know exactly, but it's consistent with my understanding.
10 Q And at the time, were you aware that CIS was one of the external
11 stakeholders -- I think they referred to it -- involved with the EIP?
12 A I was aware of a connection between CIS and EIP.
13 Q The email is sent to Brian Scully. There are then two CISA -- or one CISA
14 and then one DHS email addresses, the first part of which is redacted.
15 Are you familiar with a CISA Central email address?
16 A Yes. Yes.
17 Q Who has access to that email?
18 A I don't know individual names that have access to it. That is a portion of
19 CISA that's overseen by our Integrated Operations Division.
20 Q Do you have access to that email address?
21 A No.
22 Q If you'd turn to the first page, Bates No. 473, there's a slightly different set of
23 redactions. But there's CISA Central with the domain name cisa.dhs.gov that we were
24 just discussing. Then there's a CFITF. There's a redaction, but it's at hq.dhs.gov.
25 For that CFITF email address, are you familiar with who has or had access to that

email?

A Generally, yes.

Q And to your understanding, who is that?

A Members of the CFITF within CISA.

Q Did you have access to this email at any point?

A No.

[redacted] Can we go off the record, please?

[Recess.]

[1:47 p.m.]

[redacted] We can go back on the record.

[redacted] Before we get into our questioning, I just want to note for the record that what was entered as Hale Exhibit No. 6, which is the 3/17/2022 CISA Cybersecurity Advisory Committee meeting minutes, we went back and checked during the break. The highlighting is not in the original document. It looks like there's also a page at the end of the document that was left off of this.

And then, of course, the Hale Exhibit 7, which is the April 29th, 2022, meeting notes is missing, I think, three pages total. Thanks.

BY [redacted]

Q During the last hour, we talked a lot about CISA's interactions with various nongovernmental organizations, before we get more into detail, could you just briefly -- you mentioned that many election officials, which non-Federal Government organizations but also other groups, might give CISA information.

Can you talk generally about what the relationship was between CISA and various election stakeholders?

A So in establishing election infrastructure as critical infrastructure, we've had to build a community of partnerships on the election security mission. So this could include anyone involved in the infrastructure side or -- so your election officials, your vendors, your voting system vendors, your -- all of those components.

This could involve associations, the Association of Election Officials (Election Center), the National Association of State Election Directors, the National Association of Secretaries of State, the International Organization of Government Officials, iGO.

We've had engagements with partisan organizations in a nonpartisan manner where we're engaging with the DNC and the RNC with Presidential campaigns as part of

1 threat briefings.

2 There's a huge environment of people that touch this space in some capacity.

3 Q And you mentioned some of that includes CISA briefing those organizations.

4 How else does CISA engage with these stakeholders?

5 A We are in an information-sharing environment. So we could be receiving

6 information from some of the stakeholders, helping to -- one of the benefits of CISA is

7 that we kind of sit at the nexus of a lot of communities: all the critical infrastructure

8 sectors, cybersecurity community, physical security community. We have partners in

9 law enforcement, partners in the intelligence community.

10 It really helps to hone a picture that we can inform risk guidance to all of our

11 partners.

12 Q Talking more specifically about CIS, the Center for Internet Security, do you

13 remember those conversations from the last hour?

14 A Yes.

15 Q Can you describe what the relationship is between CISA and CIS?

16 A So CIS is an independent organization that CISA funds through a series of

17 cooperative agreements to do particular tasks in maintaining and sustaining the

18 Multi-State Information Sharing and Analysis Center and the Election Infrastructure

19 Information Sharing and Analysis Center.

20 That work focuses on computer network defense, on sharing of cyber indicators

21 and cyber threat information for those communities.

22 Q What are cyber indicators?

23 A Those are a variety of either signature-based or information tells that might

24 tell a -- that may indicate and alert a community of security practitioners to look for

25 particular vulnerabilities, targeted information, a tactic, a technique, a procedure, that

1 may help them to better advance their security posture on the front end or detect
2 compromise on the back end.
3 Q Are CIS employees CISA employees?
4 A No.
5 Q Do CISA employees do the operational work of CIS?
6 A No.
7 Q And has CISA ever had a cooperative agreement with the Center for Internet
8 Security related to disinformation?
9 A No.
10 [redacted] On the question of CISA, whether -- sorry. Strike that. Withdraw.
11 You said that CIS employees are not CISA employees, correct?
12 Mr. Hale. Correct.
13 [redacted] Does CISA have any management or supervisory role over CIS
14 employees?
15 Mr. Hale. No.
16 [redacted] Thank you.
17 BY [redacted]
18 Q There have been allegations that, during the 2020 election, CISA funded and
19 utilized CIS for the purpose of having social media companies moderate content. Is that
20 allegation accurate?
21 A That is not accurate.
22 Q Why not?
23 A CISA does not -- CISA's interaction with CIS focuses on the cooperative
24 agreement. The scope of the cooperative agreement is about the cybersecurity
25 indicators and support that they provide to communities. The engagements with the

1 other portions of CIS is as CISA would engage any other external nongovernmental
2 organization.
3 Q There have been allegations that, during the 2020 election, EI-ISAC
4 facilitated attempts to censor core political speech. Do you think those allegations are
5 accurate?
6 A I do not.
7 Q Why not?
8 A EI-ISAC passing along information reporting to and really, rather, CIS passing
9 along information reporting from their stakeholder set to social media platforms or
10 whomever, to better inform the decisionmaking process of those social media platforms
11 or whoever, would undertake on their own according to their own terms of service.
12 Q And does CISA run the EI-ISAC?
13 A No.
14 Q Does CISA manage or oversee the operations of the EI-ISAC?
15 A No.
16 Q To your knowledge, during the 2020 election, did CIS or the EI-ISAC have
17 employees engaged in monitoring social media for election-related disinformation?
18 A I don't know.
19 Q And you don't know that because CISA wasn't involved in those operations?
20 A Correct.
21 Q We also discussed the Misinformation Reporting Portal. Do you remember
22 those questions?
23 A Yes.
24 Q You said you weren't familiar with the portal. You were just familiar with
25 an email address. Is that right?

1 A Correct.

2 Q Are you aware that a portal was proposed at any point?

3 A I'm aware of an email address.

4 Q Okay.

5 A I'm unclear what a portal would mean in this context.

6 Q Okay. Did CISA help set up that email address?

7 A Not to my knowledge.

8 Q Did CISA think that that email address -- propose that email address to CIS?

9 A Not to my knowledge.

10 Q This email address was set up independently by the Center for Internet

11 Security?

12 A Correct.

13 Q You were also asked some questions about CISA's involvement with the

14 Election Integrity Partnership. Do you remember those?

15 A Uh-huh.

16 Q CISA did not found, fund, or have any role in the management or operations

17 of the EIP. Is that right?

18 A Yes.

19 Q There's been an allegation that the EIP was thoroughly intertwined with

20 CISA. Is that accurate?

21 A Not to my understanding.

22 Q Why not?

23 A We were not involved with the management, the organization, the founding,

24 the funding, the establishment, or the operations of EIP.

25 Q There's been an allegation that CISA aided EIP in the process of reporting

1 undesirable election-related speech to social media platforms. Is that an accurate
2 characterization of CISA's interactions with the EIP?
3 A I don't understand what that accusation refers to, but it's not accurate to my
4 understanding.
5 Q To your knowledge, did CISA flag content for the EIP for the purpose of
6 having social media companies delete that content?
7 A No.
8 Q To your knowledge, did the EIP report back to CISA about social media
9 companies' actions on specific pieces of content?
10 A Not particularly, not to my knowledge.
11 Q There have been allegations that EIP was established to fill the gap in the
12 government's ability to police disinformation. Have you heard that allegation?
13 A I have.
14 Q To your knowledge, is that accurate?
15 A That is not accurate.
16 Q Why not?
17 A EIP was independently established and was serving their own mission
18 independently of CISA according to their interests and partnerships that they had.
19 BY [redacted]
20 Q If you had to quantify it, just ballpark number, how many interactions do you
21 think you had with EIP personally?
22 A Me, personally?
23 Q Uh-huh. Less than a dozen?
24 A Less than a dozen.
25 Q Less than ten? Less than five?

1 A Personally interacting with EIP? Yes, less than five.
2 Q More than one.
3 A Yes.
4 Q And you said that you had talked with the -- I want to make it clear, because
5 I think you had said that you had had conversations with Stanford Internet Observatory,
6 but that was earlier on in 2020 before the EIP was established, correct?
7 A Correct.
8 Q Did you play any role in establishing the EIP?
9 A No.
10 Q Do you recall if you had any conversations about establishing the EIP?
11 A Stanford Internet Observatory explained to us their intent to establish the
12 EIP.
13 Q Uh-huh.
14 A We were not in the decision gate. We're not -- we're not crafting or
15 approving any of that. It was -- but we were made aware of what they were building,
16 yeah.
17 Q And would you describe that conversation as having been purely
18 informational in nature?
19 A Yes.
20 Q Okay. Once EIP was established, to the best of your knowledge, did
21 anybody at CISA play any kind of management or supervisory role over the EIP's
22 operations?
23 A No.
24 Q Okay. And you said that your contacts with EIP were somewhere between
25 one and five. Was it your impression that even though you weren't interacting with EIP,

1 those on your team were with frequency?

2 A There were individuals who had greater communications with EIP. But at

3 my level in the 2020 cycle, it was around a handful.

4 Q Okay. And the individuals that had greater communications, do you think it

5 was, like, a daily communication, or do you think it was more informational in nature?

6 A I don't know.

7 BY [redacted]

8 Q You were also asked a few questions about Jira tickets. Do you recall those

9 questions?

10 A Yes.

11 Q You explained a little bit earlier. Generally, Jira is a commercially available

12 project management software. Is that right?

13 A Yes.

14 Q Were you involved with the Jira database that was used by the EIP?

15 A No.

16 Q Could you see Jira tickets that the EIP created?

17 A No, I could not.

18 Q You mentioned that your engagement with the EIP and the Stanford Internet

19 Observatory was similar to the engagement that CISA does with other stakeholders. Is

20 that right?

21 A Uh-huh.

22 Q Is that a yes?

23 A Yes.

24 Q Okay. Could you explain generally what that engagement with

25 stakeholders looks like?

1 A So CISA has a robust array of partnerships that all premise on voluntary
2 partnerships and information-sharing arrangements in order to better understand threat
3 pictures and develop risk guidance for broader risk issues, be it protection of schools,
4 election infrastructure, dams and water, all aspects of day-to-day life.
5 Q Is it valuable for CISA to have those engagements with external stakeholders
6 and do that information sharing?
7 A Absolutely.
8 Q What kinds of useful information does CISA get from these partnerships?
9 A CISA is never going to be the resident expert on absolutely every topic. So
10 being able to engage academia, private sector, security companies to understand and
11 contextualize their learned experience helps develop better guidance out to the public or
12 better guidance out to our critical infrastructure partners.
13 Q Does CISA -- you said CISA doesn't -- will never be the resident expert. Is it
14 fair to say that CISA doesn't have the capacity to do independent research on all of these
15 security areas?
16 A For the breadth of CISA's mission, we will always benefit from having
17 external partners.
18 Q And CISA doesn't conduct disinformation research independently.
19 A Correct.
20 Q Earlier you were asked if CISA analyzes content, and you said CISA does not
21 analyze content. Is that right?
22 A CISA does not analyze social media content.
23 Q And that's because that's not part of CISA's mission.
24 A Correct.
25 [redacted] And just to be clear, when you say analyze social media content, what

1 does that mean to you?

2 Mr. Hale. We are not operationally taking social media content and determining

3 what is mis-, dis-, or malinformation for a period, yeah.

4 BY [redacted]

5 Q When you worked at NPPD, CISA's predecessor organization, did NPPD also

6 interact with election stakeholders in this way?

7 A Yes.

8 Q And when you worked in the election security mission, before there was a

9 formal task force, were interactions with stakeholders also important in that -- at that

10 time?

11 A Yes.

12 Q We talked about the CISA Cybersecurity Advisory Committee. Do you

13 remember that?

14 A Uh-huh. Yes.

15 Q Could you explain again what your understanding of the purpose of that

16 advisory committee is?

17 A So the -- I know there's formal documentation on the web. So it's probably

18 the more authoritative source. My understanding is that the Cybersecurity Advisory

19 Committee is a formalized body of external advisors charged with developing

20 recommendations, in particular, CISA mission areas, for how CISA can perform this

21 activity in future years. Those recommendations would be made public and provided to

22 the director, as are the director's responses to those.

23 Q And you mentioned the advisory committee considers multiple of CISA's

24 mission areas. Is that right?

25 A Yes.

1 Q So today we talked about the MDM subcommittee, but there are also other
2 subcommittees that address other CISA mission areas. Is that right?
3 A Correct.
4 Q The MDM subcommittee is just the one that was most relevant to your work.
5 A Correct.
6 Q Are you aware that the MDM subcommittee submitted a report to the
7 director on June 22nd of 2022?
8 A I'm generally aware. I wouldn't have known the date, yeah.
9 [redacted] It's to the CISA director.
10 Mr. Hale. Yeah.
11 [redacted] We'll introduce that report -- not going to make you try to
12 remember it -- as exhibit --
13 [redacted] I think we're on 9.
14 [redacted] Nine.
15 [Hale Exhibit No. 9
16 was marked for identification.]
17 [redacted] I'll give you a moment to review.
18 Mr. Hale. Is that an alarm?
19 [redacted] That is like a cart going up and down the hallway.
20 Mr. Hale. Okay.
21 [redacted] And the beeps that you hear going off are calls to the floor for
22 Members.
23 Mr. Hale. Okay. You're less unnerved by it than I am.
24 [redacted] We had a witness once that said, Should we be leaving the room?
25 BY [redacted]

1 Q Had you seen this report before?

2 A I believe this is the report provided publicly, but I don't remember seeing the

3 document in its totality.

4 Q Are you familiar with the contents of the document?

5 A Largely.

6 Q Okay. I want to start by looking at the fourth paragraph of the introduction

7 on the very first page.

8 It reads, "The First Amendment of the Constitution limits the government's ability

9 to abridge or interfere with the free speech rights of American citizens. The First

10 Amendment and freedom of speech are critical underpinnings to our society and

11 democracy. These recommendations are specifically designed to protect critical

12 functions from the risks of MD, while being sensitive to and appreciating the

13 government's limited role with respect to the regulation or restriction of speech."

14 Did I read that right?

15 A Yes.

16 Q MD, in your understanding, that refers to mis- and disinformation. Is that

17 right?

18 A That's correct.

19 Q You were not a member of the subcommittee, correct?

20 A I was not -- certainly not an external member of this. I was on these

21 meetings as supporting staff.

22 Q Based on your understanding of the meetings, did the subcommittee make

23 its recommendations with the protection of First Amendment in mind?

24 A Absolutely.

25 Q Do you believe that the subcommittee's recommendations respect

1 individuals' First Amendment rights?

2 A I believe so.

3 Q Based on your understanding, do any of the subcommittee's

4 recommendations involve having CISA censor information such as working to remove

5 content or accounts?

6 A I am not aware of any recommendations that would fit that description.

1 [2:10 p.m.]

2 BY [redacted]

3 Q Okay. On the second page of the report, the subcommittee describes

4 certain mis- and disinformation risks on which CISA should focus in that first bullet.

5 And then in the second bullet, it starts, "In this work, CISA's activities should be

6 similar to the Agency's actions to detect, warn about, and mitigate other threats to critical

7 functions (e.g., cybersecurity threats)."

8 Do you have an understanding of what that means?

9 A I do.

10 Q Could you explain?

11 A A lot of CISA's work is about issuing public guidance on or tailored guidance

12 to particular communities about known cyber threats, activity alerts of foreign

13 adversaries attempting to target particular vulnerabilities or particular sectors, and

14 helping to ensure that those communities are better postured to defend against, respond,

15 and recover from any malicious activity.

16 Q And you said that applies to a lot of CISA's work across sectors. Is that

17 right?

18 A Yes.

19 Q And so is it fair that this recommendation says that that work should be

20 similar to the work in the election space -- or in the, sorry, disinformation space?

21 A I read this as suggesting that CISA's work in addressing the risk of mis- and

22 disinformation, this external body is suggesting that this could fit in a similar manner as

23 the agency's activities to address cyber threats where we're providing information that

24 detects, warns about, and mitigates adversarial activity.

25 Q The next, the little sub bullet under that, says, "The initial recommendations

1 focus primarily on mis- and disinformation, MD, about election procedures and election
2 results. In the elections context, false information about when, where, and how to vote
3 can disenfranchise voters and the proliferation of false and misleading claims about
4 election processes can reduce confidence in results."
5 This kind of mis- and disinformation about when, where, and how to vote is
6 sometimes referred to as time, place, and manner disinformation. Is that right?
7 A That's correct.
8 Q And that refers to factually inaccurate information, like telling voters to go to
9 the wrong precinct or vote on the wrong day. Is that right?
10 A That's correct.
11 Q Why is that such a big threat to elections?
12 A The ability to impact the and limit a legitimate voter's desire to cast a ballot
13 as intended has detrimental impact on the belief of the integrity in the election.
14 Q And when time, place, or manner disinformation arises, that can actually be
15 a law enforcement issue. Is that right?
16 A Absolutely.
17 Q So if CISA learns about that, they might forward it to the FBI, like the case of
18 the voter intimidation emails that we discussed?
19 A That's correct.
20 Q I'm not going to ask any more specifics about the specific recommendations,
21 but overall were there recommendations in this document that CISA should remove
22 content from the internet?
23 A I'm not aware of any.
24 Q And these recommendations were provided by an external body of experts.
25 Is that right?

1 A That's correct.

2 Q CISA did not decide or formulate any of these recommendations?

3 A That's correct.

4 Q CISA staff was at these meetings simply to support?

5 A Correct.

6 Q And facilitate?

7 A Correct.

8 Q There has been an allegation that the CISA Cybersecurity Advisory

9 Committee's Subcommittee on Misinformation and Disinformation recommended that

10 CISA be placed in a situation to be an arbiter of truth and detect mis- and disinformation.

11 Is that accurate?

12 A I'm not aware of the allegation that you're referring to.

13 Q Do you think it's accurate that the subcommittee recommended that CISA

14 should be the arbiter of truth?

15 A No.

16 Q Why not?

17 A The recommendations that I see are about pushing out information and

18 educating more broadly in a manner that's consistent with CISA's overarching authorities.

19 BY [redacted]

20 Q A couple questions, turning back to what were marked as exhibit 6 and

21 exhibit 7. And I want to start with exhibit 6. That's the, again, the March 17th,

22 2022 -- or, I'm sorry, it's the March 15th, 2022, meeting notes. It was attached to an

23 email dated March 17th, 2022.

24 I want to return to -- one, two, three -- under "Discussion," where it says, "Dr. Kate

25 Starbird." It's the second large bullet point under "Discussion" on that second page, and

1 then the -- one, two, three -- third sub bullet. It's, "Response: Monitoring, identifying,
2 and addressing specific MDM threats." Do you see where it says that?
3 A Yes.
4 Q I just want to be clear, in the sub bullet -- or the bullet that heads this section
5 off, that begins, "Dr. Kate Starbird," it says, "Dr. Kate Starbird, Associate Professor, Human
6 Centered Design & Engineering, University of Washington, MDM Subcommittee Chair,
7 provided an overview of the agenda, then began a discussion of four potential dimensions
8 of CISA's MDM mission. The dimensions included," and then there's a list of four, right?
9 A Correct.
10 Q So it specifically says in that larger bullet that this was just a discussion of
11 potential dimensions, correct?
12 A Correct.
13 Q This is not -- these weren't actually any steps that CISA was taking. It was a
14 discussion about steps that CISA might or might not take.
15 A This is a -- you're correct -- this is a discussion of what the working group, the
16 subcommittee group might recommend --
17 Q Might recommend.
18 A -- to CISA as potential dimensions of the mission.
19 Q Thank you.
20 And on the note of recommendations, these are recommendations -- what
21 ultimately turned into the report to the Director that we just walked through -- those
22 were recommendations made to the Director of CISA, correct?
23 A That's correct.
24 Q And the CISA Director was free to accept them or to reject them, correct?
25 A That's correct.

1 Q Turning to exhibit 7, which is the April 29th, 2022, meeting notes.

2 In the prior hour the majority asked you about what's sub bullet one underneath

3 the second larger bullet. So it's, "Mr. Hale commented that it would be appropriate to

4 ask CISA to sponsor, fund, or be the requirements-holder for a potential longitudinal

5 study on," I think that's supposed to be, "on the measure of the effectiveness of certain

6 mitigations."

7 Did I read that right?

8 A Yes.

9 Q Okay. In that bullet, that was just a comment that it would be appropriate,

10 not that CISA was or was not going to take that step, correct?

11 A Correct. The subcommittee is able to recommend whatever the

12 subcommittee came to agreement on.

13 Q And with respect to what the actual suggestion was here, this was just

14 recommending a possible study, not actual action, but a study, a research study, correct?

15 A Absolutely.

16 Q Okay. Thank you. We can move on.

17 BY [redacted]

18 Q In your opinion, do foreign actors have a motivation to attempt to interfere

19 in the 2024 election?

20 A Yes.

21 Q At a general and unclassified level, could you describe what their

22 motivations might be and, if you can, who those actors might be?

23 A The recent intelligence community assessment described at minimum the

24 top three adversaries of Russia, China, Iran. It also described different -- a collaboration

25 of different and emerging nations that may take an interest in wanting to shape U.S.

policy, increase division, weaken democracy, et cetera.

Q You said a recent IC assessment. Do you know which one?

A So there are -- there's the Homeland Threat Assessment, and then there's the unclassified assessment, intelligence community assessment released in December from --

[redacted] December of 2022?

Mr. Hale. Released in December 2023.

[redacted] Or 2023, sorry.

Mr. Hale. Yes, correct.

BY [redacted]

Q In your opinion, would it be problematic if the Federal Government is unable to do work to counteract those foreign influence efforts?

A I think that the Federal Government should be postured to support Americans addressing risks from nation-state adversaries.

Q Why do you think that the Federal Government should be postured in that way?

A I have not seen local governments or the public resourced in a way to combat a motivated adversary like Russia, China, or Iran.

Q And speaking of local governments, local and State governments, we talked a lot about CISA's engagement with stakeholders like State and local election officials.

Do you broadly interact with State and local election officials often?

A I do.

Q Have you broadly heard that there have been increasing threats to State and local election officials?

A I have.

1 Q What have you heard about generally?

2 A Many election officials describe an increased environment where they are

3 facing online threats, threats of violence delivered through the mail, threats against their

4 staff, their polling locations, accusations of malfeasance, the -- I covered threats.

5 Yeah, general harassment that's making their job difficult to retain people to

6 conduct the election, making it feel unsafe to perform their job, and pushing people out

7 of the community.

8 Q Generally, are State and local election officials -- who are they? Are they

9 full time? Are they experts? Like who makes up that population?

10 A It varies wildly. But often people get into elections from another career,

11 and they will be -- the demographic of election workers is typically over 60,

12 predominantly female. The election officials -- the chief election officials themselves are

13 often elected officials.

14 So it varies. But none of them really get there from a defense against physical

15 threats perspective.

16 Q Is it fair to say that election officials, poll workers, and others involved in

17 administering elections have faced more threats in recent years than they have, say,

18 earlier in your career?

19 A That's my understanding.

20 Q Do you know what contributes to that?

21 A I understand that a belief that a secure election was insecure is a motivating

22 factor for people to question the role of election officials.

23 BY [redacted]

24 Q And to put a finer point on that, are you saying that the rumors or

25 discussions about the 2020 election having been not secure have instigated additional

threats against election workers today?

A I wouldn't limit it to simply the 2020 election. But, yes, activity undermining the integrity of the roles and the function that they serve seems to be a catalytic aspect to physical threats.

Q And in your position as an expert on election security, is it your opinion that the 2020 election was secure?

A Yes.

Q Thank you.

BY [redacted]

Q Are you familiar with reports that this increased threat environment has deterred people and made them less willing to serve as election workers?

A Absolutely.

Q Can that have an effect on the security of our election infrastructure?

A Absolutely.

Q Could you explain why?

A The lack of resources, including the personnel resources to conduct and administer the election, would have fewer people able to detect, fewer people overseeing the control -- the security controls in place to implement safeguards. And so resourcing in general and the willingness to operate in a hostile environment can be a very detrimental impact to the ability to conduct elections securely.

Q Are you familiar that members of academia who study disinformation are facing increased threats?

A To a certain extent, yeah.

Q Do you have an understanding of what kinds of threats those individuals are facing?

1 A Not personally, no.

2 Q Your name has been in the public eye because of this investigation and other

3 investigations. Is that right?

4 A To an extent.

5 Q For example, you've been named in reports published by this committee and

6 you've been named in litigation?

7 A Correct.

8 Q Has that had an effect on your life?

9 A It has. It heightens the personal awareness of security practices for myself

10 and my family.

11 BY [redacted]

12 Q In the very beginning, I think as part of your -- the example you gave of, I

13 think perhaps malinformation, you mentioned that that would be something like putting

14 the -- posting the Director's address online.

15 Was that an actual reference to an event that had happened?

16 A There have been multiple doxxing attempts where actually Iran, through the

17 Enemies of the People website, posted several CISA employees, to include the Executive

18 Director, posted their home address, their cell phone, their personal email to incite them

19 as targets.

20 We saw this, something similar, not attributed to Iran, I don't know whomever,

21 but the activity of swatting and targeting individuals in public service. The Director had

22 a personal experience last month -- or now it's February, so it was December.

23 Q And these are examples of -- the information was true, the Director's -- it

24 was the Director's actual home address, I think?

25 A Uh-huh. Yes. Sorry.

1 Q But it was being posted publicly online by Iran?

2 A So in the specific Enemies of the People example, yes, the Director, [redacted]

3 [redacted], the Executive Director there, as well as several others, including election

4 officials or other Federal employees involved in the election security space, had their

5 accurate home address, their accurate email, and their accurate cell phone or home

6 phone published online.

7 Q And it was for a malintent, for a bad intent?

8 A The intent of being on a page called Enemies of the People seems consistent

9 with that.

10 Q Do you know -- and realizing we're in an unclassified setting -- do you know

11 the motivation for that posting?

12 A It has not been made explicit, but it's consistent to seeming that Iran wanted

13 to put that information out there for the purpose of enabling a heightened threat

14 environment for those individuals.

15 Q So to increase risks against or threats against those individuals. Is that fair

16 to say?

17 A It's consistent, yes.

18 Q Okay. Thank you.

19 [redacted] We can go off the record.

20 [Recess.]

21 [redacted] Can we go back on the record, please?

22 [Hale Exhibit No. 10

23 was marked for identification.]

24 [redacted] Just at the outset, wanted to introduce, we'll just make this a new

25 exhibit to make it easier. This will be exhibit 10. This is the full meeting notes and

1 associated email chain with it.

2 We don't have any additional follow-up questions, but wanted to give the witness

3 and counsel an opportunity to review if there's --

4 [redacted] To be clear, this is the full of the exhibit 7, this one?

5 [redacted] Yes. Yeah.

6 [redacted] Thank you.

7 [redacted] There's highlighting on the last page. Do you know if it's

8 the original?

9 [redacted] I think the highlighting was made by one of the committee staff.

10 [redacted] Okay.

11 [redacted] That's our understanding.

12 [redacted] Thanks.

13 [redacted] So we will reach out if that's not the case. But like I said, we don't

14 have any further questions, but wanted to give counsel an opportunity.

15 BY [redacted]

16 Q Do you know who [redacted] is, if I'm pronouncing his last name

17 correctly?

18 A I do.

19 Q What is [redacted]'s role or what's his connection to CISA?

20 A [redacted] is a CISA employee who was for a time detailed to the MDM

21 branch or Countering Foreign Influence Task Force. I forget -- I haven't figured out

22 where it is in that timeframe.

23 Q And where was he coming from when he was detailed to the MDM team?

24 A I believe he was an ISD employee, Infrastructure Security. He's currently a

25 Cybersecurity Division employee.

1 Q Do you know who [redacted] is?

2 A No.

3 Q Do you know who Suzanne Spaulding is?

4 A Suzanne Spaulding?

5 Q Yeah.

6 A Yes.

7 Q Who is she?

8 A Suzanne Spaulding was the Under Secretary for NPPD.

9 Q And did you overlap with her tenure there?

10 A Yes.

11 Q Did you work with her directly?

12 A No. I was a very junior employee at the time.

13 Q Understood.

14 Do you know who Brian de Vallance was, if I'm pronouncing his last name right?

15 A Brian de Vallance?

16 Q De Vallance.

17 A If that's -- if it's the person I think, we're talking about an individual at CIS.

18 Q Okay. Are you familiar at all with his role as DHS Assistant Secretary?

19 A Not particularly, no.

20 Q In the context of the USG-Industry meetings or any of the prep meetings

21 associated with it, do you recall any discussion regarding Hunter Biden's laptop or

22 potential foreign hack-and-leak operations related to it?

23 A That was two questions. I never remember Hunter Biden's laptop being a

24 topic of discussion either in the prep meetings or the USG-Industry Syncs.

25 Q So the second half of the question, I guess, do you recall any meetings,

1 either the USG-Industry meetings or the prep meetings, where there was a discussion of a
2 foreign hack-and-leak operation potentially targeting Hunter Biden?
3 A No.
4 Q Are you familiar with -- or, to your knowledge, has the Countering Foreign
5 Influence Task Force, or then what became the MDM team, worked at all to understand
6 whether some of the tactics we were discussing earlier could be carried out via text
7 message as opposed to social media?
8 A So robocalls is a manner in which some forms of influence campaigns can
9 take place, yes.
10 Q Okay. In addition to robocalls, anything about text messages more
11 generally?
12 A Yes.
13 Q Yeah. And to your understanding, what was the scope of the Countering
14 Foreign Influence Task Force or the MDM team's work as you came to understand tactics
15 used via text message?
16 A So understanding that organizations can deliver inaccurate time, place, and
17 manner information directly to voters is a different dynamic than the one-to-many, that
18 broad social media foreign influence operations can take place, so acknowledging that
19 one-to-one is still a tactic that's actually harder to surface.
20 Q To your knowledge, did individuals on the Countering Foreign Influence Task
21 Force, or the MDM team, do they ever receive examples of these tactics or
22 misinformation being spread via text message?
23 A There may have been examples of election officials raising inaccurate text
24 messages about polling locations or polling times, et cetera, in theirs, and so it would
25 have been -- I know we've received some of those from election officials. It would have

1 been possible that that engages with the MDM team as well as the rest of my ESR team.

2 Q Are you familiar with the Virality Project?

3 A Generally.

4 Q What's your general familiarity of what it is?

5 A I believe that some of the organizations involved with EIP, like Stanford

6 Internet Observatory, upon the conclusion of the 2020 election shifted focus. I don't

7 know who else was involved in the Virality Project.

8 Q To your understanding, did individuals at CISA receive briefings or related

9 communications from Stanford or folks associated with the Virality Project?

10 A It's possible that public reports and briefings were consumed.

11 Q To your understanding, what would be the purpose behind CISA meeting

12 with individuals at the Virality Project?

13 A General awareness of tactics of foreign influence, if they're being surfaced

14 and emerged. But I wouldn't expect anything beyond that.

15 [redacted] And to be clear, are you aware that CISA employees actually

16 met with --

17 Mr. Hale. I am not aware of specifics of CISA employees specifically

18 engaging -- goodness, we couldn't make that harder -- with the Virality Project.

19 BY [redacted]

20 Q Besides COVID-related misinformation and election-related misinformation,

21 are you aware of any subject areas or topics that tended to be used by some of the same

22 actors, using the tactics we've talked about, to facilitate foreign malign influence

23 operations?

24 A Can I ask a refining question?

25 Q Sure.

1 A Are you asking what other topics does Russia use for foreign influence?

2 Q Yeah, it can be Russia specifically or more broadly just --

3 A So actors like Russia have used several topics, to include targeting the

4 financial sector. They've used chemical security. You may be familiar with the fake

5 instance of a Louisiana chemical plant explosion demonstrating the way you can incite

6 and create an incident that didn't occur and cause people to flee town based off that

7 information.

8 Q At a high level, not getting into any specifics you're not authorized to do so,

9 what's your understanding of foreign states using disinformation as it relates to financial

10 services?

11 A There have been some examples of leverage -- this is difficult to remember,

12 what is classified and what isn't. Generally, this is a topic area where confidence in

13 financial institutions can be undermined for the purposes of foreign adversaries' broader

14 strategic objectives, things like is there money in the ATM, should there be a run on the

15 banks type mindset.

16 Q Do you know who [redacted] at Stanford is?

17 A Not specific.

18 Q Other than the Election Integrity Partnership, as part of your role at CISA

19 have you had any interactions with the Atlantic Council? And that premise -- let me

20 rephrase that as not to overly suggest your personal interactions with EIP.

21 As part of your role at CISA, have you had interactions with the Atlantic Council?

22 Let me start there.

23 A It is possible. I don't recall any specifically.

24 Q Okay. Are you familiar with the Global Disinformation Index?

25 A Only peripherally.

1 Q Have you had interactions with them as part of your role at CISA?

2 A Not to my knowledge.

3 Q Are you familiar with the Center for Countering Digital Hate?

4 A Not specifically.

5 Q Do you recall having any interactions with them as part of your role at CISA?

6 A I do not.

7 Q Are you familiar with the Aspen Institute?

8 A Yes.

9 Q Have you had interactions with them as part of your role at CISA?

10 A I believe I've taken a meeting with them, yes.

11 Q Do you recall what the purpose of that meeting was?

12 A They were briefing on forming of a committee on similar subject matter to

13 election security and disinformation.

14 Q And did that committee actually form?

15 A I don't know.

16 Q Other than that meeting, do you recall any interactions with the Aspen

17 Institute as part of your role at CISA?

18 A I don't.

19 Q Are you familiar with NewsGuard?

20 A It sounds familiar, but not particularly.

21 Q This will be exhibit 11.

22 [Hale Exhibit No. 11

23 was marked for identification.]

24 Mr. Hale. Thank you.

25 [redacted] As far as you believe, is this the full email?

1 [redacted] I believe so.

2 BY [redacted]

3 Q Have you had a moment to review?

4 A Yes.

5 Q To clarify, you're copied on the initial email. You're not on the email on the

6 top half of the page.

7 Does this refresh your memory at all as far as whether NewsGuard had any further

8 interactions with CISA or another sub agency within DHS?

9 A It does not. I'm familiar with the -- with [redacted] and [redacted]

10 on this email, but no one further.

11 Q What about the NewsGuard personnel?

12 A No, I don't recall.

13 Q Okay. We could take these back.

14 We're going to print copies. It's just the email signature is supposed to be on the

15 back page, but otherwise that's the full email chain.

16 Are you familiar with the court case Missouri v. Biden and that action?

17 A Yes.

18 Q Murthy v. Missouri?

19 To your understanding, has CISA been complying with the court orders that have

20 come out of that case?

21 A Yes.

22 Q Did you or members of your team receive briefings on how your teams

23 would need to comply with the court orders on that case?

24 A Yes.

25 Q Has CISA continued to have similar discussions with social media companies

1 like the USG-Industry meetings in 2023, to your knowledge?

2 A The USG-Industry meetings ended in October of 2022. We have not had

3 similar ones since that point.

4 Q Are you familiar with what content or information shared on CISA's, the

5 MDM team's -- excuse me, the MDM team's website?

6 A Generally, yeah.

7 Q If there are changes to the MDM page, which -- who at CISA would be

8 responsible for handling that?

9 A Our website is maintained by our External Affairs.

10 Q Okay.

11 A Office of External Affairs.

12 Q Would changes to the website be something you would generally be

13 consulted on?

14 A Yes.

15 Q To your understanding, were any changes made last year to CISA's MDM

16 website page to remove references to domestic threat actors?

17 A As part of a broader update to CISA's web page, we did revise CISA's MDM

18 page to focus less on the MDM team and more on the information and the functions that

19 that team performs, so really doing a functional description. None of the changes were

20 contemplated domestic versus foreign, as you asked.

21 Q Who was involved in the decision to change the web page to focus more on

22 the functional aspect of the team?

23 A Office of External Affairs, myself and my team. And then the deliberative

24 process for reviewing and approving includes Counsel, CISA leadership, and other

25 mission-enabling offices.

1 Q Do you recall when discussions first started about what changes, if any, to
2 make to the MDM web page?
3 A I don't recall.
4 Q How long were there discussions for before the change was actually
5 implemented?
6 A I don't recall.
7 Q Do you have a ballpark sense?
8 A So your question suggested when did they originate, when did the tasking -- I
9 don't recall that. I can say that the weeks prior to launch we revised and edited the
10 content to be more consistent with the functional approach that we take on other pages.
11 Q As part of these discussions, do you recall any discussions regarding the
12 desire to avoid -- let me strike that.
13 As part of these discussions, do you recall any mention of whether to remove
14 reference to the word "domestic" in any context?
15 A I don't recall anything like that.
16 Q We've talked about the -- you and your team's ongoing interactions with the
17 Office of the Chief Counsel when necessary.
18 A Yes.
19 Q Do you recall having any disagreements with CISA leadership about the
20 appropriate scope of CISA's mission?
21 A I don't recall. I don't recall specific disagreements with CISA leadership
22 about the scope of the mission.
23 Q Do you recall any discussions generally with personnel at CISA regarding
24 whether there were actions CISA could take with respect to countering speech from
25 foreign actors but not speech from domestic actors?

1 A Can you ask that again?

2 Q Sure. Do you recall any discussions with personnel at CISA regarding

3 actions CISA would be permitted to take in countering speech from foreign actors but not

4 speech from domestic actors?

5 A The framing's a little odd for me on this question. We have worked -- there

6 have been discussions on how to promote resilience to tactics employed by foreign actors

7 or educate in areas that may be susceptible to. I don't consider any of that as

8 countering speech, as the question kind of framed.

9 Q Okay. What about with respect to actions by, you know, in reference to

10 the tactics that CISA is combating, if there were any actions that CISA could take in

11 combating the tactics of foreign actors but could not take in combating the tactics of

12 domestic actors?

13 A I don't recall a discussion like that.

14 Q You mentioned that, to your recollection, it's your understanding that CISA

15 was not taking actions that were speech related.

16 Do you recall receiving any briefings or guidance regarding red lines that

17 personnel at CISA should not cross with respect to mis-, dis-, or malinformation?

18 A Red lines as in constraints and boundaries?

19 Q Yes.

20 A I don't recall specifics, but it would be consistent with any engagement that

21 we have with leadership, with Counsel, with Privacy to reinforce appropriate behaviors

22 and constraints.

23 Q Do you recall any discussions where the discussion of the constraints

24 imposed were originating from First Amendment concerns?

25 A I don't recall specifically, and Counsel would not necessarily have to -- or

1 Privacy or whomever -- would not necessarily have to tell us the originating, their
2 guidance, where it stems from. We work collaboratively with them and receive their
3 feedback in kind.
4 Q We have the back half of the last exhibit, and we'll give this to the court
5 reporter so she has it. This is the full document that was produced to the committee.
6 Do you ever communicate with any one of your contacts with the social media
7 companies via Signal?
8 A No.
9 Q During your time at CISA, have you had interactions with the Executive Office
10 of the President?
11 A Does the NSC fit within it? Yes.
12 Q Have you had any interactions with the Executive Office of the President
13 outside of the NSC?
14 A Individuals from my team at CISA have. I have not personally.
15 Q Who on your team has?
16 A Well, within the election security mission, most notably [redacted],
17 who wasn't on my team but worked closely with it, briefed President Trump on
18 February 14th, 2020, which was a memorable event.
19 [redacted] And I'm just going to remind you, I don't know that you know
20 the context of those discussions, but I don't know that you're in a position to waive --
21 Mr. Hale. Right.
22 [redacted] -- anything that might be protected by executive privilege. I
23 don't know that it is, but I just want to be cautious.
24 [redacted] Other than [redacted], who else from your team are you -- or not
25 that he was on your team, but who else, either on or involved with your team?

1 Mr. Hale. I'm not directly aware of anyone else.

2 [redacted] Can we go off the record, please?

3 [Discussion off the record.]

4 [redacted] We can go back on the record.

5 BY [redacted]

6 Q You said that [redacted] briefed President Trump in February 2020.

7 You weren't in that meeting, correct?

8 A I was not.

9 Q So you would have learned about it outside of the meeting?

10 A Correct.

11 Q And you described it as memorable. Why did you say it was memorable?

12 A We don't brief the President often. And shortly following that, the Director

13 of National Intelligence was dismissed.

14 Q And was it your understanding that the Director of National Intelligence was

15 dismissed because of something that had been discussed at the meeting?

16 A I was not in that meeting. As I've been told, that is a possibility, yeah.

17 Q Okay. And who was the Director of National Intelligence at the time?

18 A I want to see -- say -- Director Maguire.

19 [redacted] Thank you.

20 We can go off the record. Thank you.

21 [Whereupon, at 3:00 p.m., the interview was concluded.]

1 Certificate of Deponent/Interviewee

2

3

4 I have read the foregoing 117 pages, which contain the correct transcript of the

5 answers made by me to the questions therein recorded.

6

7

8

9 Geoffrey Hale

10 Witness Name

11

12

13 9/18/24

14 Date

15

Transcribed Interview Transcript Errata Form

Interviewee	Geoffrey Hale
Date of Interview	Feb 1, 2024
Date of Review	9/18/24
Name of Reviewer	Geoffrey Hale
Signature of Reviewer	GH

Page	Line	Suggested Correction
96	12	I believe a word is missing "The ability to impact the votes..."
101	4	"I covered threats" should be "I've heard threats"

Transcribed Interview Transcript Errata Form

Interviewee	Geoff Hale
Date of Interview	2/1/2024
Date of Review	9/18/2024
Name of Reviewer	[redacted]
Signature of Reviewer	

Page	Line	Suggested Correction
77	18	"Bryan" is misspelled. It should be "Brian".

Transcribed Interview Transcript Errata Form

Interviewee	Geoffrey Hale
Date of Interview	2/1/24
Date of Review	9/18/24
Name of Reviewer	[redacted]
Signature of Reviewer	

Page	Line	Suggested Correction

No edits

[redacted]

Page	Line	Suggested Correction

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

DEPOSITION OF: ROBERT FLAHERTY

Monday, February 12, 2024

Washington, D.C.

The deposition in the above matter was held in room 2237, Rayburn House Office Building, commencing at 10:03 a.m.

1 Appearances:

2

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted], RESEARCH ASSISTANT

8 [redacted], GENERAL COUNSEL

9 [redacted], SENIOR COMMUNICATIONS ADVISER

10 [redacted], DEPUTY GENERAL COUNSEL

11 [redacted] PROFESSIONAL STAFF MEMBER

12 [redacted], PROFESSIONAL STAFF MEMBER

13 [redacted], PROFESSIONAL STAFF MEMBER

14 [redacted], COUNSEL

15 [redacted], MINORITY CHIEF OVERSIGHT COUNSEL

16 [redacted], MINORITY STAFF ASSISTANT

17

18 For the SUBCOMMITTEE ON CRIME AND

19 FEDERAL GOVERNMENT SURVEILLANCE:

20

21 [redacted], MINORITY DETAILEE

22

23

24

25

1 [redacted] Good morning. This is supposed to be a deposition of former
2 White House official Rob Flaherty to discuss his role in the censorship investigation.
3 Mr. Flaherty is not appearing today based on an instruction from the White House not to
4 appear. The White House's position is that, because White House counsel cannot be in
5 the room along with Mr. Flaherty's personal counsel, they believe our deposition
6 subpoena is invalid and defective. We obviously disagree. We are recording
7 Mr. Flaherty's nonappearance.
8 Before I get into a list of exhibits -- we have 22 exhibits here to add into the
9 record -- I would just like to note that we offered an accommodation to the White House
10 to Mr. Flaherty to get around the concerns that we might ask a question that implicates
11 executive branch interests or prerogatives, and that accommodation was we were willing
12 to have the White House lawyers sit immediately outside the room. And, if any
13 question that Mr. Flaherty was posed caused him concern that he was unable to sort out
14 with his personal counsel, we offered him the ability to pause the deposition, to leave the
15 room, and to go confer with the White House counsel. And we even said they could do
16 that as often as they wanted to. So we are unsure why that type of accommodation
17 doesn't work, as we've made clear that the House deposition regulation does not allow
18 for government counsel to be included in the process.
19 The exhibits we're marking here today, as I mentioned, there are 22: Exhibit 1 is
20 a June 23, 2023, letter, a request from the committee to Mr. Flaherty requesting a
21 voluntary transcribed interview.
22 Exhibit 2 is the response from the White House, dated June 29, 2023.
23 Exhibit 3 is a letter, dated July 7, 2023, from Mr. Flaherty's counsel to Chairman
24 Jordan.
25 Exhibit 4 is a letter from Chairman Jordan back to Mr. Flaherty's counsel, dated

1 September 29, 2023.

2 Exhibit 5 is a letter from Mr. Flaherty's counsel to Chairman Jordan, dated

3 October 13, 2023.

4 And exhibit 6 is a letter, also dated October 13, 2023, from the White House to

5 Chairman Jordan.

6 Exhibit 7 is the signed deposition subpoena and cover letter, dated November 30,

7 2023, as well as the confirmation that the service of the subpoena was accepted by email.

8 Exhibit 8 is the committee's notice of the deposition, dated January 11, 2024.

9 Exhibit 9 is a letter from Chairman Jordan to the White House, dated

10 November 30, 2023.

11 Exhibit 10 is the response from the White House to Chairman Jordan, dated

12 December 15, 2023.

13 Exhibit 11 is another letter from the White House to Chairman Jordan, dated

14 December 22, 2023.

15 Exhibit 12 is a letter from Chairman Jordan to the White House, dated January 2,

16 2024.

17 Exhibit 13 is a letter from the White House to Chairman Jordan, dated January 5,

18 2024.

19 Exhibit 14 is an email from committee staff to the White House staff regarding

20 topics. There's an accommodation. We agreed to provide the list of topics that we

21 wanted to ask Mr. Flaherty about. And, as will be evidenced in exhibit 14 email, dated

22 January 8, 2024, it was a very good-faith effort to identify the topics. It was not -- it was

23 not a small or undetailed list.

24 Exhibit 15 is email from committee staff to Mr. Flaherty's counsel, dated

25 January 11, 2024.

1 Exhibit 16 is a notice of deposition from the committee rescheduled, dated
2 February 12, 2024.
3 [Discussion off the record.]
4 [redacted] Sorry, the -- exhibit 16 is the notice of deposition indicating that the
5 deposition will be rescheduled for today, February 12, 2024.
6 Do we have a date for that?
7 [Discussion off the record.]
8 [redacted] No, the notice of deposition?
9 [redacted]. Yeah. It was on --
10 [redacted] On January 11th?
11 [redacted]. Yes.
12 [redacted] Okay. So the notice of rescheduling it for today, February 12th,
13 was January 11, 2024.
14 Exhibit 17 is the letter from the White House to Chairman Jordan, dated
15 January 22, 2024.
16 Exhibit 18 is a letter back to the White House from Chairman Jordan, dated
17 January 29, 2024.
18 Exhibit 19 is a letter addressing some of the same issues from Andy Slavitt's
19 counsel to Chairman Jordan. Attached to Mr. Slavitt's counsel's letter is a letter from
20 the White House directing Slavitt not to appear. That is dated January 31, 2024.
21 Exhibit 20 is a letter from the White House to Chairman Jordan, dated January 31,
22 2024.
23 Exhibit 21 is a letter from the White House to Chairman Jordan, dated February 9,
24 2024.
25 And the last exhibit is, dated February 9, 2024. It's a letter from Mr. Flaherty's

1 counsel to Chairman Jordan indicating that he would not be appearing here today, on
2 February 12th.
3 [Flaherty Exhibit Nos. 1 through 22
4 were marked for identification.]
5 [redacted] Does the minority have anything they want to add for the record?
6 [redacted]. Sure. We would just like to put on the record that Mr. Flaherty
7 has expressed through his counsel his willingness repeatedly to come here and talk to the
8 committee. He's not here only on the instruction of White House counsel. The
9 primary issue is that he'd like to have the counsel of his choosing here with him, and that
10 includes White House counsel. But he remains willing, should the majority and the
11 White House resolve their disputes, to come whenever the committee would like him.
12 [redacted] And I just want to add that the minority doesn't take a position on
13 the validity of the subpoena, but we do want to note that, in the January 31st letter from
14 the White House, it discusses the topic list provided by the majority, and it notes that
15 several topics directly implicating longstanding executive branch confidentiality interests
16 and constitutional privileges were included in that list, and that the White House
17 explained their concerns about the subpoena and the topic list during a phone call with
18 majority staff on January 9th.
19 Again, we don't take a position, but I do want to make the record clear that the
20 White House does have significant concerns about that topic list, and it sounds like those
21 were expressed at some point.
22 [redacted] Right. And that's why we offered the White House to sit outside
23 the room, and we offered Mr. Flaherty the opportunity to stop the deposition whenever
24 he wanted to to confer with the White House. We even offered to give him a separate
25 office so they're not doing it out in the hallway, but that was not accepted.

1 [redacted] We do know that there is a table in the hallway.

2 [redacted] What's that?

3 [redacted] We do know that there is a table in the hallway.

4 [redacted] Right. They could sit at the table if they wanted to. We could put

5 them in a different office suite as well. So we -- we certainly don't want to make them

6 confer in a public hallway if they don't want to do that.

7 Anything else?

8 [redacted] That's it.

9 [redacted] All right. We'll go off the record. Thank you.

10 [Whereupon, at 10:13 a.m., the deposition was concluded.]

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5 COMMITTEE ON THE JUDICIARY,
6 U.S. HOUSE OF REPRESENTATIVES,
7 WASHINGTON, D.C.
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13 INTERVIEW OF: NICHOLAS WILLIAM PETER CLEGG
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17
18 Friday, March 1, 2024
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20 Washington, D.C.
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22
23 The interview in the above matter was held in room 164, Cannon House Office
24 Building, commencing at 9:58 a.m.
25 Present: Representatives Jordan and Gaetz.

1 Appearances:

2

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted] RESEARCH ASSISTANT

8 [redacted] DIGITAL ASSISTANT

9 [redacted] PROFESSIONAL STAFF MEMBER

10 [redacted] PROFESSIONAL STAFF MEMBER

11 [redacted] COUNSEL

12 [redacted] MINORITY CHIEF OVERSIGHT COUNSEL

13 [redacted] MINORITY STAFF ASSISTANT

14 [redacted] MINORITY OVERSIGHT COUNSEL

15 [redacted] MINORITY PROFESSIONAL STAFF MEMBER

16

17

18 For the SUBCOMMITTEE ON CRIME AND

19 FEDERAL GOVERNMENT SURVEILLANCE:

20

21 [redacted] MINORITY DETAILEE

22

23

24

25

1 For NICHOLAS WILLIAM PETER CLEGG:

2

3 [redacted]

4 [redacted]

5 Kirkland and Ellis

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1 [redacted] This is a transcribed interview of Nick Clegg. Chairman Jordan has
2 requested this interview as part of the committee's investigation of how and extent to
3 which the executive branch has coerced and colluded with companies and other
4 intermediaries to censor speech.
5 Would the witness please state your name for the record.
6 Mr. Clegg. Nick Clegg.
7 [redacted] On behalf of the committee, I want to thank you for appearing here
8 today to answer our questions. The chairman also appreciates your willingness to
9 appear voluntarily.
10 My name is [redacted] and I'm with Chairman Jordan's staff. I'll now have
11 everyone else from the committee who's here in the room introduce themselves as well.
12 Chairman Jordan. Chairman Jordan. Ohio-4.
13 [redacted] [redacted] from the House Judiciary, with Ranking Member
14 Nadler's staff.
15 [redacted] [redacted] Chairman Jordan's staff.
16 [redacted] [redacted] Chairman Jordan's staff.
17 [redacted] [redacted] Chairman Jordan's staff.
18 [redacted] [redacted] Chairman Jordan's staff.
19 [redacted] I'd like to now go over the ground rules and guidelines that we'll
20 follow during today's interview.
21 Our questioning will proceed in rounds. The majority will ask questions first for 1
22 hour, and then the minority will have an opportunity to ask questions for an equal period
23 of time if they choose. We will alternate back and forth until there are no more
24 questions and the interview is over. Typically, we take a short break at the end of each
25 hour, but if you would like to take a break apart from that, please just let us know.

1 As you can see, there is an official court reporter taking down everything we say to
2 make a written record, so we ask that you give verbal responses to all questions. Do you
3 understand?
4 Mr. Clegg. Yes, I do.
5 [redacted] So the court reporter can take down a clear record, we will do our best
6 to limit the number of people directing questions at you during any given hour to just
7 those people on the staff whose turn it is. Please try and speak clearly so the court
8 reporter can understand and so the folks down at the end of the table can hear you.
9 It is important that we don't talk over one another or interrupt each other if we
10 can help it, and that goes for everybody present at today's interview.
11 We encourage witnesses who appear before the committee to freely consult with
12 counsel if they so choose. It's my understanding that you are appearing with counsel.
13 Is that correct?
14 Mr. Clegg. Yes.
15 [redacted] Counsel, please state your names for the record.
16 [redacted]. [redacted], Kirkland and Ellis.
17 [redacted]. [redacted], Kirkland and Ellis.
18 [redacted] Thank you.
19 We want you to answer our questions in the most complete and truthful manner
20 as possible, so we will take our time. If you have any questions or if you do not
21 understand one of our questions, please let us know. Our questions will cover a wide
22 range of topics, so if you need clarification at any point, just say so. If you honestly don't
23 know the answer to a question or do not remember, it's best not to guess. Please give
24 us your best recollection, and it's okay to tell us if you learned information from someone
25 else. Just indicate how you came to know the information. If there are things you

1 don't know or can't remember, just say so, and please inform us who, to the best of your
2 knowledge, might be able to provide a more complete answer to the question.
3 You should also understand that although this interview is not under oath, that by
4 law you're required to answer questions from Congress truthfully. Do you understand
5 that?
6 Mr. Clegg. Yes.
7 [redacted] This also applies to questions posed by congressional staff in an
8 interview. Do you understand this?
9 Mr. Clegg. Yes.
10 [redacted] Witnesses that knowingly provide false testimony could be subject to
11 criminal prosecution for perjury or making false statements under 18 U.S.C. Section 1001.
12 Do you understand this?
13 Mr. Clegg. Yes.
14 [redacted] Is there any reason you are unable to provide truthful answers to
15 today's questions?
16 Mr. Clegg. No.
17 [redacted] Finally, I'd like to make a note that the content of what we discuss
18 here today is confidential. We ask that you not speak about what we discuss in this
19 interview to any outside individuals to preserve the integrity of our investigation. For
20 the same reason, the marked exhibits that we will use today will remain with the court
21 reporter so that they can go in the official transcript. Any copies of those exhibits will be
22 returned to us when we wrap up.
23 That is the end of my preamble. Is there anything that my colleagues from the
24 minority would like to add?
25 [redacted] No, thank you. Thank you for being here today. Oh, and we

1 would note for the record that Mr. Gaetz has arrived.

2 [redacted] The clock now reads 10:01. We'll start the first hour of questioning.

3 EXAMINATION

4 BY [redacted]

5 Q Sir, can I have you state your full name again for the record, please?

6 A My whole name?

7 Q Yes, sir.

8 A Sir Nicholas William Peter Clegg.

9 Q And what is your current place of employment?

10 A I am president of global affairs at Meta.

11 Q How long have you worked in that role?

12 A In that specific role, since February 2022, but I first joined the company in

13 October 2018.

14 Q And what was your title when you first joined Meta?

15 A Vice president of policy and communications, I think.

16 Q And as a vice president, what were your responsibilities at the high level?

17 A To oversee the company's policies. And that ranges from the policies that

18 we promulgate as a company governing what is and is not allowed on our services, our

19 certain community standards, through to our relationship with legislative bodies,

20 regulatory bodies; our engagement around the world on policy matters, generally; and

21 then, obviously, also how the company organizes itself globally as far as communications

22 is concerned, both outgoing communications and response to the media around the

23 world. And I oversee the various teams that operate in all the jurisdictions around the

24 world that we operate in.

25 Q In your first role as vice president, who did you report to?

1 A To Sheryl Sandberg.

2 Q And how many people reported to you at the time?

3 A Just two -- just the two heads of the policy and the communications teams

4 across the company, yeah.

5 Q And when you started, who was the head of those two teams?

6 A Joel Kaplan was and continues to be the global head of policy for Meta based

7 here in D.C. And the head of communications when I first arrived was someone called

8 [redacted]. That position has changed hands on a couple of occasions since.

9 Q How frequently did you interact with Ms. Sandberg?

10 A Very regularly. On a daily basis, yeah.

11 Q And what about with Mark Zuckerberg?

12 A Pretty frequently too, yeah.

13 Q You said you became president of global affairs in March -- or February

14 of 2022?

15 A Yeah, I think that's right, yeah.

16 Q How did your responsibilities change in that position?

17 A It was just an evolution rather than as a dramatic change. I reported to

18 both Mark Zuckerberg and Sheryl Sandberg, which in a sense was just a reflection of the

19 way we were working anyway. But that was a sort of formal change. And, of course,

20 subsequently, Sheryl Sandberg left, so I sort of took over and continued to oversee, you

21 know, pretty broad range of policy, communications, regulatory, reputational issues for

22 the company.

23 Q In your current role, who directly reports to you?

24 A Joel Kaplan, as mentioned before, global head of policy. The current global

25 head of communications is someone called [redacted] also based here in D.C. And

1 then a lady called [redacted], who runs a team, broadly speaking I think we call it
2 oversees governance issues. And that's most especially related to the creation of the
3 independent oversight board, which is something that I oversaw in recent years. And
4 then I think I have one other direct report who does just lots of sort of -- provides me with
5 sort of personal strategic and policy advice, someone called [redacted].
6 Q When you say you oversee the oversight board, do you mean as it operates
7 today, if I understood you correctly, or the development of it actually?
8 A Yeah, it's an independent body. It's set up independently. It has its own
9 sort of legal footing. We have allocated, irreversibly, if I can put it like that, I don't know
10 how much now, but several hundred million dollars to guarantee its financial
11 independence to. But the oversight board was established. It was initially an idea.
12 But Mark Zuckerberg developed, I think around the time that I arrived, but he then asked
13 me to help get it going. And it consists of a wide range of sort of independent-minded
14 figures drawn from scholars, from law, from publishing.
15 We have a former European prime minister. We have a Nobel Prize winner.
16 And there are three co-chairs. One is [redacted], who's an accomplished U.S.
17 judicial legal scholar. The second one is a Colombian lady, [redacted] -- I've forgotten her
18 second name. And the third is [redacted], former Prime Minister of
19 Denmark. And their job is, as constituted, is to oversee or relatively respond to appeals
20 made to them either directly by users or refer to them by the company where we make
21 policy judgments on whether a piece of content should or should not be allowed on our
22 platform. And if -- they can then look at those appeals, and we are then duty-bound,
23 obliged to abide by their decision, by their adjudication. So if they say you've taken
24 something down which you shouldn't have done, we have to restore it and vice versa.
25 Yeah.

1 Q When you say you're duty-bound, is that based off the commitment the
2 company's made or their legal obligations?
3 A Well, it's the commitment we made when we set up the oversight board,
4 and it's what we've abided by ever since. And I don't think -- I mean, there's some
5 pretty accomplished people on the board. I don't think they'd serve on it if they didn't
6 feel comfortable we would continue to stick to our word of implementing what they
7 decide.
8 Q Are you familiar with the terms "misinformation," "disinformation," and
9 "malinformation"?
10 A Not malinformation, but I am familiar with misinformation, disinformation,
11 yeah.
12 Q Okay. And to your understanding, what's the difference between those
13 two terms, "misinformation" and "disinformation"?
14 A So the way at least we at Meta have traditionally distinguished between the
15 two words is that disinformation refers to the deliberate attempt, usually by setting up
16 networks and fake accounts to try -- usually, not always -- but usually by foreign nefarious
17 actors to try and disrupt or interfere with particular elections, and to generally and very
18 deliberately through the use of a network of fake accounts to spread disinformation
19 almost always for a kind of wider geostrategic or political purpose.
20 Misinformation is, in a sense, a much more elastic concept, because
21 misinformation is a somewhat more subjective category of content. Because it's about
22 whether something is true or not. Is it partly true? Is it missing context? And that is
23 something that we have spent quite some time over the years applying ourselves to.
24 And our principal response to misinformation is that we work through a network
25 of independent fact checkers. I need to check; I think there's about -- they're certainly

1 the largest network of independent fact checkers around the world. I think it's about 70
2 around the world in around 60, 70 languages. I believe in the United States we now
3 have 11 independent fact checkers. And they are entitled to look at basically almost any
4 content on Facebook or on our surfaces, and then apply they're own independent
5 judgment on whether the piece of content in question misses some comment partly false
6 or is completely false. They do that according to a set of principles and practices
7 established by a sort of almost certifying body called the independent fact-checking
8 network.
9 So we only contract with independent fact checkers if they are vetted and certified
10 by the IFCN, so that they have to abide by certain standards of objectivity and rigor, and
11 so on. And then we respond to their determinations depending on what they have said.
12 So if they declare something is outright false, our current practice is that we put a
13 fil -- don't remove it, but we put a filter over the content. And we demote it so the user
14 wouldn't see it as visibly as otherwise would be the case and would have to sort of
15 double-click through the filter.
16 So we view disinformation and misinformation in a sort of qualitatively different
17 sort of context. The former is organized, orchestrated use of fake accounts. The latter
18 is a much, much more often debatable and legitimately debatable question about the
19 veracity, complete or otherwise, of content. We're very anxious to not seek to arrogate
20 to ourselves, out of this, a role of some arbiter of truth. We're a tech company. We're
21 an engineering company. We're not the truth police. And that is why we have relied
22 on these independent fact checkers to make determinations of truth or falsity.
23 Mr. Gaetz. Mr. Clegg, excuse me, that was a really thorough answer. And I
24 highlighted a line. I greatly appreciate it. Can you perhaps educate the committee a
25 little more on how someone becomes one of these 11 independent certified fact checkers

1 in the United States? I know you made reference to it, this certification process, but
2 would you mind educating the committee a little more on that?
3 Mr. Clegg. Yeah, I'm not too close to the sort of granularity of it, but we have
4 relied on this IFCN to be the, I'll put it, the sort of vetting body, the portal, if I can put it
5 like that, through which we will work with fact checkers.
6 Mr. Gaetz. How did you choose them?
7 Mr. Clegg. My understanding is -- but I have some teams who obviously work on
8 this on a day-to-day basis -- is that the independent fact-checking network is widely
9 recognized as the most authoritative venue by which fact-checking practices are --
10 Mr. Gaetz. By whom?
11 Mr. Clegg. I don't know who oversees the IFCN.
12 Mr. Gaetz. No, I mean who widely recognizes them?
13 Mr. Clegg. I think people in the industry.
14 Mr. Gaetz. In which industry?
15 Mr. Clegg. In the fact-checking and tech industry.
16 Mr. Gaetz. Those are two different industries, right?
17 Mr. Clegg. Yeah.
18 Mr. Gaetz. So what other major tech platforms or tech players, you know, place
19 reliance on this IFCN that gave you confidence that they were correct?
20 Mr. Clegg. You'd have to ask the other companies. But I think it's pretty
21 standard practice for those companies or indeed maybe even publishers who use fact
22 checkers that they tend to look to the IFCN to provide.
23 Mr. Gaetz. I believed you when you said at the end of your very thorough
24 answer that you want to be a tech company, not an arbiter of truth. I guess the
25 committee is somewhat concerned that you're able to delegate that authority --

1 Mr. Clegg. Right.

2 Mr. Gaetz. -- to an entity that is more opaque to us than perhaps you're willing
3 to be, that then the information space in our country is kind of shaped by that. So what
4 could you say to disabuse us of the belief that Meta is like purposely delegating that
5 authority so as to not be responsible for any type of censorship or heavy-handed content
6 moderation?

7 Mr. Clegg. Sure, sure. Yeah. No, I think it's all totally legitimate questions
8 about fact-checking generally. I think the first thing I'd point to is that I believe that if
9 you look at the 11 fact checkers in the United States, they hail from different wings of
10 political opinion. In other words, the fact checkers themselves aren't just only drawn
11 from the left or the right, but you have fact checkers who have close associations with or
12 affiliations with or totally open or kind of are open about their links to either conservative
13 or long conservative publications or viewpoints.

14 What I cannot answer, because I'm just simply not close enough to it, is I can't
15 answer the mechanism and the methodology of the IFCN itself.

16 Chairman Jordan. You don't know if there's any type of like accreditation, formal
17 accreditation, or anything like that, just these 11 entities, fact checkers or -- and then, do
18 you guys do some kind of accrediting or evaluating, or how -- I think that's sort of the
19 question.

20 Mr. Clegg. So my understanding, the IFCN is sort of -- works within the Poynter
21 Institute. That is the institution that set up the IFCN. They accredit --

22 Chairman Jordan. Okay.

23 Mr. Clegg. -- fact checkers as being independent and pursuing a certain sort of
24 minimum standard of rigorous methodology. So that is -- yeah, that is the kind of
25 architecture we have relied upon for some time.

1 Mr. Gaetz. I'm perhaps even more confused. So if they're independent, you
2 don't mean independent from ideology, right? Because it sounds like what you try to do
3 with these 11 fact checkers in the United States is curate them based on ideology that is
4 explicitly diverse politically, right?
5 Mr. Clegg. No, I was just answering the previous question, which is what could I
6 provide -- I think is the way you put it -- what assurance could I provide --
7 Mr. Gaetz. Right. Well, I guess I'm trying to envision the fact checker. Is the
8 fact checker someone who has an ideology, freely discloses it, and then earns their way
9 onto the team as virtually being from accredited and then fulfilling an ideological need to
10 equally achieve some sort of balance, or is the fact checker someone who is divorced
11 from ideology and purely making, you know, what they hope is an objective
12 determination as to a piece of content?
13 Mr. Clegg. I think it's somewhat different. I think the fact checkers are all
14 expected to -- and that's why they are certified by the IFCN -- to apply objective judgment
15 when they look at content that they are fact-checking. That is separate from, but clearly
16 one needs to be open about this, the fact that they might work in institutions themselves
17 which might have some ideological or political affiliation. But the practice of
18 fact-checking, regardless of the ideological bent or identity of the institutions themselves,
19 should -- and that is the point of the IFCN -- be one which is objective and rigorous.
20 What we cannot control, that no one can control, is what do the fact checkers
21 choose to apply fact-checking to? That is why what in general happens is that the
22 company, Meta, our -- we will enqueue content that we think is eligible for fact-checking
23 and then leave it for the fact checkers to decide whether then apply a fact-check. We
24 don't control whether the fact checker chooses to do so or not or even what content they
25 choose to pick from that line, from that queue to apply fact-check.

1 Mr. Gaetz. So it sounds like one step is the population of the queue.

2 Mr. Clegg. Yeah.

3 Mr. Gaetz. And then a subsequent step is some sort of adjudication of what's in

4 the queue as to why --

5 Mr. Clegg. By the fact checkers.

6 Mr. Gaetz. Yeah. -- what would need to be diminished in its amplification.

7 Mr. Clegg. Right.

8 Mr. Gaetz. Okay. So these 11 fact checkers that are in the United States that

9 you describe as from different wings ideologically, who curates that balance?

10 Mr. Clegg. I think our teams work with the IFCN to make sure that we have

11 sufficient fact checkers in each jurisdiction to try and do a kind of, you know, meaningful

12 job in dealing with the misinformation that is available too. And that, of course,

13 depends --

14 Mr. Gaetz. Which people at Meta, I guess? Are they people who work for you?

15 Is it you?

16 Mr. Clegg. Yeah. Yeah, I have a team within the content policy team led by a

17 lady called [redacted]. And they, under Joel Kaplan, who I mentioned earlier in the

18 introductory remarks, they will on a constant basis -- or rolling basis around the world

19 sort of review whether we have sufficient coverage for fact checkers in one jurisdiction

20 compared to the next. And, you know, it's worth remembering that --

21 Mr. Gaetz. Do you monitor that or does that occur at levels below you?

22 Mr. Clegg. It occurs levels below me. I wouldn't interfere with or get

23 particularly involved with the micromanagement of the appointment of fact checkers.

24 Mr. Gaetz. So are you aware of what the turnover rate is among these 11 fact

25 checkers?

1 Mr. Clegg. No, I wouldn't -- if I'd asked, I could find out. But, I mean, I
2 would -- you know, I will sometimes ask questions about whether our fact checkers are,
3 you know, operating as they should, in X or Y or said jurisdiction, often by the way in
4 response to questions from policymakers, from the press, and from others around the
5 world.
6 Mr. Gaetz. My follow-up question before I turn it over to counsel. Do you ever
7 worry about delegating fact-checking too much to these fact checkers that have gone
8 through this process?
9 Mr. Clegg. I think the reverse is so much worse. If we were to start arrogating
10 to ourselves a sort of subjective judgment, a Meta judgment about what is true or not
11 true, what is partly false or missing context, I think that is so much worse than the system
12 we've got. Is it perfect? No. No system is perfect. Can you achieve consensus on
13 what is or what is not true and what is or is not, you know, deliberately false or
14 accidentally so? No. It is something which is continually and unendingly debated and,
15 by the way, in very different ways in different jurisdictions. Remember, we, Meta, I
16 think -- I need to check this -- I think about 95 percent of our users are outside the United
17 States. So this is also a very, very false and much debated issue in India, in Brazil, in
18 Europe, and so on.
19 But in answer to your question, do I think the solution to the imperfections is to
20 have a tech company take upon itself more powers to make what are very, very difficult
21 judgments about the veracity or otherwise the content, I think that's almost certainly in
22 almost any configuration worse than the system we have at the moment.
23 Chairman Jordan. Is it fair to say the fact checkers, though, would have an
24 impact on what you decided initially to put in?
25 Mr. Clegg. So we have automated classifiers that look for signs of possible

falsity, and they will then enqueue that content on a sort of automated basis. Can also be done manually, but it more often than not I think happens automatically. And then we leave it entirely up to the fact checkers to decide.

I mean, there are permutations of it, of course. If we feel we must, we can decide to say to fact checkers, you should be aware that X or Y has been enqueued. We leave it to you to decide not on that, so -- but on the whole, the system is such that you have this queue, this constant queue.

I think another relevant fact is that what is enqueued is in part enqueued by our assumptions or our calculations about the likely virality of the content. Because what we don't want to do -- and forgive me, this is quite an important point the way we design it -- is what we don't want to do is spend a lot of time and resources having fact checkers look at content that's only to be seen by three people. So we try and design it. We constantly are finding this such that what is enqueued is content that is likely to be seen by many people on our platform.

Chairman Jordan. Well, I think -- and then I'll turn it back to [redacted] -- but I think we're also concerned about what -- primary concerned about what impact the government had on that company's deciding their decision to put things in the queue.

Mr. Clegg. Right.

[redacted] For the record, [redacted] is present.

[redacted] Hi. [redacted] I'm the chief oversight counsel for the Judiciary Committee Democrats. I'm sorry, another deposition going on.

[redacted] [redacted] oversight counsel for the Judiciary Committee --

[redacted] Sorry. Can you slow down? What's your name again.

[redacted] [redacted] oversight counsel for the Judiciary Committee.

[redacted] [redacted] staff assistant with House Judiciary Committee.

1 BY [redacted]

2 Q Do you know who Andy Slavitt is?

3 A Yes.

4 Q And do you know who Rob Flaherty is?

5 A Yes.

6 Q Who are they?

7 A Well, I know who they were when I interacted particularly with Andy Slavitt.

8 He was, as I understood it, brought in to work on a temporary basis -- I think he has a

9 medical background -- to assist the then White House team on the administration's

10 response to the ongoing COVID pandemic. And Rob Flaherty, from my understanding,

11 was, I think, played a role in the White House on some digital matters more generally.

12 Q Do you recall when you first connected with Mr. Slavitt?

13 A Which date?

14 Q Not exactly, but approximately?

15 A I remember he reached out to me just to introduce himself to me and said,

16 can we connect? I said, of course, sure. It must have been earliest in 2021, perhaps.

17 I guess.

18 Q Are you familiar with the Center for Countering Digital Hate?

19 A Yes.

20 Q And to your understanding, what is that?

21 A My understanding is it's an Anglo-American nongovernment organization

22 which campaigns -- at least this is, if I understand, it's own professed mission to highlight

23 hate and polarizing content online, and produces what it calls research to highlight that

24 issue.

25 Q Have you read any of their reports?

1 A I can't claim to have read them cover to cover, but I certainly remember
2 because I have to spend an enormous amount of time discussing it, a report they issued
3 sometime in 2021 with the snappy title. It was "Disinformation Dozen."
4 Q What did you think of their methodology in that report?
5 A I thought it was deeply flawed.
6 Q Why?
7 A It was not remotely an approximation of what actual human beings saw on
8 our surfaces. And the assertion that it made that nearly 12 people produced I think they
9 would claim something like 70 percent of all bad content about COVID struck me then
10 and my teams as wholly implausible. And I think, but I need to check, I think we later
11 did an analysis to show that in truth those 12 individuals, when you counted it against all
12 COVID-related content, I think composed at like 0.05 percent.
13 Q How did you first become aware of this Disinformation Dozen report?
14 A It would either have been through press reports, but I certainly remember
15 that it was consistently cited both in private discussions and in public announcements by
16 the government, by the White House at the time, as evidence of the kind of problem that
17 we were facing and the kind of additional steps that we should take.
18 Q In these private discussions, did you share the company's concerns with
19 methodology in that report?
20 A Yes. Yes, we did, over several months. I think there was -- and, look, I'm
21 not pretending this is straightforward. These social media systems are complex.
22 They're complex engineering entities. So I don't think it would have been fair to assume
23 that outsiders should know exactly how our systems work. And I even remember being
24 somewhat frustrated that my teams were not generating the data and analysis as quickly
25 as I'd hoped to sort of try and disaggregate and sort of analyze these assertions.

1 So I don't -- but I think underlying it, there was definitely misalignment about what
2 data was and wasn't relevant. So, for instance, we ran -- I think it was Carnegie Mellon
3 and another university -- I think maybe Maryland University -- I think we ran the world's
4 largest at the time ongoing survey of how people felt about COVID and the pandemic and
5 so on. Which was, in our view, by far the most scientifically rigorous measurement of
6 public opinion and the shift towards, whether it's vaccination or the pandemic and so on,
7 rather than what we felt were highly partial sort of snapshots based on the output of just
8 12 individuals.
9 So there was a lot of back and forth about what methodology, what data should
10 be, in a sense, the ground truth. It's very difficult to have a discussion if you couldn't
11 first agree what you were trying to measure and was there any consensus.
12 And I think there was also -- we talked earlier about misinformation.
13 Misinformation is -- it's semantically quite an elastic thing. You know, there isn't a
14 perfect, fixed, rigid dictionary definition of it. And I think also there was misalignment
15 about what was misinformation. And then there's a third level of disagreement, if you
16 like, which was and which kind of misinformation should meet a certain test that requires
17 removal. Because, of course, from a social media tech platform's point of view, removal
18 is the ultimate and the harshest sanction you can apply. You're removing content
19 altogether from view.
20 And so we have very particular policies, which we try and publish openly and
21 objectively, about where that threshold of removal is set. And I think it's fair to say
22 there was fairly vigorous disagreement about whether that threshold was set too high or
23 whether it should be set somewhere else.
24 Q Disagreement at the White House?
25 A Yes. There was certainly discussions about whether we were right to

1 either, for instance, label or down rank content -- well, remove it. So I certainly
2 remember conversation saying why you're not removing something, and we would
3 explain why not. So there was quite a bit of discussion about that.
4 But these are -- I have to stress, I think these are certainly in the heat of the
5 moment, you know, global pandemic that no one had anticipated and many just really
6 didn't understand at the time. These are legitimate debates to have.
7 Q Do you know how the White House became aware of the Disinformation
8 Dozen report?
9 A No, I wouldn't know.
10 Q Prior to that report's publication, did you have any familiarity, awareness of
11 the CCDH?
12 A Yeah, I think so. They published a number -- or have published a number of
13 reports. I can't -- because it's, what, 3, 4 years ago. I can't remember the precise
14 chronology of whether I was aware of previous reports or subsequent reports. But I've
15 definitely been aware that that organization, the CCDH, is that the acronym, publishes
16 some numerous reports purporting to contain research, analyzing what goes on not just
17 our platforms, but social media platforms generally.
18 Q To your knowledge, did anyone at Facebook reach out to CCDH following the
19 publication of the disinformation?
20 A Not to my knowledge, no. And I wouldn't have assumed that they -- no,
21 not to my knowledge.
22 Q Do you know Imran Ahmed, founder and CEO?
23 A Do I? No.
24 Q During your meetings with the White House after you'd made connection
25 with Mr. Slavitt, when you're having these discussions about the threshold, were the

1 discussions just about the threshold itself or would they provide specific examples during
2 the meetings?
3 A They would provide specific examples. And as part of a back-and-forth, we
4 would definitely receive questions about, why did you not remove this content, why did
5 you not remove that content? So it wasn't just a generic or general theoretical
6 discussion. It was sometimes quite a granular discussion about specific posts.
7 Q Do you have any examples come to mind?
8 A I definitely remember -- I definitely remember having a discussion about
9 what was, I think by any sort of reasonable viewpoint, basically, a satirical sort of post.
10 It had a picture of Leonardo DiCaprio like sitting on a couch. And it was some kind of
11 slightly, you know, satirical facetious caption about -- this is quite an American piece.
12 You know, it is one of those things when you can claim compensation later for -- I don't
13 know for what. But it was the idea that maybe later in many years' time you'll be able
14 to claim compensation for having taken -- and it sort of showed Leo DiCaprio looking kind
15 of alarmed at an ad being done on television.
16 I do remember -- I do remember that discussion, and I do remember explaining
17 that, in my view, removing something like that, I mean, would be a very significant
18 encroachment on some pretty fundamental principles of free expression. I mean, satire,
19 humor, you know, facetiousness. But I think at that time -- and, again, I didn't -- I
20 understood why things like that would look differently. If you are, as I think in Andy
21 Slavitt's case, if you've got a medical background, then your sole purpose is to try and get
22 into the hands of as many Americans, you know, what he would regard as sort of, you
23 know, more authoritative information about COVID than a facetious post with Leonardo
24 DiCaprio in it.
25 And his job is a different one to mine. His job was to do that. And I just had to

1 explain, yeah. But like my job is also to make sure there was as much free expression
2 within certain limits on our platform. And I think the sort of part of the disagreement is
3 that we try -- and I express "try," because it's never a perfect science, and it's -- you
4 always have some people saying they remove too much content and others saying we're
5 not removing enough -- but we try to basically apply a harm test if we think a piece of
6 content poses clear and real and most especially imminent harm, then we will remove it.
7 As I say, removal is the ultimate sanction that we can apply.
8 And it was just not clear to me that a satirical post could be described as one
9 posing that level of harm. And I explained that to Andy Slavitt, and he, you know, didn't
10 agree.
11 But we have these discussions with so many stakeholders around the world on an
12 almost ongoing basis as to why you're not doing this and why are you doing that. And
13 we just have to consistently try and explain why we set the removal threshold where we
14 do, how we understand harm, how we interpret it, and how we apply it.
15 Mr. Gaetz. Are there elements for how you engage in this harm analysis?
16 Mr. Clegg. So I almost always -- well, do always refer to the team that is expert
17 in this to provide their analysis of whether the harm test has been met.
18 Mr. Gaetz. What is that test?
19 Mr. Clegg. It's whether there is -- whether a post is likely to pose real physical
20 and imminent harm if it would continue to circulate on our platform.
21 Mr. Gaetz. So physical harm is how you define harm? Harm can't be hurt
22 feelings?
23 Mr. Clegg. No, but, of course, physical itself is quite an elastic concept, because
24 if you feel a content is going to lead someone else to then inflict physical harm on
25 someone else, it's an indirect form of harm.

1 Mr. Gaetz. I'm not trying to be pedantic. It's just that people can look at the
2 word "harm" and apply it quite broadly, and we're trying to see if there's a standard
3 application.
4 Mr. Clegg. We try and apply it in a fairly constrained way. Fairly constrained
5 way.
6 Mr. Gaetz. And what are those constraints?
7 Mr. Clegg. As I say, imminence.
8 Mr. Gaetz. Okay.
9 Mr. Clegg. Likelihood, probability. You know, whether it's reasonably probable
10 to do so. And physical harm, but physical harm I think in a slightly broader sense than
11 maybe you might be assuming I mean. I mean, physical harm can be one that is
12 text-based at the time. It can be harm that can be inflicted by one person on another.
13 It can be harm that derives from people's feelings and state of mind.
14 Mr. Gaetz. Thank you.
15 Mr. Clegg. I'm sorry, just in this context which I'm assuming maybe would be
16 helpful, the harm test, of course, is whether -- in the context of a pandemic is whether it
17 can be demonstrated that a post might make it more likely that someone is going to be
18 harmed, die, or be seriously ill than otherwise would be the case. Because, of course,
19 during this period of time, several hundred thousand Americans have lost their lives to
20 the pandemic, and that would be the harm test, the physical aspect of the harm test
21 applied to these things.
22 And to bring it back, I'm assuming that Andy Slavitt thought that a satirical post
23 like that would make it more likely that people would not take a vaccination, therefore
24 that was harm. And I would say, yes, but that doesn't meet our more constrained harm
25 test.

1 Mr. Gaetz. Okay.

2 [Clegg exhibit No. 1.

3 was marked for identification.]

4 BY [redacted]

5 Q I'd like to introduce exhibit 1. It's an internal Facebook email chain that

6 touched upon the example we're discussing. Would you take time to review it?

7 A Do you still have to go back?

8 Q Yes.

9 A Can I underline?

10 Q Yes. We'll take these copies back at the end and you can mark them up.

11 [redacted] I bet you would like that.

12 There's a link there. Do we need to see what that is, or can you -- is that the

13 Leonardo DiCaprio? I just want to make sure you can see it if you've got it.

14 [Clegg exhibit No. 2.

15 was marked for identification.]

16 [redacted] Exhibit 2 will be the link that's cited on 53333.

17 [redacted] I'm sorry, what page?

18 [redacted] It's the second page, 53333.

19 Are you ready?

20 [redacted]. You ready?

21 Mr. Clegg. Yeah. Go ahead.

22 BY [redacted]

23 Q If I can call your attention to the bottom of the first page, in 32. You sent

24 an email Sunday, April 18th, at 9:07 p.m. You write, "Just got off an hour-long call with

25 Andy Slavitt."

1 First, do you recall this conversation with Mr. Slavitt?

2 A I think I had a few calls with him. So, no. I mean, it's a long time ago.

3 But I -- that I had call on a Sunday evening with him would not surprise me.

4 Q For a call like this, would it typically just be you and Mr. Slavitt on the call?

5 A I think on that occasion it was, which is not necessarily typical, but since he

6 had earlier reached out to me and then sort of urged me to use him as sort of a point of

7 contact on these matters, yeah.

8 Q And was it difficult to have long conversations like this on the weekend?

9 A No. But these were pretty untypical times.

10 Q And do you understand what was the urgency or the reason to substantiate

11 that for the weekend?

12 A Well, as this document shows, we had been urged on multiple occasions by

13 the White House to provide more data. And I think this was the first time that we were

14 sharing, via email from me to Andy Slavitt, new data, which hadn't yet been, as I

15 explained to him, properly vetted and polished, but just to get in front of them our early

16 attempts at providing more data to show what pieces of code or related content were

17 most seen by people on Facebook in the United States. And so, clearly, the

18 conversation was on the back of providing that information to them for the first time.

19 Q As you were discussing before we introduced the exhibits, during this phone

20 call, were there discussions about the threshold of what the company thought was

21 appropriate for removal?

22 A Yes. So as we touched on earlier, it was clearly in that call Andy Slavitt

23 raised this post. And, again, as the middle of this correspondence shows, our test of

24 harm is direct harm. And we didn't feel that this post met that harm threshold, but

25 clearly Andy Slavitt felt that it should have been. And that was just a topic of debate and

1 disagreement.

2 Chairman Jordan. Mr. Clegg, how often did Andy Slavitt call you?

3 Mr. Clegg. Quite frequently.

4 Chairman Jordan. Quite frequently.

5 Mr. Clegg. For a short period of time, is my memory. Although we were in

6 contact quite a lot for a short period of time. He left the White House, I think, within a

7 matter of months. It was not -- it was not over a prolonged period of time, but during

8 that time there was definitely --

9 Chairman Jordan. During the spring of '21, he was calling you a lot?

10 Mr. Clegg. I just -- I'm hesitating about him calling. I think it was often by email

11 or by text. It was as much through those routes.

12 Chairman Jordan. In this hour-long call, did he call you or did you call him?

13 Mr. Clegg. I --

14 Chairman Jordan. Do you remember?

15 Mr. Clegg. -- don't remember. I don't remember who would have made the

16 call. I think clearly we had arranged either by email or by text to speak at that time.

17 But I can't remember who actually made the call.

18 Chairman Jordan. And was it you who made contact with the White House?

19 Mr. Clegg. For that period of time, for that brief period of -- relatively brief

20 period of time, yes.

21 Chairman Jordan. And would you be in contact with him, how often a week in a

22 week's time would be typical?

23 Mr. Clegg. I couldn't -- I think it almost certainly must have varied week by week,

24 but I think on occasions like this, clearly there was a lot of back and forth by email, by

25 phone. And then it would ebb and flow. And then on other occasions I had contact

1 with the Surgeon General. And, of course, my team had ongoing contact with Rob
2 Flaherty, most especially [redacted]. [redacted] works in the Meta U.S. public policy
3 team under Joel Kaplan and was the principal contact with the White House at the time.
4 BY [redacted]
5 Q If I can call your attention to the second page of exhibit 1. It's in the middle
6 of your email. You say, "But, in all caps, and then there's a series of bullet points. The
7 third bullet point down, you say, "he," referring to Mr. Slavitt, "was outraged."
8 A Forgive me. May I just make a clarification of what I said earlier. I said
9 earlier -- because, you know, it's really playing my mind is how do you define harm and
10 why did we define that differently. And when I said it was about direct harm, it's about
11 also our view is that the content needs to be explicit. It needs to be explicitly directing
12 people to do things that would be harmful. And I think it was this distinction between
13 explicit direction, if you like, and this which we felt was more indirect that was the subject
14 of the debate or disagreement on this particular post.
15 Q Three bullet points down, you start by saying that Slavitt was outraged. Do
16 you recall him being outraged on multiple phone calls with you?
17 A I mean, they were pretty frank and robust conversations. And I have a lot
18 of frank and robust conversations with a lot of people who don't agree with what Meta
19 does. It's part of my job. I have quite a thick skin. I don't ever take it personally. I
20 understand people have their jobs and have different viewpoints. And I always take
21 their viewpoints in good faith. And I hope they take my counter arguments in good faith
22 too.
23 And I'm just really register, I think for the team, that he felt very strongly about
24 this particular post. I just happen to feel quite strongly equally that it would not have
25 been right for us to remove it. But I -- you know, I occupy a role and I inhabit an

1 environment in which there are strongly held but honestly held disagreements about
2 human speech. It's one of the most complicated things known to human kind, human
3 speech.
4 So it didn't -- you know, yes, he was very animated about this. And, obviously, I
5 think via [redacted], Rob Flaherty, were forceful and vocal in pushing us to do what they
6 deemed to be necessary, as they saw it, to deal with the pandemic at the time. And,
7 yeah, I mean, I don't think -- I don't think anyone was disclosing their strength of feeling.
8 Q Did they use profanity, they being Mr. Slavitt or Mr. Flaherty?
9 A I don't remember Mr. Slavitt using profanity. I think that -- I think Mr.
10 Flaherty might have been a bit more partial to that form of speech. But I honestly, even
11 that doesn't -- I mean, that's just a reflection of how strongly people feel about things.
12 Q There are a couple of instances in these bullet points that refer to YT. Just
13 to clarify, is that in reference to YouTube?
14 A Yes.
15 Q After this conversation with Mr. Slavitt where he seems to suggest that
16 YouTube would have taken it down or taken similar content down, did you or anyone
17 from Facebook reach out to YouTube to see if that was the case?
18 A I am pretty sure I recollect asking the team. They wouldn't have needed to
19 reached out to YouTube. They would have just gone onto YouTube to look for it. And
20 I'm really very sure that it was still on YouTube. That was my recollection.
21 Oh, yeah. Yeah, yeah. Sorry. Thank you. It's right here. I asked the team
22 to check. And I probably need to triple check, but my recollection is the team came
23 back and said it was also running on YouTube.
24 Q So your recollection is that they just independently went and checked
25 YouTube on their own? It wasn't --

1 A Yeah, I wouldn't recognize how they would check, but I seemingly just -- you
2 just can check, you just look for it.
3 Q This is again that same third bullet point. There's the link to exhibit 2 that
4 we passed around. And you said that removing content like that would represent a
5 significant incursion to traditional standards of free expression in the U.S. Is that a
6 reference to the First Amendment?
7 A I'm not a First Amendment scholar. I'm not an American myself or a proud
8 permanent resident here. So I'm not -- I was not going to make claims that I have some
9 great scholarly insight into First Amendment traditions, but it's a tradition I so happen to
10 admire enormously. And I think it's -- I think it's really stood the test of time. And it
11 seemed to me obvious that if Big Tech platforms were to start acting against what was
12 clearly satire, humor, facetiousness online, I mean, it would set a pretty significant
13 precedent. And I think what I probably had uppermost in my mind was, A, the American
14 tradition of free expression and First Amendment-related concepts of free expression.
15 But, also, I think probably what was higher up in my mind is it's just -- it's just not
16 consistent with our community standards. And our community standards in turn may
17 apply globally, but, of course, they're drawn from the culture in which we operate.
18 We're an American company drawing on American traditions of free expression, and
19 that's reflected in our community standards.
20 Q And you're talking to the American White House, so I understand the point
21 about community standards. When you raise this point about the tradition of free
22 expression in the U.S., what was Mr. Slavitt's response specifically to that point?
23 A I don't remember him making -- I don't remember us having a debate about
24 the First Amendment. I think I probably would remember that. I was just always very
25 cognizant of the fact that he had a role. He had a job. His job was to try and play a

1 role as a medical expert to advise the White House about how to navigate the pandemic,
2 and -- oh, sorry. Yes, thank you. Sorry. That he replied the post was directly
3 comparing COVID vaccines to asbestos poisoning in a way which he felt would
4 demonstrably inhibit confidence in COVID vaccines. And that that is what -- and his job
5 was to try and bolster confidence in vaccines, not see confidence in vaccines being
6 undermined.
7 So, yeah, thank you. So that's clearly what his reply was.
8 Mr. Gaetz. If something constitutes debate, does that inform your harm
9 analysis?
10 Mr. Clegg. If we feel something meets our harm test, that kind of -- that's the
11 determining factor for us, not whether it -- not what comes before, after, or whether it's
12 done in a spirit of debate or otherwise.
13 Mr. Gaetz. But what if people wanted to debate the efficacy or harm from
14 vaccines on your platform at this time, would that debate have been permissible?
15 Mr. Clegg. Well, that was very much the subject of a lot of this back-and-forth.
16 Our view was that it was entirely legitimate for people to express misgivings, to have
17 debates, and so on. But the deliberate use of content to try and deliberately misinform
18 people about a vaccine should be subject to fact-checking and the fact checkers that we
19 talked about earlier. And if the posting question could lead to or directly lead to harm,
20 then we would in some very narrow cases remove it. But --

1 [10:58 a.m.]

2 Mr. Gaetz. What if today somebody went on and wanted to debate vaccine

3 injuries or vaccine efficacy, could that debate occur in the absence of --

4 Mr. Clegg. Yeah --

5 Mr. Gaetz. Suppression?

6 Mr. Clegg. -- it could, but of course we don't live in a vacuum, and the context of

7 course changed, which was very difficult for us. You had things like the claims of the

8 origins of the vaccine, for instance.

9 That -- you know, we deferred, wherever we could, to expert opinion. We're a

10 tech company. We're not epidemiologists; we're not patho-pandemic (ph) experts. So

11 we would consult very widely -- and this was something I would repeat to Mr. Slavitt -- we

12 would consult very widely with experts in the medical field, in epidemiology, experts in

13 how misinformation does or doesn't influence human behavior.

14 And a number of things were obvious. Firstly, experts told us repeatedly that

15 removal was not always the smartest thing to do, because if you sweep content under the

16 carpet too much, actually it fosters a sense among some people that they're not being

17 leveled with and that somehow people are trying to hoist their views onto them.

18 And there was a particular --

19 Mr. Gaetz. Do you think that happened here?

20 Mr. Clegg. Well, no, because we didn't remove this kind of content.

21 But the other thing which of course happened was, expert opinion itself changed.

22 Mr. Gaetz. Isn't that a defense of allowing debate to occur?

23 Mr. Clegg. Well, it certainly -- it certainly makes -- so, for instance, there was a

24 short period of time where, I remember, we -- we -- I think we first labeled and then for a

25 short period of time removed claims about the origins of COVID, the so-called, you know,

1 laboratory origins of COVID --

2 Mr. Gaetz. I'm sure you guys regret that now, right?

3 Mr. Clegg. What?

4 Mr. Gaetz. I'm sure you regret that now.

5 Mr. Clegg. Well, the moment expert opinion changed, we then, of course,

6 changed our policy.

7 But, similarly, you will remember, there was a vaccine -- I think it was the Johnson

8 & Johnson vaccine -- where I think in very rare cases there were -- maybe there was a

9 feeling that maybe it might be associated with the development of certain blood clots.

10 So, again, the experts, at one point, I think they withdrew the Johnson & Johnson vaccine.

11 So what I'm trying to --

12 Mr. Gaetz. Let me just [inaudible], because I know our time's coming to an end.

13 These profane-laced discussions you're having about the harm caused, content

14 removal, did you view those as coercive on the part of the White House directed at that?

15 Mr. Clegg. Maybe my skin has just gotten too thick over the years, but it's like,

16 we are constantly, as a -- and my role is global. I was dealing at the time with a whole

17 array of other regulatory policy, content, and controversial issues around the world.

18 People from all walks of life and from all ideological persuasions regularly tell us that

19 they're dissatisfied with what we're doing --

20 Mr. Gaetz. Yeah, but not all of them work at the White House.

21 Mr. Clegg. Not all of them work at the White House. But I try and treat those

22 kind of entreaties, however forcefully and vocally and repeatedly they are expressed, as

23 objectively as I can. And I'm not shy, I'm not a shrinking violet in saying when we think

24 it's wrong and saying that we don't agree with what they're pushing us to do.

25 Mr. Gaetz. What --

1 Mr. Clegg. But I -- but my teams -- I mean, if I may, because this is quite
2 important -- I accept that for my teams it might have felt different.
3 But, at the end of day, the buck stops with me, and I felt that we strove, never
4 perfectly and never -- you know, I'm sure with hindsight one could say we should've done
5 this, we should've done that. But we always strove to try and stick to what we thought
6 was expert advice, even as it shifted, and to certain sort of principles about when we do
7 not remove content.
8 Mr. Jordan. You had numerous contacts with the White House during this
9 timeframe. What percentage of those contacts from the House asked you to take down
10 content?
11 Mr. Clegg. What percentage?
12 Mr. Jordan. What percentage. Was it every single call? Was it most of the
13 calls? What was it?
14 Mr. Clegg. I think it's fair to say that if it was -- it you count also generic, so
15 generic calls to remove more, it was a pretty persistent thing.
16 Mr. Jordan. Okay. So, most of the time, they were calling asking you to take
17 down content.
18 Mr. Clegg. Well, they --
19 Mr. Jordan. Or in an email or contact -- however it worked, they were asking you
20 to take down --
21 Mr. Clegg. I want to be explicit. They were very taken by the data in this CCDH
22 report. That CCDH report was a sort of theme for them of saying --
23 Mr. Jordan. Yeah.
24 Mr. Clegg. -- there are 12 people producing --
25 Mr. Jordan. One more -- because our hour's up, but we have one more question.

1 Was there ever a time when the White House asked you to remove something
2 based on who posted it versus the content itself?
3 Mr. Clegg. No, I don't remember -- I don't remember -- it would -- no. To be
4 fair, it was about the content or, rather, the purported effect of the content that I think
5 motivated this. But --
6 Mr. Jordan. Well, that's a difference. The effect of if it's something that's
7 getting widely shared, widely viewed, and it's by someone well-known, that's different
8 than just basing the decision solely on the content itself.
9 Mr. Clegg. Oh, I see. Well, of course, I am assuming that -- and, in fact, that
10 was enshrined in the Disinformation Dozen report, that they were making claims not just
11 about the content but how widely it was seen.
12 So, yes, I mean, it would be logical, if you have that viewpoint, that you'd be quite
13 focused on how many people are likely to see a piece of content, not just the content
14 itself.
15 Mr. Jordan. But I guess what I'm asking is, was it based on the person who put
16 the content out?
17 I know we're out of time, so --
18 [redacted] If we could just finish the line of questioning, we'll extend the --
19 Mr. Clegg. Yeah.
20 [redacted] We're 2 minutes over.
21 Mr. Clegg. I think the "who" is only relevant because the "who" might shape
22 how many people might see the content. And that, I think, was a focus for them, which
23 was that of course certain people have much wider reach on social media.
24 [redacted] Right.
25 Mr. Clegg. Some people are much more widely known and followed by many

1 people.

2 So -- and, by the way, that's also reflected in the way we treat content. As I said

3 earlier, we will enqueue content for fact checkers in large part based on our assessment

4 of how widely that content is going to be distributed.

5 And so I think marrying together content and how widely that content is likely to

6 be seen, even if you disagree about whether it should be or should not be removed, is a

7 widely shared -- is a widely shared --

8 [redacted] Right.

9 Mr. Clegg. -- which is, by the way, why I was so keen to put proper data in front

10 of my interlocutors in the White House, thus conveying this report to Andy Slavitt.

11 Because that report was the first time that we actually showed them what human beings

12 actually saw --

13 [redacted] Uh-huh.

14 Mr. Clegg. -- actually saw -- rather than handpicking a few pieces of content and

15 making actually rather loose claims about how many people then might see that content

16 subsequently.

17 [redacted] Our time is up. We can go off the record, please.

18 [Recess.]

19 [redacted] Okay. We are back on the record.

20 Mr. Clegg, thank you. It's nice to meet you.

21 EXAMINATION

22 BY [redacted]

23 Q I want to ask you some questions about your background not just because

24 it's, I think, objectively impressive but I think it's relevant to the perspective that you

25 bring to your current position and to your testimony here today.

1 Before you worked at Meta, you had been a public official for nearly 20 years. Is
2 that correct?
3 A Yes.
4 Q And from 1999 to 2004, you were a member of the European Parliament?
5 A Correct.
6 Q And forgive my ignorance, but is that an elected position?
7 A Yes.
8 Q In 2005, you were elected to the United Kingdom Parliament?
9 A Correct.
10 Q And specifically the House of Commons?
11 A Yes.
12 Q And you served in the House of Commons until 2018?
13 A Until 2017.
14 Q Seventeen. Thank you. And at some point, you became the leader of
15 your party?
16 A Correct.
17 Q And in 2010, you became the Deputy Prime Minister of United Kingdom?
18 A Yes.
19 Q And is that the equivalent of the Vice President in the United States here, as
20 much as we can have an equivalency?
21 A As much as we can, yes.
22 Q Thank you.
23 And in 2018, you were knighted for your public service. Is that correct?
24 A Yes.
25 Q And that's where the "Sir" in your full name comes from?

1 A Yes.

2 Q And so, in your long career as a government official and a world leader, you

3 have some perspective about what demands are made on public officials and what their

4 responsibilities are in times of crisis, correct?

5 A Yeah, I would like to think I have some insight into that. Yeah.

6 Q And when you spoke in the earlier hour about how you could understand

7 where White House officials were coming from, that their job was different than yours,

8 part of that understanding stems from having been a public official for so long. Is that --

9 A Yes.

10 Q -- fair to say?

11 A Yes.

12 Q Okay.

13 And, as far as you're aware, the individuals you were dealing with at the White

14 House did not have experience with working at a tech company, which you had gained by

15 the time were you dealing with these COVID issues?

16 A I don't know what Rob Flaherty's background was, but I know that Andy

17 Slavitt's was a medical background.

18 Q And because of your experience in global politics, your work at Meta is

19 global, correct? I mean, it's right there in your title.

20 A Oh, yes. Very much so.

21 Q And so you interfaced with governments around the world, fair --

22 A Yes.

23 Q -- to say?

24 A Yes. On an ongoing basis, yeah.

25 Q And your work with policies in the United States is just a fraction of what you

1 deal with --

2 A Correct.

3 Q -- given Meta's scale?

4 A Correct.

5 Q Thank you.

6 A An important, very important fraction, obviously. We're an American

7 company, and it's a hugely important market for us. But it's one of many, many. Yeah.

8 Q And you're aware that, since its earliest days, Meta, which was called

9 Facebook, has always had some form of content moderation policies?

10 A Yes. They have evolved very significantly over time.

11 Q And I imagine they have, as the company and the platform have evolved.

12 A Correct.

13 Q And for the record, I will often be referring to it as "Meta" --

14 A Sure.

15 Q -- when it might technically --

16 A Sure.

17 Q -- have been Facebook, because it's just too complicated to get the

18 transition --

19 A Yeah.

20 Q -- correct.

21 For example, I imagine it has always, or at least for quite some time, been the case

22 that certain conduct has been prohibited -- certain content has been prohibited -- for

23 example, child sexual abuse materials?

24 A Of course. Well, that's illegal, so --

25 Q Right. Exactly. And any other type of illegal content.

1 A Absolutely.

2 Q And Meta has developed policies against other types of content, like

3 harassment?

4 A Correct.

5 Q And hate speech?

6 A Yes.

7 Q Graphic violence?

8 A Yes.

9 Q And misinformation as well?

10 A Yes.

11 Q And can you tell us your understanding of why Meta has those policies?

12 A We try and strike, at a very fundamental level, the following balance:

13 We believe that one of the great benefits of social media is that it hugely

14 facilitates self-expression and the ability to express yourself, to communicate, particularly

15 with family and friends, and to do so, because of the ads-based business model of the

16 platform, to do so for free. So you can be a poor farmer in Bangladesh, you can be a

17 fancy lawyer on Wall Street, you are using Instagram, Facebook, Messenger, WhatsApp

18 on exactly the same basis. And so our whole mission is to facilitate voice.

19 But it's not an untrammeled, it's not an unlimited, it's not an unqualified right to

20 use our platforms to express yourself. And we have, over the years, developed a set of

21 policies, most especially enshrined in something which we call the "community

22 standards," which lay out -- I think it's 21 categories of content. You mentioned some of

23 them, just yourself. So it will be IP fraud, hate speech, bullying and harassment,

24 terrorism content, and so on. And we consult very extensively with external experts on

25 an ongoing basis around the world on those 21 different categories of content.

1 And then we apply different kinds of content moderation depending on the
2 severity of the violation of our community standards. And that ranges from the most
3 severe sanction, which is removal of individual pieces of content -- in other
4 circumstances, by the way, we could also disable whole accounts -- but then there are
5 other measures. We can demote content or label content. And it all depends on the
6 gravity of the content and how many violations are committed and so on.
7 And then, latterly, certainly since I came to the company, we have tried to be, if
8 you like, even more rigorous. Now, alongside our financial results, every 12 weeks, we
9 publish what are independently audited statistics now, audited by EY, of exactly how
10 much content under each of those categories our systems see and act against before
11 anyone reports it to us. So, for instance, in terrorism content, our automated systems
12 have become exceptionally good at identifying ISIS- and Daesh-related content and
13 removing it before anyone sees it.
14 So that's a thumbnail sketch of the, kind of, architecture of our content
15 moderation policies as they have changed and the, kind of, underlying -- the underlying
16 principles that we're trying to abide by.
17 Q And I imagine that part of the reason for prohibiting some of this type of
18 content, like content related to terrorism, comes from a sense of, you know, civic
19 responsibility or moral imperative. You don't want people using your platforms to harm
20 other people, as you described.
21 A Yes. It's important to remember, and it's one of the things that I often have
22 to remind policymakers: Of course we act against content that is illegal, but most of
23 what I have just described is content that is perfectly legal.
24 Q Right.
25 A And that's where it becomes difficult. Because people will often forcefully

1 say -- that criticize us for either not taking action or taking action, they often forget that
2 it's about content that lawmakers have chosen to keep legal.
3 Q To allow.
4 A So we're being asked to make an adjudication, in a sense, which is beyond
5 what the law stipulates.
6 But that's -- that's our right. We don't want people to come on our platform and
7 abuse the freedom of using our platform in a way that is contrary to those rules or
8 contrary to our principles and, also, to be honest, just contrary to the kind of experience
9 we want people to have on the platform, which is a free one but also one which is useful,
10 enjoyable, inspiring, informing.
11 Q And I imagine that if enough of the content that you've chosen to prohibit,
12 the legal content that you've chosen to prohibit, were to proliferate on your platforms,
13 you might lose users or advertisers, because they would find it less useful, informative,
14 that sort of thing.
15 A Um --
16 Q Is that a concern of the company?
17 A Yeah. We try not to -- on content moderation, we try not to -- we try not
18 to make it a sort of commercial calculation, in terms of what advertisers -- I mean, we
19 obviously explain to advertisers what our rules are and explain ourselves if our rules are
20 not being properly enforced, which does happen of course.
21 And we have had occasions where advertisers themselves have chosen to
22 withhold advertising spend on Facebook because they don't feel that we've drawn the
23 line in the right place, particularly on issues like hate speech. And we tend to try and
24 remain pretty methodical and as objective as we can, even when we get those
25 representations from, obviously, very important stakeholders for us, because we're a

1 business, and they -- you know, they sustain our business.

2 So we try not to.

3 We try and -- we have the content policy team that reports to Joel Kaplan and

4 reports to me, run by [redacted]. They run, I think I'm right in saying, every couple

5 of weeks a series of panels or forums where they consult with a wide array of experts

6 from around the world, representing different viewpoints, cultural viewpoints,

7 jurisdictions, and so on, on different aspects of those community standards.

8 And then we publish the minutes of those meetings and explain if those meetings

9 lead to changes, which happens all the time, because language changes.

10 Q And I think you made this -- you said this very articulately earlier. It's not

11 always easy to draw the lines, I imagine, both in drafting the policies and then applying

12 the policies to a particular content that, you know --

13 A I've learned it's nigh impossible to do so in a way which enjoys universal

14 consensus.

15 Q And that was the next point that I was going to make. You can't please

16 everyone with these decisions.

17 A No. No. And I think especially, obviously, in the United States at the

18 moment, there is a very vigorous debate about, you know, the extent or limitations of

19 free expression. And it's one played out in politics, and it's one played out in everyday

20 culture. And we, just given our size and the number of people who use our services, are

21 somewhat in the middle of that.

22 Q And would you say that the company really does its best to attempt to strike

23 the right balance between promoting free expression and combating harmful behavior?

24 A Yeah, of course I think we do our best.

25 Q Yeah.

1 A Do we reach perfection? No. Do we make mistakes? Do we sometimes
2 not enforce our policies as we should? Do we evolve our policies sometimes? We do
3 all of those things.
4 But I have enormous admiration and faith in the teams who work to me that they
5 work very, very diligently, often, you know, under considerable and understandable
6 scrutiny, to try and strike the right balance. And part of my role is to make sure that
7 they continue to have the space to do that. Yeah.
8 Q And you mentioned that it was also part of your role to help oversee the
9 creation of the independent oversight board --
10 A Yes.
11 Q -- correct? And that board exists to help ensure that Meta is striking the
12 right balance, or to attempt?
13 A Yes. And, crucially, to give ordinary people a place where they can go with
14 their complaints about our content moderation.
15 So you can go and appeal to the oversight board, over the heads of Meta, and
16 say -- I'm being silly here, but -- "Meta has removed that post about my cat. I don't
17 agree with their reasoning." We don't, by the way, remove people's content for their
18 cat. But, for want of a better example, they can then go to the oversight board, and the
19 oversight board might then say, "Meta, you are wrong, you shouldn't have removed that
20 post of the cat," and we would then restore that post.
21 So, until we developed the oversight board -- and I'm actually immensely proud
22 that we're the only social media platform to have done this; no one else in the industry
23 has done this -- there just wasn't an independent channel of appeal for the people who
24 use our services.
25 Q And, just to be clear, even though some of the members of the oversight

1 board have a history of government service, nobody is currently a government --
2 A Oh, no, no, no.
3 Q -- official on the oversight board?
4 A No.
5 Q Okay.
6 A No. They're an array of -- I mean, it's all publicly available. They're
7 scholars, former public officials, former editors, former -- you know, they're experts in
8 speech and content moderation. And they're highly independent-minded folk.
9 Q And that leads to my next question. Would you agree that both the folks
10 on your team who are making content moderation decisions and the oversight board are
11 making those decisions without -- you know, regardless of viewpoint of external
12 stakeholders?
13 A Well, they -- in a very narrow sense, of course, they consult with external
14 experts all the time and consult with external stakeholders all the time. But they seek to
15 make decisions, develop policies, and enforce them in as rigorous and, crucially, as
16 transparent a manner as possible.
17 I mean, you know, I've been very keen, at the time I've been at the company, for
18 us -- people can agree or disagree with us -- and, boy, do they, all the time --
19 Q Yes.
20 A -- but I don't want anyone to sort of feel that we're not being really very
21 transparent about where we're trying to draw the line and, indeed, where we get it right
22 and where we get it wrong and how we're held to account by independent bodies like the
23 oversight board.
24 And everybody working in my teams is very much of that same viewpoint.
25 Q I appreciate that. And I just to want to clarify. My question, I think, was

1 not very well worded.

2 What I was trying to get at is, if an external stakeholder, whether it's somebody

3 from a government agency or somebody from a private institution or just an individual

4 user, requests for a piece of content to be removed, the fact that that person has made

5 the request, that's not factored in to Meta's analysis? Meta doesn't say, "Well, this

6 person wants it down, so we have to take it down." Meta makes the decision.

7 A Oh, no, no, we don't take things down just because of the person who's

8 requested it.

9 But, of course, particularly if we get requests or demands or suggestions from

10 public officials, well, we have to respond. We're being asked.

11 But our response is almost always grounded in the following things: Firstly, what

12 does the law say? And, particularly in non-U.S. jurisdictions, the law, of course, is quite,

13 quite different on content moderation. So there are instances where we will respond

14 because basically the law of the land says we should, even though we're not feeling

15 wholly comfortable about it if it was left to our own adjudication. And then, crucially,

16 whether or not the content violates our community standards; and, as I explained earlier,

17 whether -- particularly whether it meets a, sort of, "harm" test, when it comes to

18 removal.

19 And all of those standards are ones that we -- we draw on extensive expertise to

20 try and develop those standards, those definitions. Yeah.

21 And then we'll respond. And we'll respond, you know, without fear or favor.

22 We'll respond, you know, following an analysis of whether we think that particular

23 demand or suggestion merits the action that's being urged upon us.

24 Q Thank you.

25 And that -- well, I'll move on. I forgot what I was just going to follow up on,

1 because that was -- that was very clear.

2 You were asked a bunch of questions in the previous hour about Meta's

3 third-party fact-checking program.

4 A Yes.

5 Q And I wanted to just clarify a few things that we learned from the interviews

6 of some members of your team.

7 Your understanding is that all of Meta's third-party fact checkers must be

8 signatories to the International Fact-Checking Network's Code of Principles --

9 A Yes.

10 Q -- correct? And so they have to agree -- in order to work as a fact checker

11 for Meta, you have to agree to abide by those principles?

12 A Yes.

13 Q And --

14 A That's my understanding.

15 Q That's your understanding. And are you familiar with those principles?

16 A I'm -- not in great detail, but in outline, yes.

17 Q Okay.

18 I'm going to mark this as exhibit 3.

19 [Clegg exhibit No. 3.

20 was marked for identification.]

21 [redacted]. Can you tell me where this is from?

22 [redacted] It's on the International Fact-Checking Network's website.

23 [redacted] There's a hyperlink down at the bottom there.

24 [redacted] It's very small.

25 [redacted] Very small. We can get you a larger printout.

1 [redacted] Yeah. I can email you the link later, if you'd like.

2 [redacted]. I'm trying to -- is this the Code of Principles document, the beginning

3 of that? Or is it --

4 [redacted] I'm sorry?

5 [redacted]. This is the Code of Principles?

6 [redacted] Yes, this is the Code of Principles.

7 BY [redacted]

8 Q And Principle #1 is on the third page of the document.

9 And I'll go through this relatively quickly, because I know that you are not --

10 A Should I read it?

11 Q Hmm?

12 A Should I read it?

13 [redacted]. Yes, you shall.

14 BY [redacted]

15 Q So the first principle of the IFCN is a "commitment to Non-partisanship and

16 Fairness," correct?

17 A [Nonverbal response.]

18 Q Is that correct?

19 A Yep. That's what it says here, yeah.

20 Q That's what it says here.

21 And it says underneath that that "signatory organizations fact-check claims using

22 the same standard for every fact check. They do not concentrate their fact-checking on

23 any one side. They follow the same process for every fact check and let the evidence

24 dictate the conclusions. Signatories do not advocate or take policy positions on the

25 issues they fact-check."

1 That's what that says, correct?

2 A That's what it says, yep.

3 Q And that's one of the principles that all of Meta's fact checkers must abide

4 by.

5 And I'll go through the others a little more quickly.

6 The second is a "commitment to Standards and Transparency of Sources,"

7 correct?

8 A Uh-huh.

9 Q And what that means in the real world is that, when Meta places a

10 fact-checking label on a piece of content, it will have links to the sources that led to that

11 label so --

12 A Yes.

13 Q -- users can see --

14 A Yes.

15 Q -- why it was fact-checked.

16 And Principle #3, on page 5, is a "commitment to Transparency of Funding &

17 Organization," correct?

18 A Uh-huh.

19 Q And Principle 4 is a "commitment to Standards and Transparency of

20 Methodology."

21 A Uh-huh. Yes.

22 Q So these are commitments that every Meta fact checker has to agree to,

23 correct?

24 A Yes.

25 Q And would you agree that they're values that the company shares as well?

1 A Yes.

2 Q And you mentioned, by the way, the earlier, a few minutes ago, audits done

3 by EY. Is that a reference to Ernst & Young?

4 A Yes.

5 Q Now, I want to talk specifically about what was the focus of the previous

6 hour, which is Meta's COVID content moderation policies and decisions.

7 From the earliest days of the pandemic, would you say that Meta wanted to

8 ensure that its users had accurate and updated information about COVID-19?

9 A Yes.

10 Q And that was to help its users protect themselves from this new and very,

11 very dangerous disease?

12 A Yes.

13 Q And in order to provide its users with authoritative information about

14 COVID, Meta consulted with public health authorities?

15 A Yes. We did that on an ongoing basis.

16 Q And I believe you referenced in the previous hour -- you talked about the

17 experts you consulted with, and you mentioned the CDC, correct?

18 A Yes, the CDC, yep.

19 Q The World Health Organization?

20 A Yes.

21 Q Sometimes the Department of Health and Human Services --

22 A Yes.

23 Q -- here in the United States?

24 A Yeah.

25 Q And, also, there were private entities as well, like Johns Hopkins?

1 A Yes.

2 Q Okay.

3 A And multiple health ministries and health officials around the world.

4 Q Around -- and that was going to be my next question. Thank you.

5 A Yeah.

6 Q Now, Meta started doing these consultations specifically about COVID in the

7 early days of 2020.

8 A Uh-huh.

9 Q And throughout 2020, members of Meta's public policy team, in fact, met

10 weekly with the CDC in order to make sure they had up-to-date information.

11 A Yes.

12 Q And that was during the Trump administration.

13 A Yes.

14 Q And Meta had been consulting with public health agencies about different

15 public health issues even before the pandemic. This wasn't --

16 A Yes.

17 Q -- something that just started with COVID.

18 A That's right. It was far more -- I think the level of concentration, of course,

19 took on a particular urgency as the world was engulfed by the pandemic.

20 Q Right. There was no need to meet weekly before --

21 A No, no, no.

22 Q -- the pandemic.

23 A No.

24 Q And once the pandemic started spreading and became worse and worse,

25 Meta, in fact, offered the CDC, I think, millions of dollars in ad credits to help spread its

1 message. Is that correct?

2 A I think that is correct. And other health ministries around the world as

3 well. Yeah.

4 Q Okay. Yes. So that wasn't just --

5 A Yeah.

6 Q -- an effort in the United States.

7 A And, if I may, that's, from my point of view, quite important, because whilst

8 certainly at the time the United States was not a market where WhatsApp was used very

9 widely -- though I think it is now used more widely -- at that time, we found that

10 WhatsApp was an extremely important vehicle by which authoritative information from

11 health ministries and others was made available to millions, billions of people around the

12 world.

13 I only mention that because there was a great deal of work on a global level using

14 different properties that we own -- different services, different apps that we own.

15 Q Right. And you would make different efforts in different countries

16 depending on what platform, what message would be most likely --

17 A Yes.

18 Q -- to reach the most people. Is that --

19 A Yes. And during that phase, in 2020, my recollection is that our

20 measurement of the efficacy of those efforts suggested, certainly in the markets like

21 Brazil or, you know, parts of Europe and elsewhere, that WhatsApp was a particularly

22 important tool to get people, first, information about the coronavirus itself and then, of

23 course, later, to get people timely information about where they could get vaccinated.

24 But that was, of course, much later, when vaccines came on stream.

25 Q Okay.

1 And, actually, that brings me to my next point, which is: Throughout 2020, the
2 focus was on information about the disease itself --
3 A Yeah. Because the vaccines were not --
4 Q -- exactly -- and, then, once the vaccines became available, it shifted more to
5 encouraging people to get information about the vaccine.
6 A Yes. And, of course, as it happens, the vaccines became available almost
7 exactly the time when there was a change of administration here in the United States.
8 So there was just a change of gear, not just here but around the world --
9 Q Uh-huh.
10 A -- where the world was moving from paralysis -- I'll put it like that -- to
11 deployment, to deployment of vaccines. Those are very different -- I mean, they're
12 linked, but they're very different things.
13 Q And is it fair to say that Meta wanted to encourage its users throughout the
14 world to get vaccinated to help end the paralysis?
15 A Well, I want to be careful here. We were not, sort of, taking a medical or
16 epidemiological position ourselves. We were just following the advice of experts.
17 And, in 2020, under the then Trump administration, a huge -- I think it was called
18 the Warp Speed program or something -- a very considerable effort had been launched to
19 accelerate the development of vaccines. And, of course, other emergency measures
20 had been taken during that time.
21 And all of those efforts and others internationally started manifesting themselves
22 in, you know, early viable vaccines, I think -- yeah, I think it was around the turn of the
23 year, actually. Yeah.
24 Q I think you're correct about that.
25 A Yeah.

1 Q And it wasn't until early to mid-2021 that vaccines even became available to
2 the general public --
3 A Yeah, I think that's right.
4 Q -- correct? I mean, in the end of 2020, early 2021, you had to be a public
5 official or somebody --
6 A Yeah, though -- yeah, though I do -- I do remember towards the end of 2020
7 it was obvious that the challenge was going to be how to make reliable -- from our point
8 of view -- make reliable information available to people who want to receive that
9 information about the vaccines.
10 Q And that reliable information included information not just about the effects
11 of the vaccine or the effectiveness about the vaccine but also how and where to get it?
12 A Yes. So I think many millions of people were assisted in getting vaccinated,
13 knowing where to go, where and how, through information that they saw on social
14 media, including our platforms.
15 Q And your platforms got that information primarily in consultation with the
16 experts that you --
17 A Oh, yeah. Totally.
18 Q Yeah.
19 A We didn't -- we wouldn't come up with that information ourselves. It
20 would be all entirely, basically, recycling and linking information to authoritative sources,
21 whether it's the CDC or it's other health ministries around the world, whether it's local
22 health authorities as well.
23 Q And going back to the beginning of the pandemic, Meta adopted a
24 misinformation policy specific to COVID-19 misinformation in the early days --
25 A Yes.

1 Q -- if I --

2 A Yes.

3 Q And, again, that was during the Trump administration.

4 A Yes.

5 Q And, as you explained, the focus of that policy was on removing

6 COVID-related misinformation that could cause imminent physical harm.

7 A Correct.

8 Q So, for example, a post that, you know, drinking bleach could cure the

9 disease, you would not want that to proliferate, because that could cause somebody

10 imminent physical harm.

11 A I don't know whether that claim was removed or whether it was

12 fact-checked. But, you know, hundreds of thousands of Americans were losing their

13 lives through that period of time. And so, as I explained earlier, where there was

14 content that expressly could lead to direct harm, we would remove that.

15 I -- honestly, I don't want to, sort of, be a one-man content moderator here,

16 because these are decisions --

17 Q Fair enough.

18 A -- that are taken by teams --

19 Q Yes.

20 A -- and they're expert teams, and I rely on them, so --

21 Q And I appreciate that. Thank you.

22 And are you aware that, in March 2020 alone, Meta removed -- so, you know, the

23 first month where we were all locked down -- Meta removed hundreds of thousands of

24 pieces of misinformation that it determined could lead to imminent physical harm?

25 A That sounds plausible to me. I don't know the statistics myself, but that

1 sounds plausible, yeah.

2 Q Do you recall [redacted] publishing "An Update on Our Work to Keep People

3 Informed and Limit Misinformation About COVID-19"?

4 [redacted]. Could I ask, if you have that, could you share it with me?

5 [redacted] I do have it, yes.

6 And I believe we're on exhibit 4.

7 [Clegg exhibit No. 4.

8 was marked for identification.]

9 [redacted] And if you'll take a look at this document --

10 [redacted]. Yep, he'll give it a read.

11 [redacted] Yeah. It's been updated several times --

12 [redacted]. Yeah.

13 [redacted] -- over the years. But it basically --

14 Mr. Clegg. Do you want me to stop and go back and read this? Can we just

15 have a minute?

16 [redacted]. Could we just have a minute?

17 [redacted] Sure.

18 BY [redacted]

19 Q The statistic I was referring to is on page 5 in the third paragraph. I realize

20 they're not numbered, but --

21 A Okay.

22 Q And so this document reflects that, as early as by April 2020 -- April 16,

23 2020 -- Facebook had removed hundreds of thousands of --

24 A Yes.

25 Q -- pieces of misinformation, and that included harmful claims like drinking

1 bleach.

2 A Yes. As it says here, yeah.

3 Q And Facebook/Meta continued to update this document to inform its users

4 of the steps that it was taking?

5 A Correct.

6 Q And because Meta's COVID misinformation policy is focused on preventing

7 imminent physical harm, the policy is nonpartisan, correct?

8 A It's a harm test. It's not a political test.

9 Q And, therefore, Meta was removing COVID misinformation during the Trump

10 administration and during the Biden administration.

11 A Correct. Yes.

12 Q Now, you were asked about some of your communications with the Biden

13 White House. And do you recall that, before President Biden was inaugurated, you

14 personally reached out to incoming White House staff to express Meta's desire to partner

15 with the incoming White House team --

16 A Yes.

17 Q -- to make a proposal about how Meta could help them fight COVID and help

18 in trying to end the pandemic?

19 A Yes, I do remember that. But, again, it was particularly because, I

20 remember -- because it was obvious that the new administration would have a new

21 challenge ahead of it, which is that the vaccines were coming on stream then. So I was

22 just keen to make the connection and say that, on top of all the work that we'd already

23 done during 2020, we were keen to understand how we could assist, based on expert

24 advice, on the next phase, which was obviously the rollout of the vaccines.

25 Q And I'm going to introduce that email into the record.

1 [Clegg exhibit No. 5.

2 was marked for identification.]

3 BY [redacted]

4 Q So this is an email from you to four individuals who went on to work at the

5 White House: [redacted], correct?

6 A Yes.

7 Q [redacted]?

8 A Yes.

9 Q Oh, maybe three. Sorry. And [redacted]?

10 A Yes.

11 Q And you also CC'ed [redacted] and [redacted] on your team, who you

12 mentioned earlier.

13 A Yes.

14 Q And in this email, from November 22, 2020 -- I'm sorry -- it says, "[redacted],

15 [redacted] and [redacted] Facebook is keenly aware of the tremendous challenge posed by the

16 ongoing pandemic as President-Elect Biden prepares to take office in January."

17 When you said that, do you recall that you were referring to not just the pandemic

18 but, as you discuss, the new challenge of deploying the vaccines and ensuring --

19 A Oh, very much. Yeah.

20 Q -- overcoming vaccine hesitancy?

21 A Well, I'm not sure if that -- it was more just the vaccines were, at that stage,

22 becoming a thing.

23 Q Right.

24 A I mean, it was literally around then that -- I can't remember when the first

25 vaccines were formally authorized, but it was around that time, I think.

1 Q It was. I think it was actually a few weeks later, but it was clear --
2 A Yeah.
3 Q -- that it was going to be happening.
4 And then in your next sentence, you said, "Mark has asked me to communicate
5 our desire to help and partner with the incoming team."
6 A Uh-huh.
7 Q I assume "Mark" is Mark Zuckerberg?
8 A Yes.
9 Q Okay.
10 So then you said, "Below and attached please consider a proposal for how we
11 believe we can provide meaningful assistance to your efforts." Correct?
12 A [Nonverbal response.]
13 Q And then you said, "And also please consider this an opening to a
14 conversation -- we would appreciate hearing from the team how they believe we could
15 be helpful in addition to what we propose here."
16 A Yes.
17 Q So your relationship with the White House was not one-sided. It was not
18 the White House just calling you, emailing you, reaching out, when they had concerns.
19 Is that --
20 A No.
21 Q -- fair to say?
22 A It takes two to tango. So it was a discussion. You know, obviously, as this
23 demonstrates, in November 2020, but before the administration -- before the
24 President-elect had been inaugurated, we were just keen to make contact and explain
25 some of the things that we would do. Yeah.

1 Q And you wanted to get the new administration's perspective on what more
2 you could do to help.
3 A Yeah. I mean, they are the experts. We were just wanting to inform
4 them of what we'd done hereto; aware of the fact that there was going to be a, really,
5 new challenge, which was related to the vaccine rollout; and just to make a connection
6 and see whether they wanted to take it up or not.
7 Q And they did.
8 A They did. Yes.
9 Q And as you described earlier, in the previous hour, sometimes there were
10 disagreements --
11 A Oh, yeah.
12 Q -- about Meta's policies.
13 A Sure.
14 Q And as you said earlier, even when you disagreed, you understood that the
15 White House had a different role and was coming from a different perspective than Meta.
16 A Of course. We were different entities doing different things. Yeah.
17 Q And it's fair to say that the -- well, did you get the impression that the White
18 House was so passionate about these issues because they saw the issue of the COVID
19 vaccine and ensuring that Americans take the COVID vaccine was a matter of life and
20 death?
21 A Yes, I think over time. Not in November 2020, but in the --
22 Q Yes.
23 A -- following months and in 2021, the scope of the focus of the discussions
24 that we had with the White House became increasingly focused on what they termed
25 "vaccine hesitancy" and the assertions made about the link between content on social

1 media and levels of vaccine hesitancy.

2 And that's -- so, in a sense, the discussion mutated from this to something which

3 became quite a, sort of, consistent drumbeat of a focus on vaccine hesitancy, what was

4 deemed to be COVID-related misinformation, yeah, and disagreements about what was

5 and what wasn't misinformation and what was and what wasn't a purported effect of that

6 misinformation on levels of vaccine hesitancy.

7 And that really became the heart of the disagreement, as you put it, with the

8 White House over time. But, you know, this stretched well into 2021, many months

9 after this initial contact.

10 Q So, just as the information that we had about the disease and the vaccine

11 evolved, the parameters of the White House's concerns and the concerns that Meta had

12 about getting information to its users evolved as well?

13 A Yes. Yes. And to be very precise, I think, in effect, what happened was, as

14 more and more people got vaccinated, more and more of the attention on the part of the

15 administration focused on those who were not vaccinated and questions about why not

16 and then a number of assertions, which is where the disagreement lay, about the role of

17 social media and our platforms in that subcategory of the population -- in other words,

18 the population which had not, at that point, or going forward, availed themselves of being

19 vaccinated.

20 Q And one of the -- you just mentioned that there was an issue about the

21 effect of misinformation.

22 And as 2021 wore on and we started to get into the spring of 2021, one of the

23 issues between the White House and Meta was -- it wasn't just about what content

24 should be removed, but about what data --

25 A Yes.

1 Q -- Meta was willing to provide the White House about the effect of --
2 A Yes.
3 Q -- misinformation.
4 A Yes.
5 Q And the White House expressed to you that it wanted to understand what
6 types of content were feeding or not feeding what they called "vaccine hesitancy."
7 A Yes. This was very much an ongoing debate. We were sort of -- we were
8 trading apples and pears. It was, I remember, at that time, it was -- I think it was
9 frustrating for all sides, because, I mean, Meta could be criticized for many things; we're
10 pretty good at measuring things. It's kind of what an engineering (ph) company does.
11 And we had some pretty sophisticated tools to measure, particularly through this
12 unprecedented cooperation with a number of academic institutions -- Carnegie Mellon,
13 Maryland, and others -- we were able to measure so-called vaccine hesitancy and how it
14 decreased or increased amongst Facebook users and then compare that to authoritative
15 figures on vaccine hesitancy in the general population.
16 And what we found over and over again was that vaccine hesitancy was being
17 reduced much more rapidly amongst Facebook users than it was amongst the general
18 population. And so we kept seeking to try and explain this, and for some reason it
19 wasn't considered -- for one reason or another, it wasn't really considered to be as useful
20 as we felt it clearly was, because it suggested that something was happening on Facebook
21 which was actually reducing vaccine hesitancy more than elsewhere.
22 So I remember that. And then -- I've spoken earlier, but it was important,
23 this -- there was this consistent reliance on so-called third-party research, the
24 Disinformation Dozen, which, especially at the time, really did pretty well collapse under
25 scrutiny. But for quite some time we kept being encouraged, because of the research

1 published by the CCDH, to focus on these 12 entities, which of course we then did.
2 We then looked very carefully at all of their accounts that were up, and we took
3 action on all of them -- on a lot of them. But we didn't -- we clearly -- that was the
4 sentiment over time in those months. And there was a feeling that we could and
5 should -- on the part of the White House, that is -- take further and more extensive action
6 against those 12 individuals.
7 Q The actions that you did take you took because Meta performed its own
8 independent analysis of the content produced by those 12 individuals --
9 A Yes.
10 Q -- and did its own --
11 A Absolutely.
12 Q And then it made its own independent determination of whether to take
13 action against those individuals?
14 A Correct. And then we would explain what action we took, either on a post
15 basis or an account basis or an app-by-app basis. And then, yes, that would constitute
16 quite a lot of back-and-forth of, "Well, we" -- we would say, "We've done X, Y, and Z
17 because you urged us to look at these entities. We've done it for reasons A, B, C
18 because of the violations of our community standards here. But we're not taking action
19 on" --
20 And just to give you an example -- it might be helpful -- we were being urged, for
21 instance, to use what we call in the jargon "off-platform signals" -- in other words, to look
22 at what these 12 individuals were doing, but completely unrelated to Facebook --
23 Q Right.
24 A -- to therefore take action on Facebook. And that's just something, as a
25 matter of very strong principle, we don't do. You know, I hope for obvious reasons, we

1 can't start taking actions against people because they do totally random things in
2 completely other parts of the internet.
3 So we kept going back and explaining, no, we're not going to go as far or as fast as
4 you wish. And that was one reason.
5 But, in answer to your question, we would take those decisions once we'd done an
6 analysis, in this instance, of the presence of those 12 entities on our services.
7 Q And you felt free -- you, individually, and the company in general -- felt free
8 to push back when you felt pushback was appropriate?
9 A Of course. Of course. And we -- we have to do that -- we have to do that
10 all the time. And when we disagree, we're not frightened of saying so.
11 But, of course, we try and also be responsive. We're not an elected entity. If
12 an elected government of any -- any elected government around the world expresses
13 strong sentiment about things, of course we're duty-bound to look into it and be
14 responsive.
15 So we try and be responsive, but, equally, we try and be -- we try to be steadfast
16 and consistent, as well, in what we then say in return.
17 Q And by "responsive," I just want to clarify, what you mean is, you want to get
18 back, you want to --
19 A Correct.
20 Q -- provide a response even if that response is not what --
21 A Oh, yeah.
22 Q -- the requester wants to hear?

1 [12:09 p.m.]

2 Mr. Clegg. Yes. If a government of the day says to us as a private company,
3 here, we've got -- you're making a number of assertions, it would be quite peculiar for us
4 to sit on our hands and say we're not even going to reply. Of course we respond, and
5 we try and respond as fully as we can.

6 BY [redacted]

7 Q Did any U.S. Government official ever order Meta to remove the content?

8 A No. But not -- they're not in a position to do so either. They certainly
9 urged us to take down content and pointed out content which they felt should have been
10 removed.

11 Q But that urging did not affect the ultimate determination of whether or not
12 to remove?

13 A All of our determinations were always, in the end, taken by what we felt was
14 consistent with our community standards, the law of the land, and the principles that
15 we -- upon which we operate our -- our content policies.

16 Q You were asked during the earlier hour if you felt that your conversations
17 with Mr. Slavitt in particular were coercive, and I believe your answer was that you had a
18 pretty thick skin.

19 Was that your way of saying, no, you didn't feel that they were coercive?

20 A They were tough conversations. They were intense conversations. It was
21 obvious that we had a very different viewpoint on some key issues, and I was certainly left
22 in absolute no doubt about the strength of feeling from Mr. Slavitt on multiple occasions.
23 I suspect, if you asked him, he'd say that he was left in no doubt that I didn't agree with
24 some of those assertions on multiple occasions.

25 So, yeah, it was an on- -- it was an ongoing disagreement expressed in various

1 different ways in very different formats about roughly the same thing: What is the
2 data? What is misinformation? When should you remove? And just on those three
3 issues, we -- yeah, we were misaligned.
4 Q And to be clear, it was three issues; it wasn't just what you should remove?
5 A Well, that's kind of at the heart of it. Because if you have data which leads
6 you to believe that, by acting just against 12 people, suddenly the -- you know, problem is
7 solved, then, of course, you take a different viewpoint than we did. It's way more
8 complex than just 12 individuals. And if you believe that misinformation is a much wider
9 category of harm than our definition, then, of course, you believe that removal should
10 take place on a wider, wider scale.
11 Q And your relationship with Mr. Slavitt was such that you felt comfortable
12 enough that shortly after he left government service in, I believe it was the spring, that
13 shoulder season of spring/summer of 2021 --
14 A Yeah.
15 Q -- you appeared on his podcast?
16 A Yes, I did.
17 Q And, in fact, you -- you and he discussed your disagreement about the --
18 A Yes.
19 Q -- Leonardo DiCaprio meme that we saw earlier?
20 A Yes. Yes, we did.
21 Q And you joked about it; you laughed about it with him?
22 A I don't know whether I laughed, but we were certainly open about it, yeah.
23 Q Okay. I can represent to you --
24 A Okay. All right.
25 Q -- that you laughed about the disagreement. I believe because you said, I

still think we were right?

A Right.

Q And -- and he disagreed?

A Right.

Q Did the White House ever threaten Meta with adverse action -- any kind of adverse consequences if Meta declined to adopt any of its recommendations or do anything that it --

A Sorry. Can you repeat the question?

Q Did anyone at the White House ever issue a threat to Meta? Like, if you don't take this piece of content down or if you don't change your policies, we're going to issue some sort of adverse consequence to you, we're going to sue you, we're going to --

A No. I don't remem- -- don't recall saying you'll be sued, but I do recall quite sort of vague -- it was sort of vague talk, which I think you can find the correspondence about. You know, we're going to look at all -- you know, we're looking at all the options available to us. It was a sort of generic -- it was such a -- I think it was such a strongly held concern that there was sort of generic expressions of, you know, we really are kind of looking at all the options available to us.

And so, no, it wasn't a sort of specific, here's a threat, we're going to do this to you, we're trying to sue you and so on. But there was a sort of general assertion of -- of kind of, you know, they really want to kind of look at all the options available. I think -- I need to recall, but I'm pretty sure there was language from Mr. Flaherty to my team, which was -- which was both very forceful, not elegantly expressed, and -- and kind of -- almost, you know, implying that they were kind of -- look at whatever levers they have available to them to really push us to do what they wanted us to do on this COVID stuff.

1 Q But none of that changed Meta's behavior, correct?

2 A No. No, of course not.

3 Q And I just want to note for the record that that comment about internally

4 considering our options was something that Mr. Slavitt said to [redacted].

5 A Oh, was it? Okay.

6 Q And [redacted] testified here that he did not find that to be coercive or

7 threatening.

8 [redacted] And with that, we close our hour.

9 [redacted]. Can we go off the record?

10 [redacted] Yes.

11 [Recess.]

12 [redacted] We can go back on the record, please.

13 BY [redacted]

14 Q So I wanted to pick back up where we were in the first hour on this

15 document. We were looking at the email you sent Sunday, April 18th.

16 The fourth bullet point underneath the -- in the middle of the page, where you

17 start to talk about what Mr. Slavitt brought up towards the end of the conversation.

18 First, do you recall Mr. Slavitt telling you that Facebook employees were leaking to

19 his team disparaging remarks that were allegedly made about him and Mr. Flaherty?

20 A Well, I remember it from this record.

21 [redacted] Can I go back? I'm sorry. I can't find my copy. I'm trying to

22 get my hands on a new one. I'm sorry.

23 [redacted] Okay.

24 Mr. Clegg. Yeah.

25 BY [redacted]

1 Q Did he tell you on the phone call who from Facebook was leaking the
2 information?
3 A No.
4 Q Were you ever -- were you ever able to find out who it was?
5 A No.
6 Q Did he tell you what the disparaging remarks were exactly?
7 A Well, that -- that someone from within Facebook, as he alleged and reflected
8 here in my written comments, that somehow there was a deliberate attempt in Facebook
9 to so-called snow the White House with information and data, and that we were -- in
10 doing so, we were somehow hiding the ball. And that was a repeated theme, certainly I
11 remember, from the interactions between Rob Flaherty and [redacted]. There was a
12 pretty consistent theme of you're not -- you're not coming clean, you're not coming clean,
13 you're not coming clean. So this was very much part of an ongoing pattern that we
14 were being accused of somehow kind of hiding the ball. Yeah.
15 Q Based off the written summary you provided in this email, it sounds like
16 those remarks, about snowing the White House with info data, was coupled with other
17 remarks, including, to use your words, disobliging remarks made about both Mr. Slavitt
18 and Mr. Flaherty, to that other category.
19 Do you recall what those remarks were? Did Mr. Slavitt share that with you?
20 A If he did, I can't remember it now, I'm afraid, no.
21 Q Continuing in the same paragraph, you say, "We then discussed the wider
22 issue of trust, or the lack of it, between Facebook and the Biden team related to the
23 events during the election and beyond."
24 What was Mr. Slavitt referencing?
25 A Oh, I assume -- I mean, there was -- there was quite a prominent narrative at

1 the time that the events of January the 6th were somehow fostered on social media
2 platforms like Facebook. So I think there was -- I mean, this is a matter of public record.
3 There was an assertion made by many observers, many people -- you know, many elected
4 Democrats and others that somehow we had not played a responsible role in the -- in the
5 events leading up to January the 6th.
6 So I think -- I think that's the background. That's what I'm assuming he and I am
7 referring to here. There was just the -- being a -- well, manifestly being a pretty heated
8 set of assertions made at Facebook and -- and still is to this day.
9 Chairman Jordan. That would seem to me to be the beyond, you know, the
10 referencing in that sentence. What's during the election relate to?
11 Mr. Clegg. I -- this is me really now trying to interpret my own -- my own words 3
12 or 4 years after the event. But I strongly suspect that, in keeping with the debate
13 around the events leading up to January the 6th, though, was being a pretty consistent
14 view amongst people on the kind of left or centre-left of American politics that we don't
15 take enough action, we don't censor enough, much. As everybody knows, there's also a
16 counter-view that we censor too much, remove too much content.
17 But that's a -- I think -- I'm sure that's what I'm referring to is that there's a -- that
18 there's been a pretty consistent theme in -- in what people say about the role of social
19 media, democracy, elections, and so on.
20 BY [redacted]
21 Q And do you participate in any conversations with the Biden-Harris transition
22 team about whether President Trump's account on Facebook should be suspended?
23 A Prior to the decision?
24 Q Yes.
25 A No. Oh, no, no, no. No, no. We would take -- we took that decision

1 ourselves.

2 Q Were you involved in that decision?

3 A Very much so. It was -- it was a decision I took in the company.

4 Q And were you --

5 A I mean -- sorry. Let me be very clear. Not just capriciously. I mean, it

6 was a decision that I as decision-maker on those things took on behalf of the company

7 following extensive analysis by the teams escalated to me in the appropriate manner.

8 Q Was the decision escalated to Ms. Sandberg or Mr. Zuckerberg?

9 A They were aware of it, but it was a decision that -- it was a decision that lay

10 with me as, principally, the buck sort of stopped with me as the person overseeing and

11 leading the content policy determinations in the company. But they were certainly

12 aware and -- and certainly -- certainly -- of course, a decision like that is hardly taken

13 without discussion, but --

14 Q Who else was involved in the deliberations?

15 A On what?

16 Q Whether to suspend President Trump's account in January of 2021.

17 A In the immediate aftermath of January the 6th?

18 Q Yes.

19 A Oh, I mean, the content policy team led by [redacted], answerable to

20 Joel Kaplan, who, in turn, reports to me very much drove the analysis of whether the

21 pronouncements on our surfaces, on our social media platforms constituted sufficient

22 violations to take -- to take the steps we did. And as you will recall, we then

23 subsequently referred the matter, given the enormity of it and given the significance of it

24 and given the controversy around it, to our independent oversight board who heavily

25 criticized us for not taking it in a proportionate manner. So then we subsequently

specified a time period of 2 years, I think it was, during which Donald Trump's account on Facebook was suspended.

So there were several iterations to it, and the final decision was a direct response to the critique from the oversight board that our policies were too opaque and that our actions were not sort of proportionate enough to those policies.

Q And were you the final decision-maker each of these stages?

A Yes. Yes. But as I say, I don't act alone or randomly. I do so supported by multiple teams, obviously, but also legal teams, communications teams, and others involved in this; most especially, of course, for a decision like that, which has the self-evident controversy and rightly scrutiny attached to it.

Q Before January 6th, but from the election until, we'll say January 5th, had the Biden-Harris transition team reached out to Facebook about how Facebook was handling President Trump's Facebook posts regarding the integrity of the election?

A Not that I can recall. Not that I can recall.

[redacted] Can we go off the record, please?

[redacted] Yeah. We can go off the record.

[Discussion off the record.]

[redacted] Can we go back on the record, please.

So similar question. Preelection day, Presidential election day in the U.S., are you aware if anyone from the Biden campaign team had reached out to Facebook regarding how Facebook was handling posts from President Trump regarding the integrity of the election?

Mr. Clegg. No, I'm not -- I'm not aware of that. I can't recall that, no.

Chairman Jordan. Just one final -- so, again, Mr. Clegg, we then discussed the wider issue of trust --

1 Mr. Clegg. Uh-huh.

2 Chairman Jordan. -- or lack of it between Facebook and the Biden team related

3 to the events during the election.

4 Your recollection of that is primarily post-election, post-January 5th, as -- as [redacted]

5 was talking about, not actually during the election itself or the days and weeks and

6 whatever leading up to the election?

7 Mr. Clegg. I think what I meant -- but forgive me. I don't want to project a sort

8 of false position about words that I wrote 3 or 4 years ago, but what I think I meant was

9 that I was acutely aware that during the 2020 election there was a very strongly held

10 view, which was almost symmetrically polarized, where one of the campaigns felt that we

11 were being too censorious and too active on content moderation, and the other one -- in

12 this case, the Democrats -- had consistently made it clear that they felt that, in general,

13 we as a company don't either remove or act against content aggressively enough.

14 And that has a long antecedent. It goes right back to the 2016 election, and so I

15 think that's what I was referring to.

16 Chairman Jordan. I get that. I'm just -- I'm just -- that's why I think [redacted] asked

17 the question the way he did. That the Biden team during the election, which would be

18 the Biden campaign, did they -- were they engaged with Facebook about certain things

19 that were being said and done or allowed content permitted, what have you --

20 Mr. Clegg. Right.

21 Chairman Jordan. -- was that dynamic happening?

22 Mr. Clegg. So I want to be as precise as I can here. In keeping with every

23 election cycle, we would have made ourselves available to both campaigns. We do that

24 as a routine practice. We say to both campaigns, these are our rules, this is how they

25 work, and this is what we will do if there are violations in our rules. Of course we do

1 that. And we would have done that to both. So there would have been contact, for
2 sure.
3 Your question was a slightly different one. Do I recall specific overtures or
4 requests about content related to Donald Trump's social media output? And I can't
5 recall me receiving that information. But I haven't dug through the records, and I can't
6 speak for people elsewhere in the organization right here and now.
7 Chairman Jordan. Okay.
8 [redacted] Do you -- with the understanding you don't have a specific
9 recollection, do you generally recall, whether it's [redacted] or someone else, raising
10 concerns, passing along concerns that were communicated to him from the Biden
11 campaign?
12 Mr. Clegg. Generically or about --
13 [redacted] So not that you need to say a specific recollection of a specific post,
14 but generally the issue of, was Facebook censoring or taking a strong enough
15 enforcement action against President Trump's posts?
16 Mr. Clegg. I honestly would need to -- if you're asking me now to ventriloquize
17 for other people on my team for communications I was not party to, I'd honestly have
18 to -- I just can't -- I can't -- I can't provide you with accurate answers without checking.
19 [redacted] This wasn't a topic that we -- you had never requested to produce
20 information on in response to the subpoena, and we haven't done the diligence and it's
21 about 3 or 4 years ago at this point.
22 So, you know, he's told you what he recalls. That doesn't mean that there isn't
23 more out there. We said we were in touch with both campaigns, and they could raise
24 issues about content if they wanted to, but we haven't done a search and review like we
25 have on all these other topics. And so I think we're going to need to leave it here for

now.

[redacted] Okay. And just so we're clear on the record, you know, the committee's position might be different than yours on what the subpoena does or doesn't cover, but we'll discuss that in a different forum.

[redacted]. Sure.

[redacted] So this will be, I believe, exhibit 6. This will be exhibit 6.

[Clegg exhibit No. 6.

was marked for identification.]

BY [redacted]

Q It's an email chain -- internal email chain from July of 2021.

A Do I go from the back forward or -- yes.

Okay.

Q For a bit of context, we'd referenced this I think in both previous hours. I'm going to start the questioning on Bates No. 61716. There's an email from you July 22nd at 12:20 a.m.

A Yeah.

Q Also around this time that you had -- I think you had referenced this. The Surgeon General put out on advisory statement on July 15th, 2021. President Biden made a public statement about Facebook killing people, was the day after.

So with that context in mind, first question I want to ask -- it's at the very bottom of Bates No. 61716 -- you say, "By way of context, this is Andy Slavitt's overnight advice."

In July of 2021, was it your understanding that Mr. Slavitt was no longer working at the White House?

A Yes. He'd left.

Q How long after he left the White House did you start communications with

him again?

A I don't know. But as I mentioned in a previous session, I -- I recall I did this publicly, this podcast with him after he left, which I think was, what, the week before maybe?

Q I think our understanding today was -- was July 21st.

A That I did the podcast?

Q Yes.

A Oh, okay.

Q After the --

[redacted] If I could be clear for the record, that's the date it aired. But in the podcast, it --

Mr. Clegg. I think I recall it a few days earlier. But -- but it just -- by way of illustration, clearly, I had contact with him.

And I did so because he was sort of volunteering to provide, as he put it, helpful information to me, given that I'd been in an ongoing discussion with him during his time at the White House, to understand what the White House was after. Because obviously, from my point of view, having the President of the United States say, you know, that we were killing people was a very significant escalation in rhetorical terms of the disagreement that had been obviously rumbling along for quite some months at a sort of private and substantive level.

And so I -- I think what I must have done here -- I assume -- I can't see in these printouts. I assume I must have just literally copy and pasted a text message from those -- those bullet points where he is saying this is -- because ahead of the meeting that [redacted] and I were going to have with the Surgeon General and in view of those events and what the President had said, we -- we -- I think he must have just sort of said, well,

1 this is -- this is how you -- this is what you should expect, which -- which I then relayed to
2 the team.
3 BY [redacted]
4 Q So if you could just walk me through. So this email is from July 22nd.
5 Based on public reporting, looks like Mr. Slavitt stepped down from his White House
6 position in early June.
7 Did communications continue at a constant pace as they were while he was still in
8 the White House or was there a pause at some time where you stopped communicating
9 with Mr. Slavitt?
10 A I honestly can't recall. My pretty strong assumption is that after this point
11 it declined quite sharply, but I'm sure we can try and confirm that. But I -- no, I certainly
12 didn't -- you know, in August -- I don't remember in August, September, October of
13 that -- of 2021 having the same level of communication with Andy Slavitt, no, no.
14 My recollection is it was a sort of -- something we sort of extended after his
15 departure for a while, but not -- but not on a permanent or ongoing basis.
16 Q And your discussions -- and we'll just keep it to June and July of 2021 --
17 A Yeah. Okay.
18 Q -- were they only about the same set of issues you were talking about when
19 he was in the White House?
20 A Yeah. It's the same thing over and over again. Didn't agree with the data
21 we were sharing, didn't agree with our definition of misinformation, and didn't feel we
22 were removing enough content.
23 Q And do you know or did he share with you whether the White House
24 approved for him to serve this intermediary role once he had formally left the White
25 House?

1 A I mean, to be fair, I just took it on face value. It was this is someone who
2 had worked within the White House. I had a lot of interactions with him. We clearly
3 were at a pretty -- you know, at an inflection point because of the public rhetoric around
4 us. And he was volunteering to sort of offer help in trying to understand, you know,
5 what my interlocutors ahead of a meeting with the Surgeon General were thinking.
6 Q And when we were looking at the April 2021 email chain, in one of your
7 responses you referred to Mr. Slavitt as your primary point of contact. Those are my
8 words, but is that accurate?
9 A In April?
10 Q In April. Primary point of contact in the White House.
11 A My primary one, yeah. Yeah.
12 Q Once he's formally left the White House, who became your primary point of
13 contact?
14 A Well, I think what I was seeking to do at the time was try and develop
15 a -- you know, a grownup and responsive relationship with the Surgeon General, who,
16 after all, occupies a formal position in -- in the U.S. administration.
17 Q And were you still having communications with personnel in the White
18 House, so not -- not including Mr. Slavitt?
19 A My recollection is, from then forward, the interactions were sparser, more
20 by email, and generally for me with the Surgeon General and his team. Maybe other
21 couple of advisors who -- who would respond. Whereas, of course, [redacted] and my
22 team would continue to have multiple discussions at other levels.
23 Q Do you recall, in July or late June, any conversations that you were having
24 with Mr. Slavitt that were also with personnel in the White House? Or was it always you
25 would communicate with Mr. Slavitt and Mr. Slavitt would communicate to the White

House?

A Oh, you mean did I have meetings with -- with them together at the same time?

Q That's right.

A No.

Q There's a reference at a couple points throughout the email chain and then including on -- on the top of the page, if you need to -- you need to just reference it. Just based off your understanding, what is black holing?

A Black holing is a very aggressive move where you sort of -- you literally uproot a whole account and any associated content with it. I mean, it's a -- it's a -- it's a sort of very aggressive way of removing the digital footprint of an account.

Q And was that -- in the summer of 2021, was Facebook considering whether to black hole accounts associated with The Disinformation Dozen?

A That's certainly my understanding from this correspondence. I'm 99 percent sure we didn't do it. I remember [redacted] the head of the team, telling me that she felt it would be unwise. And, you know, most of the time -- most of the time I deferred to the recommendations of the team because they're done in good faith. But I think that's what was being considered, yeah.

Q Do you recall why [redacted] thought it might be unwise?

A It's a somewhat disproportionate measure to take. It's a pretty -- it's a very, very -- I mean, it's here. It's a black hole, 28 of those websites. You're black holing whole websites. This is not -- this is not individual posts. This is whole websites that you're -- that's, you know, 500 million pieces of content. That is a lot.

So it's a -- it's a -- I think -- I'm not -- this is not -- I don't want to put words into the mouth of [redacted]. She would have put it more precisely and technically, but I

1 remember thinking it's kind of like a bit like a sort of a sledgehammer to crack a nut.
2 Q Were you surprised in the summer of 2021 of the staying power of
3 this -- issues, the concerns related to The Disinformation Dozen, which still --
4 A I was, and I -- if I'm honest, I was also slightly frustrated with my own side,
5 because I felt we could have moved -- I wish we could have moved earlier to get data with
6 greater precision about the actual reach of these accounts, and I think we eventually got
7 there. What's the phrase? You know, an untruth goes halfway around the world
8 before -- before the truth -- takes boots -- whatever the phrase is. And I think that
9 certainly applies -- applied here.
10 And I -- I remember having discussions with our chief data scientist, [redacted]
11 and others were pressing people to -- and I think -- also, I remember feeling a little
12 exasperated, even when we had produced this new -- actually, meticulously assembled
13 description of the top hundred COVID-related posts that are actually seen by people, but
14 that just didn't seem to -- you know, we were still being asked about 12 individuals.
15 But I should be really open here. You know, the company has also had to learn
16 how to explain itself better, and we had a tool called CrowdTangle we make available to
17 researchers and others, which is a tool that we bought many years ago, but it's a highly
18 partial description of what actually happens on Facebook. It's only -- I think it only
19 includes engagements, and I think it's a subset of engagements and so on. But I
20 remember saying to my team at the time, like, well, it's no wonder we're being accused of
21 X, because they're deriving that from a tool we ourselves put out there.
22 So I -- I do remem- -- you know, to be fair, I do remember also pushing my team
23 to -- to move faster. But I think the final data, when we had it, demonstrated exactly
24 what I'd always suspected all along, which is these -- the idea of these 12 individuals were
25 producing, you know, the vast majority, it just -- just simply not sustained by the facts at

1 all.

2 Q I'd like to call your attention to Bates No. 61717. It's the last page with text

3 on it. And then the last paragraph. So we've got them numbered, so this is the second

4 paragraph of the 3.

5 First, there's a reference in the middle of the paragraph to "VPVs of content."

6 Do you know what VPV stands for?

7 A It's views per -- what does it mean? It's basically how much something is

8 actually seen. What is the -- it's views per version? Sorry. The acronym -- Meta is

9 stuffed full of acronyms, and I sometimes use them. But it's basically -- it's this key

10 issue -- it's this key issue of what actual -- of eyeballs, what human beings see as opposed

11 to just engage with on a subset of content.

12 Q If I can call your attention to the last sentence in that paragraph, you say,

13 "Given the bigger fish we have to fry with the administration -- data flows, et

14 cetera -- that doesn't seem a great place for us to be."

15 What are you referring to by the bigger fish the company has to fry?

16 A Well, I'm clearly referring to the data -- data flows is -- at the time I was

17 spending a huge amount of my time working on a very technical and legal issue but one

18 that was of great significance to us as a company and actually to the whole of the online

19 economy in the U.S., which is there was legal uncertainty because of a complex set of

20 court rulings in the European Union about the legal basis upon which American

21 companies can transfer data across the Atlantic. This wasn't a Meta-specific thing. It

22 wasn't even about us.

23 It affects every bank, every human resources database, every consulting company,

24 every accountancy. It just called into question because, of course, trillions of bits of

25 data were being transferred across the Atlantic every -- every minute. And actually,

1 it's -- I think, I don't know, I need to check. But I had spent a lot of time on that, mostly
2 in -- in Europe.
3 So I think that was clearly something which was uppermost in my mind at the
4 time. And I guess what I'm just saying almost colloquially there is like, look, there are a
5 whole bunch of things going on in the world. My role is global. And so I just -- you
6 know, I want to try and within, of course -- without -- without conceding on the -- on the
7 issues which we've been going back and forth with the White House, try to work out
8 particularly whether we could provide more data that could -- could -- could just get us on
9 sort of more sort of even keel.
10 So I think my recollection was I was just conscious and almost reminding the team,
11 you know, a bunch of other things going on in the world. And I was -- as I have
12 described earlier, I was quite frustrated, I think, by -- by July of that year that we hadn't
13 made enough progress and just trying to agree on a similar set of facts. You know, we
14 just -- we weren't -- so I think I was particularly keen at that point to see if we could do
15 more to provide data that -- that might actually move the debate along.
16 Q So on the data flows issue --
17 A Yeah.
18 Q -- that you've raised in this email, is that an issue that the administration is
19 negotiating on behalf of American companies?
20 A Well, I mean, it was -- it's actually a European issue. It could -- but there
21 was a -- there was a -- a government-to-government negotiation going on between the
22 U.S. administration and the European Union about creating a successor legal framework
23 for the ongoing transfer of data across the Atlantic. I can't even remember which
24 department would have met. I doubt, by the way, anyone I was speaking to in the
25 White House would be even aware of it.

1 It's really me just saying to an internal team, look, a whole bunch of other things I
2 also need to spend some time on. I -- I want to -- I want to just see if we can be more,
3 what I put here, be responsive on -- particularly at that time, on data that might -- that
4 might move us on.
5 Q Do you recall -- well, first, actually, was this issue related to data flows
6 resolved at some point?
7 A Yes, it was. It was, eventually.
8 Q And when was that?
9 A I can't remember. I can't -- I honestly can't remember. It was -- it was an
10 agreement -- sort of a new legal agreement between the European Union and the United
11 States, by the way, in everybody's interest. I mean, it's like -- you know, you suddenly
12 stop data flows across the Atlantic, it's kind of -- it's kind of a massive macro-economic
13 effect in both Europe and America.
14 Clearly, it wasn't a Meta-specific thing. We were not -- we were not -- I mean,
15 we're just part of the online economy, as are millions of other companies on both sides of
16 the Atlantic. Everybody would have been affected.
17 Q And, admittedly, you're one of the bigger fish in this pool?
18 A Yeah. But, I mean, you know, banks transfer huge amounts of data every
19 day, and accountancy firms transfer huge amounts of data. You know, I mean, we're a
20 big social media platform, but there are other very data-intensive -- I mean, medical
21 research communicates huge amount of data every day. It's -- it really affects almost
22 every walk of life these days.
23 Q Is this issue related to the Data Protection Review Court?
24 A Data Protection Review Court?
25 Q Are you familiar?

1 A Not -- I'm familiar with data protection authorities in the EU. I'm not -- not
2 data protection.
3 Is this a European or an American institution you're asking about?
4 Q It's an agreement between the U.S. and the EU.
5 A Oh, whether that -- whether that's the formal title of the agreement?
6 Q Yes.
7 A It might be. I -- I don't remember the formal title.
8 Q Turn back to the data flows. Would that affect the company's -- if an
9 agreement wasn't able to be reached between the U.S. and the -- was it the EU? Was
10 the U.K. involved as well?
11 A Yeah, EU, EU.
12 Q EU. What impact would that have on Meta's profitability?
13 A Oh, I think it would have a huge effect on everybody's -- everybody's bottom
14 line. Anyone who transfers almost any meaningful data these days, which is a lot of
15 companies, would be affected.
16 Q And if an agreement weren't able to be reached, what would the company
17 have to do to comply?
18 A To be honest, I think just like any -- as I say, any bank, any accountancy, any
19 consultancy firm, you know, you're suddenly in a world where data doesn't flow. It's
20 kind of like -- it's a huge issue for anyone in the data economy.
21 Q Would you have to almost balkanize the company in order to --
22 A I actually think it's really quite difficult to imagine how anyone is supposed to
23 operate a global platform of any description, in other words, financial services, whether
24 it's in law, without the freedom of transferring data from one jurisdiction to another,
25 never mind two of the wealthiest economies in the world.

1 Q Your email refers to data flows, et cetera, so --

2 A Yeah.

3 Q -- sounds like you potentially have other examples in mind?

4 A Yeah. I mean, I don't want to -- I don't want to suggest you're

5 overinterpreting a sort of almost throwaway remark. I'm just making what is a pretty, I

6 think, plain vanilla observation, which is there are other things around the world, other

7 issues that I'm dealing with. I was getting frustrated, as we discussed earlier, that even

8 though we provided more data to the administration, we kept getting slightly stuck in

9 this --

10 Chairman Jordan. Was talk and concerns about changing Section 230 part of

11 that bigger fish we have to fry with the Biden administration? Was that something that

12 was in your portfolio or things you were thinking about?

13 Mr. Clegg. No. I don't think it was uppermost in my mind. I mean, I'm

14 conscious of the fact that, of course, public pronouncements had been made by people

15 from all means of political opinion in the U.S. about whether Section 230 should

16 be -- well, in fact, it has been amended over the years. And, in fact, I've advocated,

17 Meta's advocated for further changes to Section 230. But I -- certainly wasn't something

18 I was focused on at the time.

19 BY [redacted]

20 Q And you mentioned that there were probably pronouncements around this

21 time, summer of 2021?

22 A Yeah. Yeah.

23 Q How seriously was Meta taking the possibility that the Federal Government

24 may look at reforming Section 230?

25 A At that time, I -- I -- honestly, I -- this sort of debate about Section 230 had

1 been rumbling on in lots of different forms for so long. I mean, even this week I saw the
2 Supreme Court was mulling on it a bit in the context of a -- looking at the Florida and
3 Texas laws.
4 I -- honestly, I can't remember whether there was anything specific that week.
5 It's been a running theme for really quite some time, as I say, from lots of different angles,
6 lots of different viewpoints, and from both right and left in politics as well.
7 So I don't recall having sort of Section 230 ringing in my ears then, but I would
8 need to go back and understand what I was doing at the time. Whereas, clearly data
9 flows, otherwise, I wouldn't have mentioned it. It wasn't something uppermost in my
10 mind.
11 Q Do you know who [redacted] is?
12 A Yes.
13 Q She was confirmed in June of 2021. Do you recall any conversations that
14 the frustrations between the White House and Meta on content moderation related to
15 disputes, whether there was any risk of how the FTC may treat Meta?
16 A I mean, it was just a matter of public record what [redacted] own views
17 were and remain about large American tech companies. So it's hardly a state secret.
18 Sorry. What was the specific question?
19 Q So in terms of -- I guess, bringing it back to the email here -- you're referring
20 about other issues -- and, again --
21 A Yeah.
22 Q -- fish to fry is a --
23 A Yeah.
24 Q -- you know, just kind of --
25 A Yeah.

Q -- a metaphor there. But it's specific here. With the administration, would that include issues related to antitrust reform?

A Well, I need to look at the chronology. I mean, the FTC has taken an antitrust case against Meta. And I think they'd done so by then, hadn't they? Hadn't they? I can't -- I need to recall. I mean, that kind of -- that's the FTC. That's the FTC taking its -- something we contest vigorously.

I remain of the view now as I did then that kind of undoing deals that we'd done many years ago, blessed at the time by the FTC of acquiring Instagram and WhatsApp, slightly odd for us to now be told we have to do it all over when the same institution actually blessed that. But that's parenthetical to your line of questioning.

[redacted]. [redacted] if you're asking if there were threats, like, if you don't do what we want on content moderation, we're going to sick [redacted] on you or we're going to go after 230 or -- we haven't seen any documents that reflect that.

And, Nick, maybe you could answer just the subsequent question.

Mr. Clegg. That is the question. It's not quite -- no, we were not -- we were not -- we were never sort of threatened with any -- if you don't do this on the Leonardo DiCaprio content, we're going to set X person on you or Y regulator on you.

I mean, with respect, I -- I wouldn't overburden this sentence with too much sort of forensic examination. It's kind of me saying, look, there's other things going on, data flows, for very good reasons, was uppermost in my mind, as it was with lots of people in the business community at the time. I was exasperated that we were, in July, after months and months and months and months of having the same discussions around data and around this information, around removal, that we hadn't made more progress.

I do remember at the time -- well, there's probably a third to this -- wanting to provide more data where we could do that.

1 Chairman Jordan. But you can understand the premise of the question.

2 Mr. Clegg. Yeah. Yeah, of course.

3 Chairman Jordan. In your language, Mr. Clegg, there are other things going on

4 that are important to Meta, and you're dealing with an administration who, I think you

5 testified the first hour, has been contacting you all the time about taking down certain

6 content, sometimes using profanity in those requests. And you know that the same

7 administration can have an impact on Section 230, notwithstanding the fact that it's been

8 talked about for years, and antitrust legislation, as -- and antitrust actions as well.

9 And so we're just asking --

10 Mr. Clegg. Yeah.

11 Chairman Jordan. -- was that something that is in the back of your mind when

12 you're saying, well, you know, we got to deal with that too with this administration?

13 Here they are every other day --

14 Mr. Clegg. Sure.

15 Chairman Jordan. -- wanting us to take down content.

16 Mr. Clegg. I think I understand the intent of the question. The answer is, on

17 the specifics, no. I did not think that there was a -- there was a connection between this

18 ongoing disagreement we had with the White House on COVID content and the FTC

19 antitrust action.

20 More generically, however, it's my job to try and navigate the relationship

21 between Meta and governments around the world. And as I try and do that, I try

22 whenever I can, consistent with our policies and principles, to be responsive. And that's

23 kind of what I was saying here, I think.

24 BY [redacted]

25 Q There was mention the previous hour of an email from the White House to

1 [redacted] about where the White House says, internally, we're considering all our
2 options.
3 Independent of whether it's tied specific to that email chain, in the spring or
4 summer -- spring and summer of 2021, were you part of any discussions internally at the
5 company about what options the White House could take?
6 A Related to this?
7 Q Yes.
8 A No. I think we took each issue on their merits. So I had a separate team
9 dealing, for instance, with the ongoing issue of data flows, which are -- you know, all of
10 them report up to me, but it was a separate team dealing with that issue with completely
11 different people in the administration, in a different department, different -- sort of
12 administrative jungle, if I can put it like that.
13 So I -- I don't -- I don't recall us sort of trying to impose connections between
14 those things. They were -- they were just there as part of the complexity of being a
15 global platform with 4 billion people on it and a bunch of different issues having to deal
16 with at the same time.
17 This, however, was just -- it was just a stubborn level of disagreement. So I just
18 think that sentence just reflects, yeah, a level of exasperation on my part.
19 Q So it's a stubborn level of disagreement. But it had escalated to the point
20 where the President himself was making remarks related to this issue.
21 A Yes, he did. And then he clarified those remarks later and sort of -- which
22 was helpful to us, because in their original form, they were -- it was a pretty striking thing
23 to say about a company. And -- I mean, thankfully, he clarified that.
24 And then, of course, I think the point of this correspondence here, I was then
25 seeking to have a discussion with the Surgeon General to try and -- to try and do what I

1 was doing all along, which was -- this is difficult stuff. Reasonable people can reasonably
2 disagree, and I was just trying to kind of navigate that interaction, trying to resolve, where
3 we could, those disagreements, while remaining consistent with our own policies.
4 Q So I appreciate there are different teams working on --
5 A Yeah.
6 Q -- different issues. There's a team to work on data flows --
7 A Yeah.
8 Q -- different teams working on content moderation. But in each case, these
9 different issues we're discussing all interact with the same administration. Is that right?
10 A Well, yes. In the end, of course, yeah. All part of the same
11 administration.
12 Q And then as far as your statement that, you know, we have bigger fish to fry,
13 is that -- is it accurate to say that the issue of data flows affected the company's
14 profitability, potentially, to a greater extent than issues related to content moderation?
15 A I think it's just a sort of statement of engineering fact that in a data
16 economy, if you stop the flow of data, can't have -- eventually, if a car -- you know, petrol
17 car or gas car doesn't work without gas in the engine. It's just kind of that's how
18 data -- and it's -- it's -- and it really -- I cannot stress enough that this is not a
19 Meta-specific thing.
20 I mean, I can barely now think of any part of the economy which wouldn't have
21 been affected by a collapse in the existing legal arrangements between the two -- the two
22 world's largest economies, Europe and -- and America. So it was just a sort of generic
23 thing, which I think slightly confirms what I've been seeking to try and explain all along,
24 that this is a sort of generic -- it's sort of generic exasperation, a bunch of other big things
25 going on. I want us to try and, where we can, be responsive to their concerns,

1 particularly on data stuff.

2 [redacted]. It stands for viewpoint views; not that that's helpful.

3 [redacted] Viewpoint?

4 [redacted]. Viewpoint views. No idea why that's --

5 [redacted]. That's actually how much it's seen.

6 BY [redacted]

7 Q One more question on this, and we'll have another exhibit for you.

8 A Yeah.

9 Q In your conversations with Mr. Slavitt in the spring and summer before

10 President Biden makes that statement --

11 A Uh-huh.

12 Q -- had he communicated to you in any way that what -- his conversations

13 with you were getting reported up directly to the President himself?

14 A I'm pretty sure he said to me or emailed to me words the effect of kind of

15 everybody to the top of the bottom or the White House team is -- I don't -- I don't ever

16 remember him saying, "I've had a conversation with the President." But I certainly

17 remember sort of him saying, at least the way I recall it, words the effect of, you know,

18 we're all -- everybody here is now just this -- it was definitely sometimes communicated

19 to me that there were far wider discussions going on, including people below and above

20 him in the White House hierarchy.

21 So that I remember. Sort of generic -- a generic sort of statement of kind of

22 everybody up and down the chain. But, no, I don't remember him saying, "I've had a

23 conversation with the President." No, no.

24 Q I'm going to introduce exhibit 7 here. This is an internal Facebook email

25 from September 2020.

1 [Clegg exhibit No. 7.

2 was marked for identification.]

3 Mr. Clegg. Do I start from the back again? Probably, right?

4 [redacted] Yes.

5 [redacted]. [redacted] we've got 10 more minutes in this round. My question in my

6 mind is -- I want to be respectful of your time. Can we get through what you need?

7 Chairman Jordan. I think so. Yeah.

8 [redacted]. Okay. Thank you.

9 Mr. Clegg. Just give me -- sorry. I'm just on page 2.

10 [redacted]. We're happy to go a few minutes longer. As long as you catch your

11 plane and --

12 [redacted] That'd be great. Thank you.

13 Mr. Clegg. Okay.

14 BY [redacted]

15 Q I want to call your attention to the bottom of 61910, the paragraph starting

16 "Threat Assessment." And an individual from Facebook writes in an email addressed to

17 you and many others from Facebook, "We have received" -- "We have recently received

18 indications from USG, the U.S. Government partners, that they believe there is a risk of a

19 hack/leak operation conducted by Russian actors, likely involving real or manufactured

20 evidence concerning links between the Biden family and Ukraine, including the oil

21 company Burisma."

22 Do you know which U.S. Government partners this Facebook employee is referring

23 to?

24 A I wouldn't be involved in the specific discussions. But, of course, since

25 2016, we have been warned by multiple sources, including elected officials from both

1 Republicans and Democrats, about the ongoing threat, given the view of what happened
2 in 2016 of Russian interference in U.S. elections.
3 And post-2016, there have been, that is my understanding through members of
4 my team who worked on this full time, an actual sort of structured dialogue across the
5 industry with the FBI and others to receive relevant -- of course, the -- certain [inaudible]
6 being reporting earlier in the year, do you remember, of a Russian hack of Burisma. And
7 there'd been a Russian -- and there'd be Russian hacks of -- of President Macron, I think it
8 was, in 2017.
9 So it was a -- there was a sort of cross-party and consistent concern expressed for,
10 not just months, but years, leading up to this point about the risk of foreign organized
11 hack-and-leak operations, and with a particular focus on Burisma, which had been
12 reported to have been subject to a Russian attack.
13 So if you ask me exactly who said what to whom in the -- it would be -- would be
14 part of that process. It would be part -- and I see later on in the email chain there's a
15 reference to a -- a standing -- some kind of forum which brought together the FBI
16 with -- with people from the different tech platforms, which I'm assuming was the kind of
17 forum which had been established post-2016.

1 [1:14 p.m.]

2 BY [redacted]

3 Q Do you recall -- so this is in September of 2020.

4 A Yeah.

5 Q Was this the first type of briefing you had received on the risk of a potential

6 Russian hack-and-leak related to the U.S. 2020 election?

7 A Well, I think this is not a briefing; this is -- I think this is a -- I think this is

8 actually a sort of comms doc- -- I don't know. I'm afraid I don't know who [redacted] is.

9 But I think it's -- this is as much as -- it's an FYI to lots of people in the company.

10 I mean, as I say, there had been consistent and repeated and public and private

11 warnings from all wings of political opinion, from intelligence committees in buildings like

12 this, that we needed to be on the alert for Russian hack-and-leak attempts, particularly in

13 view of 2016.

14 I mean, I cannot stress this enough. We sometimes forget context. The whole

15 of the country was rocked by Russian interference and the threat of it, and we were put

16 under immense, quite rightly, expectation, from all wings of political opinion, as a

17 company, to make sure that we were more alert to these than we were in 2016. So

18 that's the really important context to remember here.

19 And we set up a whole bunch of teams, experts on disinformation, experts on

20 foreign interference. And this, I think, was the product of that work.

21 I remember -- I do remember, around this time, and in view of the public reporting

22 about the Russian hacking of Burisma, that we made an amendment to -- or my teams

23 made an amendment to these specific terms of what we call our "hack-and-leak" policies.

24 Yeah.

25 Q You've mentioned that --

1 A So it wouldn't have been the first time that we, sort of -- no.

2 Q You were referring to, like, the immense expectations following --

3 A Yeah.

4 Q -- what happened in the 2016 election.

5 In the U.S. context -- and I understand you've worked throughout countries

6 around the world -- in the U.S. context, which side of the political aisle --

7 A Both.

8 Q -- were those expectations coming from --

9 A Both.

10 Q -- more strongly?

11 A Both. Both. If you look at all the public statements after 2016, we were

12 being prevailed upon to do more from all wings of political opinion.

13 Q So were one of the things that -- the expectations and order to do more,

14 would that include, to use the language here from the email, create an "inoculating

15 announcement about hack-and-leak"?

16 A Sorry. Where are you referring to?

17 Q Sorry. I'm reading from the top of page 61911.

18 Chairman Jordan. Let me just ask a different question, and then I want to come

19 to that point.

20 So has it ever been this specific? The government tells Facebook, there's a

21 specific type of operation gonna happen, with potentially manufactured evidence, and it's

22 going to involve a specific family, an important family in our country, the Biden family,

23 and the timing is uncertain but could happen as early as the next week? Have you ever

24 gotten something that specific?

25 Mr. Clegg. I mean, I just read this in good faith. This is clearly what the team

had received --

Chairman Jordan. Yeah.

Mr. Clegg. -- as a warning. It didn't surprise me at all, given the background that I described. It's gone back for years. It didn't surprise me at all that Burisma was involved because there'd been reports earlier of Russia hacking of Burisma.

Chairman Jordan. Uh-huh.

Mr. Clegg. And the dilemma we faced, as this says, you know, is how to respond to content which could be real or could be fake, could be manufactured.

So I don't think anyone would've been particularly surprised to have read this.

Chairman Jordan. Okay.

And then to [redacted] question, this, "While this assessment is still uncertain, an inoculating announcement about" some potential --

Mr. Clegg. Hmm.

Chairman Jordan. -- some hypothetical, it looks like to me, had been recommended by the government. Had that ever happened before?

Mr. Clegg. We had started to disable a number of Russian, Chinese, and Iranian networks, disinformation networks, between 2016 and this date. So that certainly had happened before.

Chairman Jordan. I'm not asking that. I'm asking --

Mr. Clegg. Uh-huh?

Chairman Jordan. -- had you ever -- had the government, in these meetings with Facebook that we know happened periodically in the run-up to the election, had the government ever suggested that there be an inoculating announcement about something that might happen?

Mr. Clegg. So I read this differently. I read this as, I think, a comms person

1 saying that acting on these three networks -- one, two, three -- the second of which I
2 think is particularly relevant, because it seems to be one which had the greatest presence
3 in the United States amongst those five Facebook accounts and so on and seems to be
4 linked, if loosely, to the Russian Internet Research Agency, which would be the entity to
5 interfere in 2016 -- I think the inoculating effect that is referred to here is inoculating in
6 the following sense: that, by showing that we were taking this action now, we were
7 alerting any adversaries who might try and interfere with the subsequent election that we
8 were prepared for that outcome and that we were ready to act.
9 Chairman Jordan. Well, with all due respect, I don't think that's what it says. It
10 says, an inoculating announcement about the hack-and-leak now will mitigate the impact
11 of such a leak.
12 Mr. Clegg. Yes, I think -- so I think one of the things the experts told me at the
13 time, but you might want to check, is that one of the effects of disinformation is how
14 quickly it gets amplified by the mainstream press. And I think it's one of the orthodoxies
15 in how people deal with misinformation, to make sure that false and manufactured
16 information is not mistakenly spread and amplified by the existing media. I think that's
17 what it meant by the inoculating effect.
18 I do -- I certainly remember at the time that there was a lot of internal emphasis
19 placed by the experts who work on this in my team that we needed to -- or, they needed
20 to educate U.S. journalists to be skeptical about what they see and not just repeat it
21 uncritically. I think that's what the inoculating effect is that is being referred to here.
22 Chairman Jordan. No, I think it says -- yeah -- inoculates before the leak
23 happens. It says in the very next paragraph, under "Comms Plan," a hack-and-leak is to
24 inoculate the audience before the leak actually happens.
25 And, of course, the context here is, we know that this took place with the New

1 York Post story. We know how then that was -- that content was censored on
2 platforms. And the New York Post story was actually, you know, true.
3 Mr. Clegg. Yeah, that came later, of course. And I'm very happy to answer
4 questions about that. But you're right to -- you're right to emphasize the context. And
5 the context was Russian interference in the U.S. election; widespread, bipartisan concern
6 about the integrity of U.S. elections and the attempts by nefarious players to interfere;
7 and a concerted attempt to learn the lessons of 2016.
8 And I think this is the point of the -- I mean, if you look at that paragraph, it's
9 about ensuring that this announcement of these networks could assist in informing
10 particularly the press and journalists about the likelihood of these hack-and-leak
11 operations and how they shouldn't, you know, need to be assumed they're true.
12 That is, by the way -- I'm not now seeking to make claims about what
13 subsequently happened and the actions we took, all of which I'm of course available to
14 discuss. But right now, in -- "now," sorry -- in September 2021, that's exactly the
15 context, the background, and the intention of that so-called "inoculating announcement."
16 BY [redacted]
17 Q So the "audience," as it's referred to in this email, is referring specifically to
18 the press and media?
19 A That was my recollection, that the experts in my team who worked on this,
20 that one of their concerns was -- and I assume this was a concern shared across the
21 industry and by people who follow these things -- is that you get -- particularly if you get
22 foreign interference releasing hacked and leaked information, that that then instantly
23 assumes a sort of credibility in its own, because it gets uncritically reported.
24 And I think that's what the teams were seeking -- amongst other things. I don't
25 know if there was actually action taken on these three networks, but I think that was the

1 point of this email, that's what they were trying to communicate to reporters and the
2 press.
3 But the subsequent events, of course, hadn't taken place in September --
4 [Crosstalk.]
5 Chairman Jordan. -- in the government, Facebook engaged in an inoculating
6 announcement to other folks in the press about the idea that there was going to be a
7 hack-and-leak operation that involved the Biden family in the run-up to the Presidential
8 race. That's the action Facebook took at the urging of the government.
9 Mr. Clegg. Well, the action the company actually took was the networks -- was
10 identifying and disabling these networks. And, by the way, not just doing it -- I mean,
11 almost always, these networks -- I would need to check -- are then down across different
12 platforms, as well, because we work with other platforms. And --
13 Chairman Jordan. Facebook took it -- Facebook did an inoculating
14 announcement about a hack-and-leak operation to the press that would potentially
15 involve violence (ph).
16 Mr. Clegg. So I think, if I may, we should link but not conflate two things.
17 This announcement was about disabling three Russian-based networks, as
18 described here, and doing so in the context of consistent concerns emanating from the
19 events of 2016 to ensure that we were playing our role in defending U.S. democracy from
20 further Russian interference; and in the light of information that clearly my teams had
21 received that the Russian hack of Burisma, which had been publicly reported in
22 January 2020, might be the subject of a hack-and-leak operation going forward.
23 I mean, they are linked but separable factors here.
24 BY [redacted]
25 Q But is it notable that the person from Facebook who's drafting this email

1 mentions the risk of Burisma when that is not directly related to the networks that are
2 being taken down in this specific instance?
3 A Yeah, I mean, I'm only going to slightly repeat what they write here
4 themselves.
5 Given the fact that one of the networks that were being disrupted here was
6 precisely the network that had sought to interfere with the U.S. election in 2016, and
7 given that it was already public knowledge that the Russians [inaudible] I think it was
8 Macron's in 2017, that they hacked the Burisma data in, I think it was, early 2020, I have
9 to say, it doesn't surprise me at all that the teams say, "These are the networks we're
10 disrupting. We're also being told to look out for, you know, in those sort of general
11 terms, foreign-orchestrated hack-and-leak operations relating to Burisma. This
12 announcement, if that materializes, will help people to look at any material skeptically
13 before jumping to conclusions."
14 I think what you're asking is, then, what decisions we took subsequently, all of
15 which we should debate. But in September 2021, that was the mind- --
16 [redacted]. 2020.
17 Mr. Clegg. Sorry. 2020. Forgive me. 2020. Absolutely.
18 That was the not-unreasonable work of a number of teams who, as I say, had
19 been put under an immense, sort of, set of expectations from all quarters to make sure
20 that 2020 was not a repeat of 2016.
21 Chairman Jordan. We'll get into that, I'm sure, in the subsequent hour.
22 [redacted] We can go off the record, please.
23 Chairman Jordan. Thank you.
24 [Recess.]
25 [redacted] All right. We are back on the record.

1 And, Mr. Clegg, I have a quick question to ask you about the exhibit you were just
2 looking at, exhibit No. 7, before the break.
3 [redacted]. Can you give us that exhibit again?
4 Mr. Clegg. Thank you very much.
5 BY [redacted]
6 Q So the question I have to ask is: During the previous hour, in his questions,
7 Chairman Jordan I believe twice stated that the inoculating announcement that Facebook
8 planned to make was made at the request of the U.S. Government, that the government
9 requested that Facebook make that announcement. But that's not what these emails
10 reflect, correct?
11 A No. This is an announcement about three Russian networks, and then the
12 correspondence talks about the inoculating effect that announcements like this might
13 have on how people then respond to any subsequent news of hack-and-leak operations.
14 Q And as reflected in this email, the information that was received from the
15 U.S. Government partners was the information that allowed Facebook to identify these
16 three Russian networks, correct? And about the list of the hack-and-leak operations?
17 A Yes. I can't tell you which of the three networks, or whether it was all
18 three, flowed from tips from the U.S. Government, but, as this correspondence suggests,
19 Meta received tips from the government on some of this activity.
20 Q And that is the only reference to the government here. The inoculating
21 message is completely of Facebook's own doing.
22 A Yes. The description of the effect of this kind of news on the news and
23 media perception of the risk of hack-and-leak operations is something that was
24 clearly -- it was clearly described here by the Meta team.
25 Q Okay. Thank you very much.

1 I want to go back to some of the COVID topics that we talked about earlier. And
2 I want to start with the announcement -- well, first, I want to ask you: In the very first
3 exhibit -- I'm not going to ask you specifically about it, but do you recall that there were
4 some emails also about a Tucker Carlson post?
5 A Yes.
6 Q That you had to explain why Meta found it was not violative?
7 A Yes.
8 Q And your recollection is, despite the White House taking issue with that post,
9 Meta did not remove that post from its platform?
10 A No. It was labeled and demoted, but not removed.
11 Q And when content is demoted, people still have access to it?
12 A Yes, but it partly depends on the level of demotion. There are
13 different -- there are various levels of demotion. But, given, you know, that we're a
14 platform that operates at very significant scale, even if something is demoted, it can still
15 be seen by many people.
16 Q And it can still be shared?
17 A Of course.
18 Q And that was the case with this Tucker Carlson post?
19 A Yes.
20 Q And in the previous hour, you discussed a little bit about the impact of
21 President Biden's statement that Facebook was fooling people.
22 When the President -- or, after the President made that statement, Meta chose to
23 issue a response, correct?
24 A Yes.
25 Q And, for example, one element of that response was publishing an article

1 called "Moving Past the Finger Pointing." Does that sound familiar?

2 A I can't remember that, but if --

3 Q Okay. Fair enough.

4 A -- that's what the record shows. I can't remember that, but yeah.

5 Q And I believe we're on exhibit 8.

6 [Clegg exhibit No. 8.

7 was marked for identification.]

8 BY [redacted]

9 Q Okay. So this is an article entitled "Moving Past the Finger Pointing," dated

10 July 17, 2021. Is that correct?

11 A Yes.

12 Q And the very first line of the article says, "At a time when COVID-19 cases are

13 rising in America, the Biden administration has chosen to blame a handful of American

14 social media companies." Correct?

15 A Yes.

16 Q And the last line of that paragraph says, "These and other facts tell a very

17 different story to the one promoted by the administration in recent days."

18 A Yes.

19 Q And this was just one aspect of Facebook's attempt to challenge the

20 President's comments?

21 A Yes.

22 Q Okay. And in addition to this article, you also personally reached out to

23 Surgeon General [redacted]. Do you recall doing that?

24 A Yes.

25 Q Okay. And one of the exhibits we saw earlier -- I don't recall which one,

1 but -- you mentioned using -- you planned to use a sharper tone with him.

2 A With?

3 Q With the Surgeon General.

4 A It --

5 Q Someone suggested in it.

6 A Right.

7 Q And you wanted to use that sharp tone to convey Facebook/Meta's

8 frustration with the administration's comments.

9 A Yes.

10 Q And do you recall telling [redacted] that you thought -- and this is a

11 quote -- "I thought the way we were singled out was" --

12 [redacted]. I'm sorry. What are you quoting from?

13 [redacted] His email to [redacted].

14 [redacted]. Can you give us the document?

15 [redacted] Sure.

16 [redacted]. What exhibit number is this?

17 [redacted] We're are at 8 -- 9.

18 [redacted]. Oh, this will be --

19 [redacted] We're at 9.

20 [redacted]. Okay.

21 [Clegg exhibit No. 9.

22 was marked for identification.]

23 Mr. Clegg. So this is the day before -- I see. Yeah.

24 BY [redacted]

25 Q So, then, on the second page, or the back page, at the end of that large

1 paragraph, you told [redacted], "I thought the way we were singled out over the past few
2 days has been both surprising and misleading, and I believe unproductive to our joint
3 efforts too." Correct?
4 A Correct.
5 Q And you felt comfortable making those statements without fear of any
6 action being taken against Meta?
7 A I didn't even think about it in those terms. I was just exasperated by what
8 had been said about our company, and I wanted to defend ourselves, really.
9 Q And you did defend yourself.
10 A Huh.
11 Q And the government did not take any adverse action against Meta in
12 response to that defense?
13 A No. We just continued to have the back-and-forth about COVID
14 misinformation.
15 Q And President Biden walked back his remarks a little bit at some point in the
16 days after he made them.
17 A Yes, he did, which was welcome to us. Of course it was.
18 Q Yeah.
19 And you are aware that, recently, at some point in the past 2 months, when Mr.
20 Zuckerberg was testifying before the Senate, Senator Graham made similar comments,
21 that Facebook was killing people, in a different context --
22 A Yes. "Blood on your hands."
23 [redacted]. I think he said "blood on your hands."
24 Mr. Clegg. Yes. "On your hands," yeah.
25 BY [redacted]

1 Q I believe he said "blood on your hands" and then "you're killing people."
2 A Okay.
3 Q And in that same hearing, he also discussed repealing sections of 230?
4 A If you tell me, yes, I'm sure that might have happened.
5 Q Going back to your relationship with [redacted], which you described as
6 something that you were trying to cultivate --
7 A Yeah.
8 Q -- in the wake of this summer-of-2021 --
9 A Yeah.
10 Q -- tension, you ultimately did have a conversation with him -- I imagine you
11 had many conversations with him -- about --
12 A Well, not many. But, yes, I think I clearly did subsequent to this. Yeah.
13 Q And your team continued to reach out to the Surgeon General's Office as
14 well?
15 A Yes.
16 Q And there were instances when your team would reach out and try to set up
17 meetings between you and the Surgeon General.
18 A Yes.
19 Q And as well as others at Meta, like [redacted]?
20 A Okay. I don't --
21 Q Are you not aware of that?
22 A I'm not aware of that, but wouldn't be surprised. Yeah, yeah.
23 Q And you are aware that your team reached out multiple times to try to set
24 up a meeting between you and [redacted] on an occasion when you were going to
25 happen to be in Washington?

1 A Okay. If you tell me, I -- yeah.

2 Q So this wasn't the kind of acrimonious situation where you just stopped

3 talking?

4 A Oh, sorry, if that's what you mean with the questions.

5 Q Yeah.

6 A No. I mean, I was trying to strike the following balance, which was being

7 pretty candid, if not blunt, about where we disagreed, but not petulant and not, sort

8 of -- you know, I wanted us to have an adult, if candid, you know, ability to communicate

9 with each other. I mean, he was the Surgeon General of the government of the day, and

10 there was a pandemic going on.

11 So I was keen, once we heard the Senate set out our stall in response to the

12 President's remarks, and most especially after his clarifications, I was just keen to get back

13 to work and get back to doing the work, notwithstanding obviously the differences of

14 opinion which might underpin that. But, you know, my motive was just to do the work,

15 do the substance.

16 But at the same time I felt, as I think many of us did at the time, that, you know,

17 by this time, you know, July, it had been a year and a half that we'd been working on this,

18 and we felt we'd done so pretty diligently, so, yeah, we were -- I'm not going to hide the

19 fact, we were keen to also stand up for ourselves and explain ourselves.

20 Q And were you able to ultimately develop that type of relationship that you

21 wanted with [redacted]?

22 A Yeah. I mean, I don't -- I didn't have that many interactions with him.

23 And I think by the latter half of 2021, the pandemic evolved into a slightly different -- you

24 know, into a slightly different phase, really. So I don't recall interacting with him with

25 the regularity that I, for instance, interacted with Andy Slavitt for a short period of time

1 earlier in the year. But, equally, I didn't feel that I couldn't get through to him and vice
2 versa if needed, and certainly not with his team.
3 Q Thank you.
4 And with respect to Mr. Slavitt, your discussions with him after he left the White
5 House, you chose to have those interactions, correct?
6 A Well, I chose to enter into -- you know, to participate in them, yes.
7 Q And it was to get some insight into what might be helpful for you in terms of
8 sending over your communications --
9 A So my recollection was -- forgive me. Did I interrupt?
10 Q No, you did not.
11 A My recollection was that Andy Slavitt was sort of volunteering to act as
12 a -- not exactly as a go-between, but, sort of, to provide his views and guidance, having
13 just worked there, on what the expectations and assumptions were from the White
14 House at the time.
15 My job is often to try and understand what the other people on the other side of
16 the table are thinking. So I was obviously receptive to his input, even though he wasn't
17 working at the White House at that time.
18 Q And you had that kind of relationship where --
19 A For a --
20 Q -- you felt a reason to offer that?
21 A For a period, yeah. I mean, you know, I went on his podcast, after all, so --
22 Q And one of the -- a question I have for you is, the disagreements that you
23 mentioned about the data --
24 A Yeah.
25 Q -- was that a disagreement or a miscommunication or a misunderstanding

1 about the difference between engagement on a certain post versus views of a certain
2 post?
3 A I think, in part, yes.
4 Q Okay.
5 A I think that's part of it.
6 Q Can you explain what that difference means?
7 A Yes.
8 So "views" means, slightly, you know, as the word suggests, what content most
9 human beings are seeing, are viewing.
10 "Engagement" measures a very significant subset of that, which is a
11 subset -- actually, it's a subset of a subset, because I think in CrowdTangle -- I need to
12 check this, but I think it actually only measures links in pages rather than other links.
13 But it's basically engage- -- it's where you share or comment on a piece of content. So
14 you're just taking a, sort of, cake slice within a cake slice, rather than looking at the
15 overall cake of what people are actually seeing, what eyeballs are seeing as they are
16 scrolling on their news feed.
17 So, yes, it is -- it's part of it. It's part of it.
18 But the other part of it, which was bound up in this reliance, and this repeated
19 reliance, on this outside circle of research about the so-called Disinformation Dozen, was
20 making all sorts of assumptions about content which is completely off Facebook. So we
21 ended up, I remember, doing analysis of not only what we saw on our services but also,
22 kind of, on the internet generally of these 12 entities.
23 And as we sought to explain over and over again, we can only see what we see on
24 our platforms, and we certainly can only be held answerable for what goes on on our
25 platforms, not what goes on on the internet more generally.

1 So I think there was several levels of -- but, you know, I have to
2 acknowledge -- and I did it before, and I'll do it again -- I think the fact that the company
3 made this particular tool, CrowdTangle, available to non-experts -- I'm not a data analyst;
4 most people aren't, and certainly most people who use CrowdTangle aren't -- I think it's
5 fair to say that, you know, it didn't help necessarily clarify things, because that itself is a
6 tool that only actually shows a subset of a subset of the content.
7 But that's why we worked so hard to produce this top 100 thing; that's why we
8 relied so much on VPVs, an acronym which was explained earlier.
9 And I -- yes, and I do remember being quite -- sort of pressing my teams to try and
10 clarify all those things perhaps more rapidly than we did.
11 Q And, to be fair, you couldn't have predicted, when you first started using
12 CrowdTangle, the ways in which those distinctions might --
13 A No --
14 Q -- might become a problem in the future --
15 A Yeah. And --
16 Q -- in terms of content views.
17 A -- for what it's worth, which historically is naught, but we've actually
18 significantly remedied that now by introducing much, much more comprehensive tools
19 for researchers and other vetted entities to have a much, much more statistically
20 complete picture of what's going on on Facebook.
21 So we've developed bunches of research APIs now, which partly flowed from this
22 and partly, I think, flowed from my, sort of, view that we needed to have a much more
23 consistent baseline of data to share with people external to the company so that we
24 could have a more reasoned debate about what's actually going on on the platform.
25 Q Okay. And that is helpful. Thank you.

1 You were asked during the previous hour about whether the Biden administration
2 threatened or made mention to reform of Section 230 in connection with your
3 discussions about content moderation.
4 I just want to clarify, you yourself have publicly called for regulation of Section
5 230, correct?
6 A Yes.
7 Q You have written an op-ed --
8 A Yes.
9 Q -- on CNBC and said --
10 A Yes. Oh, it was? Okay.
11 Q I believe that's right.
12 A You can tell me, yeah.
13 Q But you recall that you --
14 A Yes.
15 Q -- wrote a very public article?
16 A Yeah.
17 Q This is not a partisan issue.
18 A No, no. As I said earlier, there's been ongoing debate about Section 230 for
19 a very long time.
20 Q And you were also asked about the FTC --
21 A Uh-huh.
22 Q -- and you had mentioned that you didn't know, you weren't exactly sure,
23 when the FTC took action against Facebook.
24 I did want to clarify for the record that the FTC suit against Facebook in the District
25 of Columbia was filed on December 9th of 2020. And that would have been during the

1 administration of Donald Trump, correct?

2 A Yeah.

3 Q In the waning days.

4 Oh, and I do want to clarify one thing about the Tucker Carlson demotion that we

5 asked you about earlier.

6 A Uh-huh.

7 Q That demotion was not taken in response to the White House's request,

8 correct?

9 A No. It was taken in accordance with our -- with the way we treated that

10 kind of content. Yeah.

11 Q It was demoted because the analyst on your team determined that the post

12 merited -- or fact checkers determined that it --

13 A I think --

14 Q -- deserved some sort of --

15 A My recollection, not least because we spent quite a while looking at this,

16 was, actually, there was two policies that were almost chronologically brought to bear.

17 First, we had these automated systems which look for possible, sort of, telltale

18 signs that a piece of content may require fact-checking, and then for a temporary period

19 of time, 7 days, that content is enqueued.

20 And then subsequent to that, there was a policy which was developed during the

21 pandemic about -- I think it was called something like "barriers-to-vaccination

22 content" -- content which wasn't, sort of, egregiously violating, certainly didn't merit

23 being removed, but was of sufficient, kind of, impact that it could be reasonably

24 described as constituting a real barrier to enhancing confidence in vaccines. And that

25 also then led to an ongoing demotion of that particular piece of content.

1 Q So I'm going to move on to the issue of foreign influence and Meta's
2 hack-and-leak policy that came up during the previous hour.
3 You mentioned that these types of concerns had been prevalent at Meta since at
4 least the 2016 election, correct?
5 A Yeah.
6 Q And can you explain -- and I know that this is only a portion of what you deal
7 with at Meta; your portfolio is very large, but -- just in broad terms, how foreign
8 governments, such as Russia and China, use your platforms to interfere in elections and
9 other civic discourse in the United States and around the world?
10 A So, I mean, there are lots of different tactics, but the one that -- and I really
11 would defer to the, sort of, disinformation experts on my team on this, and I certainly
12 don't want to supplant their expertise on this.
13 But it tends -- the pattern over the years has been the construction of a network
14 of fake accounts and then using those fake accounts to promote a, sort of, menu of often
15 mixed, half-true/half-untrue, content in order to -- almost always in order to foment
16 doubt about the integrity of an election, about the fairness of an election, or just to
17 generally sow societal division and doubt. That seems to be the sort of familiar pattern.
18 I mean, I think it's evolved over time, so if my understanding is correct, some of
19 these disinformation networks have tried to use, sort of, domestic proxies to do the same
20 thing, rather than constructing just a network of fake accounts, because this is a highly
21 adversarial space. So every time we find one to fit, you know, disinformation network,
22 they change their tactics. So it does mutate a lot.
23 Q And, just to be clear, when you say "fake accounts," what you mean is an
24 account purported to be owned or controlled by someone other than --
25 A Yeah.

1 Q -- who it's actually controlled by, or located in a different country --
2 A Right.
3 Q -- or place than --
4 A Or an entity that doesn't exist. Yeah.
5 Q So it's somebody making a fundamental misrepresentation --
6 A Yeah.
7 Q -- about who they are.
8 A Yeah.
9 Q And that is prohibited --
10 A Yeah.
11 Q -- by Meta's terms of service.
12 A Yeah.
13 Q Okay. And that's sometimes referred to, the behavior you just described,
14 as coordinated inauthentic behavior --
15 A Correct.
16 Q -- or CIB --
17 A That's right.
18 Q -- correct? That's Meta's term for it.
19 A Yeah.
20 Q And Meta instituted -- or, updated its inauthentic behavior policy specifically
21 to address CIB around the time -- well, after the 2016 election, correct? Do you recall --
22 A Yeah, so I wasn't at the company then, but, clearly, a huge cross-company
23 effort was made to revamp and improve the company's policies, processes, teams.
24 I mean, 2016, I think I'm right in saying that Facebook, as it was then, you know,
25 hadn't removed a single coordinated inauthentic behavior network, and fast-forward now

1 several years later, there are several hundred that have been disabled over time.

2 Q And could you just remind us what it was that happened in 2016 that led to

3 the revamping of --

4 A Again, I was not at the company, so I didn't, sort of, live through that time.

5 I was living an entirely different life at that time.

6 [redacted]. So, you know, if you know, great. If you don't know, I think they

7 gave you an admonition not to guess. So, if you don't know, then you don't --

8 Mr. Clegg. Well, it was Russian interference and using fake accounts in the U.S.

9 election in 2016.

10 BY [redacted]

11 Q And, obviously, Meta wanted to prevent that from happening again.

12 A Of course.

13 Q And I imagine Meta still wants that --

14 A Of course.

15 Q -- to prevent that from happening again --

16 A Of course, of course, of course.

17 Q -- in elections going forward.

18 So Meta's policy against using fake accounts is based on the behavior of setting up

19 an account and being inauthentic about who you are, correct?

20 A Yes. Behavioral signals, as they call it, I think. Yeah.

21 Q Right. I believe the term that is used is, it's content-agnostic.

22 A That's right. I believe -- but, again, I am really led heavily here by the

23 experts -- but it is the behavior, rather than the content, that leads our work when it

24 comes to CIB disruption.

25 Q And it doesn't matter which party the behavior is targeted at, if it's targeted

1 at one or another party? It just matters --

2 A Of course. Yeah.

3 Q -- that there's inauthentic behavior happening?

4 A Yes.

5 Q And you're aware that Meta has taken down CIB networks that have

6 targeted both sides of the political spectrum --

7 A Yes.

8 Q -- in the United States?

9 A Yes.

10 Q And --

11 A And multiple jurisdictions around the world.

12 Q That was going to be my next question.

13 A Yeah.

14 Q Thank you very much.

15 [redacted] And that is it for us right now, so we can just roll into the

16 next -- unless you would like a break?

17 Mr. Clegg. No.

18 [redacted] Okay. We can go off the record just to trade places.

19 [Recess.]

20 [redacted] We can go back on the record, please.

21 BY [redacted]

22 Q So I want to pick back up where we were before the majority's previous

23 hour. We were looking at an email chain, September 2020 --

24 A Sorry?

25 Q We were looking at an email chain --

1 A Right, right.

2 Q -- from September 2020. And we've referenced it a few times, but you are

3 familiar with the New York Post story that came in on October 14, 2020?

4 A Yes.

5 Q Walk me through that day. Do you recall how you first became aware of

6 that story?

7 A Yes. There was an internal message group, or message thread, which had a

8 number of people on it who were in one shape or form coordinating in the company on

9 election-related issues. And one of the comms team -- or maybe it wasn't; I don't know.

10 Anyway, someone flagged on there, you know, very early morning, certainly West Coast

11 time, that the New York Post story had emerged.

12 Q To your knowledge, what steps did the company take in response to that

13 story?

14 A So the steps that were taken in the ensuing hour or two was to do two

15 things: It was to enqueue the content for fact checkers and, at least for the initial two

16 stories, I think, to also manually demote.

17 Q Okay. I want to break down that answer a little bit.

18 So, first, for enqueuing for the fact checkers, correct me if I'm wrong, but in earlier

19 testimony you said, in most cases what goes to the fact checkers is automatically

20 enqueued based off things the company's already --

21 A Right.

22 Q -- told the system to --

23 A Right.

24 Q -- be on the lookout for?

25 A In most cases, correct.

1 Q And then, in other cases, it'll be --

2 A Manually --

3 Q -- manually enqueued?

4 A Yes.

5 Q So, in this case, it was manually enqueued?

6 A Right. Correct.

7 Q Who made that decision?

8 A The content policy team. The content policy team, answerable to me,

9 ultimately. Yeah.

10 Q So would that have been [redacted] ultimately?

11 A It would've been [redacted] team. And I believe the person who sort

12 of ran the operation team for [redacted] was run by [redacted], and that she

13 informed us that that was the action that had been taken.

14 Q And, I'm sorry, what was [redacted]'s title?

15 A What was her title?

16 Q Yeah.

17 A I don't know what her title is, but she runs the content policy team on an

18 operational level under [redacted], who in turn reports to Joel Kaplan, who in turn

19 reports to me.

20 Q Understood.

21 Taking one step back --

22 A Yeah.

23 Q -- from that specific example, what's the normal set of circumstances when a

24 piece of content is manually enqueued as opposed to automatically?

25 A What is the -- sorry, forgive me.

1 Q Yeah. So you said in most cases it's automatically enqueued, so
2 Facebook-wide --
3 A Right.
4 Q -- you know, be on the lookout for --
5 A Yeah.
6 Q -- particular pieces. Right? There's not a manual or a human touch
7 immediately --
8 A Right.
9 Q -- to send it in.
10 For the instances where it's manually enqueued, is it just examples where your
11 team comes across? Or what's, like, a normal set of circumstances when that other
12 option is used? Not "other option." When it's enqueued manually, as opposed to
13 automatically.
14 A I would separate two things, which is enqueuing and demotion.
15 Q Uh-huh.
16 A And you're right to say both were taken manually.
17 There were two policy considerations for the team at the time. One was
18 whether this was a hack-and-leak operation, as we've been discussing earlier. Did it
19 display the -- did it display the, kind of, pattern of a hack-and-leak operation, which had
20 been discussed in considerable detail. And that's one of the reasons why, in parallel, the
21 team also sought to reach out to the FBI, to see whether the FBI could provide any
22 illumination on that point.
23 And then flanking that there's a second consideration, which is what we call in the,
24 sort of, technocratic jargon "signals of falsity." Were there signals of falsity which
25 merited the demotion while the content is being enqueued.

1 And there was considerable discussion at the time on both fronts but most
2 especially on whether the signals of falsity were, sort of, manifest enough.
3 Q Uh-huh.
4 So let me take one step back from there. When something's enqueued, whether
5 it's automatic or manual, is it automatically demoted?
6 A No, it's not automatically de- -- oh, let me just double-check this. No, I
7 don't think it's automatically demoted. Don't think so.
8 Q Okay.
9 A It is demoted -- it's definitely demoted automatically once subject to a
10 fact-check.
11 I might need to double-check this with the team, but I'm pretty sure that
12 the demo- -- well, certainly, demotion in this case took place manually. That's for sure.
13 You're asking me if, in other instances, when something's enqueued. I don't think so. I
14 may be wrong. I may be wrong.
15 Q Okay.
16 So is it your understanding of the steps the company took, first, there's, like, kind
17 of, step one: Is it automatically demoted? It wasn't. Someone in Facebook
18 manually -- or, excuse me, not "demoted."
19 A Yeah.
20 Q It wasn't automatically enqueued. Someone on Facebook --
21 A Yeah.
22 Q -- manually enqueued it so that a third-party fact checker could potentially --
23 A Yeah.
24 Q -- review it.
25 A Yeah.

1 Q That's right?

2 And, then, in the meantime, it's your understanding that someone manually

3 demoted the articles?

4 A Yeah. But in answer to your question, I don't know whether the manual

5 demotion was necessary because the enqueuing itself was manual.

6 Q Uh-huh.

7 A And, in the same way, whether, if it had been automatically enqueued,

8 would it have been automatically demoted? It might have been. I just honestly need

9 to -- I would need to check --

10 [redacted]. We're happy to get back to you with the specifics on that.

11 [redacted] Okay.

12 BY [redacted]

13 Q To your understanding -- and setting aside the demotion question, but

14 just -- what's your understanding of when [redacted] team will manually enqueue an

15 article?

16 A So that's where this issue of signals of falsity becomes important. Because

17 the automated systems would seek to detect signs that suggest a piece of content might

18 be misinformation and might be subject -- so the team had to sort of scramble within the

19 immediate minutes and hours following the publication of the story to see whether there

20 were reliable and credible sources indicating that the story might be of dubious veracity.

21 And there was a lot of back-and-forth about whether those signals, you know, were

22 present or not.

23 Q And I'm sorry if we're --

24 A Yeah.

25 Q -- speaking past each other or -- so I hear what you're saying as far as the

1 signals of falsity. Taking the New York Post story out of it, just --

2 A Right.

3 Q -- a random month, day to day, are those signals used as the basis for the

4 automatic enqueuing?

5 A So the automatic enqueuing is when the AI systems pick up, I think, two

6 principal signals: one, that the content itself may fall under the category of

7 misinformation; and, secondly, importantly, that it's likely to go quite viral and be widely

8 distributed. And the team immediately, I think, assessed that this content might be very

9 widely distributed.

10 Q Uh-huh.

11 Let me ask this question a different way, and tell me if this is not the case from

12 your understanding.

13 Are the manually enqueued cases -- do they tend to be the higher-profile cases or

14 closer calls?

15 A Yeah.

16 Q Is that --

17 A Closer calls, unexpected content, content which our systems don't

18 necessarily, kind of -- right? I mean, our cata files (ph) are cata files (ph), so they are

19 only as good as the repeat data you feed into it. So you have to maintain a certain

20 amount of manual discretion, because, of course, content changes all the time, you get a

21 bunch of cases, and so on.

22 Q Uh-huh.

23 To your recollection, from when you find out about the story, were you made

24 aware that [redacted] team was considering what next steps to do before the decision was

25 made? Or did they just report up to you, "This story came out; here's what our team is

1 doing in the meantime"?

2 A So my recollection was, unsurprisingly in the circumstances of the time, the

3 team was very anxious to take a rapid decision. But I think it was very obvious to the

4 team that content like this would be distributed very widely, very quickly. And, as per

5 our earlier discussion, the company had been preparing not only for months but for years

6 for the risk of foreign interference, of hack-and-leak operations, and so on.

7 So I think the team was very anxious to move fast. And that, I think, is the

8 principal reason to understand their motivation to take the decision themselves as quickly

9 as they did.

10 [redacted]. Okay. I think we've given you some documents that reflect the

11 timeline of when various people were informed and when the decision was made, and

12 we're happy to walk through that if that makes sense. I don't want Nick to have to

13 guess.

14 [redacted] Okay. I appreciate that. I don't think I need to. I was going to

15 move on to the next set.

16 [redacted]. Okay.

17 BY [redacted]

18 Q Do you know for how long the story was demoted for?

19 A I think, in the end, 7 days.

20 Q And during that 7-day time period, was the decision revisited, to un-demote

21 or whatever the proper term would be?

22 A Yes. Yes. There was extensive discussion about whether -- I mean, look,

23 there was a range of views. There were people who were not involved in that

24 immediate decision itself who felt that the demotion -- not so much the enqueuing, but

25 the demotion itself -- was not as, sort of, merited as it should've been.

1 And there was discussion, which I know involved me, about whether, in the
2 absence of any fact checker finding fault with the content, whether we should lift the
3 demotion after 5 days or -- I don't know what it was -- 6 days, 4 days, rather than 7 days.
4 Q Uh-huh.
5 A But I know, in the end, we basically allowed the demotion to -- the
6 enqueuing to persist for the normal period of time, yeah.
7 Q And what was your recommendation at the time?
8 A On this issue of the length of time?
9 Q Yes.
10 A I remember thinking at the time there might have been a case to curtail the
11 period of time, but I didn't feel that strongly about it. And I think others sort of felt that
12 it was only logical to just let the normal 7-day period of time elapse.
13 Q Did you have discussions with Ms. Sandberg about how to handle the story?
14 A I had discussions with Sheryl Sandberg, some with Mark Zuckerberg too.
15 You know, we immediately understood that this was a highly consequential
16 decision, taken under great time pressure, and that it would be scrutinized -- well, as this
17 very conversation suggests -- long after the decision itself was taken. I think everybody
18 was aware that this was a significant decision on a significant matter of great public and
19 political interest, of course.
20 Q Who was the final decision-maker on how to handle the story, we'll start
21 with just the day of?
22 A So the decisions were taken, or the measures were taken by the content
23 policy team, but the buck stops with me. They roll up to me and the company. So, you
24 know, I am accountable, without micromanaging the actions and the decision itself.
25 Q You said you had discussions, though, with Ms. Sandberg and Mr.

1 Zuckerberg, who, obviously, you report to --

2 A Yeah, but that was as much about because other platforms were, sort of,

3 doing different things. Twitter removed the content altogether, and then they suddenly

4 switched. So it was quite understandable. We were asking why everyone was, kind of,

5 like, jumping around, removing it altogether, which we thought was way over the top.

6 So I think it was only natural, and given, you know, the political and societal

7 interest in this story, that we should talk about it, which is exactly what we did.

8 Q Do you recall what Ms. Sandberg's position was?

9 A I think Sheryl Sandberg's view was that we shouldn't alter or seek to change

10 the demotion that had been put in place, which is what happened.

11 Q And do you recall what reason she gave?

12 A I mean, I should think the obvious ones, which is, we had taken that action,

13 we hadn't removed it. Even with the enqueuing and demotion, many, many, many

14 Americans could find that content on Facebook. And, indeed, it was on every national

15 and local radio and television show and on the front page of every newspaper. This was

16 hardly content that was being hidden from public view.

17 So I just sort of felt -- I think Sheryl felt that chopping and changing our stance, in

18 the way that other platforms had done, given that this was all out there in the public

19 domain anyway, probably didn't make much sense.

20 I think, however, notwithstanding all of that, we did decide also not to do certain

21 things -- not to enqueue and demote additional content, not to reach out to third-party

22 fact checkers ourselves.

23 But, you know, these were all difficult judgment calls, taken in the context of

24 imprecise information, without, at least at that point, the benefit of hindsight, and under

25 great time pressure and great scrutiny, so --

1 Q Do you recall what Mr. Zuckerberg's position was?

2 A I think Mark Zuckerberg's view was, he was keen that we sort of cleaved (ph)
3 as closely as possible to, you know, what would be the, kind of, standard thing or, you
4 know, the appropriate thing to do here. And he deferred very much to me and the team
5 to try and get it right.

6 Q When you say "the appropriate thing to do," by what standard?

7 A Well, I think, given that in the immediate minutes or whatever it was, hour
8 or two, after the story was published, this enqueuing and demotion had taken place,
9 there was obviously a -- there was a diversity of opinion in the teams about whether that
10 should've occurred in the first place and whether it should be reversed or not.

11 And I think -- I certainly remember discussing with Mark Zuckerberg the point you
12 asked earlier, which was, the duration of the demotion, should that be altered? And I
13 think his view was, no, just do what the standard demotion is, which in both the manual
14 and the automatic forms are the 7 days.

15 Q Okay. Do you remember discussing with him whether it should've been
16 enqueued and demoted in the first place?

17 A I remember flagging to Mark Zuckerberg that the enqueuing and demotion
18 happened, and I remember him asking questions about our policies and about the
19 circumstances in which manual demotions take place. In my memory of this, he was
20 asking, as he rightly does, smart questions, but he kind of said, you know, you guys should
21 deal with it as you see fit.

1 [2:50 p.m.]

2 BY [redacted]

3 Q Do you recall if he was supportive or not, one way or the other?

4 A About?

5 Q Whether to enqueue and demote it initially?

6 A I don't remember anyone questioning whether it should be enqueued. No,

7 I think that was -- I don't think anyone thought that was -- on the demotion there was a

8 range of opinions. I mean, there was a range of opinions.

9 [redacted]. Just to be clear, we're talking about after the fact, like, Mark's not

10 involved in the immediate real-time decision.

11 [redacted] Yeah. I mean, correct us if that's wrong, but it sounds like a decision

12 was made pretty quickly. And then -- but the day of --

13 [redacted]. Yeah, I just wanted to be clear when you're talking about did Mark

14 agree with the deci- -- I just want to make sure you're -- that you understand that this is

15 after -- it's an after action. It's not kind of contemporaneous. What had been done

16 had been done at that point.

17 [redacted] Sure.

18 BY [redacted]

19 Q But if Mr. Zuckerberg had said the content should not be demoted, that was

20 an action that Facebook could have taken, was it not?

21 A You could always try and undo things you decided, but to Mark that wasn't

22 the spirit of the discussion. I mean, his general demeanor was to be informed by me of

23 what had happened, ask a couple of factual questions. And basically said to me and I

24 think to Joel Kaplan, you know, you guys are going to handle this, which is exactly why I

25 said earlier the buck stops with me for better or for worse.

1 Q When the decision is yet to be made about whether to enqueue and demote
2 the story, was there a diversity of opinions on that front about whether to do so in the
3 first instance?
4 A So the decision was taken very rapidly on both enqueuing and demotion. I
5 think two -- I think it was two new pieces of content, so not subsequent ones by the team
6 that I referred to earlier. And I think quite a lot of the discussion was subsequent to that
7 action having been taken, yeah.
8 Q Who do you recall in the, you know, the opinion that was being expressed
9 before the decision is made to enqueue and demote, who do you recall at the company
10 speaking out against taking that action?
11 A I don't think I was party to any debate prior to the decision being taken. I
12 was informed of the decision that an action had been taken.
13 Q Okay.
14 A So I wasn't -- because again, you know, the team was seeking to move
15 quickly. That was -- it's important to remember how much emphasis had been placed
16 after 2016 on social media companies moving quickly to react to content that might be
17 deemed to be subject to a hack-and-leak operation.
18 Q When you say -- you know, referring back to 2016.
19 A Yeah.
20 Q Because of what happened in 2016, was there an added weight given to the
21 view that the company should be more aggressive in taking down potentially leaked
22 information, more cautious --
23 A Oh, yes.
24 Q -- in permitting?
25 A Yes, there was a general assumption, which was held across the political

1 spectrum, that the -- that it was important the private sector players like us should play
2 our part in seeking to protect American democracy from foreign interference or
3 disruption. And as we discussed earlier, there being a number of instances where
4 Russian actions, whether it was hacking of this Ukrainian company Burisma. I think a
5 number of bipartisan committees here had issued calls for greater cooperation between
6 the tech sector and the FBI and other intelligence agencies, there being this instance of
7 hacking of Macron's accounts in 2017.
8 So, you know, there was extensive public, political, and societal concern about
9 what might happen in 2020. Yeah, and that's the -- that's -- we're all trapped by our
10 own history. So that's the -- that's the circumstances in which everybody was acting in
11 good faith at that time.
12 Q Once the decision's been made --
13 A Yeah.
14 Q -- morning of the 14th, to enqueue, demote the two pieces of content, do
15 you recall anyone within Facebook's leadership that criticized the decision?
16 A As a said earlier, absolutely. There were people in the team, up and down
17 the sort of hierarchy below me, if I could put it without sounding too portentous about it,
18 who -- who had a different viewpoint about whether the content should have been
19 demoted. As I said, I don't recall anyone questioning whether it should have been
20 enqueued. It was about the demotion, it was about the demotion. Absolutely there
21 was a diversity of opinion there, yeah.
22 Q Who criticized the demotion?
23 A Well, I remember that Joel Kaplan had real reservations about it. I can't -- I
24 mean, I think others too. There's definitely, you know, a number of people, but I think
25 everybody accepted that decisions had to be taken, had to be taken rapidly, you know,

1 couldn't be taken with hindsight. But I think -- yes, I think there was -- there was
2 pretty -- there was pretty live debate quite quickly internally amongst a number of
3 people, yeah.
4 Q Do you recall anyone besides Mr. Kaplan?
5 A I think [redacted] was my other direct report. I think he might have
6 also expressed misgivings about it.
7 [redacted]. You know, [redacted] again, we have documents that reflect what people
8 thought at the time. You've got them. I'm happy to have Nick look at them so he
9 doesn't have to guess.
10 [redacted] I'm happy to get to that in a moment.
11 BY [redacted]
12 Q Next question was going to be, how did these communications take place --
13 A At that time, I think almost all the communications would have been either
14 by Work Chat, this -- this message board, this message group thread, on which many
15 people were, and/or by direct WhatsApp messages. So I communicate a lot by
16 WhatsApp with the people who work directly for me like [redacted] and Joel Kaplan.
17 Q Do you recall any video conference calls, like a Zoom call, phone calls during
18 this time?
19 A No. I -- I remember -- I remember a telephone call, I think it was with
20 Sheryl Sandberg, Mark Zuckerberg, and myself. But I'm just a lot -- it's just a lot
21 of -- because remember, I was doing a lot of the things at the same time. That's just the
22 nature of my role. So I was -- I know I was jumping in and out of other calls and on
23 meetings on totally different issues, unrelated issues. So I think the bulk of it would
24 have been through messages and through WhatsApp.
25 Q Do you remember if you were discussing this issue on that call you

1 referenced with Ms. Sandberg and Mr. Zuckerberg?

2 A I think there was definitely a discussion about the point you asked about

3 earlier, which is should the demotion stand and for how long should it stand.

4 Q And is it your recollection that Ms. Sandberg and Mr. Zuckerberg thought it

5 should stand for the standard 7 days?

6 A Yeah. Yeah.

7 Q To your knowledge, did anyone at Facebook reach out to Hunter Biden or

8 someone affiliated with Hunter Biden to see if the contents were affected?

9 A No. No. We did reach out to the -- we did reach out -- or the team

10 reached out to the FBI. And I remember being informed later in the day with the FBI,

11 which was news to us, because we didn't know that, when the decision was taken, that

12 the FBI had the laptop for some time. And I think it was some -- you know, this is all

13 second, thirdhand; I remember hearing that the FBI said that it was subject to a kind of

14 criminal matter, but with no explanation. So -- oh, sorry, and also that it was reported

15 to us that, in addition, the FBI said they didn't have any, at that time, indications of

16 foreign interference.

17 Q And do you recall who told you this information?

18 A I think it most likely would have come to me from the head of security, [redacted]

19 [redacted]. I think he's one of the most senior people on the thread I was on who would

20 share that kind of -- but I don't -- doesn't mean that [redacted] would have spoken to them. It

21 would have been someone else on another team, I suspect. I mean, there's a team

22 which is dedicated to that kind of thing.

23 Q And once that information has been received by Facebook -- you mentioned

24 earlier that there were two policies that were being considered. One was the hack and

25 leak and one was the signals of falsity. From Facebook's perspective, is that information

1 relevant to both policies or just --

2 A I am pretty sure that the manual demotion was amongst other criteria linked

3 to signals of falsity.

4 Q Are you generally familiar with the statement that 51 former intel officials

5 released -- it was on October 19th morning that the emails had all the classic earmarks of

6 a Russian information operation?

7 A Yes. I vaguely remember it, yeah.

8 Q Had any of those former intel officials, to your knowledge, reached out to

9 anyone at Facebook?

10 A Oh, I wouldn't know. I mean, I -- they wouldn't reach out to me directly, so

11 whether they -- I don't even remember the list of the individuals, so I cannot -- I mean, I

12 can't answer that.

13 Q Do you recall if that statement played a factor at all in the company's

14 internal discussions of how long the two pieces of content should be --

15 A I don't --

16 Q -- enqueued for?

17 A I don't recollect it playing any role. At least because I think it was a

18 statement made well after we agreed on the length of the demotion.

19 Q So once the length of the demotion was agreed upon, it wasn't revisited

20 before the end of those 7 days?

21 A As I said earlier, I do remember at one point having a brief discussion or

22 really sort of thinking whether it was any merit in -- I think there was a weekend in

23 between or something. I remember sort of thinking, well, you know, is there

24 any -- should we just sort of say, look, no fact checkers looked at this, no fact checkers

25 cast any doubt on the veracity of this, so you might as well call it a day after 5 days, but it

1 was very light and speculative. You know, it wasn't huge -- I don't remember it, I don't
2 remember that external letter playing any role in that -- that discussion at all.
3 Q When you were -- whether it was over the weekend or whenever it was in
4 this interim period, did you share those thoughts with Ms. Sandberg or Mr. Zuckerberg?
5 A Which thoughts?
6 Q That maybe it's worth reconsidering shortening the 7-day period to 5 days
7 for these pieces --
8 A I remember having a very brief exchange with Joel Kaplan and Mark
9 Zuckerberg about that. And we very quickly decided no, let's just let it run its course.
10 Q Do you recall how that exchange took place? Was it a phone call?
11 A WhatsApp.
12 Q With the third-party fact checkers --
13 A Yeah.
14 Q -- taking a step back from this story, do you understand normally when
15 something's enqueued --
16 A Yeah.
17 Q -- is any fact checker able on their -- by their own volition to review the
18 story?
19 A Are they able to?
20 Q Yeah.
21 A Yes.
22 Q So it's not a matter of -- certainly it's not Facebook assigning it to a fact
23 checker?
24 A No. But in this instance, this was the talk of the town in every kitchen table
25 around the whole country. So I mean, you'd have to be living in a cave somewhere not

1 to have been alert to this story. So every fact checker, I suspect, under their own accord
2 would've had a look at this.
3 Q But none of them reviewed the story and reported back to Facebook during
4 the 7 days?
5 A No.
6 Q So they didn't come back either way and say it was not false, it was false.
7 To your understanding, no one said anything?
8 A Right, because otherwise we would've -- yeah, that -- that -- that's why the
9 demotion was lifted.
10 Q To your understanding, is that a common development for a piece of
11 content that's been manually enqueued?
12 A I wouldn't know, because we don't manually enqueue much. So I
13 wouldn't -- I'd have to -- I wouldn't know statistically what the proportion of manually
14 enqueued content is or isn't subject to a subsequent finding from a fact checker.
15 Wouldn't know.
16 Q You had mentioned in a previous answer there was some brief discussion
17 about sending more directly to the third-party fact checkers or --
18 A No, there was a brief discussion about whether -- whether we
19 should -- whether teams who liaised with the fact checker should reach out to them, a
20 sort of flag to them that this is being enqueued. And we decided not to do that -- or the
21 team decided not to do that.
22 Q And what was the reason?
23 A I think because there was internal debate about the original actions, there
24 was a sort of feeling of, look, and for given candidates I said earlier, the huge prominence
25 of this story, it was either practically necessary. As I say, pretty remarkable if anyone

1 was not aware of the story within minutes or hours of being published.

2 And secondly, because of this internal sort of diversity of opinion about the action

3 taken, whatever it was within an hour or 2 of the story being posted or published, there's

4 just a kind of feeling like, you know, that's been done, let's not -- let's not be any more

5 active on this issue.

6 Q Did the company ever conduct an internal investigation to assess how the

7 company handled the situation?

8 [redacted]. I instruct the client not to answer the question. Privilege.

9 BY [redacted]

10 Q Turning to -- we discussed this in one of our previous hours -- the removal

11 and then ultimate reinstatement of President Trump's account.

12 A Yep.

13 Q You mentioned that the buck stopped with you for the January 7th, 2021,

14 decision. Is that right? You were the ultimate decision-maker?

15 A Yes.

16 Q But you had shared your decision with Ms. Sandberg and Mr. Zuckerberg?

17 A Oh, yes, yes, yes. Of course.

18 Q Were they generally supportive?

19 A Yes.

20 Q Per your messages with them, either on January 6th or into January 7th,

21 were you communicating with them primarily via WhatsApp or a text function or via a

22 phone call?

23 A I think we had several telephone calls.

24 Q And was there any discussion of the length of the suspension or was it

25 primarily focused on whether or not to suspend?

1 A I would really need to refresh my memory on this. I have a feeling we took
2 an initial decision and then moved to open-ended suspension, which was then in turn
3 changed once the oversight board issued its critique of our decision. But I -- forgive me,
4 I would need to -- I need to go back to my own records to remember exactly the
5 chronology of these events. But it wasn't a one-and-done decision. It did come in
6 phases.
7 Q And so at least when it was publicly announced --
8 A Yes.
9 Q -- in early June of 2021, that Facebook would be extending the suspensions
10 so that it was at least 2 years?
11 A Well, I actually think it was the reverse. I think it was reducing it from an
12 open-ended one to a 2-year.
13 Q I understand. But you were the final decision-maker for that decision as
14 well?
15 A Yes.
16 Q And like with the January 7th one, did you first consult with Ms. Sandberg,
17 Mr. Zuckerberg?
18 A I think I really just kept them informed at that point because that was in
19 response to a -- an independent critique from a report, set of recommendations from the
20 oversight board. So I kept -- I kept them informed, but I was answerable for and sort
21 of -- sort of overall responsibility for driving the internal process to arrive at that decision.
22 Q Do you recall in early January 7th if the decision to suspend the President's
23 account was popular within the company?
24 A I don't think I even asked myself that question. It was, instead, a question
25 of whether content was being shared, posted, and circulated on our platform in a way

1 that was, you know, contrary to our -- contrary to our community standards and contrary
2 to our rules.
3 Q For the decision to reinstate President Trump's account, was it the same
4 dynamic with the previous decisions where you would inform Ms. Sandberg or
5 Mr. Zuckerberg?
6 A Yes.
7 Q But, ultimately, you were the --
8 A Yes.
9 Q -- decision-maker?
10 A Yes.
11 Q Who else did you deliberate with in the company leadership about this
12 decision?
13 [redacted]. We're going to allow him to answer this question, but there's no
14 government nexus. He's not President Trump at that point. He's not in the
15 government. And the investigation is about government interference content
16 moderation. And so it seems like it's out of scope. We can have that discussion
17 offline, if you want.
18 But you can answer this, but I don't think we should dwell on the details. We
19 also have not had a chance to review materials that would be able to allow us to answer
20 the question fully.
21 Mr. Clegg. Thanks.
22 Sorry, what was the last question?
23 BY [redacted]
24 Q Just who you deliberated with within the company leadership.
25 A Oh, I -- very sort of similar configuration of the key people who are on

1 content policy under [redacted], and most particularly with Joe Kaplan who oversees
2 our global policy, a number people in their teams. But also, of course, with lawyers and
3 the legal department and so on. But the principal thing is driven by our content policy
4 team under [redacted]
5 Q Okay. We've had a number of discussions, obviously, with the -- about
6 your interactions with the White House, the Office of the Surgeon General. As part of
7 your job, have you had interactions directly with the FBI?
8 A Me?
9 Q Yes.
10 A No. No, not at all.
11 Q What about with the Department of Homeland Security?
12 A No. Under the previous administra- -- what was [redacted] role?
13 [redacted]. National Security Council.
14 Mr. Clegg. I remember having a meeting with him.
15 BY [redacted]
16 Q So like the one exhibit that we had looked at --
17 A Yeah.
18 Q -- the September 2020 email about the takedown of the Russian networks --
19 A Yeah.
20 Q -- with reference to meeting with U.S. Government partners.
21 A Yes.
22 Q That typically happened to teams that --
23 A Absolutely, absolutely.
24 Q -- you were not --
25 A Absolutely. Yeah. No, I wasn't involved in that myself, and I wouldn't be.

1 [redacted]. You're on exhibit 10, I believe.

2 [redacted] Thank you.

3 [Clegg exhibit No. 10.

4 was marked for identification.]

5 [redacted] This is a June 2001 internal email chain.

6 Mr. Clegg. Do I start with the back?

7 [redacted] Exhibit 10. Yes.

8 BY [redacted]

9 Q First, now that you've had a moment to --

10 A Yeah.

11 Q -- review, looking at the first page, Bates No. 62660, there's a message from

12 someone at Facebook to Mr. Zuckerberg --

13 A Uh-huh.

14 Q -- describing the state of play. Is there anything in this email something

15 that stands out to you as incorrect?

16 A No.

17 Q As it's described in this email, the 2:24 p.m. email, there is a change by the

18 two of the third-party fact checkers --

19 A Uh-huh.

20 Q -- about the man-made claim of the virus?

21 A Yeah, in May '21.

22 Q Based off public reporting and other information that was in the public

23 domain by May of 2021, do you think it was late in the process for the first of the

24 third-party fact checkers to change their ratings?

25 A Oh, I'm not going to start second-guessing professional fact checkers. I

1 mean, they changed their rating then and we immediately changed our stance in
2 response.
3 Q I guess to push a little bit more, though --
4 A Yeah.
5 Q -- I appreciate the value of relying on folks who, you know, that some
6 identify as authorities in the fact-checking space. Does Facebook internally ever assess
7 whether the fact checkers are, you know, doing a good and adequate job?
8 A We certainly will sometimes look at ratings if we -- if we get, you know,
9 credible suggestions that the rating is totally at variance with other ratings. I need to
10 get back to you. I think in some instances, certain treatments of fact-checking can only
11 happen when two fact checkers find a particular finding, but I can't remember what
12 category of content that is. So I think we sometimes also -- it is a belt and braces way,
13 ensure that you can't have just one fact checker, if you like, taking matters into their own
14 hands, but I need to -- I need to ultimately refresh memory of the details of the policy
15 about which circumstances we do that.
16 So I think -- yeah, I think we do endeavor to try and make sure that it's not
17 capricious, the system, and that it's more than just one fact checker operating on their
18 own.
19 Q Was this a situation, in your view, that would warrant a review of the
20 diversity of fact checkers that Meta has available to it?
21 A My own sentiment is somewhat different. It's not so much whether the
22 fact checkers themselves should or shouldn't have said different things at different points.
23 I really do think it's very important that we as a company don't try and second-guess the
24 fact checkers, although we can't -- it's a slippery slope and you still end up being properly
25 a tech company and not arbiters of truth.

1 But I certainly think, and everybody felt this at the time, that this particular
2 decision we took in February 2021 to remove what -- you know, repeatedly fact-checked
3 so-called hoaxes, including claims about the man-made origins of or human origins of
4 COVID, only to then find ourselves reversing that, I think going back to labeling and
5 demotion or removal just by -- was it till a few -- in May, I think it was in February, May.
6 I think that certainly made me think, hmm, we really should -- you know, we should think
7 very carefully about -- as I've said throughout, you know, the proceedings, removal is our
8 ultimate sanction that we can apply to content. And I try and lead the teams in a way
9 that deploys that sanction sparingly. I don't -- I don't, as a general rule, think -- it's
10 why -- you know, it's why we really do struggle and have real internal debates about both
11 removing content or indeed removal of accounts. You're wielding very significant -- very
12 significant, you know, power over content on Facebook surfaces.
13 So I think the reflection I had from then -- from that was probably more about
14 whether it was, with hindsight -- again, everything changes slightly with
15 hindsight -- whether it was sensible for us to have removed that content for that period
16 of time from February to May. So I think that was more of a reflection I had on that
17 policy change rather than whether the fact checkers themselves should or shouldn't have
18 changed tack earlier or a different time.
19 Q Was there any consideration within the company, not about changing the
20 policy itself, which, as you said, did change from February to May or June it looks like, but
21 any change to how Facebook develops its community standards?
22 A Not so much the community standards. I mean, that evolves all the time,
23 and I think it's now a much more transparent process than it was even a few years ago.
24 As I think I mentioned in an earlier session, the meetings that the content policy team has
25 with external experts around the world is now subject to -- you know, we publish the

1 minutes, we're much more transparent about how the sort of sausage is made, if you like,
2 at the community standards.
3 I think -- you know, I think there are always process issues you can learn from in
4 these decisions. So the decision that we talked about earlier in terms of the enqueuing
5 and demotion of the New York Post stories, you know -- I mean, you can't redo things, but
6 if you were to redo things, they would be much more fully escalated than they were at
7 that time.
8 Q And what do you mean by that in the context of the New York Post story?
9 A Well, I mean that if that were to happen today, I don't think any decision to
10 manually demote something could now be taken without it being escalated to me.
11 Q And was that change because of what happened with the New York Post
12 story or just --
13 A Just passage of time, peop- -- you know, people are doing different jobs,
14 people are -- some of the decision-makers at the time are now in different roles. But
15 also, you know, given the sensitivities of these matters, I think we redoubled our efforts
16 internally to make sure that decisions are taken at the appropriate level. And clearly,
17 this was a highly consequential decision which -- or manually demoting something is a
18 highly consequential decision which, henceforth, can only be taken once it's escalated to
19 me.
20 Q We looked at an email chain from April 2021, the first exhibit.
21 A 2021?
22 Q Yes.
23 A Right.
24 Q And this is taking place, this email chain, in June of 2021. Do you recall, if
25 this refreshes your memory at all --

1 A Uh-huh.

2 Q -- whether pressure from the White House was ramping up at all related

3 to -- it's two different issues. This is related to the origin of the virus; April 2021 was

4 vaccine-related content.

5 A This topic, this particular topic --

6 Q Yeah.

7 A -- was not really something which was subject to much back-and-forth,

8 certainly not that I experienced with the White House. As I've said repeatedly, that was

9 much more about the data we were showing with the White House, our definitions of

10 misinformation, kind of what we were or were indeed we are not removing, and that

11 remained the consistent -- the consistent fault line of disagreement throughout this time,

12 throughout this time.

13 So this issue was more -- was a somewhat separate one in the sense that this was

14 wider expertise, if I could put it like that, basically taking a different view -- a different

15 view of whether this could be possible or not; in other words, whether COVID could or

16 couldn't be -- you know, could or couldn't have a laboratory or human origin rather than a

17 bat -- a bat-like origin.

18 Q So I call your attention to the last sentence of the first paragraph of the --

19 A Uh-huh.

20 Q -- email.

21 A Yeah.

22 Q And then the first sentence of the second paragraph. And there's two time

23 periods --

24 A Yeah.

25 Q -- that are being described, May 2020 and February 2021, and then from

1 February 2021 until this email.

2 A Yeah.

3 Q And based off what's being explained, it sounds like there's actually a

4 stronger step being taken in February 2021.

5 A Yes.

6 Q And then it says, "in response to continued pressure and tense conversations

7 with the new administration" --

8 [redacted]. No, it says, public pressure.

9 [redacted] Excuse me.

10 BY [redacted]

11 Q "With continued public pressure and tense conversations with the new

12 administration." So is it -- I guess I'm just trying to reconcile your --

13 A Yeah, yeah.

14 Q -- previous answers where --

15 A It's a fair question.

16 Q -- the White House is having tense conversations with you.

17 A Uh-huh.

18 Q And this is part of a broader effort --

19 A Right.

20 Q -- or help me understand.

21 A No, I think it's a fair question, so let me clarify it. I think it is right to say as,

22 you know, as I've said it both -- I said it at the time and I said now, I was -- I was and I was

23 asking the team to try and be responsive, try and share more data, try and explain better,

24 try and -- and clearly that part or iteration resulted in some adjustments and tightening of

25 policies in February 2021. That is true.

1 At the same time, it's true to say that the specific issue of claims about where
2 the -- of the origins of COVID were not a major issue of discussion between me and the
3 White House or my team and the White House, you know, people we talked about
4 earlier. So I think that helps.
5 So to be clear, we made the decision. It was our decision to include this removal
6 of certain claims where previously we were demoting and labeling. And it is true were
7 doing so in the context of this email says of continued public commentary and, you know,
8 ongoing interaction of the White House for to us do more, to do more, to do more.
9 Q In the first hour, you expressed an admiration for the United States'
10 commitment to free expression and the tradition we have in this country. You know,
11 one of the concerns of, if the government gets involved in an area of speech, that there
12 are killing effects. It's not just whatever the government's request is but that there are
13 secondary effects.
14 A Uh-huh.
15 Q Do you think this is a situation here where the company felt compelled to
16 consider stronger content enforcement for issues that hadn't been raised?
17 A Well, it's -- it's complicated in the following respect. The areas where we
18 were being prevailed upon most and most repeatedly to curtail content was exactly areas
19 where we most were resistant to do so. We talked about some of it, you know,
20 Leonardo DiCaprio was misinformation. So I don't think we did exceed to the request,
21 demands, suggestions, I don't know whatever other euphemism you want to use, to ask
22 to curtail that infor- -- that content. Whereas interestingly, as I said earlier, I would
23 concede that removing content about claims which actually become subject to shifting
24 views from the experts, yeah, with hindsight I definitely would say that that was not a
25 great -- you know, it was not a great place for us to be. And certainly redoubling in my

1 own mind the care with which we have to make these -- you know, make these
2 adjustments.
3 Q If I'm understanding the first sentence of that second paragraph --
4 A Yeah.
5 Q -- correctly -- and push back if I'm not -- was the company's understanding
6 internally in February of 2021 --
7 A Sorry.
8 Q -- was the company's understanding internally in February 2021 that taking a
9 stronger enforcement against posts related to the origin of the virus --
10 A Yes.
11 Q -- would be a move that would be a sort of positive perception from current
12 administration?
13 A Well, firstly, I didn't write this. These are not my words, and so -- they're
14 the words of [redacted] who works for -- in [redacted] team that I described
15 earlier. I think it's just sort of a contextual sentence, which is kind of sort of a pretty
16 plain vanilla statement of facts that were ongoing and sometimes quite tense interaction
17 between ourselves and the administration. I don't think there's any claim in here that
18 we were going to make this change in February of 2021 and then sort of brandish it as a
19 sort of, you know, as something that we wanted to receive praise from the White House
20 for. That was not the way we worked, that's not the way we think.
21 I think we were seeking to be responsive on a number of fronts to the state of
22 heightened public concern about the societal -- I mean, it -- hundreds of thousands of
23 Americans had died by this stage, by the summer of 2021. The pandemic was still raging
24 in certain parts of the country. But on the core issues of content removal or at least of
25 content that was of greatest concern to our contacts with the White House, that wasn't

1 really affected by this change because that was not actually the -- that wasn't actually the
2 content they were most focused on. They were most focused on what they deemed to
3 be misinformation which they felt could perpetuate higher levels of vaccine hesitancy
4 than they thought was desirable.
5 Q I hear what you're saying.
6 A Yeah.
7 Q I guess, if you can help --
8 A Yes.
9 Q -- me understand the timeline a little bit better.
10 A Yeah, sure.
11 Q You're connected with Mr. Slavitt's documents that have been produced to
12 us in March of 2021.
13 A Yep.
14 Q We went through the email chain in April 2021, where you're having lengthy
15 phone calls on a Sunday evening.
16 A Yep.
17 Q So certainly by March and April, you have an understanding of what the
18 White House's concerns are.
19 A Yep.
20 Q But this decision was made in February of 2021.
21 A Yeah.
22 Q So was the decision made in 2021 trying to anticipate those needs before
23 you had a better understanding of what the White House's concerns were as it related to
24 misinformation?
25 A Right, that's just sort of a question of chronology that I need to cross my

1 mind. But I think we understood two things: one, that there was a, and totally
2 understandably, a generic and generalized level of concern about the passage of the
3 pandemic, the consequence of this coronavirus, the fatalities across the country, and the
4 need to try and encourage people to vaccinate themselves and try to normalize society
5 again. And then there was a separate and rather specific thing which was persistent,
6 which was were we sharing the right data, what was our definition of misinformation,
7 were we removing enough or not.
8 I think this particular issue of where we expanded the number of repeatedly
9 fact-checked so-called hoaxes, where we expanded the list from what it was three to five
10 or five -- I can't remember what it is -- of instances that we would remove or label
11 demote was clearly taken as a response to that first generic concern that we should be
12 seeking to do all we can to try and assist as society was grappling with this coronavirus.
13 So I don't know how better to explain the links between general anxiety,
14 specific -- content-specific sort of disagreement, and our shifting stance on claims that
15 had been repeatedly shown by repeated fact checkers to be wrong, and then what we
16 then do to it.
17 That's not quite your question, but do I think that latter thing, you know, stands
18 the test of time? Perhaps not, with the benefit of hindsight, which is why I think we sort
19 of reversed course pretty quickly in May of the same year.
20 [redacted]. Can we go off the record, please?
21 [Recess.]
22 BY [redacted]
23 Q Mr. Clegg, I'm going to step away generally from that previous email chain
24 and just go back to an issue that was raised earlier that you weren't sure of the answer,
25 and that was whether or not articles are automatically or content is automatically

1 demoted after it's been enqueued.

2 A If it's been automatically enqueued, yeah.

3 Q And just to let you know, [redacted], who gave a transcribed interview

4 to this committee, testified that there was automatic demotion -- or "temporary

5 reduction" was the phrase she used -- of content when Meta sent content to fact

6 checkers, that was her testimony, but that the policy that changed in the past year.

7 A Right.

8 Q But previously at the time of --

9 A Yes, but, you know, there's a subtle but important difference. You said

10 sent to fact checkers. Whereas I think the question was whether you have automatic

11 demotion when things are automatically enqueued regardless of whether they are

12 flagged to fact checkers. I know these are distinctions in distinctions, but I just --

13 Q No, no.

14 A -- I can't remember.

15 Q And I appreciate that. And I'm not going to waste your time by looking

16 further to see --

17 A Right.

18 Q -- if you can explain that distinction. But would it be fair to say that, given

19 her responsibility, that if she had addressed it, she --

20 A She would know.

21 Q -- would know?

22 A Oh, she would know. Oh, yes, absolutely. I mean, she's closer to this on a

23 day-to-day basis than I am.

24 Q Thank you.

25 And returning to the topic of the New York Post decision.

1 A Uh-huh.

2 Q As you explained, there was significant discussion --

3 A Yeah.

4 Q -- and differences of opinion.

5 A Yeah.

6 Q And the -- you know, your team made the best decision that it could with the

7 permission that it had. Is that fair to say?

8 A That's, I think, a fair summary.

9 Q And to be clear, it was purely an internal decision, correct? It was not

10 made at the behest of any external --

11 A Absolutely.

12 Q -- stakeholder?

13 A Absolutely.

14 Q And it was an apolitical decision, correct?

15 A Absolutely.

16 Q Okay. It was not done to help the Biden campaign?

17 A Of course not.

18 Q And the decision would've been the same if the article had related to a

19 laptop belonging to a member of the Trump family?

20 A It's a decision taken just on the merits of what the team understood at that

21 time.

22 Q And I believe you stated, although I couldn't quite hear the entire answer,

23 that there was no communication with the Biden campaign regarding this decision --

24 A Well, between --

25 Q -- between Meta and the Biden --

1 A Between the appearance of the New York Post article and the action?
2 Q Correct.
3 A No.
4 Q And there -- but there was communication between individuals at Meta and
5 the FBI?
6 A Correct.
7 Q And on the --
8 A There was outreach. I don't believe that the response from the FBI was
9 received through that outreach prior to the actual action of enqueuing a demotion taking
10 place. I think the feedback was arrived at, I think, within a few hours afterwards.
11 Q But that day on the 14th --
12 A Yes, yes, yes. On that same day.
13 Q -- there was --
14 A Yeah.
15 Q -- communication with the FBI --
16 A Yes.
17 Q -- about whether or not there was evidence of foreign involvement?
18 A Yeah.
19 Q And are you aware that, several days later, there was again further
20 confirmation from the FBI that there was still no evidence of foreign involvement?
21 A I can't remember the chronology of what was said. But I do remember on
22 the day, A, learning something which I had not understood before, which is that the FBI
23 had the laptop for some time. Secondly, that it was subject to some kind of
24 criminal -- unspecified criminal matter. And thirdly, they didn't have any evidence of
25 foreign interference at that stage.

1 Q I'd like to introduce an exhibit for the record. And this is -- just so you
2 know where we're going with this, there have been claims that the FBI should have been
3 more aggressive or taken more steps to notify Facebook about the lack of dimension,
4 direction -- I'm sorry.
5 [Clegg exhibit No. 11.
6 was marked for identification.]
7 BY [redacted]
8 Q I'm going to call your attention to the second page.
9 A Can I just read it?
10 Q Of course.
11 A Okay.
12 Q Okay. I want to direct your attention on page 62322, the third paragraph
13 down, a message from [redacted] on October 18, 2020, at 11:05:49. And he says
14 that he just connected with [redacted] at FITF, which is the Foreign Influence Task Force,
15 correct, as you understand it?
16 A Yeah.
17 Q It says their assessment is consistent. "They're still not aware of any
18 evidence linking the first laptop (Delaware IT shop) to government interference. At this
19 point this assessment has not changed, they have nothing to point to re foreign
20 government connection."
21 That's what this reflects, correct?
22 A Uh-huh.
23 Q And that reflects that there was a second conversation 4 days after that --
24 A Uh-huh.
25 Q -- initial conversation. Okay.

1 [redacted]. I want to be clear, Nick is not on this exchange and the comment is
2 from [redacted] who has come and appeared before the committee himself.
3 BY [redacted]
4 Q And just to be clear, the story itself, the New York Post story, it was not
5 removed from that as well from Meta.
6 A Removed? No, no.
7 Q And Meta did not freeze or suspend any accounts that shared the story?
8 A No.
9 Q And you're aware that despite Meta's decision to demote the story for that
10 7-day period, it was still shared on Facebook more than 300,000 times in the days after
11 the New York Post published it?
12 A I don't know about the statistic. I remember there's some public reporting
13 from third-party groups. So I don't -- I can't comment on the statistic. But does it
14 surprise me that, even with a demotion, something which is of such huge public interest,
15 this would still be seen by a lot of people on Facebook? No, it doesn't surprise me at all.
16 Q Thank you.
17 [redacted] That is it for us. We can go off the record. Thank you.
18 Mr. Clegg. Thank you.
19 [Recess.]

[3:52 p.m.]

[redacted] Can we go back on the record, please?

BY [redacted]

Q So we had talked about this in an earlier hour, but it was around July 15th, the Surgeon General's Office released their advisory statement and --

A Sorry. When? In July of --

Q July 15th of 2021.

A 2021. Yeah.

Q And then, a day later, President Biden makes the comments that we were discussing earlier --

A Yeah.

Q -- and singling out Facebook.

A Yeah.

Q Do you recall, did you have any advance notice that Facebook in particular would be singled out?

A In that way?

Q In that way.

A No. No.

Did we know that in general terms -- because I think both the Surgeon General and the White House spokesperson at the time had publicly repeated the now-familiar refrain about the Disinformation Dozen and why Facebook does not do more. So that was not surprising to me.

But no advance warning at all that that, sort of, form of words from the President would occur. No.

Q So the more general sense that there was frustration from the White House

1 regarding Facebook and the Disinformation Dozen, do you think it was the report that led
2 to Facebook facing more scrutiny than some of the other social media platforms?
3 A The Disinformation Dozen?
4 Q Yes.
5 A Oh, yes, I think that report -- I think that report definitely played -- appears
6 to have played a persistent and consistent role in the way in which the White House
7 perceived our efforts.
8 Q Okay.
9 A And as I described earlier, it became a source of, sort of, some exasperation
10 on my part. We couldn't properly contextualize what was very threadbare research.
11 Q Uh-huh.
12 And were you aware -- this is certainly all out in the public now, that Mr. Slavitt
13 and others were talking to multiple social media companies. Were you aware in the
14 spring and summer that similar meetings were taking place between, say, some of the
15 Alphabet products and the White House?
16 A I remember being told that somehow we were performing less well or being
17 less forthcoming than the other platforms. Never with any granularity.
18 And, again, I viewed that with some skepticism. I wasn't aware of any of the
19 other platforms running the world's largest COVID survey in the way that we were. I
20 wasn't aware of any other platform helping, certainly, millions of Americans to get
21 vaccinated. I wasn't aware of any other platform having as much traffic to our
22 authoritative COVID information center as we did.
23 So I responded to those, sort of, throwaway remarks, I think, in the same spirit. I
24 sort of thought they were probably delivered to be just a little bit -- to needle us a bit.
25 And I, to this day, have not seen any evidence that other platforms made more

1 considerable efforts than we did.

2 Q Uh-huh.

3 And we discussed part of this earlier. Your communications with Mr. Slavitt,

4 once he leaves --

5 A Yes.

6 Q -- the White House, did it continue at a similar pace, whether he was in the

7 White House role or outside the White House role?

8 A No. My recollection is that for a short period after he left the White House

9 there was some interaction, not the least my appearance on his podcast.

10 Q Uh-huh.

11 A And, obviously, the interaction we've seen before. But, no, it didn't

12 continue at that pace. I think it actually fell off really quite quickly.

13 Q Uh-huh. Were you in interactions with him -- actually, let me strike that

14 and re-ask.

15 When he was playing this intermediary --

16 A Yeah.

17 Q -- role in the summer of 2021, did he communicate in any way that

18 Facebook -- that the frustration levels unique to Facebook were persisting?

19 A I certainly remember -- but, again, forgive me, I can't remember the

20 chronology -- I certainly remember being told by Andy Slavitt, I think actually on a number

21 of occasions, that there was particular frustration about Facebook and that it was widely

22 held across the White House. Yes, I think he made that clear to me on a number of

23 occasions.

24 And I think on those occasions he would say to me, we've just had a meeting, and

25 it's been really disappointing, and you're not providing enough information. So that was

1 a fairly consistent --

2 Q Uh-huh.

3 A -- fairly consistent refrain, yeah.

4 Q Once this, you know, sequence of events, where there's the advisory

5 statement, [redacted] makes a statement, President Biden makes a statement, obviously --

6 A Yeah.

7 Q -- the company doesn't agree with what's being said --

8 A Yeah.

9 Q -- is that what led you to stop communicating as frequently with Mr. Slavitt?

10 Did that add tension to your --

11 A Actually, as it happens, I was fairly frustrated, interestingly enough, by the

12 way he summarized our conversation on his podcast. And I remember at that point

13 thinking, okay, I'm done with this.

14 Because I had gone on to that podcast in good faith, I tried to explain everything,

15 and he -- I think he said something like, well, they're being paid by the people who

16 kill -- and I just thought, this is just silly. And I was pretty -- I just thought, I'm done with

17 that.

18 So I think pretty soon after then there was not much more communication. I

19 thought it was a wholly inaccurate and, you know, somewhat disproportionate

20 characterization of what we were trying to do over several months.

21 Q After the summer of 2021, roughly, have you had any communications with

22 Mr. Slavitt?

23 A No.

24 Q In the earlier round, we were talking about, just in general terms Mr. Slavitt's

25 referring to lots of folks in the administration care about the issues --

1 A Yeah.

2 Q -- indicating many above him, below him.

3 Do you recall any meetings or phone calls where he brought in someone senior to

4 him as, sort of, evidence or a sign of the interest the White House had in this issue?

5 A No. No. I think he may have introduced me to the Surgeon General,

6 actually, by email. So I think that may have happened, just a little hand-off. No.

7 And, sorry, just to amplify the -- well, "amplify" -- just to explain the earlier point,

8 notwithstanding our disagreements, I'd always try to be polite and friendly and kind of

9 professional, which is why it kind of slightly surprised me, the way that I'd been trying to

10 engage was characterized in public by him in his podcast.

11 So I remember at that point very much focusing my attention to try to develop a

12 working relationship with the Surgeon General and his team.

13 Q Once you recorded the podcast, were you given a chance to review it at all

14 before it was released?

15 A I don't know. I don't think so. "I don't know" is the answer. I don't

16 know.

17 Q To your understanding --

18 A But, even as an ex-politician, I don't like listening to my own voice that much,

19 so I don't think -- I don't remember going over it in any detail.

20 Q Well, Americans appreciate the British accent.

21 A Okay, well. At least someone does.

22 Q We've obviously talked quite a bit about the interactions with Mr. Slavitt in

23 the spring and summer of 2021 and the focus on vaccine-related content.

24 At your time at Meta, do you recall any conversations with any White House

25 officials regarding issues related to inflation and how inflation is discussed on social

media?

A Infla- -- prices?

Q Yes.

A No. No. No.

Q What about issues related to immigration or the U.S. southern border?

A No.

Q It sounds like conversations with Mr. Slavitt just tapered off after --

A Yes.

Q -- that time period?

Did he ever express any regret to you regarding the White House's interactions with Meta?

A No.

[redacted] Can we go off the record, please?

[Recess.]

[redacted] Can we go back on the record, please?

Mr. Clegg. Sorry. I think it was in a discussion we had earlier about the relationship between automatic enqueuing and automatic demotion.

[redacted] That's right.

Mr. Clegg. And, previously -- I now forgive myself for not remembering this, because the answer is, it depends.

If the classifier of enqueuing had a high-certainty score that it was misinformation, it was previously also then automatically demoted. But it relied upon not just being enqueued but being enqueued for possible misinformation with a certain level of certainty.

More recently, we no longer do any demotions based on content being

1 automatically enqueued in the U.S. And we've also, relatively recently, introduced
2 control so that users, on an individual basis, if they don't want to see content even after it
3 has been fact-checked, demoted, then they can switch that off.
4 So I hope that helps.
5 BY [redacted]
6 Q One question. And if you don't know the answer, we'll talk to your counsel
7 and get it.
8 Because the two pieces of content were coming from the New York Post --
9 A Yes.
10 Q -- is it your understanding that they were above or below that threshold?
11 A Oh, I wouldn't know, because it was a manual enqueuing. So I can't answer
12 that question, because it wasn't subject to the -- sorry. So the level of certainty is a level
13 of certainty under the automated system, which was your --
14 Q Oh, okay. That doesn't apply to the --
15 A -- which was your question to me, which I didn't know the answer to. Does
16 that --
17 Q Yeah, that makes sense.
18 A Does that help?
19 Q Yes.
20 [redacted] Can we go off the record, please?
21 Thank you.
22 [Whereupon, at 4:02 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

Transcribed Interview Transcript Errata Form

Interviewee	NICHOLAS "NICK" CLEGG
Date of Interview	MARCH 1, 2024
Date of Review	
Name of Reviewer	[redacted], KIRKLAND & ELLIS
Signature of Reviewer	[redacted]

Page	Line	Suggested Correction
9	11-12	idea that Mark...
16	17	[PLS CHECK "VERY, VERY FALSE"
19	8	OUR SERVICES
23	24	strike "a" content
30	7	"but" a proud permanent...
71	3	took "for" the company...
107	11	once we heard the "Surgeon General"
122	18	Cata files = classifiers
149	3	[redacted]

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5 COMMITTEE ON THE JUDICIARY,
6 U.S. HOUSE OF REPRESENTATIVES,
7 WASHINGTON, D.C.
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13 INTERVIEW OF: MICHAEL POZMANTIER
14
15
16
17
18 Tuesday, March 12, 2024
19
20 Washington, D.C.
21
22
23 The interview in the above matter was held in room 2237, Rayburn House Office
24 Building, commencing at 9:59 a.m.
25

1 Appearances:

2

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted] PROFESSIONAL STAFF MEMBER

8 [redacted] PROFESSIONAL STAFF MEMBER

9 [redacted] PROFESSIONAL STAFF MEMBER

10 [redacted] DEPUTY CHIEF COUNSEL FOR OVERSIGHT

11 [redacted] MINORITY STAFF ASSISTANT

12

13

14 For the SUBCOMMITTEE ON CRIME AND

15 FEDERAL GOVERNMENT SURVEILLANCE:

16

17 [redacted] MINORITY DEPUTY CHIEF COUNSEL

18

19

20 For MICHAEL POZMANTIER:

21

22 SOUMYA DAYANANDA

23 LINDSAY HEMMINGER

24 Willkie Farr & Gallagher

25

1 [redacted] This is a transcribed interview of Michael Pozmantier. Chairman
2 Jordan has requested this interview as part of the committee's investigation of how and
3 the extent to which the executive branch has coerced and colluded with companies and
4 other intermediaries to censor speech.
5 Would the witness please state your name for the record?
6 Mr. Pozmantier. Michael Pozmantier.
7 [redacted] On behalf of the committee I want to thank you for appearing here
8 today to answer our questions. The chairman also appreciates your willingness to
9 appear voluntarily.
10 My name is [redacted] and I'm with Chairman Jordan's staff. And I'll have
11 everyone else from the committee who's here in the room introduce themselves as well.
12 [redacted] [redacted] Chairman Jordan's staff.
13 [redacted] [redacted] Chairman Jordan's office.
14 [redacted] [redacted] Chairman Jordan's staff.
15 [redacted] [redacted] deputy chief counsel, Ranking Member Nadler's staff.
16 [redacted] [redacted] Ranking Member Nadler's staff.
17 [redacted] I'd like to now go over the ground rules and guidelines that we will
18 follow during today's interview.
19 Our questioning will proceed in rounds. The majority will ask questions first for
20 1 hour, and then the minority will have an opportunity to ask questions for an equal
21 period of time, if they choose. We will alternate back and forth until there are no more
22 questions and the interview is over. Typically, we take a short break at the end of each
23 hour, but if you'd like to take a break apart from that, please just let us know.
24 As you can see, there is an official court reporter taking down everything we say to
25 make a written record, so we ask that you give verbal responses to all questions. Do

1 you understand?

2 Mr. Pozmantier. Yes.

3 [redacted] So the court reporter can take down a clear record, we will do our best

4 to limit the number of people directing questions at you during any given hour to just

5 those people on the staff whose turn it is. Please try and speak clearly so the court

6 reporter can understand and so the folks down at the end of the table can hear you. It

7 is important that we don't talk over one another or interrupt each other if we can help it.

8 And that goes for everybody present at today's interview.

9 We encourage witnesses who appear before the committee to freely consult with

10 counsel if they so choose. It is my understanding that you are appearing today with

11 counsel. Is that correct?

12 Mr. Pozmantier. Correct.

13 [redacted] Could counsel please state your name for the record?

14 Ms. Dayananda. Sure. Good morning, everyone. My name is Soumya

15 Dayananda. I'm here from Willkie Farr & Gallagher. Joining me is Lindsay Hemminger

16 from Willkie Farr as well.

17 [redacted] Thank you.

18 We want you to answer our questions in the most complete and truthful manner

19 as possible, so we will take our time. If you have any questions or if you do not

20 understand one of our questions, please let us know. Our questions will cover a wide

21 range of topics, so if you need clarification at any point, just say so. If you honestly don't

22 know the answer to a question or do not remember, it is best not to guess. Please give

23 us your best recollection, and it is okay to tell us if you learned information from someone

24 else. Just indicate how you came to know the information. If there are things you

25 don't know or can't remember, just say so, and please inform us who, to the best of your

1 knowledge, might be able to provide a more complete answer to the question.

2 You should also understand that although this interview is not under oath, that by

3 law you're required to answer questions from Congress truthfully. Do you understand

4 that?

5 Mr. Pozmantier. Yes, I do.

6 [redacted] This also applies to questions posed by congressional staff in an

7 interview. Do you understand this?

8 Mr. Pozmantier. Yes.

9 [redacted] Witnesses that knowingly provide false testimony could be subject to

10 criminal prosecution for perjury or for making false statements under 18 U.S.C. Section

11 1001. Do you understand this?

12 Mr. Pozmantier. Yes.

13 [redacted] Is there any reason you are unable to provide truthful answers to

14 today's questions?

15 Mr. Pozmantier. No.

16 [redacted] Finally, I'd like to make note that the content of what we discuss here

17 today is confidential. We ask that you not speak about what we discuss in this interview

18 to any outside individuals to preserve the integrity of our investigation. For the same

19 reason, the marked exhibits that we will use today will remain with the court reporter so

20 that they go in the official transcript. And any copies of those exhibits will be returned

21 to us when we wrap up.

22 That is the end of my preamble. Is there anything that my colleagues from the

23 minority would like to add?

24 [redacted] No. I just want to practice saying your name. Mr. Pozmantier?

25 Mr. Pozmantier. Pozmantier.

1 [redacted] Pozmantier, okay. We'd just like to thank you on behalf of Mr.
2 Nadler for appearing here today.
3 Thank you.
4 [redacted] Counsel, I understand you'd like to introduce an exhibit before we get
5 started.
6 Ms. Dayananda. Yes, thanks. I have two exhibits that I'd like to introduce on
7 behalf of Mr. Pozmantier. One is the authorization letter, which I believe counsel on
8 both sides have seen; it's from the NSF. This is an authorization letter from the agency,
9 which is a good segue into stating that I'm appearing here as personal counsel for
10 Mr. Pozmantier. And in that being said, he's able to testify as far as his role at NSF.
11 He's not here to testify on behalf of the entire agency, which I think is understood, but I
12 wanted the record to be clear.
13 I also wanted to mark as the second exhibit a letter we provided to both majority
14 and minority staff yesterday, which is essentially an outline of today's of Mr. Pozmantier's
15 testimony which I think and I hope will aid the questioners in making this an efficient
16 process.
17 So if that could be -- I don't know, are you doing numbers or letters?
18 [redacted] We'll do numbers.
19 Ms. Dayananda. Okay.
20 [redacted] So we'll do exhibit 1 --
21 Ms. Dayananda. And 2.
22 [redacted] -- as the letter from the agency and exhibit 2 the letter from you.
23 [Pozmantier Exhibit Nos. 1 and 2
24 marked for identification.]
25 Ms. Dayananda. Right.

1 And just a couple more housekeeping. So on the confidentiality statement that
2 you just made, as I mentioned, Mr. Pozmantier is here on behalf of -- regarding his role at
3 NSF. I do anticipate and don't see an issue with him relaying the substance of this
4 interview back to NSF. I'm not saying he's going to speak in his personal capacity to
5 friends and family or the press, but indeed as far as relaying what the questions were to
6 NSF staff considering he's here as an employee of the NSF. So just wanted to make sure
7 that that's clear to you.
8 [redacted] We would ask the witness to maintain confidentiality. I'm happy to
9 have a discussion as far as who he feels he needs to inform at the agency. We
10 obviously -- this is part of an ongoing investigation --
11 Ms. Dayananda. Sure.
12 [redacted] -- so we want to make sure we are not authorizing people to speak
13 widely and undermining --
14 Ms. Dayananda. Understood. I just don't know the basis for the confidentiality
15 in this particular instance. I wouldn't understand it elsewhere also, but for here, in
16 terms of him being -- again, he started at NSF in 2020. He's here about his role as a
17 program director. The NSF production process is ongoing. I think, again, in the matter
18 of efficiency, it'd be helpful if he informs them what the substance of this is.
19 We can talk about the parameters, but I just wanted to make sure that he's
20 not -- you know, it doesn't run afoul of any of your direction.
21 [redacted] Okay.
22 Ms. Dayananda. The other two just housekeeping is I know there'll be a
23 transcript here. We'd want to have the opportunity to review it, provide errata before
24 it's published or used -- or any, you know, like excerpts are used. So we want to have an
25 errata sheet as well.

1 [redacted] On the confidentiality front, again, we'd ask the witness maintain the
2 confidentiality. If at the end of the interview you'd like to discuss, you know, what's
3 appropriate to discuss with like a supervisor, something like that, we can do that at the
4 end. But the ground rule remains as it is; we ask for confidentiality to be maintained.
5 As far as the opportunity to review, you absolutely can -- we will notify you as
6 soon as we receive a copy of the transcript and you'll have an opportunity to come to the
7 committee's room and review and, you know, submit errata.
8 Ms. Dayananda. Okay, great. We'll take up the confidential issue at the end,
9 but we can -- that's it for my side.
10 [redacted] Great.
11 You have anything to add on this one?
12 [redacted] No, thank you.
13 [redacted] It is 10:06. We will start the first hour of questioning.
14 EXAMINATION
15 BY [redacted]
16 Q Could you please restate your full name for the record ?
17 A Michael Pozmantier.
18 Q And what is your current place of employment?
19 A National Science Foundation.
20 Q What is your current title?
21 A Program director.
22 Q And how long have you worked in that role?
23 A Since January 2020.
24 Q Beginning with college, what is your educational background?
25 A A bachelor's degree, University of Texas.

1 Q And what is your professional background in government?
2 A My professional background in government?
3 Q What experience do you have in government?
4 A I've worked as a contractor in the Federal Government. I've worked as a
5 Federal employee at Department of Homeland Security, and a contractor at the
6 Department of Veterans Affairs, and government employee at the National Science
7 Foundation.
8 Q Are you familiar with the terms "misinformation," "disinformation," and
9 "malinformation"?
10 A Yes.
11 Q And to your understanding, what are the differences in knowing those
12 terms?
13 A Disinformation is intentional. It is, say, what the Russian state is doing
14 against us. Misinformation is generally unknowingly conveying that disinformation.
15 And malinformation is taking something that has a kernel of truth and spinning a different
16 narrative around it.
17 Q And to your understanding, is disinformation only foreign based?
18 A No.
19 Q It can be domestic as well?
20 A It's usually the intent that's behind it that determines it.
21 Q Okay. And how does NSF define those terms? Would you say that your
22 definition aligns with NSF's definition as well?
23 A I don't know that NSF has an official definition. Those are the definitions of
24 them, as far as I know, in the field.
25 Q Okay. Are you familiar with the terms -- or the term "inauthentic

1 behavior"?

2 A Yes.

3 Q And to your understanding, how does NSF define inauthentic behavior?

4 A I don't know that NSF actually defines them, but I know, generally,

5 inauthentic behavior is defined as, say, fake accounts, fake personas, things like that.

6 Q Okay. Which NSF directorate is NSF's Convergence Accelerator program

7 housed within?

8 A TIP, Technology, Innovation and Partnerships.

9 Q Okay. When was the TIP directorate established and what is its goal?

10 A It was established through the CHIPS Act. And I believe it's been around for

11 2 to 3 years now. The dates escape me.

12 Q Does its goal include developing trustworthy AI systems?

13 A I don't -- that's not a specific goal of TIP.

14 Q In addition to Track F, which other tracks do you lead?

15 A Track D, which is AI innovation.

16 Q And which NSF teams do you interact with most frequently?

17 A The Convergence Accelerator team, the team with ITE, which is the division

18 of TIP that we're in, and the TIP team.

19 Q And as a program director for NSF's Convergence Accelerator program, what

20 are your responsibilities?

21 A To oversee the teams that are awarded under my tracks, to assist with the

22 ideation process in the Convergence Accelerator where we determine topics, to oversee

23 the review process for proposals, participate in the solicitation writing process.

24 Generally, managing the, I don't know, bureaucratic aspects of, you know, awarding,

25 overseeing, et cetera.

1 Q And who do you report to?
2 A The section head for Convergence Accelerator, Doug Maughan.
3 Q Okay. How many people report directly to you?
4 A None.
5 Q How -- do you have a team that goes along with you or are you kind of on
6 your own?
7 A We have a team in the Convergence Accelerator that does various support
8 functions, but they don't report to me. And I generally manage my teams on my own.
9 Q You mentioned Douglas Maughan. Is that correct?
10 A Yes.
11 Q What does he do?
12 A He oversees the Convergence Accelerator.
13 Q How frequently do you work with him in relation to Track F?
14 A I mean, specifically with Track F, I mean, I guess during staff meetings he
15 might ask for updates. But outside of that, it's -- right now, given where we are with the
16 track, it's fairly far along, there's just normal oversight activities and there's not much
17 going on other than the teams doing their work.
18 Q Was Mr. Maughan involved in the decision-making process regarding what
19 Track F would be, the topic for it?
20 A Among many others, yes.
21 Q Does he work in any way with the Track F teams on their projects?
22 A No.
23 Q Do you know a Chaitanya Baru?
24 A Chaitanya.
25 Q Chaitanya?

1 A Yes.

2 Q Who is he?

3 A Chaitanya is I think right now -- I'm not sure what his official title is, but he's

4 a -- maybe a technical adviser, senior adviser in TIP.

5 Q How frequently do you interact with him?

6 A I don't know, maybe once a month, every couple of months. It depends.

7 Q Is he involved with Track F at all?

8 A No.

9 Q Okay. How frequently do you interact with the Office of the NSF Director in

10 relation to Track F?

11 A I don't know that I ever have directly.

12 Q Do you have a primary point of contact?

13 A Everything goes through the chain of command.

14 Q Okay. Do you know Amanda Greenwell?

15 A No.

16 Q Do you know Mike England?

17 A Yes.

18 Q Who is he?

19 A He's in the Office of Leg and Public Affairs, and he's one of the people that

20 handles media.

21 Q How often have you interacted with Mr. England in relation to Track F?

22 A The only times I've interacted with Mike is when somebody from the press

23 sends a inquiry directly to me and I pass it to him, which is proper procedure.

24 Q How often would that be?

25 A They come in waves. We might get, you know, a handful, three or four.

1 Or, actually, not even that many. I'm trying to think. I think throughout the entire
2 process, that I can remember, it's less than five, maybe five or so at times that I've gotten
3 stuff. So occasionally I'll let him know if I see an article so that they're aware.
4 Q Did you consult with Mr. England in relation to a Track F media strategy?
5 A No.
6 Q Why not?
7 A We developed -- well, we didn't develop anything. We had a meeting to
8 discuss ideas for what should be -- you know, thinking about how things could be
9 handled, how we could educate people. The Track F principal investigators and teams
10 have an enormous amount of expertise in that space. They're former journalists,
11 communications, et cetera. And so we brought them -- and many of them have been
12 dealing with issues of harassment and other things for a number of years. And so we
13 brought them together to brainstorm and put ideas together. And we captured that,
14 the notes from that, in what was titled the media strategy. But that never actually went
15 beyond that meeting.
16 Q So no one from the Office of Legislative or Public Affairs was contacted?
17 A No.
18 Q Is that typical if you're going to create a strategy for a particular track?
19 A It depends.
20 Q How does it depend?
21 A It depends what you're doing. I mean, in this case, the initial plan was if we
22 had -- if we had actually developed anything further that would have warranted us going
23 to them, we would have spoken to them about it. But we had the one meeting.
24 We passed around notes from the meeting. People commented, and then nothing
25 happened after that.

1 Q So there was no training that followed?

2 A Nothing followed it.

3 Q Okay. Who else in NSF's Office of Legislative and Public Affairs did you

4 engage with in relation to Track F?

5 A I guess the only other person is -- since all this stuff's happening -- Rob

6 Moller.

7 Q And how about in relationship to the Track F media strategy? No one else?

8 A No.

9 Q Okay. Do you know Anita Nikolich?

10 A Yes.

11 Q What is the nature of your interactions with Ms. Nikolich?

12 A She's a co-PI on one of the projects.

13 Q Was she involved in the development of the Track F, you know, ideation

14 process?

15 A No.

16 Q She was not.

17 A Oh, I take that back. She was involved with the workshop on inauthentic

18 behavior at the University of Chicago.

19 Ms. Dayananda. Mike, I'm going to ask you to keep your voice up, because I feel

20 like you're speaking low.

21 Mr. Pozmantier. Okay. Yep.

22 BY [redacted]

23 Q Do you know Phil Stupak?

24 A Yes, I do.

25 Q Has Mr. Stupak played any role in the creation or operation of Track F?

1 A He was involved with the workshop at the University of Chicago.
2 Q Have you remained in contact with him?
3 A I haven't talked to Phil since.
4 Q Okay. What about Mary Hanley? Are you familiar with her?
5 A The name is familiar, but I can't remember.
6 Q You managed and led and assessed Track F program. Is that correct?
7 A I lead it, yes.
8 Q Okay. Did you also play a role in its creation?
9 A In as far as any program director does when we're assigned a topic, I was
10 the -- we -- the ideation process, we each have topics that we're in charge of. And as far
11 as workshops goes, we're backup to a workshop. I happened to be the backup on that
12 inauthentic behavior workshop, and then helped shepherd it through the process
13 of -- decision-making process, as I did for other tracks like the food and nutrition security
14 track; that's I think Track J.
15 Q Okay. You said you were the backup?
16 A There -- each workshop is assigned two program directors. One's the lead,
17 one's the backup, and I happened to be the backup on that one.
18 Q Okay. Did you play any role in advising what the workshop would be
19 about?
20 A We don't do that.
21 Q What was the purpose of the Track F program?
22 A What is the purpose of it?
23 Q Yes.
24 A That's a pretty broad question. Can you be more specific?
25 Q Sure. What -- well, based off of the program solicitation, it outlines

1 different, you know, objectives. In your words, what would you find those -- what is the
2 ultimate objective?
3 A The ultimate objective is to inform people so they can discern information
4 better. In my view -- well, I think if you look at what we're trying to do there, if you look
5 at the projects that we funded, it's to get information out and allow people to make their
6 own decision -- informed decisions about information that they're confronted with.
7 Q Would the tools funded by this program reduce the spread of
8 misinformation, in your view?
9 A It wouldn't reduce the spread of it, no.
10 Q Do -- the tools funded by this program, do any involve the use of AI?
11 A Yes.
12 Q Which ones?
13 A Course Correct, Co-Insights, and ARTT.
14 Q Were any developed with social media companies in mind as the end user?
15 A No.
16 BY [redacted]
17 Q I just want to take a step back. Going back to the ideation process Track F,
18 you said there were a number of people involved.
19 A Right.
20 Q To your understanding, who else was involved?
21 A I mean, the entire office is involved in some way. As we outlined in the
22 letter that we sent you and I believe you guys have been briefed on by Irwin, the ideation
23 process consists of us putting out an RFI for anybody in the general public anywhere to
24 submit ideas to us. And I believe -- again, we have the numbers in the letter -- I believe
25 it's 170 ideas that we got.

1 We then cull those down into groupings and come up with kind of headline
2 topic -- umbrella topics that have different ones underneath them. And then we work
3 those down and determine -- ask the people that submitted those ideas whether they
4 would like to run a workshop or not.
5 And then do that -- but through that entire process, we're -- you know, the entire
6 office and other folks are involved with that process of filtering it down. And then once
7 we've done the workshops, we have the workshop reports, and those go through our
8 office and other groups at NSF to make final decisions, including NSF leadership.
9 Q We were referring to -- is it Mr. Maughan? Am I saying his last name
10 correct?
11 A Maughan.
12 Q Maughan?
13 A Yes.
14 Q Who's Mr. Maughan's direct report?
15 A Who does he report up to?
16 Q Yes.
17 A I would think it's Thyaga, and I -- don't ask me to pronounce his last name.
18 Sorry, I should be able to, but --
19 Q What's Thyaga's title?
20 A He's the ITE director or head.
21 Q And then, I'm sorry if I misunderstood a previous answer. You said you
22 don't have folks, like a direct, any reports or a team, but then another answer you're
23 referring to teams. Are you referring to the outside teams you work with?
24 A It depends on the context. I'm not sure which one you're referring to.
25 But we have -- we fund the research teams. And so they don't direct -- I don't -- we

1 don't call them direct reports because they don't work for National Science Foundation.
2 As any program director at NSF is, you oversee the awards that you've -- you're in charge
3 of. In our office, we have various staff assistants, contractors that perform different
4 functions, but they don't report to me.
5 Q And who do they generally report to? What's the office hierarchy?
6 A Depends on the function, I guess, but I guess ultimately everybody reports to
7 Doug.
8 [redacted] Okay.
9 BY [redacted]
10 Q I want to go back to a question I just asked a moment ago about which
11 projects involve AI. You said Course Correct, Co-Insights, and ARTT. What about
12 WiseDex?
13 A WiseDex is not funded anymore.
14 Q So maybe I should rephrase the question. In the relationship of all Track F
15 funded programs.
16 A I mean, I want to be clear about this because I think there's a
17 misunderstanding of the process of our program. When we fund things in Phase I,
18 they're mostly doing a curriculum. And they might be building a little bit. But once we
19 stop funding them at Phase II, what they do is not -- I mean, they're -- they can do what
20 they want to. It's not our oversight any longer.
21 WiseDex was not awarded Phase II funding to actually, you know, focus on
22 building anything.
23 Q It was awarded Phase I funding?
24 A Yes. And Phase I consists of mostly doing curriculum and maybe
25 doing -- and doing a lot of interviews and things like that. There was never a WiseDex

1 system that was built during Phase I.

2 Q And how much money did WiseDex receive from NSF in Phase I?

3 A Some -- the cap is $750,000, so somewhere in there.

4 Q And you're saying that that money was not used to build any systems?

5 A They might have been starting to build, but you have to understand that

6 these systems don't -- systems like these don't just get built in a few months. And we're

7 not -- we don't budget time for them to build during Phase I. They're doing curriculum,

8 they're doing training, they're doing interviews to validate the problem that they're trying

9 to solve and validate the solution that they're trying to -- they're planning on building.

10 Phase II, when they have more time and more money, they supposed to focus more on

11 building. So they might build some kind of a proof of concept.

12 But in WiseDex's case, their project was wholly dependent on getting data from a

13 social media platform, which I believe they've never had access to.

14 Q How long is Phase I?

15 A Most of it is -- part of it is 9 months, but it's a 1-year award.

16 Q How frequently did you interact with WiseDex during that Phase I timeline?

17 A We had almost weekly curriculum with them, where they were learning

18 things like team science and human-centered design, and communication skills and things

19 like that. So beyond that, we might have had a, I don't know, a monthly meeting or so

20 where I would talk to the PI, as I did with all the teams. And I might attend, when

21 possible.

22 No, I didn't -- in Phase I don't attend all these meetings.

23 Q When did NSF first consider funding projects to combat misinformation?

24 A I guess when we decided on it being a track, after the ideation process.

25 Q So to your understanding, is Track F focused on mis- and disinformation?

1 A It's focused on mitigating the impacts of it.

2 Q So is that a yes?

3 Ms. Dayananda. I think he answered it the way -- in a full answer.

4 BY [redacted]

5 Q Are you aware of the Secure and Trustworthy Cyberspace program?

6 A SaTC, yes.

7 Q To your understanding, is it focused on mis- and disinformation?

8 A It's focused on many things. They have a range of awards, but I don't work

9 in SaTC. I don't know what all their awards are.

10 Q Right. My question was not whether or not you work in SaTC but whether,

11 to your understanding, it involves or relates to some of the projects related to mis- and

12 disinformation?

13 A I believe they have funded some things, but I can't answer anything beyond

14 that because I don't know. I don't -- I have my own projects to oversee.

15 Q When did NSF first consider a Convergence Accelerator track to address

16 misinformation?

17 A I've already answered that.

18 [redacted] I didn't hear. What was the end of your question?

19 [redacted] To address misinformation or --

20 Mr. Pozmantier. I mean, I just answered that. After the ideation process.

21 Ms. Dayananda. So perhaps it's helpful if he goes through the solicitation, the

22 ideas that he said, you know, came in 107 ideas, the groupings of that, and then it

23 becomes Track F. So that's the linear process. So to answer your question -- he

24 answered it earlier, but a fuller picture might be helpful.

25 [redacted] Right. So I'm not sure if he answered it in relation to misinformation

1 when -- the idea of it being a focus on misinformation.

2 BY [redacted]

3 Q Because correct me if I'm wrong, but to my understanding the workshop was

4 focused largely on inauthentic behavior. Is that correct?

5 A Which is part and parcel with mis- and disinformation.

6 Q So you don't see a difference between the two?

7 A They are different aspects of the same larger issue.

8 Q Okay. And so misinformation was a primary focus of the workshop?

9 A They talked largely about -- and I -- you're asking about a workshop that was

10 conducted in 2020. I don't remember all the specifics of it. But, I mean, the

11 inauthentic behavior aspect of it is when you look at how things are propagated, a lot of

12 it's through fake accounts, through false personas. So, you know, we see a lot of this

13 with, you know, Russian intelligence-related things, Chinese related. They create whole

14 systems of fake accounts, fake personas online, and then propagate information through

15 there.

16 Q Did the NSF director sign off on the topic for Track F?

17 A I'm not sure if he did or not. It goes up to some level of leadership, but

18 when it gets to that point, I'm not involved with it.

19 Q Okay. Do you know who had to sign off, to your knowledge, on the Track F

20 solicitation or topic?

21 A TIP director and maybe some others.

22 Q How often did you meet with the Track F teams?

23 A At what stage?

24 Q Let's start in -- before you issued the award or when you were -- or maybe

25 we could start with after Phase I funding.

1 A So Phase II?

2 Q Or --

3 A So after we awarded -- made Phase I awards?

4 Q That's correct.

5 A Yeah. So I would meet -- so Phase I is 12 teams. And we're going to cut
6 that down in Phase II, which means that I have to limit my interactions with the teams to
7 some degree because there's still a selection process, a competitive process for a bigger
8 award for Phase II. So we would have them in the curriculum on almost a weekly basis,
9 some weeks here and there off, or them doing different activities, but generally we're
10 seeing them then. I'm not necessarily interacting with them during curriculum, but I
11 might meet with them about once a month just to make sure what's going on and if they
12 have any issues or anything else, any concerns, get kind of a heat check on how the
13 team's doing, things like that.

14 Q And what do you mean by heat check?

15 A Just to see how they're doing with the curriculums, because this is a
16 different type of program for most academics. Most of the teams are academic-led and
17 we're pushing them out of their comfort zone, so just making sure. And the teams are
18 bigger than they might be used to. The program is much more active than a typical NSF
19 program. Most NSF basic research grants give you the money and you go do the
20 research. Ours, you get the money and you do curriculum. And so it's a very, very
21 time-consuming program compared to others. So just making sure how all that's going
22 for them.

23 [redacted] Why was that needed for this program?

24 Mr. Pozmantier. It's an accelerated program, so we're trying to team them how
25 to build products. Basic research results typically in papers and things like that,

1 knowledge, but it's not -- doesn't always -- it's not applied research or product build.
2 And so what we're expecting them to do is to go through that entire process of applying
3 their knowledge and building something tangible that's going to come out of it. And so
4 there's a lot that goes into doing those types of things. And when you've pretty much
5 done only basic research your entire career, there's -- it's -- you know, it's new deep
6 waters.
7 BY [redacted]
8 Q So it sounds like a very kind of hands-on process. Is that correct?
9 A As far as the training goes, yes.
10 Q And so what did you discuss in these weekly curriculum meetings or monthly
11 meetings?
12 A As I mentioned, we train them on team science, human-centered design,
13 and communications.
14 Q And did you advise them on their individual projects?
15 A I can't advise them that much on them because there's a competitive
16 process for Phase II.
17 Q So is that -- you didn't advise them or you did advise them that much?
18 A I mean, there's -- I can't get into great detail on what they're doing because
19 it would potentially be giving one project an advantage over another when we have to
20 make selections. So there's some broad advice, but it's not -- I'm not getting into the
21 nuts and bolts of what they're doing.
22 Q And can you give me an example or explain a little more what you mean by
23 broad advice?
24 A Just things about thinking about, you know, partnerships or thinking about
25 assimilating, you know, the feedback that they've gotten from end users that they've

1 interviewed, things like that. But I'm not telling them you need to build this, you need
2 to build that, you need to focus here, you need to focus there.
3 Q When it comes to partnerships, what typically would you recommend or
4 advise on or --
5 A Just making sure that if they're planning on working with a specific group of
6 people that they have some representative partnerships. And an example of that would
7 be a project that we have at the University of Washington that's focused in rural libraries
8 in Black communities. And you would expect them to see librarians and representatives
9 of the Black community in Seattle where they're working to be involved with the team.
10 Q Did you advise WiseDex on any partnerships?
11 A No.
12 Q Did you participate in any all-hands meetings with the Track F teams?
13 A I don't believe I did in Phase I. I know I do in Phase II.
14 Q Okay. Were there any other meetings in Phase I that you can think of?
15 A Maybe some ad hoc meetings here and there where we brought the entire
16 track together to discuss different things.
17 [redacted] When you're having communications with these teams in Phase I, are
18 you joined by anyone else at NSF?
19 Mr. Pozmantier. It depends on the topic, but, generally, no.
20 BY [redacted]
21 Q Let's talk about Phase II. Walk me through what kinds of meetings and
22 how you would advise the teams in these meetings?
23 A In Phase II, so I -- starting at the beginning of Phase II I usually meet with the
24 lead principal investigator or the leadership team every couple of -- every about 2 weeks,
25 particularly as they ramp up. So I might be advising them on things like, you know,

1 when to bring on software developers or engineers to help start building their system.
2 If they're looking at -- in some cases, you know, they have personnel problems, and I'm
3 helping them navigate management of the team and things like that in that sense, just
4 advice. They have to deal with those relationships. I don't have any say in who is on
5 the team or who isn't, but just kind of a sounding board for the PIs because these teams
6 get really big.
7 Some of the teams in Phase II can be 20, 30, 40, 50 people, and that's quite a lot
8 to manage. So sometimes the PIs just need a place to vent or, you know, bounce some
9 ideas off and things like that. They're thinking about business models, how they're
10 going to sustain the project after their award is done, things like that.
11 Q So you would meet with the PIs themselves as well as the teams collectively?
12 A I would go to their all-hands meetings, which are generally about a monthly
13 basis. And then we occasionally have -- and then I usually go and meet with them in
14 person one time early in the process. So travel out to one of the institutions and meet
15 the team in person. And because we're coming out of the pandemic, most of the teams
16 hadn't met in person in that particular cohort yet so it was a way to get them together as
17 well.
18 Q And what did you discuss in these all-hands meetings?
19 A Usually it's just them working on their team stuff. So what their planning
20 is, their progress, and things like that. Usually I'm just observing.
21 Q Would you ever provide updates or briefings in these meetings?
22 A I think the only time I would update them on it is if there was anything in
23 NSF that was going on or, you know, things like that.
24 Q Can you recall any instances of updating them on something that was going
25 on at NSF?

1 A I mean, this stuff obviously enga- -- involves all of them, so --

2 Q What do you mean by this stuff?

3 A The interest from the committee, this committee, and others.

4 Q And what specifically did you tell them at these meetings with regard to

5 that?

6 A Just that we were getting inquiries.

7 BY [redacted]

8 Q For these meetings, just the general meetings and Phase II, are you typically

9 joined by anyone else from NSF?

10 A No.

11 Q And then, once Phase II is going on, what percent of your portfolio, like of

12 your day, is taken up as it relates to managing Phase II Track F?

13 A I have two portfolios, so --

14 Q Track D and Track F?

15 A Yeah. I don't -- I mean, there's no -- I don't think there's an average on a

16 given day. Just depends on what's going on.

17 [redacted] Would you say that you provided regular feedback to the Phase I

18 recipients of Track F grants?

19 Ms. Dayananda. I don't think he said feedback.

20 [redacted] Right.

21 BY [redacted]

22 Q But my question is, would you say that you provided regular feedback?

23 We'll just talk about Phase I right now.

24 A Phase I? I mean, I don't give them a lot of feedback. I mean, the only

25 things we might give them feedback on are some of the curriculum items and things like

1 that, if they've given a practice pitch or something like that. But there's not a lot of
2 feedback on like what we're observing and you need to do this, you need to do that.
3 Q So you wouldn't regularly advise them on their projects?
4 A Again, it was mostly -- if we advised them on anything, it was just navigating
5 the program.
6 Q Okay. And shifting to Phase II, would you provide regular feedback or
7 would you say you provided regular feedback to the teams regarding their Phase II
8 projects?
9 A Yes.
10 Q So what feedback did you provide to Course Correct, for example?
11 A I mean, it's the same feedback that I already described to you, where we're
12 talking to them about, you know, when they need to be thinking about starting to bring
13 on different skill sets, what potential sustainment models they might be pursuing, and so
14 forth. But I'm not -- and they're running their projects on a day-to-day basis.
15 Q Did you provide any updates to NSF leadership or to Mr. Maughan regarding
16 the Track F projects?
17 A I mean, we get feedback on their progress, how they're progressing, are they
18 hitting milestones and so on.
19 Q Did you pass any feedback that you were providing to these teams to NSF
20 leadership or to Mr. Maughan? And maybe I could ask you to clarify who you provided
21 those to.
22 A I mean, we have staff meetings in the Convergence Accelerator.
23 Occasionally, we'll brief at a TIP all-hands meeting or an ITE all-hands meeting. That's
24 pretty much it.
25 Q You mentioned briefing at a TIP meeting. Do you recall a particular

1 instance when you briefed the TIP directorate on Track F?

2 A I -- somewhere along I know I did at one point where we just gave an

3 overview of the projects that we had funded.

4 Q Do you know why you were asked to give this presentation? Was it routine

5 or --

6 A It's routine, and it rotates between different program directors presenting

7 what they're doing.

8 Q Did you only give one of these or how many of these?

9 A I believe there was just one.

10 Q Okay. Did you review each Track F proposal both for Phase I and Phase II?

11 A Yes.

12 Q Did you review Michigan -- the University of Michigan's WiseDex --

13 A I mean, let's clarify review. I read them so I understand what's going on,

14 but we have review panels that actually do reviews.

15 Q And after those review panels do the review, are you given those reviews?

16 Are they written down?

17 A Again, you know, we've provided you guys with the process, but the

18 reviewers submit the reviews ahead of a review panel. And they have each of their

19 reviewers that reviewed a given proposal discuss their reviews, why they gave it the

20 scoring that they did, and then they come to a consensus ranking on it -- or a

21 categorization on it. And that's largely what we take into consideration when we're

22 making selections.

23 Q If you wanted to review those reviews today, would you be able to reference

24 those?

25 A I can't discuss specific reviews with you.

1 Q But if you personally wanted to go and look back --

2 A If I went into -- inside an NSF system, yes, they're housed there. There are

3 records.

4 Q And in relationship to those reviews, are they -- they're passed on to you for

5 your review, is that correct, from the panelists?

6 A They -- so let me go through the mechanics of a review. We identify

7 reviewers that are subject matter experts and we try to match them to projects. In any

8 case you have to have a minimum of three reviews on a given proposal. So in this case

9 we assigned three reviewers to the proposal. And they go in to -- they have a login to an

10 NSF review system. After they read the proposal, they write a review, they submit the

11 review into our system.

12 We meet in a review panel over a day or two where every proposal is discussed.

13 And in case of Phase I, we had four separate panels because there were, I think, 75 odd

14 proposals that came in. And so we divide them up so that they're manageable, typically

15 by topic and availability of reviewers. And then we -- you know, there's also a panel

16 summary written by the group of reviewers on a given proposal, and then all of that is

17 taken into consideration. And so we do reference those things when we're making

18 decisions. The reviewers have the views of the reviewer -- or the scoring and ranking of

19 the reviewers have carried considerable weight in the process.

20 Q And just to clarify, you're part of each review panel. Is that correct?

21 A For Phase I, I ran three of the four. For Phase II, I ran both of them.

22 Ms. Dayananda. I just want to clarify. But are you part of the panel, is his

23 question, or are you overseeing?

24 Mr. Pozmantier. I'm overseeing the panel, I run the panel. I make sure.

25 [redacted] You ran the four -- you said three or four?

1 Mr. Pozmantier. Three or four. There were four panels that we ran. Two of
2 them overlapped, so another person ran the fourth panel, or I think as far as chronology
3 goes, the second panel.
4 [redacted] Do you recall who that was?
5 Mr. Pozmantier. It was Chaitanya Baru.
6 BY [redacted]
7 Q And then you said that you got three subject matter experts per panel. Is
8 that correct?
9 A No. There's a panel of 15 or 20 of them. No -- no reviewer -- the way I
10 run my panels, and this is how -- this differs from program director to program director.
11 I don't assign more than three review -- three proposals to a single reviewer. So, for
12 instance, if we have, you know, 10 proposals, then we'll need enough reviewers so that
13 they're only doing three each.
14 Q Gotcha. And you mentioned that there are subject matter experts.
15 A Yes.
16 Q When it comes to Track F, what kind of subject matter expert were you
17 looking for?
18 A Well, you guys have that actually in the email. You released it in the report.
19 It's stated in the email the different areas that we were looking for covering in that, from
20 computer science, psychology, education, a number of others. Right now some of them
21 escape me. But we were looking for a broad swath of disciplines and expertise to cover
22 the various proposals that we thought we were going to get.
23 Q Were you looking for subject matter experts in mis- and disinformation?
24 A They would have some knowledge of that, but there's also other aspects of
25 the project. So if you're trying to, for instance, create a training system, you might have

1 somebody that's an expert in education or those types of systems. They wouldn't
2 necessarily be somebody that's mis- and disinformation. It's focused. But they
3 understand how to build education programs.
4 Q Do you recall reviewing WiseDex's abstract -- let me step back for a second.
5 When the Track F grantees receive funding, they are required to put together an
6 abstract. Is that correct?
7 A Yes.
8 Q And did you review each abstract?
9 A Yeah, I guess so. I -- I'm sure I did. I don't remember specifically
10 reviewing that one.
11 Q You don't -- do you recall what the WiseDex program did?
12 A Yes, I know what the WiseDex program did.
13 Q Did you have any concerns or can you recall having any concerns about it?
14 A It's a Phase I project at that point so, you know, whether we -- it's not
15 building anything at that point. And most of the projects pivot as they talk to people
16 and move forward. So, you know, it's -- no, no concerns.
17 Q No concerns because it's only Phase I or no concerns at all?
18 A I mean, if you look at what any given project's doing, I didn't -- I wasn't
19 concerned about what they were doing, no.
20 Q So I'm happy to enter this or I can represent to you that the abstract says
21 that the WiseDex team will develop a golden set service that will help a social media
22 platform determine what content is misinformation that deserves enforcement each
23 month. Does that sound familiar?
24 A Uh-huh, yes.
25 Q To your understanding, how would WiseDex determine what content was

1 misinformation?

2 A They actually -- WiseDex was not determining what was misinformation.

3 Q Okay.

4 A WiseDex was flagging things that violated the terms of service for the

5 content moderations teams to make decisions on. And then the plan was to bring

6 transparency to that process by scoring how well the content moderations teams were

7 abiding by their own terms of service.

8 Q Okay.

9 A So just be really, really clear here, WiseDex itself was not doing content

10 moderation. It was simply mapping a post to the terms of service of the platform.

11 Q So you'd say it was helping the platform to do content moderation, not --

12 A And subsequently scoring how well they did it. So the entire part of it was

13 to bring transparency to the process, so content moderation wasn't a black box.

14 Q And then the abstract also says that the WiseDex team will develop a

15 forecasting application programming interface, or API, that can tell a social media

16 platform for any content item how true that content is to aid in the platform's decision

17 procedures.

18 A So that's where they started in Phase I.

19 Q Okay. And how would WiseDex assess the veracity of content?

20 A My understanding was, if I remember this correctly, they were going to have

21 a jury of citizens representing different viewpoints making that determination.

22 Q And who would be made up, like, composed of this jury?

23 A As I just stated, it would be people from different viewpoints.

24 Q You don't know anything apart from that?

25 A That's -- I mean, the project never got to that point, to that stage. So that

1 was what they were saying they were going to do.

2 Q Okay. Did you provide any feedback to the WiseDex team based on this

3 abstract?

4 A No.

5 Q Okay. Did you review MIT -- the Search Lit team's proposal?

6 A I read every one of the 74 proposals that came in.

7 Q Did you have any concerns about that specific proposal?

8 A No. I don't know why I would.

9 Q Do you recall the MIT researchers in that proposal alleging that, you know,

10 certain segments of the population might be more vulnerable to misinformation

11 campaigns?

12 A They did not allege that.

13 Q The Search Lit team's proposal, correct me if I'm wrong, seems to explain the

14 need for a proactive suite of human technologies to assist specific groups with

15 digi- -- dangerous digital content.

16 Ms. Dayananda. Is that from the abstract?

17 [redacted] Yeah.

18 Mr. Pozmantier. I mean, I don't know why you're pulling from the abstract when

19 you guys have the entire proposal there.

20 [redacted] That specifically is from the MIT Search Lit proposal.

21 Mr. Pozmantier. Okay.

22 BY [redacted]

23 Q But my question to you -- it goes on to say, "because reactive content

24 moderation is too slow and ineffective." Do you agree with that assessment?

25 A The idea behind Search Lit was to train people to be able to do their own

1 searches so that they're doing it in real time and not post facto after they've already been
2 exposed to something and made a determination. The -- I don't know. I mean, I don't
3 know how to respond to some of this because it's such a gross mischaracterization of
4 what the project is doing.
5 Q Let's talk a little bit more about what that project was focused on. It was
6 focused on misinformation related to COVID-19 and the 2020 election. Is that right?
7 A I don't remember them specific -- on the specific topics. I remember that
8 the project was trying to teach people how to search for information better.
9 Q So you don't recall whether or not they focused on any individual
10 misinformation topics?
11 A I don't know that they did. Their -- they focused on -- part of their -- the
12 way they looked at misinformation was that it includes scams as well. And so, for
13 instance, if you look at some of the work that they've done, it's training people how to do
14 reverse image searches. It's based on research that shows that the top Google searches
15 are not necessarily the best thing through search engine optimization and you need to go
16 further down the list.
17 So all this really was was a training system to show people how to find
18 information. And they've released videos of their work, one based off a servicemember
19 who has been used as a prop for scams, where his identity has been more or less stolen
20 and used repeatedly to scam people that think they're sending money to our military.
21 Q Did you review Meedan's Co-Insights proposal?
22 A As I mentioned, I read every proposal that came in.
23 Q Did you have any concerns about that one?
24 A No.
25 Q What about Wisconsin's Course Correct proposal?

1 A Same answer.

2 Q Course Correct was focused on combating delegitimizing information about

3 election integrity and vaccine efficacy on social media. Is that correct?

4 A That was some of their initial focus, but the system that they're building

5 looks well beyond that. They doing things around HPV, animal vaccines, plant-based

6 meats.

7 Q So how did Course Correct plan to address those two issues?

8 Ms. Dayananda. So I just want to make sure that we're clear that he's not

9 running the projects. He's testified to this that he doesn't do the day-to-day operations.

10 So his perspective is from NSF overview management of the programs. I'm sure if you

11 want to speak to the Meedan project, MIT-wise if you will, that's your choice. But I

12 don't want him to be in position to testify about those programs because he's not the one

13 who's actually running those programs.

14 BY [redacted]

15 Q To your understanding then, based off of your interactions with the head

16 researchers and reading the proposal in abstract, what did you understand?

17 A The project is identifying narratives that are based off low-quality

18 information and then surfacing those narratives to journalists, fact checkers, and other

19 professional communicators, for them to make a decision on whether or not they would

20 like to write an article, do a fact check, or respond to that narrative in some way that they

21 felt that it was -- potentially could negatively impact. But the project itself was never

22 doing the response. It was never doing anything of that sort. It was surfacing that for

23 the end users of the program -- or the project tool to make their own determinations.

24 Q And the end users would be fact checkers or social media companies?

25 A No, it -- I don't think it would be social media companies. It would be

1 journalists, fact checkers, and public communicators, say like a public health
2 communicator or someone like that.
3 Q And you mentioned these are narratives based on low-quality information.
4 A Yes.
5 Q How would Course Correct define low-quality information?
6 A So if there was no research backing, no -- I'm trying to remember. It's their
7 definition. My understanding of the definition is that it was not -- there was no
8 verifiable way of confirming the information.
9 Q And Course --
10 Ms. Dayananda. And that's low information. Sorry.
11 Mr. Pozmantier. Low quality information, yes.
12 BY [redacted]
13 Q And Course Correct received an additional $5 million in Phase II. Is that
14 correct?
15 A They received a $5 million award, yes.
16 Q Okay. And you recommended to the -- to Director Maughan, is that
17 correct, who should receive these Phase II awards?
18 A Yeah. We go through the proposal -- the review process, and the Phase II
19 review process is more involved than the Phase I process. Again, outlined in the letter
20 that we sent you guys. They do a proposal like they did in Phase I that has a review
21 panel, and I described the process already. Then they have an additional pitch to a
22 separate panel, where they give a 10-minute pitch, with 10-minute Q&A with a panel.
23 And then each panel scores or rates the -- either the proposal in that aspect or the pitch
24 and they give us the rankings. And we take all of that into consideration and create a
25 kind of combined rating based off of those two panels.

1 Q Did you attend each of these pitch presentations?

2 A Yes, I ran the process. I was in charge of overseeing the process.

3 Q And were you present when the WiseDex team first delivered a pitch

4 presentation in October of 2021? Its first pitch?

5 A Oh, at the kickoff meeting?

6 Q Uh-huh.

7 A Yes.

8 Q And just generally to your recollection, you didn't have any concerns about

9 what was in that pitch presentation?

10 A I wasn't really concerned. I was mostly concerned with the quality of the

11 pitch, not the content of the pitch. That's what we're looking for. We want them to

12 pass along what they're doing so the other teams have some understanding, but mainly

13 we're trying to get a baseline on how well they communicate.

14 Q Do you think that the -- do you recall them discussing how their project

15 develops tools that will help policymakers have platforms externalize the difficult

16 responsibility of censorship?

17 A I have -- I don't remember the specific pitches from, you know, 3, almost

18 3 years ago, 2 -- however long ago it was.

19 Q Do you think social media companies have a responsibility?

20 Ms. Dayananda. I feel like that's not a necessary question. Again, he's

21 testifying based on his role. Any personal views about the social media company I just

22 don't think is relevant here.

23 [redacted] Are you instructing him not to answer?

24 Ms. Dayananda. He can answer, but he's going to answer in terms of in his role

25 as a program manager, which, again, because he's not part of the review process, I just

1 don't understand the basis of the question. But you can reask it.

2 BY [redacted]

3 Q You are ultimately reviewing these panelists' reviews in making a

4 recommendation to your supervisor. Is that correct?

5 A Yes.

6 Q So you're a part of the review process?

7 A As far as I could, yeah.

8 Q So based off of that, do you think social media companies have a

9 responsibility to censor speech on their platforms?

10 A I mean, that -- I -- the entire -- I have a problem with the entire premise of

11 the question.

12 Q So are --

13 A Because you're framing it as censorship, and I have -- nobody at the NSF is

14 saying anything about censorship or anything else. Those are your words. That's a

15 mischaracterization.

16 Q Well, WiseDex included that in their presentation to you. Is that correct?

17 A I don't recall ever hearing that. And since you guys have publicized the

18 deck, I actually saw the speaker notes. But that was not part of the slide deck that I saw.

19 Those are speaker notes.

20 Q And to your knowledge, were those speaker notes spoken?

21 A It was -- I have no recollection. I don't remember the specific pitches from

22 that far ago.

23 Q Okay. At this point, it had only been 1 month since NSF awarded the

24 University of Michigan this grant, correct?

25 A It would have been somewhere in that range, yeah.

1 Q And would it have been possible for NSF to revoke this funding that it had
2 allocated to this team, or once you issue a grant is that irrevocable?
3 A I -- on grants, I'm not sure.
4 Q Did NSF ever consider revoking WiseDex's grant?
5 A No.
6 Q Why not?
7 A It was 1 month into the program and they weren't -- there was nothing they
8 were doing that was -- would run afoul of any rules.
9 Q Were you present when the Co-Insights team delivered its pitch
10 presentation?
11 A Yes.
12 Q One slide reveals -- and I'm happy to show this slide if it would help refresh
13 your memory -- that the team labeled undermining trust in mainstream media as a
14 common misinformation narrative. Did you agree with that assessment at the time?
15 A I don't remember formulating any opinion on that at the time.
16 Q How did Meedan determine what constituted misinformation?
17 A You'd have to ask them.
18 Q They didn't explain to you --
19 A Again, I -- you're talking -- you're asking me about like 2- or 3-minute pitches
20 from the very beginning of the program for them when we're not really concerned with
21 the content as much at that point. The content's already been reviewed of what the
22 project is through review panels and selections have been made. It's the very first part
23 of the process for them of a very long process through the program. And all we're really
24 trying to do is assess their communication skills.
25 Q Do these pitches summarize the work of these teams?

1 A They're supposed to.

2 Q They're supposed to. And you said these are 2- to 3-minute pitches?

3 A Something in that, yeah.

1 [10:57 a.m.]

2 BY [redacted]

3 Q I thought -- they're not 10 minutes long.

4 A Again, you're conflating two different -- completely different things. These

5 opening pitches --

6 Q Okay.

7 A -- are at the beginning of Phase I. They're the first thing they do. The

8 10-minute pitches are their Phase II --

9 Q Understood.

10 A -- selection process.

11 Q Understood. Thank you for that clarification.

12 Another slide in that initial -- and it might've been the Phase II -- pitch

13 presentation reveals that the Co-Insights team viewed its project as addressing the

14 content moderation solutions market. Would you agree with that assessment? Is that

15 common -- well, we'll start with that.

16 A They're partnered with a diaspora of AAPI fact-checking organizations, so

17 Hindi, Tagalog language, Chinese, Vietnamese, and several others, and they're working

18 with them. If, I believe, if someone wanted -- if a content moderator wanted to use the

19 fact checks, I guess that's what that's referring to.

20 Q And so what about Track F as a whole, would their market be the content

21 moderation market?

22 A No.

23 Q So just --

24 A Have you guys -- you've read the abstracts. I mean, I think the only project

25 that ever -- the other projects are focused in completely different areas.

1 Q Did you attend the July 2022 expo?

2 A Yes.

3 Q Did social media companies attend?

4 A Not to my knowledge.

5 Q What about government agencies?

6 A Possibly.

7 Q Which ones?

8 A I don't know.

9 Q Who would know?

10 A We would have to go back and look at the attendees list who signed up.

11 We wouldn't know if they actually attended. We would know if they registered.

12 Q And could you reference that attendance list if you wanted to today?

13 A I would have to ask. I don't know where it's stored.

14 Q Okay. Are you generally familiar with how each Track F team planned to

15 market their project at the expo?

16 A I mean, to the extent that they had their videos.

17 Q Did they provide any information to you prior to the expo, saying, Here's

18 what we're going to --

19 A They provided the videos that were posted.

20 Q Were they -- were the team members participating in any booths?

21 A So this is a virtual expo --

22 Q Right.

23 A -- and, so to speak, you have a virtual expo hall and each person has a -- each

24 team has a booth, and somebody would click in there, and they could watch a video, or

25 download a summary of the project or something like that.

1 Q Were you informed of what kind of the agenda for these booths was going
2 to be?
3 A I think there were agendas in some cases, but we largely left it up to them.
4 I mean, we may have recommended agendas where they would present something, but
5 we didn't review the content.
6 Q So you never reviewed what, for example, WiseDex' agenda of what it was
7 going to present at the expo?
8 A I don't think so.
9 Q Okay. Did you review --
10 [redacted] Can we go off the record, please.
11 [Discussion off the record.]
12 [redacted] So we are going back on the record. Ready?
13 BY [redacted]
14 Q Mr. Pozmantier, I believe we started with your education, and you said you
15 had a bachelor's, right?
16 A Uh-huh.
17 Q That's a bachelor of ARTT in government?
18 A Yes.
19 Q Okay. And that was University of Texas Austin?
20 A Yes.
21 Q Okay. So let's talk about the Convergence Accelerator, not specifically
22 Track F, but, like, what is the purpose of a Convergence Accelerator?
23 A So overall, the idea behind the Convergence Accelerator is that we have
24 large societal challenges that require combination -- interdisciplinary work, combinations
25 of different organizations. So academia can't solve it all by themselves, government

1 can't solve it by itself, industry can't solve it by itself, et cetera, computer scientists can't
2 do it all by themselves, social scientists, whatever.
3 So the idea is to take knowledge that is coming from the basic research that NSF is
4 investing in, and actually turn that into tangible outcomes that solve large societal
5 challenges.
6 Q Right. And you want to do it quickly?
7 A As quickly as possible.
8 Q Right.
9 A I mean, it depends on --
10 Q Well, I mean, I'm just --
11 A Yeah.
12 Q -- you kind of compress a situation like --
13 A Yeah, we're forcing them to move --
14 Q You said it was like a pressure cooker, kind of, right?
15 A Yes. It's -- they're -- most NSF programs give them an award and say, We're
16 going to talk to you every now and again, send us an annual report, send us the paper.
17 In this case, we're saying you have a curriculum that you're going to do on almost
18 a weekly basis, you're going to have to go do 12 interviews with different potential
19 customers, or end users, of your system to validate your problem, you're going to do at
20 least 12 more interviews with people that might validate your -- the solution that you're
21 thinking of.
22 Q Right.
23 A So there's a lot -- it's a much higher touch program.
24 Q Right. And you're not the one that's giving them this curriculum? You're
25 just --

1 A No.
2 Q -- taking them through the process?
3 A Yeah. I mean -- well, I -- the curriculum is delivered through -- by what's
4 referred to as a flipped classroom. So they do videos -- they review videos --
5 Q Okay.
6 A -- and then they come in for a facilitated session where they might do
7 activities or different things. But I haven't -- on Phase I, I haven't led that. Phase II, I've
8 facilitated some of the curriculum there that's on entrepreneurship, but it's not led by
9 me.
10 Q Okay.
11 A It's led by -- again, there's videos, and then there are coaches that come in
12 and present specific topics and take them through activities.
13 Q Right. And so the Convergence Accelerator has various topics, right, and
14 they are by track -- are the topics by track?
15 A Yes, 13 different topics, yes.
16 Q Okay.
17 A They're considered tracks.
18 Q Okay.
19 A So we'll do a cohort that has several different topics in it. So for instance,
20 in 2019, tracks A and B, that's a single cohort; 2020 cohort, C and D; 2021, E and F, and
21 then so on.
22 Q Right. And 2021, E and F, that was your responsibility --
23 A F.
24 Q -- as program director, E and F?
25 A Just F.

1 Q Oh. Just F. Okay.
2 And how did NSF determine what the subject of Track F would be?
3 A Through ideation process.
4 Q Okay.
5 A So we solicited, through an RFI, ideas and then we culled those down into
6 umbrella topics and then awarded workshops that brought together people to discuss the
7 topics. Those resulted in reports. Then those were reviewed further by --
8 Q Okay. Hold on. Let's slow down.
9 A Yeah.
10 Q So the Request for Information was a solicitation first, right -- or let me not
11 call it solicitation -- Request for Information?
12 A Yes. Where they would go to a SurveyMonkey and submit their ideas.
13 Q Okay. And that was you asking, like, America, what do you think about
14 what's going on in the world, and what do you think is important?
15 A What do you think the Convergence Accelerator -- what do you think would
16 be an important topic for the Convergence Accelerator to take up?
17 Q Okay. And do you send this to certain people, certain communities, certain
18 types of people?
19 A Every possible mailing list that we can come across and, you know,
20 everybody promoting it individually, organizationally, et cetera, a lot of academic
21 institutions.
22 Q Okay.
23 A We're trying to make sure the private sector and nonprofits also see it, so.
24 Q Okay. And then from that Request for Information, I believe it was March
25 23rd of 2020 in this particular case, right?

1 A Uh-huh.
2 Q And I'm not sure if you said, but maybe in a letter, somewhere there was a
3 quotation that there were, like, 170 responses that you all got from this particular
4 request?
5 A That's correct.
6 Q Okay. And from those 170 responses, you had to whittle that down to
7 what your community workshops would be about. Is that right?
8 A Yes.
9 Q Okay. And how do you -- or who decides what the community workshops
10 will be about, or who will put on -- is it two different things? I'm sorry. Maybe that's
11 a --
12 A The -- once we've worked through the topics and decided what the focus
13 should be, then we'll go back to the submitter and ask them if they would like to run the
14 workshop.
15 Q Okay. And so you did two separate workshops related to Track F?
16 A No.
17 Q Just one?
18 A I think I was a backup on the workshop that resulted in Track F.
19 Q Oh, okay.
20 A I ran one other. I think that may have been -- the years run together now.
21 I can't remember --
22 Q I got you.
23 A -- the other one that I ran. It may have -- yeah, it was a completely
24 different topic that was not selected --
25 Q Okay.

1 A -- that didn't go that far.

2 Q And so Track F was, in some way, related to the workshop that was run by

3 the University of Chicago?

4 A Correct.

5 Q Okay. Who decided that University of Chicago would run that workshop?

6 A It was based on their submission.

7 Q Okay. But, like, at NSF, someone said that University of Chicago will be the

8 one to put on this workshop. Is that right?

9 A Well, they submitted the idea through the RFI, and so we went back to the

10 originator of the idea to ask them --

11 Q Okay.

12 A -- so -- and that happened to be the University of Chicago that submitted.

13 Q Okay. And so who said, "University of Chicago, will you do this workshop"?

14 A I don't know who actually reached out, but I know --

15 Q It wasn't you?

16 A I don't think so, no.

17 Q Okay.

18 A I don't remember.

19 Q It's okay.

20 A But I don't think --

21 Q That was 2020, right?

22 A Yeah.

23 Q Okay. And then so after you do the community workshop, is that how you

24 then develop what the actual topic will be for Track F?

25 A We take the -- we take the report that they produce as a basis, and then

1 inside NSF, we shape that into the topic of the -- that goes into the solicitation and write
2 the solicitation.
3 Q Right. Okay. And right around the time that you -- well, maybe not right
4 around the time that you were about to put the funding opportunity out, but after you
5 had done the community workshop, then the IOGAN Act was passed, right? Sometime
6 December 2020, does that jog your memory?
7 A Is IOGAN 2020 or 2019?
8 Q I think it was actually signed in 2020. We can --
9 A That was a consideration of NSF leadership.
10 Q Okay.
11 A That wasn't something we considered in the Convergence Accelerator office,
12 but NSF leadership --
13 Q Okay.
14 A -- took that into consideration when selecting the -- endorsing the topic.
15 Q Okay. That's fine. We're good.
16 Okay. So then you put out the funding opportunity, because NSF has now
17 decided what Track F will be about?
18 A Yes.
19 Q And Track F, the subject was --
20 A Trust and authenticity in communication systems.
21 Q Okay. And you put out then a solicitation?
22 A Yes. I think that went out in March 2021.
23 Q 2021.
24 And that was, Hey, you guys, this is Track F, and who wants to work on this?
25 How does that go?

1 A Essentially. I mean, we make an announcement that we're putting it out.
2 It was announced through mailing lists, it was on the NSF website, and then because
3 we're also doing a separate track, or a separate path in, to diversify who could apply, we
4 did what's called a broad agency announcement as well that has the exact same
5 information in it, that results in a contract as opposed to a grant. And that was released
6 on SAM.gov --
7 Q Okay.
8 A -- as well.
9 Q And who helps put together what is contained in the actual program
10 solicitation?
11 A It's a group effort.
12 Q Okay.
13 A So I think inside our office, Chaitan and I were -- led that part, but there
14 was -- you know, our office head was involved, other NSF program directors, NSF
15 leadership. So it was definitely not some kind of unilateral thing we did.
16 Q And it was not just you?
17 A No, absolutely not. There were no less than probably -- well, I don't know
18 the exact number, but I would -- it's at least 5 to 10 people.
19 Q Okay. And so that is the solicitation that you're putting out to begin
20 Phase I?
21 A So the solicitation covers Phase I and Phase II.
22 Q Okay.
23 A But we put that out to -- yes, to --
24 Q Okay. So you're actually saying, this is what the first part of this program is
25 going to be, and this is what the second part of this program is going to be?

A Correct.

Q You may or may not make it to --

A Phase II.

Q Right.

A Right.

Q Okay. And --

[redacted] What's the purpose of bifurcating Phase I and Phase II in Convergence Accelerator programs?

Mr. Pozmantier. We're trying to, number 1, give them the tools that are going to be necessary to make sure that they're doing the right thing.

What we don't want to see happen is, we just say, okay, we're going to give you all the money at one time, and we're then going to figure out whether or not you're capable of executing or not, so -- and one of the other aspects of it is, is making sure that the team itself wants to do it.

Sometimes the team finds out that it's more work than they want to do. I mean, it hasn't happened often, but we've had a couple teams that didn't respond to -- didn't submit Phase II proposals throughout the years. We've had some that have mailed in their proposal and submitted really short, poorly written proposals that was just for the sake of submitting.

The -- but it's to make sure that they have the tools to succeed, they validated their ideas, and they've actually -- the ideas that they submit in Phase I are initial ideas. Through the validation process, through the processes that they're going to go through in Phase I, they're going to sharpen that idea, figure out that maybe the idea was wrong and they go to something different, and their Phase II proposal looks different than their Phase I proposal.

1 And then in Phase II, when they actually start getting into building, they may
2 continue to pivot because they're continuing to work closely with end users and other
3 stakeholders.
4 And once you start building things and people actually have something to give you
5 feedback on, you then might make more changes and pivot some more. You might
6 figure out that your sustainability model doesn't work with what you're building.
7 And so, there's a whole aspect of product market fit and other things that they're
8 going through throughout these processes.
9 But Phase I is a process to train them, get them ready to make sure that they're
10 going to propose the best thing possible for Phase II, and it gives us a chance to observe
11 them as well to see how they're dealing with the time-consuming process that they've
12 undertaken.
13 BY [redacted]
14 Q Okay. So let's just go back just to make sure I'm on the same page, okay?
15 So you get a -- you receive from the solicitation, do you recall for Track F, like, how
16 much -- or how many proposals you received?
17 A For Phase I?
18 Q Yes.
19 A We received, I think, 74, and I think it's in the letter.
20 Q Okay. Yeah, I didn't want to say it wrong. I was thinking 75.
21 So then from those 74, someone had to review those proposals?
22 A Correct.
23 Q Who -- you said you have review panels?
24 A Yes.
25 Q Okay. So for the 74, do you recall how many -- you said four review panels,

1 I think.

2 A There are four review panels.

3 Q Okay. Do you sit on any of those review panels?

4 A I oversee the operation of -- in this case, I oversaw the operation of three of

5 them. I identified all the reviewers, and I grouped the proposals into different panels.

6 Q Right.

7 A And then another program director or Chaitan, whatever his title was at the

8 time, ran the other panel, because it was -- there was overlap, and I couldn't run all four.

9 Q Right.

10 And when you were choosing your reviewers, you are making sure that they have

11 the expertise, knowledge, and experience to evaluate the what of these proposals?

12 A Correct. And it may not be that they have -- they may -- I may have them

13 to review -- to really focus on a particular aspect of a proposal.

14 Q Okay. And so, do you recall what type of reviewers you looked for, for

15 Track F?

16 A A mixture of academics, government, nonprofit, private sector, a mixture of

17 different disciplines that would cover the areas in the proposals. I don't know

18 exactly -- you can't identify the reviewers before you have the -- after you have the

19 proposals.

20 So through the letter-of-intent process, we try to get some idea of what the

21 proposals are going to be about, and who's on the teams so we can immediately try to,

22 number 1, avoid conflicts of interest, and also try to figure out what disciplines --

23 Q Right.

24 A -- and areas we need to cover in the reviews.

25 Q Okay. And so you already had the review panels in place before you even

1 took in the proposals. Is that right?

2 A For the most part. I mean, there's always reviewers that drop. We find

3 conflicts of interest and we have to make late substitutions. I don't know, somebody,

4 one of the -- you know, a reviewer gets sick or whatever. You know, they never go

5 exactly how you hope.

6 Q Right.

7 A It's a lot of people to get things from.

8 Q Okay. And so, from the review panels, you whittled that down to 12

9 recipients -- or 12 participants, I'm sorry --

10 A Twelve awardees.

11 Q -- 12 awardees --

12 A Yes.

13 Q -- for Track F?

14 A Correct.

15 Q Okay. And those would be the teams that would now progress to Phase I?

16 A Yes.

17 Q Okay. And at Phase I, they received, you said, $750,000?

18 A That was the cap, so --

19 Q -- for --

20 A -- the most -- most all of them, if you tell people what a cap is, they're going

21 to apply for the amount they can get.

22 Q Right, of course.

23 So then Phase I goes on, you said, for 9 months?

24 A The most active part of it, yes, the curriculum and -- and then they have time

25 to prepare for their proposal, the expo, which the expo has been discontinued, but, yeah.

1 Q I was going to say, let me -- I don't think we've ever been clear. Is Track F
2 still ongoing?
3 A Yes. It's currently in year 2 of Phase II.
4 Q Year 2 of Phase II. Okay.
5 And so I think we've covered Phase I. It's kind of jumping in my mind because we
6 jumped ahead, but Phase I is getting these people, teams, ready for the ability to build
7 something in Phase II?
8 A For the most part, yes.
9 Q Okay. And this is helping them along the way figure out what their plan is
10 going to be or --
11 A It's a couple of different things. So, number 1, we want them creating
12 things that actually people are going to -- that solve a real problem --
13 Q Right.
14 A -- that people are going to use.
15 Q Track F's problem?
16 A Yes. And that's for any track.
17 Q Right.
18 A It's the same for all 13 tracks. We want them validating their problems,
19 validating their initial solutions, talking to stakeholders, ensuring that they're doing
20 something that's going to be useful.
21 They are learning team science, for instance, because they have these
22 interdisciplinary teams with different orgs, different backgrounds, different ways of
23 thinking, that they have to assimilate into a single team. So they're learning how
24 to -- getting some idea of how to manage these types of teams.
25 And then we're trying to help them with their communications, their ability to

1 present or talk about what they're doing, giving them skill sets that it's not -- it's just
2 general communication skills.
3 And then they, you know, depending on their timing and their team, they might
4 start on a proof of concept of some sort.
5 Q Okay. Let's see. Would it be safe to say that you're, in Phase I, trying to
6 make sure that these teams are sound enough to even get to a point where they can put
7 together some sort of -- or build a project? Is this like a conditioning period?
8 A To some -- I mean, it's -- I don't know "conditioning," but it's making sure
9 that they have the skill sets as much as possible to execute in Phase II when they have a
10 larger award, and they've got the validation of what they're doing, that they're doing
11 something that's going to be useful.
12 What we don't want to do is give somebody $5 million and then have them --
13 Q They stumble along the way?
14 A -- they're either incapable of managing the process or they've built
15 something that nobody wants or needs, so --
16 Q Okay. I think --
17 A -- we're trying to make sure that the investment is well made.
18 Q Sorry.
19 And I think you said that, what your phrasing was in Phase I was that they were
20 learning?
21 A Mostly.
22 Q Okay. And then so you say "mostly." What is the other part of what
23 they're doing? Are they starting to execute their ideas at all?
24 A They might be starting on a proof of concept of some sort, but a lot of -- they
25 might be prototyping in different levels. We have a concept called low-fidelity

1 prototypes which are, you know, really minimum kind of mock-ups and things like that.
2 It could be a bunch of different things that they can validate with people.
3 Q Okay. And now that we have moved pretty much into Phase I, how
4 much -- what is your involvement up to this point, like, how much --
5 A In Phase I?
6 Q Yes. All the way like from --
7 A Yeah.
8 Q -- I think we've talked about, like, what you did in the funding opportunity --
9 A Right.
10 Q -- the solicitation. Now in Phase I, what are you -- how are you involved?
11 A Again, we have to be careful how we're involved in Phase I, because they're
12 going to apply for Phase II, and so we cannot -- we have to be unbiased --
13 Q Right.
14 A -- and we can't be seen as favoring anybody or offering something to one
15 team that we're not offering to another. I have an open-door policy for the teams if
16 they want to talk, generally have monthly meetings with the PI or the leadership team of
17 a given team, and then we're observing them through the curriculum process.
18 Q Right.
19 A But a lot of that is just talking to them about navigating the stuff they're
20 expected to do in the program.
21 Q But you're definitely trying to make sure that you're not playing favorites?
22 A Correct.
23 Q Okay. So then -- because the next part is, some of these people are not
24 going to make it to --
25 A Right.

1 Q -- Phase II, right?

2 Okay. So how do you -- or does NSF decide through this process, how do you get

3 to, I think, six in Phase II of Track F.

4 A Yes.

5 Q How did you go from 12 to 6?

6 A Through the proposal and pitch review process.

7 Q Okay. And the proposal and pitch process was what?

8 A They submit a proposal --

9 Q Okay.

10 A -- somewhere around probably the 9-month mark or so that is going to be

11 reviewed by a review panel -- a single review panel -- because there's only 12 as opposed

12 to 74. So the same process, in that sense, as Phase I, and then we add the pitch panel,

13 which is a separate panel of experts that hear a 10-minute pitch, 10-minute Q&A, and

14 then make a determination on each project.

15 Q Okay.

16 A And we take all of that into consideration, plus observations from Phase I, in

17 making the -- making the -- deciding which teams get Phase II awards.

18 Q Okay. So I'm sorry, it might've been that I trailed off, but what are the

19 things that you -- that NSF looks at, if we have a I, II, and III, when you're deciding who

20 comes -- who makes it to Phase II? I think you said it, but I might've missed it. You

21 said pitch, proposal, and did you say something else?

22 A Observation.

23 Q Observation, right.

24 And there is a panel that reviews the pitch and the proposal?

25 A Two separate panels, one for each with different reviewers.

1 Q Okay. Did you serve on either of those?
2 A I oversaw the panels.
3 Q Oversaw them. Okay.
4 A Which means, I'm making sure that the discussions are moving along, that
5 they're writing their panel summaries, that they're getting submitted correctly, that
6 they're, you know, so it's basically making sure that everything's working.
7 Q Right.
8 Because you keep calling yourself an overseer, like, you're just trying to make sure
9 this process is moving along?
10 A Yeah, I mean, I'm essentially, for lack of a better term, it's almost like being
11 an emcee, you know, or a facilitator.
12 Q Right. Right. Okay.
13 And ultimately who, whether it be 1-person, 2-people, 3-people panel, who
14 decided the six teams that would move into Phase II?
15 A We take the scoring -- or we take the categorizations from the panels,
16 combine that, observe -- we add our observations in, for instance, were they showing up
17 to the curriculum, were they participating in the curriculum, et cetera, were they doing
18 the customer discovery interviews that we expected, those types of things.
19 And we -- then I set up a ranking and then discuss that with others, so section
20 head and so forth. But mostly, the reviews typically are what suss out, you know --
21 Q The reviews -- and that's the review panel?
22 A Both -- yeah, the review panels.
23 Q The two?
24 A Yeah.
25 Q And those have been categorized by the reviewers?

1 A So in a proposal, when a proposal is reviewed, they do a written review, and
2 they give it an excellent, a very good, a good, a fair, or a poor.
3 Q Okay.
4 A And each reviewer does that. Then they discuss it, and they categorize it as
5 highly competitive, competitive, or not competitive. And so typically the things that are
6 going to end up in "highly competitive" are almost surely going to be selected, because
7 the review panels have rated them very, very highly.
8 Q Okay.
9 A And then we, you know, in some cases, we have, you know, a bunch of them
10 that are in "competitive," and we have to, you know, solicit opinions and things on those.
11 Q Right. And so, you -- do you discuss at all the content of what they say
12 they're doing, that they're going to do in Phase II? When you say that you had -- you
13 said "we" discuss, along with the section head. Do you discuss, like, the content of what
14 these people are doing?
15 A Yes, to some degree.
16 Q And are you -- how are you evaluating the content? Like, does it -- does it
17 make sense? Is it wrong? Will it meet the objective? Like, how are you looking at
18 the content?
19 A All of those things. I mean, we're -- so the initial -- I think one thing we
20 haven't talked about here and we have it in the letter, is NSF's merit review process.
21 Q Right.
22 A Every panel that NSF runs on every proposal, no matter what directorate,
23 program, intellectual merit and broader impact are evaluated. And our --
24 Q But those are the two criteria of the merit review process?
25 A The -- the basis of it.

1 Q Okay.

2 A And then each program can have their own solicitation-specific criteria, and

3 we have four of those that we evaluate -- and that's convergence, partnerships,

4 deliverables, and track alignment.

5 Q And that is what -- that is the criteria or the standard that is provided to the

6 reviewers who are making the reviews at every stage?

7 A Yeah. And they're -- they're rating them on those six criteria.

8 Q Okay. And at the same time, are you also applying NSF's scientific integrity

9 policy?

10 A That's not part of the review process.

11 Q Okay.

12 A That's a general --

13 Q That's a general?

14 A Yeah. I mean, everything that we're looking at applies to that, but it's not

15 part of the review process.

16 Q Okay. So you were asked specifically about some of the various programs.

17 First of all, I think it -- the questions were about WiseDex, and you said -- WiseDex did not

18 move on to Phase II.

19 A No.

20 Q Do you recall or is there any reason why NSF decided that WiseDex was not

21 viable for Phase II?

22 [Witness confers with counsel.]

23 Mr. Pozmantier. It was -- yeah, the scoring on WiseDex was low. The

24 reviewers -- the reviewers gave it bad -- low scores, and I think it ultimately was in the

25 "not competitive" category.

1 BY [redacted]

2 Q Okay. Say again what it was that the reviewers were looking at?

3 A They were looking at intellectual merit, broader impact, convergence,

4 partnerships, research -- or excuse me -- deliverables, and then track alignment.

5 Q And then the scale you said was not competitive, competitive, highly

6 competitive?

7 A So they're ranked -- in individual proposal reviews go excellent, very good,

8 good, fair, poor.

9 Q Okay.

10 A So each of the reviewers give it a score there, and then they discuss it, and

11 then they categorize -- put it into a bucket, and I think it was in the "not competitive." I

12 think it had -- I don't remember the exact proposal review grades, or scores, but I think

13 they were probably pretty low if it was in the "not competitive."

14 Q Right. And so the "competitive" comes like at the end, the --

15 A That's the overall judgment of the three reviewers. They -- they discuss

16 what they view -- they discuss their reviews, what they think of the project, and then they

17 put it in -- and that happened both for the proposal, and then it happened for the pitch,

18 which the pitch doesn't get individual reviews, because it's done at one time. And so

19 there's a collective categorization that happens at that time by the panel.

20 Q Okay. And there was some discussion about the MIT program. What was

21 the title of the MIT program?

22 A SearchLit, I believe.

23 Q SearchLit?

24 A Yeah.

25 Q Okay. And that didn't make it into Phase II either?

1 A No.

2 Q Okay. But you said you were clear about the fact that it was not a

3 censorship tool?

4 A No, not in any way.

5 Q Okay. Were any of these projects that you evaluated from either Phase I or

6 Phase II going to be, or looking to be, censorship tools?

7 A No.

8 Q And I might've misunderstood, but what was the example you gave of

9 someone you said that was used as a prop? Something related to the military.

10 A There was a -- there was a military veteran --

11 Q Okay.

12 A -- who, his picture, his bio, his name had been used by scammers repeatedly,

13 over and over and over again, to scam people out of money. They think they're sending

14 donations --

15 Q Donating to him --

16 A -- to some veterans organization or to Active-Duty Military, and that team

17 produced a video that is -- I think it's -- it's online on a PBS website, that has the veteran

18 talking about his experience of all these people reaching out, finding him, thinking that

19 he's -- you know, asking where the money is, and the upshot is, of the video, is teaching

20 people how to do reverse image searches so they can actually -- so when they see a

21 picture in one of these scams or something, they can go and do -- understand how to do a

22 reverse image search to see -- they would find all these different profile -- fake profiles

23 and other things that are being used by scammers.

24 Q And which team was this?

25 A That's SearchLit.

1 Q Okay. And that was a team that did not make it to Phase II?

2 A That's correct. They released those videos after -- after the Phase I -- or

3 after Phase II selections were made. So they continued doing some work.

4 BY [redacted]

5 Q MIT didn't make it to Phase II, but Course Correct did, right?

6 A Yes.

7 Q And I believe the majority's report includes an abstract from

8 Course Correct's tool that says it would allow fact-checkers to monitor the performance

9 of fact-checking messages among online communities at risk of information exposure.

10 Are you familiar with that?

11 A What they're actually doing is, they're putting out ads with the fact-checks in

12 them, so that's -- that's how they're --

13 Q Right.

14 A So they're seeing what kind of uptake they get on these advertisements.

15 Q So much like MIT's SearchLit, they're looking at, you know, what's being

16 called here as at-risk communities. They don't mean to disparage these communities,

17 right?

18 A No, not at all. The SearchLit project, the communities that they picked out

19 are underserved, and in fact, the SearchLit project, the co-PI's husband is a

20 service-connected disabled veteran. So she sees these scams, and it's been shown

21 repeatedly that Active-Duty Military, veterans, and their families are targeted at a much

22 higher rate for scams than civilians are.

23 So this co-PI lives this. It's near and dear to her. That was one of the reasons

24 why they picked military as a focus, but it's also been shown through numerous studies

25 that elderly and rural communities are also underserved when it comes to helping them

1 deal with these things.

2 Q So to clarify for the record, these projects want to serve these underserved

3 communities because they're targets --

4 A Yes.

5 Q -- of misinformation?

6 A Yes.

7 Q Why do you think they're targets of misinformation?

8 A Well, everybody is a target. I mean, that's -- they're just a specific

9 demographic, and I think what's important to understand, and I think what's getting lost

10 here is that -- that targeting is specific to the demographic.

11 So when somebody's targeting specific scams or misinformation at a given group,

12 there are certain levers that they're pulling that differ from demographic to demographic.

13 But there is no -- when you look at the studies that have been done across all age

14 groups and everything else, almost everybody is targeted at varying levels. It's -- but the

15 targeting is specific to a different -- to a specific demographic.

16 And that's what many of these projects are talking about, is understanding the

17 levers that people are taking to facilitate scams to, to propagate mis--, dis-,

18 malinformation, et cetera.

19 BY [redacted]

20 Q Because you said the definition of "disinformation" involves, like, the

21 intentional misuse of information. Is that right?

22 A Yes. They're trying to deceive.

23 Q Okay. And they are looking for useful vulnerabilities in various groups, like

24 what is vulnerable to me might not be vulnerable to you?

25 A Correct.

1 Q Okay. And these groups were trying to find ways to help people inform
2 themselves?
3 A Yes. I mean, in order to mitigate, you have to understand what -- you have
4 to understand the target and what levers they're using in order to help create mitigations.
5 Q Right. But their intent was not to make these people think one way or the
6 other?
7 A Absolutely not. It was to arm them with the tools to make their own
8 decisions. I mean, they're confronted --
9 Q Think for themselves?
10 A Yes -- confronted with information, be able to -- in SearchLit's case -- go out
11 and search and confirm or deny, find alternate information that might rebut, or say, Hey,
12 this actually was -- this actually is good information.
13 Q Right. And through the Convergence Accelerator, there was an
14 identification of a societal problem that needed to be addressed?
15 A I mean, we're seeing massive foreign-influence operations that are targeting
16 the American public. Our adversaries are out there taking advantage of whatever
17 divisions there are, you know -- and they're not picking sides necessarily. They're just
18 trying to cause chaos.
19 Q Right.
20 A And so the purpose is to arm American citizens with the ability to make their
21 own determinations.
22 Q And I'm not sure, are you familiar with the IOGAN Act at all?
23 A A little bit.
24 Q Okay. And so, again, this was a statute that became law when
25 President Trump was still President. Is that right?

1 A Yes.

2 Q Okay. And that -- rather than using the acronym, it stood for Identifying

3 Outputs of Generative Adversarial Networks Act. Is that right?

4 A Yes.

5 Q And it was sparked by the presence of deepfakes online. Is that right?

6 A Yes.

7 Q Okay. And this particular statute was actually telling the NSF -- or directing

8 the NSF to do research about how to respond to deepfakes and other disinformation,

9 misinformation, malinformation?

10 A That's my understanding.

11 Q Okay. I think one of the premises was, the statute wanted the NSF to do

12 research on digital forensic tools or other technologies for verifying the authenticity of

13 information and detection of manipulated or synthesized content, including content

14 generated by generative adversarial networks. Is that right?

15 A I believe so.

16 Q Okay. Something else that they were -- the statute was directing NSF to do

17 research on was social and behavioral research related to manipulated or synthesized

18 content, including human engagement with that content. Is that right?

19 Ms. Dayananda. Sorry, Counsel, you're reading from the Act itself?

20 [redacted] I am, to make sure that he -- that was his understanding.

21 Mr. Pozmantier. It is.

22 BY [redacted]

23 Q Okay. And going back to what you were talking about with the levers that

24 were being pulled, the statute also directed NSF to do research on the public

25 understanding and awareness of manipulated and synthesized content. Is that right?

1 A Yes.

2 Q And that IOGAN Act was kind of filtered through Track F as well from what

3 your understanding was?

4 A It was part of the -- of NSF's leadership decisionmaking and --

5 Q How you got to the purpose of Track F?

6 A Yes.

7 Q Okay. So let's finish up with the media strategy meeting, I think. There

8 was a discussion about why did you -- did you convene that meeting?

9 A I did.

10 Q And why did you convene that meeting?

11 A Because we were starting to see articles or posts online that were

12 mischaracterizing the projects --

13 Q Okay.

14 A -- and we wanted to make sure that the teams understood what was going

15 on and understood better how to handle what was happening.

16 Q Okay. What was happening to the teams was the very thing that they were

17 trying to work on in Track F, right?

18 A Yeah. It's a bit Orwellian, but it's, yeah, it's misinformation about people

19 working on mitigating misinformation.

20 Q Okay. And did those reports go out, like, right after Phase I started, or was

21 it -- where did -- do you recall?

22 A Yeah. I believe the first ones came out towards -- in the fall of 2021, so not

23 long after we made the awards.

24 Q Right. Because you made the first award in October of 2021?

25 A It was October or September, yeah.

1 Q Okay. And you pulled together the teams to have this brainstorming
2 session?
3 A Yes.
4 Q Okay. And you came up with the memo after you kind of discussed and
5 thought about what it was that you could do --
6 A Yeah.
7 Q -- in response to --
8 A And if you actually read what's in the memo, it's mostly really basic stuff, you
9 know, understanding what media terminology is -- on the record, off the record,
10 background, et cetera. It's, you know, how to scrub their information offline -- take
11 their information offline and stuff like that because people were -- researchers were
12 getting attacked, like personally.
13 Q Personal?
14 A They were getting doxxed. The women were getting death threats, rape
15 threats. People were showing up on campuses, showing up where they lived. And this
16 has happened not just in this space, but in any topic that has become a hot-button issue.
17 The researchers are being attacked, and so this was discussing with them the fact that,
18 you know, they were potentially being targeted.
19 Q Were you being targeted yourself?
20 A I haven't had any targeting until the committee report came out last month.
21 Q Okay. And now you are being personally targeted?
22 A I've only had one email at this point, but it's still -- you know, being accused
23 of violating the Constitution and so forth isn't fun.
24 Q Okay. Right. So from that media strategy meeting and the memo,
25 nothing else happened?

1 A Yeah. We had a -- we had a -- discussed it. We shared ideas. I captured
2 it. The initial thought was that the teams could work on this stuff, and we would then
3 present it to NSF about doing media training and other things.
4 What ended up happening was -- and I mentioned this a few times, but the
5 program is very, very time-intensive. The teams have -- the team members have their
6 own -- have many other, you know, responsibilities. There wasn't time to put together
7 any of this stuff, and so we let it go. We just never --
8 Q Right.
9 A -- pursued it after that.
10 Q But you were just worried because there were, like, personal attacks and --
11 A Sure. I mean, we have -- we have stories of -- from some of the
12 researchers themselves about being attacked and --
13 Q So not only were they attacking the credibility of the program, you were
14 fearing about people's personal safety?
15 A Yes. And I mean, we've seen -- we've seen, you know, researchers who
16 have been hounded and hounded and hounded to the point of committing suicide and
17 things like that in other areas. So it's not -- this is like -- these are people's lives. It's
18 serious stuff. They're trying to do good work. They think they're doing something
19 that's beneficial to the country, to society as a whole, and they're being attacked for it,
20 and, you know, it's a high personal cost.
21 Q And your understanding of the substance of the attacks is that they weren't
22 even characterizing their work correctly?
23 A Correct. That's absolutely right. The reports were mischaracterizing the
24 report -- the work that's being done, the same as the committee report that came out last
25 month. They're mischaracterizing what the projects are doing, and it's causing all -- you

1 know, it creates waves. And so more people -- it spreads, more people see it, and they
2 just keep re-reporting it and re-reporting it, putting their own spin on it.
3 And then it -- what's something that's supposed to be, you know, helpful and
4 useful becomes, in some people's eyes, something nefarious and bad. I mean, it's -- it
5 couldn't be further from the truth.
6 Q And I think at the beginning, you called that malinformation where they take
7 a kernel of truth and -- I forgot the second part?
8 A Well, they spin a new narrative around it. And I don't know that it's
9 necessarily -- that's what's necessarily happened here. I mean, I think it's just straight
10 disinformation.
11 Q Okay. And there were questions about pitches and proposals where you
12 said -- they asked you whether or not somebody mentioned censorship. Do you recall,
13 in any of those pitches or proposals or discussions, a discussion with anybody about
14 censorship online?
15 A I think the PI, he has it in his speaker notes, so clearly he was thinking about
16 that and in a framing. But the projects themselves weren't -- there was nobody actually
17 doing anything -- any kind of censorship. I mean, even that project where they used the
18 term apparently, all it was, was surfacing. And the interesting part about that project as
19 well is, it's trying to bring visibility to the process. So if somebody -- if content
20 moderators were, in some way, censoring, that project would have surfaced the fact that
21 there was something happening there.
22 Q Right. Their objective was actually transparency.
23 A Transparency, yes.
24 [redacted] Okay. I think we can go off the record now.
25 [Discussion off the record.]

1 [redacted] We can go back on the record, please.

2 BY [redacted]

3 Q All right. I want to begin by going back to a question the minority asked

4 you in the previous hour about WiseDex' scoring being low, and "not competitive" was

5 the wording you used. Is that correct?

6 A I believe so, yes.

7 Q Do both Phase I and Phase II merit reviews use the same criteria?

8 A Yes.

9 Q So did WiseDex receive high scores in its review for Phase I?

10 A I believe it did, yes.

11 Q Because it had to beat 60 other projects, right?

12 A Seventy -- yeah, I guess --

13 Q Sixty-two.

14 A -- 62, yeah. I was told there would be no math.

15 Q So what changed from Phase I to Phase II?

16 A I mean, the projects sharpen up over the period of Phase I. They get

17 clearer on what they're doing. It's a different set of reviewers as well. So, you know,

18 the reviewers are better matched to -- I know what the projects are, I know what the

19 projects are covering, and it's easier for me to find reviewers that actually have more

20 specific subject matter expertise. In Phase I, there's so many of them that it's more

21 generalized.

22 Q Now, we discussed earlier a Track F media strategy.

23 A Uh-huh.

24 Q Do you recall how you first became aware of reporting on NSF in the fall of

25 2021?

1 A It was either us seeing it, or somebody seeing it and sending it to us. I can't
2 remember specifically. Usually when somebody sees it, they send stuff around.
3 Q Do they -- do you remember which article or what was the first thing that
4 was brought to your attention?
5 A There were -- I think the thing immediately before the media strategy
6 meeting was an article in Campus Reform, which was fine. They interviewed some PIs,
7 they got a statement from NSF, if I'm remembering the order of all the articles correctly,
8 and then it was InfoWars that picked it up and reframed it and -- and changed the
9 characterization of the project.
10 Q So to be clear, you didn't have a problem with the Campus Reform article?
11 A No.
12 Q Okay. Now, did you consult with -- or who was made aware of this media
13 attention that NSF was receiving -- on specifically, Track F?
14 A Probably -- probably section head, probably TIP leadership, probably OLPA.
15 Q And by "OLPA," can you --
16 A Office of Legislative & Public Affairs.
17 Q Who specifically at OLPA?
18 A I don't remember. It might've been Mike England, but usually they're
19 monitoring stuff for NSF. If anything mentions NSF, they're usually aware of it, too, and
20 we, of course, monitor for specific stuff about us.
21 Q What feedback did you receive from those individual parties that you
22 mentioned?
23 A I don't remember having any specific discussions with them about it.
24 Q How did you personally respond to this media attention?
25 A I believe by calling the meeting to talk about it with the PIs and the teams.

1 Q Did you consult with anyone prior to that or --

2 A I don't think so.

3 Q What did you say in those meetings that you called?

4 A Well, the one meeting was captured in the media-strategy document, and it

5 was, you know, how can everybody be prepared for these reports that are coming out

6 that are mischaracterizing projects, how can you be prepared that handle the blowback

7 that might come, because I mentioned previously, you know, we've seen a lot of

8 researchers get doxxed, have death threats, rape threats, people showing up physically to

9 confront them.

10 So it was things like that, dealing with those kinds of things, understanding how to

11 talk to the media, understanding services that can help take your information off

12 information brokers so people can't get your home address, things like that.

13 Q Who physically drafted the strategy?

14 A I drafted -- I did the first draft, and I believe maybe Shelby might have also

15 done a pass on it.

16 Q Did anyone besides you and Shelby attend these meetings?

17 A From the NSF side?

18 Q Uh-huh.

19 A No.

20 Ms. Dayananda. It's one meeting.

21 Mr. Pozmantier. One meeting, yes. There was one meeting.

22 [redacted] One meeting you had two different times so -- to accommodate the

23 schedule of the different Track F --

24 Mr. Pozmantier. Yes, that's correct.

25 [redacted] How many people attended the meetings?

1 Mr. Pozmantier. Off the top of my head, I can't remember, but it was probably
2 less than 10 each time.
3 [redacted] Was it representation from each Track F team?
4 Mr. Pozmantier. If -- I think that's what we wanted. I'm not sure if that's what
5 we got. But we then passed around the document afterwards to make everybody
6 aware and get their input as well if they weren't there.
7 [redacted] Did you brief anyone in NSF leadership or --
8 Mr. Pozmantier. No.
9 [redacted] Did you have any discussions with Shelby before these meetings?
10 Mr. Pozmantier. I may have told her we were going to do it, but that's about it.
11 BY [redacted]
12 Q In the email attaching the first draft of that strategy, you emphasize that a
13 joint effort will be required for NSF to do a better job in how we deal with the media on
14 this topic, including training for the researchers beginning in January. What did you
15 mean by "a better job"?
16 A I mean, I can't remember the specific wording that I used, but I think
17 generally, being prepared for the types of reporting that we were seeing. I mean, there
18 really haven't been any reports on the program other than people that are
19 mischaracterizing the projects and framing them in a way that couldn't be further from
20 what they're doing.
21 Q So did you think that NSF's current approach to sharing information with the
22 media was flawed or the Track F teams' approach?
23 A I think at the beginning, we might have all been a little naive.
24 Q Did you believe that the Track F teams were divulging too much information
25 about their projects to the media?

A No. I think we just wanted to make sure that people were making informed decisions when they were doing it and thinking about how they were communicating.

BY [redacted]

Q During this meeting, who was -- were you the one leading the meeting, so to speak?

A I would've been, yes.

Q And what did you share in the meeting?

A I can't remember the specifics of it, but most everything that was discussed in the document was what was discussed in the -- in the meeting.

Q Were the researchers generally familiar with the reporting that had been going on, or was this --

A Yes.

Q -- you breaking the news to them?

A No, they knew. By the time we did the meeting, they knew.

BY [redacted]

Q Why did you feel that there was a need for an additional strategy upon NSF's current media strategy, because they had a media strategy already, did they not?

A I don't know what NSF's media strategy is.

Q So you were never made aware of that strategy?

A No. I mean, there's a process that I'm aware of where somebody would send a media request to, I think it's [redacted]@NSF.com or something like that, a catch-all, and somebody there would respond, or if I got an email directly from a reporter, instead of responding to the reporter, I would send it to OLPA to determine what to do.

Q And was Mike England your main point of contact there?

A Yes.

Q So who authored the media strategy?

A Mainly me, and, I guess, Shelby.

BY [redacted]

Q Were you keeping contemporaneous notes, or did you, at the end of the meeting, draft what was said?

A We were taking notes during the time, I think, or somebody was, but, yeah, we just -- we captured -- one way or another, we captured what was said there, but I don't remember specifically.

Q Do you recall which research teams offered ideas on how best to respond?

A I don't remember who said what.

Q Would that have been captured in any other notes?

A I doubt. I don't think we attributed anything to anybody.

1 [12:18 p.m.]

2 BY [redacted]

3 Q Did you notify anyone that you were creating this strategy?

4 A Just the people that were at the meeting.

5 Q Did you notify anyone after the strategy had been created?

6 A No. And, really, I think strategy is almost a mis- -- it's a misnomer because

7 it was really just a capture of the notes on there and what we thought should be, you

8 know, actions from there. But things like media training and stuff like that. So --

9 Q The title you included in the email was --

10 A Yeah, and I'm saying I probably mistitled it, but --

11 [redacted] I'd like to enter the media strategy as an exhibit. What number?

12 Exhibit 3.

13 [Pozmantier Exhibit No. 3.

14 was marked for identification.]

15 BY [redacted]

16 Q Do you need any time to review?

17 A I think we've seen this a lot lately.

18 Q Let's walk through the media strategy document. You stated that the

19 Foundation and the funded researchers need to be in sync. I believe that's in the

20 second paragraph. Yeah, the second paragraph.

21 A Yeah, the first sentence.

22 Q How were they not previously?

23 A It was just about thinking about how we were communicating about the

24 projects, so that we were -- if we said something about the projects, it was what they

25 were saying about the projects. And that mostly relying on the PIs to describe their

1 projects to us to make sure that we were -- if we were asked or we decided to say
2 anything about it, that we characterized it in the right way.
3 Q So you're speaking on behalf of the Foundation here. Were you in sync
4 with the foundation in creating this strategy?
5 A I mean, I want to be clear because you guys have asked me this multiple
6 times now. No one else at the National Science Foundation was involved with this,
7 that -- from OLPA or TIP or my section head. This was something that I did, and I invited
8 Shelby to the meeting, and that's where it stopped.
9 [redacted] Did you draft this background section before the meeting?
10 Mr. Pozmantier. No, after.
11 [redacted] And so Ms. Smith didn't add anything to this document?
12 Mr. Pozmantier. She might have added some notes in, but I'd have to look back
13 to see exactly what they were. I know that this was a draft document because there are
14 certain things that are in here in this document that are not in -- after feedback in what
15 would be -- if there was a final document that we were going to do something with, what
16 would have been that document. But since we never did anything, there wasn't.
17 But, for instance, examples of media outlets not to engage, that was not
18 something that was agreed upon or should have been in there. In fact, we agreed that
19 that was a bad thing to do. And the National Science Foundation or any government
20 agency cannot do that.
21 BY [redacted]
22 Q Who suggested that idea during the meeting?
23 A I have no idea. I don't know.
24 Q Do you recall there being any reaction to it during the meeting that was
25 raised?

1 A No, because it was just a brainstorming session. But when it was put into
2 the document, there were -- and I think you guys have these emails -- multiple emails
3 from multiple teams saying that it was a bad idea, as well as emails back from me saying
4 that I agreed with that.
5 Q Do you recall if any example outlets were mentioned during the meeting?
6 A No, I don't.
7 Q When drafting a document like this, do you typically use like Google Docs
8 that multiple people can head at once or is it --
9 A It was just a Word document that I did.
10 Q And would you have likely emailed it to Ms. Smith for her edits?
11 A Probably, yes. Yeah.
12 BY [redacted]
13 Q What did you mean by "always highlight the pro-democracy nature of the
14 track and each project"? It's under the Recommendations, under Messaging.
15 A Yeah, that this promotes democracy, this promotes free speech, this
16 promotes the First Amendment. We're working with helping journalists. We're
17 protecting journalists in different projects. This is, you know, helping people cull
18 through, kind of go through this free exchange of ideas and figure out what's good
19 information, what's bad information.
20 Q And what did you mean by, "If possible, focus on the nonideological nature
21 of work"?
22 A So, I mean, many of these things can be used for a number of different
23 topics. They're focusing on some of the hot buttons. But if you look at what some of
24 the projects are working on. So you guys have talked about Course Correct and
25 Co-Insights. Co-Insights right now is seeing a lot of Chinese-based disinformation about

1 the United States, saying that we're violent, that there's -- you know, you come to the
2 United States, you're going to get shot. They're promoting themselves as prosperous
3 and safe. And so those type scenarios are out there. That to me is not anything that's
4 controversial as far as things on the United States side go.
5 The Course Correct project is looking at all kinds of different topics, from
6 plant-based meats, to animal vaccines, HPV. So there's a whole bunch of topics that
7 these projects can surface low-quality narratives on, low-quality information-based
8 narratives on, or other things that are even detrimental to our country that they're
9 surfacing.
10 Q What part of the team's work was ideological?
11 A Can you rephrase that? I don't understand.
12 Q You're saying, "focus on the nonideological nature of" --
13 A Yeah, they're not -- oh, I'm sorry. They're not -- they're not picking sides on
14 these things. They're simply surfacing things. They're making -- so, for instance,
15 Course Correct is saying that this particular narrative, there's no information or data to
16 back up these claims. We've looked for research. Or if they're citations, we've
17 evaluated citations, and we believe that this is not a narrative that's based off good
18 information.
19 So journalists, fact checker, public communicator, decide what you want to do
20 with this, but we're saying that this is what we've discovered in the topic areas that you
21 want to focus on. If you want to write a story, you want to do a fact-check, or you think
22 that, say, you know, public health communicator, and there's bad information about
23 heart attacks or heart health, and want to put out some kind of advisory to your citizens
24 so that they understand that this information out there on heart health might be
25 detrimental to them, you can decide to do that.

1 BY [redacted]

2 Q Independent of this media strategy, when you were providing

3 feedback -- we'll stay with the -- at Phase II, when feedback's a bit more substantive -- did

4 you ever have any conversations with the recipients about whether certain subjects are

5 more challenging to handle it because they're politically charged?

6 A I don't remember specific conversations about that.

7 Q What about generally?

8 A I mean, I've asked them for -- to give me the list of all the topics that they

9 might be covering so we can understand and help you guys understand the nature of the

10 projects better.

11 Q Were there any topics that concerned you?

12 A No.

13 Q Going through the example in your answer to [redacted] question, you

14 mentioned a number of subjects that are not politically charged, but there have been,

15 especially in the last couple of years, questions about narratives that are, you know, far

16 more politically fraught.

17 A Uh-huh.

18 Q Did you at any point have any discussions around subjects such as like where

19 the COVID-19 virus originated from?

20 A I don't remember specifically talking about that with them. They might be

21 covering some of that stuff, but it's not something that I've had conversations with them

22 about.

23 Q Yeah.

24 BY [redacted]

25 Q Just looking a little bit more on the bottom of page 1 here. What did you

1 mean by "showing both sides can distort"?

2 A So sometimes something is said that is so far -- so far wrong and so far

3 beyond the pale, it's factually incorrect, and you can show it's factually incorrect. By

4 giving it equal billing as the correct information, you in some ways lend credibility to it.

5 Q Moving down to the Protective Measures, did NSF recommend any other

6 tracks subscribed to these web monitoring or scrubbing services?

7 A None of our other tracks have faced this kind of disinformation about them.

8 Q To the back of the strategy it discusses media training. And earlier you

9 mentioned that this training was never actually required of NSF teams. Is that correct?

10 A Correct. There is no actual media training curriculum that was developed.

11 Q So were NSF teams or these Track F teams, based on this, supposed to

12 develop their own training?

13 A We would look at collectively putting it together based off the expertise

14 from the teams in the tracks. We had people that were former journalists on the tracks,

15 people that are communications experts, et cetera. Crisis communications. All these

16 fun things. And we were saying, hey, let's -- if we pull together the collective knowledge

17 and skills and expertise of the track and we develop this, but there just wasn't time to do

18 it. We were expecting massive amounts of time of them already, plus there are other

19 responsibilities. There was not time to put something like this together. And so once

20 it became clear that there is nothing for us to do here, we just didn't have time to do it, or

21 nobody had the ability to put something like that together, we just let the whole thing go.

22 Q So is it your testimony that no Track F team developed training or a strategy

23 based off of this?

24 A That's correct. No Track F team.

25 [redacted] For the research teams, was it the researchers themselves? Did

1 anyone, to your knowledge, bring on someone from like the universities comms teams to
2 attend this call?
3 Mr. Pozmantier. It is possible. I mean, there are -- the teams -- some of the
4 teams had comms people on them, and it's possible that there were people from some of
5 the institutions there, but I don't remember.
6 [redacted] Okay. Did you invite anyone from OLPA to attend this meeting?
7 Mr. Pozmantier. Nope.
8 [redacted] To your knowledge, is it standard practice at NSF to create a
9 track-specific media strategy?
10 Ms. Dayananda. Sorry, can you repeat the question? I just -- I just didn't hear
11 you.
12 BY [redacted]
13 Q Is it standard practice at NSF to create a Track F -- or a track-specific media
14 strategy?
15 A No. But, I mean, it's also not standard practice for us to have -- you know,
16 us to be attacked either.
17 Q Are you familiar with NSF's latest letter to this committee?
18 A The subpoena?
19 Q Accompanying their latest production.
20 A I wasn't involved with that.
21 Q Okay. Well, I can represent, in the letter, NSF disavows --
22 [redacted] Can you say, like, what you're talking about?
23 [redacted] Yeah.
24 [redacted] I'm kind of new to this, so I don't know what letter. Like a date or
25 something.

1 [redacted] Sure. In the letter --

2 [redacted] The letter dated?

3 [redacted] End of February?

4 [redacted] February 28th, I believe.

5 [redacted] Okay. Thank you.

6 BY [redacted]

7 Q NSF disavows the Track F media strategy you created, stating that it did not

8 follow the longstanding NSF principles for media engagement, nor the NSF media policy,

9 and was not an official NSF media strategy because it was not developed in consultation

10 with NSF's Office of Legislative and Public Affairs. Is that accurate?

11 A If you're saying it is. I haven't seen the document. But, I mean, what's

12 accurate I would say is that this is not an official NSF media strategy. And I would also

13 say that nothing happened with it. So I don't really understand their disavowing

14 something that was never anything that was put into action. It was a brainstorming

15 exercise that never went anywhere.

16 Q To your knowledge, has NSF instituted any new policies or reviewed its

17 Convergence Accelerator or general grant review or approval processes since the

18 committee's report?

19 A For approval for what?

20 Q Approval processes for whether or not a grant should receive funding or for

21 whether or not a strategy should be developed at any --

22 A I don't think there's been any change in any procedures. They certainly

23 wouldn't change the grant awarding process based off of something like this.

24 Q So NSF provided the committee with an official copy of the NSF's media

25 policy, which states in part: NSF is committed to a culture of openness with the media

1 and public that values transparency and scientific integrity.

2 Is this policy consistent with the original Track F media strategy?

3 A Yes. I mean, we're not -- so, number one, you're characterizing this as

4 something that actually happened. This is a piece of paper. There was no

5 actual -- there was no action that came from this. So any -- and there was never going

6 to be any action on it without going to OLPA.

7 Q So what did you mean when you said the training would begin in January?

8 A That if we could get it together, we would try to do that. But, again, there

9 was no training developed.

10 [redacted] Who made the decision to not develop any training?

11 Mr. Pozmantier. We just dropped it. I guess I didn't -- I made the decision not

12 to pursue it.

13 [redacted] During the meeting, did the researchers push back and say, we're

14 already overwhelmed, we're unlikely to have time to --

15 Mr. Pozmantier. No, they didn't say that. But when we started -- once we sent

16 stuff around, nobody really piped up to want to work on it. So it was clear I wasn't going

17 to the -- I wasn't going to push it. I understand the time commitments that they have,

18 and I'm very -- I did not want to put more on them that could then come back and impact

19 their Phase II proposal where they could come back and say you threw extra work on us

20 and we didn't get a Phase II proposal -- or because of that.

21 [redacted] Looking back, do you believe it was appropriate for you to create this

22 strategy?

23 Ms. Dayananda. So just want to be careful here and precise with words. He

24 said -- he testified numerous times it's not strategy. He's characterizing it as a

25 document from a brainstorm session. So while -- and said he mislabeled it as a media

1 strategy. So I just want to be clear on that. He can answer the question.

2 [redacted] Sure. I could even rephrase it.

3 Looking back, was it appropriate for you to create this document?

4 Mr. Pozmantier. It was appropriate to have the meeting to discuss these topics

5 with the researchers. The document was simply a capture of that. So creating a

6 document to capture what we discussed, I don't think it was problematic. I think, you

7 know, I would have done a little bit more editing on the document before sending it out,

8 taking out certain things that were not supposed to be there to begin with. I would

9 have retitled it, if I could do it over again.

10 But I don't think there's anything wrong with what we've got here. We are -- you

11 know, we have a bunch of researchers that are being targeted with disinformation that

12 could then create possibility of death threats, rape threats, people showing up at their

13 homes. And so we're trying to arm everybody with as much information as possible in

14 the face of this.

15 BY [redacted]

16 Q Do you recall what -- you mentioned editing the document slightly, you

17 know, putting it all together at the end of the meeting. Do you recall what ideas you cut

18 out that didn't make this draft?

19 A Yeah. Well, we cut out -- I mean, we certainly cut out this examples of

20 media outlets not to engage. And --

21 Q Yeah, please finish.

22 A I mean, that -- and I stated here, and I believe we turned over an email, that

23 where I clearly state that the government should not and cannot exclude media

24 organizations.

25 Q Let me rephrase the question. I was trying to get one moment before that.

1 So before this document is created, there's brainstorming, there's all these ideas
2 that have been floated. Did all of those ideas make this document or were you pulling
3 some of them out before this draft was created?
4 A I really don't remember. I think we put in -- yeah, I can't remember. I
5 mean, we captured parts of the discussion and we structured it into a document, but I
6 don't remember, you know, if there was things that we dismissed out of hand during the
7 meeting or not, or we looked at notes and said, no, we're not putting that in. I mean,
8 one thing that it may have been discussed during the meeting because somewhere it got
9 captured, examples of media outlets not to engage, that was something that I dismissed.
10 And we had already dismissed and didn't include it in my initial draft.
11 Q Is it your recollection that it was not proposed by you or Ms. Smith?
12 A I didn't propose it, I don't think. But I don't remember who would have.
13 Q Generally in this brainstorming discussion, were most of the ideas coming
14 from the researchers or from you and Ms. Smith or was it an equal balance?
15 A I think, for the most part, we were trying to give the researchers a forum to
16 pass along what they -- you know, their experience and so forth. So we were probably
17 listening, you know, just bringing, adding things where possible. But in most cases, if
18 there's people that I think know more than me, I listen to them more than talk to
19 them -- talk at them.
20 [redacted] Have you faced any disciplinary action or reprimand for the
21 development of this document?
22 Mr. Pozmantier. No.
23 [redacted] Have you --
24 [redacted] Sorry. How long did these meetings last? Do you recall?
25 Mr. Pozmantier. I think they would have been an hour maybe. I don't know.

1 I'd have to look back, but I think they were probably an hour.

2 BY [redacted]

3 Q In August 2022, when the time came for NSF to announce which Track F

4 projects would receive an additional $5 million in Phase II funding, did NSF issue a press

5 release?

6 A No.

7 Q Was this consistent with NSF's typical practice?

8 A There is no typical practice. It's on a program-by-program basis.

9 Q Maybe I'll rephrase the question. Had, to your knowledge, any other tracks

10 not issued a Phase II press release?

11 A No, not to my knowledge.

12 Q How did NSF handle the Track E Phase II awards in term of an

13 announcement?

14 A I believe there was an announcement.

15 Q And how much money total would the Track E teams receive?

16 A The exact same amount as Track F, except for they were more Phase I teams

17 for Track E.

18 Q Who at NSF was responsible for that decision not to announce?

19 A It was a collective decision. So -- and we asked the teams whether or not

20 they wanted to publicize it or not, and most of them did not want a press release. The

21 information about the projects is not hidden from anybody. It's publicly available both

22 through NSF's award search and on our Convergence Accelerator website where you can

23 look clearly at our portfolio, and the abstracts are listed there with program

24 description -- project descriptions. So if anybody wanted to know anything about what

25 we were doing in Phase II, all they had to do was go to our website.

1 BY [redacted]

2 Q Who wanted to have the press release issue?

3 A I don't remember. I mean, we discussed it. And I don't think anybody

4 was a proponent one way or the other as far as like -- we asked the team if they wanted

5 to do it. I believe -- I don't know how many of them, but I -- if I'm remembering

6 correctly, most of them, if not all of them, said they didn't want to.

7 Q What was the forum that you asked them?

8 A It may have been in a meeting. I don't know.

9 Q Which NSF personnel were involved in the decision?

10 A It probably would have been section head, TIP, et cetera. There is no

11 policy, by the way, that we -- NSF has no policy on press releases for awards.

12 Q Had you engaged in any similar discussions about whether to do a press

13 release before Phase II of Track D?

14 A No. But, again, Track D was not facing disinformation attacks on their

15 teams.

16 BY [redacted]

17 Q Did you or anyone else at NSF ask the Track F teams to get approval from

18 NSF before issuing, you know, press releases or publishing articles?

19 A The only thing that we ask is that we -- if they're going to write about NSF or

20 the Convergence Accelerator in whatever their release is, that they run that part by us.

21 Q And there was no special accommodation for Track F that was consistent

22 across --

23 A That's consistent across all of NSF. If you're going to talk about NSF or an

24 NSF program, that NSF can have some signoff on how you talk about NSF. But we

25 don't -- outside of that, it's up to them whether they release a report -- a press release

1 and what they put in it.

2 Q Do you recall Hacks/Hackers, the organization that's leading the ARTT

3 project, do you recall them sharing screenshots regarding media strategy documents that

4 they had created with you or created for you?

5 A Not specifically.

6 Q Assuming these exist, would NSF typically retain copies of those draft

7 documents?

8 A If they're sent via email, they're in my email.

9 Q Okay.

10 A And those would have been turned over to you guys.

11 [Pozmantier Exhibit No. 4.

12 was marked for identification.]

13 [redacted] Exhibit 4 will be an email in which a communications employee for

14 Hacks/Hackers is sharing screenshots, proving that she shared a media -- media strategy

15 documents with Mr. Pozmantier. These include an ARTT Partners-Media Playbook, a

16 DRAFT Phase II Media Processes and Strategy document, and a Phase II 1-pager, standard

17 project description.

18 Ms. Dayananda. So, [redacted] I'm sorry, this is not an NSF document, this is a

19 researcher document?

20 [redacted] These were documents created -- what appeared to be created by the

21 ARTT team and shared with Mr. Pozmantier.

22 Ms. Dayananda. I see.

23 Mr. Pozmantier. Their media strategy.

24 [redacted] And it is produced to us by the National Science Foundation.

25 Ms. Dayananda. Okay.

1 Mr. Pozmantier. Because it was in my inbox.

2 Ms. Dayananda. Okay.

3 BY [redacted]

4 Q Do you recall these documents?

5 A No.

6 Q So you have no recollection of what was in the ARTT Partners-Media

7 Playbook?

8 A Nope.

9 Q Or the Media Processes and Strategy document?

10 A I don't remember any of these documents.

11 Q In late November and early December of 2022, two outlets published stories

12 on Track F projects. Do you recall those stories?

13 A Not -- if you tell me what the stories are, I'd probably remember them, but I

14 don't remember the dates of -- I can't match dates, just different stories.

15 Q Well, it was from Just the News. The other was a Daily Wire article.

16 A Vaguely. I mean, Just the News wrote I think several articles.

17 Q How did NSF respond? Or how did you respond to these articles?

18 A Probably just made people aware of them.

19 Q Did you ever speak with any NSF leadership or Convergence Accelerator

20 leadership?

21 A I probably would have just sent an email saying, hey, these articles came out,

22 just alerting people.

23 Q Did you get any response?

24 A "Thanks for letting us know."

25 Q Do you recall one of the documents -- or being contacted by the Sinclair

1 Broadcast Group? It's The National Desk.

2 A I don't think they contacted -- if they -- they didn't contact me.

3 Q But do you recall NSF or the media team for NSF?

4 A I don't know if they did or not. Not all of the media requests that they get

5 filter down. They make their own -- sometimes they'll -- if there's something specific

6 they want to know about that they need, then they'll come and ask me. But oftentimes

7 they make their own determinations and issue whatever statement they're going to issue

8 without talking to me.

9 Q And then -- so in one of these email exchanges -- happy to show it if it's

10 helpful -- Ms. Smith flags that Sinclair had approached the NSF media team. And you

11 responded to Ms. Smith's email stating, "Sinclair certainly ups the ante." What did you

12 mean by that?

13 A Sinclair is a large national -- they own local media stations all over the

14 country. So it means that there's going to be a lot of reach with whatever they put out.

15 Q So you were concerned that this media attention would spread across the

16 country to more of the American public?

17 A I was concerned that the disinformation about the projects through their

18 articles would spread.

19 Q And then the communications person for ARTT replies stating that Sinclair

20 had published a story, and asks Ms. Smith, do we need to consider a response? At this

21 point -- you were copied on these emails as well -- did you consult with anyone in NSF

22 leadership, to your recollection?

23 A We would have alerted them to the Sinclair articles. I think that would

24 have been about it.

25 Q Do you recall any letter sent by any Members of Congress or any Senators

1 regarding any Track F project?

2 A Senator Ernst sent a letter about ARTT.

3 Q And what issue?

4 A She conflated work that they had done funded by someone else with the

5 ARTT project where they were leveraging a minor -- a bit of work from another project

6 funded by other foundations.

7 Q And do you recall what that particular element of that project was?

8 A NewsQ.

9 Q And what is NewsQ?

10 A My understanding of NewsQ is that it was a survey of Wikipedians,

11 Wikimedians to get their opinions and collect their opinions on news sources.

12 Q And to your understanding, the News Quality Initiative, or NewsQ, was that

13 funded by NSF or not?

14 A They leveraged a little bit of work from -- it was primarily funded by other

15 foundations. And I think when I asked the ARTT project if they had sent any money to

16 them, it was something on the order of $3,000 out of a $750,000 award. They didn't do

17 any work in Phase II.

18 Q Did NSF, to your recollection, issue a response letter to Senator Ernst?

19 A I believe so.

20 Q Did you play a role in drafting or advising on that letter?

21 A If -- yes, I gave them information on the ARTT project and the relationship to

22 NewsQ.

23 Q Are you aware of ARTT's online misinformation harm framework?

24 A I haven't looked at it.

25 Q To your knowledge, is it supported by NSF funding?

1 A I don't think they -- I don't think the ARTT project has a misinformation harm
2 thing. I think that may be something else from Hacks/Hackers.
3 Q Okay. Did you ever advise the Track F teams on whether to respond to
4 media attention?
5 A If they asked me.
6 Q And how often would you say, yes, go ahead, or no?
7 A I would always say it was up to them.
8 Q So you never said --
9 A I never gave them a directive one way or the other. I said, you know, I
10 would consider these things. And if it was me, I might or might not do it, but it's
11 ultimately your decision.
12 Q Did you ever speak for NSF stating what NSF would recommend or not
13 recommend they do?
14 A NSF itself was not recommending anything to them. And NSF, I mean -- I
15 think -- let's see. I think what I guided them on was taking into consideration what
16 was -- who it was coming from and how it was being sent to them and what the framing
17 of things were. So, for instance, we would receive requests with like a 30-minute or
18 1-hour turnaround with some question that clearly had no basis in fact. You don't have
19 time to put a response together when somebody says -- sends you something after 4 p.m.
20 and says we're going online with this at 5:00.
21 Q Did you ever make these recommendations in coordination with OLPA?
22 A No.
23 Q In reference to a Daily Caller article, you, I believe, emailed some of the
24 Track F teams -- or let me know if you recall something differently -- regarding certain
25 expo videos that were on YouTube. Do you recall that?

1 A Yes.

2 Q Do you recall what you told them?

3 A I said we would look at taking them down.

4 Q And why did you tell the Track F teams that you would try to take down their

5 video?

6 A The content of the video was being mischaracterized, and the content of the

7 video was at a point in time where they were still on Phase I. And many of the projects,

8 particularly the ones that were no longer in the program, there's no reason for them to

9 be targeted for something that they're not funded to move further with. And the

10 projects that are moving on to Phase II may have changed what they were doing to some

11 degree.

12 But I'll also -- well, I'll leave it there.

13 Q Weren't these videos already presented publicly at the expo?

14 A Yes. And they're still presented publicly. They're still online. You can go

15 to YouTube right now and see them.

16 Q Did you take down any of the videos?

17 A No. We removed them from a playlist.

18 Q And so you never removed any --

19 A No. You can go to the Daily Caller article right now and click on any of the

20 links and get a YouTube video of those videos.

21 Q Do you recall communicating with Temple University or Professor Dragut

22 regarding his video?

23 A I believe I asked him if he wanted to take it down or not.

24 Q And do you recall his reply?

25 A Not specifically.

1 Q And do you recall ever taking any action?

2 A We removed them from the playlist. But, again, the videos are still online,

3 so --

4 Q Were these videos only that were quoted or mentioned in an article or were

5 they all the Dragut videos that were removed from the playlist?

6 A All of them. But if you go on YouTube and search for individual project

7 names, you'll still find them?

8 Q You'll find all of them?

9 A Uh-huh. Yes.

10 Q In response to your email about the Daily Caller article, [redacted], the

11 head researcher for Wisconsin's Course Correct team, quickly replied stating that his

12 team had recently issued a statement emphasizing that Course Correct is focused on

13 nonpartisan issues like food safety.

14 Do you believe that Course Correct was primarily focused on food safety?

15 A If that's what [redacted] said, then yes.

16 Q Are you taking his word for it, or do you know from personal experience that

17 they were primarily focused?

18 A They were focused on a number of things. Like I mentioned before, HPV,

19 animal vaccines, plant-based meats, raw milk.

20 Q Were they focused on the 2020 election or misinformation surrounding it?

21 A It may have been a topic they covered.

22 Q In March 2023, Wagner flagged for you a recent article from legal scholar

23 Jonathan Turley about the projects that NSF had been funding. Do you recall that

24 exchange?

25 A I do.

1 Q You care to share more information about your recollection?

2 A I mean, you guys have the email. So if there's a question, I'm happy to

3 answer it.

4 Q So you replied: As usual, he only has a passing relationship with the facts

5 without identifying any shortcomings in his article.

6 A I mean, the entire article was a mischaracterization. He came in with a

7 premise that was completely off, and then sought to support an incorrect premise. So

8 there wasn't an individual thing to call out that was wrong. The entire article, the entire

9 premise of the article was a mischaracterization.

10 BY [redacted]

11 Q So are you saying there were no, like, factual mistakes within the article?

12 You disagree with like his conclusion?

13 A His -- he states at the beginning that it's -- there is a Biden

14 censorship -- coordinated Biden censorship effort. No effort exists that I have any

15 knowledge of. If there is one, we're certainly not part of it. That's what he tries to

16 characterize our projects at. And then he seeks to go out and present supporting items

17 for why that is.

18 So I don't know what, you know -- I am going to knock down each individual thing

19 when the entire article is fallacy.

20 Q Are you familiar with the Murthy v. Missouri case? Its former caption is

21 Missouri v. Biden?

22 A I'm not sure what that has to do with Track F.

23 Q Oh, well, you referenced the part of Professor Turley's article about the

24 Biden administration's role, writ large. There's a lawsuit on this issue. I'm just asking if

25 you're familiar with it.

1 A I believe that's the Missouri case?

2 Q Yes.

3 A Yeah.

4 Q Okay.

5 [redacted] In the article, Turley wonders how Course Correct defines verified

6 accurate information, which is mentioned in the abstract for Course Correct's Phase I

7 funding, I believe.

8 In your experience vetting and working with the team, how did Course Correct

9 define "verified accurate information"?

10 Mr. Pozmantier. That's where I made the reference earlier to low-quality

11 information. And they're looking for citations, looking for verifiable research, et cetera.

12 Turley did no checking himself to talk to the team to ask them, to my knowledge, how

13 they defined it. He just made his own conclusions.

14 [redacted] In your email you say "as usual," which seems to reference familiarity

15 with other of Professor Turley's works. Were you familiar with his writings before this

16 article had been published?

17 Mr. Pozmantier. I'm familiar with some of his public statements.

18 [redacted] And which public statements are you referring to?

19 Ms. Dayananda. I don't -- do we have to really go there about all the

20 Jonathan -- I think you've asked the question about the email. I think the back and forth

21 about Professor Turley is just unnecessary at this point.

22 [redacted] Are you instructing him not to answer?

23 Ms. Dayananda. He can answer, but I don't -- I don't see the relevance of what

24 the actual supposed congressional investigation, legitimate legislative purpose is here.

25 [redacted] Well, I mean, broadly this interview is about the use of taxpayer

1 dollars. I think there's a pretty strong nexus to --

2 Ms. Dayananda. To respond to an article --

3 Mr. Pozmantier. To a GW Professor?

4 [redacted] This is coming from someone's whose salary is coming from U.S. tax

5 dollars, yes.

6 Ms. Dayananda. Who, Mr. Pozmantier? Who are we talking about right now.

7 [redacted] Yes.

8 Ms. Dayananda. So we're talking about his view on Professor Turley? How did

9 that impact American taxpayer dollars? I mean, I just -- we've -- we're now like in hour

10 three. I think we've hit Track F. We've hit the media strategy. I'm just -- I don't want

11 to deviate from the core purpose here. Stay on track, so --

12 [redacted] Yeah. I think this exchange is pretty solid within the committee

13 scope of the investigation. If you're instructing the witness not to answer, please let us

14 know.

15 Ms. Dayananda. The question is, are you familiar with Professor Turley's

16 statements?

17 Mr. Pozmantier. I am familiar with some of his statements, yes.

18 [redacted] Now I'm lost. Statements about?

19 Mr. Pozmantier. Anything that he wants to opine about.

20 [redacted] Maybe the question needs to be a little more poignant, because I'm

21 lost as well now. I'm sorry.

22 [redacted] Sure. So I was -- the initial question was if he was familiar with

23 Professor Turley's other work or basically --

24 [redacted] Oh, other than this?

25 [redacted] Other than the article. Because in the email responding to this

article, the phrase "as usual," which is -- appears to be referencing --

[redacted] Okay. All right.

Ms. Dayananda. So I think he's answered it. Yes, he's familiar with it. That's the basis for the two --

[redacted] Are those statements or writings related to NSF?

Mr. Pozmantier. No.

[redacted] What were they related to?

Ms. Dayananda. Then how is that question related to the core purpose here?

[redacted] Because this is in reaction to a article about --

Mr. Pozmantier. Sure. Do we have a reaction to an article, but he never reached out to us for an interview, he never reached out to us for a statement or a comment or anything else. So this idea that we're somehow blacklisting or censoring or doing anything else is untrue because he didn't take the time to even ask anybody about any of the topics that he wrote about in that article, at NSF or the projects, to my knowledge.

[redacted] The statement, though, is about his -- to use your words, passing relationship with the facts, not about how he handled giving you an opportunity to comment or sufficient time to comment.

Are there issues with the facts in the article itself?

Mr. Pozmantier. Yes.

Mr. Pozmantier. And what are those?

Ms. Dayananda. I think he testified that the entire premise --

Mr. Pozmantier. I've already told you that the entire premise of the article is wrong.

BY [redacted]

1 Q What is that premise?

2 A That there's some censorship regime that's going on and that we're part of

3 that. There is no censorship from any of the projects that we're doing. There's no

4 content moderation for any of the Phase II projects. The idea of surfacing narratives

5 and presenting them to reporters so that more information can be put out about them,

6 that's the furthest thing from censorship.

7 Q Are you familiar with how Facebook conducts its content moderation?

8 A No, I'm not familiar with the specifics of how Facebook does its content

9 moderation.

10 Q Would it surprise you to learn that they rely on fact-checking partners to

11 moderate content?

12 A No.

13 Q And to your understanding, what is Co-Insights as a project primarily focused

14 at doing?

15 A Working with AAPI communities to detect narratives that are -- and, again,

16 this is in Tagalog or Hindi or Vietnamese.

17 Q Maybe let me rephrase the question. Do they see themselves as working

18 with fact-checking partners or with fact-checking entities, or are they themselves -- would

19 they consider themselves a fact checker?

20 A They're working with fact-checking partners. And, again, that are focused

21 on AAPI communities.

22 Q And we discussed earlier that they see themselves as in the content

23 moderation solutions market. Is that correct?

24 Ms. Dayananda. Who's the they?

25 [redacted] Meedan and Co-Insights the project.

1 Mr. Pozmantier. They -- I think what they see is the fact checkers themselves
2 making determinations on how they want to let other people use their fact-checking
3 work.
4 [redacted] Okay.
5 Mr. Pozmantier. That would be up to the fact checkers themselves.
6 [redacted] One point of clarifying in an earlier response. For Professor Turley's
7 criticism -- your criticism of Professor Turley kind of had a two-part answer. You said
8 that there was not censorship efforts by the Biden administration and that NSF was not
9 part of that.
10 Are you saying both are independently wrong or are you criticizing his conclusion
11 about the second part?
12 Mr. Pozmantier. Let me say this. I know nothing about a censorship effort by
13 anyone in the government.
14 [redacted] Are you familiar with whether the government has won or lost before
15 the district court and the circuit court?
16 Ms. Dayananda. [redacted] come on.
17 Mr. Pozmantier. I'm not going to get into the Fifth Circuit.
18 Ms. Dayananda. This is beyond. There's literally no legitimate purpose here for
19 you to question him about current cases pending that tangentially relate to what the
20 topic is you're investigating. Like, I just -- this is just going beyond.
21 He's commented on the email. It's pretty clear what his thoughts are about
22 Professor Turley. I think we should just try to move. I think you guys are at time for
23 your hour, but I really can't imagine what more we have. And I say that to both sides as
24 well. We've gone through 2 hours about the Track F program and the identification of
25 the award recipients. We spent an hour on the media strategy. You've gone through,

1 by my count, pretty much every email that was cited in the preliminary report. So some
2 preview of what's next would be helpful, but I just don't see what's left here.
3 [redacted] We have a couple minutes left in this hour. And I think the lawsuit
4 is -- we can talk more in between the hour regarding the responsiveness. But continue.
5 BY [redacted]
6 Q In April 2023, it appears that you started organizing communications
7 planning meetings for the Track F teams with [redacted] of the University of
8 Washington Center for an Informed Public, I believe, and that these meetings continued
9 into May. Is that correct?
10 A I think there was one meeting.
11 Q You only recall one meeting with him?
12 A Yeah. And it was to -- for [redacted] to let everybody know how the
13 University of Washington was dealing with this stuff.
14 Q What was said in that meeting, or how were they --
15 A He just conveyed how the University of Washington approached this media,
16 whatever, putting out information.
17 Q Do you have any more specifics beyond that?
18 A That's what was discussed.
19 Q For how long did these communications planning meetings continue, or are
20 you --
21 A I think it was one meeting, and I think it was an hour.
22 Q So they're not ongoing?
23 A No.
24 [redacted] Do you typically take notes for a meeting like that?
25 Mr. Pozmantier. I don't know that I did.

1 [redacted] Okay. What's your typical practice?

2 Mr. Pozmantier. It depends on the meeting.

3 [redacted] Can we go off the record, please?

4 [Discussion off the record.]

5 [redacted] Back on the record, please.

6 Go ahead.

7 Ms. Dayananda. Thank you, [redacted]

8 I just wanted to wrap up the point about the media strategy document. I want

9 to point out an email Monday -- from October 28, '21. This is referenced in the report

10 as footnote 117. And in that email from Mr. Pozmantier, it states -- this is the initial

11 email convening the meeting with the project managers. This discuss -- quote: This

12 discussion will lead to others. I plan to engage NSF leadership and public affairs soon

13 after our conversation.

14 This is just to give context to the questions concerning he alone convening this

15 meeting and whether the other NSF leadership was involved.

16 I also want to point out report page 30, footnote 120, a November 22nd, '21,

17 email. This is after the meetings were held where Mr. Pozmantier again says: I

18 will -- thanking the team for getting together. It's taking a bit longer than I hope to get

19 the notes and sources together to begin to turn the discussion into actions.

20 To, again, make the point that no actions were taken from the media strategy

21 document that was discussed ad nauseam.

22 And, finally, I want to mark this as exhibit 5 -- I think we're up to 5 or 6. And this

23 is what I provided to the majority and minority counsel as part of the letter, which is an

24 email from November 29, '21, which essentially character -- sums up testimony provided

25 today, which states -- to Shelby -- Sending the latest version with track changes on one of

1 them. Please note the bullet that set examples of organizations not to engage, which is
2 something we should or even can do as a government agency. I intentionally left it out
3 of the first draft and missed it in the -- "version" is dropped -- before I sent it out.
4 And in the attachment you can see the strikeout of "examples of media outlets to
5 not engage." So I want that to be clearly in the record. And I'll mark it as exhibit 5.
6 [redacted] Five, yeah.
7 [Pozmantier Exhibit No. 5.
8 was marked for identification.]
9 Ms. Dayananda. Okay. Thank you for the time. Thanks, [redacted]
10 [redacted] No problem.
11 BY [redacted]
12 Q Okay. So I think it's clear that what you -- what was just represented by
13 your attorney, I think the dates were 2021, right, when you convened these meetings and
14 you talked about the possibility of taking action later on a media strategy, right? That
15 was 2021?
16 A Yes.
17 Q Okay. And then you were asked about exhibit 4, whether or not you had
18 seen some screenshots that were sent to you about one of the projects -- some
19 documents, correct? That is from 2022.
20 A This one?
21 Q Yes.
22 A Yes.
23 Q Exhibit 4.
24 A Uh-huh.
25 Q That is a year after you had already decided that there was nothing else you

1 were going to do as far as the media strategy with Track F?

2 A That's correct. And this would have been during Phase II.

3 Q Correct. Okay. And your response at the time, I believe you said, we

4 were naive. You did not expect the response or public response to your activities in

5 Track F. Is that why you convene these meetings?

6 A Yes.

7 Q And you said that was atypical; no other track was getting threatened?

8 A This is true.

9 Q And there was a question about -- like, I think you said in one of

10 the -- something about highlight pro-democracy. You were not saying that there's also

11 anti-democracy elements to these projects, correct?

12 A No.

13 Q Right. And you were asked about like different articles that came out.

14 And I think you, in fact, said that you had no problem with the article that was written by

15 Campus --

16 A Campus Reform, yeah.

17 Q Right. And that was because their facts were accurate?

18 A They made an effort to talk to the teams and asked them about their

19 projects. They got a quote from NSF. There was minimum editorializing. It was

20 actually a report. They asked questions, got answers, and put it in the story.

21 Q And Mr. Turley did none of that?

22 A Correct.

23 Q And was the understanding that he started with, like, what his conclusion

24 was, and then he worked his way backwards?

25 A Exactly.

1 Q Okay. And there is no requirement that anybody make any type of press
2 release related to awards or phases or anything under NSF policy, right?
3 A That's correct.
4 Q Okay. But everything that we talked about, everything that has happened
5 in Track F is publicly available on NSF's website?
6 A That's correct.
7 Q Okay. They can find out how much money went to which teams and who is
8 doing what at this particular time, right?
9 A Yes. And it's made much easier because it's on the Convergence
10 Accelerator site.
11 Q Right. And it actually says, like, it's the pull-down where it says Portfolio,
12 right?
13 A Yes.
14 Q And under Track F, it tells you these are the Phase II projects?
15 A Yes.
16 Q And it tells you the name of each project. There are six. Is that right?
17 A Yes.
18 Q And it tells you how much money went out in that track?
19 A Yes.
20 Q And the videos that were in question are still on YouTube?
21 A The last I checked, yes.
22 Q And the meetings that you've been having with all of these people, these are
23 not face-to-face meetings with the teams, these are virtual?
24 A Almost all of them, yes.
25 [redacted] That's all I have. That's it.

1 Thank you. We're off the record.

2 [Discussion off the record.]

3 [redacted] Can we go back on the record? Thank you.

4 BY [redacted]

5 Q I want to go back to real quickly the Track F media strategy document. In

6 November 30th, 2021, do you recall emailing Connie Sehat, the head of the ARTT team,

7 stating that that bullet point or that section was added by one of your colleagues?

8 A Uh-huh, yes.

9 Q And which colleague was that?

10 A I think it was Shelby.

11 Q Moving to --

12 BY [redacted]

13 Q Well, so walk us through at least your recollection of what happened then.

14 You put together the initial draft?

15 A Yeah, and --

16 Q Emailed it to Ms. Smith?

17 A I believe so.

18 Q You believe Ms. Smith entered in the additional point about --

19 A Additional notes.

20 Q Additional notes. Those additional notes included the bullet point about

21 not engaging with certain outlets?

22 A I believe so, yes.

23 Q She then sent that version back to you?

24 A Uh-huh.

25 Q And you sent that version to --

1 A Oh, yes.
2 Q And then you sent that version to the researchers?
3 A Yes.
4 Q Have you spoken to Ms. Smith about this?
5 A I don't think so. I mean, I think this can't -- well, we spoke about the fact
6 that this was in the report that was released, but I don't think we spoke about this
7 process.
8 Q So you didn't speak about who put in --
9 A No, I'm just --
10 Q -- that part of it -- that bullet point?
11 A I mean, I think it's pretty clear that I didn't do it, because I've stated multiple
12 times, and I said that I disagreed with it. And, in fact, we submitted an exhibit that
13 states that as well.
14 Q But, I mean, the language does make it into the document. So we're just
15 trying to figure out how that happened.
16 A I don't know how many times I can say it to you guys. It's very clear
17 through everything else that it was put into the document. It was missed. We had
18 feedback that it shouldn't be there. I agreed with that, and I stated that it shouldn't be
19 there, and it was removed in the next version.
20 Q And did you have any discussions with Ms. Smith after -- let me reframe the
21 question so we're in the right time period.
22 After you received some feedback from some of the researchers, you omit it from
23 the document, did you go back and talk to Ms. Smith about it?
24 A That email.
25 Q Any other conversations?

1 A Not that I recall.

2 Q Okay.

3 BY [redacted]

4 Q And what is Ms. Smith's title or role when it comes to the Convergence

5 Accelerator?

6 A She handles our comms stuff inside the office, but that filters up through

7 OLPA.

8 Q Is she the media outreach lead for the Convergence Accelerator program?

9 A She doesn't do anything unilaterally.

10 Q Is that a yes to my question?

11 A She doesn't do media outreach as far as like reaching out to media outlets to

12 do interviews and things like that. That would go through OLPA.

1 [1:20 p.m.]

2 BY [redacted]

3 Q Okay. So you're saying she doesn't do things unilaterally. And you've

4 spoken with her about this being in the report. Did she indicate whether or not she

5 went up to OLPA --

6 A To do what?

7 Q -- to discuss whether or not this should be put into -- this section that she

8 included should be put into the strategy?

9 A I don't know how many -- I mean, we keep saying over and over again OLPA

10 was never engaged in this.

11 Q Right. But you also just testified that she doesn't do anything unilaterally.

12 A If she does outreach. You said does she do media outreach. That's a

13 whole different thing.

14 Q Gotcha. So maybe more generally, how often does Ms. Smith engage with

15 OLPA?

16 A I don't know.

17 Q As part of your role at NSF, have you interacted with CISA, the Cybersecurity

18 and Infrastructure Security Agency at DHS?

19 A What type of interactions?

20 Q Any interactions.

21 A I mean, I've talked to people there that were on the working group.

22 BY [redacted]

23 Q What was the working group?

24 A The information integrity working group.

25 Q Who from NSF was part of this working group?

1 A I think there were four or five, maybe three or four of us that were on there.
2 That working group released an R&D strategy publicly December 30, 2022.
3 Q And when did the working group start meeting?
4 A I think sometime in early 2022.
5 Q Which other agencies were part of the working group?
6 A I'm not sure of all of them, but it's in the report that came out. And I can
7 give you a list of the ones I recall, but you guys can pull the report down and take a look.
8 They are all listed there. I believe it was State, DHS, of course NSF, and there may have
9 been some others, but I can't remember, but again it's publicly available information.
10 Q Which personnel from NSF were involved?
11 A I think the four of us that were primarily involved were Nina -- I can't
12 remember her last name right now, Dan Cosley and Sara Kiesler.
13 BY [redacted]
14 Q And Sara Kiesler, she leads the Secure and Trustworthy Cyberspace program
15 at NSA. Is that correct?
16 A I think SaTC, there's more things under SaTC than -- I think she may have
17 something under SaTC, but I don't think she does all of SaTC. But it's possible. I don't
18 know what her -- but she is in SaTC.
19 Q To your understanding, what is information integrity?
20 A That's the general term for this field, where disinformation, et cetera is.
21 Q Did you interact with anyone else at DHS apart from CISA?
22 A I think S&T was on the working group.
23 Q And you mentioned State, was that the Global Engagement Center, or was it
24 more general?
25 A It may have -- I think GEC was there among other areas of State.

1 [redacted] How frequently did that working group meet?

2 Mr. Pozmantier. I think, like, on a monthly basis. This is standard stuff.

3 BY [redacted]

4 Q Have you ever interacted with the Office of the Surgeon General or other

5 agencies?

6 A Yes.

7 Q What have been the nature of those interactions?

8 A I believe when they were putting out a request for information we

9 helped -- we publicized -- or I sent it through to contacts in our -- to RPIs to let them know

10 that they had open request for information.

11 Q Was this request for information relating to misinformation in regards to

12 COVID-19?

13 A Probably that would be in their purview.

14 Q Who was your primary point of contact?

15 A Kyla Fullenwider.

16 Q Are there any other executive branch agencies that you regularly interacted

17 with?

18 A I didn't really -- I mean, the working group was the only regular thing, and

19 most of that was a lot of listening. The other agencies was any other agency was just

20 kind of topical, so --

21 Q During your time at NSF did you organize or coordinate any meetings

22 between Track F teams and trust and safety or content moderation companies?

23 A Not that I recall.

24 Q Did any Track F teams introduce you to any trust and safety companies?

25 A I don't think so. I mean, we -- we had some panels where we had outside

1 groups talk to the teams and I can't remember any more specifically than trust and safety
2 or not.
3 Q Are you familiar with CheckStep?
4 A I think they may have been one of the people that was on -- one of the
5 panels from outside group.
6 Q Are they a trust and safety company?
7 A I don't know.
8 Q With regard to these panels, in March 2022 you emailed the CheckStep CEO
9 stating that NSF will be holding a panel comprised of four companies for startups working
10 in the mis-- and disinfo space. Did that panel ever happen?
11 A Yeah, we do -- we bring outside people in to talk to the teams and answer
12 questions or what have you, to talk about what they are doing. It is just more of a
13 forum to let them understand different aspects of what they are doing, so --
14 Q Is the goal of that panel for these teams to ultimately explore partnerships
15 together with these companies?
16 A They could or they could learn more about what's happening in the field.
17 They could learn something about building products or running a company.
18 Q Did they -- to your knowledge, did any of these Track F teams build
19 partnerships with any of the companies in the panels that you put on?
20 A Not that I can think of.
21 Q What companies participated in this specific panel with --
22 A Off the top of my head, I can't remember.
23 Q But did CheckStep participate?
24 A If you're saying there's an email between me and the CEO about the panel,
25 then I think they did.

1 Q And do you recall how often a trust and safety company was introduced to
2 you, either by a Track F team, or in relationship to the panel?
3 A No, I can't.
4 Q Did you set up any other panels?
5 A I think we had two others. And those would have been different focuses, I
6 think. It might have even been -- I think one of those might have even included Office of
7 the Surgeon General.
8 Q During your time at NSF, have you had any industry interactions with Tress
9 Lab (ph)?
10 A I don't know.
11 Q What about any interactions with First Draft news?
12 A Maybe.
13 Q Claire Wardle?
14 A Oh, Claire, yeah. She's at Brown University now.
15 Q What interactions have you had with Claire?
16 Ms. Dayananda. Is there a timeframe or a subject matter?
17 [redacted] Within relation to Track F.
18 Mr. Pozmantier. I think just on talking to the team.
19 BY [redacted]
20 Q Was she a panelist for --
21 A Oh, she was a site visit panelist.
22 Q During your time at NSF, have you had any interactions with the Aspen
23 Institute?
24 A Yes.
25 Q What have been the nature of those interactions?

1 A We were discussing bringing together different philanthropic organizations
2 that are funding work.
3 Q What kind of work?
4 A In the information integrity space.
5 Q Did any Track F teams participate?
6 A No. Oh, no, that's not true. One of the PIs was there.
7 Q Do you recall which PI?
8 A From Expert Voices Together.
9 Q Was that the head researcher for Expert Voices Together?
10 A Yes.
11 Q During your time at NSF, have you had any interactions with News Guard?
12 A Not that I know of.
13 Q Have you spoken with individuals at social media or tech companies
14 regarding content moderation?
15 A No.
16 Q No tech companies at all? I just want to double-check.
17 A No.
18 Q What about Storytell.ai?
19 A Yes, we did have interaction with them.
20 Q Are they a tech company?
21 A Yeah, I guess so. I mean, when you're -- I'm trying to understand the
22 nature of your question because you're talking about social media platforms in tech
23 companies and there's two very different things.
24 Q I'll be more clear. So in your interactions with Storytell.ai, could you
25 describe a little bit about --

1 A They were brought to my attention through a personal contact that had
2 nothing to do with NSF from past life in startups. And they asked me to look at their
3 technology and see what they were doing. And as it turns out, it's a Chrome plug-in for
4 pulling out meaning from videos.
5 Q Did you discuss content moderation as a use case for their plug-in?
6 A I believe so at scale, yes, because there's no, you know, thousands of videos
7 go up on all these services every day, and there's no way to see what's in them, whether
8 its harmful content to children or anyone else what they might -- what kind of
9 information is going through, there is no way it is scaled to do that.
10 Q And then you flagged this exchange, or this company, to Scott Meedan or
11 Scott hailed the head of the meeting at Co-Insights project. Do you recall that?
12 A Yes.
13 Q And why would you do that?
14 A If I come across something that's interesting to them and that might be of
15 use to them, I make -- I show it to them. And in some cases if I'm just seeking feedback
16 because these people are experts, I also ask them for their input and feedback.
17 Q So you mentioned to him that they were listening to content moderation as
18 a use case. Was content moderation a focus of Co-Insights project?
19 A I mean, they are -- they are looking at presenting facts to people, and those
20 could be content moderators.
21 Q In the context of Track F, have you interacted with or introduced Track F
22 teams to any other companies besides Storytell.ai, tech-related or social-media related?
23 A Maybe through the panels that we did that you mentioned CheckStep
24 before. Outside of that, I don't know, but it's possible.
25 Q Do you recall any names of the companies?

1 A I would have given them to you, if I did.

2 Q Which social media companies did the Track F teams engage with, to your

3 knowledge?

4 A I don't know. I think they may have -- I think some of them had

5 engagements with Twitter through the Twitter Firehose, but that's since been cut off

6 since the change in ownership.

7 Q How about Hale emailing you back in 2022 about letters of collaboration

8 with TikTok, Twitter, and WhatsApp. Did those letters of collaboration --

9 A Oh, yeah. Yes, I think they did include those in their proposal. And I don't

10 know -- I know that after the change in ownership, nobody was able to work with Twitter

11 on anything. So I guess whatever -- and the person they were probably working with

12 probably got fired or something, or left.

13 Ms. Dayananda. I just want to clarify the letters of collaboration are with who?

14 Mr. Pozmantier. They are with -- I'll explain the letter of confirmation. The

15 teams get a confirmation from people they are partnering with that they are engaged

16 with the project. What that is doing is preventing them from simply throwing out

17 names in a proposal. It's a way for us to verify that they've actually had the

18 conversations and actually have a true partnerships.

19 Ms. Dayananda. It's not NSF partner --

20 Mr. Pozmantier. No, no, no. It's the project.

21 BY [redacted]

22 Q But your understanding is they still have partnership with TikTok?

23 A I don't know if they do or not. Yeah, I don't know -- how closely they are

24 working with them or not, because what happens at the beginning of Phase II is not

25 always where things end up in Phase II.

1 [redacted] To your understanding what is Twitter Firehose?

2 Mr. Pozmantier. The Twitter Firehose was a source of information that gave

3 researchers access to raw data from Twitter which allowed them, people to make

4 transparent -- do research and transparently show what's happening. It's since been cut

5 off.

6 BY [redacted]

7 Q You mentioned earlier that these Track F projects are still ongoing. Is that

8 correct?

9 A The Phase II projects, yes.

10 Q Do any of these projects plan on combating information in the 2024

11 election?

12 A I don't know. I mean, they are going to be doing -- they are still building.

13 They are to the point that their end user is using them, something comes up, then sure, if

14 the end users want it, then that's what they'll do. But I don't know specifically what

15 their plans are.

16 Q So you haven't had any interactions discussing whether or not they are

17 planning on --

18 A I mean, they are -- they are -- it stands to reason that they would have some

19 view into that, but I haven't talked to them specifically about individual plans necessarily.

20 Q Which projects?

21 A Any project that's looking at narratives so probably Co-Insights, Course

22 Correct, but I don't know that they are specifically. But if they have end users that are

23 interested in those things then they would. Yeah, I think -- I'm trying to think which

24 projects might be doing something that lends itself to that. I guess possibly ARTT, but I

25 think they are primarily focused on public health.

1 Q What about Searchlight?

2 A Searchlight is not funded. They're not a Phase II project.

3 Q By what methods did you communicate with the Track F teams?

4 A Typically through email, Slack, phone calls.

5 Q Could you still reference those Slack communications, if needed?

6 A As a turns out, most of them didn't use Slack, so we discontinued use of it

7 because it was a waste of money.

8 Q Did you ever communicate with these teams via Slack regarding the media

9 attention?

10 A No.

11 Q By what methods did the Track F teams submit materials to NSF, including

12 that presentation slides?

13 A Their proposals went through official NSF systems that all people put

14 proposals in. They had a proposal -- excuse me, a pitch presentation or something, they

15 probably would have emailed it to us if we took it or if they just gave the presentation,

16 they might have shared it on Zoom screen.

17 Q Did you use Box or separate folders?

18 A We do use Box for our curriculum, but I don't know that we've stored any

19 specific -- it's possible that there's some stuff there, but that all would have been sent to

20 us via email.

21 [redacted] When did NSF discontinue using Slack?

22 Mr. Pozmantier. This year, or sometime in 2023.

23 [redacted] Do you recall when approximately?

24 Mr. Pozmantier. We still have it, we just don't use it for the teams. We

25 thought that -- we felt we needed an easy way to communicate with people outside of

1 NSF's firewalls and we wanted to make sure that we had multiple ways of doing it. And
2 when we really looked at the usage of it, it turned out the teams really didn't want or
3 need it. And so they were paying for licenses that we weren't using so we cut it off.
4 BY [redacted]
5 Q To your knowledge, when it comes to track communications was there is a
6 Track F specific channel?
7 A I think so, yeah, there was a channel for every track.
8 Q And there's a channel between you and the Track F teams as well? Is that
9 right?
10 A It would've just been that channel for general communications, like things
11 that were coming up and stuff like that, announcements.
12 Q I want to talk for a second about the merit review process. According to
13 NSF, the broader impact criterion of the review process considers a project's potential to
14 benefit society and contribute to the achievement of specific desired society outcomes.
15 What were the specific desired societal outcomes for the Track F program?
16 A In this case, it was a more informed public.
17 Q Did it include addressing content that leads to vaccine hesitancy?
18 A Not specifically.
19 Q Do you recall emailing Track F grantees about a Harvard vaccine hesitancy
20 event?
21 A If I come across things that might be of interest to them, I pass it along.
22 Q Did you think that information related to vaccine hesitancy was related to
23 any of the specific projects that the Track F teams had?
24 A I mean when you're dealing with trying to inform people to find good
25 information, of course vaccine hesitancy is going to be relevant to that.

1 Q Does NSF fund projects that seek to promote media literacy?

2 A No.

3 Q In your mind, is misinformation objective or subjective?

4 A One more time.

5 Q Is it objective or subjective? That is, is it set in stone or could it be subject

6 to change what misinformation is?

7 A The definition of the word or specific --

8 Q The category of misinformation, does it fluctuate or is it one specific thing?

9 Ms. Dayananda. Are you asking him as an NSF employee?

10 [redacted] Sure or in the context of.

11 Mr. Pozmantier. I guess I'm struggling -- are you talking about, like, specific

12 examples of it or the word "misinformation"?

13 BY [redacted]

14 Q Examples.

15 A I mean, I think there are things that are just factually wrong that have been

16 proven to be factually wrong that people propagate information about. And in some

17 cases, that's intentional, and in some cases, it is unintentional.

18 Q In the context of Course Correct focus on COVID-19 in the 2020 election for

19 misinformation, what kinds of misinformation would be factually wrong for those two

20 categories?

21 A That vaccines were putting tracking beacons in people.

22 Q Anything else with regard to the 2020 election?

23 Ms. Dayananda. I don't see how --

24 Mr. Pozmantier. I mean --

25 Ms. Dayananda. Are you asking him about what Course Correct is --

1 [redacted] They presented misinformation that they believed involved the 2020
2 election or that was part of their project. And I'm asking him what --
3 Ms. Dayananda. You should ask Course Correct, though. I mean, he has
4 testified about what his role was vis-à-vis recipient Course Correct and that -- I just
5 don't --
6 [redacted] He's happy to say that it was never conveyed to him, but if he
7 knows --
8 Ms. Dayananda. If he knows.
9 [redacted] -- what they mean.
10 Mr. Pozmantier. I don't know specifically what they were looking at in that
11 space.
12 BY [redacted]
13 Q Is NSF involved in any 2024 election-related working groups meetings or
14 projects regarding this dis- or malinformation?
15 A Not that I'm aware of.
16 Q Will NSF be involved in it, to your knowledge?
17 A NSF is not an operational agency.
18 Q But they were involved some of these other -- in other working group,
19 integrity working group. Is that right?
20 A Which was setting out an R&D strategy.
21 Q Regarding R&D, how has President Biden's executive order impacted NSF's
22 work to promote Trustworthy AI that promotes diversity equity inclusion?
23 Ms. Dayananda. I don't think he's in a position to answer.
24 Mr. Pozmantier. That's not my -- my project doesn't -- my program doesn't
25 cover that.

1 BY [redacted]

2 Q What steps did NSF have in place to prevent conflicts of interest?

3 A We do an initial check, and there's different levels of conflict of interest that

4 we're interested in at different stages. But we do an initial check with -- to just see what

5 organizations people work for, if those are what we see coming from the teams, but the

6 teams are so big that we, many times, can't actually figure that out until people have

7 proposals in hand. So we also ask them and they have to attest to the fact that they

8 don't have conflicts of interest. But it's a constant process of looking at it before we go

9 to reviews, or go to the panels.

10 Q So in a May 22 email, you emailed the Track F teams expressing worry about

11 conflicts of interest when putting together review panels given, quote "how tight this

12 overall community is. The panels will be comprised of people from academia,

13 nonprofits, government and the private sector." Would you say that this -- that

14 mis-- and disinformation researchers are tight or why did you say that?

15 A It's not a big community of researchers. Many people are familiar with

16 other people's work. They've done joint research together. That's what it means.

17 Q Would you say these researchers are tight with the government? You

18 mentioned that as being -- the panels will be comprised of people from academia,

19 nonprofits, government and the private sector?

20 A The -- we almost never have -- the government people are not engaged in

21 that. The academic community is where the real conflicts come from.

22 Q Did you have any government panelists?

23 A Yes.

24 Q From which agencies?

25 A Can't say, that's -- that information is not stuff that we give out.

1 Ms. Dayananda. That's in the authorization letter.

2 BY [redacted]

3 Q And so, ultimately, each reviewer provides a written review. Is that

4 correct?

5 A On a proposal, yes.

6 Q And then that gets -- that goes to the program officer. Is that correct,

7 which is you?

8 A The --

9 Ms. Dayananda. Honestly, we went through this entire process. I mean, I know

10 we're wrapping up here, but this is, like, the first hour he meticulously walked you guys

11 through you this, and in the second hour frankly so --

12 [redacted] Has he answered the question?

13 Mr. Pozmantier. They submit it into an NSF review management system.

14 BY [redacted]

15 Q And then my final question is who makes the final decision on whether to

16 issue an award to proposal? Is that the division director?

17 A It's collective.

18 Q It is collective?

19 A Yeah.

20 [redacted] Can we go off the record?

21 [Discussion off the record.]

22 BY [redacted]

23 Q So quickly, I believe in your program solicitation, there is a full description of

24 what Track F's purpose and goals were, right, what these teams would be doing. Is that

25 right?

1 A Yes.

2 Q And their purpose was to integrate tools, techniques and educational

3 materials and programs to support increased citizen trust in public information of all

4 sorts. Is that right?

5 A Yes.

6 Q And that was related to health, climate, news, everything under the sun?

7 A Anything that people would be confronted with.

8 Q Right. And the purpose of Track F is to make sure that people are getting

9 accurate information?

10 A It's actually making sure that they understand -- yes, that they are getting

11 accurate -- not necessarily that they are getting accurate information, but they

12 themselves can tell when they are seeing accurate information, or find out whether the

13 information they are confronted with is accurate or not.

14 Q Okay. And finally, you were asked about something you had said about the

15 academia, this being a tight --

16 A Yeah.

17 Q -- a small community, basically?

18 A Relatively, yes.

19 Q That doesn't mean that you overlook conflicts of interest, does it?

20 A No, not at all. The concern there was to say, send me lists of everybody

21 that's on your team so that when I'm looking for reviewers I can --

22 Q You are making sure --

23 A -- rule it out immediately.

24 Q Exactly.

25 A Yeah.

1 [redacted] Off the record.

2 [Whereupon, at 1:49 p.m., the interview was adjourned.]

1 Certificate of Deponent/Interviewee

2

3

4 I have read the foregoing ____ pages, which contain the correct transcript of the

5 answers made by me to the questions therein recorded.

6

7

8

9 _____

10 Witness Name

11

12

13 _____

14 Date

15

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: SHELBY PIERSON

Wednesday, March 27, 2024

Washington, D.C.

The interview in the above matter was held in room 2237, Rayburn House Office Building, commencing at 12:06 p.m.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

[redacted] PROFESSIONAL STAFF MEMBER

[redacted] SENIOR SPECIAL COUNSEL

[redacted] PROFESSIONAL STAFF MEMBER

[redacted] DEPUTY CHIEF COUNSEL FOR OVERSIGHT

[redacted] MINORITY CHIEF OVERSIGHT COUNSEL

[redacted] MINORITY STAFF ASSISTANT

[redacted] MINORITY OVERSIGHT COUNSEL

[redacted] MINORITY PROFESSIONAL STAFF MEMBER

For the OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE:

[redacted]

1 [redacted] We can go on the record, please.

2 [redacted] This is a transcribed interview of Shelby Pierson.

3 Chairman Jordan has requested this interview as part of the committee's

4 investigations of how and the extent to which the executive branch has coerced and

5 colluded with companies and other intermediaries to censor speech and allegations that

6 the U.S. intelligence community obstructed a congressional inquiry in 2020.

7 Would the witness please state your name for the record?

8 Ms. Pierson. Shelby Pierson.

9 [redacted] On behalf of the committee, I want to thank you for appearing here

10 today to answer our questions. The chairman also appreciates your willingness to

11 appear voluntarily.

12 Ms. Pierson. Thank you for having me.

13 [redacted] My name is [redacted] and I'm with Chairman Jordan's staff.

14 I'll now have everyone else from the committee who is here at the table introduce

15 themselves as well.

16 [redacted] Chairman Jordan's staff.

17 [redacted] Chairman Jordan's staff.

18 [redacted] Chairman Jordan's staff.

19 [redacted] Ranking Member Nadler's staff.

20 [redacted] Ranking Member Nadler's staff.

21 [redacted] Ranking Member Nadler's staff.

22 [redacted] Ranking Member Nadler's staff.

23 [redacted] I'll now go over the ground rules and guidelines that we will follow

24 during today's interview.

25 Our questions will proceed in rounds. The majority will ask questions first for 1

1 hour, and then the minority will have an opportunity to ask questions for an equal period
2 of time if they choose. We will alternate back and forth until there are no more
3 questions and the interview is over.
4 Typically, we take a short break at the end of each hour, but if you would like to
5 take a break apart from that, just let us know. You're not captive.
6 Ms. Pierson. Yes.
7 [redacted] As you can see, there's an official court reporter taking down
8 everything we say to make a written record, so we ask that you give verbal responses to
9 all questions. Do you understand?
10 Ms. Pierson. I do.
11 [redacted] So the court reporter can take down a clear record, we will do our
12 best to limit the number of people directing questions at you during any given hour to
13 just those people on the staff whose turn it is to question.
14 Please try and speak clearly so the court reporter can understand and so the folks
15 down at the end of the table can hear you.
16 It is important that we do not talk over one another or interrupt each other if we
17 can help it. In my view, we could always help that. And that goes for everybody
18 present at today's interview.
19 We encourage witnesses who appear before the committee to freely consult with
20 counsel if they so choose. It is my understanding that you are appearing here today
21 with agency counsel. Is that correct?
22 Ms. Pierson. Yes, it is.
23 [redacted] Okay.
24 Would agency counsel please state your name for the record?
25 [redacted] [redacted]

1 [redacted] what agency are you with?

2 [redacted] Office of the Director of National Intelligence.

3 [redacted] Okay.

4 Ms. Pierson, the committee thinks it's important to advise you that agency

5 counsel's first obligation is to the agency, in this case the ODNI. Are you aware of this?

6 Ms. Pierson. Yes, I am.

7 [redacted] Okay. Knowing this, are you comfortable proceeding with agency

8 counsel?

9 Ms. Pierson. Yes, I am.

10 [redacted] We want you to answer our questions in the most complete and

11 truthful manner possible, so we will take our time. If you have any questions or if you

12 do not understand one of our questions, just let us know.

13 We'll cover a wide range of topics, so if you need any clarification at any point, just

14 say so.

15 Ms. Pierson. Thank you.

16 [redacted] If you do not know the answer to a question or do not remember

17 the answer, it's best not to guess. Give us your best recollection. And it's okay if you

18 tell us where you learned the information from if you learned it from someone else.

19 We'd ask that you indicate how you came to know the information.

20 If there are things you don't know or can't remember, just say so, and we ask that

21 you would inform us, to the best of your knowledge, who might have answers to those

22 questions. Could you commit to doing that, Ms. Pierson?

23 Ms. Pierson. Yes.

24 [redacted] You should also understand that, although this interview is not

25 under oath, by law you are required to answer questions from Congress truthfully. Do

1 you understand that?

2 Ms. Pierson. Yes.

3 [redacted] This also applies to questions posed by congressional staff in this

4 interview. Do you understand that as well?

5 Ms. Pierson. Yes.

6 [redacted] Okay. That is an admonition we give to everyone who appears

7 before us.

8 Ms. Pierson. Of course.

9 [redacted] Witnesses that knowingly provide false testimony could be subject

10 to criminal prosecution for perjury or for making false statements under 18 United States

11 Code, Section 1001. Do you understand this?

12 Ms. Pierson. Yes.

13 [redacted] Is there any reason today you are unable to provide truthful

14 answers to our question?

15 Ms. Pierson. No.

16 [redacted] Finally, I'd like to make a note that the content of what we discuss

17 here today is confidential. We ask that you not speak about what we discuss in this

18 interview to any outside individuals to preserve the integrity of the congressional

19 investigation.

20 Will you commit to doing so?

21 Ms. Pierson. Absolutely.

22 [redacted] For the same reason, the marked exhibits that we will show you

23 today, if any, will remain with the court reporter and with committee staff. So we will

24 collect them, and they will be part of the official transcript.

25 Okay. That is the end of this preamble.

1 Is there anything that my colleagues from the minority would like to add?

2 [redacted] A couple things.

3 First of all, we thank the witness for joining us today and taking time out of your

4 busy schedule.

5 I wanted to note for the record that the majority informed us that the topic of this

6 interview was the defensive briefing provided to Senators Grassley and Johnson in August

7 2020. They did not indicate that the social media investigation was within the scope.

8 I'm not sure if they informed the witness of that. We'll be prepared to address that as

9 well, but wanted to make that note for the record.

10 And then -- yeah, that's it. We look forward to hearing from you today.

11 Ms. Pierson. Sure.

12 [redacted] The clock now reads 12:12 p.m., and we will start the first hour of

13 questioning.

14 EXAMINATION

15 BY [redacted]

16 Q Could I ask you to state your full name again for the record?

17 A Shelby Pierson.

18 Q Thank you. And what is your current place of employment?

19 A The National Geospatial-Intelligence Agency.

20 Q And what is your current title?

21 A The Deputy Director of Operations.

22 Q How long have you worked in that role?

23 A Since June of 2023.

24 Q Beginning with college, what is your educational background?

25 A I have a B.A. in international affairs from Lewis & Clark College.

1 Q Starting with your first job after college, what is your professional
2 background?
3 A I have worked at the University of Southern California in the School of
4 International Relations as an administrative lead for the faculty.
5 I then secured a position with the Central Intelligence Agency as an imagery
6 analyst in 1999 and moved out here to Washington.
7 The rest of my employment has been with the Federal Government in the
8 intelligence community through a variety of positions, largely as a permanent detailee
9 from CIA at the National Geospatial-Intelligence Agency or its predecessor organizations.
10 If you want me to go through each individual role, I'm happy to do that.
11 Q If you could, please.
12 A Sure.
13 From 1999 to roughly 2003, I was an imagery analyst in the Middle East Division at
14 the National Imagery and Mapping Agency.
15 From 2003 to roughly, I believe, 2005, I managed a foreign intelligence
16 relationship on behalf of the National Imagery and Mapping Agency.
17 From that time, I moved to work from, I believe, 2005 to, let's say, 2010,
18 '12 -- you'll have to forgive me if I don't have the years right -- working as a denial and
19 deception analyst for the National Geospatial-Intelligence Agency.
20 From there, I moved on to be a deputy division chief for the Underground, Cyber,
21 and Command and Control Division at the National Geospatial-Intelligence Agency.
22 I then moved on to be an office chief, probably roughly around 2012 or so, as the
23 office chief for the Office of Asia and the Americas.
24 I was then promoted to senior executive in 2013 and moved to be the office
25 director for Eurasia-Africa.

1 I then worked a special assignment, I believe roughly in 2014, 2015, to work for
2 the Director of the Agency on a personnel topic for about a year.
3 And then I moved to the ODNI in 2016 as the National Intelligence Manager for
4 Russia, Europe, Eurasia.
5 I transitioned in 2019 to serve as the Election Threats Executive.
6 In 2021, I returned back to the National Geospatial-Intelligence Agency as the
7 deputy director for an organization called Source.
8 And, then, in June of 2023, assumed my current responsibility as the Deputy
9 Director for Operations at NGA.
10 Q Thank you.
11 Now, before we get further, are you familiar with the terms "misinformation,"
12 "disinformation," and "malinformation"?
13 A Yes.
14 Q Could you please define each term as you understand them?
15 A Generally speaking, misinformation is content that is erroneous, is designed
16 or has the effect of misleading or may be mistaken.
17 Disinformation has intent behind it to mislead or undermine certain outcomes.
18 "Malinformation" is not a term of art that we use routinely in my line of work. I
19 think you're familiar that we discuss "malign influence," so that which is intended to have
20 a malicious or bad outcome.
21 Q Could you state your title again in 2016 when you first -- did you join ODNI,
22 or were you detailed to ODNI?
23 A I went on a joint duty assignment.
24 Q And what was your title again in --
25 A The National Intelligence Manager for Russia, Europe, and Eurasia.

1 Q And, at a high level, what were your responsibilities in that position?

2 A There are National Intelligence Managers, or NIMs, for a variety of regional

3 and functional topics. We are responsible for integrating the U.S. intelligence

4 community against, largely, five lines of effort: analysis, collection, foreign partnership,

5 budget, and workforce matters. And so we're routinely working across the interagency

6 to make sure that the intelligence community is operating optimally.

7 Q And then you were in that role until 2019?

8 A 2019, yes, sir.

9 Q When you became the Election Threats Executive?

10 A Yes, sir.

11 Q Who appointed you as the first Election Threats Executive?

12 A The Director of National Intelligence, Dan Coats.

13 Q And as part of your responsibilities in your prior role, did you have any direct

14 interactions with Director Coats?

15 A Absolutely. I would characterize, National Intelligence Managers

16 have -- provide direct support to the Director and the leadership team at ODNI. So I had

17 quite frequent contact with him, traveled with him overseas. We do all support for our

18 particular regional response for any intelligence or policy matters in our portfolio.

19 Q And was this a position you were filling, or was it a newly created position?

20 A As the National Intelligence Manager?

21 Q Sorry. I was referring to the Election Threats Executive.

22 A That was a newly created position by DNI Coats.

23 Q And are you familiar with the background of how that position came into

24 being?

25 A Yes.

1 Q And, to your understanding, you know, what was the lead-up to it? Who
2 was -- what was the purpose?
3 [redacted] You can answer to the extent you don't get into anything deliberative.
4 Ms. Pierson. Sure.
5 DNI Coats, as the leader of the intelligence community in his capacity as the DNI,
6 wanted to ensure that the intelligence community, as I said vis-a-vis my responsibility as
7 the NIM, that the intelligence community was operating optimally and that we had
8 specific focus and resources on the election-security issue; so, under his responsibilities,
9 created the Election Threats Executive position.
10 BY [redacted]
11 Q And prior to this position being created, who had the responsibilities for
12 election security?
13 A So, certainly, election security really became a topic of focus for the
14 intelligence community coming out of the 2016 Presidential election. And so I don't
15 know that there was any specific or designated officer focusing on that issue.
16 But, as the NIM for Russia, Europe, Eurasia, of course, it was a thread in a line of
17 analysis and collection, given our concerns about Russia. But I would anticipate that my
18 colleagues who specialize in China, Iran, North Korea, and others all had varying levels of
19 effort on -- whether it was information operations or cyber activities or things that could
20 run parallel to election-security considerations.
21 I served as the Crisis Lead -- that's an administrative term at ODNI -- for the
22 midterm election in 2018, again, at the request of DNI Coats. And, then, based upon
23 that, he wanted to have a more formalized, focused level of effort on the topic going into
24 2020.
25 Q What were your responsibilities as Crisis Lead for the 2018 midterm

1 election?

2 A Once again, I think, as an extension of the work that National Intelligence

3 Managers already do, would be pulling together the community in an effective, positive

4 way to ensure that our analysis and collection postures were not only effective but

5 efficient and integrated across the interagency.

6 Q Once you become Crisis Lead for the -- in the lead-up to the 2018 midterm

7 election, just at a very high level, is that your full portfolio now, or is it part of it and you

8 still have your responsibility for --

9 A Part of it. It's part of it. And, to note, that a crisis manager designation is

10 something that is not unique to election security. It could be for, for example, this

11 situation in Gaza now or a nuclear crisis on the peninsula in Korea.

12 So it is an administrative opportunity for the DNI to make these designations to

13 both, I think, message, focus an expectation of resources, as well as ensuring that it has a

14 level of effort and elevation, so to speak, within our portfolio.

15 So, yes, you do it, traditionally, in addition to your day-to-day responsibilities.

16 Q As Crisis Lead, were you given the opportunity to hire staff or reassign staff

17 to support you?

18 A No. That wasn't necessary at the time.

19 Q As a NIM, how big was your team in 2016 to 2019?

20 A Again, to the best of my recollection, probably around 25 or so. And that

21 was across Russia, Europe, and Eurasia.

22 Q As the Crisis Lead, were you focused on pulling together folks within ODNI or

23 was this an interagency process?

24 A Certainly interagency. ODNI, I think, spends the lion's share of its time

25 focused on the integration and accounting for the activities across the U.S. intelligence

1 community.

2 Q As part of the interagency process, were you working with any

3 non-intelligence agencies as Crisis Lead?

4 A Certainly. Given the scale and scope of election-security issues, that would

5 have included, for example, State and local election officials and other nongovernment

6 organizations.

7 Q Which agencies did you work with most frequently as Crisis Lead in the

8 lead-up to the 2020 election?

9 A Generally speaking, DHS, FBI, CIA, NSA. That's probably the core cadre of

10 organizations that spent the lion's share of their time on this topic.

11 But I would think, for example, also the Department of Defense, whether that's

12 DIA or the Joint Staff, would've of course participated vis-a-vis Cyber Command. But,

13 generally speaking, that's the core components of those working the issue.

14 Q And do you recall which agency or task force within DHS you most frequently

15 interacted with as Crisis Lead?

16 A I think there's two elements within DHS that are relevant here. One is their

17 intelligence organization; I think it's called I&A. And second is the CISA organization that

18 largely focuses on infrastructure.

19 Q And for FBI, do you recall which divisions or task forces within the FBI?

20 A The FBI's Foreign In- -- I think it's called the Foreign Intelligence -- FITF,

21 Foreign --

22 Q -- Influence Task Force?

23 A -- Influence Task Force. Thank you. Yeah, so the FITF.

24 But, for example, if we were partnering with a specific State or local election

25 outfit, that local FBI organization would of course support and participate in those

activities.

But the FITF certainly was the center of gravity on election-security matters.

Q Do you recall who your primary point of contact was with DHS I&A?

[redacted] I would not necessarily provide a name, but if you can provide a general title, I think that's fine.

[redacted] May I ask why?

[redacted] I don't know that we're cleared to provide DHS personnel names here, because I'm not sure necessarily what level the person is at within DHS's organization.

[redacted] I'll just note for the record, Ms. Pierson, that the committee, appreciating that record that was made, is not recognizing that as a justification to not answer the question if you have an answer.

So, to be clear, if the committee -- and you're here voluntarily, so you could certainly take your attorney's advice. But if there are questions that the committee feels it needs in pursuit of its constitutional obligation to do oversight, it can resort to the compulsory process to obtain those answers.

So I just want to make sure you're aware of that.

Ms. Pierson. Yeah.

[redacted] Could I make a note on that?

[redacted] Excuse me?

[redacted] Just to make a note, I do think that might be an opportunity, before resulting to compulsory process, that it might be something that [redacted] could take back, potentially --

[redacted] Yes. Absolutely.

[redacted] Of course.

1 [redacted] -- and that that could be a get-back rather than --

2 [redacted] Yeah. I think that's absolutely right. And that was -- I was going to

3 follow up with that.

4 [redacted] Yeah.

5 [redacted] We can take that question back if you need further information.

6 [redacted] Thank you. Of course. Thank you for clarifying.

7 Ms. Pierson. So, as my colleague mentioned, I'm not sure of this officer's specific

8 title. They served, I believe, as the cyber lead within I&A.

9 And, then, within CISA, my colleagues -- I don't know if it was an election security

10 title specifically, but they had leadership roles within the CISA organization I think focused

11 on election infrastructure.

12 BY [redacted]

13 Q And, then, for the FITF, do you recall who your primary point of contact was?

14 A And, again, we'll have to take that back for specific names. I believe two of

15 my primary colleagues: one was the lead of the FITF, and the deputy.

16 Q And prior to becoming the Crisis Lead, had you had experience working with

17 DHS I&A and CISA?

18 A To a lesser extent CISA, as I have not in the course of my career, which of

19 course I shared with you, done much work on domestic infrastructure challenges. But

20 as we work across the agencies, DHS and FBI are part of the interagency, so we would've

21 naturally had intersections, certainly as the National Intelligence Manager.

22 Q Okay.

23 And as Crisis Lead, who is your direct report or supervisor?

24 A At the time, I believe it was --

25 [redacted] If it's above -- if it's someone who's already publicly known as

1 affiliated with ODNI, then you can share the name.

2 Ms. Pierson. I don't know that he still works there anymore.

3 [redacted] Okay. Do you know their title?

4 Ms. Pierson. Yeah. So it would've been the Deputy for Mission Integration, so

5 DMI.

6 [redacted] Okay. I think you can share that one.

7 Ms. Pierson. Right. So Mr. Tony Vassalo.

8 And as the -- I think it's what's called the Deputy Director for National Intelligence

9 for Mission Integration, the DDMI I think is the proper title for that individual. And that

10 person supervises all the NIMs and everyone in the mission -- all the senior executives in

11 the Mission Integration organization.

12 BY [redacted]

13 Q And, then, once you become the Election Threats Executive, who did you

14 report to? Or who was the --

15 A The same.

16 Q The same person?

17 A Yes.

18 Q During this time period, we'll say 2016 to 2021, did you work with Joseph

19 Maguire?

20 A Yes.

21 Q And what was his title?

22 A He was the Acting Director of National Intelligence for a period of time.

23 Q And how frequently did you interact with him?

24 A Certainly at least weekly, just from an administrative perspective. The

25 NIMs have standing engagements as a group, as a cadre. Think of it as what you would

1 know as a staff meeting or something like that. So at least weekly, if not more
2 frequently.
3 Q We've talked a couple times about the FITF. Are you familiar with the
4 process and the lead-up to the FITF's creation?
5 A No.
6 Q Okay. Do you know if ODNI had any part to play in the creation of the FITF?
7 A I don't know.
8 Q Just one clarifying question. Prior to becoming Crisis Lead -- you
9 mentioned that the FBI is part of the interagency process -- do you recall having
10 interactions with the FITF specifically, prior to becoming the Crisis Lead?
11 A And, again, as my memory serves me, given that I was working as the lead
12 for Russia, coming in in 2016, of course, foreign influence was certainly a thread within
13 my portfolio, and so naturally would have crossed paths with the FITF as part of that
14 intersection of foreign influence and Russia, naturally. But it really crescendoed around
15 election security as that topic became more focused going into 2018 and 2020.
16 Q And, again, just a clarifying question. Would concerns regarding foreign
17 malign influence operations fall within the scope of election security?
18 A They are not one and the same. And I think that's a very important
19 question, because malign influence can be much broader, of course, than election
20 security. There's economic malign influence, political issues, things of that nature.
21 So I do think, however, my colleagues who focused on election security probably
22 had the most developing expertise on the behaviors and activities that we would consider
23 malign influence.
24 I do think that the ODNI's effort on the Foreign Malign Influence Center was an
25 expected, if not natural, outgrowth of election security. But when you think about

1 political and military activities, influence operations, those are worked across the
2 intelligence community. I think of the all-source community and other areas that
3 would've naturally touched on things that are relevant to the topic of malign influence.
4 Q You mentioned the ODNI's Foreign Malign Influence Center.
5 A Yep.
6 Q Did you play a role in the Center's creation?
7 A Not directly. As coming out of the 2020 elections, when, I believe,
8 oversight had varying considerations of whether a Foreign Malign Influence Center was
9 the right -- or appropriate, I should say -- appropriate administrative structure by which to
10 address malign influence, I was asked to share my reflections on what would be the
11 appropriate level of effort or what would be the appropriate focus areas, and had worked
12 on what I would characterize as nascent documents that served as, certainly, I would
13 think, informative to those who created the Foreign Malign Influence Center after I
14 departed ODNI.
15 Q And you said you were asked. Do you recall who asked you to provide this
16 information?
17 A So the ODNI leadership out of Mission Integration. So, by that time, my
18 colleague, Mr. Morgan Muir, had taken over at Mission Integration. And I provided,
19 again, what I would characterize as sort of rough outlines of what could be within the
20 purview or portfolio of the Foreign Malign Influence Center.
21 And, again, I think there were a variety of exchanges with the intelligence
22 oversight committees as to what was the best and most effective way by which to
23 instantiate a focused level of effort on malign influence.
24 Q At a high level, can you say what was being conveyed in these, I think you
25 referred to them as, like, nascent documents, what you thought would be appropriate?

1 [redacted] I would say that that actually probably gets into deliberative
2 information, particularly with respect to nascent documents.
3 BY [redacted]
4 Q Based off of your experience at ODNI, what do you think is
5 appropriate -- what appropriate role would fall within the ODNI's scope as it relates to
6 countering foreign malign influence?
7 A Certainly, having a similar level of effort and portfolio as a NIM would have,
8 that focuses on foreign malign influence.
9 One of the important threads to your question is, when you think about actors like
10 Russia, China, Iran, North Korea, Cuba, you really have this spectrum of capabilities,
11 intentions. And so it's important to ensure that there is consistency in a level of
12 tradecraft and collection against foreign influence.
13 And so I think that organization or officer, however ODNI -- which, of course,
14 chose to create a Foreign Malign Influence Center -- would seek to harmonize those
15 efforts against a very diverse landscape of actors and capabilities. And so it would be a
16 natural departure from what a NIM would traditionally do, but trying to create focus and
17 integration on a very diverse and complicated topic across the community.
18 Q All right.
19 We've talked about CISA a couple times. Were you familiar with CISA's
20 Countering Foreign Influence Task Force?
21 A Would that be called, like, the CITF?
22 Q We've heard it different ways.
23 A You know --
24 Q The CTI Task Force?
25 A -- I have to say, like, kind of, no, but I do think that, as the government's

1 focus on election security matured, there were varying discussions about to what extent
2 does CISA take on foreign malign influence, or is that the exclusive providence of the FBI.
3 I think that is certainly something that the Director of CISA at the time, Chris
4 Krebs, felt strongly about, in terms of having several countering malign influence activities
5 and not just sort of a separate break, infrastructure/influence.
6 So whether they called it a CITF or something like that, I am not familiar with that
7 term, to my recollection, but I'm familiar with CISA's appetite to have a level of effort on
8 that topic, yes.
9 Q And so it's your recollection that Director Krebs thought it would be
10 appropriate to have more than one agency focused on --
11 A Yes.
12 Q -- foreign malign -- okay.
13 Going back to your previous answer as far as what potential role ODNI could play
14 in this space, can you say a little bit more as far as how you understand ODNI's potential
15 role as either supplementing or if there's any overlap with what you understood the FBI's
16 FITF to be handling?
17 [redacted] Are you asking -- which time period are you asking about?
18 BY [redacted]
19 Q We'll stick in the 2016-to-2021 time period as well.
20 A I don't think that I would characterize the functions of the FBI and the ODNI
21 as overlapping. I would characterize them as complementary.
22 The ODNI, as you know, given its focus, its integration focus, as outlined in its
23 statute, really serves as a -- not only an integrative and coordinating function, but is
24 wanting to press for collaboration between other organizations.
25 Obviously, the FBI has an operational function, and the FITF had a spectrum of

activities. Those are not the same functions and authorities that the ODNI would naturally tackle. So I would characterize them as complementary, frankly.

Q Turning back to ODNI's Foreign Malign Influence Center, do you recall who played a role in the Center's creation at ODNI before you left?

A I really can't speak to that in an educated way. Much of that work occurred after I had departed in the fall of 2021.

Q In the interagency process, as you're Crisis Lead in the lead-up to the 2018 election, some of the agencies have a very explicit foreign-facing mission --

A Uh-huh.

Q -- and some, obviously, are domestic-facing. Do you recall receiving briefings or attorneys coming in and advising on concerns related to the interagency process as far as what discussions could be allowed with respect to foreign actors versus domestic actors?

[redacted] I would caution you not to get into deliberative or any other legal privileges, like attorney-client, that may apply.

Ms. Pierson. I can't recall specific circumstances as you've characterized them.

I will say, as having spent my career in the intelligence community, we're quite clear on our forward-facing responsibilities. So I'm certainly familiar with the thrust of what you're addressing. But I don't recall any specific events where attorneys came in and directed the interagency one way or another, no.

BY [redacted]

Q Do you have any familiarity with CISA's mis-, dis-, and malinformation team?

A Not directly, no. However, again, per my earlier answer, I'm generally familiar their interest in those topics as part of their election-security effort.

Q Are you familiar with the Global Engagement Center housed within the State

1 Department?

2 A Yes.

3 Q Did you have interactions with them during your time at ODNI?

4 A Yes.

5 Q At a high level, what was the nature of your interactions?

6 A The Global Engagement Center, or GEC -- I don't think they like to be called

7 that, but -- like any good acronym.

8 As a matter of policy, the State Department sought to have -- as with any State

9 Department equity -- have positive relationships with our foreign partners and help our

10 allies defend their countries against election security and mis- and disinformation. So

11 the Global Engagement Center served as a center of gravity within the State Department

12 to partner and identify allies upon which we could work with.

13 Naturally, the intelligence community also has a very broad swath of foreign

14 partnerships. So it was appropriate to either deconflict, collaborate, and have

15 connection not only within the interagency -- as the State Department, of course, is

16 represented at the NSC -- but the Global Engagement Center was focusing a lot of its

17 effort on which countries to work with, where they should put the resources.

18 And so I would see that as part of a collaborative U.S. Government level of effort

19 on countering global mis- and disinformation.

20 Q Earlier, when you were talking about the interagency process and addressing

21 and combating foreign malign influence operations, would the GEC fall into that

22 interagency process? Or was this kind of a related but separate --

23 A So I think I would characterize it in a couple of ways. Of course, you have

24 the INR organization in the State Department, which largely is kind of our intelligence

25 touchpoint. And so you would always have this, kind of, I think, administrative

1 connection to INR. And yet there is certainly expertise and collaboration, as I
2 mentioned a minute ago, with the GEC.
3 So I'm thinking, when we used to pull the interagency together, it would be not
4 uncommon to have both INR and the GEC in the room as we discussed work that we were
5 doing.
6 Q Do you recall how far in advance before the 2018 election you became
7 Mission Lead?
8 A Can you say that one more time --
9 Q Or Crisis Lead. Excuse me.
10 A -- for me?
11 Q Yeah. Do you recall how far in advance before the 2018 election you
12 became --
13 A And, again, I'm just pulling from my personal memory. It probably would
14 have been in June -- May or June, something prior to the November midterm election,
15 something around that time. But, again, that's from my personal memory.
16 Q And, then, did that title -- and I understand you still had your other
17 responsibilities --
18 A Yep.
19 Q -- cease with the election, or does it continue?
20 A So I can't recall from my personal memory as to whether or not -- there is an
21 executive order that I believe came about in 2019 -- don't quote me on this -- that
22 required analysis and production about the intelligence community characterization. I
23 don't know that that EO had kicked in by that time, but naturally we would have -- I'll use
24 a casual phrase -- wanted to put a bow on the 2018 elections and would have certainly
25 not stopped, so to speak, and would have concluded with analysis and formal production

1 likely in early 2019.

2 Q With the understanding, obviously, just going off of memory, do you

3 remember, roughly, how long the gap was or if there was a gap between when your time

4 ended as Crisis Lead and you became the Election Threats Executive?

5 A So it probably would have been -- I think I was designated the Election

6 Threat Executive in July of 2019, so not too far. So you can imagine sort of like you get a

7 bit of a gap -- like a trough, so to speak. And then I think DNI Coats reflected upon the

8 positive momentum and wanted to make sure that we were best posited

9 for -- positions -- excuse me -- for 2020.

10 Q Once you become the Election Threats Executive, were you responsible for

11 hiring your team?

12 A Yes.

13 Q And how many folks did you have working for you?

14 A A very small team. Maybe seven to ten.

15 Q And do you know who became the Election Threats Executive after you left?

16 A So, as I mentioned, there was perhaps an administrative evolution into the

17 Foreign Malign Influence Center, which now you have -- I think ODNI has a head of the

18 Foreign Malign Influence Center and an Election Threat Executive.

19 Q We talked about the interagency process a number of times. Once you

20 became the Election Threats Executive, did the agencies you worked most closely with

21 change as compared to --

22 A No.

23 Q -- when you were Crisis Lead?

24 A No.

25 Q During your time at ODNI, whether it was as a NIM, a Crisis Lead, or later as

1 an Election Threat Executive, did you have any direct interactions with personnel at social
2 media companies?
3 A Yes.
4 Q And at a high level, what was the nature of those interactions?
5 A So, certainly, when we look at the topic of election security, you have both
6 infrastructure and influence operations. And social media companies -- as we knew
7 from our intelligence collection, the social media platforms were a vector by which
8 foreign intelligence services would try to spread information that was consistent with
9 their interests. So, naturally, in an effort to best understand how the companies viewed
10 the information on their platform, we had a series of engagements with them.
11 I would characterize those meetings as an opportunity for the social media
12 companies, who have, frankly, the best expertise as to foreign use and behavior on their
13 platforms, sharing with us their expertise and characterization of activity within their
14 specific platform. So I would characterize them more in receive mode as to, you know,
15 "How would you guys characterize China's use" -- I'm only using that as an
16 example -- "China's use of your platform on a particular topic," and they would
17 characterize that.
18 Many of the firms have very large staffs and a considerable amount of expertise as
19 to who's doing what. And so I think this helped us understand and, frankly, complement
20 what we have in foreign intelligence collection, which of course is the focus of the work
21 that I do. So these were sort of naturally -- I wouldn't characterize them as collaborative
22 discussions, but kind of, frankly, the IC in receive mode.
23 BY [redacted]
24 Q So, with the understanding that much of the information-sharing was going
25 from social media companies to government, would the information-sharing go in both

1 directions during these meetings?

2 A You know, at a broad level. These exchanges were not the venues in

3 which, let's say, specific accounts were shared with the companies. That was handled

4 under different circumstances. These were more, I think, what I would call broader

5 topical exchanges, not the intelligence community's more formal -- or the FBI's more

6 formal sharing of detailed information to the companies.

7 Q For the meetings where the discussion is more detailed and there's sharing

8 of specific accounts --

9 A I didn't have any direct experience with those sessions.

10 Q To your understanding, were those type of discussions taking place between

11 the FBI's FITF and the social media companies?

12 A Yes.

13 Q Did you ever have an opportunity to attend one of those --

14 A No.

15 Q -- bilateral FITF and company meetings?

16 A No.

17 Q Do you know if anyone from ODNI had the opportunity to attend those FITF

18 meetings?

19 A Not to my knowledge.

20 Q For the broader meetings, where you said it was largely information-sharing

21 from the social media companies to the U.S. Government, which agencies would

22 participate in those meetings?

23 A DHS, FBI, of course ODNI, CIA -- we would make them, of course, open to

24 anyone within the community, but, as I mentioned, that kind of center of gravity: NSA,

25 Cyber Command, FBI, DHS, CIA, and ODNI.

1 Q And do you recall when these meetings first began?

2 A I don't recall a date specifically, but they, I believe, were primarily in the

3 run-up to the 2020 election.

4 Q Do you recall if there were any meetings prior to the 2018 midterm election?

5 A I don't have those specifics, like, in my frontal lobe.

6 Q In the lead-up to the 2020 election, do you recall how frequently the

7 meetings would occur?

8 A So there were two, kind of, in-person meetings where we had this exchange

9 of information. And, then, because practically and logistically it made the most sense

10 to -- because, you know, they're out on the West Coast and we're on the East Coast -- we

11 then moved to just a phone call. And I believe that that was maybe on a monthly basis.

12 And it did center on, "Hey, you know, what are you guys working on? What are

13 you seeing?" And, again, very much, some of the companies would share, "Oh, we think

14 we have X number of accounts that are problematic. We'll be taking action in line with

15 our own company policies," things of that nature.

16 So it would've been a phone call -- imagine, like, a MeetMe-number-type thing

17 with the interagency dialing in and chatting with the companies -- probably monthly.

18 Q When there were instances of the U.S. Government sharing information to

19 the social media companies, do you recall which agencies spoke most frequently?

20 A And, again, you're asking about when the agencies shared information

21 back --

22 Q Yes.

23 A -- on the more specific stuff? Again, those are activities that I didn't have

24 direct involvement with. Again, I think most of that occurred through either FBI or DHS,

25 so I really can't speak to how those meetings were conducted.

1 Q For the broader meetings --

2 A Yes.

3 Q -- the ones that ODNI and a number of agencies are participating in, do you

4 recall which government agencies would present most frequently at these meetings?

5 A I'll say CIA participated the least, right, which is sort of their MO. So, no, I

6 don't know that I could effectively characterize more or less. I certainly felt like this was

7 a very collaborative venue.

8 Q Who from ODNI would most frequently attend these meetings in the lead-up

9 to the 2020 election?

10 A Certainly me and our analytic leads that served in the National Intelligence

11 Council, or the NIC.

12 Q And how many of them would attend?

13 A I think we had maybe two or three colleagues from the NIC.

14 Q Would anyone from your team join you?

15 A Certainly. That wouldn't be out of the norm at all.

16 Q Did you have a primary deputy at this time or someone helping you?

17 A I did.

18 Q Who was that?

19 [redacted] We'll take that question back.

20 BY [redacted]

21 Q Did they have a formal title?

22 A The Deputy Election Threats Executive.

23 Q Okay.

24 Do you recall if ODNI ever presented during these meetings in the lead-up to the

25 2020 election?

1 A No, I don't. Nothing that would've been, kind of, unique or specific.

2 Q What was ODNI's protocol or practice for these meetings as far as taking

3 notes or providing a summary after?

4 A Again, to the best of my recollection, most of these meetings I would

5 characterize as, sort of, interagency discussions. I didn't consider them formal in the

6 way that you would have minutes and things of that nature. And especially when you're

7 just having a phone call every month, you're sort of checking in, if that's a term of art

8 here. So, no, I don't remember that we would characterize it that way.

9 For example, to contrast, our regular interagency meetings on the government

10 side, it would be well understood to have an agenda and to, you know, capture actions

11 and things like that. So, if that's an effective juxtaposition, you know, one is sort of a

12 standing meeting; the other is, like, just sort of a tag-up. Again, I know that these are

13 not terms of art in this case.

14 Q Prior to one of the ongoing meetings in the lead-up to the 2020 election,

15 would the U.S. agencies have, like, a pre-meeting to discuss internally what the

16 government may or may not be discussing on an upcoming call?

17 A So, certainly those two in-person meetings, it would be expected that we

18 would -- certainly, because you're meeting with U.S. firms, you want to make sure that

19 everybody understands our ground rules and things -- you know, these are administrative

20 functions. So that would not surprise me, that we would've caucused together as to

21 how we would engage in the meeting.

22 [redacted] Shelby, is that something you recollect --

23 Ms. Pierson. Yeah.

24 [redacted] -- for certain, or just that you expect happened?

25 Ms. Pierson. Yeah, I believe that we did that.

1 BY [redacted]

2 Q Do you recall where those first two meetings took place?

3 A One of them was in San Francisco, and I believe the second one was here in

4 Washington.

5 Q Do you recall where in San Francisco? Was it at a company's headquarters

6 or in a government office?

7 A I believe it was at Twitter's headquarters.

8 Q Then what about in D.C., do you recall?

9 A I believe DHS offered the space.

10 Q With the understanding that these meetings between the social media

11 companies and the agencies are maybe less formal than other --

12 A Yep.

13 Q -- standing meetings, did you or did anyone at ODNI, to your knowledge,

14 informally take notes during the meeting?

15 A I can't recall. I am certain I would have a piece of paper and pencil, right,

16 you know, with me. That would be natural. But I can't -- in the way you're asking it, I

17 can't recall it that way.

18 Q Who was your primary point of contact at what was then called Twitter?

19 A Again, I don't know that I have those names in my frontal lobe, but we can

20 take those back if they're of interest.

21 Q Did you ever work with Yoel Roth? Does that name ring a bell?

22 A Yes.

23 Q Okay. What about at Alphabet -- so Google, YouTube -- do you recall

24 having a primary point of contact with them?

25 A So there certainly would be leads in those organizations, as all of those

1 companies had a level of effort on election security, but I don't have those names at the
2 ready.
3 Q So it sounds like there was a number of government agencies, a number of
4 social media companies. Do you recall just a ballpark figure of how many people
5 attended the in-person meetings?
6 A Probably 15 or so. It wasn't like a "ta-da!" Like, I would say maybe five of
7 us and five of them, something like that. It wasn't -- it was not a big discussion.
8 Q Do you recall who first initiated these meetings in the lead-up to the 2020
9 election, if it was someone from the government or someone from the social media
10 companies?
11 A I don't recall specifically.
12 Q Would your team ever confer internally before attending one of the
13 meetings between the industry partners and the U.S. Government?
14 A You mean just ODNI?
15 Q Yes.
16 A Certainly, as sort of the natural course of office business as we prepare for
17 meetings, that's a good practice. So I would suppose the answer is yes.
18 [redacted] Again, do you recall that for certain, or are you speculating?
19 Ms. Pierson. I have every reason to believe that I would naturally prepare with
20 my staff before a meeting with a company.
21 BY [redacted]
22 Q Okay.
23 Do you recall any meetings between the U.S. Government agencies and the social
24 media companies where there was a discussion about the need for legal process to refer
25 information about specific accounts?

1 A No. But I'm familiar with, as I said, the sharing of information bilaterally
2 from, let's say, the FBI, that that might have had legal process associated with it. But I
3 was not involved in those discussions at all.
4 Q Do you recall any of the meetings where you attended where there was a
5 less collaborative tone to the meeting and there was a difference of opinion between
6 government agencies and the industry partners?
7 A Not to my recollection. I would characterize the meetings as collaborative.
8 Q Do you know who [redacted] is, [redacted]? She's an attorney at
9 Twitter.
10 A No.
11 Q Would the U.S. Government ever make requests during these -- with the
12 understanding there were other standing meetings, do you recall in these meetings in the
13 lead-up to the 2020 election between the several agencies and the industry partners if
14 anyone from the U.S. Government would make any sort of requests to the social media
15 companies?
16 A I can't recall specifics on that.
17 Q Okay.
18 Mr. Roth testified before this committee. He testified that during one of the
19 in-person meetings that there was an exchange that he perceived as more heated --
20 A Uh-huh.
21 Q -- between an attorney at Twitter and someone from ODNI about the need
22 for legal process when referring information about specific accounts to the government.
23 Do you have any recollection in either of the first two meetings of that discussion
24 taking place?
25 [redacted] Without necessarily seeing Mr. Roth's testimony, do you have a copy

1 available that she could look at to refer to?

2 [redacted] Well, I think --

3 [redacted] We can get there, but we'll go off first the question.

4 Ms. Pierson. Can you state the question part of --

5 [redacted] Sure.

6 Ms. Pierson. -- what you just mentioned?

7 BY [redacted]

8 Q So, consistent with what you testified, there were these standing meetings.

9 A Yeah. Yeah.

10 Q There were two initially that were in-person.

11 A Yeah.

12 Q According to Mr. Roth's testimony, he said that there was discussion

13 between an attorney at Twitter -- he was employed at Twitter at the time --

14 A Yep.

15 Q -- and someone from ODNI about whether there was a need for legal

16 process to refer information about specific accounts to the government.

17 A Generally I recall this exchange. I don't know that I would call it heated.

18 And, again, to the best of my recollection, it centered on, to what extent did the

19 companies want to rely on legal process as the prompt for additional sharing?

20 As I recall the conversation -- again, this is more than 4 years ago, and I certainly

21 recall -- I think I even said it -- this is really not about legal process; this is about

22 collaborative sharing. Anything that has a legal-process flavor to it is a different animal.

23 And yet what we wanted to do was promote good dialogue, as I commented

24 several minutes ago, on their expertise in these areas -- that that wasn't really about

25 specific accounts or specific content. It was about, what is your general characterization

1 of foreign activity on your platform? That shouldn't have to be driven by legal process.
2 I think it's also important to recognize, as I did recognize at the time, that when
3 you have, let's say, Google, Twitter, Facebook -- all of those are different companies with,
4 sort of, different perspectives on sharing with the government. So, in that
5 circumstance, if that attorney was, like, "Hey, we don't want to do this without legal
6 process," that's their prerogative, right, versus perhaps a different company would have
7 another perspective.
8 I remember the exchange. Again, I wouldn't characterize it as heated as much as
9 kind of a point of discussion and one that needn't come up again, right? We sort of
10 moved on, so to speak, saying, "Hey, look, we're just trying to have collaborative
11 discussions. We're not here to get into a legal process issue," and we moved on. So I
12 don't remember it coming up again after that.
13 Q Do you remember who participated in this discussion?
14 A I know Yoel was there. Other companies were there. It was one of these
15 10- to 15-person meetings. I don't know that I have all the names at the ready -- but I
16 am familiar with this event, of course --
17 Q Uh-huh.
18 A -- as to who else participated in the meeting.
19 Q Okay. Do you recall how long this part of the discussion lasted?
20 A On this legal-process issue?
21 Q Yes.
22 A Ten minutes, something like that. It certainly was not the primary driver at
23 all of what was probably a 2-hour meeting.
24 Q Do you recall any discussions with anyone in the government at the end of
25 this meeting about the discussion on legal process that took place?

1 [redacted] I would just caution you not to answer on anything deliberative.

2 Ms. Pierson. I certainly think we would've reflected back that the true intent, in

3 this rubric, of connecting with social media companies was to hear from them their

4 perspective on behavior on their platforms, as a matter that is separate and distinct from

5 legal process or the specific sharing of details on accounts or things like that.

6 So I think it was more of a reflection that these are different activities and

7 different with distinction. And that probably was the tenor of any reflection back after

8 the meeting.

1 [1:07 p.m.]

2 BY [redacted]

3 Q Do you recall any agencies in particular that you had discussions with?

4 A It certainly would've been the FBI, right? And I think NSA and DHS were

5 there.

6 Q For the FBI, was it personnel from the FITF who were there?

7 A I believe so.

8 Q Taking one step back, so this discussion about legal process occurred in one

9 of the first two meetings in what ultimately becomes --

10 A Yeah.

11 Q -- a series of monthly meetings into the next election.

12 Was there any sort of precedent? Had there been any prior examples, whether

13 in the lead-up to the 2018 election, of where there were multiple social media companies

14 and multiple government agencies getting together on, you know, the same call or in the

15 same meeting?

16 A To the best of my recollection, no.

17 And I think your question is important, because, certainly, as we discussed several

18 minutes ago, ODNI's interest is integration and collaboration. That the FBI had its own

19 relationship and connection to these firms, and these venues were designed to, I don't

20 want to say "break out of that," but have, as I said, a more collaborative and open

21 discussion. So multiple firms and multiple agencies, not just one to the other.

22 So I do think that it's important to understand that part of the intent here was to

23 open this up a bit. That, you know, whatever the FBI is doing in its law enforcement

24 mission is really a different matter than having the best intellectual command of an

25 intelligence topic. And that certainly would've been my intent in participating in a

1 meeting like that.

2 Q Okay.

3 During the discussion on legal process, do you recall if anyone else from the

4 government weighed in?

5 A I can't recall. But it certainly was a group discussion, where we were sitting

6 together around in a circle. So I wouldn't characterize it as, like, a bilateral exchange;

7 you know, it's not, like, a sidebar or something. It was among the group, with all the

8 other companies there as well.

9 Q Do you recall if any of the other companies weighed in on --

10 A No, not to --

11 Q -- this discussion?

12 A -- my recollection.

13 Q Do you recall what reasons the attorney from Twitter was providing as far as

14 their view that the company would prefer legal process be used, if that's an accurate way

15 of summarizing?

16 A I don't know that I can speak for that individual or Twitter's organizational

17 interest in that. I can't speak in an educated way to that. But I certainly understood

18 their perspective.

19 Nevertheless, I think it's important to see, positively, that Twitter continued to

20 participate in these venues in a very positive way. So I feel that it was a good thing that

21 somehow we were able to get through that, that we didn't need legal process, because

22 we weren't having a relationship that was underpinned by a legal issue, and, rather,

23 centering our work around, as I said, that sort of intelligence-focused topic.

24 So I guess the phrase that comes to my mind is that we worked through it, I guess,

25 because they remained a positive and productive participant in these engagements.

1 Q With the understanding that obviously you wouldn't have been privy to any
2 internal Twitter communications --
3 A Yep.
4 Q -- do you recall if Twitter represented to you any reasons of what their
5 organizational interest was and why they had a preference for the legal process?
6 A To the best of my recollection, I think there were interests in terms of how
7 Twitter determined what foreign actors were doing on their platform. I can imagine
8 that they would believe that could be propriety or they didn't want to get into specifics
9 about that. That's my best recollection of that exchange.
10 If they said -- I'm going to totally make up an example -- "We think Iran is doing
11 terrible things," naturally we'd say, "Well, how do you know that?" "Well, we don't
12 want to tell you how we know that." So, okay. And then that person made an
13 observation.
14 But, again, I think we had a very productive relationship with that company
15 moving forward -- across all the companies, frankly. And if they kept their observations
16 at a general level, I think that was quite comfortable for the intelligence community.
17 Q Thank you.
18 [redacted] Can we go off the record, please? Our first hour is up.
19 [Recess.]
20 [redacted] It is 1:20. We can go back on the record.
21 Ms. Pierson, thank you again for joining us today.
22 Ms. Pierson. Yes.
23 EXAMINATION
24 BY [redacted]
25 Q I want to take a few steps back and actually talk about ODNI writ large and

1 just establish the record on what ODNI is and what it does.

2 So ODNI is the Office of the Director of National Intelligence, correct?

3 A Yes.

4 Q Broadly speaking, ODNI is responsible for overseeing and coordinating all the

5 activity of the intelligence community, correct?

6 A Yes.

7 Q Who -- what is the intelligence community?

8 A The intelligence community is a scope of -- I think we're 17 -- 18 now? 18

9 with Space Force? I don't know -- 17 or 18 -- I'm going to get a demerit for not having

10 the right number -- intelligence elements that fall under the ODNI's purview to ensure

11 those coordinating functions, as you mentioned.

12 Q Okay. And I want to get back to the coordinating functions in a second, but

13 on the 17, 18 individuals, I don't want to go -- or agencies, rather -- I don't want to go

14 through all of them, but just to get an idea, it includes, for example, the FBI, correct?

15 A Yes.

16 Q And the Central Intelligence Agency?

17 A Yep.

18 Q And the National Security Agency?

19 A Yes.

20 Q And others. And the military.

21 A Uh-huh.

22 Q The Department of the Navy and the Department of the Army, correct?

23 A Uh-huh. Yes.

24 Q And each one of those agencies has its own particular intelligence-gathering

25 function, correct?

1 A They have their own intelligence function.

2 Q Okay.

3 A I do think "gathering" is a word that I am not familiar with, but yes.

4 Q Fair. But my point is that each one of those agencies has a different

5 function --

6 A Of course.

7 Q -- within the intelligence community?

8 A Yes.

9 Q And so ODNI's role is to coordinate amongst all these diverse agencies and

10 their diverse functions, correct?

11 A Yes.

12 Q And we specifically used the term "coordinating function." What is a

13 coordinating function? What does that mean to you?

14 A Coordinating is, frankly, the imperative of the ODNI, to ensure alignment, to

15 ensure efficiency, and harmonizing -- a word I used earlier -- the efforts, as you

16 mentioned, the diverse efforts across those organizations against priority topics and gaps.

17 Q And in the earlier hour, you referred to, for example, the FBI as having an

18 operational function.

19 A Yes.

20 Q What's an operational function?

21 A So, in this context, you have organizations that have a myriad of different

22 authorities and activities. Some of those are collection; some of those are analysis.

23 And so, in the context of my earlier comment, the FBI has a law enforcement

24 operational function that's unique to the FBI.

25 Q Okay. And ODNI does not have a --

1 A It does not.

2 Q -- does not have an operational function, correct?

3 A It does not.

4 Q Okay.

5 I want to move on to your background in a little more detail. You said that you

6 have worked in the intelligence community since 1999, so 25 years, thereabouts.

7 A Yes.

8 Q Why did you choose to pursue a career in the intelligence community?

9 A I think I have always had an interest in national security. And I don't know

10 that I was inherently familiar with imagery analysis as a topic, because that's not

11 something most people know a lot about, but having the opportunity not only to serve

12 the government but also work on international topics from the perspective of intelligence

13 seemed like the right fit.

14 Q Over your 25 years in the intelligence community, have you received any

15 awards for your work?

16 A I've been privileged to receive several awards. Some of those are internal

17 to NGA. Some of them are across the intelligence community. And I'm particularly

18 proud of having received two Presidential Rank Awards, which recognize senior executive

19 performance.

20 Q And what is a Presidential Rank Award?

21 A It is an annual award given by the President. I believe it recognizes the top

22 1 percent of senior executives in the government.

23 Q And do you recall what years you were awarded those awards?

24 A 2022 and 2015, I believe.

25 Q You said earlier and we've talked through this in some extensive detail that

1 you served as the crisis manager for election security during the 2018 midterm elections.

2 A Yes, ma'am.

3 Q Who was the Director of National Intelligence at that time?

4 A Director Dan Coats.

5 Q And Director Coats was an appointee of President Trump, correct?

6 A Yes.

7 Q And then you were appointed the first intelligence community Election

8 Threats Executive in 2019, correct?

9 A Yes.

10 Q And that was still under Director Coats?

11 A Yes.

12 Q Again, an appointee of President Trump.

13 A Yes.

14 Q And then you remained the Election Threats Executive throughout 2020,

15 correct?

16 A Yes.

17 Q So that would've included under Joseph Maguire -- you said that earlier --

18 A Yes.

19 Q -- but also, I believe it was an Acting Director, Ric Grenell?

20 A Yes.

21 Q And Mr. Grenell was put in this position by President Trump, correct?

22 A Yes.

23 Q And under DNI Ratcliffe as well, correct?

24 A Yes.

25 Q And DNI Ratcliffe was also an appointee of President Trump, correct?

1 A Yes.

2 Q In the prior hour, the term "foreign malign influence" was used. I don't

3 know that we ever actually got a definition of that. So, in your own words, what is

4 foreign malign influence?

5 A Yes. And, again, in my own words. I'm sure the intelligence community

6 has a written-down definition.

7 Q Uh-huh.

8 A These are particularly -- it could be covert, subversive, or coercive tactics

9 undertaken by a foreign entity to undermine specific activities or policies or programs of

10 another country.

11 Q And in the context of U.S. election security, what does foreign malign

12 influence mean?

13 A So, under that broader umbrella of foreign malign influence, this would be,

14 again, subversive, coercive, sometimes covert measures to either influence voter

15 participation, voter perspectives, or any and all activities related to an election.

16 Q And in the context of ODNI's work to combat foreign malign influence, the

17 focus is on foreign intelligence actors, correct?

18 A Absolutely.

19 Q So, in other words, outside-of-the-United-States actors.

20 A Absolutely.

21 Q Okay.

22 You were asked a number of questions in the earlier hour about the Foreign

23 Malign Intelligence Council.

24 A The Foreign Malign Influence Center?

25 Q Sorry.

1 A Yep.

2 Q Foreign Malign Influence Center. These acronyms.

3 A I know.

4 Q You recall that line of questioning?

5 A Yes.

6 Q Okay. And you were not there when the FMIC, as it's abbreviated, was

7 actually chartered, correct?

8 A That's correct.

9 Q Or you were not part of that.

10 Understanding that, but given your background in this field generally, I want to

11 introduce the "What We Do" page from the FMIC's website and just talk through briefly.

12 A Sure.

13 Q And this will be exhibit 1, I believe.

14 A Thank you.

15 [Pierson Exhibit No. 1

16 was marked for identification.]

17 BY [redacted]

18 Q And I'll give you a minute to look this over.

19 A So this is a copy of the current website?

20 Q Oh, I think you might have two copies there.

21 A Oh, I have many. Many, many, many. Okay.

22 Q Thanks.

23 A Okay. So this is from the DNI's homepage. Yes. I understand.

24 Q Uh-huh. And I can represent to you we just printed this this morning --

25 A Okay.

1 Q -- so it's current as of today.

2 A Yes.

3 Q Okay.

4 And I want to talk through -- you see, under this page, it has -- under "What We

5 Do," it has three main areas of focus. Do you see those? It's "Analytic Integration,"

6 "Mission Management," and "Partner Engagement."

7 A Uh-huh.

8 Q I want to talk through each one of these --

9 A Okay.

10 Q -- one by one, to the extent that you're familiar.

11 And, again, I will note, down here it says, "The Foreign Malign Influence Center

12 was activated on September 23, 2022." That was after your time as Election Threats

13 Executive?

14 A Yes.

15 Q So the first one is "Analytic Integration." And the explanation here is,

16 "FMIC's analytic integration focuses on advancing strategic analysis on the FMI problem

17 set, producing assessments of the global threat and U.S. response and warnings,

18 identifying gaps in production, establishing common standards, and providing indications

19 and warning."

20 What's your understanding of what that means kind of in layman's terms?

21 A Sure.

22 As I mentioned earlier, the components of foreign malign influence span a very

23 broad spectrum of topics: economic, political, technical.

24 So, when I read, for example, "Analytic integration focuses on advancing strategic

25 analysis," it would be ensuring that the components of foreign malign influence are

1 appropriately connected, that result in specific production, intelligence production,
2 against this problem set.
3 So producing these assessments, as I mentioned, on the global threats, so a
4 variety of countries, and then also, of course, as I mentioned earlier, consistency across
5 specific actors, and, of course, most appropriately, producing reflections that provide
6 warning and insight to policy- and decision-makers.
7 Q Okay.
8 And before we move on to "Mission Management," you've used the phrase
9 "consistency across entities" a number of times. What does that mean?
10 A The analytic community is very big, and as this topic has evolved -- I'll give
11 you a good example.
12 Originally, the community used to use words like "interference" and "influence"
13 interchangeably. And ODNI, through the National Intelligence Council, clarified the
14 definitions of those terms as distinct so that the rest of the community is consistently
15 using them appropriately.
16 This would be a natural function of ODNI, not unique to election security. Across
17 the board, that lexicon can become more expected and common across the analytic
18 community.
19 Q Okay.
20 Moving on, the second function here is "Mission Management." It says, "FMIC's
21 mission management unit focuses on defining the FMI mission space, integrating with
22 existing ODNI intelligence management functions, supporting robust collection,
23 monitoring programmatic investments, and developing capabilities."
24 Can you explain, again, what that means in layman's terms?
25 A Sure. And as I mentioned earlier in the interview, these are common

1 activities for ODNI across the board, not unique to election security.

2 Q Uh-huh.

3 A So what's discussed here under the broader auspices of mission

4 management includes, again, whether collection is best aligned for election security.

5 That would include prioritization, how we're using the tools in our toolkit.

6 You see "programmatic investments." That would include resources. How

7 many people do we have working in the topic? Are we investing in other collection

8 capabilities?

9 And, of course, that leads me to the last annotation on "developing capabilities."

10 So are we not simply -- are we looking towards the future as to additional insights and

11 opportunities and therefore developing capabilities that could help narrow the gaps

12 mentioned earlier in this webpage?

13 Q Okay.

14 And then the final function here is "Partner Engagement." And just the first

15 sentence of that reads, "FMIC's partner engagement unit works by, with, and through

16 partners, such as the Department of Homeland Security and the Federal Bureau of

17 Investigation, to promote awareness of the FMI threat. Efforts include downgrading or

18 declassifying intelligence as appropriate, furthering efforts to develop solutions to

19 difficult and systemic problems, and helping strengthen resiliency efforts."

20 Can you explain what that means?

21 A Sure.

22 In this context, ODNI works through a spectrum of other organizations, which

23 would include, of course, U.S. Government organizations and, as it relates to election

24 security, I would assume, election officials. So I see these references to "downgrading"

25 information to share intelligence information with an appropriate swath of partners

1 through Homeland Security and FBI and other organizations.

2 Q Okay.

3 And then after "Partner Engagement," the following paragraph reads that "foreign

4 malign influence poses a significant threat to democracy and U.S. interests."

5 Do you agree with that statement?

6 A Based upon my firsthand knowledge of this topic, yes.

7 Q Okay. And can you explain why you believe that foreign malign influence

8 poses a significant threat to democracy and U.S. interests?

9 A The spectrum of reporting that we have through intelligence channels shows

10 a diverse and broad level of effort by our Nation's adversaries to create tumult in the

11 Nation as it relates to our elections. And those efforts span everything from interest in

12 our infrastructure all the way to influencing voter choices.

13 By their definition, I characterize those as threats to democracy, to the extent that

14 we have foreign interference in our natural democratic process.

15 Q And when you say you consider them threats to democracy, what do you

16 mean by that?

17 A It's a very subjective term.

18 Q Uh-huh.

19 A From my personal perspective, to the extent that foreign -- and, again, my

20 area of expertise is foreign intelligence services seeking to covertly manipulate the

21 U.S. population. That is counter to the very broad concepts of democracy.

22 Q Okay.

23 In your opinion and based on your years of experience, if the intelligence

24 community or the U.S. Government writ large -- the ability of the U.S. Government to

25 combat foreign malign influence on our elections was somehow curtailed or limited,

1 would that pose a threat to our democracy?

2 A Based upon my experience, threats to democracy have been a priority

3 throughout my experience. So I don't know that I can speak in an educated way about

4 specific resources. I'm only familiar with my own personal tenure. But I know that this

5 remains a top priority going back decades.

6 Q And, in your opinion, because it is a top priority -- or keeping it as a top

7 priority has helped the United States Government to combat --

8 A Absolutely.

9 Q -- these foreign malign influence efforts?

10 A Yes.

11 Q Okay.

12 I want to turn to some specific examples of foreign malign influence efforts. And

13 I specifically want to begin by looking at 2016.

14 A Okay.

15 Q Do you agree that Russia interfered in the 2016 election?

16 A I agree that Russia attempted to influence the election, yes.

17 Q Okay. And can you describe the methods by which Russia, just broadly

18 speaking -- I'm not asking for classified information, but based on what's been, you know,

19 publicly reported --

20 A Yes.

21 Q -- and what's publicly known -- how Russia attempted to interfere in the

22 2016 election?

23 A In 2016, Russia sought to proliferate messages that were consistent with

24 their policy objectives and also sought to obtain access to critical infrastructure

25 associated with elections in 2016.

1 Q Focusing first on the "proliferating messages consistent with their policy
2 objectives," what were Russia's policy objectives in 2016?
3 A Again, I don't have these reports in front of me, so I can't speak to those
4 specific judgments. But, generally speaking, sowing discord, promoting one candidate
5 over another, and undermining just general confidence in the election certainly would
6 have been part of their larger platform of Russia's national interest.
7 Q And the candidate they were promoting over another was President Trump,
8 correct?
9 A Yes.
10 Q They were promoting President Trump and working to denigrate Hillary
11 Clinton. Is that fair to say?
12 [redacted] Are you asking about her personal opinion or in her official capacity?
13 BY [redacted]
14 Q In your official capacity, you know, based on your work as the Election
15 Threats Executive --
16 A Yeah. Generally speaking -- and, again, I don't have our original
17 assessments in front of me, so I'm very mindful of my language as to be specific. But,
18 yes, generally speaking, that is the thrust of the activity in 2016.
19 Q Okay.
20 I want to turn to Russia's efforts to interfere in the 2020 election. And I do want
21 to look at the assessment in that case.
22 So I'm going to introduce as exhibit 2 the January 7, 2021, intelligence community
23 assessment from the National Intelligence Council entitled "Foreign Threats to the 2020
24 U.S. Federal Elections."
25 [Pierson Exhibit No. 2

1 was marked for identification.]

2 BY [redacted]

3 Q I should note, this was a classified report when it was initially produced in

4 January 2021, but we're introducing the unclassified version that was released in March

5 of 2021.

6 A Yes.

7 Q Are you familiar with this assessment?

8 A I am.

9 Q Okay. Do you want a minute to look it over?

10 A I'm familiar with it. I might take a moment, depending on the questions, to

11 look at areas.

12 Q Did you participate in drafting this report?

13 A No. This is a product of the NIC, so I was not a member of the NIC at this

14 time. But I certainly would've been involved in the ODNI's administration of producing

15 the document.

16 Q Okay. And have you read this report in the past?

17 A Yes.

18 Q Okay. Broadly speaking, can you describe what this report is or what an

19 assessment like this is?

20 A Yep.

21 Certainly, an intelligence community assessment is part of the current product line

22 of the National Intelligence Council. It is not unique to election security.

23 This document is produced, as articulated in the initial opening statements, and as

24 I mentioned earlier, the executive order that requires the intelligence community to

25 produce an interagency-coordinated document that provides an assessment and

1 characterization of election security matters from the previous Presidential election.

2 Q And, I'm sorry, you mentioned that executive order earlier. That executive

3 order was signed by President Trump, correct?

4 A I believe so, yes.

5 Q Okay.

6 I want to look at the first page, just the cover page of this.

7 A Uh-huh.

8 Q It references the National Intelligence Council. Can you briefly explain

9 what the National Intelligence Council is?

10 A The National Intelligence Council is a longstanding organization -- many

11 decades -- that is responsible for producing interagency-coordinated national intelligence

12 positions on a variety of topics, again, not limited to election security.

13 It relies on the expertise of not only the analysts that are members of the Council

14 but they have a convening authority by which they pull together members of the

15 intelligence community that we discussed several minutes ago to produce these

16 coordinated assessments on a variety of topics.

17 Q Okay.

18 And at the bottom of this page, above where it says "UNCLASSIFIED," in small font,

19 italicized --

20 A Yep.

21 Q -- it reads, "This Intelligence Community Assessment was prepared by the

22 National Intelligence Council under the auspices of the National Intelligence Officer (NIO)

23 for Cyber."

24 A Uh-huh.

25 Q "It was drafted by the National Intelligence Council and the CIA" -- that's the

1 Central Intelligence Agency, correct?

2 A Yes.

3 Q "DHS," the Department of Homeland Security, correct?

4 A Uh-huh.

5 Q "FBI," which is the Federal Bureau of Investigation, correct?

6 A Yes.

7 Q "INR," that's the Bureau of Intelligence and Research at the State

8 Department, correct?

9 A Uh-huh.

10 Q And "NSA," which is the National Security Agency, correct?

11 A Yes.

12 Q "And coordinated with CIA, DHS, FBI, INR, Treasury" -- which is a reference

13 to the Department of the Treasury, correct?

14 A Yes.

15 Q "And NSA."

16 A Yes.

17 Q So, in other words, seven different agencies participated in preparing this

18 report, correct?

19 A Yes.

20 Q Okay.

21 I want to turn to the fourth page of the document. As printed it's actually

22 Roman numeral -- small Roman numeral i.

23 A Okay.

24 Q And I want to look at "Key Judgment 2."

25 "Key Judgment 2" -- I'm just going to read it into the record, so give me a moment

1 here.

2 It reads, "We assess that Russian President Putin authorized, and a range of

3 Russian government organizations conducted, influence operations aimed at denigrating

4 President Biden's candidacy and the Democratic Party, supporting former President

5 Trump, undermining public confidence in the electoral process, and exacerbating

6 sociopolitical divisions in the US. Unlike in 2016, we did not see persistent Russian cyber

7 efforts to gain access to election infrastructure. We have high confidence in our

8 assessment; Russian state and proxy actors who all serve the Kremlin's interests worked

9 to affect US public perceptions in a consistent manner. A key element of Moscow's

10 strategy this election cycle was its use of proxies linked to Russian intelligence to push

11 influence narratives -- including misleading or unsubstantiated allegations against

12 President Biden -- to US media organizations, US officials, and prominent US individuals,

13 including some close to former President Trump and his administration."

14 Did I read that correctly?

15 A Yes, ma'am.

16 Q Okay.

17 In the middle of that, it reads, "We have high confidence in our assessment." Do

18 you see where it says that?

19 A I do.

20 Q What does the phrase "high confidence" mean as used here?

21 A Yeah. I would refer you to the back of the document; I think it's on page 10

22 or so.

23 The use of the word "confidence" is standard practice in the intelligence

24 community, and confidence levels are a very important component of coordinated

25 assessments. And as the definition generally indicates here, as referenced, on page 10

1 of the document, it not only talks about our analytic argumentation but it also talks about
2 the availability and diversity of our sources and our confidence in the sources that we've
3 analyzed.
4 So, generally, "high confidence" is on the confident end or the highest confident
5 end of the spectrum. And you'll see a graphic here that shares a spectrum of words that
6 the community will use in reporting. It's important that the community follows this so
7 that our consumers have a consistent understanding of these confidence levels as they're
8 reading this information. And so this reference to "high confidence" is underpinned by
9 the definition later in the document.
10 Q So "high confidence" means that it is, you know, probable, highly probable,
11 nearly certain, right, looking at the graphic on page 10?
12 A It crosses that threshold, yes.
13 Q Okay.
14 So, turning back to "Key Judgment 2," is it fair to say that all the agencies, the
15 seven agencies, who were involved in preparing this report all had high confidence that in
16 2020 Russia engaged in influence operations aimed at denigrating President Biden and
17 supporting President Trump?
18 A Yes, that is a correct characterization of the assessment.
19 Q Okay.
20 And it's also true that these seven agencies who participated in drafting this
21 report or preparing this report had high confidence that one key part of Russia's efforts
22 included using proxies to push influence narratives, including misleading or
23 unsubstantiated allegations against President Biden, to U.S. officials?
24 A Yes, that's correct.
25 Q Okay.

1 In your experience as an intelligence community professional, as the Election
2 Threats Executive, is this consistent with the type of concerns about Russian interference
3 that the intelligence community held before the 2020 election?
4 A Yes.
5 Q Okay.
6 You were asked in the last hour about meetings that U.S. Government agencies
7 had with social media companies in the run-up to the 2020 election --
8 [redacted] [redacted] I apologize.
9 [redacted] Yep?
10 [redacted] Going back to that document, I just note for the record that there is a
11 highlight on page 1.
12 [redacted] Oh.
13 [redacted] I don't believe that that is a highlight from the original version.
14 [redacted] It is not. And thank you for flagging that. We had highlighted this
15 for a separate --
16 [redacted] Okay.
17 [redacted] Thank you for noting that, and we will correct that for the record.
18 [redacted] Thank you. Appreciate it.
19 [redacted] Thanks. Yeah.
20 BY [redacted]
21 Q Turning back to the social media company meetings -- actually, before I get
22 there, do foreign intelligence agencies have incentive or have you, in your experience,
23 witnessed evidence of foreign intelligence agencies using social media to attempt to
24 interfere in U.S. elections?
25 A Yes, we have information to that effect within our intelligence collection.

1 Yes.

2 Q Okay. And to the extent you're able to speak in an open setting, how do

3 foreign intelligence operations attempt to use social media to interfere in elections?

4 A Generally speaking, foreign intelligence services will use either manipulated

5 accounts or accounts that are deceptive in their characterization as to their sponsorship

6 or identity to promote messages that are in line with their interests or policies.

7 Q Okay.

8 And when we're talking about foreign intelligence entities, I think, we talked about

9 Russia and Russia's activities, but the concern is broader than just Russia, correct?

10 A Of course. Yes.

11 Q And, again, to the extent you're able to speak in an open setting, can you

12 describe some of the other foreign intelligence entities who have worked to interfere in

13 the U.S. elections?

14 A I think, stepping back from "have interfered" as -- when we use the word

15 "interfered," it has a specific meaning.

16 Q Uh-huh.

17 A Let's characterize foreign intelligence services' influence operations. I think

18 we discussed a spectrum of countries -- Russia, China, Iran, Cuba, and others as reflected

19 in the document you shared earlier.

20 Q And you've used the term "influence operations" a number of times, and I

21 should've asked you this sooner, but can you explain what an influence operation is?

22 What's the definition of that?

23 A Sure. And, again, I do think we even discussed this within this document,

24 so thank you for providing it.

25 This talks about both overt and covert -- I have mentioned those phrases

1 earlier -- and that we have actors -- and, again, I'm looking at the document provided, the
2 NIC assessment -- again, which are sponsored in this case by foreign governments that
3 are intended to affect, both directly or indirectly, U.S. election outcomes.
4 Q Looking at the meetings that were discussed earlier with the social media
5 companies, the focus of those meetings was on these foreign intelligence agency
6 activities, correct?
7 A Foreign influence operations on those platforms, which may or may not be
8 affiliated with a specific intelligence agency. It could be more broad than that.
9 Q Understood.
10 A Yeah.
11 Q And so, when you say it could be more broad than that, can you explain
12 what that means?
13 A So I think, when I think of a foreign intelligence service, that's, like, a Federal
14 organization more --
15 Q Like the KGB.
16 A Yes, like the KGB or the GRU. Those are Russian organizations.
17 Foreign intelligence agencies also use other organizations that are perhaps not
18 directly affiliated with them to undertake some of these activities. So
19 foreign-intelligence-sponsored activities.
20 So, when we discuss with the social media companies, it's not just limited to that
21 which is uniquely associated with a foreign intelligence organization. It could be a much
22 broader level of effort.
23 Q Okay. But the focus is on foreign --
24 A Of course.
25 Q -- activity, correct?

1 A Yes.

2 Q And not domestic activity.

3 A Yes. That underpins the function and scope of the intelligence community.

4 Q Can you explain what you mean by that?

5 A The intelligence community's mission is very specifically defined to focus on

6 foreign intelligence activity. Domestic intelligence activity is a very specific and

7 well-defined, frankly, legal paradigm that is quite limited and very specific in its scope.

8 So the largesse of our work exclusively focuses on foreign intelligence activity.

9 Q And I think in the earlier hour you were asked if there was ever a situation

10 where lawyers came in to brief you or discuss with you, you know, focusing on domestic

11 versus foreign operations. And I think -- is it fair to say that that kind of a briefing

12 wouldn't have been necessary because the entire focus of the intelligence community

13 was on foreign operations?

14 A Yeah. And, again, I don't remember a briefing like that, but I -- it

15 is -- intelligence oversight and this foreign focus is a well-, I think, practiced and

16 understood dimension of our work.

17 Q Okay.

18 In the meetings with the social media companies, you said earlier that the U.S.

19 Government agencies were primarily in receive mode.

20 A Yeah.

21 Q And, again, for the record, can you explain what you meant by that?

22 A The U.S. intelligence community, on any topic, not just election security,

23 wants to ensure that it has a solid understanding of the best information possible on a

24 specific topic. And that's not exclusively limited to that which is collected by the

25 community itself. There's tremendous expertise outside of the intelligence community.

1 And, in this context, that could be in a variety of organizations, including social
2 media companies. They, as I mentioned earlier, know a lot about foreign behavior on
3 their platforms. So, naturally, it would be of interest to listen and hear about
4 characterizations of how intelligence services were using their platforms.
5 Q And stepping aside from the social-media-meeting context, does the
6 intelligence community have meetings of this nature with outside entities in other areas
7 as well?
8 A Of course. And, frankly, the National Intelligence Council, the NIC, as the
9 primary organization that led the document you reviewed earlier, specifically solicits the
10 expertise of think tanks, academic thought leaders, partners, industry in an effort to best
11 create that most comprehensive and insightful intelligence assessment. So this would
12 be well within normal practice or, frankly, expected practice across the intelligence
13 community.
14 Q And can you provide examples, just at a high level, of other situations where
15 this type of intelligence-sharing might occur?
16 A I think about nuclear proliferation activities. That's a very expert topic, has
17 a lot of technical details associated with it. There's a long history in the intelligence
18 community of working with scientists and other collaborators -- international partners,
19 academics -- that know a lot about the topic of nuclear nonproliferation, or proliferation,
20 unfortunately, as the case may be.
21 That would be a good example of the intelligence community inviting additional
22 insight on topics that are relevant to a very important intelligence priority.
23 Q And in all of these information-sharing situations, participation by the
24 outside entity, whether it's academia, whether it's a social media company, is voluntary,
25 correct?

1 A Of course.

2 Q Okay. And, in your experience, have you ever witnessed anyone in any of

3 these meetings that you participate in pressure a social media company to participate?

4 A No.

5 Q Okay. Or threaten them with adverse consequences if they do not

6 participate?

7 A No. And I think it's a well-understood reality that some entities don't want

8 to work with the U.S. Government.

9 Q Do you have an opinion on why social media companies chose to participate

10 in these meetings?

11 A I don't know that I can speak to that in an effective way.

12 Q Okay.

13 There was a statement made in the earlier hour that -- sorry. I'll withdraw that.

14 There was a question in the earlier hour about which agencies made presentations at

15 these meetings or which members of the intelligence community made presentations.

16 Were presentations made? Is that a fair characterization of how these meetings

17 went?

18 A Again, I don't have a specific recollection of documents or briefings that

19 were presented. As I said, this was very much centered on an exchange of -- a

20 discussion of foreign intelligence activities.

21 Q And so, just to put a finer point on that, it's not as though there were

22 representatives from ODNI or from other members of the intelligence community who

23 were showing PowerPoints during these on a regular basis that you --

24 A I don't know that I can speak to that one way or the other.

25 Q To the best of your recollection, do you ever recall something like that?

1 A I don't think so.

2 I think it's also important to point out, these are unclassified sessions. The

3 majority of information -- the vast majority of information that we consume is classified,

4 some of it at very sensitive levels. So it would not have been common practice to create

5 documents for these types of exchanges.

6 Q Okay. And I think you said in the earlier hour that these were less formal

7 conversations.

8 A Yes.

9 Q Is that a fair characterization?

10 A Yes.

11 Q Okay.

12 To the best of your knowledge -- or to the best of your recollection, I should

13 say -- was there ever a request made by any U.S. Government entity -- so any member of

14 the intelligence community participating in these broader meetings -- that any social

15 media company take any particular action with respect to content or any particular

16 account?

17 Again, just asking for your best recollection sitting here today.

18 A Not to my recollection.

19 Q Okay.

20 You were asked earlier about an interaction with Yoel Roth. Do you recall that

21 conversation?

22 A Yes.

23 Q Okay.

24 I want to introduce as exhibit 3 the transcript section from Mr. Roth's testimony

25 before this committee.

1 [Pierson Exhibit No. 3

2 was marked for identification.]

3 BY [redacted]

4 Q And you have two copies there, I think.

5 A Oh. Thank you.

6 Q And I'll just, as you're looking this over, I'll state for the record, we're

7 introducing the cover page from this interview that took place on November 1, 2023,

8 before the Judiciary Committee and just page 141 of that transcript. The majority has

9 not yet made the full transcript public.

10 And let me know when you've had a minute to read it through.

11 A Okay.

12 Q Okay.

13 Having had a minute to look over this, I want to look at line 6 on this page. It

14 describes "early friction in the industry-USG relationship."

15 Do you think that's a fair characterization of the relationship between the U.S.

16 Government and the social media companies in these early meetings?

17 A I didn't perceive it that way. But I understand the characterization in this

18 exhibit as to Mr. Roth's characterization believing that there was early friction.

19 Q Okay. And you said you did not perceive it that way?

20 A No.

21 Q Okay.

22 And Mr. Roth described the request from ODNI that platforms should voluntarily,

23 without the need for legal process, refer information about specific accounts to the

24 government, and a Twitter account pushed back on that. And it went on.

25 And I want to look at lines 22 to 25.

1 A Yes.

2 Q Mr. Roth says, "There was not a rehash of an incident like that."

3 A Yeah.

4 Q Do you think that's a fair characterization, that whatever happened -- I

5 understand there may have been a difference of opinion on what actually happened --

6 A Yeah.

7 Q -- but that was a one-and-done thing, there was not a -- it didn't recur?

8 A I think this is a powerful line of questions. And I agree with the statement,

9 "There was not a rehash of an incident like that."

10 I think it's important -- again, this was, I think, our first meeting -- to have had an

11 exchange of ideas as to how specific companies were wanting to be about information.

12 And I think Twitter, as evidenced by Yoel's characterization, preferred legal process for

13 specific accounts.

14 Q Okay.

15 And Yoel says that "ODNI were present in subsequent meetings, to the best of my

16 recollection," and "they never made a similar request to that."

17 Do you see where it says that?

18 A Yes, I do.

19 Q So, in his characterization, just to kind of rephrase this, there was some

20 disagreement at the very first meeting.

21 A Yes.

22 Q Twitter made its position known. And after that, ODNI respected that

23 position and didn't go back and make a similar request. Is that --

24 A Of course.

25 Q That's the way he characterizes it, correct?

1 A Yes.

2 Q Okay.

3 Oh, okay. And we do have a copy -- and I'm done with my line of questions, but I

4 do want to note, we have a corrected copy of exhibit 2 without the highlights. So we're

5 going to replace that exhibit 2, for the record.

6 A Thank you.

7 [redacted] And, with that, we can go off the record. Thank you.

8 [Recess.]

9 [redacted] Back on the record.

10 BY [redacted]

11 Q Ms. Pierson, are you familiar with the ODNI's process for the executive

12 branch to notify the public and others regarding foreign malign influence interference

13 operations targeting U.S. elections?

14 A Yes.

15 Q Okay. What is the purpose of that process?

16 A That process is outlined in a document called the "notification framework,"

17 or that's the parlance that we use in the government. It is the result of an interagency

18 policy document that outlines the responsibilities of respective organizations relating to

19 sharing information on election security threats or foreign malign influence.

20 Within that document, ODNI has specific responsibilities outlined in the policy.

21 Q What are the ODNI's specific responsibilities?

22 A I don't have the document in front of me, so I can't be citing line and verse.

23 There are some specific convening authorities where the ODNI sponsors a group of

24 analytic experts to evaluate intelligence information.

25 Also, I believe the ODNI pulls together other Cabinet officials or leaders to make

1 final decisions as it relates to notifications.

2 And I believe, if my memory serves me correctly, ODNI is also responsible for

3 leading public notifications, as opposed to other responsibilities within the interagency

4 for other types of information-sharing.

5 Q And what is a public notification?

6 A That would be whereby intelligence information is shared with the public.

7 A public statement of some sort.

8 Q Is the term "notification" interchangeable with the "defensive briefing"?

9 A Defensive briefing is a type of notification.

10 Q What is a defensive briefing?

11 A A defensive briefing is -- and not unique to election security -- is a

12 presentation or engagement, in my experience, sponsored by the FBI to share

13 information with an individual or organization to provide warning of a specific event.

14 Q What do you mean by "sponsored by the FBI"?

15 A I think the FBI is responsible for providing defensive briefings and, again, not

16 just that which is outlined in the notification framework. There's a concept called "duty

17 to warn," when we have information of a threat, to provide information to targets, again,

18 in this context of foreign malign influence or interference. The FBI would just be the

19 lead organization.

20 Q I'm showing you what I'm going to mark as exhibit 4 for the record.

21 [Pierson Exhibit No. 4

22 was marked for identification.]

23 BY [redacted]

24 Q It is the ODNI "Overview of the Process for the Executive Branch to Notify

25 the Public and Others Regarding Foreign Malign Influence and Interference Operations

1 Targeting U.S. Elections."

2 If you would just take a look at that, just generally -- you don't have to read every

3 line -- and then we can talk about specifics.

4 A I just want to note --

5 Q Please.

6 A -- that I believe the notification framework was updated subsequent to my

7 tenure. So I don't -- I know there was a document like this approved earlier, but I don't

8 know if this is a subsequent version or some sort. But I am generally familiar with this

9 topic.

10 Q Okay. Fair enough.

11 A Yeah.

12 Q So we'll use this --

13 A There's two versions of the framework.

14 Q Okay.

15 A Yeah.

16 Q We'll use this for purposes of questions. That caveat's been made, and if

17 there's any --

18 A Got it.

19 Q -- particulars we need to discuss, we will.

20 A Got it. Thank you.

21 Q So you're familiar with this document, then?

22 A Yes.

23 Q Did you help create this document or its content?

24 A Yes.

25 Q Okay. Now, to be clear, this --

1 A As it relates to probably 20- -- whatever was generated during my tenure.
2 If they updated it, then I didn't. But I am familiar with this doc- -- with this -- I don't
3 know how to say it. I think we produced one during my tenure, but if they updated it to
4 reflect the new framework, I didn't have a role in that.
5 Q So, as I go through questions about it, if anything stands out that you feel,
6 "Well, I don't know anything about that" --
7 A "I don't know anything about that."
8 Q -- then you just let us know.
9 A Thank you. I appreciate that.
10 Q Yeah. We're just trying to get as much information as we can --
11 A Yeah.
12 Q -- and these are the documents we have.
13 Now, you had testified that you helped create the document or its contents or
14 something very similar to this. What was the basis for formulating this policy?
15 [redacted] To the extent you can get into information that's not privileged or
16 deliberative.
17 Ms. Pierson. As I've shared earlier, I think there has been a commitment on the
18 part of the Federal Government to make sure that our elections are secure and free from
19 foreign interference.
20 Coming out of 2016, the intelligence community had information that, again, we
21 needed to ensure that it was shared at appropriate level -- multiple levels, which could
22 include unclassified information.
23 The National Security Council and the interagency created the notification
24 framework. And the document that you've provided here is an unclassified description
25 of that process that I think was designed to ensure public understanding of what this new

1 policy meant for how we were trying to protect elections.

2 BY [redacted]

3 Q So it's primarily concerned with elections?

4 A Yes.

5 Q And you had testified previously that a type of notification is a defensive

6 briefing, correct?

7 A Yes.

8 Q So a defensive briefing presumably would be -- or, this document or these

9 principles would speak to when a defensive briefing would be warranted?

10 A Yes.

11 Q And is it fair to say this document lays out the procedures -- certainly the

12 overview of the procedures -- for when the executive branch would provide to an

13 American citizen a defensive briefing?

14 A I'm just looking at the document to see if it mentions a defensive briefing in

15 specifics. I think they call it "notifications" conducted under these -- or provided by the

16 FBI and the DHS. I'm looking at paragraph -- one, two, three, four, five -- six.

17 Q Uh-huh.

18 A And so -- I'm sorry. Can you remind me of the question again?

19 Q Uh, yeah. And if I can't, I'll just ask something else.

20 A Yeah, I'm tracking with you. Yes.

21 Q In my old life, we would have it read back to us, but here we're sort of stuck

22 with our memory.

23 A Yeah.

24 Q A defensive briefing is a type of notification. I guess the question is, does

25 this speak to a notification which we could call a defensive briefing?

1 A Yes, it does.

2 Q And, just to be clear, the notification, defensive briefing, in many instances,

3 those can be interchangeable? Is that fair to say?

4 A I think from a practical perspective I see the point. I don't know that I've

5 used them interchangeably. But I understand that a defensive briefing, that which is

6 prompted by this particular framework, is a type of notification, yes.

7 Q Okay. Are defensive briefings limited to U.S. persons?

8 A I don't believe so. I don't think that there's a -- again, I don't have the

9 actual policy in front of me, but I don't know that there's a prohibition, that it has to be a

10 U.S. person.

11 But, again, I don't have the document in front of me, so I can't firmly say one way

12 or the other. But it doesn't strike me that there's a prohibition.

13 Q Sure.

14 A And particularly given our intelligence partnerships with foreign intelligence

15 services, again, I don't think there's an obstacle to doing that under certain

16 circumstances.

17 Q And, as far as you know, using this criteria, would the government provide a

18 defensive briefing to a U.S. person if it were justified under this criteria?

19 A Yes.

20 Q Is the decision to provide a defensive briefing a discretionary activity?

21 A Can you say more about the word "discretionary"?

22 Q Sure. You go do a criterion, and you could decide to provide it -- go

23 through the criterion with the same intelligence and ultimately decide --

24 A Not to.

25 Q -- not to provide it.

1 A Yeah. Yeah.

2 Q So it's an act of discretion.

3 A Yes. I understand.

4 Q It's a choice.

5 A Uh-huh.

6 Q Yeah.

7 Are there instances, to your knowledge, where the law requires the government

8 provide a notification or defensive briefing either to U.S. persons or institution?

9 A I believe there are some accommodations where there are threats to life or

10 property that are held outside of the notification framework in which, under that

11 auspices of duty to warn, it is outlined.

1 [2:20 p.m.]

2 BY [redacted]

3 Q Okay.

4 In your experience, are these briefings or notifications primarily concerned with

5 U.S. elections? I know this speaks to that, but in your sort of broad experience in this

6 world.

7 A I think there are defensive briefings that fall outside of this that happen and

8 have nothing to do with election interference.

9 Q Okay.

10 Prior to the formulation or announcement of this process, how would ODNI deal

11 with a situation in which a notification was warranted?

12 [redacted] If you know from your experience.

13 Ms. Pierson. The intelligence community has well-understood rules and

14 procedures by which it can downgrade and declassify intelligence information for

15 purposes. Prior to this framework, requests for sharing information would be handled

16 through those normal, understood channels for public release, for example, or sanitized

17 information.

18 BY [redacted]

19 Q So, say, if a private citizen was going to receive a confidential notification or

20 defensive briefing, absent these policies, what was your understanding of the normal

21 channels? Was it similar to this? Were there other levels of supervision and

22 discussion?

23 A I can't speak to that in an educated way. What I can speak to is that the

24 notification framework sought to instantiate expectations for this type of evaluation and

25 subsequent activity as it relates to election security.

Q Was the concern that not enough was being done for the implementation of this policy?

A I would characterize, perhaps uneven expectations across -- as we mentioned earlier, there are so many different agencies and, you know, thousands of people that participate in the intelligence community.

Q Uh-huh.

A This framework codifies the scale, scope, and expectation for sharing of information as it relates to election security.

Q If you recall, what individual or agency actually said, we really need to formalize this stuff and make a process?

A I don't know --

[redacted] I would just caution you to be careful about deliberative --

Ms. Pierson. I don't know that I have a recollection of any specific organization. And, certainly, it was sponsored by the National Security Council and the White House.

BY [redacted]

Q Okay.

What is the difference between a public notification and a non-public notification?

A So a public notification would be something like a press release or a podium statement. It's designed for broad public awareness and information. A non-public notification would be something specific that's narrow in scope and focused on an individual or organization.

Q And that would generally be just provided to that individual?

A Yes.

Q And not made public?

A And not made public.

1 Q How does ODNI determine if it's going to make a non-public or a public
2 announcement?
3 [redacted] I think that may assume a premise that Shelby will have to determine
4 if she's [inaudible] or not.
5 Ms. Pierson. Yeah.
6 One, ODNI is not the organization that determines a public or a non-public. It is
7 an interagency determination. And there are criteria outlined in the specific notification
8 framework that talks about the scale and scope of harm, the focus of the information that
9 we have.
10 So, through the deliberative process outlined in the notification framework, there
11 are a spectrum of evaluations that inform whether or not a public notification is
12 appropriate or a non-public notification is appropriate. And the interagency makes that
13 determination.
14 BY [redacted]
15 Q Speaking specifically to American elections, can a notification or a defensive
16 briefing present a risk that the executive branch is interfering in an election by providing
17 these sort of notifications?
18 A I think there is -- again, I don't have the policy in front of me. I think it
19 speaks to a balancing act of the credibility of the information, the intention of the foreign
20 intelligence service as to what are the expected risks or benefits, like any government
21 decision, to proceed with a defensive briefing.
22 Q So let me direct your attention to column 2 of this overview, exhibit 4.
23 A Yes, sir.
24 Q The first bullet point reads, "Partisan politics shall not play a role in the
25 decision to provide notifications."

1 A Yes. I see it.

2 Q Why did ODNI, to your knowledge, feel compelled to articulate that principle

3 in this process?

4 A I don't believe that that's an ODNI statement. I believe that that is pulled

5 from the notification framework itself.

6 Q In your experience, why would the framework contain this principle?

7 A Certainly, election security, as a topic, is an inherently politically interesting

8 line of work. And so, given that politics by their very nature has this tenderness, that I

9 believe the interagency affirmed that, in this case, using the word "politics" is not an

10 underpinning role in the decision-making process.

11 Q So would you agree that, by articulating that principle, there is an underlying

12 concern that the notification process could, in fact, create partisan, political issues?

13 A I think it speaks to the fact that you have politically appointed officials

14 involved in this -- you know, Cabinet officials, for example. It affirms the expectation

15 that this is not a partisan activity.

16 Q Because if you're -- say, if you are, in fact, providing a notification germane

17 to an election -- I mean, generally there's two parties, right? Republican candidates,

18 Democratic candidates, typically.

19 A Uh-huh.

20 Q Presumptively, there is a concern that, say, a -- choose your party -- is in

21 power, in control of the executive branch; it provides a notification, and that could

22 conceivably have a political benefit to the opposition.

23 This would be an idea as to why you would want to have a principle of

24 nonpartisanship in the framework.

25 A Yes, I understand.

1 Q Is that fair to say?

2 A I think that's fair to say.

3 Q So there's a recognition there that this is a conceivable risk.

4 A I think it's understood that this is an underpinning of the election-security

5 topic.

6 Q Okay.

7 Directing your attention to the second bullet point in this document, column 2, it

8 reads, "Notification decisions shall not be intended to censor or chill political and social

9 discourse or other First Amendment-protected activities."

10 Again, in your experience, why would the framework include this principle?

11 A Again, as you stated a minute ago, there is -- in election security, as a line of

12 concern and work of the Federal Government, there are some, of course, very

13 longstanding principles to your first point that the intelligence community is a

14 nonpartisan organization and, of course, that nothing that the intelligence community

15 does should in any way affect constitutionally protected activity.

16 So, for me, these annotations are a reflection of long-held principles of not only

17 the intelligence community but the government.

18 Q Have there been instances where the intelligence community has failed to

19 abide these principles?

20 A Not any activities that I was associated with. Not to my knowledge.

21 Q Beyond your personal knowledge, in your expertise as an intelligence official,

22 are you aware of instances in which the intelligence community has failed to abide these

23 principles?

24 A Again, nothing comes to mind in this line of questioning.

25 Q As it relates to my line of questioning? Or -- because I'm asking broadly.

1 A Again, as I understand the question, has the intelligence community
2 undertaken activity to suppress social discourse or First Amendment-protected activities,
3 not to my knowledge.
4 Q To your knowledge, that's never happened?
5 A Not to my knowledge. I don't -- I mean, that's a very broad question, so
6 I'm -- I don't believe so, no.
7 Q Okay.
8 I am showing you what I will mark as exhibit 5.
9 [Pierson Exhibit No. 5
10 was marked for identification.]
11 BY [redacted]
12 Q And this is the "Framework for Notifications Regarding Foreign Interference
13 in United States Elections."
14 A Yep.
15 Q It's an 11-page document. I don't expect you to read through it all, but if
16 you can scan it and tell me if it looks familiar.
17 A Yep, it does look familiar. Yes, sir.
18 Q What is this document?
19 A This is, as I've referenced earlier in my remarks, is the actual policy
20 document that reflects the notification framework and the conditions and criteria and
21 responsibilities associated with it.
22 Q Now, the overview we just reviewed, was that a -- as you know, was that a
23 distillation of this document?
24 A Yes, sir.
25 Q Did you --

1 [redacted] Well, I think -- sorry. Just to jump in there, I think she indicated she
2 wasn't sure if this was an overview of this one or the subsequent version.
3 BY [redacted]
4 Q Is that currently your answer?
5 A Yes. To the extent -- I think the intention of the creation of the original
6 version of this document -- whichever version I'm looking at right here -- was a distillation
7 of the framework. I believe that what you've presented to me is the 2019 version of the
8 notification framework, and I believe it's been subsequently updated, if I'm not mistaken.
9 Q When was that subsequent update, if you know?
10 A I don't know the specific date. Perhaps in 2022 or so.
11 Q Do you know broadly what those updates may have been?
12 A I don't. I had left the election-security community at that time.
13 Q Let me just direct your attention to -- oh, incidentally, having reviewed this
14 document, did you in any way assist in its preparation?
15 A I was involved in the interagency process. So I would've been involved in
16 the coordination of the document through the normal interagency activities.
17 Q When you say "interagency activities," presumably the intelligence
18 community agencies, they all took a look at this document, gave opinions, edits, and
19 then --
20 A Yes.
21 Q -- all agreed?
22 A Yes.
23 Q How did they ultimately agree on this document?
24 A That would've --
25 [redacted] I would say we need to be careful about getting into

1 executive-branch-privileged material here.

2 Ms. Pierson. This is a result of the processes and procedures of the National

3 Security Council.

4 BY [redacted]

5 Q Okay.

6 Just directing your attention to the bottom of page 2, which leads into page 3, it

7 says, "Applicability," and then at subsection 2, "This Framework does not apply to, limit,

8 or otherwise affect:...." You see that?

9 A Yes, sir.

10 Q And then the next page, it says, "Notifications required by law or

11 implementing policy, including required notifications to the Congress."

12 What do you understand "notifications to the Congress" -- withdrawn. What do

13 you understand to be required by law?

14 A Again, I'm not an attorney, so please take my response as just my general

15 reflections and observations.

16 Q Of course.

17 A Of course, the executive branch, and particularly the intelligence

18 community, has intelligence oversight responsibilities where we are required to notify

19 Congress of a very broad spectrum of activities.

20 So I would believe that this -- the way I read this, excuse me, the framework does

21 not apply nor in any way affect those other practices by which we are expected to

22 routinely engage with Congress.

23 Q Fair enough.

24 I'll direct your attention to page 6. And we've sort of highlighted this issue a

25 moment ago, but I just want to talk about it again briefly.

1 "Guiding Principles." Subsection 2 reads, "Partisan political considerations shall
2 play no role in decisions to provide notifications. Notifications shall never be for the
3 purpose of conferring any advantage or disadvantage on any political or social group or
4 any individual or organization."
5 Do you see that?
6 A Yes, sir.
7 Q In your experience, how might a notification confer an advantage or
8 disadvantage?
9 A Hypothetically speaking, again, I think there is a very important point, that
10 when you're dealing with the sharing of information, that it is -- and, of course,
11 notification is that, of sharing information -- is not in any way to give one organization or
12 one person specific insights that would present a political advantage.
13 And so I think it's articulating an expectation that we're accountable to our
14 nonpartisan activities and intentions in all of these matters.
15 Q And one concern may be that, actually, the act of providing a notification
16 could in some ways be used to advantage or disadvantage, politically, one group or
17 another. Is that fair to say?
18 A I think what is on my mind when I think about notification is holding
19 ourselves accountable to: Did the intelligence community and the interagency share
20 information that -- through this process, through the factors, through this provision
21 outlined in this document, did we commit ourselves to sharing information to the
22 maximum extent and appropriate extent possible?
23 Q I appreciate that. And my question is, could it be the case that the act of
24 providing a notification could, in and of itself, provide a political advantage or
25 disadvantage to a political group or person?

1 A I don't think that was part of our deliberations. Or it is sort of a non- -- and,
2 I also believe, kind of a subjective perspective on these activities.
3 Q But you're not saying it could not potentially provide -- I mean, again,
4 because we're looking at -- there's a principle there, right, for a reason.
5 And so I'm simply asking, with your deep experience in this community, the act of
6 providing a notification could theoretically create an advantage or a disadvantage,
7 politically, to the person on the receiving end. Is that outside the realm of possibility?
8 A It's not outside of the realm of possibility, but I think it is important to note
9 that we are held accountable that the notifications do not do that. And that's, I think,
10 the premise and underpinning of all of our actions.
11 Q How are you held accountable?
12 A So I'm held accountable by my overseers and leadership, just like I would be
13 for all of my actions. So, if I'm operating in violation of a national policy, there's a
14 spectrum of administrative actions.
15 Q How might something like this, though, be brought to their attention?
16 Who would say, "Hey, you know, I've got a notification, and clearly this is a political hit
17 job"? How does that -- what would that look like?
18 A Hmm. I would anticipate that the recipient in the example that you just
19 shared would try to seek some recourse back to the interagency. I believe that that
20 would go through ODNI, as ODNI serves as the convening authority in this document, to
21 say, I think the activity that has been undertaken violates this policy.
22 Q So, if a U.S. Senator was to be on the receiving end of a defensive briefing,
23 he would be within his right to go to ODNI with a notifying agency and say, "Hey, this
24 notification was a pretext to disadvantage me politically"? That would be the
25 appropriate forum?

1 A I believe -- if you'll pause for just a second.

2 Q Sure.

3 A That's the -- I'm looking for the -- there's language in this document that

4 talks about both the principals group and the DNI. So I'm wanting to make sure that my

5 response is rooted in some of the expectations of this document, that it would be, I think,

6 a practical assumption that a U.S. Senator could raise this information to the DNI.

7 Q Fair enough.

8 I want to direct your attention to the next bullet point on page 6. And we briefly

9 touched on this.

10 "Notification decisions shall be intended to protect political or social discourse and

11 other activities protected by the First Amendment and shall not be intended to censor or

12 to chill such disclosure or activities."

13 How might a notification, in your experience, chill protected First Amendment

14 activity?

15 A There is a spectrum of intelligence reporting and collection about foreign

16 interest in a variety of U.S. political topics and issues. So I'll give a hypothetical example.

17 So, to the extent that we have reporting that the Chinese are wanting to sway

18 crop prices, something like that, or their exports or something -- and, again, all of my

19 remarks are notional -- and having a political effect on a certain State, part of the

20 deliberative process outlined in here is, the point is not in any way to stop

21 First-Amendment-protected activities and discussing stock prices or crop prices or things

22 like that.

23 So there's a cognizance that providing defensive briefings, if they're not specific

24 enough, if there's not a remedy that a specific organization can take, or there's an

25 openness about Chinese influence in this particular case, the merits or the benefits of

1 actually providing a defensive briefing are overshadowed by these risks, that we must
2 ensure that public and protected speech continues on this topic.
3 Q So a defensive briefing could chill First Amendment speech.
4 A I think, again, it is part of the deliberative process to be cognizant of that and
5 to avoid having a chilling effect on First-Amendment-protected speech.
6 Q But it remains that it could, in fact, have a chilling effect on First Amendment
7 speech. That's why you're having this discussion, right?
8 A Well, I think, again, if we're -- it is part of the principles and the factors that
9 we must take under consideration as required by the policy.
10 Q What is the Credibility Assessment Group?
11 A So the Credibility Assessment Group, as outlined in the policy -- and I think
12 there is very specific text about this that folks can look to.
13 As I mentioned, there's a tremendous amount of information. We talked earlier
14 about our confidence levels associated with the sources available to us. A critical part of
15 this framework rests on expert assessment by analysts across the intelligence community
16 as to the credibility of the information available to us.
17 And so the Credibility Assessment Group, as outlined on page 5 of the document
18 provided, is an organization that is pulled together by ODNI. And, as we mentioned
19 earlier, the National Intelligence Council, which performs these functions across a broad
20 swath of topics, reviews and assesses this information that has been determined to be
21 relevant to the notification framework.
22 Q And who is the representative from DNI who sits on that group?
23 A I believe it would be the National Intelligence Officer for Election Security, or
24 it would've been the National Intelligence Officer for Cyber at the time.
25 Q And when this group -- what are the mechanics -- I see the listing of the

1 intelligence community agencies who sit on the group, so we don't need to rehash that,
2 and I'm not asking you to read it to me. Must these agencies be in the CAG each time
3 they're vetting intelligence?
4 A Yes.
5 Q Okay. Good. So, when you say "yes," is it like a quorum? Every single
6 one of these agencies must be represented for the CAG to go forward?
7 A Yes.
8 Q Okay. And it's the same agencies each time?
9 A As required by the policy, yes.
10 Q In your experience, how often does the CAG meet?
11 A The CAG would meet aperiodically. Only when they had a notification
12 request through this framework would necessitate them coming together for this
13 purpose.
14 Q And given your position, your experience, just generally speaking, how often
15 might that have happened? Is it more often during an election year than not?
16 A I don't know that I could say that with any confidence.
17 Q Do the same personnel, by title, if you will, from each agency attend the CAG
18 meetings?
19 A Generally speaking, yes, but, of course, there is change of personnel over
20 periods of time. So I can imagine that those that serve on the CAG today are perhaps
21 not likely to be the people that served years ago.
22 Q Where does the CAG meet?
23 A Based upon my personal experience, they would either meet -- usually, ODNI
24 is a reasonable place to come together. Or, given the nature of our technology, we
25 would have video teleconferences where all of the different agencies connect from their

1 own locations. But if we did it in person, we would call people to ODNI. VTCs are easy
2 to do.
3 Q Okay.
4 How does foreign intelligence get in front of the CAG?
5 A So, as, again, outlined in the policy that we've been discussing, the
6 interagency can nominate intelligence to be reviewed by the CAG.
7 Q What does "the interagency" mean?
8 A So, in this specific circumstance, it would be any -- the parlance that I'm
9 using, so it's a term -- informal term --
10 Q Sure.
11 A -- as the way I'm using it -- would be members of the intelligence
12 community. So any member of the intelligence community can nominate -- and I
13 believe this is articulated in the policy that we've been talking about, but they might not
14 use the phrase "interagency."
15 Q Now, when you say "nominate," what -- let's call it the nominating agency.
16 Is that an accurate description?
17 A Yes.
18 Q So, say, CIA comes into intelligence. They could nominate that intelligence
19 for a CAG vetting. Is that safe to say?
20 A Yes. Uh-huh.
21 Q Is that, in fact, how it works?
22 A Yes.
23 Q Okay.
24 Now, is a nominating agency also referred to as the originating entity?
25 A No. The originating entity is the organization that produced the

1 intelligence.

2 Q So the agency that nominates the information does not necessarily have to

3 be the originating entity?

4 A No.

5 Q What does that look like?

6 A I think this is an important point --

7 Q Yes.

8 A -- that part of the benefit of this particular document was that, prior to this

9 document's creation, you would not have to rely on -- let's say, we'll use the National

10 Security Agency as an organization -- that they would not have to, in their own right, be

11 the one responsible for creating downgraded information and, under its own volition,

12 share this information. This allows any member of the intelligence community to

13 suggest intelligence be evaluated through this process, whether they produced it or not.

14 Q But this is where I'm getting confused. How would the CIA -- and, again,

15 I'm a lawyer, not an intelligence person, clearly. How would the CIA come into NSA

16 intelligence and then nominate it? So that's first. And then couldn't the NSA nominate

17 it themselves?

18 A Of course.

19 Q Okay.

20 A Yes.

21 Q Okay.

22 A But it's not one and the same.

23 So, obviously, the intelligence community shares, in and among the agencies,

24 intelligence information. So, even as a member of NGA today, I routinely consume

25 HUMINT and SIGINT and all other kinds of intelligence information by which we create

1 the products that we're expected to for policymakers and, in my case, defense leadership.

2 CIA could consume information produced by another agency and nominate it --

3 Q And nominate it. So they can get your information and CIA can be the

4 nominating entity.

5 A Yes.

6 Q Okay. And there's a record of this? Where do -- how is this documented?

7 A We certainly would keep documents of these discussions at ODNI.

8 Q So, if CIA nominates intelligence for the CAG that is in part or fully from NGA,

9 there's a record of where it -- start to finish, with ODNI. Is that fair to say?

10 [redacted] We're speaking as a hypothetical, right?

11 [redacted] Of course.

12 [redacted] Okay.

13 Ms. Pierson. Yeah, I think that's a practical characterization.

14 BY [redacted]

15 Q So it would be incumbent upon CIA, as the nominating agency, to say, "Some

16 of this intelligence I'm nominating comes from another intelligence agency"?

17 A Yeah. And, of course, as a practical perspective, the nominating

18 organization would say, "Hey, look at this report," whether they attach it or there's a web

19 link or whatever, and we would know where it came from, of course.

20 Q Okay.

21 Now, will the nominating agency, in your experience, do anything to vet that

22 intelligence before it nominates it to the CAG?

23 A I think the word "vet" is not accurate. I think they're consuming it, but it's

24 not necessarily a formal process of scrutiny. I think they're consuming it and saying,

25 this, on its face value, seems to be within the realm of this particular process, and

1 therefore nominates it.

2 But I don't -- it is certainly not a requirement that they have done any deeper

3 evaluation of that reporting themselves, other than what we would normally do in the

4 course of any tradecraft-type assessments. That's part and parcel of what the analytic

5 community does.

6 Q So, meaning, if CIA received this intelligence from a sister intelligence

7 agency, they would use their own judgment, clearly, to say, okay, this is something we're

8 going to nominate, right?

9 A Yes. And, again, that's, I think, in and of itself, part of this deliberative

10 process.

11 Q Okay.

12 I'm going to direct your attention again to the framework, page 8, subsection 2.

13 Subsection 2 reads, "The CAG assessment shall include discussion of: The

14 credibility of the foreign [intelligence]-related information," correct?

15 A Yes.

16 Q In your experience, what kind of consequences could materialize from

17 providing a notification based upon non-credible information?

18 A Can you elaborate on the question? I think I know what you're driving at

19 but welcome further -- is there, like, a specific --

20 Q I guess the question is, obviously, you -- I mean, it's sort of self-evident --

21 A Yeah.

22 Q -- the intelligence should be credible --

23 A Of course.

24 Q -- because you're making decisions based upon that intelligence. There's

25 other reasons it should be credible.

1 And I guess my question is, is one of those reasons that we could be providing a
2 notification based on information that's not credible that could have downstream effects
3 that we've seen in our experience and we need to be very zealous of ensuring that
4 doesn't happen?
5 A I think what's more germane to -- and I think this goes to 1 through 5, that
6 this articulates the elements of the assessment that the CAG must account for.
7 Q Uh-huh.
8 A So, "The CAG assessment shall include." So I think it's designed to ensure
9 that there is some consistency in CAG assessments, that they have covered the scale and
10 scope of information that's required by the policy.
11 So it speaks to a level of accountability that's expected of that analytic
12 organization, that they must run this information through these --
13 Q Procedures?
14 A -- these procedures.
15 Q Let me ask you, is a decision to nominate solely left to the discretion of the
16 nominating agency?
17 A It's left to any agency, but yes.
18 Q Okay.
19 At the bottom of subsection 2, page 8, referring you back to this exhibit, it says,
20 "The CAG shall not recommend whether a notification should be provided or the form of
21 any notification."
22 A Yeah.
23 Q Do you see that, Ms. Pierson?
24 A Yes, I do.
25 Q Why?

1 A I think the expectation of the CAG is to assess the integrity and details of the
2 information and characterize that. And that's an analytic function.
3 The policy function on whether to take activity is made by the leadership of those
4 agencies. So it's a little bit different of an activity, and I would not expect the analytic
5 community to be making judgments about the subsequent policy action to be taken.
6 Q Because that's when you get into the concerns about political partisanship,
7 advantaging or disadvantaging someone?
8 A And they're just simply not analytic functions, right? So I think it's more a
9 function of leadership and accountability of leadership of those organizations than
10 anything that's sort of political.
11 I do think that the intelligence community holds the analytic cadre as, sort of,
12 having this unique, specific responsibility, and these other policy deliberations are left, as
13 I said, to this broader leadership.
14 Q To the politicians. The people appointed by Presidents of a certain party.
15 A And, again, I don't think that characterizing them as "politicians" is accurate.
16 I think it's a leadership function, not an analytic one.
17 Q Let me ask you: We have this these factors, but, practically, how does the
18 CAG determine whether the intelligence it's reviewing is credible?
19 What I mean by that: They go through the factors. Is there a vote taken?
20 A There -- we must acquire the inputs from all of the agencies. On
21 questions -- you know, credibility -- the word "credibility" is, in and of itself, not a
22 binary -- like, is it credible or is it not.
23 Q Uh-huh.
24 A However, I think we would be looking for consensus across the interagency
25 as to the assessment of that particular piece of intelligence.

1 You know, credibility, as I said, is, one, not a binary thing. It's also not -- it's
2 based upon a body of experience with our sources and is very much one of the
3 underpinnings of our analytic expertise in the U.S. intelligence community, in terms of
4 previous source performance, what's the credibility of the information. Like, in terms of
5 our accesses, was it acquired in a way that wasn't subject to foreign manipulation?
6 Things of that nature.
7 So it's certainly an analytic judgment, that, as we discussed the NIC paper
8 previously, the credibility of those sources then, in turn, speaks to our confidence in --
9 Q The information is credible?
10 A -- that the information's credible.
11 Q Because you're not going to send off incredible information for a
12 notification.
13 A No.
14 Q So everyone's heard, but -- so, again, procedure. Is there a quorum? I
15 mean, everyone from those agencies has to be there.
16 A Yeah.
17 Q I don't know; say, there are seven agencies. Five think the information is
18 worthwhile, credible; two think, no, I think that this is foreign --
19 A Yes.
20 Q -- misinformation. How does that get resolved?
21 A I would expect the CAG would document not only the consensus but the
22 dissent as well. This is a very important aspect of the intelligence community, that
23 dissent is brought forward --
24 Q Right.
25 A -- for all decisions. So I think it would be characterized that "the CAG

1 believed said information was credible but noted dissent based upon the following
2 factors from agency X or Y," or both of them, or what have you.
3 Q Okay.
4 With respect to the CAG, is there supervision at these meetings? I don't mean
5 that pejoratively. I mean, are these just the analytical experts, or is there, like, a senior
6 person?
7 A I would believe that the NIC officer would administratively run the meeting.
8 I don't think that there's any hierarchy to this discussion --
9 Q Okay.
10 A -- but to the extent that the NIO convenes the meeting, I would expect them
11 to ensure that all of this is met -- all these criteria are met and that we're operating in
12 alignment with what's expected of their assessment.
13 Q So we could have a documented dissent and then ultimately the CAG sends
14 this to the next level of --
15 A Yes.
16 Q -- the leadership, if you will.
17 Now, let me ask you, what is the experts group? I didn't see that here.
18 A I believe that the --
19 Q When I say "here," I meant exhibit 5. I just wanted to be clear for the
20 record.
21 A And, again, my understanding -- and, again, take this as my informal
22 recollection -- is, in the subsequent iteration, there is an articulation of an experts group,
23 to the notification framework.
24 Q Is that the principals group?
25 A I don't have the document in front of me. I believe -- if you'll give me just

one second.

Q Of course.

Page 5.

A Yes. So I'm wanting to make sure that I get my language right.

I believe in the subsequent --

[redacted] Do you want to go off the record for a moment?

[redacted] Sure. We can go off the record. Sure.

[Discussion off the record.]

[redacted] Back on the record.

BY [redacted]

Q Is there a difference between the experts group and the principals group, Ms. Pierson?

A Yes.

Q Okay. And, just briefly, what is the experts group?

A The members of the intelligence community have -- and I'm sure there is a definition captured in a policy document somewhere else, so please take this as my informal characterization.

The agencies have identified election security leads. In fact, that has been a longstanding expectation of the agencies, going back to DNI Coats' leadership on this topic, that the experts are the leads of those organizations.

And the principals group -- and I'm trying to make sure that my memory serves me correctly. It's the CAG, the expert group, and then the leaders group is how I think the current --

Q Okay.

A But, again, I don't have that in front of me.

1 Q And the expert group ultimately decides whether or not to provide a
2 defensive briefing or notification, correct?
3 A They make -- I think the phrase "ultimately decides" is not the most precise
4 language, because the principals can -- if there's dissent or disagreement, can step in in
5 their capacities as the final arbiters of whether to proceed with a notification.
6 Q So, presumptively, if the experts have a consensus on providing a
7 notification, that's the end of it.
8 A Yes. I still think we would speak with the principals of the respective
9 agencies in their responsibilities as Cabinet officials. And I believe if there was concern
10 about our recommendation, they would deliberate at that level.
11 Q And if there were not a concern, "We're going to provide this" --
12 A I think they would proceed.
13 Q -- then they would proceed?
14 A But the principals are witting of these activities as we proceed through these
15 processes.
16 Q Were notifications common? It seems like --
17 A I don't know that I can use that word in this case.
18 Q Okay. Okay.
19 I don't want to keep you here all night, so I'm going to run through some things
20 and I'm going to ask for some --
21 A Okay.
22 Q To the extent we can be brief in our answers.
23 Do you know Nikki Floris?
24 A I do.
25 Q Okay. Was she on the experts group with respect to the notification

1 process?

2 A Again, the expert group, as a characterization, didn't exist at that time when

3 we met together, but she was the election security lead for the FBI.

4 Q Okay. So, if the CAG in, say, August 2020 had credible information and it

5 went to the experts group, to your understanding, she was on the --

6 A To the group of people --

7 Q Right.

8 A -- who served in that function.

9 Q Okay.

10 A I don't know when she left --

11 Q Okay.

12 A -- her assignment.

13 Q Is it the same agencies that sit in the CAG that also are on the experts group,

14 or in the experts group?

15 A Yes.

16 [redacted] Are you asking about currently, or are you asking about --

17 [redacted] I'm going to ask specifically about 2020. We can make that real

18 easy.

19 Ms. Pierson. Yeah. And, again, the experts group didn't exist as a reality at that

20 time. And, as you see, it wasn't reflected in policy. But you did have election leads.

21 BY [redacted]

22 Q Well, I'll represent to you that Ms. Floris, in talking about the defensive

23 briefing of August 2020 that concerns us, had indicated she sat on the experts group.

24 You can't speak to her testimony, but --

25 [redacted] Is there a question? Yeah.

1 [redacted] Well, I'm just flagging it for awareness.

2 Ms. Pierson. Sure. Okay.

3 BY [redacted]

4 Q It's your understanding, though, she was involved in this process --

5 A Yes.

6 Q -- in 2020?

7 A Of course.

8 Q Okay.

9 When the CAG comes to a determination, I'm asking quite literally, how does that

10 information get to the experts? What is the vehicle? Secure transmission? Secure

11 email? Phone call? What is your understanding of how that information gets

12 conveyed?

13 A Based upon my personal experience, it would begin with a secure email and

14 then likely be followed up with an either in-person or VTC meeting.

15 Q Now, the FBI is the designated notification agency for domestic defensive

16 briefings. Is that a fair characterization?

17 A Yes, I believe that's outlined in the policy.

18 Q So the experts group says, we all agree, or not, or it goes to the principals

19 group, but in the end there's a decision to provide a U.S. person a defensive briefing.

20 A Uh-huh.

21 Q How, to your understanding, does that get to the FBI? In what capacity?

22 Is that a secure email as well?

23 A Yes.

24 Q From ODNI to the FBI, a secure transmission?

25 A To my recollection, yes.

1 Q Okay. And you're saying there may be some actual followup verbally?

2 A Yes. Absolutely.

3 Q Oh, so there will be some verbal followup after that?

4 A We simply just don't take CAG and just send it over to the FBI. It is

5 important to further deliberate.

6 I also think it's important to note that we must then go through a formal process

7 by which to have materials at the right classification level. Because they are, of course,

8 at compartmented -- different classification levels. That has processes associated with it

9 as well.

10 Q Okay. And would the ODNI prepare a script as it relates to that defensive

11 briefing?

12 A The intelligence community will coordinate on a script.

13 Q When you say the "intelligence community," would it be the CAG? The

14 experts group?

15 A So I think we would pull together the NIC and that core cadre of agencies to

16 create a document to be used in the defensive briefing. And that is an

17 interagency-coordinated document.

18 Q Back to this issue of transmitting information -- this may be a little granular,

19 but you may have the answer, so I'm going to ask. When ODNI sends that secure email

20 to the FBI -- I'm asking specifically about the FBI -- would it go to Ms. Floris, if she was on

21 the experts group and the designated officer with the FBI?

22 A And probably additional FBI officers.

23 Q Okay. So Ms. Floris and other FBI personnel who would be read in to this.

24 A Would be -- right. Yes.

25 Q Okay. And ODNI preserves those communications, correct?

1 A I can't speak to that.

2 Q Well, is it your understanding?

3 A I'm not familiar with what ODNI's record management responsibilities are.

4 Q Okay.

5 You said that there is communication between the notifying agency -- here, we

6 use the FBI. Is there a back-and-forth with respect to the substance of the intelligence

7 or the substance of the defensive briefing?

8 A Like any coordinated product -- and, again, an analytic product, this would

9 be no different than that -- I would expect a back-and-forth between the organizations.

10 Q Okay.

11 And, just lastly, the CAG's deliberations, the experts group -- there is a

12 documented record of all of this in each instance where there is a notification, correct?

13 A I believe this is largely held correspondence in emails and things of that

14 nature, yes.

15 Q Okay.

16 [redacted] Can we go off the record, please?

17 [redacted] Thank you.

18 Ms. Pierson. Thank you.

19 [Recess.]

20 [redacted] We can go back on the record.

21 BY [redacted]

22 Q Okay. Ms. Pierson, I want to return to the framework, but before we

23 actually look at the document itself: You were asked in an earlier round about the

24 process by which the framework was developed. And I understand that there's

25 deliberative concerns about that, but I'm hoping you can explain more broadly. You

1 referred to the interagency process. What is the interagency process, you know, just in
2 general?
3 A Yes. And, again, this is just my personal definition. I'm sure there's
4 something written down somewhere.
5 Traditionally, in the IC, when we refer to the "interagency," we refer to the
6 deliberative activities of the National Security Council, whereby issues of national-security
7 importance are discussed and policies and practices are developed.
8 This would be an example of a policy document that was generated through that
9 process, approved through that process, and is now followed as a policy within the
10 executive branch.
11 Q And it's called the "interagency" process, which suggests that there's more
12 than one agency involved, correct?
13 A Yes, of course.
14 Q And, in the case of this document, was that the case, that there were
15 multiple agencies involved in --
16 A Of course.
17 Q -- drafting it?
18 A Yes, of course.
19 Q And in approving it?
20 A Of course.
21 Q Are you able to provide any information about what agencies were involved?
22 A I think you'll get that back.
23 [redacted] We'll take that one back.
24 [redacted] Okay. That would be -- I'd appreciate that.
25 BY [redacted]

1 Q And, ultimately, whatever agencies were involved, each agency has its own
2 internal process for clearing a document like this, correct?
3 A Absolutely.
4 Q And different agencies might have different procedures for that, correct?
5 A Sure.
6 Q And, in some instances, and perhaps in most instances, it would potentially
7 go up through several layers of chains of command, correct?
8 A Yes.
9 Q Okay. So, for example, at the Department of Justice, it might go up to the
10 Deputy Attorney General level?
11 A Yeah -- yes.
12 Q And I'm just saying hypothetically. I'm not saying that DOJ was involved
13 in --
14 A Yes.
15 Q -- this. I'm just saying for example.
16 A Yes.
17 Q And that might include signoff from political officials, correct? In other
18 words --
19 A From people appointed.
20 Q -- from people who were politically appointed individuals?
21 A Yes.
22 Q Okay. And, in 2019, when this framework was approved, political
23 appointees at whatever agencies were involved would have been appointees of President
24 Trump, correct?
25 A Yes, ma'am.

1 Q Okay.

2 We talked through the framework overview at -- we talked through part of the

3 framework overview before. This is exhibit 4. I want to look at some other areas that

4 were not addressed in the first round.

5 Looking at the third paragraph on the first page, the overview explains that "public

6 exposure and attribution of foreign...influence and interference can render these

7 operations less effective."

8 Do you see where it says that?

9 A Yes, ma'am.

10 Q Can you explain how public exposure and attribution of foreign

11 election -- I'm sorry -- of, yeah, foreign election influence and interference can render the

12 operations less effective?

13 A As I said earlier, malign influence is often covert, clandestine, coercive,

14 subversive. So it has -- I think one of the phrases we've used previously -- has a bit of a

15 hidden hand associated with it.

16 And so acknowledging or sensitizing consumers -- in this example, the public -- to

17 raise awareness and cognizance as to the original nature of the information that they're

18 consuming can help affect its acceptance and/or use going forward, that it's designed to,

19 in some ways -- I think you're familiar with the phrase "sunlight is the best

20 disinfectant" -- that sort of opening up the aperture here can render these attempts

21 perhaps less effective, as people would say, "No, I now understand that that's being

22 sponsored by a foreign intelligence service. That was not clear to me previously."

23 Q Okay.

24 And, then, at the end of that third paragraph, the framework recognizes that

25 non-public notifications to targets of election interference, quote, "may also mitigate the

1 impacts of these operations by providing accurate and reliable information and by
2 enhancing resilience against future attempts."
3 Correct?
4 A Yes.
5 Q What is meant by the phrase "enhancing resilience"? Or what's your
6 understanding of the phrase "enhancing resilience," I should say?
7 A A phrase that comes to my mind is just, sort of -- we've used talking about
8 inoculation, that people will be more skeptical -- that now that a recipient understands
9 that they may be receiving information sponsored by a foreign intelligence service, that
10 they are more resilient against those attempts by having perhaps a jaundiced eye or
11 being more skeptical of that information.
12 Q And can you explain how non-public notifications can help to enhance
13 resilience in that way?
14 A Well, certainly, to the extent that it's -- a non-public notification is not just a
15 general announcement. It's a bilateral to the target and shares specific information to
16 them -- that that provides some focus. It provides a narrower direct communication.
17 So not just announcing it to the public and hoping that the target consumes it and
18 perceives themselves as potentially the subject of a foreign intelligence campaign; it
19 specifically is directed at that organization or entity or individual.
20 Q So, just to put this into, kind of, real-word terms, you say it's a bilateral
21 conversation. So it's a direct message, is that fair to say --
22 A Yes.
23 Q -- to the individual, the organization, the entity, whatever it is?
24 A Absolutely.
25 Q And the idea is that, once that entity becomes aware that they are the target

1 of a specific influence operation, that they will then be less susceptible to that operation.
2 Is that fair to say?
3 A I don't know that I would use the phrase "less susceptible." I would use the
4 phrase, perhaps, like, "buyer beware," that they should have some sort of awareness --
5 Q Got it.
6 A -- going forward.
7 Q Okay. Thank you.
8 A Yeah.
9 Q I now want to turn to the notification framework itself.
10 A Yes.
11 Q There was some discussion in the earlier hour about the -- actually, I want to
12 talk through the notification decision-making process, and I want to walk through the
13 framework to do that.
14 So, if you can turn to page 7, we're going to look at section F-1.
15 And so there was some discussion earlier about the phrase "nominating agency."
16 This framework doesn't use the term "nominating agency," correct?
17 A Yeah.
18 Q Okay. And it's not -- and if you want to quickly look through, the
19 "Definitions" section does not include a definition for a nominating agency, correct?
20 A Not in the document that I'm looking at. No, it does not.
21 Q Okay.
22 Under the framework itself -- sorry. Let me know when you're good to continue.
23 A Yes, I'm fine.
24 Q Under the framework itself, there's a couple different ways that the
25 framework allows for information to be brought to the CAG.

1 A Yes, ma'am.

2 Q F.1.a. provides that "when an originating [agency] identifies foreign

3 interference-related information that may support a notification, it shall refer that

4 information to the CAG." And it says "shall," correct?

5 A Uh-huh.

6 Q So, in other words, it's not discretionary; it's mandatory.

7 A Yes.

8 Q Okay.

9 And, briefly, what is an originating agency? And I think it's defined in here.

10 A And, again, for the purposes of this particular document, the originating

11 agency is the organization that produced the intelligence information, or the information

12 originated from that particular element of the IC.

1 [3:30 p.m.]

2 BY [redacted]

3 Q Okay. And when the originating entity becomes aware of something it's

4 required to produce -- becomes aware of information that may support a notification, it

5 has to provide that information to the CAG. It's not discretionary. So it should, if it's

6 aware of it, provide that information to the CAG?

7 A Yes.

8 Q Okay. And then section 1.b. says that when any other department or

9 agency identifies foreign interference-related information from an originating entity that

10 may support a notification, it may refer that information to the CAG after consulting with

11 the originating entity.

12 Do you see where it says that?

13 A Yes, I do.

14 Q Okay. So the discussion earlier about a nominating agency, this is, I think,

15 where that kind of idea of other entities who become aware of information relaying that

16 to the CAG, correct?

17 A Yes.

18 Q And the language here is pretty specific. It doesn't just say that the other

19 department or agency may refer -- well, first it says may refer. It's not -- it's

20 discretionary, correct?

21 A Yes.

22 Q But it also says it can only do so after consulting with the originating entity,

23 correct?

24 A I'm looking for the word "consulting."

25 Q It's right above small letter c.

1 A Oh, I'm sorry. Yes.

2 Q So there was discussion earlier about whether the -- what we referred to as

3 the nominating agency -- again, that term isn't used here -- is required to vet the

4 information. And you said there's no specific requirement here that it vet the

5 information. But the agency is required to consult with the originating entity, correct?

6 A Yes.

7 Q And the originating entity having been the entity that developed the

8 information would have gone through its own processes to vet that information, correct?

9 A I don't know that I would use the word "process."

10 Q Okay.

11 A I think these are dynamic discussions. I think the intention here, based

12 upon my experience, is that an agency with interest in evaluating intelligence information

13 through the notificational framework wouldn't do so without telling the organization that

14 produced it, right? So I don't know that there should be even a nuance there that

15 somehow they have gone through some deliberative relationship together. It's more

16 agency A telling agency B, like, Hey, I saw your report on X, Y, and Z. I think it should go

17 through the notification framework.

18 Q Understood. My point is not -- and I understand what you're saying. My

19 point is that I'm just -- and it's hard to talk about this in the abstract, so I'm going to use

20 some hypothetical organizations.

21 A Of course.

22 Q If, for example, CIA is the originating entity.

23 A Yep.

24 Q And it's a product that's produced to NSA, and NSA sees it and raises it -- or

25 makes the CIA aware that they think it should be nominated to the CAG, presumably say

1 it's a report, that report has already gone through internally at CIA whatever process the
2 CIA has to ensure that the report is worthy to be released to the broader intelligence
3 community, correct?
4 A Of course, and then it goes through its expected internal processes, yes.
5 Q And if when NSA made the CIA aware that it was going to nominate the
6 information to the CAG, if CIA had some reason to think that, no, that's not appropriate
7 or we've now received new intelligence that calls this into question, or something like
8 that, the CIA could raise that to the attention of the NSA before it was nominated,
9 correct?
10 A They could.
11 Q Okay. So it's not just the nominating agency -- and, again, I don't love using
12 that term because it's not here.
13 A Yeah, yeah, yeah.
14 Q But just for ease of reference --
15 A Sure.
16 Q -- it's not just the nominating entity acting alone. There is a consultation
17 process built into the notification framework.
18 A And, again, I think consulting is sort of a broad term here. Whether that
19 means they said, I'm just giving you an FYI --
20 Q Yeah.
21 A -- all the way to, Do you think this is legit?
22 Q Right.
23 A I mean, so I don't know that that's in any way prescribed here, but that could
24 be a spectrum of engagement kind of implied in that word.
25 Q Understood.

1 A Yeah.

2 Q In any event, the underlying intelligence would have gone through whatever

3 internal processes the originating agency would go through with any intelligence product

4 that it produces?

5 A And, yet, as we talked about earlier in this interview, we have intelligence of

6 varying different qualities, varying different confidence levels. So there's a whole suite

7 of deliberations that occur between the organizations and internal to the organizations,

8 yeah.

9 Q Okay. And then F.1.c. provides that following the referral of foreign

10 interference-related information, ODNI shall promptly convene at the CAG and determine

11 the manner of the meeting. The CAG shall review the information and provide an

12 assessment within 8 hours.

13 A Yep.

14 Q You were asked in the earlier round of questioning how often the CAG met,

15 and you said it was kind of --

16 A Aperiodic.

17 Q -- aperiodic.

18 A Uh-huh.

19 Q In your experience, did the CAG convene within 8 hours as required by the

20 notification framework?

21 A That was my experience.

22 Q Okay. And I'm not asking you to put a precise number on it, although if you

23 can, that would be great. But do you have any idea in 2020 about how many times the

24 CAG would have convened? Is it more than 10, more than 20, more than 50?

25 [redacted] Can we take that one back? I'm just not 100 percent sure of the

1 classification level of that.

2 Ms. Pierson. Sure.

3 [redacted] So why don't we take that one back.

4 [redacted] Sure. That's fine.

5 BY [redacted]

6 Q Okay. In -- sorry. One more question on the within 8 hours reference

7 here.

8 Do you have an understanding of why the framework imposes this kind of very

9 tight deadline?

10 A Yes.

11 Q And what is your understanding?

12 A Of course, there -- and perhaps with all types of reporting -- there's a

13 temporal nature to the work that we do. And there's, of course, a temporal nature to

14 elections and the activities that foreign intelligence services sponsor. And given that the

15 notifications are designed to have a -- provide remedy to the affected influence

16 operations, acting with urgency is important.

17 As a good example, the public of disclosure that was outlined in the NIC document

18 you provided, whereby the Iranians sought to disseminate content to influence U.S.

19 voters, we knew that those emails were going to go out, so we needed to act urgently so

20 that the recipients of those emails would know that these were sponsored by the Iranian

21 intelligence services.

22 So there's a -- I think this is designed to put some healthy pressure on the

23 intelligence community to not simply intellectualize what's occurring, but to be able to

24 operationalize how we're going to handle it and best defend against election

25 interference.

1 Q We talked through section F.2., just the CAG assessment process, in some
2 detail earlier. But I want to return to a couple of the points that we talked through.
3 A Yes, ma'am.
4 Q Section 2.a.i. refers to the credibility -- so it says, "The CAG assessment shall
5 include a discussion of the credibility of the foreign information-related information."
6 A What page are you on?
7 Q It's page 8.
8 A Oh, I'm sorry.
9 Yes, ma'am.
10 Q 2.a.i. says that the CAG assessment shall include discussion of the credibility
11 of the foreign interference-related information.
12 Do you see where it says that?
13 A I do.
14 Q And in the earlier hour you talked through broadly trying to reach consensus
15 about the credibility. And I'm wondering, when you're looking at credibility in this
16 context, can you describe what you're looking for in this factor specifically?
17 A Yeah. I think it centers on a variety of factors as it relates to how the
18 information was collected. We have so many different paths by which information is
19 acquired by the intelligence community. Some of those are firsthand. Some of those
20 are secondhand. Some of those are technical collection capabilities. Others are
21 collected through other means.
22 So the credibility would be considered as it relates to the reliability of the source,
23 how reliable that source has been previously, is the information in alignment with other
24 types of reporting, is it corroborated by anything else.
25 So it's certainly an analytic assessment. And as we mentioned earlier, credibility,

1 of course, speaks to, frankly, the cornerstone of analytic craft within the intelligence
2 community, well beyond that of election security.
3 Q We talked through in two rounds ago low confidence, medium confidence,
4 high confidence.
5 A Uh-huh.
6 Q How does that play into these credibility questions?
7 A I think credibility and confidence are two separate things. So you can have
8 credible sources that you might not be totally confident in maybe their information -- I
9 think about human sources, for example, and I'm only speaking hypothetically. The
10 source is credible, but perhaps the way in which that agent obtained its information is
11 somehow concerning, so we have less confidence in the implications of that information,
12 did that person have firsthand knowledge.
13 So in the aggregate, when we look at individual sources, we're evaluating their
14 credibility, the confidence really speaks to the assessment. We assess with high
15 confidence that fill-in-the-blank. So you transition from looking at individual sources for
16 their credibility, and then the analytic judgment is underpinned by our confidence that's
17 based upon those individual assessments.
18 Q Understood.
19 Looking at the second factor listed here, "It's the IC consensus, if any, regarding
20 attribution of the foreign interference operation to a foreign government, a person acting
21 on its behalf, or an independent foreign non-state actor."
22 So in that factor, you're looking at the ability to attribute whatever the operation
23 is to some foreign entity, correct?
24 A Yes.
25 Q Why is that important here -- or why is that important to the CAG

1 assessment, I should say?

2 A Of course. As we have discussed, the most concerning information is that

3 which is as coercive, subversive, and that which is being sponsored by a foreign

4 government. That has one of -- of course, that's of particular interest to the U.S.

5 intelligence community and then, by extension, the government, that a foreign entity is

6 sponsoring this behavior. That's a much more troubling element as it relates to the

7 foreign intelligence service attempting to interfere in U.S. democratic activities. And

8 having that specific attribution is a key element as to whether we should act on it.

9 Q So, in other words, the CAG assessment specifically takes into account a

10 determination or, like I said, a best possible determination of whether the attribution is a

11 foreign entity as opposed to a domestic entity, correct?

12 A Oh, of course, yeah. That's part and parcel of the work that we do. I

13 think what this more specifically speaks to is providing clarity, if possible, on whether this

14 is a person who -- or an organization that's operating on behalf of a foreign government,

15 yeah, yeah.

16 Q Understood.

17 The third factor is the specificity of the operation and the degree to which the

18 operation has been or is being implemented, as opposed to being in the planning stages.

19 Can you explain what this means?

20 A Yeah. There's a broad base of information about foreign intelligence

21 interests in the United States writ large. That is routine. That is part and parcel of

22 what we're collecting against. It is important, particularly as it relates to notification or

23 proactively sharing information, as to whether we would characterize this as speculative,

24 internal discussions, looking at a range of options, or has it moved into a scale of

25 movement or planning or execution that, again, gives us insight into the prospect for

1 impact. And, again, some -- a country planning is a big difference than sort of eminence
2 of a campaign being launched.
3 Q And if a campaign is going to be launched very soon, presumably that would
4 up the urgency of the notification of the information?
5 A Of course, yeah.
6 Q Or if a campaign is already underway, that would up the urgency of a
7 notification. Fair to say?
8 A Yes.
9 Q The fourth factor here is the relationship between the operation and the
10 foreign entity's strategic objectives.
11 Can you explain what that means?
12 A Again, as I mentioned earlier, these are all criteria of elements that we want
13 to ensure the CAG covers in their feedback, which would include how a specific operation
14 is actually -- and ensuring the analysts walk through this key element is in line with their
15 strategic objectives, that -- how plausible is it that a said influence operation aligns with
16 their objectives. If it seems completely out of alignment, I think that would cause us to
17 be more skeptical, like, what does this actually do for that country? Why would they
18 undertake this? This does not seem in alignment with their national objectives.
19 So I think that's a key condition that's important to understand based against our
20 strategic understanding of a particular country's interests.
21 Q And then the final factor -- there's a catch-all factor, but the final
22 enumerated factor here is how the foreign entity may respond if a public notification is
23 provided.
24 Why is this something that the CAG would consider?
25 A I think it speaks to wanting to have the best judgment and information as to

1 the current analytic thinking about is this escalatory? That's a key term of art in the
2 analytic community. Would it potentially prompt a retaliatory action against the United
3 States? Would it have -- or be met with skepticism? And how does that factor into
4 further complicating our relationships with other countries.
5 Q So the factors that we just talked through are factors that the CAG
6 should -- is required to discuss in every situation where intelligence is brought to its
7 attention, correct?
8 A Yes.
9 Q Okay. Are you familiar with the August 2020 defensive briefing provided to
10 Senators Grassley and Johnson?
11 A I am.
12 Q Without getting into the deliberative process, to the best of your
13 recollection, were all of these factors taken into account when the CAG rendered its
14 assessment of the intelligence that ultimately led to that defensive briefing?
15 A To the best of my recollection, we followed the policy.
16 Q Okay. And there was no deviation from what's written here? In other
17 words, if section 2.A. says, "The CAG assessment shall include discussion of," you followed
18 that mandate?
19 A To the best of my recollection.
20 Q And by "you," I mean the CAG.
21 A Yes.
22 Q I should clarify. Apologies for that.
23 Okay. There was some discussion earlier of the Experts Group. Were you a
24 part of that Experts Group?
25 A Yes.

1 Q And the Experts Group is responsible for determining whether notification is
2 appropriate, correct?
3 [redacted] Can I just jump in? I think she testified that the Experts Group --
4 Ms. Pierson. Did not exist.
5 [redacted] -- did not exist.
6 [redacted] Sorry. Correct.
7 Ms. Pierson. Was not that core function, but I understood your question, yes.
8 BY [redacted]
9 Q But you were part of the decision-making body that ultimately determined
10 that a notification should be provided. Is that correct?
11 A Yes.
12 Q Okay. I want to turn to the notification factors that begin on page 6, and I
13 apologize for going through these in such kind of excruciating detail, but I think it's
14 important to make a pretty clean record here.
15 Section E is notification factors. And there's a list of factors here, seven factors
16 that should be considered when the decision-making body is determining whether a
17 notification is appropriate, right?
18 A Yes.
19 Q The first factor is the IC consensus -- meaning the Intelligence Community
20 consensus -- if any, regarding attribution of the operation to a foreign government, a
21 person acting on its behalf, or an independent nonstate actor.
22 A Yes.
23 Q And this is similar to the same factors that the CAD must discuss whenever it
24 is considering any referral, correct?
25 A Yes.

1 Q Okay. To the best of your knowledge, the best of your recollection, was
2 this factor taken into account when the decision-making body recommended that a
3 defensive briefing be given to Senators Grassley and Johnson?
4 [redacted] I think you can speak to process generally, but I wouldn't get into
5 anything deliberative.
6 Ms. Pierson. Yes. And, again, given that this was almost 4 years ago, generally
7 speaking, my response is we followed the processes indicated.
8 BY [redacted]
9 Q Okay. And I'm actually not going to go through each one of these because I
10 think some of them are very similar.
11 A Okay.
12 Q But there are seven factors listed here?
13 A Yes.
14 Q And E -- section E says that the following factors shall be considered.
15 A Yes.
16 Q Meaning that it's a mandatory requirement, correct?
17 A Yes.
18 Q Sitting here today, to the best of your recollection, is that each one of these
19 notification factors was considered prior to issuing that decision, correct?
20 A Yes.
21 Q Okay. One moment.
22 I want to turn to the guiding principles that are section D. It's page 6, section D,
23 immediately above notification factors.
24 There are four guiding principles here, and we've talked through some of them in
25 detail. Can you explain the purpose of the guiding principles writ large? Why are they

1 included here?

2 A I think they certainly provide the contours of what should be sort of the

3 north star for all of the officers that are involved in the process and speak to -- and,

4 frankly, not only speak to, but affirm what I think underpins much of the intelligence

5 community's work; we do our work in service to the Nation. We are not serving based

6 on a political basis and that we are operating, of course, within the Constitution, and

7 we're making decisions in the interests of defending against foreign intelligence

8 interference.

9 So to me I think it sort of provides the tone and tenor of what's expected in the

10 subsequent policy and states quite plainly the expectations of what should shape our

11 decisionmaking going forward.

12 Q To the best of your recollection, again, thinking back to the

13 2020 -- August 2020 defensive notification provided to Senators Grassley and Johnson,

14 were these guiding principles taken into account as part of the decision-making process

15 about whether to provide that briefing?

16 [redacted] Again, you can speak generally to the process without getting into

17 deliberative.

18 Ms. Pierson. Generally speaking, I think these conditions underpinned all of our

19 activities related to that defensive briefing?

20 [Pierson Exhibit No. 6

21 was marked for identification.]

22 BY [redacted]

23 Q I want to introduce as -- I believe we're on exhibit 6, a letter from Senators

24 Grassley and Johnson to the FBI officials who delivered the briefing. The letter itself is

25 dated August 25, 2022. And I realize you might not have seen this before, so I'll give you

1 a minute to review it.

2 A Okay.

3 Q And I can tell you -- you can take a moment to read the whole thing -- we're

4 only going to look at the first paragraph on the first page, but take as long as you need.

5 A Okay. I'm generally familiar with this document based upon reading it right

6 now, yes.

7 Q Okay. On that first page, the second sentence of that first paragraph reads,

8 "As we have publicly and privately stated to you and Director Wray since that briefing, the

9 briefing was unnecessary and was only done because of pressure from our Democratic

10 colleagues, including Democratic leadership, to falsely attack our Biden investigation as

11 advancing Russian disinformation."

12 Do you see where it says that?

13 A I do.

14 Q Do you have a response to the allegation that the defensive briefing was

15 unnecessary and was only done because of pressure from Democratic leadership and

16 Democratic Senators to attack the Biden investigation that Senators Grassley and Johnson

17 were conducting?

18 A Based on my personal experience, I'm unaware of any pressure -- using the

19 words in this document -- pressure from Democratic colleagues to give this briefing.

20 And certainly as we went through the process as prescribed by policy, it was determined

21 by the interagency that the briefing was necessary. So I don't know that I can agree

22 with the characterization within that sentence as it's stated here.

23 Q And we talked earlier, the guiding principles -- the second guiding principle

24 listed in the framework is that partisan political considerations shall play no role in

25 decisions to provide notifications.

1 Did partisan political considerations play any role in the decision to provide this
2 particular defensive briefing notification?
3 A I can't, again, speak to the motivations of everyone involved in this, but I did
4 not witness any activity that I would consider as partisan in nature.
5 Q And was the purpose of the briefing to attack Senators Johnson and
6 Grassley's investigation in any way?
7 A Absolutely not.
8 Q And, again, without getting into classified information or into deliberative
9 information, what was the purpose of providing that defensive briefing?
10 [redacted] You can speak in general terms about what the purpose is without
11 getting into the specifics of what this particular briefing was about.
12 Ms. Pierson. As we talked earlier, the purpose of defensive briefings is to
13 improve resilience and to share information that might best inform potential targets of
14 foreign influence and share that information to best potentially defend against election
15 interference.
16 BY [redacted]
17 Q And that's the purpose of every defensive briefing, correct?
18 A Those that are -- relate to this policy, yes.
19 Q Right. Okay. You can put that aside and move on.
20 In the earlier hour we -- in my earlier round of questioning, we talked through Key
21 Judgment 2 in the NIC assessment. And I want to return to that briefly and then
22 continue on with some -- continue along those lines.
23 We talked through the high confidence assessment made in Key Judgment 2 that
24 Russian President Putin authorized, and a range of Russian government organizations
25 conducted, influence operations aimed at denigrating President Biden's candidacy and

1 the Democratic Party, and supporting President Trump.

2 You recall us talking through that?

3 A Yes.

4 Q And at the bottom of that assessment -- I'm sorry -- the bottom of that

5 judgment, the last sentence there, it says, "A key element of Moscow's strategy this

6 election cycle was its use of proxies linked to Russian to push influence narratives,

7 including misleading or unsubstantiated allegations against President Biden, to U.S. media

8 organizations, U.S. officials, and prominent individuals, including some close to former

9 President Trump and his administration."

10 Do you see where it says that?

11 A Yes, I do.

12 [Pierson Exhibit No. 7

13 was marked for identification.]

14 BY [redacted]

15 Q Okay. I want to talk through some individuals who were sanctioned for

16 attempting to push influence narratives.

17 So I want to introduce as exhibit 7 a September 10, 2020, press release from the

18 Treasury Department entitled "Treasury Sanctions Russia-Linked Election Interference

19 Actors."

20 A Yes.

21 Q Are you familiar with this press release or with the sanctions writ large?

22 A Yes.

23 Q I'll give you a minute to review the press release if you would like.

24 A Yes, I'm familiar with this.

25 Q Okay. This press release is dated September 10, 2020. Steve Mnuchin

1 was Secretary of the Treasury in September of 2020, correct?

2 A Yes.

3 Q And Secretary Mnuchin was appointed by President Trump, correct?

4 A Yes.

5 Q The press release notes that Treasury's Office of Foreign Assets Control, or

6 OFAC, imposed sanctions on an individual named Andrii Derkach for his efforts to

7 influence the 2020 U.S. presidential election, correct?

8 A Yes.

9 Q Are you familiar with who Mr. Derkach is?

10 A Yes.

11 Q Who is he?

12 A Speaking at an unclassified level, he is -- and I know we have an unclassified

13 reference. He is a Ukrainian official with ties to the Russian government.

14 Q And according to the press release -- this is the second sentence of

15 this -- actually, I'm sorry -- the third sentence of the second -- I'll give you a minute to --

16 A Yeah, I'm okay.

17 Q The third sentence of the second paragraph of the press release says,

18 "Derkach has directly or indirectly engaged in, sponsored, concealed, or otherwise been

19 complicit in foreign interference in an attempt to undermine the upcoming 2020 U.S.

20 presidential election."

21 A Yes.

22 Q And at the bottom of the first page under the heading "Derkach's Election

23 Influence Efforts," the press release reads, "From at least late 2019 through mid-2020,

24 Derkach waged a covert influence campaign centered on cultivating false and

25 unsubstantiated narratives concerning U.S. officials in the upcoming 2020 presidential

1 election, spurring corruption investigations in both Ukraine and the United States
2 designed to culminate prior to election day."
3 Do you see where it says that?
4 A I do.
5 Q And then on the following page, the first full paragraph, it reads, "Between
6 May and July 2020, Derkach released edited audio tapes and other unsupported
7 information with the intent to discredit U.S. officials, and he levied unsubstantiated
8 allegation against U.S. and international political figures. Derkach almost certainly
9 targeted the U.S. voting populace, prominent U.S. persons, and members of the U.S.
10 Government."
11 Correct?
12 A Yes.
13 Q Okay. Is this consistent with your understanding of, again, broadly
14 speaking, intelligence community concerns with Mr. Derkach?
15 A Yes.
16 Q Can you explain why the conduct that Mr. Derkach is alleged to have
17 engaged in would have posed a threat to U.S. elections?
18 [redacted] If you're able to do so at the unclassified level, you can answer.
19 Ms. Pierson. As referenced both in our unclassified NIC assessment and earlier
20 in this press release, Derkach's release of materials and information that were particularly
21 aligned to Russian agendas and interest areas certainly would have been in line with our
22 characterization of foreign malign influence?
23 [redacted] Designed to impact the 2020 -- and his actions in particular were
24 designed to impact the 2020 presidential election.
25 Ms. Pierson. Yes.

1 [Pierson Exhibit No. 8

2 was marked for identification.]

3 BY [redacted]

4 Q I want introduce as exhibit 8 a January 11, 2021, Treasury Department press

5 released entitled "Treasury Takes Further Action Against Russian-Linked Actors."

6 Are you familiar with this?

7 A Generally speaking, I'm familiar with Treasury's activity during this time.

8 Q And do you want a minute to review the press release?

9 A Yes.

10 Q The press release is dated January 11, 2021. Steve Mnuchin was still

11 Secretary of the Treasury at that time, correct?

12 A Yes.

13 Q And, again, Secretary Mnuchin was appointed by President Trump, correct?

14 A Yes.

15 Q Okay. The press release notes that Andrii Derkach was previously

16 sanctioned and then indicates that OFAC is now imposing sanctions on four members of,

17 quote, Derkach's inner circle, correct?

18 A Yes.

19 Q And those individuals include Konstantin Kulyk, Oleksandr Onyshchenko,

20 Andrii Telizhenko, and Oleksandr Dubinsky, correct?

21 A Yes.

22 Q And we'll get you the spelling on all of this.

23 I want to focus on Andriy Telizhenko in that list. Are you familiar with who Mr.

24 Telizhenko is?

25 A Again, this was a while ago, so I don't have a lot of specific recollections

1 about this individual actor.

2 Q Okay. I'm going to read from the press release again.

3 A Yes, ma'am.

4 Q With respect to Mr. Telizhenko, the press release notes on the second page

5 that Telizhenko, a former low-level Ukrainian diplomat, orchestrated meetings between

6 Derkach and U.S. persons to help propagate false claims concerning corruption in

7 Ukraine.

8 Do you see where it says that?

9 A I do.

10 Q And I note this is highlighted. This is not highlighted in the web page. I

11 don't think we're going to correct the record here, but just wanted to note that we did

12 that ourselves.

13 A Yes.

14 Q To the extent you have a recollection of the allegations against Mr.

15 Telizhenko, is that consistent with your recollection?

16 [redacted] To the extent you can answer at an unclassified level, go ahead.

17 Ms. Pierson. Again, I don't have, in my memory here, much specifics about our

18 work on Telizhenko specifically?

19 BY [redacted]

20 Q Okay. But according to the press release -- and, again, this is an OFAC -- an

21 announcement of an OFAC sanctions designation, correct?

22 A Yes.

23 Q And actually -- I'm sorry. Let's take a step back.

24 Are you familiar with the process that OFAC goes through prior to imposing

25 sanctions?

1 A Very much so, yes.

2 Q Can you describe that process?

3 A The Department of Treasury, as underpinned by U.S. policy, has tools,

4 primarily through sanctions, available to it as punitive measures by which to underpin

5 U.S. policy. I believe as it relates to the Executive Order 13848, which covers foreign

6 malign influence, as these activities are illuminated by intelligence reporting and analysis,

7 then the Treasury Department can undertake an evaluation upon which Treasury can

8 identify assets and resources to execute sanctions in compliance with the executive

9 order.

10 Q And are you familiar with the standard that -- or I guess the confidence level,

11 if that's the right term, that intelligence must meet before sanctions can be imposed? In

12 other words, Treasury doesn't just impose sanctions on everybody, correct?

13 A They don't. But I'm not familiar with the internal thresholds by which

14 Treasury uses to proceed with sanctions or not.

15 Q Is it your understanding, though, that it is a very -- it's a serious process that

16 Treasury undertakes?

17 A I would assume so, yes.

18 Q In other words, it's not -- like I said, Treasury doesn't impose sanction on

19 everybody. It's a big deal when sanctions are imposed, for lack of a better word?

20 A Certainly. And that's a policy deliberation as well.

21 Q So, according to this press release, Treasury having followed that process

22 imposed sanctions on Mr. Telizhenko for orchestrating meetings between Andrii Derkach

23 and U.S. persons to help propagate false claims concerning corruption in Ukraine,

24 correct?

25 A Yes. And as reflected in the document, yes.

1 Q And we just talked through Mr. Derkach was waging a covert influence
2 campaign centered on cultivating false and unsubstantiated narratives concerning U.S.
3 officials in the upcoming 2020 presidential election, correct?
4 A Yes.
5 Q Okay. So, according to this press release, Telizhenko was serving as
6 something of a go-between between Mr. Derkach and U.S. persons, correct?
7 A Yes.
8 [Pierson Exhibit No. 9
9 was marked for identification.]
10 BY [redacted]
11 Q I want to introduce as exhibit 9 a Washington Post article dated October 28,
12 2019, entitled "Senator Johnson, ally of Trump and Ukraine, surfaces in crucial episodes in
13 the saga."
14 Are you familiar with this article? Have you seen it before?
15 A I don't know that I've seen it before, but I'm familiar with the Washington
16 Post and their line of reporting on some of these activities.
17 Q According to this article, quote, "Senator Ron Johnson met in
18 July" -- meaning July 2019 -- "with a former Ukrainian diplomat who has circulated
19 unproven claims that Ukrainian officials assisted Hillary Clinton's 2016 presidential
20 campaign, a previously unreported contact that underscores the GOP Senator's
21 involvement in the unfolding narrative that triggered the impeachment inquiry of
22 President Trump.
23 "In an interview last week, Andrii Telizhenko said that he met with Johnson
24 (Wisconsin) for at least 30 minutes on Capitol Hill and with Senate staff for 5 additional
25 hours."

1 Do you see where it says that?

2 A I do see where it says that.

3 Q So, according to this article, which is apparently based on an interview with

4 Mr. Telizhenko, in July 2019, Mr. Telizhenko met with Senator Johnson for some period of

5 time.

6 I'm just asking you for what it says on the face of the article.

7 A It says that, yes.

8 Q And, again, we talked through Mr. Telizhenko was later sanctioned by the

9 Treasury Department, correct?

10 A Yes.

11 [Pierson Exhibit No. 10

12 was marked for identification.]

13 BY [redacted]

14 Q And I want to introduce as exhibit 10 a February 24, 2020, letter from

15 Senator Johnson, who was at that time the chairman of the Senate Homeland Security

16 and Governmental Affairs Committee, or HSGAC, to HSGAC Ranking Member Gary Peters.

17 And I'll give you a minute to review this if you like.

18 And I'm only going to talk about the first paragraph here.

19 A Okay.

20 Q So, according to the very first sentence of this letter, Senator Johnson was

21 writing to Senator Peters to notify him of, quote, my intent to issue a subpoena for

22 attendance and the production of records to Andrii Telizhenko.

23 Do you see where it says that?

24 A I do.

25 Q So as of February 24, 2020, Senator Johnson was intending to obtain

information from Mr. Telizhenko, correct?

[redacted] Are you asking her to speculate on what Mr. Johnson or --

BY [redacted]

Q Well, I'm just saying, on the face of the letter, Senator Johnson was expressing in this letter his intent to obtain information from Andrii Telizhenko, correct?

A Again, these activities are so beyond the scope of anything that I had anything to do with. Other than you asking you me to affirm what I'm reading on a page, I really don't have a basis by which to comment on any of this.

Q Okay. I understand.

I'm just saying, we just talked through Andrii Telizhenko and what he was ultimately sanctioned for. I've introduced an exhibit, and it just says on the plain language of the language -- of the plain language of that first paragraph, Senator Johnson is expressing his intent to issue a subpoena to Andrii Telizhenko.

You see that he says that --

A Yes.

Q -- in so many words? Okay.

[redacted] All right. Thank you. We can go off the record.

[Discussion off the record.]

[redacted] Can we go on the record, please.

BY [redacted]

Q Ms. Pierson, do you recall the briefing you provided to the House Intelligence Committee on February 13, 2020?

A Yes.

Q I would like to take a step back first before we get to the briefing.

Do you recall who first requested that briefing?

1 A I would have to refer to ODNI Leg Affairs as to how that request came about.
2 Q Can you walk me through the steps for a briefing like this, like what goes into
3 the process before someone in your position gets ready to brief someone in a
4 congressional committee?
5 A Sure. Again, as we've discussed earlier, providing information to the
6 Intelligence Oversight Committees is a very important element of our responsibilities in
7 the Intelligence Community. During that time we had a pace of engagement with the
8 Hill to make sure that Members of Congress were familiar with our Intelligence Analysis
9 Division as it related to elections and foreign malign influence.
10 Again, I defer to ODNI Leg Affairs on the specifics of the requests. We had
11 provided -- had been in the practice of providing scripted briefings to both the House and
12 the Senate at periodic intervals to ensure that Congress was informed of our reporting
13 during that time.
14 Q Do you recall who decided that you'd be the one to deliver this specific
15 briefing?
16 A I don't know that I can speak to that in any specificity. I think as I -- we
17 were on the Hill as several agencies together. The election security leads from each
18 agency were participating.
19 Q From the end of the 2018 election cycle up until February 13, 2020, do you
20 recall approximately how many briefings you provided to the Hill?
21 A I would have to defer to Leg Affairs on that.
22 Q In the preparation for the February 13, 2020, briefing in particular, which
23 agencies were involved in the preparation for that briefing?
24 A All of our briefing materials would have been representative of a
25 coordinated document. To the best of my recollection, that would have included CIA,

1 NSA, ODNI, DHS, and FBI. It could have been coordinated more broadly. As I
2 mentioned earlier, the Department of Defense, Treasury periodically would coordinate on
3 interagency documents, but I can't speak to the specifics of this particular briefing.
4 Q A couple of responses earlier you referenced scripted briefings. Was this
5 particular briefing scripted?
6 A Yes, of course.
7 Q Not necessarily in relation to the February 13th briefing, but while you were
8 at ODNI, would you have the ability to go back and reference previous scripts?
9 A You mean during the briefing or in preparation?
10 Q No. I just mean -- yeah, in preparation.
11 A Of course.
12 Q Do you recall at a high level what the topic of this briefing was?
13 [redacted] Do you know what the classification level of that briefing was?
14 Ms. Pierson. I don't.
15 [redacted] I apologize. We weren't informed that this was going to be within
16 the scope of what we were going to be talking about, so we did no preparation on this
17 topic.
18 BY [redacted]
19 Q Okay. At a high level, are you familiar with some of the news reporting that
20 followed your briefing?
21 A Yes.
22 Q Independent of this particular briefing, but when a script is prepared in
23 advance of briefing a congressional committee, is it the same interagency process as far
24 as providing an opportunity for each agency to weigh in and see the script before?
25 A Absolutely.

1 Q Was there anything in the preparation for the February 13, 2020, briefing
2 that did not follow the typical protocol used?
3 [redacted] I would say that probably calls for deliberative information, so we can
4 take that one back if you need an answer. But I would ask her not to get into it here.
5 [redacted] Are you instructing the answer regarding specifics or even just
6 generally if protocols are followed?
7 [redacted] To the extent you're able to answer just a general process level.
8 Ms. Pierson. We used our general expected processes to develop the content of
9 that briefing.
10 BY [redacted]
11 Q Who from the government attended that briefing?
12 A Again, I would defer to Leg Affairs for the roster of who was there, but I was
13 joined by, I think, all of my other interagency colleagues.
14 Q And would that in most cases, independent of this briefing, typically be the
15 election leads?
16 A Yes.
17 Q Do you recall how many members attended?
18 A I don't.
19 Q Do you recall how long the briefing lasted?
20 A Maybe a couple of hours.
21 Q Again, independent of this particular briefing, most commonly when a
22 scripted briefing is provided, how many speakers are there typically? Is there one
23 individual who is selected to deliver the briefing?
24 A I think we sought to provide a strategic characterization of, I'll say, the state
25 of election security reporting. Individual agencies may provide more specific remarks on

1 their specific reporting where they had perhaps deeper expertise and then go to question
2 and answers from the members.
3 Q Independent of the February 13, 2020, briefing, what is the standard
4 protocol as far as addressing questions from members in one of these briefings?
5 Obviously, the script is prepared in advance?
6 A Yes.
7 Q And now you're facing questions, and maybe you anticipate you are. What
8 is the protocol?
9 A Of course, to answer those questions to the best of our ability and perhaps
10 take an RFI or if there was a need for further follow-up if we didn't have the information
11 available. And, again, I think Legislative Affairs can speak to standard protocol, but
12 certainly welcoming questions from Members of Congress.
13 Q For the February 13, 2020, briefing, who provided the scripted briefing?
14 [redacted] I wouldn't get into names.
15 Ms. Pierson. I believe I provided the sort of opening strategic community
16 assessment, and I can't recall if there were some other specific remarks made by my
17 other agency colleagues?
18 BY [redacted]
19 Q Do you recall if there were questions from Members of Congress during this
20 briefing?
21 A Yes.
22 Q Do you recall the types of questions or the topics of the questions asked by
23 the Republican members?
24 A Generally speaking, Republican members wanted additional details on our
25 characterizations or analytic assessments of Russia's interests, our characterizations of

1 Russia's interests related to either candidate Biden or President Trump, and generally
2 wanted, I think, more information about our characterization of the country's interest in
3 election security activities.
4 Q And do you recall what topics the Democratic members asked about?
5 A Similarly, I think the Democrats were equally interested in the analytic
6 assessments of Russian activity and Russian interests as it related to candidate Biden and
7 then President Trump. So I recall it being sort of equally dynamic at that time, in terms
8 of questioning.
9 Q Do you recall who from the government was answering the questions?
10 A I think it was a spectrum of colleagues, including myself, of course.
11 Q Do you recall what percentage of the -- roughly what percentage of the
12 questions you answered?
13 A I don't know that I can say that with confidence at the time, but I know I was,
14 of course, participating in the Q&A with the Members, of course.
15 Q Were there questions regarding whether Russia's attempts to interfere in
16 the 2020 election favored one candidate over another?
17 [redacted] I don't think we've acknowledged openly the topic of this particular
18 briefing, so I'm going to ask her not to answer that, and we can take that back if you want
19 to, but I don't think I'm going to have her confirm or deny specifics about this briefing in
20 this setting.
21 [redacted] Okay. We'll ask you to take that back, and we'll be going through
22 these questions. We, of course, appreciate that you're here voluntarily and ask that you
23 answer questions unless your counsel instructs you not to answer.
24 BY [redacted]
25 Q Independent of this briefing, at the end of a briefing to a congressional

1 committee, what's the protocol as far as who you would brief or share back at ODNI
2 regarding questions from Members of Congress?
3 A I believe that the head of Legislative Affairs would take the responsibility to
4 sort of summarize and characterize just with any briefing, not just election security. And
5 whether they provided that summary verbally or in text to ODNI leadership, again, I
6 would defer to Leg Affairs as to what's their expected protocol. But I would believe that
7 Legislative Affairs would take that leadership role. And if there were follow-on
8 questions, of course, any of us that participated in a briefing were available to discuss or
9 field any questions.
10 Q Do you recall if there were any follow-on questions following the
11 February 13, 2020, briefing?
12 A I think we had several discussions within ODNI about that briefing.
13 Q Do you recall who those discussions were with at ODNI?
14 A Certainly across the ODNI leadership team.
15 Q And what were those discussions about?
16 [redacted] We're -- that's going to get into deliberative, so I'm going to ask her
17 not to answer that one in this setting.
18 BY [redacted]
19 Q Were you working with -- or let me rephrase that.
20 Did you have any discussions with Mr. Maguire following the February 13, 2020,
21 briefing?
22 A Yes.
23 Q And what was the topic of those discussions?
24 [redacted] I think that also is probably going to get into deliberative.
25 BY [redacted]

1 Q Did you have any discussions with his deputy, Andrew Hallman, following the
2 February 13, 2020, briefing?
3 A Yes.
4 Q How soon after the February 13, 2020, briefing did you have these
5 discussions with Mr. Maguire and Mr. Hallman?
6 A As my memory serves me, after the briefing I was on personal leave to visit
7 my father in California. So I was not in Washington for a few days after the briefing, so I
8 don't believe I had any meaningful discussions with colleagues at ODNI until I returned to
9 town several days later.
10 Q Once you returned to town, did these discussions take place in person?
11 A Yes.
12 Q How else did these discussions take place? Were there telephone calls,
13 video conferences?
14 A Again, I can't speak with any specificity. I would assume we would use all
15 communication available to us, but I would think we would have discussed these in
16 person.
17 [redacted] Is that your recollection --
18 Ms. Pierson. Yes.
19 [redacted] -- or are you speculating?
20 Ms. Pierson. That's my recollection.
21 BY [redacted]
22 Q Do you recall how many people from ODNI were participating in these
23 in-person discussions after the briefing?
24 A I think it varied.
25 Q Okay. Do you have a rough estimate of --

1 A It could be anywhere from with Mr. Maguire or Mr. Hallman one-on-one, or
2 it could have included Leg Affairs personnel or other members of the ODNI leadership
3 team.
4 Q Do you recall having any one-on-one discussions with Mr. Maguire?
5 A I did meet with him after the briefing, yes.
6 Q And do you recall how soon after the briefing that meeting occurred?
7 A Again, probably several days after I had returned back to town.
8 Q And do you remember what was discussed?
9 [redacted] I think that's going to call for deliberative as well.
10 BY [redacted]
11 Q Did you have a one-on-one meeting with Mr. Hallman?
12 A I believe so, yes.
13 Q And similar timeline as with respect to Mr. Maguire?
14 A Yes.
15 Q Just very briefly, can you walk me through, in the hierarchy of ODNI, you're
16 the Election Threats Executive at this point?
17 A Yes.
18 Q How many people are between you and Mr. Maguire and Mr. Hallman, his
19 deputy?
20 A Relative to, like, chain in command?
21 Q Yes.
22 A One, two.
23 Q And who would those two be?
24 A It would be the Director of Mission Integration and then Mr. Hallman.
25 Q Do you recall how many meetings you had to participate in after the

1 February 13, 2020, briefing related to it?

2 A I can't say with any specificity.

3 Q Did you have to attend more meetings, fewer meetings than compared to

4 your other experiences briefing congressional committees?

5 A Again, I don't know that I can characterize it that way.

6 Q Do you recall when you first learned about news media coverage regarding

7 the February 13, 2020, briefing?

8 A I can't say with any specificity, but I'm aware that it was picked up in the

9 press, yes.

10 Q Do you recall if your one-on-one meetings with Mr. Maguire and Mr.

11 Hallman occurred before or after some of the news media coverage?

12 A I can't say with any specificity.

13 Q Are you aware whether President Trump spoke with Mr. Maguire following

14 the February 13, 2020, briefing?

15 A I don't know.

16 Q Did he ever communicate that to you?

17 A I don't believe so.

18 Q When did you first learn that the President was considering naming Richard

19 Grenell as Acting Director of National Intelligence?

20 A I think when the public found out. It would have been a few -- I don't know

21 how long it was after Mr. Maguire departed, days, weeks, that Mr. Grenell came to ODNI.

22 I don't think I had any unique insight into that.

1 [4:31 p.m.]

2 BY [redacted]

3 Q Okay.

4 A -- as others would have found out.

5 Q With the other election leads who were in the briefing, did you have any of

6 these follow-on discussions with them after the February 13, 2020 briefing?

7 A We certainly would have continued our work together and probably

8 informally discussed the briefing, but I can't think of anything specific or a pointed

9 meeting or a very specific session.

10 Q Are you aware of news media coverage that reported that, in the briefing,

11 those from the government had overstated the intelligence community's formal

12 assessment of Russian interference in the 2020 Election?

13 A Could you state the question one more time?

14 Q Sure. Are you familiar with the news coverage reporting that, in the

15 briefing, members from the intelligence agencies had overstated the intelligence

16 community's formal assessment of Russian interference in the 2020 Election?

17 [redacted] So, just to clarify, you're just asking if she's familiar with reporting

18 about that?

19 [redacted] Yes.

20 [redacted] Okay.

21 BY [redacted]

22 Q I'm not saying -- asking you what was in the briefing, but just the reporting

23 that claims that this is what occurred.

24 A Yes. I'm generally familiar with some of the media reporting after that

25 briefing.

1 Q Okay. Do you think that media reporting is accurate?

2 A Generally, no, I do not.

3 Q Why not?

4 A I think the briefing that we delivered was an interagency-coordinated

5 document and represented the current intelligence assessment at the time.

6 So when I think about the overstate -- the word "overstating," I think that doesn't

7 seem to accurately characterize what I thought was our best characterization of the

8 information we had available at the time.

9 Q Were you aware at the time -- in the days following the briefing -- of news

10 reports citing national security officials who were informing the news organizations that,

11 in their view, the briefing did overstate the intelligence community's formal assessment

12 of Russian interference in the 2020 Election?

13 A I'm not familiar with those reports.

14 Q Okay. In the days following the briefing, did any national security officials

15 reach out to you to share their assessment that the briefing overstated the intelligence

16 community's formal assessment of Russian interference in the 2020 Election?

17 A Again, I do think it's important to note that we gave the exact same briefing

18 almost a month prior to the Senate without the same concern. So I'm not -- I cannot

19 recollect a specific engagement characterized in the way that you just shared it with me.

20 Q What about more generally?

21 A I think, generally speaking, when we reflected back on the subsequent

22 period of time, I think we were reflecting back how this particular briefing was received in

23 such a dramatic way, and I believe that we had informal discussions about that.

24 Q Who participated in those informal discussions?

25 A Again, I think just generally speaking, those of us who worked election

1 security.

2 Q And just so -- as a clarifying question, you mentioned that the February 13th

3 briefing was received in such a dramatic way. What did you mean by that?

4 A I think there were certainly lots of clarifying questions, lots of specific

5 focused areas of interest, and subsequent concerns about the characterization of our

6 work or assessment on Russia.

7 Q Were there any formal discussions among the interagency about how the

8 February 13th briefing was received?

9 A Can you --

10 [redacted] To the extent you can answer but without getting into deliberative.

11 Ms. Pierson. And I don't know the word "formal" in this context. But, again, I

12 think generally speaking, we had discussions across election leads after the briefing.

13 BY [redacted]

14 Q By "formal," I was just trying to contrast with your answer earlier about

15 informal discussions --

16 A Right.

17 Q -- that generally were taking place.

18 A I can't recall.

19 Q When preparing a briefing about intelligence, regarding whether a foreign

20 adversary is trying to favor one candidate in the election, in the evaluation process, is

21 there consideration given to whether sharing that type of intelligence could be politically

22 advantageous or disadvantageous to one of the political parties?

23 A In this circumstance, providing a classified briefing to oversight, which would

24 include both parties, I don't think that would have been something that's part of that

25 development of that document, no.

1 Q When preparing a script for a briefing of a congressional committee like the
2 one on February 13th, does there have to be consensus among the interagency, or what's
3 the threshold before something is included in the script?
4 A So, again, traditionally, the National Intelligence Council would take the lead
5 on drafting kind of the rough outline or contours of what we know to be our current
6 assessment.
7 Very similarly to what we discussed about our analytic processes, of course, we
8 generally strive to not only have high confidence but also consensus on how we
9 characterize our assessments. And I would believe it would be very important to also
10 note a dissenting perspective, particularly when communicating with oversight.
11 Q Okay. Do you recall at the February 13th briefing if there were any
12 dissenting views that were included?
13 [redacted] I'm going to ask you not to answer that in this setting.
14 Ms. Pierson. Yeah.
15 BY [redacted]
16 Q Were you involved in the 2016 intelligence community assessment regarding
17 whether Russia was attempting to interfere to benefit then-candidate Trump?
18 A I had very little involvement with that document. I had started as the
19 National Intelligence Manager for Russia in October of 2016, and there -- much of that
20 work had already been started by others in the intelligence community. So as that was
21 delivered, I believe, in the winter timeframe, I had very little to do with that document.
22 Q In the first hour, we had talked about the interagency meetings and process
23 and having the election leads from the various agencies get together.
24 For those standing meetings, is there just an informal name, or is there a standard
25 practice of when they would meet?

1 A Can you state that -- the first part again, please?

2 Q Sure. So just when we were at a high-level discussion in the first hour, you

3 mentioned that from DHS, it would be I&A and CISA --

4 A Yeah.

5 Q FBI would be FITF.

6 Just at a very high level, what -- was there a working group? Was there -- what

7 sort of standing meetings were there?

8 A I think there's a distinction between what I -- again, from my parlance, the

9 interagency would traditionally refer to meetings at the NSC and under that kind of

10 rubric.

11 As we discussed much earlier in our time together, the intelligence community

12 would get together. I don't know if we called it the election security group, or there was

13 some name for it where we would get together. That's very common across all of the

14 intel topics and regions that we work at ODNI. Whether they call it an interagency

15 working group or whatever, the name escapes me right now. But we certainly would

16 maintain a regular cadence of meetings.

17 Q Okay. So there's one set of standing meetings led by the NSC, and then

18 there's one -- is there one agency that leads that second group?

19 A Yeah. ODNI, I think --

20 Q ODNI?

21 A -- because of its integration function and mission usually has a -- performs a

22 gathering function in these regards.

23 Q Was the NSC aware of the ODNI-led standing meetings?

24 A I don't know that I can speak to what members of the NSC -- but I think they

25 were very familiar with the scale and scope of the intelligence community posture.

1 Q You mentioned election security became a more significant issue
2 post-2016 --
3 A Yes.
4 Q -- Election.
5 Do you recall when the ODNI-led election security working group meetings
6 started?
7 A Generally speaking, it certainly would have been in the run-up to 2018, but I
8 don't know how early -- how many months prior to that we all -- we started in that
9 cadence.
10 Q Was there any sort of framework or policy documents drafted as it related to
11 the ODNI-led meetings, or was it a more organic gathering of the election leads together?
12 A I think we would have meeting announcements and agendas and, if
13 appropriate, would perhaps summarize any actions or discussion points. And, to my
14 recollection, that would be consistent with how any of my integration colleagues handle
15 their portfolios.
16 Q In the election security context, are there any other interagency standing
17 meetings that come to mind besides the NSC-led one and the ODNI-led one?
18 A Not to my recollection. Those were really sort of the centers of gravity,
19 again, if I can use that phrase. And, again, as you know, the interagency is a very
20 dynamic place.
21 So, speaking for ODNI, it was -- certainly the meetings that we pulled together
22 would be the lion's share of the venue in which we would discuss those issues. The NSC
23 has a whole spectrum of other meetings that they host in addition to the election
24 meetings.
25 Q Did you ever hear or come across anyone within the interagency referring to

one of the standing meetings as the shadow meetings as related to election security?

A That's not a phrase I'm familiar with.

Q As part of either the NSC standing meetings or the ODNI-led ones, was there ever an internal document prepared that outlined the roles and responsibilities for each agency with respect to election security?

[redacted] What do you mean by "internal document"?

[redacted] Just, like, a policy document or a guidance document.

Ms. Pierson. DNI Coats had corresponded with his agency peers an expectation that election security would be a priority for the community and that the agencies needed to identify leads for the topic. That's probably as close to what comes to mind as a document that messaged to the community sort of expectations. But, to my recollection, I don't know that it has anything more specific than that.

BY [redacted]

Q In the, let's just say, 2016 to 2021 timeframe -- understanding that the election security issue evolved quite a bit during that time -- as the agencies are sorting out and understanding their roles and responsibilities in this space, do you recall there being any friction of certain agencies pushing back because they viewed some of the other agencies' efforts as either duplicative or overlapping with what their primary mission was?

A The -- I think you characterized the climate accurately and that it's sort of developing and the -- particularly since this was sort of a new -- I don't want to say new line of effort, but new focus area -- having healthy discussions about kind of how we're going to handle things would be par for the course.

Whether I would characterize that as tension, I don't think that's the word that I would use. I would characterize that FBI and DHS -- they do have intersecting missions,

1 and so I do think there were engagements between those two agencies about how
2 best -- particularly as it related to infrastructure, what's the best way for each of those
3 agencies to bring their best expertise to bear and how do they make sure that they're
4 responding to any issues efficiently?
5 But, again, I don't know that I would characterize that as tension, but more kind of
6 navigating this intersection between their respective organizations' missions.
7 Q For these discussions between FBI and DHS as they were trying to sort things
8 out, with respect to infrastructure, do you recall the perspective of FBI and the
9 perspective of DHS?
10 A Generally speaking, CISA had very strong relationships with State and local
11 election officials and, because of DHS' mission, I think they had a very comprehensive
12 network of partner organizations. CISA's leadership role in sort of maintaining those
13 positive relationships was important.
14 FBI has considerable technical forensic expertise as it related to cyber intrusions.
15 And so I think there was discussion about how best to address -- and I'm going to use my
16 parlance -- the front-end relationship of maintaining a defensive posture, maintaining
17 good cyber hygiene, and -- which is a different capability than a technical faculty by which
18 to understand threats to infrastructure. And so I believe DHS and FBI needed to further
19 flesh out, you know, when does one turn into the other or vice-versa?
20 My perspective is that this was a quite expected development and, I think,
21 practically shook out -- again, I know I'm using informal parlance -- over time.
22 Particularly as things unfolded, you would just have to work it out, so to speak. But I do
23 believe that, again, that's a good example of two organizations kind of fleshing out the
24 most effective way to operate.
25 Q Turning back to the two election security-related standing meetings, were

1 there any advantages to having the ODNI-led one that did not include NSC?

2 A I think it's important because the intelligence community does its work

3 independent of the policy community. And so I think it's -- they are very differently

4 focused engagements.

5 The ODNI is responsible for ensuring intelligence integration. The NSC is working

6 on developing policy. Of course, policy should be informed by intelligence where

7 appropriate, and, of course, the intelligence community doesn't make policy. So I think I

8 see those as sort of parallel venues, but they are certainly not one and the same.

9 Q Do you recall any meetings in 2020 -- any of the ODNI-led meetings -- if there

10 was any discussion regarding frustrations of the policy that was being delivered from in

11 the NSC-led meetings?

12 [redacted] That sounds like it calls for deliberative.

13 Ms. Pierson. Can you restate the question? Are there concerns about --

14 BY [redacted]

15 Q Sure. Yeah. Just building off of your prior response --

16 A Yeah.

17 Q -- as far as the kind of primary purpose of NSC --

18 A Yeah.

19 Q -- and therefore, I imagine the NSC-led meetings are discussing policy --

20 A Yeah.

21 Q -- as it relates to election security, and then you have the ODNI-led election

22 security meetings --

23 A Yeah. Yeah.

24 Q -- and not engaged in policy.

25 For the ODNI-led meetings, do you recall any discussions regarding frustrations

1 with the policies that were being discussed and delivered from the NSC?

2 A I have a smile on my face because I think it's natural for -- like, the

3 intelligence community is always kind of looking over the wall at what the policy folks are

4 doing. So, to me, it doesn't -- it's not a specific enough question.

5 But I don't recall a specific engagement where we had a problem with whatever

6 was going on downtown. I think as evidenced by so many of the things that we

7 discussed this afternoon together, this is a quite active policy timeframe, so -- but I don't

8 remember anything specific.

9 Q What about generally?

10 A Again, you know, to me, I don't know that we make it common practice to

11 have an opinion one way or the other about policy, but at the same time, I think we want

12 to make sure that information is doing everything -- the intelligence community and the

13 information we provide is doing everything it can to best support policymakers.

14 Q For the folks at ODNI and the other intel agencies, what was the nature of

15 the relationship in 2020 with the NSC folks?

16 A I think there was a pretty healthy esprit de corps. I think I welcomed

17 working with those colleagues and felt that it was a very energized time but a pretty

18 collaborative relationship. So I certainly reflect upon it now, years later, as a positive

19 experience.

20 Q Do you recall anyone from NSC accusing or raising concerns regarding if

21 ODNI or other intelligence agencies were withholding information from NSC?

22 [redacted] I think we're probably starting to get into areas of privilege here that

23 we ourselves can't adjudicate at this time. So I think I'm going to have to take that one

24 off the table.

25 [redacted] Are you instructing Ms. Pierson not to answer?

1 [redacted] Yes.

2 [redacted] Even if the question is maintained at a high level without getting into

3 specifics of --

4 [redacted] What someone at NSC said or didn't say?

5 [redacted] And to who.

6 [redacted] Yeah, no. I think we're going to have to take it off the table.

7 [redacted] To your recollection, what was the biggest source of friction between

8 the NSC and the intelligence agencies in 2020?

9 [redacted] I think that might assume a premise that I'm not sure Ms. Pierson

10 agrees to.

11 Ms. Pierson. Again, my general perception of that time was one of very positive

12 engagement with the NSC. It certainly would be regrettable to me to learn if anyone at

13 the NSC felt differently, but that's not my personal perspective. That doesn't mean we

14 don't have disagreements. That's part of what the interagency is about. But everyone

15 worked very hard during this time on securing the elections, and so I feel quite positively

16 about that experience.

17 BY [redacted]

18 Q Turning back to the idea of election security becoming a growing issue, the

19 agencies trying to sort out -- to use a more colloquial term -- you know, what their

20 responsibilities should be and how they should carry out their missions, from 2016 to

21 2021, when you were in this space, were there any -- were there ever any accusations

22 from one agency against another that an agency overstepped its bounds in the election

23 security space?

24 A Can you say more about the -- what you mean by the word "overstep"?

25 Q Sure. So, I mean, fundamentally, every agency gets its authority --

1 A Yeah.

2 Q -- from Congress. Then it's carried out through statutes and regulations.

3 A Yes, yes, yes.

4 Q And, you know, at a very high level -- right -- the FBI is going to conduct

5 criminal investigations. Other agencies can't.

6 A Right.

7 Q In that sort of context, in this election security space, there's a number of

8 agencies who have --

9 A Yes.

10 Q -- certain touch points to the issue.

11 Did one agency, to your recollection, ever accuse another agency of overstepping

12 their mandate in the election security space?

13 A Not to my recollection.

14 Q Turning to the standing meetings with the industry partners in the lead-up to

15 the 2020 Election, do you recall if there were discussions regarding the risk of a potential

16 hack-and-leak before the 2020 Election?

17 A Hack-and-leak is a term -- particularly as it relates to

18 infrastructure -- whereby cyber compromises would yield sensitive information that then

19 would be ostensibly leaked.

20 Industry partners that are largely responsible for cybersecurity are providing

21 technical infrastructure to any number of organizations. I think we're worried about a

22 cyber attempt on their infrastructure by which to procure sensitive information. So,

23 yes, I am familiar with this as an activity.

24 Q Yeah. Do you recall this topic being raised to the social media companies

25 or in the meetings with the social media companies in the lead-up to 2020?

1 A Again, I think it's important to make a distinction between social media and
2 cybersecurity firms and technical infrastructure firms.
3 So, again, hack-and-leak is a term that would be primarily used to go acquire
4 information. Then, potentially, you would use a social media platform to disseminate it.
5 So I think -- yes, I am familiar with the phenomena, and I think, yes, the social media firms
6 understood that they could be the destination point, so to speak, for hacked -- or
7 information that resulted from a cybersecurity compromise.
8 Q Do you recall in the meetings with the social media companies when talking
9 about how they can be at risk of information coming from a hack -- not that they're going
10 to be hacked themselves -- if those conversations addressed the potential subjects of the
11 hacked information? Whether it was affiliated with certain political candidates or
12 parties?
13 A I think what's important to also point out is that, in the tenor of your
14 question, the government doesn't even need to be involved in that, right? You know,
15 you said a compromised company could communicate directly to the social media
16 company and say, I think, you know, there's some information in the wild that could end
17 up on your platform.
18 So I don't know that I can speak in a fulsome manner about how all of that
19 unfolded during that period of time.
20 Q Yeah. So -- and I appreciate that response. I'm not asking for a, you
21 know, fulsome of every type of risk that could be out there.
22 There are these standing meetings that include social media companies and
23 various government agencies. Correct me if I'm wrong. These meetings did not
24 include, you know, critical infrastructure-type companies?
25 A They did not. I think the most kind of cross-functional organization would

1 be Google.

2 Q Okay. Keeping the focus just on what's being communicated to the social

3 media companies and the unique risks that they face as social media companies, do you

4 recall whether there was any discussion about the topics that were raised regarding

5 hacked information that could be shared on their platforms?

6 A Again, most of the meetings that I participated in really centered on the

7 social media companies characterizing the activity on their platform. I think anything

8 the intelligence community shared would be at kind of a macrolevel given the

9 classification of our information.

10 I can't speak to additional sharing that might have occurred with other agencies

11 either bilaterally or somehow between the triad of the infrastructure firms back to social

12 media on what they should be looking out for, so to speak.

13 Q For FITF's bilateral meetings, you mentioned -- your recollection is you didn't

14 recall -- or you never attended one of those meetings?

15 A I don't participate in those.

16 Q Do you know if FITF ever invited you or someone else from ODNI to attend?

17 A I don't believe so.

18 Q Okay. Are you familiar with the October 14, 2020, New York Post story on

19 Hunter Biden's laptop?

20 A I'm not familiar with that article specifically, no.

21 Q At a high level, are you familiar with the controversy that started in the

22 lead-up to the 2020 Election?

23 A Yes.

24 Q When did you become aware that the FBI was in possession of either the

25 laptop or the hard drive or something associated with Hunter Biden?

1 [redacted] I think that assumes some information that I'm not sure she'll be able
2 to confirm.
3 Ms. Pierson. I don't even -- I really don't recall the timeframe in which -- or the
4 timing or date in which I became aware of what was revealed in media, but I am generally
5 aware of, as you put it, the controversy surrounding the Hunter Biden laptop, yes.
6 BY [redacted]
7 Q With the understanding you don't recall specifics, do you recall generally if
8 you were aware of that prior to the New York Post publication and the --
9 A No.
10 Q -- corresponding media coverage?
11 A No.
12 Q This is a -- not to be semantic. No, you don't recall either way? Or, no,
13 it's your recollection that you learned of it after the New York --
14 A It's my recollection that I learned of it after.
15 Q Thank you.
16 In the standing meetings between the social media companies and the various
17 government agencies in the lead-up to 2020 Election, do you recall whether any of the
18 meetings discussed Burisma or Hunter Biden?
19 A I can't speak to that. I don't recall specifically talking about Burisma in any
20 of those meetings.
21 Q And what about generally?
22 A No.
23 Q Once the New York Post published its article and the subsequent reports and
24 surrounding articles, do you recall any subsequent meetings in the aftermath that -- in
25 your meetings with the social media companies where the issue of the laptop or the

1 related news reporting came up in those meetings?

2 A That sort of thread -- that topic thread of the laptop and Burisma and all that

3 really was more on the law enforcement sort of FBI part of the work. It was not

4 something that the intelligence community was involved in, to my knowledge,

5 whatsoever. And so I do not believe that was part of our discussions with them.

6 Q Okay. And to the extent that -- your understanding of, again, the FBI and

7 the law enforcement side and not the intel side -- how did you come to learn that or gain

8 that understanding?

9 A I think reading it in the press.

10 Q Okay. Did you ever have any discussions with colleagues at the FBI about

11 the laptop or any related investigations to Hunter Biden?

12 A No.

13 BY [redacted]

14 Q Ms. Pierson, what was your involvement in the defensive briefing that was

15 given to Senators Grassley and Johnson on August 6, 2020?

16 A As we discussed earlier, the briefing to the two senators was the result of a

17 deliberative process out of the Notification Framework.

18 I was involved in administering the ODNI responsibilities as articulated in that

19 process, which would include what we conventionally now know is the Experts Group and

20 also would have served to ensure that the script was coordinated among all the agencies

21 and of any and all perspectives from participating organizations and we had full

22 coordination on the document that was used to inform that briefing.

23 Q So were you sitting in for ODNI as the expert in the Experts Group?

24 A Yes. And, again, you're using this more modern parlance than what

25 existed. That would also have included, of course, my NIC colleagues who are the

1 analytic experts in this topic.

2 Q Now, were you included because you always sat on the Experts Group, or

3 were you included because of the particular sensitivities it involved with these two U.S.

4 persons?

5 A No. I would have handled all of these matters regardless of the recipients

6 or content.

7 Q Given that this involved the alleged foreign intelligence operation against

8 two United States senators, is there heightened scrutiny? Is there a heightened process

9 that's involved given who they are?

10 A No. I think the intelligence community -- and some of this is hinted at in

11 our earlier conversations -- that we're here to evaluate the intelligence we have. We, of

12 course, followed the framework and the requirements of the framework and proceeded

13 as we would with any recipient.

14 Q So I think, as was alluded in my colleagues from the other side's questions

15 earlier, Senators Johnson and Grassley are essentially saying a defensive briefing was a

16 pretext to obstruct a United States Senate investigation into the Biden family

17 influence-peddling operation, specifically involving Hunter Biden and Burisma. I think

18 you know the background.

19 The committee needs to know who nominated that intelligence. So would you

20 provide that answer now?

21 [redacted] We'll take that one back. I think that implicates both classification

22 issues and potential deliberative issues. So we'll take that question back.

23 [redacted] I will say that question is not going away. So I would ask that it be

24 taken back and that it be given all due dispatch and we get something in writing as well in

25 the event we don't get the information we seek.

1 BY [redacted]

2 Q With respect to the Experts Group, you actually sat -- so you actually -- and,

3 again, I'm referring only to the intelligence involving Senators Johnson and Grassley.

4 A Okay.

5 Q You participated as -- again, using the parlance -- as an expert assessing the

6 information that the CAG sent to your group?

7 A Yes.

8 Q Okay. Did anyone dissent in that discussion?

9 [redacted] I would ask you not to answer. That would be deliberative.

10 [redacted] I would say that the committee does not recognize the deliberative

11 process privilege. So, of course, you're free not to answer it based on your counsel's

12 advice, but that, too, is going to be a question we require an answer to. Indeed, I'm

13 going to ask now for all documents related to that discussion, and I believe we've asked

14 for it in writing already, and we'll follow up if necessary.

15 BY [redacted]

16 Q Ms. Pierson, I think you testified to this earlier, but let's talk specifics.

17 Are there documents that have been created, to your knowledge, with respect to

18 the information involving Senators Grassley and Johnson?

19 A Certainly, there are documents related to this entire -- that reflect the

20 deliberative process outlined by the Notification Framework, yes.

21 Q To your knowledge, do records exist that will tell this committee in the event

22 we can receive them who nominated that intelligence and the other issues of

23 documentation that we discussed earlier?

24 A Again, I would leave those documents -- I don't work at ODNI any longer, so I

25 would defer to ODNI on their existence. But I'm -- generally speaking, I would not be

1 aware of any reality in which something has happened to them.

2 Q Again, using this parlance, in the Experts Group involving the intelligence

3 that led to the defensive briefing of the senators on August 6, 2020, was Nikki Floris

4 working with you in that Experts Group?

5 A Yes, sir.

6 Q Was Bradley Benavides?

7 A I would believe so. Brad has since left the government. So during this

8 time, yes, I think he was still with the government.

9 Q And do you recall him specifically involved in this case?

10 A Honestly, I don't want to answer erroneously. So I don't have the

11 documents in front of me as to who was what, where, and why. But, of course, Mr.

12 Benavides was part of this larger cadre of election security officers.

13 Q Okay. And this is -- to your knowledge, there would be a record indicating

14 who sat on the Experts Group at this particular issue?

15 A And, again, I want to be clear here that the Experts Group didn't exist as an

16 entity there. So in terms of --

17 Q This cadre of individuals --

18 A Yeah.

19 Q -- at this level who ultimately determined -- well, who ultimately determined

20 a defensive briefing was in order for the senators. Is that fair to say?

21 A Yes.

22 Q Okay. And, Ms. Pierson, you were, in fact, in this cadre of individuals who

23 determined that they were -- the senators should have been provided a defensive

24 briefing?

25 A Yes, sir.

1 Q Okay. Were their concerns about the political sensitivities that they may
2 collide with the principles articulated about political interference or chilling First
3 Amendment activity?
4 [redacted] Let me advise you to be careful about deliberative. So the content
5 of what was discussed --
6 Ms. Pierson. Yeah.
7 [redacted] -- I would avoid.
8 Ms. Pierson. Again, I don't recall that as being an overarching point of dissent.
9 But, of course, not only as required by the policy but of the underpinnings of our work as
10 intelligence community professionals, we do not engage in any type of partisan behavior.
11 BY [redacted]
12 Q I'll represent to you that we interviewed Ms. Floris and she said -- and Mr.
13 Benavides -- and both, in essence, said ODNI owns this process. Everything you need is
14 with ODNI. Their testimony in substance was, we were the notifying agency. We gave
15 the briefings, but we don't have equities in essence beyond that.
16 Is that an accurate characterization? You're taking my characterization --
17 [redacted] Without seeing the testimony, I don't know if she can say that's an
18 accurate characterization of their testimony.
19 [redacted] No. But what she can say is what I am saying is their testimony.
20 BY [redacted]
21 Q Assuming it's true, is that an accurate characterization?
22 A The FBI is a member of the intelligence community. So I don't know, as you
23 shared it with me, characterizing the FBI as, frankly, just a broker or delivery
24 mechanism -- they obviously had a Foreign Intelligence Task Force. They are acting
25 members of the intelligence community and interagency. So, for me, I think they

1 produce intelligence information on election interference.

2 I can appreciate kind of the thrust of my colleagues' comments, but generally

3 speaking, I think the FBI participated in all interagency activities.

4 Q And what was the subject and purpose of the defensive briefing involving

5 the senators?

6 [redacted] I'm sorry. Can you repeat that question?

7 [redacted] What was the purpose and the subject of the defensive briefing

8 involving the two senators?

9 [redacted] Okay. So the subject, I think, high level, has been outlined in the

10 letters to us. But beyond that, in an unclassified setting, I'm going to ask her not to

11 answer that question.

12 Ms. Pierson. The purpose of the briefing was to share intelligence information

13 with both senators that had been collected in intelligence channels about foreign

14 intelligence service activities.

15 BY [redacted]

16 Q Okay. Do you recall speaking with Ms. Floris after she delivered the

17 defensive briefing to these senators?

18 A Certainly.

19 Q Well, let me be more specific.

20 Do you recall speaking with her about this defensive briefing on August 6, 2020,

21 after she delivered it?

22 A Yes.

23 Q Okay. And what was the substance of that conversation?

24 A She confirmed that she had delivered the briefing as required and

25 characterized her delivery of the script, and that's about it.

1 Q Did anything stand out about how the senators reacted to this defensive
2 briefing, to your recollection?
3 A I think she shared that her perception was that the senators were quite
4 concerned about the information shared with them.
5 Q And when you say "quite concerned," in what respect?
6 A I wasn't there. And, again, this was, like, 4 years ago.
7 I think it was more about not only -- I can only imagine a senator's reaction to
8 receiving information that a foreign intelligence service is doing things of this nature. So
9 that, of course, has to be part of this. And then, also, I think a real skepticism as to why
10 was FBI doing this, which I can also appreciate.
11 Q Why can you appreciate that?
12 A I think that many people have sort of a bit of a healthy skepticism as to why
13 is the government sharing this with me? Why -- and I don't think that's unique to U.S.
14 senators or Members of Congress. Sometimes, I think there's always a bit of curiosity
15 about, like, what is this really about? And, to me, I don't think that's unreasonable.
16 Q Was it your sense from Ms. Floris' conversation that the senators perhaps
17 thought that this defensive briefing was meant to advantage the Biden family, the
18 Democrat Party?
19 A She didn't share that with me.
20 Q Was that your sense of the conversation?
21 A No. My sense of the conversation is that this was more frustration with the
22 FBI.
23 Q Okay. But I guess I'd ask, if they were informed that there was credible
24 intelligence that they were the target of a foreign intelligence operation, why would they
25 be frustrated with the FBI? Not that you can speak to them, but just generally, what

1 would be -- because you said that would not be an uncommon perception. Help me
2 understand that.
3 A Again, my perspective is that there is a certain line of interest perhaps across
4 Washington as to whether or not the FBI has handled itself appropriately as it relates to
5 its mission. There's a thousand and one perspectives and opinions about that across the
6 political spectrum. So, for me, it doesn't surprise me.
7 Not only being a member of the intelligence community, a member of the U.S.
8 Government, a person living here in Washington is well familiar with perspectives that are
9 pretty skeptical of the FBI. I don't think that's uniformly shared, but it's certainly
10 something that I think has, as I said, been a line of consideration for the past several
11 years.
12 Q So then given all you know about this particular briefing and the senators'
13 response, none of that surprises you? Which is essentially what I think you're saying.
14 A I think it's certainly reasonable to understand, yes.
15 Q And you saw that they were -- the briefing was leaked. There was other
16 critical coverage in the papers. That essentially one political party, the Democratic
17 Party, used the briefing in part -- I'll finish the question before you answer -- in part to say
18 that this investigation by Senators Grassley and Johnson was advancing Russian
19 disinformation.
20 [redacted] I don't know -- one, I don't understand the question. I'm not sure
21 what the question is for Shelby. And two, I'm not sure that -- it sounds like it's based on
22 a premise that the Democrats had something to do or took some position with respect to
23 something that I don't know that Shelby has any awareness of.
24 [redacted] That's fair enough. So let me ask this.
25 Can we go off the record for a moment?

1 [Discussion off the record.]

2 [redacted] Back on the record.

3 If time permits, we can come back to sort of partisan optics.

4 BY [redacted]

5 Q Ms. Pierson, were you involved with the drafting of the script that was used

6 to convey the defensive briefing to these senators?

7 A Yes.

8 Q Okay. So I will just ask ODNI, again, that specifically -- we've asked for this,

9 but since we have you here going back and taking these questions, the committee

10 requires the script. We require --

11 [redacted] We produced the script to you.

12 [redacted] Yes. Excuse me. Which you have. Well, the unclassified -- fair

13 enough. You have.

14 Primarily, the committee requires for its oversight who nominated the

15 intelligence, all the documents associated with that, any dissent in the CAG and the

16 Experts Group, and any and all records that pertain to that briefing. Again, the focus of

17 this particular line of inquiry is that the intelligence community obstructed the United

18 States Senate investigation as alleged by Senators Grassley and Johnson. So, as you can

19 understand, the committee requires this information.

20 I would ask that that be taken back and thoroughly explored and get back any and

21 all documents to us.

22 [redacted] Understood.

23 [redacted] Thank you.

24 Thank you, Ms. Pierson.

25 Ms. Pierson. Thank you.

1 [redacted] We'll go off the record, please.

2 [Recess.]

3 [redacted] Back on the record.

4 BY [redacted]

5 Q Ms. Pierson, in the prior hour, there were some characterizations made to

6 you about something that Nikki Floris said in her testimony before the committee. You

7 weren't presented with that transcript, correct?

8 A That's correct.

9 Q Okay. So what was presented to you were just characterizations of what

10 she said, and I'm thinking specifically with regard to FBI's role in this process?

11 A Yes.

12 Q Okay. If you can go to the Notification Framework. And I don't recall

13 which exhibit number that was at this point. I think it was 5.

14 If you can turn to the bottom of page 4, the top of page 5. Do you see where it

15 says "notifying entity"?

16 A Yes.

17 Q And then -- so that's on the bottom of page 4, the top of page 5. It says,

18 "The Department of Homeland Security" -- sorry. This is the definition of notifying

19 entity.

20 A Yes.

21 Q The definition of notifying entity is, "The Department of Homeland Security

22 with respect to foreign interference operations relating to critical infrastructure, including

23 election infrastructure, and the Federal Bureau of Investigation with respect to other

24 foreign interference operations," correct?

25 A Yes. Uh-huh.

1 Q Okay. What's your understanding of what the notifying entity's role is?

2 A In this case, these two agencies have specific responsibilities to deliver

3 notification as it relates to actions taken as a result of this process and, frankly, a division

4 of labor between DHS and FBI.

5 Q Okay. And when you say they have the responsibility for providing -- sorry.

6 Withdraw that.

7 Essentially, FBI and DHS are responsible for actually providing the briefing to

8 whoever the target is, correct?

9 A Yes.

10 Q Okay. So, to the extent that Ms. Floris said that FBI was the -- responsible

11 for providing the briefing, that was accurate, correct?

12 A Yes, certainly as reflected in item B here.

13 Q Okay. And, in fact, the FBI did deliver the briefing?

14 A Yes.

15 Q And the -- we talked through extensively there's a substantial process that's

16 outlined in this framework for how to make the determination that a briefing is

17 appropriate, correct? And there's a lot of participants in that briefing -- in that process,

18 correct?

19 A Yes. Uh-huh.

20 Q Okay. But as far as the actual delivery that is provided in this case

21 either -- well, it's provided either by DHS or FBI, and in this case, it was FBI?

22 A Yes.

23 Q Okay. So I just wanted to clarify that part of Ms. Floris' testimony.

24 There was a question in the prior hour about -- the question was, what was the

25 substance and the purpose of the defensive briefing?

1 In general, the substance of a briefing would be included in the script for a
2 briefing, correct?
3 A Certainly.
4 Q So if that script is available, that's already been made available to the
5 committee, correct?
6 A I believe that --
7 [redacted] Yes.
8 Ms. Pierson. -- that would be an accurate statement, yes.
9 BY [redacted]
10 Q Okay. You were asked some questions about why the senators might have
11 been concerned about receiving the briefing.
12 Are you familiar with the dynamics in the Senate at that time in the summer of
13 2020?
14 A I'm generally not equipped.
15 Q Okay. So you're not familiar sitting here today?
16 A No.
17 Q So you, for example, don't know if there had been, you know,
18 back-and-forths between Democratic and Republican senators about certain information?
19 A No.
20 Q Okay. So your comments here today, it's just based on your understanding
21 of the world at large, but you don't have any specific understanding --
22 A No.
23 Q -- of the circumstances in the summer of 2020, correct?
24 A No.
25 Q And, in particular, of the dynamics that took place in the Senate?

1 A Not at all.

2 Q Okay. The notification provided to Senators Grassley and Johnson was

3 nonpublic, correct?

4 A Yes, that's correct.

5 Q What does that mean?

6 A That means it was delivered as a defensive briefing to specific targets of

7 foreign intelligence activity. So not shared publicly.

8 Q Okay. And, to the best of your knowledge, was it ever the intent of ODNI

9 or any of its partners in this process to make it public that Senators Grassley and Johnson

10 had been given such a briefing?

11 A No.

12 Q Okay. And I think this is something of the elephant in the room, so I'm

13 going to go ahead and introduce it as Exhibit 11.

14 [Pierson Exhibit No. 11

15 was marked for identification.]

16 BY [redacted]

17 Q This is a Washington Post article. The FBI -- entitled, "The FBI was aware

18 prominent Americans, including Giuliani, were targeted by Russian influence operation?"

19 Have you seen this article before?

20 A I probably read it, as I read the paper most days, yeah.

21 Q Okay. So this article -- I want to point out it's dated May 1st, 2021, correct?

22 It's just on the face here.

23 A Yeah.

24 Q Okay. So that would have been many months after the defensive briefing

25 was provided to --

1 A Yes.

2 Q -- Senators Grassley and Johnson?

3 Okay. And on page -- well, we printed it off, but as printed, it's the second page

4 of this. It's about halfway down.

5 It says, "The FBI last summer also gave what is known as a defensive briefing to

6 Senator Ron Johnson, Republican of Wisconsin, who ahead of the election used his perch

7 as chairman of the Senate Homeland Security and Governmental Affairs Committee to

8 investigate Biden's dealings with Ukraine," and it goes on.

9 Do you see where it says that?

10 A Yes, I do.

11 Q So I'll represent to you that this article is, to the best of our knowledge, the

12 first time that the defensive briefing, having been delivered to the senators, was made

13 public.

14 A Yes. I don't have information to confirm that, but I'm understanding what

15 you're saying.

16 Q Right. And it was -- again, this was an article dated May of 2021. That

17 was many months after the defensive briefing was provided by the FBI.

18 A Yes.

19 Q Correct? Okay.

20 And at the time the briefing was delivered, again, it was never the intent to make

21 it public that the briefing had been provided, correct?

22 A No.

23 Q And, in general, ODNI and its partners in this process do not make it public

24 that defensive briefings are provided to targets, correct?

25 A No, we do not.

1 Q Because I think the statement was made that, you know, the senators were
2 angry that it was known that they were given a defensive briefing. And, in fact, when
3 they were given the briefing, it was not publicly known, correct?
4 A That is correct.
5 Q Okay. And it was not publicly known until many months later?
6 A No, it was not.
7 Q Okay. Thank you. You can put that aside.
8 And then I just have one document that I want to enter into the record as a
9 clarifying matter.
10 So we had introduced as exhibit -- or I'm sorry. The Republicans introduced as
11 Exhibit 4 the overview of the process for the U.S. Government to notify the public and
12 others regarding foreign interference in U.S. elections.
13 A Yeah.
14 Q And I believe that what they introduced was the more recent version of that.
15 A Okay.
16 Q So I want to introduce as Exhibit 12 the 2019 version --
17 A Okay.
18 Q -- of that document.
19 [Pierson Exhibit No. 12
20 was marked for identification.]
21 BY [redacted]
22 Q And then I just want to make one quick point after you've had a second to
23 look it over.
24 A So this is the 2019 version?
25 Q This is the 2019 version.

1 And I'm just going to ask you, after you've had a second to read it over, to note
2 that there is no reference to an Experts Group in this document, but it does reference a
3 group of experts from the intelligence community agencies.
4 A Right. Yes. Yes, I understand.
5 Q So I just want to make sure the testimony is clear because we've been
6 talking around that a little bit.
7 A Yeah.
8 Q So this is actually -- you know, this was the overview --
9 A At the time.
10 Q -- at the time?
11 A Yes, of course.
12 Q Okay. Okay.
13 A Yes, ma'am.
14 [redacted] Okay. Thank you. We can go off the record.
15 [Recess.]

1 [5:33 p.m.]

2 BY [redacted]

3 Q Ms. Pierson, when you communicated with the social media companies in

4 the leadup to the 2020 election, we've gone over in-person meetings, video conference

5 meetings --

6 A Yes, sir.

7 Q -- I would imagine email was involved?

8 A No. It was pretty much telephone calls. We weren't really in the habit of

9 communicating regularly in emails.

10 Q Okay. Did you have any communications via Signal with anyone -- social

11 media companies?

12 A Not to my recollection. I'm not a big Signal -- I'm like a partial Signal

13 person. I'm the more old school message person.

14 Q Are you familiar with teleporter links?

15 A I don't know what that is.

16 Q We -- in the previous hour we talked about the NSE-led meetings and the

17 ODNI-led meetings?

18 A Yes, sir.

19 Q And in the leadup to the 2020 election, do you recall how frequently those

20 meetings would occur, each of those standing meetings?

21 A The NSEs were probably maybe every other week, and I tried to convene the

22 community at least once a month.

23 Q Was it generally the same individuals? So whoever was representing the

24 agencies at the NSE-led meet, did it tend to be the same individuals at the ODNI-led

25 meetings, obviously, without the NSE folks?

1 A I think generally and as you and I have discussed earlier today, this -- that
2 locus of representation from that core constituency of agencies, yes. For example, on
3 your question on the GEC as I mentioned earlier, the GEC doesn't go to the NSE meetings
4 but is -- would potentially attend the ODNI Intel meetings.
5 So, generally speaking, yes, that core cadre, but I can imagine it's not one for one.
6 Q Okay. Again, do you have any sense of what familiarity the folks at the NSE
7 had about the ODNI-led meetings?
8 A Certainly, at the NSE we would provide an update as to, you know, what is
9 the IC working on. It's in some ways a standard practice at most NSE meetings to have
10 an Intel update. So that would be, as I've used the phrase, par for the course.
11 Q Since having left ODNI, have you attended any of the U.S. Government
12 industry meetings, like the ones you attended in the leadup to the 2020 election?
13 A No.
14 Q Any FITF meetings?
15 A No.
16 Q Any social media companies?
17 A No.
18 Q At the ODNI-led meetings, was there any discussion about whether to keep
19 or withhold certain information that should or should not be presented at the NSE-led
20 meetings?
21 [redacted] I think that sounds like it calls for a deliberative. I'd ask you not to
22 answer that one.
23 BY [redacted]
24 Q Are you familiar with the Election Integrity Partnership?
25 A I believe it was referred to in a "60 Minutes" episode last weekend.

1 Q It was.

2 A But it was not something that I was traditionally familiar with prior to that.

3 Q During your role or during your time at ODNI and as part of your role, the

4 various roles you had at ODNI, did you have any interactions with Stanford?

5 A Stanford University?

6 Q Yes.

7 A Yes. As we had engagements with a few academic institutions, Stanford

8 was one of those organizations. But it was maybe once or twice.

9 Q Do you recall what, like, the topic was or at a high level what the purpose of

10 the interaction was?

11 A I believe -- and this is to the best of my recollection -- Stanford and other

12 academic institutions were developing their own methods for detecting mis- and

13 disinformation. And, like, we have connections with academic institutions on a myriad

14 of topics, I think there were some panels, some think tank sponsored events and things of

15 that nature that would have brought us in contact with Stanford and other institutions.

16 Q Do you recall who your point of contact was at Stanford?

17 A A colleague who used to work at CISA named Matt Masterson has joined

18 Stanford, so he would have been -- just because I knew him better. But I was not really

19 familiar with their program or program leadership or things of that nature.

20 Q Are you familiar with NewsGuard?

21 A No.

22 Q During your time at ODNI, as part of any of the positions you had there, did

23 you have any interactions with the Aspen Institute?

24 A Not directly. I think the Aspen Institute sponsors the Aspen Forum. So I

25 know a lot of intelligence officials attend that annual event.

1 Q Are you familiar with the tabletop exercise that the Aspen Institute hosted in
2 the summer of 2020?
3 A Not specifically, no.
4 Q Okay. And so do you --
5 A There's a lot going on, no. There was -- no, not specifically. But it
6 wouldn't surprise me if Aspen sponsored something like that, given their interest in
7 national security issues.
8 Q Do you recall attending any tabletop exercises in 2020?
9 A DHS sponsored a few for state and local election officials, which was for their
10 benefit, and we would participate as observers or the Intel community might share best
11 practices for securing their infrastructure, things of that nature.
12 But DHS was the primary -- I think they were the ones who did the TTX-type
13 activities.
14 Q Do you recall how many people from ODNI attended either the one or
15 multiple tabletop exercises?
16 A Probably just a few, if -- I mean, again, I would usually try to take someone
17 from the NIC with me or another colleague, something like that, but it wasn't a large
18 contingency at all.
19 Q Do you recall any colleagues specifically that you had join you?
20 A No. I don't have that at the ready.
21 Q Are you familiar with the Center for Countering Digital Hate?
22 A No.
23 BY [redacted]
24 Q Back to the defensive briefing of August 6, 2020, Ms. Pierson?
25 A Sure.

1 Q Nikki Floris was in the what we'll call the Experts Group at the time
2 examining the information that was transmitted from the CAG to the group with respect
3 to Senators Grassley and Johnson, and the subject matter of the other 6/20/20 defensive
4 briefing. Is that correct?
5 A To the best of my recollection, yes.
6 Q Okay. And -- and I think I've asked you this. And was Mr. Benavides in
7 that group as well, to the best of your recollection?
8 A To the best of my recollection, I would believe so.
9 Q Okay. The FBI in this instance was tasked with providing that defensive
10 briefing, correct?
11 A Uh-huh.
12 Q And Ms. Floris, given her position as whatever -- she was a high-level
13 intelligence analyst, was tasked with providing that briefing. Is that your
14 understanding?
15 A Yes, sir.
16 Q Okay. So she not only had a script from ODNI but she was intimately
17 familiar with the details of the underlying intelligence, correct?
18 A Yes. And I don't know that I would characterize it as a script from ODNI. I
19 think it is a coordinated script from the intelligence community.
20 Q Well, let's talk about it.
21 A Yes.
22 Q Give me, like, how did that -- you say coordinated. Who takes the first pen,
23 how is it coordinated? Just walk me through that if you would.
24 [redacted] You can speak generally the process, but nothing deliberative.
25 Ms. Pierson. Again, I think I mentioned earlier, the ODNI serves as sort of a

1 gathering function to make sure all of the organizations are working towards their
2 expected work and deliverables.
3 Generally speaking, I think any number of analytic leads could take the lead in
4 developing the outline for a script. And, remember, these are based on information
5 coming from lots of different places. So it's important that those contributing
6 organizations are all tracking kind of where their information is or isn't cited.
7 Again, the National Intelligence Council is sort of a lead analytic organization.
8 Again, traditionally, I think could take the pen, but any agency could do that, and
9 probably write a rough draft or an outline. And then we would work that through the
10 interagency process of coordination, and do we leave out information, what was the
11 classification.
12 So there's a myriad of considerations to getting to the document that you have
13 seen just as an example.
14 BY [redacted]
15 Q Let me ask you specifically about the August 6, 2020, what we'll call a script.
16 I understand that counsel's recommendation or advice may be deliberative issues or
17 classification issues. You will not -- if you know the answer, you will not tell the
18 committee right now who nominated that intelligence. Is that correct?
19 A Correct.
20 Q Okay. Without knowing who that is, let me ask you this, because it doesn't
21 reveal any other concerns that counsel was concerned about in my judgment.
22 Was it the nominating agency that began to write the rough draft of the script?
23 A I -- I don't even have that in my mind.
24 Q Well, if you recall, did Ms. Floris assist in drafting that script, that document?
25 A She certainly would have coordinated on it. I can't speak to whether she

1 tickled the keys on the script. But, absolutely, this is an interagency coordination
2 process.
3 Q Now, this is what I want to drill down on. This interagency business and
4 with particular Ms. Floris, because it's -- I'm sort of speaking roughly. She sort of had
5 two hats, right?
6 She's the expert -- she's in the expert group, what we'll call the expert group in
7 this instance, but she also has the responsibility to actually provide the defensive briefing
8 to the senators?
9 A Yes.
10 Q Is that unusual?
11 A I don't know that I could use the word unusual because this was all sort of
12 first -- original work, so to speak. So it's not like I have another process to compare it to.
13 I certainly don't think there's anything in policy or practice that proscribes that to
14 be the same person at all.
15 Q Sure. Yeah. Fair enough.
16 I guess the point is that, Ms. Floris and Mr. Benavides, assuming he was also in the
17 Experts Group, again, would have not simply gone to the senators and said, read the
18 script, they would be in a position to provide more information to the senators if they
19 asked beyond what's in the script having actually vetted the intelligence. Is that fair to
20 say?
21 A One, I don't have any specific knowledge of that. But, two, the FBI was
22 only cleared to deliver that information. I think anything else would have had to come
23 back to the agencies for additional clearance. I don't think that that would have --
24 Q What do you mean any of this?
25 A So I think -- as your question suggests that they would have been flourishing

1 a whole suite of information, I don't know that that would be within our expectation.
2 They were there to deliver a defensive briefing.
3 Q Okay.
4 A And I'm totally unaware of any additional information that was shared at
5 that time.
6 Q Yeah. I guess what I'm grappling with, Ms. Pierson, is that going back to
7 the interview of Ms. Floris, and I'm just making these representations to you so you
8 understand the, sort of, background of the question. The idea we received was she was
9 just a messenger. We're now learning that that is not, in fact, the case.
10 So as someone on the Experts Group -- what we're calling the Experts Group, she
11 would have had equities in crafting the document that ultimately was what we'll call the
12 script that was delivered beyond simply receiving it as the notifying agent.
13 Does that question make sense? I know it's a little disjointed.
14 A I understand your point. Yes.
15 Q And is that an accurate assessment in this particular instance?
16 A I think she was involved in activities related to many aspects of this briefing,
17 yes. But her task that day was to deliver the briefing.
18 Q After the briefing was delivered, I think you had testified you actually had a
19 conversation with Ms. Floris.
20 Is there anything else you can think of that you have not conveyed since we last
21 spoke about it?
22 A No.
23 Q Would there have been anything that she wrote or communicated in writing
24 to you or ODNI post-briefing?
25 A Again, that was years ago. I don't know.

1 Q Okay. If you don't recall, you don't recall. Under the
2 process -- withdrawn.
3 Once the Experts Group makes a determination we're going to provide a defensive
4 briefing, the FBI, it's within their remit to be the notifying agency. Could the FBI refuse
5 to provide that briefing?
6 [redacted] Are you speaking generally?
7 [redacted] For purposes of this question, I'll speak generally.
8 Ms. Pierson. I'm certainly not an attorney, but I think this policy obligates the FBI
9 to execute the policy as it's articulated in this document, yeah.
10 BY [redacted]
11 Q Could the FBI, after the Experts Group has made a determination, say, you
12 know, look, we're the notifying agent. We've had -- we're an IC community member, we
13 weren't involved in the Experts Group. We're just not -- we're just not comfortable
14 delivering this -- this defensive briefing?
15 A I think, hypothetically, under those circumstances, I would expect at that
16 time Director Wray to approach the DNI and say, we have a problem here, as some sort
17 of recourse. But, again, hypothetically, I'm not aware that that occurred in any way.
18 But if the FBI felt that they couldn't execute the responsibilities, either -- I would
19 assume they would go to the NSE or they would go to the ODNI and express some
20 concern.
21 Q And I guess, perhaps, a more practical hypothetical would be the FBI dissents
22 from the Experts Group, say they even dissent from the CAG group, if they had an analyst
23 in there. Guess what, you're giving -- you're giving that defensive briefing and --
24 A Right.
25 Q -- hey, we've stated our opposition. But they would still be obligated, as

1 you understand the policy to provide?

2 A And, again, I am not an expert in consequences for countering policy or

3 anything to that nature, but my expectation would be that, based upon the language of

4 the policy, the FBI executes the responsibility in accordance with the text.

5 Q Beyond what we're calling the script that's conveyed to the FBI, to your

6 knowledge is there any other documentation that's given to the FBI when they provide

7 the defensive briefing?

8 A Not to my knowledge.

9 Q So your understanding of the process is they get the script, they deliver it?

10 A Yes.

11 Q The follow-up that you had with Ms. Floris after she gave the defensive

12 briefing, you would have had this follow-up with her regardless of who she provided the

13 defensive briefing to?

14 A Of course. Colleagues, working election security, absolutely. So any

15 other activity, I would have expected us to have a follow-up discussion.

16 Q Is that part of the framework?

17 A No.

18 Q FBI provides a defensive briefing, they go back, and say, hey, Ms. Pierson,

19 guess what happened?

20 A No. Not at all.

21 Q So this isn't mandated; this is more colleagues?

22 A Yes.

23 Q But you do recall that conversation with Ms. Floris?

24 A Yes.

25 Q Did you have a conversation with Mr. Benavides after the defensive briefing?

1 A I don't recall that specifically, no. But, of course, I worked with him quite
2 closely in my election security capacity.
3 Q Given that the briefing was given to two prominent U.S. Senators, you must
4 have had an interest in -- I shouldn't say must.
5 Did you have an interest in learning how the defensive briefing went?
6 A My interest in how a briefing goes is not based upon the prominence of the
7 recipient. It's more, did we successfully meet the requirements of our responsibilities.
8 Q I know it's four years ago, but I have to ask the question.
9 A Yes.
10 Q Do you recall if the FBI had any edits or concerns about the script?
11 [redacted] I'd ask that you not answer that. Sounds deliberative.
12 [redacted] Is it a genuine possibility that the underlying intelligence that
13 informs the defensive briefing could itself be disinformation from a foreign government
14 or actor?
15 [redacted] Are you speaking hypothetically?
16 [redacted] Hypothetically and practically.
17 [redacted] But you're not -- the question doesn't pertain to this specific
18 defensive briefing?
19 [redacted] Oh, I'm not speaking about this specific defensive briefing.
20 Ms. Pierson. Certainly.
21 BY [redacted]
22 Q Have you learned of that actually happening in your experience?
23 A I certainly think that in the broader field of mis- and disinformation,
24 deception, all of these types of facets are part of our adversary's toolkit to manipulate the
25 U.S. So this is, again, not exclusive to election security. There's a whole slew of

1 practices.

2 And whether it's offensive counterintelligence operations or other activities by

3 foreign intelligence services, mis- and disinformation is par for the course.

4 Q So it's conceivable bad actors could actually use the defensive briefing

5 framework to advance their own interests in selling whatever sort of confusion or chaos?

6 A I think that the parameters and our trade craft to try to root out not credible

7 information, faulty sources, mis- and disinformation campaigns, is part of the evaluation

8 process as to avoid what you're talking about.

9 Q Ms. Floris testified that the intelligence used -- the intelligence underlying

10 the defensive briefing of the senators was not the FBI's. Is that your understanding?

11 [redacted] Is that her understanding of Ms. Floris's testimony or of the --

12 [redacted] No. The substance of her testimony.

13 In other words, is it your understanding that the FBI did not nominate the

14 intelligence used to brief the senators?

15 [redacted] Do you have a copy of Ms. Floris's testimony on that?

16 [redacted] I have Ms. Floris's testimony, but I'm representing to you that's

17 what she testified.

18 [redacted] Well, you're asking her to provide a yes or no, confirm or deny on Ms.

19 Floris's testimony. But without seeing that testimony, I'm afraid she's not able to do

20 that.

21 [redacted] Well, respectfully, if I'm saying that this is -- these are the -- I'm

22 representing that this is what was said, is that your understanding as to the truth of it?

23 So you're asking me to prove-up what -- my representation, but this is not a courtroom.

24 This is an interview. It's voluntary. That is the question.

25 [redacted] Okay. Well, I would ask you not to answer that because it sounds

1 like it's deliberative. But if there's a copy of Ms. Floris's testimony and she's testified to
2 that fact already, we can certainly take that back and consider it.
3 [redacted] Okay. We'll take that request under advisement as well.
4 BY [redacted]
5 Q In preparation for this interview, Ms. Pierson, did you take a look at some of
6 the -- I know -- I think the letter of Mr. Grassley and Mr. Johnson sent to Ms. Floris was
7 reviewed earlier.
8 Did you take a look at any of the reporting or any of the -- Senator Grassley and
9 Johnson's view of the defensive briefing prior to coming in here?
10 A No.
11 Q You saw the oversight letters that we sent to ODNI, presumably, right?
12 A Yes.
13 Q Okay. And we had referenced the testimony -- some testimony of Ms.
14 Floris and Mr. Benavides. You saw that as well?
15 A Yes.
16 Q Okay. And you get the general thrust of what Senators Grassley and
17 Johnson are alleging in this instance, right?
18 A Yes.
19 Q Beyond that, have you done any other of your own research or looked at
20 anything else?
21 A No.
22 Q Okay.
23 [redacted] I think that's it for me.
24 [redacted] We have a couple of follow-ups. Hold on. I apologize.
25 [redacted] Off the record.

1 [redacted] There were some characterizations made about Ms. Floris's
2 testimony just now, and I want to just make sure the record is clear on that. The
3 statement was made that Ms. Floris represented herself as just the deliverer of the
4 information, and I want to note that on page 25 of her testimony she describes what we
5 refer to as the Experts Group process.
6 And she says that the Experts Group -- so my colleagues, we met on July 17th and
7 confirmed that, yes, the defensive briefing is warranted. So she did confirm that she
8 was in the Experts Group and that she was part of that decision-making process.
9 On page 28 of her testimony -- actually, this was a question by [redacted] He
10 was asking her about the script and who wrote the script. [redacted] question was,
11 "But then, ultimately, would you" -- meaning Ms. Floris -- "take the final pen to the script,
12 if you will?"
13 And Ms. Floris said, "More like the final approval. Not my level and my
14 colleagues' level. Seldom would we make change unless there was a glaring error or
15 something, you know, we weren't comfortable with. But I don't recall putting a pen to
16 the script when it came up to my level."
17 So she did confirm that she played a role in drafting the script. She said she
18 didn't put pen to paper, but she did review it and did play a role in it.
19 So I just want to make the record clear because I think there was an allegation
20 that Ms. Floris's testimony may -- that she might have inaccurately represented her role.
21 I think she actually was pretty clear in her testimony about the extent of her role. And I
22 would note, again, that the majority has, as of yet, not made her transcript public, so
23 wanted to clarify the record here today.
24 Thank you. We can go off the record.
25 [Whereupon, at 6:00 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

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4
5 COMMITTEE ON THE JUDICIARY,
6 U.S. HOUSE OF REPRESENTATIVES,
7 WASHINGTON, D.C.
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11
12 INTERVIEW OF: PETER SULLIVAN
13
14
15 Tuesday, April 9, 2024
16
17 Washington, D.C.
18
19
20 The interview in the above matter was held in room 2237, Rayburn House Office
21 Building, commencing at 10:01 a.m.
22 Present: Representative Jordan.

1 Appearances:

2

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted] PROFESSIONAL STAFF MEMBER

8 [redacted] COUNSEL

9 [redacted] SPECIAL COUNSEL

10 [redacted] DEPUTY CHIEF COUNSEL FOR OVERSIGHT

11 [redacted] MINORITY OVERSIGHT COUNSEL

12 [redacted] MINORITY CHIEF OVERSIGHT COUNSEL

13 [redacted] MINORITY OVERSIGHT COUNSEL

14 [redacted] MINORITY STAFF ASSISTANT

15 [redacted] MINORITY OVERSIGHT COUNSEL

16 [redacted] MINORITY PROFESSIONAL STAFF MEMBER

17

18

19 For the SUBCOMMITTEE ON CRIME AND

20 FEDERAL GOVERNMENT SURVEILLANCE:

21

22 [redacted] MINORITY DETAILEE

1 For the FEDERAL BUREAU OF INVESTIGATION:

2

3 [redacted] ASSISTANT GENERAL COUNSEL,

4 OFFICE OF GENERAL COUNSEL

5 [redacted] COUNSEL

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1 [redacted] We will go on the record. Good morning. This is a transcribed
2 interview of Peter Sullivan. Chairman Jordan has requested this interview as part of the
3 committee's oversight of the Federal Bureau of Investigation. Would the witness please
4 state your name for the record.
5 Mr. Sullivan. Peter John Sullivan.
6 [redacted] And could agency counsel please state your name for the record.
7 [redacted] counsel with the FBI.
8 [redacted] FBI, Office of General Counsel.
9 [redacted] And, Mr. Sullivan, you understand that agency counsel has a primary
10 fiduciary duty to the Bureau and not to you individually?
11 Mr. Sullivan. Yes.
12 [redacted] And so you'd like to continue with agency counsel today?
13 Mr. Sullivan. Yes.
14 [redacted] On behalf of the committee, I want to thank you for appearing here
15 today to answer our questions. The chairman also appreciates your willingness to
16 appear voluntarily. My name is [redacted] I am with Chairman Jordan's staff. I
17 will now have everyone else from the committee who is here in the room introduce
18 themselves as well.
19 [redacted] counsel with Chairman Jordan.
20 [redacted] with Ranking Member Nadler.
21 [redacted] with Ranking Member Nadler.
22 [redacted] with Ranking Member Nadler.
23 [redacted] Ranking Member Nadler.
24 [redacted] Ranking Member Nadler.
25 [redacted] with Chairman Jordan.

1 [redacted] Thank you. I would like to now go over the grounds rules and
2 guidelines that we'll follow during today's interview. Our questioning will proceed in
3 rounds. The majority will ask questions first for one hour. Then the minority will have
4 an opportunity to ask questions for an equal period of time if they so choose. We will
5 alternate back and forth until there are no more questions and the interview is over.
6 Typically, we take a short break at the end of each hour, but if you would like to take a
7 break apart from that, please just let us know. As you can see, there's an official court
8 reporter taking down everything we say to make a written record. So we ask that you
9 give verbal responses to all questions. Do you understand this?
10 Mr. Sullivan. Yes.
11 [redacted] So the court reporter can take down a clear record, we'll do our best
12 to limit the number of people directing questions at you during any given hour to just
13 those people on the staff whose turn it is. Please try and speak clearly so the court
14 reporter can understand and so the folks down at the end of the table can hear you. It
15 is important that we don't talk over one another or interrupt each other if we can help it,
16 and that goes for everybody presence at today's interview. We want you to answer our
17 questions in the most complete and truthful manner as possible, so we will take our time.
18 If you have any questions or if you do not understand one of our questions, please let us
19 know. Our questions will cover a wide range of topics. So, if you need clarification at
20 any point, just say so. If you honestly don't know the answer to a question or do not
21 remember, it is best not to guess. Please give us your best recollection. And it is okay
22 to tell us if you learn information from someone else; just indicate how you came to know
23 that information. If there are things you don't know or can't remember, just say so, and
24 please inform us who, to the best of your knowledge, might be able to provide a more
25 complete answer to the question. You should also understand that by law you are

1 required to answer questions from Congress truthfully. Do you understand that?

2 Mr. Sullivan. Yes.

3 [redacted] This also applies to questions posed by congressional staff when

4 interviewed. Do you understand this?

5 Mr. Sullivan. Yes.

6 [redacted] Witnesses that knowingly provide false statements or false

7 testimony can be subject to criminal prosecution for making false statements under 18,

8 U.S.C., section 1001. Do you understand this?

9 Mr. Sullivan. Yes.

10 [redacted] Is there any reason you are unable to provide truthful answers to

11 today's questions?

12 Mr. Sullivan. No.

13 [redacted] Finally, I would like to make note that the content of what we

14 discuss here today is confidential. We ask that you not speak about what we discuss in

15 this interview to outside individuals to preserve the integrity of our investigation. For

16 the same reason, the marked exhibits that we will use today will remain with the court

17 reporters and go in the official transcript, and any copies of those exhibits will be

18 returned to us as we wrap up.

19 All right. That's the end of my preamble. Is there anything my colleagues from

20 the minority would like to add?

21 [redacted] No, we would just like to thank Mr. Sullivan for appearing here

22 today. We appreciate it. And we would also just like to note that we at this point have

23 done well over a hundred transcribed interviews, and only a fraction of the transcripts

24 have been released, and we would encourage our majority counterparts to release all of

25 them.

1 [redacted] I will just note for the record that our minority counterparts have
2 equal access to the transcripts, and I'll turn it over to agency counsel who would like to
3 make some remarks.
4 [redacted] Thank you. As you know, the FBI has determined to make Mr.
5 Sullivan, a non-SES employee, available table to speak to the committee today, pursuant
6 to the accommodations process, related to the facts and circumstances of this matter,
7 including his personal knowledge and communications he has had with financial
8 institutions as part of his work at the FBI. As part of that, it's our understanding that we
9 are likely to talk about a specific suspicious activity report, or SAR, today. The existence
10 of any details within any SAR are confidential according to the Bank Secrecy Act. The
11 Department of Treasury, specifically FinCEN, maintains the SAR program. It's our
12 understanding that Treasury has confirmed the existence of the SAR at issue today and
13 has further provided access to the SAR to the committee and the scope of this inquiry.
14 Accordingly, Mr. Sullivan can talk about this specific SAR today. If falls within his
15 official duties as a current FBI employee to respond to questions within this transcribed
16 interview to the extent that it remains within the scope of the committee's stated inquiry
17 and as he is here today in his official capacity. He will not be able to detail specific
18 identifying information of individuals correlated with the SAR or any other SARs. Any
19 other dissemination of this information outside of the committee is subject to the Bank
20 Secrecy Act's obligations concerning confidentiality.
21 Finally, we would like to request that Mr. Sullivan's name is redacted from any
22 public releases about this interview, including those that have already been released and
23 are currently posted online. He is a non-SES employee, and we ask the committee
24 respect longstanding practice to not publicly post non-SES names to protect line-level
25 employees from threats and other security concerns, which are acutely present here.

1 Thank you.

2 [redacted] The clock now reads 10:06 a.m. We'll start our first round of

3 questioning. I'll turn it over to my colleague, [redacted]

4 EXAMINATION

5 BY [redacted]

6 Q Mr. Sullivan, when did you first join the Federal Bureau of Investigation?

7 A In 1999.

8 Q And what was your key motivation for joining the FBI?

9 A Mostly because I wasn't good enough at baseball, but I wanted to -- I had a

10 family that had a law enforcement and a government service background, and it was one

11 that I wanted to participate in and contribute in any way I could.

12 Q And what is your current position at FBI?

13 A Currently, I'm an intelligence analyst in a Financial Targeting Analysis Unit.

14 Q And can you describe your roles and responsibilities in this position?

15 A In my current position, I'm on a leadership team to advance some of the

16 mission items with respect to financial targeting, terrorist financing, and leveraging

17 financial sector data internally for FBI investigations.

18 Q And can you elaborate a little more on what financial targeting and

19 leveraging financial data means?

20 A It's a very basic concept of financial targeting being -- narrowing the focus of

21 data to understand whether or not a threat exist, and then reactively using existing

22 intelligence or investigative activities that reveal something to a terrorist nexus to which,

23 you know, we examine further and support operations.

24 Q And, in your current role, is it limited to terrorist financing?

25 A It's limited to terrorism.

1 Q To terrorism. And do you work with private sector companies in the
2 current role?
3 A I do not. I work with my former unit. I work directly with them. It's the
4 Strategic Engagement Unit where I was the finance sector liaison for the division.
5 Q And can you describe the organizational structure of your office?
6 A Of my office? We fall under the Targeting Development Section. There
7 are many units that are basically set up for terrorism targeting as well as on the
8 counterterrorism analysis side all-source analysts. Within my unit, we're on the
9 Targeting Development Section side. So we support current investigations and look at
10 proactive information, various sources, tips, and leads to try to enhance whether or not
11 we should further pursue those targeting leads.
12 Q And you stated as a part of the Strategic Engagement Unit?
13 A Strategic Engagement Unit is in a separate section. They are in the
14 Engagement Section.
15 Q And so what section are you in?
16 A I'm in the Targeting Development Section.
17 Q Okay. And is that a part of a larger division?
18 A They're all part of the Counterterrorism Division.
19 Q Okay. And how is the information you receive ordinarily provided?
20 A In my current role or in the role that I had for today's proceedings?
21 Q In your current role.
22 A Information either is received through upper management. It could be
23 intel. It could be existing investigations, leads from existing investigations to which, you
24 know -- within our mission of targeting, we'll provide that support to the investigation or
25 development of the lead.

1 BY [redacted]

2 Q If I could, when did you leave the Strategic Partner Engagement Section?

3 A In December on paper. In January.

4 Q December of 2023?

5 A Yeah.

6 Q And then you moved over to become an intelligence analyst in January 2024.

7 Is that correct?

8 A Yeah. I was an intelligence analyst when I was a finance sector liaison in a

9 supervisory capacity at the time of the Capitol riots.

10 Q And how long did you hold the position that you left in December 2023?

11 A I held it for 3 years.

12 Q Three years. And how many people did you supervise in that role?

13 A As part of the Strategic Engagement Unit?

14 Q Correct.

15 A Yeah, two, over that time period.

16 Q And what were their titles?

17 A Supervisory special agent.

18 Q And can you tell us how the Strategic Engagement Section is organized?

19 A The Strategic Engagement Section -- it's the Strategic Partner Engagement

20 Section. They are organized as a ops support branch. They fall under the National

21 Joint Terrorism Task Force. It falls under the Strategic Partner Engagement Section as

22 well as Strategic Engagement Unit. They have a couple of new units that they've

23 developed, the Guardian Enhancement Unit. I believe they have two; one that's

24 CT-focused, and one that has, I think, terrorist links that also connect to other operational

25 divisions.

1 Q And you focus on the financial sector. Is that correct?

2 A In my previous position in the Engagement Unit?

3 Q Correct.

4 A Yeah, so my job was to engage at the executive level with financial

5 institution.

6 Q And, when you say "executive level," what do you mean?

7 A It would be -- it would vary from in any supervisory capacity from senior vice

8 president to managing level director to BSA AML director.

9 Q And the two individuals that you supervised, did they work specifically with

10 the financial sector as well?

11 A They did.

12 Q And, within the Strategic Partner Engagement Section, were there

13 individuals who worked with other sectors?

14 A Yes, within our unit. So our unit, I was a finance sector liaison. I worked

15 with a number of financial institutions, banks and nonbank financial institutions. We

16 also within the unit covered the trucking and shipping sector, the tech sector, the

17 hospitality sector. We did also engaged with the retail sector.

18 BY [redacted]

19 Q And where is your duty station now?

20 A Headquarters.

21 Q And how often do you interact with the FBI Director?

22 A Very little. As my GS-15 position would -- is likely consistent with most

23 GS-15 positions. Very little.

24 Q How often do you interact with the FBI Deputy Director?

25 A I know the Deputy Director personally, but professionally, I interact with him

1 very little.

2 Q And do you interact with Main Justice often?

3 A Very little in my capacity of what we're talking about today within my

4 capacity as Strategic Engagement Unit. In prior capacity, I worked a little bit more with

5 Department of Justice reporting to White House National Security Council.

6 Q And, before we move on, can you walk us through the positions you've held

7 at the FBI?

8 A Sure. So, starting in 1999, 25 years, my first position was with the Special

9 Surveillance Group out of Washington Field Office. I worked counterterrorism and

10 foreign counter intelligence surveillance, all types of surveillance. I served on a special

11 recognizance team. We had -- WFO had number of high-profile investigations. I was

12 on the arrest team for the Russian spy Stanislav Gusev, who was listening in on State

13 Department meetings. I also served on the special recognizance team for evidence

14 recovery for the Robert Hanssen case as well as worked with a number of my colleagues

15 in WFO, because of my duties on the special recognizance team, recovering evidence at

16 the Pentagon after the 9/11.

17 Q And those were all in the surveillance roles that you mentioned?

18 A Yes. Correct.

19 BY [redacted]

20 Q Okay.

21 A Correct. You want me to keep going in my career, or you asked me about

22 my career?

23 Q Yeah, the positions you've held?

24 A Yeah, so, following that surveillance, I became an intel analyst for the

25 Terrorist Financing Operation Section in roughly 2003, where I served in about four

1 different units covering operations, targeting, all-source analysts. I was -- I served on a
2 number of capacities dealing with other government agencies and access to different
3 financial platforms. And then I served on the Syria-Iraq Task Force as a supervisory
4 intelligence analyst. I believe I became a supervisor in 2009. The Bureau, I applied for
5 and was granted a sabbatical opportunity to get my master's degree in 2010. I did that,
6 and a year later came back into my role as a supervisory intel analyst at the Syria-Iraq
7 Task force. From there, I applied for and was promoted to my GS-15 position as the
8 Bureau's first deputy intel officer for threat finance for the Bureau of Intelligence Council,
9 where I worked various matters representing FBI executives at the White House National
10 Security Council, Office of Director of National Intelligence, as well as working with
11 section chief DAD and AD level for the operational divisions on policy, intelligence, and
12 operations matters that were related to finance. From there is when I returned back to
13 the Counterterrorism Division as I the Finance Sector Liaison in the summer of 2020.
14 Q And what is your formal education, training, or prior work experience just
15 formal education really?
16 A Yeah, so I mentioned my master's degree in strategic intelligence. I have
17 an undergrad. As far as -- do you want to know about training about other job training
18 or just academic?
19 Q Any other certifications?
20 A Yeah, so I'm an AKM certified. So that's an anti-money laundering
21 specialist. There are -- it's a pretty wide-scoped certification. And then over more
22 than half of my career spending it on finance-related side, just a number of financial
23 intelligence operations and compliance training, and just basically more -- some formal
24 and a lot of on-the-job training and a number of those positions that I discussed.
25 BY [redacted]

1 Q And, during your time at the Strategic Partner Engagement Section from the
2 summer of 2020 to December 2023, can you describe for us the reporting structure that
3 you followed? Did it change at all? Was it the same?
4 A What was the dates, again, I'm sorry?
5 Q You said you went back to the Strategic Engagement Section the summer of
6 2020 and then you left --
7 A Back to the division, yeah. Right. I never been in the Strategic
8 Engagement Unit until I returned in 2020.
9 Q In 2020. Okay. So, between 2020 and 2023, did you have the same
10 reporting structure?
11 A Yes.
12 Q And can you describe that reporting structure?
13 A I did have the same reporting structure to the unit chief position.
14 Q To the unit chief?
15 A Which was also a GS-15.
16 Q And the unit chief, they were they -- were they overall the whole Strategic
17 Partner Engagement Section or just specific to a unit?
18 A The unit fell under the section.
19 Q Okay?
20 A So that would be a subset. Every unit is a subset of a section at
21 headquarters.
22 Q So you reported to the unit chief, and then there was someone above the
23 unit chief?
24 A Section chief.
25 Q Who was that -- the section chief. And then who did the section chief

1 report to?

2 A Up to the Deputy Assistant Director.

3 Q The Deputy Assistant Director of the Counterterrorism Division?

4 A Correct. Yes.

5 Q Okay. And who --

6 A One of three Deputy Assistant Directors.

7 Q And who was the Deputy Assistant Director at the time?

8 A I believe it was Kevin Vorndran.

9 Q Kevin Vorndran. And then --

10 A And you say at the time of when I was hired?

11 Q At the time, did it change at all between 2020 and 2023?

12 A Yeah, I mean headquarters management changed. It was all the time.

13 Q But would you say you mainly the Deputy Assistant Director at the time was

14 Kevin Vorndran?

15 A At this the of the Capitol riots, yeah, absolutely.

16 Q And the Assistant Director at the time was who?

17 A Was at the Tim Langan. Tim Langan.

18 If my memory serves, I believe it was Tim Langan. I served three ADs, so -- in the

19 Counterterrorism Division, and many others in other divisions.

20 BY [redacted]

21 Q In that role, what was the mission of that, if you remember that?

22 A To engage with the private sector on all things law enforcement-related.

23 The banks and nonbank financial institutions all had BSA obligations to report suspicious

24 activity as well as understand how to do better due diligence when it comes to various

25 threats, but certainly within our role in Counterterrorism Division concentrate focusing on

1 terrorism.

2 Q And, as the financial sector liaison, can you talk through some of your

3 general duties and responsibilities?

4 A Yeah, on a daily and weekly basis, to engage with executives at various

5 institutions. Most of the engagement went primarily by volume of the financial

6 institution and what they took on in terms of the volume of threats that they were trying

7 to cover down on. But it could go all the way down to, you know, a nonbank financial

8 institution as a fintech company that had proprietary data, and they also had BSA

9 reporting obligations. And they would be looking to participate in information exchange

10 on threats, on typologies, on indicators, on that type of thing. And that's what our team

11 would take in -- was responsible for taking in tips and leads. Oftentimes, because of SAR

12 reporting thresholds, oftentimes they came in the form of a SAR. Other times, that

13 engagement was reactive, meaning the Bureau, my unit, myself or someone on my team

14 had, you know, a legal process, such as a grand jury subpoena, that they wanted

15 expedited on a priority investigation.

16 Q And why does your division reach out to the private sector?

17 A Actually, out of all the operational divisions, they all have an element that

18 has an engagement responsibility with the private sector and partnerships in general.

19 It's one of Director Wray's pillars, his partnerships. In the Counterterrorism Division,

20 under the national security lens, we've actually done a very good job at formalizing that

21 engagement based off of the threat-based threats that we cover on the national security

22 side. So that engagement -- you know, our authorities to engage spreads across all the

23 operational divisions. But, in the Counterterrorism Division, it's definitely more

24 formalized. And we've codified that, I believe, in 2019 before I came to the section.

25 Q And are there other industries besides financial institutions that --

1 A Yeah, the different sectors that I mentioned previously.
2 Q Okay. And how do you manage your outreach and your relationships with
3 the private sector?
4 A It's really about, you know, engagement at the supervisory and executive
5 level. You're dealing with information and brainstorming that obviously your
6 counterpart has many other people under them that have BSA reporting thresholds.
7 They have due diligence reporting requirements. They have their own internal audits,
8 right, that they deal with. That engagement is daily on interacting of what the threat is
9 as well as brainstorming with the institutions. I also set up briefings for the institutions
10 to bring in subject-matter experts when I as a generalist wouldn't be able to brief them
11 on a specific type of terrorist threat. I wasn't an all-source analyst. So my job was to
12 bring in the right folks and facilitate that engagement.
13 Q And how do you decide who to reach out to or who to partner with?
14 A So, when I came into the division, you know, my previous experience as a
15 line analyst in the Terrorist Financing Operation Section, there were a number of legacy
16 partnerships. Most of those were very -- are anchored in those legacy partnerships with
17 the large financial institutions. So that engagement had been codified before I came
18 back into the unit. And I was actually recruited to come into that position because the
19 GS-15 that had that position that was appointed by Director Mueller specifically had
20 passed away of a heart attack. And I was recruited to come back from my position as an
21 intel officer to take on that role.
22 Q When you say that these relationships were codified or formalized, what do
23 you mean by that?
24 A Just internally as far as, you know, even though all of the operational
25 divisions don't -- aren't required to have a codified relationship, I think because of the

1 legacy partnerships that were anchored in that engagement since 9/11. There were
2 various programs and initiatives that supported operations and that also supported
3 compliance reporting obligations by the institution that the Bureau supported. And so
4 there was so much engagement that we felt like, at the division level, that we wanted to
5 formalize that.
6 Q And do you have to receive approval before reaching out to an entity in the
7 private sector or an individual in the private sector?
8 A No.
9 Q Are there any formal procedures or guidelines that you all followed in
10 dealing with the private sector?
11 A Like what?
12 Q Manuals, guidance, training?
13 A No, I mean, I think that, in terms of engagement and what my role was
14 engaging with executives, there was certainly compliance assumptions in terms of legal
15 process and lawful regulatory allowances, whether it was SARs or grand jury subpoenas,
16 on either side of the fence. There was a management level that had that understanding.
17 So, in terms of a manual, there was no manual -- we didn't need a manual because of the
18 experience on both sides of that engagement.
19 [redacted] But general policies --
20 Mr. Sullivan. Yeah, FBI policies applied broadly, right, with that engagement.
21 But, in terms of, you know, FBI and DOJ authorities, that's what permitted me to engage
22 on a regular basis.
23 BY [redacted]
24 Q And how is your relationship with financial institutions important?
25 A Partnerships in general. But certainly my role as the finance sector liaison,

1 finance and financial information plays a huge role in understanding whether or not we
2 need to assess a specific threat or finding out more information to support an
3 investigation. It's one of many different information areas of need, right, when you're
4 supporting operations or any investigation. But finance is a very deliberate piece of
5 information. Communications intelligence and other things that are gathered within the
6 investigation are all critical. Finance is just one piece of that critical evidence or
7 information.
8 Q And how would you describe your relationship with the private sector in
9 general, the FBI?
10 A I mean, in short term, great. The relationship was very professional.
11 There was never any misunderstandings about -- day-to-day or weekly things were
12 quickly taken care of, I think due to the experience on both sides of the coin, that
13 engagement either from me to an executive or to a supervisor that was supervising, you
14 know, supervising specific analysts within the bank that we're looking at, say, ISIS or
15 al-Qaida or another threat.
16 BY [redacted]
17 Q And, in your role as financial sector liaison, did you share information with
18 members of the private sector?
19 A Oh, absolutely, yeah. Anything at the unclassified level, we shared on a
20 regular basis. If -- we also shared information in briefings to include case successes,
21 cases that were adjudicated, fully adjudicated in unclassified briefings to investigators as
22 almost a training and also a morale booster for investigators that do a lot of hard work
23 pushing out SARs or setting up alerts and doing a lot of analysis. There is plenty of other
24 information that, you know, we share on a regular basis that is unclassified. However,
25 we also invite financial institution senior executives to an annual counterterrorism

1 conference where they're read in to a briefing to receive classified information so that
2 they can get a context of how to better tackle a threat. So that relationship is very, very
3 unique and critical to the various assistant directors I've fallen under. And, of course,
4 Director Wray holds the Counterterrorism Division as one of the positive partnership
5 engagement.
6 Q And so what sorts of materials are you sharing with the private sector?
7 A It could be information that's approved by the case agent and the program
8 manager at headquarters at the unclassified level. It could be PII. It could be grand
9 jury subpoena, soft copies in order to expedite subpoena on a priority investigation. It
10 could be information about a threat, right. Again, going back to giving briefings or just
11 brainstorming on information that I've seen either through our all-source analyst section
12 that's been downgraded to unclassified or discussions with our targeters that are seeing
13 trends in specific data that we might be able to share. So it's a lot of different
14 information. But mostly at the unclassified level.
15 Q Yeah, and are they liaison information reports? What is the name of the
16 documents, and what medium are they sharing?
17 A If it's downgraded to unclass and shareable, if it's an actual production,
18 that's something that our unit will receive from the analytic section or the Office of
19 Private Sector. Usually, it's only finished production that we would share in that case.
20 But I am addressing your LIR issue. But there are plenty of other unclassified, you know,
21 pieces of information that we would also share.
22 Q Is that ordinarily shared via email or another medium?
23 A Typically email. Typically email.
24 Q Directly to an executive at a financial institution?
25 A Or it could be briefed orally over, you know, like a Teams briefing or

1 something like that.

2 Q Do you have to get approval prior to sharing those materials?

3 A Only approval in a sense of typically our upper management would say,

4 this is -- if it's a finished production, finished intelligence production, we typically would

5 get it from either our unit chief or our section chief and say, "Feel free to share it with

6 your partners."

7 Q Okay. And does the private sector regularly share information with you?

8 A Yes.

9 Q Outside of the Bank Secrecy Act space, do they share other kinds of

10 materials?

11 A I don't really understand the question.

12 Q Do they share PowerPoints? Do they share documents?

13 A Yeah, I don't know that that would be outside their BSA requirements.

14 Q So they only would share things that are pursuant to the Bank Secrecy Act?

15 A Well, BSA data, in general, is, you know, it requires the financial institutions

16 to obligate to share suspicious activity and other information. So, within those kind of

17 broad -- that broad scope, I would say it's all generally within BSA.

18 Q Okay. And what medium is that information normally shared?

19 A BSA data, it would be due the FinCEN portal -- or once SAR is published, it

20 may be through an email -- a secure email portal.

21 Q And, once it's received, how is it stored within the Bureau?

22 A Once it's received, typically the unit, depending on what we review -- first of

23 all, we review the information that we receive from them every time as we're receiving it

24 from an executive level. You have to understand that there are like 5 million SARs that

25 are published a year. So, if I am receiving, say, give or take, a hundred SARs in a given

1 year, I'm receiving a handpicked SAR from an executive at a financial institution that
2 thinks that it might be worthy of taking a look at. There is no understanding by the
3 institution that that would require us to open an investigation. But the fact that the
4 executive is highlighting that is enough for me to say, "Yeah, I'm going to review what you
5 send me," and then further assess does this need to be looked at further.
6 Q So, within that universe of 5 million SARs, you said you get a hundred or so,
7 we'll say. So there are SARs that are filed in the FinCEN portal, and then there are SARs
8 that are sent directly to you from an executive?
9 A All of the SARs that are sent to me are already published in the FinCEN
10 portal.
11 Q So, in addition to sending them in the portal, it may be sent to you?
12 A Might be. A number of times within my role at the time, there would be
13 occasions where they would just give me the BSA ID, and then one of our analysts on our
14 time would retrieve that with from the FinCEN portal. Or we have a SIPRNet access to
15 SARs that the Bureau intakes that will take a look at it that way.
16 Q And why would they ordinarily send it in addition to filing it in the portal to
17 you or someone on your team?
18 A If they thought that it was worthy of taking -- for me or someone on my
19 team to take a review, they may send it once it's published by the institution into the
20 FinCEN portal.
21 Chairman Jordan. And who makes the determination whether it gets to you?
22 Is it the executive at the bank or is it someone in the FBI who is screening them all and
23 then -- or could it be both?
24 Mr. Sullivan. No, it's generally the executive at the bank or the supervisor.
25 Chairman Jordan. So they have to -- according to the Bank Secrecy Act, they

1 have to time some -- they file these SARs, and it goes into this portal. And then they
2 said, "These 5 million we filed, I think this is important enough" -- that they are going to
3 alert you to it.
4 Mr. Sullivan. Yeah, I mean, when I say 5 million, that's across all financial
5 institutions.
6 Chairman Jordan. I understand.
7 Mr. Sullivan. So that would be kind of the strategic picture of the volume of it.
8 But, within the line-item SARs that are sent to my attention, it's because they think that it
9 either could have a potential terrorist nexus or, a number of the executives that I've dealt
10 with, because we had a very robust program and engaging with the private sector.
11 Oftentimes, they may -- the information that they would share may be involved in
12 nonterrorist issues, and they knew that we had good cross-divisional communication with
13 our other operational divisions, whether it be the Criminal Investigative Division, Cyber
14 Division, or WMDD, or, in rare cases, counterintelligence. So, if we felt after reviewing
15 the information that would be relevant to one of the other operational divisions, that
16 trust with the executives and the executives that I was engaging with at the time knew
17 that I would find the right home for it to put it in front of whatever investigator or
18 supervisor should take a look and determine at that point if it warranted further
19 investigative review.
20 Chairman Jordan. Okay.
21 BY [redacted]
22 Q And so, once you receive one and you start that review process, what does
23 that review look like?
24 A Just reviewing -- I mean, primarily reviewing the SAR narrative, which is at
25 the conclusion of the end of the SAR; making sure that I understand the suspicious

1 activity; the information that's being communicated, if I have any questions in my mind
2 about that, I may request the supporting documentation. If, in fact, it came with the
3 SAR, or it was listed in the narrative that there's supporting documentation for it, I would
4 request that. If I still had questions, then I may ask the question again. That was kind
5 of a critical first review piece before I determined whether or not we were going to take a
6 further look at it and either assign it to the SSA that was working for me at the time or an
7 analyst on our team.
8 Q What is supporting documentation?
9 A Supporting documentation may or may not be included referenced in a SAR.
10 Typically it's referenced within the narrative that supporting documentation exists. It
11 could be, you know, every -- you know, the scope of supporting documentation could be
12 very informal research or screen shots of data that they were looking at that helped them
13 formulate the SAR narrative and actually published the SAR. So it could be a Word doc.
14 It could be an Excel spreadsheet. It could be just various, you know, very open-sourced
15 intelligence type of things that the bank would have access to. Oftentimes, you know,
16 screen shots of, you know, commercial software that they used in order to do better due
17 diligence on the thing that they were investigating.
18 Q Does it often include customer names or just the customer transactions?
19 A Sometimes. Not all the time.
20 Q Okay. Do you interact often with the Office of Private Sector?
21 A Often, I interact with them. What would you consider often?
22 Q Well, why don't you tell me? How often do you interact with them?
23 A In my role at the time?
24 Q Yeah.
25 A Probably once a quarter, roughly. So four times a year -- I'm

1 generalizing -- maybe more. Maybe eight. It might be four.

2 Q As the financial sector liaison, how are the responsibilities that you had

3 similar or different to the role of the Office of Private Sector?

4 A Yeah, so the Office of Private Sector, they have more of an overarching

5 engagement role to the private sector. There -- think of them -- I generalize here, but

6 Office of Private Sector would be more of the C-suite engagement at kind of the

7 wide-scoped C-suite engagement kind of level. We do a lot of information sharing that

8 reaches unclass levels. You mentioned LIR, and you mentioned LIR. There are a

9 number of things that they would share from OPS whereas, at the Counterterrorism

10 Division level and other operational divisions, that engagement is to support operations.

11 So that engagement is direct to support operations and to share information on the

12 threat.

13 Q So you would say your work is more granular?

14 A Yeah, I mean, in a general sense, you could say that, but the Office of Private

15 Sector's work is no less important than ours. It just serves a different function.

16 Q Okay.

17 BY [redacted]

18 Q And when did your engagement with the FBI's investigation into the events

19 that occurred at the Capitol on January 6th, 2021, begin?

20 A I couldn't tell you the exact time, but it was immediately after the Capitol

21 riots.

22 Q And how did that engagement start?

23 A It just -- after the Capitol riots happened, there were -- obviously, there was

24 a large number of individuals that took part in violent, criminal behavior, and that, within

25 the first 24 hours -- and I'm generalizing here -- I believe that the Counterterrorism

1 Division had taken the lead knowing that there was some suspicion of domestic violent
2 extremist activity -- obviously not limited to that because there was other criminal
3 behavior. In that whole Capitol riots investigation, there were a lot of people there that
4 day. So the Counterterrorism Division started to get leads in on, you know, perpetrators
5 of the criminal behavior of the violent criminal behavior.
6 Q And which division did you have an understanding was leading the FBI's
7 investigation into the January 6th matter?
8 A I mean, there was a general sense -- at my level, there was a general sense
9 that the Counterterrorism Division would play at least a lead role at the time of the outset
10 of it. But, again, you know, oftentimes, you can see that there are, you know, violent
11 attacks that weren't maybe as large as the Capitol riots that turn into, say, like a Criminal
12 Division investigation. And it would remain with a Criminal Division, you know, squad in
13 the field depending on where the threat emanated from. So, in this particular case, we
14 knew Counterterrorism Division was at least one of, if not the lead, in the Capitol riots
15 investigation.
16 Q During your engagement on the January 6th investigation, did you interact
17 with the Washington Field Office at all?
18 A I did, not at the onset. I believe probably within the first 2 weeks. I don't
19 think we -- I don't think I interacted with the Washington Field Office in the first 2 or
20 3 days. But, again, it's possible I did, but you have to remember that, hours after and
21 then a day after and 2 days after, Counterterrorism Division is being flooded with leads,
22 tips and leads, calls with financial institutions. They want to know what's going on. So
23 there was a lot of triaging, as you might imagine, that happens on large events like that.
24 So it's possible I could have spoken to them within the first few days, but I believe that I
25 spoke to them probably like more like 2 weeks after.

1 Q And what was your specific role in the investigation? Were you tasked with
2 doing anything?
3 A No, just to receive information, triage information, review information that
4 internally that we were receiving on investigations, determining what deserved priority,
5 what we should be sharing with the institutions versus, you know, some of the internal
6 communication that our unit would be doing with the other operational units.
7 Q And when did you start sharing information with financial institutions?
8 A Well, I believe the -- I believe the first -- I believe this is the case that the
9 Financial Crimes Enforcement Network the Friday after the Capitol riots asked
10 Counterterrorism Division to jump on a call with them on Friday afternoon. It was an ad
11 hoc meeting. And I was told by my upper management to represent Counterterrorism
12 Division on the call.
13 Q And your upper management being which title or which role was that
14 individual?
15 A Unit chief and section chief.
16 Q And you were to represent the whole Counterterrorism Division on that call.
17 Is that correct?
18 A Yeah. That was my understanding, yes.
19 Q Okay.
20 [redacted] Following the events at the Capitol on January 6th, are you aware
21 of communications between FBI and Bank of America?
22 Mr. Sullivan. Yes.
23 [redacted] I would now like to enter in two emails from Peter Sullivan to
24 Bank of America, both dated January 15th, 2021, with the subject line, "Upcoming SAR
25 product idea/brainstorming and check-in with you both" into the record as exhibit 1.

1 [Sullivan Exhibit No. 1.

2 Was marked for identification.]

3 [redacted] Can you confirm that you sent these emails?

4 Mr. Sullivan. Yes.

5 [redacted] I will just note for the record that these documents were produced

6 to the committee from Bank of America. And you will see at the bottom the Bates

7 stamp indicate that it came from Bank of America. I just wanted to make sure you knew

8 where there was coming from, but please take a moment to review.

9 Mr. Sullivan. Yeah. I'm familiar.

10 BY [redacted]

11 Q Is this the first email correspondence you had with Bank of America directly

12 following January 6th?

13 A I don't know if it was the first, but it's certainly -- on the 15th. I don't know

14 if it was the first. I would be surprised if it was the first, but I also wouldn't be surprised

15 if it was the first. Because I spoke with a lot of financial institutions this week, the week

16 following, and the weeks following that. But this is my email to them for sure. Both.

17 Q The second email states that you and Bank of America had a phone call

18 before you sent the email. Do you remember that phone call?

19 A Yes.

20 Q And?

21 A I had two phone calls actually. So there was a phone call that occurred

22 before, before the email on the 15th and then a phone call that occurred before the email

23 on the 15th that went out at 12:40, the second one that you showed me.

24 Q And what did you discuss on those calls?

25 A The Bank of America representative who I knew who I knew was on the

1 FinCEN call that was invited by FinCEN to participate in a Friday call were not the two
2 people that that individual wanted me to speak with. It was my understanding, through
3 the phone call, before this email that that individual from Bank of America who has also
4 held a supervisory role wanted me to get with the two individuals on the email that I sent
5 at 9:56 on the 15th.
6 Q And so, on the second phone call, what was discussed?
7 A A lot of what you see in the email was discussed. A lot of what you see in
8 the email, I can't say exclusively, is what I discussed on the FinCEN call, the Friday before.
9 But a lot of the fact-based pattern indicators where FinCEN asked us to discuss different
10 fact-based patterns that would help institutions look at their data, review their data for
11 anything worth things that would help the institutions understand if they had any threats
12 that may help cover down on the threat to Inauguration Day.
13 Q So you reached out to these two individuals from Bank of America as a result
14 of a Bank of America individual on the FinCEN call reaching out to you?
15 A Say that again, I'm sorry?
16 Q Well, I'm trying to follow, when you reached out to Bank of America on the
17 first email, why did you reach out to them?
18 A Because of the phone call that I had with one of the two individuals on the
19 attention line, the one I sent on 9:56 a.m., she was privy to getting a heads up from the
20 individual that was on the FinCEN call the Friday before that FinCEN asked me to jump on.
21 And that discussion was, "Yeah, let's touch base." So this was me following up that
22 phone call and touching base.
23 Q And that --
24 A And, adding other executive onto the email, which was also discussed on the
25 phone call.

1 Q And she was privy to what?

2 A The fact that one of her colleagues at --

3 Q Bank of America?

4 A Yes. One of her colleagues at Bank of America had sat in on the financial

5 crimes enforcement call to discuss the threat to Inauguration Day.

6 BY [redacted]

7 Q When you say do you have time this morning to discuss SARs and a couple of

8 ideas, what did you mean by a couple ideas?

9 A That would just be me informally just saying, you know, brainstorming,

10 which I often did with all financial institutions.

11 Q You said brainstorming. Is that correct?

12 A Yes.

13 Q And, when you were brainstorming, was that information you could share

14 with Bank of America, or was that information that Bank of America can share with the

15 FBI?

16 A Yeah, and any time that we would be brainstorming over the phone or on a

17 Teams call or any other medium, it would be unclassified information that I could share

18 with them.

19 Q Okay. So, when you said you have couple of ideas, that was information

20 going to Bank of America, in your mind?

21 A Yeah, just to talk about the threat.

22 Chairman Jordan. Do you know what the subject line means? You say,

23 "Upcoming SAR product idea/brainstorming and check-in with you both." Were you

24 suggesting to them information that you wanted from them?

25 Mr. Sullivan. No, I mean, if anything, oftentimes, you know, unlike the other

1 set -- there were a lot of other sectors that don't have SAR provisions as part of their
2 regulatory regime. So, oftentimes, I may say SAR product idea because I know that's
3 primarily what medium they would have if they found something that met a SAR
4 threshold, it would be a SAR. It wouldn't be something else. In other words, for this
5 particular email, the discussion wasn't going to discuss -- which I sent various other emails
6 that actually discussed this, would be expediting subpoenas or something that was on the
7 proactive side from the Bureau trying to get information that was also through a lawful
8 purpose. In this particular case, because I work with all banks and all nonbank financial
9 institutions that have SAR reporting obligations, this is just me generalizing in terms of
10 what may come if, in fact, they met SAR thresholds for those brainstorming. If they
11 didn't, then I wouldn't get a SAR.
12 Chairman Jordan. Maybe I don't fully appreciate -- understand how SAR works
13 then. The banks are required to give certain information, SARs, is the, you know, how
14 it's done is my understanding. So you said earlier there are millions sent to whatever
15 number you use, some number, sent to the government.
16 Mr. Sullivan. FinCEN.
17 Chairman Jordan. FinCEN. But I guess when I read this subject line, it's almost
18 like you're saying, "Hey, this is information, or this is the kind of SAR." -- I am just not
19 fully understanding this subject line. Because it looks like you are the one trying to
20 initiate what should go in this and when this report should come.
21 Mr. Sullivan. No.
22 Chairman Jordan. Okay.
23 Mr. Sullivan. No. I mean, if a SAR came from it, again, I would go back to -- you
24 know, my engagement was not just with Bank of America. My engagement was with all
25 finance sector. And so that covered banks, fintech, it covered neo banks,

1 cryptocurrency, I mean, you name it.

2 Chairman Jordan. So what does that mean, "Upcoming SAR product idea"?

3 What was the idea that you shared with.

4 Mr. Sullivan. No, I think, in general, institutions on the call, FinCEN relayed, you

5 know, the Bureau could potentially assist in helping the financial institutions understand

6 how to look at that threat. Obviously, with the Capitol riots, when you look at it from an

7 event and from a crime scene, obviously, there are a lot of lawful citizens there to

8 participate, and there are a lot of people that participated in criminal violent activity.

9 So, from a kind of a larger investigation standpoint, knowing on the FinCEN call what was

10 specifically discussed was FinCEN wanted the institutions to hear how might they go

11 about understanding what the potential threat to Inauguration Day was.

12 BY [redacted]

13 Q And, if you flip to next page of exhibit 1, there is that followup email that

14 we've discussed that looks like you sent this first email, you had a call, and then you sent

15 this followup email that identified threshold. Were these thresholds discussed on the

16 call?

17 A On the call, and many of these were discussed on the FinCEN call.

18 Q And who came up with these thresholds?

19 A I mean, I certainly came up with some of the thresholds in terms of

20 fact-based patterns that would help them narrow their focus. Meaning, in and of

21 themselves, none of these indicators were discussed either on the FinCEN call or my

22 followup calls with Bank of America or any other institution, that, in and of themselves,

23 they could put, you know, they could narrow their focus by just one of those indicators.

24 It was specifically discussed that these fact-based patterns would be looked at collectively

25 in order for the institutions to actually find out whether or not they can narrow their

1 focus enough.

2 Q And so did all of the thresholds that were mentioned here in the bullet

3 points, did those all have to be met, or was it just one?

4 A That was the assumption. How the bank, however, whether or not they

5 felt they met threshold for SARs, that would be exclusively up to them.

6 Q So do you know how Bank of America interpreted these thresholds? Was it

7 all of these thresholds had to be met or just one?

8 A That was my understanding.

9 Q It was your understanding that Bank of America thought all of these

10 thresholds had to be met in order for someone to be included in the SAR?

11 A In order for them to narrow their focus or to understand whether or not that

12 focus with all factors present, along with any other activities they saw, right, because we

13 don't have access to their duty, if collectively those met SAR thresholds, then I knew that

14 potentially I would get that in the form of a SAR because financial institutions have BSA

15 SAR reporting thresholds that they can use.

16 Q So it's your understanding that Bank of America, in looking through their

17 customer data, would have to with look to see whether purchases were made in the

18 Washington, D.C., area between the 5th and the 6th and then, subsequent to that,

19 reservations were made at a hotel or Airbnb for the day before or during the

20 inauguration, just to name the first few.

21 [redacted] I'm sorry; are you asking his understanding or Bank of America's

22 understanding of it?

23 BY [redacted]

24 Q His understanding, and then we can take it both.

25 A Yes.

1 Q So that was your understanding. And do you know if Bank of America
2 understood it that way?
3 A I assume they did because I discussed -- I had frequent interaction with both
4 individuals that I was on the call with.
5 Q And then, looking at the SAR that Bank of America filed with FinCEN and
6 others -- there's other emails I am sure we'll get into in a later hour where they send the
7 filing to you, did you look at that filing?
8 A Once it was published to FinCEN, I believe I did receive it in the secure email
9 portal, yes.
10 Q And did Bank of America's production of the SAR and information that was in
11 the SAR, did it correlate with these thresholds?
12 A It did.
13 Q And it correlated with the understanding that all of the thresholds needed to
14 be met?
15 A That's the way that I read the SAR narrative.
16 Q Okay.
17 Chairman Jordan. Do you recall how many individuals then were identified in
18 that SAR?
19 Mr. Sullivan. My recollection is that there were 211 individuals that met the
20 three thresholds that you can see within the email.
21 Chairman Jordan. So, backing up, when you said, the subject line both in this
22 email and the prior email, "Upcoming SAR production idea," then the production idea was
23 you produce a SAR if these three elements are met. Is that fair?
24 Mr. Sullivan. When you say "production idea," I mean, again, this is me -- that
25 subject line is a generalization of what I brainstorm and share information and concepts

1 with financial institutions all the time.

2 Chairman Jordan. So it's a subject line you use all the time?

3 Mr. Sullivan. I mean, it would be similar to a subject line that I might use for --

4 Chairman Jordan. Fair enough, but I guess I'm asking --

5 Mr. Sullivan. -- it, but the Capitol riots is a very unique situation, so, but I can't --

6 Chairman Jordan. Fair enough. But I'm asking -- you said, you recommended

7 like produce a SAR that has these -- if anyone -- the individual with these three elements

8 would be in a suspicious activity report that you would send to the government?

1 [11:00 a.m.]

2 Mr. Sullivan. I didn't say it produced a SAR, if that's what you're inferring. I
3 didn't tell the bank to produce a SAR. And they know that I would never tell them to
4 produce a SAR either.

5 Chairman Jordan. Okay, fine. I just want to make sure I understand.
6 Upcoming SAR product --

7 Mr. Sullivan. Uh-huh.

8 Chairman Jordan. -- and then you outlined three criteria that should be met, and
9 if so, you received a SAR that identified 211 people. That's what happened, right?

10 Mr. Sullivan. I received a SAR that had 211 individuals that met the three
11 fact-based patterns that --

12 Chairman Jordan. That you outlined to the bank?

13 Mr. Sullivan. That I discussed with the bank.

14 Chairman Jordan. Okay.

15 [redacted] And with the 211 --

16 Mr. Sullivan. This wasn't a one-way conversation. Sorry. I want to make that
17 clear. It was never a one-way conversation in any capacity when I discussed these types
18 of brainstorming ideas after a threat occurred with not just Bank of America, but any
19 institution.

20 Chairman Jordan. Understand. But you sent this email to Bank of America with
21 the subject line we've now discussed at length, with these three criteria having to be met,
22 and then subsequent to that, you received a SAR with 211 Americans' names on it that
23 met those three criteria?

24 Mr. Sullivan. That met those three criteria, correct.

25 Chairman Jordan. Okay.

1 BY [redacted]

2 Q And once the FBI received the SAR after it was posted on the FinCEN portal
3 and it identified the 211 individuals that met the thresholds, what did the FBI do with that
4 information?

5 A So I reviewed the SAR first. I reviewed the narrative. I verified that the
6 fact-based patterns were present, and I did -- either I requested or I was able to get the
7 supporting documentation once the SAR was published, so that I could see how they
8 pieced out. I don't know if you guys have read the -- if you've read the SAR. My
9 understanding is that you have.

10 Q Uh-huh.

11 A To understand, within -- they had tabs within the supporting documentation.
12 So I wanted to make sure that I understood the SAR narrative and the supporting
13 documentation, because once I review the SAR narrative in its entirety, I knew at a
14 minimum -- again, at a minimum -- there was a question that I needed to ask regarding
15 one of the fact-based patterns that I wanted headquarters to be able to -- my office to
16 then further review and determine if there was an assessment that we needed to push
17 out to respective field offices.

18 Q And what was that question that you needed answered?

19 A I called Bank of America and I wanted to understand, within the fact-based
20 patterns that they had down as weapons purchases since July, I wanted to know, of the
21 fact-based patterns that were met, which of those weapons purchases were -- and, again,
22 I can't stress this enough, weapons-related transactions -- which of those transactions,
23 from a data standpoint, was made after the Capitol riots, after Jan. 6th and before what
24 would be inauguration day and beyond.

25 So once I received the clarification on the supporting documentation within those

1 211 customers, I was -- I received the information that four individuals of the 211 met
2 that threshold that made weapons-related transactions after the 6th.
3 And so I remember going to my supervisor and saying, we should push out these
4 four, do baseline queries of these four, which are basic criminal background queries, and
5 push out via assessment -- it's called a Guardian. A Guardian is a no-stone-unturned
6 assessment. It's not an investigation. But we pushed those four guardians out to
7 three field offices, respectively.
8 Q And do you remember what field offices those were?
9 A Memphis, San Francisco, and Tampa.
10 Q And with the other, you know, 211 individuals as a whole, what action did
11 the FBI take on that information beyond just requesting information on firearm purchases
12 after the 6th?
13 A I can only speak generally --
14 Q Okay.
15 A -- to your question. I know that the information -- the four Guardians that
16 we did to three field offices, once the Guardians went out, we uploaded the four
17 Guardian references to what's called electronic communication, and that electronic
18 communication also included the case file for our internal unit, as well as the WFO case
19 file on the Capitol riots because Washington Field Office had the lead on the Capitol riots
20 investigation. And it's practice that if your Guardians that you're pushing out, either at
21 the headquarters level or at the field office level, that you would include a case file that's
22 related or linked to an open investigation. In this case, WFO had the case file, so we
23 uploaded the four Guardians in reference to the SAR for Washington Field Office.
24 From there, I know Washington Field Office had a number of leads that were sent.
25 I can't speak to the decisionmaking in those leads, and so you would have to ask

1 Washington Field Office about those.

2 There were a number of -- so ours, to be clear, ours was the four Guardians, and

3 there were a number of leads and a handful of Guardians that also went out that my unit

4 did not handle.

5 [redacted] Did you know that at the time?

6 Mr. Sullivan. No, I did not.

7 [redacted] We're at our hour, so we'll go off the record.

8 [Recess.]

9 [redacted] Okay. We can go back on the record.

10 EXAMINATION

11 BY [redacted]

12 Q Mr. Sullivan, thanks again for appearing here today. I'm going to step back

13 and ask some pretty general background questions.

14 You have been with the FBI for 25 years now?

15 A Yes.

16 Q And have you received any awards or recognition during your service?

17 A Yeah, many awards, time-off awards, of course, for priority foreign

18 counterintelligence investigations, including Robert Hanssen, the Stanislav Gusev case,

19 the Russian spy case, Anwar Awlaki. And I was nominated for the Director's Award. I

20 didn't receive it, but I was nominated in 2008 for a Southeast Asia case linked to a San

21 Jose material support sibling that was sending money over to his then famous

22 bomb-making brother over in the Philippines.

23 Q And when you say "material support," you mean material support for

24 terrorism?

25 A Correct.

1 Q That's the shorthand?

2 A Correct. And just, you know, other -- I did receive a Mission Integration

3 Award from the Office of Director of National Intelligence prior to returning back to

4 Counterterrorism Division and my role for the Strategic Engagement Unit.

5 Q And what was that award for?

6 A That was for mission integration. I took the lead, with other three-letter

7 agencies, to help enhance the policy and the intelligence footprint on a specific type of

8 national security threat.

9 Q I believe you stated in the earlier hour that you've worked about half of your

10 25-year career in the field of financial intelligence, correct?

11 A Yes.

12 Q Can you describe what that means exactly, what intelligence means,

13 generally and specifically, what financial intelligence means?

14 A Sure. I mean, intelligence drives operations. You know, the FBI receives

15 over half of its tips and leads from private sector and foreign partners. And intelligence

16 comes in various forms. It's not just one type. There are several intelligence

17 disciplines where we receive intelligence. There's also tactical and operational

18 intelligence that a tactical analyst or an investigator, FBI agent, would get through, you

19 know, various means, whether commercial databases.

20 In the intelligence realm that I worked in, you know, of course there's the

21 classified intelligence you're getting from other collection platforms within the intel

22 community and the law enforcement community, law enforcement sensitive level. And

23 integrating that intelligence is what continues to drive and support operations, certainly

24 within the threats.

25 Primarily, my career has been in the Counterterrorism Division, so it's been for

1 supporting terrorist threats and terrorist operations and covering down on those, but not
2 limited to that.
3 Q Can you explain how specifically financial intelligence helps in
4 counterterrorism efforts? How does it help keep Americans safe?
5 A Yeah. I mean, it's one of many different aspects of how a terrorist might
6 acquire, move, store money in order to carry out an attack. And in another tactical very
7 basic sense, financial intelligence can illuminate a lot of deliberate information where that
8 person pattern -- it could tell pattern of life. It could understand, you know,
9 transactions that could indicate potential violent activity. It could highlight how a
10 terrorist might, you know, move their money in order to, you know, to support their daily
11 expense.
12 If you're looking at a network, finances can tell a lot about who's connected to
13 that network. But it's one of many. It's just -- but I believe it remains a critical piece of
14 looking at terrorism.
15 Q And is it fair to say that one of the critical pieces of that is that financial
16 intelligence can help you identify who might be a terrorist, whether it's an international
17 or domestic terrorist --
18 A Yes.
19 Q -- based on the nature of their purchases --
20 A Absolutely.
21 Q -- or their activities?
22 So I want to step back a minute and just talk about the FBI's mission generally.
23 The primary mission of the FBI is to protect the American people and uphold the
24 Constitution of the United States. Is that correct?
25 A Correct.

1 Q And protecting the United States from terrorist attacks is the top priority of
2 the FBI?
3 A Yes.
4 Q And does that include attacks by domestic terrorists?
5 A Yes.
6 Q And so the counterterrorism work of the FBI is really fundamental to what
7 the FBI is here to do in the United States, to protect Americans and keep us safe?
8 A Absolutely.
9 Q Are you familiar with the term "domestic violent extremism"?
10 A Yes.
11 Q Okay. And that's often abbreviated as DVE?
12 A Uh-huh. Yes.
13 Q And I believe you mentioned that earlier. So any time I use that phrase,
14 that's what I'm referring to.
15 A Okay.
16 Q Are you familiar with how the FBI defines domestic violent extremism?
17 How do you define it?
18 A Yeah. Generally, it's a terrorist that, basically, that has to satisfy three
19 different caveats. It would be that there is the -- some sort of ideology -- terrorist
20 ideology involved, that there's a violent aspect that's involved or an intent to use
21 violence, and that there's some sort of criminal activity present, obviously terrorist or
22 otherwise.
23 Q And so when you say there's an ideological component, the ideology itself is
24 not what would have somebody labeled as a domestic violent extremist --
25 A Correct.

1 Q -- correct?

2 A Yeah. All three would be required in order for even an investigation to be

3 opened up.

4 Q So it's essentially someone -- it would be fair to say that it refers to

5 somebody who wants to use -- threatens violence or actually uses violence to further

6 their ideological goals?

7 A Yeah. Violence is the -- really the linchpin of that, of the three.

8 Q And so the mere advocacy of a particular political or social position using

9 strong rhetoric, even just sort of a philosophic embrace of violent tactics is not enough,

10 correct?

11 A Correct.

12 Q There has to be more, there has to be the actual official threat of violence or

13 actual violence?

14 A Uh-huh.

15 Q May I have a moment?

16 And in the domestic context we're talking about folks who are operating primarily

17 in the United States, if you're talking about a domestic violence extremist, correct?

18 A In most cases, yes.

19 Q Can you describe the current landscape in the United States with respect to

20 DVEs and what you're seeing, the nature of the threats they pose? Is it on the rise?

21 What are you seeing?

22 A Sure. Yeah, I can speak generally to it just because I'm not an all-source

23 analyst in the domestic terrorist -- you know, I'm not a domestic terrorist --

24 Q Fair enough.

25 A -- analyst. But in terms of my previous engagement looking at data related

1 to domestic violent extremists, I know that within the Counterterrorism Division, I know
2 during the social unrest leading up to the Capitol riots and since then, you're talking
3 about more than doubling of the cases within Counterterrorism Division that have been
4 opened at the time.
5 Q And I imagine you've seen a real spectrum of activity. For example, lone
6 actors committing acts of domestic extremism, correct?
7 A Yes.
8 Q And then also folks who mobilize in groups, correct?
9 A Yes. However, I would caveat that to say that State Department designates
10 foreign terrorist organizations so that opening investigations on international terrorism is
11 much easier.
12 The challenge is -- on the domestic terrorist side is, because there is no such thing
13 as a domestic terrorist group -- and you have to have those three factors that I mentioned
14 present -- the challenges to identifying networks are much greater than if you were
15 investigating it on the IT side.
16 Q So separate and apart from formal networks -- and by the way, "IT" you
17 mean international terrorism?
18 A International terrorism. Sorry about that.
19 Q That's okay.
20 Separate from the concept of a formal domestic terrorist organization, the FBI has
21 seen groups of people mobilize online through social media, for example, to act together
22 or at least talk about acting together to commit acts of violence to promote certain
23 ideologies.
24 A Yes.
25 Q Is that fair to say?

1 A Yes.

2 Q And would you agree that domestic violence extremists have a large

3 presence on the internet?

4 A Yes.

5 Q And that social media platforms and messaging platforms facilitate the

6 ability of these folks to radicalize and recruit individuals who might be receptive to their

7 message?

8 A Yes. Generally, yes.

9 Q And do you -- this might seem like a silly question, but it's something that I

10 have to ask because it seems there's some dispute about this. Do you believe that the

11 FBI should be devoting resources to identifying domestic terrorists and preventing

12 Americans from dying at their hands?

13 A Oh, I think that the FBI is dedicating resources to that.

14 Q And you believe that's an appropriate deployment of the FBI's resources?

15 A Well, you have to understand the Bureau. FBI's budget covers a myriad of

16 threats, all of which are priorities. National security threats aren't just within the

17 Counterterrorism Division, but they are in cyber, counterintelligence, and there are some

18 threats in the Criminal Investigative Division that are also national security threats.

19 So when you're talking about national security, I think that, in general, we don't

20 have enough resources to cover down on all threats, but I think that the response that

21 Counterterrorism Division has had on the domestic terrorist threat has been generally

22 appropriate.

23 Q You believe it's been proportional to the nature of the threat to the extent

24 possible with the resources you have?

25 A It has grown enough in the emphasis at the headquarters level that I've seen

1 has been dedicated to that growth.

2 Q Okay. Thank you.

3 Are you familiar with the Domestic Investigations and Operations Guide?

4 A Yes. Generally, yeah.

5 Q It's also referred to as the DIOG?

6 A Yes.

7 Q And the DIOG applies to all FBI employees and all other individuals operating

8 under the FBI's authority --

9 A Correct.

10 Q -- correct?

11 And it applies to all domestic intelligence activities conducted by the FBI?

12 A Correct.

13 Q And all of your work is covered by the DIOG?

14 A Yes.

15 Q And the DIOG is meant to ensure that the criminal and national security and

16 foreign intelligence investigative activities are consistent throughout the FBI?

17 A Correct.

18 Q Okay. I'd like to introduce an excerpt from section 3.1 of the public version

19 of the DIOG.

20 [redacted] And just to note for the record, the version we're introducing I think

21 is a year or two old. It's the non- -- I know part of the DIOG is currently

22 law-enforcement sensitive. We don't have access to that. This is the version that's

23 made to be publicly available that we're introducing.

24 [redacted] Okay.

25 [Sullivan Exhibit No. 2.

1 was marked for identification.]

2 [redacted] And you can see it says "unclassified" on the bottom.

3 BY [redacted]

4 Q Okay. So section 3.1 starts by listing the core values of the FBI. And I'm

5 just going to read them into the record, and you can tell me if I read this correctly.

6 The first is rigorous obedience to the Constitution of the United States. The

7 second is respect for the dignity of all those we protect. The third is compassion. The

8 fourth is fairness. The fifth is uncompromising personal integrity and institutional

9 integrity. The sixth is accountability by accepting responsibility for our actions and

10 decisions and their consequences. The sixth (sic) is leadership, by example, both

11 personal and professional. And the seventh (sic) is diversity.

12 Did I read that correctly?

13 A Yes.

14 Q And are you familiar with these core values?

15 A Yes.

16 Q And through your 25 years at the FBI, have you worked to ensure that all of

17 your actions have adhered to those core values?

18 A Yes.

19 Q And have you witnessed a similar commitment from your colleagues at the

20 FBI?

21 A Yes.

22 Q And from FBI management as well?

23 A Yes.

24 [redacted] Mr. Sullivan, can I just ask you to speak up so the people at the end

25 of --

1 Mr. Sullivan. Yeah.

2 [redacted] -- the table can hear you.

3 Mr. Sullivan. Sure.

4 [redacted] Okay.

5 BY [redacted]

6 Q Now, the second sentence of the first paragraph underneath the core values

7 says, "Our individual and institutional rigorous obedience to constitutional principles and

8 guarantees is more important than the outcome of any single interview, search for

9 evidence, or investigation."

10 Do you agree with that sentence?

11 A Yes.

12 Q Okay. And is it fair to say that that means your goal in any one case or

13 situation cannot override your obedience to the Constitution and the other laws that

14 guide the FBI?

15 A Yes.

16 Q And that applies even if you're involving terrorism or domestic violence

17 extremism?

18 A Yes.

19 Q Now, you mentioned in the earlier hour, I believe you stated the mission of

20 the Strategic Engagement Unit, but I'd ask you to repeat it because I'm not quite sure I

21 caught it.

22 A Yeah. The mission of the engagement unit was to basically cultivate and

23 share information on core terrorist threats with the ability to help the private sector

24 understand the threats and help push out information that may be relevant to law

25 enforcement and support operations.

1 Q And operations with respect to terrorism -- counterterrorism?

2 A Correct.

3 Q Okay. So SEU is specifically about counterterrorism?

4 A It is. And we handled some leads that we would facilitate or push

5 information within other divisions.

6 Q And I believe you said that sometimes the people you knew at the banks

7 would send you leads on other issues because they knew that you would send them --

8 A Get it to the right person.

9 Q -- to the right people?

10 A Correct.

11 Q Are you familiar with the term "National Security Special Event"?

12 A Yes. Generally, yes.

13 Q Okay. What is your understanding of what a National Security

14 Special Event is?

15 A Yeah, a large event that is either -- oftentimes sees potential criminal activity

16 around it, so Super Bowl, other types of events. It could be something like the Capitol

17 riots or 9/11, that type of thing.

18 Q And would the Presidential inauguration fall under the category --

19 A Yes.

20 Q -- of a National Security Special Event?

21 A Yes.

22 Q I'd like to introduce a letter, January 31st of this year, and this is a letter

23 from Assistant Director Patrick Findlay to Chairman Jordan. And I'm not sure if you've

24 seen this, but you can take a few minutes to read it.

25 [redacted] Oh, of the FBI, correct?

1 [Sullivan Exhibit No. 3.

2 was marked for identification.]

3 [redacted] And Mr. Findlay is the assistant director -- FBI's assistant director for

4 congressional affairs.

5 [redacted] Oh, sorry. Thank you.

6 Mr. Sullivan. Yes, I've seen this.

7 BY [redacted]

8 Q Okay. So if you look at the second paragraph about midway through, it

9 says, "For NSSEs" -- which is the abbreviation for National Security Special Event -- "such

10 as an inauguration, the Super Bowl, or the Olympics, the FBI has designated responsibility

11 for domestic intelligence, counterterrorism, and the investigation of Federal crimes

12 leading into an event."

13 That's correct, I take it?

14 A Yes.

15 Q And that's your understanding?

16 A Yes, that's my understanding.

17 Q And, "Such events represent significant targets for a variety of criminal or

18 national security threats, and the FBI relies heavily on cooperation and coordination with

19 a variety of stakeholders to protect lives and security."

20 Do you agree with that statement as well?

21 A Yes.

22 Q The letter goes on to say, in the third paragraph, that, "The Strategic Partner

23 Engagement Section" -- which Chairman Jordan referenced in his letter to the FBI -- "can

24 play an important role in advance of NSSEs by developing proactive initiatives with key

25 interagency, public and private sector partners in furtherance of developing actionable

1 intelligence which can be leveraged to enhance threat mitigation and preventive
2 strategies."
3 Do you agree with that statement?
4 A Yes.
5 Q And does that statement characterize what your efforts were in the wake of
6 January 6th?
7 A Yeah. Generally, yes.
8 Q And then the letter goes on to say, "As part of this work, the Strategic
9 Partner Engagement Section partners with financial institutions in their effort to
10 safeguard the United States from the abuses of financial crime, including money
11 laundering, terrorist financing, and other illicit transactions."
12 Would you agree with that?
13 A Yes.
14 Q Okay. Now, banks are not required to work with SEU, correct?
15 A They're obligated to report suspicious activity. So knowing that suspicious
16 activity is almost exclusively in the hands of law enforcement agencies, to include the FBI,
17 not limited to the FBI but to include them, oftentimes paralleling that, they themselves
18 have programs where they feel that engagement is required or necessary -- they,
19 themselves.
20 Q So they're required to report the activity, but they could choose to not
21 engage with you in terms of brainstorming ideas for how to identify that activity.
22 A Absolutely.
23 Q Is that fair to say?
24 A Sure.
25 Q They could just take their own understanding of what they're required to

1 report, their own interpretation, and send it through the portal and not have the --
2 A Correct.
3 Q -- the type of partnership that you describe?
4 A Correct.
5 Q And it's their choice to have those partnerships with you?
6 A Yes.
7 Q Okay. So I want to talk a little bit about the Bank Secrecy Act, and I assume
8 that any time you said "BSA," you're referring to the Bank Secrecy Act?
9 A Correct.
10 Q So if you take a look back at Assistant Director Findlay's letter on the second
11 page --
12 A Yeah.
13 Q -- in the first paragraph, it says, "The Bank Secrecy Act and its implementing
14 regulations provide for financial institutions to report information for use, quote, in
15 criminal, tax, or regulatory investigations, risk assessments and proceedings, end quote,
16 including reports on, again quotation marks, suspicious transactions relevant to a possible
17 violation of law or regulation."
18 Is that your understanding of the Bank Secrecy Act.
19 A Yes.
20 Q And if you look at the footnote in that letter, it actually cites the U.S. Code
21 provisions that constitute the Bank Secrecy Act, correct -- or that are referenced there?
22 A Yes.
23 Q And I believe that you touched on this in the earlier hour, but the letter goes
24 on to state that, "Suspicious Activity Reports, or SARs, are filed with FinCEN and made
25 available, under strict statutory and regulatory protections, to the FBI and other

1 authorized law enforcement, national security, and regulatory agencies."

2 And that's consistent with your understanding of SARs --

3 A Correct.

4 Q -- and their availability -- excuse me -- availability to the FBI?

5 A Correct.

6 Q And the letter then goes on to say, "The FBI understands that the BSA and its

7 implementing regulations require financial institutions to determine what activities and

8 transactions are deemed persistent to -- deemed suspicious pursuant to the BSA."

9 And, again, that's consistent with your understanding of what the Bank

10 Secrecy Act requires?

11 A Correct.

12 Q So the banks are obligated to file a Suspicious Activity Report for anything

13 that meets the thresholds set by regulation, correct?

14 A Correct.

15 Q And it's up to them, the banks, not you, to determine whether they see

16 information that meets those thresholds --

17 A Correct.

18 Q -- and to compile the report?

19 [redacted] All right. And if I could just ask you to let her finish the question

20 before you answer so we --

21 Mr. Sullivan. Sure.

22 [redacted] -- have a clean record.

23 Mr. Sullivan. Sorry.

24 BY [redacted]

25 Q And you indicated this earlier, but just to be clear, BSA data, including SARs,

1 is used across many types of criminal investigations in the FBI: money laundering,
2 organized crime, fraud, terrorism, drug trafficking. I mean, pretty much anything that
3 the FBI is investigating --
4 A Yes.
5 Q -- a SAR could be relevant to, correct?
6 A Yes.
7 Q Okay. And the FBI considers, as reflected in this letter, the preliminary and
8 unverified leads that you receive in SARs to be raw intelligence, correct?
9 A Yes.
10 Q And can you explain what that means? What does that phrase "raw
11 intelligence" mean?
12 A It's, you know, in any investigation, or if you're an analyst or an investigator,
13 raw intelligence would be all of the information that in and of itself may not be anything
14 but that helps you understand what is and isn't connected to the thing that you're looking
15 at.
16 So it could be -- raw information could be an informal tip from a private sector,
17 not even under the guidelines of the regulatory environment with BSA. SARs just
18 happened to be more formally regulated raw information. So there's -- raw information
19 could come in various forms.
20 Q Okay. Thank you.
21 And are there -- well, can you give us an example -- I know you've already
22 described several of the higher profile cases that you've worked on, but a case where a
23 SAR helped identify or prevent -- identify a perpetrator of a violent crime or helped
24 prevent one, can you think of a case?
25 A Yeah. In my mind of what's adjudicated, yes.

1 Q Yes. Thank you.

2 A So the FBI provided information regarding chemical precursors that could be
3 used for bomb-making materials and provided that information to -- the engagement unit
4 provided that information to a finance sector partner, who used that to set alerts within
5 their system, to understand, when they saw those transactions, what combination of
6 those chemical precursors were being purchased.

7 They -- obviously from a proactive standpoint, because they're setting the alerts
8 themselves on general chemical precursors in combination, they produced several SARs.
9 One SAR in particular looked like other SARs that had chemical precursor purchases in it.
10 The engagement unit reviewed it and decided that they were going to do a Guardian
11 assessment.

12 There's a terrorist explosive device -- they call it TEDAC -- down at Quantico that
13 verified our assessment that this should go to the field office. In this case, it was the
14 Chicago Field Office. The transactions for the chemical precursors, when Chicago
15 Field Office received the Guardian, they decided to go visit the consumer whose bank
16 account had made these transactions.

17 There was a husband and wife that lived there. When they asked them about
18 the transactions, they said, oh, that's our son, he's into science. And they asked if they
19 could see some of the things that, you know, he was into, and they agreed to a consented
20 search where FBI agents discovered elaborate plans for their son to carry out an attack at
21 his high school, using several pipe bombs, grenades, a backpack bomb that he, himself,
22 wrote down that it would kill between 12 and 20 people.

23 And they wound up arresting the person and -- the minor, and the case, you know,
24 obviously went from there, but that terrorist attack was prevented because of the SAR
25 that was published by the financial institution.

1 Q And if I understood what you just explained, the genesis for that SAR was the
2 Strategic Engagement Unit explaining to the banks what chemicals to look for because
3 the banks might not know that --
4 A Correct.
5 Q -- this combination of materials could be used to create a bomb?
6 A Correct.
7 Q And is that typical of the nature of the sort of advice and guidance that you
8 provide to your partners?
9 A Absolutely.
10 Q Okay. So even though the banks have their own -- they have their
11 reporting requirements, they might not know what transactions could be indicative of a
12 violent offense without the information provided to the FBI. I mean, sometimes I
13 imagine it's very obvious and other times --
14 A Yeah, correct.
15 Q -- it's --
16 A Yeah. I mean, I think the way that you characterize it is spot on. In some
17 cases they would know and they've already set up their alerts; in other cases, they would
18 use that law enforcement information to set their alerts.
19 Q And when the FBI receives any tip from a third party, including a SAR from a
20 financial institution, it has to take its own step to review that? It would conduct its own
21 review of that information, correct?
22 A Yes.
23 Q You don't open an investigation or send out a Guardian on every SAR that
24 comes in?
25 A Correct.

1 Q You have to go through a review process to determine if there is enough to
2 move forward with the initial steps of an investigation?
3 A Correct.
4 Q I want to step back a minute. We've talked a lot in the previous hour about
5 the events of January 6th. Can you describe, in your own words, what happened that
6 day?
7 A Yeah. You know, I would say, on that day there was a large gathering
8 outside the Capitol, and there were a number -- a large number of individuals that
9 decided to partake in violent, criminal activity, violence that was intended for not only
10 law enforcement but also threat of violence to a lot of the legislative branch members
11 that, you know, that I'm talking to today.
12 Q And you're aware that Director Wray has referred to the events of that day
13 as domestic terrorism -- acts of domestic terrorism?
14 A Yes.
15 Q And do you agree with that assessment?
16 A Yes.
17 Q And some of the participants in the riots that day displayed insignias that
18 have been used or adopted by DVEs, correct?
19 A Yes.
20 Q There were nooses and plastic restraints that were found at the Capitol or
21 stationed at or near the Capitol?
22 A Yes.
23 Q You're aware that people -- police officers were violently attacked, one was
24 killed that day?
25 A Yes.

1 Q People were chanting "Hang Mike Pence," correct, who was, of course, the
2 Vice President at the time?
3 A Yes. It's my understanding, yes.
4 Q So in the immediate aftermath of January 6th, you described the flood of
5 tips and the flood of activity. The FBI was concerned, I imagine, about preventing
6 further violence, whether on a smaller scale or a larger scale, that was fueled by the same
7 ideologies and motivations --
8 A Yes.
9 Q -- that appealed to the folks who overtook the Capitol on January 6th?
10 A Correct.
11 Q Okay. Now, the inauguration of then President-elect Biden was scheduled
12 for 2 weeks -- about 2 weeks after that day, correct?
13 A Correct.
14 Q And as you've stated earlier, inauguration is a National Security
15 Special Event. And so the FBI was tasked with preventing acts of terrorism and violence
16 at that event, correct?
17 A Correct.
18 Q And after January 6th, online rhetoric regarding violence during the
19 inauguration increased. Is that correct?
20 A Absolutely, yes, correct. That was my understanding.
21 Q And your understanding was the FBI was seeing people online talking about
22 mobilizing to participate in acts of violence at the inauguration?
23 A Correct.
24 Q Similar to what we saw on January 6th?
25 A Correct.

1 Q And would you agree that January 6th showed that there were many,
2 perhaps thousands, of people who were willing to break the law and use violence to
3 prevent the peaceful transfer of power --
4 A Yes.
5 Q -- at that time from one President to another?
6 A Yes.
7 Q And the inauguration is the moment where that actually happens, where
8 power is transferred from one President to another?
9 A Correct.
10 Q And the FBI had specific intelligence indicating that it was likely that people
11 intended -- who were present at January 6th -- intended to return to D.C. to commit acts
12 of violence at the inauguration, correct?
13 A At the time that was my understanding, yes.
14 Q Okay. If I could have the January 14th email. And this is exhibit 4, I
15 believe, we're at.
16 [Sullivan Exhibit No. 4.
17 was marked for identification.]
18 BY [redacted]
19 Q So this is an email sent on January 14th, 2021, from the DSAC portal. Can
20 you explain what that is?
21 A Yeah. The DSAC portal is open to all DSAC members. The Office of
22 Private Sector is the one that coordinates that portal, and DSAC members, a lot of it's
23 Fortune 500 and large companies are members of the portal. They have access, and
24 they would receive -- they would ostensibly receive production within that portal, this
25 being one of the products.

1 Q And "DSAC" stands for the Domestic Security Alliance Council?
2 A Correct.
3 Q And can you just describe briefly what that is and what the portal is?
4 A Again, it's Office of Private Sector's portal for communicating production
5 related to a gamut of threats. It wouldn't be limited to terrorism, but any threats that
6 are relevant to FBI and the FBI operational divisions.
7 Q Okay. And it's open to any private sector company that meets certain
8 thresholds, correct?
9 A Correct.
10 Q Based on their revenue and --
11 A Right.
12 Q -- that sort of thing?
13 And it has a public website, correct?
14 A Uh-huh, yes.
15 Q So I could go on, I can look and see who the members are and who the
16 leaders are, that sort of thing?
17 A Yeah. I haven't been on the site in a while, but I think generally, yes.
18 Q Now, according to this email, the subject line is, "Some Domestic Violent
19 Extremists Likely Will React With Violence to the Presidential Transition Process." That's
20 the subject line, correct?
21 A Yes. That's what I'm reading here, yes.
22 Q And the email indicates in the first paragraph that, "The FBI assesses some
23 domestic violence extremists, DVEs, including anti-government or anti-authority violent
24 extremists, specifically militia violent extremists, abbreviated as MVEs, are very likely to
25 attend alleged armed protests where they are likely to use violence in response to what

1 they perceive as the illegitimate transfer of power from the current President to a new
2 administration."
3 Did I read that correctly?
4 A Yes.
5 Q And the FBI made this assessment of the likelihood of violence at the
6 inauguration with high confidence based on FBI CHS reporting -- and that stands for
7 confidential human source, correct?
8 A Correct.
9 Q -- open source information and law enforcement information reporting calls
10 for violence, correct?
11 A Correct.
12 Q And then this email has some examples of some of those threats and some
13 of those sources. So if you look at the second example, there was a human source with
14 direct assets, and the last sentence says that that human source reported that DVEs
15 reportedly plan to storm government offices on 20th of January 2021, according to that
16 human source, correct?
17 A Correct.
18 Q And January 20th of 2021 was the day of the inauguration?
19 A Correct.
20 Q And if you look at a few lines down, it says, "As of 8th of January, multiple
21 social media postings promoted the 'Million Militia March' on 20th of January 2021, to
22 prevent the new President from entering the White House, according to law enforcement
23 information."
24 Is that correct?
25 A Correct.

1 Q So these are just some examples of the specific threats that the FBI had
2 identified to the inauguration?
3 A Correct.
4 Q And if someone were to bring, for example, a fully automatic firearm to the
5 inauguration, they could potentially kill thousands of people, correct?
6 A Ostensibly, correct.
7 Q Including the soon-to-be inaugurated or the immediately inaugurated
8 President and his family?
9 A Sure.
10 Q The Chief Justice of the Supreme Court who's administering the oath?
11 A Correct.
12 Q And as this document reflects, the FBI was concerned the violence could spill
13 over outside of Washington, D.C., to the rest of the country, correct?
14 A Correct.
15 Q And as the first paragraph of this email indicates, the FBI was concerned that
16 potential violence could result in a range of consequences, including the loss of life,
17 property damage, disruption of government operations, and the overwhelming of U.S.
18 local, State, and Federal law enforcement, correct?
19 A Correct.
20 Q And the FBI, including you and your colleagues at SEU, wanted to use all of
21 the tools at the FBI's disposal to prevent that from happening, correct?
22 A Correct.
23 Q And in fact, you had a duty, as part of a sworn officer of the FBI, to do
24 everything possible within the letter of the law to prevent that from happening, correct?
25 A Correct.

1 Q And would you agree that the events of January 6th demonstrated that the
2 threat posed by DVEs in this country was greater and more imminent than previously
3 understood?
4 A Yes.
5 Q And that the successful breach of the Capitol and the loss of life that ensued
6 brought home the urgency of the threat to our national security that DVEs posed?
7 A Correct.
8 Q Now, you mentioned FinCEN during the earlier hour. That's the Financial
9 Crimes Enforcement Network of the Treasury Department, correct?
10 A Correct.
11 Q And they were also tasked with trying to prevent an attack on the
12 inauguration?
13 A Correct. That was my understanding.
14 Q Okay. And you mentioned a call that you participated in on the Friday after
15 January 6th. Was that call about -- was it focused on threats to the inauguration?
16 A Yeah. I mean, summarize on the call. So when I was told by my upper
17 management to represent Counterterrorism Division on the call, as a FinCEN-sanctioned
18 call, the gist of the -- of what I discussed on it was, you had the Capitol riots, violent
19 criminal activity as an event, and you had the investigation of that, and then you had the
20 inauguration that was happening soon and the unknown threat to that. So there's
21 managing the threat, right, and also supporting investigation.
22 Q And the conversations that you had with the bank representatives that led
23 to the email that we talked about -- and we'll get to that in a minute -- those were
24 focused on the future threat to the inauguration?
25 A Correct.

1 Q And it was about the inauguration specifically?

2 A Correct.

3 Q Okay. And all of the methods that were discussed in those calls and in

4 those emails, in these post-January 6th communications that you had with the bank, all of

5 these were in compliance with the requirement for the Bank Secrecy Act, correct?

6 A Absolutely.

7 Q Now, going back to your email, which was exhibit 1, there was a lot of talk

8 during the previous hour about the subject line. But just to be clear, the -- well, let me

9 ask you, the nature of the conversations that you were having with these Bank of America

10 employees, were they in the same vein as the conversations that you described in that

11 chemical precursor investigation where you were helping to identify what they should be

12 look -- you know, what to keep an eye out for, what might indicate --

13 A Yes.

14 Q -- suspicious activity?

15 A Similar in the sense of discussing the threat, talking about the threat, yes.

16 Q It was --

17 [redacted] Sorry. Could we go off the record for 1 minute?

18 [redacted] Absolutely.

19 [Discussion off the record.]

20 [redacted] And so I just wanted to be clear --

21 [redacted] Back on the record.

22 [redacted] Oh, sorry. Back on the record. Thank you.

23 BY [redacted]

24 Q The full subject line of this email says, "Re, colon, upcoming SAR product

25 idea, slash, brainstorming and check-in with you both," correct?

1 A Correct.

2 Q It doesn't just say "upcoming SAR product." It's an idea?

3 A Correct.

4 Q You were talking about -- I mean, "brainstorming" is self-explanatory, but

5 essentially you were discussing with the bank employees things they might look for. But

6 you at no point directed them to file a SAR for anything that met these thresholds,

7 correct?

8 A Correct.

9 Q It was up to the banks to consider the information you gave them, review

10 their own data, and make their own determination about whether a SAR was appropriate

11 or required under the Bank Secrecy Act?

12 A Correct.

13 Q Now, just to be clear -- you stated this during the prior hour, but I want to

14 make sure that it is very clear -- in your mind -- and your understanding was that Bank of

15 America understood this -- all of the thresholds had to be met that were specified in this

16 email, correct?

17 A In order to help the bank narrow their focus, correct.

18 Q So you didn't tell the bank, anyone who made a purchase in Washington,

19 D.C. on January 5th or January 6th, that alone is enough, we're interested in that?

20 A Right, correct.

21 Q And a purchase of an Airbnb or a hotel reservation in the D.C. area for the

22 time of the inauguration, that wouldn't be enough --

23 A Correct.

24 Q -- correct?

25 And historical weapons or weapons-related purchase going back 6 months, that

1 would not be enough, correct?

2 A Correct.

3 Q It had to be all three?

4 A It had to be, correct.

5 Q And that was what you indicated to the banks?

6 A That's what we discussed.

7 Q That's what you discussed, correct?

8 A Yes.

9 Q And your understanding was that's what the banks understood?

10 A That's what the banks understood of capabilities, how to narrow their focus,

11 correct.

12 Q And to be clear, your email doesn't mention firearms specifically at all,

13 correct?

14 A Right.

15 Q Okay. It just talks about weapons generally?

16 A Correct. Because the financial institution would not necessarily, in most

17 cases, not only have information tied to the type of transaction.

18 Q And just at a higher level, you were hoping to identify people who were

19 present at the Capitol, participated in those violent acts, and intended to return and

20 commit more violent acts at the inauguration? That was the goal of these

21 conversations, correct?

22 A The end goal, correct.

23 [redacted] Can you explain -- the criteria that we just walked through, can you

24 explain your understanding of why these criteria would identify individuals who had

25 committed acts of violence -- or had been present at the Capitol intended to return to the

1 inauguration to commit acts of violence?

2 Mr. Sullivan. Well, first, just to clarify, not to commit acts of violence, but

3 potentially committed acts of violence. I mean, which do you want me to address? Do

4 you want me to just read it or --

5 [redacted] I'm thinking, you know, we've walked through what each one of the

6 criteria says on its face, but you've said over and over it was the combination of these

7 three together that were designed to help identify relevant individuals. Can you explain

8 your understanding of why that was?

9 Mr. Sullivan. Yeah. I would simply say that these are all just fact-based

10 patterns that would narrow the focus of anybody that was doing data exploitation,

11 whether you were in a bank or another institution that would have data relevant to being

12 able to look at those factors together at the same time.

13 [redacted] Thank you.

14 BY [redacted]

15 Q And according to your understanding of the Bank Secrecy Act, the

16 information that you provided to the banks and any information they would've presented

17 to you in response to that conversation, you do not need legal process for that, correct?

18 A If I was receiving something in a SAR, I knew that the institution made -- met

19 SAR thresholds. So once it's published into FinCEN, I am a law enforcement recipient

20 just like any other law enforcement agency that has access to the same data.

21 Q And so once they filed that SAR, you knew they had made their own

22 determination that it met that threshold?

23 A Correct.

24 Q Okay. So I want to talk a little bit about the SAR. We discussed it briefly,

25 and I know we don't have it here, but I think you'll be able to answer these questions.

1 First, I just want to make clear, the SAR indicated that there were 211 total
2 customer relationships that were identified that met the three thresholds that we
3 discussed, correct?
4 A Correct.
5 Q Now, I believe Chairman Jordan said that there was a list of 211 Americans,
6 but we don't know that they were all Americans, correct?
7 A No.
8 Q It could've been any --
9 A Correct.
10 Q -- foreign nationals who were doing business with the bank?
11 Yeah, it could've been business entities as well, correct.
12 A Correct.
13 Q Okay. And the SAR itself did not have a list of those names, correct?
14 A The SAR itself did not have a list of those names, correct.
15 Q Right. That was part of the supporting documentation that was referenced
16 in the SAR?
17 A That's correct.
18 Q And the SAR -- the supporting documentation was divided into three tabs,
19 correct?
20 A I think it was more than that. I think there were more tabs.
21 Q Okay. But the initial tab was everybody who met those first three criteria,
22 correct?
23 A Yes, I believe so. I think the last tab -- the last tab, from what I recall, had
24 all 211 on it.
25 Q Okay. Thank you.

1 And the way the bank -- and tell me if this comports with your
2 memory -- described those three criteria were, customers confirmed with transacting,
3 either through bank account debit card or credit card purchases in Washington, D.C.,
4 between January 5th and January 6th, 2021.
5 That's the first part of the threshold, correct?
6 A Correct.
7 Q And then purchases made for hotel, Airbnb, RSVPs in D.C., Virginia, and
8 Maryland since January 6th, 2021, correct?
9 A Correct.
10 Q And any historical purchase of weapons or at a weapons-related merchant
11 since July 15th, 2020, correct?
12 A Correct.
13 Q It wasn't ever in the history of time --
14 A Correct.
15 Q -- if you made a weapons purchase. It was limited by time?
16 A That was never discussed --
17 Q Okay.
18 A -- past that date.
19 Q And as you testified in the previous hour, you had follow-up conversations
20 where you wanted to identify individuals whose weapons-related purchases postdated
21 January 6th?
22 A Correct.
23 Q Okay. Can you explain why that was important to you?
24 A After reviewing the SAR and seeing that -- you know, knowing that 211
25 customers met the criteria, I knew that was still a very small amount when you look at

1 the -- when you compare it to the Bank of America's customer base. But my intent,
2 again, going back to the call from FinCEN, including my call with Bank of America and the
3 email that we discussed, was covering down on potential threats to inauguration day.
4 So I felt, just as the transactions that you detailed that were post-January 6th, I
5 wanted to know, because the weapons-related transactions were since July, I wanted to
6 know, of the 211, how many we were talking about that also made transactions just after
7 January 6th, not since July of 2020.
8 Q And why would it be significant to you that somebody made a weapons
9 transaction post-January 6th? What was the nature of your interest in that?
10 A Because while it wouldn't necessarily mean that there was criminal activity
11 involved, it certainly, from a very -- narrowing the focus even further on the law
12 enforcement side, knew that we knew at the engagement unit, at the headquarters unit,
13 those four that wound up being those four identified, we didn't want to sit on potential
14 risk. And in order to offload that risk, in essence, we want to ensure that those
15 Guardian assessments were pushed out, those four, to the three field offices.
16 Q And when you say "sit on potential risk," you mean -- well, what do you
17 mean? I'm not going to put words in your mouth.
18 A If in the assessment, when the field office reads the assessment, it's up to
19 them to take further investigative activity. Those investigative activities would vary, but
20 it's at a very low level because there's no open investigation. It's a -- it's a
21 no-stone-unturned, low-level look at whether or not the field office thinks that there's a
22 threat there.
23 Q And just going back, so anyone on that list had made a purchase for a hotel
24 or some sort of accommodation in the D.C. area after January 6th, correct?
25 A I'm sorry. Repeat that.

1 Q Anybody who was on the list that was in the supporting documentation for
2 the SAR had made a purchase for a hotel or Airbnb or some sort of accommodation in the
3 D.C. area post-January 6th?
4 A Correct. That was my understanding of the SAR.
5 Q And the reason for that is that indicates an intent to return to this area or to
6 travel to this area?
7 A In terms of the reservations, correct, yes.
8 Q Correct. And the four individuals who made -- well, you asked for
9 weapons-related purchases post-January 6th because the combination of a
10 weapons-related purchase and a hotel reservation to come to D.C. might raise alarm that
11 the person is coming to D.C. to use that weapon, correct?
12 A Ostensibly, but at the headquarters level, we wouldn't know that. That
13 would be up to the field office to further investigate.

1 [12:12 p.m.]

2 BY [redacted]

3 Q And that's what you mean by sitting on risk -- is you just pushed

4 out -- "maybe take a look at this person," and it's up to the field office to determine

5 whether or not to take look at the person?

6 A Correct.

7 Q The guardians that you sent out, they were, well actually -- the guardians

8 you sent out were information-only leads. Is that correct?

9 A Correct.

10 Q So what does that mean in the FBI parlance?

11 A It means, while there wasn't any definite -- there wasn't any criminal activity

12 identified, that the assessment itself that headquarters wanted to ensure that the field

13 office knew that those fact-based patterns were met in this case, and that any further

14 activity that they chose to do may help them identify potential criminal activity.

15 Q And they don't have to take any further action at all?

16 A Correct.

17 Q Correct? They could --

18 A Correct.

19 Q They could do absolutely nothing with that information?

20 A Correct.

21 Q And the SAR itself made clear, it actually stated that the individuals who

22 were part of the supporting documentation were not considered suspect at that time and

23 that it was filed for informational purposes only, correct?

24 A That's my recollection of the SAR narrative, yes.

25 Q Okay. Now, we've heard -- you stated earlier that the guardians that you

1 pushed out were sent to San Francisco, Memphis, and Tampa, correct?
2 A Correct.
3 Q You did not send any --
4 A No.
5 Q We have heard testimony from agents who said that the Boston Field Office
6 did receive some guardians related to these Bank of America inquiries. You don't know
7 how they got them or when. Is that fair to say?
8 A I only know generally that Boston received a lead, but that's only based on
9 my cursory review in trying to prepare for today, looking back 3 years to understand.
10 Q Fair enough.
11 A But, at the time, that would have been after the guardian assessments that
12 we did went out.
13 Q Okay. And so you don't know what assessment was made or why those
14 leads went out?
15 A No.
16 Q And, of the four leads that you sent out, they were all closed in
17 January 2020, shortly after you sent them out. Is that correct?
18 A Yes, between January 20th and January 28th, I think, is the scope of all four
19 guardians closed.
20 Q And I imagine that's typical with information-only leads?
21 A Yes.
22 Q Is it fair to say that those are the types of leads that you sent out in an
23 abundance of caution because you just said you don't want to sit on risk?
24 A Yeah, I would say the majority -- at least only speaking for myself, being in
25 the Engagement Unit for 3 years, we had several information-only guardians that went

1 out to the field.

2 Q And the agents in the field who are reviewing those guardians and making a

3 determination about whether or not to take any action, they will have a different set of

4 skills and training and experience than you do because they're field agents, correct?

5 A Correct.

6 Q And the purpose of sending them this information is to allow them to apply

7 their particular set of skills to the intelligence that you've developed --

8 A Correct.

9 Q -- and make their own independent assessment, correct?

10 A Correct.

11 Q Sorry. And, again, all of the actions that you took with respect to this

12 information was compliant with the Bank Secrecy Act --

13 A All of the actions I took were compliant with my authorities as an FBI and

14 DOJ authority, correct.

15 Q Thank you. And at any point did you or, to your knowledge, anyone else at

16 the FBI make representations to Bank of America or any other financial institution that

17 information contained in SARs alone could or would be used to predicate an investigation

18 against a suspect?

19 A No.

20 BY [redacted]

21 Q Yeah, I just want to be abundantly clear, the Bank of America's supporting

22 documentation included a list of 211 names. You said earlier that the supporting

23 documentation wasn't part of the SAR, it was a separate set of documents, correct?

24 A Correct.

25 Q And you knew there were -- presumably knew there were 211 names, but

1 you didn't investigate 211 customers, correct?

2 A Correct.

3 Q In fact, you went back to Bank of America and said, "I will need to narrow

4 this down, I'm looking for these more specific parameters"?

5 A Correct.

6 Q So, you know, I just want to be clear that the earlier -- there's a reference

7 earlier to 211 Americans on the list. First of all, we've established that there weren't

8 necessarily 211 Americans; it was 211 customers, correct?

9 A Correct.

10 Q And there might have been -- a customer might be an entity, it might be a

11 business entity?

12 A Correct.

13 Q It might be a foreign person?

14 A Correct.

15 Q Okay. Ultimately, if somebody were to leave here and say that the FBI

16 investigated 211 Americans based on those lists, that's not accurate, correct?

17 A Correct.

18 Q Thank you.

19 [redacted] Thank you. We can go off the record.

20 [Recess.]

21 BY [redacted]

22 Q We can go back on the record. It's 1:25. We'll start with the second

23 round of questioning for the majority.

24 Mr. Sullivan, at the end of the last round, my colleagues were talking about the

25 leads that were sent out. And you had said that other sections or divisions had sent

1 leads out that you were unaware of. When did you become aware that other leads
2 were sent out based upon Bank of America information?
3 A I did not become aware that leads were being sent out specifically, only that
4 the Washington Field Office was looking at the data.
5 Q And what did you understand that the Washington Field Office's look at the
6 data included? Do you know what steps they were taking? Were you involved in that
7 process at all?
8 A No, I had very preliminary discussions on different SARs that we had already
9 reviewed. This was one of them.
10 Q And, when you were liaising with the Washington Field Office, who were you
11 liaising with? And, if they're not an SES position, you can just give their title?
12 A An ASAC.
13 Q An ASAC. I think you can probably give their name.
14 A I don't want to give their name --
15 Q You don't want to give their name?
16 A -- in this proceeding, yeah.
17 Q Okay. Can we have the ASAC's name?
18 [redacted] We will email --
19 [redacted] Okay. So are you instructing the witness not to answer, or he is
20 just choosing on his own volition not to answer?
21 [redacted] Can we go off the record for a second.
22 [redacted] Yeah, we can go off the record.
23 [Discussion off the record.]
24 BY [redacted]
25 Q We can go back on the record.

1 A Yeah, so, apparently, the ADIC at the time, Steve D'Antuono, who has been
2 interviewed.
3 Q Okay. That was who you were liaising with, was Mr. D'Antuono?
4 A I wouldn't call it liaising, but communicating as another FBI employee who
5 came across private sector production and interaction with the private sector.
6 Q And how often during your engagement on the January 6th matter did you
7 speak with Mr. D'Antuono?
8 A Probably twice.
9 Q Okay.
10 A Give or take.
11 Q And did Mr. D'Antuono kind of fill you in on what steps they were taking on
12 the Bank of America information?
13 A No, only that they were in -- they had -- were also engaging with the private
14 sector but also reviewing financial information that we had discussed, not necessarily the
15 BOA SAR but just SARs in general.
16 Q And did you receive SARs from any other financial institution other than
17 Bank of America in the scope of the January 6th investigation?
18 A Yes.
19 Q What other financial institutions did you receive SARs from?
20 A Can I have a second?
21 [redacted] We can go off the record.
22 [Discussion off the record.]
23 BY [redacted]
24 Q We'll go back on the record.
25 A Yeah, so, during the FinCEN call, the first FinCEN call we already discussed

1 that Friday, they created a tag for all SARs related to the Capitol riots. So, if you are to
2 follow that tag from FinCEN, they -- you would be able to know the scope of the financial
3 institutions for that.
4 Q And did you receive any other SARs; how Bank of America, that executive
5 after they filed it with FinCEN, the executive then sent the SAR to you, did you receive any
6 other similar SARs in that manner?
7 A Yes.
8 Q And from what financial institutions?
9 A I would refer you to FinCEN for that. They would be able to provide you all
10 the scope of that tag.
11 Q I'm asking specifically did you receive any SARs in a similar manner as Bank
12 of America sent you their SAR after they filed it with FinCEN; did you -- you said you
13 received other SARs from other executives that forwarded you the SAR. Is that correct?
14 A From a handful. Correct.
15 Q From a handful.
16 Chairman Jordan. And was this the same three criteria?
17 Mr. Sullivan. I don't recall.
18 Chairman Jordan. Did you have similar conversations with those other
19 institutions saying, "Here is what I would -- here's how we would" -- what was term you
20 used? "Here's the product idea or how we would like it done, these three criteria, then
21 we get that information"?
22 Mr. Sullivan. No, there was never a discussion of how we the FBI would like it
23 done. It was always interaction with the institution.
24 Chairman Jordan. Okay. But, back to [redacted] question, then you did receive
25 that similar type of information from other financial institutions?

1 Mr. Sullivan. Correct.

2 Chairman Jordan. All right. Which one of those institutions?

3 [redacted] He is not able today to talk about any other specific SARs. He can

4 generally answer what was discussed and that he got other SARs during that time.

5 [redacted] And what's the privilege that the FBI is a asserting?

6 [redacted] The Bank Secrecy Act.

7 [redacted] Which privilege is that?

8 [redacted] He is only allowed to speak about a SAR if it falls within his official

9 duties within the scope of answering the questions of the SAR already produced by the

10 Treasury in the scope of this inquiry.

11 [redacted] I think the committee would like to know the financial institutions

12 that interacted with Mr. Sullivan and sent their SARs to Mr. Sullivan like Bank of America

13 did. So I think the committee would like to know that information.

14 Mr. Sullivan. So my understanding for today's questions, which we were

15 supposed to have a week ago, was that the ODAG expressed concerns that the

16 committee would have access to the SAR, the Bank of America SAR. Because the

17 committee didn't have access to any other SARs, I don't want to speak to any other SARs.

18 [redacted] Okay. But, if you can take that back, we'd like --

19 Chairman Jordan. We're not asking you to speak not specificity of the SAR; we're

20 just asking you to tell us which bank sent it to you.

21 [redacted] We'll take that. I certainly appreciate the committee's question.

22 Given the Bank Secrecy Act's implication, we want to make sure not to put the witness in

23 any jeopardy of disclosing information before he has the clearance to disclose that. We

24 certainly understood the Bank of America SAR to be the committee's priority interest to

25 talk about it today, but we will certainly take it back and see if there is additional

1 information we can share.

2 [redacted] Is there a specific provision under the Bank Secrecy Act that you

3 can note for the record.

4 [redacted] I don't have it in front of me.

5 [redacted] I do. 31 U.S.C., 5318(g)(2), and the official duties exception is

6 (g)(2)(a)(2).

7 [redacted] Thank you.

8 Chairman Jordan. Do you know, approximately, how many other banks -- the

9 Bank of America --

10 Mr. Sullivan. I don't recall. There's a handful. I couldn't tell you exactly.

11 Chairman Jordan. But you know that other banks did, in fact, send you

12 information complying with those three criteria like Bank of America did.

13 Mr. Sullivan. Yeah, there were between 40 and 60 representatives on the first

14 FinCEN, which probably spanned 30 to 50 financial institutions. So I received a lot of

15 SARs related to the Capitol riots and the unknown threat to Inauguration Day.

16 Chairman Jordan. And did those SARs, like the documents that accompanied the

17 Bank of America SAR, did they name specific individuals?

18 Mr. Sullivan. Within the SAR? Yeah, potentially.

19 Chairman Jordan. Just to be clear, you told us, I think, in the first hour that there

20 were 211 names associated with the SAR coming to the government from Bank of

21 America on those three criteria. I'm just asking; that was similar with the other

22 institutions that sent information as well?

23 Mr. Sullivan. That the same fact-based patterns were in several of the SARs with

24 respect to the unknown threat to Inauguration Day, correct.

25 Chairman Jordan. Names were in the other SARs as well?

1 [redacted] He is not authorized to speak to the content of those -- only if
2 SARs -- if they existed.
3 [redacted] Were leads sent out to field offices based upon the other SARs?
4 You had identified four leads that were sent out based upon individuals who purchased
5 firearms after January 6th that your unit sent out. Were similar leads sent out based on
6 upon the other financial institution SARs?
7 [redacted] Can we go off the record.
8 [redacted] We can government off the record.
9 [Discussion off the record.]
10 BY [redacted]
11 Q We can go back on the record.
12 A So, generally speaking, I can't speak to that each SAR that I received -- and
13 remember, I have -- at this same time, I am receiving SARs from multiple financial
14 institutions. I have never read a SAR that was exactly the same. And so, with respect
15 to this, I can't recall exactly how the SAR narrative was in these other SARs. But I
16 handled various SARs that we either determined did not or did meet the threshold of
17 guardian, for example, where we did assessments.
18 Q Okay. And, after you received the Bank of America SAR, you said you went
19 back to the executives and requested additional information based upon firearms
20 purchased. Do I have that right?
21 A I requested information based off of the supporting documentation that was
22 specifically talked about as attached to that SAR.
23 Q And, in order to -- how did you obtain the supporting documentation? Did
24 that come with the SAR, or did you have to request that from Bank of America?
25 A Typically, that's always a request. In that particular instance, once it was

1 published, there are some instances where we may receive the supporting
2 documentation. If, say, we would request it over the phone, as long as the SAR was
3 published, we could then get access to the supporting documentation.
4 Q And, for the other financial institutions that you received January 6th related
5 SARs from, did you request the supporting documentation for those SARs?
6 [redacted] All right. He is not authorized to talk about what came with the
7 other SARs.
8 BY [redacted]
9 Q So you can't even say if you received supporting documentation?
10 A My understanding is, yes, that I can't speak to that.
11 Q And, with regards to the other financial institutions, did you go back with
12 requests for additional information like you did with Bank of America to the other
13 financial institutions?
14 [redacted] Again, he is not authorized to talk about these other SARs.
15 [redacted] So he can't even answer if he went back and made another request?
16 Just generally overview.
17 Mr. Sullivan. So my understanding --
18 [redacted] Do you recall specifically any other --
19 Mr. Sullivan. My understanding is that the only reason we're speaking about this
20 today is that the SAR was leaked. And the SAR itself is a product that only law
21 enforcement under BSA and under FinCEN regulations is supposed to have access to. So
22 you're putting me in a compromising situation to speak to other SARs that I'm not
23 authorized to speak to. But, in my capacity, yes, I reviewed hundreds of SARs.
24 BY [redacted]
25 Q And so --

1 A Over my 3-year period in the unit.

2 Q Okay. So you do not -- was the answer that you don't recall if you reached

3 out to the other financial institutions, or is it that you're relying upon the instruction of

4 agency counsel not to answer the question?

5 [redacted] He's not authorized to talk about specific SARs and if he had a

6 communications afterwards about specific data within the SARs.

7 BY [redacted]

8 Q Okay. And --

9 A And I'm not trying to be difficult. I want to address all of your questions.

10 So, if it's about the BOA SAR, I am pleased by all means.

11 Q And do you remember -- going back to a previous question, do you

12 remember if any other leads were sent out based upon other SARs?

13 A Generally, but I can't speak to what specific SAR it was or what it was in

14 relation to. I can just say generally that we've reviewed SARs, and assessments have

15 gone out.

16 Chairman Jordan. Okay. So, in a general sense, were the SARs you got back

17 from other financial institutions similar to what you received from Bank of America in all

18 aspects? The number of people who were talked about, I mean, was that a general,

19 were they generally the same?

20 Mr. Sullivan. Again, a SAR, I have never read a SAR that was the same.

21 Chairman Jordan. I'm saying that -- okay.

22 Mr. Sullivan. Sorry.

23 [redacted] I'll enter as exhibit No. 5.

24 [Sullivan Exhibit No. 5.

25 Was marked for identification.]

1 BY [redacted]

2 Q This is an excerpt of testimony from Special Agent in Charge Bonavolonta
3 from the Boston Field Office. He came and testified before the committee. And, you
4 know, there's several pages of excerpts. I'll point you in the general direction of where
5 I'm going to read from. But please feel free to take as much time as you would like to
6 review.

7 A Thanks. This is portions of it. I'm sorry.

8 Q This is just portions of it. The front of it you'll see is the cover page of the
9 transcribed -- and then just relevant portions that I may refer to.

10 A Okay.

11 Q Okay. And I want to kind of refocus on the leads that were sent out by
12 other units or divisions that you were unaware of. Is that an accurate statement?

13 A Yes.

14 Q Okay. So, on page -- I'm referring to page 12. There is an answer section
15 from Mr. Bonavolonta. And I will just read that into the record. It says, "So they
16 brought the information to my attention, first and foremost, to make me aware that a
17 lead had been sent to our office from a unit within FBI headquarters that fell under the
18 Office of Private Sector. And the lead, the lead itself was for informational purposes
19 only. There was no directive in the lead to do anything, you know, from an investigation
20 standpoint. However, in the body of the lead, there was an information that was
21 provided by Bank of America following a certain number of criteria that in essence
22 aggregated a list of individuals that were supposedly living up in the New England area,
23 you know, either had potentially made certain credit card purchases for hotel
24 reservations or plane tickets or potential purchases at certain gun stores in and around
25 January 6th or plan for inauguration date like around January 20th, in that timeframe."

1 So is it your understanding that the lead was -- any other leads would have been
2 sent out by the Washington Field Office because SEC Bonavolonta seemed to think that it
3 came out of the Office of Private Sector? Are you aware of any other leads that were
4 sent from the Office of the Private Sector?
5 A So, no, and my general -- again, this is only part of, you know, his testimony,
6 so I can't speak to collectively how I might interpret this. But only from what you're
7 presenting to me, the Office of Private Sector wouldn't be the one to send out any kind of
8 operational or investigative lead. It would be the Strategic Engagement Unit or some
9 unit at headquarters. It could also be from a field office, such as, including but not
10 limited to WFO, the Washington Field Office. So it wouldn't have come from the Office
11 of Private Sector, number one. And, in terms of the leads, I'm sorry, your specific
12 question? I just want to make sure I'm answering it fully.
13 Q Yeah, so my question was, were you aware of any other leads that were sent
14 from the Office of Private Sector?
15 A My understanding there were no leads sent from the Office of Private
16 Sector, which is a headquarters, overarching the Office of Private Sector.
17 Q Okay. And then, further down on page 12 that I already read into the
18 record about, in essence, aggregated list of individuals that were supposedly living up in
19 the New England area. When you received the information, was it aggregated in that
20 type of way where the individuals or entities were sorted into geographic areas?
21 [redacted] What information are you asking about?
22 BY [redacted]
23 Q The supporting documentation for the 211 individuals or entities.
24 A It was not aggregated by region.
25 Q And how would -- do you know if other field offices or other units at

1 headquarters aggregated that information based upon region?

2 A I mean, I don't know how either Washington Field Office -- again, going back

3 to Office of Private Sector, they would not put -- they would not send leads out period. I

4 think -- I think -- what then SEC Bonavolonta meant was a headquarters entity that

5 handles private sector leads. Office of Private Sector is an actual thing at headquarters

6 that's not in the Counterterrorism Division. So there is that. I'm sorry. Specifically?

7 Q I was just asking, were you aware of any steps that were taken to aggregate

8 the list based upon region?

9 [redacted] Do you know from reading this where this information specifically

10 came from?

11 Mr. Sullivan. No.

12 [redacted] Just --

13 Mr. Sullivan. I mean, in terms of what?

14 BY [redacted]

15 Q Okay. Back to the question that I asked.

16 A Yeah. I want to answer your specific question. That's why I asked.

17 Q So are you aware of any steps that were taken to aggregate the list based

18 upon region?

19 A By Bank of America?

20 Q By the FBI?

21 A No, I'm not aware.

22 Q Okay. So you're not aware SEC Bonavolonta received some sort of list that

23 was aggregated specifically to his region and area of responsibility. You wouldn't know

24 how that information got put together by the FBI?

25 A No, no.

1 Q And then, if you turn to page 17, at the very bottom, the last question that
2 was posed on that page is, "How many individuals were included on that list that were in
3 the jurisdiction of the Boston Division?" Answer, "Approximately six or seven, or around
4 that number."
5 And I know you testified previously that you were not aware of these leads being
6 sent out. But, just to make it clear for the record, you were not aware that another
7 headquarters unit or field office was sending, you know, lists of individuals specific to
8 field office area of responsibility to that field office for information purposes?
9 A At that time?
10 Q Correct.
11 A Correct.
12 Q And when did you come to know that that had happened?
13 A Not until much later that Washington Field Office was using the information.
14 Q Okay.
15 [redacted] I'll just mark as exhibit No. 6 testimony from Mr. Steve Jensen, who
16 was the section chief of the Domestic Terrorism Operations Section at this time.
17 [Sullivan Exhibit No. 6.
18 Was marked for identification.]
19 Mr. Sullivan. This is also not the whole thing, correct?
20 BY [redacted]
21 Q Correct. It's just relevant excerpts that we may refer to. Have you had
22 sufficient time to review it?
23 A I mean, it's partial, so we might as well just jump to it.
24 Q Okay. So, on page 147, Representative Gaetz asked Mr. Jensen, "What was
25 the Bank of America information that was provided?" Mr. Jensen said, "My

1 understanding -- and, again, I didn't see the information directly. I was made aware of
2 certain leads that were sent out of field offices. I don't recall how many. My
3 understanding of that information was it was certain purchaser transaction
4 individuals -- of individuals that Bank of America provided over to the FBI that wasn't
5 requested by the FBI. It was of their own volition."
6 I just wanted to provide some context. If we go to page 149, I'll ask -- read some
7 more, and then ask a specific question, but I wanted to make sure you had all the context.
8 A Well, I don't have all the context, but, with what you're giving me, yes.
9 Q Correct. So, as he had said previously, he was made aware that leads were
10 being sent out to other field offices. And, down towards the bottom of page 149 in a
11 response, he says, "But, as I noted, one of my employees made me aware that and we
12 took -- I didn't get to this part, but we took immediate action to pull those leads out of
13 our system." Mr. Gaetz said, "When was that?" Mr. Jensen said, "It was immediate
14 upon finding out that those leads existed. I don't know the date. It was a verbal
15 briefing that I received."
16 Were you ever made aware that Mr. Jensen or anyone at the Washington Field
17 Office or headquarters was pulling leads back based upon the Bank of America
18 information?
19 A Pulling leads, no.
20 Q Okay. Were you -- did you ever find out that it was like taken out of the FBI
21 system -- any leads were taken out of the FBI system based upon the Bank of America
22 information?
23 A Not at the time.
24 Q Not at the time.
25 BY [redacted]

1 Q I would like to go back to your thresholds that were sent to Bank of America.
2 Who put together these thresholds?
3 A Who put together the thresholds? The brainstorming discussion that I had
4 with Bank of America.
5 Q So that would be you and representatives from Bank of America?
6 A Executives at Bank of America, correct.
7 Q Was FinCEN involved?
8 A FinCEN was the one that sanctioned the first call that discussed fact-based
9 patterns that may help banks identify potential threats to Inauguration Day.
10 Q Did they include these fact-based patterns or thresholds?
11 A Yeah, I think -- I mean, I think I have spoken to that today already that the
12 fact-based patterns were discussed on the first FinCEN call and thereafter.
13 Q Okay. So which one of these thresholds were prepared by you and Bank of
14 America, and which ones were prepared by FinCEN?
15 A I couldn't tell you specifically. I can just tell you that that was a collective
16 brainstorming that we came up with fact-based patterns that could help them identify
17 potential threats to inauguration.
18 Q And so, when you're putting together fact-based patterns, what are you
19 relying on to do that?
20 A Just my own understanding of the threat itself. And then, if you're a data
21 analyst, understanding data and data capabilities both of the financial institution as well
22 as what might be useful to law enforcement and further looking at that data.
23 Q So what are you looking for when you're looking at that financial data? I
24 mean, you're on a call with Bank of America, and you guys are trying to determine
25 thresholds, what's that discussion like?

1 A Most of it is about, you know, when you're talking about narrowing focus,
2 you're talking about narrowing focus by relying on data that collectively may help narrow
3 that focus significantly.
4 Q And were these thresholds sent to other financial institutions?
5 A Those exact I couldn't tell you. I don't think those exact, but similar in
6 terms of the inauguration threat.
7 Q And, when you sent these thresholds, what was the expectation?
8 A You mean, when I emailed those thresholds that you're talking about?
9 Q Correct.
10 A The expectation was, if those helped them narrow their focus, that we
11 would -- we would be happy to review any information that met their thresholds for
12 sharing the information back to law enforcement.
13 Q So you stated before that this was sent by Bank of America of their own
14 volition. But you sent these thresholds and discussed a SAR product idea. Is that
15 right?
16 A I'm sorry; what's the question?
17 Q Well, the question is, is it voluntary for Bank of America to file a SAR after
18 discussing the very thresholds that were subsequently filed by Bank of America with you?
19 A Under BSA, it would be up to the bank exclusively whether or not they met
20 SAR thresholds?
21 Chairman Jordan. Anyone not respond?
22 Mr. Sullivan. You're going to have to clarify.
23 Chairman Jordan. Any financial institutions you sent similar requests to, like you
24 did the Bank of America, and Bank of America sent you back information, including
25 documentation that included 211 American customer names, any other financial

1 institutions you sent similar stuff to, did they not respond?

2 Mr. Sullivan. Of the folks that were on the FinCEN call? Of the banks or

3 financial institutions on the FinCEN call?

4 Chairman Jordan. You can limit it how you want. The question I'm specifically

5 asking is, financial institutions who received a similar request to what was in this email

6 that went to Bank of America, did any of them not respond?

7 Mr. Sullivan. I mean, my issue with your question is did they all not -- did any not

8 respond to the same request? I can't say that every institution had the same request.

9 There were a number of institutions on the FinCEN call that I did not have a followup

10 one-on-one phone conversation with or otherwise that produced SARs that related to the

11 unknown threat to Inauguration Day.

12 Chairman Jordan. Okay. Fair enough. Any of them that you did send

13 something out to today and not respond?

14 [redacted] Do you want to take a minute?

15 Mr. Sullivan. Sure.

16 [redacted] Off the record.

17 [Discussion off the record.]

18 BY [redacted]

19 Q Back on the record.

20 A So it's a hard question to ask because it was 3 years ago. But I want to

21 answer your question. So it's hard for me to answer whether there was any financial

22 institution that I had either a phone discussion with or who was on the FinCEN -- original

23 FinCEN call that didn't produce SARs. I can't recall any financial institution that didn't

24 produce SARs during that time.

25 Chairman Jordan. Okay.

1 Mr. Sullivan. I can't speak to 3 years ago if you're asking me that very specific
2 question.
3 Chairman Jordan. So I just want to make sure we understand, there's a phone
4 call before the 1/15/2021, 9:56 a.m. email that you sent to -- to folks at Bank of America.
5 There's a phone call prior to that. In that phone call, there is a call between you guys, or
6 is that the FinCEN call?
7 Mr. Sullivan. No, the -- before the 1/15 and 9:56 a.m. email, there was a phone
8 call to -- between myself and one of the people in the attention line on this email.
9 Chairman Jordan. Tell me when the FinCEN call happened because I don't have
10 that document.
11 Mr. Sullivan. Two days after the Capitol riots.
12 Chairman Jordan. So prior to all of this?
13 Mr. Sullivan. Correct.
14 Chairman Jordan. Okay. And you're saying, based on the FinCEN call, there
15 were a number of SARs that were sent to you guys?
16 Mr. Sullivan. That were highlighted to us. They were published to the FinCEN
17 portal.
18 Chairman Jordan. Highlighted to you guys?
19 Mr. Sullivan. There were a number of financial institutions that may have
20 published that didn't alert me, and FinCEN wound up also passing out to other law
21 enforcement agencies, us being included in that, that FinCEN tag that they decided all
22 Capitol riot SARs would be tagged with that FinCEN tag.
23 Chairman Jordan. Okay.
24 Mr. Sullivan. So I just want to make it clear, I'm receiving SARs from FinCEN at
25 the time, but I'm also receiving, "Hey, you might want to take a look at this. We've

1 already published it to the FinCEN portal."

2 Chairman Jordan. From the institutions themselves. From the financial

3 institutions. Okay. Got it. Then you have this email, and then there's another phone

4 call before the email where you lay out the thresholds?

5 Mr. Sullivan. Correct.

6 Chairman Jordan. Okay. And we've established, I think, throughout the day

7 that you had similar types of correspondence with other financial institutions you are not

8 allowed to get into. But my question is, of those other financial institutions that you've

9 talked to, did any of them not send you -- did any of them not send you a SAR?

10 Mr. Sullivan. Again, my answer is nuanced because, number one, it was 3 years

11 ago. Number two, the FinCEN call would have allowed institutions to be able to

12 determine whether or not they met SAR thresholds just from the FinCEN call. That

13 didn't require any followup conversation with me. Some did; some didn't. So me

14 speaking directly about that, to what you're saying specifically, I couldn't say.

15 Chairman Jordan. Okay.

16 BY [redacted]

17 Q And, on the FinCEN call, the thresholds that you're speaking about that some

18 financial institutions may have just taken and run with it, those thresholds were identified

19 by FinCEN and FBI. Is that accurate?

20 A I believe that they were brainstorming thresholds that we discussed on the

21 call. The call wasn't exclusively the FBI participation. I couldn't speak to other law

22 enforcement agencies that would log in. I can tell you that we were receiving tips and

23 leads and covering down on open investigations at the same time that this call is going

24 on. I do remember also being at home and handling other unclassified leads that were

25 tied to the Capitol riots investigations. So, once I was done talking about my

1 brainstorming of fact-based patterns that had -- might collectively help narrow their
2 focus, I was on to what I was working on. And I couldn't tell you who at FinCEN was
3 saying, "Yes, we don't like these fact-based patterns, or we like these fact-based
4 patterns." What I do remember FinCEN saying is, "Hey, any SARs that results, anything
5 that you the banks collectively are able to publish on SAR thresholds, we would request
6 that you use this specific FinCEN tag to group these in." So that's -- I mean, that's the --
7 Chairman Jordan. Did the FinCEN make -- maybe a couple -- did FinCEN make
8 similar suggestions on what the threshold should be, like what you did in the Bank of
9 America communication?
10 Mr. Sullivan. Like what? Like, sorry, I know -- I think I know what you're asking,
11 but if you could fine tune it.
12 Chairman Jordan. In your notification, you have timeframe purchased, location
13 purchased overlayed with any firearm purchase at any particular time. So you had these
14 sort of three things there. Did FinCEN do the similar stuff in that notification?
15 Mr. Sullivan. I think it was weapons-related and not firearms purchases.
16 Chairman Jordan. Fair enough. Did FinCEN do something similar?
17 Mr. Sullivan. I don't recall if FinCEN did something similar. I do recall the
18 FinCEN tag being on just about every SAR linked to the Capitol riots after that. So, based
19 on their directive, I do remember -- even if I were to get a SAR that was published in the
20 FinCEN portal, in this case, Bank of America, they sent it to me in a secure portal, as well
21 saying "this has been published. FinCEN, that tag was on that SAR and other SARs that
22 followed that.
23 Chairman Jordan. Okay.
24 BY [redacted]
25 Q We talked a little earlier about these thresholds. I think you said that you

1 assumed that these three thresholds needed to be met. Is that right?

2 A I didn't say that they needed to be met. This, again, going back to -- this is

3 a -- you have to understand my job role as the finance sector liaison is to engage with

4 these executives and brainstorm and talk about the threat. So this wasn't what we

5 needed but, rather, what we discussed.

6 Q So, when you said, "We are prepared to action immediately the following

7 thresholds," what did you mean by action?

8 A First of all, with every institution that I work with directly, especially at the

9 executive level, because I had weekly, daily, weekly, monthly engagement with these

10 executives, they would know what that meant. That would mean we would review it.

11 And, if anything met additional assessment level, low-level investigative activities, that it

12 wouldn't necessarily be based on the SAR, but that they knew we would review what they

13 had immediately.

14 Q And so, when these thresholds that follow, it could have been one that Bank

15 of America could have understood this to mean one individual threshold being sufficient?

16 A No. What was discussed on the call was that the thresholds in and of

17 themselves -- and I want to make this clear: There was an assumption on the phone call

18 as well as the email that these thresholds had to collectively be met. There was never

19 an indication of Bank of America -- especially at the executive level -- that would be highly

20 unusual. And I've never experienced this in the 3 years that I was finance sector liaison

21 where they take one of those fact-based patterns and say, "We've got a great SAR from

22 just this one fact-based pattern," because that would be -- from a data standpoint, would

23 be an unruly number of volume and irrelevant for us to even take a look at it. So it was

24 understood that these were collective thresholds.

25 Q Okay. The last asterisk -- I'll read it into the record. It states, "SEU intends

1 to capture with its FI partner concurrence all customers who might be more strategic in
2 carrying out the tags related to CTD interest, travel with weapons by vehicle, and not by
3 air given the current threat and aftermath of the 6 Jan Capitol Building incidents. The
4 intention by SEU is to identify all potential networks or threats, those individual threats to
5 Inauguration Day and beyond." What did you mean by FI partner concurrence?
6 A Financial institution.
7 Q Specifically, FI partner concurrence?
8 A Financial institution partner concurrence.
9 Q Meaning with their agreement, with their?
10 A No, the assumption there was, again, if they met information-sharing
11 thresholds under BSA, that, you know, again we would review it.
12 Q And the language to identify --
13 A If I can add, if anything, that's -- I wouldn't even necessarily, you know,
14 discuss this in an email. But the assumption there is that the institution is always under
15 BSA reporting thresholds. So I wouldn't see the data unless it was in an open
16 investigation where I was sharing like specific information of an investigation or a soft
17 copy of the grand jury subpoena to be expedited so that we can get records faster.
18 Does that make sense?
19 Q Yeah.
20 A Does that answer your question fully?
21 Q Yeah, I think so. When you say "to identify all potential networks or threats
22 versus individual threats to Inauguration Day and beyond," what did you mean by and
23 beyond?
24 A So the beyond was discussed -- I remember having a conversation with an
25 analyst in the domestic terrorist section that discussed, along with the earlier memo of

1 "unclassified for official use only" memo that went out by Office of Private Sector that
2 detailed potential unknown threat to Inauguration Day. That beyond -- the original
3 Inauguration Day was March the 4th, the 3rd or 4th. And, after whatever amendment
4 that was made, to change the date from March 4th to January 20th, that was discussed
5 on the phone call with Bank of America. And I can say that, you know, that was a
6 general date range. It wasn't -- we were requesting specific date range from Bank of
7 America that again was up to the bank's threshold.
8 Q So were all individuals that met the criteria of these thresholds viewed as
9 potential network threats?
10 A I'm sorry; were all?
11 Q All 211 individuals, were they considered, in your words, a part of networks
12 of threats?
13 A No.
14 Q Did anyone from Bank of America question the legality of the thresholds?
15 A No.
16 Q Did anyone from Bank of America express concern about the scope of the
17 thresholds?
18 A No.
19 Q Did you have to receive approval from supervisor or anyone at the FBI
20 before sharing these thresholds?
21 A No, but I did discuss them as I would normally discuss them with upper
22 management. My -- typically my direct writing official, which is also a GS-15 and a chief.
23 Q And how did those discussions go?
24 A Great. Like specifically what?
25 Q Did he or she express any concern?

1 A No.

2 Q So, going into these thresholds, how did you expect Bank of America to sort

3 its customers' financial data according to these thresholds?

4 A I couldn't tell you. You'd have to ask Bank of America.

5 Q You don't have any idea of what methods Bank of America might use?

6 A I don't have access. Law enforcement doesn't have access to bank records

7 and proprietary data.

8 Q Sure, but you're a financial sector liaison expert, and your testimony is that

9 you don't have any idea how Bank of America might return customers based on the

10 thresholds you provided?

11 A Yeah, again, I don't want to speak for the bank. I can tell you what I did.

12 Once I reviewed the SAR, I understood that -- and the bank knew this too -- that I would

13 need to review the SAR fully and its content to determine next steps for law enforcement.

14 Q Did the SAR reveal the methods that Bank of America used?

15 A No.

16 Q Did the supporting documentation?

17 A Outside of the fact-based patterns that were notated in the SAR narrative,

18 no.

19 Q The supporting documentation didn't either?

20 A The supporting documentation highlighted additional information on the

21 211.

22 Q And what was that additional information?

23 A It was just names. It was basic information. Name, address.

24 Q Do you think Bank of America could have used merchant category codes?

25 A You'd have to ask them. It would be under their capabilities.

1 Q So that wouldn't be unusual?

2 A For them to use merchant codes in reviewing criminal activity or suspicious

3 activity, no. Anything the bank had access to would be my understanding from my

4 interactions with the banks. It would be -- the capabilities are vast. The critical point

5 is, do they meet SAR thresholds under BSA? Yes or no? So my receiving end of that

6 would be law enforcement access to that.

7 Q Did you have any concern with the thresholds that were shared?

8 A No.

9 Q And, when these thresholds were shared, were there specific identifiable

10 individuals you were interested in, or was this created -- did those fact-based patterns

11 include specific identifiable individuals, or was it just based off looking at raw data?

12 A I mean, my review of the SAR was more about the data and understanding

13 the data to determine whether, you know, what next steps to take, whether, in this case,

14 the guardians that we pushed out, the four that we pushed out.

15 Q One of the thresholds states -- the fourth threshold, it states, quote, "any

16 historical purchase" -- and then, in brackets, you write, "going back 6 months generally

17 for weapons or weapons-related vendor purchases."

18 What did you mean what you said any historical purchase.

19 A Well, the financial institutions generally, generally do not know specific

20 purchases, so, to your point of merchant category codes, they may be looking for those

21 merchant category codes that typically have weapons-related transactions. But there

22 would be no way to determine without a doubt that there were a weapon per se. So,

23 when this was -- this again was a discussion that met a fact-based pattern that was

24 discussed on the call.

25 Q And, when you said any historical purchase, you meant any historical

1 purchase?

2 A Well, it says going back to 6 months generally. That's what Bank of

3 America felt would narrow their focus enough, at least initially in reviewing the data.

4 Q So Bank of America pushed back against any historical purchases?

5 A No, that's not what I said. My understanding is that there -- of the phone

6 call and this email, that this was the brainstorming discussion result.

7 Q Another one of the thresholds mentions purchases made for hotel, Airbnbs,

8 RSVPs in the DMV area, in brackets, the day before and during Inauguration Day since

9 1/6/21. Is purchasing lodging ordinarily evidence of criminal activity?

10 A No, none of -- any one fact-based pattern by itself is not an indicator -- all

11 three together are not an indicator. But, again, this was about the collective fact-based

12 patterns. I can also tell you I have never reviewed a SAR that would ever have one of

13 those fact-based patterns as the SAR. If it had, it wouldn't have been pushed to me by

14 an executive at a financial institution, and my initial review of it would be dismissive.

15 Q Is it normal for SARs to contain the names of 211 individuals or entities?

16 A Define normal.

17 Q Have you received a SAR with that number of persons before?

18 A It's up to the financial institution and the suspicious activity that they're

19 meeting thresholds for of whether or not they're including other individuals in that. So,

20 to answer your question, yes, I have seen many SARs that have more than one individual

21 on the SAR.

22 Q Is it how you have seen --

23 A I have seen thousands.

24 Q Thousands?

25 A Yeah.

1 Q Okay.

2 A And, again, I want to clarify, too, my original comment earlier this morning

3 was there are 5 million SARs that are produced that FinCEN can discuss with you at length

4 the various -- the scope of what's included in the SAR narrative. But, at the end of the

5 day, the FinCEN regulator is still the regulator for all those SARs, and the institutions are

6 responsible for what goes into the SAR and what's published.

7 BY [redacted]

8 Q Of the 211 names in there, how many of those persons did you investigate

9 or did you send to have investigated?

10 A Again, it wasn't an investigation. At the headquarters level, in order to

11 mitigate potential risk, we agreed that we satisfied the threshold of a guardian, which is

12 like a no-stone-unturned assessment. We determined, based off of my interaction with

13 Bank of America, my followup conversation on specifically the weapons-related

14 transactions that I wanted to understand which ones were made after January 6th that

15 we were able to drill down to only the four of the 211.

16 Q And the names that didn't reach the level of guardian, were those names

17 stripped from the FBI databases or anything?

18 A No.

19 Q They remain --

20 A No. The SAR, as published in FinCEN, all of law enforcement had access to

21 that SAR, not just the FBI. So any law enforcement agency, once this was released to

22 FinCEN, had access to that Suspicious Activity Report.

23 Q Do they continue to have access to that Suspicious Activity Report?

24 A Any SAR. And I can't speak to FinCEN. I have no idea if they have

25 redaction procedures or not. But I am sure FinCEN could answer that.

1 Q Do you know if there are retention limits on how long the SAR can remain in
2 the system?
3 A No, I think, for bank information generally on the bank side, it's 5 to
4 10 years.
5 [redacted] Do you know from personal knowledge?
6 Mr. Sullivan. No. FinCEN would have that information because they're the
7 steward of the data. They also house the data.
8 [redacted] Can we go off the record.
9 [Discussion off the record.]
10 BY [redacted]
11 Q We can go back on. So is it a normal process for SARs to be sent directly to
12 your email as it was in this case?
13 A What do you mean by normal?
14 Q How do you typically access a SAR?
15 A Either someone on my team accesses it through the FinCEN portal, or based
16 off of a bilat agreement that the Bureau has with FinCEN because of FBI is -- are power
17 users of SAR data, they can also access the data on our SIPRNet, FBI net system.
18 Q Do you know how many people access this filing?
19 A For which? For FBI net or for FinCEN portal?
20 Q Let's start within the FBI, the FBI net?
21 A I don't have those numbers. I can tell you that because of that bilat
22 agreement, because SARs are so critical to law enforcement, the fact that we have that
23 on FBI net accessible to our agents and analysts is huge. So FinCEN does an annual
24 report on users of their data. They wouldn't know what that number was unless they
25 spoke with the FBI, but they would have a number of FBI analysts and agents that log in

1 through the FinCEN portal.

2 Q Okay.

3 A I don't have the numbers. That's an information technology question for

4 us, and that's above my pay grade.

5 Q I apologize since I've been out of the room, but does FinCEN notify you when

6 they have a SAR?

7 A No, it would be impossible to notify when they have a SAR. However, in

8 some cases, like with the Capitol riots, because on that FinCEN call, they came up with

9 that FinCEN code to use in SARs related to Capitol riots, anything related to Capitol riots,

10 they were pushing SARs to me and other law enforcement entities. I think WFO, but I

11 can only tell you they pushed SARs to me during that timeframe. In a normal non-NSSE

12 event, right, I would never -- I may receive one of their products, which is kind of a

13 preliminary analysis of SARs collectively, you know, a potential threat. But, quite

14 frankly, I mean, it's not -- it wouldn't be typical, but during the Capitol riots, I did receive

15 SARs from FinCEN.

16 Q So all the SARs were tagged with a certain code that meant to get sent --

17 A Yes, that FinCEN wanted its financial institutions on that first Friday call after

18 the Capitol riots, they wanted the institutions to use.

19 Q Okay. And then, non-January 6th-type situations, what triggers FinCEN

20 reaching out to you with a SAR?

1 [1:21 p.m.]

2 Mr. Sullivan. Again, they have -- FinCEN, they -- over the years, they've taken on
3 different products where they're -- they review SARs and other BSA activity, like CTRs,
4 cash transactions above 10,000, and they'll put that in, almost like a summary product.

5 I can only speak to a few of them. They used to publish, I don't even know if
6 they still publish, flash reports, which is almost like a summary of multiple SARs on related
7 activities. So most law enforcement would have access to that just like they have access
8 to FinCEN portal for line item SARs that are going in there, thousands, you know, on a
9 daily basis.

10 [redacted] So were there, to the extent you know, individuals at FinCEN
11 who were reviewing every SAR that comes in?

12 Mr. Sullivan. On the Capitol -- for what?

13 [redacted] Beyond Capitol riots actually.

14 Mr. Sullivan. I can't speak to what FinCEN, you know, did or didn't do on that. I
15 just know that that tag prompted them to be able to, I guess in their own way, review
16 Capitol riots-related SARs.

17 BY [redacted]

18 Q So just to clarify, with respect to the Bank of America SAR, there was no legal
19 process provided to Bank of America?

20 A So, I mean, the question is odd because we only -- the partner engagement,
21 the Strategic Engagement Unit, in dealing with any private sector entity, will only deal in a
22 lawful avenue for sharing information.

23 Q Sure. Was process, in terms of a subpoena or national security
24 lever -- letter, sent to Bank of America in this specific instance?

25 A No.

1 Q And in the Bank of America filing --

2 A And if I could clarify, we wouldn't send process for information that was

3 provided to us based off of the financial institutions' meeting of SAR thresholds and they

4 produced in a SAR.

5 Q Thresholds in response to your email and the FinCEN call?

6 A No, not in response to anything. If we received a SAR or had access to a

7 SAR, there would be no subpoena provided for that, unless down the road after an

8 assessment or an investigation may be opened up on on an individual or business entity,

9 only then would we even want to provide grand jury subpoena for fuller records on that

10 individual.

11 [redacted] Can we go off the record for a minute?

12 [redacted] Sure.

13 [Discussion off the record.]

14 [redacted] We can go back on the record.

15 BY [redacted]

16 Q So just to continue to clarify, so when you asked for the supporting

17 documentation -- so the SAR is filed, it just has the general information -- when you

18 request the supporting documentation, you don't have to subpoena that?

19 A No.

20 Q You can just request that from the banks?

21 A No. No law enforcement needs to -- that has access to SARs needs to

22 subpoena for records that come -- supporting documents that come with the SAR,

23 provided it's attached to that SAR.

24 Q Okay. And are there any efforts to protect the privacy of the individuals

25 that are on there? How much -- well, are there -- step back.

1 Are there efforts to protect the privacy of individuals that are listed in that
2 supporting documentation?
3 A Well, in terms of there's no public access to that, correct.
4 BY [redacted]
5 Q On the filing provided by Bank of America, did it include historical purchases
6 of weapons?
7 A Yes.
8 Q Did it include historical purchases of lodging?
9 A You're talking about the supporting documents or the SAR?
10 Q Either.
11 A The SAR narrative discussed that as a threshold that was met.
12 Q Yeah.
13 A Correct.
14 Q So in the supporting documentation, did it include historical purchases of
15 lodging?
16 A The information captured in the supporting documents was related to that,
17 correct.
18 Q And did it include historical purchases of travel?
19 A Yeah. Any of the -- any of the thresh -- all thresholds that were discussed in
20 the SAR were directly related to the supporting documentation.
21 Q And once you received the filing, what was your expectation for how you
22 would use it at the FBI?
23 A Again, I mean, we receive thousands of tips and leads. SARs is one form of
24 raw intelligence we would receive. The financial institution filing the SAR knows that
25 law enforcement may or may not be, you know, the reviewer of their SAR.

1 Once we review it, we understand, does this warrant further assessment, and
2 then deal accordingly. In this particular case, we determined that there were four
3 Guardian assessments that were met.
4 Q And we may have touched on this already, but did you share the SAR
5 information with other FBI offices, apart from the four Guardian assessments?
6 A So when the four Guardian assessments were finished, and I spoke to this
7 earlier, we highlighted the four Guardian assessments -- there's a tag to each assessment
8 in what's called -- summarized them in what's called an electronic communication, or EC.
9 That EC that was done by our unit included the four Guardian assessments and the SAR
10 itself, and we uploaded it to our case file within the unit, and also the case file, which was
11 normal practice to -- if there is a case, if there is an investigation case file related to the
12 data you're looking at, you should upload it to that case file as well.
13 In this case, we uploaded it to the WFO case file on the Capitol riots, so that they
14 had access to the data and so that there wouldn't be any redundancy on any action or
15 nonaction that they felt was necessary reviewing the data.
16 Q And so when you uploaded the SAR, did that also include the supporting
17 documentation?
18 A I believe it did.
19 Q Would the Office of the Private Sector have access to that portal that you
20 uploaded it to?
21 A Yeah. Anybody with Sentinel case data access, FBI employee, would have
22 access to that.
23 [redacted] We can go off the record.
24 [Recess.]

1 [2:10 p.m.]

2 [redacted] Okay. We are back on the record.

3 BY [redacted]

4 Q And I want to start by talking a little bit about the Bank Secrecy Act, because

5 based on some of the questions earlier, it appears that there might be some

6 misunderstanding about it and about when legal process is and is not required. And I

7 would hate for any confusion about that to lead to legislation regarding the Bank

8 Secrecy Act based on a fundamental misunderstanding, so I just want to talk about it a

9 little bit.

10 The Bank Secrecy Act, among other things, one of its primary provisions is that it

11 requires financial institutions to report suspicious transactions relevant to possible

12 violations of law and regulation, correct?

13 A Correct.

14 Q So long as those transactions meet certain thresholds?

15 A Correct.

16 Q And it's up to the bank to determine whether or not they meet those

17 thresholds?

18 A Yes.

19 Q And that reporting requirement is something that the bank does pursuant to

20 the Bank Secrecy Act. It does not require a subpoena or a search warrant or anything

21 from law enforcement other than the Bank Secrecy Act itself --

22 A Correct.

23 Q -- correct?

24 A Correct.

25 Q So the Bank Secrecy Act itself is the legal process, correct?

1 A For financial institutions, correct.

2 Q Correct.

3 And I know, based on your educational background, that you're not an attorney,

4 but are you aware that, nearly 50 years ago, the Supreme Court ruled that the Fourth

5 Amendment does not apply to bank records because bank records are considered to be

6 the property of the banks and not the property of the customers whose records they

7 relate to.

8 A Yes.

9 Q You're aware of that, correct?

10 So to the extent that there's any restriction on the ability of banks to provide

11 financial records, those restrictions come from the Bank Secrecy Act --

12 A Correct.

13 Q -- correct?

14 And as you just said, that act requires the provision of certain records relevant to

15 suspicious transactions, correct.

16 A Correct. It obligates the financial institutions to report that activity.

17 Q And no legal process is required for that?

18 A For SARs --

19 Q For SARs.

20 A -- correct.

21 [redacted] And to be clear, when we're saying "legal process" meaning a

22 subpoena --

23 [redacted] Correct, exactly. A subpoena or --

24 [redacted] -- but basically the Act itself is legal process, but an additional

25 subpoena on top of the --

1 Mr. Sullivan. Yes, thank you for clarifying.

2 The Reporter. Hold on, please. Just one at a time, please.

3 [redacted] The Bank Secrecy Act itself is the legal process. A subpoena would

4 be a separate form of legal process. The Bank Secrecy Act itself provides legal authority

5 for banks to produce that information, correct?

6 Mr. Sullivan. Correct. Correct.

7 Sorry.

8 [redacted] And you were also asked a question about what steps you took to

9 ensure the privacy of the individuals whose names were referenced or incorporated by

10 reference into the Bank of America SAR. And I wanted to talk about the secrecy

11 provisions that are inherent and built into the Bank Secrecy Act. I'm actually going to

12 introduce those into the record. And apologies for making you look at a long section of

13 the U.S. Code.

14 Mr. Sullivan. It's okay.

15 [Sullivan Exhibit No. 7.

16 was marked for identification.]

17 [redacted] But I'm going to direct you to subsection -- so this is 31 United

18 States Code, Section 5318, the statute that was mentioned earlier. And if you look on

19 the second page of this, subsection (g), section (2).

20 [redacted] And the section we're looking at begins on the bottom of the second

21 column on the second page, and it goes on to the third page.

22 [redacted] Okay.

23 Mr. Sullivan. All right. Got it.

24 BY [redacted]

25 Q So technically this is 5318 (g)(2)(A) little 2, and it says, "no current or former

1 officer or employee of or contractor for the Federal Government or of or for any State,
2 local, Tribal, or territorial government within the United States, who has any knowledge
3 that such report was made may disclose to any person involved in the transaction that
4 the transaction has been reported, or otherwise reveal any information that would reveal
5 that the transaction has been reported, other than as necessary to fulfill the official duties
6 of such officer or employee."
7 Is that what the statute says?
8 A Yes.
9 Q And is that what you were referring to when you said earlier that the SARs
10 are nonpublic and, therefore, the information contained in them is enough to maintain
11 the privacy of those individuals?
12 A Correct.
13 Q Thank you.
14 Now, I want to go back to -- sure. I'm also going to read into the record one of
15 the implementing regulations. This is from, I believe it's 31 CFR, Section 1020.410.
16 We're going to introduce this. And we are on, this is exhibit 8, correct?
17 [Sullivan Exhibit No. 8.
18 was marked for identification.]
19 BY [redacted]
20 Q Actually, it's 1020.320. And if you look at the page that's numbered 1123
21 at the bottom. And in the middle of that page, section (2), it says, "Prohibition on
22 disclosures by government authorities. A Federal, State, local, territorial, or Tribal
23 government authority, or any director, officer, employee, or agent of any of the
24 foregoing, shall not disclose a SAR, or any information that would reveal the existence of
25 a SAR, except as necessary to fulfill official duties consistent with Title II of the Bank

1 Secrecy Act. For purposes of this section, "official duties" shall not include the
2 disclosure of a SAR, or any information that would reveal the existence of a SAR, in
3 response to a request for disclosure of nonpublic information or a request for use in a
4 private legal proceeding, including a request pursuant to 31 CFR 1.11."
5 Did I read that correctly?
6 A Yes.
7 Q And that is, again, your understanding of the secrecy provisions, or the
8 privacy provisions, I should say, of the Bank Secrecy Act?
9 A Yes.
10 Q Thank you.
11 [redacted] So just to put a finer point on this, in the prior hour the question was
12 asked to you, were there any efforts made to protect the privacy of the individuals
13 mentioned in the Bank of America SAR?
14 The answer is that the regulation, the Bank Secrecy Act itself, both inherently
15 provide for those privacy protections, correct?
16 Mr. Sullivan. Correct.
17 [redacted] Thank you.
18 BY [redacted]
19 Q Now, I want to talk -- go back, and even though this ground has been
20 trudged quite a bit today, I think it's necessary to go back and just make some
21 clarifications, because I believe we've been loosely using the word "request" to describe
22 your email to Bank of America.
23 And I just want to be clear, this email was a memorialization of criteria that you
24 and the banks had discussed and agreed upon that might be helpful for them in
25 identifying suspicious transactions that could be related to potential violence surrounding

1 the inauguration, correct?

2 A Correct.

3 Q And there was no request in that email for the banks to take any particular

4 action, correct?

5 A Correct.

6 Q And there was no order for the banks to take any particular action?

7 A Correct.

8 Q No compulsion, no pressure?

9 A Correct.

10 Q I believe you -- it was characterized as you saying, here's how we would like

11 it done, but the email didn't even suggest that, correct?

12 A Correct.

13 Q And the banks were free to disregard that criteria and use their own criteria

14 to determine what transactions needed to be reported under the Bank Secrecy Act as

15 relevant to possible violations of crimes that prevent terrorism or other forms of violent

16 activity, to include in their SARs, correct?

17 A Correct.

18 Q Now, you were asked several questions about SARs received from other

19 financial institutions regarding these same criteria or similar criteria. And putting aside

20 the fact, we understand it was 3 years ago, and it's very difficult to remember what you

21 did and didn't receive, but given that the banks have their own independent obligation to

22 review their records and report suspicious activity, and given that everybody was focused,

23 in the days and the weeks after January 6th, on preventing future violence in that vein, I

24 imagine it would be very difficult to distinguish between a SAR that was made in

25 response, say, to that FinCEN call, as opposed to one that the banks just came across on

1 their own accord, correct?

2 A Correct.

3 Q You were also -- you made a reference earlier, and I believe it was in

4 response to a question about your use of the phrase "January 20th and beyond." And

5 you mentioned March 4th and the original inauguration date or something to that effect.

6 Can you explain what you meant by that and what you were referring to?

7 A Yeah. We discussed on the call, there was a -- the domestic terrorist

8 analyst, I remember there were discussions that came within the division that the

9 inauguration day, in terms of a threat, could also possibly mean the original inauguration

10 day, which was back -- I think changed in 1933 -- don't quote me on that -- as part of an

11 amendment, and that was permanently changed to what we know today as January 20th.

12 Q And do you recall there was a theory by QAnon and other domestic

13 extremist groups that former President Trump would actually be inaugurated on March

14 4th, that, quote/unquote, original inauguration date?

15 A I can't remember that specific, but variations of things like that.

16 Q Are you aware that Capitol Police had intelligence that showed a possible

17 plot to breach the Capitol by an identified militia on March 4th of 2020?

18 A Am I aware of who?

19 Q Capitol Police.

20 A That specifically, no.

21 Q Okay. But to be clear, there was concern, not just for violence at the actual

22 planned inauguration date, but that that same type of violence might happen again on

23 March 4th?

24 A That was the fear, correct.

25 Q That was the fear.

1 And you wanted to do what you could, using the lawful tools at your disposal, to
2 prevent that?
3 A Absolutely, yes.
4 Q Now, I want to ask you about some claims that have been made by some of
5 the witnesses in this investigation and by the majority. Are you familiar with
6 George Hill?
7 A I am.
8 Q Okay. And so you're aware that he's a retired FBI supervisory intelligence
9 analyst in Boston, correct?
10 A Yes.
11 Q And you're aware that he previously testified before this committee?
12 A Yes.
13 Q And in his testimony, he stated that Bank of America data-mined its
14 customer base and created, what he described, a huge list of any customer who used a
15 Bank of America debit card or credit card between the dates of January 5th to
16 January 7th.
17 To your knowledge, was that testimony accurate?
18 A No.
19 Q And why not?
20 A Only from the limited amount of what I've read that's been quoted, that's in
21 open source on what Mr. Hill testified to, he obviously wasn't a part of that actual
22 determining whether those assessments were, you know, reviewable and what that field
23 office was going to do with them, with the information.
24 So that particular quote that you're giving is just obviously just one piece that he
25 decided, for whatever reason, because he didn't have access to the information, that he

1 was going to focus on.

2 Q And to the extent that his understanding was that the only criteria to make it

3 onto the list was a financial transaction between those dates, that would be incorrect?

4 A Correct.

5 Q Okay. And he also testified that on top of that list, they put anyone who

6 had purchased a firearm during any date. That's incorrect as well?

7 A False, that's correct.

8 Q Because as we saw, Bank of America reported only firearms purchases from

9 July 2020 through --

10 A That also met --

11 Q That also met -- correct.

12 A -- the additional thresholds --

13 Q Exactly.

14 A -- which was key.

15 [redacted] Can I have a quick minute?

16 [redacted] Of course.

17 [redacted] Thank you.

18 [Discussion off the record.]

19 [redacted] Thank you.

20 [redacted] Thank you.

21 BY [redacted]

22 Q Mr. Hill also testified that there was a list of customers who used a B of A

23 product and who also purchased a firearm at any time that was then, quote, racked and

24 stacked and sent out as leads to the field office in Sentinel, from the case that the

25 Washington Field Office opened, quote/unquote.

1 Was that testimony accurate?

2 A No.

3 Q The entire list was not sent out as leads, correct?

4 A I can't speak to what any other FBI office did. I know that Washington

5 Field Office obviously from previous -- from discussions previously, that we uploaded the

6 information to Washington Field Office. I do know that later -- I found out later that

7 they used the information for further assessment. But I -- from everything that you've

8 read, my understanding is that did not happen the way that he described it. But I also

9 don't know what was in George Hill's head when he was speaking to this. A lot of it

10 didn't make sense to me.

11 Q Fair enough. And your understanding is that he did not actually see the

12 SAR itself --

13 A That's my understanding.

14 Q Thank you.

15 And during his transcribed interview, minority counsel posed a hypothetical to

16 Mr. Hill, and that hypothetical was that if counsel's sister visited him -- I'm sorry.

17 [redacted] Majority counsel.

18 BY [redacted]

19 Q Majority counsel. I'm sorry. Strange mistake to make.

20 -- but if his sister visited the D.C. area on January 5th, 2021, and made a purchase

21 at a Safeway, would her name have been on the list, and Mr. Hill testified, yes.

22 That was incorrect, wasn't it?

23 A That alone, but I wouldn't want to speak to hypotheticals either. I mean,

24 he would. I know he spoke about a lot of things that he wasn't aware of, but I don't

25 want to speak to any hypotheticals either, on my side of it anyways.

1 Q So last month after Bank of America produced documents to the majority,
2 including your January 15th email that's exhibit 1 to this transcribed interview, the
3 majority released a report entitled, "Financial Surveillance in the United States: How
4 Federal Law Enforcement Commandeered Financial Institutions to Spy on Americans."
5 Do you believe that the FBI commandeered Bank of America to do anything?
6 A No.
7 Q Do you believe that the FBI commandeered Bank of America's databases?
8 A No.
9 Q And I believe I covered this earlier, but I want to ask it again. Did the FBI
10 order Bank of America to conduct any search of its database in connection with your
11 email?
12 A No.
13 Q The minority's report alleged that Federal --
14 [redacted] The majority.
15 [redacted] The majority. It's been a day.
16 BY [redacted]
17 Q The majority's report alleged that Federal law enforcement officials were
18 brainstorming informal methods outside of normal legal processes for obtaining private
19 customer information from financial institutions.
20 What is your response to that allegation?
21 A It's false.
22 Q Okay. And why is it false?
23 A Because we've never exchanged information that we took any kind of
24 investigative activity on and whether that -- that wasn't lawful.
25 Q And also as we discussed earlier, legal process is not required for the

1 information that's produced in a SAR, correct?

2 A Specifically for a SAR, correct.

3 Q The report also criticizes the email you sent by saying that it constitutes a

4 request made without any legal process to individualize criminal nexus. And, again, it's

5 your understanding that legal process, such as a subpoena or a search warrant, was not

6 required for Bank of America to submit the information in that SAR, correct?

7 A Correct.

8 Q The report also referred to -- we discussed earlier, and this was a couple

9 hours ago now, but the DSAC portal that private corporations use to communicate

10 information and to submit information to the FBI, and the majority's report referred to

11 that portal as an obscure government-run portal or a back-door channel.

12 Would you agree with that assessment?

13 A From what I've seen, no.

14 Q And in fact, as we discussed earlier, there's a DSAC website explaining to

15 anybody who has access to the internet exactly what that portal is, who may join, and

16 what it does, correct?

17 A Correct.

18 Q Now, you know, we've talked a lot over this afternoon about legal process

19 and why it is not necessary for SARs. But I want to spend some time talking about the

20 times -- the situations in which you do use legal process.

21 The committee has received document productions from other financial

22 institutions, including Citibank, and I want to show some of those to you just to highlight

23 the difference between communications sent pursuant to legal process and the

24 communications related to SARs.

25 [redacted] So if I could have the -- I believe this is 9? Thank you.

1 [Sullivan Exhibit No. 9.

2 was marked for identification.]

3 [redacted] Thank you.

4 BY [redacted]

5 Q So if you look at the bottom, there's an email that you sent to another

6 individual at the FBI on January 7th, 2021. I don't know if that individual is an SES-level

7 personnel or not, and if not, then we'll make sure to have his name redacted, but can you

8 tell me what that person's role is at the FBI?

9 A That was my rating official of my -- my supervisor.

10 Q Okay. And the subject of the email is "Yellow - Florea." That's F-l-o-r-e-a.

11 And the email States, "Folks, good morning. As you might expect, the current situation

12 has turned this week into a busy week."

13 And I assume by "current situation," you meant January 6th?

14 A Correct.

15 Q Okay. "I have another one for you.

16 "Please check your holdings on Eduard Florea and all associated selectors below in

17 response to a Code Yellow, Pete."

18 And then you provided some more information, and we'll get to that in a minute.

19 But the first question I have for you is, can you explain what a Code Yellow is?

20 A Code Yellow is one of several -- part of a nomenclature we would use to

21 only -- in this instance and others -- discuss priority investigations where there's a

22 subpoena already involved.

23 Q Okay. So Code Yellow itself indicates that a subpoena has been issued for

24 the records?

25 A No. All I can say is that, in terms of protecting sources and methods,

1 existing investigations, this would apply to an existing investigation and a means to
2 prioritize an investigation for a financial institution that we're proactively sharing
3 information on that's covered by a grand jury subpoena.
4 Q Okay. Thank you very much.
5 A Yeah.
6 Q And underneath where you signed it Pete, it says, "FYA, Edward Florea, a
7 New York City resident who has claimed to be armed and intending to travel to D.C. to,
8 quote, unleash some violence, unquote. He previously urged violence against those he
9 disagreed with politically and posted a guide for how to create cyanide as well as photos
10 of knives. Florea was arrested in 2014 on firearms charges in New York City after the
11 NYPD seized 30 guns from his residence."
12 Did I read that correctly?
13 A Yes.
14 Q And then you have some biographical and personal identifying data for
15 Mr. Florea.
16 A Uh-huh.
17 Q Was it your understanding that the recipient of this email would forward it
18 to folks at the bank, at Citibank or whatever bank this was sent to, to identify
19 transactions?
20 A My under- -- so, again, without limiting what I say here, this has to do with a
21 priority investigation that's covered by a grand jury subpoena. The recipients in our
22 financial institutions would naturally involve those lower level that can do the queries in
23 order to understand more about their exposure.
24 Q And you would not make those queries, generally speaking, those types of
25 queries, that level of specificity, without a subpoena, correct?

1 A Yeah. This would have to be an open investigation.

2 Q Okay. And are you aware of whether Mr. Florea was ever arrested and

3 convicted in relation to the activities you describe below?

4 A I am not. There are some that I am, but I can't speak to it, and I wouldn't

5 know -- I probably wouldn't speak to it either because I wouldn't know if it was fully

6 adjudicated.

7 Q Okay. Well, I'm going to introduce a press release from the adjudication of

8 that, just for the record.

9 [redacted] And are we on 10? Thank you.

10 [Sullivan Exhibit No. 10.

11 was marked for identification.]

12 BY [redacted]

13 Q So this is a press release from the United States Attorney's Office for the

14 Eastern District of New York, dated December 16th, 2021. Is that correct?

15 A Yes.

16 Q And the press release reflects that Mr. Florea pled guilty and was sentenced

17 to 33 months in prison for threatening to kill Senator Raphael Warnock, correct?

18 A Correct.

19 Q And he also pled guilty and was convicted of being a felon in possession of

20 ammunition, correct?

21 A You are reading it correctly.

22 Q And he was found in possession of more than 1,000 rounds of ammunition

23 when authorities searched his residence pursuant to a warrant, correct?

24 A Correct.

25 Q And the press release reflects that Mr. Florea had made several posts about

1 traveling to D.C. and engaging in additional violence during the very hours when the
2 Capitol was under siege, correct?
3 A Correct.
4 Q For example, he posted, quote, Mine are ready, I am ready, we need to
5 regroup outside D.C. and attack from all sides. Talking to some other guys. I will keep
6 watching for the signal, end quote.
7 Did I read that correctly?
8 A Yes.
9 Q He also wrote, quote, Guns cleaned and loaded, got a bunch of guys all
10 armed and ready to deploy, we are just waiting for the word, end quote.
11 Did I read that correctly?
12 A Yes.
13 Q And then he said -- and this is the phrase that I believe was quoted in your
14 email -- quote, It's time to unleash some violence, end quote.
15 Correct?
16 A Correct.
17 Q Okay. I'd like to discuss another individual whose Citibank records you
18 requested in January of 2021.
19 [Sullivan Exhibit No. 11.
20 was marked for identification.]
21 BY [redacted]
22 Q Okay. So this is an email from you to that same -- I believe you said it was
23 the supervisor --
24 A Correct.
25 Q Correct. -- at the FBI, dated January 14th, 2021. And the subject line is

1 "Yellow - Hunt." And the email says, "Folks, Please run the following name and
2 associated selectors below in response to a Code Yellow.
3 "Brendan Hunt posted a video on social media calling for people to take back their
4 government and shoot up the inauguration day ceremony.
5 "We are interested in all suspicious activity, associations, and recent purchases.
6 "Thanks, Pete."
7 Did I read that correctly?
8 A Yes.
9 Q And then below that, there's a similar listing, as with the previous email, of
10 personal identifying information, correct?
11 A Correct.
12 Q Okay. And as you testified earlier, Code Yellow means that it's a prioritized
13 investigation?
14 A Yes.
15 Q Okay. And that there's a grand jury subpoena?
16 A It would be an open investigation.
17 Q An open investigation?
18 A Correct.
19 Q Okay. And are you aware of whether Mr. Hunt was arrested and
20 convicted?
21 A You're really quizzing me today.
22 Q That's okay.
23 A You know, there were a number of individuals that were part of the
24 prioritization system that involved people that were arrested.
25 Q And there were enough that you don't remember the details of all of them?

1 A Correct, yeah.

2 Q And these were the types of individuals who, because they had made threats

3 to commit additional violence after January 6th, the email that we sent earlier, the more

4 generalized email to Bank of America, was an attempt to uncover more potential suspects

5 who might be in a similar position, correct?

6 A Yeah. To be clear, the latter was within BSA.

7 Q Exactly.

8 A This was proactive from FBI open investigation.

9 Q Okay.

10 [redacted] And the open investigation, the proactive outreach from the FBI only

11 occurred with a subpoena in place?

12 Mr. Sullivan. Correct.

13 [redacted] Thank you.

14 [redacted] Okay. I would like to introduce the press release from Mr.

15 Hunt's sentencing.

16 [Sullivan Exhibit No. 12.

17 was marked for identification.]

18 BY [redacted]

19 Q All right. So this is a press release, again, from the United States

20 Attorney's Office in the Eastern District of New York, and it was issued on November

21 22nd, 2021. And this press release reflects that Brendan Hunt was sentenced to 19

22 months in prison for threatening to assault and murder Members of U.S. Congress, to

23 impede, interfere with, and intimidate those Members, and to retaliate against them on

24 account of their performance of their official duties, correct?

25 A Correct.

1 Q And the press release reflects that on January 8th, 2021, just 2 days after the
2 Capitol riots, Hunt posted a video, titled, Kill Your Senators, that included the summary
3 "Slaughter Them All." Is that correct?
4 A Correct.
5 Q And he made additional threats in the video, exhorting his viewers to
6 violence and telling them, quote, We need to go back to the U.S. Capitol when all the
7 Senators and a lot of the Representatives are there. And this time, we have to show up
8 with our guns, and we need to slaughter these MFs, end of quote.
9 Is that what's reflected there?
10 A You read that correctly.
11 Q Thank you.
12 And he also claimed that, quote, Our government at this point is basically a
13 handful of traitors, so what you need to do is take up arms, get to D.C., probably the
14 inauguration, so-called inauguration of this MF'ing communist Joe Biden. That'll
15 probably be the best time to do this, get your guns, show up to D.C., and literally just
16 spray these MFs, put some bullets in their f'ing heads. Is that correct?
17 A You read it correctly.
18 Q Okay. Probably a safe assumption that he actually spelled out the curse
19 words in the video.
20 A I don't know.
21 Q Sorry, you're not going to assume. Okay.
22 And then he said, If anybody has a gun, give it to me, I'll go there myself and shoot
23 them and kill them. We have to take out these Senators and replace them with actual
24 patriots.
25 That's what's reflected in the press release, correct?

1 A Correct.

2 Q All right. We're going to look at one more individual. This will be our last

3 one.

4 [redacted] This is 14, correct? Thirteen.

5 [Sullivan Exhibit No. 13.

6 was marked for identification.]

7 BY [redacted]

8 Q Okay. So this exhibit is an email that you sent to your supervisor also on

9 January 14th, 2021, with the subject line "Yellow - Lemke," L-e-m-k-e. And it says,

10 "Folks, Good morning. Please run the following name and associated selectors below in

11 response to a Code Yellow.

12 "On January 6th, 2021, Robert Corey Lemke made interstate threats of violence

13 targeting the family of a U.S. Congressman, as well as others, in furtherance of

14 anti-government, slash, anti-authority extremism. We are interested in all suspicious

15 activity and all recent purchases.

16 "Thanks, Pete."

17 Did I read that correctly?

18 A Yes.

19 Q And then below that, again we have the individual's personal identifiers?

20 A Correct.

21 Q And, again, because this is a Code Yellow, that means it was an open

22 investigation for which there was a grand jury subpoena for the information that you

23 requested?

24 A Correct.

25 Q And are you aware of whether Mr. Lemke was convicted of any offenses?

1 A I'm going to take a guess, probably. This particular instance, I don't have
2 the extent of the details.
3 Q Okay. Well, we will provide them.
4 [redacted] Before we go to that, just to be clear on these emails, the "from" and
5 "to," was there anybody blind-copied --
6 Mr. Sullivan. Yes.
7 [redacted] -- on these probably --
8 Mr. Sullivan. Yeah.
9 [redacted] -- from your general practice?
10 Mr. Sullivan. There are a number of executives that are blind-copy counted,
11 which would -- which is why you would see the email that you saw from Citibank.
12 [redacted] Sorry. Executives at the financial institutions or executives at the
13 FBI?
14 Mr. Sullivan. At the financial institutions. Blind-copy counted.
15 [redacted] Thank you.
16 Mr. Sullivan. The FBI person is in the regular attention line.
17 [redacted] Thank you.
18 BY [redacted]
19 Q Okay. So they're blind-copied, and that's why they were produced to us
20 from the bank, that the bank had -- that's how the bank became in possession of them
21 because --
22 A Aware.
23 Q -- they were blind-copied?
24 A Correct.
25 Q Thank you. And I appreciate that clarification.

1 [Sullivan Exhibit No. 14.

2 was marked for identification.]

3 BY [redacted]

4 Q So this is a press release from the United States Attorney's Office for the

5 Southern District of New York, so moving a little bit west here, and it's dated December

6 20th, 2021. And this press release reflects that Mr. Lemke was convicted and sentenced

7 to 3 years in prison for making interstate threats, correct?

8 A Correct.

9 Q And obviously it's a crime to make an interstate threat to kill Members of

10 Congress or their families?

11 A Yes.

12 Q Or really anyone?

13 A Correct.

14 Q And you were investigating that for him?

15 A The Counterterrorism Division was, correct.

16 Q Yeah, fair enough. Thank you.

17 The press release reflects that Mr. Lemke refused to accept the result of the 2020

18 Presidential election and sent electronic audio and video messages threatening

19 approximately 50 victims, including journalists, politicians, Members of Congress, and

20 individuals who had made statements expressing that then-President Trump had lost the

21 election, correct?

22 A Correct.

23 Q He even sent the Congressman from the New York City area a picture of a

24 home in the same neighborhood as the home of the Congressman's brother and stated,

25 Your brother is putting your entire family at risk with his lies -- and other words. We are

1 armed and nearby your house. You had better have a word with him. We are not far
2 from his either.
3 Correct?
4 A I'm sorry. Where -- what part of the article are you reading that from?
5 Sorry. I just --
6 Q It's on the second page, and one, two, three, four -- fourth and fifth
7 paragraph down.
8 A Oh, okay.
9 Correct.
10 Q These types of threats were not uncommon, correct, in the weeks
11 after -- and I don't mean specifically threats against Congressmen's brothers, but just
12 threats of violence?
13 A It wasn't -- I mean, it wasn't the only threat to Congressmen or other
14 officials. There were -- but, yes, there were several other threats.
15 Q And that's what your work was focused on in those weeks after January 6th
16 and before the inauguration?
17 A Correct.
18 Q And I want to completely switch gears and talk about a different type of
19 threat, because at the beginning of this interview, I believe that -- and I don't recall, I
20 apologize if it was you or your counsel that mentioned that threats and other concerns
21 about privacy are acutely present here in this case.
22 Has your name been publicized in relation to the majority's investigation about
23 Bank of America's searches?
24 A Yes.
25 Q And have you received any threats or harassment as a result of that

1 publication?

2 A I have not received any direct threats. However, the time around January

3 17th, when my name was released to -- in a letter to Director Wray, my personal cell

4 phone has been ringing off the hook.

5 Q With what kinds of calls?

6 A I don't pick up.

7 Q And do you know how your personal cell phone number was obtained?

8 A I don't know.

9 Q Do you have concerns for your safety or that of your family if, for example,

10 your name were not redacted from the testimony today?

11 A Yes. And I did then when I found out.

12 Q Okay. And have you been concerned basically consistently since January

13 17th?

14 A I wouldn't say consistently. More frustrated, but still concerned, yes.

15 BY [redacted]

16 Q I just want to make one point for the record. Going back to what I believe

17 is exhibit -- what was introduced as exhibit 5, which is the testimony of Mr. Bonavolonta, I

18 want to make it clear, on page 13 of that testimony, you were asked a number of

19 questions about the leads that may have been involved in --

20 A Yeah.

21 Q -- and indicated you didn't have personal knowledge of that. But I do want

22 to note, Mr. Bonavolonta said in his testimony, quote, So I reviewed the lead, and it was

23 very clear in the lead that there was not a request to engage with anybody. Or we

24 weren't being directed to do anything.

25 Do you see where it says that?

1 A Yes.

2 Q So Mr. Bonavolonta said during his testimony there was no directive for his

3 field office to take any particular action with respect to that lead, correct?

4 A That's what he's saying.

5 Q Right.

6 A Correct.

7 Q He said that on the record, that there was no directive associated with that

8 lead?

9 A Correct. Without knowing what lead he's talking about, correct.

10 [redacted] Okay. Thank you.

11 [redacted] And the leads you sent out were the same, they did not contain

12 any directives?

13 Mr. Sullivan. Well, I can't speak exactly to any leads that Washington Field Office

14 or any other field office pushed out. I'm aware that they occurred after our four

15 assessments. So in this case, I'm just simply saying I don't know which lead he's

16 speaking of.

17 [redacted] Right. But he said he -- in his own words he said that there was no

18 directive, no order, no instruction, that they were to take any action with respect to that?

19 Mr. Sullivan. You're reading it correctly, yes.

20 [redacted] Thank you.

21 We can go off the record.

22 [Recess.]

23 [redacted] All right. We'll go back on the record.

24 BY [redacted]

25 Q Picking back up, at some point, the Bank of America information was

1 recalled from FBI systems. Is that correct?

2 A I'm sorry. Repeat the question.

3 Q At some point, the Bank of America information was recalled from FBI

4 systems. Is that correct?

5 A Not to my knowledge, not the information that we sent out.

6 Q Okay. I'd like to now enter an excerpt of the transcript from the Judiciary

7 Committee's July 12th, 2023 hearing with FBI Director Wray into the record as exhibit 15.

8 [Sullivan Exhibit No. 15.

9 was marked for identification.]

10 BY [redacted]

11 Q And, again, that's just relevant excerpts.

12 A What page?

13 Q Page 33 and 34, if you want to take a second.

14 A All right.

15 Q I'll just go ahead and read into the record the relevant portions.

16 "Mr. Massie. In my remaining 1 minute, I want to turn to another issue.

17 George Hill, former FBI supervisory intelligence analyst in the Boston Field Office, told us

18 that the Bank of America, with no legal process, was -- gave to the FBI gun purchase

19 records with no geographical boundaries for anybody that was a Bank of America

20 customer. Is that true?

21 "Mr. Wray. Well, what I do know is that the -- a number of business community

22 partners all the time, including financial institutions, share information with us about

23 possible criminal activity, and my understanding is that's fully lawful.

24 "Mr. Massie. Did you --

25 "Mr. Wray. In the specific -- in this specific instance --

1 "Mr. Massie. Did you ask for that information?

2 "Mr. Wray. In the specific instance that you're asking about, my understanding is

3 that that information was shared with field offices for information only but then recalled

4 to even -- to avoid even the appearance of any kind of overreach. But my

5 understanding is that that's a fully lawful process."

6 What does it mean when information is recalled?

7 A It can mean a number of things, discontinued or otherwise. I don't want to

8 speak to what the interpretation here is of "recalled." I know that information cannot

9 be further pursued. It could be discontinued, but, again, I'm generalizing.

10 Q Is information removed from FBI systems when it's recalled?

11 A It depends on the instance. I can't speak to all instances where things are

12 recalled. I can only speak to my involvement in the Bank of America SAR and the

13 information that we dealt with.

14 Q Were you aware of this statement before just now?

15 A Yes.

16 Q And what's your reaction to it?

17 A That Director Wray is correct. I mean, he's informed on what

18 Counterterrorism did and didn't do with that information, so --

19 Q How soon after the Bank of America SAR was filed was the information

20 recalled?

21 A For which? So just to clarify, there was the assessments that we wrote

22 from my office and the information that was available to other folks that had access to

23 that in our Sentinel case file. That would include the field office who was running the

24 Capitol riots investigation and their case file, Washington Field Office.

25 Q I'm talking about whichever information was recalled.

1 A I'm only generally aware that information that was used for leads to other
2 field offices after we did our assessments, the four assessments that I detailed, that there
3 was some information that was discontinued and some information that was not
4 discontinued.
5 Q Information that included the Bank of America filing and supporting
6 documentations?
7 A I can't speak to specific information that was recalled. I can only speak to
8 the assessments we pushed out, and my general understanding that there was
9 information that another -- at least one other field office used to determine there may be
10 other leads that were relevant to this.
11 Q Were you part of the decisionmaking process to recall the information?
12 A For specifically what he's -- I can't speak to that.
13 Q So you weren't involved?
14 A I'm not -- I don't have the knowledge of that because I wasn't -- I have been
15 involved in other conversations related to this and other SARs with Office of
16 General Counsel in and around that timeframe. I can speak to that, but I can't speak to,
17 as an enterprise, what was decided on. I wouldn't be in a position to make those
18 decisions or know all of the information related to that.
19 Q Well, and that was the question. So were you a part of the decisionmaking
20 process to recall the information?
21 A No, not to my knowledge.
22 Q Do you know who made the decision to recall the information?
23 A Again, I don't know specifically what information was, quote/unquote,
24 recalled and what that constituted.
25 Q Are you aware of whether it included information that stemmed from the

1 Bank of America filing?

2 A Yeah. I only know that it was generally related to that filing. I know that

3 there was other information that was recalled not related to this filing.

4 Q Are you able to speak to what other information that is?

5 A No. Because I don't know.

6 Q You just know generally that there was other information?

7 A Uh-huh. Yes.

8 [redacted] So when you say that information was discontinued -- do I have

9 that correct? You used the word "discontinued"?

10 Mr. Sullivan. I used the word "discontinued," yes.

1 [3:07 P.M.]

2 BY [redacted]

3 Q When that happens, is there any directive to the field offices that goes along

4 with that saying, "This information has been discontinued, you can't continue to

5 investigate these leads"?

6 A If there is, that's up to the operations section or entity or the program

7 management for their operations at headquarters. That's generally the decision that's

8 made is involving them as kind of a forefront of that decision.

9 Q They would make that decision and then direct the field offices?

10 A I mean, I can't speak just for again the operations section. I'm telling you

11 generally how it works. There may be other Office of General Counsel and other

12 discussions at an executive level to determine if there would be a message or not that

13 would discontinue something. From where I stand. From what I know.

14 Q When the director says that the information was recalled to avoid giving the

15 appearance of any kind of overreach, was there any discussion around that that, that it

16 was improper to request and receive this information from Bank of America?

17 A No.

18 [redacted] Are you saying was he in that discussion?

19 BY [redacted]

20 Q Were you in a discussion, or are you aware of any discussions about that?

21 When it was recalled to avoid this appearance of any kind of overreach, was there any

22 discussion of maybe we shouldn't have done this in the first place?

23 A There was no discussion of maybe we shouldn't do this in the first place.

24 Q Were you surprised that the information was recalled?

25 A Again, I don't know what specific information was recalled. Because,

1 remember, we had already pushed out our assessments on the four of the 211. I am
2 only generally aware that Washington Field Office used the information, and I don't know
3 what other field offices or any other entity that used the information, but the information
4 was accessible.
5 Q Have you ever had any other information that you worked to procure be
6 subject to this kind of recall before?
7 A Not to my knowledge. Not to my recollection. And, again, I don't want
8 to -- I don't want to beat a dead horse, but recall and what that means, I don't know
9 because I can only tell you what I did with the assessments that were involved and then
10 how we uploaded the information and how it was accessible.
11 Q After you upload the information and notice it was accessible, is your role
12 done at that point?
13 A Not necessarily. We can always revisit information that we think may
14 warrant for whatever reason, additional information where we feel like it may meet
15 threshold for further assessment, but that's rare.
16 Q Okay. Would you ever advise field offices on how to use the information
17 and how to conduct their investigations?
18 A Field offices would, you know, routinely contact us if we did write a
19 guardian. Typically, on an information-only guardian, we don't get a lot of questions,
20 but it varies. It varies by field office. There's 56 field offices and legats that would
21 receive the information that responses vary.
22 Q What do you think Director Wray meant by the appearance of overreach?
23 A I'm not going to speak for Director Wray, especially in my position. But,
24 you know, I can only tell you, you know, that, as far as the information that was closed on
25 the four assessments, to your previous question too, that we could have revisited the

information, but we did not. And, when the leak of the SAR occurred to FOX News on the fourth, I believe, I have a general awareness that a lot of leads outside of the four that we detailed were discontinued once the SAR was leaked.

Q So those leads were discontinued. Is the information still accessible on the FBI databases?

A Which specific information?

Q The leads that were discontinued, can those still be accessed by FBI agents?

A Yeah, and you can see that it was discontinued as well.

Q Okay.

A Or you may see something along the lines of closed for various reasons, because each field office may get the lead and respond in a slightly different way.

Q Okay.

A From my exposure to our case system and reviewing guardians.

[redacted] The last time you saw it and checked, right?

Mr. Sullivan. Yeah, from the last time I reviewed and checked.

BY [redacted]

Q I want to move back to the legal standard under the Bank Secrecy Act, as you were brainstorming the thresholds with Bank of America, are there other limits on what thresholds you can share?

A I mean, those limits would be intuitive, right? Can you be more specific? Like what?

Q Are there limits in terms of the kind of transactions that you can express an interest in as being possibly suspicious?

A From my law enforcement standpoint, there is various things that we can discuss and brainstorm. So, in that sense, you know, it varies. It's a pretty wide scope.

1 Q Okay. So that standard, in other words, allows the Bureau to decide what
2 thresholds are suspicious and share that information with financial institutions.
3 [redacted] I'm sorry; can you repeat that question?
4 BY [redacted]
5 Q Yeah. The legal standard under the Bank Secrecy Act permits the Bureau to
6 determine what threshold its interested in actioning for the financial institution to
7 subsequently act on?
8 A No, I think the BSA -- so the BSA is the bank's regulation side. On the
9 Bureau side of it, under my authorities and FBI and DOJ authorities, my discussion can be
10 on various topics and brainstorm on various, you know, fact-based patterns or typologies,
11 indicators. So that's what I'm saying; it varies widely on the FBI, the Department of
12 Justice side. Under the BSA, that's the financial institution and what they're allowed to
13 do or capable of doing or responsible for reporting.
14 Q Sure, but you liaise with the financial sector. You worked with them in
15 putting together the thresholds. Are there limits on what thresholds you could decide
16 to share with financial institutions?
17 A As a financial institution?
18 Q No, as the Bureau.
19 A Yeah, I mean, I would say the same answer. You know, under the FBI DOJ
20 authorities, I'm able to speak about the threat, and I am able to brainstorm about
21 narrowing the focus of data. I mean, it's a wide scope. I think BSA puts more of
22 the onus on the institution to determine how they're going to report it but that it's their
23 obligation to report suspicious activity.
24 Q Okay. I would like to turn back to the transcript of Joseph Bonavolonta.
25 Page 14. At the bottom of the page, we discussed how -- we discussed who the lead

1 came in from. So the question is posed, "Who did the lead come in from?" "The lead
2 came in from our -- I believe the Strategic Engagement Unit, but I can't say for sure if
3 that's the actual name of the unit, but it fell under or falls under the Office of the Private
4 Sector, which --" "Is that in Boston or out of headquarters?" Answer: "No, out of
5 headquarters." Question: "Do you know if they solicited the information from Bank of
6 America or whether Bank of America just offered it up?" Answer: "The way it reads in
7 the lead, it was -- it did not solicit the information, that the information was just
8 proactively provided to them."
9 Do you agree with that statement that the information was just proactively
10 provided?
11 A Yeah, in my limited access to then SAC Bonavolonta's transcribed interview,
12 yes.
13 Q Do you have an idea why Mr. Bonavolonta believed the information was
14 proactively provided and not requested by the FBI from the way the lead reads?
15 A I'm not going to assume what he thinks by making that statement. I can
16 only tell you my perspective is, if I were him, if I'm reading it this way is because the fact
17 that it's in a SAR.
18 Q Okay.
19 A Yeah.
20 Q And, turning to page 17, there's a question at the middle of the page that
21 states, "And it was also represented to us that individuals were prioritized on that list if
22 they had a firearms purchase. Did that match your recollection?" Answer: "So I
23 don't have any knowledge of anybody being prioritized over a firearm purchase, but in
24 one of the criteria that was in there in terms of Bank of America's data was related to
25 purchases that had been made at either gun shops or, you know, stores that would sell

1 firearms." Is that accurate?

2 A Is what accurate? What you read?

3 Q Yes.

4 A Yes, what you read was accurate.

5 Q And is Mr. Bonavolonta's testimony accurate in terms of how it described

6 the Bank of America information?

7 A Can I review it again?

8 Q Of course.

9 A Again, my answer is going to be based off of limited access to this

10 transcribed interview. I don't have everything in front of me, but if I can just take a

11 second and review this. Yes, I would say that it's correct in that it's weapons-related

12 transactions.

13 Q Okay.

14 A Is there anything specific, though, that -- the reason you're asking, like a

15 more specific question?

16 Q Yeah, were firearm purchases prioritized?

17 A Weapons-related transactions were one of many fact-based patterns that

18 were prioritized by Bank of America in this SAR.

19 Q Okay. And I would like to move to the testimony of Steven Jensen.

20 A What page?

21 Q I'm sorry; I'm going to redirect you.

22 A Okay.

23 [redacted] You can set aside that right quick. I now enter an email dated

24 January 18th, 2021, and then attach the liaison information report prepared by the FBI's

25 Office of the Private Sector, titled "Domestic Violent Extremists Likely Emboldened in the

1 Aftermath of the Capitol Breach," into the record as exhibit 16.

2 [Sullivan Exhibit No. 16.

3 was marked for identification.]

4 BY [redacted]

5 Q What are liaison information reports?

6 A They are reports that are put together by our analysis section, and they can

7 oftentimes be in concert with unclassified intelligence information that we're able to

8 push out. I say "we" as a division, Office of Private Sector often may have access -- may

9 have their member access to it. But the LIR, from my understanding, is -- it's an analytic

10 product.

11 Q And are you familiar with this liaison information report?

12 A Yeah. Around the 17th of January, yes, I remember reading this.

13 Q And when did you become first aware of the report?

14 A You know, I can only generalize. We're going back 3 years. I can't tell you

15 exactly when. I apologize.

16 Q I want to direct you to the date at the top left. Is that the correct date,

17 January 17th, 2020?

18 A I didn't produce this report, so I am not going to make any assumptions that

19 that date is correct. But it looks like a final product that's been disseminated, so likely.

20 Q And do you know who wrote this report?

21 A I do not. I can only tell you that an analytic element would be responsible

22 for putting this information together and producing it. This would not be within my

23 partner Engagement Section.

24 Q So, at the top, it says Office of the Private Sector.

25 A Yes.

1 Q Did the Office of the Private Sector author this?

2 A They were the ones to disseminate it. They likely coordinated on it. I

3 don't know that they did -- they wouldn't have done the analysis of it, but they would

4 have been one of the tools of kind of the chain of how it was produced.

5 Q And did you work with any of the individuals that prepared it?

6 A No, my unit was engaged with the private sector. This would not be

7 something that our unit authored or published.

8 BY [redacted]

9 Q Have you seen this document before?

10 A I have. Like to his question, I couldn't tell you exactly when I read it.

11 Q Do you know if you were still within the Strategic Engagement Section when

12 you saw the document?

13 A I believe so. Probably.

14 Q Do you know if it was during the course of your duties working on

15 January 6th-related investigations that you saw this document?

16 A I can't be sure of it. Likely, yes, probably.

17 Q Were you ever responsible for transmitting this document to any financial

18 institutions?

19 A I don't know that I sent this or if our front office had sent it to all sector

20 partners. Again, you have to remember this is during an NSSE. This is 17th January.

21 This is only 11 days after the Capitol riots, and we're supporting operations on an hourly

22 basis, and leads that are coming in. So that's the only reason I can't tell you for sure if I

23 sent it. I'm not saying that I didn't, but I don't know that I did. But LIRs, I have, we

24 have processed other -- in terms of disseminated LIRs that were published and granted

25 access. I think, earlier this morning, I was given a similar email where my supervisor had

said "Feel free to push this out to your partners" -- I'm paraphrasing -- I can't remember the exact email. And, you know, our job is to engage and provide information. So anything that was published officially we would be the steward of that.

Q And I know you said you were doing a lot during this time period. Were there other LIRs that were sent out pursuant to the January 6th investigation?

A Probably. I couldn't tell you exactly how many or what topics they were outside of, you know, general threat information at the unclassified level.

Q Do you remember pushing any LIRs out to your strategic partners in the financial institutions?

A I could have. I don't remember specifically. I do remember sharing information with them on a regular basis.

BY [redacted]

Q How is this report distributed?

A I'm not in charge of how it's distributed. I can just tell you that, when it's published, oftentimes we're made aware of it and that it's okay to share, because at that point, if it's at the unclassified level, we can share data like that.

Q And so what purpose did sharing this liaison information report with financial institutions serve?

[redacted] Are you asking on a general level because he's already testified that he doesn't recall specifically how this was disseminated?

BY [redacted]

Q What would a liaison information report like this being shared with financial institutions, what purpose would that serve?

A Just covering a gambit of what it could serve just in my regular engagement, it would be information only if there is information in the report that helps them set

1 better alerts. That may be the case. If that was the case or the private sector member
2 had specific questions about something that the division provided to them to read, I may
3 be the first person to take the question or maybe not.
4 Q Yeah, footnote 1 states, quote, "The information in this LIR is provided to
5 inform law enforcement of the referenced narratives and theories which may play in
6 mobilizing criminal actors and DVEs to violence." Why was this shared with financial
7 institutions if it was meant to inform law enforcement?
8 A I can't speak to the authors of this of why they decided to footnote. I
9 mean, you can see the footnotes are specific to the quotes and the different assessment.
10 I wouldn't have taken part in that assessment either in analyzing it or producing it.
11 Q And I would like to move back to the DSAC portal. Can you explain briefly
12 the DSAC portal? I know you've touched on that previously.
13 A Yeah, just generally, the DSAC portal -- DSAC members in the private sector
14 may have access to information sharing that occurs in the portal. I don't -- Office of
15 Private Sector runs the portal. Again, Office of Private Sector is enterprise C-suite level
16 engagement. On the engagement that I do, we don't use the DSAC portal to -- and nor
17 do the other operational divisions -- I don't want to speak for them, but I mean for the
18 CTD in terms of sharing information, operational information, and other information on
19 the threat. We don't use the DSAC portal.
20 Q Are the materials shared via the DSAC portal public?
21 A My understanding is that it can be, but I have a very -- I would direct you to
22 the Office of Private Sector to give you a very fine scope of what is and what isn't
23 accessed.
24 Q Because companies have to apply to be a member of the DSAC?
25 A That's my understanding.

1 Q And so, if you're not accepted, you might not have access to that
2 information?
3 A You may not. Again, but that's generally speaking. My understanding.
4 Q Is the liaison information report something that might be shared via the
5 DSAC portal?
6 A I can't be sure. I think that it could have been. The fact that it's coming
7 from the Office of Private Sector, my understanding from the specific types of LIRs that it
8 could be.
9 Q Are there any other organizations like DSAC that provide for public-private
10 portals?
11 A There are -- in terms of specifics, I couldn't speak to specifics. I know that
12 there are other public-private sector partnerships kind of across government, whether it
13 be FBI, other law enforcement agencies, you know, specific sectors that share
14 information with, you know, various field offices in the different law enforcement
15 agencies. I mean, there are different types of public-private partnerships that share
16 information.
17 Q Okay.
18 [redacted] We can go off the record for a second.
19 [Discussion off the record.]
20 BY [redacted]
21 Q We can going back on the record. Mr. Sullivan, just a couple more
22 questions, and I think, you know, we're done, while our minority counterparts have
23 another round. So I want to turn back to the testimony of Mr. Jensen. I believe that is
24 exhibit 6, looking at page 152. And I'll read the Q&A towards the end of the page here
25 and then ask you a couple of questions on it. The question was, "If an individual was

1 identified because they used their Bank of America debit card in Washington, D.C., on
2 January 6th, but that's all you have, you would agree that that's not enough information
3 to go speak with that person about their role in illegal activities on January 6th?"
4 Answer: "My concern is those instances where Bank of America data was used to
5 initiate leads is that the leads lacked allegations of Federal criminal conduct. Contact by
6 an FBI agent can be consensual at any time, right? But sending leads out based solely on
7 information of purchase history that have no attachment of potential crimes or criminal
8 conduct is what was concerning to me." Do you agree with Mr. Jensen's concerns here?
9 A In terms of how the question was posed, they're only talking about one
10 specific fact-based pattern, yes. But the answer would be no if you're talking about if
11 this question was posed, has Bank of America pushed out the SAR, which was -- had other
12 fact-based patterns present also.
13 Q And when he said -- says "that sending leads out based solely on information
14 of purchase history that has no attachment of potential crimes or criminal conduct is
15 what was concerning to me," were you concerned that the information that was
16 contained in the SAR lacked allegations of Federal criminal conduct?
17 A As far as the assessments that we took part in and pushed out to the four
18 offices that I mentioned, those assessments were specifically done as information-only
19 leads based off of those fact-based patterns that could allow the field offices to use the
20 information to determine if there was a potential threat, i.e., Federal criminal conduct.
21 Q So you don't agree with Mr. Jensen's concerns here that leads that he was
22 sent or he knew were sent lacked Federal criminal conduct?
23 A I'm not saying I disagree with him. I'm saying I agree with his statement in
24 and of itself. But the question that's posed before it only discusses one type of purchase
25 that my office and nobody I know in the Counterterrorism Division would think would be

1 useful in pushing out any type of assessment.

2 Q So was it concerning to you that the information that was obtained from

3 Bank of America through the SAR through the thresholds that were identified by the FBI

4 and FinCEN on a call were then used to push leads out to the field that lacked Federal

5 criminal conduct? Was that concerning to you?

6 A I don't understand the question. What specifically are you asking?

7 Q So was it concerning to you that the information that Bank of America sent

8 to the FBI was then used to push out leads to the field that lacked Federal criminal

9 conduct according to Mr. Jensen who pulled the leads out of the system, was that

10 concerning to you at all?

11 A It wasn't concerning to me in the role that I played in the assessments that

12 went out for my unit.

1 [3:37 p.m.]

2 BY [redacted]

3 Q So after it left your unit, you weren't concerned about how the data would

4 be used?

5 A No. In fact, you know, like I mentioned before, the data that we put in the

6 electronic communication involved the four assessments to prevent any potential

7 redundancy if, in fact, there was another entity -- it could be Washington Field Office, in

8 this case, who had the lead on the Capitol riots investigation -- determined that they

9 wanted to use the data for something else.

10 Q So the data -- besides just the four, you know, individuals that you identified,

11 that other data was still available in the FBI system. Is that correct?

12 A So I don't -- please clarify because there -- the data was the data. So there

13 aren't two different types of data. So what are you speaking about?

14 Q So the 200- -- the supporting documentation with the 211 individuals or

15 entities that were identified, you took out four of those to, you know, do Guardians that

16 you thought had more of a likelihood to have criminal conduct because they had bought a

17 firearm after January 6.

18 Was the other information still available in the FBI system just beyond those four

19 individuals?

20 A Well, first, you're -- and just to clarify, you're mischaracterizing. It wasn't a

21 likelihood that there was criminal conduct. It was the assessment to determine. The

22 field office would make that determination if there was reason to further investigate it.

23 Q Uh-huh.

24 A And I'm sorry, the second part of your question?

25 Q Was the information on the 211 individuals or entities, was that still in the

1 FBI system? The supporting documentation, was there still access to that?

2 A In the electronic communication that our unit authored, yes.

3 Q Okay. That was my question.

4 A Yeah.

5 Q Thanks.

6 A That was uploaded to the Washington Field Office's case file.

7 [redacted] Uh-huh. We can go off the record.

8 [Recess.]

9 [redacted] All right. We are back on the record.

10 At the top of the hour, I just want to note, during the minority's prior hour of

11 questioning, we introduced as exhibits 9, 11, and 13 a number of emails -- email chains

12 between the FBI and Citibank. The exhibits, as introduced, had PII included in them.

13 We're going to swap those exhibits for identical exhibits that have PII, email addresses,

14 phone numbers redacted.

15 Mr. Sullivan. Thank you.

16 [redacted] I just want to make that note on the record.

17 Mr. Sullivan. Thank you.

18 BY [redacted]

19 Q Mr. Sullivan, I want to turn back to the Jensen and Bonavolonta testimony.

20 And we actually don't need to go back into it, but I want to clarify the record on a couple

21 points.

22 A Sure.

23 Q To be clear, when you brainstormed information with Bank of America, your

24 goal was to develop information that could be used to prevent violence at the

25 inauguration and potentially on March 4th as well, correct?

1 A Right.
2 Q Okay. And so you weren't --
3 A Not on March 4th, but leading up to that and --
4 Q Correct.
5 A -- in that area. That timeframe.
6 Q Understood. But my point is that the reason that you were having that
7 brainstorming session, the goal was to prevent violent -- prevent violence that might
8 happen in the future?
9 A Potential. Correct.
10 Q Okay. There were references that we discussed kind of extensively in the
11 prior hour with the majority counsel to various leads and what might have been done
12 with various leads by different field offices. Do you recall that conversation?
13 A Yes.
14 Q And what Washington Field Office might have done with various leads,
15 correct?
16 A Correct.
17 Q You didn't send out leads -- whatever the Washington Field Office did, you
18 did not send those leads out, correct?
19 A Correct.
20 Q So there was a reference -- I think the assumption is that the Washington
21 Field Office took the 211 names and sent them out to field offices. You don't know what
22 happened?
23 A Correct.
24 Q You have -- you know, there has been representations made to you, but you
25 don't have any personal knowledge of that?

1 A No.

2 Q Okay. And you don't know when Jensen -- when Mr. Jensen -- you read Mr.

3 Jensen's testimony. He said that certain leads had been recalled. You don't know

4 what leads had been recalled?

5 A I only know generally that some were discontinued.

6 Q But you don't have personal knowledge of what or who or how?

7 A No.

8 Q Okay. And there was reference to the data that WFO had. You don't

9 know what data WFO had, correct?

10 A Correct. Generally speaking, yes.

11 Q So they -- so you said that the Bank of America saw or the information was in

12 the system, but you don't know if other information was in the system as well, for

13 example?

14 A Yeah. There was plenty of other information out of the Capitol riots case

15 file.

16 Q Okay.

17 A A ton of information.

18 Q And so -- and you didn't work in Washington Field Office?

19 A Correct.

20 Q So you don't know what WFO did?

21 A Correct.

22 Q Okay. In the prior hour, the majority introduced as exhibit 15 testimony

23 from Director Wray's testimony before this committee. And I'm going to ask you to

24 return to that --

25 A Okay.

1 Q -- and also to pull out exhibit 1, page 2. I guess it's Bates stamped 225, but
2 it's the second page of the exhibit. It's the actual email from you to the Bank of
3 America.
4 A Okay.
5 Q I want to turn to page 90 and look at the -- some comments that were made
6 on page 90 against your email side by side.
7 A Yeah.
8 [redacted] I'm sorry. Which email was that?
9 Mr. Sullivan. Oh, I'm on -- you said what page?
10 [redacted] Okay. Sorry. So we're going to pull out exhibit 1, which is your
11 email to Bank of America.
12 Mr. Sullivan. Oh, okay. Sorry. I've got a lot of papers. Sorry. Is it in there?
13 Oh, thank you.
14 Okay. I got it.
15 BY [redacted]
16 Q And then look at that side by side with page 90 from the hearing transcript.
17 And I want to look at some statements that Chairman Jordan made during the
18 hearing, and I'm going to ask you if they're actually an accurate representation of what
19 your email says.
20 A Okay.
21 Q So on line 2196 on page 90, Mr. Jordan asks, "Did the FBI ask financial
22 institutions to turn over their customers' debit and credit card purchase history in the
23 Washington, D.C. area for January 5th and 6th, 2021?"
24 Do you see where it says that?
25 A Uh-huh.

1 Q The answer to Mr. Jordan's question is no, correct?

2 A Yes.

3 Q The FBI did not ask financial institutions to turn over their customers' debit

4 and credit card purchase history in the Washington, D.C. area for January 5th and 6th,

5 2021, correct?

6 A Correct.

7 Q Okay. Mr. Jordan continues on. He says -- he reads from your email, and

8 he says, "I have the email in hand."

9 He says, "Let's read it. To recap" -- and he reads out loud, "To recap our morning

10 call, we are prepared to action the following threshold, customers transacting debit card,

11 credit card, Washington, D.C. purchases between 1/5/21 and 1/6/21."

12 Do you see where it says that?

13 A Yes.

14 Q In fact, your email -- that bullet point says, "with the additional identifying

15 targeting thresholds," doesn't it?

16 A Correct.

17 Q So Mr. Jordan's representation of what you said was not accurate, correct?

18 A Correct. It was not accurate.

19 Q Because it left out the part where you said "with additional thresholds"?

20 A Correct.

21 Q Okay. And he says, "That is scary enough."

22 Do you think it's scary for the FBI to have these conversations with the Bank of

23 America?

24 A No, not at all.

25 Q Okay. Then he says, "But the next bullet point is even more scary."

1 He says, "Any, any historical capital letters, all caps, any historical purchase of a
2 firearm."
3 Do you see where Mr. Jordan said that?
4 A Yes.
5 Q And, in fact, your email says "any historical purchase going back 6 months
6 generally for weapons or weapons-related vendor purchases."
7 Do you see where your email says that?
8 A Correct.
9 Q So, in fact, Mr. Jordan's statement did not fully represent what your email
10 said, correct?
11 A I agree. That's correct.
12 Q Okay. And then he says again on line 2205, "Did you guys" -- meaning the
13 FBI -- "ask them?"
14 And, again, the FBI did not ask the Bank of America for anything, correct?
15 A Correct.
16 Q On the following page. At lines 2208 to 2213, I'm just going to read this
17 out.
18 Mr. Jordan said, "Well, does this email trouble you as much as it does members of
19 the Judiciary Committee, that the FBI is asking for every single -- I mean, we had
20 Members of Congress here that week, first time they are getting sworn in as a new
21 Member of Congress, their family in town. And you are sweeping. And they may
22 happen to be a customer of Bank of America. And you are sweeping up every debit and
23 credit card purchase of their family who are in town that week because their husband or
24 their dad or their mom is getting sworn in as a new Member of Congress? And then you
25 are also overlaying that information with, did you, did this person buy a firearm?"

1 Do you see where Mr. Jordan said that?

2 A Yes.

3 Q Mr. Sullivan, were you sweeping up the credit card purchase history of new

4 Members of Congress and their families?

5 A No.

6 Q Okay. And, in fact, Mr. Jordan's representations here do not accurately

7 reflect the many -- the one, two, three, four, five -- the six bullet points included in your

8 email, correct?

9 A They do not. Correct.

10 Q And, in fact, your email was much more targeted than that, correct?

11 A More specific.

12 Q And so to the extent that somebody purchased a firearm, that alone

13 wouldn't be sufficient?

14 A Correct.

15 Q And even if the person purchased a firearm and was a customer of Bank of

16 America and purchased something in Washington, D.C., January 5th or 6th, that would

17 not be sufficient, correct?

18 A Correct, with the linked weapons-related transaction.

19 Q Right.

20 A Not firearm, per se.

21 Q Right. Weapons-related transactions --

22 A Uh-huh. Correct.

23 Q -- dating back 6 months generally.

24 And in addition, there was a requirement that there was a purchase made -- or

25 the threshold included bullet point two, which was purchases made for hotel, Airbnb, or

1 RSVPs in the DMV area, correct?

2 A Correct.

3 Q So, in other words, the actual conversation between FBI and Bank of

4 America, the brainstorming session, the thresholds were much more specific?

5 A Correct. Collectively.

6 Q Correct. And it wasn't -- none of these thresholds were to be taken on

7 their own?

8 A Correct.

9 Q Okay. Line 2227, that, "This is lawful, that you can ask this is scary."

10 Again, you didn't ask for anything, correct?

11 A Correct.

12 Q And he said, "This is something else we are going to have to change."

13 I think I can represent that Chairman -- that Ranking Member Nadler is very

14 concerned that this is a suggestion that the Bank Secrecy Act should be taken down. I

15 think that act has been in place since 1970, so it's 54 years.

16 I just want to reiterate. You, in your prior capacities, regularly relied on

17 information provided through Bank Secrecy Act provisions, correct?

18 A Correct.

19 Q And we talked through earlier that the Bank Secrecy Act, for example,

20 helped to stop -- the information provided through the Bank Secrecy Act helped to stop

21 the bombing of a school, correct?

22 A Correct.

23 Q It's frequently used to help target fentanyl trafficking operations, correct?

24 A To my knowledge and speaking to Criminal Investigative Division people that

25 use SARs, generally, I can say correct.

1 Q So you would agree that the Bank Secrecy Act is a pretty valuable tool for

2 the FBI?

3 A Absolutely.

4 Q Okay. Thank you.

5 [redacted] Thank you. We can go off the record.

6 [Whereupon, at 3:53 p.m., the interview was adjourned.]

1 Certificate of Deponent/Interviewee

2

3

4 I have read the foregoing ____ pages, which contain the correct transcript of the

5 answers made by me to the questions therein recorded.

6

7

8

9 _____

10 Witness Name

11

12

13 _____

14 Date

15

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5 COMMITTEE ON THE JUDICIARY
6 joint with the
7 COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY,
8 U.S. HOUSE OF REPRESENTATIVES,
9 WASHINGTON, D.C.
10
11
12
13
14 INTERVIEW OF: SHANNON PARRY
15
16
17
18 Tuesday, April 9, 2024
19
20 Washington, D.C.
21
22
23 The interview in the above matter was held in room 164, Cannon House Office
24 Building, commencing at 9:59 a.m.

1 Appearances:

2

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted], PROFESSIONAL STAFF MEMBER

8 [redacted], SENIOR PROFESSIONAL STAFF MEMBER

9 [redacted], PROFESSIONAL STAFF MEMBER

10 [redacted], DEPUTY CHIEF COUNSEL FOR OVERSIGHT

11 [redacted], MINORITY OVERSIGHT COUNSEL

12 [redacted], MINORITY OVERSIGHT COUNSEL

13

14

15

16 For the COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY:

17

18 [redacted], CHIEF OVERSIGHT COUNSEL

19 [redacted], SENIOR ADVISOR

20 [redacted], SENIOR ADVISOR

21 [redacted], MINORITY SENIOR ADVISOR TO THE RANKING MEMBER

22 [redacted], MINORITY CHIEF COUNSEL

23 [redacted], MINORITY DEPUTY CHIEF OVERSIGHT COUNSEL

1 For the FEDERAL BUREAU OF INVESTIGATION:

2

3 [redacted], ASSISTANT GENERAL COUNSEL, OFFICE OF THE GENERAL COUNSEL

4 [redacted], GENERAL ATTORNEY, OFFICE OF THE GENERAL COUNSEL

1 [redacted] Can we go on the record, please?

2 This is a transcribed interview of Ms. Shannon Parry. Chairman Jordan and

3 Chairman Comer have requested this interview as part of the committees' oversight of

4 the FBI and the GSA.

5 Would the witness please state your name for the record?

6 Ms. Parry. Shannon Parry.

7 [redacted] Could agency counsel please state your names for the record?

8 [redacted]

9 [redacted]

10 [redacted] On behalf of the committees, I want to thank you for appearing here

11 today to answer our questions. The chairman also appreciates your willingness to

12 appear voluntarily.

13 My name is [redacted] I am with Chairman Jordan's staff. I'll now have

14 everyone else from the committees who's here in the room introduce themselves as well.

15 [redacted], with Chairman Jordan's staff.

16 [redacted], Chairman Jordan's staff.

17 [redacted], with Chairman Comer.

18 [redacted], with Chairman Comer.

19 [redacted], with Ranking Member Nadler.

20 [redacted], with Ranking Member Nadler.

21 [redacted]. [redacted], Oversight Committee, Ranking Member Raskin.

22 [redacted], Oversight Committee, with Ranking Member Raskin.

23 [redacted], Oversight Committee, Democratic staff.

24 [redacted], Chairman Jordan's staff.

25 [redacted] Thank you.

1 I'd like to now go over the ground rules and guidelines that we will follow during
2 today's interview.
3 Our questioning will proceed in rounds. The majority will ask questions first for
4 1 hour, and then the minority will have an opportunity to ask questions for an equal
5 period of time if they choose. We will alternate back and forth until there are no more
6 questions and the interview is over.
7 Typically, we take a short break at the end of each hour, but if you would like to
8 take a break apart from that, please just let us know.
9 Ms. Parry. Okay.
10 [redacted] As you can see, there is an official court reporter taking down
11 everything we say to make a written record, so we ask that you give verbal responses to
12 all questions. Do you understand?
13 Ms. Parry. I do.
14 [redacted] So the court reporter can take down a clear record, we will do our best
15 to limit the number of people directing questions at you during any given hour to just
16 those people on the staff whose turn it is.
17 Please try and speak clearly so the court reporter can understand and so the folks
18 down at the end of the table can hear you. It is important that we don't talk over one
19 another or interrupt each other if we can help it, and that goes for everybody present at
20 today's interview.
21 We want you to answer our questions in the most complete and truthful manner
22 possible, so we will take our time. If you have any questions or if you do not understand
23 one of our questions, please let us know. Our questions will cover a wide range of
24 topics, so if you need clarification at any point, just say so.
25 If you honestly don't know the answer to a question or do not remember, it is best

1 not to guess. Please give us your best recollection. And it is okay to tell us if you
2 learned the information from someone else. Just indicate how you came to know the
3 information.
4 If there are things you don't know or can't remember, just say so, and please
5 inform us who, to the best of your knowledge, might be able to provide a more complete
6 answer to the question.
7 You should also understand that, although this interview is not under oath, that by
8 law you are required to answer questions from Congress truthfully. Do you understand
9 that?
10 Ms. Parry. I do.
11 [redacted] This also applies to questions posed by congressional staff in an
12 interview. Do you understand this?
13 Ms. Parry. I do.
14 [redacted] Witnesses that knowingly provide false testimony could be subject to
15 criminal prosecution for perjury or for making false statements under 18 USC Section
16 1001. Do you understand this?
17 Ms. Parry. I do.
18 [redacted] Is there any reason you are unable to provide truthful answers to
19 today's questions?
20 Ms. Parry. No.
21 [redacted] Finally, I'd like to make a note that the content of what we discuss
22 here today is confidential. We ask that you not speak about what we discuss in this
23 interview to any outside individuals to preserve the integrity of our investigation.
24 For the same reason, the marked exhibits that we will use today will remain with
25 the court reporter so that they can go in the official transcript, and any copies of those

1 exhibits will be returned to us when we wrap up.

2 That is the end of my preamble. Is there anything that my colleagues from the

3 minority would like to add?

4 [redacted] We just want to say thank you to Ms. Parry for being here

5 voluntarily.

6 Ms. Parry. Thank you.

7 [redacted] The clock now reads 10:03. We'll start the first hour of questioning.

8 EXAMINATION

9 BY [redacted]:

10 Q Can you describe your educational background for us?

11 A I received my bachelor's in politics and German from Saint Joseph's

12 University in Philadelphia; a master's degree in German from the University of Salzburg,

13 dual-conferred by Bowling Green State University. And my Ph.D. studies at Georgetown

14 University were in linguistics.

15 Q Are you fluent in German?

16 A I am.

17 Q And other than English and German, are you fluent in any other languages?

18 A Fluent, no.

19 Q Have you formally taught any of these languages in an educational setting --

20 A I have.

21 Q -- such as German?

22 A I have.

23 Q If so, where?

24 A I've taught English in Germany at a boys' boarding school. And I taught

25 German at both Bowling Green State University and Georgetown University.

1 Q Have you been able to apply your proficiency in German to positions that
2 you have held in the FBI?
3 A I have.
4 Q In what positions?
5 A I joined the Bureau as a German language analyst.
6 Q And when did you join the FBI?
7 A In 2003.
8 Q And what was your key motivation for joining the FBI?
9 A I was at Georgetown teaching German when 9/11 happened, and I knew
10 that I wanted to do something for my country. I answered an ad in The Washington
11 Post looking for speakers of German and Arabic.
12 Q And what is -- sorry. Where is your office based?
13 A My current office is in Winchester, Virginia.
14 Q And what are your roles and responsibilities in this position?
15 A As the Assistant Director of the Information Management Division, my
16 division is responsible for upholding the integrity of the FBI's records and promoting
17 public trust and access to those records.
18 Q Okay. And what subject matter areas do you work on?
19 A So, within the Information Management Division, our major programs are
20 Freedom of Information Act and Privacy Act programs for the Bureau; the Enterprise
21 Vetting Center, which conducts vetting for employment suitability as well as immigration
22 benefits. We're responsible for setting standards through the Agency Records Office, as
23 well as working the technology to support FBI information and records.
24 Q Can you describe the organizational chart of your office for us?
25 A So, within my division, as Assistant Director, I lead the division. I have one

1 Deputy Assistant Director. I have five section chiefs, who are responsible -- they're
2 Senior Executive Service -- five section chiefs, who are responsible for their sub-programs;
3 and then, I believe, 9 assistant section chiefs who fall under them; and approximately
4 40 units that fall within the organization of the division.
5 Q Okay. And who is your direct supervisor?
6 A My direct supervisor is Associate Deputy Director Brian Turner.
7 Q And how many people are employed within the Winchester office?
8 A Within Winchester alone?
9 Q Yes.
10 A Approximately 900.
11 Q Okay.
12 And can you walk us through the various positions you've held at the FBI?
13 A I joined as a German linguist. I then moved into supervising as a
14 supervisory management and program analyst. I've been a unit chief. I've been a
15 section chief in two sections, a deputy assistant director, and now an assistant director.
16 Q Thank you.
17 And as Assistant Director of the Information Management Division, how often do
18 you interact with FBI Director Christopher Wray?
19 A Can you say that again?
20 Q Yes. As Assistant Director of the Information Management Division, how
21 often do you interact with the FBI Director, Christopher Wray?
22 A Not often.
23 Q Okay. And how often do you interact with FBI Deputy Director Paul
24 Abbate?
25 A Apart from sitting in a morning brief, not often.

1 Q Okay. And how often do you interact with FBI headquarters?
2 A Can you clarify that?
3 Q Yeah. Do you visit FBI headquarters often?
4 A Approximately once a month.
5 Q Okay.
6 A I'll come in once a month.
7 Q And when you do go to FBI headquarters, with whom do you interact with?
8 A Associate Deputy Director Brian Turner.
9 Q Okay.
10 And do you interact with Main Justice?
11 A Occasionally.
12 Q And when you do interact with Main Justice, with whom do you interact
13 with?
14 A With the National Security Division.
15 Q And how often?
16 A Monthly.
17 Q Okay.
18 And do you interact with the Attorney General's Office?
19 A No.
20 Q What kind of formal training, experience, or certifications do you have that
21 qualify you for your current role?
22 A Sorry. You're not making me cry. Remember that.
23 Can you repeat that?
24 Q Yes. What kind of formal training, experience, or certifications do you have
25 that qualify you for your current role?

1 A I have certifications in records management. I have training throughout my
2 Bureau career in leadership, in insider threats, in information management.
3 Q Thank you.
4 And during your tenure at the FBI, have you ever participated in a review of your
5 performance?
6 A Yes.
7 Q And do you generally receive good markings --
8 A Yes.
9 Q -- on your performance reviews?
10 Okay. I'm going to go into the FBI headquarters project now.
11 A Uh-huh.
12 Q When did you learn that you would serve as a representative on the site
13 selection panel of the FBI headquarters project?
14 A September 2022.
15 Q And who selected you to be a panelist?
16 A I received a phone call and then an email from Nick Dimos, who is the
17 Assistant Director of our Finance and Facilities Division. He had shared with me that he
18 had just left our seventh floor, where he had conversations with the Associate Deputy
19 Director, Brian Turner, as well as Deputy Director Abbate, where they selected me to
20 serve on the panel.
21 Q Okay. And why were you selected?
22 A I think there are three reasons that I was selected for this.
23 The first is that I had no previous engagement with any part of the headquarters
24 site selection process to date.
25 Q Uh-huh.

1 A That I oversee a very large division over six geographic locations, and so I
2 also have real estate background in my portfolio.
3 And the third is that I have developed processes for the Bureau, and so they know
4 that if there is a process and it has gaps, that I will mitigate those; that if there isn't a
5 process, I will create one; and if there is a process that's sound, I will follow it. And so I
6 have a history of developing strategies also for the Bureau.
7 And so I would think that for those reasons -- and that I'm also not in the
8 Washington, D.C., area.
9 Q Uh-huh.
10 A I live and operate out of Winchester.
11 Q Okay.
12 And was there a memo or any other formal written notification of your
13 assignment as a panelist?
14 A Assistant Director Dimos had sent an email to GSA doing a virtual
15 introduction between myself and the GSA representative.
16 Q Okay.
17 And who selected the rest of the site selection panel representatives?
18 A I don't know.
19 Q Okay.
20 And what duties and responsibilities did you have as a representative on the
21 panel?
22 A I'm going to refer to a timeline here, because there are a lot of dates.
23 We received in -- after that virtual introduction, we received -- in October of 2022,
24 we received a site selection plan and a schedule. And so within that site selection plan
25 roles and responsibilities are delineated.

1 I can't speak to every single thing that was in that plan, but basically that I was
2 responsible for reviewing all of the materials that were being provided, evaluate each of
3 the sites against the criteria, the five criteria that were delineated --
4 Q Uh-huh.
5 A -- and to submit a report -- that I would be joining two other panel members
6 to submit a report to the Site Selection Authority at the conclusion of our panel.
7 Q And can you briefly explain how you evaluated each site?
8 A Sure.
9 We were given a list of five criteria and, in those instructions, were also advised to
10 read through -- there were in excess of 600 pages of materials to support each of those
11 criteria in total. And so I went through, I read 600-plus pages a number of times, looked
12 at the criteria.
13 They also had prepared sheets for us listing each of the criteria, where they had
14 already pre-populated some of the responses. Distance, for example, is a good one to
15 illustrate, where if the criteria is the distance between each of the three locations to an
16 airport, that they had already calculated what the miles were.
17 And so we were looking at what the mileage was for each of the sites. We then
18 had to assign a rating to each of the three sites, whether that was blue, green, or yellow,
19 blue being most advantageous to the government, green being second most
20 advantageous, and a yellow rating that would be designated as the third advantageous to
21 the government.
22 Q And there were only three voting panel members that filled out these
23 evaluations; is that --
24 A Correct.
25 Q -- correct?

1 A Yes.

2 Q And when you were brought on as a representative, did you have any

3 concerns about participating in the project?

4 A No.

5 Q And why was it decided to have two GSA officials and only one FBI official

6 serve on the panel?

7 A I don't know.

8 Q Do you know when all the panel members were selected and finalized?

9 A I don't. I just know that the first email that we received that I referenced,

10 where we received that site selection plan --

11 Q Uh-huh.

12 A -- and the schedule, that there were the names of my two other panelists on

13 that email. So it must've been by October 4th, 2022.

14 Q And who are the other GSA officials who served on the panel?

15 A Tim Sheckler; he served as our chair for the panel. And Brett Banks; he was

16 the second GSA panelist.

17 Q And how did the reporting structure of the site selection panel work?

18 A Tim was designated as chair. That was in the materials that we had

19 received, is that there would be three panel voting participants, two from GSA and one

20 from FBI, with one from GSA serving as the panel's chair.

21 Q And how often did the site selection panel meet?

22 A There was a prescribed period of time -- so, from that initial email where the

23 schedule was sent back in October of 2022, there were several emails that were sent at

24 different times asking for our availability. And then when we thought we were going to

25 meet, then we didn't meet.

1 And so by the time we actually came together as a panel, that was in July of 2023.
2 And we first started meeting on July 27th, 2023. And that was our kickoff meeting.
3 Q Okay. So you never met with the representatives prior, whether that was
4 virtually or in person --
5 A No.
6 Q -- until July 27th?
7 A Correct.
8 Q Okay.
9 And who called the meeting to order?
10 A That was Aaron Hassinger. That was the same gentleman from GSA who I
11 was virtually introduced back in 2022.
12 Q Okay.
13 And for the FBI headquarters project, who did you report to within the FBI?
14 A I didn't report anything about the headquarters project to anyone --
15 Q Okay.
16 A -- while I was on the panel.
17 BY [redacted]:
18 Q Just one clarifying question. You said Tim was the chair?
19 A Aaron Hassinger --
20 Q Oh, okay.
21 A -- led the kickoff meeting.
22 Q Oh, okay.
23 A And Tim Sheckler was the chair of the panel, yes.
24 Q For the panelists, the materials of the GSA -- that someone from GSA be the
25 chair, did it specify which of the two GSA representatives?

1 A Say that again?

2 Q So on the panel you have the two GSA representatives and then yourself.

3 And you said that the materials referenced that someone from GSA would be the chair; is

4 that right?

5 A Yes.

6 Q Was it specific in that it identified who from GSA, which of the two?

7 A Yes. Yes.

8 Q Okay. Thank you.

9 A It was Tim.

10 BY [redacted]:

11 Q When did you find out that Ms. Nina Albert was assigned as the Site

12 Selection Authority?

13 A That would have been October 2022, when we received the initial email with

14 the site selection plan and the schedule.

15 Q And did you ever personally meet with Ms. Albert during her capacity as Site

16 Selection Authority?

17 A She attended our meetings when we started in July of 2023, but outside of

18 those days of the meetings during the panel, no.

19 Q And as a representative, did you report to Ms. Albert for the FBI

20 headquarters project?

21 A No.

22 Q Do you know if Ms. Albert met with any of the other representatives?

23 A I don't know.

24 Q Did you have any concerns about Ms. Albert's appointment as Site Selection

25 Authority at any point in the site selection process?

1 A Concerns about her appointment as Site Selection Authority?

2 Q Yes.

3 A No.

4 Q Did you have any other concerns about her status or background before she

5 became Site Selection Authority?

6 A I didn't know about her background while I was going through the panel.

7 Q Did you end up learning about her background at some point?

8 A I did.

9 Q And when did you learn about her background?

10 A That was in October or November of 2023.

11 Q And, to clarify, this was her background as a previous employee of WMATA?

12 A Correct.

13 Q And did you have any concerns about that?

14 A No. Concerns? No.

15 Q Do you know if anyone in the FBI had any concerns about her prior

16 employment with WMATA?

17 A I believe, looking at the process and -- the process that was outlined for the

18 panel and then as compared to the process outlined for the Site Selection Authority, I

19 believe that there -- the questions about the Site Selection Authority's previous employer

20 was called into question with regard to how that may have or may not have influenced

21 that process. But whether it influenced the panel's process, through my perspective?

22 No.

23 Q Okay.

24 BY [redacted]:

25 Q To your understanding, who had those questions or concerns?

1 A Our Director referenced a letter that he had authored to GSA asking about
2 the process itself.
3 Q And did you have any conversations directly with the Director?
4 A No.
5 Q Did you have any conversations with anyone at FBI about the Director's
6 letter?
7 A No.
8 BY [redacted]:
9 Q I'd like to enter an October 12th, 2023, letter from FBI Director Wray to
10 Administrator Carnahan into the record as exhibit 1.
11 [Parry Exhibit No. 1
12 was marked for identification.]
13 Ms. Parry. This is all the same, right?
14 [redacted] Yes.
15 Ms. Parry. Okay.
16 BY [redacted]:
17 Q All right. I'll give you some time to review --
18 A To read it?
19 Q Yeah. I have some specific passages that I'll read out and then ask
20 questions about them.
21 Let me know when you're ready.
22 A Okay.
23 Q Okay.
24 On the first page, in the second paragraph of the letter, it states, "The FBI's
25 September 22, 2023, memorandum and follow-up questions submitted to your team

1 described in detail our concerns and need for additional clarification regarding the site
2 selection process. GSA provided two draft versions of the site selection decision
3 document, along with a briefing of the decision. These three iterations of
4 communication to the FBI conveyed, at times, different explanations and rationales for
5 how key components of the site selection decision were considered."
6 Why do you think that the FBI felt that it received different explanations?
7 A Say that again?
8 Q Why do you think that the FBI felt that it received different explanations
9 from the Site Selection Authority on her decision to choose the Greenbelt site over the
10 Springfield site?
11 A I don't know why the FBI may have felt they received different -- what was
12 your -- how you phrased that?
13 Q Received different explanations.
14 A Different explanations.
15 It's possible that -- the Site Selection Authority submitted a report, just as the
16 panel did. And so there is written documentation.
17 But my understanding through the site selection plan that I was provided back in
18 2022 was that the process would also be orally briefed to the FBI, that following the
19 report submitted by the Site Selection Authority, that that Authority would also brief
20 members of the FBI on the decision.
21 And so it's possible -- I was not at that briefing, but it's possible that you have a
22 written report as well as a verbal briefing. Perhaps those are the references made there
23 to multiple explanations.
24 Q Do you know when Ms. Albert submitted her site selection decision report?
25 A I don't. I don't know the exact date.

1 Q Does September 30th --

2 A Makes sense.

3 Q -- sound accurate?

4 A Yes.

5 Q And did Ms. Albert release a pre-deliberative decision report to the site

6 selection panel as she completed it?

7 A No.

8 Q When did you find out that Ms. Albert chose the Greenbelt site over the

9 Springfield site?

10 A It was sometime in -- it was sometime in October, through the media.

11 Q October of what year?

12 A October 2023. And then I received -- in November of 2023, the panel

13 received from GSA the SSA's final report. But I had learned prior to receiving that, just

14 through the media.

15 Q Do you know if anyone in the FBI received the report or heard that

16 Ms. Albert's decision was going to be the Greenbelt site before you did?

17 A I believe that the Director had learned of the Site Selection Authority's

18 decision and report prior to me hearing about it, as I heard about it through the media.

19 Q And are you aware of a briefing that took place in August between the FBI

20 and GSA?

21 A No.

22 Q So you wouldn't be in attendance?

23 A No.

24 BY [redacted]:

25 Q Okay.

1 And what was your reaction to Ms. Albert's differing decision?

2 A I thought back to the very first day of the panel's meeting, in July of 2023.

3 GSA had kept very good records of -- anytime we met, they had a meeting log. Anytime

4 we had a question, we were asked to enter it into a question log.

5 I took full advantage of the question log, as one of my very first questions was

6 about the Site Selection Authority and the language that was in the plan that included her

7 ability to use the 600-and-plus pages that we were given, as well as -- and I can't recall

8 the exact wording -- but as well as any additional information not provided to the panel.

9 I had asked about that, whether or not the panel would receive that same

10 information or any type of clarification as to what that information could be --

11 Q Uh-huh.

12 A -- as 600-plus pages of a panel packet is quite robust. And so I was just

13 curious, back in July, of what that might be, just trying to better understand the process

14 from beginning to end.

15 And so, when I learned of the decision, I immediately thought that the Site

16 Selection Authority must have used that other information that was referenced that I had

17 no idea what that was, but that that must've been the reason why she had decided on a

18 different site than the panel.

19 Q Were you surprised that she chose a different site?

20 A No.

21 Q Why were you not surprised?

22 A There was a meeting during -- after the panel convened in July. July 27th

23 was our first meeting. We were given a lot of instruction on what we were to do as

24 individuals, and so our first, sort of, responsibility was to read through that 600-plus-page

25 packet and not talk to our other panel members about that and to independently

1 evaluate each of the sites against the criteria using the information that we were
2 provided.
3 We then, a few days later, came back as a group when we had each evaluated
4 singularly to then move into what they were calling "consensus meetings." I think that
5 they had planned for 2 days of consensus meetings. We only needed a morning to
6 achieve consensus, because each of the panelists evaluated each of the criteria and each
7 of the locations exactly the same way, and so we didn't need as much time in consensus.
8 That was the morning of -- July 31st was the morning that we achieved consensus.
9 According to our schedule, we would have gone into the report-writing phase.
10 We were going to take a break that morning after we achieved consensus. At
11 that meeting, everyone said their thank-yous. The Site Selection Authority was in that
12 meeting, as well, thanking everyone for their time and for their participation, and that we
13 would be moving into the report-writing phase.
14 We took a break, and as we came back that same afternoon into what I thought
15 would be instructions as to how we would move forward with a format and the
16 timeframe that we would be given to write the report, we were brought back into what
17 GSA in their meeting log called a "back-check," where, in my opinion, we relitigated and
18 had to go through each of the decisions that we had made in the morning.
19 And the Site Selection Authority was quite active in that meeting, so much so that
20 at the conclusion of that meeting, before we went into the report writing, I called the
21 attorney who was assigned to this panel from the FBI side as an advisor. I called all of
22 the FBI folks who were serving as technical advisors and just thanked them on my behalf
23 as we were moving into the process that was just writing a report, but that the panel had
24 concluded.
25 And I posed to him a rhetorical question, and I asked him what he felt like,

1 whether the Site Selection Authority would reverse the decision. I asked that rhetorical
2 question because I, through the questions that she posed in the back-check, felt as
3 though there was some direction that we were taking that the panel didn't take. We
4 kept pure to the process that we followed and consistent to the consensus we achieved
5 and submitted a report that was consistent to that process, but that the types of
6 questions that were being posed led me to that question.
7 Q Uh-huh.
8 A And rhetorically when I posed it and then later learned that the Site
9 Selection Authority had gone in a different direction, I immediately thought back to that
10 day.
11 BY [redacted]:
12 Q What were those questions that she posed to the committee during the
13 back-check?
14 A So it was a combination of questions and statements. None of the
15 panelists responded to them. I certainly didn't respond.
16 I looked at it more -- at the time that it was happening, I looked at it more as an
17 opportunity for the panel to really articulate in the report these areas that she's calling
18 out. So I took it as a good opportunity to ensure that as we, the three of us, moved into
19 the panel reporting process that we would pay particular attention to some of the areas
20 that she was drawing attention to.
21 And so we spent a lot of time talking about Criteria 2, I believe, and
22 distances -- distances between the proposed site and the Metro, and comments about
23 walking distance and, you know, knowing how people can walk at different paces, and
24 what really is a marginal difference that we were describing in terms of point-something
25 in walking distance.

1 She made comments that walking distance is very different depending on weather
2 conditions and depending on someone's physical ability to walk, and that she was
3 surprised that we had evaluated particularly that criteria in the way that we did, and
4 using the words "marginal" that we had used to describe what was a 0.3 or 0.4 difference
5 in distance.
6 So that was an example. I think most of the --
7 Q So she took issue with the wording used about the distance between the
8 Metro and the site for each of those sites?
9 A Yes.
10 BY [redacted]:
11 Q What was her tone when she was making these comments and asking these
12 questions?
13 A I don't remember the tone. I certainly would have remembered it if it were
14 argumentative or -- I really, at that time, was trying to process why we were going
15 through this, again, being a process person and thinking that I was going into a meeting to
16 move into the report writing, considering in the morning when we achieved consensus
17 they had even time-stamped when we had achieved consensus.
18 And so I was really just processing why we were having this conversation and
19 going back to each of the evaluations that we had already done in the morning. So tone
20 didn't strike me in any way, other than, why are we doing this and why are we
21 reevaluating something that we had already closed the door and said thank-yous, and
22 why are we not moving into writing the report.
23 BY [redacted]:
24 Q Did you or your other panel members pose that question during this
25 back-check?

1 A No.

2 Q Is there a reason you, particularly, didn't pose it?

3 A There's no reason. I thought that if this is -- if we hadn't moved into the

4 report-writing phase, I may have, but I figured this was going to move us into the

5 report-writing phase, and I didn't ask why we were doing it.

6 Q So, at this point, you believed that you guys were still on the same path.

7 You were just going to -- you took this as more information you needed provided in your

8 report as to why you came to your decision on some of those selection criteria?

9 A Correct.

10 BY [redacted]:

11 Q How long did the back-check last for?

12 A I don't remember the exact timing. It was no more than 30 minutes.

13 Q And who was in the room in the morning when you were trying to reach

14 consensus initially?

15 A Everyone. So all of our meetings, nothing was in person. It was all via

16 Skype. And so all of the panelists were there. The GSA POCs were there. The

17 contracting officer, the Site Selection Authority -- everyone who had been in the previous

18 meetings were there on this last day.

19 Q Okay. And so, to your understanding, it was the same people in the

20 morning and in the afternoon?

21 A Yes.

22 Q Okay.

23 A And, again, the meeting log that they kept had all of the attendees. They

24 dated when we had a meeting, what the theme of that meeting was, who was in

25 attendance, and then they provided a brief description of what the meeting was about.

1 BY [redacted]:

2 Q And real quick, speaking of the meeting log, you also mentioned the

3 question log.

4 A Uh-huh.

5 Q You particularly posed the one question that you mentioned -- you,

6 obviously, put in several, but the one question regarding the site selection that you

7 mentioned a moment ago.

8 Did you ever get an answer to that question?

9 A Yes and no. The "yes" is, the question was answered. And the content of

10 that question -- or the content of that response, rather, was that the panel was to

11 concentrate on the 600-page-plus packet and that that was our responsibility.

12 Q And who answered, to your knowledge, those questions? Where did those

13 answers come from?

14 A Those came -- the log itself provided a name of who provided the answers to

15 that. So I believe that that would have been Aaron Hassinger who responded to that

16 one.

17 Q And is that, to your knowledge -- obviously, Aaron responded to that

18 particular one, but the authority to answer said questions, was that just vested in with

19 the panel technical advisors? Or did that come from the Site Selection Authority?

20 A I don't know.

21 BY [redacted]:

22 Q So, after the panel achieved consensus and decided to choose the Springfield

23 site, would you say that Ms. Albert seemed confused about the decision and was trying to

24 understand?

25 A I don't know that I would say "confused about the decision," but I would say

1 that during the back-check and the questions or statements that she posed I thought that
2 it was geared towards better understanding how we came to the decision and statements
3 that I took as rhetorical statements of disagreement to our evaluation.
4 BY [redacted]:
5 Q Did the Site Selection Authority, during that back-check or at any point,
6 express directly to you guys the disappointment in that decision?
7 A She said she was surprised.
8 Q Did she give a reason of her surprise?
9 A She said she was surprised at the evaluations particularly of transportation
10 and our use of the word "marginal" -- "marginal differences."
11 BY [redacted]:
12 Q You've noted marginal differences, especially walking, a couple times.
13 Were there any other factors, examples that you recall her raising?
14 A Still within that transportation Criteria 2, I would say, was where she was
15 most vocal in stating various things, not necessarily questions.
16 She drew attention to the bus lines, I remember. It was one of the sub-criteria
17 for No. 2, was the access to bus lines. I can't recall the exact numbers of bus lines, but
18 she had made a statement that nobody really takes the bus and many more people would
19 take the Metro, and so she felt that that was a more important criteria of the sub-criteria.
20 Q In the initial packet of materials that you were tasked with reviewing, was
21 there any language, to your recollection, of whether the type of transportation, bus
22 versus Metro, should be weighed more heavily?
23 A No. Each of the sub-criteria were to be evaluated the same way. And so,
24 within the criteria, if there were two sub-criteria or -- Criteria 4 had several
25 sub-criteria -- each of the sub-criteria were to be evaluated equally.

1 Q As it relates to Ms. Albert's comments about Metro versus the bus, do you
2 recall her making any statements or asking questions disagreeing with how the panel
3 assessed those two options? Or was it more that weight -- greater weight should've
4 been given to one form of transportation over the other?
5 A Can you say that again?
6 Q Sure. So, two answers earlier, you said that she had said something to the
7 effect of that no one takes the bus and that the sub-criteria as it relates to the Metro
8 should've been weighed more heavily.
9 Just as a clarifying question, was she disagreeing with anything that the panel had
10 found as it related to the Metro or the bus? Or was it a step above that, that the Metro
11 as a whole should've been weighed more heavily than the bus?
12 A I thought both. I thought that the original statements about the
13 "marginal" -- our "marginal" definition and decision between the walking distance to
14 Metro sites was a point that she was making; as well as the point about the buses, that
15 despite Springfield having more bus lines than Greenbelt or Landover, that that didn't
16 matter as much because people didn't really take the bus.
17 Q And what did you make of her comment, that latter comment, that some of
18 the sub-criteria should've been weighed differently than they were outlined in the
19 materials provided to you?
20 A I took it as, we needed to ensure that, in our writing of the report, in our
21 submission of the report, that we outlined the process and the consistent process and the
22 application of our definition of "marginal" that needed to apply throughout all of the
23 criteria.
24 Q You'd mentioned that you -- if I recall an answer earlier correctly -- that you
25 didn't respond to any of Ms. Albert's either rhetorical questions or --

1 A I didn't.

2 Q Did anyone else during the back-check?

3 A I don't recall. I don't think so.

4 BY [redacted]:

5 Q After the back-check was happening, did you speak with any of the panel

6 members about what Ms. Albert was bringing up?

7 A When we went into the report-writing phase, we talked about those

8 sections, particularly the Criteria 2, where we needed to ensure that we explain how we

9 define "marginal," that we needed to do a very good job of making it clear why we

10 assigned a blue rating versus a green rating. That's what we talked about.

11 BY [redacted]:

12 Q And so we've talked in depth about marginality between the two, Metro and

13 bus lines. What other areas did she bring up of concern with the panel's site selection?

14 A Criteria 4 was another of the criteria that in the back-check there was

15 attention paid to Criteria 4, again, not so much posed as questions but just more of a

16 statement.

17 Criteria 4 was also a criteria that we had spent a lot of time -- we had received a

18 separate briefing from a member of GSA on Criteria 4 with a slide show and lots of

19 different data that was included in our 600-plus pages.

20 But during the back-check, Criteria 4, the comments were that it was very clear

21 that the Greenbelt location would serve a greater socio- -- would have a greater

22 socioeconomic impact than the Springfield location.

23 Q And what was your response to those statements?

24 A I didn't respond to any of the statements. But I --

25 Q What did you interpolate, feel, from the discussion, like, yourself?

1 A The panel had assigned a blue rating to both locations in Prince George's
2 County. So I felt like that's -- we had assigned a blue rating and assigned that Prince
3 George's County -- either of the locations in Prince George's County, according to the
4 criteria, were most advantageous to the government.
5 We assigned a green rating to Fairfax County and the Springfield location as
6 second most advantageous.
7 I just felt like it was a statement of the obvious from what the panel had already
8 provided.
9 Q And how long did that particular Criteria 4 conversation go on?
10 A I don't know.
11 Q Okay.
12 BY [redacted]:
13 Q Did Ms. Albert or anyone provide reasons for why they believed there was a
14 greater socioeconomic benefit for one site versus another?
15 A During that back-check?
16 Q Yes.
17 A No.
18 BY [redacted]:
19 Q But just for the record and for clarification, the panel had already given
20 those two sites in Maryland the highest rating that they could give?
21 A Yes.
22 Q But they still went on to discuss and tell you why that needed to occur?
23 A Yes.
24 Q And then real quickly, regarding the back-check and the meeting that you
25 guys had that day leading into the report-writing phase, I know we've talked briefly about

1 the people in attendance and that that log is very clear of who's there. To your
2 recollection, was anyone in attendance in any of those two sessions that day that
3 were other than GSA and FBI?
4 A No.
5 Q No other government agencies, officials from any other government agency
6 were in attendance?
7 A No other people who hadn't already been in one of the previous meetings
8 were in that back-check meeting.
9 Q Were any of those folks in the previous meetings not associated with GSA or
10 FBI?
11 A I don't believe so.
12 Q Okay.
13 BY [redacted]:
14 Q So, when you were in the report-writing phase, who spearheaded writing the
15 report?
16 A The chair, Tim.
17 Q Okay. Did you have any penmanship in the report-writing process?
18 A Yes. So the way that we divided labor was that Tim said that he would
19 provide a rough outline of the report, that he had been given a template for the very
20 beginning portions of the report anyway and that he would just start documenting a lot of
21 what we had talked about in achieving consensus.
22 And, then, we were doing that report on a Google site that was a live -- sort of,
23 live writing and live editing. And so he said in the very beginning, just give me 2 hours
24 and let me come up with a framework, and then, you and Brett, let's just go in and just
25 start having, you know, just conversations and live editing. And so that's what we did.

1 Q And how long did it take to write the report?

2 A We started writing the afternoon of the 31st, and I know that I -- of July.

3 Sorry. And I know that I digitally signed the report on August the 8th. Tim had signed

4 it a day earlier, and Brett and I signed it the day after.

5 Q And when you signed off on the report on August the 8th, did you send it to

6 the FBI or --

7 A No.

8 Q -- to Ms. Albert?

9 A Did I? No.

10 Q Okay. Did anyone on the panel send that to the Site Selection Authority?

11 A I don't know for certain, but we submitted it onto the GSA site that everyone

12 had been working.

13 Q Uh-huh.

14 A And Tim had advised Aaron Hassinger that we had completed it.

15 Q So when did the FBI learn about the panel's decision to choose the

16 Springfield site in this report?

17 A I don't know.

18 [redacted] Can you be more specific? You're speaking --

19 [redacted] Yeah.

20 [redacted] -- to the FBI writ large as a large enterprise. It would be helpful

21 for --

22 BY [redacted]:

23 Q Say, Nick Dimos, when did he learn about the site selection panel's decision?

24 A I don't know exactly when Nick Dimos would have learned about the panel's

25 report, or the recommendation of the panel's report. I would imagine that that came at

1 the same time of the Site Selection Authority's report, where it highlights areas where the
2 Authority differed from the panel.
3 BY [redacted]:
4 Q The 600 pages of materials that you referenced that was provided to you,
5 who provided those materials to you and the other panelists?
6 A They were loaded onto that site that I referenced, and so that was GSA.
7 Aaron Hassinger really served as -- I don't know his exact title in the process, but
8 he served as the central point of contact. And so he was the one who emailed me back
9 in 2022 with the plan itself.
10 And then the materials, that 600-page packet, that was provided on the
11 Google -- GSA Google site.
12 Q Do you know if he prepared those materials himself or compiled them
13 himself?
14 A I don't know.
15 Q The instructions that were given at the first meeting with the site selection
16 panel, who gave those instructions? Was that Aaron Hassinger?
17 A Yes.
18 Q And then you mentioned that the chair of the panel obtained a template for
19 the panel's recommendation report. Do you know where he obtained that template?
20 Was that also from Aaron Hassinger?
21 A I believe so, yes.
22 BY [redacted]:
23 Q When you described the back-check meeting, you said it was not something
24 that you had expected was going to occur; it wasn't on the schedule or agenda. And
25 when you were describing it, at one point you used the word "relitigate."

1 Was there anything that the Site Selection Authority said during that time that
2 indicated she wanted the panel to think about maybe going back and rethinking that
3 consensus that the panel had just arrived at?
4 A I thought that the statement and questions and the concentration on the
5 term "marginal" and "do you really think that's marginal," "I don't think that that's
6 marginal when we're talking about walking" --
7 Q Uh-huh.
8 A -- I don't know whether that was stated to elicit a response. I just chose
9 not to respond to it. I don't know if it was stated to elicit a conversation about going
10 back and reevaluating. None of us took the opportunity to respond to it.
11 Q Okay.
12 One other thing. When you talked about -- when, again, did you find out that
13 Nina Albert was the Site Selection Authority?
14 A That was in the document, in the site selection plan. I believe she was
15 named.
16 Q And that was back when you first --
17 A That was back --
18 Q -- were named to the panel?
19 A Yes.
20 Q So there were two prior, apparently, Site Selection Authorities for this. So
21 were those -- was that -- that was prior to the time that you were named to the panel?
22 A It must -- perhaps. I only know Nina Albert as being the Site Selection
23 Authority --
24 Q Okay.
25 A -- and the one who participated when we actually convened.

1 Q Okay.

2 BY [redacted]:

3 Q So, if I understand you correctly, you got 600 pages of material that was

4 given to you; you had the site selection plan. And what I'm interpreting there is that you

5 had to consider that almost as though you had blinders on. Like, this is the universe of

6 information that I am allowed to consider to make a recommendation and ultimately

7 write the report. Is that right?

8 A Correct.

9 Q So, I mean, with that much focus on the term "marginal" and walking

10 distance, one, I'm just curious, did you ever go walk those two distances yourself?

11 A No.

12 Q Have you ever been to either of the sites?

13 A No. I've driven by them.

14 Q You've driven by them.

15 A In previous years.

16 Q Okay.

17 So, in that 600 pages, in the materials that you were given, was there any

18 discussion, though, of how many people would actually use the Metro to get to the FBI

19 headquarters?

20 A No. We didn't discuss it.

21 Q I'm sorry? You didn't discuss -- okay. You didn't --

22 A The panel didn't discuss it.

23 Q So somebody else had done that work, and it was yours to go based on that

24 alone?

25 A The criteria for that No. 2 and the sub-criteria didn't address the number of

1 users of any of the modes of transportation but, rather, the individual modes of
2 transportation, whether it was walking distance or the number of bus lines. It was never
3 about ridership.
4 Q So, when you said it was "marginal," that meant to you that it's six of one,
5 half a dozen of the other, in terms of walking from, I guess, the Metro station to the
6 facility, not "marginal" because no one's gonna use it so no one cares?
7 A Correct.
8 Q All right.
9 You also mentioned the briefing that you got stressing the socioeconomic benefit
10 to --
11 A Uh-huh.
12 Q Now, time-wise, did you get that after you had made your
13 recommendations?
14 A No.

1 [10:59 a.m.]

2 BY [redacted]:

3 Q No. But you seemed to characterize it as, kind of -- you called it a

4 statement of the obvious, because you had already given blue ratings to both of the

5 Maryland sites.

6 Did you feel like somebody was trying to stress the importance of this at those

7 particular sites, or did you think it was just part of the process that you get briefed on all

8 the elements or all the criteria as part of this?

9 A At the time we were given the specific briefing from someone else in GSA

10 about Criteria 4 --

11 Q Right.

12 A -- that was before we had been set to do our individual ratings. That was in

13 that kickoff meeting --

14 Q Uh-huh.

15 A -- where we went through the packet of information, were reminded to only

16 use that information that was in the packet.

17 When we hit Criteria 4, there was a separate person who came -- or, who was in

18 the meeting already but who was sort of given the floor to provide a briefing using a slide

19 deck that was already in the 600 pages. We hadn't gone through the 600 pages at all

20 page by page, but this slide deck we did. And a woman named Karen had briefed that

21 slide deck.

22 Q Okay. So that was the only criteria -- that was the only -- do I get that right,

23 that that was the only thing that they took extra time to go through with you?

24 A Yes.

25 Q How did that strike you? And why that?

1 A That was the same question that I had. I --

2 Q You thought it was quizzical?

3 A I didn't -- by the time we hit Criteria 4, it was clear to me that the

4 information that we needed to use was in the packet itself. And I knew that this slide

5 deck that she was briefing was in the packet and that I would, whether it was briefed or

6 not, be reading that packet, multiple times.

7 Q No, I get that, but -- but that was the only criteria that they took the time to

8 focus on, over and above the others?

9 A Yes.

10 Q Okay.

11 Did you ever look at the other information that the Site Selection Authority

12 apparently used to make a different decision?

13 A I didn't. I don't know what that information is or was.

14 Q I mean, how did you deal with seeing that come out? I mean, you had

15 done all this work, you've read all those pages, you got the briefings, you've done all this

16 hard work, and then the final decision was so different than what you all had been -- the

17 conclusions that you all had drawn based on the information that you had been given.

18 How does that make you feel about the process?

19 A I know the process by which the panel approached our responsibility and the

20 consistent application of the criteria in how we evaluated. I go back to my original

21 question in the log of, what is the different information that the Site Selection Authority

22 had at her disposal that we didn't that must have led her to a different opinion?

23 Q And you've never had a chance to see that?

24 A No.

25 Q Okay.

1 That's all I've got. Thanks.

2 A Uh-huh.

3 [redacted]. We can go off the record.

4 [Recess.]

5 [redacted]. All right. We'll go back on the record. The time is 11:18.

6 Ms. Parry, my name is [redacted]. I'll be asking you a few questions this hour.

7 And I think, first and foremost, I just want to thank you for coming here today. I know

8 you made a long trek from Winchester. We really appreciate you taking the time to

9 speak with us.

10 Ms. Parry. It's not that far, to be fair.

11 [redacted] Fair enough.

12 Ms. Parry. The weather's nice.

13 EXAMINATION

14 BY [redacted]:

15 Q So I'd like to take a step back and review the entire site selection process,

16 beyond just your evaluation.

17 GSA began searching for a new site for a new FBI headquarters in 2013. Is that

18 right?

19 A I don't have those dates. I don't know exactly the full process outside of

20 my panel process.

21 Q Sure. And I guess I will cite the first page of the "Site Selection Panel

22 Recommendation Report." And I'll represent to you that in the first paragraph the panel

23 wrote, "Beginning in or around 2013, the U.S. General Services Administration ('GSA')

24 embarked on the process of finding a new headquarters location for the FBI."

25 Does that sound accurate?

1 A Yes.

2 Q So, given the fact that this process began in 2013, it's fair to say that the site

3 selection process had been proceeding for over a decade?

4 A Uh-huh. Yes.

5 Q To your knowledge, has the FBI been coordinating with GSA, the General

6 Services Administration, since the beginning of this process?

7 A I don't know.

8 Q And discussing the J. Edgar Hoover Building in particular, the FBI has

9 occupied that building since 1974. Does that sound right?

10 A Yes.

11 Q And the J. Edgar Hoover Building here in D.C., that's where the FBI

12 headquarters is located. Is --

13 A Yes.

14 Q -- that right? Great. Can you describe the current condition of the J.

15 Edgar Hoover Building?

16 A I can, because as I drove to D.C. yesterday and drove into the building today,

17 it's a very different building than I've experienced even in the years that I reported there.

18 As I drove my vehicle into the parking garage -- I park in the third level of the

19 basement -- there are steel beams, now, constructed in different parts of that floor.

20 Q Uh-huh.

21 A I'm not certain whether they're also on the other parking levels as well, but

22 there are steel-beam structures that are taking up what used to be parking places that

23 you now sort of park around or have to drive around.

24 3B has -- I typically, when I was assigned to headquarters, would park in 3B --

25 Q Uh-huh.

1 A -- in the executive parking there. The concrete of the parking itself was
2 never a smooth surface, but, my goodness, it's certainly become much more -- so many
3 more holes --
4 Q Uh-huh.
5 A -- so many more steel structures that seem to be supporting the ceiling
6 above it.
7 I reported to headquarters at the time where the netting went up because, we
8 were told, of falling fragments. I was on the 11th floor at the time the netting actually
9 did go up.
10 And so it certainly --- the headquarters that I drove into this morning is
11 deteriorating.
12 Q Sure.
13 BY [redacted]:
14 Q And, sorry, the netting you were talking about, can you explain what that
15 netting is for?
16 A I don't know for certain, but I will say that we were told, when it was going
17 up, that it was just to ensure that any fragments -- falling fragments from the building
18 would be caught in that netting, that the building was crumbling, pieces of the building.
19 Q So that netting is there to make sure that pieces of concrete don't fall onto
20 FBI staff in the building?
21 A That's what I recall hearing.
22 BY [redacted]:
23 Q And, similarly, why do you believe the steel beams are now there?
24 A I believe that, structurally, those beams are being placed to provide a more
25 structurally sound building.

1 Q Is it fair to say the J. Edgar Hoover Building needs more structural support
2 because of its deteriorating nature?
3 A Yes.
4 Q Okay. Would you agree with me that one of the reasons why GSA and FBI
5 were collectively exploring sites for a new FBI headquarters building is because the J.
6 Edgar Hoover Building is in such bad shape?
7 A Yes.
8 Q Now, I'd like to turn back to your role as a site selection panelist. And I
9 know you discussed this a bit in our prior hour, but can you remind me, when were you
10 appointed a site selection panelist?
11 A August -- September -- excuse me -- September 2022.
12 Q Okay. And your duties as a site selection panelist were governed by the
13 site selection plan published by GSA. Is that right?
14 A Yes.
15 Q And there were multiple iterations of the site selection plan. Is that right?
16 A Yes.
17 Q Okay. And, in particular, the site selection plan that you relied on to
18 conduct your evaluation was the second amended site selection plan. Does that sound
19 right?
20 A That sounds right.
21 Q And I'm going to mark as exhibit 2 the "Site Selection Plan (Amendment 2),"
22 which was published in July of 2023.
23 [Parry Exhibit No. 2
24 Was marked for identification.]
25 BY [redacted]:

1 Q And, now, Ms. Parry -- and I'm sorry, I should've asked this earlier -- again,
2 your role as a site selection panelist was governed strictly by the site selection plan. Is
3 that right?
4 A Yes.
5 Q Okay. Are you familiar with the site selection plan in front of you?
6 A Yes.
7 Q And, again, this is the site selection plan that you relied on when conducting
8 your evaluation. Is that fair to say?
9 A This is the plan outlining the process, in addition to the 600-page packet that
10 I relied on.
11 Q Fair enough. So this outlined the duties of the site selection panel and the
12 process they would follow, correct?
13 A Yes.
14 Q Great.
15 And I'd like to, I guess, dive into the responsibilities of the panel compared to the
16 Site Selection Authority.
17 A Uh-huh.
18 Q If could you turn to page 13 for me, under XI, titled "Selecting the Most
19 Advantageous Site." Do you see that?
20 A I do.
21 Q So the first sentence reads here, "The site selection authority will use the
22 evaluation report developed by the site selection panel to help guide and inform a final
23 decision as to which property is in the best interest of the United States."
24 Did that match your understanding of the process between the site selection
25 panel and the Site Selection Authority?

1 A Yes.

2 Q That the site selection panel was designed to help and inform a final decision

3 by the Site Selection Authority.

4 A Yes.

5 [redacted] And I'll turn it over to my colleague.

6 [redacted] Thanks, [redacted].

7 BY [redacted]:

8 Q So, generally speaking, the role of the site selection panel was to review the

9 information that was provided, evaluate each site under each criteria, and provide a

10 report that would document your consensus rating for each criteria to the Site Selection

11 Authority. Is that accurate?

12 A Yes.

13 Q And, in particular, the panel would review each of the three sites and

14 provide a recommendation to the Site Selection Authority, correct?

15 A Yes.

16 Q Is it your understanding that each of the three sites had already been

17 determined to meet the mission needs of the FBI?

18 A Can you say that again?

19 Q Is it your understanding that each of the three sites that you were choosing

20 from had already been determined to meet the FBI's mission needs?

21 A Yes.

22 Q And that the panel was charged with evaluating the three sites, applying a

23 color rating --

24 A Uh-huh.

25 Q -- and providing a recommendation to the Site Selection Authority?

1 A Yes.

2 Q Okay. And so your role, as a panelist, was to provide only, like, a

3 recommendation to the Site Selection Authority. Is that right?

4 A Yes.

5 Q Okay. And it was your understanding that the Site Selection Authority was

6 the person who was authorized to make the final decision, correct?

7 A Correct.

8 Q Okay.

9 So the panel submitted its consensus report, I believe you said, August 2023? Is

10 that correct?

11 A Yes.

12 Q And in your report that the panel submitted, did that correctly reflect your

13 recommendations?

14 A Does the panel report -- can you say that again?

15 Q Reflect your recommendations and ratings?

16 A The panel report reflects the panel's consensus of a recommendation, yes.

17 Q Okay. So no one instructed you to change your recommendation?

18 A No.

19 Q Okay.

20 [redacted] And when you say that it reflected the panel's recommendation,

21 that includes your input as part of that panel. Is that right?

22 Ms. Parry. Yes.

23 BY [redacted]:

24 Q Okay.

25 So I'd like to turn to some of the specifics of the evaluation process to make sure

1 I'm understanding correctly.

2 So each panelist conducted an individual review of the information --

3 A Correct.

4 Q -- on their own first. Okay.

5 And you assigned -- or the panel, when they met together, that was when they

6 assigned overall consensus ratings of the sites indicated by the three different colors. Is

7 that correct?

8 A Correct.

9 Q And as a panelist, you exercised your judgment in conducting these

10 evaluations. Is that correct?

11 A Judgment in what way?

12 Q You're not a robot, right? So you spoke --

13 A Right.

14 Q -- earlier about some examples where you used your judgment or the panel

15 used your combined judgment to determine when the contrasting factors were marginal

16 or not, whether the differences were marginal?

17 A Correct.

18 Q Okay. And is the word "marginal" defined in the site selection plan?

19 A In the plan, no.

20 Q Okay.

21 So, if we turn to the panel's evaluation -- so, in the panel's recommendation

22 report, it states things like "in the panel's view," or you've made references to "marginal

23 differences." So you exercised some judgment in order to arrive at your

24 recommendations.

25 And so is it fair to say that there were, kind of, like, three ingredients in your

1 recommendation, right? There's the packet of information that you received from GSA.
2 There's the rules and the criteria which are laid out in the site selection plan. And then
3 there's, sort of, the judgment that you and your fellow panelists exercised in coming to
4 your recommendation. Is that correct?
5 A I would frame it as, the panel was -- our roles and responsibilities were
6 delineated in the plan. They were directed to review and evaluate the materials in the
7 package, and, in assigning ratings, that we used that information to then assign ratings for
8 each site.
9 BY [redacted]:
10 Q And I guess my colleague's question is just, you know, you have these rules
11 and you have these facts, and you need to put those two together to arrive at a rating.
12 A Uh-huh.
13 Q And I think -- and, you know, this is kind of a simple question, but -- to go
14 from the bare facts to a recommendation to the Site Selection Authority, you kind of
15 applied your best judgment and your reasoning to the facts to arrive at a
16 recommendation.
17 A I would say that the materials in the packet and the criteria in the directive
18 sheets that we were given already laid out much of the information in terms of distance,
19 for example. And so I don't believe that I would use the word "judgment" when you
20 have very discrete criteria. I would use it more in the panel's report of differentiating
21 parts of the criteria.
22 BY [redacted]:
23 Q So, if I may, in your recommendation report, on page 30 in particular, I'll
24 represent to you that the panel wrote, quote, "That is to say, the panel consciously
25 avoided applying a rote, mathematical computation in making its recommendation."

1 So there was no -- the criteria did not define a decision for you, right? You had
2 to reach a decision, as my colleague outlined, by applying the facts to the criteria. Is --
3 A Yes.
4 Q -- that right? And is it fair to say reasonable minds can differ on reaching
5 the conclusions that the panel did?
6 BY [redacted]:
7 Q Let me ask the question slightly differently.
8 On page 26, for example, when you're describing Criteria --
9 A I don't have that report. If I --
10 Q Sure.
11 A -- need to see it, I don't have it.
12 Q We were discussing Criteria 4 earlier, and the last sentence in there -- well,
13 the last sentence on page 26 says, "In the panel's judgment, Fairfax County did not
14 warrant a least favorable rating."
15 Ms. Parry. Thank you.
16 [redacted] Uh-huh.
17 Ms. Parry. Can you give me that again?
18 [redacted] Sure. Page 26, at the very bottom.
19 [redacted] And we'll introduce this as exhibit 3.
20 [Parry Exhibit No. 3
21 Was marked for identification.]
22 Ms. Parry. I'm with you.
23 BY [redacted]:
24 Q So you see, in that last sentence, it talks about the panel's judgment?
25 A Yes.

1 Q So that's all we're asking about. You know, this is not a rote process.
2 A Sure.
3 Q You know, there are three site selection panelists, assisted by technical
4 advisors. And, you know, you described at the beginning why you were chosen.
5 And so the point is just, you were given some rules --
6 A Uh-huh.
7 Q -- you were given a packet of information, and then you and your fellow
8 panelists applied your judgment to get from the rules and the packet to a consensus
9 recommendation for the Site Selection Authority. Is --
10 A Yes.
11 Q -- that fair?
12 A Uh-huh.
13 BY [redacted]:
14 Q And, I guess, to build on that, when you and your co-panelists met to discuss
15 your evaluations, arrive at consensus ratings for each site and each criterion, am I correct
16 in understanding that, across the 5 criteria and the 12 sub-criteria, you and your panelists
17 found that each site had its pluses and minuses?
18 A That wasn't part of the evaluation criteria, in terms of "pros and cons" or
19 "pluses and minuses."
20 Q Okay. Would it by fair to describe them as things that counted against one
21 site or boosted one site as compared to another site?
22 A I think that the way that I would put it is the way that the plan did, and that
23 was: Through the evaluation of the criteria and assigning a color rating to each of the
24 criteria, it was looking at what was most advantageous to the U.S. Government.
25 Q Right.

1 BY [redacted]:

2 Q To build off my colleague's questions, I think what we're getting at, very

3 simply, is there were five criteria, and each criteria had a number of sub-criteria.

4 A Uh-huh.

5 Q And I think each of the sites had at least one blue rating where it was the

6 top, at least one green rating where it was in the middle, and one yellow rating where it

7 was the last, right?

8 A Yes.

9 Q So I think when my colleague talked about pluses and minuses, the idea is,

10 it's not like one of the sites was number one, number one, number on, number one,

11 down the line, across each criteria and each sub-criteria.

12 A Correct.

13 Q So each of the sites had certain criteria or sub-criteria where it was better

14 than the other sites, and each of the sites had some criteria or sub-criteria where it was

15 less good than the other sites. Is that fair?

16 A I would say that, of the criteria and the evaluation, that some of the sites for

17 some of the criteria were more advantageous to the government, and in another criteria

18 perhaps a different site was most advantageous to the government.

19 Q But what all three of these sites had in common, I think as you explained

20 earlier, was that they had all been pre-selected to satisfy the FBI's basic operational

21 needs.

22 A Correct.

23 [redacted] And on that point, Ms. Parry, just to go back a little bit, did you have

24 any role in determining the site selection plan?

25 Ms. Parry. No.

1 [redacted] So, when we were just talking about, sort of, one site being better at
2 one criteria, another site being most advantageous for another criteria, to take just one
3 example, Criteria 1, which was, I think, FBI proximity to mission-related locations, you and
4 your fellow panelists found that Springfield was the best site and applied a blue rating,
5 correct?
6 [redacted] And I believe that's reflected on page 13 --
7 Ms. Parry. Thank you.
8 [redacted] -- of the recommendation report.
9 Ms. Parry. Thank you.
10 Yes.
11 BY [redacted]:
12 Q But on Criteria 5, on the other hand, which is cost, you found that the
13 Greenbelt site was the best place and applied a blue rating. Is that correct?
14 A The panel's recommendation was the Greenbelt received a blue rating as
15 being most advantageous, yes.
16 Q And I'm quoting from page 27 of your panel recommendation report here,
17 which says about halfway down, "On slide 109...the Greenbelt site is shown to have the
18 lowest total cost of the site acquisition with a projected amount of [$26.1 million]. This
19 is significantly less than the other two sites," end quote.
20 Is that correct?
21 A That is what page 27 says, yes.
22 Q Okay.
23 So, again, each of the three sites that you evaluated had been determined to meet
24 the FBI missions, correct?
25 A Yes.

1 Q Okay. And you're choosing among three sites, all of which have their
2 positives, their negatives. And you're applying your judgment in your assessment of all
3 the information that you received, correct?
4 A I think we've talked about the -- yes -- the combination of the roles and
5 responsibilities mixed with the information in the packet and then each individual and
6 then joining consensus of interpreting what we have and applying judgment to reach the
7 evaluation we did.
8 Q Thank you.
9 BY [redacted]:
10 Q I just have a couple housekeeping questions, just to make sure I've got my
11 facts right.
12 The kickoff meeting I think you explained was on July 27th?
13 A Yes.
14 Q And then July 31st is when you reached your consensus recommendation?
15 A Correct.
16 Q So that's 4 or 5 days. Is that right?
17 A From the 27th --
18 Q -7th to the 31st --
19 A -- kickoff meeting to the -- yes.
20 Q Okay. And so is it fair to say that the bulk of your evaluation work was
21 done in those 4 to 5 days?
22 A Yes.
23 Q And then it was about another week or so of just writing the report to
24 correctly reflect your input and that of your fellow panelists and explaining your
25 consensus recommendation?

1 A Yes. It was less than a week.

2 We had started report-writing and had completed it -- we were initially given a

3 deadline of August the 4th to submit that report. We were told we really needed to get

4 that in by the 4th of August because the Site Selection Authority was going on vacation

5 and wanted to have the panel's recommendation prior to leaving.

6 We didn't meet that 4th deadline. I think it was a weekend. I believe we

7 finished on the 6th, and then Tim signed on the 7th, and Brett and I signed on the 8th.

8 Q And, then, you discussed with my colleagues this meeting on July 31st.

9 A Uh-huh.

10 Q I can't remember how you --

11 A GSA called it a "back-check." In their meeting log, it's referenced as a

12 "back-check."

13 Q Back-check, got it. Thank you.

14 And I think as you described it earlier, you said that Ms. Albert, the Site Selection

15 Authority, was interested in having a better understanding of how the panelists came to

16 their consensus recommendation. Is that fair? I think those were the words you used

17 to describe it earlier.

18 A We certainly started that back-check talking about the consensus and the

19 criteria that we had already discussed in the morning, yes.

20 Q And explaining to her -- she was asking questions to get an understanding of

21 how you arrived at that decision. Is that right?

22 A I don't know why she was posing the questions. I don't know what her

23 motivation was in posing them. I just know that those were the questions or statements

24 that she either made or posed during that time. But why she did it, I don't know.

25 Q And you took that to heart, because I think you described how you and your

1 fellow panelists decided, hey, well, let's make sure that our recommendation report kind
2 of addresses these questions and explains why we thought this distance was marginal or
3 not marginal and, you know, how we arrived at our decisions. Is that fair?
4 A Yes.
5 Q Because your role and those of the other panelists in formulating this
6 recommendation was to help guide and inform the Site Selection Authority's final
7 decision. Is that fair?
8 A Yes.
9 Q So you wanted the report to be as helpful to her in that process as possible.
10 A Yes.
11 BY [redacted]:
12 Q Ms. Parry, you mentioned that before this back-check the panel had reached
13 a consensus, and you mentioned that it was stamped. Could you describe that a little bit
14 more?
15 A I just recall, I believe it was Aaron who stated during the meeting, "I would
16 like to state that consensus was achieved on July 31st at" -- whatever the time was. It
17 was a statement that was made during the meeting.
18 Q Fair enough. So the panel reaches consensus, and then, following that, you
19 hold this back-check meeting. Is that right?
20 A Correct.
21 Q So the panel had already reached consensus on what they felt was the best
22 site to recommend to the Site Selection Authority, correct?
23 A Yes.
24 Q And during this back-check meeting, you mentioned that, you know, various
25 questions were posed. Were you ever instructed to change your consensus rating?

1 A No.

2 Q Was it ever implied to you, change your consensus rating?

3 A No.

4 BY [redacted]:

5 Q And, then, just a last couple questions.

6 You and your fellow panelists wrote this 32-page report that you all signed off on,

7 right?

8 A Yes.

9 Q And, then, after that, the Site Selection Authority, who was charged with

10 making the final decision, she wrote her own site selection decision, which is a 38-page

11 document. And, in that decision, she lays out places where she arrived at a different

12 conclusion than the panel and explains why, in her judgment, she was going with one

13 decision as opposed to the panel's different recommendation.

14 A Yes.

15 Q Do you have any reason to believe that she omitted from this report any

16 reasons for her arriving at a different conclusion than the panel's recommendation?

17 A I can't speak to her own report and the writing of that report.

18 Q But the discussions from the back-check that you discussed, these are

19 reflected in her final site selection decision, aren't they?

20 A I don't know. I can't respond to that. I don't know the details of that

21 report as much as I do the report that the panel wrote.

22 Q But you have no reason to disagree with the fact that the site selection

23 decision kind of explains why she arrived at those different conclusions than the

24 recommendations of the panel?

25 A When I see the report, I see a similar structure to the panel's report,

1 assigning a color rating to each of the locations and a justification for doing so.

2 Q And a discussion for where her decision is different from the panel's

3 decision.

4 A Correct.

5 Q And an explanation for why she arrived at a different conclusion.

6 A Correct.

7 [Discussion off the record.]

8 [redacted] We'll go off the record.

9 Ms. Parry. Okay. Thanks.

10 [Recess.]

11 [redacted] Back on the record.

12 BY [redacted]:

13 Q I'm just going to go back to a couple questions we discussed in the previous

14 2 hours.

15 So, in the last hour, my colleagues were speaking to you about the report and

16 turning it in and all of that. And, now, did I understand correctly that you guys turned

17 the report in early because someone was leaving?

18 A No. The timeline that we were given had us submitting that report by

19 August the 4th --

20 Q Okay.

21 A -- but when we knew that we were not going to meet August the 4th, we

22 advised that we were going to need more time. Then we took the time we needed to

23 submit the report that we needed to submit.

24 Q Okay. And at any point during that time, was there a mention about

25 someone going on vacation?

1 A Yes. The reason why the deadline was given to us was that the Site
2 Selection Authority was headed on a vacation and that she wanted to have the report in
3 hand prior to going on vacation.
4 Q Okay. But you guys weren't able to do that because --
5 A We did not, no.
6 Q Okay.
7 BY [redacted]:
8 Q Was there any date that had been given previously?
9 A That was the date given previously. It wasn't that it was changed in any
10 way. It was the date that was given in the timeline that they provided. But they did
11 make mention that if we could, you know, definitely get it in by then, that, you know, it
12 would be great.
13 Q Did you communicate with them whether you thought that was enough time
14 when you first received the date?
15 A We didn't comment on whether or not it was enough time. We knew that
16 when we started writing the report and continued in the report-writing phase that we
17 were not going to meet the deadline that they had given us, and so Tim went with back,
18 as the chair, and said that we would need another day or two.
19 Q Do you know how that was communicated?
20 A I don't.
21 Q Do you recall when he communicated -- or do you know when he -- like, how
22 far before the 14th he said you would not be able to --
23 A I don't, no.
24 BY [redacted]:
25 Q So, going back to the information that you guys were provided -- the big

1 packet, the 600 pages, plus the site selection plan -- all of those were what you used to
2 determine your individual recommendation and then the other collective three's
3 recommendation. Is that --
4 A Correct.
5 Q -- right? And, to your knowledge, do you know where that information
6 came from? Like, who compiled that information that was put into that packet that you
7 received?
8 A I don't know.
9 Q And do you know for, during that process -- during that time -- I mean, you
10 got it from GSA. Is that correct?
11 A Yes.
12 Q Okay. So, in theory -- or, to your knowledge, the information that you guys
13 used was the best information that they had to provide to you guys?
14 A Whether it was the best or not, it was the information that we were given.
15 I do recall hearing that it was GSA and FBI working groups that had worked on building
16 that information, but I can't comment on whether it was the best or not.
17 Q Fair. Very fair.
18 With that being said, we've talked a lot about how the SSA, Ms. Albert, used
19 different information to come to a different conclusion from you guys. Is it fair to say, or
20 to your knowledge, that that information could have been included in the information
21 you guys received in order for you to make --
22 [redacted] You're calling for speculation here. If you could reframe?
23 [redacted] Absolutely.
24 BY [redacted]:
25 Q So the information that you were not provided is what you believe was used

1 for her to make the different decision from your decision?

2 A I thought that there must have been other information that was cited in the

3 original plan that the Site Selection Authority could use that must have been relied on to

4 reach a different decision.

5 Q Okay. And -- hang on just a little bit.

6 BY [redacted]:

7 Q Can you recall, like, specifically what kind of information that you thought

8 was different? Like, what information was the Site Selection Authority citing that you

9 felt the panel didn't have access to this information?

10 A I don't know the different information. It was the original question that I

11 had posed when we met as a group, was to provide clarity on what type of information

12 might be used and whether or not that information would be given to the panel. And

13 the response to that was, the panel should only use the 600-plus-page packet. But I

14 received no clarity on what the other information could be or was.

15 BY [redacted]:

16 Q So you guys were actually limited to the information provided; you were not

17 able to use any other information?

18 A The packet of the material was the only information that we were to

19 evaluate.

20 Q So the only person in this process that was able to use outside information

21 was the Site Selection Authority?

22 A In the plan, that is the language that the plan states.

23 Q I'm going to draw you back to exhibit 3 --

24 A Okay.

25 Q -- and, specifically, we're going to go to page 16.

1 A Uh-huh.

2 Q So here on page 16 -- in the last hour, my colleagues brought up Criteria No.

3 5, in that I think we all, from reading this document, can understand that the location for

4 Greenbelt was the least expensive location to acquire --

5 A I don't think the page number is correct. Page 16 is in the middle of

6 Criteria No. 3. And cost would've been --

7 Q Yes, excuse me, it is Site Criteria No. 3.

8 A Okay.

9 Q We are on the right --

10 A Yep.

11 Q I just used the wrong site number -- excuse me, criteria number.

12 But the cost of acquiring the property was the least expensive of the three. Is

13 that correct?

14 A The cost was Criteria No. 5. The page that we're on is talking about Criteria

15 3, which was site development flexibility and schedule risk.

16 Q Yes. So we're going to go into a particular bullet here.

17 A Okay.

18 Q I think more I was just trying for the record --

19 A Okay.

20 Q -- that the cost -- when you guys did the criteria selection --

21 A Yes.

22 Q -- that the cost of Greenbelt -- was that the least expensive --

23 A Correct.

24 Q -- of the three to acquire?

25 A Correct.

1 Q All right. Sorry about that.

2 A Yep.

3 Q So, moving on -- and, then, if I could have you -- for the record, if you could

4 read, on the bottom of page 16 into page 17, the third sub-bullet, starting with, "The

5 Greenbelt site has"?

6 A Just read it?

7 Q Yes, to put it into the record, please.

8 A "The Greenbelt site has the smallest buildable area (11.26 acres) of all the

9 sites. The site has an irregular triangular configuration, and appears to have less

10 flexibility for development due to the irregular configuration, wetlands bordering the site

11 to the south, and the limited number of roads for access points to the site. While the

12 overall site has a similar total buildable acreage when compared to Springfield; the detail

13 provided in slide 66 data from the FBI HQ Draft EIS that shows the impact from those

14 development constraints with a potential site layout of a much smaller 4.59 acres as

15 compared to a similar site layout/development area on the Springfield site of 9.28 acres.

16 Based on similar data from the FBI HQ Draft EIS, which uses the FBI's requirements as

17 detailed on slide 70, the Springfield site offers 100% larger buildable area when compared

18 to Greenbelt."

19 Q Thank you.

20 And just for all of our understanding, was cost of construction a criteria that you

21 guys were tasked with considering?

22 A I'd have to look at the cost --

23 Q I would represent to everyone here, we're all in agreement that the cost was

24 not -- the cost of construction is not considered.

25 [redacted] I think if we could stick to the nomenclature used in the actual

1 report, it would be helpful for directing the witness to the specific criteria you're asking
2 her about.
3 BY [redacted]:
4 Q It's that it doesn't exist.
5 The criteria of cost of construction is not one of the criterias that you guys were
6 asked to look at when making your recommendation. Does that sound right?
7 A Cost of the construction --
8 Q Construction cost was not --
9 A Correct.
10 Q Yes.
11 A Yes.
12 Q So, with that being said, while Greenbelt was the cheapest to acquire, to
13 purchase, I think I would state that reasonable minds can conclude that building upwards
14 versus building out costs more money. Structural, all of the -- in your experience with
15 real estate and the buildings that you currently have with your particular area of
16 expertise, it's reasonable to say that building up would be more expensive than building
17 out?
18 A I can't state that for sure.
19 Q Uh-huh. That's fine.
20 Is it irregular to you that you would not have to consider the cost of something for
21 recommending the best site? In your opinion.
22 A Yeah.
23 Q You were not asked to consider the cost to build the new headquarters. All
24 of this is about a new headquarters that in the last hour I think we established the FBI
25 needs. But you guys were not asked to consider the actual cost of building the

1 headquarters. Is that correct?

2 A That's correct.

3 Q Is that odd to you?

4 A I think that the criteria that was established was established by groups that

5 agreed that these would be the criteria for a panel to convene and evaluate those criteria.

6 I don't think that -- I think that's a question better posed to them, quite frankly, of

7 whether they considered that or, if they didn't, why they didn't.

8 Q Okay.

9 BY [redacted]:

10 Q And, I guess, going back to the passage you just read, did the panel discuss

11 wetlands as an issue to build on?

12 A We didn't.

13 Q Okay.

14 And when the panel finished the report, did you let your supervisors know, like

15 Brian Turner, Nick Dimos, or [redacted]?

16 A On the 8th, I sent an email to the Associate Deputy Director, Brian Turner,

17 and Assistant Director Nick Dimos that I was finished with the panel process.

18 Q Okay. And is that when you concluded your, I guess, tenure with the

19 panel?

20 A Yes.

21 Q Okay. So, since that moment, you haven't had any, I guess, relationship to

22 the headquarters project?

23 A No.

24 Q Okay.

25 And what evidence was there for you to select the Springfield site as the best site?

1 A The criteria that we evaluated and the ratings that we provided to each of
2 the criteria. When we achieved consensus, it was the Springfield site, for the
3 information that we were provided in the packet --
4 Q Uh-huh.
5 A -- evaluating it against the five criteria that we were given.
6 Q But what information specifically led you to that option?
7 A The information that was in the panel packet.
8 Q Okay.
9 So, I guess, going to cost, which was Criteria 5, why was that the best site to
10 choose?
11 A Which site are you talking about?
12 Q The Springfield site.
13 A In the evaluation of cost --
14 Q Yes.
15 A -- the panel provided a blue consensus rating for the Greenbelt site.
16 Q And why is that?
17 A The Greenbelt site showed the lowest total cost, and it's outlined in the
18 criteria of what was -- of what that cost included.
19 Q Okay.
20 And then going to Criteria 4, which was promoting sustainability and equity, I
21 think --
22 A Uh-huh.
23 Q -- why did the panel choose the Springfield site as --
24 [Discussion off the record.]
25 BY [redacted]:

1 Q So, considering this criteria in totality, why did the panel still choose the
2 Springfield site?
3 A Again, I would refer to the report itself where each of the criteria was
4 evaluated against the information in the packet. Each of those criteria had a
5 predetermined weight of that criteria. And the conclusion of the panel is in the report
6 and for all of the reasons that we documented.
7 Q Okay.
8 And has the site selection panel seen an instance like this before, where the panel
9 chooses the Springfield site and then the Site Selection Authority chooses a different site,
10 like Greenbelt?
11 A This is my first experience in site selection like this, and so I can't speak to
12 whether this was an exception or not.
13 Q So you don't know whether this has happened before at all?
14 A I don't know if it's happened before.
15 Q Okay. Did any of the panel members mention that this has happened
16 before or has happened before?
17 A I have not spoken to the panel members since the conclusion of our
18 report-writing. So I've not spoken to them since the Site Selection Authority issued her
19 report.
20 Q Okay.
21 BY [redacted]:
22 Q Given your experience with the site selection process -- you mentioned your
23 previous experience and methodical and planning and what you put into your career
24 doing those things and why, probably, you were selected to be the FBI representative.
25 And given how much time and information you guys had to pore through, or time given

1 and then information poured through, would you want to do this again, given that you
2 guys were overrode without given, really, the information as to why?
3 A I think if the question is would I, upon request of the FBI, serve in a capacity
4 where they felt I was best suited, the answer is yes.
5 BY [redacted]:
6 Q In your opinion, why do you think Ms. Albert disagreed with the panel's
7 decision?
8 A I think you would have to ask her, and I think that her report would outline
9 those reasons that she documented.
10 Q So, during the committee's briefing that we had with the FBI in January, Nick
11 Dimos discussed that the FBI and GSA had a briefing on August 31st, and he stated that
12 Ms. Albert said to him, "I started with the premise that Greenbelt was the best site."
13 Are you aware of this statement?
14 A I'm not.
15 Q What is your reaction to the statement?
16 A I don't know that I have a reaction as much as -- can you say the statement
17 again?
18 Q "I started with the premise that Greenbelt was the best site."
19 A I don't have a reaction on that statement. I think that, as she submitted in
20 her report, Greenbelt is the ultimate selection from the Site Selection Authority, and she
21 outlined the reasons why she made that decision in her report.
22 BY [redacted]:
23 Q During your evaluation of all the information that you received, you and the
24 other two panelists, did you communicate with anyone outside of those other two
25 panelists and the people on the -- the technical advisors, all of that?

1 A Outside of the panel and the technical advisors, no one.

2 Q Did anyone attempt to communicate with you regarding any of that?

3 A No.

4 BY MS. THIES:

5 Q So, when you learned that Ms. Albert was -- her prior employment was with

6 WMATA, did you believe that caused a conflict of interest or a perception of a conflict of

7 interest?

8 A When I learned -- can you say that again? When I learned of it?

9 Q Yeah. So, after you found out that Ms. Albert was previously employed

10 with WMATA, and WMATA owns the Greenbelt site, do you think that is a conflict of

11 interest or is a perception of a conflict of interest?

12 A I can't comment whether I believe it's a conflict of interest. I think that the

13 naming of a Site Selection Authority is a process in and of itself, and that would have been

14 covered during that process.

15 I think that in looking at processes in general and building of processes, perception

16 of conflicts of interest or deliberate conflicts of interest are woven into processes,

17 whether that's hiring and nepotism processes. It's something that certainly is a factor.

18 Q Are you aware that the FBI Director and Nick Dimos believe that it's a

19 perception of a conflict of interest?

20 A I believe the letter that the Director sent includes language of the Site

21 Selection Authority's previous employment, yes.

22 Q And how does that make you feel, knowing that, I guess, this decision is

23 under scrutiny?

24 A I don't know that it makes me feel any certain way as much as a view into

25 process is always, in my opinion, a good view. As you look to build a process or evaluate

1 a process or watch a process at the tail end of something, those are all good things, in my
2 opinion.
3 BY [redacted]:
4 Q Turning back to the back-check that you guys had after your consensus
5 meeting, can you just quickly explain to us, when you guys had the consensus meeting
6 before the back-check, how did you guys go about telling each other, or how did that
7 work, about how each of you came to your decision?
8 A So we went criteria by criteria, and then in each sub-criteria, each of us, sort
9 off in a round-robin fashion, would state, for Criteria 1, Sub-Criteria A, what was your
10 individual rating for this? And then I would state, Brett would state, Tim would state.
11 And we went all the way down through each of the sub-criteria and then criteria
12 and then went back around to look at it as a whole.
13 Q And was anyone at that time able to ask questions to you guys, or were you
14 just purely stating --
15 A We were purely stating where we were.
16 Q And everyone that was in the back-check meeting was also in that meeting;
17 is that correct?
18 A Yes.
19 BY [redacted]:
20 Q For the Criterion 4 briefing that we discussed earlier, you said it was [redacted]
21 who had provided the briefing?
22 A Yes.
23 Q Do you recall [redacted] last name?
24 A I don't recall it, but it would be certainly in the GSA's documentation that
25 they provided. She was listed on the site selection plan. It might've been redacted

1 here, but she would have been in the technical advisors. Her name would've been listed
2 there.
3 Q And at what point during the morning did she begin that briefing? Do you
4 recall?
5 A I don't remember, no.
6 Q Do you recall if she gave, at the outset, a set of reasons why she felt it was
7 necessary to provide that briefing?
8 A We were told that [redacted] was going to give us the briefing with the slides
9 because she had been primarily responsible for that criteria itself and that, because there
10 were so many sub-criteria to Criteria 4, that they wanted to give her the opportunity to
11 explain what all of the slides meant, and that's why they were doing it.
12 Q And who told you that?
13 A Aaron.
14 Q And do you recall when Aaron told you that?
15 A This all happened during our first kickoff meeting, so that would've been July
16 31st. But I don't know what time it was.
17 BY [redacted]:
18 Q Did you receive the 600-page packet of information prior to the kickoff
19 meeting so you had time to review it? Or did you get the packet, like, day of, on
20 July 27th?
21 A I recall getting it the day of.
22 Q Okay.
23 A Yeah.

1 [12:24 p.m.]

2 BY [redacted]:

3 Q Turning back to the back-check meeting, we've gone over a couple of the

4 transportation-related topics, the socioeconomic criterion. Do you recall any other

5 topics that Ms. Albert raised during the back-check meeting?

6 A I'm just refreshing on the criteria, each one.

7 No. The only other conversation that we had would've fallen under Criteria 2,

8 and that was a small discussion on airports. But that's Criteria 2.

9 Q And what's your recollection of what was discussed regarding airports?

10 A That the distances that we were provided in that overview sheet were

11 distances to Reagan National from each of the three sites. And in the back-check,

12 Ms. Albert brought up that of course there are other airports that were in the 600-page

13 packet that could be considered, not only Reagan National.

14 Q I'm sorry, did you say -- I want to know about that. So it was in -- the

15 600-page only provided the distances to Reagan National, but other airports were listed?

16 A I recall the distances for all three -- BWI, National, and Dulles. All of the

17 airports were discussed in that 600-page packet. Distances were provided.

18 But I believe the reason that we were only looking at National is that National was

19 the closest airport to any of the three. And so the focus became National and not, for

20 example, an aggregate distance between each site and each of the three.

21 Q And was that -- the decision to focus on the closest airport as opposed to

22 aggregating the three closest or some other factor, was that just based off instructions in

23 the packet?

24 A Correct. Yes.

25 Q During this back-check meeting, can you walk us through again just -- you

1 reach consensus in the morning.

2 A Uh-huh.

3 Q It's earlier than maybe initially it was scheduled or expected. Is there a

4 break for lunch or just a natural breaking point?

5 A There was a break, yes.

6 Q So folks log back on, or everyone's gathered again.

7 A Uh-huh.

8 Q At the start of the meeting, did you know it was going to be a back-check

9 meeting? Or how did you -- you said, initially you thought it was to get support --

10 A Correct.

11 Q How did you become aware that this was going to be a back-check meeting?

12 A When I believe it was Aaron said, "We just want to spend a few minutes

13 talking about some of the criteria," and he turned it to the Site Selection Authority.

14 Q Do you know who Aaron had spoken to in that interim period?

15 A No.

16 [redacted] The Site Selection Authority led the back-check portion of your

17 afternoon meeting?

18 Ms. Parry. Yes.

19 BY [redacted]:

20 Q When going through the topics -- we went through several of the

21 transportation-related topics -- airports, bus versus Metro -- and socioeconomic factors.

22 Did anyone besides Ms. Albert make statements about these factors?

23 A Say that again?

24 Q Sure. Just at a higher level, you mentioned that you didn't respond or

25 anything like that, but do you remember who was participating in that discussion, not

1 just, like, attending, but actively participating and making comments during this segment
2 of the back-check?
3 A No. I just recall Ms. Albert stating what we've already talked about, but no
4 one else sort of adding additional comments or posing any questions.
5 Q So, for this period when she's going through the transportation-related --
6 A Uh-huh.
7 Q -- concerns, the socioeconomic, she's the only one speaking in the meeting?
8 A Yes.
9 Q During the morning meeting when you reached consensus, were you able to
10 see or tell in any way the reaction of folks as you were delivering your findings and the
11 other panelists were delivering their findings?
12 A No.
13 BY [redacted]:
14 Q How long was Ms. Albert speaking for during the back-check discussion?
15 A I don't know. It --
16 Q Thirty minutes? An hour?
17 A Not an hour. It was less than 30 minutes, but I couldn't tell you exactly
18 how long it was.
19 Q Okay.
20 And, then, after Ms. Albert was speaking about some of the issues that she had,
21 what happened after that?
22 A I can't recall whether we took another break and got off of the call and came
23 back or whether it was just a shift from the back-check into the report-writing, but we
24 shifted into the report-writing process.
25 [redacted] And was Ms. Albert there for that, for the report-writing process?

1 Ms. Parry. No.

2 BY [redacted]:

3 Q Once you get into the report-writing process, did the other two

4 members -- did anyone make a comment about Ms. Albert's concerns or what had just

5 been discussed over that afternoon?

6 A Comments about what she brought up, no, but discussion about the parts of

7 the report where we focused on language about "marginal." We spent some time

8 making sure that we felt comfortable and confident in the writing of that portion.

9 Q If I remember your testimony from the first hour correctly, you said you

10 spoke to one of the FBI technical leads that was in the meeting about --

11 A Legal advisor. Yes.

12 Q Yeah. Do you recall who it was?

13 A His name is [redacted] (ph).

14 Q And other than your discussions with Mr. [redacted], did you have any other

15 discussions with anyone else in that meeting --

16 A No.

17 Q -- following Ms. Albert's presentation?

18 A No.

19 Q Who was in the meeting for the report development part of the afternoon?

20 A I believe it -- I would confirm this with the meeting log with GSA, but I

21 believe that everyone who had been part of all of the meetings, with the exception of

22 Ms. Albert, was in that meeting -- in that portion of that meeting.

23 [redacted] So, from your perspective, given this entire process, everything that

24 you did, all the information you reviewed, do you still believe, from the information you

25 had to review, that your recommendation of Springfield was still the best

1 recommendation?

2 Ms. Parry. I believe that the information that we had and the evaluation that I

3 did individually and then as part of a panel that reached consensus without any type of

4 discussion of differing opinion is the recommendation that I put forward.

5 BY [redacted]:

6 Q For the afternoon meeting, once you began working on the report, do you

7 recall if there was any carryover effect with the tone or, kind of, tenor of the meeting as it

8 related to the report draft meeting following Ms. Albert's comments?

9 A I don't.

10 Q Do you recall feeling any degree of frustration of Ms. Albert's statements as

11 it related to whether the sub-criteria should have been weighted differently, given that

12 that was something that was out of your control?

13 A Frustration? No.

14 BY [redacted]:

15 Q I do have some questions.

16 So, in March 2023, GSA and FBI met with Virginia and Maryland delegations, and

17 after that they released an amended site selection plan.

18 Were you a part of these meetings with those --

19 A No.

20 Q -- delegations?

21 A No.

22 Q Do you know who was?

23 A I don't.

24 Q Okay.

25 [redacted] And just for clarification, did you or your other two panel members

1 have any involvement in the creation of the plans -- the original or any of the
2 amendments to the plans itself?
3 Ms. Parry. I know that I didn't. I can't speak to the other two panelists.
4 [redacted] Okay.
5 BY [redacted]:
6 Q And now that a decision has been made, do you have any responsibilities for
7 the FBI headquarters project?
8 A The only responsibility that I have is just like any other assistant director in
9 the FBI, and that is, as we move into the construction process, we're starting to be asked
10 to start thinking about what space needs each of our divisions may need in a new
11 headquarters. But we haven't received any official taskings or requests for information.
12 But that is just sort of what we've been told as a group, is to start thinking about what
13 space requirements we would have.
14 Q So do you know currently what stage in the process the FBI headquarters
15 project is in?
16 A I don't.
17 Q And have you spoken with anyone at GSA regarding the selection?
18 A No.
19 Q And when is the last time you spoke with Ms. Albert?
20 A The last time -- I never really directly spoke with Ms. Albert, but the last time
21 that we would have been together would have been in that back-check meeting in July of
22 2023.
23 Q Okay. And are you aware that Ms. Albert left GSA a couple days or -- I
24 don't know, however many days -- after she made her decision?
25 A I don't know the timeframe, but I learned, just through media, that she had

1 left GSA.

2 Q What is your reaction to her leaving so soon after making a decision of that

3 magnitude?

4 A I don't really have a reaction. I don't have a reaction to that.

5 [redacted] We'll go ahead and go off the record.

6 Ms. Parry. Thank you.

7 [Recess.]

8 [redacted] We'll go back on the record.

9 Hi, Ms. Parry. My name is [redacted]. I'm with the House Judiciary

10 Committee. Thank you again for being here today.

11 Ms. Parry. Sure.

12 BY [redacted]:

13 Q I have a few clarifying questions. I'm just going to ask you to maybe repeat

14 some of what you've said, but I just want to get a clear record, so that's why I'm asking

15 duplicative questions.

16 So you said that the first official meeting of the panel was on July 27th, 2023,

17 correct?

18 A Correct.

19 Q And was that the date that you received the approximately 600-page body of

20 documents that you were going to be using for your recommendations?

21 A I believe so, yes.

22 Q It was approximately on that date?

23 A Yes.

24 Q And you said that the panel reached consensus on a recommendation on

25 July 31st, correct?

1 A Yes.

2 Q So you had approximately 4 days to review that body of documents and

3 come together to reach consensus, correct?

4 A Yes.

5 Q To the best of your recollection, how many times did the panel meet in this

6 approximately 4-day period?

7 A The meeting log would give you that definite answer from GSA, but from our

8 kickoff meeting to -- you're asking the consensus meeting?

9 Q Yes.

10 A Perhaps three or four. But, again, I would direct you to the GSA meeting

11 log to give you that definite answer.

12 Q Sure.

13 To the best of your recollection, approximately how long were those meetings?

14 Like, would they be a full day? Half a day? A few hours? If you can recall.

15 A I can't.

16 I know that the kickoff meeting was a robust meeting where we went through all

17 of the different materials. And they walked us through the different meeting logs and

18 question logs and how to pose questions and the records that they would be keeping -- as

19 a records person -- the records that they would be keeping. And so that was the

20 longest.

21 And then the check-in sort of meetings of how are things going would have been

22 less time than that kickoff meeting, but I can't recall the exact duration.

23 Q Okay. And, again, to repeat, those meetings would've happened in about

24 that 4-day period?

25 A Correct.

1 Q Okay.

2 And you had a back-check meeting on July 31st, correct?

3 A Yes.

4 Q And that, as you said in the prior hour, lasted less than 30 minutes, correct?

5 A Yes.

6 Q And you said you signed the report on August 8th, 2023, correct?

7 A Yes.

8 Q So, from that back-check meeting to your signing of the report, the

9 report-writing process took about a week, correct?

10 A A little less. We had finished the draft, and I think Tim forwarded it for

11 formatting, and then it was sent for signature -- electronic signature.

12 Q Okay. So this entire process from that kickoff meeting on July 27th to your

13 signature on August 8th was approximately 12 days, correct?

14 A Yes.

15 Q Okay.

16 And in your experience in the site selection process, you didn't witness any

17 misconduct, correct? In your experience on the panel.

18 A I would ask for -- I was not -- "misconduct" I would want to see defined, as

19 misconduct --

20 Q You felt the panel conducted itself professionally and you made your

21 recommendations according to the guidelines that were prescribed to you?

22 A Yes. I felt that, within the instructions that we were provided and the

23 responsibility that we had, I had no question that I and the panel members followed

24 those instructions and provided the recommendation in the way that we were asked to.

25 Q Okay. Thank you.

1 [redacted]?

2 [redacted] Off the record.

3 [Recess.]

4 [redacted] We'll go back on the record.

5 BY [redacted]:

6 Q During the back-check portion of this, did you take any notes?

7 A No.

8 Q To your knowledge, did anyone else take any notes?

9 A I don't know.

10 Q And for each concern raised, was the concern -- excuse me.

11 BY [redacted]:

12 Q In the back-check meeting, there were a number of concerns and topics that

13 Ms. Albert raised during the meeting related to transportation, socioeconomic benefits.

14 For each concern that she raised, if the criteria was assessed the way that

15 Ms. Albert was suggesting, would that be to the Greenbelt site's favorability?

16 A I don't know. I can't answer that, as to whether or not she was asking

17 about things that would have favored one site over the other.

18 Q So, with the walkability --

19 A Uh-huh.

20 Q -- whether it was marginal or not, did she say anything to the effect of

21 whether one of the sites was more advantageous because it was a shorter walk?

22 A Yes.

23 Q And which site was that?

24 A Greenbelt.

25 Q And for the airports, based off the packet and the instructions provided

1 there, you were looking at just everything as it related to Reagan National.
2 A Yes.
3 Q When Ms. Albert noted that there were other airports in the area, did she
4 mention which of the three sites was closest in the aggregate to all three airports in the
5 area?
6 A She didn't.
7 Q Okay. Did she mention how far the Greenbelt location was from BWI?
8 A I don't recall her talking about exact distances for the airports.
9 Q In relation to Ms. Albert's comments about the bus lines versus the Metro
10 and more people take the Metro, to your understanding of the three sites, which
11 benefited the most by access to bus lines?
12 A The data showed more bus lines for the Springfield site than for the
13 Landover or Greenbelt site.
14 Q And so, if the criteria were changed so that greater weight was given toward
15 Metro access as opposed to access to bus lines, that would favor the other two sites
16 besides the Springfield site. Is that right?
17 A Say that again?
18 Q Sure. So the Springfield site had greater access to the bus lines?
19 A Correct.
20 Q And Ms. Albert had suggested that the access to Metro lines should've been
21 weighted more heavily than access to bus lines because more people use the Metro. Is
22 that right?
23 A Yes.
24 Q If the packet had said that access to the Metro should be weighted more
25 heavily than access to the bus lines, which sites would that benefit?

1 A The way the criteria were presented to the panel, there was -- no matter the
2 number of sub-criteria, each of those sub-criteria were to be weighted equally.
3 If the sub-criteria were weighted differently, if that's what you're suggesting, I
4 would have to see what that would look like. But in pure data alone, the distance
5 between the proposed site to a Metro in Greenbelt was a shorter distance than the
6 distance between the Springfield site and a Metro, versus the number of bus lines that
7 served the Springfield site versus the number of bus lines that served the Greenbelt site.
8 The panel evaluated the sub-criteria as we were told, equally. Whether that
9 shifted is a hypothetical that, if different criteria are weighted differently, I would imagine
10 that an outcome would happen. Whether that's different than the one that we reached,
11 I can't say.
12 Q When Ms. Albert was talking about that the Metro should've been weighted
13 more heavily because more people take the Metro --
14 A Right.
15 Q -- than bus lines, just based on how the statement was delivered, was it a
16 remark geared toward you and the other two panelists in particular, or was she just more
17 broadly speaking and expressing a disagreement with what was ultimately in the packet?
18 A I don't know the motivation of why she said what she said. I only know
19 that that's what she said during the back-check.
20 Q Did you get a sense that she was speaking off of notes or delivering remarks
21 that she had written down in any way?
22 A I didn't get a sense, no.
23 Q In the previous round, there were a couple questions at the end about if you
24 saw any misconduct or anything like that, and you asked for a clarifying definition.
25 Throughout this process, was there anything that you saw that gave you concern

1 about how the process was being conducted?

2 A Say that again?

3 Q Sure. Throughout this process, was there anything you saw that gave you

4 concern?

5 A The back-check. We've talked about that. I was not -- the back-check was

6 not in the original schedule, that we would have that. And so, again, from a process

7 perspective and looking at an agenda of dates and what we would be doing during those

8 dates, the back-check was a concern because it wasn't documented as part of the

9 process.

10 Q For a concern like the back-check, once that occurred, that it's outside of the

11 pre-planned process, normally what is the protocol? Is there any sort of obligation to

12 report those concerns or share those with anybody in particular?

13 A Say that again?

14 Q Once there's a deviation from the processes as you understood them, to

15 your understanding, was there any sort of duty or obligation to share that concern with

16 anyone in the FBI?

17 A No.

18 Q Okay.

19 I think it was [redacted] you said was the FBI technical lead you spoke to?

20 A Legal advisor, yes.

21 Q Legal advisor. Why did you speak to him in particular?

22 A I called each of the FBI's technical advisors when we completed the

23 consensus and before we moved into report-writing. I just gave a call to each of the

24 technical advisors on the FBI side to just thank them for their support in whatever role

25 that they had. And so I talked to not only [redacted] but there were two other FBI

technical advisors, and I just called and thanked them as well.

Q And as it relates to the back-check meeting, what is your recollection of what Mr. English said?

[redacted] Can I confer with the client for a second?

[redacted] Yeah.

[Discussion off the record.]

Ms. Parry. I forgot the question.

BY [redacted]:

Q Your conversation with [redacted] --

A Yes.

Q -- was there any part of the discussion that referenced the back-check meeting, to your recollection?

A No. The only thing outside of thanking him as I did the others was my rhetorical comment about, what's the probability that the Site Selection Authority changes the decision from the panel's recommendation?

Q And other than what you've testified, do you remember anything else? Was there anything else that was discussed between you and [redacted] --

A No.

Q -- as it related to the site selection?

A No.

Q If you'd like to take a look at the topics one more time -- but now that we've had a chance to refresh your memory and talk about the back-check meeting, are there any other topics that come to mind that Ms. Albert had raised during the meeting besides the transportation topics and the socioeconomic benefit topic that we've discussed?

A No.

1 [redacted] We'll go off the record.

2 [Recess.]

3 [redacted] On the record.

4 BY [redacted]:

5 Q Just very quickly, the back-check meeting, that occurred on July 31st; is that

6 right?

7 A Yes.

8 Q And before the back-check meeting, you and your fellow panelists had

9 already arrived at your consensus recommendation on all the sub-criteria and the criteria

10 i and the final recommendation, correct?

11 A Yes.

12 Q And this back-check meeting lasted, I think you said, less than 30 minutes?

13 A Yes.

14 Q I think you described it as Nina Albert trying to get a better understanding of

15 how the panelists arrived at your decision. Is that right?

16 A Yes.

17 Q And then you and your fellow panelists wrote this panel recommendation

18 report --

19 A Yes.

20 Q -- that reflected your recommendations.

21 A Yes.

22 Q Okay. And your recommendations did not change from before the

23 back-check meeting to after the back-check meeting?

24 A Correct.

25 Q No one pressured you to change your recommendations between July 31st

1 and the date you signed this report?

2 A Say that again?

3 Q Sure. This report reflects your recommendations based on your evaluation

4 and your discussions with your fellow panelists. Is that --

5 A Yes.

6 Q -- fair?

7 [redacted] Off the record.

8 [Recess.]

9 [redacted] We'll go back on the record.

10 BY [redacted]:

11 Q Was there any pressure to change the consensus reached from the time of

12 the back-check meeting until you signed the report?

13 A I can't answer whether there was pressure. Whether anything that

14 occurred during the back-check meeting influenced the panel in what we had already

15 received or achieved as consensus and whether anything influenced the writing of the

16 report and the submission of the report that I signed, no.

17 Q To your understanding, was there an attempt to pressure when the

18 consensus had been reached?

19 A I can't speak to what someone's motivation may or may not have been. I

20 can't speak to that.

21 [redacted] Can we go off the record, please?

22 All right. Thank you so much.

23 Ms. Parry. No, thank you, guys. Thank you.

24 [Whereupon, at 1:05 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

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4
5 COMMITTEE ON THE JUDICIARY,
6 U.S. HOUSE OF REPRESENTATIVES,
7 WASHINGTON, D.C.
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13 INTERVIEW OF: ANDREW MAKRIDIS
14
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16
17
18 Wednesday, April 10, 2024
19
20 Washington, D.C.
21
22
23 The interview in the above matter was held in room 2237 Rayburn House Office
24 Building, commencing at 10:01 a.m.

1 Appearances:

2

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted], SENIOR PROFESSIONAL STAFF MEMBER

8 [redacted], DIGITAL DIRECTOR

9 [redacted], DIGITAL ASSISTANT

10 [redacted], CHIEF COUNSEL FOR OVERSIGHT

11 [redacted], LAW CLERK

12 [redacted], SENIOR SPECIAL COUNSEL

13 [redacted], MINORITY CHIEF OVERSIGHT COUNSEL

14 [redacted], MINORITY OVERSIGHT COUNSEL

15

16 For the PERMANENT SELECT COMMITTEE ON INTELLIGENCE:

17

18 [redacted], STAFF DIRECTOR,

19 SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

20 [redacted], SENIOR COUNSEL

21 [redacted], MINORITY PROFESSIONAL STAFF MEMBER

22

23

24

25

1 For ANDREW MAKRIDIS:

2

3 JOEL GREEN, ESQ.

4 COURTNEY MURRAY, ESQ.

5 WilmerHale

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1 Ms. [redacted]. This is a transcribed interview of Andrew Makridis. Chairman
2 Jordan and Chairman Turner have requested this interview as part of the committee's
3 oversight of the CIA.
4 Would the witness please state your name for the record.
5 Mr. Makridis. Andrew Makridis.
6 Ms. [redacted] Now counsel will state their names for the record.
7 [redacted] --
8 Ms. [redacted]. Hold up.
9 Ms. [redacted]. Sorry. Sorry. First, time going through this particular preamble.
10 Sorry, Joel. If you would like to state your name for the record.
11 Mr. Green. Sure. Joel Green and Courtney Murray, WilmerHale, for
12 Mr. Makridis.
13 Ms. [redacted] Thank you.
14 On behalf of the committees, I would like to thank you for appearing here today to
15 answer our questions. The chairmen also appreciate your willingness to appear
16 voluntarily.
17 My name is [redacted], and I am here with Chairman Jordan's staff.
18 I'll now have everyone else from the committees who are here at the table
19 introduce themselves as well.
20 Ms. [redacted]. [redacted], Chairman Jordan's staff.
21 Mr. [redacted]. [redacted], counsel for HPSCI, minority.
22 Ms. [redacted]. [redacted] with Ranking Member Nadler's staff.
23 Ms. [redacted]. [redacted] with Ranking Member Nadler's staff.
24 Ms. [redacted]. [redacted], HPSCI majority.
25 Mr. [redacted]. [redacted], Mr. Jordan's staff.

1 Mr. [redacted]. [redacted] with the HPSCI majority.

2 Ms. [redacted]. [redacted], Chairman Jordan's staff.

3 Ms. [redacted]. [redacted], Chairman Jordan's staff.

4 Ms. [redacted]. I believe, Mr. Makridis, you're accompanied by another attorney as

5 well. If you'd like to state your name for the record.

6 Ms. Murray. Courtney Murray, WilmerHale.

7 Ms. [redacted]. Thank you.

8 Ms. [redacted]. I'd like to now go over the ground rules and guidelines that we will

9 follow during today's interview.

10 Our questioning will proceed in rounds. The majority will ask questions first for

11 one hour and then the minority will have an opportunity to ask questions for an equal

12 period of time if they chose. We will alternate back and forth until there are no more

13 questions, and the interview is over.

14 Typically, we take a short break at the end of each hour, but if would you like to

15 take a break apart from that, please just let us know.

16 As you can see, there is an official court reporter taking down everything we say to

17 make a written record. So we ask that you give verbal responses to all questions.

18 Do you understand?

19 Mr. Makridis. I do.

20 Ms. [redacted]. So the court reporter can take down a clear record, we will do our

21 best to limit the number of people directing questions at you during any given hour to

22 just those people on the staff whose turn it is.

23 Please try and speak clearly so the court reporter can understand and so the folks

24 down at the end of the table can hear you.

25 It's important that we don't talk over one another or interrupt each other, if we

can help it, and that goes for everyone present at today's interview.

We want you to answer our questions in the most complete and truthful manner possible, so we will take our time.

If you have any questions or if you do not understand one of our questions, please let us know.

Our questions will cover a wide range of topics, so if you need clarification at any point, just say so.

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

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

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

Do you understand?

Mr. Makridis. I do.

Ms. [redacted]. This also applies to questions posed by congressional staff in an interview.

Do you understand.

Mr. Makridis. I do.

Ms. [redacted]. Witnesses that knowingly provide false testimony could be subject to criminal prosecution for perjury or for making false statements under 18 U.S.C. Section 1001.

Do you understand this?

1 Mr. Makridis. I do.

2 Ms. [redacted]. Is there any reason you are unable to provide truthful answers to

3 today's questions?

4 Mr. Makridis. No.

5 Ms. [redacted]. Finally, I'd like to make note that the content of what we discuss

6 here today is confidential. We ask that you not speak about what we discuss in this

7 interview to anyone outside to preserve the integrity of our investigation.

8 For the same reasons, the marked exhibits that we will use today will remain with

9 the court reporter so they can go in the full transcript. And any copies of those exhibits

10 will be returned to us when we wrap up.

11 That's the end of my preamble.

12 Is there anything that my colleagues from the minority would like to add?

13 Ms. [redacted]. We just thank the witness for taking the time to join us today.

14 Thank you.

15 Mr. Makridis. Thank you.

16 Ms. [redacted]. Excellent.

17 So the clock now reads 10:05 A.M. We'll start with the first hour of questioning.

18 Mr. Makridis. Okay.

19 EXAMINATION

20 BY MS. [redacted]:

21 Q So Mr. Makridis, where did you go to college?

22 A As an undergraduate, I went to the University of Buffalo, and graduate

23 school at Rochester Institute of Technology.

24 Q Great.

25 And what was your degree in?

1 A Undergraduate was engineering and graduate school was computer science.
2 Q And when did you graduate?
3 A From graduate school?
4 Q Either.
5 A Undergraduate was '82 and then '85 or 6, somewhere in there for graduate
6 school.
7 Q Okay, great.
8 And can you tell us about your professional background?
9 A Sure. I came to the Agency as a student while I was in graduate school and
10 spent a summer at the Agency, went back to graduate school, and then was hired on. I
11 came on board to CIA in 1986 and then retired at the end of '22. So 38 years.
12 Q Okay, so you've spent your whole initial leg of your career at the CIA?
13 A Sort of a lifetime, yes.
14 Q Awesome.
15 Have you held any other positions within the Federal Government or just within
16 the CIA during that time period?
17 A No. All my positions were internal to CIA.
18 Q Excellent.
19 And what was the last title you held at the CIA?
20 A My last job at CIA was chief operating officer, which used to be called the
21 executive director.
22 Q Okay.
23 A The name changed, but it was chief operating officer. I did that for the last
24 4 years of my career.
25 Q Okay, great.

1 And what was that time frame, relatively?

2 A 2018 to '22.

3 Q Okay. Excellent.

4 And could you tell us a little more about your responsibilities and role as the chief

5 operating officer, acknowledging that we're in an unclassified setting?

6 A Yeah. The chief operating officer, as it's structured today, is responsible for

7 the day-to-day running of the organization, which is a very, you know, wide breadth of

8 issues, everything from the mundane issues like the cafeteria to significant issues like

9 moving things around the world.

10 Also responsible for the budget process, strategic planning for the organization,

11 and any other things that sort of come up during my period.

12 You know, one of the big issues was COVID and helping manage the Agency

13 through that time period. And COVID, as you know, we can't work from home. So that

14 was probably one of the biggest challenges during my time as chief operating officer.

15 Q Okay, great.

16 And so would you say that -- you know, you mentioned strategy as a key part of

17 the COO's role within the CIA. Would you say that that's a multi-year strategy,

18 forward-looking approach that you would be responsible for?

19 A It is. I'm responsible for the process, not necessarily just coming up with

20 the strategy but putting together the process by which we sort of come with a 3-, 5-year

21 strategy for the organization. That's correct.

22 Q Thank you.

23 And what do you do now?

24 A I retired at the end of '22. I do some consulting work. I teach. I taught

25 at Yale in the fall, and now I'm teaching at the Bush School here in Washington, Texas

1 A&M Bush School.

2 Q Okay.

3 Is the consulting firm that you work for called Beacon Global Strategies?

4 A That's one of the companies I work for, that is correct.

5 Q Is that a full-time position?

6 A No. No, it's part-time, as needed, consulting with clients, as required.

7 Q Okay.

8 How did you come to select that role as your option post retirement, as one of the

9 firms you would consult for?

10 A Actually, I was approached by Jeremy Bash and Michael Allen when I retired.

11 They had some interest in my background and thought I, you know, could be useful to

12 some of their clients. And so that's how that started.

13 Q Okay.

14 So would you say that one of the key functions of Beacon Global Strategies is to

15 consult on national security, concerns that fold in with your previous role at CIA?

16 A Some are national security concerns but others, honestly, are just sort of

17 geopolitical, you know, what's the environment look like, and, you know, you name the

18 country or the issue. So it's a mix.

19 Q Okay. Thank you.

20 And so you mentioned that you teach, and you consult with other private firms as

21 well?

22 A Right.

23 Q Okay. Great. Thank you.

24 So now I'd like to just ask, are you familiar with the October 14, 2020, New York

25 Post story regarding Hunter Biden's laptop?

1 A I didn't -- I have not read the story.

2 Q Okay.

3 Could we actually enter exhibit 1.

4 [Makridis Exhibit No. 1

5 was marked for identification.]

6 Ms. [redacted]. Which is the sorry, just for your reference, so that you can be

7 familiar with it. I don't think there is going to be any in-depth if?

8 Ms. [redacted]. I don't think there is going to be any in-depth examination on it.

9 We just want to make sure you have it for your reference.

10 Ms. [redacted] Yes. Thank you.

11 Mr. Green. We'll take a minute to take a look at it here.

12 BY MS. [redacted]:

13 Q But just generally, you're aware that this story was published?

14 A I'm aware there were news stories. Like I said, I certainly haven't read this

15 one.

16 Q Okay.

17 Are you aware if anyone else at the CIA might have been familiar with this or read

18 the story?

19 A I would have no way of knowing that.

20 Q Okay. Thank you.

21 I guess -- so you didn't have any kind of reaction to this article or the articles that

22 you were aware of that were written on a similar topic?

23 A I don't think I read any of the articles. I just knew there were stories about

24 it. But, no, so I don't have any reaction.

25 BY MS. [redacted]:

1 Q And when did you come to know that there were stories circulating about a
2 laptop that was owned by Hunter Biden?
3 A I think it was in the news at the time. So when you start to see the
4 headlines, you see those stories, but I didn't delve into any of them.
5 Q In or around October 2020, things contemporaneous with the publishing?
6 A Or shortly thereafter is my guess, but I don't recall when I first sort of
7 became aware of the actual stories.
8 BY MS. [redacted]:
9 Q Okay. Thank you.
10 And are you aware that there was a reactionary statement published by 51 former
11 intelligence officials in regards to this story on October 19th? It's the statement on
12 Hunter Biden's emails, I believe, is the main title.
13 A That letter came through the Agency for classification review.
14 Q Okay. Great.
15 I'd actually like to enter that statement into the record.
16 [Makridis Exhibit No. 2
17 was marked for identification.]
18 BY MS. [redacted]:
19 Q So as you answered a moment ago, this was submitted to the Agency for
20 prepublication review?
21 A Classification -- prepublication classification review.
22 Q So the PCRB --
23 A PCRB.
24 Q -- received this initially?
25 A Correct.

1 Q How would you characterize the public statement?

2 Mr. Green. I'm sorry. What do you mean by that?

3 BY MS. [redacted]:

4 Q I guess, you know, would you say that it was just, you know, a statement

5 written in reaction? Was it something that you were aware of prior to its submission to

6 the PCRB? I guess just how would you describe it as an article?

7 A I was not aware of it before I saw it when it came to my office. You know,

8 it was a process issue for me, I -- a very defined process about when these kind of

9 things would come through my office.

10 Q So you have no involvement in the drafting of this statement?

11 A No.

12 Q Did you provide any advice or guidance to the individuals who crafted or

13 signed the statement?

14 A I did not.

15 Q Okay.

16 And when, about, where you first made aware of the statement? You do you

17 remember general dates?

18 A You know, I first saw it, you know, the 19th or 20th, whenever this sort of

19 came up.

20 Q Okay. And the PCRB sent this directly to your office?

21 A Do you want me to go through the process here?

22 Q That would be great, yeah.

23 A So the process that the Agency operated under, the director of CIA at the

24 time, Gina Haspel, was concerned sometimes that things would appear in the press that

25 she was not aware of. And so she asked for articles that went through the

1 Prepublication Classification Review Board. I realize that's a mouthful.

2 It would come up to my office, at least initially, for a heads-up, a situational

3 awareness kind of thing.

4 So once the Prepublication Classification Review Board went through the

5 document, whatever it was, worked whatever clearance issues, if there were any, in the

6 document, it would then surface to my office.

7 The general rule of thumb or the general procedure was anything written by a

8 former senior, I would alert the director or the deputy director, depending on the day and

9 who was available, and then the process would move forward.

10 Q Is it a standard procedure under -- you know, in your 37-about years of

11 working for the CIA for the COO's office to be involved in the PCRB's approval process?

12 A So we're not involved in the approval process at all. You know, when the

13 documents would come up to my office, they were already done. The Prepublication

14 Classification Review Board had already completed their work.

15 And so it was purely a this is going to appear, potentially, in the press, or whatever

16 it is, and then I would notify the director or the deputy, and the process would be

17 completed.

18 So there was no approval or disapproval.

19 BY MS. [redacted]:

20 Q So would you say that the review work, that the PCRB would take a look,

21 check to see if there was any classified information, then it would come to you for all

22 documents or just documents that were written by former senior officials?

23 A So, you know, book manuscripts, things like that typically didn't come up.

24 Usually, it would be, you know, op-eds or things of that nature. But, you know, my

25 focus was anything written by a senior is what the director wanted to be given a heads-up

1 on. So that's what I would do depending on the article.

2 Q So then after you determined that the article that you received was written

3 by a former senior official, then you would alert either the director and deputy director.

4 Is that correct?

5 A Correct.

6 Q And what did that process look like? Was that just, hey, heads-up, this is

7 coming? Was there a conversation? How did that typically look?

8 A So the typical process was, you know, once I saw it and sort of saw that it

9 was from a former senior, I would bring it to the attention of either the director or deputy

10 director. It would depend on the day, who was available.

11 You know, the director wanted us to move expeditiously on all pieces. Didn't

12 want to create a bottleneck in the process.

13 So I would inform them, and we really didn't have discussions about the pieces

14 other than this is going to appear in some periodical.

15 Q And how did it work in this case with the statement?

16 A You know, I don't recall exactly, but the process that I just described is

17 probably, you know, the way it worked. I would have stepped across the hall and said,

18 here's an article. It's come up from the Prepublication Classification Review Board.

19 They said there is no classified in it. It's going to run.

20 And then I would move on to other things in a very busy day.

21 Q And since this statement was being signed by Director Brennan, Director

22 Clapper, Director Panetta, Director Morell, do you know if you flagged this for the

23 awareness of the director or deputy director?

24 A They would have seen -- you know, if I provided them a copy, which is

25 probably the -- which is my normal process, they would have seen, you know, who the

1 authors were.

2 So, again, I don't have -- I have no recollection of us actually discussing the piece

3 other than, you know, heads-up. And then, you know, I went off to figure out how to

4 take care of COVID.

5 Q Then this statement would have been classified as something that would

6 have risen to the level of being written by former senior officials. Is that correct?

7 A Sure.

8 BY MS. [redacted]:

9 Q Okay. Great.

10 I would actually like to step back in time and ask about the process by which it was

11 submitted to the PCRB initially.

12 You're aware that Michael Morell submitted this to the PCRB for approval,

13 correct?

14 A Correct.

15 Q And are you aware that in Mr. Morell's initial request to the PCRB for review

16 that he described this statement as a rush job, and it needs to go out as soon as possible?

17 A No, I don't recall knowing that at the time. I would like to enter exhibit 3.

18 [Makridis Exhibit No. 3

19 was marked for identification.]

20 BY MS. [redacted]:

21 Q Which will be a Michael Morell email to the PCRB dated October 19, 2020.

22 This, once you have a chance to review, does contain the statements that I just alluded

23 to.

24 A Okay.

25 Q Do you know how long it normally takes the PCRB to review a statement

1 submitted for -- that will ultimately be externally published?

2 A It depends on if they find things that they believe are classified, then there is

3 an iterative process with the author. If they see nothing classified, it can be done

4 relatively quickly.

5 Q Do you think that it normally takes them about a day or a few days to get

6 things done?

7 A I would often see pieces the same day they were submitted if they didn't

8 touch on classified.

9 Q Okay.

10 And do you have any idea why Mr. Morell described the statement as a rush job to

11 the PCRB?

12 A I don't know. I mean, you would have to ask him. I don't know why he

13 would have said that.

14 Q Based on your interactions with the PCRB and your office's role in flagging

15 some of their approved pieces for senior staff within the CIA, do you know what would

16 qualify as a rush job?

17 A You know, just because it was characterized that way, I don't know that the

18 PCRB did anything unique. You could certainly ask them.

19 But, you know, why Mr. Morell wrote this, I don't know.

20 Q And as we've discussed, this came to your office on the same day,

21 October 19th. You flagged it for individuals in the senior staff chain, and this was

22 ultimately published on October 19, 2020 in Politico.

23 So the PCRB was able to review and approve this statement to be published within

24 one day. This is -- would you say that this is a fast review process or about right for

25 something that does not have classified information?

1 A It's about right for a short piece that doesn't have classified information in it.
2 Q Okay. Great.
3 And were you aware that the Biden campaign was considering Mr. Morell to serve
4 as either director of national intelligence or to potentially run the CIA in the, you know,
5 upcoming Biden administration, during the same time period in which he was
6 spearheading this effort to publish the statement?
7 A No, I was unaware of any of those kind of discussions.
8 Q Great.
9 And so when the Office of the Chief Operating Officer was made aware of this
10 statement prior to its publication, was that directly -- were you directly made aware of it
11 or did it come to your office generally?
12 A It would come to my staff.
13 Q Come to your staff?
14 A Typically.
15 Q And did your staff bring it directly to you?
16 A That's what they would do, yes.
17 Q That's what they would do.
18 And so this was, again, as we've established, you were made aware of this
19 because it contains senior official signatures and would be externally published.
20 I would like to enter exhibit 4.
21 [Makridis Exhibit No. 4
22 was marked for identification.]
23 BY MS. [redacted] :
24 Q Which is a production from the CIA to the House Judiciary Committee and
25 the House Permanent Select Committee on Intelligence dated February 7, 2024. And I

1 would like for you at this point in time to look at the pages Bates numbered CIA 230
2 through 231?
3 A I'm sorry. CIA --
4 Q So the Bates stamp at the bottom corner.
5 A Oh, I'm sorry, 230. Okay.
6 Ms. [redacted]. And take your time to review.
7 BY MS. [redacted]:
8 Q Yes.
9 A 230 and 231?
10 Q Correct.
11 A Okay.
12 Q So on the page Bates stamped 230, which should be the first page that you
13 read, at the top of the page there is an email that says, "You may notify former DDCIA
14 Morell. Thank you."
15 And could you please read for me the signature block of that email.
16 A Executive assistant, Office of the Chief Operating Officer.
17 Q Thank you.
18 So as you've told us, it was a standard part of your role to notify senior officials
19 that there was going to be something published that may be relevant to the CIA's
20 operations.
21 In this particular chain, it appears that the Office of the Chief Operating Officer is
22 speaking back to the PCRB, letting them know that they may give final approval to
23 Mr. Morell for publication.
24 Is that an accurate description?
25 A The approval word is -- we didn't approve or disapprove things, myself, the

1 director, the deputy director. It was simply a notification. So once we were -- once I
2 had notified the director or the deputy director, I would tell my executive assistants.
3 They would close the loop with the Prepublication Classification Review Board and tell
4 them that, you know, the notification had occurred.
5 So as long as you understand that there's not an approval step here. This is
6 purely a heads-up.
7 Q So do you notify every -- or request that the PCRB notify every author of a
8 statement that is going to be publicly published that the senior staff has been notified?
9 Mr. Green. I'm sorry. Could you repeat that question?
10 Ms. [redacted]. Absolutely.
11 BY MS. [redacted]:
12 Q So is it a standard procedure for the COO's office to talk to the PCRB once
13 senior staff has been notified so that they may let the original submitter of a document
14 for review know that that process has occurred?
15 A Is it -- I'm sorry. I'm just struggling with the distinction you're trying to get
16 at.
17 Q I guess I just am wondering if it is not your role to approve or disapprove of
18 the publication of a document that the PCRB has approved of, why would you need to
19 notify Mr. Morell that the senior staff has been made aware of this document?
20 A Oh, so, you know, one of my executive assistants wrote this. I think they
21 were just purely telling the Prepublication Classification Review Board that the
22 notification had occurred. They could have easily sort of said notification completed.
23 Why they chose those words and included Mr. Morell's name in there, I don't
24 know.
25 Q Right. And so it would be standard for your executive assistant to

1 communicate in this fashion with the PCRB?

2 A Sure.

3 Q But it's not standard for them to say that you may notify Mr. Morell that this

4 interaction has occurred?

5 A Why they chose that specific language, I don't know.

6 Mr. Green. And I'm sorry. I think there is one link that may be missing here. I

7 don't know that we've established that the PCRB told Mr. Morell that senior agency

8 officials had been notified.

9 Ms. [redacted]. Correct.

10 Mr. Green. I mean, if you want to ask Mr. Makridis that, he can give you his view

11 on it.

12 BY MS. [redacted]:

13 Q Did the PCRB make such notification, to your knowledge?

14 A I don't know. I think it's unlikely that that would be the process they would

15 undertake. I think they would just tell the author the piece is completed.

16 Q Okay.

17 BY MS. [redacted]:

18 Q So is this your office just notifying the PCRB that, like, hey, my work on this is

19 done. I've flagged it for the senior staff. You can tell Mr. Morell that he can go ahead

20 and publish it, separate of your review?

21 A A more precise, you know, interpretation here or language that probably

22 should have been used is, you know, to tell the Prepublication Classification Review Board

23 notification had been completed without the inclusion of any names, right, because this

24 was an issue between the Prepublication Classification Review Board and our 7th floor.

25 So it was not intended to be go tell the author. So I can't speak to why those -- it

1 was written in this way.

2 Q So it was like just one box that needed to be checked before the PCRB would

3 say, okay, this piece has been cleared?

4 A Right.

5 BY MS. [redacted]:

6 Q Did anyone in your office express concerns about the content of the letter?

7 A Certainly not to me.

8 Q Not to you.

9 Did anyone else at the CIA who you interacted with express concerns?

10 A I didn't discuss the letter with anybody. So I don't think there was any

11 opportunity to express concerns.

12 Ms. [redacted]. Did you, yourself, undertake any sort of review of the letter, or was

13 it just simply a function of you would print it out and you would go hand it to the deputy

14 director or the director?

15 Mr. Makridis. Pretty close to that. I would look at it. You know, look at it

16 very quickly to make sure that it was something that I just needed to bring to their

17 attention. Clearly this was. And I did that. But I did not undertake a thorough

18 reading, review of the letter.

19 Again, I just want to emphasize we were a few weeks away from trying to get the

20 workforce vaccinated. My time was spent trying to figure out how to get vaccines

21 overseas. It was the beginning of a new budget cycle. I was just following the process.

22 BY MS. [redacted]:

23 Q Are you aware if the CIA's PCRB made any edits to the statement before it

24 was published?

25 A The way it came up, I assumed it was the way it went in, but I don't know

1 that that would be a question for the PCRB.

2 Q Thank you.

3 Now I would like to look at another page in exhibit 4, Bates stamped 233. I'll give

4 you a second to look through that.

5 Mr. Green. Sorry. Is it 232 to 233, or is it 233? I don't know if it's a second

6 page of the email that begins on 232. The reason I ask is because it doesn't look like

7 there is.

8 Ms. [redacted]. Right. No, it's just the contents of the bottom page of 233 that

9 we'll focus on for right now.

10 Mr. Makridis. But it starts right here at the bottom of --

11 Mr. Green. You should read 232 and 233.

12 Ms. [redacted]. Yes.

13 Mr. Green. And I know there's a lot of redaction here, but just so the record is

14 clear, we don't have any reason to believe that Mr. Makridis was a recipient of this email.

15 Is that correct? Or he's not listed.

16 Ms. [redacted]. He is not listed.

17 Mr. Green. Thank you.

18 Mr. Makridis. Okay.

19 BY MS. [redacted]:

20 Q Great.

21 So I'd like to read into the record at the bottom of the page Bates stamped 233.

22 "Here is a PCRB submission of interest for OPA's situational awareness. PCRB received

23 for review the attached talking points for media engagement on the Hunter Biden laptop

24 story. The manuscript is by former DO officer, Marc Polymeropoulos. PCRB has

25 determined the manuscript contains classified information, the removal of which would

1 enable publication."

2 Do you see that?

3 A I do see that.

4 Q So on October 20, 2020, the day after the statement was published, this

5 email was sent with the subject line: "PCRB Item of Interest, 20 October, two of two."

6 These are talking points for media engagement on the Hunter Biden laptop story

7 that the PCRB flagged for CIA's Office of Public Affairs, as denoted in the statement we

8 just read.

9 There is an email address cc'd on the account denoted as DIR_COO_EAS. To the

10 best of your knowledge, what was that account associated with? Was that associated

11 with the Office of Chief Operating Officer?

12 A Yeah, the EAS is executive assistants. So, yes.

13 Q Great.

14 And so in its review, the PCRB found that some portions of those talking points

15 included classified information based on this email, correct?

16 A That's what it seems to say, yes.

17 Q Based on the contents of the PCRB's email and the fact that the related

18 statements had already been published prior to the approval of these talking points,

19 would you say that Mr. Morell and Mr. Polymeropoulos could have been mistaken in their

20 assertion that we are 100 percent confident it does not contain classified information

21 when referencing the October 19th statement, as they did when submitting to the PCRB?

22 Mr. Green. I'm sorry. A couple of questions, actually. When you say related

23 statements, what -- I read this as attached talking points to a different document than

24 what we had just previously spoke about.

25 Ms. [redacted]. When I say related statement, I mean the October 19th public

1 statement that was submitted by Mr. Morell and Mr. Polymeropoulos to the PCRB for
2 review.
3 Mr. Green. Okay. And I'm sorry. Do you mind -- can we have the question
4 read back, or do you want to repeat the question?
5 Ms. [redacted]. Absolutely.
6 BY MS. [redacted]:
7 Q So the PCRB found that the talking points submitted by Mr. Polymeropoulos
8 related to the October 19th statement did contain classified information. Do you think
9 that Mr. Morell could, therefore, have been mistaken in his assertion to the PCRB, as we
10 saw in the previous exhibit, that they were 100 percent confident it does not contain
11 classified information?
12 A I don't know. I don't recall ever seeing this document. I don't recall ever
13 seeing the actual talking points. So I just don't know what the reference here is on
14 classified information that the PCRB saw. So I don't know. I don't know.
15 Q Do you think, based on the fact that during its cursory review, the PCRB did
16 find aspects of the media talking points, which were not fit for public consumption, that --
17 A I'm sorry. The media talking points or the article?
18 Q The media talking points, that they found classified information that was not
19 fit for public consumption.
20 Do you think that the CIA could have conducted further review of the original
21 October 19th statement based on the fact that both were, you know, published within a
22 day?
23 A I think this would -- I don't know. The question would probably go back to
24 PCRB to understand what it is that they found classified, what the overlap was with
25 potentially the letter. I just -- I don't know.

1 Q Do you have any concerns that Mr. Morell and Mr. Polymeropoulos had
2 been, you know, shopping the statement around for signatures prior to their submission
3 of the PCRB, in which the PCRB was, you know, ultimately able to determine that there
4 hadn't been classified information in the statement but, you know, it hadn't been
5 reviewed yet, it could have contained classified information that they had not, you know,
6 meant to include, but it could have been in there?
7 Do you think that maybe it would have been more appropriate for them to submit
8 to the PCRB first and then seek signatures?
9 A Yeah. And you know, not having participated in the authorship of the
10 letter or the coordination process they went through, you know, I don't know what steps
11 they took to protect the information that they were putting in a letter. So, you know,
12 that's a question for, you know, Mr. Morell or the other co-authors.
13 Q Okay. Thank you.
14 I'm now looking at page 232 --
15 A Going back.
16 Q -- which is the top email associated with this chain. Could you please read
17 the contents of the email at the top of the page, just the written contents.
18 A "Interesting to see what was submitted and approved by PCRB. Please do
19 not forward."
20 Q And could you please read the signature block?
21 A Branch Chief, Nontraditional Intelligence Threats Branch,
22 Counterintelligence Mission Center.
23 Q Is that particular signature block associated with the CIA?
24 A Most likely. I mean, given, you know, the title, but I don't know who the
25 person is.

1 Q So have you ever seen this email before?
2 A I certainly don't recall seeing it.
3 Q What do you think the branch chief meant when saying that it was
4 interesting that the PCRB had approved the statement and the talking points?
5 A I don't have a view. I don't know what he or she focused on and what they
6 found interesting. So I don't know.
7 Q Do you think that it is possible that the branch chief might have been
8 referencing the nature of the statement just mere weeks before the 2020 Presidential
9 election?
10 A Gosh, I have no idea.
11 Q But do you think it's possible that could have been a concern?
12 A I think a lot of things are possible. The Agency is an apolitical organization.
13 I don't know what he or she -- I don't even know if it was a he or she -- what the
14 reference was here or if they were careless with their words. I don't know.
15 Q Do you think that the branch chief might have been referencing the fact that
16 former senior intelligence officials were using their former titles to spread information
17 that was untrue about the Hunter Biden laptop story based on, you know, suppositions
18 that it was Russian election interference?
19 A I don't know. This is a question best addressed by the branch chief.
20 Q But, again, it could be possible that that was a concern?
21 A Many things are possible. I just have no idea what he or she was thinking.
22 Q Do you personally believe that it was appropriate for the former senior
23 intelligence officials to use their titles to discredit a story that was unfavorable to the
24 Biden campaign weeks before the election?
25 A Look, I honestly wasn't focused on the letter. I just, you know, performed a

1 process in the middle of a very busy week, month, you know, latter part of a year. So I
2 didn't form an opinion, and I just moved on.
3 BY MR. TRAINOR:
4 Q But as you sit here today, Mr. Makridis, what is your opinion?
5 A Look, I spent 38 years at CIA, apolitical. I didn't engage in politics. I've
6 chosen to do the same now that I'm on the outside. And so that's the path I've chosen.
7 I can't speak for the authors and why they chose that particular path.
8 Q Mr. Makridis, it's a very simple question. I don't think it undercuts your
9 view that you've served apolitically.
10 My colleague is asking you, in your judgment, was this appropriate for them to use
11 their titles in this fashion?
12 Mr. Green. What do you mean by appropriate?
13 Mr. Trainor. Well, was it appropriate for former senior intelligence agency
14 officials to leverage their titles to put a piece out prior to an election. Appropriate.
15 Something is inappropriate, not appropriate, ethical, unethical. You can use your
16 judgment on what we're talking about.
17 Mr. Green. Appropriate under the PCRB process, under Agency guidelines,
18 under general --
19 Mr. Trainor. No, no. I'll make it easier. Under his opinion as a former
20 intelligence officer.
21 Mr. Makridis. I would not have done this because I think you stay clear -- I
22 personally believe you stay clear of politics. So but that's my view. I'm not suggesting
23 anything about anybody who wrote -- whoever signed the letter.
24 BY MS. [redacted]:
25 Q Thank you.

1 And do you think that the branch chief might have had any concerns about the
2 rushed nature of this statement, as Mr. Morell described it?
3 A I certainly don't take that away from the one sentence here, but, again, a
4 question for the branch chief.
5 Q Okay.
6 I would like to submit a production from the CIA to the House Judiciary Committee
7 and House Permanent Select Committee on Intelligence, which is dated March 29, 2024,
8 which I believe would be the fifth exhibit.
9 [Makridis Exhibit No. 5
10 was marked for identification.]
11 BY MS. [redacted]:
12 Q I'll give you time to review this.
13 And for this, we will look at the page Bates stamped 157. It should be the third
14 page in, I believe.
15 A Okay. 157?
16 Q 157, yes.
17 So the bottom email, which will be the first in this particular chain, reading from
18 the bottom up, could you please read the contents of that bottom email to me?
19 A "This frustrates me. I don't think it is helpful to the Agency in the long run.
20 Sigh."
21 Q And it includes a URL link to the Politico article, which does link to the
22 October 19th statement on the Hunter Biden email story signed by 51 former intelligence
23 officials.
24 Why do you think this individual was frustrated by the publication of the
25 statement?

1 Mr. Green. I'm sorry, and, again, for the record, Mr. Makridis is not a recipient
2 on this. Is that fair?
3 Ms. [redacted]. Based on the redactions that we have been given by the Agency,
4 we cannot confirm if Mr. Makridis was an a recipient.
5 Mr. Green. Okay.
6 Mr. Makridis. I don't recall this email. But why was the person frustrated? I
7 don't know. I guess it's an interesting question to ask the person. Again, I don't recall
8 this email.
9 BY MS. [redacted]:
10 Q Do you have any personal frustrations with the October 19th statement?
11 A You know, I think the Agency's work is best done when it sort of doesn't sort
12 of splash across the press in any way, but that's a general statement, and I think most CI
13 officers would sort of say the same.
14 BY MR. TRAINOR:
15 Q What do you mean, exactly?
16 A We have a very important mission to protect the country and the public, and
17 I think that's, you know, best done without, you know, a bunch of publicity.
18 Q Do you think Mr. Morell knew that as well?
19 A You would have to ask him. I think it's a general statement that I think a lot
20 of people believe, but I don't know.
21 Q Do you have a relationship with Mr. Morell?
22 A Yeah, I know him. I've known him for 20 years or so.
23 Q How would you describe him? Friends? Acquaintances? Business?
24 A Somewhere between friends and acquaintances. We intersect on business.
25 I knew him at the Agency. He was President Bush's briefer before I became President

1 Bush's briefer.

2 Q Have you spoken to him about the October 19th letter?

3 A No.

4 BY MS. [redacted]:

5 Q Did Mr. Morell, seeing that he was the Presidential briefer prior to yourself,

6 did you guys have any interactions on, you know, how to do that job, how to uphold that

7 position?

8 A Sure. That's just like any other job when you take over from someone, you

9 sort of learn the ropes before you do the job.

10 Q So based on the interactions that you had regarding, you know, that position

11 and others that you might have held that interacted with Mr. Morell at the Agency, do

12 you think that he shared a similar sort of moral compass on when to engage on political

13 items and when to not?

14 A You know, that's not a topic that we ever discussed. You know, it was

15 really focused on the business of the organization, whether it was being a briefer or, you

16 know, other roles. So we didn't really discuss things of that nature.

17 Q Okay.

18 Now, the second part of this sentence that you've read, "I don't think that it is

19 helpful to the Agency in the long run," do you have any idea what this individual might

20 have meant by that statement?

21 A I don't know.

22 Q As we discussed earlier, part of your role as the COO was to help implement

23 and manage the multi-year strategy of the CIA. Do you think, based on your own

24 knowledge as the CIA, that this statement was helpful to the Agency in the long run?

25 A You know, the CIA strategy is a big, broad thing about analysis, collection,

1 resources. So that's what I was engaged in. You know, whether or not someone
2 believed that this was helpful or unhelpful, I can't comment.
3 BY MR. TRAINOR:
4 Q Well, sort of based on your prior assertion that you don't think that the
5 Agency's work should be splashed all over the press. You know, on that operating
6 assumption, is it fair to say that you did not think this was helpful? You would share
7 these sentiments?
8 A As I said, you know, people do what they choose. I have not engaged in
9 this kind of activity or, you know, anything that might be politicized or political. So, you
10 know --
11 Q So let me ask it a different way. Is politicizing the CIA's work helpful?
12 A As a broad question, is politicizing CIA's work helpful? Not really.
13 Q Why not?
14 A I think it's a distraction.
15 Q So it's frustrating?
16 A Whoever wrote this, yes. Clearly they were frustrated. Again, I don't -- I
17 don't know. And I don't know what was frustrating them. It could be many things,
18 right?
19 BY MS. [redacted]:
20 Q Right.
21 And where you are now, where you sit now, do you think that this statement was
22 politicized?
23 Mr. Green. Sorry. Which statement are we talking about? The email or are
24 we talking about the --
25 Ms. [redacted]. The October 19th statement?

1 Mr. Makridis. The letter?

2 BY MS. [redacted]:

3 Q Signed by Mr. Morell, Mr. Polymeropoulos and 51 others.

4 A Well, I'm sitting here talking to a committee, so I guess the answer is, yes, it's

5 become political.

6 Q Do you think their initial intent was to be political?

7 A I don't know. Again, I didn't participate. No one asked me about the

8 letter.

9 BY MR. TRAINOR:

10 Q But you've read the letter, correct?

11 A Sure. Well, you know, I had to sort of see it before I showed it to the

12 director, and certainly I read it before coming in today.

13 Q Well, at the time you showed it to the director, did it strike you as a political

14 article?

15 A It struck me as an opinion piece. And beyond that --

16 Q And what did it strike you as reading it again in preparation for this

17 interview?

18 A Same. It was an opinion piece.

19 Q Opinion piece of -- it's a political opinion piece, right? Drafted before an

20 election, right? October surprise. You're familiar with these ideas, these concepts.

21 Mr. Green. Sorry. What was the question?

22 BY MR. TRAINOR:

23 Q The question is, in your experience, given what the opinion piece was

24 conveying, when it was conveyed, what it was conveying, it's fair to say it was a political

25 opinion piece in your judgment?

1 A You know, given this, as you said, the timing and the nature of the piece, it
2 certainly could be construed that way.
3 Q Do you construe it that way?
4 A Look, I didn't focus on it. I truly did not. I just had so many things going
5 on at the time. It was like, okay, here's another opinion piece. It wasn't the first. It
6 wasn't the last that I saw. I just moved on.
7 Q I don't doubt it, Mr. Makridis. I think this might be helpful to explain why
8 we're asking these questions. This is part of Congressional oversight.
9 A Yes, absolutely.
10 Q And one of the things we value with witnesses, say you, for instance, with a
11 deep experience in this world, right -- we're staffers. We don't -- so we rely on
12 witnesses to come forward and to give us information to satisfy our constitutional
13 obligation.
14 So recognizing at the time you didn't -- you're saying these were my feelings at the
15 time. But here you are, right. You have read it again in preparation. Presumably,
16 maybe we shouldn't presume anything, but you're aware that this thing mushroomed.
17 So then the question becomes -- well, of course, I lost my train of thought.
18 The question becomes, in your experience, this is a political document, and it's
19 ultimately unhelpful to the Agency. Fair to say?
20 A Well, that's what the author of this said, that it was unhelpful to the Agency.
21 So clearly someone felt that way.
22 Q But I'm asking you. How do you feel?
23 A You know, I saw so many opinion pieces during my time. It's -- you know,
24 people have various thoughts, and after they leave the Agency, they are free to express
25 them, right. And so --

1 Q Well, let me ask you this. Have you seen anything like the public statement
2 in all of your years of experience?
3 A Like? You mean with that many -- what's the like?
4 BY MS. [redacted]:
5 Q I think, you know, with that many signatories, of that caliber, who had all
6 held prestigious positions within the Intelligence Community, especially in the CIA, people
7 you knew personally.
8 A No, I had not seen anything of that nature.
9 BY MR. TRAINOR:
10 Q So did that strike you at the time that you read it?
11 A Certainly the number of signatories. You know, one of the reasons that I
12 showed it to the director or deputy director was this is being signed by a lot of people
13 who used to sit in your chairs, so you should be aware.
14 Q So that's significant?
15 A So from that perspective, it's significant. Former directors, deputy
16 directors, you know, that rises to the level where I felt that I wanted to make sure the
17 director and the deputy director were aware.
18 BY MS. [redacted]:
19 Q And when you did speak to the director and/or the deputy director in this
20 case, did you also have any communications with any of the signatories of the public
21 statement before, you know, it was either submitted to the PCRB or while it was under
22 PCRB review?
23 Mr. Green. I'm sorry. About the letter?
24 Mr. Makridis. About the letter?
25 BY MS. [redacted]:

1 Q Uh-huh.

2 A I don't recall any discussions of that nature.

3 Q Okay. So you didn't have any communications with Mr. Morell or

4 Mr. Polymeropoulos, Ms. Wood?

5 A No. I mean, you know, if Mr. Morell had called me about some other issue,

6 I could have had a conversation with him. But I have no recollection of discussing

7 anything about the letter or the opinion piece or whatever it was.

8 Q And to your knowledge, or, you know, to your memory, did either the

9 director or deputy director show interest in reaching out to them to ask clarifying

10 questions about this piece?

11 A No. We had no discussion other than the notification that this was coming.

12 And then, you know, what they chose to do beyond that, I couldn't say. I don't know.

13 Q Thank you.

14 Now I would like to enter exhibit No. 6.

15 [Makridis Exhibit No. 6

16 was marked for identification.]

17 BY MS. [redacted]:

18 Q Which is an email from James Clapper's document production dated

19 October 18, 2020. And while you're reading through this, we will look at the second

20 email in this chain.

21 A Thank you.

22 Q Please let me know if you need help finding --

23 A The second?

24 Q So we will --

25 A Page two?

1 Q It would be sort of beginning on page 1 into page 2. The subject line is on
2 the bottom of page 1.
3 A So this is a note from Mr. Morell to Mr. Morell. Is that what I'm reading?
4 Q So this --
5 A Is a draft or --
6 Q No. This was sent to James Clapper to other signatories, which was
7 produced to us by James Clapper.
8 A It does say from Michael Morell.
9 Mr. Green. Hold on. Up there.
10 Mr. Makridis. Oh, okay. Okay. I apologize. I apologize.
11 BY MS. [redacted]:
12 Q No problem at all. I understand it's a little difficult to read on paper the
13 structure of the emails.
14 But the email that we will be looking at was sent to a broader listserv seeking
15 signatures. So I believe that is why it looks like it is an email to himself.
16 A Okay.
17 Q On page 2, would you please read into the record the top paragraph of Marc
18 Polymeropoulos' email?
19 A Oh, the second subparagraph. If you want to agree?
20 Q So starting -- oh, sorry. This would have been --
21 A Michael Morell's.
22 Q Mr. Morell, sorry. Yes. Just the paragraph beginning "Marc and I."
23 A "Marc and I drafted the attached because we believe the Russians were
24 involved in some way in the Hunter Biden email issue and because we think Trump will
25 attack Biden on the issue at this week's debate and we want to give the VP a talking point

1 to use in response."

2 Q Were you ever made aware of this email chain or that the intent behind the

3 statement published on October 19th was to give then former Vice President Biden

4 talking points at the Presidential debate prior to the statement's publication?

5 A I certainly don't recall seeing anything like this.

6 Q Did anyone at the CIA have any awareness?

7 A Gosh, that's speculative. It's possible. Big organization. But I don't

8 recall anyone raising this to my attention.

9 Q Thank you.

10 And days later, candidate Biden did, in fact, use the statement as a talking point at

11 the final Presidential debate, correct? Do you have any recollection of that?

12 A Gosh, I don't remember the debate. Maybe. But that's a long time ago.

13 I don't recall the debate.

14 Mr. Trainor. Do you recall if you watched it?

15 Mr. Makridis. I watched at least part of it, but I don't recall the substance of the

16 debate.

17 BY MS. [redacted]:

18 Q During the debate on October 22, 2020, then former Vice President Biden

19 said, quote, look, there are 50 former national intelligence folks who said that what this,

20 he's accusing me of, is a Russian plan. They have said that this has all the characteristics

21 for five former heads of the CIA, both parties say what he's saying is a bunch of garbage.

22 Nobody believes it except him and his good friend Rudy Giuliani.

23 Do you think that then candidate Biden's statement was a -- during the debate,

24 was a mischaracterization of the October 19th statement?

25 A I'm sorry. Can you read that -- I apologize. Can you read that one more

1 time?

2 Q Absolutely.

3 So in this quote from President Biden, pulled directly from the Presidential debate

4 on October 22nd, he says that his opponent at the time, then President Trump, was

5 accusing him of something that was ultimately a Russian plan and that then President

6 Trump was saying a bunch of garbage, and no one believes it except for him and his good

7 friend Rudy Giuliani.

8 Do you believe that this is a mischaracterization of the October 19th statement?

1 [10:59 a.m.]

2 Mr. Green. Yeah, I don't think he's in a position to compare kind of snippets of

3 what you're reading to a document that he doesn't have in front of him, if that's what

4 you're asking him to do.

5 Ms. [redacted]. Well, this was a public debate that was watched by millions of

6 people.

7 Mr. Green. Sure.

8 BY MS. [redacted]

9 Q Millions of people are familiar with then candidate Biden's statement

10 regarding this October 19th statement and the New York Post article that started it all.

11 Would you say that it's accurate that the New York Post article on

12 Hunter Biden's laptop was a Russian plan?

13 A So, I haven't read the New York Post article. It's back here somewhere. It

14 was the first one you gave me, but I didn't read it at the time or since, so I don't know

15 exactly what it says.

16 Why candidate Biden expressed that view, I think -- I mean, I don't know. I don't

17 know what his interpretation was, what other facts or data he had. Yeah, I'm sorry, I

18 can't answer.

19 Q But your generally aware that now, a couple of years later, it's established

20 that the New York Post story was not Russian election interference? It was, in fact, true

21 and the Hunter Biden laptop investigation is -- was a formal investigation that the FBI was

22 leading?

23 Mr. Green. Can you break that down into parts? If there's a question there.

24 Ms. [redacted]. Right.

25 BY MS. [redacted]:

1 Q So the New York Post story was not Russian election interference, correct?

2 A I believe -- again, I have not read the story. So if that's what the -- I mean, I

3 can look at the headline or you can give me time to read the story, but -- smoking gun

4 email reveals how Hunter Biden introduced Ukrainian businessmen to VP Dad.

5 Q Uh-huh.

6 A Right.

7 Q Right.

8 BY MR. TRAINOR:

9 Q So I think generally, as far as you know, the Hunter Biden laptop that has

10 been the subject of all of this, are you aware that that's been authenticated, meaning it

11 was, in fact, Hunter Biden's laptop?

12 A That seems to be the broad view, but I really haven't looked at the details

13 and tried to, you know, unearth the -- you know, I grew up as an analyst, right? And

14 analysts like to sort of dig through data. I haven't had time or inclination to do. So I

15 know what the general consensus seems to be, yes.

16 Q And you have -- have you read stories that speak to this?

17 A No. I honestly have not.

18 BY MS. [redacted]:

19 Q So focusing on the October 19th statement itself, would you agree that

20 suggesting Hunter Biden's emails, without access to any confirming intelligence, as the

21 signatories did not have access to confirming intelligence, but would you agree that

22 suggesting Hunter Biden's emails were a potential Russian intelligence operation would

23 be a fairly sweeping claim to make?

24 A Let me look at the -- do you mind if I look at the --

25 Q The October 19 statement?

1 A -- the October 19 statement.

2 Q It would've been one of the --

3 A Early ones.

4 Q Right.

5 A It's a broad statement with caveats. You know, we don't know, you know,

6 this sort of -- they're basing it on experience. It's different than -- you know, I don't have

7 this kind of Russia experience. It's not issues that I worked during my career at CIA.

8 So, you know, they're basically saying, based on our experience, and I think that's

9 a question for them, is, what in your experience made you think this.

10 Q Well, you were an analyst, as you said.

11 A Right.

12 Q So you have experience in --

13 A But certainly not access to -- or, look, I never worked, you know -- I've

14 worked weapons issues, strategic weapons issues, not Russian political or malign

15 influence or those kind of issues that seem to be in play here. So I don't have that type

16 of background or expertise.

17 BY MR. TRAINOR:

18 Q Well, as to the substance, but generally --

19 A To the --

20 Q -- speaking, given how they couched it and phrased, I think my colleague has

21 a question there. Give me your background as an analyst.

22 BY MS. [redacted]:

23 Q Have you ever seen any other publications that make as broad a claim about

24 election interference in this particular fashion about Hunter Biden's, you know, emails?

25 Is that normal? Is that standard? Would you have ever made such a sweeping public

1 claim without having any evidence?

2 A So the question is, have I ever seen other publications that make sweeping

3 claims about malign influence or -- sorry --

4 Q I apologize.

5 A -- I'm just trying to to get to the nub of the question.

6 Q I understand.

7 So this is a broad claim generally, yes?

8 A Yes. Are we looking at the same paragraph that we --

9 Q Paragraph 4.

10 A It is not these --

11 Mr. Trainor. Yeah, read it into the record, if you would, Mr. Makridis.

12 Mr. Makridis. It is -- one second.

13 It is for all these reasons that we write to say that the arrival on the U.S. political

14 scene of emails purportedly belonging to Vice President Biden's son Hunter, much of it

15 related to his time serving on the board of the Ukrainian gas company Burisma has all the

16 classic earmarks of a Russian information operation.

17 Ms. [redacted]. Do you think that was a fair statement for them to publish without

18 having any intelligence to back that claim up?

19 Mr. Green. I think on the sake of fairness and just for Andy's sake, I'd ask that we

20 read the next paragraph into the record as well.

21 Ms. [redacted]. That's fine.

22 Mr. Trainor. Sure, yeah.

23 Mr. Makridis. We want to emphasize that we do not know if the emails provided

24 to New York Post by President Trump's personal attorney, Rudy Giuliani, are genuine or

25 not in that we do not have evidence of Russian involvement, just that our experience

1 makes us deeply suspicious that the Russian Government played a significant role in this
2 case.
3 Mr. Green. And thank you, sir. If you wouldn't mind asking your question
4 again.
5 BY MS. [redacted]:
6 Q I think the same question still stands. As they've noted, they had no
7 evidence to back up whether or not their claims were true or false. Do you think it was
8 appropriate for them to publish the statement that the Hunter Biden emails were Russian
9 disinformation?
10 A So whether it's appropriate or not, I can't say. I'm not one of the people
11 who signed the letter. They do say that it relies on their experience, and so what that
12 experience is, what specifically they saw in this that made them, you know, suggest that it
13 was hallmarks of a Russian information operation, I don't know. I've not discussed this
14 with any of them. So I don't have a view here as to what it is that they saw or, you
15 know, whether it's appropriate or not. That's sort of up to the individual, I think.
16 Q Well, we're -- sorry.
17 Mr. Trainor. Well, as a former --
18 Ms. [redacted]. We're about out of time, but can I just ask, yes or no, would you
19 have signed this statement?
20 Mr. Makridis. As I said earlier, I've stayed out of politics and things that could be
21 politicized, so I would not have sign- -- for that reason, I would not have signed the
22 statement.
23 Ms. [redacted]. Thank you. Our hour's up.
24 Off the record.
25 [Recess.]

1 Ms. [redacted]. Mr. Makridis, thank you again for joining us today.

2 EXAMINATION

3 BY MS. [redacted]:

4 Q I want to return to something that you said in the prior hour. You were

5 asked about the letter from the 51 formers, and you said it wasn't the first op-ed you'd

6 reviewed, and, you know, it wasn't the last. You recall saying that or something along

7 those lines?

8 A Yes, even though I didn't review them.

9 Q Sorry. You're right. But you had seen --

10 A Yes, correct.

11 Q And in fact, it was pretty common for op-eds to be put through the PCRB

12 review board process, correct?

13 A Yes, that's correct.

14 Q Because when you join the CIA, you know, you don't sign away your right to

15 speak on national security issues after you leave, correct?

16 A Correct. You sign a secrecy agreement.

17 Q And that secrecy agreement says you can't discuss classified information,

18 correct?

19 A Correct.

20 Q But it doesn't say you can't speak at all?

21 A Correct.

22 Q And in fact, people have the right, after they leave the Agency, to speak

23 publicly, correct?

24 A Yes.

25 Q Okay. I want to talk through the process that the PCRB goes through, and

1 I'm going to introduce as exhibit 7 a printout of the PCRB website.

2 [Makridis Exhibit No. 7

3 was marked for identification.]

4 BY MS. [redacted]:

5 Q And I'll give you a minute to review. I don't know if you've seen this before.

6 A Probably haven't.

7 Q And I can you tell you we're mostly going to focus on the first paragraph on

8 the first page and then the section on review timeline which is on page 5.

9 A Okay.

10 Q But take your time.

11 A Give me a minute to read.

12 Q Yeah, as long as you'd like.

13 A Okay.

14 Q And you've had a minute to review this now.

15 A Yes.

16 Q Actually, before I get into this, have you submitted anything to the PCRB

17 since leaving the Agency?

18 A I have.

19 Q Okay. And so you're generally familiar with how the process works?

20 A I submitted my course outlines --

21 Q Okay.

22 A -- to the PCRB.

23 Q Okay. So you're familiar with the process of how it works when you're

24 active with the Agency?

25 A Yes.

1 Q Okay. So I want to look at the first page of this document under the
2 header, Protecting Secrets and Each Other: The Prepublication Classification
3 Review Board. And I want to talk about the mission of what the PCRB is looking for.
4 So it says here that the CIA officers sign the standard secrecy agreement. This is a
5 life-long obligation -- it's about halfway down the paragraph -- this is a life-long obligation
6 which exists to help avoid the damage to national security and to the Agency's mission
7 that disclosing classified information would inflict.
8 Do you see where it says that?
9 A I do.
10 Q Okay. So what's your understanding of what that means?
11 A Of the mission of the --
12 Q The purpose of the PCRB.
13 A The PCRB is to make sure classified information doesn't make its way out,
14 either in piecemeal fashion, or I think they described a mosaic effect, that could damage,
15 you know, national security.
16 Q And so the goal is to prevent damage to national security. That's what you
17 just said, right?
18 A Correct.
19 Q Does the CIA have any role beyond -- I'm sorry -- does the PCRB have any
20 role beyond looking for classified information?
21 A No. As constituted, hence the name, Prepublication Classification
22 Review Board. Their writ is to look for classified information.
23 Q Okay. And the individuals, the PCRB employees who do that work, do you
24 have any information about how they're trained to do that?
25 A You know, that's a great question. I don't know the process.

1 Q Okay.

2 A I do know that they're pretty experienced as a group, but I don't know what

3 their -- the training regimen is.

4 Q There was a statement made in the earlier hour about -- and I'm

5 paraphrasing -- whether Mr. Morell's representations that the statement contained no

6 classified information would have impacted the PCRB review.

7 In your experience, would PCRB reviewers be impacted by the submitter's

8 opinions on whether there was or was not classified information in the document?

9 A No. That's not their role.

10 Q And what do you mean by that?

11 A I mean, their role is purely to look for classified -- or information that could

12 be read as classified. I think they're trained to not look for substance. They look for

13 purely classification.

14 Q Okay. Because it's the disclosure of classified information that could

15 damage national security, correct?

16 A As it says here in the document.

17 Q Okay. And a little further down in that paragraph, it says the CIA created

18 the Prepublication Classification Review Board, PCRB, to review materials produced by

19 CIA personnel, former and current, both employees and contractors, to determine if they

20 contain such classified information before they are shared with publishers, blog

21 subscribers, a TV audience, ghost writers, co-authors, editors, family members, assistants,

22 representatives, or anyone else not authorized to receive or review such classified

23 information.

24 Did I read that correctly?

25 A Yes, you did.

1 Q Okay. So the CIA is actually anticipating that after individuals leave the
2 Agency or maybe even while they're still at the Agency, that they will be having
3 discussions, they may be submitting things to publishers, to TV, to other audiences,
4 correct?
5 A Yes. As you said, it's a life-long secrecy agreement.
6 Q Right. But it's not a vow of silence, in other words?
7 A No.
8 Q Okay. And people still retain their First Amendment rights to an extent
9 with the exception that they can't discuss classified information?
10 A Correct.
11 Q Okay. On page 5 of this -- and I should say this is a website, so it's --
12 A It's not --
13 Q -- there's no page numbers on the website. It's just as printed, page 5.
14 A So you're looking at the review timeline?
15 Q Review timeline.
16 You were asked in the earlier hour about the statement that the review of the
17 October 19th letter was a rush job. You remember broadly that discussion?
18 A Yes.
19 Q Okay. In the section under review timeline, it says, the PCRB review
20 timeline is dependent on the type of and the content within the submitted work. The
21 board makes every effort to accommodate tight deadlines for items such as academic
22 papers, op-eds, and the like. And then it goes out and it says, but review might require
23 several weeks in some circumstances.
24 Do you see where it says that?
25 A I do.

1 Q So it says on the website of the PCRB that if there's a tight deadline, they're
2 going to make every effort to accommodate it, correct?
3 A Correct.
4 Q In your experience with the PCRB, have you submitted items on a deadline?
5 A You know, I just submitted my, as I mentioned, my course outlines which
6 they did it pretty quickly, even though I didn't tell them it was on a particular timeline.
7 Q And do you recall, pretty quickly, was that a couple days, was it a day?
8 A A day or so --
9 Q Okay.
10 A -- but it was pretty quick.
11 Q So you submitted a course outline, and within a day or so, they got back to
12 you and said it was cleared?
13 A Yes.
14 Q Okay. So as we just said couple times, the purpose of the PCRB is to review
15 for classified information. Does the PCRB or the CIA, I guess, and any other Department,
16 look for any information beyond classified information when it's deciding whether to
17 clear a manuscript?
18 A The CIA does not look at substance. It looks for classification.
19 Q Okay. In your judgment, would it be appropriate for the CIA to request
20 changes to a manuscript or a document for any reason other than the fact that it
21 contained classified information?
22 A Appropriate. Well, the current guidelines, you know, as articulated
23 through our Office of General Counsel, is that PCRB focuses only on one issue. And I
24 think earlier you mentioned First Amendment rights. So as constructed today, it's
25 purely looking for classification and nothing else.

1 Q Okay. I'm a little concerned that there might be statements or an
2 argument made after this interview that the CIA Director, Haspel, having learned about
3 this op-ed should've stepped in to stop it from being published.
4 That actually would've been inappropriate unless there had been a determination
5 that the letter contained classified information, correct?
6 A Well, it would not have come up actually to my office had it -- if it hadn't
7 already cleared --
8 Q Okay.
9 A -- the review board. So by the time it got to my office, it was clearly
10 free -- or in their view free of classification. I'm not aware of any director stepping in, in
11 this situation, but --
12 Q In any circumstance, right, correct, writ large, with all of the -- you said that
13 it was the process that when senior officials, or former senior officials, had signed on to
14 something, it would be flagged for you, and then you would make the director aware?
15 A Correct.
16 Q In any of those instances, would the director have stepped in to stop an item
17 from being published after it had been cleared by the PCRB?
18 A In my experience, no.
19 Q And it actually would've been inappropriate for her to have done so,
20 correct?
21 A Well, the guidelines are pretty clear, and you read from them here. And so,
22 you know, I don't believe she or any other director would've stepped in knowing the
23 guidelines.
24 Ms. [redacted]. Okay.
25 Mr. [redacted]. A couple of questions, Mr. Makridis. So you said it would be

1 inappropriate. I want to break that out. So first of all if the director --

2 Mr. Makridis. Well, I didn't say it would be inappropriate.

3 Mr. Green. Yeah, I don't think he used that word.

4 Mr. [redacted]. I'll rephrase.

5 BY MR. [redacted]:

6 Q First of all, it would've been inconsistent with the guidelines for the director

7 to step in for any reason other than classification, correct?

8 A It would've been inconsistent with past practices, that's correct.

9 Q And the guidelines, I think you said, correct?

10 A And the guidelines as articulated in this document.

11 Q If somebody, as a former senior executive at the CIA had come in and

12 suggested changing the guidelines, such that the director could attempt to intervene to

13 stop publication of something with which they disagreed or which posed a reputational

14 risk for the Agency, in your judgment, would that be an inappropriate or inappropriate

15 use of CIA --

16 A Yeah. So anything of that nature would go through our Office of General

17 Counsel. So it would be up to, you know, that determination about, you know, how far

18 do CIA authorities extend. And so that discussion would've happened between the

19 director and the chief, the general counsel, in this case, ourselves.

20 Q Sure, but the general counsel would ask the client what the policy objective

21 is. You were a very senior executive. You would've served as that client. Is that an

22 ask you would have made or supported if another senior executive had come up with the

23 idea?

24 A Would I have -- is the question, would I have asked the general counsel to

25 change the guidelines?

1 Q Would you think it was a wise move to change the guidelines to allow for
2 requests to hold a piece for reasons other than classification? Would that be a good use
3 of CIA's power if it were lawful, in your judgment?
4 A "If it were lawful," that's the key phrase in there, and, again, I'm not an
5 attorney, I don't have those -- that background or skills. That would be a question for an
6 attorney, can CIA change their, you know, their rules and regulations, so.
7 BY MS. [redacted]:
8 Q Okay. We're going to move on from the website. I want to return to
9 another line of questioning in the prior hour and this involves, it's exhibit 4, and it's
10 Bates-stamped page 230. This is the email from your executive assistant to the PCRB.
11 A I'm not sure I have them in order, but exhibit 4 --
12 Q So the cover email -- or the cover letter is dated February 7th, 2024.
13 A Oh, thank you.
14 Q There was some discussion in the prior hour about why -- I'm sorry.
15 Withdraw that.
16 You said in the prior hour that the top email here, the one that's timestamped
17 11:43:57 a.m., that appears to have been sent from your executive assistant, correct?
18 A Correct.
19 Q And that email reads you may notify former DDCIA Morell, correct?
20 A Correct.
21 Q And you were asked why your executive assistant would've written that, and
22 you said "I don't know." Correct?
23 A Correct.
24 Q Okay. There was a question about whether it was common to notify senior
25 executives that their op-eds or their manuscripts had been flagged for the head of the

1 CIA, and I think the statement was made that it's not clear that that was a notification
2 given to Mr. Morell, correct?
3 A Correct.
4 Q Okay. And in fact, we don't know what your executive assistant meant
5 here. Your executive assistant isn't testifying today.
6 A Correct.
7 Q I want to introduce the actual email that was sent back to Mr. Morell, which
8 does not reference anything about senior executives at CIA.
9 A Is it -- that's not in my package?
10 Q No. We're going to introduce it now. This will be exhibit 8. I think it's 8.
11 [Makridis Exhibit No. 8
12 was marked for identification.]
13 BY MS. [redacted]:
14 Q Have you had a minute to review this?
15 A I'm -- sorry.
16 Q Yeah.
17 And I'm just going to read this into the record so the record's complete, so bear
18 with me.
19 A Okay.
20 Q It says, Dear Michael -- and this email is from email addresses JAMESAG2,
21 which is the representative of the PCRB, to Michael M., which I'll represent to you is
22 Michael Morell. It's dated Monday, October 19th, 2020, timestamped 12:44:00 p.m.
23 In full it reads, Dear Michael, the Prepublication Classification Review Board
24 completed its review of your article, titled, question mark, Public Statement on the
25 Hunter Biden Emails, question mark -- I think when this was submitted to us, I think the

1 question marks are actually supposed to be quotation marks.

2 A Yeah, I think so.

3 Q They just converted due to a coding issue.

4 The board determined that it contains no classified information and can be

5 published. Agency approval for publication of this material does not represent agency

6 endorsement or verification of this work. If you add new material, please resubmit it

7 before sharing, highlighting the new language to expedite our review. The PCRB

8 appreciates your cooperation with prepublication review. You may reach out to you us

9 via prb@ucia.gov with questions or concerns. Kind regards, PCRB staff.

10 Did I read that correctly?

11 A Yes.

12 Q Okay. And that's the full text of the email that went back to Mr. Morell,

13 correct?

14 A I don't know. I'll take your word for it. I wouldn't have seen the

15 response.

16 Q Well, what I read into the record is everything that we have on the email in

17 front of us, correct?

18 A Oh, everything that's on here, yes, correct. I apologize.

19 Q Okay. And this email to Mr. Morell says nothing about senior staff at CIA

20 being notified, correct?

21 A Correct.

22 Q And it just says, pretty standard, this is cleared, if you change anything, if you

23 make any edits, notify us, correct?

24 A Correct.

25 Q Okay. And is this, in your experience, again, your personal experience

1 submitting things to the PCRB, is this kind of a standard email that the PCRB would send
2 to submitters?
3 A I believe it's very similar to the email I got.
4 Q Okay. It's consistent with what you've seen in the past?
5 A Yes.
6 Q Okay. And it actually says here, the last line of the first paragraph reads,
7 Agency approval for publication of this material does not represent agency endorsement
8 or verification of this work. Correct?
9 A Correct.
10 Q So it makes it clear on the face of the email that they're clearing it and that it
11 contains no classified information, no comments beyond that. Is that fair to say?
12 A That's what it says, yes.
13 Q Okay. I want to return to another line of questioning from the prior hour.
14 And you touched on this, I just want to go through it in a little more detail, the language
15 that's actually in the October 19th letter. So if you can pull that letter out again, and I
16 think that's exhibit 2.
17 A I think I have a couple different copies of it. Just the letter itself?
18 Q Just the letter itself.
19 A Yeah.
20 Q You mentioned this in the prior hour -- I just want to make the record
21 completely clear on this -- you noted that the letter is caveated. Do you recall saying
22 that?
23 A Yes. They say things like "We don't know."
24 Q The use of the term "caveated" in particular, what did you mean by that?
25 A You know, phrases like, you know, -- let's find it in here -- "We do not have

1 evidence," you know, "We don't know," those are caveats.

2 Q And a caveat is something that says, this is our statement, but we -- you

3 know, it may or may not be accurate. This is our understanding based on what we

4 actually have in front of us. Is that a fair -- I'm just looking at definition of the term

5 "caveat."

6 A Broadly speaking, yes, I think that's correct.

7 Q Okay. And I want to make it clear, put into the record, exactly how the

8 authors caveated this. So I think you read this line in the prior hour. Again, it

9 says -- fifth paragraph down -- We want to emphasize that we do not know if the emails

10 provided to the New York Post by President Trump's personal attorney, Rudy Giuliani, are

11 genuine or not. Correct?

12 A That's what it says, yes.

13 Q So they say on the face of the letter that we don't know if the emails are

14 genuine or not. They could be real, they could be not. Fair to say?

15 A That's what it says, yes.

16 Q Okay. And then on the second page, the very last paragraph, I should say

17 the lead-in to this, the letter describes a number of public reports -- so a Washington Post

18 article, media reports about the FBI opening an investigation into Russian involvement.

19 And then that last paragraph says, We do not know whether these press reports

20 are accurate.

21 Do you see where it says that?

22 A I do see that.

23 Q So the authors again caveated the letter by saying, We don't actually know if

24 they're accurate, we're taking them at face value. Is that fair to say?

25 A Say the last part again, please.

1 Q We don't know if these press reports are accurate or not, we're just
2 reporting on what we've seen in the press. Is that fair to say?
3 A I think that's what this language suggests.
4 Q Okay. So twice in the letter the authors used specific language that
5 caveated their statements, correct?
6 A Yes.
7 Q And I'll give you a minute to review from the top down -- and this might take
8 you a minute -- nowhere in this letter is the term "disinformation" used, correct?
9 A Can I read it?
10 Q Yeah.
11 A Again.
12 Okay. I'm sorry. Your question again?
13 Q This letter doesn't use the word "disinformation," does it?
14 A Specifically "disinformation," no, it does not use that word.
15 Q Okay. Then a couple more points on the record -- sorry -- for the record.
16 The sixth paragraph down on the first page, it says, If we are right -- suggesting that they
17 could, in fact, not be right, correct?
18 A That's, I think, how it reads.
19 Q Okay. And then on the second page, the third paragraph down, it says, Our
20 view. You see where it says that?
21 A I do.
22 Q Would you agree that the use of the terms, If we are right, Our view, We do
23 not know if the emails are genuine -- all of that suggests that -- makes it clear that the
24 authors are only giving their opinion, that this is not a factual assertion of any information
25 that they may or may not have knowledge of?

1 A Yes. This is an opinion piece.

2 Q Right. It's an op-ed piece, and that's clear on the face of the email -- or the

3 letter, correct?

4 A Yes, it appears that way.

5 Q Okay. In the prior hour, there was some discussion about whether -- and

6 we're going to move on from that -- whether the Hunter Biden laptop had been

7 authenticated. Do you recall that discussion?

8 A Yes.

9 Q Okay. And you said you believed that that was -- that there were reports to

10 that effect but that you, yourself, had not done any analysis. Is that a fair summary of

11 what was said?

12 A That's correct.

13 Q Okay. I want to introduce as exhibit 9, a Washington Post article that

14 shows that the actual facts are more nuanced, and at least one analysis has found that

15 the laptop is not authenticated.

16 [Makridis Exhibit No. 9

17 was marked for identification.]

18 BY MS. [redacted]:

19 Q And this is a Washington Post article dated March 30th, 2022, entitled,

20 Here's How The Post Analyzed Hunter Biden's Laptop. We've actually highlighted the

21 sections I'm going to refer to, to try and -- so the article itself is not highlighted on the

22 website -- I need a copy for myself.

23 A Here's an extra one.

24 Mr. Green. Do you have a sense of the article?

25 Mr. Makridis. Yeah, I do.

1 BY MS. [redacted]:

2 Q Yeah, I'm only going to focus on the first section.

3 A Okay. I apologize.

4 Q So, again, the statement was made earlier that the laptop had been

5 authenticated. You were asked if you were familiar with that. I just want to make it

6 clear that this is an email -- this is an article from the Washington Post, dated March 30th,

7 2022.

8 This article says that, well, thousands of the emails on the laptop, or the supposed

9 laptop, are authentic communications that can be verified through cryptographic

10 signatures.

11 Although further down it says, the vast majority of the data, and most of the

12 nearly 129,000 emails it contained, could not be verified by either of the two security

13 experts who reviewed the data for The Post.

14 Do you see where it says that?

15 A I see that, yes.

16 Q And then on the following page, it says, the security experts who examined

17 the data for The Post struggled to reach definitive conclusions about the contents as a

18 whole, including whether all of it originated from a single computer or could've been

19 assembled from files from multiple computers and put on the portable drive.

20 Do you see where it says that?

21 A Yes.

22 Q Okay. So at least one analysis, the analysis done by the Washington Post,

23 has concluded that either the laptop is not authentic, or they can't reach a definitive

24 conclusion either way, correct?

25 A Right. It appears to be an inconclusive --

1 Q Okay.

2 A -- judgment.

3 Q So the statement earlier that, you know, that it's generally accepted that the

4 laptop is authentic, this article at least refutes that statement?

5 A It raises some questions.

6 Q Okay.

7 BY MR. [redacted]:

8 Q Sticking with the laptop, I was struck when you were testifying previously in

9 the previous hour, you were describing a fair amount that was going on at the CIA in

10 October 2020. You remember that discussion?

11 A I do, yeah.

12 Q Did you read stories about the Hunter Biden laptop at the time so far as you

13 recall?

14 A I don't recall reading stories.

15 Q Was it something you were paying attention to?

16 A No.

17 Q What were you paying attention to at CIA in October 2020?

18 A October 2020 was, I don't know, maybe 6 weeks before we were supposed

19 to get our first vaccine. We were the first Federal agency to vaccinate our workforce.

20 We were trying to figure out how to get it overseas.

21 As you recall, the early COVID vaccine needed special handling requirements, so

22 making sure that we had freezers that went down to minus 30 degrees. All of that, as

23 well as trying to figure out how do we bring the workforce back, and how do we stage

24 that in a way that we could keep everyone safe and avoid having an outbreak at CIA,

25 which we successfully accomplished. We had no real outbreaks other than some small,

1 you know, group of people.

2 And as I mentioned earlier, it was also the beginning of the budget, and we were

3 trying to figure out, okay, what is this year going to look like, given the uncertainty of

4 COVID, and do we move money, you know, how do we accomplish our mission, and what

5 is it going to cost to bring the workforce back. So it was a very fraught and busy period.

6 Q And since October 2020, have you spent much time paying attention to the

7 Hunter Biden laptop story one way or the other?

8 A I honestly have not.

9 Q Okay. You're not really an expert in this, right?

10 A No, I'm not.

11 Q Do you have any view one way or the other about whether the laptop is

12 authentic, or is it not something you pay attention to?

13 A I truly don't pay very much attention. I've got a lot of things to do, and that

14 just sort of hasn't risen to the level of me spending a lot of time on it -- or any time on it

15 for that matter.

16 BY MS. [redacted]:

17 Q Okay. And just a couple more questions on a different topic area. In the

18 prior hour, you were asked, I think, whether you would've signed the letter, whether you

19 thought it was harmful to the Agency.

20 I just want to return quickly to two of the emails that were put in front of you.

21 This is from what's been marked as exhibit 5 and exhibit 4. It's page 232 from exhibit 4

22 and page 157 from exhibit 5, and we'll start with 232 from exhibit 4?

23 A Just give me a second to come to the right pages.

24 Okay. All right, 157 was one of them.

25 Q 157, yeah.

1 A And is the other one a different document?
2 Q Yeah, it's the --
3 A Oh, I got it. It's right here. 232. Okay.
4 Q Okay. And just for a clear record on this, starting with email marked
5 as Bates stamp 232, it's an email dated October 20th, 2020, timestamped 11:54 a.m.
6 You're not on this email, correct?
7 A I don't recall having seen this email before.
8 Q Okay. And --
9 A It doesn't show up here with --
10 Q You don't recall seeing this email, and it doesn't appear that, to the best of
11 your knowledge, you weren't included, you weren't copied, or you weren't in the "to"
12 line?
13 A Yes, that's correct.
14 Q Okay. And the same with the email that's Bates-stamped 157, you don't
15 recall seeing this email before?
16 A No, I do not recall seeing this email before.
17 Q Okay. And to the best of your knowledge, you weren't on the "from" line
18 or the "to" line or copied on it?
19 A I don't recall anything like this.
20 Q Okay. So to the extent that you were asked to comment on what these
21 authors or what the writers of these emails might have meant, you wouldn't know
22 because you're not part of the email, you weren't the person sending the email, correct?
23 A Correct.
24 Q Okay. You were asked if you would've signed the letter. You said you
25 probably would not have. You would agree that somebody who has left the Agency has

1 a right to sign a letter like that, right?

2 A Yes.

3 Q And when you say that you agree, can you elaborate at all a bit?

4 A Look, I think the point I was trying to make is that, you know, I've sort of

5 stayed out of the political fray. That's the way I conduct myself, and that's why I

6 wouldn't have signed the letter. Others choose different paths. They're free to do so.

7 I can't speculate on why they did it or what their thinking was, or any of that. I was just

8 trying to speak for myself about what I would or wouldn't do.

9 Q But there's no prohibition from the -- the CIA doesn't prohibit people from

10 signing letters, making statements, things like that?

11 A No. There's nothing that you sign as a CIA employee that would prohibit

12 you from those things.

13 Q Okay. You said in the -- just now and you said this in the earlier hour too,

14 that there were a lot of things going on, -- a lot of other things going on in October of

15 2020. I think you said that this was just another opinion piece that had gone across your

16 desk. You didn't pay a lot of attention to this?

17 A That's correct.

18 Q Okay. And you were asked if this was a political piece, and you said, Well,

19 I'm sitting in front of a congressional committee, so I guess that means it's political.

20 Do you recall saying that?

21 A I do.

22 Q What did you mean by that?

23 A It's that, you know, that the piece clearly has become political simply

24 because you're asking questions about it, you know, you're interviewing people about it.

25 I'm assuming I'm not the only person you've interviewed. And so it has become that.

1 Q So when you said that, when you meant is, it's become political because it's
2 the subject of a congressional investigation. Is that a fair summary?
3 A Clearly. I'm here, right? As I said before.
4 Q But you weren't making a comment on whether the letter, absent the
5 congressional inquiry, would be a political piece or not?
6 A I was not making that --
7 Q Okay.
8 A -- comment.
9 Q Is it fair to say that but for this investigation, but for the fact that you're
10 sitting here today, you probably wouldn't be thinking about this letter today?
11 A That's fair.
12 Ms. [redacted]. Okay.
13 Mr. [redacted]. Let's go off the record for a moment.
14 Ms. [redacted]. Yeah, off the record.
15 [Discussion off the record.]
16 Ms. [redacted]. Back on the record. We do have another exhibit to introduce.
17 This will be exhibit 10, and this --
18 Mr. Makridis. My bipable comment was on the record?
19 Ms. [redacted]. We needs copies for the witness, yes.
20 [Makridis Exhibit No. 10
21 was marked for identification.]
22 BY MS. [redacted]:
23 Q This is the letter than Chairman Jordan and Chairman Turner sent to you on
24 March 6th, 2024.
25 And I'll give you a minute to review.

1 You've seen this?
2 A Yes.
3 Q You've seen this before?
4 A Yes.
5 Q Okay. When you received it, for example?
6 A Yes.
7 Q The chairman's letter states that, quote, The CIA's Prepublication
8 Review Board, upon receiving the draft public statement, raised the statement to the
9 Office of the Chief Operating Officer for consideration.
10 Do you see where it says that?
11 A I do. Bottom of the first paragraph, yes.
12 Q Okay. You made it clear in the prior hour that neither you, nor your office,
13 played any role in determining whether the statement contained classified information,
14 correct?
15 A Correct. Once it clears the Prepublication Classification Review Board, I
16 assume it has -- or when I would get it, it would be clear there was no classified
17 information in it.
18 Q And next question. So you played no role in determining whether the
19 statement could be cleared, correct?
20 A Correct. That's the purview of the PCRB.
21 Q And along the same lines, nobody in your office played any role in
22 determining whether the statement could be cleared, correct?
23 A Correct.
24 Q Okay. So to the extent that Mr. Jordan and Mr. Turner's letter to you says
25 that the letter was raised to your office, quote, for consideration, that's not an accurate

1 statement, correct?

2 A It was not for consideration. It was a situational awareness.

3 Q Okay. And so maybe the more appropriate term would be for notification.

4 Is that right?

5 A Or notification.

6 Q Okay.

7 A Yes, that's correct.

8 Ms. [redacted] Okay. That's it. We can go off the record.

9 [Recess.]

1 [12:11 p.m.]

2 Ms. [redacted]. The time is now 12:10. We'll begin the third hour.

3 BY MS. [redacted]:

4 Q So, Mr. Makridis, I want to just return to an exhibit entered during the

5 previous hour, which is, I believe, Exhibit 8, the email from PC- -- PCRB staff to Mr. Morell

6 notifying him that they have completed their review.

7 A Thank you.

8 Q The time marked as the date and time in which this email was sent to

9 Mr. Morell is 12:44 p.m., correct?

10 A Correct.

11 Q On October 19th?

12 A Yes.

13 Q Now, comparing that to -- sorry. A little bit of a shuffling of papers

14 here -- Exhibit 4, page Bates stamped 230 --

15 A Trying to find the exhibit. Oh, yes. Okay.

16 Q Looking at the email from the executive assistant of the COO's office to the

17 PCRB on Monday, October 19th, that was sent at 11:43 a.m., correct?

18 A Correct.

19 Q So it's accurate that the PCRB did not notify Mr. Morell until after this email

20 saying you may notify DDC Morell came from your executive assistant?

21 Mr. Green. Is there -- before he answers this, can you just represent to us that

22 these are all the same time zone and everything has been formalized.

23 Ms. [redacted]. Yes.

24 Mr. Green. Okay.

25 Mr. Makridis. Yes, that's the way it would appear.

1 Ms. [redacted]. Thank you.

2 BY MS. [redacted]:

3 Q Now, looking at the statement itself published on October 19, 2020 -- so this

4 would be exhibit --

5 A Oh, the letter?

6 Q Yes, the letter. Which I believe was exhibit 2. In the fourth paragraph

7 down and fifth paragraph down, it states that -- it states that the emails purportedly

8 belonging to Vice President Biden's son has all the classic earmarks of a Russian

9 information operation, correct?

10 A Yes, that's what it says.

11 Q So is it fair to say that the signatories of this statement were conveying that

12 this was some kind of Russian influence campaign, either disinformation, misinformation,

13 interference?

14 A It depends on classic earmarks. I don't know what that particular phrase

15 meant to them, but I think what they were trying to convey is that -- clearly, that they had

16 some concerns or suspicions.

17 Q Right. And as someone who spent significant time as an analyst yourself,

18 while not particularly on this similar subject, but to you, when you read Russian

19 information operation, does that seem to you that they are trying to say that this was

20 some kind of influence campaign by the Russians?

21 A Well, you know, I don't know since I wasn't involved directly in this kind of

22 work, but Russian information operations, I think, has a pretty broad definition. So

23 I -- yeah.

24 This is the Russian -- trying to influence how Americans vote in the election.

25 Clearly, that's what they, sort of, believed.

1 Q Right. And at the end of this statement, the 51 former intelligence officials
2 all used their former titles in their signature blocks and, you know, many of these titles
3 include, you know, former Director of National Intelligence, former director of the Central
4 Intelligence Agency.
5 If you were an average citizen reading this statement, do you think that the titles
6 of their former office could have boosted the legitimacy of their claim that the Russians
7 were trying to influence how Americans vote in this election? Do you think that that
8 would appear more legitimate because of their former titles that they have attached to
9 the statement?
10 A I think it's possible.
11 Q It's possible. Thank you.
12 BY MR. TRAINOR:
13 Q You think it's probable?
14 A I mean, that would depend on who read the letter, how far the letter -- how
15 much of the letter they read, did they go through all the -- the names of the authors
16 and -- that's speculation. So that's why I said it's possible.
17 Q But just -- but it's fair to say that former high-ranking intelligence officials
18 conveying their opinion about a subject that is presumptively in their expertise will carry
19 more weight with an average reader than if somebody who never worked a day in their
20 life in intelligence said the exact same thing?
21 A I think, generally speaking, that's true.
22 Ms. [redacted]. Thank you.
23 BY MS. [redacted]:
24 Q So to your knowledge, did any of the signatories and/or anyone at the CIA do
25 any kind of due diligence to determine the veracity of the claims that they were making in

1 the statement while it was under CIA review or beforehand?

2 A That would not have been part of the normal process. All I can speak to is

3 the PCRB process. That would not have been part of the normal process.

4 I don't know if anyone else was involved or what discussions may have occurred.

5 I wasn't privy to any of that.

6 Q Right. And so, to your knowledge, none of the signatories, not Mr. Morell

7 or Mr. Polymeropoulos, did any kind of due diligence to confirm the veracity of their

8 claims beyond just their personal experience having worked in the intelligence field?

9 This was not based on firm evidence, but simply a gut feeling?

10 A I'm unaware of any -- your question was did they reach -- tell me again your

11 question.

12 Q Right. So I mean, was there any -- to your knowledge, did Mr. Morell, for

13 example, reach out to anyone at the FBI or anyone on Hunter Biden's team or even

14 anyone within the CIA to say, hey, we have this concern that this could be Russian

15 disinformation. Is that accurate?

16 A I have no knowledge of anything of that nature.

17 Q Thank you.

18 Were you aware that prior to the statement being released, the Director of

19 National Intelligence at the time, John Ratcliffe, stated, quote, "Hunter Biden's laptop is

20 not part of some Russian disinformation campaign. Let me be clear, the intelligence

21 community doesn't believe that, because there is -- doesn't believe that because there is

22 no intelligence that supports that," end quote?

23 A I don't think I saw the statement either then or subsequent to then.

24 Q Were you generally aware that he made statements to that effect?

25 A I truly didn't focus on it.

1 Q Okay. Based on your experience working in the CIA and your interactions
2 with other components of the intelligence community, as the Director of National
3 Intelligence, then-Director Ratcliffe would have had access to all of the relative -- or
4 relevant classified information he needed to -- to make that kind of statement, correct?
5 A Someone who sits in the role of DNI has access to all the classified
6 information the intelligence community has.
7 Q Thank you.
8 Despite this, the PCRB did allow a statement to be published saying that the
9 laptop had all the classic earmarks of a Russian information operation, which I understand
10 it's not within the purview of the PCRB to edit things beyond whether or not there's
11 classified information. However, that statement that was published on October 19th by
12 the 51 former intelligence members was ultimately contrary to the findings of
13 then-Director of National Intelligence Ratcliffe, correct?
14 A From the statement you just read, it appears so.
15 Q Thank you.
16 Do you think that any of those members who signed the statement had access to
17 information that Mr. Ratcliffe did not have access to?
18 A I don't know what information they had access to or what experience they
19 refer to in the letter, so I don't -- I can't answer.
20 Q Did it concern you that the motivation -- you know, we've talked about this a
21 little before, but I want to return to it. So the intent that Mr. Morell laid out in his
22 emails to Mr. Clapper that we've looked at before to give then-candidate Biden talking
23 points in his debate with then-President Trump, did it concern you that this motivation
24 had not been disclosed in the letter in its final publication to the American public?
25 A I guess I'm not sure what the question is. Should they have disclosed --

1 Q Well, do you think that it would have been important information for the
2 American people to understand that, you know, if they are so certain that this is Russian
3 election interference potentially, that they tell the American public that there's a
4 possibility that, you know, the things that you hear in the rest of this, you know,
5 campaign could potentially be Russian disinformation and that you should be aware and
6 educate yourself? Don't you think that would be a more helpful tool for the American
7 public?
8 Mr. Green. Yes. I'm trying to have him answer, but just so the record is clear,
9 that's a purely hypothetical question you're asking him, right? I don't -- I don't think
10 we've established that's actually what the letter said, that everything you may hear in the
11 rest of the campaign is disinformation.
12 Now, if you want to ask him the question, feel free. I'm just trying to make sure
13 that we're clear?
14 Ms. [redacted]. Happy to clarify.
15 BY MS. [redacted]:
16 Q Nowhere in the statement do they tell the American public that, you know,
17 this information could be leveraged during the presidential campaign, correct?
18 A Yes. From what I've read, that doesn't say that directly at all.
19 Q Now, in his testimony before this committee, Mr. Morell told us that
20 Secretary Blinken called him prior to Mr. Morell's drafting of the October 19th statement,
21 and I'm happy to, if you need it later, to give you access to that testimony.
22 But were you aware that he made statements to that effect?
23 A No. He and I have not discussed any of this.
24 Q Did you know that this conversation between Mr. Blinken and Mr. Morell
25 occurred prior to the approval of the statement?

1 A I was unaware of any discussions between them.

2 Q Okay. I'd like to actually enter into the record what I believe will be exhibit

3 11 now.

4 [Makridis Exhibit No. 11

5 was marked for identification.]

6 BY MS. [redacted]:

7 Q Which is the Michael Morell testimony from April 4th, 2023, before this

8 committee. This is an excerpt directly from the transcript. I'll give you a second to

9 review.

10 A Okay.

11 Q So --

12 A It's not clear who is speaking -- I'm sorry.

13 Q Absolutely. So the line of questioning, which at this point is led by

14 Chairman Jordan, states the following: "There were two separate communications.

15 There was the first or email, and then there was the subsequent email with the USA

16 Today article?"

17 Mr. Morell responds: "Yes, sir. Yes, sir."

18 "What was the time of the email?" Said by Mr. Jordan.

19 And Mr. Morell responds: "So I don't know for sure, Congressman, but I believe

20 he" -- and I apologize that this isn't clear, however, I'm happy to get you the broader

21 transcript.

22 When Mr. Morell says he, he's referring to Secretary Blinken.

23 A Okay.

24 Q "But I believe he" -- Secretary Blinken -- "called to ask the question first and

25 then followed up with the email." Now, the question related here is whether or not he

1 had heard about the Hunter Biden laptop story.

2 So Mr. Jordan responds. "Close together?"

3 And Mr. Morell says: "I think -- you know, given the time stamps on here, I feel

4 that, you know, when I say -- Congressman, I say, just wondering if you guys -- if you think

5 the Russians played in the Hunter Biden -- the Russians played in the Hunter Biden

6 thing?"

7 Now, to clarify -- and, again, I apologize that it's not abundantly clear here, but I'm

8 happy to provide an expanded version of the transcript, if you would like, following the

9 end of this transcribed interview.

10 But Mr. Morell is indicating that Secretary Blinken, then who would have just been

11 part of the Biden campaign, reached out to him directly to ask if he had any idea whether

12 or not the Russians were involved in the Hunter Biden laptop story.

13 Were you aware of any such discussions between, you know, Secretary Blinken,

14 Mr. Morell?

15 A No, I would not have been aware of any of that. So just to be clear here,

16 where it says, "Congressman, I say -- just wondering if you guys -- if you think the Russians

17 played in the Hunter Biden thing" -- that's Mr. Morell quoting --

18 Q Secretary Blinken.

19 A -- Secretary Blinken.

20 Q Yes. I understand --

21 A I know -- yeah, it's a little --

22 Q It's a little hard to read the transcript sometimes, but yeah. And I'm happy

23 to provide an expanded transcript if you guys would like that for during the --

24 Mr. Green. The question, was he aware of this exchange between Morell and

25 Blinken?

1 Ms. [redacted]. Right.

2 Mr. Makridis. I was not aware of this exchange.

3 BY MS. [redacted]:

4 Q Were you aware of any discussions between the CIA and then at the time

5 Mr. Blinken when he was working for the Biden campaign?

6 A I'm not aware of any discussions.

7 Q And are you aware that Secretary Blinken, when working for the Biden

8 campaign at the time, called Mr. Morell, and that phone call was the impetus for

9 Mr. Morell drafting this statement?

10 A I was unaware of that.

11 Q And are you aware that Mr. Morell, based on the testimony he gave before

12 us on this committee on April 4th, had not even read the New York Post story regarding

13 the Hunter Biden laptop prior to his phone call with Mr. Blinken?

14 A Not aware.

15 Q In hindsight, does this kind of coordination between Mr. Blinken, who at the

16 time was working for the campaign, and Mr. Morell give you any kind of pause?

17 A I don't know. These are just a few excerpts of a conversation. It's hard

18 to, you know, make a judgment based on a couple of -- I have no idea what their

19 relationship is or what their conversations were like, so I'm not sure I'm in a position

20 where I could answer that.

21 Q Right. But if you were in Mr. Morell's shoes, would you feel comfortable

22 speaking to someone who is actively working on the Biden campaign about, you know,

23 potentially drafting a statement that implied that there was Russian disinformation

24 involved in a story very relevant to the current presidential campaign at the time?

25 A Look, I don't think I could put myself into Mr. Morell's shoes. So I

1 just -- there's too much to know and understand to make a judgment about what
2 someone else decided to do.
3 BY MR. TRAINOR:
4 Q Well, but I think the question is putting yourself in that position, right?
5 You're a high-ranking former intelligence official. I'm sure you have friends.
6 Assume you had a relationship with Mr. Blinken, who at the time is a senior
7 campaign advisor to the Biden campaign. If he calls you up and he asks you similar to
8 what he asks Mr. Morell, would you feel comfortable doing what Mr. Morell did,
9 essentially, in this instance?
10 A I think that's impossible to answer without having all the backdrop of the
11 relationship, and so it's purely speculative. And I'm not sure how I would actually
12 answer that question that made any -- any sense.
13 Q But given your prior testimony about the concerns of separating politics
14 from CIA, is it fair to say that you would have deep concerns about this entanglement
15 between a political campaign and your prior career as an intelligence official?
16 A What I said before was that I wouldn't get involved in things that appeared
17 political, and I would -- that's what I've done to date, and that's what I'll continue to do.
18 So I guess you can draw a conclusion from that.
19 Q I guess the conclusion is you would not do what Mr. Morell did then. Is
20 that fair to say?
21 A I wouldn't get involved in politics.
22 BY MS. [redacted]:
23 Q Now, to expand a little bit, perhaps ask the question a different way, would
24 it give you pause that the Biden campaign could have been trying to capitalize on the
25 credentials of former intelligence officials to quash negative reporting for political

1 purposes? Would that, in general, give you pause?

2 A I don't know how I would make that determination unless someone actually

3 told me that. You know, if I was in a position where someone said, I need your

4 credentials because I want to do X, Y, or Z, it's purely speculative. And I don't

5 know -- not being in that position, I don't know how I would answer that question.

6 Q Right. But if someone had asked you --

7 A Had asked me exactly what?

8 Q We would like you to create a statement that helps, you know, undercut the

9 story about the Hunter Biden laptop because we believe that it is some kind of Russian

10 influence campaign, you said that you would stay out of it.

11 Would it give you pause that they were asking you to be involved in that kind of

12 statement?

13 A Certainly, I would pause.

14 Q And would it concern you if the Biden campaign was able to capitalize on the

15 approval process of the CIA to score debate talking points ahead of an American

16 presidential election?

17 A I'm sorry. Can you rephrase the question?

18 Q So as we've talked about, the CIA was involved in the review and approval of

19 the statement for publication to make sure that it was fit for public consumption.

20 A That -- that there was no classified information in the statement. Beyond

21 that, CIA didn't have a role.

22 Q Okay. Would it give you pause that the Biden campaign was ultimately

23 able to capitalize on the CIA's approval process to get a statement published that would

24 score debate talking points for a presidential election?

25 Mr. Green. What do you mean by capitalize? I mean, I think Mr. Makridis has

1 testified that there was a process, and this publication went through it.

2 Ms. [redacted]. Right. But -- so based on this conversation and based on the

3 testimony that Mr. Morell provided on April 4th in his transcribed interview, then a senior

4 official in the Biden campaign, now Secretary Blinken, called him, asked him his opinion

5 on the Hunter Biden laptop story, and that was the impetus for Mr. Morell writing the

6 story.

7 This wasn't Mr. Morell on his own terms deciding that it was necessary to get the

8 story out there. This was something that was prompted by an official who was working

9 for the Biden campaign at the time.

10 BY MS. [redacted]:

11 Q Do you think that there is a significant difference between Mr. Morell, a

12 former intelligence official, deciding to write the statement on his own and an official on

13 the Biden campaign prompting him to write such a statement?

14 A Well, certainly, those are two different things --

15 Q Okay.

16 A -- as you stated.

17 Q Now, for this next one, we'll kind of go slowly, but we're going to look at

18 exhibits 4 and 5 side by side.

19 A Sorry. Which is exhibit --

20 Q So that would have been the productions made by the CIA to the

21 committees dated February 7th and March 29th.

22 Now, for exhibit 4, we're going to focus on -- and, again, this is --

23 Mr. Trainor. February 7th letter.

24 Ms. [redacted]. February 7th and March 29th.

25 Mr. Makridis. I think that is this one here. This is February 7th.

1 Mr. Green. Okay.

2 Mr. Makridis. And March 29th.

3 Ms. [redacted]. Yes. And so we're going to focus in the exhibit 4 dated February

4 7th on the pages Bates stamped 232 and 233.

5 And for the exhibit 5 dated March 29th, we're going to look at the pages Bates

6 stamped 178 through 180. I'll give you a chance to just refresh your memories on -- on

7 those pages.

8 Mr. Green. Yeah. I don't think we've looked at 178 through 180 yet.

9 Ms. [redacted]. Oh, I'm sorry.

10 BY MR. [redacted]:

11 Q Yes. Take your time. Read through it.

12 A And then just page 232?

13 Q So it's 232 and 233.

14 Now, since you've been able to kind of look at both of them, can you confirm that

15 the first two emails, which would be on Bates stamped page 180 for exhibit 5 and Bates

16 stamp page 233 for exhibit 4.

17 Can you confirm that these first two emails sent in both exhibits -- so starting from

18 the bottom of the pages -- have the same subject lines throughout the subsequent email

19 chain?

20 A Wait. So we're starting with 180 and working up?

21 Q Yeah. So if we look at 180, which would have been the bottom one --

22 A Yeah.

23 Q -- working up is the first email in the chain.

24 A PCRB item of interest 20 October --

25 Q Correct.

1 A -- two of two.

2 Q And that's the same subject line throughout that exhibit?

3 A Yes, all the way up to 178.

4 Q All the way up to 178.

5 Mr. Green. Yeah. I'm -- so some of them say FW and some of them don't.

6 Ms. [redacted]. Correct. So some have been forwarded, but not all of them

7 have.

8 BY MS. [redacted]:

9 Q And now on pages 232 through 233 in exhibit 4, if you could please look at

10 the subject lines, they also read PCRB item of interest 20 October two of two, and then

11 again the second email in each of these exhibits have been forwarded on to other

12 senders.

13 Can you confirm that the dates and times of the first two emails -- so, again,

14 starting at the bottom of the page. So 180 and 233 -- that the first two emails sent in

15 both of these exhibits are the same? So I'll help, seeing this is a little bit of a

16 walk-through.

17 But in exhibit 5 and exhibit 4, the first email is both sent at 9:49 a.m. Can you

18 confirm that's accurate?

19 A That appears to be what they both say.

20 Q And then the first email that is forwarded reading, FYSA, which is an

21 acronym for, for your situational awareness, both of those have been sent at 10:00 a.m.,

22 correct?

23 A I'm sorry. Where is the --

24 Mr. Green. Sorry. Say that one more time.

25 Ms. [redacted]. So this -- it's at the bottom on exhibit 4, the very bottom,

1 shows -- so I'll kind of put this up.

2 So this email forward, FYSA, in exhibit 4 is dated -- 10:00 a.m.

3 Mr. Green. Yep.

4 BY MS. [redacted]:

5 Q And the same email is also dated at 10:00 a.m., but there are redactions in

6 the exhibit 5?

7 A Apologize. Here this says 10:11 a.m.

8 Q But the time stamp below it, at the bottom of the page?

9 A 10:02.

10 Mr. Green. 10:02.

11 BY MS. [redacted]:

12 Q Which one are you looking at? Sorry.

13 A Page 178.

14 Q Oh, yes. So -- I know this takes a second, but page 179 in exhibit 5, the for

15 your situational awareness email, is dated at 10:00 a.m. Correct?

16 A Okay. Yes, 10:00.

17 Mr. Green. I'm not sure if you're going to particular knowledge here, but -- so

18 10:00, FYSA, and then 10:00, FYSA.

19 Mr. Makridis. Okay.

20 Ms. [redacted]. Based on the similar subject lines and the time of the first two

21 emails which were sent within the same time zone, can you confirm that the

22 non-redacted content of the first two emails sent in both exhibits are the same?

23 So both, say -- again, starting from the bottom on page 180 in exhibit 5, it

24 forwards the -- here's the PCRB submission of interest for OPA's awareness dated at 9:49

25 a.m., and then it is forwarded at 10:00 a.m. saying FYSA that is the same as what was sent

in exhibit 4 at 9:49 a.m. and at 10:00 a.m., FYSA?

Mr. Makridis. Yeah.

Ms. [redacted]. Great.

BY MS. [redacted]:

Q Now, the third email responses in both exhibits do differ, as we have noted. However, based on the similarities we have just walked through, both exhibits appear to show a different third email response regarding the same initial chain, correct?

The first two emails appear to be the same. The third email in the chain appears to be different.

A The third email has gone to a different person. Is that what you're saying?

Q Yes.

Mr. Green. So just so we're clear, the third email in this says FYSA, and the third email in this says this. So is the question, is FYSA different than this?

Than the good morning?

Ms. [redacted]. Correct. I mean, it starts to differ after the first two emails, right? So we can at least establish that the first two emails appear to be a part of the same chain in both documents?

Mr. Green. I think he can just testify to what the words on the page say.

Ms. [redacted]. Right.

Mr. Makridis. I have no other knowledge of them.

BY MR. [redacted]:

Q But they appear to be the same?

A From what you've put in front of me, yes, I think.

Q So we can then assume that the third email response in the document Bates stamped 178 through 180, which would have been exhibit 5, is also in reference to the

1 manuscript created by former DO Officer Marc Polymeropoulos as it does in exhibit 4 on
2 page 233, correct?
3 Mr. Green. So one more time.
4 BY MS. [redacted]:
5 Q So the third email response, which would be on page -- sorry. I know this is
6 a little slow of a walk-through.
7 But on 178, in exhibit 5, which starts with "Good morning" --
8 A Yes.
9 Q -- we can assume that that is in response to the same initial chain as what is
10 depicted in exhibit 4 where it says, "PCRB received for review the attached talking points
11 for media engagement on the Hunter Biden laptop story. The manuscript is by former
12 DO Officer Marc Polymeropoulos"?
13 Mr. Green. Obviously, your examination. If you want to represent to us that
14 the two -- that the chains are the same and then they differ on the third, I don't think he
15 has any reason to not take that representation.
16 Ms. [redacted]. Okay. Yes.
17 Mr. Green. That may shortcut some of this.
18 Ms. [redacted]. Yes. That is what I am representing to you. Thank you. I
19 appreciate your help.
20 Mr. Green. Yep.
21 Ms. [redacted]. Now, on page 178, focusing solely on exhibit 5, it reads: "Good
22 morning." Redacted and redacted. "It appears" -- redacted -- "is actively involved in a
23 pro-Biden campaign and may be disclosing classified information in his efforts.
24 It is difficult to believe that the timing of the attached" -- blank -- "and
25 the" -- blank -- "are coincidental" -- and there's more redacted information, and then it

1 ends with, "Thanks." And the signatory of this email is redacted. These redactions
2 were made by the CIA, not by us.
3 Based on the fact that these were in response to the same initial email chains,
4 would it stand to reason that Mr. Polymeropoulos is the individual referenced in exhibit 5
5 on 178 that is actively involved in a pro-Biden campaign?
6 Mr. Green. I -- go ahead.
7 Mr. Makridis. I'm not sure how I would -- not knowing --
8 Ms. [redacted]. Do you have any reason to say that it was not him who they were
9 referencing?
10 Mr. Green. I'm also -- I'm not super-comfortable with him speculating about
11 what's been redacted by the CIA.
12 Ms. [redacted]. That's fair, but we can at least establish that they are both in
13 response to an email chain referencing Marc Polymeropoulos' manuscript talking points.
14 Mr. Makridis. It appears that way.
15 BY MS. [redacted]:
16 Q It appears that way. Thank you.
17 Do you think it is a problem that the CIA approved the statement and subsequent
18 talking points that were submitted by Mr. Polymeropoulos despite having concerns that
19 an individual -- speculatively, Mr. Polymeropoulos -- was actively involved in a pro-Biden
20 campaign and could have been disclosing classified information in his efforts?
21 A So the PCRB's job is to look for classification. I have no idea who this
22 person is, why they believed what they believed, whether they contacted the PCRB.
23 There's too many holes here for me to -- to comment.
24 Q But just looking at the email chain itself, it stands to reason that this is an
25 internal discussion to the CIA?

1 A It looks like an internal CIA email, yes.

2 Q So someone at the CIA was speculating that an individual involved in the

3 PCRB item of interest dated 20 October, which we have denoted, based on previous

4 evidence, is Marc Polymeropoulos' talking points, could have been involved in a

5 pro-Biden campaign, correct?

6 A I mean, if you're representing that these are all the same documents, these

7 responses are to the same documents, I understand. But I'm not sure what the question

8 is.

9 I don't think I can, sort of, parse out who said what, what role they were in, what

10 position they were in, whether the PCRB was aware of their concerns.

11 Q That's fair. But the CIA --

12 A Well, you can't say the CIA. I mean, CIA --

13 Q An individual at the CIA had these concerns that it was a pro-Biden

14 campaign, correct?

15 A Well, that's what it says here.

16 Q Yes. Do you think, based on their concerns, that the approval of the

17 statement tacitly involved the agency in a domestic election?

18 A I'm not sure -- so this is someone saying that they believe that something

19 here was a pro-Biden campaign.

20 Q That the PCRB item of interest dated 20 October, which is Marc

21 Polymeropoulos' talking points --

22 A I mean, I think CIA approves things based on classification or -- and that's it.

23 So I don't know how to go further than that. That's a process that really looks only at

24 one thing, and that's the release of classified information.

25 BY MR. TRAINOR:

1 Q Let me ask you this, Mr. Makridis, so the PCRB has a concern about the
2 potential dissemination of classified information. It exists to prevent that, correct?
3 A Correct.
4 Q So, presumably, someone at the agency, if not at the PCRB, says, somebody
5 actively involved in a presidential campaign may be seeking to disclose classified
6 information. That's a separate question, isn't it?
7 It sort of builds on the concern about disseminating classified information.
8 That's a no-no. And then it says, and they're doing this to support a presidential
9 campaign. So we have two -- would you agree both -- both parts of this are -- should be
10 concerning?
11 Mr. Green. I'm just going to interject. There's a whole bunch that's embedded
12 in that question that I don't think we've established on the record.
13 We don't know if this top chain is from the PCRB or if someone else then
14 forwarded it outside that process. And I think a lot of the words that you used there are
15 not actually in the email.
16 So if you're asking him to answer that hypothetically, he can do that. But I think
17 if it's tethered to this email, there's some assumptions there that I don't think he has the
18 knowledge to answer.
19 BY MR. TRAINOR:
20 Q I appreciate that. It is tethered to the email. And any parts that are
21 hypothetical, I'd ask you to respond to the question as asked. The record has been
22 made, but if you would answer my question.
23 A Sorry. Give me your question one more time just to make sure I'm
24 answering the right question.
25 Q Yes. I think what I was trying to tease out here is, PCRB, we have to look

1 for classified information. We can't disclose that, correct?

2 A Correct.

3 Q Okay. Now, someone trying to assist a presidential campaign using

4 classified information -- potentially using classified information from the CIA, fair to say

5 even bigger no-no, if I may?

6 A Use of classified information, regardless of the purpose, is a no-no.

7 Q Right.

8 A Whether that's for personal gain, political gain, or just a mistake. That's a

9 no-no. So I -- the focus here is on classified information. That the

10 publication -- pre-publication classification review board, when they set this up, said

11 there is -- basically, by setting it up, there is no classified or classified had been removed.

12 I don't know which. Whatever had been done had been done.

13 But there was no classified in it, and that's really the focus of the agency, whether

14 or not there's classified information. And you're right, it's a no-no to use classified

15 information for any purpose when you're no longer a CIA employee or to a group of

16 people who aren't cleared for the information.

17 Q Right. And -- but what is significant here is this person is then saying this is

18 being used in pursuit of a presidential campaign, right? So someone -- someone at CIA

19 made this representation. We didn't say it. Somebody -- somebody said it.

20 A I see that.

21 Q Right. So somebody used their judgment to say, hey, not just classified

22 information, pro-Biden campaign guy trying to use classified information.

23 Doesn't that add -- doesn't that tell us that there's an additional dimension of

24 concern?

25 A The dimension of concern for CIA is classified information. So none

1 of -- you know, that construct you just created wouldn't hold up if there wasn't classified
2 information in it.
3 BY MS. [redacted]:
4 Q Well, also --
5 A So that -- the goal of the agency's pre-publication classification review board
6 is to prevent the release of classified information for whatever purpose.
7 Q The CIA's mission is also -- you know, its jurisdiction is restricted to foreign
8 intelligence matters, correct? It is not meant to be involved in U.S. domestic issues --
9 A Does not --
10 Q -- unless it emanates from overseas?
11 A Correct. It's an overseas -- it's a foreign mission.
12 Q So it would be irresponsible for any official to be involved in a pro-Biden
13 campaign if they were part of the CIA?
14 A There's Hatch Act --
15 Q Correct.
16 A -- kind of issues. So if you were a serving officer, you can't get involved in
17 political campaigns.
18 Q And just to close out on this email, the second part says, "It is difficult to
19 believe that the timing of the attached and the attached are coincidental."
20 And we've established that the attached is the PCRB item of interest dated
21 October 20, 2020, which was Marc Polymeropoulos' talking points related to the October
22 19th statement.
23 When they say that it's hard to believe that the timing of that attached and the
24 blank are coincidental, do you think it could be that the CIA staff member in question
25 found it difficult to believe that the timing of the attached talking points and the October

2020 presidential debate were coincidental? Is that at all possible?

Mr. Green. I mean, if you're asking him to speculate and try and give evidence on what the CIA has redacted, I don't think it's appropriate for him to do that.

Ms. [redacted]. Right. But I'm asking based on the timeline of these emails sent and the content of the email in question, that it could have been possible that they were concerned about the timing of these talking points in tandem with the American presidential debate.

Mr. Makridis. I have no -- I don't know who this person is, what they thought, how they thought, what connections they were making.

You know, a lot of things are possible, you know, from reading any sentence. So I -- I mean, it's pure speculation.

BY MS. [redacted]:

Q Would you find any such timing yourself, personally, to be coincidental? That this was submitted a mere few days before the American presidential debate and mere weeks before the actual election itself?

A I don't know. I just -- I'm just not focused on this. So I'm not sure I can give you a good answer or give you any answer.

Q Now, I want to focus on exhibit 5, a different page.

A Which one is 5?

Q So exhibit 5 would be the -- dated March 29th, and we're going to look at pages we haven't read before, which is, I believe, 157 through 158. We've looked at part of this, but not -- we haven't discussed the entire email chain.

A 157 and 158?

Q Correct. And 158 is just the tail end of the --

A Says unclassified.

1 Q So the subject line of this email chain is letter from former IC officers, and it
2 is dated on October 20th, 2020.
3 Could you please read the content of the top email into the record?
4 A "I also love that at least a few of the random signatures belong to individuals
5 currently working here on contracts."
6 Q Thank you. This email sent between CIA staff members on October 20,
7 2020, referencing the October 19th statement that had been submitted by Mr. Morell for
8 review and approval by the PCRB references concerns that there were signatories of the
9 statement who were on active contract with the CIA, correct?
10 A That's what it says.
11 Q Do you have concerns that there could have been individuals on active
12 contract with the CIA involved in the statement?
13 A The PCRB review process would have looked at -- at that. So they would
14 have handled that issue if it were a problem.
15 Q Do you think it's appropriate for individuals who are on active contract with
16 the CIA to be involved with a statement that was intended to give talking points to the
17 Biden campaign, which they would have known about because Mr. Morell told them the
18 exact intent of the statement when asking for signatures?
19 A So, to be honest, I know the rules for CIA employees. I don't know exactly
20 what the rules are for contractors and what they're allowed to do and not do when
21 they're on contract. So I'm not sure where the -- where the lines are there.
22 Q Right. You consult now, not necessarily for the Intelligence Community,
23 but just in general on a variety of issues that are sometimes related to national security,
24 as you've stated before.
25 Would you yourself sign on to a letter as someone who actively consults and could

1 have the potential to be consulting for an intelligence component to this kind of
2 statement?
3 A I wouldn't sign on for the reasons I mentioned before, staying out of the
4 political fray.
5 BY MR. TRAINOR:
6 Q Well, let me ask you this, Mr. Makridis. If you were running the CIA now,
7 never mind what the rules are for contractors, which you say you're not familiar, if CIA
8 came to you and said, hey, Mr. Makridis, you got --
9 A If I was a director of CIA, is that what you're saying?
10 Q You're a director of CIA, got a ton of experience.
11 Should contractors be permitted to sign on to opinion political statements while
12 they have an active contract with the CIA? Yes or no?
13 A Purely hypothetical.
14 Q It's a hypothetical. But what is your judgment?
15 A My judgment is I would make a call to the office of general counsel and have
16 that person come in, and we would have that discussion.
17 Q But just asking your opinion.
18 A So my opinion, should contractors be under the same strictures; is that the
19 question?
20 BY MS. [redacted]:
21 Q So let me rephrase. Mr. Morell testified before Congress on April 4th,
22 2023, that it would be inappropriate for a currently serving staff officer or a contractor to
23 be involved in the political process.
24 Do you agree with Mr. Morell's statement?
25 A I think that's generally understood.

1 Q Generally understood. Thank you.

2 Do you think that there should be any restrictions or safeguards preventing

3 intelligence contractors or consultants from engaging in political activity in the weeks

4 before a U.S. presidential election, especially if they have access to sensitive information

5 that could be relevant?

6 A I think that's a legal matter, and that would have to be determined by office

7 of general counsel.

8 Q And you're not aware if there are currently any restrictions preventing CIA

9 contractors from using Federal Government resources for partisan activities?

10 A I don't know what the rules are. I think it depends on how contracts are

11 structured. So I can't say that I'm familiar.

12 Q Is it possible that any of these signatories who has now been confirmed that

13 at least a few of them were on contract with the CIA, as confirmed by internal CIA emails,

14 do you think it is possible that any of these signatories had access or could have used

15 information to promote the statement internally within the CIA?

16 A Gosh, I don't know.

17 Q Is it possible that, given the inside access afforded to them as contractors for

18 the CIA, that some of these signatories could have leveraged their positions to expedite

19 the statement of the CIA's review process?

20 A You know, I don't have any firsthand knowledge. It seems unlikely. The

21 process is pretty well-worn process.

22 Q Okay. Thank you. Did you speak to any other offices or staff outside the

23 PCRB at the CIA regarding the statement?

24 A At the time or -- no.

25 Q At the time, while it was under review.

1 A No.

2 Mr. Green. And other than, you know, providing notification he had to be here

3 to testify.

4 Mr. Makridis. Providing notification to the director or deputy director.

5 BY MS. [redacted]:

6 Q To the best of your knowledge, was the statement sent to any of the other

7 intelligence agencies?

8 A I -- I have no -- I don't know. I don't know. And I don't know who would

9 have sent it.

10 Q Okay. I would like in the same exhibit, exhibit 5, for you to turn to the page

11 Bates stamped 67. Should be at the front of the pack.

12 A Okay. Is it just this one page, or is there --

13 Q It's just the one page. Thank you.

14 So this email dated October 19th, 2020, with the subject line request quick turn

15 and dash link to attachments is an email from an information analyst working under

16 ODNI's chief operating officer to the CIA, PCRB, and it states that the DNI pre-publication

17 has no objections to the product's release, but that they defer to the CIA to provide the

18 official clearance decisions to the requesters.

19 This confirms that the CIA coordinated, to some degree, with ODNI regarding its

20 review of the October 19th statement, correct?

21 A That's what this implies, yes.

22 Q Is it standard protocol to engage with the ODNI's pre-publication group

23 regarding submissions to the CIA's PCRB?

24 A It's possible. I don't -- don't know enough the details about exactly how

25 the PCRB does their job. So clearly, they -- they did it in this instance.

1 Q Have you ever interacted with any of your counterparts at ODNI regarding,
2 you know, these kinds of statements when you are, you know, maybe notifying for your
3 director at the time. Did you also occasionally, you know, reach over to ODNI, so to
4 speak, to let them know that this was also coming down the pike?
5 A I don't recall reaching over to ODNI on -- on any of these.
6 Q Do you think that the review of this submission rose to ODNI's COO's level
7 due to the impact the statement could have had on the 2020 presidential election? Is
8 that at all possible?
9 A I don't know the DNI process. They may have a similar process in place
10 that we did. Anything written by a former senior would rise up to the chief operating
11 officer to inform, you know, their principals. So they may have had a similar process in
12 place.
13 Q Okay.
14 A But I -- I don't know.
15 Q Thank you.
16 Mr. Trainor. Mr. Makridis, I want to direct your attention back to the 51
17 intelligence official public statement.
18 Ms. [redacted]. Exhibit 2, which would have been the letter.
19 Mr. Green. Yep.
20 BY MR. TRAINOR:
21 Q I think you testified earlier you never had actually seen something analogous
22 to this type of public statement that many former intelligence officials, something weeks
23 before an election. Was that fair to say?
24 A I think what I said is I hadn't seen anything with that many officials on it
25 regardless of what -- you know, regardless of the content.

1 Q Have you ever seen something similar with active or former contractors with
2 the CIA putting their names to a letter like this or any --
3 A You know, if contractors were to write something and it were to go out, it
4 would not have probably risen to my level on -- in the process that I just described earlier.
5 So I don't know.
6 Q Have you ever seen public statements with this many former intelligence
7 officials signed and released three days -- concerning a presidential campaign three days
8 before a presidential debate?
9 A Well, given that it was -- I was only in that job for four years and there was
10 only one presidential election in that interval, I don't know if I can comment on whether
11 things like this would have come up before or other presidential elections. I would not
12 have been in the loop on that process.
13 Q Do you have any prior awareness of whether or not something like this has
14 happened before?
15 A I don't have any awareness one way or the other.
16 Q Okay.
17 Ms. [redacted]. Just one final question from me.
18 BY MS. [redacted]:
19 Q Given the fact that individuals internally at the CIA had concerns about the
20 political nature of the statement and subsequent talking points, do you think that any of
21 the signatories who were on active contract could have been, you know, violating the
22 trust and access of their positions by signing on to a politically charged statement that the
23 CIA had concerns about, frustrations about?
24 A I don't know. I -- I don't know who was involved as far as, you know, what
25 the roles were, who they knew at the agency. I don't have any insight into how people

1 may or may not have used their roles.

2 Q But as you've testified before, you yourself would not have made the same

3 decision that those signatories did?

4 A Because I stay out of politics --

5 Q Thank you.

6 A -- for good reason.

7 Mr. Trainor. One more question. I think you said when our Democrat friends

8 were asking you questions in the last hour, absent the congressional investigation that

9 emanates or emanating from this statement, the October 19th statement, you would not

10 find that statement political? Do I understand that correctly?

11 Mr. Green. I'm not sure that that's what he -- go ahead.

12 Mr. Makridis. Would I find what political?

13 Mr. Trainor. So I think you were asked at the last hour in minority questioning,

14 did you -- is it your opinion this statement of the 51 former intelligence officials was a

15 political statement as -- because of the congressional investigation that followed? Was

16 that your testimony?

17 BY MS. [redacted]:

18 Q Or was it inherently political?

19 A Well, I said I wouldn't be involved in politics, right? So that's what you're,

20 sort of, getting at. Can you read this? I mean, it's talking about President Trump, Vice

21 President Biden. I mean, you can't not -- you can't read that and say there isn't politics

22 involved of some nature.

23 Q Right. And the CIA officials at the time, as we've seen in the email chains,

24 agreed that this seems to be a pro-Biden campaign, so inherently --

25 A That's a single email from some person that we don't know who it was.

Q Right. But at least one person at the CIA had concern that this was part of a pro-Biden and inherently political regardless of the involvement of the -- of Congress?

A That's what the email that you put in front of me said.

Ms. [redacted]. Okay. Thank you. We can go off the record.

[Recess.]

Ms. [redacted]. It's 1:11. We're back on the record.

BY MS. [redacted]

Q I want to return to the discussion that we were having earlier about Mr. Morell's conversations with Mr. Blinken.

Do you recall that discussion?

A Yes.

Q I want to introduce as exhibit 12 the rest of the transcript or other portions of the transcript.

A Of the one I just received?

Q Yep. So you have, I think, marked as 11.

A This is the old first one? Oh, it's the same --

Q It's the same one. It's just a -- oh, wait. Hold on.

Ms. [redacted]: [redacted], this isn't -- these aren't the right pages.

Ms. [redacted]. They're not?

Ms. [redacted]. Sorry. We'll pull those back and get them.

Mr. Makridis. I don't have one.

1 [1:12 p.m.]

2 Ms. [redacted]. Okay, we'll get back to that.

3 I want to turn instead to the emails we were just talking through, and let's start

4 with the email that's Bates stamped page 233 that's in exhibit 4.

5 Mr. Green. And which is exhibit 4?

6 Ms. [redacted]. Sorry. Exhibit 4 is the February 7, 2024, letter and the

7 accompanying production.

8 Mr. Green. Got it. Thank you.

9 BY MS. [redacted]:

10 Q Before I get into this, do you know Marc Polymeropoulos?

11 A I don't think we've ever met.

12 Q Do you know who he is?

13 A I do know who he is.

14 Q And what's your understanding of who he is?

15 A Former DO officer, been retired for a few years.

16 Q Are you aware that at the same time, the same time frame, so October 19th,

17 20th, 21st of 2020, Mr. Polymeropoulos had also sought clearance on an unrelated

18 manuscript?

19 A No, that didn't come to my -- I don't recall that.

20 Q And it wasn't brought up in the prior hour, correct?

21 A Right.

22 Q So I want to look at this email on the bottom of page 233. The email reads:

23 "Here is a PCRB submission of interest for OPA's situational awareness." And OPA is the

24 Office of Public Affairs, correct?"

25 A That's correct.

1 Q "PCRB received for review the attached talking points for media engagement
2 on the Hunter Biden laptop story. The manuscript is by former DO officer Marc
3 Polymeropoulos. PCRB has determined the manuscript contains classified information,
4 the removal of which would enable publication."
5 Do you see -- did I read that correctly?
6 A I see that, yes.
7 Q Okay.
8 So this says that the review board is commenting on talking points, correct?
9 A That's what it appears to say, yes.
10 Q And the October 19th letter was a letter. They weren't talking points,
11 correct? So the letter that was signed by the 51 former intelligence officials was a
12 letter. It was not talking points?
13 A It was not talking points.
14 Q So this letter, this email from the PCRB is not commenting on the
15 October 19th letter, correct?
16 A It doesn't appear to be.
17 Q Okay. It's commenting on talking points?
18 A It says talking points, yes.
19 Q And we talked through in the minority's prior hour that the rule of the PCRB
20 is to look for classified information, correct?
21 A Correct.
22 Q And in this particular email, the PCRB found that, in fact, the proposed
23 talking points did contain classified information, correct?
24 A Has determined the manuscript contains classified information.
25 Q And so the PCRB did not clear this manuscript or these talking points,

1 correct?

2 A That would be the normal process.

3 Q I mean, it says -- the email says, "PCRB has determined the manuscript

4 contains classified information, the removal of which would enable publication."

5 So in other words, with the information currently in, it's not cleared for

6 publication, correct?

7 A Correct.

8 Q So turning to in the other -- keep this out. But in the other exhibit, which is

9 exhibit 5 --

10 A Which is 157?

11 Q 157, yes, that email -- I'm sorry. Page 178.

12 A I'm sorry. Page what?

13 Q 178 -- actually, I'm sorry. Page -- this is very confusing. I apologize.

14 The bottom of page 180. Do you see where it says, "PCRB has determined the

15 manuscript contains classified information, the removal of which would enable

16 publication"?

17 A Yes.

18 Q Okay. So whatever manuscript this email is talking about -- I realize the line

19 before it is redacting -- that email or that manuscript also was not cleared unless the

20 classified information was removed, correct?

21 A Yes, that's what the language suggests.

22 Q So then turning to the email on page 178, which is earlier -- which is a later

23 email in this chain.

24 A Are we looking at the top?

25 Q The top, yeah, the top email.

1 First of all, we don't know who this person is? We don't know who sent this
2 email?
3 A It's redacted.
4 Q It's redacted. So and we don't know what office this person was in?
5 A There is nothing here to indicate an office.
6 Q Okay, so --
7 A That's not --
8 Q -- we know nothing about who sent this email, basically?
9 A I think that's probably correct.
10 Q Okay.
11 The text of the email says that somebody, whose name is redacted, may be
12 disposing classified information in his efforts. Do you see where it says that?
13 A First line.
14 Q But, in fact, whoever it was, was not cleared to discuss classified
15 information. In fact, the PCRB said that the manuscript contains classified information,
16 and it has to be removed for it to be published, correct?
17 Mr. Green. If you're linking the first with the bottom.
18 Mr. Makridis. With the last.
19 Ms. [redacted]. Right. Exactly.
20 Mr. Green. But we don't have any --
21 BY MS. [redacted]:
22 Q We don't know but that's what it appears to be on the face of it?
23 A If they were linked.
24 Q And my point is just that whoever it was that sent this email made a
25 statement. That statement might have been incorrect.

1 A Certainly possible.

2 Q Okay.

3 And, in fact, assuming this chain is all one chain and that all these emails are

4 linked, in fact, whoever it was that sent the email was not -- whoever it was that

5 submitted the manuscript was not cleared to discuss it, absent removal of classified

6 information?

7 A Yes. It says the manuscript --

8 Q Right.

9 A -- isn't cleared, yes.

10 Q Okay.

11 Like I said, there's a lot of papers.

12 Okay. If you can turn to page 157. What's the Bates number on 157?

13 A Same document?

14 Q It's majority exhibit 5.

15 Just a couple quick questions about the email at the top of the chain regarding the

16 contract -- people -- "individuals working here on contracts." Again, the from line and

17 the to line, actually, in both of these emails are redacted, correct?

18 A Yes, identifying information is redacted.

19 Q Right.

20 So the individuals who sent and responded to the emails are redacted, and there's

21 no information about who they are or what office they might be from, correct?

22 A There is certainly nothing that I can see here that would indicate an office.

23 Q So looking at the face of these emails, we don't know who this person was

24 that suggested there were individuals working here on contracts, correct?

25 A There is nothing here to identify that person.

1 Q And so we don't know if the person who sent this email actually would have
2 knowledge of that or not, correct?
3 A Not knowing who it is, correct.
4 Q Okay. We can put those aside.
5 I want to return --
6 A Put these aside?
7 Q Yes.
8 -- to what we began to introduce the last time, the discussion about Mr. Morell's
9 interactions with Mr. Blinken. And, again, you recall that conversation in the prior hour?
10 A Yes.
11 Q We're going to introduce as exhibit 12.
12 [Makridis Exhibit No. 12
13 was marked for identification.]
14 BY MS. [redacted]:
15 Q Additional portions of the transcript, of Mr. Morell's transcript. And the
16 prior exhibit, exhibit 11, I think you were just given part of page 19. I'm going to read
17 out loud from the top of page -- sorry, the bottom of page 20 to the top of page 21.
18 So the majority counsel asked Mr. Morell --
19 A Is that Ms. [redacted]?
20 Q Ms. [redacted], yes.
21 "Thank you. And you said now Secretary Blinken was employed by the Biden
22 campaign at the time he sent this email, correct?
23 "Answer: It's my understanding is that he was employed.
24 "Question: When he called you, did he direct, suggest, or insinuate in any way
25 that you should write a letter or statement on this topic?

1 "Answer: My memory is that he did not, right. My memory is that he asked me
2 what I thought.
3 "Question: Okay. It wasn't: The campaign could use some help on this.
4 Could you --
5 "Answer: He did not say that.
6 "Question: -- cook up something that we could use?
7 "Answer: It's not my memory that he said that. "
8 Did I read that correctly?
9 A Yes.
10 Q Okay, so --
11 A And the answers here are from Mr. Morell?
12 Q Mr. Morell.
13 So when Mr. Morell testified, he was actually asked if Mr. Blinken asked him or
14 insinuated or suggested that he should write a letter or statement on the laptop. Do
15 you see where -- that's a correct recounting of what this says, right?
16 A Yes.
17 Q And he said, pretty straightforwardly, that, no, neither Mr. Blinken nor the
18 campaign asked him to write the letter, correct?
19 A It says, "It's not my memory."
20 Q Okay.
21 A He doesn't recall.
22 Q Right.
23 And he says -- the question was: "Okay. It wasn't the campaign could use
24 some help on this. Could you --
25 "Answer: He did not say that."

1 Do you see where it says that?

2 A I do see that.

3 Q Okay. I just wanted to clarify the record on that piece of what Mr. Morell

4 testified to when he was before the committee.

5 A Okay.

6 Are we done with this document?

7 Q We're done. I just wanted to clarify the record as we go.

8 Finally, in the prior hour, you were asked about ODNI Director Ratcliffe's

9 statement about the laptop. Do you recall that conversation?

10 A Yes.

11 Q Okay.

12 And the statement was made that Mr. Ratcliffe would have made presumably

13 more information -- more access to information than the 51 IC letter signatories, correct?

14 A As DNI, he would have access to any classified information he chose to read.

15 Q Okay.

16 So I want to look at another intelligence product that would have also had access

17 to presumably classified information.

18 I'm going to introduce as exhibit 13.

19 [Makridis Exhibit No. 13

20 was marked for identification.]

21 BY MS. [redacted]:

22 Q The March 2021 National Intelligence Council Intelligence Community

23 Assessment about foreign threats to the 2020 U.S. Federal elections. This is a long

24 document. I'm not going to ask you to read the whole thing, because we'll be here for a

25 while?

1 We want to look at Key Judgment 2, which is on page Roman numeral one.

2 A Okay. So you're asking me to read?

3 Q Key Judgment 2.

4 A Key Judgment 2?

5 Q And, actually, can you turn back to the cover page of this document. This

6 document was drafted by the National Intelligence Council, correct?

7 A Correct.

8 Q That's sometimes known as the NIC?

9 A The NIC, yes.

10 Q What is the NIC?

11 A The NIC is all of the various intelligence agencies have a representative at

12 the National Intelligence Council. They weigh in on big strategic matters.

13 So as you can see from the logos, you know, most of the Intelligence Community

14 or all OF THE Intelligence Community is represented in these kind of publications.

15 Q Okay.

16 So people working with the NIC through these various intelligence agencies would

17 have access to probably pretty substantial classified information. Is that fair to say?

18 A If they were writing the document, they would all have the same access.

19 Q Okay.

20 And I want to look --

21 BY MR. [redacted]:

22 Q You're a former analyst, correct?

23 A Yes.

24 Q How many years did you spend as an analyst again?

25 A Of my 38 years at the Agency, probably 20 of them.

1 Q Is the NIC considered a relatively prestigious analytic job to get?

2 A Yes, because you're, you know, weighing in on big strategic issues. They

3 tend to send, you know, experts. And it varies, you know, who goes to the NIC and sits

4 on these kind of meetings. But it's typically people who have a fair amount of expertise.

5 BY MS. [redacted]:

6 Q Looking down in the -- and I'm sorry this is small print. At the bottom in

7 italics --

8 A I have my glasses.

9 Q -- it reads: "This Intelligence Community Assessment was prepared by the

10 National Intelligence Council under the auspices of the National Intelligence Officer, NIO,

11 for Cyber."

12 And then I'm going to go through each one of these agencies and ask you to clarify

13 what each one is.

14 It was drafted by the National Intelligence Council and CIA. That's the Central

15 Intelligence Agency, correct?

16 A Correct.

17 Q DHS. That's the Department of Homeland Security, correct?

18 A Correct.

19 Q FBI. That's the Federal Bureau of Investigation, correct?

20 A Correct.

21 Q INR. That's the Bureau of Intelligence and Research at the State

22 Department, correct?

23 A Correct.

24 Q And NSA. That's the National Security Agency, correct?

25 A Correct.

1 Q And coordinated with CIA, DHS, FBI, INR, Treasury. That's the Department
2 of the Treasury, correct?
3 A Correct.
4 Q And NSA.
5 A That's what it says, yes.
6 Q So what it's saying is all of these agencies played a role in producing this
7 assessment, correct?
8 A Yes.
9 Q Okay.
10 So turning back to Key Judgment 2 on Roman numeral one. And, again, the
11 statement was made in the earlier hour that Mr. Ratcliffe had said that the Hunter Biden
12 laptop was not Russian disinformation, that he would have had access to classified
13 information when he made that assessment.
14 So I want to read Key Judgment 2 into the record. It reads: "We assess that
15 Russian President Putin authorized, and a range of Russian government organizations
16 conducted, influence operations aimed at denigrating President Biden's candidacy and
17 the Democratic Party, supporting former President Trump, undermining public
18 confidence in the electoral process, and exacerbating sociopolitical divisions in the U.S.
19 Unlike in 2016, we did not see persistent Russian cyber efforts to gain access to
20 election infrastructure. We have high confidence in our assessment. Russian state and
21 proxy actors who all serve the Kremlin's interests worked to affect U.S. public perceptions
22 in a consistent manner.
23 A key element of Moscow's strategy this election cycle was its use of proxies
24 linked to Russian intelligence to push influence narratives, including misleading or
25 unsubstantiated allegations against President Biden, to U.S. media organizations, U.S.

1 officials, and prominent U.S. individuals, including some close to former President Trump
2 and his administration."
3 Did I read that correctly?
4 A You did.
5 Q In the middle of that paragraph, it says, "We have high confidence in our
6 assessment."
7 Do you see where it says that?
8 A I do.
9 Q Are you familiar with the term "high confidence"?
10 A I am.
11 Q Can you explain your understanding of what that means?
12 A So typically, on broader judgments, and especially from the National
13 Intelligence Council, they oftentimes carry a confidence level: High confidence, medium
14 confidence, low confidence.
15 And while it's not -- you know, I can't equate it to a number. I can't say high
16 confidence means 90 percent or -- it means that there's general agreement among the
17 authors, that there is enough information to support whatever the judgment is, as
18 opposed to a judgment where authors or co-authors differ.
19 Q Okay.
20 A Which would get a different confidence level.
21 Q So in this case, all the authors that we just walked through, CIA, DHS, FBI,
22 INR, NSA, and then Treasury as well, they would have all agreed that -- they would have
23 all agreed that the statement could be made with high confidence?
24 A Agree is a tricky word because you're dealing with a lot of individuals, and
25 they all may have had slightly different views. But generally, they clearly agreed to

1 some extent here. Otherwise, would you have seen alternative views.

2 Q Okay. And there's no alternative views here?

3 A I haven't read the document. Nothing certainly in Key Judgment 2.

4 Q Okay.

5 And, again, I realize this does not use the words Hunter Biden laptop specifically,

6 but it does say that a key element of Moscow's strategy was to push influence narratives,

7 correct?

8 A Yeah. This is a broad judgment about intent.

9 Q But it says that Moscow was using proxies to push influence narratives,

10 correct?

11 A Without any specificity.

12 Q Right. But it does say that that was happening?

13 A It does say that.

14 Q Okay.

15 Ms. [redacted]. Okay. I think we're good. We can go off the record.

16 [Whereupon, at 1:31 p.m., the interview was concluded.]

17

1 Certificate of Deponent/Interviewee

2

3

4 I have read the foregoing ____ pages, which contain the correct transcript of the

5 answers made by me to the questions therein recorded.

6

7

8

9 _____

10 Witness Name

11

12

13 _____

14 Date

15

Transcribed Interview Transcript Errata Form

Interviewee	Andrew Makridis
Date of Interview	4/10/24
Date of Review	4/10/24
Name of Reviewer	Courtney Murray
Signature of Reviewer	

Page	Line	Suggested Correction
6	20	Do you understand ?
7	5	make a note that...
8	5	'85 or '86
8	11	end of 2022
9	25	here in Washington. The Texas
10	15	security ~~s~~ concerns
11	3	Exhibit 1.
11	7	anything in-depth ~~s~~?
13	16	when, about, were you first...
13	16	~~You~~ do you

Page	Line	Suggested Correction
16	17	Q. I would like to enter Exhibit 3.
		The above is assigned to Mr. Makridis, but it should be a question assigned to Ms. [redacted]
18	20	enter Exhibit 4.
22	18	reading ~~of~~ - review of the letter ← change to dashes
22	25	I don't know,
23	1	that - - that would be ? add dashes
30	11	when it, sort of, doesn't . . .
30	12	I think most CIA
31	14	You know, I~~t~~ was . . .
36	14	enter Exhibit No. 6.
~~16~~ 16	16	"rush job"
17	10	"rush job"
38	19	"look, . . .
38	22	Giuliani."

Page	Line	Suggested Correction
40	12	Russian plant
41	3	" Smoking gun ~~emails~~
41	4	VP Dad. "
41	14	... inclination to do so. I ...
42	21	Given ~~me~~ your background...
43	5	rub of the question
43	13	" It is for...
43	16	Russian information operation "
43	23	" We want to...
44	2	case. "
46	7	Exhibit 7 " a printout...
47	5	" this is a...
47	7	would inflict. "
48	18	" to review...

Page	Line	Suggested Correction
48	23	information."
49	22	goes ~~out~~ on .. " but review
49	23	circumstances."
50	22	The first word "Appropriate" was either a question or not there. Mr. Makridis did not say this was appropriate, as indicated by the remainder of the answer. We would request this was changed to a ? or some other punctuation to note as such.
52	19	the chief, the general counsel/ in this...
~~54~~	~~23~~	~~" Dear Michael...~~ Stet
55	4	" The board...
55	8	You may reach out to ~~you~~ us
55	9	PCRB staff."
56	7	" Agency approval...
56	8	of this work."
57	9	" We want to...
57	11	genuine or not."
57	19	" We do not..."
57	20	are accurate."

Page	Line	Suggested Correction
58	22	" Our view, " " We do not know if the emails are genuine "
65	18	my bifocal comment
73	13	that we're clear ? .
83	14	" good morning? "
102	12	" disclosing classified information "
106	25	~~whilee~~ while ? .
107	14	'of the' should be lowercase

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4
5 COMMITTEE ON THE JUDICIARY,
6 U.S. HOUSE OF REPRESENTATIVES,
7 WASHINGTON, D.C.
8
9
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11
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13 INTERVIEW OF: [redacted]
14
15
16
17
18 Thursday, April 11, 2024
19
20 Washington, D.C.
21
22
23 The interview in the above matter was held in room 164, Cannon House Office
24 Building, commencing at 10:00 a.m.
25

1 Appearances:

2

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted] PROFESSIONAL STAFF MEMBER

8 [redacted] SENIOR COMMUNICATIONS ADVISER

9 [redacted] PROFESSIONAL STAFF MEMBER

10 [redacted] DEPUTY CHIEF COUNSEL FOR OVERSIGHT

11 [redacted] MINORITY OVERSIGHT COUNSEL

12 [redacted] MINORITY STAFF ASSISTANT

13 [redacted] MINORITY PROFESSIONAL STAFF MEMBER

14

15

16 For the SUBCOMMITTEE ON CRIME AND

17 FEDERAL GOVERNMENT SURVEILLANCE:

18

19 [redacted] MINORITY DETAILEE

20

21

22

1 For ALPHABET:

2

3 EHREN HALSE, ESQ.

4 KING & SPALDING

5 1700 PENNSYLVANIA AVENUE NW, SUITE 900

6 WASHINGTON, D.C. 20006

7

8

9 For [redacted]:

10

11 MICHAEL D. BOPP, ESQ.

12 GIBSON DUNN

13 1050 CONNECTICUT AVENUE, NW

14 WASHINGTON, D.C. 20036-5306

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1 [redacted] We can go on the record, please.

2 [redacted] This is a transcribed interview of [redacted]. Chairman Jordan has

3 requested this interview as part of the committee's investigation of how and the extent

4 to which the executive branch has coerced and colluded with companies and other

5 intermediaries to censor speech.

6 Would the witness please state your name for the record?

7 [redacted]. [redacted].

8 [redacted] My name is [redacted] and I am with Chairman Jordan's staff.

9 On behalf of the committee, I want to thank you for appearing here today to

10 answer our questions. The chairman also appreciates your willingness to appear

11 voluntarily.

12 I'll now have everyone else from the committee who is here at the table introduce

13 themselves as well.

14 [redacted] [redacted] Chairman Jordan's staff.

15 [redacted] [redacted] with Ranking Member Nadler's staff.

16 [redacted] [redacted] with Ranking Member Nadler.

17 [redacted] [redacted] with Ranking Member Nadler.

18 [redacted] [redacted] with Ranking Member Nadler.

19 [redacted] [redacted] with Chairman Jordan's staff.

20 [redacted] And [redacted] with Chairman Jordan's staff.

21 [redacted] I'd like to now go over the ground rules and guidelines that we will

22 follow during today's interview.

23 Our questioning will proceed in rounds. The majority will ask questions first for 1

24 hour, and then the minority will have an opportunity to ask questions for an equal period

25 of time if they choose. We will alternate back and forth until there are no more

1 questions and the interview is over.

2 Typically, we take a short break at the end of each hour, but if you would like to

3 take a break apart from that, please just let us know.

4 As you can see, there is an official court reporter taking down everything we say to

5 make a written record. So we ask that you give verbal responses to all questions. Do

6 you understand?

7 [redacted]. Yes.

8 [redacted] So the court reporter can take down a clear record, we will do our

9 best to limit the number of people directing questions at you during any given hour to

10 just those people on the staff whose turn it is.

11 Please try and speak clearly so the court reporter can understand and so the folks

12 down at the end of the table can hear you.

13 It is important that we don't talk over one another or interrupt each other if we

14 can help it, and that goes for everybody present at today's interview.

15 We encourage witnesses who appear before the committee to freely consult with

16 counsel if they so choose. And it is my understanding that you are appearing today with

17 counsel. Is that correct?

18 [redacted]. Correct.

19 [redacted] Could counsel please state your name for the record?

20 Mr. Bopp. Michael Bopp, with Gibson Dunn, representing [redacted].

21 Mr. Halse. Ehren Halse from King and Spalding on behalf of Alphabet.

22 [redacted] Thank you.

23 We want you to answer our questions in the most complete and truthful manner

24 as possible, so we will take our time. If you have any questions or if you do not

25 understand one of our questions, please let us know.

1 Our questions will cover a wide range of topics. So if you need clarification at
2 any point, just say so. If you honestly don't know the answer to a question or do not
3 remember, it is best not to guess. Please give us your best recollection, and it is okay to
4 tell us if you learned information from someone else. Just indicate how you came to
5 know the information. If there are things you don't know or can't remember, just say
6 so. And please inform us who, to the best of your knowledge, might be able to provide
7 a more complete answer to the question.
8 You should also understand that although this interview is not under oath, that by
9 law you are required to answer questions from Congress truthfully. Do you understand
10 that?
11 [redacted]. I do.
12 [redacted] This also applies to questions posed by congressional staff in an
13 interview. Do you understand this?
14 [redacted]. Yes.
15 [redacted] Witnesses that knowingly provide false testimony could be subject to
16 criminal prosecution for perjury or for making false statements under 18 U.S.C. Section
17 1001. Do you understand this?
18 [redacted]. Yes.
19 [redacted] Is there any reason you are unable to provide truthful answers to
20 today's questions?
21 [redacted]. No.
22 [redacted] Finally, I'd like to make note that the content of what we discuss here
23 today is confidential. We ask that you not speak about what we discuss in this interview
24 to any outside individuals to preserve the integrity of our investigation.
25 And for the same reason, the marked exhibits that we will use today will remain

1 with the court reporter so that they can go in the official transcript. And any copies of
2 those exhibits will be returned to us when we wrap up.
3 All right. That's the end of my preamble.
4 Is there anything that my colleagues from the minority would like to add?
5 [redacted] Yeah. We just want to thank you for traveling across the
6 country to be here today.
7 [redacted]. Thank you.
8 [redacted] The clock now reads 10:04. We will start the first hour of
9 questioning.
10 EXAMINATION
11 BY [redacted]
12 Q Good morning. Can I have you state your full name again for the record,
13 please?
14 A [redacted].
15 Q And where are you currently located?
16 A I live in San Carlos. I'm currently in D.C.
17 Q Or where's your current place of employment?
18 A Yeah, I -- I'm not currently employed.
19 Q Okay. Where was your previous place of employment?
20 A Google Alphabet.
21 Q And when did you first join the company?
22 A March 5th, 2007.
23 [redacted] If we could have you speak up just a bit, the acoustics in here are
24 terrible. Thank you.
25 BY [redacted]

1 Q And what's your educational background?

2 A I have an undergraduate degree in Management Science and Information

3 Systems Studies from Trinity College Dublin, Ireland.

4 Q And starting with your positions at Google and Alphabet, what

5 positions -- can you go over your professional background, what positions you held at the

6 company?

7 A Yes. I started on the Google Checkout Product team. I was a risk and

8 compliance specialist. Then I moved into a checkout business analyst role. Then I

9 became a manager of a business analyst team of Checkout. I then became the business

10 analyst Lead of Digital Content and Commerce, which was a collection of what has now

11 become the Google Play Market. It has gone through a number of different names, but

12 at that time it was known as Digital Content and Commerce.

13 I then became a business analyst manager of Consumer Operations, then a

14 strategic program manager in what was then called Product Quality Operations. It is

15 now known as Trust and Safety. I then led the User Testing and Research team in Trust

16 and Safety. For a brief period I took over the broader User Advocacy team in Trust and

17 Safety. And then I founded the Responsible Innovation team in Global Affairs.

18 Q Okay. During any of these roles, did you work with or were you employed

19 by DeepMind?

20 A No.

21 Q Starting with when you became a part of the Trust and Safety team, formerly

22 the Product Quality team, when did you first get that position?

23 A I'm afraid I actually don't remember.

24 Q Do you recall approximately how long you were in that role for?

25 A The original Trust and Safety role?

1 Q Yeah.
2 A Approximately a year.
3 Q And at a high level, what were your responsibilities in that role?
4 A As part of the strategy team and as the strategic program manager, I looked
5 at user research. So I looked at user feedback through surveys that Google had
6 conducted to understand where users felt that our products were not living up to
7 company standards.
8 In Product Quality Operations, our primary focus was on the quality of Google's
9 products, including search and, at that time GEO, what became Play Market. And so my
10 focus was on understanding users and trying to share that information with people who
11 could fix the issues raised.
12 Q Did one of the products include YouTube?
13 A I don't remember supporting YouTube, no.
14 Q And what was your position after the Trust and Safety role?
15 A So after the first Trust and Safety role, I -- I'm sorry. I lost my timing.
16 I believe that was when I led CONOPS. So I went into CONOPS for Business
17 Analysis, and that was due to reorganization. So I did the same role around user
18 research.
19 Q And what were you the cofounder of that you mentioned?
20 A I was the founder of Responsible Innovation.
21 Q Okay. And what is Responsible Innovation?
22 A Responsible Innovation was the Operations and Governance team to put
23 Google's AI Principles into practice.
24 Q And had you worked on issues related to AI Principles prior to becoming the
25 cofounder?

1 A Yes.

2 Q And in what way?

3 A I was one of the members of the writing team coming up with what the AI

4 Principles were.

5 Q And when did you first join that team?

6 A It was around September 2017.

7 Q And how many people were on that team?

8 A Approximately eight. It was not a formal team, so sometimes more,

9 sometimes less than eight.

10 Q And what do you mean by it was not a formal team?

11 A We all had full-time jobs, and we participated part time in helping write the

12 AI Principles.

13 Q Who decided who would be on the team?

14 A I don't know for sure. My VP had nominated me.

15 Q Who was your VP at the time?

16 A [redacted].

17 Q And what was his title?

18 A He was VP of Trust and Safety at that time.

19 Q Who were the other members of this team?

20 A There were members from our public policy, legal, and technical teams.

21 Q Do you remember who from the Public Policy team participated?

22 A [redacted] and [redacted].

23 Q Do you know who at the company approved this team or decided that this

24 team was necessary?

25 A My understanding was Kent Walker, chief legal officer of Google.

1 Q And you recall joining around September of 2017?
2 A Yes.
3 Q And how long did you work on developing these principles?
4 A Given my background in user research, I worked on the principles research
5 from about September 2017 until about January or February 2018.
6 Q And how often would you meet with the team during this September 2017
7 to roughly February 2018 time period?
8 A With the group of eight or so, only about every 2 months.
9 Q So you only met a handful of times?
10 A Only a handful, yeah.
11 Q Was there a actual or de facto lead of the team?
12 A Kent Walker as the sponsor.
13 Q And after February 2018, when did you first cofound -- how long was the gap
14 until you cofound the Responsible AI team?
15 A Publicly launched, publicly in Google around September 2018.
16 Q Folks installed in the September 2017 to January-February 2018 period, did
17 the principles address concerns related to ethics?
18 A Yes. The AI Principles were originally described as the ethical charter for
19 the company's technology.
20 Q And at a high level, how did your team assess what was ethical as it applied
21 to AI Principles?
22 A Sorry. Prior to?
23 Q No, I just said at a high level, how did your team assess what is ethical for the
24 AI Principles?
25 A My Responsible Innovation team or --

1 Q No, during this September 2017 to January-February 2018, informal team.

2 A We weren't assessing. We were still conducting research.

3 Q What was -- was there a final work product at the end of February 2018?

4 A Yes. In June 2018, our CEO, Sundar, announced the AI Principles publicly.

5 Q What about February 2018, was there a final internal work product that your

6 team had completed?

7 A I completed my research, but then other members of the team with

8 different expertise than me took over the role then.

9 Q Of drafting?

10 A Of drafting, yes.

11 Q Did you play any role in the drafting, other than your initial research?

12 A Not drafting, no. I'm not a writer.

13 Q Do you know who played a role in the drafting?

14 A I believe it was my legal colleagues on the working group.

15 Q Did you have an opportunity to review the drafted principles before the CEO

16 announced them?

17 A I did.

18 Q Did you have an opportunity to make any changes?

19 A I had an opportunity to. I don't think I did.

20 Q So in fall 2018, there's a public launch of your Responsible AI team. Who

21 else did you cofound this team with?

22 A Kent Walker is who I reported to.

23 Mr. Bopp. He asked who else cofounded the team with you. Did anyone

24 cofound the team with you?

25 [redacted]. No one cofounded.

1 BY [redacted]

2 Q Okay. It was just you?

3 A Yes.

4 Q And had Mr. Walker assigned this to you?

5 A No. Not to that degree, no.

6 Q And can you tell us a little bit more about how it came about? Was it

7 self-initiated or did someone above you ask you to take on this project?

8 A No one asked me to take it on. The AI Principles would need governance,

9 and I just took it on myself to design that governance.

10 Q So right before you launched the Responsible AI team, what is your position,

11 let's say, in the summer of 2018?

12 A I was the user research and testing manager in Trust and Safety.

13 Q In 2018, while you're still with Trust and Safety, are you working with

14 YouTube at all?

15 A No.

16 Q During your time, understanding that your focus was on user research,

17 during any position you had with Trust and Safety, did you ever have a opportunity to

18 work on any community guidelines or content moderation policies?

19 A No, I don't believe I did.

20 Q In the lead-up until summer of 2018, did you have any interactions with the

21 company's Government Affairs team?

22 A Government Affairs were members of the working group on the AI

23 Principles, yes.

24 Q And you gave us the two names that you recall on the working group.

25 A Yes.

1 Q Other than that working group, do you recall any interactions with Public
2 Policy or Government Affairs team?
3 A Not up to that point, no.
4 Q Walk me through the transitions. Once you've decided that there's a need
5 for governance and that you might be in a position to take the lead on that, who did you
6 at the company reach out to to inform them of your interest in doing this and who
7 ultimately approved it?
8 A Kent.
9 Q So Mr. Walker in both cases?
10 A Yeah, uh-huh.
11 Q And when did he first approve the -- have you lead the Responsible AI team?
12 A I believe it was around August 2018.
13 Q And what are some of the initial steps you had to do when founding the
14 Responsible AI team?
15 A I had to design the objectives and the mission of the team. I had to identify
16 potentially what skills would be needed on the team and identify the potential number of
17 people who would be on that team.
18 Q At a high level, what did you determine the mission of the team to be?
19 A The mission of the team would be to put Google's AI Principles into practice.
20 Q And at a high level, what were those principles?
21 A There are 11 principles, and seven of what we call aspirational things that we
22 won't do or try and achieve and four applications we will not pursue.
23 The seven aspirational are we will build technology that is socially beneficial. We
24 will not create technology that creates or reinforces unfair bias. We will create
25 technology that's privacy protecting and safe. We will build technology that's

1 accountable to people that is scientifically excellent or colloquially known as accurate and
2 high quality. And we will make our technologies available to other people in a way that
3 aligns with those principles.
4 And then the four applications we will not pursue are we will not cause overall
5 harm through our technologies. We will not build AI technology that could be used for
6 large-scale surveillance, violating international norms. We will not build technology that
7 violates human rights. And we will not build technology that could be used for weapons
8 technologies.
9 Q Was there a principle that addressed avoiding unfair bias?
10 A Yes. Our Principle No. 2 says we will not create or reinforce unfair bias.
11 Q And what does that mean?
12 A That we want our products to work equally well for all users, regardless of
13 identity, regardless of access to technology.
14 So as a business priority, we want to make sure as many people have a positive
15 experience on our products as possible, which means identifying and preventing when
16 negative experiences are happening so we can mitigate against issues caused by unfair
17 bias.
18 So preventing harm is the overall mandate of the principles.
19 Q One of the other principles you said was to be accurate?
20 A Scientifically excellent is, yes, our wording.
21 Q Were there instances that you came across, either in developing these
22 principles or then trying to govern them, where you found that principles were in conflict
23 with one another?
24 A We did find that the principles were not mutually exclusive.
25 Q And what are some examples of when they weren't maybe on there?

1 A Yes. We found that, for example, the principles of being scientifically
2 excellent or accurate and privacy could sometimes be a tension, that in order to make
3 sure that something is working as intended and accurate, sometimes it would be helpful
4 to have more data to prove that, but because of our privacy principle, we couldn't have
5 access to that data. So maybe we didn't always know if it was fully working as intended
6 because we didn't have as much data as we needed.
7 Q So sticking with this privacy versus scientific excellence or accuracy and
8 trying to follow both of those principles, was there a priority or hierarchy to the
9 principles? How did your team assess what principles should win out?
10 A There wasn't a hierarchy of principles. For my team, we got involved when
11 there wasn't an existing team handling a principle.
12 Q Okay. Say a little bit more. Were there existing teams handling some of
13 the principles initially?
14 A Yes. Google has a privacy organization that's existed since the time the
15 company was created. So they have far more expertise than my team would have with
16 privacy.
17 Q And what's the name of that team, just --
18 A Honestly, it's gone through name changes. I don't know its current name.
19 Q In the fall 2018 time period, do you recall?
20 A My understanding is it was the Privacy and Security organization.
21 Q What about the scientific and excellence or accuracy principle, was there a
22 team for that?
23 A We generally considered two main teams for that, our Research
24 Organization, who had more expertise on the technical side. My team were not an
25 engineering team. And then the Trust and Safety organization. Again, their original

1 name was Product Quality Operations, so they looked at quality and accuracy.

2 Q For the avoiding unfair bias principle, which -- was there a team in charge of

3 that principle?

4 A No, that was ours.

5 Q I'm sorry?

6 A No, there wasn't another one. So that fell into ours.

7 Q Which other principles do you recall in fall of 2018 fell within your team?

8 A The -- off the applications we will not pursue, there were teams focused on

9 surveillance, for example, weapons, and overall harm. They fell into our world. And of

10 the aspirational ones, fairness, accountable to people were the two that fell into ours.

11 Q And what does that mean, to be accountable to people, used in this context?

12 A Yeah. Honestly, it's a pretty broad bucket. It accounts for things like

13 explainability, the ability to explain the technology that a user is interacting with, so

14 understands and is this AI or not. Transparency falls into this and what areas could we

15 provide more transparency into the technology or where would that transparency cause

16 harm.

17 Another aspect is known as interpretability, which is more of an engineering term.

18 Can the developers understand what they develop or not?

19 And we also have contestability, the ability for people to essentially contest a

20 decision. And that's where user feedback comes in. If someone says, I don't agree

21 with the outcome of the AI technology, contestability is the bucket it would fall in.

22 So accountable to people essentially encompasses all of those things that are

23 user-facing.

24 Q To that last point, being able to contest, can you say a little bit more?

25 What were some of the ways that your team considered enabling people to contest the

1 product?

2 A So we weren't a solution or fixing team. So enabling may not be how I

3 would describe what our team did. We identified areas where users felt they couldn't

4 contest, and we would share that information with other teams so they could address it.

5 Q Is there an example that you can recall?

6 A An example would be for our Trust and Safety team, when they suspect

7 fraud in an account and they may have to put a pause on an account, they didn't always

8 tell the users either that there was a pause or why there was a pause on the account.

9 And their reasoning, which was reasonable for them, was, well, we don't want fraudsters

10 to know why their account was shut down.

11 So we raised possibilities is there a compromise to tell legitimate users, while

12 stopping fraudsters from taking it too -- like, getting too much detail off it. So that type

13 of discussion and issue is how we flag it to another team who had accountability to then

14 fix the issue.

15 Q Uh-huh. And using this example, whether specifically or another

16 hypothetical that's easier, once your team identifies something like this, you know, a way

17 potentially for a user to contest, does your team prepare a memo? Is there a meeting

18 between your team and the team that will implement it? How -- what is the next step in

19 terms of the teams communicating with each other?

20 A Generally, because we met so often, it was shared in our -- in our what we

21 call just our syncs, our regular meetings, yeah.

22 Q And who is in the syncs?

23 A It would change all the time, depending on the product and the issue just

24 because products can be quite large. The different issues were owned by different

25 people.

1 Q Okay. Would there be representatives for each of the teams either in
2 charge of or affiliated with the AI Principles?
3 A No, not at all times. So an example of the contestability, it may just be a
4 member of my user research arm of my team talking to someone in Trust and Safety's
5 research team.
6 Q So are there several standing meetings during this time? We'll stick with,
7 like, post-fall 2018, once you got the team up, where there's a standing meeting with all
8 the teams involved and then sometimes like more bilateral meetings between your team
9 and the --
10 A I don't remember -- I don't remember having any large group meetings. As
11 I was setting it up, my -- I was so low at the start, so I couldn't attend meetings with large
12 groups of people. So it's issue-dependent on the meeting, So, no, not standing
13 meetings, no.
14 Q Let's turn back to when you're first starting up the team. You said
15 you -- one of your initial tasks was to figure out what skills would be needed for your
16 team. At a high level, what skills did you assess were needed?
17 A In general, social sciences skills.
18 Q And why is that?
19 A Because Google already has the best engineers in the world. I didn't need
20 a technical team. I wanted to augment their skills with social sciences skills that were
21 less represented. So it's a gap analysis really of what I felt was already at Google.
22 Q And were you looking for any team members with a background in studying
23 ethics?
24 A I was looking for philosophy majors, uh-huh.
25 Q How many people did you initially assess that you thought your team would

1 need?

2 A I think I initially assessed that I'd need 12.

3 Q And did that assessment change?

4 A Certainly over time, yes.

5 Q Walk me through from fall 2018 to however long you remained in charge of

6 the team. How did the team grow? How quickly and to what --

7 A So in fall 2018, it was me until, I believe, winter of 2018. I had one member

8 join. In quarter one of 2019, I had three join, I think. By summer of 2019, we might

9 have been at six or eight.

10 And then in early 2020, I believe, my former team in Trust and Safety was moved

11 over to me. And so then we increased to about 24. And then I think by end of 2020, I

12 was at 30.

13 Then COVID hit. I think I went down then to around 26 over 2021 and 2022.

14 And by the time I finished in December 2023, we were 24.

15 Q By early 2020, before Trust and Safety, your former folks come join your

16 team, did you have a primary deputy at that time?

17 A By the time the team moved over, it was the manager of the team, yes, who

18 I had hired as my replacement in 2018 moved over, yeah.

19 Q And who's that?

20 A [redacted].

21 Q From the initial fall 2018 until the team expands in early 2020 with Trust and

22 Safety, who had the hiring power for your team?

23 A In what regard?

24 Q Let's say you find someone that meets one of the needs of the team. Did

25 have you the authority just to hire that person on your own? Did you have to get it

1 approved by someone above you?

2 A Well, Google's hiring process involves a number of different committees and

3 people involved. So, no, I would participate usually in setting the criteria and maybe

4 one interview, depending on how junior or senior the person was. And then other

5 people from teams we would work with would interview that member without input

6 from me.

7 And then if they -- depending on the outcome, it goes into a system. And if I

8 remember correctly, there were two interview committees who would then assess the

9 writeups of me and the other interviewers. And then that would get rolled up to a

10 senior hiring committee.

11 That was the process in general of hiring that I had to follow. And then,

12 obviously, that was managed by our HR team.

13 Q Who decided to have the Trust and Safety folks join your team in early 2020?

14 A I actually don't know who made that decision.

15 Q Can you say a little bit more about why that decision was made or why that

16 restructuring ultimately happened?

17 A My understanding was the work was related and it was more efficient to

18 have the teams together.

19 Q And prior to early 2020, for this Trust and Safety team, for these folks, which

20 AI Principles were they most heavily engaged with?

21 A They're most heavily engaged with, number one, be socially beneficial and,

22 number two, do not create or reinforce unfair bias.

23 Q And for these Trust and Safety folks, was it -- were they focused on AI in

24 particular or were they focused on all of the company's products?

25 A It was not AI-specific. Trust and Safety was the company's Trust and Safety

1 team, except YouTube who has their own Trust and Safety team. So this team would
2 have been supporting the same overall approach Trust and Safety was, which was not just
3 AI.
4 Q When you're in the AI Responsible Innovation team, did you have
5 interactions with the YouTube Trust and Safety team?
6 A No.
7 Q During any of your roles at the company, did you have interactions with the
8 YouTube Trust and Safety team?
9 A Yes, more recently.
10 Q And what was the context of those more recent interactions?
11 A They had asked me to help ensure that their AI Principles review process
12 aligned with my central review process.
13 Q Can you say a little bit more about what was the YouTube team seeking to
14 do in either developing or incorporating their own AI principles?
15 A Well, the AI Principles are Google's AI Principles, so every part of Google is
16 posted online with the AI Principles. And although my team is a central expert team on
17 the AI Principles, we aren't either responsible or accountable for doing it during every
18 part of the AI Principles.
19 So among my responsibilities is to train people across the company to understand
20 that the AI Principles exist and that within their work they should be considering it. So
21 as part of that role, in terms of education, awareness, as well as process design, which I
22 led, the YouTube team had attended one of my AI Principles teams training -- I don't think
23 it was mine -- and had been running their own AI Principles review, as they should be,
24 across the company and wanted to make sure it essentially met my standards and aligned
25 with the central process.

1 Q To your understanding, just practically speaking, how does it look like to
2 have YouTube apply or follow the AI Principles with respect to the algorithms amending
3 videos? What does that look like?
4 Mr. Bopp. I'm not sure I understand the question. You're saying how does
5 it -- what does it look like? Can you rephrase that? Do you mind?
6 I don't understand it. Maybe you do.
7 [redacted]. No, I'd ask for clarity, if you can.
8 BY [redacted]
9 Q Yeah. So you have a number of principles laying out -- you know, like we've
10 gone over the principles of scientific excellence, privacy. How -- how does it look like to
11 have YouTube follow those principles?
12 A I didn't get into that level of details. All I shared was, again, our trainings,
13 that their employees should go through and generally what the AI Principles mean, but I
14 didn't get into any technical details with them.
15 Q Were those -- was there any discussion with the YouTube team about what
16 to do when there appears to be a conflict or some sort of tension between the two -- two
17 principles?
18 A No, it didn't come up.
19 Q Was there any discussion regarding the unfair bias principle?
20 A No.
21 Q When did this discussion occur?
22 A Around August or September 2023.
23 Q And who is your point of contact at YouTube Trust and Safety?
24 A Director of compliance. I think he may have had a longer title, but it was
25 related to compliance efforts.

1 Q Do you remember his name?

2 A [redacted] is his first name. I honestly don't remember his surname.

3 Q So summer 2018, CEO puts out the AI Principles. Fall 2018, you

4 cofound -- or found the team. I should say cofound.

5 Was there an internal work product or a handbook as far as when it comes to

6 governance or how to start to implement these AI Principles?

7 A I certainly had my own scratched off. But when I had to talk to Kent, he

8 wanted it to be a discussion because obviously we had not built a team like this before.

9 And so at the launch of the team, because nothing had happened yet, he actually just

10 wanted me to kind of get started, hire the team, and we'd go from there. So at the

11 start, no.

12 Q What about once you got the team up and running?

13 A Yes, then I created a training for Googlers to understand the AI Principles

14 that exist and me and my team are there to help.

15 Q And when approximately were the first training materials completed?

16 A I believe by the end of 2018. We'd actually borrowed external training

17 materials as our first work product by the Markkula Center who has a established center

18 of ethics and technology. We use their training, and then I just put the AI Principles as a

19 kind of first slide into that.

20 Q And just at a high level, what did the training cover? What did it look like?

21 A So if I recall, we did change the training soon after, because the training

22 focused on what is ethics and it was quite philosophical and we did not find it applicable

23 in a technology environment.

24 Q And so what were some of the changes you made to make it more

25 applicable?

1 A We reduced the theoretical what is ethics, what is philosophy. It just was
2 not useful for our engineers. And we focused on case studies, proposing that if you're
3 working on this type of product, here's how the AI Principles may apply. Let's discuss
4 more practical use cases. So it became a case study exercise.
5 Q How frequently were the training materials updated once you got this
6 revised, more applicable version?
7 A We went through a few rapid iterations. So there's probably four different
8 versions in the first 4 months, and after that, maybe once a year.
9 Q Starting with the once it's more -- it's been revised to be more applicable
10 and then going forward, would you ever solicit external feedback?
11 A Not on our training, no, just on that very start with Markkula Center.
12 Q Did the trainings go over how to handle situations where there appeared to
13 be tension between the principles? So you gave the one example earlier of privacy and
14 scientific excellence.
15 A I don't recall if it went into the tensions of the AI Principles, no.
16 Q Separate from the training, just in general, when working with the engineers,
17 whoever it is at the company, once you've come across an instance of a potential tension
18 between -- we'll stick with the privacy and scientific excellence example -- first, typically
19 how did that come to your attention?
20 A The process for my team's work was a product manager or their legal
21 counsel would -- what we call would flag the product to my team. So it would be a
22 discussion often with legal, or a Google Form submission would come to my team, just
23 giving us a brief overview of what the product was. And that's how we got it. It was a
24 form open to any Googler in the company, and that was how most people got to my
25 team. And through the training, that's how they knew to get to that form.

1 Q And can you say a little bit more about what this Google form looks like? Is
2 it just accessible by only those within the company?
3 A Yes, it is a Google-privileged form that a product manager or their legal
4 counsel would just enter product information that would just go to my team.
5 Q And would you get an email notification, or how did you receive this access
6 to this document?
7 A My team system, I believe, was that one of the programs managers would
8 get a email notification. It was like an alert that, once someone submits, it went to the
9 program manager, saying the team needs to review. And that one program manager
10 would bring it to our team meeting.
11 Q Did you have the ability to go back to a previous Google Form if you needed
12 to reference it for whatever reason?
13 A I would, but the team would not.
14 Q Okay. And was there a time period of how long you can go back to
15 reference a previous Google Form?
16 A No, I don't believe. I just -- I'm hesitating because we did move systems,
17 again, as part of our iterations of our process. And the -- maybe the oldest ones would
18 not then be accessible. And once we moved to a new system, only the ones on the new
19 system were accessible.
20 Q Once you moved to the new system, did the name change?
21 A Which name?
22 Q The Google Form.
23 A Yeah, it wasn't a form anymore. So it simply dropped the form, and it was I
24 believe just AI Principles submission was the name.
25 Q We'll just pick 2020 as a starting point. How many AI submissions would

1 your team receive, say, on a monthly basis?

2 A In 2020?

3 Q Yeah.

4 A Estimate of maybe 10 a month.

5 Q Okay. And how did the pace or the frequency change over the years that

6 you were in charge?

7 A Increased with the pace of the AI development in the company, yeah, so

8 increased each year.

9 Q And what -- I'm sorry. I think you said this earlier, but when did you leave

10 your position as head of the Responsible AI team?

11 A December 15th, 2023.

12 Q So by end 2023, how many AI submission was your team receiving on a

13 monthly basis?

14 A I'd have to do the math. We received about 500 that year.

15 Q And these could be for any product in the company. Is that right?

16 A Any product in scope. Again, YouTube had its own process. Cloud had its

17 own process. DeepMind was not part of my coverage. So, yes, with limitations, we

18 supported the company.

19 Q To your understanding, does YouTube have a parallel system that folks could

20 submit for AI?

21 A That's my understanding.

22 Q Who's the head of the AI governance, whatever the right word is, for the

23 YouTube team?

24 A [redacted] was my contact. I don't know if he was the lead or just my contact,

25 because he worked in compliance and I worked in compliance.

1 The Reporter. Do you have a spelling for that?

2 [redacted]. I believe it was [redacted]. I just don't know the surname.

3 BY [redacted]

4 Q Was Gemini one of the products that fell within the scope of your team?

5 A We didn't see it, no.

6 Q Whose team would that fall under?

7 A I don't know. The model was DeepMind's model. But in Google, we have

8 a development process of data, model, and product, and my team reviewed products.

9 Models came out of research teams, either Google Research or DeepMind. And Gemini,

10 at the time I was in the company, was a model. So it was sill in DeepMind.

11 Q And sitting here today, what's your understanding of where it is?

12 A That was my understanding, yes.

13 Q Still a model?

14 A No, I know from the public media it is now a product.

15 Q Oh, okay.

16 A Yeah.

17 Q So you -- so it was December 15th, 2023 --

18 A Yes.

19 Q -- you left? And why did you leave that position?

20 A My team was moved into Trust and Safety to scale the Responsible

21 Innovation work.

22 Q And what became your next position after that?

23 A I became AI risk and compliance advisor in the Office of Compliance and

24 Integrity.

25 Q Were you aware that the company was considering moving the Responsible

1 Innovation team to Trust and Safety?

2 A Yes.

3 Q And when did those discussions first begin?

4 A I don't know when they first began.

5 Q When did you first become aware?

6 A Around October 2023.

7 Q And were you supportive of the decision?

8 A I loved my job. I wanted to keep doing it.

9 Q And the restructuring meant you could no longer --

10 A Correct.

11 Q -- continue the position you were doing?

12 Who -- to your understanding, who was the ultimate decisionmaker for this

13 particular restructuring?

14 A I'm not sure. It was communicated to me by HR.

15 Q When it came to starting your next position, was there someone already in

16 that role or was it a newly created role?

17 A Was there someone in the advisor role?

18 Q Yeah.

19 A No, it was a new role.

20 Q For when -- for most of the folks, I think you said it was 24 people in

21 December 2023?

22 A Uh-huh.

23 Q Where did the rest of the folks end up, to your understanding?

24 A My understanding, 21 moved to Trust and Safety, and three remained in the

25 Office of Compliance and Integrity.

1 Q And given your responsibilities up to the end of 2023, which position was
2 primarily responsible for handling those responsibilities going forward?
3 A Which positions?
4 Q Yes.
5 A Ultimately, the VP of Trust and Safety, I believe.
6 Q And who's the VP of Trust and Safety at that time?
7 A [redacted].
8 Q Were you given any reasons of what spurred this change, why it was
9 necessary to take place at the end of 2023?
10 A I was told it was to help the teams work to scale.
11 Q And by that, did you understand that to mean that the team would need to
12 expand the amount of work coming in most likely to expand?
13 A Yes, that was my understanding.
14 Q And who communicated this to you?
15 A HR.
16 Q Were you -- was Mr. Walker still at the company at this time?
17 A My understanding is he is.
18 Q Yeah. Was he still -- who was your direct report in December of 2023 prior
19 to the restructuring?
20 A My direct manager?
21 Q Yes.
22 A The chief compliance officer for Google.
23 Q And who is that?
24 A That's Spyro Karetsos?
25 [redacted] Can you spell that?

1 [redacted]. S-p-y-r-o, K-a-r-e-t-s -- I'm sorry. We weren't big on surnames at
2 Google. Karetsos.
3 BY [redacted]
4 Q From fall 2018 until December 2023, which office were you based out of?
5 A I was in Shoreline building.
6 Q Prior to the restructuring on -- in December 2023, did you have any
7 conversations with Google leadership about the restructuring?
8 A No. I don't believe I did, no.
9 Q Did you have any conversations with anyone at the company about the
10 restructuring, other than HR?
11 A My VP, Spyro, yeah.
12 Q And did you share your thoughts on what you thought the right approach
13 would be?
14 A I shared my personal feelings, more emotional than work related, with him.
15 So we didn't get into details.
16 Q Okay. And just at a high level, you generally would have preferred if there
17 was not a restructuring?
18 A Selfishly for myself, yes.
19 Q Independent of the restructuring, just in the -- up until mid-December of
20 2023, did you have any direct interactions with the C-suite of the company?
21 A Yes. Kent, yeah. We, I think, met maybe monthly in a group on our
22 responsibility efforts.
23 Q And was it just the two of you? Was it part of a broader meeting?
24 A No, it was Kent's regular AI Responsibility council meeting.
25 Q And when did those meetings first start?

1 A January 2023.
2 Q Was there anything in particular that spurred those meetings that led to lead
3 you to start meeting monthly?
4 A We had a lot of exciting gen AI technology, and so Kent wanted to make sure
5 it was developed responsibly so he set up this meeting.
6 Q So after the restructuring, you take on an advisor role. Who is your direct
7 report at that time?
8 A My manager remained Spyro, still the chief compliance officer.
9 Q And how did your day-to-day responsibilities change?
10 A I was no longer a people manager, so my -- all my people had moved on.
11 So my people manager responsibilities, I didn't have them anymore. And my day-to-day
12 governance and operations role had changed. So it essentially changed 90 percent, 95
13 percent, uh-huh.
14 Q And what did your day to day look like once you became in the new
15 position? Let's just start with the new position.
16 A Very different every day. Google had been going through a significant
17 number of layoffs. And because I'd been in the company such a long time, people came
18 to me for advice. And so I became more a career advisor than risk and compliance
19 advisor for that time, given the changes at the company.
20 Q And how long were you in this position for?
21 A About like 3 months, before leaving on March 4th, 2024.
22 Q And did you leave the position or the whole -- the company in March 2024?
23 A I left the company on March 4th.
24 Q Do you have any direct interactions with the CEO while you were at the
25 company?

1 A No.

2 Q When you left the company March 2024, was there anyone who filled your

3 position formally, to your understanding?

4 A Not to my understanding.

5 Q Did you have opportunities to -- in the new position to continue to interact

6 with your old team members who are now with Trust and Safety, or was that outside the

7 scope of your new responsibilities?

8 Mr. Bopp. You're saying after [redacted] changed roles, whether she had the

9 opportunity to continue to interact with her former team members?

10 BY [redacted]

11 Q Yeah. The responsibilities changed 90, 95 percent. Is there 5, 10 percent

12 of where you were still working with your prior team or was it a pretty dramatic change?

13 A Pretty clean-cut.

14 Q In the time from 2018 until mid-December 2023, did you have any

15 interactions with the Government Affairs and Public Policy team -- we'd gone over the

16 working group -- but post that time?

17 A Yes, on an ad hoc basis.

18 Q And just -- or it could be hypothetical too, but what would be the type of

19 instance that would lead you to have an interaction with that team?

20 A Sometimes they'd send across work product from external groups. And

21 given my expertise from building AI governance at Google, they felt I'd have a lot of

22 expertise. And as I said, I moved my responsibilities with Education and Awareness, So

23 they wanted me to share that. So every so often they'd share something with me for

24 my opinion.

25 Q And when it's coming from an external group, is that -- what type of external

1 entities are we talking about?

2 A There were a number of different types. It could be universities,

3 government groups, nonprofits. Who else? Yeah, just schools sometimes. Yeah, a

4 mixture.

5 Q And was this team responsible for the company's Global Affairs and

6 interactions with governments around the world or was it primarily focused on the U.S.?

7 Mr. Bopp. You're asking about the Public Policy team?

8 BY [redacted]

9 Q That's right. To the extent --

10 A My experiences were our Global team members. So I think it was the

11 Global team, yeah.

12 Q Did you have any communications with the Government Affairs/Public Policy

13 team about work that the executive branch in the U.S. was doing as it related to AI?

14 A Yes.

15 Q And what were some of those interactions?

16 A Before the White House commitments were announced, the Public Policy

17 team had shared with me a draft and asked if I had any opinions on it, if, given my

18 experience doing our AI, again, and governance for 5 or so years, if I had any thoughts on

19 what was workable, what was not workable, and just share that with the Public Policy

20 team.

21 Q Do you recall how far in advance you had an opportunity to review before it

22 became public?

23 A I don't remember how far in advance.

24 Q Do you recall the -- when approximately this occurred, either when you first

25 reviewed or when it became public?

1 A I would estimate it was either late 2022, early 2023 when I would have seen
2 a draft.
3 Q And do you recall what your initial reaction was when you'd seen that
4 version of the draft?
5 A I think I remember thinking, great, we're doing many of these things already.
6 So it looks good for me personally looking at it. Processwise, it meant to me, like, Oh,
7 I'm not wide off the mark if they're getting this type of input from other people. So I
8 saw quite a bit of alignment. I told Public Policy Team that, that, yeah, we're already
9 doing so much of this.
10 And then I also identified the areas that we weren't doing and just saying, just
11 calling out we haven't done, for example, external testing. But I'd actually been asking
12 for external testing resources for a couple of years. So I said, I actually like that idea. I
13 had wanted to do it myself.
14 So there were the types of comments of here's my experience, here's what's
15 worked well for us, or we haven't done this before. That looks interesting.
16 Q And what does external testing mean in this context?
17 A So our internal testing involves not just our dedicated team for testing on
18 Responsible Innovation. We also work with trained Googlers from across different
19 teams and otherwise to help us kind of expand the pool of testers. So that's our
20 external testing. We've been doing that since my Trust and Safety days when I led
21 testing team. That's internal testing.
22 External testing means they're not Google employees. We would have to source
23 external people to get a broad representative -- representation of our users because we
24 also have to recognize Google employees aren't always representative of our global users.
25 And also my background in user research shows that you have to listen to as many people

1 as possible.

2 So external testing could allow for more broader representation of our global

3 users. So external people testing our product would be external testing. But as I said,

4 at least in my time, we hadn't got to do that.

1 [11:00 a.m.]

2 BY [redacted]

3 Q Whether internal testing or external testing, was there an analogous

4 application for things within the company that are still in the model stage, not yet in the

5 product stage?

6 A Sorry, could you rephrase what you said?

7 Q Sure, sure. So you said --

8 A Sorry.

9 Q You were just -- your previous answer was referencing internal and then,

10 potentially, later external testing as it relates to products.

11 A Yeah.

12 Q Is it the same language, or is there an application to models? Like, so we

13 are looking at, earlier, development models and product.

14 A Yeah. Yeah, I wasn't as close to the model, so my understanding was that

15 there was internal testing. Again, I don't know about external testing.

16 Q Okay.

17 Who was your main point of contact, if you had one, of who worked on Gemini

18 while it was in the model stage?

19 A At the model stage, it was [redacted], was a product manager on the

20 Responsible AI team. So they are -- sorry. We were Responsible Innovation, which

21 was up in governance. Our partner team was Responsible AI, which was a technical

22 team. She was a product manager on that team. And she worked most closely with

23 DeepMind.

24 And for Gemini, I don't think I had gotten a single name for DeepMind Gemini.

25 So she was the one person that I'd known. And she was closer to our world in the

1 Google side.

2 Q Okay. Who was the head of the Responsible AI team while you were

3 there?

4 A [redacted], director of product management.

5 Q And from fall 2018 until mid-December 2023, how frequently would you

6 work with her?

7 A That's a long timeframe.

8 Q Yeah.

9 A Like, fall to early 2020, I don't if we worked together very often. And I think

10 in 2021 we had worked together more frequently. There was -- sorry. I'm trying to

11 remember the order for her.

12 We did not have regular meetings until 2022. Then we started having regular

13 meetings. And then we discontinued them. It was better our teams were meeting

14 [inaudible]. So, then, in 2023, we had maybe biweekly group meetings where we'd

15 share what our teams were working on.

16 So, yeah, it was part of a group thing we met.

17 Q In 2022 and 2023, did you get a sense of how big her team was?

18 A I think she was around 10 people.

19 Q So your answers earlier talked about internal testing. How many folks

20 within the company, approximately, were able to conduct internal testing as it related to

21 AI principles?

22 A About 1,500.

23 Q Other than the external testing, were there parts of the White House draft

24 that either your team hadn't applied or hadn't considered?

25 A Well, similar to the AI principles, I wasn't just looking for my team's work but

1 my understanding of what was happening across the company.

2 An example of that is one of the commitments [inaudible] like cybersecurity

3 testing. My team wouldn't have done that, but I know we've had security testing teams.

4 So my comments weren't just specific to my team.

5 But, no, the external testing was the only one off the top of my head that I didn't

6 even think there was maybe another team at Google doing it.

7 Q Uh-huh.

8 When sending your response or initial reaction back to the Government Affairs

9 and Public Policy team, do you recall if that was, like, an email? A written work

10 product? Did you have a meeting with them?

11 A I think they shared the draft on that Google document where I just put my

12 comments in the document.

13 Q Okay.

14 [redacted] Can we go off the record, please? Our first hour is up.

15 [Recess.]

16 [redacted] We can go back on the record.

17 Thanks, [redacted], for being here today. Thank you again.

18 EXAMINATION

19 BY [redacted]

20 Q I want to start a little bit just to cover your background a bit more.

21 You worked at Google for over 15 years. Is that right?

22 A Seventeen.

23 Q Seventeen. Okay. And we've talked about how you founded the

24 Responsible Innovation team in 2018?

25 A Correct.

1 Q Before that, you also helped found Google's Ethical Machine Learning team.
2 Is that right?
3 A Yes, ma'am.
4 Q What did that team do?
5 A It essentially was the precursor to Responsible Innovation. It did testing of
6 what became ethical principles.
7 Q And prior to that, you also co-founded and led Google's initial machine
8 learning fairness efforts. Is that right?
9 A Correct.
10 Q And when did those efforts begin?
11 A My efforts began in around 2014, but the company ones I think I would refer
12 to there was probably around 2016.
13 Q So is it fair to say that you've been working in this area of AI responsibility
14 and ethics for about a decade?
15 A Yep.
16 Q And you've been working on it just as long as Google has?
17 A Correct.
18 Q In 2018 we talked about how Google released its AI principles, right?
19 A Yep.
20 Q And what role did you play, again, in the development of those principles?
21 A I was one of the members of the working group. And given my role at that
22 time was based on my user research work in Trust and Safety, I led the initial research
23 into what the AI principles categories could be. So I did the initial research for what
24 became the AI principles.
25 But, as I described earlier, my role kind of ended early 2018 as it moved into final

1 writing, given I'm not a writer.

2 Q And before we go much further, I just want to make sure we have a common

3 understanding of what we're talking about when we say "artificial intelligence" or "AI." I

4 know that you're not an engineer, but could you just explain generally what we're

5 referring to what we say "AI"?

6 A So there certainly isn't a single definition, either in industry or in Google.

7 But how I think about it is, artificial intelligence is the science of making technology smart.

8 And, generally, AI learns from training data trained on the world and then makes

9 predictions on outcomes.

10 Q And we've also talked a little bit about generative AI. Could you explain

11 what that is?

12 A Yes. So generative AI is slightly different than AI. Where traditional AI

13 learns from data that it's seen and it makes a prediction based on it, generative AI, as per

14 its name, generates new data. So it may not have seen it before; generates it. It's still

15 based on predictions and otherwise, but it can generate things that maybe we haven't

16 seen before.

17 Q You mentioned -- or we talked a bit, sorry, about the AI principles in the last

18 hour, and I want to go a little bit more into them in detail.

19 You're clearly very familiar with them, but I want to introduce as our exhibit 1 the

20 June 7th, 2018, blog post that first announced the principles.

21 [[redacted] Exhibit No. 1.

22 was marked for identification.]

23 BY [redacted]

24 Q Are you familiar with this post?

25 A Yes.

1 Q I want to turn to the principles section. But before we start going through
2 them, do Google's AI principles only apply to generative AI, or do they apply to all types of
3 AI technologies?
4 A They apply to all custom AI technologies. Why the distinction is necessary
5 is, we have a lot of off-the-shelf AI technologies, where the control is in generally
6 commercial partners' hands. And we don't dictate commercial partners' usage.
7 Q So any AI that Google --
8 A We build for our users, yeah.
9 Q And, generally, what was the goal of the team when researching and
10 authoring these principles?
11 A The goal of the working group was to -- what was originally shared with us
12 was to define the ethical charter for the development and deployment of advanced
13 technology. So to define an ethical charter for development of technology.
14 Q Have these principles substantively changed since their release in 2018?
15 A The principles have not changed since 2018.
16 Q So, walking through each in a bit more detail, the first is, "Be socially
17 beneficial." Is that right?
18 A Correct.
19 Q Could you explain generally what that means?
20 A It generally means that any technology we provide should be helpful, useful
21 to individual users, consumers, businesses, the world more broadly. So we don't just
22 take for granted, is also what this principle is saying, is that we need to deliberately
23 ensure that our technologies are helpful, useful, and beneficial.
24 Q Do you think it's important that this is the first principle of the list of 11?
25 A As I said previously, they're all equally important for my team. But as an

1 anchor, it's a pretty broad one. So starting broad is always useful.

2 Q And why was it important for Google to hold this principle?

3 A The mission of the company is to make helpful and useful products, and so

4 we wanted to reflect that in the principles, that we are continuing the mission of being

5 socially beneficial.

6 Q And talking about the work of your Responsible Innovation team, how would

7 this principle be operationalized?

8 A So, usually at the input stage, when a product team or their council submits

9 to my team for a review, they have to state this.

10 And so it's more the work on the product team to make their product socially

11 beneficial. And my team has to see and verify that that sounds like it's going to be

12 useful for the world. But we don't do additional work on it.

13 Q The next principle is, "Avoid creating or reenforcing unfair bias." Is that

14 right?

15 A Correct.

16 Q And I know we talked about this in the previous hour, but could you just

17 explain again what that means?

18 A So we have found in our data that our data reflects real-world biases. So it

19 doesn't mean that we can make all of our products fully fair, but we have to actively work

20 to make sure that they're not unfair in ways that we can investigate and protect against.

21 So this wording was specific, about not creating or reenforcing unfair bias,

22 because unfortunately no one has solved the fact that we can't always avoid reflecting

23 unfair bias. So it's acknowledgment of our role versus, kind of, the world's role in

24 creating bias.

25 Q And could you explain, is there a risk that's associated with AI specifically

1 that creates an extra risk of creating or reenforcing unfair bias? Or why is this important
2 related to AI?
3 A So any technology can reenforce or create bias, but with AI, because
4 AI -- and one of the biggest components of AI is machine learning, where it learns from
5 data, so it will learn from existing biases in the data. And given the scale at which AI can
6 be deployed, it could mean that these biases then are scaled and exacerbated.
7 It doesn't mean they always will, but, again, these principles are trying to get
8 ahead of issues and prevent them. And so AI, we found, could exacerbate existing
9 biases.
10 Q And you mentioned that this principle was important because Google
11 wanted to make sure that all users, regardless of identity or their access to technology,
12 could access Google's products. Is that right?
13 A Correct. It makes business sense that our products would work for
14 everyone.
15 Q And that applies to users of different political beliefs?
16 A Anyone.
17 Q In your experience, when people were coming to your team with product
18 ideas, did they generally intend to create or reenforce bias in their products?
19 A Never. Engineers and product managers were essentially raising their
20 hands, saying, "Help me understand something I may not see or I may not understand."
21 Because they never intended, but we as a company had previous examples where our
22 products had not met our goals despite the best intentions, and so our product teams
23 recognized they could be next.
24 Q So you found that it was important to have this principle even though
25 nobody in the company, in your experience, was necessarily trying to create or reenforce

1 unfair bias?

2 A No, we have no experience of anyone trying to, but we know that the data,

3 to no fault of the engineers, could create bias.

4 Q How did RESIN, or your Responsible Innovation team, operationalize this

5 principle in its work?

6 A Yeah. So all 11 principles were reviewed in our work, but specific to this

7 one, we conducted testing -- so testing for fairness, which we had built on the same

8 concepts of security testing.

9 So, when I was building the team for testing, I'd worked with the security experts

10 to understand how they had set up testing, and then set up testing first in Trust and

11 Safety. And part of the Trust and Safety testing became fairness testing. And then

12 that was the team I described earlier as moving over to RESIN, Responsible Innovation,

13 and continuing that testing.

14 So testing was the main operationalization of this principle.

15 Q And what did that testing -- what might that testing show? Or what was

16 the purpose of that testing?

17 A The testing was to understand if a product was more or less likely to produce

18 potential harms based on bias.

19 As an example, for our image-based products, we wanted to make sure that our

20 image-based products were inclusive of our global user base, and so we would test to see,

21 are different groups represented?

22 Q So the third principle is, "Be built and tested for safety." Is that right?

23 A Correct.

24 Q Could you explain what that means?

25 A Yes. So this is the traditional safety and security that Trust and Safety and

1 our security organization would run. So this was one of the principles that my team
2 would pass over to experts. We would not hold ourselves accountable to this.
3 But, basically, it is to ensure that there is not harmful content, that users are not
4 damaged either financially or economically in any way by our technologies. So there's a
5 lot of testing for essentially financial protection, security-of-our-systems protection,
6 infrastructure protection. So, again, that moves closer into our cybersecurity work. So
7 this principle captures many different facets of safety.
8 Q What are some examples of those risks of harm that you were trying to
9 avoid?
10 A Specific to safety or overall?
11 Q Specific to safety for now.
12 A Specific to safety would be nefarious actors trying to either get into Google's
13 systems or potentially nefarious actors trying to get into our cloud customers' systems to
14 extract private information, extract financial information. And so ensuring that our
15 infrastructure, technical infrastructure, could protect against external attacks.
16 Q And you said that your team used the Trust and Safety experts to
17 operationalize this principle. Is that right?
18 A That's correct.
19 Q The fourth principle is, "Be accountable to people." Is that right?
20 A Correct.
21 Q What does that mean in general?
22 A It means, obviously, a lot of different things to different people. We have
23 expanded it since the initial writing.
24 So, as I explained earlier, some of the key concepts of being accountable to people
25 is for our technology to be explainable, so end users can understand what is happening in

1 the technology; that the technology should be interpretable, so that developers designing
2 the technology can interpret the results and fix bugs or otherwise; that it's contestable,
3 that people can either contest decisions or appeal decisions, which was the wording we
4 originally had here; and then "opportunities for feedback" means that users, either
5 through surveys we send out or through our Google feedback channels, can send us
6 feedback that then the product teams would act upon.
7 And so we are being accountable to our users; we're being accountable to
8 external people. And so a lot is captured in that one.
9 Q Why was it important to Google to make sure that its products were both
10 accountable to people but also explainable and interpretable?
11 A A number of different reasons. I'll start with -- because I'm biased, coming
12 from the Trust and Safety organization -- it builds trust when users feel they have some
13 control. When users feel they have a say in our technology, they're more likely to trust
14 it. And if something goes wrong, that they don't understand it, being able to contest
15 that decision or even just share feedback on that decision makes them feel more heard
16 and understood.
17 So, from a user perspective, it's important to them to trust the technology.
18 Then, obviously, from a company perspective, when users trust our technology, they're
19 more likely to use it.
20 Q And what about the explainability and the interpretability aspects?
21 A So, quite different.
22 The explainability aligns with what I was saying, that if users understand the
23 technology -- the example I use is, in Google search results, if an ad appears, not many
24 people like the ads, so they can click on it and say, why did this ad show? So a user has
25 control to click on it. It'll show the reason. Maybe you searched on something similar.

1 So that's a very basic explanation.

2 But then there's another link that says, want to hear more or have control? You

3 click on it, and it brings a whole page of the options of how ads are aligned, which

4 explains to the user exactly why that ad appeared. So that's both explanation and

5 control.

6 So explanations is for an external user and important for trust.

7 The interpretability for developers is developers understanding the technology so

8 they can debug it. If something is going wrong, how to understand it enough that they

9 can fix relevant issues. And AI, being an advanced technology, is not as simple as going

10 into a line of code and maybe fixing it. It's really how it's learnt over time. It can be a

11 lot more complex to interpret.

12 So, again, just claiming deliberate steps for interpretability was important in the

13 principles.

14 Q How did your team operationalize the principles of accountability?

15 A Some aspects, something like explainability -- because I had a user

16 researcher on my team where her expertise was in explanations and UX, so user

17 experience on a product. So she handled a lot of our explainability work, conducting

18 research, advising product teams.

19 But things like interpretability is more an engineering problem, so engineering

20 research teams handled interpretability.

21 And then for feedback and appeals, Trust and Safety owned the channels of

22 feedback and appeals, so they handled that. So it wasn't one team.

23 Q The fifth principle is, "Incorporate privacy design principles." Is that right?

24 A Correct.

25 Q What does that mean generally?

1 A Protecting user data. And, again, we had a whole established organization
2 who handled everything related to privacy. So they were everything from a research
3 organization to the technical solutions team and user experience. They grouped all of
4 those steps.
5 Q Why is that principle important to Google?
6 A Privacy is a key pillar of our technology. Again, it goes back to trustworthy.
7 Our users have to trust our technology, know that we'll keep their data private, in order
8 to use our technology.
9 Q The sixth principle, at the bottom of that page, is, "Uphold high standards of
10 scientific excellence."
11 A Yes.
12 Q We talked about this also a little bit before, but could you explain generally
13 what that means?
14 A So scientific excellence is just making sure that not only is Google keeping
15 itself to the highest standards of AI advancement -- obviously, we want to produce
16 technology that's exciting and useful for everybody -- but it also is trying to take into
17 account that also it needs to be developed in the right way and following established
18 principles, whether they are engineering best practices or scientific method, as outlined
19 here, and not essentially perpetuating junk science or things that -- around this time,
20 we'd seen some stories of AI being claimed to solve things that it cannot solve. And so
21 trying to avoid and note that not every AI solution is really a solution.
22 Q How did at the time or how does Google ensure that the standards it's
23 upholding are scientifically rigorous and accurate?
24 A I'm not on the engineering team, so this is one of those that the engineering
25 team handled.

1 Q And your team generally turned to the technical experts for this principle?
2 A Yes. And we sometimes, depending on the riskiness of the product, would
3 ask for validation that another engineering team had approved it, or if it was lower-risk,
4 we wouldn't necessarily need validation. The team themselves would be like, "Of
5 course I followed these engineering practices." Yep.
6 Q And, finally, the seventh principle is, "Be made available for uses that accord
7 with these principles." Is that right?
8 A Yep.
9 Q The second sentence says, "We work to limit potentially harmful or abusive
10 applications." Do you see that?
11 A Yes.
12 Q Can you explain generally what that means?
13 A So that sentence -- but, also, it's very tied to the first sentence, "Many
14 technologies have multiple uses" -- accounts for the fact that AI technologies are what's
15 known as dual-use, that they can be used for good or harmful purposes and the exact
16 same thing can be used for good or harmful.
17 So, when Google makes its technologies available, we obviously don't want
18 harmful applications, but when we make it available, as captured in the first statement,
19 that's when we make it available to commercial partners. And we try and not take a
20 very hands-on or heavy approach with our commercial partners. We trust them that
21 they know their business better than us. But we do believe that we should help them as
22 much as possible to be responsible and build in guardrails as appropriate.
23 So we will work to build those guardrails, but ultimately it will be the commercial
24 partners' decision, what to use the technology for.
25 Q So the principle about being made available applies more to Google's

1 partnerships or selling products to commercial partners?

2 A Yes, not to the ones that we would deliver directly to users, which we have

3 that full control over, but for commercial partners or open-source. So commercial is the

4 biggest bucket, but we also make some of our research open-source.

5 Q We talked a little bit earlier about specifically safety and security harm, but

6 you had asked should you talk about harm generally.

7 Could you tell us about how these AI principles work generally to mitigate the

8 harm that potentially could be caused by artificial intelligence technologies?

9 A If I understand the question correctly, the AI principles, a part of this overall

10 harm prevention, was based on the research that we'd done at the time we were writing

11 the principles. And it took into account issues within Google's technology that we'd

12 already seen needed to be addressed but needed to be addressed at scale, essentially,

13 more formally.

14 My user research had also shown that external research and groups had identified

15 areas that they were concerned about AI, and so needed to take into account those

16 harms, those, kind of, other people saying, "This is the harm I'm concerned about," kind

17 of, "Google should take that into account."

18 And then the third group was direct from our users. From my years in Trust and

19 Safety and having access to the feedback channels and otherwise, I heard directly from

20 users of where they were scared about AI or otherwise. And so hearing about what

21 they believed harms were informed what we then considered the harms that we should

22 work against.

23 So it was really, kind of, external input from a wide range of sources that helped

24 us define harm. And we were very conscious that we didn't necessarily want to define

25 harm just for ourselves, just for Google, and that we wanted to make sure we were

1 defining it for users, for society, and using their language and concerns as primary input.
2 Q And you said this was the research done in the late 2017, early 2018 time
3 period?
4 A Yes.
5 Q What did Google -- or, what did your research show that some of those
6 potential harms could be?
7 A Well, in the first bucket of our own experiences, there had been an incident
8 in 2015, which became known as the "gorillas and Photos incident," where Google Photos
9 were supposed to label people by their activity or otherwise, and it labeled Black people
10 as gorillas, which obviously was offensive and was not the intention of the
11 engineers -- back to our previous point of, they didn't intentionally state this unfair bias.
12 And so we had learned from experiences like that to take into account that we
13 want to prevent that type of offensive content, and harmful.
14 Our research had also shown that people were fearful that AI would exacerbate
15 essentially how unknown technology is, which goes back to the question around trust,
16 that AI appeared kind of almost fundamentally scary to some people. And so something
17 like "be accountable to people" was, how do we bring people along this AI journey with
18 us?
19 So there were practical things we saw in our research that fed into what we
20 needed to work against.
21 Q Are you familiar with the term "deepfakes"?
22 A I am familiar.
23 Q Could you explain your understanding of what that is?
24 A Deepfakes are -- my understanding -- I haven't worked on deepfakes -- but
25 my understanding of deepfakes is when AI technologies are created to imply something

1 happened to a real person when it didn't.

2 Q Is that another example of a harmful application or a potential harm from

3 AI?

4 A That's a potential harm, correct.

5 Q Are you familiar with an incident at the beginning of this year where

6 pornographic AI-generated images of Taylor Swift were spread on social media?

7 A I read that in the news, yes.

8 Q Is that another example of a potentially harmful application of AI?

9 A Yes.

10 Q Is that kind of application of AI something that Google's principles are hoping

11 to address or prevent?

12 A Yes, yeah, covered in safety and harm. Uh-huh.

13 Q And why is it important generally for Google to limit the potential harm of AI

14 technologies that it custom develops?

15 A We are a business. If we harm our customers, we will lose customers.

16 And so, from a business perspective, it is the right thing to do, to make sure our

17 technology is safe, useful, inclusive of as many people as possible.

18 Q And it's fair to say that Google wants to be inclusive of as many as people as

19 possible to get as many customers as possible?

20 A Yes.

21 Q Do you think that the AI principles help Google accomplish that goal?

22 A I do.

23 Q During your work on the working group with the AI principles, did anybody

24 from the U.S. Government tell you that you had to adopt AI principles?

25 A No.

1 Q Did anyone from the U.S. Government tell you what to put in the AI
2 principles?
3 A No.
4 Q Did Google adopt its AI principles as a result of coercion or pressure from
5 any external stakeholders?
6 A No.
7 Q You mentioned earlier that you founded the Responsible Innovation team
8 because these AI principles needed governance. Is that right?
9 A Yes.
10 Q Could you explain what you meant by that? What do you mean by
11 "governance," and why do they need them?
12 A I'll start with the second question first. Based on the same concept of
13 "engineers don't intend to cause harm, don't intend to be unfair to anyone," that process
14 can help ensure that that's true, that we can make sure that we're building guardrails into
15 technology.
16 So, similar to AI principles, I don't believe anyone at Google was trying to violate
17 or never wanted to follow the AI principles, but we're not all experts -- like, I'm not an
18 expert in privacy. If I was building a product, I would need help to understand what
19 privacy is. So the principles help establish what to look out for and what teams to work
20 with.
21 So that was the need for it, is the AI principles are meaningless if they're just up
22 there and people don't know how to apply them. So that was the starting point, really,
23 to make them meaningful.
24 And then my governance approach -- again, coming from a user research
25 background, I conducted a lot of research about what does good governance look like and

1 has anyone built anything similar in the responsible-AI space before. They hadn't. But,
2 instead, I built it on good governance of risk management. So I conducted a lot of user
3 research on what does good risk management look like. And then, as I explained in a
4 previous answer earlier, what I initially set up had to go through a number of iterations
5 before we got to a more steady state. So governance was built on existing risk
6 management governance.
7 Q And you talked a bit about the actual process that your team followed, and
8 you were responsible for designing those processes, of the AI review. Is that right?
9 A The original processes. Once I had a team, I had people better than me
10 helping design the process, yes.
11 Q And that process included people from all around Google being able to
12 submit their products for review by your team?
13 A Correct.
14 Q What kinds of products were submitted for review? Was it just generative
15 AI? Was it something else?
16 A No. We got products from across different product areas. An example of
17 another product that went public maybe, like, the year before was the Pixel Camera.
18 There had previously been cameras in our Pixel phones before, but they didn't work as
19 well for everyone. And so we engaged with the product team to help them on their
20 testing, and the camera ended up winning awards for how it had actually become more
21 inclusive of many different types of people.
22 So Photos -- and the Geo team, as they were coming up with their new AI versions
23 of directions, point A to point B, we were testing that their AI was accurate. Obviously,
24 that one was important. So it was more their expertise in accuracy, but we would just
25 help them test. So, in that type of case, we were more like a consultancy testing team.

1 It may not be our area of expertise, but we could kind of try and break the product under
2 their guidance. So -- and a number of different products.
3 Q And when a product was submitted to your team for review, if you were
4 looking at a principle that your team didn't necessarily have expertise in, how did you
5 refer it to another team for a review of that principle?
6 A Honestly, it was mostly personal relationships. Some members of my
7 team, like myself, had been in the company a number of years, and we had our network
8 of people to simply ping quickly and be like, "Jump into this meeting" or otherwise. It
9 was quite informal, some of the transfers.
10 More formal was actually the privacy one, just because they were so long
11 established and formal. We knew to get the product team to submit in the privacy
12 team's forum, which is equivalent to ours.
13 Q You mentioned in 2023 your team conducted reviews of about 500 products.
14 Is that right?
15 A Correct.
16 Q We talked about this a little bit in the last hour, but it wasn't completely
17 clear to me. Could you talk about the difference between be a model and a product?
18 A Yeah. So how we think about the AI development lifecycle or generative AI
19 development lifecycle is, there's data, model, and then product.
20 So the data set, as it sounds like, it's just a collection of data. Either researchers
21 create that themselves or product teams do.
22 The model is using that data to try and achieve a general aim. An example might
23 be, I want a text model that's able to come up with text sentences. And so this model is
24 trained on text data to come up with a text model.
25 But if you actually want to use that model for a particular use case, like I want this

1 text to be used in a conversation agent, you then have to do training and fine-tuning for
2 that specific use case, because a general text model is a bit too broad and not very useful
3 for the use case.
4 So then it goes through other changes to become, then, a product, which is
5 user-facing. A model generally isn't user-facing; it's only researchers.
6 I generally use an analogy that it's like a car with a car engine. The model is the
7 engine. And then the car is the product that the engine is put into, where you can swap
8 out that engine as you get it. You can also change your car model, and then maybe that
9 same model goes into the car. And so there's a bit of, kind of, almost modulated
10 approach to it.
11 Q So the same model could be used in couple of different products?
12 A Yes.
13 Q And a product might change which model it's using?
14 A Yep.
15 Q Did your team review the user-facing products or the models?
16 A We were user-facing products, yeah.
17 Q You also mentioned in the earlier hour the Responsible AI team. Could you
18 explain how their work was different from your team's work?
19 A Yeah. So I generally described our relationship as kind of like we were the
20 bookends of our partnership.
21 So we identify issues through our testing or through our AI principles review.
22 When we've identified issues, they would go to the product team and the Responsible AI
23 technical team to fix the issues and work on solutions. So we handed it over to them.
24 And then once they said that they were done with those fixing solutions,
25 sometimes we would validate, again, depending on -- we took a risk-based approach, so it

1 would depend on the riskiness. If it was a higher-risk product, we would validate them
2 at the end. So it'd come back to us then, and we'd say, yeah, we've run more tests, it
3 seems okay or within an acceptable band.
4 So that was the relationship. They were the technical team working with the
5 product teams that we handed our work over to, and then sometimes they would hand it
6 back.
7 Q And, lastly, you mentioned the AI Responsibility Council that your VP
8 convened. Is that right?
9 A My SVP.
10 Q Okay. Could you explain what that was?
11 A Yeah. So the AI Responsibility Council was a council of executives who
12 came together often -- I think I said monthly, but, again, it was mostly monthly -- and that
13 they would come together to discuss the current AI topics and any potential flags coming
14 from my team, from the Responsible AI team, or from the product teams. And so they
15 would convene to discuss what's being done about it, what are those concerns, and what
16 are the next steps.
17 [redacted] We can go off the record.
18 [Recess.]
19 [redacted] Can we go back on the record, please.
20 BY [redacted]
21 Q You stated earlier that your team provided an ethics training for Google
22 product engineers. Is that correct?
23 A Correct.
24 Q And you also stated that the content of that training eventually shifted from
25 "what is ethics" to more concrete case studies of what the ethical thing is to do is in a

1 given situation. Is that right?

2 A Correct.

3 Q Do you recall what those case studies were?

4 A I recall two of them.

5 One was on facial recognition and the broad questions or the implications of facial

6 recognition in different use cases. So we discussed when facial recognition might be a

7 good idea, when facial recognition may not be.

8 And the second example was using the Google Photos and gorillas incident

9 because it was a real one, and so people could see not just how to wrestle with those

10 questions but the reactions when we got it wrong.

11 Q And was any document created with regard to these case studies, like any

12 internal document that Google produced?

13 A For facial recognition, it wasn't shared in the training but there was a

14 document. Because we had publicly announced we would not make a general-purpose

15 facial-recognition technology available, and so we had an internal document

16 accompanying that announcement publicly.

17 For the Google Photos one, I'm not familiar with documentation. It really was a

18 case study to be discussed in the training.

19 Q And who put together these case studies?

20 A My ethicists, philosophers.

21 Q Which Google teams did your team provide these trainings to?

22 A A number of different teams. I think our last numbers was, like, 10,000

23 Googlers had gone through our trainings. I believe, volume-wise, Cloud was the

24 organization with the largest number of people who went through our training.

25 Q Would that include the AI product teams?

A Yes.

Q You stated that there was an official machine learning fairness program at Google. Is that correct?

A There had been, yes.

Q There had been. And that officially began in 2016?

A By our definition of "official." So, yes, me and a couple of people who had been working on user research in the space of, again, what happened with the gorillas and Photos incident, we essentially kind of found each other and decided that we should conduct research together.

Q And you said "had been." For how long did that program last?

A Until about 2018, when then the AI principles launched, and so then it became just one of the 11 efforts that we then supported.

Q Who was responsible for creating that program?

A The ML fairness one? Me and the three people that were doing similar research.

Q Who were the other two people?

A [redacted], [redacted], and [redacted].

Q [redacted] --

A [redacted] [redacted].

Q What role did you play in the creation of the program?

A Again, given my operations background, I started working on potential policies and processes that teams could follow to test for fairness issues.

Q Can you describe some of those policies and processes?

A So the process was testing. I had already started investigating testing products from the Trust and Safety perspective, and so sharing that testing was a good

way of identifying if there were issues with different products.

And so the testing program became the main process that we designed for teams to essentially plug-and-play themselves. I didn't yet have a full testing team myself, and so I designed the process that teams could follow themselves.

Q When the program kind of ended in 2018, did it shift or did it transition to the Responsible Innovation program, or did it just terminate?

A It essentially got subsumed by the work on principle No. 2, "Do not create or reenforce unfair bias," because of the research and testing that we had done. It became how we did that principle. So it was more subsumed as part of that.

Q So it's fair to say it's ongoing -- that effort is still ongoing through that principle?

A It's still an open research question, correct.

[redacted] So is it the same personnel, largely, who went from working on the machine learning to the No. 2 principle on AI? When you say it was subsumed, was that --

[redacted]. Yeah. No. The people I named -- [redacted] is no longer at the company, and [redacted] pretty quickly moved into a different role and discontinued his work on that effort.

BY [redacted]

Q What's the difference between responsible AI or machine learning fairness and trust and safety?

A Team-wise or definition? Sorry, could you clarify?

Q You can start with a definition. What does Google mean with those different terms?

A So the different terms were? Sorry.

1 Q Yeah, if you could just distinguish between responsible AI and machine
2 learning fairness and trust and safety, what each of those mean, or how they're different
3 from one another.
4 A Okay.
5 Machine learning fairness is a subset of responsible AI because, because
6 responsible AI, in general, is the concept of, kind of, ethical principles of AI, of which
7 fairness is just one of them. So ML fairness is a subset of that.
8 And then trust and safety traditionally has meant more content safety, content
9 moderation, and things like that. So it's more on the content side, while responsible AI
10 tries to be on the, kind of, process side, how are things developed. And trust and safety
11 is on the what will be seen by users.
12 Q Does responsible AI involve any aspects of looking at the content, or is that
13 reserved for trust and safety?
14 A Yeah, trust and safety has existed longer than the responsible AI effort, so it
15 remains in that org.
16 Q Earlier, you mentioned a Google AI Responsibility Council. Is that correct?
17 A Correct.
18 Q Is that different than Google's Advanced Technology Review Council?
19 A It is the next version of it. The ATRC, Advanced Technology Review Council,
20 was the original version of AIRC, which became the AI Responsibility Council.
21 Q So it's now called the AI Responsibility Council.
22 A Yes.
23 Q Okay. Gotcha.
24 [redacted] Any change in the scope of responsibilities or focus for the new
25 version of the council?

1 [redacted]. The scope, yes, accounted for generative AI. Previously, ATRC was
2 AI-focused, and so AIRC accounted for our generative AI developments.
3 BY [redacted]
4 Q Which Google products did your team review and provide feedback on that
5 have gone public? I know you've mentioned the Pixel Camera. And Google Maps?
6 Or Geo? Or --
7 A Yeah, there was a number of Geo features --
8 Q Uh-huh.
9 A -- not a whole new product. But we also, because it's public-facing,
10 features also would fall under my team's scope. The one I remember is the efficiency
11 or -- I think it was about -- like, reducing your carbon footprint was one of the Geo
12 projects they used with AI. My team consulted on that. I don't remember the rest of
13 Geo.
14 So Camera, Photos. Another product that comes to mind is, our Google Magic
15 Editor in Photos was a big project. My team had spent a lot of time on Magic Editor.
16 And we helped on some of the initial generative AI features in Docs. So, when
17 generative AI was put in as an experiment in Google Docs to summarize content, we had
18 consulted on that project as well.
19 There was many more. I'm sorry. Yeah, where my team was directly involved
20 with the product team, they're the ones that come to mind.
21 Q Could any products be approved to go public without being reviewed by
22 your team?
23 A They could. We took a risk-based approach as a company, and so, given
24 our training, we essentially were training product teams to make these decisions
25 themselves. But, as I explained earlier, sometimes there were just areas that an

1 engineer was like, "I'm not trying to do this thing, but I don't know if I am. Could you
2 help out?"
3 So, yes, they certainly could go without my team. We were trying to scale our
4 work. We were only 24 people, and, in a 180,000-person company, we wanted to train
5 as many people to self-service -- what we called it -- themselves.
6 Q And, to your understanding, was Kent Walker involved in the Advanced
7 Technology Review Council?
8 A Yes.
9 Q What was his role?
10 A He was co-chair.
11 Q And what did the council do? Could you explain a little bit more about it?
12 A So they would discuss topics coming from my team, from product teams, to
13 both kind of educate themselves what's going on and share suggestions about, like, if my
14 team was having trouble resourcing a particular project, help us prioritize our work.
15 But it was mostly a knowledge-sharing council. It was a pretty multidisciplinary
16 group, and we wanted to keep people informed.
17 Q Would things be escalated to that council? How did it come before the
18 council?
19 A Some things were, but they were mostly legal escalations that would go to
20 that council. And so my team wouldn't handle the escalations in most cases.
21 Q Do you recall what kinds of escalations?
22 Mr. Halse. This is, I think, getting into some potentially privileged issues. I
23 know you've been mindful of that so far, but I just wanted to raise that for the record.
24 So, to the extent you recall, [redacted], not being privileged or having legal opine on
25 what --

1 [redacted]. Yep.

2 Mr. Halse. -- got escalated, I think that that's okay.

3 [redacted]. An example of a non-privileged thing that was escalated was the AI

4 principles. People had discussed whether they should be updated to take into account

5 generative AI or were they still fit for purpose. And so a council like that would be the

6 ones who discussed it. And I brought my team's thoughts, my own thoughts, and

7 shared that with the group.

8 So, as an example of the type of thing that -- that would be a company-wide thing,

9 to change our principles -- that council was who would discuss it.

10 BY [redacted]

11 Q When did that discussion occur?

12 A Around March of 2023.

13 Q Do you recall in that discussion if there were any principles in particular that

14 people were concerned the principles may not apply the same to generative AI?

15 A The one that comes to mind is "Be accountable to people," No. 4. As I

16 explained earlier, it includes a lot of different things that we've learnt can be

17 encompassed in that principle, so it feels that we're putting a lot in a single principle. So

18 there had been feedback that maybe we should break that out and make it specific

19 that -- like, explainability. Telling people they're interacting with a generative AI model

20 seems more important than ever. Maybe we need to take that into account in that

21 principle. So that principle I remember being called out.

22 Q Do you recall if there was any discussion specifically to the scientific

23 excellence or accuracy principle?

24 A I actually don't remember that being called out.

25 Q What about the unfair bias principle?

A That wasn't called out.

[redacted] To your understanding, was Kent Walker involved in overseeing the design, development, or deployment of Gemini.

[redacted]. I don't know.

BY [redacted]

Q We talked quite a bit about the internal AI principles that Google developed and published.

Are there any voluntary AI-related frameworks or commitments that the company has chosen to adopt or sign that you're aware of?

A So the White House commitments were the most recent ones I think I recall.

In general, the only other ones I might be familiar with is the ISO global standards. Our engineering organization had adopted the ISO engineering standards, and I remember being asked to consult on the ISO 4201, on the AI trustworthy standard. I'm not sure we've committed to that, but we partake in ISO standards discussions.

Q Do you recall what your initial reaction was reviewing the AI trustworthy standards for the --

A ISO?

Q -- ISO global?

A Very technical. I didn't, at that time, think my team was going to be the best place to respond, because they weren't social science standards, so they didn't take into account things like responsibilities, transparency. It was very technical. It was, here is how to go from, like, data to model. So I remember that being my initial reaction, thinking maybe my team won't be helpful here.

Q Uh-huh.

And what about the White House commitments? Were those more technical, or

1 were those closer to the social sciences and, kind of, responsibility standards?

2 A They're very high-level and closer to our, kind of, social-science/trustworthy

3 goals, yeah.

4 Q Are you familiar with the executive orders that the Biden administration -- I

5 guess this was the Biden White House -- has put out on responsible AI?

6 A I'm aware of them, yeah.

7 Q Did you have any discussions with anyone in the executive branch prior to

8 those executive orders being issued?

9 A No. I don't --

10 Mr. Bopp. Relating to the executive order?

11 BY [redacted]

12 Q Relating to the executive orders.

13 A Not directly. My engagements were through our Public Policy team,

14 "engagement" being the comments that I mentioned earlier.

15 Q Prior to the engagement, your comments, on the draft of the public policy

16 we had provided you earlier, what sort of interactions had you had with the Public Policy

17 and Government Affairs team before then but after the 2018 working group?

18 A More ad hoc. As these types of drafts came out, Public Policy would share

19 them with me for my feedback.

20 Q Uh-huh. Are there any other drafts that come to mind that were raised

21 during that time?

22 A I remember providing feedback on a draft of the Department of Defense

23 ethics principles. I believe that was 2019 maybe, actually -- sorry -- maybe a bit earlier,

24 2019 I think.

25 Q Are there any other examples that come to mind?

A The NIST AI Risk Management Framework I also had provided feedback on. I think they're the main ones. Yeah.

Mr. Halse. Counsel, I'm sorry, one thing. I think you had asked about whether she reviewed anything, but I think it was in the context of the executive order.

[redacted] you didn't review any drafts of the executive order?

[redacted]. No. The White House commitments are the ones that come to mind, yeah.

Mr. Halse. Okay. Thank you.

[redacted] Thank you.

BY [redacted]

Q For the NIST AI Risk Management Framework, just to clarify, you had an opportunity -- was it to review an earlier draft? Or what was the nature of your interaction with the Public Policy team?

A So the Public Policy team had asked me to engage in a discussion with I believe it was NIST and a couple of other industry folks who were in similar roles to me who would have practical industry experience, if we could share that experience with NIST as they were drafting it.

So I'd seen a bit of a draft, and then, once it was drafted, I engaged again to share my expertise on a public panel discussing how the AI RMF was progressing.

So a couple of knowledge-sharing sessions where I'd share how I had adopted my own principles in AI risk management and what worked and what didn't, again, because I'd gone through quite a number of iterations myself. So I tried sharing which things had done well or not.

Q And do you recall the general timeline of when, say, the pre-discussion started and then how long until the post-draft discussion took place?

1 A It was a couple years. I remember it was quite a broad gap between
2 engaging and -- yeah. Maybe more accurate than that I don't think I could get you.
3 Q Okay. For the pre-draft discussion, do you recall which other industry
4 partners were invited?
5 A Not accurately, but generally it was usually Microsoft and Twitter who were
6 engaging in those. We were companies who had responsible innovation boards (ph), so
7 they were generally the ones that would show up. If I was there, then they were only
8 other companies who generally had the same processes in governance.
9 Q Do you recall who from Microsoft and Twitter would generally attend these
10 type of discussions?
11 A [redacted] from Twitter. And Microsoft, no. They would
12 change between their legal team and their responsible innovation team, so, no, it was
13 always different, so I don't remember the names.
14 Q Separate from these discussions, did you have a point of contact at
15 Microsoft's responsible innovation team or someone you knew?
16 A No, not a standing relation.
17 Q Do you recall, at a high level, what issues were raised during the discussion
18 before the drafting took place?
19 Mr. Bopp. Just to be clear on the record, "before the drafting," what drafting are
20 you referring to?
21 [redacted] The drafting of NIST's -- what ultimately became NIST's AI Risk
22 Management Framework.
23 Mr. Bopp. Okay.
24 [redacted]. I feel, in the earlier stages, it was talk about structural things that
25 had to be in place. I think we had discussions on whether you need to build standalone

1 governance teams, like we had done, or if you could integrate into existing processes.
2 So I kind of remember just a healthy debate, because some of the companies had built
3 standalones, some had not, and so the pros and cons of that.
4 So very, very, kind of, almost structural, organizational, to where you would house
5 a governance structure, I think the earlier discussions were.

1 [12:14 p.m.]

2 BY [redacted]

3 Q If you could say just a little bit more. So by structural versus standalone, a

4 system where companies on their own have a standalone sort of framework as opposed

5 to government or some sort of entity --

6 A Oh. No, sorry. So regardless of what governance framework to adopt,

7 because at least like me and the other companies, we already had our governance set up.

8 So these types of frameworks didn't have a lot of impact on us. But if we were trying to

9 think about, well, the next 10, hundred, however many companies, how should they think

10 about their governance? Should they adopt these frameworks? And we were

11 generally thinking that not every company can spin up their own framework, so maybe

12 these frameworks would be helpful. But where will that framework live? Will it live in

13 a standalone governance team or should it be integrated maybe into their existing

14 compliance team or legal team? If they have a trust and safety team, should it be

15 integrated there?

16 So that's more what I meant structurally. It wasn't the framework itself. It was,

17 if these frameworks are adopted, where do they live? And we were just sharing.

18 Obviously, I built my own standalone one. I had the pros and cons of that. And, again,

19 I forget which company said they don't have enough people to build a standalone one, so

20 they trained their, like, compliance staff to do it or something like that. So that's what I

21 meant by, like, early structural, where would these frameworks live.

22 Q And then as the drafting process is taking place, is your feedback at any

23 point solicited, either directly or through the Public Policy team?

24 Mr. Bopp. Are you asking general or specifically with respect to the NIST

25 standards?

1 [redacted] Specifically with the NIST standards.

2 [redacted]. I don't remember seeing a document with the draft on it. I

3 remember discussions. Like I said, more panels with other industry leaders. So, no, I

4 don't remember it being solicited in between those steps.

5 BY [redacted]

6 Q The discussions taking place post-drafting, when you say it was after the

7 drafting had largely taken place, was this before it had been publicly issued? So there's

8 like a more finalized draft, but it's still internally being worked on. Is that right?

9 A My understanding was that it was a finalized draft. I think it was, like, fairly

10 public but was not kind of the announced version. So that was what we were

11 responding to, a kind of finalized draft, was my understanding.

12 Q So those discussions happening after the finalized draft, do you recall what

13 issues being discussed?

14 A For this one I do. They had given the draft of their governance structure,

15 and similar to the White House commitments, I looked at that and was like, yeah, I've

16 been doing most of these things for a number of years, but here's a couple of things that

17 stand out. So I remember my discussion point was around they had pretty, maybe,

18 strict wording around metrics and measurements, which I found quite unwieldy that,

19 through our iterations of our processes, it's very hard to come up with metrics and

20 measurements in such a new area of technology.

21 So my feedback was focused on, hey, everything else I have a lot of experience to

22 share and how we've done that. This one, here's all the difficulties I've found doing

23 metrics and measurements. So I remember that being, because it was perceived as a

24 provocative statement to say that I just thought that bullet point was very tough.

25 Q Who perceived it as provocative?

1 A My team, my Standards team. As I mentioned, they would host me and
2 generally get me involved in these discussions. And they said maybe focus on the things
3 we agree with and we can support, which is -- I'm generally happy being a supporter, but I
4 felt it was important just to acknowledge it's very hard to measure these things.
5 Q And so when you said this is your perspective and you're talking with the
6 team, is this an internal team discussion before the more public panel?
7 A Yes. The Public Policy and Standards people in Google who asked if I was
8 okay attending this panel, and I said yeah. And we learned a lot in our processes, happy
9 to share. They were like, what do you want to share, and that was it. They invited me
10 to the panel, I said what I shared, and that was pretty much it.
11 Q Yeah. And who on either the Public Policy team or your team made the
12 more general remark that it would be great to highlight areas of support?
13 A I don't remember. It was a little small group discussion. It was pretty
14 informal.
15 Q Did they give a reason why it would be good to highlight areas of support?
16 A No. Google just likes being seen as collaborative.
17 Q Collaborative with the Federal Government or --
18 A No. Just we have a lot to share. We are one of the most advanced,
19 responsible AI governance teams in the industry. And we have a lot to share, and we
20 should be open about sharing it.
21 Q As it relates to these specific set of discussions, they are being led by NIST?
22 A I believe the logistics were organized by NIST.
23 Q And were there other government entities involved, to your knowledge?
24 A Not to my knowledge.
25 Q Turning back to the metrics and measurements. What sorts of metrics and

1 measurements, you know, can be measured or folks would like to be able to measure as
2 its relates to AI?
3 Mr. Bopp. Wait a minute. I'm not sure -- I'm sorry. I'm not sure when you
4 say folks who would like to measure, are you -- is there anyone in particular you have in
5 mind?
6 [redacted] Just as a general concept. So this is a framework meant to apply to
7 different companies across the board, different stages.
8 BY [redacted]
9 Q And focusing on the response that it could be difficult, "unwieldy," is the
10 term you used, to actually conduct certain metrics and measurements. I'm just trying to
11 get a sense of like what we're referring to, which metrics, measurements.
12 A Yup. So I believe they wanted to say, like, how trustworthy an AI product
13 or a model was. It's a very broad statement. It's very hard to answer that question,
14 again, both based on my experience in user research and as we were testing these
15 models ourselves. So that very broad statement of how to measure trustworthiness, it's
16 hard.
17 Q And just to push a little bit more. I think there's probably some obvious
18 use cases, but why is that a measurement that's difficult to -- why is that a metric that's
19 difficult to measure?
20 A Number of different reasons: Who gets to define trustworthiness? Who
21 thinks it's trustworthy? Is it the end user? Is it maybe an auditor of that? Is it the
22 company thinks it's trustworthy? So it's the who thinks it's trustworthy. And what
23 specifically would the metric be? What even is the metric of trustworthiness? Is it
24 usefulness? If so, is there a metric for usefulness? Is it helpfulness? What even is
25 the metric for helpfulness? So just -- it even spins off so many different questions that

1 they in themselves in identifying the right question is hard. So it's a very broad bucket.
2 Q Prior to this initial internal discussion with Google, prior to the panel post
3 the finalized draft of NIST Risk Management Framework, this type of discussion on
4 metrics and measurements, was that something your team had considered earlier at any
5 point?
6 A We considered it and felt that we weren't the right team. It was probably
7 better suited in the engineering team who had more hard technical and quantitative
8 skills.
9 Q And to your knowledge, did the engineering team or any other team at the
10 company attempt to try to find a metric or measurement for trustworthiness?
11 A My understanding was researchers were looking into it.
12 Q And do you know which research teams?
13 A I do not.
14 Q And to your knowledge, did anything come of it, of the research?
15 A I am unsure. The Google Research team publishes thousands of papers a
16 year. I did not stay on top of it.
17 Q In the prediscussion with just the internal company folks before the more
18 public discussion, post-finalized draft or NIST AI Risk Management Framework, when the
19 comment was made that this position or this view might be a bit provocative, was there
20 any discussion about how best to present that view?
21 A Nope. They left it up to me.
22 Q And did you ultimately share this view in the post-finalized discussion that
23 took place?
24 A I did share that metrics was very hard, yes.
25 Q And do you recall what the reaction was to your sharing that view?

1 A Nope. I don't recall any reaction.
2 Q Separate from the NIST AI Risk Management Framework, do you recall any
3 other discussions either directly with someone from the executive branch or through the
4 Government Affairs/Public Policy team where you highlighted that trying to measure
5 something like trustworthiness presented a number of difficulties?
6 A Nope.
7 Q A few answers earlier, you mentioned that, when using the example of
8 trying to measure trustworthiness, it raises a number of questions, such as who even
9 determines what would be trustworthy. Did any members, whether it's industry or
10 government side, try to address some of those questions, provide an answer of what they
11 understood the answer might be as it relates to trying to measure trustworthiness?
12 A No.
13 Q So do you understand NIST AI Risk Management Framework had sent
14 a -- was referencing, I take it, to apply a set of guidelines/principles for metrics and
15 measurements, it was laying that out there but without filling in the details of how it
16 actually would work? Is that a fair summary or --
17 A Sorry. That they --
18 Q I'm just trying to get a sense of how specific NIST was willing to get, either in
19 the final language of the framework itself or in the discussions with you and your other
20 industry partners.
21 A Well, in the discussion, I don't remember NIST engaging much in the
22 discussion. It was me and the other industry leaders sharing. And so I don't remember
23 any discussion there. And on the final language, I don't remember if it got more specific
24 in that area.
25 Q Are you familiar with the White House's October 2022 blueprint for an AI bill

1 of rights?

2 A I'm aware of that.

3 Q At a high level, to your understanding, what is it?

4 A If I remember correctly, it was a similar set of, like, principles making sure

5 the consumers essentially had rights while engaging with AI.

6 Q Did you have an opportunity to review or were you solicited to provide any

7 sort of feedback or information sharing prior to a finalized draft of that blueprint?

8 A I don't remember engaging in the bill of rights, no.

9 Q When you had an opportunity to review the blueprint in the AI bill of rights,

10 do you recall what your initial reaction was to it?

11 A I think I read it first publicly. I don't remember if it was actually shared

12 internally with me. So when I read it publicly, it just seemed reasonable. So I didn't

13 engage further.

14 Q In a couple other instances, like with the NIST framework and with the White

15 House commitments, were there any areas that, like, it didn't apply to your team or there

16 were things that your team hadn't adopted that stood out to you as it relates to the

17 blueprint for an AI bill of rights?

18 A For the White House commitments, the external testing was the one area

19 that we hadn't already done. But I think I said, I think I remember looking and saying

20 we're covered for everything else that they mentioned.

21 Q And for the blueprint, nothing stands out?

22 A Doesn't stand out.

23 Q Are you familiar with the White House's February 2023 executive order

24 about further advancing racial equity?

25 A No, I don't think I am.

1 Q We've talked about a number of times where you engaged with the Public
2 Policy and Government Affairs team. Do you recall instances where you engaged
3 directly with the executive branch as part of your role in the company?
4 A I don't recall directly engaging on substance. I think I would have engaged
5 for logistics, just if I was attending one of these NIST panels. Usually, once Public Policy
6 had introduced me, I'd have to connect with them on location, timing, and things like
7 that.
8 Q And so with the logistics communications, once you're connected with NIST,
9 you're saying -- let me take a step back.
10 You were on public panels with people from NIST. Is that right?
11 A Correct.
12 Q Were you ever in any discussions that took place in a nonpublic setting, just
13 meetings between industry folks and the government?
14 A I may have had had group meetings that were not public reporting, similar
15 content, sharing my expertise, but can't remember specific instances.
16 Q And would those have been with NIST, to your understanding?
17 A This was, to my recollection, the kind of main or only one that I engaged
18 given the risk framework being so close to the work I'd already been doing for a few
19 years, yeah.
20 Q Do you have any -- as part of your role at the company, did you have any
21 direct interactions with anyone in one of the White House offices?
22 A No. I don't think so. Sorry. The White House offices?
23 Q Yeah. EOP or NSC or just White House staff?
24 A No.
25 Mr. Bopp. No. Do you recall?

1 [redacted]. Don't recall. Not that I recall.

2 BY [redacted]

3 Q As it related to your interac- -- not direct interactions for the most part, but

4 as it related to the Public Policy/Government Affairs team working with you to coordinate

5 with NIST, do you remember who your point of contact was at the company's

6 Government Affairs/Public Policy team?

7 A At Google Government --

8 Q Yeah.

9 A [redacted].

10 [redacted] Is he, to your understanding, the main point of contact for other

11 Responsible AI teams at Google, such as [redacted]'s team?

12 [redacted]. He was, yeah.

13 BY [redacted]

14 Q During any of these discussions, was [redacted] a part of the panels or any of the

15 meetings with NIST?

16 A I don't remember her being on any of the panels, no.

17 Q As part of your role at the company, did you have any interactions with the

18 FBI?

19 A Not that I recall.

20 Q As part of your role at the company, did you have interactions with HHS?

21 A Not that I recall.

22 Q When either the discussions that took before the drafting of the NIST AI

23 framework or the panel after the draft had been finalized, do you recall any discussion on

24 issues that related to that second principle related to unfair bias?

25 A No, I don't recall.

1 Q So in your earlier testimony, you mentioned that Gemini was being
2 developed through DeepMind, that YouTube has its own kind of silo team structure.
3 Was Google Search one of the products that would have fallen within your team's
4 purview?
5 A We had supported Google Search, yes.
6 Q And that would include, I don't know what the correct term was, but for
7 image search?
8 A Image search is part of Search, yes.
9 Q Did you ever have discussions with the search team about how the unfair
10 bias principle would or would not apply to image search?
11 A I had.
12 Q At a high level, what was the nature of those discussions?
13 A They were asking us to test after, I believe, there had been public attention
14 on some image search results not being inclusive of different types of users. So they
15 asked us to test different use cases, search terms that could raise similar issues.
16 Q And what sorts of use cases and search terms did they highlight?
17 A Things like scientist, historian. If we looked them up or how representative
18 of our global user base or kind of accuracy would appear there. And CEO was another
19 example I remember my team testing. So we would test them for the team and report
20 back our results.
21 Q So you recall scientists, historians, CEOs. Do you recall other examples?
22 A Nurse, teacher. So it was generally job-focused.
23 Q And what was the concern? Why were these examples being raised?
24 A Because there had been public news stories that similar searches had raised
25 questions around how representative of Google's user base our products were.

1 Q Do you recall when these news stories first began to come up?
2 A I don't recall.
3 Q And you talked about being representative of Google's user base. What
4 were the results initially showing, and what was the concern or the disconnect that it got
5 elevated to your team?
6 A Example was with historian. Most of the images shown were 18th, 19th
7 century historians, when most of our users, if they look up "historian," are probably
8 looking for more contemporary results.
9 Q What was the issues related to CEOs?
10 A When people looked up CEOs, it showed almost all men with just Barbie
11 shown as the only female representation of a CEO.
12 Q And do you recall how, what, long the gap was between when the news
13 stories began and the search team came to you with these cases and examples?
14 A I don't remember the gap, no.
15 Q Who from the search team met with you or your team to raise these cases
16 and search terms?
17 A A product manager. I don't remember. It's been a number of years.
18 Q Other products that you recall that come to mind where the principle of
19 unfair bias was raised in similar context where there are use cases that came up?
20 A Mostly it wasn't raised as a standalone given it's one of our 11 principles.
21 Our submissions to our process were assessed against all 11 principles, so in most cases it
22 wasn't called out. The other one that comes to mind, I think I already mentioned, was
23 when the pixel camera was being launched, because we already had existing data in
24 Google and the gorilla photos that showed that there is a greater risk of unfair bias if we
25 don't get the camera right. It will exclude users. And obviously, our overall goal is to

1 include as many people as possible.

2 Q When your team is looking at the image search, use cases and search terms

3 that were provided, just to clarify, were those use cases and search terms provided to you

4 from search team?

5 A Similar. So we would have a seed set to start testing on, and then my team

6 would expand based on user research.

7 Q Do you recall if there were any topics or areas that your team included after

8 that initial seed set?

9 Mr. Bopp. You're asking for examples that they found, or what are you asking

10 for?

11 [redacted] So if I understood her testimony correctly, the search team came with

12 initial set of use cases and search terms, seed set. After looking at those, the --

13 BY [redacted]

14 Q Was it the Responsible Innovation team at this point in time?

15 A I don't know if we were the Responsible Innovation team yet. It may have

16 started in the Trust and Safety testing time before we had a full-time team.

17 Q So you had the Trust and Safety, Response Innovation team would then

18 potentially expand if they thought there were other search terms and use cases that

19 would be appropriate to look at based on the seed set? Is that a fair summary?

20 A Yes. I believe so. Yup.

21 Q In that second category, once you already looked at the seed set, do you

22 recall what sort of topics or examples that your team included?

23 A They would have -- I'm -- yeah. I probably will have to say no, I don't

24 remember. It was likely job categories. We kept testing more and more job

25 categories.

1 Q Can you just walk me through, at a high level, what that looks like just
2 operationally as far as your team first testing and then how your findings are
3 communicated to the search team?
4 A So once a team flags a product -- so for us, all 11, we just have our standard
5 process to get through each of the 11, here is just things that we look for. And then if
6 we find something in that initial assessment, we go deeper into that analysis. And
7 deeper could mean we conduct our own user research again just because that was where
8 I built the team from with a background in user research, which is, have users raised
9 these issues before and could they help us understand where this is happening, and we'll
10 start testing. Is this happening at scale? Or maybe it's a once-off. We have to
11 understand kind of where on the long tail it is.
12 So we do our own research and do user research. External research, have other
13 maybe academics or researchers identify similar issues. Can we use their research to
14 inform our effort? We do a lot of -- again, trying to get a broad understanding of the
15 issue, because most of the issues we'd see are not unique to Google. It is the
16 technology. AI is a new technology. It's hitting a number of issues that we try and
17 learn from other people who are also kind of at the forefront of AI.
18 And so that's where we spend a lot of our time, is people on my team who do
19 their own research, trying to understand how do I even test this, what am I looking for,
20 and that's based on external and user input to the process.
21 Q Okay. As it relates to the image search instance we've been talking about,
22 do you recall what external research, if any, was applicable or helpful here?
23 A At that time, it was there was quite a lot of attention on it, so my team
24 would analyze the news stories and what examples were found in the news stories. But
25 also, there had been a couple of public research papers. One that comes to mind,

1 Latanya Sweeney from Harvard had done a research paper on Google Search results and
2 ads, and where she had found issues. So my team brought in that research as well. So
3 mostly media.
4 Just, again, some of these issues were so new there wasn't existing research
5 corpus. We had to go with what was happening right now and listening to the external
6 world on that.
7 Q And as it relates to this particular example with image search, they provided
8 the use case or search terms, your team is conducting all this research, tested everything.
9 Is there a work product that's prepared? How do you communicate back your findings
10 to the search team?
11 A Not all the time. We do what are called sprints or war rooms, where we sit
12 in a room like this with the product team. And my team, after having done their own
13 research, only then starts conducting the tests in real time with the product team. It
14 makes it more effective for the product team to try and start fixing it and noting it. So
15 that would actually happen verbally in meetings, again, these sprints or war rooms that
16 my team would most often hold.
17 Q So as it relates to this image search example, once your team has conducted
18 the research, you meet with the search product teams. Are they adjusting the search
19 findings, then, in real time? You're seeing the results --
20 A No. It's a lot more complex than that, that they would -- there'd be so
21 many engineers and product managers, that image search -- I'm not an engineer to know
22 the different pieces of it, but they would know things, what we're saying, which things
23 that they believe are due to maybe the underlying data where it's due to the model. So
24 they would, at least from our experience, kind of intuit to know who they would have to
25 talk to next and where to go.

1 But, no, the system's quite complex. There would be no fixing in real time, no.
2 Q Do you recall how long this process took from when the search team first
3 raised the issue with your team to when the adjustments or meetings or whatever it was
4 were completed?
5 A I remember it being a rolling partnership with the team, which means that
6 we could be -- my team could be engaged like once a month to do more tests. And so
7 my recollection is it was a yearlong partnership of different tests, different efforts, trying
8 to improve the results by the product team. So, yeah, it wasn't a once-off. It was an
9 engagement, what we would call an engagement, which happens more than once.
10 Q We've gone through a number of the use cases, search terms, like scientists,
11 historians, CEOs, nurse, teacher. Do you recall which examples that do come to mind
12 was the easiest to resolve or if you heard from the search team was ameliorated?
13 A No. I wouldn't have an accurate response to that.
14 Q Were there any examples that took a while to get right or that required a
15 further back and forth?
16 A Many. And I don't actually know if their tests are still ongoing, which goes
17 to my previous comment on trustworthiness, that we want to try and get it more
18 representative, but we found it very hard to define "representative." Is it representative
19 of our global use today -- global users today? Last week? Should it be more
20 representative of global attention, like, which historians are getting the most clicks versus
21 what historians are from the most countries [inaudible]. So a very hard problem.
22 That's why the engagement was so long, that we would keep testing and listening to user
23 feedback.
24 So we didn't almost make the decision. It was launch this new updated version,
25 our team would launch. We would analyze the user feedback and say, users seem to

1 like this version better. Maybe we're getting closer to it. So that's why it was so long
2 and so hard that it was waiting for user feedback to say if we were on the right track.
3 Q And your team had the primary responsibility of assessing the user feedback
4 and then communicating it to the engineers?
5 A Not after the first couple of times. By then, we had become Response
6 Innovation, our and focus was identifying the issues, not always being the one listening to
7 the feedback. That remained in Trust and Safety.
8 Q And what was the name within Trust and Safety that continued that role?
9 A My understanding is the team name had changed. It was User Advocacy
10 when I was there. But I know for sure User Advocacy doesn't exist anymore, so I don't
11 know the new team's name.
12 Q As it relates to the image search example we've been discussing, was there
13 any discussion about how the unfair bias principle was either in conflict with or consistent
14 with the scientific excellence or accuracy principle?
15 A It was discussed, again, just in, what are we solving for? Like, how do we
16 think about accuracy? What does even accuracy mean? Again, is accuracy the number
17 of historians who are alive today versus the most famous historians today? So we even
18 had to discuss what is the definition of accuracy. And, again, we went back to listen to
19 our users of what they intended they wanted to see, and try to -- again, that moved into a
20 dedicated user research team to ask more questions of, what do you want when you look
21 up "historian"? Do you want to see, like, who's most quoted or do you want to see
22 historians from your country? So it's a lot of just user research then, and that was too
23 big a project for my team.
24 Q When it comes to incorporating user feedback, is it the end-all be-all? I
25 mean, if one principle is scientific accuracy and if users would like to see results that are

1 not, let's say, scientifically accurate for whatever reason, how would your team, you
2 know, assess a situation like that?
3 A There were no set rules. We would have discussions with the product
4 team. Again, how do we reach the goal of satisfying as many users as possible?
5 Maybe users are expecting more accuracy in this product. In this other product, they're
6 expecting more entertainment. They are different, and I know from user feedback that
7 they want different things from different products. So there was not a -- certainly not a
8 set outcome decisions formula that we used. It was discussion-based.
9 Q In these discussions, was there someone who was typically taking notes, to
10 your knowledge?
11 A No, not to my knowledge and not generally.
12 Q At a high level, are you familiar with the company's most recent rollout of
13 Gemini and the news coverage that followed?
14 A Aware of the news coverage, yes.
15 Q To your understanding, did the rollout of Gemini have -- play any role in the
16 decision to restructure your team in December 2023?
17 A I wasn't told that it did.
18 Q And you were still at the company when the initial news coverage of Gemini,
19 this most recent --
20 A I was still employed, yes.
21 Mr. Bopp. Make sure he finishes the question.
22 [redacted]. Okay.
23 BY [redacted]
24 Q Did you have any discussions with people at the company about the rollout
25 of Gemini?

1 A Yes.

2 Q And who did you have discussions with?

3 A A VP of Trust and Safety asked what my process was to responding to news

4 coverage, and if I had a process to share with her.

5 Q And who was that VP?

6 A [redacted], VP of Trust and Safety.

7 Q And what was your response?

8 A My response is we didn't have a documented process for responding to

9 external news stories, but I would treat it as a user research project, which is we're

10 getting a lot of feedback, analyze the feedback, share it with the product team. And I

11 walked her through our user research protocol. So acknowledging we didn't have a set

12 protocol, but we had a user research one.

13 Q Did you have any other discussions with folks at the company?

14 A No, not that I recall.

15 Mr. Bopp. About Gemini.

16 [redacted] About Gemini. Yes.

17 BY [redacted]

18 Q To your understanding, just based off your experience at the company,

19 understanding you didn't work on the Gemini model based on your earlier testimony,

20 where do you think the, you know, things went awry? Why did the rollout not go the

21 way it seemed the company was intending it to?

22 A I don't know. I don't have enough information on the model or product.

23 Q Okay. Did you have any point of contact, like a -- or a -- let me restrike

24 that.

25 Before December 15, 2023, did you have a primary point of contact with anyone

1 at DeepMind?

2 A Yes.

3 Q And who is that?

4 A [redacted], who was the lead of their ethics team, which became their

5 Responsible AI team.

6 Q And had you worked with [redacted] previously elsewhere in the company, or

7 what was her background?

8 A Not elsewhere in the company. I just worked with [redacted] for a while.

9 Q In what context?

10 A Given she is the lead of Responsible AI in DeepMind, and sometimes we

11 would meet to share process, updates. As mentioned, my process went through a

12 number of iterations. The more we experienced and learned, then I would share them

13 with her.

14 Q Do you know when [redacted] started this role?

15 A I don't.

16 Q Do you recall when your conversations with her about ethics more generally

17 first started?

18 A Probably I'd estimate around 2021.

19 Q Do you have a sense of how big her team was?

20 A It was around 10 people.

21 Q Do you recall if there were any general issues as it related to ethics that

22 apply to a present for her context and her work that didn't apply to your work or vice

23 versa?

24 A Sorry. Could you rephrase?

25 Mr. Bopp. Yeah.

1 [redacted] Sure.

2 BY [redacted]

3 Q So as it relates to her position and how she's looking at ethics -- let me just

4 take one step back.

5 How much overlap was there between the type of issues she was looking at and

6 the type of issues you were responsible for?

7 A My understanding was they aligned -- DeepMind as a company aligned

8 closely with Google's AI principles. So we were working on similar issues.

9 Q Yeah. To your understanding, was there any differences that stood out to

10 you between the DeepMind principles and the Google AI Principles?

11 A I remember that one of the differences in principles was they had an

12 operations-based principle, which we didn't have. Like, our principles were almost

13 content and product-based, and they added an extra one about kind of how to

14 operationalize. So that kind of stood out to me. It was different.

15 Q And to your understanding, what was that principle?

16 A Just like our version of being scientifically excellent, I believe theirs was

17 something like be operationally excellent. Do the things -- don't just do the right things,

18 but do them in the right way. It was something like that.

19 [redacted] Can we go off the record, please?

20 [Recess.]

1 [1:37 p.m.]

2 [redacted] We can go back on the record.

3 BY [redacted]

4 Q I want to start of by talking about some of the examples of work that your

5 team did that we talked about in the last hour. But more broadly, your team didn't have

6 a job approving products for launch. Is that right?

7 A No. We identified issues against AI principles.

8 Q And if you identified issues and those issues weren't resolved in a specific

9 way, did your team have the ability to stop those products from becoming public?

10 A No. Not by themselves, no.

11 Q Did your team figure out how to fix those problems, or did you just identify

12 the issues?

13 A We identified issues. Product team fixed the issues.

14 Q Did you make suggestions on specific ways that those issues should be

15 resolved?

16 A Not generally. Because we worked with so many product teams, we

17 learned what other product teams. So we would direct one product team to someone

18 else who had hit similar issues. So we were a connection point, but we were not fixers.

19 Q You said, in some instances, you might check back in with the product team

20 or you might have iterations where the product team comes back with the product again.

21 Was it necessary for you to say, great, there's no issues now, before a product went

22 public?

23 A No.

24 Q Talking specifically about the Google Search example, you said the issue was

25 first identified in news media and then the product team came to you. Is that right?

1 A That was how I experienced it, yes.

2 Q Did your team tell the product team what they should do to fix the issue?

3 A Are we talking about that search --

4 Q That Google search image example.

5 A To fix it, no. As I said, it was a pretty complex case of even identifying the

6 issue and how users felt about it.

7 Q And one of the examples you gave was that when someone searched the

8 term "CEO," all of the CEOs were male except Barbie was the only example of a female

9 CEO. Is that right?

10 A Correct.

11 Q Why was that an issue that your team identified?

12 A Our global user base are made up of many different people, and we know

13 for a fact there are many different types of CEOs in the world. And so it was not an

14 accurate -- it was quite an exclusionary representation of the world.

15 Q And like you said, it's not an accurate representation that there are only

16 male CEOs. Is that right?

17 A It's not accurate.

18 Q And you found that users, that might not be what they're looking for, they

19 might not be finding what they're looking for if that's the only thing that's coming up. Is

20 that right?

21 A Correct.

22 Q Ultimately, your team finds these issues, and then it's the product team's job

23 if they want to or if they can come up with any solutions to those issues. Is that right?

24 A Correct.

25 Mr. Bopp. Just to make sure, to say if they want to or if they -- do you know -- do

1 you have insight into under what circumstances the product team decides to fix a
2 problem?
3 [redacted]. Each product team's leadership has different criteria on what's even
4 defined as a problem. But, again, each product is trying to optimize the greatest
5 number of people having access to a positive experience. So that would look different
6 on different products.
7 [redacted] So just because your team pointed something out doesn't
8 mean the product team will take a specific action in response to whatever your team has
9 identified?
10 [redacted]. No.
11 [redacted] So what she said was correct?
12 [redacted]. So it does depend on product. And, no, our team isn't the be-all
13 end-all. We are one of many inputs a product team needs to take into account in order
14 to launch the most successful product they can.
15 [redacted] Thank you.
16 [redacted] Going back to the Google search term example. You were
17 asked about how long it might take to resolve individual search terms like "historian" or
18 "CEO." I know that you weren't working on the exact product or the model, but in your
19 understanding, is that even how it works, or is each search term issue addressed, or do
20 you know?
21 [redacted] I'm not an expert. I doubt every search term -- my experience
22 would be, models and products are what product teams improve, not individual
23 instances.
24 [redacted] So, for example, in your experience, would a potential
25 solution be somebody's going to go in and code that this is what should show up when

1 somebody searches for "historian"? Or is it a bigger picture model-based approach?

2 [redacted]. My understanding was it's a model-based approach, not instances.

3 [redacted] So if I can just clarify, Google Search is a product, correct?

4 [redacted]. Yeah. Google Search is a product. So we were identifying

5 instances of something going wrong, but to fix them, they would have to assess whether

6 the model could be improved. That's my understanding.

7 [redacted] Thank you.

8 BY [redacted]

9 Q And you said something in the earlier hour about how you would approach

10 the news coverage about a product as a user research project. Is that right?

11 A Correct.

12 Q Could you explain, and you've talked about this a bit already, but how

13 Google might approach a user research project and why that's important?

14 A Well, Google has many user research teams. I'm -- just from my team how

15 we approached it was essentially keyword matching any news story that had identified it,

16 commented on the product name or otherwise. We would aggregate all of that

17 information and then categorize it by type of issue raised, try and understand what had

18 been spoken about, and then sometimes, again, depending if it was new information,

19 share it with the product team. Otherwise, it was for our own information to just feed

20 into our processes at least. There were other things that we should look out for next

21 time.

22 Q And why was it important for you to find that feedback?

23 A For us, it is user feedback. The external world is our potential or existing

24 Google users, and we want as many of those users to be happy or not. So listening,

25 whether it's media or survey responses, they're still people who we want to trust and use

1 our products.

2 Q Does Google use that user feedback in its own analysis or does it exactly

3 follow what one user might say? How does that work in the process?

4 A Again, each product team has their own user research team. And so each

5 response plan may be different and, again, dependent on the level of maybe user control.

6 So then it allows the users to say whether they want to use it or not. And if it's lower on

7 the end of user control, then that feedback might play a bigger role. It's really

8 product-dependent.

9 Q Does Google make any decisions that are not -- in your experience, did

10 Google make any decisions for products that were not based on its own company

11 decisionmaking processes?

12 A Sorry. What do you mean by that?

13 Q Were any of the decisions that you saw being made at Google made solely

14 because some external party, whether a user or somebody else, told them to make that

15 decision?

16 A Not in my experience, no.

17 Q I want to talk a little bit more about your engagements with the executive

18 branch that we talked about. You mentioned that you reviewed a draft of AI principles

19 from the Department of Defense. Is that right?

20 A Correct.

21 Q And that was in 2019?

22 A My recollection serves, yes, it was around end of 2019, yeah.

23 Q Do you know if those principles ever became public?

24 A Yes. I remember there was a blog post announcing them that early 2020.

25 Again, don't have an exact date. It's around early 2020.

1 Q And in that blog post, the Department of Defense mentions that they
2 consulted with experts to come up with those principles. Are you one of the experts
3 that was consulted on those principles?
4 A I probably wouldn't frame it that way. I wouldn't say I was one of the
5 experts that came up with the principles. Once they had their principles, I believe I was
6 one of the experts who looked at them and provided feedback. So I may just change the
7 framing.
8 Q When you looked at the draft of those principles, did the Department of
9 Defense tell you to do anything or were they just asking for your feedback?
10 A Just asking for feedback. I remember it being very informal. We come up
11 with this, kind of, are they okay.
12 Q Moving on to your engagements with NIST. You had -- before the NIST AI
13 framework was drafted, you had discussions in the pre-drafting stage. Is that right?
14 A Correct.
15 Q And then you had discussions at these workshop panels in the post-drafting
16 stage?
17 A Yes. That finalized draft, yeah.
18 Q In your discussions before the draft, was NIST -- or in your experience, was
19 NIST telling you to do anything or were they just asking for your feedback?
20 A In my experience, they were asking for my feedback.
21 Q And afterwards during the workshop time, was NIST telling you to do
22 anything or just asking for your feedback?
23 A Asked me to participate in the panel and share my expertise. So, yeah, still
24 feedback and sharing of expertise.
25 Q Did they tell Google to make any decisions about its own AI principles? Did

1 NIST?

2 A Sorry?

3 Mr. Bopp. Can you rephrase that?

4 BY [redacted]

5 Q Did NIST tell Google to make any decisions about its own responsible AI

6 efforts?

7 A Not that I'm aware of. I'm one of the central POCs for the AI principles,

8 certainly wasn't communicated to me, no.

9 Q And you said that NIST wasn't a big participant in the workshops, it was

10 mostly the industry people talking and NIST was sort of moderating. Is that right?

11 A It's my recollection industry folks just sharing how we developed AI

12 governance so far.

13 Q Was that also your experience during the pre-draft stages? Was NIST very

14 involved in the conversations?

15 A No. My memory is they facilitated, again, a discussion of some of us

16 sharing what we'd already done.

17 Q You mentioned during that pre-draft -- during those pre-draft discussions,

18 you talked about should a company have a standalone governance team or should those

19 principles be incorporated into a different team. Did NIST give you input on how to

20 structure a company?

21 A No. Again, it was just us industry players sharing what we'd already done.

22 Q We also talked a bit about the voluntary commitments that Google made

23 with the White House. Do you remember those questions?

24 A Yes.

25 Q And you said you reviewed a draft of those commitments?

1 A Correct.
2 Q Do you remember around when?
3 A I believe it was in the second half of 2022.
4 Q Yeah. Makes sense. And you said your general response to that draft was
5 that nearly everything was things that you were already doing. Is that fair?
6 A Yes, I believed that I saw our work that we were already doing kind of
7 reflected -- the wording may be different but, yes, categorywise I felt we were doing it
8 already, most of it.
9 Q I think you said other than external testing, you felt like you were covered
10 for everything else. Is that right?
11 A Yes. That's what I felt.
12 Q And on the external testing issue, you said that you thought that was a good
13 idea. Is that right?
14 A I did.
15 Q Did you want external testing to be happening for your AI products?
16 A Did I want it --
17 Q Did you support the idea of external testing for Google's AI products?
18 A I supported it as part of my own process. Like, even when I was building it,
19 I was thinking, could or should I have external testing as part of it to make sure me and
20 my team didn't fall into any -- like just getting kind of stuck in our ways. I wanted to
21 make sure that we had other feedback. My team felt comfortable because we had so
22 many user feedback channels already. It was not necessary. So I obviously am open to
23 feedback from my own team. So I felt it was -- it could be a useful idea, but just -- yup,
24 just didn't pursue it for a number of different reasons.
25 Q Did you have involvement in the voluntary commitment that Google made

with the White House other than reviewing the draft document?

A Before? After? Sorry.

Q Throughout the process of those commitments, making the commitment, and after the commitment was entered?

A Once the commitment was entered, yes, as the operations lead, I then formalized that mapping of we're already doing these things, go talk to that team -- sorry. Public Policy, go talk to this team because they're the teams who already doing the work. So, yes, I was involved afterwards.

Q To the best of your knowledge, do you know why Google decided to make these voluntary commitments with the White House?

A I couldn't answer for Google, no.

Q Okay. To the best of your knowledge, were there any consequences if Google didn't follow through on the voluntary commitments?

A Not that I'm aware of.

Q To the best of your knowledge, did Google voluntarily enter this agreement and make these commitments to the White House?

A That's my understanding.

Q I want to look at the actual steps that Google took related to the commitments. And so I'll introduce as exhibit 2 a 2023 document entitled, "Fulfilling the Voluntary Industry Commitments on AI."

[[redacted] Exhibit No. 2.

was marked for identification.]

[redacted] Do you recognize this document?

Mr. Bopp. Could we just wait one second, please?

[redacted] Yes.

1 Mr. Bopp. Okay.

2 [redacted]. Yup. I'm familiar with the document, yes.

3 BY [redacted]

4 Q Did you have any role in preparing it?

5 A I was asked to review the draft and to assign someone on my team at the

6 start to contribute to it, yes. Sorry. Before and as a reviewer.

7 Q This document doesn't have a date on it. Do you happen to remember

8 around when it was published or drafted?

9 A I believe it was around August.

10 Q Of 2023?

11 A Of 2023, yes.

12 Q Thanks.

13 So this document talks through the commitments that Google made to the White

14 House and some of the ways that Google's work is fulfilling those commitments. There's

15 three major categories of commitments, right: safety, security, and trust?

16 A Correct.

17 Q And looking at the first page of the document, in the middle -- or the cover

18 page, yeah. In the middle of that first paragraph, it says, "Building on the work that we

19 started back in 2014, we committed to specific practices for the safe, secure, and

20 trustworthy development and use of AI."

21 Did I read that right?

22 A Yup.

23 Q Do you agree that the voluntary industry commitments that Google made to

24 the White House built on the existing work of the company going back to 2014?

25 A I may not know the exact date but, yes, years of work on trustworthy AI, yes.

1 Q So did the voluntary commitments align with the work that you had been
2 doing in this area for the past decade?
3 A To a very large degree they aligned with what we were already doing.
4 Q Looking at the first category, could you explain just in your understanding
5 what the commitments to safety meant?
6 A My understanding was to test to prevent overall risks of harm to safety of
7 users, and then the individual commitments have more detail on that. But, overall,
8 keeping users safe and preventing risks.
9 Q Did you feel like these commitments aligned with Google's existing AI
10 principles?
11 A Yes. We have our safety principle. We have a prevention of overall harm
12 principle. So not exact wording, but very strong alignment, yes.
13 Q Looking at the next area, the security area. Could you explain just broadly
14 what the commitments in this area meant?
15 A My understanding was this was more on the technical side of things, that's
16 the security of infrastructure, security of technology, may be less direct to user safety was
17 more systemic and security protocols.
18 Q And was Google already in your -- to the best of your knowledge, taking
19 steps towards promoting security in its AI products?
20 A Yes. Our existing privacy and security organization had been working on
21 that for years, yeah.
22 Q Looking at the last area of commitment, trust. Do you have an
23 understanding broadly of what those commitments in the trust category meant?
24 A Yeah. The overall approach was building trustworthy technologies, but the
25 commitments went into detail of how to earn that trust, essentially assuming users would

1 trust that technology. So the detail was on how to earn trust through explanations,
2 transparency, things like that.
3 Q And did these commitments, in your experience, align with Google's existing
4 AI principles?
5 A Yes.
6 Q Is it fair to say that much of the work that Google was doing that aligned
7 with the voluntary commitments was work that Google had started prior to entering
8 those commitments?
9 A Yes. I'd argue years before, yes.
10 Q And do you think, in your experience, would Google have continued to do
11 that work whether or not it entered these voluntary commitments?
12 A I won't speak for Google, but if it's my understanding, yes.

1 [1:55 p.m.]

2 BY [redacted]

3 Q In your experience, did the White House ever instruct, coerce, or pressure

4 you or your team to make certain decisions or take specific actions related to Google's AI

5 products?

6 A No, not in my experience.

7 Q We've talked about how Google is a global company, correct?

8 A Correct.

9 Q Did you ever have engagement from the Government Affairs and Public

10 Policy team about getting information from -- about providing feedback to entities other

11 than the U.S. Government?

12 A Yes.

13 Q And could you talk about some of those other entities that reached out?

14 A Any timeframe? Or just --

15 Q During your work as the director of the Responsible Innovation team.

16 A Yes. So the Public Policy team had requested me to share my expertise

17 with some of the folks working on the EU AI Act, and so that was a series of engagements

18 over a number of years. Given the makeup of the EU, I believe, governance -- they

19 change President every 6 months -- and so Public Policy would ask me to educate

20 different groups on our existing expertise.

21 I remember meeting with representatives from UNESCO, the Irish Government,

22 U.K. Parliament to answer questions on, again, what we're going for AI risk and

23 governance.

24 So, yes, it's not a comprehensive list, but our Public Policy -- I remember actually

25 Sweden, Chilean, Mexico Governments, a Uruguayan person, Germany, France. Yeah,

1 so Public Policy had asked me to engage and educate folks from a variety of those
2 different governments and bodies.
3 BY [redacted]
4 Q Just one quick followup question. You had discussed your consultation
5 with the Department of Defense, correct?
6 A Yes.
7 Q And your recollection is that that was in late 2019.
8 A That's my recollection.
9 Q And, to be clear, that was during the Trump administration, correct?
10 A That's my understanding, yes.
11 Q And then those policies were implemented or put into place by DOD in early
12 2020?
13 A Yes.
14 Q Still during the Trump administration.
15 A I don't know the exact day. I know --
16 Q Fair enough.
17 A I know it changed.
18 Q So you remember it was early 2020. It wasn't --
19 A I believe it was early 2020.
20 Q -- in December. Okay.
21 A That's what I recall.
22 Q Thank you.
23 A Yep.
24 BY [redacted]
25 Q Your name's been in the public eye because of your work as the Director

1 of Responsible Innovation at Google. Is that right?

2 A Yes.

1 BY [redacted]

[redacted]

20 [redacted] Okay. We can go off the record.

21 [Recess.]

22 [redacted] Can we go back on the record, please?

23 BY [redacted]

24 Q So I wanted to go back to the "Fulfilling the Voluntary Industry Commitments

25 on AI" document.

On the second page, where it says "Safety," in the second paragraph, it mentions "participating in the White House-sponsored red teaming event."

Did you participate in that event?

A No.

Q Okay. To your knowledge, did the White House sponsor any other events related to testing or red teaming?

A Not to my knowledge, no.

BY [redacted]

Q Do you know who from the company, if anyone, attended?

A I do know Google folks attended the red team event. I wouldn't have all their names. I do know [redacted] from my team was our team's representative.

Q And did he report back to you about his experience participating?

A He did not.

Q Why was [redacted] the one who attended from your team?

A He is one of our testing experts, and red teaming is very similar to the testing that we've already been doing for years, and so [redacted] felt he could bring some expertise and share his knowledge at that event.

Q How many members of your team focus on testing?

A Currently? At that time?

Q We'll say at that time, yeah.

A I believe there was six people on my team working on testing.

Q And, of those six, were there any that were focused on testing for issues related to fairness or bias?

A Our testing team were all trained to conduct fairness testing. Again, it would depend on the test and the need of the product team, which of the 11 principles

was more or less likely to maybe introduce risk, and therefore that was the area that was tested. But all were trained on fairness testing.

Q And all could test on other principles, too, if needed?

A For some of them, again, the ones that were in our scope. We didn't test for security; that wasn't our area. We did not test for privacy; not our area.

Q Is an example of testing for implicit bias the Google Image Search example we were discussing in the --

A That's an example.

Q -- previous hour?

To your knowledge, did the red team at the White House touch upon, or have issues, whether it was the red teaming or testing, related to implicit bias?

Mr. Bopp. Are you asking whether the testing found issues of implicit bias?

[redacted] So the red teaming that took place with the White House, was there any part of it that directly or indirectly related to implicit bias or assessing for fairness?

[redacted]. I don't know.

[redacted] Can I ask you to speak up? I'm sorry. I'm just having a little trouble.

[redacted] Yeah, of course.

BY [redacted]

Q At the end of our last hour, we were talking about your conversation with one of the Trust and Safety VPs in the fallout of Gemini and the news reporting over the past couple of months.

How did your conversation take place with -- and can you remind me of what her name was again?

A [redacted].

1 Q [redacted]

2 A I met with her over videoconference.

3 Q And was there anyone else who participated in this discussion, this meeting?

4 A No.

5 Q And do you recall when approximately it occurred?

6 A No, but about maybe 2 days after the public reaction to Gemini.

7 Q When discussing with her your experience, including with engaging with the

8 user research, did you discuss the Image Search example we were talking about earlier,

9 where your team was working with the Search team as it related to, kind of, some of the

10 job titles -- scientist, teacher, historian?

11 A No.

12 Q Do you recall of any examples you or her brought up as kind of an

13 illustration?

14 A No.

15 Mr. Bopp. Make sure you wait until he finishes the question.

16 BY [redacted]

17 Q Turning back to that Image Search example we were discussing, you

18 mentioned that there might be, like, a war room or sprints set up to assess for the

19 problems, especially if a response was needed relatively quickly.

20 In this particular case, do you recall what, if anything, was set up, if there was a

21 war room or something to that effect?

22 A Sorry, what particular case?

23 Q The Image Search where there were concerns about particular professions

24 or job titles and the results that were produced.

25 A So the Image Search testing 5 years ago was similar (ph). Our general

1 process at that time was war-room-based.

2 Q And in the war room, you mentioned that, you know, it was your team,

3 members of the Search team. Do you recall if there were members of other teams that

4 attended or participated?

5 A I don't recall.

6 Q We've talked a little bit about the one principle about scientific excellence or

7 accuracy. How -- or if, I should start with -- does that principle interact with the

8 company's efforts to combat misinformation?

9 A I'm not sure exactly. The Trust and Safety team is responsible for

10 misinformation. So they were already doing that work before the AI principles. And,

11 as mentioned, my team was focused on the gaps. So it was handled by other teams.

12 We didn't, honestly, discuss it. So I'm not sure how it was framed.

13 Q Uh-huh. And before you got into the full AI positions, you had a Trust and

14 Safety position earlier. Did you have any interactions with the Trust and Safety folks

15 that were responsible for addressing misinformation?

16 A I don't recall having any engagements with them. It was a very different

17 area.

18 Q At a high level, are you familiar with the community guidelines policies, or

19 standards, adopted by YouTube to address misinformation?

20 A I don't believe I'm familiar with them, no.

21 Q Whether YouTube or any Google product, do you recall any Trust and Safety

22 individual who worked on policies addressing misinformation meeting with you or

23 members of your team to understand how the principles your team is responsible for

24 would intersect with what they do?

25 A No, I don't recall conversations of that nature with me or my team.

1 Q When meeting with external folks, do you recall ever meeting with
2 fact-checkers?
3 A No, I don't remember meeting with fact-checkers.
4 Q Was Gmail one of the products that fell within your team's purview?
5 A Yes, it was in scope.
6 Q And, just at a high level, what was the type of issue that might arise from the
7 Gmail team that would be elevated to your team?
8 Mr. Bopp. Are you asking for actual issues that [redacted] team looked at, or
9 are you asking sort of hypothetically?
10 BY [redacted]
11 Q We'll start with, are there any examples you can recall of when an issue from
12 the Gmail team was escalated to your team?
13 A I recall a Gmail feature called Smart Reply that was going to use AI to suggest
14 responses to an email, and the Gmail team asked for testing to make sure that it was
15 working as intended.
16 Q Do you recall any issues related to spam in Gmail that were elevated to your
17 team?
18 A No.
19 Q When using Google Search, when you start to type a question, a lot of times
20 it will offer suggestions of how to finish. Is there a term for that part of Google Search
21 that the company uses?
22 A I believe it's "auto-complete."
23 Q For auto-complete, do you recall any issues that the Google Search team
24 elevated to your team related to auto-complete?
25 A I do think there was an escalation related to public news stories about

1 auto-complete, and they asked us to participate in some of their war rooms, again, those
2 combined meetings, uh-huh.
3 Q Do you recall some examples of which public news stories?
4 A By that time I had my team, and so, no, it would've gone directly to someone
5 on my team. I just recall that we were asked to participate. So I would eventually just
6 have to allocate resources from my team, but I didn't receive the content.
7 Q Do you recall if any of these public news stories related to elections?
8 A No, I don't recall.
9 Q In 2020, did you have a team member that would've been most likely to
10 have been assigned for issues related to auto-complete?
11 A Not a more likely member. It may have been based on who was available
12 from my testing group.
13 Q And we've covered this before with some previous examples, but just to kind
14 of walk through again: Independent of any specific example, the protocol when the
15 teams get together, it sounds like a lot of it's discussion-based. You mentioned during,
16 like, the war rooms, your recollection is there wasn't any formality, taking particular notes
17 from this. Is that right?
18 A Correct.
19 Q Was there any sort of set of procedures as far as at the end of completing a
20 task or resolving something, something that could be referenced to look back on later if a
21 similar issue were to arise again?
22 A Generally, not from my team. Only if there was a new, like, category of
23 issue raised. But most of our testing was just following a process of testing that was
24 informed by a product team. So, that being informed by a product team, it wasn't
25 always applicable to the next product team. So we wouldn't take that back with us. It

1 was only if our categories essentially changed. So there wasn't actually that much of
2 what we would call a feedback loop between our tests, no.
3 Q To your understanding, would -- let's say the Search team, they come up to
4 you, and you guys test, assess what you need to, get back. Do you know if they would
5 produce any internal work product to document what your team had found?
6 A The product team?
7 Q Yeah.
8 A I wouldn't know.
9 Q Do you recall any examples where the Search team elevated an issue to your
10 team regarding how -- like, the 10 blue links and the order in which they would appear
11 when the search was run?
12 A No. That wouldn't come to my team.
13 Q And how come?
14 A How come?
15 Q Yeah.
16 A There was a search quality engineering team that was dedicated to search
17 quality. So that type of work would go to the engineering team.
18 Q And, to your understanding, is there any sort of AI and machine learning that
19 goes into what leads the search results to appear in a particular order?
20 A I'm afraid I don't know.
21 Q Did you have a point of contact with the search quality engineering team?
22 A I did not.
23 Q With your engagement with any potential Google product, did you ever have
24 any cases that involved assessing whether a particular source was trustworthy?
25 A No, I don't believe -- I don't believe so. That would fall under Trust and

1 Safety.

2 Q Now, we've talked in I think multiple of the hours about how you have the

3 database, that can inform the model, and then the model you use can be placed in the

4 product, and then, on a separate line to that, if there are biases or other problems in the

5 data set, that that can be reflected later on.

6 To your understanding, who in the company would be the team responsible for

7 assessing the data set and whether there was problems with the data set related to bias

8 for -- we'll start with one of them -- the data set used to inform the Gemini product?

9 A In general, either the team sourcing the data or the team using the data

10 would be responsible for testing it.

11 Q And do you recall any examples where the team sourcing the data or using

12 the data raised an issue related to bias or fairness to your team?

13 A Not that I recall, from the data level. No, it was public information. Some

14 of our own researchers published on, in general, how data sets produced bias, but it

15 wouldn't come to my team directly, no.

16 Q For the researchers who did publish this information, just based off the

17 company's protocols, where should an issue like that be escalated to, or who would be

18 best suited to address --

19 Mr. Bopp. Are you asking, to the extent [redacted] knows, where would an

20 issue like that be handled within Google?

21 [redacted] That's right.

22 [redacted]. My understanding, as I said, the people creating the data set, then

23 the people using it -- it would be up to them to decide who is the right leadership team or

24 group to escalate to, if needed.

25 BY [redacted]

1 Q And your recollection is that there weren't any instances where it was
2 ultimately sent to your team?
3 A I don't remember data sets going to my team, no.
4 Q Are you familiar with Jigsaw?
5 A Yes.
6 Q And, just at a very high level, what is Jigsaw?
7 A My understanding is Jigsaw helps keep people safe online in dangerous
8 situations. My understanding is they work a lot with journalists in certain countries and
9 refugees in certain countries. That's my understanding.
10 Q As part of your role at the company, did you have any interactions with
11 Jigsaw?
12 A Yes.
13 Q And, at a high level, what was the nature of those interactions?
14 A They built a tool called Perspective AI. It may be a different name now.
15 Perspective AI was to help -- I don't know if they're called newspapers now but, like, news
16 media online, to manage their comments and to avoid offensive comments, maybe to
17 improve quality in comments.
18 So their tool, Perspective AI, they had a meeting with me to share the design, the
19 thought behind it, and asked if anyone on my team could help them.
20 Q And what was your response?
21 A It was, unfortunately, no, we couldn't help them at that time.
22 Q And why was that?
23 A We were a very small team, and they were highly technical, and I didn't think
24 my team's skill set would match the technical competence that would be required to help
25 them.

1 Q Did they ever come back to your team later on and ask for your team's
2 review of any part of the product?
3 A Not review. I think part of Jigsaw was also a research arm, and so they
4 solicited ideas from my team of what they should do research on. So we had a very
5 open conversation on that.
6 Q Do you recall any of the research topics that your team offered to Jigsaw?
7 A I don't recall.
8 Q Did you have a main point of contact at Jigsaw?
9 A The director of engineering, [redacted].
10 Q Do you recall any instances where Jigsaw conducted research on behalf of
11 you or someone from your team and reported back with their findings?
12 A Actually, I do remember Jigsaw worked on a campaign called the "debunking
13 campaign," which was to help users make more educated guesses for themselves of
14 whether something could be misinformation or disinformation. So Jigsaw had this
15 campaign called the "debunking campaign," and one of my team members offered to do
16 an AI principles review once they flagged it to us.
17 Q And do you recall what the team member found in their review?
18 A I don't recall specifically, so, no, I couldn't speculate. I don't recall what he
19 came up with.
20 Q Do you recall when this campaign took place?
21 A I don't recall exactly. Maybe 2022.
22 Q Do you recall which team member did the AI principles review?
23 A Yes. [redacted].
24 Q Are there any other examples that come to mind where Jigsaw came to your
25 team and presented research that your team had asked for?

1 A No others come to mind.

2 BY [redacted]

3 Q Could I ask a little bit more about Perspective -- API? Is that correct?

4 A API or AI. Yes, I may have gotten the name wrong. Yep.

5 Q Are you familiar with how it works, generally?

6 A No. As I said, it was very technical, outside of the competence of me and

7 my team.

8 Q Are you familiar with "real toxicity prompts"?

9 A I'm not.

10 Q Okay.

11 A I may have heard of it. No, I -- no, I don't know it.

12 Q And so, to your understanding, does Google use -- how does Google use

13 Perspective API?

14 A I don't know if Google used it more broadly. Again, my only understanding

15 from the conversation with Jigsaw was newspaper, news media, would use it for

16 comments. I don't know if it was used more broadly than that.

17 BY [redacted]

18 Q Do you recall who at Jigsaw you spoke to about Perspective AI or API?

19 A I believe it was [redacted].

20 Q All right.

21 Are you familiar with Mandiant?

22 A Excuse me?

23 Q Are you familiar with Mandiant? M-a-n-d-i-a-n-t.

24 A I believe I've heard that name before. I'm not familiar.

25 Q Okay.

1 Are you familiar with the Frontier Model Forum?

2 A I've heard of it, yeah. I'm not particularly familiar.

3 Q Okay. To your recollection, did you have any interactions with the forum as

4 part of your role at the company?

5 A No, I don't believe I had, to my recollection.

6 Q As part of your role at the company, did you have any interactions with the

7 World Economic Forum?

8 A Yes, I did.

9 Q And what was the nature of those interactions?

10 A I spoke at Davos, which World Economic Forum hosted; I believe that was

11 January of 2019. And I spoke on the AI principles just broadly to the audience: We've

12 launched these AI principles last year, and here's how we're putting them into practice.

13 I also participated in another panel, World Economic Forum. I believe they called

14 it the Fourth Industrial Revolution, which essentially was AI for them. They held a

15 couple of panels in San Francisco where they asked me again to just share what they'd

16 heard me say at Davos to a broader audience.

17 They are the ones that come to mind.

18 Q Are you familiar with MLCommons, Machine Learning Commons?

19 A I've heard of it. I'm not familiar.

20 Q As part of your role at the company, did you have any interactions with the

21 Atlantic Council?

22 A I believe I also was asked to be on a panel for a discussion with them, again,

23 sharing AI principles and what we've done to put them into practice.

24 Q Are you familiar with TrustLab?

25 A Are they connected to any company or university? "Trust" is just a very

1 generic name, and some companies have their own embedded trust lab. So if there's a
2 bit more detail on that one?
3 [redacted] They're not connected, to my knowledge, with any specific company
4 or university. I know they've been involved with some reporting with regards to the
5 "Code of Practice on Disinformation." I'm not sure if you're familiar with that.
6 [redacted]. Then, no, I don't think I'm familiar. No.
7 BY [redacted]
8 Q A few years back, there was a video that Project Veritas had released
9 that -- they put it into clips -- where you were recorded making a few comments.
10 At a high level, are you familiar with that video?
11 A I am.
12 Q There were comments you were recorded as saying regarding about how the
13 company defines "credible" news sources. To your understanding, what part of the
14 company would handle assessing the credibility of news sources?
15 A To my understanding, the Trust and Safety organization. But it was never
16 my area of expertise.
17 Q At a high level, how did you gain familiarity with how the company would
18 assess the credibility of news sources?
19 A I don't remember. It could be external blog posts. Given I didn't work on
20 it in the company, it wouldn't have been direct knowledge.
21 Q Did you have a point of contact with someone at Trust and Safety who you
22 could go to if there were questions that came up regarding the credibility of news
23 sources?
24 A No.
25 Q There are comments where you're recorded saying that -- that in 2016 we all

1 got screwed over, people got screwed over, news media got screwed over.

2 Do you recall those comments being included in the video?

3 Mr. Bopp. Could we just back up for a minute? Just so we understand, do you

4 have a transcript of that video?

5 [redacted] We can introduce that transcript.

6 Mr. Bopp. Sure. That'd be helpful.

7 And then maybe we can give [redacted] just a moment to talk about her

8 perspective on the Project Veritas covert operation and what they ended up releasing

9 versus what actually happened. Could we start there?

10 [redacted] Sure. Would you like us to --

11 Mr. Bopp. Yeah.

12 [redacted] -- introduce the exhibit first?

13 Mr. Bopp. While we pass those out.

14 Mr. Hanse. Is this the full -- the whole transcript of the entire video?

15 [redacted]. The 2 hours?

16 [redacted] Oh, no. No, no.

17 Mr. Bopp. Oh, this is just the --

18 [redacted] The version produced by Project Veritas.

19 [redacted]. Okay.

20 Mr. Hanse. All right.

21 Mr. Bopp. Can [redacted] go ahead and say a few words?

22 [redacted] Yes, please.

23 Mr. Bopp. All right. Thanks.

24 [redacted] And this will be --

25 [redacted] Three.

1 Mr. Zaro. This will be exhibit 3?

2 [redacted] Three, yes.

3 [[redacted] Exhibit No. 3.

4 was marked for identification.]

5 [redacted]. Actually, I'm on the page here with -- I don't know who Zach

6 Vorhies is, and I've never spoken to James O'Keefe; I've never spoken to Gaurav Gite; I've

7 never spoken to this guy Zach. So I have not seen this before.

8 [redacted] Yeah, this is a video that Project Veritas published with excerpts from

9 the recordings they took of this, I guess --

10 [redacted]. Oh, so they added commentary --

11 [redacted] Uh-huh.

12 [redacted]. -- on top of an edited video? Okay.

13 Mr. Bopp. Okay.

14 [redacted]. Okay. I'll get started with my context, then, which --

15 [redacted] Yeah.

16 [redacted]. -- this -- to be clear to the other people, this was not an interview I

17 did.

18 So, in 2019, I believe, I thought I was applying to a mentorship program to support

19 children from disadvantaged backgrounds, and I had a series of conversations with people

20 who apparently had made up names, made up a full company, and deceptively

21 interviewed me for a mentorship job that never existed.

22 And so I think by the fourth interview, it became a informal dinner, where they

23 would buy me drinks, where two people spoke at me over the course of about 2-and-a-bit

24 hours presenting leading statements, leading questions, asking me about things that had

25 nothing to do with my day job.

1 And, subsequently, about 15 minutes of that over-2-hour conversation was
2 released just focusing on what I said, not all the leading questions, not all the statements
3 by the people I was with, not stating all the lies that had been told to me.
4 So that's the context of the video. Asked me a whole bunch of things that had
5 nothing to do with my job.
6 And I don't know this. So this is not -- this is not my experience. It looks like
7 they put my statements in what looks to be, then, a second interview that I had nothing
8 to do with. So I'm just trying to get the lay of the land here.
9 I don't know who Eric Cochran is either.
10 So that's what the context is.
11 [redacted] Thank you.
12 BY [redacted]
13 Q In the video, you're recorded as saying that, we're also training on
14 algorithms, if 2016 happened again, that the outcome would be different.
15 Just at a high level, what does it mean to train the company's algorithms?
16 A I don't know. I'm not an engineer.
17 Q So you're not familiar with what you meant by that phrase?
18 A Yeah. I am not an engineer. I wouldn't know how to train an algorithm.
19 Q Okay.
20 Taking just one step back, is it your understanding that -- in an earlier response,
21 we were talking about how the data sets ultimately inform the -- whether it's the
22 machine learning, as far as language models, whatever it might be.
23 Is that an example of how the type of training could take place?
24 A No, that doesn't describe how training takes place. It just describes the
25 lifecycle of how a product is developed. But it doesn't take into account the technical

1 details of how to train a model.

2 Q Which teams at the company are responsible for training the algorithms?

3 A Every product has their own product development team.

4 Q So there'd be one for YouTube, one for Search, to your understanding?

5 A That's my understanding.

6 Q For any of the teams responsible for training the algorithms, do you recall

7 any instances where an issue or concern related to training the algorithm was escalated

8 to your team?

9 A Not that I'm aware of.

10 Q Are you familiar with the changes that the Trust and Safety team

11 implemented in the lead-up to the 2020 election?

12 A I don't have familiarity with the detail, no.

13 Q What about just at a general level?

14 A Trust and safety had posted a blog post, I believe, speaking about the

15 importance of preventing misinformation and disinformation.

16 Q Are you familiar with the Viacon analysis?

17 A Viacon?

18 Q Yeah, V as in "Victor," i-a-c-o-n.

19 A I don't think I'm familiar.

20 [redacted]. Are you referring to the document?

21 [redacted] No.

22 [redacted]. Okay.

23 [redacted]. Okay.

24 [redacted] It is referenced in the transcript, but it's not something that you -- you

25 spoke directly.

1 [redacted]. Okay. So, yeah, I don't know about it.

2 BY [redacted]

3 Q At a high level, are you familiar with whether Alphabet has a DEI office or

4 team?

5 A I believe we do, yes.

6 Q And during your time at the company, has that office or team or division

7 played any role, either in training or other interactions, with your team with respect to

8 that second principle regarding unfair bias?

9 A No.

10 Q We talked earlier about deepfakes. Another concern that people have

11 raised, especially more recently, is the concern of AI to be used to be able to spread

12 misinformation at scale.

13 Is that an issue that would've fallen within your team's purview?

14 A It could have. It is a potential harm. But a case of it did not come to my

15 team.

16 Q Do you recall ever sitting on any panels or discussions about how companies,

17 or just entities more broadly, should think about trying to address and combat the risk of

18 misinformation being spread at scale?

19 A No. Given misinformation was not part of my mandate, the panels I was on

20 wouldn't generally discuss it. It could've been mentioned; I don't remember, just

21 because it wasn't my area of expertise.

22 Q Did you have any team members that were focused on issues that would

23 touch upon or were related to misinformation?

24 A No.

25 Q If there were issues, whether it was Search or if it was another Google

1 product, where, you know, it's using machine learning and AI and it was, for whatever
2 reason, you know, kind of producing the wrong answer, it was undermining the principle
3 related to scientific excellence and accuracy, is that the type of issue that would be
4 escalated to your team?
5 A In general, every product at Google is made to be helpful, informative, and
6 generally accurate. So, generally, the product teams own that first principle, to
7 get -- like, to get it off the ground, that would be the basic principle. So it was not
8 generally something that would come to my team, no.
9 Q Do you recall any examples where it did?
10 A The Image Search one I shared earlier, that accuracy can also -- because
11 we're not accurately reflecting the world.
12 Yes. For the Pixel phone, I mentioned earlier my team helped the Camera team
13 test, that we had accuracy issues of identifying essentially -- it sounds simplistic,
14 but -- people and plants. The algorithms just find it hard sometimes to distinguish
15 certain clothing, hair, from plants. A very basic issue, but hadn't occurred in the product
16 team's original testing.
17 So, when we were testing for some of our work, that came up as a potential issue.
18 So we sent it back to the product team to say, these seem like basic issues; fix them
19 before coming back to my team.
20 Q In an earlier set of questions, we talked about whether any concerns with
21 potential bias in the data set, whether those were ever directly elevated to your team.
22 It sounded like that wasn't the case.
23 Do you recall any instances where models were escalated to your team because of
24 concerns about implicit bias in a model?
25 A No. Most teams knew that we were focused on products, so data and

1 models didn't usually get to our team.

2 But -- and I don't know if it was flagged to us or we conducted the review -- I

3 remember my team did review the LaMDA model. Again, I don't know if it was because

4 someone flagged it to us or we were just helping to consult on a model when usually that

5 wouldn't fall into our mandate. That's the only one that comes to mind.

6 Q Was there another team that it was within their purview to assess models

7 for potential implicit bias?

8 A If it was a DeepMind model, that had the Responsible AI team within

9 DeepMind focused on models. So it would be in their agreement, yeah.

10 Q Do you remember your team's reaction to the LaMDA model, what you were

11 asked to assess?

12 A Across the 11 principles, I wouldn't remember the whole assessment. I

13 remember the anthropomorphization question getting attention in my team's reviews,

14 which subsequently got more attention because of public attention. But that was one

15 identified by my team and shared back with the product team.

16 Q Do you recall any other issues that arose?

17 A With LaMDA, I remember the "accountable to people" principle around

18 explaining to people that, if LaMDA was going to be embedded in a product, people

19 should be told this is AI. Because at that stage it was getting quite smart at responding

20 to questions; we wanted to make sure they knew they were interacting with an AI, not a

21 human. So I remember the "accountable to people" had a couple of issues raised.

22 Q As part of your role at the company -- first, let me take a step back. Are

23 you familiar with Mitre, M-i-t-r-e?

24 A I don't think I am. Mitre? Is it an organization? A model? Like,

25 product? A --

Q Organization with --

[redacted] Do you have the full acronym, if that's what it is?

[redacted] I'm not sure if it's an acronym or not.

[redacted]. Just, it doesn't sound familiar to me.

BY [redacted]

Q As part of your role at the company, have you worked with NewsGuard?

A No.

Q As part of your role at the company, have you worked with the Global Disinformation Index?

A No, I don't believe so.

Q Are you familiar with the Center for Countering Digital Hate?

A Not familiar with it. Aware of it as an organization.

Q And as part of your role in the company, did you have any interactions with it?

A No.

[redacted] Can we go off the record, please?

[Recess.]

[redacted] We can go back on the record.

BY [redacted]

Q I just had a quick followup about Jigsaw. Do you remember the questions in the earlier hour about Jigsaw?

A I think so.

Q Jigsaw is a unit within Google, right?

A Correct.

Q Okay.

BY [redacted]

Q And it's not a unit that you worked with?

A That I worked?

Q With.

A With? No, not frequently. No.

Q Okay.

I want to ask a couple of questions just to follow up to make sure I'm clear on the extent of your [inaudible] you had with Project Veritas that are in this transcript.

A Uh-huh.

Q So what you described to us was, you had a series of interviews for what you thought was a mentorship program, correct?

A Correct.

Q And the folks who were interviewing you did not identify themselves as being related with Project Veritas.

A No.

Q And then, subsequently, a video of one of those meetings was published online. Is that correct?

A No. An edited, spliced --

Q Edited --

A -- version of a 2-hour conversation was released, yeah.

[redacted]

Q Okay.

1 Now, you were shown a transcript of -- that was exhibit 3, I believe.
2 You've never met anyone named Zach Vorhies, correct?
3 A I don't believe so, no.
4 Q And, during your meetings, these statements that are attributed to these
5 other individuals in the transcript, nobody ever said anything to you -- said those words to
6 you during the meetings, correct?
7 A Yeah, no. No. I didn't have this conversation.
8 Q Right. So this is -- this is fake. This is a completely --
9 A This seems to be a second edited version.
10 So I was aware of the video that was, kind of, simply me. After 2 hours, they
11 edited out, apparently, the other two people; it was just me. So that was what I was
12 aware of.
13 Q Uh-huh.
14 A This then seems to that that video and put it in between other people's
15 conversation.
16 Q It's in other people's either questions or commentary, correct, from what it
17 looks like?
18 A No.
19 Q So let me direct you to just the very first sentence, with Jack Vorhies saying,
20 "The reason I decided to come to Project Veritas was because people need to know
21 what's actually going on with Google."
22 Nobody ever said that to you during your meetings for this purported
23 mentorship --
24 A No.
25 Q -- correct? So this entire transcript is a fabrication of a conversation that

never actually happened.

A This is not a conversation I had, no.

Q Thank you.

Mr. Bopp. Just to be clear, this appears to be a transcript of some sort of social media show, or something like that, in which this purports -- what purports to be quotes from [redacted] are sort of interspersed with commentary.

And, frankly, this is the first time I'm seeing this.

Is this the first time you're seeing it, [redacted]?

[redacted]. Yes. I have not.

Mr. Bopp. All right.

BY [redacted]

Q And so, to be clear, you don't know -- you have no idea on what media this appeared, if it's video, if it's audio, what platform, anything like that.

A No. Like, I did not participate in whatever this is.

Q Thank you.

[redacted], was your work as the director of the Responsible Innovation team ever influenced by politics?

A No.

Q And, to the best of your knowledge, was the work of your team at RESIN ever influenced by politics or guided by politics?

A No.

Q Was any of your work with Google ever influenced by politics?

A No.

Q You were asked a series of questions today about different products or different subject matters that appear to not be within the scope of your employment at

Google -- for example, Gemini, misinformation. A good chunk of the last hour, you were asked questions about organizations that deal with misinformation or disinformation policies.

Do you know if your attorneys made the majority staff aware of the scope of your responsibilities and what was not covered?

And if you don't know, then I'd ask counsel on the record.

Mr. Bopp. I don't believe you know, correct?

[redacted]. I don't think I know.

Mr. Bopp. I would rather not comment on the record about any conversations that I had with either -- with any staff or committee.

[redacted] Fair enough.

BY [redacted]

Q But I would like to make clear, the vast majority of what you've been asked about today are about things that were outside the scope of your responsibility. Is that fair to say?

A I honestly wasn't watching the time, but the last hour was mostly on misinformation. That was not in my scope.

Q All right. Thank you very much.

[redacted] We can go off the record.

[Recess.]

1 [3:04 p.m.]

2 [redacted] Can we go back on the record, please.

3 One point of clarification. Just the exhibit that was introduced in the transcript,

4 that was not a -- the transcript itself is not one interview, it's the video that was posted,

5 and so just so that we could all reference the text, so it was being quoted. This is the

6 reproduced transcript of the video that Project Veritas had posted. It sounds like there

7 were different interviews interspersed as part of that video. So just for the record's

8 sake.

9 BY [redacted]

10 Q I did want to go back to earlier we talked about fairness testing, and you

11 mentioned how that could -- that was looking to see what kind of harms might be

12 produced. Is that correct?

13 A Correct.

14 Q What kind of harms might be produced, or what were you referring to

15 specifically?

16 A The types of harms are things like exclusion and, essentially, if we exclude

17 any type of people from our products, it's both bad for our products. And, obviously, we

18 would think that it's bad for our users. We want our users to have access to our

19 products and our best technologies. And so it would be harmful for them not to have

20 access to our products.

21 And another definition of "harm" would be, essentially, prevention of any maybe

22 economic harm due to fairness issues. An example of that, again, related to the image

23 search. One was related to jobs and job advertisement, as an example, that we would

24 not want to prevent certain types of people from seeing job ads because of who they are.

25 And so it could be harmful if ads are only shown to certain qualified people and not all

1 qualified people. We also want the best people for the jobs. But if some people don't
2 see it, maybe the best people won't be threatening us with economic harm to someone
3 who's excluded.
4 Q Are you familiar with the term "representational harms"?
5 A Yes.
6 Q What would be some examples of that, those types of harms?
7 A So representational harm is basically summarized as a lack of representation
8 within a product that causes harm. And so what that would mean, example, I'll use the
9 case of the job ad. We want any qualified candidate to see the jobs. But sometimes if
10 jobs are only shown to men, not women, there would be a lack of representation. So
11 due to that representational harm, women don't have access, qualified women don't
12 have access to those jobs. And so that's kind of representational harm is we're not
13 representing all potential, in this case, qualified candidates in general. We're not
14 representing all potential users.
15 Q Are you familiar with the term "erasing social groups"?
16 A I think I've heard that.
17 Q What does that mean in the context of the work that you do at Google?
18 A I don't think we've used it in our work at Google. My understanding is it
19 would be similar to representational harm where certain groups are era- -- again, we
20 don't use that language, but are not visible in the data or have access to a product.
21 Q Is it a representational harm if there is unequal visibility between different
22 groups or self-identifying groups?
23 A Differences invisible to you're okay. As an example, again, we're a global
24 user base, and we might expect that representational will be around 50/50 of the gender
25 and makeup. But representational then below that, we -- like, I don't -- Irish people

1 should not be represented to the same degree as American people. We don't have the
2 same population. So that would be, no, it doesn't have to be the same. It's like it
3 would be representational of our population to the size of the data set.
4 Q Are you familiar with what -- "information harms," that terminology?
5 A I'm not familiar. I have heard of it also. I'm not familiar.
6 BY [redacted]
7 Q That wasn't a phrase your team would use as part of your work?
8 A My team might use it. I have experts in, again, philosophy and ethics who
9 might be more familiar with these terms of the industry than I would be as a people
10 manager.
11 Q Would your team -- going back to like the Google image search example.
12 Were there concerns about representational harms in that context?
13 A Representational harms would align with what I was saying about historians
14 all being from 19th century. That's not representational of 20th or 20th century
15 historians. I don't remember using that language, but it is an example of a
16 representational one.
17 Q Was there ever any discussion about concerns related to representational
18 harms and how that intersected with the principle related to scientific excellency or
19 accuracy?
20 A I don't remember it being brought up in that context, no.
21 BY [redacted]
22 Q Do you recall posting on LinkedIn a posted reference, a study that your team
23 had recently done that won some award relatively recently?
24 A I remember, yeah, referencing my team in some of my LinkedIn posts, yeah.
25 Q Did you read that study that they did?

1 A I feel bad as a manager. And, no, I couldn't read all the work my team
2 produced.
3 Q Okay.
4 BY [redacted]
5 Q Okay. In the Google search example you mentioned that you had taken in
6 user feedback. You know, especially with a company as global-based, even if it's within
7 the U.S., there was strongly differing views on a number of issues that people are using,
8 like, Search and other products for. How does your team assess when the feedback
9 coming in is not unanimous, that there's quite divergent views of what different users
10 would like from a product?
11 A What do we do with that or how do we --
12 Q Yeah. How does the team assess, you know, and decide how to handle
13 that?
14 A Well, generally, if there was such diverging views, we would just, again,
15 share that information with the product team. And, again, as one of their many inputs,
16 our team is one of the teams that consults with fraud team, it's up to them as to how to
17 understand how to make their product work for those users.
18 Q And so that would -- I mean, is it broken down by percentage, like two-thirds
19 of people express this point of view, and one-third, or is it -- how does your team
20 communicate to the product teams?
21 Mr. Bopp. Just, I want to make sure we're not veering into the hypothetical.
22 If you have experience with this, by all means, please go ahead and answer.
23 [redacted]. I have experience, but it is not consistent. I shared a couple of
24 examples that if there were news stories raised in a product, it was not quantified. It
25 was, this was already happening, kind of the world is telling us. That was shared with

1 the product team. And sometimes if survey results came in, again, managed by the user
2 research team, sometimes they would have a quantified like, yes, X percent have
3 expressed displeasure with this product feature. Usually, product teams wouldn't go
4 more into detail.
5 As I responded in a previous question, things generally have to be worked out on
6 the model level. So issues raised were symptoms of a model. So they didn't work on
7 individual. So even knowing the percentage by user research team was probably not
8 useful to the product team because they would have to look at another model. So
9 that's my understanding.
10 But mostly my team, as I said, we saw news stories. It was more, this is
11 happening, here is -- again, indicates symptoms of an issue, work on your model.
12 [redacted] Do you see your position at Google or any other positions that you've
13 held as a way of promoting diversity, equity, or inclusion?
14 [redacted]. My work role, no.
15 [redacted] No?
16 Can we go off the record, please?
17 [Whereupon, at 3:13 p.m., the interview was adjourned.]

1 Certificate of Deponent/Interviewee

2

3

4 I have read the foregoing ____ pages, which contain the correct transcript of the

5 answers made by me to the questions therein recorded.

6

7

8

9 _____

10 Witness Name

11

12

13 _____

14 Date

15

Transcribed Interview Transcript Errata Form

Interviewee	[redacted]
Date of Interview	4/11/24
Date of Review	6/6/24
Name of Reviewer	Samantha Paige Yi
Signature of Reviewer	

Page	Line	Suggested Correction

Transcribed Interview Transcript Errata Form

Interviewee	Former AI Risk and Compliance Advisor in the Office of Compliance and Integrity
Date of Interview	April 11, 2024
Date of Review	December 16, 2024
Name of Reviewer	Ehren Halse
Signature of Reviewer	

Page	Line	Suggested Correction
24	17	“a established” should be “an established”
24	18	“use” should be “used”
25	7	“there’s” should be “there were”
43	8	“council” should be “counsel”
50	16	“good or harmful” should be “good or harm”
52	13	“harmful” should be “harmful content”
54	21-22	“So that was the need for it, is the AI” should be “So that was the need for it; the AI”

Transcribed Interview Transcript Errata Form

59	10	“questions but the” should be “questions and the”
61	19	“There was” should be “There were”

Page	Line	Suggested Correction
65	5	“for purpose” should be “for that purpose”
66	11	“ones” should be “one”
68	1	“Framework I” should be “Framework; I”
69	7	“were only” should be “were the only”
83	13	“identify” should be “identified”
83	18	“is” should be “it’s”
85	8	“once” should be “one”
86	6	“our and” should be “and our”

Transcribed Interview Transcript Errata Form

99	7	“who already” should be “who are already”
103	22	“going” should be “doing”
120	14	“Hanse” should be “Halse”
120	20	“Hanse” should be “Halse”

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3
4
5 COMMITTEE ON THE JUDICIARY,
6 U.S. HOUSE OF REPRESENTATIVES,
7 WASHINGTON, D.C.
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12
13 INTERVIEW OF: [redacted]
14
15
16
17
18 Tuesday, April 16, 2024
19
20 Washington, D.C.
21
22
23 The interview in the above matter was held in room 164 Cannon House Office
24 Building, commencing at 10:08 a.m.

1 Appearances:

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5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted] DIGITAL ASSISTANT

8 [redacted] PROFESSIONAL STAFF MEMBER

9 [redacted] DEPUTY CHIEF COUNSEL FOR OVERSIGHT

10 [redacted] MINORITY CHIEF OVERSIGHT COUNSEL

11 [redacted] MINORITY OVERSIGHT COUNSEL

12 [redacted] MINORITY OVERSIGHT COUNSEL

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15 For the SUBCOMMITTEE ON CRIME AND

16 FEDERAL GOVERNMENT SURVEILLANCE:

17

18 [redacted] MINORITY DETAILEE

19

20

21 For AMAZON:

22

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1 [redacted] Can we go on the record, please.

2 This is a transcribed interview of [redacted]. Chairman Jordan has

3 requested this interview as part of the committee's investigation of how and the extent

4 to which the executive branch has coerced or colluded with companies and other

5 intermediaries to censored speech. Would the witness please state your name for the

6 record.

7 [redacted]. Hi, I'm [redacted].

8 [redacted] Thank you. On behalf of the committee, I want to thank you for

9 appearing here today to answer our questions. The chairman also appreciates your

10 willingness to appear voluntarily. My name is [redacted] and I'm with Chairman Jordan's

11 staff. I'll now have everyone else from the committee who's here in the room to

12 introduce themselves as well.

13 [redacted] Chairman Jordan's staff.

14 [redacted] Chairman Jordan's staff.

15 [redacted] with Ranking Member Nadler.

16 [redacted] Ranking Member Nadler's staff.

17 [redacted] with Ranking Member Nadler.

18 [redacted] with Ranking Member Nadler.

19 [redacted] I'd like to now go over our ground rules and guidelines that we will

20 follow during today's interview. Our questioning will proceed in rounds. The majority

21 will ask questions first for one hour, and then the minority will have an opportunity to ask

22 questions for an equal period of time if they choose. We will alternate back and forth

23 until there are no more questions and the interview is over.

24 Typically, we take a short break at the end of each hour, but if you would like to

25 take a break apart from that, please just let us know. As you can see, there's an official

1 court reporter taking down everything we say to make a written record, so we ask that
2 you given verbal responses to all questions. Do you understand.
3 [redacted]. Yes.
4 [redacted] So the court reporter can take down a clear record, we will do our best
5 to limit the number of people directing questions at you during any given hour to just
6 those people on the staff whose turn it is.
7 Please try and speak clearly so that the court reporter can understand and so the
8 folks down at the end of the table can hear you. It is important that we do not talk over
9 one another or interrupt each other, if we can help it, and that goes for everybody
10 present at today's interview.
11 We encourage witnesses who appear before the committee to freely consult with
12 counsel if they so choose. It is my understanding that you are appearing today with
13 counsel. Is that correct.
14 [redacted]. Yes.
15 [redacted] Could counsel please state your name for the record.
16 Mr. Kelner. Robert Kelner with Covington and Burling for Amazon.
17 Ms. Dunn. Karen Dunn from Paul Weiss for Amazon.
18 [redacted] Thank you. We warrant you to answer our questions in the most
19 complete and truthful manner as possible, so we will take our time. If you have any
20 questions or you do not understand one of our questions, please let us know.
21 Our questions will cover a wide range of topics. So if you need clarification at
22 any point, just say so. If you honestly don't know the answer to a question or do not
23 remember, it is best not to guess. Please give us your best recollection, and it's okay to
24 tell us that you learned the information from someone else.
25 Just indicate how you came to know the information. If there are things you

1 don't know or can't remember, just say so, and please inform us who, to the best of your
2 knowledge, might be able to provide a more complete answer to the question.
3 You should also understand that although interview is not under oath, that by law
4 you are required to answer questions from Congress truthfully. Do you understand
5 that?
6 [redacted]. Yes.
7 [redacted] This also applies to questions posed by congressional staff in an
8 interview. Do you understand this?
9 [redacted]. Yes.
10 [redacted] Witnesses that knowingly provide false testimony could be subject to
11 criminal prosecution for perjury or for makes false statements under 18 U.S.C. Section
12 1001. Do you understand this?
13 [redacted]. Yes.
14 [redacted] Is there any reason you are enable to provide truthful answers to
15 today's questions?
16 [redacted]. No.
17 [redacted] Finally, I'd like to make a note that the content of what we discuss
18 here today is confidential. We ask that you not speak about what we discussed in this
19 interview to any outside individuals to preserve the integrity of our investigation.
20 For the same reason, the marked exhibits that we will use today will remain with
21 the court reporter so that they can go in the official transcript. Any copies of those
22 exhibits will be returned to us when we wrap up. That is the end of my preamble.
23 Is there anything that my colleagues from the minority would like to add?
24 [redacted] We would just like to thank the witness for appearing here today,
25 and we would also like to note for the record, we've done well over a hundred of these

1 transcribed interviews right now and only a fraction of the transcripts have been publicly
2 released.
3 So we would urge the majority to release all of them to the public. We
4 understand that the counsel have access to them, but publicly we do not.
5 [redacted] The clock now reads 10:11. We will start the first hour of questions.
6 EXAMINATION
7 BY [redacted]
8 Q Could I have you state your name again, please.
9 A Yes, it's [redacted].
10 Q And what is your current place of employment?
11 A At Amazon.
12 Q And what is your current title?
13 A Vice president of public policy and community engagement.
14 Q And how long have you worked in that role for?
15 A I have been at Amazon almost 12 years.
16 Q Beginning with college, what is your educational background?
17 A I graduated from Oklahoma State University, and I then went to law school
18 and graduated from Oklahoma State University School of Law.
19 Q Starting with the first job after law school what is your professional
20 background?
21 A The first job after law school was a clerk for the U.S. District Court for the
22 Northern District of Oklahoma, then I was a clerk for the U.S. Fifth Circuit Court of
23 Appeals, then I worked for the U.S. Department of Justice, then for the U.S. Federal Trade
24 Commission, then for Intel Corporation, and then for Amazon.
25 Q When did you join Amazon?

1 A In May of 2012.
2 Q And what was your first position when you joined the company?
3 A Director of public policy.
4 Q And how long were you in that role for?
5 A I believe I was in that role for 4 years.
6 Q What was your next position?
7 A My current role as vice president of public policy.
8 Q As vice president of public policy, what are your responsibilities?
9 A So I have several areas that I am responsible for. One is the public policy,
10 the government relations team. I have responsibility for federal, state, and local
11 throughout the Americas. I also have responsibility for the worldwide economic
12 development team, and additionally a responsibility for our community engagement
13 program.
14 Q At at a high level, what are your responsibilities as they related to the
15 worldwide economic development team?
16 A Yeah. So that team is responsible for facilitating our operations and our
17 facilities around the world, like our fulfillment centers, giving permits for our operations,
18 and things like that.
19 Q And for the community engagement team, what are your responsibilities as
20 it relates to overseeing or interacting with that team?
21 A Yeah, the community engagement team works with nonprofits and
22 community groups in places where we have a large employee presence.
23 Q Since 2016, who has been your direct supervisor or who do you report to?
24 A It's changed. So in 2016?
25 Q Yeah, please.

1 A Yeah, in 2016, it was [redacted] at the time.

2 Q And for how long did you report to him?

3 A Until August of 2022.

4 Q And then after August of 2022, who did you report to?

5 A [redacted].

6 Q Is that who you report to today?

7 A Yes.

8 Q We'll start first in 2016 when you became vice president of public policy.

9 How big was the team that you managed?

10 A I don't recall the exact size, but it was probably a couple of dozen people at

11 the time.

12 Q And has the team changed in size since 2016?

13 A Yes.

14 Q How so?

15 A So as far as the number of people?

16 Q Yes.

17 A Probably have around 235 people on my team currently.

18 Q So it's grown sizable since 2016?

19 A Yes.

20 Q In your current role, do you have a primary deputy or someone who reports

21 to you?

22 A I don't have a primary deputy. I have a number of direct reports.

23 Q How many direct reports do you have?

24 A Eleven.

25 Q And how are their, at a high level, how are their responsibilities divided up?

1 A It's divided in a mix of geography and subject matter at a high level.

2 Q Of the 11, how many are responsible for interactions with the Federal

3 Government?

4 A A number are kind of based upon their subject matter and hip experience.

5 Q Which subject matters based on interactions with the Federal Government?

6 A So I have a team that deals primarily with congressional relations. I have a,

7 you know, other teams that we deal with agencies such as the financial agencies and so

8 forth. So --

9 Q Are there other executive branch agencies outside of the financial area that

10 your team interacts with?

11 A A number of -- Amazon does have a breadth of businesses. We disclose,

12 you know, in our lobbying report the exact number of agencies. But, for instance, like

13 responsiveness, it would be one.

14 Q For interactions with the White House, is there a team with primary

15 responsibility for that set of interactions?

16 A That depends. I have one person who sometimes will deal with the White

17 House engagement. I also deal with the White House of whatever administration from

18 time to time as well.

19 Q Who is that one person?

20 A So currently her name is [redacted]?

21 Q How long has [redacted] been with your team?

22 A I recall she joined in 2020 at some point.

23 Q And within the public policy team, which team is she a part of?

24 A She is a part of our political affairs team.

25 Q Who's the head of that team?

1 A [redacted].

2 Q As VP of public policy, which teams at Amazon do you interact with most

3 frequently?

4 A I deal with a lot of business teams. Basically, I just say kind of most teams

5 kind of, you know, in the company, you know, I deal with, you know, from time to time.

6 Q And on a high level, what is the nature of your interactions? Why do you

7 have to interact with business teams?

8 [redacted] I'm sorry. I didn't hear the last.

9 [redacted] The business teams.

10 [redacted] Oh, thank you.

11 [redacted]. In my role as head of public policy, we will advise business teams

12 of pending legislation or regulation. We will advise business teams of pending

13 legislation or regulation if, for instance, kind of those two examples.

14 BY [redacted]

15 Q Are you familiar with the A9 team at Amazon?

16 A I have heard of that team, but I'm not familiar with them.

17 Q When you reported to [redacted], what was his title at the company?

18 A His title was senior vice president for global corporate affairs.

19 Q And then forgive me, if you can remind me of his last name. [redacted]

20 A [redacted].

21 Q [redacted] And what is [redacted] current title?

22 A Senior vice president of global public policy and general counsel.

23 Q Do you have regular interactions with other senior leadership at the

24 company?

25 A I do.

1 Q Who else do you also interact with?

2 A I interact with many leaders depending, you know, on the issue. You know,

3 if it's a retail issue, with the retail leaders, if it's involves the legal department, you know,

4 is with various leaders in the legal world, really I interact with kind of a broad range of

5 leaders depending on the issue.

6 Q Have you had interactions with the CEO?

7 A Yes.

8 Q Kind of the high level of what's the nature of those interactions?

9 A I will be in meetings where a particular policy issue, you know, might come

10 up, and he might be, you know, in attendance there, for instance.

11 Q Are you familiar with the terms "misinformation, disinformation, and

12 malinformation"?

13 A I've heard of those terms, but I don't know, specifically, what they might

14 mean.

15 Q So to your understanding, what is the difference between misinformation

16 and disinformation?

17 A I don't know.

18 Q Is that a -- sticking with just misinformation, is that a term that comes up

19 from time to time with issues that you or your team handles?

20 A I've heard that term arise, but I'm not sure exactly, you know, what it might

21 mean.

22 Q Which teams help oversee Amazon's online bookstore?

23 A Yeah, there is a book's team that is responsible for that.

24 Q And who currently leads that team?

25 A It is [redacted] who is the head of the book's business.

1 Q Are there separate teams that handle Amazon's online marketplace more
2 broadly as opposed to folks in particular?
3 A Yes.
4 Q And just at a very high level, can you describe the leadership's -- structure,
5 the organizational structure of these books within Amazon marketplace, or do you kind of
6 silo it out?
7 A My understanding is that they are separate business divisions both within
8 the retail part of the company.
9 Q Who is head of marketplace right now?
10 A I believe it is [redacted]?
11 Q If there are issues or concerns related to essentially misinformation, do you
12 understand -- is there a team at Amazon that has primary responsibility for handling the
13 issues related to that?
14 A My understanding is that there is not one specific team that does that.
15 Q To your understanding, what teams might have responsibility with that type
16 of response to address the issues related to misinformation?
17 A Well, I believe it would be the business or product that is involved.
18 Q Which team or teams have primary responsibility for overseeing Twitch?
19 A Twitch has its own team.
20 Q Who's the head of that team?
21 A I do not know.
22 Q During the COVID pandemic, to your understanding, did Amazon have a task
23 force or team responsible for issues related to health misinformation?
24 A Can you clarify the question again?
25 Q Sure. During the COVID pandemic -- just at any point since we'll say

1 starting in 2020, to your understanding, did the company have a task force, a team, some
2 sort of division, that primary responsibility for issues related to health misinformation?
3 A Well, my understanding is that it was the team -- there were existing teams
4 that worked on the issues that related to information we provide our customers. And it
5 was those teams that would be dealing with those issues, you know.
6 Q And would those teams be the product teams or?
7 A Yeah, there is -- for example, like the in-books team, you know, for instance,
8 there is a team that deals with content issues in that business.
9 Q Do you know who leads the team within the books team that handles
10 content issues?
11 A I do not.
12 Q What about with Twitch, do you know if think have a team that handles
13 misinformation, other content-related issues?
14 A It's my understanding that Twitch does have a content team as well.
15 Q Do you know who leads that team?
16 A I do not.
17 Q Are you familiar with the team within the company called the SWAT team,
18 S-W-A-T?
19 A So my recollection is that that's not a particular team, but a term that may
20 be used from time to time to get attention to a matter. Tiger team would be another
21 kind of term like that.
22 Q Do you know who Andy Slavitt is?
23 A Yes.
24 Q And then does the high level -- what's your understanding of what his role is
25 as it relates to your role in the company are?

1 A Well, my understanding of his role was that he was leading some of the
2 White House COVID response.
3 Q Do you recall when you were first connected with Mr. Slavitt?
4 A I don't recall the first connection time, no.
5 Q Did you know Mr. Slavitt before the start of the Biden administration?
6 A No, I don't believe I did.
7 Q Do you know who Rob Flaherty is?
8 A Yes.
9 Q Do you recall when you first connected with Mr. Flaherty?
10 A No, I don't recall the first connection.
11 Q Do you know who Clarke Humphrey is?
12 A Clarke who?
13 Q Humphrey?
14 A No, I don't believe I do.
15 Q Are you familiar with the White House's Coronavirus Task Force?
16 A Generally yes, I am.
17 Q Do you recall when you first had contact with them?
18 A If I recall, I believe we had discussions with them -- well, we've had
19 discussions in both the Trump administration as well as the Biden administration.
20 Which one?
21 Q Well, they're both --
22 A Yeah.
23 Q First years?
24 A Yeah, so I recall it was early COVID. It was mid March of 2020, the -- and I
25 don't know what their name was at the time, but the folks on the Trump administration

1 working on COVID issues, I reached out to us in a number of technology companies. I
2 remember we had kind of a call early then to discuss COVID issues.
3 Q And do you remember what COVID-related issues were brought up as it
4 related, specifically, to Amazon?
5 A Yes. So there was a number of technology companies on the call. There
6 was discussions about whether there were technological tools the companies had that
7 could help provide information to consumers about COVID since that was company
8 information is what was, you know, kind of needed at the time. I recall one topic raised
9 in that call was whether -- what technology companies could do to prevent
10 misinformation about COVID as well.
11 Q Do you recall which offices or which agencies were on the call?
12 A I recall that the -- that particular call was led by the chief technology officer.
13 I don't recall if the CTO and the deputy CTO were leading that. I don't recall what other
14 agencies were on that particular call.
15 Q And then with the Biden White House, do you recall -- well, first, do you
16 recall when your interactions with the Biden White House first started?
17 A Yeah, it was -- if I recall, it was probably late January, early February talking
18 about vaccine distribution issues.
19 Q Did you have any meetings or conversations with the Biden White House
20 regarding issues related to content moderation or misinformation?
21 A The first time that we had a conversation about that was after the
22 March 2nd email that I received from Mr. Slavitt followed up by a March 9th call with the
23 White House official.
24 [[redacted] Exhibit No. 1
25 was marked for identification.]

1 [redacted] All right. This will be exhibit 1. This is an email chain that starts in
2 February, but continues into early March, personal email from Amazon. Are you ready.
3 Mr. Kelner. Yes.
4 BY [redacted]
5 Q Do you recall this email chain?
6 A I do.
7 Q So if you were to start at the very back, it looks like Bates numbers on here,
8 but the first email on the very back page starts on February 19th, 2021. There's a little
9 bit of a back and forth. But on the second to the last page, there's an email from Mr.
10 Slavitt dated March 2nd, 7:33 a.m. Do you see that?
11 A Yes.
12 Q To your recollection, is this the first time that someone from the White
13 House had raised issues or concerns about misinformation as it related to Amazon
14 products?
15 A It's my recollection, yes.
16 Q Did you know prior to receiving this email that Mr. Slavitt was concerned
17 about alleged misinformation on Amazon?
18 A I did not. I was surprised by receiving this email. The previous discussions
19 we had had with the White House was, you know, about whether there were technology
20 tools that Amazon had that could be of assistance to the government's effort issues that
21 were around the vaccination of our employees. So I was surprised to receive this.
22 Q Prior to receiving this email, were you aware of whether Mr. Slavitt was
23 concerned about alleged misinformation on social media platforms?
24 A I don't recall being aware of that, no.
25 Q There's a response by you by later that morning. It Bates stamped at 8:36

1 on this email chain. You stated that "We've taken a number of actions to now show
2 misleading content on vaccinations." Did you have enough familiarity with the issue to
3 apply to this email on your own, or did you have to quickly get briefed by someone else
4 within the company?
5 A Yeah, I mean, I recall, you know, being surprised by this email, by the tone of
6 the email and, you know, you know, the direct language. I recall wanting to just
7 respond to kind of quickly, just to basically suggest a follow-up briefing. I don't recall
8 being kind of briefed, you know, in depth for kind of sending this email. But I do recall,
9 you know, asking questions the morning I received this.
10 Q How would you describe the tone of Mr. Slavitt's first email there?
11 A It was surprising because our belief E previous interactions had been not
12 about this issue but about technology tools and you know vaccinations. So I was
13 surprised both to receive it as well as by the tone of it.
14 Q And the understanding you were surprised to receive it. How did you
15 interpret the tone of this 7:33 email?
16 A Well, it was very direct. We had not had discussions previously on this
17 issue. So I was surprised by it and suggested a call to try to, you know, learn more about
18 what their questions were.
19 Q At the time you received the email, did you know what type of content Mr.
20 Slavitt had in his mind when he was asking about misinformation?
21 A I do not.
22 Q There's another email from Mr. Slavitt at 8:48. He writes, "if you search for
23 'vaccines' under books, I see what comes up." Were you surprised that the -- once he
24 sort of raised it, he has misinformation prior to the topic, he was concerned about was
25 vaccine misinformation?

1 A Yeah, I recall not knowing what he was, you know, talking about, you know,
2 specifically. So I recall wanting to learn more, you know, about what their concerns
3 were. So I get to understand what they were interested in.
4 Q Prior to receiving this March 2nd email for the other issues you mentioned,
5 how different technological tools can be used with the vaccine rollout or whatever else it
6 might be, how frequently were you interacting with the White House around this time?
7 A I don't recall like the exact numbers, but it was from time to time because
8 the vaccine, you know, rollout was, of course, a major issue for the government, you
9 know, and for us. And so if there were, for instance, things we were doing, you know,
10 with the States or around our employees, you would bring in vaccines or recall having
11 conversations about those. I can't remember the exact frequency.
12 Q Was Mr. Slavitt participating in most of those conversations before this
13 March 2nd email?
14 A I don't recall exactly which ones he was in versus, you know, people in his
15 office or in other parts of the office. I recall was in some, but I don't recall how many
16 specifically.
17 Q At 2:44, it's supposed to be back at the first page, there's a more substantive
18 response from you. And Mr. Slavitt had added in follow-up clarity based off his previous
19 email. Did you know who Mr. Flaherty was prior to this March 2nd email?
20 A I don't recall if I knew prior to this email who he was or not. I don't recall
21 that.
22 Q The last sentence of the first paragraph you say, "Specifically, we not allow
23 content meant to mislead customers under or that doesn't accurately represent content
24 of the book."
25 Just to clarify, are you as described in Amazon's policy at the time, as you

1 understand them, was that -- did Amazon's policies address misinformation of the book
2 or only how -- only what -- how the book was presented to customers whether that was
3 accurate?
4 A Yeah, I'm not on the team that can make those decisions, so I'm not familiar
5 with all of the specifics. It is my understanding that, you know, for instance, if a book,
6 you know, description says one thing, then what's in the book, then that generally it
7 would violate Amazon policies.
8 Q And what about if the book, as the policy stood at the time on March 2nd, if
9 the book accurately portrayed what the contents of the book, but the claims being made
10 within the book, some may allege, contain misinformation, is that a type of issue that
11 would have been addressed by Amazon's policies at the time on March 2nd?
12 A I'm not on that team, and so I don't -- I'm not familiar with all the specifics of
13 those policies.
14 Q Okay. What about at a high level?
15 A I'm not really familiar with the specifics or at a high level.
16 Q Who did you talk to on the books team to get an assessment of what
17 Amazon's policies were specifically to books?
18 A If I recall, I talked with a couple of members of my public policy team to get
19 this information.
20 Q Who did you talk to on your team?
21 A I recall talking to [redacted] and [redacted].
22 Q What is [redacted]' title?
23 A At the time she was director of public policy.
24 Q What about [redacted] role?
25 A I believe he was senior manager of public policy.

1 Q To your understanding, were they familiar with Amazon's policies related to
2 books, or did they need a briefing from someone on the books team?
3 A I don't recall what conversations they had that morning to get the
4 information or if they knew it. I don't recall.
5 Q The next email on this chain is a 2:53 by Zach Butterworth. Did you have
6 any interaction with Mr. Butterworth prior to the March 2nd email chain?
7 A Yes, I believe we had.
8 Q You said a high level, what was that the nature based on those interactions?
9 A It's my understanding, Mr. Butterworth was in the Office of Public
10 Engagement, but also helping with the COVID Task Force. And so some of the issues like
11 around the technological tools or what we're doing around vaccinations, I recall having
12 conversations with him about those issues.
13 Q There's also a [redacted] on this email chain. Had you had
14 interactions with him prior to this email chain?
15 A Yes.
16 Q And at a high level, what was the nature of your interactions with him?
17 A It was similar interactions. I believe he was on the COVID kind of task
18 force. So some of those similar issues around the vaccination and technology.
19 Q Mr. Butterworth's email at 2:53 starting at the bottom of the first page and
20 then continuing to the top of the second page. It says, "Just 5 minutes ago I searched
21 'vaccine' on Amazon, and the attached book was one of the first in the stack." There's
22 an image there, but the missed version of the email chain. Do you recall being surprised
23 that the White House was doing searches on Amazon to see what sort of results or labels
24 we're hearing?
25 A I was surprised by that.

1 Q And why were you surprised?
2 A Our previous interactions within -- had not been around this issue. They
3 had been around vaccinations, you know, and technology. And so I was again surprised
4 by receiving, you know, this email and the tone of it.
5 Q And how would you describe the tone of it?
6 A I think it's direct.
7 Q There's another email. This is now on the first page. Mr. Slavitt
8 responded to the chain at 3:14. Again, discussing the search results and what's
9 appearing on Amazon's results page. What did you make of Mr. Slavitt and Mr.
10 Butterworth running searches and describing their concerns with what was appearing on
11 Amazon's response page?
12 A I recall -- and I want to understand more about what questions they had.
13 So I recall thinking that just kind of a call with them and to have a briefing would probably
14 be kind of the best next path, you know, forward rather than just continued email
15 conversations.
16 Q Prior to this email chain, had there been any other instances where some
17 from the executive branch had taken screenshots or found results and kind of flagged a
18 specific level of their concerns with how things were appearing?
19 A On this issue or --
20 Q Yes.
21 A Not that I recall.
22 Q What about your -- you mentioned talking to a couple of members on your
23 public policy team. Was this a -- via a bit unusual to have kind of specific examples
24 flagged or screenshots, or was this something that the public policy team had come
25 across before?

1 A Well, given, you know, Amazon has so many products and services, we do
2 receive inquiries and from policymakers from time to time, including about new products
3 that we sell and things like that. So we have received inquiries, you know, like this from
4 time to time previously.
5 Q What about inquiries regarding how books appear after a search is run?
6 A I recall -- from time to time, we've had received inquiries, you know, kind of
7 in general, you know, about, you know, about books from policymakers.
8 Q What are some of those inquiries?
9 A I don't recall, specifically those. I just recall generally that we get questions
10 from time to time about books that we may sell that some might find objectionable, for
11 instance.
12 Q Do you recall any examples of books that were flagged to you or your team
13 as potentially objectionable?
14 A I'm not recalling any specifics right now.
15 Q When you do hear from policymakers about books that they may consider
16 objectionable, do you recall any of those policymakers sending a screenshot of the results
17 page or flagging concerns about how results appeared?
18 A I'm not recalling that.
19 Q Mr. Slavitt's 3:14 email -- this is on the first page of the exhibit. The end of
20 second paragraph he says, "And in my opinion, even a CDC warning wouldn't be a great
21 solution." What did you take that sentence to mean?
22 A If I understand correctly what he is referring to, I believe it's that if certain
23 searches were done, there would be a link to a CDC page that had some more
24 information about vaccines. So that was my understanding of what he was referring to.
25 Q With your understanding that he's referring to that policy or protocol that

1 Amazon had in place, what did you understand his statement that a CDC warning
2 wouldn't be a great solution?
3 A Well, I wasn't sure, you know, exactly, you know, what he intended. There
4 were several issues that were presented in the email chain or that morning. So I did
5 want to kind of talk with them and understand more what their exact questions, you
6 know, what their concerns were.
7 Q Did you understand his email, his 3:14 mail, to suggest that Amazon should
8 consider policies or enforcement mechanisms that are stronger than any CDC warning?
9 A I recall understanding if they had questions, if they had concerns about this
10 content. But I remember [redacted] I wasn't sure exactly, you know, what they wanted,
11 which is why I asked for a briefing, asked for like a follow-up call, where I thought he
12 could, you know, understand those questions better.
13 Q Again, with the understanding that the specifics aren't laid out, you're asking
14 for a follow-up conversation, you didn't interpret this email, the 3:14 email as suggesting
15 the CDC label was too much. Is that right?
16 A I recall understanding that they had questions, you know, about that, about
17 how it might work, how it might appear. So I would definitely want to understand, you
18 know, more about what their questions and, you know, about what their concerns were.
19 It wasn't entirely clear to me from this email.
20 Q I understand -- again, certainly the desire to get specifics again on additional
21 information. Either you or for members of your public policy team that you're talking
22 with on March 2nd, it would be very responsive to the White House. It's very short
23 timeframes between the responses. What was the takeaway either from, either you or
24 your team as far as what the White House's concerns were as it related to Amazon's
25 current policies on books that touched upon vaccines?

A I wanted to understand more because I was surprised to receive this. That the email was the first time we heard questions or concerns on this issue. So I wanted to learn more. I did ask for, you know, a follow-up call. And I was looking forward to finding out more about, you know, what they were interested in learning more about in that call.

Q So the timeframe we looked at in this email chain, you respond again at 3:21 asking for the opportunity to set up a call. Walk me through based off your recollection. The first email sent earlier that morning on this exhibit at 7:33 with Mr. Slavitt. What was your first reaction as far as what you should do next, which team you should contact or who you should reach out to?

A If I recall correctly, I first talked with members of my team to make them aware of this and to see what information they had. And then I want to -- and then my primary kind of focus that day was to try to get a call, you know, with the White House so we could kind of even if they do a briefing. So that's my understanding of what kind of I was focused on.

Q And who on your team did you speak to?

A I recall speaking with definitely [redacted] for sure. I recall -- I think she was probably, if I recall, my initial outreach.

Q So this is March of 2021. Do you recall during this time, were you in the office, this is taking place or your email from?

A If I recall, I think we were working from home kind of at this time. So.

Q Do you recall how you contacted -- I am sorry, is it [redacted] or [redacted]

A [redacted]

Q [redacted].

A If I recall, I sent her an email, I think.

1 Q And do you recall others on your team being looped into the discussion?
2 A If I recall, at some point [redacted] who worked for [redacted] at the time
3 was. I don't recall, I don't recall others.
4 Q Do you recall their initial reaction?
5 A I don't recall their reaction, no.
6 Q Which other teams, if any, did you -- do you recall reaching out to on
7 March 2nd?
8 A If I recall, I reached out to my policy team, and that's the one that I had the
9 primary communications with.
10 Q Is it your understanding -- let me rephrase that. To your understanding, did
11 members of your team reach out to the content moderation, whatever the correct time is
12 for the books team?
13 A Yes, that's my understanding.
14 Q Are you familiar with the term "do not promote" as it relates to the company
15 books?
16 A Yes.
17 Q What's your understanding of what is do not promote?
18 A It's my understanding that if an item is placed on the -- in the do not
19 promote category, then it's not eligible for search at these optional merchandizing and
20 promotion activities. So, for instance, Amazon has something called Amazon's Choice,
21 which will feature a product. We have a merchandising program that's called Great on
22 Kindle. And do not promote are not eligible for those. I can analogize it. You know,
23 if you were in a physical kind of retailer, and you're deciding what items to place on the
24 table up front or to put in the window, but products that are in the do not promote
25 category are still eligible for search results. They're still available and in our store,

1 available for purchase is my understanding.

2 Q When books are have the do not promote label -- is that the right way of

3 phrasing it?

4 A Yeah, and like do not promote category, maybe, yes.

5 Q For books that are the do not promote the category, and so they're no

6 longer eligible for things such as Amazon's Choice, does that affect how those books

7 appear in searches?

8 A I'm not on the search team, so I don't know the specifics of how that would

9 be affected.

10 Q Okay. Taking a step back from do not promote, does -- when a book

11 gets -- receives a label on Amazon's Choice, does that impact where a book appears on a

12 search -- the results on the -- after a search is run?

13 A I'm not sure about the specifics of that.

14 Q Is the team that runs, handles issues related to the search or books, is that

15 within the books team or is that a separate team?

16 A On specifically how books kind of are handled, whether there's not. I know

17 there is a separate search team. I'm not sure for books whether it's in the books team

18 or on the search team. I just don't know.

19 Q Do you know who leads the search team?

20 A I do not.

21 Q Do you recall what types of categories are applied? What type of subjects

22 receive the do not promote category?

23 A No, I'm not familiar with those specifics.

24 Q Prior to this March 2nd time area, were you familiar with the do not

25 promote category as it relates to books?

1 A Prior to -- excuse me, I'm sorry, I didn't understand the question.
2 Q Sure. Just prior to March of 2021, were you familiar that Amazon books
3 had the do not promote category?
4 A Yes, I recall being aware of that, generally.
5 Q And do you recall any issues coming up as it related to whether certain
6 subjects were or were not included in the do not promote category?
7 A Well, it's my understanding that the books team had been working on how
8 to treat kind of anti-vaccine content for some time for at least a month before this March
9 the 2nd outreach and had been making -- they made recommendations around the do
10 not promote category. And it's my understanding that there was meetings scheduled
11 for March the 19th with the senior leadership team to finalize those recommendations.
12 Q How did you learn this information that a month earlier there were internal
13 discussions about how to handle books related to vaccines?
14 A I recall learning that from my public policy team.
15 Q Who in your public policy team briefed you on this?
16 A I recall that it was [redacted].
17 Q To your recollection, when did she first brief you on it?
18 A I don't recall the specific date. I mean, I recall that we had conversations
19 on the day on March 2nd on the day that we received this email. I don't recall
20 specifically when we discussed that issue.
21 Q Do you recall being aware of it before March 2nd?
22 A No, I don't, I don't recall being aware of it before then, no.
23 Q To your recollection, what did she tell you exactly as far as what was being
24 considered and where things stood the first time you were briefed?
25 A If I recall -- well, yeah, I don't know whether it was the first time we were

1 briefed. But I do recall when we had conversations, she was telling me that the team
2 had been, had been working, you know, for well over a month on recommendations for
3 anti-vaccine content. And I do recall she said that there was that meeting scheduled on
4 March the 19th to finalize those recommendations.
5 Q Do you know who she was working with?
6 A I don't know, specifically, who.
7 Q What about generally, do you know which other teams she was working
8 with?
9 A I recall it was with members of the books team, and I believe the legal team
10 is one.
11 Q Once you were made aware of this, is it something you made [redacted]
12 aware of?
13 Mr. Kelner. I'm going to object to questions related to conversations with the
14 general counsel as for now.
15 BY [redacted]
16 Q Without getting into privilege discussions, is this the type of issue that you
17 would elevate to folks above you in the company?
18 A I recall briefing my boss at the time that at some point that this outreach
19 occurred. I don't recall specifically when I did that.
20 Q For that initial briefing for your boss, did you -- did that briefing take place
21 before or after the March 2nd reachout from the White House?
22 A I'm sorry just to clarify, I was answering the question about would I brief my
23 boss on the March 2nd outreach. I'm sorry. So that's what I was just to kind of clarify.
24 I recall briefing my boss that I received the outreach on March the 2nd. I'm sorry.
25 Q Yeah, that's fine. We'll ask a couple of follow-up clarifying questions.

1 First with that briefing as it relates to the White House's outreach on March 2nd, how
2 quickly did you brief your boss after the White House?
3 A I don't recall, specifically, when I told my boss.
4 Q Do you recall if it was the same day?
5 A I don't recall, but I don't believe it was.
6 Q To your recollection, was it within a week?
7 A I don't recall, specifically, but that's likely the general timeframe.

1 [11:07 a.m.]

2 BY [redacted]

3 Q Earlier in the hour you mentioned that there was a call or a meeting that

4 took place on the 9th.

5 Do you recall if you had briefed your boss prior to that meeting with the White

6 House?

7 A I don't recall specifically when, but it's most likely that I did before that call

8 ended up occurring.

9 Q And then to clarify a previous answer, when briefing your boss, does that

10 include the outreach from the White House, as well as the briefing that Sarah provided to

11 you about the internal work for the company, her team and the company had been doing,

12 or were those two separate briefings?

13 A I don't recall briefing my boss about the policies -- the policy work from

14 the -- from the book team. I don't recall briefing about that.

15 Q For the scheduled meeting with the company leadership on March 19th,

16 first, do you understand that -- did that meeting take place as scheduled, is your

17 understanding?

18 A I believe there was a meeting on March the 19th that took place. It's my

19 understanding that there were also decisions made about do not promote in advance of

20 March 19th as well.

21 Q The March 19th meeting, was this meeting on the calendar specifically for

22 the internal work Amazon was doing as related to books that touch upon vaccines, or

23 were there a number of issues to be addressed in the March 19th meeting and this was

24 just one of them?

25 A I don't know the full agenda for the meeting. It is my understanding the

1 vaccine content was on, but I don't know if there may have been other topics or not.

2 Q Independent of this March 19th meeting, are there standing meetings where

3 public policy is briefing senior leadership, or are they scheduled on more of an ad hoc

4 basis when issues come up?

5 A Just to clarify, the March 19th meeting was with the books team, briefing the

6 books leadership.

7 As to your question, we have both standing meetings with public policy, as well as

8 meetings that are scheduled as needed on specific issues.

9 Q For the March 19th meeting, did you attend?

10 A No.

11 Q Did anyone from your team attend?

12 A I do not know.

13 Q Do you recall receiving a readout from anybody after the March 19th

14 meeting?

15 A I don't recall if I did or not.

16 Mr. Kelner. [redacted] I think we're coming up on one hour. Do you want to take a

17 break soon?

18 [redacted] Yeah. We just have, like, one more minute.

19 Mr. Kelner. Okay.

20 BY [redacted]

21 Q To your understanding, when you say the books team was meeting with,

22 like, the books leadership -- I don't want to improperly put words in your mouth -- who

23 are you referring to when you're talking of the March 19th meeting specifically?

24 A It's my understanding that in that meeting on March 19th, at least the head

25 of the books business, David Naggar, and one of the senior vice presidents over retail,

1 [redacted], was also going to be there.

2 Q I'm sorry. Who was that?

3 A [redacted].

4 Q Anyone else, to your recollection?

5 A I don't know.

6 [redacted] Can we go off the record, please.

7 [Recess.]

8 [redacted] We can go back on the record.

9 EXAMINATION

10 BY [redacted]

11 Q So, [redacted], you worked at Amazon for about 12 years, correct?

12 A Yes.

13 Q And before that, you had a fairly long career in public service, correct?

14 A Yes.

15 Q You stated that you worked for the Department of Justice?

16 A Yes.

17 Q And you were a trial attorney there, correct?

18 A Yes.

19 Q And you spent how many years at the Federal Trade Commission?

20 A I was there almost eight years.

21 Q And at some point during those eight years, you were the chief of staff to

22 the chair of the FTC, correct?

23 A Yes.

24 Q And that was Deborah Platt Majoras. Am I pronouncing that correctly?

25 A Yes.

1 Q Okay. And she was appointed by President George W. Bush?
2 A Yes.
3 Q So she was a political appointee, correct?
4 A Yes.
5 Q And you were her chief of staff?
6 A Yes.
7 Q Now, have you worked on the Hill at any point?
8 A No.
9 Q No? Now, you stated that you've been the vice president of public policy at
10 Amazon since 2016, correct?
11 A Yes.
12 Q And so you've held that position now through three different presidential
13 administrations, or at least part of three presidential administrations, correct?
14 A Yes.
15 Q And it's part of your job, your role as the vice president of public policy to
16 interface with government officials at every level in the U.S., correct?
17 A Yes.
18 Q So that includes federal, state, local?
19 A Yes.
20 Q And you said that you have approximately 235 employees on your team?
21 A Yes.
22 Q So it's, essentially, a government affairs government -- like, a government
23 affairs shop, government affairs operation that you run. Is that a fair characterization?
24 A That is one of our functions, yes. We have other functions as well.
25 Q And you discussed some of them, like community relations, for example?

1 A Yes.

2 Q One of your responsibilities is to be responsive to inquiries from public

3 officials, including the White House, correct?

4 A Yes.

5 Q And I imagine when you receive those inquiries, you do your best to be

6 responsive?

7 A Yes. I would want to be responsive.

8 Q And you aim to be responsive to the White House regardless of who the

9 President is, correct?

10 A Yes.

11 Q Your work is not political, even though you deal with political figures. Is

12 that a fair statement?

13 A What do you mean by, like, nonpolitical?

14 Q Meaning, you deal with public officials regardless of what party they're from,

15 regardless of what their stance is? You interact with them all the same way, right?

16 Correct?

17 A Yes. We'll interact with officials on a bipartisan basis, yes.

18 Q Are you familiar with the term "content moderation"?

19 A I have heard that term, yes.

20 Q And what do you understand it to mean?

21 A I think it has many different meanings.

22 Q Well, let me ask you this. Is any part of your job to engage in content

23 moderation?

24 A There is a team -- there are teams that deal with content moderation. I'm

25 not on those teams.

1 Q Okay. So it is not your role personally to engage in content moderation or
2 to supervise the work of those who do?
3 A That's correct.
4 Q Okay. And do you have any role in creating or shaping Amazon's content
5 moderation policies?
6 A There's a team that makes those decisions and it makes those policies. I'm
7 not on that team.
8 Q Okay. So no role in shaping those policies either?
9 A No. I mean, I'm not on the team that makes those decisions.
10 Q Okay. And is it fair to say that's why you're not as familiar with terms like
11 misinformation or disinformation or what the difference is between the two, because
12 that's just not in your lane?
13 A Yeah. I'm not on those teams that make those decisions.
14 Q So I want to talk about some of the work you've done on -- as vice president
15 of public policy with -- before COVID. I want to just get a sense of, outside of the
16 context of the pandemic, the types of work that your team does.
17 And does your team work on any projects or initiatives with the White House
18 specifically before the pandemic?
19 A With -- prior to President Biden or --
20 Q Prior to -- yeah prior to the President --
21 A President Trump?
22 Q Entirely.
23 A Yes.
24 Q Can you describe some of those, please?
25 A Yeah. We've worked on a number of issues. For instance, I recall we

1 worked with the Trump administration on issues like computer science education, on
2 opioid abuse issues. I recall working with the -- with First Lady Trump on her initiative
3 around children as well.
4 Q And when you say you worked with them, can you describe a little bit what
5 you mean by that?
6 A So, for instance, those initiatives I recall involved public/private partnerships
7 on those issues. So I recall, for instance, on computer science education that Amazon
8 provided some -- some funding to an organization that was also, I believe, receiving
9 federal funding, you know, to promote computer science.
10 Q Can you talk a little bit more about First Lady Trump's initiative and what her
11 work was and how Amazon supported that?
12 A Yes. First Lady Trump had her -- I think it was called Be Best initiative, and
13 she had a roundtable with technology representatives to discuss issues around children
14 and technology. And I participated in that, and I believe we did some -- some
15 educational initiatives around -- around the program with Amazon.
16 Q So fair to say that Amazon helped further the initiative or attempted to help
17 or use its platform to help further the goals of the First Lady's initiative?
18 A Yes.
19 Q Now, turning specifically to COVID, you're aware that the White House
20 declared COVID-19 to be a national public health emergency in early 2020, correct?
21 A Yes.
22 Q And you mentioned in the previous hour that there was a meeting that the
23 White House convened in mid-March 2020. Do you remember that?
24 A Yes.
25 Q And it was a -- it was called a roundtable with tech company executives. Is

1 that correct?

2 A I don't recall what it was specifically named, but there were a number of

3 technology companies there, yes.

4 Q And was it your understanding that the White House was looking to

5 technology companies to partner with federal agencies to help prevent the spread of

6 COVID-19?

7 A It was early -- kind of early days of COVID, and I recall there being -- yeah, a

8 number of issues that were around education, kind of, of COVID and -- and how

9 technology companies could assist, for instance.

10 Q And you participated in that meeting, correct?

11 A I did, yes.

12 Q And Amazon could have chosen not to attend that meeting, correct?

13 A We could have, yes.

14 Q But you decided that you wanted to participate?

15 A Yes.

16 Q And why is that?

17 A There was a number of other technology companies participating, and we

18 wanted to be part of the dialogue that the government was having at this national

19 emergency.

20 Q Did you also want to further the goal of helping to mitigate the spread of

21 COVID and help educate the American public about the -- the growing pandemic?

22 A I recall that we wanted to -- to assist the government's efforts as we could,

23 yes.

24 Q So if I could have exhibit --

25 [redacted] Exhibit No. 2

1 was marked for identification.]

2 BY [redacted]

3 Q Okay. So Exhibit 2 is a readout that was published by the White House on

4 March 11, 2020, and it's titled, "Readout: White House Convenes Meeting of Tech

5 Industry on COVID-19 Response."

6 Did I read that correctly?

7 A Yes.

8 Q So I'm going to ask you a few questions about this readout.

9 First, the -- the readout lists the companies that participated in the

10 teleconference, correct?

11 A Yes.

12 Q And there are -- there are about 12 companies there?

13 A Companies and associations, yes.

14 Q And associations, yes. Thank you for that clarification.

15 And, obviously, Amazon is one of those companies?

16 A Yes.

17 Q And the meeting was -- oh, I'm sorry. If you turn to the second page, it also

18 lists the federal agencies that participated in the meeting, correct?

19 A Yes.

20 Q And there are eight federal agencies that were there, correct?

21 A Yes.

22 Q And that includes Health and Human Services, Medicare and Medicaid

23 Services, the Office of the Surgeon General, National Institutes for Health, for example,

24 correct?

25 A Yes.

1 Q And the meeting was run by the chief technology officer, I believe,
2 that -- you mentioned that earlier?
3 A Yes.
4 Q And the -- according to this readout from the White House, in the second
5 paragraph, it says the White House, quote, "challenged the tech community to leverage
6 technology tools, such as artificial intelligence, to help medical researchers glean scientific
7 insights from this collection of articles."
8 And they're referring earlier to a collection of articles that the chief technology
9 officer's office had collected in a database about COVID-19. Is that correct?
10 A Yes, that's my understanding.
11 Q And the White House also stated in the readout -- and this is in the third
12 paragraph -- that "The White House's top priority is ensuring the safety and health of the
13 American people amid the COVID-19 outbreak. Cutting-edge technology companies and
14 major online platforms will play a critical role in this all-hands-on-deck effort."
15 Did I read that correctly?
16 A Yes.
17 Q And is that consistent with your recollection of the message the White
18 House conveyed in the roundtable?
19 A Yes. That was my recollection of this meeting.
20 Q And was there anything unusual about this request to partner on this sort of
21 an issue?
22 A I mean, I recall -- I mean, the whole situation was unusual.
23 Q Separate and apart from the once-in-a-lifetime --
24 A Yeah.
25 Q -- global pandemic.

1 A That -- that was definitely, you know, unusual. But the request itself to
2 partner, no.
3 Q And as you stated a few moments ago, you had previously done that before
4 on several initiatives?
5 A Yes.
6 Q And the White House also stated in that third paragraph, "Today's meeting
7 outlined an initial path forward, and we intend to continue this important conversation."
8 Did I read that correctly?
9 A Yes.
10 Q And that's consistent with your recollection of the White House's intent and
11 also what transpired afterwards. Is that fair to say?
12 A I recall that that -- what was said. I don't recall what specific follow-ups to
13 this, you know, meeting.
14 Q In this -- in that administration?
15 A Yes.
16 Q Now, on the second page of the readout, the White House listed the topics
17 that were discussed at the meeting.
18 And the first topic is increased coordination between federal agencies and
19 technology companies to improve official information sharing. Is that correct?
20 A Yes.
21 Q And is that consistent with your recollection of the meeting, that that was
22 one of the topics discussed?
23 A I recall at a high level that that was discussed, yes.
24 Q And the second bullet point -- I believe this is what you testified to
25 earlier -- the second topic included increased coordination among online platforms to

1 identify best practices to root out COVID-19 misinformation. Is that correct?

2 A Yes.

3 Q So, just to be clear, it was during the Trump White House that Amazon and

4 other tech companies were first asked to work on the issue of rooting out COVID

5 misinformation?

6 A That's my recollection, yes.

7 Q Thank you. Now, I want to raise another request that the White House

8 made to Amazon during the Trump administration. This is a long email chain. I'm just

9 going to ask some very general questions about it.

10 A Uh-huh.

11 Q Well, actually, I might get a little specific. But just take a moment to review

12 it.

13 So in March of 2020, the White House submitted an app, coronavirus.gov, the Fire

14 TV app, for approval to Amazon. Is that correct?

15 A Yes.

16 Q And the White House asked you to expedite approval for that app so that it

17 could appear on people's Fire TV platforms?

18 A Yes. I recall that they were looking for that app to appear quickly, yes.

19 Q And on this email chain, if you look at page 3 -- and the Bates stamp is

20 4603 -- at the bottom of the page, you sent an email to several individuals at Amazon in

21 which you said, "This is a direct request from the White House for app approval.

22 Appreciate your help in getting expedited right away. When we approve, please let me

23 know so I can circle back with them."

24 Did I read that correctly?

25 A Yes, that's correct.

1 Q Is it fair to say you treated this matter with some level of urgency? You
2 wanted it to be expedited?
3 A Yeah. It's my recollection that I did -- yes.
4 Q And did you do that because it's part of your job to be responsive to issues
5 that the White House raises with you?
6 A Yes. They were -- the White House was interested in getting these apps up
7 on all the app stores, and I wanted to assist in making sure that it got expeditiously
8 approved in the Amazon Appstore.
9 Q And as the email chain reflects, the app initially, in fact, was rejected
10 for -- for what appears to be a technical reason. Is that fair to say?
11 A Yes.
12 Q Okay. And you stated in the email that you were upset that it was rejected,
13 and that you wanted somebody on the phone to explain why to the White House right
14 away. Is that correct?
15 A Yes. It's my recollection that they -- the White House just received this
16 automated email about the rejection, and I thought that we should provide them an
17 explanation and not just an automated email, but actually, I think, here's what you need
18 to do to fix it and, you know, to get it approved.
19 And so I was upset that they received that automated email, like, without further
20 explanation.
21 Q And is it fair to say that part of the reason for you being upset is because it
22 was your job to have open communication with the White House and to do what you can
23 to -- to respond to their requests?
24 A Yes. I wanted to -- to help get it kind of approved quickly, and I thought
25 just an automated email without any explanation was -- was not the proper way to do

1 that.

2 Q Now, you mentioned a few moments ago that you're not on the content

3 moderation team. It's not part of the work that you do.

4 At a high level, are you aware that Amazon had -- has content guidelines for the

5 books that it sells?

6 A Yes.

7 Q And are you aware that Amazon has had content guidelines since well before

8 the pandemic?

9 A Yes.

10 Q And, generally speaking, what is your understanding -- is there a certain type

11 of material that you know would fall within Amazon's content guidelines that would be

12 prohibited?

13 A I'm really not familiar with the specifics of the policies and what would be

14 prohibited or not.

15 Q Are you aware if a book that encouraged some sort of self-harm, like, for

16 example, drinking bleach to cure a disease, is that the type of thing that would be

17 prohibited? Is that your understanding?

18 A It was my understanding that books that did advocate harm to the

19 customers, like drinking bleach, that books like that had been removed from the store is

20 my understanding.

21 Q And is it your understanding that that had happened even -- even before the

22 pandemic?

23 A That books had been removed?

24 Q Yes. And if you don't know, that's fine.

25 A I don't know. Yeah, I don't know.

1 Q So far outside of what you do?
2 A I don't know.
3 Q Okay. And I appreciate that. Thank you.
4 We have conducted many interviews of executives and other employees from
5 social media companies, but Amazon is very different from a social media company,
6 correct?
7 A Yes.
8 Q And one of the reasons for that is that Amazon is not primarily a platform for
9 user-generated content. Is that fair to say?
10 A Amazon is a retailer primarily.
11 Q And it is -- well, it began as a bookstore, correct?
12 A That's right.
13 Q And is it fair to say -- I don't actually know the answer to this question, but it
14 has to be that Amazon is the biggest bookseller in the world?
15 A Well, there are many, many booksellers. I know Amazon has -- has millions
16 of books, you know, for sale to our customers.
17 Q And books are a form of speech, correct?
18 A Yes.
19 Q And Amazon strives, as a retailer, to offer the widest possible selection of
20 speech to its customers, correct?
21 A That is Amazon's philosophy, to be able to -- to offer as many books and
22 content as we can to our customers on a wide variety of subjects.
23 Q And that includes books that some or maybe even most people might find
24 offensive?
25 A Yes. It's our philosophy to -- to offer content even if some might find it

1 objectionable.

2 Q And I'm not sure if you'll be able to answer this question, but if you can,

3 when Amazon makes a decision to remove a book from its platform, is that something

4 that Amazon's teams do on their own, make their own independent judgment, or do they

5 respond -- do they remove things because a third party asks them to?

6 A It's my understanding that they -- they make decisions based upon the

7 Amazon policies.

8 Q Now, I want to turn back to exhibit 1 and your emails with Mr. Slavitt,

9 Mr. Flaherty, and Mr. Butterworth on March 2nd. And I'm going to introduce,

10 essentially, the exact --

11 Mr. Kelner. Can you give us a second to --

12 [redacted] Oh, sure.

13 Mr. Kelner. -- locate exhibit 1 in our pile. Okay.

14 BY [redacted]

15 Q So I'm sorry to add to the paper. But I'm going to introduce what is,

16 essentially, the same thread, but it includes the screenshot that Mr. Butterworth sent

17 you, which I think is important to be in the record.

18 And I think it does not actually include that very top message, which is

19 Mr. Flaherty responding to you. No, that's not the right one. Sorry. Wrong one.

20 [redacted] We can go off the record.

21 [Discussion off the record.]

22 [redacted] We'll go back on the record.

23 [redacted] We'll come back to that.

24 BY [redacted]

25 Q What I want to do is take you through -- we can go through exhibit 1. I just

1 want to take you through -- some of this we covered in the earlier hour, but I want to just
2 add some context to it.
3 So my counterpart for the majority pointed out that if you look at the back page,
4 these initial emails were from February 19th, 2021, and they were on a different topic,
5 correct?
6 A Yes.
7 Q And I believe you described them as a back-and-forth. But did you actually
8 look at these -- this was a conversation between you and Mr. Butterworth discussing
9 ways in which Amazon could work with state governments to help distribute the COVID
10 vaccine.
11 Is that a fair characterization?
12 A Yes.
13 Q And Mr. Slavitt was cc'd on those emails, correct?
14 A Yes.
15 Q And so when he reached out to you on the morning of March 2nd -- turning
16 to the third page of that exhibit -- he was just replying to a thread that already existed
17 even though it was on a different topic. Is that fair to say?
18 A I'm -- I'm not certain what was -- he was replying to or not.
19 Q Well, if you look at -- and I'm not trying to get at his intent. I just want to
20 look at what -- what the document reflects. His email at March 2nd, 7:33 a.m., the
21 email immediately before that is an email from you to Zach Butterworth and several
22 others cc'd, including Mr. Slavitt, dated February 25th, 2021. Is that correct?
23 A Yes.
24 Q And Mr. Slavitt's 7:30 a.m., March 2nd email is not responsive in terms of
25 topic to that email that you sent about an internal messaging campaign and Amazon

1 Pharmacy, correct?

2 A Yes. It was on a different topic, yes.

3 Q And the email -- so his initial email is where he made the comment, "Who

4 can we talk to about the high levels of propaganda and misinformation and

5 disinformation at Amazon," correct?

6 A Yes.

7 Q And that is what you refer to as being a surprising and direct -- correct?

8 A Yes, it was surprising.

9 Q And then you sent the response at 8:36 where you said that you were happy

10 to talk and learn more and that you had taken a number of actions not to show

11 misleading content on vaccinations, correct?

12 A Yes.

13 Q And if you -- you offered to do a more fulsome briefing with content teams if

14 that's helpful, correct?

15 A Yes.

16 Q And then Mr. Slavitt responded to you and said, "If you search for vaccines

17 under books, I see what comes up. I haven't looked beyond that, but if that's what's on

18 the surface, it's concerning," correct?

19 A Yes.

20 Q And then he said, "Happy to get briefed, but I want to understand the data

21 when we do."

22 Did I read that correctly?

23 A Yes.

24 Q He did not ask you to remove any books or content from Amazon's

25 bookstore, correct?

1 A That's correct.
2 Q And he did not ask you to remove the book or any content from Amazon's
3 search algorithm, correct?
4 A Yes.
5 Q And he didn't actually ask you to take any action at all, correct, other than
6 wanting to identify who he could talk to?
7 A Yes. That's correct. He did not -- he did not make the ask in this thread,
8 yes.
9 Q So he did not pressure you to do anything?
10 A Well, we weren't sure exactly what he wanted to talk about or what
11 questions he had, which is why we thought that a briefing to understand more would be
12 useful.
13 Q But, again, there was no direct ask or no direct pressure in that email,
14 correct? I mean, it was critical, but other than that?
15 A There was no direct ask in that email.
16 Q And he told you that he was bringing Rob Flaherty into the conversation,
17 correct?
18 A Yes.
19 Q And then you provided that more fulsome response that majority counsel
20 went over during the previous hour about Amazon's content guidelines, correct?
21 A Yes.
22 Q And you actually provided a link to those guidelines?
23 A Yes.
24 Q And you pointed out that when a customer searches for books related to
25 vaccines or COVID in general, the search results page links to the CDC page on vaccine

1 information, correct?

2 A Yes.

3 Q And that was something that Amazon was doing to try to ensure that its

4 customers had ready access to authoritative health information about COVID and about

5 the vaccines?

6 A Yes. So when -- yes. When there were certain search terms done, that

7 link would appear at the top of the search results page, yes.

8 Q Now, when Mr. Butterworth responded and sent you the screenshot that we

9 discussed earlier that I'll show you later when I can, he -- he said, "Brian, thanks for your

10 response. Five minutes ago I searched vaccine on Amazon, and the attached book was

11 one of the first in the stack. When I click on the product page, I don't see any CDC

12 warning." Is that correct?

13 A Yes.

14 Q He did not ask you to remove the book with the attached from Amazon's

15 platform?

16 A No.

17 Q And he specifically pointed out that when he clicked on the product page, he

18 didn't see the CDC warning?

19 A Yes.

20 Q Now, you were asked about Mr. Slavitt's email, his follow-up email, where

21 he mentioned that -- well, you were asked about portions of that email. And referring

22 to the email that's on the bottom of page 1 at 3:14 p.m. And he states, "In fact, right

23 above it" -- and we'll see when we have the exhibit, he's referring to the screenshot that

24 Mr. Butterworth sent -- is the line, quote, "Vaccines are dangerous and don't work,"

25 unquote. "Promoting even another book. This site caters to people who are anti-vax."

1 Did I read that correctly?
2 A That's what that says, yes.
3 Q And then he went on to say, "We would welcome spending time on this with
4 you, not just about policies, but examples like this that are of concern," correct?
5 A Yes.
6 Q And then he said, "In my opinion, even a CDC warning wouldn't be a great
7 solution."
8 And that was what you were asked about earlier, correct?
9 A Yes.
10 Q And you did not know what he meant by that?
11 A I don't know what he meant by that. I assume he wanted to have a -- a
12 follow-up call to learn more.
13 Q And he didn't say in the emails what would be a good solution, correct?
14 A Yes. I was not clear about -- about what he wanted in this email.
15 Q And he did not ask you to remove the book that Mr. Butterworth had sent
16 the screenshot of, correct?
17 A No. Not in this email thread, no.
18 Q And he did not ask you to remove the book -- the other book title that he
19 mentioned?
20 A No.
21 Q And you, again, offered to set up a time to discuss the concerns that he
22 raised?
23 A Yes.
24 Q And Mr. Flaherty responded by saying, "Thanks. Let's talk about what your
25 policies are. Want to understand what the lines are here." Is that correct?

1 A Yes.
2 Q Mr. Flaherty did not ask you to remove any content, correct?
3 A No.
4 Q He did not ask you to change Amazon's policies, correct?
5 A No. We -- no. We weren't sure what they wanted, but no.
6 Q And what he expressed in this email was a desire to understand what
7 Amazon's policies were, correct?
8 A Yes.
9 Q And he connected you with a colleague to help schedule a meeting, correct?
10 A Yes.
11 Q And I believe you mentioned during the previous hour that that meeting was
12 set for March 9th of 2021, correct?
13 A Yes. That's when that occurred, yes.
14 Q Now, other than emails to schedule that meeting about people's availability,
15 did you have any other communication with Mr. Slavitt or Mr. Flaherty before March 9th?
16 A I do not recall any other communication with them.
17 Q Now, in this email exchange that you had on March 2nd that culminated
18 with Mr. Flaherty suggesting that you set a time to meet, there was nothing in that email
19 thread that you interpreted to be an attempt at coercion, correct?
20 A We weren't sure what they wanted, what questions they were going to
21 have, which is why we thought it best to try to schedule a call to learn more.
22 Q Did you interpret it as any kind of threat that there would be retribution
23 against Amazon if you didn't address these concerns that you didn't know what they
24 were?
25 A Well, I was surprised by the tone of the email. It was direct language and

1 didn't really understand what -- all the questions they had or what they were interested
2 in, which is why we thought a follow-up call would be best.
3 Q And, ultimately, you had that follow-up call?
4 A We did.
5 Q And who participated on that call?
6 A Yes. From the White House, it was only Rob Flaherty who participated.
7 He was the only one, to my -- to my knowledge. And then I had a couple of my Amazon
8 colleagues as well.
9 Q And so, again, your recollection is that Mr. Flaherty was the only White
10 House representative on that call?
11 A Yes.
12 Q And how long did that call last, do you recall?
13 A I recall that it was -- it was scheduled for 30 minutes, and I recall it not
14 lasting that long. I think in -- you know, like, shorter than 30 minutes.
15 Q And how would you describe the tone of that call?
16 A We weren't sure what to expect, you know, on the call. We prepared a lot
17 for it. The conversation itself was -- was also surprising. It was high-level.
18 Q What do you -- what do you mean by that?
19 A It was -- it was general questions and not detailed kind of or specific
20 questions for us, and so that was -- that was how I would describe that call.
21 Q And was it -- you said it was surprising. In what way?
22 A I was surprised that Mr. Slavitt did not attend, that Rob Flaherty was the only
23 one who attended. And we had prepared lots of, you know, information because we
24 weren't sure what they were going to discuss on the call. But the call ended up being
25 fairly high level in general.

1 Q Did it have the same tone as the emails that were sent on March 2nd?

2 A I would say the tone was different. I found that the March 2nd, kind of,

3 tone to be very direct and that this call was fairly high level and general and not a lot of

4 specifics to my recollection.

5 Q Now, you stated that you had prepared a lot of materials in anticipation of

6 that call. Is that, in part, because you didn't know exactly what they were going to say

7 or what they were going to ask, and you wanted to be prepared for a variety of different

8 scenarios?

9 A Yeah. We did not know what they were all interested in or what questions

10 they were going to ask, and so I did want to be prepared.

11 Q And did you anticipate that one of the things that you might be asked is for

12 Amazon to remove certain pieces of content from its bookstore?

13 A Yeah. I wasn't sure what they were going to ask, but that was one question

14 that we thought they might ask.

15 Q And how did you anticipate you would respond if they did?

16 A It is Amazon's philosophy to -- to sell books and content to all of our

17 customers as much as we can, even if some customers find that objectionable. And it

18 was not our intent, to my recollection, to -- to remove content.

19 Q And so you intended, even if you were asked, to deny that request?

20 A That is my recollection of how we would have approached that.

21 Q And Amazon prepared a pre-brief for this call. Is that correct?

22 A Yes.

23 Q And I believe we're on exhibit 4.

24 [[redacted] Exhibit No. 4

25 was marked for identification.]

1 Mr. Kelner. We're going to take a moment to read this.

2 [redacted] Oh, of course.

3 Ms. Dunn. Do you know when we started?

4 [redacted] We are at 23 minutes. Do you need to take a break now?

5 Mr. Kelner. Why don't we take a short break.

6 [redacted] Sure. We can go off the record.

7 [Recess.]

8 [redacted] Thank you. We can go back on the record, and I appreciate your

9 patience.

10 BY [redacted]

11 Q So this email is dated March 9th, 2021, at 10:05 a.m., correct?

12 A Yes.

13 Q And the subject line is "Re: Pre-brief for meeting with the White House,"

14 correct?

15 A Yes.

16 Q And it has a prepared script and then some talking points, correct?

17 A Yes.

18 Q Now, I want to turn your attention to page 2 of this document; the Bates

19 number is 6185. And one of the talking points is -- let me find this on the document. If

20 you look at the -- there's a bullet point in the middle of the page right above where it says

21 content guidelines. And it says, "Books are unique and an important part of Amazon's

22 DNA. We are going to sell controversial books, as all libraries and other bookstores do.

23 We have a high bar for removing book selection at Amazon, and we do not take these

24 decisions lightly."

25 Did I read that correctly?

1 A Yes.

2 Q And so that was an example of the language that you intended to use if

3 asked to remove books from Amazon?

4 A Yes.

5 Q And in addition to pushing back the request to remove books, you also

6 intended to push back, if there was a request, to remove certain types of content or

7 certain types of books from search results. Is that correct?

8 A Excuse me. Let me read this.

9 Q Well, let me direct your attention to the next page, which is Bates number

10 6186 -- wait, no. Sorry. It's the last page, page 5, 6188.

11 There's a bullet point under it's the one, two, three -- the third bullet point under

12 Roman numeral 4, "Bottom Line." It says, "To remove certain books from our discovery

13 tools is equivalent to removing them from our store. We do not take these decisions

14 lightly, and we err on the side of our customers."

15 Did I read that correctly?

16 A Yes.

17 Q And is discovery tools a reference to search functions? That's how I

18 interpreted it, but perhaps I was mistaken.

19 A That would be my understanding of this, yes.

20 Q And going back to page 6186, another one of the talking points that was

21 prepared for you was -- and I'm looking under Roman numeral 1 and that first talking

22 point, to be made affirmatively, and there's -- in the brackets it says, "Is the admin asking

23 us to remove books, or are they more concerned about search results/order or both?"

24 Did I read that correctly?

25 A That is what that says, yes.

1 Q And then it says, "Again, books are unique and an important part of
2 Amazon's DNA." Then hyphen TBC, hyphen "Books are not UGC/social media."
3 And UGC stands for user-generated content, correct?
4 A That's my understanding, yes.
5 Q And then it says, "We have a high bar for removing book selection at
6 Amazon, and we do not take these decisions lightly." And then there's a quote, "Books
7 cannot be compared to social media and communications content. We are mindful of a
8 global history rife with book censorship, and we do not take this lightly," end quote.
9 Does that accurately reflect Amazon's position with regard to removing books
10 from its content -- I mean, from its platform?
11 A Yes. That is the position Amazon takes on books, yes.
12 Q Now, going back to the meeting itself, all of this preparation, a five-page
13 single-spaced document contemplating the many issues that you anticipated might be
14 raised.
15 Did you need to use any of these talking points during this meeting? What do
16 you recall?
17 A I recall the conversation being high-level, kind of, you know, being general.
18 I recall us talking about some of our overall efforts on vaccines that we had been doing
19 for our employees. I recall us talking about the CDC link that would appear on certain
20 search results page.
21 And I recall Mr. Flaherty asking a question about whether we had seen an increase
22 in the sale of vaccine-related books or not. And that's the -- that's my general
23 recollection of the -- of the issues that we discussed.
24 Q Did Mr. Flaherty during that meeting attempt to coerce you into removing
25 content from Amazon?

1 A The -- my recollection is that the conversation was high-level, that there
2 were no specific ask made, and there was no request for follow up after the call.
3 Q Okay. So no specific ask means -- that includes no asks to remove content,
4 correct?
5 A It's my recollection is there -- there was not ask to -- to remove content or
6 other ask.
7 Q And there was -- and no other ask to change policies or anything like that?
8 A That's my recollection.
9 Q That's your recollection, okay. Thank you very much.
10 And no talks of any follow-up, I believe you said?
11 A That's correct. My recollection is there was no ask for a follow-up, and I
12 don't recall further follow-up.
13 Q Okay. So no further follow-up from the White House on this issue?
14 A That's my recollection.
15 Q Do you recall if you had further contact with Mr. Slavitt at all -- oh, before
16 you go there, my colleague has a question.
17 [redacted] No ask means there was also no threat of retribution if Amazon did
18 not take a particular action, correct?
19 [redacted]. My recollection is the conversation was -- was high-level, in
20 general, and no specific asks were made?
21 [redacted] And there was no -- no message from the White House was delivered
22 that if Amazon does not take this action, we will take X, Y, and Z actions against Amazon,
23 correct? That didn't happen?
24 [redacted]. I recall that it was a high-level and general conversation.
25 [redacted] So that did not happen?

1 [redacted]. I don't recall any specific ask being made?

2 BY [redacted]

3 Q Do you recall having any further contact with Andy Slavitt after the March

4 2nd emails?

5 A I do. I believe -- I believe we did on a number of other COVID issues.

6 Q Different issues?

7 A Yes. I recall that we had conversations with Mr. Slavitt and his office about

8 testing, about testing capacity in the summer as the Omicron was happening, for

9 instance.

10 Q And no further conversations about misinformation?

11 A I don't recall further follow-up conversations on that.

12 Q So after that March 19th very high-level -- March 9th, excuse me, very

13 high-level meeting, that was it with respect to your conversations with the White House

14 about COVID?

15 A That's my recollection, yes.

16 Q Okay. It turns out we did have that exhibit I was looking for.

17 A Okay.

18 Q So I'm going to go ahead and introduce it. And just to remind you, this is

19 the thread that we talked about earlier and only it actually has the -- the screenshot from

20 Mr. Butterworth. So if we could introduce that as Exhibit 5, that would be great.

21 [[redacted] Exhibit No. 5

22 was marked for identification.]

23 BY [redacted]

24 Q So if you look at the second page of that exhibit, it's Bates number 2783, you

25 see the screenshot of the book that Mr. Butterworth pointed out to you, correct?

1 A Yes.

2 Q And it's a book that's entitled "Anyone Who Tells You Vaccines Are Safe and

3 Effective Is Lying." Is that correct?

4 A Yes.

5 Q And the -- the statement at the top, the link that Mr. Slavitt pointed out was

6 "Vaccines are dangerous and don't work." That's followed by "And millions of other

7 books are available for Amazon and Kindle. Learn more."

8 Did I read that correctly?

9 A Yes.

10 Q Now, again, Mr. Butterworth did not ask you to remove this book from

11 Amazon's platform, correct?

12 A No.

13 Q And if I could have the Amazon book results, please.

14 [[redacted] Exhibit No. 6

15 was marked for identification.]

16 BY [redacted]

17 Q So, [redacted], this is -- you can see from the top of that corner, this was

18 a search that was run on 4/15/24 for a book with the title "Anyone Who Tells You

19 Vaccines Are Safe Is Lying."

20 And the first result is that same book that Mr. Butterworth pointed out to you

21 back in 2021, correct?

22 A It appears to be, yes.

23 Q It appears to be, correct?

24 A Yes.

25 Q It has the same title and the same author, Mr. Coleman, Vernon Coleman,

1 correct?

2 A Yes.

3 Q So it appears I can still purchase that book for the price of $5.14 on Amazon

4 today, correct?

5 A Yes, it looks like it, yes.

6 Q And the second result is a book by that same author, Vernon Coleman, or

7 that's what it appears to be, correct?

8 A Yes.

9 Q And it's a book entitled, "Dementia Myth: Most Patients With Dementia

10 Are Curable."

11 Did I read that correctly?

12 A Yes.

13 Q And that's a book that we could all purchase on Amazon if we wanted to

14 today?

15 A It appears so, yes.

16 Q Now, I want to just follow up briefly. You were asked in a previous hour

17 about -- about a do-not-promote policy.

18 And you talked about some of the tools that Amazon uses, such as the Amazon

19 Choice program and -- what was the other one? It was Great for Kindle, I believe?

20 A Great on Kindle.

21 Q Great on Kindle. Thank you. Those are tools that Amazon uses to

22 highlight certain books to its customers, correct?

23 A Yes.

24 Q And is -- so from my own experience, I can tell you I receive regular emails

25 from Amazon suggesting, here's a book you might like, here's a title you might like.

1 Is that part of the -- the programs that Amazon uses to highlight books?

2 A Yes. Amazon has a number of programs to do marketing of books and

3 products. Yeah.

4 Q And you likened these -- these tools as equivalent to, like, the table you

5 would see at a bookstore where it has the manager's recommendations or, you know, the

6 bookstore's own suggestions for books you might like, correct?

7 A Yeah. Sometimes I think it's helpful to have analogies to physical retail, and

8 I do think some of our optional merchandising promotions are like that, like a book -- or a

9 table, you know, at the front or something that a retailer might place, like, in a window,

10 you know, for instance.

11 Q And it's -- in the context of Amazon when -- it's almost -- well, would you

12 consider these programs to be almost, like, free advertising for those books? They're

13 being promoted by Amazon without the booksellers having to pay extra to do that?

14 A I'm not sure, like, for all of our optional merchandising programs what the

15 financial, you know, arrangement is.

1

2 [12:22 P.M.]

3 BY [redacted]

4 Q Fair enough.

5 But you did say earlier that when a book is placed on Amazon's do-not-promote

6 list, it is not removed from the book store, correct?

7 A That's correct. So items that are in the do-not-promote category are still

8 available in the store and are still available or is still found through search.

9 Q And -- exactly. So if you search for vaccine effectiveness, you might still

10 find Mr. Coleman's book or similar books?

11 A My understanding is, yeah, these books in the do-not-promote category are

12 still available in the search results.

13 Q I'd like to introduce the search results from yesterday, another one.

14 [redacted] Can we go off the record real fast.

15 [Discussion off the record.]

16 [redacted] We can go back on the record.

17 [[redacted] Exhibit No. 7

18 was marked for identification.]

19 BY [redacted]

20 Q If you look at the top of the page, again, the top left, it says that this is a

21 document from yesterday, correct?

22 A Yes.

23 Q And it shows search results for the term "vaccine effectiveness," correct?

24 A Yes.

25 Q And there's a variety of different books here, correct?

1 A Yes, it appears so.

2 Q So if you turn to the second page, for example, there's a book called

3 "Vaccines, the Biggest Medical Fraud In History," correct?

4 A Yes, it appears so.

5 Q And there's a few books on that same page. The hidden vaccines -- "The

6 Hidden Dangers of Vaccines During Pregnancy: What Your OB/GYN Isn't Telling You

7 About Flu /Tdap/RSV," for example, correct?

8 A Yes.

9 Q So if a person today searches for vaccine effectiveness, they're going to

10 receive a variety of books pro vaccine and anti-vaccine for a variety of suggestions?

11 A Yes, this appears so.

12 Q And it's possible that some of these books may be on Amazon's

13 do-not-promote list, correct?

14 A I don't know.

15 Q But if a book is on do-not-promote, it will still show up in search results?

16 A Correct. I understand the do-not-promote categories still appear in search

17 categories.

18 Q And so there's no way of knowing, just from looking at a search, whether an

19 item is on the do-not-promote list?

20 A That's my understanding, but I'm not completely familiar with the specifics.

21 Q Fair enough.

22 [redacted] And with that, I think we will go off the record and for real this

23 time.

24 [Recess.]

1 [1:17 p.m.]

2 [redacted] We'll go back on the record, please.

3 In our first hour, we were talking about the email from Mr. Slavitt on March 2nd,

4 talking about some of the conversations and events in advance of the March 9th call.

5 I want to ask you about some documents from March 2nd and the days following.

6 [[redacted] Exhibit No. 8

7 was marked for identification.]

8 BY [redacted]

9 Q This is exhibit 8, an internal email chain dated March 2nd, 2021. Do you

10 recognize this email?

11 A I do.

12 Q Do you recall who sent it?

13 A I believe it was [redacted] on my policy team.

14 Q In the paragraph starting with 1, she says, "We will not be doing a manual

15 intervention today."

16 What did she -- what manual intervention was she referring to?

17 A I don't recall what she meant by that phrase.

18 Q Independent of this email, in the context of Amazon's books policy, what

19 would the phrase manual intervention mean?

20 A I don't know specifically what it meant. It could mean manually making a

21 decision, but I'm just not familiar with that term as she is relating.

22 Q Okay.

23 Do you think you were familiar with the term on March 2nd, 2021?

24 A I don't recall.

25 Q The next sentence says, "The team/PR feels very strongly that it is too

1 visible," apparently referring to the manual intervention.

2 Do you recall having any discussion with Sarah about whether a manual

3 intervention would be too visible?

4 A I don't recall having a discussion with her about that, no.

5 Q The sentence continues: "And will further compound the Harry/Sally

6 narrative." Do you know what she's referring to by the Harry/Sally narrative?

7 A I believe she's referring to the book "When Harry Became Sally," which

8 Amazon had previously removed from its store. That would be my understanding.

9 Q Were you involved in the decision-making of whether to remove "When

10 Harry Became Sally"?

11 A No. I'm not on that team and was not involved.

12 Q To your understanding, which team was involved?

13 A To my understanding, it was the books content team.

14 Q To your understanding, why was the book removed?

15 A I wasn't involved in the specifics of the decision-making, but it's my

16 understanding that the team stated that the book classified being transgender as a

17 mental illness, and they believed that that violated Amazon's policies.

18 Q As part of your role at the company, did you receive any questions from

19 anyone from the executive branch about the "When Harry Became Sally" book?

20 A I don't recall receiving executive branch questions, no.

21 Q Did the books content team ever provide you a briefing about the decision

22 to remove "When Harry Became Sally"?

23 A We received an inquiry from policymakers about that, and I received some

24 information from them, yes, that we used to help draft that response.

25 Q Which policymakers?

1 A It was several senators. I recall Senator Lee, but there were others, I
2 believe, as well.
3 Q Prior to receiving the correspondence from policymakers, had you received
4 any briefing from any teams in the company about the decision to remove "When Harry
5 Became Sally"?
6 A I don't recall. I don't recall that, no.
7 Q Was there anyone on your team that had the lead for interfacing with the
8 books team about decisions like removing "When Harry Became Sally"?
9 A Sarah Hudgins on my team was the person who dealt with the books content
10 team. She is also not on the team itself that makes decisions, but she interacted with
11 them, yes.
12 Q Do you remember who you spoke with on the books content team?
13 A I do not, no.
14 Q Did you have a primary point of contact on the books content team?
15 A My primary point of contact was [redacted] on my policy team. I'm not
16 aware of who her primary point of contact was, though.
17 Q The email for exhibit 5833 continues that the manual intervention being
18 considered won't fix the problem long-term because of customer behavior associations.
19 Do you know what she meant by customer behavior associations?
20 A I do not know.
21 Q Her email continues that if the company completely removes customer
22 behavior associations, it will break the search. Do you know why removing customer
23 behavior associations would break the search?
24 A I don't know what she meant by that, no.
25 Q When you received this email, did you know what these terms meant?

1 A I don't recall knowing those at the time, no.

2 Q How helpful was this email then to you?

3 [redacted] I'm sorry. I didn't hear that. What was the question? How --

4 [redacted] Helpful was this email to you.

5 [redacted] Oh, thank you.

6 [redacted]. It's hard to remember at the time the exact helpfulness of the

7 email, as it occurred right after the March 2nd call. So I don't recall the exact

8 helpfulness for sure.

9 BY [redacted]

10 Q I'm just trying to get a sense of -- well, whoever drafted the email, I believe it

11 was Sarah, has produced to the committee the only one that this email is sent to is you.

12 There doesn't appear to be an explanation provided. So I'm just trying to get a sense of

13 your understanding on March 2, 2021, of what the options are available to the company.

14 And your recollection is you didn't have an understanding when you received this

15 email what was being discussed with several of the terms in the first paragraph?

16 A Yeah, I don't recall the meaning of some of those specific terms in that first

17 paragraph. That's correct.

18 Q The second paragraph continues: "I've asked the team to widen the search

19 light flag for COVID-19 CDC website redirect."

20 Sarah wrote this email, but what did she mean by widen the search light flag?

21 A Yeah, it's my understanding that when certain search terms were used

22 around vaccines, that then on the search results page, at the top of the page there would

23 be a link to a CDC site that had some information from the government about vaccines.

24 And I believe she was referring to expanding which terms would then trigger that

25 link appearing at the top of that search page.

1 Q Do you know which terms were under consideration?
2 A I don't know the specifics, but I understand that they were expanding -- that
3 they were fairly narrow at the beginning and that they were expanding the use of their
4 terms, but I don't know like exactly which terms they expanded them to.
5 Q Did you ever receive a memo or a briefing about which terms were being
6 considered?
7 A No, I don't recall that.
8 Q She says, "I've asked the team to widen the search light flag." Which team
9 is she referring to?
10 A It's either the books team or the search team. I'm not sure who had the
11 responsibility for determining those terms, but I believe it would be one of those two
12 teams, but I'm not sure which.
13 Q The second sentence in the paragraph starting with 2 says that "They can
14 hopefully implement that today, and you should be able to share a screenshot." Is that
15 in reference to sharing a screenshot with the White House?
16 A Yes, I believe that's what she was referring to. That would be in our
17 follow-up conversation with them. We weren't certain, you know, when that would
18 take place, but I believe that's what she's referencing, when we had the follow-up call
19 with the White House.
20 Q Did you ever email or show the White House either, a screenshot or a
21 display, what the results looked like after widening the number of search terms, search
22 keys?
23 A No, I don't recall us doing that. It's my recollection that after that
24 March 2nd exchange, that our next conversation with them was on March the 9th, and I
25 don't recall in that sharing screenshots or, you know, like that.

1 Q It says here, "I've asked the team to widen the search light flag." That's the
2 start of paragraph two. Was it your understanding that she had asked the team that
3 morning, March 2nd?
4 A That's my understanding, yes.
5 Q To your understanding, was it under consideration before the morning of
6 March 2nd?
7 A It's my understanding that that is one of the options that the team had been
8 looking at, in addition to do-not-promote for that month before that initial White House
9 outreach. That's my understanding.
10 Q And how did you gain that understanding?
11 A I recall it was from discussions with [redacted]
12 Q The start of the second sentence of the paragraph starting with 2 says, "They
13 scan hopefully implement that today." Was it your understanding that that change was
14 implemented on March 2nd?
15 A I'm not certain of when the search was implemented exactly. I don't know
16 if it was on March 2nd or at a later date. I'm not sure.
17 Q To your knowledge, was it implemented by March 9th, the day Amazon met
18 with the White House?
19 A I believe it was. That's my understanding.
20 Q Do you know how many terms were added to widen the search light flag?
21 A I do not.
22 Q Do you know approximately?
23 A I do not.
24 Q Do you know how many search terms initially were counted as search keys
25 before March 2nd?

1 A I do not.

2 Q For a decision like this, whether to widen the number of search keys, what is

3 the company's protocol as far as who needs to approve a decision like that?

4 A It's my understanding that the team responsible for that -- and in this case,

5 I'm not sure whether it was the books or the search team or a combination of both, but

6 that they would, for something like that, they would be able to implement that.

7 Q So whoever -- to your understanding, the leaders of either the books team

8 or the search team would be the individuals who ultimately approve?

9 A For this, I'm not aware of what their approval process was for this kind of

10 like search term and who exactly approved it on those teams. I'm not aware.

11 Q Paragraph three starts with a redaction referring to someone else, but they

12 are saying, "Are tag teaming some reactive messaging for your" -- for you "regarding

13 policy, response, et cetera. It won't be satisfactory."

14 First, did you interpret this to mean that she anticipated that whatever response is

15 being provided would initially not be satisfactory to the White House?"

16 A We weren't sure, first of all, when the follow-up call was going to occur, and

17 so we were preparing quickly because it could -- you know, it could have occurred maybe

18 that same day. But also, we weren't sure exactly what were they asking, what did they

19 want, what kind of questions they were going to ask.

20 And I understand this to read that if they were to ask about tagging content, then

21 that response would likely not be satisfactory.

22 Q Did you agree with her assessment as she's describing the situation as she

23 understood it at 9:42 on March 2nd?

24 A So we weren't sure what they were asking about. I recall that it was

25 Sarah's initial reaction that tagging might be something that the White House was

1 interested in, and I believe that's why she referenced that specifically.

2 But I do recall that we prepared a lot kind of on many different issues because we

3 weren't sure what they were wanting or asking about.

4 Q Do you recall having discussions with [redacted] about how Facebook and Twitter

5 and other companies handle content?

6 A I recall having some high-level discussions, and I recall her saying that those

7 companies tagged, I believe, specific kind of content. That's what I recall.

8 Q Did you know in March of 2021 whether Facebook, Twitter, other companies

9 were having conversations with the White House about vaccine misinformation?

10 A No, I did not know.

11 Q Do you recall anyone else on your team that expressed a sentiment that the

12 initial response being prepared was unlikely to be satisfactory in the view of the White

13 House?

14 A No. I recall it was I think mainly [redacted] and I that were having kind of

15 conversations at this time.

16 Q Had Sarah had conversations with the White House to your knowledge

17 before March 2nd?

18 A I don't recall that she did. My recollection is that on COVID issues, I was

19 the one that mainly had those conversations. I don't recall her being involved.

20 Q To your understanding -- for paragraph three here, she's preparing this

21 description of the situation. To your understanding, was she was basing that only off of

22 the March 2nd email chain from Mr. Slavitt?

23 A Yes, that's my understanding.

24 Q There's a reference to [redacted] in the final paragraph. Do you know who she's

25 referring to?

A Yes.

Q Who is that?

A That is [redacted], and he was the senior vice president who oversaw the books team but as well as some other divisions in retail.

Q The final sentence of the email says, "[redacted] gave very direct guidance to the teams to be boring and not do anything that is visible and will draw more attention."

First, do you know which teams she's referring to?

A My understanding is that it was the books team or teams that were -- had been working for the past month before this on the recommendations about what to do with vaccine content.

Q Do you know when [redacted] gave the guidance that she's referring to?

A I do not know exactly when he gave that guidance. I know the teams had been working for a month, but I don't know when that guidance was given.

Q Do you know how quickly on March 2nd, if at all on March 2nd, [redacted] was looped into any conversations about the outreach of the White House?

A I don't know. I recall that we made senior leadership aware like in the days that followed, but I don't know if there was any, you know, outreach on March 2nd or if that occurred like in the next couple days. I'm not sure.

Q Is [redacted] like adjacent in the hierarchy to [redacted]? So you report up to [redacted]?

A I do now, yes.

Q Okay. At this time, was it [redacted]?

A Yes.

Q So you report up to [redacted] who was also senior vice president?

A Yes.

1 Q And Russ' team is on the side of that in the hierarchy? [redacted] is not in your
2 reporting hierarchy?
3 A No. [redacted] at the time of this was in retail, and I believe he reported to the
4 CEO of the retail division, I believe.
5 Q Do you know who the CEO of the retail division was at the time?
6 A At the time, I believe it was [redacted].
7 Q Do you remember the first time you briefed [redacted] about reach out
8 from the White House?
9 A I don't know the first time. I believe it was before the White House call
10 occurred on March the 9th, but I'm not sure exactly when I did that.
11 Q Do you recall what his reaction was?
12 A I don't.
13 Q Do you recall how long the conversation or the meeting took place?
14 A I recall that it was in a regular meeting, like a regular one-on-one that I had
15 with him, and if I remember correctly, you know, it was one of several items that I
16 discussed, so --
17 Q In advance of a meeting like that, do you send an agenda or notes, anything
18 in advance of the meeting?
19 A No, I don't recall doing so.
20 Q For any meetings, generally, with your one-on-ones with [redacted]?
21 A That's correct.
22 Q What about after the meeting? Did you send a readout to anybody on your
23 team or to anybody else in the company?
24 A No, that's not my practice or recollection.
25 Q Independent of whatever [redacted] reaction was after the first time you

1 made him aware of the White House's reach out, do you recall Mr. Carney's reaction to
2 any subsequent briefings or meetings as it related to reach out from the White House?
3 Mr. Kelner. I'm sorry. Can you say that again? Did you say -- can you repeat
4 the question? I'm not sure I heard it.
5 [redacted] Sure.
6 BY [redacted]
7 Q So, again, correct me if I'm wrong, but you don't recall what, if any, reaction
8 [redacted] had the first time --
9 A Correct.
10 Q -- you brought up the reach out from the White House?
11 A Correct.
12 Q Do you recall in any other meetings or briefings re-raising the issue with
13 [redacted]?
14 A I don't recall. I don't recall.
15 Q Do you recall ever receiving any instructions or guidance from [redacted]
16 about how to handle reach out from the White House in the spring of 2021?
17 A No, I don't recall receiving any guidance like that.
18 Q During this we'll say first half of 2021, independent of this email exchange or
19 reach out from the White House, just generally, how frequently did you interact with
20 [redacted]?
21 A I spoke with him regularly or emails, you know, with him kind of regularly
22 since he was my boss at the time.
23 Q Daily or weekly?
24 A Weekly for sure.
25 Q The final sentence in the 5833 exhibit talks about the guidance from [redacted]

1 and to be boring and not do anything that is visible and will draw more attention. What
2 did you interpret the guidance/instruction to be boring to mean?
3 A I don't understand what was meant, you know, by that in particular. I don't
4 know.
5 Q To your understanding, of the options available to the company being
6 considered on March 2nd, which were more visible and which were less visible?
7 A Well, I know that various options when it kind of comes to content policy
8 would be placing items in the do-not-promote category or removing items from the store,
9 which is not something that Amazon's particular philosophy of choice. But those are the
10 options that I'm aware of that the team could consider.
11 Q Of those two options, which is more visible?
12 A I don't know. I don't know. I don't know that answer, what would be
13 meant by that.
14 Q Of those two options, which would potentially draw more attention?
15 A I don't know.
16 Q If a book is removed from the platform, would the author or others become
17 aware if they try to search for the book and are unable to find it?
18 A I believe authors would be made aware if their item isn't for sale in the
19 store.
20 Q Are they notified in advance of the decision?
21 A I don't know how that works.
22 Q Is it your understanding they are notified at some point?
23 A I don't know. I don't know how that works exactly.
24 Q Who would know?
25 A The books team would know that.

1 Q When a new category is added for do-not-promote, is there any sort of
2 notification process or announcement that is made?
3 A No. My understanding is there's not.
4 Q So if an author had a book that was previously not in the category of
5 do-not-promote and then a change is made to add a category to do-not-promote, the
6 book now falls into a new category, to your understanding, would the author be aware of
7 that?
8 A Yeah, I don't know that.
9 Also, just to kind of clarify, I mean, it's my understanding that it's a specific title
10 that would be in do-not-promote. Not a category but title. But I'm not aware of
11 actually how that process works.
12 Q One other question on this exhibit. The final sentence of paragraph 3 or
13 the paragraph starting with 3, Sarah writes, "That is an option being explored that we
14 don't want to disclose to avoid boxing in."
15 What did you understand by her saying to avoid boxing in?
16 A Well, it's my understanding that she was referring to our conversation, you
17 know, with the White House and also what the team was recommending and considering
18 to senior leadership during the March 19th meeting. So that's how I took that kind of
19 message.
20 Q To your understanding, March 2nd, the option she's talking about had not
21 been finalized or approved? It was still under consideration. Is that your
22 understanding?
23 A So it's my understanding that the team had recommended certain actions
24 that would then be finalized in that March 19th meeting with the senior leadership.
25 Q Taking that response together with her email, was it your understanding

1 what she was trying to communicate to you that because the option had not been
2 finalized yet, it was best not to raise it with the White House because it was not
3 confirmed yet whether the company would make that decision?
4 A So it's my understanding that it was the team's recommendation to place
5 certain vaccine category books in the do-not-promote category.
6 But on this morning of March the 2nd, it is my recollection we were still gathering
7 information and facts in preparation for when that White House call may be scheduled,
8 which we didn't know when it would yet.
9 Q So the White House follow-up had not been scheduled yet, and leadership
10 had not finalized the decision yet. Is that accurate?
11 A Yes. The team had recommended actions, and it's my understanding that it
12 would be finalized on March the 19th.
13 [[redacted] Exhibit No. 9
14 was marked for identification.]
15 BY [redacted]
16 Q I'm going to introduce exhibit 9. This is another internal Amazon email
17 chain dated March 2nd.
18 So most of this email chain is an email chain with the White House that we've
19 been looking at for most of the interview. The top email, you forward the email to
20 people at Amazon. Do you recall who you sent this message to?
21 A If I recall, I believe it was [redacted] and [redacted] who is on my
22 public policy team as well.
23 Q When you say, "I think we should send an email recapping again to the
24 business team," which team are you referring to?
25 A I believe I was referring to the books team.

1 Q You then say, "I want it to be an email that I can forward to" and you list
2 several names. Can you walk us through who you're referring to?
3 A Yes. So Dave would be Dave Clark, the CEO of retail at the time. [redacted]
4 would be [redacted] who was the senior vice president of retail. [redacted] is [redacted],
5 who is my boss and the head of global corporate affairs. [redacted] is [redacted], who
6 was the vice president of public relations. [redacted] I believe is [redacted]. And
7 [redacted] is [redacted] who was head of the books team.
8 Q The first sentence in the second paragraph you say, "We should alert the
9 business that we have WH attention on this issue." That's in reference to the White
10 House attention.
11 A Yes.
12 Q Why was it significant to alert businesses that you have to the White House
13 attention on this issue?
14 A Well, we received an inquiry from the White House, and I wanted to make
15 sure that the business leaders were aware that we had received that inquiry.
16 Q Why would they be interested in knowing that the White House was paying
17 attention to this issue?
18 A Well, the White House is an important policymaker of the institution, and so
19 I didn't want them, you know, to be surprised and wanted them to have that information.
20 Q Was the business in contact with the White House regarding other policy
21 issues?
22 A The books business?
23 Q Yes.
24 A No, not to my knowledge.
25 Q Do you know if you ultimately did send an email to [redacted] [redacted] [redacted] and,

1 roughly, this initial group?

2 A You know, I don't recall if I did or not.

3 Q Do you recall sending an email to anyone in leadership that's not listed here?

4 A No, I don't recall that.

5 [[redacted] Exhibit No. 10

6 was marked for identification.]

7 BY [redacted]

8 Q This will be exhibit 10, which is an internal email chain, Amazon email chain

9 from March 2nd.

10 You're included earlier in the email chain. There are redactions. It does not

11 appear you're on the emails included on the first page on Bates number 6226. Is that

12 consistent with your recollection?

13 A It is.

14 Q Do you know who was on this email chain?

15 A I don't recall specifically. It may have been someone from public relations,

16 but I don't recall specifically.

17 Q Just at a high level, what is the difference in the scope of responsibilities

18 between public relations and the public policy teams?

19 A Generally, public relations deals with the media, and public policy would

20 deal with government.

21 Q Do you recall having conversation with anyone from public relations on or

22 around March 2nd?

23 A I don't recall that.

24 Q Did you have a primary point of contact on public relations?

25 A I dealt with a number of -- just in general, I dealt with a number of people in

1 public relations. [redacted] would deal with public relations probably on this issue.
2 Q There's an email on the first page with the timestamp of 10:20, and the
3 question is about spreading misleading information about vaccination. There is then a
4 response. Again, the names are redacted with a timestamp of 1:54 right above that on
5 the page.
6 The first bullet point says, "No, the line you're referring to is addressing publishing
7 errors like typos, formatting issues, image quality, et cetera." Is that consistent with
8 your understanding of what the books policies stood at the time of March 2nd?
9 A I'm not aware of the specifics of the policies kind of on March 2nd.
10 Q To your understanding, is there anything about that answer that's
11 inconsistent with your understanding?
12 A I'm not familiar. It feels like there's other content that this is referring to.
13 So I'm not exactly sure what -- you know, what this means specifically, so --
14 Q The timestamp at 10:20 says, "Could we work up reactive frequently asked
15 questions to these questions for Brian's call?" It's, again, dated March 2nd, and you're
16 included in an earlier version of this email.
17 To your understanding, is this discussion taking place in the context of the White
18 House's reach out the morning of March 2nd?
19 A Yes, that's my understanding. We were -- we didn't know when the call
20 would be scheduled exactly, the follow-up call, and so the team, my team, my policy team
21 had started trying to prep because we weren't sure, you know, what questions they were
22 going to ask. And so we prepared for lots of, you know, different scenarios. So I think
23 it's in reference to that.
24 Q For question two, the question at the 10:20 timestamp email and then the
25 response at the 1:54 P.M., in the 1:54 P.M. email, there is -- in the first bullet point, it

1 starts under Q2: "We believe that retailers are different than social media
2 communities." Do you recall receiving talking points to that end?
3 A I believe there was something similar to that in the ultimate kind of talking
4 points. That is something that comes up from time to time, that retailers are just, you
5 know, much different than social media companies.
6 Q To your understanding, how so?
7 A We sell products is the main difference.
8 Q The sentence continues: "Which means we review the content we make
9 available, where we make it available in our store, and how we address content that
10 customers find disappointing."
11 When it comes to reviewing content, how is it different when a retailer reviews
12 content as opposed to a social media company?
13 A Well, like at Amazon, it is our goal to make as much products and content
14 available to our customers as we can because -- on a wide variety of viewpoints even if
15 some customers might find that content objectionable. That's our philosophy.
16 Q As the books policy, does Amazon fact check books that are made available
17 to the site?
18 A I don't know the answer to that, but I don't believe we do.
19 [[redacted] Exhibit No. 11
20 was marked for identification.]
21 BY [redacted]
22 Q This will be exhibit 11. It's an internal Amazon email chain dated
23 March 3rd. Do you recall receiving this update?
24 A I do.
25 Q Do you recall who sent it?

1 A I believe it was [redacted] on my policy team.

2 Q If you could again, there's about four names in the email. If you can go

3 through and tell us, to your understanding, who those names are referring to?

4 A So [redacted] is [redacted], who is head of the books business. Russ I

5 believe is Russ Grandinetti, who is the senior vice president in retail. And then the next

6 two names -- so I believe [redacted] is referring to [redacted], and [redacted] is referring -- I believe

7 his name is [redacted], if I have that correct. And they, at the time, I believe were in

8 the advertising team.

9 Q Do you know if Russ was ultimately supportive of the decision to action

10 do-not-promote?

11 A My understanding is he was.

12 Q How did you gain that understanding?

13 A I believe it was from conversations with [redacted]

14 Q To your understanding, did [redacted] communicate to [redacted] and then at some

15 point -- let me rephrase that question.

16 To your understanding, did [redacted] support the policy before the March 9th meeting

17 with the White House?

18 A Yes.

19 Q So this update is dated March 3rd. At this point in time, were you

20 supportive of actioning do-not-promote?

21 A So I'm not on the team that makes those decisions. That would be the

22 books team that makes those.

23 Q Were you asked to weigh in?

24 A I don't recall being asked to weigh in.

25 Q If you had been asked to weigh in, would you have been supportive of the

1 action of do-not-promote?

2 A What I recall is that, you know, the team had been working on this and had

3 recommended actions for more than a month before this. And I recall us asking the

4 team that if they were going to make a decision and take an action, if they could take it by

5 the time of the White House call, which ended up being on March the 9th.

6 Q And why did you ask that?

7 A The business was going -- the business had a meeting scheduled on March

8 the 19th to finalize their recommended actions, and if they were going to take those

9 decisions, I thought -- and we asked if the team could accelerate those decisions so, if

10 needed, it could be talked about on the White House call on March the 9th.

11 Q Why would it be beneficial to accelerate those decisions and be able to talk

12 about it on the White House call if needed?

13 A Well, if the team was already going to take these actions, which it was

14 recommended that they would, I thought it would be best to have complete information

15 and complete answers if that topic came up with the White House, because we weren't

16 sure what they were going to ask, what questions they were going to ask. So we wanted

17 to just kind of be prepared and have that complete information about any business

18 actions that were going to be taken.

19 Q Who was this request communicated to, to potentially accelerate the

20 March 19th meeting to March 9th or some date later?

21 A I believe it was made to the books team.

22 Q And who made it? You did?

23 A No. I don't recall that. I believe it was [redacted] who likely made that

24 request.

25 Q Was it your under -- in the lead up to the March 9th meeting, was it your

1 understanding that the White House would view it favorably if some of these changes
2 were enacted?
3 A I didn't know exactly what they were asking about. You know, what they
4 were interested in, that wasn't clear. Amazon makes its own content decisions. The
5 government doesn't. But I did want to provide complete information about what we
6 were going to do when we had that follow-up call.
7 Q Well, you certainly had some idea because -- so this email is dated
8 March 3rd. On March 2nd, there were a number of emails from the White House.
9 They sent you a screenshot of the results. They talked about the CDC warning. In a
10 previous exhibit, there's an email from [redacted] about whether a response would be
11 satisfactory.
12 Would providing a more complete answer -- did you expect providing a more
13 complete answer to the White House would lead to a more favorable response during the
14 upcoming meeting call with the White House?
15 A I recall that I was interested in, you know, answering their questions about
16 what we were doing with regards to this vaccine content, and providing those full
17 answers is what I wanted to accomplish.
18 Q What was the response when [redacted] or somebody communicated the
19 request to accelerate that decision?
20 A My understanding is that because the teams had been working on this for
21 quite a while, for like a month before that White House outreach, and they were
22 recommending that they take the action of placing more books in the do-not-promote
23 category, that -- and the meeting was already scheduled for March 19th, that they were
24 capable of and willing to move the decision up before the March 9th call.
25 Q Do you know -- you said it had been about a month, to your understanding,

1 that the team had been looking at this issue. Do you know what spurred that initial
2 start of the search for this potential change?
3 A It's my understanding that as the vaccines were starting to be rolled out in
4 December and January, December of 2020, January of 2021, that the team started
5 discussing what we should do about vaccine content. And it's my understanding that
6 just the rollout of the vaccines is what caused this discussion to take place.
7 Q How did you gain this understanding?
8 A From -- I recall from [redacted] in her discussions.
9 Q There are, obviously, a number of issues that are hotly debated. Do you
10 recall other situations where Amazon internally was considering having a do-not-promote
11 category, including titles for a do-not-promote category because of concerns about
12 misinformation on a specific topic?
13 A No, I don't recall that.
14 Q When a decision was made, and it sounds like it was made before the
15 March 9th call --
16 A That's my understanding, yes.
17 Q -- how was that communicated to you?
18 A To me, it was communicated via [redacted]
19 Q Was there a memo or any sort of written work product that accompanied
20 the decision, to your knowledge?
21 A Not to my knowledge.
22 Q Four lines, the third paragraph of the misinformation update March 3rd, it
23 says, "Team is expanding search light keywords." To clarify, is it your understanding that
24 would be the books team or the search team?
25 A Yes. Yeah, one of those is my understanding.

1 Q "However, they are not sure if they can get the content itself adjusted but
2 are looking into it."
3 What does it mean to get the content itself adjusted?
4 A I'm not sure what she meant by that. I think she may have been referring
5 to the CDC link and language around that, but I'm not exactly certain.
6 Q Then there is the reference to [redacted] and [redacted] that they signed off on the
7 gateway. Do you know what the gateway means in this context?
8 A Yeah, the gateway we reference as the -- this is the home page of
9 Amazon.com. We call -- I recall that's the gateway.
10 Q There is a reference to a display ad frame on the gateway. What is a
11 display ad frame, do you know, in this context?
12 A So when you go to the Amazon.com page, the gateway, there's a couple of
13 spots on that page. There is the space at the top that everyone sees, and then there are
14 ads on the side of the home page, and I believe that's what that display ad frame is
15 referencing.
16 Q Do you know what is being discussed in this email about what would be
17 displayed?
18 A It's my understanding that [redacted] had been working with the ad council,
19 which is, I believe, some sort of nonprofit or it's a collection of advertisers that displays
20 public service announcements. And if I recall correctly, there was discussions about
21 various companies working with the ad council to place content or, you know, public
22 service information about COVID on their sites.
23 Q There is reference to meeting with them at the end of the update. Is that
24 in reference to meeting with [redacted] and [redacted]
25 A My understanding is that that's meeting with the White House.

1 Q Do you know who was being considered to join the meeting with the White
2 House?
3 A Yes.
4 Q Who was that?
5 A So in addition to [redacted] and myself in that meeting, there was [redacted], who
6 was with the books legal team, and I believe that's what the reference is to.
7 Q Why did the company consider having [redacted] join the White House
8 meeting?
9 A So we weren't sure what questions they were going to ask, and if there
10 would be specific questions, I considered John as the subject matter expert of some of
11 these policies, and so I thought it would be helpful to have him join that meeting.

[2:12 p.m.]

BY [redacted]

Q Did you have any conversations with [redacted] in advance of the March 9th meeting?

A I believe [redacted] was part of the team that prepared that material. I don't recall having a specific conversation with him, BUT I know there was discussions about the, you know, prep material.

Q To your understanding, did he prepare material about how to respond if the White House were to ask the company to consider removing books?

A Yes, I believe that was part of the prep material. I'm not sure exactly who should be used to that, but I believe that was part of the prep.

Q To your understanding, who else contributed to the prep?

A I believe [redacted] did. And I also believe likely [redacted] who was also on my team.

Q I see [redacted] [redacted] [redacted] Are there others that you recall contributing to the prep?

A I'm not sure. I don't recall.

Q Was there ever a pre-meeting to discuss a poporu, how to handle the call at the White House?

A I don't recall a pre-meeting. I recall [redacted] and I may -- you may have talked about it, but I don't recall there's a formal prep meeting for this.

Q Once do not promote's action, is it your understanding that there are a series of book titles that are added and that is the -- just operationally how it works?

A Yeah, I don't know the, you know, how the operations exactly, but it is my understanding that it's on a title-by-title basis. How that works and I am not sure.

1 Q To your understanding, who at the company determines which titles are
2 added?
3 A I believe that is the books team.
4 Q As it relates to Do Not Promote books, that question, vaccines, do you know
5 who on the books team was responsible for selecting which titles?
6 A I do not.
7 Q Do you know when the process for selecting titles, was that done
8 preemptively as it was being considered, or does that process start only once the decision
9 has been made to have a Do Not Promote category added.
10 Ms. Dunn. I am sorry, counsel, can you just clarify the question?
11 BY [redacted]
12 Q Sure. So the lease is March 2nd. There had not been a decision made yet
13 regarding Do Not Promote. Before actually collecting the titles themselves, does there
14 have to be a decision made to action the Do Not Promote, like have companies sign off or
15 at least sign off? Or is the title prepared in advance and included as part of like the
16 recommendation these titles would be included?
17 A I don't know.
18 Q Independent -- this isn't the specific to the Do Not Promote as it relates to
19 books related to vaccines, but just generally speaking, do you know were books and titles
20 that are added to Do Not Promote, how frequently are titles added or removed from the
21 list?
22 A I don't.
23 Q To your understanding, is there a team that reviews -- in fact, let me
24 rephrase my question. To your understanding, are there instances where a title's been
25 added to Do Not Promote and at a later time is removed?

1 A I believe that has happened.
2 Q For instances, when it does happen, to your understanding, how does that
3 process work?
4 A I don't know.
5 Q Who would best know that information?
6 A Someone on the books team.
7 Q Do you recall seeing any example titles from someone from the company of
8 shall we knew of the type of book that would be included for the Do Not Promote as it
9 relates to vaccine, anti-vaccine related books?
10 A I don't recall that.
11 Q If you wanted to know which titles were included in a Do Not Promote
12 category, who would you contact at the company?
13 A I first would probably ask someone on my team to look into it and have them
14 contact someone on the books team.
15 Q To your knowledge, did anyone on your team -- let me rephrase that. To
16 your knowledge, was anyone on your team looped in to the process of selecting which
17 books would be included in the Do Not Promote category for anti-vaccine-related works?
18 A I don't recall that because the -- it is my understanding, you know, the books
19 team who makes those decisions, you know, not the public policy team.
20 Q To your knowledge, did anyone on the books team receive the email from
21 the White House when they took a screenshot of the example book from March 2nd?
22 A I don't know. I don't know. I know that we conveyed some, you know,
23 some of the information from the White House. I don't recall if there was that
24 screenshot or not sent.
25 Q Was the books team made aware that the White House was running

1 searches?

2 A I believe [redacted] made the books team aware of the nature of the inquiry from

3 the White House, yes.

4 Q Prior to the Do Not Promote category of any action as it relates to books that

5 question vaccines, to your understanding, were there any titles that were on a different

6 Do Not Promote list?

7 A Can you clarify that?

8 Q Yeah. So what is the Do Not Promote list action around March 9th. At

9 some point, it's unclear if the titles were prepped in advance or not or later on. But

10 regardless, is it your understanding were any of their titles on a different Do Not Promote

11 list?

12 A I don't know.

13 Q Are you familiar with the acronym NSSE in this context?

14 A No, I don't recall that.

15 Q Do you know what a quip file is; q-u-i-p?

16 A Yes.

17 Q What is that?

18 A It is, I guess, I would call it like kind of a document collaboration tool where

19 you can upload, you know, docs, and multiple individuals can make that as or share them.

20 Can we go off the record, please?

21 [Discussion off the record.]

22 BY [redacted]

23 Q All right. We are back on the record. And I want to follow up on some of

24 the exhibits that were just introduced in the previous hour. If you could turn to exhibit

25 9.

1 A Which one is that?

2 Q That is Document 4598. It's the March 2nd, 2021, email that talks about

3 alerting the business that we have White House attention on this issue.

4 Now, actually before I get into the text of this email, I just wanted to set the stage

5 here. On March 2nd, 2021, the pandemic happened, in effect, for over a year, correct?

6 A Yes.

7 Q And people around the world had been confined to their homes for over a

8 year?

9 A Yes.

10 Q And at that point hundreds of thousands of Americans had already died?

11 A It is my understanding, yes.

12 Q And is it your understanding or your recollection that in early March, the

13 vaccine was not yet widely available to the American public; it was only available to

14 people who et certain categories of need. Is that your recollection?

15 A Yes, that's my recollection is that it was starting to roll out at that time, yes.

16 Q And that it was soon to be available to anybody who wanted to take it, but

17 we weren't quite there yet?

18 A Yes, I don't recall the specifics of that, but it's my general understanding, yes.

19 Q Fair enough. And would you agree that it was Amazon's goal as well as the

20 White House's to promote the idea of vaccination in the hopes of stopping the deaths and

21 stemming the tide that as many Americans who were eligible for the vaccine would

22 actually take the vaccine?

23 A Amazon, we definitely focused on our employees in getting our employees

24 vaccinated as quickly as possible, yes.

25 Q And was it your understanding that the White House obviously cared about

1 Amazon's employees, but also had a larger responsibility for the country at large?
2 A That's my understanding.
3 Q And so turning your exhibit to -- your attention to exhibit 9, when you said
4 that we should alert the business that we have White House attention on this issue, and
5 then you said later in the email that you should use in your message to the business team
6 some of Andy's language below, you're talking about the language that he used that
7 surprised you, correct?
8 A Correct.
9 Q And the language that you considered to be more direct than what you were
10 expecting?
11 A Yes.
12 Q But you didn't have any concerns about sharing that language with your
13 management?
14 A No, I wanted to make sure that they had a full understanding of the
15 communications from the White House, yes.
16 Q And as we discussed earlier, your response to both Mr. Slavitt and Mr.
17 Flaherty was to explain Amazon's content policies, correct, and not at the high level?
18 A Yes, at a high level.
19 Q It was not to suggest changing those policies?
20 A That's correct.
21 Q Now, I would like to turn your attention to exhibit 8, which is the email from
22 [redacted]. And I'm sorry, just to be clear, after you sent the response, the policy
23 response on exhibit 9 -- and it might be easier for to you refer back to exhibit 1, the full
24 chain for this -- you did not have any substantive response to that email, correct?
25 A I'm sorry, I just got confused about the email.

1 Ms. Dunn. Let's make sure we're on the same page.

2 BY [redacted]

3 Q So the email that we sent for exhibit 9, your explanation at 2:44 p.m., the

4 email to Mr. Flaherty and Mr. Slavitt --

5 Mr. Kelner. What's the Bates number on that, counsel?

6 [redacted] I'm looking at 4598, the first page of exhibit.

7 Ms. Dunn. Okay.

8 BY [redacted]

9 Q This is the email where you went into the most detail in that exchange about

10 Amazon's policies, correct?

11 A Yes.

12 Q And the only response that you received to that was Mr. Flaherty saying that

13 he just wanted to understand where the lines or and let's set up a further phone call,

14 correct?

15 A Yes.

16 Q And again there was no further communication until the March 9th email?

17 A That's my recollection, yes.

18 Q Thank you. Okay. Now, turning to exhibit 8. I just wanted to clarify a

19 few things about this exhibit.

20 Mr. Kelner. Counsel, is that Bates 5833?

21 [redacted] It is. Thank you. And I will try to be better.

22 Mr. Kelner. They're NOT mark as clearly as -- I'm sorry.

23 [redacted] Fair enough. I appreciate that.

24 BY [redacted]

25 Q So we are on the Bates 5833, and this is the email that is the subject line,

1 "Books Vaccine Misinformation policy underscore 020821." Now, you've said multiple
2 times now that it is your understanding that the books team had made recommendations
3 about including making certain changes, for example, including anti-vacs books and the
4 Do Not Promote policy, correct?
5 A Correct.
6 Q And that those recommendations had been made in early February, correct?
7 A They had started that in early February. Yes, they had been working on it
8 for at least a month.
9 Q And is it your understanding that 020821 refers to a date on which the
10 document was either created or circulated?
11 A That would be my understanding, yes.
12 Q Now, in the document itself -- I'm sorry, this email itself, refers specifically to
13 the March 9th -- let me start again.
14 The email itself refers specifically to the March 19th meeting that you had
15 mentioned had already been planned prior to receiving any communications from Mr.
16 Slavitt or Mr. Flaherty about misinformation?
17 A Yes.
18 Q Thank you. And if we look at No. 3 on this email, [redacted] said, "It
19 won't be satisfactory. Or the reactive messaging for your policy response. "It won't be
20 satisfactory." Now, I understand that you don't know -- you don't know what the White
21 House was going to find satisfactory, correct?
22 A Correct.
23 Q [redacted] expressed a belief that the response that you were preparing to
24 give would not be satisfactory, correct?
25 A Yes, that's my understanding.

1 Q But that didn't change what response you gave, did it?
2 A No.
3 Q You gave the response, even though someone at some at Amazon were
4 concerned, but believed it was not satisfactory to the government?
5 A We didn't know what they were going to ask. But, you know, when it
6 comes to Amazon's policies, it's our strong belief that we should offer as much content,
7 you know, as we can to our customers.
8 Q Right. And you also said that Amazon makes its contents decisions, not the
9 government, correct?
10 A That's correct.
11 Q Now, generally speaking, on March 2nd and in preparation for the March 9th
12 meeting, there was some speculation about what the White House might ask, correct?
13 A Correct.
14 Q And in this particular email, in point No. 3, [redacted] said, "The White
15 House would probably ask why we don't have the content like Facebook slash Twitter do
16 if we aren't taking it down." Correct?
17 A Yes.
18 Q Did Mr. Flaherty ask that in the March 9th meeting that you had with him?
19 A No, that's not my recollection.
20 Q Okay. On that same note, if you can turn to Bates 6226 that was marked as
21 exhibit 10, and it's the subject line "Vaccine misinformation in bookstore"?
22 A Okay.
23 Q So turning your attention to the email on the bottom where both the "from"
24 and the "to" are redacted, and it says, "Could we work up reactive FAQs to these
25 questions for [redacted] call?" Correct?

1 A Yes.
2 Q And then there were two questions that were written out there. Those
3 were hypothetical questions that again you were trying to prepare in case they were
4 asked, correct?
5 A That's right. We did not know exactly what they might ask, so we wanted
6 prepare for a wide variety of topics and questions that could come up.
7 Q And did Mr. Flaherty ask either of the two questions that were proposed
8 here or speculated about in this email?
9 A To my recollection, no.
10 Q Thank you.
11 BY [redacted]
12 Q On that same email, looking at the proposed response, which is
13 time-stamped 1:54 p.m. Again, we don't -- the names are redacted here. I don't
14 believe you are on this email. But the proposed response is for question one, this is not
15 something you've had come up in the past, and it's taken the guidelines out of context.
16 The line stated it is referring to misleading metadata typos, image quality issues, et
17 cetera, no the actual truthfulness of the theory described within the text of a book. Do
18 you see where it says that?
19 A Yes.
20 Q And then it has two possible -- in bullet points two possible responses,
21 correct?
22 A Yes.
23 Q So in that instance, both of those responses were proposing to tell -- if the
24 question had been asked, the proposed response again would be to explain Amazon's
25 policies, correct?

1 A Yes.

2 Q Okay. Thanks.

3 BY [redacted]

4 Q So you were asked a series of questions in the previous hour about the

5 timing of Amazon's adoption of finalization of the Do Not Promote policy that was initially

6 considered in early February of 2020. Do you recall that?

7 A Yes.

8 Q And I believe you stated that you asked the books team or it was your idea

9 to ask the books team if they planned to finalize that on March 19th. Why don't we just

10 accelerate that and move it up so that it can only be in place on the time of the March 9th

11 phone call. Is that your understanding?

12 A Yes.

13 Q I am sorry. That was a correct statement of your testimony?

14 A It is, yeah, that's what we thought.

15 Q Okay. And so that was an action that you took after the

16 communications -- the email communications that we saw with the White House on

17 March 2nd, correct?

18 A Yes, it's my recollection that occurred after March 2nd.

19 Q And as far as any policy decisions that Amazon made, was the decision to

20 accelerate the implementation of that policy, which as you stated was already planned to

21 be finalized on March 19th, was that the only action that Amazon took in response to the

22 emails from Mr. Slavitt and Mr. Flaherty?

23 A My recollection is that there was the Do Not Promote policy that there was

24 also an expansion of the search terms that would trigger the link to the CDC information.

25 That's my understanding.

1 Q And I believe you stated earlier that that expansion of the search terms that
2 would trigger the link to the CDC was also contemplated prior to the reachout from the
3 White House on the March 2nd?
4 A I believe it was. That's my understanding of it.
5 Q Thank you. And those, so essentially, implementing a policy, accelerating
6 the implementation of a policy that you understood was going to be adopted on
7 March 19th, that acceleration was the only action that Amazon took in response to those
8 communications?
9 A That is what I asked the book teams to do which is to accelerate any
10 decisions that they had recommended and were going to implement.
11 Q And did the book teams make any other decisions to take any our actions
12 that you're aware of -- let me ask more directly, did Amazon remove any content in
13 response to those communications from the White House?
14 A Amazon did remove certain vaccine books that advocated harm to
15 customers, like leach. I'm not certain when those book removals took place. I don't
16 know the timing of that.
17 Q So it's entirely possible that those books were removed before March 2nd?
18 A I don't know.
19 Q And it's also fair to say that if they happened after any books were removed
20 after March 2nd, that's being handled by a completely different team, correct?
21 A That was --
22 Q Your team?
23 A It would be the books team.
24 Q The books team. And would it be possible for you to draw a line of
25 causation from this conversation with the White House to the removal of those books?

1 A I don't know.

2 BY [redacted]

3 Q In the first hour of our questioning, you talked through, at a high level, the

4 reasons that Amazon might generally move contents or remove books from its platform.

5 Amazon's policies expressly state that material advocating for self-harm will be removed,

6 correct?

7 A That's my understanding, yes.

8 Q And those policies were in place prior to March 2nd, 2021, correct?

9 A That's my understanding, yes.

10 Q Okay. Thank you.

11 BY [redacted]

12 Q Okay. So going back to the actual March 9th meeting, did you discuss with

13 Mr. Flaherty the acceleration of the implementation of those policies?

14 A I don't recall that being part of the discussion. The conversation was

15 high-level in general, and I don't recall that being raised.

16 Q So you did not -- you have no recollection of how he might have responded if

17 you had told him or anything to that effect?

18 A I don't recall that.

19 Q Okay. You recall the conversation being more high level than those types

20 of policies?

21 A That's my recollection, yes.

22 Q Okay. And during that conversation, did you not hear Mr. Flaherty make

23 any kind of threat to Amazon about adverse consequences if it did not take any particular

24 actions, correct?

25 A No, that was -- I did not hear that. That was not my recollection.

1 Q Thank you. Now I want to talk about your relationship with the White
2 House in the months that followed the March 2021st exchange. You testified earlier, I
3 think it was a few rounds ago, that you had some communications with Mr. Slavitt
4 regarding vaccine logistics, I believe. Is that correct?
5 A Around, I believe, it was vaccine logistics as well as testing capacity, yeah.
6 Q Thank you. Okay. But not your recollection?
7 A No, that's not my recollection.
8 Q And the exchange that you had on March 2nd, and then the brief phone call
9 with Mr. Flaherty on March 9th, that did not prevent Amazon and the White House from
10 continuing to work together on joint efforts to combat the spread of COVID-19, correct?
11 A Correct.
12 Q So, for example, in May, 2021, you and Benjamin Wakana, who was the
13 deputy director for strategic communication and engagement with the White House
14 COVID response team coordinated to produce an event on Twitch to promote
15 vaccinations. Correct? Do you recall that?
16 A Yes, I believe -- I may -- [redacted] reached out, and I made the
17 introduction to Twitch, yes.
18 Q And so [redacted] reached out to ask if you would be willing to let Twitch
19 host an event relating to vaccinations, correct?
20 A Yes.
21 Q Okay. If I could have that have exhibit.
22 We are at 12, correct?
23 The Reporter. Yes.
24 [redacted]. Thank you.
25 BY [redacted]

1 Q So [redacted] reached out and asked if you would be willing to use Twitch
2 to drive vaccinations, correct? And that was on May 24th, 2021. And I'm looking at
3 the last page Bates 2809.
4 A Yes.
5 Q And you responded that you were talking with Twitch at the highest levels
6 and trying to figure out what would work best for them, correct?
7 A Yes.
8 Q And then on June 2nd, you responded again, and you said, "Ben -- some
9 good news!" And then you talked about how Twitch would donate a significant piece of
10 video advertising inventory to help promote vaccinations, correct?
11 A Yes.
12 Q And then you provided some more details about what that would mean?
13 A Yes.
14 Q You were advertising and how it works on Twitch's space?
15 A Yes.
16 Q And then [redacted] responded the next day and said, "That's great.
17 Anything you could announce together around skins, exclusive broadcasts, or influencers?
18 Could -- first of all, what is a skin? Do you know?
19 A I don't know.
20 Q Okay. "Could we steal" -- and then he said, "Could steal the first
21 10 minutes of a big broadcast and put [redacted] you on to talk about vaccines? I
22 don't think we can announce ad space donated to the Ad Council." Did I read that
23 correctly?
24 A Yes.
25 Q And then you responded on June 9th. And I'm now on the first page of this

1 exhibit. And you said, "Hi, [redacted] And you thanked him for his feedback and his patience,
2 correct?
3 A Yes.
4 Q And you attached "a brief draft proposal that is built around creating a
5 stream with White House officials that discusses the importance of vaccines and common
6 questions, conducted in popular talk-show formatting, and related plans for influencer
7 promotion that Twitch would help obtain." Did I read that correctly?
8 A Yes.
9 Q Okay. And you said, "We are prepared to complete this content and
10 promotion ahead of the July 4th target date and welcome your thoughts on this
11 proposal." Correct?
12 A Yes.
13 Q And then you said you offered to connect him with the right people if that
14 was agreeable to him, correct?
15 A Yes.
16 Q And then you said, "We're excited by this and are ready to move forward
17 quickly if you are interested," correct?
18 A Yes.
19 Q And you thanked him, and he responded, "[redacted] this is terrific. Let's make
20 it happen. Ideally, I think we'd have a doctor do it." Is that correct?
21 A Yes.
22 Q And then he said that he thought that he could convince Dr. Fauci to do it
23 but wanted to gauge you on the questions, correct?
24 A Yes.
25 Q And did this event actually occur?

1 A I believe it did, yes.

2 Q And do you recall who from the White House participated?

3 A I believe it was Dr. Fauci. I'm not sure who else.

4 Q And is the tone of this email exchange that we just went through more

5 typical of tone of your communications with the White House around COVID-19?

6 A Yes.

7 Q Was the March 2nd email for Mr. Slavitt the tone he used in his emails, was

8 that an anomaly?

9 A It was definitely surprising. His tone was surprising. The fact that we

10 received it was surprising, given that our previous discussions had been around issues like

11 vaccines and technology.

12 Q And to be clear, those emails in the March 9th phone call were the only

13 discussions you had with the White House about vaccine misinformation, correct?

14 A With the Biden White House, yes, correct.

15 Q The other conversations were with the Trump White House, correct?

16 A Correct.

17 Q And thank you for that clarification. I appreciate that.

18 If we can have just a moment. And we can go off the record.

19 [Discussion off the record.]

20 BY [redacted]

21 Q Can we go back on the record, please. Which exhibit are we up to now?

22 The Reporter. Thirteen.

23 [[redacted] Exhibit No. 13

24 was marked for identification.]

25 BY [redacted]

1 Q This will be exhibit 13. It is an internal Amazon email chain that starts on
2 the March 4th, 2021, and continues until March 9th. You ready?
3 A Yes.
4 Q If you flip to the very back page, it's Bates No. 73, 74, there are redactions
5 made in the signature, then there's a books logo at the bottom. Does that suggest to
6 you the emails from someone on the books team?
7 A That's what it would suggest, yes.
8 Q Emails dated March 4th, the opening line says, "I'm hoping you can help me
9 set up a new DNP class and CPP." In this context DNP presumably means Do Not
10 Promote. Is that right?
11 A That would be my understanding, yes.
12 Q In this context, do you know what CPP would be referring to?
13 A I don't.
14 Q Right above it there's an email Bates stamped 2:18. It says plus, it looks
15 like a name, which is redacted. And then "automations." And automations do you
16 know what that's in reference to?
17 A Just to go back to -- contents. It may be content protection policy is what
18 CPP might be. I am sorry, what was your -- I just wanted to clarify that as a -- yeah.
19 Q Thank you. To your understanding, what is the content redaction policy?
20 A I don't know what that means, but it would be my understanding that's
21 probably what at that acronym like referred to.
22 Q Thank you. The next email going up to Bates stamped 2:18. It starts on
23 Bates No. 7373, and it continues on to 7374. It says, plus there's a redaction, and it says
24 and automations. To your understanding in this context, what is automations referring
25 to?

1 A I'm not sure. It sounds like the name of a team, but I'm not certain.
2 Q The email continues, I submitted SIM in this context. What do you
3 understand that to mean?
4 A My understanding is that SIM -- I'm not sure what it stands for -- but it's a
5 ticketing system. So when something needs to happen, SIM ticket is submitted and
6 enacted on.
7 Q Have you been included -- outside of this context, just in general, as part of
8 your job -- are you included on SIM tickets, if that's the proper way of asking the
9 question?
10 A So SIM tickets are used for a wide variety of actions, including for HR
11 personnel actions. And so I have been included on some SIM tickets at Amazon, yes.
12 Q And just walk me through -- you don't have to go into details or an example,
13 if you are added or included to a SIM ticket, do you see email notification, or is there a
14 separate system?
15 A I don't know the specifics of how it works. Generally, yeah, I just don't
16 know how that works.
17 Q Once you're in -- or once you're seeing that ticket, is this something that you
18 can comment on, or is it just something that you review?
19 A I don't know. I don't know how that works. I don't know the specifics of
20 that ticketing system.
21 Q Well, for the instances where you have had experience, how did it work in
22 those experiences?
23 A For mine, I just had to click approve and that was my extent of the
24 interaction with them.
25 Q Turning back to the email that's time stamped at 11:48, Bates No. 73 and 74,

1 there's an email there -- excuse me, there's the last sentence in the email. It says, "This
2 is a high priority intended to address negative feedback we're getting from the White
3 House's Coronavirus Task force." To your understanding, is this person from the books
4 team understanding derived from Mr. Slavitt's March 2nd email?
5 A I wasn't on this email, I believe, and I'm not sure who sent this, the email,
6 and what they were referring to.
7 Q So without the names unredacted, it would be difficult to assess that?
8 A Yeah, I don't -- I don't know who sent this email exactly.
9 Q To your understanding, depending on this email, in the earlier hour you
10 testified it's your understanding that [redacted] on your team was the one that communicated
11 to the books team providing information of the fact that the White House had reached
12 out to you?
13 A Yes, I believe that's what happened, yes.
14 Q And to your understanding, had she reached out before March 4th?
15 A Sorry, can you clarify that?
16 Q Yeah, sure. It's your understanding that [redacted] was the communicated to
17 the books team?
18 A Yes.
19 Q The emails from Mr. Slavitt started the morning of March 2nd. Do you
20 know how quickly she reached out to the books team?
21 A I don't know exactly. I believe she reached out on March 2nd at some
22 point.
23 Q Okay. Do you agree that the communications from Mr. Slavitt constituted
24 negative feedback?
25 A My interpretation was that the tone, it was direct, you know, in those mails.

1 It was also surprising given our previous interaction. That's how I would characterize it.
2 Q Would you characterize it as a positive email?
3 A No.
4 Q On the third page, Bates No. Number 7373, there's an email time stamped
5 3:32. There's reference to, "We already have a CPP class to handle ad-hoc requests to
6 block promotion." First, do you know what this email is referring to about the -- about
7 having a shell category?
8 A I don't know.
9 Q This is exhibit 13. This is a level of detail you were not looped in on as part
10 of a briefing?
11 A Correct. As far as my recollection is.
12 Q In this context, do you know what the acronym NSOC refers to?
13 A I don't.
14 Q What about the acronym ASIN?
15 A Yes, that is ASIN, and I don't know what it stands for exactly, but it's like
16 maybe Amazon's number or Amazon's unique code for each product that Amazon sells.
17 Q So to your understanding, this number would be able to identify titles, if
18 needed?
19 A Yes, each item that is sold on Amazon has its own ASIN.
20 Q Do you have a sense of which, what is included in the 43 ASINs referred to in
21 this email?
22 A I don't.
23 Q If you flip to the second page, Bates No. 7372, there's an email time stamped
24 1:59. The third paragraph says, "Currently, all of our DNP classes (Extremist, Racially
25 Sensitive, and Transgender Youth) are ad hoc and ASIN-based. First of all, you familiar

1 with those other DNP classes that are listed?

2 A I'm not.

3 Q Have you ever handled a request related to those DNP classes?

4 A Can you clarify what you mean by request?

5 Q Or have you ever had discussions with [redacted] or anyone on your team about

6 those other DNP classes?

7 A No, I haven't. Not to my recollection.

8 Q To your understanding, for the book, "When Harry Became Sally," was that

9 book title included in a DNP class prior to being removed?

10 A I don't know.

11 Q Who would best know that information?

12 A Probably the books team. I think it was introduced previous.

13 Q I think it was introduced as a previous exhibit. Do you have exhibit 4.

14 [redacted] What was it?

15 [redacted] The talking points.

16 [redacted] That was exhibit 2 or 3.

17 [redacted] No, it's four, the descriptive email.

18 [redacted] Yeah, that is exhibit 4.

19 [redacted] That was on my list.

20 BY [redacted]

21 Q Well, for the sake of clarity, for the record, referring to the March 9th email

22 chain and internal Amazon email subject line "Pre-brief meeting with the White House."

23 That was previously introduced. If I could have you flip to the to, from starts on page

24 6185 and then continues on to 6186. To your understanding, who drafted these initial

25 notes?

1 A Well, I did not know exactly who sent this email, but I would call that Sarah
2 Hudgins and Simon Morrison on my team were part of the drafting process for those
3 talking points.
4 Q And at a high level, what were their instructions or reporters when it came
5 to prep materials in advance of this meeting with the White House?
6 A Because we weren't sure exactly what the White House was going to ask, we
7 wanted to prep for a wide variety of materials. So we would have a script and then
8 potential questions that might come up.
9 Q And at a very, very high level, is this consistent with the type of prep work
10 your team may do in advance of other calls?
11 A It is.
12 Q If I could call your attention to -- let's start with Roman Numeral I, "Books
13 Curation and Guidelines 101." And then the first talking point. This references talking
14 points, and there's some brackets. "Is the Admin asking us to remove books, or are they
15 more concerned about search results/order or (both)? To your team's understanding, at
16 the time -- this email is dated the morning of March 9th -- was it unclear whether it was
17 possible the Biden administration may have asked the company to consider removing
18 books?
19 A We weren't sure what they were going to ask, and so we prepared questions
20 and responses to a wide variety of topics, yes.
21 Q So your team wasn't able to eliminate that possibility in advance of the
22 meeting?
23 A We did not have, to my recollection, conversations between the March 2nd
24 email exchange and this March 9th exchange other than a scheduling the meeting. So
25 that was the March 2nd was the communications we had.

1 Q Before the March 9th meeting starts with the White House, based off your
2 understanding with the administration, did you think it was possible that there may be
3 discussion about potentially removing books?
4 A We weren't sure what they were going to ask, and so we wanted to be
5 prepared to give a response on a wide variety of topics.
6 Q Based off your interactions with the White House up to this point, what was
7 it about the interactions that led your team to at least believe it was necessary to prepare
8 for potential topic of discussing whether to remove books?
9 A Well, I think it was the tone of the email. I think the direct language was
10 surprising that we received. And so because we weren't sure what they were going to
11 talk about. We didn't want to be prepared to just address the wide variety of topics.
12 Q To your understanding, had you received talking points and prep materials
13 about the removal of books previously in a different meeting?
14 A I don't recall that.
15 Q You've referred a few times now to the tone of Mr. Slavitt's emails. Other
16 than the fact that they are direct, what else about the tone of the emails struck you?
17 A Well, it was definitely surprising from the previous interactions that we had
18 had which were, you know, about topics like vaccinations and technology, and the fact
19 that it was a very, you know, direct email. To me, that's why the tone was surprising.
20 Q What was the tone of your communications with Mr. Slavitt prior to
21 March 2nd?
22 A We were discussing collaboratively whether there were technology tools,
23 you know, that Amazon might have that might exist in government, you know,
24 vaccination efforts or tracking or distribution. So it was a tone of this kind of asking
25 questions, and it was seeing if there could be assistance that was going to be provided.

1 Q Would you describe the communication on March 2nd as collaborative?
2 A No.
3 Q Why not?
4 A They did not appear collaborative. The tone appeared direct to me.
5 Q The previous exhibit you're looking at, March 4th there's the email. It's
6 redacted, but appears to be someone from the Books team.
7 Ms. Dunn. Counsel, can you just tell us what exhibit you're talking about?
8 BY [redacted]
9 Q This would have been exhibit 13, Bates No. 7374. The email refers to
10 negative feedback. If on March 4th someone from the Books team had described the
11 email chain for Mr. Slavitt, Mr. Slavitt's email on March 2nd, as providing negative
12 feedback, would you have disagreed with that assessment?
13 A Well, I wasn't, you know, on this particular email. I don't know how they
14 received the information for this characterization. I would describe myself the tone as
15 very indirect from him.
16 Q I understand you're not on this email, but based off your interpretation of
17 the email chain, would you have agreed with the assessment that it was providing
18 negative feedback?
19 A The email, I think, was asking critical questions of Amazon's policies, yes.
20 Q Critical in the sense of important or critical in the sense of negative?
21 A I think he was asking not critical in the sense of important kind of questions.
22 Q It is critical in the sense of negative?
23 A He was asking very pointed and very direct questions about Amazon's
24 polices.
25 Q Did you get from the sense of the questions on March 2nd from Mr. Slavitt

1 that he or others in the White House and Amazon's policies are falling short of where
2 they needed to be?
3 A Well, we weren't sure what they were interested in, what they thought,
4 where they wanted to follow up in depth. To me that was not clear from that exchange.
5 And I definitely want to ask those questions and have a more in-depth discussion when
6 we met.
7 Q Do you recall any discussion in the prep meeting or in the terms you
8 received about whether conversations with the White House regarding potential removal
9 of books would implicate First Amendment concerns?
10 A I am sorry, can you just clarify that question again?
11 Q Yeah, in any conversations or prep work before the March 9th White House
12 meeting, do you recall any conversations about whether conversations at the White
13 House regarding the potential removal of books would implicate First Amendment
14 concerns?
15 A I don't know if I recall that issue being discussed directly. I definitely
16 remember us discussing Amazon's philosophy or belief that we should offer as much
17 content as possible. I certainly remember that meeting was an important part of our
18 discussion.
19 Q Was there a concern that sharing that principal with the White House would
20 prompt a negative response?
21 A Well, what I recall is that if the topic came up and if we were asked, we were
22 going to be clear about what our thought -- philosophy and what our policies are on
23 offering books of content. Even that's something they find objectionable. I recall that.
24 Q And your team couldn't remove the possibility that the White House may
25 disagree with that principal on an upcoming call. Is that right?

1 A Yeah, we weren't sure what their viewpoints were, what they were going to
2 ask. And so we definitely wanted to be prepared, you know, for any questions that
3 might come up.
4 Q On Bates No. 6187, it is Roman Numeral II.
5 A Sorry.
6 Q Sorry, turn back to exhibit 4.
7 [redacted] Is that exhibit 4?
8 BY [redacted]
9 Q Bates No. 6187, Roman Numeral II, all of them belong to a set of talking
10 points. And it says, "Specific Books Steps Taken." There's then a description of some
11 of the steps that the company is taking. As part of preparing these set of materials, the
12 responses you had earlier about requesting the acceleration of the decisions from
13 March 19th until before the March 9th meeting, accelerating that decision, did that allow
14 you or your team to prepare these types of talking points?
15 A I am sorry, can you say that again?
16 Q Sure. Referencing back to the request to accelerate the decision from
17 March 19th to before the March 9th meeting --
18 A Yes.
19 Q -- and the benefit of doing so to provide a more complete answer --
20 A Yeah.
21 Q -- does that benefit have the ability reflected in these talking points being
22 able to point more specifically to steps taken by the company?
23 A Yes, it's my recollection that we wanted to be able to talk about that, about
24 the Do Not Promote actions, if needed. But it's also my recollection that didn't come up
25 in this conversation.

1 Q The team that prepares your script, starting on page 6184, is that different
2 than the team that prepares the talking points or to your understanding the same
3 people?
4 A Yeah, my recollection it was the same people.
5 Q Do you recall whether anyone had looked in advance of the March 9th
6 meeting to see the status of the book that was flagged on that screenshot from
7 March 2nd?
8 A I don't recall if we did.
9 Q On the March 2nd emails, two individuals from the White House run
10 searches, one sends a screen shot. Do you recall in advance of the March 9th meeting,
11 anyone running searches in advance of that meeting on your team?
12 A I don't recall if we did that or not.

1 [3:20 p.m.]

2 BY [redacted]

3 Q Do you recall having available any example titles of the type of books that

4 Amazon would be categorizing in this do not promote if the topic didn't come up?

5 A I don't recall us having that.

6 Q In the leadup to the March 9th meeting, was there consideration of having

7 anyone besides you, [redacted] or John to attend on behalf of the company?

8 A It's my recollection I wanted to keep the group as small as possible. I

9 wasn't sure who was going to attend from their side either, so I thought just the three of

10 us would be best is my recollection.

11 Q And I think you answered this earlier, but was a -- was it a phone or was it a

12 video conference when the meeting did take place?

13 A It was on video. I don't remember which platform, but it was video.

14 Q Do you recall if anyone took notes from the company during the meeting?

15 A I don't recall.

16 Q Would it be general practice to take notes for a meeting like that?

17 A I think that varies meeting by meeting.

18 Q Did anyone provide a readout on the conclusion of the meeting?

19 A I remember discussing it definitely with [redacted] and [redacted] kind of, afterwards.

20 I can't recall what other readout, you know, we provided.

21 Q Were you, [redacted] and [redacted] in separate locations, or did you take the video

22 call together?

23 A No. We were in separate locations.

24 Q When you discussed with [redacted] and [redacted] afterwards, was that on the call or

25 via email? How did that take place?

1 A If I recall correctly, we just hopped on the phone quickly after the White
2 House was done was my recollection.
3 Q And what was the response from [redacted] at the conclusion of the meeting?
4 A Well, I think we were surprised by it, that -- that it was fairly short, that
5 Flaherty -- Mr. Flaherty was the only one, you know, who attended, and that it remained
6 kind of pretty high level in general. That was -- that was actually surprising, and I recall
7 us discussing that.
8 Q Why was that surprising?
9 A Well, we -- we thought that others, including Mr. Slavitt, might attend the
10 meeting based upon the email exchange, which several people were on. So we were
11 surprised that it was only Mr. Flaherty.
12 We were surprised that they didn't ask us a lot of specific questions even though
13 we had prepared, you know, for a number of questions.
14 Q Why were you surprised they didn't ask specific questions?
15 A Based upon the email exchange, and we weren't sure what they were going
16 to ask. We want to be prepared for -- for a wide variety of questions, and the
17 conversation remained fairly high level.
18 Q What about the email exchange made you surprised that they didn't ask
19 more specific questions at the March 9th meeting?
20 A I think the tone was -- you know, was very direct, you know, that kind of
21 exchange. And they were asking specific questions, you know, about books and, you
22 know, I think they said they wanted to explore where the lines were. And, to my
23 recollection, you know, those topics didn't come up.
24 Q Do you remember what [redacted] reaction was in any post-meeting
25 conversation or debrief?

1 A I mean, I don't recall his individual reaction. I just kind of recall our -- you
2 know, our general conversation.
3 Q Did you brief [redacted] about this meeting?
4 A I don't recall specifically if I did. It's likely I would have, but I don't recall.
5 Q How would you describe the tone of the March 9th meeting?
6 A It -- I recall it being -- it was a short -- shorter meeting. It was, you know,
7 general. There was, I think, just a couple of questions, you know, asked, and just very
8 high level. I think how I've described the tone as that.
9 Q Was the tone of the meeting negative in any way?
10 A No. I don't recall it being negative.
11 Q Are you familiar with the content risk moderation team?
12 A No. I don't know what that refers to.
13 Q Whether it was the books teams or elsewhere, it was under the trust and
14 safety team, to your knowledge?
15 A To my knowledge, the -- the content teams are in the individual businesses.
16 Q Are they all trust and safety, or do they have different names, to your
17 knowledge?
18 A I don't know what their names are.
19 Q Do you recall the surgeon general sending a request for information to
20 Amazon in 2022?
21 A Yes.
22 Q And at a high level, what were your responsibilities for that response?
23 A I recall receiving the request -- or it being brought to our attention. I recall
24 reviewing, you know, drafts that the team prepared, and I signed the letter back to HHS.
25 I recall that.

1 Q From March 9th, 2021, until 2022, do you recall any outreach from the Whit
2 House or others in the executive branch regarding concerns relating to misinformation?
3 A On misinformation, no, I don't recall any outreach.
4 Q In preparing the draft for the surgeon general, do you recall whether there
5 was a discussion to talk about the steps that Amazon had made in March of 2021
6 regarding books that expressed skepticism of vaccines?
7 A I recall that we discussed about books that we may have removed that, you
8 know, violated our policies. I recall that.
9 Q And what was being discussed? What were the options available?
10 A Well, I recall that this -- this HHS request, it was, you know, very broad. It
11 was, you know, wide-ranging. It asked, you know, lots of questions. And so we were
12 discussing what topics would be appropriate, you know, for us to raise.
13 It was on -- we had our own COVID-19 test that we kind of created, and we had
14 done efforts on -- with vaccinations for our employees. So I recall us having discussions
15 about what to say about, you know, those efforts, for instance.
16 Q This will be exhibit 14. It's an internal Amazon email chain, April -- from
17 March to May of 2022.
18 A Thanks.
19 [[redacted] Exhibit No. 14
20 was marked for identification.]
21 BY [redacted]
22 Q Are you ready?
23 A Yes.
24 Q If you flip to the back page, based on how it was produced to us. It's the
25 first email in this chain. Bates number 4377. There's an email addressed to you.

First, do you recognize this email chain in this initial email?

A Yes.

Q Do you recall who emailed you?

A If I recall correctly, I think it may have been [redacted] on my policy team.

Q Four paragraphs down in that email, time stamped 4:44 after the colon, if it's [redacted] he's writing, "I can inform the relevant S-team members."

What's the S-team in this context?

A S-team is the senior team, I think, is what it stands for. So it's the group of senior leaders, senior executives at Amazon.

Q And in March 2022, who would that include?

A I don't know specifically. The -- the S-team has varied. For instance, I believe now there's over 20, you know, S-team members. I don't know, like, who at that time, you know, would have been -- would have been on -- who would have been the relevant S-team members.

Q Who is the most senior member of the S-team?

A Well, the CEO. Andy Jassy is the CEO.

Q And to your understanding, who would be, like, the most junior member of the S-team?

A Well, I think that depends -- that would depend, you know, on, you know, the business, for instance, be it operations or studios or, you know, kind of, music or something. So I'm not sure.

Q For the folks that you -- well, let me -- strike that.

Are you a member of the S-team?

A No.

1 Q Was [redacted]?
2 A Yes.
3 Q And [redacted]?
4 A Yes.
5 Q There's a reference to Steve in that same paragraph, for [redacted] guidance.
6 Do you know who that's in reference to?
7 A Let me just where -- I'm sorry -- okay. There. I think it's referring to
8 Steven Hartell, who is a vice president of policy on my team, I believe.
9 Q The next email is Bates number 4376. The time stamp is 4:32?
10 A Yes.
11 Q There's a reference in the first paragraph to sending a final version to [redacted]
12 [redacted] [redacted] [redacted] and [redacted] We've gone over names in previous emails.
13 Is it the same set of first names as before?
14 A I believe the -- the new addition to this that we didn't discuss is Doug, who
15 refers to Doug Herrington, and he's CEO of retail now. I think at the time he was a
16 senior vice president in retail.
17 Q And remind me, who is [redacted] in this context?
18 A [redacted] is [redacted]. He is a head of our communications public
19 relations team.
20 Q The next email is from you dated April 20th. The time stamp is 8:29 a.m.
21 And you write about concerns about if it's necessary to provide a particular piece of new
22 information referencing the email below.
23 What were your concerns?
24 A So the team was discussing whether to -- or debating whether to discuss the
25 number of COVID books that had been removed from our store, and I was trying to

1 consider whether we should include that or not. I recall thinking that disclosing that, a
2 number, would require a lot of context and, you know, a lot of explanation.
3 And that given the broad nature of this HHS request for information and the many
4 topics it was discussing, I was wondering whether it was necessary or appropriate to
5 include that information in this response.
6 Q Did you believe that the company would receive criticism if it were to share
7 that the company had removed a certain number of books?
8 A As head of policy, it's part of my job to make sure that we're communicating
9 clearly and providing the right context when we discuss information in public. And I was
10 concerned that in order to mention that number, we'd have to provide a lot of -- a lot of
11 detail, a lot of, kind of, context around it.
12 And I recall thinking that this probably wasn't the place that -- to have that
13 discussion given how broad that inquiry was.
14 Q Why would providing this particular piece of information require providing
15 so much additional context?
16 A I recall thinking that just discussing the number, kind of, in isolation without
17 discussing what the guidelines are and, you know -- for example, as we've discussed, it
18 was my understanding that some of the books were removed because they advocated
19 harm, like, drinking bleach and kind of so forth.
20 And that in order to provide that information, I felt it would be necessary to -- we
21 would have to provide, you know, lots of detail. And I just -- I recall thinking that it was
22 a broad inquiry that talked about many different topics, just wasn't the appropriate place
23 to have that discussion.
24 Q Did you have any conversations with the public relations team following the
25 company's decision to remove "When Harry Became Sally"?

1 Mr. Kelner. I'm sorry. With which team?

2 [redacted] Public relations.

3 [redacted]. So I recall that when we received our congressional, kind of,

4 inquiries on that that public relations was part of the team that drafted that

5 response -- part of the larger team that drafted it.

6 BY [redacted]

7 Q And the decision to remove that book predates the discussion that's taking

8 place in April of 2022?

9 A Yes.

10 Q Was there concern that sharing the fact that the company had removed

11 certain books may prompt a similar level of concern or criticism or inquiries that were

12 prompted by the company's removal of "When Harry Became Sally"?

13 A Well, I recall thinking that we need to be kind of clear in our communication,

14 that we need to provide the right context and -- and level of detail when we talk about

15 our decisions. And so that was something I wanted to make sure that, if we were going

16 to do that, it was going to be the appropriate place and -- for such a discussion.

17 Q Who else at the company shared your concerns?

18 A I don't recall. You know, I was the person who was going to sign the letter

19 and was the ultimate decision-maker on what to include in that response. So I don't -- I

20 don't recall.

21 Q Do you recall anyone disagreeing with your concerns?

22 A I recall that we had a debate, like, amongst the team, you know, including

23 my team, about whether we should, kind of, include that or not.

24 Q Who participated in this debate?

25 A I recall [redacted] was part of it on my team. I recall [redacted], who is

1 also a director, on my team being part of that discussion.

2 Q Anybody else?

3 A That's who I had the discussion with. I think -- I think there may have been

4 other people, like, maybe [redacted] and [redacted] I kind of talked to, you know, on the books

5 team. But that's who I recall I had the discussion with.

6 Q Did [redacted] and [redacted] report back on what the books team thought?

7 A I recall that they did, yes.

8 Q What did they say?

9 A I recall that the question posed was, should we include, you know, the

10 specific figure, which was new information. And I recall that the books team was okay

11 with including that, but -- that was my recollection.

12 Q Did the books team provide any reasons about why they were okay including

13 that information?

14 A I don't recall if they did or not.

15 Q When this message was -- from [redacted] and [redacted] sent back to you based off

16 their discussions with the books team, do you recall agreeing with the -- or disagreeing

17 with the perspective of the books team?

18 A I recall I disagreed with -- with the books team's, you know, stating that we

19 could kind of include this.

20 Q And why did you disagree?

21 A I just thought that, given the broad nature of this kind of HHS inquiry and the

22 many questions they were asking, I just felt we would have to have, you know, a lot of

23 context and a lot of explanation around it, and I just didn't think that this was the place

24 and was either appropriate or necessary in this particular response.

25 Q The email responding to yours starts on page number 4375, the to and the

1 from.

2 A Yeah.

3 Q The time stamp is 10:24, and the message itself is on the next page, 4376.

4 There's reference at the very top of the page to transgender or other content moderation

5 issues.

6 What do you understand that to be in reference to?

7 A I recall that around this time there were debates about transgender books

8 and, you know, keeping them in the just store -- our decisions to keep them in the store,

9 and I recall that was part of the -- of the context that was happening at this time.

10 Q What were the debates about transgender-related books around the time of

11 April of 2022?

12 A Yeah. I recall that there -- there was another book that Amazon decided to

13 keep in its store and not remove and that there was debate, discussion happening around

14 that decision.

15 Q And which book was that?

16 A I believe that was "Irreversible Damage," which -- it was kept in the store.

17 Q Who participated in this debate?

18 A Well, I recall that it was the books team that made that, you know, decision

19 whether to keep it in the store.

20 Q And what was the books team's recommendation on how to handle that

21 book?

22 A They made the decision to keep it in the store.

23 Q Who at the company disagreed with that decision?

24 A Well, I recall -- I wasn't part, kind of, of those, you know, discussions. I do

25 recall that there were employees that disagreed with that decision.

1 Q To your understanding, was there anyone in the senior leadership of the
2 company that disagreed with that decision?
3 A I wasn't part of those discussions about that book staying on, so I don't
4 know.
5 Q How did you become aware of this debate and, ultimately, the decision --
6 How did you become aware of the company debate around how to handle the
7 book "Irreversible Damage"?
8 A I recall that there were various employee affinity groups that wanted the
9 book removed. I also recall that we received a request from various advocacy groups
10 asking us to remove the book from our store.
11 Q Do you recall which advocacy groups?
12 A I recall -- I don't recall specifically, but I recall that there were various LGBT
13 advocacy groups that were asking for that removal.
14 Q When it comes with interfacing with advocacy groups, is that a responsibility
15 that falls within the scope of your team?
16 A Usually it falls to the -- it depends, but many times it falls to the human
17 resources team, even on my team.
18 Q In this case, did you or anyone from your team interface with some of the
19 advocacy groups concerned with this "Irreversible Damage" book?
20 A I don't recall if we did or not.
21 Q Do you recall receiving any briefings about what the advocacy groups were
22 telling the company?
23 A I do recall seeing and being made aware of -- I know for sure the employee
24 complaints, I recall seeing those. I don't recall seeing briefings on the advocacy groups,
25 criticisms or not. I don't -- I don't recall that.

1 Q Who made you aware of the employee complaints?
2 A I don't recall. It probably was a member of my team.
3 Q During this time of April 2022, did you have someone on your team primarily
4 responsible for handling issues related to books that touch upon transgender-related
5 issues?
6 A So I have members of my team that interface with the -- with the books
7 business. So that would include all issues surrounding books.
8 Q And who on your team -- could it be anybody on your team, or is there a
9 primary set of folks who interface with the books team?
10 A I believe at this point [redacted] on my team was one of the primary liaisons
11 with the books business.
12 Q To your understanding, did anyone from the executive branch contact
13 anyone in the company about the "Irreversible Damage" book?
14 A Not to my knowledge.
15 Q The last paragraph, the same email we were most recently looking at, at the
16 top of page 4376, there's a sentence saying, "Even if he remains comfortable, we could
17 include this as a hotly debated subject for the S-team review."
18 Is hotly debated subject a term of art within the company?
19 A It is. So -- it is, yeah.
20 Q The next email, Bates 4375, you say, "We should tag this as an HDT." What
21 is HDT in this context?
22 A Hotly debated topic. As opposed to subject, topic.
23 Q And within the company and internal communications like this, as like a term
24 of art, when something is labeled HDT, or hotly debated subject, what does that spur?
25 What does that mean in the company discussions?

1 A So when executives are reviewing, like, a draft, that means that we've
2 flagged for them anything -- you know, there's new information or that the teams have
3 debated amongst themselves to make it easier for their review as they -- as they review
4 and make decisions.
5 Q The email above yours, there's a time stamp 10:31. The second
6 paragraph -- this is on Bates number 4375.
7 A Yes.
8 Q -- it talks about medical misinformation when it comes to COVID, but not
9 regarding transgender youth.
10 Other than COVID and transgender youth, do you remember any debated topics
11 within the company about books on other misinformation-related issues?
12 A No, I don't recall that.
13 Q As part of your role at the company, have you had interactions with the FBI?
14 A No, I haven't.
15 Q As part of your role at the company, have you had any interactions with the
16 Department of Homeland Security?
17 A Members of my team have on, I think, various trade-related and
18 customs-related issues.
19 Q Are you familiar with the Cybersecurity Infrastructure Security Agency, CISA,
20 within DHS?
21 A I am aware of that agency, generally.
22 Q To your understanding, have you or members of your team had interactions
23 with CISA?
24 A Not that I recall.
25 Q How many members of your team today interact with the executive branch?

1 A I don't have an exact number. If you're talking about the executive branch
2 as a whole with the agencies, I believe Amazon has -- I think we have 28 federally
3 registered lobbyists. And so some subset, you know, of that number could include, you
4 know, executive branch outreach.
5 Q Turning back to spring of 2021, it looks like you're the primary point of
6 contact for the company with the White House on that set of issues.
7 Was that just part of your portfolio handling communications with the White
8 House as part of your role, or how is it decided what is elevated to you, what
9 communications you personally --
10 A Yes. So -- so dealing, you know, with White House, that's part of my
11 primary role. I did that principally in the Trump administration, as well as the Biden
12 administration on this issue.
13 Q There's a reference on the top of Bates number 4375, the email -- person
14 who sent the email's name is redacted. Time stamp is 10:41. The last sentence there's
15 an example provided about a book that is still being sold, at least at this time, that may
16 contain COVID misinformation.
17 Do you recall any discussions about this author and whether his books should not
18 be included in the bookstore?
19 A No, I don't recall that.
20 Q Do you recognize the name?
21 A No, I don't.
22 Ms. Dunn. I have it we're at an hour. I don't know what you have.
23 [redacted] I have just one more minute. We went off the record.
24 BY [redacted]
25 Q There's a reference to the same author on Bates number 4374, part of a

1 longer email. The time stamp is 3:08. Starting on Bates number 4373, carrying over on
2 to the next page. That example brought up again, same author, with a title, "Truth
3 About COVID-19".
4 Do you recall, seeing the title now, any discussions about that book in particular?
5 A No, I don't have any recollection about that. I see that here, but I don't
6 have a recollection.
7 [redacted] Can we go off the record, please.
8 [Recess.]
9 [redacted] Back on the record.
10 BY [redacted]
11 Q [redacted], I want to return just briefly to the request for information
12 from the surgeon general's office.
13 That request from March of 2022 was a raw request for input from interested
14 parties on the impact and prevalence of health misinformation in the digital environment
15 during the COVID-19 pandemic, correct?
16 A That's my understanding, yes.
17 Q So it was a very high level -- to use your term, a high-level request, and that
18 was published in the Federal Register, correct?
19 A Yes.
20 Q And there's no requirement that any particular corporation or individual
21 submit a response, correct?
22 A No.
23 Q And so Amazon chose to submit a response?
24 A Yes.
25 Q And as we discussed in the previous hour -- and that was the royal we, as me

1 and my counterparts discussed in the previous hour -- there were discussions among you
2 and your colleagues about what information to include, correct?
3 A Yes.
4 Q And nothing in the request specifically asked for data regarding the number
5 of pieces of content that any particular company had removed, correct?
6 A Yes.
7 Q And when you submitted the request -- I'm sorry, the response -- Amazon's
8 response to the request for information that you signed and it did not include that figure,
9 you did not receive any follow up asking you for that information, did you?
10 A Correct.
11 Q And the -- again, the request was just that, it was titled a request for
12 information, correct?
13 A Yes.
14 Q It was not coercive?
15 A No.
16 Q It was not threatening?
17 A No.
18 Q Now, the number of -- that was discussed in exhibit 14, the number of books
19 that were removed, the 1500, that was the number of books that Amazon had removed
20 for misleading COVID-19 information or violative, I should say, COVID-19 information
21 since the start of the pandemic, correct?
22 A That's my understanding, ever since the start of the pandemic, yes.
23 Q And that email was sent in mid-April of 2022.
24 So that was over the course of two years, 1500 books, correct?
25 A That's my understanding, yes.

1 Q And Amazon sells millions of different titles on any given day, correct?
2 A We have millions of books for sale, yes.
3 Q That 1500 is a small fraction of the total number of books that Amazon has
4 for sale at any one time?
5 A You consider 1500 a small number, yes.
6 Q And, again, spread over the course of more than two years?
7 A That's my understanding, yes.
8 Q And when I said violative, what I meant was books are not removed unless
9 someone on the books content team makes a determination that those books are found
10 to violate one or more of Amazon's content policies, correct?
11 A Yes. That's my understanding is that the books team would remove those
12 titles from our store.
13 Q And because you don't know what those titles were and you're not on that
14 team, you don't know which specific policy those -- any one of those books was found to
15 have violated, correct?
16 A No. It's my understanding that some of the examples, for instance, were
17 books that advocated for actions that would cause harm to our customers. But I'm not
18 aware of the specifics of all of those titles.
19 Q And, again, Amazon makes decisions about what content stays or is excluded
20 from Amazon's platforms, not the government, correct?
21 A That is correct.
22 Q Now, I would like to turn your attention to exhibit 13. That's Bates 7371.
23 Now, that is the --
24 Mr. Kelner. Hold on a second.
25 [redacted] Oh.

1 Mr. Kelner. Thank you.

2 BY [redacted]

3 Q And so this is the series of emails that you were not a party to amongst

4 people, presumably on the books team, discussing the -- limitation of the do-not-promote

5 category for anti-vaccine content. Is that a fair characterization?

6 A That's what this appears to be, yes.

7 Q And you were asked about some of the language used by the authors of this

8 email whose names are redacted about whether -- about this being intended to address

9 negative feedback from the White House's coronavirus task force.

10 Do you remember those questions?

11 A Yes.

12 Q Now, again, you were not copied on these emails, correct?

13 A Correct.

14 Q And you were not the person who had conversations with the individuals on

15 the book team who were responsible for implementing that policy, correct?

16 A That's right.

17 Q And so you don't know what they were told about adding anti-vaccine

18 content to the do-not-promote policy, correct?

19 A Correct.

20 Q And you don't know if these individuals were aware, for example, that the

21 implementation of that policy or the application of that policy to anti-vaccine content was

22 in the works since early February, correct?

23 A I'm sorry. Can you just repeat that again?

24 Q So the individuals who sent these emails, you don't know if they were aware

25 that that change had been in the works since early February?

1 A I'm not aware of the knowledge or information that they had on that issue.
2 Q But you know what knowledge or information you had, correct?
3 A Yes.
4 Q And the information that you had was that the books team had made a
5 recommendation to include the anti-vaccine material in the do-not-promote policy prior
6 to March 2nd, correct?
7 A Yes. That's my understanding.
8 Q And that that recommendation was set to be finalized on March 19th,
9 correct?
10 A Yes.
11 Q And that the only thing that happened after the conversations or the email
12 exchanges with the White House on March 2nd was the acceleration of that date?
13 A Yes. I asked the White House to -- excuse me. I asked the team to
14 accelerate any decisions that they would be taking -- actions they would be taking in
15 advance of the White House call.
16 Q And the individuals who you asked are not, to your understanding, the same
17 individuals who were actually implementing the policy and sending these emails that we
18 see here on exhibit 13?
19 A I had the discussion -- I recall having the discussions with members of my
20 policy team, and then I talked with the books business.
21 Q It's a bit of a game of telephone, correct?
22 A I did not have these direct conversations with the books team.
23 Q Fair enough. And to be clear, I don't mean in any way to be critical. Just
24 to make clear, you don't know exactly what was conveyed or how it was conveyed?
25 A That's my recollection, yes.

1 Q Now, you were asked earlier today about some questions about the White
2 House doing searches for certain terms on Amazon, whether you were aware of those
3 searches or whether you made your supervisors or leadership aware that the White
4 House was doing those searches. And I just wanted to ask a couple of follow-up
5 questions about that.
6 Mr. Slavitt mentioned to you in one of his emails that he had done a search for
7 vaccines, correct?
8 A Yes, I believe so.
9 Q But you don't know what prompted that search, correct?
10 A No, I'm not aware of the -- of what caused him to do that, no.
11 Q So you don't know, for example, if he was looking for a particular book title,
12 saw a book that concerned him, and then decided to do a broader search?
13 A I don't know.
14 Q And it's not unusual for people to search for titles on Amazon or subjects,
15 correct?
16 A People do search for products on Amazon.
17 Q I mean, probably something that happens millions of times a day?
18 A It happens frequently, yes.
19 Q And, again, you have no context for the searches that Mr. Slavitt had done or
20 the one search that we know he did?
21 A I don't know what -- what prompted that initial email.
22 Q Now, we spent a lot of time today discussing the communications you had
23 with the White House on March 2nd and your understanding of those communications.
24 And as you've said many times -- many times today, you did not know what, if
25 anything, the White House wanted from Amazon at that point, correct?

1 A Correct.

2 Q You were not sure what their specific concerns were, correct?

3 A Yes.

4 Q And you were not sure what questions they might have for you?

5 A Yes.

6 Q And, therefore, you spent time preparing for any possible questions that you

7 believed you might be asked?

8 A Yes.

9 Q Because you weren't -- no specific asks were made of you in those emails,

10 correct?

11 A There were questions in the March 2nd emails asking to discuss the issue

12 further and to see where the lines were. So those were the questions that were asked.

13 Q And the question to see where the lines were, that was clear that that was

14 to be discussed at a later date, not we want you to respond to this email where the lines

15 are?

16 A Yes, that was to be discussed at the follow-up call.

17 Q And in the follow-up call, that was not something that the White House

18 raised? And by the White House, I mean Mr. Flaherty.

19 A That's my recollection, yes.

20 Q Okay. And as you stated earlier, in that follow-up call, Mr. Flaherty didn't

21 ask any questions particular -- or specific to the issue of misinformation, correct?

22 A That's my recollection. My recollection is that he asked about whether we

23 had seen an increase in the sale of vaccine-related books.

24 Q And he asked about some questions related to vaccine testing, correct?

25 A We had a discussion about our vaccination efforts.

1 Q And you did not leave that meeting with any outstanding requests from the
2 White House, correct?
3 A Yes. It's my recollection that there was no follow-up requests that were
4 made. It's also my recollection that we did not have follow-up on that topic after the
5 March 9th meeting.
6 Q No follow-up with the White House on the issue of misinformation?
7 A That's my recollection, yes.
8 Q And even though you anticipated that you might be asked to remove
9 content when you had that live conversation with Mr. Flaherty, you, in fact, were not
10 asked to remove any content?
11 A That's my recollection, yes.
12 Q Okay. So I just want to make this absolutely clear.
13 To your knowledge, did anyone from the U.S. Government, including Mr. Flaherty
14 or Mr. Slavitt, ever coerce Amazon into removing content from its platforms?
15 A No.
16 Q And did anyone from the U.S. Government ever coerce Amazon into
17 changing its content policies?
18 A No.
19 Q Did anyone from the U.S. Government ever threaten Amazon with adverse
20 consequences if it did not remove content from its platform?
21 A No.
22 Q And did anyone from the U.S. Government ever threaten Amazon with
23 adverse consequences if it failed to change its content policies?
24 A No.
25 Q Okay. Now, you heard at the very start of this interview that the goal of

1 this investigation is to determine whether and to what extent the U.S. Government
2 coerced and/or colluded with tech companies such as Amazon and other private
3 companies to censor conservative viewpoints.
4 Based on your experience at Amazon during both the Trump White House and the
5 Biden White House -- I'm sorry -- during the administrations, what is your response to
6 that allegation?
7 A Amazon makes its own content decisions based upon our policies, and it's
8 our belief that we should have a wide variety of content available for our customers on a
9 number of viewpoints.
10 Q And do you believe that any of the type of coercion or collusion that was
11 mentioned at the start of this interview occurred?
12 A It's my understanding that Amazon made our own decisions on content
13 policy based upon our policies and our belief that we should be offering as many products
14 as possible to our customers.
15 Q So to quote you again, Amazon's content decisions are Amazon's decisions,
16 not the government's, correct?
17 A That is correct.
18 Q Thank you very much.
19 [redacted] And we can go off the record.
20 Mr. Kelner. Thank you. We're ready to keep going.
21 [Discussion off the record.]
22 [redacted] We can go back on the record, please.
23 BY [redacted]
24 Q Turning back to your meeting with Mr. Flaherty on March 9th, when he
25 asked about the increase in sale of books expressing skepticism of vaccines -- or how did

1 he frame it exactly, do you recall?

2 A If I recall, it was just a general factual question. That was my recollection of

3 how it was asked.

4 Q Do you remember how he described the category of books that he was

5 asking about?

6 A If I recall, it was -- the question was about vaccine-related books. That was

7 my recollection.

8 Q And who responded to that question?

9 A If I recall correctly, it was [redacted] from the books legal team who

10 answered that.

11 Q And what did he say?

12 A I don't recall his specific answer on that. I don't recall specifically what he

13 said in response to that.

14 Q Do you recall if he provided an actual number or a more general --

15 A My -- my recollection is that he didn't provide an actual number. He -- I

16 don't think he provided an actual number. I don't recall his, like, specific answer to that.

17 Q Did you know the answer to the question at the time?

18 A No.

19 Q Do you recall if John knew the answer and provided a response, or was it

20 more of a response and we'll have to take that back?

21 A I don't recall specifically. If I recall, I don't think there was a specific answer

22 given. I think it was more just, you know, a general response. It's not my recollection

23 that -- that we had that data available or had looked into that information before the

24 meeting.

25 Q Do you recall what other specific questions Mr. Flaherty asked during the

1 meeting?

2 A I recall him asking about that issue. I also recall that he asked about some

3 of our vaccine efforts with our employees. I recall having that discussion.

4 Q Setting aside the discussion about the company's employees becoming

5 vaccinated, receiving vaccinations, do you recall any specific questions about sale of

6 books, the content of books on the company's store?

7 A I don't recall questions about that, no.

8 Q In exhibit -- I think you said it was 4, this is the talking points that were

9 prepared on March 9th. If you were to flip to Bates number 6187, they're Roman

10 numerals 2 and 3. Give you a moment. It's going to be just a short question.

11 A Yes.

12 Q But your name is in parentheses after Roman numeral 3. Do you know

13 whose name is redacted for Roman numeral 2? This is 6187.

14 A Yeah. It was either -- yeah. It was either -- it was either [redacted] or [redacted]

15 [redacted] I believe it was most likely [redacted] -- would have been assigned that section.

16 Q The -- flip one more page to 6186. Or other way.

17 A Sorry.

18 Q Turning back to the top of the email that starts on 6186 there. It's Roman

19 numeral 1. There's the bolded point. Looking at the first bullet point that's not

20 bolded, where it says "Books are unique," the last sentence of that first paragraph says,

21 "We are mindful in global history, rife with book censorship."

22 Do you recall any discussions internally at the company about concerns that

23 potential actions by the company would constitute censorship of books about vaccines?

24 A So it's my understanding that this is referring back to -- to some of the basis

25 for Amazon's belief and our philosophy towards books in general, which is that we should

1 offer, you know, as much content as possible, you know, to our customers given the
2 nature of books. And, as this mentions, given kind of global, you know, issues
3 surrounding books. And that we take decisions to remove content very seriously.
4 That's my, kind of, understanding of -- of what that's referring to as a concept.
5 Q And your team was preparing for potential discussion on the removal of
6 content?
7 A Yes. We weren't sure what questions, you know, the White House was
8 going to ask, and so the -- we prepared talking points and answers on a wide variety of
9 issues.
10 Q Based off your understanding of the word censorship, would that include
11 both the removal of books and downranking or demoting a book's appearance in search
12 results?
13 A Well, my understanding is that we take seriously, you know, any decisions
14 regarding books, but especially the removals of books from our store, and it's my
15 understanding that the -- the team considers those issues differently than inclusion in
16 optional promotion categories.
17 Q Are you familiar with the Global Engagement Center?
18 A I don't believe I'm familiar with that.
19 Q Other than the Office of the Surgeon General, the 2022 RFI request, did you
20 have any other interactions with HHS as part of your role at the company?
21 A Yes.
22 Q What was the nature of those interactions?
23 A To my recollection, there were several interactions. One was around
24 telehealth, and Amazon had telehealth services. And we were discussing the
25 government's allowance of telehealth for, I think, Medicare, you know, Medicaid, you

1 know, kind of being purposes, which was a part of the -- some of the COVID new rules
2 that were put in place.
3 And then I also recall, I believe, FDA -- if that's part of HHS, if I kind of recall
4 correctly -- we had extensive discussions with FDA around the COVID-19 tests that
5 Amazon developed, and we got an Emergency Use Authorization for.
6 Q As part of your role at the company, did you have any interactions
7 with -- actually, let me -- let me rephrase that.
8 In the spring of 2021, did you or anyone on your team contact anyone at another
9 social media or technology company about how they were handling potential health
10 misinformation?
11 A I don't know. I don't recall that I did so. I don't know if any member of
12 my team did.
13 Q To your knowledge, did any other social media or technology company reach
14 out to your team regarding how to handle health misinformation?
15 A Not to my knowledge.

1 [4:27 P.M.]

2 BY [redacted]

3 Q Are you familiar with the Center for Countering Digital Hate?

4 A No, I'm not familiar with it.

5 Q As part of your role at the company, have you had any interaction with News

6 Guard?

7 A News Guard?

8 Q Yes.

9 A I'm not familiar with that.

10 Q As part of your role with the company, have you had any interactions withe

11 the global disinformation index?

12 A No, not that I'm aware of.

13 Q As a part of your role with the company, have you had any interactions with

14 the World Federation of Advertisers?

15 A I have not. I don't know if the advertising business is part of that, but I

16 have not to my knowledge.

17 Q As part of your role with the company, have you had any interactions with

18 the Global Alliance for Responsible Media, also referred to as GARM?

19 A No, not to my knowledge.

20 Q When did you first become aware that there was -- that the company was

21 considering removing the book "When Harry Became Sally"?

22 A I don't recall the time frame of that. I recall the congressional inquiries that

23 we received. I can't place the exact time when we received those, however.

24 Q Were you aware of the company's decision prior to receiving those

25 inquiries?

1 A I don't recall being made aware of it until then.

2 Q Did you have to receive a briefing on what happened?

3 A Yes. After we received the inquiries, I remember that we had discussions

4 about, you know, what happened. We drafted and we sent a response back to the

5 members, and I recall that there were discussions to try to find out, you know, what

6 happened, as we were deciding what our response would be, yes.

7 Q Who participated in those discussions?

8 A If I recall, it was members of my team. I recall [redacted] and [redacted]

9 [redacted] and I had discussions. I recall that.

10 Q And which teams did your team have discussions with?

11 A So I recall that I had discussions with [redacted] and [redacted] and myself. I believe

12 they had discussions with the books team, the legal team, and probably the public

13 relations team as well.

14 Q And based off of what [redacted] and [redacted] told you, what is your understanding

15 of what happened?

16 A It's my understanding and what we stated in our response was that the

17 books team felt that that book violated our policies because it treated being transgender

18 as a mental illness.

19 Q And to your understanding, how long had the book been for sale on the

20 company's book store before its removal?

21 A I don't know.

22 Q To your understanding, was there a change in policy that preceded the

23 decision to lead to its removal?

24 A I don't know if there was a change in policy. It's my understanding that

25 that was the reason that the books team removed it as violating policies. I'm not aware

1 if there was a change or not.

2 Q Which teams were involved in the decision-making to remove the book?

3 A It's my understanding that it was the books team that was involved.

4 Q To your understanding, did they consult with other teams within the

5 company?

6 A I don't know.

7 Q To your understanding, did they consult with company leadership?

8 A It's my understanding that, generally, when they make a decision about

9 whether to remove a book or not, that they would consult with their leadership.

10 Q When you're receiving information from Simon and Sarah, did you also

11 receive information on the company's protocols about if or how an author is notified if

12 their title is to be removed?

13 A I don't recall receiving information about that.

14 Q To your understanding, when a book is being considered for removal, what is

15 the protocol, to your understanding?

16 A I'm not aware of the -- I'm not aware of the specifics of that or what the

17 protocol is.

18 Q To your understanding, when a book is removed, you mentioned leadership

19 for the books team. To your understanding, is that decision ever elevated beyond that

20 in the company leadership?

21 A I don't know. I know that the individuals mentioned here, [redacted]

22 and [redacted], would likely be involved. I'm not aware beyond that who might

23 be.

24 Q In addition to the White House, are there other offices in the United States

25 or elsewhere that you have primary responsibility for interfacing with?

1 A Yes. I oversee -- for government officials, I oversee the Americas, so the
2 U.S., North and South America, at the Federal, State, and local level.
3 Q With the understanding that sort of a broad portfolio that you're responsible
4 for overseeing, are there other offices that fall within your responsibility as far as you
5 individually serving as the company's representative for that office?
6 A Usually those interactions are handled by other members of my team.
7 Q I'll try asking the question differently.
8 You are the primary or were the primary representative for White House
9 interactions. I don't know if that's still the case, but you mentioned both in the Trump
10 years and initially on for the Biden White House. Are there other offices besides the
11 White House where you were the representative, not someone from your team, but you
12 personally are the representative interfacing with that office?
13 A Not that I recall.
14 Q And given your role in the team and the leadership role that you serve, why
15 do interactions with the White House fall within your portfolio?
16 A Well, the White House is an important policy institution to the country and
17 to Amazon, and so given its importance, that was a relationship that I was directly
18 involved in.
19 Q Why is the White House important to Amazon?
20 A Given the leadership role in the United States.
21 Q As the head of the executive branch, what sorts of adverse steps could the
22 White House potentially take against the company?
23 A I don't know how to answer that question. Do you have specifics or -- I'm
24 not sure how to answer it. If you could clarify, please.
25 Q Sure. I'll take a step back.

1 To your understanding, are there potential adverse steps the White House can
2 take against the company?
3 A Thank you.
4 Well, the White House can issue executive orders on a number of topics, for
5 instance.
6 Q Could those executive orders negatively impact the company?
7 A There is the potential to, yes.
8 Q Are there other adverse steps the White House could potentially take
9 against the company?
10 Mr. Kelner. Counsel, are you just speaking completely in the abstract, or do you
11 have something particular that you're asking about?
12 [redacted] I think the question is concrete in the sense that I was trying to be a bit
13 more specific and was asked to take a step back. I'm happy to get into specifics.
14 Mr. Kelner. It's highly abstract but you can answer.
15 [redacted]. So it's my understanding that the White House could issue
16 executive orders, direct agencies, propose regulations. I'm sorry, I'm just speaking just
17 kind of generally. Those are some things that kind of come to mind to my knowledge.
18 BY [redacted]
19 Q To your understanding, when it comes to the inclusion of books on a
20 do-not-promote list, is that always done manually, or is there some sort of automatic
21 process? How does Amazon, given the whole universe of books, how does Amazon find
22 what should or should not be included on a do-not-promote list?
23 A It's my understanding that it's done on a book-by-book basis, as opposed to
24 a category. How that is done and identified, I'm not aware of those specifics.
25 Q Do you have a sense of how big the team within the books team is that

1 handles content moderation or related issues?

2 A I don't.

3 Q If a book has been removed, is there a procedure within the company in

4 place to elevate for consideration the reinstatement of the book?

5 A I don't know the answer to that or what process. I mean, I know the team

6 takes the content decisions very seriously and examines those on a case-by-case basis.

7 I'm not aware of whether they revisit those or whether a process is in place.

8 Q Before a book is removed, does the author get a chance to -- I guess this is

9 kind of colloquially -- make their case to the company or a chance to appeal?

10 A I don't know.

11 Q Whether related to vaccines or otherwise, when it comes to drafting of the

12 policies themselves for the books content policies, were you or anyone from your team

13 ever asked to weigh in?

14 A I don't recall being asked to weigh in. I'm not aware of members of my

15 team that were.

16 Q To your understanding, within the books team, the team that develops or

17 potentially revises policies, is that different than the team that applies those policies and

18 enforces those policies?

19 A I don't know.

20 [redacted] Can we go off the record, please.

21 [Whereupon, at 4:41 p.m., the interview was concluded.]

22

1 Certificate of Deponent/Interviewee

2

3

4 I have read the foregoing ____ pages, which contain the correct transcript of the

5 answers made by me to the questions therein recorded.

6

7

8

9 _____

10 Witness Name

11

12

13 _____

14 Date

15

Transcribed Interview Transcript Errata Form

Interviewee	[redacted]
Date of Interview	April 16, 2024
Date of Review	April 26, 2024
Name of Reviewer	Angelle Baugh
Signature of Reviewer	

Page	Line	Suggested Correction
6	14	unable
8	17	getting permits
10	4	delete "hip"
10	20	chage "?" to "."
13	2	change "folks" to "books"
13	10	change "?" to "."
16	1	delete first "I"
16	6	"discussion"
18	11	change "belief E" to "brief"
19	15	"recall he was"

Page	Line	Suggested Correction
22	12	wanted
24	4	or → on
24	10	remove [redacted] (seems to be an errant word)
31	14	books
37	6	"public – private"
58	2	asks
58	5	"an ask"
58	20	change "?" to "."
59	1	change "?" to "."
70	13	change "scan" to "can"
89	6	"BUT" should be "but" (lower case)
95	22	"NOT" should be "not" (lower case)
95	22	marked
100	15	bleach

Page	Line	Suggested Correction
111	1	"would call" should be "recall"

1
2
3
4
5 COMMITTEE ON THE JUDICIARY,
6 U.S. HOUSE OF REPRESENTATIVES,
7 WASHINGTON, D.C.
8
9
10
11
12
13 INTERVIEW OF: [redacted]
14
15
16
17
18 Wednesday, April 24, 2024
19
20 Washington, D.C.
21
22
23 The interview in the above matter was held in room 2237, Rayburn House Office
24 Building, commencing at 10:00 a.m.
25

1 Appearances:

2

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted], PROFESSIONAL STAFF MEMBER

8 [redacted], DEPUTY CHIEF COUNSEL FOR OVERSIGHT

9 [redacted], MINORITY CHIEF OVERSIGHT COUNSEL

10 [redacted], MINORITY PROFESSIONAL STAFF MEMBER

11

12 For the FEDERAL BUREAU OF INVESTIGATION:

13

14 [redacted], ASSISTANT GENERAL COUNSEL,

15 OFFICE OF GENERAL COUNSEL

16

17 For the U.S. DEPARTMENT OF JUSTICE:

18 [redacted], SPECIAL COUNSEL, OFFICE OF LEGISLATIVE AFFAIRS

19

20

21

22

23

24

25

1 [redacted] This is a transcribed interview of [redacted]. Chairman Jordan has
2 requested this interview as part of the Committee's investigation of how and the extent
3 to which the executive branch has coerced and colluded with companies and other
4 intermediaries to sensor speech.
5 Would the witness please state your name for the record?
6 [redacted] [redacted]
7 [redacted] On behalf of the committee, I want to thank you for appearing here
8 today to answer our questions. Chairman also appreciates your willingness to appear
9 voluntarily. My name is [redacted]. I am with Chairman Jordan's staff. I will have
10 everyone else from the committee who is here in the room introduce themselves as well.
11 [redacted] [redacted], Chairman Jordan's staff.
12 [redacted] [redacted], Ranking Member Nadler's staff.
13 [redacted] [redacted], Ranking Nadler's staff.
14 [redacted] I would like to go now over our ground rules and guidelines that we
15 will follow during today's interview. Our questioning will proceed in rounds. The
16 majority will ask questions first for one hour, and then the minority will have an
17 opportunity to ask questions for an equal period of time if they choose. We will
18 alternate back and forth until there are no questions and the interview is over.
19 Typically, we take a short break at the end of each hour, but if you would like to
20 take a break apart from that, please just let us know.
21 As you can see, there is an official court reporter taking down everything we say to
22 make a written record. So we ask that you give verbal responses to all questions. Do
23 you understand?
24 [redacted] I do.
25 [redacted] So the court reporter can take down a clear record, we will do our best

1 to limit the number of people directing questions at you during any given hour to just
2 those people on the staff whose turn it is. Please try and speak clearly so the court
3 reporter can understand, and so the folks down at the end of the table can hear you.
4 It is important that we don't talk over one another or interrupt each other if we
5 can help it, and that goes for everybody present at today's interview.
6 We encourage witnesses who appear before the committee to freely consult with
7 counsel if they so choose. It is my understanding that you are appearing with counsel
8 today.
9 Is that correct?
10 [redacted] I am.
11 [redacted] Could counsel please state your name for the record?
12 [redacted] [redacted], FBI Office of the General Counsel.
13 [redacted] [redacted], from the Department of Justice.
14 [redacted] Thank you.
15 We want you to answer our questions in the most complete and truthful manner
16 as possible, so we will take our time. If you have any questions or if you do not
17 understand one of our questions, please let us know. Our questions will cover a wide
18 range of topics, so if you need clarification at any point, just say so.
19 If you honestly don't know the answer to a question or do not remember, it is best
20 not to guess. Please give us your best recollection, and it is okay to tell us you learned
21 information from someone else. Just indicate how you came to know the information.
22 If there are things you don't know or can't remember, just say so, and please inform us
23 who, to the best of your knowledge, might be able to provide a more complete answer to
24 the question.
25 You should also understand that, although this interview is not under oath, that by

law, you are required to answer questions for Congress truthfully. Do you understand that?

[redacted] I do.

[redacted] This also applies to questions posed by congressional staff in the interview. Do you understand this?

[redacted] I do.

[redacted] Witnesses that knowingly provide false testimony could be subject to criminal prosecution for perjury or for making false statements under 18 U.S.C., section 1001. Do you understand this?

[redacted] I am familiar.

[redacted] Is there any reason you are unable to provide truthful answers to today's questions?

[redacted] There isn't.

[redacted] Finally, I would like to make a note that the content of what we discuss here today is confidential. We ask that you not speak about what we discuss in this interview to any outside individuals to preserve the integrity of our investigation. For the same reason, the marked exhibits that we will use today will remain with the court reporter so that they can go in the official transcript. And any copies of those exhibits will be returned to us when we wrap up. That is the end of my preamble.

Is there anything that my colleagues from the minority would like to add?

[redacted] Yeah. We thank the witness for joining us today. I also just wanted to note on the record that we have requested access to the videos, not just to be able to view them in the Republican offices but to actually have copies of the videos, interviews that have been done to date.

So far, the majority staff has not been willing to agree to that. We also want to

1 note for the record that we have done almost 120 transcribed interviews and depositions
2 so far this year. And, of that, only a small fraction have been released to the public.
3 We understand that we do, as the minority, receive copies, but that is different than the
4 general public being able to see what has been happening in these.
5 So, with that, we turn it back to you. Thank you.
6 [redacted] I will note for the record this interview is not being videotaped, and
7 there have been discussions between senior staff, between the minority and the majority,
8 on the points my colleague raises.
9 [redacted] Can I just add for the record, we would respectfully dispute the
10 characterization you made at the top of the scope of this interview to reflect efforts by
11 the FBI or Department of Justice to coerce social media platforms. Our understanding
12 of the scope of today's interview is that it relates to the nature and extent of the FBI's
13 interactions with certain external partners, including social media platforms as well as
14 [redacted]'s time on the FITF.
15 [redacted] The time is 10:04. We will start the first hour of questioning.
16 EXAMINATION
17 BY [redacted]:
18 Q Can I have you state your full name for the record, please?
19 A Yes. My name is [redacted].
20 Q What is your current place of employment?
21 A I am employed by the FBI.
22 Q What is your current title?
23 A Chief of staff to the Deputy Director of the FBI.
24 Q And how long have you worked in that role?
25 A I've been in this role since June of '23.

1 Q Beginning with college, what is your educational background?

2 A So I graduated from Calvin College, now Calvin University, in 1997 with a

3 double major in American history and literature.

4 Q And, after college, what is your professional background?

5 A So, after I graduated from college, I went back to my old high school and

6 taught history and government for about a year and then started law school at the

7 University of Michigan in Ann Arbor; graduated from there in 2001. Upon graduation, I

8 went to a moderate-size law firm in west Michigan, my home town of Grand Rapids,

9 working commercial litigation for about 4 and a half years.

10 Following that, I came here to D.C., actually, conducted a couple interviews and

11 ended up working for Senator Susan Collins when she chaired the Homeland Security

12 Government Affairs Committee. That was the summer of 2005. So I started with

13 HSGAC as investigative counsel just a few weeks before Hurricane Katrina made landfall.

14 So that changed all of our responsibilities. So I was essentially an investigator for my

15 almost year and a half with the committee. Started then with the FBI at the academy in

16 October of 2006.

17 Q And, once you joined the FBI, which positions have you held?

18 A So, as noted, my career with the FBI started October 2006. In sometime in

19 February that following year, I reported to my first field office, which is Pittsburgh. I was

20 there for just under 3 and a half years, I believe, as a new agent. I was assigned to the

21 Joint Terrorism Task Force, the JTTF, worked national security matters, international

22 terrorism, domestic terrorism, had a series of FISA cases that I was the case agent on.

23 Given my legal background, the office assigned me to different stints as an ADC,

24 an associate division counsel, but only a few months at a time. I was on the SWAT team

25 there for about 2 years, joined the FBI SWAT program back out of Pittsburgh. I then

1 transferred to the Detroit office in the summer of 2010.

2 Detroit is where I spent the bulk of my -- where I have spent the bulk of my career
3 with the FBI. Started with JTTF in Detroit as well. I did that for about 3 years from
4 about the summer of 2010 through 2013. That's when I was formally promoted for the
5 first time to an ADC, so an associate division counsel role, in the summer of 2013. I did
6 that for a few years in that capacity. At a large field office like Detroit, you provide
7 policy guidance, investigative guidance on any issues that might come up in a field office.
8 So I touched a number of different types of cases, not as the investigator or the case
9 agent, but as an advisor, as counsel to the office.

10 I was also allowed to continue to be involved in the FBI SWAT program. So I was
11 a SWAT operator there in Detroit for about 5 years. Very busy, high tempo. We were
12 out all the time. In 2015, the summer of 2015 I believe is when I moved over to my first
13 SSA, supervisory special agent, position with the FBI. As an ADC, I didn't supervise
14 people. But when I became a desk supervisor in Detroit, I had that position for about 4
15 and a half years, about 2015 through November 2019.

16 I supervised the public corruption squad in Detroit. So I managed all Federal,
17 public corruption, and civil rights investigations for Wayne County, which primarily
18 includes Detroit and suburban Detroit. We were very busy. Title IIIs often undercover
19 operations. The scope of the work there was fairly broad and involved. It was a great
20 time. I miss it actually.

21 And then -- bear with me here a second -- then I started my first Headquarters
22 stint. That was my 18-month TDY with FITF, which ran -- FITF is the Foreign Influence
23 Task Force -- which ran from November of 2019 through May of 2021. In that role, I was
24 the ASC, or the assistant section chief, so just beneath the section chief, but the unit
25 chiefs reported to me. I imagine we'll get into that a little bit later.

1 Worked, obviously, through the election timeframe and some of the challenges
2 that we faced then. When I left FITF in May of '21, I went back to the Detroit field office,
3 spent just maybe 5 or 6 weeks actually in Detroit running a squad there, crisis
4 management. So all the tools, the fun tools, that the FBI has; SWAT team, evidence
5 response team, WMD, all of that reported up through me.
6 But then I got promoted to my most recent position, which is an assistant special
7 agent in charge, so an ASAC role. The Detroit Division is a larger office, so it has five
8 ASACs that all fall under the SAC, the special agent in charge. Four of those ASACs sit in
9 what we call the Headquarter city, so at the main office in Detroit.
10 One sat in Grand Rapids. That was my role. So I went back to my
11 hometown -- promoted and got back to my hometown -- as an ASAC there. My
12 responsibilities there were fairly broad. I maintained all of the relationships at the
13 executive management level that the FBI had with U.S. Attorney's Office. We were in a
14 different Federal district out that way, which was seated in Grand Rapids with the other
15 Federal heads, all the sheriffs, all the chiefs.
16 I ran all FBI operations, so I didn't have a particular program that I was responsible
17 for. I was responsible for all FBI operations out of those six RAs, which was about 49
18 counties in the Western District of Michigan. I did that for just under 2 years -- miss that
19 role as well -- and then started in my current role with Deputy Director Abbate in June,
20 mid-June of last year.
21 Q And did you transfer to Headquarters here in D.C.?
22 A I did. So that 18-month TDY was a temporary duty assignment with the
23 FITF. Went back to the field, which is where I have spent the bulk of my career, but this
24 role, yes, it was a permanent transfer back to DC.
25 Q Okay. I'd like to for the most part focus question questioning during your

1 time with the FITF. During your time with the FITF, what were your responsibilities as
2 the assistant section chief?
3 A So, like I said before, the assistant section chief reports to the section chief,
4 and the unit chiefs report to the ASC and the section chief, technically to the ASC. So
5 that's where I sat. I, as you may recall when I went through my background, I don't have
6 any specific cyber or counterintelligence experience. But I've touched a lot of different
7 things in our organization. I have a feel for a lot of different things through some of the
8 legal work and counsel that I did with both those field offices, and I spent 4 and a half
9 years at a desk in Detroit as a public corruption supervisor. So very accustomed to and
10 comfortable working in sensitive operations, those sorts of things.
11 I had obviously time on the Hill. So, when I was brought onto FITF, they knew
12 that they were not hiring a subject-matter expert with respect to cyber or
13 counterintelligence matters. They were getting someone who was familiar FBI
14 operations sort of across the board, public corruption matters, sensitivities, how to work
15 and manage sensitive operations, and some level of familiarity with the Hill.
16 So I was not looked at to be someone who was poring through intelligence or
17 specifically given guidance to counterintelligence investigations or where there was
18 crossover with cyber, things like that. I was brought into that role for my operational
19 experience and some of the other things in my background.
20 Q During your tenure with the FITF, who was the section chief?
21 A Brad Benavides was my section chief when I was at FITF.
22 Q And who were the unit chiefs?
23 A So Laura Dehmlow was my FITF China unit chief. [redacted] was the FITF
24 Russia unit chief, and the third unit, FITF global, was run by a non-SES employee.
25 Q Besides those three-unit chiefs, was there anyone else in the FITF that was

1 reported to you at the time?

2 A So not formally, but I think I can get the gist of the question by further

3 describing the makeup of FITF, right, so you have -- it's a section within the

4 Counterintelligence Division. The FBI divides things up that way, sections within the

5 divisions, operational or otherwise.

6 FITF was unique in many ways and still is because it is made up of bits and parts of

7 several different divisions, operational divisions in the organization. That was

8 intentional back in 2017 when Director Wray opened FITF's door, so to speak. So,

9 obviously, the personnel from the Counterintelligence Division, from the Cyber Division,

10 from the Counterterrorism Division, from the Criminal Investigative Division. So those

11 four operational divisions, each one of those division were represented by agent and

12 intelligence personnel.

13 So the agents there would be SSA's program managers. And the intelligence

14 personnel that were there would be intelligence analysts on one of those units, but each

15 unit also had a supervisory intelligence analyst, so SIA, right? So the unit chief, he or she

16 ran the units. Directly underneath the unit chief was an SIA who technically supervised

17 the intelligence personnel. There were also the agent personnel, though, in that unit

18 and the unit chief is responsible for all of that beneath, if that makes sense?

19 Q Taking a step back, so you joined the FITF in November 2019. You said it

20 was created in 2017.

21 Were you familiar -- or when did you first become familiar with the FITF?

22 A So I recall back when I was the public corruption supervisor in Detroit, FITF,

23 when it was stood up, had gone out to the field, certain field offices and provided

24 essentially introductory briefs about FITF, what it was and what it did, right? I recall

25 seeing one of those presentations, I believe, in Detroit, and it made sense for FITF to meet

1 with, you know, personnel in field offices that actually conduct investigations, right, in
2 those four different areas that I talked about: criminal investigations, that was what I
3 had, public corruption; but also cyber; counterintelligence; less counterterrorism at the
4 time, but primarily those three.
5 So, in these informative briefings that I remember receiving one, that's the first
6 time I had heard about FITF. I don't know exactly when that was, but then, of course,
7 when it came time for me to do my 18-month TDY, I was trying to figure out where I was
8 going to apply at Headquarters, I, you know, started to learn more about the section.
9 Q So how did you -- were you assigned to the FITF? Did you apply? How did
10 you first become aware of the opportunity?
11 A All HSI TDYs, so temporary duty assignments -- and the vast majority of them
12 are 18 months for the FBI -- they're all competitive. So, you know, those positions like
13 all supervisory positions are posted on a system in the FBI, and there's also word of
14 mouth. You know, I had been in the public corruption community for a while. I had
15 worked national security investigations. So I knew folks on both side of the aisle so to
16 speak.
17 So I was encouraged to look into what was going to be that FITF posting. As I
18 understand it, that ASC position, so that assistant section chief position, with the FITF was
19 a cyber body billet we call it in FSL. So the Cyber Division owned that body but fully
20 detailed it to the Counterintelligence Division to serve as the ASC for the FITF. That
21 interested me because you're going to have natural collaboration there. And, with my
22 background in public corruption and my somewhat familiarity with some of the work on
23 the Hill, it seemed like a good place to grow and stretch professionally, right, recognizing
24 that I had certain gaps with respect to cyber and counterintelligence, but you learn
25 quickly.

1 Q Who encouraged you to consider the position?

2 A You know, I don't recall everyone. You know, I had a few mentors at the

3 time that encouraged me, now retired folks, I should think about something like that

4 because it crossed over with some of my experiences that I noted before. I was also

5 encouraged to look into other positions as well.

6 Q To your understanding, who is responsible for hiring the position of assistant

7 section chief?

8 A So I understood it to be something that was done collaboratively between

9 Cyber Division and the Counterintelligence Division.

10 Q Did you know the personnel who would be involved in the hiring?

11 A In the hiring position?

12 Q Yeah.

13 A Only by name and title. And I actually don't know who made the final call.

14 I know I did my interview for the position with Brad Benavides.

15 Q Had you met Mr. Benavides before that?

16 A I'm told that we met years prior at an inspection, field office inspection. It's

17 something that all agents that are going to promote have to go through. We have our

18 own Inspection Division at Headquarters. It's like a compliance and audit mechanism

19 within our agency, and they bring in supervisors from across the country. I think I met

20 Brad at one of those years and years ago, but it did not register with me until several

21 months after we started working together.

22 Q To your understanding at the time, were you filling in a position that was

23 recently vacated, or was this a newly created position?

24 A So, to the best of my recollection, I believe it was a new position.

25 Q Once you joined the FITF in late fall, 2019 how big was the FITF at the time?

1 A So the three units, right? I can't remember specific numbers, but you
2 know, I don't like to approximate here in an interview like this, but I would say around
3 50ish, maybe a little bit more. I can't remember exact numbers.
4 Q What about at the end of your tenure at FITF?
5 A It would have been about the same.
6 Q When you joined the FITF, were the unit teams more or less already built
7 out? Were those teams already, you know, hired? Were there already people that
8 had been working on the FITF?
9 A Yes. Yes. So the FITF initially started -- of course, I wasn't there -- but it's
10 my understanding that it started not necessarily with a single focus, but certainly a
11 primary focus in efforts by the Russian Government, right? Over time, that changed and
12 the section matured as any section does in an organization like the FBI, and formally
13 established units, like I said, Russia, China, global. Global encompassed everything else.
14 And those units were up and running and were staffed, like everyone, were never staffed
15 at a hundred percent, but they were up and running, staffed when I arrived.
16 Q During your tenure at the FITF, who was responsible for the hiring of any
17 additional personnel for the units?
18 A It depends on what positions you're talking about. Specific to the units?
19 Q Yes.
20 A So the way it would work is there would be interviews, review of application
21 materials, a career board type process, and a lot of deference is given to the man or
22 woman that runs a unit to pick personnel for their units. But there's always going to be,
23 you know, some level of familiarity from like a section chief role and an ASC role in terms
24 of hiring within a unit.
25 When you're talking hiring an ASC, the role that I had, of course, it bumps up to

1 the section chief being given deference. But above a section chief is going to be a
2 deputy assistant director, the DAD, who was Nikki Floris, at that time, would have
3 visibility and familiarity with who is being hired into an ASC role.
4 Q During your time at the FITF, how frequently would you interview with Mr.
5 Benavides?
6 A Every day.
7 Q During your time at FITF, how frequently would you interact with the unit
8 chiefs?
9 A Every day. Practically every day.
10 Q During your time at the FITF, how frequently did you interact with
11 Ms. Floris?
12 A Often. Not every day, but I'd interact with her often.
13 Q At a high level, what was the nature of those interactions?
14 A What do you mean by, what was the nature of the interactions?
15 Q You know, what sort of things, would occasion, you know, have a meeting
16 with her, talk with her, what sorts of --
17 A Sure. So there would be formal meetings that were scheduled on the
18 books. There would be, you know, drop by, "hello boss, how are you doing." In terms
19 of -- I can't -- I mean, it was 4 years ago, so I don't recall a lot of specifics. But, generally
20 speaking, you know, FITF was in receipt of and analyzed a considerable amount of
21 intelligence, but also unique to the FITF section in addition to that, FITF had its own
22 investigative operations. So its own cases that the section program managed, so these
23 are cases that are run and conducted in the field in one of our 56 field offices, but the
24 program management responsibility for those foreign influence cases would come up
25 through FITF.

1 So, to get back to your question, what would I talk to DAD Floris about? Well,
2 oftentimes intelligence, investigative operations. And, as we got closer to -- and I mean,
3 months prior to -- several months -- 6 months actually so -- to the election, one of my
4 primary responsibilities as the ASC of FITF was to -- I was given responsibility for the
5 National Election Command Post, or the NECP Headquarters.
6 [redacted] I couldn't hear you.
7 [redacted] The National Election Command Post, the NECP. I'll probably refer
8 to it as the Headquarters CP for the election. I was working on that and preparing for
9 that for months prior to the election, which took me out of the role of, you know,
10 reviewing understanding, getting briefed on a lot of the intelligence that was coming up
11 around that time in the specifics or even generalities, right, of our investigative
12 operations.
13 I was running around the building coordinating with all the different pieces and
14 parts of the enterprise that -- and there are multiple, right -- that take part in a command
15 post put together to secure a Presidential election, and you know, elections being held in
16 every State, right? It's a big deal.
17 Q Can you say more about the command post for the elections? Who, from
18 the FBI, was involved with that in the lead up to the 2020 election?
19 A So I need you to clarify in terms of what do you mean by "involved"?
20 Q Who are the primary people in the FBI in charge of handling it?
21 A Okay. So I'll try to clarify here a little bit. There are those that know
22 about it, right, and are ultimately making decisions about how long it will stand up, who
23 should be represented, what other agencies should be there, what space we'll sit in,
24 right? Those are executive management calls, but they are not working on a day-to-day
25 basis on the command post when it's up and running, right? So a significant amount of

1 executive management would be put into that category.

2 In terms of who is working at the command post, both before it's stood up and

3 while it was stood up -- and I think we were stood up for about 10 days or so. I can't

4 remember exactly. So several days before with the intention of staying open for

5 business with a somewhat reduced footprint a few days afterwards, depending on how

6 things were going if there was a need.

7 But there would be representation from FITF, right, which in and of itself meant

8 that you had Counterintelligence, Cyber, Criminal Investigative Division, Counterterrorism

9 Division personnel there, but we also had representation from the Directorate of

10 Intelligence, the DI within the FBI, what we would call the crisis, or CIRG, Critical Incident

11 Response Group, right, which is the headquartered division that has program

12 responsibility and manages all of the FBIs nationally. They're special teams like SWAT

13 teams and WMD teams and things like that because we prepare for something going

14 wrong. So they were there in coordination.

15 The General Counsel's Office has representation. OPA has representation.

16 Public affairs. You're just preparing for any eventuality, right? And, while I'm not

17 going to remember -- can't remember -- the non-FBI personnel and groups or

18 departments that were there off the top of my head, I know that we had -- there were

19 certain elements of DOJ that were present. Most of the Headquarter command posts,

20 we were a 24/7 operation. Nothing against attorneys; I'm a recovering attorney myself.

21 But I don't think they staffed the third shift, which is understandable. So, from DOJ,

22 we -- PIN was represented, and NSD was represented.

23 We would have our counterparts, I believe, with some various DHS components,

24 CISA may have had representation there. If they weren't there, we had connectivity

25 with them. Same with INA. We may have had -- I believe we did have some level of

1 DOD representation.

2 Let me step back a second and say what was unique about -- if you think about
3 time and place, right, about the 2020 election, if you were around and you remember -- I
4 do -- you know we had barbed wire and humvees and tanks -- not tanks -- but humvees
5 on the streets. We were dealing with a certain level of civil unrest, right, in D.C. and
6 around the country.

7 So, in addition to preparing for fair and effective, problem-free elections, we had
8 the additional responsibility of, you know, preventing Americans from being hurt, right?
9 And there were -- I wasn't involved in these efforts, but there were other command posts
10 set up, the FBI and other elements of the Federal Government to, you know, protect
11 people and property just with respect to the violence that was going around at times
12 around the country, right, separate from anything we were doing in FITF.

13 So, when you combined that with an election, those two things start to merge,
14 which made it even more complex and more difficult for me in my job, right, in trying to
15 coordinate all across the bits and pieces of a 38,000 person organization. So some of
16 the personnel that were there had little or nothing to do, right, with the election per se.
17 They -- it just happened to be a timing issue.

18 There was civil unrest, and there were issues associated with that that overlapped
19 in time and space with the election itself. So, you know, various different persons from
20 our Violent Crimes Section within Counterintelligence -- Criminal Investigation Division
21 within CID were there because they would have responsibility, right, for some of the
22 violent crime activity taking place but, otherwise, wouldn't necessarily be present for
23 Headquarter command post with respect to the election if you understand what I mean.
24 And other Federal agencies as well -- I can't recall exactly who -- but there were a
25 number. It was an alphabet soup, some with responsibility and equities in the election

1 and some with just maintaining safety.

2 Q Who asked you to take on this role related to the command post in the lead

3 up to election?

4 A I believe it was any Nikki Floris asked me to do that. Again, it made sense

5 given my previous experience with other operational divisions and SWAT and CIRG. I

6 just was probably more familiar with the pieces and parts of our organization than

7 anybody else in FITF at the time.

8 Q You say your recollection this became part of your portfolio about 6 months

9 before the election?

10 A Give or take. I don't necessarily -- I know -- I think I know what you mean

11 by portfolio. I mean, it was never something that was written into the job description,

12 but you know, we make our bones and prove our skill sets as we go along. And

13 management knew that the command post was going to be a large endeavor, and they

14 asked me to do it, right? So I think it was about 6 months, could have been five, could

15 have been a little bit more. I don't know. I can tell you that it didn't consume me

16 every single day initially, but as you get closer to the day, it's a full-time job. It became a

17 full-time job.

18 Q Do you recall how soon to the election it became essentially a full-time job

19 for you?

20 A I don't. I just know that, for a while before, maybe a couple months before,

21 that was -- it seemed like that's all I was doing. There was a lot of work to be done

22 there.

23 Q Once it becomes --

24 A You also -- I'm sorry -- you also had the COVID issue, which added another

25 level of personnel and space and how to bring people in and out. It was challenging.

1 Q Once your responsibilities related to command post started to take up all of
2 your time, who is managing the unit chiefs on a day-to-day or near day-to-day level?
3 A So, as I recall, we didn't have a formal changing of the guard, so to speak.
4 But I certainly relied on Laura Dehmlow to do a lot of the things that I would have
5 otherwise been doing during that timeframe. Laura also helped me with -- significantly
6 with the command post. Some of those do-outs and responsibilities, but I relied on
7 Laura primarily to, you know, wear multiple hats during that timeframe.
8 Q What sort of responsibilities did Ms. Dehmlow take on during this time?
9 A Additional responsibilities?
10 Q Yes, as you were taking on your responsibilities from the command post.
11 A Right. So, you know, you have the ASC role. Normally, you're the
12 connectivity between, you know, the section chief, sometimes the DAD and the
13 management of investigative operations being conducted in the units, right? Again,
14 those units are not conducting investigations. They're program managing them. And
15 that intel cycle, the intel that is coming up and the coordination with the USIC, which, you
16 know, normal coordination, but certainly as you get closer to the election, there are, you
17 know, felt like there were constant weekly, maybe biweekly meetings with other
18 members of the intelligence community, various different issues. I would often sit in on
19 those, but as we got closer to the election, Laura picked up some of that work, right? So
20 she's doing her unit chief job in addition to being some of that connective tissue between
21 the units and executive management for the section.
22 Q Both before and then after you start to take on responsibilities related to the
23 command post, how frequently in your tenure at FITF would you interact with Director
24 Wray?
25 A So the FITF would provide -- would get on a schedule of providing briefings

1 to the Director, Deputy Director, the number three, the ADD, Executive Assistant
2 Directors, essentially the 7th floor management chain.
3 If I remember correctly, those were done on a fairly regular basis, scheduled out
4 maybe monthly. Not right when I got there, but there came a time where they became
5 monthly briefings, and then the closer you get, biweekly briefings, and you may have
6 weekly briefings. In my role, I was not responsible for any of those. I would be a plus
7 one, right? Brad or Nikki would be the executive representing FITF in those sorts of
8 meetings.
9 So, in trying to answer your question, I'd be present, and FITF would be briefing
10 the Director and executive management team on, you know, matters of the day, but I
11 don't know that the Director would call that a meeting with [redacted]. You
12 understand what I'm saying?
13 Q I do. Other than these standing meetings that you would attend
14 sometimes, did you have other interactions with senior leadership at the FBI?
15 A What do you mean by "senior leadership"?
16 Q We'll say the EAD or above?
17 A You're familiar with that chain, the Executive Assistant Director, the ADD,
18 the DD, the Director? So I would have occasional interaction with the National Security
19 Branch EAD at the time. There was no normal cadence other than the FITF briefings,
20 right, in terms of meetings with others in that, you know, that 7th floor structure, so to
21 speak, until the NECP stood up, right?
22 When we stood up, prior to the election, we were visited -- and it's not
23 uncommon, right, in a major event, and we have a Headquarter command post, which
24 has a ton of personnel from across the enterprise, right, working on something important,
25 it is not uncommon for the Director at the time, for the Deputy Director at the time to

1 come down, provide a quick summary what you got going on, what are these people are
2 doing, this room over here, the connective tissue, that sort of thing, and they're there to
3 say thank you for your efforts. That happened one time where it was planned, where
4 the Director and Deputy Director -- the Deputy Director at the time was David
5 Bowdich -- came down planned -- by planned, I mean, we knew about it in advance.
6 Another time they intentionally did it when we didn't know about it.
7 Q Who was the Executive Assistant Director for National Security in 2020?
8 A I believe that would have been John Brown was the EAD for NSB.
9 Q Had you worked with Mr. Brown prior to taking on your role at the FITF?
10 A No.
11 Q Are you familiar with the terms "misinformation," "disinformation," and
12 "malinformation"?
13 A I've heard those terms before. I also know that people define them
14 differently, but I am somewhat familiar with them, yes.
15 Q To your understanding, what are the differences among those terms?
16 A So I don't necessarily -- I can often think the same thing when I hear those.
17 I just know that there are persons within the community that work this stuff full-time that
18 assign specific definitions to those words.
19 Q And which task forces or which divisions work on issues related to
20 misinformation and disinformation to your understanding?
21 A Well -- are you talking about FBI equities?
22 Q Yes.
23 A So the FITF runs across that sort of stuff, I'll say, in its efforts to combat
24 foreign malign efforts, right? FMI. MFI. The FITF's primary objective was, and I
25 believe still is, is to combat those foreign malign influence efforts, and you know, protect

1 Democratic institutions, American institutions, from those efforts. These efforts are not
2 new, right? Our adversaries have been doing this for quite some time, but as we stated
3 earlier with the creation of FITF in 2017, the FBI brought various different parts of the
4 organization together to mitigate that threat.
5 [redacted] Can I confer with the witness?
6 [redacted] Yeah.
7 [Discussion off the record.]
8 BY [redacted]:
9 Q Do you know who Elvis Chan is?
10 A So, I do. But let me take a moment to provide a little context for our
11 previous exchange. So you mentioned the -- and asked about the definitions for "mis,"
12 "dis," and "malinformation." So the FITF's work in the FMI or MFI space, right, is not a
13 focus on the information itself. It's not a focus on speech. It's not a focus on a
14 viewpoint. It's a focus on a noncontent specific focus on a foreign adversary in the
15 simplest of terms, oftentimes pretending to be something that or someone that it is not
16 to negatively impact our institutions. So, you know, discord, inflame societal issues,
17 right? We do not -- I certainly did not work during my 18 months at the FITF -- we didn't
18 operationalize with the focus on mis, dis, or malinformation. I want to make that clear.
19 It's a content-neutral problem set, focused on an adversary.
20 Q Do you know who Elvis Chan is?
21 A I do.
22 Q And who is Elvis Chan as it relates to the FBI?
23 A Now or back then?
24 Q Back then we'll start with.
25 A So I don't believe I've ever met Elvis in person, but I was, you know, on

1 phone calls and video with him in the past. Back then, if I recall, Elvis was the
2 supervisor -- one of the cyber supervisors for the San Francisco field office. And, given
3 the equities and the personnel that comprised FITF and some of the work that we do,
4 there were already connections, right, between FITF and Elvis when I started. So I
5 would have, you know, initially had maybe a phone call or a video telephone conference
6 with Elvis in my time at the FITF. I don't believe we met prior to.
7 Q Once you joined the FITF, how frequently would you interact with Mr. Chan?
8 A So I don't know how often we would. Certainly not as much as I would my
9 unit chiefs, my section chief, or my DAD. We would interact, but I don't know that there
10 was any regular cadence to it necessarily until we got into the command post timeframe.
11 Q And then, once you're in the command post timeframe, how frequently
12 would you interact?
13 A I can't give you, you know -- it's not like I would talk to him three times a day
14 or every third day. I just know that it would be more often because of the way that we
15 set up the process flow, information flow during that timeframe, right? The field offices
16 communicating back to Headquarters, Headquarters doing its churn and coordination
17 with the USIC on matters and for certain types of things, we would communicate with San
18 Francisco Field Office to engage in one of our efforts there, and Elvis was a part of that.
19 Q To your understanding, what's Mr. Chan's role now at the Bureau?
20 A Last I knew or heard, he was an ASAC in San Francisco, but I could be off on
21 that now.
22 Q Have you had any interactions with Mr. Chan since you left the FITF?
23 A Not related to anything involving the FITF. I can tell you that I -- I can't
24 remember exactly when it was -- but in my role as an ASAC -- this is when
25 I knew that Elvis was an ASAC in San Francisco -- my role as an ASAC in west Michigan we

1 would routinely have -- and this gets at the substance -- I want to be clear about the
2 substance of my subsequent communication with Elvis, we routinely have cases -- crimes
3 against children cases, CSAM type cases, if you know what I mean, children victims of
4 sex-based crimes.
5 And a lot of that is based and run and profited off of online. So I can't remember
6 the specific nature of the case that we had in west Michigan at the time, but I was trying
7 to get some advice or see what would make sense in terms of trying to have some level of
8 engagement with a social media provider, a tech company provider, right, a platform
9 where some of this activity was hosted. And Elvis felt like the natural -- I knew he
10 had -- he knew people with those companies, and could direct me to a certain way. It's
11 just another example of the FBI's interaction with this particular industry. It's not all in
12 the election space and foreign malign influence. In fact, a lot of it, more of it is in the
13 criminal space, and in the criminal space it's unfortunately crimes against children.
14 Q When you joined the FITF in November 2019, did you have a sense of how
15 long the unit chiefs had been in their positions for?
16 A No. I know it was -- I mean, they weren't brandnew, but I don't know.
17 Q Okay. During your 18 months at the FITF, was there any turnover among
18 who the unit chiefs were?
19 A So I'm almost certain -- I am certain that when I started, Laura and [redacted]
20 were in their respective roles. When I finished, they were still there, but when I left,
21 Laura Dehmlow had then been promoted to section chief of FITF. When I started, she
22 was the unit chief reporting to me. When I left, I was actually reporting to her for a few
23 weeks. And the third unit chief may have -- I think they did leave right towards the end,
24 but I can't recall. There may have been another person that came in and filled that unit
25 chief role for FITF global. I can't exactly remember though.

1 Q Do you know who at the FBI was responsible for deciding who would be the
2 new section chief at the time Ms. Dehmlow was promoted?
3 A Well, so, a section chief reports to a DAD, which reports to an AD. So the
4 way that it normally works -- of course, I didn't take part in any interviews; I didn't submit
5 an application -- is that that DAD role would be a part of the interview process, part of
6 review of applications, and would be shown a certain level of deference with respect to
7 selecting the person that would report to the DAD. In this instance, Nikki Floris was still
8 the DAD. So her opinion, her selection carried some weight. But you also have an
9 Assistant Director that is, like I said earlier, familiar with the applicants, their
10 backgrounds, that sort of thing. So, between the DAD, and the AD, who makes the call,
11 who made the call? I don't know. But that's the way that process works.
12 Q Do you know who else was under consideration besides Mr. Dehmlow?
13 A I don't. I recall there being a few other applicants, but I don't remember
14 their names or where they came from.
15 Q Were you aware that Mr. Benavides would be leaving his position?
16 A Was I aware that --
17 Q Let me rephrase that. When did you become aware Mr. Benavides would
18 be leaving his role as section chief?
19 A When he told me I would be acting section chief along with Nikki. It was
20 after the election. I don't remember exactly when, but I sat in that role as acting section
21 chief for a couple months I think. And, during that time, they were identifying, you
22 know, who would be interviewing applicants for the section chief role. So, if I
23 remember correctly, Brad, sometime after the election, I don't remember when it was,
24 could have been in the new year as well, was promoted to a DAD whole within -- so a
25 Deputy Assistant Director role within the Counterintelligence Division. So he was still

1 around, but he was not in the section chief role.

2 Q Did you have any interest in the section chief role?

3 A I did not. I wouldn't have been qualified for it anyway because, as an

4 agent, in order to be a section chief, you have to serve as an ASAC in the field, and I

5 hadn't yet served as an ASAC in the field. So I would have been precluded from applying

6 even if I wanted to.

7 Q You had mentioned the -- there was like an introductory briefing at some

8 point when you were still in Detroit prior to joining the FITF. Do you recall any other

9 interactions with the FITF prior to joining the FITF in November 2019?

10 A Did I -- are you asking if I had any other interactions with the FITF?

11 Q Yes.

12 A I don't recall any. No, other than the interactions I had seeking to be the

13 ASC. Yes, I would have had interactions with FITF when I was applying, right?

14 Q Yes. During your tenure with the FITF, how frequently would someone

15 from FITF interact with social media companies related to elections or foreign malign

16 influence campaigns?

17 A So you're gonna have to be more specific about what you mean by

18 "someone." I can tell you -- I can speak for myself.

19 Q Yeah.

20 A As the ASC with responsibilities that I had and the background that I had in

21 leading up to the election and all the work I had with the NECP, I know that I had some

22 interaction. By that, I mean, I recall attending -- no in-person I don't think. They would

23 have been all video calls, a handful of calls with [redacted], Laura, possibly Brad on occasion.

24 But it was not a regular part of what I was doing.

25 Now, I can't tell you how many meetings or calls I participated in. I don't think it

1 was a lot. I knew that it was among the responsibilities of a couple of my unit chiefs to
2 do that. I knew that they were having those meetings, and I'm going to speak a little bit
3 about to why we have those meetings because I want to be clear about that. But I knew
4 those meetings were taking place when I started, right, and I believe Laura, as the unit
5 chief for China, and [redacted], as unit chief -- I'm sorry [redacted], as unit chief for Russia, were
6 engaged in those meetings.
7 Now, there would be bilateral -- I knew that there were bilateral meetings. For
8 instance, FITF and one other entity, but there would also be meetings where, you know,
9 DOJ might be present as well and multiple companies. It wasn't necessarily just social
10 media, but tech companies that you might think of. Couple that come to mind because I
11 have a feeling you're going to ask, right, are Google, Microsoft, that sort of thing.
12 But, oftentimes, what would happen in that space is the FBI is sharing information,
13 right? And what I remember and the way I would describe that is the FBI would receive
14 information, OGA information, intelligence, investigative information, right, that
15 would -- and, from that information, you'd be able to hone in, identify -- OGA could
16 identify, you know, specific selectors or indicators that OGA had attributed to a foreign
17 entity. But that foreign entity was acting to be something that it was not, right,
18 concealing its identity.
19 And, by "selectors" and "indicators" I mean, I am not a tech or cyber guy, right?
20 But we're talking email addresses, URLSs, social media accounts, telephone numbers,
21 hash tag values, that sort of thing.

1 [11:02 a.m.]

2 [redacted] And as I did and stated earlier -- right? -- that -- that communication,
3 what we are sharing with the companies in that context, it's an actor focus as opposed to
4 activity, right? These -- certain foreign actors that are using these accounts, other zeros
5 and ones, X's and O's online, right in a manner not attributed to them, and we would
6 share those indicators and selectors with social media companies and also let them
7 know -- right? -- that these actors, these accounts may be operating in violation of your
8 terms and services.

9 Now, I'll expound a little bit on that. There's no direction provided with that
10 sharing of that information. There's no expectation in sharing of that information. By
11 that I mean it was our practice to provide that information and say to the
12 company -- companies, take action as you see fit. There was no expectation that we
13 would get some sort of update on what action they may or may not have taken.

14 Down the road sometimes -- I believe sometimes we did and sometimes we did
15 not. We found out with, essentially, the rest of the world when they would maybe put
16 out a public statement, right?

17 We did not coerce the companies to do anything with that information. The way
18 that I think about this and describe this is similar to the way that the FBI operates in -- in
19 other mission sets, right? We certainly do this in the counterterrorism space, we do this
20 in the standard criminal space. You have an adversary, you have a threat. And there is
21 a way to confront, mitigate, stop that threat head-on, right? And that is what many
22 people might think about, you know.

23 Think about this in the -- in the violent crime context. Perhaps the RICO statute,
24 right? You come head-on to a violent crime actor in a RICO statute or Hobbs Act
25 context, right? Counterterrorism, you may think material support, right? That is one

1 way to do it.

2 But that is one of the tools in the toolkit or the toolbox in which to mitigate a

3 threat and stop a bad actor, right? And the space that we are talking about here, you

4 have some direct tools, right? You have FARA, you have some other things that you

5 could do. Outside of the social media context, there are other tools that appear to be

6 more head-on, right?

7 But with the broad space that the FBI operates in and our responsibilities, it would

8 be irresponsible if we didn't think about using other toolsets, right? Legal, appropriate

9 means of combatting, thwarting a threat. Again, go back to the violent crime context.

10 What you started seeing a lot was, essentially, financial fraud being conducted by

11 these violent crime actors. Tax evasion. There have been more than one

12 gangster -- right? -- in the world that has been stopped for not paying taxes.

13 In a counterterrorism context, an alternate means, a nondirect means of stopping

14 the threat, you know, money laundering, also not paying taxes. There are certain

15 state-based charges or work that you can do there, right?

16 So this type of engagement with the social media companies was an additional

17 tool in the FBI's toolbox to mitigate a threat posed by a foreign malign actor, right?

18 There were other ways that we were doing that, but this was one of them.

19 [redacted] Can we go off the record, please.

20 [Recess.]

21 [redacted] Can we go back on the record, please.

22 At the end of that last hour, we were starting to touch upon information-sharing,

23 including information being shared related to foreign actors and folks online,

24 representing themselves as something other than who they actually are.

25 You had mentioned that there were times where the FBI was passing along

1 information provided by another government agency. During these meetings, was there
2 also information that was being shared where the FBI was the agency that assessed
3 whether it was a domestic or foreign actor?
4 [redacted] To the degree we might be hamstrung from answering in an unclass
5 open space, I would just note that for the record.
6 [redacted] So I am not. I wanted to -- part of your question there noted, you
7 know -- said something to the effect of foreign actors and others online -- foreign actors
8 online. I'm not going to say and others. That's not part of what we're doing.
9 The OGA information that would come in, in this context, what I'm talking about
10 here, would specifically identify selectors associated with malign foreign actors. And the
11 assessment, as I understand the process, had already been made, right?
12 And as oftentimes in this context, the FBI becomes the mouthpiece of that to the
13 third party in this context, a social media company or tech company, right? So the
14 assessment as to foreignness, malign foreign actor, was made already, my understanding,
15 by OGA, with respect to this list of 5 or list of 500, and we would pass that on.
16 BY [redacted]:
17 Q So to your understanding, did the FBI ever play a dual role where it was both
18 the mouthpiece and it was the agency helping to conduct that assessment?
19 A That's not my understanding.
20 Q At any of the meetings that you attended with the social media technology
21 companies, did you ever hear any feedback provided from the companies that when they
22 reviewed the information that was being provided to them from the government, that
23 the selectors or other information they found to be attributed to a domestic account?
24 A I did not.
25 Q Was that ever communicated to you from someone on the FITF while you

1 were at the FITF?

2 A No, not that I recall. I don't remember any discussions like that.

3 Q You recall handling -- excuse me. You recall attending a handful of

4 meetings between the FITF and social media companies.

5 Do you recall attending at least one of both the bilateral meetings, as you describe

6 them, FITF and one third party, as well as the meetings that had more than one agency

7 and more than one company?

8 A So, again, I'll state that I -- I don't remember exactly how many of these I

9 attended. I knew that they were taking place. And as best as I can remember, I don't

10 believe I was a part of any of the bilateral, i.e., FBI and one other third party, is best as I

11 can remember.

12 The few that I participated in or that I was -- that I attended, I feel like there were

13 more parties involved.

14 Q Did you attend these meetings both before and after you had taken all the

15 responsibilities related to the command post?

16 A It's possible that I was brought in to -- to a few meetings after I took on, you

17 know, the NECP responsibilities. But I will tell you, as I noted earlier -- right? -- the

18 closer you get -- we got to election day, the more that work consumed me, where it

19 eventually became 100 percent of my work.

20 Q To your understanding, how frequently were members of the FITF, the unit

21 chiefs, whoever was taking the lead, how frequently were they having bilateral meetings

22 with social media companies in 2020?

23 A So I don't know exactly. I don't know how frequently that was taking place.

24 Q Did you have a ballpark sense at the time of how often it was occurring?

25 A I'd have to speculate. If I gave you a number, I'd be speculating, right? So

1 I don't know for certain. It's not happening every week, but it's not happening, you
2 know, once every six months either. But it would be speculation beyond that.
3 Q Would you be provided readouts from these bilateral meetings?
4 A Not necessarily. And I don't remember getting many of those, particularly
5 the closer we got to the election, as noted earlier. And by that I mean, just months out
6 from when I was consumed with the NECP.
7 I may have received a few of those, but that wasn't a regular part of what I
8 was -- what I was doing or what I was getting from the unit chiefs.
9 Q If a unit chief were to provide a summary of a meeting with a third party,
10 was it typically, like, a verbal briefing, would it be a memo prepared? What -- what
11 would that look like.
12 A Well, it's my understanding that those meetings were documented in some
13 way. I don't know that I ever documented one of those meetings, but it's my
14 understanding that they were documented.
15 But if there was something that was relevant that I needed to know, I mean, I
16 checked in with my unit chiefs every day all the time -- right? -- particularly in my earlier
17 days with the FITF.
18 So we would normally have conversations, right? So if they needed to make me
19 aware of something, we'd meet through a conversation.
20 Q Are you familiar with SENTINEL?
21 A I am.
22 Q Just at a very high level, what -- what is that?
23 A It's a recordkeeping system for the FBI. It's where we document a number
24 of different things, but primarily our investigative operations.
25 Q To your understanding, would any notes taken during these bilateral

1 meetings be saved on that system?

2 A They could be.

3 Q And once a summary is saved in the system, to your understanding, is it

4 accessible, you know, a couple years later, few years later?

5 A You're asking does -- is document retention worked into SENTINEL?

6 Q Yes.

7 A Yes.

8 Q To your understanding, was the potential of a hack-and-leak or

9 hack-and-dump operation discussed during the bilateral FITF meetings in a leadup to the

10 2020 election?

11 A So I don't recall exactly what would have been discussed. You said

12 bilateral, right --

13 Q Yes.

14 A -- the one-on-ones?

15 I don't remember. What I can say -- and, again, as noted by counsel earlier,

16 there are limitations with respect to what can be discussed here -- right? -- because of the

17 setting that we're in.

18 But what I can say is, during that time frame, similar to what was

19 observed -- right? -- in the 2016 election -- and the best place for this might actually be

20 the ICAs from 2020 and 2016 or the GRU indictment where all of that is unclassified,

21 right? And those documents go to great lengths to describe the sort of conduct and

22 activity being conducted by multiple U.S. adversaries in this context, right?

23 So -- and some of that activity is cyber-espionage or hack-and-leak operations

24 where you have a foreign entity that gains access to a private network or system, exfills

25 that information and then weaponizes that information in one way or another, right?

1 So you're asking about, is -- am I aware of any instances where hack-and-leak was
2 discussed in these meetings. I'm not. What I can tell you is, as noted in the 2020 and
3 2016 ICA, those issues were going on. That was happening.
4 Q Did the U.S. agency industry meetings, the other standing meetings you
5 mentioned that are --
6 A The larger ones, sure.
7 Q -- do you recall in any meetings that you attended discussions regarding the
8 risk of a potential hack-and-leak or hack-and-dump operation?
9 A I don't.
10 Q During 2020 in your conversations with the unit chiefs, did you have any
11 conversations with any of the unit chiefs regarding their conversations with the social
12 media companies and whether either side was sharing information related to the
13 potential of a hack-and-leak or hack-and-dump operation?
14 A I don't specifically remember a conversation like that. Would I talk with my
15 unit chiefs about, you know, some of the work that they're doing and the engagements
16 that they have, sure. But I don't remember anything specific about conversations that
17 they may or may not have had with entities about a hack-and-leak or dump operation,
18 no.
19 Q To your understanding, you don't recall any specific conversations.
20 Generally, do you recall if that was an issue that came up in your conversations
21 with the unit chiefs?
22 A In my conversations with the unit chiefs, I don't recall, no. No.
23 Q What about in your conversations with Mr. Benavides?
24 A No. Not specifically.
25 Q You mentioned the ICAs, including some going back to 2016.

1 Prior to joining the FITF, were you broadly aware of the risks posed by potential
2 foreign interference?
3 A Prior to joining the FITF?
4 Q Yes.
5 A I may have been as aware as, you know, the normal person -- well, I would
6 say the normal FBI employee, right? But some of the work I was doing at the time
7 during the 2016 election -- you know, I was a public corruption supervisor, right? So
8 there was some overlap in some of that activity, right?
9 And I remember -- I can't say when, but I remember reading the GRU indictment
10 on my own back when I was in Detroit because I was interested in that sort of thing. But
11 I certainly was not reading the intelligence community assessment of the 2016 election
12 on my own back before I was -- you know, before my FITF days. I would have done that
13 in the context of my work at FITF.
14 Q We've talked a little bit about the information sharing that would occur, the
15 bilateral meetings. To your understanding, what were some of the differences between
16 what information could be shared in a bilateral FITF meeting as opposed to the broader
17 multi-agency, multi-company meetings?
18 [redacted] I think you might have mischaracterized the witness -- his previous
19 testimony regarding the information-sharing to the extent he was describing the passage
20 of tear lines versus what might have been said in these in-person meetings, which he
21 indicated he was not an active participant in, if you want to reframe your question.
22 [redacted] Sure.
23 BY [redacted]:
24 Q To your understanding -- well, let me take one step back then.
25 During the bilateral meetings, during the meetings themselves, was there

1 information shared from the governments to the companies about selectors, about things
2 that other agencies conducted assessments and the FBI was the mouthpiece, was that
3 communicated via -- during the meetings or was that in other meetings?
4 A So if you're going to provide a list of selectors, or
5 indicators -- right? -- particularly if you're talking about dozens here -- you're going to
6 provide that in some sort of documented fashion -- but I don't remember specifically how
7 that is being talked about in those meetings, right? But that is -- that's my recollection
8 of what we are doing in that space -- a lot of what we're doing in that space.
9 But I didn't participate in those meetings. That's not what I was -- it certainly
10 wasn't a major part of why I was there.
11 Q To your understanding, was there a difference between what could be
12 shared in a bilateral FITF meeting as opposed what could be shared in a broader -- the
13 industry U.S. government meetings?
14 A So the only thing I remember as we sit here today is -- and it would make
15 sense, right? -- there may be sometimes that you want to have a discussion one-on-one
16 with an entity as opposed to, you know, some of the other players in that industry being
17 present, which are competitors, right?
18 So there were times, I recall, when we would be asked, hey, company X would like
19 to -- you know, doesn't necessarily want to be sitting down with companies Y and Z in a
20 certain context, right? I can't remember what companies they were, but I do remember
21 that happening.
22 But your question, did you say something about limitations in the information that
23 we would provide?
24 Q Not necessarily limitations. But if there was differences in what could or
25 could not be --

1 A Well, you always have the context of, is this an unclassified or a classified
2 setting. So I'll put that out there.
3 Q To your understanding, were both the FITF -- bilateral FITF meetings and the
4 U.S. government industry meetings unclassified meetings, unclassified settings?
5 A Unclassified settings?
6 Q Yes.
7 A I believe so. I think -- I mean, there were persons with -- and I don't know
8 who they are. I just know that there are individuals in companies like these that hold
9 clearances and they hold clearances for a reason, right? But these particular meetings,
10 to my understanding, that most of them were in the unclassified context, but there could
11 have been some that were in a classified context. I'm just not sure.
12 Q Regardless of how the information was communicated, if it's documented, if
13 there's -- if it takes place in a bilateral meeting or if it's discussed in a bilateral meetings,
14 who at the FBI decides what assessments to share from other government agencies?
15 A I'm going to need you to ask that question again.
16 Q Sure. If you just walk me through the process of -- to your understanding,
17 it's not the FBI that is conducting the assessments related to foreign actors who are
18 misrepresenting who they are and what they're doing online, right?
19 There's, at a high level, the process of assessments made by other government
20 agencies, referred to the FBI as the mouthpiece being communicated to social media
21 companies.
22 Does the FBI play any role in determining which assessments are communicated
23 to the social media companies?
24 A So as you noted in part earlier -- right? -- the FITF were in receipt of OGA
25 reporting, intelligence, investigative reporting with a certain degree -- a high degree of

1 confidence in the attribution -- right? -- to a foreign actor.

2 In instances like this where we are a mouthpiece, where we are conveying

3 selectors, indicators -- right? -- there is going to be an understanding between OGA and

4 the FBI in terms of what can be shared and what cannot be shared, right? There are,

5 obviously, more conversations, meetings, briefs, discussions within the interagency than

6 what gets spat out to a third party, right?

7 So at FITF we are not in the business of taking information from our partners, our

8 USIC partners, and passing that on to anyone else, for that matter, without coordination

9 with those partners. I'm trying to answer your question.

10 Q Would the -- anyone from the FITF conduct their own assessment of the

11 information that was being shared, or is the FBI's role to receive it, and there's

12 conversations about what can be shared?

13 A So in that context, I don't -- I don't exactly know. I'm not sure.

14 Q When going through the interagency process of what potentially could be

15 shared with folks outside the IC, did you, in your role at the FITF, participate in those

16 discussions, or is that something at a different level?

17 A You're talking -- you're still talking about the context of meetings with social

18 media and tech companies?

19 Q That's right. But the internal government deliberations before --

20 A I don't think I would have -- I don't think I was involved in that sort of thing.

21 That may have been a little bit more in the weeds.

22 Q Are you familiar with the October 14, 2020, New York Post story regarding

23 Hunter Biden's laptop?

24 A I'm familiar with the story.

25 Q When did you first become aware of the New York Post story?

1 A So I don't know exactly when. And to be -- you know, I don't know if I
2 would have become aware of that initially by discussions -- I mean, it's four years ago, for
3 one, right? There would have been discussions at work or me reading the article myself.
4 You know, in preparation for this interview, I've read the article, right?
5 But I don't know exactly when I would have been aware of it or how, right?
6 Q Were you aware prior to the story's publication whether the FBI was in
7 possession of a laptop or a hard drive attributed to Hunter Biden?
8 A I don't know when I became privy to that information, right? I can't recall
9 as I sit here today if it was prior to, afterwards, but -- I don't know.
10 And I want to be clear here in terms of -- because words matter, right? There is
11 a difference -- and I'm always going to try to clarify. There's a difference between
12 verification of providing authentication for or knowing about the existence of a thing.
13 That thing, you know, takes up space, has mass and density and it takes up space. I'm
14 aware of a thing, vice the contents of that thing, right?
15 In this -- in this context, the thing is a laptop, the contents would be what's on the
16 laptop, right? There's a distinction there. And I'm talking about -- and I'll continue to
17 clarify -- the existence of the physical thing.
18 Q So to clarify then, the answer for that, you don't recall when you first
19 became aware of the existence of the laptop?
20 A I don't.
21 Q Do you recall how you first became aware of the existence of the laptop?
22 A I don't recall how either. I think I said that earlier.
23 Q To your understanding, did others at the FITF know of the existence of the
24 laptop?
25 A Yes. I understood that there were folks that were aware of that. Yes.

1 Q To your understanding, who at the FITF was aware of the existence of the
2 laptop?
3 A I don't know when I would have, you know, known this. Again, it's -- if I
4 can't attach a time necessarily to when I became aware of it, then it would be difficult for
5 me to attach a time to when I knew somebody was aware of something that I wasn't
6 aware of, right?
7 So -- but it's my understanding that Laura Dehmlow was aware of that, [redacted]
8 [redacted]. Beyond that, I think I'd be speculating.
9 Q Do you know if Mr. Benavides was aware?
10 A So I'm not entirely sure. I'd be speculating.
11 Q How did you become aware that Ms. Dehmlow and [redacted] were aware of
12 the laptop's existence?
13 A So I don't know when, right? But -- it would have been conversations at
14 work, but I don't -- I don't know how. I mean, I'm not reading a document that either
15 one of them are, you know, drafting or something along those lines. That's not the way
16 it would work.
17 When I became aware of that, it would have been through conversations.
18 Q To your recollection, when you say conversations at work, this would have
19 been during your -- sometime during your tenure while you were at FITF?
20 A And with those individuals. Yes, during my time at FITF.
21 Q Do you recall whether there were separate conversations, one with Ms.
22 Dehmlow, one with [redacted], or was it at least the three of you?
23 A So I don't know what it was as I sit here today. I don't. I don't remember.
24 Q Do you recall what information they were able to share at the time?
25 A I don't. At some time I became aware of the existence of the laptop, right?

1 And it's my recollection that those two individuals knew about it and that I likely spoke
2 with them at some point about that. But I don't -- as I sit here today, I don't remember
3 specifics.
4 Q Did they share with you how they became aware of the laptop's existence?
5 A I don't know. I don't know -- or I don't remember, rather.
6 Q Do you recall how this conversation took place, if it was in person or in
7 writing or over the phone?
8 A To the best of my knowledge, I didn't engage in any sort of writing, emails,
9 IMs, or anything like that about anything along these lines. That's not my practice.
10 Was it a phone conversation? Was it in person? You know, I don't specifically
11 remember. I'm more inclined to have conversations like this with someone face to face.
12 Q In October of 2020, independent of this conversation or when it occurred
13 exactly, but in October of 2020, how often were you meeting in person with either
14 Ms. Dehmlow or [redacted]?
15 A So in October of 2020, we are, you know, on the doorstep of the election as
16 far as our, sort of, work was concerned. So I was consumed in that space at that time.
17 So my interaction with -- I know I was meeting with Laura a fair amount because
18 she was wearing multiple hats. And a lot of the logistics in terms of how we're going to
19 organize and carry out the -- the mission of the NECP, right? So I remember having
20 several discussions with Laura about that.
21 I would have likely had, you know, meetings with [redacted] about that as well because
22 it's -- FITF was responsible for the NECP. So I need personnel commitments, I need
23 rotations, I need -- we need to figure out our COVID protocols.
24 Again, my -- in October, my work is almost exclusive to the NECP, and I would
25 have been meeting with those guys about those things at a decent clip.

1 Q You mentioned the COVID protocols. During this time, are you going into
2 the office each day, most days of the week, or others in the FITF?
3 A I never stopped going into the office.
4 Q What about Ms. Dehmlow, [redacted]?
5 A I'm not exactly sure how often they were going in, nor am I sure how often
6 personnel in those units were going in. As you recall, it was a challenging time. I know
7 I was -- I could maybe count on one hand how many times I did not go to the office over
8 this 18 months.
9 Q Do you know if Mr. Chan knew about the existence of the laptop?
10 A I don't.
11 Q Do you know when you became first aware of a criminal investigation
12 related to Hunter Biden?
13 A Did you ask, do I know when I became or when he became aware?
14 Q When you first became aware.
15 A So a criminal investigation related to that particular -- so that would not be
16 something that FITF would be program managing, right? That would fall within the
17 investigative portfolio of another division, right?
18 But to answer your question, I don't recall exactly when that would have
19 happened. I had general awareness, but I don't know when that would have been.
20 Q Do you know if it would have been prior to mid-October of 2020?
21 A It may have been. But I can't -- but I don't -- but I don't remember
22 specific -- again, specifically when I, you know, had that understanding.
23 Q With the understanding you don't remember specifically on the when, do
24 you recall how you first became aware?
25 A I don't. Not as we sit here today.

1 Q Are you aware that Ms. Dehmlow testified before this committee?
2 A I am aware that Laura Dehmlow testified before the committee, yes.
3 Q She testified about meetings that occurred either on or shortly after the New
4 York Post story came out on October 14th of 2020.
5 At the time in mid-October 2020, were you aware that the FITF was having
6 meetings with social media companies and that questions regarding the laptop came up
7 during those meetings?
8 A I'm going to need you to ask that question again. I feel like you started
9 asking one question and shifted gears halfway through. Can you repeat the question?
10 Q Sure. I'll just take one step back.
11 To your understanding, in any of the FITF meetings after the New York Post story
12 comes out, did any social media companies ask questions about the laptop to members of
13 the FITF?
14 A It's my understanding that that happened. I wasn't -- to the best of my
15 knowledge, I wasn't in any of those meetings. Again, I was consumed with other things,
16 but I don't remember being in a meeting like that.
17 Q Do you recall being told about what was being discussed during those
18 meetings?
19 A So I recall being told that there were questions about the laptop, right? I
20 don't recall exactly when I was told that or by whom, but I knew that post -- the article,
21 that the questions had come up about that.
22 Q With the understanding you don't have a specific recollection of when, was
23 it around the date that the article came out? Was it weeks later? How -- when did you
24 first become aware?
25 A I can't tell you because I don't exactly know, right? It would be a relevant

1 conversation to have had closer in time to, you know, when it took place. But I don't
2 know if it was a day after, two days after, two weeks after. I can't tell you.
3 Q What was the purpose of the conversation? Was it to share information or
4 was there a question of what the FITF should do or how to handle` these questions?
5 A So I don't exactly know what you're asking, right? Are you asking me, was I
6 part of conversations to try to figure out what should -- what the FITF should say in
7 response to questions like that?
8 Q That wasn't quite the question. I'll ask that one as well.
9 But just why was the fact that this question had come up in the FITF meetings,
10 why was that being brought to your attention?
11 A Well, I'm the assistant section chief, and if a unit chief or unit chiefs are
12 engaged in a meeting and they think something is relevant, they're going to bring it up to
13 me. That's how that would work.
14 Q Were you involved in any discussions about how the FITF should respond to
15 questions from social media companies about the laptop?
16 A I may have been, but I can't remember specifics. I can't remember, but I
17 may have been involved in some of those discussions.
18 Q Okay. To your understanding, did the FITF reach a determination on how
19 those types of questions about the laptop should be answered?
20 A So -- yes. And my understanding is that the conclusion that was reached
21 is -- is one that's consistent with DOJ policy, FBI policy, and that we're not going to
22 discuss -- confirm or deny or discuss specifics related to an investigation.
23 Q And do you know who made that decision?
24 A I don't. I know I didn't make that decision, but I don't.
25 Q Do you know if it was made by someone above you, or was it made by

1 someone else in the FITF?

2 A I don't know that it was -- exactly who made that determination. My

3 experience in the FBI tells me that that decision would not have been made by someone

4 beneath me.

5 Q To your understanding, would Mr. Benavides have made that

6 determination?

7 A He may have, but I don't -- but I don't know. I don't know who made that

8 decision.

9 Q Do you know if Mr. Benavides participated in any discussions about how to

10 respond to questions from social media companies about the laptop?

11 A Again, he may have. But, you know, I'm going to defer to Brad on that.

12 Q Do you know if Ms. Floris participated in any discussions about how the FBI

13 should respond to questions about the laptop?

14 A I would answer that in the same way that I did with Mr. Benavides. She

15 may have, but I would defer to what Nikki Floris says in response to that question.

16 Q Do you have any memory of either Mr. Benavides or Ms. Floris participating

17 in any conversations about how the FBI should respond to questions about the laptop?

18 A Not specifically, no.

19 Q To your understanding, how long was the gap between when the first

20 question was raised about the laptop from the social media company to when the

21 determination was made to how the FBI should respond to questions like that?

22 A I don't know.

23 Q To your understanding, were there discussions the same day that questions

24 first began arising from the social media companies?

25 A Like I said, I don't remember when I became aware of the questions. I

1 don't remember if it was that day, thereafter or how long. I don't know. So I'd answer
2 the question the same way. I just don't recall.
3 Q By the time you were made aware of the questions social media companies
4 were asking the FITF, had that determination on how to respond, had that determination
5 been made already?
6 A I'm going to have to answer it the same way. I don't -- I don't remember.
7 I don't remember. I likely would have been aware of the questions before the decision
8 with respect to how to answer the question down the road. But as we sit here today, I
9 don't remember sequencing like that, specifically anyway.
10 Q Do you recall whether the conversation or however you were first made
11 aware that social media companies were asking about the laptop, was that also the first
12 time that you were made aware of the existence of the laptop?
13 A I don't.
14 Q Did you have any conversations with Mr. Brown regarding the existence of
15 the laptop?
16 A No. I can say that because my -- I had very limited number of
17 conversations with EAD Brown. They would stick out in my mind.
18 Q To your understanding, did Mr. Benavides or Ms. Floris have any
19 conversations with Mr. Brown about the existence of the laptop?
20 A I don't know. And I would defer to both of them on -- on that question.
21 But I have no knowledge of that.
22 Q After you were first made aware of questions from social media companies
23 about the laptop, do you recall anyone else that you had conversations with at the FBI
24 about the -- either questions from the social media companies or how the FBI should
25 respond to those questions?

1 A I feel like I've answered that question in a bunch of different ways already.
2 But, no, I don't remember specific conversations or, you know, who those conversations
3 were necessarily with other than likely a conversation with [redacted] and/or Laura. But I -- I
4 can't answer that question any -- any differently.
5 Q Just for clarity on the record, of that -- when you first become aware -- with
6 the understanding you don't have specifics of when or exactly how.
7 A First become aware of what?
8 Q That the social media companies are asking questions about the laptop.
9 It was somebody from the FITF who was bringing it to your attention. And so the
10 previous question was getting at, once you become aware, do you recall doing this or
11 considering taking that information and then sharing it with someone else in the FBI?
12 A No.
13 Q Do you recall whether there was any disagreement within the FBI about the
14 best way to respond to questions from social media companies about the laptop?
15 A I don't.
16 Q Once the FBI has made the determination that, you know, responses to
17 questions from the social media companies should be consistent with DOJ protocol
18 regarding investigations, are you aware of anyone in the FBI who did not follow that
19 determination?
20 A I'm sorry. Could you just ask that again?
21 Q Sure. Let me just for the -- clarity on the record.
22 Can you state again what the determination was from the FBI about how to
23 respond to future questions from social media companies about the laptop?
24 A So it's my understanding that where the FITF landed on that issue is one
25 that's consistent with DOJ and FBI policy, neither confirming, nor denying the existence of

1 an investigation, certainly not speaking to any specifics with respect to an investigation,
2 should there be one.
3 Q Once the FITF has made this determination, are you aware of whether
4 anyone in the FBI did confirm or deny or share any specifics regarding the laptop or any
5 associated investigations?
6 [redacted] For the record, I don't think the witness testified that the FITF
7 specifically made the determination. He did not recall who specifically made that
8 decision consistent with FBI and DOJ policy.
9 [redacted] I'll rephrase the question.
10 BY [redacted]:
11 Q Once the determination is made to not share specific information, confirm
12 or deny any associated investigations, to your understanding, did anyone from the FBI
13 share information related to the laptop or the ongoing investigation?
14 A No. That's not my understanding.
15 Q What about prior to that determination being made, to your understanding,
16 had anyone from the FBI shared with the social media companies either confirming or
17 denying the existence of an investigation or the laptop?
18 A Prior to a determination as to what would be said in response to a question
19 like that?
20 Q Yes.
21 A So I recall that the situation involved someone speaking to the issue
22 marginally and then the FBI maintaining or, essentially, stating no comment after that. I
23 think that was part of what had, you know, come to me at some point about the
24 situation -- right? -- the meeting. Because, again, I don't think I was there. I wasn't
25 there.

1 Q For the first part of your last response about someone who -- from the FBI
2 was speaking to the issue marginally, to your understanding, what was said?
3 A I wasn't there. But it's my understanding -- and, again, I clarified earlier, I
4 think it's important to note, right, the difference between answering a question or
5 confirming one's understanding or knowledge of the existence of a thing compared to, in
6 this contents -- in this context, rather, the contents of that thing or the laptop.
7 And it's my understanding that someone spoke to the former -- right? -- the -- the
8 existence of the thing and not the latter.
9 Q When you were first made aware that social media companies were asking
10 about the laptop, was this also the same conversation where you were made aware that
11 someone had spoken regarding the existence of the laptop?
12 A It may have been, but I don't -- I don't know for sure.
13 Q Do you know who had made some sort of statement regarding the existence
14 of the laptop?
15 A A non-SES employee. That's the only way I'm going to answer the
16 question.
17 Q Sitting here today, do you recall who specifically?
18 A I recall the non-SES employee as it was described to me.
19 Q Do you recall that person's name?
20 A I recall who that non-SES employee is when it was brought to me, yes.
21 Q Do you recall that person's title?
22 A I do.
23 Q What was their title?
24 A So would have been within the -- the analytic cadre of the FBI's job roles or
25 responsibilities.

1 Q Do you recall with any more specificity what their title was?

2 A I mean, we're talking about an analyst, non-agent. That's what I recall.

3 Q Was this someone who was a part of the FITF at the time?

4 A Yes. I mean, these were FITF meetings.

5 Q Were there ever FITF meetings where non-FITF personnel would attend?

6 A There were meetings where there were other members of the -- other

7 federal agencies were represented, right? But I think for the most part, the FBI

8 personnel that would have been in attendance would have -- would be associated with

9 the FITF. But there may be instances where they weren't.

10 Q Going back a few answers now, you recall that someone spoke to the issue,

11 marginally an analyst, regarding the existence of the laptop, and then you mentioned the

12 FBI maintaining no comment.

13 To your understanding, were both those comments made in the same meeting?

14 A That's my understanding, yes.

15 Q Do you recall who from the FBI -- or let me take one step back.

16 Do you recall who made the comment regarding maintaining no comment?

17 A A second non-SES employee.

18 Q Without revealing their name, do you know who the non-SES employee is?

19 A I do recall who that particular non-SES employee is, yes.

20 Q Do you recall their title?

21 A Can we confer?

22 [redacted] Can we go off the record, please.

23 [Discussion off the record.]

24 [redacted] Can we go back on the record, please.

25 [redacted] Can you just ask that last question one more time?

1 BY [redacted]:

2 Q We were talking about a non-SES employee commented about maintaining

3 no comment, and you recall who the individual is.

4 What was the title of that non-SES individual?

5 A That non-SES employee was a lawyer, an FBI lawyer.

6 Q Do you recall his or her title with any more specificity?

7 A No, actually. No.

8 Q Did you have conversations with either of the non-SES employees who spoke

9 during that meeting? Did you have conversations with either of those non-SES

10 employees either on or soon after the date of the meeting that took place?

11 [redacted] Can I confer with him for a second?

12 [redacted] Can we go off the record, please.

13 [Discussion off the record.]

14 [redacted] We can go back on.

15 I would just flag that [redacted]'s conversations with FBI attorneys implicate

16 several legal privileges and other sensitivities. So if you can ask your question again

17 cognizant of that boundary.

18 BY [redacted]:

19 Q Do you recall having any conversations with either of the two non-SES

20 employees?

21 A So I don't recall ever having a conversation with the analyst. Without, you

22 know, conveying the specificity of the conversations or when they took place, but I do

23 recall having or being a part of a conversation with a lawyer.

24 Q And were your conversations with the lawyer following the meeting where

25 the remarks were made by the two non-SES employees?

1 A I'm sorry?

2 Q Regarding the conversation you recall with the FBI lawyer, the second

3 non-SES employee, was that after this meeting between the FITF and the social media

4 company had taken place?

5 A So this is a -- an FBI lawyer, an employee that I would have had other

6 completely non-related conversations with.

7 Q Did you have conversations related to the meeting between the FITF and the

8 social media company where the question was raised about the laptop?

9 A I think I said I did have -- I recall a subsequent conversation with the FBI

10 attorney about that meeting and that question, right?

11 I'm just saying, you know -- I believe you asked, did I have meetings -- did I have

12 conversations with that lawyer before the October 14th meeting with the social media

13 company, and I'm saying, yes, because I would have had meetings about a number of

14 different things, the work that we were engaged in, with that particular employee.

15 Q For the conversation with the lawyer after the meeting with the social media

16 company has taken place, who else was -- who else participated in that conversation?

17 A I'd answer that in the same way that I answered previous questions about

18 that -- I don't recall, you know, exactly who would have been there, when they took

19 place, so I don't recall.

1 [12:11 p.m.]

2 BY [redacted]:

3 Q Do you recall which social media company was the one that asked the

4 question about the laptop that prompted the responses from the two non-SES

5 employees?

6 A So, as I sit here today, I know because I prepared for the interview, right?

7 At the time, did I know? I don't know if I did.

8 Q And, sitting here today, what is your understanding?

9 A As we sit here today, I understand that that was a Twitter meeting with the

10 FITF personnel. I don't know if I knew that at the time, though.

11 Q Okay. To your understanding at the time, did other social media

12 companies besides Twitter -- let me rephrase that.

13 To your understanding at the time, in October of 2020, were you aware of any

14 other social media companies that asked questions to the FITF about the laptop?

15 A What I recall is that there was an initial meeting with a company, right?

16 The question came up. There were conversations about how to answer that question

17 down the line. A decision was made, and then that response was provided to questions

18 that subsequently came up from other companies or otherwise to that particular

19 question.

20 So I know that no comment was provided in response to questions, but specific

21 companies or when or what meetings, I don't know that.

22 Q And were you aware of this at the time?

23 To maybe rephrase that a little bit different, there's the meeting that you now

24 understand to be Twitter. Maybe you didn't have that understanding at the time.

25 There were discussions, and there was a determination made in subsequent meetings.

1 When the question is raised again, the comment given is "no comment."

2 When did you become aware if there were any subsequent meetings after the

3 determination had been made?

4 A I don't know exactly when I would have been aware of any subsequent

5 meetings.

6 Q Was it around the time of fall 2020, or was it only later when, like, preparing

7 for this interview?

8 A That I became aware that additional questions were asked by more

9 companies on that?

10 Q Yes.

11 A I mean, that's something I would have been aware of at the time. I don't

12 know exactly when.

13 Q Did anyone in the FBI communicate to you whether they thought it was

14 appropriate -- the response -- the first non-SES employee gave in the meeting with

15 Twitter?

16 A Could you ask that question again?

17 Q Sure. Has anyone from the FBI indicated to you whether they thought the

18 response given by the first non-SES employee in the Twitter-FITF meeting was

19 appropriate?

20 A I don't remember a conversation like that.

21 Q Based on your understanding at the time, was that response from the first

22 non-SES employee in the Twitter-FITF meeting appropriate?

23 A A response of "no comment" is consistent with DOJ and FBI policy in that

24 context.

25 Q To your understanding, whether at the time or since becoming aware in

1 preparing for the interview, which other social media companies asked the FITF about the
2 laptop?
3 A So I don't know. I know that the question came up again. I don't know
4 which other companies did.
5 Q To your understanding, the -- well, first, just to clarify on the record, the
6 meeting with Twitter was a bilateral FITF meeting, not one of the broader meetings we
7 discussed earlier in the interview?
8 A My understanding is that was a one-on-one FITF-Twitter meeting, is my
9 understanding.
10 Q To your understanding, did any questions about the laptop come up in any
11 of the broader meetings that had multiple companies present?
12 A I don't remember anything like that. No, it's not my understanding.
13 [redacted] Can we go off the record, please?
14 [Recess.]
15 [redacted] Back on the record. It is 12:28 in the afternoon.
16 BY [redacted]:
17 Q I want to return to a conversation in the very first hour about the National
18 Election Command Post, and I know you talked a fair amount about how it operated, but I
19 don't think we ever actually got an answer to the question of why it was actually stood up
20 in the first place. Can you talk about that?
21 A Well, multiple administrations -- right -- both administrations during --
22 Q And I'm sorry. When you say "both administrations," which ones?
23 A So, both the Trump administration and the Biden
24 administration -- right -- recognized that our adversaries were operating in this space,
25 right? And the malign foreign influence activities were deemed a national security risk

1 to our elections, democratic institutions, the public's confidence in both of those.
2 So that is -- national security is, obviously, within the wheelhouse of the FBI,
3 so -- and we have a primary responsibility for that and for any violations here
4 domestically.
5 So there is an expectation within the agency that -- and outside, for that
6 matter -- that we are going to prepare and stand up a national component, which is the
7 NECP, but we also had individual command posts set up in all 56 field offices.
8 So, just in the Washington, D.C., area alone, you have the NECP -- the Washington
9 Field Office has its own command post as well along with the other 55 field
10 offices -- right -- to deal with these issues as they come up, as you approach the election,
11 and the election itself.
12 Now, I will say, on election day, the vast majority of the issues that come up that
13 the FBI deals with fall into the criminal lane, right? And I mentioned earlier that PIN had
14 representation.
15 Q And PIN being?
16 A Public Integrity Section -- right -- out of Main Justice had representation
17 there, and that is because, in this space, when you are dealing with Federal elections, if
18 the FBI is going to take any sort of investigative step or a certain posture, both
19 geographically and in this area, you must have PIN consults, right?
20 So, as information would come in -- and it could be anything -- and these are
21 hypotheticals -- from, you know, a mailbox that someone thought had ballots in it caught
22 on fire in Des Moines, or we saw somebody running off with a bunch of ballots in
23 Vegas -- and I'm just sort of making this up -- or, you know, people in Minneapolis are
24 being precluded from voting.
25 Stuff like that comes in -- right -- from the public, from local and State partners,

1 and it all gets funneled at one point or another to the NECP, and we have processes set
2 up to appropriately deal with that sort of information on election day.
3 Q And I want to go through a couple of the points that you just made in a little
4 more detail, but before I get there, do you know who actually made the final decision that
5 the NECP should be stood up?
6 Let me ask it this way: Would it have been at the director level?
7 A So I know -- I recall being in a meeting at one point when the Deputy
8 Director decided that it would be FITF that would run the NECP, and then I recall being
9 told not too long after that meeting that, [redacted], you were going to be in charge of doing
10 it.
11 Q So the Deputy Director conveyed that FITF would be running the NECP --
12 A I know that that's a different question than what you asked.
13 Q Right. Right.
14 A I don't know who made the decision.
15 Q Okay.
16 A I just knew there was always going to be one.
17 Q Okay. But it was a concern of the Trump administration -- election
18 interference was a concern of the Trump administration. Is that fair to say?
19 A I think that's outlined clearly in -- I forget the number -- but in an
20 EO -- right -- that identifies and reaffirms on an annual basis that we have a national
21 security issue or threat in this space.
22 Q Yeah. We're going to introduce that EO just to make a complete record.
23 [redacted] This will be exhibit 1, I believe.
24 [[redacted] Exhibit No. 1
25 was marked for identification.]

1 BY [redacted]:

2 Q And this is -- for the record, this is Executive Order 13848. It was signed by
3 President Donald J. Trump on September 12th, 2018.

4 Is this the executive order to which you were referring?

5 A I believe it is.

6 Q Okay. And so, when you're referring to the executive -- to this being a
7 priority of the Trump administration, your point was that this executive order makes it
8 clear that foreign election interference was something of concern dating as far back to
9 2018 and it, in fact, led to -- was one of the things that led to the NECP being stood up in
10 2020, correct?

11 A Yes. So this executive order and the reaffirming of the national security
12 concern subsequently by both the Trump administration and the Biden administration
13 that this was an issue, yes, certainly serves as the basis for all of our work with the NECP
14 and in all the field offices as well.

15 Q You've used the term a number of times today "malign foreign influence."
16 What does that term mean?

17 A So foreignness being the key, right? So a foreign adversary whose
18 activities -- and, oftentimes, we would think of it in terms of, you know, subversive,
19 undeclared, coercive, or criminal activities, right?

20 So it's a foreign adversary acting in a malign manner, undeclared, in an attempt
21 to -- it could be -- do a number of different things in this space, right? Influence an
22 election, interfere with an election, influence a candidate, interfere with a candidate's
23 candidacy. It could be to influence certain policy, legislation, but it's in all of those
24 contexts. It's not just limited to election day.

25 Q Are you familiar with the term "covert" versus "overt" action?

1 A Absolutely.

2 Q What is your understanding of what covert action is?

3 A So I think a good example of that is -- I believe it was Russia Today, right?
4 The media outlet formally connected to and engaged with the Russian Government,
5 right? It is one thing for an outlet like that or, frankly, the diplomatic mission to make
6 statements and push its position overtly, right? We know where it's coming from. It's
7 attributed.

8 It's a different thing entirely to pretend to be something other than that or
9 someone other than that with the intention of stoking societal tensions, creating -- you
10 know, wanting folks to have no confidence in our institutions and in our elections, those
11 sorts of things. That's what we were seeing. That's a covert conduct.

12 Q And, when we're talking about FITF and the NECP in particular, were they
13 concerned or are they concerned, I guess, today with covert action, covert malign foreign
14 influence, or overt foreign action?

15 A So I would -- I think I know what you mean, but I would divide sort of, like,
16 the NECP vice FITF.

17 Q Understood.

18 A FITF -- the NECP is a thing that, you know, exists at a certain time and place
19 for a certain event, right? FITF is certainly involved in that time or space for that event,
20 but it's working the other 364 days of the year as well.

21 And it is a covert, noncontent-based exercise, right? We are not interested
22 in -- we were not interested in and we would not be engaging in any investigative activity
23 related to a foreign entity's overt statements about anything relevant to this space. It's
24 that covert conduct: coercive, criminal, undeclared.

25 Q Okay. And, just returning briefly to the work of the NECP, earlier this hour,

1 you mentioned that the day of the election, it's primarily the Criminal Division that would
2 be -- I don't want to say involved, but issues that would arise would primarily be under
3 the jurisdiction of the Criminal Division. Can you explain a little bit what you mean?
4 A Sure. So FITF, per Deputy Director Bowdich at the time when I was
5 there -- right -- was put in charge of managing and running the NECP. It makes sense on
6 a certain level because the FITF is comprised of these other entities or divisions within the
7 FBI as well, and we've been working with one another and coordinating with one another
8 prior to the election.
9 The FITF's space here -- from an intelligence and investigative operational one -- is,
10 you know, malign foreign influence operations. And we see that sort of thing happening
11 all year round, right? Certainly leading up to a Federal election, but on election day,
12 when you are talking the sheer numbers and the information that's coming in from our 56
13 field offices, the work sort of flip-flops in terms of that is -- that's the Super Bowl day for
14 folks within the Criminal Investigative Division that are responsible for civil rights
15 violations pertaining to, you know, folks exercising their constitutional right to cast a
16 ballot -- right -- which is what a lot of this is wrapped around.
17 Additionally, the Cyber Division has equities because there are reports of a
18 possible intrusion here or there and that sort of thing, right? It --
19 Q Sorry. And when you say "intrusion," that means a hack of a voting system
20 or something?
21 A Well -- but I want to be careful there because, as was noted in the 2020 ICA,
22 I'm not talking about, you know, reports about changing votes and that sort of thing.
23 Not that -- right -- but the possibility that, you know, a database that contained the
24 names of polling workers. Indications of compromise, is what the cyber folks might say.
25 Information like that, you know, coming in.

1 Q Okay. Understood.

2 In February 2020, you participated in an election security conference on Capitol

3 Hill. Do you recall that?

4 A I do.

5 Q Do you recall how you came to participate in that conference?

6 A You mean how I was selected to do it?

7 Q Uh-huh.

8 A I don't know that everyone jumped to the front of the line to necessarily

9 provide that particular presentation. There was a request made that came to the FITF

10 by the organization. I can't remember the organization.

11 Everyone is very busy. I don't have a problem with public speaking. I said, you

12 know, "Sure, I'll do it." I sort of took -- I took that one for the team.

13 Q Do you recall who else participated as a speaker at that conference?

14 A Who else was there?

15 Q Yeah. Who -- you know, were you the only speaker? Were there other

16 speakers?

17 A No, I was not the only speaker. In fact, I believe the keynote was -- and I'm

18 forgetting his name again -- the first DHS Secretary and former Governor, Tom Ridge.

19 [redacted] I want to introduce as exhibit 2, an AP News article, dated February

20 24th, 2020, and this has -- it recounts the conference and has some quotes from you that

21 I want to talk through.

22 [[redacted] Exhibit No. 2

23 was marked for identification.]

24 BY [redacted]:

25 Q While you're reading, the title of the article, for the record, is "FBI official:

1 Russia wants to see U.S. 'tear ourselves apart.'" It's by Eric Tucker. The date is
2 February 24th, 2020.
3 A Uh-huh.
4 Q And let me know when you have had a chance to review.
5 Are you ready to move on?
6 A Yes.
7 Q Okay. So, according to this article, during that conference, you made the
8 statement that Russia wants to watch Americans, quote, "tear ourselves apart." Do you
9 see where it says that?
10 A I do.
11 Q Do you recall saying that during the conference?
12 A I do.
13 Q And do you recall what you meant when you said that?
14 A I do. So there's obviously a lot of information that I would have been
15 exposed to at this time and place that, you know, we can't talk about in a setting like this.
16 Q Meaning in an unclassified setting?
17 A That's correct. But I will say that the best place -- and I mentioned this
18 earlier in the interview. The best place to go for the basis for statements like
19 these -- and these are my characterizations, right? I put it into my own words.
20 You know, you got the ICA of 2020 and 2016, the GRU indictment, and particularly
21 those ICAs talk very clearly about certain foreign actors in this space engaging in a
22 widespread, multifaceted campaign -- right -- to -- and Russia being one of those
23 countries -- to pit us against one another, to degrade our confidence in U.S. elections and
24 democratic processes and institutions.
25 It is very clear from the judgments made in those ICAs that that is what was

1 happening at the time. And this is me, in my own way, sort of using -- in my own words
2 restating that, which, you know, other public officials were saying at the time and
3 certainly later.
4 Q Okay. About halfway down the page, the fourth paragraph down, it says,
5 "[redacted] did not address the briefing or whether Russia had a preference for particular
6 candidates. But he said Russia was generally engaged in, quote, 'information
7 confrontation,' end quote, aimed at blurring fact from fiction, eroding American
8 confidence in democratic institutions and driving wedges into society's fracture lines."
9 Do you see where it says that?
10 A I do.
11 Q Do you recall what you meant by, quote, "information confrontation"?
12 A So what I recall is that it's connected to the second clause, you know, what
13 follows: "Aimed at blurring fact from fiction, eroding American confidence," right?
14 My recollection of what we were seeing at the time is that Russia -- and it wasn't
15 just Russia in this space, right? Iran had a fairly sophisticated effort to do this as well.
16 Not necessarily as concerned with getting Americans to believe one thing or the other as
17 opposed to getting Americans to have little or no faith in all of it.
18 Q And then the following sentence -- and this is a quote from you
19 again -- quote, "The primary objective is not to create a particular version of the truth but
20 rather to cloud the truth and erode our ability to find it, creating a sentiment that no
21 narrative or news source can be trusted at all," end quote.
22 A I see that.
23 Q Do you see where it says that?
24 A Yes.
25 Q Can you explain what you meant by that sentence?

1 A I would answer it, you know, in the same way. The Russian Government
2 and other governments that acted in this space -- they are, you know, equally thrilled
3 with Americans having no trust in the election, no trust in political leaders, the
4 democratic system itself.
5 You know, for some countries that seek to replace us on the world stage -- and
6 China was engaged in this sort of activity as well to a lesser degree -- you know, they're
7 seeking to become the world power. So, to the extent that they can push or propagate
8 a narrative that, in simple terms, makes us look bad and turn on one another, they're
9 happy with that sort of thing.
10 Q So, when we're talking about the work of the FITF, is it fair to say that the
11 FITF's mission, in effect, was to counteract these efforts by Russia and by others to make
12 Americans turn on each other, to make Americans -- to undermine Americans' trust in the
13 democratic processes?
14 A Yes, in a way, right? So, again, it is a foreign-based endeavor, malign
15 foreign activity.
16 When we are leading up to an election, all the focus is on an election, but this sort
17 of thing happens and was happening all the time -- right -- policy, legislation -- and not
18 just at the Federal level. I mean, these sophisticated nation-states like this engage in
19 this activity at the local and State level as well.
20 Q Can you explain what you mean by that?
21 A So can we -- I need a second.
22 [redacted] Yeah, of course.
23 We can go off the record.
24 [Discussion off the record.]
25 [redacted] Back on the record, please.

1 [redacted] So I just want to be careful in terms of what I may be able to speak
2 to in an unclassified setting and what I can't. You know, at times, there can be a lot
3 bouncing around in my head, right?
4 So it is not a secret that particularly a country like China is engaged in a
5 decades-long practice of attempting to influence this country and its leaders at the local,
6 State, and Federal level in an effort to overtake the United States on the world stage.
7 That's my way of saying they play this -- they play chess when a lot of other
8 countries are playing checkers in this sort of space.
9 Q Thank you.
10 In the -- I think it was the first hour today, you were describing the work of the
11 FITF and different tools that FITF could use, and you mentioned -- and I think this is
12 actually applicable to the FBI writ large, right -- that there's different methods FBI might
13 use to combat threats such as that posed by China, right? Do you recall that
14 conversation?
15 A I do.
16 Q Okay. And you referred to communications or conversations with social
17 media companies as a nondirect way of addressing threats. Do you recall saying that?
18 A Yes.
19 Q Okay. Can you explain what you meant by that being a nondirect way of
20 addressing threats?
21 A Sure. So, outside of this context -- right -- we -- the FBI, FBI agents -- we
22 often talk about, you know, tools in the toolkit to do a certain thing, whatever that thing
23 may be. You know, the FBI has got responsibility for practically the entire Federal Code.
24 So, across all violations, right, we have various different tools to mitigate the threat.
25 Sometimes a tool can be to -- you can take someone offline by building a case,

1 arresting them, and, you know, testifying at trial, and they get locked up, and they go to
2 jail, you know. But, other times, that may not be available to you, so you use legal and
3 appropriate means to mitigate that threat, get that threat -- well, mitigate the threat, but
4 it doesn't result in anyone going to jail, right?
5 So, when I think about the FBI and FITF's engagement with social media and tech
6 companies in the space of malign foreign influence, you know, no one is going to jail. So
7 it's a bit of an atypical approach to the way that the FBI might deal with a particular
8 threat.
9 But, if we can rid ourselves of malign foreign actors in a certain space through a
10 process like this, then we're going to avail ourselves of that, right? It is not -- we are not
11 making the decisions about that sort of thing. You know, we go to great lengths not to
12 pressure, coerce, ask for investigative updates, and things like that from companies when
13 we have these sorts of conversations with them -- very directed conversations -- but it is a
14 means through which we do our job.
15 Now, I will tell you that, you know, in thinking about this, the FBI's engagement
16 with social media or the private sector more generally in this space is -- one, it's not new
17 in this space, but it is not dissimilar to what the FBI does in a host of other
18 places -- right -- across -- you know, I spent a good deal of time in the Detroit Division.
19 You know, the Big Three, they are targets of all sorts of activities.
20 Q The Big Three being the automakers?
21 A The Big Three being automakers based in their Headquarters there in
22 southeast Michigan. They are targets of criminal organizations, transnational criminal
23 organizations, nation-states, and the Detroit Division probably has more engagement
24 with the automotive industry than any other field office in the United States, a lot of that
25 due to geography, right?

1 We engage in this space in the financial sector. Another --

2 Q Sorry to jump in.

3 A Sure.

4 Q When you say "we engage," just to play this out --

5 A Engagement -- working professional relationships with the private sector.

6 Sometimes that's sharing of information.

7 A good example of that could be -- I was just going to say where you see this a lot

8 in the private sector is critical infrastructure. I believe the Director said fairly

9 recently -- it may have been on one of his national interviews -- that something north of

10 75 percent of the Nation's critical infrastructure rests in the hands of the private sector.

11 We're talking about electricity, gas, water, right?

12 We're responsible for protecting those systems, right? And, if more than 75

13 percent of them are being run and administered by the private sector, then you better

14 believe we're going to be engaging with the private sector in this space, right?

15 You know, oftentimes, what you will see is the FBI may, through intelligence or

16 investigation or another member of the USIC may determine that a particular critical

17 infrastructure company organization is being targeted online -- right -- by a criminal

18 enterprise, foreign actor, what have you -- and in that space -- again, I'm not a cyber

19 agent -- but we coordinate with that industry or that business to make them aware if they

20 are not already and engage with other members of the U.S. Government to mitigate that

21 threat so you don't lose power on the Eastern Seaboard, right?

22 Q And I just want to play out how that might work in practice.

23 So, if, for example, the FBI becomes aware that there is a threat of a hack affecting

24 a power company, the FBI would then make the power company aware of that threat so

25 that that company could take steps to protect itself. Is that fair?

1 A That's fair. I'm not a cyber agent. I'm not engaged in those sorts of
2 conversations, but they -- unfortunately, we do -- we have these sorts of conversations
3 and meetings with companies across all industry routinely, and it's the field that's
4 engaging those conversations.
5 Q So it happens all the time across all different sectors. It's nothing specific
6 to social media companies?
7 A Not only does it happen, but it's the responsible thing to do, and I think the
8 American people would expect for us to be engaging in the space like that.
9 Q Now, turning to the social media companies specifically -- and you've said
10 this a number of times, but I just want to drill down a little bit more -- you share the
11 information with social media companies, but once the information is shared, it's out of
12 your hands? And by "you," I mean the FBI, not you personally. It's out of your hands
13 once the FBI shares the information?
14 A That's correct. I can't remember specifics, but I recall there was an
15 instance where I spoke of selectors and indicators before, right? And, oftentimes,
16 they're provided it, you know, maybe in a tear line, and there could be five, 50, 500, what
17 have you.
18 I remember there was an instance where -- and I don't remember the company.
19 I don't remember who had the meeting. I know I didn't have it. But it was described
20 to me that a host of indicators were provided. And time went on. We worked on a
21 number of different things that we were working on. And then we find out along with,
22 you know, the rest of the world in a post by the provider that they've taken down X
23 number of accounts associated with this particular, you know, foreign actor in, you know,
24 an unattributed space.
25 So we find out with everyone else, right? We are not asking for updates. We

1 are not asking for them to do anything beyond consider this information and see if it
2 potentially is in violation of your terms of service.
3 Q So, ultimately, it's up to the social media companies to assess whatever
4 information is provided and determine whether the account -- whatever the identified
5 information is -- violates their policies, correct?
6 A Absolutely. They know their platforms better than anyone else.
7 Q Okay. You said in the earlier hour that you're familiar with Special Agent
8 Elvis Chan, correct?
9 A Correct.
10 Q And I guess he's not a special agent anymore. He's now --
11 A He's now an ASAC, but regardless -- if you're an agent and you're in
12 management, you always want to be referred to as a special agent.
13 Q Noted. Are you aware that Agent Chan was deposed in the Missouri v.
14 Biden lawsuit?
15 A I'm generally aware of that, yes.
16 Q Okay. I'm going to read a couple statements that he made and ask if you
17 agree with them based on your experience.
18 In his deposition, Agent Chan was asked if the FBI shared specific tactical-level
19 information with social media companies, and he responded that, quote, "The FBI shares
20 information with the social media companies, no strings attached, so that the social
21 media companies can protect their platforms as they deem appropriate."
22 Do you agree with Agent Chan's statement that the tactical information sharing
23 that the FBI does with social media companies is done with no strings attached?
24 A That's my understanding of how that works, yes.
25 Q Okay. And what is your understanding of what "no strings attached"

1 means?

2 A No demands. No pressure. We're not coercing them. That -- with the

3 full recognition that this is your company. This is your platform. You're going to do

4 what you're going to do.

5 Q Okay. And do you agree with Agent Chan's statement that that

6 information is shared for the purposes of allowing the social media companies to, quote,

7 "protect their platforms as they deem appropriate"?

8 A Consistent with their terms of service, yes.

9 Q Okay. Agent Chan further explained in his testimony that, when the FBI

10 provides this tactical information to social media companies, the companies then take the

11 information and, quote, "validate it through their own means, and then, if they determine

12 that these accounts are being operated by Russian state-sponsored actors -- then they

13 have them taken down," end quote.

14 Do you agree with Agent Chan's statement about social media companies

15 validating the tactical information provided by the FBI through their own means?

16 A So I do not have the level of expertise in this space -- you know, in the cyber

17 world, online activity -- as Elvis Chan does. But, yes, that is my understanding.

18 And it's not just Russia, right?

19 Q Understood.

20 A If I remember correctly, there was a considerable amount of -- considerable

21 number of Iranian accounts that were taken down around that time as well based on that

22 same process.

23 But, yes, it is -- we are providing selectors and indicators. The companies take

24 that information. They do what they do because they know their platforms and make a

25 determination themselves as to what they want to do.

1 Q Okay. And I think, in the earlier hour, you were asked does the -- when the
2 FBI receives information from government partners stating that certain threat indicators
3 are, in fact, tied to foreign actors, does the FBI do any assessment?
4 My point is that, in fact, it's up to the social media companies ultimately to make
5 that assessment, correct?
6 A The assessment in terms of whether something is going to come down --
7 Q Right.
8 A -- or if they're going to do something about it?
9 Q Right.
10 A Absolutely. We wouldn't be making an assessment like that in any context.
11 But my understanding of the process is that, when we receive that OGA
12 information, it is with a high-confidence level from OGA that these selectors and
13 associate selectors are connected with a foreign -- malign foreign actor.
14 Q What does "high-confidence level" mean?
15 A High confidence. I'm not an analyst. I don't -- I can't attach a particular
16 percentage to it. I just know that means something within the intelligence community.
17 Q And you're aware that there's medium confidence, low confidence, and high
18 confidence, correct?
19 A Absolutely.
20 Q And high confidence is the highest level of confidence, by its name?
21 A Yes.
22 Q Okay. I want to turn to another subject.
23 You were asked a number of questions in the prior hour about a statement the FBI
24 made about the Hunter Biden laptop being real or the statement -- and then the FBI
25 ultimately determining that it would provide no comment. Do you remember that

1 conversation in the earlier hour?

2 A The questions pertaining to one non-SES employee saying something to that

3 effect and then another? Yes, I remember that.

4 [redacted] I want to introduce as exhibit 3 a FOX News article dated October

5 14th, 2020.

6 [[redacted] Exhibit No. 3

7 was marked for identification.]

8 BY [redacted]:

9 Q And, while you're reviewing, I'll state for the record the title of the article is,

10 quote, "Giuliani's lawyer says he has hard drive with Hunter Biden texts, emails, videos of

11 'compromising positions.'" It's by Hollie McKay and Mike Emanuel, published October

12 14th, 2020, on FOX News.

13 A Okay.

14 Q Okay. And, actually, before I get into this, you made some pains in the

15 prior hour to distinguish between real, as in a thing exists, and, you know, any type of

16 validation about the contents of what might be on that thing. Do you recall that

17 distinction?

18 A I do.

19 Q Okay. And I just want to be abundantly clear for the record.

20 I think what you were trying to say -- and tell me if I'm wrong -- is that it's possible

21 for the FBI to have possession of something -- in this case, a laptop -- but not to

22 necessarily have analyzed or assessed or validated what's inside that laptop?

23 A Yes, but I want to caveat that by saying the FBI -- and it's particularly in a

24 context like this -- is not one monolithic block and one mind, right?

25 Q Okay.

1 A Investigations are conducted in the field for a reason, right? And, in this
2 particular instance, if you have an investigation that is being conducted out of the
3 Baltimore Field Office's AOR -- area of responsibility, right -- there may very well
4 be -- there are going to be -- and appropriately so -- people working that investigation and
5 case agents and analysts that are actually engaged in the day-to-day investigative
6 operations of a case that are going to know more about their case than someone sitting
7 at Headquarters not even program-managing their case, right?
8 So I draw the distinction between this because someone at Headquarters being
9 asked a question, you know, about something like this -- and there is absolutely a
10 difference between saying "I am aware that the physical thing exists" in the sense of it
11 being a laptop vis-à-vis what the contents of that laptop say, suggest, or could be
12 evidence of, right? Big distinction.
13 Q Okay. So, turning to the article that we just introduced, the second
14 paragraph down, I'm just going to read it into the record.
15 It says, "Attorney Robert Costello confirmed the explosive revelations first
16 reported in The New York Post that an Apple MacBook Pro alleged to have belonged to
17 the younger Biden was disassembled, and an external hard drive was turned over to the
18 FBI in December." Do you see where it says that?
19 A I do.
20 Q Okay. So, again, the date of this article is October 14th, 2020, correct?
21 A It is.
22 Q So, as of October 14th, 2020, in fact, Robert Costello, who was the attorney
23 for Rudy Giuliani, had said publicly that the laptop had been given to the FBI, correct?
24 A It looks that way.
25 Q In other words, he confirmed that the thing -- that there is a laptop that

1 existed that had been handed over to the FBI?

2 A That's the way this reads to me, yes.

3 Q Okay. So, in effect, whatever the non-SES-level employee conveyed on a

4 phone call, that was already in the public record, correct?

5 A Which does not change our responsibilities in terms of how we respond to

6 questions about current investigative operations. I've been in that situation before

7 myself.

8 Q You made the point in the earlier hour that the response of "no comment"

9 was consistent with FBI policy and DOJ policy. Do you remember saying that?

10 A Yes.

11 Q Can you explain what policy you were referring to?

12 A Not specificity with respect to the DOJ policy, but I know that it is -- the DOJ

13 policy is what stands as the root or the basis for the FBI having -- or perhaps this is the

14 Justice Manual.

15 But the FBI has its own policies -- right -- specific to engaging with the media and

16 speaking about investigative equities. And, you know, there had been times when

17 certain persons within the Bureau had been on the wrong side of that, and the Bureau

18 has been admonished of that, right? And it is important that we stick to that policy and

19 we remain consistent with it, right? That we don't speak to investigative operations.

20 I've been in that situation -- like I said, I've been in that situation before with the

21 work that I did in the Detroit division.

22 Q Are you familiar with the reasons that FBI -- why FBI does not talk about

23 ongoing matters or ongoing operations?

24 A Yes. So that's not how we engage in business. Secondly, you're in an

25 investigative phase at that point, and you don't know how something is going to turn out.

1 You know, investigations can go left; they can go right, up and down, right?

2 And I know, having experience in the public corruption space, that it can be very

3 damaging if the FBI were to talk about some of its investigative activity outside of an

4 indictment, you know, or testifying at trial -- right -- because, you know, it can be

5 damaging to a campaign or a person, professionally and otherwise, and you are simply

6 not at the right stage to be speaking about investigation while you are carrying it out.

7 Q Is it also the case that speaking about an investigation while it's underway

8 could compromise that investigation? In other words, it could prevent the FBI from

9 obtaining additional evidence, or it could ultimately prevent the DOJ from obtaining an

10 indictment?

11 A Of course. And that's kind of what I'm thinking when I say that's not the

12 way that we conduct business. It runs contrary to us to continue to conduct an

13 investigation.

14 Q Okay. As of October 2020, was the FITF aware of any information with

15 respect to the authentication of the so-called Hunter Biden laptop?

16 A So there are a lot of people in the FITF -- right -- at that time, and I certainly

17 wasn't talking with all of them about that.

18 But I cannot remember -- I'll speak for myself, right? I cannot remember when I

19 became aware of, you know, the authenticity or the fact that the laptop -- right -- existed.

20 Q Sorry. And I want to differentiate.

21 A Yeah.

22 Q When I say "authenticity," I don't mean that the laptop existed. I mean

23 that the contents of the laptop had been verified or assessed in any way.

24 A When did we become --

25 Q So let me put it this way.

1 In October 2020, FITF -- there was generally some awareness that the laptop or
2 hard drive had been handed over to the FBI, correct? But, at that point, the FBI had
3 not -- did not have any information or had not fully assessed the providence of the laptop,
4 whether the emails had been altered in some way --
5 [redacted] Can I confer --
6 [redacted] Sure.
7 [redacted] -- for a second?
8 [Discussion off the record.]
9 [redacted] Ready?
10 [redacted] Back on the record.
11 [redacted] So I can only speak to what I knew or what I remember at the time.
12 There are various different investigative equities across the FBI and the field offices,
13 right? And I can tell you that I was unaware of the contents or what they may or may
14 not have indications of at that time. That's something I wouldn't have been aware of.
15 BY [redacted]:
16 Q So is it fair to say that, as of October 2020, you were not aware of whether
17 the laptop was some kind of a Russian operation or not?
18 A I had no way myself of confirming the authenticity of the contents of the
19 laptop. Moreover, that matter was outside of my purview.
20 Q Are you aware of the pending Superior Court case Murthy v. Missouri? It
21 was Missouri v. Biden. Now, it's Murthy v. Missouri.
22 A Okay. You threw me there. Yes, I am aware of that. Yeah.
23 Q Okay. Are you aware that Mr. Jordan filed an amicus brief in that lawsuit
24 or in that --
25 A Generally, I am aware, yes.

1 Q Okay. I'm going to read you a sentence from that, and I want to get your
2 reaction to it. Actually, I'm going to read a paragraph. It cites the interview of Ms.
3 Democrat low.
4 It says, "According to Dehmlow, on the day the article was published" -- meaning
5 the New York Post article -- "FBI met with Twitter, and a company representative asked if
6 the laptop was real. Dehmlow testified that, in response, quote, 'One of the FBI folks
7 was on the call,' end quote, confirmed that the laptop was real, before, quote, 'another
8 participant jumped in and said no further comment,' end quote."
9 Are you aware of that statement from Ms. Dehmlow when she testified before the
10 committee that the laptop was real?
11 A I'm aware of that statement, yes.
12 Q And are you aware that she later said, when she said the laptop is real, she
13 just meant that the laptop existed and that she wasn't commenting on the contents
14 whatsoever?
15 A That's my understanding, yes.
16 Q Okay. And is it your understanding that the-laptop-was-real comment,
17 when it was made in the conversation with the social media companies, meant just that?
18 That the laptop existed, but it wasn't meant to be a comment on the contents of the
19 laptop whatsoever?
20 A That's my understanding and consistent with -- yes, that's my understanding.
21 Q Okay. So the paragraph from Mr. Jordan's amicus brief continues, "After
22 the meeting, FBI personnel, quote, 'deliberated internally,' end quote, and determined
23 that, even though they knew the laptop was not Russian disinformation, in all further
24 communications with social media companies, the FBI would reply with 'no comment.'"
25 As of October 2020, did the FITF know that the laptop was not Russian

1 disinformation?

2 A So could you read that again?

3 Q Yep. Yep. And I can actually show it to you, if that would be easier.

4 A Sure.

5 Q We're not going to admit it to the record because I only have one copy,

6 but -- just the highlighted paragraph.

7 A Okay.

8 Q Okay. In October 2020, did the FITF know that the laptop -- whether the

9 laptop was Russian disinformation or not?

10 A So I would ask you to clarify your question, that the existence of the laptop

11 in and of itself was or --

12 Q The contents of the laptop.

13 A So that's not my recollection of the situation at the time. I don't remember

14 that.

15 Q Okay. So the FBI, in effect -- maybe there was still an ongoing

16 investigation, but whether the contents of the laptop were authentic, whether they had

17 been manipulated, there had been no determination at that point?

18 A So me, in my position at that time -- I would not have a need to know that

19 information.

20 Q Okay. Would others in the FITF have had a need to know?

21 A That was not an investigation that was managed by -- program-managed by

22 FITF.

23 Q Okay. So, when -- so the implication of this paragraph is that the FBI, in

24 effect, knew that the contents of the laptop were not Russian disinformation and

25 declined to tell social media companies that. That's not an accurate statement, right?

1 A So it's one of the reasons why I upfront wanted to clarify -- right -- talking
2 about the existence of a thing as opposed to the contents of a particular type of thing -- in
3 this instance, the laptop.
4 In some public discourse following all of this, that line has been blurred, in my
5 opinion, and certainly with respect to my understanding of the situation.

1 [1:20 p.m.]

2 BY [redacted]:

3 Q On page 22 of the amicus brief, the chairman writes, "The story," meaning

4 the New York Post story, "was not Russian disinformation, an FBI personnel meeting

5 with -- an FBI personnel meeting with Twitter and Facebook knew at the time that it was

6 not Russian disinformation."

7 That's not a true statement, right? The FBI didn't know either way?

8 A Again, you're talking about contents?

9 Q Uh-huh.

10 A So --

11 Q If FITF did not know, the people who were meeting with the social media

12 companies would not have known either way, correct?

13 A Speaking to my own, what I recollect in my role, it's not something that I

14 knew.

15 Q Okay. And you said others working on the FITF would not have had reason

16 to know either because it was not their investigation?

17 A That investigation was not program managed, if I remember correctly, by the

18 FITF.

19 Q Okay. Just a couple of wrap-up questions. The FITF was established by

20 FBI Director Christopher Wray in 2017, correct?

21 A That's correct.

22 Q Do you know who appointed Mr. Wray FBI Director?

23 A It's my understanding Director Wray was appointed by President Trump.

24 Q In your experience, has the FITF operated in the same manner under both

25 the Trump and Biden administrations?

1 A So, I didn't leave the FITF, right, until May of '21 so I crossed both. I can
2 certainly say that in my time there, we didn't change our practices, our SOPs and that sort
3 of thing. No, the FITF has not clanged the way that it conducts business.
4 Q Had you in your role ever seen or -- sorry. Let me rephrase that.
5 Did you in your role ever see or hear of anyone from the White House in either
6 administration attempting to exert political pressure to influence the work of the FITF?
7 A Can you ask that again?
8 Q Yeah. In your role as assistant -- or assistant section chief --
9 A Yup.
10 Q Sorry. Did you ever see or hear anyone from the White House attempt to
11 pressure the FITF to take any action?
12 A No. That's something that's -- that's not something that I recall, but that's
13 different than perhaps expressing displeasure in some work that the FITF may be engaged
14 in. But that is no pressure to change or take action in a certain way that came down the
15 FITF that I remember.
16 Q Have the decisions that you made as an FBI employee ever been influenced
17 at any time by partisanship, ideology, or political considerations?
18 A No.
19 Q Have you witnessed other FBI employees, particularly during your time FITF
20 appear to make work decisions in a manner motivated by partisanship, ideology, or
21 political considerations?
22 A No.
23 Q What would you have done in your role as assistant section chief of the FITF
24 if you had witnessed such improper conduct by one of the FITF employees?
25 A Address it right away. Root it out. Speak with management. It's not

1 something that can be tolerated in any of the work that the FBI does, to include the work

2 of the FITF.

3 Q Thank you.

4 [redacted] We can go off the record.

5 [Recess.]

1 [1:31 p.m.]

2 BY [redacted]:

3 Q [redacted], to your understanding, when the FBI obtained the laptop

4 attributed to Hunter Biden, were there any efforts made to authenticate it?

5 A I'm sorry.

6 [Discussion off the record.]

7 [redacted] Back on the record.

8 [redacted] We would like to acknowledge that your question is outside of the

9 scope of our understanding of today's interview, which relates to [redacted]'s

10 engagements with social media companies and his time as the assistant section chief of

11 the FITF.

12 This also implicates several ongoing investigations, which have been publicly

13 reported, like the special counsel inquiry, so.

14 [redacted] Why was this objection not raised during minority rounds of

15 questions?

16 [redacted] They did not speak to whether or not the FBI at large had worked to

17 authenticate it. You were expecting Mr. [redacted] to speak to specific knowledge he would

18 have had in terms of when the FBI as an organization potentially authenticated the

19 laptop.

20 If you were to frame your questions in a similar matter to what the minority had

21 done, he would be able to speak to them. I think it was the way in which you phrased it

22 which raised privilege concerns as well as concerns for protecting the integrity of several

23 ongoing matters.

24 [redacted] I'm not sure I understand the distinction between the minority's line of

25 questioning and the question just posed to the witness. We asked questions about

1 [redacted]'s knowledge and the minority asked questions about others within the FBI and
2 the knowledge they had.
3 [redacted] I don't want to relitigate the minority's questions. I would flag for
4 the record that [redacted]s impression of their questions was specific to the FITF and the
5 context of the potential Russian disinformation and what FITF's analytical determination
6 would have been, which is more within the scope of today's interview rather than
7 implicating several public ongoing investigations and knowledge potentially of other FBI
8 operational divisions and other employees beyond the scope of what we're authorize
9 today speak to today.
10 BY [redacted]:
11 Q [redacted], when did you become aware of whether the FBI had
12 authenticated the laptop?
13 A So my understanding is that I'm here to talk about my work with the FITF
14 from November of 2019 to May of 2021. I had no knowledge.
15 Q Okay. In the previous round for the majority, we went over the extent of
16 your knowledge regarding the existence of the laptop and when you became aware that
17 others in the FITF knew about the existence of the laptop.
18 During those conversations with members of the FITF about the existence of the
19 laptop, did you have any discussions regarding whether the laptop had been
20 authenticated?
21 A The contents of the laptop?
22 Q Yes.
23 A I don't know conversations like that, and it also wouldn't have been
24 something that I, in my role, had a need to know at that time.
25 Q So are you able to testify one way or another whether members of the FITF

1 at large had knowledge that the laptop had or had not been authenticated?

2 A So I can say in my time at the FITF I had no knowledge about the authenticity

3 or lack thereof of the contents of the laptop. And I don't recall having conversations

4 with FITF personnel at that time about their understanding of the contents of the laptop.

5 Q Okay. The minority asked you questions about the accuracy of statements

6 made in an amicus brief filed.

7 Based off of your knowledge of what FITF members knew and did not know in the

8 fall of 2020, are you able to assess whether those statements in the amicus brief are

9 accurate or not?

10 A So I'm going to answer the question in the same way. I didn't have a need

11 to know at that time about the contents, authenticity or lack thereof, the contents of the

12 laptop. I didn't know. I'll let other persons associated with the FITF during that

13 timeframe speak for themselves, but it's -- I did not have conversations with folks with

14 the FITF or otherwise for that matter at that time about the contents of the laptop.

15 Q To your understanding, there was a question raised in the Twitter/FITF

16 meeting by someone from Twitter that was answered first by a non-SES analyst and then

17 a non-SES lawyer.

18 From anyone on the call, was there any effort made by the FBI to distinguish

19 between whether the FBI was aware of the existence of the laptop, as to whether the

20 laptop had been authenticated?

21 A I wasn't on the call to the best of my knowledge and I don't know. I don't

22 know.

23 Q To your understanding, was there extended back and forth or was there -- -

24 A Was there what?

25 Q An extended back and forth between Twitter --

1 A I don't know. I don't know that.

2 Q Do you know who Gary Shapley is?

3 A I feel like I've heard the name before perhaps.

4 Q You testified earlier about the two non-SES individuals who spoke during the

5 Twitter/FITF meeting. The committee's asked for names before just so we get

6 everything on the record, going to ask, again we've sent a letter to the FBI to this end.

7 You testified earlier you do recall the identity of the first non-SES employee, the

8 analyst. What is that analyst's name?

9 A I'm not going to --

10 [redacted] The FBI is in receipt of your letter, and after having several

11 prioritization conversations with you, which we appreciated the opportunity to better

12 understand the committee's interest in this matter, we are continuing to work those

13 requests through the accommodations process and seek the appropriate clearances.

14 And we hope to provide you with some of that information in the near term.

15 [redacted] I would -- just so we're on the record, you know, reiterate the request

16 the committee communicated to the FBI most recently in the March 11th letter and other

17 communications we've had.

18 [redacted], you testified you know the identity of the non-SES lawyer who spoke

19 during the Twitter/FITF call. What is that lawyer's name?

20 [redacted] I'm not going to identify that. It's my understanding I can't identify

21 that lawyer.

22 [redacted] Counsel, is it the same objection?

23 [redacted] It's not an objection in as much as we are continuing to seek

24 authorization from the appropriate stakeholders, and we are optimistic that we can

25 address some of your remaining concerns that ar memorialized in your March 11 letter in

1 the near term.

2 [redacted] Thank you.

3 BY [redacted]:

4 Q [redacted], after leaving the FITF, have you had interactions with the FITF as

5 part of any of your subsequent roles with the FBI?

6 A So I guess I need you to clarify that, right? And I would ask for you to

7 clarify it in this way; are you asking me if when I left the FITF and became an ASAC back in

8 Michigan, did I have any work related interactions with personnel from the FITF and who

9 might those people be, vice, have I had coffee with someone, have I bumped into

10 someone, that sort of thing? I need you to be specific.

11 Q The former. As part of your role at the FBI, have you had any work related

12 interactions with members of the FITF since leaving the FITF?

13 A Yes.

14 Q What are those interactions?

15 A I can't speak about the specifics of the investigations, but pertains to nothing

16 that we've talked about here today.

17 Q Have you attended any -- since leaving the FITF, have you attended any the

18 bilateral FITF meetings with social media companies?

19 A No.

20 Q Have you received any briefings from the FITF regarding their

21 communications with social media companies related to foreign interference or

22 elections?

23 A No.

24 Q Turning back to your time during the FITF, did you have interactions with

25 CISA other than the U.S. government industry broader call as we were discussing earlier?

1 A So I can't speak about, you know, the contents or the subject matter, but
2 outside of the context of engagement with social media that we've had questions about,
3 right, the interagency had regular meetings to discuss other matters coming up in the
4 election security or foreign malign influence space, and CISA would have been a regular
5 participant in those meetings.
6 I don't know if you've heard the term IPCs since some of your -- I actually don't
7 know what it stands for, but it's meetings, interagency meetings, on various different
8 topics, and CISA, because of their responsibilities in terms of securing infrastructure,
9 right, election infrastructure specifically, would have been engaged in those meetings.
10 And yeah, I would have been part of the compliment of persons from the FITF that would
11 be involved in these routine interagency meetings. Again, I want to be clear, outside of
12 what we've talked about here today with social media engagement and all of that.
13 Q Outside of the working group meetings and outside of the U.S. government
14 industry meetings with some of the social media companies, do you recall any
15 interactions with CISA during your tenure at the FITF?
16 A I don't.
17 Q Are you familiar with the Global Engagement Center?
18 A I've heard of the Global Engagement Center. I did not have much, if any,
19 engagement with it.
20 Q Okay. Is that true during your tenure at FITF, or just more broadly?
21 A I'm only speaking to my tenure at FITF.
22 Q Since leaving the FITF, have you had interactions with the Global
23 Engagement Center?
24 A No.
25 Q During your tenure at the FITF, did you have interactions with ODNI?

1 A ODNI would be represented in those interagency, those regularly occurring
2 interagency IPC related calls and videoconferences.
3 Q Other than those meetings, did you have interactions with ODNI during your
4 time at the FITF?
5 A Give me a second here.
6 [redacted] Go off the record, please.
7 [Discussion off the record.]
8 [redacted] Back on the record.
9 [redacted] Could you ask that question one more time just so I'm sure?
10 [redacted] Sure.
11 BY [redacted]:
12 Q You mentioned that ODNI would have representatives on meetings with the
13 social media companies. Other than that set of series of meetings, did you have any
14 interactions with ODNI as part of your role at FITF?
15 A Yes.
16 Q And what were some of those interactions?
17 A So the FBI was involved -- not me specifically. I actually never provided a
18 defensive briefing -- but the engagement that we would have with the interagency in
19 terms of should there be a defensive briefing, the authenticity of the intelligence with
20 respect to the briefing, what should be provided, that notification framework process,
21 ODNI is intimately involved in that process. Yes.
22 Q Are you familiar with the defensive briefing that was provided to Senators
23 Grassley and Johnson around August 2020?
24 A I'm familiar in terms of I know what happened. I wasn't there. I didn't do
25 them.

1 Q Were you familiar with it at the time?

2 A Would I have known that it was being done when it was done?

3 Q Yes.

4 A Yes.

5 Q To your understanding, which agency provided the assessment that was

6 given in that defensive briefing?

7 [redacted] Go off the record, please.

8 [Discussion off the record.]

9 [redacted] Back on the record.

10 [redacted] Can you ask the question one more time for me please?

11 BY [redacted]:

12 Q Do you know which agency provided the assessment that led to the

13 defensive briefing to the Senators?

14 A So I don't recall which agency provided that particular information nor do I

15 recall the substance of that particular information either.

16 Q Are you familiar with ODNI's Foreign Malign Influence Center?

17 A I think it was something that was being suggested and/or worked on as

18 I -- like right around the time I was leaving. And I've had no interaction with or occasion

19 to think about it since.

20 Q Did you have any -- did you participate in any discussions about its creation,

21 or were you involved in the process?

22 A No. No.

23 Q In your interactions with CISA in 2020 as it relates to securing elections and

24 concerns about foreign interference, were the representatives of CISA to your

25 understanding from the countering influence task force?

1 A I don't know. And I want to be clear, the Cyber Division, our Cyber Division
2 personnel like I stated earlier, I was a cyber billet assigned full-time to CD, but I don't have
3 a cyber background. The persons that would be engaged with CISA talking Xs and Os in
4 this space are going to be cyber experts.
5 Q Was there a top person in the FITF responsible for cyber related issues, or is
6 it only underneath the unit chiefs as you were describing earlier?
7 A I wouldn't describe it as there being a top cyber person within FITF. We
8 certainly had persons with cyber skill sets there. But our Cyber Division, right, the
9 operational division would have had mostly engagement with CISA at that level on
10 technical cyber matters. I presume what you're getting at is protecting infrastructure
11 and things of that nature. Yes. That's --
12 Q With respect to the defensive briefing from Senators Johnson and Grassley,
13 did you have any conversations with Mr. Benavides about that defensive briefing?
14 A I don't recall anything like that.
15 Q Did you have any conversations with Ms. Floris about the defensive briefing?
16 A No, other than it, you know, was going to take place. I don't remember any
17 specific conversations about it from a substantive standpoint.
18 Q What about after the briefing took place, did you hear how the briefing
19 went?
20 A So I think it was publicly reported, right, that there was displeasure from the
21 members, right? So sit here now and try to figure out where that information got into
22 my head is difficult to do, but I know it was publicly reported around the same time that
23 there was displeasure from the members with respect to that briefing in connection to
24 other things.
25 Q Independent of -- not necessarily independent, but regardless whether you

first became aware from public reporting or otherwise, do you recall conversations with Mr. Benavides or Ms. Floris about the defensive briefing?

A Not specifically, no.

Q Do you know -- you said you don't know who the -- which agency served to nominate the intelligence that led to the defensive briefing?

A I don't recall, no.

Q To your understanding, was it the FBI?

A I don't recall, but -- no, I don't recall.

Q If it was the FBI, would you have known?

A I would think so.

Q During your tenure at the FBI, did you have any role, that is the investigation to the DNC hack in the summer of 2016?

A Did I have any role with respect to that investigation?

Q Yes.

A From an operation or managerial standpoint, no.

Q What about with respect to the Crossfire Hurricane investigation?

A No.

Q Have you ever worked on any investigation involving Hunter Biden.

[redacted] Can we go off the record, please?

[Discussion off the record.]

[redacted] Back on the record.

[redacted] Appreciate your patience. Could you ask that question again?

[redacted] Yeah.

BY [redacted]:

Q Have you ever worked on any investigation involving Hunter Biden?

1 A I have not been engaged in person in any investigative operations pertaining
2 to Hunter Biden.
3 Q Do you know who [redacted] is in respect to the FBI? Last name is
4 [redacted].
5 A I know [redacted]. I may have met him years ago, quite some time ago
6 as a SWAT supervisor, public corruption supervisor, but no level of regular or even casual
7 interaction with him. But I know who he is.
8 Q During your tenure at the FITF, do you recall any work related interactions
9 with him?
10 A I don't, no.
11 Q During your tenure at the FITF, did you have any interactions with Stanford
12 University?
13 A I don't recall if I was engaged in any, myself. But I did know at the time
14 that part of the work that FITF was engaged in was with, you know, academia at some
15 level. I don't recall having meetings with that particular university myself. But I knew
16 that that was going on.
17 Q Do you know who from the FITF was having interactions with academia?
18 A No, not specifically.
19 Q Are you familiar with the Election Integrity Partnership?
20 A I don't know that I am.
21 Q During your tenure at the FITF, did you have any interactions with News
22 Guard?
23 A I don't recall anything like that, no.
24 Q During your tenure at the FITF, did you have any interactions with the Aspen
25 Institute?

1 A I don't know. I don't know. Direct engagement, like personal
2 engagement, I don't think so. I guess I would leave it at that.
3 Q At other roles that you've had in the FBI, have you had interactions with the
4 Aspen Institute?
5 A You know I'm going to speak to the -- my time with the FITF.
6 Q During your time at the FITF, did anyone else at the FITF have interactions
7 with the Aspen Institute to your knowledge?
8 A It's possible, but I don't know.
9 Q During your time at the FITF, did you participate in any hack and leak or hack
10 and dump tabletop exercises?
11 A Did I participate in what?
12 Q Any tabletop exercises related to potential hack and leak, hack and dump
13 operation?
14 A No, not that I remember, no. I was aware of tabletop exercises that were
15 taking place in conjunction with our criminal investigative division. But those sorts of
16 tabletop exercises pertained much more to the type of activity that we see on election
17 day itself, right, that I described earlier, which is very much more in the criminal lane.
18 So I knew that we were working along with the criminal investigative division on
19 tabletop exercises with the field because they're going to be the ones seeing this sort of
20 thing, but again, pertaining to that type of criminal activity associated with elections that
21 you see on election day in the field.
22 [redacted] To clarify are you referring to the Aspen Institute digital working
23 group hack and dump exercise?
24 Because tabletop exercise is term of art for something like the command posting
25 completely separate from a group like the Aspen group holding an exercise like that.

1 [redacted] Yeah. The Aspen Institute, and there's been public reporting as it
2 relates to the exercise the Aspen Institute hosted. But we have received testimony from
3 other witnesses about sometimes it's just internal government, sometimes with external
4 partners conducting tabletop exercises.
5 So just asking at broad level. Doesn't have to be the Aspen one.
6 [redacted] I am not familiar to Aspen being involved but I have been -- I mean,
7 in the FITF I knew of those exercises going on.
8 Any FBI agent over the course of their career is going to be involved in multiple
9 tabletop exercises over various different areas.
10 BY [redacted]:
11 Q Are you familiar with any tabletop exercises in 2020 that members from the
12 FITF participated in that had to do with how to respond to a foreign hack and leak or hack
13 and dump operation?
14 A I don't remember personal involvement in an exercise like that. Is it
15 possible that there could have been participation, sure, but I don't remember any
16 personal involvement in it.
17 Q And you don't recall being aware of whether anyone else from the FITF had
18 participated?
19 A That's 4 years ago, I don't.
20 [redacted] Go off the record, please.
21 [Whereupon, at 2:04 p.m., the interview was concluded.]
22

1 Certificate of Deponent/Interviewee

2

3

4 I have read the foregoing ____ pages, which contain the correct transcript of the

5 answers made by me to the questions therein recorded.

6

7

8

9 _____

10 Witness Name

11

12

13 _____

14 Date

15

Transcribed Interview Transcript Errata Form

Interviewee	[redacted]
Date of Interview	~~5/10~~ 4/24
Date of Review	5/10
Name of Reviewer	[redacted]
Signature of Reviewer	[redacted]

Page	Line	Suggested Correction
84	20	"matter" → "manner"
85	8	"authorize" → "authorized"
87	25	"an" → "are"
95	24	"posting" → "post"

1
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3
4
5 COMMITTEE ON THE JUDICIARY,
6 U.S. HOUSE OF REPRESENTATIVES,
7 WASHINGTON, D.C.
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9
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11
12
13 INTERVIEW OF: [redacted]
14
15
16
17
18 Thursday, April 25, 2024
19
20 Washington, D.C.
21
22
23 The interview in the above matter was held in room 2237, commencing at 10:02
24 a.m.

1 Appearances:

2

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted] SENIOR COMMUNICATIONS ADVISER

8 [redacted] PROFESSIONAL STAFF MEMBER

9 [redacted] DIGITAL ASSISTANT

10 [redacted] DEPUTY CHIEF COUNSEL FOR OVERSIGHT

11 [redacted] MINORITY OVERSIGHT COUNSEL

12 [redacted] MINORITY STAFF ASSISTANT

13 [redacted] MINORITY INTERN

14

15

16 For the SUBCOMMITTEE ON CRIME AND

17 FEDERAL GOVERNMENT SURVEILLANCE:

18

19 [redacted] MINORITY DETAILEE

20

21

22

23

24

25

1 For ALPHABET:

2

3 DANIEL F. DONOVAN, ESQ.

4 KING & SPALDING

5 1700 PENNSYLVANIA AVENUE NW, SUITE 900

6 WASHINGTON, D.C. 20006

7

8

9 For [redacted]:

10

11 MICHAEL D. BOPP, ESQ.

12 GIBSON DUNN

13 1050 CONNECTICUT AVENUE, NW

14 WASHINGTON, D.C. 20036-5306

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[redacted] This is a transcribed interview of [redacted]. Chairman Jordan has requested this interview as part of the committee's investigation of how and the extent to which the executive branch has coerced and colluded with companies and other intermediaries to censor speech.

Would the witness please state your name for the record?

[redacted]. [redacted].

[redacted] On behalf of the committee, I want to thank you for appearing here today to answer our questions. The chairman also appreciates your willingness to appear voluntarily.

My name is [redacted] and I'm with Chairman Jordan's staff.

I will now have everyone else from the committee who is here in the room introduce themselves as well.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] [redacted] Ranking Member Nadler's staff.

[redacted] [redacted] with Ranking Member Nadler.

[redacted] [redacted] with Ranking Member Nadler's staff.

[redacted] Thank you.

I'd like to now go over the ground rules and guidelines that we will follow during today's interview.

Our questioning will proceed in rounds. The majority will ask questions first for one hour and then the minority will have the opportunity to ask questions for an equal period of time if they choose. We will alternate back and forth until there are no more questions and the interview is over.

1 Typically, we take a short break at the end of each hour, but if you would like to
2 take a break apart from that, please just let us know.
3 As you can see, there is an official court reporter taking down everything we say to
4 make a written record, so we ask that you give verbal responses to all questions.
5 Do you understand?
6 [redacted]. Yes.
7 [redacted] So the court reporter can take down a clear record, we will do our best
8 to limit the number of people directing questions at you during any given hour to just
9 those people on the staff whose turn it is.
10 Please try and speak clearly so the court reporter can understand and so the folks
11 down at the end of the table can hear you.
12 It is important that we don't talk over one another or interrupt each other if we
13 can help it, and that goes for everybody present at today's interview.
14 We encourage witnesses who appear before the committee to freely consult with
15 counsel if they so choose. It is my understanding that you are appearing today with
16 counsel. Is that correct?
17 [redacted]. That is correct.
18 [redacted] Could counsel please state your name for the record?
19 Mr. Bopp. Yes. Michael Bopp.
20 Mr. Donovan. Dan Donovan, King & Spaulding, on behalf of Google -- Alphabet.
21 [redacted] Thank you.
22 We want you to answer our questions in the most complete and truthful manner
23 as possible, so we will take our time.
24 If you have any questions, or if you do not understand one of our questions,
25 please let us know.

1 Our questions will cover a wide range of topics, so if you need clarification at any
2 point, just say so.
3 If you honestly don't know the answer to a question or do not remember, it is best
4 not to guess. Please give us your best recollection, and it's okay to tell us if you learned
5 information from someone else. Just indicate how you came to know the information.
6 If there are things you don't know or can't remember, just say so, and please
7 inform us who, to the best of your knowledge, might be able to provide a more complete
8 answer to the question.
9 You should also understand that although this interview is not under oath, that by
10 law you are required to answer questions from Congress truthfully.
11 Do you understand that?
12 [redacted]. Yes, I do.
13 [redacted] This also applies to questions posed by congressional staff in an
14 interview.
15 Do you understand this?
16 [redacted]. Yes, I do.
17 [redacted] Witnesses that knowingly provide false testimony could be subject to
18 criminal prosecution for perjury or for making false statements under 18 U.S.C. Section
19 1001.
20 Do you understand this?
21 [redacted]. Yes, I do.
22 [redacted] Is there any reason you are unable to provide truthful answers to
23 today's questions?
24 [redacted]. No.
25 [redacted] Finally, I'd like to make a note that the content of what we discuss

here today is confidential. We ask that you not speak about what we discuss in this interview to any outside individuals to preserve the integrity of our investigation.

For the same reason, the marked exhibits that we will use today will remain with the court reporter so that they can go in the official transcript, and any copies of those exhibits will be returned to us when we wrap up.

That is the end of my preamble.

Is there anything that my colleagues from the minority would like to add?

[redacted] We would like to thank you for your time and appearing today.

[redacted] The clock now reads 10:06. We will start the first hour of questioning.

EXAMINATION

BY [redacted]

Q Could I have you state your full name again for the record, please?

A [redacted].

Q And what is your current place of employment?

A Flock Safety.

Q And what is your current title?

A Director of government relations.

Q Beginning with college, what is your educational background?

A I attended The Citadel and received a bachelor's degree in business administration.

Q Starting with your first job after college, what is your professional background?

A I'd like to note that before I graduated, I served in the United States Army from 2000 and 2003. Prior to graduating from college, I also served as an unpaid intern

1 in Senator DeMint's office.

2 Once I graduated, I moved to the D.C. area to work for IBM. I worked for IBM for

3 a little less than a year before I started my career in the United States Senate as a military

4 legislative correspondent for Senator Kay Bailey Hutchison.

5 I was in Senator -- on Senator Hutchison's staff for I think just under 2 years, and

6 then I went to Senator Richard Burr's office to serve as military legislative assistant.

7 After, again, roughly 2 years, I returned to Senator Kay Bailey Hutchison's office to

8 be military legislative assistant.

9 And then I went to Senator Richard Shelby's office to be military legislative

10 assistant and then legislative director.

11 My time on the Hill was approximately May of 2007 until, I believe, early

12 January 2014.

13 After I left the Senate, I worked for a company called ATK, which then became

14 Orbital ATK. I was there for approximately 4 years, from I guess it was January to

15 roughly -- January 2014 to roughly February 2018.

16 After that, I went to Twitter to be a public policy manager and was at Twitter for

17 just over 2 years.

18 And then I went to YouTube beginning in late March, early April of 2020 and was

19 at YouTube for just over 3 years.

20 And then I joined my current employer end of April, early May of last year.

21 Q Thank you for your service.

22 You said that you joined Twitter in early 2018. Is that right?

23 A I believe it was around February 2018.

24 Q And how many different positions? You started as the public policy

25 manager. Was that the only title you held while you were at Twitter?

1 A That is correct.

2 Q At a very high level, what were your responsibilities as public policy manager

3 at Twitter?

4 A As public policy manager, it was my responsibility to answer questions from

5 the -- primarily the legislative branch was usually my day-to-day responsibilities.

6 Q During that role did you -- during your time in that role did you play any role

7 in the development or enforcement of Twitter's content moderation policies?

8 A No. To the best of my recollection, the development of those policies were

9 handled by the Trust and Safety team.

10 Q During your time in that role, did you have any interactions with the Trust

11 and Safety team at Twitter?

12 A Yes.

13 Q And at a high level, what were some of those interactions?

14 A It's been some time. But at a high level, if there was questions around

15 policy or content, that would typically be the thing that I would discuss with the Trust and

16 Safety team.

17 Q Did you ever interact with Yoel Roth?

18 A Yes.

19 Q And, again at a high level, what were some of the interactions you had with

20 Mr. Roth as it related to your work?

21 A As I've described, generally, if there is a question about a policy or a specific

22 piece of content, that would usually be what those conversations were around.

23 Q During your time at Twitter, you mentioned primarily the legislative branch.

24 Did you have any interactions with the executive branch during your time at Twitter?

25 A Some, yes.

1 Q Which parts of the executive branch?

2 A It's been some time. To the best of my recollection, I had conversations

3 with CISA, the Cybersecurity and Information (sic) Security Agency, I believe is the

4 acronym. That was the primary agency. It's been some time. But that was the main

5 one, I think.

6 Q And then in the first part of 2020, you moved to YouTube?

7 A In approximately I believe it was late March. Either late March or just very

8 early in April was when I moved to YouTube.

9 Q And which positions did you hold while you were at YouTube?

10 A The only position I held at YouTube was public policy manager.

11 Q And what were your responsibilities in that role?

12 A Similar to Twitter. I would answer questions on policy or content from

13 members of the legislative branch, but also the executive branch and, to a lesser extent,

14 to State governments if there were questions around policies or content.

15 Q What was the name of the team that you were part of at YouTube? Was it

16 the Public Policy team?

17 A It was the Government Affairs and Public Policy team for YouTube.

18 Q And who was the head of the team during your time at the company?

19 A The vice president of the team?

20 Q Yeah. Whoever was in charge for leading the Government Affairs and

21 Public Policy team.

22 A The vice president for the organization was [redacted].

23 Q Who did you report to during your time in that role?

24 A My manager that I reported to was [redacted].

25 Q What was [redacted] title?

1 A I believe her title was director of public policy for the Americas, I believe was
2 her title, but she was a director.
3 Q During your time in this role, how many people directly reported to you?
4 A Zero.
5 Q How big was the Government Affairs and Public Policy team at YouTube
6 during your time there?
7 A It had changed from the time I started until when I left. I can't -- it was a
8 small team. I can't recall a specific number.
9 Q By small team, do you mean fewer than 50?
10 A That's roughly about accurate, yes.
11 Q Which of the teams within YouTube did you interact with most frequently as
12 part of your job?
13 A It's difficult to say whether I worked with one team more than the other. I
14 tried to work across the company if there were any issues with multiple stakeholders, if
15 needed.
16 It's -- probably the best answer would be Trust and Safety, is probably fair to say.
17 Q And what were, and to your understanding, what are the responsibilities of
18 YouTube's Trust and Safety team?
19 A At a high level, enforcing YouTube's community guidelines.
20 Q Did you have a primary point of contact on YouTube's Trust and Safety
21 team?
22 A I can't say that I had a primary point of contact. Again, it was -- the Trust
23 and Safety team was -- I don't know exactly how many people were on the team. But it
24 was diverse and, candidly, it can vary. It varied. I really can't say that I had a single
25 point of contact that I would work with more than others.

1 Q Do you know who led YouTube's Trust and Safety team during the time you
2 were at the company?
3 A During my time at YouTube, the vice president in charge of Trust and Safety
4 was [redacted].
5 Q Not necessarily related to Trust and Safety but just broadly, during your time
6 at YouTube, did you, on a regular basis, interact with other products or other entities
7 within Alphabet or was YouTube kind of self-contained?
8 A YouTube was really my primary focus. And I really, in terms of working to
9 support other Alphabet products, I can't say that that really happened. Again, my
10 primary focus was YouTube.
11 Q To your understanding, are there Trust and Safety teams for other products
12 within Alphabet?
13 A I really can't speak to specifically other Trust and Safety teams at Alphabet.
14 Again, my focus was YouTube, and so I worked with the Trust and Safety team. I would
15 defer to Alphabet for more details on how they handled trust and safety for other
16 products.
17 Q The Government Affairs and Public Policy team that you were a part of, was
18 that just for YouTube, or was that for Google or Alphabet writ large?
19 A Just for YouTube.
20 Mr. Bopp. Make sure you let [redacted] finish his question before you answer.
21 [redacted]. I'm sorry.
22 BY [redacted]
23 Q To your understanding, was there a similar Government Affairs and Public
24 Policy team for other Google products or other parts of Alphabet?
25 A Yes.

1 Q And for any of those teams, did you have any regular interactions during
2 your time with the company?
3 A I don't know that I'd categorize it as regular. I worked with them on, I
4 guess, an as-needed basis might be the best way to describe it. But, again, my primary
5 focus was YouTube and not other Alphabet products or services.
6 Q Are you familiar with Google's Jigsaw?
7 A I'm familiar with the term Jigsaw, but I, candidly, don't know much more
8 about it.
9 Q On occasions where you did interact with one of the other Government
10 Affairs and Public Policy teams, which -- depending on how many other teams there
11 are -- which one did you interact with most frequently?
12 A I would say most frequently was probably the Google Government Affairs
13 and Public Policy team.
14 Q And did you have a primary point of contact with the Google Government
15 Affairs and Public Policy team?
16 A I wouldn't say I had a primary point of contact. Again, I sort of worked as
17 needed with other folks on that team.
18 Q Are you familiar with the terms misinformation, disinformation, and
19 malinformation?
20 A Yes.
21 Q And to your understanding, what are the differences among those three
22 terms?
23 A I think, at a high level, misinformation would be something that would
24 be -- could be viewed as not factually correct.
25 Disinformation, I think, is something generally referred to as content that may not

1 be factually correct, or it could be, but is typically involved in some type of coordinated
2 activity.
3 Malinformation is, frankly, a term I didn't use. I'm familiar with the term, but
4 that's not really a term that I can recall using during my time at YouTube.
5 Q Do you recall anyone from the Federal Government using the term
6 malinformation?
7 A I can't recall. I just can't -- yeah, I can't recall.
8 Q With the understanding that malinformation isn't a term that you used, to
9 your understanding, when others have used it, what is your understanding of what
10 malinformation meant?
11 A To the best of my recollection, I don't even recall really being familiar with
12 that term until shortly before I left the company. So I just -- I can't provide a good
13 definition, again, because that's not something that I used.
14 Q Was there, shortly before you left the company, was there a meeting or
15 something that -- where the term was used that you're recalling?
16 A None that I can recall.
17 Q During your time at YouTube, which parts of the executive branch did you
18 have interactions with?
19 A For the executive branch, the White House, the GEC, the Census Bureau, the
20 CDC. To a lesser extent CISA. Maybe a few others. But those are really the primary
21 ones that I can recall.
22 Q Within YouTube's Public Policy team, were there multiple folks who as part
23 of their portfolio would have interactions with these entities within the executive branch,
24 or were you the primary lead?
25 A I can't speak to if other folks had meetings. I can't really speak to that, if

1 they did have other meetings or discussions.

2 But typically, if there was a question about YouTube from the executive branch,

3 then I usually handled that. But I just -- I can't speak specifically if other folks had

4 conversations.

5 Q When meeting with members of the executive branch, was there anyone on

6 your team that frequently joined you for these meetings?

7 A To the best of my recollection, it varied. I can't say that there was one

8 person more than others. Again, to the best of my recollection, it sort of varied.

9 Q What is your familiarity with YouTube's community guidelines, at least as

10 they stood during your time with the company?

11 A Sure. YouTube's community guidelines were, at a high level, essentially the

12 rules of the road for YouTube. And if content violated those policies, that's something

13 that could result in an enforcement action to include a piece of content being removed.

14 But at a high level, it's the rules of the road for YouTube is generally how I think

15 about it.

16 Q And to your understanding, during your time with the company, did

17 YouTube's community guidelines address content that contained misinformation?

18 A As I recall, there were misinformation policies during my time at YouTube.

19 Q Do you recall if there were changes to the misinformation policies during

20 your time at YouTube?

21 A I believe there were.

22 Q And to the best of your recollection, what were some of the subjects or

23 areas of the misinformation policies that were changed?

24 A To the best of my recollection, there were policies around COVID-19 and

25 policies related to election content.

1 Q And at a high level, what is your understanding of what changes were made
2 with respect to the community guidelines as it related to content regarding COVID-19?
3 A Sure. To the best of my recollection, it was generally if there was content
4 that contradicted guidance from health authorities, that was typically something that
5 would be violative under that policy.
6 Q To your understanding, who at the company was responsible for drafting the
7 community guidelines related to COVID-19?
8 A I can't speak specifically to who actually authored it. Again, it's my
9 understanding that certainly the Trust and Safety team would have been very much
10 involved in the formulation of that policy.
11 Q To your understanding, during your time at the company what changes were
12 made to the community guidelines regarding content regarding elections?
13 A Yes. There was an update to the policies around claims, false claims, once
14 the election was certified that contradicted those results. And that policy, as well as all
15 of YouTube's community guidelines, were something that was publicly available on their
16 community guidelines website.
17 Q Turning back to the COVID-19 policies, certainly during the time you were at
18 the company there were changes to the information available and what health
19 authorities were saying.
20 To your understanding, how frequently would the company revisit the community
21 guidelines as they related to COVID-19?
22 A It's difficult to recall specifically how many times. Again, it's certainly fair to
23 say that there were updates during the course of my tenure at YouTube. I can't recall
24 exactly how many updates there were, but I do recall that there were updates to that
25 policy.

1 Q Any time there was an update to the policy, were you ever made aware of
2 the company's considerations to updating the policy?
3 A I can't speak to being aware of all the considerations that were made.
4 Again, I was certainly aware once the policy was publicly available and on the website. I
5 just can't speak to specifically the factors that went into those specific updates.
6 But it's my understanding that YouTube worked with health authorities around
7 the globe, but I can't speak to specifically the detailed process of how that was crafted.
8 Q What about before the policy is announced? There has to be a drafting
9 phase, some sort of internal deliberations.
10 Was your feedback ever solicited during any of the times they were considering
11 changing any of the community guidelines?
12 A I can't recall instances of my feedback being specifically solicited or
13 requested by the team. I just can't recall that happening.
14 Q To your understanding, was feedback ever solicited from the Public Policy
15 team just writ large?
16 A I can't speak for the broader Public Policy team. It's been some time. I
17 just can't -- I can't recall specific instances.
18 Q Just in a general sense, were you ever made aware before the policy was
19 announced, or is it your recollection that you were finding out basically when the public
20 was finding out?
21 A To the best of my recollection, it may have been shortly before, but by then,
22 it was a final product, essentially, is what I recall.
23 Q To your understanding, who is the final decision-maker who approves any
24 changes to the community guidelines?
25 A I can't speak to their specific approval process. Certainly, the CEO is overall

1 responsible for YouTube.

2 Q To your understanding, would these types of decisions be escalated to the

3 CEO?

4 Mr. Bopp. I'm sorry. When you say these types of decisions, what do you

5 mean?

6 [redacted] Decisions to change YouTube's community guidelines.

7 Mr. Bopp. And you're asking if they would typically be escalated to the CEO?

8 [redacted] Yeah, to his understanding.

9 [redacted]. I can't speak to the specific approval process.

10 BY [redacted]

11 Q What about with the changes to the community guidelines as it relates to

12 elections? Was the Public Policy team looped into those discussions?

13 A I can't recall specific discussions that I may have had before that policy was

14 publicly available. I just can't recall.

15 Q What about generally?

16 A To the best of my recollection, shortly before the policy would be made

17 public, then I would be aware of this is -- this change is going to happen and it's going to

18 be publicly announced, is generally what I recall how that process went.

19 Q Are you familiar with the mechanics of how YouTube actually enforces the

20 community guidelines?

21 A At a high level, it was a combination of machine learning systems, as well as

22 people enforcing YouTube's policies. And by people, the Trust and Safety team would

23 be the primary folks who did that.

24 Q Given the huge volume of videos available on YouTube, did you have a sense

25 during your time with the company of what fraction, what percent of the enforcement

1 actions were handled by machine learning, as opposed to an individual on the Trust and
2 Safety team?
3 A To the best that I can recall -- and I think this is something that was on -- is
4 on YouTube's transparency reports -- to the best of my recollection, they provide some
5 metrics.
6 It's been a while, frankly, since I've looked at that. I can't respond to specifics.
7 But, broadly, it was my understanding it was overwhelming enforcement using machine
8 learning systems.
9 Q To your understanding, when a video, an account is subject to enforcement
10 under one of the community guidelines, are there opportunities for the individual
11 associated with the account to appeal or otherwise challenge the decision?
12 A Yes.
13 Q And at a high level, what's your understanding of what that process looks
14 like?
15 A At a high level, if content was removed, then that channel owner would be
16 notified via an email. And I can't recall the specific language, but it was something to
17 the effect of, "If you believe there has been a mistake, please click here, and you can
18 appeal the process."
19 And from what I can recall about YouTube's transparency reports, those specific
20 metrics of how often an appeal is received, as well as if a decision is overturned, that
21 information is on -- was on the YouTube transparency reports during my time at the
22 company.
23 Q To your understanding, was it the Trust and Safety team that would handle
24 appeals, or is it a separate team within YouTube?
25 A It's my understanding it was the Trust and Safety team.

1 Q Are you familiar with the term borderline content?
2 A Yes.
3 Q And as it relates to your work at YouTube, what does that term mean?
4 A At a high level, YouTube described borderline content as content that comes
5 close to but doesn't cross the line of violating YouTube's community guidelines.
6 Q Was this a term of art, or was there some sort of formal tag or something
7 within the company of what constituted borderline content?
8 A From what I can recall of my time at YouTube, it was a term used to describe
9 content, again, that came close to but doesn't cross the line of violating policies.
10 And from what I can recall during my time at YouTube, in terms of, I guess, how
11 that would be identified, YouTube had, at least during my time there, a forum where they
12 would seek basically external feedback in terms of helping identify content that could be
13 considered borderline content.
14 And it's my understanding that that was sort of an ongoing process.
15 Q Can you say a bit more about kind of each step of that process to your
16 understanding?
17 First, how is YouTube made aware of what content might fall into or might be
18 considered borderline content?
19 A From what I can recall during my time at YouTube, it was a lot of -- it was
20 feedback really that was a primary source of information in terms of helping YouTube
21 identify borderline content. That's really what I can recall.
22 I think YouTube had also published a few blog posts on the issue of borderline
23 content as well. It's been some time since I've specifically reviewed those, but those
24 blog posts have more information in terms of how YouTube considered borderline
25 content.

1 Q Feedback from whom?

2 A I can't speak to specific individuals because I was not part of that process.

3 But, again, at a high level, it was seeking external feedback.

4 I can't speak to specific individuals who would have participated in that process.

5 As a member of the Government Affairs and Public Policy team, I wasn't involved in the

6 details of that.

7 Q To your understanding, was there ever feedback provided by members of

8 the executive branch?

9 A As part of identifying borderline content?

10 Q Yes.

11 A Not that I'm aware of.

12 Q To your understanding, what types of groups or individuals would be

13 providing -- when you say there was feedback sought from external, from outside the

14 company, to your understanding, who was that, at a high level?

15 A As I mentioned, I wasn't part of that specific process, and so it's -- I'm just

16 not in a position to point to specific individuals or organizations. I would defer to

17 YouTube on that matter.

18 Q Once borderline content has been identified, walk me through your

19 understanding of the next step. There were discussions within the company that takes

20 place as to assess specific videos or to revisit the guidelines? What is being assessed?

21 A Again, in terms of the real details of how that worked, my primary

22 responsibilities were to engage with external stakeholders, and I just wasn't a part of that

23 detailed process. I would defer to YouTube Trust and Safety for more information on

24 that.

25 Q Did you ever get any questions from external stakeholders about this

1 process?

2 A Yes, I can -- yes. There were questions about how YouTube handles

3 borderline content.

4 Q Did you ever receive a briefing from the YouTube Trust and Safety team to

5 better understand of how this process worked?

6 A It's been some time. I mean, I had conversations related to the blog posts

7 and sort of at a high level of, again, what borderline content was.

8 In terms of the specifics, it's just been some time. I can't recall beyond, again,

9 sort of the high-level using external feedback from the forum that I mentioned.

10 Q To your understanding, does YouTube take any enforcement actions against

11 borderline content?

12 A I'm not sure what you mean by enforcement actions.

13 Q So if content violates community guidelines there are enforcement

14 measures that are available to YouTube that YouTube has an interest in carrying out? Is

15 that right?

16 A If content violates YouTube community guidelines, then, again, it could be

17 subject to removal.

18 Q For borderline content, are there any enforcement measures that borderline

19 content could be subject to?

20 A If content didn't violate YouTube's community guidelines, then it wasn't

21 removed.

22 Q Was it ever demoted?

23 A At a high level, YouTube -- this is something that YouTube described a lot

24 during my time in terms of -- they referred to it as the four R's of responsibility.

25 To the best of my recollection, it was remove content that violates YouTube

1 community guidelines; raise authoritative sources of authoritative information; reduce
2 visibility on borderline content; and then, finally, reward trusted creators. And that's
3 something that YouTube during my time spoke fairly extensively about publicly.
4 Q What does it mean to reduce visibility?
5 A I can't recall specifically in terms of specific definitions that were utilized.
6 To the best of my recollection, it was -- again, please forgive me. It's been some time.
7 But regarding recommendations, for example, of content, I think would generally fall in
8 that category.
9 Q And by recommendations, what does that mean in the context of YouTube?
10 A What are recommendations on YouTube? Is that your question?
11 Q Yes.
12 A Well, from what I recall, if you've seen a video on YouTube, there can be an
13 option to have content that can be recommended. And that's generally -- it was
14 generally content that would be related to a video that you had just viewed. At a high
15 level is how that worked.
16 Q What about search results the first time that you're searching YouTube, type
17 in, looking for a video? Would reduced visibility affect how search results appeared?
18 A It's my understanding that it may.
19 Q To your understanding, by what degree was visibility reduced for borderline
20 content?
21 A I'm sorry. Can you ask your question again, please?
22 Q Sure. Was there a metric or measurement? How did YouTube measure
23 by what degree visibility was reduced?
24 A To the best of my recollection, it was around recommendation of content.
25 I think it was -- again, it's been some time.

1 To the best of my recollection, it was seeking to reduce recommendations and
2 have recommendations below, I think, if I recall correctly, it was 0.5 percent of
3 nonsubscribed content, I believe was the term that was utilized in terms of
4 recommendations related to borderline content.
5 Q And what is, in this context -- first off, what does nonsubscribed content
6 mean?
7 A To the best of my recollection, it's what it says. It's if you're not subscribed
8 to a channel is typically how that would work.
9 Q And then the metric of 0.5 percent of nonsubscribed content, what does
10 that mean in this content of reducing visibility?
11 A Again, to the best of my recollection, it was, again, about seeking to not
12 recommend a content, seeking to use that 0.5 percent metric that I had previously
13 mentioned. I believe that's the correct metric that was utilized.
14 YouTube has published blog posts about that that have more information -- again,
15 it's been some time -- and I think they speak to that. I don't want to speculate further.
16 Again, it's been some time. So I would defer to YouTube's blog posts on that.
17 Q If it's limited to the 0.5, for the other 99.5 percent of the content that's being
18 recommended, if that's an accurate way of framing the question, is that only for
19 subscribed content, or is that both subscribed content and content that does not fall in
20 this borderline content category?
21 A To the best of my recollection, I think the 0.5 was really a goal. And to the
22 best of my recollection, it was on nonsubscribed channels. I can't recall other specific
23 metrics.
24 Q Okay. And just for -- 0.5 percent was nonsubscribed channels regarding
25 videos of the borderline content topic. Is that fair?

1 A To the best of my recollection, that's correct.
2 Q To your understanding, which subject areas or which topics were discussed
3 during your time with the company of potential categories of borderline content?
4 A I can't recall specific categories. To the best of my recollection, it was more
5 high level. If there's something specific that you might be referring to that could help
6 refresh my memory, I'm happy to try and answer.
7 Q Sure. So YouTube's community guidelines touch upon a huge number of
8 areas. We've talked about elections and COVID-19, but it's much broader than that. Is
9 that fair? Is that your understanding?
10 A That's fair.
11 Q Is borderline content, is that a term that relates to every potential section of
12 the community guidelines, or, to your understanding, did it apply to more just certain
13 categories within the YouTube community guidelines?
14 A It's my understanding it applied to everything.
15 Q Do you recall any discussions of what constitutes borderline content with
16 respect to the community guidelines regarding elections?
17 A In terms of specific examples? It's been some time. I can't recall.
18 Q Not necessarily specific examples, but just an issue that falls within the
19 election community guidelines section that was the type of issue where there were
20 discussions of whether it constituted borderline content.
21 A It's been some time. I can't recall.
22 Q Who at the company would be best able to answer that question?
23 A I haven't been at YouTube for more than a year. I know there's been some
24 turnover. I would defer to YouTube in terms of who would be the best person to
25 answer that question.

1 Q During your time at the company, if an external stakeholder came to you
2 with that question, who would you reach out to for better information?
3 A At the time I was at YouTube, I believe that individual was [redacted], I
4 believe is how you pronounce his last name.
5 Q What was [redacted] role?
6 A I can't recall his specific title, but, generally, he was someone that was very
7 familiar with that process during my time at YouTube.
8 Q Was he with the Trust and Safety team?
9 A I can't recall what specific team he was with. I would defer to YouTube for
10 his title and organization.
11 Q How frequently did you interact with [redacted] during your time at the
12 company?
13 A I would say not frequently. It's difficult to quantify, but I would say not
14 frequently.
15 Q In the context of COVID-19, do you remember what, at a high level, sorts of
16 issues fell within the scope of borderline content?
17 A Again, at a high level, borderline content is, again, something that would
18 come close to but doesn't quite cross the lines of violating policies. I can't think of
19 specific examples off the top of my head in terms of what would fall into that related to
20 COVID.
21 Q Do you know who [redacted] is? If I'm saying the last name correctly.
22 A Yes.
23 Q What was [redacted] role at the company?
24 A I can't recall her specific title, but she was on the Google Government Affairs
25 and Public Policy team.

1 Q Do you know who [redacted] is?

2 A Yes.

3 Q And what was his role at the company, to your understanding?

4 A To the best of my recollection, I can't recall his specific title, but it was my

5 understanding he was also on the Government Affairs and Public Policy team. But I

6 can't recall his specific portfolio or title.

7 Q Do you know who [redacted] is?

8 A Yes.

9 Q And what was his role at the company?

10 A I can't recall his specific title or his responsibilities, but I believe he was also

11 on the Public Policy team, but I can't recall what his specific title was.

12 Q The YouTube one or one of the other ones?

13 A I believe he was on the YouTube team.

14 Q How frequently did you interact with [redacted] during your time at the company?

15 A It's difficult to specifically quantify how often. Again, I'd say sort of on an

16 as-needed basis.

17 Q Of the different executive branch entities you interacted with, you

18 mentioned CISA and said it was a little bit less frequently than some of the other

19 executive branch agencies. Is that right?

20 A That's correct.

21 Q When you did interact with CISA as part of your role at YouTube, at a high

22 level, what was the purpose of those interactions?

23 A At a high level, I spoke with them on a handful of occasions related to an

24 information panel around the 2020 election. I can't recall the specific language in the

25 information panel, but it was something that was applied to all election-related content,

1 or certainly a wide variety, not just specific pieces of content.

2 And it provided a link. The information panel provided a link to CISA's website.

3 I can't recall the specifics. It was something along the lines of a rumor control website

4 to answer questions or provide information around the election process was generally my

5 recollection of that.

6 Q During your time at the company, did you participate in any standing

7 meetings with CISA?

8 A I can't recall having standing or regular meetings with CISA.

9 Q During your time with the company, did you have any interactions with the

10 FBI?

11 A I can't recall speaking with the FBI during my time at YouTube.

12 Q You mentioned the Global Engagement Center. During your time at the

13 company, what was the nature of your interactions with the GEC?

14 A Yes, it was -- we would speak, and their team would provide information on

15 and their thoughts on global disinformation, was generally the nature of the discussions.

16 Q Who from the GEC participated in these meetings?

17 A I can't recall specifically who from the GEC, but to the best of my

18 recollection, the primary point of contact was -- I believe his name was [redacted].

19 But I can't recall the other names of folks at the GEC.

20 Q During these interactions with the GEC, were you joined by anyone from the

21 company?

22 A Typically, yes, to the best of my recollection.

23 Q Who else would join from the company?

24 A I can recall [redacted] also joining and -- he's the main person I

25 remember. I can't recall other YouTube staff. I can't recall their names.

1 Q In your interactions with the White House as part of your role at the
2 company, who else in the company would most frequently join you for those
3 interactions?
4 A To the best of my recollection, [redacted]. I can't think of others
5 who -- typically [redacted]
6 Q And who was your primary point of contact in the White House?
7 A I don't know that I'd say a primary point of contact, but the, I guess, primary
8 individual, to the best of my recollection, was Rob Flaherty.
9 Q To your understanding, what was Mr. Flaherty's role within the White
10 House?
11 A To the best of my recollection, he was the digital director. I can't speak to
12 all of his roles and responsibility, but that was my understanding of his title.
13 Q Do you know who Andy Slavitt is?
14 A Yes.
15 Q To your understanding -- actually, let me take one step back.
16 Did you ever interact with Mr. Slavitt as part of your role at YouTube?
17 A I can recall Mr. Slavitt being on emails. I can't recall ever receiving an email
18 or speaking directly with Mr. Slavitt.
19 Q To your understanding, what was Mr. Slavitt's role within the White House?
20 A I can't recall his specific title, but it was something along the lines of COVID
21 coordinator, COVID task force coordinator, or something along those lines.
22 Q Besides Mr. Flaherty, do you recall who else you spoke to in the White
23 House as part of your role at YouTube?
24 A Aside from Mr. Flaherty, I can't recall speaking with other folks. I do recall
25 he would -- if an email was sent, other folks would be cc'd. But I can't recall having

1 other direct conversations with other folks. He's the main person that I can recall.
2 Q And when you were communicating with Mr. Flaherty, was it only over
3 email, or were there meetings or phone calls as well?
4 A I can't recall specific -- I can't recall phone calls, but Zoom meetings and
5 emails.
6 Q Do you recall if Mr. Flaherty was joined by any other White House staff
7 during the Zoom meetings?
8 A I can't recall specific -- other specific staff attending. They may have. I
9 recall speaking with Mr. Flaherty, and if other folks were present, I can't recall them
10 speaking during our discussions.
11 Q Do you recall when you first had interactions with Mr. Flaherty?
12 A To the best of my recollection, it was approximately 3 years ago, in the
13 April 2021 timeframe.
14 Q To your understanding, what occasion, what spurred the initial -- how did
15 you and Mr. Flaherty first get connected?
16 A I can't recall how specifically we got connected, but I do recall receiving an
17 email from him. I can't recall how specifically we got linked up. But I recall receiving
18 emails from him, again, in the April 2021 timeframe.
19 Q To your understanding, had Mr. Flaherty been having conversations with
20 others within the company prior to you and him being introduced the first time around in
21 April of 2021?
22 A To be clear, by the company, do you mean YouTube?
23 Q Alphabet, Google writ large.
24 A I can't speak to other conversations that folks may have had. I can just
25 speak to my conversations. And, again, to the best of my recollection, those began in

1 April of 2021.

2 Q To your understanding, was [redacted] having any meetings with

3 Mr. Flaherty prior to April 2021?

4 A I can't speak to her schedule or previous conversations that she may have

5 had that I wasn't a part of. Again, to the best of my recollection, my conversations

6 began with Mr. Flaherty approximately April of 2021.

7 Q I'm just trying to get a sense of -- so in April of 2021, you're connected with

8 Mr. Flaherty. Is there anyone within YouTube or within Google more broadly that has

9 had interactions with Mr. Flaherty that can give you some context, or is this an

10 out-of-the-blue sort of connection that was made?

11 A This was approximately 3 years ago. I just can't recall how I was introduced

12 to him.

13 Q What topics -- or why was Mr. Flaherty -- let me take one step back.

14 To your recollection, did he reach out to you, or did you try to get in contact with

15 Mr. Flaherty?

16 A To the best of my recollection, he reached out to me.

1 [1:03 p.m.]

2 BY [redacted]

3 Q And to your recollection, what was the purpose of his outreach?

4 A From what I can recall, during his initial outreach it was conversations

5 related to COVID-19.

6 Q What about COVID-19?

7 A From what I can recall, Mr. Flaherty was interested in YouTube's community

8 guidelines related to COVID-19 and how those could be enforced. Again, it was broadly

9 COVID-19.

10 Q When was your last interaction with Mr. Flaherty during your time with the

11 company?

12 A I can't recall a specific date of when the last interaction was.

13 Q Do you recall any interactions during 2023 before you left?

14 A I can't recall any interactions during 2023 before I left.

15 Q How frequently did you interact with Mr. Flaherty following when you first

16 connected around April 2021?

17 A It's difficult to provide a specific number. I don't want to speculate. I

18 just -- I can't recall specifically how many times. It's been a little while.

19 Q Did you have interactions with Mr. Flaherty on, like, a regular cadence? Or

20 would it just come and go, depending on issues as they arose?

21 A I'd say it was difficult to say. I wouldn't describe it as a regular cadence. I

22 think just sort of occasionally. It's difficult for me, again, to specifically quantify how

23 many emails or conversations. It's been some time.

24 Q Would [redacted] join you for most communications with Mr. Flaherty?

25 A By communication, do you mean emails?

1 Q Emails, meetings, any sort of -- I can rephrase it.

2 A Yeah.

3 Q For the Zoom meetings you mentioned, would [redacted] join most of

4 those meetings?

5 A I can't recall if she was specifically present. To the best of my recollection, I

6 would make her aware. But I can't recall if she specifically attended.

7 Q Do you recall anyone else from the Google Government Affairs and Public

8 Policy team that attended meetings with the White House?

9 A From the Government Affairs and Public Policy team? It's been some time.

10 I can't recall specifically who else may have attended from that team.

11 Q What about from YouTube's Government Affairs and Public Policy team, was

12 there anyone else from your team that joined in any meetings with the White House?

13 A Again, I didn't manage the team, so I didn't have a specific team that I

14 oversaw. I believe one other -- [redacted], I believe, may have attended. I can't

15 recall other specific names from the Public Policy team.

16 Q And what is [redacted] title -- or what was [redacted] title during

17 your time with the company?

18 A I can't recall her specific title.

19 Q Was she above you in the team? Was she also a manager?

20 A I can't recall her specific title. We were peers. But I can't recall her

21 specific title.

22 [redacted] Can we go off the record, please?

23 [Recess.]

24 [redacted] We can go back on the record.

25 EXAMINATION

1 BY [redacted]

2 Q Good morning, [redacted].

3 I just have a couple of questions for you. I want to ask you a couple of follow-up

4 questions about your biographical background.

5 You mentioned that you worked for a number of Senators while you were here on

6 the Hill.

7 I just want to make a note for the record that all of the United States Senators you

8 mentioned were members of the Republican Party, correct?

9 A That is correct.

10 Q Okay. And I also want to thank you for your service in the United States

11 military.

12 So about your role as a public policy manager when you were in YouTube, you

13 never had a role in making content moderation policy. Is that correct?

14 A That's correct. Those decisions were made by the Trust and Safety team.

15 Q Okay. And you were asked a number of questions earlier in the first hour

16 kind of about specifics on how the guidelines were changed. That would be also a

17 matter for the Public Safety team, right?

18 A It's my understanding the Trust and Safety team --

19 Q Trust and Safety team.

20 A -- generally did those, yes.

21 Q So then it wouldn't be your role to make any kind of changes to the

22 guidelines. Is that correct?

23 A That's correct.

24 Q Okay. And you were also asked a number of questions about what it

25 means to be borderline content and how those decisions were made on what's borderline

1 and what isn't.

2 That wouldn't be your role. Is that correct?

3 A That's correct.

4 Q And it also wouldn't be your role to decide how YouTube actually took an

5 action against a piece of content, whether it's for removal, for enforcement of the

6 guidelines, or whether it's to take some other action because it's borderline content,

7 correct?

8 A That's correct. Again, the Trust and Safety team was responsible for

9 YouTube's community guideline enforcement.

10 Q Thank you. I just wanted to make sure that was clear for the record.

11 And also we just talked about how you're not a member of the Trust and Safety

12 team, or you were not when you were at YouTube, but you don't have any kind of

13 technical background that would give you an understanding of how the algorithms

14 actually work. Is that correct?

15 A I did not have any training in machine learning or anything like that.

16 Q And it wasn't your role at YouTube to actually understand how those

17 technical processes worked or to explain how those technical processes worked, correct?

18 A I'm sorry. Can you ask your question again, please?

19 Q It wasn't part of your role to really understand how any of the technical

20 processes worked in terms of the algorithms or the machine learning, so to speak,

21 correct?

22 A In terms of the specifics of that, that was outside of my field of expertise.

23 [redacted] So, for example, when you were asked about how enforcement or

24 how identification of violative content occurs, and I believe you answered that your

25 understanding at a high level was it's a combination of machine learning and human

1 action, you don't have an understanding of specifically how that machine learning works
2 to identify content.
3 [redacted]. Broadly speaking, I was not familiar with the real technical aspects of
4 it, but a high level generally familiar, again, that YouTube utilized both machine learning
5 and people to enforce their policies.
6 [redacted] Thank you.
7 [redacted] Thank you.
8 And on a broad level, was it your job to make sure there's effective
9 communication between YouTube and leaders in the government and other external
10 stakeholders?
11 [redacted]. At a high level, that's accurate.
12 [redacted] Thank you.
13 [redacted] How would you describe your responsibilities as a manager, your
14 former responsibilities as a public policy manager at YouTube?
15 [redacted]. Typically my responsibilities were to answer questions about
16 YouTube's policies and community guidelines to folks in the executive branch, the
17 legislative branch, and, as I stated, to sort of a lesser extent at State government levels if
18 there were questions around YouTube policies.
19 BY [redacted]
20 Q And if there was a specific question that dealt with something in the realm of
21 Trust and Safety, you would be the person to kind of liaise between those departments
22 and the Federal official who had a question, for example. Is that fair?
23 A I'm not sure specifically what you mean by that. At a, again, at a broad
24 level, if there were questions, it was my responsibility to try to get answers to those
25 questions as quickly as possible.

1 Q That's fair. Thank you.

2 I'd like to -- you've testified before Congress before, correct?

3 A That is correct.

4 Q On what occasion did you testify?

5 A I testified when I was at YouTube to -- I can't recall the specific name of the

6 hearing, but it was an inter-parliamentary panel discussing anti-Semitism.

7 Q Okay.

8 A And then I had testified previously when I was at Twitter, as well.

9 [redacted] Okay. Thank you.

10 I'd like to introduce one exhibit from -- it's your written statement from the

11 Inter-Parliamentary Task Force. This will be exhibit 1.

12 [[redacted] Exhibit No. 1

13 was marked for identification.]

14 [redacted] Are you familiar with this document?

15 [redacted]. Yes.

16 [redacted] Is this -- sorry. I'll give you a minute to familiarize yourself.

17 [redacted]. Oh, yes.

18 Mr. Bopp. And you can let us know if there's something in particular you want

19 us to focus on or we can do the whole thing.

20 [redacted] Yes, there is.

21 BY [redacted]

22 Q So I would like to -- and just for foundation, did you write this?

23 I'm sorry. Let me rephrase.

24 If you flip to the last page, is that your signature under "[redacted]"?

25 A Yes, that is my signature.

1 Q And this is your testimony, for the record, before the task force, correct?

2 A That is correct.

3 Q Okay. I'd like to direct your attention to the second paragraph of the first

4 page where it's -- and it's the third line down, where it starts with "Failure to

5 consistently." And I'm just going to read it for the record.

6 "Failure to consistently take sufficient action to address harmful content not only

7 threatens the safety of our users and creators, it also threatens the safety of our

8 advertising partners' brands.

9 "We invest in the people and systems necessary to keep our community safe and

10 allow creativity to thrive by removing content that violates our policies or local laws

11 where we operate; connecting people to authoritative voices when they look for news

12 and information; and rewarding trusted, eligible creators and artists."

13 Did I read that correctly?

14 A Yes.

15 Q Thank you.

16 So it would be fair to summarize your testimony as follows: Harmful content on

17 the platform is bad for business. Correct?

18 Mr. Bopp. Do you want --

19 [redacted]. That's --

20 Mr. Bopp. Before we -- do you want to read more of this or are you familiar with

21 it enough to answer questions?

22 [redacted]. I'm familiar enough to answer the question.

23 I'm sorry. Can you rephrase your question --

24 [redacted] Sure.

25 [redacted]. -- or restate your question, please?

1 [redacted] Sure. I'm just asking, based on reading that specific passage, it'd
2 be fair to summarize that passage as: Harmful content on the platform is bad for
3 business. Is that fair to say?
4 [redacted]. Generally, that's fair.
5 [redacted] Okay. And I know the letter and purpose of this testimony was
6 directed to hate speech. But would you agree with me that misinformation can also be
7 a form of harmful content? For example, videos that promote untruths about the
8 effectiveness or safety of vaccines, that would harm the public, for example, right?
9 [redacted]. To the best of my recollection, again, YouTube had a number of
10 policies related to COVID that it sought to enforce impartially and consistently, regardless
11 of the speaker. And that's something in my time at YouTube that YouTube was fairly
12 effective at.
13 [redacted] Okay. I think we'll go off the record. I think that's all we have
14 for now.
15 [Discussion off the record.]
16 [redacted] We can go back on the record, please.
17 At the end of our first hour, we were starting to talk about your interactions with
18 the White House starting in --
19 Mr. Bopp. [redacted] I'm sorry. Just I meant, at the end of your last round, I meant
20 to say one thing. Could I please just quickly get it?
21 [redacted] Yeah, please.
22 Mr. Bopp. I just want to make clear, I believe you asked a question in the last
23 round to the effect whether [redacted] was aware of any requests from the executive
24 branch to YouTube to moderate content, something along those lines. I don't think we
25 need to go back to the beginning of the transcript.

1 I just want to make clear with [redacted] or actually ask him a clarifying question,
2 and that would be, in preparing for this interview, did you become aware of emails that
3 might be viewed as the executive branch reaching out to YouTube regarding particular
4 content?
5 [redacted]. Yes, I believe there may have been specific content in emails.
6 Mr. Bopp. Okay. So you, through preparing for this interview, you became
7 aware of certain emails where the executive branch may have been reaching out to you
8 and others at YouTube inquiring about specific content, correct?
9 [redacted]. That's fair.
10 Mr. Bopp. Okay. Okay.
11 [redacted] Thank you.
12 I'd like to start with this hour introducing exhibit No. 2.
13 [[redacted] Exhibit No. 2
14 was marked for identification.]
15 [redacted] This will be an email from April 2021 from Mr. Flaherty to individuals
16 at the company. This will be exhibit 2.
17 Mr. Bopp. Are you ready?
18 [redacted]. Yes.
19 Mr. Bopp. Okay.
20 [redacted] If I could call your attention on the back page, which is Bates number
21 64122, there's an email from Mr. Flaherty with the time stamp of 3:01. He starts off as
22 saying he met with folks from Google about misinformation and COVID-19.
23 To your recollection, do you know who from Google he had -- he or others from
24 the White House had met with regarding misinformation and COVID-19?
25 [redacted] [redacted]. I'm not sure.

1 [redacted] The paragraph continues, and at the end he talks about -- asks about
2 the work that the company's doing to crack down on vaccine misinformation.
3 To your understanding, what did he mean by crack down on vaccine
4 misinformation?
5 [redacted]. Something --
6 Mr. Bopp. Just to be clear, are you asking for [redacted] understanding of what
7 Mr. Flaherty meant by cracking down on vaccine misinformation?
8 [redacted] That's right.
9 Mr. Bopp. Okay.
10 [redacted]. I can't recall any specific thoughts I had on the term crack down on
11 vaccine misinformation. I think my attention would have generally gone to what
12 Mr. Flaherty was primarily interested in. I can't recall any thoughts on what he
13 specifically meant on crack down on vaccine misinformation.
14 BY [redacted]
15 Q If I could call your attention to the third bullet point, he talks about what
16 interventions you might currently be trying.
17 What did you understand Mr. Flaherty to mean by that?
18 A I can't recall specifically what I may have thought on that term. I think,
19 broadly speaking, if I had received a request I wasn't sure of I would just try to get a broad
20 variety of information related to the topic.
21 Q If you flip the page over, there are some folks with Google email addresses.
22 First, who is [redacted]?
23 A I do know [redacted]. I can't recall his specific title.
24 Q Do you understand which team was he with?
25 A I can't recall what specific team he was with.

1 Q Was he with the YouTube Public Policy team?

2 A Again, I can't recall specifically what team he was with, but I do recall he was

3 a colleague at broader Alphabet. But I just -- I can't recall specifically what team he was

4 on.

5 Q At the top of the email chain, there's an email from [redacted] date

6 stamped at 1:08 p.m. She mentions she's referring to earlier communications with

7 Mr. Flaherty and that Mr. Flaherty's questions were very YT, or YouTube, focused.

8 Do you recall receiving any readouts, communications, briefings from

9 [redacted] or anyone from the Google Government Affairs and Public Policy team

10 regarding Mr. Flaherty's questions about YouTube?

11 A I don't recall that specific conversation taking place.

12 Q What about generally?

13 A I -- again, this is from 2021 -- I just can't recall having a conversation. It

14 very well may have occurred. I just -- I simply can't recall what was discussed.

15 Q Okay. Do you recall, before meeting with the member of the White House

16 and being connected on this email chain, whether you were aware that the White House

17 was asking questions about YouTube? Or is this the first time you were hearing about

18 it?

19 Mr. Bopp. I want to make sure I understand your question. You're saying, in

20 April of 2021 was this the first time [redacted] was hearing about the content of this email or

21 was he already aware of White House concerns? Is that right?

22 BY [redacted]

23 Q Yeah, prior to April 12th, 2021, were you aware that the White House was

24 asking questions about YouTube?

25 A I can't recall the specific timeframe. But certainly April 2021, that

1 timeframe stands out as receiving questions from the White House on YouTube's
2 COVID-19 practices. I can't recall conversations prior to that timeframe.
3 Q Do you recall being surprised that the White House had questions about
4 YouTube's policies?
5 A I can't recall feeling one way or the other on the White House's interest.
6 Q Independent of this, what is the company's protocol when the Google
7 Government Affairs and Public Policy team is getting questions about YouTube?
8 A I can't say that there's a specific protocol. But, generally, a colleague would
9 reach out and inform me that there were questions from any stakeholder that they may
10 be meeting with regarding YouTube.
11 Q Okay. And do you recall anything like that occurring before April 12th of
12 2021?
13 A I just can't recall prior to the April timeframe.
14 Q After receiving this email, to your understanding, did a meeting take place
15 shortly thereafter with the White House?
16 A To the best of my recollection, I believe a meeting did occur shortly
17 thereafter. I can't recall the specific timeframe of how long after this timeframe, but I
18 do recall speaking with the White House in that timeframe.
19 Q Okay. And who attended that meeting from YouTube?
20 A Other than myself, I can't recall who else would have joined me. This was
21 over a Zoom call. So I just can't recall other colleagues being in those initial
22 conversations. It's been 3 years. I can't remember who else was there for the initial
23 conversations with the White House.
24 Q Who else from Google attended?
25 A I can't recall specifically who else, but it would have been likely that [redacted]

1 would have attended or she would have been aware that the meeting was taking place.
2 But I can't recall if she specifically attended or not.
3 Q Who attended from the White House?
4 A Aside from Mr. Flaherty, I can't recall anyone else speaking. There may
5 have been other folks on the call. Again, this was a Zoom call.
6 I recall Mr. Flaherty doing all of the speaking. I'm not sure if anyone else was
7 there and just didn't talk. But I do recall Mr. Flaherty doing all the speaking. I can't
8 remember if anyone else attended or asked questions or spoke during the meeting.
9 Q What did Mr. Flaherty say during the meeting?
10 A Broadly, it was around COVID-19 and YouTube's community guidelines. I
11 can't remember specifically what was discussed, but it was broadly around that topic.
12 Q How long did the meeting last for?
13 A I can't recall specific duration, but it's fair to say typically around 30 minutes.
14 It could have gone longer, but I'd say just a typical meeting done in 30-minute blocks to
15 the best of my recollection is what would have happened. Again, it could have been
16 longer. I can't recall a timeframe. But it would have been around that.
17 Q What was the tone of the meeting?
18 A I can't recall the tone as unique based off of conversations that I had had in
19 my roles and responsibilities. He asked a number of questions, but there was nothing
20 really about the tone that sticks out to me.
21 Q What questions did he ask?
22 A Again, I can't recall specific questions, but it was around COVID-19 and
23 YouTube's community guidelines.
24 Q Did he ask about the scope of YouTube's community guidelines?
25 A Again, I can't recall specifics, but it would have -- it was around COVID-19

1 and YouTube's policies, was the general topic of the conversation, as has been indicated
2 in this email. But I just -- I can't recall specifically what he asked during that call.
3 Q Did he indicate whether he thought the scope of YouTube's community
4 guidelines were sufficient to address content regarding COVID-19?
5 A I'm sorry. Can you restate that question, please?
6 Q Sure. So he's asking questions about your recollection, broadly, about
7 YouTube's community guidelines related to COVID-19. Was he trying to understand the
8 boundaries of the community guidelines, what fell in, what fell out?
9 Mr. Bopp. Again, you're asking Mr. Kane what his understanding was of what
10 Mr. Flaherty was trying to understand, right?
11 [redacted] That's right.
12 [redacted]. Again, it was broadly around COVID. I can't remember specific
13 topics, but I do recall he asked a lot of questions. I can't remember specifically what
14 those questions were 3 years after the fact, but it was, frankly, fairly typical in my roles
15 and responsibilities of engaging external stakeholders who had questions around
16 YouTube's policies.
17 BY [redacted]
18 Q Did you take notes during this meeting?
19 A I can't recall taking specific notes during the meeting.
20 Q Do you generally take notes -- or did you generally take notes during your
21 time at the company with meetings with the White House?
22 A I don't know that I took notes. I can't recall specific notes that were used.
23 But to the best of my recollection, I would have shared broadly what was discussed.
24 But I don't recall taking specific notes. I would just listen and sort of share what
25 was discussed broadly internally, but I didn't have specific notes.

1 Q Who internally would you share a readout or what was discussed in a
2 meeting like this one?
3 A Again, this has been over 3 years ago. But, generally speaking, I would
4 have made my manager aware of the conversation. I can't speak to others. But
5 typically I would have looped my manager in just to make sure she was aware.
6 Q What about anyone from the Google Government Affairs and Public Policy
7 office?
8 A It's possible. I can't recall specifically. It's possible. It's been some time.
9 I can't recall who I had sent emails to.
10 Q And independent of this meeting, just generally, if you have a meeting with
11 the White House, who needs to be informed within the company?
12 A I mean, I would, again, certainly make my manager aware. There wasn't
13 specific rules determining who had to be notified, to the best of my knowledge. So it
14 was sort of up to my judgment in terms of how that conversation was shared.
15 Q And in your judgment, who would be the appropriate individuals to share
16 that information with?
17 Mr. Bopp. Are you talking about specifically this meeting --
18 [redacted] Just generally --
19 Mr. Bopp. -- or generally?
20 [redacted] -- meetings with the White House.
21 [redacted]. Again, as I mentioned, typically I would have informed my manager.
22 I could have also informed [redacted] But I -- it's been some time. I can't specifically recall
23 who I had sent those emails to.
24 BY [redacted]
25 Q During the initial call with Mr. Flaherty, did he bring up interventions that

1 YouTube might be trying?

2 A As is indicated in this email, that was a topic of interest. It's very likely he

3 did, but I can't recall specifically what he would have asked.

4 Q Do you recall any points during the meeting where he indicated that he

5 thought YouTube's policies or the enforcement of those policies was unsatisfactory?

6 A I recall Mr. Flaherty having a number of questions. I can't recall specifically

7 how he would have felt, but I do recall that there was interest and he asked a number of

8 questions.

9 Q Okay. Well, if there's a discussion about -- if he has an interest and there's

10 a discussion here about the policies, was he generally indicating that he thought YouTube

11 was taking down too much content, was not taking down enough content?

12 Mr. Bopp. You're talking about the meeting, this specific meeting?

13 [redacted] Yes.

14 Mr. Bopp. Okay.

15 [redacted]. There was nothing that really stands out to me from this meeting.

16 Again, he asked a lot of questions. I can't recall remembering specifically how he felt. I

17 do recall there was a high degree of interest, but I can't recall or categorize specifically

18 how he felt. It's just been some time.

19 [redacted] What led you to understand that there was a high degree of interest?

20 [redacted]. Well, that he had asked a number of -- he wanted to discuss a number

21 of topics and meet soon. So that just sort of indicated to me that there was interest.

22 Mr. Bopp. You're referring to the email.

23 [redacted]. I'm referring to this specific email.

24 Mr. Bopp. So exhibit 2.

25 [redacted] Correct.

1 Mr. Bopp. Okay.

2 BY [redacted]

3 Q Was there anything during the meeting that suggested a high degree of

4 interest?

5 A As I mentioned, I mean, he asked a lot of questions. And typically that

6 would indicate that someone has a high degree of interest.

7 Q At any point during the meeting did he bring up concerns related to vaccine

8 hesitancy?

9 A I can't -- it's possible. I can't recall specifically, again, the topics of this

10 meeting from April 12th, 20 -- or -- excuse me -- when this meeting was scheduled. I

11 just -- I can't recall.

12 Q We can take these back.

13 [[redacted] Exhibit No. 3

14 was marked for identification.]

15 BY [redacted]

16 Q This will be exhibit 3. It's an email from Mr. Flaherty to several individuals

17 at the company, dated April 22nd, 2021.

18 A Okay.

19 Q Do you recall receiving this email?

20 A Yes.

21 Q And, generally, does this describe broadly what you recall talking to

22 Mr. Flaherty about in that initial call?

23 A Broadly, that's probably accurate.

24 Q I'd like to call your attention to the paragraph where he says, "To recap."

25 A I'm sorry. Oh, yeah, okay, I see it.

1 Q Near the top there.

2 A Yes.

3 Q A little bit in, he says, "We remain concerned that YouTube is 'funneling'

4 people into hesitance and intensifying people's hesitancy."

5 To your understanding, what did Mr. Flaherty mean by funneling in this context?

6 A I can't recall, receiving this email, specifically what I thought. I think my

7 attention went to the things that -- a couple other things that he wanted to discuss, as

8 indicated in the bullets. I can't recall specifically reading that statement or what my

9 reaction was.

10 Q Okay. Sitting here today, what does the term funneling mean in this

11 context?

12 Mr. Bopp. So, again, just to be clear on the record, you're asking [redacted] what

13 he believed was meant by funneling which was written by somebody else.

14 [redacted] Yes.

15 Mr. Bopp. Okay.

16 [redacted]. It's difficult for me to provide a good definition of what he was

17 referring to.

18 BY [redacted]

19 Q Independent of your meeting with Mr. Flaherty, have you had any

20 conversations -- or did you have any conversations during your time at the company

21 about how YouTube may funnel people and what that would mean in this context?

22 A I can't recall using the term funneling. Again, I'm not sure what he

23 specifically was referring to. You know, as I previously mentioned, YouTube utilized

24 its -- the four pillars of responsibility, the four R's, in terms of addressing content. I

25 just -- I can't recall using that term.

1 Q Okay. So you're serving as YouTube's primary representative to interface
2 with the White House. You received an email from the White House using this term and
3 you don't know what Mr. Flaherty means by it?
4 A Again, to the best of my recollection from April 22nd, 2021, my attention
5 was on the follow-up items I've discussed. I can't recall having feelings about that term.
6 Q I'm not asking about feelings. I'm just asking your understanding of what
7 the term means in this context.
8 A Funneling was just not a term that I used. I would defer to Mr. Flaherty for
9 what he meant. I don't want to speculate on his words in this email.
10 As was mentioned, it was my responsibility during the time at YouTube to provide
11 information and transparency on YouTube's work related to content moderation. And
12 so I wanted to make sure that I was going to work to answer those questions to the best
13 of my ability.
14 Q So, in addition, as part of your responsibilities at the company, sharing
15 information about YouTube to the White House, was it also within the scope of your
16 responsibilities to share what the White House was telling YouTube?
17 A As was indicated, a number of my colleagues were on this email as well, to
18 include my manager. So folks were certainly aware of this email at the company.
19 Q Did anyone else seem to know what the term funneling meant?
20 A I can't recall any specific conversations about that specific term from April
21 22nd, 2021.
22 Q Okay. Generally?
23 Mr. Bopp. Are you asking him what funneling means generally? I mean, he
24 doesn't know what Mr. Flaherty meant by funneling here. I think we've established
25 that.

1 If you want to talk about more generally what the -- what he understood this
2 email to mean or the significance of the email, I'm sure [redacted] can answer your
3 questions. But he doesn't know what Mr. Flaherty meant by funneling.
4 [redacted] Okay. Well, we've asked who else attended the meeting. There
5 was an email shortly after the meeting where discussions took place and the White House
6 is communicating their understandings.
7 In the second line of the email, the White House chooses to call attention to this
8 issue of funneling people into hesitance.
9 And so the committee's asking the recipient of the email and who was on the
10 call --
11 Mr. Bopp. Uh-huh.
12 [redacted] -- what the White House meant?
13 Mr. Bopp. Uh-huh.
14 [redacted]. Again, this is from 3 years ago. I just -- I can't recall.
15 Mr. Bopp. And, look, if we talk maybe a little more generally about did you take
16 this -- so looking at the first paragraph, or the paragraph that starts, "To recap," did you
17 take this to be a reflection of Mr. Flaherty being concerned about that YouTube might not
18 be doing enough to prevent information that creates vaccine hesitancy, something along
19 those lines?
20 Is that a fair question?
21 [redacted]. That's probably fair. But, again, I can't recall any conversations
22 regarding Mr. Flaherty's specific use of this term. I just can't recall.
23 BY [redacted]
24 Q Independent of this first meeting, do you recall any interactions with
25 Mr. Flaherty where he seemed to believe that how YouTube's recommendations worked

1 would lead people to view more content that expressed vaccine hesitancy?

2 A I'm sorry. Can you restate your question, please?

3 Q Sure. In any interaction that you've had with Mr. Flaherty, did he ever

4 express concerns that how YouTube's recommendations worked would lead individuals to

5 view more content that expressed hesitancy or skepticism of vaccines?

6 A It's possible. I just -- I can't specifically recall that.

7 Again, Mr. Flaherty had indicated -- he asked a lot of questions on YouTube's work

8 and policies, and I wanted to make sure that those questions were properly responded

9 to.

10 Q I'm trying to act in good faith here. If the company wants to respond in

11 good faith --

12 A Yeah.

13 Q -- and address the White House's concerns, isn't a part of that understanding

14 what the White House is trying to tell you?

15 A Well, again, to the best of my recollection, I think my attention went more

16 towards the bullet point questions. And that's, again, what I recall working to get

17 follow-up answers on.

18 Mr. Bopp. Can we take one minute?

19 [redacted] Yeah. Can we go off the record, please?

20 [Discussion off the record.]

21 [redacted] Can we go back on the record, please?

22 Mr. Bopp. Why don't I -- can I ask a question?

23 [redacted] Yes.

24 Mr. Bopp. Okay. [redacted], in your interactions with Mr. Flaherty around this

25 time, was it your understanding that Mr. Flaherty appeared to be expressing some

1 concern about YouTube perhaps, in his view, not doing enough to combat content that
2 promoted vaccine hesitancy?
3 [redacted]. Yes. I mean, he indicates in this email he expressed concern.
4 BY [redacted]
5 Q Yeah. We all have the email.
6 A Yeah.
7 Q Do you recall that being raised in your meetings with Mr. Flaherty?
8 A It's very likely it was.
9 Q At the bottom of the first paragraph, so the "To recap," the one that starts
10 with "To recap," at the last sentence, he says, "This is a concern that is shared at the
11 highest (and I mean highest) levels of the White House," W.H. in the email.
12 What did you understand him to mean by this?
13 A It's likely he was referring to senior folks at the White House. He doesn't
14 say specifically who. So I can't say specifically who he's referring to. But I would defer
15 to Mr. Flaherty for who he was specifically referring to there.
16 Q Is it not in YouTube's interest to try to assess what levels of the White House
17 are interested in this issue?
18 A It was in my interest, as is all my interactions with anyone in government,
19 regardless of the office or title, I wanted to be diligent and responsible and accurate with
20 the information that I provided in response to their questions.
21 Q Did this language call attention -- excuse me -- did this language catch the
22 attention of anyone else from the company included on this email?
23 A I can't speak to if it caught other YouTube employees' attention. I could
24 speak for myself.
25 And, again, because YouTube community guidelines are impartial, regardless of

1 the speaker or, again, regardless of whomever may be asking questions, we wanted to
2 make sure -- it was my job to make sure that those questions were responded to in a very
3 timely manner with accurate information in response to questions.
4 Q Why do you think Mr. Flaherty included that language in this email?
5 A I can't speculate on his intent as to why he specifically included that
6 language. Again, I viewed it as my responsibility, regardless of title or office, that I
7 wanted to work to make sure that questions were responded to as quickly as possible
8 with accurate and as thoroughly as possible to get them what they needed.
9 Q You've worked inside and outside of government. What is the significance
10 when more senior figures are interested in an issue?
11 A I'm not sure what you mean.
12 Q Mr. Flaherty is including language that this is shared, that the concern is
13 shared at the highest levels of the White House.
14 Independent of this email, just generally, what is the significance when a concern
15 is shared by the highest levels of an organization?
16 A I can't speak for others at YouTube, but I can speak for myself in that I took
17 all requests seriously, regardless of office, position, or title. I tried to work to make sure,
18 again, that I was responsive and I was thorough and I provided as much information as I
19 possibly could.
20 So in speaking for myself, again, I can't -- the title of an individual or who they
21 might be is not something that I factored in because YouTube's community guidelines are
22 impartial.
23 So, again, as a public policy professional, I wanted to respond and answer
24 questions as quickly as I possibly could and turn information around as fast as possible.
25 Q So it's your testimony that you would respond to questions with the same

degree of urgency whether the request was coming from the President or an intern.

A Again, it was my practice that, regardless of whomever someone might be or what their title was, because YouTube's community guidelines are impartial, I tried to work to bring that same degree of impartiality in response to questions.

Mr. Bopp. Can I ask a quick question?

[redacted] Yes.

Mr. Bopp. Was it of any significance to you that Mr. Flaherty was invoking the highest levels of the White House?

[redacted]. It's not something that really stood out to me. Again, regardless of the speaker, I wanted to make sure that I did whatever I could to be as timely in my responses, whether that was a meeting request or if someone sent an email. I tried to work to respond and put that same sense of urgency and that same degree of seriousness in my responses.

1

2 BY [redacted]

3 Q In your experience at YouTube, were concerns expressed by more senior

4 members of the government handled with a greater degree of urgency than requests

5 from lower members?

6 A Again, I tried to put that same sense of urgency --

7 Q I'm not asking about you. The question was your experience in the

8 company, how the company responded.

9 A It was my experience that my colleagues also tried to be as diligent and

10 timely as they could in their responses, as well.

11 I can't speak for specifically how they handled every issue, but I wanted to make

12 sure that I was being diligent in my responsibilities in answering questions and providing

13 information, regardless of whomever they might be.

14 Q At any point during your meetings with Mr. Flaherty was there a point where

15 you or someone from the company felt it necessary for someone from the Trust and

16 Safety team to brief the White House directly?

17 A I do recall, I believe it may have been in response to this email, asking

18 [redacted], who was YouTube's -- I can't recall what his specific title was, but

19 generally it was head of Global Health -- and [redacted], because Mr. Flaherty had

20 asked questions on this.

21 So I do recall reaching out to those colleagues to answer questions broadly. I

22 didn't view it as that unusual. If I wasn't the subject matter expert, again, in wanting to

23 be thorough, I don't think it would have been uncommon to either ask questions of my

24 colleagues or if I need to bring in someone else to ask to help answer questions.

25 Q At any point did you or anyone from the company ask Mr. Flaherty what he

meant by the highest levels of the White House?

A I can't recall specifically asking that question.

Q Do you recall any internal discussions with the company regarding, whether from this email or otherwise expressed to the company, that this was a concern shared by the highest levels of the White House?

A I can't recall that happening.

Mr. Bopp. But in preparing for this interview, do you recall seeing emails reflecting internal communications about this email we're looking at in exhibit 3?

[redacted]. Yes.

[redacted] Okay. We'll get to those.

[redacted]. Sure.

[redacted] Turning to the bullet points. The second bullet point talks about a request from Mr. Flaherty about "a deeper dive on reduction and its effectiveness." He mentions someone on your team that said that YouTube had reduced watch time by 70 percent on "borderline" content.

Do you recall discussions during the initial meeting with Mr. Flaherty about borderline content?

1 [12:20 p.m.]

2 [redacted]. If it's indicated in this email, then I have no reason to doubt that

3 that -- that topic didn't come up.

4 BY [redacted]

5 Q He asked a question, "How does that track with vaccine-related content

6 specifically?" And then in parentheses, "(removing the UFO stuff)."

7 What is Mr. Flaherty referring to by "removing the UFO stuff"?

8 Mr. Bopp. Again, to your understanding.

9 [redacted]. To the best of my understanding, I think, you know, broadly in

10 discussing borderline content, conspiracy theories, something like that may have come

11 up. So that's -- that might be what he's referring to. I -- I can't recall. But I think

12 generally sort of speaking about conspiracy theories, things like that may be what he'd be

13 referring to.

14 BY [redacted]

15 Q The next bullet point says, "I appreciated your unequivocal response that

16 you are not recommending anti-vaccine content."

17 Do you remember you or anyone else on the call making that, sort of, unequivocal

18 statement?

19 A As a matter of practice, I generally refrain from making unequivocal

20 statements. So that's something I -- again, as a matter of practice, that's something I

21 would generally stay away from, making unequivocal statements, you know, across

22 YouTube.

23 I think I would -- I was, again, just sort of, as a matter of practice, speaking more

24 broadly in terms of the four R's, the four pillars of responsibility. So I can't say that I

25 specifically made that statement because that's something that I -- just as a matter of

1 practice, I didn't typically do.

2 Q Do you remember reading this email and being concerned that the White

3 House appears to have understood that YouTube provided the unequivocal response that

4 the company is not recommending anti-vaccine content?

5 A I'm sorry. Can you ask that again, please?

6 Q Sure. Do you recall being concerned that the White House appeared to

7 indicate that the White House understood YouTube had provided an unequivocal

8 response that the company was not recommending anti-vaccine content?

9 A I can't remember feeling specifically concerned. I think -- I think

10 broadly -- what I can recall from this exchange is wanting to follow up with a sense of

11 urgency as I've described that I tried to provide anyone who asked has questions and

12 follow up with information. I can't recall specifically feeling one way or the other about

13 that sentence.

14 Q The next bullet point says, "I feel like I'm not coming away with a very clear

15 picture of how you're measuring the effectiveness of uplifting authoritative information."

16 Do you recall Mr. Flaherty expressing a similar sentiment during the meeting with

17 you?

18 A I think broadly he expressed -- he expressed concern, and that probably

19 applied to -- to this as well. I mean, I can't speak specifically to his intent. As is

20 indicated, there was interest, and he had expressed concern.

21 Q The bottom of the email, there's -- it says, "We are excited to continue to

22 partner with you on this work as we have via [redacted] and [redacted]

23 Who is he referring to by [redacted] and [redacted]

24 A That would have been [redacted], who is also on this email, as well as

25 [redacted], who I can see is also on this email.

1 Q On the back of the page, the end of the email, he said, I'm -- he writes, "I'm
2 feeling a bit like I don't have a full sense of the picture here."
3 Did he articulate a similar concern during your first meeting?
4 A Again, he expressed concern and was very interested in -- you know, wanted
5 to ask additional questions to get more information. So I think that that probably
6 provided the sense that he didn't have a full picture, and I wanted to work to answer
7 those questions.
8 Q He also writes, "We speak with other platforms on a semi-regular basis."
9 To your understanding at the time, which other platforms was the White House
10 talking to?
11 A I can't speak to specific platforms, but I mean, I'm going -- if he's -- if he's
12 referring to speaking to other platforms, it was likely the major platforms. I can't speak
13 to specifically which ones he's referring to, but very likely, the other big social media
14 platforms.
15 Q Do you recall him ever mentioning whether the White House was talking to
16 Facebook or Twitter?
17 A He may have. I can't -- he may have.
18 Q To your understanding -- so there's -- Mr. Flaherty references discussing
19 borderline content.
20 To your understanding, what was the White House's concerns as it related to
21 borderline content?
22 A Well, I think, as Mr. Flaherty indicated, he just seemed to have a lot of
23 questions in terms of really understanding what that term meant and just -- again, I think,
24 as expressed, he had concern, probably, with content. And so I think he just wanted
25 to -- again, to really understand more and ask questions of what that meant.

1 Mr. Bopp. Are you going to refer to this again?

2 [redacted] It's possible. You can hand it back.

3 Mr. Bopp. We'll hold on to it.

4 [redacted] This will be exhibit 4.

5 [[redacted] Exhibit No. 4

6 was marked for identification.]

7 BY [redacted]

8 Q It's an email chain from April 23rd, 2021, between the White House and

9 [redacted].

10 A Okay.

11 Q Do you recall sending this response to Mr. Flaherty?

12 A Yes.

13 Q Do you recall -- I'm going to take one step back.

14 For an email like this, would you typically work with others in the company

15 preparing a draft of this response email?

16 A To the best of my recollection, I -- to the best of my recollection, I was

17 responsible for an overwhelming majority of this content. I think with regards to the

18 Google Trends tool, candidly, that's not something I was really that familiar with at the

19 time, so I think I may have asked a colleague, you know, What would be a good way to

20 respond to this?

21 But to the best of my recollection, I provided information that was publicly

22 available, as is indicated for phrases and words that are underlined. That provided a link

23 to a publicly available website. So there was a lot of publicly available information

24 already.

25 And so, I think that's why, again, I would -- I have drafted, again, to the best of my

1 recollection, overwhelming majority of this email without any other input from other
2 colleagues at the company.
3 Q Which colleague would you have reached out to to get more information
4 about Google Trends?
5 A I can't recall specifically who. But typically, if I had questions like that, I
6 would have gone to [redacted]. She had been at the company longer than me and
7 was someone who I would have asked questions.
8 I can't say I did it in this specific case, but it would have been likely that I did.
9 Q Did YouTube share any nonpublic information with the White House?
10 A In this email, is that what you're referring to?
11 Q Yes.
12 A If I can go point by point, if that's okay.
13 Q Sure.
14 A So with regard to first bullet point, again, that links out to a website that
15 would have been something that was publicly available. I can't recall specifically if the
16 89 percent was on that or not. I believe it was. But again, for -- that fact sheet was
17 something that was publicly available. That's why I was linking it out.
18 On the second bullet point, that over here, again, would have linked out to
19 something that's publicly available, as well as the COVID medical misinformation policy.
20 That was publicly available. With regard to enforcements and penalties, that was
21 publicly available.
22 On the third bullet point, the Google Trends tool, again, that's something I wasn't
23 that familiar with. But that is something that's publicly available, and I -- the last
24 sentence of the third bullet for COVID-19, again, that would have linked out directly to
25 that Google Trends tool that's publicly available.

With regard to the fourth bullet, that information was publicly available. And, again, I indicated I was going to follow up with the team to discuss further. Oh, if I can go back to the fourth bullet, the PDF that explains the signals that we take into consideration when recommending content, to the best of my recollection, that was also publicly available.

I'm not sure if that was on a website. But to the best of my recollection, that information was publicly available. And again, YouTube had also published blogs regarding recommendations and signals, and I think there's a few of those available as well.

The blog post on the next page, YouTube blogs were public from [redacted] and I think I summarized what was contained in that blog post, and linking out to a website that would have been publicly available for "Here is a comprehensive list of some of our current test features and experiments." And I reference something that was specifically referred to in that link.

"How YouTube works" is also publicly available. And then finally, linking out to the transparency report and the Violative View Rate, at the time, that was something that was recently made publicly available. I can't recall exactly when that happened, but at the time of this email, that would have been publicly available.

[redacted] Can we go off the record, please.

1 [1:21 p.m.]

2 [redacted] We'll go on the record.

3 BY [redacted]

4 Q [redacted], in the previous hour you were shown a couple of emails and asked

5 specific questions about the -- I just want to ask a couple of follow-up questions. If I

6 could direct your attention to what was marked as exhibit 2.

7 [redacted] Did you take all the exhibits back?

8 Mr. Bopp. I got it.

9 [redacted] For the record, this was the -- I'm going to identify it for the record

10 by HJC-GOOG-00064121 through 61- -- 64122.

11 [redacted]. This one?

12 Mr. Bopp. Yes.

13 BY [redacted]

14 Q [redacted], I'd like to direct your attention to the second page of this where

15 Mr. Flaherty sends the email on April 12, 2021, at 3:01 p.m.

16 A Yes.

17 Q I just want to clarify for the record that Mr. Flaherty was not, in any way,

18 pointing out a specific content that he wanted you to take action on. Is that correct?

19 A As indicated in this email, he did not reference any specific piece of content.

20 So there's nothing specifically mentioned or referenced in this email.

21 Q Thanks. And he wasn't asking you to take any particular action generally.

22 Is that correct?

23 A Again, I can't recall the specific discussion. Again, broadly, it was around

24 COVID.

25 Q Sure.

1 A I can't recall specific actions, again. I wanted to work to try to answer
2 these questions, or whatever he might have.
3 Q Okay. And what I'm trying to get at, [redacted], is this email -- it's fair to
4 characterize this email as requests for information generally. Is that fair?
5 A That's fair.
6 Q I'd like to draw your attention to what was marked for the record as exhibit
7 3. For the record, that is the email from Rob Flaherty dated April 22nd, 2021. The
8 Bates is HJC-GOOG-00013549 through 13550.
9 Do you recall being asked about this email in the last hour, [redacted]?
10 A Yes.
11 Q Okay. I want to ask a couple of follow-up questions about this. You were
12 asked extensively about the sentence in the first -- the first full paragraph that says, "This
13 is a concern that is shared at the highest (and I mean highest) levels of the White House."
14 I want to ask you, did you understand this phrase, "Highest (and I mean highest),"
15 to be any kind of threat that adverse actions would be taken against you or the company
16 if you didn't take a particular action?
17 A I can't recall taking this sentence as a threat.
18 Q Thank you. And did you understand this phrase to be coercive in any way
19 to you or to the company?
20 A Again, as I mentioned, I was more focused on some of the questions that
21 were outlined in the bullets below, and I wanted to make sure I was working diligently to
22 respond to these questions.
23 Q Okay. But you don't have any recollection of taking this as a -- as coercion
24 from the White House that your company take a specific action?
25 A I have no recollection of taking this sentence that way.

1 Q Okay. Thank you. And I know that you spent an extensive amount of
2 time in the last hour going through every specific -- well, most of this email, if you want to
3 take a couple minutes to refresh yourself.
4 But the question that I have is, generally, Rob Flaherty, in this email, is not
5 asking -- is not pointing to any type of specific content that he would like the -- YouTube
6 to take action on. Is that fair?
7 A He does mention a BuzzFeed article.
8 Q Okay.
9 A That, as is indicated, brings up questions. But again, in terms of specific
10 content, what I can recall and, again, in reviewing this email, is he asked a lot of
11 questions.
12 Q Okay. Did he ask you to take any specific action to remove any content in
13 this email?
14 A Let me review each bullet line by line again.
15 Q Okay.
16 Mr. Bopp. I'm sorry. Was the question whether it was [redacted]
17 understanding that Mr. Flaherty was asking for specific content to be moderated, or was
18 it broader than that?
19 [redacted] I think that's fair.
20 [redacted]. In this email, he did not ask for specific pieces of content to be
21 moderated on YouTube.
22 BY [redacted]
23 Q Okay.
24 A He was asking questions about broader policies, trends, things like that.
25 Q That's fair. Thank you.

1 And it's fair to characterize this email as more of a request for information about
2 YouTube's policies. Is that a fair characterization?
3 A I wouldn't dispute that.
4 Q Okay. And if you flip to the second page, you were asked is, you
5 know -- this language, "I'm feeling a bit like I don't have a full sense of the picture here.
6 We speak with other platforms on a semi-regular basis."
7 Do you recall being asked about those sentences?
8 A Yes. I can see that request in this email.
9 Q Okay. I guess my question is, do you -- did you characterize that specific
10 language as being a threat in any way that Mr. Flaherty or the White House would take
11 action against you or YouTube if he didn't take a specific course of action?
12 Mr. Bopp. Just to clarify, you're asking whether [redacted] took these two
13 sentences you just referenced as a threat?
14 [redacted] That's correct.
15 [redacted]. And just to be clear, the sentence, "I am feeling a bit like I don't have
16 a full sense of the picture here. We speak with other platforms on a semi-regular basis.
17 We'd love to get in this habit with you. Perhaps biweekly?"
18 To the best of my recollection, I did not take that as a threat.
19 BY [redacted]
20 Q Did you take that as coercion in any way by the White House?
21 A To the best of my recollection, I did not take that as coercion. It would
22 appear that he was asking for information and to have regular discussions.
23 Q Thank you. And now just more broadly as to exhibit 3 as a whole, is there
24 anything in exhibit 3 that you could point to that you would have taken as a threat or
25 coercion by the White House?

A I can't recall, upon receiving this email, that I took any contents as a threat. Again, this -- from what I can recall from receiving this email, there are a number of questions around broad policies. And as I've stated previously, I wanted to work to make sure that questions were answered in a complete way as quickly as possible.

Q Thank you, [redacted]. Just for the -- a point. You mentioned that you didn't perceive it -- or you didn't recall it being a threat to you, but do you -- is there anything in exhibit 3 in the email that you would constitute to be coercion by the White House that YouTube should take a particular course of action?

A I didn't view it that way. I viewed this -- again, in looking at the bullet points and the broad questions that were asked in these bullet points, I wanted to, basically, get to the point in responding to these questions with thorough and complete answers to the best of my ability.

Q So the answer is no, correct?

A Correct.

Q Thank you.

[redacted] Do you have anything?

[redacted] No.

[redacted] Okay. We'll go off the record.

[Discussion off the record.]

[redacted] Can we go back on the record, please.

BY [redacted]

Q [redacted], I want to pick back up from some of the questions from the previous round. You were asked a few different ways about whether you interpreted certain parts of an email from Mr. Flaherty as threats or as coercive. I wanted to try to clarify your answer a little bit.

1 In your testimony, are you saying that it is your recollection at the time that you
2 did not understand parts of that email to be coercive or to constitute a threat, or are you
3 saying you don't have a memory today, either way, whether you understood any parts of
4 that email to be coercive or part of a threat?
5 A To the best of my recollection at that time, I did not take the contents of that
6 email at that time as coercive or a threat, and I feel the same today.
7 Q Okay. We spent quite a bit of time going through that email. And it's
8 your testimony that you were unable to recall a number of factors of how you felt,
9 responded to various parts of the email, but you do feel you're in a position to address
10 whether you understood parts of that email to be coercive. Is that correct?
11 A Again, I didn't feel at the time -- there was nothing in that email that stood
12 out for me then, and in reviewing it now, I didn't feel that that was a threat to me.
13 Q Well, not to you personally, but to the company?
14 A I didn't take it that way.
15 Q Can we have exhibit 64.
16 Mr. Bopp. Can I ask just a quick clarifying question. Just to be clear, you don't
17 know what Mr. Flaherty meant by the language he used in that email, correct?
18 [redacted]. That's correct. I think Mr. Flaherty would be better suited to answer
19 that question.
20 [redacted] This will be exhibit 5.
21 [[redacted] Exhibit No. 5
22 was marked for identification.]
23 BY [redacted]
24 Q This is an internal Google YouTube email from April 22nd, 2021.
25 A Okay.

1 Q Do you recall sending this email?

2 A Probably in reviewing it again, I can recall typing this email.

3 Q In the first sentence, you say, "There's a very high degree of interest coming

4 from the White House."

5 What was the basis of your conclusion that there was a high degree of interest

6 coming from the White House?

7 A I just think the number of questions indicated a high degree of interest.

8 Q You say in the next sentence, "Unfortunately, the role of tech in addressing

9 vaccine hesitancy is about to come under a massive spotlight."

10 What led you to believe that the role of tech in addressing vaccine hesitancy was

11 about to come under a massive spotlight?

12 A I can't recall what specifically led me to that conclusion in typing this email.

13 I think just generally, you know, broad awareness and questions and concern probably

14 informed what I was thinking at the time.

15 Q Broad awareness and concerns from whom?

16 A Well, certainly there were questions coming from the White House. I think

17 there was questions on discussions in the press. Just again, broader questions around

18 the role of tech and COVID-19, to the best of my recollection, were discussed at the time.

19 Q What's the significance of there being concerns from the White House and

20 the press?

21 A I'm not sure what you mean by the significance of the concerns.

22 Q So in your language, you refer to the role of tech about to come under a

23 massive spotlight, and then you cited the White House and the press as two people that

24 some of the concerns were coming from.

25 Why are concerns from the White House and the press significant when it comes

1 to whether the role of tech will be under a massive spotlight or not?

2 A To the best of my recollection, you know, with regard to this -- I mean, I

3 wanted to ensure that the work that YouTube was doing, that we work to provide more

4 transparency around what YouTube was doing when I was at the company to enforce its

5 policies consistently and impartially.

6 So I wanted to -- in response to any questions or interest, I wanted to make sure

7 that there was as much information as possible around YouTube's work so that it wasn't

8 just a vacuum of questions that went unanswered.

9 Q That's not what I was asking. Your email is talking about the -- why the role

10 of tech is about to come under a massive spotlight, and then you cited concerns from the

11 White House and the press.

12 What is it about the White House and the press that would lead you to the

13 conclusion that the role of tech is about to come under a massive spotlight?

14 A I think, as I mentioned, I mean, just questions, broader discussions. I can't

15 pinpoint a single issue or a single thing. Again, just broader awareness of conversations

16 at the time, I think, is -- would likely be what I was thinking when I sent this email.

17 Q You start off the sentence saying "unfortunately."

18 Why is it unfortunate that the role of tech is about to come under a massive

19 spotlight in April of 2021?

20 A I'm not sure why I specifically used "unfortunately." I think more broadly, I

21 was proud of the work that YouTube was doing. I mean, I can't speak to specifically why

22 I said unfortunately. I thought YouTube's work was, again, doing the best that could be

23 done given -- given the times. And that generally would be likely what I was thinking at

24 the time when I wrote this email.

25 Q Does YouTube -- and Alphabet more broadly -- want to come under a

1 massive spotlight?

2 A I'm not sure what you mean.

3 Q According to your own words. Based off what you meant in this email,

4 referring to coming under a massive spotlight, is that a development that would be

5 welcomed by YouTube?

6 A Is coming under a massive spotlight something that would be welcomed?

7 Candidly, it's -- it's my experience that I think it was just going to create a lot of work in

8 ensuring that we respond to a lot of questions. You know, it hasn't been my experience

9 that YouTube acted in a way to hide what they were doing.

10 It was my experience at YouTube that the company took a few steps to improve

11 transparency around content moderation practices. A specific example of that would be

12 the release of the Violative View Rate. I think that's an example. I think YouTube,

13 frankly, hadn't shied around, you know, addressing hard questions. It's a lot of work,

14 but it's not something that, you know, I would say that -- that YouTube was shying away

15 from.

16 Q Okay. Then why did you write that "unfortunately" to start the sentence?

17 A Again, I can't speak -- I think it's just going to -- probably just make a lot of

18 work in terms of responding to questions, you know. The team works pretty hard. It's

19 not something that we shied away from.

20 It was my experience at YouTube that the folks there work extremely hard

21 already, and no one shied away from a challenge.

22 Q From -- with respect to the company's interest, other than an increased

23 workload for its employees, are there any other downsides to the company coming under

24 a massive spotlight?

25 A I can't think of any.

1 Q It's your testimony before the committee you cannot think of any downsides
2 of YouTube coming under a massive spotlight other than an increased workload for its
3 employees?
4 A I think it's important that folks in the executive branch, the legislative
5 branch, the public in general, ask very hard questions about YouTube.
6 And for YouTube's mission, when I was there, was to give everyone a voice and
7 show them the world. And it is my experience at YouTube that folks there worked very
8 hard to accomplish that mission, didn't shy away from the challenge. And candidly, I
9 think hard questions and scrutiny to big tech platforms like YouTube, I think that's a good
10 thing.
11 Mr. Bopp. Can I ask a quick question? When you wrote to your colleagues and
12 said that -- that the company was about to come under a massive spotlight, did you view
13 that as a positive thing?
14 [redacted]. I don't know that I was thinking it would be a positive or a negative
15 thing. I was just, sort of, stating my view that this was something that was just going to
16 happen.
17 BY [redacted]
18 Q Well, you didn't just state your view. You start the sentence with
19 "unfortunately." Is that right?
20 A That is correct. I do start that sentence with "unfortunately."
21 Q But you don't have any recollection of why?
22 A I can't speak to specifically why. As I've mentioned, you know, I think I was
23 speaking just in terms of workload increases.
24 As I'm sitting here today, I can't think of any other negative consequences that
25 would come from additional questions, scrutiny, or requests for transparency.

1 Mr. Bopp. Can we take just a quick minute?

2 [redacted] Sure. Let's go off the record, please.

3 [Discussion off the record.]

4 [redacted] We'll go back on the record, please.

5 Mr. Bopp. Do you want to make a statement?

6 [redacted]. Yes, if I can please clarify. I don't think I was as clear as I wanted to

7 be.

8 Coming under a massive spotlight is never a great thing, and it comes along with

9 challenges. I think what I was trying to say -- and I perhaps did so inartfully -- was

10 questions, you know, broadly and improving transparency is a good thing. But again, I

11 think, in terms of stating that coming under a massive spotlight, it comes along with

12 challenges, to include a lot of hard work that seeks to address those challenges.

13 I apologize for not being as clear as I meant to be.

14 BY [redacted]

15 Q Besides the additional hard work that comes with coming under a massive

16 spotlight, what other challenges are posed?

17 A With regard to coming under a massive spotlight? I think it's generally fair

18 to say there would be a lot of criticism. Some fair, some not. And in seeking to

19 address those -- those challenges, it can be quite difficult. So I think that that would be

20 another, you know, example.

21 Q Does the company weigh criticism from the White House differently than

22 criticism from other external stakeholders?

23 Mr. Bopp. To the extent you can speak for the company.

24 [redacted]. It was my experience -- I can't say that criticism from the White House

25 was weighed or viewed differently.

1 Speaking for myself, I viewed questions and criticism, again, because YouTube
2 enforces its policies impartially, I can't say that I had, you know, internally weighing one
3 more than the other. I took all concerns and questions seriously and wanted to work to
4 address those.
5 BY [redacted]
6 Q In 2021, you were working for YouTube on behalf of the company.
7 From the company's perspective, are criticisms from the White House given more
8 weight than the criticisms from other external entities?
9 A I can't speak or have any recollection of other YouTube employees weighing
10 criticism from the White House as more. Of course, it's, you know -- any criticism,
11 regardless of the entity, is something, you know -- it's not ignored, certainly. And it's the
12 kind of thing that the company wanted to work to make sure what the questions were,
13 what could be done to ensure that accurate information was provided in response to
14 those questions.
15 Q If an entity has the capability of taking adverse action against the company,
16 is it more likely to consider criticism from that entity?
17 Mr. Bopp. I'm not comfortable with [redacted] answering hypothetical questions.
18 [redacted] Well, I wouldn't frame it as hypothetical. There's very concrete
19 examples of criticism coming from the White House, but we'll reframe the question.
20 BY [redacted]
21 Q To your understanding, is the White House capable of taking adverse action
22 against the company?
23 [redacted] I'm sorry. I didn't hear that. Could you repeat that.
24 BY [redacted]
25 Q To your understanding, is the White House capable of taking adverse action

1 against the company?

2 A Yes.

3 Q What types of adverse action?

4 A I can't speak to the specific types of action, but I note that the legislative

5 branch can certainly take adverse action as well, as well as State governments. And

6 again, that's why I tried to work to adopt the approach of I want to ensure if there is a

7 concern or a question from, you know, a government office, an office holder, a member

8 of staff, whomever it might be, that I work to provide information in response to those

9 concerns.

10 Q Specific to the White House, what adverse actions is the White House

11 capable of taking that are adverse to YouTube?

12 A I'm not -- I'm not sure specifically the steps at their disposal that they could.

13 But certainly, I'm not disputing that adverse action could be taken. I don't have any

14 specific examples in mind.

15 Q How long did you spend working on Capitol Hill?

16 A Approximately 7 years, handling defense issues.

17 Q And you're unaware of any specific types of steps that the White House

18 would be able to take against a company like YouTube?

19 Mr. Bopp. He's already answered the question. Look, you know, this isn't like a

20 civics test. I mean, he already admitted that -- or said that the White House might take

21 adverse action.

22 [redacted] Well, he's unable to provide any examples --

23 Mr. Bopp. Well, that's correct.

24 [redacted] -- or testify with any specificity.

25 BY [redacted]

1 Q Is the fact that the White House is capable of taking adverse action against
2 the company one of the downsides of a company coming under a massive spotlight?
3 A I'm sorry. What was the question again?
4 Q Sure. Earlier we were talking about the challenges that come with coming
5 under a massive spotlight.
6 A Sure.
7 Q Is there any -- are one of the challenges -- strike that. Let me phrase that
8 again.
9 Is one of the concerns from the company's perspective about coming under a
10 massive spotlight that there's an increased risk of facing adverse action from the White
11 House?
12 A I can't recall a single conversation I had with anyone about specific examples
13 of concern of adverse action. Again, certainly broadly the executive branch has broad
14 authority. I'm not disputing that at all.
15 But I can't think of specific examples -- I just -- I can't recall any specific discussions
16 related into what potential adverse action could look like.
17 Q The second paragraph of the exhibit, second line down, you talk about
18 providing or asking if another member would be willing to provide an overview briefing to
19 the lead White House digital staffer.
20 Is that in reference to Mr. Flaherty?
21 A Yes.
22 Q The next sentence says, "As far as timing goes, we were hoping to get
23 something on the books in the next 2 weeks or so to prevent anything from potentially
24 spiraling out of control."
25 Who is the "we" you're referring to there?

1 A I think I was just using the broader we. I guess I should have used -- I was
2 hoping to get something on the books in the next few weeks.
3 Q What did you mean by "prevent anything from potentially spiraling out of
4 control"?
5 A So this email was to -- was to [redacted]. To the best of my
6 recollection, he didn't have a lot of meetings with government folks. He had a very busy
7 schedule.
8 I think I was just trying to convey a sense of urgency. As I previously mentioned,
9 I worked to adopt a sense of urgency in responding to requests to the best of my ability.
10 I think I just wanted to convey a sense of urgency that if he could set aside other matters
11 on his schedule so that we can quickly respond.
12 Q What other government entities that you had exchanges with during your
13 time at the company would similarly lead to a concern that things could potentially spiral
14 out of control?
15 A I don't know that I ever used the term, "spiral out of control" with other
16 folks in asking for their time for a meeting.
17 Q Is there anything unique about the White House that would lead the
18 situation to potentially spiral out of control?
19 A Again, as I mentioned, I really just was, to the best of my recollection, more
20 focused on working with [redacted] to try to clear his schedule. He had a pretty busy
21 schedule.
22 To the best of my recollection, I just wanted to convey a sense of urgency that I
23 didn't want to let this linger. I wanted to hurry up and try to get something scheduled
24 soon to respond to questions.
25 Q What would spiraling out of control look like?

1 A I don't know that I had a specific thought of spiraling out of control. But
2 broadly, to me, that would look like, you know, folks who don't get questions answered in
3 a timely manner and perhaps assume the worst. And so, I wanted to address concerns
4 quickly so that bad assumptions or bad information wasn't used to make any decisions
5 regarding YouTube.
6 I wanted YouTube to be able to respond, to provide accurate information on
7 YouTube's policies and enforcement. And in this case with [redacted], answer specific
8 questions on borderline content.
9 Q If the White House was under wrong assumptions or was receiving bad
10 information, what type of decisions with respect to YouTube would the company be
11 concerned about?
12 A I can't make assumptions of what the White House might do if they had bad
13 information.
14 Q Your previous answer said that, in response to what spiraling out of control
15 looks like, was that if there's bad assumptions, bad information, there might be decisions
16 about YouTube. I'm just trying to get a sense of what you meant by that. What
17 decisions?
18 A I don't know that I had a specific decision in mind or was concerned about a
19 specific decision. My focus, again, was conveying, I wanted a sense of urgency to be
20 able to respond with accurate information.
21 Again, it's been my experience in Washington, D.C., in the absence of accurate
22 information, bad assumptions could be made. I didn't -- to the best of my recollection, I
23 didn't have any specific thought of what those consequences would look like.
24 So again, I just wanted to be able to convey a sense of urgency, and respond with
25 as much information as I could.

1 Q You have a number of different external entities that you're interfacing with
2 during your time at the company.
3 Are the consequences for failing to timely engage with the White House more
4 severe than the consequences of failing to timely engage with other entities?
5 Mr. Bopp. Again, we want to be cooperative. You're venturing into that
6 hypothetical.
7 I'm not sure if you're talking about -- you're talking about the White House here,
8 but you're talking about the possibility of something else, which it seems to me to be
9 hypothetical.
10 [redacted] The witness is happy to talk about treating certain requests equally.
11 [redacted]. That's correct.
12 BY [redacted]
13 Q Trying to get a sense of -- and you have identified that there was -- you had a
14 concern of making sure the response was addressed quickly to avoid certain
15 consequences.
16 I'm trying to understand the nature of whether you understood the severity of
17 consequences to be different, depending on who is making the initial request.
18 A It's my experience, based off of interactions with the legislative branch that
19 there was, you know, oftentimes timelines and deadlines, and, you know, urgent
20 responses are needed for the legislative branch as well. I don't know that I said
21 consequences in this email.
22 Q I was citing your previous answer here, your testimony.
23 A I'm sorry. Can you ask the question again, please?
24 Q Yes. Your previous response, a couple responses ago, you testified about if
25 the goal to provide a timely quick response to the White House was to -- based off your

1 experience in Washington is that there are consequences if folks don't respond, you
2 know, to people's concerns.
3 I'm just trying to get a sense of what sorts of consequences as -- with respect to
4 the White House, when there's a request from the White House and responding to the
5 White House in a timely fashion.
6 A I think I mentioned, again, assumptions that YouTube was doing nothing or
7 if, you know, bad information was provided, I was seeking to avoid that, again, in terms of
8 being timely and responsive.
9 If there were questions about YouTube, it was my view that YouTube was best
10 positioned to answer those questions directly. Again, aside from -- you know, I just
11 didn't want to create a vacuum of information and have requests go unanswered for long
12 periods of time. Ultimately, that was my goal.
13 Q And if the White House's request went unanswered, what was the fear of
14 what would happen?
15 Mr. Bopp. I think we talked about he doesn't have specific consequences from
16 the White House in mind. If you now can think of any, you can answer the question.
17 [redacted]. I didn't have any specific consequences in mind. Again, I viewed my
18 engagement with Members of Congress and the executive branch; I have great respect
19 for both branches of government. I certainly am cognizant of the broad authorities of
20 the -- that the Constitution provides to both the executive branch and the legislative
21 branch. And, again, I have great respect for it.
22 And I just wanted to make sure, again, I didn't create a vacuum and just not let
23 anything go unanswered.
24 BY [redacted]
25 Q In your experience at the company, was there ever a situation where

1 interactions with the White House did spiral out of control?

2 A None that stand out to me. I can't recall. Certainly, a lot of questions. I

3 don't know that I'd categorize it as spiraling out of control. But certainly, a lot of

4 questions and follow-on questions.

5 Q Did you have conversations with [redacted] during this time, April 2021,

6 right after the first meeting with the White House?

7 A I cc'd her on emails. Again, it was generally my practice. I wanted to

8 make sure my manager was aware of the work I was doing.

9 Q How often were you talking to [redacted] during this time, let's say, spring of

10 2021?

11 A It was common throughout my entire time at YouTube. I usually spoke

12 with her every day.

13 Q Do you recall any conversations with her about the urgency or the need to

14 respond to the White House's concerns in April of 2021?

15 A Again, I wanted to make sure that -- I don't know that there was anything

16 unique. Again, it was my practice, if there was a question, I would generally keep my

17 manager informed, and work to address it as quickly as possible. That's how I tried to

18 operate, again, out of respect for the executive branch and the legislative branch.

1

2 [2:13 p.m.]

3 [Exhibit No. 6

4 was marked for identification.]

5 BY

6 Q This will be exhibit 6. This is an internal email chain, company email chain

7 dated April 29, 2021.

8 A Okay.

9 Q Do you recall sending this email?

10 A Yes.

11 Q Can you remind me who is?

12 A , he is a board-certified cardiologist, and I can't recall his specific

13 title, but it was something to the effect of global health lead at YouTube.

14 Q The first sentence starts: "Over the last several weeks, Google and

15 YouTube" -- is that Government Affairs and Public Policy Team, GAPP?

16 A Correct.

17 Q -- "team have had conversations with the White House staff on YouTube's

18 policies and all the great work that is being done to raise authoritative information and

19 fight harmful misinformation related to COVID-19 misinformation."

20 Do you recall after that first meeting with Mr. Flaherty how soon you had had

21 another conversation with Mr. Flaherty?

22 A It was shortly thereafter. I can't recall the specific dates, but it was shortly

23 thereafter. Again, I try not to let requests linger too long. I can't recall a specific date,

24 though.

25 Q And in those future meetings, or the subsequent meetings, I should say, did

1 those also take place over Zoom videoconference?

2 A To the best of my recollection, Zoom was used.

3 Q We spent some time discussing the first meeting. In subsequent meetings,

4 did the tone of the meetings change?

5 A As I've indicated in this email, and this is helpful to review, again, because it's

6 been almost 3 years, "The discussions have been good, and the information has been well

7 received, but staff continue to have questions on the raise/reduce efforts."

8 I can't recall a change in tone or tenor for the discussions. There is nothing that

9 really stands out to me 3 years after the fact.

10 Q Do you recall any meetings with Mr. Flaherty where he expressed frustration

11 based off the status of the discussions?

12 Mr. Bopp. You're talking about meetings and not emails, right?

13 [redacted] Yes, just meetings.

14 Mr. Bopp. Okay.

15 [redacted]. He expressed concern. Mr. Flaherty would probably be able to

16 better answer in terms of frustration or not, but I would agree with the term concern for

17 sure, because he -- and, again, he expressed that in email.

18 BY [redacted]

19 Q Do you recall any meetings where he expressed criticism of how YouTube

20 was handling COVID-19-related misinformation?

21 A I can't recall specific examples of criticism, but it's certainly fair to say that he

22 likely did have criticism. I'm not disputing that there would be criticism or something

23 like that. I'm not disputing that.

24 Q Turning back to the first sentence of the second paragraph, questions from

25 staff on the raise/reduce efforts. What did you mean by raise/reduce efforts?

1 A As I previously described, that's part of YouTube's -- at the time, we used the
2 four R's of responsibility, and that's what I was describing with regard to raising
3 authoritative information, reducing visibility on borderline content.
4 Q The last sentence finishes the very last line. It talks about how it would be
5 beneficial to have [redacted] and [redacted] speak, as we seek to work closely with this
6 administration on multiple policy fronts.
7 Which policy fronts? Well first, let me take one step back. What do you mean
8 by "we" in that sentence? Who are you referring to?
9 A I was referring to broader YouTube government affairs and public policy. I
10 didn't refer to myself. More broadly, the company.
11 Q What other policy fronts was the company working closely with the current
12 administration?
13 A I don't know that I had a specific policy front in mind. Certainly, during my
14 time at YouTube, there, you know, were questions from multiple stakeholders on matters
15 related to child safety, as well as, you know, other issues I'm struggling to think of, but
16 multiple areas.
17 I didn't want to, you know, convey a sense that this was likely the only time. But
18 more broadly, it was my experience that YouTube sought to be responsive and answer
19 questions to the best of the ability on any number of issues that may come up.
20 Q What other examples in 2021 of other policy fronts that the company was
21 working with this administration on?
22 A I mean, I don't know that I had specific issues in mind. I think, again, more
23 broadly, given the interest in platforms like YouTube, I think it's certainly fair to say that
24 there was going to be other, you know, conversations on other matters. And again, I
25 wanted to convey, you know, we wanted to answer questions and work closely. It was

1 my job.

2 I worked closely with, as I've stated, the legislative branch and the executive

3 branch, and I guess I wanted to work closely with everyone, to be honest.

4 Q During this time, was the company engaged in any discussions with the

5 administration about dataflows between the U.S. and the European Union?

6 A If the company was, I can't recall being a part of those conversations.

7 Q Do you recall having any conversations either with the executive branch

8 directly or internally at the company regarding Section 230 reform?

9 A With the White House? Is that what you're asking specifically?

10 Q The executive branch broadly.

11 A Broadly, it's certainly fair to say that -- I can't recall a specific example of

12 when I had that conversation, but it's certainly fair to say that, you know, answering

13 questions around 230, as well as, you know, other issues was -- I'm not disputing that

14 didn't happen. It's certainly fair to say it did.

15 Q What about concerns related to antitrust enforcement?

16 A I can't recall conversations that I was a part of with regard to antitrust. I'm

17 not disputing that the company -- I think Alphabet might be in a better position to provide

18 answers on those questions. I can't recall any instances of discussing antitrust.

19 My roles and responsibilities were around YouTube's policies and community

20 guidelines. I'm not a lawyer. I am not an expert in any way on antitrust. So, frankly, I

21 wouldn't be in a good position to have those discussions.

22 Q Part of your position is to meet with members of the executive branch and

23 share their concerns. Do you recall having any conversations with the executive branch

24 related either to reform of Section 230 or other antitrust concerns?

25 A Again, I can't recall a single conversation that I was a part of related to

1 antitrust. With regards to specifics on 230, I'm really struggling to recall specific
2 instances of that happening that I was aware of, and certainly, broadly, you know, around
3 content moderation, which, of course, would fall under Section 230, I'm not disputing
4 that at all.
5 But with regard to those broader discussions, I can't recall examples. My roles
6 and responsibilities were around YouTube's policies and our content moderation practice
7 is what I really focused on.
8 Q Before sending an email like this, would you send a draft to [redacted]
9 or [redacted]?
10 A It was my general practice that I didn't. I have no reason to doubt that I
11 deviated from that practice in this case.
12 Q Did you have any conversations with [redacted] or -- am I saying the last
13 name, [redacted], correctly?
14 A [redacted] correct.
15 Q -- with either [redacted] or [redacted] regarding what other policy fronts
16 were top of mind for the company during this time?
17 A Again, I can't recall, and it would have been unlikely that I would share this
18 email in advance. I can't recall that taking place. I generally tried to be efficient in
19 sending things out. I can't recall sharing -- again, this was an internal email to two
20 employees at YouTube. So I just -- I can't recall.
21 Q Independent of this email, drafting of this email, what you may or may not
22 have meant specifically in this email, just spring of 2021, do you recall have conversations
23 with [redacted] or [redacted] about which policy fronts the company was working
24 closely with the administration on?
25 A I'm sorry. Is the question how many times did I speak with [redacted]

1 or [redacted] about what specific areas YouTube wanted to work with the White House?
2 Q No, not how many times.
3 A I just want to make sure I'm clear. I apologize.
4 Q Do you recall any conversations with [redacted] or [redacted] around
5 this time regarding the policy fronts that the company was working to -- looking to work
6 closely with the administration on?
7 A I can't recall specific examples, but certainly YouTube wanted to, you know,
8 work with the administration, as well as the legislative branch, and answer questions to
9 the best of our ability. I have no reason to dispute that, you know, we certainly -- we
10 would have conversations around being responsive. I'm struggling to recall specific
11 examples 3 years after the fact.
12 Q The next sentence of the next paragraph mentions that Mr. Flaherty has
13 been leading a lot of the White House work with social media companies. To your
14 understanding at the time, do you know which other companies Mr. Flaherty was
15 speaking with?
16 A To the best of my recollection, I didn't have a list. It was my thought that it
17 was likely the big social media companies, but I don't recall ever having a specific list of
18 other companies he was talking to.
19 Q The next sentence says that "if [redacted] and [redacted] are available, we
20 would like to request a meeting for next week given the significant attention coming from
21 the staff on this issue."
22 Is that in reference to the White House staff?
23 A Yes.
24 Q What led you to the conclusion at this point, in April 2021, that there was
25 significant attention coming from the White House staff?

1 A I think, you know, the questions that were being asked, there were multiple
2 questions. So that led me to the conclusion that there, again, was significant interest
3 and attention.
4 Q Were you receiving any other outreach from the White House during this
5 time?
6 A Other outreach from other White House staff?
7 Q Yes.
8 A Mr. Flaherty was the primary person. He often cc'd other folks. To the
9 best of my recollection, I can't remember speaking with any other staff at the White
10 House other than Mr. Flaherty. He was the primary person.
11 Q Just taking one step back, spring of 2021, roughly, there's a number of
12 emails and meetings from the White House about concerns related to COVID-19
13 misinformation. Do you recall any other, whether with Mr. Flaherty or otherwise, any
14 sort of outreach from the White House on other issues during this time?
15 A Other outreach from myself on this?
16 Q No, outreach from the White House to you on other issues.
17 A During this time, I can't recall other issues other than COVID-19. To the
18 best of my recollection, again, COVID-19 was the topic of conversation.
19 Q Turning back to the part of the paragraph, the second paragraph where you
20 mention having [redacted] and [redacted] share more background would be hugely
21 beneficial. What about their participation in a potential future meeting would be
22 beneficial?
23 A They were subject matter experts. While I, you know, had broad
24 awareness of policies, they were the experts, and so, I would view it as beneficial to have,
25 if there is a question that I can't answer, to have an expert, you know, from YouTube be

1 able to answer those questions.

2 Q Did Mr. Flaherty request that a subject matter expert be included on a future

3 call?

4 A I can't remember if he specifically requested it. Again, as mentioned in a

5 previous email that he discussed, he had additional questions around the raise/reduce

6 effort. So to the best of my recollection, I wanted to make sure that the subject matter

7 experts would be able to provide as thorough answers as possible.

8 So to really get to the point of your question, I don't believe that he asked to meet

9 with subject matter experts. To the best of my recollection, I wanted to make sure,

10 again, that I brought folks that he would be able to answer any additional detailed

11 questions that he may have.

12 Q To your recollection, did a meeting with [redacted] and/or [redacted] with

13 the White House ultimately take place?

14 A I believe so, yes.

15 Q Do you recall who else attended that meeting from YouTube?

16 A It's been some time. I would have certainly made others aware, but I can't

17 recall, other than [redacted] and [redacted], who else might have been on the call as

18 well.

19 Q Do you recall how that call went, what was said?

20 A I don't remember specifically what was said. I do recall [redacted]

21 speaking a lot of the time and answering questions about borderline content and things

22 like that. Again, he was the subject matter expert. I recall him speaking more than

23 [redacted].

24 For specifics, I don't -- again, it was largely around borderline content. And to

25 the best of my recollection, [redacted] [redacted], did most of the speaking during that

1 meeting.

2 Q Who was asking most of the questions?

3 A To the best that I recall, Mr. Flaherty was. I don't remember, or nothing

4 stands out to me after the fact of -- I don't recall other people speaking. If they did, it

5 was on a very limited basis, I believe. It's certainly fair to say Mr. Flaherty did a majority

6 of the speaking.

7 Q Based on how the meeting progressed, was Mr. Flaherty satisfied with the

8 answers that he was being provided?

9 A I don't recall him not being satisfied with the answers that were provided.

10 There was nothing that stands out of it being a negative discussion.

11 Q Prior to the meeting with [redacted] and [redacted] with the White House,

12 did you brief, or have some sort of pre-meeting with [redacted] or [redacted] in

13 advance?

14 A It would have been likely that I did.

15 Q Who else would have attended that pre-meeting?

16 A I can't say for certain. Again, it would have been a practice to speak with

17 [redacted] and [redacted] just to make sure that they were prepared to answer

18 questions and kind of how the discussions -- I don't remember. This was -- you know, it

19 would have been an internal meeting some time ago. Certainly, [redacted] and

20 [redacted] would have been there, but I can't remember who else from the YouTube

21 GAPP team was.

22 Q Do you recall what you told them in advance of the meeting with the White

23 House, "them" being [redacted] and [redacted]?

24 A I don't recall specifically what I said, but I would have certainly, you know,

25 mentioned what conversations have been had to that date, what information has been

1 provided, and what could be done to ensure that, you know, questions are answered
2 truthfully and completely.
3 Q After April of 2021, or maybe this carries over into May, did meetings with
4 the White House and [redacted] continue at a similar cadence? Was there ever a
5 pause?
6 A I do remember April 2021, I guess, for lack of a better term, being the time
7 of the most communication, around that timeframe. I can't remember if there was a
8 pause. I'm certainly not insinuating that I ceased communication, but from what I can
9 recall during that time, April, that was probably the most conversations that took place.
10 Q In April of 2021, obviously, you had conversations with [redacted]. Do you
11 recall any conversations with anyone senior to her in the company about ongoing
12 meetings with the White House?
13 A I can't recall conversations more senior -- with more senior staff than I
14 had -- than [redacted]. Again, I wanted to make sure my manager was certainly aware.
15 I can't speak to other conversations that she may have had. I just don't recall who else I
16 may have spoken with, but certainly [redacted] would have been one.
17 Q Did she ever tell you or indicate to you that she was speaking to more senior
18 staff within the company about ongoing meetings with the White House?
19 A Not that I can recall. It's been some time. I just -- I can't say who else she
20 may have spoken with, and I really don't recall if she said she did or not.
21 Again, I wanted to make sure, certainly, my manager was informed. I can't speak
22 to whom else she may have spoken with.
23 Q [redacted], is he with the -- to your recollection, is he with the Trust and
24 Safety team, or what were his responsibilities?
25 A I can't recall his specific work. Again, he was someone who, you know,

1 could speak in detail to how YouTube addresses borderline content, but I can't recall
2 where he fit in the org chart.
3 Q In advance of this meeting, had you shared with [redacted] that -- let me
4 take one step back.
5 What did you share with [redacted] in advance of his meeting with the White
6 House of what the White House's concerns or comments were regarding how YouTube
7 handles borderline content?
8 A To the best of my recollection, I just wanted to make sure that, you know, he
9 was prepared to go deep, and I said don't -- you know, to the best of my recollection, you
10 know, if you need to go technical, go technical, but provide as much information as you
11 can around YouTube, would have really been how I would have characterized that
12 discussion.
13 I can't remember exactly what I said, but I very likely would have said something
14 along those lines of be transparent, provide as much information as possible, and, you
15 know, if you need to go technical, you know, provide answers to questions to the best of
16 your ability.
17 Q And obviously, we've looked at a number of email chains from Mr. Flaherty,
18 emails about your communications with Mr. Flaherty about reducing borderline content.
19 Do you recall whether you shared that fact with [redacted] in advance of the meeting
20 with the White House?
21 A I'm sorry. Is your question, did I share the specific email?
22 Q Not the email but just that there had been conversations about reducing
23 borderline content.
24 A Yes, and I think I indicated that in this email, that over the last several weeks,
25 the Google and YouTube GAPP team have had conversations with the White House staff

1 on YouTube's policies and all the great work that is being done to raise authoritative
2 information and fight harmful misinformation related to COVID-19 misinformation.
3 So again, he was certainly aware, and I made that clear here that we're having
4 conversations with the White House staff.
5 Q Well, at least based on how YouTube was categorizing types of content,
6 there is misinformation that violates the community guidelines that's subject to
7 enforcement potentially, and then there's borderline content. And your recollection,
8 and based off the email chains, there were conversations with the White House about
9 reducing borderline content.
10 This email, the line you quoted, is not quite as specific as that. I'm just asking in
11 advance of the White House meeting, you know, did you or someone from one of the
12 public policy teams share with them that there were questions from the White House
13 about specifically reducing borderline content?
14 A Again, I had conversations about borderline content. I can't recall
15 specifically, but it would have been my practice to share as much information as I could
16 with the team regarding specific questions that we had received from the White House.
17 Q Do you recall if there were any questions from the White House you didn't
18 think should be shared with [redacted]?
19 A It was generally a practice of mine, I wanted to be as transparent with my
20 colleagues as I possibly could, so that they could be prepared to answer questions.
21 Q Do you know who [redacted] is?
22 A Yes, I recall that name.
23 Q What was her role at the company?
24 A I believe she was on the communications team.
25 Q Do you recall any interactions with the communications team during this

time?

A I can't recall specific examples, but it was not uncommon for me to have conversations with the communications team.

Q You don't recall any interactions with the communications team as related to ongoing meetings with the White House in 2021?

A I can't recall examples of meetings or discussions. I really don't recall that. I can't speak to if they were aware or not, but to the best of my recollection, I can't recall specific conversations with the communications team on this.

[redacted] Can we go off the record please.

[Discussion off the record.]

[redacted] Okay, we can go back on the record.

BY [redacted]

Q [redacted], I just want to follow up briefly on some things that we raised in the previous hour.

You were asked about whether you've had conversations with any government officials, White House officials in particular, about Section 230 reform. Do you recall those questions?

A Yes.

Q And were any of the conversations that you had about Section 230 in your role at YouTube, were those conversations -- was Section 230 ever raised in conjunction with YouTube's removal of borderline content?

A Not that I can recall.

Q And you were also asked a series of questions about whether the White House was capable of taking adverse actions against YouTube. Were you concerned that the White House was going to take adverse action, whatever that action might be,

1 against YouTube if YouTube did not provide satisfactory answers to Mr. Flaherty's
2 questions?
3 A I don't recall any specific feelings of concern.
4 Q And you talked about how your priority -- and please, correct me if I'm
5 misstating your testimony, because I think it's important for us not to put words in your
6 mouth.
7 But I believe you said that your priority with respect to the questions that
8 Mr. Flaherty raised by email was that you wanted to respond quickly to -- because, in
9 your experience, if too much time goes by without an answer, then incorrect and
10 negative assumptions might be made.
11 Is that a fair characterization of what you testified about?
12 A It's my experience that generally, it's not good if you let questions go
13 unanswered for long periods of time.
14 Q And it's your job as a public policy manager at Google to represent the
15 company in its best light, correct?
16 A It was my job to answer questions, and if there was any issue that came up
17 that wanted to be discussed around YouTube, that I responded to those questions.
18 Q And there was a series of questions in the earlier hour using the phrase,
19 "consequences," that you stated that you were concerned that there would be
20 consequences if YouTube did not respond quickly, but I'm not sure that was your
21 testimony.
22 Do you recall thinking that there would be consequences to YouTube other than
23 bad assumptions being made if you did not respond to Mr. Flaherty's questions quickly?
24 A I don't recall any specific feelings of concern around a specific adverse action
25 that would be taken by the White House. Again more broadly, it's been my experience

1 that, you know, having a vacuum of information where there is just questions and there's
2 no answers, that that's generally not a good thing.
3 Q And that is part of your job, to avoid that sort of vacuum, correct? That's,
4 in fact, the essence of your job?
5 A I would say that it's part of my job to respond quickly. I don't know that I
6 was -- you know, that I viewed it as sort of a primary goal to, you know, avoid a gap. I
7 just wanted to make sure -- I have great respect for the executive and the legislative
8 branch. If there's a question, if there's information that's requested about YouTube's
9 policies, that I respond as quickly as I possibly can.
10 That's really what I wanted to make sure I was doing, being a responsive public
11 policy professional.
12 Q Thank you.
13 [redacted] May we have just a moment?
14 BY [redacted]
15 Q I just want to go back to -- you mentioned that most of your interactions
16 with the White House about this topic, about COVID-19 misinformation, borderline
17 content, that sort of thing, happened in April of 2021, correct?
18 A It's fair to say --
19 Q Around.
20 A -- a lot of those conversations took place in the April 2021 timeframe.
21 Q And just to take a step back and orient ourselves, April 2021, the pandemic
22 had been going on for just over a year at that point, correct?
23 A Correct.
24 Q And most Americans, most people in the world had been confined to their
25 homes for a year, correct?

1 A I can't speak for most. For myself, I was working at home.
2 Q And it was important to YouTube to do whatever it could and to use its
3 platforms, however it could, to help bring the pandemic to an end as quickly as possible.
4 Would you agree with that?
5 A I don't know that I would say that. I think it was more YouTube's view,
6 based off of my experience, to operate within sort of the four-R construct of removing
7 violative content, raising authoritative voices of information, reducing visibility on
8 borderline content, and using that framework with the overall objective of achieving its
9 mission of giving everyone a voice and showing in the world.
10 That's really how I viewed that.
11 Q And you understand that during that period of time, the White House had a
12 different goal in that the White House's primary -- well, an objective of the White House
13 at that time was to help save lives and stop the pandemic?
14 A I've never worked at the White House. I can't speak to their specific goals,
15 but, you know, broadly, certainly I was aware that the White House wanted to work to
16 address the ongoing pandemic.
17 Q Now, you were asked a little while ago about whether you viewed or
18 interpreted certain emails that you received as threats or coercion. Did any of the -- in
19 the meetings that you had with White House officials, did you interpret any of the
20 statements made during those meetings as threats of adverse consequences to Google or
21 attempts to coerce Google? YouTube, I'm sorry.
22 A Not that I can recall. Again, I can recall a lot of questions around policies,
23 around how YouTube was defining things like borderline content, things like that. I just
24 can't recall that feeling or the notion of threats on how YouTube enforces its community
25 guidelines.

1 And if I can take a bit of a step back to provide more context in terms of why I
2 thought that way, YouTube, as I've stated and as has been indicated in my response to
3 Mr. Flaherty, YouTube seeks to apply its policies impartially and didn't take specific
4 speaker-based, you know, views of, well, if it's a certain speaker, then community
5 guidelines wouldn't apply. That wasn't my experience.
6 And as such, I viewed conversations, if there was concern, or if there is praise or
7 whatever the case may be, through that impartial lens. That's how I viewed things at
8 YouTube, that we wanted to be responsive, but do so in a way that is consistent with
9 YouTube's mission, consistent with the community guidelines, and is done so impartially.
10 Q And was it your experience at Google -- I'm sorry. YouTube. I keep doing
11 that. I apologize.
12 Was it your experience at YouTube that others in the company had the same
13 impartial approach?
14 A That was my experience, that the employees or folks that I worked
15 with -- I'm not disputing that they certainly would have had their own personal views,
16 but, you know, it was the underlying mission, and that was something that was from the
17 top-down, that YouTube is there to give everyone a voice, and show them the world, and
18 that YouTube's community guidelines would be applied impartially. That was my
19 experience.
20 Q Thank you.
21 [redacted] We can go off the record.
22 [Discussion off the record.]
23 [redacted] We can go back on the record, please.
24 [[redacted] Exhibit No. 7
25 was marked for identification.]

1 BY [redacted]

2 Q I'm going to introduce what will be exhibit 7. This is an email chain

3 between [redacted], Mr. Flaherty, and a few others from July 2021. There is reference to

4 a tweet during this email exchange.

5 Mr. Bopp. Are you done? Hold on.

6 [redacted]. If I can just have one more minute, please.

7 [redacted] Yeah, we're not -- I'm just going to introduce it simultaneously. So

8 exhibit 8 will be a tweet that is hyper linked in the email exchange.

9 [[redacted] Exhibit No. 8

10 was marked for identification.]

11 [redacted]. Okay.

12 [redacted] Counsel, are you ready?

13 Mr. Bopp. Yeah, it's all right.

14 BY [redacted]

15 Q If I can have you flip to the back of what's exhibit 7, the email chain, there's

16 an email from you July 19, 2021, with a Bates stamp of 1:27 regarding an announcement

17 from YouTube.

18 Do you recall sending this email?

19 A Yes. Seeing it in front of me helps refresh my recollection, yes.

20 Q And the -- what announcement is being made? What are you sharing with

21 the White House in this email?

22 A So as stated, "We wanted to share an announcement that we recently made

23 regarding a few new ways in which we are making it easier for people to find

24 authoritative information on health topics on YouTube.

25 "Starting this week, you'll see two new features next to some health-related

1 searches and videos. These include a new health source information panel that will
2 surface on videos to provide context about authoritative, sources and a new health
3 content shelf that may more effectively highlight videos from these sources when you
4 search for health-specific topics."
5 And, again, that was an announcement, and I passed that along.
6 Q So this announcement is about elevating authoritative information? Is that
7 an accurate summary?
8 A That's fair.
9 Q As part of this announcement, were there any changes made with respect to
10 how YouTube would reduce borderline content?
11 A Not that I can recall. And seeing this email, information panels, just to
12 provide additional context on those, they weren't making determinations on individual
13 content. Rather, if, say, in this example, if there was a video about COVID-19, it didn't
14 really matter what was being discussed, but, you know, there would be an information
15 panel essentially saying something along the lines of for more information, you know,
16 please click here, kind of thing.
17 And then with regard to the health content shelf, to the best of my recollection,
18 how that worked is so if you're searching for COVID-19 videos on YouTube, before you get
19 to like the actual videos underneath the search bar, sort of at the top right there, I believe
20 it was blue or some sort of distinguishing color, and if I can recall correctly, there would
21 be several videos, sort of featured in that content was how I roughly remembered how
22 that worked.
23 But I don't recall specific changes on borderline content. Again, it really was
24 about raising authoritative information.
25 Q So Mr. Flaherty responds the next day and asks if you saw a tweet. I'm

1 happy to represent that exhibit 8 is what pulls up when we put in that hyperlink.
2 He then says, "I think we had a pretty extensive back and forth about the degree
3 to which you all are recommending anti-vaccination content. You were pretty emphatic
4 that you are not. This seems that to indicate that you are. What is going on here?"
5 First, to your recollection, obviously, there was at least more than one meeting
6 and several email communications going back to April 2021. From late spring to
7 throughout the summer, do you recall other interactions, either with Mr. Flaherty or with
8 other White House staff?
9 A I have no reason to doubt that other emails were sent from Mr. Flaherty.
10 From what I can recall, Mr. Flaherty was the primary person that would send emails about
11 content moderation practices. I just cannot recall other emails that were sent from
12 other White House staff other than Mr. Flaherty. But I have no reason to doubt that
13 there were, you know, emails between April and July of 2021. But April was I guess the
14 main time when those emails were sent.
15 Q To the best of your recollection, was there anything that spurred your initial
16 email related to communications with the White House, or was it YouTube was ready to
17 make this announcement, and you wanted to share it with the White House to keep them
18 informed?
19 A I viewed it as the announcement -- I said I wanted to share an
20 announcement that we recently made. So the announcement was public.
21 And as a general matter of practice, if I had conversations with a particular office
22 or an individual, and if they expressed concern on an issue and if there was something, a
23 new announcement that would be related to that, I just wanted to make sure they were
24 aware.
25 Q So Mr. Flaherty shifts the focus of the conversation to what steps the

1 company is taking as it relates to recommendations around anti-vaccination content.
2 Taking one step back, just your recollection, based on your meetings with
3 Mr. Flaherty, you've outlined the different steps that the company was taking, clearly
4 elevating authoritative information, reducing borderline content, what steps was
5 Mr. Flaherty most interested in asking questions about?
6 A It's probably fair to say borderline content, but, to the best of my
7 recollection, it was -- as it has been indicated in these emails, he had a lot of questions
8 around borderline content.
9 Q And specifically, efforts to reduce borderline content?
10 A Yes, that's fair to say.
11 Q So you were able to, based off of the time stamps as produced to us, provide
12 a response the same day. You were able to provide a few figures, some of which we've
13 seen before, and some that we've discussed before. Do you recall, in preparing a
14 response to Mr. Flaherty, if this is information that you were already familiar with, or did
15 you have someone else at the company provide this information to you?
16 A From what I can recall, I was familiar with this data. I can't recall -- again,
17 this was a fairly quick response, approximately an hour. So I can't recall contacting
18 anyone about how to respond or requesting assistance in any way. And, again, I tried to
19 respond quickly to provide information.
20 Q When it comes to -- if you wanted to get updated numbers, so to speak,
21 from the company in the summer of 2021 about -- we'll start with the first figure --
22 A Sure.
23 Q -- about what percent of borderline accounts account for what percent of
24 watch content of YouTube in the United States, which team within the company would
25 have that information?

1 A It's difficult for me to say which specific team would have had that
2 information. From what I can recall, and in reading the second sentence with regard to
3 your question, it's important to keep in mind that borderline content accounts for a
4 fraction of 1 percent of what is watched on YouTube in the United States.
5 From what I can recall, that figure has been used in blog posts or press releases or
6 other types of public statements, and I was aware of that figure at the time, and just
7 wanted to, I guess, put it in context in terms of YouTube's work around borderline
8 content.
9 Q In the summer of 2021, regardless of who it was, but if someone, one of the
10 government stakeholders that you were meeting with, wanted a bit more information
11 about how YouTube determined that number, what team would you reach out to within
12 the company to try to better understand that assessment?
13 A I can't recall those types of questions, but I would have probably gone to
14 [redacted]. Again, he was someone who was very familiar and someone who I would
15 have viewed as a subject matter expert. I would have gone to him, or if there was other
16 public statements that were available, then I would have asked someone in the comms
17 team if there is anything else, if there is any new available figures or facts for
18 something -- like just for overall data points. I don't think I would have gone to [redacted] or
19 someone.
20 So it's probably fair to say those two is how I would have handled something like
21 that.
22 Q So you've provided similar figures before to the White House because we've
23 looked at other -- and you mentioned public materials as well.
24 Given that the issues at least were occurring from April 2021 to July 2021, do you
25 recall, when presenting this information -- actually, just from this email chain but in other

1 instances to Mr. Flaherty -- whether the concern was that he thought the figures didn't
2 accurately reflect how much anti-vaccine content was being viewed in the U.S. or that he
3 took those numbers at face value but thought those numbers were too high?
4 A I don't know if -- I can't recall in terms of how he specifically viewed those
5 numbers, but from what I can recall, again, borderline content can be a bit of a complex
6 issue. Try to understand, again, I'm even struggling to this date to really kind of provide
7 more details.
8 And so, he just had a lot of questions, so it's difficult for me to characterize -- and,
9 again, he had expressed concern. That's very, very clear, and was clearly stated from
10 him in the emails.
11 But it's difficult. In that timeframe, I can't recall if that was too bad or good
12 enough or whatever. It's difficult for me to characterize. But, again, he did express
13 concern in April of 2021 about that.
14 Q I guess I'm just trying to get more of a sense of the figures that you're
15 providing to the White House or suggesting that the company is not at zero, but it's -- the
16 numbers are quite small, at least as a percentage of reducing the amount that people are
17 viewing borderline content, but yet, there seems to still be many questions from the
18 White House.
19 I'm just trying to get a better sense of at least what your understanding or what
20 the company's understanding was about why the answers you're providing weren't
21 enough to stop questions from the White House.
22 A I don't know that I was ever in a position to stop questions. Again, this is
23 fairly complex, and, you know, it's -- I didn't view it as particularly out of the ordinary. If
24 someone didn't understand it after one meeting or two meetings, content moderation is
25 very, you know, it's very challenging work, and different platforms have different policies

1 and handle things in different ways.

2 And so, I guess I didn't view it as out of the ordinary if it took several discussions

3 to continue to answer questions around YouTube's policies.

4 Q I guess maybe a different way to answer a previous question: Was it your

5 sense in conversations with Mr. Flaherty that he was misunderstanding the information

6 that was being presented to him, or that he accurately understood the information, but

7 felt that the steps being taken were not enough to reduce borderline content?

8 A I don't know that I viewed it that way. Again, this can be fairly complicated,

9 and so, if there was additional questions of, you know, remind me, how does this work?

10 Or what are the policies? I guess I didn't view that as out of the ordinary.

11 I would have, you know, several conversations on the same topic or various

12 aspects of policies with different offices who were trying to understand. Help me,

13 remind me again how this works. So I guess I just didn't view it as out of the ordinary.

14 Q Turn now to the front page. First, do you recall, did you go and pull up the

15 tweet that Mr. Flaherty had sent to you in the previous email?

16 A I would have at the time.

17 Q There's a response of Mr. Flaherty with the time stamp of 3:58, and then

18 there's a response from you. The time stamp is 8:27 p.m. In the third sentence, you

19 say, "To date, approximately 89 percent of the videos removed for violations of this policy

20 were removed with 100 views or less."

21 To your understanding, based on how YouTube's -- how YouTube enforced its

22 policies, are these videos -- do they have such few views because they were being

23 removed quickly following the time that they're posted, or is it just very comprehensive

24 and it's able to find even videos with small number of views?

25 A For something like that, I would reference the violative view rate, and that's

1 exactly why that metric was provided to be publicly available was to answer that question
2 of how effective is YouTube at enforcing its own policies. And it was something that was
3 tracked in views. I can't recall the specific number. It was -- I think I mentioned
4 something along the lines of .16. It was like 16. Here it is, 16 of 18 views come from
5 violative content.
6 And I think that speaks to the speed and efficacy in which YouTube enforced its
7 own policies.
8 And I'd also like to --
9 Mr. Bopp. I think you misstated that 16 to 18.
10 [redacted]. Oh, excuse me. Apologies. Please let me clarify. 16 to 18 views
11 out of 10,000 views. Apologies. I meant to say that as well.
12 And I'd also like to note that I stated: "Mr. Flaherty, with regard to the specific
13 videos you reference, the content was not in violation of our community guidelines."

1 [3:22 p.m.]

2 BY [redacted]

3 Q So turning back to the hundred views or less, I understand the one metric is

4 measuring views.

5 During your time at the company, do you recall if there was any metric regarding

6 how long a video was up for before enforcement took place?

7 A I can't recall a specific metric. Again, that was, you know, the Violative

8 View Rate, that metric was provided public to really get to the heart of that question of,

9 again, how quickly is content being removed and how basically how good is YouTube at

10 enforcing its own policies.

11 Q Just based off, you know, my own personal experience with YouTube or how

12 I would imagine, some videos reach over a hundred views quite quickly and there are

13 probably some that languish without many views for quite sometime.

14 Was there any sort of assessment internally, whether publicly released or not

15 within the company, to measure how quickly the company was able to identify content

16 that was violating the company's policies?

17 A None that I can recall.

18 Q You called attention to your response. It's a 1:03 a.m. date stamp or

19 timestamp. Excuse me. And what was represented in this email, just to make sure this

20 is consistent with your understanding, that content that violated the policies could be

21 subject to removal but that borderline content could be reduced but was not subject to

22 removal.

23 Is that a fair summary?

24 A That's a fair summary, again, because borderline content didn't cross the line

25 of violating policies.

1 Q Did Mr. Flaherty ever ask why the company didn't remove borderline
2 content?
3 A I can't recall if he asked that question because, again, I tried to be very clear
4 that that content didn't violate policies. I can't recall if he specifically asked that, but I
5 tried to make that very clear, again, in describing the four R responsibility framework.
6 Q Certainly there has to be some line drawn here of what violates versus
7 what's close to violating. Did Mr. Flaherty ever ask YouTube to consider changing what
8 was considered borderline into violative content?
9 A I can't recall Mr. Flaherty making that request.
10 Q If YouTube had changed its content moderation policies so that content that
11 was previously borderline content would under the new policy be considered violative
12 content, do you think that's a change that would have been welcomed by the White
13 House in 2021?
14 A I can't speak how they would have welcomed policies or had further
15 questions. I just I don't want to speculate in terms of how any changes would be
16 received.
17 Again, if there were changes and updates, as is indicated here, I would generally,
18 you know, make sure that that information was shared.
19 Q Are you aware of any internal company discussions in 2021 about revising
20 the community guidelines so that content that was previously considered borderline
21 content would be considered violative content?
22 A I can't recall being a part of those decisions. Again, the Trust and Safety
23 team, they're the ones that made, you know, a lot of decisions around, you know,
24 updating YouTube's community guidelines. I was on the Public Policy team. I think
25 that would probably be a better question for Trust and Safety but, to be direct, I just I

1 can't recall that.

2 Q In your response at 1:03 a.m. at the top of the -- what's exhibit 7, you

3 mentioned that the content is not in violation of the policies.

4 Exhibit 8 is the screenshot of the tweet.

5 Do you recall whether you -- in July of 2021, would you have been in a position to

6 assess whether these videos were violative content or not or did you have to reach out to

7 somebody within the company to provide that answer for you?

8 A I was not in a position to make that assessment. That would have been

9 made by the Trust and Safety team. And so it was very likely that I would have shared

10 this with the Trust and Safety team to get their views and determinations on that.

11 Q When sharing this with the Trust and Safety team, would you have said this

12 question comes from the White House?

13 A I can't recall if I specifically said. I have no reason to doubt that I didn't

14 include that, but I can't recall what my specific email was to the Trust and Safety team.

15 Q Either on this day or -- I guess the email chain's over a couple of days.

16 Around this time, do you recall having any phone calls or Zoom meetings with

17 Mr. Flaherty to discuss steps the company was taking with respect to COVID-related

18 content?

19 A I don't recall additional specific meetings. You know, from a broader

20 context, I was working from home. And to be honest, a lot of the Zoom meetings kind

21 of ran together. I can't recall if I -- if I did or if I didn't.

22 Q Do you recall any examples before this where Mr. Flaherty or someone from

23 the White House flagged, like, a video -- or in this case it's a screenshot of videos -- and

24 asked just as an example whether this would be borderline content or violative content?

25 A That may have happened. This example is the one that I recall the most.

1 And the reason why I recall it is he sent a tweet and not a specific -- I just thought that
2 was a little bit unusual. So that's why I recall.
3 I can't recall other specific examples. But when I responded, I had no concern
4 about telling him exactly what the determination was.
5 Q Do you recall any Zoom meetings where someone from the White House
6 did, like, a screen share and pulled up a video and asked, you know, can you walk us
7 through if this is borderline or violative?
8 A I can't remember if that happened. But if it did, I would have said that that
9 is not a determination or a decision that I make.
10 What I would have done in that scenario is, again, refer to YouTube's community
11 guidelines, walk through specifically what the policies were, ensure that, you know, it was
12 clear that anyone can report content on YouTube, anyone who logs in can report anything
13 on YouTube, and the same policies apply. Regardless of whomever might be reporting
14 content.
15 But, again, to be clear, I can't recall if they specifically showed a -- if the White
16 House specifically showed a screenshot and said, you know, what about this.
17 Q Do you recall any meetings with the White House where you or someone
18 from the company came prepared with an example to illustrate how the policies would
19 apply?
20 A I don't believe we would have provided a specific video. I think what was
21 common -- and this is something that's available on YouTube's Community Guidelines
22 website -- is there are specific examples, not videos but, like, the types of content.
23 One that stands out to me is so an example of something that would be violative
24 of, you know, 5G towers cause COVID. And I believe that was an example that was
25 provided.

1 So it wouldn't have [been here is a specific. It's, you know, broadly this is the
2 type of content that would be in violation of the policies.
3 [redacted] This will be exhibit 9.
4 [[redacted] Exhibit No. 9
5 was marked for identification.]
6 BY [redacted]
7 Q This is the same email chain as exhibits 7 and it shows the -- shows [redacted]
8 forwarding the email to [redacted].
9 A Yes.
10 Q So we had talked briefly just at a high level about [redacted] role in the
11 company. It's your recollection that she was with the company's Communications
12 team?
13 A Correct.
14 Q Do you recall why you forwarded this email chain to [redacted]?
15 A To the best of my recollection, I show that I shared the announcement and
16 just wanted to share the response.
17 Q Prior to this email chain, had you -- was it your practice or your team's
18 practice to forward other communications with the White House to the Communications
19 team?
20 A I can't think of other examples. Generally, what I did during my work, if
21 there was an announcement, I would share. You know, I shared this with several
22 offices, you know, most often on the Hill, and this is typically the response that was
23 received.
24 But this -- I can't recall other examples outside of this where I did that with -- from
25 White House emails.

1 Q Did you have any conversations that you can recall with [redacted]
2 regarding meetings or discussions with the White House?
3 A I -- none stand out to me. I mean, I have no reason to doubt that I didn't.
4 There's just nothing really that stands out in terms of my conversations with
5 [redacted].
6 Q Did you have a primary point of contact with the Communications team
7 during your time at the company?
8 A I don't know that I would describe it as a primary point of contact.
9 I -- [redacted] to the best of my recollection addressed COVID-19-related press
10 releases and blog posts and things like that. But there was other communications of
11 folks that it wasn't uncommon for me to have conversations with them as well.
12 Q Do you recall any conversations with other communication folks about
13 meetings or emails or discussions with the White House?
14 A It's certainly possible I may have mentioned it. But as it relates to COVID,
15 again, I do recall [redacted], like, that was -- if there was a question on COVID press
16 releases, statements, blog posts, things like that, she was the person. So for COVID, I
17 would have gone [redacted].
18 [redacted] Do you recall any -- actually, strike that. We'll just go to the next
19 exhibit.
20 [[redacted] Exhibit No. 10
21 was marked for identification.]
22 BY [redacted]
23 Q This is a September 2021 email exchange between [redacted] and others at
24 the company and Mr. Flaherty and others at the White House.
25 This will be exhibit 10.

1 A Okay.

2 Q Do you recall sending the email on September 21st, 2021, notifying

3 Mr. Flaherty about the company's finalization of the new policy?

4 A With this in front of me, it certainly helps me recall.

5 Q We'll start with the first sentence of your email to Mr. Flaherty with the 1:52

6 timestamp. Said, "Our YouTube Trust and Safety team is working to finalize a new policy

7 to remove content that could mislead people on the safety and efficacy of vaccines."

8 To your recollection, what was -- what was the change of policy during this time?

9 A Again, outside, as I've stated, the safety and efficacy of vaccines, I can't recall

10 the details but it certainly was vaccine-related.

11 Q To your recollection, prior to this policy change or -- let me rephrase that.

12 To your recollection, because of this policy change, was there any type of content

13 that was previously considered borderline content that was newly considered violative

14 content under the new standard?

15 A It's difficult for me to say in all examples of YouTube how much was

16 specifically borderline that would have been impacted or not. I have no reason to doubt

17 that there would be some that could be impacted. I mean, there's a lot of content on

18 YouTube. I have no reason to doubt that some that would have been impacted by this

19 policy could have been considered as borderline content.

20 Q To your understanding, under the new policy, was there more content than

21 now could be considered violative than under the previous policy?

22 A It's difficult for me to say more versus less. With 500 hours uploaded every

23 single minute, there's a lot of new content that comes on YouTube every single day. So I

24 don't know that I can really categorize it as this led to a significant drop in content with so

25 much new content being put on the platform.

1 Q Yeah, let me rephrase the question.
2 When a new policy is instituted, there can be subject areas being added or taken
3 away from the community guidelines of what is violative content.
4 Before this new policy was put in place in around September of 2021, to your
5 understanding, how was content that questioned the efficacy of vaccines treated?
6 A I think that's a better question for the Trust and Safety team in terms of how
7 it would have been treated in all categories.
8 Broadly speaking, it's my understanding that it wouldn't have been in violation of
9 the policies. It's been kind of at least some time since I've reviewed the specific details
10 of the policy since I left the company more than a year ago or roughly a year ago.
11 I think that's probably a better question for the Trust and Safety team.
12 Q How did you become aware that the Trust and Safety team was working to
13 finalize a new policy to remove content that could mislead people on the safety and
14 efficacy of vaccines?
15 A Aside from I would have been notified by a colleague at YouTube, I don't
16 remember who exactly did. But it certainly would have been another colleague at the
17 company that would have notified me.
18 Q Do you recall the gap in time from when you were first notified to when you
19 notified Mr. Flaherty?
20 A I really don't remember. Again, I can't recall who notified me. So it's
21 difficult for me to provide an accurate assessment of what that time looked like from the
22 time I first knew until I sent this email on September 21st of 2021.
23 Q You asked if Mr. Flaherty's available to meet -- the email's Tuesday,
24 September 2021 --
25 A Okay.

1 Q -- whether to meet this Friday, September 24th or Monday, September 27th.
2 To your understanding, were either of those dates before the policy was to be
3 announced?
4 A I don't dispute that -- well, let me rephrase.
5 I -- it's difficult for me to really remember what the specific timeline was. If I was
6 discussing a preview, then it's probably fair to say that that would have been before it
7 became public. But I -- I can't recall the specific timelines.
8 Q Who at the company made the decision to notify Mr. Flaherty about the new
9 policy that was being finalized?
10 A I honestly don't remember. This was some time ago.
11 Q Do you remember if it was you?
12 A I -- I generally -- I cannot recall.
13 Q On the decision whether to notify the White House of a policy that's being
14 finalized, is that the type of decision that you typically have the authority to make, or is
15 that a decision that would typically be made by someone above you?
16 A I generally can't recall. I would have made the team aware. I would have
17 made my manager aware, but I can't recall the sequence of events of if someone asked
18 me to or if I took that initiative. I just I don't recall the sequence of events from
19 September 21st, 2021.
20 Q Independent of this specific sequence, just generally, in 2021, is this the type
21 of decision that would have been within the scope of your authority? Or is this a
22 decision that would have more likely come from someone above you?
23 A Generally speaking, I -- it's really -- it's really difficult for me to remember. I
24 was certainly given, you know, broad leeway to have conversations with external
25 stakeholders. I just I really don't remember.

1 Q The -- do you know why the Trust and Safety team created this new policy to
2 remove content that could mislead people on the safety and efficacy of the vaccines?
3 A I think motivations for Trust and Safety team are better answered by the
4 Trust and Safety team.
5 Q Were you aware that they were working on this new policy?
6 A I can't recall specifically what I was aware of at the time. Again, based off
7 this email, I was certainly aware of it before it became public, but I can't recall when I first
8 became aware of it.
9 Q In your discussions with the White House, at any point during 2021 -- let me
10 rephrase that.
11 In your discussions with the White House before September 2021, were there any
12 discussions related to content on the safety of vaccines?
13 A Content on the safety of vaccine -- are you referring to specific videos or
14 content or --
15 Q No, questions about how the company handled content related to the safety
16 of vaccines under its community guidelines at the time.
17 A It's certainly possible that that came up, but nothing really stands out, you
18 know, a few years after the fact here. It's certainly -- it's certainly possible.
19 Q You do recall that there were -- I don't want to put words in your mouth --
20 A Yeah.
21 Q -- discussions with the White House about COVID-19 vaccines. Is that a fair
22 assessment of your recollection?
23 A That's a fair assessment.
24 Q Okay. When there were discussions about the COVID-19 vaccines, what
25 about the vaccines was Mr. Flaherty bringing up or asking about?

1 A I can't recall specifically what he was referring to. I think certainly broadly
2 issues around vaccine hesitancy, as we've previously discussed and has been indicated in
3 those emails. Outside of hesitancy, I can't recall specific areas, you know, outside the
4 broader umbrella of vaccine hesitancy.
5 Q Based on your understanding of the discussions at the time, would concerns
6 related to the safety or efficacy of vaccines fall underneath the umbrella of concerns
7 about vaccine hesitancy?
8 A That's fair. I would note that, you know, this is why, you know, YouTube
9 has a health team, as well, to work with external stakeholders and, more specifically, with
10 health authorities globally to include the CDC, the WHO.
11 It was my understanding during my time at the company that decisions made
12 around health policies were done in coordination with those agencies based off of their
13 feedback rather than political offices. That's my general understanding and recollection
14 of, you know, the health team and their work and responsibilities.
15 Q The new policies that's described in your email here addresses content that
16 could mislead people on the safety and efficacy of vaccines.
17 Did that new policy encompass true information about the safety and efficacy of
18 vaccines that lacked adequate context?
19 A It's been 3 years since I've reviewed. I would really need that policy in front
20 of me to accurately answer your question.
21 Again, as I've indicated, broadly, it was around safety and efficacy of vaccines.
22 Specifically what that policy was, again, I'm certainly aware it was made public. But I
23 can't recall the details of that policy.
24 Q So some of the others misinformation policies we've discussed at a high
25 level, but there are assessments on the accuracy of information.

1 To your understanding, is this new policy, was there an element that was looking
2 at the intent of people that were posting content?
3 A I would really need that policy in front of me to help refresh my memory.
4 Q Do you receive like a briefing from the Trust and Safety team, or how would
5 you have been made aware of what this new policy entailed?
6 A It's possible there was an internal discussion. It's -- I really -- I'm struggling
7 to recall exactly how that information was shared with the Public Policy team.
8 Q The previous exhibits, there was the email chain from July 2021 where
9 Mr. Flaherty flags a tweet and there's some examples of YouTube videos and you respond
10 pretty definitively that those videos did not violate the community guidelines at the time.
11 To your understanding, would those videos have violated the new policy
12 guidelines being issued around September 2021?
13 A I didn't make those calls. That was the Trust and Safety team, and I
14 deferred any decisions on enforcement. That was their responsibility. That was not
15 my role at the company.
16 Q Understanding it's not your role --
17 A Yeah.
18 Q -- just to your understanding, based off an assessment, an enforcement
19 action being taken by the Trust and Safety team, for the videos that were flagged in the
20 July 2021 email exchange, would those have been considered by the Trust and Safety
21 team to be violative content under the new policy enacted around September of 2021?
22 Mr. Bopp. I think he's already said several times that he's not part of the Trust
23 and Safety team. You're asking him repeatedly what the Trust and Safety team, how it
24 would have applied these new standards which he's already said he needs to have in
25 front of him. He doesn't recall what they are. He can't answer that question.

1 [redacted] He's able to get an answer to the question in response to the email
2 chain in July of 2021. I'm just asking to his understanding, were those -- I'm asking
3 sitting here today --
4 [redacted]. Sure.
5 [redacted] -- not to make a judgment call.
6 But those -- the tweet with the screen shotted examples of the YouTube videos
7 was something that was significant enough that was brought to someone else in the
8 company.
9 And [redacted] was able to provide a substantive, definitive response. Those
10 were not in violation of the community guidelines at the time he sent the email.
11 BY [redacted]
12 Q In September of 2021, to your understanding, based off communications
13 with the Trust and Safety team, understanding they wouldn't have been your decision
14 based off your role at the company, would those videos have violated the community
15 guidelines standards after the new policy was enacted in September of 2021?
16 A I want to clarify with regard to sending that email to the Trust and Safety
17 team, to ask for them to review this content, again, that's something I took their
18 feedback. I did not make that determination. They were the ones that said this
19 doesn't violate our policies. If that happened, that was, you know, pretty direct. This
20 content does not violate our policies.
21 In terms of making specific determinations about those, I can't do it because that
22 was not my role. It's been some time since I've reviewed, you know, the policy that took
23 place. So I cannot -- I'm not in a position to make a determination as to whether every
24 single video or even a subset of the videos that were identified in the tweet were
25 violative of those policies because that was not my role and responsibility. That was

1 something that the Trust and Safety did.

2 Q I think the record's clear on which teams are responsible or which team is

3 responsible for making that determination.

4 But you work in the same company, and there are times like the July 2020 email

5 where you're able to receive information from the Trust and Safety team and

6 communicate that to someone else.

7 So I'm just trying to get: Based off that previous exchange, that there was an

8 example that was flagged, an assessment was conducted, again, not by you, by the Trust

9 and Safety team, you were provided a response, again, not that you made this

10 assessment, and communicated in an email chain to the White House.

11 Did have you any conversations of -- with the YouTube Trust and Safety team

12 about whether those examples flagged in exhibit 8 but the YouTube videos in the

13 screenshot of the tweet would be considered violative under the policy as enacted

14 around September 2021?

15 A Again, to be clear, in terms of receiving information from the Trust and

16 Safety team, they were responding to my inquiry of, you know, please review, consistent

17 with our community guidelines, receiving the response. This doesn't.

18 I don't even know that I ever viewed the videos because it wasn't my role. So I

19 can't make a determination, again, based off a policy whether or not that content would

20 have been violative or not.

21 Mr. Bopp. He's just asking whether the Trust and Safety -- whether you had any

22 conversations with the Trust and Safety team about the revised policy --

23 [redacted]. Okay.

24 Mr. Bopp. -- and whether it applied to exhibit 8 videos --

25 [redacted]. Apologies.

1 Mr. Bopp. -- right --

2 [redacted]. Apologies for that.

3 Mr. Bopp. -- being violative. Whether you had any conversations was his

4 question.

5 [redacted]. Apologies for -- I can't recall specific conversations around that.

6 BY [redacted]

7 Q So in July of 2021, the White House flags an example for you. You take it

8 back to the Trust and Safety team. They come back with a clear answer. You provide

9 the clear answer back to the White House.

10 Then 2 months later, a new policy's enacted. Was there any discussion either

11 among your team or with the Trust and Safety team to try to get an assessment, if the

12 White House comes back to us with the same example, what's our answer on whether it's

13 violative under the new policy?

14 A Generally, it was a practice of mine that I wanted -- if there was specific

15 examples, you know, of specific pieces of content, I didn't really have those at my

16 disposal.

17 But I want to be clear. If there were broader themes, as I mentioned, you know,

18 5G towers causing COVID, that would be a broad example. But for these specific videos,

19 as outlined in the tweet, I just I cannot recall conversations related to those or how that

20 would be impacted a few months after the fact.

21 Q Did you anticipate being asked by the White House whether examples would

22 or would not fall under the new policy guidelines?

23 A This was a few months after the fact. I can't -- I can't say that that specific

24 tweet was top of mind. My email box was pretty active. There's a lot of questions that

25 I was working on. So I can't specifically say that that example was top of mind to me at

1 the time. I just have no recollection of that.

2 Q Okay. What about content that's like what was in that example?

3 A Again, I don't know that I ever viewed the content to ask for a determination

4 on those specific, you know, broader themes even of what would be in those videos.

5 Q Well, there's the -- you can tell by the thumbnail what's going on and by

6 Mr. Flaherty's context.

7 A Can I see thumbnail again, please?

8 Mr. Bopp. We got it.

9 But your question is whether he had any communications about videos like this,

10 and I think he's already said he doesn't recall any communications.

11 [redacted]. If I can read, one is, "Top Heisenberg Moments, Breaking Bad." I

12 don't know that I would have watched that for COVID.

13 Another one is "Breaking Bad - Shooting Tuco" something, "Rotten Tomatoes TV."

14 I don't know that I would have viewed that.

15 I mean, again, another one is, "Heated Vaccine Debate - Kennedy versus

16 Dershowitz." Another is, "Break Bad, season 3, episode 6."

17 Mr. Bopp. Why don't we -- let's wait for him to answer the question.

18 BY [redacted]

19 Q When he sends the screenshot of the tweet, Mr. Flaherty makes clear of

20 which videos, right?

21 He says, "I think we had a extensive back and forth about the degree to which you

22 all are recommending anti-vaccination content. You are pretty emphatic you are not.

23 This seems to indicate that you are."

24 Is it unclear to you which of the thumbnails address anti-vaccination content?

25 A I mean, it's certainly fair to say that, you know, "Heated Vaccine Debate," I

1 can't recall ever even watching that video. So it's just really difficult for me.

2 But to really get to the heart of your question, I just don't recall subsequent

3 conversations internally a few months after this tweet was identified.

4 Broadly speaking, again, the Health team led by [redacted] had

5 conversations with health authorities around the globe. You know, it's been my

6 experience that those health authorities were, you know, part of the decisionmaking

7 process and their feedback was taken as part of the decisionmaking process. I just --

8 Q That's -- so there's been -- you provided testimony about your desire to be

9 responsive to the White House.

10 A Yes.

11 Q That's why you want to respond quickly.

12 A Yes.

13 Q We walked through what happened in April 2021. We walked through

14 other email chains.

15 Based off your recollection, this is one of the rare occurrences where in some

16 form or fashion the White House is making specific YouTube videos available as examples

17 to send to you with a question.

18 You enact a new policy 2 months later. In an effort to be responsive to the

19 White House, was there any effort within the company to assess whether these types of

20 videos would be considered violative under the new content policy?

21 A I just I can't recall being a part of any of those conversations.

22 [redacted] I just want to clarify.

23 When you say you can't recall being part of those conversations, do you know if

24 those conversations occurred?

25 [redacted]. I have no knowledge sitting here today. I just -- I just simply can't

1 recall that specific example from September 2021.

2 [redacted] As part of your effort to be responsive to the White House, would that

3 have been something that would have been a reasonable effort to do in advance of an

4 upcoming meeting with the White House?

5 Mr. Bopp. All right. We're really going down a rabbit hole here into now

6 hypothetical. I think he's answered the question. There were -- he does not recall any

7 conversations with anyone at the White House about whether these videos in exhibit 8

8 would have violated the new policy. All right. I think that's very clear on the record.

9 BY [redacted]

10 Q Following your email exchange in July of 2021, do you recall any

11 conversations where the example from the White House was brought up again?

12 A If the example from the White House was brought up again?

13 Q In any -- in any internal meetings, emails, conversations.

14 A I just don't recall. I don't recall.

15 Q What did you do to prep for an upcoming meeting with the White House in

16 September of 2021?

17 A In September of 2021, I would have very likely wanted to ensure I

18 understand, you know, what the announcement was. In terms of how it would apply to

19 specific pieces of content, again, that's something that wasn't my responsibility.

20 I wanted to be aware of, again, broader themes. But in terms of taking account

21 in reviewing specific pieces of content, that was generally a practice I can't say that I did.

22 Q Again, I think the record's clear on what your responsibilities are. Office of

23 the Trust and Safety team, that's their job to enforce and, again, specific examples. You

24 have a recent communication from the White House about specific examples.

25 Was there any effort made in the prep work to provide examples of what would

1 fall as violative content under the new policy?

2 A I just I don't recall.

3 Q The second sentence of your email with a timestamp of 1:52, you say, "We

4 would like to preview our policy proposal for you and get any feedback you may have."

5 To your understanding, was a final determination made about this new policy at

6 the time you sent this email on September 21st?

7 A To the best of my recollection, it was -- it was pretty -- a done deal. I can't

8 recall any tweaks. From when I first became aware of it to the time it was made public, I

9 can't recall any changes that were made.

10 Q With the understanding that it's your recollection there weren't any changes

11 made from when you became aware to when it was made public -- let me take one step

12 back from that.

13 First, when you were made aware, and even just going off the language here

14 where you say working to finalize a new policy, was there the option to revise the policy

15 still?

16 A I think that's a better question for the Trust and Safety team. It was

17 generally my understanding that it was pretty much a done deal, but I would really defer

18 to the Trust and Safety team in terms of how it could have been tweaked.

19 Q To your understanding, what aspects of the status of the situation on

20 September 21st, 2021, led you to write that it was a proposal and that the team was

21 working to finalize the new policy?

22 A I really don't recall. I mean, this was -- this was almost 3 years ago. I just

23 can't recall.

24 [redacted] All right. We'll go off the record, please.

25 [Discussion off the record.]

1 [redacted] Go back on the record.

2 BY [redacted]

3 Q [redacted], I have just a really brief follow-up question. It should be very

4 short.

5 You were asked in the previous hour about -- and I'm referring to exhibit 10 which

6 is the email that talks about how the YouTube Trust and Safety team was working to

7 finalize the new policy.

8 Do you remember being asked about that?

9 A Yes.

10 Q Okay. I just want to clarify. To the best of your knowledge, was this

11 policy change made so that YouTube could be responsive to anything Mr. Flaherty had

12 asked?

13 A To the best of my knowledge, no.

14 [redacted] That's it. We can go off the record.

15 [Discussion off the record.]

16 [redacted] Can we go back on the record, please?

17 BY [redacted]

18 Q I would like to turn back to exhibit 10 that we were still looking at, at the end

19 of our prior hour.

20 In the email you sent September 21st, 2021, with the 1:52 Bates

21 stamp -- timestamp -- excuse me -- the second sentence, you said, "We would like to

22 preview our policy proposal for you and get any feedback you may have."

23 Why was YouTube interested in getting feedback from the White House?

24 A I can't speak to specific motivations in terms of feedback, but it's been some

25 time. I just I don't recall.

1 Q Okay. Well, you're one who drafted the email. Why send this email to
2 Mr. Flaherty?
3 A I can't -- I truly I cannot recall the sequence of events, again, that led to me
4 sending this email to Mr. Flaherty on September 21st, 2021.
5 Q Was there an expectation within the company for you to share any feedback
6 provided by Mr. Flaherty about the new content moderation policy?
7 A Broadly, if, you know -- I'm sorry. Can you say it one more time, please?
8 Q Sure. Was there any expectation within the company that you would share
9 internally any feedback received from Mr. Flaherty?
10 A I don't -- I don't know that I categorize it as an expectation. But, again, I
11 tried to keep folks aware of what was happening. Again, as I've indicated, I kept my
12 manager in the loop of conversations that I was having.
13 Q And by this point in 2021, members of the Trust and Safety team were aware
14 of that there were ongoing conversations with the White House? Is that right?
15 A I mean, I can't say specifically what folks were aware. As we've indicated
16 and discussed, you know, if I flagged something, that would have been reviewed by the
17 team. But I can't say for certain whether the folks that were working on this, you know,
18 what knowledge they had of those discussions.
19 Q To your understanding, there's only one YouTube Trust and Safety team. Is
20 that right?
21 A No, it's not one person. It's a very large team.
22 Q Had you sought the feedback from Mr. Flaherty on any other content
23 moderation policies prior to this one?
24 A None that I can recall.
25 Q Who else did you reach out to prior to the public announcement of this new

1 policy to solicit feedback from?

2 A I don't recall whom else I reached out to on that at that time.

3 Q Do you recall reaching out to multiple entities or people?

4 A Again, I don't recall whom else I reached out to.

5 Q With an understanding you don't have a specific recollection of who else it

6 was, just broadly, do you recall if it was multiple folks? Just one?

7 A I don't recall. And I, you know, want to be as forthcoming as I can. I just

8 can't provide a -- an estimate. I just don't remember.

9 Q So Mr. Flaherty doesn't respond until September 29th which is after the

10 dates you had proposed in your email.

11 He writes at the very end of his email, "At first blush, seems like a great step."

12 Is that consistent with the -- well, actually, let me take one step back.

13 When you sent the email on September 21st, 2021, what did you expect

14 Mr. Flaherty's reaction to be?

15 A I don't know that I walked in with any expectations. I just wanted to

16 make -- you know, again, as I've indicated in this email, you know, preview the policy

17 proposal.

18 Q And get any feedback he may have.

19 A Yes, yes.

20 Q Okay. Well, you didn't have any sense of what the feedback might be?

21 A I -- I don't recall what sense of feedback that I had. And, candidly, if I didn't

22 have this in front of me, I don't know that I would have remembered even sending this

23 email. And I just -- I don't recall what expectations I would have had.

24 Q You've got a response on September 29th. Mr. Flaherty writes, "At first

25 blush, this seems like a great step. "

1 Did you share that reaction, that feedback from the White House to others within
2 the company?
3 A I don't recall whom I would have shared that response with. It's indicated
4 we welcome -- I saw the news. We'd love to talk -- I can't recall whom else I would have
5 shared that with. I can see that [redacted] was copied on the email.
6 Q Were you surprised that Mr. Flaherty thought it was a great step?
7 A Again, I can't recall my reaction at the time.
8 Q We talked extensively about wanting to be responsive to the White House --
9 A Yeah.
10 Q -- maintaining good relationships.
11 And, I mean, was this ultimately what you were -- you and your team were hoping
12 to receive, a favorable response?
13 A I mean, generally, it's my job to make sure that, you know, folks were aware
14 or, you know, I just can't say I had any preconceived notions of a -- you know, I think
15 common sense would say, you know, if the company's going to do something, you know,
16 hopefully, you know, it'd be a good thing. But just I can't recall feeling that that would
17 be my expectation of the meeting or the request that I sent.
18 Q But by this point you've had a number of conversations and meetings with
19 Mr. Flaherty where he's identifying places of concern that the White House has. Was it
20 your understanding that this new policy may address some of those concerns?
21 A I don't know that I had the notion that it was going to address specific
22 concerns because, again, the decisions around the policy, you know, that was something
23 that was done, you know, through our team working with the WHO and CDC and groups
24 like that.
25 Again, I just want to make sure. He obviously initially stated he had a concern in

1 2024. He had a lot of questions. And so, again, I just, you know, wanted to share that
2 information, have a discussion.
3 Q In prep for this meeting that you're inviting Mr. Flaherty to have, you know,
4 some future exchange, did you or anyone on the YouTube Policy team prepare internal
5 talking points or a memo or anything to that end?
6 A I just I don't remember. Again, you know, we certainly would have wanted
7 to make sure we were aware and able to answer questions. But in terms of specific
8 talking points, I just I can't remember having those or crafting those.
9 Q Not specific to this invite to have a meeting in September of 2021, do you
10 recall any other meetings with the White House where you had talking points or some
11 sort of work product prepared in advance that you could reference, if needed?
12 A Going back to April?
13 Q Yes.
14 A I -- I can't recall, you know, having a specific thing. Again, I want to make
15 sure I was aware and able to answer questions.
16 And typically what I would do during discussions is I'd have open the YouTube's
17 Community Guidelines to reference. And, you know, as part of my work, I just would
18 refer to those. I viewed YouTube's Community Guidelines during my time at the
19 company as pretty thorough in providing examples that, you know, if someone asked
20 about broad themes, you know, the information was right there. And I generally found
21 that helpful. That was a typical practice of mine.
22 Q As part of your typical practice, would you have any other work product
23 besides community guidelines themselves?
24 A I can't recall other work products. The community guidelines, that was,
25 you know, again, that was my primary notes, I guess.

Q Do you recall any conversations with [redacted] about the new policy that was being finalized in September of 2021?

A I -- I don't recall specific conversations with [redacted] about that.

Q There's a -- the rest of the email's chain about trying to set up a meeting. To your recollection, did a meeting ultimately take place with Mr. Flaherty or with the White House to discuss the new policy that had been enacted?

A Based off of this email which, again, is very helpful, Mr. Flaherty stated we welcome the meeting. I saw the news.

And so that would indicate to me that an announcement had already occurred and the policy was public at that point in time.

Q I think that's a fair description of the email.

To your recollection, did a meeting take place to discuss the policy that had been enacted by that point, enacted and announced?

A Let's hold 2:00 p.m. on 10-1. So that -- if that was a time we were holding, then I would have had a meeting at 2:00 p.m. on 10-1, unless there was a change. But I think it's fair to say that I would have had that follow-up meeting around that timeframe, yeah.

Q Just asking if you remember anything, if the meeting took place, if you remember what was discussed during that meeting.

A I don't recall what was specifically discussed during any follow-up conversations related to the specific policy.

Q Did you ever have any in-person meetings with the White House staff during your time at the company?

A No, I can't recall of any instances of going to the White House during my time at YouTube.

1 Q So we've talked a little bit about the community guidelines related to
2 elections. And then as it relates to the communications with the White House,
3 community guidelines with respect to COVID-19 and vaccines.
4 Do you remember any discussions with members of the executive branch about
5 other topics or subject areas of misinformation other than election misinformation or
6 COVID-19 vaccine misinformation?
7 A Outside of those two, there's none that stand out to me.
8 Q To your understanding, does YouTube have community guidelines around
9 climate misinformation?
10 A I do recall a policy around climate change misinformation. I can't recall the
11 specific wording, but I'm aware of a policy along those lines that dealt with climate
12 change.
13 [[redacted] Exhibit No. 11
14 was marked for identification.]
15 BY [redacted]
16 Q This will be exhibit 11. It's a June 2022 email between Google and the
17 White House.
18 A Okay.
19 Q First, do you recall this email exchange? You're copied but --
20 A I see that I'm copied, but I don't recall receiving this.
21 Q Okay. I just want to walk through some of the folks. WHO are the -- on
22 this email chain, as well.
23 Do you know who [redacted] is?
24 A Yes, he works on the Google GAPP team during my time there. I'm not sure
25 if his specific portfolio but, yes, he worked at the Google -- Government Affairs and Public

1 Policy team.

2 Q Did you ever work with [redacted] in 2021 regarding conversations with the

3 White House about COVID or vaccine-related misinformation?

4 A I can't recall conversations with [redacted]. To the best of my recollection,

5 those conversations were typically with [redacted].

6 Q Independent of this email chain, just for the interactions you had with

7 [redacted] as part of your work at the company, do you recall what sorts of issues would

8 lead to conversations with [redacted]?

9 A I don't recall what specific issues with [redacted], but I do recall it was not

10 frequent.

1 [4:28 p.m.]

2 BY [redacted]

3 Q In the to line, there's a couple individuals from White House staff. Do you

4 know who [redacted] is?

5 A I'm not sure who [redacted] is.

6 Q Do you know who [redacted] is?

7 A I'm not sure who [redacted] is.

8 Q In the cc line, you're copied as well?

9 A Yes.

10 Q Do you know who [redacted] is?

11 A I'm not sure who that person is. I see that she's a -- has a Google address,

12 but I can't recall who she is or what team she was on.

13 Q What about [redacted]?

14 A Yes.

15 Q And who is [redacted]?

16 A [redacted], to the best of my recollection at YouTube, he had two positions

17 at Google, one being he worked on the team to respond to Capitol Hill requests. And

18 then I can't recall his specific new title, but it was something along the lines of

19 environmental policy, something like that. That it was outside the role of directly

20 engaging with the Hill on a regular basis.

21 Q Based off -- you've had a chance to review the email.

22 Based off the context as part of the email or to your own recollection, why were

23 you included on this exchange?

24 Mr. Bopp. To your knowledge.

25 [redacted]. To my knowledge, as someone on the YouTube public policy team. I

1 can't say it was uncommon to be cc'd on emails pertaining to YouTube that other folks
2 might be having. If it raised YouTube issues, then I was generally cc'd.
3 BY [redacted]
4 Q The email provides a short brief and some bullet points and at the end
5 provides the offer to pull folks together so we can dive a bit deeper on this.
6 To your understanding, did a meeting take place with the White House staff after
7 this email was sent?
8 A I can't recall a follow-up meeting. I'm not sure if it was scheduled or if it
9 took place. I'm just not sure.
10 Q Independent of whether it was connected to this email exchange, do you
11 recall any meetings with the White House staff about climate misinformation?
12 A I can't recall attending any emails with White House -- excuse me -- any
13 meetings with White House staff on climate information. I can't speak to the broader
14 Google team.
15 But from my experience, I just -- I don't have any recollection of attending similar
16 meetings or conversations.
17 Q Do you know who [redacted] is, if I'm pronouncing that correctly? It's not
18 on this document. We can take these back. Anyone at the company?
19 A I -- I'm not sure. I can't remember who she is.
20 Q Did you ever have any meetings with the -- with White House staff regarding
21 election misinformation during the time at the company?
22 A I can't recall meetings with White House staff on election misinformation.
23 The best of my recollection, the conversations, the meetings that I had with the White
24 House staff were centered around COVID. I just -- I can't recall other topics of
25 conversation outside of COVID with the White House staff.

1 Q Do you have any familiarity with the company's work around reproductive
2 health misinformation?
3 A I'm broadly aware of it. I can't speak to specific details of it, but generally,
4 yes, I'm aware that there are policies related to that.
5 Q During your time at the company, do you recall any questions or meetings
6 with members of the executive branch about reproductive health misinformation?
7 A I don't recall any meetings with White House staff on reproductive
8 health-related policies.
9 Q What about the executive branch more broadly?
10 A More broadly, the same answer. I just can't recall conversations related to
11 that specific issue.
12 Q During your time at the company, did you have any interactions with ODNI?
13 A I can't recall interactions with ODNI.
14 Q Are you familiar with the Center for Countering Digital Hate?
15 A Broadly. I'm aware of the center.
16 Q Are you aware -- are you aware of the disinformation dozen report that the
17 center put out regarding folks on social media platforms spreading misinformation
18 regarding COVID-19 and vaccines?
19 A Yes, I do recall the term "disinformation dozen." That was a fairly
20 memorable phrase.
21 Q Do you recall whether the report or the phrase "disinformation dozen" was
22 discussed at all in your meetings with the White House in 2021?
23 A It may have. It doesn't -- it doesn't stand out as a topic of discussion. It's
24 possible.
25 But I can't remember a specific question related to the so-called disinformation

1 dozen during my conversations with Mr. Flaherty. It may have happened, but I just -- I
2 can't remember. I'm broadly aware of the "disinformation dozen" term.
3 Q Separate from whether the term disinformation dozen was used, do you
4 recall any discussions with Mr. Flaherty in 2021 about whether certain individuals, certain
5 channels spread misinformation to a greater degree than others?
6 A Is there a specific time frame?
7 Q In 2021.
8 A In 2021? I -- I do not recall.
9 Q Have you -- during your time at the company, did you have any direct
10 interactions with anyone from the Center for Countering Digital Hate?
11 A I can't recall any meetings or discussions with myself and that organization.
12 Q During your time at the company, did you have any interactions with the
13 Atlantic Council?
14 A I don't remember attending any meetings with the Atlantic Council directly,
15 to the best of my ability. I mean, they may have been present in other discussions or
16 things, but I can't recall any specific Atlantic Council staff, and I certainly never went to
17 their building.
18 Q Are you familiar with the Election Integrity Partnership?
19 A I'm broadly familiar, yes, with the Election Integrity Partnership.
20 Q Did you have any -- during your time with the company, did you have any
21 interactions with the Election Integrity Partnership?
22 A I can't recall any interactions or any individuals that were at the EIP. I just
23 don't remember speaking with them.
24 Q In 2020 were you aware whether members of Alphabet more broadly,
25 anybody from the company was communicating with or interacting with the EIP?

1 A I'm not aware broadly. It's possible. But I'm just not aware of who that
2 would have been or what that time frame was.
3 Q Are you familiar with The Virality Project?
4 A I'm sorry, The --
5 Q Virality Project.
6 A That doesn't ring a bell.
7 Q Separate from -- well, not necessarily separate. But not limited to the EIP,
8 The Virality Project or -- well, those two -- do you recall any interactions with Stanford
9 University as part of your role at the company?
10 A I don't recall any conversations with anyone at Stanford.
11 Q During your time at the company, did you have any interactions with
12 NewsGuard?
13 A That name doesn't sound familiar to me.
14 Q During your time with the company, did you have any interactions with the
15 Global Alliance for Responsible Media, also referred to as GARM by the acronym?
16 A I'm aware of GARM, but I don't recall any meetings or discussions with
17 anyone at GARM.
18 Q Do you know if anyone in the company had interactions with GARM?
19 A I -- I would defer to others in terms of if they did. I have no reason to
20 doubt that they met with GARM. That very well may have happened. But I can't recall
21 any instances where I had a discussion with anyone at GARM.
22 Q With the understanding you don't recall any instances where you had
23 interactions with GARM, do you recall which teams within the company had interactions
24 with GARM?
25 A I don't want to speculate in terms of who. I wasn't there. I just -- I'm not

1 sure.

2 Q Are you familiar with the World Federation of Advertisers?

3 A The World Federation of Advertisers?

4 Q Yes.

5 A That doesn't sound familiar.

6 Q During your time at the company, did you have any interactions with the

7 Aspen Institute?

8 A None that I can recall.

9 Q In your interactions with the executive branch, do you recall any interactions

10 that were attended by other social media companies in addition to YouTube and Google?

11 A Yes, I can recall one instance, I believe. I can't remember exactly what the

12 topic was. I think it was -- it was -- I think it was the shooting -- the terrorist attack in

13 Buffalo, New York, the grocery store attack. I think there was a discussion with other -- I

14 believe Facebook was present. I'm not sure who else. That's the only one that stands

15 out to me, I think.

16 Q I've seen some email chains, references from Mr. Flaherty that the White

17 House was communicating with other social media platforms about concerns related to

18 COVID-19 misinformation.

19 In 2021, did anyone from the YouTube or Google public policy teams reach out to

20 members of one of the other large social media companies just to touch base regarding

21 outreach from the White House?

22 A I can't speak for others or what I'm aware of. I previously worked at

23 Twitter, as I stated in my employment history. I can't recall any conversations with

24 anyone specifically about these White House meetings.

25 But I mean, certainly, I know peers at other companies, but I just -- I can't

1 remember any conversations that we had on this specifically.

2 Q Did anyone in the White House reach out to you prior to this interview?

3 A No.

4 Q Did anyone from the Biden campaign reach out to you prior to this

5 interview?

6 A No.

7 Q Do you recall whether any White House staff ever used profanity in their

8 meetings with the company?

9 A I -- there was no profane terms that stand out to me in those discussions. I

10 generally try to avoid using profanity in professional conversations. I -- nothing stands

11 out to me.

12 Q Did anyone at the company ever share with you whether members of the

13 White House staff used profanity in their conversations?

14 A None that I'm -- I can't recall any conversations with any -- with anyone at

15 YouTube regarding profanity from the White House.

16 Q When approximately in 2023 did you leave the company again?

17 A I left almost exactly a year ago -- roughly a year ago today.

18 Q During your time at the company, do you recall any conversations, internal

19 conversations, with members of either the YouTube public policy team or the Google

20 public policy team about certain pressure points that the company faced from potential

21 adverse action from the executive branch?

22 A I'm not sure what you mean by pressure points.

23 Q Sure. Potential risk of adverse action from the executive branch.

24 A I can't recall any conversations like that.

25 [redacted] Can we go off the record, please.

1 [Whereupon, at 4:45 p.m., the interview was concluded.]

2

1 Certificate of Deponent/Interviewee

2

3

4 I have read the foregoing ____ pages, which contain the correct transcript of the

5 answers made by me to the questions therein recorded.

6

7

8

9 _____

10 Witness Name

11

12

13 _____

14 Date

15

Transcribed Interview Transcript Errata Form

Interviewee	[redacted]
Date of Interview	4/25/24
Date of Review	6/18/24
Name of Reviewer	Samantha Paige Yi
Signature of Reviewer	

Page	Line	Suggested Correction

Transcribed Interview Transcript Errata Form

Interviewee	Former Public Policy Manager, YT GAPP
Date of Interview	April 25, 2024
Date of Review	December 16, 2024
Name of Reviewer	Ehren Halse
Signature of Reviewer	

Page	Line	Suggested Correction
5	20	"Spaulding" should be "Spalding"
9	14	"was" should be "were"
9	21	"is" should be "was"
85	11	"on" should follow "working"
112	1	"[been here is a specific. It's," should be "been here, a specific -- it's,"
113	10	"was other communications of folks" should be "were other communications folks"
121	4	"2020" should be "2021"

131	25	"that was" should be "those were"

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2
3
4
5 COMMITTEE ON THE JUDICIARY,
6 U.S. HOUSE OF REPRESENTATIVES,
7 WASHINGTON, D.C.
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12
13 INTERVIEW OF: [redacted]
14
15
16
17
18 Thursday, May 2, 2024
19
20 Washington, D.C.
21
22
23 The interview in the above matter was held in room 2237, Rayburn House Office
24 Building, commencing at 10:07 a.m.
25 Present: Representative Jordan.

1

2 Appearances:

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted], CHIEF COUNSEL FOR OVERSIGHT

8 [redacted], PROFESSIONAL STAFF MEMBER

9 [redacted], PROFESSIONAL STAFF MEMBER

10 [redacted], DEPUTY CHIEF COUNSEL FOR OVERSIGHT

11 [redacted], MINORITY OVERSIGHT COUNSEL

12 [redacted], MINORITY CHIEF OVERSIGHT COUNSEL

13 [redacted], MINORITY OVERSIGHT COUNSEL

14 [redacted], MINORITY PROFESSIONAL STAFF MEMBER

15

16

17 For the U.S. DEPARTMENT OF JUSTICE:

18

19 [redacted], COUNSEL, OFFICE OF LEGISLATIVE AFFAIRS

20

21 For the FEDERAL BUREAU OF INVESTIGATION:

22

23 [redacted], ASSISTANT GENERAL COUNSEL, OFFICE OF GENERAL COUNSEL

1

2 [redacted]. This is a transcribed interview of [redacted]. Chairman Jordan has
3 requested this interview as part of the committee's investigation of how and the extent
4 to which the executive branch has coerced and colluded with companies and other
5 intermediaries to sensor speech.
6 Would the witness please state your name for the record?
7 [redacted]
8 [redacted] On behalf of the committee, I want to thank you for appearing here
9 today to answer our questions. The chairman also appreciates your willingness to
10 appear voluntarily.
11 My name is [redacted]. I am with Chairman Jordan's staff. I'll now have
12 everyone else from the committee who is here at the table now introduce themselves as
13 well.
14 [redacted], Chairman Jordan's staff.
15 [redacted], Chairman Jordan's staff.
16 [redacted], Ranking Member Nadler's staff.
17 [redacted], Ranking Member Nadler's staff.
18 [redacted] will be joining us as well.
19 [redacted] I'd like to now go over the ground rules and guidelines that we will
20 follow during today's interview. The questioning will proceed in rounds. The majority
21 will ask questions first for one hour, and then the minority will have an opportunity to ask
22 questions for an equal period of time if they choose. We will alternate back and forth
23 until there are no more questions, and the interview is over.
24 Typically, we take a short break at the end of each hour. If you would like to take
25 a break apart from that, please just let us know. As you can see, there is an official court

reporter taking down everything we say to make a written record, so we ask that you give verbal responses to all questions. Do you understand?

[redacted] Yes.

[redacted] So the court reporter can take down a clear record, we will do our best to limit the number of people directing questions to you during any given hour to just those people on the staff whose turn it is.

Please try and speak clearly so the court reporter can understand, and so the folks down at the end of the table can hear you. It is important that we don't talk over one another or interrupt each other if we can help it, and that goes for everybody present at today's interview.

We encourage witnesses who appear before the committee to freely consult with counsel if they so choose. It is my understanding that you are appearing today with counsel. Is that correct?

[redacted] Yes.

[redacted] Could counsel please state your name for the record?

[redacted] [redacted], FBI Office of the General Counsel.

[redacted] [redacted], DOJ Office of Legislative Affairs.

[redacted] Thank you. We want you to answer our questions in the most complete and truthful manner as possible, so we will take our time. If you have any questions or if you do not understand one of our questions, please let us know. Our questions will cover a wide range of topics. So, if you need clarification at any point, just say so.

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

else; just indicate how you came to know information.

If there's things you don't know or can't remember, just say so. Please inform us who, to the best of your knowledge, might be able to provide a more complete answer to the question. You should also understand that, although this interview is not under oath, that, by law, you are required to answer questions from Congress truthfully. Do you understand that?

[redacted] Yes.

[redacted] This also applies to questions posed by congressional staff in an interview. Do you understand this?

[redacted] Yes.

[redacted] Witnesses that knowingly provide false testimony could be subject to criminal prosecution for perjury or for making false statements under 18 U.S.C., section 1001. Do you understand this?

[redacted] Yes.

[redacted] Is there any reason you are unable to provide truthful answers to today's questions?

[redacted] No.

[redacted] Finally, I would like to make note that the content of what we discuss here today is confidential. We ask that you not speak about what we discuss in this interview to any outside individuals to preserve the integrity of our investigation.

For the same reason, the marked exhibits that we will use today will remain with the court reporter so that they can go in the official transcript, and any copies of those exhibits will be returned to us when we wrap up.

That is end of my preamble. Is there anything my colleagues from the minority would like to add?

1 [redacted] We thank the witness for joining us this morning and taking time out
2 of your busy calendar. We also we want to renew a request that we have made several
3 times now that all of the transcripts and other evidence gathered in this investigation be
4 made public so that there can be a true and accurate representation of what evidence
5 has been gathered through this investigation. Thank you.
6 [redacted] I note that this transcript is not taking place on video, that the
7 committee has been operating in good faith to release some of the transcripts, and that it
8 is consistent with previous Congresses to maintain confidentiality to not provide a
9 roadmap for future witnesses who are coming in.
10 [redacted] Just two things we would like to put on the record before you get
11 started, [redacted]. The first is that we would dispute the characterization that the scoping of
12 today's interview relates to the FBI's coercion of social media partners. Our
13 understanding of the scope is that today's interview relates to [redacted]'s time as the
14 unit chief of the Foreign Influence Task Force's Russia Unit, as well as his engagement
15 with certain external partners to include social media companies.
16 We also would like to note on the record that, at the time [redacted] was working
17 as the unit chief of FITF Russia, he was a non-SES employee, and he currently is not an SES
18 employee. We have made an accommodation here specific to the facts and
19 circumstances and understanding the committee's priorities for their social media
20 investigation. We are acting in good faith to address their informational needs here.
21 [redacted] The time is 10:06. We will start the first round of questioning.
22 EXAMINATION
23 BY [redacted]:
24 Q What is your full name?
25 A [redacted].

1 Q What is your current place of employment?
2 A The Department of Justice, Federal Bureau of Investigation.
3 Q And what is your current title?
4 A Supervisory special agent.
5 Q How long have you worked in that role?
6 A My current role, almost 3 years.
7 Q Beginning with college, what is your educational background?
8 A I attended the University of Northern Colorado, had got my bachelors in
9 speech communications with a minor in economics. After that, I attended Red Rocks
10 Community College for my post certification to become a police officer in Colorado State.
11 Starting in 2014, I believe, I began work on my master's under the GI bill,
12 completing my masters in diplomacy from the University of Norwich in Vermont. That's
13 most of my formal education.
14 Q When did you receive your masters degree?
15 A In 2016.
16 Q What is your professional background, starting after college?
17 A As I sort of eluded to, I became a police officer after college in Greeley,
18 Colorado. Did that for a couple years, and this was sort of about the time that the Iraq
19 War started. I felt strongly about serving, and walked into an Army recruiting station
20 and enlisted in the Army trying to get in the fight. And enlisted under an 18X contract,
21 which entailed going to infantry and airborne training and then having sort of a
22 guaranteed slot in selection for special forces.
23 I was selected and went through about 2 years of training, including Russian
24 language training, and eventually landing with the 10th Special Forces Group at Fort
25 Carson, Colorado, and subsequently served two tours in Iraq with the 10th Special Forces

1 Group.

2 Always wanted to kind of go back to law enforcement and started looking at

3 Federal law enforcement while I was in the military, not really wanting to make a career

4 out of it, having enlisted. The FBI was really the only organization hiring at the time,

5 started applying while I was in Iraq, and went through that process as I was getting out of

6 the Army and kind of went straight into Quantico from the time I got out of the Army.

7 Do you want me to jump into the FBI, or hold on that?

8 Q Yes. Thank you for your service, and yes, if you could start then walking us

9 through your positions at the FBI?

10 A Okay. I started with the FBI in March of 2010, and upon completion of the

11 Academy at Quantico, I was assigned to a Russian counterintelligence squad in the

12 Houston Field Office, mostly due to my Russian language background.

13 Worked in the Houston office for about 6 years, predominantly working Russian

14 matters but also worked counterproliferation kind of with all-threat countries, working

15 investigations, trying to stop technology flows illegally overseas.

16 In 2016, I moved to the Washington, D.C., area, started a temporary position in

17 the Criminal Investigative Division with the FBI in the Transnational Organized Crime

18 Eastern Hemisphere Section, working in the Balkan/Eurasian Operations Unit as a

19 program manager. As part of that assignment, I was assigned to temporarily sit on the

20 Foreign Influence Task Force when it was stood up as CID's transnational organized crime

21 representative to the Foreign Influence Task Force.

22 Wanting to stay in D.C. a little longer, I took a permanent position as well with the

23 Foreign Influence Task Force as a supervisory special agent, continuing to work Russian

24 matters, transnational organized crime, counterintelligence, kind of the whole portfolio

25 under the Foreign Influence Task Force. And, in mid-2019, I was assigned to be acting

1 unit chief of the Russian Unit when the Foreign Influence Task Force expanded from a
2 Russian-focused unit to a whole section with components comprising different threat
3 countries, three units.
4 And, shortly after, I went through a hiring process to be promoted as the unit chief
5 of the Russian Unit of the Foreign Influence Task Force. In June of 2021, I was then -- I
6 got a job in Atlanta, Georgia. I currently am the supervisory special agent in Atlanta over
7 the Domestic Terrorism Squad. That's my present role.
8 Q So you were at the FITF from the time it was stood up in 2017 until June
9 of 2021?
10 A Nearly the beginning. I don't -- I wasn't the first person there, but probably
11 around the time it was stood up. I started attending meetings and that sort of thing as a
12 part time representative from Criminal Investigative Division.
13 Q And then, when you left the FITF in June of 2021, was your title still unit
14 chief of the Russia Unit?
15 A When I left in 2021, I was the unit chief, yes, and then was supervisory
16 special agent in the field in Atlanta.
17 Q And, when you became the acting unit chief in approximately mid-2019, was
18 there a prior unit chief, or did this correspond with restructuring and you were the first?
19 A There was a prior unit chief when there was only kind of one unit. And
20 then, when it expanded to a section, the unit chief became the acting section chief, and I
21 just sort of took his position as acting unit chief. He then left. There was a permanent
22 executive assigned as section chief. I was hired as the unit chief of the Russian Unit, and
23 then they hired two other unit chiefs for the other units as well at the same time.
24 Q Who was the, at the time this restructuring is taking place, the person who
25 was the unit chief that became the acting section chief?

1 A It was a supervisory special agent that was assigned to the FITF at the time.
2 If it's not SES, just the role. Yeah.
3 Q Okay. Is that individual in an SES role now?
4 A He is not.
5 Q Okay. When this restructuring occurring in the middle of 2019, two other
6 unit chiefs are brought on. Who are those unit chiefs?
7 A So the global unit chief, same concerns.
8 [redacted] The China Unit chief, can I address that?
9 [redacted] Yeah.
10 [redacted] It's Laura Dehmlow was the China Unit chief at the time.
11 BY [redacted]:
12 Q Prior to Ms. Dehmlow becoming the unit chief, was she with the FITF before
13 that?
14 A She was not. I believe she was coming from a joint duty assignment at the
15 time.
16 Q Had you worked with Ms. Dehmlow before?
17 A Briefly. I recall working with her on some Chinese counter-proliferation
18 matters years in the past.
19 Q Who was responsible for first -- in the early days when the FITF was being
20 stood up, who is responsible for assigning you to the Task Force?
21 A I recall being given the assignment from my unit chief at the time in Criminal
22 Investigative Division, but the Foreign Influence Task Force at that time was run by sort of
23 dual section chiefs from the Russian Counterintelligence Division and the Cyber Russia
24 Operations Section.
25 Q And then, in mid-2019, who decided that you would become the acting unit

1 chief?

2 A The unit chief who became the acting section chief was generally responsible

3 for that decision, as I understand it. There was some executives above him. I'm not

4 sure if he, you know, discussed it with them. But I believe it was his decision.

5 Q And then the decision to promote you from acting unit chief to unit chief,

6 who was that?

7 A That was the first permanent section chief, Bradley Benavides.

8 Q Had you worked with Mr. Benavides before?

9 A I had not.

10 Q At a high level, starting once you became acting unit chief and then once you

11 were formally the unit chief, what were your responsibilities as unit chief of the Russia

12 Unit?

13 A Pretty various. It's hard to kind of pin it down to a specific job description.

14 But, generally, a lot of meetings at headquarters. At that time, we were still kind of

15 trying to wrap our arms around the threat, understand the threat. We had a lot of

16 engagement. Everything from internal U.S. Government agencies, foreign governments,

17 academia, think-tanks, sort of looking at any sources we could to try to understand the

18 problem and formulate our strategy to mitigate the problem.

19 Obviously, at that point, we were also expanding pretty rapidly going from a unit

20 to a section. A good portion of my time was sort of strategic direction for the unit and

21 hiring approximately 20 people in sort of a truncated timeline in the lead-up to the

22 election and trying to get 20 people on board across multiple job series; intelligence

23 analysts, contractors, forensic accountants, intelligence analysts, all these type of things

24 that we kind of fill the roles and build-out the unit.

25 Q Approximately, what was the timeline of hiring those 20 people? When did

1 the unit start, and then -- at this point it's a section -- when did the section finish?

2 A The unit was probably officially -- when we had on paper positions and that

3 sort of thing -- was probably somewhere in the timeframe of September, October, 2019,

4 kind of while I was acting prior to becoming full-time, continuing through once I became

5 full-time. And, obviously, we were trying to staff it up as quickly as possible. But the

6 timeline was sort of we were hoping to be fully staffed around March, April of 2020 so

7 that we could support the up tempo in 2020 in the lead-up to the election.

8 Q To your recollection, by we'll say roughly April 2020, what is the -- let me

9 take one step back.

10 By April 2020, how big was the FITF?

11 A The FITF in total, I would approximate, was 80 people. My unit had billets

12 for approximately 30 people. In April, we probably weren't entirely full. Somewhere

13 between 25 and 30, I would say, for the Russia Unit specifically at that time.

14 Q When you say there was a goal of hiring an additional 20 people, was that

15 just for the Russia Unit or was that for the whole FITF?

16 A That was just for the Russia Unit. The FITF entirely -- I mean, we stood up

17 the China Unit and the Global Unit with almost no one, kind of hired unit chiefs and had

18 to fill all those spots as well. The Russia Unit, at least I had a core group that had

19 already been doing it. So I had to add -- the Russia Unit was also the largest, the plan

20 build-out was largest of the three units as well. The other units had a little more work

21 to do than I did, but still had to hire quite a few people in a short amount of time.

22 Q So, from we'll say early fall 2019 to late spring 2020, your unit has at least,

23 what, tripled in size?

24 A Approximately, I'd say that's accurate.

25 Q And the other units are starting from scratch and trying to hire out?

1 A Yes.

2 Q For both the other units and your unit, the folks you're bringing in, are they

3 from other places within the FBI, or are you hiring outside as well?

4 A It was a mix. Probably the hardest position we had to fill were agents.

5 Agents are a little more difficult to move around. And a lot of what we received, we

6 received from other operational divisions, and they gave us vacancies usually rather than

7 actual bodies to move over. So the agents were kind of the focus in hiring. It's a little

8 easier to hire intelligence analysts and tactical analysts, and that sort of thing. A lot of

9 them are already at headquarters, and it was easy to move people over as opposed to

10 agents that some of them would come from the field.

11 I would say the majority of agents coming to headquarters come from the field,

12 but some also came from other divisions. Additionally, when we sort of struggled to

13 find enough agents to fill out, we were then given kind of temporary agents from other

14 operational divisions, from what I understand mostly volunteered to come over.

15 Q And, during this time period, we'll say fall of 2019 to spring 2020, are the

16 unit chiefs the ones primarily responsible for building out their units?

17 A Yes.

18 Q Who are you reporting to during this time?

19 A I was first reporting to the acting section chief, and then, after that, the

20 permanent section chief who I believe got there in approximately August or September of

21 2019 if I remember correctly.

22 Q That was Mr. Benavides?

23 A Yes.

24 Q Was there anyone between Mr. Benavides and you in that kind of

25 organizational hierarchy?

1 A Not at that time. Sometime shortly after he got there and probably pretty
2 similar to the time I was hired as the permanent chief, there was an assistant section
3 chief hired, [redacted]. So that was sort of -- assistant section chief fills a bit of a
4 different role. I believe in this case, [redacted] was my direct supervisor with
5 Mr. Benavides sort of being my next level supervisor.
6 Q You mention that you were -- the FITF were at headquarters. How often
7 did you interact with the Director?
8 A Personally, I can only think of one or two maybe kind of ad hoc times that
9 I've interacted with the Director. I was not responsible for directly briefing the Director,
10 but occasionally I can think of at least one time in sort of command post situation where
11 he came in, asked questions about the program and those sort of things and I briefed him
12 on some things. But nothing planned and nothing sort of ongoing.
13 Q Was that close to the 2020 election?
14 A Yeah. I believe it was in the election command post the only time I can
15 think of that I directly briefed him anything about the program.
16 Q What about the Deputy Director?
17 A I can remember a couple times I briefed the Deputy Director on the
18 program. One time that comes to mind specifically was to basically detail my plan for
19 building out the unit to the Deputy Director, asking for buy-in from the other operational
20 divisions. To move those kind of resources over to my unit is kind of a big ask. And so
21 that was directly to the Deputy Director, "This is what I need to build-out this unit to what
22 I think would fit my strategy."
23 Q Are you familiar with the terms "misinformation," "disinformation," and
24 "malinformation"?
25 A Yeah. So I was a student of all things foreign influence, malign foreign

1 influence. Like I said, we engaged with lots of think tanks, academia, that sort of thing.
2 Pretty early on, we learned to ignore terms like that. I don't know if that's the best
3 characterization, but generally we took an approach of content-neutral mitigation. And
4 I'm aware of lots of arguments about what some of those terms mean, and I have
5 definitions that I think were sort of arbitrated among the intelligence community.
6 But pretty typically we didn't get involved in that sort of discussion. We felt like
7 the safest way for us to conduct our job was to start with foreign threat actors and their
8 activities and sort of take a content-neutral approach regardless of what they're doing.
9 We need to mitigate that sort of influence or interference in the U.S. electoral process.
10 Q With the understanding that was the approach of your task force when
11 interacting with other government agencies or academics, what were the terms
12 "misinformation," "disinformation," "malinformation" generally trying refer to?
13 A Yeah. I think "malinformation" kind of came after my time because there
14 was a lot of discussion about "disinformation" and "misinformation" at the time. I'm not
15 really familiar with the term "malinformation." Generally, I think I know what it means.
16 But "disinformation" and "misinformation" from definitions that I think I understand, are
17 typically "disinformation" is an outright lie where "misinformation" might be something
18 that's maybe truth, maybe partial lie, but used in a way that's deceiving. So we tended
19 to not like that there was no bright lines in those definitions. It's sort of semantic, and
20 we felt strongly the best way to go about it is looking at foreign actors and mitigating the
21 threat from that side.
22 Q Do you know who Elvis Chan is?
23 A I do.
24 Q Who is Mr. Chan?
25 A I worked with Elvis Chan for years, as he was sort of the primary liaison to

1 most of the technology companies we would meet with and some of the think tanks and
2 others that were usually based in California. Much like in the Atlanta Division, the
3 Seattle Division wouldn't go to Coke or Home Depot or Delta and engage with them
4 without sort of coming to the office that, quote/unquote, owns those companies. It's in
5 their area of operation.
6 So Elvis operated as sort of the liaison and the owner of the relationships with
7 those companies and typically would set up meetings for us. He usually, especially early
8 on, or people that hadn't been to some of these companies, kind of chaperone to show
9 like, "Okay, we're going to this building; okay, this is where we're going."
10 He also had worked with many of these technology companies through cyber
11 threats for years and kind of maintained those relationships. So, whenever I would go
12 to California and meet with companies, he would serve as sort of the logistic manager of
13 those meetings.
14 Q Do you know who Nikki Floris is?
15 A I do.
16 Q What is her role as it relates to the FBI?
17 A So, at one point -- when I started on the FITF, the FITF was under the Russian
18 Counterintelligence Section, the Russian Operations Section. When we changed to a
19 section due to all sorts of mostly organizational concerns, the Foreign Influence Task
20 Force was moved under the Intelligence Branch of the Counterintelligence Division, and
21 about at that same time, Nikki Floris moved to be the Deputy Assistant Director of the
22 Intelligence Branch of the Counterintelligence Division. So there was times where she
23 was either my boss' boss or my boss' boss' boss.
24 Q How frequently did you interact with Ms. Floris during your time as unit
25 chief?

1 A Pretty frequently. Ms. Floris asked me to apply for the job, asked me to
2 stay through the 2020 election. Post-2018 election, they were hoping to have some
3 institutional knowledge kind of carry over to the 2020 election, and she personally asked
4 me to apply for the job and compete for the job, to stick around. Throughout my time
5 there, I spoke with her frequently when issues sort of raised to that level that she needed
6 to be aware or whenever she needed to -- you know, I helped prepare or edit documents
7 that she would need or briefings that she would conduct. I often was involved in
8 editing, reviewing that sort of thing.
9 Q Do you know who the Executive Assistant Director for National Security was
10 in 2020?
11 A I don't know if it was the same person the entire in 2020. I recall John
12 Brown for at least a part of 2020. I believe Jay Tabb was before him, and I can't
13 remember when Mr. Brown changed from Assistant Director to Executive Assistant
14 Director. But I believe it was Mr. Brown for most of 2020.
15 Q How frequently did you interact with Mr. Brown while you were the unit
16 chief?
17 A I would characterize it as less often than Nikki. I can think of two or three
18 occasions that there were issues that rose to the level of me needing to brief him directly,
19 and my supervisors having me brief him directly or at least attend the briefings as sort of
20 the Russia subject-matter expert.
21 Q We've received testimony from other witnesses that I think you're probably
22 aware, there were standing meetings between the FITF and social media companies
23 during 2020. Is that consistent with your recollection?
24 A Yeah. There was a lot of different meetings, and it's -- yeah, the only thing I
25 kind of give pause is a lot of the meetings were ad hoc. There were some meetings that

1 I would characterize as kind of standing meetings, but generally we kind of met with
2 companies as necessary, usually when we had some sort of operational thing to share or
3 some sort of threat stream that we thought certain companies should know.
4 Q When meeting with the companies in that context where there's more
5 specific information to be shared, were there multiple companies and multiple agencies
6 on the call, or was it typically just the FBI and one company?
7 A It sort of depends on the timeframe.
8 Q We'll say 2020.
9 A Well, even 2020 there was pre-COVID post-COVID kind of concerns.
10 Pre-COVID, I would regularly travel out there, meet with -- usually it was a whole week of
11 meeting with all sorts of companies over and over, sharing usually the same kind of
12 information or identical information, but also a whole host of companies we would meet
13 with besides social media companies, all sorts of kind of emerging technology companies
14 that we thought had the potential to be targeted by foreign adversaries, and we wanted
15 to protect them and pass information as necessary.
16 Many of those companies we would meet with once or twice and determine that
17 either our concerns of them being threatened, I guess, or some of their proprietary
18 technology or something like that we determined, okay, the way their platform works or
19 the way their technology works, we don't have the concerns we had. Might give them a
20 general counterintelligence briefing and probably never meet with them again.
21 And then there's sort of the other category of companies that we felt there was
22 ongoing concerns and that we needed to maintain that relationship so that, as things
23 arose, we would give them specific information about how to protect their platforms.
24 Q So, post-COVID 2020 meetings with the social media companies, when that
25 type of information is being shared, who from the government attended those meetings?

1 A Yeah. So, post-COVID, the meetings got a little bigger just because most
2 meetings then shifted to communications platforms, for lack of better term. Kind of all
3 the companies wanted to use their own thing. We pretty typically use Microsoft Teams,
4 but you know Google would not be happy using Microsoft Teams. So we would have to
5 use their preferred technology. But we would have conference calls on whatever
6 preferred technology, Cisco, Webex, all the different type of things.
7 It would typically be on one of those platforms, and it would be somewhat open
8 invitation to people on the FITF if you want to attend the meeting. There were a lot of
9 people that attended just to kind of get the feel for it. When we were traveling out
10 there, there were pretty minimal, mostly due to the cost of traveling out there. And we
11 typically brought a small crew, the minimum that we would need to communicate the
12 information that we needed to.
13 Then, on the phone, they got a lot bigger, but I can't think of a time other than
14 occasionally we would bring in maybe some cyber agents that work a specific threat
15 stream or a specific advanced persistent threat. We would bring them in to -- if we
16 thought a particular threat was pertinent to a particular company or the companies in
17 general. But, other than that, it was usually only members of the Foreign Influence Task
18 Force and usually bilaterally with one company. Although, we did have other meetings
19 where it was a little broader, there was other government agencies; DHS, ODNI.
20 Normally, those were a little more election-focused. Rather than the Foreign
21 Influence Task Force, we were very -- we normally tried to get across that for us it's not
22 about elections. Elections are obviously an important thing in sort of -- an event sort of
23 in the time space of foreign influence operations and foreign influence campaigns. But,
24 for us, it was an everyday thing. There's constantly sort of campaigns going on all the
25 time of foreign malign influence that we were watching actors prep and plan that we

1 needed to mitigate and continue to sort of always cut that grass. It wasn't always one of
2 those things that we can, just around election time, we'll look at foreign malign influence
3 and the rest of the time we'll kind of let it grow and metastasize.
4 Chairman Jordan. How many agents -- pre-COVID, how many agents would
5 travel out to the tech companies to meet with them?
6 [redacted] It varied, but from the Foreign Influence Task Force, I would say
7 when we were just a Russia Unit, it was usually smaller. I would say two to three
8 people. When it became a section, it probably got closer to five or six occasionally.
9 Chairman Jordan. Okay. And how often would you go?
10 [redacted] It's hard for me to say. I don't feel like there was a particular
11 cadence. There was probably a time period in 2019 when I was in California maybe
12 monthly. But that was typically because of different meetings with different companies.
13 I would say we met with individual companies a couple times a year to maybe quarterly,
14 not necessarily on schedule, but I would say on average around that.
15 Chairman Jordan. That was just the FITF the two to three -- the two to six people
16 who would travel out was FITF. You said there were others. Who were the others?
17 [redacted] Occasionally, we would see maybe like a cyber threat or something
18 to that effect where we would bring experts from the field. We would bring a cyber
19 agent from Philadelphia or Phoenix and that sort of thing, and fly them out as well to kind
20 of -- we thought that was a pertinent threat, and we're not the experts in it.
21 Chairman Jordan. Post-COVID, how many of the virtual meetings, how often did
22 you have those?
23 [redacted] I would say the cadence probably also increased as 2020 went on.
24 Probably near the election at least monthly, maybe weekly.
25 Chairman Jordan. Okay. And how many people would be involved in those?

1 [redacted] It's hard -- I don't know that I monitored how many people were on
2 the call. Some of them were 800-number kind of call in. I would say roughly 20 to 30
3 FITF representatives on a conference call.
4 Chairman Jordan. Thank you.
5 BY [redacted]:
6 Q In the post-COVID 2020 bilateral FITF calls, how often would you attend
7 those?
8 A I don't want to say always. There's probably some I missed, but there are
9 probably not many meetings I missed from 2018 to early 2021. I sort of, from the FITF
10 side, kind of owned those engagements with social media just because I'd be there
11 almost from the beginning, and a lot of the other units having just stood up didn't have
12 those same relationships. I also think that particular threat stream that affected social
13 media platforms and some other technology companies was predominantly Russia-based
14 at the time. So we typically had more pertinent information as well in terms of sort of
15 tactics and how they operate. I think that sort of was the balance at that point.
16 Q In 2020, as part of these discussions, were there discussions regarding the
17 risk of a potential hack-and-leak or hack-and-dump operation from Russia?
18 A I'm certain there was. We often talked about tactics that had happened in
19 the past, especially with some of the larger cyber actors, Russian cyber actors, the
20 advanced persistent threats that had hacked information in the past and had shown a
21 propensity or had leaked as well. So that's certainly one of the tactics we discussed.
22 Q In the context of discussing those tactics, was there any discussion of
23 whether either of the Presidential candidates in 2020 would be targeted?
24 A Yes. I mean, a lot of the discussion in the lead up to the 2020 election was
25 pertinent to the election candidates. Even a little bit further back, even during the

1 primaries, there was discussion of a broader set of candidates. It was certainly
2 addressed, you know, if there's a hack and leak, it's going to affect one of these two
3 people. So there certainly was discussions of how that would fit in with what would
4 work.
5 Q Were there discussions about how a potential hack and leak or hack and
6 dump could affect then candidate Biden?
7 A So what I'm -- I'm certain there was, as I said. Like we definitely discussed
8 both candidates. That was sort of the point of mitigating foreign malign influence, was
9 to protect both candidates. I don't recall specifics of like at what time we talked about
10 who, but there are a couple things I would draw your attention to.
11 Probably the best examples are the 2016 and 2020 ICAs. The unclassified
12 intelligence that kind of fed into those, showing what we saw in realtime and what was
13 actually happening from Russian cyber actors and those sort of things. So I think those
14 are probably the best examples of things that we saw happen and what I can share.
15 Q You mentioned that information would be shared regarding potential risk of
16 hack and leak or hack and dump targeting either candidate. In the context of risks
17 relevant to then candidate Biden, was there any discussion during these meetings about
18 Hunter Biden or Burisma?
19 A I don't recall specifically discussions about Hunter Biden until after the New
20 York Post story. There was definitely discussions of Burisma since that was kind of
21 already in the discussion and in the media. Typically, social media companies would
22 have questions. If something was public, they would bring it up. We tended to focus
23 more on tactics than actors. But we would get questions like that, yes.
24 Q Just to clarify your previous response, pre-2020 election, there were, as part
25 of these discussions, questions about Burisma during these bilateral FITF meetings?

1 A I don't recall specifically like in terms of times and that sort of thing. Some
2 of it kind of runs together, especially with how many companies we'd meet with and that
3 sort of thing. It's hard for me to point to like a specific -- I don't remember an agenda
4 item or anything like that, but we talked pretty frequently about things we thought were
5 pertinent.
6 Q In, let's say, spring 2020 until election day, how often would discussions
7 regarding a potential hack and leak or hack and dump from Russian actors come up?
8 A It's hard for me to say that. It wasn't something that would come up
9 frequently. It's one of those things like I can they will you what a hack-and-leak
10 operation looks like. I can tell you about the actors, that there's specific units that their
11 entire job is to conduct hack-and-leak style operations. But, in my mind, there's no
12 point to keep harping on tactics that we have already shared. We pretty typically tried
13 to keep meetings fresh and valuable, in terms of bringing pertinent and valuable topics
14 that were useful to these companies so that they would protect their platforms and
15 mitigate threats.
16 So I can't tell you specifically like how many times we talked about certain tactics,
17 but that was one of many we talked about frequently, but more in the specifics of who
18 does it, how they're doing it currently so that they can mitigate them through what we're
19 sharing rather than, you know, just hoping that, once it happens, they can somehow
20 mitigate it.
21 Q These discussions about a potential -- the risk of a hack and leak or hack and
22 dump in the lead up to the 2020 election, were those types of discussions occurring in the
23 other government agency, kind of, ongoing meetings you had mentioned?
24 A Yeah. Again, it's hard for me to pin down like certain topics. Some of this
25 was 5 years ago and hundreds of meetings, but I'm certain those -- usually in the

1 meetings, with more government that wasn't just bilateral FITF meetings, it tended to
2 skew a little more strategic, kind of more overarching. Some of the other government
3 agencies that were there are sort of not operational like FBI is. They're a little more
4 intelligence collecting and interpreting type agencies.
5 Where the FBI has operational information, that's why we kind of bifurcated the
6 meetings and had this bilateral set with the companies that we were able to share
7 operational information that we wouldn't even share with other agencies because they
8 don't have purview or an action arm type thing.
9 Q With the understanding that the kind of the other government agency
10 standing meetings tended to be more strategic, in the lead up to the 2020 election, do
11 you recall any meetings where there were questions or discussions about the risk of a
12 hack-and-leak operation targeting the Biden campaign or then candidate Biden?
13 A I don't recall specifically. We -- well, I -- I didn't tend to pay as close
14 attention in the larger government meetings. I didn't run them. The way they would
15 normally be set up is they would give FBI maybe 5 minutes to give some sort of strategic
16 update, and then the rest is other agencies with other things, such as CISA would talk
17 about very specific election infrastructure concerns and things like that. So there were a
18 lot of topics that weren't necessarily in my purview that I didn't pay as close attention to
19 during those larger meetings. I had more of a speaking role, and that was the end of it.
20 They were little less conversational, the larger meetings. It was more of government
21 pushing information across the government. So a lot of it was -- I didn't have the head
22 space to get really deep in the weeds on election infrastructure, which is a whole other
23 problem set that CISA does very well at that I kind of left to them.
24 Q For the bilateral FITF meetings, who in the FITF would decide what would be
25 shared at a meeting?

1 A I don't know that there was sort of a very clear process or who was in charge
2 of kind of deciding the agenda. A lot of decisions like that were made sort of almost in a
3 brainstorming fashion, usually among the leadership of the FITF. And by that I mean,
4 pretty typically the unit chiefs. The unit chiefs kind of had purview to do what they saw
5 fit within their unit. We certainly did not really consult with management deciding
6 agendas and that sort of thing. It was usually what's the freshest thing in the Russia
7 threat that we can share today and who's my expert in that that can share that
8 information. That was more what dictated it rather than some sort of decision of what
9 was on the agenda.
10 Q If there -- what is your understanding of -- recall specifically a meeting on
11 this date there was a discussion of hack and leak -- risk of a hack and leak or hack and
12 dump, for that topic, who on the FITF would be best positioned to provide information or
13 update about that risk?
14 A I would say normally, we would bring in an outside expert for that. There
15 were agents in the field that had specifically worked lots of hack and dumps. The actors
16 that typically do hack and dumps are very specific, and we have squads in several field
17 offices that that's their entire job to work against those actors.
18 So I can recall specific times we brought in -- I can tell you the agents and the field
19 offices -- I can't tell you because they're field agents. But I can tell you we brought in
20 very specific people to talk about hack and leaks, just things like that that were very
21 specific, and you know, required that kind of knowledge. It normally wasn't me, but I
22 may say for one meeting, "I would like to talk more indepth about how hack and leaks
23 happen, and hey, can we get those agents to come with us and to, you know, attend via
24 conference line so that they can give an update of what they're up to." Luckily they
25 have had several sort of indictments and things like that that there's unclassified

1 information that they're able to share pretty freely.

2 Q And, in these instances where someone from outside the FITF is brought in

3 to help brief about a risk of a hack and leak or a hack and dump, would -- once the

4 meeting starts and the tech company is on the other line, would they be introduced as

5 the expert with particular knowledge on hack and leak?

6 A Yes. And a lot of times the companies have preexisting relationships with

7 those agents as well because those agents have sent them, you know, hundreds of

8 subpoenas and search warrants and those sort of things. So, pretty typically, when we

9 brought agents like that, the companies already knew those agents and had worked with

10 them on previous sort of hacking events and that sort of thing. It's also kind of a small

11 community, and they all attend conferences and all these things where there is threat

12 intelligence shared on advanced persistent threats as the private sector calls it. And

13 then we have corresponding kind of units and agents in the field that work that sort of

14 thing.

15 Q For the folks who are on the other end of -- for the social media companies,

16 for the tech companies, were there any former FBI personnel who were then working at

17 the tech and social media companies?

18 A Yes. Quite a few. There's quite a few former government, not primarily

19 FBI, but lots of agencies that work at most of the companies we met with.

20 Q We were starting to touch upon this earlier, but you are familiar with the

21 October 14, 2020, New York Post story regarding Hunter Biden's laptop?

22 A Yes.

23 Q When did you first become aware of the story, the news article?

24 A I became aware the day it came out. I believe it was October 14 that I

25 became aware of the story.

1 Q And, prior to the story's publication, were you aware that the FBI was in
2 possession of a laptop or a hard drive attributed to Hunter Biden?
3 A I don't recall the exact timeframe, but I'm fairly certain I knew that we were
4 in possession of a laptop associated with Hunter Biden prior to that story coming out, yes.
5 Q How did you come to learn this information?
6 A I also don't recall, but part of my job and part of why the Director stood up
7 the Foreign Influence Task Force was to somewhat remove the silos among the
8 operational divisions and how Russia's worked among the different divisions. Part of my
9 job is to stand across all four, have representatives from all four operational divisions, and
10 if there was something that involved Russia and later Ukraine included, I was at least
11 briefed into broad strokes on the investigation. So there wasn't a lot of kind of in the
12 2019, 2020 timeframe going on in FBI in the Russia or Ukraine space that I wasn't at least
13 aware of.
14 Q Do you recall whether, as it relates specifically to the laptop that the FBI had
15 in possession, if you received some sort of formal briefing.
16 [redacted] Just as we head into this topic flagging for the record that the FBI
17 follows longstanding policy from the Department of Justice related to ongoing
18 investigations, including certain investigative steps which may or may not have been
19 taken. And, obviously, as we discussed in previous TIs with witnesses here to speak
20 about this topic, we will be forward leaning in trying to address your questions. We're
21 here voluntarily, but there might be some limitations to what the witness is able to
22 discuss here today.
23 Chairman Jordan. When did you learn, and how did you learn?
24 [redacted] I don't recall the specific time or place, that sort of thing. But I do
25 recall getting at least some briefings from the investigative team in the field about

1 investigations surrounding that. I'm not sure about individual details about the case,
2 such as that. Like I do recall getting a briefing that we did have a laptop in our
3 possession. I don't recall in which briefing or who briefed me, but it was likely the case
4 team in that field office?
5 BY [redacted]:
6 Q And do you recall if other briefings took place besides that briefing?
7 A Yes. I can recall several briefings with the case team. Yes.
8 Q How many of those briefings occurred before the New York Post story came
9 out?
10 A That's really hard for me to answer. I don't know that I could put a number
11 on how many briefings I received on the case. Ballpark, I probably received three to five
12 briefings on that case during my time from the actual case team.
13 Q From the three to five, approximately, briefings you received from the case
14 team, do you think it was more than half, less than half occurred before the October 14,
15 2020, New York Post story?
16 A I would say -- hard to say. I would, you know, instinctually say probably
17 more than half were before that, but hard for me to speculate on that.
18 Q Do you remember when the first briefing occurred?
19 A I do not. So I remember, generally, when I was told Ukraine was under my
20 purview, which I think sort of triggered that. I don't remember the exact date. I'm not
21 sure I could even give you a month that it happened, but there was sort of a time where
22 Ukraine was sort of put under Russia instead of Global just because of the kind of -- how
23 it's intertwined. And I remember that happening, but I couldn't give you a date.
24 Q When you're receiving these briefings, would it just be you, or would other
25 unit chiefs or other members of the FITF receive them at the same time?

1 A I remember other representatives of the FITF being there. I don't recall
2 who. But, generally, the unit chiefs to some extent were cross-briefed in other
3 countries somewhat, not entirely. The other unit chiefs did not know about everything I
4 knew about, and I didn't know everything they knew about. But there was some
5 crossover as we kind of filled in for each other and those sort of things. So hard to say
6 who else was in case briefings. I do know that at least one other unit chief had equities
7 that they would have been briefed, some things as well possibly.
8 Q Which unit chief would that have been?
9 A Actually, they probably, depending on the timeframe, they probably both did
10 because at some point global was sort of implicated, at another time China was probably
11 part of some of the briefings. So it's hard to say exactly, but yeah, it's hard for me to
12 speculate like who knew or who was aware other than myself.
13 Q That would be Ms. Dehmlow and the non-SES unit chief at the time?
14 A Yes. Yeah.
15 Q Do you recall if the first briefing related to this issue occurred before COVID?
16 A I would say almost certainly.
17 Q In addition to -- at one of these briefings -- learning about the possession of
18 a laptop, what other details or information could be shared in these briefings with you?
19 [redacted] So I'm going to flag. I would say this pertains to certain ongoing
20 investigations, and also just flagging for the record the witness may be hamstrung in this
21 unclass open setting with what he can provide related to certain potentially classified
22 information.
23 [redacted] I can speak in broad terms about what's normally in a case brief?
24 [redacted] To the extent it doesn't invoke the specifics of this matter, sure.
25 [redacted] Sources or methods kind of thing.

1 [redacted] Sure.

2 [redacted] Generally, when the field would brief me something, there's typically

3 some sort of roadblock or something that they need help with. So they'll brief, you

4 know, "we're trying to get this investigative step done; here's what we need from

5 headquarters to make that happen." You know, pretty typically, they get into maybe

6 what investigative steps they've taken broadly, and where their sort of general strategic

7 direction is going just so that we're kind of aware and can update executive management

8 as necessary. But it's really dependent on the case and the specifics of that case that I

9 can't really get into.

10 BY [redacted]:

11 Q Are you able to share any of the roadblocks as they relate to this specific

12 case and why you were briefed?

13 A I think that's probably too specific in investigative methods.

14 Q So the team has a laptop. To your understanding, were there efforts to

15 authenticate to see if it was compromised in any way.

16 [redacted] I would just flag for the record the witness might be limited in

17 discussing certain law enforcement sensitive investigative techniques in this context as it

18 relates to authentication of a particular piece of evidence he may or not have been

19 tracking.

20 Chairman Jordan. We're just asking if you authenticated it. We're not asking

21 how you did it. Just want to know if you did.

22 [redacted] Can I talk about the challenges of authenticating something broadly?

23 [redacted] Did you have involvement in the authentication process?

24 [redacted] I had no involvement in the authentication process. That's not

25 something headquarters would normally be involved in.

1 BY [redacted]:

2 Q But the guys who were briefing you, is that something they would be

3 involved in?

4 A Absolutely.

5 Q To you understanding, did they authenticate the laptop?

6 [redacted] Can I confer with the witness?

7 [redacted] Go off the record, please.

8 [Discussion off the record.]

1

2 [11:01 a.m.]

3 [redacted] Can we go back on the record, please?

4 [redacted] Yes.

5 BY [redacted]:

6 Q So before we broke, there was a question more generally about the case

7 team would be the ones, if there was an effort to authenticate, they'd be the ones doing

8 it, not you and not members of the FITF.

9 Next question was: To your understanding, were there efforts to authenticate

10 the laptop?

11 A I'm not sure that I can say anything else more about the authentication of

12 the laptop.

13 Q With the understanding that you were not part of the investigative team,

14 just independently, once the FBI has a laptop of significance, wouldn't the logical next

15 step be to try to authenticate it?

16 A I'm not sure that I can say anything about the authentication process of the

17 laptop.

18 Q Okay. If -- outside of this --

19 Chairman Jordan. Why wouldn't they authenticate it?

20 [redacted] I'm not sure I can -- can I speak broadly about authentication?

21 [redacted] No.

22 [redacted] I think there's too many sources and sensitive methods involved in

23 that that I can't speak to that.

24 [redacted] Is it accurate to say that given the number of briefings you've received

25 and given that, you know, at least a portion, maybe half, maybe more were before the

1 New York Post story came out, that you were aware of information, in addition to the fact
2 that the FBI had a laptop?
3 [redacted] I'm sorry. What was the question?
4 [redacted] I think we want to clarify what those two to five briefings were
5 about. Because I think that the witness testified earlier that he wasn't sure when he
6 was actually briefed on the laptop. He was speaking more to the two to five briefings
7 generally on Hunter Biden issues.
8 [redacted] Is that what you understand?
9 BY [redacted]:
10 Q Yeah.
11 A Okay. I wasn't sure if that got mixed up.
12 I'm not sure when I got briefed on the laptop specifically. The three to five
13 briefings or two to five, whatever I said, was about broader issues pertaining to Hunter
14 Biden.
15 Q Which other issues were included in the briefings?
16 A I can't speak to that due to the sensitivities in the ongoing investigation.
17 Q Were they all related to the one investigation or were there multiple
18 investigations?
19 [redacted] Same answer.
20 [redacted] Same answer.
21 BY [redacted]:
22 Q Were there any briefings of the three to five that you received that
23 Ms. Dehmlow, the other unit chief, were not a part of?
24 A Were not a part of?
25 Q Yeah.

A I don't understand the question.

Q You said in -- to your recollection, when it came to these briefings, the other unit chiefs likely had some equities. Were there any where -- specific where it was just necessary for you as the Russian Unit chief to be there?

A Yeah, I don't know that I can address that. But I don't think it was a case where we were all always in all the case briefings, if that makes sense, depending on the time. And I don't know that I could even produce that kind of detail of like at what time who attended which meeting.

Q All right. So you've received some set of briefings. You have some awareness of what's going on behind the scenes. The story breaks on the 14th. What was your initial reaction?

A It's hard for me to recall my reaction at this time. It was -- yeah, I don't recall my initial reaction to it. It's --

Chairman Jordan. Were you surprised?

[redacted] Yes.

[redacted] Why?

[redacted] I think I can address part of that. I had no idea that it was coming, the story. I had no idea. Yeah, I mean, it was -- it was all news to me would probably be the best way to describe my surprise.

[redacted] Once the story breaks, did you reach out to the case team?

[redacted] I believe I was directed to, to get some updates.

[redacted] I would just flag that the witness can acknowledge the existence of speaking with the case team but cannot speak to the specifics of any following discussion.

[redacted] Who directed you?

[redacted] Can I speak to that?

1 [redacted] I would say you can acknowledge who you spoke with generally but
2 not the substance of those conversations.
3 [redacted] Okay. As in all things in the FBI comes down the chain, I received
4 questions from my section chief, Brad Benavides, of, you know, same thing. Most
5 people were surprised by it, wanted to know sort of status kind of questions.
6 [redacted] Did Mr. Benavides direct you to reach out to the case team?
7 [redacted] I don't recall specifically, but that's general course of business.
8 Chairman Jordan. Same day?
9 [redacted] I -- hard to --
10 Chairman Jordan. Close to October 14th?
11 [redacted] Likely.
12 BY [redacted]:
13 Q Was this -- to your understanding, had Mr. Benavides received an instruction
14 from above him?
15 A I can't speculate. Yeah, I have no idea.
16 Q Did he tell you if he'd had any discussions with Ms. Flores about the laptop?
17 A I don't recall. Yeah, I don't want to speculate. I don't recall anything
18 about who discussed what when.
19 Q Did he tell you if he had any discussions about the laptop or the New York
20 Post story with Mr. Brown -- excuse me -- Mr. Brown?
21 A If he did, I don't recall.
22 Q Once you reach out to the case team, what did they tell you?
23 [redacted] I would just flag he can't speak to the specifics of conversations that
24 he had with the case team while there is an ongoing investigation into some of these
25 matters.

1 Chairman Jordan. How about in general then, did they say, this story's crazy, this
2 story doesn't make sense?
3 [redacted] In general, I don't think he can speak to the content of those
4 conversations. It's still subject to the ongoing investigations.
5 BY [redacted]:
6 Q Did you have conversations with any of the other unit chiefs about the New
7 York Post story?
8 Yeah, we'll stop there.
9 A I don't recall any specific discussions at that time, but likely.
10 Q When you reached out to the case team, were those conversations just
11 between you and the case team or were there other members of the FITF involved?
12 A I have almost no recollection of which meeting happened when, and it's hard
13 for me to speculate who was in meetings and what was said. I kind of -- yeah, it -- there
14 was a lot of different meetings at different times, and it's hard for me to pin down, you
15 know, details about certain meetings.
16 [redacted] Can we go off the record, please?
17 [Recess.]
18 [redacted] We'll go back on the record, please.
19 EXAMINATION
20 BY [redacted]:
21 Q [redacted], thank you for coming here again. I just want to ask you a couple
22 of follow-up questions on your background. I know that you went into it at quite some
23 length in the earlier hour. But could you talk a little bit more about, you know, why
24 specifically you decided to join the FBI?
25 A Yeah. I think I'm a bit of a conundrum at the FBI. Everyone always says it

1 was my life's dream to be an FBI agent. I mean, to a tee, every single person always says
2 that and, to me, it's not. I never considered the FBI.
3 Having sort of the law enforcement background and then building kind of my
4 tactical background in the Army, I was looking at different Federal tactical teams. And I
5 had sort of liked the model of what the ATF does, and I was looking at the ATF mostly,
6 and just wanted to kind of move and build on my law enforcement and tactical
7 background and kind of put them together and, you know, was looking to go sort of the
8 ATF route.
9 But as I was applying in 2009, almost everyone was on a hiring freeze. And I
10 think I recall a discussion with my father at one point in Iraq. I'm like trying to figure out
11 what to do next. And he was like, Well, what about other agencies? Have you looked
12 at the FBI?
13 And I literally went to like the FBI.gov website to just like -- I don't know. I don't
14 know anything about the FBI. And so, I mean, within a year of joining the FBI, I barely
15 knew what the FBI even was.
16 So I kind of looked at the mission and saw that there was a lot of opportunity kind
17 of -- we deal in so many different threats and so many different things, that I'm
18 self-aware that I get kind of bored with certain things. And I saw that that was probably
19 a good fit to me to sort of be able to move around and do lots of different things within
20 one organization.
21 So, to me, it kind of all spurred out of that. I was just trying to find somewhere
22 that I could kind of apply all of the things that I had done and put it to use.
23 Q Sure. Thank you.
24 And you've had a pretty long career at the FBI. Have you received any awards?
25 A I have. I received a Director's Award as a case agent. I've received

1 another Director's Award as a program manager at headquarters. I received a couple of
2 intelligence community type awards, a couple of unit citations from the Office of the
3 Director of National Intelligence. But I think that for the most part is it.
4 [redacted] What is the Director's Award?
5 [redacted] They're given out yearly typically to sort of a standout
6 investigation. And there's a couple of categories of types of investigations or programs
7 that we have, not necessarily investigative, and sort of awarded once a year to an
8 exemplary case that kind of fits that mold.
9 [redacted]. And you've been an FBI agent and served across multiple
10 administrations. Is that correct?
11 [redacted] Correct.
12 [redacted] Can we go off the record real fast?
13 [Recess.]
14 [redacted] Okay. We can go back on the record. Thank you.
15 BY [redacted]:
16 Q [redacted], I want to go back a little bit more in-depth about the FITF. And
17 the FITF is led by the Counterintelligence Division of the FBI, correct?
18 A Currently, yes. It's kind of moved around a bit through my time there.
19 But, yes, currently it's under the Counterintelligence Division.
20 Q Okay. In very broad terms, what's the mission of the Counterintelligence
21 Division?
22 A Counterintelligence Division is basically our efforts to mitigate foreign
23 intelligence services activity and defend the United States from foreign intelligence
24 services.
25 Q Sure. And under the Counterintelligence Division, what would you -- in

1 broad strokes, what would you describe as the mission of FITF?

2 A Yeah, I mean, it's similar to what I said. It goes a little further than just

3 pure foreign intelligence service activity. There's some protecting information and

4 technology from going overseas. There's, you know, a couple other things.

5 It's -- it's -- it also has a fairly sizeable sort of intelligence component. As I said,

6 the FITF was under the intelligence branch of interacting with the rest of the intelligence

7 community and sort of being a partner in collaborating with other agencies but usually in

8 furtherance of sort of protecting the United States and United States companies from

9 foreign intelligence services.

10 Q Okay. And the FITF was established by the director of the FBI in 2017 to

11 counteract foreign malign influence operations. Is that fair?

12 A Correct.

13 Q Okay. And who held the position of that FBI director?

14 A Christopher Wray.

15 Q And who appointed Mr. Wray to the position?

16 A President Donald Trump.

17 Q And you talked to in the previous hour about foreign malign influence.

18 Could you just tell me briefly what that -- what you mean by that?

19 A Yeah. Specifically foreign malign influence is typically either directed or

20 executed by foreign intelligence services in order to -- through subversive, undeclared

21 covert or criminal activities to sort of invade and interfere with United States electoral

22 processes, social discourse. There's a number of other activities that it sort of covers,

23 but generally that's sort of a broad idea of sort of foreign malign influence.

24 Q Okay. And you mentioned a couple of goals, like, to interfere with

25 elections, for example. Why is it important, in your understanding, why FITF and FBI

1 disrupt these types of foreign malign influence operations?

2 A I mean, probably the best way to articulate that is there's, you know, global

3 efforts to try to have free and fair elections and have sort of -- protecting the integrity of

4 the electoral process domestically is, I mean, paramount to our democracy. So it's one

5 of those things that it's one of the FBI's kind of no-fail missions of protecting the integrity

6 of not only elections but sort of the integrity of social discourse in the election process as

7 well.

8 Q Absolutely.

9 [redacted]. I would like to introduce for the record former President Trump's

10 Executive Order 13848, Imposing Certain Sanctions in the Event of Foreign Interference of

11 a United States Election, which was signed by him on September 12th, 2018, as exhibit 1.

12 [[redacted] Exhibit No. 1

13 was marked for identification.]

14 BY [redacted]

15 Q I would like to direct your attention to the second paragraph that starts with

16 "I, Donald J. Trump."

17 And a few lines in, it -- he finds that, "the ability of persons located, in whole or in

18 substantial part, outside the United States to interfere in or undermine public confidence

19 in United States elections, including through the unauthorized accessing of election and

20 campaign infrastructure, the covert distribution of propaganda and disinformation,

21 constitutes an unusual and extraordinary threat to the national security and foreign policy

22 of the United States."

23 Did I read that correctly?

24 A Yes.

25 Q And how does the FITF seek to disrupt the threat identified by former

1 President Trump's executive order?

2 A I would say we sort of brought together the strategy of several operational

3 divisions and how they normally work and kind of bring that together as a whole of FBI

4 and then, additionally, as a whole-of-government approach to identifying the threat and

5 then using our usual authorities to then mitigate that threat and stop threat actors from

6 carrying out the activities that they'd like to.

7 Q And you would agree that this is important for the national security of the

8 United States, right?

9 A Yeah, absolutely.

10 Q Why -- just generally, why is that important for the national security?

11 A I think it kind of goes back to my comment previously of the importance of

12 the integrity of the electoral process in the United States.

13 Q And are you familiar that FITF takes a three-pronged approach to combating

14 foreign malign influence operations?

15 A I am.

16 [redacted] And I would like to just introduce for the record a printout of the

17 FBI's web page on combating foreign influence. I'll mark this as exhibit 2 for the record.

18 [[redacted] Exhibit No. 2

19 was marked for identification.]

20 BY [redacted]

21 Q Are you familiar with this web page?

22 A Generally. I'm not sure -- I think it postdates my time at the FITF. But,

23 yes, generally I'm familiar with the website.

24 Q I would like to direct your attention to the second page. There are three

25 prongs.

1 The first prong reads, "Investigations and operations: The FITF works with FBI
2 field offices across the country to consider the extensive influence operations of our
3 foreign adversaries."
4 "To counter" -- I'm sorry -- "the extensive influence operations of our foreign
5 adversaries."
6 Do you see that?
7 A Yes.
8 Q Briefly, what's your understanding of what that means?
9 A So FBI headquarters is sort of the investigative arm of the FBI.
10 Investigations broadly take place in our field offices, line-level agents conducting
11 investigations that are properly predicated through Attorney General guidelines and
12 pursuing these threat actors and trying to protect victims in general.
13 Q Okay. Thank you.
14 In the second prong, "Information and information [sic] sharing: The FBI works
15 closely with other intelligence community agencies, as well as the State and local" -- "as
16 well as with State and local law enforcement partners and election officials, to ensure a
17 common understanding of the threat in a unified strategy" -- "and a unified strategy to
18 address it."
19 Could you talk just generally about that?
20 A Yes. Probably the best way to describe this is sort of encapsulated in the
21 larger government meetings that we would have with companies. I know that sort of
22 also touches into the third prong, but we work closely with many other government
23 agencies that have very specific authorities and missions that may overlap with the
24 Foreign Influence Task Force but sort of fall in different lanes and that sort of thing, that
25 we try to share as much as we could of what we know about the threat with other

1 agencies so that they're able to prepare and apply that to their mission sort of in a
2 whole-of-government approach to looking at and mitigating the threat.
3 Q And the third, which I know that you just touched on, is "Private sector
4 partnerships: The FBI considers strategic engagement with the U.S. technology
5 companies, including threat indicator sharing, to be important in combating foreign
6 influence actors."
7 The FBI also partners with election stakeholders to defend against foreign malign
8 influence on U.S. elections.
9 Do you have anything to add about that third prong?
10 A Yeah. I spoke about this briefly before in that we met with all sorts of
11 private sector entities, both to try to learn from them and also to share information with
12 them, where appropriate and within policy, so that they're able to protect themselves
13 better. Sometimes there's things that they can do to assist us in our mission of
14 protecting them, and we took a broad approach to both learn from and share information
15 so that they can also join that whole-of-society fight against foreign malign influence.
16 Q Sure. And in the previous hour, you talked a little bit about --
17 [redacted] Hold on one second. Do you mind if I jump in?
18 [redacted] Sure.
19 BY [redacted]
20 Q When we're talking about private sector partnerships, is it important for the
21 FITF to engage strategically with U.S. technology companies by sharing threat indicators?
22 A Yes, extremely important, especially in the early days of the Foreign
23 Influence Task Force where there wasn't a lot of that happening specifically on foreign
24 malign influence and sort of standing up that effort to mirror some of the efforts we
25 already had ongoing with all sorts of different private sector entities.

Q So -- and I should have asked this at the beginning of that question. What are threat indicators?

A I would define that as sort of a number of different usually technical type data, whether that's cell phone numbers, IP addresses, maybe VPN nodes, you know, technical data typically that allows them to identify activity on their platforms or networks.

Q And the goal in sharing these is so that the private sector partners can do their own investigation based on IP addresses, whatever it may need to be provided, and take action as they deem appropriate.

A Yes.

Q Fair to say?

A Yes, correct.

[redacted] Okay.

[redacted] In the previous hour, we talked about how FITF takes a content-neutral approach rather than trying to decide what is misinformation or disinformation, for example. Why is that important as an approach of FITF?

[redacted] And -- sorry.

BY [redacted]:

Q Actually, can you define content-neutral approach for us?

A Yeah. So, I mean, in simple terms, content neutral, the way I would describe it to a lot of people is we're not policing the internet and looking for certain types of speech and saying, Oh, this looks Russian. Let's see if it is, and kind of digging in and looking at it. We found that that is very fraught. Some of our engagement with private sector entities and academia and that sort of thing, we would find people doing that, that that's, you know, as a private sector entity or as a university and that sort of

1 thing, that's within, you know, things that they can do.

2 That's not something the FBI should or would do. We often said we are not the

3 internet police. What we do is investigate foreign threat actors and try to mitigate their

4 activities and how it then crosses into the U.S. space, in this case sort of social media or

5 online discourse and those type of things.

6 Q So you just used the term it was very fraught to look for whether something

7 was Russian, for example, in its origin. What did you mean by fraught?

8 A For us -- I mean, the FBI, our sort of core mission statement is to protect the

9 American people and defend the Constitution or uphold the Constitution.

10 And in this case, there was constant discussions among the FITF about the First

11 Amendment and how we not only have a duty not to violate it but to protect it and

12 uphold it. There was constant discussion of how not to chill First Amendment

13 protections, and it shaped a lot of our core strategy and core ways we thought we would

14 mitigate the threat. And the clearest way to do that is to not engage with the content of

15 propaganda and those sort of things. We were not the propaganda police.

16 We're looking for known, defined foreign actors that are maybe engaging in that

17 type of activity. But we didn't think there was a way for the FBI to take that approach or

18 even engage in that approach.

19 Q So when you say that you're looking for foreign actors and you're taking a

20 content-neutral approach, what is FITF looking for?

21 A So through broad intelligence gathering, often through investigative

22 operations, we would find threat actors and identify -- you know, usually it's not a single

23 person on their own. Normally it's a larger group kind of thing. So if we find one, that

24 helps us get into larger networks.

25 And I could go in a lot about how the FBI operates in general, but identifying those

1 threat actors. And often it's difficult to mitigate through some of our traditional criminal
2 methods in that they're overseas and we may not be able to arrest them for their activity.
3 In this case, just have to continue, watch how they evolve, and try to mitigate
4 their actions as they sort of -- their actions are typically entering the United States
5 virtually rather than physically.
6 Q So when you say you're identifying threat actors, threat actors are people.
7 Is that fair to say?
8 A Or agencies.
9 Q Or agencies.
10 A Or entities.
11 Q Or entities. People or entities.
12 A Yes.
13 Q That's what you're looking for. So you're looking for is this the GRU, the -- I
14 don't remember what that stands for -- the Russian intelligence headquarters, the
15 Russian equivalent of CIA.
16 A The GRU is more the equivalent of military intelligence. They don't really
17 have a -- an analogue in the U.S. Government, but I would say it is closer to like DIA, but
18 yes.
19 Q But my point, I mean, what you're looking for: Is this the GRU acting?
20 A Yes.
21 Q Is this a foreign intelligence entity that's doing these things?
22 A Not always foreign intelligence.
23 Q Uh-huh.
24 A The way that at least the Russia target operates is there's all sorts of entities
25 that are government sanctioned or government sponsored but not necessarily wholly

1 government employee type activity. There's all sorts of activities there that aren't --
2 Q Okay.
3 A -- you know, explicitly Russian intelligence services. But, yes, that is
4 absolutely a very clear and easy way to describe it, is that's a major actor that we
5 continue to engage and try to mitigate their activities.
6 Q And the actors that the FITF is focused on are all foreign actors, correct?
7 A Yes. In this context -- there are things that the FITF engage with that are in
8 the criminal space --
9 Q Uh-huh.
10 A -- or the cyberspace where it's illegal for domestic actors as well.
11 Q Uh-huh.
12 A So there are absolutely things that the FITF did that crossed over into the
13 domestic space under our criminal authorities.
14 Q Okay. But we're talking counterintelligence.
15 A So it's hard for me to say --
16 Q The counterintelligence focuses on foreign actors, correct?
17 A Correct. In that scenario, counterintelligence is foreign actors.
18 Q Okay. There's been a lot of conversations over the course of this
19 investigation about the FITF monitoring social media for misinformation or
20 disinformation. What's your response to that claim or those allegations?
21 A I reject the characterization that we ever monitored the internet for
22 propaganda or those sort of things. I am aware that there were lots of efforts among
23 think tanks, academia, private sector that did have efforts like this. But we, as the FBI,
24 did not engage in this activity.
25 [redacted] Thank you.

1 BY [redacted]:

2 Q So during these government industry meetings, is it fair to say that FITF

3 shared both tactical and strategic information with social media companies?

4 A Yeah, that's a fair characterization.

5 Q And tactical would mean that information about specific accounts suspected

6 of being covertly controlled by foreign malign actors. And strategic would mean more

7 that the tools, tactics, and processes used by foreign malign actors. Is that fair?

8 A Yeah, I think that's fair.

9 Q And can you briefly describe the difference between these types of

10 information that were shared?

11 A Yeah. So on a tactical level, we would share sort of -- we were talking

12 about like technical indicators or sometimes called indicators of compromise in that it

13 was IP addresses, email addresses, cell phone numbers, cell phone providers, VPN

14 providers, things like that that give some sort of technical signal that then companies can

15 go do their own research on their own platform and determine if that particular actor had

16 a presence on their -- in their space.

17 And then you wanted me to do strategic as well, right?

18 Q Sure.

19 A That was just tactical.

20 But on a strategic level, things that we would share would be something to the

21 effect of as we saw in the 2016 election, Russia was -- and, again, I refer to kind of the

22 2016 ICA and the 2020 ICA as kind of the broad trends of how the Russian threat actors

23 operated in those times.

24 But in 2016, and I think largely in part due to the work of the FITF to engage with

25 the private sector, the social media space became fairly hostile to foreign actors setting

1 up inauthentic accounts at scale, not that it was impossible but much more hostile to a
2 threat actor to set things up at scale due to the ways that they adjusted their platforms to
3 the threat intelligence that was shared with them.
4 So we would share sort of a strategic of what's next. How are they going to shift
5 their tactics now that they can't create broad troll farm type operations? How are they
6 going to continue to try to execute their mission?
7 Q And with respect to United States social media platforms, if the FBI or its
8 partners in the intelligence community determines through investigations or intelligence
9 gathering that an account purportedly to be controlled by a U.S. person is actually
10 controlled by a covert foreign malign actor, the FITF would share or may share with the
11 relevant social media company the indicators or selectors regarding a spoof account. Is
12 that fair?
13 A Can you read that again? Sorry. I missed a couple --
14 Q Sure.
15 A -- of words there.
16 Q If the FBI or its -- its partners --
17 BY [redacted]:
18 Q So when the FBI or the intelligence community writ large determines that a
19 account that's purported to be run by an American is actually run by a foreign entity for
20 malign purposes, the FITF might share the information about that account with social
21 media companies. So it might share, you know, the threat indicators.
22 A I'm not entirely in agreement with that characterization --
23 Q Okay.
24 A -- because I think we -- there were times that we shared accounts with them.
25 Q Uh-huh.

1 A You know, we would say, Twitter, here's ten, a hundred accounts. We may
2 do that. I feel like some of that activity was early on --
3 Q Uh-huh.
4 A -- in some of our private sector engagement with the companies, but that is
5 not sort of typical of what we would share.
6 Q Okay.
7 A It would be sort of a step back from that of --
8 Q Okay.
9 A We found it not as efficient to share one account when we know people are
10 running hundreds of accounts. We found it more efficient --
11 Q And by people, you mean foreign entities.
12 A Foreign entities, foreign intelligence services or other entities, as we
13 discussed, perpetrating this sort of activity.
14 We found that it was much more efficient to try to get the companies onto
15 higher-level infrastructure so things like maybe they have a WiFi router that the entire
16 floor is using --
17 Q Uh-huh.
18 A -- rather than this one account and letting them investigate that internally.
19 And that would be much more valuable to them. In -- as you saw in probably 2016,
20 2017, social media's -- social media companies, in general, made massive sort of removals
21 from some of their systems. I recall one -- at one point I think Twitter announced that
22 they removed 25 percent of their accounts or something absurd like that due to
23 inauthentic activity.
24 And that's due to us focusing on sort of the higher level infrastructure and
25 allowing them to -- they have internal investigative teams that, you know, sweep the

1 entire platform of actors, rather than us, you know, giving them an account and just kind
2 of playing whack-a-mole with every account that we discover that a foreign actor has
3 used.
4 We just found that to be more valuable, and that was normally the way we
5 operated.
6 BY [redacted]:
7 Q So when you -- when FITF would share information, whether it's specific or
8 general, about foreign malign influence actors, that would be for the company's own
9 investigation to see whether there's a potential violation of their own terms of service,
10 correct?
11 A As I understood it, yes. We provided them information and always made it
12 explicitly clear that it was no strings attached. We are giving this to you for your own
13 investigation. Don't take our word for it. And, you know, we know you do internal
14 investigations. We think this information might be helpful to your teams that handle
15 those types of investigations.
16 Q And when you say you would make it explicitly clear, how would you make it
17 explicitly clear?
18 A I mean, for one, there's attorneys on both sides attending every meeting.
19 And through that, there was always, you know, sort of that engagement of we would
20 almost always caveat everything, usually oral and written, in that, you know, we are
21 giving you these things no strings attached. This is not, you know, a subpoena or a
22 search warrant or anything like that. We don't expect anything in return, and these are
23 for you to conduct your own investigation to try to improve the integrity of your platform.
24 Q And on that, for the record, the FBI would never have directed or coerce
25 social media companies to take any specific action with respect to information it shared,

1 correct?

2 A I don't think so. I'm aware of how the FBI appears. If we cold go knock on

3 a door and tell someone the FBI is there, I understand that carries an intimidating

4 connotation. But in this situation, most of these actions were interactions with

5 attorneys present and people that I had met with over a 3-year period and had worked

6 with them and passed things multiple times to the point where we knew each other and

7 understood.

8 BY [redacted]:

9 Q And you would agree that there's a difference between the FBI going to

10 knock on a door of an individual in suburban D.C., for example, and the FBI meeting with

11 a sophisticated company that has, you know, probably an extensive legal team?

12 A Yes, the FBI -- this is a major pillar of all of our activities. And we have, you

13 know, multiple sections at headquarters that deal in how we engage with the private

14 sector across, you know, all sectors of the private sector. And those interactions are

15 usually longstanding across all sorts of programs, and this was just kind of the build-out of

16 one of those programs.

17 Q And so to be clear, to the best of your knowledge, the FBI never directed or

18 coerced any social media companies into taking any particular action with respect to any

19 information that you shared with those companies?

20 A To my knowledge, I -- yeah, I do not agree with the characterization that we

21 coerced any companies to take any action.

22 Q Okay. So the FBI, to the best of your knowledge, did not coerce or direct

23 any social media companies to take any particular action with respect to the information

24 provided to them?

25 A I definitely never did and nor did it happen in my presence that I'm aware of.

1 [redacted]. Thank you.

2 BY [redacted]:

3 Q And when the FBI decides to share information with the U.S. social media

4 company about a foreign malign actor's social media activity, is that decision ever based

5 on the content or viewpoint expressed in a posting?

6 A This kind of goes back to the other question. Again, I -- we didn't really

7 engage with the social media activity of the actors, typically. We wouldn't find an

8 account that is being used by an actor and then go on Twitter and see what they were up

9 to. That just wasn't valuable use of our time across thousands and thousands of

10 accounts.

11 Just typically we didn't engage with sort of the social media side of things. It

12 was -- other than meeting with the companies, obviously, but we would look at the threat

13 actors and sort of engage with what cyber infrastructure they were using, and that's sort

14 of what we would see.

15 I don't recall then going on social media and seeing, like, oh, what are they up to

16 kind of thing.

17 Q Okay. Do you -- you know Special Agent Elvis Chan, correct?

18 A I do.

19 Q And how do you know him?

20 A I met him through the Foreign Influence Task Force. I had not worked with

21 him previously. But I believe the first time I met him was the first time I went to

22 California to meet with some of the companies, and he was sort of our chaperone.

23 Q Okay. Are you aware that Special Agent Chan was deposed in a civil

24 lawsuit, Missouri v. Biden, on November 29, 2022, and gave testimony under oath about

25 certain matters relating to the operation of the FITF?

1 A Generally, yes, I'm aware of it.

2 Q In his deposition, Agent Chan was asked if the FBI shared specific
3 tactical-level information with social media companies. And he responded that, "The
4 FBI shares information with the social media companies, no strings attached, so that the
5 social media companies can protect their platforms as they deem appropriate."

6 Do you agree with Agent Chan's statement that the tactical information sharing
7 with the FBI -- that the FBI does with social media companies is done with no strings
8 attached?

9 A Yes. And it might be helpful just to note that internally with social media
10 companies, we were engaging with teams that did not usually have the purview of when
11 we issued them subpoenas and search warrants. It's not the same team, and most of
12 these companies have walls in between their teams that we issue them subpoenas and
13 warrants and the teams that we pass threat intelligence. And they don't even share it
14 internally over the wall of when we're compelling them to give us something, subpoenas
15 and search warrants, and when we're passing them information for their threat
16 intelligence teams to engage with.

17 Q Agent Chan further explained in his testimony that when the FBI provides
18 this tactical information to social media companies, the companies then take the
19 information and validate it through their own means. And then, if they determine that
20 these -- that these are accounts being operated by Russian state-sponsored actors, then
21 they have taken them down.

22 Do you agree with Agent Chan's statement about social media companies
23 validating the tactical information provided by the FBI through their own means and
24 determining for themselves whether the identified accounts are, in fact,
25 foreign-controlled accounts?

1 A I absolutely agree with that portion of the statement. I -- in my experience,
2 social media companies did not take things down because they were foreign.
3 We engage in people that are foreign, but social media companies purely take
4 things down if it was a violation of their terms of service. And there may be something
5 about the foreign -- like, I'm not steeped in their policies, but there -- there may be
6 something about -- you know, it's typically inauthentic behavior, regardless of foreign or
7 domestic, for them.
8 BY [redacted]:
9 Q Thank you for that clarification. I think the point of the --
10 A I don't think he meant --
11 Q Yeah. I think what he meant is that when the FBI provides information to
12 social media companies, the social media companies run their own internal
13 investigations --
14 A Yes.
15 Q -- before taking action, correct?
16 A That's absolutely correct.
17 Q Okay. And you would agree with that characterization?
18 A Yes, I do.
19 Q Okay. I have a couple of wrap -- another couple of wrap-up questions on
20 this section before we move on.
21 In the prior hour, you were asked about -- pretty extensively about
22 hack-and-dump operations. Do you recall that line of questions?
23 A Yes.
24 Q You said that the actors who do hack-and-dump operations are pretty
25 specific. What did you mean by that?

1 A I think I can get into some of that without getting into classified, mostly
2 because of the 2016 ICA, in that there are specific numbered units in specific Russian
3 intelligence services that their entire purview, they have specific units that do different
4 parts of hack-and-leak type operations.
5 They have an element that does the hacking. They have elements that sort of -- I
6 forget what it's called -- astroturfing or something like that, where they're basically
7 setting up accounts that will be used in the future to then sort of conduct the
8 dump-or-leak portion of the operation.
9 But there's entire units and companies, frankly, that just kind of do this sort of
10 activity. And they're very well known, very well defined.
11 Q And they're foreign entities, correct?
12 A Yes, correct.
13 Q Okay. And so the FBI is familiar with them because the FBI has monitored
14 these foreign entities for some period of time.
15 A Yes. Obviously, we learn about some of them that we're not -- you know,
16 we haven't been monitoring for long periods, but they kind of come and go, change
17 shape, that sort of thing. But, yes, broadly that's true.
18 BY [redacted]:
19 Q And in the previous hour there was a discussion about hack-and-leak
20 concerns, about possible -- about -- for both candidates of a Presidential campaign. Do
21 you recall that discussion?
22 A Yes.
23 Q And so that would mean both candidate Joe Biden and candidate Donald
24 Trump, correct?
25 A Yes. And as I said earlier, I would even go further in that I believe we

1 engaged with or at least offered to engage with up to something in the realm of 800
2 possible candidates for President in sort of the lead-up to the 2020 election. Anyone
3 that sort of had a formal campaign, we conducted reach -- reach-out to them and offered,
4 you know, defensive briefings on how to keep themselves safe from this type of activity.
5 So, to me, it's a little broader than the final two candidates in sort of the general
6 election, but yes.
7 Q It's fair to say that the FITF's goal was to protect the integrity of the elections
8 from foreign interference, regardless of who the potential target may be. Is that
9 correct?
10 A Yes. The only thing I would change in that is it wasn't entirely elections.
11 There's lots of activity that aren't pertinent to specifically the elections that we're still
12 trying to defend against. There's lots of sitting elected officials, that aren't campaigning,
13 that are subject to this sort of activity or some companies and influential people that
14 could possibly be subject to this type of activity that aren't, per se, election related. So
15 that's the only thing I would change.
16 BY [redacted]:
17 Q Understood. In the prior hour, there was some discussion about
18 conversations with industry partners at various meetings, you know, did hack-and-dump,
19 hack-and-leak operations come up. And I think the question was how often did
20 discussions arise about hack-and-leak pertaining to President Biden or I guess then-Vice
21 President Biden.
22 But, in fact, when these conversations were happening, they were talking
23 about -- you were having conversations about hack-and-dump operations writ large,
24 right?
25 A Yes, but probably also on a tactical level --

Q Okay.

A -- because we engage with specific units that execute these type of operations.

Q And when you're talking about tactical level, you're looking at potential operations targeting both President Biden -- then-Vice President Biden, then-President Trump, as well as you said maybe 800 other candidates, correct?

A Yes, and including not just the general election for President.

Q Uh-huh.

A Obviously, the general election has all sorts of congressional members that are up for reelection, governors, State elections. All of these were sort of under our purview, and we had to kind of engage across that whole thing.

And so for us it's not just a focus on the final election for President. There's lots of other elections that we have to keep tabs on.

[redacted] Okay. We can go off the record. Thank you.

[Recess.]

[redacted] Can we go back on the record, please?

[redacted], in the first hour we were talking about some of the briefings the case team had provided to you and possibly others on the FITF. Was there anyone senior to you on the FITF who was included in those briefings?

[redacted] [redacted] Again, I don't recall anyone senior to me being in the case briefings, but it's possible. I don't recall.

[redacted] Okay. Do you recall -- you know, you said there were roughly three to five -- which of those in kind of order of the three to five the laptop was first raised?

[redacted] [redacted] No idea. That's one small investigative detail in sort of a sea of briefings. I -- there's no way for me to even speculate. I don't remember the

1 timeframe.

2 [redacted] I would just flag, we can speak to the existence of meetings and

3 potential attendance and timeframes, but we should avoid getting into potential --

4 [redacted] Okay.

5 [redacted] -- specific conversations that happened.

6 BY [redacted]:

7 Q And at those meetings, which divisions or field offices were represented?

8 A I'm not sure I can speak to that entirely. Yeah, I don't recall specifically

9 who was at which meeting.

10 Q In general, did you ever have any interactions regarding these meetings with

11 the Pittsburgh Field Office?

12 A No, I don't recall.

13 Do you mean like if Pittsburgh was in one of the meetings, like someone from

14 Pittsburgh?

15 Q I'm just asking, in general, if anyone from the Pittsburgh Field Office ever

16 attended any of the three to five meetings.

17 A Oh, no, I don't think -- no.

18 Q Did anyone from the Baltimore Field Office or the Delaware resident agency,

19 did they ever attend any of those meetings?

20 [redacted] [redacted] I'm fine with answering that, correct, like, who attended meetings,

21 or is that --

22 [redacted] I think if it goes to the ongoing investigations, then no.

23 [redacted] Okay. Then I can't answer that.

24 BY [redacted]:

25 Q Did you have any interactions with Supervisory Special Agent [redacted]?

1 A Yes.

2 Q Did you have any interactions with Special Agent [redacted]?

3 A I don't know. I don't recall. Yeah, I don't recall that name.

4 Q And how many times would you say you interacted with SSA [redacted]?

5 A Probably in that three to five range, same thing. I don't recall really dealing

6 with him outside of getting case briefings from him.

7 Q And did you have any interactions with anyone from the Delaware U.S.

8 Attorney's Office?

9 A I can't speak to specifics about dealings with U.S. attorney's offices.

10 Q Did you have any interactions with at the time U.S. Attorney David Weiss?

11 A I'm --

12 [redacted] Same answer.

13 [redacted] Same answer. I can't speak to specifics of U.S. attorneys or U.S.

14 attorney's offices.

15 [redacted] So he can speak to interactions with SSA [redacted] but he can't speak

16 to interactions with U.S. Attorney Weiss? What's the reasoning for that?

17 [redacted] The reasoning goes to the ongoing investigations.

18 [redacted] So he can talk about SSA [redacted] but not Weiss? I'm just not

19 understanding why some individuals he can talk about and others he can't.

20 [redacted] Because some pertain more to the relevant ongoing investigation,

21 like Special Counsel Weiss.

22 [redacted] Okay.

23 BY [redacted]:

24 Q Have you ever interacted with Assistant U.S. Attorney [redacted]?

25 A I can't speak to anything dealing with U.S. attorney's offices or U.S.

1 attorney -- or AUSAs.

2 Q Speaking more broadly, in those three to five meetings that you had

3 regarding the case, did anyone from any U.S. attorney's office ever attend?

4 [redacted] That would go to an ongoing investigation.

5 [redacted] That's pretty broad.

6 [redacted] For any U.S. attorney?

7 [redacted] Any U.S. attorney's office. Did anyone from any U.S. attorney's

8 office ever attend any of the three to five meetings that [redacted] attended?

9 [redacted] And if he says yes to that, then he's going to be indicating

10 whether or not that pertains to an ongoing investigation.

11 [redacted] But just -- that's extremely broad to say that that would just go to

12 the ongoing investigation.

13 [redacted] Right. That takes --

14 Chairman Jordan. Off the record for a second.

15 [Discussion off the record.]

16 [redacted] We can go back on the record.

17 Did you ever get any briefings from the U.S. attorney's office in Delaware?

18 [redacted] That would go to an ongoing investigation.

19 [redacted] Are you instructing the witness not to answer?

20 [redacted] We are saying that that information goes to an ongoing

21 investigation. We also don't think it's within the scope of why you called this witness

22 here to speak today.

23 [redacted] So you're instructing the witness not to answer?

24 [redacted] I'm saying that it goes to an ongoing investigation, so it doesn't

25 pertain to this TI today.

1 [redacted] Okay. When did you personally become aware of the Hunter
2 Biden laptop?
3 [redacted] I don't recall specifically. It's hard for me to even break it down to
4 which year that I became aware.
5 [redacted] And so the FBI investigation was opened in February of 2019 into
6 Hunter Biden. When did you become aware of the investigation?
7 [redacted] I would just note for the record that the FBI has not represented to
8 the committee that that's when the investigation began in this context, but you're free to
9 ask the question.
10 [redacted] I don't recall.
11 [redacted] You don't recall?
12 Chairman Jordan. In the first hour we asked you how often you had briefed; you
13 said somewhere between three and five. We asked you when the briefing happened;
14 you said at least one of them took place prior to COVID. And then you told us that
15 you -- we asked who briefed you, and you said it was case agents.
16 And now we're simply asking, what -- were they -- were those case agents or
17 people who did the briefing, were they from the Delaware's U.S. attorney's office?
18 Were they from the New York attorney's office? Were they from -- who was the U.S.
19 attorney's office who briefed you?
20 [redacted] We're going to reiterate that we believe that any indication of
21 which U.S. attorney's office he was speaking to during those three to five briefings would
22 go to an ongoing investigation.
23 Chairman Jordan. But there were case agents -- case agents working on some
24 case with some U.S. attorney's office.
25 [redacted] And U.S. attorney's office would indicate ongoing investigations,

1 which we're not going to get into.

2 Chairman Jordan. Okay.

3 BY [redacted]:

4 Q Did you ever have any interactions with Assistant Special Agent in Charge

5 [redacted]?

6 A Yes.

7 Q Did you have any interactions with him in regard to your role with the FITF?

8 A Yes.

9 Q And what can you tell us about those interactions?

10 A Specifically about the FITF, I don't believe I can address any discussions I had

11 with him.

12 [redacted] Can you be more specific with your question? Do you have any

13 meetings in mind?

14 BY [redacted]:

15 Q So when -- we did a transcribed interview with the former ASAC [redacted],

16 and he spoke about a meeting with the FITF that occurred on October 21st, 2020. And

17 this was a meeting that was prompted by a call he received from SSA [redacted], and it was

18 regarding a confidential human source that had represented information in a 1023. And

19 so he said that they called a meeting with the FITF.

20 So do you remember any sort of meeting occurring in October 21st, 2020,

21 timeframe? I know that's several years ago.

22 A I can say I was at the meeting?

23 Okay. I was at the meeting.

24 Q And do you remember who else attended that meeting?

25 A I can speak to titles. The unit chief of the Public Corruption Unit --

1 Q Uh-huh.

2 A -- a supervisory intelligence analyst assigned to the FITF, an intelligence

3 analyst assigned to the FITF, I believe an intelligence analyst assigned to Criminal

4 Investigative Division, ASAC [redacted], and a supervisory special agent assigned to the

5 Washington Field Office.

1

2 [12:24 p.m.]

3 [redacted] Did you have any role in that meeting, or were you just in a

4 listening/learning capacity?

5 [redacted] I think I can -- it's not to the content of the meeting. I can speak to

6 it?

7 [redacted] [Nonverbal response.]

8 [redacted] I had a role in the -- a speaking role in the meeting.

9 BY [redacted]

10 Q Was [redacted] in there in just a listening capacity, or did he also have a

11 role in the meeting?

12 A I think his role would be characterized as a listening mode.

13 Q And I can't remember if you said SSA [redacted], whether he was an attendee

14 or not. Was he at that meeting?

15 A He was not. I'm not sure how he pertains to that meeting specifically.

16 Q So no one from the Baltimore Field Office attended, to your recollection?

17 A No.

18 BY [redacted]:

19 Q I'd like to turn us back to October 14th, 2020. New York Post story comes

20 out that morning. Based off documents produced to the committee and other

21 testimony, there were prescheduled bilateral FITF meetings for that day.

22 Walk me through the day. Do you recall the first meeting that the FITF had with

23 a social media company after the New York Post story had broke?

24 A A little bit. I'm pretty sure the first meeting after the story broke was

25 Twitter -- at the time, the company known as Twitter.

1 Q And who from Twitter was at that meeting?

2 A I don't know that I could recall those specifics.

3 Q Who from the FITF attended?

4 A That's even more difficult because it was on a conference call at this time,

5 post-COVID. I don't recall specifically who was in the meeting.

6 Q Were you on the call?

7 A I've reviewed contemporaneous things that suggest that, yes, I was, but I

8 don't remember the meeting very vividly. It was a long time ago.

9 Q Was Elvis Chan on the call?

10 A I don't recall. Like me, Elvis was in most meetings, but there were certainly

11 meetings he was not able to attend. So it's hard for me to say if he was there or not.

12 Q Was Ms. Dehmlow on the call?

13 A I think similar to me, things that I've reviewed, I can with some confidence

14 say she was on the call, but I don't recall her being on. I didn't keep track or take note,

15 take attendance of who was on the call. But, yeah, I think she was.

16 Q During the FITF-Twitter call on the 14th, was there any discussion about the

17 New York Post story or Hunter Biden's laptop?

18 A I'm sorry. Say again? Before the meeting?

19 Q No. Sorry. During the meeting, was there any discussion?

20 A Oh. I do recall that it came up. Obviously, it was in the news, and I think

21 Twitter asked about it.

22 Q And what response did the FITF provide?

23 A Do you want me to just go into details of -- some of this I don't recall from

24 memory. Documents I've since reviewed, I do recall generally what happened, if that's

25 what you want me to go into. Is that fine?

1 Q Yes, please.

2 A I recall that when the question came up, an intelligence analyst assigned to

3 the Criminal Investigative Division said something to the effect of, "Yes, the laptop is

4 real." And then I believe it was an OGC attorney assigned to the FITF stepped in and

5 said, "We will not comment further on this topic."

6 Chairman Jordan. What was the question from Twitter specifically, if you can

7 recall?

8 [redacted] I can't recall at all. Yeah, it's hard to recall that detail.

9 Chairman Jordan. Well, if the answer was, "The laptop is real," the question was

10 probably, "Is the laptop real?"

11 [redacted] Yeah. I mean, something to that effect, yes.

12 Chairman Jordan. Okay.

13 [redacted] I think that's fair.

14 [redacted] Was there any other discussion during the Twitter-FITF call, other than

15 the initial question from Twitter and the first response from the intelligence analyst and

16 then the second response from the OGC assignee?

17 [redacted] It's hard to recall specific, like, lines of questioning, but I would guess

18 there was probably further questions to which we continued answering "no comment"

19 and eventually we moved on to whatever the topic of the day was.

20 Chairman Jordan. And what was the reason for "no comment"? The same

21 reason you're giving us today?

22 [redacted] Similar in that it's an ongoing investigation, a longstanding FBI policy.

23 Chairman Jordan. Was that related to the folks at Twitter?

24 [redacted] Maybe not immediately, but definitely throughout our interactions

25 with them there was lots of times that they would ask questions that we would have --

1 Chairman Jordan. We're talking about that day, that meeting.

2 [redacted] I don't recall specifically if we said we can't --

3 Chairman Jordan. So someone told them it's real, and then the next comment

4 was, "But we can't talk about it anymore"?

5 [redacted] Yeah, it's hard to address that because if we --

6 Chairman Jordan. No one gave a reason why you couldn't talk about it anymore?

7 [redacted] We typically didn't tell them, "We can't talk about that because it's

8 an ongoing investigation," because then that would indicate it's an ongoing investigation.

9 So all we can say within policy is something to the effect of "no comment."

10 Chairman Jordan. And were there further questions from Twitter?

11 [redacted] I don't recall, but likely.

12 BY [redacted]:

13 Q Was there any discussion before the FITF meeting -- before the Twitter-FITF

14 meeting -- among members of FITF about if a question about the story of the laptop

15 might come up?

16 A I don't want to speculate. I don't recall.

17 A lot of times on days that we had these meetings post-COVID, because

18 everything was done by conference line, a lot of people were working from home. So

19 it's less likely than if we were all in the office. But I don't recall specifically what was

20 discussed that day.

21 Q Do you know the identity of the intelligence analyst who first responded that

22 the laptop was real?

23 A I do.

24 Q And who was that?

25 [redacted] He's not going to be providing non-SES names in this format.

1 [redacted] Is the Department of Justice or FBI going to give us the names?

2 [redacted] I would indicate, in the in-camera documents we brought over

3 yesterday, we have accommodated the request for one of the names. We'll continue to

4 work with you to provide what additional information we can as we can --

5 [redacted] So can we use that individual's name here in this setting?

6 [redacted] We're not authorized to speak to that individual's name in this

7 setting, but we were acting in good faith to address your repeated requests for his name,

8 so we provided it in the in-camera setting where we could.

9 [redacted] It was in a classified setting. Are you saying his name is

10 unclassified?

11 [redacted] I'm absolutely not saying that an individual's name is classified.

12 That's not a convention we use at the FBI.

13 I'm saying, in terms of our accommodation of releasing certain non-SES names, it

14 is a case-by-case basis. And following your prioritization and [redacted]'s flagging of certain

15 topics like this in these interviews, we went back, were able to accommodate it in that

16 setting. But for purposes of this interview, we're going to hold the line with not

17 revealing certain non-SESers.

18 [redacted] So if we would use the individual's name in this TI setting, you guys

19 aren't going to say that that's classified?

20 [redacted] A person's name is not classified in this context.

21 [redacted] Okay. So if we represent to you that the individual's name is [redacted]

22 [redacted], do you agree with that?

23 [redacted] I'm not able to comment on non-SES employees.

24 [redacted] And what was [redacted]'s role?

25 [redacted] I'm not able to comment on non-SES employees.

1 [redacted] You could comment on his role.

2 [redacted] Okay. [redacted] was an intelligence analyst assigned to the

3 FITF from the Criminal Investigative Division.

4 BY [redacted]:

5 Q Had you had any interactions with [redacted] prior to the October 14th

6 phone call?

7 A Yes.

8 Q And what were those interactions? Did you supervise him? Where did he

9 fall in the FITF?

10 A I was not his direct supervisor, being that he was under the Criminal

11 Investigative Division and his supervisor is also under the Criminal Investigative Division.

12 But he was assigned full time to work on FITF matters.

13 So not direct control of him, I guess, or authority, like I was not his direct

14 supervisor, but day-to-day operations, yes, he was under my purview, my unit.

15 The problem is, they also kind of crossed units. So even his day-to-day activities

16 was kind of spread across all the units. But, yeah, I mean, generally that's true.

17 Q And to your understanding, how did [redacted] come to the realization

18 that the Hunter Biden laptop was, quote, "real"?

19 A I'm not sure if I can answer that.

20 I don't know how [redacted] knew certain things, like I am not aware of how

21 he came to -- I was not the one that provided that information to him. That's probably

22 the best way I can address that.

23 Q Do you know if he had access to the FBI CART team that was reviewing and

24 doing an analysis of the laptop?

25 A I have no idea what [redacted] knew or what he had access to.

1 [redacted] And, again, I'm just going to say for the record that the witness is
2 not going to be able to get into any authentication efforts of the laptop, just the existence
3 of the laptop.
4 BY [redacted]:
5 Q For the three to five meetings, briefings that you received on Hunter Biden,
6 did [redacted] attend any of those?
7 A I don't recall. Yeah, I don't recall. Yeah.
8 Q How many members of the FITF were on the Twitter-FITF call?
9 A I can sort of ballpark it. But, yeah, it's hard for me to -- yeah, I don't have a
10 list of people that attended. But that was October 2020. They were all by conference
11 call. It was probably somewhere in the range of 20-ish.
12 Q Of the three units of FITF -- you mentioned that some of his work was
13 cross-sectional -- which unit did he work primarily with?
14 A I don't know that he had sort of a primary assignment due to the fact that
15 we didn't have three people assigned to each unit from certain other outside entities.
16 So there was lots of people that were assigned to work the FITF but weren't sort of
17 directly in Russia-China global. They just kind of handled their matters across the
18 section.
19 Q Okay. Was there anyone on the FITF who was in a better position to speak
20 to the question of whether the laptop was real?
21 A I'm not sure of the characterization of the "real." If we're talking real, that
22 a laptop associated with Hunter Biden existed and was in our possession, that would be
23 the case team. But I'm not sure that anyone at the FITF, being that we weren't involved
24 in the investigative details, is more aware than I was.
25 Q After the call concludes, were there discussions immediately following the

1 call about what was discussed during the FITF-Twitter call?

2 A Yes. I don't remember, like, specifics, but I'm certain it was addressed.

3 Q Who participated in those post-meeting discussions?

4 A I don't recall. Yeah, I don't recall specifics of, like, who attended which

5 meetings and that sort of thing.

6 Q Did you participate in any of the post-meeting discussions?

7 A I don't recall specifics of attending meetings afterwards. And a lot of times,

8 I think "meeting" is a little too formal of, like, there wasn't someone called a meeting, put

9 it on calendars, and everyone attended.

10 I think it was more ad hoc, a couple of people probably discussed it. But it's hard

11 for me to pull out details about who was there and what we talked about.

12 Q So I certainly understand there wasn't a formal meeting set.

13 During the Twitter-FITF meeting, intelligence analyst responds, "The laptop is

14 real." Was there any internal FBI discussions immediately following about that response

15 that was given?

16 A I'm certain there was. I just don't recall, like, the contents and between

17 who.

18 Q Do you recall the most senior member to participate in those internal

19 discussions?

20 A I don't. I mean, I could generalize just kind of how the chain of authority

21 works. But, like, I don't think -- I don't remember, like, who was in which meetings.

22 It's just hard, kind of. So many meetings, so long ago.

23 Q With the understanding you don't recall specifically, what would be the

24 appropriate chain of command? Who would be involved in a discussion like that?

25 A Certainly I would have informed my supervisor and allowed him to be aware

1 of the situation. Beyond that, it's hard for me to say. Like, I feel pretty confident that I
2 likely told my supervisor. But beyond that, I'm not -- I don't recall.
3 Q And are you referring to [redacted] or Mr. Benavides?
4 A Typically in this scenario, I would be referring to Mr. Benavides. While
5 [redacted] technically was my supervisor in terms of my performance reviews and things
6 like that, ultimately the sort of authority of the FITF rests with our executive, Brad
7 Benavides.
8 Q Did you have any discussions with Ms. Flores after the Twitter-FITF meeting?
9 A Hard for me to speculate. Frequently had conversations with Ms. Flores,
10 but I don't recall specifically about this, post that Twitter call, if I spoke with her.
11 Q Did you have any direct conversations with the intelligence analyst following
12 the Twitter-FITF meeting about his response?
13 A I don't recall specifically. I'm certain it arose as -- I'm not his direct
14 supervisor, but I would likely address that, that that was sort of outside of policy to have
15 said that.
16 Q You said that someone from OGC -- is it "assigned" to the FITF at the time?
17 A Yes.
18 Q Is that properly putting it?
19 A Yes.
20 Q Do you recall the identity of that individual?
21 A I do.
22 Q And who was it?
23 A I'm not allowed to speak to non-SES employees, their actual name.
24 Chairman Jordan. Can I jump in for a second?
25 Tell me about the meeting. So you have this meeting on the 14th, the same day

1 the story comes out. How long was the meeting?

2 [redacted] Depending on the contents of the meeting, they went anywhere

3 from 30 minutes to 2 hours.

4 Chairman Jordan. I'm asking about this one.

5 [redacted] It's hard for me to speculate about specifics about that meeting.

6 Chairman Jordan. Do you remember what you talked about?

7 [redacted] Other than the obvious context here of the Hunter Biden laptop, I do

8 not.

9 Chairman Jordan. Yeah. So that was the issue that day?

10 [redacted] It was not the issue on the agenda --

11 Chairman Jordan. No, I understand that.

12 [redacted] -- but it sort of turned into the issue.

13 Chairman Jordan. Okay. So that's mainly what you talked about on that

14 meeting? That was what dominated the conversation?

15 [redacted] I don't think that's true in that it was kind of just one sentence and

16 then "no comment," and we went about with the regular agenda of the meeting. So it

17 probably wasn't the main content of the meeting.

18 Chairman Jordan. Okay. Was the story brought up? Was it just that one

19 question about the laptop or was it -- was the whole story brought up, the story in the

20 Post?

21 [redacted] I don't recall specifics, but anything that was discussed about the

22 story we probably would have immediately went "no comment" across the board, except

23 for that analyst made that comment, and then it was "no comment."

24 So I assume that was kind of in the early, if not the first question they asked about

25 the laptop. It was a short exchange, and then it was kind of "no comment" from that

1 point forward.

2 BY [redacted]:

3 Q So your recollection, was it the first question that Twitter raised?

4 A You mean, like, once we started the meeting?

5 Q Yes.

6 A Probably not. We probably went through agenda items first, things that we

7 wanted to brief them or pass them, and then typically we would open up for kind of

8 questions and that sort of thing, and anything they wanted to share, or maybe they were

9 on the agenda as, "What do you have to share?" sort of thing. So it probably wasn't like

10 the first part of the meeting.

11 Q Once you get to the part of the meeting where Twitter can raise something,

12 was it the first thing they brought up?

13 A Hard for me to speculate. I mean, hundreds of these meetings over 3

14 years, and it's just, like, hard for me to -- I'm not trying to be combative -- just it's hard for

15 me to recall what happened in which meeting.

16 And this one, other than that one incident, doesn't really stand out in my memory,

17 so I don't have, like, a vivid recollection of who was there and what we talked about.

18 Q The New York Post article provided a screenshot of an FBI subpoena. Was

19 there any discussion about that?

20 A With Twitter?

21 Q Yes.

22 A No, absolutely not.

23 Q In talking about the risk of a hack-and-dump or a hack-and-leak campaign,

24 was there any discussion about if the information was shared through a news

25 organization like the New York Post?

1 A I'm not sure what you mean by that. Like, did we --
2 Q I'll take one step back.
3 A Okay.
4 Q In 2016, how was the DNC hack, how was that information disseminated?
5 A I think mainly through WikiLeaks.
6 Q When discussing, like, the risk of a hack-and-leak or hack-and-dump, was the
7 way the information could be disseminated discussed in meetings?
8 A Sometimes. We certainly -- I can recall discussions of which platforms it
9 may appear on first, how it may move through different types of things. I remember
10 some discussions like that, and usually kind of anchored to things that we had seen in the
11 past, that we had in an unclassified forum that we could share, such as the ICA.
12 So, yeah, I think it's safe to say that we may have shared details of things that
13 looked like the ICA and sort of leave the speculating of other ways it could happen to the
14 companies. Rather than kind of, like, tell them how we think it'll go, we say, this is
15 what's happened in the past.
16 Q As it relates to the New York Post story, was the fact that this information
17 was being disseminated through the New York Post as opposed to ways that had occurred
18 in the past, did that come up during the Twitter-FITF call?
19 A Not that I recall.
20 Q In any of the meetings before the New York Post story where there's
21 discussion of the risk of a hack-and-leak or a hack-and-dump and how that information
22 might be disseminated, was there any discussion of First Amendment implications if the
23 information were to be disseminated by a publisher?
24 A Can you read that one more time -- or say it, sorry, if you don't have it
25 written down?

1 Q Yeah. In any of the meetings predating the October 14th story, where
2 there's a discussion in these bilateral FITF meetings about how information could be
3 disseminated in a hack-and-leak or hack-and-dump, was there any discussion about,
4 depending on who is disseminating the information, whether the First Amendment is
5 implicated?
6 A Yes, likely. I mean, we constantly had discussions about the First
7 Amendment and not even chilling or being perceived to chill the First Amendment. So
8 I'd say that was probably likely discussed.
9 Q Discussions with who?
10 A Internally in the FITF.
11 Q With members outside of the FITF within the FBI?
12 A Probably just to kind of articulate how we operate and that sort of thing, if
13 someone would ask questions. If -- yeah, it's hard to get into specifics on that, but I'm
14 sure we articulated lots of conversations about the First Amendment with companies we
15 met with.
16 Q Why was it necessary to have those conversations?
17 A We view it as an important part of the mission, as I said earlier, in that we're
18 here to protect the American people and uphold the Constitution, and I firmly believe you
19 can't do one without the other.
20 And in my mind, it's part of the FITF's mission, is to sort of articulate that, that we
21 are here to mitigate foreign malign influence, and it's important to us that we do it the
22 right way.
23 Q Was there concern that the FBI, as a Federal law enforcement agency, could
24 be perceived as having a force effect when having -- when discussing issues that touch
25 upon the First Amendment?

1 A Yeah, I think I addressed this a little bit earlier, in the last section, of I'm -- I
2 and we were fully aware that the FBI carries with it somewhat of an intimidating context
3 in certain scenarios, certain situations.
4 And being cognizant of that, that's why we took steps like having an embedded
5 attorney, reiterating over and over that what we provide you is no strings attached, for
6 you to verify, for you to conduct your own internal investigations, and built that sort
7 of -- built that up to the point where we would show up to some of these meetings 3
8 years later, and they would either read our caveat back to us or sort of say, "Yes, we
9 know, we get it at this point, you can stop saying that it's no strings attached, you cannot
10 be an agent of the Federal Government, the reason we are not Russia is you cannot be
11 our agent," and those sort of things.
12 Those sort of discussions were absolutely constant throughout all my discussions
13 with social media companies and broader technology companies.
14 Q The internal discussions postdating the -- immediately following the
15 Twitter-FITF meeting on the 14th, how long did those discussions last for?
16 A Which discussions are we talking about? After the Twitter meeting
17 internally?
18 Q They were the internal FBI discussions.
19 A Again, it wasn't like a formal let's meet for a half hour in this conference
20 room and here's the ten people that attended. It was probably much more ad hoc. I
21 really can't speculate to how long they were, what we discussed, who was present.
22 It's probably not one meeting. It was probably multiple meetings for several
23 days. And it's hard for me to speculate beyond that.
24 Q Was there a decision made during these internal deliberations about how
25 the FBI would respond going forward to future questions?

1 A The characterization that is -- it's true, we absolutely talked about it, but
2 more to firm up with everyone that it's a longstanding policy. It wasn't like this is
3 something that wasn't known, that we don't talk about ongoing investigations.
4 So there was sort of that reiteration of, okay, if they ask about ongoing
5 investigations, we don't talk about ongoing investigations.
6 So from that point forward, again, we reiterated that it will be "no comment"
7 when something like that comes up. So as you can imagine, that kind of continued that
8 way.
9 Q Do you recall a meeting -- any other FITF meetings with social media
10 companies that day, after the Twitter one?
11 A I don't. We typically did these meetings in about a week period. We'd
12 meet with 5 to 15 companies and normally all in the same week. So it's likely we
13 probably met with multiple companies in sort of that Monday-through-Friday period.
14 And I don't even recall which day of the week Twitter occurred on, whether it was
15 a Tuesday or a Friday or whatever. But we likely spoke with other social media
16 companies either that day or very quickly thereafter.
17 Q Do you recall which other social media companies asked about the laptop?
18 A I don't.
19 Q Ms. Dehmlow testified before the committee, Mr. Chan testified in the
20 ongoing litigation about a FITF meeting with Facebook, where Facebook asked about the
21 laptop, and Ms. Dehmlow testified or responded to that "no comment."
22 Do you recall attending any meeting that fits that description?
23 A Yeah, I recall at least one other time that Laura was kind of the designated
24 "no comment" person for the meetings going forward as -- and I do recall a meeting -- I
25 don't -- if you say -- or if she recalls that it was Facebook, I would say that I agree with

1 that. But I don't recall, like, which companies it came up when Laura stated that, but
2 that's likely.
3 Q Who designated Ms. Dehmlow as the person to respond "no comment"?
4 A I'd be speculating. I don't know. It was probably sort of a collaborative
5 discussion among the management of the FITF, of, like, "Okay, let's have one person kind
6 of designated as that," and that would be my guess. But I, yeah, I'm not sure.
7 Q What was the reason that Ms. Dehmlow was the one designated?
8 A Yeah, I have no recollection of, like, why someone was chosen or how it was
9 chosen. But I do recall that she was sort of the "I'll take this on" kind of thing.
10 And it may have been something as simple as her docket was kind of light that
11 week, not a lot of threats for hers, and she didn't have much of a speaking role, so her job
12 was to kind of fill that role.
13 Q In the internal discussions after the Twitter-FITF meeting, did Elvis Chan
14 participate in any of these discussions?
15 A Sorry. Which discussions again? Post like any other social media
16 companies?
17 Q After the -- based off what you've been able to review and your recollection,
18 the first one is Twitter-FITF. Someone asks, "Is the laptop real?"
19 A Yeah.
20 Q In the internal discussions afterwards, where people are at the FBI internally
21 discussing the response that was given and what the policy -- or what the policy is about
22 responding to these types of questions, did Elvis Chan participate in any of those internal
23 discussions?
24 A Not that I recall, but that would be abnormal for him to be involved in
25 internal FITF discussions. So I don't think so.

1 Q Did you have any conversations with Elvis Chan about the laptop?

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

3 Q The issue comes up, at least in a couple of these FITF meetings, based off

4 testimony from you and others. Some people have some awareness of what's going on.

5 Were there any conversations from other members within the -- from the FBI,

6 with Elvis Chan, about the ongoing investigation about the laptop?

7 A I'd be speculating. I don't recall having any direct discussions with him

8 about the laptop, but I don't know if other people did.

9 Q So you mentioned that -- you don't recall specifics but that this time in

10 COVID, especially as it was getting close to the election, there's maybe upwards of 20 or

11 more members of the FBI on these FITF calls. You have someone from the FITF who

12 responds, "The laptop is real."

13 Was there any discussion afterwards of folks who were taken by surprise on the

14 FITF, who were unaware?

15 A I've reviewed documents that, to my recollection, there was -- yes, there was

16 surprise among the FITF that it occurred.

17 Q Who in the FITF was surprised?

18 A I don't recall specifically, but I recall reviewing documents that seemed to

19 indicate some level of surprise.

20 Q Was there a sense from the documents reviewed about if it was most of the

21 FITF, one or two people who were unaware?

22 A I don't know how much I can speak to the documents other than generally.

23 [redacted] Just go off the record for one moment.

24 [Discussion off the record.]

25 [redacted] Can we go back on the record?

1 [redacted] So we just want to flag for the record that the witness did review the
2 link production for his awareness in case you all were to ask about it, so he was familiar.
3 He can't speak to the specifics given the classification concern. But feel free to
4 ask your question again.
5 BY [redacted]:
6 Q Did you have a sense, based off the documents you reviewed or off your
7 recollection, of how many people from the FITF were surprised?
8 A It's hard. I didn't poll everyone on the FITF. It's hard to say. I
9 would -- yeah, I don't know exactly, like, how many people were surprised.
10 Q Of the folks who were surprised, were any unit chiefs or more senior?
11 A I mean, not from my recollection. Yeah, it's hard for me to speak to that.
12 It's challenging to try to identify, like, who said what, when, besides generally.
13 Q And as just for a point of clarity, for those who were expressing surprise,
14 were they surprised about the story or that the laptop was real? What exactly was --
15 A I would say the surprise was -- it could have been derived from any of those
16 in that lots of people in the FITF were not aware that we were in possession of a laptop to
17 the story.
18 So it could be a whole spectrum, but I don't want to speculate on who was
19 surprised about what.
20 Q But your recollection is that you were aware, with the understanding you
21 don't remember specifically when, but you were aware before the story took place and
22 the Twitter-FITF meeting took place that the FBI was in possession of a laptop?
23 A Yes.
24 Q And is your understanding Ms. Dehmlow was as well?
25 A I can't speak to her recollection, like, when she knew what. I'm not sure.

1 Q After these FITF meetings take place, do you recall any follow-up outreach to
2 you or other members of the FITF with the social media companies asking for more
3 information?
4 A Yes. Specifically, I felt that there was some confusion after this meeting or
5 around that time because of that sort of comment that was made outside of policy, and
6 then sort of having to cut it off.
7 Again, like, when we normally answer "no comment," we can't say, "because we
8 have an open investigation," because that, in and of itself, is revealing that we have an
9 investigation.
10 So in this case, there was some confusion and I felt necessary to reach out to
11 some of the more major companies and have a follow-up discussion with them.
12 Q Which companies did you reach out to?
13 A I don't remember all of them. I'm pretty sure there was -- I usually -- I
14 remember that it was, like, one person from each company, and I'm pretty sure
15 Facebook, Google, and Twitter were represented.
16 Q Did you do --
17 A There may have been one or two other companies, but I don't remember.
18 Maybe Microsoft. But I don't want to speculate, like, exactly which companies were
19 sort of deemed pertinent or that we should give them somewhat of an update.
20 Chairman Jordan. Who from each of those companies?
21 [redacted] The only one I can -- and I can say names if they've been interviewed
22 or if they're --
23 [Witness confers.]
24 [redacted] Okay, okay.
25 I remember [redacted] for sure. I'm pretty sure [redacted] was on as

1 well. I can sort of -- I can say I had usual POCs that I spoke with. At Twitter it was likely
2 Yoel Roth. I think all three of those were present on the call with me.
3 Chairman Jordan. What did you tell them?
4 [redacted] So I told them -- I cleared a phrase, trying to skirt multiple policies
5 and be within bounds legally and within policy, of what I could communicate to them, and
6 came up with a phrase that I could share.
7 And the phrase, I don't have it verbatim, but it was something to the effect of:
8 The FBI has nothing in its possession to suggest that the laptop is a hack or a leak.
9 And what I intended to communicate with that was that we did not know that the
10 laptop was hacked. And I was very deliberate with my words because there's all sorts of
11 things I could add that would either indicate that it's an ongoing investigation or
12 somehow communicate to them that I know more than I did.
13 So at that time what I knew was the laptop was not hacked, because we had it in
14 our possession. So I was very deliberate in that statement.
15 Obviously there was follow-on questions. We expected there would be
16 follow-on questions. So also came up with sort of a follow-on statement. And, again, I
17 don't know this verbatim, but something to the effect of: I've told you everything I can
18 tell you on this matter. Sort of beyond "no comment" but basically no comment
19 otherwise.
20 So obviously that phrase of we have nothing in FBI holdings to suggest that the
21 laptop is hack-and-leak generally communicates that, as much as I can tell them, to try to
22 clear up at least that element of the situation.
23 Chairman Jordan. Did you only tell them that because of the mistake the
24 individual made when he said the laptop was real?
25 [redacted] Hard for me to speculate had it not happened if I would have the

1 same concerns. My concerns were generally that we communicate as much as we could
2 within legal bounds and policy to the companies and not, for a better characterization,
3 not to kind of leave them hanging with just a "no comment."
4 We wanted them to have as much information that we could possibly provide
5 them so that they could make the proper decision.
6 BY [redacted]:
7 Q At the time this follow-up statement is being made, the FBI was in
8 possession of more information than just the fact that the FBI did not have information
9 that was related to a hack.
10 A Hard to answer that. But we were probably -- we had more information.
11 I don't believe we had any more information that we could share within legal or policy
12 guidelines.
13 Q Because it was an ongoing investigation?
14 A Among other things, sensitive sources and methods, and other traditional
15 things that we have to stay right by policy and law.
16 Q If this was an actual foreign disinformation operation, the FITF would be able
17 to share more information with the companies?
18 A Possibly. Maybe not. If it was something that we are actively
19 investigating, we come across some of the same restrictions.
20 But generally I would say, to us, an investigation is an investigation. We treat it
21 the same way whether it's foreign malign influence or some other kind of investigation.
22 [redacted]. Can I confer with the client for a minute?
23 [redacted]. We'll go off the record, please.
24 [Discussion off the record.]
25 [redacted]. Can we go back on the record, please?

1 BY [redacted]:

2 Q Also just one point clarifying for the record.

3 When sharing this update with the companies, was it one call with the major

4 companies, or did you individually reach out to each company?

5 A I've tried to recall this specifically. I think it was one call with all of these

6 people on it, but I'm not positive about that. I may not have been able to get them all

7 on the same call. So maybe I had one with two or three and one with another.

8 I really don't recall those types of details, but it was -- I was trying to get it to them

9 quickly, obviously. And I just don't recall the details of, like, how many calls it was. But

10 there was definitely some that there was multiple people on the call.

11 Q Who from the FBI was on the call?

12 A Only me.

13 Q Who authorized you to share this information?

14 A I don't feel like I need authorization to do this. This was something that's

15 completely within my purview. What I did feel necessary was to clear it with our OGC

16 attorney that was embedded with us. I definitely wanted to make sure that I was within

17 legal and policy to try to communicate as much more than I could beyond "no comment."

18 Q Did the OGC attorney identify any concerns with the statement that you

19 gave?

20 [redacted]. I think your question implicates attorney-client privilege.

21 BY [redacted]:

22 Q Is it a fair characterization to say that the OGC attorney approved of the

23 statement that you gave?

24 A I think the way I can address it is, I feel confident that I was within policy,

25 legal, and my authority to give the statement -- statement, statements -- that I

1 gave -- statement and response to questions, kind of that dual.

2 Q As part of your statement, you were talking about that the FBI doesn't have

3 any information, or something to that effect, that the laptop is the product of a Russian

4 hack-and-leak or hack-and-dump.

5 On the Twitter-FITF call, there was a discussion about, "Is the laptop real?" You

6 don't recall any other FITF meetings, which ones, if that question came up or how it came

7 up.

8 As part of your statement, was there any formal acknowledgement that the laptop

9 is real?

10 A I mean, this could delve into the discussion of what you define as "real."

11 There was a laptop, or as you put, a hard drive in our possession.

12 If we're speaking about the existence of it meaning real, then, yes. If we're

13 talking about if we go further than that, that would be hard for me to speak to.

14 Q Once the New York Post story comes out, is there any discussion internally at

15 the FBI about whether to reveal to any of the companies that the FBI had authenticated

16 the laptop?

17 A I don't think I'm authorized to speak to anything surrounding the

18 authentication of the laptop.

19 Can I --

20 [redacted] I would also just say, the way your question is framed, you're

21 implicating the FBI writ large, and if you could be more specific within the bounds of the

22 privilege and other issues we discussed, he could maybe answer.

23 [redacted] Well, based off whistleblower testimony, we've tried to get to the

24 question a couple times and been told you can't provide the answer.

25 The companies have the story that comes out that seems to match up with

1 warnings that the FBI and others have given. They're trying to assess is this part of a
2 potential hack-and-leak from a foreign adversary.
3 It's one thing to say, "We don't have information this is the product of a
4 hack-and-leak." It's something else to say, "We are in possession of a laptop or a hard
5 drive that has been authenticated."
6 Was there any discussion that you participated in with anyone within the FBI
7 about that second half, whether the FBI had authenticated a laptop or a hard drive?
8 [Discussion off the record.]
9 [redacted] Can we go back on?
10 [redacted] I think the challenge here is, I would not provide the companies
11 information that I'm not able to provide to you. So the same objections I get of
12 providing information to you, I wouldn't have given information like that to the company,
13 if that addresses the question.
14 [redacted] Can you, just at a high level, appreciate that there would have been
15 value to the companies in assessing whether their hack-and-leak policies are implicated
16 by knowing whether the FBI had authenticated the laptop or hard drive in its possession?
17 [redacted] I'd rather not speculate in the value of something that may have
18 happened at the time. Yeah, it's hard for me to answer that appropriately.
19 [redacted] So were you unable to tell the companies that the laptop had been
20 authenticated because of the ongoing investigation or because you didn't know the
21 answer to that question?
22 [redacted] Can we go off the record?
23 [redacted] We can go off the record.
24 [Discussion off the record.]
25 [redacted] Can we go back on the record, please?

1 [redacted] Addressing the previous question, I did not know at that time -- or I
2 was not aware of the laptop being authenticated at that time. If I did, I wouldn't have
3 been able to tell them anyway. But at that time, I did not know whether the hard drive
4 or the laptop, however you want to characterize it, was authenticated, if that addresses
5 it.
6 BY [redacted]:
7 Q Did others within the FITF know whether the laptop or hard drive had been
8 authenticated?
9 A I don't want to speak to what others knew. I don't know.
10 Q Are you familiar with the statement that 51 former intel officials put out on
11 October 19th, 2020?
12 A I am.
13 Q Prior to that statement's release, did any of the 51 reach out to you?
14 A No.
15 Q Do you understand did any of the former 51 intel officials reach out to
16 anyone on the FITF?
17 A I don't know that I know all 51, like, I don't know all the names on there.
18 Just to clarify, there's probably some on there that I've interacted with previously,
19 and it's hard for me to say, like, if I've even interacted with them in my capacity in the
20 FITF.
21 But I'm hesitant to answer that when I don't even know all 51, like, I don't have
22 the list in front of me, I'm basically saying. So I'm hesitant to answer that. But I'm not
23 aware of the FITF engaging any of those officials, pertaining to this certainly.
24 Q As far as you don't recall FITF engaging, to your understanding, did any of
25 the 51 try to solicit information from the FITF?

1 A Certainly not from me. I can't speak, like, monolithically for the FITF. But
2 none of them solicited any information from me.
3 Q So of the 51 former intel officials, for the ones that you're aware of who
4 signed the letter, were any of those officials aware of the FITF's existence?
5 A Certainly a couple of them. I think a couple of them were pretty recently
6 previously employed by the Federal Government, and the FITF at that point had been in
7 existence for almost 3 years and was pretty well known.
8 Q If someone were trying to find the best task force or division to assess if the
9 laptop was a foreign disinformation operation, which task forces or divisions would it
10 have been better to contact other than the FITF?
11 [redacted] Can we go off the record, please?
12 [Discussion off the record.]
13 [redacted] We can go back on.
14 [redacted] Can you say the question again?
15 [redacted] Sure.
16 [redacted] I have something, but can you read that particular question first?
17 BY [redacted]:
18 Q We can turn back to the question.
19 A Okay. Just to clarify, you said, like, I can say I'm still not aware that it's
20 been authenticated. I'm not aware that the contents of the laptop have been
21 authenticated today, let alone back then.
22 To address the part of who would be better than the FITF to address, to me, it
23 would be the field offices working that, but I don't know that people outside the Federal
24 Government were aware of that when most of the people in the FITF weren't aware of
25 that.

1 Q Once the statement comes out, the 51 former intel officials, was there any
2 discussion within the FITF about the statement?
3 A I don't recall a discussion about it at all. I do remember it occurring, but I
4 don't know that there was much discussion about it.
5 Q And a few responses earlier, you mentioned wanting to share with the
6 companies the best you could about what information the FITF had, and so paraphrasing,
7 whatever the exact phrase was something that the FITF at least didn't have information
8 that the laptop referenced in the New York Post story was from a Russian influence
9 operation?
10 Is that a fair characterization or --
11 A Sorry. Say it once more.
12 Q Sure.
13 A I apologize.
14 Q So you had mentioned there was a desire to be able to share information,
15 whatever information you could, with the companies.
16 A Yeah.
17 Q And that the statement you were able to share was something to the effect
18 of that the FITF didn't have information that the laptop and the story were part of a
19 Russian disinformation influence operation.
20 Is that --
21 A So one of those things, I specifically said the FBI has nothing in its holdings,
22 very deliberately to go sort of beyond the FITF. But I also didn't address sort of the
23 disinformation campaign side of that question because that's not normally something we
24 would engage in.
25 We would typically say, like I did, "We're not aware of a foreign actor sort of

1 perpetrating that." And by communicating that it wasn't hacked, that typically is sort of
2 intelligence service-level activity. So I think inherently in my deliberate language, it sort
3 of addressed that, as best I could.
4 But I also, at the time, was not aware that it was a Russian disinformation
5 campaign, yes or no, at that time.
6 Q Okay. Was there any discussion within the FBI of trying to respond in a
7 similar sense to the 51 former intel statement?
8 A I don't recall any discussions about that statement at all, at least not that I
9 was a party to.
10 Q In the discussions with the companies where you provided the statement,
11 whether it was together or one-on-one, what follow-up questions did the companies
12 have?
13 A I don't recall not needing to be in sort of receive mode because I know I can't
14 answer any questions. I didn't sort of, I wonder what kind of questions they had and
15 write them down or anything like that. It was just I know, no matter what they ask,
16 everything I told them is within the walls of this sentence basically.
17 Q To your understanding, did anyone from the FITF or the FBI share
18 information outside of that approved statement with Facebook, Google, or Twitter?
19 A I didn't, and I'm not aware of anyone else doing it, sharing anything further
20 past that.
21 Q Did you or anyone else from the FITF have conversations with Elvis Chan
22 about the statement that was going to be shared?
23 A I don't recall. The only thing I can think of is, I may have used -- like, Elvis
24 had a standing conference call line, like a 1-800 number. I may have asked him to use
25 that number, but I wouldn't have conferred with him about the contents of the

1 statement.

2 And that's sort of the reason he wasn't on the phone call either, when he normally

3 attended meetings. I felt that this was best handled in the very deliberate manner that I

4 handled it.

5 [redacted] Can we go off the record, please?

6 [Recess.]

1

2 [1:57 p.m.]

3 [redacted] Okay. Back on the record.

4 BY [redacted]:

5 Q [redacted], way back in the first hour of questioning, if you remember that

6 far back, you said that you were read into the laptop matter because it involved Russia

7 and Ukraine. Do you recall saying that?

8 A Yes.

9 Q Okay. And your job with the FITF, just to reduce it probably way more than

10 you would in normal life, your job was to monitor and mitigate potential malign foreign

11 influence efforts, in particular from Russia and Ukraine, because that was your unit,

12 correct?

13 A Correct.

14 Q Okay. There was a lot of discussion at the end of the last year -- at the end

15 of the last hour, excuse me -- about what was said in the October 14th meeting with

16 Twitter and what was said in the meeting that followed that with more technology

17 companies.

18 And you said that -- you made a couple of distinctions I just want to highlight for

19 the record. You differentiated between "real" and "authentic."

20 What's your understanding of what we mean when we say "authentic"?

21 A It's kind of nuanced, but generally the distinction I make is "real" is

22 something tangible that you're aware of. And "authentic," in contexts like this,

23 authenticating something like a laptop as opposed to a single piece of evidence, maybe a

24 single email or a single phone call, are very different.

25 Something like a laptop, I mean, you can imagine the different types of, like, file

1 categories and things like that, that are on there.

2 And then there's also complications with authenticity from, like, not just the

3 providence of something but also whether it's been altered or doctored. And I can't

4 really go into a lot of the specifics about that process.

5 Generally, something real is easy to tell the difference, but something

6 authenticated is a complex process and entails a lot more work, and sometimes it's not

7 even possible.

8 Q Okay. And I just want to clarify again for the record, in October 2020 and

9 sitting here today, you don't know -- you didn't know then and you don't know now if the

10 laptop was ever authenticated?

11 A Correct, I do not know now and I didn't know then if the entire laptop was

12 authenticated.

13 Q Okay. So there was a discussion about the laptop being real. "Real" just

14 means that the laptop was a tangible thing?

15 A I mean, as I define it. I don't know how the person that said that, that

16 we're referring to, defined "real" at that time. But I would think he meant "real" as in

17 tangible. But I don't want to speculate what he thought "real" meant.

18 Q Okay. There was some discussion about what you were able to say in the

19 follow-up conversation. And I don't want to paraphrase it incorrectly, so can you restate

20 to the best of your recollection?

21 A Yeah.

22 Q I understand that it's 3 and a half years ago at this time.

23 A Yeah.

24 Q But what was that?

25 A From what I remember, and there was probably some minor changes to this,

1 but it was there's nothing in the FBI holdings that suggests that the laptop is hacked and
2 leaked -- or hacked or leaked, or something to that effect.
3 But what I intended to communicate with that was, we were not aware at the
4 time that that was a product of a hack, that that laptop was derived or that what
5 appeared was derived from a hack, if it was even what appeared in the news story was
6 the same as what we had in our possession. I wasn't even aware of that.
7 Q Okay. When you say a "hack," is "hack" a term of art in your world?
8 A Yeah. I apologize. Speaking of hacks in general, we're talking about
9 computer intrusions, someone obtaining credentials so that they can enter your
10 computer remotely and either obtain, download, duplicate contents of that device
11 illegally. It's illegal to hack or intrude in someone's computer.
12 Q So "hack" is accessing a computer through the internet, effectively, correct?
13 A Yes.
14 Q It's different than, for example, temporarily physically possessing a computer
15 and putting something onto it, for example?
16 A It might not be.
17 Q Okay.
18 A If you temporarily possess a laptop and then using credentials that you are
19 not authorized to use, or using some sort of tool to access that laptop, even physical, that
20 could also fall under the --
21 Q It could be, but it also could fall under a different --
22 A Yes.
23 Q -- it could fall under a different category as well?
24 A Yes. If there's situations where I would authorize you to, I would give you
25 my password or give you my laptop and you go look at my laptop, that's not a hack or a

1 computer intrusion.

2 Q Or maybe the password -- maybe the object was not password-protected?

3 A That's also -- but even that, had I not given you authorization, that could --

4 Q Okay.

5 A I mean, I'm not a cyber expert, so I don't want to get too deep into that,

6 but --

7 Q Just trying to get the sense of what --

8 A Yeah. Generally, yeah.

9 Q When you said that there was no information in the FBI's holdings, that

10 didn't mean that the information didn't exist. It just meant the FBI didn't have anything

11 at that time, correct?

12 A Yes. And the reason I remember the statement kind of vividly is because

13 there's certain components of that statement that were very deliberate.

14 Q Okay.

15 A And one of those is, like I said, FBI holdings, not even just FITF. I was pretty

16 confident once I made that statement, that we had nothing in our holdings that

17 suggested it was a hack, doesn't mean it wasn't a hack, we just didn't have that

18 knowledge at that time.

19 Q So in other words, absence of evidence is not necessarily evidence of

20 absence. So you just didn't have information at that time?

21 A Correct.

22 Q Okay. Couple quick comments about the -- questions about the "no

23 comment" reference.

24 The October 14th meeting, FBI said -- the response to the questions after "the

25 laptop is real" comment was "no comment," correct?

1 A Correct.

2 Q Do you agree that "no comment" is a fairly typical response for FBI to give in

3 response to questions about ongoing matters?

4 A Very.

5 Q Okay. In fact, the FBI virtually never comments on potential or ongoing

6 investigations, correct?

7 A Correct.

8 Q And that's FBI policy, right?

9 A I believe, and not derived from a DOJ -- I'm not sure, like, where FBI and DOJ.

10 But, yes, under DOJ somewhere, there's a policy that --

11 Q Do you have an understanding of the reasons for the policy?

12 A I could probably speak generally to it. I don't know that I could quote

13 policy language or anything.

14 Q No. And we're wondering why doesn't the FBI comment on ongoing

15 investigations, is what I'm getting at.

16 A I mean, generally to protect the integrity of the investigation when

17 appropriate. There's certain investigations that were overt nearly from the start of the

18 investigation. But sort of transmitting our intentions or that we have an investigation at

19 times could jeopardize the integrity of the investigation.

20 Q Okay. When you say "jeopardize the integrity," what does that mean?

21 A You know, it would allow potential subjects or potential people that may

22 have violated Federal law to either change their tactics, delete evidence, those sort of

23 things that would cause us to not be able to collect that as evidence of a Federal crime

24 being committed.

25 Q So is it fair to say that if the FBI were to comment on ongoing investigations,

1 it could potentially prevent the FBI from continuing that investigation?

2 A Yes. Potentially.

3 Q It could potentially prevent FBI and DOJ from bringing charges in an

4 investigation?

5 A Potentially.

6 Q Okay. And so it ultimately could compromise the investigation?

7 A It could.

8 Q Okay. There was a comment made in the prior hour about whether the

9 laptop was -- had a connection to Russian intelligence or foreign intelligence.

10 Do you remember that discussion broadly?

11 A I think so.

12 Q Okay. In October 2020, did FBI know whether the laptop had a connection

13 to foreign intelligence?

14 A Not that I recall.

15 Q You didn't know either way?

16 A Correct.

17 Q Okay. So it may have, but you didn't know?

18 A Correct.

19 Q Okay. Are you familiar with patterns of practice in which Russian

20 intelligence engages?

21 A Yes. I'm not sure of the characterization of that. I would say, through my

22 experience investigating Russian intelligence services and foreign malign influence actors,

23 I've sort of collected certain types of tactics and things that they use that I'm aware of.

24 Q Okay. Are you familiar with the reasons that the FITF was created in 2017?

25 A Generally, yes.

1 Q What's your understanding?

2 A The Director wanted to have sort of a one-stop shop that all of the

3 investigative entities and all the investigative authorities are kind of under one place that

4 he had -- that he could go to and understand and sort of direct the FBI to sort of look at

5 this as a whole-of-FBI thing and have sort of less siloed activity as it occurs sort of across

6 the Russian threat, and everything from transnational organized crime, to cyber, to

7 counterintelligence, to sometimes even counterterrorism, and have that in one place and

8 have sort of a unified strategy across the FBI to deal with those type of threat actors.

9 Q And the FITF was established in 2017, correct?

10 A That's correct.

11 Q And that was in the wake of the 2016 election, correct?

12 A Correct.

13 Q Are you familiar with the events surrounding the 2016 election?

14 A Somewhat. I was not working those type of matters during the 2016

15 election. I worked for the Criminal Investigative Division. But generally I've obviously

16 consumed lots of intelligence, and in line with kind of the 2016 ICA and those sort of

17 things of what occurred, and I generally know some of the different streams.

18 Q Do you agree that Russia interfered in the 2016 election?

19 A By the definition of "interfered" versus "influence," yes.

20 Q Okay. And is it fair to say that the FITF was created, in part, in response to

21 the 2016 interference?

22 A I think, yes, that's fair, in part.

23 Q Okay. What's your understanding of how Russia interfered in 2016?

24 A I think specifically the thing that crosses the line, according to a number of

25 documents and that sort of thing that were created in the wake of that, were the hack of

1 certain emails and then the following -- the timing and the usage of that material to try to
2 affect the electoral process.
3 Q And after Russia interfered in that way in 2016, is it fair to say that there was
4 widespread concern by national security experts, law enforcement experts, that Russia
5 and other foreign entities might try to interfere in the 2020 election?
6 A Absolutely.

1

2 [2:10 p.m.]

3 [redacted] I want to introduce as exhibit 3 a statement from William Evanina, Bill

4 Evanina, who was at that time the National Counterintelligence and Security Center

5 director, dated August 7, 2020, and it's titled "Election threat update for the American

6 public."

7 [[redacted] Exhibit No. 3

8 was marked for identification.]

9 BY [redacted]:

10 Q Have you seen this before?

11 A I believe so.

12 Q Do you want to take a minute to review it?

13 A Sure. I think he had a couple. I'm not sure which one this is. Yes. I

14 remember this one specifically.

15 Q Okay. We've highlighted a section on the second page that begins "Russia."

16 It reads, "We assess that Russia is using a range of measures to primarily denigrate former

17 Vice President Biden in what it sees as an anti-Russia establishment. This is consistent

18 with Moscow's public criticism of him when he was Vice President for his role in the

19 Obama administration's policies on Ukraine and its support for the anti-Putin opposition

20 inside Russia. For example, pro-Russia Ukrainian Parliamentarian Andrii Derkach is

21 spreading claims about corruption, including through publicizing leaked phone calls, to

22 undermine former Vice President Biden's candidacy and the Democratic Party. Some

23 Kremlin-linked actors are also speaking to boost President Trump's candidacy on social

24 media and Russian television." Did I read that correctly?

25 A Yes.

1 Q Okay. So is it fair to say that this is evidence that -- actually sorry.
2 Withdraw that.
3 Are you familiar with the NCSC?
4 A I am.
5 Q What is the NCSC?
6 A It's generally -- I believe it's a political appointee to sort of sit across all
7 agencies that have any purview over counterintelligence activities across the IC.
8 Q Okay. And you said it's politically appointed. Do you know who
9 appointed Bill Evanina as Director of the NCSC?
10 A I don't recall when he left FBI and went there.
11 Q If I told you President Trump appointed him, would you have reason to
12 dispute that?
13 A No.
14 Q Would you agree that the paragraph that I read to you a minute or two ago
15 is evidence that Bill Evanina, who was President Trump's appointee to be Director of
16 NCSC, endorsed the statement that Russia was seeking to interfere in the 2020 election?
17 A I don't love the term "evidence," again, in this context.
18 Q Okay. How would you put it?
19 A However, yes, I believe it was an indication that there was broad agreement
20 among at least the counterintelligence entities under the NCSC that this statement is true
21 at that time.
22 Q You've mentioned the intelligence community assessment. You've referred
23 to the ICA a number of times. That refers to the Intelligence Community Assessment,
24 correct?
25 A Correct.

1 Q Are you familiar with the 2021 intelligence community assessment?

2 A I believe when I refer to the 2020, that's what I'm really talking about. It's

3 published in 2021, but it's really kind of a lookback about the election, and I believe it's in

4 the Executive Order 13A4A, we're commanded to do that basically through that executive

5 order that we will produce a document running down everything that happened in the

6 election.

7 [redacted] Okay. I want to introduce that as exhibit 4.

8 [redacted] Exhibit No. 4

9 was marked for identification.]

10 BY [redacted]:

11 Q And it's long. I can point you to where -- you're welcome to read the whole

12 thing. I can also point you to what we're going to look at.

13 A I've read it extensively. It's been a while.

14 Q Even better.

15 A But you can point me to what specifically you want to talk about.

16 Q For the record, we're introducing the declassified version, which was

17 declassified the 15th of March 2021. I believe the classified version was released in

18 January. But we're using the declassified version. You've said you've read this

19 extensively?

20 A Yes. People under my purview had a pretty extensive hand on this

21 document, and so anything that went through my unit sort of in a draft form, I had to

22 review multiple times. And this, obviously, goes not just within the FBI, but all through

23 the intelligence community for everybody to kind of chime in and edit.

24 Q Can you turn to the cover page?

25 A Sure.

1 Q You see the italicized language? I know it's small font down at the bottom.
2 I'm going to read it out loud. It reads, "This intelligence community assessment was
3 prepared by the National Intelligence Council under the auspices of the National
4 Intelligence Officer, NIO, for cyber. It was drafted by the National Intelligence Council
5 and CIA." That's a reference to the Central Intelligence Agency, correct?
6 A Yes.
7 Q DHS, which is the Department of Homeland Security, correct?
8 A Correct.
9 Q FBI, which is the Federal Bureau of Investigation, correct?
10 A Correct.
11 Q INR, which is the State Department Bureau of Intelligence and Research,
12 correct?
13 A Correct.
14 Q And NSA, which is the National Security Agency, correct?
15 A Correct.
16 Q And the italicized language continues, "and coordinated with CIA, DHS, FBI,
17 INR, Treasury," that's the Department of Treasury, correct?
18 A Correct.
19 Q "And NSA." Did I read that correctly?
20 A Correct.
21 Q This document is prepared by all -- one, two, three, four, five, six different
22 agencies had a role in preparing this. Is that right?
23 A Drafted was five, six. Coordinated kind of means they read it, reviewed it,
24 and agreed with what was there. So yes.
25 Q Okay. Can you turn to the fourth page, which is -- the fourth page is

1 printed. It's Roman numeral I.

2 A Actually, to just correct the record because it is kind of nuanced.

3 Q Yup.

4 A Coordinated doesn't even necessarily mean that they agreed with what was

5 published, just to get in the terms of art in the intelligence community.

6 Q Okay.

7 A Coordinated basically means that they've reviewed it.

8 Q Can you turn to page -- but certainly, everybody who had a hand in drafting

9 would have agreed with it, correct, unless there's a dissenting view noted?

10 A Correct. Occasionally, there's dissenting views noted. That are also

11 occasionally dissenting views that are not noted depending on if they rise to the level of

12 substantive and things like that.

13 Q Okay.

14 A But there's often lots of dissent in drafting these. Everyone kind of has a

15 different picture. These are a lot of people that are involved in drafting this.

16 Q If you can turn to Roman numeral I. I want to look at key judgment two.

17 Sorry. It's Roman numeral I, it's the fourth page as printed.

18 A Okay.

19 Q Key judgment two reads, "We assess that Russian President Putin

20 authorized, and a range Russian Government organizations conducted, influence

21 operations aimed at denigrating President Biden's candidacy and the Democratic Party,

22 supporting former President Trump, undermining public confidence in the electoral

23 process and exacerbating sociopolitical divisions in the U.S. Unlike 2016, we did not see

24 persistent Russian cyber efforts to gain access to election infrastructure. We have high

25 confidence in our assessment; Russian state and proxy actors who all served the Kremlin's

1 interests worked to affect U.S. public perceptions in a consistent manner. A key
2 element of Moscow's strategy this election cycle," and this was referring to the 2020
3 election cycle, "was its use of proxies linked to Russian intelligence to push influence
4 narratives, including misleading or unsubstantiated allegations against President Biden to
5 U.S. media organizations, U.S. officials, and prominent U.S. individuals, including some
6 close to former President Trump and his administration."
7 Did I read that correctly?
8 A Yes.
9 Q Part way through this paragraph -- so most of the paragraph is boldfaced.
10 But part way through, there's a nonboldfaced section. And that reads, "We have high
11 confidence in our assessment." You see where it says that?
12 A Yes.
13 Q Are you familiar with the term "high confidence?"
14 A Generally. I don't typically draft things like this. There's a lot of very
15 nuanced language surrounding things like this. But, generally, I know what "high
16 confidence" means.
17 Q What's your understanding of what "high confidence" means?
18 A That there's multiple sort of validated and corroborated sources of
19 information that sort of lead into that judgment.
20 Q So is it fair to say that "high confidence" is the highest level of confidence
21 that the intelligence community would give to an assessment?
22 A I believe that's correct. Yes.
23 Q Because there's also moderate confidence and low confidence, right?
24 A Yes.
25 Q And "high confidence" is the highest?

1 A Yes.

2 Q I want to break down the language in key judgment two into its components.

3 The first sentence provides that, "The Russian Government organizations acting at the

4 direction of President Putin conducted influence operations aimed at denigrating

5 President Biden, supporting former President Trump, and undermining confidence in the

6 electoral process," correct?

7 A Correct.

8 Q What's your understanding of what an influence operation is as used in this

9 paragraph?

10 A It's hard for me to comment further on some of these key judgments

11 because of the underlying intelligence and the specific nature of what's declassified to

12 produce these.

13 Q Can you -- taking it away from the judgment, FITF deals with potential

14 influence operations all the time, right?

15 A Yes.

16 Q Sorry.

17 [Discussion off the record.]

18 [redacted] Okay. So one of the -- again, there's a lot of very deliberate

19 language in this statement, and it builds it out a little bit more, but talking about influence

20 operations versus interference. And it makes it pretty clear that we did not see

21 interference in the 2020 election. But that we had -- it kind of details the type of

22 influence operations we saw. And that was, in this case, it's -- it outlines a sort of

23 narrative laundering of pushing things that may or may not be based in true events, true

24 things, and trying to get it into sort of mainstream discourse and follows kind of a path of

25 laundering that information. That's sort of what it tries to outline here of what was seen

occurring.

BY [redacted]:

Q Are you familiar with an individual named Andrii Derkach?

A Yes.

Q Who is Mr. Derkach?

A Mr. Derkach was a former Ukrainian Parliamentarian who the FBI investigated and eventually indicted and sanctioned for his activities surrounding some of -- the details here are noted in our indictment of him. I believe it was out of the New York Field Office. And so, through that investigation -- and that was under my purview and a squad in New York, an investigative squad working that, that I was aware of that investigation and some of the broad details of it.

Q Broadly speaking, what was Mr. Derkach charged with?

A I believe he was charged with 18 U.S.C. 951. I don't recall the exact charges. I mean, there's -- oh, I was going to say, there's probably an indictment floating around somewhere.

[redacted] We'll go ahead and introduce the indictment for the record. It will be exhibit 5.

[[redacted] Exhibit No. 5 was marked for identification.]

BY [redacted]:

Q Having reviewed the indictment, do you recall what Mr. Derkach was charged with?

A Yes. The sort of main underlying criminal activities outlined in count one, as conspiracy to violate IEEPA. IEEPA is the International Emergency Economic Powers Act, and specifically, there's a number of activities that can fall under that, that -- I said I

1 think 951, but some of this is 981. And then, additionally, in count two and count three,
2 there's a bank fraud conspiracy and money laundering conspiracy, and then, in counts
3 four through 7, there's some of the actual, I guess, per se violations of the count three, of
4 the money laundering conspiracy.
5 Q And are you aware that Mr. Derkach was also sanctioned by the United
6 States?
7 A I am.
8 Q Okay.
9 [redacted] I want to introduce as exhibit 6 the Treasury Department's press
10 release announcing sanctions on Mr. Derkach. This is dated September 10, 2020.
11 [[redacted] Exhibit No. 6
12 was marked for identification.]
13 BY [redacted]:
14 Q Have you seen this before?
15 A I'm not sure this press release specifically. I probably have seen this.
16 Q Okay. And you're broadly familiar with the reasons Mr. Derkach was
17 sanctioned?
18 A Yes.
19 Q This, for the record, the press release is dated September 10, 2020. Steve
20 Mnuchin was Secretary of the Treasury in September 2020, correct?
21 A I believe that's correct. I don't remember when certain people held certain
22 offices, but he's quoted here so I assume yes.
23 Q Okay. And Secretary Mnuchin was appointed by former President Trump,
24 correct?
25 A Yes. Correct.

1 Q I want to look at the beginning of paragraph two on the first page. It reads,
2 quote, "Treasury designated Andrii Derkach pursuant to executive order (E.O.) 13848 for
3 his efforts to influence the 2020 Presidential election. Derkach, a member of the
4 Ukrainian Parliament, has been an active Russian agent for over a decade, maintaining
5 close connections with the Russian intelligence services."
6 Did I read that correctly?
7 A Yes.
8 Q Do you have an understanding of what the phrase "active Russian agent"
9 means?
10 A Yes.
11 Q What's your understanding?
12 A "Agent" is a pretty specific term in sort of the parlance of
13 counterintelligence, meaning that he is working on behalf of Russia, the government of
14 Russia broadly, but typically one of the intelligence services.
15 Q The sanctions notice continues, "From at least late 2019 through mid-2020,
16 Derkach waged a covert influence campaign centered on cultivating false and
17 unsubstantiated narratives concerning U.S. officials in the upcoming 2020 Presidential
18 election, spurring corruption investigations in both Ukraine and the United States
19 designed to culminate prior to election day."
20 Do you see where it says that?
21 A Yup.
22 Q What's your understanding of what "a covert influence campaign" is?
23 A So this goes back to some of the comments I made earlier about the specific
24 nature of activities that are subversive, undeclared, covert, or criminal. In this case, it
25 meets, I think, all four of those in that it was subversive to the U.S. election process. It

1 was undeclared. He did not declare himself to the Attorney General of the United
2 States as working on behalf of Russia. He had criminal activities, as we later saw by
3 follow on indictment by the Eastern District of New York. And it was covert in that he
4 was acting as a Ukrainian Parliamentarian. And I believe he also owned some media
5 outlets in Ukraine, and through that, he was taking direction from the Russian
6 government and carrying out their wishes.
7 Q So, based on the sanctions notice, it's fair to say that Andrii Derkach was a
8 proxy for Russia, right, or a Russian agent?
9 A Yes.
10 Q Linked to Russian intelligence pushing influence narratives?
11 A Yes.
12 Q Okay.
13 [redacted] I want to introduce as exhibit 7 a Washington Post article, dated
14 December 5, 2019, titled "Ukraine lawmaker seeking Biden probe meets with Giuliani in
15 Kyiv."
16 [[redacted] Exhibit No. 7
17 was marked for identification.]

1

2 BY [redacted]:

3 Q While you're reviewing, I'll note for the record, this is a Washington Post

4 article dated December 5, 2019. It's, again, the title is "Ukraine lawmaker seeking Biden

5 probe meets with Giuliani in Kyiv," by David L. Stern and Robyn Dixon.

6 Are you ready to continue?

7 A Yeah. I don't know that I'm aware of everything in this article. I don't

8 know if you want me to read all of it.

9 Q I'm only going to ask you about the first page, just going to ask about the

10 first page.

11 A Okay.

12 Q Are you familiar with who Rudy Giuliani is?

13 A Yes, I am.

14 Q He was President Trump's personal attorney, correct?

15 A I think so at some point.

16 Q And there's a photo at the beginning of this article, correct?

17 A Yes.

18 Q And the caption reads, "Ukrainian lawmaker under Derkach and President

19 Trump's personal lawyer, Rudolph W. Giuliani, show a document during a meeting in Kyiv

20 and an image posted by Derkach on December 5, 2019." Do you see that caption?

21 A Yes.

22 Q To the best of your knowledge, is that a picture of Mr. Derkach and

23 Mr. Giuliani?

24 A From what I know of them, yes. I believe that's accurate.

25 Q The first sentence of this article reads, "President Trump's personal lawyer,

1 Rudolph W. Giuliani met Thursday in Ukraine with one of the key figures working to build
2 a corruption case against Hunter Biden." Correct?
3 A Yes.
4 Q In the sanctions notice we just talked through, Derkach was sanctioned for
5 pushing covert influence narratives with a goal of spurring corruption investigations,
6 correct?
7 A Correct.
8 Q And it's true, according to this article, that Rudy Giuliani met with Mr.
9 Derkach to discuss corruption investigations in 2019, correct?
10 A Probably. I mean, I was not witness to the meeting, but it appears that's all
11 true.
12 [redacted] I want to introduce as Exhibit 8, a Daily Beast article, published on
13 October 17, 2020, tiled "Rudy only 50/50 chance I worked with a Russian spy to die to dirt
14 on Bidens in Ukraine."

1

2 [[redacted] Exhibit No. 8

3 was marked for identification.]

4 BY [redacted]:

5 Q I know this is a long article. I can tell you we are going to look mostly at the

6 last page of it, but take as long as you need.

7 A You said the last page?

8 Q The last page. Yup.

9 [redacted] Don't feel rushed, though.

10 [redacted] Yeah. Take as long as you need.

11 [redacted] I don't know that I have ever seen this article.

12 BY [redacted]:

13 Q You can read it cover to cover.

14 A Okay. I think I am aware of this article generally.

15 Q This article reports on an hour-long interview with Mr. Giuliani. That's at

16 the bottom of page 2. And then, on page 5 -- again, this is page 5 as printed. This is an

17 internet article, so we've -- there's no pagination in the article online.

18 But, on page 5, as printed -- actually, taking a step back, are you aware that the

19 New York Post story says that Mr. Giuliani provided the laptop to them?

20 A I don't know that I was aware that's in the article.

21 Q Okay.

22 A I don't know that I have ever read that entire article.

23 Q Okay. Do you have any reason to dispute that Mr. Giuliani claimed that he

24 provided the laptop to the New York Post?

25 A I don't think so. Nothing that I can recall.

1 Q Okay. So, turning back to this article, at the top of page 5, it says, "Giuliani
2 said he viewed his latest leak to the New York Post as an extension of his years-long
3 efforts to work with Ukrainians to dig up dirt on the Bidens." You see where it says
4 that?
5 A Yeah.
6 Q So, in this article, Mr. Giuliani actually says that his production of the laptop
7 to the New York Post was part of his work with the Ukrainians, right? That's what he's
8 saying in this article on the face of it.
9 [redacted] It's the first like three lines at the top of page 5, and she's just
10 asking to confirm that that's what it states in the article.
11 [redacted] Yes. That's what it states in the article.
12 BY [redacted]:
13 Q Okay. You said earlier Andrii Derkach was a Ukrainian, correct?
14 A I think so. I'm not sure ethnically if he was, but yeah. He was a former
15 Ukrainian Parliamentarian.
16 Q And, again, he was sanctioned for trying to push covert influence narratives,
17 correct?
18 A Correct.
19 Q Okay.
20 [redacted] I want to introduce -- I'm sorry; I know I'm giving you a lot of
21 paper -- I want to introduce as exhibit 9 a Daily Beast article, published October 18, 2020,
22 updated October 21, 2020, titled "Rudy's Russian agent pal teases second laptop with
23 Hunter Biden Kompromat."
24 BY [redacted]:
25 Q Have you seen this before?

1 A I think I'm aware of this article. I'm generally aware of this article. Okay.
2 I'm not sure -- I'm not sure if I've ever read the whole thing, but I'm generally aware of it.
3 Q The bottom of the second paragraph of this article it says, "Derkach,
4 meaning Andrii Derkach claimed on Facebook that there is a, quote/unquote, second
5 laptop with evidence of corruption involving the Biden family."
6 You see where it says that?
7 A Yes.
8 Q Are you generally familiar with Andrii Derkach's claim that there was a
9 second laptop?
10 A Yes. I'm generally aware, yes, that Derkach was teasing all sorts of
11 kompromat as he says here.
12 Q And when you say he was teasing all sorts of kompromat, what do you mean
13 by that?
14 A I think he held multiple press conferences and other things in the wake of
15 the sort of public -- the first New York Post article that -- with the laptop. He started to
16 then hold regular press conferences, maybe daily, and in all of them kind of teased, "Oh,
17 there's more, it's coming, I'll show you all the evidence that I've pulled up."
18 Q So Derkach was effectively claiming credit for the laptop. Is that fair to
19 say?
20 A I don't think he claimed the first laptop. I think that's why he's saying, "Oh,
21 I have a second laptop." I don't believe he claimed, you know, "I'm responsible for the
22 first laptop."
23 Q Okay. But he was saying that he could -- had information to support the
24 laptop, the first laptop?
25 A Maybe. I'm not aware of that.

Q Okay. [redacted], you speak some Russian, right?

A A little bit.

Q Okay.

[redacted] I'm going to introduce an article from a Ukrainian news source. The article itself is in Russian. We've done a Google translate. We are going to introduce the article I guess in Russian as exhibit 10 and in English as exhibit 11.

[[redacted] Exhibit Nos. 10 and 11 were marked for identification.]

BY [redacted]:

Q We don't have a verified translator. We're in the minority and can't afford that.

But, given that you speak some Russian, I'm hoping that you know, you can confirm that there's nothing -- I want to introduce both to make the Record clear. If there's anything you see that raises concerns about the translation, let us know.

A I am absolutely not at a level that I can confirm much about this.

Q That's fine. We'll look at the English version. I want to have the record complete. I don't want to introduce just a translated version.

A I am not, and have never been certified as a translator.

Q Understood. The article I just introduced is from O-b-o-z-r-e-v-a-t-e-l is the name of the news source. The title is "Testimony of witnesses and information from Burisma's laptop will complement the scandalous investigation of the New York Post - Derkach." It's by an individual named Gleb Ivanov, and it's dated October 16, 2020.

A Correct.

Q I'm guessing you have not seen this before?

1 A I do not recall --

2 Q Okay.

3 A -- if I have or haven't. Yeah. No, I can't recall.

4 Q The third paragraph on the first page says that, "according to the politician,"

5 which refers to Andrii Derkach, "the New York Post investigation reports information on

6 the laptop of the son of the former Vice President of the United States, while more

7 interesting information is on the second laptop, which appears in the Burisma case."

8 You see where it says that?

9 A Yes.

10 Q And then the article continues with a quote from Mr. Derkach. It says,

11 "Journalists are paying attention to the cheerful but not very legal life of Biden, Jr."

12 Goes on, and it says, "The facts confirming the international corruption are stored on the

13 second laptop, which, according to investigative journalists, was used by two

14 representatives of Zlochevsky's interests, Derkach reports." You see where it says that?

15 A Yes.

16 Q And then, on the next page, in paragraph in the middle, it says,

17 "Derkach" -- it's another quote from Derkach. It says, "The testimony of witnesses and

18 the wiring on the Burisma laptop will complement the data found on the American

19 computer, but the main thing is," exclamation point, "these are not the last witnesses and

20 not the last laptop, and Ukrainian law enforcement officers will have to investigate the

21 facts of international corruption. We will help them." See where it says that?

22 A Yes.

23 Q This article is dated October 16, 2020. The New York Post article was dated

24 October 14, 2020. So it's fair to say that, within 2 days of the New York Post article,

25 Andrii Derkach was telling the Ukrainian press that he had access to even more laptops.

1 Is that fair so say?

2 A According to this article. I don't have any --

3 [redacted] Right. She's just asking according to this article.

4 [redacted] Okay. Yeah. I don't have anything to suggest the voracity of the

5 article, but, yes, according to the article.

6 BY [redacted]:

7 Q Right. And earlier, a couple minutes ago, you said that Derkach was touting

8 all kinds of kompromat. What is kompromat?

9 A It's a Russian intelligence term of art that, you know, pretty generally

10 translates to compromising material in terms of being able to operationalize that.

11 Q And why do the Russians use kompromat?

12 A It's one of many ways that you can compromise an individual that then you

13 have some sort of hold over them to have them do things on your behalf. You know,

14 you can use a whole spectrum of being nice or being mean to try to get someone to work

15 for you. And this is sort of one of those dirty tricks of getting someone to work for you.

16 Q So, according to Derkach, he knew what was on the first laptop, and he had

17 more laptops to support the information on the first laptop. And this is the same

18 Derkach that was sanctioned for working as an agent of Russian intelligence because he

19 was engaging in covert influence operations to influence -- targeting the 2020 election,

20 correct?

21 A Correct.

22 Q I want to return to the 2021 ICA assessment? And can you turn to page 2?

23 And this is page 6 of the printout. But it's actually page 2, not Roman numeral II.

24 See where it says, "Kremlin direction of influence activity"?

25 A Yes.

1 Q Okay. It says, "We assess that President Putin and other senior Russian
2 officials were aware of and probably directed Russia's influence operations against the
3 2020 U.S. Presidential election. For example, we assess that Putin had purview over the
4 activities of Andrii Derkach, a Ukrainian legislator who played a prominent role in Russia's
5 election influence activities. Derkach has ties to Russian officials as well as Russia's
6 intelligence services." You see where it says that?
7 A Yes.
8 Q So the intelligence community assessment concludes that Derkach was
9 acting at the direction of Vladimir Putin, correct?
10 A Lower, it clarifies that the intelligence community will assess that he would
11 not act without receiving at least tacit approval.
12 Q Okay. And is this consistent with your understanding of how Derkach
13 operated?
14 A Within sort of the confines of this document, yes.
15 Q What do you mean within the confines of this document?
16 A An intelligence assessment is a snapshot or a window into all activity. I just
17 want to make clear I'm not speaking to any other things that I knew at the time or that
18 went into this assessment or anything like that. I agree with the language of the
19 document. I had to review it and approve it, basically. But I just don't want to speak
20 to other things.
21 Q Was the FITF concerned by Andrii Derkach's efforts to influence the 2020
22 election? Was it something that rose to the attention of the FITF?
23 A Yes. Absolutely.
24 Q And why was that?
25 A I don't know that I can --

1 [redacted] Certain elements of the topic that you just raised relate to classified
2 information the witness cannot speak to in this context beyond really the way it's
3 characterized in this ICA document.
4 [redacted] I mean, I can point to the indictment or the sanctions, and say like
5 we -- we were aware of those activities, and they constitute enough for us to open an
6 investigation into that activity. Obviously, with the end state of having an indictment,
7 we had an open investigation on that because of that underlying activity and others.
8 BY [redacted]:
9 Q Okay. So there was an open investigation into this issue writ large?
10 A Yes.
11 Q Turning back to the section -- I'm sorry; the key judgment two, to the very
12 last line of key judgment two, reads, "A key element of Moscow's strategy this election
13 cycle was its use of proxies linked to Russian intelligence to push influence narratives,
14 including misleading or unsubstantiated allegations against President Biden, to U.S. media
15 organizations, U.S. officials, and prominent U.S. individuals, including some close to
16 former President Trump and his administration."
17 What's your understanding of what the term "proxies" means here?
18 A In this case, it sort of speaks to the covert side of influence operations in that
19 you use an individual, witting or unwitting, to do your actions by proxy.
20 Q Okay. Would Andrii Derkach qualify as a proxy?
21 A I'm not trying to be difficult, but I'm -- if he's characterized that way in the
22 ICA or the indictment, then I agree be that. I just don't want to speak to things outside
23 of those two sort of documents -- well, I suppose the sanctions, the indictment, and the
24 ICA, information outside it -- if he's characterized as a proxy in those, I agree. I just don't
25 want to use terms of art that may or may not be true.

1 Q But it's true that Andrii Derkach was pushing influence narratives, correct?
2 A Correct.
3 Q Okay. And this sentence says that, "proxies linked to Russian intelligence,"
4 Mr. Derkach was linked to Russian intelligence, correct?
5 A Correct.
6 Q It says, "to push influence narratives." You talked through that.
7 "To U.S. media organizations, U.S. officials, and prominent U.S. individuals,
8 including some close to former President Trump and his administration?"
9 To your knowledge, was Rudy Giuliani an individual close to former President
10 Trump and his administration?
11 A It kind of speaks to, again, of what's in the documents I can speak to. And
12 the fact that he's not mentioned in any of these that I recall. A reasonable person would
13 say that he was close to President Trump being, you know, his personal attorney at some
14 period of time. But I'm not sure that he's mentioned by name, so I can't really connect
15 the two.
16 Q Okay. Understood. All right. I'm going to move on from those
17 questions. And I actually want to return to the no comment discussion that we had
18 earlier because I had a couple questions that I didn't ask you in that go around.
19 There's been an allegation made that, when the FBI said "no comment," that the
20 social media companies began to do precisely what the FBI intended, was to suppress
21 truthful First Amendment protected speech less than 3 weeks before the Presidential
22 election.
23 When the FBI said "no comment" in response to questions, was the goal of saying
24 that to suppress truthful First Amendment protected speech?
25 [redacted] Can I characterize discussions about this?

1 [redacted] Yeah.

2 [redacted] That sort of activity would be our nightmare of having some sort of

3 chilling effect on First Amendment activity, which is why I felt so driven to provide more

4 information so that that would hopefully not happen, that we were not somehow at fault

5 for some activity like that?

6 BY [redacted]:

7 Q Okay. The allegation has been made that the New York Post story was not

8 Russian disinformation and FBI personnel at a meeting with Twitter and Facebook knew

9 at the time that it was not Russian disinformation. That's an inaccurate statement,

10 correct? You didn't know one way or another if it was disinformation?

11 A That is accurate. We did not know if there were elements of Russian

12 disinformation involved in that story, correct.

13 Q You want to do these questions? Yeah. Go for it.

14 Do you have anything to add?

15 A I don't think so no.

16 Q I will it turn over to [redacted] for some wrap-up questions.

17 BY [redacted]:

18 Q I just have a couple broad questions. In your experience, has FITF operated

19 in the same manner in both the Trump and Biden administrations?

20 A I can't speak broadly under the Biden administration. I left pretty quickly.

21 I definitely had some engagement with the Biden administration. I certainly -- I suppose

22 I can say that there wasn't sort of a wholesale change in direction, strategy, anything like

23 that. The FITF operates the same way regardless of who's administration or who's in the

24 NSC and those sort of things.

25 Q Have you ever seen or heard anyone from the White House in either

1 administration, in any administration attempt to exert political pressure that would
2 influence the work done by FITF?
3 A Not particularly to sort of the day-to-day operations of the FITF. I would
4 say, yeah, pretty typically anyone who I interacted with from either administration didn't
5 sort of try to coerce the FITF to change their behavior or anything like that. There was
6 absolutely sort of policy discussions and things like that with both administrations and
7 disagreements at times and things like that, much like with the ICA. So it's hard to say
8 there wasn't any sort of exert influence. That doesn't necessarily in my mind come to a
9 negative connotation. There was absolutely discussions about policy and strategy all the
10 time in both administrations.
11 Q I think my question was more towards political pressure. Like was there a
12 certain political ideology that was used to coerce FITF into doing something?
13 A No.
14 Q Have the decisions that you've made as an FBI employee ever been
15 influenced at any time by partisanship, ideology, or political considerations?
16 A Like me personally?
17 Q Yes.
18 A No, not at all.
19 Q Have you ever witnessed other FBI employees appearing to make
20 work-related decisions in a manner that is motivated by partisanship, ideology, or
21 political considerations?
22 A I don't like the term "political considerations." In a partisan manner? No.
23 But I think political in my mind could mean some different things, and it's kind of
24 nebulous term to me. But, generally, no, the FBI -- our authorities are applied
25 objectively at least in my experience.

1 Q As a result of this investigation, has your name and information become
2 public as a participant in the FITF for participating in these meetings?
3 A Yes, I believe so. I can think of one instance, maybe two.
4 Q As a result of that, have you or our family ever received threats?
5 A Not that I'm aware of, but I may not be aware. I'm not on social media and
6 those sort of things broadly that I may not be aware. But, yeah.
7 BY [redacted]:
8 Q Your name's been made public through these investigations. Has that had
9 any impact on you?
10 A Hard to say. It's certainly a little unsettling. I may take it a little
11 differently than some people in that I find it sort of inherent with the role. There's all
12 sorts of times where my name becomes public associated with investigations and things
13 that I've done and associates me with the FBI, that I think, whenever I'm associated with
14 the FBI, there's an inherent possibly of threat of people that wish to do law enforcement
15 harm. So it's hard for me to sort of separate the two. But, yes, it's unsettling to have
16 your name, you know, kind of publicly associated with your investigations in a negative
17 light.
18 Q Are you familiar with what doxing is?
19 A Yes.
20 Q Have you faced doxing?
21 A Somewhat. My home address and my wife's name were added sort of
22 publicly, associated with this.
23 Q Where were they added?
24 A I'm sorry. What did you say?
25 Q Where were they publicized?

1 A I think on X. I believe it was an X posting with my wife's name and address.

2 I don't think my full home address. I think it was more city, State, kind of thing.

3 [redacted] Thank you. We can go off the record.

4 [Recess.]

[3:01 p.m.]

[redacted] Back on the record, please.

BY [redacted]:

Q [redacted], we've talked a little bit about the intelligence analysts who responded the laptop was real and the first FITF meeting with Twitter?

A Yes.

Q Did anyone after the meeting tell [redacted] that he shouldn't have said that?

A I don't recall specific discussions. I think likely I probably did. Our OGC attorney probably did, but I don't recall any discussions of that nature.

Q To your knowledge, did he receive any sort of formal reprimand or anything?

A Not to my knowledge, but I might not know about that.

Q I wanted to turn back to a little bit about the three to five briefings you had mentioned that touch upon Hunter Biden and potential ongoing investigations. Your earlier testimony, this was back in like the first hour, that you couldn't recall specifically, but the first meeting -- I think your words were it almost certainly or very likely occurred before COVID had started.

Of the three to five, do you remember when the last one occurred?

A I don't remember a reason I would have stopped receiving briefings up to the time I left the FITF. So it's hard for me to say that there's not like some sort of event that would have happened that I stopped getting briefings other than when I left to go to Atlanta. It's hard to guess when that would have been.

Q The briefing that touched upon the existence of a laptop, there was some back and forth. I can't remember if it was the previous hour or earlier about that it's

1 easier to verify a single piece of information than going through the whole process of
2 verifying or authenticating a laptop.
3 To your understanding, had members of the case team verified pieces of
4 information on the laptop?
5 [redacted] I need to confer with the client for a minute.
6 [redacted] Can we go off the record, please?
7 [Discussion off the record.]
8 [redacted] Back on.
9 [redacted] I think there may have been something in the question that causes
10 me some pause about briefings about the laptop. I don't recall any briefings about the
11 laptop. I got broad briefings about the case, and I'm pretty certain there was briefings
12 about the laptop in one or maybe several of those briefings. But I don't know that I ever
13 got a briefing on the laptop specifically. I mean, I don't recall that I did. Yeah. Just
14 wanted to clarify that there wasn't like one briefing that was all about the laptop.
15 BY [redacted]:
16 Q Thank you for clarifying that. In the one or more briefings where THE
17 existence of a laptop was mentioned as part of the briefing -- is that fair to say?
18 A Yes. I think that -- yes. I don't remember which one the laptop was
19 mentioned or sort of details about it. Go ahead. Sorry.
20 Q In the one or more meetings where a laptop is mentioned, whether in that
21 meeting or in subsequent meetings, was any information shared with you regarding
22 whether pieces of information on that laptop were --
23 [redacted] He wouldn't be able to get into the pieces of the laptop. He's
24 only authorized to talk about the existence of the laptop, not the authentication process.
25 [redacted] Well, he provided an answer earlier about what he knew or didn't

1 know about the laptop's authentication, but he can't answer questions about the pieces
2 of information on the laptop?
3 [redacted] He can't answer questions about information that was provided
4 to him that is part of an ongoing investigation.
5 [redacted] So he can only answer if he wasn't provided the information?
6 [redacted] His answer was cabin to whether or not he had direct knowledge of
7 the status of the authentication, which was built into some of the mischaracterizations in
8 your earlier questions. That's different than him speaking to certain specific
9 investigative steps they might have been taking at this time and whether or not those
10 were acknowledged in the briefing, which, as [redacted] indicated, we scoped as off the top.
11 We're not authorized to speak to the specific comments that may have been made in
12 these meetings.
13 [redacted] Okay.
14 BY [redacted]:
15 Q When the tech companies are asking "is the laptop real" on October 14,
16 right, the question here is the New York Post lays out allegations about the Biden family,
17 influence pedaling specifically, Hunter Biden, and claims that there are emails in support,
18 that these emails are evidence of potential corrupt acts.
19 To your understanding, when the tech companies are reaching out asking if the
20 laptop is real, were they trying to get at whether the FBI had any evidence about whether
21 the pieces of information in the article were manipulated in any way or whether those
22 were authentic?
23 A I can't speculate on what the social media companies were trying to
24 determine, and I don't know that I recall them asking if the laptop was real. I sort of, to
25 Chairman Jordan's phrasing of that's probably what they asked if the answer was it's real,

1 but I don't remember like what they asked to bring that question on specifically. So it's
2 hard for me to speculate about that.
3 Q How many internal FBI threads were you able to review from the 14 as part
4 of your preparation for this interview?
5 [redacted] I'm able to address that I reviewed all of it, right, as long as I don't go
6 into the contents of them?
7 [redacted] If you're referring to the in camera link production we provided you
8 yesterday, he did review those.
9 [redacted] Did [redacted] review other materials from the 14 that were not in that
10 production?
11 [redacted] I don't feel comfortable speaking to the specifics of what the client
12 reviewed to prepare for this interview, but if you have specific questions about
13 documents that have been produced to the committee, we would be happy to address
14 those.
15 [redacted] We've had other discussions, and we can talk after the interview, but
16 internal communications from that day, however many there are, are a top priority in
17 order to be able to supplement what witnesses we brought in, their testimony, and
18 inability to recall certain specific pieces of information.
19 BY [redacted]:
20 Q Once you reached out to -- or you said it was very likely you reached out to
21 the case team after the New York Post story broke, were you able to get in touch with the
22 case team that same day?
23 A The timeline of it is hard for me to recall like when I spoke with them.
24 Yeah. I'd be speculating if I told you like when it was.
25 Q With the understanding -- you don't have a specific recollection it occurred

1 at this day -- do you remember the order of events? Would you have heard back from
2 the case team prior to your followup communication that we talked about in the second
3 hour that the FBI was not in possession of evidence?
4 A I don't know that I could speak to the timeline of events at that time. But I
5 likely would not have passed information responsive to investigative steps to companies
6 much. Like I can't speak about it in general.
7 Q If the case team that had the laptop was in possession of the laptop, may or
8 may not have been taking steps to authenticate pieces of information on it, and may or
9 may not have been taking steps to authenticate the laptop, if they had identified any
10 pieces of information that appear to have been manipulated by a Russian actor, would
11 you have been able to still have given the followup statement you did to the social media
12 companies on the 14?
13 [redacted] I think just built into your question is the notion of his statement,
14 which he has repeatedly testified to today, was specific to hack-and-leak concerns. And
15 I think the way your question is framed is coming from a Russian-influence,
16 disinformation angle so just noting that for the witness.
17 [redacted] You've already testified that you didn't know one way or the
18 other on the disinformation; that wasn't the point of the statement, right?
19 [redacted] Yes, that is true. I was not aware one way or the other if there
20 were elements of any of this that were part of a Russian disinformation campaign. I
21 wouldn't have needed to speak to the case team to tell them that the -- it likely wasn't
22 hacked since I knew we were in possession of a hard drive or a laptop that was
23 associated. So the information I provided was sort of not contingent on investigative
24 activity at that time. So what I communicated to them, whether or not I did it after I
25 talked to the case team, I think isn't pertinent in this case.

1 BY [redacted]:

2 Q If you could just take one step further. So, when you say, because there
3 was possession of a laptop, you felt comfortable saying it wasn't hacked; why were you
4 comfortable being able to make that connection?

5 A Sometime prior to my followup conversation with those social media
6 companies, I was aware that it was in our possession. Therefore, I knew we didn't come
7 through it from some sort of hack operation that we obtained it as evidence of that
8 operation. We obtained it as now known how we obtained it and had a physical copy of
9 that. So that's really all I knew at that time that I was comfortable sharing that didn't
10 involve getting information from the case team that I felt communicated what we knew,
11 not what we were speculating on or what we thought might be. We knew it was not
12 hacked material, and I wanted to communicate that to the social media companies.

13 [redacted] How did you become aware that it was in the FBI's possession?

14 [redacted] As I spoke to earlier one of the sort of three to five briefings
15 that I -- somewhere in that realm -- received from the case team, I'm sure that was
16 brought up as sort of an investigative update at some point, and that's how I became
17 aware.

18 BY [redacted]:

19 Q If there were evidence of Russian disinformation on the laptop in the FBI's
20 possession, is that something you would have likely been briefed on?

21 A Yeah. I think I'd be speculating there. I don't want to speculate on what I
22 would have done had something happened. I mean, generally, headquarters doesn't
23 know everything going on investigatively in the field, especially on details like that. It's
24 possible. It's also possible that they don't tell me. It's really up to that case team.

25 Q So, after the 14th, then you make the followup statement. After that

1 followup statement, do you recall whether social media companies continued to follow
2 up with you or other members of the FITF?
3 A Yes. I do know that there was at least one occasion where one of the
4 articles -- I don't remember which exhibit it was entered -- but that article was forwarded
5 to me from one of the social media companies asking if I was aware and if that somehow
6 changes our posture.
7 Q Did you respond?
8 A I believe I did. I don't recall the contents of it, but it probably would have
9 been my standard response that we came up with of "I've told you everything I can tell
10 you on this matter," because that was, from the time I told them that we don't have
11 anything to suggest it was hacked, that was my answer to everything else from then on.
12 And then, broadly, with tech companies and social media companies, it was "no
13 comment" other than that select group that I'd spoken with previously.
14 Q Do you remember which company was the one that had reached out with
15 one of the articles that was a previous exhibit?
16 A It was Facebook.
17 Q Did your statement, as you had prepared it, touch upon at all whether an
18 ongoing criminal investigation -- let me rephrase it.
19 Did your statement, the followup statement, did it touch upon at all whether
20 there was an ongoing criminal investigation related to the laptop?
21 A No. That would have been another policy violation had I told them, "yes,
22 we have an ongoing criminal investigation."
23 Q To your understanding, did anyone else besides [redacted] reveal either
24 the existence of the laptop or the existence of an ongoing criminal investigation?
25 A Not me and not in my presence.

1 Q Understanding it wasn't you or in your presence, did you ever hear of
2 another instance where someone shared something with the social media companies?
3 A No. I hadn't heard of anyone doing it either.
4 Q How many OGC attorneys were assigned to the FITF in 2020?
5 A That was somewhat of a dynamic number. There were -- there was a time
6 there was one, and I believe we eventually try -- we had slots for three. But I don't
7 know that we ever had more than two, and that's multiple people filled those roles. So,
8 in total, there was probably three or four attorneys that at some point were assigned to
9 some element of the FITF.

1

2 [3:16 p.m.]

3 BY [redacted]:

4 Q How many of those attorneys would attend the bilateral FITF meetings?

5 A Again, it's hard for me to talk about who was in what meetings, but I'm

6 nearly certain any OGC attorney that was assigned to the FITF attended at least a meeting

7 with social media companies. That was one of their kind of primary roles. So I feel

8 comfortable saying they probably all attended at least a meeting, if not lots of meetings.

9 Q Was [redacted] one of the attorneys in fall of 2020?

10 [redacted] We're not going to comment on non-SES names, as we've indicated

11 repeatedly throughout this interview.

12 [redacted]. Did [redacted] say no comment on the same call that [redacted]r

13 [redacted] said the laptop was real?

14 [redacted] I can't comment on non-SES employees.

15 [redacted] When we're outside of this transcribed interview, [redacted], will you talk

16 offline with us about this?

17 [redacted] I'm happy to speak with you about the accommodations process

18 whenever you'd like, so sure.

19 [redacted] What exhibit number are we on? Twelve?

20 [[redacted] Exhibit No. 12

21 was marked for identification.]

22 [redacted] Exhibit 12 is an internal Facebook communication. It was produced

23 to the committee.

24 [redacted] [redacted] Looks like it was produced from the FBI.

25 [redacted] If you turn to Bates No. 55260, there's a post, a written statement

1 from [redacted]

2 [redacted] Can I just ask you a question? The redactions released in the

3 original, do you know if they are redactions you guys did?

4 [redacted] I'm fairly confident that these redactions were made by Meta. If it's

5 not, we'll clarify on the record later.

6 [redacted] It just would be unusual if the watermark were redacted, like on

7 page 552.

8 [redacted] We'll get back to you.

9 BY [redacted]:

10 Q The second to last sentence by [redacted] says that, "Chang advised that

11 he was up to speed on the current state of the matter within the FBI and there was no

12 current evidence to suggest any foreign connection or direction of the leak."

13 First, that last half of the sentence, "there was no current evidence to suggest any

14 foreign connection or direction of the leak," is that consistent with what your follow-up

15 message was, to your recollection?

16 A It's similar in nature. I feel fairly confident that there was an element of

17 hack in the statement that I delivered. But, I mean, maybe playing a game of telephone,

18 he didn't, you know, transcribe verbatim what I said, just like I can't remember verbatim

19 what I said, but certainly similar.

20 Q Do you know how -- let me take one step back.

21 Do you recall ever briefing Elvis Chan after you had made the follow-up statement

22 about what information you were sharing with the social media companies?

23 A I don't recall looping him in on that.

24 Q To your knowledge, was anyone from the FITF looping in Mr. Chan?

25 A I wasn't. I was not aware of anyone else doing it and hadn't heard even

today that anyone else had looped him in.

[redacted] Okay. And we can take those back.

Also, just confirming that exhibit 12 was redacted as -- the redactions were made by the company and that's how it was produced to us.

[[redacted] Exhibit No. 13 was marked for identification.]

BY [redacted]:

Q Exhibit 13 is a October 15th, 2020, email chain between the FBI and Facebook.

A Okay.

Q First, do you recall this follow-up outreach from Facebook?

A I do not.

Q Whether specific to the instance that Elvis Chan's referring to in the email chain about closing the loop or just more generally, do you recall any instances after the New York Post story came out where Mr. Chan asked you for an update or briefing so that he could provide one to the social media companies?

A That typically wasn't the order of how we would do business, but I don't recall specifically. Normally -- I don't recall a time where I briefed Elvis for him to then brief the social media companies. I would possibly ask him to set up a meeting and then I would brief them, but I don't recall a time that I would do that.

Q So just at least based off the email chain, it appears that Elvis Chan had a call with [redacted]. And we don't -- you don't appear to respond on this email chain, but you're copied throughout.

Would Elvis Chan have had the authority to provide that sort of update and that sort of call without checking with you or someone else from the FITF?

1 A Sometimes in the -- he ran a Russian cyber squad at the time, and
2 concurrently with kind of all this activity, there was lots of cyber type activity. So it was
3 not unheard of that Facebook would reach out to sort of both Elvis and the FITF, making
4 sure we're all kind of looped in.
5 So I -- it's hard to say what this specifically was about. But if Elvis handled it,
6 normally that would mean it was a cyber -- cyber thing, that he has more expertise than I
7 do. I'm not really the cyber guy.
8 Q Okay. Did you work with [redacted] when he was at the FBI?
9 A I did.
10 Q In what context?
11 A Early on in my career, a Russian speaker sort of community in the FBI's fairly
12 small. Worked together a lot. I used him on a couple of my investigations when it's
13 helpful to have a Russian-speaking agent. He's a fluent Russian speaker and used him.
14 And then eventually he also helped during a trial, testifying as a witness to some of those
15 interviews, since he was conducting it mostly in sort of native Russian.
16 And then he also was one of the people who sort of pulled me onto the FITF,
17 asked me to come join the FITF. There was a time where he was acting unit chief of the
18 FITF when it was first stood up.
19 Q Had he left the FITF by the time you became acting unit chief?
20 A Yes. I don't know if it -- for the timeline, there was at least one acting after
21 him prior to a permanent one and then me. So there was a couple between us.
22 Q Who was the acting one between him and you?
23 A There was three, I think, to my best knowledge, of -- like more than a day or
24 two, but like long-term of -- or two between him and the permanent one prior to me.
25 And I'm pretty sure none of them are SES employees or previously SES employees, but I

1 can refer to their titles.

2 Q Was [redacted] on most of the FITF calls as a representative from

3 Facebook?

4 A Depending on the threat. He worked on the Russian threat intelligence

5 team. So if we had -- and he was even sort of specialized to Russian cyber type things

6 but, being that there's that relationship, that he would often be kind of the POC for

7 Facebook to find the relevant POC if he was not it just due to the fact that we were

8 familiar.

9 Q On the 14th and the days immediately following, did he share with you or

10 others in the FITF what steps Facebook was taking in the interim about the story?

11 A I don't recall anything. Typically, when we kind of say no comment,

12 there -- it would be awkward for them to then share a bunch of details about what

13 they're doing. It kind of tended to shut off that line of discussion and move on to the

14 other business. But I don't recall specifically them sharing what they were doing.

15 Q Uh-huh. To your understanding at the time, did Facebook have a

16 hack-and-leak or related policy?

17 A Yes, I was aware of some of their policies that could sort of result in them

18 taking action against certain accounts.

19 Q Do you recall if there were any discussions about that policy at any point in

20 the bilateral Facebook-FITF meetings?

21 A Like ever?

22 Q Yeah.

23 A Specifically hack-and-leak or policies in general? Probably both. That

24 makes it easier.

25 Q If you could say a bit more. We'll start first with the policies related to

1 hacked materials. What were those discussions?

2 A They were somewhat reticent to discuss their policies with us. But, I mean,

3 their policies are published for public consumption, So we were generally aware of them.

4 But occasionally it would be more of a we would pass them indicators. I can

5 think of specific times we'd pass them indicators, and they did not take action. And

6 sometimes they would tell us, We don't have a policy reason to, you know, remove or

7 take action against any of these accounts.

8 So there was some general discussion of policy all the time but not really a lot of

9 back-and-forth about the policies.

10 Q At any point during the Facebook-FITF meetings, did Facebook ever provide

11 like a briefing or a description of what their policies were?

12 A Occasionally, if they had a new policy and they published it or something like

13 that, they may discuss it briefly, say, hey, we started this new policy.

14 I'm trying to think of one specifically that they may have published, but nothing

15 comes to mind specifically. But certainly they would discuss it occasionally.

16 Q Did they ever discuss the hacked materials policy in the sense of what would

17 or would not be covered by the policy?

18 A Probably in broad strokes. I don't recall the specifics of, you know, how

19 in-depth. But they probably didn't read their policy to us, but I probably read their

20 policy. So it's hard for me to know, like, what do I know about their policies from them

21 and what do I know from what I've read online.

22 But I can recall times there was general discussions about broad categories of

23 policies that they had, that they could take action through.

24 Q Were there ever broad discuss -- when identifying different potential risks of

25 foreign threats or whatever it might be, was there any broad discussion about how social

1 media companies would react or respond to those risks under their policies at the time?
2 A I don't recall at least in-depth discussions about that. Yeah, it's hard to
3 remember a time that there was like detailed discussions about how they would react.
4 Certainly some discussion of it. I just don't recall some of the specifics.
5 Q Based off your recollection, at some point there were discussions about the
6 risk of a hack-and-dump or different terms for it and then also recollection that there
7 was, again, at least some high-level discussion of their hacked materials policy.
8 Was there any discussion of where, if those two were discussed in the -- at the
9 same time, if there was this risk, how would that apply to your hacked materials policy?
10 A I don't want to speculate. I don't recall specific discussions like that of like,
11 if this happens, then we'll do this. I don't recall much of that.
12 If there was discussion of that, it probably wasn't really intended for us either.
13 Most of our meetings tended to focus and be kind of tight. We usually had a tight
14 window and moving to other companies, and we kind of kept to what we had planned to
15 deliver.
16 And how they reacted to information we delivered to them, they would often kind
17 of caveat us the same way we'd caveat them, that they're not comfortable sharing how
18 they reacted to information we give them and that they sort of have a proprietary
19 process of how they conduct threat intelligence. And they protected that quite a bit,
20 especially when -- if it was a meeting kind of with other companies and that sort of thing.
21 Q Do you remember, for the -- for the meetings with other companies and
22 other agencies, whether any other government agency asked how a company's hacked
23 materials policy would apply if a hack-and-leak operation were to occur?
24 A I don't recall specifically, but I think it would be even less likely in that setting
25 due to the problems I addressed in that they really didn't like talking about anything

1 proprietary when other companies were in the room. So it'd probably be less likely in
2 that sort of setting.
3 But I can see how, you know, someone would ask that sort of question of them.
4 I just would not see them answering that with competitors in the room.
5 Q In the bilateral FITF meetings, do you recall any instances specifically of
6 where indicators or something that's provided to them and they said their policies -- they
7 didn't have a policy interest or their policies didn't address it, if they ever later developed
8 policies to cover those sorts of examples?
9 A Nothing that I can think of. We -- we certainly steered away from any sort
10 of collaboration on policies, both -- from both sides. So that sort of discussion seems
11 unlikely just due to the fact of both of us being reticent to, you know, collaborate in any
12 way on policies.
13 I remember them -- and I don't remember them ever developing a brand new
14 policy, more of like tweaking old policies to address how threats change. But we rarely
15 even met with their policy teams. I remember a couple of times meeting with policy
16 teams or that policy teams were present for some meetings, but typically we met with
17 the Threat Intelligence teams which are investigators on their platforms and used their
18 tools to investigate things on their platforms.
19 And so it wouldn't -- it -- it really wouldn't be that likely that the FITF would
20 engage on sort of a policy level. That was usually the higher-level meetings with other
21 government agencies in which they would not discuss their policies due to proprietary
22 reasons.
23 Q Do you recall which companies had meetings with the FITF where at some
24 point they brought on their Content Moderation Policy team members?
25 A Yeah, I think I had the same question of like, how do you characterize

1 content moderation? I don't know that there's a technology company that doesn't have
2 some form of content moder- -- I just don't know how to, like --
3 Q I'm just trying to make the --
4 A -- scope that question.
5 Q -- the distinction you made between kind of the investigators --
6 A Yeah.
7 Q -- who are investigating threat actors. And you said you recall a few
8 examples where -- I think you referred to them as policy folks.
9 A Yeah.
10 Q So let me take one step back. When you're referring to that other category
11 of tech employees, what was your understanding of what their role was in the company?
12 A The policy people or the --
13 Q The policy people.
14 A My understanding of policy people in the company's role, just kind of by
15 following their policies and reading their policies that they publish online, is they sort of
16 take the tactical information from the investigators in their -- in their company and use
17 that to scope their own -- scope and edit their own policies so that they have the tools
18 they need to apply to maintain the integrity of their platforms.
19 Q And so that'd be policies related to, like, inauthentic behavior?
20 A Yes.
21 Q Do you remember any of the specific individuals who worked on companies'
22 policies who attended a FITF meeting?
23 A Yes. I don't know. Like --
24 [redacted] I think you're fine --
25 [redacted] Can I --

1 [redacted] -- to say the --

2 [redacted] -- name names?

3 [redacted] -- names of the employees.

4 [redacted] Okay. One in particular I'm thinking is [redacted] at

5 Facebook. I think he had policy in his title. So I can say confidently that he had

6 something to do with Facebook policy.

7 Some people we dealt with, it was almost like elevated to that role, because a lot

8 of times Policy would kind of sit above Threat Intelligence. So sometimes as they

9 promoted, they'd start to get into more of a policy role.

10 But other than [redacted], I'm not -- and I don't remember his title exactly

11 but it was something like, you know, executive for Policy or something like that, and

12 that's why that one stands out.

13 But there's a couple of -- and all of the companies are different, which makes it

14 challenging to sort of identify who was where, and they all kind of have nebulous titles.

15 BY [redacted]:

16 Q That's fair. We've talked a few times in a few rounds about the hack that

17 occurred in 2016, like the DNC.

18 During your time in the FITF, do you recall any sense of when the companies or if

19 the companies began to develop policies specific to handling hacked materials?

20 A From my best recollection, they had hacked policies before I started

21 engaging with them and probably before the 2016 DNC hack. I think to them that was

22 one of their probably more developed policies.

23 Q Do you recall any examples in the lead-up to the 2020 election where there

24 was discussion of how their policies would apply if there was a similar type of hack?

25 A Not -- not specifically. Again, we didn't really engage much on policy.

1 There was definitely some discussions of it, but it wasn't something that we wanted to
2 draw out of them, and they didn't want to tell us. So it wasn't something that naturally
3 would come up frequently.
4 Q We had talked in the first round, I think it was, about -- when describing
5 previous examples of hack-and-leak, of how that information was disseminated and
6 whether it was WikiLeaks or other means. When sharing that information, was there
7 ever any discussion about how that information could circulate on social media?
8 A You mean like when things get leaked or dumped --
9 Q Yeah.
10 A -- discussion of how that would move through social media, like, across
11 platform, or what are we --
12 Q Just any reference to it.
13 A Certainly some, but always rooted in tactical things that we had witnessed
14 and had some way to share that.
15 Specifically, I'm thinking of the indictment about the 2016 hack. That was
16 always -- whenever there was something indicted, that makes it easier for us to share
17 that information of like how that occurred, because it's then either unclassified or it's no
18 longer an ongoing investigation.
19 So I'm certain that we had some discussion of sort of how the 2016 hack went,
20 how other possible hacks went, and how that. -- as I said, there was -- there's units that
21 their whole job, they had different parts of that. And we tried to share the tactical
22 information about how that second half of the unit kind of proliferated that information
23 through here's their static IP address, here's their VPN provider, those sort of things.
24 And we considered that as sort of an indicator of compromise that was valuable to
25 companies so that we don't know how it flows, necessarily, from which -- where it starts

1 on the internet and how it goes through different social media companies. But
2 providing that allows them sort of a -- I don't know what else to call it, but sort of like a
3 first warning of like, hey, if we see this on our platform, we know that's this unit or this
4 entity that FBI told us, you know, shared information and we know to be on the lookout
5 for that and continue to monitor our platform.
6 So kind of a long-winded answer of -- kind of.
7 Q Was there anyone on the FITF that had -- let me rephrase that.
8 Who on the FITF had the best expertise when it came to understanding the
9 hack-and-dump operations?
10 A The FITF had a number of people, both special agents and intelligence
11 analysts, that were assigned to the Cyber Division and, you know, placed on the FITF or
12 under the FITF's purview but still assigned to the Cyber Division. So we leaned on them
13 broadly, but we often also engaged with Cyber Division so that field agents that worked it
14 were -- they would help us when we need it, bail us out.
15 Q Was there -- when talking about the risk of hack-and-leak or hack-and-dump,
16 was there a discussion of timing of, like, when it was likely if such an operation would
17 occur?
18 A I don't call -- recall specifically. But sort of to what I mentioned earlier, we
19 often rooted things in things that happened in the past or things that we've spoken
20 through our judicial process and having indictments. So I can think of times where it's
21 happened in the past that we would probably refer to that timing as being, you know,
22 they use this timing before. That's likely when we kind of feel that they've done it in the
23 past. That's our best example of when we think they'll do it in the future, unless we had
24 direct intelligence otherwise.
25 Q And can you provide an example of what sorts of timing had been seen in

1 the past?

2 A Not off the top of my head. A lot of the cyber stuff, the hack-and-leaks is

3 just not kind of in my expertise. And just off the top of my head, I can't really speak to

4 that.

5 Q Do you recall any instances where there's discussion of the risk of an

6 October surprise or a hack-and-leak, hack-and-dump occurring shortly before the

7 election?

8 [redacted] Let me consult with the witness for a minute.

9 [Discussion off the record.]

10 [redacted] Can you restate the question? Sorry.

11 BY [redacted]:

12 Q Sure. Were there bilateral FITF meetings in 2020 that talked about the risk

13 of an October surprise or the timing of a hack-and-leak or hack-and-dump operation

14 shortly before an election?

15 A I think generally this topic or this type of topic speaks a little bit to what I've

16 referred to previously as we had some discussions like this, but typically FITF would not

17 sort of start or engage in discussions like that because we were always kind of rooting it

18 to the actors rather than -- you know, there was often questions like this. But we

19 typically tried to keep it to technical information about the actor when we would share

20 information with them rather than kind of like that type of detail.

21 I also mentioned earlier but worth re-noting in this context of we were not

22 hyper-election focused, except for around the elections, obviously. There was all sorts

23 of operations that we were constantly trying to mitigate that weren't so focused on the

24 election. I mean, the election was clearly a big event for us and an important thing for

25 us to keep an eye on, but we quickly found that foreign malign influence is not solely

about elections. It's every day, all the time.

Q So with the understanding that there are operations ongoing to all the time and the FITF is there whether it's an election cycle or not, do you recall any discussions in 2020 about the timing or the risk of hack-and-leak or hack-and-dump operations shortly before the election?

A I don't recall, like, an incident specifically. But I wouldn't doubt that a topic like that was discussed at some point.

It's just we really tried not to get into that type of thing because we felt like that could be -- that could limit someone's capability to fully appreciate the threat if you tell them like, look for October, it's going to happen in October, because it happened in the past, when we felt strongly that things happen all the time. Here's who the actors are and the infrastructure they're using. Go after that.

And sort of to the same point earlier of being more efficient to go after the entire network, rather than a single node or a single element of something, just try to mitigate the actor from the front side and it's much more efficient.

[redacted] This is going to be -- this will be exhibit 14.

[[redacted] Exhibit No. 14

was marked for identification.]

BY [redacted]:

Q This is an excerpt of an internal communication from Meta that was produced to the committee. I'm only going to ask about one passage, but we'll give you time to review.

A Okay.

Q First, of the names that are making the post on this, do you recognize any of those names?

1 A I recognize Nick Clegg. I'm not sure that I ever met him. And I don't
2 recognize any other names and have not met anyone else on here, that I'm aware of. I
3 may have met someone and just I didn't know their name. I've probably met 50 people
4 at Facebook, ballpark.
5 Q Okay.
6 A So -- but none of these people were people that I normally communicated
7 with.
8 Q With the understanding you don't recall regularly communicating with them,
9 had you ever met [redacted] or does that name stand out to you?
10 A Not at all.
11 Q If I could call your attention to his post, it's about halfway down the page.
12 Date stamp is 10/14/2020. Timestamp's 12:45:15 PDT.
13 He shares a message, and there's two paragraphs. The start of the first -- or
14 about midway through the first paragraph, he says, "additional context from [redacted] from
15 the FBI meeting."
16 Were there any individuals from Facebook that would attend the FITF meetings
17 that you can recall that had the name [redacted]?
18 A Not off the top of my head, I don't recall a [redacted].
19 Q The second paragraph starts, "Officially, FBI said," quote, 'The FBI has no
20 information indicating foreign sponsorship, direction, or coordination of the Hunter
21 laptop issue.'"
22 To your recollection, is that statement the statement that you had provided or
23 close to the statement you had provided in the follow-up meetings with the tech
24 companies?
25 A It doesn't appear to be the same. I think there's a couple of things that are

1 what I would characterize as big differences, but I'm not sure if -- you know, I don't know
2 any of these people. So there may have been the same kind of game of telephone, and
3 it changes a little time each person tells it to the next person. But I have no way of
4 knowing if this was from me or from someone else. I'm not sure.
5 Q To your recollection, what are some of the material differences between
6 what's in this statement and what you recall telling the tech companies?
7 A I don't recall talking about foreign sponsorship, direction, or coordination.
8 That seems fairly specific in that it's not just kind of a change of a word or something like
9 that that doesn't wholly change the meaning.
10 I may be sensitive due to how deliberately I feel like I chose the language, but this
11 seems different than what I said in that, at least that portion of it.
12 Q Did your statement reference the laptop?
13 A I'm pretty sure, yes, it did.
14 Q Did your statement reference Hunter, Hunter Biden, or the owner of the
15 laptop?
16 A Likely or at least it was implied. Like, they knew the laptop I was speaking
17 of, but yes.
18 Q Again, with the recognition you're going off your memory here, based off of
19 what you recall your statement saying, are there commitments made in this statement
20 that you don't think you would have been able to make on October 14th?
21 [redacted] Can you rephrase that?
22 [redacted] Sure. So the statement here -- I'll just rephrase it overall.
23 Based on your understanding at the time, would the FBI have been able to make
24 this statement as it's written in this message?
25 [redacted] Can we confer for a second?

1 [redacted] Off the record.

2 [redacted] Can we go off the record?

3 [Discussion off the record.]

4 [redacted] Can we go back on the record?

5 [redacted] Yes.

6 BY [redacted]:

7 Q The statement as it's presented here in this message, based off your

8 knowledge at the time on October 14, 2020, could the FBI have made that sort of

9 commitment to a social media company accurately?

10 A I think the best way to address this is I did not say that. I don't know who

11 any of these peoples -- people are. I did not know at the time this information. I didn't

12 know one way or another if it was foreign misinformation related in any way.

13 At that point -- I don't remember what the date of this -- oh, it's concurrent pretty

14 much. I was not -- I didn't say that and I was not aware of that.

15 Q Who would have -- at the FBI had known this? Or let me rephrase it.

16 Who at the FBI on October 14, 2020, would have been able to make this sort of

17 statement?

18 A I did not say that, and I'm not aware of anyone saying -- I'm not aware of any

19 other conversations, outside of what we already discussed, about which social media

20 companies, other than the statement I made. So it's hard for me to speculate, like, who

21 could have said this or who would have said this. I only know about what I said.

22 Q Which task force or division within the FBI would have been capable of

23 assessing whether the information indicated foreign sponsorship, direction, or

24 coordination?

25 A I mean, to redirect that a little bit, the FITF would have been capable of sort

1 of assessing something like this. But at that time, I'm not aware of us assessing this.
2 Q Other than the FITF, who else in the FBI?
3 A It's hard for me to say. Yeah, I don't know who else would have or would
4 have felt that they could have. Not sure.
5 Q Would the case agents on the criminal investigation been able to comment
6 on that part of it?
7 A Do you mean --
8 Q Sorry.
9 A -- by policy or, like, capable?
10 Q Would -- just capable. Would the case agents on the ongoing investigation
11 have been able to assess by October 14th, 2020, whether the information indicated
12 foreign sponsorship, direction, or coordination?
13 A I don't know. And to even go into that, I think it would address sort of
14 ongoing investigation matters.
15 Q Would [redacted] have been able to assess by October 14, 2020,
16 whether the information indicated foreign sponsorship, direction, or coordination?
17 A I can't speak on his behalf. I don't know all the things he knew at that time.
18 Q If you were asked by someone within the FBI in fall of 2020 to assess
19 whether information indicated foreign sponsorship, direction, or coordination, who on
20 the FITF would you have been able to task?
21 A It's kind of speculative. I think I could have tasked anyone to attempt to
22 assess, and they probably would have pulled in a much broader team to assist with that.
23 I don't know that any one person would have been involved in something like that, if that
24 addresses that.
25 Q What sorts of skill sets would have been needed to make that type of

assessment?

[redacted] I think we're getting into the law enforcement sources, methods, techniques, privilege issues we flagged earlier.

[redacted] Can you comment at a high enough level whether you would have needed cyber or intelligence analysts or --

[redacted] I --

[redacted] I think we need to confer.

[redacted] Off the record.

[Discussion off the record.]

[redacted] All right. Can we go back on the record, please?

BY [redacted]:

Q I'm happy to ask the question again.

A Yes, please.

Q Okay. There's a statement here about whether the FBI's known for making -- the FBI has no information indicating foreign sponsorship, direction, coordination.

What sorts of skill sets or personnel from the FITF would you need in order to be able to assess whether information indicated foreign sponsorship, direction, or coordination?

A I think it's very hard to get into specifics with sort of a broad statement like that. Almost everyone on the FITF had some sort of skill sets that could potentially do this. But without more details, it's hard to speculate on that specifically.

And what I would -- sort of what I would need to decide this, it's -- I mean, the answer's the FITF and all the things we do. But it's hard to speculate further than that.

Q Do you recall on the 14th, whether it was the Twitter-FITF meeting or

1 Facebook-FITF meeting or one of the others, if there were any non-FITF personnel that
2 were on those calls, non-FITF FBI personnel?
3 A I don't -- we frequently had non-FITF FBI personnel. It's reasonable to
4 believe at a minimum Elvis Chan, maybe some people from his squad, depending on if we
5 were talking about Russian cyber threat actors. And then additionally, there's -- there's
6 a whole host of other people in the field that we may have brought in. And I don't
7 remember that one specifically, like, what was on the agenda and who attended. But
8 there may have been non-FITF FBI personnel on the call.
9 Q The end of the post we've been looking at says -- there's three dots and it
10 says, "on the side in the same call, however, they did confirm that the FBI has the laptop
11 and it's being reviewed," quote, 'as part of a criminal matter,' close quote, but didn't give
12 us details."
13 Do you know who from the FBI may have shared with Facebook that the laptop
14 was part of a criminal matter?
15 A No, this is the first time I'm hearing this.
16 Q How many people within the FBI knew that the laptop was part of a criminal
17 matter on October 14th, 2020?
18 A I don't know that I could even ballpark that, like, how many and who.
19 Q Okay. How many people on FITF knew that the laptop was part of a
20 criminal matter?
21 A Also difficult to guess. I don't know specifically who knew what. Some of
22 the information inherently being sort of prohibited and restricted, I don't know who knew
23 which parts of what. So it's hard to speculate like how many and who specifically knew.
24 Q For someone like [redacted] who was able to sum up the laptop was
25 real, to your understanding, would he know that was part of a criminal matter?

1 A I'm not sure what he knew, but [redacted] was an intelligence analyst
2 assigned to the Criminal Investigative Division.
3 Can I address that?
4 Q In any of the follow-up conversations you had with the social media
5 companies, did they ever indicate to you that they, the companies, understood that the
6 laptop was connected to a criminal matter?
7 A Not that I recall. I don't -- there wasn't a whole lot of engagement. Once
8 we start saying no comment, they usually kind of drift off, then move back into other
9 items.
10 Q There's reference to a conversation on the side during the same call. This
11 is on the 14th.
12 To your understanding, were there ever instances outside of this example of
13 where there's kind of the main FITF call that's ongoing and that members of the FBI are
14 having a different set of side communications between the FBI and the company?
15 A Like during the call or a post-call, before --
16 Q We'll start with just during the call, if you're aware of instances where
17 someone from the FBI is communicating to someone on -- from the companies during the
18 same call but on the side.
19 A I'm not aware of in that situation, no.
20 Q As it relates specifically to the 14th, whether it's the Twitter-FITF call, the
21 Facebook-FITF call, any other FITF calls after the New York Post story comes out that day
22 or around that day, were you aware of any side conversations between members of the
23 FBI and members of the social media companies?
24 A That's kind of broad. I don't know that I'm aware of, like, specific
25 conversations. But in the normal course of business, that was very normal for other

1 people to contact social media companies and follow up on certain things, especially
2 when we would bring a case team in and sort of make the introductions and then they
3 continue to have discussions following up on whatever threat stream they were working
4 on.
5 Q At what point in the hierarchy would someone have the authority to disclose
6 that the laptop was part of a criminal matter?
7 A I don't know that anyone in the FBI hierarchy would be able to disclose that.
8 Q The statement here, the first part where it says, "confirm that the FBI has
9 the laptop," to your understanding, was there anyone else besides [redacted] who
10 had shared directly, confirming that the FBI had a laptop or hard drive attributed to
11 Hunter Biden?
12 A No.
13 BY [redacted]:
14 Q Post-2020, have you had any briefings with the Hunter Biden case team?
15 A We sort of addressed what I know on this previously in that I don't recall,
16 like, when it stopped. But I left the FITF in June of '21.
17 Q Uh-huh.
18 A And that seems like it definitely stopped after I left. I'm not sure prior to
19 that if there was any reason it would have stopped.
20 Q Okay.
21 A Yeah, it's hard to know other than that. Definitely stopped in June '21.
22 [redacted] Okay.
23 [redacted] We're just going to ask one more, and then we'll break.
24 In the fallout right after the New York Post story comes out and there's some
25 statements made from [redacted] and others, do you recall any follow-up

conversations internally in the FBI where folks on the FITF were discussing how they were kept in the dark about the laptop or the ongoing criminal investigation?

[redacted] Not with me. Normal course of FBI business, everyone knows. Like, compartmentalization's important, and I don't think anyone has issues with that typically. Everyone understands that as part of the job.

[redacted] Can we go off the record, please?

[redacted] Sorry. I just have one thing for the record.

Because there were several non-SES names invoked in this round, the FBI would appreciate the opportunity to scrub the transcript for potentially suggesting redactions of non-SES names prior to the committee's potential public dissemination of any transcripts.

[redacted] We can go off the record.

[Recess.]

[redacted] Can we go back on the record, please?

BY [redacted]:

Q Are you familiar with the defensive briefing that Senators Grassley and Johnson received in August of 2020?

A I am.

Q Were you familiar at the time about the defensive briefing?

A I was.

Q Did you have any conversations with Ms. Flores about the briefing?

A Yes.

Q When did you first become aware about the briefing?

A I mean, are you looking for, like, a date or -- it'd be hard for me to pin down. This was --

Q I'll rephrase it.

1 A Okay.

2 Q Were you aware before the briefing was delivered that a briefing was being

3 prepared --

4 A Yes.

5 Q -- to be given?

6 Who in the FBI did you have conversations with about the briefing?

7 A So we have an internal process. I believe you're aware of the IC's broader

8 notification framework. The FBI has an internal process that we sort of built up in

9 response to this, as well as having protocols and procedures surrounding this type of

10 activity, specifically about defensive briefings and using them as sort of a mitigative step

11 against foreign adversaries.

12 So it was created as sort of a board of both people who had direct knowledge of

13 specific intelligence, much like the notification framework, and people that had no

14 specific knowledge of the intelligence to then review the intelligence and use that as -- I

15 guess a discussion is probably the best way or a board to decide if there are mitigative

16 measures that we can take, one of which would be a defensive briefing, as a potential

17 way to mitigate something that we were aware of.

18 And I believe the first time I was aware that a briefing was on the table was sort of

19 that process internally that we were considering possible mitigative measures

20 surrounding a threat intelligence stream.

21 Q When you say "we," is that at the level of it's still an internal FBI discussion

22 or is that part of the broader?

23 A I apologize. Yeah, when I say "we" in that context, I'm talking about the

24 FITF. This process was an internal FITF process stopping at the unit chief level.

25 Typically, all unit chiefs were involved when it rose to this level. And then, like I

said, subject matter experts and nonsubject matter experts among the units would kind of fill out the rest of the board. But it was at a unit chief level to provide recommendations to management.

Some of those recommendations could be that this needs to be entered into the notification framework, that then it would go sort of broader IC. Or if it was something that was derived from FBI information and we felt comfortable using our own internal procedures and policies, didn't implicate sort of intelligence from another agency or something like that, that we could act on that individually as the FBI.

Q So I want to make sure I understand your testimony correctly. As it relates to members of the FITF in this internal FBI process, would this process be triggered, used, for lack of a better word, only when the FBI is the nominating agency or is it after?

Why don't you confer?

[Discussion off the record.]

[redacted] Okay. Yeah. I think it might be helpful to delineate the notification framework from the FBI's internal process or the FITF's internal process.

BY [redacted]:

Q Uh-huh.

A The FITF's internal process was not election focused. It was intelligence focused. So there were times that it wouldn't implicate the notification framework, which was very election focused. And our internal process was very much geared towards all elected officials and candidates across all sorts of elections, not just Presidential, governors, State representatives. I believe the -- there's language surrounding it, but I think it was federally elected officials or candidates for federally elected positions and then, additionally, people that may have, you know, sort of -- that would effect those type of elected officials or candidates for a federally elected position.

1 So a lot of that was really not in the realm of the intelligence community. So
2 there was several ways that we would use that internally because it wasn't pertinent to
3 the intelligence community broader. So it was sort of -- and we started this prior to the
4 notification framework in order to have a protocol and procedure to objectively consider
5 intelligence and decide on the mitigative measures.
6 Q Okay. In this con- -- as it relates specifically to the August 2020 defensive
7 briefing, what is your understanding of what the process was? Had it originated with
8 the internal FBI protocol or was this from the notification framework?
9 A I think -- I think it's fine to say that the internal FBI process occurred, I'm
10 pretty sure, prior to -- yeah, I'm pretty confident it -- the internal FBI or FITF process
11 happened before the notification framework. There may have been some overlap is
12 why I hesitate. They weren't sort of snapshots in time. Some of them were
13 deliberative processes that take days, sometimes weeks and months.
14 So I just don't want to say that it definitely all happened all before the notification
15 framework, but I'm pretty sure our process began before the notification framework
16 process began.
17 Q To your recollection, when did the FBI process begin?
18 A I -- I don't recall, but also, I don't know that I could speak to those details on
19 the intelligence basis, like when the intelligence was collected, I guess, would be the best
20 way to --
21 Q Had the intelligence been collected by the FBI?
22 A I don't know that I can speak to that.
23 Okay. Okay. I believe that intelligence was OGA derived, not FBI derived.
24 Sorry. Other governmental agency which sort of is someone other than us.
25 Q So the FBI internal process could be used for intelligence gathered by the FBI

1 or agencies other than the FBI.

2 A Correct, because we had sort of a broader purview sort of in the Venn

3 diagram of when they would trigger. Sometimes there's overlap. Sometimes there's

4 not. But we felt strongly that we need to have our own internal process because there's

5 lots of times that ours would trigger that it wouldn't trigger the broader one.

6 Q When the FBI internal process starts with this piece of intelligence, do you

7 recall at the time whether it was expected that it would trigger the notification

8 framework, be entered into the notification framework?

9 A I mean, looking at it now, not remembering exactly how I, you know, was

10 thinking at the time, I think it was likely to presume that it was the type of information

11 that would trigger the notification framework.

12 Q What was the conclusion or recommendation at the end of the FBI process

13 as it related to this intelligence?

14 A I like the second characterization, if I haven't addressed. Our process was

15 recommendations. We, you know -- the board sort of presented recommendations to

16 executive management of sort of a menu of options that we thought were within the

17 scope of what we would normally do.

18 What was the second half of that question? I'm sorry.

1

2 [4:25 p.m.]

3 [redacted] Just what was the recommendation in this case?

4 [redacted] Oh, I believe in this case our internal recommendation was that

5 defensive briefings would be possibly helpful. I think we recommended that defensive

6 briefings were potentially a good way to help mitigate the threat.

7 [redacted] Were there any other steps or solutions or options presented as part

8 of the recommendation?

9 [redacted] Your question implicates certain law enforcement sensitivities and

10 deliberative process concerns.

11 BY [redacted]:

12 Q Okay. Who was on the -- when you say it's presented to the executive

13 management, who was on that, at the time?

14 A At the time, I'm pretty sure the language is specifically the section chief of

15 the FITF is sort of the arbiter of our recommendations.

16 I'm not sure who he consulted with or if there was further discussions beyond

17 that. But I'm pretty sure specifically he was named as sort of the approving official of

18 our recommendations, which at the time was Brad Benavides.

19 Q Just so I understand your testimony correctly, Mr. Benavides approves the

20 recommendation to be made to the executive management or as he is the one receiving

21 the recommendation?

22 A He's the one receiving the recommendation and ultimately would sort of be

23 the approver of whether our course of action was approved or not, whether he

24 thought -- he concurred with the recommendations of the board.

25 Q Okay. Who was on the board?

A Are we talking that one specifically --

Q Yes.

A -- or by role generally?

Q That one specifically.

[redacted] Is that getting into deliberative --

[redacted] Can I confer with him for a second?

[redacted] Sure. Can we go off the record?

[Discussion off the record.]

[redacted] Back on the record, please.

[redacted] What was your question, so I can be sure to address it properly?

BY [redacted]:

Q Yeah. And I might just be misunderstanding what you're trying to describe.

A It's complicated.

Q When you're referring to the board, when we're talking about the FBI internal process, who were you referring to? Does it change?

A It does, but I sort of address -- there's a couple of core -- I think, by role, we tried to have all three unit chiefs and then usually all three supervisory intelligence analysts, and then the other ones usually rotated, mostly dependent on availability.

Q And do you recall who was on it as it relates to the intelligence that ultimately led to the defensive briefing to the Senators?

A I do not, and I would probably have to say by role anyway. I don't recall anyone being on it that is currently or was then an SES employee.

Q To the extent you recall roles, as it relates specifically to the defensive briefing for the Senators, which roles were involved -- in addition to yourself, right?

A Yeah. That sort of specific core, if those people were available, they were

1 likely on it. I don't recall the actual board, yeah, beyond what I think is typical. I don't
2 know that I can say exactly who was available that day or who was present.
3 Q Does the board have to be unanimous?
4 A I don't recall details about that. I believe we -- the way I recall, and I may
5 be not correct on this, but I remember voting, and I believe the vote was part of the
6 recommendations. So it didn't -- as none of it was sort of binding, it was all sort of
7 recommendations.
8 I believe we voted and the section chief was aware of who voted how. I don't
9 remember thinking, like, oh, it needs to be unanimous or majority or anything like that.
10 I believe it was just part of the recommendations that were presented to executive
11 management.
12 Q Do you recall, as it relates to this specific recommendation, how many votes
13 there were? Is it voted on the whole final recommendation, or if there's -- you
14 mentioned sometimes there can be a suite of options. Would you vote on each option?
15 [redacted] I don't know that we discussed how I would answer this, but I feel
16 like it's kind of deliberative process, like how we determine how we do what. I think
17 it's -- could be classified and could be deliberative.
18 [redacted] Yeah, we don't want to risk the classified piece. If you have more
19 questions.
20 [redacted] Sure.
21 BY [redacted]:
22 Q The vote, as it relates specifically to whether a defensive briefing could be
23 helpful, was that vote unanimous?
24 A I don't recall.
25 Q Do you recall which way you voted?

1 A I don't recall how I voted. I have no reason to believe that I wouldn't have
2 voted that a defensive briefing was appropriate in this situation, but I don't recall if that's
3 how I voted.
4 Q As relates to this example, how long does this process take from the time
5 that the board is convened, for lack of a better word, to when you're able to make a
6 vote?
7 A You're talking about, like, people sitting in chairs and discussing and voting
8 until we have the recommendations?
9 Q Yeah, just if -- yeah.
10 A Depending on how long it takes to sort of document it and send that up, the
11 entire process is -- I mean, I can think of some that were a bit longer, but I would say a
12 single decision was 20 to 30 minutes on average. I'm kind of ballparking there.
13 We would often do several decisions in one board so that we didn't have to
14 convene each time there was something. So some of the meetings were hours long,
15 deciding several different types of decisions.
16 Q Do you recall how long this decision was, related to the defensive briefing?
17 A I do not.
18 Q So the recommendation goes to Mr. Benavides. What are the steps from
19 there once he's in receipt of the recommendation?
20 A A lot of that is dependent on the recommendations, what he accepts, what
21 he sort of decides ultimately. But to my recollection, this particular instance resulted in
22 sending it to the Notification Framework and to the broader IC.
23 I don't remember specifically, like, what were the decision points for that, but
24 that's sort of what I recall was the next step.
25 Q To your understanding, how long was the gap between when Mr. Benavides

1 received the recommendation to when it was entered into the Notification Framework?

2 A I don't recall specifically, but I believe the Notification Framework had time

3 deadlines at certain stages, and that may have been one of them, of, like, as an agency, if

4 you identify something, you need to sort of trigger the Notification Framework in a

5 certain amount of time.

6 I may not be right on that. That particular phase is timed. But I don't recall

7 specifically in this instance how quickly he then triggered the Notification Framework.

8 Q Was the FBI the nominating agency then for the Notification Framework?

9 A We actually may not have been in this one. I don't recall. Once it goes

10 into the Notification Framework, I had less involvement. So that's harder for me to give

11 good details. I don't remember.

12 Q To your understanding, once, like in this particular case, once Mr. Benavides

13 enters this information into the Notification Framework, what are the next options or

14 steps available?

15 [redacted] Sorry. Could you ask that again?

16 [redacted] Sure.

17 So once this information -- it goes up, the recommendation, to Mr. Benavides. If

18 he accepts the recommendation, he can then trigger, for lack of a better word, the

19 process for other members of the IC to consider the recommendation.

20 I don't want to put words in your mouth. To your understanding, what does the

21 next process look like? And then what steps are available in the interagency process?

22 [redacted] It's kind of deliberative, but I think I can address some --

23 [redacted] I would also just flag, in the interest of time, I think this is outside

24 the scope of our understanding of today's interview. So we appreciate your interest,

25 and we can maybe follow up with you, but I think we're veering outside the scope.

1 [redacted] We've had conversations about the defensive briefing investigation,
2 and if there's information the witness has available, I think he probably has a preference
3 of just -- and I think we're getting close to his -- the end of his role in it -- to provide what
4 information he has and not potentially require having to ask more questions later.
5 [redacted] Sorry. Go ahead.
6 [redacted] I would just note on the record we've authorized Ms. Flores and
7 Mr. Benavides to speak to this process specifically.
8 Our understanding of the scope of today's interview, related to [redacted]'s role as
9 the unit chief of FITF Russia, specifically his engagements with certain external partners,
10 like social media companies.
11 So this is attenuated. And just in the interest of time, I wanted to flag that on
12 the record.
13 [redacted] To your understanding, what are the next steps that you're able to
14 speak to?
15 [Witness confers.]
16 [redacted] Sort of the first step is, it goes to, I think they call it the Credibility
17 Assessment Group, which is sort of the most relevant analysts from certain agencies, to
18 engage with the intelligence and, as the name is called Credibility Assessment Group,
19 assess how credible it is in their sort of realm of all the things they have access to.
20 And I'm pretty sure this is when things start getting timed pretty tightly.
21 Agencies have a certain amount of time to produce certain things.
22 But generally the outcome is the Credibility Assessment Group assesses the
23 credibility and makes a recommendation to the Experts Group, which I kind of fell in
24 between the two. I wasn't in the Credibility Assessment Group, and I wasn't in the
25 Experts Group.

1 So I had people underneath me that were in the Credibility Assessment Group and
2 people above me in the Experts Group. So it's hard for me to know what happened in
3 those groups, but I kind of know how it flows through those groups.
4 BY [redacted]:
5 Q Who below you was in the CAG?
6 A At least in sort of the Russia side of it, it was a supervisory intelligence
7 analyst assigned to the FITF.
8 Q And who was above you in the Experts Group?
9 A I believe that's, by role, Brad Benavides, but I'm not sure if it was him or
10 Nikki. We don't have exact equivalents with some of the other agencies, so sometimes
11 it's unclear at which sort of rank that was. I'm not sure if they were interchangeable or
12 if it was Nikki and sometimes Brad filled in. But I think one of those two.
13 Q Did you have awareness of what the CAG was discussing or what the Experts
14 Group was discussing as it related to the Senators' defensive briefing?
15 A Sometimes both. In this case, I was aware of the CAG and what they were
16 doing. I recall being involved with the Experts Group at least once I can think of. It
17 wasn't sort of a confined, single -- yeah, it wasn't confined to, like, one meeting and it was
18 done. It was a long process of trying to determine across agencies.
19 And I recall being involved in at least some stages of that, but not in sort of a
20 speaking role, more of just observing.
21 Q You said earlier you didn't think the FBI was the nominating agency. To
22 your understanding, who was the nominating agency?
23 A I don't recall. I wouldn't have been involved in the discussion of who.
24 There may have been multiple, and I don't know who was first and that sort of thing.
25 Q If there were multiple, are there any you are aware of that were in this case?

A Probably whoever owned the intelligence, and I don't recall which agency owned the intelligence or who collected the intelligence. And I know we tried, but outside of that, I don't know.

Q For the board, going back to the internal FBI process, you mentioned having -- there would be sometimes multiple decisions to be made over an hour or series of hours.

Who tees up those things for the board in the first place?

A It was a similar process of the unit that was responsible for sort of that threat stream would put it on the calendar of we have some intelligence with some potential to do this and sort of trigger it internally. Depending on who saw it, it would trigger kind of the broader group to meet.

Q So in this case, was it the Russia Unit?

A Yeah, I think there's a lot of classified and deliberative issues here to get too deep into who triggered it or how. It likely was the Russia team. I don't know how to speculate to that.

Q Do you recall at any -- actually, let me take one step back.

After the defensive briefing was given to the Senators, do you recall hearing what the Senators' reaction was to receiving the briefing?

A I do recall an interaction.

I don't know if this is deliberative.

[Witness confers.]

[redacted] I remember specifically interacting with Section Chief Benavides after the briefing. Is there something in particular --

BY [redacted]:

Q Yeah. What did he say?

1 A He was fairly shocked. He said he got yelled at, kind of generally, and I
2 believe he was pretty upset about it.
3 Q Were you surprised that the Senator -- at least one of the Senators reacted
4 that way?
5 A Yes. And I think he was too, which was resultant in his being pretty upset
6 about it.
7 Q To the extent you have familiarity with discussions that predated the
8 delivering of the defensive briefing, was there any discussion or concern about if giving
9 the defensive briefing could be used by either political party for political ends?
10 [redacted] That is inherently deliberative.
11 BY [redacted]:
12 Q Did you have any conversations with anyone other than Mr. Benavides after
13 the defensive briefing about the reaction from the Senators?
14 A I don't recall specifically, but I probably discussed it with Nikki Flores at some
15 point, or it came up. She may have been -- no, I don't believe she was present when I
16 spoke with Mr. Benavides.
17 So I don't recall specifically any discussions with her. I do recall the discussion
18 with Mr. Benavides.
19 Q Is there anyone else besides you and Mr. Benavides who was in this
20 discussion?
21 A I don't recall. I recall that it was sort of a spontaneous, he walked into my
22 office and expressed what I kind of already characterized. So it may have just been he
23 and I.
24 Q One last question, then we'll move on to another one.
25 The recommendation, when it goes up to Mr. Benavides, is that delivered in, like,

1 a verbal briefing, or is it, like, a written work product?

2 A Our recommendations to him?

3 Q Yes.

4 A I'm nearly certain it's a written work product. Probably both. I don't

5 know if Mr. Benavides read the written. Sometimes the oral is enough to -- in this

6 situation where it just triggers the Notification Framework, it may have been a written

7 that he didn't review or something like that. But pretty typically it's --

8 Q Do you have interactions with the FITF now in your current role?

9 A A little bit. Occasionally. Not lately.

10 Q At a high level, what interactions have you had since leaving the role?

11 A I think I can speak about at least one instance that's public.

12 I had an investigation in Atlanta that had FITF equities, and I was aware of it when

13 I was at FITF, and then went to Atlanta and finished that investigation while I was there.

14 So that was probably the last interaction I had with people at the FITF, was that

15 investigation.

16 Q During your time at the FITF, did you work at all with ODNI's Foreign Malign

17 Influence Center?

18 A Yes.

19 Q Can you describe your interactions with it?

20 A Pretty regularly I would interact with Shelby Pierson in various contexts.

21 She would attend some meetings with social media companies or tech companies.

22 Occasionally there would be other sort of interagency meetings and those sort of things

23 that I would attend that her and some of her subordinates were present for.

24 And then, like I said, there was times where I engaged as sort of an observer in the

25 Experts Group, which members of ODNI were involved in.

1 I think that's sort of the broad strokes.

2 Q Are you familiar with a briefing Ms. Pierson gave to congressional

3 committees in February 2020?

4 A I'm not sure if I am specifically about that one.

5 Q Briefings whether Russia was trying to interfere in the 2020 election?

6 A I don't recall that.

7 Q Other than being at the same meeting or you're observing on the Experts

8 Group, do you recall any other interactions with ODNI as part of your role at the FITF?

9 A That's kind of broad, so it's hard to answer. But it wasn't uncommon to

10 encounter them at other sort of events and things like that, whether it's at another

11 agency or a think tank event, a hearing, things like that, that I would normally attend.

12 It's normal to see other members of sort of that same community.

13 Q During your time at the FITF, did you have any interactions with the Center

14 for Internet Security?

15 A I'm not sure. I don't recall. Yeah. I think names would probably be

16 easier, of people, than individual entities. I don't recall if I've ever dealt with them.

17 Q Are you familiar with the Election Integrity Partnership?

18 A I don't know that I am.

19 Q You mentioned the Election Command Post in 2020. What was your role as

20 it related to --

21 [Witness confers.]

22 [redacted] I was the on-scene commander from 2 p.m. to 10 p.m. for the

23 National Election Command Post, jointly with Criminal Investigative Division and the FITF,

24 kind of probably a week or two in the lead-up to the election, several days after the

25 election.

1 [redacted] Which other members of the FITF could observe the Experts Group?

2 [redacted] I don't think there was any sort of prohibition on people observing.

3 I don't think it was normal course of business for just anyone to sit in on the meetings.

4 But I think in scenarios like that, Brad or Nikki would request someone as a representative

5 of one of the units.

6 So I don't think it's out of the course of business for a unit chief to attend one of

7 those as sort of an observer-adviser if necessary.

8 [redacted] Can we go off the record, please?

9 [Whereupon, at 4:50 p.m., the interview was concluded.]

1 Certificate of Deponent/Interviewee

2

3

4 I have read the foregoing ____ pages, which contain the correct transcript of the

5 answers made by me to the questions therein recorded.

6

7

8

9 _____

10 Witness Name

11

12

13 _____

14 Date

15

Transcribed Interview Transcript Errata Form

Interviewee	[redacted]
Date of Interview	5/20
Date of Review	5/10
Name of Reviewer	[redacted]
Signature of Reviewer	[redacted]

Page	Line	Suggested Correction
69	21-22	Redact [redacted]
"	24	"
70	2	"
"	5	"
"	17	"
"	20	"
"	25	"
71	6	"
82	2	Link to "Lync"
128	8	Redact [redacted]

Page	Line	Suggested Correction
p. 130	6	cabin to "cabined"
p. 130	10	top to "table"
p. 136	9	Redact [redacted]
"	12	"
"	"	Redact. [redacted]
p. 153	15	" "
p. 155	24	"
p. 156	1	"
p. 157	9	"
p. 157	25	"

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3
4
5 COMMITTEE ON THE JUDICIARY,
6 U.S. HOUSE OF REPRESENTATIVES,
7 WASHINGTON, D.C.
8
9
10
11
12
13 INTERVIEW OF: [redacted]
14
15
16
17
18 Tuesday, May 14, 2024
19
20 Los Angeles, CA
21
22
23 The interview in the above matter was held in Wilshire Federal Building, Suite 521,
24 commencing at 9:53 a.m. PST.
25

1 Appearances:

2

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted] DIGITAL ASSISTANT

8 [redacted] COUNSEL

9 [redacted] SPECIAL COUNSEL

10 [redacted] DEPUTY CHIEF COUNSEL FOR OVERSIGHT

11

12

13 For the SUBCOMMITTEE ON CRIME AND

14 FEDERAL GOVERNMENT SURVEILLANCE:

15

16 [redacted] MINORITY DETAILEE

17

18

19 For the U.S. DEPARTMENT OF TREASURY:

20

21 [redacted]

22 [redacted]

23

24

25

1 [redacted] This is a transcribed interview of [redacted] Chairman Jordan has
2 requested this interview as part of the committee's oversight of the Department of
3 Treasury's Financial Crimes Enforcement Network.
4 Would the witness please state your name for the record?
5 [redacted] [redacted]
6 [redacted] Could agency counsel please state your name for the record?
7 [redacted] [redacted]
8 [redacted] [redacted]
9 [redacted] On behalf of the committee, I want to thank you for appearing here
10 today to answer our questions. The chairman also appreciates your willingness to
11 appear voluntarily.
12 My name is [redacted] I'm with Chairman Jordan's staff. I'll now have everyone
13 else from the committee who is here in the room introduce themselves as well.
14 [redacted] [redacted] with Chairman Jordan.
15 [redacted] [redacted] with Chairman Jordan.
16 [redacted] [redacted] Chairman Jordan.
17 [redacted] [redacted] with Ranking Member Nadler.
18 [redacted] I would like to now go over the ground rules and guidelines that will
19 be followed during today's interview.
20 Our questioning will proceed in rounds. The majority will ask questions first for 1
21 hour, and then the minority will have an opportunity to ask questions for an equal period
22 of time if the choose. We will alternate back and forth until there are no more
23 questions and the interview is over. Typically, we take a short break at the end of each
24 hour, but if you'd like to take a break apart from that, please just let us know.
25 As you can see, there is an official court reporter taking down everything we say to

1 make a written record, so we ask that you give verbal responses to all questions. Do you
2 understand?
3 [redacted] Yes.
4 [redacted] So the court reporter can take down a clear record, we will do our best
5 to limit the number of people directing questions at you during any given hour to just
6 those people on the staff whose turn it is. Please try and speak clearly so the court
7 reporter can understand and so the folks down at the end of the table can hear you.
8 It's important that we don't talk over one another or interrupt each other if we
9 can help it, and that goes to everybody present at today's interview.
10 We want you to answer our questions in the most complete and truthful manner
11 as possible, so we will take our time. If you have any questions or if you do not
12 understand one of our questions, please let us know.
13 Our questions will cover a wide range of topics, so if you need clarification at any
14 point, just say so. If you honestly don't know the answer to a question or do not
15 remember, it is best not to guess. Please give us your best recollection, and it's okay to
16 tell us if you learned information from someone else, just indicate how you came to know
17 the information. If there are things you don't know or can't remember, just say so, and
18 please inform us who, to the best of your knowledge, might be able to provide a more
19 complete answer to the question.
20 You should understand that although this interview is not under oath, that by law
21 you are required to answer questions from Congress truthfully. Do you understand
22 that?
23 [redacted] Yes.
24 [redacted] This also applies to questions posed by congressional staff in an
25 interview. Do you understand this?

1 [redacted] Yes.

2 [redacted] Witnesses that knowingly provide false testimony could be subject to

3 criminal prosecution for perjury or for making false statements under 18 U.S.C. Section

4 1001. Do you understand this?

5 [redacted] Yes.

6 [redacted] Is there any reason that you are unable to provide truthful answers to

7 today's questions?

8 [redacted] No.

9 [redacted] Finally, I'd like to make a note that the content of what we discuss

10 here today is confidential. We ask that you not speak about what we discuss in this

11 interview to any outside individuals to preserve the integrity of our investigation.

12 For the same reason, the marked exhibits that we will use today will remain with

13 the court reporter so that they can go in the official transcript. Any copies of those

14 exhibits will be returned to us when we wrap up.

15 That is the end of my reamble. Is there anything that my colleagues from the

16 minority would like to add?

17 [redacted] No, we'd just like to thank you for being here today.

18 [redacted] Counsel?

19 [redacted] Yes. Before we get started, I just wanted to put on the record

20 that some of the topics here today that I understand the committee is investigating touch

21 on the Bank Secrecy Act and potentially suspicious activity reports filed under the Bank

22 Secrecy Act.

23 The Bank Secrecy Act, which is 31 U.S.C. 5318(g), in particular, provides that

24 suspicious activity reports or anything that reveals the existence of a suspicious activity

25 report is confidential. Unauthorized disclosure of this material to the public is subject to

1 civil and criminal penalties. Unauthorized disclosure of this type of information is
2 also -- potentially can compromise the national security of the United States or active and
3 ongoing law enforcement investigations.
4 The Department of Treasury would respectfully ask that the committee, in
5 handling of the transcript of any matters discussed here today, to the extent they pertain
6 to specific SAR filings or anything that would disclose the existence of a particular SAR,
7 that that be redacted and not put in the public record.
8 We would also like to respectfully request -- as you all know, [redacted] is a
9 former Treasury employee. He's here voluntarily. We would really request that the
10 committee use all of its discretion in not releasing information about [redacted] not
11 releasing his name further into the public. He's no longer a government employee. He
12 was never an SES-level employee. So we would just like to respectfully make that
13 request on the record and again reiterate that he is here voluntarily to speak about
14 matters that are in the scope of his employment while at the Department of Treasury.
15 [redacted] Thank you.
16 [redacted] Thank you.
17 The clock now reads 9:58. We will start the first hour of questioning.
18 EXAMINATION
19 BY [redacted]
20 Q [redacted] what do you currently do for work?
21 A I'm an anti-money laundering compliance professional.
22 Q And how long have you been in that position?
23 A My current role or in that industry?
24 Q In your current role.
25 A About 6 months.

1 Q And with what company is that?
2 A Plaid.
3 Q And when did you join -- first join the Financial Crimes Enforcement
4 Network?
5 A I believe it was around November 2018.
6 Q And why did you join FinCEN?
7 A Oh, gosh. I had been in the private sector and worked with a lot of former
8 government and law enforcement officials and always found myself very motivated by
9 their service. So it was always something that I was interested in, you know, serving the
10 country in some way. And also, it was a great career opportunity, you know, getting
11 that government service in my industry.
12 Q And prior to joining FinCEN, what other positions did you hold?
13 A Sure. I was an AML compliance professional at a financial institution. And
14 then prior to that, I was an attorney in private practice.
15 Q And which financial institution was that?
16 A Standard Chartered Bank.
17 Q And what was your position in January of 2021?
18 A In January of 2021 -- let me think. November 18th through the beginning
19 of 2020. So in January 2021, I was the director of the Office of Stakeholder Integration
20 and Engagement for FinCEN.
21 Q And how long were you in that role?
22 A I was in that role about 2 years. Well, technically three. The third of
23 those 3 years I was acting deputy -- what do they call them -- deputy associate director of
24 the Strategic Operations Division. So, formally, same role but acting in a different
25 capacity.

1 Q And in those roles, can you describe what your responsibilities were in those
2 positions?
3 A Sure. I had two sections in that office. One was the data access and
4 management section, which oversees law enforcement and other, you know, intelligence,
5 other agencies that have access to the BSA data that FinCEN holds. So that section
6 oversaw the memoranda of understanding that we have in place with those
7 agencies -- we, being FinCEN, had in place with those agencies -- periodic audits of the
8 usage, et cetera, things of that nature.
9 And then my other section was called the domestic engagement section. That
10 section was responsible for liaising with external stakeholders of FinCEN, so law
11 enforcement, private sector, other regulators, things of that nature.
12 Q And can you describe -- to the extent that you already touched on that, can
13 you describe the organizational structure of those divisions within FinCEN?
14 A All or the strategic operations?
15 [redacted] It may help if he gives you his -- if he could just chronologically
16 give you his roles at FinCEN because he had a couple of different ones. So that may --
17 [redacted] Sure.
18 [redacted] -- answer your question a little more clearly.
19 [redacted] Yeah, I'll do that and sort of give you -- so FinCEN has seven -- well,
20 when I was there, FinCEN had seven divisions, plus counsel. One of the -- my first role at
21 FinCEN was with the Policy Division as the director of regulatory policy, and I did that for
22 about a year.
23 FinCEN has the front office, director, deputy director, et cetera. There is the
24 divisions. Each division has one or more offices, and then most or all -- most offices
25 have one or more sections, and then there is staff underneath all of those various

1 leadership and hierarchical roles.

2 So I started off as an office director in the Policy Division. Did that for a little over

3 a year, moved over to the role that I just mentioned, as the director of the Office of

4 Stakeholder Integration and Engagement. Did that for about 2 years.

5 My last year at FinCEN remained technically in that role but served as acting

6 deputy head of the Strategic Operations Division, which was the same division in which

7 my office was. And -- yeah, so --

8 [redacted] It may be helpful to just explain like what the Strategic

9 Operations Division did so you can explain your responsibilities in that office.

10 [redacted] Sure. The Strategic Operation Division did a lot of things. One of

11 its offices was in charge, for example, of foreign engagement. So our work with other

12 countries' financial intelligence units, some of our work at the FATF.

13 [redacted] Sorry. The what?

14 [redacted] Sorry, the Financial Action Task Force.

15 [redacted] Thank you.

16 [redacted] Yep.

17 [redacted] Don't quote me on that but close enough.

18 And so that was sort of the foreign engagement office.

19 I'm sure I'm going to miss things here, but -- and then other components -- a lot of

20 it really has to do with overall liaising with our external stakeholders. So you had the

21 office that handled the foreign, and then you had the office that handled, I guess, for lack

22 of a better way of saying it, customer support. So we have a phone -- FinCEN had a

23 phone help line and some filing, technical issues, things of that nature. So that was one

24 office.

25 And then there was the office that I oversaw, which had those two sections that I

1 described earlier.

2 BY [redacted]

3 Q So you mentioned the foreign division and you mentioned the customer

4 support division. Was there also a domestic division?

5 A Yeah. So those were offices within the Strategic Operations Division.

6 There were three offices, the office that oversaw the foreign engagement, the office that

7 oversaw the customer support, and then the office that I oversaw, which was called

8 Stakeholder Integration and Engagement. And then each of those offices had sections

9 underneath them. My office had the two sections I described earlier.

10 Q And so in the Office of Stakeholder Integration and Engagement, who was

11 your supervisor?

12 A I reported up to the head and deputy head of the Strategic Operations

13 Division. I believe they are called associate and deputy associate directors of FinCEN.

14 Q And who was that?

15 A At what point in time?

16 Q At all points in time while you were there.

17 A When I started in that office, which was I believe at the beginning of 2020,

18 the associate director that oversaw that division is AnnaLou Tirol. The deputy associate

19 director was Patrick O'Brien. I believe I formally reported to the deputy, who was

20 Patrick. So those were my -- that was my chain of command.

21 Q And so in your role as the director, how many people did you, roughly,

22 oversee?

23 A Gosh. Domestic engagement had, I don't know, five to seven. I'm

24 ballparking, but five, six, or seven. And data access had six to eight-ish.

25 Q Okay. And what was the mission of the Office of Stakeholder Integration

1 and Engagement?

2 A There is a formal mission. Can I defer to FinCEN on that? I mean, I sort of

3 described the offices and the roles as I know them, but I don't want to misstate. I think

4 FinCEN has an official mission for each division.

5 Q Sure. But in your words, how would you describe it?

6 A Best I can describe the division as a whole would be primarily the office that

7 oversaw external engagement generally, foreign, domestic, public, private, et cetera.

8 Q Did that mission change over time while you were there?

9 A Not terribly. That division did undergo some restructuring. I don't

10 remember when this change was made, but it was formerly called the liaison division. It

11 was the liaison division when I began at FinCEN at the end of 2018. At some point, it

12 was renamed Strategic Operations Division.

13 I don't recall the nature of the offices and sections changing significantly. I

14 believe the function and the mission, by and large, stayed the same, but there was some

15 restructuring.

16 Q And when did you leave FinCEN?

17 A I left FinCEN late summer of '22.

18 Q And why did you leave FinCEN?

19 A I would say a host of reasons. Primarily, though, I'm from Southern

20 California. I had been back East about 20 years and, you know, COVID changes people's

21 thinking and being shut inside, so I decided I wanted to move back home to L.A. and had

22 been looking for something.

23 Q And while you were at FinCEN, how often did you interact with FinCEN

24 leadership?

25 A What do you mean by FinCEN leadership?

1 Q The director of FinCEN.

2 A It depended a little bit on the director and what was going on. You know, a
3 month or two could go by without speaking to the director and then there could be a
4 6-week span where I spoke to the director every day. I certainly was at a level of
5 seniority where it would not be uncommon for me to be included in meetings or calls
6 with the director or speak with the director.

7 Q And so when you were speaking with the director, what was the nature of
8 those conversations? Were they generally on certain topics with your engagement in
9 the --

10 A It would -- well, I mean, listen, before COVID, you see somebody in the hall
11 and you're friendly. So certainly there was some informal, right. Generally, though,
12 given the pressing needs on the director's time, generally when you were speaking with
13 the director, it was on a specific topic or for a specific purpose.

14 Q And in general, what were those specific topics?

15 A I don't know that I can answer that question generally. It would have
16 depended on the topic. As an example, you know, one of the sections, as I mentioned,
17 oversaw, you know, FinCEN's access program to the BSA data. And there were multiple
18 times when various congressional hearings were going to cover that topic. So I would
19 sometimes be called upon to, you know, help inform the director or answer questions,
20 things of that nature.

21 That's an example. I mean, it could have been anything under my remit that
22 came up for whatever reason.

23 Q And did you interact with the Department of Justice while at FinCEN?

24 A Yes.

25 Q With whom at the Department of Justice?

1 A It would depend, and it would depend on the nature of the interaction. So,
2 certainly, DOJ components had access to the BSA data. So on my data access
3 management side, whether it was individual U.S. attorneys' offices or law enforcement
4 agencies like the FBI, you know, sometimes there would be issues on them accessing data
5 or they would need technical assistance or something of that nature.
6 And then on the domestic engagement side, one of the things that that section
7 oversaw was our public -- FinCEN's public-private partnership work. So, you know,
8 oftentimes we would provide assistance to law enforcement if they needed it on financial
9 access -- or access to financial data or some of the holdings that FinCEN had.
10 And so I would liaise, you know, either with Main Justice or U.S. attorneys or
11 assistant U.S. attorneys or, you know, law enforcement, FBI.
12 Q Were there certain persons within DOJ components that you liaised with the
13 most?
14 A Not that I recall. Certainly, I don't recall there being any particular person
15 that was so regular that the name sticks with me this many years later.
16 Q Okay.
17 [redacted] Any particular U.S. attorneys' offices that you interacted with more
18 frequently than others?
19 [redacted] Not that I recall.
20 [redacted] Did you ever interact with FBI field offices, or was it generally
21 out of DOJ, Main Justice?
22 [redacted] I'm not sure I ever knew at the time the distinction. I mean, I'm
23 not sure how they're structured. So FBI agent was FBI agent, and I'm not sure I
24 knew -- and, frankly, I struggled with that a little bit with DOJ as well. I never -- unless I
25 saw a title, I wouldn't necessarily know if they were out of a U.S. attorney's office or Main

1 or any of that. I'm not sure.

2 BY [redacted]

3 Q Shifting gears a little bit, what's your formal education?

4 A I have a bachelor's and a law degree, a JD.

5 Q Are you a licensed lawyer?

6 A Yes.

7 Q And when did you become licensed?

8 A I first took the New York bar and became licensed, it was either the very end

9 of '06 or the beginning of '07. And then I subsequently took the California bar and was

10 licensed at some point thereafter. I don't recall when.

11 Q And were you a lawyer, a licensed lawyer throughout your tenure at FinCEN?

12 A No. I actually never functioned as an attorney at FinCEN.

13 Q Were you a member of any bar while you were at FinCEN?

14 A I was an inactive member. So I am, to this day, a member of the New York

15 and California bars. I have been an inactive member of both, I believe, as best I can

16 recall, since I stopped formally practicing law in 2014.

17 Q And what's your formal training? I know you mentioned AML. Are there

18 any certifications or things along those lines?

19 A Sure. So I have a certification or at least I did at one point -- I'm not certain

20 I'm paying the dues anymore -- but of what's called ACAMS, which is the Association of

21 Certified Anti-Money Laundering Specialists. Also don't quote me on that one, but

22 which is sort of the industry credential for anti-money laundering financial crimes

23 professionals.

24 And then most of it, I would just say, on the job. You know, when I was in

25 private practice, I represented clients on compliance matters generally, including the BSA.

1 And then you, you know, you just learn on the job when I became an anti-money
2 laundering professional.
3 Q So moving back to your role when you were the director of the Office of
4 Stakeholder Integration and Engagement. So in that role, how did it relate to the
5 operations of FinCEN Exchange?
6 A So FinCEN Exchange was a public-private partnership program, and I would
7 say the logistics and the planning of those events were under the domestic engagement
8 section in my office. So my staff oversaw that event.
9 Q Can you describe the FinCEN Exchange briefly and then the events that you
10 mentioned?
11 A Sure. So, again, I'll do some of my own words, but FinCEN Exchange has an
12 official FinCEN description and whatnot, so I will defer to that. But, essentially, it was a
13 public-private partnership where it had a couple of components, and sometimes we
14 would focus on one, sometimes it would be everything. But it would, by and large,
15 either be where law enforcement was working on a case and needed access to financial
16 data, and so they would -- we would put together an event where law enforcement could
17 provide information to the private sector, banks usually, but didn't always have to be,
18 right -- there are numerous types of financial institutions under the BSA -- where they
19 would -- law enforcement could provide private sector members some information that
20 might help those institutions better identify suspicious activity, which is a requirement for
21 them to do under the BSA, so helping them sort of focus.
22 And then by the same token, there might be instances where financial institutions
23 are able to, within what authorities would allow, to share information with law
24 enforcement or each other, again, to better understand the nature of the conduct at issue
25 and, you know, try to catch bad guys.

1 Q And ordinarily, when Federal law enforcement is sharing information with
2 the private sector or vice versa, what mediums were used to facilitate that exchange?
3 A So particularly before COVID and then eventually, you know, there could be
4 in-person meetings, could be conference calls, could be email. So it would depend on,
5 you know, what type of communication and what the issue was.
6 Q You mentioned the different kinds of stakeholders and financial institutions.
7 Could you describe what kinds of financial institutions you were working with?
8 A Primarily banks. I believe in a few instances money services businesses,
9 MSBs.
10 Q For example?
11 A So I don't recall a specific MSB. Totally separate from your line of
12 questioning, an example of an MSB, for example, could be like Western Union as sort of
13 the classic example of a money transmitter. But I don't actually have a specific
14 recollection of a particular MSB participating in a FinCEN. I'm not saying they didn't; I
15 just don't recall.
16 Q And why was it important for FinCEN to reach out to the private sector?
17 A Not to be glib, when you say "important," like from whose -- I guess I'm not
18 really sure what you mean.
19 Q Well, I'll back up.
20 Why did you reach out to the private sector?
21 A So we would reach out to the private sector --
22 [redacted] You know, I guess -- I think he's testified about his job being to
23 reach out to the private sector on a variety of different topics, like everything from sort of
24 filing. Is your question now specific to FinCEN Exchange or like -- can you be more
25 specific about like -- what are you asking about specifically?

1 BY [redacted]

2 Q When you were liaising with the private sector, what sorts of information

3 were you looking for that the private sector had?

4 A Outside of FinCEN Exchange or specifically with -- just as a general matter?

5 Q As a general matter.

6 A Well, it could have been in the context of a FinCEN Exchange, which I just

7 described, or some of the other public-private partnership initiatives that FinCEN had. It

8 could be, you know, sometimes there's a miscommunication. Like, we'll have a law

9 enforcement agent reach out and say, hey, I'm trying to get X, Y, Z that I'm entitled to get

10 from such and such bank or such and such credit union, but they are not giving me what I

11 need. Can you -- you know, sometimes we'd literally just be a liaison.

12 I'm trying to think of other types of informal. You know, that's -- it could be any

13 number of reasons really.

14 Q Could you give an example of one of the public-private partnerships?

15 A So FinCEN Exchange is a big one. The other I would say major one is called

16 BSAAG, which is the BSA, the Bank Secrecy Act Advisory Group. Both are provided

17 foreign statute.

18 And the BSAAG was a bit more policy oriented, and it would also include, as an

19 example, other regulators, in addition to law enforcement and private sector members.

20 And it was a forum to discuss, like I said, a bit more on the policy realm. You know,

21 what's working, what's not, for FinCEN to receive feedback on its regulations, clarity or

22 lack thereof, things of that nature.

23 So certainly BSAAG and FinCEN Exchange were the two primary ones.

24 Q When you mention policy, was it discussing priorities for certain filings under

25 the Bank Secrecy Act or emerging suspicious activity, trends that you're seeing, things of

1 that nature?

2 A As best as I recall -- you're talking about BSAAG?

3 Q You're liaising with --

4 A So it would depend on the context, right. So BSAAG, which was a little

5 more policy oriented, dipped its toe into those areas but, by and large, was less tactical.

6 It was more, you know, hey, this regulation is not clear to us, so we're going in five

7 different directions. Or, you know, here's an example of guidance that the private

8 sector could use, you know. So FinCEN would take that feedback or, you know, FinCEN

9 would maybe pose questions to the private sector. Again, a little more on the policy

10 angle.

11 But what you just described would have taken place in the context of FinCEN

12 Exchange.

13 Q And before you were reaching out to the private sector, did you have to

14 receive approval before doing that?

15 A It would depend entirely on the reason I needed to reach out. For

16 example, the example I gave earlier, which definitely happened while I was there, where,

17 you know, a law enforcement agent was trying to get something from a financial

18 institution, that it was under statute and regulation. Law enforcement was entitled but

19 maybe the institution was just confused about what it was and was not allowed to share.

20 That would be something that, in the normal course of my duties at my level of seniority, I

21 would just go ahead and engage the institution.

22 But really, anything of greater import and certainly anything related to BSAAG or

23 FinCEN Exchange would generally require approval.

24 Q And who would that approval come from?

25 A I mean, I can only say that I would work with my chain of command. I

1 can't -- I couldn't speak to the extent to which they were informed by their leadership.
2 But I would go to my associate director and deputy associate director for those kinds of
3 approvals.
4 Q Which was Anna --
5 A AnnaLou and Patrick, at least at the beginning of '21.
6 [redacted] How long were they in those roles for?
7 [redacted] I don't recall.
8 [redacted] For each of them, who took on the next position when they left their
9 role?
10 [redacted] So at the beginning -- when I first started that office director job at
11 the beginning of 2020, it was AnnaLou Tirol was the associate director and Patrick O'Brien
12 was the deputy associate. At some point, I don't recall exactly when, AnnaLou -- our
13 director, the director of FinCEN left. I believe his deputy became acting director, and
14 AnnaLou became acting deputy director.
15 [redacted] Of FinCEN?
16 [redacted] Of FinCEN, yes.
17 I don't recall specifically what happened at the top of the division. I don't recall
18 whether Patrick was acting head at some point. And then there were various acting. It
19 was just a bit of a restructure while they figured out -- and I just don't recall people and
20 dates specifically.
21 [redacted] Is the restructuring complete by the time you had left?
22 [redacted] So I wouldn't call it a restructure as much as a sort of shuffling in
23 those roles. So I may have misspoke.
24 Well, so in mid to late '21, so at that time, the acting associate director was a guy
25 named Michael Dondarski, who was actually a member of our Enforcement Division but

1 he was acting as associate director, and his deputy was a guy named Andrew Winerman.
2 At some point, I don't recall when, Dondarski went back to enforcement.
3 Andrew became acting associate overseeing the Strategic Operations Division and asked
4 me to serve as the acting deputy associate. So at that point, and for my last nine or so
5 months at FinCEN, I was formally still the office director but I was serving as the acting
6 deputy of that division.
7 BY [redacted]
8 Q When you were engaging with the private sector, were there any topics or
9 issues that created points of tension?
10 A I'm not sure what you mean by points of tension, but not really, that I recall.
11 Q Disagreements. You mentioned earlier the example where a bank felt that
12 they couldn't share information or refused to share information. Were those kinds of
13 disagreements common?
14 A So I would say no. And I would also recharacterize -- that would be an
15 example where maybe like a very small institution doesn't necessarily have a level of
16 sophistication to know what they can and can't share. They are worried about BSA
17 confidentiality.
18 So when FinCEN would reach out and say, you know, hey, this is okay; you're
19 supposed to do this; you're required to do this; that would be sufficient for them to feel
20 comfortable that they're not violating law or reg and they would do so.
21 But I wouldn't -- I would call that more of a misunderstanding rather than a
22 disagreement. Certainly, generally no tension. An agent might be frustrated that he
23 was doing a dance, but I wouldn't call that tension. And I don't recall, again, at least at
24 that level of generality, I don't recall any points of tension, per se.
25 Q Do you recall there being confusion or misunderstanding about scope of the

1 Bank Secrecy Act?

2 [redacted] By whom? Can you be more specific?

3 [redacted] Yes, that's a broad question.

4 [redacted] Well, his example was a small institution that didn't understand

5 some of the confidentiality under the Bank Secrecy Act.

6 So were those misunderstandings -- did you routinely deal with some of those

7 misunderstandings about the breadth of the Bank Secrecy Act, what's confidential, what

8 they can provide, what they should be providing?

9 [redacted] I wouldn't say routinely, and I wouldn't -- you know, FinCEN wasn't

10 there necessarily to serve the private sector. Usually something like that would be to

11 assist law enforcement or something of that nature, if they were having trouble accessing

12 BSA data, whether that was with our -- within FinCEN's database, at a financial institution,

13 whatever it was.

14 So it's very hard for me to answer that question at that level of -- it's just a little

15 too general. I don't have recollections of disagreements or confusion, you know, writ

16 large.

17 [redacted] So would you view your role at FinCEN more of a partner of law

18 enforcement versus a partner of the financial institutions?

19 [redacted] All of the above. I'm not sure I would characterize any of our

20 relationships as above or below the other.

21 [redacted] Okay. When you say FinCEN was not there to assist the private

22 sector.

23 [redacted] We were certainly there to assist. I said we're not there to serve.

24 In other words, what I meant by that was, you know, it's not as if a bank could call FinCEN

25 and say jump and we would jump. Whereas, if the FBI said, hey, we're desperate; you

1 know, something major is happening; you know, we need you to jump, we would jump.
2 So it would depend on the nature of the relationship, but by the same token, we
3 had relationships with the private sector that maybe we didn't have with law. So it was
4 very specific to the relationship and to the topic what that relationship would have been.
5 BY [redacted]
6 Q Do you recall any examples -- we've talked a few times now about when
7 there was confusion or misunderstandings. When you're serving in a liaison position
8 between law enforcement and a private entity, do you recall any examples where there
9 wasn't confusion; there was a fundamental disagreement about how, you know, the Bank
10 Secrecy Act applied or a certain regulation?
11 A I don't specifically recall that, no.
12 Q Just to clarify the answer for the record. With the understanding you don't
13 have any specific recollections, generally, though, do you recall just that ever being an
14 issue or something that you or your office would be in a position to be aware of?
15 A Whether there was generally confusion or misunderstandings in the private
16 sector?
17 Q No, not regarding confusion or misunderstandings but where it's not an
18 issue of confusion, but there's a disagreement between how the Bank Secrecy Act applies
19 or what should be the --
20 A I see. Generally, that would not come to FinCEN. That's generally the
21 type of thing that would occur like with an examiner. So the functional regulators like
22 the Fed and the OCC, FDIC, et cetera. If there was like a dispute as to the BSA program
23 that an institution has in place, like that -- you know, FinCEN oversees the regulation, so
24 we would certainly be part of those conversations broadly.
25 And, again, you know, BSAAG, a lot of that conversation would come up about

1 policy, so not on a specific issue but, you know, broadly. But in terms of, like, specific
2 disagreements where FinCEN said X and some institution was saying Y, I don't recall that.
3 Q In the BSAAG group, do you recall any discussions about the scope of
4 disclosures or the scope of what should be kept confidential?
5 A I don't recall one way or the other.
6 [redacted] And just for the record, what was your involvement in BSAAG?
7 Because I just don't know how involved he actually was, so --
8 [redacted] Yeah, so BSAAG, like FinCEN Exchange, my staff would've sort of
9 coordinated the event. BSAAG has a mechanism for annual membership where we can
10 renew or replace members. So my staff would oversee the applications and all of that,
11 logistics, you know, getting a room or setting up conference calls, communications, things
12 of that nature. Not necessarily the substance of what's actually being discussed in any
13 of those forums.
14 BY [redacted]
15 Q And for BSAAG, was it generally like standing meetings or could they be
16 called on an ad hoc basis if there was an issue that had arisen?
17 A So there was a BSAAG plenary, all members, that was, I wouldn't say
18 standing as much as it was twice a year, but to be scheduled, right. It's not like -- it's not
19 like they have a calendar years out, right, but it's twice a year.
20 And then BSAAG -- within and under BSAAG, there were committees where
21 BSAAG members -- again, private sector, law enforcement, regulators -- would form sort
22 of working groups at the topical level. And so my staff would usually join and facilitate
23 those communications as well, but those were usually driven by the BSAAG members
24 themselves.
25 Q Do you recall like a couple examples of some of the topical choices for the

1 working group?

2 A Well, this is -- I should, but I don't recall specifically, no.

3 BY [redacted]

4 Q Does FinCEN have oversight responsibilities over financial institutions?

5 A Yes.

6 Q Can you describe those responsibilities?

7 A I can do the best I can. I mean, certainly they are set out in statute and reg.

8 So FinCEN owns the BSA, Title 31. So from a regulatory perspective, the

9 regulations that regulated financial institutions have to follow are drafted, revised.

10 Guidance is provided for by FinCEN. It's very complex because there are corollaries with

11 the functional regulators, which is Title 12 or title whatever it happens to be. And so

12 this is getting out of my sort of technical remit, but -- so certainly FinCEN has an

13 ownership role in the regulatory framework. And then FinCEN also has specific

14 statutory authority, such as FinCEN Exchange and BSAAG, with which they can engage the

15 private sector.

16 Q Which office was responsible for those oversight responsibilities?

17 A I would say most FinCEN divisions touch it at some point. So, for example,

18 there was the Policy Division, which oversaw regulatory guidance and interpretation,

19 regulatory drafting, technical advisories and bulletins, things of that nature. You had the

20 Enforcement Division, which would actually go out and examine and, if enforcement

21 activity was necessary, would handle that.

22 You know, there were other divisions that would analyze BSA data. The liaison

23 division, later Strategic Operations Division, that would liaise. So it really depended on

24 the nature of the interaction, but many divisions had a role to play.

25 Q And how did FinCEN enforce that oversight?

1 A I'm not quite sure I understand the question.

2 Q If you found that someone was out of compliance, how would that be

3 handled at FinCEN? Which office would lead that?

4 A Yeah, I mean, I was not involved in that. At a high level, it would generally

5 be the Enforcement Division, along with front office components, counsel, whoever

6 needed to participate, right. I mean, theoretically, it could be the folks in another

7 division that were looking at the data that led to the conclusion that they were out of,

8 you know, compliance. Like, it could be anybody.

9 But primarily, I would say the Enforcement Division, plus front office and counsel.

10 And they would do so -- you know, to your other part of your question, best I can answer

11 is that they would do so under the authorities and statute and reg, but it wasn't my

12 wheelhouse, so --

13 Q Were those enforcement actions involving violations of the Bank Secrecy

14 Act?

15 A Yes -- well, and I should say that my knowledge of that is limited to what's in

16 the public domain. So there may have been some activity that I just wasn't aware of

17 because it wasn't part of my job. So the enforcement actions that are publicly available

18 that were taken by FinCEN would have been, at least partially, due to Bank Secrecy Act

19 violations.

20 Q Could the failure to file a suspicious activity report according to material

21 shared or published by FinCEN result in an enforcement action?

22 [redacted] I'm sorry?

23 [redacted] In other words, FinCEN provides guidance, advisories, bulletins,

24 all the things that you mentioned.

25 [redacted] So I'm going to answer it this way.

1 [redacted] Was that something that was in your responsibility at all?

2 [redacted] No. The BSA requires that financial institutions have a risk-based

3 program. So you're taking a big step back. Generally, the way these institutions are

4 examined and assessed is, do you have policies, procedures, controls? Are they

5 appropriate? Were they being executed correctly?

6 If something falls through the cracks but your examiners or enforcement

7 personnel generally think that you were operating in a sound manner, something like that

8 may or may not actually result in enforcement action. It may. It, I believe, would

9 constitute a technical violation.

10 But, again, like, it's possible that they didn't know. A bank maybe didn't know

11 that something should have been filed because it was following its policies and

12 procedures and didn't identify -- you know, so it really is very hard to say, you know,

13 would X result in Y.

14 [redacted] And in your time at FinCEN, did you ever like, you know, do

15 your work in the Enforcement Division, or are you familiar with the standards of

16 willfulness that, like, the Enforcement Division would apply to an enforcement act?

17 [redacted] Not at all, no.

18 [redacted] So but in your role, you're responsible for sharing materials and

19 liaisoning with the private sector?

20 [redacted] Yeah, at a high level. Sure, yes.

21 [redacted] And so when you're sharing those materials and a bank receives

22 it -- a financial institution receives it, could a bank then be penalized for failing to file a

23 SAR according to the materials or guidance that is being shared with them? Would that

24 make it more risky to not file a SAR given that we've established the BSA is a risk-based

25 framework?

1 [redacted] Can you tell him what materials you're describing? Just
2 saying, like, material generally, I think that doesn't give him any information about
3 whether that would feed into the risk profile.
4 [redacted] Well, certainly he knows the materials that he shared.
5 [redacted] Well, I think we should establish that for the record.
6 [redacted] Yeah, I'm not sure I can recall. It might depend on what was being
7 shared.
8 [redacted] Okay. So could you give an example of what might distinguish
9 one from the other?
10 [redacted] Well, an example of materials that would be shared, and this,
11 actually, wouldn't have been shared by me, but, you know, FinCEN publishes advisories
12 on specific topics that contain some red flags.
13 [redacted] Yeah.
14 [redacted] I'm not sure I can really answer the question of, you know, if a bank
15 failed to take those red flags and do something with it and file a SAR and didn't file a SAR,
16 what would be more -- like, I'm not sure I can really speak to that at that level of
17 generality. And, again, it wasn't really my role at FinCEN.
18 BY [redacted]
19 Q Who would best be able to speak to that?
20 A Either people at FinCEN in enforcement, counsel, possibly front office. I
21 mean, I would defer to FinCEN as to, you know, who can best speak to that.
22 Q When the information is being shared -- previously there were questions
23 about, you know, specific information and maybe there is a failure to follow SAR. When
24 sharing information, was there an expectation that some of the information shared could
25 lead banks to or financial institutions to change what protocols they had in place?

1 A Whose expectation?

2 Q FinCEN's expectation.

3 A No. I don't believe that we had any expectation or criteria that that was

4 going to lead to. Really, it was -- FinCEN's purpose was to be helpful either to law

5 enforcement or to the private sector. If we had information that was available that we

6 felt we were legally allowed to share and it would be useful, we would do so, but it

7 didn't -- my recollection is it didn't come with any standards or expectations or

8 requirements.

9 Q Taking out expectations. This is a problem. Were there protocols put in

10 place based off the state of the world where protocols are implemented? FinCEN is

11 sharing new information that they think is helpful to the private sector partners. Were

12 there discussions about changing the protocols in light of what new information was

13 being shared?

14 A The banks' protocols?

15 Q Yes.

16 A I do not recall conversations like that, no.

17 BY [redacted]

18 Q Does FinCEN direct financial institutions to certain kinds of potential

19 suspicious activity?

20 A What do you mean by "direct"? Like, we'll share indicators, for example,

21 like in an advisory and provide them information that they may or may not have been

22 aware of.

23 Q Yeah, bring to their attention.

24 A Yes.

25 Q Okay.

1 [redacted] What types of indicators?

2 [redacted] It could be something like -- you know, depending on the topic,

3 right, but it could be something like, you know, those engaged in a certain type of fraud

4 tend -- you know, we've seen evidence that they move money in this manner, right.

5 Here's like a red flag, a typology that we have observed. It could be things like that.

6 [redacted] And kind of to turn back to a previous question, going off of this

7 hypothetical example, right. If you're identifying something new, was there ever a

8 discussion about whether protocols in place were adequately, you know, detecting that

9 sort of potential misconduct?

10 [redacted] Can we just sort of clarify the use of the word "protocols"?

11 Because I want to make sure you guys are using that -- I think what you mean is like a

12 bank's existing AML framework, right. What they're required to have under the BSA.

13 So I think for the record, like, can we just use that?

14 [redacted] Okay. Sure.

15 [redacted] Yeah, I mean, certainly I don't recall any discussions that an

16 institution would be expected to -- or that we would hope an institution would change its

17 policies, procedures, its program in place. You know, the focus would have been on the

18 information being shared and disseminating it. It's part of FinCEN's mission to analyze

19 the data we have and disseminate information where we can.

20 BY [redacted]

21 Q Were there any instances that you can recall where a financial institution

22 failed to file an SAR and there was a discussion about why that happened or why it was

23 missed?

24 A Not that I recall. I wouldn't have been involved in those conversations.

25 Q And who at FinCEN would have been?

1 A Likely enforcement personnel or front office or counsel.

2 Q We touched upon this earlier. Can you walk us through, again just very

3 briefly, during your time at FinCEN who was head of enforcement?

4 A Oh, boy. When I started, it was a guy named -- oh, I'm going to kick myself.

5 He was a nice guy. He retired. There was a longtime head of that division who retired

6 while I was at FinCEN. His name escapes me. I hope he doesn't see the video. Sorry.

7 And then when he retired, I don't actually recall who became associate director.

8 The gentleman I mentioned earlier, Mike Dondarski, was the deputy associate, but

9 I can't actually recall. It wasn't my division, and I actually didn't work a ton with those

10 folks. I mean, I was friendly in the hall, coworkers, but I just don't recall.

11 [redacted] Do FinCEN employees review the SARs that are filed?

12 [redacted] Certain FinCEN employees do, yes.

13 [redacted] What office would that fall within?

14 [redacted] It could be any. Certainly, our -- certainly, FinCEN's Intelligence

15 Division would review SARs. I know that there would be instances where enforcement

16 personnel would need to review SARs. There would be potential technical or filing

17 reasons for someone in strategic operations to review SARs, like customer support. You

18 know, oh, we double filed. What do we do? You know, that kind of stuff.

19 I mean, yes, the answer is -- I mean, I'm not really sure who else, but --

20 [redacted] Can I just make sure, because I think you asked did FinCEN

21 employees review SARs. To your knowledge, did FinCEN employees review all SARs that

22 are filed?

23 [redacted] To my knowledge, no, not one for one.

24 [redacted] That was going to be my next question.

25 [redacted] Sorry. I just wanted to make sure that was clear, because I

1 think that was a little messy.

2 [redacted] So, no, to the best of my knowledge, there isn't actually someone

3 putting eyeballs on every SAR. A lot of it would be based on, you know, keyword

4 queries and things of that nature.

5 [redacted] So how do you determine which SARs to review?

6 [redacted] It wasn't my job at FinCEN. I'm not sure I can answer that

7 question.

8 BY [redacted]

9 Q Whose job was it?

10 A For what purpose? To review SARs for what purpose?

11 Q Who at FinCEN would be in a position to decide which SARs are reviewed?

12 A It would depend on the purpose for which they're reviewing SARs.

13 Q What are some of the purposes of SARs review?

14 A I mean, I hate to speculate because it, by and large, was not my job. It

15 wasn't reviewing many SARs at all. You know, as an example, just to be helpful, like, if

16 Enforcement Division was looking at financial institution X, they would probably search

17 for a subset of that financial institution's SARs for whatever purpose.

18 If Intelligence Division was looking for, you know, healthcare fraud, they would

19 presumably search healthcare fraud.

20 I mean, but those are somewhat speculation just because it really was not part of

21 my job, by and large, to query the database and view SARs.

22 BY [redacted]

23 Q But you did manage the access to those databases?

24 A Yes.

25 Q And so then you would be maybe in a position to know what SARs are being

1 reviewed and for what purpose?

2 A My duties did not require or warrant a need to search the database, and I

3 generally did not. I don't actually recall ever. It may have happened once or twice, but

4 I'm not even sure I had a login. I don't recall searching SARs as part of my job.

5 Q Do you know if SARs were ever reviewed by using artificial intelligence or

6 machine learning?

7 A I do not know.

8 Q Do you know who would know?

9 A Current FinCEN personnel. I certainly know, while I was there, that there

10 were conversations both internal to FinCEN as well as feedback that we would get from

11 law enforcement or whomever about various ways that the ability to query the data

12 could be enhanced. But I don't recall where it stood at the time or where it's gone

13 since.

14 Q Enhanced using like machine learning or artificial intelligence?

15 A I don't recall. Improved, if you will, but not -- I don't have any specific

16 recollection of whether those mechanisms were being used or are currently being used.

17 Q Did you ever discuss with the private sector the use of artificial intelligence

18 or machine learning to identify suspicious activity?

19 A I don't have a specific recollection of that kind of conversation. Certainly,

20 regulated financial institutions use a variety of vendors and other technological

21 capabilities for their own purposes to execute their own program. You know, might that

22 have come up in some of the conversations I had in the course of my liaising, perhaps, but

23 I don't specifically recall.

24 BY [redacted]

25 Q What about internal discussions you mentioned when it comes to improving

1 the query? Who would those internal discussions have been with?

2 A Who would those discussions have been with if they had happened? I

3 mean, I don't recall the discussions is the issue, so I'm not really sure how to answer.

4 Q Sure. In a previous response, if I understood your testimony correctly, you

5 said that there were, you know, internal and external discussions about improving the

6 query, right, when searching --

7 A Yep.

8 Q -- keywords or whatever it might be. Maybe it's AI. Maybe it's not.

9 For the internal discussions, who would those have been with?

10 A So I recall -- and I apologize if I misspoke. I recall generally there being

11 conversations with some of the government-side agencies who have access to the

12 database about how to query, whether enhancements or improvements were in

13 discussions. I do not specifically recall whether those discussions covered AI or ML or

14 any of that.

15 I don't know internally -- I mean, those kinds of conversations internally would

16 have been with other Strategic Operations Division personnel, perhaps my leadership,

17 front office personnel, and the director's office. But that's also a bit of speculation, I

18 would say, because I'm not sure I really recall.

1 [10:52 a.m.]

2 BY [redacted]

3 Q And when we're accessing the BSA materials, how is that material accessed?

4 A Are you asking if you -- how does law enforcement access the database for

5 FinCEN or --

6 Q All of the above.

7 A So when I was there -- I can't speak for what it was now, but while I was at

8 FinCEN, there was a -- a portal. I don't recall whether it was hosted or cloud or a web or

9 how, but agencies with proper access would be able to access the data from their own

10 workstation. You know, they didn't have to come onsite or anything like that. So

11 there would be some logon and then they would have access to the portal where they

12 could query and access the data.

13 Q Was there a name of the portal?

14 A I don't recall. Yes, there was a name. I don't recall what it was.

15 BY [redacted]

16 Q And was the portal the same for all of those entities accessing it? So was

17 FinCEN hosting this portal?

18 A I'm not sure I recall that level of technical -- I definitely can't answer the did

19 FinCEN host. I don't really know where the data physically -- that's like our -- that's our

20 computer folks.

21 Yeah, sorry. Go ahead. I'm not sure I can --

22 Q I think -- this was a BSA database of SAR filings, what have you.

23 A Uh-huh.

24 Q When everyone was accessing, were they accessing the same database?

25 A I believe the answer is yes. I can't speak to whether there were other

1 sources that they may have had access to. I don't recall. But there certainly was sort
2 of one primary database.
3 I'm trying to remember -- I don't recall whether there were any restrictions for a
4 particular agency on data. I don't recall whether that existed or -- or was applied.
5 Certainly, that was a component of what my team would look for when they audited
6 access. You know, they would look, for example, for things like, you know, are they
7 pulling queries that are really broad, you know, maybe overbroad.
8 So there would be a component of assessing how an agency used data, but
9 whether there was like a block in place up front or whether this agency had access to A,
10 B, and C, and this agency only had access to A and B, I don't recall.
11 BY [redacted]
12 Q Who had access to the portal?
13 A FinCEN personnel. And then, best of my recollection, either statute and/or
14 reg provides for which agencies can have access. So I would kind of defer to that. But
15 it included law enforcement, Federal, State, local, whomever, intelligence community,
16 other regulators. Those were the primary stakeholders.
17 Q Do you know, roughly, how many individuals that is?
18 A No idea.
19 Q You also mentioned audit a moment ago. And can you describe what an
20 audit of those with access to the portal, what that looked like?
21 A Not in great detail. But as a general matter, FinCEN has a program whereby
22 there's a team that periodically will assess an agency's use of the data to make sure it's
23 appropriate, to make sure the proper security measures are in place, to make sure that
24 they're educated on how best to query. And that's a periodic process that FinCEN has to
25 ensure the integrity of the data and its use.

1 Q Did you ever find an example where an agency was not using it
2 appropriately?
3 A I don't recall. And I certainly don't recall inappropriate use. We
4 frequently saw examples where an agency could use better education on how to more
5 intelligently query the database just to yield better results. So, you know, a lot of what
6 this team did would be sort of, you know, provide, you know, assistance or -- or learning
7 to, you know, agency personnel on how best to query the data. But I don't have a
8 specific recollection of anybody, you know, uncovering inappropriate use.
9 Q When an audit was completed, how often were those audits performed, and
10 what happened with the results of those audits?
11 A The audits were periodic. I don't recall the frequency.
12 Q Once a year, twice a year?
13 A I -- fairly confident it was not twice a year. I don't recall if it was one once a
14 year or once every other year. It was that cadence, generally. Every year, two, or
15 something like that.
16 The FinCEN employee would engage with their counterparts at that agency, you
17 know, go through the steps of the audit, ask the questions, whatever they did, prepare a
18 report internally that would go up to the section chief for review and approval.
19 If there were -- I don't specifically recall this happening, but if there were issues or
20 something like that required escalation, it would come to me. The section chief
21 reported to me. That was the data access and management side of my office.
22 And then like any issue anywhere, depending on the nature of the issue, it could
23 go up, if needed. But I don't have a recollection of that happening.
24 [redacted] Can we go off the record, please?
25 [Recess.]

1 [redacted] Okay. We can go back on the record.

2 EXAMINATION

3 BY [redacted]

4 Q Thank you, [redacted]

5 You mentioned -- earlier, I believe you were asked what the mission of your unit at

6 FinCEN was, and you said you would defer to FinCEN. And I would just like to start by

7 saying that FinCEN's website describes the agency as a whole, FinCEN's mission as, "to

8 safeguard the financial system from illicit use, and combat money laundering and its

9 related crimes, including terrorism, and promote national security through the strategic

10 use of financial authorities and the collection, analysis, and dissemination of financial

11 intelligence."

12 Does that sound right to you?

13 A Yes.

14 Q And that's your understanding of the mission that you as a FinCEN

15 employee, the overall mission that you were working towards?

16 A Yes.

17 Q Thank you.

18 And so that's a very long way of saying FinCEN works to combat the use of

19 financial systems to finance terrorism and to launder money?

20 A Yes.

21 Q And FinCEN's work to combat the financing of terrorism includes the

22 financing of domestic terrorism, correct?

23 A Yes.

24 Q And just to back up, the -- the combating the financing of terrorism is

25 commonly referred to as CFT?

1 A Yes.
2 Q That's the acronym that is often -- often used?
3 A Yes.
4 Q And anti-money laundering is AML?
5 A Yes.
6 Q Okay. And you've had experience in those fields, the AML and CFT fields, in
7 both the private sector at a financial institution --
8 A Yes.
9 Q -- correct? And at FinCEN?
10 A Yes.
11 Q And so you've -- you've kind of got those two windows into that particular
12 activity?
13 A Yes. And on the legal side as well, representing clients who are compliant
14 with those laws and regs.
15 Q And was that before you went to work for the bank?
16 A Yes.
17 Q And FinCEN itself is not a law enforcement agency in the sense that it
18 doesn't go out and arrest people?
19 A Correct, in that sense. I'm not sure if there's a technical definition of law
20 enforcement of what FinCEN does and does not qualify for. But it certainly did not have
21 guns and badges and arrest power and things of that nature.
22 Q And when you used the term earlier of "law enforcement," and as I imagine
23 we'll all be using it today, you're referring more to agencies that do have those
24 authorities, like the FBI, DEA, local police agencies, that sort of thing?
25 A Yes.

1 Q Okay. Thank you.

2 Now, FinCEN is not a new agency, correct?

3 A Define "new". I mean, it's been around --

4 Q It was established in 1990.

5 A -- many, many years.

6 Q Does that sound right?

7 A '90? You know what, I'm not certain.

8 Q It wasn't something that just popped up in 2021?

9 A No.

10 Q And one of the -- one of the components of FinCEN's mission, as we just

11 discussed, was using financial authorities, financial statutes, but also the collection,

12 analysis, and dissemination of financial intelligence, correct?

13 A Yes.

14 Q What does the phrase "financial intelligence" mean to you, as best as you

15 can explain it?

16 A I mean, it can mean a lot of things. I think when I think of how FinCEN -- at

17 least my role at FinCEN went about doing that, it would be the BSA data that is filed with

18 FinCEN, analyzing that data, and deriving from it information about how nefarious actors

19 are -- are operating. We would call them red flags, typologies, indicators, things of that

20 nature.

21 Q And your work wasn't to actually do that analysis, correct?

22 A Correct.

23 Q That was a separate division of FinCEN?

24 A Correct.

25 Q Okay. Your work was more that of a liaison between the different

1 stakeholders who had access to BSA information?

2 A Correct.

3 Q And so it was part of your job to help communicate some of those typologies

4 and indicators that law enforcement had developed to the financial institutions, correct?

5 A Correct.

6 Q And financial institutions are not required to work with FinCEN in that

7 regard, correct?

8 A Correct.

9 Q It's their choice whether or not to participate in Exchange events, for

10 example?

11 A Correct.

12 Q And it's their choice whether or not to receive typologies from -- from you or

13 from law enforcement?

14 A Well, mostly correct. I mean, some of the -- we do issue typologies in the

15 public domain through, like, an advisory. So that's -- that's out there, right.

16 Nobody -- nobody can escape it. But in terms of, like, participation in engaging with

17 FinCEN on a particular item, certainly in the context of FinCEN Exchange, BSAAG, the

18 items -- or the initiatives I discussed earlier, that was totally voluntary.

19 Q Okay. Thank you.

20 Now, you mentioned several times that FinCEN's authority and some of its duties

21 and responsibilities are actually codified in statutes and regulations.

22 A Correct.

23 Q Now, I'm going to go through some of those a little bit and introduce some

24 of them into the record just so that we have a clear understanding. So I'll refer to this as

25 the potentially boring section of -- of this interview.

1 And I'm going to start -- and this will be exhibit 1. This is 31 U.S.C. Section 310.
2 Sorry. I hope I made enough copies. I did not expect quite as many people here today.
3 [Exhibit No. 1.
4 was marked for identification.]
5 BY
6 Q Okay. You can take a moment to look through it. I'm not going to ask you
7 anything from memory. I will point to you exactly what I would like to reference. So
8 you just let me know when you're ready.
9 A Yeah, go for it.
10 Q Okay. So first I want to start by noting that in this printout of the statute, it
11 says that the effective date is December 27, 2021. And I will just note for the record
12 that the only portion of the statute that went into effect on that date was the addition of
13 the phrase "other relevant private sector entities" on page 4 in subsection d(2). So
14 other than that, this was all in effect during your time at FinCEN.
15 So I want to turn your attention to page 1. And first of all, the title of this
16 subsection of the United States Code is called Financial Crimes Enforcement Network,
17 correct?
18 A Yes.
19 Q Okay. Now -- and subsection (a) states that the Financial Crimes
20 Enforcement Network -- I'm sorry.
21 "The Financial Crimes Enforcement Network established by order of the Secretary
22 of the Treasury on April 25th, 1990, shall be a bureau in the Department of the Treasury,"
23 correct?
24 A Yep.
25 Q Okay.

1 A Yes.

2 Q Now, if we look at subsection (b)(2), it refers to the duties and the powers of

3 the director of FinCEN. And, again, this is part of the record and this is publicly available,

4 so I'm not going to read the entire statute. But I think most relevant to -- to the issues

5 that we're going to be discussing here today, if you look at subsection (2)(B), the director

6 is required to "maintain a governmentwide data access service, with access, in

7 accordance with applicable legal requirements, to the following:"

8 And then it states, "Information collected by the Department of the Treasury,

9 including report information filed under subchapter II of chapter 53 of this title, such as

10 reports on cash transactions, foreign financial agency transactions and relationships,

11 foreign currency transactions, exporting and importing monetary instruments, and

12 suspicious activities."

13 Did I read that correctly?

14 A Yes.

15 Q Okay. And so the suspicious activities, that's a reference to the -- the SARs

16 that we were talking about earlier, correct?

17 A Yes.

18 Q And, again, so this is Congress telling the director of FinCEN that they're

19 required to maintain a governmentwide data access service with information including

20 SARs?

21 A Yes.

22 Q Now, if you turn the page to paragraph 2, subsection (C) requires the

23 director to "Analyze and disseminate the available data in accordance with applicable

24 legal requirements and policies and guidelines established by the Secretary of Treasury

25 and the Under Secretary of the Treasury for enforcement to -- identify possible criminal

1 activity to appropriate Federal, State, local, Tribal, and foreign law enforcement agencies;
2 and also to support ongoing criminal financial investigations and prosecutions and related
3 proceedings, including civil and criminal tax proceedings."
4 Did I read that correctly?
5 A Yes.
6 Q Okay. And that is consistent with the work that you were trying to carry
7 out at FinCEN?
8 A Yes.
9 Q And some of the other goals of the dissemination of that data include -- if
10 you look at subsection (v) -- "determining emerging trends and methods in money
11 laundering and other financial crimes," correct?
12 A Yes.
13 Q And the next subsection, subsection (vi), supporting -- and these are Roman
14 numerals -- "supporting the conduct of intelligence and counterintelligence activities,
15 including analysis, to protect against terrorism; and to support government initiatives
16 against money laundering," correct?
17 A Yes.
18 Q Okay. And FinCEN is also required, in subsection (D), to "Establish and
19 maintain a financial crimes communications center to furnish law enforcement
20 authorities with intelligence information relating to emerging or ongoing investigations
21 and undercover operations," correct?
22 A Yes.
23 Q And subsection (E) has a much longer description about how FinCEN is
24 required to furnish research, analytical and informational services to financial institutions,
25 and then it goes on a little longer.

1 But, essentially, this is all work that FinCEN is doing, at the end of that subsection,
2 "in the interest of the detection, prevention, and prosecution of terrorism, organized
3 crime, money laundering, and other financial crimes."
4 Did I read that correctly?
5 A I lost you on that last part.
6 Q I'm sorry. I'm -- I'm at subsection (E) on page 2.
7 A Oh, the bottom of that paragraph, yes. Interest -- yes.
8 Q And when you look at that subsection, that is essentially what you were
9 doing when you were passing along typologies and indicators to financial institutions,
10 correct?
11 A Yes.
12 Q And if you turn to page 3, subsection (K), FinCEN is required to
13 "Communicate regularly with financial institutions and Federal function regulators that
14 examine financial institutions for compliance with subsection II of chapter 53 and" -- I will
15 represent that that is the Bank Secrecy Act -- "promulgated under that subchapter and
16 law enforcement authorities to explain the United States Government's anti-money
17 laundering and countering the financing of terrorism priorities."
18 Did I read that correctly?
19 A Yes.
20 Q And, again, that was part of the mission that you were working towards,
21 correct?
22 A Yes.
23 Q And subsection (L) requires FinCEN to "Give and receive feedback to and
24 from financial institutions, State bank supervisors, State credit union supervisors, as those
25 terms are defined in section 6003 of the anti-money Laundering Act of 2020, regarding

1 the matters addressed in subchapter II of chapter 53 and regulations promulgated under
2 that subchapter," correct?
3 A Yes.
4 Q And, again, that's a reference to the Bank Secrecy Act, correct? It's okay
5 if --
6 A Yeah, you represent it as such. I don't remember, but yeah.
7 Q Okay. So stepping back, it's clear from this statute and from your
8 testimony that FinCEN's engagement with financial institutions, other members of the
9 private sector and their -- the work that you did liaising between those institutions and
10 law enforcement is something that is required by Congress, it is required by statutes that
11 Congress passed?
12 A Yes.
13 Q Okay. Thank you.
14 Now, I want to talk a little bit about the Bank Secrecy Act, because we -- it's come
15 up a lot already, but I don't think that we've -- we've talked about it at great detail.
16 So at a high level, is it fair to say that the Bank Secrecy Act provides for financial
17 institutions to report information for use in criminal and tax investigations, including
18 reports on suspicious transactions, relevant to a possible violation of law or regulation?
19 A Yes.
20 Q Does that sound right? Okay.
21 Now, I'm going to introduce as an exhibit a letter that was written to the chairman
22 of the Judiciary Committee by the acting assistant secretary of the Office of Legislative
23 Affairs at FinCEN, Mr. Corey Tellez -- or, I'm sorry, the Department of the Treasury. And
24 this will be exhibit 2.
25 [Exhibit No. 2.

1 was marked for identification.]

2 [redacted] And I'm not sure if you've seen this, but whether you have or you

3 haven't, please feel free to take as much time as you need to review it.

4 Did I make enough?

5 [redacted] Great.

6 BY [redacted]

7 Q Okay. So I'm going to turn your attention on page 1 to the last paragraph,

8 and the second sentence says, "First, pursuant to the Bank Secrecy Act, FinCEN is

9 authorized to collect, analyze, and disseminate financial intelligence to law enforcement,

10 national security, and regulatory agencies for use in connections with criminal

11 investigations and related matters."

12 Did I read that correctly?

13 A Yes.

14 Q And, again, that's consistent with your understanding of FinCEN's authority?

15 A Yes.

16 Q And if you look at the footnote, that cites the statute that we just -- we just

17 reviewed --

18 A Yes.

19 Q -- 31 U.S.C. 310, correct?

20 Okay. Now, turning to page -- sorry, excuse me -- 2, in the section called BSA

21 Reporting, Assistant Secretary Tellez says that, "One of the key sources of information

22 that FinCEN uses to carry out its mission are suspicious activity reports, which are filed by

23 banks and other financial institutions that possess customer transactions."

24 Is that your understanding of suspicious activity reports?

25 A Yes.

1 Q And the -- then the letter then says, "The BSA requires that a bank or other
2 financial institution file a SAR whenever it identifies, quote, "a suspicious transaction
3 relevant to a possible violation of law or regulation,'" end quote.
4 Did I read that correctly?
5 A Yes.
6 Q And is that consistent with your understanding of the Bank Secrecy Act?
7 A Yes.
8 Q And, again, the footnote for that is for a different statute, a section of the
9 Bank Secrecy Act, 31 United States Code, section 5318, subsection (g)(1).
10 Did I read that correctly?
11 A Yes.
12 Q Okay. And the assistant secretary goes on to say that, "SARs constitute
13 critical tip-and-lead information that helps law enforcement identify, stop, and
14 apprehend criminal actors."
15 Did I read that correctly?
16 A Yes.
17 Q And is that your understanding of what SARs do?
18 A Yes.
19 Q Okay. Now, going back to banks' obligations under the BSA to file SARs,
20 banks -- the Bank Secrecy Act requires SARs to file -- I'm sorry -- requires banks to file
21 SARs for any transaction that might be relevant to a possible violation of criminal laws.
22 Is that your understanding?
23 A Is that a quote of particular language? Yeah, I think -- I think what's
24 tripping me up is the word "any," because it's not -- I don't want to imply that there's an
25 expectation that every single suspicious transaction get filed. It's -- it's only those that

1 the bank becomes aware of through the implementation of its AML program.

2 Q Okay. And I appreciate that clarification.

3 A Yeah.

4 Q Thank you.

5 And that -- well, we're going to talk about the AML programs in a minute. But,

6 essentially, banks are required to have programs to help them identify transactions that

7 must be reported under the Bank Secrecy Act?

8 A Yes.

9 Q Okay. Thank you.

10 And SARs are used across all -- different types of criminal investigations, correct?

11 A Yes.

12 Q Drug trafficking, for example?

13 A So I don't necessarily have firsthand knowledge because, you know, it wasn't

14 my job at FinCEN to really review or analyze SARs. But as a general matter, my

15 awareness in the industry, yes, for a wide variety of -- of potentially criminal conduct,

16 including drug trafficking.

17 Q And the primary mission of FinCEN, though, is to focus on money laundering

18 and financing of terrorism?

19 A Yes.

20 Q And when a financial institution files a SAR, they file it with FinCEN, correct?

21 A Yes.

22 Q And then it goes into FinCEN's database?

23 A Yes.

24 Q And then FinCEN makes SARs available to law enforcement agencies that

25 have access to those databases?

1 A Yes.

2 Q Okay. And SARs are subject to strict confidentiality provisions under the

3 law, correct?

4 A Yes.

5 Q And, in fact, as your counsel mentioned at the beginning, your -- FinCEN is

6 very sensitive about those provisions and about maintaining those confidentiality

7 provisions?

8 A Absolutely, yes.

9 Q And that was something that, I imagine, you received extensive training on

10 while you were at FinCEN.

11 A Yes.

12 Q And financial institutions file millions of SARs every year. Is that your

13 understanding?

14 A I believe so, yes.

15 Q And as you stated earlier, it is not your understanding that every single one

16 of those millions of SARs is actually viewed --

17 A Correct.

18 Q -- by a law enforcement agent or somebody working at FinCEN?

19 A Correct.

20 Q I imagine there are many that are filed and are never looked at.

21 A I believe so.

22 Q Now, based on your experience in the -- working at a financial institution and

23 working at FinCEN, you're aware that banks do not need a warrant or a subpoena in order

24 to file a SAR, correct?

25 A Correct.

1 Q And FinCEN does not need a warrant or a subpoena in order to receive a SAR
2 from a bank?
3 A Correct.
4 Q And that's because the legal process that authorizes the filing of a SAR is the
5 Bank Secrecy Act itself, correct?
6 A Correct.
7 Q And the Bank Secrecy Act does not require probable cause that a crime has
8 been committed. It's not the same standard as if you were applying for a warrant.
9 A Correct.
10 Q Now, I want to get back to what you mentioned earlier, which is the -- the
11 banks or the financial institutions' anti-money laundering program. So now I'm going to
12 be using the phrase -- or the word "bank" as a shorthand for financial institutions
13 generally just because it's a mouthful otherwise.
14 So it's the bank's responsibility to determine, consistent with the Bank Secrecy Act
15 and its implementing regulations, when it must file a SAR, correct?
16 A Correct.
17 Q And FinCEN can provide guidance or indicators but, ultimately, the
18 responsibility lies with the bank to determine whether or not a SAR is appropriate?
19 A Yes, correct. I mean, I would note that, to my knowledge, FinCEN wouldn't
20 or hasn't provided specific guidance at the SAR level. It would be at the sort of typology
21 red flag level.
22 Q Okay. Can you explain what you mean by that, what that -- what the
23 difference would be?
24 A Like, for example, FinCEN would never or, to my knowledge, has never told a
25 bank, if you see X, it's suspicious, or, you know, this person is a criminal, you must file a

1 SARs on them.

2 FinCEN wouldn't operate at that level of specificity. They would offer high-level

3 typology. You know, here's a description of how a drug trafficker might move money,

4 here's a description of how a fraudster places the money into the system, things -- things

5 that, you know, at that sort of typology level.

6 Q And it's the bank's responsibility to take that information or not and use it

7 to, again, make their own ultimate judgment about whether any particular transaction at

8 their institution merits the filing of a SAR?

9 A Correct. And just to link it back up to what we mentioned earlier, the

10 dissemination of that information, which, as you noted, is required by law for FinCEN to

11 do, does not come with any requirement or expectation as to how it is used or whether it

12 is used.

13 Q Okay. So when FinCEN sends along a typology, a bank can say, you know,

14 not helpful, sorry; we have our own program, and we're not going to use that?

15 A Correct.

16 Q I mean, they wouldn't necessarily say that to your face, but that's what they

17 could -- that's what they could say, you know?

18 A Yes.

19 Q That's how they could approach you?

20 A Sure.

21 Q Or they could say, this is helpful; we might use this?

22 A Correct.

23 Q But, ultimately, FinCEN has no authority over whether or not a bank files a

24 particular SAR?

25 A Correct.

1 Q And banks are actually required to maintain their own AML/CFT programs,
2 correct?
3 A Correct.
4 Q Okay. And those programs are designed, among other things, to ensure
5 their compliance with the BSA and that they are detecting and reporting suspicious
6 activity?
7 A Yes.
8 Q Okay. Now, I'm going to introduce another statute that might take me a
9 minute to find.
10 A While you're doing that, this is overly technical, but this is something I did at
11 FinCEN. I believe -- so the AML program is a specific reg. The requirement to file
12 suspicious activity is a separate reg. So I -- it might be technically incorrect to say an
13 AML program requires a filing of a SAR only because that's the way the -- the laws and the
14 statutes are written. The AML program must contain controls in place to identify and
15 detect, and it's all kind of cobbled together.
16 Q And I appreciate -- no, I appreciate that.
17 A Technical correction, but --
18 Q Thank you. And -- and it's a valuable one, because I think I did, in fact,
19 conflate two different statutes and regulations in that question.
20 So I'm going to go ahead and introduce, as exhibit 3, 31 U.S. Code Section 5318,
21 which is another long one. Again, I'm not going to take you through all of it.
22 [[redacted] Exhibit No. 3.
23 was marked for identification.]
24 BY [redacted]
25 Q I'm going to turn your attention to page 10 of this printout. It's a really long

1 statute, subsection (h). And subsection (h)(1) provides that, "In order to guard against
2 money laundering and the financing of terrorism through financial institutions, each
3 financial institution shall establish anti-money laundering and countering the financing of
4 terrorism programs."
5 Did I read that correctly?
6 A Yes.
7 Q And then it goes on to -- to list four different aspects that those programs
8 must have, correct?
9 A Correct.
10 Q Okay. So, again, this isn't just something that banks do because they want
11 to; it's something that they are required to do by law?
12 A Required. In fact, those four are referred to as pillars.
13 Q Okay. So --
14 A And they're required elements of the AML program.
15 Q Since they're pillars, we might as well read them into the record. They are
16 the development of internal policies, procedures, and controls; the designation of a
17 compliance officer; an ongoing employee training program; and an independent audit
18 function to test programs.
19 Did I read that correctly?
20 A Yes.
21 Q And those are the pillars you were referring to?
22 A Yes.
23 Q Thank you.
24 So financial institutions are required to have -- well, most of them have entire
25 units of employees where that's -- that's just their job, correct, is to work --

1 A It would depend on the size. I mean, there are some baby community
2 banks out there that have like one person sometimes wearing multiple hats, but then
3 there's a Wells Fargo, B of A of the world that will have many, many, many people doing
4 this work.
5 Q And that's the type of work that you did at I believe it was
6 Standard Chartered Bank?
7 A Yes.
8 Q Okay. Thank you.
9 And there are investigators in, particularly the banks that are large enough to have
10 multiple employees and entire compliance units, whose job it is to search and monitor
11 their customers' financial records for suspicious activity that must be reported?
12 A Yes.
13 Q And based on your experience both at a financial institution and at FinCEN,
14 that type of monitoring by a bank, by a financial institution of its own customers' data,
15 that's entirely legal, correct?
16 A Legal and required.
17 Q Legal and required?
18 A Yeah.
19 Q No subpoenas required, no -- no warrant is required?
20 A Correct.
21 Q And stepping back a bit, in addition to the statutes that we've just discussed,
22 part of the reason why banks are able to do that sort of monitoring, whatever monitoring
23 they determine necessary, of their own customers' transaction is because, many years
24 ago, the Supreme Court held that bank records -- customer bank records are the property
25 of the bank, not the individual customer and, therefore, the Fourth Amendment does not

1 apply to bank records.

2 Is that your understanding?

3 A I do not have an understanding one way or the other of that case.

4 Q Okay. But you are more familiar, as I think you just made clear, with all of

5 the statutes and the regulations --

6 A Correct.

7 Q -- that govern the banks and --

8 A And how they are generally understood, whether -- if that came from case

9 law, you know, I can't say one way or the other, but yes.

10 Q Now, in addition to being legally required to be in compliance with the Bank

11 Secrecy Act, banks also have a business interest in ensuring that their customers are not

12 using their products to finance terrorism or other illegal activities, correct?

13 A I mean, colloquially, I suppose I would agree with that. I don't really have

14 an opinion one way or the other on the commercials of it. That makes sense to me.

15 Q I mean, it would make sense to think that if word came out that a particular

16 institution was being used to finance a terrorist attack, that that could cause that

17 institution's stock to plummet --

18 A Absolutely.

19 Q -- or people to --

20 A Headline risk was a major -- yes. And, in fact, when I was in the private

21 sector before FinCEN and now, headline risk is something that compliance personnel

22 discuss.

23 Q And headline risk refers to?

24 A The risk that the company would be in headlines with -- that something

25 negative would be public, such as customers using the institution to facilitate money

1 laundering, terrorism, et cetera.

2 Q Okay. Thank you.

3 And banks can also be penalized for not having effective compliance programs or

4 having compliance programs that don't meet what's required by statute?

5 A Yes.

6 Q And they can incur civil penalties?

7 A Yes.

8 Q Give me just one moment.

9 Okay. We talked a little bit during the previous hour about FinCEN Exchanges,

10 and I want to talk about them a little bit more. And, again, we're just talking generally.

11 We're not going to talk about the particular Exchange right now.

12 So, again, I believe that we've established that while it's the bank's responsibility

13 to identify and report suspicious activity at their institutions, banks regularly engage with

14 both FinCEN and law enforcement agencies in order to understand how criminal actors

15 are operating.

16 Is that a fair statement?

17 A I -- what do you mean by engage? Like, actually communicate with them?

18 Q Communicate.

19 A I would say that the overwhelming majority of regulated financial

20 institutions do not regularly communicate with FinCEN. They, of course, file the

21 required reports with FinCEN. But in terms of actual communication or things of that

22 nature, I would say most do not. And I -- even the ones that do, there's -- there's only a

23 very small handful that I would say do it regularly.

24 Q So when you have a FinCEN Exchange event, is that typically with, like,

25 repeat players, the same --

1 A So, generally, what would happen, if -- if it was a FinCEN Exchange that was
2 tactical on a particular topic, is some combination of law enforcement and the
3 appropriate FinCEN personnel would try to identify, based on the SARs and the other BSA
4 data, which institutions would be most useful to participate and would extend an
5 invitation -- if there was no objection to a particular institution, would extend an
6 invitation to those institutions.
7 Because of the nature of specific banks and just the market share that they have,
8 there were definitely some repeat players just because so many of the financial
9 transactions in our ecosystem go through the same small handful. So those were the
10 ones that would definitely have communicated with FinCEN regularly.
11 Q Okay. And you mentioned invitations. So FinCEN would send out
12 invitations to the financial institutions that it wanted to participate in Exchange events?
13 A Yes.
14 Q And those institutions were free to decline that invitation if they chose?
15 A Yes.
16 Q And the purpose of those Exchanges, again, was for law enforcement to
17 share information, typologies, that sort of information that would help banks -- that
18 FinCEN thought would help banks better identify suspicious transactions on their --
19 A Law enforcement and FinCEN, yes.
20 Q Okay. And -- well, let me back up.
21 Law enforcement is providing, through FinCEN, through the Exchanges, guidance
22 to the banks in these Exchanges about particular terms or particular trends that they're
23 seeing or that they think they might be seeing for banks to keep an eye out for.
24 A Yes.
25 Q Is that a fair statement?

1 A Yes.
2 Q And, again, banks are free to do what they want with that information?
3 A Yes.
4 Q And FinCEN Exchanges were actually developed as a means to facilitate this
5 sort of information sharing between banks and law enforcement, correct?
6 A Yes.
7 Q And is it a two-way street? Do banks share information as well?
8 A Yes.
9 Q Okay. And so banks will sometimes alert other banks or law enforcement
10 to, these are some of the trends that we're seeing, or these are the search terms that we
11 use to help identify suspicious activities?
12 A Yes.
13 Q And as we just established, banks are -- this is something that banks are
14 doing on their own regularly because they're required by statute to identify suspicious
15 activity?
16 A Yes.
17 Q And also because they just don't want their institutions to be used to finance
18 terrorism or to be engaged in money laundering?
19 A Yes.
20 Q And while you were still at FinCEN, Congress actually codified the FinCEN
21 Exchange as part of the anti-money Laundering Act of 2020. Is that your understanding?
22 A Yes.
23 Q Okay. And so what that means is that, through legislation, Congress
24 actually formalized this mechanism for law enforcement to share information with
25 financial -- financial institutions?

1 A Correct.

2 Q For national security and to combat the financing of terrorism?

3 A I don't recall the specific language of the statute and what the purposes

4 were that were enumerated, but that's generally my understanding.

5 Q And I believe in the earlier hour you were asked about, again, the mission

6 statement of FinCEN Exchanges, and you said that you would defer to FinCEN on that

7 since you're no longer there.

8 And I just want to introduce into the record a FinCEN fact sheet -- FinCEN

9 Exchange fact sheet that FinCEN put out.

10 Are we on exhibit 4 now?

11 [[redacted] Exhibit No. 4.

12 was marked for identification.]

13 [redacted] Okay.

14 BY [redacted]

15 Q Okay. So if we look at just the very beginning of this fact sheet, it says that

16 on January 1st, 2021, Congress enacted the anti-money Laundering Act of 2020, and that

17 section 6103 of that Act establishes the FinCEN Exchange to facilitate a voluntary

18 public-private information-sharing partnership between law enforcement agencies,

19 national security agencies, financial institutions, and FinCEN to effectively combat money

20 laundering, terrorism financing, organized crime and other financial crimes; protect the

21 financial system from illicit use; and promote national security.

22 Did I read that correctly.

23 A Yes.

24 Q And is that your understanding with FinCEN's mission?

25 A Yes.

1 Q Okay. And, "The objective of FinCEN Exchange is to develop, deliver, and
2 sustain innovative public-private information sharing in order to enable the private sector
3 to better identify risks and provide FinCEN and law enforcement with critical information
4 to disrupt money laundering, terrorism financing, and other financial crimes."
5 Did I read that correctly?
6 A Yes.
7 Q And, again, is that consistent with your understanding of the FinCEN
8 Exchange?
9 A Yes.
10 Q And is that consistent with the work that you were doing in setting up
11 FinCEN Exchanges?
12 A Yes.
13 Q Now, I believe you said earlier, far more articulately than I ever could, that
14 FinCEN would never direct a bank, you must file a SAR if you see X, correct?
15 A Correct.
16 Q And so when FinCEN provides banks with typologies, it's not FinCEN's intent
17 to say that, if you see any one of the phrases in these typologies, file a SAR?
18 A Correct.
19 Q It's something that is just used as guidance for banks to consider in terms of
20 all of the other factors they consider when they're determining whether or not to file a
21 SAR?
22 A That's correct. I would add, a lot of times, it's to help them narrow the
23 scope of what they're looking at, right. So -- especially if you talk about the really large
24 institutions that have millions of customers, millions -- millions and millions of
25 transactions. They're running -- their program will run -- it's called the detection

1 scenario -- but run a pretty high-level algorithm to capture generic red flags. That's
2 what an investigator is looking at to try to figure out if they should file a SAR.
3 If FinCEN or law enforcement is able to provide a financial institution with higher
4 quality red flags, it helps narrow the focus of what they have to look for and makes it
5 more likely that they might be able to identify suspicious activity, but it in no way implies
6 that that makes something suspicious in and of itself. It's -- it's a -- it's an attempt to
7 improve their ability to search for suspicious activity.
8 Q Okay. And banks can take that information and then integrate it into the
9 other types of red flags or the other types of investigative techniques that they might
10 use?
11 A Correct.
12 Q So, for example, if FinCEN submits some typologies and a bank identifies a
13 customer whose transactions fit some of those typologies, bank investigators might then
14 choose to investigate that customer a little more closely, for example, by looking at their
15 social media, correct? Is that something that banks do?
16 A Yes, that is something that could be done, that sometimes a bank would do,
17 sure.
18 Q So banks are, in your experience on both sides of -- of this relationship, doing
19 more holistic investigations of their customers than just using FinCEN typologies?
20 A Correct.
21 Q But the typologies are there because, as you said, some of these banks have
22 millions and millions of customers, and you want to make sure that their searches are as
23 efficient and as effective as possible?
24 A Correct.
25 Q And you're doing that to, ultimately, protect the safety of Americans and of

1 our financial institutions, correct?

2 A Correct.

3 Q And, again, when FinCEN sends out this guidance and sends out these red

4 flags, it is ultimately the bank's responsibility to determine whether or not to use them

5 and whether or not to file any SARs if they do use them?

6 A Correct.

7 Q FinCEN does not ask banks to file SARs?

8 A Correct.

9 Q FinCEN does not instruct banks to file SARs?

10 A Not at any specific level of granularity. I mean, they're required to have a

11 program generally to file SARs.

12 Q Correct.

13 A But, no, not --

14 Q But not a particular SAR?

15 A Correct. Not at a topical or a specific level, correct.

16 Q You're simply there to help provide guidance to help the banks comply with

17 their responsibilities and help keep us all safe?

18 A Correct. And to do what we're required to do, right. One of the statutes

19 you submitted earlier requires us to analyze the data that's given to us and disseminate

20 those typologies. That's -- that's -- FinCEN views that as a requirement of the statute.

21 Q Thank you very much.

22 [redacted] And we can go off the record.

23 [Recess.]

24 [redacted] We can go back on the record.

25 BY [redacted]

1 Q I just want to run through a few questions, and then we can -- can move to
2 another topic.
3 Earlier you mentioned an example where a financial inst- -- the FBI was seeking
4 data from a financial institution, and the financial institution misunderstood the things
5 that it could share.
6 Do you recall that.
7 A Yes.
8 Q Was there ever an example where the FBI was seeking data from a financial
9 institution that it wasn't entitled to receive?
10 A So, yeah, let me -- let me clarify what the example was. The answer to
11 your question is no, not that I recall.
12 The SARs statute provides that law enforcement is able to obtain, under the BSA,
13 without additional process, supporting documentation that underlies the filing of a SAR.
14 So what happens, in practice, is a law enforcement agent will be querying the database,
15 they'll see a particular SAR. It might be relevant to their investigation, so they will reach
16 out to the filing institution and ask for that supporting documentation. Could be a file of
17 transactions, a screenshot of something that was, you know, a Google result -- I mean,
18 who knows? But that's what that mechanism is, and that's just provided for in the BSA.
19 And financial institutions are allowed and required to turn that over to law enforcement.
20 A less sophisticated institution sometimes might not fully appreciate that they're
21 allowed to do that without process, et cetera. So there's that -- a point of confusion
22 that sometimes would come to FinCEN that we would be able to clarify and help.
23 I'm not aware of an example of what I had described outside of what I just
24 described. Any other kind of data or that law enforcement was seeking outside of what
25 I just described, I'm not familiar with.

1 Q Moving back to the audits. Did you audit every agency that had access to
2 the BSA data?
3 A I'm going to answer that this way: Every agency that had access to data
4 was in scope of the audit program. I don't have, of course, any specific recollection
5 about which specific agencies were and were not audited while I was at FinCEN.
6 Q So some agencies may have not been audited?
7 A Correct. I just don't recall.
8 [redacted] Just during your time at FinCEN, but presumably at some point,
9 they are subject to audits if they have access to the data?
10 [redacted] Yes. I mean, they're always subject to the audit and, presumably,
11 at some point, unless their access is quite new, an audit would have been performed at
12 some point of a particular agency.
13 [redacted] What was the name of those results, those audit results? Like,
14 was it a kind of report, was it a memorandum?
15 [redacted] Yeah. It was a report -- not sure I recall if it was in the form of a
16 memo or whatnot, but some written documentation of the conclusions of the staffer that
17 performed the audit.

1 [12:11 p.m.]

2 [redacted] Into the agency being audited?

3 [redacted] Oh, no. That would be internal documentation. I don't recall

4 there being any actual -- unless something needed to be addressed, I don't recall that

5 there was any like results or report delivered to the agency being audited.

6 [redacted] Yeah. Okay. So internally what were those audit results

7 titled? How was that --

8 [redacted] Oh, I don't recall. It would have just been a written report. I use

9 "report" very generally to mean something written that documented to an extent the

10 conclusions of the auditor and the steps performed internal to FinCEN.

11 [redacted] I just want to make sure we're using "audit" like in the same

12 context, because this is not -- I think what you're talking about is not an audit by like the

13 Treasury OIG or the Treasury auditors. This is like an audit inspection by FinCEN

14 employees.

15 So I just want to make sure we're using the term "audit" in the same way. Is that

16 accurate?

17 [redacted] Yeah. No, no. Thank you.

18 Not at all OIG, GAO related. No private sector involvement. This is purely the

19 agencies that have access to the FinCEN database, FinCEN personnel examining that

20 access called an audit, and then documenting those conclusions internally.

21 BY [redacted]

22 Q Are you familiar with Agency Integrated Access?

23 A Agency Integrated Access?

24 I recall the term, so I might be able to -- I don't recall anything specific, but if there

25 is something that can jog my memory, I'm happy to take a look at it. But I recall the

1 term.

2 Q It may relate to the memorandums of understanding that certain agencies

3 have with FinCEN and accessing BSA data? And maybe we can just talk about those

4 memorandums of understanding.

5 A Sure, sure, sure. Yes.

6 Q Can you talk about in general what the function of the memorandums of

7 understanding served?

8 A Sure, to an extent. They were sort of jointly owned by my division and

9 counsel. They're, I guess, contracts, if you will.

10 But it basically provided for the legal authorities under which the access was being

11 provided. It would contain the manner of expected usage, limitations on usage, if any.

12 Just by way of example, the MOU for a traditional law enforcement agency might

13 look different than an -- will look different than an MOU for a regulator, which would look

14 different than an MOU for a member of the intelligence community, different authorities,

15 different functions.

16 And the MOU would provide for the parameters under which a particular agency

17 would be able to access and use the data.

18 Q How could a memorandum change -- a memorandum of understanding

19 change the parameters by which a law enforcement agency, for example, could access

20 that data?

21 A Well, it would set out the permissible parameters. And, generally, it would

22 be aligned with the mission of the law enforcement agency.

23 So, as you know, law enforcement agencies, members of the intelligence

24 community, regulators, they all operate under specific authorities that allow them to do

25 things and not do things.

1 So the MOU, by and large, would document that the user would only be able to
2 use the data in a manner consistent with their authorities and their mission.
3 Q And so --
4 A And FinCEN's mission and authorities as well.
5 Q And so they could take the data in the FinCEN database and then use it to
6 run their own analytics according to the terms of the memorandums of understanding?
7 A And I think you just reminded me on what Integrated Access meant.
8 So the overwhelming majority of agencies that accessed FinCEN data did so
9 through FinCEN Portal. There were a small -- there was a small handful of agencies that
10 had the ability to ingest the data into its own systems.
11 If I'm not mistaken, I believe that the term Integrated Access is a reference to that.
12 Q From our understanding that's also correct.
13 A Yeah. Okay. I think, just getting your question.
14 So I think that was the term that was created to reference those agencies that had
15 FinCEN data ingested into their own systems.
16 I don't have any specific recollection on how they queried their systems and what
17 capabilities those systems had. I don't recall.
18 Q Do you recall which agencies used Agency Integrated Access?
19 A I don't specifically, no.
20 Q Are there any restrictions on how individuals can access or use the FinCEN
21 Portal?
22 [redacted] Well, I think you just described the MOUs that set out those
23 restrictions.
24 But are you asking --
25 BY [redacted]

1 Q Well, the FinCEN Portal is different than AIA, right?
2 A Well, all of it would have an MOU, though.
3 Q Okay.
4 A Every agency that had access of any manner had an MOU in place. The
5 MOU would provide for the type of access. So if an agency had that form of access, it
6 would have been addressed in the MOU.
7 Q Okay.
8 A And so, yeah. So to your question, like, primarily, I would defer to the
9 MOU in terms of the restrictions.
10 Of course, we're talking about sensitive agencies. We're talking about law
11 enforcement agencies, regulators. So they had controls on their side in terms of who
12 has access to their systems or who was granted access to FinCEN's system.
13 The janitor and the tech guy probably didn't have the login credentials to do it.
14 But that sort of -- I'm not sure if that answers your question.
15 Q I'll switch gears.
16 How does FinCEN use advisories and typologies, other key terms, as part of the
17 Bank Secrecy Act regime? You touched on this a little bit earlier. I just want to put a
18 finer point on it.
19 A Well, a lot of ways.
20 So FinCEN's analysis of the data can help us derive those typologies to begin with.
21 FinCEN itself and our law enforcement partners would use those typologies to inform
22 their own analysis to either find suspicious activity or derive new typologies or more
23 refined typologies.
24 You mentioned advisories. You know, we -- FinCEN would disseminate those
25 typologies. We had multiple mechanisms to do so, but certainly an advisory was a

1 major one where FinCEN would publicly publish something, usually topical, and would go
2 through those typologies and red flags on that topic.
3 Q Which office at FinCEN is responsible for analyzing the BSA data?
4 A Depends on the purpose for which it's being analyzed. If you're talking
5 about from a typology perspective, I would say primarily it would be the Intelligence
6 Division, which is not a member of the IC. It's not to be confused with the intelligence
7 community.
8 Q Are SARs ever deleted from the FinCEN Portal?
9 A For the most part, I would say I'm not the right person to ask.
10 The only thing I can recall, there was -- so sometimes you have like duplicate
11 filings or other technical errors that we would sort of de-dupe. I'm not sure if things
12 were deleted. The word I recall is "suppression."
13 So there may be -- there was a mechanism, I think, to ensure that those things
14 weren't popping up on the searches in a redundant manner.
15 I don't have any recollection one way or the other of whether there were any
16 substantive deletions or suppressions or anything of that nature.
17 [redacted] Is FinCEN notified when a SAR is reviewed, when one of these
18 divisions runs a query?
19 [redacted] FinCEN has access to that information. I don't recall
20 the mechanism. When you say notified, I don't know if there's a ping or something like
21 that.
22 But, yes, FinCEN personnel have the ability to see who is searching and what
23 they're searching.
24 [redacted] So each query that is run there is a record of that somewhere?
25 [redacted] To the best of my recollection, I believe that's correct.

1 [redacted] And I want to make sure we're distinguishing between a
2 record.
3 Are you aware of anyone at FinCEN affirmatively getting notice any time someone
4 conducts a review in the BSA database?
5 [redacted] I don't believe --
6 [redacted] Anyone in your division.
7 [redacted] I don't recall. I don't recall that one way or the other.
8 [redacted] We talked about earlier, in the earlier hour, the private sector
9 sharing materials with your office.
10 Verbal response, please.
11 [redacted] Oh, sorry.
12 [redacted] Was that a question?
13 [redacted] Yes, we talked about that earlier?
14 BY [redacted]
15 Q Yes.
16 A Oh, okay.
17 Q And what kinds of materials do the private sector often share? Or did it
18 depend?
19 A Yeah, I mean, it would depend. So they would, of course, file all the
20 required reports, SARs, CTRs, whatever was required, and that would go in the database.
21 I don't know if that's what you meant by sharing, but that would be a form of it.
22 You know, there are of course limitations to what they can share. They can't
23 share PII or anything of that nature outside of what allows them to do so, such as a SAR or
24 if it's a subpoena for law enforcement or something like that.
25 If you're talking about like the red flag typology level, it would depend on the

1 context. It could be a FinCEN Exchange where we're talking about a particular topic and
2 a financial institution in attendance might offer some high level, "Here's the trend that
3 we're seeing," or, "Here's a search that we found helpful to find X," things of that nature.
4 Q So when you received those materials, what did you do next with them?
5 [redacted] So I guess can we first establish like would you personally have
6 received those materials?
7 [redacted] Well, so it's -- not to go all Bill Clinton. It depends on what you
8 mean by "receive."
9 So a lot of this might be like a verbal conversation where -- I'm not sure there was
10 an official receipt. I mean, there may have been someone taking notes. Really it was a
11 collaborative discussion. So there may not have been anything physically received.
12 To the extent that that constitutes receipt, I would have been in the room. So I
13 would have been someone who heard the info, but it certainly wasn't my role to do
14 anything with the substance.
15 I and my staff, we didn't analyze SARs. We didn't engage in typologies and red
16 flags. You know, when it came to those kinds of collaborative efforts, we were more
17 logistics and planning the event and other components. Law enforcement attendees
18 would be sort of engaged in the substance.
19 BY [redacted]
20 Q Did the private sector ever flag or make you aware of particular SARs that
21 had been filed with FinCEN?
22 A So I can confidently say never in the context of a FinCEN Exchange because it
23 would have been a violation of confidentiality for them to discuss specific SARs in the
24 presence of other members of the private sector.
25 I don't have specific -- I do have a general recollection that there were times a

1 financial institution flagged for FinCEN a particular filing, like, "You should take a look at
2 this."
3 In fact, FinCEN also maintains a hotline for like emergency -- if somebody sees
4 something, was like, "Oh, crap, I need to pick up the phone and call somebody," FinCEN
5 actually has a hotline for that.
6 So I do have a general recollection that that occurred.
7 Q Did other liaison offices share information with the private sector, or would
8 that have always went through the Office of Stakeholder Engagement and Integration?
9 A No. I mean, it's such a broad question. There were certainly reasons why
10 multiple of FinCEN's components would have reason to exchange information with
11 stakeholders.
12 BY [redacted]
13 Q Just a clarifying question. The hotline two responses ago you mentioned,
14 that's separate from the customer support?
15 A I'm not even sure if it's -- I think it's a different phone number.
16 Q Okay.
17 A I'm not sure if that's your question. But it's a separate mechanism, yes.
18 It's a different team.
19 Q And who is on the receiving -- yeah, which team is on the receiving end of
20 that?
21 A Oh, gosh. I don't know what division they're in. That's a good question.
22 I don't know.
23 Q It's not your division?
24 A I don't -- it wasn't my office.
25 Q Okay.

1 A I don't believe -- I was deputy at a division for a minute. So I'm trying to
2 remember.
3 I don't recall who sits on the other side of that, of the substantive hotline. The
4 customer support was a different office within SOD.
5 Q Do you remember the internal name of what the substantive hotline was
6 called, like if we needed to reference it?
7 A I think it's literally called FinCEN Hotline. It's on the website somewhere.
8 Actually, I think it might even be in the regulation. I don't -- I want to say I believe it was
9 FinCEN Hotline, but I don't specifically recall.
10 Q And understanding you're going off a general recollection, you don't have a
11 specific recollection of an example, do you have a sense of how many times this hotline
12 would be used?
13 A No. No idea. And I don't even have a ballpark. I wasn't engaged in that,
14 not at all.
15 BY [redacted]
16 Q When you would share materials in a FinCEN Exchange event or typologies,
17 what sort of approval process did you go through, if any, before sending those materials
18 out?
19 A Yeah. So let me take a bit of a step back.
20 "You," meaning [redacted] or FinCEN, right?
21 So I would not have been involved in the creation or analysis of any of that
22 information. So I can't speak to the extent to which -- I can't speak to what the approval
23 process was for that information to be finalized within FinCEN.
24 If at some point it came to me or my staff for dissemination, that -- I mean, at a
25 minimum, I would make sure that my direct leadership was -- approved of that.

1 At times -- again, from a dissemination perspective, which is all I can speak to -- at
2 times that may also include consulting FinCEN counsel and consulting FinCEN front office.
3 But, again, I can only speak to the dissemination. The actual content of what I
4 was disseminating, I can't speak to at all.
5 Q So when you received those -- the content that you were disseminating, who
6 did that ordinarily come from?
7 A Usually it would come from the Intelligence Division. It could come from
8 the front office if there was like a member of the director's staff that was working with
9 other FinCEN components or harmonizing. But to the best of my recollection, it
10 probably usually would have been the Intelligence Division.
11 Q And what are the ways you could share that information or disseminate it?
12 A I mean, assuming I got approval to disseminate it, it could be email. I'm
13 trying to remember if there was any kind of like secure portal, whatever. You know,
14 obviously, the private sector doesn't have access to the FinCEN database.
15 So my recollection is it was primarily email or presentation at an event. So there
16 were some times where something was spoken about verbally in an exchange or BSAAG
17 or something that wasn't physically disseminated.
18 Q Did your office coordinate with other Federal agencies, like the IRS?
19 A Yes.
20 Q Can you describe the -- that nature of that coordination?
21 A Yeah. Our relationship with the IRS would primarily have been one of two
22 components, either IRS CI in its capacity as a Federal law enforcement agency, or IRS
23 SBSE, which I think stands for Small Business and Self-Employed, which IRS is a functional
24 regulator as well.
25 So I was -- we're not usually talking with the tax folks as we think of IRS normally.

1 So it was the IRS as a law enforcement agency or the IRS as a regulator.

2 Q And did you disseminate the kinds of materials that were also disseminated

3 to the private sector to the IRS?

4 A Well, the IRS would have had access to the FinCEN database.

5 To the extent that the IRS had a reason to be on the dissemination, if you will, so

6 like, for example, if IRS CI was the law enforcement stakeholder for FinCEN Exchange,

7 then presumably they would have been in the room when these things were discussed.

8 I don't have a specific recollection, but I may have disseminated something to them in

9 that context.

10 Q What about the Department of Homeland Security? Did you work with

11 them?

12 A Yes. I would say, again, in their capacity as a law enforcement agency.

13 Q Did you work with any intelligence agencies?

14 A Yes.

15 Q Which ones?

16 A Well, most, if not all, would have access to the database. So I would work

17 with them in that context from a data access perspective, MOU perspective.

18 There were one or two projects at the Top Secret level that I can't speak about

19 that I had some touch points to with the IC. But, again, as someone who was not

20 engaged in substantive analysis, I had very little engagement with IC.

21 BY [redacted]

22 Q For the IRS, for the law enforcement wing, would you have similar

23 interactions to what you had with Federal law enforcement where --

24 A Yeah, I mean, they're one of the big five. So IRS CI would have been like

25 DEA, FBI to me. It was just a big Federal law enforcement agency.

1 Q You had mentioned when disseminating information there might be
2 occasions where it called on elevating up to the front office. What types of information
3 would you feel would be appropriate to elevate to the front office's attention?
4 A So I'm not sure it's a matter of elevating. If I was being asked to
5 disseminate something, then I would need approval to feel comfortable disseminating it.
6 It's possible that the person who gave it to me was of sufficient. It could have been the
7 senior adviser for the director or the head of ID, Intelligence. I mean, it could have been
8 somebody where I didn't feel the need to get somebody else's approval. It could have
9 been somebody where I would go to my leadership.
10 It sounds like you're more asking about like what kind of issue might I have seen
11 that would cause me to escalate something. Like, I guess I'm not really clear on what
12 you mean.
13 Q In an earlier response, you gave a pretty clear bottom line in your head as far
14 as creation and assessment versus dissemination. And then so just focus on that latter
15 category.
16 A Uh-huh.
17 Q Either specific recollections or a hypothetical based off your experience and
18 your job, what types of information where you had received an instruction that this can
19 be disseminated would you look at and say, "This is something I should at least flag," or --
20 A Oh, I see what you mean.
21 I'm not sure that it was a specific type of information that would cause me to feel
22 compelled to get approval one way or the other. As a general matter, I would get
23 approval.
24 I mean, we weren't regularly in the business of just sending stuff to financial
25 institutions. It would have been in context, an advisory that is published, a FinCEN

1 Exchange that we are hosting, a BSAAG working group that we are facilitating.
2 It is not the case that somebody would come to me and say, "Hey, here's a
3 PowerPoint. Can you send this to X, Y, Z bank?" That's really not something that
4 happened.
5 So that's why I'm sort of struggling to answer the question, because the
6 information I was being asked to disseminate would have been in the context of a
7 particular reason to disseminate.
8 And so I would either have prior knowledge that I was able to disseminate, and I
9 was expecting to receive something, and once I did and the appropriate people made me
10 feel comfortable that it was what I could disseminate, I would do it, or I would ask my
11 boss.
12 But it wasn't like I read something and said, "Ooh, this is about X. I'd better ask
13 somebody first." It wasn't really a substantive assessment, if that makes sense.
14 Q Was there any part in the process that you played where you were
15 conducting any sort of substantive assessment?
16 A Not that I can recall. I've been telling you guys on the phone for 6 months
17 you've got the wrong guy. But I don't recall. I don't think I ever did that at FinCEN.
18 Q For the Intelligence Division, who was the head of that when you were at
19 FinCEN?
20 A For most of the time I was there, it was a guy named Jimmy Kirby.
21 Q Kirby?
22 A Yeah, K-i-r-b-y. I believe he's still at FinCEN, or at least he was as of a
23 couple months ago.
24 [redacted] He is.
25 BY [redacted]

1 Q Who is the right guy?

2 A The right guy of?

3 Q Well, you said we don't have the right guy.

4 A Oh, it depends what your question is.

5 I mean, if you want to talk about the substance of what we were exchanging at

6 FinCEN Exchange, it would be law enforcement or maybe Jimmy.

7 Q Did you coordinate with any offices from the FBI?

8 A For what?

9 Q Did you coordinate with any offices from the FBI?

10 A Coordinate what?

11 Q Did you communicate with offices from the FBI?

12 A Yes.

13 Q Do you remember which offices?

14 [redacted] I think he's already testified about this. Like, I mean, he

15 testified about this at the very beginning of your questioning. So is there a specific topic

16 you want to ask him about?

17 [redacted] Did you work with the Strategic Partner Engagement Section?

18 [redacted] Not that I -- yeah, I mean, I would reiterate what I said earlier, which

19 is I'm not sure I ever knew or identified or distinguished where they came from. So I

20 couldn't really tell you one way or the other what office they were from.

21 [redacted] Did you interact with Peter Sullivan?

22 [redacted] I recall the name. I don't have any specific recollection of any

23 particular engagement with him.

24 [redacted] With the understanding you don't have any specific recollection, at a

25 general level, do you recall what types of issues or what might occasion interacting with

1 Mr. Sullivan?

2 [redacted] No. Like zero. I just vaguely recall the name.

3 [redacted] As part of your vague recollection, do you recall ever meeting him in

4 person or at those meetings? Any additional context?

5 [redacted] No.

6 [redacted] Are you aware of FinCEN sending SARs directly to the FBI or any

7 other law enforcement agency?

8 [redacted] I would ask there what you mean by "sending," just because

9 FinCEN makes them available pretty much immediately to all law enforcement agents

10 that have an MOU. So what do you mean by "send"?

11 BY [redacted]

12 Q Aside from access via the Portal, was a SAR ever directed to the FBI?

13 A I generally recall there were times where we would flag specific filing ID

14 numbers to them with which they could use to query the database and get the

15 information through the standard mechanism. And that was actually a control that

16 FinCEN had in place.

17 We tried to minimize as much as possible access to BSA data outside of the

18 normal channels because, just from a governance and tracking perspective, we wanted it

19 to be through the normal channels.

20 So I don't recall physically sending SARs or that happening one way or the other.

21 I don't recall.

22 I do, again, generally recall that there were times when we would say here's a list

23 of five ID numbers to look up.

24 Q Have you ever heard of executives at financial institutions sending SARs via a

25 secure email portal directly to the FBI once the SAR is published on the FinCEN Portal?

1 A So that would be something -- I don't have any specific recollection, but that
2 would be something that would be fairly common as part of that SARs supporting
3 documentation mechanism I mentioned earlier.
4 A lot of times a draft copy of the bank's version of the SAR before it actually gets
5 filed with FinCEN will be in the folder of documents that the bank would turn over when
6 requested.
7 Q And you mentioned a moment ago FinCEN using references when filing SARs
8 related to certain topics.
9 A I'm not sure what you mean by references to topics.
10 Q We'll just introduce an email from [redacted] dated January 15th,
11 2021, with the subject line "Capitol Riots" into the record as exhibit 1.
12 [redacted] 5.
13 [redacted] Oops, 5.
14 [redacted] I randomly have a sticker with exhibit 5 on it if you want it.
15 You've got it?
16 [redacted] Thanks.
17 [redacted] Got it.
18 [[redacted] Exhibit No. 5.
19 was marked for identification.]
20 BY [redacted]
21 Q Do you remember this email?
22 A Not specifically, no.
23 Q Can you describe the purpose of the reference that you outlined in this
24 email?
25 A What reference are you -- oh, the second to the last bullet?

1 Q Yes.

2 A Right.

3 So as part of our advisory program -- so when FinCEN would publish an advisory,

4 they would usually include a specific term.

5 I mean, it would be -- it wouldn't have any meaning necessarily. It would just be

6 a term with a request that institutions filing SARs related to this topic include that term

7 for ease of searchability for law enforcement and FinCEN -- tracking, metrics, what's the

8 value of our advisory, et cetera, et cetera.

9 So I believe that -- my recollection is there was an effort to do that here so when

10 SARs were filed related to this topic we would be able to retrieve them quickly and easily.

11 Q That topic being the Capitol riots?

12 A Yes.

13 Q And are you aware whether this reference was also shared with other

14 Federal agencies? Would they be aware of it?

15 A I don't recall. I would not have been the one to have those conversations

16 with Federal agencies, so I don't know.

17 Q Who would have had those conversations?

18 A Intelligence Division possibly, front office personnel possibly, my chain of

19 command, AnnaLou, possibly.

20 [redacted] And just so it's clear for the record, if somebody from, say, the

21 FBI was looking at a filing that had this in the BSA portal, would they be able to see it?

22 Would they be able to see that filing code if a SAR had used that filing code?

23 [redacted] Yeah, it's usually thrown into what they call the narrative. The SAR

24 form has mostly fixed fields and then there's like a narrative field where you actually

25 describe the conduct. So generally it was just a reference that was thrown into the

1 narrative in the free form field.

2 But if a law enforcement or anybody with access to the data -- database -- knew to

3 search for the code, they could retrieve the SARs that had that code.

4 BY [redacted]

5 Q The email also thanks the invitees for their time earlier today. Was there a

6 call or Zoom before this email was sent, to your recollection?

7 A I don't specifically recall. That's certainly what it sounds like.

8 Q Do you know if there were any other Federal agencies besides FinCEN on the

9 call?

10 A I do have a general recollection that some of the calls that we had with this

11 group around this time also included law enforcement. I don't know what specific

12 conversation this is referring to and who was on it.

13 Q Do you know what law enforcement would have been on related calls?

14 A I actually don't have a specific recollection. I know we're talking about the

15 FBI. I don't have a specific recollection other than I know it was some DOJ components.

16 I do recall some AUSAs -- or I don't remember if it was Main Justice or AUSAs -- but I do

17 recall some of the lawyers.

18 And I have since gathered, just based on the reports you all have filed and

19 whatnot, it was the FBI, but I don't actually specifically recall.

20 Q The email also notes there will be daily Zoom invites. What purpose did

21 those further conversations have? And that's in the last bullet.

22 A So my recollection in the aftermath of January 6th is that there were ongoing

23 concerns not just about those who had participated in those events but ongoing concerns

24 about the possibility of future events.

25 I don't remember the date of the inauguration, but, obviously, the inauguration

1 was very shortly after the 6th, and there were concerns about that.

2 So I do know that when we stood up this group at some point we went to a

3 cadence where we spoke daily, more than once a week, I don't remember the specific

4 cadence -- obviously, at some point daily was contemplated -- to touch base on this topic.

5 Q The email also notes the "standard e-file process." Could you describe

6 that?

7 A That would have just been a reference to how the financial institutions filed

8 SARs in the normal course of business. And just to get ahead of you, and I know you

9 actually -- this jogs my memory of a question you asked a few minutes ago.

10 So FinCEN maintained this system called SISS, Secure Information Sharing System,

11 which the system serves multiple purposes, but it has the ability for financial institutions

12 with access to the system to submit files to FinCEN.

13 So not to get too technical, and I'm not the right person anyway, when a financial

14 institution files a form with FinCEN, whether it's a SAR or some other form, there is like a

15 day or two of a lag in it process -- like, it's got to process and do computer stuff that I

16 can't tell you about.

17 And so there was a conversation in this context about asking the group to upload

18 their SARs into SISS so we had access to them immediately rather than waiting until

19 they've completed the sort of technological process.

20 So we were asking them to file as you normally would, but please also put this

21 code in and please also upload it to SISS.

22 BY [redacted]

23 Q Had you ever made that request before?

24 A I don't recall.

25 Q Had there been other occasions during your time at FinCEN that warranted

1 either having or considering daily Zooms or daily meetings?

2 A I don't recall.

3 Q Your answer about your general recollection about calls around this time

4 and not the one referenced in this email, about members from DOJ writ large, do you

5 recall any titles or names of DOJ personnel that you recognized on the calls?

6 A I do believe there was at least one AUSA.

7 Q Do you recall from which office or his or her name?

8 A No, I'm afraid not. I don't. I'm sorry.

9 Q Was it an AUSA that you had worked with previously?

10 A I don't recall.

11 Do you mind if I ask -- and, obviously, you're not going to tell me what's

12 redacted -- but is this law enforcement contact info that's redacted? Because it looks

13 like a handful of -- or are these just the name of people at these institutions that are

14 redacted?

15 [redacted] Yes.

16 [redacted] Okay.

17 [redacted] And it's my understanding that these are the institutions that you

18 sent the invite to.

19 [redacted] Got it. Okay. Understood. Thanks.

20 [redacted] Were there -- sorry. One more.

21 There is reference to daily Zooms. During this time, obviously, January 2021, the

22 pandemic is still going on, were there any in-person meetings that occurred?

23 [redacted] Not that I recall.

24 BY [redacted]

25 Q And why did you ask, "For all SARs filed related to this topic, please alert us

1 of the filing"? Was it normal for FinCEN employees to be alerted?

2 A Which bullet is that?

3 Q It's the fifth bullet.

4 A "For all SARs filed related to this topic, please alert us."

5 So what was your question?

6 Q Why did you ask to be alerted to all SARs filed related to this topic?

7 A I believe just because we wanted to know -- we wanted the knowledge as

8 soon as it was sent to us. You know, we didn't want to have to -- we didn't want there

9 to be a lag between when the information was submitted and when we queried it or

10 whatnot. We just asked for a heads-up that it was there.

11 Q And so once you were alerted to a SAR, what happened next?

12 A I don't recall, and I wouldn't have been involved.

13 BY [redacted]

14 Q Who would have been involved?

15 A If somebody was looking at the SAR or reading the SAR. I don't recall ever

16 even reviewing any of the SARs we received because that would have been substantive

17 analysis that was outside of my remit.

18 Q As it related to the events on January 6th and the days and weeks following,

19 which teams within FinCEN were taking the lead on that?

20 A To the best of my recollection, it would have been the Intelligence Division.

21 Q Do you have any sense of which offices within the division?

22 A No.

23 Q In advance of like the daily Zoom calls or calls during this period, would there

24 typically be internal FinCEN-only pre-meetings?

25 A I can safely say that that happened. We certainly had pre-meets, and we

1 absolutely would not have gone into this cold at the outset. I can't say whether there
2 was a pre-meet, for example, before each call or each further discussion. I would
3 suspect not. But I don't recall.
4 Q Which personnel from FinCEN would most commonly attend any
5 pre-meetings during this time period?
6 A Listen, ultimately my answer is I don't recall. A little bit of it would depend
7 on the nature of the pre-meet.
8 If it was a bit of a logistical pre-meet, like who's going to say what, when, and how
9 are we going to administer the discussion, that might just be, for example, my staff and I
10 and my leadership.
11 Maybe counsel would have joined, maybe front office would have joined, maybe
12 Intelligence Division would have joined, but if that was just logistics, maybe not.
13 If it was actually a discussion of substance, it would have included Intelligence
14 Division. And I can say that confidently because that's what would have happened.
15 But I don't actually have a specific recollection of any of the particular meetings.
16 Q Which personnel from the Intelligence Division would have likely
17 participated in any substantive pre-meetings?
18 A I don't specifically recall which members of that division were involved in any
19 particular topic. I would refer you -- the head of the division was Jimmy. The deputy
20 head, who is listed on here, was Kim Donovan. Those are the two.
21 That's not to say that they would have been on the calls at their level. I don't
22 recall one way or the other. But those are the only two names I recall from the
23 Intelligence Division definitely being involved generally.
24 Q For these types of calls around this timeframe -- daily Zooms, but not quite
25 daily -- what was FinCEN's protocol for taking any notes, recording minutes?

1 A I don't recall.

2 Q Outside of this context, just generally, was there a practice or a protocol as

3 far as how notes or if notes should be taken?

4 A As a general matter for the FinCEN Exchange program, I do recall there

5 would be someone at FinCEN to take notes. I don't recall whether that included -- I

6 don't recall whether those notes would have covered the whole discussion.

7 In other words, when -- if it was in the context -- like, if there were actual tactical

8 discussions of typologies, things like that, I don't recall whether or not there were notes

9 maintained on that. I just don't recall.

10 [redacted] Do you recall whether 2 weeks after the AML Act codifying

11 FinCEN Exchange became effective that policy of taking notes at FinCEN exchanges would

12 have been in effect?

13 [redacted] I don't recall.

14 [redacted] Not policy, whether that would have been your practice.

15 [redacted] Yeah, I don't -- I just don't recall.

16 BY [redacted]

17 Q Whenever the practice began and for whatever parts of the meeting notes

18 are being taken for, what did the final work product or final iteration look like? Was it

19 email, I'm assuming?

20 A Yeah, I don't recall. I really don't. I don't recall that FinCEN would ever

21 publish a summary -- well, actually, I take it back.

22 They would often -- FinCEN would publish a summary of an event, but I'm not sure

23 how much detail it would include in terms of the actual discussion, whether that would

24 be derived from notes that were taken or not. I just don't recall.

25 Q Again, just general recollection, not necessarily specific to this time period,

1 who would most likely within FinCEN have the responsibility for taking notes?

2 A So because I don't recall whether there was like a formal note-taking policy

3 or whether that was done, it's hard for me to answer that question.

4 If there were substantive conversations that took place and FinCEN wanted to

5 take the information back for our own purposes, that would likely have been Intelligence

6 Division, because they were one of the primary components of FinCEN that analyzed SARs

7 for that purpose.

8 But outside of that, like if there was some formal note-taking, which I don't recall

9 one way or the other, I, therefore, also don't recall who would have been responsible for

10 that. It's possible it was my own staff from a logistics standpoint. I just don't recall.

11 Q To your recollection, it wasn't you?

12 A To the best of my recollection, it definitely was not me. I really hate taking

13 notes, and I'm pretty sure I feel like I'd remember if I had to do it for these long events.

14 But I just don't recall.

1 BY [redacted]

2 Q How long did these events normally last?

3 A Oh, gosh. It would depend on the event. So I'm talking about FinCEN

4 Exchange generally, not any particular topic.

5 You know, pre-COVID, sometimes institutions would actually put people on a

6 plane to meet in person. So we tried to make it like a full-day event, sometimes 2 days,

7 maybe even incorporating educational elements, and we really tried to make it a

8 substantive program.

9 Certainly, after COVID -- bearing in mind, I was only at FinCEN for about a year and

10 change before COVID hit, most of which was policy. So for the majority -- maybe not at

11 the very beginning of me taking over this office, but the majority of time that I was in this

12 seat, I was in my apartment on a screen.

13 The events naturally got shorter. I think -- I recall early, middle pandemic we

14 tried like a full day or like a 2-day either of BSAAG or FinCEN Exchange and it was just a

15 disaster. I mean, people were dropping off. You just can't hold people's attention on a

16 computer for that long.

17 So I do recall we made them shorter and to the point just when they were remote.

18 Q Were there other instances or investigations that you recall personally

19 asking to be alerted to SARs filed on the topic?

20 A I mean, I don't specifically recall. Most of those events and advisories

21 contain one of those reference codes. I guess that's not necessarily affirmative. But

22 outside of that, I don't recall.

23 Q The email also asks that the financial institutions send you, quote, "the FBI's

24 points of contact you are working with in relation to this subject matter."

25 Do you recall any of those FBI points of contact?

1 A No.

2 Q Why were financial institutions directly working with the FBI?

3 A Well, as a general matter, the FBI had access to SARs, and they had the

4 authority to reach out to the filing institution to get supporting documentation and to

5 discuss that particular SAR. So that happened frequently throughout the whole

6 ecosystem.

7 There are also certain institutions that if they see conduct that's of particular

8 concern, if it's, God forbid, something that's imminent or something like that, a lot of

9 times they would file a SAR and then pick up the phone and call various law enforcement

10 contacts.

11 So those are general manners in which that kind of communication could have

12 taken place.

13 FinCEN frequently saw multiple different players, sometimes multiple agencies

14 looking at the same conduct, and we would try to deconflict and make things a little more

15 efficient. So I think that's what we were trying to do here.

16 Q We have already covered this, I believe, but who is AnnaLou Tirol?

17 A So she -- I don't remember the specific dates -- around this time was the

18 associate director in charge -- oh, yeah, she was the ADA of my division.

19 Q Did you report to her?

20 A Dotted line. I think I technically reported to her deputy.

21 Q And what was your professional relationship to Kim Donovan?

22 A Just a colleague. She was a FinCEN employee in a different division.

23 Q And with Tony Harris?

24 A Tony was my employee. He was the section chief of one of my two

25 sections. So that section, the Domestic Engagement Section, that was one of two

1 sections in my office. Tony was the chief of that section. And that's the section that
2 oversaw FinCEN Exchange.
3 [redacted] Besides Kim Donovan, do you recall others from the Intelligence
4 Division that were participating in calls around this time?
5 [redacted] Jimmy and Kim are the only ones I can recall specifically being
6 involved in this.
7 [redacted] And Jimmy was the director of the Intelligence Division at that
8 time?
9 [redacted] Yeah. They called him associate director of FinCEN. But the ADs
10 were the heads of divisions. So Jimmy was the head of ID. Kim was his deputy.
11 [redacted] During the protests and riots in the summer of 2020,
12 beforehand, was there anything similar to this that took place with FinCEN and these
13 exchanges?
14 [redacted] I don't recall.
15 [redacted] Turning back to January 2021, for the calls when the FBI or members
16 of DOJ were on it, do you recall just broadly how many personnel from DOJ and FBI would
17 be on?
18 [redacted] I don't. More than one. But I don't -- more than one, less than
19 10. It could have been way less than 10. I don't specifically recall.
20 BY [redacted]
21 Q Who made the determination of which banks to include, which financial
22 institutions?
23 A I don't know.
24 Q Were there others included that are not listed here, or was it limited to
25 these?

A So I can say that everyone who was, quote, "included" on this date is on here.

I have a general recollection that one or a few institutions might have been added along the way as our analysis progressed or there was a reason for that, and I don't recall whether that had already taken place or whether that was after this particular email.

Q Do you know how it was determined what banks to include?

A I don't.

[redacted] Was this part of a FinCEN Exchange event?

[redacted] So my recollection is that these discussions were stood up under a handful of authorities. I don't recall -- I'm not sure I'm the right person to speak to what specifically that was, but I have a specific recollection of FinCEN making sure that conversations were taking place properly, under specific authorities that authorized these kinds of discussions, but I don't specifically remember what that entailed.

[redacted] Who decides whether to create a reference number like the one here?

[redacted] Who decides? That's a good question.

I don't know. I don't know. I mean, I don't think it's the type of thing where it's like a decision panel, should we or shouldn't we? I think if there is a component of FinCEN that feels the need to, they would raise that.

So I know generally the Intelligence Division or Policy Division, which is where the advisories are released out of. So, again, these would commonly be found in an advisory.

But that was more FinCEN practice. So maybe it was just Policy Division just doing what the agency said. But I don't actually have a specific recollection.

[redacted] We can go off the record.

1 [Recess.]

1 [1:44 p.m.]

2 [redacted] We are back on the record.

3 BY [redacted]

4 Q So, [redacted] I want to ask you a little bit about January 6th.

5 I believe you said in the earlier hour that in the aftermath of January 6th there

6 were ongoing concerns not just about those who participated in the riots at the Capitol,

7 but also about violence at future events, particularly the upcoming inauguration, correct?

8 A Yes.

9 Q And so FinCEN was working with law enforcement and the banks to help

10 identify first who was involved in the January 6th attacks on the Capitol, correct?

11 A Yes.

12 Q And also to identify folks who might be at risk of committing future acts of

13 violence, particularly at the Presidential inauguration?

14 A Yes.

15 Q And you were asked a series of questions about whether the frequency of

16 the Zoom calls that were set up or the requests to be notified if a SAR was filed, if that

17 was something that had ever been done before.

18 Were the actions that you took, for example, in having daily phone calls, was that

19 in relation to the urgency of FinCEN's efforts to try to help all the relevant parties prevent

20 violence at the inauguration and other events?

21 A Yes.

22 Q And was that also the same with request -- with respect to your request to

23 have -- to be notified of any SARs that were filed in relation to January 6th?

24 A I don't recall.

25 Q Now, you were also asked if this was something that you had seen before at

1 your time at FinCEN.

2 While you were at FinCEN, was there any other violent attempt to interfere with

3 the peaceful transfer of power in this country?

4 A Not that I'm aware of, no.

5 Q Okay. And there wasn't an event of mass domestic violence and extremism

6 that we saw on January 6th while you were at FinCEN?

7 A I mean, I don't know I'm in a position to compare events. It certainly was

8 a -- yeah. I mean, versus, like, the marathon bombing or any other -- I'm not really in a

9 position to compare events.

10 Q Were you at FinCEN during the -- for the marathon bombing?

11 A I don't think so. When was the marathon bombing?

12 [redacted] I could not tell you, but --

13 [redacted] I don't recall.

14 [redacted] I believe it was well before you.

15 [redacted] I believe so. I don't recall. Yeah.

16 BY [redacted]

17 Q And, I mean, if you had worked on it specifically, you certainly don't

18 remember that?

19 A Correct.

20 Q Okay. So it's fair to say, based on your testimony, that FinCEN's work,

21 along with law enforcement and the banks, in the aftermath of January 6th was both

22 reactive, in terms of trying to figure out who was involved in January 6th, and proactive,

23 in terms of preventing future events, correct?

24 A Yes, absolutely.

25 Q And that's typical for FinCEN. FinCEN engages in both reactive and

1 proactive investigations. I don't mean about necessarily a specific event, but that --
2 A Yeah.
3 Q -- both fall within FinCEN's authority.
4 A Certainly, yes.
5 Q And like any other FinCEN Exchange or any other communication event, the
6 banks who participated in these exchanges after January 6th, their participation was
7 voluntary, correct?
8 A Correct.
9 Q They could have chosen not to communicate with FinCEN at all?
10 A Correct.
11 Q Other than filing SARs that they were required to under the law?
12 A Correct.
13 Q And the banks that did or financial institutions that did choose to participate,
14 any information that was shared with them, they were free to disregard if they so chose?
15 A I would certainly say that there was no specific requirement as to what they
16 were supposed to do with the information.
17 The extent to which they should have taken the information into account would
18 really have depended on the institution itself and their own assessment of their risk and
19 the relevancy of the information, et cetera, certainly not anything directed by FinCEN.
20 Q So it was up to the institution to determine to what extent --
21 A Entirely.
22 Q -- the information would be valuable?
23 A Yes.
24 Q And that's based on their own knowledge of their own customer base and
25 the scope of their presence nationwide, that sort of thing.

1 A Yes.
2 Q Okay.
3 A Among other things, yeah.
4 Q And you were asked some questions about the codes that were used. It's
5 fair to say -- and I believe this is how you explained it -- that the code is simply a shortcut
6 to help identify relevant SARs so that, rather than just going through the millions
7 individually, if law enforcement wants to identify SARs related to a specific event, perhaps
8 a specific type of crime, they can just type in the code, correct?
9 A Yes.
10 Q Okay. And you talked about the FinCEN Portal that had been set up and
11 the SISS system. Are those two different things?
12 A Yes, they are different things.
13 Q Okay. Can you explain the difference to me?
14 A So not in a very technical level, but the --
15 Q Fair enough. And that wasn't my question. Just more generally.
16 A Yeah. The FinCEN Portal is what I'm saying is a reference to -- when we say
17 the database of the BSA information that is filed with FinCEN, it's in the portal. I mean,
18 I'm sure there might be multiple systems at a technical level of how we ingest and get the
19 data into the portal and searchable. I don't really know any of the guts of the system.
20 But when I say FinCEN Portal, we're talking about the traditional database of BSA
21 data that's filed with FinCEN and then made accessible to those agencies that are entitled
22 to have it.
23 SISS is a secure information-sharing system separate from the portal, and it's a
24 mechanism -- so FinCEN uses it -- I don't want to take us on a tangent, but there are some
25 information-sharing mechanisms provided for in the USA PATRIOT Act, section 314(a) in

1 particular. SISS is -- and section 314(b). SISS facilitates those mechanisms.

2 FinCEN also has other information-collection authorities that they will sometimes

3 use SISS to collect the information. So it's more of an ad hoc manner of information

4 collection than the formal e-filing and portal process.

5 Q But it's an information-sharing system that is set up pursuant to the

6 authorities that permit FinCEN --

7 A Absolutely.

8 Q -- to share information.

9 A Correct.

10 Q Now, you mentioned section 314 of the PATRIOT Act, so I just want to

11 discuss that very briefly. And I'm actually going to introduce it. I will not be

12 introducing the entire PATRIOT Act, thankfully, just section 314.

13 So this will be exhibit 6.

14 [Exhibit No. 6.

15 was marked for identification.]

16 BY

17 Q So if you look on the second page, section 314(a) -- well, section 314 itself is

18 entitled "Cooperative Efforts to Deter Money Laundering," correct?

19 A Yes.

20 Q And section 314(a) is entitled "Cooperation Among Financial Institutions,

21 Regulatory Authorities, and Law Enforcement Authorities," correct?

22 A Yes.

23 Q And it states as follows: "The Secretary shall, within 120 days after the

24 date of enactment of this Act, adopt regulations to encourage further cooperation among

25 financial institutions, their regulatory authorities, and law enforcement authorities with a

1 specific purpose of encouraging regulatory authorities and law enforcement authorities
2 to share with financial institutions information regarding individuals, entities, and
3 organizations engaged in or reasonably suspected, based on credible evidence, of
4 engaging in terrorist acts or money laundering activities."
5 Did I read that correctly?
6 A Yes.
7 Q Okay. And then section 2 talks about the cooperation and
8 information-sharing procedures, correct?
9 A Yes.
10 Q Okay. Now, this type of information sharing that's described in section
11 314(a), that's part of what FinCEN was doing in the weeks after January 6th, correct?
12 A It was one of the several authorities that were being leveraged during that
13 period of time for the information sharing. In particular, it was the authority we would
14 use.
15 If we needed -- if FinCEN needed to disseminate specific indicators, for example,
16 like at the PII level, we would often use 314(a) as the mechanism to disseminate it.
17 That's not something we would just get on a Zoom and start talking about [redacted]
18 But we might do that via 314(a).
19 Q And so when you say specific information at the PII level, does that mean
20 that it's come to FinCEN's attention or a law enforcement agency's attention, they have a
21 particular individual in mind that's a suspect, and they want to ask financial institutions to
22 look for transactions that that person engaged in, they would use section 314(a)?
23 A Correct.
24 Q Okay. And can you explain a little bit more about how that process works?
25 A So there's a standard distribution -- I believe it's every two weeks -- where

1 FinCEN -- so FinCEN has a process to receive requests from law enforcement for the use
2 of this mechanism, and then every two weeks FinCEN will cobble together those multiple
3 requests into one distribution, and it goes out.
4 The standard distribution goes out to regulated financial institutions, mostly
5 banks. FinCEN has the authority to roll it out to other types of financial institutions, but
6 at least as of when I was there, it was primarily banks and a couple of MSBs, I think.
7 And the 314(a) request, exactly as you said, would ask those institutions to
8 respond, not with the underlying information, because 314(a) doesn't actually authorize
9 that, but to respond as to whether or not their institution has information related to
10 those individuals and entities. And, if so, it's a way for law enforcement to know the
11 location of the financial data.
12 Q And then law enforcement then determines whether or not to serve a
13 subpoena or whatever --
14 A Exactly.
15 Q -- it deems necessary --
16 A Correct.
17 Q -- with respect to that particular suspect.
18 A And they would need to use appropriate legal process to do so, correct.
19 Q Now, going back to the -- to SISS and the -- well, to make sure I understand
20 the difference, the portal is just access to the BSA data. So it's kind of like Westlaw for
21 looking at case law, correct?
22 A Yes, sure.
23 Q That's my only frame of reference.
24 And then SISS is more of a messaging platform to be able to share -- I mean, it's
25 not like a --

1 A Yeah, I wouldn't --

2 Q It's not Slack, but it's --

3 A I wouldn't say that, because it's also -- FinCEN would post documents that

4 those with access to SISS could download, the 314(a) distributions, for example.

5 There would be, like, drop-downs where they could input their responses for each

6 query -- yes, no.

7 It also maintains a repository of other documents, like the 314(b), which we'll get

8 to in a minute, participant list.

9 It's also a portal where, on an ad hoc basis, institutions can upload files in a secure

10 manner.

11 So it has a host of utilities, but it is not -- it does not possess BSA filings. Nobody

12 can go into SISS and search it or access any kind of SARs or CTRs or any of that; totally

13 different, separate mechanism and separate data holdings.

14 Q So it's information sharing that is separate from the actual SARs itself --

15 A Yes.

16 Q -- and separate from the BSA data itself.

17 A Correct.

18 Q Okay. And it is set up pursuant to statutory and regulatory authority.

19 A The information that is shared to and from are being shared pursuant to

20 those authorities. But physically setting up the system, I don't know one way or the

21 other. But yeah, it's --

22 Q Fair enough.

23 A Yes, to facilitate information sharing provided for by statute.

24 Q Okay. So the majority has stated in a report that it's published about what

25 it entitled "Financial Surveillance in America" that FinCEN and law enforcement would

1 communicate with the banks through secret back channel methods.

2 What is your response to that?

3 A Well, it certainly has a negative connotation. There's confidential -- there's

4 confidentiality that attaches to the sharing of protected information.

5 So there is information sharing that is occurring that is not known to those who

6 are not entitled to know about it.

7 Is it -- it would be inaccurate to say that that's being done in any manner that's not

8 otherwise clearly provided for by law. So that's what the implication sounds like, and I

9 would not agree with that characterization.

10 Q And the laws that provide for this type of information sharing, those are

11 publicly available. It's certainly a matter of public record that FinCEN is not only

12 authorized but required to set up information-sharing protocols and methodologies

13 between financial institutions, law enforcement, and FinCEN.

14 A Correct.

15 Q Okay. And since you touched on it, let's just briefly look at section 314(b),

16 which I believe is on the third page -- or not. No, it's on the --

17 A Third page. Well, title page --

18 Q Yeah, yeah.

19 A -- first page, second page.

20 Q Thank you.

21 And section 314(b) permits financial institutions to share information with one

22 another --

23 A Correct.

24 Q -- regarding individuals, entities, organizations, and countries suspected of

25 possible terrorist or money-laundering activities.

1 A Correct.

2 Q So there is some 314(b) information sharing that FinCEN is not a party to.

3 A Correct. Yeah. And just for clarification, the way that works, so it's

4 sharing between institutions, FinCEN doesn't need to be involved at all. But in order to

5 share information under 314(b), you have to have registered with FinCEN to do so.

6 So FinCEN maintains a participant list that's available on SISS. 314(b) participants

7 have access to SISS. So they know what institutions with which they can share.

8 Q So if I'm registered with FinCEN under a 314(b) and I want to know who else

9 the information I'm sharing goes to, that's available to me on SISS.

10 A So it's not -- so it's not as if -- no. Maybe I misunderstood. It's not as if

11 the information is, like, broadly shared and you look at the list to see who it goes to.

12 You're ABC Bank, you want to ask a question of XYZ Bank, or you want to send

13 something to XYZ Bank because you think they need to know about it. You would go to

14 the list to see if XYZ Bank is also a participant. And if they are, then you may validly,

15 under these parameters, share that information with XYZ Bank.

16 Q Okay. Thank you. That's very helpful.

17 [redacted] And with that, we can go off the record for now.

18 [Discussion off the record.]

19 [redacted] We can go back on the record.

1 BY [redacted]

2 Q So I'd just like to clarify something that was just discussed, and correct me if

3 I'm wrong, but you mentioned that the SISS does not include BSA filings, and it's separate

4 from the SAR process.

5 A Correct.

6 Q If we could look back at exhibit -- I believe it was exhibit 5, the email that you

7 had sent to financial institutions.

8 The third bullet from the top asks, "In addition to your standard e-file process,

9 please also upload the SAR to the SISS."

10 A Uh-huh.

11 Q So in this case, SARs were filed directly to the SISS and would be on.

12 A So, I guess, it comes down to what "would be on" means. It's a secure

13 information-sharing system. It's not accessible to anybody but FinCEN. So it's not

14 searchable even to us.

15 It would literally be us going into the system and downloading a file that was

16 uploaded, and that's that. And we still required, in this instance, the institutions to

17 follow the standard e-filing process, which would go into the portal, the database.

18 Q Is this the only situation that SARs were uploaded directly to the SISS?

19 A My general recollection is no, that I do recall there being other instances, but

20 I don't recall the circumstances.

21 Q And the participants who were part of the participant list who have access to

22 the information here, would they also be able to download the SARs from the SISS?

23 A No.

24 [redacted] Just to clarify, how are typologies that FinCEN creates used?

25 [redacted] By whom?

1 [redacted] The financial institutions who receive them.

2 [redacted] I think you just said that FinCEN creates.

3 BY [redacted]

4 Q Doesn't FinCEN create the typologies?

5 A Well, law enforcement -- well, the bad guys create the typologies, to be

6 technical.

7 Anyone analyzing BSA data could derive that by observing the conduct of those

8 actors. So it could be law enforcement, it could be FinCEN, it could be IC, could be

9 regulators, whomever is analyzing BSA data.

10 Q Can the typologies that FinCEN shares with financial institutions be used as

11 the basis for filing SARs?

12 A That's a -- I'm trying to answer that honestly.

13 The typologies can be used by financial institutions to inform their assessment of

14 whether specific conduct is or is not suspicious. If they determine something is

15 suspicious, they'll file a SAR. If they determine something is not suspicious, they won't.

16 Those red flags and typologies can be used to inform that assessment.

17 Q Have you ever seen SARs filed along the lines of typologies that FinCEN

18 shares?

19 A You know, I didn't really read or analyze many SARs in my time at FinCEN.

20 It wasn't really part of my job. So that's not really a question I can answer.

21 Q Would that have been the Intelligence Division?

22 A Primarily, from a substantive assessment. Again, different divisions might

23 have had different needs to look at SARs. But, yes.

24 Q And you may have already touched on this as well, but the Intelligence

25 Division is the one who creates SARs within FinCEN -- or creates typologies within FinCEN?

1 A I think it would be fair to say that the Intelligence Division is the primary
2 component of FinCEN that would analyze BSA data and derive typologies.
3 Q Okay.
4 [redacted] I want to enter an email from Anthony Harris dated January 15th,
5 2021, and the attachments -- "Jan 15 2021 compiled typologies" and "KeyBank Query
6 Logic for Active Shooters" -- with the subject line "Compiled typologies in advance of 4:30
7 call" into the record as exhibit --
8 [redacted] 7.
9 [redacted] -- 7.
10 [[redacted] Exhibit No. 7.
11 was marked for identification.]
12 [redacted] I'm just flagging -- I don't care at all -- but there's a redaction here.
13 If you want to add that to the official exhibit, Mark's name.
14 Okay.
15 BY [redacted]
16 Q Do you remember this email?
17 A Vaguely. Somewhat, yes.
18 Q And what do you remember about it?
19 A Not to be obnoxious, but that I sent it -- or that Tony sent it. That it was
20 sent.
21 Q Okay.
22 A I mean, I just recall seeing it and, you know.
23 Q And Anthony, I think you stated earlier, was the section chief within your
24 division. Is that right?
25 A Yeah. So my -- division office section. So Tony reported directly to me.

He was the chief in charge of one of my two sections in my office.

Q And it looks like there are 11 different financial institutions on this email.

A Okay.

Q Do you know how it was decided that these materials went to these financial institutions and not others?

A I do not.

Q Do you know who would?

A I do not.

Q Do you remember if you had to get approval before sharing these materials or if Anthony had to seek approval from you first?

A Yes. And to be clear, I don't specifically -- I said this earlier -- I don't specifically recall whether approval was sought for this specific or if there was an understanding that this was coming and that we were authorized and approved to send it.

But, yes, this is not something that Tony or I sent on our own.

[redacted] If it was the latter where there was, like, an understanding that you might be receiving this material and it could be sent, how would you have gained that understanding?

[redacted] Well, it would have -- so my recollection is that there were times when, for example, if one of the conversations, if one of the banks said, "Oh, we can share X, we'll send it to you," someone on the -- an example of this, for example, if someone on the call with authority to authorize me to send it said, "Great, we'll send it out when we receive it," I may have interpreted that to mean I was approved. Or I may have gone to that person to confirm, "Hey, I'm going to send this out. Are we good?" Something like that I recall happening during that period of time.

1 And then others would have been more specific, like, "Hey, I got this. Are we
2 okay sending it out?"
3 [redacted] During that period of time, is your memory specific enough to refer to
4 January 2021, that some of the materials sent then came from --
5 [redacted] I was probably speaking about January to February, January to
6 March generally, my recollection. I'm not sure about this specific week, if you will.
7 BY [redacted]
8 Q The subject line -- or, excuse me -- the body of the email also states, "in
9 advance of the 4:30 call."
10 Do you remember that call?
11 A No.
12 Q Do you remember if there were any pre-meetings within FinCEN to talk
13 about what would be discussed on that call?
14 A No.
15 BY [redacted]
16 Q Do you remember any pre-meetings generally around this time, whether it
17 was discussion of typologies, key words, things like that?
18 A I think I answered that earlier. I have a general recollection that there were
19 some pre-meets and that there were not pre-meets before every conversation, but I'm
20 not sure I remember any details beyond that.
21 Q Any pre-meets -- again, with the understanding of not having a specific
22 recollection at this pre-meet this was discussed -- do you recall generally any of the
23 pre-meets where there was discussion of some of the terms on page Bates number 6
24 here?
25 A No. Although I will note on its face that this came from one of the financial

1 institutions, not FinCEN. So you're talking about an internal FinCEN pre-meet?

2 Q Yes.

3 A Got it. I don't recall.

4 BY [redacted]

5 Q Do you remember what the purpose of this call was?

6 A No.

7 Q Do you remember if there were any other Federal representatives other

8 than FinCEN on the call?

9 A No.

10 [redacted] Was this part of the, as we discussed earlier, kind of the daily

11 Zoom calls that you were having with financial institutions?

12 [redacted] I don't recall. I mean, I'm noting that I have two emails in front of

13 me that appear to refer to separate calls on the same day. So I have no idea of whether

14 they were part of a particular cadence or not. I don't recall.

15 [redacted] As part of those daily Zoom calls, were representatives from the

16 FBI and DOJ on those calls?

17 [redacted] I recall -- the answer is yes to some. I don't recall whether they

18 were on all.

19 BY [redacted]

20 Q Are you aware of how soon following January 6th FinCEN began coordinating

21 with the FBI?

22 A No.

23 Q How about with financial institutions?

24 A I don't recall. All I can say was I don't remember the date of the

25 inauguration, but I do know it was at some point before that.

1 Q Can you describe how FinCEN viewed its role in the investigation into
2 January 6th?
3 A Probably only with reference to the mission statements. I mean, I think we
4 were using FinCEN Exchange in a manner consistent with how we always used FinCEN
5 Exchange. That's how we viewed it.
6 Q And so would you view FinCEN as the lead or FBI as the lead?
7 A I'm not sure I would make that distinction.
8 Q Okay. Do you recall if certain thresholds or fact-based patterns for
9 reviewing data was discussed on the call or any of these calls?
10 A Repeat that for me. Sorry.
11 Q Sure. Were certain thresholds or fact-based patterns discussed on the calls
12 that you had with financial institutions?
13 A I'm not sure what you mean by thresholds. Like, financial thresholds or
14 thresholds to file a SAR or -- I'm not sure what you mean by threshold.
15 Q Were either of those discussed?
16 A Not to my recollection. I don't recall.
17 Q Did fact-based -- were fact-based patterns surrounding the events of January
18 6th discussed, to your recollection?
19 A And, again, not knowing what is meant specifically by fact-based patterns,
20 we had a -- I do recall at a general level discussions on red flags, typologies, indicators.
21 Q During a transcribed interview with the committee, Mr. Peter Sullivan with
22 the FBI stated that certain fact-based patterns were discussed with FinCEN and financial
23 institutions on at least one of these calls. Does that --
24 A Did he define fact-based pattern in that conversation?
25 Q In terms of certain transactions that were made related to travel,

weapons-related transactions.

[redacted] Do you guys have the transcript or some context you can give him for that?

[redacted] I'm just -- not at the moment, no.

[redacted] Yeah. I don't recall any of that.

BY [redacted]

Q Okay. Have you heard of FinCEN creating fact-based patterns before or --

A I'm still not really --

Q -- you're not sure?

A I'm still not sure what you mean by fact-based patterns.

Q The answer may be no. I'm just --

A No. Yeah, I mean, I'm sure the answer is going to be I don't recall, because I don't really remember this level of specificity. But, like, I don't -- I'm struggling with what that means, if it's different than, for example, what I'm referring to as a red flag or a typology.

Q Are you aware of the Bank of America SAR that has been the subject of -- part of -- one of the subjects of the committee's investigation that was filed following January 6th?

A I don't have a specific recollection of it.

Q Have you seen these typologies before?

A Which ones are we talking about?

Q Any of them.

[redacted] Any of what?

[redacted] Bates stamp 6, Bates stamp 7.

BY [redacted]

1 Q Does this look familiar?

2 A So on Bates stamp 6, what's characterized as number 1, my recollection is

3 that came from one of the bank participants. So this is the first time -- when I

4 received -- or whomever at FinCEN received this would have been the first time I saw it.

5 Number 2, I believe, is a reference to a previously published FinCEN advisory. I

6 might be wrong about that. I feel like we may have published one subsequent to this,

7 too. I don't recall. But I was generally aware of this type of analysis that's reflected in

8 number 2 that's attributed to FinCEN.

9 And then same thing on the whole KeyBank deck would have all been new to me

10 upon receiving it from KeyBank.

11 Q And did you receive the bank submission?

12 A I don't recall if I was the specific person or not. I mean, I may have been on

13 the email or I may have been the recipient directly. I don't recall.

14 Q And do you remember which bank submitted this?

15 A The deck?

16 Q The first number says, "1) Bank submission."

17 A Oh, I do not remember -- I do not recall which bank that is.

18 Q With respect to the lone actor, homegrown violent extremism indicators

19 developed from a prior FinCEN analysis, would that have been the Intelligence Division

20 that produced these?

21 A I would say primarily. They worked closely with an office in our Policy

22 Division, which at least when I was at FinCEN was technically the office that was

23 responsible for our advisories.

24 So I imagine most of the analysis was Intelligence Division, potentially in

25 conjunction with some of the folks in the Strategic Policy Office.

1 Q Do you recall whether these materials were shared with any other Federal
2 agencies?
3 A I don't recall.
4 Q What's the purpose of sharing these kinds of materials with financial
5 institutions?
6 A I don't want to mischaracterize it. I mean, I view the purpose of that as
7 that consistent with FinCEN's mission and the statutory authorities that we were using, all
8 of which have, like, mission and purpose statements.
9 Q Was there an expectation with how banks might use this information?
10 A Not to my recollection, no.
11 Q Are you aware of other typologies concerning domestic activity that were
12 shared with financial institutions following January 6th?
13 A I mean, I am generally aware that this was not the only communication that
14 was sent or received in relation to this period of time. Any level of specificity beyond
15 that, I don't recall.
16 Q Moving to that first number, the bank submission, it states, "Terms used for
17 searching Zelle payment messages for indicators of involvement in the riots or potential
18 violence." It then included search terms like MAGA and Trump and America First.
19 Have you seen search terms like this before?
20 A No. And I wouldn't have been the one analyzing that data anyway.
21 BY [redacted]
22 Q Who would have been analyzing that data?
23 A Some combination of law enforcement, FinCEN Intelligence Division, the
24 folks whose job it was to do that, I guess.
25 Q To your understanding, were there any internal discussions at FinCEN about

1 whether sharing these typologies implicated any First Amendment concerns?

2 A I don't recall.

3 Q Independent of this specific exhibit and independent of January 2021, at a

4 high level during your time at FinCEN were you ever aware of any conversations regarding

5 whether certain typologies would potentially implicate the First Amendment?

6 A Not that I recall.

7 Q During any of your time at FinCEN, were there ever instances where certain

8 terms, typologies would refer specifically to political leaders?

9 A I'm sorry. Can you restate the question?

10 Q Sure. So just in the list, there's Trump, Kamala, Biden. Are there other

11 instances during your time at FinCEN where some of the terms would be referring to

12 American political leaders?

13 A Oh. Not that I recall. I don't recall.

14 Q Do you recall one way or the other whether it stood out? Was there

15 anything unique about the typologies that you received from the banks during this time

16 period?

17 A Well, they felt unique to the topic as distinct from human trafficking or drugs

18 or something like that. So, I mean, unique from that perspective.

19 But in terms of the general category of indicators and red flags that might be used,

20 no, I don't recall thinking that anything was unique.

21 Q In an earlier answer you referenced, when asked why you send this

22 information to the other banks, you invoked the mission statement and the purpose of

23 the agency.

24 But just at a more -- again, just based on your understanding, not quoting the

25 mission statement or whatever it might be -- what's the benefit of sending these terms to

1 the banks?

2 A So take a big step back. I mean, if you talk -- especially some of the

3 institutions that were receiving this, B of A and Citi, millions and millions of customers,

4 billions of transactions -- their transaction monitoring program that they analyze to

5 determine whether SARs are filed probably has pretty generic typologies. So they're

6 looking for a needle in a whole big pile of haystacks.

7 So one of the purposes of disseminating typologies is to narrow the scope of a

8 search. So, for example, if you're looking for somebody located in California, it doesn't

9 make sense to look for people in New Mexico. You know you're looking for a

10 Californian.

11 So if you have that info and you can restrict your search and eliminate the other

12 49 and every other country, you have now greatly increased the chances that you're

13 going to find something relevant.

14 I say that at a high level because it's possible that a Zelle message that

15 says -- that's sent in March for NCAA tournament dues is not where you're looking -- I

16 mean, could be a clever way to cover something up.

17 I'm not suggesting you don't want to look at it, but that's less likely to be relevant

18 to the conduct you're looking for than perhaps terms that you might otherwise expect to

19 be more relevant to certain types of communications you're looking.

20 So a lot of it was to help them -- to provide them with more information that

21 might be helpful for them to generate higher quality results for analysis, I suppose.

22 Q Was there any internal discussion about whether the typologies included in

23 this list, yes, might narrow the scope, but also might disproportionately target

24 transactions that are completely fine and aren't the concern?

25 A I don't recall one way or the other specific discussions about that.

1 Q If there were to be discussions about that within FinCEN, whose team would
2 take the lead on assessing those types of concerns?
3 A I'm not sure I can answer that question. I mean, I don't know if it -- if it
4 involved legal issues maybe -- I'm not sure I can offer much there.
5 BY [redacted]
6 Q How would a financial institution search Zelle payment messages?
7 A I don't know. I suppose it would depend on their internal system. I mean,
8 the financial institution would have a record of the transactions that moved through its
9 institution and would have some sort of system that it could use to query that info, I
10 suppose.
11 Q And query that info using some of the terms here as we've discussed to
12 narrow the universe of potentially suspicious activity?
13 A I mean, I don't have firsthand knowledge. I can't even sit here and
14 guarantee you that every institution has that technological capability. I don't know.
15 Q Do you know if anyone communicated with Zelle that you would be
16 searching their payment messages?
17 A I don't know. Is Zelle even a company, or is it just a service that the
18 banks -- I don't know. Not to my knowledge.
19 Q Are you aware of whether FinCEN is searching Zelle payment messages?
20 A So FinCEN doesn't have access to transactional data unless it is filed as part
21 of a valid report, CTR or SAR or whatever. If it is in the BSA data in a manner that is
22 queryable, then the answer would be yes.
23 Did that answer the question?
24 Q So within that system, are you aware of searches for Zelle payment
25 messages?

1 A I'm not aware one way or the other of what people at FinCEN were doing to
2 analyze the BSA data. That's not what I did at FinCEN.
3 [redacted] And just to clarify, are you clear one way or another about
4 whether Zelle payment messages would have been reported as part of BSA filings?
5 [redacted] It is quite possible. Any type of financial transaction that goes
6 through a regulated institution is expected to be monitored for purposes of suspicious
7 activity reporting. So that would include Zelle, wires, whatever.
8 [redacted] At this time, did any of the financial institutions have questions
9 on what was expected of them when this was sent?
10 So did the financial institutions think that they needed to run a search using all of
11 these terms, and any time one of those search terms yielded a hit, they would have to file
12 something with FinCEN?
13 [redacted] I'm very confident that, especially this group, which is a pretty
14 sophisticated group of large institutions that had engaged with FinCEN with some
15 regularity, I'm confident that none of them believed that there was an expectation that
16 the mere existence of these terms made something suspicious.
17 [redacted] Did anyone ask questions about it?
18 [redacted] Not that I recall.
19 BY [redacted]
20 Q Just as a general practice, not specific to this email, if FinCEN is on the
21 receiving end of the listed typologies and then is considering sharing that with a broader
22 group of banks, is that -- does that process ever loop in legal counsel?
23 A I generally would not have been involved in that process, so I'm not sure.
24 Q Who generally is involved in that process?
25 A I'm not certain. I don't know.

1 Again, I know that Intelligence Division would do some of the actual analysis.
2 But in terms of how it goes from that early stage to here's something we're ready to
3 publish, I wasn't really involved. I'm not sure.
4 Q To your understanding, was this list modified in any way based on filings
5 received by FinCEN?
6 A I don't recall.
7 BY [redacted]
8 Q And so it was your office that ultimately made the decision to share these
9 typologies.
10 A No. It would not have been my office's decision. My office would have
11 been the one that physically shared it. But I likely and my staff wouldn't have had the
12 direct -- I shouldn't say authority. There's no specific thing written down that says who
13 can do what necessarily.
14 But, no, neither me nor my staff would have made an independent decision on
15 whether or not to share this.
16 Q So who would make that decision?
17 A I don't know.
18 Q You don't know who made that decision in this instance?
19 A Correct, I don't. I don't recall.
20 BY [redacted]
21 Q On these daily Zoom calls, whether they occurred daily or near daily around
22 this time, who is the most senior person at FinCEN to attend those meetings?
23 A I know for a fact that AnnaLou was on most of them. She was one of seven
24 division heads, plus chief counsel, eight, that reported up to the director and deputy
25 director.

I do have a recollection that the director popped in at least once or twice, sort of with a preamble or whatnot, but I don't recall him being a regular participant.

AnnaLou and one or two other associate director or deputy associate director level personnel, such as Jimmy and Kim, would have been involved.

And those are -- the ADs were SES's. FinCEN only had about 10, 11, 12 SES's. Most of them were division heads, chief counsel, director, deputy director, Ken, if he's still there, CTO.

Sorry. I started whispering on you guys. Sorry.

Q How frequently would the director attend calls with representatives from the banks, on calls like [inaudible] from January 2021?

A Sorry. You're asking in connection with this --

Q No. Independent of this. Just to get a sense of --

A Just as a general matter? I mean, gosh, it --

[redacted] To the extent you know what Director Blanco would have been involved in.

[redacted] Yeah. I wouldn't even know -- I would only know a fraction of what he did. You know, he would usually be at BSAAG twice a year, not the working groups. But I really couldn't speak much to that.

BY [redacted]

Q Have you seen indicators like the ones listed here before?

A I'm not sure what you mean by "like the ones." I mean, these specific indicators do appear relatively specific to this topic.

Q And what office at FinCEN has the responsibility for creating extremism indicators?

A So those could come from anywhere, again. I mean, a lot of times they

1 came from law enforcement, financial institutions sharing things. From an analysis of
2 BSA data at FinCEN, it would, to my knowledge, primarily be the Intelligence Division.
3 Q And are you aware of whether they created these indicators?
4 A In number 1?
5 Q Number 2.
6 A Oh, number 2. I don't have any specific knowledge of where these came
7 from. But as a general matter, based on my knowledge of FinCEN, most of this analysis
8 would likely have come out of the Intelligence Division.
9 Q When a financial institution receives indicators like this, how can they use
10 them in their system? In other words, how do you translate these indicators into
11 queryable, actionable items?
12 A I'm not sure I can really speak to what individual banks would be able to do,
13 to the extent they did anything at all. I really don't know.
14 Q Are you able to speak in general how they might?
15 A As a general matter, I suppose they could do manual searches. They could
16 develop an algorithm that includes some of this info. I mean, there's any number of
17 things. It depends on what their program looks like, what their tech stack looks like.
18 Q You mentioned earlier that this was a sophisticated group of banks. So do
19 you have any idea how their systems might be able to use this?
20 A I don't. And, anecdotally, even though they were sophisticated banks, I
21 wouldn't assume that their tech followed suit.
22 A lot of -- having been inside a big bank, a lot of times these banks get big by
23 acquiring other companies. And so you end up with about 20 systems with duct tape
24 and trying to -- it can be pretty messy.
25 So I couldn't tell you one way or the other.

1 Q One of the extremism indicators includes, "Transportation charges, such as
2 bus tickets, rental cars, or plane tickets, for travel to areas with no apparent purpose or
3 not commensurate with the previous travel history of the customer, for example, travel
4 to high-risk areas or indirect flightpaths for no apparent legitimate reason."
5 A Uh-huh.
6 Q Do financial institutions monitor and report these transactions?
7 A I don't know one way or the other.
8 Q Does FinCEN monitor Americans' transportation-related transactions?
9 A I don't know one way or the other.
10 Q Would they not have to in order to produce an analysis concluding this as an
11 indicator?
12 A I just wasn't involved in that work. Couldn't tell you.
13 Q How would FinCEN or a financial institution be able to determine whether
14 travel was for a legitimate reason or had no apparent purpose?
15 A I don't know.
16 [redacted] What type -- which personnel within FinCEN would be better able to
17 speak to conducting that type of assessment?
18 [redacted] I mean, I would defer to FinCEN. But my best guess would be
19 Intelligence Division personnel.
20 [redacted] Did you have a primary point of contact with the Intelligence Division?
21 Who did you --
22 [redacted] I'm not sure I would say I had a primary -- they're colleagues. It
23 depends on the -- you know, I would -- at my level, it most frequently would have been
24 Jimmy or Kim or their office directors. But I don't have any specific recollection beyond
25 Jimmy or Kim.

1 BY [redacted]

2 Q Another one of the extremist indicators includes, "The purchase of books

3 (including religious texts) and subscriptions to other media containing extremist views."

4 A Uh-huh.

5 Q Do you know how FinCEN may have concluded this as an indicator?

6 A I do not.

7 Q Did you review these indicators before they were sent out?

8 A I'm sure I read them. I didn't review them for any purpose. My job was

9 to send them. So I didn't review, evaluate, modify, revise any of that.

10 Q Do you know who sent these indicators to you?

11 A I don't recall. Again, likely would have been someone in ID.

12 Q Are there certain religious texts that FinCEN considers an indicator of

13 extremism?

14 A Not to my knowledge.

15 Q Are you aware of whether FinCEN monitors Americans' media subscriptions?

16 A Not to my knowledge.

17 Q Do you know whether FinCEN has a list of books or media that it believes

18 contains extremist views?

19 A Not to my knowledge.

20 Q To your knowledge, are financial institutions monitoring Americans'

21 purchases of books or media subscriptions?

22 A I don't have knowledge.

23 What I would say is that financial institutions may have monitoring programs in

24 place that would include in its scope all customer transactions, for example, which,

25 presumably, may include credit card purchases wherever or things of that nature.

1 [2:43 p.m.]

2 BY [redacted]

3 Q How would a financial institution be able to tell what kind of media or book

4 is being purchased, according to these indicators?

5 A I don't know.

6 Q Does it concern you that FinCEN is listing the purchases of religious texts as

7 potential indicators of extremism?

8 A I'm not sure I'm really credible to speak on that, my personal views.

9 Q I'd be interested in that.

10 A I'm going to decline to answer that.

11 [redacted] In the calls that were happening in January 2021, do you recall any of

12 the parties, whether it's FinCEN, the FBI, other government agencies, any of the private

13 sector representatives, raising concerns of whether some of the assessments being

14 conducted, the typologies, implicated First Amendment concerns?

15 [redacted] I don't recall.

16 [redacted] Were these discussions fulsome conversations or was it more

17 thanks for the information; we'll talk to you tomorrow?

18 [redacted] More the former, more fulsome than thanks for sending, see ya.

19 [redacted] And on none of those calls, to your recollection, were people

20 saying this might be going a step too far?

21 [redacted] I don't recall that. I mean, it's three and a half years ago, and I'm

22 an old man. I don't remember what I had for breakfast yesterday, so --

23 BY [redacted]

24 Q Do you recall, during any of the calls, whether there was points of tension,

25 differing views, things that needed to be sorted out?

1 A I don't recall. The best of my recollection is that it was collaborative. You
2 know, whether institutions chose to do something or not, I couldn't tell you, but I don't
3 recall there being any tension or points of issue in the discussions.
4 Q For category two here where there's talk about violent extremism indicators,
5 and it looks like it's coming from previous work product, let's say it is from the
6 Intelligence Division, if there are issues that start to touch upon First Amendment
7 concerns, is your office looped into that process at all?
8 A We likely would not be, no.
9 Q Which -- besides counsel office itself, which offices or divisions would have
10 been involved in the preparation of that type of work product?
11 A Counsel would be the only logical assessment, in my view, but I don't really
12 know one way or the other.
13 Q At a very high level, not to implicate, what types of issues from your office
14 would require the counsel's office to make assessments?
15 A We're not a big office. That's a very broad question. I'm not really sure
16 how to answer that, right. I'm -- I mean, if my team was in a BSAAG conversation and
17 heard something that we thought was useful to someone else at FinCEN, or that we
18 thought someone at FinCEN should consider, or that -- you know, it's very subjective.
19 That's a very hard question to answer. I'm sorry.
20 It's no different than what I experience in any other job, right. I mean, when do
21 you tell your -- when do you raise something for your boss or handle it yourself? Or
22 when do you -- right? I'm not sure I can give at that high level a better answer than that.
23 Q Obviously, we're trying to work with you.
24 A Yeah, I know. Fair.
25 Q On a granular level, you know, sometimes, right, you're not able to recall

1 what discussions did or did not take place, so just trying to get a sense at a higher level.
2 A Fair. Yeah, I mean -- as an example, I mean, it's not as relevant to this, but
3 on the data access side, if my team was conducting a review of the FBI's usage of BSA
4 data or LAPD and saw something of note, that maybe Officer Jenkins was doing
5 something, that might be something that would hit my desk, and I may tell leadership,
6 you know, that sounds like something that somebody should know about, right, just as an
7 example, right.
8 But, again, it falls subjectivity and judgment as to whether something needs to be
9 escalated or not to a higher level or the, you know, counsel needs to be consulted.
10 Q Generally, if an issue that was within your purview and you felt may warrant
11 being considered by counsel, is that a decision you can make or would you tell one of the
12 folks above you and ultimately they would make a decision whether to loop it to counsel?
13 A It's hard to answer that hypothetically. I mean, if I saw something in the
14 normal course that I think I needed a lawyer's input on, I would likely just go to counsel.
15 If I thought it was something that needed to be escalated, whether it had legal questions
16 or not, I would probably go to my leadership, as a general matter.
17 [redacted] As part of the approval process when you were sending out this
18 information, do you know if the counsel's office was looped in as well?
19 [redacted] I think we're coming pretty close on the privilege line there.
20 [redacted] I don't know if you want to try to rephrase it. I think at a high level,
21 we can -- without implicating the privilege.
22 [redacted] I think if you guys want to ask about discussions that FinCEN
23 counsel had with others at FinCEN, you can direct those to us and not to him in an
24 interview. Like, those are pretty squarely within the privilege.
25 [redacted] Okay. We can talk more, obviously, off the record, but I think there

will be interest from the committee to have an understanding of what guardrails were put in place and what those look like. And the witness is representing he was not privy to those, so, you know, we'll take that in good faith. But that is information that the committee will be interested in.

[redacted] I'm happy to follow up with you guys.

BY [redacted]

Q Does FinCEN rely on MCC codes in its investigations?

A What's MCC?

Q Merchant category codes.

A Not to my recollection.

Q Do you know whether your office or other offices ever provided financial institutions with how to use merchant category codes?

A No, I don't know. I would actually go so far as to say I have an affirmative recollection that I'm not aware of that happening. I don't remember hearing MCC at all when I was at FinCEN.

Q I'll just move to the KeyBank slideshow. Do you recall receiving this email from -- this in an email from KeyBank?

A Not specifically.

Q Okay. I'll introduce -- I'd like to now introduce an email from KeyBank to [redacted] dated January 15, 2021, with the subject line "Inauguration Task Force" into the record as exhibit 8.

[[redacted] Exhibit No. 8.
was marked for identification.]

[redacted] You guys went inkjet on this one, huh.

Okay.

1 BY [redacted]

2 Q Had you received slideshows like this before or after from financial

3 institutions?

4 A I'm sorry, before or after this particular email, you mean?

5 Q Yeah. Did you receive slideshows like this from financial institutions?

6 A I don't recall.

7 Q Do you recall receiving this email?

8 A I mean, I do now. I don't have a specific recollection beyond what's on the

9 page.

10 Q Do you recall, once you received this from KeyBank, what you did with it?

11 A No.

12 Q Did you review the material?

13 A Same answer as before, I'm sure I read it, but it wasn't my job to evaluate or

14 do anything with it, other than, if necessary, disseminate it.

15 Q And so looking at the --

16 [redacted] Do you guys have the attachment to this email?

17 [redacted] Yeah, it's the KeyBank slideshow that's --

18 [redacted] Okay. Do you have it attached to this email so he knows that

19 it's the same document, for purposes of the record?

20 [redacted] Not right now.

21 I'll represent for the record that the attachment states, "KeyBank Query Logic for

22 Active Shooters 01-15-2021," and that the slideshow entered as exhibit 7 is KeyBank

23 Query Logic for Active Shooters and is named as the same attachment in Bates stamp 5

24 that's named in Bates stamp 235.

25 [redacted] Thanks.

1 [redacted] Can I just point out, for what it's worth, though, that I don't know if
2 there is a time change that's causing this to be screwed up here, but --
3 [redacted] There is. They're not converted. That's minus five and this
4 is just regular.
5 [redacted] Oh, so this happened before this?
6 [redacted] Yep.
7 [redacted] Got it. Okay.
8 [redacted] So could you just briefly explain what the slideshow is?
9 [redacted] Not beyond what's on the page itself. I didn't create it. I didn't
10 do anything with it, other than be copied on an email in which it was disseminated.
11 [redacted] But you received it as well?
12 [redacted] Based on this email, that's what it appears. I don't specifically
13 recall beyond what's on the email.
14 [redacted] I will also note that Anthony Harris received this one.
15 [redacted] Right.
16 I mean, I'm not trying to be cagey. My staff and I were the ones that were
17 organizing these events. So not all the time but much, maybe most, I couldn't really
18 necessarily say, but certainly much of the information that was being sent and received
19 was coming through us. That was what our responsibility was, but that was really the
20 limit of what my staff and I were doing.
21 In terms of, like, oh, now we have this information, let's do something with it, I
22 was neither involved in that, nor am I necessarily aware of what was being done
23 internally.
24 BY [redacted]
25 Q Which team or division would your team share this slide deck with?

1 A So there was a -- I don't remember specifically who, but there was certainly a
2 group of people at FinCEN involved in these conversations broadly that would have -- we
3 would have disseminated that internally to that group; you know, the most relevant of
4 which, to the best of my recollection again, would be Jimmy and Kim and their staff in ID.
5 Q Besides Jimmy and Kim, any other offices that --
6 A I don't specifically remember which of their staff members was involved in
7 this topic.
8 Q Both the offices themselves and individuals or --
9 A Correct. I'm not even sure I can name the offices of ID. I don't think I
10 could even when I was at FinCEN, but, no, because Jimmy and Kim ran the division, and
11 they definitely did have offices and sections. But I don't recall which personnel or which
12 offices or sections were involved in this.
13 Q Do you recall, outside of the Intelligence Division, which other divisions
14 would have had a practice during this time period you likely would've looped in?
15 A Yeah, so certainly Strategic Operations, which -- right. I have a vague
16 recollection that there would've been one or two people from our Policy Division because
17 that's the division that does oversee our advisory program. But beyond that, I don't
18 recall.
19 Q What about the Enforcement Division?
20 A I don't recall whether they were included or not.
21 BY [redacted]
22 Q So once you receive something like this, do you -- I know you stated that you
23 kind of just distribute it. Did you feel any responsibility to evaluate the material? Was
24 that a part of your --
25 A It would not have been a part of what I was asked to do at FinCEN, and I

1 don't believe I would have.

2 Q Was there any material that you received from outside entities that you

3 didn't distribute?

4 A My answer is going to be I don't recall either way. I'm not sure if you mean

5 on this particular topic or ever at FinCEN, but I don't recall either way.

6 Q I mean, while in your role as the director of the stakeholder engagement

7 division.

8 A I mean, the question is generally whether I ever received things that I didn't

9 disseminate?

10 Q Well, I'm trying to understand, if there are things that you didn't

11 disseminate, that suggests you may have evaluated it and thought it's not worth

12 disseminating.

13 A It may be possible that at some point I was sent something or not that I may

14 or may not have disseminated. It was never a result of my evaluation or my staff's

15 evaluation of the content. We didn't do that.

16 Q Did anyone at FinCEN evaluate this content?

17 A I can confidently say that we would have. I don't know who, and I wasn't

18 involved in the evaluation of it.

19 Q Were you at all concerned about sharing information without evaluating it?

20 A I did not have a concern because I was under the impression that those

21 charged with evaluating the information were doing so.

22 Q Which would have been whom?

23 A It depends on the information, but, you know, substantively, most likely the

24 Intelligence Division.

25 Q Okay. So it could have been that you received this email with the KeyBank

1 slideshow, and you shared that with the Intelligence Division, and they say -- they sign off
2 on whether or not they think it's good to distribute?
3 A I don't recall specifically whether that's what happened.
4 Q Is that something that could have happened or has happened while you
5 were at FinCEN?
6 A I'm trying to remember whether I ever accepted what ID said or whether I
7 went to my own leadership for confirmation that they were comfortable with sending it
8 out.
9 [redacted] Is your leadership on this email incoming from KeyBank?
10 [redacted] Yeah. So at this point in time, AnnaLou was my division head, and
11 she was on this comm. I don't specifically recall from whom I obtained approval to
12 disseminate this.
13 [redacted] Would it have been typical for you to just chat with AnnaLou and
14 say, do you think this is good to go?
15 [redacted] I mean, I spoke to my boss pretty frequently, so that was typical.
16 And this is something I expect I would have sought approval on. That's a half answer.
17 BY [redacted]
18 Q Why?
19 A Why?
20 Q Yeah, just what about this one?
21 A Just as a general matter, you know, in the context of disseminating
22 information to the private sector, I would've -- especially, you know, in connection to a
23 topical event, I would have sought confirmation from my superiors that that
24 dissemination was appropriate.
25 Q For any topical event, not necessarily January 6th, do you recall any

1 instances where one of your superiors told you that information would not be
2 appropriate for dissemination to private sector partners?
3 A I don't recall one way or the other.
4 Q Were you ever asked to weigh in on whether dissemination would be
5 appropriate, or was it more you're just receiving instruction or approval?
6 A I don't have any specific recollection. I do have a general recollection that
7 that kind of conversation may have taken place with me on the phone. Like, I have a
8 general recollection that I was on a call or in a discussion where that topic was being
9 discussed, but it wouldn't have been my place to weigh in one way or the other. It's just
10 not what I did there.
11 [redacted] I think we can go off the record.
12 [Recess.]
13 [redacted] We are back on.
14 BY [redacted]
15 Q Okay. So I would like to start and just take a step back. You said
16 something and I believe counsel said something during the previous hour. Counsel said
17 something about, you know, were you concerned about the banks might flag transactions
18 that, you know, look like they're perfectly legal. And you had given an example of, you
19 know, somebody writes, this is for an FCAA tournament in March. And then you
20 qualified that by saying, well, that actually could still be a code for something.
21 The vast majority of financial transactions on their face look legal, correct?
22 A Correct.
23 Q I mean, it would be very unusual to see a Zelle message that says this is for
24 fentanyl?
25 A Here's the problem and why it's very, very complex but it kind of reinforces

1 the point. It depends on the context, right, and your bank knows a lot of info about you.
2 So if your bank -- if you make 40 grand a year, your bank knows that. If you've got a
3 balance of about a thousand dollars for the last 3 years, your bank knows that.
4 If you send a Zelle -- if you receive a Zelle for 15 grand, that's going to stick out for
5 that person, regardless of what it says; whereas, the guy who's making six figures, who's
6 maintaining a $20,000 balance in his savings account, that's not going to flag anything.
7 So it's totally contextual, which is generally why no one red flag would ever be
8 something that people would say, oh, that's definitely suspicious. It really is contextual,
9 and it depends on the compilation of factors.
10 Q And depending on the scenario, whatever type of suspicious activity you're
11 looking for, and then depending on the type of customer, that compilation of factors is
12 going to be different, correct?
13 A Yes.
14 Q Okay. And banks have to look at a variety of factors and, really, the totality
15 of all of the circumstances in order to determine if a transaction is suspicious?
16 A Yes.
17 Q And they make those determinations often with the benefit and insight of
18 information that FinCEN has shared, either that FinCEN has developed or that law
19 enforcement has developed, with information about current trends in money laundering,
20 terrorism, financing, and the other crimes that FinCEN focuses on, correct?
21 A Yes.
22 Q And, you know, just as another example of a type of reporting, I
23 mean -- well, let me step back.
24 The Bank Secrecy Act requires the reporting of any transaction and cash
25 transaction of $10,000 or more, correct?

1 A Yes.
2 Q Even if there's nothing else?
3 A Correct.
4 Q It could be completely out -- you know, completely consistent, the person
5 could do it every day, but --
6 A Absolutely. That's just a rules-based if it's 10k of cash, it's a report, full
7 stop.
8 Q But outside of that kind of line drawing, there's so many different factors
9 that are involved?
10 A Yeah. I mean, so there's -- there are many reports required by the BSA.
11 Most of them are just, like, if you have a foreign financial account, you have to file it.
12 There's no subjectivity there. Ten thousand in cash, you have to file it.
13 SARs are much more subjective.
14 Q Right. And because of the subjectivity, FinCEN is trying to provide
15 information to help banks be effective in identifying those transactions that, standing
16 alone on their face might look perfectly innocent but, in combination with other factors,
17 might be indicative of criminal activity?
18 A Yes.
19 Q Now, I want to turn to the exhibit 7, which was the email from Anthony
20 Harris, with the list of indicators. So I'm looking at -- it's HJC118 Bates stamp 6.
21 So -- now, you said this repeatedly, but just to be clear. It was not FinCEN's
22 intent, and your belief is that it was not the banks' intent, for any one of the terms listed
23 here with percentage marks on either side to trigger a SAR, correct?
24 A Correct.
25 Q There would have to be many other factors before a SAR?

1 A I wouldn't necessarily say many, you know, but it would -- the existence of
2 this -- of one of these terms would not generally by itself make something suspicious.
3 Q So if somebody sent a Zelle payment message, and in the message it said
4 "Trump," even after January 6th, that would not by itself -- it was not FinCEN's intent by
5 forwarding this to say, file a SAR for every message that has Trump in it?
6 A It was absolutely not FinCEN's intent to say that, correct.
7 Q And if somebody were to say otherwise, if somebody were to say, FinCEN
8 was flagging Zelle messages that used the words "Trump" or "MAGA," that would be
9 incorrect? Well, would that be correct? I don't want to do --
10 A Yeah. Can you restate that? I'm sorry.
11 Q If somebody were to look at this email and say, FinCEN was flagging Zelle
12 messages that used the word "Trump" as suspicious transactions, that would be an
13 incorrect statement, correct?
14 A Correct.
15 Q Okay. And the same for any of these terms on this list?
16 A Correct.
17 Q Okay. In and of themselves?
18 A Correct.
19 Q And --
20 A It's very hard for me to say that because of the subjectivity, right. I mean, it
21 is possible that, you know, a third-year analyst at J.P.Morgan sees a Zelle that says
22 "murder" and may choose to file a SAR because it says murder. I mean, I can't say not,
23 you know.
24 Q And that's fair. And that raises a good point, which is that some of these --
25 A I wouldn't call --

1 Q -- some of these terms --

2 A -- all these terms like -- exactly.

3 Q They are not alike, correct?

4 A They're not necessarily alike with each other, correct.

5 Q Some are names, like Trump, correct, and some are things like murder,

6 death?

7 A And that's -- I mean, again, I can't speak for anybody, but at a just -- as a

8 hypothetical, it might be reasonable for somebody to see a payment that says "murder"

9 and consider that suspicious. I would say it would be unreasonable for somebody to see

10 a payment that says "Capitol" or "patriot" and think that that's alone suspicious, right. I

11 mean, so they're definitely not the same.

12 Q And it was not your intent to have any one of these by themselves trigger a

13 SAR?

14 A Correct.

15 Q Okay. And this email in particular has been cited by the majority as

16 evidence of FinCEN targeting bank customers with conservative viewpoints, and the focus

17 was on words like "Trump" and "MAGA" and "America first." But as counsel pointed

18 out, there's other terms on this list, such as "Kamala," correct?

19 A Correct, that is on the list.

20 Q Biden is on the list?

21 A Correct.

22 Q Antifa is on the list, I believe?

23 A Correct -- yes.

24 Q Pelosi, correct? It's the third one down.

25 A Yep.

1 Q And the last one is Schumer.
2 A Yep.
3 Q And there were others, like "storm the" is a term --
4 A Right. And also, back up to -- I believe your original question said that this
5 is being used as evidence that FinCEN -- these terms did not come from FinCEN. FinCEN
6 disseminated them, but these terms were provided to FinCEN by a financial institution.
7 Q Now, I want to look at the list right below that, the Lone Actor/Homegrown
8 Violent Extremism Indicators. Again, just as with the list above, none of these
9 indicators, to your understanding, was intended to be taken by itself as a sufficient basis
10 for a SAR?
11 A That is correct. I don't recall FinCEN ever disseminating anything, to my
12 recollection, where we ever said or expected somebody to determine that something was
13 suspicious on the basis of a specific indicator.
14 Q So -- and, again, just to be clear, if someone were to say that by
15 disseminating this FinCEN was asking banks to flag any transportation charge as
16 suspicious, that would be incorrect?
17 A To my knowledge, that is not what we intended. That would be incorrect.
18 Q And when you look at this list of indicators here, is there anything on this list
19 that targets conservative viewpoints?
20 A I don't think I'm in a position to opine on that.
21 Q Fair enough.
22 You were asked in the previous hour if FinCEN monitored American's
23 transportation. Does FinCEN have the ability, re access to the data, to be able to
24 monitor that?
25 A I mean, generally, no. If there were transportation-related transactions

1 that were filed in a SAR or something else, then theoretically that would be available to
2 FinCEN.
3 Q And it would be available because somebody in a bank's AML/CFT
4 department determined, through its consideration of a variety of factors, that that
5 transaction was suspicious?
6 A Correct.
7 Q And --
8 A If it was a SAR.
9 Q If it was a SAR.
10 A Right.
11 Q Okay. Now, I want to look at just some of these indicators. If you look at
12 just the first two: The long periods of account inactivity, or normal usage, but in the
13 months or years preceding an attack, a sudden surge of activity -- a change in activity
14 type. And then if you look at the second one: Sudden purchase of firearms, firearm
15 parts and accessories, ammunition, tactical gear at outdoor supply stores, purchases at
16 shooting ranges not commensurate with previously known customer behavior. And
17 then you look at some of the others, like the next several ones on -- the next several
18 indicators on the next page.
19 If you saw all of those indicators for a particular customer, that might be the kind
20 of customer for which a SAR should be triggered, correct?
21 A I mean, it would be subjective, right. Certainly an investigator might come
22 to that conclusion.
23 Q Right. And sometimes different investigators are going to reach different
24 conclusions?
25 A Correct.

1 Q Because it is so subjective?

2 A Correct.

3 Q And, again, as you said, banks had information about their customers that

4 FinCEN, that law enforcement simply don't have?

5 A Correct.

6 Q Banks know their account history, their account usage, their income or their

7 relative income, how much money is coming into the bank, that sort of thing?

8 A Correct.

9 Q Okay. Now, when FinCEN received these from -- this list of indicators from

10 a bank and then forwarded them to other institutions, was FinCEN endorsing the use of

11 these indicators?

12 A So I don't have firsthand knowledge, but on the face of this, this second

13 batch of indicators appears to be FinCEN-developed, but I don't -- I would -- wasn't

14 involved with and don't have any knowledge with how they were developed.

15 Q Fair enough.

16 What about the first one that says "bank submission" that your understanding is

17 that the bank developed?

18 A That was a bank that sent us those indicators.

19 Q And in forwarding these indicators, whether they were developed by FinCEN

20 or developed by the bank, was FinCEN asking the banks to file SARs?

21 A No.

22 Q Was FinCEN encouraging the banks to file SARs?

23 A No.

24 Q Now, in the majority's March 2024 report, it states that this list

25 demonstrates that the Federal Government broadly enlisted financial institutions to flag

1 certain kinds of purchases that the government deemed to be unnecessary.
2 Is that an accurate statement?
3 A No.
4 Q Now, I want to take a look at the PowerPoint that was also attached to this
5 email. Again, as with the previous attachment, the previous typologies, this was not a
6 request by FinCEN to file SARs that matched any of the indicators in this PowerPoint?
7 A Correct.
8 Q And this was not a request by FinCEN to flag any particular transactions or
9 anything like that?
10 A What do you mean by flag?
11 Q Well, I guess the only -- is there a way to flag a transaction other than by
12 filing a SAR?
13 A Not --
14 Q A suspicious --
15 A There's no way to flag transactions for FinCEN and law enforcement's
16 visibility without filing a BSA report.
17 Q Now -- give me 1 minute.
18 If you take a look at exhibit 8, which is the email to you and your colleague from a
19 redacted employee at KeyBank, the employee describes the PowerPoint as, "a typology to
20 detect potential active shooters that we are using right now to see if we have parties of
21 concern."
22 Law enforcement actually wants to prevent active shooters from committing acts
23 of --
24 A I would certainly hope so.
25 Q -- mass shooting, correct?

1 And your understanding is that part of FinCEN's mission is to help identify those
2 folks and prevent those crimes from happening?
3 A Absolutely.
4 And can I just point out, I mean, I think there's a lot of talk about what FinCEN
5 expected or didn't expect. I mean, I think it's instructive to see the words on the page
6 from one of the bank participants where they're characterizing this whole thing as,
7 typologies to detect potential shooters that we are using right now to see if we have
8 parties of concern.
9 So, again, it's instead of looking for that needle in a haystack in millions of
10 transactions, it's let's take a narrow subset that fits certain characteristics and look at
11 those to evaluate whether they are suspicious.
12 Are we going to miss some that aren't in that batch? Probably. Are we going
13 to be overly inclusive in looking at things that we decide are not suspicious? Absolutely.
14 But it makes it manageable. It makes it much more efficient and effective to generate
15 high-quality reviews. That was the purpose and, I think at least in this instance, that was
16 what was understood by the participants.
17 Q Thank you. That's very helpful.
18 And I want to take your advice and focus on the language of the PowerPoint itself
19 that KeyBank sent to you. So I'm looking at the page that starts -- that says, "Active
20 Shooter Detection - Methodology 1." And this is where you have, under Transaction
21 Population, it says, "Query for credit/debit card purchases involving any of the following
22 MCC codes."
23 Do you see that?
24 A Yeah. Do you mind if I -- when I first got this, I didn't really look at the deck
25 at all just because I didn't think -- give me a minute or two to --

1 Q Absolutely. Take all the time you need.
2 A -- just acclimate myself with the deck, please, yeah.
3 Q And please don't feel rushed.
4 A All right. Thank you.
5 Okay. Great. Thank you.
6 Q Thank you. I appreciate that.
7 Okay. So the very first section under the title has a list of MCC codes.
8 A Uh-huh.
9 Q And it says: "Query for credit/debit card purchases involving any of the
10 following MCC codes," correct?
11 A Yes.
12 Q Okay. And then there is a very long list of keyword exclusions, correct?
13 A Yes.
14 Q Okay. Now, the slide itself, if you continue to look at it, makes clear that
15 not every transaction involving the listed MCC codes is going to be reported, correct? If
16 you look at the third bullet point about the 60-day rollback period.
17 A Correct.
18 Q Okay. There's several parameters from just the bank's own methodology
19 that must be met. So number one is there have to be five or more distinct and different
20 merchants/vendors of the above population set by the customer, correct?
21 A Uh-huh.
22 Q And there has to be an aggregate purchase transaction totaling $2,500 or
23 more from the above MCC codes by the customer, correct?
24 A Uh-huh, yes.
25 Q And the number of transactions at the above MCC codes have to be greater

1 than 50 percent of the total number of transactions by the customer, and the aggregate
2 purchase amount at the above MCC codes has to be 50 percent of total purchases by the
3 customer, correct?
4 A Yes.
5 Q So if somebody were to characterize this slide as KeyBank saying they're
6 going to file a SAR for any purchase from an MCC code related to pawnshops or arms
7 stores or sporting goods stores, that would be incorrect, wouldn't it?
8 A It most certainly does not clearly indicate that this will lead to the filing of a
9 SAR. I'm not sure that it excludes the possibility that somebody could interpret that to
10 be the outcome here, right. I mean, if they -- in other words, if there were transactions
11 that fit all of these parameters, maybe they would file a SAR. I don't know that I can tell
12 from the face of the slide, but it certainly doesn't indicate that a SAR would or must be
13 filed.
14 Q And to that point, it would have to be not just that a purchase involved one
15 of the following MCC codes, but also meet those four parameters that I just read, correct?
16 A Correct, and exclude all of these others.
17 Q And exclude all of the others.
18 A Right.
19 Q So for someone to say that -- if someone were to say that FinCEN was
20 distributing a slide deck asking banks to flag purchases from MCC codes relating to
21 firearms, any purchase relating to firearms, that would be incorrect?
22 A That would be incorrect.
23 Q Okay. And the same goes for methodology number 2, correct?
24 A Correct.
25 Q Okay. And, again, when FinCEN forwards this type of information from one

1 bank to other banks, it is not asking or encouraging them to file SARs based on the
2 methodologies or typologies contained in these types of documents?
3 A Correct.
4 Q The banks are expected to use their own judgment and their own analysis,
5 based on their knowledge of their customers' database, on how best, if at all, to
6 incorporate the information in these slide decks?
7 A Correct.
8 Q Okay.
9 [redacted] Okay. We can go off the record.
10 [Discussion off the record.]
11 [redacted] We can go back on.
12 So I'd like to start by entering into the record an email from [redacted] dated
13 January 16th, 2021, with the subject line "Capitol Riots" into the record as exhibit 9.
14 [[redacted] Exhibit No. 9.
15 was marked for identification.]
16 [redacted] Okay.
17 [redacted] I'm also going to enter an excerpt from the Institute for Strategic
18 Dialogue's report titled, "Bankrolling Bigotry: An Overview of the Online Funding of
19 American Hate Groups" into the record as exhibit 10. This is attached to the email that
20 we just introduced -- or is linked to the email that we just introduced.
21 [[redacted] Exhibit No. 10.
22 was marked for identification.]
23 [redacted] Okay.
24 BY [redacted]
25 Q Okay. Do you remember sending this email?

1 A No.

2 Q Do you recall if you reviewed the information in the links that were included

3 in the email before you shared it with these financial institutions?

4 A I can confidently say I did not review for the purpose of evaluating or making

5 any determination. I don't recall whether I looked at it or reviewed it.

6 Q Do you know if these materials were shared with any other Federal agency?

7 A I don't know.

8 Q So among other links in this email, it includes links of the Anti-Defamation

9 League's hate symbol database, and to a report that we introduced, authored by the

10 Institute for Strategic Dialogue, titled, "Bankrolling Bigotry."

11 Does FinCEN maintain a list of American hate groups or hate symbols?

12 A Not to my knowledge. I do recall in the general context of this topic that

13 there was a list that someone at FinCEN had, but I don't know what that was derived

14 from. It may have come from these same sources or something else. I don't know.

15 Q Does FinCEN often rely on groups like these in making those determinations

16 as to what is a hate symbol?

17 A I couldn't tell you. I don't know.

18 Q Did you ever speak with the Anti-Defamation League regarding the links

19 shared?

20 A I did not.

21 Q What about with the Institute for Strategic Dialogue?

22 A I did not.

23 Q Do you know if FinCEN, anyone else at FinCEN works with groups like ADL

24 and ISD --

25 A I do not.

1 Q -- to understand their methodology?

2 A I don't know.

3 Q When you sent this email -- when did you become aware of this hate symbol

4 database, if you recall?

5 A What do you mean by hate symbol database?

6 Q It's the --

7 A Are you referring to the ADL website?

8 Q The ADL website.

9 A Oh, I don't recall.

10 Q Do you recall anyone at FinCEN having concerns about sending this report to

11 financial institutions?

12 A Not that I recall.

13 Q Did any financial institutions express any concerns when they received it?

14 A Not that I recall.

15 Q Did FinCEN intend that banks would investigate these groups that were

16 included in these lists when sending this information?

17 A I would not say that we intended any specific action. We viewed this as

18 providing information that would be helpful to them during whatever analyses they were

19 conducting.

20 BY [redacted]

21 Q Who at FinCEN conducts the assessment to determine what's valuable or

22 potentially valuable to private sector partners?

23 A That's a great question. Probably a lot of different divisions. I mean,

24 certainly my own division, the Strategic Operations Division, you know, that's a

25 conversation that came up a lot in the BSAAG context, you know, financial institutions

1 asking for more information to help inform their efforts instead of kind of operating blind.
2 So from a policy perspective, SOD or Policy Division might have gotten that
3 feedback or have an input on that. You know, enforcement, intelligence from a
4 substantive perspective. Front office, Main Treasury, politic -- I have no idea. I mean,
5 it could be any number of inputs.
6 Q For the inputs in this email, for example, the link from ADL, is that something
7 you would have found on your own? Is that information that's being transmitted to you
8 in preparation for drafting this email?
9 A So I have zero recollection of where any of these came from, other than to
10 tell you that it wasn't my job to generate any of this. So it didn't come from my staff or
11 me. But I don't remember who at FinCEN or other stakeholders provided these.
12 Q With the understanding you don't have a specific recollection for this email
13 and how it was prepared, for content like what's in the first paragraph, the link to the ADL
14 website, which division or, more specific, office within FinCEN would it have fallen within
15 their purview to find this kind of information and also have it transmitted to you and your
16 team?
17 A As a general matter, that kind of substantive analysis would generally be the
18 Intelligence Division.
19 Q And independent of this email, just so the record is clear, understanding you
20 didn't have any interactions with ADL about this link, just generally as part of your role at
21 FinCEN in any context, did you have any interactions with ADL?
22 A Not to my recollection.
23 Q Same with ISD?
24 A Correct. Not to my recollection.
25 Q And what about the Global Disinformation Index?

1 A Not to my recollection.

2 BY [redacted]

3 Q You also stated these might be of value to the financial institutions. How

4 can a financial institution use these?

5 A Is that what's in the email when I said -- saying it had value?

6 Q In response to an earlier question.

7 A Oh, is that what I said? You know, it's data points, right. When an

8 investigator or a bank is looking at a set of transactions or a customer and evaluating

9 whether the transactions or the conduct of the customer is something that warrants a

10 SAR or not, data points are helpful. So I think it's just additional data for them to have

11 access to.

12 Q So a bank might be able to take that list of groups and see, do I have any

13 customers that are these groups, and review some of their transactions to see if there's

14 suspicious activity?

15 A That might be something a bank chooses to do or not based on the receipt

16 of this. That is certainly something they could do.

17 [redacted] Your office specifically is not assessing the value of links and

18 documents like this, though, is that it?

19 [redacted] Correct. Correct.

20 [redacted] That would be the Intelligence Division, most likely?

21 [redacted] Yeah. I mean, I say as a general matter just because, right,

22 everybody brings in their own experience, right. Did we have senior advisors that

23 worked with the director that were former prosecutors that had info?

24 I mean, info could theoretically have come from any FinCEN -- you know, from a

25 personal matter. But in terms of the structure of FinCEN, that kind of substantive

1 analysis was generally the Intelligence Division.

2 I should also say that FinCEN has a division that was newly stood up while I was

3 there. I believe it's called Global Investigations. I don't recall it being a division at this

4 time. I don't remember one way or the other, and I don't recall, given the domestic

5 nature, that it was involved at all. But I wanted to raise that because most of my

6 answers when I say things like the substantive analysis would generally be ID, I would add

7 that, if appropriate, it would also be the Global Investigations Division.

8 I've short of forgotten them. Don't tell Matt, if it's still Matt.

9 So that would be the second sort of primary division that substantively crunches

10 BSA data for that purpose.

11 [redacted] Who's the head of that division?

12 [redacted] When I was there, it was a guy named -- was it Matt Stiglitz?

13 [redacted] Uh-huh. Still is.

14 [redacted] Still is. So he's the head of that division.

15 But, again, I'm not even sure if it was a division at this time, nor, given the global

16 nature of it, do I think it was involved. I just -- you've asked a lot of general questions of

17 who would it be, who would it be, and I keep saying ID, ID. And just occurred to me it's

18 probably also GID in many cases.

19 BY [redacted]

20 Q In early 2021, do you have a sense of how big the Intelligence Division is?

21 A I have a general sense. It was one of FinCEN's larger divisions. Certainly

22 less than a hundred. I'm pretty sure more than 30 or 40. I'm not sure I can get much

23 more specific, but it was one of the larger divisions.

24 Q Understanding you didn't have any interactions as part of your role, to your

25 understanding, did others at FinCEN have any relationships or just even points of contact

1 with ADL?

2 A Not that I'm aware of.

3 Q This is intended just as a general question, if you have any awareness. In

4 response to an earlier question, you mentioned that providing data points -- that data

5 points could be helpful. In any context, are you aware of any assessment being

6 conducted about whether certain data points came from political sources or sources with

7 certain political objectives that might change how the dataset was compiled or would

8 raise any concerns about the impartiality of it?

9 A I don't recall those conversations one way or the other.

10 BY [redacted]

11 Q The email also states that MUFG kindly circulated the ISD report. Did you

12 ever speak with MUFG about their report?

13 A I don't have a specific recollection. I mean, I can confidently say I would

14 not have had a substantive conversation with them. Was I the person who received it or

15 not? I may have been. I don't recall.

16 Q Do you recall if they indicated how it was using their report when they sent it

17 to you?

18 A No.

19 Q Do you know if they had had any conversations with ADL or ISD?

20 A I do not.

21 [redacted] Who was your primary point of contact at MUFG?

22 [redacted] I don't recall having a specific primary point of contact. Generally,

23 whoever it was in the context of this activity would probably be the folks on this email.

24 Give me a second and let me see if I can refresh my recollection.

25 I believe of these folks that are listed on the email, it was M. Roth is my

recollection of being the primary.

[redacted] Do you recall for this individual what their first name was?

[redacted] I don't. I feel like I want to say Monique, but I don't know for certain.

[redacted] I'd now like to enter an email from [redacted] dated January 18, 2021, with the subject line "Capitol Riots" into the record as exhibit 11.

[[redacted] Exhibit No. 11.

was marked for identification.]

[redacted] This is January 18th, right?

[redacted] Yes.

1 [3:58 p.m.]

2 BY [redacted]

3 Q Do you remember sending this email?

4 A Not specifically, no.

5 Q Can you explain what the purpose of the email is?

6 A Not beyond the words on the page. It appears it was more information

7 that could potentially be used to narrow the scope of activity that they were looking at.

8 Q Narrow the scope of activity to what? What do these identify?

9 A So I have a general recollection that some of the funding, we were aware -- I

10 don't recall how, whether from law enforcement or whomever -- that some of the

11 funding mechanisms that supported the events of January 6th were through

12 crowdfunding websites.

13 So the thinking was, by identifying possibilities of what those funding mechanisms

14 were, it could be, again, another data point that could be used to try to understand a

15 particular customer's activity or, broadly, customers' activity.

16 Q So the email also states that FinCEN has observed people using the site to

17 post an event and sell tickets, including bus tickets, to the demonstrations, and then

18 identifies a transaction reference.

19 Is selling tickets to events or demonstrations evidence of potentially suspicious

20 activity?

21 A So, first, I would note there's no indication that FinCEN said this. I don't

22 recall what the source of this info was. The info says, "People have been observed using

23 this site." I don't -- that could have come from law enforcement, it could have come

24 from a bank that shared it. I don't recall where it came from. So I don't know for a fact

25 that this was FinCEN saying.

1 But, no, like everything else, no specific data point was intended to convey a
2 determination of suspicion. It was just a data point, a factor.
3 Q And what is a transaction reference?
4 A To the best of my knowledge, like if you were to go and log into your bank
5 app right now and look at your own card purchases, like if you're not filling anything out
6 when you use your card, whether it's the merchant or whomever, I'm not certain, like
7 there's some reference that's attached to those card purchases.
8 So I believe that's what this is a reference to.
9 Q And so in this instance, what are those transaction references identifying?
10 A It appears the use of Eventbrite. It also specifies a particular phone
11 number. I don't know what that phone number is. I'm not really sure that I can
12 answer that, actually.
13 Q One of the things the email mentions is, for example, "EB March for TR."
14 Are you aware of what that was short for?
15 A No.
16 Q Could it have been Eventbrite, March for Trump?
17 A I don't know.
18 Q And you're not aware of how you became aware of this transaction
19 reference?
20 A Correct. I have no recollection of what the source of this info was.
21 Q And so if a financial institution --
22 [redacted] Is this -- do you have -- it looks like a whole email chain. I'm not
23 sure if there's more info --
24 [redacted] There is.
25 [redacted] -- in other parts of this chain. But --

1 [redacted] Not relevant to this topic.

2 [redacted] No? Okay. I mean, I --

3 [redacted] Well, I think that's for him to decide.

4 [redacted] Yeah, I don't know one way. Certainly, I have no recollection, nor

5 on the face of this does it give me any information to answer that question.

6 [redacted] So if a financial institution that's on this email inserted the

7 transaction reference that you identified, what would that return?

8 [redacted] I'm not sure I understand. Insert -- inserted that where?

9 [redacted] Well, that's my question. I'm trying to understand how this

10 transaction reference is used.

11 [redacted] If you know.

12 If that would be a question for him or the financial institutions as to how they're

13 going to use it.

14 [redacted] Yeah. I mean, again, I think I kind of addressed this earlier. Like,

15 it would depend, I suppose, on what systems they have in place to query their own data.

16 I can't even represent that all of these institutions have the ability to query in that

17 manner. I don't know.

18 BY [redacted]

19 Q For an email like this one, obviously there's a list of names, and based off

20 your recollection very likely received that from someone else within FinCEN.

21 So the text of Eventbrite, for example, are you on the receiving end of that text,

22 you're just copying and pasting it into the email, or are you playing some role in the

23 editing process summarizing what you received?

24 A I did not make any substantive edits to the information that I received from a

25 substantive perspective. I also wouldn't assume this came from FinCEN. I don't know

1 what the source of this info was.

2 Again, I was disseminating it. It may have come from another financial

3 institution, it may have come from law enforcement, it may have come from FinCEN. I

4 don't recall. And my staff and I would not have played any role in changing any of that

5 content.

6 Q Even down to the -- for example, for an email like this, typically, that would

7 be --

8 A None of this --

9 Q That was already -- whoever it was, whether it was --

10 A None of this is my work product or my staff's.

11 [redacted] And just so we're clear for housekeeping, the email you guys

12 are asking about is an internal email that was just among the banks, if you look at the top.

13 You've just been asking him questions about the email that he sent below.

14 But just so the record is clear, that top part should probably be redacted.

15 [redacted] And for what it's worth, when you forward something along, you

16 can edit it. So I'm -- I can't even represent that this is an accurate depiction of what I

17 sent. I don't think it matters one way or the other because I don't recall. But, I mean,

18 technically. But yeah, I mean, sort of the messenger here.

19 BY [redacted]

20 Q I'll represent that we received this exact email from several different

21 financial institutions.

22 Had you used transaction references before?

23 A Meaning like has FinCEN ever disseminated information about transaction

24 references?

25 Q Sure. Have you disseminated information about transaction references

1 before or after this one?

2 A I have a general recollection that some advisory or advisories along the way

3 would have referenced maybe, for example, like wire details or some sort of reference

4 number information. It's not an uncommon factor.

5 Q When the email says observing people, do you know what that means,

6 "People have been observed"?

7 A I do not.

8 Q And you're unaware of how those people may have been observed?

9 A Correct.

10 Q Does FinCEN monitor crowdfunding sites?

11 A I have no knowledge one way or the other.

12 Q And did you ever communicate with Eventbrite?

13 A No.

14 Q GoFundMe?

15 A None of these names I have ever communicated with.

16 Q Are you aware of anybody else at FinCEN who may have communicated with

17 these crowdfunding sites?

18 A Not that I'm aware of.

19 Q And I assume you didn't inform these crowdfunding sites that these

20 transaction references may be being monitored?

21 A I personally did not. I don't have any knowledge of whether that had

22 happened.

23 Q The second line of the email states "Anedot.com,"

24 and follows with, "You may see a Card Purchase with the transaction reference in the

25 following format: 'A [a message or like a cause or candidate] with the phone number in

1 the following format,'" and then has the phone number.

2 What is Anedot.com?

3 A I have no idea.

4 Q Do you have any idea why Anedot was targeted?

5 A I'm not sure I would agree with the premise of that question, but I don't

6 have any knowledge either way.

7 Q Do you have any idea what transactions this transaction reference might

8 identify?

9 A No.

10 [redacted] Do you know if this refers to political contributions?

11 [redacted] I do not know one way or the other.

12 [redacted] Did you have to seek any approval or discuss with anyone any of

13 the transaction references in this email before sending it?

14 [redacted] I don't recall.

15 [redacted] During this time period, are you aware of any contents, whether it be

16 tied to this email chain, of where political donations were a typology or something that

17 contributed to?

18 [redacted] I'm not aware of that, no.

19 [redacted] Can we just go off the record?

20 [Discussion off the record.]

21 [redacted] We can go back on.

22 Okay. I'd now like to enter an email from [redacted] dated January 16th,

23 2021, and one of the attachments, "MUFG Typology slide," with the subject line "Capitol

24 Riots," into the record as exhibit 12.

25 [redacted] Exhibit No. 12.

1 was marked for identification.]

2 [redacted] Okay.

3 BY [redacted]

4 Q Do you remember sending this email?

5 A No.

6 Q Do you recall if there were any discussions at FinCEN before sending this

7 email?

8 A No. I don't recall.

9 Q The email states that the attachments are from MUFG.

10 Do you have any idea why MUFG sent these attachments or shared these

11 attachments?

12 [redacted] Just for the record, I think he only has one of the two

13 attachments on this actual exhibit, right?

14 [redacted] Yeah. I only entered one of the attachments into the record.

15 [redacted] Okay. Yeah. I mean, well, as a general matter, that's what these

16 discussions were, a forum for the sharing of information if anyone was so inclined. So

17 you can infer that MUFG felt inclined to share this.

18 BY [redacted]

19 Q And do you remember discussing these materials with MUFG?

20 A No.

21 Q Do you remember in those discussions just trying to elicit some of this

22 information sharing?

23 A I don't remember any such discussions one way or the other.

24 Q Do you recall, once you received these materials from MUFG, what you did

25 with them?

1 A I do not specifically recall. I can confidently say that I would have
2 disseminated them internally to the appropriate group, and then, again, either sought
3 approval to disseminate or at the time felt that it was something that I had approval to
4 disseminate.
5 Q And who would be the appropriate groups to disseminate something like
6 this to internally?
7 A I think I addressed this earlier. I don't specifically recall. I mean, there
8 was definitely an internal group of FinCEN folks that were generally working on this topic
9 and involved, ID folks being the most prominent to my recollection. But I don't really
10 recall beyond that.
11 Q Turning to the slide itself.
12 Do you recall whether you reviewed this slide?
13 A I don't recall one way or the other. Again, I would note that I would not
14 have reviewed it -- I wouldn't have done anything but read it. I wasn't evaluating or
15 reviewing it for substance.
16 Q How would a bank use the typology and the MCC Codes it lists to review
17 certain transactions?
18 A Well, to the extent that they're able to search those types of information in
19 their systems, they would, I guess, search for that code and isolate for review those
20 transactions, I guess, or would be one factor that they would use to apply in a search.
21 Q And this slide lists transfers to GiveSendGo or other crowdfunding sites.
22 Are you aware of whether FinCEN or MUFG was scrutinizing these kinds of
23 transactions?
24 A I'm not aware.
25 Q The note at the bottom also mentions DIA.

1 Do you know what DIA is?

2 A My assumption, based on nothing but the page, is that it's the Data Insights

3 and Analytics team at MUFG, which is in the title of the slide.

4 Q And it also mentions may warrant escalation.

5 A I think what it actually says is that there's no single hit may warrant

6 escalation, but more than one could.

7 So it reinforces the notion that these banks understood that they weren't being

8 told that any one of these factors was requiring or expecting or should lead to a SAR.

9 It was a data point that they could use if they wanted to for evaluation. I think

10 that's, essentially, what MUFG is saying there.

11 Q And so the question I was going to ask is, when it says warrant escalation,

12 what does that mean to you?

13 A Warrant escalation -- well, it depends on the parlance of the individual bank.

14 I read this, I think they mean file a SAR. It could just be a reference to some step prior to

15 that internally.

16 I mean, they may have a -- some banks have, like, a level one, and if they see

17 something that's a maybe, it goes to the level two that are a little more experienced to

18 make those determinations.

19 So I don't know what they mean here, but one of those.

20 Q It also mentions that DIA will, quote, "look to sort for these typologies via

21 in-person versus online purchases."

22 Do you have any idea what that means?

23 A I do not.

24 [redacted] So you've mentioned the Intelligence Division and the Global

25 Investigations Division.

1 Are there any other divisions that review and analyze and evaluate BSA data?
2 [redacted] So I definitely answered this earlier. I mean, several divisions do
3 for different reasons. I mean, Policy for policy reasons and advisory reasons,
4 Enforcement for enforcement activity. Some folks in SOD for -- we have the global FIU
5 component.
6 So many, if not most, divisions of FinCEN may have some reason to review BSA
7 data. And, of course, best ask FinCEN that question. I don't know.
8 BY [redacted]
9 Q Turning back to the previous exhibit, the typologies via in-person versus
10 online, independent of this email, just at a high level, are you aware of any sort of
11 discussion as to what that might mean, how typologies might apply for in-person
12 transactions but be different if the transaction is made online?
13 A I'm sorry. Will you restate that question for me?
14 Q Sure. Independent of this email, during your time at FinCEN, do you recall
15 any sort of discussions about typologies applying for in-person purchases as opposed to
16 online purchases, whether they be different lists or prioritizing different typologies.
17 A Yeah. I mean, I definitely do not recall some, like, standalone factor turning
18 on whether it was in-person or online. Like that doesn't really make sense to me.
19 Totally separate from anything we've been discussing, there are certain red flags
20 that may only be present in person.
21 So, for example, bank tellers are generally trained to spot people that are antsy
22 and uncomfortable. Or you'll commonly see a SAR where somebody tries to withdraw
23 10,000 bucks, they get asked to fill out a form, and they say, "Oh, just kidding, I only need
24 9,000." They're supposed to file a SAR because that's somebody avoiding.
25 That would only generally be in person. Cash, of course, would only be in

1 person.

2 Online you get a whole different -- you talked about identity fraud and login

3 credentials.

4 So there are certainly significant differences there. But in terms of, like, here's a

5 type of conduct and it only is meaningful in one, that, I don't -- that's not familiar to me.

6 [redacted] We can go off the record.

7 [Discussion off the record.]

8 [redacted] Back on the record.

9 BY [redacted]

10 Q I want to start with exhibit 12, the slide from MUFG, the "GFCD Intelligence

11 & Analytics, Data Insights and Analytics."

12 A That's the most recent? Okay. Yep. Got it.

13 Q Okay. So you pointed out the note on the bottom of the slide, which says,

14 "DIA plans on looking at these typologies holistically, that is no single hit may warrant

15 escalation but more than one could."

16 A Uh-huh.

17 Q And that is consistent with all of your testimony about how these typologies

18 are intended to be used and, in your experience, how they are used by banks, correct?

19 A Yes.

20 Q Okay. Now, in the majority's March 2024 report, it states that, according to

21 this particular slide, quote, "Account information and transactions meeting any of the 11

22 typology criteria may have been flagged and shared with Federal law enforcement as

23 being suspicious," end quote. And that's on page 29 of the report.

24 Is that an accurate statement based on your understanding of this --

25 A No. It's contradicted on its face by the incident.

1 Q Okay. Now, going back to the exhibit number, which I can't
2 remember -- exhibit 10 -- or I guess it was 9 and 10, the email that had several different
3 links attached, including -- and then exhibit 10 is the excerpt from the ISD report.
4 Let's start with exhibit 10. And this should be clear from all of your testimony so
5 far, but just for the record, in circulating this you did not intend to suggest that
6 membership in any one of the organizations here was sufficient to trigger a suspicious
7 activity report, correct?
8 A Correct.
9 Q Okay. Now, the majority's report claims that FinCEN's distribution of this
10 ISDN report and the ADL link amounts to an approval of its contents, methods, and
11 conclusions.
12 Do you agree with that statement?
13 A No. And I'm not sure I'm the right person to ask that question, but I don't
14 personally agree with that, no.
15 Q Fair enough. Okay.
16 Now let's take a look at exhibit 11, which is the exhibit with a list of crowdfunding
17 sites.
18 Now, you noted that at the bottom of this exhibit it is clear that this is part of an
19 email thread, and the bottom of this exhibit shows the "from" and "to" line of an email
20 you sent on Sunday, January 17th, 2021, at 4:06 p.m.
21 And I am just going to represent for the record that that email was an email from
22 you to these recipients with a link to a list from the Department of Justice of individuals
23 who had been charged with offenses related to their roles in January 6th.
24 A Okay.
25 Q Does that sound familiar, like something you might have sent?

1 A I mean, I don't have any recollection. It sounds on brand of what we were
2 doing, but --
3 Q Fair enough.
4 Okay. Now, by sending this list of crowdfunding sites, were you asking financial
5 institutions to file SARs for any transactions with crowdfunding sites?
6 A No.
7 Q And did you -- were you trying to hint to them or encourage to them that
8 any crowdfunding site transaction should be flagged?
9 A No.
10 Q Now, in the majority's report they stated that, according to this email, simply
11 purchasing a ticket to an event was enough for FinCEN to consider this activity as
12 suspicious.
13 Is that accurate?
14 A No.
15 Q And they also say that FinCEN was soliciting and encouraging financial
16 institutions to report on the accounts of any persons involved in crowdfunding events or
17 demonstrations in support of President Trump.
18 Is that accurate?
19 A No.
20 Q The majority has alleged that FinCEN has engaged in a pattern of financial
21 surveillance aimed at millions of Americans who hold conservative viewpoints or who
22 simply exercise their Second Amendment rights.
23 What's your response to that allegation?
24 A I never encountered any information or discussion that made me think that
25 while I was at FinCEN.

1 Q And the majority claims that FinCEN and law enforcement commandeered
2 financial institutions to spy on Americans.
3 What's your response to that allegation?
4 A Did not happen.
5 Q All of FinCEN's communications with financial institutions were pursuant to
6 Federal statutes, correct?
7 A To the best of my knowledge.
8 Q Thank you very much.
9 A And I wasn't the person in charge of evaluating that.
10 Q Fair enough.
11 [redacted] And with that, we can go off the record.
12 [Whereupon, at 4:27 p.m., the interview was concluded.]

1 Certificate of Deponent/Interviewee

2

3

4 I have read the foregoing ____ pages, which contain the correct transcript of the

5 answers made by me to the questions therein recorded.

6

7

8

9 _____

10 Witness Name

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14 Date

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5 COMMITTEE ON THE JUDICIARY,
6 U.S. HOUSE OF REPRESENTATIVES,
7 WASHINGTON, D.C.
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13 INTERVIEW OF: [redacted]
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18 Friday, May 31, 2024
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20 Washington, D.C.
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22
23 The interview in the above matter was held in room 6400 O'Neill House Office
24 Building, commencing at 11:13 a.m.

1 Appearances:

2

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted] PROFESSIONAL STAFF MEMBER

8 [redacted] SENIOR COMMUNICATIONS ADVISER

9 [redacted] PROFESSIONAL STAFF MEMBER

10 [redacted] PROFESSIONAL STAFF MEMBER

11 [redacted] DEPUTY CHIEF COUNSEL FOR OVERSIGHT

12 [redacted] MINORITY OVERSIGHT COUNSEL

13 [redacted] MINORITY INTERN

14 [redacted] MINORITY OVERSIGHT COUNSEL

15

16 For ALPHABET:

17

18 DANIEL F. DONOVAN, ESQ.

19 KING & SPALDING

20 1700 PENNSYLVANIA AVENUE NW, SUITE 900

21 WASHINGTON, D.C. 20006

22

23

1 For GOOGLE:

2

3 MICHAEL D. BOPP, ESQ.

4 GIBSON DUNN

5 1050 CONNECTICUT AVENUE, NW

6 WASHINGTON, D.C. 20036-5306

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1 [redacted] Can we go on the record, please.

2 This is a transcribed interview of [redacted]. Chairman Jordan has requested

3 this interview as part of the committee's investigation of how and the extent to which the

4 executive branch has coerced and colluded with companies and its intermediaries to

5 censor speech.

6 Would the witness please state your name for the record.

7 [redacted]. [redacted].

8 [redacted] On behalf of the committee, I want to thank you for appearing here

9 today to answer our questions. The chairman also appreciates your willingness to

10 appear voluntarily.

11 My name is [redacted] I'm with Chairman Jordan's staff. I'll now have

12 everyone else from the committee who's here in room introduce themselves as well.

13 [redacted] [redacted] Chairman Jordan's staff.

14 [redacted] [redacted] Chairman Jordan's staff.

15 [redacted] [redacted] Chairman Jordan's staff.

16 [redacted] [redacted] Chairman Jordan's staff.

17 [redacted] [redacted] Ranking Member Nadler's staff.

18 [redacted] [redacted] Ranking Member Nadler's staff.

19 [redacted] [redacted] Ranking Member Nadler's staff.

20 [redacted] I would like to now go over the ground rules and guidelines that we

21 will follow during today's interview.

22 Our questioning will proceed in rounds. The majority will ask questions first for 1

23 hour, and then the minority will have an opportunity to ask questions for an equal period

24 of time if they choose. We will alternate back and forth until there are no more

25 questions and the interview is over. Typically we take a short break at the end of each

1 hour, but if you would like to take a break apart from that, please just let us know.

2 As you can see, there's an official court reporter taking down everything we say to

3 make a written record, so we ask that you give verbal responses to all questions.

4 Do you understand?

5 [redacted]. Yes.

6 [redacted] So the court reporter can take down a clear record, we will do our best

7 to limit the number of people directing questions at you during any given hour to just

8 those people on the staff whose turn it is.

9 Please try and speak clearly so the court reporter can understand and so the folks

10 down at the end of the table can hear you. It is important that we don't talk over one

11 another or interrupt each other if we can help it, and that goes for everybody present at

12 today's interview.

13 We encourage witnesses who appear before the committee to freely consult with

14 counsel if they so choose. It is my understanding that you are appearing today with

15 counsel.

16 Is that correct?

17 [redacted]. Yes.

18 [redacted] Could counsel please state your name for the record.

19 Mr. Bopp. Yes. Michael Bopp representing [redacted].

20 Mr. Donovan. Daniel Donovan, King & Spalding representing [redacted].

21 [redacted] Thank you.

22 We want you to answer our questions in the most complete and truthful manner

23 as possible, so we will take our time. If you have any questions, or if you don't

24 understand one of our questions, please let us know. Our questions will cover a wide

25 range of topics, so if you need a clarification at any point, just say so. If you honestly

1 don't know the answer to a question or do not remember --

2 [redacted] Go off the record.

3 [Discussion off the record.]

4 [redacted] We can go back on.

5 Our questions will cover a wide range of topics, so if you need clarification at any

6 point, just say so. If you honestly don't know the answer to a question or do not

7 remember, it's best not to guess. Please give us your best recollection, and it's okay to

8 tell us you learned information from someone else. Just indicate how you came to

9 know the information. If there are things you don't know or can't remember, just say so

10 and please inform us who, to the best of your knowledge, might be able to provide a

11 more complete answer to the questions.

12 You should also understand that although this interview is not under oath that by

13 law you are required to answer questions from Congress truthfully.

14 Do you understand that?

15 [redacted]. Yes.

16 [redacted] This also applies to questions posed by congressional staff in an

17 interview.

18 Do you understand this?

19 [redacted]. Yes.

20 [redacted] Witnesses that knowingly provide false testimony could be subject to

21 criminal prosecution for perjury or for making false statements under 18, U.S.C. Section

22 1001.

23 Do you understand this?

24 [redacted]. Yes.

25 [redacted] Is there any reason you are unable to provide truthful answers to

today's questions?

[redacted]. No.

[redacted] Finally, I would like to make a note that the content of what we discuss here today is confidential. We ask that you not speak about what we discuss in this interview to any outside individuals to preserve the integrity of our investigation. For the same reason, the marked exhibits that we will use today will remain with the court reporter so that they can go in the official transcript, and any copies of those exhibits will be returned to us when we wrap up.

That is the end of my preamble.

Is there anything that my colleagues from the minority would like to add?

[redacted] No. Thank the witness for being here today. Appreciate your time.

[redacted] The clock now reads 10:18. We will start the first hour of questioning.

EXAMINATION

BY [redacted]

Q Can I have you state your full name again?

A [redacted].

Q And where are you currently for work?

A Alphabet Google.

Q And how long have you worked at Google for?

A I've worked there over two periods of time. The most recent period has been approximately 4 years.

Q At a high level what is your educational background?

A I have a bachelor's of science from Carnegie Mellon University.

1 Q Any other degrees?

2 A No.

3 Q After college, can you walk us through your professional history?

4 A I became an analyst at Bank of America in 2006.

5 In 2007, I joined Google for the first time as a product marketing manager. I left

6 in 2011 to work at a startup named StumbleUpon.

7 In 2013, I joined Pandora Internet Radio to work in a product management

8 capacity, focused on advertising. I left there in 2016.

9 And in 2017, I helped launch a company named UnitedMasters. In -- I can't recall

10 if it was exactly the end of 2017 or beginning of 2018, I left UnitedMasters and joined the

11 company WeWork.

12 And in February of 2020, I rejoined Google.

13 Q And when you joined Google the second time, February of 2020, which

14 position was that for?

15 A Director of product management.

16 Q And how long were you in that role for?

17 A I remained in the role -- my title has since been changed to senior director of

18 product management.

19 Q And when was that?

20 A I believe it was in the fall of 2022.

21 Q What are the main differences in the scope of your responsibilities from

22 director to senior director?

23 A When I joined Google in February of 2020, I was focused on the Google

24 Assistant for smart homes. Over the span of those 2 years, my scope increased for

25 working on Google Assistant on smart homes to Google Assistant in the automobile, on

1 wearables such as watches, and eventually mobile phones.

2 And then post my promotion to senior director, shortly thereafter I began to work

3 on the project known as Bard.

4 Q Had you worked on Bard at all prior to your promotion?

5 A I don't believe so.

6 Q When you were still director, who did you report to at that time?

7 A I have had three managers over the course of my current stint at Google.

8 Q Can you tell us who those three are?

9 A My first was [redacted], VP of product management. Upon his

10 departure from Google, my manager was [redacted] for a very short period of time.

11 And then I believe it was in the spring of 2021, my manager became, my current manager,

12 [redacted].

13 Q Once you become senior director, what were your responsibilities?

14 A Overseeing the -- at the time of the promotion, it was overseeing the full

15 portfolio of Google Assistant's device distribution across mobile phones, automobiles,

16 wearables, and smart homes. Shortly after the promotion, the work on the Bard project

17 began, and in December of 2022, my sole responsibility was Bard.

18 Q Who made the decision to have your portfolio become exclusively Bard?

19 A My manager offered me the role, and I accepted.

20 Q Prior to December of 2022, how many individuals were you overseeing in

21 the company?

22 A I don't recall the exact number.

23 Q Just a ballpark estimate?

24 A Around 40 to 50 perhaps.

25 Q And that 40 to 50, was it divided up based off different products, whether it

1 was car or watch or whatever it might be?

2 A At the time, yes, the team was structured by mobile phones, smart home,

3 car, wearables.

4 Q And then come December of 2022, how many other people were assigned

5 full-time to Bard of the folks that you were supervising?

6 A In terms of my direct supervision at the beginning of Bard in 2022?

7 Q Yes.

8 A It was either two or three individuals.

9 Q And were those two or three individuals working for you previously?

10 A Of the two that I recall, one had and one had not.

11 Q And what were their roles?

12 A They were helping drive the initial definition of Bard.

13 Q And what do you mean by that, "drive the initial definition"?

14 A In December of 2022, we wrote the initial requirements and proposal for the

15 experiment that we called Bard. And so prior to that time, the concept of the product

16 experiment had not existed.

17 Q So in December 2022, it's just the small team working on that?

18 A That's correct.

19 Q What were the next steps in the process after that proposal has been

20 drafted?

21 A To build a functional prototype of the first version of Bard to be tested

22 among our team.

23 Q And post December -- or after December of 2022, how did your

24 responsibilities change as a senior director?

25 A My initial responsibility within the development of Bard was to launch the

1 product publicly first, which we did in March of 2023.

2 Q And how big is your team by March of 2023?

3 A At that point, I don't recall. The team has grown over the past 18 months.

4 Q What's the size of the team today?

5 A My team is approximately 40 product managers.

6 Q So it was the product launch in March of 2023. Can you continue to walk

7 us through the timeline and responsibilities as it relates to the project?

8 A My responsibilities have remained consistent, to drive the prioritization -- or

9 oversee the team that drives the prioritization of the future development and making

10 decisions for the scope of what launches and doesn't launch, and that has remained

11 consistent.

12 Q During your time as senior director, which other teams within the company

13 do you most frequently interact with?

14 A I would say the teams within Bard that I work most closely with are the

15 engineering team, the product marketing team, communications, Trust and Safety, as

16 well as Google DeepMind.

17 Q What is Google DeepMind?

18 A Google DeepMind is the research division of Alphabet.

19 Q Have you ever worked for DeepMind?

20 A I've never reported in to DeepMind.

21 Q When you say, "Trust and Safety," for the Trust and Safety team that you

22 interact with, what products do they oversee, that team?

23 A In my interactions with them, they help define the policies for the Bard

24 product.

25 Q Do they work on anything else besides Bard?

1 A At the company?

2 Q Yes.

3 A Are you asking about the individuals with whom I work or the overall --

4 Q Sorry. Staying with the -- maybe to clarify a little bit more. We've

5 received previous testimony, for example, that YouTube has its own Trust and Safety

6 team, so there are multiple Trust and Safety teams within Alphabet.

7 So when you referred to Trust and Safety, just trying to get a sense of which team

8 you're referring to, and the scope of that Trust and Safety team's purview, to your

9 understanding.

10 A To my understanding, the Trust and Safety team oversees many products at

11 Google. I don't know the full extent to which they cover.

12 Q Yeah. Just as an example, are there other products that you're aware of

13 that they work on?

14 A I would be guessing.

15 Q Okay. Who's the head of the Trust and Safety team?

16 A As it relates to the work that I do on Bard or overall?

17 Q Well, I'll ask it both ways, but trying to understand your understanding of

18 that team's leadership.

19 A There's a VP of -- I believe the term is Trust and Safety.

20 Q Do you know who the VP at Trust and Safety is?

21 A [redacted].

22 Q And who on the Trust and Safety team do you interact with most frequently?

23 A Me personally, or my team?

24 Q We'll start with you personally.

25 A My most frequent interactions are with [redacted] as well as our dedicated Trust

1 and Safety leader.

2 Q And who's the dedicated Trust and Safety leader?

3 A [redacted]

4 Q Do you know who [redacted] is, or is that --

5 A I don't know her title.

6 Q And for your team more generally, who are the most frequent points of

7 contact of the Trust and Safety team?

8 A I believe it's [redacted]

9 Q How long has [redacted] been the individual dedicated to the Bard project?

10 A I believe since the beginning, from a Trust and Safety perspective.

11 Q Yeah. So dating back to --

12 A December of 2022.

13 Q -- 2022?

14 Had you worked with her previously?

15 A Yes.

16 Q In what context?

17 A She worked in a similar capacity on Google Assistant.

18 Q When you were working on Google Assistant, did you also interact with the

19 Trust and Safety team more generally since [redacted]?

20 A Not frequently.

21 Q When you did have interactions with the Trust and Safety team during your

22 time working on Google Assistant, what was the nature of those interactions?

23 A They were extremely limited, so I don't have a strong recollection of them.

24 Q Can you recall any examples or what sorts of issues or reasons might spur

25 Google Assistant to have some sort of meeting or communication with Trust and Safety?

1 A If it were to provide an inappropriate response to a user's request.
2 Q Are there internal Trust and Safety-related policies that were developed for
3 Google Assistant?
4 A I didn't work on them personally.
5 Q Yeah. But just to your understanding and awareness, were there?
6 A To my understanding, there are policies, but it's been a few years since I've
7 worked with them.
8 Q And would those policies have been developed by the Trust and Safety team,
9 to your understanding?
10 A To the best of my knowledge, yes.
11 Q So sticking with the Google Assistant example, again, just to your
12 understanding, can you walk us through how, you know, someone would become aware
13 if an answer was inappropriate? Is that -- does your team -- or does the -- let me stop it
14 there.
15 You mentioned if there was a response that was given that was inappropriate,
16 walk us through the process. How is that identified, and then what happens next?
17 A Users are able to -- users of Google Assistant are able to provide feedback
18 when they are unsatisfied with an answer or an action that was taken by the Google
19 Assistant.
20 Q And when a user provides feedback, to which team within the company does
21 that feedback go to?
22 A I don't know the exact process of who receives it first.
23 Q Okay. Was it your team?
24 A No.
25 Q Would Trust and Safety receive it before your team, to your understanding?

1 A I'm not sure if it would be Trust and Safety or another team.
2 Q Since your team isn't the first team that receives the user feedback, who
3 typically from the company would notify your team about the user feedback?
4 A As it relates to Google Assistant?
5 Q Yes.
6 A I'm not certain of the exact team. There would be feedback reports that
7 would be shared. I don't know who generates them.
8 Q And when the feedback is provided, is there -- when it's being provided
9 to -- ultimately one way or another to your team, is there additional assessment of how
10 the company's Trust and Safety policies are implicated?
11 A Are you asking relative to Google Assistant?
12 Q Yes, still relevant to Google Assistant.
13 A That wasn't within the scope of my role. The scope of my role on Google
14 Assistant was primarily about the device distribution. So my focus was not on the
15 individual responses so much as the quality of the product on a mobile phone, on a
16 watch.
17 Q Okay. Who within your team had that responsibility?
18 A They did not report to me. There would have been a separate team. And
19 at this point, I don't remember who would have been leading that function.
20 Q Okay. Was there a name for that division within your team, or was it a
21 completely separate team?
22 A On Google Assistant?
23 Q Yes.
24 A I don't recall what the name of the team was.
25 Q Let's shift to senior director, starting to work on Bard, what is the nature of

1 your team's interactions as it relates to Bard with the Trust and Safety team?

2 A At which stage?

3 Q Well, we'll start at the beginning. Did the nature of the interactions change

4 from December of 2022 to the present?

5 A In the definition phases of the project, the Trust and Safety team served as

6 an input to help inform the product policies.

7 Q So this is December of 2022?

8 A December or January, leading to the launch.

9 Q Of the two to three individuals you mentioned, who worked on the

10 definitions initially? Were any of them from the Trust and Safety team?

11 A [redacted] has been our primary point of contact.

12 Q Was [redacted] one of those two to three people that you were referring to?

13 A That helped us define the initial policies?

14 Q Yes.

15 A I believe so, yes.

16 Q Who is responsible for deciding who the two to three people were going to

17 be?

18 A I don't know.

19 Q You said in your case, it was your manager that offered you that opportunity

20 to work on Bard?

21 A Within my scope of product management, yes.

22 Q Besides [redacted], were there others from Trust and Safety who worked on the

23 definitions around December 2022, January 2023?

24 A My team may have worked with them, but I don't personally recall others.

25 Q Once the draft is prepared, who ultimately reviews and approves the

1 definitions?

2 Mr. Bopp. You mean a draft of the definitions?

3 [redacted] Yes.

4 Mr. Bopp. Okay.

5 [redacted]. My recollection of this exact phase of development is not

6 extremely strong. A common practice for setting product policies and the

7 implementation of them would be similar to how we are operating where, in my capacity

8 as the lead product manager, I would see the recommendation, make a call, whether I

9 believe it's correct or not, and then ultimately, my manager would be the one to sign off.

10 BY [redacted]

11 Q So we started to walk through the different phases of development. So

12 post, say, early 2023, once the definitions have been prepared, and, at some point,

13 approved, how did the nature of your team's interactions with the Trust and Safety team

14 change at the next phase of development?

15 A Well, as policies get approved, you have to find ways to implement them,

16 and so we conducted -- or constructed tests to measure whether the product was

17 operating in adherence to these policies, and from there that was what helped us inform

18 our initial launch.

19 After launch you start to receive feedback from users and you need to continue to

20 adjust how you test for policy adherence.

21 Q Is Trust and Safety weighing in on how to construct the tests, or do they

22 have a more limited role once the definitions have been finalized?

23 A They have the ability to provide input and feedback.

24 Q Do you remember how many members of the Trust and Safety team were

25 working on providing feedback to the tasks that were being constructed before the

1 launch?

2 A I don't know.

3 Q Besides [redacted] who did you most frequently interact with on the Trust and

4 Safety team in early 2023?

5 A It was primarily [redacted]

6 Q So [redacted] was the VP of Trust and Safety?

7 A That's correct.

8 Q Was that the case for -- from December 2022 until the present, to your

9 understanding?

10 A I think so, yes.

11 Q How frequently did you interact with her, I'll say, from December 2022 until

12 the product launch?

13 A Not very frequently.

14 Q Do you know if she had the opportunity to -- let me rephrase that.

15 Was her approval necessary for finalizing the initial definitions for Bard?

16 A I'm not sure.

17 Q So then, there's the launch of the product itself. You begin receiving user

18 feedback. Can you walk us through the process of how that user feedback gets to your

19 team?

20 A Yes. So in March of 2023, we launched Bard as a web-only experiment in

21 two countries, the U.S. and U.K., in the form of a wait list. So it wasn't at that moment

22 in time that anyone could sign up for the experience. And what we were seeking to do

23 is understand how people would use it, and they were able to and continue to be able to

24 provide us feedback to responses in the user interface through the ability to give a thumb

25 up when something works well and a thumb down when they are not satisfied with the

1 response.

2 Q And that feedback, is it being provided directly to your team, or is there any

3 intermediary within the company that's filtering which feedback your team is seeing, or

4 was it all of it?

5 A My team directly doesn't review those, to my knowledge. There are

6 engineering teams that have access to that. I'm not entirely sure which team

7 reviews -- which exact team reviews the thumbs up and thumbs down.

8 There's also feedback that we receive from social media and press as well, which

9 those, I believe, are monitored first, at least from a social media perspective, by the Trust

10 and Safety team.

11 Q Do you know who from Trust and Safety is in charge of -- or was in charge of

12 monitoring social media as related to the initial product launch?

13 A I don't know.

14 Q To your knowledge, was [redacted] involved in that process, or what were the

15 scope of [redacted]'s responsibilities during this time, I guess, is a better way of asking?

16 A I don't know the full extent of her scope. My interaction with her is she's

17 seen as the policy lead with whom my team interfaces.

18 Q How long did this phase -- so there's the product launch, there's the wait list,

19 thumbs up thumbs down coming in. How long did that phase last for?

20 A The wait-list phase?

21 Q Yes.

22 A I believe we removed the wait list in May of 2023, along with the expansion

23 to more countries and territories around the world.

24 Q And was the option for feedback still the same as far as thumbs up or

25 thumbs down being provided?

1 A It remains there through today.

2 Q Okay. How frequently -- so there's an initial set of definitions prepared in

3 December 2022. Have those been revised or revisited since then?

4 A The specific policies themselves?

5 Q Yes.

6 A They're frequently reviewed to ensure that the policies are correct.

7 Q And who is responsible for reviewing those policies?

8 A I believe it's the Trust and Safety team helps do the analysis, and our team

9 follows the process, as I mentioned earlier.

10 Q When a policy is being revisited, what role does your team play in providing

11 any feedback or assessment?

12 A I don't recall a specific policy changing over the course of our work. It's

13 more around how well are we performing against that policy. So, for example, we don't

14 want to have the product respond with anything that would promote self-harm, and so,

15 we want to ensure that we continue to adhere to that.

16 Q So let's stick with that example for a moment. Again, based off your

17 understanding, where are the changes then being made? So if the definition from the

18 outset is saying, You don't want the product to promote self-harm and it's being -- the

19 product is then being tested to see if it's meeting that principle, what role does the Trust

20 and Safety team play in helping to improve the product?

21 A Well, I believe it's their work to be someone sharing feedback that I got it to

22 produce this response that promotes self-harm, they would take action to immediately

23 take that specific prompt that was input, and have the model -- or have the product

24 respond with a language model still learning how to help with that. And from there, we

25 try to understand why the product performed that way and how we can improve it.

1 Q So if I'm understanding your testimony correctly, there's a prompt that
2 produces an answer that violates the self-harm principle, Trust and Safety is the team
3 that makes the decision to replace the answer for the model going forward, and then
4 presumably, there's an engineering team or someone to actually implement that change.
5 Is that correct?
6 A I believe that team has the capacity to directly prevent the model -- prevent
7 the product from responding to that specific prompt.
8 Q The Trust and Safety team?
9 A Yes.
10 Q When a change like that is being made, when a decision is being made to
11 that end, is your team consulted at all?
12 A In a case of a clear-policy violation, I don't believe they are.
13 Q What about in instances where it's less clear?
14 A We're constantly trying to improve our product experience; and so, this is
15 one of the factors that -- that's one of the inputs that we have to improve our overall
16 product experience.
17 Q Can you provide an example of where -- of a less-clear example where it was
18 necessary for you or someone from your team to provide feedback to the Trust and
19 Safety team?
20 Mr. Bopp. I want to make sure I understand. You said a "less-clear example"?
21 [redacted] Sorry. Based off his earlier response that when it's a clear-cut
22 example, Trust and Safety can just make a decision on its own, but when there are closer
23 cases or cases where it's less clear, so just meant less clear in that sense.
24 A Ultimately, I believe they have the discretion of whether it is policy violating
25 or not. There are cases where the product behaves in an unintended way where our

1 users aren't having their expectations met, and in some cases, they're able to provide
2 that. So this would be an example of something that's not policy violating, but
3 potentially is frustrating for users.
4 BY [redacted]
5 Q And can you provide an example of that?
6 A An early example that we saw when we launched in March of 2023 was
7 people were using the product for math. So people were putting in one plus one, and
8 the product in Bard was responding with the answer is three because they're language
9 models, not math models.
10 And so that's not a policy violation, but clearly not in line with the user's
11 expectation, so that helped form an input that we subsequently were able to understand
12 as a mechanism of user feedback, and we developed the ability for the model to more
13 appropriately answer math questions.
14 Q So one example we walked through is if there was an instance where a
15 prompt is clearly violating the self-harm principle -- I appreciate the difference of the
16 math example of one plus one just factually is a wrong answer that's being provided.
17 Have there been instances where it is less clear of whether the -- one of the original
18 definitions, one of the initial principles is being violated. So I'd like to turn back to the
19 self-harm example where it's, for lack of a better way to put it, a close call of whether the
20 prompt is actually producing an answer that promotes self-harm. For instances like
21 that, can you walk us through -- what is the process? Is that still a Trust and Safety team
22 decision ultimately, or is your team consulted?
23 A I'm not personally involved in the exact process, so I'm not sure of the
24 specific process in this case.
25 Q Okay. Again, with the understanding you're not involved in the specific

1 process, just even at a high level, what's your understanding of the process?
2 A Our Trust and Safety team are the ones that help determine whether
3 something is policy violating or not.
4 Q Have there been -- you provided the math example as one where your team
5 could consult. Are there other types of examples that you can recall where it was
6 necessary for your team to be consulted?
7 A In terms of something where we were not meeting -- where the product was
8 not working as intended?
9 Q Yes.
10 A The creation of historical images was an example here.
11 Q Before we start digging into that a little bit more, can you walk us through
12 from May 2023 until Gemini's launch of what other phases and development there were
13 in the meantime?
14 A We continued to expand globally throughout 2023. I believe it was July
15 when we expanded to the majority of the world, to over 200 countries and territories.
16 And we continued to provide capabilities for the, as it was then known, Bard experiment.
17 Q When did Bard become Gemini, if that's a proper way of asking the
18 question?
19 A The name changed from Bard to the Gemini app in, I think, it was
20 February 8th of this year.
21 Q And within the company, besides the name change and the financial phases
22 of development, was there any difference in the people who were working on Bard as
23 opposed to Gemini, or was it all the same teams, and it was just a name change?
24 A The change of the name did not change who was working on the product.
25 Q Are there -- to your understanding, was there a responsible innovation team

1 or a team that's generally responsible for ethics, whether it's AI or LLMs?

2 A Yes.

3 Q And what's the name of that team within the company?

4 A It has changed a few times. In my mind, it's known as Responsible AI.

5 Q And to your understanding, what's the relationship between Responsible AI

6 and Trust and Safety?

7 A I believe they work closely together, but I don't know the exact delineation

8 between their responsibilities.

9 Q Based off your understanding, what are the responsibilities of the

10 Responsible AI team?

11 A In my experience, that team has helped provide input into the design of our

12 product.

13 Q And who leads that team?

14 A That team has been restructured, and so, I'm not entirely certain who leads

15 it today.

16 Q Who headed it before it was reinstructed?

17 A I'm not certain who was the ultimate VP lead.

18 Q Who was your point of contact on that team?

19 A There was a director of product management with whom I worked closely.

20 Q And who was that?

21 A [redacted].

22 Q And did [redacted] work with your team on every phase of development for

23 Bard and Gemini?

24 A Yes.

25 Q Was she one of the two to three individuals you were referring to in

1 December of 2022 who was playing a role in preparing the initial definitions?

2 A Earlier I was referring to members of the Trust and Safety team. I would

3 consider [redacted] a part of the separate team.

4 Q Okay. But she did play -- sorry. Just to rephrase the question and clarify

5 my own understanding.

6 You said there were two to three primary individuals working on the definitions in

7 December of 2022. Is that right?

8 A I'm sorry. I want to make sure I understand which two to three individuals.

9 Are you referring to my direct reports?

10 Q Yes.

11 A Oh, I see. Sorry.

12 Could you repeat the question?

13 Q Sure. Maybe it's just easier we get the names.

14 Who were the direct reports to you in December of 2022?

15 A I recall [redacted] and [redacted].

16 Q So then, in addition to your direct reports, your folks from Trust and Safety,

17 and -- was [redacted] with Trust and Safety, or do you recall members from Trust and

18 Safety in addition to [redacted]?

19 A I think [redacted] was part of the Responsible AI team and whatever name it

20 held.

21 Q At that time?

22 A Yeah.

23 Q After the definitions have been prepared, what role did [redacted] and her

24 team play in providing either input or assessment as it related to Bard or Gemini?

25 A I recall her team had expertise with specifically how to create the testing

1 examples for adherence to policies.

2 Q And so, had they worked on other products previously, or what experience

3 or expertise were they bringing?

4 A I'm not certain exactly which other products they worked on.

5 Q Had you worked with them while you were a director and working with

6 Google Assistant?

7 A No.

8 Q As part of your role in the company, you interacted with Google's

9 Government Affairs and Public Policy team?

10 A Yes.

11 Q And what's been the context of those interactions?

12 A I've helped some of the outreach and education that team has done

13 predominantly in the EU.

14 Q What about as it relates to the U.S. Government?

15 A The only interaction I recall is with the U.S. Ambassador to Poland.

16 Q To your understanding, has anyone on your team interacted with Google's

17 Government Affairs and Public Policy team as it relates to the Government Affairs and

18 Public Policy team's interactions with U.S. policymakers?

19 Mr. Bopp. Are you saying did he interact with the policy -- did the Goggle policy

20 team in terms of interactions with U.S. policymakers?

21 [redacted] Yes. I don't want to put words in his mouth, but -- so let rephrase.

22 Let me take one step back.

23 BY [redacted]

24 Q Have you interacted with any members of the U.S. Government directly as

25 part of your role with the company, other than the U.S. Ambassador?

1 A Not to my knowledge, no.

2 Q To your understanding, has Google's Government Affairs and Public Policy

3 team come either to you or someone on your team about questions or concerns from

4 U.S. policymakers?

5 A In -- sorry. In what capacity?

6 Q As senior director.

7 A Sorry. I want to -- I don't completely understand the question.

8 Q So let's take one step back from there.

9 What interactions have you had with Google's Government Affairs and Public

10 Policy team?

11 A They provide -- they're another mechanism of providing feedback that we

12 hear as we develop the product.

13 Q And you mentioned the EU is one example, the EU is one example. What

14 feedback was being provided? What was of the context of that?

15 A The nature of my interactions there were, I was requested to meet with

16 various people across the EU to effectively explain how generative AI works, so it was

17 intended to be an educational engagement.

18 Q Okay. And have you had interactions with Google's Government Affairs

19 and Public Policy team as it relates to anything similar but in the U.S.?

20 A I've not engaged in any education programs with U.S. Government officials

21 beyond the Ambassador that I referenced.

22 Q What about other members of your team, to your understanding?

23 A I'm not certain.

24 Q Who's been your main point of contact at Google's Government Affairs and

25 Public Policy team?

1 A [redacted].

2 Q Have you had any interactions with [redacted]?

3 A That name is not familiar.

4 Q Did Google have any additional testers for Bard or Gemini?

5 A Yes.

6 Q And can you name some examples of who that was?

7 A We have a trusted tester program with whom we have a vendor that helps

8 us recruit testers for the product.

9 Q Who's the vendor?

10 A I don't know the specific vendor for this program.

11 Q To your understanding of your team directly or through the vendor, who are

12 some of the trusted testers?

13 Mr. Bopp. Trusted what?

14 [redacted] Testers.

15 Mr. Bopp. Testers. All right.

16 [redacted]. My understanding is they're intended to reflect a broad array of

17 the population in the country in which we're testing?

18 BY [redacted]

19 Q Have you had any direct interactions with any of the trusted testers?

20 A Not the trusted tester program, no.

21 Q Besides the trusted tester program, does Google have other external beta

22 testers for Bard or Gemini?

23 A For our paid version of the product known as Gemini Advanced, in December

24 of 2023, we began a pilot program called the Priority User Program.

25 Q And what is that program?

1 A As we were preparing to launch a paid version of our product, we
2 acknowledged that -- or we understood that individuals who are willing to pay for a
3 product such as this tend to be very technical and creative in nature. And so, we sought
4 people who met those criteria to get access to an early version of the paid product to
5 provide us with feedback prior to its launch of how it was able to meet their needs.
6 Q When you say "we," who was deciding who to reach out to?
7 A We have a team that manages that program, and so I don't know the full
8 extent of the criteria that they used to determine who is and who is not part of the
9 program.
10 Q What's the name of that team?
11 A I don't know the name of the team. I refer to them as the Priority User
12 Program team.
13 Q Fair enough.
14 Do you know who leads that team?
15 A The -- I don't know who the lead of the team is, but there's an individual that
16 manages it.
17 Q Got it.
18 Do you have a primary point of contact on that team?
19 A Yes.
20 Q Who's that?
21 A Her name is [redacted] I believe, [redacted] (ph). I don't know the exact spelling
22 of her surname.
23 Q And is this team within the product team more generally or Trust and Safety,
24 or where does that team fit within the company?
25 A This specific program, which is targeted specifically for our paid version of

1 the product --

2 Q Yes.

3 A -- I believe is managed within the overall Bard organization. It does not

4 report to me directly.

5 Q Who is head over all of the Bard organization?

6 A My manager.

7 Q Okay. And I know you said it earlier. Can you provide me your manager's

8 name again?

9 A [redacted]

10 Q [redacted] How many -- what's the structure of the teams underneath your

11 manager?

12 A [redacted] is the VP and GM of both the Gemini app as well as Google Assistant.

13 I don't know her full org chart, but my peers are the vice president of engineering for

14 Bard, the vice president for Google Assistant, as well as the chief of staff to the VP/GM.

15 Q And you said you have about 40 product managers today?

16 A That's correct.

17 Q How are those 40 organized?

18 A Into three separate or distinct groups. One is around the development of

19 the applications themselves, so people that manage the user interfaces. There's a team

20 that focuses on the overall user satisfaction with the responses they receive, and there's a

21 team that's dedicated to what we call agentic capabilities.

22 Q And what is that?

23 A It's an emerging field within the AI space for AI to be able to not only provide

24 text responses, but take action.

25 Q Can you provide me an example?

1 A We launched a feature called Extensions within Bard of the Gemini app

2 where a user can opt in and have Gemini, after the opt-in, summarize emails for the user.

1 [11:13 a.m.]

2 BY [redacted]

3 Q At any stage of the testing, whether it was through the prioritized user

4 program or otherwise, to your understanding, had there been any partnerships with

5 universities to conduct some of the testing?

6 A I'm aware of one university or two university professors, but I don't believe

7 there is a broader university partnership.

8 Q Who are the two university professors?

9 A They are at the University of Pennsylvania, [redacted] and [redacted].

10 Q And how did that partnership first start?

11 A [redacted] has been very active about providing feedback for Bard, and so, I

12 began to interact with him prior to this program to understand what he saw was working

13 well and not working well, and that has continued.

14 Q To your understanding, have any of the external partners, anyone, whether

15 it's through the priority users' program or otherwise, any external partners been

16 government entities or individuals employed by the U.S. or State Government?

17 A Not to my knowledge, no.

18 For the priority user program specifically you're asking?

19 Q Well, that program or just more generally as it relates to Bard or Gemini.

20 A Sorry. I just want to make sure I'm answering the question.

21 Q Sure.

22 A Could you repeat?

23 Q Yeah.

24 For both the priority users' program, and then any other instance where Bard or

25 Gemini were relying on external beta testers, have any of the external beta testers been

1 government actors to your understanding?

2 A I recall one example of a red-teaming exercise. I believe it was sponsored

3 by the government, but I'm not entirely certain whether -- who was actually conducting

4 the testing.

5 Q And when did that occur, to your recollection?

6 A I don't recall the exact -- it was last year. I don't recall the exact timing.

7 Q To your understanding, who participated?

8 A My understanding, it was an industry-wide event where many companies,

9 open AI, Microsoft, et cetera, participated in this program.

10 Q And what was the purpose of the red-teaming exercise?

11 A To the best I can remember, it was a conference that was focused on AI

12 security called -- I think it was called DEF CON, but I was not very actively involved in that.

13 Q In the conference or in the exercise?

14 A Both.

15 Q Did others from your team attend the conference or participate in the

16 exercise?

17 A I don't believe any of my direct reports did.

18 Q What about just more generally within Bard or Gemini? Did others attend

19 the conference or just beta testing?

20 A I don't believe so.

21 Q I'm sorry. To clarify the last question, attend the conference or participate

22 in the red-teaming exercise?

23 A The extent to which I'm familiar is we provided access to our product, but I

24 don't recall anyone within the Bard organization specifically attending, but I'm not fully

25 sure.

1 Q To your understanding, what was the purpose of providing access to the
2 product?
3 A To be able to participate in this public conference along with other
4 competitors, such as open AI and Microsoft.
5 [redacted] Can we go off the record, please.
6 [Discussion off the record.]
7 BY [redacted]
8 Q Good morning, [redacted] My name is [redacted] I'm with the minority under
9 Ranking Member Mr. Nadler. Thank you again for coming today. We really appreciate
10 your time traveling all this way.
11 Before we go any further, I just want to back up a couple steps and ask you a
12 couple general questions just to make sure the record is clear what we're talking about,
13 for somebody that might not be deeply entrenched in the tech.
14 When we're referring to artificial intelligence, or AI, what are we generally
15 referring to when we're talking about that?
16 A There are many forms of artificial intelligence. The specific area in which I
17 focus on the Gemini app is generative artificial intelligence, and generative artificial
18 intelligence is the use of computing to create or produce information for human-like
19 prompts.
20 Q Human-like prompts.
21 And it draws from a variety of data, is that correct, in informing what its response
22 is?
23 A That's correct.
24 Q And when we're talking about AI in models and products, I just want to get a
25 better understanding. What is an AI model, as opposed to an AI product?

1 A The closest analogy I can think of is an engine versus a car. An AI model is
2 like an engine. It powers the vehicle. And the car itself is what you build around the
3 engine to make it move forward. So product is like the car, and the model is like the
4 engine.
5 Q So the car kind of gives access to the model?
6 A That's correct.
7 Q Is that right?
8 So when we're talking about Gemini or Bard here, are we generally referring to a
9 specific product that uses an AI model, or are we talking about the model itself?
10 A We're referring to a product that uses the model.
11 Q And what is the model, so to speak, of Gemini as it sits today?
12 A Over the course of formerly Bard, now the Gemini app, there have been
13 several models. When we launched in March of 2023, the model was called LaMDA. I
14 believe in May of 2023, we changed the model to PaLM 2. And then in December
15 through the end of January, Bard began to use the Gemini Pro model for its free product.
16 On February 8th, we introduced a paid subscription product called Gemini
17 Advanced, and that was initially running on Gemini 1.0 Ultra model. And today, Gemini
18 Advanced runs on Gemini 1.5 Pro.
19 Q So when we're talking about Gemini, we could be talking about the model
20 and the product at the same time in terms of the name Gemini?
21 A The name Gemini can refer to those. The scope of my role is specifically
22 the Gemini app.
23 Q Okay.
24 And just for somebody that doesn't have a background in AI, how does -- can you
25 kind of generally give me 1,000 feet out on kind of how the model actually evolves over

1 time? Is one iteration kind of built off of the last one, or are you swapping in and out
2 engines, so to speak, in the vehicle of the product?
3 A Are you asking about how the model evolves or how the product evolves
4 with the model?
5 Q I don't know. How the product evolves with the model.
6 A So just to take where we are today, for example, on the unpaid version of
7 the Gemini app, it uses currently Gemini 1.0 Pro and that is a model that is produced by
8 Google DeepMind, and has an application team.
9 We take that model and develop the product around giving it direction on how to
10 respond relative to what users expect the app to do.
11 Q So when you say you give it direction, you're giving the direction to the
12 product. Are you also influencing the model that's driving the product?
13 A The best way to describe it is, it's a -- you provide examples of hypothetical
14 conversations to the model or to -- as you're developing the product, you give examples
15 through computer code to the model to say this is an example of what a good
16 conversation looks like.
17 Q Okay.
18 And what is a large language model, and how does it fit into the difference
19 between a product and a model?
20 A A large language model is a type of AI model.
21 Q Okay. And all of the models that are in Gemini or Bard are large language
22 models. Is that correct?
23 A That's correct -- sorry. The primary model is a language model. The
24 language model is able to interact with other models, such as a text-to-image model.
25 Q And so, part of product development for you in your role with Gemini has

1 been -- includes both internal and external testing, correct?

2 A My team conducts that.

3 Q And could you broadly just describe what the purpose of testing is and how

4 it's important for product development?

5 A It's a common practice in software development that as you release

6 software, you go through quality assurance to ensure that it meets its intended behavior

7 as it's set up.

8 And so, we go through testing to ensure that the product is working as intended in

9 the ways that we understand people to use it.

10 And then additionally, it's a common practice in the industry to go through what is

11 known as red-teaming exercises, where individuals, in an open-ended fashion, try to

12 produce unintended behaviors that allow us to, again, provide examples for how the

13 product should respond. And this is a common practice for generative AI, not specific to

14 just my team.

15 Q And so, red-teaming is common practice for all AI, like, regardless of what

16 company is developing it?

17 A That's correct.

18 Q So when we're talking about-red teaming, is that kind of interchangeable

19 with external testing, or are they two different -- is red-teaming a type of external

20 testing?

21 A It's a type of external testing.

22 Q Okay.

23 And when you talked about, you know, about trying to -- you know, red-teaming

24 and internal testing trying to find ways that the model or the product is not working the

25 way it should, so to speak, is the team looking for ways to kind of reduce potential harm

1 that it could cause to the end user?

2 A Our goal overall is to serve the user as much as possible and maximize

3 helpfulness. And, yes, we would like to minimize harm.

4 Q And what type of potential issues are testers looking at for an AI product?

5 A It's open-ended, so they can try to produce unintended behaviors.

6 Q And so, if they find that there is an unintended behavior that results from

7 the product, what type of actions might be taken because of that testing?

8 A It's not specific to that testing. But, in general, when, as a product

9 developer, we learn that the product is not behaving as intended. The way we improve

10 the product is to go through a process to effectively create examples for how a model

11 should operate, or how the product should operate, I should say.

12 Q And what do you do with those examples?

13 A They are part of the product development process known as tuning.

14 Q Tuning.

15 And just, you know, a very broad description, what do you mean by "tuning"?

16 A Tuning is the process of how you develop your product experience, and you

17 take example prompts and see what potential responses could be and then those

18 potential responses are rated by external vendors for what is a better response.

19 Q Okay.

20 So I just want to back up for a second. When we talked about we have internal

21 testing and external testing, could you kind of tell me what internal testing looks like?

22 A Internal testing comes in forms such as simple quality assurance. So

23 engineering teams, when they are working on a product as it's designed, will run tests to

24 see, for this example, is it behaving the way that it should.

25 Another example is a software process that we usually called dog-fooding, where

1 individuals inside the company are able to use a product before it's released publicly.
2 Those are two of the primary forms of internal testing.
3 Q Would it be open to company-wide, or is it -- are there specific dog-fooding
4 teams that are assigned, or how does that process work?
5 A It varies, based on the sensitivity of the product, but it's a voluntary program
6 for employees, again, not unique to Google but common practice in software.
7 Q Would internal testing come before external testing typically in a product
8 development?
9 A It depends which internal testing you're referring to.
10 Q So you could have it out to external testing and also be dog-fooding it at the
11 same time?
12 A That's correct.
13 Q And now, for external testing, can you just give me an overview of how the
14 external testing process works?
15 A So when we are nearing what we expect to be a feature or product
16 experience, that we believe is ready for use, we will go through red teaming exercises and
17 use vendors to do evaluations. They are provided with examples, a prompt, and two
18 different responses. One of those responses is the old version of the product, one is the
19 new, and the external tester will say which is better.
20 That's a way that we can measure whether the product is improving or regressing.
21 Q Okay.
22 And I know you talked about this in the last hour, but how are external testers
23 chosen?
24 A So again, it depends on the type. For these evaluations, they are selected
25 by vendors. The other program I referenced, the priority user program, is a pilot

1 program where we seek individuals in the target customer cohort to provide feedback.
2 Q So it sounds like it's Google who chooses all of these external testers. Is
3 that correct?
4 A In the priority user program, yes. In the -- which is not -- I would not call
5 that a predominant signal. For the evaluation testing that I referred to earlier, the
6 testers, the individuals themselves are hired by the vendors.
7 Q Got it.
8 So but it's Google who chooses the vendor to farm out the external testing to. Is
9 that correct?
10 A That's correct.
11 Q Okay.
12 And to the best of your knowledge, the U.S. Government doesn't have any role in
13 selecting who the vendors are, or who the external testers are. Is that fair?
14 A To the best of my knowledge, that's correct.
15 Q Are you familiar with the external evaluations that were done on Gemini
16 Ultra?
17 A On the model itself, I was not involved.
18 Q Okay.
19 And just to -- I know we touched on this a little bit, but is it fair to say that the
20 reason why testing both internal and external is important is because Google's overall
21 interest is, as a business, and they want to make products that are useful and don't harm
22 their consumers on the end-user stage, right?
23 A Ultimately, our business incentive is to serve our users, which, for the
24 Gemini app, span across 200 countries and territories around the world. And it is in our
25 business interest to serve them to the fullest capacity possible while minimizing harm, of

1 course.

2 Q Right.

3 In the last hour, we talked a little bit about the DEF CON event, and this was in the

4 summer, or early fall of 2023. Does that sound right to you?

5 A That timing sounds approximately correct.

6 Q And so, Google participated in this DEF CON event amongst a variety of

7 other tech companies. Is that correct?

8 A That's my understanding.

9 Q Okay. And this was a version of Bard that was approved to be tested, or

10 red-teamed, so to speak, at the DEF CON event?

11 A I believe so, yes.

12 Q And we talked about this earlier, but red-teaming is essentially people that

13 are brought in to try to get the product to do something that is an unintended

14 consequence. Is that a fair way to describe it?

15 A It's been a common practice in software development for many years for

16 individuals to try to find vulnerabilities within software, and red-teaming is a continuation

17 of that where the intention is to find unintended behaviors.

18 Q And I know you didn't have a lot of involvement in this. You testified

19 earlier that you didn't have a lot of involvement in this DEF CON event specifically, but to

20 your general understanding, who are the people that are actually doing the red-teaming

21 at something like this, like an event like this?

22 A I'm not sure.

23 Q And, I mean, you mentioned earlier that you were generally aware that it

24 was sponsored by the White House, but you don't have any knowledge about the White

25 House's involvement, other than the fact that they were a named sponsor. Is that fair to

1 say?

2 A Yes.

3 Q Okay.

4 And did you -- do you remember being presented with any feedback that you

5 would have taken action on as a result of this DEF CON event?

6 A I don't have a specific recollection of feedback. Red-teaming exercises are

7 relatively common, and in the scope of my role, I typically do not review red-teaming

8 directly myself.

9 Q Sure.

10 You don't have any memory of taking any kind of specific actions because of this

11 DEF CON event, though, right?

12 A I do not.

13 Q Okay.

14 And, again, the purpose of this DEF CON, of this type of red-teaming exercise is to

15 improve the product, and that's the reason why Google would participate in something

16 like that overall, right?

17 A To take a step back, generative AI is merely, barely 2 years old. I don't even

18 think it's 2 years old in terms of having access to the average person. And so as an

19 industry, we continue to try to learn ways in which these products behave in unintended

20 ways so that we can allow them to be more helpful for people as well as understand what

21 are the potential ways that they may be behaving in ways that produce harm.

22 Q Okay.

23 And just generally, overall, I know -- granted your participation was very limited in

24 this, but you mentioned that the White House was a potential -- was a sponsor of the

25 event, to the best of your knowledge. Did the White House's involvement in this DEF

1 CON in any way in your mind present undue influence or have a coercive effect on your
2 work at Gemini?
3 A Sorry. Could you clarify the question?
4 Q Yeah, sure.
5 Did the White House's involvement in DEF CON as a named sponsor, did that have
6 any kind of influence or coercive effect on any actions that you took at Gemini?
7 A No.
8 Q And I want to ask you a couple of just general questions.
9 In the last hour, we were talking about your interactions with Trust and Safety and
10 Responsible AI. When you mentioned that -- you know, we were talking about
11 definitions that had been written by Trust and Safety. Are we talking about the AI
12 principles that Google came out? Is that interchangeable?
13 A No.
14 Q What's the difference between the definitions -- or what are the definitions
15 more broadly that we were talking about in the last hour?
16 A The policies relate to helping us understand vectors in which the model may
17 produce harmful results that we want to prevent. Such as, we have a policy that we will
18 not produce content that promotes self-harm.
19 Q And so the definitions are -- I'm sorry. Let me recap.
20 They are vectors?
21 A The policies are intended to be stated positions that we would not like the
22 model to respond.
23 Q And these are put specific to Bard and Gemini?
24 A Correct.
25 Q Okay. And you weren't responsible as a senior director for product

development to write any of these types of guidelines or definitions; is that correct?

A I was not involved in writing them.

Q And you were never a member of Google's Trust and Safety department or Responsible AI. Is that correct?

A That's correct.

Q And is it fair to say that any definitions or principles that came out either from Responsible AI or Trust and Safety were relevant to your work, but they were one of many factors that you would use in the product's development?

A Yes, those teams help provide inputs into our product development.

Q But a good focus of your work is on user feedback and about how to make the model or the product more beneficial to your -- Google's customers. Is that fair?

A The primary focus of my work is, how do we take this nascent technology and translate it into something that can be helpful for billions of people around the world, and that is my primary focus.

Q Right.

And so like, for example, the do-no-harm, you know, the self-harm definition, there would be overlap between your goal, which is your overarching goal, which is to make this a good product for millions of people and the principle of don't promote self-harm. Those two are congruent with each other. Is that correct?

A That's correct.

[redacted] I think that's all I have for this hour. Can we go off the record.

[Discussion off the record.]

[redacted] We can go back on the record, please.

BY [redacted]

Q Are you familiar with the White House's October 2022 blueprint for an AI Bill

1 of Rights?

2 A Generally speaking, yes.

3 Q And to your understanding, what is that?

4 A My understanding is it's a direction toward providing transparency toward

5 how AI products are built and ensuring a commitment to making them safe.

6 Q To your understanding, does the blueprint affect Google's AI products?

7 A I don't understand the full depth of them in the scope of my role, but as it

8 relates to providing transparency to how our products are built and providing a safe

9 product, those are steps that we have already been doing. And that's practically the

10 extent of my knowledge of this.

11 Q Have you had any discussions within the company about the blueprint?

12 A I'm not familiar with the exact terminology, the blueprint.

13 Q Okay.

14 Just generally, not necessarily whether you can cite it, you know, verbatim, but

15 the blueprint comes out, the White House announces it. Do you recall discussions

16 within the company about it?

17 A My recollection is around what we refer to as White House commitments.

18 I don't know if that's the same thing as the blueprint.

19 Q Okay.

20 As it relates to the White House commitments, what discussions internally do you

21 recall about the White House commitments?

22 A My specific involvement in them is very limited, and so, in how I understand

23 it, it's a commitment we've made to providing transparency into how our products are

24 built and ensuring that they are safe.

25 Q Since you've had a limited role, what is your role?

1 A Ensuring that our products are safe is certainly part of my role and has been
2 from the beginning of Bard, and providing transparency has been a common practice for
3 many years in the development of AI.
4 Q Safe by whose definition?
5 A So, as it relates to safety, the policies that I mentioned earlier, such as
6 self-harm. Those policies are the ones that we measure safety against.
7 Q The company's policies as it relates to safety and transparency and these
8 other principles, how are they different from what the White House put out?
9 A I don't have enough familiarity with what the White House has put out to
10 know the difference.
11 Q Okay. Who at the company would best know the answer to that question?
12 A I believe our president of global affairs has been the primary lead for the
13 discussions.
14 Q Who within the company participate in discussions around the White House
15 commitments?
16 Mr. Bopp. Around the White House.
17 [redacted] Commitments.
18 [redacted]. I wasn't involved in those discussions, so I don't know.
19 BY [redacted]
20 Q Well, you had some familiarity with the White House commitments. How
21 did you become aware?
22 A I became -- I recall the company posting a blog post around them, and the
23 way it impacted or the way that it was presented to me was as we were producing a
24 technical report for the Gemini models, that technical report included a component about
25 how Bard is built.

1 And my understanding was that technical report is part of -- or we would be doing
2 the technical report regardless, but that technical report is also reflecting the
3 transparency notion of the White House commitments.
4 Q When you say it was presented to you, who was presenting this
5 understanding to you?
6 A When I reviewed a draft of the technical report, I recall a section in there
7 mentioning that there was something related to White House commitments. It was not
8 part of the draft that I was responsible for reviewing, however.
9 Q To your understanding, who drafted that part referring to the White House
10 commitments?
11 A I believe it was the Google DeepMind team.
12 Q Do you know who on the Google DeepMind team?
13 A I do not.
14 Q And who is your primary point of contact with the Google DeepMind team?
15 A Their vice president of product management.
16 Q And who is that again?
17 A [redacted].
18 Q Did you ever have any discussions with [redacted] about the White House
19 commitments?
20 A Only to the extent of the production of that technical report, to the best of
21 my recollection.
22 Q To your understanding, were there any discussions around the company's
23 policies, either shortly before or after the White House commitments?
24 A I'm sorry. Could you repeat the question?
25 Q Sure.

1 To your understanding, even if you weren't directly participating, but if you have
2 knowledge of or awareness of, were there any discussions within the company about the
3 company's policies before or after the White House commitments?
4 Mr. Bopp. You mean proximate in time.
5 [redacted] Proximate in time.
6 [redacted]. My colleagues in legal and public policy are the ones that typically
7 manage that, so I don't -- I would not be involved, and I don't have a memory of it.
8 BY [redacted]
9 Q Who is your primary point of contact from the Public Policy team?
10 A [redacted].
11 Q Do you have interactions with anyone else on the team?
12 A Yes.
13 Q Who else?
14 A The vice president of global affairs.
15 Q And who is that?
16 A [redacted].
17 Q Anyone besides [redacted] and [redacted] that you work with on
18 the Public Policy team?
19 A There is a senior manager as well.
20 Q And who is that?
21 A [redacted] (ph).
22 Q In what context have you worked with [redacted]?
23 A He and his team provide insights of what's happening globally in terms of
24 things to be aware of.
25 Q Anything specific to the U.S.?

1 A Not that I intimately recall.

2 Q What about [redacted]? What's been the nature of your interactions with

3 him?

4 A It's been mainly understanding global policy. So the majority of our usage

5 is outside of the United States, so he helps provide insight into the global footprint.

6 Q For insight to what's happening within the United States, who on the Public

7 Policy team would provide that information?

8 A I don't have many inputs of it, but typically, I rely on [redacted] and [redacted] for

9 overall insights.

10 Q So regardless of where the insights are coming from, it would be from

11 [redacted] or [redacted]? There's not somebody who is assigned, do you know, specifically?

12 A Not to my knowledge.

13 Q Are you familiar with President Biden's February 2023 executive order on

14 further advancing racial equity?

15 A I am not.

16 Q Are you familiar with President Biden's October 2023 executive order on

17 safe, secure, and trustworthy development and use of AI?

18 A I'm generally familiar with it, yes.

19 Q How has that executive order affected anything that your team works on?

20 A To my knowledge, to be candid, I don't know the difference between that

21 executive order and the White House commitments. As it relates to the White House

22 commitments, those are aligned with work that we were already doing around providing

23 transparency and ensuring the safety of our product.

24 Q Are you familiar with the AI risk management framework that the NIST put

25 out in January of 2023?

1 A I'm not familiar with that specific framework.
2 Q Have you ever worked with YouTube's Trust and Safety team at any point in
3 your time with the company?
4 A Not directly, no.
5 Q What about indirectly?
6 A Over the past 3 months, our team has sought guidance on how to, or best
7 practices for rebuilding trust with users.
8 Q And who from the YouTube Trust and Safety team has your team worked
9 with?
10 A I'm not certain.
11 Q Who on your team is responsible for interfacing with the YouTube Trust and
12 Safety team on this issue?
13 A I believe my manager has been the primary person.
14 Q And to your recollection, you haven't had any direct interactions with the
15 YouTube team?
16 A Not that I recall.
17 Q Have you had any interactions with the Google Search team at any time
18 during your time with the company?
19 A Yes.
20 Q What's been the nature or context of those interactions?
21 A It's been fairly extensive in so much as Google Assistant and Bard report to
22 the same senior vice president as Search. So there are many, many scenarios in which I
23 would have been exposed to Google Search.
24 Q So excluding instances where you both report up to the same person and
25 maybe you're in the same meeting, are there any instances where you're working directly

with the Google Search team as it relates to something your team is working on?

A Yes.

Q Can you provide some examples?

A The responses that Bard, or formerly Bard, now the Gemini app, produces are grounded on search results. Meaning the response requests information from Google Search to produce a more accurate overall response.

Q Who is your primary point of contact on the Search team?

A It has varied over time.

Q Since December of 2022, who has been your primary point of contact on the Search team?

A For myself personally, I'm not involved in the day-to-day work insomuch as I am interacting with that team. It's typically the vice president of NGN of Google Search.

Q Who is that?

A [redacted].

Q So with the understanding that you're not having extensive day-to-day interactions, the members of your team are having extensive interactions with the Search team. Is that right?

A I don't know how frequently they interact.

Q More frequently is your understanding, though?

Mr. Bopp. More frequently than [redacted] does.

[redacted] Yes.

[redacted]. I don't know for sure.

BY [redacted]

Q Just trying to kind of spell it out a little bit more.

A Sure.

1 Q You mentioned that, at least at a high level, there is kind of extensive
2 interactions between Search team and Bard, Gemini, given that search is
3 grounded -- grounds with the later product. Can you say a little bit more about if you're
4 not having that frequent interactions, what's the nature and the context of the
5 interaction between these two teams?
6 A The reason I'm not certain how frequent the interaction is, is because we've
7 had this ability to have search results inform the response that gets produced by Bard
8 since it launched, and so, I'm not certain how much maintenance is required for that
9 implementation.
10 Q What about early on, before the launch of the product? Was there more
11 extensive interactions at that point?
12 A Most likely, but that was a very busy time, and I don't remember it vividly.
13 Q Who from the Bard team would have been taking the lead as far as
14 interfacing with the Search team?
15 A My direct product manager, my direct report product manager, [redacted]
16 Q And during this time, before the launch, who is the primary point of contact
17 on the Search team that either [redacted] or you are relying on?
18 A I'm trying to remember back to that time. I'm not certain.
19 Q Have you ever been involved in meetings or discussions about how the order
20 in which search results appear?
21 A Meaning explaining how it works or informing how it works?
22 Q Internal discussions about, you know, how a search is designed or being
23 modified in order to affect how results appear?
24 A I may have attended a training, but I don't have a specific recollection.
25 Q To your understanding, is there any -- certainly, there are different products

trying to achieve different things, but when someone runs a search, results come up based off how the product is designed for those results to appear.

Do changes in that design affect Bard or Gemini? So like in time period A, if results come up in a particular order, and then some change is made by the company so that different things are being prioritized and appearing higher up in the search results, is that the type of change that would affect in any way what Bard and Gemini are producing?

Mr. Bopp. I'm not sure I understand the question. When you say, Does it affect what Bard or Gemini are producing, you mean do the search results, does the order of the search result impact the results that Bard or Gemini would produce given a particular user prompt? I'm not --

[redacted] Yeah, that's a fine way of rephrasing it.

The earlier testimony was that Bard -- what was grounding it was the search product. So just trying to get a sense of what changes the search product affect the changes to Gemini and Bard.

Mr. Bopp. Okay.

Do you understand the question?

[redacted]. Sorry. We went back and forth. Could you just please repeat the question? I want to be sure.

BY [redacted]

Q Sure.

Let's take one step back from that, and then we'll get back to the specific question.

To your understanding, do changes to the search product affect Bard and Gemini?

A Bard responses are grounded on search, so if the underlying information

1 were to change, then it would likely -- it's similar to re-wording a question. If you ask a
2 question one way, you may get one response. If you ask a question another way of an
3 AI product, you may get something different.
4 So when wording changes in the underlying context, then an answer would
5 presumably be different.
6 Q And just to drill down a little bit more specifically then. So there is a
7 difference of you run a search on Monday, and certain results come up. You search the
8 same thing on Friday, and an article that was published Wednesday now can come up
9 that didn't exist Monday. So the results are different in that context.
10 I'm not asking about that. The exact same search, some change on the product
11 end is leading to the results that appear in a different order.
12 Or actually let me just take one step back and ask it a different way.
13 To your understanding, the order in which results appear on a search, does that
14 affect what Bard and Gemini rely on?
15 A So just to make sure I understand this example, let's say the thing that was in
16 the first position is now in the second position, and the thing that was in the second
17 position is now in the first position. Does that change?
18 Q Yes.
19 A I don't know for certain whether in that scenario it would.
20 Q Okay. Who would know?
21 A That would be a research question for someone that focuses on the research
22 of grounding.
23 Q Okay. If you had to take a question like that back to the company, who
24 would you reach out to, to try to get help or more information?
25 A I would reach out to my contact, my primary contact in Google DeepMind.

1 Q Was that [redacted] you said?

2 A That's correct.

3 Q I guess just help me walk through a little bit more the understanding here.

4 So, if there is potential for what Search is doing, changes that the Search team may be

5 making and having an impact on Gemini, I guess why aren't there more frequent

6 interactions? It seems like there is the potential, at least, for changes that one product

7 team is making to affect what your team is responsible for. Is that correct?

8 A Just to take a step back, the primary way that people are using the Gemini

9 app are not for these search-like behaviors. They tend to be mostly for creative

10 endeavors, things like help me write a text to my friends why I don't want to attend this

11 dinner party. Help me make this letter sound more professional. Help me brainstorm

12 through this idea. Help me organize my thoughts.

13 And so, you know, we're focused on how do we maximize the helpfulness.

14 As it relates to search specifically, I would presume results are constantly variable,

15 and it would be a common practice that you expect that inputs from not just search, but

16 many of the extensions that we have, gmail, hotel, maps, et cetera, would also be

17 changing.

18 Q Who is responsible within the company to update your team whenever

19 there are changes to search that could affect Gemini?

20 A I'm not sure who the individual is.

21 Q To your understanding, is there a team within Search that's responsible for

22 assessing potentially modifying how results appear?

23 A I don't know fully how the Search team is structured. That's not within the

24 scope of my role.

25 Q I think we touched upon this a little bit in the last hour at a high level, but

1 separate from the initial, like, definitions for Bard and now Gemini, are you familiar with
2 Google's AI principles first announced back in 2018?
3 A Yes.
4 Q And how do those principles affect your team's work on Bard and Gemini?
5 A Those principles, like other principles that we have at the company, provide
6 a guideline for our operating culture. Other examples of principles include things like
7 focus on the user and all else will follow. So they are a helpful guide to inform how we
8 operate.
9 Q And if you or your team needed help with understanding the principles or
10 how they might apply to an issue, which individual, or which team would you reach out to
11 for assistance on that?
12 A In that -- I can't think of a scenario where I would be asking, Does this or
13 does this not apply to our AI principles.
14 Q Who is responsible then to determine whether Gemini is aligned with AI
15 principles?
16 A Given that these are guidelines, each of us as employees are responsible for
17 ensuring that we adhere to these guidelines.
18 Q So the second AI principle is to avoid creating, or reinforcing unfair bias.
19 You know, you take any two people, they will probably have different interpretations of
20 that principle. So how does that, as a practical matter, how does that apply to your
21 team and to Gemini if you've got these guidelines but you've got different folks who are
22 going to interpret it in different ways?
23 A So there are teams that help provide inputs relative to those guidelines.
24 Q Which team provides inputs related to the guideline about the avoidance of
25 creating or reinforcing unfair bias?

1 A The Responsible AI team.

2 Q And who from the Responsible AI team has spoken to your team on this

3 guideline?

4 A It would be [redacted].

1 [12:32 p.m.]

2 BY [redacted]

3 Q And can you provide some examples of how the Responsible AI team has

4 addressed or consulted on how this principle of avoiding, creating, or reinforcing unfair

5 bias applies -- you know, how to follow that guideline as it applies to Gemini?

6 A An example would be they would help us structure examples to test in a

7 pre-release version to see what testers' feedback would look like.

8 Q What type of examples when you structure examples?

9 A So as it relates to image generation, for example, they would help us create

10 examples or scenarios that would test against areas that may have a response that

11 potentially users would negatively respond to.

12 [redacted] So red teaming, for lack of a better term?

13 [redacted]. Red teaming is unstructured, so no. This is more of a structured

14 evaluation.

15 BY [redacted]

16 Q When structuring against areas where users may have a negative experience

17 or respond negatively, what were some examples that were provided for your team?

18 A These would be examples with potential implicit negative stereotypes. So,

19 say, for example, you know, a certain profession.

20 Q Can you provide some examples of what was provided to your team?

21 A I don't recall them all. An example would be, say, a profession, such as a

22 nurse.

23 Q So we'll start with the nurse example. Walk me through what's being

24 provided to your team and what the ultimate goal is.

25 A As it relates to image generation, the feedback that we heard in the creation

of the product is, because it's primarily a creative tool, people want to see themselves in the images that are produced. And for an example such as this, it may be such a scenario that it only produces results of a single gender, which from -- so that's something that we would test against.

Q When you say feedback from users, are one of the sources of feedback any members of the government?

A Not to my knowledge.

Q Did, to your understanding, the White House commitments touch upon issues related to the avoidance of creating or reinforcing unfair bias?

A Not to my knowledge, no.

Q Besides a nurse, what other examples were provided to your team from the Responsible AI team?

Mr. Bopp. So let's just make sure that you're answering the question right. He's asking for examples that the Responsible AI team provided to your team, so not hypotheticals, just examples that you recall that Responsible AI provided.

[redacted]. Yeah, I don't recall specific examples.

BY [redacted]

Q Do you recall like a ballpark sense? Is it, you know, hundreds of examples and professions and things they the provided to the team or is it like just a couple to test?

A My team was involved in those specifically, not me directly, so I don't know the exact number.

Q Okay. Do you have an approximation?

A I would be speculating.

Q Who on your team was responsible for interacting with the Responsible AI team when it came to them providing examples to your team?

1 A There was a product manager on my team.

2 Q And who is that?

3 A [redacted].

4 Q When the Responsible AI team -- we'll stay with the nurse

5 example -- provides that example to your team, does your team have any, for lack of a

6 better word, like, editorial discretion as far as whether to accept that example, to work

7 off of it, or are you just on the receiving end of what the Responsible AI team

8 determined?

9 A Ultimately, our Bard team is responsible for making the decision what we

10 believe is the most helpful for our users, so --

11 Q And who on the Bard team?

12 A The product manager I referenced earlier was the one that was driving this

13 specific feature.

14 Q Okay. So your understanding is if -- actually, let me take one step back.

15 You're receiving user feedback in this context of concerns about unfair bias, you

16 know, there's another principle, the AI principles about upholding high standards of

17 scientific excellence. For situations where users may have an incorrect understanding of

18 either what the truth is about something or the facts behind something and there's some

19 sort of tension between those two principles, how does the company handle a situation

20 like that?

21 A Are you asking me in a hypothetical sense?

22 Q Yeah. If there's a situation like that, who is ultimately making the decision

23 of -- if two principles are in tension with each other, who's making the decision about

24 how they should apply?

25 Mr. Bopp. Let's stick to your experience. If you have experience with anything

like that, feel free to, obviously, answer the question.

[redacted]. An example of this is the generation of historically inaccurate images which, prior to launch, had not arisen in our testing or user feedback. As that issue arose, it became very clear to us this is a problem that we need to better understand, and we made the difficult decision to take down the feature while we better understood the problem because, ultimately, in the seeking of maximizing helpfulness, meeting the user's expectation, maximizing objectivity is the key. And so that would be an example where we learned something, we needed to better understand it, and we made a difficult business decision.

BY [redacted]

Q We'll stick with historical images for right now. First, who made the decision to pull down that feature product until there could be a better assessment?

A Ultimately, it was a recommendation provided by me and my engineering partner to our manager, who approved it.

Q Who is your engineering partner?

A [redacted].

Q And have your teams determined what the issue was or what the cause of the inaccurate historical images -- what was behind it?

A We continue to try to understand how to best resolve this ability, because to take a step back, the generation of images is ultimately a creative endeavor. You're asking to create something that doesn't exist. And we're really trying to understand, in scenarios like historical context where there are rules to apply, how do you best meet the users' needs. And so we continue to try to understand how to best serve users in that regard.

Q What sort of rules were leading to the inaccurate historical images?

1 A Feedback we received in the development of the product was people want
2 to see themselves in the images that are generated, whether they're building them for
3 marketing purposes or just simply creative endeavors. And so we aimed to provide that,
4 effectively, global footprint of our user base in the production of the generation of
5 images.
6 Q So you say when users want to see themselves. How does that -- how do
7 you implement that sort of feedback that you're receiving from users? Like, what rule is
8 added? What does that look like to the changes to the product?
9 A As it relates to the product, you provide instructions to effectively randomize
10 the sorts of people that are in images of things, like a person walking a dog or insert
11 profession.
12 Q And which team is responsible for determining what those instructions are?
13 A That would be our engineering team.
14 Q So walk me through again, I guess, the connection between the instructions
15 that have been added toward this one principle based off user feedback, how did that
16 lead to the inaccurate historical images?
17 A We hadn't seen feedback or testing prior to that for people wanting to
18 generate historical images, and so it was something we hadn't tested for or understood
19 how to not apply randomization.
20 Q When it comes -- so you've given the profession of a nurse as an example.
21 When it comes to how images are presented about a profession and the demographic
22 breakdown of that profession, is it -- user feedback, does that trump whatever the
23 underlying statistics are about that profession? What is the overarching principle in
24 deciding what to instruct?
25 A I think, ultimately, again, the generation of images is intended to be a

1 creative endeavor, not a fact-seeking endeavor from the feedback that we receive. And
2 so people certainly aim to apply creativity to the images that they generate.
3 The answer to your question is one where, ultimately, we're still understanding
4 this -- at the moment that this specific issue arose, the product was live for us for about
5 3 weeks. And so we're still learning what people's expectations are when they're
6 engaging in this creative endeavor. For fact-seeking images, there are products such as
7 image search that are more rooted in that.
8 Q Which team is responsible for image search?
9 A The search team.
10 Q And then within the search team, do you know who is in charge of image
11 search?
12 A I do not.
13 Q Did anyone from the search team brief or provide information to your team
14 about challenges and how to represent different professions, for example?
15 A I believe after these issues arose we wanted to understand had anyone else
16 in the company experienced similar things, but I don't have a detailed recollection of
17 what that briefing would have been.
18 Q To your understanding, some briefing did occur, though?
19 A I don't know if it was a briefing so much as a casual conversation with
20 someone that had worked on it in the past.
21 Q And who participated in that conversation?
22 A I had a conversation with an individual that had worked on it.
23 Q Who was that?
24 A [redacted].
25 Q And what does [redacted] do?

1 A She recently took on a new role that I'm not completely familiar with what
2 her focus is, but previously led image search.
3 Q And what did she tell you?
4 A To the best that I can recall, that this continues to be -- meeting users'
5 expectations as it relates to images is something that it is an ongoing research challenge
6 that we need to continue to better understand.
7 Q To your knowledge, for image search, is it the image search team that's
8 responsible ultimately for determining how professions should be represented in results?
9 A It's a completely different product. I'm not certain how they operate.
10 Q Are there other teams that the image search team consults with on this
11 issue?
12 A I don't work on that team. I don't know.
13 Q Have you had any conversations with anyone from the Trust and Safety team
14 about the accuracy of the historical images in Gemini?
15 A Yes.
16 Q And who from the Trust and Safety team have you talked to?
17 A The same individuals I mentioned previously.
18 Q And what did they say?
19 A They agreed with the assessment that, as we learned the behavior, it was
20 incorrect and we should work to address it.
21 Q Have you worked with -- let me take one step back.
22 Do you know who [redacted] is? I don't know if I pronounced that last
23 name correctly.
24 A I do not.
25 Q In the DEF CON red-teaming exercise, to your understanding, did that

1 exercise look at issues related to potential bias?

2 A I don't know.

3 Q Who from the company is typically responsible for assessing feedback after a

4 red team exercise?

5 A It depends on the specific feature or capability.

6 Q For issues related to -- or let me take one step back.

7 To your understanding, has anyone from your team participated in any red

8 teaming regarding trying to see if there are issues related to underlying bias?

9 A Just to take a step back, feedback that we hear from our users are they want

10 to see a variety in creativity in the outputs that they see. So insomuch as we receive

11 feedback that overly similar results are being presented, that has a negative business

12 implication for us because we have unsatisfied users of our technology. So that is

13 typically how I see these issues manifest or arise.

14 Q I guess taking one step back from there, you know, it's one thing if the

15 principle is ultimately what the users want, but there's the AI principle of trying to avoid

16 unfair bias. Who within your team is responsible for assessing red team events if it's

17 testing the unfair bias principle?

18 A I don't know that it's anyone in my team specifically that tests for that

19 specifically.

20 Q Typically when there's like a red-teaming exercise, what -- independent of

21 DEF CON, but just generally, is there -- how is the feedback provided after a red team

22 exercise to your team?

23 A So a red-teaming exercise is intentionally open-ended. So not just the one

24 DEF CON event but any red-teaming exercise, the people that are participating try to find

25 things that produce something that is inappropriate, or not the intended behavior is a

1 better way to characterize it. And as we get examples of things that are not intended
2 behavior, the team that's responsible for the overall quality of the responses uses that as
3 feedback to say, oh, here's an example of something that doesn't work well. Let's -- and
4 this doesn't happen on an individual basis, but you take the cohort -- or you take the
5 collection of things that don't work well and go through an iterative software
6 development process to improve on those vulnerabilities.
7 Q So when conducting an exercise like this, just in general, are you getting
8 feedback? I'm assuming you're getting opinions and cross-cutting directions. Who
9 ultimately is making the determination of what changes, if any, should be made?
10 A These changes are effectively built in in bulk, so to speak, to create a new
11 version of the app, and that version of the app covers many aspects. So it's very seldom
12 a single feature or a single category. And as we make those changes, we go through the
13 evaluation process that I mentioned earlier, new version of the app versus old version of
14 the app. External testers hired by vendors say what's the better response.
15 Q So let's stick with the profession example of a nurse. Is it still
16 ultimately -- whether it's you're using vendors to define what the test for certain might
17 be, but it's ultimately your team that makes the decision of what new changes, what new
18 instructions should be in the next version of the app. Is that right?
19 A As with the software development process, yes. And then we receive
20 feedback from these testers. Do you prefer version A or version B? And to them, they
21 don't know what's old versus new. And that helps us inform whether we're improving
22 the product or not.
23 Q Are you familiar with the term "refusals"?
24 A Yes.
25 Q What are refusals?

1 A In the context in which I'm familiar with that term is the user prompts the
2 model, and the model does not respond to the request of the user.
3 Q And as part of the red teaming, is that seeing what prompts a nonresponse
4 from the model?
5 A It may.
6 Q Can you provide some examples of refusals where the guardrails were set
7 incorrectly, where if the prompt was refusing to answer questions, that users would have
8 preferred it was able to answer?
9 A Yes. When that happens, it generally has a negative business impact and
10 our users are unhappy.
11 Q And when that occurs, again, what -- is it a similar process as any other
12 change to the model? As far as the assessment, it makes the final decision how to
13 implement it?
14 A So, in general, our goal is to serve the user to the fullest extent possible,
15 maximize helpfulness while minimizing harm. So there are moments where the refusal
16 is intentional. The user says, Give me a way to commit self-harm. A refusal is the
17 intended behavior there. I won't help you with that. I may provide you with resources
18 on what to do if you want to do self-harm.
19 So the goal is not to eliminate refusals altogether because in some cases they're
20 intended. There are cases where innocuous things have been refused that are certainly
21 not the intended behavior. For example, at one moment somebody asked for a recipe
22 of a dish that involved foie gras, and the model refused, saying that, you know, I won't
23 support dishes that relate to animal cruelty or that is not a consensus opinion. And we
24 received negative feedback for that and subsequently iterated on the product to improve
25 it.

1 Q So that hypothetical -- or not hypothetical -- that example, prior to receiving
2 the user feedback, where was that initial instruction coming from? I guess, how did that
3 refusal occur in the first place?
4 A I wouldn't characterize it as an instruction so much as every iteration or
5 version of the product that you see is building on feedback that was received on the prior
6 version. These are the sorts of things that got funneled down as an example of an input,
7 and then, okay, let's try a new model version. Does it give a better response; yes or no?
8 There's not any sort of one instruction. It's more based on the previous version's poor
9 responses. Does the new version create better responses?
10 Q How does -- when either going through a vendor or directly from the
11 company, how does your team ensure that there's a variety of viewpoints participating in
12 the testing process?
13 A Well, our vendors are the ones that hire people from across the country that
14 we're asking them to test within, and we rely on them to ensure they're providing a
15 representative sample of the population.
16 Q How do you know if the vendors are providing a representative sample?
17 A The representative sample would be reflective in the quality of the overall
18 product that we build.
19 Q Have there been any changes in vendors since your time working on Bard,
20 now Gemini?
21 A I believe we've evaluated several vendors, some of whom we no longer work
22 with and some of whom we continue to work with.
23 Q Are there vendors that you no longer work with because they failed to
24 provide a representative sample?
25 A The vendors that we no longer work with, to my understanding, are because

1 they did not provide us with high-quality feedback.

2 Q Who within the company decides which vendors to go with?

3 A Our engineering team that works on the conducting of the testing.

4 Q And do they provide like a written recommendation, or what's the process

5 for selecting a vendor and then assessing whether to keep a vendor?

6 A I don't know the exact process.

7 Q Okay. Well, just the parts of the process that you have knowledge of, how

8 does that process work?

9 A Overall we want to ensure that the feedback that we receive in prelaunch

10 testing is consistent with what happens after you launch, and you can see that based on

11 the feedback that you receive. So if an evaluation was telling you -- or a test was telling

12 you before you launched that it was going to improve the product and you launch it and it

13 doesn't improve the product, then you get insight into what needs to be fixed.

14 Q And the engineering team is next to yours in the hierarchy chart, right?

15 You don't --

16 A That's correct.

17 Q Do you know how high up a decision is made of which vendor to hire or to

18 stop using?

19 A I'm not certain.

20 Q To your understanding, have any of the vendors who were let go, were they

21 let go because there was an insufficient variety of political viewpoints in the

22 representative sample or what they claimed was a representative sample?

23 A Not to my knowledge.

24 Q Have you ever had any conversations with people on the engineering team

25 about the quality of the vendors being used?

A Yes.

Q And when you're having those conversations, who on the engineering team have you had those discussions with?

A My primary interactions are mostly with [redacted] And in this specific capacity, he has a direct report that I go to for topics like this.

Q Who's his direct report?

A [redacted].

[redacted] Can we go off the record, please?

[Discussion off the record.]

[redacted] We can go on the record.

BY [redacted]

Q All right. So I just want to follow up on a couple questions you were asked from the last hour, and hopefully this shouldn't take very long.

You were asked a number of questions about how the search side of Google could have some kind of, you know, potential impact on the outputs of Bard and Gemini.

Do you remember talking about that?

A Yes.

Q To the best of your knowledge, has there ever been any issues with Bard or Gemini that's arose from the ordering of search results?

A I'm not familiar with anything related to the ordering of search results, no.

Q And it's fair to say that, to the best of your knowledge, the search side of Google wouldn't have had anything to do with the images that drew scrutiny in February of 2024. Is that right?

A I don't believe so, no.

Q Okay. Now, I think -- I just wanted to ask you to follow up and have you

1 elaborate a little bit on one principle. I think you made an interesting point in the last
2 hour that Bard and Gemini as models -- as products are meant -- or designed to invite
3 creativity from the user, unlike the search engine which is more based on a user kind of
4 asking for factual information. Is that a fair characterization?
5 A The primary way people use Bard or the Gemini app is for tasks of creativity
6 and productivity. However, there are some users who do use it for factual purposes.
7 Q Sure. And it's fair to say that Bard and Gemini wasn't initially conceived to
8 be -- serve as like an encyclopedia, for example?
9 A I don't know how it would serve as an encyclopedia.
10 Q Well, it's not something that somebody would ask, you know, a specific
11 historical question to. I mean, that would be more of a Google search kind of prompt?
12 A While that's not the primary use case, people certainly will ask questions of,
13 you know, Help me understand this topic and do so in a conversational way. So I
14 wouldn't characterize it to say that it's not used that way. It's just not the primary
15 function for people.
16 Q Sure. You were asked in the last hour to talk about Google's AI principles.
17 I want to ask a couple of questions on that.
18 I think you said -- in your earlier hour, you testified you can't think of a time when
19 you would have had to see somebody at Google to ask them about how to apply the
20 principle in preventing unfair bias.
21 Do you remember that conversation?
22 A Yes.
23 Q So I think one topic I would like a little more elaboration on is Responsible AI
24 would give you prompts, you know, to go and test, but are these driven by -- more
25 predominantly by user feedback than responsible AI is given?

1 A I don't know how responsible AI generates those specific examples.
2 Q And so -- and just generally, when we talked about earlier the principles
3 were, obviously, developed by Google, and they're an important factor in your day-to-day
4 operations, but they're not driving your work the same way that end user feedback
5 would. Is that fair to say?
6 A Yeah. Principles -- as an employee of Google, the principles that we have,
7 again, are intended to provide a guide for how we operate, focus on the user and all else
8 will follow. Be accountable to people is one of our AI principles as well. These are all
9 things that inform the way that we operate, but there's not like a checklist of every single
10 thing.
11 Q Sure. So I guess what I'm trying to get at is, let's take unfair bias, for
12 example, which you talked about a lot in the last hour. And you said I don't know if
13 anybody tests for that principle specifically, like in a red-teaming scenario, for example.
14 What's really driving, you know, Google with respect to, you know, preventing
15 unfair bias, is it fair to say that that's the user feedback that you receive from a global
16 community of consumers?
17 A So I want to make sure I'm being precise.
18 Q Sure.
19 A We do have a test for fairness that the Responsible AI team helps produce,
20 and the way that it gets evaluated is how helpful are the responses. So to the premise
21 of your question is the primary objective how users respond -- or testers respond and
22 then subsequently users. Those are the ultimate guiding signals. We want to provide
23 maximum helpfulness for our users.
24 Q And preventing unfair bias is working towards that goal, correct? It's in
25 alignment with that goal?

1 A People generally do not respond positively to responses that they see as
2 being specifically cast as bias.
3 [redacted] Thanks.
4 Can we go off the record?
5 [Discussion off the record.]
6 [redacted] Can we go back on the record, please?
7 BY [redacted]
8 Q As part of your roles within the company, have you ever worked with
9 Jigsaw?
10 A That sounds familiar, but I don't remember exactly what it is.
11 Q Okay. Have you ever worked with Mandiant?
12 A I don't believe so.
13 Q I want to turn back briefly to the White House commitments and the report
14 that was being put together.
15 You mentioned the one section that references the White House commitments.
16 There's the technical part of the report that you were working on. Who else within the
17 company, to your understanding, was working on the report?
18 A I believe there are over 100 authors listed on that specific paper.
19 Q And prior to that reference that you saw in the report of the White House
20 commitments, did you have any knowledge or awareness of the White House
21 commitments or what those were?
22 A I vaguely recall hearing them in conversations, but nothing extremely
23 specific.
24 Q I guess another way to ask, so like prior when seeing the term "White House
25 commitments report," did you have to go look it up or did you have at least some

1 baseline familiarity prior to reviewing that report?

2 A By virtue of working in the industry and staying in contact with news, I had

3 been familiar of their creation and roughly that they intended to represent more

4 transparency in the creation of AI products and ensuring that we create them safer.

5 Q And do you know who within the company interfaced with the White House

6 about the White House commitments?

7 A I believe it was our president of Global Affairs.

8 Q You said you recall at a high level some conversations where the White

9 House commitments may have been referenced. To your recollection, what was the

10 context or the nature of those conversations?

11 A As we were approaching moving Bard from the PaLM 2 model to the Gemini

12 model in December of 2023, I had heard reference to we need -- we're going to be

13 working on this technical report, and this technical report also is in accordance with the

14 White House commitments.

15 Q And had you heard that prior to seeing the White House commitments

16 reference in the draft?

17 A I don't recall specifically the sequence.

18 Q Of the conversations you're able to recall, who did you have conversations

19 with at the company about the White House commitments in any context?

20 A The production of the technical report as it was being intro -- I wasn't a

21 primary author, and I believe it was [redacted] who referenced that we were doing this

22 report and we were adding a Bard portion.

23 Q Outside the context or any reference to the report, the preparation of the

24 report, do you recall any conversations within the company about the White House

25 commitments?

1 A Not to my knowledge, no.

2 Q Turning back to, roughly, February 2024 when there's the issues with the

3 historical examples and users were reporting that certain prompts, especially when asking

4 for a White person to be represented, the refusals from the model, to your

5 understanding, what was the reason behind that? What led to that situation?

6 A The refusal or the --

7 Q The refusals in particular.

8 A For the specific refusals around majority groups such as White people?

9 Q Yes.

10 A It wasn't a common -- it wasn't a common way to use language, and so it was

11 something that we had not tested for.

12 Q Okay. So appreciate that, you know, once it's tested for, you know, you

13 can identify what the issue is and correct it. But taking one step back, hadn't been

14 tested for, weren't aware of the problem, but, you know, for lack of a better word, like,

15 what set of instructions -- what had led to that situation in the first place?

16 A So for a specific reason -- it's hard to isolate to any one specific example. In

17 general, the intention of, so to speak, teaching the model to provide a refusal against

18 harmful content, we try to provide it with examples. And in some of these examples,

19 my understanding is the model overfitted for innocuous things that it should not have

20 been refusing; the foie gras recipe as being another example.

21 Q Turning back to, like, the demographics, what sort of examples were being

22 fed to the model that led to it being overinclusive for refusals about certain racial groups?

23 A I don't know that there was anything specific to that, but I also don't review

24 the specific data that goes into each training version.

25 Q Is that information available if needed? Could you or someone from your

1 team go back and have the opportunity to review?

2 A I don't know where it would live in the code.

3 Q When it comes to providing examples, if I'm using your words correctly, to

4 teach the model when to refuse, as one example some of those examples could come

5 from the Responsible AI team that's provided to your team to then teach as the model or

6 I guess --

7 A I'm not sure if they contribute or not.

8 Q Okay. Let me rephrase the question in a different way.

9 In an earlier hour when we were talking about the nurse as a profession that's

10 maybe overrepresented by one gender, when you're talking about providing examples to

11 teach the model when to refuse, is that more or less the same process of the nurse

12 hypothetical?

13 A Yeah. In many cases, when the product produces an unintended behavior,

14 it's not necessarily that it was trained to do that so much as there wasn't data to inform

15 how it should respond. And with the lack of data, it responds in a way that's

16 unintended.

17 Q Now, can you say a little bit more -- so I certainly can appreciate if there's a

18 lack of data maybe the answer is not accurate. Is that true too for refusals in particular

19 or is that a different type of problem?

20 A I wouldn't be able to diagnose any one specific example. There are many

21 causes for refusals. One of them is we run a copyright check on every response to

22 ensure that the response does not contain copyrighted material, and if it does, it would

23 present a refusal instead of violating a copyright. And so there can be multiple reasons

24 for what may generate a refusal.

25 Q So I guess turning back to what, you know, obviously became very

1 high-profile examples, there's one instance of, like, the image created is not historically
2 accurate?
3 A That's correct.
4 Q The dataset is not quite right or the constructions aren't quite precise. But
5 the refusals that were appearing for some of the requests, again, if you could help us spell
6 that out a little bit more, what was, to your team's understanding, driving that?
7 A Let me just be clear, those refusals in many cases were not the intended
8 behavior, and they were wrong.
9 Q Yeah.
10 A I can recall an example that was shared with me where a user requested to
11 generate an image of five people on an oil rig managing a leak, and the model refused to
12 generate the image because it said it was an unsafe scenario. That's not the intended
13 behavior in that scenario. We certainly want to serve the user. And so as you get
14 feedback for things like that, then that helps provide data on how to better improve it.
15 Now, we took down the generation of images because of the other research
16 problem that we continue to try to understand is that tradeoff between creativity and
17 historical accuracy and user expectation.
18 Q Taking the oil rig as one example, so there was a principle of, you know, not
19 wanting to support or show, like, an unsafe environment. Following what happened in
20 February 2024, were there any fundamental changes to the principles either moving or
21 subsequently modifying a principle such as not wanting to show an unsafe environment?
22 Mr. Bopp. You mean the AI principles?
23 [redacted] I don't know if it's quite the AI principles, but whatever the rules are at
24 the outset.
25 BY [redacted]

1 Q So there's a difference between -- sticking with the oil rig example -- of
2 concerns about an unsafe environment, not wanting to show that, and correcting what
3 should be captured by that, as opposed to changing the rule or the principle itself.
4 A Sorry. Just to be abundantly clear, the creation of that response didn't
5 violate any of our policies. It was an unintended refusal. We don't -- we certainly
6 don't want to create an image that presents a violent environment, and so we tried to
7 prevent an unexpected violent scenario. That's an example where the model, which at
8 that point -- or the product experience, which at that point was 3 weeks old, just hadn't
9 had enough usage to understand that that is innocuous and should not be refused.
10 Q So in most of the answers you've -- and examples you've been providing, it's
11 a matter of, you know, either providing better data or, you know, better -- having a
12 product apply to the principle. So in this case, the oil rig, while it was not violative,
13 should not have prompted a refusal.
14 Just, I guess, a more plain way of asking, since February 2024, have there been any
15 changes to the principles themselves?
16 A I don't believe so, but we've certainly been working around the clock to
17 ensure that we minimize unintended refusals.
18 Q We've touched upon a couple of examples, so the oil rig one, the foie gras
19 one, you've identified what the principle was. For some of the kind of high profile
20 examples as it related to race and not wanting to do certain prompts, do you recall
21 examples of which principles the model was trying to not violate?
22 A I don't know that I would characterize it as the model trying to not violate a
23 policy. Rather, I would probably define them more as a policy example being don't
24 create a very gory scene. And so it's not so much that it was violating or not violating.
25 It was just -- you know, in the examples that you're referencing, it was just flat out

1 incorrect, should not have behaved that way.

2 Q For the instances where there are refusals as it relates to, you know, certain

3 demographic groups, what were the principles that the model by offering the refusal was

4 trying to abide by, albeit unintendedly so?

5 A I wouldn't characterize the technology working in such a way that there's a

6 checklist of does this violate a principle; yes or no. There's a general probability in which

7 they work. Is this an acceptable response or not an acceptable response?

8 Q Okay. I guess if you could walk through maybe a few more examples. As

9 far as you mentioned the copyright as one example.

10 A Yeah.

11 Q Every, you know, image is checked. And if it's needed, there's a refusal.

12 Is the copyright example unique or is that true for all -- I guess, if you could walk through

13 with me a little bit more what you mean by sometimes it's a probability versus --

14 A Well, the model determining whether to answer or not --

15 Q Uh-huh.

16 A -- is -- there's a probability that it assigns should I answer or should I not

17 answer.

18 I'll give you another example. Prior to our launch, one of our competitors in the

19 image generation space produced a sexually explicit image of a well-known celebrity, and

20 it was a named celebrity. And we wanted to ensure that when it came to the

21 generation of people, we would refuse the generation of any named individual. So if

22 you asked for, fill in the blank -- create an image of fill-in-the-blank person, the intended

23 behavior was to not produce that image.

1

2 [1:45 p.m.]

3 BY [redacted]

4 Q When there were refusals in the prompt -- or excuse me. Let me rephrase

5 that.

6 When there were refusals when a user offered a prompt about White individuals,

7 whether it was an image or a text, what was the cause of that? What was the situation

8 why the model was providing a refusal in those instances?

9 Mr. Bopp. [redacted] you can answer his question.

10 I think you've asked that question in a number of different ways, and I think what

11 I'm gathering from [redacted] is that he doesn't have anything more specific to say about how

12 or why a particular example may have been refused.

13 But if there's more you can say about this, feel free to say it.

14 [redacted]. I'd say that's right.

15 BY [redacted]

16 Q Following the February 2024, within the company, who was the most senior

17 person you had to brief based off the situation?

18 A On sort of the most intense time?

19 Q Yeah, just -- or as it relates to errors that were becoming very public.

20 Let me rephrase the question to make it clear.

21 As it comes to addressing inaccurate historical images and making corrections and

22 ultimately taking down that feature of the product, who is the most senior person that

23 you -- you mentioned that you sent the recommendation to your manager, but just more

24 generally, who's the most senior person within the company that you had to brief?

25 A Our CEO.

1 Q And when was that?

2 A I believe it was after I had posted a comment on Twitter saying these

3 historical images are inaccurate. We subsequently learned about the refusals that we

4 just discussed, which, to be very clear, were incorrect and not the intended behavior.

5 And as that happened, we moved toward a recommendation to pull the feature.

6 Q Who else participated in your briefing with the CEO?

7 A I believe it was myself and [redacted] my manager, and [redacted] I believe the CEO

8 of DeepMind may have been there as well.

9 Q Was it in person or was it a videoconference meeting?

10 A A videoconference.

11 Q Who else attended?

12 A I don't remember who else would have been there.

13 Q And what was discussed?

14 A As we were further understanding the issues, it became clear that we

15 needed to research this problem more, and as a result, we had decided to take down the

16 generation of images of people.

17 Q What did the CEO say?

18 A He agreed with our recommendation.

19 Q Did he say anything else?

20 A Make sure you understand this and do right by our users.

21 Q How long was the meeting?

22 A I don't recall.

23 Q Had you prepared any written work product in support of or in conjunction

24 with the meeting?

25 A Things were moving relatively quickly at that time. I don't believe we did.

1 Q Other than this briefing with the CEO, have you had any meetings with any
2 other of the company's executives since February 2024?
3 A Yes.
4 Q Who else?
5 A As it relates to this issue or in the normal course of my work?
6 Q As it relates to this issue.
7 A Our SVP of knowledge and information and our president of Global Affairs
8 and CEO of DeepMind.
9 Q And then just prior to February 2024, how frequently would you interact
10 with any of these executives?
11 A At least monthly.
12 Q And what was the nature of those interactions?
13 A The Gemini app is one of the very high priorities for the company, and so it
14 would be sharing progress updates as well as upcoming launches.
15 Q In the briefing with the CEO, was this -- actually, let me take one step back.
16 When you say the monthly updates, that includes some executives you
17 mentioned. Does that include the CEO?
18 A Yes. Sorry. Just to be clear, the cadence wasn't exactly monthly. That
19 was just kind of a rough order of how frequent.
20 Q Okay. So this I think probably answers the next question. But the
21 meeting with the CEO, was that ad hoc? It was not part of like a standing meeting?
22 A That's right. My manager typically drives the agenda for those.
23 Q Other than that first meeting with the CEO about taking down that feature
24 after the historically inaccurate images, have you had any other briefings or meetings
25 with the CEO about this issue in particular?

1 A Yes.

2 Q And how many others? How many other meetings or briefings?

3 A I'm not certain exactly how many.

4 Q Can you provide an approximation?

5 A Fewer than 10.

6 Q Okay. And what has been discussed as it relates to this issue in those

7 subsequent meetings?

8 A We certainly have a business desire to re-release this feature, and we will

9 only re-release it upon the time that we believe, A, we understand the problems, and, B,

10 we have an experience that is able to address them. And so there have been varying

11 states of understanding the problem and making progress.

12 Q Are you at a point where your team thinks you've understood the problem?

13 A We've not yet released it. We continue to work toward it.

14 Q Are you familiar with the Frontier Model Forum?

15 A I'm not.

16 Q To your knowledge, besides the engineering team, is there anyone else that

17 has an opportunity to weigh in on what vendors are used for the testers?

18 A I believe there's a team that manages the vendors.

19 Q Okay. Different from the engineering team itself?

20 A The actual relationship managers.

21 Q And who are the relationship managers?

22 A It's a team named gTech.

23 Q And do you know who leads that team?

24 A I do not.

25 Q Do you have a primary point of contact on that team?

A I personally do not interface with that team.

Q To your understanding, does that team play a substantive role in making recommendations about whether to keep a vendor or not?

A I'm not sure.

[redacted] Can we go off the record, please?

[Recess.]

[redacted] Can we go back on the record, please?

BY [redacted]

Q [redacted], we've talked a little bit throughout the couple hours about the specific issues that actually led to the press reporting in around February of 2024 about the images generated by the chatbot. I just want to kind of take a step back here of the reason why we're here today, which is it's been inferred by the majority that these image generation issues that were the focus of this public scrutiny this past February were an example of, quote, how Alphabet intentionally biased its AI model.

Do you think that's accurate, based on your experience, that Google intentionally biased the Gemini chatbot to produce the images that were the subject of this scrutiny?

A The production of the inaccurate historical images and the refusal to generate the images before were not intended behavior, and they were a mistake.

Q So you would disagree with that assessment, that Alphabet intentionally biased its AI model in that respect, correct?

A Yes.

Q And you just mentioned that the issues with the image generation rollout were not intentional, correct?

A Correct.

Q And the model -- you would say it's also that the model was not working as it

1 was intended when it produced those images and refusals, correct?

2 A As it relates to historical inaccuracies and refusals, it was not working as

3 intended.

4 Q Thank you.

5 And were the issues with the Gemini chatbot as a result of -- the images that

6 we're talking about, which is the refusals and the historical inaccuracies -- were those a

7 result of external testers that were aligned with the White House commitments?

8 A I'm sorry. Could you repeat your question?

9 Q Were the issues that we're talking about a result of using external testers

10 that aligned with the White House commitments?

11 A I don't believe so, no.

12 Q Okay. Were the issues with the Gemini chatbot a result of using external

13 testers that were aligned with the AI executive order issued by the Biden administration?

14 A You're talking about the historical --

15 Q Yes.

16 A -- inaccuracies?

17 Q Yes.

18 A Sorry. Can you repeat the question?

19 Q Were the issues with the Gemini chatbot a result of using external testers

20 that aligned with the AI executive order published by the White House?

21 Mr. Bopp. Just to be clear, I'm not sure what you mean by testers being aligned

22 by the executive order.

23 [redacted] Sure. No, that's fine. That's fine. I'm happy to provide some

24 further clarification on that for the record.

25 So I guess we'll just introduce the letter that invited you to testify today and mark

1 it as exhibit 1.

2 [redacted] Also, I apologize that some of these staples are a little hazardous.

3 Not my best work.

4 [redacted] Make sure you mark one and give it to the court reporter.

5 [redacted] Exhibit No. 1

6 was marked for identification.]

7 BY [redacted]

8 Q And if it's helpful, I'm happy to direct your attention to the specific part of

9 this letter that I want to ask you a question about. Is that okay?

10 A Yes.

11 Q Okay. So if you flip to page 2, and it's the second full paragraph starting in

12 the middle of it right after where footnote 9 is noted. It starts with "A recent report."

13 Do you see where I'm reading from?

14 A No. Recent reporting?

15 Q "A recent report by the company's Gemini team."

16 A Oh, yes.

17 Q Okay. So I'll just read this into the record.

18 "A recent report by the company's Gemini team stated that its new AI tool was

19 evaluated by external groups, which were selected based on their alignment with the

20 Biden White House executive order and the White House commitments."

21 Did I read that correctly?

22 A Yes.

23 Q Okay. Now, if you flip to the next page, which is page 3, the first line of the

24 paragraph says, "Recent reporting has revealed the results of these so-called

25 improvements to the Gemini models, showcasing Gemini's clear bias."

1 And footnote 12 references several news articles that include, "Google's Chatbot
2 AI Images Put People of Color in Nazi-Era Uniforms," and from The New York Times,
3 February 22, 2024. Fox Business article, "Google to pause Gemini image generation
4 after AI refuses to show images of White people." And CNN's, "Google halts AI tool's
5 ability to produce images of people after backlash."
6 Do you see where I'm reading?
7 A Yes.
8 Q Okay. So I guess to go back to my question, with that context, were the
9 issues that are referenced in footnote 12 and reported on in February 2024, were they a
10 result of using external testers that aligned with the AI executive order or the White
11 House commitments, to the best of your knowledge?
12 A No.
13 Q Okay. Thank you.
14 To the best of your knowledge, were the issues with Gemini chatbot a result of
15 Google joining the voluntary White House commitments?
16 A No.
17 Q To the best of your understanding, were the issues with the Gemini chatbot
18 a result of any of Google's engagements with the Federal Government?
19 A No.
20 [redacted] I'd like to introduce as exhibit 2 a article from wired.com.
21 [[redacted] Exhibit No. 2
22 was marked for identification.]
23 [redacted] So again, with this one, [redacted], I'd like to just direct you to
24 where I want to ask a question about, if that's okay. You're happy to read the whole
25 article if you want.

1 Mr. Bopp. Why don't you direct us.

2 BY [redacted]

3 Q So on page 2, the first full paragraph where it starts with your last name or

4 your surname.

5 A Yes.

6 Q And part of the reason I can't give you the original post is because I actually

7 can't see the original post anymore on X. So I'm going to ask you about this. I'll read

8 this into the record.

9 "[redacted] explained the situation further in a post on X: We design our image

10 generation capabilities to reflect our global user base, and we take representation and

11 bias seriously. We will continue to do this for open-ended prompts. Images of a

12 person walking a dog are universal, exclamation point. Historical context have more

13 nuance to them, and we will further tune to accommodate that."

14 Did I read that correctly?

15 A Yes.

16 Q To the best of your knowledge, and I know that this is not the original

17 screenshot, but was this in line with what you remember putting out on X or Twitter?

18 A I don't believe it's the full post, but it seems like part of it, yes.

19 Q Is there any material part that's missing, that you remember?

20 A Acknowledging that there were inaccuracies with the generation of historical

21 images.

22 Q That's fair.

23 Just for background, what are open-ended prompts and how is that -- and what is

24 the challenge generally with an emerging AI model and historical context?

25 A Well, I define an open-ended prompt as something where a user hasn't

1 specified what they want to see. Example being person walking a dog.

2 As I mentioned earlier, the feedback we receive from our testers is users want to

3 see themselves in the images. So that is why we intended to reflect the global user

4 base.

5 Historical context, however, are not open-ended. Historical context has rules

6 around it. Show me a picture of a person from this era. There are rules -- effectively, I

7 would describe it as a common understanding of what a user's intent is.

8 And so this is acknowledging that for those historical context, we need to not

9 provide a randomization of people that respect the historical context.

10 Q Right. And I think the word you used was they have more nuance to them.

11 A That's the nuance I'm referring to.

12 Q Yes. Okay, good. Thank you.

13 [redacted] I'd like to introduce as exhibit 3 a blog produced by Google

14 entitled, "Gemini image generation got it wrong. We'll do better."

15 [[redacted] Exhibit No. 3

16 was marked for identification.]

17 BY [redacted]

18 Q Do you recognize this document?

19 A I do.

20 Q I'd like to direct your attention to the bottom of the first page where it says,

21 "The Gemini conversational app is a specific product that is separate from Search, our

22 underlying AI models, and our other products. Its image generation feature was built on

23 top of an AI model called Imagen 2."

24 Did I read that correctly?

25 A That's correct.

1 Q And what is Imagen 2, just in broad strokes?

2 A It is a text-to-image generative AI model.

3 Q And so that's the model that was in the driver seat or the engine, so to

4 speak, for this product, this image generation product?

5 A That is the model that receives text and translates it into an image.

6 Q Thank you.

7 I want to direct your attention to the next page. And by the way, for the record,

8 this is a blog that was published on February 23, 2024, by Google.

9 On the next page, at the very top -- and I'm going to read where I want to ask you

10 a question from -- it's, "When we built this feature in Gemini, we tuned it to ensure it

11 doesn't fall into some of the traps we've seen in the past with image generation

12 technology -- such as creating violent or sexually explicit images, or depictions of real

13 people. And because our users come from all over the world, we want it to work well

14 for everyone."

15 Did I read that correctly?

16 A Yes.

17 Q Can you talk a little bit more about the potential harms that could come

18 from AI image generation technologies?

19 A I referenced earlier, prior to this launch, we had seen a competitor create

20 images of a sexually explicit photo of a known celebrity, which is certainly harmful.

21 Q Sure.

22 [redacted] And that known celebrity was Taylor Swift. Is that correct.

23 [redacted]. Yes.

24 [redacted] Is creating sexually explicit images like Taylor Swift, in addition to

25 just being wrong, that provokes a very passionate fan base, right, many of whom might

use your products or potentially use your products?

[redacted]. Our intention is to not produce sexually explicit images.

[redacted] Yes. Okay.

BY [redacted]

Q Are you familiar with DALL-E 2?

A Yes.

Q And they're a competitor, correct?

A By OpenAI, yes.

Q Are you familiar with reports and early tests by red team members that DALL-E 2 leans towards generating images of White men by default, oversexualizes images of women, and reinforces racial stereotypes? Are you aware of that press reporting?

A I'm familiar with the general topics associated with it, yes.

Q So that would be another example of certain traps that Gemini was trying to avoid when it launched its product. Is that fair?

A Certainly, at the time that we launched, we wanted to learn from the lessons of products that had been released from our competitors.

Q And I want to ask you about the language in this Google blog, which says -- specifically, which we had just read from, which says, "we want it to work well for everyone."

I think that's a theme that we've talked about extensively throughout this interview. But I just want to say again for the record, from your perspective, a product is intended to be part of a business which wants it to be useful to its customer base, correct?

A Yes, and our customer base reflects people from over 200 countries and

1 territories around the world.

2 Q And images of violence or sexually explicit images or ones that cause harm

3 are not useful to customers, correct?

4 A We do not believe so, no.

5 Q And it would be against your business interest as a global company to have a

6 product that actually harmed or could potentially harm your customers. Is that fair?

7 A The trust of our users globally is ultimately one of the most important things

8 that is involved in building a product that aims to be as helpful as possible.

9 Q Thank you.

10 I want to skip down a couple paragraphs to the one that starts with, "So what

11 went wrong?" Do you see where I'm --

12 A Yes.

13 Q -- reading at?

14 So I'll just read. "In short, two things. First, our tuning to ensure that Gemini

15 showed a range of people failed to account for cases that should clearly not show a

16 range. And second, over time, the model became way more cautious than we intended

17 and refused to answer certain prompts entirely -- wrongly interpreting some very

18 anodyne prompts as sensitive."

19 Did I read that correctly?

20 A Yes.

21 Q And you would agree with that statement, correct?

22 A Yes.

23 Q And that's in line with what you had talked about in the last hour, which was

24 the issue of historical context in image generation?

25 A Yes.

1 Q So I did want to ask you, though, when it says the model became way more
2 cautious, what does that mean?
3 A Referring back to the example we discussed earlier, create an image of
4 people on an oil rig containing a leak. The intended behavior should be that it shows
5 that image, and it did not.
6 Q Thank you.
7 I know that you already testified to this, but I want to ask again for the record.
8 These image generation examples that had extensive press coverage in February of 2024,
9 they were not the intended result of any, quote/unquote, tuning, correct?
10 A The mistakes with historical images and the refusals to produce images were
11 not the intended behavior.
12 Q And at the time, is it fair to say that you didn't have a lot of external
13 feedback yet to flag any potential image generation issues like this until you had end
14 users trying to prompt these types of situations?
15 A For these two scenarios, that's correct.
16 Q Is it fair to say you were not focused on this potential type of image
17 generation result because external testing hadn't flagged it as an issue yet?
18 A I would say that's an accurate characterization.
19 Q And at the time, users were interested in other things other than historical
20 images. Is that fair?
21 A Image generation in the broad scope of using the Gemini app is not a
22 primary use case. And so certainly across the full suite of ways that people use our
23 product, in the scope of my role, I need to ensure that it's maximizing helpfulness across
24 all uses.
25 Q Sure. Would you give me an example of what a primary use case would be

1 at this stage?

2 A Similar to one I mentioned earlier. Steps of creativity: Help me write a

3 letter to my friends why I don't want to attend a dinner party. Help me brainstorm an

4 idea.

5 Q Thank you.

6 Are you aware of anybody at Google intending to -- who intended to create an

7 anti-White bias in the product?

8 A No.

9 Q Are you aware of anyone at Google intending to imbed a particular political

10 agenda into the Gemini product?

11 A No.

12 Q And it's fair to say that you would call a -- have you heard of the term

13 "hallucinations"?

14 A Yes.

15 Q What generally is hallucinations in the AI context?

16 A There are many definitions that people use across the industry. The best

17 way to characterize it is when the AI product creates a response based off of things that it

18 had not seen in its training data.

19 Q Are you aware of recent press coverage in the last week or so about Google's

20 search function with the AI app Overview launch which was reported to have suggested

21 that or inferred that the United States has one Muslim President at this time, which was

22 Barack Hussein Obama? Are you aware of that recent coverage?

23 A That is not a product on which I work, but I am aware of this coverage.

24 Q So understanding that that's not Gemini and that's not a product that you

25 work on, you're generally aware that that was in the news?

A Yes.

Q Okay. I guess my question is, is it -- would you call that a hallucination?

A In the case that it presented something that was factually inaccurate, yes.

Q So I guess my broader question is, with response to AI development in general, is it fair to say that in that case, generative AI inaccuracies or errors or these hallucinations can happen regardless of where a person or topic falls on the political spectrum?

A As an industry, we're working through how to solve hallucinations, which include what you mentioned.

[redacted] I want to go back to what you just said about, as an industry, you're working to solve these problems. Is it fair to say that, you know, a lot of the problems that we discussed today are directly related to the novelty of AI.

[redacted] I would say generative AI is still a nascent technology that many people are still trying for the first time. As people use it, they showcase new ways that, as product developers, we haven't seen people use the technology. And our goal as we learn new ways that people use the technology is to continue to iterate and make it more helpful.

[redacted] That answers my question.

BY [redacted]

Q Just a couple last questions, and I think we'll wrap it up.

Are you generally familiar with Google's mission to organize the world's information and make it universally accessible and useful?

A Yes.

Q In your experience, did Google's mission apply to its AI products?

A Our mission applies to all our products on which I work.

1 Q So --

2 A I have worked.

3 Q I'm sorry?

4 A Sorry. That I have worked on.

5 Q So does Google have an interest in making AI products that are useful and

6 trustworthy for users around the world?

7 A Yes.

8 Q And can you explain why?

9 Mr. Bopp. Why that is Google's mission.

10 [redacted] Why Google has an interest in making AI products that are useful

11 and trustworthy for users around the world.

12 [redacted]. As a business, we certainly want to create technology in a manner

13 that helps us fulfill our mission, and AI is one of the more nascent technologies that are

14 creating new capabilities for people, and it is a pioneering time in this technology.

15 [redacted] In several of the previous hours, you have talked a lot about how

16 transparency is very important to your work with generative AI at Google. Can you

17 provide -- and I think the press release that [redacted] introduced earlier is one example of this,

18 but are there any other examples that you would like to share with us of ways that you've

19 worked to promote transparency and how, or anything you would like to say on the

20 relationship between transparency and creating trustworthy products.

21 [redacted]. From the beginning of the creation of Bard, we had what were

22 then called experiment updates. Now, since we've renamed the Gemini app, we have

23 release updates. When new capabilities are introduced to the product, we explain to

24 users in that thread not just what feature launched but why to give people an

25 understanding of how they might want to test the product.

1 BY [redacted]

2 Q Your name has been in the public eye because of your work on Gemini. Is

3 that fair to say?

4 A I have been one of the public spokespeople for Gemini, yes.

5 [redacted]

19 [redacted] More generally.

20 [redacted]. First, I just want to be very clear. My personal beliefs do not

21 influence my professional work. [redacted]

1 Mr. Bopp. Why don't we step out for a second.

2 [redacted] Can we go off the record.

3 [Recess.]

4 [redacted] Can we go back on the record, please?

5 BY [redacted]

6 [redacted]

14 A My personal beliefs do not influence my professional work.

15 Q Thank you.

16 [redacted] We can go off the record.

17 [Recess.]

18 [redacted] We can go back on the record, please.

19 BY [redacted]

20 Q I want to turn back to exhibit 3, which is the -- I think it was exhibit 3, the

21 February 23, 2024, blog post. And there's some language on the second page that you

22 had gone over in the previous hour about the refusal to answer certain prompts,

23 interpreting some as sensitive.

24 In the context of February 2024 and what was being highlighted, what were the

25 sensitivities that the company was trying to avoid as related to the refusal prompts?

A Again, the general policies are things like don't create violent images, sexually explicit images, or images of named people, et cetera.

Q When in the examples that are being highlighted on Twitter were going viral, there were prompts where, again, based off of a particular demographic, racial demographic, the model would refuse to answer. In those contexts, what is, based off your team's assessment of the problem now, what principles, what rules, what sensitivities, what was in most cases leading to that refusal?

A Again, in the nature of the technology, the responses generate a probability, and the probability is, is this sensitive or not. And so for any one individual case, it's not possible to say why something is determined as sensitive or not, to the best of my understanding.

Q So for like the oil rig example, is your team, when you say it was trying to not show an unsafe environment, that was not the exact quote, but, right, that was the principle, is that based off your team's just, I guess, like circumstantial evidence of what's going on, or is there -- how do you make that assessment as, like, using that hypothetical?

Mr. Bopp. When you say "how do you make that assessment," what -- it sounds like -- I'm a little confused here. It sounds like you're asking [redacted] how someone at Google makes an assessment of whether or not to answer a prompt.

[redacted] Yes.

Mr. Bopp. I'm not sure that's a question that we can answer. But, I mean, maybe you can step back and provide a little context.

[redacted]. Yeah. Again, to take a step back, the way that we iterate on these models is, as they produce responses, you see old version, new version. And our external testers will say which is better. Again, they don't know what's the old version, what's the new version. They just say what's better. And as we see that sort of

1 feedback comes out, not only one specific example but an aggregate, that's what creates
2 the model.
3 So it's not one specific example you decide is this sensitive or not sensitive. It's
4 the generalization of the model. So for any one specific example, I don't know that it's
5 technically possible to say why it classified as sensitive or not.
6 BY [redacted]
7 Q Is unfair bias one of the sensitivities that was trying to be considered that led
8 to some of the refusal prompts?
9 A In this scenario, it's something that we had not tested. So, again, the
10 model produces a score if something is sensitive or not sensitive.
11 Q So back in the copyright example, and just based off, you know, looking at
12 examples I've read online, is it always the case that when there's a refusal and there's a
13 reason provided, is that accurate as far as why the model is producing the refusal that it's
14 producing?
15 A The model is producing a creative result when it produces what it does. I
16 would characterize refusals in two ways: Intentional refusals, the ones where
17 somebody's asking how do I inflict self harm and the model refuses. And then there are
18 unintended ones that you can try to find as many as you can prior to launching, but there
19 will be novel ways that people use the technology.
20 As you find those unintended refusals, it's part of the iteration process in software
21 development to minimize that because, to take a step back, if you're not -- if we don't do
22 a successful job in providing a response to a user that they expect should respond, they
23 will stop using our service. And so we have a business incentive to maximize the
24 helpfulness as much as possible.
25 Q In the previous round, you were asked some questions about claims made in

1 the committee's letter -- or statements, I should say, made in the committee's letter
2 about recent reporting, including regarding on page 2 about whether the tool, AI tool is
3 evaluated by external groups which were selected based on an alignment with the Biden
4 White House executive order and White House commitments. Your responses to those
5 questions were saying something to the effect of like, you know, you didn't know.
6 Do you have knowledge one way or the other about whether testers were
7 selected based on their alignment to the White House commitments?
8 A I can't definitively say yes or no.
9 Q And which teams within the company would have knowledge of that?
10 A Our Global Affairs and Public Policy are typically the ones that interface with
11 governments, and so that would be where I would expect interaction.
12 Q And the engineering team is the one that selects which vendors to use --
13 A That's correct.
14 Q -- the testers?
15 So to be clear, it's not your testimony to contradict what's in the letter. It's that
16 you don't have knowledge either way?
17 Mr. Bopp. Let's be more specific. There are a lot of things that [redacted] was asked
18 about the letter. So if there's a specific line that you want him to comment on.
19 BY [redacted]
20 Q As it relates to the line of whether the AI tool is evaluated by external groups
21 which were selected based on their alignment with the Biden White House executive
22 order and White House commitments.
23 A If I understand this citation correctly, this is referencing testing that was
24 done on the Gemini model, not the Gemini app, as referenced in the Gemini, a family of
25 highly capable multimodal models, paper.

1 Q Okay. So as it relates to the model?
2 A I'm not involved in the foundational model development.
3 Q And which teams are involved in the foundational model development?
4 A Google DeepMind.
5 Q Again, who's your primary point of contact with Google DeepMind?
6 A The vice president of product management, [redacted].
7 Q To your understanding, for testers for the model, is it a similar process when
8 finding testers for the app, or is that two different processes?
9 A I'm not familiar with the extent of their process on the foundational model.
10 Q Do you know if they use vendors?
11 A I believe so, but I'm not certain.
12 Q Is there a separate engineering team that would work with the testers for
13 the model as opposed to the app?
14 A Yes.
15 Q And what's the name of that engineering team?
16 A It's within Google DeepMind that works on the foundational model.
17 Q Do you have a point of contact of that engineering team in Google
18 DeepMind?
19 A There's a vice president of engineering for Google DeepMind.
20 Q Who's that?
21 A His first name is [redacted] (ph), and you'll have to forgive me, I don't actually
22 know how to pronounce his last name.
23 Q That's fine.
24 Have you had any conversations with members of DeepMind about
25 representational harms or societal risks?

1 A In the context of image generation or broadly?
2 Q Just broadly.
3 A Yes.
4 Q And what's been the context of those conversations?
5 A The nature of how we build toward maximizing helpfulness and minimizing
6 harm.
7 Q And who have you had conversations with at Google DeepMind?
8 A I'd say this notion of maximizing helpfulness and minimizing harm is a
9 common way to push the product development. So in that capacity, most of my
10 interactions on product development push toward ensuring we're maximizing the
11 helpfulness of our users.
12 Q In any internal conversations during your time with the company, have there
13 been ever any debates or disagreements about what constitutes a representational
14 harm?
15 A In my personal experience, most of my interactions as it relates to this
16 concept are how do we provide the most helpful answer possible for our users, and using
17 our users as the gauge -- or our testers and our users as a gauge for the feedback of
18 achieving that.
19 Q Okay. Well, I guess taking kind of a step from that, have there been any
20 debates or disagreements about how testers interpret or understand representational
21 harms?
22 A I don't know that I would characterize it as we discuss them as
23 representational harms so much as testers will certainly individually disagree on what's a
24 helpful answer versus not.
25 Q And have there been any internal discussions since you've been a part of the

1 company about whether testers tend to skew one way when identifying whether some
2 things are a representational harm or not?
3 A No.
4 Q During your meeting with the company executives, was there any discussion
5 about missed biases or political leanings about the testers?
6 A Which meeting?

1 [2:51 p.m.]

2 BY [redacted]

3 Q Any of the meetings you've had since February 2024 with executives of the

4 company.

5 A Our stated intention is to produce a neutral point of view on topics. And so

6 in that regard, that was one of the early determinations we intended to create in the

7 product.

8 Q But there are a number of different ways to fail to meet the neutral, you

9 know, ideal. Had there been any discussions with executives of the company about

10 whether the testers had particular political means?

11 A Not in my experience or to my knowledge.

12 Q When working with a vendor, whether for the app, for the model, does the

13 company have the ability to see who the actual testers are?

14 A I can only speak for my experience, and I worked on the app, the Gemini app

15 specifically. I don't directly interface with the vendors and the testers, so I don't know if

16 that's been requested or not.

17 Q Based off, you know, the historically inaccurate images, the coverage in

18 February 2024 about that, what changes did that lead the DeepMind team to make as it

19 relates to the model?

20 A I can't speak for all the work that DeepMind does, but as we tried to

21 understand this problem from a research perspective, my team is certainly collaborating

22 with DeepMind to produce a better product experience.

23 Q When your team is collaborating with DeepMind since February 2024, have

24 there been discussions about representational harms?

25 A I don't know that there -- in my personal experience, that specific term has

1 been used in the discussions. Our goal is to re-release the experience in as high of a
2 quality manner as we believe our users hold it to, and representational harms are
3 generally considered negatively by our users.
4 Q With the understanding that representational harms are viewed negatively,
5 in terms of how that actually is applied by the model when users are using it and
6 capturing things that are not representational harms, have there been discussions -- not
7 necessarily the specific term "representational harms," but related bias issues, have there
8 been discussions around that since February 2024 between your team and the DeepMind
9 team?
10 A In my experience, this is one of many features and product experiences in
11 which I'm involved. I don't personally recall a specific conversation about this beyond
12 how do we maximize the quality of the product experience that our users expect.
13 Q Have you had any conversations with the DeepMind team about whether
14 their testers were aligned with the White House commitments?
15 A I don't believe so, no.
16 Q Has anyone within the company ever shared frustration with you about the
17 quality of the testers selected either for the app or the model?
18 A In the sense that we have had vendors provide us with testing that did not
19 map to real world experiences, yes, and so we have removed vendors along our process
20 that were not providing helpful inputs.
21 Q Are there any vendor names that come to mind that were removed that
22 you're aware of?
23 A I don't recall the ones that were removed.
24 Q Do you know how many vendors are used for, we'll say, testing for the app?
25 A There are two predominant ones, and I'm not familiar with more beyond

1 those. There may be more.

2 Q Who are the two predominant ones?

3 A Scale AI and Surge AI.

4 Q Were either of them removed?

5 A I believe we've had a continuous working relationship with them throughout

6 the course of working on Bard.

7 Q Do you know if they provide testers for the model as well?

8 A I don't work on the models, so I'm not certain.

9 Q With the understanding you don't work on it, do you have any

10 understanding or knowledge of whether they do or not?

11 A I would be speculating.

12 Q As it relates to the app, just walk me through the process at a high level.

13 Does the company, Alphabet, they go to the vendor and they ask for, you know, we want

14 testers that meet X, Y, and Z, or how -- what does the request look like when the

15 company's trying to find testers?

16 A I can't speak for how the entire company uses various vendors. And also,

17 within the scope of the Gemini app, formerly Bard, I have interacted with some of these

18 vendors, but I don't know the exact process of what's requested. These vendors do

19 produce a product that is used throughout the industry. We're not their sole customers,

20 to my understanding.

21 So my understanding is they have a business incentive to provide as broad an

22 array of a population within a given country as possible.

23 [redacted] Can we go off the record, please?

24 [Whereupon, at 3:02 p.m., the interview was adjourned.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

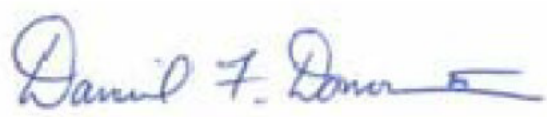
Date

Transcribed Interview Transcript Errata Form

Interviewee	[redacted]
Date of Interview	5/31/24
Date of Review	6/6/24
Name of Reviewer	Samantha Paige Yi
Signature of Reviewer	

Page	Line	Suggested Correction

Transcribed Interview Transcript Errata Form

Interviewee	Director, Product Management, Google
Date of Interview	May 31, 2024
Date of Review	December 16, 2024
Name of Reviewer	Daniel Donovan
Signature of Reviewer	

Page	Line	Suggested Correction
5	20	"[Redacted Witness Name]" should be "Alphabet"
7	20	"Alphabet Google" should be "Alphabet; Google"
8	24	"increased for" should be "increased from"
20	8	"team helps" should be "team that helps"
35	3	"So product" should be "So the product"
35	17	"on Gemini" should be "on the Gemini"
61	6-7	"maximizing helpfulness, meeting" should be "maximizing helpfulness and meeting"

Transcribed Interview Transcript Errata Form

62	10-11	"insert profession" should be "insert a profession"
65	9	"are" should be "is"
Page	**Line**	**Suggested Correction**
68	17	"reflective" should be "reflected"
74	20	"intro" should be "introduced"
77	16	"understand is that tradeoff" should be "understand; it's a tradeoff"
78	23	"policy example being" should be "policy example, being"
79	1	"incorrect, should" should be "incorrect, it should"
89	1	"Example" should be "An example"
89	5	"are" should be "is"
89	8	"those" should be "that"
100	1	"comes" should be "come"

Transcribed Interview Transcript Errata Form

100	5	“it” should be “it’s”

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4
5 COMMITTEE ON THE JUDICIARY,
6 U.S. HOUSE OF REPRESENTATIVES,
7 WASHINGTON, D.C.
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13 INTERVIEW OF: [redacted]
14
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16
17
18 Thursday, June 6, 2024
19
20 Washington, D.C.
21
22
23 The interview in the above matter was held in room 2237, Rayburn House Office
24 Building, commencing at 10:07 a.m.

1 Appearances:

2

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted] PROFESSIONAL STAFF MEMBER

8 [redacted] DIGITAL ASSISTANT

9 [redacted] PROFESSIONAL STAFF MEMBER

10 [redacted] DEPUTY CHIEF COUNSEL FOR OVERSIGHT

11 [redacted] MINORITY INTERN

12 [redacted] MINORITY INTERN

13 [redacted] MINORITY OVERSIGHT COUNSEL

14 [redacted] MINORITY INTERN

15 [redacted] MINORITY STAFF ASSISTANT

16

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18 For the SUBCOMMITTEE ON CRIME AND

19 FEDERAL GOVERNMENT SURVEILLANCE:

20

21 [redacted] MINORITY DETAILEE

22

23

24

25

1 For [redacted]

2

3 EHREN HALSE, ESQ.

4 KING & SPALDING

5 1700 PENNSYLVANIA AVENUE NW, SUITE 900

6 WASHINGTON, D.C. 20006

7

8 MICHAEL D. BOPP, ESQ.

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11 WASHINGTON, D.C. 20036-5306

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[redacted] This is a transcribed interview of [redacted]. Chairman Jordan has requested this interview as part of the committee's investigation of how and the extent to which the executive branch has coerced and colluded with companies and other intermediaries to censor speech.

Would the witness please state your name for the record?

[redacted]. [redacted], and I go by [redacted]

[redacted] Thank you.

On behalf of the committee, I want to thank you for appearing here today to answer our questions. The chairman also appreciates your willingness to appear voluntarily.

My name is [redacted] and I'm with Chairman Jordan's staff.

I'll now have everyone else from the committee who's here in the room introduce themselves as well.

[redacted] [redacted] with Chairman Jordan's staff.

[redacted] [redacted] Ranking Member Nadler's staff.

[redacted] [redacted] with Ranking Member Nadler.

[redacted] [redacted] Ranking Member Nadler.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] [redacted] Ranking Member Nadler's staff.

[redacted] [redacted] Ranking Member Nadler's staff.

[redacted] [redacted] Ranking Member Nadler's staff.

[redacted] [redacted] Chairman Jordan's staff.

[redacted] I'd like to now go over the ground rules and guidelines that we will follow during today's interview.

Our questioning will proceed in rounds. The majority will ask questions first for 1

hour, and then the minority will have an opportunity to ask questions for an equal period of time if they choose. We will alternate back and forth until there are no more questions and the interview is over.

Typically, we take a short break at the end of each hour, but if you'd like to take a break apart from that, please just let us know.

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

[redacted]. Yes.

[redacted] So the court reporter can take down a clear record, we will do our best to limit the number of people directing questions at you during any given hour to just those people on the staff whose turn it is.

Please try and speak clearly so the court reporter can understand and so the folks down at the end of the table can hear you. It is important that we don't talk over one another or interrupt each other if we can help it, and that goes for everybody present at today's interview.

We encourage witnesses who appear before the committee to freely consult with counsel if they so choose.

It is my understanding that you are appearing today with counsel. Is that correct?

[redacted]. That is correct.

[redacted] Could counsel please state your name for the record?

Mr. Bopp. Yes. Michael Bopp, Gibson Dunn, representing [redacted]

Mr. Halse. Ehren Halse, King and Spalding, representing Alphabet.

[redacted] Thank you.

1 We want you to answer our questions in the most complete and truthful manner
2 as possible, so we will take our time. If you have any questions or if you do not
3 understand one of our questions, please let us know.
4 Our questions will cover a wide range of topics, so if you need clarification at any
5 point, just say so.
6 If you honestly don't know the answer to a question or do not remember, it is best
7 not to guess. Please give us your best recollection, and it is okay to tell us if you learned
8 information from someone else. Just indicate how you came to know the information.
9 If there are things you don't know or can't remember, just say so, and please
10 inform us who, to the best of your knowledge, might be able to provide a more complete
11 answer to the question.
12 You should also understand that although this interview is not under oath, that by
13 law you are required to answer questions from Congress truthfully. Do you understand
14 that?
15 [redacted]. Yes.
16 [redacted] This also applies to questions posed by congressional staff in an
17 interview. Do you understand this?
18 [redacted]. Yes.
19 [redacted] Witnesses that knowingly provide false testimony could be subject to
20 criminal prosecution for perjury or for making false statements under 18 U.S.C. Section
21 1001. Do you understand this?
22 [redacted]. Yes.
23 [redacted] Is there any reason that you are unable to provide truthful answers to
24 today's questions?
25 [redacted]. No.

1 [redacted] Finally, I'd like to make a note that the content of what we discuss
2 here today is confidential. We ask that you not speak about what we discuss in this
3 interview to any outside individuals to preserve the integrity of our investigation.
4 For the same reason, the marked exhibits that we will use today will remain with
5 the court reporter so that they can go in the official transcript, and any copies of those
6 exhibits will be returned to us when we wrap up.
7 That is the end of my preamble. Is there anything that my colleagues from the
8 minority would like to add?
9 [redacted] We would just like to thank you for appearing today, and make
10 our standard now request for the majority to release all the transcripts of the transcribed
11 interviews that we've done. I believe we've done well over a hundred.
12 [redacted] The clock reads 10:10. We will start the first hour of questioning.
13 EXAMINATION
14 BY [redacted]
15 Q Could I have you state your full name again for the record.
16 A Yes. It's [redacted].
17 Q And what is your current place of employment?
18 A I work for YouTube, which is a -- the parent company is Google.
19 Q And what is your role at YouTube?
20 A I am a senior manager on the Government Affairs and Public Policy team.
21 Q Okay. And which office are you based out of?
22 A I'm based out of San Francisco.
23 Q I'll begin with college. What is your educational background?
24 A I have a bachelor's from NYU. Do you need years?
25 Q That's okay. Just degrees.

1 A Okay. And then a master's in information management and systems from
2 UC Berkeley's School of Information.
3 Q What is your professional background?
4 A Immediately following college, I worked in the publishing side of National
5 Journal in Congress Daily/A.M., working for Atlantic Media. Following that, I worked as
6 an advertising coordinator for Barron's parent company Dow Jones. Following that, I
7 worked for Mac World Magazine. Following that, I moved over to a think tank called
8 Institute for the Future, where I worked as a research manager.
9 Then I went back to school, got my master's. And then I have been employed by
10 Google since 2011, I believe.
11 Q Okay. So we'll start with once you started at Google. What was your first
12 position with the company?
13 A I was a -- I believe my title was analyst, Public Policy.
14 Q And how long were you in that position for?
15 A I don't remember the total number of years. At some point I was
16 promoted to a different title. I've been promoted several times over the last 13 years.
17 So all of it kind of in the same vein within Google, just different titles.
18 Q What are some of the promotions that you recall, even if the timing's not
19 exactly precise?
20 A From analyst to senior analyst -- or, sorry, from senior analyst to manager,
21 and then from manager to manager II, which isn't stated externally. And then from
22 manager II to senior manager.
23 Q Okay. Are you familiar with the terms "misinformation," "disinformation,"
24 and "malinformation"?
25 A I am familiar with the terms "misinformation" and "disinformation."

1 Q And do you understand what's the difference between those terms?
2 A I understand that those terms are often used interchangeably and
3 sometimes used in different ways, depending on the context.
4 Q How long have you been in your current position for?
5 A So I have been in my current position at YouTube now since, I believe,
6 October of 2019.
7 Q And were you involved or at YouTube your entire time at the company or is
8 that only for a portion of your tenure?
9 A Sorry, do you mean in that last -- in that 5-year period?
10 Q No, just since 2011.
11 A No. I've only been at YouTube since 2019.
12 Q And the Public Policy team at Google that you were part of prior to that, is
13 that a -- how does that team -- what is that team's relationship to the YouTube team that
14 you're now a part of?
15 A So the broader Public Policy team has undergone a significant amount of
16 restructuring over the course of that last 13 years. And so when I initially started, there
17 wasn't a YouTube public policy team.
18 The current iteration of the YouTube Public Policy team really came to be around
19 the time that I moved over. So I would say like mid-2019, shortly after another
20 organizational restructuring.
21 Q Before the restructuring, what was your position at the company?
22 A I was on the Central Public Policy team for Google. I've always had
23 internal-facing roles at the company. And in that role, I had a number of different
24 responsibilities but they were all sort of global in nature.
25 Q What is the central -- you said it's the central team, the Public Policy team?

1 A That's what it was called at the time.

2 Q Yeah. And what was that team's responsibility?

3 A That team's responsibility was to be across a range of product areas and a

4 range of public policy issues at a global level.

5 Q And when you say there's multiple products, would that include both Google

6 Search and YouTube?

7 A That would include all products under the Google parent umbrella.

8 Q And just for clarity on the record, including YouTube?

9 A I wasn't responsible for YouTube at the time, but there was -- that was one

10 of the products that was covered generally by folks on the team.

11 Q Who did you report to before the restructuring?

12 A I reported to [redacted].

13 Q In your position immediately prior to the restructuring, did you have

14 interactions with Google's Trust and Safety team?

15 A If I did -- I don't recall specifically, but if I did it was on a very limited basis at

16 the time.

17 Q In your role immediately prior to the restructuring in 2019, did you have

18 interactions with the executive branch?

19 A Yes.

20 Q Which parts of the executive branch?

21 A Early in -- I don't remember what year. Sometime in the mid-teens, I was

22 doing some work around what we call data-driven innovation, where there -- we were

23 working with the Census Bureau and other data owners within the government in relation

24 to just sort of best practices for data, to make data publicly available.

25 Q Besides the set of interactions with the Census Bureau, did you have other

1 interactions with the executive branch during your time with Google pre-restructuring?
2 A Not that I can recall. It was quite a long time ago.
3 Q During your time prior to the restructuring, did you receive any briefings or
4 have the opportunity to have meetings with or any involvement with YouTube's
5 community guidelines or content moderation policies?
6 A Because we had team members who were responsible for covering YouTube,
7 I generally did not have any direct interaction with the Trust and Safety teams.
8 Q So at some point in 2019, there's a restructuring and you joined YouTube's, it
9 sounds like, newly created Public Policy team. Is that correct?
10 A That's correct. I would characterize it as there were people who covered
11 YouTube from a public policy perspective prior to the restructuring, and 2019 was the
12 formation of the sort of more formal team that we have today.
13 Q Once the team is restructured, what is the structure of the team? Is there
14 a VP in charge? How is that team set up?
15 A Yes. There's a VP in charge.
16 Q Who was the individual in charge of the YouTube Public Policy team
17 immediately following the restructuring?
18 A [redacted].
19 Q And how did you end up with the YouTube Public Policy team?
20 A Do you mean what was the process through which I moved into that role?
21 Q Sure. We'll start there and then --
22 A Sure. We at Google have -- one of the things that's important is internal
23 mobility. And so there was an open role available, and I applied for the open role and I
24 moved into the open role.
25 Q By the end of 2019 or thereabouts, how big was YouTube's Public Policy

1 team?

2 A I don't recall. It was certainly smaller than 10 people, but I don't recall

3 exact numbers.

4 Q And how big is it today?

5 A I also don't know what the total number is. We now have a team that has

6 people who are responsible for local government engagement and relationship

7 management in all of the major regions, as well as a sort of centralized team. I don't

8 want to give you an inaccurate number, but I believe it's more than 20 at this point.

9 Q So following the restructuring, what was your first position with YouTube?

10 A I was a manager of Public Policy.

11 Q And how many people reported to you in that role?

12 A I don't think anybody.

13 Q What were your responsibilities in that first role with YouTube?

14 A So I -- very similar to my previous position at Google, my role is global in

15 nature. And so I -- you know, we were building up a team at the time, so I covered

16 anything that really needed to be covered from a sort of central and internal-facing

17 perspective.

18 Q Did you have any interactions with the executive branch?

19 A What time period?

20 Q In your first role with YouTube.

21 A So my role hasn't really changed. It's effectively the same, just with kind of

22 different titles. So are you asking the question generally in my role at YouTube, given

23 that?

24 Q Sure. Happy to rephrase it.

25 During your time at YouTube, have you had interactions with the executive

1 branch?

2 A Yes, I have.

3 Q Which parts of the executive branch?

4 A I meet with a range of stakeholders from governments around the world,

5 and so I can't recall really more than a handful of examples.

6 Q Which examples can you recall?

7 A So in the early 2021 time period, I remember and based on review of

8 information for this interview, a couple of meetings, one that I remember clearly, one

9 that on the record happened that I don't remember, with a group of representatives from

10 the White House Digital Strategy Office.

11 Q Which meeting do you remember clearly?

12 A I don't remember which one. The record shows that there were two, and I

13 don't know which was which.

14 Q Okay. With the understanding you don't know which is which based off the

15 documents, for the meeting that you remember, what do you remember about it?

16 A I remember that we were giving a briefing, which was very similar to

17 briefings that we gave any stakeholder from governments anywhere, about YouTube's

18 four Rs in relation to COVID.

19 Q What were the four Rs?

20 A So the four Rs is the responsibility framework that YouTube uses.

21 Q To your recollection, who from the company attended that meeting?

22 A The individuals I remember from the company being there for sure were

23 [redacted], [redacted], and [redacted].

24 Q And who from the government attended?

25 A I only remember Rob Flaherty attending. I don't remember any other

1 representatives.

2 Q Was this an in-person meeting or did it occur over videoconference?

3 A It was 2021, so everything we were doing at the time was over

4 videoconference.

5 Q Do you recall how long the meeting lasted?

6 A No.

7 Q Who from the company participated in actually giving the briefing?

8 A As I said, I don't remember who was in the meeting. What I can tell you is

9 from reviewing the presentations that we gave, [redacted] myself, and at least one other

10 individual were the actual speakers in the meeting on behalf of the product areas.

11 Q Either based off your review in preparation for this interview or based off

12 your memory, do you know which portions of the briefing you would have been

13 responsible for?

14 A I would've been responsible for the ones that are -- some of the ones that

15 are specific to YouTube.

16 Q Do you recall which ones?

17 A I recall a few slides that my name is in the speaker notes on, so I was

18 responsible for those.

19 Q Do you have any memory other than having reviewed the speaker notes?

20 A I don't. Again, this was pretty much a standard briefing that we were giving

21 in various forms for various government stakeholders around the world.

22 Q Who requested -- who from the company requested that you attend this

23 briefing?

24 A My colleague [redacted]

25 Q And to your recollection, what was the context of why there was going to be

1 a briefing?

2 A Again, it wasn't unusual for there to be a request for a briefing on the

3 responsibility work, the four Rs framework, in relation to COVID at the time.

4 Q Were you aware of any individuals from the company having interactions

5 with the White House prior to [redacted] requesting that you attend a briefing?

6 A In my experience with the Public Policy team over the course of 12 years, it

7 is not unusual for our team in D.C. to have communication with external government

8 stakeholders, including the White House.

9 Q So understanding the kind of broader context of the normal course of

10 events, do you have any recollection specifically here in advance of the White House

11 meeting of 2021 whether you were aware going into that about the nature of

12 communications between the folks in D.C. from the company and the White House?

13 A I was aware, once I was asked to join this meeting, that this was the topic of

14 the briefing. I wasn't privy to other -- or I at least don't recall any other communication

15 between the White House and our teams that I was directly involved in in any way.

16 Q To your understanding, who from the company was primarily interfacing

17 with the White House during this time?

18 A So that would be our administration team in the Google Public Policy team's

19 administration team based here in Washington, D.C.

20 Q And at this -- you know, during 2021, to your understanding, who -- which

21 individuals would that have been?

22 A For Google, it would have been [redacted], who was the -- oversaw

23 that team; and then [redacted] who was part of her team. Beyond that, I can't recall who else

24 was part of [redacted] team.

25 Q Independent of this White House meeting, how frequently were you

1 interacting with [redacted] in 2021, let's say?

2 A I'm not really sure. I interacted more frequently with [redacted] on my team

3 and, you know, occasionally had emails from [redacted] but I -- or [redacted] but I couldn't with any

4 certainty even give you a ballpark of how often I interacted with her.

5 Again, we were all sort of living our lives digitally, and everything is a little bit of an

6 information blur.

7 Q To the best of your recollection, how frequently were you interacting with

8 [redacted] in 2021?

9 A Frequently.

10 Q Would that mean daily or weekly?

11 A At least weekly.

12 Q Within the YouTube Public Policy team, where did your roles fit in relation to

13 one another?

14 A Would it help if I just kind of lay out the overview of the team structure for

15 you?

16 Q That would be very helpful.

17 A Okay. So the way that our team is structured is that we have two

18 internal-focused teams, and then we have three main regional teams whose primary

19 responsibility is to be external-facing. And then we also have a third team that partners

20 with our marketing teams.

21 So the two internal-facing teams, my team is the product policy team, and then

22 we also have a business policy team.

23 The external-facing teams are the Americas team, which includes, at the time,

24 [redacted] and the others in D.C., as well as Brazil, Canada. We also have a European team,

25 people in London, people in Brussels, people in France, Germany. And they cover the

1 breadth of Europe and as well as northern Africa and the Middle East.

2 And then we have an APAC team, and they cover the Asia Pacific region. So

3 they're responsible -- we have some folks in certain countries. We have others based in

4 Singapore.

5 So they're responsible for the direct engagement and relationship management

6 with stakeholders in their countries in their regions.

7 The internal-facing teams then, we are -- I've often described my role as being an

8 interpreter. So my job is to kind of explain in layman's terms how things work and how

9 sort of, you know, products work, for my colleagues to engage with stakeholders

10 externally. Occasionally, I'm asked to join briefings because I can just give a bit of a

11 deeper dive. In addition, I do an extraordinary amount of legislative analysis and work

12 with our legal teams to identify red lines and amendment language.

13 And then the final piece of it is kind of interpreting the public policy landscape

14 back for our product folks. So, for example, compiling a sort of assessment of trends

15 globally related to a specific public policy issue area where there is movement in the

16 legislative landscape.

17 Q Within the internal team that you were part of and still are part of, the

18 product policy team, who is the head of that team?

19 A It's currently -- our director is [redacted].

20 Q And how long has [redacted] been in that role for?

21 A [redacted] joined -- what year is this? 2024. [redacted] joined in January of 2023, I

22 believe.

23 Q And who had that role prior to her joining?

24 A Prior to her joining, I was sort of the interim team lead. And that was from,

25 I want to say, 20 -- at some point in 2020, I took over that interim role, and I think it was

1 probably around March or May. But I honestly don't remember the dates. It was a lot
2 longer than it was meant to be.
3 Q And when you were in that interim role, who did you report to?
4 A I reported to [redacted].
5 Q And is that who [redacted] now reports to?
6 A Yes.
7 Q And so you mentioned one of your responsibilities is serving as an
8 interpreter. Just to clarify my understanding of what you're saying, so sometimes you'd
9 be briefing, say, [redacted] or someone else from the D.C. office, and other times you
10 might be briefing a representative from the government, whoever it was that was in need
11 of a briefing. Is that right?
12 A That's right.
13 Q Which team within YouTube is responsible for developing YouTube's
14 community guidelines?
15 A That would be our Trust and Safety team.
16 Q And how frequently do you interact with the Trust and Safety team as part
17 of your role at YouTube?
18 A Because my role is an internal-facing one, it's not unusual for me to interact
19 with members of the Trust and Safety team generally on at least a weekly basis.
20 Q Who is the head of YouTube's Trust and Safety team?
21 A The Trust and Safety team broadly has two VPs.
22 Q Who are the two VPs?
23 A So [redacted] is the VP who's responsible for policies and enforcement.
24 And then [redacted], her team handles more of the technical and
25 product-related aspects, such as user flagging flows.

1 Q Has the frequency with which you interact with YouTube's Trust and Safety
2 team changed from your current role as opposed to when you were the interim head of
3 the Public Policy team?
4 A No. And just to clarify, it was interim head of the product policy team, not
5 the general public policy team.
6 Q I'm sorry.
7 So from time to time, YouTube's community guidelines are updated in advance of
8 a change to YouTube's community guidelines.
9 Let me take one step back. What is your understanding of the company's
10 internal process? What initiates the consideration of changing the company's content
11 moderation policies?
12 A YouTube's teams are always evaluating the policy lines to see if there is
13 any -- you know, if there are any gaps, for example, between harmful content emerging
14 on the platform and where those policy lines are. And so it's not a sort of -- it's not a
15 kind of stop and start thing. It's always -- there's always kind of work underway to make
16 sure the lines are in the right place.
17 Q Once there's a situation where a gap is identified, to your understanding,
18 what's the next step in the process?
19 A My understanding, and this is in large part based on a -- the way that we
20 have -- the information that we've made publicly available about this process, is that the
21 teams will compile examples of content on the platform, because, again, we're making
22 policies for content on YouTube, and so basing those on content on YouTube is a critical
23 piece of the assessment process.
24 Q And when you say teams, which teams are you referring to?
25 A You mean the teams that compile the examples?

1 Q Yes.
2 A That would be within our Trust and Safety team.
3 Q Do you know which teams within the Trust and Safety team are responsible
4 for compiling the examples?
5 A I think -- I don't want to speak without certainty, so I believe it's a
6 collaborative effort across different parts of Trust and Safety, but I'm not 100 percent
7 certain. I think it might depend on the circumstances of the policy.
8 Q At this point in the process of collecting examples, are you involved at all?
9 A Do I help collect examples?
10 Q Yes.
11 A No.
12 Q At what point are you made aware of -- let's take one step back to the
13 previous step. If a gap is identified and the team is starting to collect examples, are you
14 made aware of that?
15 A Occasionally, I may be.
16 Q Are there any policy changes you can recall where you were made aware of
17 when a gap was first identified?
18 A I don't recall. I think there's a -- sort of a difference between when the gap
19 was first identified and kind of during the process where they've started to look at the
20 examples and think through where the gap is and how to address it.
21 Q Once the YouTube Trust and Safety team starts to collect examples, what is
22 the next step in the process, to your understanding?
23 A So my understanding is that they kind of look at the existing community
24 guidelines, and then they begin to iterate on ways to reconstruct them and how that
25 would impact different types of content related to the community guidelines.

1 Q Do you know which teams within YouTube Trust and Safety have
2 responsibility for taking the first attempt at reassessing or redrafting some of the
3 guidelines?
4 A Yes.
5 Q Which team?
6 A That would be our policy development team within Trust and Safety.
7 Q And who leads that team?
8 A That team's director is [redacted].
9 Q As [redacted] team is working on this, are you participating in this
10 reassessment or revision of the guidelines?
11 A It depends. Occasionally -- I don't -- my team is not responsible for the
12 redrafting, but we may be consulted in a way of sort of, you know, where we are asked to
13 ask questions, or basically, you know, make sure that -- I mean, honestly, some of it is just
14 to make sure it makes sense and get a sense from different parties, not just GAPP -- which
15 is the acronym used for the Public Policy team, sorry -- kind of the, you know, how will
16 creators interpret and be able to understand this.
17 You know, the -- my understanding is that the trust and safety process is quite
18 rigorous in making sure that they are really doing due diligence across a number of
19 different entities.
20 Q Is there an assessment of whether certain policy changes will harm how
21 certain creators make money off the platform?
22 Mr. Bopp. You mean generally --
23 [redacted] Just generally.
24 Mr. Bopp. -- do they do assessments?
25 [redacted] Yeah.

1 [redacted]. One important distinction to make is that the community
2 guidelines are not monetization policies. So they have nothing to do with how creators
3 would make money on the platform.
4 [redacted] Can you say a bit more about the difference between the
5 monetization policies and the community guidelines policies?
6 [redacted]. Sure. So the community guidelines that YouTube publishes are
7 the policies that govern whether content would be removed or remain on the platform or
8 in other cases potentially be age-gated or put behind some kind of a warning interstitial.
9 For example, graphic violence content from a war zone is something that might be
10 put behind a warning interstitial, but because of the kind of documentary and historical
11 value, it would -- it might be allowed to remain on the platform.
12 The policies that govern monetization are called the advertiser-friendly guidelines.
13 And those are -- if something violates the community guidelines, it's removed. If
14 something -- or age-gated, as it were. The monetization policies are a completely
15 different set of policies.
16 [redacted] And who's responsible for developing those policies?
17 [redacted]. There is -- I'm not sure who is actually the lead for that team.
18 They are -- there's overlap, I believe or understand, overlap between the ads policies for
19 Google broadly and then the advertiser-friendly guidelines for YouTube.
20 [redacted] I'm sorry. You're saying advertiser-friendly guidelines, is that the
21 word?
22 [redacted]. Advertiser-friendly guidelines, yes. And you can find them in the
23 Help Center. They're publicly available.
24 BY [redacted]
25 Q So is there a -- actually, let me take one step back.

1 Take GAPP, for instance. Is there -- is the YouTube GAPP team within the
2 broader Google GAPP team or are these two separate teams with two separate reporting
3 structures within Alphabet?
4 A We are part of the broader Google GAPP team.
5 Q And then in the trust and safety context, is there a separate YouTube trust
6 and safety from the rest of Google's Trust and Safety teams or is YouTube subsumed
7 within Google's Trust and Safety team?
8 A I believe that YouTube is separate, but I'm not certain what the relationship
9 might be with the leadership on the Google T&S side.
10 Q And then for the advertiser-friendly guidelines, whichever team is in charge
11 of that, to your understanding, is the structure that it's within the broader Google ads
12 team or is it akin to YouTube's Trust and Safety, where it's in its own separate silo, to your
13 understanding?
14 A So my understanding is that it's more of they sit within the Google ads
15 structure, but I'm also not 100 percent certain how that's all organized. So I don't want
16 to -- I can't say with certainty.
17 Q Do you have familiarity with how revisions are made or changes are made to
18 the advertiser-friendly guidelines?
19 A They have a very similar process, but I haven't -- I'm not as familiar with their
20 process.
21 Q Who within the YouTube Public Policy team would have the most familiarity
22 with that process?
23 A Oh, I don't know.
24 Q Do you have a point of contact with the advertiser from that team?
25 A Yes. There's a -- there's a -- somebody who -- I don't know if he's the lead,

1 but yes.

2 Q What's his name?

3 A [redacted].

4 Q Has there been a situation where there's a change being considered for the

5 community guidelines that will lead to an increase in removals such that there could be a

6 material impact on how certain creators make money off the platform?

7 Another way of asking that is, absent any change to the advertiser-friendly

8 guidelines, a change just in the community guidelines, are you aware of any situations

9 where that type of change leads to the ability of certain accounts to make money off the

10 platform?

11 Mr. Bopp. Just so I understand, you're saying -- you're asking whether a change

12 to the community guidelines could lead to an advertiser making more money on the

13 platform?

14 [redacted] Asking more from the creator's perspective. So I certainly can

15 appreciate that if there's a change to the advertiser-friendly guidelines, that could affect

16 monetization. But if there's a change to the community guidelines and a YouTube video

17 is being removed -- and this is just maybe my own ignorance on it -- but doesn't that

18 almost preempt, for lack of a better word, any opportunity to monetize the video if it's

19 been removed?

20 [redacted]. If a video is removed, it can't be monetized.

21 [redacted] So turning back to where we were a few minutes earlier about a

22 number of teams, GAPP, others are being, you know, brought in to consult on changes to

23 the community guidelines, are there any teams, is there any discussion about the impact

24 to creators who use the platform to make money?

25 Mr. Bopp. I'm sorry. I'm not -- just the impact of what on creators?

1 [redacted] The impact of changes to the community guidelines affecting their
2 ability to make money off the platform.
3 Mr. Bopp. Okay. Do you understand the question?
4 [redacted]. I think I understand the question.
5 Mr. Bopp. Okay.
6 [redacted]. What I can tell you is that the evaluation of -- the team's work in
7 evaluating content when community guidelines are changed is really about the impact on
8 content.
9 The monetization considerations are not kind of -- that is -- again, it's really -- the
10 focus on changing the policies and tweaking the policies when they do it is about
11 removing content from the platform and safety and responsibility.
12 So I'm not aware of analysis of how CGs impact monetization, because, again, the
13 community guidelines are about safety and responsibility when it comes to
14 people's -- users finding or being exposed to certain types of content, versus the
15 monetization policies are their own thing.
16 BY [redacted]
17 Q Do you recall examples of changes to the community guidelines? Were you
18 individually or one of the GAPP members to consult on the change?
19 A I don't. What I often do is get briefed or a heads-up early on in the process
20 so that I can begin to prepare our materials for the Public Policy team to be able to
21 understand and explain any substantial changes or updates.
22 Q How long is the typical timeline from when you first get that notification of
23 some sort to when the policy takes effect?
24 A As I've sort of explained, the process through which our Trust and Safety
25 teams undertakes these reviews and updates is quite rigorous and robust, and so there's

1 no set timeline from start to finish.

2 Q For examples you do recall, do you have a sense? Are we talking months?

3 Are we talking a couple weeks?

4 A I don't recall a specific example.

5 Q There's this evaluation phase where members of the GAPP have the

6 opportunity to or may be asked to consult and provide feedback or ask questions. What

7 is the next step in the process, based off your understanding?

8 A So one thing I want to also clarify is that, again, GAPP is not the only group

9 that might be consulted or read in or have the policies explained. So I just want to make

10 sure that that's clear.

11 In terms of next steps after that, as I've said, it's a pretty robust process. I

12 believe I mentioned that they, you know, are looking at the language. And then from

13 there, I -- it's a matter of kind of testing them, understanding how well they can be

14 understood, interpreted, enforced. And then they go through kind of a process of

15 approvals before the Trust and Safety team prepares for the stages of launch.

16 Q Besides the GAPP team, which other teams may be asked to ask questions or

17 consult?

18 A Our PR and comms teams. Our creator teams. I mean, pretty much every

19 cross-functional stakeholder, and legal is also involved. I'm sorry that I can't give you

20 kind of a full list of all of the different cross-functional stakeholders. I don't know all the

21 departments and orgs.

22 Q As different teams are consulting and providing their thoughts, then one of

23 the next steps, to your understanding, is the proposal is tested. To your understanding,

24 how does that testing take place?

25 A I don't recall the specifics. What I would say is that anything that I could

1 explain is outlined in a blog post that the teams -- that YouTube published like a year and
2 a half ago that outlines the process.
3 Q Since you've joined YouTube, to your understanding, has this process
4 changed?
5 A Not to my knowledge and not in my experience.
6 Q To your understanding, the team responsible for testing the proposed
7 change, is that the same team that was conducting the evaluation or is that handed off to
8 different teams as it goes through the process?
9 A Again, I'm not sure sort of the different -- the nuances of who does what in
10 which part of Trust and Safety at that point.
11 Q Okay. To your understanding, it's all within the Trust and Safety umbrella?
12 A Yes.
13 Q To your understanding, what is the approvals process?
14 A There are a number of executives and other stakeholders who review, ask
15 questions, and then ultimately sign off and approve.
16 Q Which executives?
17 A The VPs of Trust and Safety who I mentioned previously, and then also our
18 CEO.
19 Q The CEO of YouTube or CEO of Alphabet?
20 A YouTube.
21 Q To your understanding, is this true no matter how major or minor the
22 change is to the community guidelines?
23 A That's my understanding, yes.
24 Q Do you know how the proposal is delivered to the executives, whether it's a
25 briefing or a written work product?

1 A They do briefings.

2 Q To your understanding, who attends those briefings?

3 A A number of the cross-functional stakeholders that I've referenced, as well

4 as the VPs.

5 Q Who from the Public Policy team, if anyone, attends?

6 A It depends on who's available, so generally it would be Lisa or Leslie.

7 Q Have you ever attended one of these briefings?

8 A Yes.

9 Q How many times?

10 A Oh, I don't know.

11 Q Fewer than five?

12 A More than five.

13 Q Do you recall any examples of which parts of the guidelines were being

14 changed for the briefings you attended?

15 A I can remember one clear example.

16 Q Which example is that?

17 A The policy change was related to minors in sort of risky situations. So, for

18 example, videos of -- I don't remember the full details, but, you know, videos of girls

19 doing gymnastics.

20 Q To your recollection, what was the change that was made?

21 A I don't remember.

22 Q In the briefings you have attended, generally, what's the process? How do

23 those meetings play out?

24 A It's effectively what I outlined for you already.

25 Q There's a briefing on the change, the CEO has the opportunity to ask

1 questions?

2 A It's a briefing on the change, and everybody attending has the opportunity to

3 ask questions.

4 Q At the end of the meeting, is there a decision made about whether to

5 approve the change?

6 A Sometimes. Sometimes there's a decision made to do more work.

7 Q Is it one briefing with the executives and the CEO, or is there a briefing first

8 to some of the executives before it's elevated to the CEO?

9 A It's not -- I wouldn't say it's a particularly linear process. So things might go

10 through rounds of review at all different levels before it ultimately goes into final

11 approval.

12 Q Do you recall any community guideline changes that were under

13 consideration where the CEO asked for more work to be done?

14 Mr. Halse. [redacted] I think we're getting close to some privileged communications.

15 I think the process questions have been fine, but the more specific you get the closer we

16 get. And there are lawyers in all these meetings.

17 So just if -- [redacted], if you can just think of that and try to apply that filter,

18 that would be really helpful.

19 [redacted] Are you aware of instances where the CEO asked for more work to be

20 done before approving a policy change?

21 Mr. Halse. I think that if [redacted] recalls specifics, [redacted] I think that would be

22 covered by the privilege.

23 BY [redacted]

24 Q Without getting into specifics, are you aware of instances, just broadly?

25 A Not that I can recall specifically.

1 Q How long do these briefings typically last?
2 A Again, it depends. Anywhere from 30 minutes to an hour.
3 Q Have you ever presented in one of these briefings?
4 A I can't recall a specific time where I presented.
5 Q In the briefings that you've attended, based off your recollection, how many
6 folks from Trust and Safety would attend?
7 A I don't know.
8 Q Is it just the two VPs or do they bring in more folks?
9 A Because this is a Trust and Safety-led briefing, they often have any number
10 of attendees from the Trust and Safety organization present.
11 Q In one of these briefings where there's a consideration of a change to the
12 community guidelines that the CEO and other executives are attending, are there
13 multiple items on the agenda or is the meeting being called specifically to consider and
14 have the chance to evaluate a change to the community guidelines?
15 A Again, it depends.
16 Q Are you aware of instances of both, where sometimes it was just the change
17 to the community guidelines being considered and times where it was just one item of
18 them -- several on the agenda?
19 A Yes.
20 Q Do these briefings tend to occur in person, over some type of
21 videoconference?
22 A Because we have a hybrid work model and people are distributed in
23 different locations, including in different buildings in the same city, it's -- there's
24 all -- some people are in person, some people are on video.
25 Q To your understanding, is there someone taking notes during these

1 meetings?

2 A I don't know.

3 Q Have you ever seen or been provided a readout from one of these briefings?

4 A There is usually a privileged summary of decisions that might've been made.

5 Q Once the CEO and the executives -- actually, let me take one step back.

6 To your understanding, what is necessary for the approval to take place? Does

7 there have to be -- does there have to be a unanimous decision among the executives?

8 A I am not -- I'm not really sure. It's not -- in my experience, it hasn't been a

9 sort of like unanimous consensus. I think there are often -- you know, again, because

10 there are different cross-functional stakeholders involved, you know, different folks might

11 have objections to certain elements or pieces or -- so I can't really -- that's a question I

12 can't really answer.

13 Q Who is the ultimate decision-maker then about whether a change to the

14 community guidelines is approved and will be carried out?

15 A Ultimately, Neal Mohan, the CEO.

16 Q You had mentioned too that there's the opportunity for executives and also

17 stakeholders to be part of the approvals process. Who did you mean by stakeholders?

18 A As I referenced earlier, you know, working members of the creator teams of

19 our, you know, civic engagement teams, of partnerships teams, of -- I mean, you name it,

20 there's -- it is PR, comms, just to give you some examples. I don't have a full list for you.

1 [11:06 a.m.]

2 BY [redacted]

3 Q And I understand it's not an exhausted list. When you're referring to these

4 briefings, they have both the stakeholder and the executives in the same briefing. Is

5 that right?

6 A In my experience, yes.

7 Q Once the decision' been made to approve a change to the community

8 guidelines, how long is the gap from that decision until the policy change is publicly

9 announced?

10 A Again, there's no set timeline.

11 Q In your experience, approximately how long has it been?

12 A It really -- it ranges. It depends.

13 Q Okay. What's the fastest you've seen?

14 A Several weeks, I think. But, again, that's what I can sort of recall from

15 recent updates. But it could also take as long as several months, which I have also seen

16 from recent updates.

17 Q To your understanding, what is happening in that interim period from when

18 a policy's been approved until it's publicly announced?

19 A This is, again, where the -- I think the way that this was described in the blog

20 post would be a helpful reference. There is work to be done.

21 Again, these policies are global. And I think that's a really important thing to

22 emphasize here, especially as we get into this area of the development process.

23 And so the enforcement teams need to ensure that the policies can be

24 consistently applied; that the guidelines can be interpreted by content moderators

25 around the world in all languages in which YouTube operates, so that there is a level of

1 consistency in the way that the policy is applied to all contents on the platform.

2 Q How is this step different than the testing step prior to the potential policy

3 change being elevated to the executives?

4 A This is a matter of understanding scaled enforcement. Again, YouTube

5 needs to ensure that those policies can be consistently applied globally. And so they

6 need to do testing with the content moderation workforce to make sure that these

7 policies can indeed be applied consistently.

8 Q Are you aware of instances where the CEO approved a change to the

9 community guidelines, but then, in an effort to see whether it could be -- you could have

10 scaled enforcement of that policy change, it was determined that it's not possible, or that

11 certain changes had to be made?

12 A I have not experienced any of -- I have not been involved or experienced

13 that.

14 Q How long is the gap typically from when a policy has been publicly

15 announced, and then the date that actually takes effect?

16 A Again, that -- it's not a fixed -- it's not a fixed time period. What I can tell

17 you is that there are times when the public announcement will be made. The teams at

18 YouTube will begin enforcing, and they will announce along with that that there is a

19 30-day grace period for during which content will be removed.

20 But because it's a new policy and the teams want to give creators time to get used

21 to those new policies, they will not issue penalties for those removals.

22 But that's just one example to give you a sense of how the timeline might vary.

23 Q Can we go off the record, please?

24 [Discussion off the record.]

25 BY [redacted]

1 Q We are back on the record. Thank you, [redacted]. You have worked at
2 Google since 2011, I believe, you said?
3 A Yes, I believe that's right.
4 Q And in your entire time at the company, have you always been on a public
5 policy team?
6 A Yes.
7 Q And in your current role as a senior manager on YouTube's Government
8 Affairs and Public Policy Team, are you personally involved in making content moderation
9 decisions?
10 A I am not.
11 Q And do you engage in fact-checking?
12 A I do not.
13 Q And I understand from your previous testimony that you are sometimes
14 consulted about policy changes. But are you responsible for drafting content
15 moderation policies at Google or YouTube?
16 A No.
17 Q Okay. And none of the content -- or none of the community guidelines, for
18 example, you are not involved in drafting the community guidelines?
19 A I am not. No, I am not.
20 Q And in your prior roles at Google, did you conduct any content moderation?
21 A No, content moderation has not been part of any of my roles at the
22 company.
23 Q Thank you. And has drafting community guidelines been part of your role
24 at the company?
25 A No, as I explained to your colleague, the drafting of community guidelines is

1 the responsibility of the trust and safety teams.

2 Q And because you have not been on the trust and safety teams, you have

3 never played a role in deciding what content or whether a particular content is removed

4 from the platform or not?

5 A Correct.

6 Q Okay. Thank you. Now, you talked about the way the YouTube public

7 policy team is structured. And I believe you said that there are two internal facing

8 teams and three external facing teams, correct?

9 A That's correct.

10 Q And the external facing teams, it's a core part of their function to interface

11 with government in the regions of the world that the team is responsible for, correct?

12 A Correct.

13 Q And so, for the America's team, it's a primary function of the members of

14 this team to interface with various individuals and agencies in the U.S. Government?

15 A Yes.

16 Q Now, you've worked at Google during three Presidential administrations,

17 correct? It took me a minute to get there, too. So take your time.

18 Mr. Bopp. I think so.

19 [redacted]. I think that's right.

20 BY [redacted]

21 Q We will all have to double-check for a sec, but I think that's correct. It's the

22 Obama administration when you started --

23 A Correct.

24 Q -- the Trump administration, and now the Biden administration?

25 A I think that's right.

1 Q And Google has had public policy teams or sub teams within its public policy
2 team whose function it was to interact with U.S. Government officials during all three of
3 those Presidential administrations, correct?
4 A That's correct, yes.
5 Q And the members of those teams do their job, engage in those interactions
6 without respect to the political affiliation of the administration that's empowering at any
7 one time. Is that fair to say?
8 A I believe that's fair to say.
9 Q And would you say that their work is nonpartisan?
10 A Their work is not partisan. The team that's responsible for interfacing and
11 interacting with the administration, interfaces and interacts with the administration
12 regardless of the political alignment of whoever's in the administration.
13 Q And you mentioned several times that your work at Google, and now at
14 YouTube, is global, correct?
15 A That is correct.
16 Q And you mentioned of the three teams, two of those teams are interfacing
17 with governments throughout the world and not the U.S. Government, correct?
18 A That's correct. And on the YouTube team, I'd also add that the team that
19 interfaces with the U.S. Government also interface with non-U.S. Governments as well as
20 because broadly the Americas team.
21 Q So of the YouTube, all the different members of the YouTube Government
22 Affairs and Public Policy Team, how much -- and I don't expect you to put a number on
23 it -- but if you could just describe what portion of the work is devoted interfacing with the
24 U.S. Government versus other governments and other issues that you deal with?
25 A I can't -- I can't really speak for other colleagues, and even give a ballpark.

1 What I can tell you is in my experience, when I am receiving incoming from global
2 colleagues, when I'm, you know, asked to occasionally join a meeting, it's really all over
3 the board. And so, I see -- you know, my experience has been that, you know,
4 U.S.-based engagements are as, if not less frequent than some of the international
5 engagements writ large.
6 Q You know, even though you are not responsible for drafting YouTube's
7 community guidelines, I imagine you have just a basic level of understanding of those
8 guidelines, correct?
9 A Yes, I do my best. That's the piece of my role.
10 Q And those guidelines are published and publicly available for users to see?
11 A Yes.
12 Q And YouTube has -- at least as long as you've been at Google -- there have
13 always been community guidelines that outline what type of content is prohibited on
14 Google's platform, and not YouTube in particular?
15 A As long as I've been at Google, yes, I believe that YouTube has always had
16 community guidelines. But also let me rephrase that a little bit.
17 Q Sure.
18 A As long as YouTube has been around, YouTube has always had some type of
19 policies related to content.
20 Q Thank you. I was about to ask whether that was something that you had
21 knowledge of. And those policies prevent harmful content on the platform, such as hate
22 speech, nudity, child sexual abuse material, that type of content, correct?
23 A Correct, as they are today.
24 Q And YouTube also has policies against misinformation, correct?
25 A Yes.

1 Q And YouTube's community guidelines prohibit misleading or deceptive
2 content that poses a serious risk of egregious harm. Is that correct?
3 A Yes.
4 Q And --
5 A Sorry, if I could be -- if I can provide a little bit more specific -- that line you
6 just read, it's kind of the broad explanation of what types of content the misinformation
7 policies generally seek to address. The specifics then are laid out in the individual
8 policies that are listed below on that page.
9 Q And what are some of those individual policies?
10 A We have a policy that prohibits voter suppression, for example. So content
11 that might interfere with people's ability to go out -- for example, telling people that, you
12 know, their polling day is Wednesday when it's actually a Tuesday.
13 We also have a policy around manipulated media where if content -- I'm actually
14 not going to try to say the policy -- but there is effectively a deepfake policy in that list of
15 misinformation policies as well. So just to give you a couple of examples.
16 Q That list of misinformation policy falls under this largest, this larger umbrella,
17 I believe, that's way you explained it. My term -- but my interpretation of what you said
18 of the misleading or deceptive content that poses a serious risk of egregious harm. Is
19 that fair to say that those are all sub policies under that umbrella?
20 A I would say that an umbrella is more of a description of the general type of
21 content, and the individual policies are what actually determine and explain what specific
22 content that broader thing is talking about.
23 Q Thank you that was much more articulate. Why, to the extent that you
24 have an understanding, does YouTube prohibit that type of content that creates a serious
25 risk of egregious harm?

1 A My understanding is that the company is -- again, this is consistent with the
2 work that the company more broadly does to try to limit the user's exposure to and the
3 availability of harmful content on the platform.
4 Q And does YouTube do this solely to protect its users, or is there also a
5 business interest in prohibiting that type of content on the platform?
6 A In general, YouTube really is focused on safety and responsibility. That
7 said, it is a platform where, you know, creators make money based on advertisers and
8 advertisements.
9 And so, some of the policies -- you know, advertisers, in general, also don't want
10 their content running next to, for example, egregious hate speech.
11 But the primary role of these policies is, as I said, was to make our platform, make
12 YouTube as a platform a place where people aren't exposed to harmful content as much
13 as possible.
14 Q Now going back to YouTube's misinformation policy, YouTube has prohibited
15 medical misinformation on its platform since well before the Biden administration. Is
16 that correct?
17 A Certain types, yes.
18 Q Okay. And when the COVID-19 pandemic arose, did YouTube implement
19 specific policies prohibiting COVID-19 misinformation?
20 A Yes.
21 Q And do you recall when that happened?
22 A I believe the first COVID misinfo policies were published as early as
23 mid-2020, but I'm not certain. I had a small child at home while I was working, so that
24 whole period of time is not clear.
25 Q Fair enough. I think many of us share that.

1 A But certainly in 2020.

2 Q And again, to the extent that you can say why did YouTube decide to

3 implement a COVID misinformation policy?

4 A So YouTube, I believe talked bit about this publicly as well. This was a

5 global pandemic. There were claims surfacing in content on YouTube that the policy

6 development teams had in consultation with, you know, medical experts, felt it was

7 appropriate to put policies in place to not have that content on the platform.

8 Q And so, those policies were developed with the input of medical experts at

9 Google?

10 A My understanding is that they were developed with medical experts both

11 within and outside of Google.

12 Q Thank you for that clarification. And in October 2020, YouTube updated its

13 COVID-19 misinformation policy to include the prohibition on content making certain

14 claims related to the COVID vaccine. Is that correct?

15 A I believe that is correct. I would have to confirm the timing, but I do

16 believe that we added some vaccine-related -- that YouTube added some vaccine-related

17 claims to the prior misinfo policy.

18 Q Would it refresh your memory to look at some notes on a slide deck that

19 YouTube prepared where you described that timeline?

20 A Yes. I will.

21 Q If I could have the complete slide deck.

22 A Thank you.

23 Q It might take me a minute to find where this is.

24 Mr. Bopp. Can we get copies, please?

25 BY [redacted]

1 Q If you look at -- I will direct your attention, specifically, to Bates No. 70642.
2 Okay.
3 Now, first of all, this slide deck, if you look at the front pages from February 25th,
4 2021. Is that correct?
5 A Yes, that's correct.
6 Q And does this slide refresh your memory about when YouTube updated its
7 COVID-19 misinformation policy to include certain content-related containing claims
8 related to a COVID-19 vaccine?
9 A Yes, that would have been October of 2020 then.
10 Q Okay. And that was when Donald Trump was President of the United
11 States, correct?
12 A Yes.
13 Q And if you look at the next page, which are notes on that slide, it states that,
14 "Our teams have removed 800,000" -- and then there's -- in parentheses "(for closed door
15 meetings only) videos related to dangerous or misleading COVID-19 medical
16 information." Did I read that correctly?
17 A Yes.
18 Q And to the best of your recollection, is that an accurate figure?
19 A I didn't -- I wasn't responsible for the figures. What I can say is that this
20 figure was validated by teams and provided to me for use in global closed-door meetings.
21 Q And given that this slide deck was prepared in February of 2021, and
22 President Biden had only been in office for about a month at that point, is it fair to
23 assume that many of those 800,000 videos were removed during the Trump
24 administration?
25 A If this stack was in this deck in February of 2021, then that is probably

1 accurate, but I can't say with certainty.

2 Q Can I have just a minute?

3 A Sorry, if I can also add one note?

4 Q Please do.

5 A Again, this is a global statistic. So this wasn't just U.S.-based removals.

6 This was removals around the world in any country where YouTube operates.

7 Q Thank you. And this slide deck is one -- I believe you just said that you

8 would use in any global closed-door meetings, correct?

9 A The information is, yes.

10 Q The information, okay. And is this typical of the type of briefing that

11 YouTube would give to external stakeholders, including government officials?

12 A Yes.

13 Q And that would be government officials around the world, not just

14 government officials in the U.S.?

15 A Yes.

16 Q And with that we'll go off the record.

17 [Discussion off the record.]

18 BY [redacted]

19 Q We can go back on the record, please. In the first hour, we talked about

20 how sometimes you would brief, maybe [redacted] other members of GAPP, or other

21 representatives might brief the representatives from the Federal Government. We

22 talked a little bit about one of the White House meetings.

23 During your time at YouTube, so since restructuring, do you recall other instances

24 where you briefed directly Members of the executive branch?

25 A Yes.

1 Q And what are some of the examples that you can recall?
2 A I recall two other briefings. There may have been more, but these are the
3 ones that I can remember. Again, I don't just meet with the U.S. Government officials.
4 So I remember a briefing with -- and I apologize that I don't know where they sit in
5 the broader organization. I briefed members of the White House on an update to
6 reproductive health policy. And I don't recall exactly when that was.
7 And also, because I'm based in the Bay Area, a lot of times government officials
8 will come from around the world to visit and do like a little tour of companies. And so
9 I'm often asked to join those meetings when they come to town.
10 And so -- especially I can think of two specific instances in those circumstances.
11 One of them was with a meeting in Mountain View hosting the NSA, members from the
12 NSA. And the other was in San Francisco where Josh Geltzer from the National Security
13 Council joined Matt Collins from the U.K. Government.
14 Q Starting with the first example you gave, actually I guess first at the outset
15 when you say the discussion was around reproductive health, in what context is it related
16 to what YouTube is handling?
17 A So that was very similar to sort of one of the policy update briefings that I
18 had described earlier where YouTube implemented policy change. And our standard
19 practice when YouTube does that, we often will brief a handful of -- or my -- well, my
20 colleagues will want to brief a handful of government stakeholders. And in some cases,
21 they bring me in talk about it. So that was the nature of that briefing.
22 Q Okay. And at a high level, what were the policy changes that had
23 occurred?
24 A I don't remember the details of the policy change. What I can recall is that
25 it was related to harmful misinformation, or what was deemed to be medically harmful

1 misinformation about ways to -- unauthorized means to get -- to perform an abortion.

2 Q Who from the company attended the meeting?

3 A Myself and one of my colleagues on the YouTube GAPP team based in D.C.

4 Q Do you recall who?

5 A [redacted]

6 Q What's [redacted] last name?

7 A [redacted]

8 Q Was this an in-person meeting?

9 A No, it was over video.

10 Q Anyone besides you and [redacted] in the company?

11 A I don't recall. I don't think so.

12 Q Who from the government attended?

13 A As I said, I don't remember. Like I don't know where people sit, and I don't

14 remember specific names.again, this is a case where my colleagues will set up the

15 briefings, they'll ask me to join and explain something, and then I join and say, "Hello,"

16 and then do the briefing, and that's generally the end of my engagement.

17 Q Do you recall if it was the Trump White House or the Biden White House?

18 A I believe it was the Biden White House.

19 Q Was it soon in time after the meeting you had with Rob Flaherty at the

20 vaccine misinformation, or was this much later?

21 A It was, I believe, at least a year later.

22 Q Who from the company had asked you to attend this meeting?

23 A [redacted]

24 Q And what -- did [redacted] -- brought any additional details or context about the

25 purpose, or what questions may be raised during the meeting?

1 A What I can recall is that related to that policy change, colleagues pull
2 together a list of folks for outreach, and this was one of those meetings. So it was just a
3 standard, get the briefing.
4 Q How long did the meeting last for?
5 A I don't remember.
6 Q Do you recall any questions from the White House staff?
7 A I don't recall.
8 Q Were there other representatives from the U.S. Government where you
9 provided briefing about the changes of the guidelines prior to reproductive health?
10 A Not that I can recall, but it's possible.
11 Q Just taking one step back. At least, based off the examples you have been
12 able to recall since you joined YouTube, it sounds like there haven't been too many
13 instances where you directly are briefing representatives from the U.S. Government.
14 If you had to take a guess as far as the percentage, the fraction, how does that
15 compare to how many times you're briefing say [redacted] or [redacted] or someone else in advance
16 of their meeting with a U.S. Government representative?
17 A I don't want to give an inaccurate estimate. But in the time that I spend
18 briefing and prepping my internal colleagues, not just in the U.S., but again, the global
19 colleague for this sort of thing, significantly outweighs the amount of time that I
20 participated in external briefings both with U.S. officials and global ones.
21 Again, that's because I am generally internal facing. And so I do my best to
22 empower them to be able to share the information that's relevant.
23 Q Do you recall any instances where you were briefing other members within
24 YouTube about the reproductive health changes within the guidelines?
25 A I vaguely recall walking through in a team meeting, but I don't -- and that

1 would have just been the YouTube public policy team.

2 Q Do you recall any discussions with YouTube public policy team about

3 whether HHS or other agencies had questions about the reproductive health policy

4 change to the community guidelines?

5 A I don't recall.

6 Q How about just generally? Do you recall any instances where people from

7 the public policy team came back to you or someone from your team with questions from

8 HHS?

9 A I'm sorry, I don't recall.

10 Q What about CDC?

11 A Not that I can recall.

12 Q Turning to the example you gave about when NSA visited in person, what

13 was your role? What was the extent of your interaction when representatives from NSA

14 were visiting?

15 A I joined in order to facilitate a brief. And by "brief," it was less than has

16 been hour, if I can recall, session, specifically, on YouTube.

17 Q And do you recall the topic about YouTube in particular?

18 A Yeah, generally, I -- it was one of the engineers who had worked on some of

19 the more advanced innovative video compression technology. So, again, YouTube is a

20 platform with 500 hours of video every minute. And in order to store that amount of

21 data and serve it to users as a video-sharing platform, they have really had to figure out

22 some stuff on the technical side to be able to compress those files down, store them, and

23 then serve them up to users in a way that reduces the amount of storage is requires.

24 Q Was there any discussion about YouTube's community guidelines?

25 A I don't recall. Not that I recall.

1 Q Is there a team within the company that addresses issues related to
2 inauthentic accounts or behavior?
3 A Yes.
4 Q Which team is that?
5 A On the YouTube side?
6 Q On the YouTube side.
7 A It's a member of the trust and safety team. Members of the trust and
8 safety team.
9 Q Do you know of the two VPs which, under which leadership that team fails
10 under?
11 A I believe it's under [redacted]
12 Q Have you ever been asked to give a briefing to someone from the U.S.
13 Government about how the platform handles inauthentic behaviors for actors?
14 A Are you talking about -- can you clarify what you mean by inauthentic?
15 Q Sure. Much about what we discussed today so far as to content, maybe
16 the content's misleading or it's false, and there's all sorts of categories that may apply.
17 Concerns about either individuals misrepresenting who they are in the account or
18 misusing the account. Sometimes tied to one influence campaign?
19 A Got it. Thank you.
20 So to be clear, there are -- and to clarify my answer to your previous
21 question -- the things like impersonation, that is -- and then some of the deceptive
22 practices policies that are outlined in the community guidelines that may have overlap
23 here, that is done as part of the community guidelines enforcement under [redacted]
24 team.
25 When you talk about sort of the foreign pieces, the influence, that is also a team

1 under [redacted] team. But that team works in close coordination with a Google
2 team.
3 So I just want to be clear that these are keenly different things.
4 Q That's helpful. For that latter team, do you know who is the head of that
5 team?
6 A So the Google team is the threat analysis group.
7 Q And have you had interactions with that group during your time at YouTube?
8 A I have and in my time at Google.
9 Q And what's been the nature of your interactions of that team?
10 A I helped to -- I was part of the team that helped to launch what's called the
11 TAG bulletin, which is a quarterly transparency report effectively that provides
12 information about actions that Google took across products against identified
13 coordinated influence operations.
14 Q Do you know who [redacted] is?
15 A Yes.
16 Q Did you have interactions with him while you were at the company?
17 A Yes.
18 Q Other than the preparation and launching of the TAG bulletin, do you have
19 other interactions with them as part of your role at the company?
20 A I -- in my role more generally when I was at Google, I worked on the broad
21 Google transparency report. And so, I worked closely with [redacted] on, like, legal
22 requests for user data, as well as the kind of anything that fell into this space from a
23 global perspective around governments and their legislative efforts related to legal
24 process to request user data.
25 Q Were you ever made aware of any requests made by the U.S. Government

1 to someone at Google for where the U.S. Government was asking for more user data, but
2 without having to go through legal process?
3 A In my experience, I have not encountered that example.
4 Q Are you familiar at all with the FBI's Foreign Influence Task Force?
5 A I've heard of it, but I'm not intimately familiar with how it's constructed or
6 what its responsibilities are.
7 Q Do you have any familiarity with personnel from Google's interactions with
8 the Foreign Influence Task Force?
9 A Not in my experience, no, and not that I can recall, anyway.
10 Q When it comes to -- let me take one step back. To your understanding,
11 does YouTube have community guidelines that address concerns related to hack
12 materials?
13 A I believe at some point we did have a policy, but I don't know what the
14 status of that policy is today.
15 Q Were you involved in any of the discussions about changes to or the
16 involvement of that policy?
17 A I was not.
18 Q Were you ever made aware of any steps YouTube was taking regarding how
19 to handle potentially hack materials in advance of an election?
20 A Not that I recall specifically.
21 Q For concerns about hack materials inappropriately being distributed on
22 YouTube's platform, to your understanding, which team would have primary
23 responsibility for that issue?
24 A If, as it was described as a community guideline, then that would be my
25 understanding, and there may be some nuance that I'm not aware of, but that would

1 generally be the trust and safety team. Because that would be a community guidelines
2 enforcement, again, as I understand it.
3 Q Are you familiar with the October 2020 New York Post story on Hunter
4 Biden's laptop?
5 A I vaguely recall, yes.
6 Q To your understanding, did either YouTube trust and safety team, or the TAG
7 team conduct any sort of assessment about that article, about the hack materials
8 described in -- potentially hack materials described in that article?
9 A I don't. I don't recall anything that I saw.
10 Q Do you have knowledge or any awareness of whether any such assessment
11 took place?
12 A Not that I'm -- not that I recall.
13 Q The example you gave of the National Security Council representative who
14 visited the San Francisco office, what was the context of that visit?
15 A He was there with Matt Collins from the U.K. Government. And we
16 provided a briefing, and I joined on behalf of YouTube. And we had a representative
17 from the Threat Analysis Group in the room to talk about that team's work. My role was
18 to talk about how YouTube interacted with TAG. And that meeting was actually not
19 organized by the U.S. team, it was organized by our U.K. public policy team.
20 Q When did that meeting occur?
21 A In the last year, potentially.
22 Q Who from YouTube attended?
23 A I believe that I was the sole representative from YouTube, but it's possible
24 that a legal colleague joined as well. I don't remember.
25 Q Is Mr. Geltzler, you said, from the National Security Council?

1 A Geltzler.
2 Q Geltzler.
3 A Geltzler.
4 Q Did he have any questions?
5 A I don't recall any questions. What I remember from that meeting is largely
6 Matt Collins and his presentation in advocacy.
7 Q And what was he advocating for?
8 A Are you familiar with GIFCT?
9 Q At a very high level?
10 A So at a very high level, Matt was interested in trying to come up with some
11 kind of a GIFCT for foreign influence.
12 Q And is that a -- did you pass along what Mr. Collins had to say to other
13 members within the company?
14 A The meeting consisted of members from -- other members from the
15 company, including a representative from the Google legal team. And so, I don't
16 remember what the readout we provided afterward. It's standard practice when there's
17 a visit to headquarters or to the Bay Area, whether there is the kind of write-up and
18 summary of what that meeting consisted of.
19 What I can tell you is that the general kind of consensus was that, you know, we
20 wanted to talk to them about, talk to Matt, in particular, about the proposal and why we
21 didn't feel that that was a necessary or appropriate thing to move forward with.
22 Q And why did the company not feel it was necessary or appropriate for them
23 to move forward with?
24 A A lot of had to do with the nuances of the U.K. issues, and what Matt was
25 looked to solve for with this, which wasn't going to actually solve what he was trying to

1 solve for.

2 Q Okay. To your understanding, what was he trying to solve for?

3 A He was looking to more quickly -- again, I think, find a way to more quickly

4 share threat information from the U.K. Government across -- with companies and

5 have -- serve an information exchange platform among those companies.

6 Q And who from the companies making the assessment of whether this is an

7 appropriate or practical response?

8 A It was a general, just kind a general consensus and discussion.

9 Q Were the representatives from the TAG team there?

10 A The representatives from the TAG team were there, but I think it was

11 largely -- again, I don't remember the specifics of how we came to the consensus. But

12 there was also input from global public policy because this would have been a global

13 organization. There was general broad consensus that I think -- again, it wasn't going to

14 solve for what Mr. Collins was looking for it to solve. And it wasn't necessary.

15 Q To your understanding, had there been additional communications between

16 YouTube and representatives from the U.K. Government about this issue?

17 A Not that I am aware of.

18 Q In the first hour, you broke down the regional leads within your team. And

19 within the Americas, it's U.S. and U.K. -- or excuse me, U.S., Canada, and Brazil. Is that

20 right?

21 A That's correct.

22 Q Is there further division within that team? One is head of the U.S., one is

23 ahead of Canada, one is head of Brazil?

24 A Yes.

25 Q Who's the head of the U.S. team?

A [redacted].

Q Who's the head of the Canada team?

A She is now new, and when we say "team," we're talking about one person.

Q Okay.

A So her name that [redacted]. But she just took that position like 2 weeks ago, maybe.

Q Who had the position previously?

A [redacted].

Q And for Brazil?

A [redacted]. And again, this is only the YouTube team, okay.

Q And within for these YouTube teams, is it Brazil, Canada, and U.S. -- is each team just the one person?

A [redacted] oversees the whole Americas team. There is a second person in Brazil.

Q Who's the second person?

A [redacted].

Q I apologize for the misunderstanding. [redacted] oversees both the America's writ large, and then also the U.S. team within that team?

A Correct. Yes.

Q And how many people work for just the U.S. team within the America's team?

A There's been a lot of quite a bit of change in the last 2 weeks. So right now it's just [redacted]

Q Okay. Let's say like a month ago when things were --

A There were two people. [redacted].

1 Q Have you been asked to provide any briefings regarding court orders
2 received by YouTube from the Brazilian Government?
3 A I have not interacted directly with the Brazilian Government, no.
4 Q Have you briefed any either public policy team or YouTube or Google about
5 questions about court orders from the Brazilian Government?
6 A Are you -- is there a specific type of court order you have in mind?
7 Q Court orders regarding the removal of YouTube accounts.
8 A Again, I am aware in my role kind of generally about -- and again because of
9 my experience having worked on a lot of Google transparency report, about the legal
10 process for government requests for removal under local laws.
11 And so, in that regard, I have at times, but I can't recall a specific instance
12 explained to my colleagues how the government, you know -- that we do take in
13 government requests and how we kind of bandage and handle them.
14 But I don't -- I can't recall a specific instance around a court order in Brazil or court
15 orders separately to Brazil related to removal of legal content.
16 Q Do you recall through one of your colleagues on the public policy team, were
17 there any question from a representative from the U.S. Government about court orders
18 from Brazil to YouTube?
19 A Not that I recall.
20 Q The NSA visit that you mentioned to the Mountain View, when did that
21 occur?
22 A I don't recall specific dates. It was after -- I believe it was once we had
23 started returning to the office, so probably after 2022, or 2022 later, but I don't
24 remember.
25 Q And you recall that being no more than an hour discussion?

1 A The YouTube component of it because it was -- again because I remember
2 the subject matter. It was very -- it was less, it was definitely less than an hour.
3 Q And who from YouTube is attending?
4 A It was myself and then an engineer.
5 Q And how many representatives from the NSA were there?
6 A There were other representatives from Google in the room as well. And
7 we didn't do intros. So I don't actually know who was from the NSA and who was from
8 Google to be able to give you an estimate. I think there were probably about 10 to 15
9 people in the room total. But that's just a ballpark.
10 Q Are there any questions or any discussion about content moderation policy?
11 A Not specifically that I can recall. But I vaguely remember doing just kind of
12 a framing at the beginning about the four Rs, which is, again, standard practice when I'm
13 participating in a meeting like this.
14 Q So we've talked about the White House meeting in 2021, about community
15 guidelines regarding vaccine content, the reproductive health, White House meeting at
16 some point later in the administration, the NSA meeting, the NSE and U.K. meeting. Are
17 there any other examples that you recall during your time at YouTube where you
18 interacted directly with members of the U.S. Federal Government as part of your role at
19 the company?
20 A Would you include Members of Congress there as well?
21 Q We'll focus on the executive branch. As far as that would have fallen under
22 the previous question.
23 A So those are the examples that I can recall specifically.
24 Q Do you know who Andy Slavitt is?
25 A In reviewing materials for preparation here, his name is on emails and

1 calendar invites. But I don't recall him -- meeting him personally, or what his role is, or
2 was.
3 Q Going into the meeting with the White House, what was your understanding
4 of what the White House was concerned about or requesting more information on?
5 A I was asked to provide a briefing about our responsibility work related to
6 COVID and misinformation, which was a pretty standard request at the time for either me
7 to join, or for me to prepare a deck and materials for all of my colleagues globally.
8 Q In the first hour, we talked through how changes to the community
9 guidelines occur, and, you know, at one point, GAPP consultant asked questions.
10 Do you recall the process that went through when it came to first developing and
11 then revising the community guidelines related to COVID-19 and vaccines?
12 A Is there a particular aspect of that?
13 Q Or just -- well, I am going to drill down on a bit more specifically which parts
14 you can recall. But just generally speaking, the development of those policies and
15 revisions of those policies as the pandemic continued, to your understanding, the
16 changes to those policies more or less follow the process that you outlined in the first
17 hour?
18 A Yes.
19 Q As it related to changes to the community guidelines regarding the COVID-19
20 vaccines, do you recall whether you, specifically, were consulted with or had the
21 opportunity to ask questions regarding any of the changes to those policies?
22 A Not that I recall, specifically. Not that I recall.
23 Q As part of your work, were you ever asked to provide a briefing either
24 directly or to -- brought to a member of the GAPP team that would be handling the
25 meeting with either the Presidential campaigns in the 2020 election?

A I don't recall participating in briefings with either of them.

Q For a meeting like the one with Mr. Flaherty in the White House, what typically is the threshold of where the company decides it would be helpful to have you attend the meeting?

Mr. Bopp. You're asking for her understanding or, you know, when the company or what factors the company takes into account in deciding whether she should go to a meeting?

[redacted] Yes.

Mr. Bopp. All right. So to the extent you know.

[redacted]. I wish I had a better understanding myself, to be honest. In this case, you know, [redacted] reached out and asked if I would be able to join and do a briefing.

BY [redacted]

Q Whether for this meeting or some of the other instances where you engaged directly with then Representatives from the U.S. Government, did you get the sense that there were meetings between the GAPP team and U.S. Representatives before, and discussions reached a point where the GAPP representatives on that call were not quite in the weeds enough to satisfactorily answer questions? What's typically the contents of when you're brought in?

A I don't want to speculate because I don't recall what or -- I'm not aware of whatever discussions might have been happening within the Beltway.

What I can tell you is that it really depends. Sometimes it's because I can just speak -- there may be a Q&A where I can just -- am just a little bit better prepared to answer questions because of the fact that I am -- I spend a lot more time reading and understanding our community guidelines.

And again, in that role as an interpreter, I'm often the one who provides the kind

1 of explanations to my colleagues who give the presentations and briefings on the ground.
2 So sometimes it's just a little bit easier and more fluid for me to join and talk. Other
3 times, I -- you know, colleagues have told me that there is sometimes just value in having
4 a person from headquarters. And so, that's kind of the time that I may be asked to join.
5 Q For the meeting with Mr. Flaherty, do you recall anything about the tone of
6 the meeting?
7 A No.
8 Q Do you recall any work product that you prepared, specifically, for the
9 meeting?
10 A Yes.
11 Q And what was that?
12 A I believe one example is the copy of the deck that your colleagues passed
13 out earlier.

1

2 [12:25 p.m.]

3 BY [redacted]

4 Q And do you recall who was involved in creating that?

5 A I recall that for this February deck, [redacted] myself, and a colleague who I

6 honestly don't remember but whose name is on slide notes named [redacted]

7 [redacted] Exhibit No. 2.

8 was marked for identification.]

9 BY [redacted]

10 Q This will be exhibit 2. This is an email chain from April 2021, from members

11 of the White House to members of Google and YouTube.

12 A Okay.

13 Q Do you recall this email from Mr. Flaherty?

14 A I don't recall receiving this email at the time, but I have reviewed this email

15 recently.

16 Q And who's [redacted]

17 A [redacted] is a member of the civics partnerships team.

18 Q And what team is that?

19 A That is a team that works with civic stakeholder channels, so the campaigns,

20 certain third-party groups, I believe certain government entities, but I'm not a hundred

21 percent sure what their full remit is, so I don't want to misspeak there. And they work

22 with these entities on relationship management for their YouTube channels.

23 Q The [redacted] email on the second line of the two lines, who's that in

24 reference to?

25 A That's [redacted]. He is [redacted] manager.

1 Q Copied are a couple of individuals. We talked about Mr. Slavitt. Do you
2 recognize Ms. Humphrey or Ms. Fitzpatrick's names?
3 A I recognize the names from reviewing documents.
4 Q Otherwise, not intimately?
5 A I'm sorry. No.
6 Q Jumping to the "To recap" paragraph a couple lines down, Mr. Flaherty
7 writes, "we remain concerned that YouTube is, quote, funneling, closed quote, people
8 into hesitance and intensifying people's hesitancy."
9 Do you know what Mr. Flaherty meant by funneling people?
10 A I don't want to speculate about what Mr. Flaherty was getting at here.
11 Q Have you ever heard in other context concerns about how YouTube,
12 quote/unquote, funnels people?
13 A Not that I can recall specifically, but it is pretty much par for the course for
14 an online platform to be scrutinized for removal practices, content on the platform across
15 any number of issues everywhere in the world.
16 Q Do you recall questions from the White House about how videos were
17 recommended to users once they watched a certain video?
18 A I don't recall those questions specifically, if you mean from the meeting. I
19 don't --
20 Q Not necessarily from the meeting but just around this time period, either
21 directly to you or presented to you from [redacted] or others on the GAPP team?
22 A Anything that I would've been asked about is most likely captured in this
23 email. I don't recall anything else.
24 Q Do you recall Mr. Flaherty discussing funneling people?
25 A Only from re-reading this email.

1 Q Later in the paragraph, Mr. Flaherty writes -- this is the second line from the
2 bottom of that same paragraph -- "This is a concern that is shared at the highest (and I
3 mean highest) levels of the White House."
4 Do you recall Mr. Flaherty sharing anything to that effect during the meeting?
5 A I don't recall.
6 Q Do you recall any internal discussions at the company about what
7 Mr. Flaherty meant by this language?
8 A Not that I recall.
9 Q During this time, in April of 2021, what was your sense of how high up within
10 the White House there were concerns regarding misinformation on YouTube?
11 A Again, any understanding or information related to that would've been
12 basically what you're seeing here. So I don't have any additional -- I don't have any
13 additional perspective.
14 Q Who within YouTube is responsible for trying to understand what
15 Mr. Flaherty meant by the fact that this concern is shared at the highest levels of the
16 White House?
17 Mr. Bopp. You're asking if somebody at YouTube is responsible for what exactly?
18 [redacted] For understanding what Mr. Flaherty meant.
19 Mr. Bopp. Okay.
20 [redacted]. I don't know that -- I don't know that that was really a sort of
21 sentence that people really spent a lot of time trying to interpret. I certainly didn't.
22 BY [redacted]
23 Q And why is that?
24 A Because we get a lot of requests for information from a lot of different
25 people who cite a lot of reasons for why they're asking for information.

1 Q Were there concerns -- let me rephrase that.

2 To your understanding, what are some of the other interactions that the GAPP

3 team has had with the White House?

4 A In this context or generally?

5 Q Just generally.

6 A Again, my understanding is that my colleagues who are responsible for

7 relationship management with the administration take meetings with the administration.

8 Q So this is a pretty lengthy email from a senior member from the White House

9 who, obviously, took the time to draft it. To your understanding, was there anyone

10 within the Public Policy team that took note of Mr. Flaherty's communication that the

11 highest levels of the White House were concerned?

12 A Again, not that I recall.

13 Q In a meeting following like the one with Mr. Flaherty, what's the typical

14 protocol? Is there a readout? Does someone take notes?

15 A Sometimes people take notes. Generally, there's a short or a brief readout.

16 Sometimes it's just a one-and-done briefing. It really, again, depends on the stakeholder

17 and the nature of the relationship or -- I mean, there's no -- again, there is -- my role is a

18 very qualitative one that doesn't have, you know, hard rules of the road for things like

19 that.

20 Q In this context, do you recall if anyone was taking notes?

21 A I don't recall, no.

22 Q Do you know if anyone prepared a readout?

23 A I don't recall.

24 Mr. Bopp. You're asking about the meeting that preceded this email? I'm

25 sorry.

1 [redacted] Yes.

2 Mr. Bopp. Okay.

3 [redacted]. Yeah. I don't recall, and I also, even from preparing for this, I

4 don't recall if there was or if there was not.

5 BY [redacted]

6 Q You've had a chance to review the email. When reviewing it, were there

7 any points that you recall Mr. Flaherty bringing up in the meeting that you were in a good

8 position to answer or address?

9 A I mean, I think what -- I don't remember the Q&A portion of the meeting, so

10 I don't remember what specific questions he might have asked that I would have

11 answered in the meeting.

12 What I can remember is, now, what I said based on the slides, which, is, again, a

13 rough kind of broad overview of our responsibility work and, again, consistent with what

14 we were sharing with others globally.

15 Q Were there questions about, to your recollection, about borderline content?

16 A I don't recall the specific discussion, but in the deck, there is a slide about

17 borderline content.

18 Q Do you know who within the company is responsible for handling how

19 search results appear within YouTube?

20 A That would be our Search and Discovery team.

21 Q And is that the same team responsible for handling what videos are

22 recommended once you finish watching a video?

23 A Search and Discovery encompasses recommendations and search.

24 Q And who's the head of that team?

25 A I am not sure who's the head of that team right now.

1 Q Do you know who it was in 2021?

2 A I don't recall. I know that -- yeah, I don't want to misspeak on the

3 individual.

4 Q Do you have a point of contact on that team?

5 A I do today, but that person wasn't on the team in 2021.

6 Q Who's the person today?

7 A The person today would be [redacted].

8 Q Is the Search and Discovery team within the Trust and Safety team or

9 somewhere else?

10 A It's not. It's separate.

11 Q Where do they fit in the hierarchy -- where does that team fit within the

12 hierarchy?

13 A They're part of the broader product organization, but, again, I'm not really

14 familiar with the structure of the product organization.

15 Q Had there ever been -- I'm going to take one step back.

16 What does that team use to guide how search results appear and how

17 recommendations are issued?

18 Mr. Bopp. Which team are you asking about now?

19 [redacted] The Search and Discovery team.

20 Mr. Bopp. Okay.

21 [redacted]. So the reason I'm hesitating is because this is not a

22 straightforward question to answer. I don't know. Again, this is well outside the

23 boundaries of my role in terms of speaking about, you know, the specifics of how these

24 two systems work.

25 What I can tell you is that recommendations use a number of different signals to

1 determine what is potentially recommended to users. And on the search side of things,
2 when I talked about the 4Rs, one of them is raising authoritative information, end search
3 results. And so that's kind of one example of how that interplays there.
4 But in terms of the broader systems, I can't speak to how they work in a
5 meaningful way.
6 BY [redacted]
7 Q Do you know the process of how -- actually, let me take one step back.
8 Search and Discovery, are they in charge of both implementing as well as
9 developing changes to how search results appear and how recommendations are made?
10 A They oversee the entire kind of search and discovery system.
11 Q So sticking with the raising authoritative results example, who within the
12 company makes the decision that we as a company should raise authoritative results?
13 A I don't know when that decision was made, but that was a piece of the 4Rs,
14 which was in place when I joined at YouTube.
15 Q If there was going to be an effort -- so this is after you joined -- to raise
16 authoritative information in 2021 related to search results about vaccines, who within the
17 company is making an initial determination that this is a change that should be done?
18 A So let me zoom out a little bit, which is that, in general, the way these
19 systems are designed is such that they're raising authoritative information on kind of
20 news and information queries, among other things. So in my experience, it's not usually
21 a here is a topic, we need to make sure we're raising authoritative information.
22 The systems, in theory, they have tried to design them so that they actually would
23 do that because it would be kind of a relevant news and information-related topic. I
24 can't say for certain that that's how it went, but that is, in general, how these systems are
25 designed to work.

1 Q So taking one step back. Again, using vaccines or health-related issues.
2 There are a couple different ways the company could pick a guidepost. You could try to
3 elevate content that is likely to keep users on the platform. You could try to elevate
4 content that users find popular or enjoy watching. You can try to elevate content that's
5 authoritative.
6 There are different options, potentially, available to the company. I'm just trying
7 to get a sense of which team is making this assessment in any context, just for search and
8 discovery. Are these engineers or are these, like, policy people?
9 A I'm not sure I understand your question.
10 Mr. Bopp. Maybe you can rephrase it.
11 [redacted]. Yeah.
12 BY [redacted]
13 Q Sure. So certainly there are technical folks who are going to help build,
14 modify, tweak, so that results are appearing in a way that the company wants them to
15 appear, right, but I'm trying to take just one step back. There's got to be some sort of
16 guidepost or goal or set of policies or something that is illuminating what the team should
17 be aiming for, and I'm trying to get a sense of which team is responsible for that.
18 A I see. Okay. So I think the way that I can try to help answer this is really
19 about the way that YouTube has talked about this externally, which is the way that they
20 rely on -- so first of all, it would be within the Search and Discovery team. They fully
21 manage this. This is separate from Trust and Safety. So this is not -- there is no kind of
22 content moderation involved in this aspect of YouTube's product.
23 There is, again, some publicly available information about, for example, the way
24 that external raters are used to identify to kind of rate content that might be
25 authoritative or that might be not authoritative. And by that I mean sort of coming back

1 to raise and reduce the 4Rs, the authoritative piece, and then the borderline content
2 piece would be under reduce.
3 Q To your knowledge and awareness, has there ever been instances where a
4 team outside the Search and Discovery team instructed the Search and Discovery team to
5 change how recommendations were appearing?
6 A Not that I'm aware of, no, and not in my experience. There are guardrails
7 in place, and I have never -- I have, in my experience, not seen that happen or been aware
8 of that.
9 Q To your knowledge or awareness, have there ever been any discussions with
10 the Search and Discovery team about whether content containing misinformation was
11 appearing either too high in search results or was being recommended at too highly of a
12 rate?
13 A My understanding is that that team's -- you know, as the team that sort of
14 oversees these efforts, they do some evaluation, but I don't know the nature of that.
15 What I can tell you is the stat that you saw in the deck about reducing watch time
16 of borderline content and misinformation, which was 70 percent in 2019 in the U.S., and
17 that stat is the same stat that we use today. So I'm not aware of any additional.
18 Q I guess if you could just walk me through it. I'm familiar with the figure, but
19 is there not some sort of connection then between Trust and Safety and Search and
20 Discovery? Like, how is the company able to make that reduction?
21 A As I said, we rely on a different system, an external rater related to the
22 reduce pillar versus remove, which is Trust and Safety and community guidelines and
23 content policy.
24 Q There's a reference in the exhibit 2 here to borderline content. Is that a
25 term that the company uses internally?

1 A Yes.
2 Q And just so we're both making sure we're talking about the same thing, what
3 does borderline content mean?
4 A So I was just talking about the reduce pillar, and so in that case, the way that
5 the company has explained borderline content for these purposes is generally content
6 that comes close to but doesn't quite cross the line of violating our community guidelines.
7 Q Are you aware of examples of where, in an earlier time period, a certain type
8 of content was borderline content and then following a change to the community
9 guidelines, it was violative content?
10 A I am not aware of a specific example, but it's certainly possible.
11 Q And so in situations like that, if -- or I'll ask a different variation of the
12 question.
13 A Well, actually, if I can add something really quickly also. It's important to
14 note that borderline content is not just misinformation. So that could include
15 hate-adjacent content or, you know, harmful and dangerous violence pranks, things like
16 that.
17 Q So if it's possible for something that was borderline content possibly is
18 violative content under change to the community guidelines, is it possible to have content
19 that was not considered borderline content become considered borderline content after
20 a change to the community guidelines?
21 A It's certainly possible, though, again, they're different systems. So the way
22 the raters rate is separated from the guidelines that govern our removal policies. So I
23 don't actually know. I don't really know the answer to that question.
24 Q So let me -- and maybe I'm just misunderstanding what the raters are rating
25 based off of.

1 A They are trained using publicly available rater guidelines.

2 Q Aren't those ultimately rooted in the community guidelines?

3 A They are not.

4 Q They're not?

5 A No.

6 Q When it comes to enforcement for removal purposes, is there a separate

7 team within Trust and Safety that handles that enforcement from the development of the

8 policy?

9 A Yes. So there's the -- there is an enforcement part of the organization, as I

10 understand it, and then there's the Policy Development team. I don't -- I believe at

11 times the policy experts on the development team may be involved in evaluating content

12 on the enforcement side, but I don't have a specific example of that.

13 Q Okay. And when you mentioned there's the testing period of -- well,

14 there's one before the approval process and one after. The folks who are developing

15 the policy have in mind of what is violative content, presumably, and we talked about like

16 the examples being highlighted and whatever else. What processes are there in place to

17 assess whether the enforcement folks are meeting what that intention is?

18 A I don't know what the -- like what their specific processes are beyond how

19 we've kind of described it publicly in the blog post, which I can't recite verbatim. But

20 generally, they're looking to measure how consistently those policies are being enforced

21 and with accuracy.

22 [redacted] Can we go off the record, please?

23 [Recess.]

1

2 [1:35 p.m.]

3 [redacted] Okay. We can go back on the record.

4 EXAMINATION

5 BY [redacted]

6 Q So, [redacted], I want to touch on some of the issues you were talking

7 about during the previous hour. You mentioned the 4Rs, and I want to focus for a

8 moment on reduce. Is that the second R?

9 A Technically, the third, but --

10 Q Okay. Fair enough.

11 What does it mean to reduce content on YouTube?

12 A So when we say reduce in the context of the 4Rs, what YouTube is talking

13 about is efforts to reduce recommendations of borderline or potentially harmful content.

14 Q Okay. And I believe you said this earlier, but just to be clear, borderline

15 content refers to content that doesn't actually violate your policies but could still,

16 nonetheless, be harmful. Is that a fair statement?

17 A That's a fair characterization of how YouTube describes it, yes.

18 Q And when you talk about recommendations, when a user logs on to

19 YouTube, their home page will show videos that have been suggested to them by the

20 algorithm, correct?

21 A Correct.

22 Q And are those what you would consider recommendations?

23 A That's one of the spaces where we recommend content to users.

24 Q And what are the other spaces in which recommendations are made?

25 A YouTube calls another section Watch Next, and it's when you're reviewing a

1 video on YouTube and you see videos recommended. On a desktop, it's to the right.
2 Q And those recommendations, I assume, the algorithm generates based on
3 the content you've previously viewed?
4 A The system uses a number of signals to determine what to serve as
5 recommendations, and content that you've previously watched is one of the many
6 signals.
7 Q And when content is -- when borderline content is reduced -- and I'm sorry,
8 you might have just said this, but is it completely removed from recommendations or is it
9 just not recommended as frequently?
10 A It's limited in recommendations, and I think it's also --
11 Q If you could just wait a moment for that noise.
12 A Is it just a passing train?
13 Q A really long one.
14 Okay. Thank you very much. I appreciate it.
15 A It's just with regard to limiting in recommendations. It's still discoverable
16 on the platform. And, for example, if you subscribe to that channel, you'll still see that a
17 new video has been posted, and you'll still have it.
18 Q And I imagine you don't even have to subscribe. You could just visit the
19 channel. So if a friend tells me about a channel and I go to that channel, I will have
20 access to all the videos on that channel whether they have been reduced from
21 recommendations or not?
22 A Yes.
23 Q Okay. And is it fair to analogize this to when you walk into a physical book
24 store, you sometimes see at the front of the book store a table where there are staff
25 recommendations? A book might not be on that table, but it's still on the shelves in the

1 fiction section or the nonfiction section or wherever it belongs on those shelves.
2 Is it fair to say that reducing content means that it's not given that sort of
3 promotion, but it's still available to use?
4 A I think that's a fair analogy. I would also add that like a book store,
5 YouTube has limited surface space on the page when you're looking at it on a device to
6 actually show recommendations. And so, you know, not every video on YouTube is
7 recommended to every user because literally can't.
8 Q And no content creator has a right to have their video promoted or
9 highlighted or recommended by YouTube. Is that fair to say?
10 A I think that's a fair -- I think that's a fair way of explaining it.
11 Q And YouTube began reducing recommendations of borderline content in
12 2019, correct?
13 A That's correct.
14 Q And that was during the Trump Presidency, correct?
15 A Yes, that's correct.
16 Q Now, I'm going to switch gears for a moment and ask you just some zoom
17 out a little bit and get to the heart of what we're doing here today.
18 In your interactions with U.S. Government officials that you've been asked about
19 today, did any of these officials ever try to coerce you or, to your knowledge, anyone else
20 at YouTube into removing content?
21 A Not in my experience.
22 Q And did any U.S. Government officials try to coerce you to reduce content?
23 A Not in my experience.
24 Q Did any U.S. Government official ever threaten you or anyone else at
25 YouTube with adverse actions, such as reform of Section 230, or any other adverse action,

any policy that might impact Google or YouTube, if YouTube refused to take any particular action that the government official desired?

A Not in my experience.

Q That includes folks working at the White House. No one at the White House ever attempted to coerce or threaten you with regards to content or anything else for that matter?

A No.

Q And that includes Mr. Flaherty?

A No, I didn't -- not in my -- not in any of these interactions did we feel --

Mr. Bopp. I'm sorry. Go ahead.

[redacted]. I was going to say did we feel pressure to act.

Mr. Bopp. Right. I was just making clear that what you're talking about is what you perceived in terms of whether or not you were coerced or whether or not -- and not the intention of whoever it was that may have been trying to coerce you, correct?

[redacted]. Correct. I didn't feel pressured by any of the communications coming from the White House.

BY [redacted]

Q And you did not perceive an intent to try to coerce you?

A I did not.

Q Okay. And you did not have conversations with your colleagues in which they expressed that they were trying to be coerced?

A We did not. And I think it's important to zoom out, which is that regardless of any statements made by external parties, all content is still reviewed through a robust enforcement process. All of these processes are in place to create guardrails, again, to enforce policies consistently, globally, without regard to kind of the, you know, political

1 viewpoint or any other factor beyond the actual content and whether or not it violates
2 the community guidelines.
3 Q And I appreciate you bringing that up because that gets to some other
4 questions that I want to ask.
5 YouTube does sometimes receive videos -- external stakeholders will sometimes
6 contact YouTube and flag videos that they believe might be violative of YouTube's
7 community guidelines, correct?
8 A Correct.
9 Q And when that happens -- well, why don't you tell me. I'm not going to put
10 words into your mouth.
11 If you receive that kind of request, what do you do with it?
12 A When I receive that sort of a request, I follow the internal process we have
13 to get it to the teams who review videos according to the community guidelines.
14 Q And those teams make their own independent determination of whether or
15 not that video violates the community guidelines, correct?
16 A That's correct.
17 Q And then their determination is communicated back to the external
18 stakeholder?
19 A Yes. Generally, the Trust and Safety team will revert back to me with -- or
20 whoever is, you know, the original -- the person who originally sends it in. Part of the
21 process is that they come back and let the sender know what the verdict was on the
22 video.
23 Q And in every case, it's someone at the Trust and Safety team, it's YouTube
24 that decides whether or not there is a violation of the community guidelines, not the
25 external stakeholder, correct?

1 A That is correct.

2 Q Okay. And that holds true regardless of whether the external stakeholder

3 is just an individual user like myself or a government official?

4 A That is correct. That holds true regardless of who the request originates

5 from.

6 Q Thank you.

7 Now, are you familiar with the claim made by the committee's majority that

8 members of the Federal Government have colluded with Google and YouTube and other

9 social media companies in order to censor certain types of conservative speech in

10 violation of the First Amendment?

11 A Yes, it was part of the introductory statement when I came here today.

12 Q Yes. And, in fact, your interview here today is part of the inquiry into

13 whether or not such collusion happened.

14 Based on your experience at YouTube during three different Presidential

15 administrations, do you believe that such collusion occurred?

16 A In my experience, I have seen no such example of collusion.

17 Q And in your experience, do you think that YouTube has attempted in a way

18 to operate in a manner that respects the First Amendment rights of its users while also

19 adhering to its responsibility to make the platform safe and responsible?

20 A I do. YouTube really seeks to strike a balance between safety and

21 responsibility. And, you know, freedom of information is core to our platform.

22 Q And it's core to your mission, correct?

23 A Uh-huh.

24 Q Now, I want to turn back to exhibit 2, which is the email from Mr. Flaherty,

25 and talk about your exchanges with Mr. Flaherty generally. I believe that majority

1 counsel referred to Mr. Flaherty as a senior member of the White House. Was it your
2 understanding that he was a senior member of the White House?
3 A No. I didn't have an understanding of where he was in the ranks.
4 Q And this email in exhibit 2 was sent after one of the meetings that you
5 attended where the subject of COVID and COVID misinformation was discussed, correct?
6 A Correct.
7 Q And that was -- you recall from your review of the records that there
8 were -- that you attended two meetings with Mr. Flaherty, correct?
9 A That is correct.
10 Q And one was in February 2021?
11 A According to the dates in the record, yes.
12 Q And according to the dates in the record, was one in April of 2021?
13 A Correct.
14 Q So both of those meetings occurred when the country was still in the depths
15 of the pandemic. Fair to say?
16 A Yes.
17 Q Okay. And thousands of Americans were dying every day. Do you recall
18 that?
19 A I recall that, again, it was a global pandemic, so --
20 Q Yeah. And I don't know what the number is worldwide, which is why I
21 focused on Americans.
22 A Yes.
23 Q And the vaccines had just started to become available right around that time
24 period to rank-and-file Americans. Is that what you recall?
25 A I don't recall timing at all when the vaccines became available.

1 Q Fair enough.

2 Now, the slide deck that you prepared for the meeting with Mr. Flaherty, your

3 recollection is that was a very typical slide deck that you used with many external

4 stakeholders, or the sort of slide deck that you would use with many external

5 stakeholders?

6 A Yes.

7 Q And then after the April meeting, Mr. Flaherty sent the email that is in

8 exhibit 2 summarizing his recollection of what was discussed, correct?

9 A That's correct.

10 Q Okay. And you were asked about the statement in the email that

11 Mr. Flaherty said that, "This is a concern that is shared with the highest (and I mean

12 highest) levels of the White House."

13 I want to just back up in that email. I believe you still have it in front of you.

14 A I do.

15 Q And the sentence before that says, "we want to make sure that you have a

16 handle on vaccine hesitancy generally and are working towards making the problem

17 better."

18 Did I read that correctly?

19 A That's what I see here, yes.

20 Q And does that appear to be the concern that he's referring to, or to the

21 extent that you can say, in the next sentence?

22 Mr. Bopp. Before you answer, I just want to make sure I understand the

23 question.

24 [redacted] You know what, I will withdraw the question. I'll withdraw it.

25 BY [redacted]

1 Q When Mr. Flaherty said this concern is shared at the highest levels of the
2 White House, did you interpret that statement to be a threat?
3 A I did not, no.
4 Q Okay. Did you interpret it as an attempt to coerce you into taking any
5 particular action?
6 A Sorry. To be clear, I do not interpret this this way. Again, I don't recall
7 the email at the time, and in re-reading, I don't interpret it -- no.
8 Q And I believe you said in the previous hour you don't recall any discussions
9 internal within the company about what that sentence might have meant?
10 A That's right.
11 Q And if you or any of your colleagues at the company interpreted that as
12 some sort of threat or coercion, do you believe you would have discussed that?
13 A I would imagine we would have had a discussion at some point about that,
14 though, it wouldn't have made a difference in terms of content moderation, for example,
15 or any of the other issues that you've discussed.
16 Q Would it have made a difference to content policy?
17 A It would not. It would not. We have -- again, I explained the way our
18 policy process works, the policymaking process works, and YouTube adheres to that
19 process.
20 Q Now, in the email, Mr. Flaherty outlined a set of issues about which he
21 wanted more information. I believe it says, "A couple of other things that would be
22 good to have from you all." Is that correct?
23 A That's what I see here, yes.
24 Q Okay. And he was asking for information about trends that YouTube was
25 seeing with respect to vaccine information and the effectiveness of your reduction

1 efforts, as well as the effectiveness of your efforts to raise authoritative information. Is
2 that correct?
3 A That's correct.
4 Q This email is not focused on the removal of content from the platform, is it?
5 A Not that I see here.
6 Q Okay. In fact, if you look at the first full paragraph that begins "To recap,"
7 the second sentence says, "We certainly recognize that removing content that is
8 unfavorable to the cause of increasing vaccine adoption is not a realistic or even good
9 solution."
10 Did I read that correctly?
11 A That's what I read here.
12 Q Okay. Now, at the end of the email, Mr. Flaherty -- and this is on the
13 second page -- mentioned that he speaks with other platforms on a semi-regular basis,
14 and suggested a biweekly meeting with YouTube. Did I read that correctly?
15 A Yes, that's what I see.
16 [[redacted] Exhibit No. 3.
17 was marked for identification.]
18 BY [redacted]
19 Q Now, I want to introduce an email from April 21st that you sent to some of
20 your colleagues discussing this email from Mr. Flaherty. And this will be exhibit 3.
21 A Okay.
22 Q Thank you.
23 So after receiving this email from Mr. Flaherty where he asked for several
24 categories of information and suggested a biweekly meeting, you wrote to your
25 colleagues, [redacted] -- I'm not sure if I pronounced that correctly -- and [redacted],

1 and said, "I defer to you on how to manage, but we've already shared as much as we have
2 to share here."
3 Did I read that correctly?
4 A Yes.
5 Q You also said, "I don't see value in a biweekly meeting, and I don't think we
6 have much to share in terms of trends."
7 Did I read that correctly?
8 A "And I also don't think we have much to share in terms of trends."
9 Q Thank you. I skipped a word. I appreciate that. Thank you.
10 You felt comfortable in suggesting that YouTube decline Mr. Flaherty's request for
11 biweekly meetings?
12 A Yes.
13 Q You were not concerned that there would be any adverse consequences to
14 Google if you said thanks, but no thanks, we do not need to meet that often?
15 A I was not concerned about that.
16 Q And you were not concerned that there would be adverse consequences to
17 Google or YouTube if you did not provide information about the trends that he was
18 seeking?
19 A That wasn't a consideration.
20 Q Do you recall Mr. Flaherty ever asking YouTube to remove content?
21 A I don't recall seeing a specific escalation that came from Mr. Flaherty.
22 Q Thank you very much.
23 [redacted] And with that, we can go off the record.
24 [Recess.]

1 [2:03 p.m.]

2 BY [redacted]

3 Q So, turning back to the last exhibit that was introduced, there are a couple

4 emails from you in reference to either the White House's potential interest, or already

5 active interest in working with Stanford.

6 Do you know what that's in reference to?

7 A Yes.

8 Q What is it in reference to?

9 A So our -- just to be clear, I -- are you talking about what he referenced or

10 what I referenced?

11 Q Well, both. When you say, "I do think the Stanford work can provide the

12 kind of insight" --

13 A Okay. So you're --

14 Q -- in your email, the first one.

15 A Got it. So what I'm talking about was some work Stanford had been doing

16 to track trends related to content across social media.

17 Q Do you know which department or who in Stanford? Sorry.

18 A That's okay. In reviewing materials for this meeting, it's -- my

19 understanding is that that was the Stanford Virality Project.

20 Q Who from YouTube was involved with interfacing with Stanford's Virality

21 Project?

22 A I don't recall there being a single point of contact from the YouTube side.

23 What I recall was that [redacted] was the point of contact for Google broadly.

24 Q Who else from YouTube or Google, more broadly, to your understanding,

25 had interactions with the Virality Project?

1 A The only one, again, kind of reviewing the materials that I -- that's clear to
2 me was [redacted]
3 Q How frequently -- or let me take one step back.
4 Did you have any direct interactions with Stanford's Virality Project?
5 A I can't remember having my own direct interactions with them. I also don't
6 remember the people that were involved, so I don't know if I did interact with them
7 directly or not.
8 Q As part of your role at YouTube, have you had any interactions with Alex
9 Stamos?
10 A Yes.
11 Q And what's been the context of those interactions?
12 A I recall a meeting with Alex Stamos and other researchers at Stanford who
13 were working on misinformation issues.
14 Q And when was that, approximately?
15 A I believe that that was in -- well, I actually don't remember when that
16 meeting was. I remember some of the interactions began in 2020.
17 Q And what types of misinformation?
18 A At the time, Stanford was doing a fair amount of work around
19 election-related misinformation.
20 Q Are you familiar with the Election Integrity Partnership?
21 A Yes.
22 Q Did you have interactions with the Election Integrity Partnership?
23 A I -- what I recall is that I would sometimes be copied on emails to our -- going
24 into our content review process that came from the Election Integrity Partnership.
25 Q Who else from Google or YouTube had -- would directly interact with the

1 Election Integrity Partnership?

2 A So for Google, it was also [redacted] [redacted]. And if I remember correctly,

3 there was another person from YouTube who was kind of directly engaging.

4 Q Do you remember who that was?

5 A Her name was [redacted]

6 Q Do you remember [redacted] last name?

7 A I don't.

8 Q Do you remember how this work or relationship first started between the

9 Election Integrity Partnership and Google?

10 A I don't remember the genesis of it. What I remember was that they

11 would -- they were kind of tracking, looking at social media platforms, keeping track of

12 things that they thought might be violative of platform policies. And then each platform

13 was individually responsible for putting it into its respective process for review.

14 Q Are you familiar with the Jira Ticketing System that the Election Integrity

15 Partnership used?

16 A So I don't -- I'm familiar with Jira as a platform. I don't remember

17 Jira -- Jira's instance for the EIP. What I remember was something that, like, could have

18 been, like, a WordPress-like platform. It was, you know -- so it was more like individual

19 posts that would occasionally come through to me. But I don't remember whether it

20 was Jira or not, specifically.

21 Q Regardless of the means or the form, could you tell who it was coming from?

22 A I don't -- what I recall is that there may have been a name. There may have

23 been a name of a Stanford -- you know, somebody at Stanford who was the one who

24 made the post or posted to share the content, but I don't -- I don't recall for sure.

25 There's nothing that sticks out to me as like, you know, a name I would remember.

1 Q But, again, through whichever means it ultimately was, if it was Jira or
2 something else, were there account names? Were there individual YouTube links?
3 What was actually in the material that was being transmitted?
4 A So like the substance of the thing that they were posting?
5 Q Yes.
6 A It depended. Sometimes it would be specific links to videos or channels, or
7 to Facebook posts or to Instagram posts, or like, whatever.
8 I also think that there were times, if I recall correctly, where they might have
9 included links to, you know, general -- other posts outside of social media that might have
10 been related to something.
11 But, you know, what I recall being kind of the part that was relevant to YouTube
12 was when they sent -- when things included video URLs or channel URLs.
13 Q Would there -- when you're on the receiving end, you mentioned sometimes
14 there might be Facebook links. Would it be a group of links, or there might be a set of
15 Facebook links and a set of YouTube links and you just would pull the information that
16 you needed? Is that more or less how it was coming in to you?
17 A That's how I remember it. But again, this was -- this was quite a long time
18 ago. So -- and this was just, you know, one -- one source where globally, we were
19 getting incoming about content.
20 Q Was there -- in addition to, you know, whatever the channel or the link
21 might be, was there, like, a message that was included about what was in the video, or
22 any additional context or details provided?
23 A I don't -- I think I remember sometimes them adding a little bit of color, but
24 again, it's also not uncommon when somebody identifies a video for YouTube that they
25 believe violates the policies to provide some sort of brief description about what policy

1 they think it might violate, why they might think it violates that policy or -- sorry, that
2 policy. Even sometimes I've seen people get as specific as providing a time-stamp.
3 Q Had you worked with Alex Stamos before the EIP?
4 A I don't -- so, again, I don't recall working directly with Alex through the EIP.
5 I -- I believe I crossed paths with him at some point in time, but I don't remember, you
6 know, specifically why. He's in the Bay Area. He's sort of in the internet space. So it
7 wouldn't be uncommon.
8 What I do remember was -- and again, this is like a really vague recollection, but I
9 believe that Stanford also put together a scorecard where they kind of rated different
10 platforms on policies, on other sorts of election integrity efforts they have in place, you
11 know, for example, connecting people with voting information.
12 And I vaguely recall reading and providing feedback on their scorecard evaluation.
13 I don't remember if I just did that internally for others to convey, or if at some point in
14 time I conveyed it directly to Alex or the team working with Alex, which was also, frankly,
15 more likely, because I think there were others who were sort of leading the actual work.
16 Q And was this in the context of the 2020 election?
17 A Yes.
18 Q Do you recall how YouTube scored, according to the scorecard you were
19 either reviewing or commenting on?
20 A I don't remember what the score was. What I remember -- and this is true
21 of any one of these types of scorecards that lots of people like to put together for
22 different circumstances and in different issue areas -- is that I evaluate it for inaccuracies
23 against its own rubric.
24 So, for example, if they are measuring YouTube against publicly available
25 information in relation to the criteria they've set out, if I see in my evaluation that they

1 have missed some publicly available information that is relevant, I will supply that
2 information and, you know, argue that we should receive credit for that.
3 Q Do you remember if in this case the Stanford scorecard had
4 misjudged/misevaluated its own rubric when judging YouTube?
5 A I think they had something that was not accurate, but I don't remember
6 what it was.
7 Q Were you able to see, or did you later find out about how YouTube scored
8 compared to other social media platforms?
9 A Certainly it was all made public later, but I don't remember in the evaluation
10 process if I was looking at them comparatively. I would have been -- I mean, regardless,
11 I would have been focused on correcting our record versus kind of necessarily how it
12 compared to others.
13 Q Do you recall how Stanford thought YouTube measured up compared to
14 other social media platforms in, you know, promoting and protecting election integrity?
15 A I don't recall. What I do recall is that they had critiques for every platform.
16 Q Did you have any conversations with individuals at the other platforms about
17 this scorecard from Stanford?
18 A I did not, no.
19 Q Do you know if other members from YouTube or Google did?
20 A I don't know.
21 Q Turning back to the Election Integrity Partnership, when you received some
22 sort of message, whether it was links or channels, whatever it might be, what was the
23 next step that you would take?
24 A So once we received the content, I sent it in to our internal review process.
25 Q And, with the understanding you don't remember the exact means with

1 which it was being sent, whether it was Jira or something else, do you remember at all
2 about -- I mean, would you have to copy and paste what was going on or what did
3 that -- like just function, what did that look like in terms of getting it to the next team?
4 A It was a copy and paste.
5 Q And which team was it going to?
6 A It was going to trust and safety for review under our community guidelines.
7 Q And whether in this particular case, or just generally when you received
8 some sort of tip, is it via email or how -- internally, how do you submit something for the
9 trust and safety team's review?
10 A It is via email.
11 Q When trust and safety is on the receiving end, are they just getting the link
12 or the channel, or do they get -- if there was a message accompanying the tip, whether
13 from EIP or elsewhere, do they get to see everything that was sent to you?
14 A If it is -- again, the stuff from EIP, if I recall, had to be copied and pasted.
15 And I don't remember -- generally, the way that I handle that sort of stuff is that I will just
16 copy and paste the video URLs and the channels, because that's the information that the
17 teams need to review the content. I don't recall if others who were also sending in the
18 stuff from EIP, if they were including the full message or not.
19 Q Whether the full message is included or not, would you include who the
20 submitter was?
21 A On occasion.
22 Q And is that helpful to the trust and safety team or what's -- what benefit
23 does that provide?
24 A Generally, if I am including it, the reason that I include it is to provide some
25 justification for why I am using -- why I am sending it through this process. It has no

1 bearing on the actual review of the content.

2 Q What do you mean by providing some justification?

3 A So, for example, when I am sending things through -- when we send things

4 through this process, it is prioritizing them for review ahead of maybe other things that,

5 you know, for example, might be in a -- in a flagging queue. And so being able to explain

6 why -- you know, why it warrants being sent through the prioritized process is important.

7 Q In the EIP context, what about that Partnership or what about Stanford

8 warranted that prioritization of the process?

9 A That was the way that the teams had -- and by "teams," I mean sort of, like,

10 trust and safety and Google generally, had agreed that we would use the existing process

11 of the queue to escalate the content for review.

12 Q Content from the EIP?

13 A That is correct. And again, it doesn't change the process of review.

14 Mr. Halse. Just so I understand your response, [redacted] are you saying that the EIP

15 content was prioritized or was not?

16 [redacted]. I'm saying that we sent it through the prioritization kind of

17 process. So -- sorry, this is a little bit -- it's a little tricky to explain, but when we are

18 sending things through the process, this process is just generally a prioritized review

19 queue.

20 And all that means is that it's kind of on a plate for people to get to ideally faster,

21 but sometimes it can still take, you know, a week for review.

22 BY [redacted]

23 Q Are there tips that you receive that you think do not warrant the

24 prioritization process and so you don't send it through that means?

25 A There are sort of different levels of prioritization. And so I will -- you know,

1 I -- there are -- there's an understanding of kind of a level of just respect of the content
2 moderation team's sort of time and sense of urgency when submitting things.
3 So again, for the EIP, there was an -- I understand, at least from [redacted] and [redacted]
4 at the time, that the sort of -- it was agreed that the -- those links could be sent through
5 the process.
6 Q Based off your understanding, who from the company made that
7 agreement?
8 A I -- I mean, I don't -- I don't know that it was like a -- anything particularly
9 formal beyond, "Hey, we might get some incoming posted by researchers at Stanford, you
10 know, we'll be -- we're going to use -- is it okay if we send it this way?" Yes.
11 Q So just to stop and make sure I understand what you're saying, [redacted] and
12 [redacted] would have some sort of conversation or communication with someone from the
13 trust and safety team. Is that -- who are the parties here?
14 A I -- again, I wasn't part of that discussion. I understand that they had some
15 agreement with trust and safety, but I don't know who, I don't know what that looked
16 like, and, you know, I don't know any details of that.
17 Q And a couple answers earlier, you mentioned that there are different
18 channels of prioritization that can be available. What are those?
19 A It's two different email aliases.
20 Q And what are those?
21 A One is the kind of general high-priority email alias and the other is the lower
22 priority email alias.
23 Q And for the high-priority email alias -- or let me take one step back. Which
24 one was used for the EIP request?
25 A I believe that it was the high-priority one.

1 Q And do you recall what that email address is?
2 A PERT.
3 Q And what's the low-priority one?
4 A PERT-lite.
5 Q Do you recall other examples of when it was appropriate to use the high
6 prioritization email address?
7 A Use the high-priority email address?
8 Q Yes.
9 A The comms team frequently uses the high-priority alias for press escalations.
10 Q Who's on the receiving end of these email aliases?
11 A The trust and safety team.
12 Q And, to your understanding, are there a lot of folks within trust and safety
13 that have access to the -- those two, I guess, inboxes on the other end?
14 A I don't know who has access to it. What I can tell you is that they have
15 a -- there is a process for who and how kind of handles each of those as they come in.
16 Q And do you have any familiarity with that?
17 A I can only tell you what I've seen on the receiving end, which is that if I send
18 something in to PERT, I generally get an email response saying, Thank you, noted, we will
19 review that. And then sometimes an individual team member who is assigned to review
20 the content will respond and say, we're reviewing this now.
21 And then eventually they will come back with -- and let us know if they removed
22 it, didn't remove it, age-gated it, put it behind an interstitial, et cetera.
23 Q For that last part, when they respond, do they provide any sort of
24 explanation of why that particular step was taken?
25 A They provide the information about the policy that the content or the

1 channel violated. So, for example, if it's -- if a video violated the hate speech policy,
2 they will say, we removed it for hate speech. If it's a channel termination, you know,
3 they will say that this channel has been, you know, terminated for impersonation.
4 Q Is there anything -- is there any additional detail or color or does it tend to
5 be like a -- it sounds you're describing something with a one-sentence summary.
6 A Pretty much. They often will also provide kind of like external friendly
7 language to just -- which basically doesn't add any more information than this has or has
8 not been removed.
9 Q Is there -- you mentioned you send it in. There's a confirmation that your
10 submission was received. You may receive notification about the person reviewing.
11 Do you always receive a response about what step was or was not taken?
12 A I do.
13 Q And is it the same process for low-priority requests?
14 A In terms of the communication back and forth?
15 Q I'm sorry. Yes.
16 A Yes.
17 Q How fast do you generally hear back on the high-priority requests?
18 A It ranges.
19 Q What's the range, in your experience?
20 A I have seen them review and provide a verdict within the same working day.
21 I've also seen it take several days to a week.
22 Q And what's the range for the low-priority?
23 A That one -- again, because it's sort of there's less of a sort of time-sensitive
24 thing in terms of understanding what the status is, you know, that one I -- I don't pay as
25 much attention to how long they turn it back, because the time sensitivity is generally less

1 important.

2 Q What's an example of a low-priority submission?

3 A I can't -- I can't think of the last thing or recent thing that I sent to the

4 low-priority one. To give you an example, in the past, I might find a blog post or

5 something that has, you know, some links where it's claiming that, you know, YouTube

6 has some violative content on it, but it, you know, was posted 3 years ago. And I'll just

7 copy and paste the links and send it and see what happens.

8 Q For the -- when you would receive a request from -- or information from EIP

9 and you would send that to the high-priority email, once you received a response on the

10 verdict, would you ever communicate that verdict to someone at EIP?

11 A If I recall correctly, when YouTube found that a video or a channel was

12 violative, somebody did go back to the EIP platform and just say -- you know, give the

13 video URL and say, this has been removed.

14 Q Was that ever you?

15 A I think I covered for [redacted] when he was out for a week and did it, but I don't

16 remember. You know, again, I don't remember.

17 Q So this was in the lead-up to the 2020 election. Did you have any

18 interaction with EIP around the 2022 midterm election?

19 A I don't remember. I don't recall the same -- I don't recall the same process

20 for 2022. Yeah. I don't remember.

21 Q Do you have any just general memory that there was some sort of, you

22 know, resuscitation of EIP?

23 A I don't recall.

24 Q We're not too far out from the 2024 election. To your knowledge, is

25 there -- does Stanford currently have the Election Integrity Partnership running for this

1 election cycle?

2 A I haven't heard anything about it.

3 Q Have you or anyone from your team been in contact with anyone from

4 Stanford?

5 Mr. Bopp. When, or what time period?

6 [redacted] Currently.

7 A Anyone from Stanford broadly, the university?

8 BY [redacted]

9 Q Anyone from the Stanford Internet Observatory.

10 A I have not been in contact with anybody from the Stanford Internet

11 Observatory recently.

12 Q Do you know if anyone from your team has?

13 A I don't know.

14 Q Are you aware of any partnerships, or broader efforts that the company is

15 partaking in right now related to election integrity?

16 A I don't. You mean, in terms of content specifically?

17 Q Yes, or are you working with someone outside of the company regarding --

18 A Not that I'm aware of. Oh, there's one -- not in the U.S., actually, but there

19 is one -- one thing in Europe that I'm aware of.

20 Q And what is that?

21 A That is under the European Code of Practice on disinformation. It's a rapid

22 response process in relation to content ahead of the Parliament elections, which start

23 today. And it's a very similar process, where the teams will -- you know, things will

24 come in through the Commission's framework.

25 I don't actually know the specifics of it, or even if they have a platform for it.

1 And then, you know, our colleagues in Europe will send the information in, the same
2 process for review.
3 Q Who from the company is handling -- interfacing with the Commission
4 directly?
5 A I believe it's one of my colleagues on the product policy team who covers the
6 EU.
7 Q And who is that?
8 A [redacted]. She's based in London.
9 Q Once the EIP concludes and Stanford and their partners start working on the
10 Virality Project, what was your understanding of what the Virality Project was doing?
11 A I don't remember, but what I can tell you, based on kind of reviewing some
12 of the materials, is that it's -- the framework seemed to be quite similar to the EIP setup.
13 Q And what do you mean by the framework was similar?
14 A I mean that there -- Stanford would look for content on platforms. They
15 would share links to information. The material would be sent for review, and if it
16 violated policies, it was removed, and if it didn't, it wasn't.
17 Q Who from the company was responsible for receiving those communications
18 from Stanford?
19 A I believe [redacted] was involved in that, again, based on some email reviews, but
20 I don't remember if anybody else was working with them.
21 Q To your understanding, were -- what Stanford was submitting through the
22 Virality Project, did those also receive the high-priority email chain?
23 A I believe that it followed the same process as the EIP.
24 Q To your knowledge, was the White House -- sorry, turning back to the last
25 exhibit that had been introduced, when there's the brief discussion about the Stanford

1 work, to your knowledge, was the White House in touch with the Virality Project?

2 A I don't recall specifically. What I can tell you, based on this email, is that I

3 had suggested that maybe they could get trend information from Stanford, since that's

4 what Stanford was doing and looking at.

5 Oh, yeah. Here Stanford is mentioned. It's recently vaccine passports and J&J

6 stuff.

7 And so, according to the email, it sounds like there was some communication

8 between Stanford and [redacted] But my reason for mentioning Stanford was that I was

9 aware of their trend analysis and thought that would be a useful connection potentially

10 for the type of stuff he was looking for.

11 Q So was Stanford providing your team both broader trend analysis, but also,

12 Hey, these links are potentially violative?

13 A I don't remember. What I recall and what -- you know, the way that we

14 dealt with it and what we would have taken in was just the content for review.

15 Q Whether for the EIP or the Virality project, do you remember receiving a

16 communication from Stanford where you thought it was, for whatever reason, not

17 appropriate to send to the trust and safety team?

18 A I don't recall.

19 Q Do you recall receiving, more broadly, making any, for lack of a better word,

20 editorial decisions of -- or were you just facilitating? If something came in, you would

21 pass it to the trust and safety team.

22 A If they were providing a link to content on YouTube, then I was just

23 facilitating and I would have passed it along.

24 Q To your recollection, were you only filling in when [redacted] was not

25 available, or is this a situation where you both had access and if someone happened to

1 see it, they could take the lead in transferring it to the trust and safety team?

2 A I would expect that in order to fill in, I had access. But if I remember

3 correctly, [redacted] was the kind of primary responder. So if he was around, he was the one

4 dealing with it.

5 But, again, this is -- I know that this is, you know, an area of focus here, but this is

6 one very small corner of a broader universe of content removal requests that come to me

7 on a daily basis.

8 Q You mentioned that, to your recollection, that if a video was removed,

9 someone from YouTube would sometimes provide a short statement back to the folks at

10 EIP and say, Here's a link that was removed, or something to that effect.

11 Was there any sort of communication about instances where the verdict from the

12 trust and safety team was to not remove, whether that verdict was communicated to

13 anyone at EIP?

14 A I don't remember. What I remember is like -- is making sure that if it was

15 removed, we communicated that back. I don't remember if we bothered to respond if

16 we didn't remove it.

17 Q Just generally, although if you have a specific recollection to EIP or the

18 Virality Project it would be helpful to know too, but just generally, when there's a source

19 that is submitting links to go to the trust and safety team, does the company internally

20 track the results, so to speak, of how often those links are removed or not?

21 A Do you mean do we track, like, verdicts from individual stakeholders?

22 Q Yes.

23 A Not to my knowledge.

24 Q Is that something that the trust and safety team could know? Or I guess

25 another way of asking it, if someone from the company wanted to know what percent of

1 the links from Stanford had been ultimately removed, would there be a way to assess
2 that?
3 A I could imagine a way of doing it. It would depend on the -- you know, on
4 the -- I'd have to go back through a history of email, look at all the links that came in from
5 EIP, assuming that they were all attributed to EIP as the first source.
6 It's also important to know that some of these things, you know, sometimes a
7 video that is particularly -- viewed as particularly problematic by a number of different
8 stakeholders will be escalated, or come in through a number of different channels.
9 And so, there would be a margin of error around that for sure. But, in theory,
10 you could probably, you know, do a search and try to cobble together some stats, though
11 I don't think they would be particularly accurate.
12 Q If there's a video link that's coming in from multiple stakeholders, does trust
13 and safety have a mechanism of tracking how many people have flagged this particular
14 video?
15 A If it's going through that review process, sometimes they will -- I'll get a
16 response that says, This has already been sent in through another channel, you know,
17 we'll add you to that so you can see what happens there.
18 Q Has trust and safety ever given you a tour, a briefing? So understanding
19 this is obviously not your day-to-day, but just here's a look behind the curtain of what
20 happens once the request comes in?
21 A In terms of like sitting down and doing a -- like a shadow? No, I have never
22 done that.
23 Q To your understanding, does trust and safety have a hierarchy within the
24 team of whether close calls or higher profile videos or concerns are elevated to a
25 particular team within trust and safety as opposed to maybe, for lack of a better word,

1 run-of-the-mill requests?

2 A What I -- in my experience and what I understand is that there are times

3 when a particular video removal might not be as straightforward as others.

4 And that could have to do with, you know, for example, a video in Turkish and a

5 translation not being true -- the translation coming back with sort of one way of saying

6 something, whereas in Turkish, the -- a native Turkish speaker would translate it in a

7 different way. And one of those translations would violate policies, and one of those

8 translations wouldn't violate policies.

9 And so, there needs to be some more in-depth review and, kind of, analysis and

10 assessment to determine whether or not that -- you know, how to treat that video, in

11 terms of its violation.

12 Q To your understanding, in that hypothetical, what does that look like

13 internally within trust and safety?

14 A I -- you know, I don't know exactly who gets pulled in when and how, and so,

15 I can't -- I can't -- I want to be helpful, but I can't give you like a clear kind of path for that

16 sort of thing, because I don't know exactly how it works.

17 Q If you've sent in something that triggers this need for a secondary review or

18 more analysis, do you -- are you alerted about that? Do you receive any sort of update

19 that this is kind of a more difficult submission question?

20 A On occasion. But other times it just takes a long time. And so, you know,

21 at some points, have waited many, many hours and go back to the thread and say, like,

22 you know, Hey, what's up? And then they will say, We need some more time with this,

23 you know, it's under review. And they have a very -- a very rigorous kind of system of

24 communication.

25 Q When you say you go back to the thread, is that via email or is that via

1 something else?

2 A It's via email, an email. Sorry, an email thread.

3 Q Are you familiar with the buganizer tickets within the company?

4 A I am familiar with the system of buganizer.

5 Q Is that system used for content moderation requests?

6 A Not in the way that I submit content moderation requests. I don't know if

7 YouTube trust and safety uses buganizer for community guidelines reviews or not.

8 The way that I've interacted with buganizer is getting things like -- you know, like

9 the statistic you saw about removals, for example, the team that validates that data, they

10 use buganizer to have the teams pull the data, validate the data, et cetera.

11 I mean, buganizer is a very widely used system by product and engineering within

12 the company.

13 Q Turning back to the last exhibit that we looked at a couple times, your

14 second email at the very top of the page, you make a second point. You say, "I'm

15 concerned about this statement: I appreciated your unequivocal response that you are

16 not recommending anti-vaccine content." And then you said, "That's not what either of

17 us said," emailing [redacted] and [redacted]

18 Do you recall whether there were notes that you were able to consult, or if

19 anyone had a readout to compare to what Mr. Flaherty seems to allude to?

20 A I don't recall. What I can tell you is that that is just not a statement that I

21 would ever make on behalf of the company, because it's not a statement the company

22 would ever make.

23 Q And why is that?

24 A Because we couldn't make an unequivocal statement that we're not

25 recommending any particular type of content.

1 Q Do you remember any do-outs or what happened after the meeting with
2 Mr. Flaherty around this time?
3 A In reviewing the documents ahead of this, there -- what I saw and vaguely
4 recollect was [redacted] sent back an email in which we basically collected up relevant publicly
5 available information and sent it back.
6 Q And do you remember working with [redacted] on this email?
7 A I don't remember specifically working on it with him, but I know that I
8 contributed to it, based on reading it.
9 [redacted] This will be exhibit 4. It's an internal email communication dated
10 April 22nd, 2021.
11 [[redacted] Exhibit No. 4.
12 was marked for identification.]
13 [redacted]. Okay.
14 BY [redacted]
15 Q In the "to" line, [redacted], do you know who that is?
16 A Yes.
17 Q Who is he?
18 A He is a product manager or director of product management.
19 Q Do you recall this email chain? You're copied on it with the senders.
20 A I didn't recall it until I saw it recently.
21 Q Starting with [redacted] first email, the 10:38 time-stamp, he says, "As you saw
22 the from the email thread from [redacted] yesterday, there is a very high degree of interest
23 coming from the White House."
24 Do you recall during this time period having an understanding that there was a
25 high degree of interest coming from the White House on this issue?

1 Mr. Bopp. What's your question?

2 BY [redacted]

3 Q Do you recall -- independent of this email chain, do you recall there being, in

4 this time period, a high degree of interest coming from the White House on this issue?

5 A What I recall from this time period is that there was a high degree of interest

6 in what YouTube was doing and what all platforms were doing around COVID from every

7 government on the planet.

8 Q His next sentence says, "Unfortunately, the role of tech in addressing vaccine

9 hesitancy is about to come under a massive spotlight."

10 At this time, April 2021, did you agree with that assessment?

11 A I mean, again, similar to my last answer, social media platforms globally

12 were, you know -- were under scrutiny when it came to, you know, how we were dealing

13 with information related to the pandemic.

14 Q And based off this time period of April 2021, based off your understanding,

15 how did the White House view YouTube's efforts to address vaccine hesitancy?

16 Mr. Bopp. You say, based on this email chain or --

17 [redacted] No.

18 Mr. Bopp. Not having to do with this email chain. You're just asking for her

19 understanding.

20 BY [redacted]

21 Q In April 2021, based on her understanding of what you understood the

22 White House's perspective to be on how YouTube was handling vaccine hesitancy.

23 A I don't really want to speculate. I don't want to speculate on what their

24 opinion was. I don't know.

25 Q Who from the company would know?

1 A If anybody has any more insight, it would probably have been the team that
2 worked directly with them. But again, I -- you know, this was a very global issue. And
3 so, there were just a lot of, kind of, questions, interest from all of my colleagues working
4 with external stakeholders in kind of, you know, what we were doing, how we were
5 doing.
6 Q So certainly can appreciate that. Other governments outside the U.S.
7 Government are going to be interested in this issue. I'm trying to get a sense of what
8 was your understanding of what the U.S. Government, particularly the White House,
9 thought of how YouTube was addressing this issue?
10 Mr. Bopp. I think she already answered that question. You can ask it again, but
11 I think she just said she doesn't know or she didn't -- she doesn't know what the White
12 House thought of how Google was moderating content or handling these issues.
13 BY [redacted]
14 Q Which members of your team were most directly interacting with the White
15 House during this time?
16 A [redacted].
17 Q Anyone besides [redacted]?
18 A [redacted] may have had communication with the White House, but at the
19 time -- at the time they were the only two people on the YouTube public policy team
20 focused on D.C., at least that I can remember. I don't think there was a third person.
21 Q Did the company have an interest in understanding what the White House's
22 perspective was on whether YouTube was adequately addressing the issue and concerns
23 around vaccine hesitancy?
24 A What I would say is that, in general, part of our job as a public policy team is
25 to understand how external stakeholders kind of, you know, perceive or comment on,

1 especially in public, our efforts in relation to legislation or other sort of forms, for
2 example, of regulatory enforcement.
3 Q So that's what we're trying to get a sense of. As members of the public
4 policy team, if you could provide testimony about how the White House, at this time,
5 perceived YouTube's efforts to address vaccine hesitancy?
6 A I don't know.
7 Q Isn't that a concern that the public policy team doesn't know what the White
8 House's perception of this issue is?
9 A Again, I wasn't the one communicating with the White House. That was my
10 D.C. team. My role was to, sort of, show up, explain things, you know, have a general
11 understanding of, you know, what the global landscape looked like.
12 If there were particular concerns from the White House, those would have been
13 communicated to [redacted] and [redacted] What I know about the kind of engagement
14 with the White House and, you know, what their opinions might have been would be
15 reflected in the content that we've discussed here today.
16 Q If [redacted], in any context, were to come back to you and say he didn't know
17 what the White House's opinion or perception was on an issue, would that be concerning
18 to you?
19 Mr. Bopp. Didn't know or didn't recall? What are we talking about here?
20 [redacted] Well, both, but the question was if he didn't know.
21 Mr. Bopp. On some current issue, you're saying?
22 [redacted] Yes.
23 [redacted]. I would have some -- I would ask him to potentially find out.
24 And so, let me also just clarify then that when I say I don't know what the White
25 House's perspective was at this time, what I mean is, I don't recall what the White

House's perspective was at this time.

BY [redacted]

Q And why is it important to know what the White House's perspective was at this time?

Mr. Bopp. Wait. I mean, back in 2021, you're asking her why is it important to know what the White House's perspective was back in 2021?

[redacted] Or today, if it's a different reason.

[redacted]. So, as a public policy team, one of the things that we are asked to do is have a general sense of where different external stakeholders stand and perceive YouTube to be on different issues.

And so that, you know -- and the reason for that is generally because of potential impact as it relates to regulation or legislation, so we can kind of track and be aware of what might be coming down the pike.

BY [redacted]

Q If the White House thought that YouTube's approach to vaccine hesitancy was inadequate, what are some of the regulatory or legislation-related risks that the company might face?

A In this case, I don't know what levers they would have had to pull.

Q Who at the company would know that?

A That would have been our D.C. team. But at the time, you know, I don't recall being made aware of any specific regulatory or legislative threat related to any of these interactions.

Q Independent of awareness about a specific threat, who would have awareness regarding just the general capability of the White House to use certain regulatory levers if they wanted to?

1 A Well, that would be our legal team.

2 Q Do you recall any -- let me take one step back.

3 Have you been part of any discussions with the D.C. team about concerns related

4 to Section 230?

5 A I am aware of discussions related to 230, but I have not been actively

6 involved in any of that work.

7 Q And who within the company is actively involved in that work?

8 A There are a number of people across the government affairs and public

9 policy team as well as the legal teams who have been working on that.

10 Q Has [redacted] worked on it?

11 A I don't remember how much involvement [redacted] did or did not have in that.

12 Q What about [redacted], if I'm saying her last name correctly?

13 A I don't know. I don't think that -- yeah, I don't know if that was at all part

14 of [redacted] remit.

15 Q The last sentence in the second-to-last paragraph, [redacted] writes that, "As

16 far as timing goes, we were hoping to get something on the books in the next 2 weeks or

17 so to prevent anything from potentially spiraling out of control."

18 Did you agree in April 2021 that there was a risk of things potentially spiraling out

19 of control?

20 A I don't fully know what [redacted] meant by potentially spiraling out of control.

21 Q Regardless of what [redacted] meant, in April 2021, did you think there was a

22 risk that the situation could potentially spiral out of control?

23 A You mean the pandemic?

24 Q The company's relationship with the White House.

25 A I'm not -- I didn't manage the relationship so I would have had -- I have no

1 idea kind of what that looked like or what that interplay would have been like, and why
2 somebody would make an assessment like that.
3 Q Were you ever part of any conversations where someone was sharing
4 information about the status of the company's relationship with the White House?
5 A Not that I recall.
6 Q During this time, who was responsible for maintaining the company's
7 relationship with the White House?
8 A As I said earlier, when it came to Google, [redacted] led the
9 administration team.
10 Q Turning back to the second sentence of [redacted] first email, he says,
11 "Unfortunately, the role of tech addressing vaccine hesitancy is about to come under a
12 massive spotlight."
13 Why do you think he said that was an unfortunate development?
14 Mr. Bopp. You mean now, or are you asking her to go back to April of 2021
15 and --
16 BY [redacted]
17 Q Yes, just based off your understanding of the situation at this time.
18 A So again, there was a general sense of scrutiny of information online coming
19 from governments everywhere, and especially as governments were investing in efforts
20 to get people vaccinated. It was -- it was something that governments were really
21 focused on.
22 Q And what is -- from the company's perspective, what is unfortunate when it's
23 scrutiny from a government?
24 A As a public policy team, that often means, frankly, quite a bit more work for
25 us, in terms of doing a better job of explaining our approach of our work, of, you know,

1 doing more outreach to try to really explain our positions.

2 Q Is there a risk of adverse regulatory action?

3 A In general, or in this instance?

4 Q When there's scrutiny from a government.

5 A In other countries, there has been potential for it to, you know, cede

6 regulation, but that's speaking much more broadly on things like VE, or content regulation

7 issues more generally.

8 Q Was there any concern that the White House would use adverse regulatory

9 action in response to a perception that YouTube was not adequately addressing vaccine

10 hesitancy?

11 A I don't -- I'm not aware of that being part of the analysis here.

1 [3:04 p.m.]

2 BY [redacted]

3 Q You're not aware or you don't recall?

4 A I'm not aware and I don't recall.

5 [redacted] Can we go off the record, please?

6 [Recess.]

7 [redacted] Okay. Are you ready to go back on the record?

8 [redacted]. Yes.

9 BY [redacted]

10 Q Okay. So I want to start by going back to what you were asked about

11 during the previous hour regarding Stanford and the Internet Observatory and some of its

12 various projects. You were asked a series of questions about their scoring reports, and

13 you remembered that there was an instance in which you had to correct one of their

14 reports, but you didn't recall what it was. Did I get that right?

15 A Yes.

16 Q Okay. I'm going to introduce exhibit 5.

17 [[redacted] Exhibit No. 5.

18 was marked for identification.]

19 BY [redacted]

20 Q And this is an email exchange.

21 A Thank you.

22 Q Take as long as you need to review that.

23 A This is No. 5 now?

24 Q Yes, it is. This is No. 5. Thank you.

25 A Okay.

1 Q So in November 2020, [redacted] reached out to some folks at the Election
2 Integrity Project about a policy comparison table that they had published on their blog.
3 Is that correct?
4 A Yep.
5 Q And that's what this email reflects, correct?
6 A That's what I see here, correct.
7 Q And [redacted] was pointing out that the policy comparison table indicated
8 that YouTube did not have policies for certain categories of content, such as incitement of
9 violence or hate, disinformation, conspiracies, misinformation or misleading, correct?
10 A Correct.
11 Q And you wanted to clarify that, in fact, YouTube did have such policies. So
12 he was confused as to why it was listed as no on Stanford's table, correct?
13 A That's what I read here, yes.
14 Q And then you also responded and thanked them for correcting. Because
15 they made the corrections after [redacted] pointed them out, correct?
16 A That's what it looks like, yes.
17 Q That's what was indicated in the email. And you provided some more
18 detail about YouTube's policies, correct?
19 A Correct. And the links that I included here based on what I've written were
20 publicly available information.
21 Q And thank you for that clarification.
22 So is this what you were referring to earlier, to the best of your recollection, about
23 needing to correct something that the Election Integrity Project had published about
24 Stanford's -- I'm sorry, about YouTube's policies?
25 A Yes.

1 Q And so this is actually not about a score on how well you were doing or
2 about content moderation itself or particular instances of content moderation. It was
3 simply about what policies YouTube did or did not have?
4 A Yes, that's right. It was a comparison table with the different platforms
5 kind of policies.
6 Q Now, you were asked a series of questions about the process that you would
7 go through and others at YouTube when the Election Integrity Project or the Virality
8 Project or any one of Stanford's projects would flag videos for you. Do you recall those
9 questions?
10 A I do.
11 Q Okay. And in the hour before that, when I was asking questions, we talked
12 generally about how when an external stakeholder flags content or flags videos for
13 YouTube, what process YouTube goes through, correct?
14 A Correct.
15 Q And you had indicated that if you receive such a request, you forward it on
16 to the appropriate team that actually conducts the -- or actually enforces the policies and
17 conducts content moderation, and they make they're own independent decision
18 regardless of who the stakeholder is who requests the review, correct?
19 A That is correct.
20 Q So I want to show you an example from the Virality Project of this type of
21 request. And so this will be exhibit 6.
22 [Exhibit No. 6.
23 was marked for identification.]
24 . Okay.
25 BY

1 Q Okay. So this is an email chain dated May 12th of 2021, where your
2 colleague, [redacted], emailed the PERT alias that you mentioned earlier, and stated that
3 he received a heads-up about two YouTube URLs related to the magnet challenge. And
4 that's in -- magnet challenge is in quotation marks -- from the Stanford Virality Project.
5 Is that correct?
6 A Yes, that's what I see here.
7 Q Okay. And PERT -- I don't recall if we established this last time, but it refers
8 to -- it's an acronym for the Policy Emergency Response Team, correct?
9 A I have not -- oh, it's actually up here at the top. Policy Emergency Response
10 Team, yes.
11 Q Thank you.
12 And [redacted] email then has a quotation mark that says, "See the following
13 videos of the magnet challenge trend we have seen surface, where individuals place a
14 magnet on the arm where they received the COVID vaccine and appear to show the
15 magnet sticking. This has been used to further microchip and harmful metal conspiracy
16 theories," end quote.
17 Did I read that correctly?
18 A Yes, I believe so.
19 Q And is it your understanding from reading this email that the quotation
20 marks indicate that is the information that was passed on to [redacted] from the Virality
21 Project?
22 A In general, based on the way that I understand [redacted] to share information
23 internally, having worked with him for a pretty long time, that is the likely reason for the
24 quotation marks there.
25 Q Thank you.

1 And to be clear, you were cc'd on the response from the PERT team, correct?
2 A Correct, I was.
3 Q Okay. And after initially responding, "Thanks for escalating. We'll take a
4 look and get back to you," the PERT team responded and said that they struck one of the
5 videos "for violating our COVID misinformation policy," but that the other video "does not
6 violate our community guidelines and will stay approved." Is that correct?
7 A That's correct.
8 Q And so this is an example of the Trust and Safety team performing its own
9 independent evaluation of videos that the Virality Project thought violated YouTube's
10 policies?
11 A Yes.
12 Q Now, if you'll just give me a minute. You were asked a series of questions
13 about the email from [redacted] in which he discussed scrutiny of YouTube's policies.
14 And you mentioned that YouTube and other social media platforms during the pandemic
15 were receiving scrutiny from governments around the world, correct?
16 A Correct.
17 Q Did that scrutiny and the knowledge that YouTube was subject to that
18 scrutiny impact any of YouTube's decisions regarding its content policies or its individual
19 content moderation decisions?
20 A Not to my knowledge, no.
21 Q And you were asked if you were aware about discussions of issues like
22 reform of Section 230 in the company. And you stated that you were aware of those
23 discussions but that you personally were not part of them. Is that correct?
24 A Yes.
25 Q Okay. Are you aware of whether those discussions -- or, to your

1 knowledge, were any of those discussions, or was there anyone in the company, link
2 reform of Section 230 to YouTube's COVID-19 misinformation policy?
3 A In discussions that I have heard about 230 or been aware of, that was a topic
4 that I can't recall ever coming out.
5 Q Okay. And when you say that was the topic, you mean the COVID
6 misinformation?
7 A I mean the COVID misinformation piece was not a topic that I can recall
8 being mentioned in any of those conversations.
9 Q Okay. So I want to move a little bit forward in 2021 and talk about a policy
10 change that YouTube implemented regarding vaccine misinformation in late September
11 of 2021. Do you know what I'm referring to?
12 A I vaguely remember. At this point, one of my reports had returned from
13 parental leave, and so she was the primary YouTube public policy person responsible for
14 explaining the update.
15 Q Okay. And was that person [redacted]?
16 A Yes. Now [redacted].
17 Q Okay. Thank you very much.
18 [redacted] And if I could have the next exhibit, please. I've already
19 forgotten. We're on --
20 [[redacted] Exhibit No. 7.
21 was marked for identification.]
22 [redacted]. Okay.
23 BY [redacted]
24 Q Thank you.
25 So this is a -- it's an email from August 17th, 2021, from [redacted] to a series of

1 Google employees, and you and some other folks are cc'd on it.

2 Do you recognize the names of the individuals in the "To" line?

3 A Yes, I do.

4 Q Okay. I'm not going to take you through all of them, but I am going to ask,

5 were these people, in August 2021, based in or responsible for Google's policies and

6 government affairs in the United States or was this more of a global group?

7 A This at the time was almost all, if not all, of the individuals who are

8 dedicated to different countries around the world.

9 Q Okay.

10 A So, for example, [redacted] is in Brazil. [redacted] is in the U.K. [redacted] is in

11 Germany. [redacted] was Japan. And [redacted] was Korea. [redacted] was Canada. And

12 [redacted] was Australia.

13 Q Thank you very much.

14 The subject of this email is "New Vaccine Misinformation Policy-Input Requested,"

15 and then in brackets "Timely."

16 Did I read that correctly?

17 A Yes.

18 Q And this is a reference to the vaccine misinformation policy that went into

19 effect ultimately in September 2021. Is that correct?

20 A That's correct. I'm not sure the exact date when this actually did go into

21 effect.

22 Q And this was, I take it, based on your earlier testimony and also from your

23 description of where these recipients were based, a global policy, correct?

24 A Yes.

25 Q Okay. Now, the email says, "Hi All, this note is to, 1) share an update on a

1 new vaccine misinfo policy that will be rolling out in September, and, 2) get feedback
2 from regional/local leads about risks and opportunities to inform our GTM strategy."
3 Did I read that correctly?
4 A Yes.
5 Q Okay. And what does GTM stand for?
6 A Go to market.
7 Q Thank you.
8 It then says, "For background, today we do not have a general vaccine misinfo
9 policy. We do have a COVID-19 vaccine misinfo policy which allows us to remove a
10 limited list of verified false claims about COVID-19 vaccines."
11 Did I read that correctly?
12 A Yes.
13 Q And to your recollection, is that an accurate statement of Google's
14 policies -- or, I'm sorry, YouTube's policies in August of 2021?
15 A Yes.
16 Q Okay. And then she states that, "On September 1st (TBC) we will launch a
17 new policy that will prohibit false claims about the following."
18 And then she lists three categories: Vaccine safety, efficacy of vaccines, and
19 ingredients in vaccines, correct?
20 A Yes.
21 Q And then the new policy will also, "Terminate channels that demonstrate a
22 pattern of promoting vaccine hesitancy," and then goes on with some explanation of
23 what that means, correct?
24 A Yes.
25 Q And then if you look at the next page, [redacted] writes, "The list of vaccines

1 that will be in the scope of this new policy are below - this list is based on the vaccines of
2 the World Health Organization -- I'm sorry -- the vaccines the World Health Organization
3 recommends in routine immunization programs globally."
4 Did I read that correctly?
5 A Yes.
6 Q And then it lists -- one, two, three, four, five, six, seven, eight -- nine
7 different vaccines, correct?
8 A Yes.
9 Q And I'll just read them quickly. The Tuberculosis vaccine, hepatitis B,
10 POLIO, DPT, Hib, pneumococcal, ROTAVIRUS, MMR, and the HPV/Gardasil vaccine. Is
11 that correct?
12 A Yeah, DT.
13 Q Okay. Thank you. I'm not sure if I said that correctly.
14 And COVID-19 was not listed in this list, correct?
15 A No, it's not in this list.
16 Q And that's because, as [redacted] mentioned, YouTube had already instituted
17 a COVID-19 vaccine misinformation policy?
18 A That is correct. And that was included in the slide deck from earlier and
19 which indicated that it was launched in October of 2020.
20 Q And then at the -- closer to the bottom of that page, it says, "ASK: Please
21 confirm whether your local/regional assessment of this update is that, a) this policy is
22 risky from a local GAPP POV" -- and I assume that means Government Affairs and Public
23 Policy, correct?
24 A Correct.
25 Q -- "with details about what the risks are and why (so we can think through

1 mitigation strategies, et cetera) or, b) this is a positive development that you would want
2 to highlight with KOFs in your region."
3 Did I read that correctly?
4 A Yes.
5 Q And what does KOF stand for?
6 A Key opinion former.
7 Q Okay. Thank you.
8 And this, again, was sent in August of 2021, correct?
9 A Yes.
10 Q And [redacted] was asking people on the GAPP team to -- for input about
11 whether they thought this was a wise idea and how this would be received by the
12 stakeholders that they deal with, correct?
13 A I would frame it as interested in understanding what the risks are and
14 how -- so that that could inform kind of to talk about it when they go to market effort.
15 And then whether this is something that would be viewed by certain folks as positive, in
16 which case, we can do -- we would consider potentially doing more kind of proactive
17 outreach to highlight it.
18 Q Okay. And sometimes that sort of proactive outreach happens before the
19 policy is actually implemented to give folks a heads-up that this is coming?
20 A On occasion, yes.
21 Q Okay. And given that this email was sent in August -- or mid-August
22 of 2021, is it safe to assume that the decision to allow this policy was made prior to that?
23 A I mean, based on the information in the way [redacted] laid it out here, the fact
24 that she's seeking and specifies informing the go-to-market strategy, my understanding in
25 terms of process -- and, again, I don't -- I don't recall the specifics of this time

period -- but it does sound like this was a baked policy.

And so what she is seeking is an understanding of how -- how it will be received in order to inform how she and the -- our other colleagues need to prepare to kind of talk about that.

Q And what exactly do you mean by when you say it's a baked policy?

A Oh, sorry.

Q It's okay.

A It's set. The lines are not going to change based on any feedback that [redacted] is having.

Q Okay. Thank you.

[redacted] And if I could have the next exhibit, please. And this is exhibit 8.

[[redacted] Exhibit No. 8.

was marked for identification.]

BY [redacted]

Q And just for your reference, it's just a continuation of that email thread. So we only need --

A Oh, great.

Q -- portions that are on the first page.

A Okay.

Q Okay. So on August 18th, [redacted] responded that he was supportive of the policy change, "and generally speaking in the EU this is a positive development that we would want to highlight with KOFs in our region."

Did I read that correctly?

A Yes.

Q And then he pointed out that, "in presenting this development," as another

1 employee had pointed out earlier, "it could be tricky to explain why these misinfo areas
2 were allowed before. Do we have a good answer for this?"
3 Did I read that correctly?
4 A Yes.
5 Q Okay. And then [redacted] responded, again, to thank for the updates and
6 heads-up, and asked, "whether we still want to meet with local health authorities to
7 discuss the policy and get their buy-in prior to launching as suggested by [redacted]
8 Did that I read that correctly?
9 A Yes.
10 Q So it was not unusual for GAPP team members to meet with stakeholders to
11 get their buy-in on significant policy changes?
12 A Yes. And I want to clarify.
13 Q I'm sorry, yes -- I did not phrase that properly.
14 A Okay. Yeah, yeah, yeah.
15 Q Was it unusual?
16 A It was not unusual.
17 Q Thank you.
18 A What I would like to also clarify is, when [redacted] says buy-in here, and when
19 that term is used within the Public Policy team, that basically means see if they're
20 supportive and potentially having a positive voice in support once that policy is launched.
21 Q It does not mean approval or permission, correct?
22 A That is correct.
23 Q Okay. And why would YouTube want to get that type of buy-in from local
24 health authorities or any external stakeholders?
25 A We've discussed quite a bit the amount of scrutiny that social media

1 platforms face, including YouTube. And so having some positive voices out there and
2 acknowledging things in a positive way is kind of part of our job.
3 Q And because it's part of your job, that's why, in certain circumstances,
4 members of the GAPP team might reach out to government officials in advance of a
5 policy to inform them of it?
6 A That's correct.
7 Q To receive that positive feedback?
8 A That's correct. We may also reach out in advance if we know that it's not
9 going to be well received to inform them ahead of time.
10 Q And why might you do that?
11 A Part of it is to, you know, potentially mitigate any -- you know, mitigate by
12 explaining the rationale; any, you know, frankly, very public noise about something.
13 We, you know -- we want to make sure that we are explaining it and having it understood
14 versus another party explaining it in a way that doesn't actually capture the accuracy of
15 what's happening.
16 Q Now, are you aware from reviewing the documents in this case or from your
17 independent recollection, that before this policy went into effect, [redacted] emailed
18 Rob Flaherty at the White House to advise him of this policy and ask if he had any
19 feedback?
20 A I am not aware of any email exchange [redacted] had with Rob about this.
21 Q Okay. And I apologize, but I don't have that email handy. I was planning
22 on waiting for the majority to get there, but since it's late in the day, I wanted to just get
23 here first.
24 For those GAPP team members that did reach out to governments to advise them
25 of this, did they do so because they were seeking permission or approval from the

1 government?

2 A No.

3 Q Okay.

4 A I mean, not to my knowledge, but that's not our practice.

5 Q Now, the majority has claimed that this new vaccine misinformation was

6 adopted in response to pressure from the White House to pressure on Google and

7 YouTube to change its policies. Is that why YouTube adopted this new vaccine

8 misinformation policy?

9 A No.

10 Q Did the concerns that Mr. Flaherty expressed to YouTube about vaccine

11 hesitancy back in April 2021 or any time have any impact on YouTube's decision to

12 implement this new policy?

13 A Not that I'm aware of. This policy is -- it has nothing to do with COVID

14 misinformation.

15 Q And that was going to be my next point. This policy is about other

16 vaccines?

17 A Correct.

18 Q Okay. And so as far as you're aware, there's no connection between Mr.

19 Flaherty's discussions with YouTube about COVID misinformation and the adoption of this

20 policy?

21 A Correct.

22 Q Okay. And in all of the documents that you've reviewed in preparation for

23 today, has there been any reference or have you seen any reference to Mr. Flaherty or

24 the White House in relation to this policy change?

25 A I have not.

1 Q Okay. Now, in May of this year, just to get a little bit more specific about
2 why I'm asking you those questions -- actually, you know what, I'm going to save that for
3 the next hour. We can strike that, and we can go off the record.
4 [Recess.]
5 [redacted] We can go back on the record, please.
6 BY [redacted]
7 Q Do you know who [redacted] is?
8 A Yes.
9 Q Who is he?
10 A I'm not sure what his title is, but he is -- I believe he leads our YouTube's
11 health partnerships team.
12 Q Have you interacted with him as part of your role at the company?
13 A Yes.
14 Q At a very high level, what's your understanding of what his responsibilities
15 are with the company?
16 A My understanding is that given his expertise as a medical professional, he
17 consults with Trust and Safety in relation to policies that touch medical information.
18 And I also believe that his team is in touch with different types of medical organizations
19 and professional bodies around the world, I believe.
20 Q To your understanding, has he had interactions with the CDC or other parts
21 of HHS?
22 A I would assume so, yes.
23 Q But you don't have direct knowledge?
24 A Not that I recall specifically.
25 Q I think we've gone over different variations of this. Do you recall any

1 meetings of, whether it was someone on the policy team or maybe someone from [redacted]
2 [redacted] team or -- where you were briefing someone who's then going to be talking to
3 HHS?
4 A I don't recall.
5 Q Do you recall any interactions with the White House after -- let me rephrase
6 that. There are subsequent ones you mentioned.
7 Do you recall any interactions with the White House in the summer or fall of
8 2021?
9 A With anybody from the White House or --
10 Q Yes.
11 A I don't recall any -- I don't recall anything, no. Not that I recall.
12 Q In the previous round, there was discussion about the content moderation,
13 the change of the community guidelines, about the safety and efficacy of vaccines
14 broadly, that ultimately took effect in the fall of 2021.
15 A Yes.
16 Q To your recollection, when did discussions around that change to the
17 community guidelines first begin?
18 A I don't recall. As I said earlier, my colleague -- or my report actually was the
19 one who handled that policy through the market, so I don't remember when it -- I don't
20 remember when it started.
21 Q And can you say your colleague's name again?
22 A [redacted]
23 Q What's [redacted] last name?
24 A Her email shows [redacted] but it's actually [redacted]
25 Q How many direct reports did you have in 2021?

1 A Let's see. I -- in which part of 2021?

2 Q How about how did it change throughout 2021?

3 A So I was still in the interim role. And the reason I ask is because I don't

4 remember when my APAC person came on board. So -- and then [redacted] was also out for

5 the beginning of 2021. So it was anywhere -- and I don't know if I had hired [redacted] yet.

6 So it would've been -- let's see. [redacted] -- somewhere between three and five over the

7 course of the year.

8 Q Okay. When did [redacted] come back in 2021?

9 A I think she came back in the -- sometime in the early spring of 2021.

10 Q Okay. Prior to her coming back, was there any discussion about

11 changing -- about making this change to the YouTube's community guidelines?

12 A I don't recall.

13 Q If there was discussion that would've looped in members of your team, prior

14 to [redacted] return, who else from the team might have been a part of those discussions?

15 A They probably would've looped me in.

16 Q Okay. Do you recall any conversations with [redacted] about the policy

17 change?

18 A I mean, we have regular one-on-ones. And so in the course of our regular

19 meetings, she would have given me updates on kind of where things were and what the

20 next steps were and asked me for guidance.

21 Q Do you recall any of those discussions or any of it?

22 A I don't.

23 Q Who from your team attended the briefing with the executives about this

24 policy change?

25 A You mean in terms of the policy approval?

1 Q Yes.

2 A I don't recall. These meetings happen with quite a bit of regularity. And
3 so the attendees change based on who's available and what the topic might be. And so I
4 just -- I honestly don't remember.

5 Q In the situation where [redacted] is taking the lead and she is consulting on
6 behalf of your team, asking questions, providing some sort of feedback, what sort
7 of -- typically speaking, what sort of work product -- does she providing you a readout?

8 A So one of the things that our team regularly prepares for something like this,
9 whether it's a policy update or expansion or a new product launch, is a -- just call it a
10 GAPP doc. And, basically, it includes a very brief summary of what's happening. It
11 includes, where relevant, information about the timeline.

12 So, for example, earlier today I talked about sometimes we might announce a
13 policy, start enforcing, but have a grace period when it comes to penalties. And so, you
14 know, that's an example of a YouTube timeline and launch timeline that somebody from
15 my team would include in a doc.

16 There also would generally be what's known as a buddy note, which is a very
17 standard email that our colleagues, again, noting that these would be used by our
18 colleagues around the world, can copy and paste into an email to give a heads-up to their
19 relevant stakeholders after launch. And then, you know, some talking points to
20 explain -- explain what the change is or what the update is or what the new feature is in
21 conversation.

22 Q Can you say a little bit more about the GAPP doc? Who is the audience for
23 that doc?

24 A The Public Policy team.

25 Q So someone on the Public Policy team creates it to be read by others on the

team?

A That's right.

Q And at what stage in the process was that GAPP doc created?

A It depends on a number of things. Frankly, part of it is how much procrastination is done on the part of the person covering it. So sometimes they're created, you know, very early on and fleshed out over the course of time. Sometimes they're created, you know, a week before the actual launch happens if it's a small thing.

Q If it's one of those that's been created early in the process, so this is a document that can be revised oftentimes or updated?

A Yes. It's effectively part of the go-to-market materials for the Public Policy team.

Q And is the individual involved -- or the individual responsible for drafting the GAPP doc the same individual who takes the lead on the policy change for the GAPP team?

A As in sort of is meant to be the subject matter expert on the policy or product change versus writing the policy?

Q Yes.

A Yes, it is the subject matter expert on the Public Policy team responsible for explaining and covering that particular feature of the policy.

Q So if there were to be a GAPP doc, the way the sort of policy change you've been discussing from fall of 2021, it would be likely drafted by [redacted] at some point. Is that consistent with how protocol normally would be?

A That is consistent with how the protocol would normally be.

[redacted] I'm going to introduce two exhibits at once. The first exhibit, exhibit 9, is an email chain between the White House and members of Google and YouTube from

1 July of 2021. There is a link at the 10:57 timestamp from Mr. Flaherty on July 20th,
2 2021.
3 [Exhibit No. 9.
4 was marked for identification.]
5 Exhibit 10 will be the tweet that is linked in this email.
6 [Exhibit No. 10.
7 was marked for identification.]
8 To clarify on the record, is not on this email chain.
9 I'm sorry, I think I missed it. Which one's this?
10 The email is 9 and the tweet is 10.
11 . Okay.
12 BY
13 Q For the email chain, there's a back and forth between Mr. Flaherty and
14 Mr. Flaherty flags a tweet that has a screenshot of some YouTube thumbnails.
15 And Mr. Flaherty asks a question about how YouTube's policies apply. And, ultimately,
16 gets back to him with an answer. This is in July of 2021.
17 Do you have any recollection of being looped into any internal company
18 conversations regarding the question from the White House or the response that was
19 provided?
20 A I do not. But what I can say about response is that you will see that
21 the stack he provided is the same stack that was in the presentation we talked about
22 earlier from February of 2021. So response was the approved language that we
23 had been using throughout any of the conversations. And, yeah.
24 Q Later on in his -- the last email of this version of the chain, from 7/21 at 1:03
25 a.m., writes, "To clarify, the content was not in violation of the policies,

1 therefore not subject to removal."

2 In order to be able to make a statement like that, who from the company would

3 he need to consult with?

4 A So he would have needed to have the individual videos reviewed by the

5 Trust and Safety team.

6 Q If you were in his situation and you would have received this screenshot of

7 the thumbnails, and if you're able to identify the YouTube links, how would you have

8 flagged the YouTube links to the Trust and Safety team? What process would have been

9 used?

10 Mr. Bopp. Just -- let's just make it clear. I mean, you're asking a hypothetical.

11 You didn't actually do this. But having said that, if you can answer using what

12 you customarily would have done, something like that, then feel free to answer.

13 [redacted]. Okay.

14 Yeah, I mean, in a case where it's a screenshot like this, the first thing one would

15 have to do is search for those individual videos on YouTube, find the video URLs, put

16 them together in an email, send them to the Trust and Safety team for review, and then

17 evaluate the verdicts when they came back.

18 BY [redacted]

19 Q Would you have directed this to an individual at Trust and Safety? Would

20 you have used one of the prioritization emails available?

21 A I would've used the PERT alias that we discussed earlier.

22 Q Is that the high priority one?

23 A I don't know. I think for this one, given that the nature of the tweet wasn't

24 actually questioning the -- whether or not the content was violative, this would not have

25 struck me as particularly time sensitive, and I probably would have used PERT-lite.

1 Q There's the tweet and some of Mr. Flaherty's language that's not just about
2 why the videos weren't removed but about the algorithm and highlighting concern about
3 what is being recommended at the end of the video. For a situation like this where
4 there's been a concern about the recommendations that are being made, is there an
5 avenue by which you can contact the Search and Discovery team?
6 A There is a way for us to send videos to Search and Discovery to be evaluated.
7 Q And what does that customarily look like?
8 A That is generally somebody -- they have a much -- actually, there are two
9 ways. One is that it can go through PERT. And then somebody could ask, if the verdict
10 came back as nonviolative, to have it reviewed, you know, to see if it is something that
11 external readers have looked at and can look at. And then another way is sometimes
12 just sending it to somebody on the product team and they would route it.
13 Q For the first way mentioned, if it's been sent through PERT, someone from
14 Trust and Safety or someone from your team could flag it for the Search and Discovery
15 team?
16 A There are instances where I've asked just on -- in response to the alias if
17 somebody could look at it. And I don't remember if they -- I think they added somebody
18 else in, but I don't -- I don't remember who or how or exactly. But it is something that
19 I've asked on that particular chain.
20 Q Just to clarify, you're saying you've asked to the PERT email, and then
21 someone from, presumably, Trust and Safety added in someone from --
22 A Search and Discovery, that's correct, yeah.
23 Q Do you recall any specific examples of a time you did that?
24 A I don't. I don't recall a specific example, no.
25 Q If you -- for the second way you mentioned, reaching out directly to the

1 product team for a situation like this where there's a set of videos you're trying to add an
2 interest in understanding how or why the recommendations came out this way, who on
3 the product team would you reach out to?
4 A Since we're speaking theoretically, I likely, again, would've actually sent it to
5 Trust and Safety first. And then I -- looking at -- you know, for example, the Rand Paul
6 video is from the Hill. And that is an authoritative news source, according to some, you
7 know, people's understanding. And that's not something that I would ask anybody to
8 have a look at.
9 Q Independent of this example, just generally, if for whatever reason you
10 weren't having success going through the PERT program or wanted to have a second
11 means of reaching out, who on the product team would be appropriate to reach out if
12 you wanted to understand more about what recommendations were coming up based off
13 certain videos?
14 Mr. Bopp. And just to be clear on the record, are you asking her sort of generally
15 in her practice who she would have reached out to since otherwise we're talking about a
16 hypothetical?
17 [redacted] Yes, yeah.
18 Mr. Bopp. Okay.
19 BY [redacted]
20 Q I mean, if it's changed over time, then we'd want to know that. But just
21 generally speaking, if you have a point of contact on the team or someone that you
22 understand could provide more information to you.
23 A If it's about recommendations generally, I -- I mean, this is -- it really -- it
24 really depends on the circumstance. A lot of people raise concerns about things they're
25 seeing in recommendations. And my general response is to explain that we use a

1 number of different factors to determine what shows up in recommendations versus
2 turning to an escalation path of any sort to have the recommendations evaluated.
3 Q Do you have a primary point of contact of somebody you generally interact
4 with on the Search and Discovery team?
5 A Again, it depends on the timeframe. If we're talking about now, I
6 would -- again, it depends on specifically what kind of an information I am seeking. So if
7 you have a more concrete example of, you know, what kind of information in a
8 hypothetical, I can provide you a more specific answer.
9 Q What if you wanted to understand why election videos were feeding or
10 recommending videos related to vaccines?
11 A I don't know that that's a question I would ask our teams to look into. I
12 think that that would be an instance where I would point to our blog that explains the
13 many different signals that come into play when it comes to recommendations and not
14 go any deeper into it.
15 Q If there was a concern about borderline content -- you're familiar with the
16 figure that's been cited. If you wanted to better understand if there was a concern that
17 accounts that weren't verified and were being recommended, who on the Search and
18 Discovery team could best speak to that?
19 A I'm sorry, what do you mean by accounts that weren't verified?
20 Q Or if it was -- or accounts that are not authoritative, if there's a concern
21 about whether borderline content from nonsubscribed accounts was being
22 recommended.
23 A That's where I would probably ask somebody directly in Search and
24 Discovery. I think I would start with [redacted]
25 Q And what's [redacted] last name?

A [redacted], [redacted].

Q And what's his role?

A He's a director of responsibility within Search and Discovery.

Q You mentioned another sort of document or work product that's often created with the changes of the community guidelines, the buddy notes.

A Uh-huh.

Q Just hypothetically, but if you remember what roughly does a buddy note say or include?

A It is generally a very basic email that says, you know, hi, I'm reaching out to let you know that as of, date, YouTube will be updating X policy to do Y thing. You can read more about it on our blog, if we have a blog post about it or if the company has made a blog post.

If there is an available Help Center article, we would include the Help Center article. And we also, when we write those things, usually include just a kind of boilerplate line of, you know, please don't hesitate to let me know if you have any questions or if you'd like to have a -- if you'd like to discuss.

1 [4:19 P.M.]

2 BY [redacted]

3 Q And do those go out before or after it's been publicly announced?

4 A Generally, the buddy notes are written to be sent after the sort of public

5 announcement or the public go live.

6 Q And is the same person who drafts the GAPP doc the same person that

7 drafts the buddy note?

8 A Generally, yes.

9 Q And for the talking points, are those drafted in coordination with the buddy

10 note? Or who is the intended audience for the talking points?

11 A The intended audience for the talking points would be our global GAPP

12 colleagues, and to use with key opinion formers.

13 Q Who would fall under key opinion former?

14 A A government official, a third-party organization, you know, a thought leader

15 working in this space, think tank, regulatory body.

16 Q And when talking points are prepared, or a buddy note, is it sent in the body

17 of an email? Is it an attachment, a Word doc to an email?

18 A Are the talking points sent?

19 Q Uh-huh.

20 A So the talking points don't get sent externally.

21 Q Sure. When they're sent internally to the GAPP team.

22 A It all lives in one Google doc.

23 Q The buddy note, the talking points, the GAPP doc generally?

24 A Yes.

25 Q And in three separate Google docs or one Google doc?

1 A In one Google doc with a table of contents and different sections.
2 Q We had a discussion earlier regarding borderline content. I wanted to
3 clarify a couple things, if you could. First off, who selects the testers for borderline
4 content?
5 A I am not that deep in the details of how the selection and sort of rater
6 process works. In my role, what I have been sort of trained to understand, the extent of
7 my knowledge is that we leverage external raters.
8 Q To your understanding, are those picked by the company in some form or
9 fashion?
10 A I don't know. I don't know who chooses them. I don't know how they're
11 selected.
12 Q Who at the company might know that information?
13 A [redacted] would know.
14 Q When it comes to just broadly managing the testers, is it part of the Search
15 and Discovery team's responsibility?
16 A You mean the evaluators?
17 Q Sure, the evaluators.
18 A Again, I don't know what the structure looks like there. I know that, you
19 know, because that whole world lives within Search and Discovery, they have some
20 responsibility for the structure, but I don't want to speak on the record about something I
21 don't really fully understand.
22 Q The guidelines that the evaluators are relying on, what are those called
23 internally within the company?
24 A I only know them as rater guidelines. I don't know if they have any more
25 formal name.

1 Q And is the Search and Discovery team responsible for drafting the rater
2 guidelines?
3 A Again, I don't know the details of how they have set up the structure or the
4 processes.
5 Q So within YouTube, there is a team, there is Trust and Safety that develops
6 the community guidelines and that handles content that's removed, content that is age
7 dated. And then in a different silo within the org chart, there is someone possibly
8 Search and Discovery, that drafts the rater guidelines. There are evaluators that are
9 using those to evaluate potentially borderline content.
10 Is that your understanding of how the company has this set up?
11 A Yes, that is my understanding.
12 Q Are there, to your knowledge, meetings or discussions between the Trust
13 and Safety team and the Search and Discovery team?
14 A They are often in the same meeting.
15 Q To your understanding, do changes to the rater guidelines go through a
16 similar process as changes to the community guidelines?
17 A I don't know.
18 Q To your understanding, does a change to one trigger a change in the other?
19 A I don't know. My understanding is that the Trust and Safety team has their
20 process for developing and expanding community guidelines, and Search and Discovery
21 has their process or has some process and structure with regard to the raters and the
22 rater guidelines.
23 Q So there is public facing documents that the company has put out that refers
24 to borderline as content that comes close to but doesn't violate our policies. When the
25 company is saying that, are they saying not violative of the community guidelines or the

1 rater guidelines?

2 A They are saying of the community guidelines because if it violates the

3 community guidelines, it would be removed, and therefore, not eligible to be

4 recommended at all.

5 I think, if I can just add something, I think, you know, in sort of an earlier exchange

6 that we looked at where we had talked about potentially -- or in other documents -- this

7 is one of the areas where, in conversations and in follow-up with the White House, with

8 Rob specifically, there was a lot of, kind of, misunderstanding of the nuance of this.

9 And so, this is where I think you will have seen that we thought it might be helpful

10 to have [redacted] who, at the time, we discussed -- you saw him on an email thread. He was

11 a PM who was responsible for -- at least I think partly responsible for some element of

12 the reduce pillar.

13 And so the rationale for having [redacted] participate in the meeting was to talk in a little

14 bit more detail just about how the reduce pillar itself works. I wasn't part of that

15 conversation, but what I can also tell you is that [redacted] would have explained a bit about the

16 way that there is sort of a separation of church and State, as I've explained here.

17 But at the time, [redacted] was a good person to kind of give a little bit more insight from

18 the product perspective on how that worked.

19 Q So I certainly appreciate that there's two teams and to a certain degree, then

20 there's separation of church and State. But if borderline content is being presented to

21 the public as content that is close to, but not violative of the community guidelines, it

22 sounds like there has to be some sort of relationship then between the two where if the

23 community guidelines shift for whatever reason, that necessarily will shift what's

24 considered borderline content.

25 Is that an inaccurate understanding of the relationship between the two?

1 A The way that YouTube talks about that is that they say that borderline
2 content comes close to, but doesn't violate policies.
3 In practice, I don't know what the relationship might be between changes to the
4 community guidelines and alterations of the rater guidelines. In my role, that's far
5 outside of the scope of things that I am privy to, or that I've been asked to or expected to
6 understand.
7 Q To your understanding, and with the understanding this is not your primary
8 responsibility to either team, does the Search and Discovery team have some sort of
9 mandate or guidepost to have their rater guidelines hue closely to the policy guidelines,
10 the community guidelines?
11 A I really want to be helpful, but I don't know.
12 Q Looking at two different parts of the org chart, when is the first point you get
13 someone who oversees both, at what level of seniority?
14 A That would probably be at the -- I don't know if it's at the CPO level or at the
15 CEO level.
16 Q Based off your understanding of the system the company has, is borderline
17 content potentially a misnomer?
18 A What do you mean by misnomer?
19 Q Well, if it truly is church and State, and you've got one team doing one thing
20 and another team doing another thing, and if there isn't a mandate to hue closely to the
21 community guidelines, is it misrepresentative to frame what the Trust and Safety team is
22 working on as borderline content?
23 A You mean the Search and Discovery team?
24 Q Sorry, yes.
25 A Again, I don't want to speculate on how they would develop the rater

1 guidelines. What I can tell you is that there was a whole tranche of content on
2 platforms generally that doesn't violate policies, but may be viewed as harmful, and I do
3 not believe that it's misleading to represent that as, quote, unquote, "borderline,"
4 because it doesn't violate policies, but it can also be viewed as harmful.
5 Q You would agree that the company has presented it, though, this kind of
6 what they're calling borderline content as content that comes close to violative content.
7 Is that fair?
8 A That is fair.
9 The company has also represented it as harmful content.
10 Q Are there like a whole other set of team of enforcers, then, for borderline
11 content?
12 A There are the external raters who review the content and that informs the
13 automated systems.
14 Q Other than the evaluators, is there anyone internal in the company who has
15 the opportunity to weigh in on enforcement as, yes, this is borderline content and should
16 be reduced, or no, this is not and should not be reduced?
17 A Not in my experience.
18 Again, the guardrails are developed such that the content is reviewed by external
19 raters, and I say multiple raters because it's not a single -- my understanding is it's not a
20 single rater. It's multiple raters who look at an individual piece of content, and they are
21 not internal employees, to my knowledge.
22 Q But you don't know who from the company picks who those people are?
23 A That's right.
24 Q Do you have interactions with the CEO other than the briefings we discussed
25 I think in the first hour?

1 A The first hour was a little while ago.
2 Q Sorry.
3 A Sorry.
4 Q Other than the briefings regarding changes to the community guidelines
5 policies.
6 A I do, yes.
7 Q And what's the nature of some of those interactions?
8 A It might be providing an update on regulatory developments. It might be
9 any meeting were somebody from the product team is presenting or explaining a new
10 feature that they wish to roll out.
11 Q Do you have any standing meetings that you attend that the CEO also
12 attends?
13 A We have a regular forum as the Public Policy team, combined with legal,
14 where we provide exactly the sort of first example that I gave you, updates on regulatory
15 developments and legislative landscape.
16 Q How often does that standing meeting meet?
17 A It's generally something that happens biweekly, but it gets moved around
18 quite a bit.
19 Q Do you recall any meetings where there's discussions about regulatory
20 developments, potential regulatory developments in the context of the need for or
21 consideration of changes to the community guidelines?
22 A That's not the nature of the briefings that we do as a government affairs
23 team.
24 Q What's the nature of the briefings you do?
25 A For example, if there is a new bill introduced in, you know, Germany, that is

1 novel and would potentially have significant impact on YouTube and YouTube's product,
2 features, or systems, that's something we would explain or provide a briefing on, along
3 with our sort of -- you know, we might include some redlines, how we seek to change, or
4 how the bill can be improved, as well as potential strategy and outreach.
5 Q Are you familiar with the new firearms policy that's about to take effect I
6 think June 18th?
7 A I am familiar, yes.
8 Q And to your understanding, what changes are being made?
9 A So somebody on my team covered this, and so I'm not -- I haven't been as
10 deep in the details of it. What I understand is that the major expansion and addition to
11 the firearms policy is that it is going to prohibit 3D printed gun content.
12 Q Who from your team is taking the lead on this?
13 A That was [redacted].
14 Q And what's her title?
15 A I believe analyst, senior analyst.
16 Q Do you know when discussions on this policy change first began?
17 A I don't know.
18 Q Were you privy to any of the conversations regarding it? Let me take one
19 step back.
20 Were you privy to your team's opportunity to consult with and ask questions to
21 the Trust and Safety team before it went up for approval?
22 A A bit, but I didn't participate in those meetings.
23 Q When you say a bit, what do you mean?
24 A I know that, you know, again, through the course of the standard process to
25 develop or amend an existing policy, members of the Public Policy team, along with other

1 cross-functional stakeholders, had the opportunity to participate in discussions and ask
2 questions.
3 Q Did [redacted] attend the meeting with the executives when this policy was up
4 for approval?
5 A I don't know. I believe I was out of the office when that happened.
6 Q Do you know approximately when that meeting occurred?
7 A It may have happened in April, but I think with this one, also, I don't recall
8 specifically, but it's also likely that [redacted] if she was there, she didn't have much of a
9 speaking role.
10 Q Do you know if there were disagreements about the scope of the policy
11 changes?
12 A Within these YouTube discussions?
13 Q Yes.
14 A I wasn't present, so I don't know.
15 Q Did [redacted] ever tell you about any?
16 A Not that I recall.
17 Q For the firearms policy and for other ones, there are policies specific to live
18 streams. How does YouTube enforce its policies against live streams?
19 A So one keynote is that all of the policies apply to live streams. Now, there
20 are a handful of -- it might only be one, frankly, specific to live streams. And
21 enforcement is done the same way for a live stream as it's done for any other piece of
22 content. It's reviewed. If it's a live stream in action, it's reviewed while it's in action.
23 If it's found to be violative, then it's terminated.
24 Q Is there a different reporting process or a way to expedite review of a live
25 stream as it's happening in real time?

1 A No.

2 Q When submitting something, is there --

3 A I should say not that I'm aware of, to be clear.

4 Q For Trust and Safety, is there one email address for live streams and one for

5 videos, or is it all the same? You would just put the hyperlink to the live stream the

6 same way you would for the YouTube video?

7 A I would use the process the exact same way as I would for any other -- I

8 would note that it's a live stream because that might call for immediate review because

9 it's in flight.

10 Q Does the company have, like, the algorithm or other automatic ways to see

11 whether live streams are violative or not?

12 A While they are live?

13 Q Yes.

14 A I don't actually know how the automated detection works for live streams.

15 What I can tell you is that often live streams, after they're done streaming, convert to sort

16 of standard YouTube videos, and those can often be sort of found through the course of

17 the systems that look to detect violative content.

18 Q There are, presumably, accounts creators who will be impacted by the new

19 policy affecting, you know, how to create new guns, or ghost guns, or whatever it might

20 be that falls within the scope. For a situation like that, does the company preemptively

21 reach out to those creators? How are those relationships managed, if at all?

22 A In certain cases, I do believe that the creator team does some outreach to

23 creators.

24 Q Are you familiar with other community guideline changes where that was

25 necessary?

1 A I can't think of another example specifically to give you, but I do recall it
2 being, you know, part of some of the go-to markets for certain policies. I'm sorry. I
3 can't recall a specific example.
4 Q As it relates to changes to the firearms policy, are you aware of whether
5 there has been any discussion within the company about how this new policy may affect
6 creators who monetize this type of content that's now going to be considered violative?
7 A Well, what I know is that if the content is removed, then it can't be
8 monetized. I don't know -- again, I'm not aware of specific conversations related to the
9 monetization piece of this.
10 Q Are you familiar with what types of advocacy that the company has received
11 about the need to change its community guidelines regarding firearms?
12 A I don't know about the specific advocacy, but I do understand that this was a
13 policy where, at least I'm pretty sure that the teams sought expert, kind of, perspectives
14 before they moved ahead drafting the policy.
15 Q Who would have been, who within the company would have been selecting
16 which experts to seek out?
17 A I think that for this one, I believe that they may have consulted public policy
18 stakeholders in the U.S. and possibly abroad because, again, this is a global policy. This
19 isn't just a U.S.-specific policy. But I don't know the specifics.
20 I believe that this policy was actually in the works for quite a long time, and I just
21 don't recall when, you know -- how they kind of went about things for this one.
22 Q Do you recall anyone within the company soliciting feedback from or
23 receiving other communications from New York officials about this policy change,
24 potential policy change?
25 A I don't recall anybody seeking feedback from New York officials specifically.

1 I do recall that YouTube received a letter from Bragg's office. That letter had no bearing
2 that I'm aware of on the policy.
3 Q Do you know if there was ever a meeting between someone from the district
4 attorney's office and YouTube?
5 A I don't. I'm not aware.
6 Q Who from the company would have the lead for handling the relationship
7 with the district attorney's office?
8 A I believe that would -- I believe that relationship would be owned by the
9 Google GAPP New York manager.
10 Q Who is that?
11 A Her name is [redacted] and I think her last name is [redacted]
12 Q Why would -- if you can just walk generally, not specific to this firearms
13 policy change -- would someone from the Google GAPP team handle issues, or
14 communications related to an outsider's concerns with the YouTube policy?
15 A Because where we don't have a YouTube-specific lead or point person, the
16 Google GAPP person is kind of the first point of contact.
17 So States, for example, we don't have a YouTube GAPP, you know, representative
18 for even regional States or regions of States. We have the Google teams who kind of
19 channel things to us and through us.
20 Q Who is the Google GAPP representative for California?
21 A That's a good question. I believe she just moved on recently, so I don't
22 know -- or has been out for a period of time, so I don't know what the status is.
23 Q Who is that individual?
24 A I can't remember her name, but she reports to [redacted].
25 Q And what's [redacted] title?

1 A I think she -- I don't know. West maybe.

2 Q To your knowledge, when YouTube was reaching out to experts or

3 stakeholders, did that include any government officials, U.S. Government officials?

4 A For this particular issue?

5 Q Yes.

6 A Not that I'm aware of. I'm not sure.

7 Q Any individuals from ATF?

8 A I don't know.

9 Q Is that something that [redacted] might know?

10 A It's something that [redacted] might know. It's also something that [redacted]

11 might know. Again, [redacted] role, and my team's role in this, is one of kind of

12 interpretation and explanation versus the folks who were external facing would be the

13 ones to be the points of contact.

14 Q And in this case, your expectation is it might be [redacted] from the Google

15 GAPP team?

16 A Again, it depends on the place, who owns the relationship, et cetera.

17 Q So for New York, it might be [redacted]

18 A For New York it might be [redacted]

19 Q If it were, hypothetically, the ATF, or some part of the executive branch, who

20 would that be?

21 A That would likely be, if it's a YouTube-specific issue, because that's the place

22 where we have YouTube people, it would be [redacted] or somebody on her team.

23 Q To your knowledge, if there has been any -- well, let me rephrase that.

24 To your knowledge, has there been any creators who have reached out to folks at

25 YouTube about disagreements or concerns about the effects of the new policy change?

1 A I don't know. Not to my knowledge. I have been basically preparing and
2 focused on this for the last 2 weeks, so I don't know what's happening in the rest of the
3 YouTube universe right now.
4 [redacted] Can we go off the record, please.
5 [Discussion off the record.]
6 [redacted] Okay, we are back on the record. Thank you.
7 BY [redacted]
8 Q I would like to turn back to exhibit 9, which is the email exchange between
9 Mr. Flaherty and [redacted] about that tweet, and I'm just going to ask you some
10 questions, because I want to be really clear about what Mr. Flaherty did and did not ask in
11 this email chain.
12 So if you look at the second page of the exhibit, when he first raises it, he says,
13 "I'm curious. I saw this tweet." And then there's the link to the tweet, correct?
14 A That's correct.
15 Q And then he says, "I think we had a pretty extensive back and forth about
16 the degree to which you all are recommending anti-vaccination content. You were
17 pretty emphatic that you are not. This seems to indicate that you are. What is going
18 on here? Thanks!"
19 Did I read that correctly?
20 A Yes.
21 Q And the only question here is: What is going on here, correct?
22 A That's the only question that I see.
23 Q He did not ask YouTube to remove the videos that were screenshot in the
24 tweet that was linked here?
25 A Correct.

1 Q And he did not ask YouTube why the videos were not removed?

2 A He did not.

3 Q And then [redacted] responded with the stats that you referred to earlier, and

4 an explanation of what percentage of content on YouTube's platform in the United States

5 is borderline, and just a general discussion of borderline content, correct?

6 A Yes.

7 Q And then Mr. Flaherty responds by asking what the actual number is right

8 now. And then he asks another question: "I guess: Does the content that the user

9 references in his tweet count as a violative content that has slipped through, or is it that

10 generally the stuff he's posting is inbounds?"

11 Did I read that correctly?

12 A Yes.

13 Q So he is asking which camp this falls into, correct, or which category of

14 content?

15 A That's how I read this.

16 Q And in [redacted] response, he, again, talks about --

17 A Sorry. Actually, let me clarify that.

18 Q Sure.

19 A What I read this as is him asking if it's content that is violative that our teams

20 haven't reviewed and enforced against, or if it's stuff that is not violative.

21 Q And he does not, in here, express an opinion as to which category he thinks

22 it should fall into?

23 A That's right.

24 Q And he doesn't make any request to remove the videos?

25 A I don't see a request to remove videos.

1 Q Or to reduce them?

2 A Correct.

3 Q Okay.

4 And then [redacted] responds again with more language about YouTube's policies,

5 and that's when he first says, "With regards to the specific videos you reference, the

6 content was not in violation of our community guidelines."

7 Did I read that correctly?

8 A Yes.

9 Q And then Mr. Flaherty responds with his final question in this email chain

10 where he says, "This actually gets at a good question. The content" -- and then he uses

11 the user's name -- "points out isn't defined as, quote, borderline and, therefore, isn't

12 subject to recommendation limitations."

13 And did I read that correctly?

14 A Yes.

15 Q So he's simply asking whether it is defined as borderline or not?

16 A That's what I see here, yes.

17 Q He does not ask for it to be defined as borderline?

18 A No.

19 Q And he does not ask for it to be removed?

20 A Correct.

21 Q Okay.

22 And then [redacted] responds again by saying that the content did not violate their

23 user's policy and was not subject to removal?

24 A Yes. I'm sorry.

25 Q Thank you.

1 So earlier this year, on May 1st, actually, just last month, the majority released a
2 report entitled "The Censorship Industrial Complex: How top Biden White House
3 officials coerced Big Tech to censor Americans' true information and critics of the Biden
4 administration."
5 And I'd like to introduce some excerpts from that report. And they are all quite
6 short, so hopefully, this won't take too long.
7 Mr. Bopp. Are you marking this?
8 [redacted] Yes.
9 So this will be exhibit 11, if I am keeping up correctly. And these excerpts all
10 have this front page of the report just to be clear where this is drawn from.
11 [redacted]. Okay.
12 [[redacted] Exhibit No. 11.
13 was marked for identification.]
14 BY [redacted]
15 Q Okay. So if I could turn your attention to the blue chart on the second page
16 of this exhibit --
17 A Yes.
18 Q -- it appears to be a timeline or a flow chart. And I want to draw your
19 attention to the entry for July 20, 2021. That is the date of the email chain that we just
20 went through, correct?
21 A Yes, that's correct.
22 Q Okay.
23 And this report characterizes that exchange as "Flaherty asks YouTube why it's not
24 removing videos that don't violate its policies."
25 Did I read that correctly?

1 A Yes.

2 Q And is that an accurate description of Mr. Flaherty's email exchange with

3 [redacted] on July 20th?

4 Mr. Bopp. Well, wait a minute. Wait a minute. I mean, to the extent you're

5 representing that exhibit 9 is the email chain that's referred to here in this timeline, is

6 that what you're representing to us?

7 [redacted] That's what I'm representing.

8 Mr. Bopp. Okay.

9 [redacted] And it is -- there are later exhibits, by the way, that will show that.

10 [redacted]. To the extent that that is what you're representing, I don't see any

11 reference in this email thread to removing videos.

12 BY [redacted]

13 Q So let me ask it this way: If that is representing -- I'm sorry.

14 If that entry on the blue chart is referring to the email chain in exhibit 9, then it

15 does not accurately describe the email chain?

16 A Correct.

17 Q Thank you.

18 If I could have the next exhibit, please.

19 Or actually, before I get there, earlier, during the previous hour, we talked about

20 the September 2021 policy change, and I referenced an email from [redacted] to

21 Mr. Flaherty that I did not have at the moment. So I just wanted to correct that and

22 introduce that.

23 And this will be exhibit 12, and the relevant email is on the second page.

24 A Okay.

25 [redacted] Exhibit No. 12.

1 was marked for identification.]

2 Q Okay. So the email that I'm referring to on the second page is from

3 Tuesday, September 11th, 2021, from [redacted] to Rob Flaherty. You are not cc'd on

4 this email. Do you recall seeing this email?

5 A I do not.

6 Q But in the email, [redacted] says to Mr. Flaherty, "Our YouTube Trust and

7 Safety team is working to finalize a new policy to remove content that could mislead

8 people on the safety and efficacy of vaccines. We would like to preview our policy

9 proposal for you and get any feedback you may have." And then he asks for availability.

10 Did I read that correctly?

11 A Yes, that's what I see here.

12 Q Okay.

13 And as you discussed earlier, this is not an uncommon type of email that a GAPP

14 external facing team member would send out to a -- I forgot the acronym that YouTube

15 uses.

16 A KOF.

17 Q KOF, Key Opinion Former, or one of its external stakeholders, in advance of

18 the policy changes?

19 A That's right.

20 Q Now, now I will introduce the second excerpt from the majority's report.

21 And for what it's worth, I will, for this moment, just be asking you about that first section.

22 A Okay. Okay.

23 Q Okay. So this first section of the report has a heading called the YouTube

24 files, and then it begins right away by quoting the email that we just reviewed from

25 [redacted] to Mr. Flaherty. Is that correct?

1 A That's what I see, yes.

2 Q Okay.

3 And then in the next paragraph towards the middle of the paragraph, the majority

4 asserts: "Like Facebook, YouTube ultimately capitulated and changed its content

5 moderation policies after months of pressure from the White House. In

6 September 2021, after continued criticism for not censoring borderline or non-violative

7 content, YouTube shared a new policy proposal to censor more content criticizing the

8 safety and efficacy of vaccines with the White House and asked for any feedback they

9 could provide before the policy had been finalized."

10 Is that an accurate characterization of this communication and why this policy

11 change was adopted?

12 A In my experience, and to my knowledge, this is not an accurate

13 characterization.

14 Q Why not?

15 A YouTube doesn't, in my experience, YouTube doesn't change policies, and

16 certainly didn't develop the vaccine misinformation policy that this references as a result

17 of pressure from the White House.

18 Q And I believe that you testified earlier that you, in fact, did not experience

19 any pressure from the White House for YouTube to change its policies?

20 A Yes.

21 Q And I believe you also testified that by the time of [redacted] email in

22 August, specifically on August 17, 2021, the policy was already baked, meaning it was

23 already finalized?

24 A Yes, that was my understanding.

25 Q And so your understanding is that whatever feedback Mr. Flaherty may or

1 may not have given to [redacted] would not have impacted the contours of that policy?
2 A That is my understanding.
3 Q And are you aware of Mr. Flaherty actually providing any feedback to
4 [redacted] about the policy?
5 A I am not. And looking at the email thread, he actually didn't get back to
6 [redacted] until 8 days after [redacted] initially reached out, when the policy had been publicly
7 announced in that interim period.
8 Q And then we'll turn to the third excerpt, and this will be it.
9 Okay. So in this excerpt, there is the subheading that says, "September 2021:
10 YouTube changes its content moderation policies, seeking feedback from the Biden White
11 House on proposed changes."
12 Did I read that correctly?
13 A Yes.
14 Q And then the first sentence reads as follows: "Following months of
15 extensive pressure from the Biden White House, YouTube finally acquiesced in
16 September 2021, when the company instituted a new content moderation policy to
17 remove content that questioned the safety or efficacy of the COVID-19 vaccines."
18 Did I read that correctly?
19 A Yes, you did.
20 Q And then as evidence of that statement, again, there is actually a screenshot
21 of that same email exchange from September 21st and then, September 29th between
22 Mr. Flaherty and [redacted]. Is that correct?
23 A Yes.
24 Q Okay.
25 Now, that statement that I just read, that first sentence of that paragraph about

following months of extensive pressure from the Biden White House, YouTube finally acquiesced, that sentence, is that an accurate characterization of what happened here?

A No.

Q Okay, and why not?

A Well, two reasons: First, YouTube didn't make this particular policy due to pressure from any external stakeholder, including the White House.

But second, this report is talking about -- has characterized that content moderation policy as a COVID-19 vaccine policy but it was not. The September 2021 policy was a general vaccine policy, and as we discussed earlier in [redacted] email, it lists out the various vaccines that are included in that, and COVID-19 is not one of them.

Q So, in fact, that policy was about nine vaccines that are not the COVID-19 vaccine?

A Yes.

Q Thank you very much.

[redacted] And with that, we can go off the record.

[Discussion off the record.]

[redacted] We can go back on the record, please.

BY [redacted]

Q We're back on the record, and I just wanted to clarify a point that your attorney raised earlier.

Going back to exhibit No. 11, which is the blue chart excerpt from the report.

A Yep.

Q And we talked about the entry on that chart for July 20, 2021, correct?

A That's correct.

Q And if you look at the text that is next to the chart, it talks about White

1 House continuing to press YouTube about its policies and enforcement, sometimes asking
2 why particular videos were not removed or otherwise demoted. And there is footnote
3 29.
4 If you look at the bottom, footnote 29 references an email from Rob Flaherty to
5 YouTube and Google's personnel from July 20th, 2021, at 10:57 a.m. Is that correct?
6 A Yes.
7 Q And if you go back now and look at exhibit 9, the email from Mr. Flaherty to
8 [redacted] where he sends the tweet and then asks about the back and forth of [redacted]
9 recommending anti-vaccine content, what is going on here, thanks, that was sent July 20,
10 2021, at 10:57 a.m., correct?
11 A Yes.
12 Q Okay.
13 And I will also just note for the record that the email -- although the names of -- I
14 believe [redacted] name is redacted, but this email is also attached as exhibit 112 to the
15 majority's report.
16 [redacted] And with that, the minority will go off the record, and we will
17 switch back to the majority.
18 [redacted] Still on the record. I think counsel had something he wanted to say.
19 Mr. Bopp. Thank you. Just a couple quick clarifying questions.
20 BY MR. BOPP:
21 Q In the last hour, the minority asked you some questions about a May 1,
22 2024, interim staff report by the staff of this committee. Do you recall those questions?
23 A I do recall those questions.
24 Q Okay. And those questions were, in part, based on exhibits 9 and 12, which
25 you've been asked about as well. Do you recall that, too?

1 A Yes.

2 Q So first of all, I want to ask you whether in answering questions about

3 exhibit 9 and 12, are you answering questions from your own personal knowledge and

4 not on behalf of the company?

5 A Yes.

6 Q Okay. And in addition --

7 Mr. Bopp. I think that covers it for now. Thank you. That's all.

8 BY [redacted]

9 Q Is it your testimony that the policy from September 20, 2021, did not impact

10 in any way how content regarding the COVID-19 vaccine was affected?

11 A Based on the information that we have here and that we've reviewed, and

12 what [redacted] laid out in her emails, that was my understanding.

13 Q And this email from [redacted] which one are you referring to?

14 A Oh, I'm sorry, exhibit No. 8.

15 Q And is that the August 18, 2021, email?

16 A Yes, that's the August 18th. Her original email is August 17th.

17 Q The email from [redacted] what's the timestamp of the --

18 [redacted] Can I have another copy of the exhibit that we just introduced?

19 Mr. Bopp. What are you looking for?

20 [redacted] Whichever version the minority introduced.

21 Mr. Bopp. Exhibit 8.

22 [redacted] Thank you.

23 [[redacted] Exhibit No. 15.

24 was marked for identification.]

25 BY [redacted]

1 Q All right. I'm going to introduce as exhibit 15 a different variation of that
2 chain.
3 A Okay.
4 Q If I could have you flip to Bates number 70738.
5 A Okay.
6 Q There is an email from [redacted] saying, "On September 1st, (TBC), we will
7 launch a new policy that will..." and then it lays out several prongs.
8 First, based off the emails that have been either reviewed or have been produced
9 in this interview, that policy did not launch on September 1st. Is that fair to say?
10 A Yes. And just for your kind of understanding, TBC means to be confirmed.
11 Q If I can have you flip to the next page, 70737.
12 A Okay.
13 Q There is an email Wednesday, August 18, 2021, at 7:31 a.m., from a Google
14 email address. Do you know who that is?
15 A Yes. That's [redacted].
16 Q And what's her role?
17 A She is the YouTube GAPP lead for Korea.
18 Q She writes: "We're glad to see this policy update for COVID-19 vaccine
19 misinfo."
20 Is she misunderstanding the scope of the policy change?
21 A So I don't recall specifically, but if you look at [redacted] email, [redacted] actually
22 claims in her email that this doesn't apply to COVID vaccine information. So from the
23 perspective of the individual who was managing the launch, it looks like she is responding
24 to [redacted] and correcting [redacted] understanding.
25 [redacted] I'm sorry. Just to be clear, you're referring to the language on

1 page 70736?

2 [redacted]. Yes, that's right, the third bullet.

3 What I can tell you is that the information that is sort of the other prong for

4 certain, the vaccine safety, the efficacy of vaccines, the ingredients in vaccines, those

5 three pieces of the policy that are listed on page 70738, those don't apply to COVID.

6 Those are the parts of the policy that apply to this list of nine vaccines here.

1 [5:32 p.m.]

2 BY [redacted]

3 Q The bullet point where [redacted] is responding, she's referring to the personal

4 testimony. Is that right?

5 A She's -- yes, she's respond -- she's referring to the pattern of vaccine

6 hesitancy promotion.

7 Q Which is separate from -- in the email on August 17, 2021, at 8 p.m., there

8 are different prongs. There are the prong referring to the pattern of promoting vaccine

9 hesitancy is number 2, and number 1 is regarding the prohibition of certain types of

10 claims.

11 Is that correct?

12 A That's what I see here. On the August 17th email, the number 1 has three

13 bullets that are related to claims specific to this other set of vaccines listed in her August

14 17th email; and then number 2 is in relation to this pattern element.

15 Q And piecing together [redacted] two emails, when she's saying the COVID-19

16 vaccine is not included, she's referring to the second prong. Is that right?

17 A She is referring to the second prong there and the -- in her original email on

18 the 17th, she also says, "For background, today we do not have a general vaccine misinfo

19 policy. We do have a COVID-19 vaccine misinfo policy which allows us to remove a

20 limited list of verified false claims about COVID-19 vaccines."

21 And then she goes on to say that this list of vaccines in scope of the new policy, in

22 relation to that new policy, are listed below.

23 Q That list is for prong 2. Is there any expansion --

24 A I'm sorry. Sorry, yeah.

25 Q Okay. Do you disagree?

1 A No. I want to hear the rest of your question. Sorry.

2 Q Okay. Well, first, is that list of vaccines for just prong 2 or is it for prongs 1

3 and 2?

4 A So my understanding and my experience with this one is that it is for both

5 prongs 1 and 2.

6 Q On the first page, there's pretty specific language, though, that when she

7 says, this will not include the COVID-19 vaccine, she's referring to the pattern of

8 promoting vaccine hesitancy. She's not referring to the whole policy. Is that right?

9 A She is referring to the pattern in that section. She has also stated that a

10 policy is already in place specific to COVID-19 vaccine misinformation.

11 Q Yes, but the policy in place is limited to a finite list of verified false claims.

12 Is it your testimony that this new policy about vaccine safety, the efficacy of

13 vaccines, and the ingredients of vaccines in no way would expand the type of claims

14 about the COVID-19 vaccine?

15 A I can't say for certain. What I understand was that the major aspect of this

16 policy, as outlined here, was to apply this policy to this list of vaccines.

17 Q But your testimony in the previous round was specific about whether the

18 report was accurate or not about -- regarding any changes to the company's COVID-19

19 vaccine policies.

20 A I understand. And I was -- again, we clarified that I was speaking in my

21 experience and my understanding and not on behalf of the company.

22 Mr. Bopp. Right. And let's just be clear on the record here. There's an

23 answer to your question, right? And [redacted] is not the expert on the full

24 application of this policy. We can find out whether this policy applies and get back to

25 you.

1 [redacted] There are a number of pending document requests from the
2 committee I think would help with this question. And I think there are documents that
3 we continue to want to go through right now to help clarify the record, given the
4 minority's very public and private push to release transcripts, even though the
5 investigation is ongoing and even though the release of transcripts would undermine the
6 integrity of the investigation.
7 Mr. Bopp. But let's just make it clear. The record should show that [redacted]
8 [redacted] just noted that she is not -- she cannot say for certain the exact scope of this
9 policy from September 2021. She is trying to interpret an email chain that she received,
10 she was copied on, you know, 3 and a half years ago. And she's doing the best -- or 3
11 years ago. She's doing the best she can. But we don't want -- we want to make it clear
12 what she is and is not saying. She's not the expert on this policy.
13 Would you agree with that?
14 [redacted]. I would agree with that.
15 [[redacted] Exhibit No. 16.
16 was marked for identification.]
17 BY [redacted]
18 Q I'm going to introduce as exhibit 16 an email from [redacted] copying [redacted] to
19 the GAPP team on September 21st, 2021.
20 A Okay.
21 Q The first sentence, it says that, "we will expand the parameters of our
22 COVID-19 vaccine misinformation policy." Then it says it will defer to vaccines that are
23 confirmed to be safe and effective by the World Health Organization.
24 To your understanding, at this time, was the COVID-19 vaccine one of the vaccines
25 confirmed to be safe and effective by the World Health Organization?

1 A Yes.

2 Q I don't recall the exhibit number, but I want us to turn to [redacted] email

3 to Rob Flaherty from September 21st, 2021, specifically Bates number 12376.

4 A Okay.

5 Q In earlier responses, you provided testimony about when decisions were

6 made within the company regarding the policy guidelines change being discussed here.

7 If it's the case that the policy guidelines were already determined by the company

8 prior to this email being sent, why did [redacted] refer to it as a proposal?

9 A I don't know.

10 Q Is there any benefit to the company presenting to a government official that

11 there's an opportunity potentially for the policy to be changed?

12 A Not in my experience.

13 Q Why not?

14 A The public pol- -- or, sorry, the policy development process, it is not one

15 where we would in a case like this or where the Public Policy team would be -- in my

16 experience, this wouldn't be something that we would be asked to do at a late stage like

17 this, because, again, I want to -- I want to go back to the timing where the policy was

18 announced publicly between the time that [redacted] reached out and the time that Rob

19 actually responded.

20 Q Yes. So before it's publicly announced, your understanding is [redacted]

21 reached out to the White House?

22 A Yes.

23 Q Okay. What I'm asking -- I understand what the emails say and what your

24 understanding is, based off of your experience. I'm asking, if there was not the

25 opportunity to revise the policy, what benefit is there for the company to tell the White

House that it is only a proposal?

A I cannot speak to why [redacted] chose the words he chose for this email.

Q If Mr. Flaherty was on the receiving end of this email, received it, it looks like he didn't respond prior to the public announcement, but based off the text of the email, the impression would have been given that the policy had not been finalized. Is that correct?

A Again, I can't speculate as to how Rob would have interpreted this. It's possible that he could have interpreted it that way.

Mr. Bopp. I'm not sure you're -- why don't you restate the question.

[redacted] If it's possible he could have interpreted it that way, is there a benefit to the company if he interprets it that way?

[redacted]. No.

[redacted] Why not?

Mr. Bopp. We're getting very theoretical here, and I'm not very comfort -- I'm not really comfortable with [redacted] answering questions about whether there might be some benefit to the company hypothetically if [redacted] had said something in advance of the final -- I'm sorry, the final propo- -- or, rather, the proposal going final.

If -- I think we understand where you're going with the question, but it is highly theoretical, particularly since [redacted] wasn't even part of this email chain. So is it possible to rephrase your question so it's not hypothetical?

[redacted] I mean, she's providing definitive answers in the previous round. She's providing definitive answers to that last question. So --

Mr. Bopp. I think and we clarified right at the beginning of this round that her responses to questions about this document, exhibit 12, are not on behalf of the company. It's just from her personal experience. And also, she wasn't part -- she's not

1 even part of this email chain.

2 So I'm just uncomfortable with her being put in the position of, you know,

3 speaking for the company when we want to make it very clear that she's not.

4 [redacted] Again, speaking in your own capacity and not on behalf of the

5 company, it's your testimony that there's no benefit to the company for saying that a

6 policy is not yet finalized when previewing it for a government official?

7 [redacted]. In my experience, that hasn't been a practice that I've engaged in.

8 [redacted] I understand it may not be a practice that you have engaged in. I'm

9 asking based off your experience at the company, to your understanding, is there any

10 benefit to the company of indicating to a government official that the policy is not yet

11 finalized?

12 [redacted]. I have not, in my experience, had any evidence that there's a

13 benefit to that.

14 Mr. Bopp. Are you saying -- just, again, I want to make sure the record is very

15 clear here. I think you're saying -- you're asking whether, you know, a government

16 might be interested in commenting on a proposal before it goes final, and might that be a

17 benefit to a company in terms of the relationship with the government or something like

18 that.

19 If that's what you're saying, I think, theoretically, the answer has to be yes, but

20 you go ahead.

21 [redacted]. From the perspective of -- I mean, what I've explained before is

22 that the reason that our team reaches out to explain policies to stakeholders, including

23 government stakeholders, is to get a sense of how they might react to it once the policy is

24 announced.

25 And so if we are -- so the benefit, in theory, in my experience, of reaching out to a

1 stakeholder about a policy is to -- is to get a sense of how they'll react. And, in my
2 experience, that's what it's limited to. But also in my experience, I don't reach out to
3 stakeholders. I haven't been asked to reach out to stakeholders before a policy is
4 finalized. That's not the standard practice for our team.
5 [redacted] One last question, and we'll move on.
6 Is there any difference in an email that asks for feedback on a policy that has
7 already been finalized and has been announced as opposed to asking for feedback to a
8 proposal?
9 Mr. Bopp. I'm really not comfortable with her answering that question. Again,
10 it's highly theoretical, hypothetical. She's already said she -- [redacted] is not -- does
11 not have an externally facing job within the company. And so I don't think she's the
12 right person to answer that question, particularly if you're looking for, you know, some
13 answer that might have some relationship to what the company's position is, which we've
14 already made it very clear she's not speaking for the company.
15 [redacted] Unless you're instructing her not to answer the question --
16 Mr. Bopp. You're welcome to answer the question.
17 [redacted]. I don't have an answer for your question.
18 BY [redacted]
19 Q In an earlier round, we walked through your recollections and also just what
20 would have customarily been likely to have happened based off your role in the internal
21 processes, the changed community guidelines for the fall of 2021 policy that we've been
22 talking about.
23 And based off the testimony you provided, it sounds like your role would have
24 been relatively limited. You mentioned there was an opportunity for, as one of several
25 teams, your team to provide feedback prior to the approvals process. Is that right?

1 A Yes.
2 Q And do you have any recollection of you or a member of your team play a
3 material role in the revision of this policy?
4 A I don't have any recollection, no.
5 Q And so when you provide answers saying in your personal experience based
6 off what you've been able to see, your experience as it relates to this policy change are
7 limited to just that. Is that right?
8 A They are based off of my experience.
9 Q Are you privy to other parts of the internal processes that go into the change
10 of this particular policy?
11 A Do you mean generally or specifically this policy?
12 Q Specific to this one.
13 A I don't recall.
14 Q Shifting gears a bit, have you had any interactions with the Center for
15 Countering Digital Hate?
16 A I don't recall ever engaging with them directly.
17 Q Okay. Have members of your team or have there been forms of indirect
18 engagement with them?
19 A What I am aware of has been in the form of reports that they publish and
20 generally evaluating content online.
21 Q And have any of the reports been regarding YouTube or how YouTube
22 handles certain types of content?
23 A Yes.
24 Q Are there any reports that you can think of or any examples that you're
25 aware of right now?

1 A I don't recall anything specific, no.
2 Q When there were reports, who at the company is responsible for assessing if
3 those reports have any merit to them?
4 A It's a mix.
5 Q Okay. Who are some of the people that might be responsible?
6 A We might have legal read it. Somebody from the Public Policy team might
7 read it. Some folks from Trust and Safety might review accuracy.
8 Q Do you remember any examples where you were one of the individuals that
9 was assessing one of CCDH's reports?
10 A I don't remember specific examples. One of the parts of my role, similar to
11 kind of reviewing scorecards and assessing accuracy, is to sometimes look at reports and
12 assess accuracy or find errors in the methodology.
13 Q For any of the CCDH reports regarding YouTube, do you recall if there were
14 errors in methodology?
15 A I can't recall.
16 Q Are you familiar with the Disinformation Dozen report that CCDH put out?
17 A I am familiar with the concept of the Disinformation Dozen, but I don't
18 remember specifically the CCDH report about it.
19 Q Did you review any of the public criticisms that Facebook had regarding the
20 methodology?
21 A I don't recall.
22 Q Do you recall any discussions with others within the company about
23 shortcomings in the CCDH's methodology or errors in the reports that reference or
24 involve YouTube?
25 A I don't -- I don't recall.

1 Q Other than the reports, has CCDH come up in any other context as part of
2 your work at the company?
3 A What I can recall is when people forward or share or mention CCDH reports.
4 Q Do you recall any external stakeholders forwarding the CCDH report?
5 A Not that I recall, but it's possible.
6 Q Have you had any interactions with NewsGuard as part of your role at the
7 company?
8 A Directly?
9 Q Yes.
10 A Not that I recall.
11 Q Do you know of anyone at YouTube that has?
12 A Not that I am specifically aware of.
13 Q Okay. Have you had any interactions with the Global Disinformation Index
14 as part of your role at the company?
15 A That name is also familiar, but I don't -- I don't recall any specific
16 engagement with them.
17 Q To your knowledge, have members of the company had interactions with the
18 Global Disinformation Index?
19 A I believe that members of the Google GAPP team have. I'm -- I don't recall
20 or I'm not aware of any YouTube engagement.
21 Q Who from the Google GAPP team?
22 A I believe [redacted] has met with them and talked to them.
23 Q Do you know anything about the context or the nature of the interactions
24 between the Google GAPP team and GDI?
25 A I don't recall. What I can say is that, you know, again, they are an

1 external -- an external entity, and it's possible that -- it's not unusual for folks across the
2 GAPP team to engage with external entities.
3 Q Other than the NSC example at the San Francisco visit, as part of your role at
4 the company, have you met directly with any U.K. officials?
5 A Yes.
6 Q On what occasions?
7 A I believe it was the Home Secretary, and I joined a meeting with him
8 in -- when he was visiting San Bruno.
9 Q Any others that come to mind?
10 A I believe I've met with others from the U.K. in the last 5 years, but those are
11 the -- the two that I've mentioned are the ones that are -- that I can actually recall.
12 Q Are you familiar with the World Federation of Advertisers?
13 A Yes.
14 Q Have you had any interactions with them as part of your time at YouTube?
15 A Yes.
16 Q What's been the nature of those interactions?
17 A So in the transparency-related part of my role, I have been asked to review
18 and contribute to and help to kind of shape the transparency reports that we
19 provide -- that YouTube provides under the framework that GARM, which is a
20 suborganization I think of WFA, established.
21 Q When did you first have interactions with GARM?
22 A I don't recall. Whenever they -- probably whenever they first started doing
23 their transparency reports.
24 Q Was this prior to you joining YouTube, when you still were with the Google
25 side of the company?

1 A I am pretty certain it was after I moved over to YouTube.
2 Q Outside the context of the transparency reports, have you had interactions
3 with GARM or with the World Federation of Advertisers?
4 A I can't recall. The bulk of the work was around that transparency stuff, so
5 that's the main thing that I remember and was focused on.
6 Q And what was the nature of your work as it related to that, the transparency
7 stuff?
8 A Some of it was trying to -- looking to shape and set expectations regarding
9 data that YouTube would be able to provide in accordance with data that YouTube has
10 already made publicly available. They had also written -- they write their own kind of
11 narrative text to accompany that data, and it has needed significant revision in the past.
12 And so I've edited that work with regard to their sections on YouTube.
13 Q Why did it need significant revision?
14 A Inaccuracies.
15 Q What were some of the inaccuracies?
16 A I don't remember the specific inaccuracies. I just remember that it needed
17 a fair amount of revision.
18 Q Do you remember just generally what the direction of the errors were, what
19 was the problem?
20 A I don't.
21 Q Were there others from YouTube that were working to address these
22 inaccuracies?
23 A The relationship was managed by a business partner, business team, and so
24 they were involved as well. And I don't know -- I don't know who else might
25 have -- might have been asked to review or been involved in reviewing.

1 Q What's the name of the business team?
2 A I don't know.
3 Q Who leads that team?
4 A I don't know their names. I don't remember their names.
5 Q The -- Google Ads and then the -- I forget the exact name but the advertising
6 team for YouTube within that, did anyone from those teams have any interactions with
7 GARM?
8 A I wouldn't know.
9 Q Who's your main point of contact at GARM?
10 A I don't -- I haven't, at least in the last round of reports, in the last couple of
11 rounds of reports, interacted directly with GARM. It goes through the team that
12 manages engagement with them.
13 Q And do you know who they engage with?
14 A I don't.
15 Q Did GARM ever ask YouTube for nonpublicly available data?
16 A I don't -- I don't recall. I believe when they were looking at their original
17 transparency kind of templates, it was -- they were sort of sketching out what they would
18 like from each individual company. And it was meant -- there was meant to be parity
19 across the company, so not asking for things from -- different things. And what I recall is
20 just making sure that those things lined up to the data that we would make publicly
21 available.
22 Q You said you remembered setting expectations. Was there any difference
23 between what GARM was asking for and what YouTube was able to provide?
24 A I don't -- I don't recall.
25 Q Who was that request directed to within the company?

1 A The request for data?
2 Q Yes.
3 A Do you mean from me or from GARM or --
4 Q From GARM. Who was it?
5 A It was all kind of sort of coming through the partnerships team.
6 Q And then who within the company makes the decision of what data to
7 share?
8 A As a general matter, the goal in this sort of a situation is to align that report
9 with what we've already made publicly available, so that there wasn't a decision about
10 additional data to share.
11 Q Do you know who Dr. Kate Starbird is?
12 A I know who Kate is, yes.
13 Q Have you worked with her as part of your role at YouTube?
14 A I have not worked with her. I believe that I had a question from her or
15 someone on her research team at some point in time about the YouTube researcher
16 program, but that was the -- that's what I can recall is the extent of my communication
17 and interaction with Kate.
18 Q Does YouTube have any partnerships with universities where they share
19 nonpublic data?
20 A Not that I'm aware of. And that's, again, outside the bounds of my role. I
21 don't --
22 Q Which team would be in charge of that?
23 A I don't even know. If there was any -- yeah, that would have to be
24 something specific to, you know, an individual research project, and I'm not aware of any
25 of those.

1 Q Have you worked with the Atlantic Council's Digital Forensics Lab -- Forensics
2 Research Lab?
3 A I am familiar with the organization, but I don't recall any specific interaction
4 that I've had with that organization.
5 One thing I will say about nonpublic data to universities is just that, under the
6 Digital Services Act, there is a provision through which academic -- academics and vetted
7 researchers are able to request different types of data from companies outside of what's
8 made publicly available under the public data provisions of that law.
9 And so I am not aware of us getting any of those requests and turning over data
10 yet, but that is one area where we would potentially be obliged to provide nonpublic
11 data.
12 Q Are you familiar with anyone at the company having worked with the DFR
13 Lab at the Atlantic Council?
14 A I believe that [redacted] has worked with them in the past.
15 Q Do you know on what?
16 A Again, when I say "worked with," exchanged emails, provided briefings,
17 talked to them to clarify policies and practices and products and things like that.
18 Q Do you know which policies or issues?
19 A I do not. Or not that I can recall, anyway.
20 Q When you are assessing the inaccuracies in the draft that GARM has in the
21 transparency report, is there like a Word doc or how are you communicating your edits or
22 concerns to the team that's ultimately interfacing with GARM?
23 A Like most of our kind of word processing these days, it's through Google
24 Docs.
25 Q Do you know how many of the reports you've worked on?

1 A GARM reports?

2 Q Yes.

3 A I don't. I believe I worked on the first one, and then have provided varying

4 amounts of feedback on each subsequent one since.

5 [redacted] Can we go off the record, please?

6 [Whereupon, at 6:04 p.m., the interview was adjourned.]

1 Certificate of Deponent/Interviewee

2

3

4 I have read the foregoing ____ pages, which contain the correct transcript of the

5 answers made by me to the questions therein recorded.

6

7

8

9 _____

10 Witness Name

11

12

13 _____

14 Date

15

Transcribed Interview Transcript Errata Form

Interviewee	[redacted]
Date of Interview	6/6/24
Date of Review	6/20/24
Name of Reviewer	Samantha Paige Yi
Signature of Reviewer	

Page	Line	Suggested Correction

Transcribed Interview Transcript Errata Form

Interviewee	Senior Manager, YouTube GAPP
Date of Interview	June 6, 2024
Date of Review	December 16, 2024
Name of Reviewer	Ehren K. Halse
Signature of Reviewer	

Page	Line	Suggested Correction
3	1	Appearance by Ehren Halse should be "For Alphabet Inc."
8	4	"the" should precede "National"
8	9	"degree" should follow "Master's"
8	13	Capitalize "Analyst"
8	20 - 22	Capitalize titles in these rows
9	16	"that" should be "the"
12	10	Capitalize "Manager"

13	9	"on the record" should be "based on records"
16	3	"[redacted]" should be "[redacted]"

Page	Line	Suggested Correction
22	8	"or" should be "is"
35	13	"America's" should be "Americas"
40	4	Add comma after "believe"
43	3	delete "the"
44	14	Insert space before and capitalize "again"
44	24	"brought" should be "bring"
44	3	"get" should be "give"
45	25	"it" should follow "through"

46	16	delete "has"
46	17	"been" should be "an"
46	20	"uploaded" should follow "video"
46	23	"is" should be "it"
47	16	"content's" should be "content is"
49	11	"hack" should be "hacked"

Page	Line	Suggested Correction
49	19	"hack" should be "hacked"
49	21	"hack" should be "hacked"
50	1	delete "a"
50	7	"hack" should be "hacked"

54	4	"any" should be "anyone on the"
54	13	"bandage" should be "triage"
55	16	"NSE" should be "NSC"
55	25	"to be" should precede "here"
67	17	"any" should be "anything"
72	7	"you" should precede "literally"
102	6	"I" should precede "certainly"
126	15	"it" should precede "meant"
127	23	"any" should be "many"

Page	Line	Suggested Correction
135	23	"is" should be "are"

136	10	"[redacted]" should be "[redacted]"
136	13	"[redacted]" should be "[redacted]"
136	15	"[redacted]" should be "[redacted]"
136	17	"[redacted]" should be "[redacted]"
142	18	"or" should follow "accounts"
145	24	"has" should be "have"

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5 COMMITTEE ON THE JUDICIARY,
6 U.S. HOUSE OF REPRESENTATIVES,
7 WASHINGTON, D.C.
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13 INTERVIEW OF: [redacted]
14
15
16
17
18 Tuesday, June 11, 2024
19
20 Washington, D.C.
21
22
23 The interview in the above matter was held in room 164, Cannon House Office
24 Building, commencing at 10:00 a.m.
25

1 Appearances:

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3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted] PROFESSIONAL STAFF MEMBER

8 [redacted] SENIOR COMMUNICATIONS ADVISER

9 [redacted] PROFESSIONAL STAFF MEMBER

10 [redacted] DEPUTY CHIEF COUNSEL FOR OVERSIGHT

11 [redacted] MINORITY OVERSIGHT COUNSEL

12 [redacted] MINORITY INTERN

13 [redacted] MINORITY STAFF ASSISTANT

14

15

16 For the SUBCOMMITTEE ON CRIME AND

17 FEDERAL GOVERNMENT SURVEILLANCE:

18

19 [redacted] MINORITY DETAILEE

20

21

22

23

24

25

1 For [redacted]:

2

3 EHREN HALSE, ESQ.

4 KING & SPALDING

5 1700 PENNSYLVANIA AVENUE NW, SUITE 900

6 WASHINGTON, D.C. 20006

7

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9 MICHAEL D. BOPP, ESQ.

10 GIBSON DUNN

11 1050 CONNECTICUT AVENUE, NW

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[redacted] Can we go on the record, please?

This is a transcribed interview of [redacted]. Chairman Jordan has requested this interview as part of the committee's investigation of how and the extent to which the executive branch has coerced and colluded with companies and other intermediaries to censor speech.

Would the witness please state your name for the record?

[redacted]. [redacted].

[redacted] On behalf of the committee, I want to thank you for appearing here today to answer our questions. The chairman also appreciates your willingness to appear voluntarily.

My name is [redacted] I'm with Chairman Jordan's staff. I'll now have everyone else from the committee who's here in the room introduce themselves as well.

[redacted] Chairman Jordan's staff.

[redacted] Chairman Jordan's staff.

[redacted] Ranking Member Nadler's staff.

[redacted] Ranking Member Nadler.

[redacted] Ranking Member Nadler.

[redacted] Ranking Member Nadler.

[redacted] Chairman Jordan's staff.

[redacted] I'd now like to go over the ground rules and guidelines that we will follow during today's interview.

Our questioning will proceed in rounds. The majority will ask questions first for 1 hour, and then the minority will have an opportunity to ask questions for an equal period of time if they choose. We will alternate back and forth until there are no more questions and the interview is over.

Typically we take a short break at the end of each hour, but if you'd like to take a break apart from that, please just let us know.

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

Do you understand?

[redacted]. Yes.

[redacted] So the court reporter can take down a clean record, we will do our best to limit the number of people directing questions at you during any given hour to just those people on the staff whose turn it is.

Please try and speak clearly so the court reporter can understand and so the folks down at the end of the table can hear you.

It's important that we don't talk over one another or interrupt each other if we can help it, and that goes for everybody present at today's interview.

We encourage witnesses who appear before the committee to freely consult with counsel if they so choose, and it is my understanding that you are appearing today with counsel.

Is that correct?

[redacted]. Yes.

[redacted] Could counsel please state your name for the record?

Mr. Bopp. Michael Bopp, Gibson Dunn, representing [redacted].

Mr. Halse. Ehren Halse, King & Spalding, representing [redacted].

[redacted] Thank you.

We want you to answer our questions in the most complete and truthful manner as possible, so we will take our time. If you have any questions or if you do not understand one of our questions, please let us know. Our questions will cover a wide a

range of topics, so if you need clarification at any point just say so.

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

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

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

Do you understand that?

[redacted]. Yes.

[redacted] This also applies to questions posed by congressional staff in an interview.

Do you understand this?

[redacted] Yes.

[redacted] Witnesses that knowingly provide false testimony could be subject to criminal prosecution for perjury or for making false statements under 18, U.S.C., Section 1001.

Do you understand this?

[redacted]. Yes.

[redacted] Is there any reason you are unable to provide truthful answers to today's questions?

[redacted]. No.

[redacted] Finally, I'd like to make a note that the content of what we discuss here today is confidential. We ask that you not speak about what we discuss in this

1 interview to any outside individuals to preserve the integrity of our investigation.

2 For the same reason, the marked exhibits that we will use today will remain with

3 the court reporter so that they can go in the official transcript, and any copies of those

4 exhibits will be returned to us when we wrap up.

5 That is the end of my preamble.

6 Is there anything that my colleagues from the minority would like to add?

7 [redacted] Just thank the witness for her time today.

8 [redacted]. I'm sorry. Could you repeat that?

9 [redacted] Thank you for your time today and for coming.

10 [redacted] The clock reads 10:04. We will start the first hour of questioning.

11 EXAMINATION

12 BY [redacted]

13 Q Can I have you state your full name again for the record, please?

14 A [redacted].

15 Q And what is your current place of employment?

16 A Google.

17 Q And what's your role there?

18 A I am on Google's Government Affairs and Public Policy team, on our Federal

19 Affairs team leading economic policy outreach.

20 Q And which office are you based out of?

21 A Washington, D.C.

22 Q Beginning with college, what is your educational background?

23 A I attended Southern Methodist University in Dallas, Texas.

24 Q Starting with your first job after college, what is your professional

25 background?

1 A My first job out of college was at the United Way.

2 Q And if you could, just at a high level, walk us through until how you got to

3 your current position?

4 A Sure. I, after the United Way, worked for Congressman Jim McCrery from

5 the Fourth District of Louisiana. I worked as an intern, a staff assistant, a legislative

6 assistant handling economic policy at the time that he was the ranking member of Ways

7 and Means.

8 I then worked for Senator George Voinovich, an Ohio Republican Senator, and I

9 handled the economic policy portfolio during my time in the Senate.

10 I then worked at the Washington Tax and Public Policy Group as a consultant to

11 Fortune 100 companies primarily on tax and trade matters.

12 Then I joined Google in 2019.

13 Q And what was your first position when joining Google?

14 A Upon joining Google in 2019, I was hired to lead economic policy and health

15 policy outreach.

16 Q And has your title changed since that time?

17 A My original title when I joined the company in 2019 was policy advisor. My

18 title today is senior manager.

19 Q And how long did you have the title policy advisor for?

20 A To the best of my recollection, I was promoted in 2021.

21 Q And to senior manager, or was there a step in between?

22 A Correct, from policy advisor to senior manager.

23 Q Are you familiar with the terms misinformation, disinformation, and

24 malinformation?

25 A I have heard those terms.

1 Q To your understanding, what are the differences among them?
2 A I am not a content policy -- a content moderation policy expert, and I could
3 not describe the difference between those three terms.
4 Q What were your responsibilities as a policy advisor at Google?
5 A When I joined the company in 2019?
6 Q Yes.
7 A As policy advisor, when I joined the company in 2019, I came on to the
8 Government Affairs and Public Policy team to lead outreach to the Federal Government
9 on tax, trade, financial services, fintech, health, and workforce policies.
10 Q And in that role who did you report to?
11 A When I was hired in 2019, I reported to [redacted].
12 Q And how many people reported to you?
13 A None.
14 Q How big was your team when you joined in 2019?
15 A My immediate team in 2019, to the best of my recollection, was four people.
16 Q And when you were serving as policy advisor, which teams of the company
17 did you interact with most frequently?
18 A I most frequently interacted with our product areas that would be relating to
19 both financial services and health. I also interacted regularly with our tax department.
20 Q Did you have interactions with any of the company's Trust and Safety teams?
21 A My interactions with the Trust and Safety teams at the time I joined the
22 company in 2019 and throughout my tenure has been limited.
23 Q When there has been occasion, what has been the nature of your
24 interactions with those teams?
25 A There are moments, because the Trust and Safety team is a part of our

1 Global Affairs team, which is a part of our larger team, that our Trust and Safety
2 colleagues might present at a large team meeting.
3 Q Of the large team meetings, have you had interactions with the Trust and
4 Safety teams?
5 A To the best of my recollection, my engagement with our Trust and Safety
6 teams has been very limited.
7 Q Can you recall any other examples?
8 A During the pandemic, which started in 2020, I did have interactions
9 with -- when presentations would maybe happen to our larger team working on
10 COVID-19, on Trust and Safety issues.
11 Q So is there -- just so I understand your response correctly -- do you
12 understand, was there a team within Trust and Safety specifically devoted to working on
13 issues related to COVID-19 content?
14 A I did not have visibility into the makeup of the Trust and Safety organization
15 or if there were dedicated teams.
16 Q Did you report to [redacted] the entire time during your time with the
17 company, or has your direct report changed?
18 A My direct report changed at the beginning of 2024. [redacted] left
19 the company, and I have a new manager.
20 Q Who's that?
21 A [redacted].
22 Q How many people report to you directly now?
23 A I have no direct reports.
24 Q Are you familiar with the Search and Discovery teams for the company?
25 A I am not.

1 Q Have your responsibilities changed from serving as a policy advisor to now
2 serving as a senior manager?
3 A Yes. I handled health policy from 2019 until early 2020. I no longer cover
4 health policy for the company from 2022 until today. I recently picked up energy policy
5 at the beginning of 2024. My portfolio has shifted some.
6 Q Who took over the health policy portfolio?
7 A In 2022, Google hired a new health policy lead.
8 Q Who's that?
9 A [redacted].
10 Q Are you familiar with the term borderline content?
11 A Yes, I have heard this term.
12 Q To your understanding, what does the company mean when it refers to
13 borderline content?
14 A I am not a content policy expert and cannot define what that means.
15 Q Do you know [redacted]?
16 A Yes.
17 Q To your understanding, what's his role at the company?
18 A [redacted] at the time that he was at Google and YouTube served on
19 YouTube's Government Affairs and Public Policy team.
20 Q How frequently did you interact with [redacted] while he was at the
21 company?
22 A During the time period in, I would say, 2020 and 2021 and a little bit of 2022,
23 we interacted on issues relating to YouTube and to government outreach that I might
24 have done.
25 Q During this time how frequent were your interactions?

1 A We didn't have a standing meeting between the two of us, but we would
2 interact on an as-needed basis.
3 Q Do you know [redacted]?
4 A Yes.
5 Q What's her role at the company, to your understanding?
6 A Her role at the company during the time when I worked with her in 2020,
7 2021, she served on YouTube's product Government Affairs and Public Policy team.
8 Q And how frequently did you interact with her?
9 A She, to the best of my recollection, was a member of our larger global
10 Government Affairs and Public Policy COVID-19 working group. And I interacted with
11 her -- she would present at times to large team meetings, and I would interact with her as
12 needed. I would say infrequently. And today I have very limited interaction with her.
13 Q Do you know [redacted]?
14 A Yes.
15 Q To your understanding, what's her role with the company?
16 A She is on YouTube's Government Affairs and Public Policy team.
17 Q How frequently do you interact with her?
18 A We also don't have a standing meeting, but I interact with her on an
19 as-needed basis when it relates to U.S. Government outreach.
20 Q Do you know [redacted]?
21 A Yes.
22 Q What's his role with the company?
23 A His current role at the company is on our Trust and Safety team, and I have
24 almost no interaction with him.
25 During 2020 and 2021, he was on Google's Government Affairs and Public Policy

1 team, and I had interaction at that time with him on our larger global COVID-19 working
2 group.
3 Q During this time was there within the company official designations of who
4 was part of the COVID-19 working group?
5 A It was more of a working group that was global in nature with
6 representatives from regional teams based in countries where Google has an operation
7 and a large market. And then there were members of our Government Affairs and
8 Public Policy team who lead for specific product areas.
9 And then there are also experts that cover specific policy areas, and they're, while
10 maybe not official, our leadership would designate various people from each of our teams
11 to participate in that working group.
12 Q When you say "leadership," who do you mean?
13 A For myself that would have been my VP of Government Affairs and Public
14 Policy for the U.S., [redacted].
15 Q Who from the Government Affairs and Public Policy team was on the
16 COVID-19 working group?
17 A I do not recall every member of our -- the working group team. It was
18 representatives from -- I'm on the U.S. Government Affairs team. There were
19 representatives from other parts of other countries, other regions.
20 Q How many from the U.S.?
21 A To the best of my recollection, I was on the working group for the U.S. At
22 times I would be joined by others on my team.
23 Q Who from your team would join most frequently?
24 A [redacted].
25 Q Anyone else?

1 A To the best of my recollection, it was pretty rare, but maybe [redacted]
2 [redacted] would have joined at times.
3 Q And who's that?
4 A He's one of my colleagues on our U.S. Government Affairs and Public Policy
5 team.
6 Q Do you know what his title is?
7 A I am uncertain of what his title is today.
8 Q During the time it was the COVID-19 working group, do you know what his
9 portfolio was?
10 A His portfolio would have been telecom, tech policy, policies relating to
11 broader digital issues.
12 Q Do you know who from the YouTube product team was on the COVID-19
13 working group?
14 A I believe [redacted] was on the working group for YouTube. I cannot
15 recall other members of the YouTube team.
16 Q At a high level, are you familiar with YouTube's community guidelines?
17 A At a high level, yes.
18 Q And when changes are made to YouTube's community guidelines, are
19 you -- let me take one step back.
20 What role do you or your team play in that process?
21 A I have no role in YouTube's community guidelines process.
22 Q To your understanding, do other members of the GAPP team have a role in
23 the company's internal processes to change YouTube's community guidelines?
24 A I have no visibility into the process.
25 Q Now, once it's been decided that there will be a change to YouTube's

1 community guidelines, how are you first made aware of that?

2 A As a member of the U.S. Government Affairs and Public Policy team, I'm not

3 always made aware of policy changes that YouTube may be making. There are times

4 when the company releases a blog or an update that our YouTube Government Affairs

5 team does share with me. And my standard practice is, if the topic relating to the

6 change has come up in government outreach, I may be made aware of it once it's publicly

7 launched.

8 Q Do you recall any instances where you were made aware before it was

9 publicly announced?

10 A Made aware? Can you repeat the question, please?

11 Q Sure. Can you recall any examples where you were made aware of a

12 change to the community guidelines before the company publicly announced that

13 change?

14 A Yes.

15 Q What are some of the examples that you can recall?

16 A There are times when I'm provided that a change is forthcoming.

17 Q In examples like that, who notifies you?

18 A Usually it's a member of the YouTube Government Affairs and Public Policy

19 team.

20 Q Is there a point of contact from that team that most frequently serves as the

21 person to notify you?

22 A During what time period?

23 Q If it's changed, we would want to know as well.

24 A Okay. So from 2019 to, I would say, 2022, my primary contacts on

25 YouTube's Government Affairs and Public Policy team would have been [redacted] and

1 [redacted]. I'm uncertain of the exact -- can't recall exactly when [redacted] left
2 YouTube. But at that time my new point of contact would have been [redacted] -- I can't recall
3 his last name.
4 Q Do you recall any particular topics or changes where either [redacted] or
5 [redacted] reached out to you before the company publicly announced the change to the
6 community guidelines?
7 A I can recall there being an awareness that some of our guidelines or policies
8 would be updated at the time when COVID-19 vaccines were approved by the FDA.
9 Q To your recollection, how did you gain this awareness?
10 A To the best of my recollection, probably by email.
11 Q Are you familiar with YouTube's new firearms policies that take effect on
12 June 18th?
13 A I read about it in the press.
14 Q So you were not notified prior to the company's public announcement?
15 A I was not.
16 Q Have you had any discussions internal to the company about that new policy
17 since you learned of it?
18 A I have not.
19 Q To your understanding, are there separate Trust and Safety teams for
20 YouTube as compared to the rest of the company?
21 A I have no visibility. I do not.
22 Q What is the structure of the Government Affairs and Public Policy teams?
23 Is there one for YouTube, one for the company writ large?
24 A I'm an employee of Google Client Services and represent Google, and there
25 is a separate Government Affairs and Public Policy team that represents YouTube.

1 Q Do you know who the head of YouTube's Government Affairs and Public
2 Policy team is?
3 A For the U.S., to the best of my knowledge, it's [redacted].
4 Q In addition to the first example you provided of having some awareness prior
5 to the public announcement about the community guidelines changing regarding vaccines
6 once approved by the FDA, are there other examples that you can recall of when you
7 were made aware, prior to a public announcement, that the company would be changing
8 YouTube's community guidelines?
9 A I cannot think of another example.
10 Q Since joining the company, how frequently do you interact with
11 representatives from the U.S. Government?
12 A Frequently.
13 Q Which agencies within the executive branch do you interact with most
14 frequently?
15 A In my role on Google's Government Affairs and Public Policy team leading
16 economic outreach, the Federal agencies I interact with the most frequency are Treasury,
17 the SBA, the Department of Labor, and more limited interaction with the financial service
18 regulators.
19 Q During your time at the company, have you had interactions with the FBI?
20 A To the best of my recollection, any interaction would have been extremely
21 limited.
22 Q Are there examples or instances you can recall?
23 A I cannot think of a specific call or meeting that I participated in with the FBI.
24 Q Are you familiar with the FBI's Foreign Influence Task Force?
25 A I believe I've heard about it in maybe the press, but not really.

1 Q To your understanding, has anyone from your team had interactions with
2 the FBI's Foreign Influence Task Force?
3 A I am not sure. I don't have visibility into that work, if there is any.
4 Q As part of your role at the company, have you had interactions with the
5 Department of Homeland Security?
6 A My interactions with the Department of Homeland Security would have
7 been very limited. I cannot think of a specific instance where I had engagement as it's
8 outside of my portfolio.
9 Q Have you had -- or do you have any familiarity with the Cybersecurity and
10 Infrastructure Security Agency?
11 A I'm aware of the agency.
12 Q Do you recall having any interactions with that agency as part of your role at
13 the company?
14 A My interactions would have been extremely limited. There are other
15 members of our team who work on cybersecurity.
16 I do recall one instance where -- I handle education, and there was an event
17 regarding cybersecurity and education.
18 Q Do you recall when that event was?
19 A I believe it was in the summer of 2023.
20 Q And who from the government attended that event?
21 A The event I'm referring to was attended by several government officials.
22 To the best of my recollection, I believe the Secretary of the Department of Education
23 spoke, the Director of CISA spoke, other senior officials spoke, but I can't remember the
24 full agenda.
25 Q Is there someone within your team that has responsibilities to handle issues

1 related to issues in the U.S. regarding election integrity?

2 A Not on my team. There are others at Google that have that responsibility.

3 Q Is it your understanding of which -- do you know which individuals or which

4 teams they're a part of?

5 A I do not. I don't recall on those issues.

6 Q Have you had any interactions with the Census Bureau as part of your role

7 with the company?

8 A To the best of my recollection, my interactions would have been very limited

9 and with other Federal agencies at larger meetings. I can't remember any specific

10 meetings or calls that I've had with the Census Bureau.

11 Q When you said there are other standing meetings, what meetings are you

12 referring to?

13 A I'm sorry. Can you repeat that question?

14 Q Sorry. In your response you mentioned outside of standing meetings, or

15 something to that effect, if I heard you correctly.

16 A Oh, no. I said with larger meetings with other agencies. There are no

17 standing meetings.

18 Q Thank you.

19 Have you had interactions with the White House as part of your role with the

20 company?

21 A Yes.

22 Q And what's been the nature of those interactions?

23 A When I joined the company in 2019, I can recall a few interactions with the

24 White House.

25 From fall of 2019 to the beginning of 2020, I can remember, I think, two events or

1 meetings that I attended in person at the White House, and one was on efforts that
2 Google was taking on education, our internet be safe campaign. I remember another
3 meeting that was regarding work Google was doing on opioids, an initiative called Take
4 Back Day.
5 And moving into 2020, at the beginning of the pandemic, I can't recall any specific
6 meetings that I did in person, but then most of my interactions would have shifted to
7 virtual. And the majority of my interactions from that time, really since the beginning
8 that I joined the company to today, have been primarily on tax, trade, economic policy.
9 Beginning in January of 2020, I did start to have interactions with the White
10 House, the Trump administration, on COVID-19 health policy, and that continued through
11 early 2022.
12 Q Do you recall when you first had interactions with the Biden White House?
13 A I don't recall specifically the, like, first meetings that I had with the Biden
14 White House, but I do remember at the start of 2021 having briefings on Google's work
15 with small businesses, on digital tools and economic recovery.
16 I remember having interaction on our COVID -- the company's COVID-19 efforts.
17 I remember having interaction on tax and trade issues.
18 Q Who from the White House did you interact with regarding COVID-19
19 efforts?
20 A To the best of my recollection, starting in 2019 -- or early 2020, that time
21 period?
22 Q Sure. We'll start with 2020 and work our way through.
23 A Okay. So this is 4 years ago. To the best of my recollection, during 2020 I
24 remember speaking with Paul Mango. He was an official working on Project Warp
25 Speed and COVID-19.

1 We spoke with members of Jared Kushner's team that was leading COVID-19
2 efforts as it relates to information regarding testing at the beginning of the pandemic.
3 Moving into the Biden White House, I can recall speaking with members of the
4 COVID-19 staff at that time. To the best of my recollection, that would have been Andy
5 Slavitt; Ben -- I don't remember his last name -- maybe Wakana, similar to that; members
6 of the digital team, Rob Flaherty, Clarke Humphrey.
7 Those are the primary staffers that I remember engaging with from memory.
8 Q And when you had interactions -- or let me take one step back.
9 What was the nature of your interactions with Mr. Slavitt?
10 A To the best of my recollection, when he was -- I believe that he was named
11 the COVID-19 coordinator or a part of the COVID-19 task force -- I can remember maybe
12 one or two calls where we presented Google's COVID-19 efforts to date, both in terms of
13 economic recovery, support for small businesses, as well as health policy-related
14 information, public health information.
15 Q As part of your role at the company, what was the nature of your
16 interactions with Mr. Flaherty?
17 A So to the best of my recollection, I can remember a few presentations,
18 maybe two, that we made of similar nature where we were presenting efforts the
19 company had taken on COVID-19.
20 Q And in those presentations who from the company attended those
21 meetings?
22 A So as much as I can recall, I can remember a presentation with [redacted]
23 [redacted], and he was from Google Search Partnerships; [redacted] from YouTube.
24 Those are the two colleagues I remember by memory.
25 Q And is it your memory one was with [redacted], one was with [redacted], or do you

1 recall a meeting where all three of you were?

2 A All three of us.

3 Q Do you recall who from the government was in that meeting?

4 A I do not recall with specificity. But to the best of my recollection, in the

5 meeting that I'm thinking of, Rob Flaherty and Clarke Humphrey. There may have been

6 others.

7 Q As part of your role at the company, what was the nature of your

8 interactions with Clarke Humphrey?

9 A So during 2021 and a little bit of 2022, I was helping the health policy,

10 including COVID-19, and I remember speaking with her as a part of interactions that I

11 referred to on public health information.

12 Q And as part of your role with the company, what was the nature of your

13 interactions with Ben Wakana?

14 A To the best of my recollection, he also was on the COVID-19 White House

15 Working Group Task Force, and the interactions with him would have been related to

16 efforts the company was taking on COVID-19.

17 Q In these interactions with the White House in the first half of 2021, do you

18 recall receiving questions from any White House officials regarding YouTube's community

19 guidelines?

20 A I don't remember any specific questions specifically on the community

21 guidelines.

22 Q What about more broadly? Do you recall any questions or discussions

23 around how YouTube was addressing content related to vaccines?

24 A Yes. I remember conversations on COVID-19 YouTube efforts.

25 Q And when you refer to the efforts, what does that include?

1 A So in 2021 is the time period you are thinking about?

2 Q Yes.

3 A During that time, in the presentation of Google's overall efforts, Google

4 Search, Google Maps, YouTube also was taking efforts to elevate authoritative

5 information on COVID-19.

6 Q In addition to elevating authoritative information, was YouTube taking steps

7 to reduce or remove content that was alleged misinformation?

8 A Yes.

9 Q Were there ever discussions with White House officials regarding what

10 approach YouTube was taking regarding vaccine hesitancy or misinformation about

11 vaccines?

12 A Yes.

13 Q Who from the White House do you recall having discussions with about that

14 topic?

15 A Rob Flaherty and Clarke Humphrey.

16 Q What was the nature of their concerns as you recall?

17 A As I recall, in 2021, both Google and YouTube were preparing for the

18 vaccination rollout that started in late December 2020 going into 2021.

19 And at that time part of my role as our Government Affairs and Public Policy lead

20 for health policy was to provide information on the FDA, CDC's timeline for approving

21 vaccines. And I remember having conversations at that 6 months of 2020 on the rollout

22 of vaccines in the U.S.

23 Q 6 months of 2021?

24 A Yes.

25 Q During the first, roughly, 6 months of 2021, do you recall how many times

1 you had interactions with Mr. Flaherty or Ms. Humphrey?

2 A To the best of my recollection, it was a handful of times. I do not

3 remember the specific number of calls or interactions.

4 Q Besides you, who else from the company was responsible for interfacing

5 with Mr. Flaherty and Ms. Humphrey about these concerns?

6 A I can only speak for myself, and my role was leading for Google on COVID-19

7 and health policy more broadly. I'm not sure who else from the company had

8 interactions with them.

9 Q For concerns specific to YouTube, to your recollection, was there a

10 representative from YouTube in particular to handle interactions with Mr. Flaherty and

11 Clarke Humphrey?

12 A I can remember, which I've already shared, a call that we jointly did with

13 [redacted].

14 Q Besides that call, do you recall email communications or other meetings

15 where you and [redacted] were interacting with Mr. Flaherty or Ms. Humphrey about

16 vaccine hesitancy or vaccine misinformation?

17 A Do I recall other emails or calls?

18 Q Well, just other than the one meeting you can recall, do you recall other

19 interactions?

20 A I think I can remember maybe one other. It would have been a virtual

21 meeting or call. And there were emails.

22 Q As part of your role at the company, have you had interactions with the

23 CDC?

24 A Yes.

25 Q What's been the nature of those interactions?

1 A When I joined the company in 2019, I handled health policy. I think my
2 interactions before the pandemic with the CDC were very limited, to the best of my
3 memory; but we did -- our Google Search Partnerships team at times would speak with
4 the CDC's digital team, and that point of contact was someone who I spoke with at the
5 beginning of the pandemic in -- I believe our first call was probably in January 2020. And
6 to the best of my memory, the frequency of those communications increased in March
7 of 2020.
8 Q Who's your point of contact at the CDC?
9 A Carol Crawford.
10 Q You mentioned the Google Search Partnership team. What is that team?
11 A Google Search Partnership, [redacted] at the time in 2020 was a
12 colleague who worked on Google Search Partnership who often helped the products
13 team with features and helping to find data sources or information from outside of
14 Google groups.
15 Q Do you recall any conversations with the CDC regarding vaccine hesitancy or
16 misinformation about vaccines?
17 A I do remember conversations with the CDC on vaccines during the time the
18 vaccine was being rolled out in the U.S. I remember talking to the CDC about the
19 information that they would be providing on vaccines on certain web pages on the CDC
20 website.
21 As a general matter, I don't remember specific conversations on COVID-19
22 misinformation.
23 Q As part of your role with the company, have you had interactions with the
24 FDA?
25 A Yes.

1 Q And what's been the nature of those interactions?

2 A My interactions with the FDA were primarily in 2021. They were primarily

3 relating to the information that would be provided publicly on the FDA's website at the

4 time that the FDA approved COVID-19 vaccines.

5 I may have had other interactions with the FDA on non-COVID-19 issues, but I

6 can't recall specific incidents, and they would have been very limited.

7 Q Do you recall any meetings with the FDA regarding vaccine hesitancy or

8 misinformation about vaccines?

9 A I don't recall any meetings. I do -- I can recall an email.

10 Q What's the email you can recall?

11 A I remember the FDA sharing one piece of content that they were concerned

12 that was misrepresenting the FDA on -- I believe it was on YouTube.

13 Q Okay. Do you recall when this email was?

14 A I do not.

15 Q Who from the company was contacted by the FDA? Was it just to you or

16 was it to others?

17 A I don't recall the specifics. I do remember -- the incident I'm thinking of I

18 remember it was someone from the digital office who had reached out to me. There

19 may have been other people from the company on the email as well.

20 Q Do you recall what the substance was of the post in question?

21 A So in terms of specifics, the best of my recollection is that it was a video

22 where the FDA was concerned that their -- that they were being misrepresented in this

23 video.

24 Q Do you recall what steps, if any, you took after receiving the video?

25 A I remember forwarding it to my colleagues at YouTube's Government Affairs

1 and Public Policy team.

2 Q And who would that have been?

3 A To the best of my recollection, it would have been [redacted].

4 Q Do you know how YouTube's Government Affairs and Public Policy team

5 handled the email?

6 A I do not.

7 Q Did you ever see a word one way or another about any actions the company

8 took regarding the video?

9 A Yes. I remember that that my YouTube colleague provided information to

10 send back to the FDA -- and I can't remember if it was volitive or not -- of our community

11 guidelines. But I remember they provided an answer which I shared out externally to

12 the FDA, to the point of contact.

13 Q In this example or others that you can recall when you received a response

14 provided to you, do you make any changes to the message that you received before

15 sending it to the government official, or do you send the exact message that was sent to

16 you?

17 A In instances where I've received information from a YouTube colleague or

18 other --

19 Q Yeah, from a YouTube colleague.

20 A If it is regarding our YouTube community guidelines, I do not edit as a

21 standard practice, as my role is really relaying information from YouTube.

22 Q Do you recall any further discussion with the FDA regarding this particular

23 YouTube video?

24 A I do not.

25 Q Do you recall other instances of where you relayed information from a

1 colleague on the YouTube team to an executive branch official?

2 A There are times when YouTube shares out a policy, blog update, some news

3 from the company, and I have shared that with the U.S. Government officials.

4 Q What about other examples of where a particular video or account has

5 either been flagged or there have been questions raised by an executive branch official,

6 do you recall any other examples?

7 A I can only by memory think of one more example.

8 Q Okay. What's that other example?

9 A During the time period in spring of 2021 -- I don't remember the exact

10 specific date -- there was a -- I believe it was a tweet, but it could have been a video

11 shared by the White House digital office.

12 Q And to your recollection, what was in the tweet?

13 A I don't remember.

14 Q Do you recall who from the White House sent that message?

15 A Rob Flaherty.

16 Q And do you recall what the next steps, if any, the company took after

17 receiving that email?

18 A I believe my YouTube colleagues were already on the email, and so I

19 wouldn't have probably forwarded it.

20 And in terms of steps that the company took, I wouldn't have had any visibility

21 into what YouTube did after receiving that email.

22 I don't -- based on my memory, I don't remember a specific response back, but I

23 believe we may have had a briefing on our COVID-19 misinformation efforts more

24 broadly. It might have happened before or after this instance, the email that I'm

25 referring to.

1 Q To your recollection, did Mr. Flaherty email you directly or had someone
2 from the YouTube team or someone else flag for you that they received this message?
3 A I don't remember if I was on the original email or if it was forwarded to me.
4 Q Did the briefing on -- whether it was before or after -- do you recall who
5 from the company attended that briefing?
6 A To the best of my recollection, it would have been [redacted] from Google
7 Search Partnership and [redacted] from YouTube. I can't remember -- I don't believe
8 there were other members of our -- other colleagues at the meeting.
9 Q Did you or did anyone from the company take notes during that meeting?
10 A To the best of my recollection, we did not. I don't remember.
11 Q Is there a protocol? Or what customarily happens if there's a meeting from
12 you or members of your team with members of the White House or other representatives
13 from the executive branch?
14 Mr. Bopp. Protocol for what?
15 [redacted] In terms of taking notes or providing a readout after.
16 [redacted]. In my general practice on our Government Affairs and Public
17 Policy team, it really depends on the meeting. It also sometimes depends on how -- the
18 topic of the meeting, how busy I am in terms of my standard practice.
19 But there are times when I will take notes in a notebook. Sometimes I take notes
20 on a computer. And there are times when I provide readouts from Government Affairs
21 meetings with government officials to various stakeholders in the company. And then
22 there are sometimes that I do not.
23 BY [redacted]
24 Q Whether this briefing or other interactions with Mr. Flaherty, do you recall
25 any instances where you thought it was necessary to provide a readout to someone else

1 in the company about your meeting with Mr. Flaherty?

2 A To the best of my recollection, the interactions that I had with Rob Flaherty,

3 my YouTube colleagues would have been on the call or email. And so I would not have

4 provided more of a readout to their team because they would have been a part of the

5 meeting.

6 Q In the meetings you can recall with Mr. Flaherty, did you present at these

7 meetings?

8 A I can remember at least one, maybe two occasions where we presented the

9 efforts that the company had taken on COVID-19.

10 I think we did one presentation, to the best of my recollection or memory from

11 3 years ago, where we presented our overall efforts across both economic recovery and

12 health policy. And then there was a specific meeting on COVID-19 vaccine information.

13 Q The meeting on COVID-19 vaccine information, did you in particular play a

14 role in presenting at that meeting?

15 A My standard practice in those type of briefings as the government and public

16 policy lead is to open the meeting, to introduce myself and colleagues from Google,

17 YouTube, other parts of the company who may be at the meeting.

18 And to the best of my recollection, the call that I'm thinking of, I think I played that

19 role of opening the meeting, and then other members of our team presented.

20 Q Do you recall who from the company presented in that particular meeting?

21 A Yeah. This is the same meeting I'm referring to where [redacted] and [redacted]

22 came.

1 [10:59 a.m.]

2 BY [redacted]

3 Q Do you recall the response from Mr. Flaherty or other representatives from

4 the White House during this meeting?

5 A I do not recall his response.

6 Q Do you recall if there were questions or if there was follow-up discussion

7 involving the initial presentation by the company?

8 A I remember that he was very interested in YouTube's policy surrounding

9 vaccine misinformation at the time. I don't remember any specific follow-ups from

10 memory.

11 Q Do you recall from that meeting or from other correspondence at the White

12 House, what the White House thought YouTube's approach to the vaccine misinformation

13 was adequate?

14 Mr. Bopp. Wait, you are asking from those meetings, did she form the

15 impression that the White House thought that YouTube's approach was adequate?

16 [redacted] Yes.

17 [redacted]. I cannot speculate on what the White House thought of our

18 presentation.

19 BY [redacted]

20 Q Well, I mean, depending on, was there anything -- did they ever ask any

21 questions about whether YouTube was considering changing its community guidelines

22 around vaccines?

23 A I can't recall the specific questions that they asked.

24 Q As part of your role with the company, have you had interactions

25 with -- actually, let me take one step back. Are you familiar with Stanford's Election

1 Integrity Partnership?

2 A I am not.

3 Q What about Stanford's Vitality Project?

4 A I am not.

5 Q Do you recall meetings or interactions with the White House regarding

6 misinformation on YouTube or YouTube's community guidelines about topics other than

7 COVID-19 or vaccines?

8 A I do not recall any meetings on that topic.

9 [redacted] Can we go off the record, please?

10 [Discussion off the record.]

11 BY [redacted]

12 Q [redacted], again, thank you so much for coming and making the time

13 today to testify. I just have a couple of follow-up questions based on the questions that

14 you were asked in the previous hour.

15 You have been with Google since 2019, correct?

16 A Yes.

17 Q And you mentioned that you were on the Hill before you went into private

18 industry. You mentioned Senator Voinovich, and Jim McCrery. I just want to say for

19 the record those were all Members of the Republican Party. Is that correct?

20 A Yes.

21 Q And you worked at Google during the time you worked for two different

22 Presidential administrations. Is that correct?

23 A Yes.

24 Q And your work on behalf of an international corporation like Google, you

25 would agree that your work is not partisan in any way, right?

1 A In my role at Google in our Government Affairs and Public Policy team, I try
2 to approach my work in a nonpartisan manner.
3 Q Thank you. You testified that your work in government affairs and public
4 policy group, your interactions with the government span across a wide variety of topics.
5 I think in the last hour you mentioned you did work on a opioids, education, small
6 business, tax and trade, for example. Those are all issues that you worked on?
7 A Yes.
8 Q And so would you say it is fair to say -- is it fair to say that it is very common
9 for Google, for a large international corporation like Google, to work with the U.S.
10 Government on issues of public concern?
11 A My role on Google's Government Affairs and Public Policy team, I cover a
12 wide range of issues relating to economic policy, and often what is going on in the U.S.
13 economy, and more broadly, in the world is reflective of the work that Google prioritizes.
14 BY [redacted]
15 Q You mentioned, during the previous hour, two in-person meetings at the
16 White House. I believe it was either 2019, or early 2020, and one was on opioids, and I
17 believe the other was on cyber education or am I misremembering that?
18 A I was, in reviewing outreach that I had done at the White House in meetings,
19 the two meetings I can recall by memory, one was on opioids and the other one was on a
20 program called Be Internet Safe, which is an internet safety program for children.
21 Q It and so it was part of your responsibility -- that was during the Trump
22 administration, correct?
23 A Yes.
24 Q And so those were joint efforts by Google and the White House to put out a
25 message, or to provide information to the public about those two subject areas for the

1 good of the American people?

2 A I remember the two meetings on those two topics. I don't remember

3 necessarily having information come from the White House on those two topics.

4 Q So your recollection is that you were providing information to the White

5 House?

6 A Correct.

7 [redacted] Thank you.

8 BY [redacted]

9 Q In the earlier hour, you were asked about an example from you, we talked

10 about an example of when the FDA flagged a video for you in one particular instance.

11 Do you remember that conversation?

12 A Yes.

13 Q And you couldn't remember earlier kind of what the actual result was from

14 that FDA interaction?

15 A Yeah, by memory I can't -- I can't recall.

16 Q So I would like to go ahead and introduce that email as exhibit 1.

17 [[redacted] Exhibit No. 1

18 was marked for identification.]

19 BY [redacted]

20 Q I will give you a moment to read it.

21 A I have read the email.

22 Q Great. I just have a couple of questions. So on April 30th, 2021, an

23 individual named Brad Kimberly at FDA emailed you saying, Good afternoon, I just wanted

24 to flag a video that we believe is misleading when it comes to COVID-19. Submitted a

25 report through YouTube proper, but I am flagging here for your attention as well. Did I

1 read that correctly?

2 A Yes.

3 Q And it provides a link. Do you see that?

4 A [Nonverbal response.]

5 Q And then it says, an explanation for why this individual believes that -- or

6 believed that the video was misleading. And there -- one of the reasons was that the

7 FDA had not approved this particular drug as safe and effective and there was some

8 intellectual property concerns with it. Is that a fair characterization?

9 A I am not an expert in this area, but my reading of the email is that the FDA

10 was sharing this video because of concern that it misrepresented FDA.

11 Q Okay, thank you.

12 And then on May 6th at the top, which was about a week later, you replied to this

13 individual at FDA and noted that our YouTube Trust and Safety Team reviewed the

14 content and found that it does not violate our community guidelines. Was that correct?

15 A Yes. That is the information I relayed in this email.

16 Q And just to summarize, this is an example of where, if a government official

17 had reached out and flagged a video for content, YouTube would make a decision, and

18 then communicate it back to the external stakeholder. Is that a fair characterization of

19 this?

20 A In my experience, and in this example, in this email, my practice would have

21 been to share this incoming email with our YouTube Government Affairs and Public Policy

22 team. At that time, then, it would have been [redacted]. [redacted] then would have

23 then provided me information to answer the question raised by the U.S. Government

24 official, which I responded with the email before me.

25 Q Now I just want to ask a couple of broad questions about your experience at

1 Google during your time since 2019. When we testified a little bit earlier -- or you
2 testified earlier about, you know, where there have been times when you interacted with
3 the White House and different U.S. Government stakeholders. During your time at
4 Google, has there ever been a time where any government official has ever tried to
5 coerce you or anybody else at Google to remove content?
6 A I can only speak for myself, and I have not felt coerced.
7 Q Thank you. Have you ever, in your personal capacity, so we will clarify -- in
8 your personal capacity, have you ever experienced any U.S. Government official
9 threatening you or anyone at Google with adverse actions if the company refused to take
10 any particular action that the government official desired?
11 A No.
12 Q Did you, in your personal capacity, ever experience any government official
13 to ask you or anybody at Google to promote or remove any content based on the political
14 or ideological viewpoint that it expressed?
15 A I cannot recall of an instance where a government official has asked us to
16 promote or remove content based on ideology.
17 Q And did you ever experience, in your personal capacity, anybody from the
18 White House or you or anybody at Google to remove a post or account or other content
19 on one of its platforms?
20 A To the best of my recollection, I remember the FDA flagging this video that is
21 reflected in this email today. I can remember one other piece of content that was
22 flagged to us by Rob Flaherty and the White House digital office.
23 Q Okay, but then -- that is fair. But just to make sure we are clear, my
24 question was, has anybody from the White House ever ordered you or anybody to
25 remove a post, an account or other content on its platform? I understand that you have

had instances where things might have been flagged, but you have never been directed to or ordered by the White House. Is that fair?

A Correct.

Q Thank you. And that includes any orders or directions from Rob Flaherty or Andy Slavitt?

A That would be true, in my experience, since I have been at Google since 2019 in both the Trump and Biden administration.

[redacted] Thank you. We will go off the record. Thank you.

[Discussion off the record.]

BY [redacted]

Q Are you familiar with the Center for Countering Digital Hate?

A No.

Q As part of your role at the company, have you had any interactions with NewsGuard?

A No.

[redacted] I'm sorry, I didn't hear that. I heard up to the last word.

[redacted] Just asked as part of her role at the company if she had any interactions with NewsGuard.

[redacted] NewsGuard.

[redacted]. NewsGuard, okay.

BY [redacted]

Q As part of your role at the company, have you had interactions with the Global Disinformation Index?

A No.

Q As part of your role at the company, have you had any interactions with the

1 World Federation of Advertisers?

2 A Not to my recollection.

3 Q Have you familiar with the Global Alliance for Responsible Media, sometimes

4 referred to as GARM?

5 A No.

6 Q Are you familiar with the Biden White House's October 2022 blueprint for an

7 AI bill of rights?

8 A Yes.

9 Q And what is your understanding of what the blueprint is?

10 A I have a general awareness of the AI blueprint. As I understand it that was

11 primarily lead by OSTP.

12 Q To your understanding, does the blueprint effect any of Google's AI

13 products?

14 A While I am not an expert at the -- on the content of the blueprint, I am

15 aware that it talks about AI policies, some of which would have an impact on Google.

16 Q As part of your role in the company, have you had interactions with

17 members of the executive branch regarding Gemini regard?

18 A Yes.

19 Q Which parts of the executive branch?

20 A In my role on our government affairs and public policy team as the economic

21 policy lead, I have shared key updates regarding Google's AI products with executive

22 branch agencies such as Treasury, SBA, Department of Labor, Department of Education.

23 Q Have you had any interactions with the White House regarding any of the

24 companies' ad products?

25 A Yes.

1 Q What has been the nature of your interactions at the White House on that
2 topic?
3 A My role in the Government Affairs and Public Policy team as economic policy
4 outreach lead, I have interacted with NEC, with other White House staff on AI's economic
5 opportunity, future of work issues, AI skilling, and the promise of AI's economic potential
6 positive impact for the U.S. economy.
7 Q Did anyone from the company provide you with a briefing, or an
8 explanation, of why Gemini was producing historically inaccurate images in early 2024?
9 A I received a blog post that we publicly shared on Gemini, post the decision to
10 pause some of our image generation features on that product.
11 Q Besides the public blog post, did you receive any additional information
12 regarding gem any's production of historically inaccurate images?
13 A I do not have interactions with the product team, and the information that I
14 would have had on that topic would have been reflective of the public communications
15 on the blog post that I am thinking of.
16 Q When you say, "no interaction of the product team," do you mean around
17 historically inaccurate images or just interactions with that product team?
18 A I am referring to interactions with the Gemini products team.
19 Q Do you have any familiarity with what, if any, commitments the company
20 has made surrounding ethics of AI or following commitments provided by the White
21 House?
22 A I am generally aware that Google participated in a meeting where the White
23 House AI commitments were discussed, and Google, along with other leading AI
24 companies, agreed to a series of commitments on the safety and responsible
25 development of AI.

1 Q Were you part of these discussions?
2 A That particular meeting I am referring to or particular time period?
3 Q Just broadly, but yes, first start with the meeting.
4 A I did not participate in the meeting that I am referencing where our
5 executive participated in a meeting on the White House AI commitments. Broadly
6 speaking, Google has worked on AI policy for a number of years. And I would say in the
7 beginning of 2023, I participated in outreach, primarily to NEC regarding AI.
8 Q What was the purpose of this outreach?
9 A At the time, AI was a topic of both priority for the company, as well as a
10 policy priority that various parts of the White House were considering from a policy
11 perspective. And my purpose of my outreach was to explain Google's AI principles,
12 which we first adopted in 2017, as well as AI products as they were being launched
13 publicly. And my role was to highlight the economic benefits of AI in conversations with
14 both the administration and Congress.
15 Q In your interactions with the executive branch surrounding AI, have you
16 been part of any discussions regarding unfair bias?
17 A I have not been in any -- part of any specific conversations around that topic.
18 The White House AI commitment does have a line regarding bias. So generally speaking,
19 that topic is one of external public policy interests as it relates to AI.
20 Q Whether it was the specific topic going into a meeting or discussion, do you
21 recall any meetings or discussions with the executive branch where that issue arose?
22 A I do not that I participated in.
23 Q What about more broadly, are you aware of any meetings between
24 personnel from the company, and personnel of the executive branch where that issue
25 arose?

1 A I can only speak to myself in meetings that I would have participated in and
2 the visibility that I would have had for other members, so I can't say.
3 Q Do you recall any internal conversations where a member from the company
4 was informing you about their meeting with the executive branch and this issue where
5 unfair bias arose?
6 A I cannot think of a specific occasion or example.
7 Q In your interactions with the executive branch on issues related to AI, had
8 there been any occasions or meetings or discussions around misinformation and the risks
9 posed by any of the company's AI products?
10 A I can only speak for myself, and I cannot think of a meeting or a call where
11 that was discussed.
12 Q Who within your team has the primary responsibility for communicating
13 with the executive branch around questions around Gemini?
14 A On our Government Affairs and Public Policy team on our U.S. Federal affairs
15 team, there isn't one person that is in charge of AI policy. I would say every member of
16 our team has some AI policy in their portfolio.
17 Q How are the portfolios divided among the rest of the team?
18 A Our U.S. Government affairs --
19 Q Just for the U.S.
20 A Yes, okay. I can speak to my immediate team, and I am the economic
21 policy outreach lead, I have kind of covered my portfolio. I have a teammate whose
22 portfolio is primarily national security related outreach. I have a teammate who focuses
23 on health policy. I have a teammate that focuses on tech telecom export control issues.
24 I have another teammate who focuses on, primarily interactions with the FTC.
25 Q Do you have familiarity with the Global Engagement Center?

1 A I do not.

2 Q As part of your role at the company, have you had interactions with the

3 Office of the Surgeon General?

4 A Yes.

5 Q What has been the nature of those interactions?

6 A Both during the Trump and Biden administration, I have, in my role during

7 the time of my portfolio when I was covering health policy, interacted with members of

8 the Surgeon General's staff on the COVID-19 pandemic. There may have been other

9 topics, such as mental health in some of those interactions.

10 Q In your meeting with the Surgeon General's office, do you recall any

11 meetings or discussions where issues, whether the vaccine hesitancy or misinformation

12 around vaccines was raised?

13 A Yes.

14 Q What occasions can you recall?

15 A I recall that in, I believe some time in 2021, the Surgeon General put out a

16 report on COVID-19, or maybe more broadly, health misinformation and he interacted, I

17 believe in advance of that report coming out to provide information on Google's public

18 health efforts.

19 Q When you say "we," who do you mean by that?

20 A I do not recall specifics in terms of a meeting and who would have attended,

21 but I -- I likely would have been joined by members of both the Google Search and

22 YouTube team.

23 Q Who from the Google Search team likely would have attended?

24 A If they -- I don't remember by memory a specific meeting, but it would have

25 been [redacted].

1 Q Whether for Office of the Surgeon General, FDA, CDC, do you recall during
2 these meetings whether you had typically taken notes, provide others within the
3 company?
4 A It would really depend on the nature of the meeting. And if I would have
5 provided, taken notes sometimes in my general practice, I do. And if one of the key
6 roles in my job as Government Affairs and Public Policy is to provide information from
7 U.S. Government engagement outreach, the external environment into the company.
8 So it is really dependent upon the caller of the meeting.
9 Q Are you familiar with Google's Threat Analysis Group?
10 A Yes.
11 Q Do you have interactions with that group as part of your role in the
12 company?
13 A I do not.
14 Q Do you have familiarity with whether there are email addresses that people
15 within the company can send to the YouTube Trust and Safety team depending on
16 prioritization of whether a post or a video or something is being flagged?
17 A I have no visibility into that.
18 Q Do you have any familiarity if an email address sometimes produces a PERT,
19 P as in Paul, E-R-T email address?
20 A No.
21 Q In your meetings with Mr. Flaherty, do you recall there being representatives
22 from Google Search, from YouTube. Do you recall which other companies' products he
23 was most interested in?
24 A So from my memory in 2021, at the time in the COVID-19 pandemic, both
25 the availability of tests and vaccines was a topic that we would receive questions from

1 government officials on. And I -- the products reflecting those two information needs
2 primarily would be Google Search, Google Maps and YouTube.
3 Q Other than concerns around vaccine misinformation, what issues related to
4 YouTube was Mr. Flaherty and the White House staff asking about?
5 A To the best of my recollection, that is the only topic that I can remember him
6 raising information on.
7 [[redacted] Exhibit No. 2
8 was marked for identification.]
9 BY [redacted]
10 Q This will be exhibit 2. This is an April 2021 email chain, part of which is with
11 the White House, part of which is internal.
12 If I could have you turn to Bates number 64176. First, there is an email from
13 [redacted], what is his role at the company?
14 A To the best of my recollection, he is on our YouTube civics outreach team.
15 Q How frequently do you interact with him as part of your role at the
16 company?
17 A Very limited interaction.
18 Q Your email starts on the previous page 64175 and then continues on to the
19 top of the next page.
20 A Uh-huh.
21 Q Wherein, you add [redacted] and [redacted] for awareness, and helped
22 prepare for another White House meeting on COVID vaccine misinformation. The email
23 is from April 13, 2021. Do you recall, or have a sense of how many meetings with the
24 White House on COVID vaccine misinformation had taken place prior to this new
25 outreach from Mr. Flaherty?

1 A So this was 3 years ago, and I don't remember the exact number of meetings
2 or calls that we had on this topic. To the best of my recollection, it was a handful, so
3 two or three.
4 Q And in those two or three, what do you recall the White House raising as or
5 asking about as it related to COVID vaccine misinformation?
6 A I don't remember specific questions that the White House raised in this
7 presentation. I do remember in this meeting, that we presented our overall company
8 effort on COVID-19 vaccine information, and it would have been across product areas
9 similar to our overall COVID-19 presentation work. And I don't really remember very
10 many specifics from the meeting.
11 Q The start of your message which is at the bottom of 64175, you write that
12 Rob's questions were varied YT, YouTube focused. In our last meeting Rob particularly
13 dug in on our decisionmaking for borderline content. Do you remember -- well, first,
14 one step back, do you remember what Rob's questions were more generally,
15 Mr. Flaherty's questions were?
16 A I do not remember his specific questions.
17 Q Do you recall generally if they were about vaccine misinformation?
18 A So my general recollection of this meeting was that we presented our
19 COVID-19 vaccine information effort across the company. And it is standard in these
20 type of conversations for there to be questions on YouTube's policies. That is what I
21 remember from this interaction.
22 Q For the questions about the company's decisionmaking for borderline
23 content, do you recall whether there was anyone on the call who was able to speak to
24 that?
25 A To the best of my recollection, who joined the call from YouTube was [redacted]

1 [redacted] and I believe [redacted]. And I would have not have answered questions
2 regarding YouTube on the call. I would have deferred to my YouTube colleagues.
3 Q Do you recall in these kind of two to three meetings, approximately before
4 this email chain, how much of the conversation was devoted to YouTube's policy as
5 opposed to the company's other products?
6 A I don't remember by memory. And reading this email, I state in the email
7 that the questions were very YouTube-focused.
8 Q This an April 22, 2021 email personnel at the company from Rob Flaherty.
9 [[redacted] Exhibit No. 3
10 was marked for identification.]
11 BY [redacted]
12 Q First, do you recall receiving this email from Mr. Flaherty?
13 A Yes.
14 Q And do you recall the meeting preceding this email that he is referencing?
15 A I do not recall the specific dates, but in reviewing the last two emails, I
16 believe the meeting he is referring to is where the meeting or call that I recall where we
17 presented Google and YouTube's COVID-19 information effort.
18 Q The first sentence of the paragraph starting with to recap: Mr. Flaherty
19 writes, "We remain concerned that YouTube is 'funneling' people into hesitance and
20 intensifying people's hesitancy." Do you recall what Mr. Flaherty meant by funneling
21 people?
22 A I can't speculate what he meant by that.
23 Q Was there any discussion regarding funneling people in any of your readings
24 with Mr. Flaherty?
25 A In my recollection of this meeting I don't remember specific questions, or

1 the terms that he used in the meeting.

2 Q Do you recall if there was a discussion regarding how YouTube made

3 recommendations once a user finished watching a video?

4 A I am sorry. Can you repeat that question?

5 Q Sure. In your conversations with Mr. Flaherty, do you recall any discussions

6 regarding how the company decides what videos to recommend to -- finish watching a

7 video?

8 A I really don't remember the specific topics that Rob Flaherty raised in this

9 call by memory.

10 Q So a member of the White House staff is emailing you and several others,

11 starting off the email, the White House's concerns around YouTube funneling people.

12 Who at the company is responsible for trying to assess what Mr. Flaherty means by

13 funneling people?

14 A I would say both our presentation on Google's COVID-19 efforts and any

15 subsequent communications regarding YouTube's practices our policies would have been

16 directed to YouTube's Government Affairs and Public Policy team.

17 Q Who specifically?

18 A At the time of this interaction?

19 Q Yes.

20 A I would say [redacted] and [redacted].

21 Q Do you recall any internal discussions at the company about trying to assess

22 what Mr. Flaherty meant by funneling people?

23 A I don't recall any specific discussions on that term and that I participated in.

24 Q Near the bottom of this same paragraph, Mr. Flaherty says, "This is a

25 concern that is shared at the highest, and I mean, highest levels at the White House."

1 What did you understand Mr. Flaherty to mean by that?

2 A Taking a step back during this time, I would say in the 6 months so the

3 beginning of 2021, maybe even leading into the fall of 2021 there were a lot of U.S.

4 Government officials asking about COVID-19 information practices across Google Search

5 and YouTube. And I don't really remember the specific interaction. But in reading the

6 email here today, I take it as that there were members of the White House staff and

7 officials that were watching the company's actions closely.

8 Q Company's actions regarding combating vaccine hesitancy?

9 A Regarding COVID-19 information.

10 Q Did Mr. Flaherty indicate what conversations he was having with senior

11 members of the White House?

12 A To me? I don't remember a specific communication where he named who

13 the members of the White House were talking about in this topic.

14 Q Do you recall generally whether he conveyed that folks above him in the

15 White House had strong feelings about whether the company was adequately addressing

16 vaccine hesitancy?

17 A In reviewing this email, and what I remember at the time, is that there was a

18 perception that there were senior White House officials that were paying very close

19 attention to COVID-19 information, and what our company was doing around this topic.

20 Q Near the bottom, it looks like the final bullet point on the same page, Mr.

21 Flaherty asks about the general vectors by which people seek, quote, unquote,

22 "borderline content," or were they just vaccine-skeptical content is largely through

23 recommendations, search. Do you recall who on the company was responsible for

24 finding the answers to Mr. Flaherty's questions on these issues?

25 A I would say my YouTube Government Affairs and Public Policy colleagues.

1 Q To your understanding, are there separate teams that handle removal of
2 content versus the production of quote, unquote, borderline content?
3 A I have very limited visibility or understanding of the way YouTube's team is
4 organized.
5 Q Do you recall if Mr. Flaherty either in this meeting that he is referencing, or
6 just more generally, had questions about Google Search or about search results within
7 YouTube?
8 A I do not remember his specific questions in this meeting, or what products
9 he raised. And I don't remember if he -- in rereading this question today, I am not sure
10 what he meant.
11 Q Do you remember any internal meetings within the company following a
12 meeting with Mr. Flaherty to provide a readout to other folks?
13 A To the best of my recollection, our YouTube Government Affairs and Public
14 Policy team may have taken these additional questions forward in the company. I don't
15 remember myself being a part of any conversations on these questions, or how we
16 would, either I or others, would respond to them.
17 Q In advance of the meeting with Mr. Flaherty or other members of the White
18 House staff, would there generally be a premeeting of just company personnel to go over
19 what is going to be discussed?
20 A So, in my outreach on both economic and Health policy, my broader
21 portfolio, my standard practice is to prepare, especially if multiple colleagues are coming
22 to present in a White House meeting, sometimes that happens just via email, sometimes
23 that happens in an actual call or meeting beforehand.
24 Q Do you remember any calls with folks at the company in advance of the
25 meeting with Mr. Flaherty?

1 A I do not remember, it was 3 years ago. I don't remember doing a call in
2 advance of the meeting. I do remember that we presented a deck. I believe we
3 discussed the different product areas and who would speak to those in advance, but I
4 don't remember having any type of prep meeting.
5 Q I haven't had a chance to review some of the email correspondence with the
6 White House. Do you recall any meetings where Mr. Flaherty or others from the White
7 House staff represented concerns that too much vaccine hesitant content was remaining
8 on YouTube?
9 A I am sorry. Can you repeat your question? Is it that was there a meeting?
10 Q Just do you recall any interactions with Mr. Flaherty, whether there were
11 discussions of whether Mr. Flaherty or someone from the White House staff was
12 conveying to you, or someone from the company, that YouTube was permitting too much
13 vaccine hesitant content on the platform?
14 A From the best of my memory from 3 years ago, I remember doing two or
15 three meetings with him. I remember receiving emails regarding this topic. I don't
16 remember like after this April 2021 meeting specific instances, or examples.
17 Q Did you have a sense during this time of whether Mr. Flaherty, Mr. Slavitt,
18 and others, were talking to other social media platforms?
19 A I am not sure.
20 Q Do you recall any interactions with colleagues of Facebook or Twitter around
21 this time?
22 A Regarding this topic?
23 Q Regarding interactions with the White House.
24 A I do not.
25 [Exhibit No. 4

1 was marked for identification.]

1 [12:12 p.m.]

2 BY [redacted]

3 Q This is exhibit 4. This is an internal company email dated April 29th, 2021.

4 Do you remember receiving this email?

5 A By memory, I do not remember receiving this email.

6 Q For an email like this, would [redacted] run a draft by you first before reaching

7 out to in this case [redacted] or [redacted]?

8 A No.

9 Q At the bottom of the second paragraph [redacted] writes, "We believe having

10 an opportunity for you both to share more background would be hugely beneficial as we

11 seek to work closely with this administration on multiple policy fronts."

12 Do you know which policy fronts [redacted] is referring to?

13 A I do not.

14 Q Which other policy fronts was the company working with the administration

15 on in April 2021?

16 A I can speak for myself, and I in 2021 was leading both health and economic

17 policy outreach and other topics relating to tax, trade, education, beyond health policy.

18 Q What were some of the tax issues you were working with the administration

19 on in April 2021?

20 A Throughout my entire tenure at Google, since I joined the company in 2019,

21 one of the key tax policy topics that we've discussed through with both the Trump and

22 Biden administration have been digital service taxes and global tax policy and

23 international tax policy issues relating to technology and digital services.

24 Q Have you had any conversations with members of the executive branch

25 about Europe's approach to data privacy or -- well, start there. Data privacy?

1 A On data privacy specifically, I can't think of a meeting where that would have
2 been the sole topic. That might have come up as a part of a broader conversation on
3 European regulatory issues.
4 Q Are you aware of, do you recall any conversations between you or a member
5 of your team regarding issues related to data flows between Europe and the United
6 States?
7 A So I can only speak for the meetings that I've participated in, and I can't think
8 of a specific meeting that I participated in where that was the topic of the call or the
9 meeting.
10 One of my colleagues or teammates covers those issues in more detail. But I
11 would not have necessarily participated in those meetings and I can't think of an example.
12 Q Which colleague would have covered this issue?
13 A [redacted].
14 Q In April of 2021, do you recall working on any issues related to antitrust?
15 A In relation to the executive branch?
16 Q Yes.
17 A I can't think of any meetings or calls that I would have been on regarding
18 that topic. This is tangential, but I do lead small business issues. And so I certainly
19 would have talked about digital tools' helpfulness to small businesses.
20 Q Do you recall in, we'll just say, spring of 2021 or thereabouts any meetings or
21 discussions with members of the executive branch around reform of section 230?
22 A I cannot think of any call or a meeting that I was on specifically relating to
23 section 230. That law is important to Google and it may have come up in a meeting, but
24 I can't think of an example of a meeting where that was the sole topic that I participated
25 in.

1 Q Which member of your team has the lead for issues related to section 230?
2 A So I would describe section 230 similar to AI in the sense that there is not
3 one person on our team that is leading that topic.
4 Q Is it an issue that can fall within the purview of your portfolio?
5 A It could.
6 Q Did it in 2021?
7 A In 2021, the context that I would think of when talking about section 230
8 would be on if it did not exist or if it changed, the impact that that would potentially have
9 on small businesses.
10 Q Which other members of your team in 2021 had portfolios that might touch
11 upon issues related to section 230?
12 A I would say any of our Government Affairs and Public Policy team on our
13 Federal Affairs team that interact with government officials could potentially talk about
14 section 230.
15 Q Do you recall -- just to clarify an earlier answer, I understand you don't recall
16 maybe a specific meeting where section 230 was the sole topic with the meeting with an
17 executive branch official.
18 Do you recall more generally in spring and summer of 2021 meetings where that
19 issue arose with members of the executive branch?
20 A I can't think of an example.
21 Q You mentioned that reform of section 230 is an important issue to the
22 company. Just at a high level, why is that?
23 A Section 230 is an important element of allowing internet and technology and
24 tech companies to be able to provide content and information to our users.
25 Q Do you recall any discussions internal to the company or with external

1 stakeholders about whether the risk of section 230 being reformed in an unfavorable way
2 to the company was higher in 2021?
3 A I, by memory, cannot recall. It is an issue that is from my vantage point
4 continuously important to the company.
5 Q To your understanding, are there any individuals within the YouTube GAPP
6 team specifically that have the lead, so to speak, on issues related to section 230?
7 A I do not have an understanding of the YouTube Government Affairs and
8 Public Policy, their portfolios.
9 Q Turning back to [redacted] email where he mentions working closely with
10 the administration on multiple policy fronts, to your understanding, do you recall
11 whether [redacted] had any interactions with the executive branch around this time
12 regarding section 230?
13 A That would be a question for my YouTube colleagues. I don't know.
14 Q To your understanding, has the company developed any internal
15 memorandum assessments of what the impact would be if section 230 were changed,
16 what the impact would be to the company?
17 A I have not seen that analysis.
18 Q In spring and summer of 2021, to your understanding, did the company want
19 section 230 reformed or would they have preferred the status quo?
20 A As the economic policy outreach lead, my understanding of our advocacy in
21 this space is limited. In my awareness, section 230 is not something that at the time in
22 2021 that we were proactively -- or at least for myself, I was not proactively seeking
23 reforms to.
24 Q To clarify that, so in 2021, do you recall whether you or members of your
25 team had interactions with the executive branch, not only -- apologize in advance for

using the double negative -- not only not advocating for a revision or reform to section 230, but any advocacy against proposed revisions to section 230?

Mr. Bopp. Can we unpack, because I'm not sure I understand that. I want to make sure she's answering the right question.

BY [redacted]

Q Sure. So in your previous answer, if I understood it correctly, at least speaking for yourself, you don't recall interactions where the company was taking a position section 230 should be changed in this way.

Is that a fair summary?

A I was not advocating for changes to section 230.

Q Okay. Maybe an easier way of asking this, do you recall advocating against certain changes to section 230?

A I don't remember advocating. I can't think of a single incident or example of a meeting where my advocacy either way on section 230 in detail with any meetings with the executive branch.

Q With the understanding you don't recall specific meetings or specific discussions, do you recall generally whether among public debate there were concerns about a push to revise section 230 around 2021?

A I remember that there was a case before the Supreme Court on section 230, and that would have been covered in the news. I would have been generally aware of that case. I honestly can't remember when that was, if it was in 2021 or not.

[redacted] I'm going to introduce two exhibits.

Exhibit 5 is going to be an email chain between members of the company and Mr. Flaherty in July of 2021.

[redacted] Exhibit No. 5

1 was marked for identification.]

2 [redacted] There's a link to a tweet in the email chain, and exhibit 6 will be a

3 screenshot of that tweet.

4 [redacted] Exhibit No. 6

5 was marked for identification.]

6 [redacted] So the email is exhibit --

7 [redacted] 5.

8 [redacted] 5. And the tweet is 6?

9 [redacted] Yes.

10 [redacted] Thank you.

11 BY [redacted]

12 Q Good?

13 A Yes.

14 Q Is this the -- first, let me take a step back.

15 Do you recall this email chain?

16 A Yes.

17 Q And is this the example that you had recalled in the first hour?

18 A Yes.

19 Q Do you recall any conversations with [redacted] about this message from

20 Mr. Flaherty about the tweet?

21 A I do not.

22 Q To your understanding, who did [redacted] interact with in order to be able to

23 provide a response to Mr. Flaherty?

24 A I would not have had visibility into that, who he spoke to.

25 Q To your recollection, was there any discussion with [redacted] even as simple

as he was the one that would be handling any sort of response?

A I do not remember having that discussion.

Q Just generally, for an email like this, is it because it was -- how would -- if the email is to both of you, how would it be decided who would take the lead in trying to find the information necessary to give an answer to Mr. Flaherty?

A On this specific email back-and-forth, it began with outreach from [redacted] on YouTube-related topics.

And throughout the course of the exchange between [redacted] and the government official, I would not have -- it would have -- I would have read this and assumed that our YouTube Government Affairs team was taking the lead in response.

And I might not have had an internal email or conversation about that because it is YouTube related.

[redacted] Can we go off the record, please?

[Recess.]

1

2 [redacted] Go back on the record.

3 BY [redacted]

4 Q At the end of the last hour we were, I believe, at exhibits 5 and 6. I'd like to

5 direct your attention back to those.

6 A Yes.

7 Q There's the tweet and then the 7 -- the email chain with [redacted] that

8 begins at 7/21.

9 A Uh-huh.

10 Q So I want to flip to the second page where Rob Flaherty writes to [redacted]

11 on July 20th at 10:57 a.m. It's about three quarters of the way down the page.

12 A Uh-huh.

13 Q Do you see where I'm at?

14 A Yes.

15 Q When he flags this tweet, is there anywhere here that you see to your

16 understanding that he asked for content to actually be removed?

17 Mr. Bopp. What are you referring to specifically?

18 [redacted] The email at 10:57 a.m. that Rob Flaherty wrote to [redacted].

19 [redacted]. In reading the email, I can't speculate what he meant by this,

20 other than the words on the page.

21 BY [redacted]

22 Q Thank you.

23 So the answer is you don't see anywhere where he asked for content to be

24 removed. Is that correct?

25 A I think his exact question is, "What is going on here?"

1 Q And that's not a request to remove content, correct?

2 A Yes.

3 Q Thank you.

4 And if you flip to the first page of that email chain, where [redacted] responds

5 back to Rob Flaherty on 7/21/2021 at 1:03 a.m.

6 A Yes.

7 Q If you want to briefly refresh your recollection on that.

8 A Yes, I've read the email.

9 Q Okay. In this email, from where you're reading, where the text says [redacted]

10 [redacted] did not actually -- or [redacted] informed Rob Flaherty that the content that he had

11 flagged was not actually -- was not in violation of the policies and therefore not subject to

12 removal.

13 Is that correct?

14 A Yes.

15 Q Thank you.

16 Now I want to go back to the earlier hour. You were asked about exhibit 3.

17 And this was the email from Rob Flaherty where he said this concern "is shared at the

18 highest (and I mean highest) levels of the White House."

19 Do you remember being asked questions about that language?

20 A Yes.

21 Q Okay. And during the last hour you testified that there was a perception at

22 the time that senior White House officials were paying close attention to the company's

23 actions.

24 Is that a fair characterization of your testimony?

25 A Yes.

Q Okay. First of all, I just want to ask you a couple questions about -- follow-up questions about this language.

Did you interpret "the highest (and I mean highest) levels of the White House" to be a threat?

A No.

Q And just to take a step back, during this time it wasn't just the White House that was watching Google and vaccine misinformation. It was a lot of other external stakeholders. Is that fair to say?

A Yes. I previously mentioned the Surgeon General is one example of another government official who we spoke with on this topic. And there were other, both administration and congressional government officials, who were asking us about COVID-19 information.

Q So Members of Congress would be concerned around this time, this same time?

A I would have to reflect on my memory. But I do remember other members of our Government Affairs and Public Policy team asking for talking points or other information on this topic.

[redacted] Okay.

[redacted] And was that just with respect to government officials in the United States, or were government officials worldwide making inquiries about this topic, as well?

[redacted]. So most of my visibility would have been into government officials here in the U.S. But as a part of our larger Government Affairs and Public Policy team, this topic of COVID-19 information was a topic that other government officials in countries around the world were asking colleagues of mine.

1 [redacted] And to the best of your knowledge, did Google do anything
2 differently than it otherwise would have done as a result of this perception that it was
3 being watched closely by senior White House officials?
4 [redacted]. From my vantage point, Google is a company that throughout
5 administrations and whoever is in the White House is at times watching what the
6 company does on a variety of topics.
7 [redacted] Okay. But my question is, to the best of your knowledge, did
8 Google do anything differently than it otherwise would have because of this perception
9 that it was being watched?
10 [redacted]. From my vantage point, we did not do anything differently.
11 [redacted] No policy changes or difference in how you handled COVID
12 information as a result of this perception?
13 Mr. Bopp. In answering, be clear. Please be clear whether you're speaking for
14 yourself or for Google.
15 [redacted]. In speaking for myself, I did not do anything differently in my
16 role.
17 BY [redacted]
18 Q Did you witness anybody else at Google do anything differently because of
19 this perception that they were being watched by senior White House officials?
20 A Again, speaking for myself and in my role, I did not do anything differently
21 because of this outreach.
22 Q Okay. You were asked at the last hour about the exhibit 4, which was the
23 email where [redacted] had emailed [redacted] and [redacted] [redacted] and [redacted], and
24 mentioned that they were working closely with this administration on multiple policy
25 fronts.

A I have the email in front of me.

Q Do you recall that discussion in the last hour?

A Yes.

Q Okay. I guess my question is, did you ever fear that not being responsive or helpful to the White House in one policy area would lead to the White House taking adverse actions against the company on another policy area?

And I'm asking to clarify to the best of your personal experience.

A In my role on our Government Affairs and Public Policy team, I did not perceive that from this email.

[redacted] You were asked several questions during the previous hour about section 230 and concerns about reform or potential reform of section 230.

Are you aware from your personal knowledge of you or any of your colleagues expressing a concern that the White House's interest in Google's actions on COVID information were somehow connected to potential reform of section 230? Were those topics ever connected?

[redacted]. In the calls, meetings, government outreach I participated in, those two topics were not discussed in the same call or meeting.

[redacted] And is that also the case with respect to internal conversations that you participated in or are aware of at Google?

[redacted]. I cannot recall of an internal meeting where the two topics were discussed.

[redacted] Okay. Thank you.

We can go off the record.

[Discussion off the record.]

[redacted] We can go back on the record, please.

1 BY [redacted]

2 Q As part of your role at the company, have you had any interactions with the

3 Financial Crimes Enforcement Network, FinCEN?

4 A Yes.

5 Q What's been the nature of your interactions with FinCEN?

6 A In my portfolio as economic policy lead on our Government Affairs and

7 Public Policy team, I have had interactions with FinCEN staff on topics like digital identity.

8 I participated in broad industry stakeholder engagements with FinCEN on, say, technology

9 and financial service issues.

10 Q Which offices or divisions within FinCEN have you interacted with most

11 frequently?

12 A I am not sure the office of a particular point of contact that I'm thinking of is

13 in, but Kay Turner is someone who previously worked at Treasury, in digital identity.

14 And she now is a FinCEN staffer, and I'm not sure the office she's in.

15 Q Do you know who Noah Bishoff is?

16 A From my memory, I do not.

17 Q Did you have any interactions with personnel from FinCEN in January of

18 2021?

19 A From memory, I don't remember interaction. I'm happy to review an email

20 if you have more context.

21 Q Broadly, are you aware of whether personnel from the company were in

22 touch with FinCEN after January 6th, 2021?

23 A Not to my visibility or awareness.

24 Q To your knowledge, is there a team within the company responsible for

25 issues related to financial fraud, financial issues broadly?

1 A From my vantage point on our Government Affairs and Public Policy team,
2 for products like Google Pay, we have a payments compliance team who would be
3 responsible for that product area.
4 Q Do you know who the head of that team is?
5 A By memory, I do not.
6 Q Following January 6th, 2021, did you have any interactions with
7 representatives from the executive branch about investigations into any individuals that
8 were present in and around the Capitol that day?
9 A I did not.
10 [redacted] This will be exhibit 7.
11 [[redacted] Exhibit No. 7
12 was marked for identification.]
13 BY [redacted]
14 Q This is an email chain between the White House and members of Google in
15 September of 2021.
16 Ready?
17 A Yes.
18 Q On Bates number 12376, there's an email from [redacted], copying you and
19 Mr. Flaherty.
20 For an email like this, would [redacted] typically run it by you first before emailing
21 the White House?
22 A Not necessarily.
23 Q Okay. Do you recall if [redacted] previewed for you the message he was
24 going to send to Mr. Flaherty?
25 A From my memory, I don't remember if [redacted] previewed this outreach

1 to me.

2 Q Do you recall any internal discussions prior to this outreach about how to

3 preview or how to present the upcoming community guidelines change?

4 A I do not remember.

5 Q Do you recall the first time that you learned that the community guidelines

6 were going to be changed to be expanded to include other vaccines?

7 A I do remember during 2021, one of my key roles was to provide information

8 on when the FDA approved COVID-19 vaccine, because across product areas there would

9 be information that would need to be changed to reflect the FDA had approved COVID-19

10 vaccine.

11 Q Separate from that, do you recall any instances where someone from Trust

12 and Safety or maybe someone else from your team was notifying you in advance that a

13 particular change happening to the guidelines was going to be made?

14 A I do not recall anyone from Trust and Safety reaching out to me.

15 Q Do you recall any discussions with the White House in the immediate

16 aftermath, after this policy change in September 2021 took effect?

17 A I do remember providing updates to government officials, including the

18 White House, post-FDA approval of COVID-19 vaccines, that product changes were being

19 made. I remember the search feature at the time was updated, and I remember the

20 YouTube policy -- I think it's the medical policy -- was updated.

21 Q Do you recall any feedback or response that you received from Mr. Flaherty

22 about policy changes to the community guidelines?

23 A I do not.

24 Q Do you remember generally whether he had a favorable response,

25 unfavorable response?

1 A I don't remember his response or reaction.

2 Q What about members of the White House staff?

3 A I can't recall any other reaction or conversations.

4 Q Mr. Flaherty's email, Bates number 12376, he responds on September 29th,

5 "Would love to talk through it -- at first blush, seems like a great step."

6 Do you recall any meetings or discussions where Mr. Flaherty expressed a similar

7 sentiment?

8 A I don't remember his reaction to any updates that we provided at this time.

9 Q In advance of the Surgeon General's announcement in late summer of 2021,

10 thereabouts, what was the nature of your interactions with that office in the lead-up?

11 A I don't know the announcement you're referencing. But we at Google, as

12 the health policy lead, we did interact with the Surgeon General's staff prior to a report

13 being released from the Surgeon General on health information.

14 Q What role or what information was the company providing as it related to

15 that report?

16 A To the best of my recollection, we provided an overview of Google's and

17 YouTube's COVID-19 authoritative information efforts.

18 Q Did you provide information about YouTube's efforts to combat vaccine

19 hesitancy or misinformation around vaccines?

20 A We may have spoke about YouTube's efforts. I don't remember the

21 specific topics that we briefed the Surgeon General's staff on.

22 Q Who else attended this briefing from the company?

23 A I don't remember the specific meeting in detail. I do remember having a

24 meeting with Surgeon General's staff. And to the best of my recollection, it likely would

25 have been with [redacted] from YouTube and [redacted] from Google Search

1 Partnership.

2 Q As part of this briefing, did you or anyone else from the company have an

3 opportunity to view draft texts before the report was finalized?

4 A I remember the Surgeon General's staff, like, walking through some

5 high-level principles. That would be in the report. I don't remember ever seeing a

6 paper with a draft text or an email with specific words.

7 Q Do you recall if any of those principles addressed misinformation?

8 A To the best of my recollection, the report was on COVID-19 public health

9 information and misinformation, and the preview would have reflected that.

10 Q Do you recall whether the preview provided any commentary on the

11 adequacy of social media platforms' responses to COVID-19 information up to that point?

12 A I don't remember that detail from the conversation.

13 Q Do you remember there being a concern within the company whether the

14 Office of the Surgeon General was going to criticize social media companies' response to

15 COVID-19?

16 A Taking a step back, I remember at the time Google's efforts to raise public

17 health information at the time on COVID-19 as a priority for the company.

18 Q But more specifically, do you recall any internal discussions regarding

19 concerns whether the Office of the Surgeon General would criticize YouTube, other social

20 media platforms about their response to vaccine hesitancy or misinformation around

21 vaccines?

22 A I remember there being awareness that this report was going to be released

23 by the Surgeon General and there being an effort to proactively share Google and

24 YouTube's policies and practices on public health information.

25 Q Who within the company worked on preparing information to share with the

1 Surgeon General's office?

2 A I don't recall the exact presentation that we gave by memory. But my

3 standard practice during COVID-19 in 2020 and 2021, moving into 2022, would have been

4 to work with various members of our Government Affairs and Public Policy team who

5 represent different product areas to provide information for a presentation that would

6 provide information on the work the company was doing at the time.

7 Q Do you recall any discussions with YouTube's Trust and Safety team in the

8 lead-up to meeting with staff from the Office of the Surgeon General?

9 A I do not.

10 Q Are you familiar with President Biden's statement from July of 2021 that

11 Facebook was killing people?

12 A Yes.

13 Q Do you recall discussions within the company about those remarks from the

14 President?

15 A I remember at the time when the President made those remarks that there

16 was discussions about differentiating Google and proactively sharing with bipartisan

17 government officials the efforts that Google and YouTube were taking on COVID-19

18 information.

19 Q Who were these discussions with?

20 A I don't remember in detail specific conversations. But my general

21 recollection is that the conversations would have been with YouTube's Government

22 Affairs team, so likely [redacted] and maybe my manager.

23 Q Who was your manager at this time?

24 A [redacted].

25 Q Do you recall any discussions with anyone more senior within the company

1 around this time?

2 A I do not.

3 Q To your understanding, what were the differences between YouTube and

4 Google's approach to Facebook's approach in the summer of 2021?

5 Mr. Bopp. I'm sorry. Just you said the difference in YouTube's approach and

6 Facebook's approach and then Google's approach and Facebook's approach?

7 [redacted] Google and YouTube as opposed to Facebook.

8 Mr. Bopp. Google versus -- I'm sorry.

9 BY [redacted]

10 Q Building upon the previous answer.

11 A I can speak to Google and YouTube's approach at the time. And when we

12 try to differentiate ourselves, it is focusing in our own efforts. I can't speak to another

13 company's approach at the time.

14 Q As part of the company's efforts to differentiate itself from the approach

15 Facebook was taking, do you know who within the company would have had the lead on

16 conducting that sort of assessment?

17 A When I made that reference, that it is common practice on our Government

18 Affairs and Public Policy team to explain to government officials Google's products,

19 services, policies to build trust with policymakers.

20 Q At any point in the spring or summer of 2021, do you recall any internal

21 discussions or reviewing any internal assessments about the differences between

22 Facebook's approach and YouTube and Google's approach?

23 A No.

24 Q To your awareness or knowledge, was any sort of assessment conducted

25 within the company about the differences between Facebook's approach to the content

1 moderation as opposed to Alphabet's?

2 A I can only speak to what I saw or meetings, et cetera, and I never saw

3 analysis like that.

4 Q What was the general reaction within the company that you're aware of

5 following the President's remarks about Facebook?

6 A Beyond what I just shared in terms of wanting to lift up Google and

7 YouTube's proactive efforts, I don't really remember more specific details on the reaction

8 at the time.

9 Q Do you recall was there a meeting that took place? Or how did these

10 discussions occur? By what means?

11 A I don't remember a specific meeting or a call.

12 Q Do you remember preparing or having prepared for you any talking points in

13 the days following the President's remarks about Facebook?

14 A As a general matter, at this time I would say for, again, like the first 6

15 months, maybe a little longer even of 2021, talking points regarding COVID-19 and

16 authoritative information would have been something our team would have had because

17 we were receiving and having conversations about this topic.

18 Q Do you remember being surprised that the President made those remarks

19 about Facebook?

20 A It was 3 years ago, and I don't really remember being surprised or my

21 thoughts about it at the time.

22 Q Do you recall anyone from within the company discussing the risk of

23 whether the President or others in the White House may make similar remarks about the

24 company?

25 A I don't remember any specific conversations.

1 You know, just pulling back, generally as a part of Google's Government Affairs
2 and Public Policy team, any time a President or Presidential candidate or Senator or a
3 Member of Congress mentions technology companies, technology platforms, it is
4 something that our Government Affairs team would notice.
5 Q With the understanding you don't have a specific recollection, for a situation
6 where it's coming from the President himself, is there -- customarily what would happen
7 in a situation like that? Would your team prepare a readout for folks, other work
8 product?
9 A I would not say that there's a standard protocol for when any government
10 official mentions a technology-related issue.
11 Q What about when the President does?
12 A I would say I can speak for myself. And if I saw a speech or a press release
13 from the President that I thought impacted technology companies, it might be something
14 that I would flag and share with my manager or my colleagues on our Government Affairs
15 and Public Policy team.
16 Q Besides your manager and besides [redacted], do you recall any discussions
17 with individuals within the company about President Biden's remarks about Facebook?
18 A Yeah. Just my recollection of what I did at the time.
19 Q Do you recall whether you or anyone that you talked to within the company
20 had thoughts on whether the President's remarks about Facebook were fair?
21 A I did not have any conversations with my colleagues on that.
22 [[redacted] Exhibit No. 8
23 was marked for identification.]
24 BY [redacted]
25 Q This is an email -- this is exhibit 8, which is an email from the CDC to Google

1 in March of 2021.

2 A I've read the email.

3 Q Do you recall this email?

4 A I don't recall this specific email, but there -- I have a general recollection of

5 the CDC raising this issue.

6 Q The subject line is "COVID Misinfo project."

7 Do you have a general recollection of what Ms. Crawford is referring to here?

8 A So from my memory from 3 years ago, this email was to preview a request

9 from the CDC for a call with industry relating to COVID-19 information. And to the best

10 of my recollection, there was one call on this topic.

11 Q And to your recollection, who attended that call?

12 A I don't remember specific attendees. I do remember it being widely

13 attended by tech industry companies.

14 Q Do you recall what next steps or do asks came at the end of that meeting?

15 A I do not.

16 Q There's reference in this email to Census meeting regularly with Google and

17 YouTube's Trust team, presumably Trust and Safety.

18 Do you have any familiarity with the company's interactions with Census in the

19 year before this?

20 A I am generally aware that there were Google employees who spoke to the

21 Census. I didn't have any more visibility into who or the frequency or what was

22 discussed.

23 Q In first sentence, Ms. Crawford says, "CDC is now working with Census to

24 leverage some of their infrastructure to help identify and address COVID vaccine

25 misinformation."

1 Do you know what infrastructure she's referring to?

2 A I do not.

3 Q If you had to ask someone within the company who might know about the

4 infrastructure being referenced here, who -- which team would be the best team to reach

5 out to?

6 A I would start with my colleague who is on our Government Affairs and Public

7 Policy team who leads outreach to the Census.

8 Q Who's that?

9 A [redacted].

10 Q Do you know of anybody, primary points of contact were within the

11 company -- let me strike that. Let me rephrase that.

12 With the understanding you had limited visibility of the interactions between the

13 YouTube teams and their interactions with the Census Bureau, do you know who on the

14 YouTube teams may have been interacting?

15 A I do not.

16 Q Do you have a point of contact on the Census, or are you aware of any of

17 who the point of contact would be?

18 A I do not.

19 Q Do you recall whether in March of 2021 you had familiarity -- actually, let me

20 strike that.

21 After receiving this email from Ms. Crawford, do you recall any internal meetings

22 or discussions with folks within the company to try to learn more about the infrastructure

23 or the work with Census being referenced?

24 A I do not.

1 [1:48 p.m.]

2 BY [redacted]

3 Q So this is an email to you and [redacted] Do you recall between the two of

4 you who had the lead on this issue?

5 A To the best of my recollection, of this outreach from the CDC, I would have

6 shared this, as well as the subsequent meeting requests with my colleagues on our

7 Government Affairs and Public Policy team who focused more on this topic, and with our

8 YouTube Government Affairs and Public Policy team. I would not have taken any other

9 action.

10 Q Separate from this email, do you recall just generally during your time with

11 the company any briefings about the company's interactions with the Census Bureau?

12 A No.

13 Q The meeting that you recall with multiple companies attending, do you recall

14 how many -- who from the government was attending, which agencies?

15 A I don't remember. I remember the CDC was on the call, and I don't

16 remember other Federal agencies.

17 Q During your time with the company, have you had interactions with the

18 Atlantic Council?

19 A Any interactions with the Atlantic Council would have been limited, and

20 would have been maybe at an event or -- I can't think of a specific instance.

21 Q Are you familiar with the Digital Forensic Research Lab within the Atlantic

22 Council?

23 A I'm not.

24 Q As part of your role at the company, have you had any interactions with the

25 Aspen Institute?

1 A Yes.

2 Q What's been the nature of your interaction?

3 A In 2024, I attended a round table at the Aspen Institute on digital ID. My

4 primary interactions with the Aspen Institute have been on economic policy, including

5 issues relating to fintech and digital ID.

6 Q Have you had any interactions with the Aspen Institute related to YouTube's

7 community guidelines?

8 A I have not.

9 Q In the previous round -- or our second round, we discussed about policy

10 issues that you and others on your team were working on. Do you recall whether there

11 were any internal assessments made about the degree of risk of adverse action that could

12 be taken by the executive branch on any one of these issues?

13 A Can you say the question again?

14 Q Do you recall reviewing or preparing any work product from 2021 assessing

15 the risks of potential adverse action from the executive branch?

16 A I can't recall anything of an analysis like that.

17 Q To your knowledge, is anyone at the company meeting with representatives

18 from the executive branch on issues related to election integrity?

19 A Not to my visibility.

20 Q Do you have any awareness? Or what do you mean by that?

21 A I don't know of anyone.

22 Q Following 2021, do you recall any interactions with White House staff where

23 there was reference to, or discussion about YouTube's community guidelines on any

24 subject?

25 A In 2021?

1 Q After 2021.
2 A After 2021, I do not.
3 Q Do you recall any discussions within the company about how the risk of
4 changes to section 230 changed with the incoming Biden administration?
5 A I remember general discussions on section 230 as a priority for the company.
6 I don't remember specific changes in terms of that topic from 2020 to 2021.
7 Q Is there an individual or a team that's responsible for assessing whether
8 there's an increased risk in change of administrations about particular policies such as
9 section 230?
10 A For a policy like section 230, there are many people at Google, both in our
11 legal and government affairs team, who work on that policy.
12 Q Do you recall anyone within the company sharing with you concerns that
13 there was an increased or heightened risk that section 230 could face changes because of
14 the new Biden administration?
15 A I can't think of a specific conversation or meeting. Section 230 is a priority
16 for the company, and we pay attention to that policy, both from our legal team and our
17 government affairs team.
18 Q With the understanding that you don't recall a specific conversation, to your
19 awareness, did individuals from the company view the Biden administration as more
20 open to revising or otherwise performing section 230 as the previous administration?
21 A I don't remember that analysis or conversation.
22 Q Do you recall any conversations in 2021 within the company regarding
23 antitrust enforcement?
24 A In 2021, antitrust is a topic that would have been discussed by our
25 Government Affairs and Public Policy team.

1 Q In 2021, was there a concern regarding the increase in antitrust
2 enforcement?
3 A I would say that like section 230, antitrust is a topic of priority for Google,
4 and has been from the time I joined the company in 2019 to today.
5 Q Do you recall any conversations within the company after Lina Khan was
6 confirmed as chair of the Federal Trade Commission?
7 A I remember when she was confirmed. I don't remember any specific
8 conversations.
9 [redacted] Could we go off the record, please?
10 [Discussion off the record.]
11 [redacted] Okay. We'll go back on the record.
12 BY [redacted]
13 Q I have just a couple quick questions, and then hopefully we'll be able to wrap
14 this up quickly.
15 I would like to introduce exhibits 9 and 10 at the same time.
16 [[redacted] Exhibits Nos. 9 and 10
17 were marked for identification.]
18 BY [redacted]
19 Q For the record, and just for everybody's awareness, 9 is going to be the email
20 on 3/11/2020 at 8:55 p.m. And 10 is going to be the accompanying readout: White
21 House convenes meeting with tech industry on COVID-19 response.
22 And so, whenever you're ready.
23 A I've read the emails.
24 Q Okay. Great.
25 So I would like to direct your attention to what's been marked as exhibit 9, which

1 is the email from you to -- and I'm going to be horrible with names too -- [redacted] -- yeah.
2 You know where I'm at, right?
3 A Yes.
4 Q Okay. So you have forwarded a message that you have received from
5 Lynne Parker. Is that correct?
6 A Yes.
7 Q And do you recall who Lynne Parker was at the time?
8 A In March of 2020, Lynne Parker was a staffer at OSTP.
9 Q And in March of 2020, who was the President of the United States at the
10 time?
11 A President Trump.
12 Q And so, this would have been an official from the Trump administration that
13 had written this email that starts with, "Good afternoon. Thank you very much for being
14 a part of today's COVID-19 Tech Meeting with the White House?"
15 A Yes.
16 Q And the reason why Lynne Parker emailed was because they were reaching
17 out to entities who will be, quote, "leading some of the next steps based on today's
18 discussion."
19 Is that correct?
20 A She references this in the email presented here.
21 Q And she says, "Please see the attached White House press release
22 summarizing what was accomplished today and what is yet to come," correct?
23 A Yes, this is what the email says.
24 Q And I would like to direct your attention to exhibit 10, which is the attached
25 readout.

1 Oh, let me back up.

2 Were you a participant in the referenced COVID-19 tech meeting with the White

3 House?

4 A I have a general recollection of this call, and I did participate.

5 Q I'm sorry. You did?

6 A I did.

7 Q Okay. Thank you.

8 So directing your attention to exhibit 10, I'm going to start a couple of lines down.

9 It says, "During the meeting, U.S. Chief Technology Officer Michael Kratsios previewed a

10 new database of full-text Coronavirus-related scholarly literature to be released in the

11 coming days and challenged the tech community to leverage technology tools, such as

12 artificial intelligence, to help medical researchers glean scientific insights from this

13 collection of articles."

14 Did I read that correctly?

15 A Yes.

16 Q Going down a line, "The White House's top priority is ensuring the safety and

17 health of the American people amid the COVID-19 outbreak. Cutting edge technology

18 companies and major online platforms will play a critical role in this all-hands-on-deck

19 effort. Today's meeting outlined an initial path forward and we intend to continue this

20 important conversation."

21 Did I read that correctly?

22 A Yes.

23 Q So, to summarize, the White House was engaging with online companies

24 such as Google and in partnership in an effort to combat COVID-19 back in March of

25 2020. Is that a fair characterization?

1 A I remember in my first meeting, I believe, with the White House and the
2 Trump administration on COVID-19 was at the very beginning of 2020, and I recall
3 engagement throughout the spring of 2020 on COVID-19.
4 [redacted] I'm sorry. Just to clarify, so are you saying that you had engaged
5 with the White House prior to March of 2020 about COVID-19?
6 [redacted]. I can remember one call that was with government officials that
7 I believe was in January of 2020, and by memory, I don't remember if the White House
8 participated on that call. But there were government calls prior to March.
9 [redacted] Thank you for that clarification.
10 BY [redacted]
11 Q And I'm going to direct your attention to the bottom of the email where it
12 starts under the heading, "Topics discussed at the meeting include."
13 A Yes.
14 Q Okay. The first is increased coordination between Federal agencies and
15 technology companies to improve official information sharing.
16 Did I read that correctly?
17 A Yes.
18 Q And the second is increased coordination among online platforms to identify
19 best practices to root out COVID-19 misinformation.
20 Did I read that correctly?
21 A Yes.
22 Q So it's fair to say that the Trump White House was also concerned about
23 COVID-19 misinformation, correct?
24 A Yes. Throughout 2020, 2021, and into 2022, when I was leading health
25 policy, from my recollection, both President Trump's White House and President Biden's

1 White House were focused on COVID-19 information.

2 [redacted] Thank you.

3 We'll go off the record.

4 Thank you.

5 [Discussion off the record.]

6 [Whereupon, at 2:14 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

Transcribed Interview Transcript Errata Form

Interviewee	[redacted]
Date of Interview	6/11/24
Date of Review	6/18/24
Name of Reviewer	Samantha Paige Yi
Signature of Reviewer	

Page	Line	Suggested Correction

Transcribed Interview Transcript Errata Form

Interviewee	Google GAPP
Date of Interview	June 11, 2024
Date of Review	September 6 and 9, 2024 (Updated December 16, 2024)
Name of Reviewer	Ehren Halse
Signature of Reviewer	

Page	Line	Suggested Correction
5	21	"[Redacted Witness Name]" should be "Alphabet"
9	22	"has" should be "have"
20	8	"that" should be "when"
21	2	"relates" should be "related"
21	18	"a" should follow "of"
22	1	"there" should follow "were"
23	21	"at that" should be "the first"

25	10	"Partnership" should be "Partnerships"
25	11	"Partnership" should be "Partnerships"

Page	Line	Suggested Correction
25	12	"Partnership" should be "Partnerships"
27	10	"volitive" should be "violative"
29	7	"Partnership" should be "Partnerships"
32	3	"Vitality" should be "Virality"
36	18	"or" should be "asking"
37	20	"[redacted]" should be "[redacted]"
38	11	"lead" should be "led"
38	17	"regard" should be deleted

39	5	"skilling" should be "scaling"
39	12	"gem any's" should be "Gemini's"
39	16	"of" should be "with"
39	18	"products" should be "product"
40	9	"both" should be "high"
43	2	"to" should precede "provide"

Page	Line	Suggested Correction
43	8	"caller" should be "nature"
43	22	"of the" should follow "other"
45	12	"varied" should be "very"
46	8	add "to" before "personnel"
46	17	"effort" should be "efforts"

47	6	"--" should be "users who"
68	1	"Partnership" should be "Partnerships"
70	12	"in" should be "on"

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4
5 COMMITTEE ON THE JUDICIARY,
6 U.S. HOUSE OF REPRESENTATIVES,
7 WASHINGTON, D.C.
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13 INTERVIEW OF: IMRAN AHMED
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18 Tuesday, June 25, 2024
19
20 Washington, D.C.
21
22
23 The interview in the above matter was held in room 2237, Rayburn House Office
24 Building, commencing at 10:01 a.m.
25 Present: Representative Jordan.

1 Appearances:

2

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted] SENIOR COMMUNICATIONS ADVISER

8 [redacted] RESEARCH ASSISTANT

9 [redacted] DIGITAL ASSISTANT

10 [redacted] PROFESSIONAL STAFF MEMBER

11 [redacted] DEPUTY CHIEF COUNSEL FOR OVERSIGHT

12 [redacted] MINORITY STAFF ASSISTANT

13

14 For the SUBCOMMITTEE ON CRIME AND

15 FEDERAL GOVERNMENT SURVEILLANCE:

16

17 [redacted] MINORITY DETAILEE

18

19 For IMRAN AHMED:

20

21 ANDREW D. HERMAN

22 Lawrence & Bundy

23 1099 14th Street NW

24 8th Floor West

25 Washington, D.C. 20005

1 [redacted] Can we go on the record, please.

2 This is a transcribed interview of Imran Ahmed, Chairman Jordan has requested

3 this interview as part of the committee's investigation of how and the extent to which the

4 executive branch has coerced and colluded with companies and other intermediaries to

5 censor speech.

6 Would the witness please state your name for the record.

7 Mr. Ahmed. Imran Ahmed.

8 [redacted] On behalf of the committee, I want to thank you for appearing here

9 today to answer our questions. The chairman also appreciates your willingness to

10 appear voluntarily.

11 My name is [redacted] and I'm with Chairman Jordan's staff. I'll now have

12 everybody else from the committee who is here in the room introduce themselves as

13 well.

14 [redacted] [redacted] Chairman Jordan's staff.

15 [redacted] [redacted] Chairman Jordan's staff.

16 [redacted] [redacted] Chairman Jordan's staff.

17 [redacted] [redacted] with Ranking Member Nadler.

18 [redacted] [redacted] with Ranking Member Nadler's staff.

19 [redacted] I'd like to now go over the ground rules and guidelines that we will

20 follow during today's interview. Our questioning will proceed in rounds.

21 The majority will ask questions first for 1 hour, and then the minority will have an

22 opportunity to ask questions for an equal period of time if they choose. We will

23 alternate back and forth until there are no more questions and the interview is over.

24 Typically we take a short break at the end of each hour, but if you'd like to take a

25 break apart from that, please just let us know.

1 As you can see, there's an official court reporter taking down everything we say to
2 make a written record. So we ask that you give verbal responses to all questions.
3 Do you understand?
4 Mr. Ahmed. Yes.
5 [redacted] So the court reporter can take down a clear record, we will do our best
6 to limit the number of people directing questions at you during any given hour to just
7 those people on the staff whose turn it is.
8 Please try and speak clearly so the court reporter can understand and so the folks
9 down at the end of the table can hear you.
10 It is important that we don't talk over one another or interrupt each other if we
11 can help it, and that goes for everyone present at today's interview.
12 We encourage witnesses who appear before the committee to freely consult with
13 counsel if they so choose. It is my understanding today that you are appearing today
14 with counsel. Is that correct?
15 Mr. Ahmed. Yes.
16 [redacted] Could counsel please state your name for the record.
17 Mr. Herman. Andrew D. Herman.
18 [redacted] Thank you.
19 We want you to answer our questions in the most complete and truthful manner
20 as possible, so we will take our time. If you have any questions or if you do not
21 understand one of our questions, please let us know.
22 Our questions will cover a wide range of topics, so if you need clarification at any
23 point, just say so. If you honestly don't know the answer to a question or do not
24 remember, it is best not to guess.
25 Please give us your best recollection, and it is okay to tell us if you learned

information from someone else. Just indicate how you came to know the information.

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

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

Mr. Ahmed. Yes.

[redacted] This also applies to questions posed by congressional staff in an interview. Do you understand this?

Mr. Ahmed. Of course.

[redacted] Witnesses that knowingly provide false testimony could be subject to criminal prosecution for perjury or for making false statements under 18 U.S.C., section 1001.

Do you understand this?

Mr. Ahmed. Yes.

[redacted] Is there any reason you are unable to provide truthful answers to today's questions?

Mr. Ahmed. No.

[redacted] Finally, I'd like to make a note that the content of what we discuss here today is confidential. We ask that you not speak about what we discuss in this interview to outside individuals to preserve the integrity of our investigation.

For the same reason, the marked exhibits that we will use today will remain with the court reporter so that they can go in the official transcript, and any copies of those exhibits will be returned to us when we wrap up.

1 That is the end of my preamble. Is there anything that my colleagues from the
2 minority would like to add?
3 Ms. [redacted] No. We just appreciate you being here.
4 Mr. Ahmed. Thank you.
5 [redacted] The clock now reads 10:03. We will start the first hour of
6 questioning.
7 EXAMINATION
8 BY [redacted]
9 Q Could I have you state your full name again, please.
10 A Imran Ahmed.
11 Q And what is your current place of employment?
12 A I'm chief executive officer of the Center for Countering Digital Hate.
13 Q And how long have you been the CEO for?
14 A Since its inception, so since September 2019.
15 Q And where are you based out of?
16 A As in the company or?
17 Q Location. Which office?
18 A I -- well, you know, I use both offices in both Washington, D.C., and London.
19 We've just opened one in Brussels as well. Are you asking where I personally live?
20 Q Not necessarily, just if there was an office you primarily worked out of.
21 A I spend a lot of time in all three of the offices.
22 Q Okay. Beginning with college or university, what is your educational
23 background?
24 A Cambridge University, social and political sciences, MA.
25 Q And, starting with your first job after university, what is your professional

1 background?

2 A Right. Gosh, HSBC executive training, Merrill Lynch. I worked in a

3 number of junior roles on a joint venture with HSBC called Merrill Lynch HSBC. Informa

4 Group, I was a management consultant for several years.

5 I then worked in the U.K. Parliament for the -- various different roles from

6 researcher through to special adviser to the shadow Foreign Secretary.

7 And then, after that, I spent some time conceptualizing working on anti-Semitism

8 as a private citizen -- against anti-Semitism as a private citizen -- and then set up CCDH.

9 Q And how long was the gap from when you stopped working for the U.K.

10 Parliament until you started CCDH?

11 A Three years. Although in that time, you know, I took small jobs here and

12 there. Do you want to know them as well?

13 Q Just at a high level, what was the nature.

14 A I worked on -- so I provided some communications advice to the

15 opposition -- to the person who was running against Jeremy Corbyn for leadership of the

16 Labour Party, so for Angela Eagle, and I -- yeah, that was it.

17 And then I was doing the background work that led to us understanding the

18 means of proliferation of anti-Semitism on social media.

19 Q And was this self-study, or were you affiliated with an organization?

20 A No, self- -- it was not affiliated. No one was --

21 Q And then, in 2019, you started CCDH?

22 A Yes.

23 Q Has it gone by any other names?

24 A No, not since its inception. It was launched as CCDH, Center for Countering

25 Digital Hate.

1 Are you asking about -- is there anything specific you're asking about there?

2 Q No.

3 A I mean, the company name changed, but that's only because I bought an

4 off-the- -- or I took an off-the-shelf company and renamed it the Center for Countering

5 Digital Hate.

6 Q Okay.

7 A Didn't have any money.

8 Q What was the company?

9 A Brookstone (ph) Endeavors, Limited.

10 Q And what did that company do?

11 A Nothing. It was a dormant company that was there to allow it to be

12 renamed and then used for something else.

13 Q When you started CCDH, who else were you working with? Was there

14 other individuals employed by or affiliated with CCDH?

15 A Yes. There was another member -- there was one other member of staff.

16 Q Who was that?

17 Mr. Ahmed. Do I have to give their name?

18 Mr. Herman. Do you want to talk about it?

19 Mr. Ahmed. Sure.

20 [redacted] Can we go off the record, please?

21 [Discussion off the record.]

22 [redacted] Can we go back on the record, please?

23 Mr. Ahmed. The individual I started CCDH with was my employee. He no

24 longer works for me, and therefore, I decline to identify him.

25 BY [redacted]

1 Q Had you worked with him previously?

2 A I knew him previously. We'd never -- he never reported to me or any other

3 formal relationship like that.

4 Q What was his role at CCDH?

5 A Helping me with trying to get CCDH, so our first report, trying to get it into

6 the press, you know, drafting, things like that.

7 Q What was your first report?

8 A The first report was called "Don't Feed the Trolls." So it was an analysis of

9 the way that engagement-based algorithms promoted, meant that trolling was an

10 effective tactic for helping hate actors, anti-Semites in particular, amplify the lies and

11 their hate by trolling people and getting them to engage with them and therefore

12 generating engagement, which leads to amplification on a social media platform, and

13 suggesting a mathematically superior way of engaging with hate, which is to ignore it.

14 Ms. [redacted] Can I just ask -- I'm sorry -- it was Don't Feed the Trolls?

15 Mr. Ahmed. Yes, ma'am.

16 Ms. [redacted] Okay.

17 BY [redacted]

18 Q When did this report come out?

19 A September 2019, I think it was. I can't remember the exact date.

20 Q When in 2019 did CCDH formally start?

21 A So we formally came out as an organize -- you know, our first ever public

22 engagement, the launch of our website, launch of us, was on the day that we launched

23 the report, which was September 2019. Yeah.

24 Q So besides you and your first employee, who else worked on this report?

25 A Oh, a number of, you know, psychologists. It's all in the report. You

1 can -- you can have a look at the report, and it has a list of the people that worked on it.
2 Everything that we've ever published -- we've ever, you know, promoted is on the
3 website.
4 Q When did you first start working on that report?
5 A A few months earlier. I can't recall exactly.
6 Q And, at this time, was CCDH only based out of the United Kingdom?
7 A Yes.
8 Q Have you had any other roles besides CEO at CCDH?
9 A No.
10 Q Are you familiar with the terms "misinformation," "disinformation," and
11 "malinformation"?
12 A I have heard the latter term recently. I know the first two terms obviously.
13 Q All right. To your understanding, what is the difference among those three
14 terms?
15 A Misinformation is being wrong. Disinformation incorporates mens rea, so
16 it's lying, and malinformation is, I'm not quite sure.
17 Q Has CCDH, or in any of your boards, ever used malinformation?
18 A I don't believe we ever have. However, you know, you can -- again, all of
19 our reports are up on our website.
20 Q Where have you heard the term "malinformation" used?
21 A It was -- I can't recall -- recently. Someone mentioned it to me. I can't
22 recall who it was. I laughed at it.
23 Q Why was that?
24 A There's a proliferation of terms that could be explained much more simply
25 using plain English -- lying, being wrong.

1 Q As CEO, what are your responsibilities at CCDH?

2 A I am in -- I set direction, and I ensure that we have the resources, the

3 culture, and the internal capacity to deliver on our goals.

4 Q What are your goals?

5 A To create checks and balances on social media companies that are

6 commensurate with the checks and balances that we expect from powerful organizations

7 within a democracy.

8 Q What checks and balances should there be on social media companies?

9 A They should be subject to scrutiny, -- so transparency, scrutiny,

10 accountability, and where they are negligent or cause harm, and that can be shown to be

11 harmful --

12 Chairman Jordan. Congressman Jordan.

13 Mr. Herman. Good to meet you. Andrew.

14 Mr. Ahmed. -- subject to the law.

15 BY [redacted]

16 Q To what extent do you interface with U.S. Government officials as part of

17 your role?

18 A Personally?

19 Q Yes.

20 A Little.

21 Q Do you have members of CCDH that have that primary responsibility?

22 A Yes.

23 Q Who are they?

24 A We have a U.S. policy team.

25 Q How big is that team?

1 A Currently two people.

2 Q Who are those two people?

3 A Susan Ragheb and Sarah Eagan.

4 Q To your understanding, which agencies within the U.S. executive branch

5 have they interacted with?

6 A I have -- they aren't discussions I've been personally involved in, so I don't

7 know.

8 Q Do they provide briefings to you?

9 A Do they provide briefings?

10 Q To you, about their interactions.

11 A Where they need my input, they provide briefings to me, and they can ask

12 me questions, but I tend to let my staff do what they need to do. I'm not a

13 micromanager.

14 Q When did Susan and Sarah first join CCDH?

15 A I can't recall precisely. Sarah's been with me for longer than -- Sarah's been

16 with me since almost the start of CCDH; Susan, for a few months, maybe a year. I can't

17 remember exactly.

18 Q When did CCDH first operate in the United States?

19 A I can't remember our incorporation date. It was 2020, end of 2020 that we

20 incorporated.

21 I mean, again, to my best recollection it was the end of 2020. I can't recall

22 exactly.

23 Q And why did you start operating in the United States?

24 A Our analysis was that, if you were going to truly provide checks and balances

25 on social media companies, you need to go to the jurisdiction that has most direct

1 influence on them, and that is the United States.

2 Q When you started operations in the United States, what did that look like?

3 Did you open an office here?

4 A We did. We opened a physical office. I mean, keep in mind, this is during

5 the pandemic, so we opened a physical office, we opened a company, and we brought on

6 lawyers, and we took our 501(c)(3) status.

7 Q Prior to that, had anyone from CCDH been interacting with members of the

8 U.S. Government?

9 A Yes. Yeah. We'd taken meetings with people in the U.S. Government

10 before that.

11 Q Do you know from where within the U.S. Government?

12 A In the Trump White House with the TUI coordinator, so the Terrorist Use of

13 the Internet Coordinator at the NSC; with the Secretary of State, Mr. Pompeo; with the

14 Special Envoy for Countering Anti-Semitism -- I can't recall the exact title, I know it's

15 long -- who, I think was Elan Carr at the time; and with other officials at the State, I

16 believe; possibly within the -- yeah, within State, for certain. There may be other

17 officials, but I can't recall precisely.

18 Q And who from CCDH was handling these interactions with the

19 U.S. Government?

20 A Those were mainly me, actually, back then. We were small.

21 Q Were you joined by anyone from CCDH?

22 A I can't recall. I really can't recall. These are -- this is 4 years ago.

23 Q Do these tend to be in-person meetings or --

24 A It was COVID, not -- so, no.

25 Q How did you first get connected to individuals within the State Department?

1 A I believe we wrote to them. Although I can't -- I mean, there -- yeah, but I
2 mean, there may have been referrals or they may have seen -- they may have reached
3 out to us. I think Mr. Carr reached out to us, for example. But there may have been
4 referrals between governments as well because the work we were doing on
5 anti-Semitism is a bipartisan concern in both the U.K. and U.S., for example, and a
6 significant concern of our foreign policy apparatus in both countries.
7 Q When CCDH first starts operations in the United States, how many
8 employees did you have working full time in the United States?
9 A Gosh, I think just me.
10 Q In the lead-up to the 2020 election, was anyone from CCDH in contact with
11 either of the two Presidential campaigns?
12 A The campaigns as opposed to the White House or --
13 Q Yes.
14 A I don't believe so, no.
15 Q Was CCDH in contact with the Biden-Harris transition team?
16 A I personally was not. I can't speak to board members in their private -- in
17 their private lives, and so I'm not sure as to whether or not any of them were, but I
18 certainly was not.
19 Q Who from CCDH took the primary lead in researching and drafting the
20 Disinformation Dozen report?
21 A Always the research -- so, once we had a research director, the research
22 director is responsible for all research reports.
23 Q Who was the research director at the time?
24 A Callum Hood. He still is.
25 Q When did the research first begin for the Disinformation Dozen report?

1 A I can't recall. And, to be specific, you could look at the -- the
2 methodology's clearly laid out in the report.
3 Q Yeah, but, prior to beginning the sample size and looking at the posts, how
4 far in advance had someone from CCDH decide that this was objective research that was
5 going to be undertaken?
6 A That's not the way that research is done at CCDH. So there's no decision
7 taken on a -- there's no decision taken, this is the next piece of research. We always
8 have dozens of potential things that we might research, that are being considered at any
9 one time, things that -- it's very hard to then sift through those and work out what makes
10 it.
11 I can't tell you right now if there's a formula for what makes it and what doesn't,
12 but keep in mind, we're an advocacy organization. We seek to change things. And so
13 we're not, you know, we're not researching for the sake of researching. There is a point
14 to the research as well.
15 Q And what role do you play in terms of deciding what research ultimately is
16 significant enough and in line with CCDH's views to begin drafting a report?
17 A I play a very significant role in that.
18 Q Are you the final decisionmaker?
19 A Of course. I'm the chief executive officer.
20 Q Do you recall at what point you decided to have CCDH begin drafting the
21 Disinformation Dozen report?
22 A When I saw the data.
23 Q Do you know who -- excuse me -- do you know who Andy Slavitt is?
24 A No.
25 Q Do you know --

1 A I mean, I haven't got a great memory for names, but it's not someone that's
2 top of my mind, no. He's not someone I can recall.
3 Q Did you have any interactions with the White House regarding the
4 Disinformation Dozen report?
5 A Did I personally?
6 Q Yes.
7 A No.
8 Q Did anyone from CCDH?
9 A Not to my knowledge. Beyond the correspondence that you'll have seen.
10 Q To your understanding, how did the White House become aware of the
11 Disinformation Dozen report?
12 A It remains, to this day, a mystery to me.
13 Q In the spring of 2021, who from CCDH had primary responsibility for
14 interacting with the U.S. Government?
15 A It would've been me, but in the spring of 2021, we were a very small
16 organization, far fewer than a dozen staff. I can't remember -- I can't recall precisely
17 how many. And so -- and we also knew that our primary means of communicating to
18 stakeholders was actually directly on social media and then through press coverage of our
19 work.
20 Q How many staff do you have today?
21 A Across all entities in CCDH?
22 Q Yes.
23 A About 30.
24 Q How many are based in the U.S.?
25 A I don't know the precise number, but it's fewer than 10 -- over 5, fewer than

1 10, but I can't recall the exact number.

2 Q At what point in 2021 did you become aware that staff within the

3 White House were familiar with the Disinformation Dozen report?

4 A When President Biden called Facebook killers and then there was a

5 subsequent clarification, I think, by the press secretary, the White House -- what do you

6 call the person who speaks for the President --

7 Q Yeah.

8 A -- the press secretary?

9 Q Jen Psaki?

10 A Yeah, and -- in fact, it may have been his comments. He said there's these

11 people, these 12 people who produce -- and we knew that was our report. Yeah.

12 Q So that was mid-July of 2021.

13 A Yeah.

14 Q The report had come out in March of 2021.

15 A Sure.

16 Q In that interim period, had anyone from the White House reached out to

17 CCDH for a briefing?

18 A I don't recall myself, but we have provided you with all of our emails. It

19 came as a -- it came as an absolute surprise to us. But there had been a renewed press

20 interest in the report in -- so, after it launched, there was a lull. It got a lot of coverage

21 when it launched. Then there was a lull. And then there was a sudden burst again.

22 But that's one of the, you know, one of the strong things about our reports is that

23 we create data points that can be used again and again and again, which is really -- which

24 is what makes them powerful because they, of course, provide the evidential base for

25 further action in the same way that, you know, other reports that we've done on, say,

1 kids' mental health have been evidential basis for -- which is still being used now 2 years
2 after the release.
3 Q All right. When it first was released and there's the initial outside
4 interest --
5 A Yeah.
6 Q -- who did you meet with at a high level, like, who was interested in the
7 report?
8 A No -- so, to my recollection, from the U.S. Government, no one. But then
9 you have all of our emails as well.
10 Q So, when you refer to initial interest, who are you referring to?
11 A The press, the public, the, you know, physicians.
12 Q Did you meet with any of the social media companies when it was first
13 released?
14 A I don't recall. But you, again, have all of our correspondence with social
15 media companies, right?
16 We don't have a formal or structured relationship with any social media company
17 at all.
18 Q When it came, after the initial launch, if there's interest in the press,
19 questions from the public about the report or its meaning, who from CCDH took the lead
20 in handling those?
21 A Whoever the head of press was at the time, and then usually I'd be put up to
22 speak if it was on the record.
23 Q Who was the head of the press at the time?
24 A I actually don't recall. There was some -- at the initial stage, there was a lot
25 of chopping and churning and stuff, so I honestly don't recall.

1 Q Are you familiar with The Virality Project through Stanford University?
2 A No.
3 Q So, once there's the comments in mid-July 2021 from the White House about
4 a dozen individuals --
5 A Yeah.
6 Q -- did you have any interactions with the White House following those public
7 statements?
8 A Yes.
9 Q And what were those interactions?
10 A I think there were some emails back and forth, but I don't recall precisely.
11 Q And were you taking the lead for CCDH for these communications?
12 A Yeah.
13 Q Was there a meeting or a briefing of some type?
14 A I don't recall. Not with -- not -- so not with anyone -- not with the
15 President or the Vice President or the President's communications people, not to my
16 recollection, no.
17 Q What about just staff within the White House?
18 A I don't -- I think you have a crisper, you know, distinction between who's in
19 the White House and who's not. I honestly don't recall anyone from the White House.
20 Q What about others within the executive branch?
21 A I know we had meetings with people in the executive branch subsequent to
22 that. I met the Surgeon General at some point -- or his staff if you know what I mean.
23 Q Besides the Office of the Surgeon General, do you recall which other
24 offices within --
25 A No.

1 Q -- the executive branch?

2 A No. No. And I mean, to be frank, we had very cursory discussions in

3 which we just explained our report. You know, we -- because of the First Amendment,

4 the U.S. Federal Government is not a tool for change.

5 So, if they want to know about something, they can, but they're not really a -- they

6 can't do anything about it.

7 Q Either shortly before or once the statements had been made public by the

8 White House in July of 2021 about the Disinformation Dozen --

9 A Yeah.

10 Q -- did you have any interactions with anyone from Facebook?

11 A I don't recall. They -- in fact, my recollection is that the comments they put

12 out after our report came out, were very hostile. And, given subsequent revelations by

13 Frances Haugen, for example, that they themselves knew that a small number of

14 individuals were responsible for the vast majority, or a significant portion, of the

15 disinformation relating to the COVID vaccine.

16 I think that they were trying very hard to kill the story, and I don't see why

17 they -- it would've been no interest at all for them to reach out to us because, by that

18 point, social media companies knew that we weren't going to -- we weren't going to

19 respond to false overtures of friendliness, gaslighting, or even them being nice to us. It

20 just wasn't going to work.

21 Q Had social media companies tried that previously with CCDH's earlier

22 reports?

23 A No. Before we -- so, before we'd started as an organization, between 2016

24 and 2019, at the time when I was acting as a private citizen, I spoke to people at social

25 media companies, showing them the ways in which anti-Semites were weaponizing

1 Facebook groups, weaponizing other spaces to spread the lies that underpin hate against
2 Jewish people, and specifically organizing, recruiting for, zealotizing anti-Semitism.
3 It took me some time to realize that their internal policymaking process is a way of
4 preventing people from having outside -- from the public from having scrutiny, and
5 lawmakers from having scrutiny, of the way that they suppress some content, amplify
6 some content, the way that they behave and enforce their rules. And I felt that that
7 discussion was better had in the public.
8 So we'd had those discussions, and we'd realized that there was no -- there was
9 no point in continuing with them. All they were doing was delaying the moment in
10 which true scrutiny could be placed upon their decisionmaking processes.
11 Q Who at Facebook were you interacting with at this time?
12 A Executives in the U.K., in their policy team. I think I interacted with other
13 executives in the U.S. at their request, but I don't recall their names.
14 Q Do you recall their titles?
15 A Something government affairs-y, something, you know.
16 Q Which other social media companies were you interact- --
17 A Twitter --
18 Q -- who were you interacting with at this time?
19 A -- Google. I don't think TikTok existed at the time.
20 Q Are you familiar with the statement Facebook put out shortly after
21 President Biden's remarks disputing CCDH's methodology in the Disinformation Dozen
22 report?
23 A I'm aware they put out a statement that was hostile, yes.
24 Q They claimed that those dozen individuals were responsible for less than 1
25 percentage point of the content. To your understanding, it's certainly a significant gap

1 between CCDH's findings. To your understanding, what accounts for that discrepancy?
2 A I can't speculate as to their -- the reasoning behind their decision to put out
3 that statement.
4 Q As far as their criticism of the methodology used for the
5 Disinformation Dozen report, do you think there's any merit to the criticism?
6 A We've been public in our rebuttal to their statement. I believe it's been
7 covered in the -- I believe it was covered in the press at the time. And we've put all of
8 our research on our website. I can't recall if we did a blog in response to their
9 comments. We may have.
10 But, yeah, I mean, I'm aware that when you do a report that identifies
11 wrongdoing, sometimes wrongdoers will say, "It wasn't me, Gov."
12 Q With the understanding that CCDH -- to your understanding, CCDH put out
13 some of its rebuttal publicly. To your understanding, what accounts for the
14 discrepancy?
15 A I don't wish to speculate as to why they may have sought to rebut our report
16 and not -- and not accept its findings. It's -- I mean, you're asking me to comment on
17 someone else -- on another organization's internal decisionmaking processes and
18 calculus, and I'm afraid I can't do that.
19 Q But the question has to do with criticism of work product that CCDH has put
20 out. Have you been made aware of any criticism of the methodologies that you find has
21 some merit?
22 A No.
23 Q Do you know who Alex Stamos is?
24 A Vaguely.
25 Q Have you ever had any interactions with him?

1 A Never.

2 Q When you had a meeting with staff in the Office of the Surgeon General --

3 A Yeah.

4 Q -- how did that meeting take place? Was it in person?

5 A No. It was COVID.

6 Q Who from CCDH attended that meeting?

7 A Certainly me. I can't recall who else.

8 Q Are you typically joined by others?

9 A In these days, yeah, there's an entourage. Back then, I can't remember.

10 Q During that time, would you take notes? Would there be a readout

11 provided following a meeting like that?

12 A If there was, it's in the documents that we've provided to you. So,

13 personally, I don't -- you know, if I've got a note, I'll do it in an email to someone,

14 either -- you know, to whoever I think is relevant, if I have any observations on it. But I

15 certainly don't take a file note myself.

16 Q How many staff members from the government attended?

17 A I don't recall. Again, to repeat, it was an informational meeting in which

18 we just restated our findings. You know, to my mind, the government is not a -- the

19 government is limited, by the First Amendment, in placing pressure on social media

20 companies, whereas CCDH is not as a private organization.

21 And so we placed pressure on social media companies to be more transparent, to

22 be more accountable, to be more responsible. But I mean, the file on that would reflect

23 what we were doing, and what we were doing was merely going through our findings and

24 methodology.

25 Q To your understanding, why did the Office of the Surgeon General want the

1 meeting?

2 A No, I don't have any idea as to why they wanted the meeting.

3 Q How long did the meeting last for?

4 A I don't recall.

5 Q Were there questions from staff from the office?

6 A Yeah.

7 Q What were some of those questions?

8 A How did you do the research? What's your methodology? And what did

9 we find, and there may have been other questions too, but I don't recall them precisely.

10 Q Are you familiar with the Surgeon General's report put out in mid-July of

11 2021, about confronting health misinformation?

12 A I don't recall it. It's 3 years ago, so I don't recall it. Is there a specific

13 question you have there?

14 Q I was just ask- -- meaning took place before or after that.

15 A I don't recall. I mean, again, yeah, I'm not even --

16 Q Were there questions about how the government could -- what role the

17 government could have in interacting with social media companies?

18 A No. Not to my recollection.

19 Again, I mean, I've been profoundly aware since I first came to the

20 United States -- and, you know, having my dissertation at Cambridge was on American

21 politics -- the First Amendment is a limitation there.

22 So I know that the Federal Government can't talk to private organizations and

23 seek to, you know -- and kind of coerce them to suppress speech. So I've never seen the

24 purpose of asking the U.S. Federal Government to tell a social media company to be

25 better, whereas we can ask the legislature to pass laws on transparency, on meaningful

1 accountability.

2 And, if you look at our staff framework on our website, again, everything's on

3 there -- the staff framework encourages real transparency of their content enforcement

4 decisions, of their algorithms, and of the economics of their advertising.

5 Q Were you aware in 2021 whether the White House was in direct contact

6 with executives at social media companies about misinformation?

7 A I am neither party, and so I can't speak on behalf of them, but I didn't -- you

8 know, they don't -- I don't see any reason why a government official would tell me that

9 they're having meetings with social media companies.

10 Q When did you become aware that the White House was having interactions

11 with social media companies about misinformation?

12 A So relating to Disinformation Dozen?

13 Q Not just Disinformation Dozen, about vaccine misinformation.

14 A To my best recollection, Missouri v., the lawsuit.

15 Q Are you familiar with the allegations in that lawsuit?

16 A No, not really.

17 Q How did you first become aware when either the press secretary or the

18 President referred to a dozen people being responsible for a majority of the vaccine

19 misinformation online?

20 A I can't recall. I was on holiday. Maybe on the internet, on CNN,

21 something like that. Maybe someone told me. I just don't recall.

22 Q Does CCDH meet directly with members of the U.K. Government?

23 A So I want to be -- I'm going to specify a distinction here. In the U.K., the

24 government would relate to the ruling party, which is the Conservative Party, and

25 specifically the government would relate to those members of Parliament who have been

1 asked to serve in a Cabinet position or a ministerial position by the Prime Minister.

2 Yes, we meet with members of the government, and we meet with members of

3 the Conservative Party. In fact, a member of the Conservative Party is on the board of

4 CCDH, and I meet with people from the opposition parties as well.

5 Q After 2021, have you had any interactions with the White House?

6 A Yes.

7 Q And what are some of those interactions?

8 A They invite me to Eid, so I go to -- I like it. There's a marine band. It's

9 pretty cool.

10 Q Okay. Any other interactions?

11 A Not that I can recall, no.

12 That's not -- so, yes, let me -- let me correct that. We've met with -- I have

13 personally given readouts of our reports to people from the National

14 Security Council -- because that's the White House as well, right --

15 Q Yes.

16 A -- and the Gender Policy Council. The Gender Policy Council, is that a

17 thing? Yeah. There may be others. Again, they're all in the emails.

18 Q Okay. Do you recall which names?

19 A No. No, I don't.

20 Q In either situation with the National Security Council or with the Gender

21 Policy Council, who reached out to who first?

22 A I suspect at that point -- I think it may have been a bilateral flow. They may

23 have -- we may have sent a report to them and said, "This is launching today, as part of

24 our general outreach." And they may have come back to us and said, "Can we find out

25 more," or it may have been that they read about it in the press, and they came to us.

1 Yeah.

2 Chairman Jordan. When were these meetings?

3 Mr. Ahmed. I don't recall, Chairman, but they would've been in those emails.

4 Chairman Jordan. 2021? 2022? And do they continue today?

5 Mr. Ahmed. I haven't -- we're happy to continue to brief both sides of the House

6 and the White House as well, but we haven't had -- I can't recall any meetings in the last

7 few months. But, again, they'll be in the emails that you have there.

8 Chairman Jordan. How often would you meet?

9 Mr. Ahmed. Infrequently and ad hoc as required by the launch of a report or

10 something that piques their interest.

11 Chairman Jordan. So, in a year, how many times would you meet with the NSC --

12 Mr. Ahmed. I wouldn't speculate.

13 Chairman Jordan. -- or the Gender Policy --

14 Chairman Jordan. Twice?

15 Mr. Ahmed. I wouldn't speculate.

16 BY [redacted]

17 Q Which report or what issues spurred meeting with the Gender

18 Policy Council?

19 A I don't recall. Again, it would be in the emails.

20 Q In your meetings with the Gender Policy Council, who else from CCDH joined

21 you?

22 A I don't recall. Probably, you know, a member of the U.S. policy staff. But

23 there have been various people have worked in those roles, so I can't recall who

24 precisely.

25 Q You said Sarah had been there longer than Susan?

1 A Sarah's had different roles. She's currently responsible for U.S. policy and,
2 well, she's global head of policy and partnerships, but she's had different roles at CCDH.
3 Q Who else has been responsible for interacting with the U.S. Government?
4 A So the previous head of policy prior to Sarah Eagan was Eva
5 Hartshorn-Sanders, and prior to that, we didn't have one.
6 Q What is Eva's role now?
7 A She doesn't work for CCDH. She hasn't for quite some time.
8 Q What reports or what issues led CCDH to meet with the National
9 Security Council?
10 A I don't recall any of them specifically apart from the Incels report, which
11 got -- which had a significant impact in the policy space, in the national security policy
12 space in the U.S. and around the world. So I briefed that extensively around the world.
13 Q For the meeting with the National Security Council on that issue, how did
14 that meeting take place?
15 A I don't recall.
16 Q Was it in person?
17 A No. I've never met with them in person, I don't think.
18 Q Who from CCDH took that meeting?
19 A It would've been me and then someone else, but I'm not sure who.
20 Q How many staff members from the National Security Council?
21 A I don't remember.
22 Q What questions did staff from the National Security Council have?
23 A I don't recall. That report, the top line, was that we'd studied a year's
24 worth of posts made by members of the world's biggest Incels forum, and our language
25 analysis showed that, over the year that we'd studied their posts, that they had

1 transitioned -- forgive me for what I'm about to talk about -- that whereas in the past
2 they'd felt that rape was an acceptable way of ascending, so to stop being an Incel, which
3 is ascending; in that year, they decided that child rape was an acceptable means of
4 ascending from Incel.
5 So, as you can imagine, given that involved a group of thousands of young men
6 talking about how it was acceptable to rape children, but there was significant interest
7 from law enforcement and national security officials around the world.
8 Those people were not just based in the United States. They were based in
9 countries all around the world and in Europe as well. A minority of the members were
10 American, from my recollection. It was a serious report.
11 Q All right. In any of the reports after 2021, have you met directly with social
12 media companies following the issuance of the report?
13 A I mean, I've met -- yes, I have met with social media companies. Yeah.
14 Q Which ones?
15 A I suspect all of them at some point. I mean, I met all of them in one room
16 recently. I had a -- so, subsequent to your -- subsequent to your subpoena of our
17 documents, I've met with them again -- the social media companies.
18 Q What was the occasion?
19 A The U.S. Special Envoy for Anti-Semitism, who's Deborah Lipstadt now, had a
20 roundtable at State, and all the social media companies were invited.
21 Q Besides the roundtable, have you had any other interactions with social
22 media companies in the last 2 years?
23 A Two years? Oh, yeah, sure. Yeah.
24 Q Right now, who is your primary point of contact at Facebook or Meta?
25 A I don't really have a primary point of contact. I mean, we send it to -- we

1 send our reports to their press email, and we then send them to everyone else we can
2 think of there. I mean, we don't have an ongoing dialogue.
3 Q Have you had any meetings in the last 2 years between just staff from CCDH
4 and staff from Meta?
5 A I don't believe so, but there may have been -- I don't believe -- I don't believe
6 I have. Other staff might have. And, you know, by a formal meeting versus seeing
7 each other at an event where there's someone who says, "Oh, I'm from Meta," "I'm from
8 CCDH," but, again, all of our correspondence is with you.
9 Q Have you had any meetings where it's just staff from CCDH and staff from
10 Alphabet?
11 A From?
12 Q YouTube, Google.
13 A Google. So just a one-to-one meeting with them?
14 Q Yeah.
15 A Probably, yes. Yeah. In fact, we have, yeah. Yeah, I know we have.
16 Q And when was that?
17 A I don't recall precisely. Again, they're in our emails.
18 Q What was the purpose of those interactions?
19 A Google tend to ask for a meeting after you've done a report on them and ask
20 to have a discussion. That's one of their, you know -- Google tend to reach out.
21 Q And who from CCDH would provide briefings on its reports?
22 A Sometimes they'll be me. Sometimes it will be a junior member of staff.
23 Q How many times have you -- has it been you that has attended this meeting
24 or --
25 A I don't recall precisely. I've met with them. I mean, I know I have, but I

1 don't recall precisely how many meetings I've had.

2 Q Who is your primary point of contact at the company?

3 A There is someone that we send these reports to, and I can't remember who

4 it is. It's changed over time because we've gotten a person who has responsibility

5 specifically for YouTube in the U.S. They'll be in the emails.

6 Q You don't remember the name?

7 A My apologies, I don't.

8 Q Other than the meeting with the Office of the Surgeon General --

9 A Yes.

10 Q -- in late summer of 2021, have you had other interactions with that office?

11 A I think -- I'm sure we've met with them subsequently, but I can't recall

12 precisely. I might be misremembering, to be frank.

13 Q Yeah. Do you remember any meetings with them other than on issues

14 related to vaccine misinformation?

15 A I think we talked about mental health -- youth mental health, but I don't

16 recall if that was the OSG or if that was some other part of the U.S. public health

17 infrastructure. We do a lot of work on youth mental health.

18 Q Do you know who Kate Starbird is?

19 A Vaguely.

20 Q Have you ever met with her?

21 A No. It's a memorable name. I think she's in the news a lot talking about

22 our area of work.

23 Q To your understanding has anyone from CCDH contacted her, worked with

24 her?

25 A I don't think so.

1 Are you going to reveal to me who she is?

2 Q Kate Starbird?

3 A Yeah.

4 Q She's with the University of Washington.

5 Have you had any interactions with NewsGuard?

6 A Some years ago, yeah. I think I took a meeting with them some years ago.

7 Q Do you recall with who?

8 A No.

9 Q Who asked for the meeting?

10 A I don't know. I don't know. I suspect they reached out to us, but I can't

11 recall.

12 Q What was the purpose of the meeting?

13 A Introductions between two civil society organizations.

14 Q Who from CCDH attended the meeting?

15 A I attended, I think, but I don't recall who else. And it's some years ago.

16 And we have -- I don't believe we've had any formal interactions for some years.

17 Q Do you recall who from NewsGuard attended?

18 A No.

19 Q To your understanding, what does NewsGuard do?

20 A I don't really know what they do. They seem to do a similar job to GDI and

21 other organizations that write news sites. I think they've got a browser plug-in. It's a

22 very different organization, and it's in a different space to CCDH. We have nothing really

23 to do -- you know, our work doesn't overlap at all.

24 Q Have you met with GDI before?

25 A Yes.

1 Q How many times?

2 A I can't recall precisely.

3 Q When was the last time?

4 A I went for a walk with Clare Melford in Regent's Park in London.

5 Q When was that?

6 A I believe it was last year.

7 Q When did CCDH first interact with GDI?

8 A Some years ago, so 2, 3, years ago, but I can't recall precisely.

1 [10:59 a.m.]

2 BY [redacted]

3 Q What's been the purpose of those meetings?

4 A Just discussions between two organizations in civil society. We have no

5 formal relationship with them. Yeah.

6 Q Who else from CCDH has interacted with GDI?

7 A I don't know.

8 Q Is Clare your primary point of contact?

9 A Mine, yeah.

10 Q Has GDI and CCDH ever worked together on any reports or on any research?

11 A It's on our website, all of our research. I don't believe we have, no. I

12 mean, all of our research is on our website. So, no, I don't -- I don't think we have, no.

13 Q In any of your discussions with individuals from GDI, has there been

14 discussion about GDI's interactions with the U.S. Government?

15 A I don't recall.

16 Q To your knowledge, does GDI interact with the U.S. Government?

17 A I think I read a news report about it.

18 Q Other than the news report?

19 A No. I believe the news report said that they were receiving funding from

20 the USG. We do not. And it wouldn't have been something that we would have

21 discussed.

22 Civil society organizations tend not to discuss their funding with each other.

23 That's the honest truth.

24 Q Have you had any interactions with the Aspen Institute?

25 A I think I've taken a meeting with them once or twice. I can't recall precisely

1 how many times, but yeah. We have no formal relationship with them.

2 Q What was the purpose of the meeting?

3 A Introductions between two civil society organizations.

4 Q When, approximately, were these meetings?

5 A I don't recall.

6 Q Who from the Aspen Institute did you meet with?

7 A I don't recall.

8 [redacted] Can we go off the record, please.

9 [Recess.]

10 Ms. [redacted] We are back on the record.

11 EXAMINATION

12 BY MS. [redacted]

13 Q Hi, Mr. Ahmed. CCDH is an independent nonprofit organization, correct?

14 A That's right.

15 Q And it's also a nongovernmental organization, correct?

16 A Correct.

17 Q And I believe you stated earlier that you do not receive funding from the U.S.

18 Government?

19 A That is correct.

20 Q Okay. So no grants, correct?

21 A Nothing.

22 Q No loans?

23 A No.

24 Q No government contracts?

25 A Zero.

1 Q And has CCDH ever received any government funding or had any
2 government contracts in the five years of its existence?
3 A From the U.S. Government?
4 Q From the U.S. Government.
5 A No.
6 Q And CCDH is registered in the United States as an Internal Revenue Code
7 501(c)(3) --
8 A That is correct.
9 Q -- charitable entity? Okay.
10 You view your work as nonpartisan?
11 A Correct.
12 Q Now, you mentioned in the previous hour some context you had with the
13 Trump administration while former President Trump was still in office. And I'd like to
14 just talk about those a little more.
15 A Sure.
16 Q You mentioned the TUI coordinator. Could you remind me what that
17 stands for, please?
18 A Terrorists' Use of the Internet.
19 Q Thank you. And you met with the Secretary of State as well?
20 A I was invited by the anti-Semitism -- the Special Envoy for Anti-Semitism to
21 take part in a conference that he was organizing on digital anti-Semitism, at which
22 Mr. Pompeo, Benjamin Netanyahu, and Michael Gove, who was the British minister
23 responsible, took part. And Mr. Pompeo subsequently wrote to me to thank me for our
24 work.
25 Q So you participated in that conference as well?

1 A I did, yes.
2 Q And do you recall when that was?
3 A No.
4 Q And was that the same event where you worked with the TUI coordinator, or
5 was that something else?
6 A That was separate. I spoke to the TUI coordinator separately.
7 Q And can you explain the context for that, as best as you can recall?
8 A I can't recall who asked me to -- for the meeting or how it was organized, but
9 we would have talked briefly and generally about CCDH's work and our interests at the
10 time. It was primarily -- almost certainly it would have been to do with anti-Semitic
11 hatred on social media platforms, other forms of hatred on social media platforms, and
12 what we were seeing, what trends we were seeing.
13 Q Okay. And so you had a meeting about those topics?
14 A Yeah.
15 Q What is CCDH's mission?
16 A To create checks and balances on social media companies so that they have
17 to -- so they observe and respect human rights and civil liberties in their -- in their
18 business.
19 Q And why did you start CCDH? What made you interested in -- in furthering
20 that mission?
21 A I mean, it was something I've talked about extensively publicly. I had three
22 experiences that really showed me that something quite fundamental was shifting in our
23 information ecosystem and having significant offline impacts.
24 One was the rise of virulent anti-Semitism on the political left in the UK under the
25 Labour Party when it was run by Jeremy Corbyn. I worked for the Labour Party at the

1 time. I was deeply distressed to see anti-Semitism as a significant feature of the rhetoric
2 of both political officials and supporters, and I knew that that was being organized online
3 at the time.
4 The specific incidents that, sort of, really, really tipped me off that something very
5 serious was happening was when the shadow foreign secretary, my boss, a man called
6 the right honorable, Hilary Benn, MP, gave a speech supporting the conservative
7 government in joining the United States in taking military action against the Islamic state
8 in Syria, against Daesh.
9 The following day and then for the following weeks and months, we received
10 thousands of offensive anti-Semitic emails and phone calls and messages of other types,
11 which seemed coordinated and seemed to blame the decision to take military action
12 against ISIS on Jews, which was bonkers to me given that ISIS, you know, had killed more
13 Muslims than any other military force in the world.
14 The second thing was the rise of anti-Semitic, anti-Black and anti-Muslim
15 conspiracy theories during the EU referendum, commonly known as the Brexit
16 referendum.
17 And, finally, it was the -- it was the murder of my colleague, Jo Cox, MP, who was a
18 41-year-old mother of two. She -- I had worked very closely with her on the decision to
19 take military action against ISIS. I worked very closely with her on the referendum.
20 And a man called Thomas Mair shot, stabbed, and beat her to death in her
21 constituency -- outside her constituency office while shouting slogans from the Internet,
22 and that made me feel despondent about the future of our democracy and our ability to
23 have a democracy if violence was going to play -- political violence was going to play a
24 significant part.
25 So I started to study the means by which hate actors were proselytizing and

1 creating harm in the real world.

2 Q Can you talk a little bit more about that incident? When you say that the

3 killer was shouting slogans from the Internet -- I mean, you don't have to say what the

4 particular slogans were, but can you explain what you mean by that?

5 A He shouted Britain First, death to traitors, as he was killing her. Britain First

6 was the name of the first political movement in the UK to achieve a million likes on

7 Facebook. They were a anti-Semitic, anti-everyone political -- just a group of people

8 who spread hate online, and they were the first political movement, so to speak, to

9 achieve a million likes on Facebook in the UK.

10 And at the time most conventional institutions thought that was meaningless

11 because it was a million clicks, whereas, in reality they were able to inspire an act of great

12 violence.

13 Death to traitors referred to a version of a conspiracy theory that was popular

14 online at the time, which was that the EU was seeking to import Muslims and Blacks to

15 rape young white women, to destroy the white race. And that was considered by

16 believers in the theory to be an act of treason against the United Kingdom.

17 Q So you saw firsthand how online hate can translate into or cause real-world

18 violence --

19 A Yes.

20 Q -- is that fair to say?

21 And in your work at CCDH, have you encountered other examples of that?

22 A Yes. Many, many, many times.

23 Q Can you think of some?

24 A I go back to the research that we did on Incels which showed that people

25 who believe in this particular -- so members of this movement that has a complex and

1 evolving ideology have murdered women, have committed acts of violence and sexual
2 violence against women, and in our research showed that they were encouraging each
3 other to commit acts of sexual violence against children.
4 Those would be the things that stick in my mind. But then there's also acts of
5 self-violence. And I think about the work that we do looking at self-harm and eating
6 disorder content on social media, showing how TikTok was amplifying self-harm content
7 into the timelines of young women, our research report that we did. That might be
8 self -- self-inflicted violence, but it's still making young women hate their bodies to such
9 an extent that they would hurt themselves.
10 And given the exogenous stimulus there, I would -- I would say that that is
11 imposed by one person on another. That is an act of violence. It may be an act of
12 corporate violence.
13 Q I'm going to ask you about some of the other research that CCDH has
14 conducted, and I appreciate you giving us those examples from -- about TikTok and about
15 the -- the Incel reports.
16 A Sure.
17 Q You published reports on social media companies' failure to remove hateful,
18 anti-LGBTQ+ content, correct?
19 A Yes.
20 Q Specifically, content that falsely claims that that community, people in the
21 LGBTQ+ community groom children?
22 A Yes.
23 Q You published a report showing that tech companies failed to remove 87.5
24 percent of COVID and vaccine misinformation on their platforms?
25 A Yes.

1 Q You published a report showing that tech companies failed to act on 84
2 percent of anti-Semitic content on their platforms?
3 A That number has -- I mean, I -- that is one of the -- that is a finding in one
4 report. A more recent report showed that post October 7th that X had failed to act on
5 99 percent of anti-Semitic hate on their platform produced by blue tick members.
6 Q And so that was -- that was research that CCDH conducted specifically
7 post -- looking at post October 7th?
8 A Yes.
9 Q Okay. And last month you published a report demonstrating that Meta
10 allowed unvetted anti-Semitic users to serve as admins in large pro-Palestine Facebook
11 groups giving them responsibility for content moderation in those groups, correct?
12 A Broadly speaking, that's accurate. They weren't all pro-Palestinian, but
13 they were all run by anti-Semites.
14 And what we showed is that those admins were banning users who complained
15 about anti-Semitism, while at the same time spreading anti-Semitic lies and hatred
16 themselves, yes.
17 Q And your research showed that the moderators in those groups ignored 76
18 percent of reports of anti-Semitic content. Does that sound familiar?
19 A They did, yes.
20 Q And the groups you studied had 300,000 members in those Facebook
21 groups?
22 A Correct.
23 Q And a few years earlier you published a report showing that tech companies
24 failed to act on 89 percent of content that demonstrated anti-Muslim hatred, correct?
25 A Yes.

1 Q And you mentioned the report about TikTok promoting self-harm via
2 pushing content to young girls and women.
3 You've also published a report demonstrating that TikTok promoted dangerous
4 and possibly illegal steroid-like drugs to teens, correct?
5 A Yes.
6 Q And you published a report showing that tech companies failed to act on 94
7 percent of users who sent racist reviews to athletes?
8 A Yes.
9 Q You've published several reports about what CCDH refers to as toxic Twitter.
10 So reports, for example, about how Twitter generates millions in ad revenue by bringing
11 back accounts that were banned prior to Elon Musk's takeover, correct?
12 A Yes, we have. And it's not just Twitter that we've -- we've identified as
13 monetizing and rewarding hate. We've done similar research with Google and with
14 Facebook as well -- with Meta, sorry.
15 Q Fair enough. I conflate the two often.
16 A Yes.
17 Q And as you stated several times during the previous hour, CCDH's reports are
18 all publicly available, correct?
19 A Yes.
20 Q You published them on your website?
21 A Yes.
22 Q And no special credentials are required to log on? You don't need an
23 account. I can just go and click?
24 A There's only one piece of content that's behind any kind of barrier, and that
25 is our parents' guide, for which you have to enter an email before we will allow you to

1 download it.

2 Q And is that because it's geared towards people who, presumably, are adults?

3 A It's, actually, so we can continue to communicate with them and send them

4 updated guidance as we come up with it. It's an emerging area of science, and we want

5 to make sure that our advice to parents is as up to date as it can be.

6 Q And so with the exception of that report for which you have to provide an

7 email address --

8 A Yes.

9 Q -- the rest of your reports are available to anybody who has Internet

10 access --

11 A Correct.

12 Q -- correct?

13 And that includes White House officials?

14 A Correct.

15 Q And as part of your efforts to effectuate change, you try to get the word out

16 about your research, correct?

17 A We spend a lot of time and effort thinking about how we can communicate

18 our research to as many people as possible. We use the press.

19 We have an exceptional digital team who search engine optimize all of our pages

20 and make sure that they come up high in Google searches. We -- we spend a lot of time

21 making sure that people see our research, yes.

22 Q And sometimes the people who see your research are government officials,

23 whether that's here or in other countries, correct?

24 A It's inevitable.

25 Q Now, although most of the big tech companies are based in the U.S., CCDH's

1 work is international, correct?

2 A I mean, our -- our headquarters are Washington, D.C. It's our primary area

3 of focus is on -- is on U.S.-based social media companies.

4 I mean, obviously, we do a lot of work on TikTok, which is, in a complex way,

5 affiliated with the Chinese Communist Party, but we are -- we are -- yeah.

6 Most of our work is -- our work is global, but our headquarters are the U.S., and

7 our primary focus is the U.S.

8 Q But you also do work to combat misinformation and hate and abuse in other

9 countries as well?

10 A We do.

11 Q Okay. You were asked during the previous hour about your

12 communications and CCDH's communications with government officials in the U.S.

13 A Yes.

14 Q And I want to just back up and state for the record, CCDH was given a

15 subpoena by the majority to produce certain communications, correct?

16 A Yes.

17 Q And you produced the communications that you had that are responsive to

18 that subpoena?

19 A Yes. CCDH has produced all documents in its possession responsive to the

20 Committee's document request that it has deemed pertinent to the subject under

21 inquiry.

22 Beyond that legal assessment, I have nothing to add regarding CCDH's document

23 production.

24 Q Now, sometimes -- and I believe this is something you described at -- in a

25 general way in the previous hour.

1 Sometimes CCDH, whether it's you or whether it's the employees you mentioned
2 earlier, reaches out to government officials to notify them about CCDH's reports, correct?
3 A Yes.
4 Q And sometimes it's the opposite, government officials hear about the work
5 or have other questions, and they might reach out to CCDH?
6 A That -- that's correct. And we did a detailed search on our servers for
7 emails. That included looking to see whether or not government officials had signed up
8 to, you know, CCDH's general emails. So, I mean, you can sign up to get updates from
9 CCDH, which then go out to any member of the public who signs up for them.
10 And there were some government officials on there and -- or people with relevant
11 email addresses, but we don't know who they are beyond that.
12 Q Okay. Fair enough.
13 I want to show you an example of CCDH sending one of its reports to a
14 government official.
15 A Sure.
16 Ms. [redacted] And we will mark this as Exhibit 1.
17 [Ahmed Exhibit No. 1
18 was marked for identification.]
19 Mr. Ahmed. Yeah.
20 BY MS. [redacted]
21 Q If so you can just take a minute to look at this.
22 A Yeah. I'm familiar with it.
23 Q I'll give the majority a minute to look as well. You guys let me know if you
24 need time.
25 A Yeah.

1 Q So this is an email chain from November 2022 between Eva -- how do you
2 pronounce the last name? -- Hartshorn?
3 A Hartshorn-Sanders.
4 Q Between Eva Hartshorn-Sanders and Cailin Crockett, who is the Director of
5 Military Personnel & Readiness at the National Security Council, and the senior advisor at
6 the Gender Policy Council. Is that correct? Or is that what's reflected in this email?
7 A Yeah. I'm not familiar with her title, but, yes, it's to Cailin Crockett. Yes.
8 Okay. Yeah. Yeah. I can see that.
9 Q And in this email, starting on the bottom of the second page, which is CCDH,
10 Inc. 30 --
11 A Yes.
12 Q -- Ms. Hartshorn-Sanders emailed several folks the -- with the email
13 who.eop.gov, including somebody who is listed as an intern.
14 A Uh-huh.
15 Q And cc'd you and Ms. Eagan?
16 A Sure.
17 Q And she was just passing on recent research showing a significant rise in
18 racist, anti-Semitic, and LGBTQ hate post-Musk takeover of Twitter?
19 A Yes.
20 Q And then this email also contained links to some articles about the research?
21 A Yes.
22 Q And the research, as Ms. Hartshorn-Sanders pointed out, there are one, two,
23 three, four, five, six particular slurs that -- of various types that --
24 A Yeah.
25 Q -- that CCDH identified?

1 A Uh-huh.

2 Q So, for example, there were in the -- just the first week of the Musk

3 takeover, there were triple the average for the rest of 2022 tweets and retweets

4 mentioning the N-word, the slur?

5 A Yeah.

6 Q That begins with N and ends in R, correct?

7 A Yes.

8 Q And then you see dramatic increases ranging from 23 percent to 52 percent

9 of other -- I'm sorry -- 67 percent of other slurs as well?

10 A Yes.

11 Q Racial and ethnic slurs and anti-LGBTQ?

12 A Yes.

13 Q And then Ms. Crockett at the National Security Council, the Gender Policy

14 Council asked for some more information, correct?

15 A Yes.

16 Q And then on November 18th, Ms. Hartshorn-Sanders asked if the White

17 House team would be able to add a comment to it or comment if asked, correct?

18 A Yeah.

19 Q And the response from Ms. Crockett was, "Unfortunately, we don't have the

20 ability to do that"?

21 A Yeah.

22 Q But then she did indicate that she values this important work?

23 A Yes. I believe this is one of the emails that we submitted to --

24 Q It is, yes.

25 A Yeah. Okay. Right.

1 Q Anything that has CCDH, Inc., on the bottom with the --
2 A Okay.
3 Q -- with the page number comes --
4 A Yeah.
5 Q -- from CCDH itself.
6 A Yeah.
7 Q And, to your knowledge, other than asking for a public comment, as Ms.
8 Hartshorn-Sanders just did, are you aware of anyone from CCDH or did you personally ask
9 the White House to take particular actions with respect to CCDH's research?
10 A No.
11 Q Now, I want to turn back to the Disinformation Dozen report.
12 CCDH first published that report on March 21st, 2021, correct? Does that sound
13 right?
14 A Sounds right.
15 Q And that -- to your recollection, that was early in the rollout of the COVID
16 vaccines, correct?
17 A Very early.
18 Q And at that point the -- the U.S. had already lost hundreds of thousands of
19 people to the pandemic?
20 A Tragically, yes.
21 Q The number one person on CCDH's list of the Disinformation Dozen was
22 Joseph Mercola, correct?
23 A Correct.
24 Q He had made false statements on social media about COVID, including falsely
25 claiming that hydrogen peroxide could successfully treat the virus?

1 A I believe he said that -- that inhaling nebulized hydrogen
2 peroxide -- hydrogen peroxide is a bleaching agent -- could solve COVID, yes.
3 Q Number two on the list of the Disinformation Dozen was RFK Jr., correct?
4 Robert F. Kennedy --
5 A I can't remember which number he was.
6 Q But he was on the list?
7 A Yes.
8 Q And in March of 2021, when the report was published, RFK Jr. was a
9 Democrat, correct?
10 A I think I am -- I'm unfamiliar with his political identification.
11 Q Do you know when it was that he first announced that he was considering
12 running for President of the United States?
13 A It's much more recently. At the time he was -- and he was specifically
14 targeting liberal -- you know, liberal members of the public. He was -- Robert F.
15 Kennedy, Jr., the last name alone shows which side -- you know, would indicate to most
16 people which side of the political aisle he comes from.
17 Q I want to talk about some of the things that -- that Mr. Kennedy has said
18 about COVID. He posted false information on Twitter that the -- well, actually, I don't
19 know what platform, but on social media that the vaccine was not safe for pregnant
20 women, correct?
21 A I believe that's one of his comments.
22 Q He posted a misleading, at best, claim that Hank Aaron's death was part of a
23 wave of suspicious deaths among the elderly following administration of the vaccine?
24 A I believe he did, yes.
25 Q And you're aware that the medical examiner concluded that Mr. Aaron's

1 death had nothing to do with the vaccine and that he died of natural causes at the age of
2 86?
3 A I'm aware of that, yes.
4 Q Mr. Kennedy falsely tweeted that flu vaccines are more deadly than
5 COVID-19?
6 A Sure.
7 Q He falsely stated that the COVID vaccine is the most deadly vaccine ever
8 made?
9 A Yes.
10 Q He has spread conspiracy theories that Bill Gates wants to microchip people?
11 A Yes.
12 Q He tweeted that Bill Gates wants to chip us and not only for vaccines?
13 A He said that.
14 Q He claims that vaccines affect people with African blood differently?
15 A That is true.
16 Q And have you seen the tape where he claimed that COVID was targeted to
17 attack Caucasians and Black people and that people who are most immune are Ashkenazi
18 Jews and Chinese?
19 A I've seen that video.
20 Q Mr. Kennedy has expressed a belief in the great reset conspiracy, correct?
21 A That's true.
22 Q Can you explain what that -- what that theory is?
23 A Like all conspiracy theories, it's -- it's extremely amorphous. But, in short,
24 it's a combination of mid-'90s New World Order conspiracy theories, the great
25 replacement theory, anti-vax disinformation and beliefs, coupled together into one really

1 quite confusing hole.

2 But, in short, it says that global institutions engineered COVID to take away -- to

3 make people do what they want them to do, to make them more malleable and more

4 prone to control by making them -- asking them to wear masks.

5 Q Mr. Kennedy's Instagram account was banned for COVID misinformation in

6 February of 2021. Is that correct?

7 A Sure.

8 Q And you're aware that it was reinstated after he announced his candidacy

9 for President?

10 A I believe that's true, yes.

11 Q Now, going back to the Disinformation Dozen report --

12 A Yes.

13 Q -- you testified earlier that to this day you don't know how it got on the

14 White House's radar, correct?

15 A Yeah.

16 Q But you have produced all of the emails that you have reflecting CCDH's

17 communications with the White House, correct?

18 A Yes. The problem is that you -- with the question of how they got in the

19 White House's radar, I can speculate, but that's not my job here.

20 Q And I don't want you to speculate.

21 A I don't want to speculate.

22 Q Thank you.

23 A But there was extensive media coverage of the Disinformation Dozen report.

24 There were documentaries produced about it. It was on television, it was on radio, it

25 was on the front pages of newspapers. It was an extremely well-observed piece of

1 research.

2 And it would have been near impossible for the White House -- for someone at

3 the White House not to have seen that piece of work.

4 Q Fair enough. Thank you.

5 And you have in your -- and if you can't answer this, that's fine.

6 But in your search of CCDH's emails, there are no emails from CCDH sending that

7 report to the White House. Is that true?

8 A We've produced all documents in our possession responsive to the

9 Committee's document request that it has deemed pertinent to the subject and the

10 inquiry.

11 I have nothing to add regarding CCDH's document production.

12 Q And you're not -- and I'm taking this based on your -- your testimony from

13 the previous hour, you were not party to any of the conversations that White House

14 officials had with Facebook or any other tech companies about the Disinformation Dozen

15 report?

16 A I have never been in a meeting where the Disinformation Dozen was being

17 discussed between government and social media companies.

18 Q Did you ask the White House to discuss the Disinformation Dozen report

19 with Facebook or other social media companies?

20 A I don't recall doing so.

21 Q And are you aware whether anybody else at CCDH did?

22 A I can't speak to any other member of staff. However, you have all of our

23 correspondence and communications with social media companies and with the

24 executive branch of the U.S. Government.

25 Q Okay. And other than by publishing reports on CCDH's website and your

1 briefing with the surgeon general, did CCDH advise the government about misinformation
2 on social media?
3 A We have briefed officials from -- we've briefed U.S. Government officials
4 under both the Trump presidency and the Biden presidency on a -- you know, all of our
5 reports are general theses about what's going -- about the way that social media
6 companies operate, the lack of transparency, and we've done that, you know, frequently,
7 on a -- on a regular basis. Again, it's captured within the emails that we've sent to you.
8 But, I mean, I can think of -- I can think of the instance of speaking to President
9 Trump's anti-Semitism czar, explaining to him the nature of how disinformation spreads
10 on social media and how lies and hate are inextricably interlinked. There's no clear
11 example than there is with anti-Semitism, whether it's the protocols or it's the Great
12 Replacement theory. Lies have always, you know, been the precursor to great violence
13 against Jewish people.
14 Or it was the work that we did looking at -- looking at, you know, the rise in hate
15 speech under X, so -- or briefing DHS, for example, on the spaces in which violence was
16 being planned around the events of January 6th.
17 Q The majority has alleged that CCDH was working with the White House to
18 censor speech.
19 What is your response to that allegation?
20 A I mean, clearly, I wish to avoid criticizing anyone who may not have full
21 information as to the conclusions they've drawn based on limited information.
22 However, that would not be -- there is no truth to those allegations.
23 Q Okay. And I appreciate that clarification. Thank you.
24 You -- you stated in the earlier hour that you don't recall your
25 communications -- some of your communications with the social media companies

1 directly, but that they would all be contained in the documents that you produced?

2 A Yes. And there would have been occasional meetings in person.

3 Q And you described some of the circumstances for those meetings?

4 A Yes.

5 Q When you did have communications with social media companies, you didn't

6 engage the White House in those communications, did you?

7 A No. It would be pointless.

8 Q And why is that?

9 A Because the White House is limited by the First Amendment.

10 Q And CCDH is not?

11 A And I am not. I can be clear and frank and honest with social media

12 companies, and I am. And the nature of our interactions are robust and, on their part,

13 anyway, tends to be quite hostile.

14 Q When you say on their part, what do you mean? On whose part?

15 A I think social media companies, like any organization, doesn't like being held

16 accountable. I don't think people like being held accountable or being forced to tell the

17 truth about what they're up to, especially if they feel ashamed of what they're up to.

18 And I think that what we have done is bring transparency to some of the shameful

19 decision-making by social media companies.

20 Q I want to introduce -- in the vein of being very frank and robust -- I believe

21 robust was your word -- I'd like to introduce an email you sent to Monika Bickert at Meta.

22 Does that name ring a bell?

23 A Yeah. She's a senior executive at Facebook.

24 [Ahmed Exhibit No. 2

25 was marked for identification.]

1 Mr. Ahmed. Okay.

2 BY MS. [redacted]

3 Q So on December 30th, 2021, you emailed Ms. Bickert, who was the VP of

4 content policy at Meta, correct?

5 A Yes.

6 Q And you wrote her to alert her to potential criminal activity on Meta's

7 platform?

8 A Yes.

9 Q Including crimes against children, correct?

10 A Uh-huh.

11 Q You stated that your research had previously reported -- your researchers

12 had previously reported 51 instances of harassing or abusive conduct, none of which

13 were acknowledged by Meta in any way, correct?

14 A Yes.

15 Q And you informed Ms. Bickert that CCDH researchers had been studying VR

16 chat and had found that users, including minors, were exposed to abusive behavior on

17 that platform every seven minutes, correct?

18 A Yes.

19 Q And that abusive behavior included minors being exposed to

20 sexual -- graphic sexual content, bullying, harassment, and abuse of other users, including

21 minors, minors being groomed to repeat racist slurs and extremist talking points and

22 threats of violence and content mocking the 9/11 terror attacks, correct?

23 A Yes.

24 Q You provided a database of your findings or a link to the database with your

25 findings?

1 A Yes.

2 Q And you asked for a response and an indication of Meta's intended course of

3 action in this instance?

4 A Yes.

5 Q You didn't -- the White House didn't ask you to send this email, did they?

6 A No.

7 Q And they were not copied on the email?

8 A No.

9 Q You've never discussed this email with the White House?

10 A I don't believe so.

11 Q Do you recall if you received a response from Ms. Bickert?

12 A We did not. I mean, I do recall on that one checking if they had -- speaking

13 to folks from NCMEC --

14 Q And by NCMEC, do you mean the National Center for Missing & Exploited

15 Children?

16 A Yes. There's an obligation for social media companies to report potential

17 CSE, child sexual exploitation, and abuse to NCMEC.

18 And I can't recall what their -- what the results of that were, but I know that our

19 feeling internally was that Meta had failed to comply with their obligations.

20 Q So X Corp. --

21 A Yes.

22 Q -- formerly known as Twitter --

23 A Yes.

24 Q -- filed a Federal lawsuit against CCDH on July 31st, 2023, correct?

25 A Uh-huh.

1 Q And I'm only going to -- I know that it's pending, so I'm only going to ask you
2 questions that are already in the public record, in the court docket on that case.
3 The complaint alleged several causes of action relating to an alleged breach of
4 contact, as well as an allegation of violation of the Computer Fraud and Abuse Act,
5 correct?
6 A Yes.
7 Q The complaint did not include an allegation of defamation, did it?
8 A That is correct.
9 Q The lawsuit was filed for -- in the United States District Court for the
10 Northern District of California, correct?
11 A That's correct.
12 Q And is that the only lawsuit that a tech company has filed against CCDH?
13 A Yes.
14 Q So has CCDH ever been sued for defamation?
15 A No one has ever filed a lawsuit against us.
16 Q And you mentioned in the previous hour that you became aware of the
17 Missouri v. Biden litigation at some point after that was filed?
18 A At some point.
19 Q Okay. And that was -- until that lawsuit was filed, you did not know that
20 the White House was having its own communications with the social media companies,
21 correct?
22 A No.
23 Q And were you personally or CCDH named as a defendant in the Missouri v.
24 Biden litigation?
25 A No.

1 Q Okay. Now, just three days after X Corp. filed its lawsuit on August 3rd,
2 2023, Chairman Jordan showed you a letter asking for you to produce documents to this
3 Committee. Is that correct?
4 A He did.
5 Ms. [redacted] And I'd like to enter that into the record.
6 [Ahmed Exhibit No. 3
7 was marked for identification.]
8 Mr. Ahmed. Yeah.
9 BY MS. [redacted]
10 Q And in addition to sending you this letter -- I'm not going to ask you any
11 specific questions about it -- three days -- the same day, on August 3rd, three days after
12 Mr. Musk filed his lawsuit in San Francisco, the majority also issued a press release about
13 X Corp.'s lawsuit against you, correct? Do you recall that?
14 A I don't recall that press release. I'm sure they did.
15 Ms. [redacted] I'm going to introduce that.
16 [Ahmed Exhibit No. 4
17 was marked for identification.]
18 BY MS. [redacted]
19 Q Apologies for the small type. Wait. This is 4, correct?
20 A This is a press release. It's just an article from the Washington Examiner.
21 Q Yes. But if you look at the bottom, it was -- this is grabbed from the House
22 Judiciary website. So it was -- it was issued, sort of, as a release. It was reprinted.
23 A Okay.
24 Q If you'd just take a moment -- I'm not sure if you recall that article. If you
25 could just take a moment to read this.

1 A Yeah. Okay.

2 Q So this is the article in which a senior GOP congressional aide with

3 knowledge of the inquiry is quoted as saying, "We know from the Facebook files that the

4 Center for Countering Digital Hate was working with the White House to censor speech."

5 Is that accurate?

6 A That's what is written in this article, yes.

7 Q And I believe you stated earlier, although you don't want to be critical

8 because you don't know what information the person who that quote was attributed to

9 had, but it's not an accurate statement that CCDH was working with the White House to

10 censor content?

11 A It's clearly factually inaccurate.

12 Q Now, the article goes on to describe several email communications between

13 White House officials and Facebook employees, as well as internal communications

14 between Facebook employees. Is that correct?

15 A Yeah.

16 Q Had you seen any of those emails before they were made public by this

17 Committee, or have you to this day seen them?

18 A No. I have never seen these before.

19 Q Okay. Now, going back to X Corp.'s lawsuit, the Federal judge in that case

20 dismissed that suit in its entirety on March 25th of this year, correct?

21 A That's correct.

22 Q And I'm going to introduce into the record -- this is a long exhibit.

23 A I think specifically they -- they also granted our anti-SLAPP motion as well,

24 designating it as strategic litigation designed to stop our public participation. Yeah.

25 Q That's my understanding as well.

1 I'm going to introduce that order for dismissal. It's very long, but I'll direct your
2 attention -- I'm sorry. What number are we on? Thank you?
3 A Yeah.
4 [Ahmed Exhibit No. 5
5 was marked for identification.]
6 BY MS. [redacted]
7 Q So turning your attention to the first page --
8 A Yes.
9 Q -- at lines 17 to 18 -- the lines don't match up as well as one would like with
10 the line numbers -- but the judge wrote, "This case is about punishing the defendants for
11 their speech." Did I read that correctly?
12 A That is right.
13 Q Okay. And CCDH was one of the defendants in that case?
14 A We were.
15 Q Now, turning to page 12, looking at the bottom of the page, line 26, then
16 going on to the next page, the judge wrote that "CCDH's writing of reports and articles
17 about X Corp., writing the complaint references over and over" -- and then there were
18 some cites -- "unquestionably constitutes an act in furtherance of CCDH's free speech
19 rights."
20 Did I read that correctly?
21 A Yeah.
22 Q Now, turning to page 42, on line 13 -- and, again, we're in the court's order
23 granting CCDH's motion to dismiss.
24 A Yes.
25 Q The court stated, "The court notes, too, that X Corp.'s motivation in bringing

1 this case is evident."
2 A Yes.
3 Q "X Corp. has brought this case in order to punish CCDH for CCDH publications
4 that criticize X Corp., and perhaps in order to dissuade others who might wish to engage
5 in such criticism."
6 Did I read that correctly?
7 A Yes.
8 Q The court went on to say, "Although X Corp. accuses CCDH of trying to
9 censor viewpoints that CCDH disagrees with, it is X Corp. that demands at least tens of
10 millions of dollars in damages, presumably enough to torpedo the operations of a small
11 nonprofit because of the views expressed in the nonprofit's publications."
12 Did I read that correctly?
13 A Yes.
14 Q And then the court went on to say, "If CCDH's publications were defamatory,
15 that would be one thing, but X Corp. has carefully avoided saying that they are."
16 Did I read that correctly?
17 A Yes.
18 Q Mr. Ahmed, have you been the subject of threats or harassment related to
19 your work countering online hate and disinformation?
20 A I have, yeah.
21 Q Can you explain some of the threats or describe some of the threats that
22 you've received?
23 A Over the past four and a half years, we've received emails, messages, you
24 know, both using language and also threats, threats of violence against us.
25 Q In what context? Can you give a little more detail.

1 A I mean, we've had various threats over the years. I can't recall any of them
2 specifically.
3 Q Have you been subject to the same type of hate and abuse that you've
4 devoted the past five years to combatting, or some of the things?
5 A Yeah, to an extent. I think it would be -- I think, whereas, others have
6 received many threats and have been quite disconcerted by them, we have received
7 fewer, in part, because we don't react to them.
8 So if we receive a credible threat, we'll send it to the FBI. If we don't, we just
9 delete them.
10 Q And have you had to send threats to the FBI?
11 A We have had to send threats to the FBI in the past, yes.
12 Q So you have received credible threats -- what you believe to be credible
13 threats of violence? I'm not going to ask you to make a law enforcement determination.
14 A Yeah. And we've taken advice on what -- you know, I used to work in the
15 British Parliament. I'm aware of the number of threats that public officials receive, and
16 I'm sure that Chairman Jordan and I'm sure that the Democrats on the -- on this
17 Committee receive threats all the time. And, of course, you take them seriously, and we
18 deal with them professionally.
19 But -- and we've taken advice from those that advise Members of Parliament in
20 the UK on how they differentiate between serious threats -- threats that require
21 immediate escalation to law enforcement and don't. But we don't take them -- you
22 know, we don't allow it to affect our work.
23 Q That was going to be my next question.
24 A No. Doesn't affect us at all.
25 Q And I imagine you would say the same about things like litigation or

1 congressional investigations into your work?

2 A Doesn't affect us at all.

3 Ms. [redacted] And with that, we can go off the record. Thank you.

4 [Recess.]

5 [redacted] Back on the record, please.

6 BY [redacted]

7 Q You mentioned earlier that CCDH has a board?

8 A Yes. Well, there's two boards. One for CCDH, Incorporated; one for

9 CCDH, Limited.

10 Q And how are the boards selected for -- for each?

11 A They -- the chair of the board makes decisions as to what skills are required

12 on the board and recruits accordingly.

13 Q Who is the chair?

14 A Simon Clark.

15 Q Did you know Mr. Clark prior to creating CCDH?

16 A Yes.

17 Q How did you know him?

18 A I think -- I met him at an event in D.C. in 2019, maybe early 2020.

19 Q What does he do other than serve on the board?

20 A Currently, he works for some sort of advisory firm. He did work at Fidelity

21 for a long time. And when I met him, I think he was doing a fellowship at CAP.

22 Maybe -- yeah, CAP, the Center for American Progress.

23 Q To your knowledge, has Mr. Simon or others on the board had interactions

24 with the U.S. Federal Government?

25 A I have no idea.

1 Q Have you or other members of CCDH ever briefed members of the board
2 about CCDH's interactions with the executive branch?
3 A Yeah. I'm sure we have, just as, you know, day-to-day -- so in board
4 meetings, we'll talk about our progress on legislation. We may talk about our outreach.
5 It's not -- you know, the board does not tend to get itself involved in operational
6 decision-making. There's quite a sharp distinction. Their job is to provide financial and
7 governance oversight of the organization.
8 The reason Simon is chair of the board is because he is an -- is an accountant, and,
9 you know, provides that robust scrutiny of our finances and governance and procedures.
10 Q In the U.S., CCDH is a 501(c)(3). Is that correct?
11 A Yes.
12 Q How is it registered in the UK?
13 A So in the UK, it's a company limited by guarantee, which is -- so there's
14 different ways of being a limited liability company in the UK. By guarantee is the less
15 frequent, but we're limited by guarantee, which means that we have to adhere to our
16 articles of association which specifically say that our work can only be done for purposes
17 that are charitable or for public advocacy. Yeah.
18 Q Has the UK entity had a different status since its inception?
19 A Yeah.
20 Q What was that?
21 A Oh, no, not since its --
22 Q Sorry. Let me ask the question again.
23 Mr. Herman. Let him reask the question.
24 Mr. Ahmed. Do you want to ask it again?
25 BY [redacted]

1 Q Sure. Has -- the UK entity, has it maintained that same status since its
2 inception.
3 A So since it became the Center for Countering Digital Hate, it's always had
4 that status, yes.
5 I don't know what status the original -- the off-the-shelf company that I took had.
6 I don't remember at all.
7 Q Have the articles changed since -- since CCDH's inception?
8 A They have not changed since CCDH itself became the company and
9 launched. But before that, who knows?
10 Q Has CCDH received funding from the UK government?
11 A Absolutely not.
12 Q Has CCDH received funding from any U.S. contractors?
13 A You mean companies that work for the U.S. Government?
14 Q Yes.
15 A I have no idea, no idea at all. But -- so, presumably, lots of organizations
16 take money from the U.S. Government. I have no idea who takes money from the U.S.
17 Government.
18 However, we've never received funds given by the U.S. Government to another
19 organization that are hypothecated for the use of furthering the U.S. Government's work.
20 Is that -- is that clear?
21 Q A little bit. To your understanding, any entity that's received funding from
22 the U.S. Government, has that entity, in turn, provided funding to CCDH?
23 A Provided that funding to us, no.
24 Q Okay. What about just generally, are you aware of any entity that's
25 provided funding to CCDH that separately has received funding from the U.S.

1 Government?

2 A I can't -- I can't -- I can't tell you about whether or not any of our funders

3 have received any funding at any point from the U.S. Government. I have no idea.

4 Q Do you know who Rob Flaherty is?

5 A Vaguely. He works for the Biden administration.

6 Q Have you ever had any interactions with Mr. Flaherty?

7 A Never. He may have retweeted me on Twitter.

8 Q Do you know who Renee DiResta is?

9 A I do.

10 Q How do you know Ms. DiResta?

11 A I have met her on a few occasions. Yeah. That's it.

12 Q How did you first meet her?

13 A I don't recall.

14 Q What are some of the occasions that you recall interacting with her?

15 A They were private functions, drinks. I met her, talked to her, maybe talked

16 about kids.

1 [12:14 p.m.]

2 BY [redacted]

3 Q Are you familiar with Stanford's Internet observatory?

4 A Have I?

5 Q Are you familiar with the Stanford Internet observatory?

6 A I'm familiar with it.

7 Q Has CCDH ever done any work with it?

8 A Nope.

9 Q Have you interacted with the Institute for Strategic Dialogue?

10 A Yes.

11 Q What's been the nature of your interactions?

12 A We have a longstanding association with the ISD and I'm friends with the

13 CEO.

14 Q What's the nature of the longstanding association?

15 A We are in joint coalitions together, and we have -- for example, climate

16 action against disinformation which we are publicly known as being a member of it. ISD

17 is a significant member of that as well. And we have had -- I think that's the only one.

18 There may be others as well. Brian and I speak to Sasha quite frequently.

19 Q Has ISD ever contributed to any of the research?

20 A No.

21 Q That's produced in CCDH's reports?

22 A No.

23 Q When CCDH is conducting research, we'll start with the Disinformation

24 Dozen report as an example, is all the research conducted internally, or does CCDH

25 receive support from anyone outside?

1 A We've received support from outside academics on some occasions, yeah.
2 Q Do you recall the Disinformation Dozen Report was one of those occasions?
3 A I don't think so.
4 Q Have you received support from any American Universities?
5 A Support in what respect?
6 Q Support for the research.
7 A Harvard, Stanford, Brown. No, not really. No, not to my recollection.
8 Q The ones you're listing off are the ones you're checking off that you have
9 not?
10 A Have not, yeah. I'm just thinking of who does this work. There's a few
11 universities that do it, but we've never worked with them.
12 Q Can you recall examples of --
13 A I've given -- for example, I gave a lecture to Brown University's Pandemic
14 Center a few months ago, maybe a few weeks ago on disinformation, but we haven't
15 done research together.
16 Q There's support for the research that CCDH is doing that's coming from
17 outside of CCDH. Are there any examples you can recall?
18 A Support as in?
19 Q Just at a high level. Who are we talking about?
20 A So, I mean, let's just break this down. Specific like, you know, financial
21 support, from a university, no. People who work for universities who may be -- who our
22 team may have talked to, I'm sure. I can't recall them myself, beyond very specifically I
23 am aware that we worked with some university researchers on -- and I don't know which
24 universities are affiliated with them, so I'm being a little bit more cautious in not saying
25 no without being certain, on the climate report that we did this year, the new climate

1 denial. Support in terms of people putting out press releases or saying this is a great
2 piece of research, sure, we, of course, seek that out.
3 Q For the climate report, do you recall which university?
4 A I don't, but the academics are listed on the report, and which institutions
5 that primarily and secondarily are affiliated with, no idea.
6 Q For the Disinformation Dozen Report, when it came to actually finding the
7 post, tracking the post during the sample set as described in the report, did anyone
8 outside of CCDH help conduct that?
9 A Methodologically, everything is in the research report itself and I have
10 nothing to add beyond that. I really don't recall that report at all. The truth is that the
11 success of that report, we were a year and a half old. It was a surprise to me.
12 Q Are you familiar with the White House's task force to address online
13 harassment and abuse?
14 A No, I'm not.
15 Q To your knowledge, did CCDH play any role in support of the task force?
16 A I don't actually recollect what that organization is. There's a lot of
17 organizations with many letters and words in their names coming from GARM, and, you
18 know, it may even have been that you will find a quote from me saying this is a fantastic
19 idea. Personally, I just don't recall that particular organization or working with it.
20 Q Do you recall who from CCDH worked with the White House?
21 A It would have been one of our U.S. policy staff, but I don't know because I
22 don't even know when that is from so I couldn't even speculate as to who it might be that
23 spoke to the White House about it.
24 Q The initial blueprint for the White House task force to address online
25 harassment and abuse was issued on March 3rd, 2023.

1 A Okay.

2 Q Do you recall what role CCDH played with respect to the development of

3 that initial blueprint?

4 A No. No, I don't. We've done reports on trolling and harassment. We've

5 done reports on hate. We are -- but I can't recall whether we just sent them research or

6 we had discussions at our roundtables or anything, but I don't recall them myself.

7 Q Do you recall any discussions with Ms. Hart Sanders about her interactions

8 with the White House or the White House task force to address online harassment

9 abuse?

10 A No.

11 Q You mentioned the state department a few times. Are you familiar with

12 the Global Engagement Center?

13 A Yeah.

14 Q Have you had interactions directly with the Global Engagement Center?

15 A I think I took one meeting with them under the Trump Administration. I

16 think an official from the GEC was present in a discussion I was having about

17 counterterrorism counterbalancing extremism professionals from the state department.

18 That's it. We don't have any other formal relationship or any formal relationship with

19 them really.

20 Q Do you understand that anyone else within CCDH met with the Global

21 Engagement Center?

22 A Don't know.

23 Q As part of your role at CCDH, have you interacted with the World's

24 Federation of Advertisers?

25 A Probably at some point. I can't recall.

1 Q Are you familiar with the Global Alliance for Responsible Media, GARM?
2 A Yes.
3 Q Have you Interacted with GARM?
4 A I have.
5 Q How many times?
6 A Several times I've met with I think it's the ED, Rob Rakowitz. I've met with
7 him and we have worked together on -- worked together on an initiative in Pittsburgh
8 called eradicate hate, which is a conference set up in the wake of the Tree of Life
9 synagogue massacre by the families of the victims and the survivors of that massacre. A
10 Pittsburgh-based law firm puts together a conference every year. It's bipartisan. It's
11 very well attended. Rob and I are working together on a working group to deal with
12 advertising and how advertisers can support the fight against extremist hate against Jews,
13 at least to others.
14 Q Other than that particular effort, have you had interactions as part of your
15 role at CCDH with individuals from GARM?
16 A We probably talked to each other at some point or shared emails, but I can't
17 recall anything specific.
18 Q Are you familiar with the memo prepared by CCDH called Disrupting Online
19 COVID Misinformation for His Majesty's government?
20 A I wrote it. Yes, I wrote it.
21 Q Who was the target audience for this memorandum?
22 A It was Her Magesty's government.
23 Q Did the U.K. government request or pay CCDH to create this memorandum?
24 A They did not pay for it. I can't recall the genesis of that document, but at
25 the time we were in discussions with the U.K. government on anti-vaccine disinformation.

1 I think it was early on in the pandemic. It was early on.

2 Q Have you or anyone from CCDH prepared a similar type of document for any

3 U.S. government?

4 A We sent that document to the Trump Administration at the time and officials

5 within the Trump Administration at the time when Operation Warp Speed was in effect.

6 So -- and subsequent reports as well, like, that was early on. It was a broad analysis, and

7 then we produced the anti-vax industry and the anti-vax playbook, both of which went to

8 both U.K. and the U.S. administrations.

9 I don't recall if we actually specifically briefed it to anyone in the U.S.

10 administration at the time, but I know we sent it to officials within the USG.

11 Q Other than the examples you've provided, has CCDH prepared other

12 memorandum for the U.S. government?

13 A It was exceptionally unusual, and so no, not to my recollection.

14 Q What about for other governments and then sending those reports at a later

15 time to the U.S. government?

16 A No, not to my recollection. That was an extraordinary memo that we felt

17 was necessary because we knew that both the U.K. and the U.S. governments at that

18 point would have been so overwhelmed by the direct needs of the -- the direct health

19 needs of the public. And by -- COVID was the most overwhelming time for government

20 officials. And we want to state clearly in a brief concise format why this information

21 should be considered as part of the overall response to the pandemic, that there was a

22 parallel pandemic of disinformation that may impact their ability to get what

23 happened -- what turned into the vaccine produced by Operation Warp Speed into -- you

24 know, and have it deployed successfully.

25 Q We've mentioned a few times CCDH's role of advocating for certain things in

1 legislation.

2 A Yes.

3 Q Has CCDH advocated for taking any position regarding changes to the First

4 Amendment in the United States?

5 A Absolutely not.

6 Q Why not?

7 A Our framework that we developed for how we think -- for the -- for the new

8 legislation that should be brought into place is designed to enhance speech rather than

9 to -- it wouldn't require us to change the First Amendment. It's all about having

10 transparency of the algorithms, transparency of the content enforcement decisions which

11 are currently opaque and may or may not favor one side or another, but we can never

12 know. Transparency of advertising and how that changes the way that they make

13 decisions about what content to amplify and what content not to amplify and what

14 content to remove and what content not to remove, so we want transparency to those

15 that allow for a meaningful accountability, which means more informed discourse. I

16 don't see how any of that would have touched the First Amendment whatsoever.

17 Q Has CCDH advocated for any legislative changes in the U.K. but declined to

18 advocate for similar changes in the U.S. because of the First Amendment?

19 A Any differences in U.S. and U.K., so the United Kingdom has the Online

20 Safety Act, which is promulgated by conservative government under Boris Johnson

21 initially and finally enacted under Rishi Sunak as prime minister. The European Union

22 has the Digital Services Act. America has not much right now. But United Kingdom

23 Online Safety Act, there's things that are in the mix. Any differences have been based

24 on a difference in the jurisprudence and the political traditions of those countries, not

25 about the -- you know, this is not about us trying to -- it's not about the First Amendment

1 per se.

2 For example, in the United Kingdom where they are -- where there is broad

3 acceptance and experience of regulatory bodies being -- that civil litigation is not very

4 common in the U.K. whereas it is in the U.S. So a system that allowed for negligence to

5 be shown through civil litigation would work really well in the United States whereas it

6 would not work in the U.K. In the U.K. and other jurisdictions, typically prosecuting

7 authorities have enormous amounts of discretion and can bring a broader range of cases,

8 and so as the variance in our recommendations is based on the jurisprudence and specific

9 intention circumstances the countries in which are doing that work. Nothing to the First

10 Amendment.

11 Q You said Brussels is your newest office?

12 A Yes.

13 Q When did it open?

14 A Couple of months ago.

15 Q How many people are based out of there?

16 A One right now.

17 Q Sir?

18 A One right now.

19 Q And you said fewer than a dozen here in the U.S.?

20 A Definitely fewer than a dozen.

21 Q And are the others based in the U.K.?

22 A Yeah. Yeah. Yeah. Yeah, I think everyone is based in the U.K.

23 Q When is the last time you had contact with the U.S. federal government?

24 A Deborah Lipstadt spoke at our conference last week.

25 Q What about before that?

1 A I don't recall. I just don't recall.

2 Q Is anyone from CCDH in touch with either of the presidential campaigns?

3 A No. I'm not. No one is as part of their work at CCDH. Who knows.

4 People have the right to political affiliations outside. I'm not a member of any political

5 party anywhere in the world. And certainly in the work that we do, everyone is

6 perfectly aware that we're a 501(C)(3).

7 Q Has CCDH done any work regarding misinformation regarding inflation?

8 A No.

9 Q When's the last time you had a meeting or other interaction with a member

10 of the White House?

11 A I don't know. I honestly don't recall. As I've said before, is Deborah a

12 member of the White House? Actually, I don't know who the person was, although it

13 would have been in the readout from the State Department, but the roundtable on

14 anti-semitism that Deborah Lipstadt had at the State Department a few weeks ago with

15 members of the social media companies and someone from the White House attended.

16 I think it was -- Neera Tanden. Is that --

17 Q I think that's right.

18 [Ahmed Exhibit No. 6

19 was marked for identification.]

20 BY [redacted]

21 Q This is Exhibit 6. It's an email from the White House to Facebook in April of

22 2021.

23 A Sure. Okay.

24 Q If I can call your attention to the first bullet point underneath the heading,

25 Facebook's policy and enforcement gaps enable misinformation's spread at the bottom

1 third of the page.

2 A Uh-huh.

3 Q It says, 12 accounts are responsible for 73 percent of vaccine misinformation

4 on Facebook. Is that consistent with the conclusion the Disinformation Dozen Report

5 reached?

6 A I can't remember, but I assume it's -- I know that Facebook was slightly

7 higher. The two-thirds number was an average of all platforms, yeah.

8 Q All right. The date of this email is April 23rd, 2021.

9 A Yeah.

10 Q From Rob Flaherty to Brian Rice, who is an individual at Facebook, now

11 Meta. Do you know Mr. Rice?

12 A I've never met either of these people.

13 Q Okay. This email is about a month after the Disinformation Dozen Report is

14 released. Do you know how the White House became available or became aware of the

15 findings in the Disinformation Dozen Report?

16 A No. This is the first time I've ever been aware that before President Biden

17 said what he said that anyone in the White House had been talking about our report.

18 Q To your knowledge, did anyone from White House staff reach out to CCDH to

19 try to obtain more information about the report?

20 A No. Not -- in fact, if someone from the White House reached out to us

21 about a report that early on in the organization, I would have known about it, so I don't

22 believe that to be -- I don't believe they did.

23 Q Did you have any interactions with staff in the press secretary's office, Jen

24 Psaki's office in the summer of 2021?

25 A I can't recall. You've got my notes.

1 Q Following the release of the Disinformation Dozen Report, in the month or
2 so that followed, do you recall any interactions either with the press, with outside
3 researchers, anyone who was indicating that they were communicating with the White
4 House?
5 A No, not to my recollection. I think it's worth reiterating again, this report
6 got enormous amounts of media coverage. I mean, enormous amounts of media
7 coverage. There have been -- you know, we've done, you know, CNN documentaries.
8 We'd had documentary film crews following us around. We'd had everyone -- it had
9 been covered all around the world. It had been on the front page of the New York
10 Times. It had been on the front page -- I'd given interviews to everyone from The New
11 York Times to Fox News to Newsmax to Japanese, you know, television. We were
12 primarily focused on getting the word out.
13 And when the Biden stuff happened, I'd grown a beard and I was in the middle of
14 Georgia in a rural town. We had absolutely no -- this was not a lever for CCDH's theory
15 of change is White House action. That's just not part of what we do as an organization.
16 We don't seek to get the White House to do stuff, because what can they do? So all of
17 this happening in the background is just kind of, you know, in one respect, sure, it
18 was -- it's nice to know that -- it's quite heartening to know that people read our reports,
19 but it's irrelevant to me. It's irrelevant to our work as to whether or not people in the
20 White House are discussing it.
21 Q So since 2022, based off the emails produced to the committee, there's now
22 at least some regular correspondence where if a report is issued, someone from CCDH
23 will interact with members of the White House staff.
24 A We will send our reports to a really wide array of stakeholders, so everyone
25 from government officials to press to -- and sometimes it's to generate buzz around a

1 report. But our aim is actually for transparency and accountability legislation in
2 Congress rather than in the executive branch of the government. The executive branch
3 isn't important to our theory of change. Whereas transparency legislation or county
4 legislation, so Senator Graham and Senator Warren's idea of an FCC for social media,
5 that's something that I'm interested in. I'm not so interested in -- I don't see what the
6 White House can do. It can't legislate. So it's not part of our theory of change at all.
7 Q So to your recollection, the nature of the communication CCDH has had in
8 2022, 2023, whether emails, discussions following an issuance of a report, that didn't
9 happen for the Disinformation Dozen, even though the White House was familiar with its
10 contents?
11 A No. Sorry, just repeat the question for me.
12 Q Sure. Again, based off the communications produced at the committee,
13 CCDH has interactions with the White House following the issuance of a report.
14 A Yes.
15 Q Based off other documents produced at the committee, the White House
16 was familiar with the Disinformation Dozen report early on, within a month of its
17 publication.
18 A Yeah.
19 Mr. Herman. Let him finish.
20 BY [redacted]
21 Q To your understanding, no one from CCDH was having interactions with the
22 Biden White House in the spring of 2021.
23 A To my recollection, beyond the stuff that we've handed over to you, and I
24 don't know -- did we produce emails that had us sending that report to anyone in the
25 White House?

1 Q You have not.

2 A Well, then, you know, CCDH has produced all documents in its possession

3 responsive to the committee's document request that is pertinent to the subject and

4 inquiry. Beyond that legal assessment, I have nothing to add regarding CCDH's

5 document production. I don't recall any further discussions with anyone in the White

6 House.

7 Q How long has CCDH -- how long typically does CCDH retain its emails?

8 A We have no document destruction policy at CCDH, so all of them.

9 Q Okay. So emails from 2020, 2019, further back would be available?

10 A Yeah.

11 Q Have you or anyone from CCDH deleted any emails regarding CCDH's

12 interactions with the White House?

13 A CCDH has produced all documents in its possession responsive to the

14 committee's document request that is deemed pertinent to the subject and inquiry.

15 Beyond that legal assessment, I have nothing to add regarding CCDH's document

16 production.

17 Q The question wasn't about possessions. The question was about

18 destruction of emails.

19 A We did server level searches for all these emails that were requested.

20 There is no document destruction policy nor have I instructed anyone to destroy emails

21 nor have I personally deleted emails.

22 Q To your knowledge, has anyone at CCDH deleted any emails?

23 A To my knowledge, no. One thing worth mentioning is we recently

24 transitioned from G Suite to Microsoft Exchange. Not something I ever want to go

25 through again, but we have all our emails.

1 Q The first bullet point under the first bullet heading says, Supporting
2 documents from research compiled by Media Matters, GQR, Institute for Strategic
3 Dialogue and others overviews a range of mis- and disinformation narratives still
4 circulating on Facebook and Facebook-owned properties like Instagram. During your
5 time at CCDH, have you had any interactions with the Institute for Strategic Dialogue
6 regarding the Institute for Strategic Dialogue's interactions with the White House?
7 A No.
8 Q In spring of 2021, were you aware that research by the Institute for Strategic
9 Dialogue was being considered by the White House?
10 A Specifically, no. But the ISD is well known as being a -- sort of a
11 government contractor, so -- but we're not, and so we don't discuss U.S. government
12 relationships. Yeah, nothing to do with us.
13 Q Did the -- did ISD provide any support to CCDH as it was researching and
14 drafting the Disinformation Dozen Report?
15 A No.
16 Q Did you or anyone else from CCDH brief anyone from ISD about the
17 Disinformation Dozen Report?
18 A It would be very surprising to me if we had. We don't typically brief other
19 organizations on our research prior to it coming out. As a matter of course, where we
20 have a coalition, we will identify -- we will tell them in advance that we've got a research
21 report coming out. For example, on climate, we're in a climate coalition, climate
22 disinformation coalition with ISD, but on that occasion, I -- I would be extremely surprised
23 to know that we did. I don't recollect myself.
24 Q What about after the report's been issued?
25 A I think it's very unlikely and I don't recollect doing the same myself.

1 Q In April, 2021, were you aware of any communications between the Institute
2 for Strategic Dialogue and the White House regarding vaccine misinformation?
3 A No.
4 Q Other than your work, supporting parliament, have you worked for the U.K.
5 government?
6 A Sorry, my work supporting -- in working in parliament was not working for
7 the U.K. government. You're using those distinctions I used earlier on. I worked
8 for -- technically, I was employed by the Labour Party as a political advisor to Royal
9 Honorable Hilary Benn in both his roles as Shadow Secretary of State for Communities
10 and Local Government and Shadow Foreign Secretary.
11 And prior to that, I was employed as a researcher for the Shadow Justice Secretary
12 working on bills, and then I was employed by the Independent Parliamentary Authorities,
13 so that -- those are researchers that are given to MPs. I've never worked for
14 government in any other way. I did -- sorry. I've never been in paid employment for
15 the government in any other way.
16 I did sit on the Commission for Counter Extremism pilot task force steering
17 committee under Dame Sara Khan when she was appointed to that role by Prime Minister
18 Theresa May. It was a very small group of us who were advising the government on
19 extremism and I specifically was the expert on digital extremism. Another member of
20 the commission was, for example, the steering committee was the current Met Police
21 Commissioner, so --
22 Q Are you familiar with Stop Funding Fake News?
23 A I am. I set it up.
24 Q What is it?
25 A It was an Internet campaign to identify to appetizers when their adverts

1 were appearing on sites which would be divergent with their values.

2 Q When did you create it?

3 A I don't recall precisely. It was a precursor to CCDH and ran for some period

4 while CCDH was live. Because there were separate brands, we couldn't work out what

5 to do with it, and eventually it just tailed off and died.

6 Q Did you ever operate in the U.S.?

7 A No.

8 Q Do you recall approximately when it ceased operations?

9 A No.

10 Q How many people worked for it or were related with it?

11 A It was the same people that worked on CCDH, so it was just a brand of CCDH,

12 but it started before then, and then it was just too -- it was, you know, me on the

13 Internet. And then once CCDH existed, it became part of the CCDH campaigning

14 architecture.

15 Q Did Stop Funding Fake News receive any government funding?

16 A No.

17 Q In the U.K. or the U.S.?

18 A No one.

19 Q Are you familiar with Labour Together?

20 A I am.

21 Q What is it?

22 A It's a think tank external to the Labour Party set up by people who are

23 hostile to Jeremy Corbyn, the anti-Semite who took over the Labour Party.

24 Q Have you had affiliation with the Labour Together think tank?

25 A I talk to them -- at the moment, we are talking to them about Internet policy

1 in the U.K., because it's likely that the Labour Party will become the government of the
2 U.K. in a week.
3 Q Before these most recent discussions, have you had any affiliation with
4 Labour Together?
5 A The ED of Labour Together is a personal friend of mine.
6 Q Have you had -- previous to these discussions, have you had any professional
7 interactions with Labour Together?
8 A So we shared -- so we shared an office for a while. I paid my half of the
9 rent. He paid his half of the rent. They paid their half of the rent. But our work
10 doesn't really intersect. Labor Together's role is to remove anti-semitism from the
11 Labour Party and to renew its purpose for government, or whatever. To not be so -- be
12 more electable, and my job is to look at social media, which is nothing to do with each
13 other. But Morgan McSweeney, who runs Labour Together, is, as I say, a very, very
14 close friend.
15 Q Does Labour Together provide any funding to CCDH?
16 A It has never nor -- it's never provided a dime of funding to CCDH, either U.K.
17 or U.S.
18 Q Just to clarify an earlier answer when you said you shared an office, is that in
19 reference to CCDH's office, a personal office?
20 A I don't know when we stopped using the office. No, we did. It was until
21 COVID. Until March 2020 is when I shut the office down, March the 1st, 2020, is when I
22 shut the office down. Until March, 2020, we worked at the same office.
23 Q The current interactions at CCDH is having with Labour Together, is there
24 consulting contracts? Is it providing briefings?
25 A So it is us telling -- so there's no money. There's no contracts. The guy

1 who currently runs Labour Together, Joshua Simons, was the Jewish speech writer for
2 Jeremy Corbyn who realized that Jeremy Corbyn was an anti-Semite while he was in
3 position and then left and then went to run Labour Together, and I've known Josh for
4 many, many years because I -- we're old friends.
5 Q Has CCDH conducted any research regarding Russian disinformation
6 following Russia's invasion of Ukraine?
7 A Russian disinformation on Ukraine?
8 Q On the Ukraine -- on the conflict of Russia's invasion of Ukraine.
9 A I've got no doubt that we've come across that sort of content online. I
10 don't think we've written reports about it, but again, all of our reports are on our website.
11 Q To the extent you've become familiar through the federal litigation or other
12 news reporting, do you think it's appropriate to the extent to which the White House
13 reached out to social media companies regarding misinformation online?
14 A Look, I'm neither the federal government nor am I a social media company,
15 and I don't know the facts of that case at all. But I am a strong believer that
16 governments shouldn't tell us what to say or what to think with the threat of force.
17 Q Can offices like the White House contact social media companies or others
18 about what to say or what to think without the threat of force?
19 A I think you should consult a lawyer, because I can't answer that question
20 myself.
21 Q To your knowledge, has CCDH had any direct interactions with Robert F.
22 Kennedy, Jr.?
23 A I believe he wrote -- I believe his counsel once wrote to us.
24 Q Other than that?
25 A I don't believe so, not to my recollection.

1 Q As part of your role at CCDH, have you had any interactions --
2 A Let me expand on that. There was an exchange of letters between his
3 counsel and my counsel in which he was making various allegations and threats.
4 Nothing ever proceeded.
5 Q Any meetings or briefings where CCDH explained its methodology or why
6 Mr. Kennedy was included in the disinformation?
7 A To whom?
8 Q To Mr. Kennedy or one of his representatives?
9 A His counsel wrote to our counsel making allegations and threats of litigation.
10 Our counsel responded. They never followed through.
11 Q Other than that?
12 A No. My understanding is that his claim was that we breached the
13 European convention on human rights by asking -- by publicizing his Tweets and that his
14 Tweets were part of his right to a private life and that was somehow tortuous. And our
15 counsel did not agree. And they withdrew.
16 Q Are you familiar with the Cybersecurity Infrastructure Security Agency within
17 the U.S. Department of Homeland Security?
18 A Nope.
19 Q Do you know Nina Jankowicz?
20 A I do.
21 Q Have you interacted with her as part of your role at CCDH?
22 A I've had a couple of meetings with her since she left the White House -- since
23 she left DHS.
24 Q What was she affiliated with when you had those meetings?
25 A Some company in England. I've forgotten its name.

1 Q What was the purpose of the meetings?
2 A To appear about what she was up to, to talk about what we're up to, and get
3 advice on children.
4 Q As part of your role at CCDH, have you had any interactions with Nick Clyde?
5 A At CCDH, no.
6 Q Do you know who Eric Waldo is?
7 A No.
8 Q Is CCDH currently working with any entities within the U.S. regarding
9 election integrity or election misinformation that will lead up to the 2024 election?
10 A We produced a series of reports recently on AI related disinformation, so
11 whether or not AI platforms have put guardrails against disinformation, again, looking on
12 a bipartisan basis whether or not AI would generate images of President Trump or
13 President Biden, whether or not they produce convincing audio of President Trump and
14 President Biden. We found that those guardrails were not in place, and so it's
15 remarkably easy to get the leading AI -- generative AI audio and image-based platforms.
16 We're doing more work with them on video platforms. And we are currently conducting
17 a study on abuse of politicians on social media on a bipartisan basis looking at a -- yeah,
18 looking at abusive, both women -- female candidates and male candidates on both
19 Republican and Democrat side.
20 Q Did the AI report -- did any researchers outside of CCDH support that report?
21 A I don't believe so. Again, methodologically, it should be on the thing and
22 we would credit anyone externally and they would be pretty annoyed if we didn't, but
23 that's on the website.
24 Q Other than those two examples you provided, is CCDH working on any other
25 efforts related to election integrity or election misinformation?

1 A No. No.

2 Q Have you had any meetings with the executive branch related to CCDH's AI

3 report?

4 A I couldn't tell you off the top of my head. I'm sure they've received the

5 briefings.

6 Ms. [redacted] Probably the briefings --

7 Mr. Ahmed. I'm sure they've received the reports. I don't know if -- I haven't

8 personally briefed it to anyone. So yeah. I believe that when my staff -- so most

9 outreach now in the U.S. politically in the last six months isn't -- basically not involved me

10 at all. I believe my team have briefed on the Hill those reports, but I couldn't tell you

11 when and to whom, and it would have been on a bipartisan basis, and it would have been

12 Congress and the Senate rather than to the White House.

13 BY [redacted]

14 Q Does CCDH do any work or does it ever brief online bookstores?

15 A Like Amazon?

16 Q Such as Amazon.

17 A I think we've done something vaguely on Amazon once before about how

18 they're selling Nazi memorabilia, but it's not a big part of -- it's not part of our work these

19 days.

20 Q Do you recall what the example was with Amazon?

21 A I think they were selling Nazi memorabilia. I don't recall fully.

22 Q Have you had interactions with the Atlantic Council as part of your time at

23 CCDH?

24 A I have met some of their staff from time to time. We've never done any

25 formal work with them.

1 Q Do you recall who?
2 A No.
3 Q Are you familiar with the Digital Forensic Research Lab within the Atlantic
4 Council?
5 A I've heard about it.
6 Q Do you recall any interactions with them?
7 A No.
8 Q Have you ever interacted with the daily wire?
9 A Is that -- that's the -- what's the guy's name?
10 Q Ben Shapiro?
11 A Ben Shapiro's thing. Yeah, we have. They've reached to some reports of
12 us.
13 Q Have you had any direct interactions with the Daily Wire itself?
14 A I don't think so, no, but I can't recollect.
15 Q Are you familiar with Graphika?
16 A Yes.
17 Q Have you ever interacted with them as part of your role at CCDH?
18 A I think they're part of coalitions alongside us, although my understanding is
19 that they've taken the position to no longer do public research, so I imagine I won't be
20 doing much work with them in the future.
21 Q Other than coalitions, do you recall interactions with them as part of your
22 role at CCDH?
23 A No.
24 Q Has CCDH conducted any research regarding the origin of the SARS-CoV-2
25 virus?

1 A No. We've pointedly taken no interest in that debate.

2 Q Why is that?

3 A Because we're not equipped to tell you where the COVID -- where COVID

4 was -- the etiology and origins of COVID.

5 Q Just as a -- I should not say research into the origin of the virus itself.

6 Content related to claims around the origin of the virus?

7 A I don't believe so, but all of our contents are on our website. I've always

8 had a very sharp distinction between stuff that might kill people, telling people not to

9 take the vaccine, whoever said that. And, you know, I remember when I first started

10 working on the vaccine's work, seeing the Trump Administration talking about why it was

11 important that people took the vaccine, in fact, my favorite press release I own is one

12 from the Trump Administration calling President -- now President Biden and Vice

13 President Kamala Harris anti-vaxxers for telling people they shouldn't trust a vaccine that

14 was produced by Donald Trump.

15 So, you know, things have evolved over time, but we've been focused on direct

16 stuff that can harm people, and a debate on whether it was the Chinese what done it or it

17 was evolution, that's neither here nor there for me. It doesn't affect human life. It

18 doesn't affect whether or not tens of thousands of fellow students are going to die in

19 ICUs, and it has great geopolitical importance but zero to CCDH.

20 Q To your recollection, CCDH has not done research?

21 A Again, everything is on the website, but I don't -- to my recollection, nothing.

22 Q Can we go off the record, please.

23 [Whereupon, at 1:08 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

1
2
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4
5 COMMITTEE ON THE JUDICIARY,
6 U.S. HOUSE OF REPRESENTATIVES,
7 WASHINGTON, D.C.
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12
13 INTERVIEW OF: [redacted]
14
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16
17
18 Friday, June 28, 2024
19
20 Washington, D.C.
21
22
23 The interview in the above matter was held in room 2237, Rayburn House Office
24 Building, commencing at 9:59 a.m.

1

2 Appearances:

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted], RESEARCH ASSISTANT

8 [redacted], LAW CLERK

9 [redacted], DIGITAL ASSISTANT

10 [redacted], CREATIVE DIRECTOR

11 [redacted], PROFESSIONAL STAFF MEMBER

12 [redacted], DEPUTY CHIEF COUNSEL FOR OVERSIGHT

13 [redacted], MINORITY OVERSIGHT COUNSEL

14 [redacted], MINORITY INTERN

15 [redacted], MINORITY STAFF ASSISTANT

16

17 For the SUBCOMMITTEE ON CRIME AND

18 FEDERAL GOVERNMENT SURVEILLANCE:

19

20 [redacted], MINORITY DETAILEE

1

2 For ALPHABET:

3

4 [redacted], ESQ.

5 KING & SPALDING

6 1700 PENNSYLVANIA AVENUE NW, SUITE 900

7 WASHINGTON, D.C. 20006

8

9 For [redacted]:

10

11 [redacted], ESQ.

12 GIBSON DUNN

13 1050 CONNECTICUT AVENUE, NW

14 WASHINGTON, D.C. 20036-5306

1 [redacted]. This is a transcribed interview of [redacted]. Chairman
2 Jordan has requested this interview as a part of the committee's investigation of how and
3 the extent to which the executive branch has coerced and colluded with companies and
4 other intermediaries to censor speech.
5 Would the witness please state your name for the record.
6 [redacted]. [redacted].
7 [redacted]. On behalf of the committee, I want to thank you for appearing
8 here today to answer our questions. The chairman also appreciates your willingness to
9 appear voluntarily.
10 My name is [redacted], and I'm with Chairman Jordan's staff. I'll now have
11 everyone else from the committee who is here in the room introduce themselves as well.
12 [redacted]. [redacted] with Chairman Jordan's staff.
13 [redacted]. [redacted] with Chairman Jordan's staff.
14 [redacted]. [redacted], Chairman Jordan's staff.
15 [redacted]. [redacted], Chairman Jordan's staff.
16 [redacted]. [redacted], Chairman Jordan's staff.
17 [redacted]. [redacted] with Ranking Member Nadler.
18 [redacted]. [redacted] with Ranking Member Nadler.
19 [redacted]. [redacted] with Ranking Member Nadler.
20 [redacted]. [redacted] with Ranking Member Nadler.
21 [redacted]. I'd like to now go over the ground rules and guidelines that we
22 will follow during today's interview.
23 Our questioning will proceed in rounds. The majority will ask questions first for
24 one hour and then the minority will have an opportunity to ask questions for an equal
25 period of time if they choose. We will alternate back and forth until there are no more

1 questions and the interview is over.

2 Typically, we take a short break at the end of each hour, but if you would like to

3 take a break apart from that, please just let us know.

4 As you can see, there is an official court reporter taking down everything we say to

5 make a written record, so we ask that you give verbal responses to all questions.

6 Do you understand?

7 [redacted]. I do. Thank you.

8 [redacted]. So the court reporter can take down a clear record, we will do our

9 best to limit the number of people directing questions at you during any given hour to

10 just those people on the staff whose turn it is.

11 Please try and speak clearly so the court reporter can understand and so the folks

12 down at the end of the table can hear you. It is important that we do not talk over one

13 another or interrupt each other if we can help it, and that goes for everybody present at

14 today's interview.

15 We encourage witnesses who appear before the committee to freely consult with

16 counsel if they so choose, and it is my understanding that you're appearing today with

17 counsel. Is that correct?

18 [redacted]. It is.

19 [redacted]. Could counsel please state your name for the record.

20 [redacted]. [redacted] with Gibson Dunn representing [redacted].

21 [redacted]. [redacted], King & Spalding, representing Alphabet.

22 [redacted]. Thank you.

23 We want you to answer our questions in the most complete and truthful manner

24 as possible, so we will take our time. If you have any questions or if you do not

25 understand one of our questions, please let us know.

1 Our questions will cover a wide range of topics, so if you need clarification at any
2 point, just say so. If you honestly don't know the answer to a question or do not
3 remember, it is best not to guess. Please give us your best recollection, and it is okay to
4 tell us if you learned information from someone else. Just indicate how you came to
5 know the information.
6 If there are any things you don't know or can't remember, just say so, and please
7 inform us who, to the best of your knowledge, might be able to provide a more complete
8 answer to the question.
9 You should also understand that although this interview is not under oath, that by
10 law you are required to answer questions from Congress truthfully.
11 Do you understand that?
12 [redacted]. I do.
13 [redacted]. This also applies to questions posed by congressional staff in an
14 interview. Do you understand this?
15 [redacted]. I do.
16 [redacted]. Witnesses that knowingly provide false testimony could be
17 subject to criminal prosecution for perjury or for making false statements under 18 U.S.C.
18 Section 1001.
19 Do you understand this?
20 [redacted]. I do.
21 [redacted]. Is there any reason you are unable to provide truthful answers to
22 today's questions?
23 [redacted]. There is not.
24 [redacted]. Finally, I'd like to make note that the content of what we discuss
25 here today is confidential. We ask that you not speak about what we discuss in this

1 interview to any outside individuals to preserve the integrity of our investigation.

2 For the same reason, the marked exhibits that we will use today will remain with

3 the court reporter so that they can go in the final official transcript, and any copies of

4 those exhibits will be returned to us when we wrap up.

5 All right. That's the end of my preamble. Is there anything that my colleagues

6 from the minority would like to add?

7 [redacted]. We want to thank you for your time and for coming today.

8 [redacted]. Thank you.

9 [redacted]. The clock now reads 10:02. We will start the first hour of

10 questions.

11 BY [redacted]:

12 Q Can I have you state your full name again, please?

13 A Sure. [redacted].

14 Q And where is your current place of employment?

15 A I'm employed by Google.

16 Q And what is your role there?

17 A I'm a director of public policy. I lead public policy for YouTube across the

18 Americas.

19 Q And which office are you based out of?

20 A The office at 25 Massachusetts Avenue Northwest.

21 Q Beginning with college, what is your educational background?

22 A I have a Bachelor of Arts from Miami University in Oxford, Ohio, and I have a

23 Master of Arts from the University of Sydney in Australia.

24 Q Starting with your first job after the masters, what is your professional

25 background?

1 A Sure. Do you want me to do years, or you just want me to tell you a job?
2 Q If you can recall.
3 A Sure.
4 In 2004, I began working in the United States Senate for Senator Barbara Mikulski
5 of Maryland, and I served as a press writer.
6 Q Great. And if you could just walk through --
7 A Just keep going? Sure, sure, sure.
8 In 2005, I began working for the then House minority leader as a speech writer
9 and advisor. I stayed in that office, which moved from minority to majority a couple
10 times, until 2012 when I went to the Department of Homeland Security. Initially, I was
11 chief of staff in the Office of Legislative Affairs. I then became Deputy Assistant
12 Secretary responsible for liaising with the House, the Deputy Assistant Secretary of
13 Legislative Affairs.
14 In 2015, I became -- I stayed there until 2015 when I went to the White House to
15 be a special assistant to the President. I stayed in that role until January of 2017, at
16 which point I went to industry. I became Vice President of government affairs for a
17 company called CSRA.
18 2017, 2018 -- 2018, I went to Tesla to lead public policy across U.S. and Canada.
19 And then I came to Google in the role that I currently have in March of 2020, so just a
20 little more than 4 years ago.
21 Q And you've had the same position since you joined the company?
22 A I have had the same position since I joined the company with one small
23 distinction. The region which I lead has evolved slightly over that period of time.
24 Q How did it evolve?
25 A So I was initially hired to lead the Americas. When I joined, I was also

1 asked to take responsibility for certain emerging markets outside of the Americas. And
2 in 2022 -- I have two regional counterparts. So if you imagine, the world is divided in
3 three. In 2022, we homogenized our region to match the way our business has its
4 regions. So I gave up emerging markets that are outside of the Americas. So I now just
5 have responsibility for U.S., Canada, and Latin America.
6 Q Are you familiar with the terms misinformation, disinformation, and
7 malinformation?
8 A I am familiar with the terms misinformation and disinformation. I'm not
9 sure I'm familiar with the term malinformation.
10 Q To your understanding, what is the difference between misinformation and
11 disinformation?
12 A I have my own understanding. I also observe that those are terms that
13 people use sometimes interchangeably and, perhaps, maybe have different definitions
14 from my own.
15 Q Okay. Just based off your understanding?
16 A My understanding is misinformation is information that is not true, that is
17 not accurate. Disinformation, from my perspective, adds intentionality, and I often use
18 it to talk about State-sponsored misinformation, but I think the intentionality is the sort of
19 key distinction from my perspective.
20 Q When you still had emerging markets within your portfolio, which markets or
21 countries did that include?
22 A Sure. So it did include Latin America and still does. In addition to those
23 markets, it included Eurasia, so west of sort of traditional -- or sorry, east of traditional
24 Europe all the way to the traditional bounds of Apex, so Russia, Ukraine, et cetera. It
25 included what we call MENA, Middle East and North Africa, and then Sub-Saharan Africa.

1 I would just note for the record here that I didn't do an enormous amount of work
2 in those markets given that many of them are quite small markets for us.
3 Q So what are your responsibilities in your role?
4 A My responsibilities are to lead a team of public policy professionals across
5 the Americas, to advocate for our platform, for YouTube, and to explain how our platform
6 works to policymakers in that region.
7 Q How many people report to you?
8 A So it has varied over time. It was a new team when I started, so I built the
9 team entirely. I've had some recent natural attrition. So I think currently I have -- let
10 me just add up in my head here. I think I currently have five direct reports.
11 Q And of those direct reports, are any of them primarily exclusively focused on
12 the United States?
13 A One is currently exclusively focused on the United States, and I'm hiring for
14 two roles.
15 Q And who is that one right now?
16 A His name is [redacted].
17 Q Was there anyone else recently who had, as part of their portfolio, just the
18 United States?
19 A I had a colleague who recently departed the company, yes, who was
20 focusing on the United States.
21 Q Who was that colleague?
22 A Her name is [redacted].
23 Q When you first joined the company, was it just you on the team then, when
24 you say you had to build it out?
25 A It was. Shortly after I joined the team, like within maybe 3 weeks,

1 somebody who I had hired before I officially joined, joined the team.

2 Q And who do you report to in your role?

3 A I report to the vice president of global public policy for YouTube.

4 Q And who is that?

5 A [redacted].

6 Q As part of your role at the company, is it only for YouTube, or does it include

7 other products within Alphabet?

8 A Only for YouTube.

9 Q Which other YouTube teams do you interact with most frequently?

10 A So probably most frequently I interact with my colleagues on the YouTube

11 Government Affairs and Public Policy teams. So there are both teams who are focused

12 on regional work and then teams who are focused on product work from a public policy

13 perspective. That's who I interact with most frequently.

14 Q And for matters involving the United States, who is your point of contact

15 with the GAPP team?

16 A Well, I'm the point of contact. I guess I don't understand your question.

17 Q I guess asking the question the other way around, who is your point of

18 contact on that team?

19 A On which team?

20 Q Which team -- let me take one step back.

21 Which team did you say you interact with the most frequently?

22 A So forgive me if I was confusing. I'm part of a broader YouTube

23 Government Affairs Public Policy team.

24 Q Is that separate from -- is there a GAPP for YouTube and a GAPP for Google

25 or is it one team?

1 A That's a really good question. There is a broad GAPP organization of which
2 I am part. I am part of the YouTube GAPP organization, and that means that my domain
3 expertise is YouTube.
4 There is also a portion of the Government Affairs and Public Policy team that is a
5 U.S. and Canada team exclusively, and those folks represent, arguably, all products, so
6 usually I'm the one who speaks about YouTube.
7 Q Gotcha.
8 So sorry if I misunderstood your previous answer.
9 So when you're saying the team you interact with the most frequently, you were
10 just saying among your own team, the YouTube GAPP team or --
11 A I was but I was meaning the broader -- you know, I represent the YouTube
12 GAPP Americas team. There are other teams like mine on the YouTube GAPP team, so
13 those are the people I interact with most frequently.
14 Q Okay.
15 Do you interact frequently with the broader Google GAPP team as well?
16 A I do.
17 Q And for matters involving the United States, who is your point of contact on
18 the broader Google GAPP team?
19 A I mean, it's a big team, and this org chart is complicated, as perhaps you've
20 observed, but my -- the person who is effectively my counterpart on the Google
21 Government Affairs team for U.S. and Canada is a person named [redacted].
22 Q Do you interact with Google's Jigsaw team?
23 A I have met a person on that team in passing but not with any regularity.
24 Q About how frequently do you interact with YouTube's Trust and Safety
25 team?

1 A How frequently? You know, some weeks it might be a couple times a week
2 and some weeks it might be none.
3 Q And when you do have interactions with the team, what's usually the reason
4 sparring that? Do you have a set of standing meetings? Does it tend to be on an ad
5 hoc basis?
6 A It's definitely on an ad hoc basis.
7 Q And what are some of the reasons it might call for either them to reach out
8 to you or you to reach out to them?
9 A Yeah, so if you think about my role with the company, which is to engage
10 primarily externally to understand things that happen on Capitol Hill or in the White
11 House, across the broad region, it would be to, you know, potentially share information
12 about what's happening in that external environment for which I'm responsible with
13 those internal facing colleagues.
14 Q To your understanding, are there other Trust and Safety teams within
15 Alphabet more broadly?
16 A There are, yes.
17 Q Do you interact with those other Trust and Safety teams?
18 A De minimis. I mean, just very occasionally but not with any regularity.
19 Q Can you think of any examples?
20 A An example of when I've interacted with the Google Trust and Safety team.
21 Let me just -- recently, that team was potentially preparing its leader to testify in the
22 Senate, and I had a brief interaction to explain things from a YouTube perspective that
23 could come up in that public testimony.
24 Q Are you familiar with the Search and Discovery team?
25 A At YouTube or at Google? Can I ask you to be more specific?

1 Q Sure. At YouTube. Maybe take it one step back. To your
2 understanding, is there a team responsible for handling borderline content?
3 A I want to be really precise in my words to you. My understanding is there
4 is a team of engineers who design products to both algorithmically raise or algorithmically
5 reduce content, which I think may be slightly distinct from how I understood you to
6 phrase the question.
7 Q Okay. What's the name of that team?
8 A I believe that is the Search and Discovery team, as you said.
9 Q How frequently do you interact with that team?
10 A Very, very rarely.
11 Q Can you think of any examples?
12 A I mean, the most recent example in my mind is in February of every year,
13 there's a gathering of YouTube execs in California, and I saw the leader of that team at
14 that gathering.
15 Q Who is the leader of the team?
16 A I think -- I'm recalling your colleague's guidance here not to guess, so I don't
17 want to guess, but I think the leader of that team is [redacted].
18 Q Who is your primary point of contact for YouTube's Trust and Safety team?
19 A So as I said before, it's a very ad hoc engagement, so I don't really -- I don't
20 see it as formalized in that way where I have a primary point of contact on the YouTube
21 Trust and Safety team.
22 Q If you have a need to engage with that team, who do you get in contact with,
23 or how do you get in contact with that team?
24 A It would depend on the particular nature of that need. So, you know, there
25 are people on that team who perform different functions. So it would depend on what I

1 was looking for.

2 Q If there are questions about YouTube's community guidelines, is there a

3 team member you would reach out to first?

4 A So if I was trying -- just so I understand your example here, if I was trying to

5 understand YouTube's community guideline so that I could explain them externally, for

6 example, I would not reach out to the Trust and Safety team in that context. I would

7 reach out to my colleagues on the YouTube GAPP team who are the subject matter

8 experts on our team on community guidelines.

9 Q And who are those on your team?

10 A So there is a leader on -- the way our team is divided is there is an internal

11 facing team called the Product Policy team on the YouTube GAPP team, and I would reach

12 out to the lead of that team.

13 Q Who is the lead of that team?

14 A A colleague named [redacted].

15 Q And are you the head of the external facing team then?

16 A I lead that --

17 Q Or you lead both?

18 A -- yes, across the Americas. No, just across -- yes, so that is a distinct team

19 of mine.

20 Q Gotcha.

21 Do you know who [redacted] is?

22 A I do.

23 Q How does she fit within the organization compared to you?

24 A So that team that I just referenced, the Product Policy team, she's on that

25 team.

1 Q Do you know who [redacted] is?

2 A I do.

3 Q When he was with the company, how did he fit in compared to your role?

4 A He reported to me. He was that -- earlier I referenced that employee that

5 started shortly after I did. That was [redacted].

6 Q Do you know who [redacted] is?

7 A I do.

8 Q Have you interacted with him as part of your role with the company?

9 A Yes, occasionally.

10 Q Can you provide an example?

11 A Well, I think the most recent time that I interacted with [redacted] was at that

12 same exec summit that I mentioned in California. We saw each other there, but

13 occasionally we've interacted over the years.

14 Q So if an external stakeholder has questions about the community guidelines,

15 you said you'd reach out to the internal team within the Public Policy team, the internal

16 facing team. On what occasions or what are some other instances where it was

17 necessary for you to reach out directly to that Trust and Safety team?

18 A So, I mean, there are occasions, perhaps, where I would need a more

19 nuanced level of understanding. There are occasions -- so that would be one example.

20 Q Can you recall any instances where you needed a more nuanced

21 understanding of a section of the community guidelines?

22 A Off the top of my head, let me think here. I'm just thinking of, you know,

23 recent examples here. So one of -- you know, the October 7th events in Israel have, you

24 know, created a lot of content on YouTube and has required a lot of actions by our teams,

25 and there has been a lot of interest from governments, including from Congress on both

1 sides of the aisle.

2 And some of the ways that we apply our policies in a situation like that are very

3 nuanced. There's a policy around what we call EDSA, educational, documentary,

4 scientific, and artistic content that allows for content that might not -- you know, might

5 be violent or gory but is also important from a documentary perspective.

6 This is something that I have gotten personally questions about from

7 policymakers, and that is something I've had conversations with my Trust and Safety

8 colleagues to sort of understand how we make those nuanced calls.

9 Q So just sticking with this example, are there individuals within the Trust and

10 Safety team who are like the experts for that part of the community guidelines, or can

11 you really consult with anybody? How do you know who to go to?

12 A Yeah, good question. I mean, Google is sort of -- the culture of the

13 company is you could reach out to anybody, but I typically in that situation would

14 probably reach out to my colleague who leads the Policy Development team for Trust and

15 Safety, YouTube's Trust and Safety.

16 Q And who is that individual?

17 A His name is [redacted].

18 Q Besides the questions following October 7th, are there other examples you

19 can recall where it was necessary for you to consult with the Trust and Safety team to get

20 a more nuanced understanding of a section of the community guidelines?

21 A Certainly. So something that happens in my role leading the team that

22 engages externally with policymakers is that sometimes policymakers will come to us with

23 concerns about particular pieces of content or the treatment of creators, and in those

24 situations, I don't review content. I don't make those decisions, but I escalate

25 those -- that content to my Trust and Safety colleagues for review at the request of

1 policymakers.

2 Q Can you provide an example?

3 A Sure. The most recent example that I recall is Majority Leader Scalise's

4 office reached out about a channel that had been terminated on YouTube for violating

5 our community guidelines in a repeated way to ask for our review and whether the

6 community guidelines had been accurately applied.

7 Q Do you recall what the company's response was?

8 A I recall what my response was, which was to escalate that content to my

9 colleagues for review, that channel. It wasn't an individual piece of content. And we

10 worked expeditiously to try and understand what had happened. We realized that we

11 had made an error, and we restored the channel of that creator.

12 Q Do you know what provision the creator had been wrongly considered

13 violative of after that?

14 A I don't recall the specific provision of the community guidelines.

15 Q Do you recall the subject matter?

16 A Yes. The subject matter was about authoritative -- well, it was about health

17 information related to abortion.

18 Q Do you recall which channel it was?

19 A I don't recall the specific channel.

20 Q Is there any other information with the channel you recall?

21 A I recall that it was a Louisiana right to life, generally, organization.

22 Q Do you have familiarity with the modifications that were made to the

23 firearms-related content policy change that took effect a week or two ago?

24 A I have a general understanding of those changes, yes.

25 Q Whether related to that example or just more generally, do you have

1 familiarity with the process the company uses when updating or making changes to
2 YouTube's community guidelines?
3 A I don't have familiarity with that process from an end-to-end perspective. I
4 have familiarity with some portions of that process.
5 Q Which portions do you have familiarity with?
6 A I have the most familiarity with the portions in which my team would -- you
7 know, which would be core to the role of my team, which is the roll out portion, you
8 know, taking those policies external.
9 Q So that's after a decision has been made to change the policy and it's a
10 matter of just when and how to roll it out?
11 A I mean, generally, I think that's a generally accurate description of how we
12 engage, though, you know, sometimes we would have to be sort of involved somewhat
13 upstream of them before everything was totally calcified in order to prepare for that
14 rollout portion.
15 Q Can you think of the examples where it was necessary for your team to be
16 involved somewhat upstream before things were finalized?
17 A Well, and just in hearing you play that back to me, I just want to be really
18 accurate with you. So involved, maybe that's the word I used, but it's a bit imprecise.
19 You know, sort of -- it's a bit like we're kind of witness to it. We are in the conversation,
20 but we are not part of the policy development process.
21 Does that make sense?
22 Q It does.
23 A Okay.
24 Q Is it accurate to say your team is consulted? I guess how passive or active
25 do you mean by witness?

1 A I mean, so consulted is -- it would be accurate to say that we are consulted
2 about how -- in order to understand how our portion of the external environment could
3 react. I do not believe we're consulted in order to shape the policy. That's just not
4 what we do for the company.
5 Q And to your understanding, which team takes the lead in considering and
6 developing changes to the community guidelines?
7 A The Trust and Safety team.
8 Q When there's efforts being made to modify the community guidelines, do
9 you know how high up within the company the final approval or decision-maker is about
10 whether to actually adopt that new change?
11 A I think that varies greatly by how big the policy change is. You know, my
12 understanding is that there are sometimes tweaks around the edges and then sometimes
13 there are bigger new policies or sunset of policies, and so I think it just really depends.
14 Q For the bigger changes, do you have a sense of which individuals within the
15 company are ultimately responsible for it?
16 A I think for a big change, the CEO of YouTube would ultimately be
17 responsible.
18 Q Have you ever attended meetings where either the CEO or other executives
19 are being briefed about potential changes?
20 A I believe I have, yes.
21 Q And what's the -- are there any examples you can recall?
22 A So the reason I just paused there on your question is because our current
23 CEO was previously our chief product officer who -- so I just want to -- it's sort of hard to
24 parse in my memory, you know, when those meetings were with him as CEO and when
25 they were with him as chief product officer.

1 So can I ask you to ask the question again so I can think really clearly about it?
2 Q Sure. We'll start first if you can remember examples of whether when he
3 was CEO if you recall meetings that you attended where there was a consideration of a
4 community guideline change, and then we can ask in his previous role too?
5 A And forgive me if I misspoke just a moment ago, but I don't believe I have
6 been in meetings, that I have been in meeting where the CEO was making the final
7 decision on policy changes.
8 Q To your understanding, have there been members of your team that have
9 been in meetings where a community guideline change is being presented to the CEO?
10 A Yes, I believe so.
11 Q And who from your team would likely be attending those meetings?
12 A So I can only recall one example of that, and that particular example would
13 have been my colleague, [redacted].
14 Q Do you recall which policy was being changed or considered being changed?
15 A The one that I'm recalling is the firearms policy that you referenced.
16 Q Do you recall or know when that meeting took place, approximately?
17 A Approximately, that meeting took place in late February or early March of
18 2024.
19 Q In the lead up to the meeting, did you have meetings with [redacted] or?
20 A I mean, I regularly have meetings with [redacted].
21 Q Do you recall any meetings specifically in advance of that meeting
22 about -- let me take one step back.
23 To your understanding, what was [redacted]'s role or purpose in attending that
24 meeting?
25 A [redacted]'s role in that meeting was -- that specific meeting is consistent with

1 what I generally described, which is that we were going -- that YouTube was going to
2 make a community guidelines change, and my team would be responsible for a portion of
3 the roll out to, you know, our universe -- our portion of the universe, which is
4 policymakers across the Americas.
5 Q Going into the meeting, did [redacted] have any talking points or material part that
6 he was expected to present on or share during that meeting?
7 A Not that I recall.
8 Q To your knowledge, did he receive any questions during the meeting about
9 how stakeholders would respond?
10 A I wasn't in the meeting, so that's a level of detail I just don't know.
11 Q Typically, for a meeting like this where a community guideline has been
12 changed and presented to the CEO, would [redacted] or others provide you with a readout
13 following the meeting?
14 A I mean, a readout suggests maybe a level of formality that's not my
15 experience, but, you know, it could have been addressed, for example, in like a weekly
16 one to one where we're going through like a big list of the topics of the week and that
17 could be one thing he could provide me with an update on.
18 Q Do you recall in this particular example whether you received any sort of
19 readout or just description of what happened?
20 A Well, I don't recall discussing sort of specifics of what happened in that
21 room. I recall -- so I don't recall specifics of what was discussed in the room.
22 Q Okay. What do you recall as far as what next steps, if any, kind of fell on
23 your team's plate following that meeting?
24 A Yeah, my team had a responsibility for engaging with a narrow set of
25 stakeholders in advance of the policy change and then preparing to field questions and

1 inquiries from the broad universe of stakeholders.

2 Q Who is the narrow set of stakeholders?

3 A What I recall is that my team, [redacted] in this case, as we've discussed, was going

4 to talk to some government stakeholders, a law enforcement organization, and then

5 potentially a civil society organization, but my memory is a bit vague there.

6 Q Do you recall which law enforcement organization?

7 A I believe it was the Major Cities Chiefs Association.

8 Q And do you recall the civil society organization?

9 A I don't because there was a discussion about a couple and which one to

10 engage specifically. So I actually don't know where that landed, who the final --

11 Q Do you recall which ones were under consideration?

12 A I know one of them was an organization called Everytown. Again, I don't

13 know -- like, I think there were a couple, and I don't know -- I don't recall where that

14 landed.

15 Q Do you recall which governments?

16 A I believe there was a request to talk to the executive branch, to the

17 Department of Justice.

18 Q Do you recall which division or office within DOJ?

19 A I think it was the Office of the Deputy Attorney General.

20 Q For either the law enforcement, the civil society organizations, or the

21 government stakeholders, did you personally attend any of those meetings?

22 A I did not.

23 Q To your understanding, besides [redacted], who else on your team would have

24 been involved in the actual meetings or de-briefings?

25 A On my team, there would not have been anybody else involved in those

1 meetings.

2 Q Do you know if [redacted] would have included anyone else from the company?

3 [redacted]. You're asking whether [redacted] did include anybody else from the

4 company?

5 [redacted]. Sure. I'll rephrase it that way.

6 [redacted]. I don't know.

7 BY [redacted]:

8 Q Typically, when providing, you know, an update or information to

9 stakeholders like that, is it typically something only your team would handle, or would

10 [redacted] or you or someone bring in other teams?

11 A Typically, we would just handle that and do those engagements ourselves to

12 minimize -- you know, to own our piece of the world and minimize work for other teams.

13 Q Besides DOJ, do you remember if any other government stakeholders were

14 included?

15 A Not that I recall.

16 Q Do you recall if there were any discussions with any government officials,

17 either from New York State or from New York City?

18 A I don't believe so but not that I recall.

19 Q For the law enforcement organization, the civil society organization, and the

20 government, for DOJ, for that kind of preannouncement meeting, do you know how far in

21 advance of the announcement those meetings typically take place?

22 A So your question sort of had the specific example of this and then you said

23 typically, so I just want to make sure.

24 Q I'll rephrase it. Let me ask it specifically first.

25 A Yes.

1 Q For these particular meetings, do you recall how far in advance prior to the
2 public announcement of this firearms policy change that those meetings took place?
3 A So as we discussed, I think those meetings happened shortly thereafter that
4 period of time that I already referenced, late February, early March. So the only reason
5 I remember with any specificity these dates, it's really hard to remember dates, I find, is
6 because they're associated with my kids' spring break and where I was on spring break,
7 just being candid with you all.
8 So I know all of those things happened prior to [redacted] on
9 [redacted]. So in that light, I think the meeting happened in late February, early
10 March. And then some of that external engagement happened in that interim between
11 late February, early March, [redacted], [redacted].
12 Q Thank you.
13 So you mentioned providing information to stakeholders in roughly the early first
14 half of March and then kind of more broadly efforts to prepare for engagement with
15 government stakeholders once it's publicly announced. For that kind of second set of
16 responsibilities, who on your team is responsible for handling that?
17 A Let me play back your question to make sure I understand. Who on my
18 team is responsible for preparing to engage with -- for engaging with stakeholders on
19 when policies are changed?
20 Q Yes.
21 A Okay. Every member of my team is responsible for that because every
22 member of my team, with the exception of my assistant, engages externally.
23 Q Gotcha.
24 We'll stick with the firearms policy as an example.
25 A Sure.

1 Q For any other stakeholders within the executive branch, who would have
2 primary responsibility for prepping to engage with those government officials post
3 announcement?
4 A On behalf of YouTube?
5 Q On behalf of YouTube.
6 A Nobody. I mean, I would I have a boss but, you know, so -- but my boss
7 would not have engaged on that. That's not what she does. So, you know, all of my
8 responsibilities fall under her, I guess, but that is what my team is responsible for. That
9 is what we do.
10 Q Gotcha.
11 Following the -- actually, let me take one step back.
12 I'll ask it first specifically and then more generally, but specifically for the firearms
13 policy change, what types of information was [redacted] sharing with the law enforcement
14 organizations, civil organization, and then DOJ?
15 A [redacted] was sharing a preview of the three I call them buckets of policy changes
16 that were going to happen as a result of this broader policy change. So generalities
17 about those three buckets.
18 Q Okay.
19 Was any other information shared at that time?
20 A No.
21 Q And then is that consistent with the typical practice of one providing an
22 update to certain stakeholders prior to a public announcement?
23 A Yes, that's consistent.
24 Q In this particular case with the firearms example, are you aware if there were
25 any changes, major or minor, to whatever was agreed to at late February, early March to

1 what ultimately became the policy in mid June?

2 A So I'm familiar with those three broad buckets, as I described them, and I do

3 not believe there were any changes in that period of time. Happy to glad, moving

4 commas, I don't know, but the three broad buckets, I do not believe there were changes.

5 Q When there is a decision that's worth escalating to the CEO for his

6 consideration, and once that decision has been made, is there some sort of formal

7 announcement? Does your team receive like a memo detailing the changes, or is it

8 whoever was in the meeting responsible for communicating back the change?

9 [redacted]. Are we still speaking specifically about the firearms policy?

10 [redacted]. We'll start -- I'll ask it first about the firearms policy and then just more

11 generally.

12 BY [redacted]:

13 Q With the firearms policy, was there any sort of written work product that

14 was circulated to your team about the policy change?

15 A I don't recall any specific work product.

16 Q What about more generally? Not necessary with the firearms but just

17 when there is a policy change, typically how is it communicated to your team?

18 A So when there is a policy change, the group most impacted by that policy

19 change is always our creators, right. And so usually there is public facing language about

20 that policy change to explain it to creators. So that would be the primary text I think my

21 team would use to understand those policy changes as well.

22 Q And when you're referencing that text to detail for creators what change is

23 being made, is that the public announcement, or is there something that's sent to

24 creators earlier than that?

25 A No, that's the public announcement.

1 Q So there are oftentimes where your team is just made aware when it's
2 publicly announced or --
3 A So as I mentioned, I think policy changes in ways large and small many times,
4 and so I think probably there are a lot of changes that do not even rise to the level -- I
5 don't mean to put us on another level, but it's just not going to get my team's attention.
6 But if there is a big policy change, there are almost always public facing comms,
7 statements, blog posts, and I think we would be usually be made aware of those in
8 advance and have a chance to review them and digest them so that I and my team can be
9 pre-positioned to respond.
10 Q For those bigger policy changes where your team is being helped, prepared,
11 and pre-positioned to respond, do you recall how your team is typically made aware in
12 those instances?
13 A Typically, my team is made aware by our colleagues on that product policy
14 vertical that's on the YouTube Government Affairs team. Our colleagues are letting us
15 know what they know from the product team.
16 Q And is that [redacted]'s team?
17 A That's [redacted]'s team, yes.
18 Q Who makes the decision about which stakeholders to engage with prior to a
19 public announcement?
20 A So it would be my team's job to create those lists and then those -- you
21 know, list makes it sound longer than it is, but some short, you know, group of
22 stakeholders, and then -- so we would make those lists.
23 Q Sticking with the firearm example, you mentioned that if there were one or
24 two civil society organizations that were under consideration, who makes the final call
25 about which ones, if any, to have to reach out to?

1 A I mean, so I see that as a public policy decision, right, who we are going to
2 engage in the public policy universe, and that decision-making authority ultimately rests
3 with my boss who leads the organization. I don't believe that she was involved in that
4 decision but it's ultimately hers to make.
5 I think usually I would make and then sort of, you know, with derivation of
6 authority here, I would make the decision or sometimes it would just be made at the
7 working level on my team.
8 Q With the firearm examples, do you recall for the kind of government, law
9 enforcement, and civil society, who actually made the final decision in this example?
10 Was it you, [redacted], or someone else?
11 A I'm only pausing because I don't recall it as sort of a decision the way you're
12 describing it but, rather, I was made aware that some conversations were going to
13 happen and those conversations then proceeded. So, I mean, I guess we could call it a
14 decision. It just didn't feel like a yes or no kind of moment.
15 Q And when you say you were made aware, made aware by [redacted]?
16 A By [redacted].
17 Q And was there anyone else that participated or witnessed that discussion as
18 part of any conversation?
19 A Was there anybody else that joined [redacted] in those conversations?
20 Q Yes, joined you and [redacted] as far as --
21 A Those conversations that we were describing as potentially decision-making,
22 those were just me and [redacted].
23 Q Okay.
24 A And then I didn't participate with [redacted] in those conversations. So I actually
25 don't know who joined him. It's very possible he did them alone.

1 Q Do you know why DOJ was included?

2 A DOJ was included because I think they have interest in the topic of -- you

3 know, as the law enforcement arm of the United States Government, I think they have

4 interest in the topic of firearms.

5 Q Do you know if there had been any engagements with DOJ regarding the

6 community guidelines section on firearms prior to this update information sharing?

7 A Not that I'm aware of.

8 Q Prior to -- let me rephrase that.

9 You weren't 100 percent sure if Everytown for gun safety was included or not

10 but --

11 A Again, I don't recall. I know they were considered at some point.

12 Q We'll just say prior to the beginning of March, do you know if [redacted] or other

13 members of your team had been engaging with that organization previously?

14 A So part of the reason I'm pausing on Everytown and that I can't remember is

15 because one of these civil society groups is suing YouTube, and so we have not been

16 engaging with them, as you would not in that situation. And so I'm just getting my -- I'm

17 just getting those groups a little bit confused, which is which. So I just don't know on

18 Everytown.

19 Q Just referring I guess to kind of one level above that then generality, for

20 these civil society groups that are related, to the issue that may have been under

21 consideration is one way of putting it, who within your team is responsible for interacting

22 with those types of civil society organizations?

23 [redacted]. You mean generally?

24 [redacted]. Just generally.

25 [redacted]. So generally, every member of my team is responsible for

1 interacting with civil society organizations that could inform the work of policymakers.
2 Civil society organization is a long list, small team, so we don't engage with every civil
3 society organization. But that engagement, to the extent that there is some, is owned
4 by my team.
5 BY [redacted]:
6 Q Can you say a bit more about how your team is structured as far as -- so
7 there's certainly a long list of stakeholders within just the executive branch. I'm sure
8 civil society organizations. How is your team structured to divide those responsibilities?
9 A And we're just speaking of the U.S. here specifically?
10 Q Yes, sorry. Just to the United States.
11 A So currently I only have one report in the United States, so there is not much
12 structure there. I could speak from a historical perspective.
13 Q Yes, if you could, please.
14 A Sure. So historically, the way we have divided that universe has been -- I
15 had what evolved a bit over the years, but I've had people who handled individually the
16 House and Senate. I had a person who was responsible for the House and then State
17 level engagement, and then I had a person who was responsible for the Senate and
18 executive branch engagement, and then I had a person for a period of time who was just
19 responsible for third-party civil society engagement, and then, you know, as people have
20 moved and left, I've sort of reallocated those pieces.
21 Q For the individual who had the executive branch and the Senate, I think you
22 said, which individual is that?
23 A So that was [redacted] for a time, but then his counterpart on the
24 other side left, so, you know, the allocation changed.
25 Q Do you recall which years, approximately, [redacted] was in charge for the

1 executive branch?

2 A And I just want to be careful about words here, you know, given your advice.

3 In charge of I just don't like because, ultimately, I'm in charge.

4 Q Sure. Happy to rephrase. Primarily within his or her portfolio.

5 A Sure, perfect.

6 What years? Back to your question. Just having to think here. Late 2022 until

7 let's call that spring of this year.

8 Q And prior to late 2022, who on the team had within their portfolio the

9 executive branch?

10 A I mean, so that -- [redacted] was the second U.S. hire on my team. As we

11 previously discussed, [redacted] was the first U.S. on the team. So prior to [redacted]'s

12 arrival, [redacted] at the working level had responsibility.

13 Q Once the decision has been announced -- we'll stick with the firearms policy

14 as an example. In this particular case, are there executive branch stakeholders that your

15 team planned to engage with kind of preemptively, or were you waiting for stakeholders

16 to reach out to your team for questions?

17 [redacted]. Before you answer, because I'm not sure I understand the question.

18 You're saying did the witness' group plan to reach out to certain executive branch

19 stakeholders at what point in time?

20 [redacted]. In the preparation process, prior to the public announcement; for

21 engagement, after the announcement, if that makes sense.

22 [redacted]. It doesn't make sense.

23 BY [redacted]:

24 Q So there's a small bucket of stakeholders that you engage with

25 pre-announcement, and then you mentioned just kind of more broadly there's preparing

1 so you guys are pre-positioned. Is there a list -- I'll ask it more generally.
2 Is there a list of stakeholders that you plan on proactively reaching out to once it's
3 been publicly announced, or is your team just kind of prepping so that when stakeholders
4 reach out, you're just in a more, for lack of a better word, reactive position?
5 A Definitely the latter, the reactive position.
6 Q Following the public announcement of the firearm policy change, do you
7 recall which or if any other executive branch stakeholders reached out to your team or to
8 the company?
9 A I don't recall any outreach.
10 Q We had touched upon this a little bit earlier in the hour about the
11 engineering team responsible for I think your words were elevating and reducing
12 content?
13 A Raise and reduce were my words.
14 Q Raising and reducing?
15 A Yep.
16 Q Do you know by what set of standards they determine what to raise or
17 reduce?
18 A I do not know.
19 Q To your understanding, is it a different set of standards than the community
20 guidelines?
21 A Maybe if I could take a step back here to try and answer your question.
22 YouTube has a few tools that we use to manage our vast library of content. The
23 community guidelines are what we use to remove content. So content that's uploaded
24 that violates our community guidelines is removed from our platform.
25 Raise and reduce are different categories entirely and not attached to the

1 community guidelines. If content violates the community guidelines, it's removed.

2 Q Do you know what the name of the policy or whatever is being used, what

3 the name of that is for the raise and reduce?

4 A I have some general familiarity with what are called our search rater

5 guidelines. It's a publicly available set of guidelines that we use to train the systems.

6 I think, again, in that effort to take a step back, the important thing to think about

7 on the remove pillar, as we call it, is that's a very individual piece of content, right. It's

8 either that video violates or does not.

9 On the raise and reduce, it is -- that happens algorithmically. It doesn't happen

10 around an individual piece of content, and so I know that our search rater guidelines are

11 used to train those algorithms about how to elevate or reduce certain broad classes of

12 content.

1

2 [10:57 a.m.]

3 BY [redacted]:

4 Q So if you have the engineers that are helping implement the search rater

5 guidelines, are they also the individuals -- I guess who drafts the search rater guidelines,

6 to your understanding?

7 A I don't know.

8 Q Do you know broadly which team is responsible?

9 A I do not know, no.

10 Q Do you have a sense of how often the search rater guidelines change or are

11 modified?

12 A I do not know.

13 Q Do you have any familiarity or any sense of if there's going to be a similar

14 major change to the search rater guidelines, does it follow a similar process to what

15 happens when there is a major change to the community guidelines?

16 A Not in my experience.

17 Q Just a very general -- based off your experience and interactions with the

18 executive branch, do you typically get questions more about the community guidelines or

19 more about the search rating guidelines?

20 A Very, very much the former. Questions about what content is removed or

21 not and the community guidelines associated with that.

22 Q Can you recall any examples where an executive branch stakeholder was

23 interested in the search rater guidelines or the raise reduce efforts?

24 A I mean, sure. Certainly in preparation for my appearance today, I've had

25 my memory refreshed around interest from the White House, and I think it was 2021 on

1 that topic.

2 Q Besides that example, can you think of any other examples?

3 A Sure. Yeah. In 2020, in advance of the 2020 presidential election, I recall

4 conversations with the Department of Homeland Security about our efforts to elevate

5 authoritative information around that election that was taking place that year.

6 Q Do you recall which entity within the Department of Homeland Security?

7 A Yes. I recall it being CISA, C-I-S-A.

8 Q Do you recall who from CISA you or your team was interacting with on this?

9 A So what I recall about that time, which was a long time ago, was a lot of

10 conversations with a lot of folks in Washington about authoritative

11 election -- authoritative information in the election. I recall specifically engaging with

12 Chris Krebs at a -- for a period of -- for an engagement, but I think there were more.

13 Q And what concerns or what questions did the government have for your

14 team?

15 A You know, it's hard -- I don't recall those specific questions. I think what I

16 recall generally around that time was questions about how YouTube was going to provide

17 our users with authoritative information about the election, so how to vote, where to

18 vote, what -- you know, even down to just really mundane stuff, like what day is Election

19 Day? How late are the polls open?

20 Q Was this just for YouTube, or were the conversations with, like, Google

21 search, for example?

22 A I'm sure there were conversations with Google search, but that's not what I

23 do, and so, I don't have any familiarity with those.

24 Q Do you have, or have you had during your time with the company any

25 interactions with the Google search team?

1 A When you say, "Google search team," I assume you mean a product team
2 and not my public policy peers.
3 Q That's right.
4 A Not that I recall.
5 Q With the meetings with Chris Krebs, was [redacted] or anyone from the
6 search and discovery team part of those conversations?
7 A Not that I recall.
8 Q If a stakeholder had a question about how results appear within YouTube,
9 when someone runs a search within YouTube, is that a trust and safety community
10 guidelines decision, or is that a raise reduce or kind of like a third bucket?
11 A I'm actually not positive.
12 [redacted]. Can we go off the record, please.
13 [Discussion off the record.]
14 BY [redacted]:
15 Q Good morning, [redacted].
16 A Good morning.
17 Q I just have a couple questions, and I shouldn't take the whole hour or very
18 long at all.
19 A Okay.
20 Q But just a couple follow-up questions from the first hour. Earlier in the first
21 hour, you were describing your job generally. Is it fair to say that you lead a team that
22 advises the company on public policy issues around online user-generated content?
23 A Yes, that's fair.
24 Q And you've worked for two different presidential administrations during
25 your time at YouTube, correct?

1 A There have been two different presidents, yeah. I want to be precise there.
2 Yes, there have been two different presidents during my time at YouTube.
3 Q That's fair. That was President Trump's administration and President
4 Biden's administration, correct?
5 A That's correct.
6 Q One of the many responsibilities of your team, which you talked a lot about
7 in the first hour, was to be responsive to inquiries about issues raised by external
8 stakeholders, correct?
9 A External stakeholders in that public policy world, yes.
10 Q And to be clear, your team would be responsive to external members like
11 the White House, just like it would be external responsive to other external stakeholders,
12 like Members of Congress or agency officials. Is that correct?
13 A That is correct.
14 Q And you would work with members of Congress of both parties?
15 A Absolutely.
16 Q And different agencies across different administrations.
17 A Absolutely.
18 Q Representatives from other governments that were outside of the United
19 States.
20 A Correct.
21 Q And civil society organizations.
22 A Some, yes, correct.
23 Q Okay. And your work being on behalf of the international corporation, you
24 would say that your work is not partisan towards one political party over another,
25 correct?

1 A Correct. I would most certainly not say that.
2 Q And you testified earlier, but I just want to clarify again, your current role,
3 you don't have any role in actually making content moderation decisions at YouTube?
4 A That is not my job at YouTube.
5 Q And you don't deal with content moderation in any of Google's products
6 outside of YouTube, correct?
7 A Just to be precise here, I'm aware of content moderation decisions, because
8 again, from -- as I discussed previously, public policymaker interest, but it is not the job of
9 my team to make content moderation decisions.
10 Q And I just want to talk very -- take a broad -- we talked about some of the
11 four Rs in the first hour, but I just want to take a step back and talk about them more
12 broadly, two of them specifically. And just for the record, the four Rs, are remove
13 violative content, raise up authoritative voices, reduce the spread of borderline content,
14 and reward trusted creators. Is that correct?
15 A That is correct.
16 Q And you testified earlier that trust and safety is responsible for making the
17 decisions to remove content based on violations of community guidelines. Is that
18 correct?
19 A That's correct.
20 Q And those community guidelines are public and transparent for YouTube's
21 customers. Is that fair to say?
22 A That is correct.
23 Q They're available online if a customer so wanted to see what the guidelines
24 actually are?
25 A Yes.

1 Q And those guidelines just in a general sense, they are to really prevent
2 harmful content like hate speech, graphic violence, nudity, things that could actually
3 cause harm to the consumers. Is that a fair characterization?
4 A Preventing the causing of harm is absolutely one of the reasons we have
5 community guidelines.
6 Q And YouTube has a policy against medical misinformation. Is that correct?
7 A Yes.
8 Q And YouTube has a specific COVID-19 medical misinformation policy,
9 correct?
10 A We have had a COVID-19 medical misinformation policy, yes.
11 [redacted]. Do you know when that policy went into effect?
12 [redacted]. I believe it -- it certainly went into effect in 2020, and I believe it was
13 the fall of 2020.
14 [redacted]. Thank you.
15 BY [redacted]:
16 Q Broadly speaking, this policy prohibits verifiably false and harmful claims
17 regarding treatments, public health measures, and misinformation about vaccines. Is
18 that --
19 A That is consistent with my broad understanding of the policy.
20 Q So just using an example, if a YouTube video claimed that the COVID-19
21 vaccine, for example, would magnetize you, that would be violative of the guidelines and
22 subject to removal?
23 A I want to be careful here, because as we just talked about, I don't moderate
24 content for a living. It's a nuanced business. It requires expertise that I don't have.
25 But based on my general understanding, that seems accurate.

1 Q Okay. I guess I'm interested to know, generally speaking, YouTube as an
2 international corporation, it has a business interest in preventing harm from its users. Is
3 that fair to say?
4 A I think that's fair to say. I might say it in my own words just a little bit
5 differently, which is that we have a business interest, you know, to your point about
6 business interest, we have a business interest in being responsible. Our business is
7 largely funded by advertisers, and advertisers are generally risk averse and not interested
8 in advertising on content that would be harmful to users.
9 Q Thank you. And I know that you testified you do not make content
10 moderation decisions, but to the best of your understanding, does YouTube ever remove
11 content based solely on the political or ideological viewpoint of the speaker of the
12 content producer?
13 A Not in my experience.
14 Q I just want to talk a little bit specifically about the reducing borderline
15 content R. What does it mean in your words, and just in a very general basis, to reduce
16 content on YouTube?
17 A In general words, that means not recommend that content to our user, or
18 endeavor to not recommend that content to our users, but that content is still available
19 on YouTube. It's just not recommended to our users.
20 Q So that was my next question. If a video is reduced on YouTube, it's still
21 available to any YouTube user who actually wanted to specifically watch it, correct?
22 A Correct.
23 Q Would you characterize reducing a video under the four Rs as censorship?
24 A I would not characterize it that way, no.
25 Q Thanks.

1 [redacted]. Any questions, [redacted]?

2 BY [redacted]:

3 Q I just want to follow up on some of your -- the testimony from the previous

4 hour. You talked about some of the stakeholders that [redacted] met with as part

5 of the rollout of the firearms policy. And I believe you said there were government

6 stakeholders, correct?

7 A I did, yes.

8 Q And your understanding was it was from the deputy attorney general's

9 office?

10 A That is my recollection, yes.

11 Q And the Major City Chiefs Association is your recollection?

12 A That is my recollection.

13 Q They're not themselves a law enforcement agency, they're an advocacy

14 organization that represents a coalition of law enforcement agencies.

15 A Correct.

16 Q And I imagine that when you worked on the Hill -- well, I'll just ask you.

17 When you worked in Congress, for Members of Congress, either on the House side or the

18 Senate side, that was an organization that people on the Hill or that you in your

19 experience have worked with before.

20 A I actually -- I personally don't believe I've ever worked with the Major City

21 Chiefs. I'm certainly familiar with the Major City Chiefs from my 20 -- coming up on 22

22 years in Washington.

23 Q Did you work with organizations like them, organizations that represented

24 interests of particular types of sectors of law enforcement or just society in general?

25 A Yes, I did.

1 Q And the civil society orgs that you mentioned, I know you mentioned
2 Everytown. You weren't sure if that was the organization, but organizations like that
3 were also the types of organizations that you would engage in as a staffer for a Member
4 of Congress.
5 A I have engaged with many advocacy organizations over the years, including
6 during my public service.
7 Q And your team at YouTube works with all of those types of stakeholders,
8 whether it's government stakeholders, law enforcement stakeholders, civil society
9 stakeholders, regularly?
10 A That is correct.
11 Q That is, in fact, the essence of what your team does.
12 A That is correct.
13 Q And I believe you said that you had team members whose -- at one point
14 there was somebody whose responsibility was to engage with the House of
15 Representatives and somebody else was assigned to engage with the Senate.
16 A That's correct.
17 Q And members from both parties. You did not separate it out by party?
18 A We did not.
19 Q When [redacted] was having the meetings with the external
20 stakeholders, that was for the purpose of explaining the policy so that they could
21 understand the changes in the policy. Is that a fair characterization?
22 A Yes. He was -- he was explaining the changes of the policy. Yes, that's
23 accurate.
24 Q And the policy was already baked at that point. Is that a fair --
25 A That is my understanding that the policy was baked at that point, yes.

1 Q And by "baked," meaning it was already finalized and determined that it was
2 going to be implemented?
3 A Correct. I think as I testified earlier, I just mentioned, like, you know,
4 maybe minor tweaks around the edges, but yes, the three big buckets of policy changes,
5 as I understand them, were absolutely baked, and I have -- I do not believe they changed
6 from that period in late February until today.
7 [redacted]. Thank you very much.
8 [redacted]. We'll go off the record.
9 [Discussion off the record.]
10 BY [redacted]:
11 Q With respect to [redacted]'s meeting with DOJ, do you recall which personnel
12 specifically? You mentioned the office, but do you know?
13 A I do not know.
14 Q Did --
15 [redacted]. Make sure the question is over before you answer, so there's no
16 crosstalk.
17 [redacted]. Thank you.
18 BY [redacted]:
19 Q For that particular meeting, do you recall if [redacted] brought any sort of readout
20 about how it went, if there were any questions?
21 A Not that I recall.
22 Q What's the typical practice? Would he give you, like, a verbal briefing?
23 Would it be in an email? Any sort of a --
24 A I hesitate to say that there's even a typical practice, but probably most likely
25 would be in our weekly one-to-one. He would say, You know, here's a few people I met

with this week, here's that how went.

Q Is your weekly one to one, is that in person?

A It really varies.

Q We just started to touch on this within the last hour, but the interactions with the White House in 2021. Do you recall when the first time you had interactions with the Biden White House regarding YouTube's community guidelines or just concerns more broadly about misinformation?

A Off the top of my head here, I don't recall the first time.

Q Do you recall how you were first roped in? Were you contacted directly by the White House, or was someone else from the company interfacing with the White House, and at some point you were brought in?

A I just don't recall specifically about those engagements.

Q During this time, would [redacted] have been the one primarily who would have been the team member with the executive branch within his portfolio?

[redacted] When you say this time --

[redacted]. Sorry. 2021.

[redacted]. 2021?

[redacted]. Yeah.

[redacted]. So in that period, as you and I discussed, [redacted] was the only person on my team in the United States, so yes, but also, I mean, me.

BY [redacted]:

Q Did you interact with Rob Flaherty?

A I believe I have -- I know I have interacted with Rob Flaherty I think once. So yes. Yes to your question, I have interacted with Rob Flaherty.

[redacted]. When you say you think once, you mean, live in a meeting or --

1 [redacted]. I believe I attended a virtual meeting that Rob Flaherty requested.
2 BY [redacted]:
3 Q Do you recall when that meeting was approximately?
4 A I believe it -- it's vague, but I believe that was in 2021 or perhaps early 2022.
5 Q Do you recall who from the company attended that meeting?
6 A Off the top of my head here, I do not.
7 Q Do you recall who else from the White House attended besides Mr. Flaherty?
8 A That just suggests -- apologies. I just don't have that specific of a
9 recollection of that meeting. I can sort of say to you I know that I have been in a
10 meeting with him, a virtual meeting, but I just don't have that level of specificity of
11 recollection.
12 Q Do you recall anything else about the meeting? Do you recall what the
13 purpose of the meeting was?
14 A So I don't recall that specific about that meeting. I sort of have a general
15 recollection of what our engagement -- the topics of -- the topic of our engagement with
16 Rob Flaherty, so I can make those conclusions from there, but I just don't recollect -- I can
17 sort of see -- I can see him in that meeting.
18 Q What's your recollection just as far as the general subject areas that your
19 team was engaging with Mr. Flaherty and his team on in 2021?
20 A Yes. The general topic was YouTube's approach to COVID and COVID
21 misinformation and how our platform was managing content around that topic.
22 Q And from your understanding, what were Mr. Flaherty's or the White
23 House's concerns? Why were they seeking to meet with your team?
24 A My recollection of that time was that the White House was concerned about
25 general COVID misinformation narrative trends, and they were meeting with a number of

1 platforms, including ours, to try and address that misinformation in such a way to, you
2 know, keep Americans safe in the moment of a global pandemic.
3 Q Did you have any -- do you recall having any contact with your colleagues at
4 other social media companies about their interactions with the White House?
5 A I do not recall having any contact like that.
6 Q Based off your interactions with the White House, did you get a sense that
7 the White House thought YouTube was adequately addressing misinformation on
8 vaccines in 2021?
9 [redacted] You're asking whether she believes that the White House thought
10 that YouTube was acting, you said adequately, I think.
11 BY [redacted]:
12 Q It was adequately addressing.
13 A My general recollection of the time was that -- was a sense of general
14 frustration by the White House with platforms, and then, you know, because I work for a
15 specific platform, like, specific questions about our platform.
16 Q Did you get a sense during any of your interactions whether the White
17 House had more or less frustration with YouTube compared to other platforms?
18 A I don't know that I got that sense particularly from my limited interactions
19 with the White House, but my recollection of that period is that the White House and
20 others in Washington thought that YouTube was more responsible than some other
21 platforms.
22 Q And what do you mean by more responsible?
23 A Well, I mean, that's how I thought they thought of it, but for those in
24 Washington at the time who cared for whom a policy priority was COVID misinformation,
25 I think they felt that YouTube as a result of some of the tools we've already discussed

1 today, remove, raise, reduce, was acting more responsibly around COVID misinformation.
2 Q During this time period did you get a sense, either from your interactions
3 with the White House or just your familiarity with Washington, D.C. of which platforms
4 the White House thought was acting less responsibly on this issue?
5 A My general recollection of the time is that those who had those concerns at
6 the time were more concerned about Facebook as a platform.
7 Q Do you recall during your interactions with the White House, or your team's
8 interactions a little bit more broadly in 2021 whether the White House had questions
9 about the removal of content and community guidelines, or the raise reduce efforts, or
10 both, during this time period?
11 A I just have had so many conversations on these topics over the last 4 years
12 with so many stakeholders. I want to be careful here not to guess per your advice, so I
13 just don't know.
14 Q Do you recall interactions with the Biden White House on -- in 2021 on issues
15 other than misinformation?
16 A By my team?
17 Q By you, yeah, or your team.
18 A By me or my team. I'm just clarifying here. Big company. Big -- lots of
19 policy priorities.
20 Q Sure.
21 A I don't recall anybody -- I don't recall me or anybody on my team having
22 conversations on other policy topics as I sit here right now. No, I do not.
23 [[redacted] Exhibit No. 1
24 was marked for identification.]

1 BY [redacted]:

2 Q This will be exhibit 1. It's an email from the White House to individuals at

3 Alphabet from April 22nd, 2021.

4 A Can I take a moment to read it?

5 Q Please.

6 A Okay. Thank you for that time.

7 Q Can you walk us through who the individuals are on the "to" line that we

8 haven't gone over yet?

9 A Sure. So let me take a step back to explain one team here we haven't

10 discussed, which is YouTube's civics team, and both [redacted] and [redacted]

11 are on that team. YouTube's civics team engages globally, and there is a U.S. specific

12 team, with policymakers on platform enablement, by which I mean the ways in which

13 policymakers use YouTube as a tool for communication.

14 So that includes the White House, but that also includes folks on the Hill, on both

15 sides of the Capitol, both sides of the aisle, folks around the world.

16 So at the time, I think, [redacted] led engagement on that team with

17 left-of-center policymakers in the United States, and then [redacted] as we've discussed,

18 and then [redacted] was [redacted]'s manager, the leader of that team. [redacted],

19 I think, we've discussed. [redacted] was, at the time, somebody who worked on, I

20 believe, Google government affairs and public policy with an issue area focus on

21 misinformation. And then [redacted] worked on the Google team responsible for

22 engaging with the executive branch, and I believe she, at the time, was focused on the

23 White House.

24 Q Thank you. After having a moment to review the email, do you recall either

25 this email or the meeting that Mr. Flaherty references?

1 A So I have seen this email prior to this moment in preparation for my
2 appearance today from my attorneys. I do not have an independent recollection of that
3 email aside from that preparation.
4 Q With the understanding you don't have an independent recollection of
5 receiving the email or the meeting, Mr. Flaherty at the paragraph that starts with, "to
6 recap," a little ways in he starts, "We remain concerned that YouTube is," he puts in
7 quotes, "funneling people into hesitance and intensifying people's hesitancy." Do you
8 know what Mr. Flaherty meant by funneling in this context?
9 A I don't know what's in Mr. Flaherty's head.
10 Q Just more broadly, do you recall Mr. Flaherty or others in the White House
11 asking about whether YouTube was, quote, "funneling" people?
12 A Not that I recall.
13 Q Do you have a -- have you heard others just in your engagement with
14 stakeholders use that term?
15 A Yes, I think I have heard that term over the years.
16 Q When folks use that term, what do you interpret it to mean most
17 commonly?
18 A The way I think of it is there's this narrative around YouTube and what are
19 called rabbit holes, and the idea that you perhaps come to YouTube for information on
20 one topic, and then you get further and further and further into a more calcified, and,
21 perhaps, incorrect view on that topic, and then the content that gets recommended to
22 you is -- only represents that view and not a broader view or more accurate view or view
23 from, you know, another perspective.
24 Q Do you recall just broadly whether Mr. Flaherty or others in the White House
25 had represented concerns to YouTube about how recommendations -- YouTube's

1 recommendation system was recommending certain viewpoints?

2 A So I have my recollection refreshed around this email and I think that this

3 email indicates that. I also have a general recollection of the time of some policymakers

4 in Washington having that general concern. I don't have anything more specific than

5 that.

6 Q And was that based off your general recollection, that general concern that

7 YouTube may be recommending videos, content that displayed vaccine hesitance or

8 anti-vaccine views?

9 A Yes, I generally recall that about that time policymakers having that concern.

10 Q And is that concern consistent with the concerns that Mr. Flaherty or other

11 members of the White House were expressing to your team during this time?

12 A I think that concern is consistent with the email that you've shown me here,

13 yes.

14 Q At the bottom of that same paragraph, Mr. Flaherty writes, This is a concern

15 that is shared at the highest, and I mean highest levels of the White House. Do you

16 recall whether Mr. Flaherty or anyone else in the White House communicated that

17 message that the concern was shared by higher levels within the White House in any

18 other meetings with you or your team?

19 A Yeah. I don't have that specific level of recall, so I don't remember. I'm

20 sorry.

21 Q Did you, through your interactions with the White House or through your

22 team members' interactions with the White House, ever get a sense of how high within

23 the White House these concerns were coming from?

24 A I mean, I recall public statements from up to and including the President at

25 the time around concerns around, you know, vaccine misinformation.

1 Q Do you recall any internal conversations, conversations within the company,
2 about whether higher levels within the White House had this concern?
3 A I don't recall any conversations like that.
4 Q If I can take your -- call your attention to the third bullet point, Mr. Flaherty
5 writes, "I appreciated your unequivocal response that you are not recommending
6 anti-vaccine content and you are lifting authoritative information in both search and
7 recommendations to all audiences."
8 First, do you recall whether there was any discussion trying to break out concerns
9 about recommendations versus search results? If the conversation got that granular?
10 The company explaining to the White House.
11 [redacted]. Wait a minute. The concern -- you're asking about whether the
12 White House separated its concerns about which two things?
13 BY [redacted]:
14 Q Recommendations as opposed to search results.
15 A I don't recall that.
16 Q We had mentioned where we talked about in the guidelines and the search
17 rater guidelines for the raise reduce, do you recall if in these meetings or other
18 discussions with the White House if there was any discussion around the search rater
19 guidelines, what was included, what was not included for raise reduce?
20 A I don't recall.
21 Q For a meeting like this one with the White House, what's the company's
22 typically -- your team's, I should say, typical protocol as far as post-meeting? Is a
23 readout provided? What sort of work product, if any, is created?
24 [redacted]. I'm sorry, [redacted], which meeting are you talking about?
25 [redacted]. For meeting -- using as an example, the one between Mr. Flaherty and

1 members from the company referenced in this email.

2 [redacted]. Okay. Thanks.

3 [redacted]. Maybe I can just talk about how sort of general practice on my team

4 that I encourage.

5 BY [redacted]:

6 Q Yes.

7 A So, you know, I encourage and, you know, model, this is what I do, that my

8 team takes thorough notes in meetings, so we understand what happened with a sense

9 of what our action items are in terms of, you know, oftentimes there are questions and

10 we have to go back and provide more information. And so, that sort of general practice,

11 you know, understanding what happened and then just making sure we're doing any of

12 the do-outs that come out of the engagements.

13 Q In spring, 2021, based off the team structure that you guys had at the time,

14 who on the team would most likely be taking notes for a meeting like this one with the

15 White House?

16 A So I only -- you know, there's only one person on this email that's in my

17 chain of command, and as is often the case in meetings, the most junior person takes the

18 notes, so if there were notes about the meeting, I would expect that [redacted] would

19 have taken those.

20 Q Now that you've had a moment to read the email and we've been talking

21 about some of your interactions with the White House, do you recall in this specific

22 instance whether [redacted] or anyone else within the company took notes about the

23 meeting with the White House?

24 A I do not recall.

25 Q When -- turning back to just kind of a more general common practice

1 question, when someone, whether [redacted], or someone else on your team is taking
2 notes, are those -- do those tend to be circulated via email or some other product or way
3 of communicating those notes?
4 A It just really depends. Certainly not necessarily. Just not necessarily is
5 what I would say.
6 Q How else would notes from a phone call be shared?
7 A Well, I guess my point there in that previous answer is that they might not
8 be shared. They might just exist for our team to have an understanding of what
9 happened and make sure we're doing the work coming out of it.
10 Q Uh-huh. Is there a way of -- let's say [redacted] is taking notes in the
11 meeting. Is there any sort of internal messaging system or things other than email
12 where you can access those notes or be sent those notes?
13 A Like an organized hub of some sort?
14 Q Yeah.
15 A No.
16 Q Okay. So typically it would be [redacted], or someone could take notes and
17 then maybe check back on them later if there's a question that needs to be referenced,
18 maybe they're emailed, but otherwise you can't think of otherwise notes might be shared
19 internally?
20 A Detailed notes from a meeting, no. No.
21 [[redacted] Exhibit No. 2
22 was marked for identification.]
23 BY [redacted]:
24 Q Okay. So this is exhibit 2. It's an internal Alphabet email dated April
25 22nd, 2021. I'll give you a moment to review it.

1 A Thank you. Okay. Thank you for the time.

2 Q Do you recall this email?

3 A I don't recall this email outside of having read it now and then having read it

4 in preparation for my appearance today.

5 Q I understand you have a specific recollection dating back to the email itself.

6 For an email like this, would -- you're copied on it, but it's from [redacted] originally.

7 Would he have run a draft like this by you first before sending it?

8 A A draft of the email, no, I don't think he would run a draft by me.

9 Q What about whether to email [redacted] in the first place?

10 A So I think generally, because I don't have the specific recollection, before my

11 team would engage other colleagues outside of the gap team, before they would ask

12 them to participate in what is effectively our work, we would probably discuss that,

13 because we are cautious about using other teams' times.

14 Q In this specific instance, do you recall whether you spoke to [redacted] about

15 whether to reach out to [redacted]?

16 A I don't recall.

17 Q Other than the example referenced by this email in relation to interactions

18 with the White House in the spring of 2021, do you recall other instances where your

19 team consulted with [redacted]?

20 A No, I don't recall.

21 Q Do you have a sense of how often members of your team will reach out to

22 [redacted] for help like this, or is this a relatively rare episode in your experience?

23 A Very rare. As we spoke earlier, I very rarely engage with [redacted] myself,

24 and I think that's true for my team as well.

25 Q [redacted] writes in the second sentence of his first email to [redacted],

1 Unfortunately, the role of tech in addressing vaccine hesitancy is about to come under a
2 massive spotlight, particularly as the supply of the vaccine is soon set to outpace
3 demand." Is that consistent with your recollection during this time?
4 [redacted]. Is what consistent?
5 BY [redacted]:
6 Q That the role of tech addressing vaccine hesitancy is about to come under a
7 massive spotlight.
8 A So those aren't my words. What I would say I recall around this time was
9 that the White House was -- saw it as a policy priority to encourage Americans to get
10 vaccinated, and they had an interest in the role of tech platforms and that policy priority.
11 Q Did that policy priority include addressing misinformation on social media?
12 A Yes, I think they saw that as part of the way in which they would accomplish
13 that policy priority, yes.
14 Q In the bottom of [redacted]'s second paragraph there, he says, "As far as
15 timing goes, we are hoping to get something on the books in the next two weeks or so to
16 prevent anything from potentially spiraling out of control." Do you recall whether you
17 had a sense in April of 2021 whether there was the potential for things to spiral out of
18 control with respect to the company's interactions with the White House?
19 A So I don't recall much, if anything, about our engagement with the White
20 House in April of 2021, and I would just give you the additional piece of context in an
21 effort to be helpful here that on April 27th of 2021, I testified before the Senate Judiciary
22 Committee on a topic unrelated generally to this, on the topic of algorithms. And as I'm
23 sure you can understand, preparing for my first testimony before the storied Senate
24 Judiciary Committee required a lot of work, and I was sort of single mindedly focused on
25 that effort at the time, so this is sort of in a unique time period in my life.

1 Q Do you recall what that content -- so maybe after your testimony, just
2 generally within 2021, whether there were interactions with the White House where
3 things escalated beyond frustration?
4 A No, I do not recall anything ever in my history of working at YouTube in
5 engaging with both White Houses of anything escalating beyond frustration.
6 Q Do you recall any internal conversations within the company about how to
7 best manage the frustrations being expressed from the White House?
8 A I don't recall specific conversations. What I recall is that it is the job of my
9 team to explain our platform to outside policymakers, and that the best outcome is -- in
10 that situation, is having policymakers understand how our platform works and the
11 decisions that we make and that we are trying to do the right things by our community of
12 users and creators and advertisers. So I recall efforts to try and explain the work of our
13 platform to the White House at the time and to other interested parties in Washington
14 and across the region.
15 Q To your understanding, based off the situation in April of 2021, why was it
16 necessary to consult with [redacted]?
17 [redacted]. So, okay with the question, but you're asking her -- you know, it
18 wasn't [redacted] who communicated with [redacted]. It was [redacted]. But you're
19 asking her why [redacted] thought it was necessary to reach out to [redacted]. Is that right?
20 [redacted]. That's right.
21 [redacted]. Okay.
22 [redacted]. I don't recall, you know, again, the specifics of [redacted] reaching out to
23 [redacted], so I just couldn't tell you, because I don't know.
24 BY [redacted]:
25 Q To your understanding, based off the situation, the -- what [redacted] writes

as far as aiming to prevent anything from potentially spiraling out of control, and the fact that your team certainly does not often reach out to [redacted], is the purpose of reaching out to [redacted] to, in some way, ameliorate, you know, benefit the company's relationship with the White House? To your understanding, what is the dynamic at play here?

[redacted]. I think she already testified she doesn't know why [redacted] reached out to [redacted], so if you're asking a broader question about the dynamics, maybe that's something she does know.

BY [redacted]:

Q [redacted] ultimately reports to you and you have a familiarity with what the general practice in the company and a general familiarity of what the relationship was like with the White House during this time. Just to your recollection, to your understanding, if there's additional information you can provide about the context here. Is this -- it sounds like something that's certainly not an ordinary occurrence of bringing in [redacted]. Is this -- are there any analogous situations you think can of where someone from outside your team is brought in because there are frustrations or difficulties in the company's interactions with stakeholders?

A Maybe I could take a step back in an effort to try and provide you with information that would be helpful here. So as I mentioned, I see it as the work of my team to do the vast bulk of conversations with policymakers about their areas of interest around the platform. And I see it as my -- the job of my team to be the subject matter experts on YouTube when engaging across Washington.

There are, sometimes, areas of particular interest that are so granular that it -- that it is helpful to engage people from the product side who are -- who, you know, are involved in designing the product and understanding more deeply how the product

1 works. That is -- we have to understand that to a certain level, but not, you know, the
2 entire level. So sometimes we rely on their expertise, and sometimes it is just necessary
3 to have different voices or to show sort of whole-of-company response. So again, I
4 don't remember exactly how [redacted] got involved in this particular meeting, but there
5 have been a few times over my time at YouTube where I have engaged my product
6 colleagues to talk to policymakers.
7 Q Are there any other examples that come to mind?
8 A Let me think. Just trying to think of a specific example to be responsive to
9 you here. I mean, so recently, we had a conversation with the Senate Judiciary
10 Committee that is considering Federal right-of-publicity legislation, intellectual property
11 legislation, and we involved copyright subject matter experts from YouTube, because as
12 you may agree, intellectual property law is a very specific area of law, and we wanted to
13 have that level of specificity to those conversations, and I'm not an IP lawyer. Not a
14 lawyer at all.
15 Q Based off your understanding of the company's relationship with the White
16 House in 2021, was the issue that members of your team, or who else was on the call
17 earlier, was unable to provide specific answers to Mr. Flaherty? Or in a couple
18 responses earlier you mentioned there's a benefit of showing up kind of a
19 whole-of-company response. Was it more of an effort to show a degree of
20 responsiveness to the White House?
21 [redacted]. You're asking --
22 BY [redacted]:
23 Q I guess trying to -- the IP example is well-taken, but based off your
24 recollection, was this a scenario where -- I guess was there difficulty in explaining to Mr.
25 Flaherty the company's approach, or was the concern more that there was a

1 disagreement that Mr. Flaherty thought YouTube should be taking either a more or less
2 aggressive approach?
3 [redacted]. Just to be clear, you're asking why -- you're positing reasons why
4 [redacted] may have sent this email?
5 [redacted]. Well, I think those -- the answer to the question will speak to that, but
6 just more broadly. I'm not asking why [redacted] sent the email, but more broadly, what
7 the effort is from your team to bring in others to -- for the next engagement with the
8 White House.
9 [redacted]. Sure. So what I can see in this email that you shared with me with
10 this bulleted list from Mr. Flaherty are some really detailed questions about how the
11 platform works. It's a level of detail that I don't often see policymakers engage at, and
12 so, I think it's possible that [redacted] just felt that there was only so far he could go in his
13 knowledge, and he might need somebody, for example, who had a deeper understanding
14 of how raise and reduce worked.

1

2 [12:08 p.m.]

3 [redacted]. All right. Do you recall whether there was any discussions within the

4 company about potential adverse consequences that the White House could take against

5 the company?

6 [redacted]. I do not recall any conversations like that.

7 [[redacted] Exhibit No. 3

8 was marked for identification.]

9 [redacted]. Okay. Thank you.

10 BY [redacted]:

11 Q Do you recall this email?

12 A I do not. I do not, outside from I have seen this email in preparation for my

13 appearance today, but don't have an independent recollection of it.

14 Q At the bottom of the second paragraph [redacted] writes, "We believe having

15 the opportunity for you both to share more background would be hugely beneficial as we

16 seek to work closely with this administration on multiple policy fronts."

17 Independent of what [redacted] meant, in April of 2021 or thereabouts, do you

18 recall what other policy fronts the company was looking to work closely with the

19 administration on?

20 A So these are [redacted]'s words. These are not my words. And I don't

21 recall the specifics of this email.

22 So let me take a bit of a step back in an attempt to answer your question, which is

23 that YouTube is a big company, and there's also only one White House in all the world.

24 And so the White House would -- has the power to impact YouTube from a public policy

25 perspective.

1 And so it is the job of my team to try and explain how our platform works to the
2 only one White House that there is in the world and to other policymakers because
3 policymakers -- because it is the work of my team to try and help shape positive public
4 policy outcomes and this is an important policymaking organization.
5 Q In spring of 2021, do you recall in what sorts of ways the White House could
6 use policy that would be adverse to the company?
7 A What I recall is that YouTube in that period -- also true today -- had -- can be
8 very impacted by public policy decisions here on the Hill and in the White House.
9 And so, like, what I recall is that the White House had views on topics that would
10 affect YouTube from a public policy perspective. You know, the White House could help
11 inform the laws that Congress passes. The White House has a very large megaphone
12 and that could impact the company. And it's the job of my team to help manage that.
13 Q You mentioned there are topics that could have a huge impact on the
14 company. Do you recall which topics in 2021?
15 A I recall the company was very concerned then -- also -- it was also concerned
16 in the year prior, in 2020, and also concerned today -- about protecting our intermediary
17 liability or section 230 of the Communications Decency Act. I do recall that.
18 Q Do you recall within 2021 there were concerns about the executive branch's
19 approach to antitrust and whether that could be adverse to the company?
20 A I do recall that.
21 [[redacted] Exhibit No. 4
22 was marked for identification.]
23 BY [redacted]:
24 Q This will be exhibit 4. It's an internal email among Alphabet employees
25 dated May 24th, 2021.

1 Give you a moment to review.

2 A Thank you.

3 [Reviewing.]

4 Okay. Thank you.

5 Q I'm just going to ask about the first sentence.

6 A Sure.

7 Q Well, first let me ask, do you recall this email?

8 A I have seen this email in advance of today just in preparation with my

9 lawyers. I don't have an independent recollection of it.

10 Q At the top, you first write, "It's worth noting this quote is from White House

11 Digital Director Rob Flaherty (who, as this group knows, has been tough on us at times)."

12 Given the date of this email, do you recall any other topics or discussions that your

13 team was having with Mr. Flaherty during this time outside of concerns around YouTube's

14 approach to vaccine misinformation?

15 A I don't recall any conversations that we were having like that with

16 Mr. Flaherty. I don't believe we were, but I don't recall.

17 Q And based off your general recollection of your team's interactions with

18 Mr. Flaherty and the White House, is your description of Mr. Flaherty being tough on you

19 at times consistent with your general recollection?

20 A I think that's a fair recollection. It's a fair characterization. It would also

21 be a fair characterization of many in Washington, but I think it's fair of him, too.

22 Q When we were looking at the previous exhibit about concerns the company

23 broadly held about potential adverse consequences policymakers could take, was there

24 any particular concern about the risk of changes to 230 and whether that issue was at the

25 forefront because the company was having discussions with the White House around

content moderation addressing misinformation online?

[redacted]. Do you understand the question?

[redacted]. I think I understand the question.

[redacted]. Okay.

[redacted]. What I think might be helpful is if I take maybe a bigger step back and just sort of tell what you I recall about the company's approach to COVID misinformation at the time, if that's okay.

[redacted]. Yeah.

[redacted]. And then happy to take follow-ups.

What I recall about that time -- very strange time -- in which the company was trying to navigate an approach through the novel moment of a global pandemic, and what I recall is that the company was trying to -- was charting its own course based on what we determined to be our responsibility to our users, our creators, our advertisers to a lesser degree.

And there was no playbook on that, right? We had -- the company had not existed in the period of a global pandemic before, and so a lot of novel decisions had to be made.

But what I recall was that those novel decisions were being made based on our own values and opinions and not because of, for example, the values and opinions of Mr. Flaherty.

BY [redacted]:

Q Do you recall whether within the company anyone had expressed concerns that because there was a focus from the White House about misinformation online, whether that concern heightened the risk of section 230 being reformed?

A Can I -- I want -- obviously all your questions are important. So it's

1 important. I want to make sure I get it absolutely right. So can I just ask you to ask it
2 again?
3 Q Sure. During this time do you recall if there was any concern within the
4 company that the White House's concern about misinformation online heightened the
5 risk of changes or reforms to section 230?
6 A I don't remember specific concerns like that.
7 And I would also just point out that Rob Flaherty was from the Office of Digital
8 Strategy, which to my knowledge is not a policymaking office at the White House.
9 So I don't recall conversations directly tying Rob Flaherty's concern or the Office of
10 Digital Strategy's concerns to our public policy goal of preserving section 230.
11 Q In an earlier response you'd mentioned -- and obviously this is out in the
12 public domain, too -- that the concerns around misinformation weren't limited to just
13 Mr. Flaherty and his team but went up to and including the President himself.
14 With the understanding that you don't recall any specific recollections of what
15 Mr. Flaherty was saying impacting the risk of section 230 reform, more broadly, to the
16 extent the company understood that the White House writ large had concerns around
17 misinformation online, did the White House's concerns heighten the risk of section 230
18 being changed or modified?
19 A I sort of take a broader assessment here.
20 So I think President Biden has been on the record about his views about section
21 230. President Trump has -- I'll just use the two examples of the two Presidents that
22 have been President while I've been on this job -- has also been on the record about his
23 views on section 230, and my understanding is they generally broadly align.
24 If I'm handicapping to the company what are the chances of section 230 being
25 reformed or repealed, I don't believe that Rob Flaherty's frustration at the time would

play into that handicap calculation I'm making.

Does that answer your question?

Q Partially.

When you're making that calculation, once it becomes clear that this is a concern not limited to Rob Flaherty, does that change the calculus?

[redacted]. I'm sorry. I didn't -- you're saying that knowledge that the concerns were not limited to Rob Flaherty might have changed the calculus? So this is a hypothetical or is this --

[redacted]. Well, her previous response was whether, when assessing the risk of reform or removal of section 230 protections, whether Rob Flaherty's concerns changed that calculus.

If I understood your testimony --

[redacted]. Yes. That's right, yes.

[redacted]. So building off that answer, as we've discussed at other points within the interview, the concerns around misinformation online were not limited to just Rob Flaherty within the White House. It became clear that up to and including the President were concerned.

Once the company became aware that others within the White House, other than Rob Flaherty, shared this concern around misinformation on social media, did that change the company's calculus of the risk of section 230 reform or removing of those liability protections?

[redacted]. Okay. Maybe I've missed something, but I don't recall it being established that there were individuals in the White House beyond Rob Flaherty that were concerned about the COVID misinformation policy at YouTube.

BY [redacted]:

1 Q There was an earlier response to the witness, and I think there's also
2 evidence in the public domain of both the President's concerns and the press secretary
3 and others.
4 A I think those, if I recall correctly, those were concerns about COVID
5 misinformation but not specific to YouTube. In fact, the one I specifically recall was
6 specific to another platform entirely.
7 Q Yes. I think we're all in some degree at least referencing as one of the
8 examples President Biden at one point says that Facebook is killing people.
9 A Right.
10 Q But in an earlier response about the email where Mr. Flaherty indicates that
11 the concern "is shared by the highest (and I mean highest) levels of the White House,"
12 you provided testimony that it's your understanding that the concern broadly reached up
13 to and including the President.
14 Is that still consistent with your recollection?
15 A That is consistent with my -- it's not -- it's not just recollection but sort of
16 assessment of the time based on those public comments that the President made.
17 I will just tell you I did not -- I don't -- just because Rob Flaherty said something
18 had the concern at the highest levels of the White House was not necessarily indicative to
19 me that the President had that concern.
20 But the President, as you and I have both acknowledged here, I think, did make
21 public comments about COVID mis- -- that platforms are killing people or Facebook is
22 killing people as a result of the COVID misinformation.
23 Q Okay. So I guess just kind of turning back to the --
24 A Yes.
25 Q -- question we were addressing earlier, the company understandably had

1 certain policy concerns. We went through a couple of them.

2 A Yes.

3 Q Just your general recollection, whether it's you or your team providing the

4 risk assessment or just your general awareness of what the company's concerned about,

5 when calculating the risk of section 230 being reformed or repealed, did the White

6 House's concern about misinformation online in 2021 to the company's understanding

7 increase the risk of section 230 being reformed or removed?

8 A So the concern -- again, I'm just really trying to be very precise but thorough

9 in answering your question here.

10 When many on one side of the aisle -- we're talking about reforming section 230

11 at that time -- misinformation was a key reason used to explain that.

12 There was an entirely other side of the aisle that used another -- used other

13 reasons for needing to reform section 230. So I recall that about that time.

14 So what I saw is that what I remember about that time is that the President's

15 views were sort of generally consistent with those on his side of the aisle and that those

16 views were also sort of irreconcilable with the concerns of those on the other side of the

17 aisle, and that what has been borne -- what I believed at the time and what has been

18 borne out to be true is that the irreconcilability of those views have resulted in no action

19 on that particular public policy matter.

20 But -- so let me pause there and see if that helps answer your question.

21 Q That does. And when you said that one side of the aisle had raised

22 misinformation as a reason to consider reforming section 230, just to clarify --

23 A Yeah.

24 Q -- you're referring to the Democratic Party.

25 A Correct. Correct.

1 Q So I guess then, just kind of piecing together the previous responses, if
2 there's this general understanding that the Democratic side of the aisle has concerns
3 about misinformation and that misinformation's one of the reasons they're at least
4 publicly positing section 230 can be reformed, when the Democratic White House is
5 raising concerns about vaccine misinformation, was it the company's view that that
6 heightened the risk of pressure from the left side of the aisle to want to reform or remove
7 the liability protections from section 230?
8 A I see why you are linking all these things, and I understand the intellectual
9 linkages between them, but it just -- it's not entirely consistent with my experience.
10 The White House is a stakeholder in public policymaking, and we want to make
11 sure the White House understands the efforts of the company.
12 The people we were talking to in the White House about those efforts, at least in
13 these conversations that I've been familiarized with, are not really the same people who
14 are making decisions on public policy as far as I understand the structure of the White
15 House.
16 But we certainly want to explain our approaches on anything to the White House
17 of any Presidency because the White House is a powerful public policymaking
18 organization.
19 So that's sort of how I see it. Hopefully I'm not overparsing my response here.
20 I just want to be really truthful with you about how I remember it.
21 Q Sure. So understanding that Rob Flaherty as the digital director isn't
22 handling other policy issues, but it's your understanding that the White House is in charge
23 of implementing the President's policies in a number of fields. And if a White House was
24 concerned about one issue, it could take adverse action in another set of issues?
25 A That --

1 [redacted]. This -- hold on. Sorry.

2 [redacted]. Yes.

3 [redacted]. Before you answer that question, I feel like, I mean, she's trying to

4 answer your questions. I think what you've just asked, unless I'm misreading it, is purely

5 hypothetical, right?

6 I mean, if we can stick to what happened, what her perception of what's in these

7 emails, any other factual information you want to provide to her, I think that might be a

8 little more profitable.

9 [redacted]. Can I share one piece of information that's perhaps helpful, which is

10 where we began in 2015, 2016, 2017, I worked in the White House, and so I have some

11 familiarity with the different functions of the White House and how those functions do

12 and don't work together.

13 And so I think I bring that understanding to our conversation today and then likely

14 to this period of time, as well.

15 And so I'm perhaps -- I think that may be why I keep going back to the fact that I

16 don't see Rob Flaherty as a policymaker in the White House because that is not my

17 experience of how policy gets made in the White House.

18 BY [redacted]:

19 Q But we've had a couple questions on this point, what Rob Flaherty was

20 communicating to the company via email, maybe in meetings as well, and what was

21 consistent with what came out in the public domain, these were concerns not particular

22 to Rob Flaherty but concerns to Mr. Flaherty's bosses, in particular up to and including

23 the President.

24 Is that still consistent with your understanding?

25 A I think it's clear that the President around this time had concerns with

1 misinformation on at least one platform.

2 Q So if the President has concerns regarding misinformation on at least one

3 social media platform, is the company during this time concerned that the President

4 could then direct the relevant policy advisers to take actions that are adverse to the

5 company regarding section 230 reform or removing the liability protections?

6 A I just don't recall conversations in which those direct linkages were drawn.

7 Q Okay.

8 [redacted]. We're over.

9 [redacted]. Can we go off the record, please?

10 [Recess.]

1 BY [redacted]:

2 Q [redacted], I want to ask a couple of general questions. I know the last

3 hour we talked a lot about 230 and a lot about the interaction with the White House and

4 what connection, if any, there would be between those two subjects.

5 A Uh-huh.

6 Q During your -- and a caveat. All these questions are to the best of your

7 personal knowledge.

8 But to the best of your knowledge, in any of your interactions, your interactions or

9 any interactions with your team members with U.S. Government officials, did any of those

10 officials ever try to coerce you or anybody at YouTube into removing any content?

11 A In the -- did -- to the best of my knowledge, no officials ever tried to coerce

12 me or my team into removing content.

13 Q Thank you.

14 Did anybody from the U.S. Government, any officials from the U.S. Government,

15 ever try to threaten you or coerce you or anybody else at your team to remove -- to

16 reduce content on its platform?

17 A Not to the best of my knowledge.

18 Q Did you ever experience any U.S. Government official threaten you or

19 anyone at YouTube with adverse actions, such as section 230 reform, if the platform

20 refused to take any particular action that this government official desired?

21 A I do not recall ever feeling threatened in my engagement with government

22 officials.

23 Q Thank you.

24 Based on your experience and interface with YouTube -- or, I'm sorry, your

25 leadership at YouTube -- would you agree that the company operates in a manner that

1 respects the First Amendment rights of its platform users?

2 A So I'm not an attorney. So I want to be careful in talking about the First

3 Amendment.

4 What I would say to be true is that freedom of expression is a core value of

5 YouTube, and YouTube is a great library, rich with the value of freedom of expression.

6 Q Sure. Thank you.

7 I want to talk a little bit about the last hour. You were given a couple of emails in

8 those. The ones I'd like to refer specifically to are exhibit 2 and 3. And I'll give you a

9 minute to --

10 A Can you just tell me which?

11 Q Sure. Exhibit 2 is the --

12 A Yeah. Okay. Got it. Yep.

13 Q And I'm just going to generalize these two emails together. The general

14 subject matter of these two emails is about providing information to the White House.

15 Is that a fair characterization?

16 A Yes, that's a fair characterization.

17 Q And it's to be helpful for the White House to understand YouTube's policies

18 regarding misinformation. Is that correct?

19 A YouTube's approach to misinformation. But, yes, generally true.

20 Q And I think in the last hour we talked about how sometimes when there's

21 granular kind of issues, you know, you might bring in somebody like [redacted] in order

22 to help explain topics, certain topics of information to an external stakeholder like the

23 White House, correct?

24 A That's correct.

25 Q Now, I just want to make a point for the record that these efforts like this

1 that your team might take in trying to provide information to the White House, that's
2 because it's part of your team's job to be responsive and helpful by providing information
3 to external stakeholders.
4 Is that fair?
5 A External stakeholders in the public policy communities, yes, that's correct.
6 Q And in no way, based on your understanding, was these offers or these
7 efforts to try to provide information taken because the company feared some kind of
8 adverse action like section 230 reform if it failed to provide this kind of information.
9 Is that fair?
10 A I don't recall there being a direct tie between these engagements or
11 engagements like them and section 230.
12 Q And to the best of your knowledge, has YouTube ever taken any actions on
13 misinformation other than it would have otherwise ordinarily done because of concerns
14 of adverse action from the White House like section 230 or antitrust?
15 A I'm not aware of any actions that we've taken like that.
16 Q Thank you.
17 So you mentioned in a previous hour that you had testified in front of the Senate
18 in April of 2021. And I'm going to introduce that as exhibit 5, I believe.
19 [[redacted] Exhibit No. 5
20 was marked for identification.]
21 BY [redacted]:
22 Q So for the record, this is testimony that you gave in front of the Senate
23 Judiciary Committee in April 27th, 2021. Is that correct?
24 A This is my written testimony, yes.
25 Q Your written testimony.

1 And the reason I wanted to introduce it is just to be helpful on some of the dates
2 and the timelines that's in your written testimony to help refresh your recollection.
3 On page 5 -- which there aren't page numbers. You'll have to --
4 A Okay.
5 Q On page 5, the first full paragraph and the second sentence, I'm just going to
6 read from it.
7 "We began to remove content for COVID-19 misinformation in March 2020, under
8 provisions of our policy prohibiting Harmful and Dangerous content. But as the
9 pandemic progressed, we developed a fulsome and separate COVID-19 misinformation
10 policy. In October 2020, we further expanded the policy to include misinformation
11 about COVID-19 vaccines."
12 Did I read that correctly?
13 A You did.
14 Q And just for the record, October of 2020 was during the Trump
15 administration. Is that correct?
16 A That's correct.
17 Q And next it goes on to say, "Since March 2020, we have vigorously enforced
18 our COVID-19 misinformation policy to protect our users, removing 900,000 videos
19 worldwide."
20 And just for the record, that's since March 2020. And this testimony was in April
21 of 2021. So it's fair to say that a lot of those 900,000 videos were removed during the
22 Trump administration, as well. Is that fair?
23 A I don't know anything more than what's here, but I think that's a reasonable
24 conclusion.
25 Q Sure. And it says, "In the fourth quarter of 2020, we removed more than

1 30,000 videos for violating the vaccine provisions of our COVID-19 misinformation policy."
2 Did I read that correctly?
3 A You did.
4 Q And for the record, again, the fourth quarter of 2020 was during the Trump
5 administration, correct?
6 A That's correct.
7 Q Okay. If you skip down to the last paragraph.
8 A Uh-huh.
9 Q It's the second sentence, that begins with, "In the fourth quarter of 2020."
10 A Uh-huh.
11 Q I'm just going to read it.
12 "In the fourth quarter of 2020, of the 9.3 million videos removed for violating our
13 Community Guidelines, 94 percent of those videos were first flagged by machine
14 detection."
15 Did I read that correctly?
16 A You did.
17 Q So 9.3 million videos were removed in the fourth quarter, which was also
18 during the Trump administration. Is that correct?
19 A That's correct.
20 Q Now, if you go to page 8 -- I guess we were on 5.
21 A Okay.
22 Q I'm going to go down to the last paragraph.
23 "In January 2019, we announced changes to our recommendations systems to
24 limit the spread of this type of content."
25 Did I read that correctly?

1 A You did.

2 Q So it's fair to say that YouTube was also reducing content as one of the four

3 R's during the Trump administration. Is that correct to say?

4 A That's correct. This whole section is under the header of reducing the

5 spread of borderline content. So, yes, this type of content is borderline content.

6 That's what that refers to.

7 Q Thank you.

8 And those decisions to -- and I think last hour you testified about how this was a

9 time when YouTube was kind of charting its own course. It had never been in a global

10 pandemic before.

11 These types of decisions to start removing and reducing content that related to

12 misinformation during the COVID-19 pandemic, those were YouTube's decisions. Those

13 weren't decisions made by the United States Government.

14 Is that correct?

15 A The decisions for how we managed the vast library of content on our

16 platform are our own, and that was true at this time, as it is now, yes.

17 Q So it would be factually incorrect to infer or suggest that YouTube decided to

18 start moderating COVID-19 and misinformation because of coercion from the Biden

19 administration White House.

20 Is that correct?

21 A It's not my understanding from where I sit that that is why or how we made

22 that decision.

23 [redacted]. Thank you.

24 Oh, I do have -- we have that other exhibit.

25 [redacted] Exhibit No. 6

1 was marked for identification.]

2 [redacted]. Just going to take a second and look at this.

3 BY [redacted]:

4 Q Of course. And while you read it, I'm going to just state for the record this

5 is exhibit 6. This is an email. I'll wait until you have a chance to read it actually.

6 A Okay.

7 Q Do you recognize this email?

8 A I have seen this specific email in preparation for my appearance today. I

9 don't have a specific separate recollection of this particular email though.

10 Q Sure. So for the record, this is a -- this is an email that you were included

11 on that -- and at the top of the header, it's from [redacted] at Google, and it's to a

12 number of what appears to be industry officials or employees. And just to name a few,

13 we have, it appears to be, Facebook, Verizon, Reddit, LinkedIn, Mailchimp, Twitter,

14 Pinterest, Microsoft.

15 Is that correct?

16 A That seems correct.

17 Q Okay. And I would like to draw your attention down to the April 27th,

18 2020, at 8:36 a.m. line.

19 A Yep, I see it.

20 Q And it says, "As we have discussed, we are hoping to document the 'goals' of

21 our industry collaboration for both internal clarity and as a roadmap to respond to

22 external inquiries (as individual companies)."

23 Did I read that correctly?

24 A You did.

25 Q And there's a list of "DRAFT Goals of Industry Collaboration." And I just

1 want to highlight a couple, which is, one, "Address the unique, urgent challenge posed by
2 the distribution of COVID-19 misinformation online that can result in offline, physical
3 harm."
4 Did I read that correctly?
5 A You did.
6 Q And, "Acknowledge the cross-platform threat posed by misinformation
7 spread."
8 Did I read that correctly?
9 A You did.
10 Q So my question about this is it's -- it would appear to this -- from this email
11 that the industry was already collaborating on COVID-19 misinformation as far back as
12 April of 2020.
13 Is that a fair characterization?
14 A I think what you said is accurate. I would just add a clarifying comment to
15 say that there were pockets of collaboration among companies at certain levels on issues
16 affecting the industry.
17 I mean, I just don't want to -- Google's a really big company. YouTube's a big
18 company. I don't want to suggest that all of the company was collaborating in broad
19 ways with these other companies.
20 But, yes, there was certainly cross-industry engagement, as demonstrated by this
21 email.
22 Q And do you have any insight as to why this was a -- this was of concern that
23 would be -- had that kind of cross-industry collaboration?
24 A What I recall about this effort specifically, which is limited, but is consistent
25 with I think what I've testified to before today, which is that YouTube was trying to figure

1 out how to deal with this novel situation.

2 But it was novel, but it was global. And so it was affecting other platforms in

3 similar ways, and there just truly had not been another moment like this.

4 So it was a moment in which some best practice sharing and some threat trends

5 and other things were just useful as we tried to get our arms around.

6 I mean, this is basically one month into the pandemic, two months into the U.S.

7 version of the pandemic. So we were all just trying to figure out what we could learn

8 from each other as we charted our own course.

9 [redacted]. Thank you.

10 Can we go off the record, please?

11 [Recess.]

12 [redacted]. Can we go back on the record, please?

13 BY [redacted]:

14 Q As part of your role at the company, have you had any interactions with

15 Stanford University?

16 A I don't believe so, no. I don't recall any.

17 Q Okay. Do you have any familiarity with the Election Integrity Partnership?

18 A I have familiarity in that I know that it existed at a period of time. I don't

19 really know much more than that.

20 Q To your knowledge, were members of the company interacting with the

21 Election Integrity Partnership?

22 A It's a really big company, 200,000 employees. I don't have any specific

23 knowledge about specific interactions with the Election Integrity Partnership.

24 Q Do any of your team members interact with the Election Integrity

25 Partnership?

1 A Not that I believe so.

2 Q Are you familiar with the Virality Project?

3 A I'm not.

4 Q As part of your role at the company, have you interacted with the Center for

5 Countering Digital Hate?

6 A Digital Hate. There's -- I don't know. There's one organization that I

7 interacted with once, and I'd have to look at the leadership of that organization to know if

8 that's the thing I'm recalling or not.

9 Q The group CCDH had put out the Disinformation Dozen report about

10 Facebook.

11 A Okay.

12 Q And then, more broadly, has done reports on social media companies.

13 Do you recall any familiarity with that group or any interactions with them?

14 A I don't recall. Now that you're saying now with the follow-up question, I

15 think they're a U.K.-based organization.

16 Q That's right.

17 A Oh, that's right. Okay.

18 Then I have not ever engaged with them directly, but a member of my team had

19 an engagement recently, like in the last 2 months, with them in a broader meeting.

20 Q What was that meeting?

21 A It was a meeting convened by the State Department about anti-Semitism on

22 online platforms.

23 Q And who from your team attended?

24 A [redacted] on my team attended.

25 Q Are you familiar with the World Federation of Advertisers?

1 A I think I've heard that name before, but that's it.
2 Q Do you have any familiarity with the Global Alliance for Responsible Media,
3 sometimes referred to as GARM?
4 A I'm generally familiar with GARM as an organization, yes, generally familiar.
5 Q As part of your role at the company, have you had any interactions with
6 GARM?
7 A No, not that I recall.
8 Q Do you know if others within the company have had interactions with
9 GARM?
10 A I would expect that others in the company, but I do not know. That is
11 outside of my scope or role.
12 Q At a broad level, do you have a sense of which teams may -- from the
13 company -- may have interacted with GARM?
14 A So I don't know who interacted with GARM.
15 Q Okay.
16 A I would expect it would be our business teams.
17 Q To your understanding, just broadly, which team within the company would
18 handle concerns regarding creators being demonetized or concerns on that front?
19 A Sure. So concerns from creators are handled by our Partnerships team.
20 They are the team that engages directly with creators.
21 Q When a community guidelines section is being considered and maybe
22 changed, is one of the factors that's considered is whether certain creators who make a
23 livelihood off of YouTube, how they will be impacted by any change to the community
24 guidelines?
25 A So as we've discussed, I have limited view into the full policy development

1 process. But impact, in my experience, impact on creators of anything that YouTube
2 does is -- that is something we take seriously and consider.
3 Creators are hugely important, among the most important stakeholder of what
4 the company does. And we recognize that what we do impacts them.
5 Q As part of your role at the company, have you had any interactions with the
6 University of Washington?
7 A Not that I recall.
8 Q Are you familiar with NewsGuard?
9 A No, I don't believe I am.
10 Q Are you familiar with the Global Disinformation Index?
11 A You're saying that sort of -- like I think I've heard that name before, but I
12 don't have any more specific familiarity than that.
13 Q And do you recall any interactions with them?
14 A No, I do not.
15 Q As a part of your role at the company -- actually, let me take one step back.
16 Are you familiar with the FBI's Foreign Influence Task Force?
17 A No, I'm not.
18 Q Okay. As part of your role at the company, have you had any interactions
19 with the FBI?
20 A Not that I recall.
21 Q Are you familiar with the Global Engagement Center?
22 A I am familiar with the Global Engagement Center.
23 Q Do you recall any interactions with them as part of your role at the
24 company?
25 A I believe I have briefed a group of officials from the State Department that

1 included the Global Engagement Center on two separate topics that I recall.
2 Q What were those two topics?
3 A The first, working in reverse order, the most recent was a briefing that we
4 did on the removal of content at the direction of the Hong Kong government, a protest
5 anthem that the Hong Kong government, the Hong Kong judiciary ultimately found to be
6 seditious under Hong Kong laws. So that's one topic.
7 And then the other topic that I recall engaging a group of State Department
8 officials on that included the Global Engagement Center was the events of October 7th in
9 Israel and then the sort of subsequent content trends that happened as a result of those
10 events.
11 Q Do you recall any interactions with the State Department that maybe didn't
12 include the Global Engagement Center?
13 A Yes, I have had -- yes, as recently as -- yes, I have had engagements with the
14 State Department where the Global Engagement Center was not present, yes.
15 Q Have you had any engagements with the State Department regarding judicial
16 orders in Brazil regarding the suspension or removal of social media accounts or content?
17 A Thinking through my memory here. I don't believe I have ever had a
18 briefing with -- an engagement with the State Department around the topic of Brazil, not
19 that I recall.
20 Q Does Brazil fall within your team's portfolio as part of the Americas?
21 A It does.
22 Q Have there, just as part of your role at the company, have there been any
23 discussions with any U.S. Government stakeholders about judicial orders within Brazil for
24 social media accounts to be removed or suspended?
25 A Just thinking carefully to make sure I'm being thorough in my response,

1 because I've had a lot of conversations about Brazil. So I just want to think carefully if
2 I've had conversations with U.S. officials about Brazil.
3 I don't believe I have had any conversations with U.S. officials about Brazil, I don't,
4 not that I recall right now.
5 Q Okay. To your understanding, have any members of your team had
6 interactions with the U.S. Government about the company's interactions in Brazil or the
7 judicial orders coming out of Brazil?
8 A The only reason I'm pausing is because I recall my Brazilian colleague who
9 works on my team coming to Washington for reasons not to engage primarily with the
10 United States Government.
11 But there were conversations at the time about potentially engaging with the Hill,
12 not so narrowly as you describe about judicial orders exclusively but about freedom of
13 expression in Brazil.
14 I didn't participate in those meetings, and I don't actually know if they happened.
15 I am familiar with some conversations about potentially having meetings with the Hill on
16 that topic.
17 Q Regarding free expression in Brazil, do you recall any meetings with just U.S.
18 stakeholders, maybe not the Federal Government but just, more generally, with any U.S.
19 stakeholders?
20 A No, I don't. I don't recall any.
21 Q As part of your role at the company, have you had interactions with HHS or
22 any of the agencies within HHS?
23 A So in refreshing my memory for today, I have seen some exchanges in which
24 I'm on emails with HHS. And so I'm generally familiar with those, and I don't really recall
25 any specifics of those.

1 But to your question, yes, I'm familiar with that as a result of preparing for today.
2 Q Have you had any interactions with the Census Bureau as part of your role at
3 the company?
4 A Not that I recall.
5 Q As a part of your role at the company, have you had any interactions with
6 ODNI?
7 A ODNI, I don't believe so. I don't recall any.
8 Q In one of the previous rounds we talked a little bit about your interactions
9 with CISA, especially leading up to the 2020 election.
10 Do you recall how many other times you've had interactions with CISA as part of
11 your role at the company?
12 A I don't recall a specific number of how many times I've interacted with CISA,
13 no.
14 Q Do you have a sense of how frequently you've interacted with CISA outside
15 of that, the one example we've talked about?
16 A I mean, over the last 4 years I've interacted with CISA I would characterize it
17 as a handful of times. I don't recall any recent interactions. I also recall a long period
18 of time in which there were no interactions sort of far from the election. That's what I
19 recall about CISA.
20 Q Do you recall if you had any interactions with CISA in the lead-up to the 2022
21 midterm elections?
22 A 2022 is November of 2022, and the reason I'm doing that math in my head is
23 [redacted]. And so I was on [redacted] leave for the election of
24 November 2022. So I just wasn't present, despite being employed at the company at
25 the time.

1 Q In the lead-up to the -- let me rephrase that question.

2 When talking through the example about in the lead-up to the 2020 election, do

3 you recall how early in 2020 you or your team first started having interactions with CISA?

4 A I don't recall, like, a specific month. I recall -- so I started at YouTube in

5 March of 2020.

6 What I would say is election work ramps as you get closer to an election period.

7 And so what I recall was both early in the job -- I was new in the job -- and also the

8 election work ramped over that year.

9 And, yes, so I recall the, like, sort of cadence of our work there increased through

10 2020.

11 Q Do you know if others within the company are having interactions with CISA

12 right now as we get closer to the 2024 election?

13 A This is a big company. I don't know all the interactions that are happening.

14 So there are people at the company who do more election-specific work. I don't know.

15 Q Which teams within the company do more election-specific work?

16 A Well, so, I mean, for example, there are people on the Government Affairs

17 team whose job it is entirely to engage with the Department of Homeland Security or to

18 focus on elections.

19 I'm covering a broad portfolio across multiple countries, leading a team, so that

20 engaging with CISA is just not a core -- it's an important but very small slice of my job.

1

2 [1:56 P.M.]

3 [[redacted] Exhibit Nos. 7 and 8

4 were marked for identification.]

5 BY [redacted]:

6 Q So the first is exhibit 7, which is an email chain from July 2021 between the

7 White House and the company, and then within that email chain, there is reference to a

8 tweet. And exhibit 8 is a screenshot of that tweet.

9 I will give everyone a moment to review.

10 A Okay.

11 Q So you're not on this email chain, but I want to ask first if you have any

12 familiarity with this exchange between the White House and with [redacted] and the

13 questions around the tweet highlighting screenshots of YouTube videos?

14 A No, I don't recall this email thread or this tweet.

15 Q Okay.

16 Do you recall, do you have any general recollection of a request coming from the

17 White House asking for more information about particular YouTube videos?

18 A I do not.

19 Q With the understanding you don't have any specific recollection, just

20 generally, do you recall if throughout the summer there were occasions where either

21 Mr. Flaherty or others from the White House were somehow communicating through

22 members of your team questions about specific videos?

23 A I don't have that recollection. I certainly recall that in, you know, my 4

24 years at YouTube, that we received outreach from policymakers on both sides of the aisle,

25 as you've and I discussed, about specific videos. And in 2021, the top, you know, topic

1 of top of mind for many was COVID misinformation.

2 Q So [redacted] on the second page, Bates number 12387, he responds first to

3 the question of the link with some information about what the company is doing,

4 provides some figures at a high level.

5 Mr. Flaherty follows up with additional questions back and forth, continuing on to

6 page 12386. And then at the top, [redacted] writes: "The content was not in violation

7 of our policies and, therefore, not subject to removal."

8 [redacted], who as you testified was on your team, who would he need to consult

9 with within the company in order to reach that, be able to reach that conclusion and

10 share it with the White House?

11 A Sure. And so since I don't recall this email, maybe what I could do is just

12 speak generally about how we would approach this.

13 So, you know, Mr. Flaherty here, I guess -- so he shares this tweet, which has this

14 content. That's a pretty, as I've said, a pretty common occurrence, relatively common

15 occurrence that policymakers reach out with content. And when that happens, we

16 escalate that to Trust and Safety to review the content. We share whatever information

17 we have to help them remove -- review the content.

18 So, you know, sometimes we have specific video URLs, sometimes we have a

19 channel name, sometimes, you know, even less than that, but we just pass that along to

20 the team that reviews this content, and then they review it against our community

21 guidelines.

22 They come back on an email thread to the escalator, in this case, you know, in this

23 example, my team. They provide us with a finding and then oftentimes just additional

24 sort of clarifying information. This content did not violate our policies because of X, Y,

25 and Z, or it did.

1 And then, when appropriate, we communicate that outcome, you know, to the
2 person who originally reached out to us.
3 Q And when you talk about the team that's doing the reviewing, is that
4 YouTube's Trust and Safety team?
5 A That's correct.
6 Q And, again, we'll just stick with the hypothetical. If you were on the
7 receiving end of a request similar to this, is there a particular point person, or is there a
8 team email? How do you get in contact with the Trust and Safety team, or how do you
9 ask, I guess, is a better way of asking?
10 A Yep. There is an email alias that we use that is staffed by skilled, full-time
11 employee content moderators that work on a 24/7 model, and they review the content.
12 Q And are there different ways to prioritize an escalation as something is more
13 time sensitive than others?
14 A So generally, the email alias that I use is -- has a very -- you know, so because
15 we consider policymakers to be, you know, a stakeholder that deserves a certain level of
16 customer service, there's an expectation that these emails are responded to within an
17 hour. Not a final decision in an hour. Sometimes these are very nuanced, complex
18 decisions.
19 But that email alias that I use, every incoming is treated the same, you know, with
20 the same urgency when it is escalated to that -- you know, via that alias.
21 Q And does your team always use that alias when there's a request from
22 policymakers?
23 A So I just want to be -- so I guess there's, in my experience, there's two email
24 alias, one that is for slightly less time sensitive requests. I've never used the slightly less
25 time sensitive requests because I consider all the requests that come from policymakers

1 in my region to be of an urgent nature. That's what I do.

2 So I only use this one email address that has the faster turnaround time.

3 Q And when information is coming back from Trust and Safety, is that all

4 conducted via email, or is there some other platform that's being used, or is it just emails

5 back and forth?

6 A In my experience, it's like an email thread. You know, we use Google -- we

7 use gmail at Google, and so it's a, you know, a gmail thread on our Google accounts

8 where you can see, you know, the initial incoming. You usually get an email back saying

9 acknowledged your request. We'll be back in touch. There will sometimes be, you

10 know, some more emails in which I say, for example, Majority Leader Scalise's office has

11 reached out again. Could I get a response on this? You know, how are we going here,

12 guys? And then we get a final answer in that same thread of emails.

13 Q Do you know if -- and this might be -- I'll rephrase the question.

14 Let's say you get a request and then a few weeks later you get a similar request

15 from a different policymaker. Is there a way or do you ever exercise judgment and look

16 at previous examples provided from Trust and Safety to make your own assessment, or

17 would you just send in the new request to Trust and Safety each time?

18 [redacted]. Answer the question if you can do so if you have experience with the

19 scenario that he's posing. If it's a hypothetical, I don't want you to guess.

20 [redacted]. Yeah, I guess I'm getting a little confused about what you mean by

21 similar request. So like identical video?

22 BY [redacted]:

23 Q Yeah, let's walk through the different variations. If you receive -- let's say

24 policymaker A sends in video number one and then a week later policymaker B sends in

25 the identical hyperlink you had just seen and got reviewed a week earlier. Will you send

in, in that second scenario, if you have experience, would you send the same exact video link to Trust and Safety, or would you say, no, I just got an answer from them a week ago and answer on your own to policymaker B?

A I don't recall ever receiving the same exact video by two different policymakers. I think if I did, I would actually send it in twice just to ensure accuracy in my communications.

Q And then do you recall any instances where you received a request or a question from a policymaker about a video or about a channel and you were able to provide a response back to that policymaker about whether it was violative or not without first checking with Trust and Safety?

[redacted]. Again, the question is if you have ever had such experience.

[redacted]. Yeah, I don't recall ever doing that, no.

[[redacted] Exhibit No. 9 was marked for identification.]

BY [redacted]:

Q This is exhibit 9. This is an email chain between the company and the White House from September of 2021.

A Okay.

Q You're not copied on this email exchange, but if I can call your attention to the second page of the exhibit, Bates number 12376, [redacted] emails Mr. Flaherty to preview a policy proposal and get any feedback that he may have. Is this type of outreach consistent with the pre-announcement outreach we discussed in the first round with the firearms policy update where there were a couple of stakeholders that in that case [redacted] had reached out to in advance?

A I see this to be the same type of outreach, reaching out to stakeholders once a policy has been decided upon to preview that policy as a sign of respect.

Q And given the team structure at the time in September of 2021, is this -- who would [redacted], if anyone, likely have consulted with before reaching out to the White House?

[redacted]. Why don't you start with whether he consulted with the witness.

BY [redacted]:

Q Sure. Do you recall if [redacted] --

A I don't recall him consulting with me about this.

Q With the understanding you don't have a specific recollection, for this, based off the team structure in September of 2021, what would have been the likely practice or the best practice of [redacted] of who he, within the company, should talk to first before deciding who to reach out to prior to an announcement?

A He would have talked to me, his manager, likely.

Q Anyone else?

1 A I think he would have -- I think the only person he would have consulted
2 with from a decision-making perspective is me, his manager. I think it's likely that he
3 had a conversation with [redacted] here as well but as a peer because she owned
4 that at the time White House relationship more broadly for the company.
5 Q Do you recall any discussions with [redacted] about this policy change just in
6 general, the lead up to the policy being announced?
7 A I've seen some emails in preparation for my appearance today, but I don't
8 have independent recollections about conversations [redacted] and I may or may not have
9 had at that time 3 years ago, no.
10 Q Do you recall any discussions similar to the discussions that you can recall for
11 the, obviously, much more recent firearms policy change of whether to notify certain civil
12 society organizations, do you recall any discussions in the lead up to the announcement
13 of this policy change of whether or not to inform particular stakeholders?
14 A I do not.
15 Q [redacted]'s email refers to previewing the policy proposal. At the company,
16 is there a practice of when making a pre-announcement notification to a stakeholder as
17 framing it as a proposal for any particular reason?
18 [redacted]. You're asking generally or specific to this?
19 [redacted]. Generally. [redacted] is the one that drafted this email, so just
20 generally, is there --
21 [redacted]. Did you understand the question?
22 [redacted]. Could you ask it again?
23 [redacted]. Sure.
24 [redacted]. I just want to make sure that we're clear on this.
25 [redacted]. Yep.

1 BY [redacted]:

2 Q Not specific to this, just generally, when your team is giving a notification,
3 just previewing something before it's being publicly announced, does your team refer to
4 the upcoming change as a proposal or as a finalized change?

5 A I suspect my team uses those interchangeably. I don't think of -- like, I
6 don't think there's a term of art that we always use to describe policies that are in that
7 end stage. Policy proposal makes sense to me. New policy makes sense to me. It's
8 not a formalized process there.

9 Q To your understanding, have there been occasions where the company has
10 previewed a proposal, sought feedback before a public announcement in order to keep
11 open the opportunity to make additional tweaks if necessary?

12 A So I only have responsibility for public policymakers, relatively narrow but
13 very important segment of the universe, and I am not familiar that I can recall with
14 moments in which we changed the policy as a result of the that pre-rollout feedback.

15 I can't speak for engagement with all the other stakeholders that exist for
16 YouTube that would include creators, as you previously mentioned, or advertisers. I
17 mean, the full universe of stakeholders.

18 But to the piece of the world that I have vision into, I do not recall that ever
19 happening.

20 Q So [redacted]'s email is written. It talks about previewing a proposal and
21 providing an opportunity for any feedback. Not specific necessarily to this example, but
22 just in your experience with the company, do you recall any instances where a
23 government stakeholder is getting a pre-public announcement preview of a policy change
24 and the government stakeholder had the understanding that they could provide feedback
25 that may be incorporated by the company?

1 [redacted]. I'm a little uncomfortable. It calls for an awful lot of speculation
2 when you're asking if the witness knows whether or not or is aware of situations where
3 the government person has an expectation, right. I mean, I don't see how she could
4 know that.
5 BY [redacted]:
6 Q Depending on what the government stakeholder communicates back, if you
7 can draw that pretty clear inference.
8 A The further we get -- the further we get from the question, it's hard for me
9 to remember the question. So can we just run it one more time so I can make sure I'm
10 being accurate here?
11 Q Sure.
12 So this is one example. We're going off communications produced to us. The
13 way the email reads on its face, it's framed as a proposal, other word choice could have
14 been used, and giving the opportunity for feedback from the White House.
15 Understanding you don't have any specific recollection of this example, I won't ask about
16 this example.
17 But just generally, when there is -- again, this is a pre-public announcement. The
18 rest of the world doesn't know yet about what exact changes are going to be occurring.
19 When engaging with government stakeholders before the public announcement, do you
20 recall ever being on the receiving end of feedback from the government stakeholder
21 where the government stakeholder is offering feedback about changes they think will be
22 good or bad about -- for the proposal?
23 A I don't right now as I sit here recall specific examples like that. I think it is
24 also my job and the job of my team to solicit that feedback in a way that provides
25 policymakers with some customer service and understand that feedback, but I don't recall

1 any specific examples of that right now.

2 Q In your experience with the company, when having interactions with the

3 White House on misinformation online, do you recall any discussions with the White

4 House about misinformation online on subjects other than COVID-19 vaccines, things

5 related to the pandemic?

6 A I don't recall specific conversations with the White House about topics other

7 than COVID, about misinformation topics other than COVID.

8 Q Generally, do you recall any interactions with the executive branch about

9 misinformation online on topics other than COVID-19 or vaccines?

10 A So I'm not immediately recalling all of the interactions that I've had with the

11 executive branch over my time, but you, in this recent round of questioning, mentioned

12 the Census Bureau, and I don't recall meeting with the Census Bureau. But I do recall

13 concerns from the Census Bureau about census misinformation.

14 So I offer that in an attempt to answer your question. That was not a

15 conversation I directly had, but that was a misinformation concern I remember from the

16 executive branch at the time.

17 Q Do you recall any communications with the executive branch about

18 misinformation online about climate, climate change, environmental concerns?

19 A I don't recall conversations with the executive branch about that, no.

20 Q Do you recall conversations with other U.S. stakeholders about that?

21 A I do recall that there have been concerns from the Hill about the topic of

22 climate change misinformation, yes.

23 Q Do you recall any conversations with the executive branch about

24 misinformation online regarding reproductive health?

25 A Not that I would specifically recall right now, no.

1 Q Do you recall any interactions with the executive branch about
2 misinformation online about inflation or other economic indicators?
3 A No, I do not recall that.
4 Q Do you know who Andy Slavitt is?
5 A Generally, I know who Andy Slavitt is, yes.
6 Q Do you recall any interactions with him?
7 A In what period of time?
8 Q Sorry. During your time at the company.
9 A I think that -- I don't specifically recall any interactions with him. I've seen,
10 in preparation for today, some emails that I think he's copied on and I'm copied on.
11 Q Do you have any familiarity with the community guideline section on hacked
12 materials?
13 A I have a very general familiarity.
14 Q Do you recall any discussions with the executive branch about the section of
15 the community guidelines dealing with hacked materials?
16 A I do not recall any conversations about that.
17 Q As part of your role at the company, do you interact with the CEO of
18 YouTube?
19 A I do sometimes interact with the CEO of YouTube, yes.
20 Q And on what occasions?
21 A It's a variety of occasions. I interact with the CEO to prepare him to engage
22 externally with my, you know, world of public policy stakeholders. I interact with him to
23 brief him on what is happening in my region of the public policy world. Those would be
24 the two primary ways in which I engage with him.
25 Q During 2021, when your office was having interactions with the Biden White

House, who was your direct manager at that time?

A YouTube's vice president of Global Public Policy, [redacted]. She's been my manager for my entire time at Google.

Q Do you recall if you had any meetings with [redacted] about your team's interactions with the White House?

A I don't recall specific meetings about those interactions, no.

Q Based off now you've had an opportunity to review some of the emails and we've been talking about it, is that the type of situation where it would have been likely that you would have elevated some of the information to [redacted]?

A I think it's likely that I would have briefed her in some way about those interactions. I think it could have been -- you know, those briefings could have been relatively short and sort of glancing, but I think I would have, you know, generally made her aware of those interactions at the time.

[redacted]. Can we go off the record, please.

[Recess.]

[[redacted] Exhibit No. 10 was marked for identification.]

BY [redacted]:

Q I'd like to introduce an exhibit and give everybody a chance to read it before I ask any questions. For the record, this is exhibit 10.

A Okay. I'm ready when you are.

Q So do you recognize this email?

A I have seen a thread that had this email in it to prepare for my testimony today. I don't recall it independently of that preparation.

Q Sure. So this is an email from [redacted]. Is it [redacted]?

1 A [redacted], yes.

2 Q [redacted], on August 17, 2021, and you are copied on the cc line, and this email

3 appears to be about a new vaccine misinformation policy that you two will be rolling out

4 in September, and the purpose is to get feedback from regional/local leads about risks

5 and opportunities to inform our GTM strategy.

6 Is that correct?

7 A You mentioned on the cc line. I think I'm actually on the to line here, which

8 is maybe a distinction without a difference, but that is correct otherwise.

9 Q Thank you. I appreciate that.

10 Now, when you're -- can you tell me a little bit about, you know, kind of what this

11 process is in terms of rolling out a policy and getting feedback from regional/local leads,

12 how that works at YouTube?

13 A Yes. And I think this is -- you know, we've talked about this, a version of

14 this today. So YouTube updates its community guidelines from time to time, some big,

15 some small, and sometimes, as part of that process, my team and other teams like mine

16 that are external facing around the world with policymakers provide feedback about what

17 that roll out strategy would look like.

18 So when I say roll out, my colleague here uses GT M strategy, go to market

19 strategies, but I think those are synonymous.

20 Q Sure. And I wanted to introduce this as an exhibit to kind of put a timeline

21 on this. This is August 17, 2021, when this is going out to you.

22 The majority brought up on exhibit 9 an email exchange between [redacted] and

23 Rob Flaherty on September 21st, nearly a month after this email when [redacted] sent

24 the email to the external policy folks about the roll out.

25 I guess my question is given the testimony in the first hour about how, you know,

these things are kind of calcified or kind of baked, you know, in terms of the policy folks before it actually rolls out, would you say there is a fair assessment -- it's a fair assessment to say that this policy was also kind of already baked before it had been reached out from [redacted] to Rob Flaherty?

[redacted]. Can we first start with whether or not you know whether this policy was baked at this time in August 2021?

[redacted]. I don't know whether this policy was baked at that time because, again, I have this limited sort of tail end piece of the policy development process. So I don't know that it was baked, and I don't have a specific recollection of the details of this just because of how far this was in the past.

[redacted]. Okay.

[redacted]. Can I ask a question?

[redacted]. Yeah, go ahead.

BY [redacted]:

Q You said during the past hour that there is no term of art specifically that you use to refer to policy changes that you're rolling out when you are previewing them for stakeholders and that you sometimes use the word proposal interchangeably with new policy. Is that what I recall?

A Yeah, I think that's basically correct. I think what I said is [redacted] in that -- [redacted] in that email used policy proposal. I think I would use, probably use the word policy change, but I see them as interchangeable.

Q And does the use of the word proposal -- I mean, I guess what I'm saying is does that indicate to you that he was seeking approval? Would you use that as evidence that he was seeking approval from the government?

A I do not believe based on what I know and recall about that time and also

1 what I know generally about the policy development process that [redacted] was seeking
2 approval from the White House or anybody else at that time.
3 Q And why is that?
4 A Because in my experience, YouTube develops its policies independently of
5 what policymakers' views are. That is not to say that we are not aware of policymaker
6 views. Policymakers are one segment of the world that has views on what YouTube
7 does, but there are many constituencies, many constituencies with views of what
8 YouTube does.
9 And in my experience, YouTube charts its own course on what our policies are and
10 how we treat content, our vast library on content on YouTube. And government
11 policymakers in my experience do not have direct impact on those policies.
12 Q Thank you very much.
13 And that is -- that applies for COVID misinformation policies, just like the firearms
14 policy and any other content policies that YouTube decides to adopt and/or change?
15 A That is my experience with both of those specific policy areas, and that is my
16 experience more generally, yes.
17 Q Thank you.
18 [redacted]. We can go off the record. Thank you.
19 [Recess.]
20 [redacted]. We can go back on the record, please.
21 BY [redacted]:
22 Q I want to pick back up with some of the questions at the end of that last
23 round.
24 So you mentioned that you would view [redacted]'s language of a policy proposal
25 synonymous with a policy change. I guess if you could say a bit more about why you're

1 able to draw that conclusion. I think probably a lot of folks would look at the word
2 proposal and interpret that as being a change that is not yet finalized.
3 Can you say a little bit more about why you think those policy change and policy
4 proposal are synonymous?
5 A I think those are effectively synonymous because of my experience at
6 YouTube, which is much broader than that one email or that one policy change. And,
7 you know, I think this is entirely consistent with what I just said in the previous round of
8 testimony, which is that I have been at YouTube for 4 years, and in that period of time,
9 our policies have changed in large and small ways, and I have not observed the direct
10 input from policymakers impacting those policies in meaningful ways.
11 So I just don't believe that -- so based on that experience, I don't believe that that
12 was the mission or the intent of [redacted]'s email. It's impossible for me to know what was
13 in his head, but I have never observed the company asking us to seek input from
14 policymakers in order to change or shape those policies.
15 Q You've testified that your team's responsibility is handling the relationship
16 with certain stakeholders, including the executive branch, including the White House --
17 A I'm sorry. Can I just pause you for one second?
18 Q Sure.
19 A I just want to add a clarifying comment just to the comment I just made.
20 I'm sorry. I stopped listening because then I thought about something in my head.
21 When I say policymakers there, I just want to be very clear I'm talking about
22 government officials. I think policymakers is sort of an imprecise term, so there are -- I
23 just want to be clear. I'm talking about government officials in that case when I say
24 policymakers.
25 [redacted]. Can we go off the record just for a moment?

1 [redacted]. Yes. Can we go off the record, please.

2 [Discussion off the record.]

3 [redacted]. Can we go back on the record, please.

4 [redacted]. [redacted], do you have anymore comments on exhibit 9?

5 [redacted]. So having looked at this email closely again, I would just like to offer

6 that I believe what [redacted] was doing here was reaching out to Mr. Flaherty to gauge his

7 reaction as a courtesy, consistent with what I said, not to shape the policy.

8 And sort of confirming my belief here is having my memory refreshed about this

9 email from more than a month earlier showing that the policy was, you know, largely

10 formed, entirely formed at that time.

11 It is not that we never ask the views or ask for input into our policy from

12 governments. Governments, including the United States Government, are full of deep

13 expertise, and so there could be, have probably been moments in which we have sought

14 out that expertise to inform our policy development.

15 I do not believe that is what happened with this policy in this email with

16 Mr. Flaherty.

17 BY [redacted]:

18 Q We've looked at some internal documents, including one of the exhibits back

19 from August about the stages of the policy development. And then in an earlier

20 response before we went off the record, you noted that you were testifying based off

21 your experience with the company and your understanding gleaned from that.

22 In the email that [redacted] is sending to Mr. Flaherty, to your knowledge,

23 Mr. Flaherty had no knowledge that the policy was finalized. Is that right?

24 A To my knowledge, I only know what I see in these emails, and [redacted] did

25 not say that the policy was finalized.

1 Q You've testified about how your team, part of your team's responsibility is
2 interfacing with government officials. When engaging with government officials, is
3 there a benefit to suggesting to the government official that a policy has not been
4 finalized and that their input may be received prior to the finalization of the policy?
5 A I have seen in many, many of my roles in Washington, in public service, on
6 the Hill, in the executive branch, that professional courtesies are given to policymakers
7 and that that's appropriate given the -- you know, reflecting the jobs that these folks do.
8 So I see this as a professional courtesy that is consistent with, for example, early
9 notifications that I helped ensure Congress received when I was at the Department of
10 Homeland Security.
11 Q Is there any benefit to the company when carrying out these professional
12 courtesies of suggesting that a policy has not been finalized, as opposed to providing the
13 courtesy that this policy has been finalized but hasn't been announced yet?
14 [redacted]. I mean, I'm a little uncomfortable with the question just because I'm
15 not sure that [redacted] has had any experience like what you're saying, and so,
16 therefore, I am -- my belief is it's much more of a hypothetical than a question about
17 something that -- a question about the witness' experiences. That said, I don't know
18 that she hasn't had an experience like that.
19 So if you have, then you can answer it. If it's a hypothetical, then I would
20 say don't guess?
21 [redacted]. So I can factor in my lawyer's advice, could I ask you to ask the
22 question again?
23 BY [redacted]:
24 Q Sure.
25 You mentioned that this is broadly part of professional courtesy when there's

1 stakeholders, for whatever reason, that are worth extending that courtesy to. When a
2 company is extending that type of courtesy to a government official, is there any benefit
3 to the company in extending the courtesy of this is a not yet finalized proposal, as
4 opposed to a courtesy of this is a finalized proposal that has yet to be publicly
5 announced?
6 A I'm not aware of any direct benefits. I just see it as a sign of respect to
7 certain relevant stakeholders in Washington and a courtesy that is common practice with
8 those stakeholders.
9 Q You've referred to your team's interactions with government officials in
10 some ways almost as a customer service, providing -- gauging their sense of reactions and
11 feedback and whatever else. Have you had any experiences -- let me rephrase that
12 question.
13 Given your team's interactions with Mr. Flaherty throughout 2021 and his stated
14 concerns regarding YouTube's misinformation policies, would there be any benefit to the
15 company of giving the impression to Mr. Flaherty that he could provide feedback prior to
16 the finalization of the policy?
17 A So I'm getting caught on this word benefit that you're using because benefit
18 suggests to me something sort of like a tangible outcome. And so what I would say
19 is -- so I'm not familiar with any tangible outcomes in that way.
20 I think it is helpful to a company to have good relations with policymakers. That
21 is one of the things that I do across my broad region, and so I see it as generally helpful to
22 a company to have good relations with policymakers in all areas of government, executive
23 branch, legislative branch, Republican, Democrat, House, Senate, and that is some of
24 what my team does for the company.
25 Q And given Mr. Flaherty's continued stated interest in the YouTube's

1 misinformation policies, did it help maintain better relationships with Mr. Flaherty to
2 suggest the policy proposal was not yet finalized when asking for his feedback?
3 [redacted]. This is my problem with your question. Your question is basically, as
4 I understand it, would Mr. Flaherty prefer that he believe that he is actually giving input
5 into a policy or has the opportunity to give input into a policy that's not yet formed versus
6 a policy that is already formed. And I don't know how the witness can know what would
7 be in Mr. Flaherty's mind.
8 [redacted]. It's not what is in Mr. Flaherty's mind, but the witness' entire role at
9 the company is to manage relationships with government officials, has built an expertise
10 on what government officials prefer, how they interact, what professional courtesies are.
11 So I think it's completely reasonable to ask is this part of an effort in maintaining good
12 relationships with the White House to give the impression that the policy was not yet
13 finalized on an issue that Mr. Flaherty clearly feels very strongly about.
14 [redacted]. But she's already testified this is -- it's [redacted]'s email. It wasn't
15 given to her for her approval before he sent it, and she doesn't know why he used the
16 words that he used. So I don't see how she can answer your question.
17 [redacted]. Well, when we asked about the specific one, the objection is that she's
18 not on the email. When we go one step more general, then the objection is it's too
19 hypothetical. I think it's a reasonable enough question either way. I think we all have
20 a sense of what's getting asked here.
21 BY [redacted]:
22 Q Based off your understanding of your team's interactions with Mr. Flaherty
23 and the fact that based off your understanding it's in the company's interest to maintain
24 good relationships with the White House and with other government officials, is there a
25 benefit broadly, not necessarily in this specific email, to suggesting to a government

1 official that the policy has not yet been finalized when asking for their feedback?

2 A So I only know what's here in these documents, as we've talked about, and

3 what I hear you saying is policy proposal makes it sounds like the policy was not calcified

4 and we were requesting, you know, offering the opportunity to shape the policy.

5 I don't know why [redacted] used the word policy proposal, but I also look at the

6 word two words before that, preview, and preview suggests to me you preview

7 something that exists. You know, you preview -- you're giving somebody the courtesy of

8 seeing something before the whole world sees it.

9 And so I can't really -- I don't accept that what this email suggests is a certain

10 opportunity to shape. So, again, because I just don't have this independent recollection

11 of exactly what was happening at this time, I just have to look at the, you know, the black

12 and white here. And I take a different view on what was happening than, perhaps, you

13 do.

14 Q I mean, I agree with the interpretation of preview. There is something that

15 exists, but what exists is a proposal, not a finalized change.

16 I understand you didn't draft this email, but the question is, just at a higher level,

17 based off your experience with government officials, you've talked about your office's

18 responsibility is maintaining good relationships with government officials, including the

19 White House. We have reviewed exhibits throughout this interview, including one

20 where you talked about how Mr. Flaherty has been tough on you guys.

21 Based off your experiences and your expertise, for someone, for a government

22 official who has clearly indicated a strong interest in a policy that the company has, is

23 previewing it as a not yet finalized version, does that further the company's goal in

24 maintaining a good relationship than if your team had said this is just a courtesy heads-up

25 of something that cannot be changed?

1 [redacted]. Okay. Specific to this situation or generally?

2 [redacted]. No, generally.

3 [redacted]. Generally. Okay.

4 [redacted]. Okay. I appreciate that clarification because it felt like the wound

5 up to the question was again about the specifics of this email and not about generally.

6 So let me take a step back and attempt to try and answer your question here.

7 I think in my experience, working in government and out of government, that this

8 is a human business and that we are -- that there are benefits to professional courtesies,

9 to professionalism, to the kind of soft skills of engaging with other humans. And there is

10 also genuine expertise on the other side of the table from the work that I do. And so

11 some moments would call for that genuine expertise and some moments we would not

12 need or want that expertise.

13 I mean, I think that policymakers appreciate like any human appreciate the

14 opportunity to provide genuine input where that opportunity is offered to them.

15 [redacted]. Can we go off the record, please.

16 [Recess.]

17 [redacted]. [redacted], you were asked extensively about exhibit 9 in the last

18 hour. We just have a --

19 BY [redacted]:

20 Q While we're searching for that, [redacted], do you know offhand the date

21 that that vaccine misinformation policy actually was implemented?

22 A I do not.

23 Q We'll be introducing an exhibit to establish that.

24 [[redacted] Exhibit No. 11

25 was marked for identification.]

BY [redacted]:

Q [redacted], we're not planning on going into depth with this. We just wanted to introduce this as exhibit 11 so that we could just show you a time, a date stamp on the policy.

Would you agree that this policy, managing harmful vaccine content on YouTube went live on September 29, 2021?

A I do agree with that.

Q Okay. Thank you.

And so we're going to direct your attention back to exhibit 9, this [redacted] email that we've talked extensively about, and we just want to make sure we have the timeline straight. On the second page, when [redacted] initiates the first email, it's September 21, 2021. Do you agree with that?

A I agree with that, yes.

[redacted]. And that was only 7 days before or 8 days before the change was actually implemented, correct?

[redacted]. The change was implemented on, as we noted here, September 29th; whereas, this email is from September 21st.

BY [redacted]:

Q Now, going up one chain to September 29, 2021, the date that it was actually published, Rob Flaherty responds: "Sorry for not replying to this note. I thought I did. We'd welcome the meeting. I saw the news. Would love to talk through it. At first blush, it seems like a great step."

Do you agree with that?

A I do agree with that.

Q Okay. So if we go to the first page, there's some scheduling that goes on,

1 and they are talking about, the parties are talking about the first -- 2 P.M. on October 1st
2 as the hold date to actually discuss the policy. Do you see that?
3 A I do see that, yep.
4 Q Okay. So is it correct to say that Mr. Flaherty never actually commented on
5 this policy before it went live according to this -- what you know from this email chain?
6 A Correct. So I only know what's here in front of me, but according to this
7 email chain, it appears that Mr. Flaherty did not comment until after the policy was made
8 public because he says he has read about it.
9 Q And without being on the email chain and just based on your own
10 experience and understanding from being at YouTube and leading your team, would it
11 make sense for [redacted] to invite substantive policy proposed changes from
12 Mr. Flaherty when the policy went live before the meeting had actually happened?
13 And if you need me to rephrase my question, I'm happy to because I don't know
14 that that was clear.
15 [redacted]. Would you mind?
16 [redacted]. We're all humans here.
17 [redacted]. Yes, absolutely.
18 BY [redacted]:
19 Q I guess my question is would it make sense for [redacted] to request
20 substantive feedback in terms of what would actually -- changes that would be made to
21 the policy if you have evidence that the meeting never actually happened before the
22 September 29th launch?
23 A So I only know what's in these emails here. As we've discussed, I have no
24 recollection of this particular situation, for lack of a better word. But I don't believe that
25 in the meeting that follows Mr. Flaherty's response on September 29th, that that would

1 be about substantive input into this policy that now is actually calcified in that it is public.

2 We have announced it to the whole world. So I don't believe that that meeting at that

3 time would be about changes to the policy.

1

2 [3:17 p.m.]

3 BY [redacted]:

4 Q But it still makes sense to have that meeting, because you said earlier you

5 want to keep lines of communication earlier open with stakeholders and to get their

6 views regardless of whether or not they have any input?

7 A Correct. And we want to be able to explain what's happening on our

8 platform to important stakeholders, which is a key function of my team's role.

9 Q And given that Mr. Flaherty had expressed and had discussion -- interested

10 and had discussions with YouTube about vaccine misinformation, it would make sense to

11 want to explain to him your new policies about vaccine misinformation.

12 A I think that is accurate -- that is accurate given my understanding of this

13 period of time and our work, yes.

14 Q Counsel asked you during the previous hour about the email in which you

15 referenced -- you stated that Mr. Flaherty had been tough on us at times. Did his being

16 tough on you at times have any impact on the decisions Google made about vaccine

17 misinformation?

18 A So I can only speak really for YouTube, so I would just narrow your question.

19 Q I'm sorry, did I say Google?

20 A You did. It happens a lot. Big company. In my experience, Mr. Flaherty,

21 being tough on us, which as you know were my words, had no impact on how YouTube

22 charted our own course on COVID misinformation.

23 Q And just to clarify for the record, the email chain where you made that

24 comment was in response to a public announcement about a collaboration between

25 YouTube and the White House about raising authoritative information, correct?

1 A That is my recollection, yes.

2 [redacted]. Thank you. We can go off the record.

3 [Discussion off the record.]

4 BY [redacted]:

5 Q I had addressed this in one of the earlier rounds, but just so that the record

6 is clear later. In the spring of 2021, you don't recall any other interactions with

7 Mr. Flaherty outside of the context of discussions regarding YouTube's community

8 guidelines?

9 A No, I do not recall any interactions outside of that, no.

10 Q And so, for the email from May of 2021, where you reference Mr. Flaherty

11 being tough on you, to your recollection, you can't think of any other context you'd be

12 referring to other than Mr. Flaherty's interactions with your team about YouTube's

13 community guidelines. Is that right?

14 A Yes. So that is true. I would just be slightly more specific there, which is

15 about YouTube's COVID response, but yes, that's correct.

16 Q And then you provided some earlier responses about based off your

17 experience Mr. Flaherty being tough didn't play a role in the changes to the community

18 guidelines, but it's also your testimony previously correctly, you and your team played a

19 very limited role in changes to YouTube's community guidelines. Is that right?

20 A Yes, that is correct, but -- yes, that is correct.

21 Q And then just I'll clarify the record a little bit more. The last two -- looking

22 at the last exhibit, the date of the policy change is September 29th, 2021. I can have

23 you look at I think it's exhibit 9, the email from [redacted] to Mr. Flaherty. Which two

24 dates does [redacted] propose to meet with Mr. Flaherty?

25 A I wouldn't think -- one date. He proposes October 1st or next week as well.

1 Q Sorry. If you could flip to 12 --

2 A Oh, in the beginning. I'm sorry. Friday, September 24th or Monday,

3 September 27th.

4 Q And then, his previous sentence says, We'd like to preview our policy

5 proposal for you and get any feedback you may have. Based off the email, the sentence,

6 is there any reason Mr. Flaherty would think that the purpose of the meeting would not

7 include the opportunity to provide feedback?

8 [redacted]. Again, you're asking her to speculate. You said is there any reason

9 for him not to think. It necessarily implies that she has to figure out --

10 BY [redacted]:

11 Q Based off the email as you're reviewing it today, what did you -- if you were

12 to receive this email, how would you interpret the purpose of the meeting to be?

13 A If I were to receive this email, I would expect that I am being -- having shared

14 with me a policy on removing content, that could mislead people on the safety and

15 efficacy of vaccines and being given the opportunity to offer feedback on that policy.

16 But if I could just be slightly more specific there, I don't know that it's clear that

17 that feedback is to change the contours of the policy, or to provide feedback about my

18 views on the policy. I just don't think that's clear here, and given that I don't have any

19 independent recollection, I think either are reasonable assumptions for the recipient of

20 this email.

21 Q With that ambiguity, is there a benefit to the company?

22 [redacted]. I mean, I think we've been through this. I'm not sure what more she

23 can say about what is the benefit to the company. I think she answered the question

24 before. In my view, it's sufficiently an amorphous question that I'm not sure how

25 she -- you know, I did not object to her answering it before, but I do object to her

1 answering it a second time. If you want to read back the transcript and find out how she

2 answered it the first time, we might be able to restate that.

3 [redacted]. With the way we have the court reporter set up, it's not as easy as

4 some other ways to read back the transcript. I think we can go off the record.

5 [Whereupon, at 3:24 p.m., the interview was concluded.]

1 Certificate of Deponent/Interviewee

2

3

4 I have read the foregoing ____ pages, which contain the correct transcript of the

5 answers made by me to the questions therein recorded.

6

7

8

9 _____

10 Witness Name

11

12

13 _____

14 Date

15

Transcribed Interview Transcript Errata Form

Interviewee	[redacted]
Date of Interview	6/28/24
Date of Review	7/23/24
Name of Reviewer	[redacted]
Signature of Reviewer	[redacted]

Page	Line	Suggested Correction

Transcribed Interview Transcript Errata Form

Interviewee	Director, YouTube GAPP
Date of Interview	June 28, 2024
Date of Review	December 16, 2024
Name of Reviewer	Ehren Halse
Signature of Reviewer	

Page	Line	Suggested Correction
38	11	“External responsive” should be “responsive”
46	14	"that specific" should be "the specifics"
51	9	“about that time policymakers having that concern” should be “at about that time policymakers had that concern”
53	3	“how sort of general practice” should be “the sort of general practice”
55	11	“outside of the gap team” should be “outside of the GAPP team”
56	1	Add a quotation mark before "Unfortunately"
74	5	"communities" should be "community"

74	6	"was" should be "were"
79	25	"before" should be "earlier"
Page	**Line**	**Suggested Correction**
80	5	"it" should follow "around"
81	1	“Not that I believe so” should be “not that I believe.”
82	10	"have" should follow "company"
83	3	“Important stakeholder” should be “important stakeholders”
91	21	"an" should follow "like"
95	14	delete "the" before "that" at end of sentence
100	3	"you two" should be "YouTube"
100	16	"to" should precede "provide"
101	18	"GT M" should be "GTM" (no space)

105	20	Sentence should end with a period, not a "?"
109	4	"wound" should be "wind"
109	13	“Human appreciate” should be “human appreciates”
114	18	"correctly" should be deleted

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4
5 COMMITTEE ON THE JUDICIARY,
6 U.S. HOUSE OF REPRESENTATIVES,
7 WASHINGTON, D.C.
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13 INTERVIEW OF: DAVID NAGGAR
14
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16
17
18 Thursday, July 11, 2024
19
20 Washington, D.C.
21
22
23 The interview in the above matter was held in room 2237 Rayburn House Office
24 Building, commencing at time 10:00 a.m.

1

2 Appearances:

3

4 For the COMMITTEE ON THE JUDICIARY:

5

6 [redacted], RESEARCH ASSISTANT

7 [redacted], CREATIVE DIRECTOR

8 [redacted], PROFESSIONAL STAFF MEMBER

9 [redacted], DEPUTY CHIEF COUNSEL FOR OVERSIGHT

10 [redacted], MINORITY CHIEF OVERSIGHT COUNSEL

11 [redacted], MINORITY OVERSIGHT COUNSEL

12 [redacted], MINORITY OVERSIGHT COUNSEL

13

14 For the SUBCOMMITTEE ON CRIME AND

15 FEDERAL GOVERNMENT SURVEILLANCE:

16

17 [redacted], MINORITY DETAILEE

18

19 For AMAZON:

20

21 [redacted], ESQ.

22 Covington and Burling

23

24 [redacted], ESQ.

25 Paul, Weiss

1

2 [redacted]. Can we go on the record, please.

3 [redacted]. So this is a transcribed interview of David Naggar. Chairman

4 Jordan has requested this interview as part of the committee's investigation of how and

5 the extent to which the executive branch has coerced and colluded with companies and

6 other intermediaries to censor speech.

7 Would the witness please state your name for the record?

8 Mr. Naggar. David Naggar.

9 [redacted]. On behalf of the committee, I would like to thank you for appearing

10 here today to answer our questions. The chairman also appreciates your willingness to

11 appear voluntarily.

12 My name is [redacted], and I'm with Chairman Jordan's staff. I will now have

13 everyone else on the committee who's here in the room introduce themselves as well.

14 [redacted]. [redacted], Chairman Jordan's staff.

15 [redacted]. [redacted], Chairman Jordan's staff.

16 [redacted]. [redacted], Chairman Jordan's staff.

17 [redacted]. [redacted] with Ranking Member Nadler.

18 [redacted]. [redacted] with Ranking Member Nadler.

19 [redacted]. [redacted] with Ranking Member Nadler.

20 [redacted]. I would now like to go over the ground rules and guidelines that we

21 will follow during today's interview. Our questioning will proceed in rounds. The

22 majority will ask questions first for 1 hour. Then the minority will have an opportunity

23 to ask questions for an equal period of time if they choose. We will alternate back and

24 forth until there are no more questions and the interview is over.

25 Typically we will take a short break at the end of each hour, but if you would like

to take a break apart from that, please just let us know.

As you can see, there's an official court reporter taking down everything we say, taking a written record. So we ask that you make verbal responses to all the questions.

Do you understand?

Mr. Naggar. I do.

[redacted]. So the court reporter can take down a clear record, we will also do our best to limit the number of people directing questions to you at any given hour to just those people on the staff whose turn it is. Please try and speak clearly so the court reporter can understand and so the folks down at the end of the table can hear you. It's important that we don't talk over one another or interrupt each other if we can help it, and that goes for everybody present at today's interview.

We encourage witnesses who appear before the committee to freely consult with counsel if they choose.

And it's my understanding that you are appearing today with counsel. Is that correct?

Mr. Naggar. It is correct, yes.

[redacted]. Could counsel please state your name for the record?

[redacted]. [redacted] with Covington & Burling for Amazon.

[redacted]. [redacted] from Paul, Weiss for Amazon.

[redacted]. Thank you.

We want you to answer our questions in the most complete and truthful manner as possible, so we will take our time. If you have any questions or if you do not understand one of our questions, please let us know. Our questions will cover a wide range of topics, so if you need clarification at any point, just so say so.

If you honestly don't know the answer to a question or don't remember, it's best

not to guess. Please give us your best recollection, and it is okay if you tell us if you learned information from someone else. Just indicate how you came to know this informing. If there are things you don't know or can't remember, just say so, and please inform us who, to the best your knowledge, might be able to provide a more complete answer to our questions.

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

Do you understand this?

Mr. Naggar. I do.

[redacted]. This also applies to questions posed by congressional staff in an interview.

Do you understand this?

Mr. Naggar. I do.

[redacted]. Witnesses that knowingly provide false testimony could be subject to criminal prosecution for perjury or for making false statements under 18 U.S.C. 1001.

Do you understand this.

Mr. Naggar. I do.

[redacted]. Is there any reason you are unable to provide truthful answers to today's questions?

Mr. Naggar. There is not.

[redacted]. Finally, I would like to make note that the content of what we discuss here is confidential. We ask that you do not speak about what we discuss in this interview to any outside individuals to preserve the integrity of our investigation.

For the same reason, the marked exhibits that we will use today will remain with court reporter so that they can go with the official transcript, and any copies of those

1 exhibits will be returned to us when we wrap up today.

2 All right. So that's the end of the preamble.

3 Is there anything that my colleagues from the minority would like to add?

4 [redacted]. I'd like to thank you for your time for coming here today.

5 Mr. Naggar. Thank you.

6 [redacted]. The clock now reads 10:04. We will start with the first hour of

7 questioning.

8 EXAMINATION

9 BY [redacted]:

10 Q Could I have you state your full name again, please?

11 A David Naggar.

12 Q And what is your current place of employment?

13 A Amazon.

14 Q And what is your current title?

15 A Vice president of Books and Kindle Content.

16 Q And how long have you worked in that role for?

17 A In that role, since 2020.

18 Q Beginning with college, what is your educational background?

19 A A bachelor's from Cornell University and a master's in business

20 administration from New York University.

21 Q Following your master's, what is your professional background?

22 A I spent 4 years at Warner Books in New York City, publisher, in roles varying

23 from sales, marketing, editorial.

24 Q You can just --

25 A Keeping going?

1 Q -- keep walking us through until we get to Amazon.

2 A Okay. Then I finished my MBA over a year and went back to work at

3 another publisher, Bantam Doubleday Dell, worked there in various roles, finance, sales.

4 They sent me to France to work in the French Book Club for 3.5 years. Came back to the

5 United States in 1998 to work for Bertelsmann there when they acquired Random House

6 and the merger of Random House and Bantam Doubleday Dell.

7 Then took over the sale force for Random House for a couple of years and then

8 became president of one of the publishing divisions from 2002 to 2007. Then I left

9 Random House to lead a startup called iAmplify, which I did for -- it was a digital media

10 startup. I did that for a year and a few months and then went to work for Amazon.

11 Q What was your first position with Amazon?

12 A In charge of our relationships with the publishers worldwide for Kindle

13 Content.

14 Q How long were you in that role for?

15 A 5 years.

16 Q And what years were those, approximately?

17 A 2009 to 2014.

18 Q And what was your next position?

19 A The Independent Publishing business was added to my responsibilities.

20 Q And what was your title at that point?

21 A It didn't change.

22 Q And how long were you in this position for?

23 A That was 2 years, at which time the rest of the business side of the Kindle

24 affair was added to my responsibilities, and I coled all of Kindle with the technical VP who

25 had the tech.

1 Q And this is around 2016?

2 A 2016.

3 Q And how long were you in this role for?

4 A 2 years.

5 Q What was your next --

6 A 2018, the technical VP moved to another role at Amazon, and the tech side

7 also joined my group.

8 Q And how long were you in this role for?

9 A 1 year.

10 Q And what was your next role after that?

11 A So 2019, the U.S., U.K., and German print book businesses were added as we

12 combined print and digital. We tried it out in those three countries first.

13 Q And how long were you in this role for?

14 A 1 year.

15 Q And what was your next position?

16 A We added the print book businesses in most other Amazon countries to

17 create a worldwide books and Kindle organization.

18 Q When was this, approximately?

19 A Throughout 2020.

20 Q And is that the role you currently have?

21 A It is.

22 Q In this role what are your responsibilities?

23 A I lead the teams that run Amazon's book business and Kindle.

24 Q How many direct reports do you have?

25 A Seven.

1 Q And how are their portfolios, responsibilities divided?

2 A There's one person who is in charge of our publisher relationships

3 worldwide, as well as the U.S. book business, as well as Kindle Unlimited, which is our

4 book subscription -- e-book subscription service.

5 There's another person who is in charge of the Independent Publishing Group,

6 including books risk management and fraud and abuse detection, as well as Amazon

7 Publishing, which is our traditional publishing arm.

8 There's another person who manages worldwide demand generation as well as

9 Goodreads.

10 I have a leader for the Japan books business who reports to me directly and a

11 leader for the European books business.

12 And I have an assistant and a program manager who helps with quarterly business

13 reviews and that sort of thing.

14 Q And who do you report to in this role?

15 A The head of the international stores business.

16 Q And who's that?

17 A Russ Grandinetti.

18 Q How frequently as part of your role do you interact with Amazon's public

19 policy team?

20 A Not very often.

21 Q When you do have occasions where you interact with that team, who is your

22 primary point of contact?

23 A It varies by country.

24 Q For the United States?

25 A [redacted].

1 Q Are you familiar with the terms "misinformation," "disinformation," and
2 "malinformation"?
3 A Yes, I am.
4 Q To your understanding, what are the differences among those terms?
5 A I don't know. I'd have to look it up.
6 Q Does Amazon have policies regarding when it's inappropriate for certain
7 content within books to be sold, content moderation policies akin to content moderation
8 policies for social media companies?
9 A I don't know anything about content moderation policies for social media
10 companies, but we do have content moderation policies for books.
11 Q And what are those policies called within the company?
12 A Content moderation policies.
13 Q How familiar are you with Amazon's content moderation policies?
14 A The teams that work on those policies report to me, and I'm involved in
15 some of the decisionmaking.
16 Q Which teams work on those policies?
17 A It's called books risk management.
18 Q And who leads that team?
19 A Today is [redacted].
20 Q And how long has [redacted] been in that role for?
21 A I'm not sure. About a year, I think.
22 Q Do you know who was in the role prior to her?
23 A Yes.
24 Q Who was that?
25 A [redacted].

1 Q How long was he in the role for?

2 A Several years.

3 Q How many rungs in the company ladder are there between the head of the

4 books risk management team and your position?

5 A One.

6 Q And who's that?

7 A [redacted], who is the head of Independent Publishing, Amazon

8 Publishing, and that books risk management.

9 Q How long has [redacted] been in his role for?

10 A It's evolved over years, but he started with the Independent Publishing

11 10 years ago.

12 Q Are you familiar with how Amazon develops its content moderation policies?

13 A Each Amazon business has its own content moderation team, so I can only

14 speak to books.

15 Q For the books team, are you familiar?

16 A Yes.

17 Q Okay. Can you walk us through at a high level how that process works?

18 A The books risk management team will propose a policy. They will bring a

19 list of examples of books that that policy would affect and not affect. We debate, and

20 we decide to either implement or not implement a policy.

21 Q Who ultimately makes the decision of whether to propose a potential

22 change to the books content moderation policies?

23 A It escalates to me, so I generally make the harder decisions. But depending

24 on the type of policy, it can happen at different levels.

25 Q Okay. Have there been instances where it's been elevated to someone

1 more senior than you?

2 A Yes.

3 Q Can you provide an example?

4 A Well, when we first started, we -- Amazon had had a view prior to that of

5 general availability. Our view is to make a wide variety of viewpoints available to our

6 customers because our customers have a wide variety of viewpoints, and so we bias

7 towards as much content as possible being available.

8 And there was a book that was brought to our attention through the self

9 publishing service that was teaching pedophiles how to groom children, and it became

10 clear that we didn't want such a book in the store, despite our view of maximum

11 selection. And so we at the very high level first had to make the decision that we were

12 going to moderate and then define a policy.

13 Q When was this, approximately?

14 A That would have been either 2009 or 2010.

15 Q Besides that example, are you aware of other examples where changes to

16 the books team's content moderation policies -- or decisions regarding changes to the

17 books team's content moderation policies were elevated to someone above you in the

18 company?

19 A Yes.

20 Q What's another example?

21 A Mass killing denial policy.

22 Q Are there other examples?

23 A Yes.

24 Q Taking a step back, on how many instances can you recall where a decision

25 was elevated above you in the company regarding a change to the books content

1 moderation policy?

2 A A handful.

3 Q Which other examples can you recall?

4 A The total is a handful. I would -- our hate speech policy I think was

5 escalated. The way it works is I will make the decision and then recommend -- if it's one

6 that I feel warrants escalation, I will make that recommendation to my boss.

7 Q So once the books risk management team makes an initial proposal, you say

8 they'll provide some examples, and it's personnel within that team that decide -- find the

9 examples and decide which examples to include. Is that right?

10 A Yes.

11 Q You then say there's a debate. Who participates in that debate?

12 A Our legal counsel, myself, the head of Independent Publishing, and the team

13 that's proposing the change.

14 Q And through what forum does this debate take place?

15 A I'm sorry?

16 Q How does this debate take place? Is it a meeting? Is it emails back and

17 forth?

18 A It varies, depending on the level of complexity of the topic.

19 Q Okay. For topics that are more complex?

20 A The team will put together a document, and they'll bring that document to a

21 meeting.

22 Q And for issues that are less complex?

23 A It can be an email exchange.

24 Q For books related to -- that address vaccine hesitancy, for the consideration

25 regarding that policy change, are you familiar with the process the company took

1 regarding that content moderation policy change?

2 A I am.

3 Q Do you recall when it was first proposed?

4 A I don't remember the exact date.

5 Q Do you recall approximately?

6 A It would have been very early 2021, January.

7 Q And do you recall how the debates surrounding this policy change took

8 place?

9 A The team became concerned about vaccine misinformation and so decided

10 to work on a policy around how we might limit harm to customers. Again, our goal was

11 for maximum selection with a frame particularly around protecting customers from harm.

12 There was a recommendation to drink bleach to protect yourself from COVID.

13 There were things about vaccines that we weren't clear. We looked to external

14 medical and scientific experts' information to try and create a decision, and so the teams

15 felt that there was enough misinformation, or we just didn't know what was

16 misinformation, that we needed some kind of policy.

17 Q When you say you didn't know what was misinformation, what do you mean

18 by that?

19 A It wasn't clear how we should think about advising about content we should

20 be putting in front of our customers.

21 Q When you say it wasn't clear of what kind of content you should put in front

22 of your customers, do you mean it wasn't clear of what was or was not vaccine

23 misinformation in any sort of medium or it wasn't clear based off existing policies of, you

24 know, trying to prevent harm to Amazon consumers?

25 A The team felt we needed a new policy.

1 Q Was there a memo prepared from the books risk management team
2 regarding this policy change?
3 A The books risk management team and the legal team prepared a document,
4 yes.
5 Q Who participated in the debate regarding this potential policy change?
6 A I don't remember the exact names of the people who were in the meeting.
7 Q How many meetings were there?
8 A I don't remember.
9 Q Do you recall approximately?
10 A The meeting where it escalated to me was a single meeting, but I have no
11 idea how many meetings the team had before.
12 Q Is that common when there's a policy change that the debate is escalated to
13 you only in a single meeting?
14 A It depends on the complexity of the issue.
15 Q So for some policies it takes multiple meetings?
16 A It could.
17 Q In the single meeting that you're able to recall, who else can you recall that
18 was there?
19 A I don't recall. Typically it would have included our legal counsel, the head
20 of Independent Publishing and books risk management, and some members of the books
21 risk management team. I don't recall if there was anyone else, but that would have
22 been typical.
23 Q And do you recall when this meeting took place?
24 A It was in early February.
25 Q Had the books risk management team provided examples?

1 A I don't remember specifically, but typically there is a list of titles that helps
2 calibrate how we think about the issue and the policy they're proposing.
3 Q Who presented at this meeting?
4 A Meetings at Amazon are not presentations. There's a document, four to six
5 pages. That document is read in silence at the beginning of the meeting, and then the
6 meeting begins, the discussion begins.
7 Q Are you able to review a copy of that document prior to the meeting?
8 A No.
9 Q When you say the meeting begins, who facilitates the meeting?
10 A There is no real facilitator. It's whoever has comments on the content of
11 the document.
12 Q Do you recall what your comments were?
13 A I do not. And those would have been with counsel present and asking their
14 advice.
15 Q Do you recall at the end of the meeting what recommendations were made?
16 [redacted]. I'm going to object to any discussion as to the content of the
17 meeting because it was privileged, but if you could reframe the question.
18 [redacted]. Sure.
19 BY [redacted]:
20 Q To your recollection -- sorry. Let me take one step back.
21 For this policy change, did you elevate consideration of this policy change to
22 anyone above you?
23 A I did.
24 Q Okay. And who was that? Was it Russ?
25 A It was.

1 Q Did you elevate it to anyone else within the company above you?
2 A Not to my recollection.
3 Q Do you know if Russ elevated?
4 A I don't.
5 Q Was Russ in the meeting that you were in?
6 A No. Just to clarify, the escalation to Russ was not in the -- was in the form
7 of a meeting that we set up for a few weeks after this one.
8 Q Okay. Who attended that meeting?
9 A I don't remember.
10 Q But it was at least you, Russ?
11 A Yeah. Legal counsel, probably members of the books risk management
12 team.
13 Q Was it the same four- to six-page document considered in that meeting or
14 had it changed?
15 A I don't remember exactly.
16 Q Do you remember after the first meeting whether there was a
17 recommendation to make any substantive changes to the proposed policy change?
18 A I don't remember.
19 Q At the conclusion of the first meeting, do you recall if you were in favor of
20 changing Amazon's content moderation policy in any way?
21 A I do.
22 Q And which way? What was your position?
23 A My position was that it was appropriate to implement a policy to not
24 merchandise in our discretionary merchandising slots vaccine -- a list of vaccine
25 misinformation books, or we suspected.

1 Q Who within the company had the responsibility of determining what was or
2 was not vaccine misinformation?
3 A We came up with a policy, and then we implemented the policy.
4 Q To your understanding, what types of content fell within the policy?
5 A I don't remember exactly.
6 Q Do you recall objecting to any proposed examples of examples the books risk
7 management team thought should be included in the policy or you thought should be
8 excluded?
9 A That would have been in the context of the discussion with counsel.
10 Q Without getting into details, do you recall if there were any that you
11 objected to?
12 A I don't remember.
13 Q Do you recall anyone in the meeting disputing whether a certain claim was
14 or was not vaccine misinformation?
15 [redacted]. Excuse me. Can you repeat the question?
16 [redacted]. Sure.
17 Do you recall anyone in the first meeting disputing whether a certain type of claim
18 was or was not vaccine misinformation?
19 [redacted]. I'm going to object on the ground of privilege and instruct the
20 witness not to respond.
21 BY [redacted]:
22 Q In the second meeting, can you walk us through how that meeting was
23 carried out? Was it similar, a silent reading of the memo at the beginning?
24 A I don't remember specifically, but that is how most Amazon meetings
25 happen.

1 Q Was it -- let me rephrase that.

2 In the second meeting did the books risk management team again provide

3 examples?

4 A Yes. There would have been a calibration list of titles.

5 Q And is that list of titles included in the memo?

6 [redacted]. I'm going to object to questions about the memo which has been

7 withheld on the grounds of privilege.

8 [redacted]. In the second meeting do you recall any discussion or disagreements

9 regarding what types of claims should be considered vaccine misinformation?

10 [redacted]. I'm going to object to questions about the content of the meeting

11 with legal counsel.

12 BY [redacted]:

13 Q Following the meeting with Russ, had a decision been made by the company

14 regarding whether to adopt this proposed policy change?

15 A Yes.

16 Q And what was that decision?

17 A That we would adopt that policy.

18 Q From the time a policy is adopted, how long does it take for that policy to

19 take effect?

20 A The policy is in effect immediately. The question is how long does it take to

21 execute in terms of the technical complexity.

22 Q How long does it take to execute?

23 A It varies based on the policy and how difficult it is to identify titles.

24 Q Do you know how long it took to execute this policy?

25 A I don't remember.

1 Q How does the company identify titles that are potentially violative?
2 A We take our policies, and we apply them to the catalog that we have.
3 Q When you say you apply them to the catalog, what does that look like, just
4 as a matter of executing the policy?
5 A It varies based on each policy.
6 Q For the vaccine misinformation policy, how did it look like?
7 A I don't remember.
8 Q Is it a process that's automatic? Were there certain terms, or is there a
9 manual type of deal?
10 A I don't remember.
11 Q Is it the books risk management team that is responsible for finding the book
12 titles that are potentially violative?
13 A The books risk management team would execute the policy.
14 Q Okay. And by "execute the policy," does that include finding the titles that
15 are violative?
16 A Yes. They would need to identify the titles.
17 Q If there's a -- taking one step back, and that's to the vaccine misinformation
18 policy.
19 But if there's a close call, so to speak, of whether a title is or is not violative of any
20 of the content moderation policies, how are those handled?
21 A Can you say more?
22 Q Sure. In a -- with each policy, are there instances where there are clear
23 violations and are there instances where it's less clear?
24 A Yes.
25 Q Okay. So that latter category, how -- who makes the determination of

1 books that are -- it's arguable whether they are violative or not?

2 A The team will make a determination that this is a close call, and they will

3 escalate.

4 Q Okay. By "the team," you mean the books risk management team?

5 A Correct.

6 Q Who did they escalate it to?

7 A They would start with [redacted], with help from legal, and they would -- if [redacted]

8 is unable or feels that it's high enough judgment, he would escalate to me.

9 Q Do you recall if there were any books that were potentially violative of the

10 vaccine misinformation policy that were elevated to you?

11 A I don't recall.

12 Q Are you aware of whether there are any books potentially violative of

13 vaccine misinformation policy that were elevated to [redacted]?

14 A I don't know.

15 Q When there are instances where a book is being elevated for your review,

16 what does that process look like?

17 A It would be very similar. Depending on the complexity, an email or

18 document would be prepared.

19 Q To your understanding, once a book has been identified as violative of one of

20 the policies, are there any opportunities for reconsideration, another assessment of

21 whether it's violative at a later point in time?

22 A Yes.

23 Q And what does that process look like?

24 A It varies.

25 Q Are you familiar with whether -- well, let me take a step back.

1 How does it vary?
2 A It varies. It could be an escalation from an internal source, an external
3 source. It could be a regular policy review from the books risk management team as
4 examples.
5 Q How often on a regular basis does the books risk management team review
6 its content moderation policies?
7 A It's not on a set schedule.
8 Q Are authors notified if their book is included on a do not promote label or
9 category?
10 A They're not.
11 Q What are the enforcement mechanisms available to Amazon as far as what
12 steps they can take when it comes to moderating the content of books sold?
13 A I'm sorry. I don't understand the question.
14 Q For certain violations will Amazon remove the book from sale from its
15 marketplace?
16 A If it violates a policy and that policy is written where the book would be
17 removed, yes.
18 Q In addition to removal and the placement on the do not promote category,
19 what other options are available to the company?
20 A Those are the two primary.
21 Q When a book title is included on do not promote, does that affect how the
22 book appears in search results?
23 A To the best of my knowledge, it does not.
24 Q Which team within the company handles how search results appear within
25 the marketplace?

1 A There is a search team.
2 Q Who's the head of that search team?
3 A I don't know.
4 Q Is that search team within the books risk management team, or is that an
5 entirely separate team?
6 A That is a separate team.
7 Q Do you know who the search team reports to?
8 A I don't.
9 Q For the vaccine misinformation policy, do you know how frequently the
10 books risk management team reassessed that policy once it was first adopted?
11 A I do not.
12 Q Do you know how many books were first initially identified as violative of the
13 newly adopted vaccine misinformation policy?
14 A I don't remember the exact number.
15 Q Do you remember approximately?
16 A Somewhere between 35 and 45.
17 Q Do you know if any of those books were later removed from the do not
18 promote category?
19 A I don't remember.
20 Q Were any of those books removed?
21 A Removed?
22 Q From the marketplace or --
23 A No. Those books remained available for sale. Again, our goal is to make a
24 wide available -- of content available to our customers, and the widest possible selection
25 in this case means the books were still available for sale, still findable searching author

name, title name, still showed up on the author's author page, you know, were still -- if there was a widget that said other books by this author, they would still show up there. They were still very findable. We just were not going to use our discretionary placements like the front of a store table at a brick and mortar store to display them to customers.

Q How many book titles were added past the initial 35 to 45?

A I don't remember.

Q Do you know approximately?

A I do not.

Q Who would know that information?

A The books risk management team.

[redacted]. While you're doing this, do you know what time we started?

[redacted]. 10:04.

[redacted]. 10:04.

BY [redacted]:

Q As part of your role at the company, have you had any interactions with the White House?

A Yes.

Q On how many occasions?

A One occasion.

Q And what was that?

A It was during the Obama administration, and we were trying to see if there was any connection we could make between schools' education and Kindle, making it easier, cheaper for students to get their learning materials.

Q When did you first learn that the Obama -- excuse me -- that the Biden

1 White House had contacted members -- personnel from Amazon regarding vaccine
2 misinformation?
3 A I don't remember the exact date.
4 Q Do you remember who first informed you?
5 A I don't.
6 Q Did you have interactions with [redacted] in March 2021 regarding the
7 White House's concerns on vaccine misinformation?
8 A I believe we were on some email threads together.
9 Q Do you recall any meetings with [redacted]?
10 A No.
11 Q To your understanding, what were the White House's concerns at that time?
12 A They were concerned about perceived misinformation, vaccine
13 misinformation appearing on the site.
14 Q Were you surprised that the White House had contacted personnel at
15 Amazon about this issue?
16 A I don't think I was surprised. It didn't affect my decision in any way.
17 Q Who else -- let me take one step back.
18 When you first were made aware of this information, what did you do with it?
19 A Nothing in particular.
20 Q Did you elevate it to Russ at any point?
21 A I don't remember. But it would have been my standard practice for an
22 escalation at that level to let him know.
23 Q Did you find out directly from [redacted] or was it someone within your
24 team that informed you about the Biden White House reaching out?
25 A I don't remember.

1 Q Were you -- did you ever receive -- did they ever forward you the emails that
2 the White House had sent to [redacted]?
3 A I don't remember.
4 Q Do you know who [redacted] is?
5 A Yes.
6 Q Did you interact with her during this time?
7 A I don't remember specifically.
8 [Naggar Exhibit No. 1
9 was marked for identification.]
10 [redacted]. [redacted], how are you marking the exhibits? Is this exhibit 1?
11 [redacted]. Yes.
12 BY [redacted]:
13 Q This will be exhibit 1. This is an email chain that starts with the White
14 House e-mailing personnel at Amazon. It finishes with an internal Amazon email dated
15 March 2, 2021. If I could have you flip to Bates number 4585. It's at the bottom of the
16 page.
17 It is an email from Mr. Slavitt saying, "Who can we talk to about the high levels of
18 propaganda and misinformation and disinformation of Amazon?"
19 And then on the bottom of the first page, going on to the second page, there's a
20 screenshot of search results for what's on, it appears, a search of vaccine on Amazon's
21 site. It's unclear who [redacted] forwarded this email to, given the redactions.
22 Having had a chance to review this email chain, do you recall ever seeing it?
23 A I don't remember seeing it at the time.
24 [Naggar Exhibit No. 2
25 was marked for identification.]

1 BY [redacted]:

2 Q All right. This is exhibit 2. This is an internal Amazon email dated

3 March 3, 2021.

4 Do you recall who from your team was updating [redacted] or [redacted]

5 around this time?

6 A I don't recall.

7 Q In the normal course of business, who would be most likely to be interacting

8 with the public policy team?

9 A It would be the books risk management team and then our legal counsel.

10 Typically, depending on the level of the escalation it might include [redacted]. It might

11 include me.

12 Q The first full sentence says that you want to alert Russ before actioning do

13 not promote. Is that consistent with your recollection of your initial response?

14 A It is.

15 Q Do you recall who you shared this position with within the company?

16 A In the meeting where we made the decision that I wanted to move forward

17 with the do not promote, I would have said let's start --

18 [redacted]. Let's not comment on the specific content of the meeting.

19 Can you rephrase the question slightly?

20 [redacted]. Sure.

21 BY [redacted]:

22 Q So the meeting that you recall happened in February of 2021. Is that right?

23 A Yes.

24 Q Did anyone touch base with you between the morning of March 2nd and the

25 evening of March 3rd regarding your position on actioning do not promote?

1 A I do not remember.
2 Q As you read this email, what does "actioning do not promote" mean?
3 A It would mean implementing the policy.
4 Q As of March 1st had there been a decision made regarding whether to action
5 do not promote?
6 A I had made the decision that I wanted to move ahead with the do not
7 promote policy in the meeting in February. We had a meeting the third week of March
8 with Russ set up to take him through it.
9 Q In this March 2, March 3, 2021, time period, had you made a decision to
10 action do not promote -- let me rephrase that.
11 In this time of March 2, March 3, 2021, did you make a decision to accelerate
12 when the do not promote would be actioned?
13 A I do not remember.
14 Q The next paragraph says, "Team is expanding search light keywords."
15 Do you know what "search light keywords" means?
16 A I don't.
17 Q Do you know which team this is referring to?
18 A I don't.
19 Q The next sentence says, "However they are not sure if they can get the
20 content itself adjusted but are looking into it."
21 Do you know what this is in reference to, "the content itself adjusted"?
22 A I don't.
23 Q Who would know?
24 A The team that they're referring to.
25 Q And you don't know which team that is?

1 A I don't.
2 Q If someone had come to you with a question regarding search light
3 keywords, who would you go to to try and find more information?
4 A The search team.
5 Q To your knowledge, did the search team adopt any policies or make any
6 changes regarding vaccine misinformation?
7 A I don't know.
8 Q Who would know that information?
9 A The search team.
10 Q For any of the books content moderation policies, has there ever been any
11 coordination between the books team and the search team regarding adoption of new
12 policies or changes to existing policies?
13 A Yes.
14 Q What are examples that you can recall?
15 A Very early in the pandemic we wanted to make sure that there was a link on
16 certain search keywords to the CDC guidance on COVID.
17 Q And were you involved in that decision?
18 A I was.
19 Q Who from the search team was involved?
20 A I don't remember.
21 Q What process was used to adopt that policy?
22 A I don't remember.
23 Q Was it different than the process you used to adopt new policies for the
24 content moderation policies?
25 A I don't remember.

1 Q Turning back to exhibit 1, on the front page there's an email from Mr. Slavitt
2 with a 3:14 timestamp, about two-thirds of the way down. The second paragraph says,
3 "We would welcome spending time on this with you, not just on policies, but examples
4 like this that are of concern. And in my opinion, even a CDC warning wouldn't be a great
5 solution."
6 Do you recall if you had any -- or, to your knowledge, did anyone from Amazon
7 have any interactions with the executive branch regarding the CDC label that had been
8 implemented?
9 A Not to my knowledge.
10 Q Did [redacted] or anyone else from the company share with you Mr.
11 Slavitt's opinion that even a CDC warning would not be a great solution?
12 A I don't remember.
13 Q Besides the CDC warning, can you think of other examples of where the
14 books risk management team was working with the search team regarding some change?
15 A No, not that I can recall.
16 Q For the example with the CDC label, what's the proper term that the
17 company would use?
18 A I'm not sure technically which implementation they chose, so I don't know.
19 Q For the CDC label that would pop up, do you know who decided which
20 search terms would trigger that label?
21 A I don't know.
22 Q Do you know broadly whether it was primarily the search team or the books
23 risk management team?
24 A I don't know.
25 Q Do you know who [redacted] and [redacted] are that are referenced in this email, out of

1 exhibit 2? I'm sorry.

2 A I don't know who [redacted] could be referring to. There are a lot of [redacted].

3 There's only one [redacted] with two [redacted], and he leads search at the time, a lot of the customer

4 experience on the website in the store.

5 Q Regarding the CDC label that was added in 2020, do you recall if you

6 interacted with [redacted] regarding that?

7 A I don't remember.

8 Q Regarding the CDC label, was that a decision that you had elevated to Russ?

9 A Yes.

10 Q Do you know if Russ elevated it to anyone else?

11 A I don't know.

12 Q The search light keywords here, are there other instances of your team

13 working with the search team regarding keywords other than the CDC label that could be

14 potentially applicable to this email?

15 A Not to my knowledge.

16 [Naggar Exhibit No. 3

17 was marked for identification.]

18 [redacted]. This will be exhibit 3. This is an internal Amazon email chain from

19 March 4th up until March 9th of 2021.

20 [redacted]. [redacted], is the highlighting on the original?

21 [redacted]. It is.

22 BY [redacted]:

23 Q There are a number of redactions on this email chain.

24 Do you recall if you were on it?

25 A I don't recall.

1 Q If I could have you flip to the back page, Bates number 3370. There's an
2 email at the bottom, first one of this chain, with an 11:48 timestamp. And the
3 signature, this little books logo, is that consistent with someone from the books risk
4 management team?
5 A It could be.
6 Q Do you know what CPP stands for in this context?
7 A I do not.
8 Q The email says -- someone is asking, "I'm hoping you can help me set up a
9 new DNP class."
10 To your knowledge, prior to March 4, 2021, had anyone created a DNP class for
11 antivaccine books?
12 A Not to my knowledge.
13 Q To your understanding, why was that?
14 A Why was what?
15 Q Following the first meeting, you were in favor of a new antivaccine book DNP
16 class. Why by March 4th had there not been a DNP class created?
17 A I don't know the specifics of creating a DNP class, but we would not have
18 executed the policy, because when I made the decision, I also wanted to escalate it to
19 Russ. And we had a meeting in the second half of March with him.
20 Q In those meetings with Russ, does he have the ability to overrule you, to
21 change the policy if he wants to?
22 A He could.
23 Q So by March 4th, the decision was not yet final?
24 A In the sense that he could veto.
25 Q The next email in response adds a redaction "and Automations" at the top.

1 A Sorry. Where are you?
2 Q Sorry. On Bates number 7370.
3 A Got it.
4 Q Moving up to the next email, the 2:18 timestamp. The top of the email
5 adds -- there's a redaction, and then it says "and Automations." And then there's also in
6 the "to" line, crm-automations email address.
7 A I see the email address. Where is the first thing you referred to? In this
8 same email?
9 Q Yeah, the redaction and then "and Automations."
10 A Oh, I see.
11 Q Do you know what that's in reference to, automations?
12 A I don't.
13 Q Is there a team that handles automatic enforcement of Amazon's book
14 policies?
15 A There is a tech team.
16 Q But you're not familiar with the crm-automations email address?
17 A I'm not.
18 Q The email starts, "Hi team, I submitted SIM."
19 Do you know what that is referring to?
20 A I know what a SIM is. I don't know what the specific one is referring to.
21 Q And what is a SIM in this context?
22 A It is an internal system where we flag work for technical teams.
23 Q This individual writes he or she submitted a SIM to create a new DNP class
24 for antivaccine books.
25 Do you know who within the company made the decision on or about March 4th

1 to create a new DNP class for antivaccine books?

2 A I don't.

3 Q Given the context at this time, who would have been the appropriate person

4 to approve this decision?

5 A This would not have been a decision to move ahead with the policy. This

6 would have been a decision to create the class in anticipation of moving ahead with the

7 policy.

8 Q And who makes the decision to create a class in anticipation of the new

9 decision?

10 A I don't know.

11 Q The sentence continues, "The impetus for this request is criticism from the

12 Biden administration about sensitive books we're giving prominent placement to, and

13 should be handled urgently."

14 And then the email below says, "This is a high priority intended to address

15 negative feedback we're getting from the White House's Coronavirus Task Force."

16 Do you know who had informed these individuals about the White House's

17 criticism of Amazon's policies?

1

2 [11:01 a.m.]

3 Mr. Naggar. I don't.

4 BY [redacted]:

5 Q On or around March 4th of 2021, were you aware that members of the

6 books risk management team were aware of the White House's criticism?

7 A I was not.

8 Q Do you think it's appropriate that members of the books risk management

9 team were made aware of the White House's criticism?

10 A I don't know that it's appropriate or inappropriate. I don't really have an

11 opinion.

12 Q The individuals on this email chain referring to the impetus for the request

13 and addressing it as a priority, do you think that's appropriate for the books risk

14 management team to prioritize certain decisions based off of criticism from the White

15 House?

16 A Books risk management team doesn't have authority to make a decision like

17 that, and this is a mischaracterization.

18 Q How is it a mischaracterization?

19 A The impetus for our policy began weeks before the Biden administration

20 reached out. We treated that outreach the same way we would outreach from any

21 White House administration. We took it seriously and we looked at what we were

22 already doing and decided whether, you know, we were going to move forward with our

23 policy independent of that outreach. I don't know how this person got the impression

24 that the outreach was the impetus, but it clearly was not.

25 Q But the person who's creating the DNP class has this impression based off of

1 this email. Is that right?

2 A It looks that way from the email, yes. They're incorrect.

3 Q Who has responsibility within the company to correct this sort of alleged

4 misunderstanding?

5 A Anyone who knows differently and who sees this email.

6 Q At any point prior to preparations for this interview, were you ever made

7 aware that members of the books risk management team had this understanding?

8 A Yes.

9 Q At what point was that?

10 A In the last week.

11 Q Anytime prior to that?

12 A No.

13 Q At the bottom of 7369, there are --

14 A Same exhibit?

15 Q Same exhibit. Bottom of the next page. 3:32 time stamp. There is a

16 reference to NSOC.

17 A Yeah.

18 Q Do you know what that's in reference to?

19 A I don't.

20 [redacted]. Where are you?

21 Mr. Naggar. It's at the bottom --

22 [redacted]. Bottom of 7369.

23 Mr. Naggar. Just above the highlight. I don't.

24 [redacted]. Go off the record, please.

25 [Recess.]

1 EXAMINATION

2 BY [redacted]:

3 Q Good morning, Mr. Naggar. I have a couple follow-up questions from the

4 first hour. I just want to take a couple steps back and talk about Amazon's content

5 guidelines that apply to books. Now, Amazon has content guidelines that apply to

6 authors, publishers, and book vendors. Is that correct?

7 A Yes.

8 Q And at a high level, these content guidelines say prohibit dangerous things

9 like promoting a reader to drink bleach as a cure for COVID-19. Is that correct?

10 A Yes. Customer harm is a primary reason for the policies.

11 Q And Amazon had this customer harm or this dangerous activities policies

12 even before the pandemic. Is that correct?

13 A Well before.

14 Q Okay. And it's -- so it's fair to say that Amazon had enforced content

15 guidelines well before the Biden administration.

16 A Yes.

17 Q And if a book is identified as violating the content guidelines, it's subject to

18 removal from the platform. Is that correct?

19 A It depends on the guidelines. The policy could be removal. It could be

20 not allowing the book in discretionary merchandising.

21 Q Is that the same thing as saying do not promote?

22 A It is.

23 Q Okay. And if this happens, there's an action taken as a result of a content

24 guidelines violation, the ultimate determination to take that action is made by Amazon

25 and not any third party. Is that correct?

1 A Yes.

2 Q And books that are -- that -- when action is taken on books for content -- for

3 violating content guidelines, it's never -- it's not because they express a certain political or

4 ideological viewpoint. Is that correct?

5 A That is correct.

6 Q Internally speaking, we talked in the first hour a little bit about tech

7 platforms. Amazon's policies are a little different than other social media companies

8 because books aren't user generated. Is that a fair assessment?

9 A Books are author generated. I'm not sure I understand the question.

10 Q So I'm just trying to make the point that Amazon -- policies that apply to

11 Amazon, such as content moderation, are a little different than maybe other types of big

12 technology companies that are social media driven.

13 A I'm actually not aware of their content policies, so I couldn't say.

14 Q That's fair. So we talked in the earlier hour about the do not promote

15 policy. I just want to go into more depth about what that means and what it doesn't

16 mean. Amazon has certain tools it uses to highlight certain books to its customers.

17 Would examples be like Amazon Choice and Amazon Deals?

18 A Yes.

19 Q And how does that work generally?

20 A Those are -- there are some of those that are automatically driven based on

21 sales levels. There are some of those that are nominations. Some are chosen by our

22 editorial team. Obviously, that's a much smaller number.

23 Q So is it fair to say these tools make unsolicited suggestions for certain books

24 to Amazon's customers that they think the customer might be interested in?

25 A Can you just clarify what you mean by unsolicited.

1 Q Well --
2 A Unsolicited by the customer?
3 Q By the customer.
4 A Yes.
5 Q Okay. So these are effectively free advertisements for the books that
6 Amazon pushes out to its customers. Is that fair to say?
7 A I wouldn't classify them as advertisements, because there are also ads.
8 These are choices we make to put books in front of customers very similar to a brick and
9 mortar store using their front of store table.
10 Q So in a brick and mortar store, to use your example, that would be like a
11 table where you go and that's out in the aisle that would have, you know, staff selections
12 that the staff thinks that customers would be interested in.
13 A Yes.
14 Q And so when an Amazon is placed on a do not promote list, it's not actually
15 removed from Amazon's platform. Is that correct?
16 A When a book. You said when an Amazon.
17 Q When a book is placed on Amazon's do not promote list?
18 A Correct.
19 Q So it still shows up in search results.
20 A And more, yes.
21 Q So the only thing that do not promote policy does is remove a book from the
22 list of books that Amazon would have on the table, so to speak, in a brick and mortar
23 store.
24 A Yes, that's correct.
25 Q In your view, does any author or publisher have a right to being placed on

one of these tables, these end tables in the brick and mortar store or in one of these type of monetization platforms?

A I don't believe so. The industry doesn't function that way.

Q Okay. And would you consider the do not promote policy to be censorship in any way?

A Absolutely not.

Q Thank you. One other follow-up question I had. When you talked in the first hour about you ballparked maybe 35 to 45 books being put on the do not promote list in the beginning, is that correct?

A Yes.

Q And how many books would you say Amazon has on its platform?

A Millions.

Q Is it north of tens of millions?

A I don't believe we've cracked ten million. I think we're still in single digits.

Q Okay. So it's fair to say that the 35 to 45 that were in this do not promote list is a very small fraction of the actual marketplace on Amazon's platform.

A Correct.

Q Okay. And one last follow-up question. When you talked earlier in the first hour about the -- about Amazon's decision very early in the pandemic to link certain key words to CDC -- to the CDC website, that was very early in the pandemic meaning that was during the Trump administration. Is that fair to say?

A Yes.

Q Thank you.

[redacted]. Follow-up?

[redacted]. I have a couple.

1 [redacted]. Sure.

2 BY [redacted]:

3 Q Just referring to the question of the do not promote list, picking up where

4 [redacted] left off just now, you said there were 35 to 45 approximately books that were

5 considered the do not promote list, correct?

6 A Of the anti -- of the vaxx misinformation group, yeah.

7 Q And that's out of several million books available on Amazon's platform at

8 large, correct?

9 A Correct.

10 Q And even of those 35 to 45 approximately books that were on the list, those

11 are still available to consumers, correct?

12 A Yes, they were.

13 Q So they could -- a person who wanted to purchase a book could still go on

14 Amazon's website, put it into the search bar, and it would appear for them, correct?

15 A Yes.

16 Q And they could put the author's name into the search bar and they could

17 find the book that way as well.

18 A Yes.

19 Q And if they pulled up another book by the author, a book that might have

20 been on the do not promote list by that same author would appear as a another book by

21 that author, correct?

22 A Yes.

23 [redacted]. Okay. Thank you.

24 [redacted]. Go off the record, please.

25 [Recess.]

1 [redacted]. If I can turn your attention back to what was Exhibit 1, and then if I
2 could have you turn to Bates number 45842. It's the second page of that exhibit, the
3 back of the first page.
4 Mr. Naggar. Am I on the wrong one? 45842?
5 [redacted]. Yeah.
6 BY [redacted]:
7 Q Sorry, 4584. There's a screen shot at the top of this page. The sender is
8 from the White House, but you can see if you flip the page over. Do you recognize this
9 book title or the image or anything about it?
10 A I'm just going to read the email quickly. Okay. Sorry, what was your
11 question?
12 Q Do you recognize this book title, the image of the cover, anything about it?
13 A I do not.
14 Q Do you know if this book was one of the original 35 to 45 that made the do
15 not promote class?
16 A I don't know.
17 Q If were one of the books that made that initial 35 to 45, is it your
18 understanding it would be just a coincidence that the White House had flagged this book
19 on March 2nd and it made the list on March 4th?
20 A I don't know.
21 Q When we were going through your professional background at the very
22 beginning of the first hour, you mentioned working for a number of -- Random House,
23 others in the book publishing business. As part of your role at any of those positions,
24 did you have a chance to interact with small time book sellers, large book sellers, Barnes
25 & Noble, people of the -- companies like that?

1 A Yes.

2 Q To your understanding, did any of them ever recount to you or share with

3 you any experience of a government official calling them to say that books on display

4 should be different?

5 A Not to my recollection.

6 Q I'll have you turn back to Exhibit 3 we were going through at the end of the

7 first hour.

8 [redacted]. 367.

9 Mr. Naggar. Thank you. Okay.

10 BY [redacted]:

11 Q If I could have you turn to Bates number 7369. That's the second to last

12 page of the exhibit. We were starting to touch upon it at the end of the first hour.

13 A Yes.

14 Q You said you're not familiar with the acronym NSOC. Is that right?

15 A Correct.

16 Q Are you familiar with the acronym ASIN as it's used in this email?

17 A Yes.

18 Q And to your understanding, what does it mean in this context?

19 A I don't know what it stands for, but every item sold by Amazon has an ASIN.

20 It's an internal identifier.

21 Q Thank you. The email with the date stamp 3:32 p.m. at the bottom of that

22 page.

23 A Uh-huh.

24 Q The first sentence is we already have a CPP class to handle ad hoc requests

25 to block promotion, and then it says Shell, underscore, extremists, underscore, DNP. Do

1 you have any familiarity with the shell DNP being referenced there?
2 A I don't.
3 Q Not necessarily specific to the context being referenced in this email. Do
4 you have any familiarity of when, if ever, the books team will use ad hoc requests for
5 classes? For DNP classes?
6 A I don't.
7 Q Who would know that information?
8 A The books risk management team.
9 Q The -- if I can have you go up to the email with the time stamp 1:49 p.m.
10 A Okay.
11 Q Again, the emails are redacted, but someone from the company emails, Let's
12 hold off on actually pushing anything to, it looks like production, until we get the go
13 ahead from leadership. Do you know who from leadership they're awaiting for the go
14 ahead from around March 4th?
15 A I don't.
16 Q Given the context of what's going on here, who would be the appropriate
17 person in leadership to wait for approval from?
18 A I don't know who specifically on my team would be giving them the go
19 ahead. It would be based on the decision that I had made when I was vetting with Russ
20 in that meeting later in March.
21 Q Okay. From when the White House reached out, do you recall how quickly
22 you were able to discuss the matter with Russ?
23 A We had an email exchange the week after, I think.
24 Q There's -- the next email starts on the next page. It goes from March 4th to
25 March 8th, but then the message itself is back at the top of the previous page. It says,

1 we have sign off to proceed with this. Let's go ahead and add the books below to our
2 DNP class. Again, around March 8th, do you have any familiarity with who gave the
3 approval?
4 A I don't know who specifically gave them the go ahead, no.
5 Q There's more reference to others in automations. Do you have any
6 understanding which team that's referring to?
7 A I don't.
8 Q The next email -- this is Bates number 7368. There's an email with a time
9 stamp 1:59 p.m. in the middle of the page.
10 A Okay.
11 Q The last paragraph of that email says, Currently all of our DNP classes,
12 extremists, racially sensitive, and transgender youth, are ad hoc and ASIN based. Are
13 you familiar with those other DNP classes?
14 A Yes.
15 Q Do you know approximately when each was created, first created?
16 A I don't.
17 Q Do you know when the transgender youth DNP class was first created?
18 A I don't remember the date.
19 Q The email says all of our DNP classes are ad hoc and ASIN based. Do you
20 know what other options there are besides a DNP class being ad hoc and ASIN based?
21 A I don't know.
22 Q The -- once NSOC identifies an ASIN, it's added to the shell class. The next
23 sentence says, is the expectation the same for all anti-vaxx content, or is the request here
24 to develop a keyword-based approach to proactively classify new ASINs? Do you have
25 any familiarity with the keyword-based approach being discussed in this email?

1 A If I can just correct, it's not -- it doesn't say for all anti-vaxx content. It just
2 says for anti-vaxx content. I don't know -- I'm not sure what they're talking about.
3 Q Who would best know this information?
4 A The books risk management team.
5 Q Do you recall whether you were included in the debate and ultimate
6 approval of the decision to create a DNP class for transgender youth?
7 A I do.
8 Q And was that a decision that you made, or was it elevated to Russ?
9 A Same process as this. There was a discussion with the books risk
10 management team, with me. I thought we should do it, and we had an escalation
11 meeting set up with Russ.
12 Q Do you recall approximately what year that was?
13 A I don't.
14 Q If I have you turn to 7367, the first page of this exhibit, bottom email with
15 the time stamp of 2:38, the individual says, I'll work on this request tomorrow and have it
16 up and running by the end of the day. Do you recall if during this time you had any
17 familiarity regarding the March 9th scheduled meeting between [redacted] and
18 others at the company with the Biden White House?
19 A I don't know.
20 Q [redacted] testified before this committee and mentioned -- had testified
21 that he said there was a -- that his team had made the request for the decision to action
22 the do not promote class, to have it accelerated prior to that March 9th meeting. At the
23 time did you have any familiarity or understanding of that?
24 A I don't specifically remember, but I would have been made aware.
25 Q Do you recall, even taking one step back, any understanding of an interest in

1 accelerating action in the DNP class prior to the scheduled meeting with Russ?
2 A Can you be a little more specific.
3 Q Sure.
4 A From whom?
5 Q So the -- from anyone within the company. Did you have familiarity
6 that -- let me take one step back. There's the first meeting with you and the books risk
7 management team and legal and others in February of 2021. And there's a scheduled
8 meeting in the second half of March with you, Russ, and others. Under the normal
9 protocol, is the DNP class actioned only after the meeting with Russ?
10 A In this particular case, yes.
11 Q It seems like it was actioned before in this particular case.
12 A But we talked about there being a different conversation with Russ. We
13 moved up a conversation with Russ. It was an email exchange.
14 Q Sorry, taking one step back. Ignoring the emails here, let's use transgender
15 youth DNP class as an example. There's the first meeting with you, books risk
16 management team, legal, others. You make the decision to elevate it to Russ, so there's
17 a second meeting with Russ, you, and others. For the transgender youth DNP class, to
18 your understanding, would that DNP class only be actioned after the meeting with Russ?
19 A Correct.
20 Q Okay. And in this case it's your understanding that you had a meeting with
21 Russ prior to the -- that you had a meeting with Russ prior to the anti-vaccine DNP class
22 being actioned. Is that right?
23 A I don't believe it was a meeting. I don't remember.
24 Q Okay. Some sort of communication between you and Russ.
25 A Yes.

1 Q Did the scheduled meeting for that second half of March still take place as
2 scheduled?
3 A Yes.
4 Q Okay. And at that point what was being considered?
5 A That was to go through the details of the policy.
6 Q Okay. Do you remember what you shared with Russ about why it was
7 necessary to have a meeting earlier than the already scheduled one?
8 A I don't remember.
9 Q And you don't remember broadly of what reason was provided to you about
10 why the decision to action DNP had to be moved up?
11 A I don't remember.
12 Q Do you recall if you received any readout from [redacted] or others who
13 attended the meeting with the White House on March 9th?
14 A I don't remember.
15 Q In the leadup to that March 9th meeting [redacted] and others
16 participated in, you know, in preparation for that meeting, developing talking points, and
17 things of that nature, do you recall if you participated in any of those preparation efforts?
18 A Yes.
19 Q And what's your recollection of how you participated?
20 A That I was on some email threads where talking points were being discussed.
21 Q Do you recall anything else besides the email threads?
22 A I don't.
23 Q Are you familiar with the A9 team within Amazon?
24 A Yes.
25 Q What is that?

1 A Search.

2 [Naggar Exhibit No. 4

3 was marked for identification.]

4 BY [redacted]:

5 Q This will be Exhibit 4. This is an internal Amazon email chain March 17th

6 and March 18th, 2021.

7 A Okay. Thank you.

8 Q Having a chance to review this email chain, do you recall what sort of

9 discussions you had with the books risk management team from March 9th

10 approximately when the do not promote class was actioned to the scheduled meeting

11 with Russ in the second half of March?

12 A I don't recall the specific discussions.

13 Q Generally, do you recall if you had discussions with the team?

14 A I don't remember.

15 Q Was there any consideration of revising the policy from March 9th until

16 before the second half of March?

17 A I don't remember.

18 Q The email on the front page, this is Bates number 5954, again, the email

19 names are redacted. It says that's correct, we did enable this handling for what we're

20 calling high risk vaccination misinformation earlier in March as a low hanging fruit option,

21 with Russ and your approval, because the White House Coronavirus Task Force voiced

22 strong concerns over our position of anti-vaxx content. Do you disagree with the

23 assessment as described in this email here of why this option was taken?

24 A Can you just be a little more specific. I apologize for cutting you off.

25 Q Sure. The individual drafting this email says that the company adopted this

1 low hanging fruit option because of the concerns voiced by the White House Coronavirus
2 Task Force. Do you agree?
3 A I do not. It's a mischaracterization.
4 Q Why do you think it is -- we've looked at previous exhibits as early as March
5 4th now into March 18th with a number of individuals on these email chains. Why do
6 you think there was as widespread of a belief within the books risk management team
7 that the concerns voiced by the White House were the reason for the change?
8 A I disagree with the characterization that it was widespread. I certainly
9 never heard it at the time.
10 Q Is it concerning to you that this understanding persisted for at least a few
11 weeks?
12 A Yes.
13 Q The next sentence says, the latest version of our doc proposes expanding
14 that handling to medium risk anti-vaxx books and calls out that longer term. We'll
15 evaluate bringing additional strategies into scope. Do you recall discussions in this
16 period between when the DNP class was actioned to before the meeting with Russ of
17 expanding the policy?
18 A Yes.
19 Q And can you walk us through what was being considered exactly?
20 A The team had identified books that were high risk and medium risk. We
21 actioned the high risk books earlier and then wanted to discuss the medium risk.
22 Q And who's doing the actual assessment of what's medium risk versus high
23 risk?
24 A That would be the books risk management team.
25 Q Do you know who within the team?

1 A I do not.
2 Q Obviously, March of 2021 vaccines are being rolled out. Still in the midst of
3 the pandemic. Do you know who within the books risk management team had the
4 expertise or who they consulted with who had the expertise to make those types of
5 assessments of what was vaccine misinformation?
6 A I don't remember.
7 Q But your understanding is it was someone internal within the company, or
8 were external experts consulted?
9 A When we put into place policies like this, we look for external authoritative
10 sources for any of our policies.
11 Q For this policy, do you know which external sources?
12 A I don't remember.
13 Q Who would know?
14 A The books risk management team.
15 Q Do you know why medium risk anti-vaxxing books were not included in the
16 initial adoption when the anti-vaxxing do not promote class was being actioned?
17 A I don't remember.
18 Q Who made the decision of whether to include medium anti -- medium risk
19 anti-vaxx in the books?
20 A I did.
21 Q The next sentence in that same email says, the doc has been shared with
22 David who is aligned with our approach. Given the context of the email, is that referring
23 to you?
24 A Yes, I would imagine. I don't know for sure.
25 Q Can you walk us through, given for the emails that we've looked at so far,

1 when there's discussion of the proposal of the policy, considerations of how to expand it
2 or not, are your memories consistent with what's in the emails, but then when there's
3 emails -- in the same emails we're just referring to the impetus or the reasons behind
4 these changes, there's a disconnect. How can you reconcile those?
5 A What's the disconnect?
6 Q That the individuals talking with you at the time are on the same page
7 regarding the changes to the policy but apparently have a pretty fundamental
8 misunderstanding of the reason for those policy changes.
9 A I don't think there were policy changes. We came up with a policy at the
10 beginning of February, which I agreed with and thought we should move ahead with. I
11 decided in February that we should escalate to Russ to see if he had any different
12 thoughts, and we followed that process. We probably moved a little more quickly on
13 what we knew we were going to do. Public policy, you know, understandably was
14 feeling pressure. But no more pressure -- anybody who's on the front line of a
15 conversation, I feel pressure when an author calls me directly that I know and says there's
16 a problem with their book. I think anyone who's on the front line would feel pressure.
17 That pressure would not impact the policy itself. It becomes another input only.
18 Q Did the pressure affect the decision to move more quickly?
19 A It may have. I don't remember.
20 Q Okay. That pressure was from the White House?
21 A That -- there was a conversation where we were made aware that the White
22 House was asking. It was something we were going to do anyway. We may have
23 moved a week or two earlier.
24 Q You mentioned that there could be pressure from an author per se. To
25 your understanding, can the White House take stronger adverse actions against a

1 company than one individual author?

2 A I don't think about it like that.

3 Q Okay. Does the public policy team?

4 A I don't know.

5 Q Does other company -- does other leadership within the company?

6 A I don't know.

7 Q Were there any other reasons, other than the pressure, that the company

8 moved up the decision to action, the anti-vaccine do not promote?

9 A I don't remember.

10 Q If the pressure from the White House is enough to move up the decision,

11 how can you say that there was no impact on whether to adopt the policy?

12 A Because we'd already made the decision to adopt the policy. I was going to

13 ratify it with Russ. There was an email exchange, as we've discussed, where we decided

14 to move ahead with the high risk titles right away.

15 Q But the decision to move ahead with the high risk titles with Russ occurred

16 after the White House's outreach. Is that right?

17 A Yes.

18 Q Okay. So a decision had not been formally made yet prior to the White

19 House's decision -- or prior to the White House's outreach.

20 A A decision to do what?

21 Q To implement the anti-vaccine do not promote. You hadn't made --

22 A Yes.

23 Q You had taken your position on the issue.

24 A Yes.

25 Q But you also decided to elevate it, so it was not a final decision yet. Is that

1 right?

2 A You could characterize it that way.

3 Q When you're having discussions with the books risk management team

4 around this time, March of 2021, are these meetings taking place in person, over Zoom, is

5 it on the email? What's your recollection of how you're communicating with that team?

6 A Since the pandemic, almost all meetings are a combination of Chime, which

7 is our internal video conferencing system, in-person if there are people in the office.

8 Q Where were you based or which office were you based out of at this time?

9 A Seattle.

10 Q And where is most of the books risk management team based out of?

11 A They're spread quite widely. The leadership is in Charleston, South

12 Carolina. Actually, if I can clarify, you asked me earlier who leads it now. It's [redacted]

13 [redacted]. She's based in Charleston, but at the time it was [redacted] and he was based in

14 Seattle.

15 Q Do you recall any conversations with [redacted] in March of 2021 about the

16 anti-vaxxing do not promote class?

17 A With [redacted]? Yep.

18 Q With [redacted], excuse me.

19 A Not specific conversations, but I remember the meeting, and he would have

20 been part of that meeting.

21 Q The -- turning back to the email from Exhibit 4, the 6:50 a.m. time stamp, in

22 the middle of the page -- the one you have in front of you.

23 A Yeah.

24 Q The last sentence of the first paragraph where the person says, the latest

25 version of our doc proposes expanding that handling to medium risk anti-vaxx books and

1 calls out that longer term, we'll evaluate bringing additional strategies into scope. Do
2 you know what other additional strategies were under consideration?
3 A I don't know.
4 Q Were there discussions at a later period in time regarding additional
5 strategies to bring into scope?
6 A I don't remember any.
7 Q Was the DNP class expanded ultimately at some point to include medium
8 risk anti-vaxxing books?
9 A It was.
10 Q And do you know how many more books that added?
11 A I don't know.
12 Q Do you know approximately?
13 A I don't know.
14 Q Do you know if it's more than 35 to 45 that were initially added?
15 A I don't know.
16 Q Who would know the answer to those questions?
17 A The books risk management team that implemented the policy.
18 Q Do you know if the medium risk expanding the DNP class -- let me rephrase
19 that. Do you know when the decision was made to expand the DNP class to include
20 medium risk books?
21 A I don't remember exactly.
22 Q Was it the meeting from the second half of March with Russ?
23 A I don't remember, but that's most likely.
24 [Naggar Exhibit No. 5
25 was marked for identification.]

1 BY [redacted]:

2 Q This will be Exhibit 5. This is an internal Amazon email dated March 2nd,

3 2021.

4 A Okay.

5 Q So this email is dated the same day the White House reaches out to [redacted]

6 [redacted]. Do you recognize the title of the attachment of the email?

7 A Not that I recall.

8 Q Okay. Would this be different than the four to six page memo that would

9 be discussed at the start of the meeting in February?

10 A I have no idea what it is.

11 Q There's an email from someone to [redacted] saying, first we will not be

12 doing a manual intervention today. Do you know what that's in reference to, what a

13 manual intervention would be?

14 A I don't know what it would be in reference to.

15 Q What other options -- if there's a situation where someone from the books

16 risk management team wants to manually intervene, what would that option mean?

17 A I don't know specifically, technically what they would be doing.

18 Q Have you ever had familiarity with any examples of where there was

19 discussion regarding the decision to manually intervene?

20 A Decision to manually intervene. Not to my recollection. It is an option for

21 implementation. If the tech does not exist yet, we have used manual intervention until

22 we can build the tech.

23 Q Can you think of any examples?

24 A No specific ones come to mind.

25 Q The next sentence says, the team/PR feels very strongly that it is too visible.

1 Do you know which team is being referenced here?
2 A I don't.
3 Q Do you remember if you were consulted on March 2nd regarding whether a
4 manual intervention would be too visible?
5 A I don't remember.
6 Q Sentence continues, and will further compound the Harry/Sally narrative,
7 which is getting the Fox News treatment today apparently, in parentheses. Do you
8 know what's that in reference to, the Harry/Sally narrative?
9 A I don't know what the Harry/Sally narrative would be in this context.
10 Q The sentence continues, and won't fix the problem, long-term problem
11 because of consumer behavior associations. If we completely remove -- excuse me, it
12 says customer. If we completely remove customer behavior associations, it will break
13 the search. Do you know what the phrase customer behavior association means in this
14 context?
15 A I don't know.
16 Q Who would know the answer to that question?
17 A I don't know. I don't know what it means.
18 Q The last part will break the search. Do you know what that means?
19 A I don't know.
20 Q Okay. The last sentence says, the attached is still -- is the still in flux doc to
21 review with Russ on March 19th. On March 2nd, what -- the books vaccine
22 misinformation policy, what parts of the possibility would still be in flux?
23 A I don't know.
24 Q When there's the first meeting where you've approved, what types of
25 changes are acceptable to be made prior to March 19th -- or prior to the second meeting

1 with Russ -- let me rephrase that. The changes that are being discussed regarding from
2 the first meeting with you to the second meeting with Russ, are those changes that you
3 would have directed?
4 A Yes.
5 Q And then would you approve those changes prior to the meeting with Russ?
6 A Can you be more specific about those changes. In the document?
7 Q Sure. Just trying to get a sense of there's an initial meeting with you and
8 the legal team and others.
9 A Uh-huh.
10 Q And I don't want to put words in your mouth, but you approve broadly the
11 decision to go forward with the policy but have some changes that need to be made in
12 the meantime. Is that an accurate summary?
13 A I don't remember the specifics, but that's how it would work, yes.
14 Q And then once those changes are made, are you made aware of them, have
15 a chance to review prior to that email with Russ where you all sit down and read the
16 memos of the meeting?
17 A Not always. Again, we're talking -- I don't remember the specifics of this
18 instance, but in general, only if the team has some confusion around how to present a
19 particular issue.
20 Q Okay. And in this case you don't recall what changes needed to be made
21 from your first meeting to the meeting with Russ?
22 A I don't remember.
23 Q The next sentence says, Russ gave very direct guidance to the teams to be
24 boring and not do anything that was visible and that will draw more attention. Do you
25 recall when Russ gave this guidance that's being referenced?

1 A Not the specific instance here, no.
2 Q Is this a general guidance that Russ had given, or would this be specific to
3 this policy?
4 A General guidance.
5 Q Do you understand why hadn't Russ given that general guidance?
6 A I'm sorry?
7 Q Sorry. To your understanding, why did Russ give that general guidance to
8 the team?
9 A We didn't want changes in our bookstore to create churn.
10 Q What do you mean by churn?
11 A Could be anything. Could be author complaints. Could be anything. So
12 we just -- we try and do them in a way that our -- don't create that kind of churn.
13 Q Would that be include media scrutiny?
14 A Yes.
15 Q At the -- going back to the Harry/Sally narrative that's referenced in the first
16 paragraph, do you have familiarity with Ryan Anderson's book "When Harry Became
17 Sally?"
18 A Yes, I do.
19 Q When did you first become aware of that book?
20 A I don't remember the date.
21 Q Do you remember how it first came to your attention?
22 A It came to my attention in -- from the books risk management team as part
23 of a policy they were envisioning.
24 Q And do you recall when that was approximately?
25 A I don't.

1 Q What was the policy under consideration?
2 A It was an addendum to a policy that we had discussing whether we would
3 treat books that treated LGBTQ+ identity as a mental illness should be in the store or not.
4 Q Was that an existing policy, or that was the addendum?
5 A That was the addendum to hate speech policy. Our policies tend to branch.
6 Q And who from the books risk management team first discussed this with
7 you?
8 A I don't remember.
9 Q Did you first -- I guess when you first were approached about this book title
10 and branching off the existing hate speech policy, was that in one of the first meetings
11 you've been describing where there's a memo and you're with legal and you read the
12 memo in silence and then you discuss, or is this like a conversation that precedes all that?
13 A No. It would have been in a meeting.
14 Q Do you remember who attended that meeting for the meeting regarding
15 "When Harry Became Sally?"
16 A I don't remember the specifics.
17 Q For the addendum to expand and include books like "When Harry Became
18 Sally," the decision regarding that policy change, is that one that you escalated to Russ?
19 A It was.
20 Q And why did you escalate to Russ?
21 A It felt like the right thing to do.
22 Q Why?
23 A In my judgment, I escalate certain things to Russ, like the white -- like "When
24 Harry Became Sally."
25 Q Did your team have any discussions with Ryan Anderson while you were

1 considering changes to the hate speech policy?

2 A Not to my knowledge.

3 Q What about after the policy took effect?

4 A Not to my knowledge.

5 Q Your understanding was "When Harry Became Sally" was put on do not

6 promote or was it removed?

7 A It was removed from the store.

8 Q Was Ryan Anderson notified when it was removed?

9 A I don't know. I don't think so.

10 Q Was there any discussion about whether to notify the author?

11 A It's not common practice in the industry to notify an author when you decide

12 to carry or not carry a book from any retail.

13 Q You said for your policies you'll often consult external sources who have

14 expertise in whatever the category is for that policy. For this addendum, were any

15 external sources consulted?

16 A I don't remember.

17 Q Are you aware of public criticism from members of the media and elsewhere

18 regarding the company's decision to remove the book "When Harry Became Sally?"

19 A I remember media of both sides.

20 Q Did you have any direct interactions with anyone from the government

21 regarding the decision to remove "When Harry Became Sally?"

22 A I did not.

23 Q Do you know if members of the public policy team did?

24 A I believe [redacted] received a letter from a congressman, which was responded

25 to.

1 Q Did you discuss the matter with [redacted]?

2 A I don't remember.

3 Q Do you know if Russ escalated the decision of what action to take on "When

4 Harry Became Sally?"

5 A I don't know.

6 Q Did you ever read the book "When Harry Became Sally?"

7 A I did not.

8 Q When an author has a book removed, regardless of whether notified or not,

9 but at some point they're likely to figure out that it's not on Amazon, does that author

10 have any ability to appeal the decision?

11 A Yes.

12 Q And what does that process look like?

13 A Any author or publisher can reach out to us.

14 Q And when an author reaches out asking for the company to reassess the

15 decision, what does that process look like internally in the company?

16 A We'll look at the policy that was the result -- the removal was the result of --

17 Q And when you say we, is it the books risk management team?

18 A It would be the books risk management team, legal, myself.

19 Q Okay. Do you know if there are reassessments regarding "When Harry

20 Became Sally?"

21 A Yes. We've looked at it in the interim.

22 Q And have you been the decision maker?

23 A Yes.

24 Q For any of the reassessments, did you ever escalate it to Russ?

25 A Yes.

1 Q How many times?
2 A Once. Once.
3 Q Following the conclusion of reassessment, what, if anything, is shared with
4 the author?
5 A We don't share is standard industry practice.
6 Q In the reassessment process, is it similar in that there's a memo prepared
7 that's read in advance of discussion in the meeting?
8 A Yes.
9 Q Do you recall if there are any disagreements, either in the initial decision or
10 any of the reassessments regarding whether "Harry Became Sally" violated policy?
11 A I don't remember.
12 Q For the hate speech policy, is there the option to have a book only under do
13 not promote as opposed to removal?
14 A Yes. Those options are always available.
15 Q And what's the difference --
16 A Any policy.
17 Q For the policy that "When Harry Became Sally" was violative, what about the
18 book made it subject to removal as opposed to only being categorized under do not
19 promote?
20 A Was what we said in our letter to the senator, which is that it
21 characterized -- the main thrust of the book was to characterize LGBTQ+ identity as a
22 mental illness.
23 Q What does a book have to do to only be placed under do not promote for
24 that policy violation?
25 A There's no specific. It's a policy decision.

1 Q Within the books risk management team, is there a designated team for
2 making assessments of policy violations?
3 A I'm not sure.
4 Q Have you ever overruled a recommendation from the books risk
5 management team?
6 A Yes.
7 Q Can you provide an example?
8 A Not off the top of my head.
9 Q Has Russ ever overruled you?
10 A Yes.
11 Q Can you provide an example?
12 A Not off the top of my head.
13 Q For like the book "When Harry Became Sally," do you have a sense of how
14 long it was being sold prior to its removal?
15 A I don't remember.
16 Q Was it removed the same day that the addendum took effect?
17 A The policy change would have resulted in policy application. I don't know
18 how long it would have taken.
19 Q We touched upon this earlier, but just to dig a little bit more, you don't have
20 familiarity as far as how book titles are first identified?
21 A It can be a variety of sources.
22 Q Such as?
23 A Customers, internal employees, press escalation, White House escalation,
24 anybody.

1

2 [12:10 p.m.]

3 BY [redacted]:

4 Q Is there any sort of automatic processes in place to -- given the volume of

5 books available?

6 A Every detailed page that Amazon gives the ability for feedback, whether it is

7 books or any product, so there is a link that you can follow to give feedback.

8 Q Outside of someone, the press or a customer providing feedback, is there

9 any sort of algorithm or other forms of, you know, automatic processes to see if a book is

10 potentially violative?

11 A Yes.

12 Q And what does that look like?

13 A For example, copyright infringement.

14 Q What about any with respect to violations of the vaccine misinformation

15 policy?

16 A I don't know what specific technology they are using.

17 Q Do you know if they are using any?

18 A I don't know.

19 Q For any of the content moderation policies, are you familiar with certain key

20 words, or terms that are used for identifying potentially violative books?

21 A I don't know, unless it was a specific part of the policy.

22 Q Who would know that information?

23 A The books' risk management team who is executing.

24 Q Do you know how big the books' risk management team is, the number of

25 people?

1 A Hundreds of people. There are both manual operators, technicians, policy.
2 Q Do you know who the head of the policy team is within that team, within the
3 books' risk management team?
4 A Yes.
5 Q Who is that?
6 A [redacted].
7 Q How long's she been in that role for?
8 A About a year, I believe.
9 Q And who had the role before her?
10 A I don't remember. It was someone on [redacted]'s team. [redacted] was the person I
11 dealt with the most.
12 Q Do you know When Harry Became Sally, in that particular instance, how the
13 books' risk management team at first became aware that the book may be potentially
14 violative?
15 A I don't know.
16 Q Were you aware of criticism prior to the decision to remove by certain
17 outside groups that the book was sold on by Amazon?
18 A Yes.
19 Q Who made you aware of that criticism?
20 A I don't remember.
21 Q As part of your role at the company, have you had any interactions with the
22 Global Alliance for Responsible Media, GARM?
23 A No.
24 Q Do you have any familiarity with GARM?
25 A I do not.

1 Q Is the anti-vaccine misinformation policy still in place?
2 A I am not sure. I don't believe so.
3 Q Do you recall when the last change was made to that policy?
4 A I don't.
5 Q Have there ever been instances -- other instances where a policy's adopted
6 regarding content moderation and that policy is later removed?
7 A Every time we review the policies, we decide whether we want to modify
8 them or not, and they sometimes get tweaked, they sometimes move on.
9 Q Can you think of any examples where they were removed?
10 A I know we changed the COVID policies from the very beginning of the
11 pandemic when there was very little information we could trust about what was going on.
12 We just didn't know what we didn't know.
13 Q What -- every time when the policies are reviewed, what triggers an internal
14 review of a policy?
15 A Hey, it could be several things.
16 Q What are --
17 A It could be an escalation, it could be a specific book, then we decide to -- it is
18 always about the policy, rarely about the book. But there could be a book that triggers a
19 relook at the policy.
20 Q Was When Harry Became Sally, the book that triggered consideration
21 expanding the hate speech policy?
22 A I don't know.
23 Q Who would know?
24 A The books' risk management team.
25 Q Did you have any conversation with the public relations team about When

1 Harry Became Sally?

2 A It would have been in a conversation around the removal of the book.

3 Q And who from the PR team did you talk with?

4 A I don't remember.

5 Q Did you have conversations with the PR team when the vaccine

6 misinformation policy was adopted?

7 A They were part of the conversations.

8 Q Who from that team did you have discussions with?

9 A I don't remember.

10 Q Do you have discussions with the PR team for every policy change?

11 A Not always.

12 Q Who makes the decision of whether to include the PR team?

13 A It could be anyone in the chain of the making of the decision of the policy.

14 It could be in the initial books' risk management it could be in subsequent reviews.

15 Q Do you recall the Surgeon General sending a request for information to

16 Amazon in 2022?

17 A I don't.

18 Q Have you since gained any familiarity with Amazon's response to the

19 Surgeon General?

20 A Not to my recollection.

21 [redacted]. Can we go off the record, please?

22 [Discussion off the record.]

23 [Recess.]

24 BY [redacted]:

25 Q Mr. Naggar, as you testified earlier, you made the decision to implement the

1 do-not-promote policy, or to recommend that it be finalized in February, correct?
2 A Yes.
3 Q For vaccine misinformation?
4 A Yes.
5 Q And all that was left after you made that decision in early February was for
6 Russ to ratify that decision, correct?
7 A Yes.
8 Q And Russ did ratify that decision, correct?
9 A Yes.
10 Q And Russ' decision to ratify that recommendation from you, to ratify your
11 decision, to your knowledge, did that have anything to do with communications between
12 the White House and the public policy team?
13 A Not to my knowledge.
14 Q And you do not recall even discussing that in terms of the discussion of
15 whether or not to ratify your decision?
16 A The discussion would have been one of those conversations with attorneys
17 present with privilege.
18 Q Fair enough. Thank you.
19 But to your knowledge, this was an independent decision, the subsequent
20 decision to implement the policy by Amazon?
21 A Yes.
22 Q And the White House's critiques of Amazon did not play a role in the
23 decision to implement that policy?
24 A They did not.
25 Q Thank you. Now I want to draw your attention to exhibit 3 and 4. And on

1 exhibit 3, if you turn to the last page, which is 7370, and 4 we will be looking at just the
2 front page.
3 A 73 -- got it.
4 Q Now my colleague in the majority stated during the last hour, suggested that
5 there was a widespread view that the do-not-promote policy was being implemented in
6 response to criticism from the White House, and in support of that, he cited these two
7 exhibits. Do you recall that during the previous hour?
8 A I do.
9 Q Okay. Now the name of the sender of these emails in exhibit 3 and
10 exhibit 4 are redacted, correct?
11 A Yes, they are.
12 Q And you don't -- or do you know who sent those emails?
13 A I don't.
14 Q You don't know if it was the same person who sent those emails?
15 A I do not.
16 Q You don't know if it was someone -- if it was more than one person if those
17 people were on the same team, and were getting information from one source, multiple
18 sources?
19 A I don't know, but those are possible.
20 Q And you have no idea how this person or these people came under this
21 impression?
22 A I do not.
23 Q And you don't know if this impression was shared by more than one or two
24 people?
25 A I don't.

1 Q And what you do know as you have stated several times in your earlier
2 testimony, this was a mischaracterization of why Amazon decided to implement the
3 do-not-promote policy. Is that correct?
4 A That is correct.
5 Q Thank you.
6 BY [redacted]:
7 Q Mr. Naggar, I have a couple of follow-up questions. If I could direct your
8 attention to exhibit 3?
9 A Which Bates? I don't have them numbered. I apologize.
10 [redacted]. You can use mine.
11 Mr. Nagger. Yes.
12 BY [redacted]:
13 Q So on the second page it begins with 7368?
14 A Yes.
15 Q Sorry, the Bates is 7368. You were asked in the previous hour about these
16 DNP Shell groups. Do you recall that conversation?
17 A I do.
18 Q And the majority counsel brought up, and I am reading from the Monday,
19 March 8, 2021, at 1:59 p.m. email. The second paragraph that shell extremist DNP is
20 intended only for ACINs identified by NSOC to contain extremist content. Did I read that
21 correctly?
22 A Yes.
23 Q So, I want to ask you some clarification, because if you go to the first page,
24 which is Bates 7367, you see the last email on the page, or page 2021, whoever the
25 author is the name is redacted. It says, "Shell DNP classes are easy to set up. And I will

1 work on this request tomorrow and have it up and running by the end of the day." Did I
2 read that correctly?
3 A You did.
4 Q Now if you go up one more email on the thread it says, hi all redaction and I
5 created the anti-vaxx DNP shell class and added for 43 ACINs below?
6 A You did.
7 Q So based on this email, it doesn't appear that the 43 ACINs were actually
8 ever added to the extremist shell. Is that a fair reading of this email chain?
9 A I don't know. It would seem to be, yes.
10 Q Thank you.
11 BY [redacted]:
12 Q I want to jump in with one thing. You mentioned earlier, you talked about
13 how you sometimes feel pressure from authors if they call and have an issue with
14 Amazon and that, you know, you referenced pressure from the White House. Did
15 anyone from the public policy team ever tell you that they felt pressure from the White
16 House to change Amazon's policies, or to do anything in particular with respect to vaccine
17 misinformation?
18 A No.
19 Q And was pressure from the White House anything that you recall discussing
20 with anybody at Amazon, whether it was from the public policy team or not?
21 A No, not as pressure. We would have called it the escalation from the White
22 House as we would from any other source.
23 Q And was it treated differently than you would treat escalation from any
24 other source?
25 A No.

1 Q Thank you.

2 BY [redacted]:

3 Q I am actually going to pick up. I know we are going down the line here.

4 A That's okay.

5 Q On that thread, the question of pressure, and I want to turn to exhibit 5,

6 which is Bates stamped 5833. This is at email dated 3/2, 2021 the frontline is redacted

7 but it is addressed to [redacted] --

8 A Yes.

9 Q -- Books vaccine misinformation policy. You have that email in front of

10 you?

11 A I do.

12 Q And I think my colleague on the majority side read the first paragraph but

13 left out one of the phrases and so I just want to read it for the record. It says, "We will

14 not be doing a manual intervention today. The team/PR feels very strongly that it is too

15 visible, and will further compound the Harry Sally narrative (which is getting the FOX

16 News treatment today apparently)," and then continues on. Did I read that correctly?

17 A You did.

18 Q So the part that wasn't read earlier, which is getting the FOX News

19 treatment today apparently phrase. Do you have any idea what that is referencing?

20 A I don't.

21 Q You are familiar with FOX News as a media station?

22 A Yes.

23 Q And a news station, correct?

24 A Yes.

25 Q And so, at least on the face of it, this suggests that FOX News is commenting

1 or expressing an opinion or doing something with respect to the Harry Sally narrative,
2 correct?
3 A I don't know.
4 Q In the earlier hour, you referenced outreach from Capitol Hill on the When
5 Harry Became Sally book. Do you recall that?
6 A Yes.
7 Q And you said there had been a letter from Capitol Hill. Do you recall that?
8 A I do.
9 Q Do you recall who that letter was from?
10 A I don't recall.
11 [Naggar Exhibit No. 6
12 was marked for identification.]
13 BY [redacted]:
14 Q I want to introduce a letter, exhibit 6, on February 24, 2021, to Mr. Bezos.
15 Have you seen this before?
16 A I will just take a moment to read it. Thank you.
17 Q Having had a minute to review, do you know if you've seen this letter
18 before?
19 A I have.
20 Q Do you recall when you saw it before?
21 A I don't.
22 Q When it -- when it arrived at Amazon or within the past week or two or
23 roughly a timeframe?
24 A It would have been around the time it arrived. It would not have been sent
25 to me immediately.

1 Q Okay. And this letter is written to Mr. Bezos, the CEO of Amazon, and it's
2 signed by Marco Rubio, Mike Lee, Mike Braun and Josh Hawley, correct?
3 A Correct.
4 Q And I want to go through those one by one. Marco Rubio is the U.S.
5 Senator. He is a Republican from Florida, correct?
6 A I don't know, but okay.
7 Q Do you have any reason to disagree with my characterization?
8 A I do not.
9 Q Mike Lee is the Republican Senator from the State of Utah, correct?
10 A The same, I will agree with your characterization. I don't know for sure.
11 Q If I tell you that Mike Braun is the Republican Senator from Indiana, do you
12 have any reason to disagree with that characterization?
13 A I don't.
14 Q And the same, if I tell you that Josh Hawley is the Republican Senator from
15 the State of Missouri, do you have any reason to disagree with that characterization?
16 A I don't.
17 Q Okay. So looking at the content of this letter, turning back to the first page
18 of it, the second paragraph on the first page reads, "When Harry Became Sally prompted
19 important discussions in the national media and among policy makers in 2018 and
20 remains one of the most rigorously researched and compassionately argued books on the
21 subject. By removing this book from its marketplace and services Amazon has
22 unabashedly wielded its outside market share to silence an important voice merely for
23 the crime of violating woke groupthink." Did I read that correctly?
24 A You did.
25 Q Do you have any understanding of what woke groupthink means in that

1 sentence?

2 A Not entirely, no.

3 Q You say not entirely, do you have some understanding?

4 A I don't.

5 Q Okay. The next paragraph I am just going to read the last sentence. It

6 says, "Amazon short-sighted censorship of this well-researched and thoughtful

7 contribution to modern American discourse. It is not just a decision made in poor taste,

8 but an assault on free speech that carries weighty implications for the future of open

9 discourse in the digital age. Did I read that correctly?

10 A You did.

11 Q And I could go through more of the letter, but would you agree that on the

12 face of it, these two excerpts that I just read to you express disagreement with Amazon's

13 decision?

14 A Yes.

15 Q In the earlier hour we are discussing pressure and again we are discussing

16 pressure. And you said in the earlier hour that Amazon, and that you in particular,

17 received pressure from all sorts of sources from authors and from others as well. Is this

18 the type of -- would you classify this as pressure on Amazon from an outside source?

19 A This is typical of the kind of input we get when we are making our decisions.

20 It just becomes one of many factors.

21 Q Okay. Thank you.

22 BY [redacted]:

23 Q Mr. Naggar, I have a couple of follow-up questions, if we could introduce

24 exhibit 7.

25 [Naggar Exhibit No. 7

1 was marked for identification.

2 BY [redacted]:

3 Q Mr. Naggar, I have marked what has been identified as exhibit 7. I will just

4 represent to you that this is the interim staff report from the Committee on the Judiciary

5 and Select Subcommittee on the Weaponization of the Federal Government, dated

6 May 1, 2024. And what I am showing you is an excerpt from that report, which is page

7 79.

8 A Yes.

9 Q I want to read just a couple of sentences from it to give you a background of

10 what my question is going to be. "On March 5, 3 days after the initial interaction with

11 the White House and just 4 days prior to the follow-up meeting, the books team met so

12 that they could review the policy proposal to handle anti-vaxx content in books." Did I

13 read that correctly?

14 A You did.

15 Q And there is a couple more sentences that go on to describe the acceleration

16 based on the testimony of [redacted]. Did you read that?

17 A I did.

18 Q Okay. The last sentence says, "Amazon's consideration of implementing

19 more censorious content moderation policies in February 2021 aligns with Facebook

20 which began to increase its censorship of the manmade theory of the origination of the

21 SARS-CoV-2 virus in hopes if appeasing the new Biden administration." Did I read that

22 correctly?

23 A You did.

24 Q Now, a couple of questions about that last sentence. Did Amazon, to the

25 best of your knowledge, have any coordination or collaboration with Facebook in

1 adopting its content moderation policies during this time?

2 A Not to my knowledge.

3 Q Did Amazon, in any way, develop its policy in February 2021, or as you

4 testified earlier, this was actually started in January 2021, correct?

5 A Yeah, it must have been for them to have a doc ready for me -- a document

6 in early February, they had to have started weeks before.

7 Q So was this COVID-19 vaccine disinformation policy in January and

8 February of 2021, was this, in any way, done to appease the Biden administration?

9 A No, it was not.

10 Q Okay.

11 A Just to correct, it was anti-vaxx content, not COVID-19 content.

12 Q I'm sorry. Thank you for the clarification.

13 Mr. Naggar, just a couple of follow-up questions. To the best of your knowledge,

14 did anyone from the U.S. Government ever ask Amazon to remove a specific content from

15 one of its platforms?

16 A Not to my knowledge.

17 Q Did anyone from the U.S. Government ever try to coerce Amazon into

18 removing content from its platforms?

19 A Not to my knowledge.

20 Q Did anyone from the U.S. Government ever try to coerce Amazon into

21 changing its content moderation policies on any of its service or platforms?

22 A You've seen the letter from the Senators, they are basically asking us to

23 change our policy.

24 Q My question more specifically, Mr. Naggar, is has does anybody from the

25 U.S. Government ever tried to coerce Amazon?

A No.

Q Did anyone from the U.S. Government ever threaten Amazon with adverse consequences if it did not remove content from one of its platforms?

A Not to my knowledge.

Q And did anyone from the U.S. Government ever threaten Amazon with adverse consequences if it did not change its content moderation policies?

A Not to my knowledge.

[redacted]. Thank you.

Go off the record.

[Recess.]

1

2 [1:34 p.m.]

3 BY [redacted]:

4 Q On exhibit 4, Bates 5954, there is an email at the bottom of the page, and it

5 says, On our side as long as the scope of work touches only P13 central strategies. Just a

6 clarification question, based off the context of the email is that a reference to page 13 or

7 is there a set of strategies --

8 A No, it stands for personalization.

9 Q Okay.

10 A It is a bit of an odd convention within Amazon that for very long words, so

11 P13N is the way it is usually referred to and there are 13 letters between the P and the N.

12 Q Understood. Do you recall any of the central strategies discussed as it

13 relates to the vaccine misinformation policy?

14 A I don't.

15 Q At the end of our last round, we had started to discuss the 2022 response for

16 information that had the Surgeon General sent to Amazon and Amazon sent back. I can

17 introduce it as exhibit 8 an email from April 20, 2022. It is an internal Amazon email

18 with some back and forth regarding that so we will introduce that.

19 A This one we are finished with for now?

20 Q Yes.

21 [Naggar Exhibit No. 8

22 was marked for identification.]

23 [redacted]. I am sorry, is this 8?

24 [redacted]. Exhibit 8.

25 [redacted]. Thank you.

1 BY [redacted]:

2 Q First reviewing this email chain, does it refresh your recollection at all

3 regarding working on Amazon's response?

4 A It does. It would not have necessarily registered with me who the response

5 was for. It was a response that public policy felt they needed to send, and so I would

6 have looked at the latter part of the email.

7 Q I will have you flip to page number 5536, the second to last page.

8 A Thank you.

9 Q There is an email, Friday, April 1st, 2022, with a 12:32 time stamp.

10 A Yes.

11 Q It starts off, As you will see from the below note to S-team. What does the

12 S-team mean in this context?

13 A S-team is the most senior leadership at Amazon. It comprises somewhere

14 around 20 individuals, I believe.

15 Q And Russ will -- just -- actually, is Russ someone who's senior enough to be

16 considered part of the S-team?

17 A He is.

18 Q And what about you?

19 A No.

20 Q I will have you turn, flip forward to 5532, the back of the first page. There

21 is some discussion that continues in the subsequent emails around potential language to

22 consider, including the email that begins -- or that has the time stamp of 7:56 a.m. at the

23 bottom of the page. The first point that is being made says in quotes, "We have

24 practically blocked or removed more than 1,500 COVID-related books from sale for

25 violating our guidelines." Do you understand are those -- which policy or policies is that

1 in reference to that would qualify for removal?

2 A Our COVID-related policies.

3 Q And are the COVID-related ones separate from the vaccine-related ones?

4 A Yes.

5 Q So the vaccine-related ones, could the company remove books as an

6 enforcement option?

7 A It wasn't part of the policy as written.

8 Q Was there a do-not-promote-first to COVID-related ones?

9 A I don't remember.

10 Q On the front of that page, Bates number 5531. There is some additional

11 discussion, but in other figures there is the 1,500 removals figure and there is also

12 discussion of 35,000 books that discuss COVID-19. To your understanding, that latter

13 figure, 35,000, is that books just under the COVID-19 policy or was that both the vaccine

14 misinformation and the COVID-19?

15 A I don't remember. The document says discuss COVID-19, that is all I know.

16 Q And your recollection, you don't have a sense of the vaccine misinformation,

17 the do-not-promote class how big that number ultimately grew to?

18 A I don't remember.

19 Q Do you recall if you received updates regarding if there were instances of a

20 new batch of books being added to that do-not-promote class?

21 A I don't remember.

22 Q In other context is that -- would that be consistent, was that a type of

23 development that is worth escalating to your attention?

24 A Could be. It is not -- would not be a standard. Once we have decided the

25 policy, unless the team feels the policy should be revised, the number of books impacted

1 would not necessarily rise up to me.

2 Q We are finished with that exhibit for now.

3 A Okay.

4 Q I am going to introduce two exhibits at the same time, one from March 2nd,

5 and one from March 9th, both internal Amazon emails. I will give you a chance to

6 review and I will have some questions about this. So we will make March 2nd exhibit 9,

7 and March 9th exhibit 10.

8 [Naggar Exhibits No. 9 and 10

9 were marked for identification.]

10 BY [redacted]:

11 Q Thanks for taking the time to review those.

12 A Thank you for giving me the time.

13 Q March 2nd now, you are on parts of it that are redacted.

14 A Oh, sorry, this one.

15 Q Yeah. I will direct our attention to the very first page, 6226 is the Bates

16 number. And based off the redactions, it is unclear who is on the email chain, but the

17 time stamp of 1:54 p.m. --

18 A Yeah.

19 Q In the middle of the page there --

20 A Yeah.

21 Q -- is responding to the email below. It says for Q1. This is not something

22 we have had come up in the past and is taking the guidelines out of context. The line

23 cited is referring to misleading metadata, typos, image quality, et cetera, not the actual

24 truthfulness of the theories described within the text of the book. Prior to the vaccine

25 misinformation policy. Were there any other policies that you are aware of that address

1 the truthfulness of the theories described within the text of the book?
2 A There is a disappointing content policy where if the content is disappointing
3 in any way to customers who have bought the book and sought it out, we will evaluate
4 the book, but that that could be anything from formatting to false content.
5 Q Other than that, are there any policies specific to getting to the accuracy or
6 truthfulness of the content of the book?
7 A No, not to my knowledge.
8 Q When developing the vaccine misinformation policy, were there discussions
9 around the challenges of assessing the accuracy or truthfulness of the content of a book?
10 A Yes.
11 Q And how did the company decide to address those challenges?
12 A Those would have been conversations that we had in the meetings that we
13 had been describing. And we decided to add some books to do-not-promote list.
14 Q I guess I could just press a little bit more. In contrast, let's say a formatting
15 error, or the advertisement, you know, says this is a book about plants and it is actually a
16 book about sports, something where it is very clear, this seems to be setting the grounds
17 for a harder set of decisions to be made of assessing the accuracy of a book. In order to
18 be able to do that, what sort of mechanisms does the company consider putting in place?
19 A There was no way really for us to really assess the veracity of the
20 information in the book, so we decided that books that were specifically going against, at
21 the time, the generally accepted official recommendation that people get vaccines, that
22 we would not actively promote those to customers beyond all of the discovery vehicles
23 that are available to any book that we still carry.
24 Q For any book that was under consideration of being added to the vaccine
25 misinformation do not promote list, did someone from the book's risk management team

1 read the full book cover to cover?

2 A I don't know.

3 Q To your understanding, how -- when a book's under consideration for, let's

4 say, the conclusion of the book, so to speak, is to advocate against people taking a

5 vaccine and alleging that the vaccine is dangerous, are there ways that the company can

6 assess the conclusion of the book other than by reading the whole book?

7 A You can look at the product description provided by the author. And you

8 can read -- you can scan the book, and you can read the whole book and all of those

9 methods are used in various instances of figuring out whether -- whatever policy, this

10 vaxx policy or other. I just don't know which ones were used specifically here.

11 Q Who decides what approach to use, whether to scan the book or look at the

12 product details or to actually sit down and read the whole book?

13 A The book's risk management team will make the first evaluation.

14 Q Are you familiar with any instances where someone reviewed the product

15 label and was up for assessment. And then after reading the book, a decision was made

16 to not add the book to a do-not-promote list?

17 A I don't know of any specific examples.

18 Q Do you know of anyone on the book's risk management team had any sort of

19 medical training?

20 A I don't know.

21 Q How long does it take to conduct the average assessment of whether to add

22 a book to the do not promote list?

23 A It depends on what information you have available.

24 Q What additional information would be available other than the text of the

25 book and the product label?

1 A It could be the author's website making it very clear what their views are and
2 telling customers, or visitors to their website, that, you know, this is what this book's
3 about, if you want the full story, buy the book as one example.
4 Q For books that consider both, say, the pros and the cons of vaccines, based
5 off your understanding of policy would those books be violative of the vaccine
6 misinformation policy?
7 A I don't know. It really depends on the specifics.
8 Q And who is making the judgment now on the specifics?
9 A The book's risk management team will make the judgment, and escalate
10 anything that they consider questionable -- not questionable, but, like, they have
11 questions about, they are not sure which direction to go.
12 Q Is there any sort of audit done later to assess whether policies were
13 enforced uniformly?
14 A It happens.
15 Q And what does that process look like?
16 A It would be very similar to the original process.
17 Q When a book is being assessed for potentially violative or not, can you
18 identify which individual or individuals conducted that assessment?
19 A I don't know.
20 Q You don't know the answer to that question or you don't know that it is not
21 possible?
22 A I don't know the answer to the question.
23 Q Thank you.
24 Was there any -- in the lead-up to the development of the vaccine misinformation
25 policy, was there any discussion regarding that the adoption of this policy would be

1 restricting a viewpoint that was held by a decent portion of the country at the time?

2 A No, we weren't looking to push any particular viewpoint. We were looking

3 at authoritative information, what was being recommended by the government at the

4 time. We wanted the books in the store. As I have said, we really wanted the widest

5 selection possible so that all viewpoints are available to customers, so the book stayed in

6 the store.

7 But based on the generally available, most official recommendation at the time,

8 we felt that the books that were strongly recommending that customers, individuals, not

9 get vaccinations, we should not be promoting those.

10 Q The company was still then making the decision of which viewpoints should

11 or should not be promoted. Is that right?

12 A I don't think of it as viewpoints. We are trying to be as safe as possible.

13 And so we looked at the most available authoritative information we could get and made

14 a decision.

15 Q Having reviewed both the March 9 transcript and the March 2 transcript,

16 does this refresh your memory at all regarding discussions you had around this time in

17 prepping anyone for a meeting with the White House?

18 [redacted]. You are referring to a transcript?

1

2 [2:08 p.m.]

3 [redacted]. I'm sorry. We're viewing these two exhibits.

4 [redacted]. Okay. I thought you said transcript.

5 [redacted]. If I did, I misspoke.

6 Mr. Naggar. It doesn't specifically. Clearly, it was part of the -- I would have

7 been sent the portion that is about books and asked to review it.

8 BY [redacted]:

9 Q Was there any discussion of whether you should attend the meeting with

10 the White House?

11 A There was not.

12 Q Was there any discussion of whether you or anyone from the books' risk

13 management team should attend?

14 A I should say I'm not aware of any discussion where such a thing was

15 discussed. I don't recall it ever being discussed with me, either for myself or my team.

16 It would be atypical.

17 Q Exhibit 10, which starts with Bates number 6184, it's a March 9th email. I

18 would have you flip to 6186.

19 There's a set of talking points that are being drafted and it looks like continually

20 revised a little bit.

21 The second bullet point says, "Top Talking Points on Content Guidelines."

22 Do you know who helped prepare those bullet points?

23 A I don't.

24 Q Is this something that would have been elevated to you for your review?

25 A To the extent that it's related to books and it was going to be communicated

1 externally, most likely. I don't know for sure.

2 Q There's discussion in the first kind of sub bullet point under that section

3 regarding how Walmart and Barnes & Noble are addressing this issue.

4 Do you remember having discussions regarding how competitors were handling

5 this issue?

6 A Not specifically, no.

7 Q Is that something that your team tracks generally?

8 A They will look at how other bookstores are handling a particular policy we're

9 looking at.

10 Q The last sub bullet point under that section says, "We have dedicated teams

11 of trained professionals that specialize in case-by-case analysis of controversial content."

12 Which teams are being referred to in that language?

13 A This feels like a more general point to me than just books. But if it were

14 referring to just books, it would be the books' risk management team.

15 Q Are there any other teams that would conduct assessments of books other

16 than the books' risk management team?

17 A Not to my knowledge.

18 Q The talking points in the section above where it says, bolded, "Top Talking

19 Points --

20 A Uh-huh.

21 Q -- (to be made affirmatively)," and then there's three sub bullet points.

22 Would you or members of your team have played a role in developing those talking

23 points?

24 A It's very likely.

25 Q Do you have any recollection of that?

1 A Not specifically. We sometimes have more generic talking points that are
2 repurposed for various conversations. I don't remember specifically working on these.
3 Q You can put those down. Thank you.
4 A Thank you.
5 [Naggar Exhibit No. 11
6 was marked for identification.]
7 BY [redacted]:
8 Q This will be exhibit 11. It's an email chain from April 2022 related to the
9 company's response to the Surgeon General.
10 A Okay. Thank you.
11 Q Of course.
12 I'm going to have you turn to Bates number 4376. There's an email up at the top
13 of the page. You can see the time stamp at the bottom of 4375, but it's redacted as far
14 as who sends it.
15 A Right.
16 Q First, again, taking a step back, does this email chain refresh your
17 recollection at all as to some of the debates and discussion during the preparation of
18 Amazon's response?
19 A It does.
20 Q Do you know who you were working with from the books team on this
21 issue?
22 A I don't remember.
23 Q Do you recall discussions around the implications of including statistics of
24 books removed and how that might be -- how that might spur reaction from certain parts
25 of -- or certain groups who want the company to remove books related to the

1 transgender-related issues?

2 A Sorry. I forgot the beginning of your question.

3 Q That's all right. Does this email chain spur any recollections regarding the

4 discussion around whether to include statistics about book removals on medical

5 misinformation, and whether that will spur any sort of reaction to the decision not to

6 remove certain types of transgender-related books?

7 A Yes, it does.

8 Q Who participated in those discussions?

9 A I don't remember the specifics. I remember that I was involved. I don't

10 remember if it was beyond an email thread like this.

11 Q So this email chain is in 2022. This is over a year after When Harry Became

12 Sally was removed, and some of the other related correspondence that we've looked at

13 there. Were there discussions at the time of expanding that policy to expand the

14 number of books that would be potentially removed under the policy?

15 A The transgender policy?

16 Q Yes.

17 A Yes.

18 Q And were there ultimately any changes made to expand the number of

19 books that are removed under the transgender policy?

20 A Not to my recollection.

21 Q The consideration to expand the policy, was that -- was there ever a

22 recommendation made from the books risk management team to you to expand the

23 policy for the number of books that could be removed under the transgender policy?

24 A Not to expand the policy, no.

25 Q Any sort of modifications to the transgender policy?

1 A No, not to my recollection.

2 Q So when there's debates and consideration, are these just discussions that

3 you are having with the books risk management team, or what does that look like if

4 there's no proposal made?

5 A It could be books that they're not sure -- again, back to the more general,

6 they can escalate if there are books they're not sure the policy should apply to. They

7 received an escalation, could be internal employees, could be customer views giving us a

8 signal that there's something there. And they'll look at the book, and if they're not sure

9 it applies -- the policy applies, they can escalate that.

10 Q Were there any instances where a book was escalated for your review where

11 they said it was not violative of the transgender policy but that the policy should be

12 changed so that it would be violative?

13 A Not to my recollection.

14 Q If I could have you flip over to 4375, there's an email with a 10:31 time

15 stamp right in the middle of the page, and there's reference to -- it says, "our critics," it

16 appears to be referring to the company's critics, "including LGBTQ organizations like

17 HRC."

18 Were you aware of criticism around the company's approach to

19 transgender-related books at around this time?

20 A Yes.

21 Q And how is that type of criticism -- or how do you personally become aware

22 of that type of criticism?

23 A In that specific case, the internal transgender community was very vocal

24 about a number of books that they considered, in their words, to be hate speech. We

25 disagreed, and the books stayed up.

1 Q When you say "internal," within Amazon?

2 A Within Amazon. And there was also press around our not removing certain

3 titles.

4 Q For the assessment around this time that ultimately led to not -- to the

5 decision not to remove those books, was the protocol for that consistent with the

6 protocol you've described for generally when books are under assessment?

7 A Yes.

8 Q Do you recall if there was one particular book or set of books that triggered

9 criticism from within the company?

10 A There were several.

11 Q Do you recall any examples?

12 A "Irreversible Damage" by Abigail Shrier was one. "Johnny the Walrus," I

13 don't remember the author's name.

14 Q You mentioned for policies the books' risk management team will consult

15 with external sources when appropriate. Around this context, do you remember if the

16 books' risk management team consulted with outside groups about the policy?

17 A I don't remember.

18 Q You can put this exhibit back.

19 A Thank you.

20 [Naggar Exhibit No. 12

21 was marked for identification.]

22 BY [redacted]:

23 Q This will be exhibit 12. It's an internal Amazon email dated March 8, 2021.

24 A Okay. Thank you.

25 Q The email of March 8th with the 6:12 a.m. time stamp in the middle of the

1 page --

2 A Yes.

3 Q -- there's reference to a chart in the frequently asked questions. Is that, to

4 your understanding, a chart that was internal to Amazon or part of a drafting for

5 information that would be made public?

6 A I don't know.

7 Q In the first question for that same email, there's reference to a Deny Term

8 List.

9 Do you know what that means?

10 A I do not.

11 Q In the second question there's a reference to Alerts Messaging widget.

12 Do you know what that is?

13 A I don't.

14 Q There's a response at 8:28, the time stamp at the top of the page, that says,

15 "Due to criticism from the Biden people, PP asked us to pursue" -- just in this reference,

16 that would be the public policy team?

17 A Yes. PP would be public policy.

18 Q -- "to pursue the 'low hanging fruit options' prior to our Russ review, and this

19 was one of them. There's a separate thread out to Russ asking for his permission to

20 implement prior to our 3/19 meeting."

21 Do you know who was on that thread to Russ?

22 A I don't remember.

23 Q Do you know when the request was made to Russ whether the -- as it's

24 conveyed here -- criticism from the Biden people or the White House was being conveyed

25 to Russ?

1 A I don't agree with the characterization that's here; same comment that I
2 made earlier. The policy is the important thing. Once the policy is decided,
3 independent of external influence, then we will decide on implementation and
4 implementation speed and technical complexity and all of that. And if there is, you
5 know, a source asking us to move more quickly on something we've already decided, if
6 we can, we would.
7 So I don't -- this characterization that public policy asked us to pursue low hanging
8 fruit options, they did, but it would not have pushed us to do something we hadn't
9 already decided to do.
10 Q But at this point, had Russ approved the policy change?
11 A There was an email thread saying we would like to move more quickly with
12 the high-risk titles, putting them into do-not-promote.
13 Q But as part of that email, Russ had not yet weighed in. Is that correct?
14 A He weighed in on that email thread saying that he agreed with the approach
15 for those high-risk titles.
16 Q Okay. So, again, just for clarity on the record --
17 A Yes.
18 Q -- the email to Russ following the White House's outreach, Russ had not yet
19 weighed in and had not yet decided whether to approve the policy or not?
20 A The overall policy.
21 Q Correct. Is that right?
22 A No.
23 Q What did the email say?
24 A He had not weighed in. We had not had the meeting with him that was for
25 later that month.

1 Q Okay.

2 A But we would have updated him by email that this is where we were

3 headed, that there was a White House escalation, as I said earlier, and since we're going

4 in this direction anyway, we can move a little more quickly and do that.

5 Q And given where your team -- the company was in the approvals process,

6 Russ, at that moment in time, still had the ability to veto the policy change. Is that

7 correct?

8 A He did.

9 Q In the 8:28 a.m. email, the next paragraph, the first kind of dashed bullet

10 point there says, "Search is looking for ways to shorten the lead time on this, but agree

11 18 weeks is too long."

12 First, do you know what they're referring to, what search is working on?

13 A I don't know what they were working on.

14 Q Do you remember any discussions regarding any implementations that were

15 going to take up to 18 weeks?

16 A Not in this specific instance.

17 Q For the implementation of a do-not-promote class, is that something that

18 could take up to 18 weeks or is this --

19 A It depends on the complexity -- I'm sorry. Please.

20 Q Is that likely referring to the do-not-promote class, or is that something you

21 would expect a shorter timeline for?

22 A It depends on the complexity of the implementation. You never know

23 which is going to touch a system that requires more engineer time, and the engineers will

24 come back with their proposal for how long it could take. If we feel it's too long, we will

25 look at whatever they're working on and reprioritize to make room for that tech work.

1 But it very much depends on the individual instance, the specific implementation
2 we're looking for.
3 Q Do you recall whether the engineers came back for the vaccine
4 misinformation policy and said this is more complicated than normal, less complicated
5 than normal?
6 A I don't remember.
7 Q There's discussion of different options available. There's -- the
8 second-to-the-last bullet point mentions, "A third option is to build a labeling CX in
9 parallel with the alerts widget."
10 Do you know what CX refers to there?
11 A Customer experience.
12 Q And what does it mean to build a labeling customer experience?
13 A I don't know. It's not a standard term.
14 Q Okay. As a -- to your understanding, have any members of the books' risk
15 management team had any interactions with the FBI?
16 A Not to my knowledge.
17 Q To your knowledge, have any members of the books risk management team
18 had any interactions with the Department of Homeland Security?
19 A Not to my knowledge.
20 Q Did the books' risk management team, to your knowledge, have any
21 interactions with HHS or any of the agencies within HHS?
22 A Not to my knowledge.
23 Q Do you recall in the spring and summer of 2021 whether you were aware at
24 the time that the White House was reaching out to social media platforms such as Twitter
25 and Facebook?

1 A Yes. It was very public.

2 Q Did you have any discussions with individuals at Facebook or Twitter about

3 outreach from the White House?

4 A No, I did not.

5 Q Do you have any familiarity with the Election Integrity Partnership run

6 through Stanford University?

7 A I do not.

8 Q What about Stanford University's Virality Project?

9 A I don't.

10 Q Do you have any familiarity with NewsGuard?

11 A I don't.

12 Q Do you have any familiarity with the Global Disinformation Index?

13 A I do not.

14 Q Do you have any familiarity with the Center for Countering Digital Hate?

15 A The what?

16 Q The Center for Countering Digital Hate?

17 A No, I don't.

18 Q Do you recall any -- being aware of discussions around the so-called

19 Disinformation Dozen around 2021, the top dozen accounts alleged to be spreading

20 vaccine misinformation?

21 A No, I'm not familiar with that term.

22 [redacted]. Can we go off the record, please?

23 [Discussion off the record.]

24 [Whereupon, at 2:38 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

Transcribed Interview Transcript Errata Form

Interviewee	David Naggar
Date of Interview	July 11, 2024
Date of Review	July 18, 2024
Name of Reviewer	[redacted]
Signature of Reviewer	[redacted]

Page	Line	Suggested Correction
5	3	informing → information
26	4	[redacted] → [redacted]
26	18	of → at
27	4	[redacted] → [redacted]
31	3	leads → led
32	1	3370 → 7370
42	17	If were → If it were
47	1	action in → actioning
50	14	term. We'll → term we'll
51	15 & 16	anti-vaxxing → antivaccine

Page	Line	Suggested Correction
54	17 & 18 13,15	[redacted] → [redacted]
54	16	anti-vaxxing → antivaccine
55	8	same ↑
55	22	possibility → policy
61	19	of → on
65 — 23,24 66 — 3,13 68 — 14		books' → books
71	20	ACINs → ASINs
72	5, 7	same ↑
80	16	that had the → that the
85	13,18	book's → books
85	18	of → if
86	9	book's → books
88 — 12 89 — 14,16 93 — 14,16 97 — 14,20		same ↑

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2
3
4
5 COMMITTEE ON THE JUDICIARY,
6 U.S. HOUSE OF REPRESENTATIVES,
7 WASHINGTON, D.C.
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11
12
13 INTERVIEW OF: JIMMY KIRBY
14
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16
17
18 Thursday, July 18, 2024
19
20 Washington, D.C.
21
22
23 The interview in the above matter was held in room 2237, Rayburn House Office
24 Building, commencing at 10:04 a.m.
25

1 Appearances:

2

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted] COUNSEL

8 [redacted] SPECIAL COUNSEL

9 [redacted] DIGITAL ASSISTANT

10 [redacted] LAW CLERK

11 [redacted] DEPUTY CHIEF COUNSEL FOR OVERSIGHT

12 [redacted] MINORITY CHIEF OVERSIGHT COUNSEL

13 [redacted] MINORITY PROFESSIONAL STAFF MEMBER

14

15

16 For the SUBCOMMITTEE ON CRIME AND

17 FEDERAL GOVERNMENT SURVEILLANCE:

18

19 [redacted] MINORITY DETAILEE

20

21

22 For the U.S. DEPARTMENT OF TREASURY:

23

24 [redacted] COUNSEL

25 [redacted] COUNSEL

1 [redacted] This is a transcribed interview of Jimmy Kirby. Chairman Jordan has
2 requested this interview as part of the committee's oversight of the Department of
3 Treasury's Financial Crimes Enforcement Network.
4 Would the witness please state your name for the record?
5 Mr. Kirby. Jimmy Kirby.
6 [redacted] Could agency counsel please state your name for the record?
7 [redacted]
8 [redacted]
9 [redacted] On behalf of the committee, I want to thank you for appearing here
10 today to answer our questions. The chairman also appreciates your willingness to
11 appear voluntarily.
12 My name is [redacted] and I'm with Chairman Jordan's staff. I'll now have
13 everyone else from the committee who's here in the room introduce themselves as well.
14 [redacted] with Chairman Jordan.
15 [redacted] with Chairman Jordan.
16 [redacted] Chairman Jordan.
17 [redacted] with Ranking Member Nadler.
18 [redacted] with Ranking Member Nadler.
19 [redacted] with Ranking Member Nadler.
20 [redacted] Chairman Jordan.
21 [redacted] I'd like to now go over the ground rules and guidelines that we will
22 follow during today's interview.
23 Our questioning will proceed in rounds. The majority will ask questions first for
24 1 hour, and then the minority will have an opportunity to ask questions for an equal
25 period of time if they choose. We will alternate back and forth until there are no more

1 questions and the interview is over.

2 Typically, we take a short break at the end of each hour. If you would like to take

3 a break apart from that, please just let us know.

4 As you can see, there is an official court reporter taking down everything we say to

5 make a written record, so we ask that you give verbal responses to all questions.

6 Do you understand?

7 Mr. Kirby. Yes.

8 [redacted] So the court reporter can take down a clear record, we will do our best

9 to limit the number of people directing questions at you during any given hour to just

10 those people on the staff whose turn it is.

11 Please try and speak clearly so the court reporter can understand and so the folks

12 down at the end of the table can hear you.

13 It is important that we don't talk over one another or interrupt each other if we

14 can help it, and that goes for everybody present at today's interview.

15 We want you to answer our questions in the most complete and truthful manner

16 as possible, so we will take our time. If you have any questions or you do not

17 understand one of our questions, please just let us know.

18 Our questions will cover a wide range of topics, so if you need clarification at any

19 point just say so.

20 If you honestly don't know the answer to a question or do not remember, it is best

21 not to guess. Please give us your best recollection, and it is okay to tell us if you learned

22 information from someone else. Just indicate how you came to know the information.

23 If there are things you don't know or can't remember, just say so, and please

24 inform us who, to the best of your knowledge, might be able to provide a more complete

25 answer to the question.

1 You should also understand that although this interview is not under oath, that by
2 law you are required to answer questions from Congress truthfully.
3 Do you understand that?
4 Mr. Kirby. Yes.
5 [redacted] This also applies to questions posed by congressional staff in an
6 interview.
7 Do you understand this?
8 Mr. Kirby. Yes.
9 [redacted] Witnesses that knowingly provide false testimony could be subject to
10 criminal prosecution for perjury or for making false statements under 18 USC Section
11 1001.
12 Do you understand this?
13 Mr. Kirby. Yes.
14 [redacted] Is there any reason you are unable to provide truthful answers to
15 today's questions?
16 Mr. Kirby. No.
17 [redacted] Finally, I'd like to make a note that the content of what we discuss
18 here today is confidential. We ask that you not speak about what we discuss in this
19 interview to any outside individuals to preserve the integrity of our investigation.
20 For the same reason, the marked exhibits that we will use today will remain with
21 the court reporter so that they can go in the official transcript, and any copies of those
22 exhibits will be returned to us when we wrap up.
23 That is the end of my preamble. Is there anything that my colleagues from the
24 minority would like to add?
25 [redacted] We thank the witness for appearing voluntarily today.

1 I also note that this interview is being video'd. The practice has been that the
2 Republicans have not been video'ing current agency employees, and I'm not sure if there
3 was a discussion in advance.
4 I know we are -- the minority staff is usually taken off of emails, so if there was a
5 discussion we might've been excluded from it, but I don't know if there was an agreement
6 reached. I do know that this is not practice for the way that the majority has been
7 proceeding.
8 [redacted] Counsel, do you have anything?
9 [redacted] I mean, it wasn't flagged for us beforehand. I don't think we
10 have any objection to proceeding this way, but --
11 [redacted] Okay.
12 [redacted] Then I would also note that, again, the minority has not had any of
13 the videos made available to them. I understand the quality is not very good, so that
14 might be part of the reason. But we have not had any videos made available to us, and
15 that does create concerns about transparency.
16 [redacted] The clock now reads 10:08. We will start the first hour of
17 questioning.
18 [redacted] We do -- sorry, beforehand, just like we flagged before, we do
19 want to, given the content and the nature of this investigation, want to sort of, again, put
20 on the record with all of you that the BSA provides the suspicious activity reports and a
21 number of other reports, and any information that would reveal the existence thereof is
22 confidential.
23 Unauthorized disclosure of this information is a violation of Federal law. It's
24 subject to civil and criminal penalties. It also can cause, frankly, unjustifiable and
25 irreparable harm to people who are named in these and to national security and to law

1 enforcement interests.

2 So to the extent there is any testimony today concerning a particular SAR -- again,
3 I don't anticipate that there will be -- or any testimony that would reveal the existence of
4 a SAR or lack thereof, we would ask that the committee redact those portions of the
5 transcript, not make them publicly available, as, again, we think any type of disclosure of
6 that nature would cause harm to ongoing law enforcement equities and to national
7 security.

8 Mr. Kirby. And could I start with making an opening statement? Is
9 that permissible?

10 [redacted] Yes.

11 Mr. Kirby. Okay. It's short. I promise.

12 So good morning. My name is Jimmy Kirby, and I serve as deputy director of the
13 Financial Crimes Enforcement Network.

14 FinCEN is a bureau of the Treasury Department and a key component of Treasury's
15 Office of Terrorism and Financial Intelligence, or TFI.

16 I have been with Treasury for almost 18 years, virtually all of that time supporting
17 Treasury's national security and counter-illicit finance mission set.

18 I started my Treasury career in the Department's Office of General Counsel in
19 2006 supporting Treasury's Office of Foreign Assets Control, or OFAC, and I served in the
20 Legal Division until September 2020.

21 I spent more than 8 years in the OFAC counsel's office focused on a range of
22 priority national security matters, including enforcing Iran and North Korea-related
23 sanctions, as well as sanctions targeting global narcotics trafficking networks.

24 In late 2015, I was detailed to lead the FinCEN Chief Counsel's Office, and I served
25 as FinCEN's chief counsel from July 2016 to September 2020.

1 Following that role, I served as the associate director of FinCEN's Intelligence
2 Division, now known as the Research and Analysis Division, from October '20 to July 2022,
3 and I assumed my current position at the end of last year following extended periods as
4 the acting deputy director of FinCEN from July 2022 to December 2023.
5 I am here today in a voluntary capacity to answer your questions regarding FinCEN
6 actions supporting law enforcement in response to the events of January 6th, 2021, and
7 law enforcement's efforts to secure the inauguration thereafter.
8 Thank you for giving me the opportunity to make this statement.
9 EXAMINATION
10 BY [redacted]
11 Q Mr. Kirby, your opening statement touched on this. When did you first join
12 FinCEN?
13 A I was detailed to FinCEN around November of 2015, is when I first arrived.
14 Q And why did you join FinCEN?
15 A I was -- I had been working at the Main Treasury Department already in the
16 Office of General Counsel, and there was a vacancy that arose, the FinCEN chief counsel
17 position, and I was detailed from Main Treasury to assume the duties of that role.
18 Q And when did you first join the Department of Treasury?
19 A In September of 2006, give or take. Pretty sure September's right. I know
20 2006 is.
21 Q And what was your key motivation for joining Treasury and FinCEN?
22 A I had been in private practice here in Washington, and a substantial portion
23 of my practice prior to coming into government was in the OFAC, the Office of Foreign
24 Assets Control, economic sanctions space.
25 And so I was fortunate enough to get a job in the counsel's office where I had the

1 opportunity to do more of that work on behalf of the Department.

2 Q And what is your current position?

3 A I am the deputy director of FinCEN.

4 Q And can you describe your role and responsibilities as the deputy director of

5 FinCEN?

6 A I support the director in her management of the bureau's operations, and as

7 well as sort of supporting leadership -- again, the director -- in terms of ensuring FinCEN

8 meets our sort of mission goals and mission sets.

9 Q How many people do you oversee in your role?

10 A I believe our current head count is approximately 280, give or take a few

11 either direction, so approximately 280. So I support -- I manage, for all intents and

12 purposes, the senior executives principally that oversee the sort of different divisions of

13 the organization and the workforce.

14 Q And in 2021 what was your position?

15 A In 2021 I was the associate director of the then-Intelligence Division of

16 FinCEN.

17 Q And how long were you the associate director of the Intelligence Division?

18 A So I started that job in October of 2020, and I moved out of the role in the

19 summer of 2022, I think July of 2022, to serve as acting deputy director. So that's, I

20 guess, about a year and a half, maybe a little more, give or take.

21 Q And when you were in that role, what were your responsibilities?

22 A To sort of manage the operations of the Intelligence Division and to, again,

23 sort of support the other components of FinCEN with regard to their analytic research

24 needs of -- based on our -- the reporting that comes to FinCEN under the Bank Secrecy

25 Act.

1 Q And can you describe the organizational structure of the Intelligence Division
2 and how it fits within FinCEN?
3 A Sure. Then or now?
4 Q Then.
5 A Then.
6 So then, when I took that job in late 2020, if my recollection is correct, I believe
7 the position had been vacant essentially for the prior 2 years-ish, and at the time it was
8 divided into, I think, three offices.
9 So there was a deputy associate director and then three office directors that
10 reported to that deputy director, and there was an Office of Western Hemisphere Affairs,
11 an office of transnational issues, and then a -- I believe the last one was an analytic and
12 research office.
13 Q And who is your direct supervisor as the associate director?
14 A When I started the position, the deputy director of FinCEN at the time was
15 Michael Mosier.
16 At some point early -- relatively early in the current administration, Michael
17 moved out of that job, I think it was in Q1 of 2021, and AnnaLou Tirol moved into that
18 position. So AnnaLou became -- Ms. Tirol, my apologies -- became my supervisor.
19 Q And when did she become your supervisor?
20 A I think it's approximately December 2021, around in there. I mean, I'm
21 sorry, February 2021. I've gotten my calendars backwards in my head.
22 Q That's okay.
23 A There you go. Sorry.
24 Q And how many employees did you oversee in the Intelligence Division?
25 A I would say approximately 50, maybe a little more -- maybe a little more at

1 times. But I think approximately 50 to 55.

2 Q And is it a similar head count now?

3 A I think so, yes. I think their head count is in the 50s now. I'd have to sort

4 of confirm that. But it's about the same size.

5 Q And what was the mission of the Intelligence Division?

6 A So FinCEN's overall mission is to protect the U.S. financial system from illicit

7 finance. We do that in a number of ways, and one of them is through research and

8 analysis of the information filed with FinCEN pursuant to the Bank Secrecy Act.

9 And so a key function of the Intelligence Division is it's staffed with analysts who

10 are knowledgeable in terms of that data and different ways to support the mission set.

11 So, for instance, at the moment, a big part of their function is supporting our work

12 to sort of counter fentanyl in support of law enforcement.

13 So it would be very common for analysts in the then-Intelligence Division and now

14 Research and Analysis Division to be working sort of like very closely with law

15 enforcement on sort of priority issues or individual cases with a particular law

16 enforcement agent.

17 Q And why did the name change?

18 A I think a couple reasons for that.

19 One was our function -- FinCEN's functions were substantially modified by the

20 Anti-Money Laundering Act of 2020. And so y'all are probably familiar with we have a

21 new beneficial ownership reporting program that was contained in that statute.

22 There are also other things contained in that statute. Congress established an

23 analytic hub at FinCEN, which is now housed in this division. They set forth certain -- a

24 requirement that we regularly publish certain trends information based on information

25 filed with us, which I think we're required to do that at least twice a year.

1 And so we've been doing that since the statute was enacted in 2021 on sort of any
2 number of priority issues -- ransomware, other financial exploitation, and the like.
3 So the name change, one, reflected some of the changed responsibilities in the
4 division post this congressional act, and also to give a little bit more clarity as a practical
5 matter on what the division does.
6 FinCEN is not part of the intelligence community, the Intelligence Division was not
7 part of the intelligence community, and it wasn't always clear to folks what that term
8 meant. Whereas, research and analysis I think is a little more transparent in that regard
9 in terms of what the folks sitting in that division are doing on a day-to-day basis.
10 [redacted] And just so the record is clear, what role were you in when the
11 name change took place?
12 Mr. Kirby. I was the acting deputy director. I think that happened late last
13 year. We could confirm that if that's necessary, but I'm pretty sure it was late last year
14 when that happened.
15 BY [redacted]
16 Q How frequently did you interact with FinCEN leadership as the associate
17 director?
18 A I would say pretty regularly.
19 So there's sort of a series of standing meetings, check-ins with leadership. There
20 would be, if I'm correctly recalling, sort of regular senior staff meetings.
21 And then on -- if there was certain particular like individual -- I would say, yes,
22 pretty regularly. That's kind of a mumbling answer, but I think that's the best answer I
23 have.
24 Q Would you say weekly? Daily?
25 A I would say, yeah, weekly. I don't know about daily.

1 Q Okay.

2 A Most of the time that I was in that role -- I changed into that role during

3 COVID. And so we weren't sitting around a table like this talking to each other, which

4 had been the practice prior to COVID during that period of time. But still, yes, regular

5 interaction with senior leadership.

6 Q And that would include the then-director of FinCEN?

7 A Correct, yes.

8 Q Okay. And how often did you interact with the Department of Justice?

9 A Me directly? Actually, me directly, I wouldn't say actually that was all that

10 common. That would've been more common, for example, in my prior role, the role I

11 had before the associate director position as chief counsel, because a key portion of that

12 job was actually supervising litigation involving FinCEN.

13 So in the run-up to me changing jobs in 2020, then numerous -- I wouldn't say

14 numerous -- we'll say three -- two or three substantial litigations in which we were in

15 regular contact with the Justice Department because of the need to file briefs, do case

16 coordination, strategy, that sort of stuff. I certainly did not have that kind of regular

17 interaction with the Justice Department when I moved out of the Legal Division.

18 Q And now how often do you interact with the Justice Department?

19 A Again, I would say it's not a regular thing for me in terms of my current

20 day-to-day job. If there's an interagency meeting where I'm attending, someone from

21 the Justice Department is attending, those are not very common for me. But, yeah, I

22 would say it's not a frequent occurrence.

23 [redacted] And just to clarify, when you were talking about your prior role

24 interacting with DOJ in connection with these litigation matters, what parts of DOJ would

25 you generally be interacting with?

1 Mr. Kirby. Oh, so principally the Civil Division. So the office -- the Federal
2 Programs Branch in the Civil Division represented us in one of the litigations I'm recalling,
3 and then also the Civil Division of U.S. Attorney's Offices, because, again, these were all
4 civil litigations that I'm thinking of at the moment.
5 BY [redacted]
6 Q And prior to joining the Department of Treasury, you said that you worked in
7 private practice?
8 A Correct.
9 Q And were there any other positions before private practice?
10 A I clerked for a Federal judge after leaving law school for a little over a year in
11 Dallas, and then I -- when finishing that I went back to school, did an additional degree,
12 before coming and joining the law firm here in D.C., which was about 3 years there.
13 Q And what was that additional degree?
14 A Public international law at a law school in London.
15 Q Are you a licensed lawyer?
16 A I am, yes.
17 Q When did you become licensed?
18 A So I took the bar in 2001, so I'm going to go with 2001 is when I became
19 licensed.
20 Q And were you a lawyer throughout your tenure at Treasury and FinCEN?
21 A Yes. I am still a lawyer, so technically yes, though I do no longer work in a
22 legal role.
23 [redacted] Have you worked for any financial institutions?
24 Mr. Kirby. No.
25 BY [redacted]

1 Q Is the associate director of the Intelligence Division functionally the head of
2 the division?
3 A Yes.
4 Q And how did your role relate to the operation of the FinCEN Exchange?
5 A So the FinCEN Exchange was codified in the Anti-Money Laundering Act of
6 2020 that I mentioned before.
7 Management of that function is actually housed in a different division and was
8 housed at the time in a different division of FinCEN, the Strategic Operations Division.
9 The predecessor to the current FinCEN Exchange program -- so we had a program
10 in this space prior to the AML -- was also housed in that Strategic Operations Division.
11 Q And what program was that?
12 A It was still called FinCEN Exchange.
13 Q Okay.
14 A But it was sort of codified and formalized by Congress in the Anti-Money
15 Laundering Act of 2020.
16 Q And the Strategic Operations Division is primarily responsible for the FinCEN
17 Exchange?
18 A Yes, that's correct.
19 Q And that is separate and apart from the Intelligence Division?
20 A That is correct.
21 Q And so your role in relation to the FinCEN Exchange was limited?
22 A Yes, that is correct.
23 Q How does the FinCEN Exchange influence operations at FinCEN?
24 A Hmm.
25 So the FinCEN Exchange is probably our premier public-private partnership, and

1 it's a way for the private sector and different parts of government to come together and
2 share information on priority topics.
3 So a good example of that at the moment is our Project Protect FinCEN Exchange
4 series, which we are doing across the country this year in connection with the Treasury
5 Counter-Fentanyl Strike Force as a way of bringing regional and local banks together with
6 law enforcement and others as a way of sharing typologies and other information to sort
7 of help more broadly -- help financial institutions and others recognize transactions that
8 may involve fentanyl trafficking, but also just to sort of share information and practices.
9 That's a current example of how it is used. Combating fentanyl trafficking is
10 obviously a very high priority for us at the Treasury Department.
11 But it could sort of be on any number of priorities like that where the idea is to
12 sort of share knowledge and expertise. And so we've also done them on countering
13 Russian sanctions evasion. We've done them on different types of money laundering
14 typologies. So it is meant to be a venue that people could come together and share
15 information.
16 Q And where does that information typically originate from?
17 A I don't know if there's a typical. Based on my understanding of the
18 program, sometimes it's -- it may be law enforcement coming and giving a presentation
19 on -- again, going back to fentanyl -- different aspects of fentanyl trafficking; or it may be
20 a financial institution sharing expertise about different ways they analyze the information
21 they have to sort of identify illicit finance threats.
22 Q Would those materials ever come from the Intelligence Division?
23 A Yes. It is not uncommon for -- going back to my fentanyl Project Protect
24 example -- analysts that work on the fentanyl mission set do regularly participate in the
25 FinCEN Exchanges.

1 Q And when material was exchanged with the FinCEN Exchange that came
2 from the Intelligence Division, would you have a role in reviewing and approving those
3 materials?
4 [redacted] Can you be a little more specific with that? Like, we're talking
5 in sort of very high generality. So is there something specific you want to ask him about,
6 some specific materials, or, like, more specificity with that question?
7 BY [redacted]
8 Q I'm just asking for process. So if the Intelligence Division is sharing material
9 to the FinCEN Exchange, which you've testified that it has, what was your role in getting
10 that material approved and out the door?
11 A I think it would -- I actually -- I think it would depend. Again, given the
12 timeframe is the reason that I'm here, I had been in the position about 90 days when the
13 FinCEN Exchanges that I understand are one of the focuses of this investigation began.
14 So to the extent there were materials that had already been sort of approved, like
15 developed and approved, I would not have expected those necessarily to come back to
16 me for additional approval if they were something that was essentially on the shelf, for
17 lack of a better way of putting it.
18 And I don't think -- sort of, like, this is old recollection at this point, but my
19 recollection is that it wouldn't necessarily be there for every exchange. Something that
20 the Intelligence Division analysts may be presenting in that environment would've come
21 to me for clearance beforehand.
22 Q How does -- how did your role relate to the operation of the Bank Secrecy
23 Act Advisory Group?
24 A So the Bank Secrecy Act Advisory Group is another function that is actually
25 principally housed then and now in our Strategic Operations Division. It's another form

1 of essentially public-private partnership. So my role then would've been actually quite
2 minimal in connection with the sort of operations of that function.
3 Q And are you more involved with that function now?
4 A Yes.
5 Q How so?
6 A So there was a BSAAG -- for example, there was a BSAAG meeting earlier this
7 year, of which I gave the opening remarks in connection with that event. So that is not
8 something that I would've done in a prior and I did not do in a prior role. That is
9 different in the role that I'm in now.
10 Q And how does the Bank Secrecy Act Advisory Group influence operations at
11 FinCEN or the Department of Treasury?
12 [redacted] Can you explain what you mean by influence?
13 BY [redacted]
14 Q Change. I mean, it's an advisory group.
15 A Yeah. I mean, I think it's an opportunity for -- it's another way for us to sort
16 of hear from and learn from, in this case, usually actors that are actually subject to the
17 requirements of the Bank Secrecy Act in terms of their views and perspectives on any
18 number of sort of regulatory or enforcement or things like that.
19 And influence is sort of hard for me to sort of define one way or the other, but in
20 its, I think, proper form, in its current form, it's an avenue for us to hear views from the
21 sector.
22 I don't know if that answered your question.
23 Q I think so.
24 A Okay.
25 Q Do you know AnnaLou Tirol?

1 A Yes.

2 Q And what was her role in operations at FinCEN?

3 A When she arrived at FinCEN she arrived as the associate director for the

4 Strategic Operations Division. And I'm sorry, but I can't actually recall the date on that.

5 I think I cut you off though from something else.

6 Q What was your professional relationship with her?

7 A So when she arrived at FinCEN, my recollection, I think it was still when I was

8 the chief counsel, so she would've been my, for all intents and purposes, my client at the

9 time. And then when I moved over to the Intelligence Division in late 2020, she

10 would've been my peer. And then in early 2021, she became my manager.

11 Q And do you know [redacted]?

12 A I do know [redacted] yes.

13 Q And what was her role in operations at FinCEN?

14 A If I remember correctly, [redacted] came to FinCEN as the chief of staff. At the

15 time, I was the chief counsel, so, again, she would've been my client. And then we both

16 transferred to the Intelligence Division around the same time in October of 2020, and at

17 that point she would've served as my deputy.

18 Q And do you know [redacted]?

19 A I do know [redacted], yes.

20 Q And what was your relationship with [redacted]?

21 A [redacted] was an employee in FinCEN's Strategic Operations Division or its

22 predecessor, I think, for the entirety of our -- he's no longer with FinCEN, but I think for

23 the entirety of his time at FinCEN that we overlapped, I think he was in that division the

24 entire time.

25 Q Do the different divisions within FinCEN that you've described, do they

1 interact frequently, or would you say they're more siloed?

2 A Yes, they do interact. My current and prior understanding is that teams

3 interact regularly.

4 Q And does each division interact with the private sector?

5 A Do you mean in like a regulatory sort of like supervisory way?

6 Q Just in terms of contact with the private sector.

7 A So I think it would vary based on division, would probably be the best

8 answer I could give you.

9 So, for instance, our like Management Division, the folks that sort of run HR and

10 run like services and that sort of stuff, I would think of their private sector interaction as

11 more like managing contractors and managing contracts, dealing with vendors, that sort

12 of stuff.

13 Whereas the more like policy-facing operations at FinCEN -- the Policy Division,

14 the Strategic Operations Division, the Enforcement and Compliance Division, and the

15 Research and Analysis Division, probably along with our Chief Counsel's Office as well -- in

16 different ways, in different fora, not necessarily uncommon for them to interact with

17 different parts of the private sector.

18 Q And did you work closely with the Office of Stakeholder Integration and

19 Engagement?

20 A No, I don't think so. I was aware of what they did, their function at the

21 agency, but I wouldn't say that I worked with them a lot.

22 Q Did you interact with [redacted]

23 A Yes.

24 Q How frequently?

25 A I would not actually say it was that frequent, because at least my normal

1 interactions with that division, if my recollection is correct, [redacted] was sort of a mid-level
2 manager in that division. I would've probably interacted with his more senior managers
3 when I was interacting with that division more than I interacted with him directly.
4 Q And who would that have been?
5 A That would've probably been, again, AnnaLou in the first instance.
6 AnnaLou was the head of that division when I moved to the Intelligence Division.
7 Q And just so we have a clear record, which division was that?
8 A I moved to the Intelligence Division, and AnnaLou was the head of the
9 Strategic Operations Division at that time.
10 Q And did your office, the Intelligence Division, rely on the Office of
11 Stakeholder Integration to share Intelligence Division material?
12 A Yes, in the context of things like if employees were participating in
13 the -- actually, maybe not. I'm not actually sure.
14 So let me answer your question as I understand it, because I'm not sure my "yes"
15 is 100 percent right.
16 They would have interacted with that office if they were participating in a FinCEN
17 Exchange or if they were doing a presentation at a Bank Secrecy Act Advisory Group
18 meeting.
19 [redacted] I'm sorry, who's the "they" in this?
20 Mr. Kirby. Intelligence Division employees.
21 [redacted] Thank you.
22 Mr. Kirby. I'm sorry. I'm slipping into pronouns and acronyms quite a bit, so
23 please stop me when I do that.
24 So it would have not been uncommon for them to interact with that office if they
25 were participating in a public-private partnership like that. And it would not have been

1 uncommon for them to share what they were going to be presenting with that office.
2 Does that answer your question?
3 BY [redacted]
4 Q Yes.
5 A Okay.
6 Q Would you ever share materials with the Office of Stakeholder Integration
7 and Engagement for distribution with the private sector?
8 A I don't know that that was a common -- I don't know that that was
9 necessarily common. But I also don't know that it's not something that would've
10 happened, particularly with regard to -- for instance, if you're talking to folks on the Bank
11 Secrecy Act Advisory Committee, you might share information with them for the
12 presentation so that folks are speaking from sort of a common set of facts, and it can give
13 a more robust -- that's sort of me speculating. But that's one scenario in which I could
14 see that playing out.
15 Q And when you were the associate director of the Intelligence Division, did
16 you interact with private sector entities?
17 A Yes.
18 Q And what types of private sector entities did you work with?
19 A So I did participate in a -- so one example would be I did -- I did participate in
20 FinCEN Exchange.
21 Am I allowed to talk about FinCEN Exchanges? I think I am.
22 [redacted] Uh-huh.
23 Mr. Kirby. Okay. Thank you.
24 That's why we always have to have the lawyers nearby.
25 And so I participated in FinCEN Exchanges involving, for instance, like

1 counter-Russia illicit finance after Russia invaded Ukraine.

2 And that's actually, in the Intelligence Division, the sort of most direct

3 circumstance I remember interacting with the private sector. Again, it was different

4 than when I was the chief counsel where you'd be interacting more with like opposing

5 counsel and stuff like that.

6 But I don't remember that being a sort of frequent thing that I did in the

7 Intelligence Division compared to, for instance, my job now where it's much more

8 common for me to interact with the public and the private sector than the job I had

9 before this one.

10 [redacted] And were those primarily financial institutions?

11 Mr. Kirby. I think so, yes.

12 [redacted] What sorts of nonfinancial institutions would you work with?

13 Mr. Kirby. I actually can't recall any off the top of my head that would not have

14 been considered financial institutions under our regulations.

15 [redacted] Would you have interacted with law enforcement entities in this

16 role?

17 Mr. Kirby. Yes, but I'm trying to think when.

18 So, for instance, going back to my Russia example, we worked with a lot of law

19 enforcement agencies in connection with trying to identify oligarch assets or other sort of

20 illicit assets.

21 And so we have worked very closely with not just sort of like the traditional law

22 enforcement at the Justice Department, but also the Bureau of Industry and Security at

23 the Commerce Department in terms of trying to share information to counter improper

24 exports and sanctions evasion by Russian actors for U.S.-origin or U.S.-restricted goods.

25 So I think some aspects of BIS are technically -- I'm sorry, Bureau of Industry and

1 Security -- are technically considered law enforcement. So in those circumstances -- but
2 I wouldn't have been the principal interlocutor with them, but in those circumstances I
3 would expect that I would have had interaction with those folks.
4 [redacted] How do you decide who to partner with in the private sector?
5 Mr. Kirby. I think it kind of depends on the topic and the mission set. And so
6 going back -- and I'm sorry, I keep going back to this example, but it's one we're doing a
7 lot right now, the fentanyl set. The Protect Exchange series that were really the priority
8 for us at the moment, a lot of the financial institutions that we're inviting to those
9 sessions are sort of regional and local banks as a way of sort of, as they're closer to their
10 communities, to ensure that we're sharing information in sort of like all levels of the
11 financial sector.
12 In terms of pulling together a FinCEN Exchange, you would sort of think about who
13 are the right law enforcement partners who were working on the topic or that have
14 expressed an interest in doing an exchange.
15 So I think some of it is sort of organic around the topic, the setting, the mission
16 set.
17 Going back to my Russia example, many of the agencies I mentioned are the
18 agencies you would expect to be working in that space. BIS, the Bureau of Industry and
19 Security, they're very focused on avoiding improper shipments to folks who are not
20 supposed to get them. Same with like oligarch money-laundering assets you would be
21 working with FBI and others; fentanyl you'd be working with DEA and others.
22 So, again, there's sort of -- it can change based on the mission set and setting.
23 [redacted] But just to make sure so the record was clear.
24 So I think the record was, how do you decide who to partner with?
25 Mr. Kirby. Oh.

1 [redacted] So I just want to make sure the record is clear on, when you
2 were in the role as the AD of the Intelligence Division, would you have been making those
3 decisions?
4 Mr. Kirby. No, I would not. I'm sorry if I missed that.
5 [redacted] Who would have been making those decisions?
6 Mr. Kirby. Again, principally that function was housed in the Strategic
7 Operations Division, so I think in that division sort of up to FinCEN front office at the time.
8 But principally I think the Strategic Operations Division would have been the sort of
9 interlocutor and coordinator in that space.
10 [redacted] Were those relationships preexisting?
11 [redacted] Which relationships?
12 [redacted] The relationships with the private sector in terms of the folks that
13 the Strategic Operations Division is interacting with. Are you cold reaching out to
14 institutions, or is there a list of partners FinCEN has?
15 [redacted] I think to the extent he knows, since he's just said that
16 would've been housed in a different division at the time and he wasn't the one making
17 those decisions.

1

2 BY [redacted]

3 Q Sure. He's the deputy director now.

4 A So maybe I'll -- yeah, let me try that a couple different ways.

5 So some would be longstanding. So, for instance, we have a longstanding

6 partnership with most of your major law enforcement agencies. I don't think that would

7 surprise anyone given the nature of our mission. So we work very closely with the FBI,

8 at times we work very closely with DEA, just given the nature of our mission set.

9 And so with regard to -- so I think if you're asking like do we cold call in that space,

10 I think that would probably -- my expectation would be that would be a more organic

11 exchange. Sometimes it's partners want to have a FinCEN Exchange on a topic, have an

12 idea of the topic and the location and how that would be helpful.

13 With regard to private sector components, some may be entities that have

14 interacted with FinCEN in the past. I think some may be those that haven't. And I

15 think the Project Protect series I mentioned before that's focused on fentanyl you have

16 really a focus there on trying to reach regional, local banks to sort of share information

17 with them.

18 So while I don't know specifically how much of those may have involved like

19 someone participating in the exchange had a relationship with bank A, bank B, or bank C,

20 it would not surprise me if in a space of trying to reach out to make sure we're reaching

21 broadly in these spaces that you may -- some of that may be reaching out to a bank or

22 another partner that hasn't previously been in an exchange with us.

23 So I think it may be a mix. Hopefully that answered the question.

24 Q Were there tensions with the private sector? Were there ever

25 disagreements?

1 A So that one you're going to have to help me with being a little bit more
2 specific, because we also house an enforcement function at FinCEN. So that tends to
3 not be a kumbaya space. So if, you know --
4 Q In terms of receiving material or sharing material with the private sector,
5 vice versa.
6 A I think it's important -- one aspect of the FinCEN Exchange I think sometimes
7 that gets lost is that these are voluntary exchanges. They're voluntary. We don't order
8 people to show up at FinCEN Exchanges. The people on BSAAG apply to be on BSAAG.
9 So they're not folks that we've ordered to show up for those events either.
10 So I would say, at least in those types of exchange spaces, you're already starting
11 from a space of folks have asked to be there. And so while I'm not entirely sure what
12 would count as tension, I think you're starting from a space that the people in the room
13 have raised their hand generally to be in the room.
14 Q And you've testified to this, but FinCEN has oversight responsibilities over
15 the financial institutions?
16 A That's correct. We are the administrator of the Bank Secrecy Act, which
17 sets forth a number of anti-money laundering and counterterrorism finance regulatory
18 obligations for U.S. financial institutions and others.
19 Q And did the Intelligence Division have oversight responsibility?
20 A I don't think that's how it would normally be described.
21 So I think the principal role of the financial -- the Intelligence Division in this space
22 would be the analytic expertise that the analysts bring to being able to sort of review the
23 suspicious activity reports and other information that the financial sector and others file
24 with FinCEN pursuant to the Bank Secrecy Act.
25 They may support, in an analytic sense, efforts in, say, the Global Investigations

1 Division, in the sort of 311. I don't know if you all are familiar with that authority. It's
2 a PATRIOT Act authority that allows targeting foreign financial institutions in foreign
3 jurisdictions, a primary money-laundering concern.
4 So, for example, Iran, North Korea are right now designated as foreign financial
5 institutions of primary money-laundering concern, for example. So they may
6 support -- provide analytic support for work like that in that division or they may
7 provide --
8 Q What does that analytic support look like?
9 A It might be looking at things like SARs we receive on a certain topic. So
10 if -- so the -- to take two steps back, to give you a not fentanyl example, because I feel like
11 I'm giving you that example a lot, the Cyber and Emerging Technology Office at FinCEN is
12 housed in the Intelligence Division. It's now full-blown one of the three divisions I
13 mentioned to you before in the organizational structure. That division houses a lot of
14 FinCEN's expertise in that space.
15 So to the extent the Global Investigations Division is looking at using one of our
16 targeting authorities against a foreign illicit finance threat, they may look -- and it would
17 not be uncommon for them to look -- to the analytic expertise housed in that office if
18 they're looking at illicit activity involving virtual assets, things like bitcoin, Monero, Ether,
19 things like that.
20 So that would be a regular area for them to collaborate, the employees in the
21 Intelligence -- the Research and Analysis Division supporting the work of the employees in
22 our Global Investigations Division, maybe our Policy Division, if they're putting together
23 an alert or an advisory on the topic and they're looking to discern sort of filing trends,
24 filing typologies in a certain space.
25 The analysts in the Research and Analysis Division could support that work on a

1 topic that they are already familiar with. So that's what the support would frequently
2 look like.
3 Q And just back to the original question, how does the Intelligence Division's
4 analytics support the enforcement aspect?
5 A So one aspect of that might be -- I think it was -- that one's harder for me,
6 because I'm having a hard time coming up with a specific example of that.
7 But if an enforcement case were evaluating has this financial institution filed
8 with -- SARs with FinCEN that they are supposed to file, that would not be an unusual
9 thing, in my opinion, for someone in the Enforcement Division to reach out to an
10 employee in the Research and Analysis Division or a team in the Research and Analysis
11 Division and coordinate with them, because we also have a data quality metrics team in
12 our Research and Analysis Division who is very sort of good at sort of checking those sorts
13 of things for other teams.
14 Q Coordinate and check in terms of have they filed SARs? Are they filing the
15 things that they should be?
16 A Yes.
17 Q Are they -- okay.
18 A They can also check like how many have they filed. They can also check
19 how many using certain SAR filing codes and things like that.
20 So a lot of the expertise of analyzing the filings that we get is housed in the
21 Research and Analysis Division. There may be employees in other parts of FinCEN that
22 have that expertise as well, but the real -- the sort of concentration of that expertise is in
23 our Research and Analysis Division.
24 Q And changing gears some, did you engage with Google regarding domestic
25 violent extremism?

A I do -- no, I do not recall doing that.

Q I'd like to now enter an email from Aaron Weiss, Western Union, to dated April 19th, 2021, with the subject line "Capitol Riots/DVE" into the record as exhibit 1. Take some time to review.

[Kirby Exhibit No. 1
was marked for identification.]

It looks like this is just the first page. Is there a beginning of this email, second page?

No. This is the exchange that we're introducing.

Okay. So for the record, is there additional context that began this email chain?

No, there's not.

So there's no emails before the email at the very bottom of this document on this chain?

This could be a part of a larger chain.

Okay. So you don't know one way or the other whether there's any emails before this that would give this context?

I just want to ask about this specific exchange.

Okay, without providing the full document or the full context. That's what I want to be clear on the record, especially since he's not on this email.

And this is the document that we've been -- we've received from a financial institution, and this is the relevant excerpt.

, if it's helpful, we can pull up the document production and see what, I think it would be, 256 or 258 says.

I think we just want to know for the record like is this the full

email or not.

[redacted] That's understood, and I think it's noted for the record. But I think we should just move forward with this. I'm not prepared to get into super detail with this email.

I just want to ask whether you can describe any conversations FinCEN may have had with Google.

[redacted] Also noting for the record that he's, of course, not on this email.

[redacted] Your note has been made for the record.

Mr. Kirby. So, yeah, not being on the email, I don't recall ever having seen this email before, and I don't recall any conversations with Google on this topic.

[redacted] Are you aware of any financial intelligence received from Google regarding the Capitol riots or DVE?

Mr. Kirby. No, not that I recall.

[redacted] Do you know why FinCEN may have been in touch with Google?

Mr. Kirby. Beyond what's on this piece of paper, no.

[redacted] In your role as associate director of the Intelligence Division, would you have -- would Google be one of the private sector entities that you would communicate with?

Mr. Kirby. I don't recall having communications with Google in that role. But just given who Google is and what they do, like it wouldn't -- it doesn't necessarily surprise me that FinCEN would have communications with Google. It's just I'm not familiar with this exchange.

[redacted] We can move on.

Mr. Kirby. Okay.

1 Do you want this back?

2 [redacted] Sure.

3 [redacted] We'll take this back.

4 BY [redacted]

5 Q Shifting back again. Does FinCEN have a role in the creation and filing of

6 SARs?

7 A So I'm going to deconstruct your question a little bit, because the

8 creation -- I'm not really sure what that means. But on the filing side, we are the

9 repository for financial institutions when they file SARs. So when you say creation,

10 could I ask what you mean by creation?

11 Q Yes. Does FinCEN ever direct financial institutions to file certain kinds of

12 SARs?

13 A I think the answer to that is no, but I'm not actually sure. Maybe I can put

14 some meat on that because I don't know that's -- I want to make sure I'm complete and

15 clear.

16 We are the administrator of the statute that requires the filing of SARs. And so

17 Congress has set forth a requirement in this regard. The regulations implementing that

18 are administered by FinCEN.

19 FinCEN regularly publishes advisories, alerts, and other sort of public-facing

20 material to advise the financial sector and others of illicit finance threats.

21 So within the last couple weeks we've filed one on fentanyl. We have put -- over

22 the course of this year we have materials that we've published on elder financial

23 exploitation, online exploitation of children.

24 These are things we put out for the sector in terms of trying to share information

25 with the public, particularly the financial sector, regarding illicit finance threats in a way

1 of hopefully helping folks identify this activity, file SARs with FinCEN that are then
2 available to law enforcement to support USG and other efforts to sort of combat these
3 issues.
4 So that's how I would sort of describe our role in that space. I don't think of it as
5 creation; I think of it as we're the administrator of the statute.
6 Financial institutions have the obligation under the regulations in the statute to
7 stand up their anti-money laundering program, identify suspicious activity, file it with
8 FinCEN, and we share information to sort of help them sort of identify suspicious or illicit
9 activity in a number of areas, but not all areas.
10 Q And does the Intelligence Division help identify potentially suspicious
11 activity?
12 A So at the Intelligence Division, now the Research and Analysis Division, it
13 would not be uncommon for analysts in that division to -- so the alert advisory function is
14 principally housed in FinCEN's Policy Division.
15 It would not be uncommon for analysts in the Research and Analysis Division to
16 support their colleagues in the Policy Division with regard to evaluating filings that we've
17 received, looking for information that we could sort of push out to the public and others
18 to sort of, again, help raise awareness of illicit finance threats, but also sort of guide the
19 sector in terms of hopefully being able to identify this type of activity and to file it with
20 FinCEN.
21 Q And how does that analysis occur? What tools are they using? What
22 sorts of things are they utilizing to identify things that may be worthy of sharing a
23 suspicious activity?
24 A Okay.
25 [redacted] Could I just -- I think just to --

1 Mr. Kirby. That's a long answer.

2 [redacted] I was just also going to clarify what you mean by identify as

3 suspicious activity, because I think he's just testified a moment ago that that's actually the

4 banks that support suspicious activity and the now-Research and Analysis Division does

5 analysis of that reporting.

6 So when you say identify suspicious activity, can you just explain what exactly you

7 mean by that?

8 [redacted] Yeah. So he also testified that the Intelligence Division helps

9 share materials related to potentially illicit activity and administering the statute, bringing

10 things to the attention of the public.

11 And so I'm asking, when you're analyzing those materials, what does that analysis

12 look like?

1

2 [11:02 a.m.]

3 Mr. Kirby. Here's a couple. I don't want to get too, like, bogged down. I don't

4 think this is a short answer, so I apologize in advance.

5 So some of it is just their expertise in a topic. So, you know, we have -- again, to

6 go back -- sorry I keep going back to this, but I think it is one that is sort of very topical at

7 point -- fentanyl space. We have worked -- we have a close partnership with DEA in

8 terms of identifying and working closely on cases and other matters in that space. So

9 there's a -- there's a familiarity and expertise analysts may have on the topic.

10 There's also the ability to, sort of, identify via key words or the filing code that a

11 financial institution may use for us. So if we've published an -- if we've published a prior

12 document that had -- so, for instance, in the fentanyl space, we have -- there's -- you

13 know, we've previously published in that space.

14 We have a filing code from our last advisory in that space we ask the financial

15 sector to use, identifying -- looking at what we're getting in response to those, sort of,

16 public guidance documents, and evaluating those as to both -- you know, so it's not just

17 the internal piece of that. It's potentially highlighting that to our law enforcement

18 partners or sharing that internally because it may be -- you know, the Policy Division, it

19 may be useful to them in terms of, like, crafting some sort of public document.

20 And then there are other -- you're now going to, sort of, go beyond my, sort of,

21 areas of expertise in terms of the ability to, sort of, engage in data analytics and other

22 things with regard to the filings we have in front of us to identify, sort of, themes,

23 typologies, information and the like.

24 BY [redacted]

25 Q And was the Intelligence Division responsible for reviewing SARs?

1 A The Intelligence Division -- the then-Intelligence -- see, I get kind of caught
2 up on this, too. The then-Intelligence, now Research and Analysis Division, like, so they
3 don't review every SAR we get. We get. I think. About 55,000 filings altogether a
4 day. We are an agency of approximately 285 employees.
5 So -- but a big part of their job is -- is identifying the -- is reviewing the filings that
6 we get against the, sort of, prior- -- we have published priorities under the Anti-Money
7 Laundering Act 2020. They're on our website. The statute required us to do that.
8 And so we have -- we have identified a set of AML priorities on our website. We
9 have priorities as set forth by departmental administration leadership. These are sort of
10 long-standing, not different from one administration to the other. They each have their
11 priorities that they want us to focus on.
12 And so they are identifying our filings against these, sort of, priority mission sets
13 whom usually in the context of -- their area of assigned responsibility. So the folks that
14 work on Cyber and Emerging Technology are likely going to be focused on the filings
15 we're getting in connection with things like ransomware or the use of virtual currency to
16 engage in, you know, various illicit things on the internet, like engaging with dark net
17 marketplaces and things like that.
18 So, yes, they do review those materials. They don't review all of them that we
19 get, but it is a key part of their day-to-day function.
20 [redacted] How do employees decide which filings to review? If you're
21 getting 55,000 a day, are you just hoping the ones you review lead to something?
22 Mr. Kirby. So I think there's a couple answers to that question, too.
23 One is actually, sort of, going back to what I mentioned before with regard to the
24 filing codes. You know, one of the advantages of, you know -- pick a topic, fentanyl,
25 elder financial exploitation, ransomware, anywhere we have a published code. One of

1 the reasons we encourage financial institutions to use the code is it makes it much easier
2 for our analysts and our law enforcement partners to identify the filings that would come
3 in on ransomware, elder financial exploitation, et cetera.
4 And then the other are these, sort of, like, analytic tools -- which, again, you're
5 now escaping my -- sort of the outer bounds of my expertise in that regard. No one will
6 ever confuse me with a computer programmer. And so there are a variety of tools that
7 can be, sort of, deployed in that space.
8 [redacted] So is FinCEN using artificial intelligence or machine learning to
9 sort through this?
10 Mr. Kirby. I don't -- I don't -- I believe the answer to that is no. I do not believe
11 we're using artificial intelligence. That's my current understanding.
12 BY [redacted]
13 Q Are there any --
14 A But you may search -- just to, sort of, finish that thought. But it wouldn't
15 be inappropriate -- or it wouldn't be unusual is a better way of putting it -- for someone to
16 be searching for key words in filings.
17 So even if -- and by that I don't mean the key word the filer used. I mean a SAR
18 usually includes a narrative section, for example. So they may search the narrative
19 section for, sort of, key words, typologies, perhaps the names of certain cartels, for
20 example.
21 So, you know, there is the ability to, sort of, search across documents. You're
22 not just, sort of, like, clicking through every document that came in yesterday sort of
23 thing.
24 Q Are there any codes or typologies that aren't published?
25 A I don't know the answer to that question in a, sort of, definitive way. My

1 expectation would be that most are -- most are public. But I actually don't know if there
2 are others that may not be over time.
3 Q Do you know if financial institutions are using artificial intelligence or
4 machine learning to identify potentially suspicious activity?
5 A I don't know the answer to that in a definitive way. I know that it is an area
6 of interest, but I don't -- I don't know the degree to which -- the degree to which people
7 are varying degrees down the road in that regard.
8 Q You mentioned that it's an area of interest. Could you explain a little bit on
9 that --
10 A Well, by that I mean -- and, frankly, I'm going by just what I read in the
11 papers on that principally of, you know, there's just -- I think there is -- one of the aspects
12 of the Anti-Money Laundering Act was, sort of, a drive to think about different ways to
13 reduce regulatory burden.
14 And so, you know, just from what I read in the press, there's a fair amount of
15 discussion about different ways. AI could be deployed in not just the financial sector but
16 other sectors in the future. But I don't have any sort of specific definitive knowledge of
17 where things are in that regard.
18 Q Does FinCEN ever notify law enforcement of particular SAR filings?
19 A Yes.
20 Q And how does that notification process occur?
21 A I don't know that there is a specific, sort of, definitive, it's always this way,
22 but I don't -- my understanding is that I don't think it would be uncommon. Going back
23 to my, you know, fentanyl example, if an analyst saw something they knew was relevant
24 to a DEA case that they were supporting, they might alert the DEA agent to that.
25 Similarly, you know, to the extent we receive filings on ransomware -- you know,

1 there's a fair amount of interest in combatting ransomware, so to the extent we have
2 relevant filings to that mission set, making the relevant law enforcement agencies aware
3 of that fact is something that I understand happens.
4 [redacted] We can go off the record.
5 [Recess.]
6 [redacted] We are back on the record.
7 EXAMINATION
8 BY [redacted]
9 Q Mr. Kirby, you mentioned that you were FinCEN's chief counsel for
10 approximately five years. Is that correct?
11 A Altogether, including actings, yeah, almost five years.
12 Q And so I imagine that you are then well-versed in statutory and regulatory
13 authorities pursuant to which FinCEN operates?
14 A I would like to think so, yes.
15 Q I would certainly hope so. And also the ones that --
16 A You know, we'll see.
17 Q As well as the authorities that FinCEN helps to administer that you discussed
18 earlier?
19 A Yes.
20 Q And you used the term financial intelligence a few times during the previous
21 hour. Can you explain exactly what financial intelligence is.
22 A So when we use that term at FinCEN, we tend to be referring to the
23 information that is filed with us pursuant to the Bank Secrecy Act. So that would be
24 things like suspicious activity reports, forensic transaction reports, you know, those types
25 of reports that financial institutions and others file with FinCEN under the BSA.

1 And when I say BSA, Bank Secrecy Act. I'm trying to watch the acronyms, so --
2 Q Thank you. And just so you know, I'll be saying BSA regularly.
3 A Okay. Okay. Good.
4 Q Can you explain at a high level how the BSA and the financial intelligence
5 that FinCEN obtains through it, how does that help keep Americans safe?
6 A Well, the overarching purpose of the Bank Secrecy Act is set forth in the
7 statute to essentially -- to, sort of, generate reports helpful to law enforcement, helpful to
8 regulatory exams, you know. The purposes are expanded under the AMLA. It also
9 includes, sort of, like, tracing criminal proceeds and things like that.
10 So, you know, I think in terms of keeping people safe, suspicious activity reports,
11 we hear pretty consistently from our law enforcement partners, are a critical tool for
12 them in terms of combatting an array of financial crimes. I'll sort of come back to a
13 topic I mentioned before, you know, be it elderly -- elder financial exploitation. You
14 know, we've done -- we have a lot out in the space.
15 That's an area where, you know, a lot of financial institutions really are on the
16 front line with regard to the risk of things like so-called grandparent scams or romance
17 scams or things like that.
18 And we've worked hard to get information out to the sector in that topic and
19 some others to sort of alert, you know, the folks who may encounter that firsthand,
20 things they could be on the lookout for in terms of red flags, typologies of how that
21 works, et cetera.
22 Q But illicit finance doesn't just refer to crimes that are themselves financial,
23 but also just transactions that further other crimes, like violent offenses or drug
24 trafficking, for example. Is that fair to say?
25 A Yeah, I think that's fair to say.

1 Q Okay. We had a witness from the FBI tell us an example of a situation
2 where he was able to use SARs to identify somebody who was making, I believe it was,
3 bond-making equipment and was able to prevent what seemed like it could have been a
4 very serious tragedy.
5 Does that surprise you that SARs would be helpful in that regard?
6 A No. I mean, my understanding is they are -- they are useful and helpful in a
7 wide array of efforts to combat criminal activity.
8 Q I want to take a step back and ask you about FinCEN's mission. I believe
9 you stated the mission during the previous hour, but I missed some of what you said.
10 So if I could ask you to repeat that, I'd appreciate it.
11 A Sure. And I probably gave you the truncated version. I'm not sure I
12 always get the full thing from memory, but it's -- you know, our principal goal is to
13 support safeguarding U.S. financial system from illicit and criminal use and to support,
14 you know, law enforcement and other efforts to, sort of, combat those actions through
15 the strategic analysis of financial intelligence and other information. That's, essentially,
16 in a nutshell, what we do.
17 Q Your website -- or FinCEN'swebsite. I'm not going to give you ownership of
18 it -- says that FinCEN's mission is to safeguard the financial system from illicit use and
19 combat money laundering and its related crimes, including terrorism, and promote
20 national security through the strategic use of financial authorities and the collection,
21 analysis, and dissemination of financial intelligence.
22 Does that sound right to you?
23 A Yes. That's much more articulate than the way I put it.
24 Q Well, it's a lot easier when you're -- when you have the time to sit and type it
25 up or copy it from -- from the internet, as I just did.

1 So one of the things that FinCEN focuses on is combatting the use of financial
2 systems to finance terrorism, correct?
3 A Yes.
4 Q And that is often referred to by the acronym of CFT, combatting the
5 financing of terrorism?
6 A Yes.
7 Q And FinCEN's Anti-Money Laundering activities are referred to often as AML
8 or --
9 A Correct.
10 Q -- generally in the field of -- in this field that acronym is used.
11 In FinCEN's work in countering the financing of terrorism applies to international
12 terrorism but also domestic terrorism here in the United States, correct?
13 A Yes.
14 Q FinCEN is not a new bureau or agency? I mean, it was established by
15 Congress in 1990. Is that right?
16 A We were initially established, I think, by the Department and then
17 Congress -- I think it was in the Patriot Act, but don't -- we can confirm that -- formally
18 established us as a bureau within the Department reporting to the Under Secretary for
19 Terrorism and Financial Intelligence.
20 Q Okay. My understanding is that in 31 United States Code Section 310 in
21 1990 FinCEN was codified as a bureau within --
22 A I will take your word for that then.
23 Q -- the Treasury Department. Thank you.
24 Separate and apart from FinCEN's regulatory function, in terms of its
25 information-sharing function, would you say that FinCEN essentially works as, sort of, a

1 clearinghouse for law enforcement, the Treasury Department, and financial institutions to
2 share information about trends and issues that they're seeing in illicit finance?
3 A I think that's a fair description. Yes.
4 Q And you talked during the previous hour a little bit about FinCEN's work or
5 collaboration with law enforcement agencies.
6 Why is it important for FinCEN to work with law enforcement agencies?
7 A You know, I think that's, sort of, one of the key functions that Congress has
8 set out for us in the Bank Secrecy Act.
9 When you look at the purposes of the statute, many of them involve combatting
10 criminal and other illegal activity in terms of making information available to them, you
11 know, that's the -- the sort of -- that's sort of embedded into our statutory, sort of,
12 overlay and construct.
13 So it's set forth for us as a key portion of our mission in our statutory -- in our, sort
14 of, overall statutory construct is at least in my mind how I would think about it.
15 Q So is it fair to say that Congress has directed FinCEN to work with law
16 enforcement to help in combatting illicit finance and the various crimes we've talked
17 about?
18 A Yeah. I see that as a key component of our underlying statutory structure.
19 Q And would you say that it's also a key component of your underlying
20 statutory structure to work with financial institutions and share information with them to
21 help them identify illicit transactions or suspicious activities that -- that could be related
22 to illicit conduct?
23 A I do. I see that sort of connecting back in a couple of different ways. You
24 know, one is we are the administrator of the statute, and the goal of the statute is -- at
25 least with regard to SAR filings is, you know, for the -- you know, the statutory construct

1 sets out, you know, the types of information that should be filed with FinCEN in this
2 regard, and as administrative statute see this, sort of, consistent with that in terms of the
3 sharing information that can help those subject to these rules better comply with them.
4 And then, as I said before, you know, the overarching, sort of, purposes section of
5 the statute lays out a number of purposes that involve combatting criminal activity as,
6 sort of, the key functions of the overall statute.
7 Q And --
8 A I'm missing my statute book right now because, as a lawyer, that's what I
9 would be, like, reaching for to actually read it back to you. So I'm -- I'm sorry in that
10 regard.
11 Q I've got Section 310 here. I can --
12 A Actually, the section I was referring to is actually 5311, which lays out the
13 purposes of the overall statute and will sort of lay out all of these different functions that
14 the reporting is meant to support.
15 Q Thank you. And we're going to talk about some of the other statutes
16 briefly as well.
17 But FinCEN is required by statute to maintain a database as a repository for SARs,
18 correct?
19 A Yes, that is correct.
20 Q And to make that database available to law enforcement?
21 A Yes, that is correct.
22 Q And FinCEN is required by statute to analyze and disseminate the data it has
23 and to issue guidelines to help identify criminal activity to appropriate federal, state,
24 local, and tribal law enforcement authorities, correct?
25 A Yes. That is correct. It looks like you have our statute in front of you. So

1 that all sounds right to me.

2 Q And FinCEN is required by statute to establish and maintain a financial

3 crimes communication center to furnish law enforcement authorities with intelligence

4 information related to emerging or ongoing investigations, correct?

5 A Yes.

6 Q And all of this work FinCEN is doing by statute in the interest of detection,

7 prevention, and prosecution of terrorism, organized crime, money laundering, and other

8 financial crimes, correct?

9 A Yes.

10 Q And you've talked about some of them at length during the previous hour, in

11 particular fentanyl, which seems to be a big focus.

12 But there's a wide range of crimes that FinCEN helps to -- helps financial

13 institutions to identify transactions that support those crimes, correct?

14 A Yes, that is correct.

15 Q You mentioned financial abuse of elders, I believe you mentioned some sort

16 of child sexual abuse?

17 A Online child sexual exploitation and child sexual abuse material.

18 Q Obviously, we have international and domestic narcotics trafficking --

19 A [Nonverbal response.]

20 Q -- terrorism?

21 A Yes. I'm sorry. I caught myself as soon as -- no nodding. Yes.

22 Q And I'm the only person who didn't catch it.

23 So I want to ask you a couple questions about the Bank Secrecy Act and how it

24 functions.

25 First of all, Bank Secrecy Act has been around for over 50 years. Is that right?

1 A Yes. I think -- I believe the, sort of, initial statute is an early 1970s statute.
2 Q And it's the Bank Secrecy Act that requires financial institutions to file
3 suspicious activity reports, or SARs, correct?
4 A The statute, in conjunction with regulations that have been promulgated by
5 the Treasury Department over the years.
6 Q And under those statutes and regulations, banks are legally obligated under
7 the Bank Secrecy Act to file a SAR for certain transactions that are relevant to a possible
8 violation of criminal law, including terrorism, correct?
9 A That's correct, but it's actually a little broader than that. It's possible -- a
10 relevant or possible violation of law or regulation.
11 Q Thank you for that.
12 A I actually don't think there's a criminal qualifier in front of law. So it's any
13 potential violation of law or regulation would meet the standards set forth in the statute
14 or regulation.
15 Q It could be a civil law?
16 A It could involve civil enforcement. And there's a -- and you may be getting
17 to this, but there's a conjunction to that.
18 There's the mandatory requirement and then there's the ability to voluntarily file,
19 as the statutory construct laid out by Congress really is to encourage filing. So
20 you -- there's the ones you're required to file, but there's also very much an
21 encouragement for people to voluntarily file beyond what they're required to file.
22 Q And -- but there is that first section, which is mandatory, correct?
23 A Correct, yes.
24 Q And that means that if a bank fails to appropriately identify transactions that
25 fall within those mandatory requirements, they could face penalties?

1 A Correct, yes.

2 Q And it would be FinCEN that would make that determination?

3 A Yes. And FinCEN -- and at least with regard to banks and credit unions, we

4 would normally be in close consultation with the relevant functional regulator in that

5 space for the financial institution in question.

6 Q Okay. Law enforcement agencies use information that they obtain from

7 FinCEN's database from the SARs in both proactive investigations in terms of helping to

8 prevent crime and also reactive investigations, helping to -- once a crime has occurred,

9 helping to identify the perpetrators. Is that correct?

10 A That sounds correct to me, yes.

11 Q And that's across all of these different types of offenses and threats to

12 national security that we've discussed?

13 A That is my understanding, yes.

14 Q Based on your experience and over nearly 20 years at the Treasury

15 Department, what would happen, in your opinion, if Congress were to roll back the Bank

16 Secrecy Act and stop requiring or even permitting banks to file suspicious activity reports?

17 A So that's a hard question for me to answer in the sense that, you know,

18 those are -- those are policy decisions that I often, sort of, feel like are beyond my

19 agreement in the first instance without, sort of, consultation above. So I'll sort of start

20 with that qualifier.

21 You know, I maybe would answer your question, if it's okay, a slightly different

22 way and would go back --

23 Q Sure.

24 A -- to what you said before about the role of these filings that we hear pretty

25 consistently from law enforcement are incredibly useful to them in a variety of

1 investigatory ways.

2 And, you know, we -- one of the, I think -- could be safe to say that one of the

3 goals of the Anti-Money Laundering Act of 2020 was to, sort of, put on us as an agency

4 the obligation to, sort of, provide more, sort of, public visibility and feedback into the

5 utility of the information that we're getting.

6 So over the last couple of years, you've seen FinCEN start publishing things, like a

7 year in review, that lays out, with input from law enforcement, you know, the different

8 ways they use the information that's made available to them from -- you know, from our

9 holdings. Or a relatively new product line for us, another sort of AMLA obligation, our

10 financial trend, financial threat analysis reports that are also available on our website, and

11 that is, sort of, walking through, you know -- and we're required to at least two a year,

12 but I think we're ahead of the two this year.

13 And that's where we're -- things like -- we published one earlier this year on online

14 child sexual exploitation. We published one on elder financial exploitation, I believe it

15 was this year as well. We've published them on ransomware and other things like that.

16 So, you know, one of the things that is, sort of, incumbent upon us under our

17 statutory authorities now is actually, I think, to show more, sort of -- to give more public

18 visibility into the value of the information that we get. We're trying to do that in a

19 variety of ways.

20 Q Those year in review reports, do they provide examples of, here's an

21 investigation where SARs were helpful? This is --

22 A I don't know if they go quite that far. But we have another publication that

23 does some of that, and that is every year -- there may have been a hiccup during COVID.

24 But usually most years -- let me phrase it that way -- FinCEN does the director's law

25 enforcement awards where there's an effort actually -- law enforcement agencies can,

1 essentially, highlight cases where BSA filings have been instrumental to the underlying
2 investigation, and we publish summaries of those on our website. So, again, to give
3 some visibility to the different ways the information is used.
4 Q And so in that situation, the director is awarding law enforcement for --
5 A Yes.
6 Q -- their service in --
7 A The law enforcement agency may get, like, an award recognition
8 from -- from the FinCEN director in response to those nominations that we receive.
9 Q You stated in the earlier hour that typically the process with SARs is a
10 financial institution files a SAR with FinCEN, and then it goes into a database where it's
11 made available to law enforcement, correct?
12 A Correct.
13 Q And FinCEN itself is not investigating the potential crime to which the SAR
14 relates?
15 A So FinCEN is not a criminal law enforcement agency. So we would not be,
16 in the first instance, investigating criminal activity. However, our analysts do provide a
17 lot of support on those -- on, sort of, priority topic areas.
18 -- and, again, to go back to fentanyl, you know, so our analysts may be doing
19 analysis of the information we get in that space both in support of our law enforcement
20 partners, but also, you know, Treasury is the -- Treasury -- sort of above us Treasury is the
21 administrator of the sanctions programs in the narcotics space. And we -- we have our
22 own, sort of -- as the department efforts to combat fentanyl trafficking and things like
23 that.
24 So FinCEN analysts can be supporting law enforcement, and that work could also
25 support the department's broader efforts in this space as well.

1 Q Thank you for that clarification. I want to go back to something that we
2 talked about a few minutes ago.
3 You mentioned there's the mandatory SARs reporting and then the voluntary SARs
4 reporting.
5 The voluntary SARs reporting allows banks to report any transaction that may be
6 potentially relevant to any violation of law or regulation regardless of how small that
7 transaction is. There's no -- there's no threshold for voluntary reporting, correct?
8 A That -- that is my recollection, yes. I think that's correct.
9 Q And you also stated --
10 A And I should add, actually, the safe harbor applies to both.
11 Q Can you explain what that means?
12 A So the statute sets forth a safe harbor for mandatory filings, the ones you're
13 required to make, and the statute extends the safe harbor to any that you -- really, again,
14 going back to the, sort of, encouraging filings. So you can't -- I don't have the exact
15 language in front of me, and I should have the exact language in front of me before I
16 speak to it.
17 But it, essentially, provides legal protection for any institution that chooses to file
18 suspicious activity with us if it's required or not.
19 Q So, essentially, is it fair to say that it means the banks can't be held liable for
20 disclosing that information?
21 A I think that's correct. That's probably a concise way of putting it.
22 Q Now, SARs are made available to law enforcement agencies, but they are
23 also subject to strict confidentiality provisions under the law, correct?
24 A Yes.
25 Q And FinCEN takes those -- its responsibilities to maintain the confidentiality

1 of SARs very seriously?

2 A Yes. That's -- it's very important for us to do that.

3 Q And I believe you stated earlier that FinCEN is receiving approximately, did

4 you say, 55,000 SARs a day?

5 A I think we receive 55,000 BSA filings a day, which is all forms. And as I say

6 that out loud, that may be an old stat.

7 But we get a decent number of filings per day across all the filing sets that we

8 have.

9 Q Can you explain what some of the other filing sets are?

10 A So we also receive currency transaction reports. Those are the -- for folks

11 who may not be familiar with them, if you go to a bank and clunk down $11,000 in cash,

12 they will fill out this -- it's the one I feel like people are most familiar with with FinCEN

13 because they've seen it in, like, movies and stuff. So that's one.

14 There is a -- the form when you cross the border with more than X number of

15 dollars, that's also a FinCEN form. And there's a nonbank counterpart to the currency

16 transaction report that requires the reporting of certain transactions by nonbanks in

17 excess of $10,000 as well.

18 Q With respect to those currency transaction reports, that's a requirement that

19 any transaction in excess of $10,000 be reported, correct?

20 A Yes. And there's a requirement to aggregate in connection with that. So

21 if you go to three branches of the same bank in the same day, the bank would aggregate

22 those up, and if it exceeds the 10,000, they would file a currency transaction report.

23 Q And that's different than a suspicious activity report, correct?

24 A Different from a suspicious activity report, yes.

25 Q But you could have a situation where the requirement of a currency

1 transaction report evolves into something that triggers a suspicious activity report. For
2 example, somebody goes to the bank to deposit $10,000. They're told they have to fill
3 out this report, and then they say, I'll just do 9,000. How about that? That might --
4 A Yes. That would be called a structuring SAR, and -- I'm sorry. That would
5 be called structuring. And a financial institution would normally file a SAR with someone
6 indicating they're seeking to avoid a regulatory obligation.
7 Q And you stated during the previous hour that FinCEN does not review all of
8 these -- I mean, there's millions per year, correct?
9 A Correct. Yes, we do not review all of them.
10 Q And law enforcement does not review all of them?
11 A That is correct.
12 Q So it's fair to --
13 A That is my understanding, I should say. I've never actually worked at a law
14 enforcement agency, so I'll say that is my understanding.
15 Q The Bank Secrecy Act is the legal process that authorizes banks to file
16 suspicious activity reports, correct?
17 A The Bank Secrecy Act and the regulations implementing the Bank Secrecy
18 Act, yes.
19 Q And that also allows the -- the Bank Secrecy Act and its implementing
20 regulations also allow financial institutions to provide the supporting documentation
21 underlying a suspicious activity report --
22 A Yes, that is correct.
23 Q -- to FinCEN or law enforcement?
24 A To -- I know for FinCEN, yes. I think for law enforcement, too, but I also
25 know that law enforcement has their own, sort of, authorities in that space as well, sort

1 of, separate from ours.

2 BY [redacted]

3 Q A couple minutes ago you were asked about the confidentiality protections

4 for SARs. Do you recall that quick line of questioning?

5 A Yes.

6 Q And you were asked SARs are subject to strict confidentiality protections

7 under the law, and you said yes. You recall that?

8 A Yes.

9 Q Could you explain your understanding of what those confidentiality

10 provisions or protections are?

11 A The statute sets forth very broad protection for -- to prevent the

12 unauthorized disclosure of SARs. And so, basically, any use beyond the official purposes

13 and official purpose, and the prohibition applies to financial institutions, their employees,

14 their directors. It also applies to government employees and contractors as a means of

15 safeguarding the data, given the sensitivity of the data as a means of safeguarding the

16 data.

17 Q And with respect to FinCEN in particular, does FinCEN have particular

18 structures or procedures or regulations in place that pertain specifically to FinCEN

19 employees that -- to protect these -- protect the confidentiality of these SARs?

20 A So with regard to partner agencies, they enter into MOUs with us in terms

21 of -- and they sort of agree and recognize the sort of -- the need to protect the

22 confidentiality of the information.

23 And then with regard to employees, yes, it's part of the, sort of, conduct

24 obligations that would attach to any FinCEN employee that you have to respect the

25 confidentiality of this information. I believe -- but I should double-check this. I believe

1 that all employees that have access to the database have security clearances. And,
2 again -- and a sort of background investigation comes along with that in terms of ensuring
3 they should have access to this and other, you know, sensitive information.
4 So there are a variety of, sort of, technological but also just policy-based
5 restrictions on people's activities in this regard.
6 Q And are you familiar with what might happen to an employee if they are
7 careless with a SAR or if they intentionally were to leak a SAR or to make a SAR available
8 outside of the group of individuals that should have access to it?
9 A I am familiar with that. So -- and this is a space where, you know, if we
10 have concerns like that, we refer the matter to our Office of Inspector General and our
11 office of inspector general has taken action in the past in connection with potential
12 improper conduct in this regard.
13 Q And could that action include, for example, an employee losing their job?
14 A Yes, it could.
15 Q Thank you.
16 BY [redacted]
17 Q Now, you talked about this a little bit earlier, but I want to get into it in some
18 more detail.
19 It's the financial institution's responsibility to determine when, pursuant to the
20 BSA and its implementing regulations, they must file a SAR, correct?
21 A Yes, that is correct.
22 Q It's not FinCEN's responsibility to tell a financial institution -- and I'm going to
23 use the word bank to mean financial --
24 A Right.
25 Q -- institutions generally just because that's a mouthful.

1 It's not FinCEN's responsibility to tell a bank, you have to file a SAR for X
2 transaction or X pattern?
3 A That is correct.
4 Q And in order to meet this responsibilities under the Bank Secrecy Act,
5 financial institutions are required to have their own anti-money laundering and
6 countering the financing of terrorism programs, correct?
7 A Yes, that is correct.
8 Q And that's actually a requirement that is codified by statute?
9 A Yes. It's both in the statute and in regulations implementing the statute.
10 Q And those AML and CFT programs must be designed, among other things, to
11 ensure the institution's compliance with the BSA and to assist them in detecting and
12 reporting suspicious activity, correct?
13 A Yes, that is correct.
14 Q And while FinCEN provides general guidance and oversight of banks
15 concerning what constitutes an effective AML/CFT program, it's ultimately the bank's
16 responsibility to ensure that those programs are effective, correct?
17 A Yes, that's correct.
18 Q And it's the bank's responsibility to ensure that they file SARs in accordance
19 with the law?
20 A Yes, that is correct.
21 Q And it's the bank's responsibility to ensure that their programs effectively
22 detect and report suspicious activity on their networks, correct?
23 A Yes.
24 Q And most financial institutions, at least the larger major ones, have entire
25 units dedicated to their anti-money laundering and countering finance of terrorism units,

1 correct?

2 A That is my understanding, yes.

3 Q I mean programs. Excuse me. And those institutions have investigators,

4 people whose job it is, to analyze their customers' data, regularly search and monitor

5 them to identify suspicious activity --

6 A Yes, that's my understanding.

7 Q -- is that fair to say?

8 And based on your understanding of the applicable statutes and regulations, that

9 type of monitoring by a bank of its own customers' activity is -- that's entirely legal,

10 there's no issue there?

11 A I'm not aware of any legal issue with a bank doing that.

12 Q And you're aware, I imagine, that nearly 50 years ago the Supreme Court

13 ruled that the Fourth Amendment, for example, does not apply to bank records,

14 customers' bank records, because those records are the property of the bank, not the

15 private records of the accountholder, correct?

16 A That is my -- that is my recollection of that holding, yes.

17 Q And you stated earlier that banks can incur civil penalties or have civil

18 penalties and fines imposed on them for failing to file SARs.

19 In the appropriate circumstances they can also face penalties for, generally

20 speaking, not having an effective program design to root out suspicious activities,

21 correct?

22 A That is correct, yes.

23 Q So I want to talk about -- move on to talk about FinCEN exchanges a little bit

24 and how they work with banks to help banks meet their responsibilities under the BSA.

25 Information-sharing between banks and agencies through FinCEN exchanges and

1 other means help -- helps to inform banks about law enforcement priorities and identify
2 current trends in terrorist financing, money laundering, and other offenses, like fentanyl
3 trafficking, correct?
4 A Yes. I think that is correct. And the Project Protect series of exchanges
5 that we're doing this year in the fentanyl space, I think, is a good example of that.
6 Q So -- and in those exchanges, sometimes -- well, let me back up.
7 Those exchanges are often a two-way street in terms of information-sharing,
8 correct?
9 A Yes. The goal is for it to be a -- for it to be a sharing of experience and
10 information.
11 Q So the banks are sharing what they're seeing in their own customers' data,
12 and law enforcement is sharing with the banks the trends and the methodologies that
13 they're seeing. Is that fair to say?
14 A I think that's a fair statement, yes.
15 Q And the goal is that this information-sharing will help lead to more effective
16 and efficient SARs reporting by banks, correct?
17 A Yes, I think that's also a fair statement. Again, the Project Protect series in
18 the fentanyl space, I think, is a good example of that.
19 Q And those types of exchanges help if you have more effective, more
20 targeted, more efficient reporting by banks, that's going to help law enforcement detect
21 and deter criminal activity more effectively. Is that fair to say?
22 A I think that is our goal, yes.
23 Q Okay. And you stated earlier that, while the FinCEN Exchange program was
24 codified in 2020, just a few years ago, FinCEN exchanges have been operating before
25 that? There was a prior iteration?

1 A Yes, that is correct.

2 Q And can you explain a little bit about how those prior iterations worked or

3 how they differ from the current FinCEN exchange program?

4 A Let me see when they started. I think they started about two-ish, give or

5 take, years prior to the codified one -- the current codified version. I don't actually

6 know that there is a substantial difference in terms of what the goal of the exchange is

7 than in the way they function now.

8 But my understanding is that the perception was that these were a very positive

9 way of having public-private partnership, and that was one of the things that led Congress

10 to pick up the program and codify it in the statute, in the Anti-Money Laundering Act of

11 2020.

12 Q So, essentially, Congress thought it was valuable enough to make it a

13 statutory requirement so that FinCEN couldn't just decide one day we don't have the time

14 or the resources to do this?

15 A My understanding is that they were generally viewed as a very positive

16 thing, and that's how they got picked up and added to the statute. But that's a -- that's

17 a -- that's old memory at this point, so I need to add that qualifier.

18 BY [redacted]

19 Q When you say they were generally viewed as a positive thing, who viewed

20 them as a positive thing? Was it the government? Was it the private sector? Was it

21 law enforcement? Some combination thereof?

22 A Our law enforcement partners, my understanding, we get pretty positive

23 feedback on the ability to have these exchanges. I think we've heard similarly positive

24 feedback from the financial sector.

25 But also, I would say, maybe taking a step back from that, I don't remember if it

1 was y'all's questions or y'all's questions, but we -- one of the things we talked about
2 earlier is that one of the goals if the statute is to, sort of, create more public-private
3 feedback.
4 So there's conversations, there's -- there's some of the other materials we're
5 putting on our website with regard to the value of the data, sort of, throughout the
6 Anti-Money Laundering Act are different ways that FinCEN is being asked to either, you
7 know, engage in more public-private partnership or share more output with regard to the
8 value and utility of the data that we're getting.
9 So it's sort of, in my mind, kind of part and parcel with a lot of the other things
10 that are set forth in the statute for us to do.
11 Q Understood. I think -- my point is just that when you say that the exchange
12 is reviewed policy, the private sector viewed them positively, as well as law enforcement,
13 as well as government entities?
14 A I think that's right. And the fact that they've always been voluntary. So,
15 you know, the only people who show up are people that want to be there. So if you
16 don't want to be there, you don't come is sort of my view -- would be my view at the end
17 of the day.
18 So the fact that people continue to use the space and continue to sort of share
19 information in the space, to me, that is a testament to the perceived continued value of
20 the exchange.
21 Q Thank you.
22 BY [redacted]
23 Q Now -- well, before I -- I want to follow up on that voluntary nature of it, but
24 I just want to step back for a minute.
25 The Anti-Money Laundering Act of 2020 -- which I believe you referred to earlier

1 as AMLA. You used that acronym.

2 A That's the acronym we used for that, yes.

3 Q That was passed in December of 2020, correct?

4 A Either that or, like, the first or second day of January 2021. It was like --

5 Q It was effective in --

6 A -- right in that -- right in that end of year, right at the beginning of the next.

7 Q So it actually went into effect just days before the attack on the Capitol?

8 A Yes, I think that's correct.

9 Q And you're aware that that bill had broad bipartisan support?

10 A Yes, I am.

11 Q Now, FinCEN exchanges, including the ones that were set up in the

12 aftermath of January 6th, operate under all the permissible legal authorities, including

13 the Anti-Money Laundering Act, Section 310, Section 53 -- 53? 58? The Bank Secrecy

14 Act --

15 A Yeah --

16 Q I'm going to -- I don't --

17 A There's a bunch of weird statutes get rolled into that. But yes, I think the

18 answer to your question is, you know, the program at large does operate under these

19 various legal authorities, and FinCEN takes its responsibility under those legal authorities

20 very seriously.

21 Q Now, during the previous hour, you mentioned several times about -- I think

22 you might have been asked as well about FinCEN providing typologies to financial

23 institutions.

24 Can you explain what a typology is in this context?

25 A Sure. So maybe I'll juxtapose that with red flags because I feel like those

1 tend to be the terms people use a lot in this space.

2 At least in my own mind, typology -- and I think this is sort of laid out -- would be

3 reflected in our public documents. Typology, to me, is sort of an overall way someone

4 goes about conducting some sort of illicit activity. And, you know, to go back to a

5 document that I mentioned before, we've previously published an advisory on elder

6 financial exploitation, and one of the typologies set forth in that document is the, sort

7 of -- what I think is commonly referred to as the grandparent scam, of someone calling

8 up, purporting to be a law enforcement official, purporting to be someone else, there's an

9 emergency with regard to your grandchild, your whoever, and we need you to send us

10 money, like, ASAP to deal with this situation. That's sort of an overall typology in my

11 mind.

12 A red flag would be a data point that may be indicative of the broader typology.

13 SO in that same document you would see as a potential red flag, if you're in a financial

14 institution, the person on the other side of the counter is referencing, you know, my

15 grandchild has been arrested in X place, I need to get X number of dollars to send to, like,

16 bail him out of jail. But you notice that the email -- the, sort of, money destination

17 or -- doesn't actually look like an official destination. That could be -- that could be a red

18 flag that this broader typology of elder financial exploitation is, sort of, going on.

19 So I don't know if that answers your question. But I view the typology as the,

20 sort of, overarching way something, you know, illicit may be happening. And then the,

21 sort of, individual red flags may be data -- data points that point to the overarching either

22 typology or to the illicit conduct.

23 Q So what I took from what you just said is that the typology is almost like a

24 fact pattern of this is -- this is how this particular scheme is working or this particular

25 criminal offense is -- I mean, not all, obviously --

1 A Yeah. And there could be multiple typologies.
2 Q Of course.
3 A And so -- but I think that's a fair -- I think that's a fair statement.
4 Q And so if a financial institution or a FinCEN is sharing a list, for example, of
5 terms that could potentially be indicative of suspicious activity, that would be more of a
6 red flag in your mind as opposed to typology?
7 A That sounds right to me.
8 Q And do you think that -- or have you experienced sometimes people in this
9 space using those terms interchangeably?
10 A Yes.
11 Q So sometimes people --
12 A Which is why I wanted to juxtapose them, as I think oftentimes they get
13 interchanged for each other. At least I think it's helpful to think of them -- I think they
14 say something slightly different.
15 Q So when FinCEN provides, whether it's passing on from law enforcement or
16 through its own analysis, either a typology or a set of red flags to a bank, is it instructing
17 banks to file SARs for any transaction they see that fits that -- that information they were
18 provided?
19 A No. And something we -- I think this is pretty standard across all of our
20 public products that, sort of, lay out typologies and red flags.
21 We often have a statement before the red flags that says something along the
22 lines of no individual or even, sort of, collection of red flags is necessarily indicative of
23 illicit activity. The thought is this information is shared with the sector that they can,
24 sort of, be aware of these data points, but sort of ingest them against a broader backdrop
25 of their know your customer, the, sort of, knowledge of your customer and transaction

1 set to sort of further inform the overall picture they have in the specific situation.
2 So we try to be careful in the -- in the public space to say that in our public
3 products.
4 Q And that's important because FinCEN is aware that banks know their
5 customers far better than FinCEN does. Is that fair to say?
6 A I think that is fair to say.
7 Q And is it your --
8 A We would expect them to know their customers better than we -- than we
9 know them.
10 Q You would certainly hope so.
11 Is it your understanding that when banks are looking or trying to identify
12 suspicious activity that they consider a variety of factors, not just information that they
13 might receive from law enforcement or from FinCEN, but their own knowledge of their
14 customers, their history, their transaction patterns, that sort of information?
15 A Yes. That's my understanding.
16 Q And when FinCEN passes along typologies or red flags, these are suggestions
17 to the bank of things to look out for, correct?
18 A You know, I'm not sure I would say suggestions. I think I would say, you
19 know, this is -- you know, we're trying to share information, so sometimes it may be
20 closer to us -- going back to my -- my elder fraud example, you know, these are typologies
21 we see in this space, and we're sharing them with you so that you're aware of them.
22 I don't -- I view them as more of an information-sharing exercise than a, sort of,
23 suggestion-based exercise. I think, you know, we show this information, we make it
24 available, we -- in some documents we may suggest departments that you share it with.
25 Like, that could be an area where it sort of veers into that. So it may not be just your

1 BSA/AML department. It may be your legal department. It may be other -- I think
2 some of our ransomware products may even say, like, your IT department, like, you
3 know, sort of things.
4 But I think -- that's another old memory that we should probably qualify.
5 But -- so I think, you know, the main goal is to share the information to make folks aware
6 of it with the hope and -- with the hope that it's actually helpful in identifying the activity
7 that we're talking about.
8 Q When FinCEN shares that type of information, it does not have any
9 expectation of the financial institution of how or whether the financial institution is even
10 going to use it. Is that fair to say?
11 A I think that's fair. I think -- I think we would be surprised a little bit if, like,
12 we publish something on elder financial exploitation -- just to go back to that one again.
13 You know, if you did absolutely nothing with that and you were in a space where that's an
14 issue that may come up for you, I would be surprised if a financial institution didn't make
15 use of that in some way, even if it's just to familiarize themselves with the topic.
16 But, again, there's no specific expectation of what you're supposed to do with the
17 information that we share.
18 Q And financial institutions have to be invited to participate in a FinCEN
19 Exchange. Is that correct?
20 A Yes.
21 Q And they're free to reject that invitation?
22 A Yes.
23 Q And if a financial institution does participate, if it accepts the invitation and
24 participates, it's not required to implement any changes to its AML/CFT programs,
25 correct?

1 A Yes, that's correct.

2 Q And banks who participate in FinCEN exchanges still must use their own

3 independent judgment in assessing transactions holistically to determine whether a

4 transaction is required to be reported under the BSA?

5 A Yes, that's correct.

6 Q And they're free to use their own judgment in determining whether or not to

7 utilize any of the red flags or typologies that FinCEN provides?

8 A Yes, that's correct.

9 Q I just want to move on before we conclude this hour.

10 You were shown an exhibit in the previous hour about -- that referenced an

11 invitation from Google and Google's Financial Intelligence Unit, or FIU. And I believe you

12 said that you would not be surprised about FinCEN having communications with Google.

13 Why is that?

14 A I believe Google has a payment function, and so, you know, if they have a

15 payment function, they're a financial institution under our regulations. So they would

16 have regulatory obligations with FinCEN in that regard.

17 And so the term "financial institution" encompasses a broad array of actors in the

18 moving money space. So it's banks, it's credit unions, and people we've principally been

19 talking about. But it's also money services businesses, your Western Unions, your RIAs,

20 your people like that, casinos, you know, check cashers, you know, virtual currency

21 exchangers.

22 So there's kind of a broad array of actors that have -- that are considered financial

23 institutions for purposes of our regulation.

24 [redacted] I just want to clarify one -- when you say there's a broad array

25 of actors, under the BSA in our regulations, is it appropriate for some part of an entity to

1 be subject to a regulation while others may not be?

2 Mr. Kirby. That's a good flag, yes. So the fact that they're doing payments, I

3 wouldn't -- wouldn't necessarily mean, like, the totality of Google is subject to our

4 regulations. That's a good flag.

5 [redacted] So because Google Pay is a payment processing system or

6 platform, they -- that section of Google qualifies as a financial institution?

7 Mr. Kirby. Probably qualifies -- I would need -- again, I always want to qualify

8 that because I don't know what I don't know. But in -- sort of, in at least the threshold

9 analysis of -- if you're telling me that an entity is involved in processing payments, I think

10 there's a pretty strong argument that they are going to have at least some obligations

11 under our authority.

12 [redacted] Thank you. We can go off the record.

13 [Recess.]

1 [12:18 p.m.]

2 [redacted] We can go back on the record.

3 BY [redacted]

4 Q Mr. Kirby, I just want to get into a couple things that we discussed in our

5 previous hour.

6 You mentioned the different offices within the Intelligence Division.

7 A Uh-huh.

8 Q Can you describe the responsibilities of each of those offices?

9 A And you mean then --

10 Q Then.

11 A -- in the past?

12 Q Yes.

13 A Okay.

14 So, as I indicated, there were three. There was a Western Hemisphere Office, an

15 Office of Transnational Issues -- or maybe an Office of Transnational Threats. I think it

16 was Office of Transnational Issues. And then a third office that was the -- its acronym

17 was "ARO," but I'm actually struggling to recall what the acronym stood for.

18 So Western Hemisphere, I think, would've -- would've housed -- actually did house

19 things like what was then our Cyber and Emerging Technology Section, if I remember

20 correctly, was there. Also, the team that worked sort of your traditional

21 counternarcotics, Mexican cartels cases, or support to law enforcement, was there.

22 The Transnational Issues Office, if I remember correctly, housed the team that

23 supported the broader counterterrorism mission set and state actor -- I feel like that set

24 would've been there too.

25 And then the third office, the ARO office, included the data quality metrics team

1 that I mentioned before. There's a group of data scientists in that office, that are in that
2 office, that support the -- supported then and support still now the work of that overall
3 team.
4 That's sort of broadly what I recollect, how the offices were divvied up.
5 Q How many people, generally, were in each office?
6 A So we were sort of 50 to 55. I'm not sure it was quite a third/a third/a
7 third, but I don't remember with any -- I don't remember precisely how it broke up
8 between those three, to be honest with you.
9 Q And when you were in charge of the Intelligence Division, what was your
10 day-to-day like?
11 A So I think as I mentioned the prior time we spoke, the position that I stepped
12 into had been vacant for some period of time, I think actually right at about 2 years
13 before I stepped into the role. So, you know, I would say, at the beginning of my time,
14 the day-to-day was probably getting my hands around the different functions, the teams.
15 And it was a very different role than being the legal counselor, for example.
16 After the enactment of the AMLA, I would see that kind of changed a little bit, to
17 think about how we were going to meet these new obligations that had been placed on
18 us.
19 And so, you know, one example being the publication of these financial trend,
20 financial threat analysis reports. That was a new product at the time. And thinking
21 through how we were going to do that, how we were going to do that in a way that's
22 manageable -- because, you know -- and with results that we could sort of explain to the
23 reader.
24 Also, so 2021, there was -- we obviously had a change of administration in 2021,
25 and some, you know, mission sets took on sort of greater prominence. I would say, you

1 know, the ransomware mission set is one that has sort of continued to sort of tick up in
2 terms of priority. After Russia's further invasion of Ukraine, you know, that mission set
3 consumed quite a bit of my time.
4 And so, to the extent there's sort of a day-to-day, I don't know if that answers
5 your question, but maybe that's sort of the best way to divide it up. Because it
6 did change post me getting my hands around it a little bit more, the nature of the role.
7 Q Was there an office responsible for DVE issues?
8 A I don't believe we had an office for DVE. To the extent folks were working
9 on DVE, I think those were folks that had a background in working the terrorism mission
10 set. So I don't think it was a separate office or separate section or anything like that, if I
11 remember correctly.
12 Q Some people likely in that office --
13 A I would think so --
14 Q -- would be handling it?
15 A -- yes. That seems -- that's my general recollection. Yeah.
16 Q Going to the information-sharing operations at FinCEN, when the Strategic
17 Operations Division would share information with the financial institutions, what was the
18 protocol for sharing that information?
19 Would that office reach out to the Intelligence Division for approval on the types
20 of documents, the trends and typologies that they would then be sharing with financial
21 institutions and seek your approval on that or your team's approval on that?
22 [redacted] Can we just clarify the context?
23 So the Strategic Operations Division has a very broad mandate, right? They also
24 are the Financial Intelligence Unit. Like, they -- so I just want to make sure we're very
25 clear about what context, when you talk about, sort of, information-sharing. Are you

1 talking about FinCEN Exchange specifically?

2 BY [redacted]

3 Q I would say the FinCEN Exchange and other means, one-off emails of emails

4 from employees at FinCEN to financial institutions along the lines of, "We have some

5 typologies and trends that we think you might be interested in. See attached."

6 A So I don't know that there is a -- at least at that time, and I'm not really sure I

7 would think that one exists at this time either, really -- sort of a standard practice of that,

8 you know. I think it would be more sort of specific to the nature -- you know, again, to

9 the extent the folks are sharing information in anticipation of a FinCEN Exchange on what

10 that's going to look like, versus sharing in the context of maybe an advisory committee

11 meeting where they're going to be talking about something involving, like, regulatory

12 burden or something like that. So I don't know that there's sort of a -- I think it, like,

13 would be more, like, topic-, forum-specific.

14 I don't recall in my time in the Intelligence Division getting some document like

15 that, like, either be it a typologies or something document like you were referencing in

16 your exchange with [redacted] -- I don't recall getting a document like that to sort of evaluate

17 and clear for sort of the context of sharing in one of those venues.

18 But I also feel the need to preface that with: That was a long time ago at this

19 point, so I don't discount the possibility that I may have seen something and I just don't

20 recall having seen it.

21 Q So, as the Intelligence Division is analyzing BSA data and developing

22 typologies and trends that are then shared with financial institutions, were you sending

23 that to the office that dealt with the private sector and shared information?

24 A So I'm not quite sure I understand that description.

25 Let me sort of -- so, you know, in most circumstances, if we are sharing, you know,

1 typologies and red flags, if an analyst in the then-Intelligence Division, now-Research and
2 Analysis Division, is working on a project like that, I think in most circumstances my
3 expectation would be that that information is probably going to land in a public-facing
4 product of some kind. So that would be probably either our Policy Division or maybe
5 our Enforcement Division if it's in the context of an enforcement action. And any
6 resolved enforcement action by FinCEN ends up being placed on our website so everyone
7 can see what those are.
8 I don't -- off -- I just -- I don't recall it being sort of a standard practice that an
9 analyst would be developing, you know, sort of a typology sort of thing that you would
10 share directly with, like, one financial institution. Now, there may be needs to talk to
11 one financial institution in connection with a filing or something like that. But if we're
12 going to do the work of building out typologies and red flags, I would normally expect
13 that to be to a broader audience.
14 Q When that information was shared with the broader audience, would that
15 information have been analyzed by the Intelligence Division or maybe the Enforcement
16 Division before it is shared with a broader group of financial institutions?
17 A Again, I think it would depend.
18 So if the document you're talking about is, you know, trends and typologies in
19 terms of, you know, fraud filings, so if we have an analyst that did a lot of work on
20 analyzing fraud filings and identified typologies and trends out of that, then, yes, the
21 Intelligence Division, now-Research and Analysis Division, would play a leading role in that
22 analytic effort and would be working with the office that's sort of packaging that up into a
23 public product.
24 But, you know, to the extent that you have a FinCEN Exchange on fentanyl and a
25 non-FinCEN party is presenting on or discussing, you know, lessons they learned in this

1 space that might be useful to you, Financial Institution B, as you're looking at this same
2 mission set, that's not something I would expect the Intelligence Division to have weighed
3 in on prior to a partner agency, be it law enforcement or be it, you know, the private
4 sector potentially, sort of separately weighed in on before it's a topic of discussion in a
5 meeting like that.
6 Q Shifting gears, how many people have access to SARs and other BSA data?
7 A So FinCEN maintains this Electronic Access System that we were talking
8 about before. We have MOUs with partner agencies to be able to access that. My
9 recollection -- and we may need to confirm this -- is, I think via those partner agencies, it's
10 approximately 15,000 people, employees of those agencies, who are Federal, State, local
11 officials, who can access the data via that system.
12 I'm going to put a pin in that, though, as an estimate, because that is not
13 something I checked before we came up here.
14 There's -- I need to finish that response, because it's not complete. There is
15 another -- there is a very small subset of agencies that have the ability to ingest the BSA
16 data that is filed with FinCEN. Those are Federal agencies. Most of them are your sort
17 of usual, I think, agencies that probably wouldn't surprise you in this regard -- DEA, FBI,
18 folks like that -- who have the ability to actually just sort of take our data onto their own
19 systems. And so, you know, I don't have -- those agencies control the access to that
20 data on their systems. That's not something that I have visibility into at FinCEN.
21 So the principal way that people access the data is via the Electronic Access
22 System we were talking about earlier, but there is this other way of accessing the data
23 over here, and I want to be complete about that.
24 Q That other way is that Agency Integrated Access?
25 A That is Agency Integrated Access. And maybe I preempted your question.

1 Q We'll get into that in a little bit. The initial -- that is hosted by FinCEN, is
2 that FinCEN Query?
3 A Yes. And you access that via a system called FinCEN Portal.
4 Q Who's responsible for overseeing the access to that portal?
5 A That is also principally a function housed in our Strategic Operations Division.
6 So they manage the MOU processes with partner agencies and the coordinating with
7 those agencies.
8 Q And how is the data accessed?
9 A So my understanding -- and I will preface this with someone who has not
10 ever used this system, so -- but my understanding is that you have a unique login as an
11 external user. You come onto the system. We know it's you when you come onto the
12 system. You are able to run searches on the system. The system logs those searches
13 that you make.
14 And I think that's actually kind of it, in a nutshell. But the important part being,
15 it's a restricted system. There are expectations partner agencies have to meet in terms
16 of granting -- you know, identifying employees for access to the system. And the system
17 does -- my understanding of it is that it does track the searches, that if we let you onto
18 the system, it would track the searches that you make.
19 Q By tracking that, that's tracking the terms that are used to search?
20 A Yes. We call it an audit log. And so it maintains an audit log of the
21 searches that you would make.
22 Q And what type of data is available via these queries?
23 A So, in that system, you would have access to the sort of BSA form filing
24 information. So that would be the suspicious activity reports that we've been talking
25 about, and it would also be currency transaction reports that we hit on a little bit earlier.

1 The counterpart to the currency transaction report, what is known as Form 8300,
2 that's sort of a similar $10,000 filing for non-bank institutions.
3 And I think the CMI -- the form when you cross the border, that's the -- I
4 don't -- I'm going to get the acronyms wrong, but the acronym is "CMIR," but don't ask
5 me what the "C" in that -- Currency Monitoring -- anyway.
6 And so all of those reports are housed in that database. Because they're all
7 collected under the broader BSA authority within -- with the sort of same purposes and
8 uses set forth in the statute, and they're available on the system for authorized users.
9 Q And when a user searches those reports, do they only see -- so if they search
10 a name, will they only see reports filed on that name? Or will they get access to the rest
11 of that individual's transaction history?
12 A So I'm going to disaggregate that a little bit, and you tell me if I answer your
13 question, please.
14 So we don't have the ability to track -- and I'll use myself as an example so I'm not
15 using anyone else's name. FinCEN does not have the ability to track, to the best of my
16 knowledge -- and I feel like I would know if we did -- the transactions that Jimmy Kirby
17 engages in at his bank, on his credit card, on whatever.
18 So, when you come into that system, what you're going to have access to, if you
19 search for "Jimmy Kirby" -- and, again, as someone who has never used the system, also
20 take this with a grain of salt, that this is how I understand the system works. When you
21 search "Jimmy Kirby," you would get -- to the extent there are SARs that have been filed
22 on me, you would be able to see those; to the extent a bank has filed currency
23 transaction reports or a non-bank has filed a Form 8300 on me, you would see those; to
24 the extent -- or any of the other BSA forms that involve me, you would be able to see
25 those, because they are all filed on me.

1 But it would be -- the universe of that would be what has been filed on me, not
2 that there is some way to access transactional history involving me across the financial
3 sector. We do not have the ability to do that.
4 Q Are there limits on what purpose a user can query the FinCEN -- the BSA
5 database?
6 A So my understanding is that, when an authorized user goes in, they actually
7 have to put a purpose in for the search they are doing, and under the MOUs and other
8 access protocols, searches are to be limited to the purposes consistent with the Bank
9 Secrecy Act. I think that's more or less the precise language the statute uses in terms of
10 information-sharing.
11 Q And have there been instances where a FinCEN Portal query has been
12 misused?
13 A We have had instances where people have unauthorized disclosed data that
14 they had access to. And in -- both at -- it's a small number of cases over the years, but
15 that has happened.
16 When we become aware of that, it's referred to our Office of Inspector General, as
17 any other sort of potential violation of law would be that we come across involving either
18 an employee of ours or, if we become aware of this involving someone in another agency,
19 we would similarly refer to our Office of Inspector General to look into it.
20 Q Have those situations ever led to access being revoked for a user?
21 A So there's a -- and I don't know if this is where you're going, but I'll just sort
22 of jump ahead. There's a rather prominent case of this at FinCEN from 2018, and it
23 actually involved an employee getting arrested.
24 So this is a space where we take our obligations very seriously. This is a space
25 where employees have been arrested for engaging in improper conduct. This is a space

1 where former employees have gone to prison for improper conduct.

2 So this is not a slap-on-the-wrist type of situation. To the best of my knowledge,

3 this is the only circumstance in which an employee of FinCEN was walked out of the

4 building by Federal law enforcement agents, for potential, like, improper activity in this

5 space.

6 So, to jump ahead to, this is something we have dealt with and we have dealt with

7 quite seriously and our Office of Inspector General has dealt with quite seriously, we take

8 our obligations to safeguard this information very seriously. It is front of mind for us,

9 this obligation, in terms of thinking about ways we can think about different ways, better

10 ways, to safeguard the data, because the data is really sensitive.

11 And it's an important thing -- I mean, it's a very fair question, because it's an

12 important thing for us to do as an agency. You probably noticed my tone shift. It's

13 something I feel really strongly about, that it's an important trust and obligation that is

14 placed on the agency. And I don't have a lot of patience if we come across

15 circumstances where people have done stuff they're not supposed to do in this space.

16 So I was there in 2018. I have seen how important this is, to take these actions.

17 It's something I take very seriously in my job still, something we take very seriously as an

18 agency.

19 Q Thank you for that.

20 You mentioned that there is an audit log of the searches --

21 A Yes.

22 Q -- of the BSA database. Are there regular audits of access to the BSA

23 database?

24 A So my understanding is, yes, that there's a team in our Strategic Operations

25 Division that, as part of their regular coordination with the, you know, partner agencies,

1 customer agencies, they regularly review the logs as, you know, part of that exercise in
2 terms of coordinating back with the agencies to make sure that they're doing what
3 they're supposed to do under the terms of our MOUs.
4 Q Are those audits memorialized anywhere?
5 A I actually don't know the answer to that question. I think yes, but I don't
6 know for sure.
7 Q Who would know the answer to that?
8 A That's something we can take back and find out. We can find out the
9 answer to that question. I just don't know it off the top of my head.
10 [redacted] I think there's already a request pending that --
11 Mr. Kirby. Oh, there we go.
12 [redacted] -- we can correspond.
13 BY [redacted]
14 Q So you mentioned there's approximately 55,000, give or take, BSA filings
15 each day. Is there any way to know how many people this covers?
16 A You mean, like, the subjects?
17 Q Yes, how many subjects are covered.
18 A I don't know the answer to that question. And I don't know -- I don't know
19 if that's something we track, to be honest.
20 Q Do you know who would track that?
21 A I mean, we can take that back, as well, and ask. But I don't -- I don't
22 actually think I've ever gotten that question before. I don't know the answer to it.
23 Q I assume the same answer would be to how many American subjects are
24 covered in that.
25 A So I don't know the answer to that, but I would maybe put a little more meat

1 on the bone in my response to that and at least say: If these obligations apply to
2 U.S. financial institutions, you know, I would operate on the assumption that the majority
3 of the filings -- or, actually, a substantial portion of the filings -- that's probably a better
4 way to put it -- probably involve U.S. persons, because these are financial institutions
5 operating in the United States subject to U.S. law.
6 Q Are BSA filings ever deleted from the FinCEN database?
7 A We are -- so the answer to that question now is, my understanding is, the
8 filings on the system, they are not presently deleted.
9 We are actively looking at a way to essentially remove filings in the system that
10 are older than -- it's 11 years, right? -- 11 or 12 years. That's something we're actively
11 working on at the moment -- or exploring, I should say.
12 Q Is there a timeline for implementing that procedure, or is it still in the
13 exploration phase?
14 A It's still in the exploration.
15 Q Okay.
16 So you mentioned Agency Integrated Access earlier. Once one of these agencies
17 imports this data onto their own systems, does FinCEN have any oversight over the BSA
18 data that has been imported?
19 A You know, we have a relationship with the agencies. You know, there is a
20 practical matter, I think, you know, at present at least, of the degree of oversight that we
21 can do when it's not on our system anymore.
22 We are in a broader -- if I could step back from your question, a broader exercise
23 is underway to actually update all of our access MOUs, so not the ones where you come
24 in via the FinCEN system, but also the MOUs that govern the Integrated Access space.
25 And, you know, thinking about are there changes we need to make with regard to

1 oversight in that space is sort of part of that effort at the moment.

2 So we're sort of well underway with updating the MOUs for access for agencies

3 who come in via the FinCEN system -- I don't know why I'm doing this -- for the FinCEN

4 system. If you come in via the FinCEN system, that update exercise is well underway

5 with a number of agencies.

6 The Integrated Access MOUs are ones we're still sort of, like, working on in terms

7 of -- but they will be updated, as well, as part of this broader exercise.

8 Q Can you describe the parameters of those MOUs with the agencies?

9 A So, ordinarily, they would govern things like type of data covered by the

10 MOU; respective agency obligations under the MOU; obligations with regard to if, you

11 know, you're, you know, Law Enforcement Agency A, the commitments you're making to

12 us in terms of the people that you're going to sort of put forward for access to the

13 information. For instance, there's a requirement -- I'm pretty sure there's a requirement

14 for all users, for instance, to have a background investigation.

15 I'm pretty sure that's right, right? Okay.

16 And so there's sort of that.

17 There's the obligation they take to sort of restrict access to the data that you're

18 using, given the sensitivity to it, and obligations with regard to sort of marking in certain

19 ways.

20 So it's meant to be somewhat more holistic in terms of access, protection, and

21 making sure the information is sort of adequately protected from, you know,

22 unauthorized disclosure or unauthorized dissemination.

23 I'm actually going to put a pin in and stop.

24 Is there anything I need to add to that, [redacted] Because you are very familiar

25 with this topic too.

1 [redacted] No, I was just going to --

2 Mr. Kirby. I don't know if I'm allowed to do that in my interview, but I'm going to

3 do it here.

4 [redacted] Just for context on this MOU discussion, since we are here

5 primarily for your role as director of [inaudible] the Intelligence Division, how much did

6 you work with the MOUs in that role --

7 Mr. Kirby. Oh.

8 [redacted] -- versus your current role?

9 Mr. Kirby. Actually, very little, to be honest.

10 What I'm telling you now is very much a product of the chair that I sit in at the

11 moment, not the chair that I sat in when I was in ID.

12 [redacted] When an agency has Agency Integrated Access, are they

13 receiving all of the inside filings, or is it limited to what is relevant to their issue area?

14 Mr. Kirby. My understanding is that they receive all BSA filings.

15 BY [redacted]

16 Q Is there a material difference between the AIA system and the Electronic

17 Access System you described earlier in terms of what content is in either?

18 A I don't know that there's a material difference between the content. So,

19 you know, if you're coming in -- if your agency has Integrated Access and you're coming in

20 via the traditional system, you should have access -- each of you should have access to

21 the same BSA filings.

22 What the Integrated Access allows the agency to do when they take it onto their

23 systems is look at it in conjunction with other data they may have on their system.

24 Q And so, once that data is taken onto the system -- I know you mentioned

25 you're updating it -- does FinCEN continue to have access to the agency that has imported

1 it onto their system and how they're using it? Or is that a dialogue between FinCEN and
2 the agency with the MOU to have AIA?
3 [redacted] Can I -- is what you're asking is, when an agency with AIA
4 brings it onto their system, do we have continued visibility into it in the same way that we
5 do FinCEN Query? Is that the question?
6 [redacted] Right.
7 Mr. Kirby. And I think the answer to that is, no, we don't have the -- because,
8 again, we control the FinCEN Query system, so, you know, if you're coming in via Query,
9 we could, in theory, look at what you're searching. We don't have that same degree of
10 visibility.
11 But there is still an MOU in place with the agency that's bringing it on via
12 Integrated Access, is my understanding.
13 [redacted] Do you know how many filings are in the database?
14 Mr. Kirby. I don't know. It's a lot. But I don't know what "a lot" is. I don't
15 know.
16 [redacted] Don't speculate.
17 Mr. Kirby. I don't know. I don't know the answer to that. It's more than a
18 million.
19 [redacted] Yeah. If it's 55,000 per day, that's going to be a few.
20 Has there been an agency that's been in violation of the MOU that had AIA access
21 remitted (ph) or revoked?
22 Mr. Kirby. I'm not aware of a determination that an agency with Integrated
23 Access violated its MOU. So I don't know -- so, to the sort of first part of your question,
24 I'm not aware of the premise that would get me to the second part of your question.
25 I think that's probably my best answer on that.

1 [redacted] Can FinCEN audit AIA?

2 Mr. Kirby. My understanding under the MOUs is that we still do maintain the

3 ability to sort of coordinate with that agency regarding use of the data and what it's doing

4 with the data. So my understanding is, the answer to your question is yes. It's just we

5 would not have the same degree of visibility that we would when you're coming onto our

6 own system to access the data.

7 BY [redacted]

8 Q I know you mentioned you've never used the Electronic Access System.

9 You do seem very familiar. How are you familiar with that system?

10 A Through briefings and the broader exercise we're undertaking, actually, to

11 update the MOU documents generally. So I have been involved in that, so I've had the,

12 you know, opportunity to learn. And through meetings and other scenarios is how my

13 understanding of how this works has been gleaned.

14 Q And does the Intelligence Division, now-Research and Analysis Division -- do

15 they use that system?

16 A I believe some do use the portal system. And then my understanding

17 is -- you know, since it's a FinCEN system, my understanding is you can also access the

18 data by just our own internal systems. So, like, you know, the portal system is built for

19 principally external users to come in and use the system, is my understanding of the

20 difference there.

21 BY [redacted]

22 Q You mentioned that the MOUs with respect to AIA are in the process of

23 being updated.

24 A Uh-huh.

25 Q Why are those being updated?

1 A As I indicated before, you know, safeguarding the data is a priority for us and
2 making sure we have, you know, the best practices in place. And so, across all of our
3 MOUs, we're working to make sure that they're all sort of, basically, recent, consistent,
4 and that we have taken that close look in terms of evaluating what, if any, changes need
5 to be made with regard to sort of any of the things covered by the MOU document.
6 So I think the top-line answer to your question was, frankly, I think it's time, and
7 it's a good time to do it.
8 Q Are there any specific issues that have come up, or is it just time?
9 A I think the main, if I had to pick an issue, is, you know, some of them were a
10 little dated. And so it's a good opportunity in terms of getting sort of -- you know, taking
11 a fresh look at everything and just bringing them up to date, in the sense of, you know, I
12 think there's a comfort that comes for a variety of users that, you know, the MOU you're
13 operating under is a fairly recent MOU.
14 So it's mainly driven by just, I think, a timing need to update. Some of them are a
15 little on the dated side, and it'd be helpful to bring them up more current.
16 BY [redacted]
17 Q Are you aware of any examples of personnel from another agency misusing
18 the data?
19 A So I don't know this for sure, so I'm going to start with that qualification. I
20 have recollection that there, again, have been sort of one-off instances in the past of,
21 actually, employees of other agencies -- you know, I talked a little bit about the incident
22 at FinCEN in 2018 -- that there may have been some similar, you know, at other -- one or
23 two maybe. But my recollection on that is a little thin. But those are the ones I'm sort
24 of -- that come to mind more front of mind for me.
25 What I understand from the team is that, in their experience, if they sort of call in

1 response to something they see on an audit log that raises a question, it's usually the
2 person just didn't -- it was an honest mistake; they didn't put in enough information.
3 So we don't see many instances of people acting inappropriately in the system.
4 But it is something that is important.
5 And, again, a goal of this MOU update exercise is just making sure everything is
6 timely and we've taken a look to make sure, you know, everything is up to date.
7 Q You described the thin recollections you have of maybe some other
8 instances. Do you recall which agencies?
9 A I don't, no. A Google search might resolve that, because if my memory is
10 correct, that should be public. We can take that back, too, if it would be helpful.
11 Q In either your current role or any of your prior roles at FinCEN, if you wanted
12 to review an audit of one of the other agencies, would you have the ability to do that?
13 A Yes. Well, I would have to ask someone to get it for me, but yes. I don't
14 have the ability to go in and just do it, but I could have someone bring it to me.
15 BY [redacted]
16 Q Did you ever do that?
17 A No.
18 Q I think we'll go back to your time as associate director for the Intelligence
19 Division. In that role, did you coordinate with any offices from the FBI?
20 A I don't recall doing that directly, but I'm relatively confident that members of
21 my team did, because, again, it's fairly common for us to work with the FBI, and the FBI
22 has a representative housed in our offices. So we have a number of law enforcement
23 liaisons who sit with FinCEN; FBI is one of them.
24 Q So would that be an FBI agent or employee that is detailed?
25 A Yes. I don't think it's a full-on agent. I think it's an employee. But,

1 again, it would be very common to interact with the FBI, so I am relatively confident, even
2 though I don't recollect doing it directly myself, that members of my team would have.
3 Q So would you or your team work with the Strategic Partner Engagement
4 Section at the FBI?
5 A I don't know the answer to that. I do not recall working with that section.
6 I do not know the answer as to the broader team.
7 Q Did you or your team ever interact with Peter Sullivan, who was in that office
8 at the FBI?
9 A I don't recall interacting with Mr. Sullivan, and I don't know the answer as to
10 the broader team.
11 Q What was your relationship like or your team's relationship like with the FBI?
12 Was it collaborative?
13 A You know, my impression generally over many years, not just, you know, my
14 time in the role, has been that, generally, as an agency, including the components, we
15 have collaborative relationships with our law enforcement partners.
16 And I think you see that playing out now with the Project Protect series fentanyl
17 Exchanges that I mentioned before, with, you know, our support to DEA in the fentanyl
18 space. I think you see it on a number of mission sets at the moment.
19 I think we have historically had collaborative relationships with the main law
20 enforcement agencies. So I would not expect it to have been any different in a material
21 way 4 years ago as to what I see today.
22 Q Did you or are you aware of anyone at FinCEN sending SARs directly to the
23 FBI or any other law enforcement agency?
24 A So I think so, but I don't -- again, that wouldn't necessarily strike me as
25 unusual. The FBI has access to the data.

1 And, you know, going back to a description I was giving earlier of, if you're an
2 analyst working the cyber and emerging tech space -- this is coming to front of mind for
3 me most in that space. So, if we got a SAR involving a new ransomware strain or a SAR
4 discussing some type of, you know, attack in the space that has caused -- I don't know
5 that it would strike me as unusual that an analyst working on that would share that SAR
6 with NCIJTF, for example, or another FBI field office that is responsible for that particular
7 ransomware strain.
8 There are -- again, FBI has access to -- now, that may happen not -- because I don't
9 know this for sure. It may happen to just share the ID number, as opposed to sharing
10 the SAR itself. But I don't know that I would be surprised if they shared the actual SAR if
11 they thought the -- to discuss the discussion in the sort of narrative section of the
12 document if they thought it was relevant to the mission space that they're working on.
13 That's a long-winded way of answering your question. I hope it answered your
14 question.
15 Q Did --
16 A Actually, I'm going to qualify that one more time. But I would expect them
17 to only share it with agencies that otherwise have access. And, again, since most of our
18 main Federal partners do, that's not an issue.
19 Q Okay.
20 Did the FBI coordinate with FinCEN regarding its relationship and communications
21 with financial institutions?
22 A I might need you to be a little bit more specific on that one.
23 Q So, if the FBI is working with financial institutions, sharing potential
24 typologies or investigative information into financial crimes, would they coordinate with
25 FinCEN in the course of these communications with the financial institutions?

1 A So that's a pretty general question. Maybe I'll answer it the best I can.
2 You know, it's always been my understanding, at least since coming to FinCEN -- I
3 should qualify that -- that the FBI in particular, other law enforcement agencies, sort of
4 have their own relationships, their own authorities, when it comes to the sector, the
5 financial sector.
6 So I wouldn't expect them, in at least the abstract, to sort of come to us as a
7 matter of course with regard to them engaging with, you know, members of the financial
8 sector on cases that they're working on.
9 Again, we have -- law enforcement does regularly participate in the FinCEN
10 Exchanges that we convene, and so -- and, obviously, FinCEN is there for those and part of
11 those conversations, as the convening agency. But I don't know that I would expect sort
12 of across the board that if the FBI wants to call up Bank A they would sort of loop FinCEN
13 into that.
14 But I can't say that I know that in a specific way. That's more of a higher-level
15 reaction based on my perception.
16 BY [redacted]
17 Q Based off of -- going a couple questions earlier, you said it wouldn't surprise
18 you if members of your team, or FinCEN, I should say, were sending SARs directly to the
19 FBI, I guess by members of your team?
20 A I would say maybe analysts in the Intelligence Division, because I think that's
21 the team most likely to be sort of in the data.
22 But, again, that could happen via -- I'm not sure that -- I don't know that they
23 would necessarily send the document. They might just send the ID number. Because
24 with the ID number, the agency with access could just pull it up themselves.
25 Q And --

1 A And so, if -- I just don't know how that would happen.

2 Q And if you got the analyst working on an issue, he or she gets to the point

3 where they think it's significant enough, for whatever reason, to share with the FBI, is

4 that a type of decision the analyst would elevate, or is that something that analysts are

5 empowered to make on their own?

6 A Again, my guess is that it's going to be sort of team- and topic-specific.

7 Because it may vary based on the sort of topic integration with a law enforcement

8 agency.

9 So where you have a team that's collaborating very closely with DEA on a, you

10 know, fentanyl matter -- and, again, we have employees who spend some time at DEA;

11 DEA has employees that spend some time at FinCEN. It's meant to promote that kind of

12 information exchange. I just don't know the means on which it would happen.

13 So I think it would be probably topic-specific, team-specific. I don't know that

14 there would be sort of a one way it would always happen.

15 Q Do you recall any instances when you were associate director where

16 someone from within your team elevated the issue to your level, about whether it was

17 appropriate to share or to highlight a SAR to another agency?

18 A I don't. But I do recall being aware that, in the context of ransomware, we

19 were very transparent with -- and I think the FBI component with NCIJTF -- with regard to

20 alerting them to information that we would see. And, again, I just don't recall if that

21 meant we sent them the SAR or we sent them the number for them to pull up the SAR

22 themselves.

23 So I think that's sort of a "yes" to your second question of being aware that

24 information was shared at times. I just don't recall knowing exactly how that was

25 happening.

1 BY [redacted]

2 Q Did you ever flag specific names to financial institutions for SAR filing

3 purposes?

4 A I don't recall doing that, no. Yeah, I don't recall doing that.

5 Q Could Federal law enforcement provide a list of names to financial

6 institutions to consider for SAR filing purposes?

7 A You know, with regard to what law enforcement can and can't do, I've sort

8 of learned over the years it's probably best for me to defer to law enforcement on that

9 question. So that's a question you might want to ask the FBI or DOJ.

10 And, you know, to the extent, turning to my own knowledge, you know, it may

11 depend on who the names are. You know, again, I don't think it's uncommon for

12 financial institutions to sort of be aware of what's in the news, in terms of informing their

13 AML programs. So, you know, to the extent, you know, Jimmy Kirby was arrested

14 yesterday for engaging in all sorts of fraudulent activity, you know, my bank might take a

15 look at that if that was in the paper the next day. I don't think that would be a

16 surprising thing for them to do.

17 Q But would it be unusual for Federal law enforcement to send a list of specific

18 names for a bank to consider for SAR filing purposes?

19 A I don't know the answer to that question. I really don't, because I

20 don't know --

21 Q Have you seen it before?

22 A I mean, in terms of, like, things I've seen, you know, over the course of this

23 year I've seen materials in connection with the topic that we're here to talk about today,

24 and, you know, I do recall seeing -- there may have been names of people who had been

25 arrested, as one potential list of names that was shared with folks in terms of awareness.

1 If I'm aware of an instance, that's probably the only one that I'm aware of. But I
2 can't actually say that I have perfect recall of that circumstance either, because, again, I
3 don't recall being aware of anything like that at the time. But I do think, in terms of
4 reviewing materials just as these questions have come up over the course of the year, I do
5 have a recollection of that.
6 Q So you wouldn't say it's common for Federal law enforcement to send a list
7 of names.
8 A I don't know if it's common or not. I'm just not familiar with it, one way or
9 the other.
10 BY [redacted]
11 Q So, in the 10 minutes or so we have left, I'm going to get into some specific
12 communications with you.
13 A Okay.
14 Q First, I'd like to enter into the record an email from KeyBank to [redacted],
15 dated January 15th, 2021, with the subject line "Inauguration Task Force," as exhibit 2.
16 [Kirby Exhibit No. 2
17 was marked for identification.]
18 [redacted] I think just before we start asking questions about this, is this
19 the full email? Is there an additional email or context in this chain, or is this just an
20 excerpt of a document?
21 [redacted] This is an excerpt of a document production, but this is -- all
22 we're going to be discussing is what is on this and the attachment.
23 [redacted] So that's not my question. Is this the full document? Are
24 there emails before or after it in this chain? Because I think that's important for the
25 record to show. If he's only being asked about one specific portion of an email exchange

1 without context, I want the record to be very clear on that point.

2 [redacted] Okay.

3 [redacted] So what's the -- so we need the answer before we proceed.

4 [redacted] This is the only email here from a representative at KeyBank to

5 various employees of FinCEN that we have --

6 [redacted] Okay. So --

7 [redacted] -- with this subject line.

8 [redacted] This is not a part of a larger thread.

9 [redacted] There's no other emails on this thread?

10 [redacted] No.

11 [redacted] Okay.

12 And you all are going to distribute the attachment, I assume, for context.

13 [redacted] Yes. And before you object, just let us enter the items into

14 evidence and let us start to ask questions.

15 [redacted] And then I'd now like to enter an email from [redacted]

16 dated January 15th, 2021, and the attachments "Jan 15 2021 compiled typologies" and

17 "KeyBank Query Logic for Active Shooters," with the subject line "Compiled typologies in

18 advance of 4:30 call," into the record as exhibit 3.

19 [Kirby Exhibit No. 3

20 was marked for identification.]

21 [redacted] So this is more than just a PowerPoint? This is from another

22 source, this --

23 [redacted] This is the email. And there were two attachments, and these

24 are the attachments.

25 [redacted] Thank you.

1 [redacted] Sorry. Just to clarify, there's a -- so, on what's been entered as
2 exhibit 2, it looks like there's an attachment, "KeyBank Query Logic for Active Shooters
3 version 01-15-2021.pptx." Is that attachment --
4 [redacted] That is what is in here. That's the PowerPoint that is in exhibit
5 3.
6 [redacted] But exhibit 3 was produced by a different -- is not actually the
7 one -- it might look the same, but it's not the one that was attached to exhibit 2. Does
8 that make sense? Because exhibit 3 is the KeyBank PowerPoint as attached to an email,
9 a different email.
10 [redacted] We'll just represent for the record that the slideshow that's
11 distributed by FinCEN is the same slideshow that's being sent to FinCEN from KeyBank.
12 Mr. Kirby. Okay. I'm ready.
13 BY [redacted]
14 Q We've just got about a minute and a half left, so --
15 A I'm sure we'll knock all of this out in 90 seconds.
16 Q Acknowledging that you are not included on this email, had you ever seen
17 these emails at this time?
18 [redacted] You're talking about exhibit 2, for the record, right?
19 Mr. Kirby. This one.
20 [redacted] Exhibit 2 --
21 Mr. Kirby. This one --
22 [redacted] Yes.
23 Mr. Kirby. -- is the one you're talking about.
24 BY [redacted]
25 Q Had you seen that at the time?

1 A I don't recall seeing this at the time, no.

2 Q You testified that [redacted] was a member of the Intelligence Division

3 when you were there.

4 A Yes.

5 Q She is cc'd on exhibit 3. Did you discuss this email with her at the time that

6 was sent to these financial institutions?

7 A I don't recall discussing this with [redacted] at the time, no.

8 Q Do you know if you or anyone in your office analyzed the information in the

9 attachments before [redacted] shared it with financial institutions?

10 A I don't know, no.

11 [redacted] Would this have been the kind of thing that would have normally

12 came to the Intelligence Division prior to it being sent out?

13 Mr. Kirby. I don't know, because it's not -- it doesn't appear to be our work

14 product. So I don't know the answer to that question.

15 [redacted] We can go off the record.

16 [Recess.]

1

2 [2:08 p.m.]

3 [redacted] We're back on the record. Thank you.

4 BY [redacted]

5 Q I want to start by asking a couple of questions about -- you were asked a lot

6 of questions during the previous hour about the confidentiality provisions and what

7 happens if somebody violates those, how those things are monitored, and you mentioned

8 an employee in 2018 who was criminally prosecuted for violating those provisions,

9 correct?

10 A Correct, yes.

11 Q Now, those criminal provisions apply not just to --

12 A Actually, I should stop there. I don't -- it was in relation to that, but I don't

13 know the specific prong DOJ used. So let me put that. There may have been a

14 conspiracy prong or something like that --

15 Q Fair enough.

16 A -- not the actual --

17 Q And I'm not going to ask you questions at that level of --

18 A Just to, again, make sure I'm clear on that.

19 Q Yes. I'm not going to ask at that level of specificity. I just want to make

20 clear that the criminal provisions that apply to unauthorized disclosure for dissemination

21 of Bank Secrecy Act information, those apply to anybody who is authorized to have that

22 information and then discloses it improperly, regardless of whether they work for FinCEN

23 or the FBI or anywhere else.

24 A I believe so, yes.

25 Q And, in fact, there's a criminal provision within the same chapter of the

1 United States Code 31, United States Code 5322, that makes it a felony to disclose -- to
2 violate those provisions of the Bank Secrecy Act?
3 A I'll defer to you on the number, but the provision, that sounds right to me.
4 Q Okay. Thank you.
5 Now, I want to pick up where we left off at the top of the last hour and just make
6 some clarifications about the record, because there were some exhibits introduced with
7 attachments and we raised some questions and some representations were made that I
8 just want to clarify. I'm not actually going to be asking you for any -- any questions
9 about this.
10 A Okay.
11 Q But I think it's important that we have an accurate representation, because
12 many different financial institutions produced documents to the committee in response,
13 and I want to be clear what is and is not produced by different institutions and what is
14 before you that you're being asked questions about.
15 So exhibit 2 is an email from [redacted]. And if you look at the Bates number,
16 it has a Bates number from KeyBank HJC 235. And I believe your counsel asked if this
17 was part of a chain, and it was represented that it was not, but you can see from the
18 email that there is an attachment of a KeyBank PowerPoint.
19 And then exhibit 3 was introduced, and exhibit 3 is not a production from
20 KeyBank; it's, in fact, an email to an employee at KeyBank and other institutions from
21 [redacted] and it has Bates numbers HJC 005 through 007.
22 And then there is a KeyBank PowerPoint, that does not have Bates numbers,
23 attached to exhibit 2, and it was represented during the previous hour that that is the
24 same PowerPoint that was attached to exhibit 2.
25 Now, I'm going to introduce the actual documents that were produced by

1 KeyBank as exhibit 4.

2 [Kirby Exhibit No. 4

3 was marked for identification.]

4 [redacted] And if you follow along, you can see that the Bates number for the

5 second page is a PDF of the KeyBank PowerPoint. It's the Bates number that follows the

6 Bates number for exhibit 2.

7 So you can see that this is the actual PowerPoint that was attached to the email in

8 exhibit 2, and it has redactions. So it is therefore not the same PowerPoint that was

9 produced in exhibit 3.

10 And now I would like to introduce the actual documents, the attachments from

11 exhibit 3. And I will state for the record that these are co-produced by Wells Fargo. So

12 now this will be exhibit 5.

13 [Kirby Exhibit No. 5

14 was marked for identification.]

15 [redacted] And you can see that exhibit 5, the first page has the same Bates

16 numbers. It's the same Bates numbers. It's HJC 118 dash many, many zeros 5 through

17 7. And then Bates 8 is a black and white PDF of a PowerPoint that is also redacted, and

18 that is not what was attached to exhibit 3.

19 The unredacted PowerPoint that was attached as exhibit 3 stapled together

20 representing as if it is the attachment to the email from the KeyBank employee to

21 [redacted] is actually a native file that was produced to the committee from Citibank,

22 completely separate institution.

23 And I'm going to introduce that for the record, just to make clear that what was

24 attached as one exhibit and introduced into the record as one exhibit as being an

25 attachment to an email that was produced to us from one financial institution actually

1 came from a different financial institution.

2 And the majority's representation that these are the same PowerPoints, I

3 understand that it's a natural assumption that they have the same title that they are the

4 same, but for the ones that were actually produced by the banks in exhibit 4 and exhibit 5

5 were redacted and we don't know that they were the same.

6 What we do know is that what was presented as the attachment to exhibit 3 was

7 not the document that was attached to exhibit 3. It was a document that was produced

8 by another bank. And we're going to introduce exhibit 6 for the record.

9 [Kirby Exhibit No. 6

10 was marked for identification.]

11 [redacted] So I would ask the majority, when we're being questioned -- when

12 we're questioning a witness about this PowerPoint, that we use the exhibits with the

13 emails that they were actually attached to from the institutions that actually produced

14 them.

15 BY [redacted]

16 Q And with that out of the way, you were asked a series of questions during

17 the previous hour about whether law enforcement ever provides a list of names to

18 FinCEN or to financial institutions and ask them to file SARs or to search for people with

19 those names. And to me that made me -- rang a bell for me in terms of Section 314 of

20 the PATRIOT Act.

21 Are you familiar with Section 314(a) of the PATRIOT Act?

22 A Yes, I am.

23 Q And what is your understanding of what Section 314(a) allows law

24 enforcement agencies to request of financial institutions?

25 A So law enforcement agencies can ask FinCEN to query financial institutions

1 for -- it's essentially a hand-raising exercise for whether they have responsive
2 accounts -- maybe transactions as well, I have to check the reg -- for targets that have
3 been identified for either like counterterrorism or anti-money laundering reasons.
4 Q And so is it correct to say that law enforcement through their own
5 investigations identifies a suspect, and then if they want to investigate that suspect's
6 financial records they need to find out where those financial records are? So they send
7 a request to FinCEN to ask financial institutions, "Do you have any records for this
8 individual?"
9 Is that correct?
10 A Yes.
11 Q And the financial institutions respond yes or no, but the 314(a) response
12 does not include the actual financial records, correct?
13 A That is my understanding, yes. It does not include the actual financial
14 records.
15 Q And so when you say it's a hand-raising exercise, did you mean that any bank
16 who has records related to the subject named in the 314(a) request says, "We have
17 records"?
18 A Yes, essentially the yes/no as you phrased it.
19 Q And the purpose of that is to allow law enforcement to then serve a
20 subpoena or a search warrant or whatever -- whatever --
21 A Whatever process they have.
22 Q -- they have to then obtain those records?
23 A Yes, that is my understanding.
24 Q So it's kind of the flip side of a suspicious activity report, whereas with a
25 suspicious activity report it's the bank who's investigating or monitoring their customers

1 and then flagging for FinCEN and law enforcement what they deem to be suspicious;
2 whereas, with 314(a), law enforcement has identified an individual who is a suspect or a
3 target in some respect, and then they are trying to get their financial records, and they
4 use 314(a) as the first step to know where to go.
5 A I think that's a fair description, yes.
6 Q Okay. Thank you.
7 And like suspicious activity reports, Section 314(a) is a tool that is available to law
8 enforcement to help them combat the financing of terrorism, as well as money
9 laundering and other offenses?
10 A Yes, that's correct.
11 [redacted] Okay. Thank you.
12 And with that, we can go off the record.
13 [Recess.]
14 [redacted] We can go back on the record.
15 BY [redacted]
16 Q I think where we left off in the majority's previous hour was relating to the
17 attachments sent in an email from [redacted] to a number of financial institutions.
18 That's the "January 15th, 2021, compiled typologies" and the "KeyBank Query Logic for
19 Active Shooters."
20 We can direct you to exhibit 5.
21 A Okay.
22 Q Let me know if you need a minute to review.
23 [Pause.]
24 A Okay.
25 Q You previously testified that [redacted] was a member of the Intelligence

1 Division. She's cc'd on this email.

2 Did you discuss this email or the attachments with her?

3 A I don't recall discussing the email or its attachments with her.

4 Q And do you recall if you ever received this email?

5 A I don't recall receiving this email either.

6 Q Do you know if you or anyone in your office analyzed the information in the

7 attachments before it was shared with financial institutions?

8 A I do not know the answer to that question.

9 Q Would that be the norm, the sort of thing that normally would go through

10 the Intelligence Division before being distributed?

11 A As I think I mentioned before the break, this isn't FinCEN's work product.

12 Q Well --

13 A So, I mean, the slide deck. So I don't know that there would be a sort of

14 like "usual" for that. So I don't know if it was reviewed by the Intelligence Division

15 before it was sent.

16 Q I will direct you to Bates number 6.

17 A Yes.

18 Q So if you'll notice, it says, "Lone Actor/Homegrown Violent Extremism

19 Indicators," and in parentheses says, "(developed from prior FinCEN analysis)."

20 A Yes. I'm sorry, I was referring to the slide deck in my response to the prior

21 question. My apologies for any lack of clarity on that.

22 Okay. I'm on Bates 6.

23 Q Do you know whether the Intelligence Division helped prepare these

24 indicators?

25 A I do not know.

1 Q Have you seen them before?

2 A I have in the sense of -- the questions that have arisen over the course of a

3 year, I have seen this list in connection with that effort or with those inquiries.

4 Q And on this email there's at least looks like 11 different financial institutions

5 listed.

6 Do you know how FinCEN decided that these materials would go to these financial

7 institutions and not others?

8 A I do not know, no.

9 Q Would this kind of exchange be considered a FinCEN Exchange?

10 A This is not what -- I mean, a FinCEN Exchange, at least in my mind, is when

11 sort of people convene to talk. Though it would also make sense to me that part of that

12 could be also extended to sort of include the information being shared in advance of an

13 exchange.

14 I've never really thought about it that way, but I could see it making sense in the

15 sense of, so folks are sort of talking from -- understanding the facts or the -- whatever it is

16 that's going to be discussed in the exchange.

17 But at least an exchange itself is something I tend to think of as the sort of actual

18 event of people coming together and talking.

19 Q The subject line states, "...in advance of 4:30 call." Did you participate in

20 that call?

21 A I do not recall whether I did or if I did not.

22 Q Did you participate in any calls with financial institutions in the weeks

23 following January 6th, 2021?

24 A I don't recall if I did or didn't, to be honest. I've sort of been relaying that a

25 bit in my mind in anticipation of coming here today, and it wouldn't surprise me if I did.

1 But if I did, it wouldn't have been many of these. I don't -- but I don't recall attending
2 any.
3 BY [redacted]
4 Q Can we take a step back a little bit?
5 So in the days and weeks following January 6th, obviously there's many law
6 enforcement investigations going on. FinCEN is clearly sharing a lot of
7 information -- whether that's [redacted] -- with financial institutions.
8 What is the atmosphere at FinCEN at that time?
9 A Hmm. The atmosphere at FinCEN? I was aware that these exchanges
10 were going on. I think you see senior leaders copied on these emails, so this would've
11 been something that would've, I think, gathered attention from like -- that's something
12 folks would've been focused on in the aftermath of the event. And there was the
13 concern of violence in connection with the sort of upcoming inauguration.
14 There was also, though, sort of separate and apart from this, there was a
15 transition underway, and so there would've been all of the steps going on at that time in
16 connection with transitioning from one administration to the next administration.
17 So my recollection is there also would've been the sort of -- that work going on as
18 well of transition memos and meeting with any transition team or preparing things for a
19 transition team.
20 Sort of all of that was going -- would've been going on at the same time as this.
21 And then there was still the pandemic sort of overhang going on as well.
22 So I don't really recall a vibe per se, but there was a lot going on at this time and a
23 lot going on at this time that would have sort of drawn leadership's attention because of
24 all of the different work streams sort of associated with those things, if that answers your
25 question.

1 Q So looking at -- we'll look at this attachment specifically. At the top it says,
2 "Bank submission."
3 Is it fair to assume that a bank likely sent that to FinCEN and then [redacted]
4 was sending that out to other financial institutions?
5 A So I don't know the answer to that. But if I'm looking at the first sentence,
6 it seems a fair conclusion to draw. This came not from us but came from a financial
7 institution, given the reference to searching of "Zelle payment messages."
8 Q Would you or someone in your office have analyzed this submission from
9 the bank to determine whether it was legitimate and worth sending out to other financial
10 institutions?
11 A I do not recall. I don't know if that happened. And as I think I indicated
12 earlier today, for FinCEN Exchange presentations or materials by presenters that aren't
13 FinCEN, sort of irrespective of the topic, FinCEN wouldn't necessarily -- I don't think we
14 actually have a practice of sort of reviewing and validating those products or
15 presentations or whatever they are prior to whatever discussion is going to happen in
16 that regard.
17 Q So aside from that, this appears to be just an email in anticipation of the call,
18 so likely not part of the FinCEN Exchange.
19 A Uh-huh.
20 Q That wouldn't have been analyzed by anyone in your division, any other
21 division?
22 A I'm not aware of whether this was analyzed or not.
23 BY [redacted]
24 Q Following January 6th, how did your team's attention change?
25 A So there were analysts working on this effort of supporting law enforcement

1 in connection with, my recollection is, requests from the FBI, which tends to be how we
2 get pulled into law enforcement support matters. So my recollection is there were
3 members of the Intelligence Division supporting requests from the FBI.
4 Q How many members?
5 A I don't know the exact number. But the terrorism team was I don't think
6 any more than six or seven employees, so it would've been almost certainly less than
7 that. I don't know that it would've been the whole -- I don't think it would've been the
8 whole team, but I don't know.
9 Q Did you have any conversations with that team in the days or weeks
10 following January 6th about where their priorities should be?
11 A I don't recall any discussions like that. This was being very much managed
12 at a leadership level within FinCEN, so I don't recall any discussions of the type you're
13 describing.
14 Q Who specifically within FinCEN leadership was involved that you can recall?
15 A Well, AnnaLou Tirol, who then became the deputy director shortly -- yeah,
16 shortly after the date of this email, again, at the time was the head of the Strategic
17 Operations Division and had a background in law enforcement.
18 And my recollection is the director at the time was also actively involved in these
19 exchanges and this effort.
20 Q Did you have meetings or discussions with AnnaLou in the days and weeks
21 following January 6th?
22 A I mean, it would have come up, I feel pretty confident, in leadership
23 meetings. But I don't remember specific conversations with her, specific meetings
24 dedicated to that purpose.
25 Q I guess just more broadly, how are you gaining this understanding of FinCEN

1 leadership's involvement?

2 A Well, as I think I mentioned a few minutes ago, I was aware that these

3 exchanges were going on, and I was aware that the senior leadership of the agency was

4 focused on this and was involved.

5 So it wasn't a secret that these exchanges were occurring, and I was aware they

6 were going on. And as I think I mentioned a few minutes ago, I feel pretty confident

7 that at least references to this work would've been raised in like senior management

8 meetings. So I was aware that it was going on.

9 Q I guess could you just walk me through a little bit more about what your role

10 was and what discussions you were having?

11 You're talking about FinCEN leadership is paying attention to this, and then there

12 are the analysts within your team that are working on this.

13 Who's talking to the analysts? Are these two separate discussions? Are they

14 intermediary? It's just it's not clear what your role is at this time.

15 A So I think I mentioned earlier today that about 90 days before this is when I

16 stepped into this role as head of this division. It was a pretty substantial change in

17 nature of responsibilities for me.

18 And also I had not been an intelligence analyst before. So this was a fairly

19 substantial change from serving as the legal adviser, and also the position I stepped into

20 had been vacant for some period of time.

21 So a fair amount of my efforts at the beginning of this job were, frankly, getting

22 my hands around the management functions, who sits where, who's -- that sort of stuff.

23 [redacted] had previously been chief of staff to the director, so it would not have struck

24 me as strange to have leadership working directly with her given their longstanding

25 relationship. And [redacted] is a very impressive individual. So, again, nothing about that

1 would've struck me as strange or unusual.

2 So I was not very involved in this sort of overall exchange effort. From where I

3 sat at the time, looking back on it, my impression was it was sufficiently staffed at a senior

4 management level that I didn't sort of see myself as adding a lot of additional value

5 beyond the managers who were already involved in that space.

6 And so maybe that's the best answer I can give you to your question.

7 Q Okay. And is [redacted] having regular interactions with the analysts who were

8 working on this?

9 A I don't know the answer to that question for sure, but it wouldn't -- again, it

10 wouldn't have struck me as unusual if she was.

11 Q Okay. What about like January 5th, before any of this happens, what was

12 the nature? You've only been on the job for 90 days. [redacted] has longer lasting

13 relationships with some of the analyst folks. Is that --

14 A I think that's probably accurate. But also we're in the middle of a transition

15 period. We've just come through the -- I mean, there's just a lot going on at that time.

16 So it's not as though people were just sort of like sitting around waiting for things to

17 happen. But then this happened and we had these requests from law enforcement and

18 others to sort of engage in this work.

19 So I don't -- it would never strike me as strange for teams to sort

20 of -- management teams anyway -- to sort of divide and conquer different topics based on

21 background or expertise or even personal relationships.

22 But I can only speak to sort of my own involvement. It was not extensive in

23 these exchanges while they were going on.

24 Q Were the analysts briefing FinCEN leadership directly?

25 A I would presume yes.

1 Q Do you recall a time period?

2 A But I don't know for sure, but I would presume yes.

3 Q Other than the six or seven folks who were on the counterterrorism team,

4 do you know of any other analysts within the team that were pulled on to work on this?

5 A Not specifically, no. It would not surprise me if some of the data quality or

6 folks like that who are just familiar with tracking stuff in the database, it wouldn't surprise

7 me if those folks were sort of pulled in to make sure any incoming filings were being seen.

8 But I don't recall specifically beyond any additional folks particularly.

9 Q For documents like the slide show, independent of this specific example, but

10 we'll say January 5th, so it's just independent of this specific example, if there was

11 incoming information that [redacted] receives and his job is just to interface, before he

12 then goes and shares about what he shared with us that he would send it to someone

13 else within FinCEN, was that a type of consideration that would get sent to your desk, to

14 [redacted] desk, to someone else? What's the nature of things that are sent to you directly?

15 A I don't know who [redacted] would've sent that to. [redacted] didn't work for me.

16 So I can't really speculate who -- I don't know who he did or did not send things to on

17 January 5th or before.

18 The FinCEN Exchange was codified in the statute right at the beginning of the year.

19 There were some number of these exchange -- exchanges like these that had gone on

20 previously, but at least the sort of exchange in its current form is sort of very much a

21 product of early 2021. But, again, I don't know who [redacted] would've sent what he was

22 sending to before, say, January 5th or before.

23 Q We've referenced a couple of the meeting notes. Do you recall just even at

24 a general level being on any Zoom calls or in-person meetings with FinCEN leadership

25 about analysis that was being conducted following January 6th?

1 A As I mentioned before, pretty confident this would've come up in senior
2 management meetings. At the time many of those would've been on Zoom.
3 So in that context, yes, I don't recall the particulars of the discussion, but I'm
4 pretty confident it would've come up in those discussions.
5 [redacted] And there, I just want to make -- you testified earlier about sort
6 of when -- about all of the ADs over the various divisions sort of standing -- I think you
7 said you thought they were weekly meetings. Is that what you're referring to here when
8 you sort of say senior management meetings, or are there --
9 Mr. Kirby. Yes. At the time, my recollection is we had a weekly senior
10 leadership meeting. There may have been meetings beyond that given the nature of
11 what was -- the attack on January 6th and the aftermath of that. But at the time we
12 did, my recollection, have standing senior management meetings once a week.
13 [redacted] And so in an earlier answer, based off your kind of broad
14 understanding of what was going on at the time, that analysts likely were briefing FinCEN
15 leadership, are the analysts getting pulled into the standing meeting, or is it your
16 understanding there were separate meetings going on?
17 Mr. Kirby. I think those would've likely been separate meetings if they occurred.
18 But I don't recall any sort of specific meetings in that regard. Yeah.
19 [redacted] Would an email like this have been sent without being reviewed
20 by an analyst?
21 [redacted] Just for the record, we're talking about exhibit 5?
22 [redacted] Yeah, exhibit 5, the bank submission, the attachments.
23 [redacted] So we're talking about the first attachment, bank submission,
24 on exhibit 5.
25 [redacted] Yes.

Mr. Kirby. And an analyst in the then-Intelligence Division?

[redacted] Correct.

Mr. Kirby. I don't know. I don't know if [redacted] sent this to someone in the Intelligence Division before he sent this or not.

BY [redacted]

Q There wasn't a general protocol for Intelligence Division to sign off on things before they were being sent out by individuals like [redacted]?

A I'm not aware of such a protocol. I mean, the events around January 6th are kind of a unique circumstance, so I don't know that we would've had a standing protocol in anticipation of such a thing. But I'm not aware -- I don't believe there would be a protocol sort of like requiring that in all instances. I was not aware of one at the time.

Q And you may have answered this earlier. Did the Intelligence Division create these typologies on exhibit 5, the indicators developed from prior FinCEN analysis?

A I don't know the answer to that.

Q Do you know who would --

A Someone like AnnaLou, [redacted], or [redacted] might. If they are derived from FinCEN analysis it would make sense to me that that would've come from the Intelligence Division, because that's the function at the time that they performed.

So, for instance, I would not have expected [redacted] to sort of come up with something like this on his own. So it would make sense that if it was developed at FinCEN it was developed in the Intelligence Division.

Q Were these typologies or indicators made public? I know you mentioned earlier that you published certain typologies.

A Uh-huh.

1 Q Do you know if these were made public?

2 A I don't know. I don't believe so. And, again, these may be more like red

3 flag data points if anything else. These at the bottom I don't think were ever made

4 public. I don't recall off the top of my head.

5 I'm kind of trying to mentally scan through products that I know were on our

6 website. I don't recall us putting a product like this on our website.

7 And one rationale for that, frankly, might be you don't want to alert people that

8 are thinking about doing this to necessarily how some of their activity may be seen,

9 would be one potential reason not to do that.

10 But I don't recall this being made public otherwise.

11 Q Do you know how these kinds of indicators -- what analysis would be

12 performed to create these kinds of indicators?

13 A I know in the past there has been interest in trying to figure out if there are

14 ways to anticipate lone actor attacks and if there are red flags that can be sort of

15 discerned from that.

16 If these were produced at FinCEN my guess would be that they were part of a

17 work stream of that type, but I don't know when they would've been produced.

18 Q But what are you analyzing?

19 A Oh.

20 Q When you're producing an indicator, what does that analysis look like?

21 A Going back to something we at some point today have talked about, I don't

22 know whose question it was, we talked about how financial institutions will often ingest

23 public news reporting as part of their AML program.

24 So, for instance, in the context of someone being identified as a suspect in an

25 action, like a lone shooter action, that could prompt financial institutions to check their

1 own records to see what they have on that individual, with the benefit of that new
2 information evaluate whether any of that might be suspicious activity that should be
3 reported to FinCEN.
4 And so one area of analysis in that regard could be if a bank were to file a
5 look-back SAR after learning that one of their customers were involved potentially in one
6 of these actions and then sort of evaluating.
7 So if you're asking like what is the person analyzing, one piece of data they may be
8 looking at is what types of filings are we getting on individuals that are identified as
9 having engaged in this sort of conduct and are there commonalities or other things that
10 can be drawn from that as some sort of -- that would be one potential area they're
11 looking at.
12 To the extent we're working with law enforcement on something of this type they
13 may also glean information that law enforcement may know in this space.
14 And so it could be a couple of different areas, but those are two that kind of stand
15 out to me that they could be looking at in the first instance.
16 Q And when FinCEN shares materials like this, how are they expected to be
17 used?
18 A So to be honest with you, I don't know how many examples we have of
19 sharing information like this.
20 It sounds like -- and, again, just based only on the emails -- the email, singular -- it
21 looks like the expectation is that this is going to form some portion of a conversation.
22 To the extent that's the case, it's comparing different approaches and
23 methodologies different institutions are using to the extent -- I mean, I could -- that
24 would sort of make sense to me given the table-setting email here.
25 But I don't know in the abstract that there's sort of a default expectation of what a

1 financial institution would do with something like this or information and materials like
2 this.
3 Q One of the indicators includes, quote, "The purchase of books (including
4 religious texts) and subscriptions to other media containing extremist views."
5 Do you have an idea of how FinCEN could have conducted an analysis to conclude
6 that as an indicator?
7 A I don't. I think the "extremist views" part of that I could see where if you're
8 thinking about that in terms of like jihadi materials, that could be one example of that in
9 particular potentially. But I don't know where that came from.
10 BY [redacted]
11 Q How would FinCEN figure out that an individual was purchasing jihadi
12 material?
13 A So I don't think it would be us that figures that out on the first instance. I
14 think it would be the filer. And I think it would depend a lot on what information the
15 filer has access to.
16 So to sort of go outside the four corners of our conversation but to go to where
17 this has come up in other circumstances, one question I've heard raised in hearings is,
18 "Well, should people be filing on purchases of Bibles and things like that?"
19 Most of the time I don't think your typical filer is going to see that. They
20 shouldn't be filing on that anyway, to be very clear. But if you go to Barnes & Noble and
21 buy "insert name of religious text," whatever text you're buying, I don't know that your
22 payment processor or anyone is actually going to see that.
23 So I think it depends on like what information -- and broadening the aperture out
24 to an AML program, all the sources of information an individual financial institution,
25 individual filer has at their disposal, they may see things in a certain context in the

1 transactional space that may prompt them to file.

2 That's not something FinCEN would necessarily see. The only thing we're going

3 to see in most instances is going to be my financial institution saw something that caused

4 them to be concerned of potential relevant to any possible violation of law or regulation.

5 You sort of go back to that standard, it's a pretty broad standard, and they may file on

6 that.

7 BY [redacted]

8 Q Does FinCEN have a determination of what media contains extremist views?

9 A Not that I'm aware of, no.

10 Q Do you know whether any financial institution or FinCEN expressed a

11 concern that suggesting the purchase of religious texts might encroach on Americans'

12 right to religious freedom?

13 A I don't recall any conversations of that type. I don't know that I necessarily

14 would've been included or involved in those types of discussions.

15 But at the end of the day, FinCEN is an organization that is not out, in my

16 experience, looking to suppress people's constitutional First Amendment rights. So that

17 is not something in the first instance I think any employee of FinCEN in this space

18 would've been looking to do. That's just based on my experience of working for the

19 organization. I'm relatively confident in saying that.

20 Q Do you know who would've been involved in those conversations?

21 A Again, my guess, as this was sort of centered in our Strategic Operations

22 Division, my guess would be managers in that space, up to and including Ms. Tirol and

23 possibly our Chief Counsel's Office, which I was no longer in at the time.

24 [redacted] But I just want to be clear from that answer, I think there's a

25 premise in your question that those conversations took place, and his testimony was

1 actually that he doesn't recall if there were any such conversations. So I want to make
2 sure that answer is clear.
3 BY [redacted]
4 Q Another one of the extremist indicators includes, "Donations to
5 organizations known to promote radicalism."
6 Does FinCEN have a list of organizations known to promote radicalism?
7 A Not that I'm aware of, no.
8 Q Do you know how an analysis would've concluded what organizations are
9 known to promote radicalism?
10 A I don't, no.
11 Q Are you aware of whether any SARs were generated on the basis of these
12 extremism indicators?
13 A I don't know if SARs were generated based on this.
14 BY [redacted]
15 Q Who at FinCEN would know where this analysis came from?
16 A I mean, I would start probably in the Strategic Operations Division, since
17 that's where the communications came from, and then work backwards from there.
18 And so I think all of these folks we've been talking about, they no longer work at
19 FinCEN, which would be a challenge in terms of working backwards in that regard
20 because they're no longer with the agency. We've had quite a bit of turnover in the
21 agency in the last couple years. But as a threshold matter that's where I'd be inclined to
22 start.
23 Q I guess, just based off your experience at the time, in mid-January 2021, if
24 you're seeing a list like this, where do you think within FinCEN someone is doing that type
25 of analysis?

1 A As I think I indicated before, if this was prepared at FinCEN I think it's a fair
2 conclusion to assume that it was likely prepared in the Intelligence Division, because
3 that's where that -- that's where I would expect -- analytic work, we're looking at filings
4 and other materials to try to generate red flags and typologies, I would expect that work
5 to happen there.
6 Q If you had follow-up questions about what some of these points mean, who
7 within the Intelligence Division would you consult with?
8 A In the first instance at the time I would've gone to [redacted], who is no longer at
9 FinCEN either. So I'm not sure who I would ask now about this, to be honest. I would
10 probably have to do some digging given the passage of time.
11 Q I mean, presumably this information is being shared to try to be helpful to
12 recipients on the list.
13 A That's my assumption, yes.
14 Q And if one of the recipients doesn't understand what one of the bullet points
15 means and you're the director of the Intelligence Division, we're just trying to get a sense
16 of who might know the answer to these questions.
17 A I think I answered that a minute ago. I said I would have gone to [redacted] at the
18 time. But [redacted] is not there anymore. And so I would need to figure out who to go to in
19 lieu of [redacted] with the passage of 3 and a half years. This didn't happen last week, with all
20 due respect.
21 Q I understand that.
22 For a list like this, when it's going to the banks -- obviously you're not copied on
23 this particular email -- are you receiving briefings?
24 We're just trying to get a sense of in the hierarchy, where you've got the analysts
25 themselves who are like maybe tip of the spear of trying to figure out the issue they're

working on, are you getting regular briefings? Is this too granular? Are you too new?

Like why is it that -- it seems, at least based off the answers, maybe not as much familiarity with the meanings of these different bullet points.

A Uh-huh. I think it maybe is a mix of -- I was pretty new in the role. The leadership at the time was working directly with members of the team. It was my understanding people that they knew worked in the terrorism space.

We also weren't all sitting next to each other at this time because it was during the COVID period, so it wasn't -- you didn't just walk down the hall and start up a conversation on something like this like we do before and like we do now.

And it wouldn't have then nor now strike me as strange or unusual for different managers to focus -- particularly senior managers -- to focus on different aspects of the work stream.

So I think that's probably the best answer I have for you on that.

Q Did you ever receive any briefings about concerns, whether it was typologies or kind of related issues, of whether any of that kind of work implicates the First Amendment?

A I don't recall any briefings to that effect.

[redacted] When these indicators and search terms are sent out, what --

[redacted] I think I'll stop there. He's not testified that these are search terms. He's actually testified several times that they are not search terms. He said they're red flag indicators. So if you want to rephrase we can start over.

BY [redacted]

Q What methods could banks use to implement these red flags and monitor transactions? You mentioned a moment ago that banks might be able to see things that FinCEN can't.

1 A Uh-huh.

2 Q Could you elaborate a little on that?

3 A Sure.

4 I think we've talked about earlier today one of the obligations that the Bank

5 Secrecy Act imposes and our implementing regs impose on banks is the requirement to

6 have an anti-money laundering program reasonably designed to essentially sort of detect

7 this suspicious activity, improper activity, that sort of stuff.

8 So whatever system they have put in place for that -- and some of that is probably

9 going to be an automated screening system.

10 So, for instance, like the OFAC SDN list, my understanding is that a number of

11 banks have automated screening systems to run those names against transactions to

12 ensure they're not dealing with designated terrorists, designated kingpins, those sorts of

13 folks that no one wants -- they don't want to deal with, we don't want them dealing with.

14 So they have program staff in place to be able to sort of know their customers,

15 evaluate the transactions going on through their institutions.

16 And so sharing information with them for them to feed into that overall program

17 is what I was kind of referring to in that regard, is we share information with the

18 hope -- they know their customers far better than we do.

19 We share information that is potentially helpful for them in understanding

20 broader illicit finance typologies, red flags that may indicate such typologies, with the

21 hope that it's helpful for them in terms of administering their overall program and

22 hopefully driving greater reporting to FinCEN.

23 Q So let's use the examples here specifically.

24 One of the red flags is MAGA, America First. How could that get implemented

25 into the AML system?

1 A So I think, as we talked about earlier today, I think one of the things we
2 would tell folks, and we do say this in our alert and other materials, is there is usually a
3 statement that no one red flag is indicative of any problematic activity.
4 That, again, my understanding is that at the time you see a bunch of terms here,
5 many of which they're both parties, people from both parties, terms like kill, shoot, blow,
6 which I'm assuming means blow up, is one -- gun, death, murder.
7 I read these as being targeted towards combating violence, which at the time
8 there was substantial concern, my recollection is, not in the post-January 6th
9 environment, concerns about violence given the pending inauguration.
10 So you've got a number of names on this list, individual data points, that if
11 someone is talking about violence in the context of any of these folks, that's how I'm
12 reading this broadly.
13 It's hard for me to sort of speak specifically as to one-offs of these terms, how
14 they might be implicated -- incorporated into a financial institution's overall AML
15 program, because at least the way I think of this, we generally tell financial institutions
16 that no one term is meant to be indicative of necessarily something.
17 You're sort of supposed to take these terms holistically and look at them against
18 sort of your sort of broader knowledge about the customer.
19 But I can't answer that specific, "How are they supposed to take that one term?"
20 I don't view it as just one term. They're sharing a list of terms, many of which are aimed
21 at violent activity.

1 [3:11 p.m.]

2 BY [redacted]

3 Q That statement of one term alone isn't included in this.

4 A It's not included in that. I appreciate that.

5 Q Moving to the red flags or the indicators portion, how could a bank

6 incorporate, again, donations to organizations known to promote radicalism, the

7 purchase of books, including religious texts and subscriptions to other media containing

8 extremist views, how does that get incorporated into an AML program?

9 A I'm going back to the conversation we just had. I think you would sort of

10 look at them holistically because there's also discussions in here of, you know, purchase

11 of precursor chemicals, potential bomb-making equipment, ammonium nitrate, you

12 know, sudden account closures, asset liquidation, disbursements.

13 Any one of those things may not stand out, but if you're seeing holistically

14 multiple indicators of this, I could see where an analyst may have been thinking -- and,

15 again, I don't know the underlying material they were looking at, but against a backdrop

16 of this suggests it was developed in the context of, sort of, attempting to combat lone

17 actors and how -- you know, trying to think about it, if there are indicators that folks

18 would be looking for that on the front end instead of just on the back end, it's obviously

19 easier when you know who the person is that did it after the fact to look back on there

20 what they did, you know.

21 [redacted] [redacted] is your question more a mechanical one, like, how would

22 a bank actually -- what would a bank actually do with any of these? I just want to make

23 sure we're, like, understanding the question there.

24 [redacted] My question is FinCEN is sharing materials that are, ostensibly,

25 useful to the bank. I'm asking how they're useful to the bank, how they can actually be

1 implemented.

2 [redacted] Because I think to the -- what I was going to say, to the

3 mechanics of that, is, like, you may be able to speak to that in a general term. But he

4 testified earlier, like, he never worked at a financial institution, right? And, like,

5 wouldn't have been engaging with the financial institutions on a regular basis in the role

6 that he was in during this time period.

7 So, like, to the extent he has, sort of, general knowledge of that, he can answer.

8 But, like, I think those are sort of questions about -- for the mechanics of how a bank

9 takes whatever these documents are and integrates them, I think it's going to vary widely,

10 and it's not something that's necessarily, like, his primary knowledge.

11 [redacted] Can we go off the record for a second.

12 [Discussion off the record.]

13 [redacted] All right. We can go back on the record.

14 I'd like to introduce two email threads. We have the full thread. The first one

15 involves MUFG sending an email to AnnaLou -- or to [redacted], and

16 AnnaLou Tirol, with the subject line "Major D.C. Transportation Vendor Lists."

17 And the second is a thread -- only interested in the top email -- from [redacted]

18 to various financial institutions, sending that "Major D.C. Transportation Vendor Lists"

19 Excel sheet. And this is exhibit 7.

20 [Kirby Exhibit No. 7

21 was marked for identification.]

22 Mr. Kirby. Okay.

23 [redacted] I will also introduce the vendor list that was attached, the Excel

24 sheet, as exhibit 8. I'll just note for the record that these were sent as native documents

25 so they're not Bates stamped. They were printed off of Excel. We're not going to go

through this individually.

[Kirby Exhibit No. 8

was marked for identification.]

[redacted] And the different sections, there's different tabs of the Excel worksheet?

[redacted] They were separate, yes.

Mr. Kirby. Okay.

[redacted] Have you seen this email or this Excel document before.

Mr. Kirby. So in connection with the questions that have been coming up over the course of this year, I have previously seen the -- I think I've seen this list. I don't know that I've seen the email before, but I -- I do recall at some point over the course of this year having seen a vendor list, the airport -- I don't know if I've seen the email before.

[redacted] Just so the record is clear, when you refer to that -- did you come and voluntarily provide a briefing on behalf of FinCEN to the committee in connection with this inquiry?

Mr. Kirby. Yes.

[redacted] Is that what you're referring to --

Mr. Kirby. Yes.

[redacted] -- when you say "in connection with these questions"?

Mr. Kirby. Yes. I think you were both -- most of y'all were in the briefing earlier this year.

[redacted] I don't know that we got that on the record yet.

Mr. Kirby. Okay.

[redacted] So I just want to make that clear.

Mr. Kirby. Yes. I was here in March and briefed on, I think, your committee

1 staff and House Financial Services committee staff on similar questions in this space. So
2 we did some work in this space.
3 And, again, I don't recall if I've seen this before, but I -- I don't know if it was the
4 same list, but I have seen a vendor list at the three airports.
5 BY [redacted]
6 Q And did you see this in the weeks after January 6th, or was the first time you
7 saw it this year when you were preparing for the briefing?
8 A The first time I recall seeing it is earlier this year when I was preparing for the
9 briefing. I think that was in March.
10 Q If I can just ask generally, how would a list like this, vendors at the three
11 airports in D.C., Union Station, bus stops -- bus stops, how is that useful for financial
12 institutions?
13 A My assumption would be that this was a means of identifying transactional
14 activity in the region around that time. So if you saw transactional activity involving
15 these vendors, that could be an indicator that -- and at the airport, that the person was
16 traveling in or out during that period.
17 Q Traveling to D.C., eating at Chick-Fil-A or Dunkin' Donuts, that's not -- that
18 doesn't have any nexus to criminal activity. Is that correct?
19 A I agree with you in that going to Chick-Fil-A is not indicative of anything
20 criminal or improper.
21 My guess would be this context is they're feeding into that broader email program
22 that they're seeing, sort of, other potential indicia of involvement in the activity.
23 Perhaps this is a way of confirming whether the person was here during that time.
24 That would just be my, sort of, very high-level guess, is it would be a confirmation
25 of a location as opposed to the individual place the person went. That's how I would

read it.

Q In sharing this list with financial institutions, was FinCEN directing those financial institutions or encouraging those financial institutions to track and scrutinize all purchases made at those vendors?

A So I wasn't involved, to the best of my recollection, whatever comms happened at the time, so I can't speak to that. We would normally not -- again, sort of hard to draw normal in the space that we're referring to at the moment.

But, like, we would not -- when we share information with financial institutions, it would normally not be as an instruction to here are four red flags of X, go, like, search everything you have for that. That's not how we would normally communicate something.

However, I was not -- I have no recollection of being involved in any back-and-forth with FIs on -- I'm sorry -- financial institutions on this, and so I can't speak to this circumstance specifically.

BY [redacted]

Q [redacted] is on this email. Do you remember ever discussing this with her?

A I do not, no.

Q Do you know who may have approved of sharing the vendor list?

A I don't. AnnaLou is the most senior manager, at least that I can see on at least the top-level email. The print, as we go into the later ones, gets a little small, AND it's kind of packed in together.

So I can't see if there are other -- it looks like for most of these, AnnaLou is the most senior manager on the chain.

BY [redacted]

1 Q Would AnnaLou have been in a position to provide permission to share this
2 type of information with financial institutions?
3 A I mean, she over- -- she was the head of our strategic operations division in
4 January of 2021, and one of their principal functions is this information exchange, this
5 FinCEN Exchange, the BSAAG that I've mentioned -- the Bank Secrecy Act Advisory Group
6 that I mentioned before, responsibility for both of those functions is housed in that
7 division. So I don't know if she approved this, but I would assume she could
8 approve -- could have approved such a thing if she had -- if she had been asked.
9 Q If a bank is searching transactions made at transportation -- vendors at
10 airports like this, is that likely to sweep in lots of people totally removed from any
11 criminal activity if they're looking to see who might have been in D.C. on these dates?
12 A So I can't -- it's hard for me to speak to what banks are doing in their own
13 programs because, you know, they have the obligation to, sort of, know their customer,
14 have an AML program, all of that sort of stuff.
15 If I go back -- we talked about -- I think we talked about this before. If we go
16 back to the standard that's in the -- that's in the statute for suspicious activity, it's
17 relevant to any possible violation of law or regulation.
18 So, you know, to the extent one aspect of relevance is was someone at a certain
19 location, it's hard for me to say that that, across the board, would be something that a
20 financial institution wouldn't look at depending upon what kind of questions they're
21 getting, depending upon what else they have in -- in front of them.
22 I wouldn't -- I would not assume that any of these would be something that a
23 financial institution, in and of itself, would file on. That just would be my, sort of,
24 after-the-fact guess.
25 But, you know, it's hard for me to speak with deep specificity as to what bank A or

1 bank B, with all the other information they may have had before them, how they made
2 use of this information one way or the other.
3 Q Would you say that BSA filings taken as a whole are overinclusive?
4 A Overinclusive?
5 Q If the standard is any possible violation?
6 A So I don't know that overinclusive is the word I would use. But I would say
7 the statute -- you go back to the statutory language. The statute lays out a program that
8 very much leans in in terms of encouraging reporting.
9 On top of leaning in and encouraging reporting, the statute builds a number of
10 protections around both the filers and the information they file. And so, you know,
11 we've already talked to some extent about, you know, the penalties for improper
12 disclosure, the safe harbors that go around reporting of the information to FinCEN.
13 On top of that, we have, you know, MOUs that govern, you know, access to the
14 information given the sensitivity of the information.
15 So the entire statutory construct is very -- I read very much -- others may read it
16 differently, but I read very much as sort of leaning in on the question that, you know, it
17 errs in favor of having them report because it's not evidence -- SAR -- we're very clear on
18 this. We've said this in lots of different fora. SAR filings are not evidence of anything.
19 They are tip-and-lead information. That's why they're -- among the reasons they're so
20 protected.
21 But just because someone files a SAR on me for whatever reason, that in and of
22 itself is not proof of anything I did or did not do. There are other ways that investigatory
23 agency needs to determine that information. It's not through using the SAR.
24 [redacted] We can go off the record.
25 [Recess.]

1 [redacted] We can go back on the record. It's 3:38 in the afternoon.

2 BY [redacted]

3 Q Mr. Kirby, I want to return to exhibit 5. You were asked a number of

4 questions about that exhibit. I just want to make sure that none of your words get kind

5 of twisted afterwards.

6 A Okay. I have it.

7 Q And this is an email. We've been through it in a couple different iterations,

8 but this is an email dated Friday, January 15th, 2021, time stamped 4:00:25 p.m. And

9 it's Bates stamped HJC118, a lot of zeros, and 5. You see where it says that?

10 A Yep.

11 Q I realize there are redactions in the emails, but you are not on this email list,

12 correct?

13 A I do not see myself on this email.

14 Q Okay. And, in fact --

15 A Unless it's hidden under one of these redactions, I don't see it.

16 Q And, in fact, the FinCEN names are not redacted, correct?

17 A Correct.

18 Q So if you were on this --

19 A I would probably be able to see it.

20 Q -- it would probably be evident, correct?

21 And you said that you don't recall having seen this before, correct?

22 A No.

23 Q Okay. So to the extent that you commented on it, it was kind of your best

24 guess or speculation, but you don't actually have any knowledge of how this email came

25 to be or the contents of it outside of, you know, what's in front of you?

1 A That's correct.

2 Q Okay.

3 A Or in connection with preparing for the briefing I did earlier this year.

4 Q Okay.

5 A So some of this stuff I -- I think I saw the slide deck in connection with

6 preparing for that.

7 Q Okay. But you weren't aware of it in January of 2021, correct?

8 A That's correct. Not that I recall, no.

9 Q Okay. I want to look at -- on page 6 under section 2. It says, "Lone actor,

10 homegrown violent extremism indicators developed from prior FinCEN analysis." You

11 see where it says that?

12 A Yes.

13 Q And it says developed from prior FinCEN analysis. It doesn't actually say it's

14 taken directly from prior FinCEN analyses, correct?

15 A That's correct, yes.

16 Q Okay. And, actually, turning back to the prior page, the email is from

17 [redacted] -- it's somebody named [redacted]. Presumably, it's [redacted] who is listed on the

18 from line, correct?

19 A Yes.

20 Q And [redacted] says, "In advance of the 4:30 call, please find attached indicators

21 shared by two institutions, as well as indicators developed from prior FinCEN analysis on

22 lone actors, homegrown violent extremists."

23 You see where it says that?

24 A Yes.

25 Q And it specifically says "indicators developed from," correct?

1 A Yes.
2 Q That's the passive voice, correct?
3 A Yes.
4 Q In other words, we don't know who developed these, correct?
5 A That is correct, yes.
6 Q And we don't know how they were developed?
7 A I do not know how they were developed, no.
8 Q Okay. And so we don't actually know if it was -- if these are FinCEN bullet
9 points or if they're summaries of some documents or if -- or who put them together,
10 correct? We just don't know?
11 A Yeah, that makes sense.
12 Q So you agree with me, we don't know?
13 A Yes. Sorry.
14 Q And I think the -- because I think the comment was made earlier that these
15 are FinCEN's bullets, and I think there's actually not evidence of that, correct?
16 A Other than what's on the form here, the developed from prior FinCEN
17 analysis.
18 Q But, again, it says "developed from," it doesn't say taken from directly,
19 correct?
20 A Yes.
21 Q And it doesn't say who developed them?
22 A That's correct.
23 Q Or how they did that?
24 A That's correct, yes.
25 BY [redacted]

1 Q I want to take a step back and just talk about the context in which all of
2 these emails -- which, again, you are not on -- were sent and what was happening in the
3 country in that time period.
4 These emails were sent in the weeks following the violent assault on the Capitol
5 on January 6, 2021, correct?
6 A Yes.
7 Q Okay. And are you aware that the director of the FBI has referred to the
8 events of that day as an act of domestic terrorism?
9 A Yes.
10 Q And is that how FinCEN approached this investigation into the events of
11 January 6th, that it was investigating a domestic terrorism attack?
12 A At the time, yeah, I think that was -- that was my understanding at the time,
13 yes.
14 Q And FinCEN was aware that law enforcement agencies, including the FBI, in
15 mid-January of 2021 had issued public warnings about a substantial risk of violence in
16 connection with the upcoming inauguration, correct?
17 A Yes, that's -- again, that is my recollection at the time, there was a lot of
18 concern around the upcoming inauguration.
19 Q And is it your recollection that Federal law enforcement agencies, as well as
20 FinCEN, were focused on preventing similar violent attacks on our domestic institutions?
21 A Yes. That sounds -- that sounds right based on my recollection at the time.
22 Q And the inauguration of President Biden was scheduled for just two weeks
23 after January 6th, for January 20th, 2021. Does that sound --
24 A That sounds right.
25 Q -- correct?

1 Okay. And FinCEN was working with law enforcement and with financial
2 institutions to try to prevent the type of violence we saw on January 6th at the
3 inauguration. Is that a fair statement?
4 A That was my understanding of a key goal of this effort.
5 Q And the FinCEN exchanges related to January 6th that were set up in those
6 days and weeks afterwards were geared towards that effort of preventing future
7 violence, as well as identifying those who were responsible for the attack on January 6th.
8 Is that a fair statement?
9 A I mean, that generally is my understanding. Like I said, I wasn't very
10 involved in them. I was aware they were going on, but at a big-picture level, that -- that
11 comports with my general understanding at the time.
12 Q Okay. Now, I want to take you back -- if I could have exhibit 5. I want to
13 ask you some different questions about exhibit 5.
14 On the second page, the one with Bates number 6 -- well, my first question is,
15 when [redacted] sent this email to the banks, in this email did he ask the banks to conduct
16 any searches based on these terms?
17 A Not that I can see from the document.
18 Q Did he ask the banks to file a SAR for any transaction that had one of these
19 terms associated with it?
20 A Not that I can see from the document.
21 Q So if someone were to look at this email and say that FinCEN was telling
22 banks to flag Zelle transactions that use the word Trump, for example, as a suspicious
23 transaction, that would not be accurate, would it?
24 A That's -- the document doesn't say that, that's correct.
25 Q And it's the same for any one of the terms on that list?

1 A Yeah. The document doesn't say that for any of the terms on the list.
2 Q Now, the majority has cited this email as evidence of FinCEN targeting bank
3 customers with conservative viewpoints. But as you pointed out in the previous hour,
4 there are words on this list that -- that address both parties. For example, the fourth
5 term is Kamala, correct?
6 A Correct, yes.
7 Q And the fifth term is Biden?
8 A Correct, yes.
9 Q The term Antifa is on there?
10 A Correct, yes.
11 Q And Pelosi is one of the terms?
12 A Correct, yes.
13 Q And Schumer is the last one?
14 A Correct, yes.
15 Q And I believe you've said this many times, but I think it bears repeating,
16 generally speaking, when FinCEN talks about red flags or typologies, it does not intend
17 any one of them to, standing alone, be sufficient to file a SAR?
18 A Yes, that's correct.
19 Q And that is true with respect to the lone actor/homegrown violent
20 extremism indicators portion of this email as well?
21 A I would read them as consistent with how we say this in other contexts, so,
22 yes.
23 Q And nowhere in this email, whether it's with respect to the first list or the
24 second list, is there any request for any transactions to be flagged in any way or any SARs
25 to be filed?

1 A That's correct.

2 Q Now, I would like to turn to exhibits 7 and 8, in conjunction.

3 There is no request in this email for financial institutions to file SARs or otherwise

4 flag transactions for the vendors listed in exhibit 8?

5 A Not that I see in the email chain, no.

6 Q And if someone were to look at this email chain and say that FinCEN was

7 telling banks to file SARs or otherwise flag transactions for anybody who frequented the

8 Dunkin' Donuts at whichever airport is at 1 Aviation Circle -- I'm assuming that's Dulles

9 based on the phone number -- that would be incorrect?

10 A I don't read the email as saying that, no.

11 Q And that's true of any one of the vendors listed here. Is that fair to say?

12 A The gist of the email seems to focus on the location of the three airports, the

13 train station, and the bus stops.

14 Q But the email does not say, we want you to identify any customer who --

15 A Correct.

16 Q -- frequented one of these establishments?

17 A That's correct. It doesn't say that.

18 Q And would you expect, based on your experience with FinCEN typologies and

19 red flags and based on your experience with how banks determine whether or not to file

20 SARs, that this is one of many, many, many types of indicators that would be considered

21 before a bank decided to file a SAR?

22 A I would assume so, yes.

23 Q And, again, your focus -- FinCEN's focus. I don't mean you

24 personally -- FinCEN's focus in January of 2021 was preventing the type of violence that

25 we saw on January 6th?

A Yes. My understanding is safeguarding the inauguration was one of the principal goals of this effort.

Q And one way to safeguard it would be to try to identify people who participated in that violent assault on the Capitol and intended to return to the inauguration to complete their mission of disrupting the peaceful transfer of power, correct?

A That would make sense, yes, the legitimate focus of law enforcement.

[redacted] Thank you. We can go off the record.

[Recess.]

[redacted] We can go back on the record.

BY [redacted]

Q So we've discussed a number of these emails that were sent from [redacted] [redacted] from [redacted], many of which included [redacted], but that haven't included you.

Is there a reason why you would have been left off of these emails?

A I think it's hard for me to answer that question in the abstract. I think it is a reflection of the fact that I was not very involved in this particular work stream. So there were others involved in the work stream at a senior management level, so that would be my assumption and guess.

Q And that would have been [redacted], AnnaLou that were the senior executives on these emails?

A So AnnaLou was a senior executive. [redacted] was not, but was a GS-15. AnnaLou was actually a senior executive. But, yeah, they're both senior managers.

Q And at this time she was your deputy?

A Correct.

1 BY [redacted]

2 Q [redacted] was?

3 A [redacted] yes. Sorry.

4 Q When you came, you know that you were relatively new, only about 90 days

5 in. When did [redacted] come in as your deputy?

6 A I think we actually both started the same day. Both -- both of us, I think,

7 were October of that prior year. We may have actually started on the same day in our

8 respective roles.

9 Q At that time did you sort of split some leadership roles given her experience

10 as the chief of staffs and time at the -- at FinCEN? Would you split some of that? Is

11 that why she was on these emails and you weren't?

12 A I don't remember anything quite that formal, but it sort of seems organically

13 that is how it worked out, you know, at least here.

14 Again, my -- our respective backgrounds and experiences were fairly different,

15 which actually, I think, is a good thing in a management team. And so -- but I don't

16 remember anything, kind of, this formal as what you're suggesting.

17 BY [redacted]

18 Q So were there ever any conversations about the division of labor, who was

19 going to handle what work stream?

20 A Again, I don't recall anything quite that specific. You know, [redacted] had been

21 in the front office as chief of staff prior to this role and had an excellent relationship with

22 leadership. So there's nothing about leadership dealing directly with her that would

23 have struck me as kind of unusual or odd.

24 I think very highly of [redacted]. So she -- nothing about that would have stood out to

25 me as something I needed to be worried about.

Q Were you both responsible for the post-January 6th action items, or was she more focused on the post-January 6th investigations, and you were getting your --

A As a practical matter, she was more involved both, I think, by -- but, again, I'm the manager of this, so I kind of -- I don't want to be -- I want to be clear about that.

But, you know, I think it just -- as I said before, I don't think there was anything, sort of, formal in terms of, like, dividing up the role, so to speak. I just think, based on background, experience, prior roles, it just sort of organically developed this way.

And this was a relatively short period of time that is my understanding that these exchange -- you know, exchanges of information and the, sort of, corresponding FinCEN exchanges were actually going on. So we're talking a matter of a couple weeks, not, sort of, an extended -- you know, everything we're talking about is a, sort of, short period of time.

So nothing -- even with the benefit of hindsight, there's -- I don't -- nothing strikes me as, sort of, like, unusual about people going directly to [redacted] on anything.

BY [redacted]

Q Moving to, I think it's Exhibit 7 --

A I just had that one, didn't I? Yeah.

Q It's Bates stamped 662.

A Wait. Oh, the emails inside that. Okay.

Q Yes.

A Oh, wait.

[redacted] It's two emails together. It's one exhibit.

Mr. Kirby. Okay. I'm there.

BY [redacted]

Q Just wanted to direct your attention to the top email. That was sent on

1 Friday, January 22nd, 2021. That would have been post-inauguration.

2 A Uh-huh.

3 Q Do you have any idea why the transportation vendor list was being shared

4 after the fact?

5 A I don't recall discussing this at the time. But, you know, I am aware that

6 since the events of January 6th there's been a substantial amount of law enforcement,

7 you know, activity in connection with prosecutions and other, you know, activity of that

8 type.

9 So given that, you know, my understanding is that a lot of the work done at this

10 time was done in coordination with law enforcement, it wouldn't necessarily -- to the

11 extent law enforcement folks are identifying suspects involved in the initial event on

12 January 6th, it wouldn't necessarily surprise me if they continued to, sort of, engage in

13 information exchange related to that.

14 And, you know, weaving down the chain a little bit more, you know, it looks like

15 [redacted] also shared, like, a Pacer link to defendants that had been charged, which would,

16 again, sort of be consistent with at least some of the focus at this time being in terms of,

17 sort of, supporting law enforcement efforts with regard to folks who had been actually

18 charged as having, you know, allegedly engaged in criminal activity.

19 [redacted] But this was no longer about identifying potential threats to

20 inauguration? This was now supporting law enforcement in their investigations of

21 January 6th. Is that fair to say?

22 Mr. Kirby. I mean, I guess that would sort of make -- I'm not sure it was always

23 just one even at the beginning. I mean, I think there were -- I mean, I don't know this.

24 I'd have to go back and check. But I suspect there were people arrested prior to the

25 inauguration for their activity on that day.

1 So I would imagine there was a fair amount of overlap in those work streams until
2 the inauguration part of it was, sort, of safely squared away. So I don't know that it was
3 just one and then the other. I would imagine it may well have been both and very much
4 then transitioned into this, sort of, pretty much law enforcement in the response to as
5 opposed to the protection of, to your point.
6 [redacted] We can go off the record.
7 [Whereupon, at 4:00 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

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2
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6
7 COMMITTEE ON THE JUDICIARY,
8 U.S. HOUSE OF REPRESENTATIVES,
9 WASHINGTON, D.C.
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15 DEPOSITION OF: SEAN CLARK
16
17
18
19
20 Thursday, August 1, 2024
21
22 Washington, D.C.
23
24
25 The deposition in the above matter was held in room 2237, Rayburn House Office

1 Building, commencing at 9:59 a.m.

1

2 Appearances:

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted], SENIOR COMMUNICATIONS ADVISER

8 [redacted], SENIOR ADVISOR

9 [redacted], SENIOR ADVISOR

10 [redacted], CHIEF COUNSEL FOR OVERSIGHT

11 [redacted], PROFESSIONAL STAFF MEMBER

12 [redacted], DEPUTY CHIEF COUNSEL FOR OVERSIGHT

13 [redacted], MINORITY CHIEF OVERSIGHT COUNSEL

14 [redacted], MINORITY PROFESSIONAL STAFF MEMBER

15

16

17 For SEAN CLARK:

18

19 LAWRENCE BERGER

1 [redacted]. Good morning. This is a deposition of Mr. Sean Clark. Chairman
2 Jordan has requested this deposition as part of the committee's oversight of the Federal
3 Bureau of Investigation's misuse of the security clearance suspension and revocation
4 process.
5 On July 10th, 2024, the House Judiciary Committee issued a subpoena for
6 Mr. Clark to appear at a deposition today, August 1.
7 I will mark the July 10th, 2024, subpoena as exhibit No. 1.
8 [Clark Exhibit No. 1
9 was marked for identification.]
10 [redacted]. On July 25, 2024, the committee noticed today's deposition. I will
11 mark the July 25th notice as exhibit No. 2.
12 [Clark Exhibit No. 2
13 was marked for identification.]
14 Mr. Berger. Can I keep this?
15 [redacted]. You can keep these two.
16 Mr. Berger. These two, okay.
17 [redacted]. The other exhibits come back to us.
18 Would the witness please state your name for the record?
19 The Witness. Sean, middle initial P, Clark.
20 [redacted]. Could counsel please state your name for the record?
21 Mr. Berger. Lawrence Berger, L-a-w-r-e-n-c-e, B, as in boy, e-r-g-e-r.
22 [redacted]. Thank you. My name is [redacted], and I'm with Chairman
23 Jordan's staff. I will now have everyone else from the committee who appear in the
24 room introduce themselves as well.
25 [redacted]. [redacted], Chairman Jordan's staff.

1 [redacted]. [redacted], Mr. Jordan's staff.

2 [redacted]. [redacted], Jim Jordan's staff.

3 [redacted]. [redacted], Ranking Member Nadler's staff.

4 [redacted]. [redacted], with Ranking Member Nadler's staff.

5 [redacted]. [redacted], Chairman Jordan's staff.

6 [redacted]. [redacted], Chairman Jordan's staff.

7 [redacted]. Thank you.

8 I will now review the ground rules and guidelines we will follow during today's

9 deposition. The committee will conduct today's deposition in accordance with the

10 House regulation for the use of deposition authority. This regulation is incorporated

11 verbatim into the rules for the Committee on the Judiciary with rule 11.

12 Our questioning will proceed in rounds. The majority will ask questions first for

13 1 hour, and the minority will have an opportunity to ask questions for an equal period of

14 time, if they choose. There will be one staff counsel per side asking the questions.

15 To the extent any members attend the deposition today and have questions for

16 the witness, they will be propounded during their side's respective rounds. The clock

17 will stop if the witness needs to confer with counsel, when counsel for the witness is

18 speaking, and when members are speaking during the opposite side's round. We will

19 alternate back and forth until there are no more questions and the deposition is over.

20 We ordinarily take a break at the end of each hour, but if you would like to take a

21 break apart from that, just let us know.

22 As you can see, there is an official court reporter taking down everything we say to

23 make a written record so we ask that you give verbal responses to all questions. Do you

24 understand that?

25 The Witness. I do.

1 [redacted]. So the court reporter can take down a clear record, please try and
2 speak clearly so they can understand and so the people at the end of the table can hear
3 you as well. It is important that we do not talk over one another or interrupt each other
4 if we can help it and that goes for everybody present at today's deposition. We want
5 you to answer our questions in a complete and truthful manner. If you do not
6 understand one of our questions or need clarification about what we are asking, please
7 just let us know.
8 If you do not know the answer to a question or do not remember, please tell us
9 what you do know and remember. It is okay to tell us if you learned information from
10 someone else, just indicate how you came to know the information. If there are things
11 you do not know or cannot remember, just say so and please inform us who, to the best
12 of your knowledge, might be able to provide a more complete answer to that question.
13 By law, you are required to answer questions from Congress truthfully. Do you
14 understand that?
15 The Witness. I do.
16 [redacted]. This also applies to questions posed by congressional staff in a
17 deposition. Do you understand that?
18 The Witness. I do.
19 [redacted]. Witnesses that knowingly provide false testimony could be subject
20 to criminal prosecution for perjury. This includes, for example, stating that you do not
21 recall or remember something when in fact you do. Do you understand that?
22 The Witness. I do.
23 [redacted]. Furthermore, you cannot tell half-truths or exclude information
24 necessary to make statements accurate. You are required to provide all information
25 that would make your response truthful. A deliberate failure to disclose information can

1 constitute a false statement. Do you understand this?

2 The Witness. I do, yes.

3 [redacted]. Is there any reason you are unable to provide truthful answers to

4 today's questions?

5 The Witness. No.

6 [redacted]. The Federal Rules of Evidence, Criminal, and Civil Procedure are not

7 applicable for today's deposition. Under the House deposition regulations, a witness'

8 attorney may not instruct a witness to refuse to answer a question except to preserve a

9 privilege. The House recognizes constitutionally based privileges and not necessarily

10 those privileges derived from common law.

11 Finally, I will make note for everyone here today that the content of what we

12 discuss is confidential under the House deposition regulations. Under the rules, the

13 chairman and ranking minority member will consult before any release of testimony or

14 transcript, including portions thereof. This means it is a violation of House and

15 committee rules to disclose content of the deposition prior to its official release. For

16 this reason, the marked exhibits that we will use today will remain with the court

17 reporters so they can go in the official record. And any copies of those exhibits will be

18 returned to us when we wrap up.

19 Before we begin the first round of questions, we'll afford the minority, the

20 witness, and your counsel the opportunity to offer any preliminary remarks.

21 [redacted]?

22 [redacted]. We thank the witness for joining us today.

23 And I do just want to just note that this is being video-recorded. The minority is

24 not generally afforded access to the video. We are -- if majority releases

25 something -- we are usually given 24 hours in advance since that's happened on three

occasions. For the 120-some depositions and transcribed interviews that have taken place we were not given the video we have to [inaudible] majority might intend to do with that. We have been denied -- provided access with the transcripts, but I note that, for the vast majority of the 120 transcripts that have been taken to date, 130 at this point, they've not been publicly released. So I just want to make that note for the record we have concerns about transparency of the handling of the deposition transcribed interviews for the 118th Congress.

[redacted]. Mr. Berger or Mr. Clark?

Mr. Berger. We have no comment. We're ready to commence?

[redacted]. The court reporter will now swear the witness in.

The Reporter. Do you swear or affirm that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth, so help you God?

The Witness. I do.

[redacted]. The clock now reads 10:05 a.m. We will start the first hour of questioning.

EXAMINATION

[redacted]:

Q Mr. Clark, I want to talk to you about your professional background and tenure at the FBI to start off with. When did you first join the Federal Bureau of Investigation?

A As a -- in January 1996, I entered the FBI as an accounting budget analyst for the Finance Division.

Q Okay. And when did you leave the FBI?

A I left -- I retired in August 2023.

Q Okay.

1 A Yeah, 2023.

2 Q And are you currently employed?

3 A I am. I just want to correct one thing. In January 1999, I became a special

4 agent with the FBI.

5 Q Okay. And can you walk us through the various positions you held at the

6 FBI?

7 A Sure. I spent the first about 3 years as an accounting analyst. Went to

8 school, got my masters at GW, and then became -- became an agent in 19 -- in January

9 '99. I went to the academy, graduated in April of 1999. My first office was in New

10 York. After maybe 6, 8 months of some training and some aspects of being on

11 surveillance squads and things like that, I was assigned to the Joint Terrorism Task Force,

12 probably sometime in the fall of '99, somewhere around there, maybe December. First

13 case, yeah, probably around December. And then I remained on the JTTF until

14 approximately late fall 2007.

15 I took a job at Headquarters. In 2006, I took a job for 18 months at Headquarters

16 as a supervisor detailed to the DHS, Domestic Nuclear Detection Office, because I have an

17 a explosives background. So some things there as well. And then went back to New

18 York, maybe for a few months, and then took a permanent position, a supervisory

19 position down at Headquarters. I was detailed to the CIA working counterterrorism and

20 WMD.

21 And, about 2011, in -- I think it was 2011, fallish, I decided -- didn't want to be a

22 unit chief. I was acting as a unit chief there. I wanted to work cases again. I stepped

23 down. We are allowed -- we are afforded that opportunity in the Bureau. And, for the

24 next 10 years -- I stepped down the Washington Field Office. For the next 10 years, I

25 worked on the Violent Crimes Against Children Squad, working prostitution, human

1 trafficking, internet crimes, things like that, missing children. I was a missing children
2 coordinator for D.C. for many years here so.
3 In the summer of 2021, I was deciding about retirement. I had some colleagues
4 say -- were pushing me back to Headquarters my last 2 years. And I decided to take a
5 TDY, a 90-day TDY to Security Division. I believe I got there August 1st, 2021. So, for
6 the next 90 days, I was a WFO agent that was afforded 90 days to kind of try it out, right?
7 See if I liked it, see if I could do the commute. I was a single parent of three, three
8 children. I had primary custody of my children. So I wanted make sure I could do the
9 commute and do the hours.
10 So I could. I really enjoyed the position. I was working in the Clearance
11 Investigation Unit. I think at the time was called AIU. And I think, after about maybe
12 30 to 45 days, I decided to put in for the permanent position. And so I departed
13 somewhere around November -- well, I had 90 days so it had to be I guess
14 count -- August, September -- somewhere beginning in November, I went back to the
15 Washington Field Office. I had to clean some of my cases up being on the squad for
16 10 years. And I returned I believe somewhere around two pay periods, maybe three.
17 Similar time, Novemberish, December, I came back to SecD CIU, Clearance Investigations
18 Unit, where I became a permanent 14, GS-14. And then I stayed there through
19 retirement.
20 In March of -- approximately March -- I think it was March -- end of March,
21 beginning of March 2023, I became the acting unit chief; never took the permanent unit
22 chief position. So, most of my time at SecD, I was a 14 supervisor reporting to a unit
23 chief.
24 Q Okay. And, so just kind of drilling down on your tenure at the Security
25 Division, when did you become a supervisory special agent with the -- was it the CIU? Is

1 that correct?

2 A Correct.

3 Q The Clearance Investigative Unit?

4 A So I will just break it up twice for you. I was acting -- as some my

5 colleagues down here would know, I was acting for 90 days, basically an A in front of the

6 SSA, right, but I was still a WFO agent; I was still getting paid as a grade 13.

7 Q Okay.

8 A But I was afforded the acting role in my TDY role. But I became a

9 permanent supervisor, 14 in SecD CIU. Again, it was AIU at the time, but it became CIU.

10 I want to say it was somewhere around December 2021; could have been the end of

11 November, but it was somewhere around the first week of Decemberish 2021.

12 Q And you stayed in that role then until March 2023 when you became the

13 acting unit chief?

14 A That is correct.

15 Q And that would have been the acting unit chief of the CIU; is that correct?

16 A That is correct, yes.

17 Q So I kind of just want to talk about the organizational structure of the

18 Security Division. So it is our understanding that the Security Division is within the

19 Human Resources Branch. Does that comport with your understanding?

20 A It's its own division, but it falls under the Human Resources EAD.

21 Q Okay.

22 A So there is EAD that's the SPM, which is the -- when I was there, it changed a

23 little bit, but I know Jen Moore was the EAD at one point for a short time. She was head

24 of Human Resources, as well as Security Division. So Security Division is its own division.

25 Q And, within the Security Division, there are different sections. Is that

1 correct?

2 A There are, yes.

3 Q There's a Physical Security Section, a Personal Security Section, and a

4 Security, Integrity, and Investigation Section. Is that correct?

5 A So, without having an org chart in front of me, that sounds correct.

6 Q Okay. And the Security, Integrity, and Investigation Section is abbreviated

7 SIIS?

8 A Correct.

9 Q Is that correct?

10 A Yes.

11 Q So that's what we'll probably use today is SIIS.

12 A Yes.

13 Q And so then, within the SIIS, there are different units, and one of those units

14 is the Clearance Investigation Unit. Is that correct?

15 A That is correct.

16 Q Some of the other units within there is the Clearance Referral and Evaluation

17 Unit. Is that correct?

18 A That's correct.

19 Q And does that unit handle kind of the intake of any complaints that come in

20 about onboard employees or new employees? What can you tell us about that?

21 A Yeah, I mean, that's -- that's really a quick summary of what they do. They

22 evaluate, right? It's CREU, C-R-E-U, so it is Clearance Referral Evaluation Unit. So they

23 get referrals from everywhere, right? We can talk for that as well, but however the

24 cases come in. And then they have to evaluate. They evaluate it independently from

25 CIU and others. And they make the determination whether or not they are going to

1 open an investigation, which would come over to the CIU.

2 Q Okay. And, within the CIU, it's our understanding that there are several

3 different SSA supervisory special agents that are in charge of teams of investigators. Is

4 that correct?

5 A It evolved.

6 Q Okay. Tell us how it evolved.

7 A When I first got over there as a TDY agent -- again, I don't know exactly when

8 it occurred, but it was somewhere probably -- there was discussion when I was over there

9 as a TDY agent, but there was somewhere maybe in the beginning of 2022, there

10 was -- AIU was one unit when I was over there. It was the intake -- so all these 3 units

11 that you talked about, CREU, CIU and then CAU, which is the Clearance Adjudication Unit,

12 they were all one; they are under AIU. So, when I was there, they split it to three.

13 When they split, we didn't have enough SSAs. So, at one point, I was the only

14 SSA over there for the entire unit, reporting to Mike Smith, who was the unit chief. At

15 some point, I don't recall when, but there was one or two other SSAs that appeared. I

16 want to say sometime maybe March, April, May, sometime around there in 2022. But

17 there was a 4- or 5-month period that I was probably one of the only SSAs or the only SSA

18 there.

19 Q Okay. And how was the work divided after the other SSAs came on? Can

20 you tell us about that?

21 A Yeah. So, when we started coming up with, when we got two other SSAs

22 including myself, we divided it by region.

23 Q Okay.

24 A Northeast, Midwest, and then West.

25 Q Okay. And were you in charge of a specific region?

1 A Yeah, we had somebody come from New Haven. So he wanted the
2 Northeast.
3 Q Okay.
4 A So I just took the Midwest.
5 Q And so then, going back to the other units that are within the SIIS, as you
6 said the Clearance Adjudication Unit, and so what does that unit do to your
7 understanding?
8 A So, after the investigation in CIU is completed, we send the case over to CIU
9 for a continued evaluation, basically an audit almost; they'll review it. And they will do
10 final recommendation to executive management whether there's going to be a
11 revocation of that person's clearance, the person's going to get a letter of warning, or the
12 person is going to get reinstated if they were suspended by -- so there's different -- but
13 they had -- the CIU has basically final say on the outcome of the person's security case.
14 The only recommendation that CIU where I sit or where I sat was we could only suspend
15 somebody's clearance; otherwise, we recommend foreclosing, or sometimes we send
16 over to CIU, and they would evaluate whether that person should get a letter or not. So
17 CAU is basically the final stop.
18 Q Okay. And I just want to make sure I understand your testimony. So, at
19 one point, it was called the AIU? Is that correct? The CIU was called the AIU?
20 A The AIU was considered actually all three units.
21 Q Okay. And so, when you worked for the AIU, were you in charge or
22 involved in all three steps --
23 A No.
24 Q -- when it was broken down?
25 Okay. What can you tell us about --

1 A Yeah.
2 Q -- what your role was when --
3 A It was a --
4 Q -- what can you tell us about what your role was when it was just the AIU?
5 A It was still the investigations. It was one unit, but people had clear roles
6 and responsibilities. So I think it was a natural progression when they broke it up to
7 three.
8 Q Okay.
9 A It was pretty easy as far as what people's roles were.
10 Q Okay. Just to briefly going through the organizational chart, I know you had
11 mentioned that, at one point, the executive assistant director of the Human Resources
12 Branch in the Security Division was Ms. Jennifer Moore. Is that correct?
13 A That's correct.
14 Q And then was there an assistant director?
15 A Yeah, was it -- so, when I got there -- I think I arrived when Mr. Beidler was
16 the AD. I'm trying to think if he was there the whole time. I just remember Mr.
17 Beidler. I think Jen Moore was the AD when I first arrived actually as the TDY because
18 she approved my TDY, within weeks or months a short time she became the EAD.
19 Q Okay. And then was there a deputy assistant director that would have
20 been under Mr. Beidler?
21 A For a long period of time, again, I don't know the time period it would be at;
22 I would have to think back. But, for a long period of time, it was -- the section chief was
23 Jeff Veltri. He became the acting deputy assistant director, DAD, under Beidler. So
24 Beidler was the actual DAD.
25 Q Okay?

1 A And Jen Moore was the AD. When Jen Moore moved up to EAD, Beidler
2 moved up, and then Jeff moved up. And then Dena Perkins, who was the assistant
3 section chief, moved up to section chief -- acting.
4 Q Okay.
5 A So there was a lot of acting for quite some time.
6 Q Okay. And then, underneath of the section chief and assistant section
7 chief, there would have been a unit chief for the CIU specifically?
8 A Correct.
9 Q And then the supervisory special agents would have been under the unit
10 chief. Is that correct?
11 A That is correct. So, yeah, I think we were just missing the assistant section
12 chief for a while. There was nobody in that role.
13 Q Okay. And, when you were a supervisory special agent, did you supervise a
14 team of investigators, or how did that work? Did anyone report directly to you?
15 A So, like I said before -- and, again, I don't know exactly the timeframe,
16 whether it was 3 months, 4 months, 5 months, but there was a time I was the only SSA
17 there. So everyone reported basically to me. I know Mike Smith -- because we were
18 so short-handed. I mean, I don't know how many cases CIU would have open at one
19 time, but I would say hundreds, right? Just handling that from one person. I mean, all
20 the people would have to come through me, right? So Mike Smith as a unit chief kind of
21 jumped in a little bit and wore two hats. He kind of was an SSA as well at times. I just
22 couldn't handle all the cases as a single SSA. So I'm sorry; your question was?
23 Q No, that's okay. So, when you were the SSA and you were just the only SSA
24 there, how many FBI personnel reported directly to you?
25 A We had a lot of turnover, because we had contractors. We had RSPs,

1 which were basically retired FBI agents that we knew hired on. A little bit of a stab in
2 the dark here, I think it varied probably anywhere between 12 to 18.
3 Q Okay.
4 A And we had a couple folks that were in the field as well at some point, some
5 RSPs that worked out of field offices. So somewhere around there -- don't -- 12 to 18 I
6 would say somewhere, but it swung because there was -- sometimes we'd lose like two or
7 three contractors within 3 weeks.
8 Q Okay.
9 A And then it would take time to get them on board so -- but, yeah, they all
10 kind of fell under me. But, again, some of them went, depending upon the case, went
11 directly to Mike Smith, just because of the volume.
12 Q Then, when additional SSAs came on board, how many employees reported
13 to you? Did that change from 12 to 18? Did that go down?
14 A Most definitely, most definitely. It became more normalized, more
15 manageable. Anywhere between four to six people.
16 Q Four to six people?
17 A Yeah, much more manageable.
18 Q And you said that, on this team of 12 to 18 that then went from 4 to 6, there
19 were RSPs and contractors?
20 A Correct.
21 Q What's the role of an RSP?
22 A Same as a contractor. Basically they were investigators, just like they did in
23 the field during their careers. They would be assigned a case, and we actually
24 implemented eventually like file reviews. So, every 90 days, we'd review their cases and
25 have discussions with them, but they basically were investigators. They were the line

1 investigators.

2 Q Okay. And they were retired annuitants that were hired back on, is that --

3 A The RSPs, yes.

4 Q Okay.

5 A And the contractors were a mixed bag. They came from other Federal

6 agencies, from Pentagon to HSI to DEA maybe -- yeah DEA, ATF, pretty much all of them,

7 the Secret Service, yeah.

8 Q And, similar to the RSPs, would the contractors be involved in the

9 investigative piece?

10 A Oh, yeah, they would. Besides their background and where they came

11 from, they pretty much were treated the same way as far as investigators; it was their

12 case.

13 Q And, in addition that the RSPs and the contractors, were there special agents

14 or analysts that were detailed to your team?

15 A No, I wish. We had no analytical support.

16 Q So was it just RSPs and contractors?

17 A Correct.

18 Q Okay. So then, when you became acting unit chief, how many people

19 directly reported to you?

20 A It would have been the whole unit at that time so, again, roughly speaking

21 15, 16 people or maybe 20 people, somewhere around that range. I don't know exactly,

22 you know, people leaving and coming but somewhere around that range. There would

23 have been two or three in the field and then just the three, the three regions would fall

24 under me so, roughly speaking, 18 people maybe.

25 Q Okay. So, when you were an SSA, after the CREU --

1 A I'm sorry; I apologize. And then the SSAs would fall under me as well.
2 Q Okay?
3 A So we would have two at that time, and then we got a third, but one of them
4 left. So really two SSAs and then RSPs and contractors. So sorry about that.
5 Q That's okay. When you were an SSA, after CREU would evaluate the initial
6 complaint to determine whether there needed to be an investigation conducted or not,
7 then that complaint would come over to the CIU. Is that correct?
8 A It would come over as an open case.
9 Q Open case to the CIU?
10 A Correct.
11 Q And then would it be assigned to you when you were the only SSA but then
12 to the different SSAs according to the region?
13 A Yes, exactly right, correct.
14 Q Okay. And then, after it was assigned to you or your team, what types of
15 investigative steps would your team conduct?
16 A Just clarify one thing, when I became acting unit chief, I asked them to -- so
17 they were doing that; they were assigning it to the SSAs on the team.
18 Q Okay.
19 A But, when I became the acting unit chief, I asked them to change that to
20 assign them to me, and I would assign them out to the teams.
21 Q Okay.
22 A Only because I would be asked questions about cases I didn't even know
23 they were coming in. I didn't know they were assigned to the unit. So I wanted to kind
24 of have first peek at what was there.
25 Q Okay.

1 A And then, when I was asked by executive management or when I got called
2 about a case, so at least I was familiar with it, or at least it was there. So I kind of
3 changed it up a little bit, but you're correct on your assessment.
4 Q And, throughout the open investigation, what type of investigative steps
5 would your team take to evaluate a complaint?
6 A It is hard to generalize because every case was different, right? But I would
7 always have them evaluate whether or not, for instance -- so some things took a lot
8 longer to get, like something called ESOC data, enterprise. Gosh, operation groups,
9 enterprise -- basically it was like information that insider threat -- ESOC became insider
10 threat, would collect like user activity data, logs, access to cases, emails. We have an
11 internal messaging so we get all of that. So, depending upon the case, I would say,
12 order requests, all of that stuff, sooner than later because that stuff would take some
13 time if it was a high-priority case, weeks to months. That would be something that I
14 would ask the investigators to look at and immediately evaluate, what's some of the
15 things. Again, it depends on the case, but we might look for training records, request
16 training records. We may start conducting interviews. One of the basic things for
17 investigation is you always want to contact the complainant, if there is a complainant,
18 right, you know, get a feel, who is this person? Is this information real? Obviously,
19 what's written on paper is not always either accurate or the full picture. So the basic
20 investigative steps would initially be taken.
21 Have a conversation with their SSA. Sometimes I would tell the SSAs or when I
22 was an SSA, I would give some guidance, not on all the cases because we -- but some of
23 the ones that would perforate to the top and some of the ones that were being discussed
24 by management. Some of the ones that would come in and say, "Hey, you need to take
25 a look at this this morning." So, I mean, I can go over more investigative steps, if you

1 want.

2 Q That's good, it gives us a good enough flavor of what went on.

3 So, as the CIU was investigating the allegations that had come in, could an

4 individual's security clearance be suspended during pendency of the investigation?

5 A Yes, absolutely.

6 Q And what factors would go into determining whether an individual's

7 clearance should be suspended while the investigation was ongoing?

8 A Is this person's actions a risk to national security, right? Can this person

9 hold a clearance, you know? Again, a little bit of a general question, without knowing

10 specifically about that case -- every case was different, but evaluating the whole person

11 concept, right from the CFR adjudicative guidelines of, what is this person alleged to have

12 done? What are the facts? What are we basing the suspension on? Does it hold up

13 to legal sufficiency, right? We would not -- so, in CIU, myself and other investigators, we

14 would not make this judgment call on our own. We would have OGC, general counsel,

15 and executive management also reviewing and weighing in whether or not legal

16 sufficiency occurred. So we were fact collectors, right? And we would brief cases on a

17 weekly basis, and some of them couldn't wait the week because they were so -- right, so

18 obvious that this person was a concern to national security. But, really, can this person

19 hold a clearance? Are they safeguarding national secrets, protected information?

20 What is the risk to the organization? What is the risk to the USG?

21 Q Okay. I want to talk a little bit about the decisionmaking process, who all

22 was involved. I know you mentioned OGC and executive management. So who all

23 would need to sign off, if you will, on whether or not an employee's clearance should be

24 suspended during the pendency of the investigation?

25 A Lots of people. So, if everyone was in the office, right, basically it would

1 be -- the investigator would sign off -- so there's two things. For a suspension, you're
2 talking about a clearance action?
3 Q Correct. Just a suspension during -- while you're still investigating?
4 A Okay. So it would be the process would go -- the investigator would draft
5 up the EC, the electronic communication, with all the background and a letter, right, with,
6 say, for instance, if Jen Moore was our EAD at the time -- I think it changed but, but
7 whoever is our EAD, the SPM who handled the signing of the suspensions. So it would
8 go from investigator to the SSA or ISAC to the unit chief, where I would sit for 5 months
9 later on, to the assistant section chief, to the section chief, OGC, DAD, AD, EAD. So, for
10 instance, at any given point, if I was either the SSA or the acting unit chief, I either had six
11 or seven signatures above me.
12 Q Okay.
13 A I would be, like, the second signature.
14 Q Okay. And, if the investigator during their preliminary investigative steps
15 determined that the security clearance shouldn't be suspended during the pendency of
16 the investigation, was there any sort of ability for anyone above that investigator to
17 overrule that decision?
18 A So, if the investigator determined that they should not be suspended?
19 Q Correct. If their clearance should not be suspended during --
20 A Because somebody overruled them above?
21 Q Correct.
22 A Yes, of course. We all have a chain of command, right. So the reason why
23 we have chain of command is that people who are higher can make judgment decisions,
24 right, based off of facts or whatever they know. But, yes, of course that can happen.
25 Q And how would that occur? Was the investigator briefing his cases to you

1 or to the section chief, unit chief? How did that occur, if there was an instance where
2 the investigator needed to be overruled?
3 A If the investigator needed to be overruled. Yeah, we would have meetings.
4 So I was big on using words like "articulate why you feel this way." I did this with one of
5 our SSAs, [redacted] He had issues all the time trying to figure out how to
6 articulate. He just didn't want to work cases or whatnot. I was, like, "Okay, articulate,
7 let's go in and talk to, like, Dena Perkins, who was the assistant section chief at the time,
8 who has an open-door policy, and let's explain what you found and whatnot." But he
9 had trouble articulating things for whatever reason.
10 But what are the facts? Why are you basing this decision off of your belief
11 or -- so yeah, I mean, it's like any time we would do investigations across my entire
12 28 -- almost 28 years with the FBI, it happened -- not even SecD; it happened everywhere,
13 right? Criminal Investigations, Counterterrorism Investigations. You would
14 have -- where are we? What do we have? What are you looking at? Let me see it.
15 That kind of thing. So I don't know if that answers your question. It is hard to talk
16 generalities a little bit.
17 Q I understand.
18 A I'm trying to answer your question, but if you could be a little more specific,
19 but, in reality, myself or an investigator or management, they are not always right. They
20 may not have all the facts, all right? So, sometimes, executive management doesn't
21 have all the facts. Sometimes, we don't have all the facts, because the executive
22 managers were talking to SACs. So sometimes getting together would help iron that
23 out.
24 Q Okay. And then, after the CIU was done with its investigation, then would
25 the case go to the CAU?

1 A It depends.

2 Q Okay.

3 A There were some cases -- again, I can probably give you a bunch of different
4 examples, but I'm going to give you one example. If we determined the initial allegation
5 was not correct, proven wrong -- like, for instance, I think we had a case one time
6 general -- generally speaking, that we had a case come in and looked bad. It looked like
7 an ASOC or somebody was gambling, right, online gambling or whatever or something.
8 It turned out, when we actually talked to him, I think he had has identity stolen or
9 something to that effect. Again, don't quote me exactly on the facts. And all our
10 checks were coming back that there was no issues with this individual, and it was just a
11 mistaken identity. So, if we were able to prove the allegations were not correct, we
12 would have -- I would go and speak to or Mike Smith would go speak to, as unit chief,
13 Dena Perkins, who was section chief -- acting DAD, and say, "Hey, we would like to close
14 this case based off of this. And they would usually, they would for the most part say, if
15 they didn't agree right then and then, they would say, "Hey, could you guys do a few
16 more things? Could you reach out and maybe talk to the CSO? Maybe there is
17 something that -- in this call about this person and in the field office has never been
18 documented." Or, "Hey, I'm looking through the file, and I just feel like a couple more
19 things need to be done before we make that decision," right? Or some things are so
20 obvious. So what I'm saying is sometimes we wouldn't send it over to CIU; we would
21 sometimes direct close it because the allegation was just proven opposite, right?

22 We also were worked polygraph cases. So those didn't go over to CIU as well.
23 Polygraph cases had different three digit three Alpha number. I think it was -- gosh, I
24 can't recall; was it 350E (ph)? I don't -- it's been a while. If somebody passed their
25 poly, right -- and we were there, we were there to help them get through their poly. We

1 would do the interview prior to the polygraph. The polygraph would be tomorrow.
2 We'd interviewed them and say, "Hey, what's going on with you? Tell us what's going
3 on. We see that you might have had trouble on your last poly related to alcohol or
4 whatever." "Yeah, you know, I drink a little too much when" -- "All right, tell us about
5 that," you know. We'd try to get them through it, and then the next day they'd have a
6 poly. If they passed that poly and we did certain background, we pulled maybe their
7 financials or something, and nothing was in their background, we would direct close that,
8 right? It wouldn't -- we wouldn't continue the investigation. Right.
9 Q Okay.
10 A And the reason why we got poly cases is I think two or more inconclusives or
11 if somebody failed a poly, it came to us automatically. So I should have said that earlier.
12 So we have polygraph cases, and then we have the investigations to allegations that
13 probably we're here more to talk about.
14 Q So, when the case would go to the CAU, would your team make any sort of
15 recommendation to the CAU, or did they independently evaluate the investigation and
16 what the investigation had concluded?
17 A It was supposed to be independent.
18 Q Okay. So no recommendation was given to the CAU?
19 A I mean, sometimes the CAU folks would come over and, you know, and ask
20 us about the case, "Hey, can you give us a little background on it?" But really it was up
21 to them to evaluate serial by serial. And sometimes they'd come back and say, "Hey,
22 can you guys" -- and this changed a little bit when I was there, but at one point, I think
23 some of the CIU folks would do the interviews. They saw maybe, hey, this person
24 should be interviewed; they would do the interview. But that changed. So, if they
25 determined, like, if certain things they thought were missing -- "Hey, I wish you guys

1 interviewed the partner of the, you know, subject employee. Can you guys go
2 back" -- and it would get reassigned back to us.
3 Q Okay.
4 A So they would kind of do like a file review and, you know, and determine
5 whether or not they had the four corners of the case, and they could make the
6 recommendation to management. So, yes, it was supposed to be independent, but
7 sometimes a case would back because they felt like it might be a little incomplete, certain
8 things might have been missed. And we would do what they asked and then send it
9 back to them so --
10 Q Then the CAU would determine whether the individual's security clearance
11 should be revoked or reinstated if it had been suspended. Is that correct?
12 A Yes. If it was suspended by CIU, they would either determine whether it
13 should be, yes, reinstated or revoked, correct.
14 Q Okay.
15 A But they would also have also -- we didn't suspend -- there were cases, and I
16 don't know specifically, but say we sent a case over there, we didn't suspend, and they
17 determined something happened or, hey, this is enough for a revocation. So some cases
18 would go straight to revocation without even a suspension, but that would be CIU.
19 Q Okay.
20 A They would also cases that would go over there sometimes for their
21 evaluation would sometimes just maybe get a letter or nothing; they would just close it.
22 Q And, when thinking about the chain of command when the decision was
23 being signed off on for either the clearance being suspended or the clearance being
24 revoked or the clearance being reinstated, was there anyone in the chain of command
25 whose decision or thoughts on the matter were given more weight?

1 A In CAU?

2 Q In the CIU or the CAU?

3 A Okay, yeah. Yeah, so I really can only comment about CIU, right. I don't
4 want to get into CAU's business, because they also have a lot of meetings and things that I
5 was not a part of, right, because I was doing my cases. People with more weight -- I
6 mean, obviously, again, it is like a hierarchy DOD kind of thing, you know. I'm not going
7 to jump and go and speak to the AD unless I go through different layers. What
8 happened -- I mean, really stopping at Dena Perkins really was my stop.

9 Q Okay.

10 A I didn't have a lot of -- maybe "exposure" is the wrong word, I didn't have a
11 lot of one-on-ones or meetings with, like, Jeff Veltri or E.D. Beidler (ph) or Jen Moore, for
12 instance, about cases. It just didn't happen. My go-to was either Mike Smith, my unit
13 chief, or Dena Perkins, who was acting as a section chief.

14 Q Okay.

15 A It doesn't mean it didn't happen, but it was seldom.

16 Q Okay. And the Justice Department's Inspector General released a report
17 recently regarding kind of the timeline. It was mentioned in the report the timeline for
18 the investigations that were taking place. And the IG found that, in the last 5 years, 106
19 FBI employees had their clearances suspended for 6 months or longer, and the average
20 time between suspension and the decision to revoke or reinstate was approximately 17
21 months. Can you help us understand why it takes so long for the investigation to take
22 place?

23 A So a very good question. Again, I'll answer in maybe some examples, but
24 hard to say generally, right. I mean, again, each case is different, each case is different.
25 But I will say one of the things that I was frustrated when I was over there was the IG, the

1 IG itself. So if a case is being investigated by the IG, the Security Division basically we
2 may have a case, we may have a security action because we feel this person cannot be in
3 our space off the allegation or initial findings, but the agreement really is -- and this was
4 from I know -- well, this is hearsay; I believe it came down from Paul Abbate, the deputy
5 director a couple years back, was I think he had a meeting with Horowitz, and they ironed
6 it out. Because SecD, when I first got there, we were doing interviews; we were
7 conducting our investigations, determining whether or not this person was a threat to
8 national security within FBI space, and the IG did not like that because a couple of times
9 we got ahead of our skis a little bit with them.
10 Q Okay.
11 A We interviewed somebody that they were really upset that we might have
12 interviewed. So Horowitz and Abbate met, and it was ironed out. And, basically, from
13 that point on, we were told, SecD was told, if IG has an investigation or interest, we are
14 not allowed to conduct interviews. We can do maybe internal pulls of information like
15 ESOC data and things like that. We can't do anything overt. If it came to a security
16 action, the IG would be told, "Hey, we need to suspend this person; this is why."
17 Discussions higher, way higher above me, be ironed out and say, "Okay, IG says we can do
18 it." So -- but that's one delay because you -- for instance, we could have a case, a
19 security action, opened for 2, 3 years, and we can't do our investigative steps.
20 Another important thing is IG would not share their findings with us. That is
21 huge. So we would have somebody potentially suspended, somebody who had an open
22 investigation that couldn't get promoted. And they would ask for updates every once in
23 a while, and we couldn't tell them anything because the IG controlled that narrative,
24 controlled that timeline. So that was one thing. And that was really frustrating, from
25 my point, because, you know, you have a case for 15 months, 17 months, and you can't

1 do anything with it. How is the Security Division supposed -- not me, but how is Security
2 Division generally speaking, the FBI, how are they going do either a suspension or
3 recommendation or a revocation or continue their case or finish their case and do due
4 diligence in a timely manner when they can't investigate it, and they are not getting
5 reports from the IG?
6 Now, we did get a couple cases when I know maybe I brought it up to
7 management's attention by Veltri or Beidler would have the call over with the IG and say,
8 "Hey, we're going to go forward in a couple of weeks and interview this person because
9 we can't have them in our space and you guys have got to tell us what's going on," but
10 that was seldom.
11 Q Okay.
12 A But it was a little bit of a battle between the IG and the FBI. So that's just
13 one example of why things took years, and it frustrated me, and it wasn't fair to the
14 employee. So you'd have to ask the IG sometime, ask the IG why it takes so long.
15 Why else would it take long? It's hard to say. We talked about the three units,
16 right? Maybe it was a little bit of a delay of opening -- I'll say maybe 30 days, 40 days,
17 60 days, I don't know. Then it comes to us. Turnover, turnover was an issue,
18 personnel. I mean, one time I think we were down five or six contractors. When I first
19 got there, some of investigators had 80 cases assigned to them. How do you work
20 80 cases? 18, 18 to 20 was probably the most I would want to give to an investigator
21 that I know could handle it; maybe a little more depending upon the kind of cases they
22 were. If they are polygraph cases, it could take 25. But I think one guy had, like,
23 85 cases, and he'd tell me, "Okay, what cases do you want me to work on today?" So
24 that was a delay as well, unfair to the employee, but it was just the way it was. A lot of
25 people didn't want to come to the Security Division. They were scared off about

1 security, I guess.

2 Keeping contractors in D.C. for the pay was very difficult. A lot of them would

3 say this is not a retirement job; they worked harder here than they worked at their own

4 agency. Just a lot of reasons, a lot of reasons. And then, you know, internal

5 discussions and case loads for CAU. Some would go to CAU. I don't know what their

6 case load was. We could talk probably -- I'm sorry; we could talk much longer about

7 this. But I will say it is unfair to the employee how long it takes.

8 Q Okay.

9 A And I do feel bad about that, but you have look at each case and ask yourself

10 why.

11 Q And I know we have spoken briefly about some of the members of the

12 executive management in the Security Division. I specifically want to talk about Ms.

13 Dena Perkins. I understand that she was at one point the assistant section chief and

14 then became the acting section chief. Was she there the whole time that were you at

15 the Security Division?

16 A She was.

17 Q Okay. And, to your understanding, how long had she been the assistant

18 section chief?

19 A Maybe 2, 3 years before I got there.

20 Q Okay.

21 A It was rough. It was rough. But she was -- she had a lot of institutional

22 knowledge. She was there for a few years prior to me, yes.

23 Q And, to the best of your knowledge, when did she become the acting section

24 chief?

25 A Whenever, if you know this, I don't know, but Jen Moore, when she got

1 promoted to EAD from AD, everybody kind of moved up, except for the unit chief and
2 myself; we stayed where we were. We basically operated without an assistant section
3 chief for quite some time. I would say over a year, maybe longer.
4 Q Did she always keep the acting section chief title, or did she at some point
5 become section chief?
6 A No, no, she never became section chief because she didn't have ASAC field
7 time. She would not qualify as a section chief.
8 Q So she was always just acting section chief?
9 A Correct.
10 Q Did she ever move away from the acting section chief role while you were at
11 the Security Division before you retired in August of 2023?
12 A She did.
13 Q When did she leave, to the best of your knowledge?
14 A When did she -- I'm sorry, when did she -- I'm sorry; when did he she
15 become an acting section chief again or --
16 Q No. When did she leave as the acting section chief?
17 A So I retired in August 2023. I think it was only -- I think she's only been out
18 a few months.
19 Q Before you left?
20 A Oh, no, no, no. I apologize. She's -- only a few months ago from --
21 Q From today?
22 A -- from 2024.
23 Q Okay.
24 A Correct.
25 Q Okay. So she remained in Security Division after you retired. Is that

1 correct to say?

2 A Yeah. Matt Nagle (ph) came in and filled the section chief position, and

3 they had the DAD position filled, the AD position filled. So she went back to assistant

4 section chief --

5 Q Okay.

6 A Maybe a few months prior to me retiring. So I don't know when Matt

7 Nagle (ph) got there, but he became the section chief somewhere May, June, somewhere

8 around that time, 2023. Yeah.

9 Q Okay. And, as a supervisory special agent, how often would you interact

10 with Ms. Perkins?

11 A So that varied. When I was the only SSA over there for 4 months or so

12 before [redacted] came and [redacted] got shuffled back over to CIU,

13 maybe a few times a week, not too often. I definitely respected chain of command.

14 So, if Mike Smith, my unit chief, was there, I would go to Mike; I would defer to him.

15 Again, Mike also wore the SSA hat a little bit. So, depending upon his bandwidth,

16 whether he wanted me to go and brief Dena because I might have had a little more

17 factual knowledge about the case; it depends. But we would have some interactions,

18 but I wasn't -- I was never the type of person to run down to my boss' office, you know,

19 multiple times a day. I was more of a purpose person. If I had a reason to be in your

20 office, there was a reason. So maybe just a couple times a week and it was all

21 case-related or if Mike wasn't around so --

22 Q Okay.

23 A But that increased obviously when I became the assistant unit chief -- acting

24 unit chief in, like, March 2023.

25 Q And how often would you interact with Ms. Perkins when you became the

1 acting unit chief?

2 A Daily.

3 Q Okay. And were you located in the same office --

4 A Yes.

5 Q -- with Ms. Perkins?

6 A Yes, same office.

7 Q And how involved in the clearance investigation process was Ms. Perkins?

8 What was her role in the process?

9 A Her role, so she was assistant section chief and then, again, acting section

10 chief before that. But, yeah, she played a very important role. She was very smart,

11 very hard worker. She got probably one of the best memories I've known of anyone.

12 She could cite a case 3 years ago: "Hey, this is very similar to a case that we had 3 years

13 ago." Yeah, she was very involved. It seemed to me that a lot of people -- again, this is

14 more hearsay, I guess, but she seemed like a lot of people would call her as well from like

15 field offices and things like that, other divisions. She was a go-to person for CIS.

16 Q Okay.

17 [redacted]. I'll mark as exhibit No. 3, a letter that was sent on June 28th, 2024,

18 from Empower Oversight to Inspector General Michael Horowitz.

19 [Clark Exhibit No. 3

20 was marked for identification.]

21 [redacted]:

22 Q And this is a 20-page letter. I'm only going to refer to the first nine pages.

23 Please read as much or as little, but take sufficient time to review. And I'll point to the

24 specific pages in the letter when I refer to something.

25 Are you good?

1 A Yes, I'm ready.

2 Q And the letter contains whistleblower disclosures that was sent to the

3 inspector general as well, as to the committee as part of the committee's oversight work

4 we do, look into whistleblower disclosures that are sent to us. So I just want to ask

5 some questions about this. So, looking at page 3 -- the page numbers are on the bottom

6 right-hand side.

7 A Do you mind if get my glasses?

8 Q Absolutely, please take your time.

9 A Page 3.

10 Q Yes, page 3, and I'm looking at the first full paragraph. And I'll read it for

11 the record: "On his arrival in CIU, SSA client immediately recognized SecD was a toxic

12 work environment. Many SIIS employees had had conflicts with Perkins, first as ASC and

13 then as acting SC. And several had filed complaints against her."

14 So what I'm wondering is, when you were SSA and then acting unit chief, did

15 anyone ever come to you with concerns about Ms. Perkins?

16 A Hallway talk. I think people were more scared or intimidated by her

17 directness.

18 Q And what can you tell us about the hallway talk that you observed or

19 individuals came to you?

20 A Well, it evolved for me, right, because I didn't have a lot of involvement with

21 her in the beginning. So I think people were taken aback because she was a little direct.

22 She reminded me of when I was in New York or Counterterrorism for 13 years with the

23 FBI, a lot of direct bosses that I worked with. And, you know, it was -- she wanted to get

24 the information, and she wanted to get the job done. She wanted to hold people

25 accountable and responsible. And, you know, some people didn't like that.

1 Q And can you provide a little bit more clarity for us about what you mean by
2 "more direct"?
3 A She would hold people accountable. She would have something done, and
4 she would follow up on it. If you didn't do it in a certain period of time, she'd ask you
5 again. She might ask you why you didn't do it. She held people responsible for what
6 they -- she also was aware of what was going on in files. She was aware of who was
7 doing work, who wasn't doing work. You know, "Hey, why is this investigator pushing
8 out paper and doing interviews when these three other investigators, you know,
9 are -- they have 20 cases each, and they seem like they are not moving them?" So she
10 was very -- very aware of the workers and the nonworkers.
11 Q Okay.
12 A She didn't really have a high tolerance for nonworkers so -- neither did I.
13 Q The deputy assistant director, Jeffrey Veltri, how often did you interact with
14 Mr. Veltri as an acting unit chief?
15 A I don't know if it was weekly or biweekly. I can't remember now. We'd
16 have these meetings; top cases we'd brief the AD, the DAD. So, obviously, at least once
17 a week I'd meet with Veltri. It was more like a table like this, and I'm briefing my cases,
18 my top two cases. And I'm looking for guidance, or I'm letting them aware of the
19 findings, right, because they were aware of a case, how it came in. I'm briefing them on
20 my findings or the investigative findings. But very, very seldom did I ever have
21 one-on-one meetings with Jeff Veltri. Again, my go-to was Michael Smith and/or Dena
22 Perkins.
23 Q Okay. And then going --
24 A And he was on a different floor. So he was upstairs, and he was with the
25 executive level managers. So, even going to see him, you would have to go through his

1 secretary, and sometimes he was in there, or you'd have to make an appointment. So a
2 little more difficult.
3 Q And, going back to exhibit 3, the letter that you have in front of you, page
4 five.
5 A Yes.
6 Q Looking at the first full paragraph there as well, and I'll read the first
7 sentence into the record: "SSA client quickly discovered that Acting SC Perkins and
8 Acting DAD Veltri were often inappropriately involved in individual clearances case
9 throughout those cases' time in SIIS, from referrals to investigations to adjudications and
10 appeals."
11 What can you tell us about Mr. Veltri's involvement in the clearance investigative
12 process?
13 A They were all very involved. Even Mr. Beidler was involved. Michael
14 Smith was involved. I was involved. If you're going to do a clearance action, I would
15 hope everybody would be involved. I mean, you're affecting somebody's life. You're
16 affecting somebody's job. You are affecting their family. So, yeah, of course, they
17 were involved.
18 They weren't involved in the cases -- like the polygraph cases or the cases that
19 didn't rise to that occasion. But, when you're talking about a clearance action, you'd
20 want management to be involved, and they were involved, yes, yeah.
21 Q And, looking at that next sentence, it says, "Perkins and Veltri would
22 frequently make initial judgments about cases based on their own prejudices, then would
23 refuse to move from their first impressions regardless of what facts an investigation
24 uncovered." I'm just wondering when did get Mr. Veltri and Ms. Perkins get involved in
25 the investigation? Was it right from the start when it came in to CREU, or was it at CIU

1 or CAU? When did they get involved?

1

2 [10:58 a.m.]

3 The Witness. Depended on the case, depended on the priority of the case,

4 depended on the -- the ramifications of the case, like, how severe it was, right, the

5 allegations.

6 BY [redacted]:

7 Q Uh-huh.

8 A So -- but, yeah, they were -- they were involved at times, I would assume, at

9 the CREU level when the intake came in. They were aware of cases sometimes before

10 they even hit SecD, right? Whether inspection had the case, the IG, maybe -- I'm making

11 this up, but, you know, an SAC has an issue with an employee, or, you know, a guy is

12 pulled over for his third DWI. They're called about it before paper hits SecD. So they

13 were -- they were involved.

14 You know, I wouldn't necessarily get called, but, yes, the SAC would call his

15 counterparts, his equals, Dena or Jeff or Beidler. So there were times they were

16 involved or aware of cases that, you know, I was not aware of.

17 So, at the CREU level, they were involved at times, at the CIU level, as well as the

18 CAU level. So it just depended on the case.

19 Again, I don't -- I didn't sit with them, you know, daily, regularly, hourly. But they

20 were -- they were aware of the hot -- the hot button cases, definitely, and probably some

21 of the lower ones as well.

22 Q Okay. Moving on to the next paragraph on page 5, it says, "Acting SD

23 Perkins would often direct SIIS staff to take particular actions, such as making specific

24 edits to electronic communications, ECs, on suspension or revocation before they were

25 allowed to proceed up the chain to the executive assistant director for issuance, yet

1 Perkins never documented in the adjudicative file the decisions she made, including when
2 she overruled line SIIS staff."
3 So what's the role of the acting section chief or section chief in editing documents
4 or electronic communications before they're added to the investigative file or move up to
5 the EAD?
6 A So I just want to -- here it says adjudicative file the decisions, so I can't
7 comment about that. That seems like it's more focused. And I know who this
8 whistleblower is. He was working for me, and then he moved over to the CAU. If I can
9 say his name on the record, I don't know if that's something I can say.
10 But he was one of the worst agents I've ever worked for, to be honest with
11 you -- worked with. Very lazy and didn't have a very good reputation. I'll just say that
12 for the record.
13 Adjudicative file, I can't comment. He's probably commenting this when he was
14 over at CAU. But what I will say is, everybody had -- during that chain we talked about
15 before, investigator, SSA, unit chief, associate section chief, section chief, DAD, AD,
16 EAD -- I'm sorry -- and OGC, everybody had editing capability, and that frustrated a lot of
17 people. I was -- I just went with it.
18 But sometimes the editing process just from start to finish to get paper out was
19 very frustrating because it took so long, right? Either sat in someone's inbox or they
20 had, you know, 10 different changes 10 different times.
21 So I wouldn't -- I wouldn't read too much into this because, of course, Dena and
22 Jeff and Tasha Gibbs, who was our OGC attorney, Mr. Beidler edited. I edited a bunch.
23 There were some times I spent two days on editing.
24 You know, editing is different than changing substance, right? So I don't know if
25 that says that here. It says edits. So I'm just going to go off of edits. And it happened

1 all the time because, if you're changing somebody's life and it's going to be a discoverable
2 document, you better get it right.
3 So, as far as that, I don't see anything wrong with that. It happens to everybody
4 at this table. You can have peer review. You can have executive level review, and it
5 comes back, red ink. I'm dating myself saying red ink, but it comes back.
6 Q Looking at the next paragraph there -- I'm sorry, two more paragraphs down,
7 but I'm starting with, "The SSA client participated."
8 "The SSA client participated in many discussions in which it became clear that
9 Veltri's and Perkins' perspective was that, if an FBI employee fit a certain profile as a
10 political Conservative, they were viewed as security concerns and unworthy to work at
11 the FBI."
12 My question is, during your tenure as unit chief -- acting unit chief -- excuse
13 me -- or SSA, did any of your subordinates ever raise concerns to you about individuals
14 being targeted because of their political ideology?
15 A I would say from Washington Field -- so I will tell you, I was at January 6th.
16 I was a bomb technician. I took care of the DNC pipe bomb with the Capitol Police. I
17 was in the truck, took care of suspicious vehicles. I cleared the rooms of these buildings
18 in Congress that night. Okay? I was there that day.
19 And then I was assigned cases at J6. I was a crimes against children investigator.
20 We were all working J6 cases, okay?
21 Q Uh-huh.
22 A It was very political, wherever it was coming from. I don't know which way
23 it was coming from. But it seemed that the goalposts were constantly being changed on
24 who to go after and who not to go after; just saying, whether it was D.C., U.S. Attorney's
25 Office, AG, whatnot. I even pushed back on a case that we wanted me to arrest

1 somebody, and I refused to sign the affidavit when I was at WFO.

2 The reason why I say that is J6 -- January 6th, we all sit here and we understand

3 how political and how sensitive that day was. You have people calling it insurrections,

4 and you have other people calling it a riot. What is it? I don't know. I'm not here.

5 I'm very apolitical.

6 Mr. Berger. Could I just ask a question?

7 The Witness. Yeah.

8 Mr. Berger. I just want to make sure we get back to the focus of her question.

9 The Witness. Yep.

10 Mr. Berger. Let's focus on what this sentence says.

11 The Witness. Yep.

12 Mr. Berger. The client -- the allegation, according to this letter, the client

13 participated in many discussions in which it became clear to the client that Veltri and

14 Perkins' perspective was that, if an FBI employee fit a certain profile as a political

15 Conservative, they were viewed as security concerns and unworthy to work for the FBI.

16 That's the question you're asking.

17 She wants to know whether you're aware that -- whether Veltri or Perkins had

18 such a perspective. That's what the focus is.

19 The Witness. Right.

20 BY [redacted]:

21 Q Yeah. My question --

22 A As far as Dena Perkins, I would say my involvement with her, I did not see

23 that, no.

24 Q And my question was to whether any of your subordinates as SSA or an

25 acting unit chief, had they ever raised concerns about this to you?

1 A Yes.

2 Q And what can you tell us about those concerns?

3 A Again, that's why I was trying to --

4 Mr. Berger. Well, answer her question.

5 The Witness. I was trying to say that it's not just SecD. It was governmentwide

6 that there's concerns, right? I was just trying to throw that out there.

7 So there were discussions related to some of the January 6th cases that,

8 obviously --

9 Q Discussions from your subordinates to you? Sorry.

10 A Yeah, just -- or just, you know, peers evaluating the facts and whether the

11 facts fit a security guideline.

12 Q Okay. And we're right at --

13 A And I'm sorry I went a little too far beyond -- I just was trying to tell you

14 the perspective --

15 Mr. Berger. You've answered the question.

16 [redacted]. And we're right at an hour, so we'll go ahead and go off the record.

17 [Recess.]

18 [redacted]. It is 11:13. We can go back on the record. Thank you.

19 EXAMINATION

20 BY [redacted]:

21 Q Mr. Clark, thank you again for joining us. As I said at the beginning, I'm

22 [redacted]. I'm the Democrat's chief oversight counsel.

23 A Okay. Thank you.

24 Q I want to actually take a couple steps back. I know we walked through your

25 background at the beginning --

1 A Yeah.

2 Q -- kind of in a cursory fashion. I want to do that in a little more detail just to

3 get a better sense of your skills and your background and what you brought to the SecD

4 position that you kind of --

5 A Okay.

6 Q So you said that you joined the FBI in January -- or in 1996?

7 A Correct.

8 Q And then you became an agent in 1999?

9 A Correct.

10 Q Why did you decide to apply to become an agent?

11 A You know, I always wanted to be an agent up until I was 12 years old. So

12 what made me decide? Just various things in the course of life -- across life.

13 One of my roommates in college, his dad was an FBI agent, so got exposed to that.

14 And then was going to go to law school, took some classes at GW Law, and then turned

15 into a forensic science master's degree.

16 But I've always been interested in law. I've always been interested -- my first job

17 out of college I worked for the Manhattan's DA's office --

18 Q Okay.

19 A -- Robert Morgenthau. And just -- just was always very interested in -- I

20 can't really pin it on one thing.

21 Q Okay. So you went to Quantico, I guess, in 1999?

22 A Yes.

23 Q And graduated. And you said that you were then assigned to New York

24 City?

25 A Correct.

1 Q And you were assigned to the Joint Terrorism Task Force. Is that right?
2 A Yes. I mean, so, at first, we do a rotation. But, yeah, my first assignment
3 was on the Joint Terrorism Task Force working the Middle East.
4 Q And can you -- I don't want to get into anything classified or anything
5 sensitive.
6 A Right, right, right.
7 Q But, at a high level, can you tell us what you were doing?
8 A It changed up a little bit. My first case that I worked on was -- it's
9 not probably classified now, but it's the Canadian Connection case with Abdul Ressam
10 (ph) coming over the border. New York had pieces of that, people that were supporting,
11 facilitating him. So that was probably my real -- real bite -- bite of the apple there.
12 And then -- I want to say that was December of, was it '99 or -- yeah, I think somewhere
13 around that time.
14 And then worked different cases, like, related to Pakistan, Algeria, things like that.
15 And then 9/11 happened, obviously, and then I was pretty -- pretty much focused on
16 Pakistan, counterterrorism, international terrorism, Pakistan-related.
17 Q Okay. So, just to put this in context, in -- in September of 2011, were you
18 working counterterrorism in New York City?
19 A September 2001?
20 Q 2001. I'm sorry, 2001.
21 A Yeah, yeah. Yes, I was. I was assigned to a squad that was working
22 Pak-Afghan matters, as well as Northern -- Northern Africa.
23 Q Okay. And as you -- so did you work on the 9/11 cases?
24 A I did, yes.
25 Q And can you tell us anything about what you did with those cases?

1 A Yeah. I mean, so I say 9/11 cases. We all worked on 9/11 leads, right,
2 after 9/11 happened, obviously, being in New York City. The -- to say that I was on the
3 actual squad, the 9/11 squad, would not be accurate.
4 But I had -- I was working other groups, right, that were all associated with Middle
5 East terrorism, right? I don't want to name the groups here, but they were factions and
6 groups that were not linked to the -- well, actually, one guy was -- to the hijackers,
7 but -- so originally it was leads, and then I ended up opening a bunch of cases regarding
8 other organizations.
9 Q Okay. And then you said that in -- I might have gotten the timeline wrong
10 here -- in 2006, you transferred to Headquarters. Is that right?
11 A Yeah. That's about right. January 2006. So I had a case in New York
12 that lasted about 3 to 4 years; got the Attorney General's Award for it. I actually got two
13 Attorney General Awards.
14 Q Sorry. Not to interrupt you, but what is the Attorney General Award, just
15 for the record?
16 A It's the highest award awarded to an investigator. I had a case up in New
17 York between 2002 and 2006 before I transferred of a guy who became the number one
18 cooperator for counterterrorism in the Bureau. I was the lead agent on him. I
19 identified him. I arrested him, and he became a cooperator. For 4 months he -- it
20 wasn't exposed to the public that he was arrested because he was cooperating and giving
21 us information on people that were not even on law enforcement or foreign liaison radar.
22 So I worked that.
23 And then I was named counterterrorism New York agent of the year back in 2005,
24 and I got an Attorney General Award. And then I transferred down in 2006 to do an
25 18-month TDY to DHS Domestic Nuclear Detection Office.

1 Q And what is the DHS Domestic Nuclear Detection Office?

2 A It was a startup. I believe Cheney, the Vice President at the time, started

3 an office. He wanted a one-stop-shop, basically, of determining what the radiological

4 detection piece was to the United -- United States Government. You know, we had

5 FEMA, which was, like, you know, right or boom (ph), but there's nothing, like, left.

6 So I think he was kind of trying to figure out -- so he started up a small office, I was

7 interagency, and I was, like, one of three FBI agents that was over there.

8 Q How long -- was that a detail?

9 A It was a detail, yeah.

10 Q And how long did that detail last?

11 A 18 months.

12 Q And, after that detail, you returned back to FBI Headquarters?

13 A I went back to New York.

14 Q Back to New York, okay.

15 A Yeah, for a few months.

16 Q And what did you do in New York?

17 A I went back to the terrorism, JTTF, working Pakistan, counterterrorism.

18 Q And, after that, is that when you returned to the Washington Field Office?

19 A Yeah. It was a very short period of time. Because I knew I was going to

20 take -- my family was down here, and we determined -- we decided during that 18

21 months to stay down here.

22 Q Okay.

23 A So I reapplied -- I applied -- not reapplied -- applied for a job with the CIA as

24 a detailee over at Counterterrorism WMD.

25 Q And what did you do next?

1 A So, for the next 3 years, approximately 2007, 2008, to 2011-ish -- again, it's
2 somewhere around there. May have been the end of 2010. I think it was 2011 -- I
3 was -- I ended up being the lead detailee for the FBI over in the weapons of mass
4 destruction with the CIA.
5 I was working as a detailee over there. I was fully embedded with the CIA.
6 Obviously, you can imagine what we were doing, and I did that until I decided to leave
7 and go to Washington Field Office, step down as -- from a 14 to a 13, Grade 13.
8 Q And why did you decide to step down?
9 A I did about -- that point about 13 years in counterterrorism-ish, give or take.
10 And, even though I arrested people and we were -- I was involved in really high-level
11 cases where I was the lead agent, doing some really sensitive techniques and things like
12 that and traveling the world, working with liaison, I just felt like -- I felt like there was an
13 emptiness in my career, that I wanted to do something like crimes against children.
14 Hate to say this, but put handcuffs -- use my handcuffs and -- and do some violent crime.
15 Get inside of a courtroom, put cases together, get a lot of counterterrorism cases. You
16 know, a lot of it was more like counter-intel, intelligence case collection. So I wanted to
17 kind of check that box.
18 Q And is it fair to say you kind of wanted to be on the ground?
19 A Yeah, that's very fair. And then -- yeah, that's very fair.
20 Q And you said that you were -- so you were assigned to the Washington Field
21 Office, right?
22 A Yes.
23 Q To the Violent Crimes Against Children section. Is that right?
24 A Yes. The squad, yes.
25 Q The squad, sorry.

1 And what -- what were your responsibilities there?

2 A I was an investigator. I was a 13 investigator, one of the senior people on

3 the squad at that point. I don't know exactly when, but somewhere around 2013, '14,

4 when I was named the kidnapping, missing child coordinator for the whole area of

5 responsibility. Actually, caught a case, I was the lead agent -- first agent out the door,

6 lead agent, led the case -- led the task force on a case called -- missing child named

7 Relisha Rudd. She was a missing kid out of D.C., still missing today, but worked that

8 case.

9 I was a missing child coordinator. And then worked mostly human trafficking,

10 child prostitution. Did some online stuff, but I was never online-certified.

11 Q And then, after that, you were assigned to SecD. Is that right?

12 A Correct.

13 Q Okay. And I think we talked through that in some level of detail. So I'm

14 not going to go through that -- through your assignments there.

15 But when did you retire from the FBI?

16 A End of August 2023.

17 Q So, between -- just doing the math, you spent a total of 27 years with the

18 FBI. Is that right?

19 A That's correct.

20 Q And, just holistically, the vast majority of your time with the Bureau was

21 spent protecting our country from terrorism, doing counterterrorism work, and then

22 protecting children. Is that right?

23 A That's correct.

24 Q Are you proud of your work that you did with the Bureau?

25 A Absolutely.

1 Q Why?

2 A Felt like it made a difference. I can point to victims that I made a difference

3 to, you know. It's the victims who you're looking at and the people that you put

4 behind -- in jail. You prosecute. You know you did the right thing at the end of the

5 day, protecting American -- American public.

6 Some of the counterterrorism cases, there are some very bad people that were

7 put away that didn't do harm to the United States. And also people that I put away, sex

8 offenders, hands-on offenders, CSAM producers.

9 Q I'm sorry. I hate to say this for the record, but CSAM is child sexual abuse

10 material, correct?

11 A Correct. They're not doing that anymore. There were a couple times I

12 identified a victim that the family didn't even know that person was a victim, so got them

13 help. So just got chills actually thinking about it. You know, a 13-year-old girl who was

14 abused at 9 years old; never told her parents or her parents didn't believe her.

15 Q You talked earlier that you received the Attorney General's Award, I think

16 you said, twice?

17 A Yeah. When I was on the Crimes Against Children squad, I also -- in 2015

18 and '16, I also got the Attorney General's Award.

19 Q And what was that award for?

20 A It was a special technique that our squad put together that was -- we were

21 using a special technique, sensitive technique that is being used now throughout all 56

22 field offices. We were the first field office that implemented it. And it literally took

23 hands-on offenders off the street.

24 Q And then you received the counterterrorism agent of the year award for

25 New York, correct?

1 A Yeah. I think it was the [inaudible] agent -- award, yeah, in 2005.

2 Q So you twice received the highest award that the department gives to

3 investigators, and you were named counterterrorism agent of the year for New York,

4 correct?

5 A That's correct.

6 Q Were there any other awards that you received?

7 A A bunch of U.S. Attorney awards, merit awards, things like that. Yeah.

8 Other awards, yes, from the attorney -- U.S. Attorney's Office.

9 Q Thank you. I want to move on. I want to return, actually, to what's been

10 marked as exhibit 3, which is the Empower Oversight letter. I think you still have that in

11 front of you.

12 A Yes, I do.

13 Q You were asked about -- there we go. You were asked about the

14 allegations in here about Ms. Perkins.

15 Do you recall that line of questioning in the earlier hour?

16 A Yes.

17 Q And you were asked specifically about the allegation about Ms. Perkins

18 being -- that she was not -- was not well-liked, for lack of a better word?

19 A Not well-liked, and I believe misunderstood.

20 Q Misunderstood, okay. And you used the phrase that she wanted to hold

21 people accountable.

22 A Yes.

23 Q Do you recall saying that?

24 A Yes.

25 Q And I want to just get clarity for the record on what you meant by that.

1 When you said she wanted to hold people accountable, you meant people in
2 section D; so her reports, correct?
3 A That's correct.
4 Q And can you explain again for the record what you meant by that?
5 A Yeah. I mean, so some -- some of the cases moved fast and quick and we
6 needed answers. For instance, I'll give you one example. One of the SSAs, [redacted]
7 [redacted] (ph), wasn't -- wasn't doing what Dena wanted for her to do, call different police
8 departments and get information related to why this guy had, like, 11 or 13 inquiries
9 related to ATF checks. There was -- there was an issue with this guy in an office making
10 people -- making threats and talked about weapons. And she said we need to talk -- we
11 did an offline NCIC check, and it didn't give any details. So you actually had to call the
12 police departments.
13 So she asked [redacted] and her team to do it. And the next day she asks me, as the
14 acting unit chief, if it was done, and I got to find out if it was done. And I find out [redacted]
15 called in sick. So Dena went really -- was really upset about this. Because you have a
16 field office that's concerned about an employee who is talking about weapons and
17 making threats or people felt threatened. I don't know if he was making threats. And
18 the SSA didn't do what she was supposed to do and hadn't even really started it.
19 So -- and you're talking about 24 hours later. So myself and the investigator had
20 to make those calls, and even Dena made the calls. She was calling the police
21 department. So things like that really would irk Dena. It would irk me as well.
22 So there was accountability, and some people had kind of a laissez-faire attitude
23 with it, like, "Yeah, I'll get that tomorrow." And, "No, it was asked for you to get to it
24 today." So she'd hold people responsible for that and accountable.
25 Q Do you think that Ms. Perkins put inappropriate pressure on staffers to get

1 things done?

2 A I can only say for me. I don't want to talk about others.

3 Q Understood.

4 A I came from a high pressure cooker in New York in counterterrorism, so I

5 have a high threshold. I didn't feel that with her. I felt it was my due diligence, and I

6 was going to give strong effort.

7 Did she have sometimes stress? She was stressed. She -- if I had 300 cases, she

8 had 700 cases. She was over the section; I was over a unit. I think sometimes she

9 wanted answers yesterday as opposed to today, but I didn't take it where she gave undue

10 pressure.

11 Q Right.

12 A I will say, subjectively, some people couldn't take that.

13 Q Just turning to the example you gave of wanting the calls to be made within

14 24 hours or wanting things to be done quickly, do you think it was inappropriate for her

15 to want investigative steps to be taken quickly or efficiently?

16 A No.

17 Q Why do you say that?

18 A Dena was very thorough. Again, she didn't intimidate me as far as her work

19 ethic. I think her work ethic -- as I said before, she's misunderstood. Her work

20 ethic -- she worked harder than -- I would put myself up against 95 percent people in

21 outworking. I couldn't outwork her. She was a worker.

22 And I think she pushed that off on people, and people -- some other people just

23 could not take that, so --

24 Q Looking specifically at wanting investigative steps to be taken efficiently, I

25 think you said in the earlier hour that, you know, people's lives are -- or people's jobs

1 were in the balance here or people's work ability was in the balance --

2 A Yes.

3 Q -- do you think that that was part of the reason that Ms. Perkins was

4 encouraging -- encouraging the SecD employees to work as efficiently as possible to do

5 these investigative steps in a timely manner?

6 A Yes. She also would err on the side of caution regarding national security.

7 That was a big thing with her. She would tell us all, you know, we -- we're all for this

8 security clearance, and -- but not everyone should have one because of the risks to the

9 organization. So she was concerned about that as well.

10 Q Looking at page 5, that first full paragraph that [redacted] read out to you,

11 the second sentence there, "Perkins and Veltri would frequently make initial judgments

12 about cases based on their own prejudices, then would refuse to move from their first

13 impressions regardless of what facts and investigation uncovered."

14 Looking at -- I just want to take that clause by clause. So that very first clause,

15 "Perkins and Veltri would frequently make initial judgments about cases based on their

16 own prejudices," is that consistent with your experience with Ms. Perkins?

17 A No.

18 Q Is that consistent with your experience with Mr. Veltri?

19 A Let me caveat, my -- my one-on-one with Veltri was very limited.

20 Q Okay. But, in the limited one-on-one that you had, did you experience

21 that?

22 A His prejudices. No. But he was a very convicted, strong-willed person,

23 which also, again, intimidated people. But he -- I never saw that personally.

24 Q You never witnessed him expressing prejudices?

25 A No.

1 Q And then the sentence continues that Perkins and Veltri would refuse to
2 move from their first impressions regardless of what facts and investigation uncovered.
3 Is that consistent with your experience with Ms. Perkins?
4 A So my specific experience, it's not. I can actually point to cases where she
5 asked me to get a suspension ready for somebody, I would ask her -- and same with Jeff.
6 Q Sorry. Jeff Veltri?
7 A Jeff Veltri. Apologize.
8 And the initial request for suspension paperwork to be drawn up off the allegation
9 that came in, I would ask them for -- and they respected my opinion. And I would ask
10 them for, hey, can you give me seven days, can you give me five days. I need to be a
11 factfinder. I need to do some interviews, I need to collect some data points, I need to
12 collect some facts.
13 And never did I -- for me -- I can't speak about anyone else, but never was I
14 involved in a case where I came back and said, hey, what came in -- and this is factual on
15 two cases. What came in isn't what happened. This is what happened. And we
16 didn't talk about suspension paperwork after that, so --
17 Q So, in other words, in at least two cases that you can recall sitting here
18 today, you presented the facts to Ms. Perkins?
19 A Ms. Perkins. And then one other with Ms. Perkins and Mr. Veltri.
20 Q And they did change their positions, or they did accept your
21 recommendation to not pursue the case?
22 A Correct.
23 Q Okay.
24 A Maybe three cases that I can think of right off the top of my head.
25 Q The second full paragraph on this page references Acting SC Perkins would

1 often direct SIIS staff to take particular actions, such as making specific edits to electronic
2 communications on suspension and revocation before they were allowed to proceed up
3 the chain to the executive assistant director for issuance?
4 A Yeah.
5 Q You noted in the earlier hour that these electronic communications went
6 through many rounds of editing?
7 A Yes.
8 Q In your opinion, was it concerning that they went through many rounds of
9 editing, or was that a good thing?
10 A That's the process. I don't make the process. That's the process when I
11 got there; that's the process that was -- and that's the way it was done.
12 Q Did you find anything inappropriate in Acting SC Perkins making edits or
13 directing staff to make edits?
14 A I made edits. I directed staff to make edits. It's appropriate. Never did I
15 see that I ever witnessed that facts were asked to be changed --
16 Q Okay.
17 A -- or documents, factual documents be changed. But edits are part of all
18 our lives. It happens.
19 Q And was -- the process that you referred to, is it fair to say that the editing
20 process was designed to make the electronic communication as accurate as possible?
21 A The case -- again, I'm talking specifically about me. I can't talk about
22 others. But ones I was involved in, yes.
23 I can't point to a case where I feel that I signed something where I felt like at the
24 time -- at the time that was factually incorrect because somebody above me changed it.
25 I wouldn't sign it.

1 And I point to what I gave before as an example. My lawyer is going to tell me to
2 stay on point here. But the Washington Field Office, I did not feel comfortable signing
3 an affidavit that a U.S. attorney in D.C. changed regarding a January 6th case, and I
4 refused to sign it. I refused to sign it.
5 Q Did you face any retaliation for refusing to sign it?
6 A They found somebody else.
7 Q But you were never -- you weren't demoted or anything like that for that?
8 A At that point I had, like, 25 years in, and I was respected.
9 Q Okay. So there were no actions taken?
10 A I let my -- I let my supervisor know that, you know, he may -- they may get a
11 call, but nothing ever happened.
12 Q Okay.
13 A And I did it very politely. I did it very professionally.
14 Q The -- you mentioned in the earlier hour that you were familiar with the
15 whistleblower who submitted this --
16 A Yes.
17 Q -- case?
18 And you said your -- that, in your opinion, this individual was very lazy and had a
19 poor reputation. Those were the words you used. Do you recall saying that?
20 A That's my opinion, yes.
21 Q Can you explain why you said that?
22 A He was a big shoulder-shrug guy, [redacted]. He would -- so I was a supervisor
23 with him. Mike Smith was our unit chief. I'd be like just -- going to give you a couple
24 examples real quick here. "Hey, Mike. Where is [redacted] today?" "Oh, he's here." "No,
25 he's not." And then we find out he's in New Haven logged on, and he doesn't tell

anybody he's out of SecD. He's up in New Haven.

So he just did his own thing. He kind of like flowed in on a cloud. Just really just -- I felt like there was something missing with him, honestly, upstairs.

He did not like Dena Perkins. He would have conversations with me. He did not like Dena Perkins within the first 30 days of getting to SecD. It was very odd for me, and I remember thinking about this. This guy just got here, and he hates her. He actually would talk about it. And he was scared of her. And I don't know where he got that from.

But, just to give you an example of something personally that I dealt with, when I became acting unit chief and myself, [redacted] we were in a room together, and they were, like, "Who wants to be the acting unit chief? Mike is leaving." "Hey, we vote on Sean." I was like, "I'll do it, guys, if you want me to do," right? And then Dena Perkins asked if I could do it.

But, when I became the acting, [redacted] -- I saw part of [redacted] -- because I didn't deal with him every day. I wasn't his unit chief until March of 2023. He didn't articulate anything. He at the point had probably -- I said before, when the cases came in, we would assign them. And, when I became the unit chief, I assigned them to the supervisor. I wanted to know what was coming in.

[redacted] would sit on cases as supervisor. He wouldn't assign them out to investigators. I don't even know how many cases he would have. He would hold these cases, not work them. And then I noticed he started doing cases on his own as a supervisor. He was the third serial in the case. Like, the first serial was the opening. The second serial might be some checks that CREU does. The third serial is kind of maybe what we're getting into with the CIU folks.

The third serial is like a 302 where [redacted] is interviewing the subject employee by

1 himself, and it's like two paragraphs. The first paragraph is the preamble, and the
2 second paragraph was, like, three lines. And I'd call him in and be, like, [redacted], you can't
3 interview this person by yourself. And, second of all, you didn't even ask them about
4 the allegations. What is this? This is, like, garbage." I'd try to help him.
5 And he would shoulder shrug. He was a big shoulder-shrug, nonverbal. He just
6 didn't articulate. And I was in meetings with him and Dena, when Dena would be, like,
7 [redacted] is everything okay? Like, can you explain yourself? Why are you not working this
8 case? Why are you not going forward with it?"
9 And he would just be like -- and for the record, I'm shoulder shaking. He
10 wouldn't say anything. He'd literally sit there like a child. It was very uncomfortable.
11 And I remember, at one point, I went to talk with him, and he just got up and left
12 and disappeared for 3 hours. He would disappear for -- I was in an acting role. I wasn't
13 looking to hurt anyone. I was looking to retire, right?
14 He just -- he -- he wasn't a worker. He was disgruntled. I believe he had an
15 OPR on him at the point. I think he threatened some employee in the elevator. Again,
16 I -- that's hearsay for me.
17 Q Sorry. OPR is an OPR investigation?
18 A Unit inspection investigation, and I think he was sent to OPR.
19 Q So it's a misconduct investigation?
20 A Misconduct. I think he -- supposedly, I heard he threatened somebody
21 with his weapon on an elevator, another SecD employee.
22 I will tell you personally I had a private conversation with Dena about him, and she
23 told me, "We're concerned. Beidler, myself, we're concerned about him. There's
24 something going on with him. Is everything right at home?" And I'm like, "I don't
25 know him that well. I don't know. I know he's got two girls."

1 I'm going on a little bit of a tangent here, but we were concerned about him
2 personally because something was going off the rail -- off the rails with him, not just work.
3 He was a terrible -- he turned out to be a terrible writer. He was a terrible investigator.
4 He was lazy. He cut corners. He wasn't disseminating cases. He wasn't working
5 cases.
6 Julia Arseni (ph) was the CREU intake supervisor. Julie came over to me a few
7 times and said, "You got to stop [redacted] from coming into my office. He's coming down
8 every time we assign a case and says, 'This is stupid. Why are we opening this case?'"
9 It wasn't Tim's say.
10 So I had conversations one-on-one with [redacted] and said, "[redacted], instead of fighting if
11 this case should have been opened or not, just do the -- do the bare minimum. Do a
12 couple interviews, do a couple checks, and then make a recommendation to
13 management, to me, to Dena, to close it and base it off of facts; be able to articulate."
14 And he just wouldn't do it. He just wouldn't do it.
15 So they ended up -- and I was -- I wasn't the one part of this, but Dena told me
16 they were going to move [redacted] over to CAU because they were worried about him, and it
17 was a slower pace. CAU was a way slower pace. The adjudication process was much
18 slower. You basically read like a lawyer, and you make determinations. You basically
19 rewrite somebody else's product. It's a lot slower pace.
20 And that's why -- my understanding is why they moved him over to CAU. But he
21 just -- he was a guy that had no gas. He had no drive, and he couldn't explain himself.
22 Q That was a lot, and I want to unpack some of it.
23 A Yes. Apologize.
24 Q You referenced situations in which this individual would interview subjects
25 by himself?

1 A By himself.

2 Q Is that a violation of policy or process?

3 A I don't have policy in front of me, but it's -- from day one, when you become

4 an agent, you never -- you never interview a subject or subject -- in this case subject

5 employee. I hate to call employees subjects.

6 Q I understand.

7 A Subject employee. You don't interview subjects by yourself, never.

8 Q Why is that?

9 A It's a he said/she said. You want a witness. You want somebody to take

10 notes. You want somebody to take the lead. Maybe your partner has additional

11 information to ask. You want a witness. You never want a he said/she said.

12 Q You said that this individual would sit on cases?

13 A Yes.

14 Q What did you mean by sit --

15 A He wouldn't assign them out. He wouldn't assign them out.

16 In one case, there was a guy up in Boston, Dena asked us to suspend him. And

17 he sat on it. And I ended up, as the acting unit chief, had to get involved it. I said,

18 "Why are you sitting on it? She wants a suspension." I didn't know a lot about the

19 case. Then I had to start reading the case as a unit chief. I had my own caseload.

20 And he just -- basic stuff wasn't done, interviews, nothing, you know -- so I got him

21 involved. And I said, "You don't want to suspend this person; let's go down and

22 articulate why. Give her reasons." And, after some interviews and after some data

23 pulls, whatever, we went down and explained to her why, after three weeks, she didn't

24 have a suspension. And she said fine.

25 Q She accepted it then?

1 A She accepted it.

2 Q In the earlier hour, there was some discussion about cases taking a long time

3 to go through SecD, that there was a long timeline for the resolution of some cases?

4 A Correct.

5 Q Would somebody like this individual sitting on cases, not processing them,

6 not moving them forward, that would contribute to such a delay, correct?

7 A Yes.

8 Q You said that he started doing cases on his own. He was a supervisor,

9 correct?

10 A He was a supervisor. 14.

11 Q Would supervisors typically do cases on their own?

12 A Not on their own. Now, there were cases I jumped in because they were

13 high priority or they had to get done, but I always had an investigator with me.

14 Q And why do supervisors not do them on their own, generally?

15 A Because you're a supervisor. You're supervising four to six people or more.

16 You have hundreds of cases, maybe upwards of 150 to 200 cases you have oversight over.

17 You don't have time to be doing cases. You don't have time to be writing 302s. And

18 it's just -- it's very time-consuming.

19 Q So, in other words, that could also hold up the processing of cases?

20 A Absolutely, yes.

21 Q Okay. Or delay the processing of cases?

22 A Yes.

23 Q Okay. You said that this individual -- I think your words were he was a

24 terrible writer. Can you explain what you meant by that?

25 A He was a lazy writer. I don't know what he did before SecD. Maybe he

1 was an author. I have no idea.

2 But what I saw, he -- he wasn't putting effort in. And even documents he would

3 be reviewing for his investigators, when it would come up to my level, there was just

4 things that were just incorrect, misspellings, just lazy, just lazy. So --

5 Q And, again, what he was -- the documents that would come up would be, for

6 example, electronic communications or evaluations of subject employees, correct?

7 A Yes, for the most part.

8 Q And so, if there were incorrect facts in there or missing facts, for example,

9 that means that a subject employee whose case is being evaluated might not be

10 evaluated fairly or might not be evaluated with all the facts?

11 A There are a lot of facts missing when he would do a case.

12 Q Okay.

13 A I would -- he would be one of the last people that I've dealt with in my 27

14 years that I want to work a case. He just cut corners all the time.

15 Q Are you able to provide any examples?

16 A Not specifically, but I just recall, like, his 302s, and then the next serial would

17 come up, and he'd want to close a case. I'm like, "Dude, you can't close a case. Like,

18 you didn't pull the ESOC data, or you didn't, like, do any other interviews. You never

19 interviewed the subject employee. You didn't even ask them about the allegation.

20 You, like, brushed over it."

21 "This case is stupid. We shouldn't be working it."

22 "Okay. I get it. All right. You think it's stupid and you shouldn't be working it.

23 You need to do a little more. Just do a little more." I was, like, supportive of it. I

24 wasn't necessarily saying that the case had to be opened and this guy -- you know, the

25 person needed to be suspended.

1 Like I said, it didn't happen -- actually, suspensions happened very infrequently.
2 But he just, you know -- and then when I became the acting, it was almost like he just,
3 you know, turned me off, honestly. He just -- I don't know.
4 Q And you said he was a terrible investigator as well?
5 A What I saw. I don't know what he did before SecD.
6 Q Understood. But based on what you saw, he was a --
7 A He had a bad attitude. He had a really bad attitude, and I tried to correct
8 that.
9 Q How did you try to correct that?
10 A I would talk with him. Again, "Okay, I understand you don't want to work
11 this, or I understand you -- you know, Dena is asking for a suspension based off the
12 allegations that came in. It doesn't look good, but why don't you want to draw up the
13 paper."
14 "Oh, this is stupid. This guy didn't do this."
15 "How do you know that? You haven't done any interviews; you haven't done
16 any investigations. Get your investigator on it. If you want, get involved in it."
17 He just fought everything. Things that you -- that should be easy, he fought.
18 He made things harder for himself.
19 Q So, when you say he had a bad attitude, is that what you're referring to?
20 A Yes.
21 Q But, according to the letter, exhibit 3 letter --
22 A Yes.
23 Q -- this individual was ultimately suspended himself; are you aware of that?
24 A Only -- only -- yes, I am, yes.
25 Q And are you familiar with the circumstances or the reasons for which he was

1 suspended?

2 A Just hearsay matters. Friends in the unit. But I was not involved in the

3 investigation. I wasn't aware that an investigation was opened on him.

4 Q Okay.

5 A And he was suspended after I retired.

6 Q Okay. The Rules of Evidence don't apply here. So I am going to ask you

7 for the hearsay just to help us evaluate.

8 A Sure.

9 Q So what -- what is your understanding of why he was suspended?

10 A Disclosure of internal information, taking photos of secret enclave

11 information, somehow getting it to the media.

12 Q What's secret enclave information?

13 A So FBINet, we have a secret side, computers.

14 I believe what I heard -- again, this is just what I heard, is that he was taking

15 pictures of his screen and -- about -- about stuff like yoga or something. I think it was in

16 here. Maybe I read it from here. That was just one thing.

17 Then I heard that -- that he wasn't factual in his interview and --

18 Q His suspension interview or his interview with SecD?

19 A Correct.

20 Q So, in other words, he --

21 A But I don't know what he wasn't factual about, what he lied about. I

22 don't -- I don't have that information. I just heard it wasn't truthful.

23 And then -- and then I heard just discussion amongst old colleagues in this

24 Empower Oversight, his lawyer or whoever wrote this, states that he passed a polygraph.

25 I heard he did not pass his polygraph. He failed miserably.

1 Q So, from what -- your understanding is that this letter then is not accurate?

2 A There are things in here that I could pick apart, yes.

3 Q Are there any other items that you're going to point to that you believe are

4 inaccurate?

5 A I'd have to go through it.

6 Q Okay. I can give you some time to go through it. We have -- actually, I

7 could ask you to go through it at the next break, too.

8 A Okay.

9 [redacted]. Okay. We can go off the record.

10 [Recess.]

11 [redacted]. We'll go back on the record. It's 11:59 a.m.

12 Mr. Clark, I want to start by entering exhibit No. 4, which will be November 10,

13 2023, article titled "FBI Accused of Targeting Trump Types; Agents Who Served in Military

14 Deemed Disloyal."

15 [Clark Exhibit No. 4

16 was marked for identification.]

1 BY [redacted]:

2 Q I'll give you time to review.

3 A I'm aware of this article. Thank you.

4 Q Okay. And the -- I'll refer to the specific page numbers. They're on the -- I

5 believe the bottom left there. It says 1 through 12, but you probably only have 1

6 through 8 because the rest were advertisements. So we didn't print those.

7 But I'll draw your attention to page 2, and I'm going to start with, "The

8 whistleblowers said Jeffrey Veltri." "The whistleblowers said Jeffrey Veltri, deputy

9 assistant director of the Bureau's Security Division, and Dena Perkins, assistant section

10 chief, specifically pursued employees who served in the Marine Corps or other military

11 branches. They stripped the agents of security clearances, which sidelined them on the

12 job and pushed them toward the exit, according to the disclosures. The whistleblower

13 disclosures say Mr. Veltri and Ms. Perkins either declared or attempted to declare the

14 Marine and other veterans as, quote, 'disloyal to the United States of America,' end

15 quote."

16 Did anyone ever raise concerns to you as either SSA or acting unit chief regarding

17 this type of activity occurring?

18 A Activity occurring as far as focusing on military?

19 Q Correct.

20 A No. This is -- this article completely caught me off guard. Never -- never

21 witnessed this.

22 Q Okay. And what part of the allegations in this letter specifically regarding

23 Mr. Veltri and Ms. Perkins going after military veterans caught you off guard?

24 A Just people categorizing military veterans. We -- the Bureau -- I don't even

25 know -- probably 30, 40 percent, I'm guessing, probably military veterans. Just by pure

1 numbers, if that's the case, our suspensions in cases would have gone up.

2 But, for the record, Dena Perkins was in the Marines. So -- my father was a

3 Marine. So never did I see them going after just because somebody was in the military.

4 Never, no. That's false.

5 Q Did anyone who reported directly to you as either SSA or acting unit chief,

6 did anyone ever come to you with these types of concerns?

7 A About military?

8 Q Correct. About these specific allegations.

9 A Never.

10 Q Never?

11 A Never.

12 Q And, going down on the same page, it says, "In these cases, there was no

13 indication that any of the individuals had any affiliation to a foreign power or held any

14 belief against the United States, it said." "It" meaning the -- the disclosure.

15 I know the cases aren't specifically mentioned in here, but just wondering if you

16 are aware of any -- any sorts of cases that this is referring to?

17 A It's so hard. It's such a vague -- it's general sense. I mean, I would think

18 maybe Alan is the case that they're referring to because he was a Marine, I guess. And

19 affiliation to a foreign power, I think, one of the things that he was suspended on was a

20 guideline for allegiance to the United States.

21 But that's the only case I can maybe think of that this would relate to. But,

22 again, this is a very, very vague and general statement.

23 Q And, in the course of your interactions with Ms. Perkins, I know when you

24 became acting unit chief, you said it was daily interactions, and Mr. Veltri it was a little bit

25 more irregular.

1 Can you think of anything that would lead people to believe that they were
2 targeting veterans?
3 A Absolutely not. And I actually worked a case where a veteran is
4 supposedly -- allegation came in and that he beat his wife. They wanted him suspended,
5 Veltri and Dena and everybody, Beidler; everybody wanted him suspended.
6 And I said, "Give me a week." And came back, and it turned out the agent
7 was -- I proved with police cameras and interviews that we did, and I was personally
8 involved in it, personally involved with the subject employee, that it was his wife that was
9 beating him, and he was a veteran. Nothing ever came up about him being a veteran.
10 In fact -- yeah. It never came up, and they wanted him suspended based off the
11 allegation that we proved the actual opposite. So, if this was true, they would have
12 been blinded by his being part of DOD, which they weren't.
13 I never -- let me just state -- and I know you're getting at. This article completely
14 caught me off guard. It's honestly -- and we can go line by line. It's garbage. This
15 article is garbage.
16 And I'm here and telling you on the record, I have no knowledge and no
17 awareness that anybody was ever gone after because they were a veteran. Dena
18 Perkins was a veteran. My father was a veteran. I would not have tolerated that.
19 Never happened. So --
20 Q And, looking at page 3 of the article, the very top paragraph, it says, "Other
21 signs that an employee was a, quote, 'rightwing radical and disloyal to the United States,'
22 end quote, according to Ms. Perkins and Mr. Veltri, were failure to wear a face mask,
23 refusing to take the COVID-19 vaccination, and participating in religious activities."
24 When you were SSA and acting unit chief, did anyone come to you to disclose
25 similar concerns?

1 A No. In fact, we were told not to ask about the COVID-19 vaccination when I
2 was -- when I was there.
3 Q Okay.
4 A I can't remember who. Maybe ODC gave us that guideline. I'm not sure.
5 But, if somebody is reporting this, I was not present for it.
6 Q Okay. And why were you told not to ask about the COVID-19 vaccination?
7 A Because we weren't basing our security clearances on that. We were
8 not -- couldn't suspend somebody because they were refusing to take the COVID-19.
9 I think it was kind of being worked out through the administration. So it was just
10 something that we were -- we weren't going to touch.
11 Q Okay.
12 [redacted]. And I'll mark as exhibit No. 5 -- it's a document that was released
13 through the Freedom of Information Act and posted publicly online.
14 [Clark Exhibit No. 5
15 was marked for identification.]
16 The Witness. Yep.
17 BY [redacted]:
18 Q The title of the document is "FBI Security Division, Security Integrity and
19 Investigations Section/Clearance Investigations Unit. And I'm not going to ask you about
20 the content that's in here. I'm just going to look at the specific questions in here.
21 A Okay.
22 Q Have you ever seen this document before?
23 A Last week, I think, in the New York Post or something, yes. That was the
24 first time I saw that.
25 Q Okay.

1 A Saw this.

2 Q And the document for when it was used was April 2022. Were you with

3 the SIIS still in April 2022?

4 A I was, yes.

5 Q And what was your role at that point in time?

6 A April 2022, I was a supervisor.

7 Q Okay.

8 A SSA.

9 Q Was that still when you were the only SSA there, or had the other SSAs come

10 in at that point in time?

11 A That was probably right around the time -- we're probably right on the line

12 whether or not I was there or somebody came in. We're right there. I mean, that's

13 probably -- I'm not sure. You're probably talking about days or weeks right there.

14 Q And this document has been represented to us as a questionnaire that's

15 used in interviews of colleagues of an individual whose security clearance is under review.

16 Did you ever use a similar form when you would conduct these interviews or your

17 team would conduct the interviews?

18 A Well, you say "interviews," were there other interviews, or is it one

19 interview?

20 Q Just -- I'm talking in general. When you would conduct interviews of

21 colleagues -- of individuals whose clearance was under review by the SIIS, would you use

22 some sort of similar form or a standard questionnaire that you would go through?

23 A Me personally or investigators that worked for me?

24 Q Both.

25 A For me, no. So, just for the record, this is not an official FBI document.

1 This is something that a contractor --

2 Q Okay.

3 A -- created. He used the nice headers and whatnot. I've never seen this

4 before. It's not an official document.

5 Second, it varied. So there were some very senior RSP, for instance -- this is

6 nothing against the contractors, but I saw a difference between the FBI personnel retirees

7 and the contractors. There's some very good contractors.

8 But, for the most part, the FBI agents retired as RSPs didn't have to write all their

9 questions up, right? Maybe, like, some ideas or whatever, and they'd go in there and

10 kind of -- I don't want to say ad lib, but they would know how to roll with the questions

11 and -- right? And that's how I operated. I didn't write my questions.

12 Q Uh-huh.

13 A But I knew topics that I was going to come up with, right?

14 This individual, I know who this individual is. He -- I believe -- I think he was, like,

15 his or something, a contractor. He was a very thorough guy.

16 And there was one or two contractors. And I would say to them, "Why do you

17 guys write all your questions out?" Again, I never saw this before, but -- I think that's

18 what he was doing. I think he was just writing his questions out. But I don't

19 remember -- I don't recall seeing this.

20 Q Okay. And the contractor who created this document, did he report

21 directly to you?

22 A Again, I don't know if I was the only one there or not. If I was the only one

23 there, then he would have.

24 Q Okay.

25 A But I will say before coming here, to be transparent, I was able to review and

1 talk to some folks over in Congressional Affairs in the FBI. I guess they did an audit of
2 FBI SecD related to this, and they said I did not sign this document. This document was
3 signed into the file by Unit Chief Michael Smith.
4 Q Okay.
5 A So I've never seen this before.
6 Q And, understanding that you've never seen it before, there were questions
7 included in the questionnaire of whether the individual vocalized support for President
8 Trump, whether the individual objected to the COVID-19 vaccination.
9 A Right.
10 Q And I know you just said that you were not supposed to ask about the
11 COVID-19 vaccination or get into that because that wasn't a valid basis to revoke
12 someone's clearance.
13 So I'm just wondering, when you saw this, did it surprise you that those questions
14 were included?
15 A Yes. But I know the individual that did this. Yes, I am surprised, and he
16 should have not asked that, absolutely not. But he's the type of person -- and, again, I
17 can -- I can give you his name. It's Roger Aarons (ph). I believe it's Roger Aarons (ph).
18 He's a very thorough guy.
19 I never talk politics with him. I don't know where he stands on this matter. It's
20 not like he was -- I don't think he was coming after Trump or COVID folks.
21 But he's the type of guy, just in my mind, my opinion, working with him for 2
22 years, he was trying to bound the boundaries of his questions and trying to maybe assess
23 who this person was.
24 Q Uh-huh.
25 A Right or wrong, which this case I think was wrong; he shouldn't have had

1 questions like this. But I -- you'd have to ask him what his mindset was, but that's my
2 opinion. But he shouldn't have had these.
3 Vocalize your support for President Trump? I mean, again, an agent for 20-plus
4 years, Bureau 27 years, I mean, I can't remember any time I was with anybody, said on an
5 interview, "Vocalize your support -- you know, what's your support for President X."
6 Never heard of that before.
7 So I don't know. You'd have to ask him, but I'm just going off of what they told
8 me. I wasn't -- I didn't sign these.
9 I will caveat one thing. Michael Smith, the unit chief, is a good guy.
10 Hopefully -- hopefully, my former colleagues down the table will understand this is, if
11 these were attached to a 302 -- I don't want to fault Mike for submitting this into the file.
12 I'm not here to defend Mike, but Mike was probably reviewing the 302. He probably
13 was seeing if the attachment was there as far as the notes. But we had such volume, I
14 don't know if Mike would have gone in and, like, looked at the guy's notes. You know
15 what I'm saying?
16 I'm just being honest. So did Mike approve this? Yeah. But I'm sure Mike
17 would have had an issue with this as well if he saw this.

1

2 [12:13 p.m.]

3 BY [redacted]:

4 Q Okay.

5 And if we can go back to exhibit No. 3, which is the June 28th letter --

6 A June 28th letter. Sorry, which one? Oh. Okay.

7 Q And it's page 5.

8 A Sure.

9 Q Kind of in this same vein, I'm looking at the -- it won't be the sentence that I

10 read, but I'm looking at the paragraph that starts with "SSA Client disclosed to UC

11 [redacted]."

12 It says, "... his concerns about these issues, and eventually found that a large

13 number of SecD employees also had concerns about its operations. Because of the

14 influence of acting DAD Veltri and acting SC Perkins, it was very common when SSA Client

15 arrived in SecD for investigators to ask inappropriate questions of the sort we recently

16 referred to your office for investigation" -- which is in reference to the

17 questionnaire -- "such as whether employees under investigation had vocalized support

18 for former President Donald Trump or whether they had vocalized objection to the

19 COVID-19 vaccine."

20 A Okay.

21 Q During your tenure as SSA and acting unit chief, did anyone who reported

22 directly to you raise concerns about questions of this nature being asked?

23 A Well, I think what they talk about here is Unit Chief Michael Smith, not me.

24 Q Uh-huh.

25 A No. Again, if I knew people were talking about specifically questions about

1 Donald Trump or COVID-19, I would've told them to stay away from that.

2 Like, if the person they're interviewing discusses it and brings it up, that's fair

3 game, right? You're there to hear their opinion and take the information. But we

4 shouldn't be going in there and making this a political thing, right?

5 Q Uh-huh.

6 A I mean, I don't think this investigator was making it political, but, obviously,

7 this is not defensible.

8 Q Uh-huh.

9 A And I can't sit here and defend this.

10 Q So, in your mind, you would agree that these types of questions would be

11 inappropriate questions to ask in an interview?

12 A Yes, absolutely.

13 Q I want to turn and ask questions about a couple of specific adjudications or

14 security clearance investigations for whistleblowers that have come forward --

15 A Okay.

16 Q -- to this committee.

17 And you already mentioned Mr. Allen, so are you familiar with now-former staff

18 operations specialist Marcus Allen?

19 A I'm familiar with him, yes.

20 Q Okay. And were you ever responsible for his security clearance

21 investigation, or did you ever have any involvement in the investigation?

22 A So, again, coming here and discussing with some of the folks, they were able

23 to pull my involvement with the Marcus Allen case.

24 Q Okay.

25 A I was not really involved with the Marcus Allen case. I signed five things to

file, per what they said.

Q Uh-huh.

A I'm not a Bureau employee anymore. I can't get into -- just, they gave me five documents they said I signed.

Q Okay.

A Four of them were uploads of emails, right, just things you put into the file.

I think [redacted] was the investigator at the time. I think it was somewhere around December -- probably when I got right back -- probably right when I was in the first month of being an SSA permanent, December of 2022. January -- I think I'm right -- 2023 is when he was suspended.

So four documents that I signed were just uploads of stuff, nothing substantive. I did sign his EC for his suspension in January. I don't --

Q Okay.

A -- know the exact date, January something --

Q Uh-huh.

A -- it was 2023 -- probably because I was the only SSA there.

Q Okay.

A I was the only SSA there. So it was the investigator, then me, and then unit chief, and then all the other folks that I mentioned before, the six, seven layers above me.

That is the only involvement that I had with the Marcus Allen case. I wasn't really familiar with it.

Now, I did sit next to [redacted], [redacted] --

Q I'm sorry. Are you saying [redacted] or [redacted]?

A [redacted], [redacted], [redacted].

Q [redacted]? Okay.

1 A [redacted]. [redacted]. He was the initial investigator. I sat next to him.
2 Q Uh-huh.
3 A But, really, I had no involvement. I wasn't the supervisor.
4 Q Uh-huh.
5 A Mike Smith took this case, one, probably because I was acting; two, the
6 other SSA was leaving, Matt Marlowe (ph). He went back to Richmond. And Mike
7 Smith ended up being point for this case --
8 Q Uh-huh.
9 A -- as SSA and unit chief. I had -- again, I was probably running with the
10 other 300 cases, but --
11 Q Uh-huh.
12 A So Marcus Allen I had very little to do with.
13 Q Okay.
14 And just so we can have a clear record, I'll enter as exhibit No. 6, this is the
15 suspension letter from January 10th, 2022, to Marcus Allen.
16 [Clark Exhibit No. 6
17 was marked for identification.]
18 The Witness. Yeah. I also distributed that to the field office, which was
19 pretty -- via email to the SAC, which is pretty standard. The SSA does that.
20 BY [redacted]:
21 Q Okay.
22 A Thank you.
23 Q And I'll give you a second to review if you need to review --
24 A Okay, thank you.
25 Q -- and then we can start in.

1 A Yeah.

2 Q Okay. So you said that you were responsible for sending this over to the

3 SAC of the Charlotte Field Office. Is that correct?

4 A Yeah. Once Jen Moore signs it, it comes back to us with a signature.

5 And then the SSA over the team -- at the time, I was the only SSA -- sends a

6 canned email to the field and says, you know, this shall be, you

7 know -- whatever -- delivered to the employee. Usually they know it's coming.

8 Q Okay.

9 And had you had any conversations with the SAC or anyone in the Charlotte Field

10 Office --

11 A No.

12 Q -- regarding Mr. Allen's case?

13 A I mean, I don't want to say -- so, if I did, it would've only been maybe the

14 CSO, the chief security officer, who we usually dealt with for presentation delivery

15 process.

16 Q Uh-huh.

17 A But I never had any -- I can tell you, I never had any conversations with

18 anybody in Charlotte related to this case, substantively.

19 Q Uh-huh.

20 A If I did, it would've been process. "Hey, here it is. Management wants

21 you to deliver it to him tomorrow."

22 Q Uh-huh.

23 A I -- I don't know. I don't know if that even happened, but I'm making a

24 guess.

25 Q Okay.

1 And at the time that you -- I believe you said you signed the EC for the suspension.
2 A As one of, like, eight or nine signatures, yes.
3 Q Uh-huh. What was your understanding of what the allegations were
4 against Mr. Allen at that time?
5 A I didn't review -- I didn't review it, coming over here. It's been 3 years.
6 Q Uh-huh.
7 A But I guess it was based off of allegiance. And I just -- I just remember
8 [redacted] being against that.
9 Q Being against the suspension?
10 A The allegiant part. He thought --
11 Q Okay.
12 A He thought Allen could've been suspended because of personal conduct.
13 Q Uh-huh.
14 A But, again, I don't have the substance. I don't -- I can't sit here and give you
15 an honest answer about why and why not.
16 Q Uh-huh.
17 A I just can't. I wasn't involved with the case.
18 Q Did you have any conversations with [redacted] regarding the Allen case
19 and why he disagreed with the inclusion of the allegiance piece in this letter?
20 A Again, I think he could see it -- I think at the end he said, I could see it as a
21 personal conduct issue but not an allegiance issue. I think he was basing it off of some
22 of the information that he reviewed that I never reviewed.
23 I think he felt uncomfortable signing the document, but his SSA at the time was
24 Matt Marlowe. And Mike Smith was the unit chief.
25 Q Uh-huh.

1 A So I was more somebody sitting next to him, not in the file, maybe listening
2 to him, maybe listening to him and Matt, but --
3 Q Uh-huh.
4 A -- I didn't partake in the case.
5 Q And so, if [redacted], who was -- was he the line investigator on the case?
6 Is that accurate to say?
7 A Yes.
8 Q So, if [redacted] believed that the allegiance piece should not have been
9 included as the reason for suspension of Mr. Allen's clearance, do you know who made
10 that decision?
11 A I think what I was told was, lawyers were involved. They thought there was
12 legal sufficiency. I don't know who.
13 Q Uh-huh.
14 A Obviously, management was involved. This was, I'm sure -- I'm trying to
15 think who the AD would be at the time. Was it Jen Moore or Eric (ph) Beidler (ph)? I
16 don't know. I think it was Beidler (ph). So it had to have been Beidler and the usual
17 folks -- Jeff Veltri, Dena Perkins, Michael Smith, Matt Marlowe (ph)-- the chain --
18 Q Uh-huh.
19 A -- the chain.
20 But I was not -- I was not -- I will tell you, I was not in -- I had a lot of meetings,
21 right? The Bureau has a lot of meetings. I was not in meetings related to this case.
22 Q Okay.
23 A I don't know what happened. I don't know who made the decisions. I
24 don't know who pulled the strings.
25 But, obviously, at the end of the day, there had to be, at the time, at the

1 time -- we love using that word -- but, at the time, legal sufficiency, I would think.
2 Q Uh-huh.
3 A I don't see how people would sign off on something that they didn't think
4 had legal sufficiency. But, again, I was not privy to that.
5 Q When you were signing off on this EC, did it give you pause that the line
6 investigator wasn't comfortable with the inclusion of the allegiance angle, yet you signed
7 off on a version that did include the allegiance angle?
8 A I'm going to tell you, I don't remember.
9 Q Okay.
10 A I don't -- I almost want to tell you, I probably was reviewing it from an
11 editing perspective --
12 Q Uh-huh.
13 A -- but I just don't remember. Honestly, it just -- it wasn't a focus of mine.
14 This case was not a focus of mine. And I'm being honest. I'm not protecting anybody,
15 I'm not trying to hide anything. I just -- I had such a minimal role in this.
16 Q Uh-huh.
17 A And, you know, my signature was on the EC, but I just -- I don't recall the
18 facts. I don't really recall the details behind the facts.
19 Q Uh-huh.
20 A I just can't sit here and give you an honest -- I can give you an honest
21 answer; I just can't give you what my mindset was at the time. I can't. I just don't
22 recall.
23 Q And you said that Unit Chief Mike Smith was the individual who was the
24 supervisor on this case. Is that accurate to say?
25 A That's accurate.

1 Q Did you ever have any conversations with Unit Chief Smith regarding this
2 case as it was ongoing and progressed?
3 A I think the only thing that touched upon this case that I had a conversation
4 with Mike was, when I came back from WFO and I became the supervisor --
5 Q Uh-huh.
6 A -- soon after, [redacted] was taken off the CIU and put to C-R-E-U, CREU.
7 Q Uh-huh.
8 A They put him into a different unit. And I think I had a -- I know I had a
9 conversation with Mike saying -- again, I had a very limited -- I was only here 90 days.
10 Q Uh-huh.
11 A I mean, think about any job that we start. It takes 3 to 6 months to feel
12 comfortable. I wasn't there yet.
13 Q Uh-huh.
14 A But I -- my limited exposure to [redacted], I thought he was pretty fair and a good
15 investigator, right? But, again, very limited.
16 So I think I said to Mike, "Mike, we don't have a lot of investigators here."
17 Remember, before, I told you we were short-staffed? You know, at times, we were very
18 short-staffed, as far as investigators and SSAs.
19 And I said, "Mike, why are we -- we need people. You guys are saying we need
20 people. Why are we losing [redacted]?"
21 Q Uh-huh.
22 A And he basically told me that it was a decision by Dena Perkins and
23 management to move him over there. But I don't know why.
24 Q Okay.
25 A I don't know why. I wasn't part of that conversation. And I was told not

1 to bring it up again, and I didn't.

2 Q Who told you not to bring it up again?

3 A Mike. It was a decision made by management.

4 Q Uh-huh.

5 A So I was looking at it from a personnel perspective, like, number-wise. I

6 didn't have the background.

7 I think a lot of this happened when I was back at WFO. There was a gap there.

8 They were working the case, and I came back, and they were talking about suspending

9 him.

10 Q Uh-huh.

11 A And here I am, walking into it.

12 Q Okay.

13 And just to go back to exhibit No. 3, which is the January 28th -- or, excuse me, the

14 June 28th letter, I'm looking at page 6.

15 A Six. Okay.

16 Q And just for brevity's sake, I'm going to kind of jump around on this page, but

17 I'll point to you where I'm looking at.

18 A Okay.

19 Q I'm going to start with the paragraph, the first full paragraph, "The CIU

20 investigator."

21 So it says, "The CIU investigator assigned to the Allen case [redacted] began calling

22 SOS Allen's coworkers on November 17, 2021 to interview them. Every one of the

23 individuals interviewed stated Allen had 'never given...cause to question his allegiance to

24 the US.'"

25 And then if you go down to the paragraph below the inset paragraph and the next

1 paragraph, it says, "On SSA Client's arrival in CIU, he learned that the investigator on the
2 Allen case had ultimately concluded SOS Allen's 'Allegiance to the United States' was not
3 in question and that the suspension of his security clearance was not warranted. Yet
4 acting SC Perkins and acting DAD Veltri pushed for SOS Allen's clearance to be suspended
5 on the theory that Allen's purpose in distributing information within his field office was to
6 absolve January 6, 2021 subjects. Neither Perkins nor Veltri could explain how passing
7 possibly exculpatory information about investigative subjects was improper.
8 Nevertheless, Perkins overruled the initial investigator and reassigned the case to another
9 investigator to move forward with suspending SOS Allen's clearance. In clear retaliation,
10 Perkins transferred the initial investigator to the Intake Unit, a less prestigious assignment
11 than CIU because of its limited investigative responsibilities."
12 And I know you kind of just described --
13 A Yeah.
14 Q -- how [redacted] was moved from CIU to the intake unit, which was CREU.
15 And so I'm just -- does this kind of match your recollection of what happened? He ruled
16 that, you know, allegiance shouldn't be considered and then he was moved to the CREU?
17 A Yes.
18 Q Okay.
19 A And, again, if you look at some of these time periods that are in here, part of
20 that time period I was back at Washington Field Office. I wasn't even present at SecD.
21 Q Uh-huh.
22 A So -- and that's why I'm trying to tell you, I don't have the details. I wasn't
23 privy, I wasn't present.
24 But, yes -- to your question, yes.
25 Q Okay.

1 And then in March 2023, kind of to jump forward a bit, you were named acting
2 unit chief. Is that correct? Does that kind of go with when --
3 A Yeah, I want to say it was -- I want to say it was around March 2023. Yes.
4 Q Okay.
5 And then on May 18th, 2023, our committee held a hearing with various
6 whistleblowers regarding the retaliation they had faced at the FBI. You know, we
7 had -- Mr. Allen, Mr. O'Boyle, and Mr. Friend testified.
8 And, in this letter, it talks about some of the actions that were -- that may have
9 been taken prior to the hearing. And specifically on page 9 of the letter --
10 A Okay.
11 Q -- the second full paragraph under B there on page 9, it says, "SSA Client
12 observed that acting SC Perkins put pressure on CAU for SSA [redacted]'s adjudicative
13 team to revoke SA [redacted]'s and SOS Allen's clearances prior to them testifying before
14 the House Subcommittee on Weaponization on May 18, 2023. Accordingly, SOS Allen's
15 clearance was revoked on May 9, 2023, and SA [redacted]'s was revoked May 17, 2023."
16 Were you involved as acting unit chief in the revocation of Mr. Allen's clearance
17 on May 9th, 2023?
18 A No. A completely different unit, separate. CAU is completely -- as we
19 discussed in the beginning.
20 Q Uh-huh.
21 A No, I had no involvement.
22 Q Did you hear anything, that there was kind of a rush to revoke clearances
23 prior to the hearing? Or is this just something that you learned about reading the
24 letter?
25 A Sometimes you're not sure exactly where the information came from --

1 Q Uh-huh.

2 A -- years later. But I know, obviously, reading the letter.

3 Q Uh-huh.

4 A Yeah, I'm going to stick to that.

5 Q Okay.

6 A I don't want to -- yeah, I don't want to -- I don't recall. I don't recall.

7 Occasionally, I might have a conversation with [redacted], who was the CAU unit chief,

8 but I don't remember her saying that you were rushing. So, no.

9 Q Okay.

10 And the night before the hearing, on May 17th, the FBI sent the committee a

11 letter with information regarding, you know, some of the clearance investigations for

12 Mr. Allen and Mr. Friend.

13 Did you receive any outreach from -- the letter was signed by the head of the

14 Office of Congressional Affairs. Did you receive any outreach from them prior to sending

15 that letter?

16 A And what did the letter say?

17 Q We can enter that as an exhibit --

18 A Okay.

19 Q -- if you'd like. It's a longer letter, but it may jog --

20 A I don't want to say I didn't have any --

21 Q -- your memory. Yeah.

22 A Yeah, I don't know.

23 Q So this will be exhibit No. 7. It's a May 17, 2023, letter from

24 Mr. Christopher Dunham to Chairman Jordan.

25 A Okay.

1 [Clark Exhibit No. 7

2 was marked for identification.]

3 BY [redacted]:

4 Q And, like I said, it's a longer letter, but it may jog your memory.

5 A Thank you.

6 And, I'm sorry, so -- okay. They testified May 18th, and this letter --

7 Q Correct.

8 A -- is May -- the day before. Okay.

9 Q It was provided to the committee the night before --

10 A Okay.

11 Q -- and then subsequently immediately leaked to the press.

12 A Of course.

13 Q And the information about Mr. Allen starts on page 7.

14 A Okay. Do you want me to go to page 7?

15 Q I'm not going to ask you any specifics. I'm just wondering if any of this

16 looks familiar.

17 On page 7 of the letter, it talks about Mr. Allen's security clearance suspension,

18 Mr. Allen's security clearance revocation, and some of what was found during the

19 investigation.

20 And so I'm just wondering if your team was asked to provide information or if you

21 remember being asked to provide any information.

22 A I don't -- I don't remember seeing this letter.

23 Q Okay.

24 And prior to the May 18th hearing that the committee had, did you receive any

25 outreach from Congressional Affairs regarding information, whether it be for the letter or

1 for any member of the committee?

2 A Congressional Affairs didn't normally go directly to me, or it would -- I would

3 think they would probably go to the executive managers.

4 Q Uh-huh.

5 A But I don't -- the only time we dealt with Congressional Affairs was if we

6 knew of a letter from Congressional Affairs that might be of interest. But I don't -- no --

7 Q Okay.

8 A -- they wouldn't have asked me anything.

9 Q Okay.

10 And, recently, this year, May 31st, 2024, the FBI reinstated Mr. Allen's clearance.

11 Are you aware of that? I know you aren't at the FBI anymore, but --

12 A Through the news. Yeah, through the news.

13 Q Did it surprise you that the FBI had reinstated Mr. Allen's clearance?

14 A I just don't have enough information to say why or why not.

15 Q Okay.

16 A I just -- I was not involved in this case. So I can't say I was surprised or I was

17 not surprised. I just -- I really have no comment on it.

18 Q Okay.

19 A And that's answering your question.

20 Q Yes.

21 A I'm not saying "no comment." I'm just -- yeah.

22 Q And moving to a different case, for Mr. Garrett O'Boyle, are you familiar with

23 Special Agent Garrett O'Boyle?

24 A Very.

25 Q And how so?

1 A So I was a supervisor, the SSA, over the O'Boyle case with the investigator
2 that was assigned.
3 Q Okay. And when did you become involved in Mr. O'Boyle's case?
4 A Probably -- actually, August 1st was the -- August 1st, 20- -- sorry.
5 August 1st, 2022, is when the case was opened by CREU --
6 Q Uh-huh.
7 A -- and -- which I reviewed 2 days ago, the opening -- and it was assigned to
8 me, it came to me.
9 Q Okay. And so August 1st, 2022, it is opened, and then Mr. O'Boyle is
10 suspended on September 23rd, 2022.
11 Did you and your team do any sort of investigating into the allegations in that
12 August-September timeframe?
13 A Absolutely. His suspension letter was signed on the 23rd?
14 Q The 23rd, that's correct.
15 A Okay. That was a, I believe, Friday, right? So he would've been handed it
16 effectively on the 26th. I think he was suspended that Monday.
17 Q Uh-huh.
18 A But, yes, we conducted investigations over the course of
19 the -- whatever -- approximately 45 days from August 1st to his suspension --
20 Q And --
21 A -- and then continued.
22 Q Oh, sorry. And how many investors were involved from your side of things
23 in the investigation?
24 A When you say "involved" -- well, there was one -- there was one investigator
25 assigned to the case.

1 Q Uh-huh.

2 A Did he do any interviews and brought another person in the unit to help

3 him? He might've. But there was one investigator.

4 Q Okay.

5 And between August 1st, 2022, and the letter that was signed September 23rd,

6 2022, how did you determine that Mr. O'Boyle's clearance should be suspended during

7 the pendency of the clearance investigation?

8 A How did we -- okay. That's not a simple answer. How did we come about

9 his clearance action?

10 Q Uh-huh.

11 A Okay. I'm kind of a timeline guy, so I'm just going to try to make sense.

12 Let me just bracket some things.

13 So SecD, myself, became aware of the case opening August 1st, 2022. When we

14 got the case, we realized, myself and -- probably the investigator found it and maybe told

15 me, but we realized that, in May, sometime in May 2022, the New York Office criminal

16 squad inspection division and then counterintel -- counterintel, CD -- I think it's IIU -- I

17 think it stands for "internal investigation unit" --

18 Q Uh-huh.

19 A -- they were all involved in the case 3 months prior to SecD being involved

20 and possibly even being aware. I don't remember before that, so -- before being aware

21 of that. But so they did their own investigation, right? And some of that came over to

22 us.

23 The August 1st opening to us was, I believe, an EC from insider threat. I'm just

24 going off of memory here, and I did review it a couple days ago quickly, but they were late

25 giving me access to it. But it generally said that -- so it originally came over as a leak

1 investigation.

2 Q Uh-huh.

3 A We determined that it wasn't a leak investigation. I don't know exactly

4 when we determined that but somewhere between August 1st and suspension.

5 Sorry. I'm trying to answer your question.

6 Q Take your time.

7 A So I'll speak general, and then if you have specific followup questions --

8 Q Uh-huh.

9 A We were able to obtain his, Mr. O'Boyle's, online activities, his account user

10 information, regarding his searches, his viewing on the FBI enclave Secret side, where our

11 case files are.

12 Q So when you -- sorry. So when you say "online activity," you're talking

13 about on the FBI system.

14 A Correct.

15 Q Not just, like, a Google search.

16 A Correct.

17 Q Okay.

18 A Correct, on the FBI enclave Secret side, where our casework is.

19 So what we were able to determine was: Back in October and November 2021,

20 Mr. O'Boyle was in a case file called "Project Veritas" at least eight times.

21 During the time that he was in "Project Veritas," he was using snipping tools that

22 we know forensically that he was using, through the insider threat ESOC program that we

23 have that collects on account user activity.

24 He was in specific files -- so he didn't have -- the case was locked down; he wasn't

25 able to get into the files. What he was able to see was, like, what the case was about or

1 the sub-files.

2 Q Uh-huh.

3 A Does that make sense?

4 Obviously, we'll get to the video, May 11th, 2022, video. On that video

5 that -- the Project Veritas guy's name is?

6 Q James O'Keefe.

7 A -- James O'Keefe interviewed an unknown FBI agent. On that were those

8 sheets, the case sheets I'm talking about.

9 Q Uh-huh.

10 A We determined that O'Boyle -- through forensics and examination, we were

11 able to say that he was using a snipping tool when he was viewing cast or different

12 sub-files, the main, right?

13 And I think, out of 158 individuals that were not associated with the case, Project

14 Veritas, independently of SecD, back sometime in May or after, the New York agents with,

15 I guess, inspection or insider threat or whatnot or CD -- they determined -- New York

16 determined that O'Boyle was their main concern. He was not a case manager. He was

17 not a case participant. And he was one individual that accessed the case more than

18 once. He was in it frequently over a time period.

19 And, even prior, before Project Veritas became open to the public, I

20 believe -- don't quote me on this, but I believe something came out in November

21 regarding Project Veritas and a search warrant -- he was in a case file that he had no

22 need -- he was a Kansas City agent. He had no business being in a New York criminal

23 case file that was labeled "public corruption" or "media." And it was a SIM, it was a

24 sensitive investigative matter.

25 Now, again, I don't want to point to my colleges down the table here, but there's

1 something called "need to know."

2 Q Uh-huh.

3 A And Mr. O'Boyle was doing searches for "Project Veritas." We had search

4 strings, we had spreadsheets of all his searches. So something brought him to this file,

5 and then he was curious, and then he was using snipping tools.

6 So, fast-forward to May 11th, all of a sudden, what he was doing in the case

7 file -- and he was the only one -- is in this video that James O'Keefe is interviewing an

8 unknown agent.

9 Q Uh-huh.

10 A So that's one, okay?

11 Q Uh-huh.

12 A And if you look at the letter -- I'm not sure which exhibit this is, but -- is

13 this -- no --

14 Q That's Mr. Allen's.

15 A -- that's Allen's. I apologize.

16 If you look at the letter where he was suspended -- and the facts back it up on the

17 EC, if you ever had access to it -- that's just one example of what Mr. O'Boyle was doing.

18 And we suspended him not on media leaks -- because we didn't know if that was

19 him or not. I know this article says or something somewhere on the internet says that,

20 you know, Sean Clark knew that it wasn't him in the video --

21 Q Uh-huh.

22 A -- and he still went ahead and suspended him. That's garbage, absolute

23 garbage. I stand up here -- like I said on my record before, I stand by everything I've

24 done in the Bureau factually. If I thought something was wrong, I'll be the first one to

25 admit it, I'll be the first one to take the pain, right? We did not base the suspension on

1 that video. We did not. We didn't know who it was at the time.

2 Now, there was discussion, hallway banter, like, "Is it O'Boyle? Who is it?" But

3 it didn't matter, because what we did is, if you look at the EC -- I'm sorry -- the suspension

4 letter for O'Boyle, we suspended him on Guideline K and Guideline M. Guideline K of

5 the Adjudicated Guidelines, (c)(4). Guideline K is handling protected information.

6 Guideline M is -- it just escaped me -- use of -- use or misuse of IT systems.

7 Q Uh-huh.

8 A That's what we got him on. And I have other examples.

9 Q Uh-huh.

10 A So fast-forward. April 19th, April 25th of 2022, Mr. O'Boyle was in

11 Guardian leads, five Guardian leads: Detroit, Boston, Denver, and I don't remember the

12 other two.

13 Q Uh-huh.

14 A They were all related to parent-school-board meeting alleged threats.

15 Okay. So why is a Kansas City agent in Guardian leads? Again, I'll point to my

16 colleagues down at the other end if you want to confer with them later. There's no

17 reason why a Kansas City agent is in New York files and all these Guardian leads.

18 Q Uh-huh.

19 A And let me go back to the New York file real quickly. We ended up

20 interviewing -- we ended up interviewing the New York -- SecD ended up interviewing the

21 New York -- during that, I believe, the August through the September -- interviewed the

22 case agent as well as the New York supervisor of the criminal squad. And they told

23 us -- and we didn't know this at the time -- they told us O'Boyle was bouncing off their

24 sheet.

25 They were like, "Who is this guy? He has no business being here. He never told

1 anybody on the squad that he was looking at our files. He didn't have access."
2 He -- there was no reason. They weren't even aware of this guy.
3 And, again, some of the questions legally, you might say, well, what about the
4 other 157 people that might've visited the case? But they said it was minimal, and he
5 was the only one in all these other subs. And he was using snipping tools.
6 That came out on the video on May 11th --
7 Q Uh-huh.
8 A -- that James O'Keefe -- okay? And if you listen to the May 11th video of
9 the James O'Keefe interview, the person on there says, "I got these from a colleague."
10 Q Uh-huh.
11 A Again, it didn't go into our suspension, our legal sufficiency to suspend on
12 Guideline K and Guideline M, but it does have you thinking, as an investigator,
13 "Colleague? Interesting."
14 And I will tell you, after we pulled the online user data, Seraphin, Kyle Seraphin,
15 who we later identified forensically as being the voice on that May 11th -- and I think just
16 this past week he came out in public and said it was him -- it was him.
17 Q Uh-huh.
18 A Ninety-five percent -- our lab, the FBI lab, the subject-matter experts
19 reviewed samples of Seraphin's voice, as well as they were able to unscramble parts of his
20 voice on that interview. Ninety-five percent sure they were Seraphin.
21 We knew this back in November 2022, 2 months after we suspended O'Boyle,
22 right? But let's play this out. If we based our suspension just off that video --
23 Q Uh-huh.
24 A -- which we didn't -- we would've gone and overturned it and said, "Hey, we
25 got it wrong." But it wasn't based off the suspension.

1 And we knew it was Seraphin back -- I think they were saying in the -- I'm saying in
2 the podcast and all that --
3 Q Uh-huh.
4 A -- I've seen some stuff where Seraphin will say and O'Boyle will say, like,
5 "Sean Clark knew that it wasn't me." Yeah, we did know in November --
6 Q Uh-huh.
7 A -- but it didn't change anything.
8 So let's go to April again, back to April, the school boards. We have forensic
9 proof that O'Boyle was downloading and burning to CDs and DVDs those five Guardian
10 leads related to the teacher -- or, I'm sorry -- the parent-school-board meetings that
11 ended up in the press, ended up, I believe -- maybe you can help me out -- in May
12 sometime, May 12th. Somewhere around there, it made it to the press --
13 Q Uh-huh.
14 A -- and it was leaked to the press. And it was the exact same ones O'Boyle
15 was in.
16 Now I'm going to fast-forward a little bit. I'm a timeline guy, but I'm going to
17 fast-forward.
18 After he was suspended, myself and Brian Murphy, the investigator for Security
19 Division that had the O'Boyle case, we went down and -- and there's a lot of things I'm
20 leaving out, right?
21 Q Uh-huh.
22 A We waited for New York. New York had a criminal investigation. They
23 determined months and months and months later that they weren't going to go forward.
24 And then we had two boxes down at CIRG, down in Quantico area, that O'Boyle
25 shipped internal to the Bureau upon his move. And nobody knew what to do with it.

1 And I'm like, "You know what? This is administrative. Let's just go down there and
2 we'll just open it up. We'll parse out his personal items, and we'll ship it back to him."
3 Q Uh-huh.
4 A And his Bureau stuff, he can't have it. He's suspended. And what
5 happens if he had classified information in there or whatnot?
6 Q Uh-huh.
7 A But we went through it. We found, Brian and I found a CD, or CDs -- I can't
8 remember if it was plural -- CD with those five Guardian leads burned on the CD, those
9 five Guardian leads that were leaked about the school-board-parent threats.
10 Q Uh-huh.
11 A So not only did we forensically have it via ESOC and insider threat data, user
12 data, but we also, later on, after he was suspended, we found this CD in his personal
13 items. So --
14 Q Going back to the question that I had asked -- so the complaint comes in
15 August 1st, 2022, and he's suspended September 23rd, 2022 --
16 A Yep.
17 Q -- and receives the letter September 26th.
18 A Yes.
19 Q When between that timeframe was a decision made to suspend
20 Mr. O'Boyle's clearance pending the investigation?
21 A I don't know when the exact date was. It was in that time period, but it
22 probably would've been closer to -- so I don't know exactly when it happened. I would
23 say -- I'd say, probably weeks after we got the case. Because, again --
24 Q Uh-huh.
25 A -- I gave you examples before. I would go to management and say, give me

1 7 days, give me 10 days, let me collect the facts first.

2 So CD, New York, inspection all had this case in May --

3 Q Uh-huh.

4 A -- and in June. And I think June -- I think sometime in June or end of May,

5 CD was like, hey, there's no classified information, we're not going forward with

6 a -- whatever they call it -- leak or whatever. So they were out.

7 We had to get our ducks in a row. I didn't know what we had. It came in as a

8 leak investigation August 1st. He didn't get suspended until 4 or 5 weeks later as a

9 leaker. We suspended him as unauthorized access, misuse of IT, right?

10 So when was the decision made? It was sometime in that time period. But it

11 wasn't a snap to judgment. It was, let Sean and his team collect the evidence, do some

12 interviews, and determine. But it happened pretty quickly. And if you want to know

13 why, I can tell you.

14 Q And it happened pretty quickly in relation to the August 1st coming in? Or

15 what do you mean by "it happened pretty quickly"?

16 A We were up -- I know we were up a little bit of a timeline because he was

17 transferring. So I think, by the time we got the case, he was already transferring.

18 And, unfortunately, I think we found out, like, somewhere, like, first, second, third

19 week of August that he sold his house. I had nothing to do with that. I know I'm

20 blamed for it. I know I'm blamed for his, like, personal goods being held up. I had

21 nothing to do with his personal goods. It's all garbage out there in the news. I wasn't

22 even involved in that.

23 We were concerned -- the things that we were seeing, some of the stuff that I

24 outlined, we were concerned about what he was doing and where this information was

25 ending up. We weren't saying he was going direct to media. We didn't know how it

1 was getting out. But stuff that he was accessing was getting out.

2 He was transferring to a very sensitive --

3 Q Uh-huh.

4 A -- group, a national security operation ground group. He was going to

5 have -- it's kind of a silly word, "keys to the kingdom," but -- he was going to have access

6 to collection techniques.

7 Q Uh-huh.

8 A He was going to have opportunity to see DT, CT, CI subjects across the entire

9 Bureau.

10 And it was determined, because of what I told you, what we were finding -- and

11 we were drafting stuff. We were drafting timelines. The ECs -- in the file, there are ECs

12 that are timelined to some of this stuff before we even drafted the suspension. We

13 were writing up what we found as we went along.

14 Q Uh-huh.

15 A And it was determined, we can't have him go to this specialized sensitive

16 group, if he's doing this. Because management didn't want him having access to this

17 new specialized group. He would've found out about some of the FBI's sensitive

18 off-sites. He would've been privy to all CT's -- I say "all." I don't want to use

19 "all" -- TTCI, DT, international terrorism cases.

20 Q Uh-huh.

21 A That was just not allowable. That was not allowable.

22 Q Uh-huh.

23 A And we did have a little time to work, because we did find out that he was

24 on, like, paternity leave. And nobody knew when he was coming back or when he was

25 out of the office. And I think he went home. I think he went home to, like, Wisconsin

1 or whatever. That's just --

2 Q Uh-huh.

3 A But --

4 Q So I guess the next question is -- because, when Ms. Moore testified before

5 this committee, she said there was a level of urgency to act on Mr. O'Boyle's clearance.

6 A Yes.

7 Q You're saying that he was being transferred to this unit that was going to

8 have access to highly sensitive information and there was concern about that.

9 Why wait the 7 weeks from the August 1st when you received the initial complaint

10 to September 23rd and then the 26th, his first day in the office when he had to move

11 from Kansas to Virginia? Why wait until then?

12 A Just because of some of the things I laid out. We were getting our ducks in

13 a row. We were drafting things. We were going through ESOC. I wasn't just going to

14 take New York's, you know, "Hey, this guy -- you know, there's a bright spotlight on this

15 guy." Well, what does that mean? I need the facts. I need to see the ESOC data.

16 We had to get the raw data ourselves and review it.

17 Some of the searches that he was doing, we weren't even sure what he was -- you

18 know, you have a spreadsheet of searches. Well, maybe some of it was legitimate for

19 his work. I don't know.

20 So things took time for us to put our case together.

21 And he was also out of the office a lot during that period of time.

22 Q Uh-huh.

23 A So sometime -- I think it was somewhere around September, first

24 week/second week of September, it was determined, he's out of the office, but we're

25 afraid that he's going to come back in during an off day and access information.

1 Q Uh-huh.

2 A So this is, I think, a week or two before he was suspended. We suspended

3 his -- don't hold me to "a week or two," but somewhere around that period, there was a

4 communication between Mike Smith via email to the unit that handles access to the FBI

5 Secret side computers --

6 Q Uh-huh.

7 A -- and we had his access turned off, just in case he dipped back in.

8 But so, why wait? So SecD was behind the eight-ball. Remember, some of

9 these other units had some of this information, but we only got it in August.

10 I don't think 35 days from getting to suspension is a long time. It's not a long

11 time. If you ever work these, you want to get it right.

12 Q Uh-huh.

13 A And we got it right.

14 Q And if you cut off his access in the first weeks of September, why not let him

15 know that his clearance was suspended?

16 A How could I get a suspen- -- it hadn't been approved. Nothing was

17 suspended.

18 Q But when you were cutting off his access to the building because --

19 A No, not the building. Just his FBI red side, his Secret side.

20 Q Okay. And if you were cutting off his access to the red side because he was

21 such a risk, a security risk, why not suspend his clearance then?

22 A Because we didn't have the paperwork, we didn't have the authority, we

23 didn't have the signatures. These things take a while.

24 It's not like I can just -- I mean, so there's things called "10-day admin

25 suspensions." You can suspend somebody for 10 days. I think the SAC can do that.

1 And I think if it's any more than 10 days, we have to get, like, DOJ approval or something.
2 I forget the process. But we've done that before when somebody needs it.
3 Q Uh-huh.
4 A But he was out of the office. He was out of the office on paternity leave.
5 So we felt like it was minimized. We felt like the risk was minimized because he wasn't
6 accessing systems. And that's what we were suspending him on, okay?
7 So I think the risk was minimized. And then we even minimized it even more.
8 We were taking steps that we could pre-suspension to minimize the risk to national
9 security because of -- based off of what he was doing, and we had concerns.
10 Q Uh-huh.
11 A And, in fact, we found out in August, beginning of August, when he was, like,
12 in all this, that he was searching something called "American contingency" regarding
13 domestic violence, some case that was labeled -- I think the guy's name was Mike Glover
14 or something -- that ended up getting into the media, I believe got into the media.
15 And, again, sometimes searches that he was doing didn't make sense to us until
16 they hit the media --
17 Q Uh-huh.
18 A -- and you're like, wait a second, why -- you know, like -- but he was still
19 actively doing it up until the time he took paternity leave. So the risk was there.
20 Q Uh-huh.
21 A But we did take steps to minimize that when he was on paternity leave so
22 we could line our ducks in a row, that we could have a suspension that stood with legal
23 sufficiency on its own --
24 Q Uh-huh.
25 A -- which we did.

1 And I'll tell you what. Being at SecD for all that time, that's not a long time.
2 August 1st to September the 25th, that is not a long time.
3 Q Uh-huh.
4 A I mean, that's moving pretty quick.
5 Q Yeah. And September 26th aligned with his first day out here in Virginia at
6 his new unit.
7 A Yeah.
8 Q When Ms. Moore came and testified before the committee, she just said it
9 was mere coincidence that, you know, it had happened on his first day. And he had
10 transferred from Kansas all the way out to Virginia, packed up his family's belongings; it
11 was in FBI storage. And she said it was just mere coincidence that it happened that day.
12 Would you agree with that assessment?
13 A I don't want to speak for her. I didn't read her testimony. I didn't
14 read -- did she say "coincidence"? I don't know what she said.
15 Q Mere coincidence.
16 A Maybe. I don't know.
17 What I will tell you is, SecD was driven. We did not determine the date the
18 suspen- -- so suspension was signed on that 23rd, the Friday, I think it was.
19 Q Uh-huh.
20 A We were driven by New York. New York had a criminal investigation.
21 Again, I point to my colleagues if you want to refer. Criminal investigations drive, just
22 like I said before that OIG investigations were driving.
23 Q Uh-huh.
24 A SecD was secondary in a lot of these investigations. If there was a criminal
25 investigation, it was going to trump us.

1 Q Uh-huh.

2 A And they were going -- they were the ones that dictated a little bit -- oh, I say

3 "dictated." We coordinated with them. We did coordinate with them. I was on the

4 phone with them. It was determined that he was not going to get access to that unit.

5 And we found out that he was reporting on Monday, and New York was ready to

6 go and interview him. SecD never interviewed him. I think somewhere O'Boyle is

7 talking in the public like, "When SecD interviewed me, I said I was a whistleblower."

8 New York -- I mean, SecD never interviewed him. He was interviewed by New York.

9 Q Uh-huh.

10 A And it was a 10-minute conversation, a short 302. And I believe the chief

11 security officer of CIRG handed him his suspension paperwork that day.

12 Q Uh-huh.

13 A So coincidence? I don't know. If you want to wordsmith -- I don't know.

14 I wasn't there. I will tell you that it was coordinated and he wasn't going to report to

15 that unit.

16 Q Uh-huh. And when did you become aware that he was transferring?

17 A Probably soon after I got the case on August 1st.

18 Q Uh-huh. And I know --

19 A But it was already in motion.

20 Q Uh-huh.

21 A I think his goods were -- again, I think I heard through -- like, a while back, I

22 think. Wasn't his goods already in transport?

23 Q That's correct.

24 A Yeah. So we had nothing to do with that.

25 Q Uh-huh.

1 A Sean Clark, SecD, CIU, we had nothing to do with that. I had nothing to do
2 with the selling of his house.
3 Q Uh-huh.
4 A In fact, I will tell you, we felt bad for him a little bit. You know, listen, he
5 did what he did, but he's still a fellow agent, he's still a human being, he's still a family
6 man --
7 Q Uh-huh.
8 A -- you know?
9 I don't want to -- I'll just tell you, I worked sex offenders for years. I would sit
10 across the table from hands-on offenders. And you still feel for them a little bit, from a
11 personal perspective, because they're screwed up, right?
12 So I felt bad for O'Boyle that he was -- his family, I felt bad for his family when all
13 this was going on. But I had no control over that.
14 Q Uh-huh.
15 A In fact, we had conversations like, "Wow, he just sold his house and he's
16 buying a house in a couple weeks." I think we found that out through Kansas City
17 executive managers, ASAC or SAC, who was in touch with him. And from a human
18 perspective, that hurts.
19 But you've got to do your job. He was a national security risk.
20 Q Uh-huh.
21 A And, I'm sorry, Sean Clark, SecD, CIU, we had nothing to do with that. It
22 was just a bad -- it was just bad timing. It was bad timing.
23 [redacted]. And we're at the hour mark, so we'll go off the record.
24 The Witness. Okay.
25 [Recess.]

1 [redacted]. All right. It's 1:08. We can go back on the record. Thank you.

2 BY [redacted]:

3 Q All right. Mr. Clark, I want to return to what was marked as exhibit 5. It's

4 the -- what you said is not an official FBI document.

5 A Yes. Okay.

6 Q You said that this was used by a contractor. Is it your understanding that

7 this was also created by that contractor?

8 A That's my understanding, yes.

9 Q Okay. And so these were not questions -- this was not a document that

10 you or anyone who reported directly to you used, correct?

11 A Correct.

12 Q Okay. Looking at the questions that are listed on here, the --

13 A Okay, let's go back. You said somebody that reported to me used.

14 Q Right.

15 Mr. Berger. As a direct report?

16 [redacted]. As a direct report, yes.

17 The Witness. Again, I think, going back -- and we talked about this -- I don't

18 know if I was the only one over there at the time as an SSA or not.

19 BY [redacted]:

20 Q Okay.

21 A So I don't want to -- to answer that --

22 Q Understood.

23 A -- question accurately, he might've at one point reported to me directly. I

24 don't know if he reported to me then.

25 Q Okay.

1 A But I did not sign this document in the file.

2 Q And you never saw this document before? When you were an FBI

3 employee, you never --

4 A Not until --

5 Q -- saw this document --

6 A Not until, like, 2 weeks ago when it hit the press.

7 Q Okay.

8 The questions on here, you described some of these questions, I think, as

9 "inappropriate" in the prior hour.

10 A I do, yes.

11 Q To the best of your knowledge, are these questions that you ever asked

12 anyone in an interview?

13 A No.

14 Q Okay. To the best of my knowledge, are these questions that anyone you

15 directly supervised, whose work you actually reviewed, ever asked in an interview?

16 A Well, let me back up. There's a lot of questions on this questionnaire. So

17 there are questions I would've asked --

18 Q Understood.

19 A -- right?

20 Q The questions -- fair. And that's a good distinction. The questions that

21 you've described as inappropriate, so those are the questions, "Vocalize support for

22 President Trump?", "Vocalize objection to Covid-19 vaccination?", that --

23 A Those are questions I did not ask.

24 Q Okay.

25 A That's correct.

1 Q Okay. And to the best of your knowledge, did anyone who directly
2 reported to you, whose work you remember reviewing, ever ask those questions?
3 A Not that I recall.
4 Q Okay. And if you had become aware that individuals who reported to you,
5 whose work you were reviewing, were asking those questions, what would you have
6 done?
7 A I would've -- yeah, I would've said, you know, absolutely not say -- not ask
8 these questions. Absolutely. Stay away from the COVID-19, like I said before. And
9 vocalizing your support for any President, that has no business in SecD.
10 Q Okay. So you would've stepped in to stop it?
11 A I would have, yes.
12 Q Okay.
13 Do you know if anyone other than this particular contractor asked these type of
14 questions -- or asked these questions?
15 A I'm not aware.
16 Q Okay.
17 Do you -- you said you know who this contractor -- uh-huh?
18 A Let me be fair, though. I wasn't in these interviews a lot of times, right?
19 There was high-profile cases sometimes I would be involved in the interviews. But any
20 interview that I was involved with, like, in the interview, these questions were not asked.
21 Q Understood.
22 And what I'm getting at is, the Washington Examiner article that was introduced as
23 exhibit 4 --
24 A Ah, yes.
25 Q -- suggests that these questions were widespread, that they were asked

1 frequently by SecD.

2 A Right.

3 Q I'm just wondering if you have an opinion on that claim.

4 A I'm not aware of that.

5 Q Okay. So, in your experience, these were not questions that were widely

6 asked at SecD?

7 A No.

8 Q Okay.

9 And you said you know the contractor who wrote -- who prepared this document?

10 A I believe I know him, yes.

11 Q Okay.

12 A His name is blacked out, but I believe -- I believe I know who this is, yes.

13 Q Okay. And what's your opinion of that contractor as an employee?

14 A As I stated before on the record, he never talked politics. I didn't -- again, if

15 it was Roger Arends (ph) -- we're talking specifically of Roger Arends (ph). If it was

16 anybody else, then -- you know.

17 Q Uh-huh.

18 A He never talked politics. I felt like he was a very -- he was a very laid-back

19 guy. I think he, like -- I think his parents were, like, hippies. He's very, like, a laid-back

20 guy. He talked about, like, Volkswagon -- you know, Volkswagon and stuff like that.

21 Just harmless.

22 Q Okay.

23 A He was a harmless guy. Very thorough.

24 I would sometimes question him and some of the other investigators, like I said

25 before, where I'm like, why do you guys have, like, 20 pages of notes before the

1 interview? Like, they would type up their questions sometimes before the interviews.
2 And that wasn't me.
3 Q Right.
4 A I didn't need that. I could just go in and talk to people.
5 But he was genuinely a nice guy.
6 Q Did he ever display bias --
7 A No.
8 Q -- that was concerning to you?
9 A I never saw that with him.
10 Q Okay. And, specifically, did you ever witness political bias from him?
11 A Never saw that with him, no.
12 And I only knew him inside of work though. I didn't know him outside of work.
13 Q Understood. But that's the context that we're talking here, so --
14 A Yes.
15 Q To your knowledge, did this individual interview Mr. O'Boyle?
16 A Mr. O'Boyle was never interviewed by SecD.
17 Q Okay. Do you know if this individual ever interviewed Marcus Allen?
18 A This person did not interview -- again, if it's Roger Arends (ph), this person
19 did not interview Marcus Allen.
20 Q Okay.
21 Do you know -- are you familiar with Kyle Seraphin?
22 A Yes.
23 Q Okay. Do you know if this individual interviewed Kyle Seraphin?
24 A I think we're all aware of Kyle Seraphin, right?
25 Q Why do you say that?

1 A Well, he's got his own blog or his own podcast. He's a self-serving former
2 agent.
3 The question was, did this individual interview Kyle Seraphin?
4 Q Do you know? To the best of your knowledge.
5 A I don't recall if Kyle Seraphin was interviewed by SecD. I don't remember.
6 Q Okay.
7 A Do you know if he was?
8 Q I don't know. And I know there's a number of --
9 A But he wouldn't -- I don't --
10 Q Okay.
11 A Unless this guy was a second on the interview. He was not the lead --
12 Q Okay.
13 A -- of the Kyle Seraphin case.
14 Q The reason I'm asking is because the Washington -- Examiner or Times?
15 The Washington Times article -- I think I might have said Washington Examiner earlier. I
16 apologize. It's the Washington Times.
17 A Yeah.
18 Q The Washington Times article refers to some of these allegations, and then it
19 refers to Mr. Seraphin and Mr. O'Boyle. And so I'm just trying to get a sense of --
20 A Oh, okay.
21 Q -- if this might have been --
22 A Yeah, no, I don't think this contractor had anything to do with the Kyle
23 Seraphin case.
24 Q Okay.
25 A Just, can you give me just 30 seconds to think about that?

1 Q Sure. Sure.

2 A Okay. Thank you.

3 Yeah, I don't believe he had anything to do with the Kyle Seraphin case.

4 Q Okay. And I want to return to Kyle Seraphin later.

5 A I'm just trying to think -- also Friend. He didn't have anything to do with

6 Friend either.

7 Q Okay. He had nothing to do with the Stephen -- that's a reference to

8 Stephen Friend?

9 A Stephen Friend. Actually, the whistleblower of [redacted] actually

10 interviewed and worked the Stephen Friend case.

11 Q Okay.

12 A So -- and was part of the team that suspended Mr. Friend.

13 Q Do you know if that whistleblower supported the suspension of Mr. Friend?

14 A Was he what?

15 Q Was he supportive of the decision to suspend Mr. Friend?

16 A I would assume. He signed the paperwork, and he sat in Mr. Friend's

17 interview.

18 Q Okay.

19 I want to move on to the discussion about Mr. Allen.

20 A Okay.

21 Q And we are going to return to that Washington Times article, so don't --

22 A Okay.

23 Q -- put it too far away.

24 I want to turn to the Empower Oversight letter again. This is the one marked

25 exhibit 3.

1 A Okay.

2 Q And on page 6 -- well, I'm going to turn to page 6, but I have some questions

3 to ask you before we talk about it.

4 A Okay.

5 Q In the prior hour, you referred to, I believe it was, [redacted] who was

6 the line agent who handled this case. Do I have that name right?

7 A Yes. [redacted]

8 Q [redacted]. I'm sorry.

9 A He went by [redacted]

10 Q [redacted]. You said that --

11 A Initially he was the investigator, initially, right, and then it became somebody

12 else.

13 Q Right.

14 A Okay.

15 Q You said that he believed Mr. Allen should be suspended for personal

16 conduct reasons.

17 A I mean, that's just me recalling.

18 Q Okay. Why do you believe that -- what's your understanding of why

19 [redacted] believed that Mr. Allen should be suspended for personal conduct reasons?

20 A I don't remember. I don't want to --

21 Q Okay.

22 A Maybe -- I'd be guessing. I'd be guessing if I said, and it wouldn't be fair.

23 Q Okay.

24 A It wouldn't be fair.

25 Q On page 6 of this, at the bottom of the second-to-the-last paragraph, it says,

1 "In clear retaliation, Perkins transferred the initial investigator to the Intake Unit, a less
2 prestigious assignment than CIU because of its limited investigative responsibilities."
3 I think you said the timeline was accurate, that he was transferred to the intake
4 unit. Do you agree with the characterization of that transfer as being retaliatory in
5 nature?
6 A I wasn't privy to any conversations that would've -- so hallway rumor was
7 that there was retaliation going on because [redacted] wasn't signing paperwork or he was not
8 working fast enough. That's hallway rumor.
9 Q Uh-huh.
10 A But I was not privy firsthand to any of these conversations.
11 Q Okay.
12 A So I'm just giving you --
13 Q Yep. Understood.
14 A -- what was happening.
15 Q Understood. Because earlier you said the timeline matched up, but --
16 A The timeline --
17 Q -- you actually don't know --
18 A The time- --
19 Q -- if this is true or not, that it was --
20 A The timeline matches up.
21 Q Right.
22 A I mean, [redacted] would --
23 The Reporter. Excuse me.
24 [redacted]. Sorry.
25 The Reporter. Please, one at a time.

1 [redacted]. Sorry.

2 The Reporter. Thank you.

3 The Witness. [redacted] would come and complain a little bit to some of us. So I

4 think I'm hearing bits and pieces like that.

5 BY [redacted]:

6 Q Right.

7 A But I never heard anything from Perkins related to retaliatory or that she had

8 it out for him.

9 I wasn't in a position either. I was the SSA. Again, when all this was happening,

10 I was transitioning back from Washington Field Office.

11 Q Uh-huh. Understood.

12 A And I was a newer employee there. So I don't know if people really knew

13 me --

14 Q Understood.

15 A -- to bring me into closed doors to say, "Hey, did you hear?"

16 Q Uh-huh.

17 A So, yeah, I can't comment on this.

18 Q Okay. So you have no knowledge one way --

19 A I have no --

20 Q -- or the other.

21 A I have no knowledge.

22 Q Okay.

23 On page 9 of this letter, there's a reference to the May 18th, 2023, congressional

24 hearing. And we talked through that at some length in the prior hour. Do you recall

25 that?

1 A I do.

2 Q Okay. Do you recall anyone, any of your supervisors or anyone that you

3 reported to, ever saying that these cases had to be resolved in advance of the hearing?

4 A So that would've been -- specifically what cases?

5 Q Either the Allen case or -- the Allen case in particular.

6 A According to this -- I mean, I'm just going off --

7 Q No, no, I'm asking if you --

8 Mr. Berger. Hold on. She's asking you --

9 [redacted]. -- yeah, if you --

10 The Witness. No, I --

11 Mr. Berger. Hold it. Hold it.

12 The Witness. Okay.

13 Mr. Berger. Why don't you just repeat the question?

14 [redacted]. Sure. Let me rephrase the question.

15 The Witness. Yeah.

16 BY [redacted]:

17 Q Do you personally recall Ms. Perkins, Mr. Veltri, or anyone else in your chain

18 of command ever telling or saying -- telling you or saying anything to the effect of, that

19 Marcus Allen case needs to be resolved by May 18th, 2023, in advance of this

20 congressional hearing?

21 A No, because I had no -- I really had no involvement in Allen's case. No.

1

2 [1:19 p.m.]

3 BY [redacted]:

4 Q Okay. So you have no knowledge of that happening?

5 A No knowledge.

6 Q And you referenced, I believe, [redacted]?

7 A [redacted].

8 Q [redacted].

9 A [redacted].

10 Q Thank you. I'm trying to read my writing.

11 You said you might have had a conversation with her.

12 A Just occasionally, unit chief to unit chief, but in passing. Maybe, "Hey, what

13 are you working on?" kind of thing. But I don't really recall exactly.

14 Q Do you remember --

15 A Because this case, according --

16 Mr. Berger. Let her finish the question.

17 BY [redacted]:

18 Q Do you remember [redacted]?

19 A Do I remember?

20 Q Do you remember Ms. -- sorry, her name is [redacted]. Is that right?

21 A Yes.

22 Q Do you remember if [redacted] ever said to you, "Oh, we need to wrap up

23 this Marcus Allen case in advance of the May 18th, 2023, hearing"? Is that something

24 she said to you?

25 A No.

1 Q To your knowledge, did anybody in your chain of command ever pressure
2 you to conclude the Garrett O'Boyle case in advance of the May 18th, 2023, hearing?
3 A No.
4 Q To the best of your knowledge, did anybody in your chain of command ever
5 place any pressure on anyone to resolve the Stephen Friend case in advance of the
6 May 18th, 2023, hearing?
7 A No. And I am very limited with Friend as well.
8 Mr. Berger. All right. The answer is no, right?
9 The Witness. No.
10 Mr. Berger. Okay.
11 BY [redacted]:
12 Q All right. I want to move on to Garrett O'Boyle. But before I do that, I
13 want to talk about the security policies a little more generally.
14 A Okay.
15 Q When you joined SecD, what type of training did you receive?
16 A When I joined SecD?
17 Yeah, there was very limited training. I don't know if there was any training at
18 that point.
19 Q You've referenced a couple of times the SEAD directive?
20 A Yeah.
21 Q What is that?
22 A SEAD 4.
23 Q SEAD 4?
24 A It's the Security Executive Agent Directive, which I believe is -- ODNI issues
25 guidance for all IC departments to follow for security matters.

1 Q I want to introduce SEAD 4. This will be exhibit 8.

2 A Okay.

3 [Clark Exhibit No. 8

4 was marked for identification.]

5 BY [redacted]:

6 Q And we're introducing the whole thing. You're welcome to read as much of

7 it as you'd like, but I can -- we're going to refer to -- we're going to talk through it more

8 generally and then we're going to talk through the specific guidelines you referenced

9 earlier.

10 A Okay.

11 Q If you want to refresh your recollection, take as long as you want.

12 A I can --

13 Q You're good?

14 A I can follow as you're reading, yeah.

15 Q When you joined SecD, did you become familiar with the requirement that

16 FBI agents must retain security clearances?

17 A I knew that when I began at the Bureau, yes.

18 Q Okay. And what's your understanding of why this requirement exists?

19 A Why does it exist? Because anything involved with our position we come

20 across classified information.

21 Q And is it fair to say that classified information includes national security

22 information?

23 A Yes.

24 Q And that it's important to safeguard that information?

25 A Yes.

1 Q Is it fair to say that the FBI security clearance requirement ensures that
2 highly sensitive material and classified material remains protected?
3 A Yes.
4 Q If that -- if such material, meaning classified material, but also sensitive law
5 enforcement information, is disclosed to an unauthorized party, it could compromise
6 ongoing investigations, correct?
7 A That's correct, yes.
8 Q For example, it could tip off a target or a subject that the FBI is looking into
9 them, correct?
10 A Yes.
11 Q And then that individual could destroy or conceal evidence, correct?
12 A Yes, yes.
13 Q And it could also create a risk of harm to others who might be involved in the
14 case, correct?
15 A Yes.
16 Q Okay. Unauthorized release of information -- of such classified or sensitive
17 information -- could also pose a risk to our national security interests, correct?
18 A Yes.
19 Q How so?
20 A Well, just all the things that you just said. I mean, you could tip off
21 subjects, you could tip off techniques, you can ruin an investigation. Different parts of
22 the investigation may not be ready for the courtroom or you may not have enough
23 valuable evidence. That person may go underground, may use different communication
24 devices or techniques.
25 Yeah, I mean, the whole load of things we can talk about. But release of that

1 information is detrimental to national security.

2 Q And it could also tip off foreign entities, correct?

3 A Correct.

4 Q And that could pose an additional risk, correct?

5 A Correct.

6 Q I want to turn to the SEAD 4 directive. You said you're familiar. Have you

7 read this document before?

8 A I have. And I just want to correct one thing. We did get training on SEAD

9 4.

10 Q Okay. Can you describe the training you received on SEAD 4?

11 A OGC attorney Tasha Gibbs would give like an hour or two training to the

12 Security Division and go over just the regular -- we'd just go over these documents and

13 discuss maybe case examples.

14 Q Okay. Could you describe in a few words your understanding of what the

15 purpose is of the SEAD 4 directives?

16 A I'm not a lawyer, and I did have this flip card at my desk, so I have to use it

17 every day as a reminder.

18 It's guidance on if somebody should be allowed to keep their security clearance,

19 whether they are a risk to the United States, based off of certain directives, guidelines,

20 and then sub-guidelines under that.

21 Q And you said earlier that these were issued by ODNI. That's the Office of

22 the Director of National Intelligence. Is that correct?

23 A That's correct.

24 Q And is it your understanding that these same guidelines apply across the

25 Federal Government?

1 A That is correct.

2 Q Okay. So this is not an FBI-specific document?

3 A No.

4 Q The version that I've just introduced as exhibit 8 was introduced on June 8th,

5 2017, correct?

6 A Yes, that's correct.

7 Q So it's been in effect at this point for 7 years, correct?

8 A That's correct.

9 Q And it was the version that was in effect the entire time that you worked for

10 SecD, correct?

11 A Unless it changed. But, yes, I believe so.

12 Q I want to turn to guideline K, which is the handling of protected information.

13 That starts on page 21 of this document.

14 A Okay.

15 Q And you said in the earlier hour that guideline K was one of the bases under

16 which Mr. O'Boyle was suspended, correct?

17 A It was, yes.

18 Q Okay. Guideline K is the handling of protected information. And I want to

19 read into the record what's listed here as number 33, the concern that says, "Deliberate

20 or negligent failure to comply with rules and regulations for handling protected

21 information -- which includes classified and other sensitive government information, and

22 proprietary information -- raises doubt about an individual's trustworthiness, judgment,

23 reliability, or willingness and ability to safeguard such information, and is a serious

24 security concern."

25 Did I read that correctly?

1 A That's correct, yes.
2 Q So the concern described in this section, it's not just classified information,
3 it's sensitive information, correct?
4 A That is correct.
5 Q And what's your understanding of what "sensitive information" means in this
6 context?
7 A Anything that could harm the government.
8 Q Okay.
9 A Yeah. Harm cases.
10 Q Would this include what's sometimes referred to as law enforcement
11 sensitive information?
12 A Yes.
13 Q What is law enforcement sensitive information? What's your
14 understanding of that?
15 A It's unclassified information that should only be in the hands of law
16 enforcement.
17 Q So information related to ongoing cases, for example?
18 A Yes.
19 Q The concern says that it's not just deliberate failure to comply with rules and
20 regulations, but also negligent failure to comply with rules and regulations.
21 What's your understanding of what that means?
22 A I'm sorry, repeat that. Deliberate --
23 Q Yeah. So the very first five or six words there it says, "Deliberate or
24 negligent failure to comply with rules and regulations," and it goes on as a concern.
25 You'd agree that "deliberate" means somebody intentionally accessing information

1 inappropriately.

2 A Right.

3 Q What's your understanding of what negligent means here?

4 A Just not following the rules. Just negligent in following the rules and even

5 though they're aware of the regulations and rules.

6 Q Okay.

7 A Like disregard.

8 Q And I want to look at under number 34, the "conditions that raise a security

9 concern and may be disqualifying." And I want to just read this in some detail.

10 So the first condition listed there is the "disclosure of protected information to

11 unauthorized persons." You see where it says that?

12 A (a), correct, yes.

13 Q Yes. So it says "deliberate or negligent disclosure of protected information

14 to unauthorized persons, including, but not limited to, personal or business contacts, the

15 media, or persons present at seminars, meetings, or conferences."

16 Did I read that a correctly?

17 A Yes, you did.

18 Q What's your understanding of why it's of concern when information is

19 deliberately or negligently disclosed to unauthorized persons?

20 A Because the need to know. The person that they are disclosing it to, the

21 unauthorized, has no access, has no business having that information.

22 Q You've used the term "need to know" a couple times in this interview.

23 A Yes.

24 Q What do you mean by that?

25 A Does that person have a right to be involved in the case? Do they have a

1 duty? Are they assigned that area of responsibility, for instance? Are they
2 contributors to the case?
3 So if they are not all that or any of that, they really have no need to know. It's a
4 way of we protect our information.
5 Q Okay. And if somebody does not have a need to know information, then
6 they shouldn't have access to it. Is that correct?
7 A That's correct.
8 Q The second condition here, under (b), is "collecting or storing protected
9 information in any unauthorized location."
10 What's your understanding of what that means?
11 A So, for instance, for classified information -- or even unclassified information
12 if it's sensitive or law enforcement sensitive -- unauthorized location, you have to store it
13 in -- and we all get training on this -- what's the right collection and storage of that
14 document, for instance. A CD in a box or a CD in a car or something like that, that's
15 negligent. That's not -- for an example. So basically where it's authorized.
16 Q So, and for example, if somebody were to take a screenshot of sensitive
17 information or a photograph of sensitive information and then were to take it outside of
18 FBI systems and were to told it on their personal device or to print it out, that would be
19 improperly collecting or storing information, correct?
20 A Yes.
21 Q (c) is "loading, drafting, editing, modifying, storing, transmitting, or
22 otherwise handling protected information, including images, on any unauthorized
23 equipment or medium."
24 I think that kind of goes along with (b), "collecting or storing protected
25 information in an unauthorized location."

1 What's your understanding of what that means?

2 A Yeah, just that. I mean, how somebody's handling the protected

3 information on like loose media or how they're they storing it.

4 Q Letter (d) is "inappropriate efforts to obtain or view protected information

5 outside one's need to know."

6 Can you describe briefly your understanding of that element?

7 A Well, specifically, why was O'Boyle going into the Project Veritas case? He

8 had no business. And that's per the case agent, per the supervisor. He had no need to

9 know. It was all inappropriate efforts on his part. And he didn't do it once. He did it

10 numerous times over a month or two.

11 Q And you have noted a couple times that he did this numerous times. Why

12 is that significant?

13 A It just seems like he kept going back and was interested in seeing if there

14 was any updates. I can't get into his head why he was doing it. I'd be guessing. It

15 just shows that he had a true interest in what was being displayed.

16 Q Is it fair to say that it suggests that it was not an accident that he had

17 accessed it once and then didn't go back, but he had an intent to repeatedly access this

18 file?

19 A Yes, because he was doing search strings as well, yes.

20 Q And when you say he was doing search strings, can you explain what you

21 mean by that?

22 A He was searching in databases for Project Veritas or specific people's names.

23 So he was actively typing in names or cases or case numbers. He wasn't randomly just

24 bumping into things on the site, you know what I mean?

25 Q Are you aware of what names he was searching for?

1 A I don't have the spreadsheet in front of me, but yeah, a few.

2 Q Are there any that you can recall sitting here today?

3 A Glover. As I mentioned before, I can't remember his first name. Maybe it

4 was Michael. I don't know. American Contingency. I don't recall what he was

5 searching in the Guardians, but he was searching some things in the Guardians. I don't

6 recall what that was. Project Veritas. I'd have to think about it, it's been a while.

7 Q Okay. You said there is a spreadsheet at FBI that details that?

8 A Yeah, because it's his UAM, it's called user activity monitoring. So, yeah,

9 there should be a spreadsheet.

10 Q Letter (g) here is "any failure to comply with rules for the protection of

11 classified or sensitive information."

12 What's your understanding of what that means?

13 A I mean, we all have the security awareness briefings every year. So we all

14 know how to protect classified or sensitive information. So it's failure to do any of that.

15 Q On the note of those rules that we just referred to, I want to introduce as

16 exhibit 9 form FD-889, which is the "FBI Information Technology and Information Systems

17 Rules of Behavior for General Users Agreement Form."

18 [Clark Exhibit No. 9

19 was marked for identification.]

20 BY [redacted]:

21 Q Are you familiar with this document?

22 A I am, yes.

23 Q Okay. What's your understanding of what this document is?

24 A It's something that every employee of the FBI or probably in the IC has

25 to -- and intel community -- has to sign to gain access to sensitive databases.

1 Q Okay. And what does this document -- what responsibilities does this form
2 place on individuals who are going to access sensitive computer systems?
3 A Well, we'd have to read all -- it's very detailed. But kind of goes off, like
4 locking your screen, taking precautions. Probably, I don't know, does it say anything in
5 here about like just addressing how you operate online. It's rules and regulations. And
6 everybody should be familiar with it.
7 Q Okay.
8 A So I could go over here and cite it.
9 Q I want to turn to page 4.
10 A Page 4, yes.
11 Q And I want to look under expressly the prohibited behavior, which is near
12 the bottom of the page.
13 A Okay.
14 Q That says -- that section reads, "Expressly Prohibited Behavior: Unless
15 required as part of official duties, the following behaviors or activities are prohibited on
16 any FBI IT/IS -- " do you know what that stands for?
17 A IS. Information systems? IT --
18 Q And IT is information --
19 A Information technology.
20 Q "-- authorized to operate by the FBI or on other agency IT/IS authorized to
21 operate in FBI controlled facilities."
22 And then it says, "I will not:
23 "1. Knowingly violate any statute or order, such as compliance legislation,
24 copyright laws, or laws governing disclosure of information, including but not limited to:
25 "a. Attempt to process or enter information onto a system exceeding the

1 authorized classification level for that IT/IS.

2 "b. Connect classified IT/IS to the Internet or other unclassified systems.

3 "c. Remove sensitive/classified media (paper or electronic) from controlled

4 areas/facilities (i.e. taking classified media home) without authorization.

5 And then d, which is on the next page, says, "Use FBI IT/IS or FBI information for

6 personal benefit, profit, to benefit other persons, non-profit business dealings, any

7 political (e.g., lobbying or campaigning) party candidate or issue or for any illegal activity."

8 Did I read that section correctly?

9 A Yes, you did.

10 Q So I want to look at c.

11 A c, okay.

12 Q On the next page.

13 So you said all employees are required to sign this agreement, right?

14 A They are, yes.

15 Q So all employees are required to verify that they will not remove sensitive or

16 classified media, paper or electronic, from controlled areas or facilities without

17 authorization, correct?

18 A That is correct.

19 Q Do you know if Mr. O'Boyle signed this form before beginning employment

20 with FBI?

21 A Yes, most definitely.

22 Q Okay. So he would have verified that he will not remove information.

23 A Yes.

24 Q And by removing information, he violated his -- what he had signed, what he

25 pledged to do?

1 A A hundred percent, yes.

2 Q I want to move on. I want to introduce as exhibit 10 form FD-857a, which

3 is "Sensitive Information Nondisclosure Agreement."

4 [Clark Exhibit No. 10

5 was marked for identification.]

6 BY [redacted]:

7 Q Have you seen this before?

8 A I have, yes.

9 Q To the best of your knowledge, does FBI require all employees with access to

10 sensitive information to sign this document?

11 A Yes, they do, yes.

12 Q In paragraph 3 of this document it says employees verify that they have

13 been informed that the unauthorized access, disclosure, or retention of sensitive

14 information or negligent handling of such information could cause irreparable damage to

15 FBI investigations, correct?

16 A Correct.

17 Q Okay. In paragraph 4, employees verify they have been advised that any

18 breach of the agreement may result in a termination of their relationship with the FBI and

19 access to FBI facilities, correct?

20 A Correct, yes.

21 Q To the best of your knowledge, did Mr. O'Boyle sign this document at the

22 beginning of his tenure with FBI?

23 A Yes.

24 Q Okay. So again, when he accessed the information that you've described,

25 he would have violated this agreement, correct?

1 A That's correct, yes.

2 Q All right. I want to turn back to the SEAD guidelines. I want to turn to

3 guideline M, which was the other guideline you'd referenced earlier. That's on page 23.

4 A Okay. I'm there.

5 Q Guideline M is the "Use of Information Technology." And the concern

6 associated with this guideline is that, quote, "Failure to comply with rules, procedures,

7 guidelines, or regulations pertaining to information technology systems may raise security

8 concerns about an individual's reliability and trustworthiness, calling into question the

9 willingness or ability to properly protect sensitive systems, networks, and information."

10 And then it goes and describes what information technology is, correct?

11 A Correct.

12 Q Okay. What's your understanding of that first sentence that describes the

13 concern about failing to comply with rules and regulations?

14 A Just give me one second just to re-read it. I apologize.

15 Q Sure.

16 A Well, basically, we just went over the rules and procedures that he signed

17 onboarding or whatnot. And he knew the rules and procedures. And I gave some

18 examples prior in my testimony that he failed to comply with those rules and procedures.

19 So it would fit under the guideline M.

20 Q And "he" is Mr. O'Boyle?

21 A Mr. O'Boyle, yes.

22 Q And specifically why -- it says that failing to comply with rules, procedures,

23 guidelines, et cetera, calls into question the willingness or ability to properly protect

24 sensitive systems, networks, and information.

25 Why does an individual -- just speaking broadly here -- when an individual fails to

1 comply with the rules pertaining to information technology systems, why does that create
2 concern about their ability to safeguard sensitive systems and information?
3 A Well, it goes into patterns, patterns and behavior. And you start
4 questioning the person's allegiance or the way they go about their business, whether
5 they're sloppy or they protect or not protect sensitive information. So, yeah.
6 Q In the discussion in the earlier hour about Mr. O'Boyle you noted that he was
7 transferring to a unit with access to highly sensitive information, probably highly classified
8 information as well, correct?
9 A Correct.
10 Q Okay. Can you describe the concerns about why his access, his prior
11 activity, his prior access to information that he did not have a right to know, his misuse of
12 information technology systems created such a concern about the risk that he might pose
13 if he had access to that highly classified information?
14 A Yeah, he just seemed like loose a little bit with the rules. As I stated before
15 in a couple of examples, he was going to cases that he had no business being in, and then
16 it was getting out to the media somehow.
17 So he showed a pattern of behavior over months, maybe a year, and it was not a
18 one-off, it wasn't a mistake. He was proactively looking for cases.
19 So for him to be assigned to a very sensitive unit, there was worry about him
20 having access to some of the most sensitive cases in the FBI and what he potentially
21 would do with that information.
22 Q I want to return to the Washington Times article, the November 10th
23 Washington Times article.
24 And you said you're familiar with this article?
25 A Unfortunately, yes.

1 Q Can you please turn to page 5 of this article?

2 A Okay. I'm there.

3 Q About halfway down, I think it's the fourth full paragraph on this page, it

4 says, "The disclosure" -- whistleblower disclosure -- "said FBI supervisor Sean Clark and

5 Ms. Perkins were behind the scheme to punish Mr. O'Boyle."

6 Was there a scheme to punish Mr. O'Boyle?

7 A What scheme? There was no scheme.

8 Q So is this an accurate statement?

9 A Absolutely 100 percent false.

10 Q Okay. When you received the O'Boyle case in August of that year -- it was

11 August of 2022, correct?

12 A August 1st, 2022, correct.

13 Q August 1st of 2022. Was your reaction, "We need to punish Mr. O'Boyle"?

14 A First of all, it's not in my nature. And second of all, absolutely not.

15 Like I said before, I gave examples of cases, my character is to find the right

16 answers, facts. Where those facts lead us in this case led us to a suspension. Yeah.

17 So no, I never -- back to your question, I believe was did I scheme or did I -- no.

18 Q And is a suspension a punishment, is that the appropriate way to describe a

19 suspension?

20 A I mean, some people would say that. I'm sure if I got a -- if I got suspended

21 I would think it was a punishment, maybe time-out. I don't know how you want to

22 describe it.

23 Q Is it fair to say that the true purposes of a suspension, though, is to prevent

24 an employee from accessing information that might do harm if they were to release it?

25 A One hundred percent, yes.

1 Q Okay. That paragraph continues, "They," referring to you and Ms. Perkins,
2 "allegedly transferred him," meaning O'Boyle, "across the country with the intent to
3 suspend and financially devastate him."
4 What's your response to that line?
5 A It's a joke. This is a joke article. Absolutely 100 percent false.
6 I had nothing to do with his transfer. I had nothing to do with his current
7 position -- his position that he's coming to. I had no intentions -- or, I mean, intent -- to
8 suspend and financially devastate him. No.
9 My intent was to get the right information as soon as we could to prevent harm to
10 national security of the patterns that he was doing and get it right.
11 Unfortunately, the case came in August 1st, 2022. This train already left the
12 station, his transfer, his selling of his house, his buying potentially of a house, his
13 household goods being shipped. Sean Clark and Ms. Perkins had nothing to with this.
14 So this is a garbage paragraph right here, garbage article. This is to capture the
15 audience. This has nothing -- this is based off of no facts, and it didn't happen.
16 Q There is a break there where an advertisement, I believe, goes, and right
17 underneath that there's a paragraph that says, quote, "'Clark bragged to at least one
18 other FBI employee in SecD that he was going to really "screw" O'Boyle,' the disclosure
19 said."
20 Did you ever tell anyone in SecD that you were going to screw O'Boyle?
21 A Why would I say that? No.
22 Mr. Berger. She's asking whether you ever said that.
23 The Witness. No, I know, Larry.
24 The statement makes me very angry honestly.
25 [redacted]. Why does it make you angry?

1 The Witness. Because it's not me and it's not true. People can write whatever
2 they want in papers. We've probably all been written about. But bring this person
3 here, this one other employee, and let's ask them that in front of me. I never said this.
4 BY [redacted]:
5 Q There's an allegation, that I think was what [redacted] was hinting at in the
6 prior hour, that SecD, and you in particular, held the suspension letter to Mr. O'Boyle until
7 he actually had moved and then served it on his new location intentionally to put him in a
8 hard spot, to financially disadvantage him or to create additional hardship for him.
9 Is that allegation true?
10 A That's not true. What I said before is there was a criminal case going on
11 with New York. They were dictating some of this as well. He was on paternity leave.
12 And we had to get our facts right. Ask anybody, 40 days or 35 days from opening
13 to suspension is pretty quick.
14 So the timing sucked for O'Boyle, but Sean Clark, SecD, had nothing do with that.
15 I feel bad for him and his family as far as that. I had nothing to do with that.
16 And the suspension being served that day was because we didn't want him -- we
17 had our facts, we had our suspension, and we didn't want him getting into a sensitive
18 position. That's what it comes down to.
19 Q Do you know if Ms. Perkins intentionally withheld the letter in order to cause
20 him -- cause Mr. O'Boyle additional hardship?
21 A Absolutely none of that happened.
22 Q Okay. Do you know if EAD Moore intentionally had the letter withheld in
23 order to cause additional hardship to Mr. O'Boyle?
24 A No.
25 Q Some final questions on the O'Boyle decision.

1 I forgot to ask this in the earlier hour. The Empower Oversight letter suggests
2 that Mr. O'Boyle was suspended for making protected disclosures to Congress.
3 Is that accurate?
4 A No, a hundred percent inaccurate.
5 Q He was -- Mr. O'Boyle was not suspended for making protected disclosures
6 to Congress?
7 A That is correct.
8 Q And, in fact, he was suspended for improperly accessing sensitive systems?
9 A Guideline M, guideline K, correct.
10 Q And improperly removing information from the systems?
11 A That is correct, yes.
12 Q Was the suspension or revocation of Mr. O'Boyle's security clearance
13 motivated by animus on your part?
14 A I had nothing to do with the revocation. The suspension, absolutely not,
15 zero percent.
16 Q Okay. Was it done to punish him for his political or ideological beliefs?
17 A I didn't even know his political beliefs. So, no.
18 Q Are you confident that the true motive behind FBI's decision to suspend
19 Mr. O'Boyle's security clearance was to protect the national security of the United States
20 against a serious potential security risk?
21 A Yes.
22 Q To the best of your knowledge, was the suspension issued to Marcus Allen
23 motivated by any type of animus?
24 A I was not part of that investigation, so I'd rather not comment.
25 Q Okay. But you don't have any personal knowledge?

1 A I have no personal knowledge.

2 Q Okay. Do you have any personal knowledge of that suspension being

3 issued, the Marcus Allen suspension being issued to punish him for his political or

4 ideological beliefs?

5 A No, I'm not aware of that.

6 Q All right. Thank you. We can go off the record.

7 [Discussion off the record.]

8 [redacted]. Back on the record. The time is 1:54 p.m.

9 BY [redacted]:

10 Q Mr. Clark, I just have a few more questions that I wanted to ask you.

11 Going back to Mr. O'Boyle's case. I know you had mentioned you became aware

12 that he had sold his house, his personal belongings were shipped out here to Virginia, and

13 that he did transfer here.

14 Did you ever become aware that there was -- he was kind of denied access to his

15 personal belongings, he didn't have access to them for about 4 weeks while they were

16 held in, I believe, it was someone that had contracted with the FBI to hold the

17 belongings? Did you ever become aware of that?

18 A I never did, no, never did. Only one caveat. Coming here, I just briefly

19 looked at Jen Moore's testimony. I think she stated in that. That's probably the first

20 time I saw that. I think she -- did she mention that?

21 Q She did, yes.

22 A I was not aware of that. I was not involved in that. So, no. And, in fact,

23 I wasn't even aware that his stuff was being transported. All I knew was that he was

24 buying a house and selling a house.

25 Q Okay. And at some point, I believe in the second hour, you had mentioned

1 some interactions with the Kansas City Field Office.

2 A Yes.

3 Q Did you have those interactions or did someone on your team have those

4 interactions?

5 A Probably both.

6 Q Okay. And who did you reach out to at the Kansas City Field Office?

7 A ASAC Jeffrey Berkebile?

8 Q Yeah.

9 A Spoke to him. I may have spoken to SA Dayoub.

10 Q Okay.

11 A But it probably was more of -- no, I don't think I spoke to him on that case.

12 No, that was a different case. The ASAC.

13 Q And what was the reason for that outreach?

14 A The ASAC.

15 Brian Murphy, the investigator, and I interviewed ASAC Berkebile. We wanted to

16 ask him, I think early on, probably sometime in August, I would say, or early September,

17 we wanted to see if he could listen to the May 11th, 2022, Project Veritas interview to see

18 if he could determine who it was or if he -- you know. So we did a 302 on that.

19 Q Okay.

20 A And I think during that 302 -- I just reviewed it -- Berkebile was giving us

21 some background character on O'Boyle.

22 Q Did you ever talk to the Kansas City Field Office about the plan to suspend

23 Mr. O'Boyle's clearance?

24 A I'm sure that came up, yes.

25 Q Okay. And what timeframe would that have occurred?

1 A The best I can say is sometime probably between August and September. I
2 know that's not what you want to hear, but somewhere in those 30 to 40 days.
3 Q Okay. And would it have been immediately before the suspension of his
4 clearance occurred or weeks before that?
5 A I don't know. It's a pretty condensed timeframe. So, I mean, we could
6 probably surmise that probably within a few weeks of it being signed off on.
7 Q And according to one of the disclosures we've received, someone at the
8 Kansas City Field Office raised objections to the suspension because of an FBI policy that
9 didn't permit the transfer of an employee while there was an ongoing investigation.
10 Do you remember that occurring or was that conversation with you or would that
11 have taken place with someone else?
12 A I don't know what you're talking about. I apologize. What do you mean?
13 Q Did you ever hear of any objections being raised by the Kansas City Field
14 Office for suspending Mr. O'Boyle's clearance while he was transferring?
15 A Never heard that.
16 Q Okay.
17 A It wasn't with me.
18 Q And I know during the last hour you went through some of the statements
19 that were included in the article and the disclosures.
20 But just kind of wanted to retrace those steps a bit. But some of the statements
21 were that you were out to punish Mr. O'Boyle, you wanted to screw Mr. O'Boyle. At
22 one point you wanted to, quote, "eff that guy," or financially devastate him.
23 Why would people think you had such animosity towards Mr. O'Boyle?
24 A Who is the source of those?
25 Q It's whistleblower disclosures.

1 A Who's the whistleblower?

2 Q Well, I'm not going to name a whistleblower on the record, that's not what

3 the committee does.

4 But I'm just wondering why do you think people would think you have so much

5 animosity?

6 A When you say people --

7 Q Uh-huh.

8 A -- it's just one whistleblower.

9 Q I cannot --

10 Mr. Berger. We don't know -- yeah, we don't know whether it's people, whether

11 it's one person.

12 The Witness. I don't know.

13 Mr. Berger. But he's asking --

14 The Witness. I don't know. I'm not here talking to my accused. I have no

15 idea.

1 BY [redacted]:

2 Q And if it's just one person, why would even a person think that you had

3 animosity towards Mr. O'Boyle to make these type of statements?

4 A I don't know who would say this. I had no animosity. I didn't even know

5 Mr. O'Boyle. I'm a fact guy, f-a-c-t, fact. I follow the facts.

6 I have no animosity to Mr. O'Boyle. I don't know him. So I don't know why

7 they would say that.

8 If it came from [redacted] I already outlined him and I relationship. So he

9 has probably underlining motivations to hurt me. And I know of some other allegations

10 out there about me that's he's made up. So if it's come from him, it's not worth weight.

11 Q Have you ever had any conversations while were you at the FBI with EAD

12 Moore about Mr. O'Boyle's case?

13 A I didn't talk to Ms. -- Jen Moore was like seven levels above me.

14 Q When Ms. Moore came before this committee in June 2023, she stated that

15 the review process of Mr. O'Boyle's clearance would be done in a month, which would

16 have been July 2023. His clearance was ultimately revoked this month.

17 Just wondering if you could provide any color about why there was such an

18 extension of time, if you can. I know you left in August 2023.

19 A I'm sorry, the date she said was -- when did she testify? I apologize.

20 Q June 2023, at the beginning of June.

21 A June 2023. Okay.

22 Q I believe it was her last day with the Bureau actually.

23 A Okay. So she said it was going to be adjudicated a month later.

24 Q Uh-huh. It would have been resolved within a month.

25 A From the adjudication unit.

1 Q Uh-huh.

2 A Yeah. I don't know why she would have said that. That's really fast.

3 Q Okay. Jumping to a different topic, I know that you had said that you had

4 left SecD at some point to go back to the WFO. What was that timeframe again?

5 A August 1st of 2021 through 90 days from there, that's when I went back.

6 Q Okay.

7 A So I'm quickly doing the math. August. September. So end of October I

8 returned to WFO. During that period I -- I would have been there maybe two pay

9 periods, I think. So I would have returned somewhere after Thanksgiving.

10 Q Okay.

11 A Probably the first week of December.

12 Q And during the first hour that we had together, you had mentioned some

13 investigative activity that you had taken with regard to the events that occurred at the

14 Capitol on January 6th, 2021.

15 A Correct.

16 Q I mean, you said you ultimately responded to the Capitol for the pipe bomb

17 that was placed near the DNC. Is that correct?

18 A That's correct.

19 Q Were you working in SecD at the time or were you at WFO at that time?

20 A I was at WFO. That day I was working as a bomb technician --

21 Q Okay.

22 A -- assigned to the Capitol Police with Metropolitan Police Department.

23 Q Okay. And when were you called to the Capitol? Do you remember the

24 time? Did you immediately go to the DNC or --

25 A That was our first callout. Gosh, anywhere between 10 -- was it 10 a.m.,

1 10:30, 9:30? Somewhere around there. It was in the morning. We worked on it for a
2 few hours.
3 Q Okay. And who initially called you here to the DNC pipe bomb? Was it
4 your supervisor? Or who was making those calls that day?
5 A Probably got a telephone call from the coordinator, the bomb tech
6 coordinator. We had radio comms. There was a command post set up that day at
7 WFO. I don't know who called me.
8 Q Okay.
9 A But somehow the call came and said, "We need bomb technicians over at
10 the DNC and the RNC," because I think there was two pipe bombs.
11 Q And as a bomb technician, what was your role? What actions did you take
12 with regards to the pipe bomb that was found near the DNC?
13 A Well, it was a little chaotic that day. Normally we would render it safe and
14 then collect the evidence, because it probably would become a domestic terrorism or a
15 potential criminal, and the FBI or ATF would take the lead on that.
16 But my role specifically was I worked with Capitol. We rendered one of the DNC
17 pipe bombs, had the end caps off, we rendered it safe. But I was on to my next call.
18 And there was -- I just remember the streets were chaos. We couldn't even collect the
19 evidence that day. We couldn't even find the end caps, we had to come back the next
20 day.
21 Q And so after you rendered the pipe bomb safe, then was that the end of your
22 involvement with any sort of investigative activity in relation to the pipe bombs that were
23 found near the DNC and RNC?
24 A Yeah, I had nothing to do with it after that.
25 Q Okay.

1 A I was off and running on something else.

2 Q Okay.

3 A But there were other FBI folks there that stayed.

4 Q Did you ever get any sort of briefings or updates on what was going on with

5 the pipe bomb investigation?

6 A None. My main role after that was crimes against children.

7 Q Okay. And to this day there's been no subject arrested in regards to the

8 pipe bomb. Just wondering, are you surprised by that, that it's taken this long for the

9 investigation to take place?

10 A My understanding was the individual was obfuscated, his face was

11 obfuscated, and cell phone data in the city was very difficult to pin him down or pin her

12 down.

13 I'm sure the FBI really tried to figure out who that was, but I can't comment

14 because I didn't work the case at all. All I was was there was that day to render safe the

15 device, that was it.

16 Q And during the first hour you had talked about how the goal posts were

17 constantly shifting with regards to who the FBI was going after. Can you kind of provide

18 a little bit more color there? What did you mean by that?

19 A You know, one day it was investigate, arrest anybody that was assaulting the

20 police officers. Next day it was anybody that was inside the Capitol. A week later it

21 was anybody that was on the steps of the Capitol. A month later it was anybody that

22 was on the grass within a hundred yards. I mean, it just kept changing.

23 At one point it was anyone that broke down a barrier or went past a barrier. But

24 discussions occurred. If the barrier was already down and 100,000 people walked past,

25 or whatever, thousands of people, how would you know the barrier was down?

1 So it was just goal posts were constantly being changed for the investigators.
2 That's what I meant.
3 Q And were you working January 6th-related investigations while at the WFO
4 after the pipe bomb investigation or did you go back to just working on crimes against
5 children?
6 A They had us all working J6 -- or, I'd say, yes, I was working J6 investigations.
7 I think I had one -- I was a lead on one and I think two or three I was a co-case. Most of
8 them were assaults on police officers.
9 And so, yes, I partook in at least three or four J9 -- J6 investigations, yes.
10 Q Okay. And during a round of questioning with my Democrat colleague you
11 mentioned something about an arrest affidavit that you didn't want to sign and they
12 found someone else to sign.
13 Was that in relation to a January 6th case? I'm sorry, I was down at the end of
14 the table and didn't hear you?
15 A Yeah, yeah. No problem, no problem. It was, yes.
16 Q And what can you tell us about that?
17 A Actually it was just in the news. He just pled, I think. Trying to think of his
18 name. Just give me a second, I apologize.
19 Q Take your time.
20 A I forget his name. Oh, my God. It's going to come -- I'm going to walk out
21 of this room and it's going to come to me.
22 Q The name isn't important. I guess I'm just wondering, what were your
23 concerns with the arrest affidavit that led you not to sign it?
24 A So we presented facts to the U.S. Attorney's Office -- and this is best of my
25 ability, just don't hold me to it, it's been two or three years -- presented facts to the U.S.

1 Attorney's Office, and they would put it into the affidavit where they would shape the
2 affidavit.
3 And what they came back with, I didn't find some of the paragraphs were
4 accurate. I think they were trying to boilerplate some of the affidavits to fit all of them
5 because they had concerns later down the road related to discovery.
6 So I just think the hours and days of video that we were watching of this individual
7 just didn't fit some of the things that they had in the affidavit. I don't remember
8 specifically what it was.
9 And I asked him if he could change that. I said, "Hey, if you can change this,
10 change that, whatever, and I'll sign it, because I feel this is factually based off of my
11 observations." And it came back and they just wouldn't -- they wouldn't change it. So
12 I refused to sign the affidavit.
13 So he was like the right-hand guy of -- who was the guy that was sued? Sandy
14 Hook, made comments about Sandy Hook, and he was sued for like a billion dollars.
15 Mr. Berger. Jones?
16 The Witness. What was his name?
17 Mr. Berger. Yeah, Jones, I think.
18 The Witness. Yeah.
19 Mr. Berger. Or the guy who said it was FBI.
20 The Witness. He's out in Texas somewhere.
21 Mr. Berger. Yeah. I think his name is Jones. But anyway, it doesn't matter.
22 The Witness. He's associated with him.
23 BY [redacted]:
24 Q And when you -- sorry to go back to this -- but when you talked about the
25 moving the gold posts and like who should be targeted, whether it be people who had

1 entered the Capitol or on the steps of the Capitol, on the grass.

2 So where was that direction coming from? Was that coming from

3 Headquarters? WFO? Who was making those decisions, to the best of your

4 knowledge?

5 A I just remember conversations with the line AUSA that I had. I think he was

6 either D.C. or DOJ. It might have been just general speak amongst case agents in the

7 squad.

8 Where that was coming from? I don't know exactly. I could surmise. But I'd

9 rather not do that here.

10 Q And at the time you were working the January 6th-related cases were you an

11 SSA still there back at WFO?

12 A Oh, no, no.

13 Q Did you have a different title?

14 A I was an SA. I was a special agent.

15 Q Okay.

16 A Yeah.

17 Q And when did you stop working January 6th-related cases?

18 A When I transferred to SecD.

19 Q Okay. So did you ever go back full-time to working on crimes against

20 children or was it always just a mix after January 6th?

21 A Oh, after January 6th?

22 Q Uh-huh.

23 A So we were kind of told to focus on January 6th and that's our day job. And

24 we were, we were focused on the assault cases definitely. There was no problem

25 working those.

But I think, as you have more time in the Bureau, you realize how to manage your time better. And so we were focused on emergencies. If there's an emergency as far as crimes against children, we identified the hands-on offender that needed to be taken off the street.

Some of the cases that we knew that could wait waited, but I was still working the crimes against children. Was it a hundred percent? No. Probably more so on the January 6th cases, especially the first few months.

[redacted]. We can go off the record.

[Discussion off the record.]

BY [redacted]:

Q Just a couple of follow-up questions on what you were just asked.

You said that you were one of the bomb technicians that responded to the DNC pipe bomb, correct?

A The DNC, correct.

Q Okay. Can you explain, do you have training in disabling bombs? I don't know what the technical term is. But can you explain your training in that regard?

A Yeah, rendering safe, RSP, procedures. Yes, I had 17 years of training.

Q Okay. And where did you receive that training?

A Initial training 5-week course is in Huntsville, Alabama. It's called the Hazardous Devices School, run by FBI and DOD/Army.

Q Okay. And would you say that you are able to determine -- to assess a bomb or an explosive device to determine whether it's live or whether it poses a danger or not?

A God, that's an open-ended question.

Q Have you had training in that?

1 A Yeah, we have. Yes, correct, yes. So I am able to -- or was able to -- make
2 an assessment, determine the course of action.
3 Q You said that you rendered the pipe bomb at the DNC safe. What does
4 that mean?
5 A So there were two operators I believe from Capitol Police in their truck and I
6 was with them. I was standing behind them. They were operating the robot. And
7 basically we had -- we loaded up two -- I believe it was two shotguns on the robot. And
8 they basically -- we basically shot -- they shot, the Capitol Police, but I was there as the
9 FBI and I was -- we were all kind of, "Hey, do this, do that. Hey, move it over that way."
10 That kind of thing. Collaborating. But I did not operate it. It was all Capitol Police.
11 But they shot the end cap off. And then they were putting a guy in a suit to go
12 down to make sure that it was rendered safe where basically somebody could go down
13 there and, say, "Clear," right, no explosives in the pipe and everything's scattered.
14 And I said to them, "Why don't we just -- you have another loaded shotgun. Just
15 shoot the other end cap off." Because we couldn't see if there's anything still inside the
16 cap, inside the pipe.
17 So that's kind of what I did. And then they ended up shooting the second end
18 cap off.
19 Q Was it your understanding that it was a live bomb, meaning it had the
20 potential to cause damage?
21 A You know, I don't know. I mean, it looked like it.
22 Q Okay.
23 A But I don't know what the lab -- I don't -- I can't -- I don't want to comment.
24 I don't know what the FBI lab came back with. I didn't follow it.
25 Q You referred to the FBI lab just now. The FBI lab assesses explosive devices

1 after they are sent to the lab, correct?

2 A Correct.

3 Q And so if the lab were to determine that it had been a live device, that would

4 be a pretty good indication that it had been a live device, correct?

5 A Yeah, they're the experts.

6 Q Okay.

7 A Yes.

8 Q On the January 6th cases that you referred to, you said you worked three or

9 four cases total, correct?

10 A Directly, yes.

11 Q Okay. And you were never in a supervisory capacity, correct?

12 A I was not, no.

13 Q Okay. So you weren't privy to the discussions that might have been -- you

14 referred to them moving the goal posts. You weren't privy to any discussions that might

15 have been taking place at the supervisory level or at the leadership level about how to

16 determine how to place those boundaries, correct?

17 A I was not present, correct.

18 Q Okay. So you kind of got the end result of that, but you don't know what

19 went into that decision?

20 A That would be accurate, yes.

21 Q Okay. With respect to the one case that you referred to, I'm going to -- you

22 said that the -- where you didn't agree with the affidavit?

23 A Yeah.

24 Q I'm going to read a couple of names and see if either of these might be the

25 individual.

1 Samuel Montoya?

2 A No.

3 Q Owen Shroyer?

4 A Yes.

5 Q Okay, it was Owen Shroyer.

6 You said that you didn't agree with the way that the affidavit was written, correct?

7 A Correct.

8 Q But you would have signed it if it had been changed, correct?

9 A The way I sent the information over with the facts I found, yes. I would

10 have signed it, yes.

11 Q So if the affidavit had reflected the changes that you had suggested, you

12 believe that it would have shown sufficient reason to arrest the individual?

13 A Yes.

14 Q Okay. So you didn't have concerns about whether the individual should be

15 arrested or not, you just didn't agree with the way the affidavit was phrased?

16 A That's correct.

17 Q Okay. All right.

18 I want to turn to kind of a more sensitive matter.

19 Your name obviously was in the news, it was in the Washington Times article, it's

20 been in the letters from Chairman Jordan that are available on the public website.

21 A lot of the allegations made against you are that you are a partisan actor and that

22 as an FBI employee you made decisions for partisan reasons.

23 What's your response to that allegation?

24 A Could you expand on "partisan"?

25 Q That you made decisions for political reasons or out of bias or personal

1 animus?

2 A A hundred percent false. Can I go into that a little bit?

3 Q Please.

4 A I'm apolitical. I'm an Independent. I vote for both parties. I have no

5 political affiliation. For the record, I voted for Trump twice. I've also voted

6 Democratic.

7 So I've lived my career apolitical. I actually don't even like saying that in this

8 room. Don't even like you guys knowing who I'm aligned with because it's my own

9 personal belief. I have an "I" next to my name, Independent, because I don't want a

10 party telling me how to vote.

11 So to say that I have an agenda or a political agenda is a hundred percent false.

12 Q And there have specifically been allegations that SecD and you as a part of

13 SecD were retaliating against individuals in the FBI who had conservative political

14 leanings. What's your response to that allegation?

15 A I am conservative leaning, so hundred percent false.

16 Q Do you have concerns that others in SecD might have made decisions to

17 punish individual -- other FBI employees -- based on their conservative leanings?

18 A On their conservative leanings?

19 Q Uh-huh. Based on -- so, in other words, did you ever witness anyone else

20 in SecD punishing FBI employees because those FBI employees held conservative

21 viewpoints?

22 A Oh, okay. No, it never came up.

23 Q And just to go through this specifically, did you ever witness that from Ms.

24 Perkins?

25 A No.

1 Q Did you ever witness that from Mr. Veltri?

2 A With my limited interaction with him, I did not witness that.

3 Q Okay. Did you ever witness EAD Moore taking any action against FBI

4 employees because those employees held conservative beliefs?

5 A No, I had very limited interaction with AD Moore. But, no.

6 Q And in your limited interactions --

7 A No.

8 Q -- you did not witness that?

9 A No.

10 Q Okay. As I said, your name has been made public through the press and

11 through this investigation.

12 Have you experienced any threats as a result of that publicity?

13 A I have.

14 Q Are you comfortable describing what you've experienced?

15 A Well, just all internet stuff.

16 I have three children, divorced. I have primary custody of my two older ones.

17 Well, they're older now. But I have 85 percent custody of my children. And I had to let

18 them know about what was going on. If somebody shows up at my house that they

19 don't know -- I mean, this article came out on Veterans Day. So this hit home and it hit

20 out of nowhere.

21 And so, for instance, I'll give you one example. Online, I think it's Twitter,

22 O'Boyle sends things out about me, about, "Hey," he says, "eff this mother effer, he's

23 going to ruin my family financially," or whatever he says, which is a hundred percent

24 inaccurate. I didn't even have the power if wanted to do that.

25 And then some people are commenting. And I think one sent a meme or

1 whatever and some guy is like, "Where does Sean Clark work? Where does he live?
2 What is he doing?" And there is a guy with a baseball bat hitting some other guy sitting
3 at a computer.
4 Yeah, there is a lot of hatred out there. I try not to pay attention to it.
5 Unfortunately, I do go online because I'm curious. I want to know what's coming
6 around the corner.
7 But it's definitely affected me, before I even got called here. It's affected me,
8 definitely.

1

2 [2:21 p.m.]

3 BY [redacted]:

4 Q How has it affected you?

5 A It's crept into my own position, my new position. I retired from the FBI

6 thinking that I did the right thing. I did the right thing. I still stand here, I did the right

7 thing. Check the paperwork. I did the right thing.

8 I had to go to my new company and tell them, "Hey, by the way, all this is out

9 there now."

10 I have a colleague that is friends with Seraphin. He was 15 years as an agent and

11 basically resigned from the FBI as a 15-year agent because of issues he was having way

12 before me. I had nothing to do with it. Resigned. He's working at my company. He

13 disclosed my picture --

14 Q Sorry. Mr. Seraphin did or the other individual?

15 A This individual.

16 Q Okay.

17 A Hold on one second. His name's Phil Kennedy. He's friends with

18 Seraphin. He is Seraphin's -- and he's all over -- what is that -- what is the app that

19 they're on? It's not Twitter.

20 Q Truth Social.

21 A Truth Social. Phil Kennedy is all over that.

22 He was the originator -- he was the original producer of Seraphin's show. And

23 what 15-year agent leaves the FBI at 15 years? He was leaving because of performance

24 issues at WFO.

25 But he's working for my company. He's very involved still with the podcast.

1 And one day I got a call at my desk, and I didn't answer it. But it was a voicemail.
2 I went to my email. I'm at a private company now. And it was Seraphin and O'Boyle
3 calling me, saying -- and I think my friend might have been on it, too -- saying, "Hey, we'd
4 like to talk to you about what you said about O'Boyle and how you eff'd this mother effer
5 and blah-blah-blah, and how you ruined his family. Call us back. We're live on our
6 podcast." They were calling me live on a podcast.
7 And I know it was Phil Kennedy because he's all over the show. He was the
8 original producer. He's still involved. He's at my company. And my internal photo
9 and my internal telephone number at my company was released to Seraphin. They have
10 my photo.
11 My son took a photo of me in a similar outfit. I only shared it with my company,
12 and only 60 people got it. Welcome to the firm. And Phil Kennedy was on that email.
13 So it's hitting home pretty, pretty tight. And here I am, put my time in in the
14 Bureau, and now it's affecting where I currently work.
15 And it's drip, drip, drip. I'm back here today. I have to let my counsel know. I
16 have to let my partners know. I have to take off. It just -- it's affected my life. It's
17 affected my children's lives.
18 Q I just want to run a couple things.
19 So you said that Mr. O'Boyle actually called you with Kyle Seraphin?
20 A Kyle Seraphin and Mr. O'Boyle called me, and they were laughing. "Yeah,
21 let's confront him." It was related to that article. I think it was a Monday. I think
22 that article came out on a Friday. I think it was a Monday they called me. I still have
23 the voice mail. I still see the photo. There's a whole show about me.
24 And this is what they said on the show. They said they're going to call me every
25 day until I answer, and they're going to call my supervisors at my new job to let them

1 know who I am and what I'm about. They were threatening my new position.

2 I had to go to my management, who barely knew me, and say, "Hey, by the way,

3 this baggage is coming in."

4 It sucked.

5 Now I'm like concerned about being a single father and potentially losing my job in

6 a private industry because these guys are spreading lies and rumors. And now they're

7 coming after me at my work, threatening me. I felt -- well, I felt threatened.

8 I even called 911, and I asked them if I could file something for a doxxing, because

9 I was afraid somebody was going to doxx me. And I didn't want my -- at the time my

10 11-year-old be home alone or my 16-year-old and somebody rolls in with guns.

11 Yeah, it hit home. It hit home.

12 Q Has your home address been made public?

13 A I don't know. I mean, I'm sure Kennedy knows where I live, and he's all

14 over that podcast. Even just yesterday he's posting things about burn the FBI down and

15 all this other junk.

16 So, yeah, it's hitting me today. And I'm telling you right now what I've told you

17 here is all truth, and I stand by my work.

18 Q Thank you.

19 [redacted]. We can go off the record. Thank you.

20 The Witness. Thank you.

21 [Whereupon, at 4:26 p.m., the deposition was concluded.]

1 Certificate of Deponent/Interviewee

2

3

4 I have read the foregoing ____ pages, which contain the correct transcript of the

5 answers made by me to the questions therein recorded.

6

7

8

9 _____

10 Witness Name

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13 _____

14 Date

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5 COMMITTEE ON THE JUDICIARY,
6 U.S. HOUSE OF REPRESENTATIVES,
7 WASHINGTON, D.C.
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13 INTERVIEW OF: DONELL HARVIN
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16
17
18 Thursday, September 12, 2024
19
20 Washington, D.C.
21
22
23 The interview in the above matter was held in room 2237 Rayburn House Office
24 Building, commencing at 10:01 a.m.
25 Present: Representative Massie

1

2 Appearances:

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted] SENIOR PROFESSIONAL STAFF MEMBER

8 [redacted] SENIOR ADVISOR

9 [redacted] CHIEF COUNSEL FOR OVERSIGHT

10 [redacted] CREATIVE DIRECTOR

11 [redacted] MINORITY OVERSIGHT COUNSEL

12

13

14 For the SUBCOMMITTEE ON CRIME AND

15 FEDERAL GOVERNMENT SURVEILLANCE:

16

17 [redacted] MINORITY DETAILEE

18

19

20 For DONELL HARVIN:

21

22 ANDREW HERMAN, ESQ.

1 [redacted] We can go on the record. It's 10:01 a.m.

2 This is a transcribed interview of Dr. Donell Harvin. Chairman Massie and

3 Chairman Jordan requested this interview as part of the committee's oversight of Federal

4 law enforcement actions relating to the events that occurred at the U.S. Capitol on

5 January 6th, 2021.

6 Would the witness please state your name for the record.

7 Mr. Harvin. My name is Donell Harvin.

8 [redacted] We encourage witnesses who appear before the committee to

9 freely consult with counsel if they so choose, and it is my understanding that you are

10 appearing today with personal counsel. Is that correct?

11 Mr. Harvin. That's correct.

12 [redacted] Could counsel please state your name for the record?

13 Mr. Herman. Andrew D. Herman.

14 [redacted] On behalf of the committee, I want to thank you for appearing here

15 today to answer our questions. The chairman also appreciates your willingness to

16 appear voluntarily.

17 My name is [redacted] and I'm with Chairman Jordan's staff. I'll now have

18 everyone else from the committee who is here introduce themselves as well.

19 [redacted] [redacted] Chairman Jordan's staff.

20 [redacted] [redacted] with Ranking Member Nadler.

21 [redacted] [redacted] with Ranking Member Nadler's staff.

22 [redacted] [redacted] Chairman Jordan's staff.

23 [redacted] [redacted] with Chairman Jordan's staff.

24 [redacted] Thank you. I'd like to now go over some of the ground rules and

25 guidelines that we'll follow during today's interview. Our questioning will proceed in

1 rounds. The majority will ask questions first for 1 hour and then the minority will have
2 an opportunity to ask questions for an equal period of time, if they so choose. We'll
3 alternate back and forth until there are no more questions and the interview is over.
4 Typically we take a short break at the end of each hour, but if you need to take a
5 break apart from that, please just let us know. We're happy to accommodate that.
6 As you can see, there's an official court reporter taking down everything to make a
7 written record, so we ask that you give verbal responses to all questions. Do you
8 understand that?
9 Mr. Harvin. Yes.
10 [redacted] So the court reporter can take down a clear record, we will do our
11 best to limit the number of people directing questions at you during any given hour to
12 just those people on the staff whose turn it is. Please try and speak clearly so the court
13 reporter can understand and so the folks down at the end of the table can hear you as
14 well.
15 It's important that we don't talk over one another or interrupt each other if we
16 can help it, and that goes for everybody present at today's interview.
17 We want you to answer our questions in the most complete and truthful manner
18 as possible so we will take our time. If you have any questions or if you do not
19 understand one of our questions, please let us know. Our questions will cover a wide
20 range of topics, so if you need clarification at any point just let us know.
21 If you honestly don't know the answer to a question or do not remember, it is best
22 not to guess. Please give us your best recollection. And it's okay to tell us if you
23 learned information from someone else, just indicate how you came to know the
24 information. If there are things you don't know or can't remember, just say so, and
25 please inform us who to the best of your knowledge might be able to provide a more

complete answer to the question.

You should also understand that by law you are required to answer questions from Congress truthfully. Do you understand that?

Mr. Harvin. Yes, I do.

[redacted] This also applies to questions posed by congressional staff in an interview. Do you understand this?

Mr. Harvin. Yes, I do.

[redacted] Witnesses that knowingly provide false testimony could be subject to criminal prosecution for making false statements under 18 USC Section 1001. Do you understand this?

Mr. Harvin. Yes, I do.

[redacted] Is there any reason you are unable to provide truthful answers to today's questions?

Mr. Harvin. No, ma'am.

[redacted] Finally, I'd like to make note that the content of what we discuss here today is confidential. We ask that you not speak about what we discuss in this interview to any outside individuals to preserve the integrity of our investigation. And for the same reason, the marked exhibits that we will use today will remain with the court reporter so they can go in the official transcript, and any copies of those exhibits will be returned to us when we wrap up.

I also want to note for the record that we have been joined by Chairman Massie.

Mr. Massie. How are you doing?

Mr. Harvin. Good morning, sir.

Mr. Massie. Good to see you. Thanks for coming in.

Mr. Harvin. My pleasure.

1 [redacted] That's the end of my preamble. Is there anything my colleagues
2 from minority would like to add?
3 [redacted] Not at this time. I'd just like to thank you for your time today.
4 Mr. Harvin. Thank you. It's my privilege.
5 [redacted] Mr. Herman, anything?
6 Mr. Herman. No.
7 Mr. Massie. I'll have to go to votes, but I do plan to come back, so --
8 [redacted] Okay. The clock now reads 10:04 a.m. We'll start with the first
9 hour of questioning.
10 EXAMINATION
11 BY [redacted]
12 Q Dr. Harvin, can you describe your academic background?
13 A I have a bachelors in fire emergency services from John Jay College in New
14 York City. I have a masters in emergency management, also from John Jay College. I
15 have a masters certificate in terrorism, MA certificate in terrorism, from John Jay College.
16 I have a masters of public health and environmental science from Hunter College in New
17 York City, and I have a doctor in public health and environmental science from SUNY
18 Downstate.
19 Q Can you describe the nature of your current employment?
20 A I am self-employed by and large; however, I do have some academic
21 appointments. I'm faculty at Georgetown University in several departments, and I'm a
22 visiting scientist at Harvard University School of Public Health.
23 Q Have you ever held a security clearance?
24 A Yes.
25 Q What level?

1 A TS/SCI.

2 Q What years?

3 A 2019, and if it's good for 5 years, to probably this year.

4 Q Gotcha. Can you describe the nature of your employment on January 6,

5 2021?

6 A I was the chief of homeland security and intelligence. Functionally, I was

7 the executive director of the Washington, D.C. fusion center.

8 Q Were you also a law enforcement officer with the Metropolitan Police

9 Department at that time?

10 A I was a sworn law enforcement officer as a reserve.

11 Q Okay.

12 A So that's a nonpaid position.

13 Q Okay. How did you -- how did your work as a police officer help inform the

14 way you thought about your duties at the fusion center?

15 A It did not.

16 Q It did not?

17 A No.

18 Q Okay. What were the duties that you held as a reserve MPD officer?

19 A I had the same duties as a regular police officer; it's just you're not full time

20 and you don't get paid.

21 Q Okay.

22 A It's almost like a volunteer EMT.

23 Q Got it. Okay.

24 What were your roles and responsibilities as the chief of homeland security and

25 intelligence for D.C.?

1 A I oversaw several situational awareness and intelligence functions for the
2 District of Columbia Homeland Security and Emergency Management Agency, or HSEMA,
3 part of that is public/private partnerships, outreach to the community, particularly houses
4 of worship, around that time a lot of synagogues in dealing with antisemitism.
5 Situational awareness 24 hours, which is a watch desk of basically scanning the NCR
6 region, the National Capital Region, for any natural and manmade hazards, so it's like a
7 24-hour watch desk. And then the intelligence and analysis piece, which is really
8 connecting with DHS, mostly I&A and other law enforcement entities within the District of
9 Columbia's physical footprint, not government, as a plug-in to the intelligence
10 community.
11 [redacted] Can I just interrupt to ask, Dr. Harvin, when you use an acronym, if
12 you could say the name.
13 Mr. Harvin. Okay. Was there an acronym that I used?
14 [redacted] I&A.
15 Mr. Harvin. I&A, DHS Intelligence & Analysis.
16 [redacted] Thank you so much.
17 Mr. Harvin. You're welcome.
18 BY [redacted]
19 Q Who is your direct supervisor in that role?
20 A Dr. Christopher Rodriguez, who was the director of D.C. HSEMA at the time.
21 Q And can you just kind of broadly describe the organizational chart of your
22 office for us?
23 A Yeah. So we have the director of D.C. HSEMA, Dr. Rodriguez; a deputy
24 director, I don't know who that was on January 6th, to be honest with you. It may have
25 been Christopher Wyatt or Carrie. I know Christopher Wyatt left at some point,

1 probably Carrie, Carrie Sudofnik. And then there were several other chiefs, so there was
2 a chief of finance, there was a chief of, I think, preparedness. There was a chief of ops,
3 and there was a chief of intelligence in homeland security, so there were four chiefs.
4 Q And would those four chiefs report directly to you?
5 A Negative. There was -- those are my colleagues.
6 Q Got it. Okay.
7 Mr. Massie. Did they report to Dr. Rodriguez?
8 Mr. Harvin. Correct.
9 Mr. Massie. Okay. And you did, as well, directly?
10 Mr. Harvin. Correct.
11 BY [redacted]
12 Q So in your capacity as the director of the D.C. fusion center, was your
13 supervisor Dr. Rodriguez at that time as well?
14 A Yes, correct.
15 Q Okay. And was the organizational chart of your fusion center different than
16 what you just described?
17 A The people underneath me?
18 Q Yes.
19 A Yes.
20 Q Yes, okay. Can you describe that for us?
21 A Functionally, I had two -- two chiefs, although, you know, civil service titles is
22 hard. I had two main managers underneath me, one that did operations and was also
23 my privacy officer, made sure that anything that came out of the fusion center was
24 cleared from a privacy standpoint, not violating civil rights or civil liberties; and the other
25 one ran my analysis. And then I had another chief -- I would say deputy chief, if you will,

1 division head that oversaw that 24-hour watch desk.

2 Q What other organizations had representation at the fusion center?

3 A Every law enforcement entity in the District of Columbia, I think there's over

4 30, has a seat in the fusion center. It's more of a concept than a physical place. So it's

5 like an emergency operations center. So regardless of whether they sat in that seat or

6 detailed someone 24 hours to be there, they had a seat. So when we activated they all

7 had a role -- a place. It was up to them whether they showed up or not.

8 Q And just to be clear, that included Federal law enforcement at the --

9 A Yes. So I could tick off some of them, so SCIS was commonly there;

10 our -- D.C. Guard had an intelligence officer; the FBI had someone permanently detailed

11 to us, an analyst, not an agent, an analyst --

12 Q Okay.

13 A -- from the Washington Field Office. DHS had a permanent detail for us,

14 DHS I&A, Intelligence & Analysis. I had an intelligence officer detailed to us. We had

15 connections with U.S. Capitol Police intelligence, and we had connections with Park

16 Police. And obviously there's a whole lot of other police agencies, but those are the

17 main players, and obviously D.C. MPD, Metropolitan Police.

18 Q Okay. Is it fair to say that ATF, DEA, they also had seats --

19 A No, they weren't really, no.

20 Q Okay.

21 A Although they're law enforcement, they really didn't have an intelligence

22 role, and then my years there they never interacted with us.

23 Q Okay.

24 A But they -- they're all welcome.

25 Q Sure. We'll go ahead and enter as EXHIBIT 1, your January 24, 2022, TI with

1 the J6 Select Committee.

2 [Harvin Exhibit No. 1

3 was marked for identification.]

4 [redacted] And when we refer to the transcript we'll go ahead and point you to

5 the page just to kind of help make sure you recollect your testimony and know what

6 we're talking about.

7 BY [redacted]

8 Q So when you get that we'll start on page 20.

9 A Sure. I didn't bring my reading glasses, so -- I'm in denial. I'm getting

10 older and I need glasses, but I leave them at home. They're never there when I need

11 them.

12 Mr. Herman. Eventually you'll get bifocals.

13 Mr. Harvin. Eventually I won't have to read any documents, my friend, and I'll be

14 retired.

15 [redacted] Sorry, you said page 20?

16 BY [redacted]

17 Q Page 20, yes. So down on line 19, that's kind of what I'm concerned with.

18 So during your interview with the January 6th Committee, you mentioned an issue you

19 had with other law enforcement agencies being prohibited from sharing information with

20 the fusion center. Can you explain what caused that issue?

21 A At a macro level, there is no requirement on law for any State or local fusion

22 centers to share information with each other or with DHS.

23 Q And how did that impact your mission, particularly --

24 A It negatively impacted --

25 Mr. Herman. Let him finish.

1 Mr. Harvin. I'm sorry.

2 BY [redacted]

3 Q How did that impact your mission leading up to January 6th?

4 A It negatively impacted the mission leading up to January 6th because our

5 neighboring fusion centers in Virginia and Maryland felt the need to withhold information

6 about law enforcement sensitive cases and things they were tracking pertaining to

7 January 6th that they could not share with us.

8 Q Did they ever point to a justification for why they felt that way or why they

9 were reluctant?

10 A State statute or Department policy.

11 Q Okay.

12 BY [redacted]

13 Q Can you explain the difference between your fusion center and then the

14 fusion centers that were in Virginia and Maryland. I know that there is a difference

15 between the law enforcement fusion centers and the non-law enforcement.

16 A Yeah.

17 Q Can you kind of help unpack that for us?

18 A So all fusion centers are set up in concept the same, right. State and local

19 resources supported by Federal Government generally through DHS grants owned by the

20 State and locals as a plug-in to the intelligence community vis-a-vis DHS Intelligence &

21 Analysis to pull and push information intelligence. Where those fusion centers are

22 housed varies greatly across the country. Some are housed as independent agencies;

23 some are housed within Homeland Security agencies, like mine in New Jersey; some are

24 housed within State police or county police or local police, like New Jersey, Maryland,

25 Virginia.

1 And so what happens is that those fusion centers, by virtue, must take on not only
2 the culture, because they're usually drawing from police officers, but also the rules,
3 regulations, and code of that jurisdiction or that agency. And so when you do that you
4 almost adopt the DNA of those law enforcement agencies, and law enforcement agencies
5 generally don't share law enforcement-sensitive information with non-law enforcement
6 agencies.
7 Q Okay. And do you know in the leadup to January 6th, were -- was the
8 Virginia fusion center and the Maryland fusion center, were they communicating with one
9 another? Did you ever get a sense that they were sharing intelligence that they had
10 with one another but not with the D.C. fusion center?
11 A I don't know.
12 Q Okay.
13 BY [redacted]
14 Q How did COVID-19 affect the information sharing that was happening at your
15 fusion center?
16 A So fusion intelligence at the State and local level is about building
17 relationships and working with people, and so having a center about this big where you
18 had desks, you had cubicles with no height so you can see everybody, bullpen, and
19 sharing that information with other agencies is critical to information sharing.
20 COVID-19, the State, local, and Federal level, there was a telework construct that
21 was brought on board, and at any given time, I may have -- I think the max I was allowed
22 to have was one or two people in the office, and Federal partners also didn't come in.
23 So, you know, if you went to a SCIF, you were the only one allowed in the SCIF at any
24 given time. And the SCIF is where -- I'm sorry, SCIF is secured information -- S-C-I-F, I'm
25 not quite sure. It's where we exchange secured information. That's where

1 conversations happen that are classified. If you can only -- you can't have a
2 conversation with yourself and share information. So I think a lot of that information
3 exchange was hindered by COVID-19 because of the restrictions that were put into place.
4 Q And your Federal law enforcement representatives that might typically show
5 up, like the FBI analyst, did she continue to show up?
6 A No. We were told -- and I don't know -- I wasn't told directly. One of my
7 supervisors were told that she was -- told that she was unable to come in because of
8 restrictions that either the DOJ or FBI put into place in terms of, you know, remote work
9 or working off site.
10 Q Okay.
11 A And then --
12 Q So just to put a fine point on it, those were not your restrictions as director
13 that you were imposing kind of under fusion center. It was DOJ and FBI saying, no, we
14 cannot go to the fusion center?
15 A That's correct.
16 Q Okay. Did you ever --
17 A I'm sorry, if I can --
18 Q Yeah, please.
19 A And likewise, our DHS, I call it handler or IO, intelligence officer, experienced
20 some of the same issues on DHS, so he also wasn't around.
21 Q Understood. Did you ever attempt to secure a position for a representative
22 from your agency on the FBI's Joint Terrorism Task Force?
23 A Several times.
24 Q And what was the outcome of those attempts?
25 A They were unsuccessful.

1 Q Did they provide a justification for denying your attempts to provide
2 someone?
3 A They -- and I met at the Washington Field Office on several occasions. They
4 said they were working on it. It was a process, and it could take some while. They said
5 it was a clearance process.
6 BY [redacted]
7 Q Why did you feel it was important to have representation on the JTTF?
8 A I have two answers for you, one is personal and one is professional. The
9 professional one is many fusion centers either had the JTTF in the fusion center, like our
10 colleagues in Maryland, it's embedded asked in the fusion center, or have a
11 representative within the fusion center. And I visited other fusion centers that had the
12 JTTF in the back room.
13 My personal one is, I'm from New York, and I know what happens -- I was there on
14 9/11. I know what happens when agencies don't share information. And I was
15 personally offended by the fact that one of my best friends, who was the chief of the JTTF
16 at NYPD would come down to D.C. every 1 or 2 -- every 2 or 3 months to spend time with
17 NYPD officers that were detailed to the Washington JTTF. And so my question to the
18 Washington Field Office is, how can NYPD that's not in our jurisdiction have two or three
19 people permanently assigned to the JTTF and the Washington D.C. fusion center, and this
20 is -- our jurisdiction cannot have one?
21 Q And in your transcribed interview at the January 6th Committee, I'm looking
22 at page 56 here, starting line 19. It says -- you responded to a question, "Well, the
23 reason why you have an FBI intelligence analyst embedded in the fusion center is to share
24 face-to-face intelligence, to provide access to fintel."
25 Then if you go down to line 23, "And so it was just a different -- to be honest with

1 you, I don't -- I can't be any more blunt. We just didn't come to expect anything from
2 the WFO, and they didn't disappointment."
3 So was there not an information sharing from the FBI to the fusion centers? Is
4 that accurate to say?
5 A Yeah, so -- and I'll be blunt here, because I'm a New Yorker, and I don't know
6 any other way to be, we had on paper an analyst that was very good from the WFO
7 detailed to come to the fusion center generally about 2 days a week. She would go into
8 the SCIF, wouldn't report in to anybody, wouldn't let anyone know that she was there,
9 spend the entire day in the SCIF and leave. If you were -- you know.
10 And so the information intelligence she was sharing was available through other
11 means. So we would get an email from her, oh, go to HSN and log on and you'll see this.
12 It's already out there. Or we would get it a day or two after our DHS person sent it. So
13 it's really, from an Intelligence & Analysis standpoint, very generic, basic. It wasn't
14 anything that would further our mission in any means, but it was sufficient, I guess, in
15 their eyes, to provide us things that we can get other -- through other means.
16 Mr. Massie. I'm going to have to go to votes, so I have a couple quick questions
17 so we don't have to go back to this.
18 Did you ever interact with Steven D'Antuono, who was in charge of the FBI office
19 in D.C.?
20 Mr. Harvin. Yes, sir.
21 Mr. Massie. Were these his decisions to make?
22 Mr. Harvin. I don't know, sir.
23 Mr. Massie. Okay. What was your interaction -- what were your interactions
24 with him like?
25 Mr. Harvin. Immediately after January 6th, I pushed for my director to have a

1 phone call with him to demand that we have access to the JTTF so this wouldn't happen
2 again, because we were preparing for inauguration. And that was rebuffed on that call
3 with Dr. Rodriguez on the line.
4 Mr. Massie. Okay. Another topic, you had -- somebody beneath you was in
5 charge of analysis. You were describing the org chart. And later I think we're going to
6 talk about a junior analyst who came up with a very prescient prediction. Did the junior
7 analyst work for this person in charge of analysis underneath of you?
8 Mr. Harvin. Yes, sir.
9 Mr. Massie. Okay. Those were my questions, just so we don't have to go back
10 and revisit that. All right. I'll be back after votes.
11 BY [redacted]
12 Q Thanks.
13 Did those interactions with the FBI leave you with the impression that they were
14 complacent?
15 A No.
16 Q Were you ever concerned that the FBI maybe had misplaced priorities?
17 [redacted] I'm sorry, I didn't hear that. Could you repeat that?
18 [redacted] Were you ever concerned that the FBI had misplaced priorities?
19 [redacted] Thank you.
20 Mr. Harvin. No.
21 BY [redacted]
22 Q Would you characterize the FBI liaison to the D.C. fusion center as an active
23 and contributing member of the group?
24 A No.
25 BY [redacted]

1 Q Did the intelligence sharing, was that a -- between the WFO and your fusion
2 center, was that an ongoing problem or was that just a problem after COVID? Did it
3 ever get better during your tenure?
4 A It was a problem that I inherited, which is why I got the job. I had no
5 background in intelligence at all. My background, as an executive in government in D.C.
6 and in New York, I had a reputation for building relationships and mending relationships.
7 And so I had grown -- I had developed a very strong relationship with the WFO through
8 my work in D.C. forensics overseeing the forensics. And so they thought I would be a
9 good asset, because the relationship between the WFO and the fusion center was almost
10 nonexistent. So I was brought on board to repair that.
11 Q Do you know if the -- did the intelligence sharing ever get better? I know
12 your tenure there wrapped in 2021. Do you have any inclination or whether it has
13 gotten better? Is there any intelligence sharing, if you know?
14 A I don't know.
15 Q Okay.
16 BY [redacted]
17 Q What role did the fusion center have in monitoring threat streams in the
18 leadup to January 6th?
19 A So we had the lead role in the District of Columbia for those locations that
20 are within the District of Columbia's jurisdiction. In doing so, however, we picked up
21 intelligence and information that pertained to areas and locations that were outside of
22 our jurisdiction, like, for example, the U.S. Capitol.
23 Q So let's go ahead and enter as an exhibit, exhibit 2, your opinion piece that
24 you wrote for Politico, "What the January 6th Committee Report Left Out."
25 [Harvin Exhibit No. 2

1 was marked for identification.]

2 [redacted] Take as much time as you need to review as well.

3 Mr. Harvin. I -- you know, I'm a little familiar with it.

4 BY [redacted]

5 Q Sure. What was your awareness of threat levels before January 6th in the

6 leadup to that day?

7 A That spans a period of about 5 weeks. So the timeline is, and there was the

8 MAGA One and MAGA Two. I don't know any other way to describe them -- we'll call

9 them rallies, and then we were made aware of another march that would be happening

10 on January 6th. We assigned an analyst -- not we, there was a rotation, so it's the next

11 analyst up, that's how we do it, it's a rotation cycle, so that individual becomes -- goes

12 from a regular analyst now to take the lead. And then when that -- the event is done,

13 MAGA One, MAGA Two, whatever, they go back to their normal analyst slot. And that

14 individual is in charge of monitoring the threat until the day of that incident.

15 Early on, we'll say the first couple of weeks, nothing, didn't seem like anything,

16 and so there was very little threat. As we got closer and closer, the threat picture

17 increased great.

18 Q So in this article you stated that the events of January 6th represented the

19 most telegraphed and predictable attack on the homeland in history. When did you

20 reach that conclusion?

21 A I guess on January 7th.

22 Q Did anyone else from the law enforcement community or those represented

23 at the fusion center kind of speak to you about the fact that in their minds it was

24 predictable and telegraphed?

25 A Every single person that I know in the business told me that privately.

1 BY [redacted]

2 Q Anyone in the leadup to January 6th?

3 A No.

4 Q And the 5 weeks you're talking about, so if I'm remembering correctly, I

5 think the first rally or event in support of President Trump was in November and then the

6 second one was maybe in December. Would that encompass the 5 weeks leading up

7 to --

8 A It may be 4.

9 Q Okay.

10 A It was -- it was more than 2 weeks, less than 5, so let's say 4 or 3. I don't

11 know the exact time that it was announced. It was around the time MAGA Two, and it

12 was announced it was a Stop the Steal. So it may have been brewing out there. It's

13 not until it rises to a certain thing that someone says, oh, we should be tracking this

14 because it's coming to D.C.

15 I don't know if it pertains to the -- there's a whole lot of things that go into it, like

16 it's internet chatter or noise, but it's mostly, I think, people pull permits. I hate to

17 use -- well, they get a permit from the District of Columbia to do an activity, and that's

18 formally generally what triggers us to say how many people they are expecting, you

19 know, how do we protect them -- that's our first thing, right. Like we're in the unique

20 position to protect people that may come to the District to harm us. Whether it's, you

21 know, Unite the Right or BLM or whatever, we have to make sure their First Amendment

22 protected activities are protected, and we generally do that conventionally when there is

23 a permit pulled. But sometimes we're monitoring the tea leaves, people saying they're

24 going to come, and we'll start doing a little advance work. So I'm really a little fuzzy on

25 the exact, but I know it was more than 3 weeks.

1 Q And during your transcribed interview with the January 6th Committee, you
2 had mentioned something about concern -- your main concern was interpersonal
3 violence. Is that correct?
4 A Uh-huh.
5 Q Can you unpack that? I know you mentioned it in your transcribed
6 interview with the other committee, but if you could just unpack that a bit for us.
7 A Yeah. So MAGA One, MAGA Two, pretty peaceful with the exception of,
8 you know, some interpersonal violence with people on the far left coming, right, and
9 that's not just D.C., that's like every place in this country. Like our job is to make sure
10 these people stay apart. We saw a lot of interpersonal violence in -- during the summer
11 of 2020, particularly towards the end. And so we felt that if we can just keep those
12 people away, the people on the far left, you know those groups, that the people on the
13 right will have their ability to peacefully protest, and we should have no issue. So that
14 was our main concern, at the outset.
15 Q And at the fusion center, your kind of area of jurisdiction, if you will, is the
16 District of Columbia, not the Capitol or any other sort of Federal land. Is that correct?
17 A That's correct.
18 BY [redacted]
19 Q At what point did you assign an analyst to January 6th?
20 A And once again, that's a little fuzzy. It may be 3 or 4 weeks before. It's
21 whenever -- I didn't assign it. My -- it came up in a daily meeting, like, okay, we're
22 tracking this. And I'm like, okay, well, what is it, MAGA Three? And they're like, no,
23 they're calling it January 6th, Stop the Steal. I'm like, okay, all right. There's just so
24 many -- we weren't worried about January 6th, none of us were in the intelligence
25 community, Federal or local. We were worried about the inauguration.

1 And so all the apparatus and all the intelligence information gathering, 90 percent
2 of my staff were focused on the inauguration. That timeline is so compressed and the
3 demands are so high getting ready for that, and so for me, January 6th was a
4 nothing-burger at the outset.
5 Q At what point did you begin forecasting your belief that January 6th could be
6 violent?
7 A About 2 weeks before we were concerned, I believe we saw a lot of
8 derogatory information, derogatory meaning threatening language and information
9 online after former President Trump tweeted out to be here. I don't know what the
10 exact day of that is, the famous, you know, "It will be wild," tweet. And literally, within
11 a day, it went from zero to 60.
12 And I don't know how to explain it in non-intelligence terms, but we saw a
13 tenfold -- let's say a tenfold increase in interest. Along with that, we saw some people
14 say, well, it's going to be -- intimating that it would be violent, which we hadn't seen
15 before, particularly groups that generally -- had never come to Washington, D.C., groups
16 that I did not -- we did not and I did not associate with the former President as a
17 supporter.
18 Q When you were trying to share that information with the FBI, for example,
19 what kind of reaction did you receive from them?
20 A I didn't share that information directly with the FBI. We shared that in
21 meetings, so everyone had the opportunity.
22 Q Was the FBI analyst participating in those meetings?
23 A I don't know if that analyst was there. So, once again, we were all
24 attending meetings -- the backdrop of this is we were all attending meetings weekly for
25 the NSSE that was -- the national special security event that was the inauguration. And

1 everyone would be tracking that inauguration, and then someone would say, oh, yeah,
2 are you guys tracking this January 6th thing? And people would nod their head, right.
3 And I would say, you know, my guys, my team are collecting something. If you guys
4 want something, let us know. It would never be on the agenda for it.
5 So it was -- because if you think about it, they're there for the NSSE. They're not
6 there for a First Amendment protected activity. So it was really left on the table. And
7 that concerned me about 2 weeks before January 6th that nobody in the Federal
8 Government was talking -- they weren't having meetings specifically about January 6th.
9 All the meetings were talking about the inauguration and then maybe January 6th would
10 come up. That prompted me to do something that was unprecedented, which is
11 convene and invite our Federal partners specifically to talk about January 6th.
12 BY [redacted]
13 Q And what day was that, do you remember, when you convened your Federal
14 partners?
15 A I'm going to guess it's -- and I believe that a TikTok of the actions that I took
16 was submitted to the House.
17 Q Okay.
18 A So I would defer to that. My memory, I would say, 2, maybe 2 and a half
19 weeks before.
20 Q Okay. And if it helps with the timeline, too, I believe that the tweet that
21 you spoke about earlier was December 19th. Does that kind of comport with your
22 recollection?
23 A That makes about right, yeah.
24 Q Okay. So it would've been after the tweet that you convened your --
25 A Yes.

1 Q -- Federal law enforcement partners?

2 A Absolutely, yeah.

3 Q And who all attended that meeting, if you remember?

4 A It was a call --

5 Q It was a call.

6 A -- because we were still in COVID, right. And it wasn't a video call, so it was

7 an open line. I can tell you some of the people that I know were there.

8 Q Okay.

9 A There are people who may have called in and didn't speak. D.C. MPD was

10 there, their intelligence bureau, that was Captain Shane Lamond specifically. I do not

11 know if the WFO was there. I can't recall. We didn't take attendance. Didn't want to

12 make people -- once these -- you know, you come, share information. Jack, I forgot his

13 last name, who was my counterpart here in the Capitol.

14 Q Donahue?

15 A Donahue, and Julie Farnam, they attended each one. And we came here

16 and met with them as well. We have a very close connection with them. Several times

17 we came here. And our DHS IO, intelligence officer, was there for each one. Park

18 Police may have showed up. And then, you know, that's what stands out in my mind.

19 Q And to the extent you can remember, can you kind of tell us what all

20 occurred at that meeting?

21 A Yeah. It's, you know, your general -- your real simple, I would start off with

22 the analysts who was tracking this would give a very brief intel report, verbal, maybe last

23 3 or 4 minutes. They're very succinct. And that's how we would start off, this is what

24 we know, this is what we don't know, and we would go around the table and share

25 information. Generally, no one had anything more to share.

1 There were some things that did start coming out like someone mentioned that
2 there was, you know -- someone had intercepted some radio communication channels or
3 something like that that would be shared on that day, you know. But it was an open
4 line.
5 It wasn't a secured line. And so it was really for situational awareness. I don't
6 want to make it sound like, you know, there was intelligence being shared or fintel. Like
7 it was an open line, we weren't face to face, it was just making sure that everyone was on
8 the same page in the absence of any Federal leadership tracking this.
9 Q And I believe you had said this was like unprecedented for you to convene
10 this type of meeting. Had you ever convened a similar meeting prior to the one that you
11 convened, likely in December?
12 A No, because what we realized, about 2 or 2 and a half weeks before is that
13 the target was the Capitol. This is not my jurisdiction. It's not my role to write a threat
14 assessment for the U.S. Capitol or any other Federal establishment, nor was it my role to
15 convene about this. My fallback, and I talked to my officer and I spoke to my general
16 counsel, and I was like, well, how do I do this without roughing feathers? Well, the
17 space between the Ellipse of the White House and the Capitol is D.C.
18 And so Capitol, I'm not telling you what you do, Secret Service, they may or may
19 not have been there, that's Secret Service, I'm not telling you what you do, but there's a
20 whole lot of space in between that things can go wrong because it was a rally, a march.
21 And so that gave me some jurisdictional skin in the game, if you will, to convene this.
22 And people, by and large, are appreciative of it.
23 Q Following the first meeting, did you convene any other similar meetings prior
24 to January 6th?
25 A I think that was -- I think we had -- that was a biweekly meeting, so we

1 probably met about four or five times before January 6th, specifically -- and I think I
2 remember it's called an operational intelligence -- January 6th operational intelligence
3 meeting. So I was very specific about what I called it, so I wouldn't step on the feet of
4 the U.S. Secret Service and what they were doing with the inauguration. But it was -- it,
5 once again, was the same format, it was on the calendar, invites shared out to the same
6 people, they showed up or they didn't.
7 Q Did any other Federal entities convene similar meetings focused solely on
8 January 6th that you were invited to?
9 A No, ma'am, not that I was invited to or aware -- was aware of.
10 Q Correct.
11 BY [redacted]
12 Q In your Politico piece you stated that, "There is 'no credible or specific threat'
13 was a refrain that I heard no less than 40 times leading up to January 6th, but there were
14 mountains of non-credible and nonspecific threats, enough to prompt a robust
15 preparedness response," end quote. Is it your belief that there was a robust
16 preparedness response prior to January 6th or not?
17 A On behalf of what entity?
18 Q The -- maybe the Federal law enforcement partners?
19 A No.
20 Q No.
21 A And as a juxtaposition, the D.C. was prepared. I briefed the mayor. I
22 briefed Dr. Rodriguez. We shared with them what we expected as well as other -- I
23 personally briefed other D.C. government agencies, and that's why you saw D.C. MPD in
24 full force, vacation days restricted, fully suited up, prepared to help defend the Capitol if
25 needed.

1 Q Along with MPD, were there any other D.C. agencies that come to mind that
2 you briefed?
3 A Yeah. D.C. -- the D.C. health department and the health coalition, so they
4 brought all their hospitals to a call. That was on January 5th. I think there were about
5 70 people on that call. The D.C. medical examiner, knowing my forensic background, to
6 let them know that -- make sure they were fully staffed up because we expected fatalities
7 based on some of the things we were seeing. D.C. Fire Department, deputy mayor of
8 public safety.
9 Q Prior to January 6th, did you ever participate in a tabletop exercise?
10 A We held our own red teaming tabletop exercise, but I was not invited to any
11 others.
12 Q Is a red teaming exercise synonymous with a tabletop exercise?
13 A It's more specific.
14 Q Okay.
15 A Yeah.
16 BY [redacted]
17 Q Can you explain what you mean by red teaming?
18 A Yeah, red teaming -- so red teaming, structured analytical technique. Early
19 in the spring of that year we had some -- I had some discretionary funds to prepare for
20 the inauguration, so I brought in some experts to train my team on how to do structured
21 analytical technique, which involves -- the end product of that involves presenting that as
22 a red teaming. A red teaming is, you know, bad guy, black hat, penetration testing, if
23 you will, and that evolves into what we call a tabletop exercise. So someone will
24 present a scenario and people will respond, what are you going to do about that?
25 BY [redacted]

1 Q As a matter of practice, when conducting red team exercises, would you
2 have your analysts present a single scenario or would they present both a most likely
3 scenario and a most dangerous scenario?
4 A They -- I gave them free reign. So like I said, we -- they got the training
5 early in the spring, and I know that if you don't use these skills you lose them. So we
6 actually did this weekly. It had nothing to do with January 6th or the inauguration.
7 Every week. So we had a rotation, and whoever was that week was assigned to do a
8 scenario, Godzilla, whatever. You make it up, you get free reign, you present it. We
9 took -- we had a daily meeting on that one day, I think it was Wednesdays, every
10 Wednesday. We kept the meeting short. Anyone have anything to say? No. We're
11 going to go into our red teaming, and the analysts would present a scenario.
12 Concurrently, we had a -- and I just want to explain the whole idea. I'm going to do it
13 quick.
14 Q Please.
15 A I also paid for a contractor, a vendor to come in and produce what we call
16 emerging incident playbooks. Most of my staff were new, less than a year. And so we
17 created a handbook with flip charts with different scenarios, and so the analysts, based
18 on the scenario, could follow along with their flip chart and be like, okay, this is the
19 product, this is what I'm going to contact, this is what I'm going to track, this is -- these
20 are the systems I'm going to log onto, this is how I address that particular scenario. Real
21 generic stuff, WMD stuff, terrorism, stuff like that. And so the red teaming went hand in
22 hand with them using their emerging events playbook, the flip chart to answer some of
23 the questions that the analyst was presenting.
24 I don't know if that answered your question?
25 Q No, it did.

1 A Okay.

2 Q I appreciate that. It's a great answer.

3 There was an article that spoke about a worst-case scenario where someone could

4 plant and improvise an explosive device near the Capitol to divert law enforcement. Is

5 that accurate? Was that one of the scenarios that was red teamed?

6 A You said there was an article?

7 Q Yeah. It was in the Post about a December 30th meeting, which included

8 this worst-case scenario where --

9 A So a week before any event, we would have whoever, MAGA One, MAGA

10 Two, we did this, we had the lead analyst do a red teaming. On that particular day it

11 was -- I think it was Wednesday, the 30th -- you have to correct me if I'm wrong -- our

12 lead analyst presented the scenario and a component of that scenario where IED is used

13 as a diversionary tactic.

14 BY [redacted]

15 Q Can you walk us through the scenario that was presented?

16 A IEDs are improvised explosive devices.

17 I have to admit, my memory of that is pretty fuzzy because those exercises

18 weren't for me. They were for my staff. It's kind of like I'm the football coach, and

19 these are like the assistant coaches going through the Xs and the Os. It's to get your

20 mind ready, especially with the -- we had a long weekend with the holiday.

21 I actually didn't even remember that that was part of the scenario until

22 January 6th when my -- one of my deputies called me up and says, you're not going to

23 believe this, but they're saying on the radio there's IEDs just like in the scenario. I'm

24 like -- otherwise, it was not something that was remarkable. The use of improvised

25 explosive devices by terrorists or would-be maligned actors is as old as IEDs as a

1 diversionary tactic.

2 And so vaguely it was, you know, a large mass attacks the Capitol, and at some

3 point IEDs -- and I don't know if it was on Capitol Grounds, and I don't believe they

4 exploded in this scenario, but they were discovered drawing law enforcement away. It

5 may have -- it may have exploded. I don't know. I think that I would remember that in

6 this scenario, but, yeah. I -- admittedly, don't tell any of this to my staff, I wasn't paying

7 that much attention.

8 BY [redacted]

9 Q Do you recall -- you said it may have been on the Capitol Grounds, but you

10 don't necessarily recall exactly where the IEDs were placed in the scenario?

11 A No, and I don't think they were specific about it.

12 Mr. Herman. Let him finish is.

13 Mr. Harvin. Oh, okay. I'm sorry.

14 BY [redacted]

15 Q I think he got the gist of it.

16 Mr. Herman. Yeah. No, but I just want to make sure it's clear for the

17 stenographer.

18 [redacted] Yep. Yep.

19 Mr. Harvin. I'm getting conversational. I'm sorry.

20 BY [redacted]

21 Q I'll just repeat in case it's difficult. Do you recall where exactly the IEDs

22 were placed in this scenario?

23 A They weren't -- the location wasn't specific.

24 Q And do you recall in this scenario who discovered these IEDs?

25 A I don't believe anyone was specific. It was just they were discovered.

1 Q Okay.

2 A We only had an hour for it, so it's a very high level.

3 Q Sure. Given the fact that it would serve no purpose to divert law

4 enforcement from the Capitol before a group was prepared to exploit the absence of that

5 security, did the analyst opine on possible triggers for when this diversion might be

6 created?

7 A Not that I recall.

8 BY [redacted]

9 Q Can you walk us through how an analyst comes up with these types of

10 scenarios, just to kind of lay a little bit more groundwork?

11 A I don't know. They use their experience. They use a lot of the threats

12 that are -- it's not supposed to be too far fetched, right, but it's supposed to trigger

13 people to do things. And so I remember there was a couple of active shooter ones

14 during the summer of 2020 when we had a lot of -- because that's what we were tracking,

15 worst-case scenarios. There were a couple of vehicle ramming ones. These things

16 aren't particularly original, to be honest with you. It was pretty vanilla, just to get

17 people in the mindset and to trigger them opening the book and saying, okay, I have an

18 active shooter, this is what I'm going to do, I have a -- you know.

19 And so how they -- you know, and it's part of the structured analytical technique

20 process, so they'll learn to kind of whiteboard scenarios that are plausible and not so

21 plausible, you know, low probability, high impact, and kind of come to something that's

22 reasonable for the group.

23 Q And prior to this specific red teaming exercise and the scenario involving the

24 IEDs, had you received any sort of intelligence or were you aware of any sort of

25 intelligence about the possible use of IEDs on January 6th?

1 A No, not that I recall.

2 Q Okay.

3 BY [redacted]

4 Q It's -- so it's -- it would be uncommon if the analyst cited to underlying

5 reporting about an element of the red teaming exercise? So when he's talking about

6 IEDs or pipe bombs or whatever, he wouldn't point to chatter that maybe you guys have

7 collected that spoke to that?

8 A No.

9 Q No. Was the certification vote scheduled for 1:00 p.m. ever discussed in

10 the context of being a trigger or potential flash point?

11 A No.

12 Q As a result of the red team exercise, what plans if any were discussed to

13 mitigate against an IED-type diversion working successfully to divert law enforcement

14 from the Capitol?

15 A I don't believe we discussed any plans because we have no jurisdiction and

16 we're not an operational unit.

17 Q Given how consequential an IED initiated diversion might be for leaving the

18 Capitol exposed, did you solicit solutions for addressing how an incident like that might

19 affect your people? And, granted, the Capitol is not your jurisdiction, but that absence

20 of security at the Capitol, did you ever think that that might end up pulling your people in

21 or that you would have a larger part to play on January 6th?

22 A No. We have a small unit, intel unit. Most of our work is done in a room

23 like this with no windows. And not to sound frank, but it's not my problem, not my

24 jurisdiction. But an IED with injuries would have a cascading impact. The U.S. Capitol

25 utilizes MPD for homicide investigations. The medical examiner is the medical examiner

1 for the U.S. Capitol, so it's a very unique -- the hospitals would be impacted. The blood
2 blanks would be impacted. So it's the consequence management of that that really
3 concerns us that the State and locals would have to take on, not the prevention or
4 interdiction of that.
5 BY [redacted]
6 Q During these operational calls -- I'm sorry, I forgot the name. I didn't write
7 it down. But during these operational calls that you had with your Federal law
8 enforcement partners, did you ever discuss, hey, the fusion center red teamed this
9 scenario? Did you ever have any discussions of those types?
10 A No, because this was on the Wednesday before January 6th. Thursday, I
11 believe, was the 31st, so no one's going in. Friday was the 1st. Then there was a
12 weekend. And then it was Monday and Tuesday is what we had, so no, because this
13 was -- this actually happened, what, 3 working days before January 6th.
14 BY [redacted]
15 Q Did the analyst that came up with the simulated scenario and the pipe
16 bombs, did he come up with that on his own or was he, as the lead analyst for
17 January 6th, kind of working with the team to build out the scenario?
18 A The analysts are tasked with coming up with that. How they come to that,
19 you know, I would assume they could get help. I don't know intrinsically the answer to
20 your question. It would behoove them to do that on their own, because why let out the
21 scenario before it happens, like you're giving the answers to the question, so --
22 Q Right.
23 A But I'm -- once again, I'm not part of that. That's like further down the food
24 chain from me, and so I'm not there when they're kind of sitting in their cubicle kind of
25 coming up with this, and, quite frankly, it probably took 5 minutes to come up with this.

1 It's not that -- these things aren't allowed, but they start off as like, you know, it's a sunny
2 day, you have derogatory information, you see a tweet, they may post a fake tweet, and
3 then this happens. What do you guys do? And then, you know, they may have some
4 interject -- injects to stimulate certain things, but that's it.
5 Q When the discussion of that scenario is taking place, can you kind of set the
6 scene for us, like how many people are in the room? Is it a lot of back and forth
7 between, you know, the person that's presenting the red team threat and the rest of the
8 folks that are talking through how to address that?
9 A Yeah. We did the -- we did physically, in person, and we needed space so
10 we did it in the EOC, the emergency operations center, which seats like 120 people, so
11 everyone had like nice arm distance. We invited some of our Federal counterparts. I
12 can't recall who showed up. I think our DHS person showed up. I don't recall who else
13 showed up. And it's -- I don't know if you've ever been in an emergency operations
14 center, there's usually a stage like this, persons like this, there's seats, and I'm probably
15 on my phone not paying attention, just to make sure everyone is there and the boss is
16 here, so let's make sure it's going smoothly.
17 Q During your interview with the January 6th Committee, you also stated that
18 on December 30th, based on what your analyst was reporting to you, you called Director
19 Rodriguez. Is that correct?
20 A That's right.
21 Q Was the analyst simulation discussed with Dr. Rodriguez during that call or at
22 any other time?
23 A No, because that wasn't the cause of my concern. My calling Dr. Rodriguez
24 after hours had nothing to do with the red teaming scenario.
25 Q Okay.

1 A It was other information.

2 Q On page 22 of that transcript, you stated that -- I'll give you a second to find

3 it.

4 A Uh-huh.

5 Q So you note that you had your analyst brief the director as well. Did your

6 analyst touch on the potential use of IEDs on that call with Director Rodriguez?

7 A No. We didn't believe that it was a potential use of IED. That wasn't the

8 topic of the discussion.

9 Q Following your call with Dr. Rodriguez, he and other law enforcement

10 leaders briefed Mayor Bowser. Is that correct?

11 A That's correct.

12 Q Do you know if the analyst simulation was discussed at all during that --

13 A I don't think it would be, because Dr. Rodriguez wasn't there for the red

14 teaming, and we didn't mention that as part of our discussion. That's make-believe.

15 We called him with true concerning information. That had nothing to do with the red

16 teaming operation -- exercise.

17 Q Did you or anyone from Dr. Rodriguez's office have any communication with

18 anyone associated with FirstNet regarding the December 30th simulation?

19 A No.

20 Q Did your department prepare an intelligence assessment or issue any threat

21 products in the days prior to January 6th that indicated potential use of IEDs?

22 A No.

23 Q So just to disaggregate intelligence and to the discipline of collection and the

24 discipline of analysis, were your subordinates responsible for both collection and

25 analysis?

1 A We have a collection team that's actually called a collection team, basically
2 OSINT, and then we have an analysis team. The collection team is out there. They're
3 kind of like the antenna. They're picking things up, they're aggregating it, and they're
4 sending it to the analysis team which is a more sophisticated team.
5 Q Is the collections team concerned exclusively with OSINT, or do they also -- is
6 there a HUMINT component of that?
7 A Not for our fusion center, because we're not law enforcement.
8 Q Okay.
9 BY [redacted]
10 Q For the record, can you tell us what OSINT stands for?
11 A I'm sorry, and I'll mention HUMINT. OSINT is open-source intelligence, and
12 HUMINT is human intelligence that's generally garnered through a confidential informant
13 or some type of plant, undercover plant inside of an organization. We don't do that
14 because we're not law enforcement.
15 BY [redacted]
16 Q So you didn't -- did you have tasking authority if you had an information gap
17 to go to your collection guys and say try and fill this gap, or how would that work? Were
18 you even the guy making that sort of --
19 A I wasn't making that decision.
20 Q No, okay.
21 A And based on the concerns of the collective, we can search OSINT for things
22 that concern us, but it has to be done deliberately and it has to be done in connection
23 with the approval of a high-level supervisor, one of my deputies, and generally the privacy
24 officer, because OSINT can be used -- OSINT can inadvertently or advertently violate
25 human -- civil rights and civil liberties.

1 Q Understood. Thanks.

2 Mr. Massie. I'm sorry, I've been gone and I may ask some redundant questions,

3 but I'll try not to because I had a rough idea what you might ask.

4 [redacted] Sure.

5 Mr. Massie. And so you talked about the tabletop exercise?

6 [redacted] Yes, sir.

7 Mr. Massie. Okay. Were there any details of the bomb in this tabletop

8 exercise? Like, as I understand it, there was a tabletop exercise about there may be

9 bombs planted. Is that correct?

10 Mr. Harvin. I don't know if there was more than one. It was -- I think it was an

11 IED.

12 Mr. Massie. Okay.

13 Mr. Harvin. And that's how it was described in the tabletop. There was no

14 description of what it was.

15 Mr. Massie. And in this exercise, what was the scenario, that the IED would be

16 used as a distraction or to -- so -- well, I'll let you describe it.

17 Mr. Harvin. It was used as a diversion.

18 Mr. Massie. A diversion, okay. And were there any details, or was it just

19 sort -- of the IED in this exercise, or was it just sort of an abstract notion?

20 Mr. Harvin. It was an abstract notion.

21 Mr. Massie. Okay.

22 Mr. Harvin. It was to trigger the response of our analysts to go into their books

23 and say, okay, what's my IED protocol? And you can see -- actually see people going to

24 the -- you mentioned IED, okay, I know I have an IED tab, and go to the IED tab.

25 Mr. Massie. And did you go -- did you already go into the details of that

1 scenario, like where it would be -- would -- in that scenario would the IED be planted on
2 the Capitol Grounds or near the Capitol or --
3 Mr. Harvin. I believe, and my recollection of that -- because as I explained to the
4 staff, I really wasn't paying attention. These tabletops are for the staff -- I believe it was
5 near the Capitol.
6 Mr. Massie. But not at the Capitol?
7 Mr. Harvin. That's correct.
8 Mr. Massie. Okay.
9 Mr. Harvin. It wouldn't be a great diversionary tactic if it was at the Capitol,
10 because then it wouldn't draw law enforcement away. I think that was the goal of the
11 scenario to draw law enforcement away and cut the force in half, if you will. For me, in
12 retrospect, it doesn't make sense because officers wouldn't flock to -- we're taught not to
13 go towards an IED, but I don't -- you don't fight the scenario.
14 Mr. Massie. There was an article in the Washington Post about this. Do you
15 feel like that article was embellished?
16 Mr. Harvin. In what way?
17 Mr. Massie. Well, was it more dramatic than what actually, you know -- it
18 mentions a junior analyst. Was there a junior analyst that came up with this?
19 Mr. Harvin. Yeah, but most of my staff were junior.
20 Mr. Massie. Okay.
21 Mr. Harvin. I had a huge turnover, about 60 percent turnover in the year of
22 COVID, so --
23 Mr. Massie. Do you remember which particular junior analyst it was that came
24 up with this idea?
25 Mr. Harvin. The analysts that worked for me are still actively in the intelligence

1 community and so I can't divulge who they are. To answer your question, I know what
2 analyst it is, but I can't divulge their name.
3 Mr. Massie. And I appreciate that, and I'm happy to keep them out of a
4 transcribed interview, keep their names out, but I would hope we could find out who that
5 is confidentially -- more confidentially later.
6 Mr. Harvin. I would have to refer you to the District of Columbia.
7 Mr. Massie. Okay. So were there any -- you guys -- this was just a paper
8 exercise or, as they say, tabletop exercise, so it was in a -- just in a boardroom or
9 something?
10 Mr. Harvin. A room like this, and we did it weekly actually, different scenarios
11 every week.
12 Mr. Massie. Okay. And how many times did you do the diversion scenario?
13 Mr. Harvin. This was the first time. You know, all these analysts, they don't try
14 to redo something that someone already did, so this was the first time it was used.

1

2 [11:00 a.m.]

3 Mr. Massie. So one analyst brings this to the table and says we should do this

4 one this week and you or his supervisor approves?

5 Mr. Harvin. No. They have full autonomy to present the scenario as they see

6 fit.

7 Mr. Massie. Okay. Were there any ground exercises or drills?

8 Mr. Harvin. No. We are not an operational unit, the fusion center.

9 Mr. Massie. Are you aware of any other agencies doing exercises?

10 Mr. Harvin. Not that we were made aware of or invited to.

11 Mr. Massie. There's a theory that what happened on January 6 was -- with the

12 two pipe bombs was possibly -- may have started out as an exercise. Do you think that

13 could be possible?

14 Mr. Harvin. I'm not really tracking the pipe bomb story.

15 Mr. Massie. Okay.

16 Mr. Harvin. I think it would be stupid if that was possible. It would be ill

17 advised.

18 Mr. Massie. Are you aware of detail such -- on January 6 details such as the

19 actual improvised bombs that were found had 1-hour kitchen timers on them?

20 Mr. Harvin. I don't know. I haven't been tracking that. And I don't really

21 believe what's in the current media, and I don't have, unfortunately, have access to the

22 actual investigation material. So I actually can't even tell you the exact location of

23 where they were found or what they look like. If you showed me some photos, I

24 wouldn't know.

25 Mr. Massie. Okay. Did you -- all right. I think that's all the questions I have

1 right now on that.

2 [redacted] Okay.

3 BY [redacted]

4 Q Were you ever called upon in your capacity as a reserve MPD officer to

5 support any of the post-January 6th investigations?

6 A No. So I -- in truth, I went to NY -- MPD to become a sworn officer in

7 furtherance of getting the fusion center acknowledged as a law enforcement entity.

8 That was the plan from the beginning. We reached out to the DOJ and said we wanted

9 to get our own ORI number, I don't know what that stands for, but it's designating that

10 you're a law enforcement entity. I had drafted emergency legislation for the mayor to

11 send to the city council to name us a law enforcement entity because of the problems

12 that we were having that we talked about earlier. And all those actually were

13 successful. And this D.C. Fusion Center is now designated a law enforcement entity

14 within a civilian operation for investigative purposes. So no one's carrying badges or

15 guns. But no.

16 So MPD understood my role as a D.C. official and they also understood why I was

17 going to the academy. But I still had to do two shifts a month to keep my badge and gun

18 and my credentials, which was important. But they gave me some time off because of

19 January 6th obviously.

20 Q Okay. Post-January 6, did your fusion center discuss the pipe bomb at all

21 and the fact that the pipe bomber was likely still running around and had not been

22 detained?

23 A No, because our pivot was on -- I think it was mentioned a day or two later

24 that we got it right. You know, banter, office banter. But we were focused on the

25 inauguration. That was like -- we were on high alert for a couple of weeks. It was

1 just -- it was just a bad time. So --

2 Q Was the fact that the January 6 pipe bomber had not been detained, did that

3 play into your preparations for inauguration at all?

4 A No.

5 Q Was there a similar scenario or red top exercise run in the lead-up to

6 inauguration that included IEDs or pipe bombs?

7 A No, but we didn't run any tabletops red team exercises for the inauguration

8 because all that was under the auspices of the NSSE. So we attended Secret Service

9 things that were done. And I don't recall IEDs. I don't even recall them doing red

10 teaming, to be honest with you.

11 [redacted] Okay. I think we're out of time.

12 [redacted] We'll go off the record.

13 [Recess.]

14 EXAMINATION

15 BY [redacted]

16 Q Thank you for appearing before us voluntarily today.

17 I'd like to go through your professional background prior to joining the fusion

18 center just so we can get it for the record. I know you've had a really long and storied

19 career.

20 You actually started your career as a paramedic with FDNY, correct?

21 A My public safety career actually started when I was 16, I was a lifeguard with

22 the State of New York. Then I became an EMT after seeing some EMS folks arrive to

23 some cases I had at the pool. I talked to them, liked it. I was an EMT for a couple of

24 years. And then became a paramedic with FDNY, that's correct.

25 Q And how long were you with FDNY?

1 A Maybe 7 or 8 years. I'd have to think. '96 to 2000 -- about 6 years.

2 Q And then during your time as a paramedic, you actually responded to 9/11.

3 Is that correct?

4 A That's correct. Twenty-three days ago on this day, I was in the pile, still.

5 [redacted] Twenty-three years.

6 Mr. Harvin. Twenty-three years ago, yes. On this day 23 years ago I was still

7 digging through the pile of 9/11.

8 BY [redacted]

9 Q Well, thank you for your service in that regard.

10 What did you do after leaving FDNY?

11 A I managed a private EMS service that was a 911-provided service through a

12 hospital. And then after that, I went back to the city and worked for the health

13 department in radiological, nuclear, and biological response planning.

14 Q So can you describe a little bit what that job looked like?

15 A The city job?

16 Q Yes.

17 A I was the lead scientist for the New York City Health Department on the

18 Bureau of Environmental Emergency Response and Preparedness. And in that capacity,

19 I helped with the BioWatch program, which is a sentinel biological monitoring program.

20 And I was the lead industrial hygienist and the radiological emergency response.

21 So we did emergency response for radiological incidents, the planning for nuclear

22 and radiological incidents, which was a huge concern back then in 2007 in DHS, and a lot

23 of exercises, training, and field work.

24 Q Okay. And then in 2010, you left the health department and you went to

25 work for the New York City Medical Examiner's Office. Is that correct?

1 A Actually, New York City Medical Examiner's Office was an office underneath
2 the health department.
3 Q Okay.
4 A So it was a lateral transfer to another agency, but it was a promotion. I
5 became the deputy director there.
6 Q And what did your role as deputy director entail?
7 A It entailed overseeing the high end special investigations forensics unit.
8 Q Can you give me an idea of what high end --
9 A CSI New York. We had the -- basically, the crime scene unit for the medical
10 examiner's office, death investigations. And particularly my expertise, why I was hired,
11 because I had no forensic background, is because the medical examiner's office had
12 gotten some grant money and they were looking to build out a capability to conduct
13 crime scene investigations in contaminated environments, environments contaminated
14 with nuclear, biological, chem, and radiological materials. So that's the expertise I
15 brought to that unit.
16 Q And then in 2014, you left New York and you came here to D.C. to join the
17 D.C. Medical Examiner's Office. Is that correct?
18 A Yeah. I was recruited to come down, asked to come down to help them set
19 up the same system that we had in New York.
20 Q Gotcha.
21 [redacted]
22 BY [redacted]
23 Q Are there any other sort of high profile or significant national emergency
24 events that you've responded to besides 9/11?
25 A While I was in New York City, we were requested as a mutual aid, which is

1 when one jurisdiction contacts another jurisdiction, to respond to Sandy Hook. And so I
2 took my unit up to Sandy Hook to help process that crime scene.
3 Q Shortly after the shootings at Sandy Hook?
4 A The same day.
5 Q The same day. And I believe I read somewhere that you also responded to
6 the World Trade Center bombing in, was it 1993?
7 A I was actually a paramedic student --
8 Q Oh, wow.
9 A -- back in '93 at Beekman Downtown Hospital when that happened.
10 Q So you've -- you've had experience in some of the -- pretty much almost all
11 of the darkest days of this country in the past 30 years.
12 A I'm always in the right place at the wrong time.
13 Q It sure sounds like it. But again, we thank you for your service very much.
14 I want to go back to the events in and around January 6. And I have a couple of
15 follow-up questions from some things that you stated during the earlier hour.
16 You talked about how there were collection teams, intelligence collection teams
17 and intelligence analyst teams. Was the analyst assigned to January 6, the junior analyst
18 that's been mentioned, was he part of the collection team?
19 A All of our junior analysts are part of the collection team. They work their
20 way up, so yes. But we don't restrict them from being part of the regular rotation.
21 There was just too much going on that year to put the burden of being a lead analyst on
22 four or five analysts, so we created a rotation cycle so that every -- it was basically
23 whoever's next up has that event.
24 Q And this particular analyst was assigned to the January 6th rally, as you
25 thought it would be at the time, because he was next up on the rotation --

1 A Correct.

2 Q -- not because of anything in particular?

3 A Not because he was better or even volunteered. And by -- I don't make

4 those assignments, my manager does. And they look at the depth chart. They only

5 skip someone if they're on vacation or otherwise can't do it because they're sick or

6 something.

7 Q Now, you mentioned that in the days and weeks after former President

8 Trump's be there, be wild tweet, that -- I believe you said things went from zero to 60 in

9 terms of what you were seeing in terms of intelligence. And you mentioned groups that

10 we hadn't seen come to D.C. before.

11 What groups are you talking about, do you remember?

12 A So what concerned us were the armed militia groups. They had not been

13 here at all. My professional opinion is the reason why they doesn't travel to the District

14 was because -- not -- it was simply because you're not allowed to have open carry or even

15 concealed carry without a permit in D.C. So they don't generally travel. And we track

16 them, we speak to other people in other States. They travel outside of their State, but

17 they usually travel where they're allowed to open carry, because that's their whole

18 persona.

19 Q And seeing indications that members of these groups were planning to come

20 to D.C. for January 6th, did that indicate to you that it was -- there was more potential for

21 violence than you had initially expected?

22 A The actual trigger point that really made me concerned that I picked up the

23 phone and called Director Rodriguez was not that just -- we were tracking these groups

24 for a week or a couple of weeks before that call. On that day, we got a call from one of

25 our analysts who had information that these groups were actually communicating with

1 each other. And if you understand, you know, domestic extremists, these are generally
2 groups that they don't communicate with each other. They have their kind of lanes.
3 You know, you have White supremacists and neo-Nazis or anti-government groups
4 communicating with each other. That's a threat stream that combines that was
5 concerning for the analyst. And me not knowing much better, I elevated it.
6 Q And --
7 A I don't know if that answers your question.
8 Q That does answer my question. Thank you. Because my next question
9 was going to be, did you see them communicating with each other.
10 And I believe you said that these are groups that you would not typically see --
11 A So we're not familiar with these groups --
12 Q I said, these are not groups that you would typically see coordinating.
13 A Yeah. So we're not familiar with these groups, we have no background on
14 them at all. We're familiar with the groups in our area. They don't come to the
15 District. They generally don't travel unless they're armed, and they said online they
16 were coming armed, and they're working with other groups. All those three things
17 created a unique threat environment that we had never seen in the District of Columbia
18 ever.
19 Q Thank you.
20 Now, I want to talk specifically about the pipe bombs, because the reason why
21 you've been asked to testify is because the majority and the committee believes that you
22 might have information about who planted those pipe bombs. So I'm going to come out
23 and specifically ask you, do you know who planted the pipe bomb at the RNC on January
24 5th?
25 A No, ma'am.

1 Q And do you know who planted the pipe bomb at the DNC on January 5th?
2 A No, ma'am.
3 Q And do you have any information about those pipe bombs, other than what
4 has been publicly reported?
5 A No.
6 Q And were you part of the teams that responded to either the RNC or the
7 DNC on January 6th?
8 A No, ma'am.
9 Q Were you part of the team that investigated the planting of the bombs?
10 A No, ma'am.
11 Q Do you have any information about the FBI's investigation of who planted
12 the bombs, other than what's been publicly reported?
13 A No, ma'am.
14 Q So you don't know, for example, how many witnesses they've interviewed?
15 A I have no clue.
16 Q And you have no information about the forensic analysis of the bomb?
17 A No, I don't.
18 Q Now, you also don't have any training -- well, if you did you would have
19 mentioned it. I'm assuming that you do not have any training in analyzing explosive
20 devices.
21 A That's never been my job description. The only training we've had
22 pertaining to IEDs is to cord up the area and create a safe environment. So all first
23 responders in the academy get IED awareness training. I teach that, I teach it all across
24 the world for first responders. And it's basically recognition of the device, cordoning off
25 the device, making sure you don't use your cell phones or things like that that could

1 trigger the device, and calling the proper authorities to manage or even determine if it's
2 actually a device, because sometimes you don't know, but you're not supposed to touch
3 it.
4 Q And the devices in this situation, in this case, you've not actually seen them
5 yourself?
6 A I have not seen them. I don't know if -- I think I saw a news article, but I
7 don't know if they had a photo of it or not.
8 Q Okay. And so you don't know of any photos that are out there -- well, for
9 example, you were asked a question about a kitchen timer. You don't know if there was
10 actually a kitchen timer?
11 A Yeah, because I've never seen the actual --
12 Q And because you weren't involved in the investigation, you don't know if
13 there was any kind of remote detonator or anything like that?
14 A Yeah. I mean, after I left D.C. government, I shut all this stuff off, so I have
15 haven't been tracking it.
16 Q I want to ask you a couple of follow-up questions about the red team
17 exercise. You mentioned that it was pretty vanilla standard stuff. Can you explain
18 what you mean by that?
19 A Because we have a big team and we try to get everyone engaged and it's
20 only an hour, we try not to go into too many details. And so it's a very high level, you
21 know -- I'll give you an example.
22 There is a parade, a march for LGBTQ+. It's a sunny day, there's about 5,000
23 people. You start seeing tweets about we're going to come and attack it, right. What
24 do you do? Some people start -- when we see derogatory information online, we notify
25 law enforcement, we do this, we do this, we try to run it down. If it's serious enough,

1 we'll create a SAR, which is a suspicious activity report, upload that to the FBI database,
2 which we actually manage on our end, and let the FBI direct things out. And they
3 continue to monitor, right. Okay, good.
4 So now it's the day of the event and, you know, you get Maryland fusion center
5 says, we're tracking a vehicle that came up as a hit and they're driving into the District,
6 right. So they lead you through this thing all the way to the idea someone's going to
7 come and try to vehicle ram it. They're not talking about the place or necessarily the
8 individual, they try to keep it high level. It's just, once again, trying to get people's mind
9 right for the event that they're coming to.
10 Q And the red team exercise on, I believe it was December 30th, that -- where
11 an IED was discussed, I believe you said that the IED was just one component of the
12 scenario that was run through that day.
13 A Uh-huh.
14 Q It was not a red team exercise about an IED at the Capitol. It was about a
15 larger scenario.
16 A It was a component of the scenario.
17 Q And I believe you also said that the use of IEDs as a diversion is as old as
18 terrorism itself, or something to that effect?
19 A You learn it in the police academy, you learn it in the fire academy, you learn
20 it at EMS academy. IEDs are used often to divert from an actual thing and/or to target
21 first responders. It's what we call a secondary device, so it's more of awareness.
22 Q So it wasn't a particularly -- the analyst who chose to include that in the red
23 team exercise was doing that because that's something that folks are taught, as you said,
24 from the beginning of time, not because he had any particular foreshadowing abilities,
25 correct?

1 A That's correct. And I believe even DHS has a website devoted to IEDs as a
2 diversionary tactic. So that's publicly available information.
3 Q And if I understood your testimony correctly, you had no specific intelligence
4 that there would be IEDs at --
5 A Not that I would -- not that was shared with me.
6 Q And thank you for that clarification.
7 You also said that it was not part of briefings to other law enforcement agencies
8 because I believe you said it was make-believe.
9 A It was make-believe. We had no information there was an IED. And
10 suggesting that something could happen isn't enough to warrant alerting our law
11 enforcement partners of something.
12 Q Now, I'm sure you're aware that there's been a theory advanced by some
13 that the pipe bombs were part of a false flag planted by law enforcement or supporters of
14 President Biden to create a diversion to divert law enforcement resources on January 6th.
15 Are you familiar with that theory?
16 A I am familiar, yes.
17 Q And based on the intel that you developed in your time as head of the D.C.
18 Fusion Center, what is your response to that theory?
19 A I have no idea who planted that. That's my professional response. My
20 private response is, I can't imagine a public safety person even jokingly doing that
21 because of the injury that could occur.
22 Q And you said you cannot --
23 A I can't imagine a public safety servant or anybody doing that. It would be a
24 first. I don't recall -- I'm a student of terrorism and I teach terrorism. I teach it at
25 Georgetown, I was teaching it last night, I'll be teaching it when I leave here. I don't

1 recall of any, in the history of our country, current law enforcement or public safety
2 official planting a bomb.
3 Q And when you talk about how common it is to use IEDs as a diversion tactic,
4 you're talking about by actual terrorists or violent people, not law enforcement?
5 A Maligned actors.
6 Q Maligned actors. Thank you. That's the perfect term. Not the actual
7 public safety community?
8 A That's correct.
9 Q Thank you.
10 Are you familiar with a man named Darren Beattie?
11 A Yes.
12 Q And who is he? What's your familiarity with him?
13 A A reporter, writer.
14 Q Fair enough. He wrote an article entitled, Meet Donell Harvin:
15 Trump-Hating Deep State Official Who "Predicted" J6 Pipe Bombs in Advance.
16 I assume you're familiar with that article?
17 A Yes. Somebody sent it to me.
18 Q And that article led with an illustration of you in front of the Capitol holding
19 what purports to be a pipe bomb. Is that correct?
20 A That's correct.
21 Q Okay.

1 [redacted] I'd like to introduce that into the record.

2 [Harvin Exhibit No. 3

3 was marked for identification.]

4 BY [redacted]

5 Q Dr. Harvin, that is the illustration that came along with --

6 A That's correct.

7 Q -- Dr. -- I'm sorry, Mr. Beattie's article, correct?

8 A That's correct.

9 Q How did you feel when you first saw that illustration of -- that purports a

10 picture of you bombing the Capitol?

11 A I laughed.

12 Q You laughed?

13 A Yeah.

14 Q And that illustration has been -- or the article itself and the theory has been

15 amplified on social media, correct?

16 A I believe so, yes.

17 Q Have you read the article?

18 A I skimmed through it.

19 Q Well, let me ask a question that should seem obvious, but I'm just going to

20 go ahead and ask it based on the picture. Did you plant the pipe bombs at the RNC and

21 the DNC?

22 A No, I did not.

23 Q Thank you.

24 A And I think that, you know, that wouldn't be the way that I would end, as

25 you mentioned it, ma'am, a storied public safety career. I've seen a lot, I've been

1 injured. I've done a lot over my career. It's all been to help people for not much. It's
2 just because I serve the public, and this is not serving the public.
3 Q You mentioned that you've been injured. Can you talk about that a little
4 bit?
5 A I have PTSD from 9/11, plus I go every year and get checked up annually.
6 And several years ago, the doctors found a spot on my lung so they're monitoring that.
7 Q And I imagine that's because of your exposure at the 9/11 site?
8 A That's correct. But I've also been -- I've also been -- that's correct. I'm
9 sorry. I've also been assaulted on the job, as many first responders have been,
10 physically. And so it takes a toll on you, but we continue to put that uniform on and
11 serve the public.
12 Q You've also, as part of your work here in D.C., you exposed yourself to a
13 different type of risk during the pandemic, didn't you?
14 A That's correct.
15 Q Can you tell us a little bit about your work at the morgue?
16 A Um --
17 Q If it's too difficult, then --
18 A No. When we realized that the cases were mounting, I no longer worked
19 for the medical examiner's office but I reached out to the medical examiner and I gave
20 him some advice to activate the system that I had built over the course of four and a half
21 years, which was a mass fatality system. Because of their staffing issues and lack of
22 expertise, they made a special request to have me detailed to run that operation.
23 So over the course of a week, we pulled together an amazing team, Title 10, Title
24 32 military, Active Duty, and National Guard, as well as D.C. workers. It's the first time it
25 ever happened that you have that type of coordination on the ground. And we set up a

1 disaster morgue where we stored hundreds of deceased for months until we were able to
2 get them final disposition.
3 Q Do you remember when in 2020 you set up that morgue?
4 A I think it was spring.
5 Q So early pandemic?
6 A Oh, yeah. Yeah, I mean, we were watching it come down from New York
7 and I was communicating with my old boss in New York who mentored me and trained
8 me. And I basically said, Frank, what are we expecting? He said, when it hits you, it's
9 going to hit you hard. And so I had -- we had a few weeks to prepare, unlike my
10 colleagues in New York who got slammed.
11 Q And it's my understanding that every person in D.C. who died of COVID
12 during that time, their body passed through that morgue. Is that correct?
13 A Yes, ma'am. We saw every body that passed through.
14 Q And so that was a service that you performed?
15 A Sixteen hours a day, 7 days a week. I wasn't hired for that, but that's what I
16 did. And I still ran the fusion center at the same time.
17 Q So to be clear, you as a paramedic student were at the World Trade Center
18 in '93; you responded to the World Trade Center bombing on 9/11 and exposed yourself
19 to the health risks that came with that; you responded to the Sandy Hook shooting; and
20 you were part of the team that did everything you could to try to prevent violence on
21 January 6th, as well as -- and before that, this is just a year after you set up this morgue
22 and handled every dead body from the District in the earliest days of the pandemic. Is
23 that fair to say?
24 A Yes.
25 Q And I want to be clear that I'm bringing all of that out and highlighting it to

1 make clear to folks like Mr. Beattie that -- the absurdity of the suggestion that you were
2 part of any false flag operation with respect to pipe bombs at the DNC and the RNC.
3 Just to let you know why I've asked you to discuss such difficult topics.
4 A Understood.
5 Q I want to talk now just about some of what you said in the previous hour
6 about January 6th generally.
7 You talked a little bit about the lack of preparedness by Federal law enforcement
8 for the violence that unfolded that day. Now, there's a theory out there that this lack of
9 preparedness was intentional on the part of Federal law enforcement so that the attack
10 on the Capitol would be successful.
11 What is your response to folks who hold that theory?
12 A Once again, I don't believe that those who engaged in the homeland security
13 or security enterprise of our country would do anything intentionally to harm our
14 institutions or anybody. So I reject that theory personally and professionally.
15 Q When people amplify that sort of theory online that the government is out
16 there allowing Americans to be killed or accusing law enforcement agents of doing
17 something harmful that they did not do, what is the potential impact of that just for
18 public safety, for the threat landscape generally?
19 A I haven't done any research on this and I haven't consumed any data
20 specifically, but I will tell you anecdotally my own personal experience and those of my
21 colleagues that still work in the business that it degrades the public's trust in public
22 institutions in a way that that can hinder the mission. And what I mean by that is that
23 homeland security and the security of our country is not owned by the government, it
24 really is owned by the people. The government relies on the people to protect them.
25 And if no one's willing to pick up the phone and make that tip or lead, if no one's willing

1 to talk with a government official or law enforcement agent about something that's
2 suspicious, then we can't do our job.
3 Q Thank you, Dr. Harvin.
4 [redacted] If you give us 1 minute.
5 We can go off the record.
6 [Discussion off the record.]
7 Mr. Massie. Okay. I just want to follow up on one question before. I was
8 asking you about who the analyst was that came up with the tabletop exercise. And I
9 respect that you don't want to give us the name, we've got to maybe go through other
10 channels for that, but you mentioned they were still involved in the intelligence-gathering
11 effort or community. And before you also mentioned that you had your own analyst but
12 that people were detailed to your office as well.
13 Can you tell us, was the analyst who came up with this scenario, the IED diversion
14 scenario, was that one of your analysts or was it somebody that was detailed to you from
15 another office?
16 Mr. Harvin. That was one of our analysts.
17 Mr. Massie. Okay. Thank you.
18 The media, they wrote some articles, Washington Post wrote some articles, you
19 did some interviews about how your office predicted this and the other office -- or the
20 other departments, they either didn't listen or didn't take it seriously. And there were a
21 lot of details in those interviews, but they don't seem to key in on the one thing that your
22 office got the most right, which was the pipe bomb.
23 Did you think that was peculiar that they didn't talk about the pipe bomb in those
24 interviews or -- I mean, that was the one thing you guys seem to have got 100 percent
25 right.

1 Mr. Harvin. You know, I -- I think the media is peculiar, so --

2 Mr. Massie. Okay. I do too.

3 Mr. Harvin. Anything they do focus on or don't focus on I don't really question.

4 Mr. Massie. Okay.

5 Mr. Harvin. And just to clarify, when you say we got it right, we got the fact that
6 they were coming to attack the Capitol, right, in the biggest sense and that this was not
7 some benign group that we had originally starting thinking it would be benign, but it
8 evolved to us that it was going to be maligned. But I think some people on the Federal
9 side still thought that these were the same people that were coming before MAGA 1,
10 MAGA 2, which was basically very, very quiet and low key from a violent standpoint.
11 There was some violence, I don't want to downplay that, but it was interpersonal
12 violence. These are different people.

13 Mr. Massie. Switching gears here. We are still waiting on the DOJ IG's office
14 report of January 6. And so I wondered, have you been questioned by the DOJ IG's
15 office about January 6th?

16 Mr. Harvin. I have been questioned, but I believe it's an NDA or some type of
17 agreement that I had to sign that I cannot divulge the line of questioning. I don't even
18 know if I'm allowed to say that I was questioned, but I've already said it, so --

19 Mr. Massie. Okay. That's fine. We'll find out soon enough. Hopefully we'll
20 get that.

21 How long ago did that happen?

22 Mr. Harvin. That was around the January 6 questioning period. So you have to
23 refresh my memory. The Washington Post article came out, it was probably about a
24 month thereafter.

25 Mr. Massie. Okay.

1 Mr. Harvin. But I could be wrong. I have it in my calendar.

2 Mr. Massie. Okay. Do you have any familiarity with FirstNet services?

3 Mr. Harvin. Yes.

4 Mr. Massie. And what -- how do you know about FirstNet?

5 Mr. Harvin. FirstNet is a secure public safety communication network that was, I

6 believe, funded by DHS as a parallel system to the commercially available system to

7 provide -- I sound like a commercial, I'm sorry -- redundant, secured, public safety

8 communications in the event of some type of outage.

9 Mr. Massie. And did HSEMA use FirstNet?

10 Mr. Harvin. The District of Columbia uses FirstNet.

11 Mr. Massie. Okay. Have you ever communicated with Karlin Younger?

12 Mr. Harvin. I don't know who that is, sir.

13 Mr. Massie. Karlin Younger is the person associated with FirstNet who just

14 coincidentally found the first pipe bomb near the Capitol Hill Club/RNC.

15 Mr. Harvin. I don't know that person from -- never met them or communicated

16 with them.

17 Mr. Massie. Okay. Those are my questions, and I'll turn it over to staff.

18 BY [redacted]

19 Q When did you become aware of the pipe bombs that were planted at RNC

20 and DNC?

21 A I got a phone call while I was in the fusion center from my -- I said we

22 weren't operational, we don't have an operational, but we do -- the part that is

23 operational is our situational awareness. As I mentioned before, we have a 24-hour

24 watch desk that they generally kind of monitor, kind of like an overwatch from electronic

25 systems surveillance, all the conventional stuff. But for big incidents we will forward

1 deploy an analyst or a team of analysts to give on-the-ground situational awareness as to
2 movement of crowds or things like that, to report that into the fusion center and the
3 emergency operation center, if it's set up, as part of the EOC structure.
4 So we had people out there on January 6. And it was reported to me that they
5 were hearing it on the police radio that there was IEDs that were found. That's the first
6 time I heard it. I don't know the exact time. But it would be pretty close to when it
7 was transmitted on the police radio.
8 Q Did your people that were forward deployed in the field, did they take
9 precautions to blend into the crowd at all?
10 A They didn't blend into the crowd, they stayed in their vehicles.
11 Q Okay.
12 A At least that was their instructions. I can't intrinsically tell you they got out
13 of the vehicles or not. It wouldn't be safe to do so. But they're out there in black
14 SUVs, like many other government --
15 Q Sure.
16 A Basically looking at traffic patterns, understanding that our primary job is to
17 protect, once again, those who are protesting with their First Amendment activities and
18 to make sure that critical infrastructure is not impacted.
19 BY [redacted]
20 Q And what was their role, if you will? Were they collecting intelligence --
21 A Um --
22 Q -- to keep the peace?
23 A No, no. I mean, there's other agencies out there. And once again, it's not
24 our jurisdiction, so they were probably -- and I don't know the exact where they were.
25 They were probably on D.C. property watching this all unfold from across the street,

1 letting us know there's a large crowd, there's a fight, you know, things like that. But I
2 can see that on -- we can see that on -- not even television, because the media wasn't
3 broadcasting it. We have OSINT, and so open-source intelligence was showing us. I'm
4 like, yeah, I can see that there's people recording and live-streaming what's going on.
5 So -- and I have multiple cameras. So, in fact, I had better situational awareness than my
6 guys and gals out there in the field who were in a standoff capa- -- standoff position
7 couple blocks away.
8 Q And do you remember how many of your staff were deployed, if you will,
9 out in the field that day?
10 A I want to say we had two cars --
11 Q Two cars.
12 A -- with maybe four people, because there may have been a third person, but
13 it's a minimum of two people. We don't send a person out by themselves. So I would
14 say two.
15 Q Okay. And did that -- how many people were out in the field? You said
16 four. Did that ever change throughout the day or did that stay consistent?
17 A I think we -- we had a small staff. So at some point we called them back,
18 and we didn't have anyone else out there. And then later in the day, we detailed staff to
19 the FBI to assist them with the investigation that same day.
20 Q And as part of the investigation that the FBI was conducting on that same
21 day, were those officials out in the field or were they at the WFO or FBI headquarters?
22 A So the FBI set up something called the blue whale, which is known as their, I
23 think, command vehicle. We call it a blue whale because it's big and blue. And so we
24 detailed analysts to go to that location in the field. I don't know the exact location, I
25 think it was near the Capitol. It may have been on like the parking lot, if I recall.

1 Because we had a direct line -- created a direct line to the fusion center.

2 And to basically -- and that was a service that we were providing. We weren't

3 getting anything out of that. So it wasn't like some type of transaction, we're going to

4 send someone there, you're going to send me intel, I'm going to send you intel. It was

5 basically a person embedded with them to provide them with all the derogatory

6 information that we had collected off of OSINT that did not rise to a level that needed to

7 be reported before but, certainly, we had categorized, and that was the instruction to our

8 staff, hold onto this, right, that we can forward to them afterwards.

9 Q And beyond embedding some of your staff with the FBI and the blue whale,

10 were there any other taskings that you gave on that day for your staff?

11 A Before then, I had -- I had worked out with Jack Donohue embedding

12 intelligence analysts in the Capitol with his team. And that was done 2 days before

13 January 6th.

14 Q And what was that individual's role as he was embedded with the Capitol

15 Police?

16 A The Capitol Police didn't generally come to us in terms of their intel. And

17 so it was -- for me it was to have a direct line of communication and access to the fusion

18 center network, which is a live network. That's something uniquely that we can provide,

19 to provide -- and just to give them an extra body that can do OSINT or run down things.

20 We gave them a very, very senior person to do whatever he needed.

21 Also, to be quite honest with you, it was my guy on the inside, right. So I knew if

22 something went left, something went bad, I wasn't going to be able to call, pick up the

23 phone -- Jack wasn't going to be able to pick up the phone or Julie, they'd be busy. And I

24 can call my person, like, what the heck's going on or what are you hearing. So --

25 Q And once the -- you know, there was a curfew that was put in place,

1 individuals dispersed from the Capitol. Was there any sort of taskings that you had to
2 monitor individuals after they left the Capitol?
3 A No, ma'am.
4 BY [redacted]
5 Q If I heard you right, it kind of sounded like leading up to January 6, the FBI
6 wasn't necessarily concerned with hearing what your fusion center had to say about the
7 threat. But then after January 6, suddenly they wanted a representative from your
8 fusion center to come and share with them all the derogatory information that you were
9 aware of?
10 A We offered and they accepted. I wouldn't say they came to us.
11 Q Okay.
12 A Because we told them we had collected a lot of things that we did not
13 submit through eGuardian. eGuardian's a system that you submit suspicious activity
14 reports. If I was to quantify it, probably less than 10 percent of the things we see we'll
15 submit. And if I was to quantify it, less than 10 percent of the things we submit they
16 actually look at. So if you look at it, like 1 percent of the stuff that we actually submit
17 are actually investigated, run down to the ground.
18 So our job isn't to give them a whole lot of information. Our job is to do due
19 diligence, sift through the stuff, and see where there's credible threat and then forward
20 to them and let them handle it from there.
21 Q Did you get the impression that the analyst that you provided to the FBI
22 post-January 6 was kind of welcomed into the group and made to be a part of the team or
23 were they kind of kept on the outside?
24 A I sent one of our better folks who's very personable. We got daily reports
25 from him from within that unit, and his time was fruitful there. And I felt it was building

1 relationship.

2 Q Do you know if, because the Capitol wasn't your jurisdiction, if they spoke

3 with him about things happening off Capitol Grounds, like the pipe bomb?

4 A I don't know. But the reason why you want someone there, it is a saying in

5 our business, if you're not there, you're not there. Conversations may be had, people

6 start feeling comfortable with you after a day or 2, you'll hear things, right. They may

7 bring you in, they may not, but that's why you want your person there.

8 Q For sure. And what he was sending back, it didn't touch on the pipe bomb

9 case or kind of developments in, you know, investigating leads and things of that nature?

10 A Not the pipe bomb. So specifically I'll tell you what our activities were.

11 We were helping -- and on our end we were tasking our folks based on what they needed,

12 right. And one thing, he's the plug. We had a plethora of OSINT, someone holding a

13 gun saying I'm going into the Capitol; someone say, hey, I just left the Capitol and I got a

14 police badge -- I'm just making things up, right. I'm giving you examples of things that

15 could indicate criminality, not just I was at the Capitol.

16 I think it's very important, because there was a lot of people at the Capitol that

17 saw what was happening and they turned around and walked away. And that's not

18 reported, right. There's a lot of people who are out there that said, I don't want to have

19 anything to do this, and they left. These are individuals that either indicated on OSINT

20 they were actively committing something that could be determined as a crime or

21 criminality or post the incident that they had participated in a crime of criminality, not

22 just I showed up, waved a flag and left.

23 And so we have that information on our end and we were feeding that to that one

24 individual. I don't know what he was doing in the blue whale, but whatever it is, we got

25 credit for identifying, right. So what's happening in blue whale is Capitol Police is pulling

1 CCTV, all these agencies are kind of crunching this and like, okay, who is this guy? Okay.
2 Send that back to the fusion center. Do you have someone that has a profile that looks
3 like this? Do you have that guy who is actually taking a photo, and we are helping make
4 that match. Yeah, it looks like John Doe, here goes his profile, this is the actual video he
5 filmed while he did that, send that to the blue whale, and they do what they want to.
6 So it was updates on, like, it started, oh, we helped identify 12 people; next, 48
7 people. And at the end of the day, I think it was like a couple of hundred people, and
8 we were able to report that to the Mayor. And specifically, our task was not to help
9 with the investi- -- not to do the investigative work but to help identify these people
10 through OSINT.
11 I hope that was --
12 Q No, that's great.
13 A Okay.
14 Q That's helpful. I appreciate that.
15 Are you aware that Steven D'Antuono testified to this committee that the FBI was
16 unable to complete a full geofence for the pipe bomber because one of the cell service
17 provider's data was corrupted?
18 A I'm not -- I'm not tracking that. No, I'm not aware.
19 Q Does that strike you as odd given the success of the geofence tactic for
20 people that were just blocks away at the Capitol?
21 A Yeah. I'm actually not aware -- I should be more aware of geofencing, but
22 it's just not something that -- I'm vaguely aware but not enough to speak about how
23 accurate or consistent it is in terms of what it's able to do.
24 Q Sure. Are you aware that former Capitol Police Chief Steven Sund testified
25 that he believes the pipe bombs were a diversion intended to draw law enforcement

1 resources away from the Capitol?

2 A I'm not aware of his testimony, but I would agree with him. I have no

3 reason to -- I know Steven Sund, I have no reason to disagree with him.

4 Q So from your own experience that day, what you'd seen in the aftermath of

5 January 6th, you would agree that the pipe bombs were consequential in diverting

6 security resources from the Capitol?

7 A I don't know if they were consequential. I don't know how many people

8 actually -- how many resources were actually pulled away and if those are resources that

9 would otherwise be used at the Capitol. For instance, with large-scale incidents, there's

10 often a bomb squad on standby. And these guys and gals are sitting around doing

11 basically nothing because there's no bombs.

12 If those resources weren't engaged in defending the Capitol or they're there as a

13 stand-off capability in case an IED -- so those units were pulled on and they're doing their

14 job. They're not there like doing the tug of war with protesters.

15 So not knowing -- I don't know who was deployed. I don't know how many

16 agencies were there. I don't know if it -- people -- you know, the thought is that people

17 were fighting with protesters. Oh, there's a bomb, I got to stop fighting with a protester

18 and go to this thing. So how effective it was as a diversion I don't know. Steven Sund

19 would be better placed to answer that.

20 Q Are you aware that the perimeter established around the DNC pipe bomb

21 prevented the fulfillment of the request from Capitol Police that 400 bike racks be

22 delivered to the east front of the Capitol to be used as a protective barrier?

23 A I'm not aware of that. That's the first I'm hearing that.

24 BY [redacted]

25 Q And following January 6th, did your official continue to be detailed to the

1 FBI, that one official that you had placed with the FBI, to help with investigations?
2 A I wouldn't call him official, but an analyst, yes.
3 Q Okay.
4 A For a couple of weeks, I believe, until things ramped down.
5 Q Okay. And so you said just a couple of weeks, so it was a short duration?
6 A Wasn't a long time.
7 Q And when did you leave the fusion center again?
8 A End of March, early April.
9 Q Okay. And as part of -- as you know, there's been several investigations
10 into the events that occurred on January 6th, 2021. As part of one investigation, you
11 were interviewed by the select subcommittee on January 6th. Is that correct?
12 A That's correct.
13 Q How many times were you interviewed?
14 A I met with them three times. I don't know if they were technically
15 considered interviews the first time. All three Zoom. The first time they -- we spoke
16 probably for an hour, and then they scheduled me for sworn testimony. And then they
17 scheduled me for another meeting, I can't remember if it was sworn or not, with another
18 group that was investigating law enforcement stuff. I think it was the blue team or
19 something they called it. I could be wrong.
20 Q And was this all conducted by staff of the select committee?
21 A The first and the last. There were some lawmakers, I believe, in the
22 second. And I think they asked a question or two. I can't recall who it was.
23 Q Okay. Are there any other entities that you have provided testimony to,
24 besides our committee today, regarding your role in the January 6 investigations?
25 A Just the Department of Justice OIG.

1 Q And when did you testify for the Department of Justice OIG?

2 A It was around that same time. I can get back to you with the exact date

3 because I have it on my calendar. I don't want to be rude and pull out my laptop. And

4 that was a sworn testimony as well.

5 Q And do you have a sense of what that testimony was being used for by the

6 inspector general?

7 A I was under the impression, I believe from their opening remarks, just like

8 you were kind enough to provide opening remarks, that were fulsome in terms of what

9 they were looking for, is they were trying to get to the heart of any intelligence or

10 information sharing lapses or gaps that could have occurred or may have occurred before

11 January 6.

12 Q And so you provided testimony regarding kind of similar testimony to what

13 you provided today. Is that correct?

14 A It's a little more -- it's a little different than today. They really were more

15 keen on our relationship with the field office, how we conduct business, and who else we

16 conduct business with in terms of intelligence and information sharing.

17 Q Were there any other entities besides the select committee, our committee,

18 and the DOJ inspector general that you provided testimony to regarding --

19 A No, ma'am.

20 Q And I'm sure you're generally familiar with the 845-page report that the

21 select committee put out. Is that correct?

22 A Yes, ma'am.

23 Q And you kind of, in your Politico piece, walked through some of the concerns

24 you may have had with the report or things that you thought they had left out. You

25 know, in your Politico piece you said that the committee looked away from those who

1 should have prevented January 6th.

2 Can you kind of provide some insight into that or unpack that for us?

3 A Yeah. And I appreciate the opportunity because I have a word count that I

4 have to meet here in the Politico piece.

5 What I was essentially saying was the potential exists to overlook vulnerabilities,

6 not just in the U.S. Capitol's protection infrastructure, but globally throughout our

7 homeland security enterprise because of the symptoms that led us to January 6th from

8 an intelligence and information sharing and actionable operational response. And so in

9 not addressing those in the report, I felt that I had to write this to articulate that someone

10 needs to discuss, particularly the information sharing and intelligence that I talked about

11 extensively, with not only the DOJ OIG investigation interview but also with the

12 January 6th committee that I think was left on the table.

13 [redacted] We can go off the record.

14 [Discussion off the record.]

15 [redacted] We can go back on the record.

16 Dr. Harvin, I think we just have a few more questions.

17 Mr. Massie. This has gone pretty quickly compared to most TIs.

18 So you mentioned that you had somebody embedded the day of January 6 and

19 that you were also doing real-time identification of individuals, or you did that afterwards

20 or during or --

21 Mr. Harvin. So we had someone embedded in the U.S. Capitol Police's

22 intelligence office, which is in their police headquarters, 2 days before, yes. And we did

23 not do real-time identification because no one had committed a crime. It would be a

24 violation of their civil rights and civil liberties to do so. We did so after a request of the

25 FBI to help retroactively identify some of the people that they thought were violent

1 offenders.

2 Mr. Massie. Okay. So thank you for clarifying that.

3 There was gallows erected on the grounds here, and it seems like so far there

4 hasn't been, at least in the -- by the FBI, identification of the people who erected those

5 gallows.

6 Did you work on that part of it, trying to identify who erected the gallows or was

7 in proximity of the gallows?

8 Mr. Harvin. I'll answer your question directly. The answer is no. And

9 indirectly, my professional opinion is I don't believe that erecting gallows is illegal.

10 Mr. Massie. Okay.

11 Mr. Harvin. I could be wrong, because it's Federal property. You'd probably

12 better know. But I don't think -- if I was in charge of the fusion center and that was a

13 request that came, that's something that I would have to have my privacy officer look at

14 and speak with the attorneys about to see if that was an actual crime. My personal

15 opinion is that's a First Amendment protected activity, as unpalatable as that may seem.

16 Mr. Massie. Yeah. And we actually did have, I think -- was it Director Wray

17 testify that he didn't think they were actually meant to be erected to actually hang

18 somebody; that they were more of a First Amendment type statement or a protest.

19 But others have placed great importance on that, as if it were intent -- evidence of

20 intent to commit a crime. And so that's why I asked that question.

21 And that was my question I had.

22 BY [redacted]

23 Q Are you generally familiar with the 845-page final report of the select

24 committee?

25 A Yes.

1 Q Are you generally aware that the select committee was charged with
2 investigating the facts, circumstances, and causes that led to what transpired that day?
3 A Yes.
4 Q Are you aware that the committee's final report consisted of eight chapters,
5 including a chapter titled "Analysis of the Attack"?
6 A That's correct.
7 Q In your Politico piece, you stated that the committee looked away from
8 those who should have prevented January 6th. What did you mean by that?
9 A I think in the forward -- and I'd have to refresh looking at that -- but I believe
10 early on in the document there was a statement that I thought was categorically false
11 insofar as law enforcement could not have possibly known or some -- I'm, you know,
12 paraphrasing. And just reading that statement, I said I had to counter that, because
13 they knew, because I made sure everyone knew. And we were all in the same room,
14 and everyone nodded in agreement when we were tracking the threats. I push back on
15 that notion that it was an intelligence failure of any regards. It was a failure to heed the
16 intelligence.
17 Q I understand that the fact that these 400 bike racks could not be delivered to
18 the Capitol because of the perimeter that was established at the DNC because of the pipe
19 bomb, that's the first time you're hearing about it. But would it surprise you that -- and
20 I'll represent to you that that is in the J6 select committee's final report in appendix 1.
21 But would it surprise you to know that despite being highly consequential for their
22 diversionary effect, the pipe bombs are not mentioned in the January 6th committee's
23 analysis of the attack chapter?
24 A In retrospect, you're absolutely right.
25 Q As someone who has worked in the law enforcement and homeland security

space for a long time, and as someone who has undoubtedly written your fair share of reports, wouldn't a critical feature of any serious report on January 6th include mention that the two pipe bombs were allegedly placed the evening of January 5th, sat undiscovered for nearly 17 hours, then were both independently discovered within 16 minutes of the certification of the vote scheduled for 1 p.m. on January 6th?

A Is that a question or a statement?

Q It's your -- I'd like to get your opinion as someone who's done these reports.

A Okay.

Q Recognizing what a consequential aspect the pipe bombs were, that would be a critical feature to include in your report, I would assume, but I'd like to get your take on that.

A I don't think I can -- I'm qualified enough to answer that. Once again, if Chief Sund said it impacted his operation, then I would defer to him.

[redacted] Okay. That's all I've got.

[redacted] We can go off the record.

[Discussion off the record.]

1

2 [12:08 p.m.]

3 BY [redacted]

4 Q Dr. Harvin, during the --

5 A Are we back on the record?

6 Q Oh, sorry. Yes. We're back on the record. Thank you.

7 A I'm getting used to this.

8 Q Yes, you are.

9 During the previous hour, Representative Massie stated that your office had

10 correctly predicted the pipe bombs on January 6th.

11 Do you consider the inclusion of a pipe bomb scenario, an IED scenario, in that

12 tabletop exercise to be a prediction of what would happen or --

13 A I wouldn't classify it as a prediction.

14 Q And as you testified earlier, you actually had no intelligence suggesting that

15 IEDs would be used?

16 A It was not in any of the intelligence internally that we consumed or that was

17 reported to me.

18 Q Thank you.

19 And we just finished with a discussion about the lack of analysis of the pipe bombs

20 in the select committee's report.

21 Do you believe that the failure to include that or the absence, I should say, of that

22 analysis was an intentional attempt to cover up law enforcement's involvement in a false

23 flag operation with respect to the pipe bombs?

24 A I don't know if I can answer that, but I would tell you that if there's an

25 ongoing -- an active investigation, it would not make sense to include anything more than

1 a mere mention of the pipe bombs.

2 Q And to your knowledge, the identity of the person who planted the pipe

3 bombs is still unknown, correct?

4 A That's correct.

5 Q And to your knowledge, there still is an ongoing investigation, correct?

6 A I don't know if there's an ongoing investigation.

7 Q You have no information either way?

8 A I don't know either way.

9 Q Okay. Fair enough.

10 A I don't know if they've closed the case or what.

11 But I would like to add -- and I know you didn't ask. It's unique -- bombing

12 suspects are a unique type of investigation. As a student -- I've never investigated

13 bombings. As a student, we know -- Eric Rudolph, I think it took 5 or 6 years to capture

14 him. He was the Atlanta City bomber. But the Unabomber, I think it took 16 or 17

15 years, and he's prolific.

16 And so I think bombing -- IEDs, bombs, things like that, they present a unique

17 challenge for law enforcement that's been well-documented, once again, as a student, as

18 a professor of this. So it's not unusual that it would take so long. Therefore, it's not

19 unusual that they would fail to mention it, but they did fail to mention it in the report.

20 Q And so based on the examples that you just gave and what you've studied in

21 your long career and your education, the fact that the perpetrator has not yet been

22 identified is not an indication to you that there's law enforcement involvement in the

23 actual criminal activity?

24 It's not suspicious to you, I guess I should say, that the person has not been

25 identified?

A It's concerning as heck because there's someone who planted bombs that are still on the street. And it indicates to me that whoever planted them didn't want to get caught. Some people do.

But it's not unlike historical incidents where it takes a large number of people to track down one person, especially if it's a lone actor. That's the biggest challenge that we have in security. People who are doing this on their own, they're not communicating, so there's no signals to intercept. We call that signal intel. There's nobody communicating, so they're keeping this on their own, and they're long out of town. It's difficult. It's a difficult proposition. So it's not unusual, but it's very concerning.

And to your point, it's not necessarily indicative that -- I just -- I didn't even want to get into a conversation about a public safety person doing that. I think it's -- I think it's absurd.

Q Thank you.

[redacted] With that, we can go off the record.

[Whereupon, at 12:15 p.m., the interview was adjourned.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

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4
5 COMMITTEE ON THE JUDICIARY,
6 U.S. HOUSE OF REPRESENTATIVES,
7 WASHINGTON, D.C.
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13 INTERVIEW OF: TIM DUNHAM
14
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16
17
18 Thursday, September 12, 2024
19
20 Washington, D.C.
21
22
23 The interview in the above matter was held in room 164, Cannon House Office
24 Building, commencing at 10:01 a.m.
25

1 Appearances:

2

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted], SENIOR ADVISOR

8 [redacted], PROFESSIONAL STAFF MEMBER

9 [redacted], DEPUTY CHIEF COUNSEL FOR OVERSIGHT

10 [redacted], MINORITY CHIEF OVERSIGHT COUNSEL

11 [redacted], MINORITY PROFESSIONAL STAFF MEMBER

12

13

14

15 For the FEDERAL BUREAU OF INVESTIGATION:

16

17 [redacted] ASSISTANT GENERAL COUNSEL, OFFICE OF GENERAL COUNSEL

18 [redacted]

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25 [redacted] This is a transcribed interview of Mr. Timothy M. Dunham. Chairman

1 Jordan has requested this interview as part of the Committee's oversight of the
2 Department of Justice. Will the witness please state your name for the record.
3 Mr. Dunham. Timothy M. Dunham.
4 [redacted] Can counsel please state your name for the record.
5 [redacted] from the FBI's Office of General Counsel.
6 [redacted] On behalf of the Committee, I want to thank you for appearing here
7 today to answer our questions. The chairman also appreciates your willingness to
8 appear voluntarily. My name is [redacted] I'm with Chairman Jordan's staff. I'll now
9 have everyone else from the committee who is here in the room introduce themselves.
10 [redacted] Chairman Jordan's staff.
11 [redacted] Chairman Jordan's staff.
12 [redacted] Ranking Member Nadler's staff.
13 [redacted] Ranking Member Nadler's staff.
14 [redacted] I'd like to now go over the ground rules and guidelines to follow during
15 today's interview. Our questioning will proceed in rounds. The majority will ask
16 questions first for one hour, and then the minority will have an opportunity to ask
17 questions for an equal period of time if they choose. We will alternate back and forth
18 until there are no more questions and the interview is over. Typically, we take a short
19 break at the end of each hour, but if you'd like to take a break apart from that, please just
20 let us know.
21 As you can see, there is an official court reporter taking down everything we say to
22 make a written record, so we ask that you give verbal responses to all questions. Do you
23 understand?
24 Mr. Dunham. I do.
25 [redacted] So the court reporter can take down a clear record, we will do our best

1 to limit the number of people directing questions at you during any given hour to just
2 those people on the staff whose turn it is. Please try and speak clearly so the court
3 reporter can understand and so the folks down at the end of the table can hear you.
4 It is important that we don't talk over one another or interrupt each other if you
5 can help it, and that goes for everybody present at today's interview. We want you to
6 answer our questions in the most complete and truthful manner as possible, so we will
7 take our time. If you have any questions, or if you do not understand one of our
8 questions, please just let us know.
9 Our questions will cover a wide range of topics, so if you need clarification at any
10 point, just say so. If you honestly don't know the answer to a question or do not
11 remember, it's best not to guess. Please give us your best recollection, and it's okay to
12 tell us if you learned the information from someone else. Just indicate how you came to
13 know the information.
14 If there are things you don't know or can't remember, just say so. Please inform
15 us who, to the best of your knowledge, might be able to provide a more complete answer
16 to the question.
17 You should also understand that although this is interview is not under oath that
18 by law you are required to answer questions from Congress truthfully. Do you
19 understand that?
20 Mr. Dunham. I do.
21 [redacted] This also applies to questions posed by congressional staff in an
22 interview. Do you understand this?
23 Mr. Dunham. I do.
24 [redacted] Witnesses that knowingly provide false testimony could be subject to
25 criminal prosecution for perjury or for making false statements under 18 U.S.C. Section

1001. Do you understand this?

Mr. Dunham. I do.

[redacted] Is there any reason you are unable to provide truthful answers to today's questions?

Mr. Dunham. No.

[redacted] Finally, I'd like to make a note that the content of what we discuss here today is confidential. We ask that you not speak about what we discuss in this interview to any outside individuals to preserve the integrity of our investigation.

For the same reason, the marked exhibits that we use today will remain with the court reporter so they can go in the official transcript, and any copies of those exhibits will be returned to us when we wrap up.

That is the end of my preamble. Is there anything that my colleagues from the minority want to add?

[redacted] Yes. We thank the witness for joining us voluntarily this morning. I also just want to make the same note on the record we've made a number of times, that we have at -- my counter referred to the official transcript. We have significant concerns that there have been close to 150 transcribed interviews and depositions conducted by this committee this Congress. The vast majority of those transcripts have not actually been finalized, and it seems there has been a selective release of the transcripts, but noting my objection on the record. Thank you.

[redacted] Counsel?

[redacted] As you indicated, the witness is here today in response to the chairman's request. We understand the chairman and the committee have had a number of questions regarding the security clearance adjudication process, and just wanted to confirm he is here in response to the chairman's request today, even though

his name was not specifically included in the chairman's letter.

[redacted] Thank you. The clock now reads 10:06. We will start the first hour of questioning.

EXAMINATION

BY [redacted]

Q Mr. Dunham, when did you join the FBI?

A 2002, October.

Q And can you walk us through the positions you've held?

A Sure. October of 2002, I entered on duty. In early 2003 I was assigned to the Chicago Field Office as special agent. Late 2007 I reported back to our headquarters and held positions in our Counterintelligence Division, our Counterterrorism Division, and as a detailee to the CIA. In 2012 I transferred to the Albany Field Office for a few years as the supervisory special agent of one of our joint terrorism task forces. I was lucky enough to be able to be promoted to the administrative criminal assistant special agent in charge for the Albany Field Office while there.

In 2017, I reported back to headquarters as the section chief for our leadership development program. 2018, went over to WFO as the special agent in charge of the Counterintelligence Division there. 2019, transferred to be the special agent in charge of the Criminal Division at WFO. And then in 2020, went back to headquarters as the deputy assistant director of our Criminal Investigative Division.

In 2021, I was promoted to be the assistant deputy director of our Training Division, and then assumed my current full-time role as the EAD last June, 2023. As of last week, I am the acting associate deputy director of the FBI.

Q And can you describe your responsibilities in your current position?

1 A In my current position, as I sit here today is the acting ADD. The shorthand
2 is responsible for all of the business operations of the FBI. In my permanent position as
3 the executive assistant director of the human resources branch, I oversee our Human
4 Resources Division, our Training Division, our Security Division, and our business statistics
5 and analytics section. So essentially, all of the employee-related matters for the FBI.
6 Q In your role as the EAD, you supervise the Security Division, correct?
7 A I do.
8 Q Can you briefly describe the organizational chart for the Security Division?
9 A The organizational chart for the Security Division? It's -- so my direct report
10 is the assistant director of the Security Division. There's two branches that are run by
11 deputy assistant directors. Broadly speaking, we break it out into kind of background
12 operations on one side and then security operations on the other, and that goes all the
13 way down to the unit level.
14 Q And how many people report directly to you?
15 A For the whole branch, it's approximately 1,500. Not directly. I'm sorry.
16 Report directly to me is about six.
17 Q Okay.
18 A Yeah.
19 Q In your role as the ADD, what is your visibility into the various aspects of the
20 security clearance investigative process?
21 A So I think it's important to know up front I'm not in the day-to-day process of
22 the security clearance of our investigation process. I oversee the assistant director of
23 the Security Division, so I meet with that individual regularly to understand the
24 operations that are going on. I will sometimes meet with folks below him in leadership.
25 As a part of that role, the EAD is also currently the security programs manager, which is

1 kind of the final decision maker for security clearance decisions.

2 Q Can you help us understand the process that that sector uses when deciding

3 to suspend an FBI-released security clearance?

4 A Broadly speaking, we would take in a referral. That referral is reviewed to

5 determine whether or not it would merit an investigation. If it does, it would go to the

6 investigative unit. Generally, the investigative unit would be the one that would review

7 the facts at hand to determine whether or not a suspension was warranted. Sometimes

8 that's -- the facts at hand we believe are sufficient where we need a suspension to be able

9 to investigate more thoroughly. That's typically issued by our investigations unit.

10 Q And who is the ultimate decision maker when it comes to suspending

11 security clearances?

12 A The securities programs manager.

13 Q Does an employee have a right to appeal the decision?

14 A The suspension?

15 Q The suspension.

16 A Right now, the right to appeal applies if the suspension has been longer than

17 a year, and they believe that there has been -- or the suspension was a result of a

18 whistleblower retaliation. Otherwise, it's upon the final -- the adjudication decision.

19 Q And how long does the appeal process take typically?

20 A That varies. I mean, it can be some time, depending on any number of

21 factors.

22 Q And once an employee's clearance is revoked, the employee can no longer

23 fulfill their duties as an agent of the FBI, correct?

24 A That's correct.

25 Q When an employee is notified that the clearance is suspended, have they

1 had any chance at all to refute the allegations made against them prior to an appeal?
2 A Depends -- I can't speak specifically. I guess it would depend on what the
3 investigative process was. For instance, I could see a scenario in which a clearance was
4 not initially suspended, and so -- and, like, an employee interview was conducted and
5 they would have had the chance to be interviewed, and then the suspension occurred, so
6 it's certainly possible, but not always.
7 Q By revoking an employee's clearance, the FBI is effectively suspending them
8 from the job, correct?
9 A By revoking the employee's -- the actual revocation?
10 Q Yes.
11 A They couldn't fulfill their job responsibilities with no clearance, that's right.
12 Q Is that the same with the suspension?
13 A That is correct, if they don't have an active security clearance.
14 Q Can you describe for us the investigative and evaluative process utilized by
15 the FBI to make a final decision on an employee's status?
16 A It's in our investigative unit. There is any number of investigative steps
17 they may take, records reviews, interviews, you know, anything that you would do in the
18 course of a normal investigation. Once the investigative unit believes the investigation
19 is complete, it is then referred to our adjudicative unit. It's reviewed by an adjudicator
20 who looks at the facts and makes a recommendation in terms of a security action, or no
21 security action at all at times, and then it goes up through the chain of review, which is
22 fairly extensive, until it arrives to me in the form of a summary of what we call electronic
23 communication, or EC. It's a document that lays out the summary of the investigation
24 and the adjudicative recommendation, and then I make the decision based on that
25 document.

1 Q And what's the normal timeline for completing the security clearance
2 investigation?
3 A I wish I could give you a normal timeline. I'm not sure there is one. You
4 know, we try to do these things as quickly as we can. The reality is in a world of limited
5 resources, it's not often as quickly as we would like. You know, if you need data about
6 specific timelines, I'm happy to go back and provide that.
7 Q So from an outsider's -- from an outsider's perspective, if there is an
8 appearance that the FBI makes employees linger an indefinite suspension in the hopes
9 that they'll just resign, do you have any comments on that?
10 A I would refute that view. You know, again, the reality is in order to do this,
11 we fully appreciate the security action decision is an incredibly important determination
12 for that employee, so we want to be sure that we do a full and thorough review of the
13 facts at hand. You know, the other factor, right, is that our investigative unit has
14 somewhere in the order of 11 personnel. Our adjudications unit has somewhere on the
15 order of 15 personnel.
16 When you're talking about several hundreds of these investigations each year, just
17 the workload is difficult to get done that quickly, but we strive to do the best we can in
18 that area, and we are constantly trying to come up with ways that we can improve the
19 timelines.
20 BY [redacted]
21 Q Thank you, Mr. Dunham.
22 A Sure.
23 Q Going to switch gears here and talk about some different topics. Okay.
24 We're going to talk about a few of the personalities you may or may not know based
25 upon your timeline, and I realize that you've come in as of June of '23, so you're going to

1 have a different sight picture based on that timeline as well as where you sit. Having
2 said that, are you familiar with former acting section chief Dena Perkins?
3 A I know the name Dena Perkins. I have -- I can't say that I have never met
4 Dena Perkins. I may have met her in various work formats. I have never worked
5 closely with her or had a meeting with her about, you know, the issues that we're
6 discussing here today that I can recall.
7 Q Okay. We're going to present, I believe, exhibit 1 here.
8 [redacted] Correct, [redacted]
9 [redacted] Correct.
10 [Dunham Exhibit No. 1
11 was marked for identification.]
12 [redacted] It's going to be a letter from counsel to Mr. Horowitz, and we'll
13 present that to you, Mr. Dunham, so you can review that as soon as we get that out
14 there. It might be in the other box if it's not there. We'll pause for station
15 identification.
16 [Discussion off the record.]
17 [redacted] June 28, 2024. No? We may not be asking you about that.
18 Not in that other box? All right. That's fine.
19 BY [redacted]
20 Q I will say this. The committee will represent we've received numerous
21 whistleblower testimony that certainly indicated that Ms. Perkins may have
22 inappropriately inserted herself into various decisions, but without that documentation,
23 we're going to let that one pass. I'm sure that's fine with you.
24 [redacted] Oh, you did find it? [redacted] can you pass that out, please. We
25 won't dwell on that too long. We may come back to that later in some other things.

1 We can absolutely get that out to our colleagues across the table so they can review that.
2 BY [redacted]
3 Q You've probably seen this one in the past. You may not have, Mr. Dunham,
4 but the legal team may have seen that. I'm looking specifically at page 3, by the way,
5 and it's a lengthy document, so there is a quote on page 3. Sec D was a toxic work
6 environment. Many SIIS employees had conflicts with Perkins first as ASC, or assistant
7 section chief, then as acting section chief and several had filed complaints against her.
8 The nature of the question, Mr. Dunham, is just really have you ever heard any of
9 those complaints brought to your level during your tenure? That would be really all I
10 want to ask of you. Have you been made aware of any complaints from any Security
11 Division folks specifically from that section that have maybe raised concerns about Ms.
12 Perkins to you?
13 A Other than outside of things like this that I have been made aware of --
14 Q Yeah. Certainly I wouldn't hold you accountable to that, but anything
15 internally.
16 A I certainly heard that there was a -- I mean, it was a difficult time with
17 everything that was going on. I'm trying to remember as I sit here, it's hard to separate
18 some of those various things. I mean, I am aware there are allegations against Dena. I
19 don't recall, I'm sorry, specific sources from which I knew they came.
20 Q Okay. And is it fair to say you -- from what I thought I heard you say, you
21 did not meet regularly with Ms. Perkins and you would not have based on the nature of
22 her position.
23 A No. I would have, you know, heard about her work from time to time
24 through the assistant director, but she's not someone that I would meet regularly.
25 Q How involved would you say, based on your knowledge, is Ms. Perkins in the

1 security -- by volition of where she would have sat as -- let's just say as the acting section
2 chief of the SIIS, of the security investigation, and forgive me, I'm forgetting the acronym
3 myself, but of that section, where would positionally how much -- how involved would
4 she be in that process, to your knowledge?
5 A I mean, sure, as the section chief, I would expect any section chief to be
6 involved in the work of their section. If, you know, we're kind of thinking about
7 structurally, right, depending on which unit we are talking about, I mean, you would have
8 had a line employee, a supervisor, a unit chief potentially, an assistant section chief, so
9 there are several lines before you get to the sitting section chief. So in terms of
10 day-to-day, you know, in the weeds, I couldn't really speak to that. I would certainly
11 expect her to be knowledgeable of and involved in the work going on within that section.
12 Q Okay. And can you explain what, if any, sign-off responsibilities Ms. Perkins
13 may have enacted in that role as far as the process is concerned?
14 A I'm trying to figure out exactly which -- she would have been -- well, the
15 section chief of the SIIS would see any of the documents generated by the SIIS. That
16 would include adjudication decisions, right? She would be -- or the section chief
17 position would be one of the signatories. There would still be above that person the
18 DAD, the AD, and EAD, so there's still several more layers of review, but she would be in
19 that chain. That position would be in that chain.
20 Q Would Ms. Perkins be involved in, say, deciding case openings or closings, or
21 would that be normally a lower level in the hierarchy, or would that depend?
22 A Right. Potentially, right? You know, I think standard workflow, that
23 would be in the investigator supervisor kind of unit chief realm, but it certainly wouldn't
24 be that surprising to learn that a section chief had been involved in a specific investigation
25 discussion. I mean, you would expect certain oversight and management, maybe not in

1 each case, right? But in some.

2 Q In your experience, Mr. Dunham, once it's gone beyond the section chief and

3 now begins to go to the deputy assistant director or assistant director and beyond ranks,

4 is it common for sometimes things to be kicked back down for further questions by

5 people, you know, more senior in the ranks, or do you tend to sail through, or how would

6 you describe?

7 A Certainly not uncommon. From where I sit, you know, I'm at the Hoover

8 building, right? The majority of our Security Division is over at Patriots Plaza, or

9 whatever else. So to the extent that the DAD and the AD may kick work back below

10 them, I wouldn't even necessarily see that in the workflow. So I'm sure it happens. I

11 can't really speak to how frequently.

12 Q Fair enough. Thank you very much. Moving on, do you know Mr. Jeff

13 Veltri, the former section chief who I believe had fleeted up to deputy assistant -- acting

14 deputy assistant director at one time when Ms. Perkins had been the acting section chief?

15 Have you worked with Mr. Veltri?

16 A I don't believe I've ever worked directly with Mr. Veltri. I know Mr. Veltri

17 just from his roles in the FBI and now his role as being in charge of the Miami Field Office.

18 Q Sure.

19 A Excuse me.

20 Q These would have been specific to his roles, and I wasn't certain based on

21 the timeline of things if you would have worked directly in that capacity, so for that

22 reason I'm going to move on from that topic, because I don't want you to have to

23 speculate.

24 A Thank you.

25 Q [redacted] he was a supervisory special agent, [redacted] in, I believe, one of

1 the clearance investigative unit branches, if you will. Are you familiar with Mr. [redacted]
2 [redacted] at all?
3 A I am not. I've heard his name, you know, recently, but I never worked with
4 [redacted] that I recall or I'm familiar with him.
5 Q I'm going to spare you questions about [redacted] for that reason as well. I
6 did not want you to have to speculate. I certainly wanted to ask. Thank you for your
7 candor there.
8 We're going to go back to that June 28th disclosure for this next round of
9 questions, so we'll be in and out of there a little bit, but can you tell us how the SIIS
10 handles security clearance and adjudications in general? I think you did describe that to
11 us, but just kind of walk us through really closely from intake to adjudication. What
12 would that look like?
13 A So there's three separate units. We get, you know, what we would call a
14 referral from any number of sources. It's reviewed by our evaluations unit. The
15 determination is made there as to whether it merits an investigation or a no action. If it
16 merits an investigation, it proceeds, to the best of my understanding of the day-to-day
17 workflow, to the investigations unit where the investigation itself would be conducted.
18 Upon completion of that investigation, they just then refer over to the adjudications unit
19 for review and recommendation. So then at that point, once an adjudication
20 recommendation is made, that's when it goes up the six, seven, eight layers to the SPM.
21 Q And there's multiple eyes on that, obviously, throughout the process.
22 A That's right.
23 Q Okay. Thank you. Sort of an admin question here. Does the FBI follow
24 the adjudicative guidelines as laid out in title 32 of the Code of Federal Regulations and
25 the office of the director of national intelligence's security executive agent directives, the

1 SEADs, specifically SEAD number 4?

2 A Yes.

3 Q Okay. Along those lines, then, adjudicative guideline A leads us to the

4 United States. In your experience, Mr. Dunham, what are the most common reasons

5 that a security clearance is suspended? What guidelines are most commonly used?

6 We can take that apart and I was going to ask you how often guideline A is used, but let's

7 take that in pieces. What are the most common reasons that you have seen that a

8 security clearance might be suspended?

9 A Okay. So I have been in this role for, you know, since June of last year. I

10 did not work security matters before that, right? So to the extent, my experience for

11 the last whatever that is, 16, 17 months has been, if I'm going by memory, I would say the

12 most common ones that I see are guideline E, personal conduct. Certainly, we will see

13 misuse of IT, things of that nature. Comparatively speaking, just to get to the next part

14 of your question, guideline A is used much less often.

15 Q Okay.

16 A I don't have specific numbers on that in front of me, but --

17 Q No. That's -- I appreciate that. I wouldn't have expected you to come

18 armed with that. I was just curious if in your experience and realizing that wasn't your

19 forte prior to this role, if you had seen that used often as far as guidelines.

20 A Not often, no.

21 Q Okay. I believe we're going back to June 28th, the disclosure there in front

22 of you.

23 A Okay.

24 Q On page 5 there's a comment in there from this disclosure form that says,

25 "Perkins and Veltri would frequently make initial judgments about cases based upon their

1 own prejudices, then would refuse to move from their first impressions regardless of
2 what facts and investigation uncovered." The question is, were -- let me just phrase it
3 this way, Mr. Dunham. Were you ever made aware of any of those allegations as
4 stipulated in that document? Did that ever rise to your level, any of those complaints or
5 concerns about those two individuals? Realizing you didn't work directly with Mr.
6 Veltri?
7 A Right. And also realizing this is the perspective of one individual as far as I
8 can tell. In terms of not formally, certainly, you know, like I said, as I've been digging
9 into preparation for this, and so on and so forth, I've become aware of the nature of the
10 allegations regarding these two individuals.
11 Q Let me ask it in perhaps a better way. It's maybe a little more fair.
12 A Sure.
13 Q Based upon personal experience or knowledge, not external sources or news
14 products or rumint, have you had any colleagues or charges or subordinates who have
15 actually made you aware in your current position --
16 A I don't recall.
17 Q -- of allegations to that effect?
18 A I don't recall that, no.
19 Q Okay. Thank you. The next question I have, how often do decisions
20 regarding security clearance adjudications change after further investigation? Perhaps
21 let's look at that from a complaint perspective. When that complaint first came in as
22 whatever the allegation was --
23 A Right.
24 Q -- how often would you say that those end up washing out, percentage wise?
25 I don't know if you roughly have an idea of how often that changes.

1 A So if you're -- I recall looking at some numbers recently. I think our
2 referrals over the last few years, right, run anywhere from, like, 1,000 to 1,500. That's a
3 rough approximation.
4 Q That come in to the intake unit.
5 A That's right.
6 Q Okay.
7 A Then I believe, based on my recollection, that the number of those that
8 actually go into investigations is somewhere in the 400 to 600 range, you know, so you're
9 talking whatever that comes out to be roughly.
10 Q Yeah.
11 A I'm sorry, I'm not sure if there was another part to that question.
12 Q No, no, no. So what we're seeing is of the initial tranche of referrals that
13 come in, that gets minimized to, you know, a third or a half, roughly, or whatever that
14 looks like that comes in. And then from there, the final that you have of that subset,
15 what percentage do you believe actually washed out versus end up going through? And
16 again, that's speculation, but I'm asking you to say how often do these resolve themselves
17 is what I'm getting at.
18 A Yeah. I don't have a great answer for that, other than to tell you that when
19 I think of the work that I've seen --
20 Q Yeah.
21 A -- and the ones that come to me are, generally speaking, positive actions, if
22 that makes sense, like something from a warning letter up to a revocation.
23 Q Sure. That might be something that would be an easy statistic to pull. I'm
24 just curious of how many end up being cleared or of that subset that are open, how many
25 end up being solved as far as cleared and not further --

1 [redacted] For clarity, when you say, "wash out," meaning closed with no --
2 [redacted] That was mitigated or that person is reinstated. They aren't
3 fired. Let's put it that way. That they're reinstated as far as that goes.
4 BY [redacted]
5 Q So we get the complaint. Roughly a half or third get open. Some get
6 dismissed on the front end. Then we have that subset that are investigated, right?
7 And of that, what would you say actually ends up being these were people that, you
8 know, legitimately --
9 A I'm sure We can pull that.
10 Q -- they were revoked? There's probably a statistic there. If it's not too
11 much trouble, that would be wonderful.
12 All right. We talked about the role of the section chief and the suspension
13 revocation process, so we will move on from that. The question came up about how
14 involved, Mr. Dunham, would you -- you've been a section chief before, so you
15 understand this intimately. How often would a section chief make substantive edits to a
16 product that they are actually reviewing or approving?
17 A I'm not sure that's something I could, you know, tell you. When I was a
18 section chief, I did it routinely. Obviously, the leadership development program is a
19 different approach --
20 Q Sure.
21 A -- than the Security Division. I mean, I guess maybe to get to what I
22 think -- it would not be unusual for a section chief to make a substantive edit or change to
23 a document.
24 Q Would that normally be done so that the author or the investigator would be
25 aware that, in fact, that had been changed or that there was maybe a discussion with that

1 investigator or author of that document so they understood why that information was
2 added or subtracted from the document --
3 A I would think --
4 Q -- in your experience?
5 A Yeah, I would think that would be a reasonable practice that you would
6 explain the change or edit that you would like to make.
7 Q The reason that I ask, again, is going back to Ms. Perkins, that the committee
8 has received information that the investigators in some cases, and we'll probably get to a
9 little bit of that later with some specific examples, had found facts and circumstances that
10 would tend to paint a picture in one direction, and perhaps, Ms. Perkins had added
11 information that may have been given at perhaps a different outlook.
12 A Okay.
13 Q That was the nature of the question, but I think we'll touch on that a little bit
14 later, again, so thank you for your answer. The initial drafter of most of these
15 investigative documents, just for the committee's edification, who is the initial drafter of
16 an investigative or adjudicative document? What level would that potentially be --
17 A What we would call a front-line employee, an investigator, either an
18 investigator or an adjudicator. They typically work under the supervision of a supervisor
19 and then a unit chief. There are some structures. I don't remember exactly which
20 ones where you have something of a team leader in between, right, but typically it's a
21 front-line investigator or adjudicator.
22 Q Okay. Again, according to whistleblowers, Perkins never documented in
23 the adjudicative file in the decision she made, including when she overruled line SIIS staff.
24 Have you ever been made aware of any allegations to that effect about Ms. Perkins?
25 A I mean, again, not that I recall. I feel like recently I've heard a lot about all

1 of this, so trying to separate, you know, where from what.

2 Q We do appreciate that. We would not want you to speculate. Just based

3 upon your personal knowledge.

4 A Thank you.

5 Q A whistleblower told the committee that a large number of Security Division

6 employees also had concerns about its operations. Have you ever been made -- in your

7 current position for roughly a year, has that ever been risen to your level, Mr. Dunham,

8 where you've heard that people are concerned about the way the Security Division is

9 conducting these investigations, and the methodologies, and, perhaps, some of the

10 outcomes? I think that's the crux of the question is that maybe there's an unfair

11 wielding of power at the beginning of that question.

12 A Sure.

13 Q So has that complaint or concern ever risen to your level in your current

14 position?

15 A Not that I can specifically recall. I would like to think that if I heard

16 something like that, I would have taken some form of action, right? Or look into it. I

17 mean, certainly, I am generally aware that there has been that complaint about Security

18 Division activities in the past.

19 Q All right. Thank you for that. I believe it's on page 5 of the disclosure.

20 Again, this is coming from this individual's perspective, but in that disclosure, SSA client

21 participated in many discussions in which it became clear that Veltri's and Perkins'

22 perspective was that if an FBI employee fit a certain profile as a political conservative,

23 they were viewed as security concerns and unworthy to work at the FBI.

24 That particular set of facts and circumstances, would that fall under the guidelines

25 in the FBI as something that you would look at as far as a need to suspend someone's

1 security clearance?

2 A Being a political conservative?

3 Q Yes, sir.

4 A No.

5 Q Would there be any guideline where that type of activity would actually fall

6 under it, if it would, that you're aware of?

7 A Certainly not what we would think of as political conservativism, no.

8 Q Moving to the next exhibit.

9 [redacted] I will introduce a Washington Times article as the next exhibit.

10 [redacted] Are you good?

11 Mr. Dunham. Yeah.

12 [Dunham Exhibit No. 2

13 was marked for identification.]

14 [redacted] We're going to introduce this next exhibit, and I'll hand it back

15 over to my colleague.

16 Mr. Dunham. Sure.

17 [redacted] This will be exhibit 2.

18 Mr. Dunham. Okay.

19 BY [redacted]

20 Q So Mr. Dunham, according to whistleblowers, Mr. Veltri and Ms. Perkins

21 specifically pursued employees who served in the marine corps or other military

22 branches, and either declared or attempted to declare the marine and other veterans as

23 disloyal to the United States of America. Were you aware that this was going on?

24 A First off, I would at least dispute that this was going on. I'm not sure what

25 this reporting is coming from. Second of all, anything that was done by Mr. Veltri or Ms.

1 Perkins would have been before my time as EAD, so this thing that I was aware what was
2 going on would not be accurate. Third of all, just as a baseline statement, the idea that
3 we would go after someone who was a veteran, simply because they were a veteran,
4 that's a non-starter.
5 Q So no one ever raised this issue to you before?
6 A Certainly not formally. I mean, this -- again, there's been a lot of swirl
7 recently about what went on during this period of time in sec D, so to say that I had never
8 heard any of this in some format, I'm sure I have, but again, I'm not sure where this
9 accusation is coming from or what the evidence is that it's based on, but to target
10 someone for a security action purely because they were a veteran would be
11 unacceptable, obviously, and I would certainly question the perception that this was
12 happening.
13 Q In the article, the whistleblowers also stated, quote, "In these cases there
14 was no indication that any of the individuals had any affiliation to a foreign power or held
15 any belief against the United States." Were you aware of these cases?
16 A I'm not sure which cases you're referring to. Is there a specific case you
17 want to --
18 [redacted]
19 BY [redacted]
20 Q That case is most likely tied to Marcus Allen's investigation.
21 A I'm aware of the Allen case.
22 Q We'll talk about that a little later.
23 BY [redacted]
24 Q So, according to another whistleblower, other signs that an employee was a
25 right-wing radical and disloyal to the United States, according to Ms. Perkins and Mr.

1 Veltri, were a failure to wear a face mask, refusing to take the COVID-19 vaccination, and
2 participating in religious activities." What's your reaction to this?
3 A Okay. Well, separating it out, right? If you're talking about action taken
4 purely because of some belief related to COVID, that would not be acceptable, but may
5 have occurred -- again, without context, you can't -- you know, I'm just trying to provide a
6 fulsome answer here. There were points in time at which we were under a Federal
7 mandate for various masking and vaccination issues, right? If you did not follow the
8 guidelines for that, that could have been an issue under, like, guideline E, personal
9 conduct, which relates to your ability to follow rules and regulations, and so on and so
10 forth. I'm not saying that's what happened in this instance. You know, it certainly
11 wouldn't be because of some belief related to COVID. It would be the failure to comply
12 with, you know, a lawful guideline or policy.
13 Q Without speculating, did you ever personally witness Perkins or Veltri make
14 comments to this effect?
15 A No.
16 Q And did anyone ever raise issues to you about Perkins and Veltri seeking out
17 right wing employees?
18 A Again, I wasn't in the role at the time that they were in the Security Division,
19 so not during that time period, no.
20 Q Next, I'd like to introduce the FBI Security Division questionnaire as exhibit 3.
21 Do you want to take a moment to look at it?
22 A I think I'm familiar.
23 [Dunham Exhibit No. 3
24 was marked for identification.]
25 BY [redacted]

1 Q Are you aware of the CIU using the questionnaire for interviews with
2 colleagues that can take questions about whether the individual applies support for
3 President Trump, what has been known as the Trump questionnaire?
4 A I'm aware, yes.
5 Q And do you know who drafted this questionnaire?
6 A I believe it was a contract employee in the Security Division who drafted this
7 as a job aid.
8 Q Do you know when the CIU began using these forms?
9 A I can't recall off the top of my head. First of all, though, I do want to clarify
10 I would hesitate to call this a form. This was something that was created by a contract
11 employee as what I would describe as a job aid. This is not an official FBI form.
12 Q So this is, by no means, a standard questionnaire?
13 A I would say it is not a standard questionnaire, no. That would not be
14 my -- --
15 Q Do you know why it was important to know if the individual in question
16 supported President Trump?
17 A So without -- first of all, I should say, as you all are probably aware, when we
18 were made aware of this, we had our Inspection Division do an internal review. We are
19 working with OIG. We have sent them anything responsive to this that they have asked
20 about, so in the specific sense of factual, like, when did this happen and what happened, I
21 defer to their results. I do think it's helpful, though, like, to talk about the question that
22 you're asking.
23 Certainly, this is poorly formulated, and taken out of context is troublesome.
24 When you're talking about that first question, the only thing that I could offer was, again,
25 outside of the context of this questionnaire, under guideline A, we do have a duty to

1 investigate whether an individual might have a loyalty to an ideology, an individual,
2 anything other than the Constitution. I am not saying that that is specifically the reason
3 for this. I don't know that. But when you look at these questions, that is the context in
4 which you could see how something like this question may have been drafted.
5 I mean, the other piece to that, right, we just touched on guideline E, personal
6 conduct, your ability to follow rules and regulations. All FBI employees are under, you
7 know, the provisions of the Hatch Act, so in the sense of if it was, you know, political
8 activity in the workplace, that could potentially be something that would be relevant
9 under guideline E.
10 BY [redacted]
11 Q If I may, sir, but the question is specific to one candidate and one former
12 President. It's not a political party. It's not a question of political activity. So you can
13 say a little bit more about what additional context it was that someone could get to the
14 point of drafting the question.
15 A Again, we turned this all over to the OIG, so I want to wait until that process
16 is done. The point I'm trying to make, and maybe I made it unartfully, was, if there is an
17 indication that an individual could have a higher loyalty to something other than the
18 Constitution of the United States, that would be something that may be relevant under a
19 whole-person concept. I can't say specifically I know that that's what was going on here.
20 That's about the only way that I could understand something like this being drafted.
21 Q Are you aware of any instances of the President Trump's support of the FBI
22 having a higher loyalty to something other than the Constitution?
23 A Not off the top of my head, no.
24 Q Have there been any other questions specific to a candidate or to a former
25 president, or support of that candidate and former president could be in the context of

1 support for a loyalty other than --

2 A As I sit here today, I don't recall -- certainly, this is highly unusual. Like,

3 don't get me wrong. I'm just trying to offer the way in which the employee may have

4 gotten there as opposed to defending it or supporting it.

5 Q Do you know which contractor it was?

6 A If I'm remembering correctly, I believe I do. It was the individual -- I think

7 it's in our inspection report. I believe the last name is Pena, I believe.

8 [redacted] Could you ask him to spell that.

9 Mr. Dunham. I believe it's P-e-n-a. I'm sorry, this is based on my recollections

10 of reviewing our internal inspection report.

11 BY [redacted]

12 Q Are there any policies or guidelines within the FBI that would support -- I'll

13 refer to them as a contractor.

14 A Sure.

15 Q To deduce this might be an appropriate question?

16 A I can't think of any policies or regulations, right? Like, specific formal, the

17 FBI says this. That's why I offered that explanation for context, right? You know,

18 unfortunately, the IGE, or whatever, will have to determine if that was actually the frame

19 of mind here.

20 BY [redacted]

21 Q The questionnaire also asks whether the colleague had heard the individual

22 vocalize an objection to COVID-19 vaccines. Why was it important to know if the

23 individual objected to the vaccine?

24 A Again, I'm going to defer to the IGE and their findings on the specifics of this

25 case. I would just offer, again, for context, my theory would be that it would relate to

1 compliance with the existing Federal workplace guidelines at the time.

2 Q So from your perspective, how would this factor into whether the individual

3 was suitable for the whole security clearance?

4 A You could almost erase the subject of the conversation, right? This is

5 not -- in my mind, anyway, information offered right here would not be relevant because

6 it's specific to COVID. It would be relevant because it's specific to the employee's

7 willingness to follow established rules and guidelines.

8 Q A whistleblower told the committee that because of the influence of acting

9 DAD Veltri and acting ASC Perkins who is very common when an SSA client arrived in sec

10 D for investigators to ask inappropriate questions, such as whether the employee under

11 investigation had vocalized support for former President Donald Trump, or whether they

12 had vocalized objection to the COVID-19 vaccine. Has anyone ever raised concerns

13 about this to you?

14 A I mean, again, outside of the context of the material we're talking about

15 today, I can't -- I don't recall that, no.

16 Q How is it handled if a person whose clearance was under review objected to

17 the vaccine because of the medical conditions or religious exceptions?

18 A We had a medical -- we had a religious -- sorry, I'm forgetting the exact term,

19 reasonable accommodation policy process that they could follow if they had a religious

20 objection. Again, we go back to whatever the guidelines were in place at the time, and

21 I'm sorry, I don't remember on a given day or time, right, what the level was. There

22 were varying levels depending on the COVID levels in the area. I'm sure we all

23 remember that experience. So it would go to their willingness to obey those guidelines

24 or other processes in place.

25 Q So a whistleblower reported that despite issues like support for former

1 President Trump, for vaccine hesitancy being a common theme in discussions regarding
2 suitability for classified information, those issues were almost never mentioned in the
3 written clearance suspension and revocation notices sec D issued to FBI employees.
4 Why were those questions included in the questionnaire if not to be mentioned in the
5 actual notices?
6 A I know you all don't want me to speculate, but that's what I'm doing right
7 here, right? My speculation is that they were asked for their reasons that I talked about
8 and were ultimately not deemed to be relevant to the final decision.
9 Q So you'd agree that answers to those questions could form the basis for a
10 suspension or revocation?
11 A I agree that answers indicating that you're not willing to follow established
12 rules, guidelines, policies could indicate a problem under guideline E for personal
13 conduct, which using the whole-person concept could contribute to a security decision.
14 [redacted]
15 BY [redacted]
16 Q We're going to continue on. This time we're going to move on briefly to
17 Marcus Allen, the Marcus Allen case. I do know that you would have had at least some
18 role towards the end of that case, so with that in mind, are you familiar with staff
19 operation specialist Marcus Allen and certainly his investigation?
20 A I'm not familiar with him personally. I've never met Mr. Allen, to my
21 knowledge, but I am familiar with his case, yes.
22 Q Okay. Do you recall who supervised that clearance investigation?
23 A Did you mean, like, the SPM at the time or the supervisor?
24 Q Well, your recollection, I guess, from the SIIS level who the investigator
25 would have been and who the supervisor would have been at the time for most of that?

1 A All of this would have been before my time.

2 Q Understood.

3 A If I'm recalling correctly, his suspension and revocation were both issued in

4 advance of my time reporting to the Security Division, so I don't recall specifically who

5 was, you know, working or immediately supervising him.

6 Q That's fine. Thank you. What is Mr. Allen's current status with the FBI?

7 A My understanding is that his -- he has resigned from the FBI.

8 Q Do you recall the circumstances that surrounded Mr. Allen's initial complaint

9 and investigation?

10 A I recall the circumstances as they were documented in the reinstatement EC,

11 which is the primary document that I'm familiar with it as relates to Mr. Allen, so yes.

12 Q Okay. So only via that, the summary you see, basically.

13 A Not only by that but, I mean, I'm certainly familiar with the circumstances.

14 That's the decision-making document that I use, yeah.

15 Q That makes sense. Are you aware that the FBI questioned Mr. Allen's

16 allegiance to the United States?

17 A I am aware that the FBI predicated the suspension and the revocation under

18 guideline A.

19 Q Do you recall the facts of why they had chosen guideline A?

20 A You know, obviously, wave tops (ph) here, but Mr. Allen had sent an email

21 citing certain news sources and then telling squad mates and co-workers something to

22 the effect of needing to be cautious working investigations related to January 6th. That

23 was the initiating event, as I remember it. I'm not sure you want me to go any further at

24 that point.

25 [Dunham Exhibit No. 4

1 was marked for identification.]

2 BY [redacted]

3 Q We're going to pass out, I believe, exhibit 4. It will be the January 10th

4 letter from then-executive assistant director Moore to Mr. Allen. So that is the January

5 10th letter. I'm assuming you may have seen this, Mr. Dunham, in the past. Pass that

6 over for the team there.

7 A The suspension letter? Yes.

8 Q Yes, sir. If you need to refresh your memory real quick, that is absolutely

9 okay.

10 A No. I'm good. Thank you.

11 Q Okay. At one point the letter states the suspension of your security

12 clearance is based on security concerns related to adjudicated guideline A, allegiance to

13 the United States. What information did the Security Division have to support the

14 security concerns and who decided that Allen's alleged behaviors rose to the level of and

15 best fit the concerns under guideline A?

16 A I'm sorry, what information did they have that led them to that belief?

17 Q Yes. Our understanding of the committee is that based on the facts and

18 circumstances, you'll look if there is an adjudicative guideline that that particular behavior

19 of concern may fall under. What led them to choose guideline A with Mr. Allen's

20 sending of emails?

21 A I can't -- I'm sorry, I can't speak to the specific information they had at the

22 time to make that decision, because I wasn't there. My understanding is that, obviously,

23 they had the email. I believe at that point, but my memory may be faulty on this, that

24 they had some other internal communications.

25 Q Okay. Thank you. Okay. According to whistleblowers, Mr. Allen's

1 colleagues told the clearance investigative unit, the CIU, that he had never given them
2 cause to question his allegiance to the U.S. The CIU investigator then concluded that
3 Allen's allegiance to the United States was not in question, that the suspension of his
4 security clearance was not warranted. Are you aware of that?
5 A Not firsthand, no. Again, I wasn't in the role at the time.
6 Q Understood. I just didn't know if you had heard about that or been briefed
7 on that after the fact, but that would have been after the fact. I understand. After the
8 CIU investigator made his findings, according to whistleblowers, Perkins overruled the
9 initial investigator and reassigned the case to another investigator to move forward with
10 suspending SOS Allen's clearance. Had you heard of that allegation?
11 A I've been made aware of that allegation relatively recently. I certainly -- I
12 don't recall it, you know, concurrently.
13 Q Okay. Are you aware that Ms. Perkins then reassigned the CIU investigator
14 to a, quote, "less prestigious assignment," unquote?
15 A I've heard that allegation, yes.
16 Q And the committee understands that did predate your time in this position.
17 A Yeah.
18 Q A second CIU investigator also concluded in September of '22 that she did
19 not believe there was enough basis for the clearance investigative unit to revoke SOS
20 Allen's clearance. Are you aware of that?
21 A I don't recall being made specifically aware of that. Again, before my
22 time -- and we've reviewed so many materials related to this, I don't recall that
23 specifically, but --
24 Q Are you aware of the allegations that in May of 2023, Ms. Perkins exerted
25 pressure on the investigators to revoke Allen's security clearance before this committee's

1 May 18th hearing where Allen was set to testify?

2 A I guess the answer would be the same. I don't -- I certainly didn't know

3 that at the time.

4 Q Okay. According to whistleblowers, SSA client observed the acting Section

5 Chief Perkins put pressure on the clearance adjudicated unit, the CAU, for that client's

6 adjudicative team to revoke special agents and SOS Allen's clearances prior to them

7 testifying before the House subcommittee. So this is that -- this is filling out that alleged

8 incident. According to SOS Allen's clearance, it was revoked on May 9th of 2023 and the

9 other special agents was as well at the time, another individual who's testifying on May

10 17th. Did anyone ever raise concerns about the timing of that realizing that you would

11 report a month later? Were there ever concerns raised to the chain of command about

12 the timing?

13 A The fact that Mr. Allen's and another employee's were done on the same

14 day? Is that --

15 Q And that Mr. Allen and that same former employee were literally about to

16 testify in front of this committee the very next day, the very next day. Were you ever

17 made aware when you checked in in your current role, which I realize was a month later,

18 that that --

19 A I don't recall that. It may have been in the materials I've reviewed. I

20 don't recall that specific piece.

21 Q Yeah. Thank you. Moving on, we're going to present May 17th, 2023,

22 letter. Do we have that? It's a letter to the committee, I believe, from the FBI. May

23 17th. It's from the FBI to Mr. Jordan dated May 17th. We're going to give you that in

24 just a second.

25 A Sure.

1 Q And we're also going to probably want to pull the May 31st letter just to
2 have it at the ready there from Mr. Dunham. I'll close out this thread. So I believe
3 we're going to be on exhibit 5 with the letter from the FBI to Mr. Jordan, Chairman
4 Jordan.
5 [redacted] I think we have copies, if you guys want them, obviously.
6 [redacted] May 17. Did you say you have it, [redacted]
7 [redacted] Here we go.
8 [redacted] We haven't done this in a while, Mr. Dunham.
9 Mr. Dunham. Take your time. No rush.
10 [Dunham Exhibit No. 5
11 was marked for identification.]
12 BY [redacted]
13 Q All right. Let me pass out -- all right. We've got three of these. This will
14 be exhibit 5. This is pretty waves. It's got a lot of charts and graphs.
15 A Okay.
16 Q You can review that if you like, but I really only have one question that will
17 be derived from that.
18 A Sure.
19 Q Within the body of this letter, the FBI claimed that Allen expressed sympathy
20 for persons or organizations that advocate, threaten, or use force or violence or use any
21 other illegal or unconstitutional means in an effort to prevent Federal Government
22 personnel from performing their official duties. Did you ever come to learn how the FBI
23 made that determination?
24 A I'm sorry, [redacted] can you tell me where you are in the letter?
25 Q Yes. Probably way at the back.

1 [11:02 a.m.]

2 BY [redacted]

3 Q Probably way at the back, page 7. Sorry, Tim.

4 A No, that's fine.

5 Q I didn't mark that myself.

6 A That's all right.

7 Q But the crux of it was, we're talking about -- clearly it's about adjudication.

8 It's going to be about A.

9 A The adjudication of Allen?

10 Q So how did we get to that statement --

11 A So my understanding --

12 Q -- based upon the facts and circumstances that the investigation revealed?

13 How did we --

14 A So my understanding of that would be based primarily on the reinstatement

15 EC and a few other supporting documentation pieces, right?

16 But my understanding of how we got there was that Mr. Allen's email and a few

17 other internal communications were assessed to indicate the sympathy or the support

18 [inaudible]. But the terminology that you reference --

19 Q Yes.

20 A -- and then --

21 Q The organizations that have a K threat and et cetera, yeah?

22 A Yes.

23 [redacted] I do think it's important to state for the record that this letter

24 documented the FBI's revocation decision for Mr. Allen. The process affords him a

25 reconsideration, which is the process that this witness has gone through in reaching the

1 reinstatement decision. So just to put that on record.

2 [redacted] Yes, thank you. Thank you for that.

3 And it's the bottom of page 8 where that was derived from.

4 Mr. Dunham. Okay.

5 [redacted] Thank you, [redacted] for that, but --

6 Mr. Dunham. And then the other prong that -- I believe the other prong was the

7 piece about the deficient investigative efforts.

8 BY [redacted]

9 Q And we'll talk about, I think, how that all came about in a bit.

10 A Sure.

11 Q Are you aware that this letter actually arrived to the committee the evening

12 before the hearing where, of course, Mr. Allen and the other gentlemen would be

13 testifying. I know that -- I recognize the timing -- you may not have been --

14 A As I sit here today, I am aware of the --

15 Q And that this letter actually was given to the press as well prior to that

16 hearing.

17 Do you have any idea how that decision was made as far as the timing and the

18 sequencing of this letter, the revocations and those --

19 A I don't have any firsthand knowledge, no.

20 Q Now let's speak to something that I know you'll feel comfortable speaking to,

21 and that will be the letter from yourself to the committee -- or not to the committee but

22 to Mr. Allen -- May 31st of 2024. That will be the next exhibit.

23 [redacted] Could we pull that one more?

24 Two minutes. We need to go off the record?

25 [redacted] No, you have 3 minutes.

1 [redacted] Oh, yeah.

2 [redacted] Off the record.

3 [Discussion off the record.]

4 [redacted] What I think we'll do -- thank you, [redacted] -- what I think we'll do

5 is we'll actually enter this exhibit and then we'll go ahead and we'll end our hour.

6 [Dunham Exhibit No. 6

7 was marked for identification.]

8 Mr. Dunham. Okay.

9 [redacted] Does that sound fair? So this will be exhibit 6, which will be the

10 letter to Mr. Allen --

11 Mr. Dunham. Yes.

12 [redacted] -- from Executive Assistant Director Timothy Dunham, dated May

13 31st of 2024.

14 And with that, we will go off the record.

15 [Recess.]

16 [redacted] It is 11:15. We can go back on the record.

17 Mr. Dunham, thank you again for joining us today.

18 EXAMINATION

19 BY [redacted]

20 Q Before I get started, I just want to make one clarification for the record.

21 A Sure.

22 Q Looking at exhibit 5, it's the May 17th, 2023, letter.

23 A Okay.

24 Q That was signed on page 11 --

25 A Yes.

1 Q -- by Christopher Dunham, acting assistant director. I believe that's with
2 the Office of Congressional Affairs. Do you see where it says that?
3 A Sorry. I'm almost there.
4 Q Okay.
5 A Yes.
6 Q Your last name is Dunham as well, correct?
7 A It is, yes.
8 Q Are you any relation to Christopher Dunham?
9 A No relation.
10 Q Okay, thank you.
11 Moving on, I want to talk through your background in just a little more depth. I
12 know you gave a quick run-through at the beginning, but I want to make sure I have the
13 facts right and just build that out a little bit.
14 A Sure.
15 Q You joined the FBI, you said, in 2003?
16 A 2002.
17 Q 2002. Okay. And that was when you went to Quantico?
18 A That's right.
19 Q And then you graduated from Quantico in 2003?
20 A I did, that's right, early 2003.
21 Q And you were assigned to the Chicago Field Office?
22 A Chicago Field Office.
23 Q And what did you do in Chicago?
24 A I was an investigator, a case agent, working counterintelligence matters.
25 Q Okay. I don't want to get into anything law enforcement sensitive and

1 certainly nothing classified.

2 A Sure.

3 Q But can you talk broadly about any of the matters that you would've worked

4 on as a kind of a junior agent?

5 A I mean, I guess without, you know -- general investigations, so anything that

6 you might think of involving counterintelligence investigations, which, unfortunately, by

7 their very nature are --

8 Q What are counterintelligence investigations?

9 A Investigations protecting national security secrets or countering activities of

10 foreign intelligence services.

11 Q Thank you.

12 In 2007, you said you were transferred to headquarters. Is that correct?

13 A That's correct.

14 Q And I think I wrote down these acronyms correct. But you were assigned

15 to CTD, correct?

16 A My first assignment was with the Counterintelligence Division at

17 headquarters.

18 Q Okay.

19 A Then I had an assignment with our Counterterrorism Division at

20 headquarters, and then I had an assignment out at the CIA headquarters.

21 Q And broadly speaking, can you talk through what you did at those

22 assignments?

23 A In the Counterintelligence Division, my job was to program manage or

24 oversee Counterintelligence Divisions of a certain nature in various areas of the country.

25 So making sure field offices had their resources, making sure our program had kind of a

1 national coherence, things to that effect.

2 In the Counterterrorism Division, I was assigned to a unit overseeing

3 extraterritorial counterterrorism investigations. So it was terrorism threats emanating

4 or impacting U.S. interests abroad. My area was Western Europe.

5 And then at the CIA, I was assigned to the HUMINT Coordination Center, where

6 my job was to assist in the coordination of human intelligence operations.

7 Q You were transferred to the Albany Field Office in 2012?

8 A That's right, Albany, New York, yes.

9 Q And was that your choice, or was that -- how did that happen that you ended

10 up in Albany?

11 A It was my choice, yes. Yes.

12 Q And what type of work did you do when you were at the Albany Field Office?

13 A When I reported I was the supervisory special agent for one of the joint

14 terrorism task forces.

15 Q What are -- or at the time -- I realize some duties might've changed.

16 A Of course.

17 Q But at the time, what type of duties did the joint terrorism task force have?

18 A So the one that I was assigned to, we had an assignment of a complement of

19 agents. We also had assigned a complement of what we call task force officers, or law

20 enforcement officers, from other agencies so that we can more effectively share

21 information.

22 Our job was to kind of be the frontline of counterterrorism investigations for

23 upstate -- 40 counties in upstate New York and the entire State of Vermont on the

24 international terrorism side.

25 We also had some domestic terrorism responsibilities. And so we conducted just

1 on-the-ground CT investigations.

2 Q So just to put it kind of in layman's terms, is it fair to say that when you were

3 assigned to Albany, your job was to take the lead effectively in helping to protect the

4 greater New York region and up to Vermont from international terrorism?

5 A Not the city. They might get upset if I claimed that. But, yes, that's

6 correct.

7 Q In 2017, you were transferred back to FBI headquarters?

8 A That's right.

9 Q And what were your responsibilities at headquarters?

10 A There I was the section chief of what was then our Leadership Development

11 Program Section, and we were charged with developing and administering formal

12 leadership development activities for the FBI.

13 We also had some responsibilities related to building what I would call human

14 resources processes, like promotion processes and things of that nature.

15 Q And was that your first leadership position at headquarters?

16 A Well, technically, the previous positions were all at the supervisory special

17 agent level, so those are technically leadership positions. The LDP, as we call it, position

18 would've been my first Senior Executive Service position.

19 Q Thank you.

20 2018, you were transferred to Washington Field Office. What were your

21 responsibilities at WFO?

22 A So I was the special agent in charge of our Counterintelligence Division

23 there, so I oversaw our counterintelligence operations for the Washington Field Office

24 area of responsibility.

25 Q And was that international terrorism, domestic terrorism, or --

1 A That was counterintelligence.

2 Q Oh, I'm sorry.

3 A Yeah, yes, no, right, right. So back to protecting national secrets and

4 countering foreign intelligence adversaries.

5 Q Thank you.

6 You said you became a special agent in charge of the Criminal Division at WFO in

7 2019. How big is the Criminal Division at WFO, if you recall, or how big was it at the

8 time?

9 A To the best of my memory it was something on the order of 300-plus agents,

10 give or take.

11 Q Is it fair to say that the Washington Field Office Criminal Investigative

12 Division is one of the biggest for field offices in the country?

13 A It's fair to say that, yeah, to the best of my knowledge. I mean, obviously,

14 L.A. or New York might be close. But yes.

15 Q And as special agent in charge, you were at the top of the leadership

16 structure there, correct?

17 A The Criminal Division. So Washington Field Office, as you probably know, is

18 one of our what we call ADIC offices where we have an assistant director in charge, as

19 opposed to -- so I did have an immediate supervisor there, the ADIC at WFO.

20 Q Right. But you oversaw the whole Criminal Division, correct?

21 A Criminal Division, that's right.

22 Q You were transferred back to headquarters in 2020?

23 A That's right, yeah.

24 Q And you became the deputy assistant director of the --

25 A Criminal Investigative Division, yeah.

1 So in that role, I reported to the assistant director for the Criminal Investigative
2 Division, so the head of all criminal investigations for the FBI. I oversaw transnational
3 organized crime, violent crime, to include crimes against children, and then what we call
4 like our operational support section, which was a number of kind of various support
5 functions.
6 Q And then when did you actually become -- were you actually put in charge of
7 the security -- or executive assistant director, I guess, oversee for human resources?
8 A So I became the acting EAD the first business day after EAD Moore retired,
9 shortly thereafter. It was within June. I don't remember the exact date. I want to
10 say it was the 20th, but please don't quote me on that if I was on the right date.
11 Q Of 2023, correct?
12 A Of 2023, yes.
13 Q Okay. So you're here today talking about your -- what you -- about the
14 investigation that the majority is running, but your experience with the Security Division
15 has really only been a little over a year. Is that fair to say?
16 A That's fair to say.
17 Q Okay. So the comments you've made today, you've said a couple times
18 that you're speculating because you've been asked about things that occurred before you
19 were in your current -- in that position, correct?
20 A Sure.
21 Q And you said now you are the acting associate director of the FBI?
22 A Yeah, associate deputy director.
23 Q Associate deputy director.
24 A Yeah.
25 Q Sorry.

1 A No.

2 Q Is that third in the chain of command at FBI? Is that correct?

3 A It is, that's right.

4 Q So is it fair to say that in roughly -- you started 2002 -- 2024 is 22

5 years -- you've gone from being a field agent to being third in line at the FBI?

6 A That's roughly accurate, yes, ma'am.

7 Q I would imagine that to have that kind of a rise you've probably been

8 awarded some accolades in your time?

9 A I'd have to think back through that. But sure.

10 Q Off the top of your head, are you able to talk about any type of awards that

11 you've received in your time at FBI?

12 A Most of ours are various like cash incentives or things like that, so I have

13 received some of those. Like in 20- -- I don't remember the exact year, I'm

14 sorry -- probably the one of note when I was at the Albany Field Office, I was a part of a

15 team who was awarded the Director's award for integrity and compliance.

16 Q Sorry. The Director's award for --

17 A I've forgotten the exact title, but it's like efforts in integrity and compliance

18 for the work with our Albany Field Office compliance counsel.

19 Q Okay. And what is the Director's award?

20 A Each year -- gosh, it's such a like it is what it is thing, right? The awards that

21 the Director gives in a number of areas, outstanding counterterrorism investigation. We

22 have a new one this year, outstanding legal support. Or one of them is [inaudible]

23 integrity and compliance.

24 Q And those are among the highest awards that the department -- or that the

25 Bureau awards, correct?

1 A Yes, ma'am. I mean, in terms of those, right, we have the valor awards and
2 all those other ones. But in terms of the Director's awards, yes, they'd be among the
3 highest.
4 Q Okay. Moving on, I want to get back to a couple of comments you made in
5 the prior hour.
6 A Sure.
7 Q You were asked about Ms. Perkins and things that might've been said about
8 her. And then you were also asked about some of the whistleblower allegations. And
9 there's some terminology that you used that I just want to get a better sense of.
10 A Sure.
11 Q You said that there was a lot of swirl going on. What did you mean when
12 you said "swirl"?
13 A At the period of time which we're talking about, which was before my time
14 as EAD, I was the assistant director of the Training Division. So in that role, I was a part
15 of the Human Resources Branch.
16 So one of my colleagues was the assistant director for the Security Division. My
17 boss was EAD Moore. So I was aware during this time period that there were a lot of
18 things going on, particularly, I guess, in the post-January 6th timeframe.
19 Q And specifically the term "swirl," is it fair to say that that's gossip? Is that a
20 fair analogy or a fair definition?
21 A Yeah. I didn't mean it to be like certainly a term of art or anything like that.
22 It was just reflecting that it was a busy time with a lot of things going on.
23 Q Okay. And I think you were asked about like -- you were asked about
24 different allegations and you said you weren't necessarily sure of the source of different
25 allegations. And then you also said that you weren't sure where you heard certain

1 things.

2 A Right.

3 Q The majority counsel introduced one Washington Times article. I think it's

4 exhibit 2. There have certainly been other news reports.

5 Is it possible that some of the swirl or some of what you've heard came from these

6 news articles?

7 A I mean, it's certainly possible. I mean, for example, I recall watching a fair

8 chunk of the public testimony that was done shortly before EAD Moore retired with

9 Mr. Friend and so on and so forth. So yes.

10 Q Okay. So it could be public information, not necessarily things that you

11 heard from employees at FBI, in other words?

12 A Yeah. I mean, it could be. I was trying to answer that question right to

13 the fullest extent that I could, acknowledging that I was aware that there was a high level

14 of activity and other things going on.

15 I don't remember anything specific, and certainly that looked like it was germane.

16 I don't remember being informed of something that rose to the level where I would need

17 to formally report it in any way.

18 Q And I guess what I'm getting at is that there's an allegation that everybody at

19 FBI was talking about Security Division and all of the terrible things that were happening

20 at Security Division. Is that consistent with your experience?

21 A I don't think it's fair to say that everybody in the FBI was talking about all the

22 terrible things that were going on within Security Division. I mean, I'm pretty proud of

23 the operations of our Security Division. I think they do a fine job.

24 I certainly think just given the nature of the public scrutiny at the time, I mean, it's

25 fairly unusual for us to have three employees up testifying in public and so things of that

1 nature. So certainly there was a lot of attention on the issues at the time.

2 Q Okay. And the attention was, in part, driven by congressional activities,

3 correct?

4 A Certainly in the form of that particular hearing.

5 Q You were asked about the process by which an employee is suspended and

6 then the appeals process. And just to -- I think there was a question about whether an

7 employee who is suspended gets to protest that suspension or gets to have their voice

8 heard in some way.

9 A Right.

10 Q And you referenced the possibility for an employee interview. Do you

11 recall that?

12 A I do.

13 Q In what stage would that happen, if an employee interview were to take

14 place?

15 A That would most likely happen during the investigative stage. And the

16 point that I was trying to make there, there are times in which we would issue a

17 suspension before the interview. There are also potentially times that we would issue a

18 suspension after an interview. So that the point that I was trying to make was just that

19 they would have that potential opportunity.

20 Q And if an employee were to decline to participate in an interview, they

21 would effectively waive that opportunity to have --

22 A Yes.

23 Q -- to speak with the investigator, correct?

24 A And that's a problem under the security adjudication guidelines, yes.

25 Q Why is that a problem?

1 A Because of the security adjudication guidelines. You have to comply with
2 the security investigative process. If you fail to comply with that process, then that can
3 be taken into account in the ultimate decision.
4 Q When you say it can be taken into account, what do you mean by that?
5 A So it would be a negative factor. It might not necessarily, by and of itself,
6 be dispositive, but it would certainly be a negative factor.
7 Q And why is that considered to be a negative factor?
8 A Because we have a duty to protect national security information.
9 A security clearance is a privilege, not a right. There are certain protections in
10 place to ensure that administrative processes, such as a security investigation, are not
11 impacting potential criminal investigations. And so we expect our employees to be
12 forthright when it relates to their security clearance.
13 Q Okay. And if an employee were to decline to participate, in addition to
14 hindering an investigation, it could also delay or slow down the adjudication of that
15 individual's --
16 A Sure.
17 Q -- security clearance determination, correct?
18 A Absolutely, yes.
19 Q I want to turn to exhibit 3, which is the contracting form.
20 A Oh, right. Okay.
21 Q Before I get into the substance of that form, you had mentioned that this
22 was compiled, you believe, by a contractor. You recall saying that?
23 A That's my understanding, yes.
24 Q Why does section D -- I'm sorry, not section D -- why does the Security
25 Division use contractors?

1 A We need to be able to supplement our workforce. We don't have the
2 sufficient resources to be able to do what we'd like to do, let alone what we need to do in
3 a manner we'd like to do it.
4 Q So the FBI -- so it's -- the --
5 A Supplemental workforce.
6 Q Right. So the Security Division uses contractors because they don't have
7 sufficient employees to do the work that they need to do. Is that fair to say?
8 A I think that's fair to say. And another point that I think that is relevant to
9 this, right, is that the contractors are supposed to be trained.
10 Q And I was going to actually ask you about that.
11 So can you explain? You said they're supposed to be trained. Why do you say
12 "supposed to be"?
13 A Well, I mean, my understanding -- and, obviously, I'm not heading our
14 Facilities and Finance Division -- but when we hire contract personnel, they're supposed
15 to report ready to do the job that we ask them to do. So their home company, for lack
16 of a better term, handles their baseline training and preparation for the job role.
17 Q And does the FBI -- do you have familiarity with the training that they do
18 undergo?
19 A For the contractors?
20 Q For the contractors, yeah.
21 A I don't personally, no.
22 Q Okay. You said you weren't clear -- turning to exhibit 3 now -- you said you
23 weren't clear on -- or speaking, sitting here today --
24 A Sure.
25 Q -- and I realize that there's an investigation being conducted by the Inspector

1 General -- about how many times this particular document was used by contractors or by
2 anyone, correct?
3 A Yeah. I mean, specifically, if you need specific numbers, we can provide
4 them. There was an internal inspection review that was done that summarized some of
5 those numbers. But my understanding is that it was very low.
6 Q And I'm actually looking at this exhibit. It looks like there are three
7 interview forms. I'm calling them forms, and just for the record, earlier you said this is
8 not really a form, it's not a standardized form that the FBI uses?
9 A I would use the term job aid.
10 Q Okay.
11 A That would be my term.
12 Q We'll use that term. There are three job aids here. You don't have any
13 reason to believe that it was used more than three times, correct?
14 A I can't say that. I believe it was. I don't think it was a large number of
15 times, objectively speaking, but I can't say for sure that it was just these three times if
16 that's what you're getting at.
17 Q But regardless, you don't -- it wasn't, for example, used a hundred times, to
18 the best of your knowledge?
19 A Yeah, I'm trying to remember. I don't believe so. That sounds high to
20 me --
21 Q Okay.
22 A -- from what I remember reading.
23 Q Okay. I want to turn -- you were asked about a number of the questions at
24 the beginning of this document. But I want to turn -- it's on page 4 of the first
25 document, and then it's on different pages. It's on each 1, but it's question number 11.

1 A Okay. Sorry. Yeah.

2 Q Question number 11 reads -- and I think it means are you aware -- but it

3 reads, are you "aware he attended the Richmond Lobby Day event on 1/18/2021?"

4 Do you see where it says that?

5 A I do.

6 Q You weren't asked about this in the prior round, correct?

7 A I was not, that I remember, no.

8 Q Are you familiar with the Richmond Lobby Day event?

9 A I am not, other than my understanding, general awareness, is that it was

10 billed as a Second Amendment activity, but I'm not familiar with the event itself.

11 Q The date in this question is 1/18/2021. Do you see where it says that?

12 A I do.

13 Q So that would've been about 2 weeks after January 6th, 2021, correct?

14 A That's -- yes.

15 Q And it would've been 2 days before the January 20th, 2021, inauguration,

16 correct?

17 A That's right.

18 Q I'm going to introduce as exhibit 7 a CNN article entitled, "Armed

19 demonstrators gather at Virginia state Capitol as states stay tight on security ahead of

20 inauguration."

21 [Dunham Exhibit No. 7

22 was marked for identification.]

23 BY [redacted]

24 Q And I'll give you a minute to read this --

25 A Yeah, thank you.

1 Q -- so you can read the whole thing.

2 [Witness reviewing.]

3 A Okay.

4 Q Ready to continue?

5 A Yeah, sure.

6 Q Okay. Just turning to page 1 of this, the article reads, "Dozens of armed

7 demonstrators gathered at the state Capitol in Richmond, Virginia, on Monday as

8 authorities remained on alert at capitols across the United States two days ahead of

9 President-elect Joe Biden's inauguration. Several demonstrators in Richmond identified

10 themselves as members of the Proud Boys and Boogaloo groups as well as the Black

11 Panthers."

12 A Okay.

13 Q "The demonstrations were part of the State's annual 'Lobby Day,' an event

14 held in support of Second Amendment rights and hosted by the Virginia Citizens

15 Defense League."

16 Did I read that correctly?

17 A You did.

18 Q And right underneath what I read, there's a picture. Do you see that

19 picture?

20 A I do.

21 Q Could you describe what you see in that picture?

22 A I see what appears to be three individuals crossing a street in military garb, is

23 how I would describe it, camouflage. At least two of the three, the third one may be as

24 well, appear to be carrying assault-style-type rifles. The one in the middle has an

25 American flag.

1 Q And I'll just read the caption into the record. Underneath it says,
2 "Members of a pro-gun group carry their weapons near the state Capitol on January 18,
3 2021, in Richmond, Virginia." Did I read that correctly?
4 A You did.
5 Q Okay. Having reviewed this, does this help kind of refresh your recollection
6 about what the Richmond Lobby Day event was?
7 A It -- I mean, it does. I remember that there were various demonstrations
8 post-January 6th for the election, sure.
9 Q Could it be a concern if an FBI employee participated in this type of
10 demonstration?
11 A It could be. Again, I want to be very careful on how I parse that answer,
12 right, like certainly participation at an event solely to show support for Second
13 Amendment rights would not be of concern.
14 However, if you are advocating violence, if you are affiliating with a group that
15 advocates violence, if you are carrying your firearm in a way that is counter to the law in
16 the area in which you're -- those would all be things that would potentially be of interest
17 to the FBI.
18 Q Okay. And that is something that FBI could reasonably investigate if an
19 employee was doing -- participating in those type of activities that you just described kind
20 of?
21 A Yeah, as long as we could articulate how the stated activity fell within the
22 security guidelines, we could look at that for security purposes, certainly.
23 Q And I think there was a question about adjudicative guideline A, but also
24 adjudicative guideline E is personal conduct, correct?
25 A Right.

1 Q Could participating in this type of event potentially run afoul of guideline E,
2 personal conduct?
3 A Again, potentially, right, depending on the facts and circumstances. If it
4 was a lawfully convened demonstration, certainly no issue there. I mean, I don't know
5 as I sit here right now what the open carry laws as comes into the style of weapons being
6 displayed are in the city of Richmond.
7 But if they were in violation of law in that nature, that might be something that
8 would be of interest.
9 [redacted] Thank you.
10 I'll turn it over to my colleague for her questions.
11 [redacted] We've looked at the security adjudication guidelines a lot
12 today. I just want to enter those for the record as exhibit 8.
13 [Dunham Exhibit No. 8
14 was marked for identification.]
15 Mr. Dunham. Okay.

1 BY [redacted]

2 Q Does this look like an accurate document of the guidelines we've been

3 discussing?

4 A Without reading every single word, it does, yes.

5 Q How did you become familiar with these educative guidelines?

6 A When I assumed my role as the EAD for HRB, one of the first things that I got

7 was a briefing from the Security Division and our Office of General Counsel on all of the

8 applicable statutes and guidelines. This was a part of that briefing.

9 Q And could you describe briefly what the purpose of them is?

10 A To set forth the adjudicative criteria for anyone who holds a security

11 clearance related to national security. In layman's terms, they're the areas of interest in

12 determining whether someone should or should not hold a security clearance.

13 Q In your understanding, what agencies do these guidelines apply to?

14 A Anyone who falls under the DNI, the ODNI authorities.

15 Q So that's all agencies across the executive branch?

16 A That's my understanding, yes.

17 Q This version went into effect on June 8th, 2017. Is that right?

18 A That's what it says here, yes.

19 Q We've discussed guideline A a few times today. That refers to allegiance to

20 the United States. Is that right?

21 A That's right. Yes.

22 Q And then I wanted to turn specifically to guideline K, which has to do with

23 the handling of protected information. It's on page 21. Do you see that?

24 A I'm getting there.

25 Sure do, yeah.

1 Q Are you familiar with this guideline?

2 A I am.

3 Q So the concern in this guideline that's listed here reads, "Deliberate or

4 negligent failure to comply with rules and regulations for handling protected

5 information -- which includes classified and other sensitive government information, and

6 proprietary information -- raises doubts about an individual's trustworthiness, judgment,

7 reliability, or willingness and ability to safeguard such information, and is a serious

8 security concern."

9 Did I read that right?

10 A You did.

11 Q And this concern isn't just limited to classified information but any sensitive

12 information. Is that right?

13 A That's right.

14 Q So that includes information that would be considered law enforcement

15 sensitive?

16 A Yes.

17 Q And it applies to both deliberate and negligent failure to comply with the

18 rules. What's your understanding of what that means?

19 A Deliberate would be with intent, right? Negligent is typically without

20 intent.

21 Q Why do you think it's important that both of those are -- or why is that

22 important that both of those are a concern?

23 A Because we're talking about, bare minimum, sensitive is potentially classified

24 national security information. So an intent element, while I guess relevant, is not

25 dispositive. I mean, we all have a duty to protect this information and to ensure that we

1 don't handle it in a negligent manner.

2 Q So both the deliberate and negligent mishandling of this protected

3 information is a serious concern. Is that right?

4 A That's right.

5 Q The guideline goes on to list conditions that could raise a security concern

6 and may be disqualifying, and the first concern listed there is "deliberate or negligent

7 disclosure of protected information to unauthorized persons," and that includes the

8 media. Is that right?

9 A That's right.

10 Q Why is it a concern if an individual with access to this protected information

11 discloses it to unauthorized people?

12 A I mean, it could be any range of reasons, right? I mean, it could range

13 anywhere from personally protected information about individuals or subjects, ranging all

14 the way up to highly classified information that has national defense implications. So

15 there's a wide range of reasons.

16 Q And this isn't just an FBI policy. It is something that concerns the whole

17 executive branch.

18 A That's right.

19 Q The second condition listed here is "collecting or storing protected

20 information in any unauthorized location." Is that right?

21 A That's right.

22 Q Would this include a situation in which an individual removes protected

23 information from an FBI computer system and transmits it to a non-FBI computer?

24 A It would.

25 Q And that situation of removing from a protected computer and moving it to

1 a non-FBI system, that would also implicate the condition (i), "failure to comply with rules
2 or regulations." Is that right?
3 A Oh, I'm sorry. Are you on the same list? Yes, that's right.
4 Q And concern (c), "loading, drafting, editing, modifying, storing, transmitting,
5 or otherwise handling protected information...on unauthorized equipment."
6 A Sure.
7 Q Looking at condition (f), it says a condition that could raise a security concern
8 is "viewing or downloading information from a secure system when the information is
9 beyond the individual's need-to-know."
10 Did I read that right?
11 A You did.
12 Q What does the "need to know" mean in this context?
13 A I mean, generally speaking, it means directly related to your job
14 responsibilities. Obviously, you need to have adequate access to information to
15 perform your duties in the FBI but don't need to see things that aren't related to your job.
16 Q Why is it a security concern if somebody is accessing information that they
17 don't need to know?
18 A Because this is sensitive and classified information, so by its very nature,
19 broadly spreading it to folks who don't need to know it is a security risk.
20 Q And then the last condition here is the "failure to comply with rules or
21 regulations that results in a damage to national security," whether it was deliberate or
22 negligent.
23 Does the FBI have specific rules or regulations about handling protected
24 information?
25 A We certainly have rules and regulations, yeah, training and policies.

1 Q Does the FBI take particular steps to ensure that employees are aware of
2 those rules?
3 A We conduct annual training related to those rules, yes.
4 Q I want to look specifically at an FBI form, FD-889. This will be exhibit 8.
5 Voice. 9.
6 [redacted] 9. Thank you.
7 [Dunham Exhibit No. 9
8 was marked for identification.]
9 BY [redacted]
10 Q This is the FBI Information Technology and Information Systems Rules of
11 Behavior for General Users Agreement Form. Does it look familiar to you?
12 A It does.
13 Q Have you -- why does it look familiar to you?
14 A I've executed this form before.
15 Q So the FBI requires all employees to sign this agreement?
16 A Yes.
17 Q Is that right?
18 A That's right.
19 Q I want to look at the "Statement of Responsibility" that's at the bottom of
20 the first page. It reads, "I understand that I am to use FBI systems only for lawfully
21 authorized purposes." It lists some lawfully -- or laws that list those purposes.
22 And then the second sentence says, "Even where granted access, I must" -- "Even
23 where granted access, I must access the system files and information only on a
24 need-to-know basis and only in furtherance of authorized tasks or mission-related
25 functions," right?

1 A Yeah.

2 Q Can you explain what employees are agreeing to in that?

3 A Well, the way that I would interpret that, right, is, for example, our Sentinel

4 system, which is our case management system of record. As a general rule, if you access

5 that system, you have broad access to cases outside of your investigative responsibilities,

6 but you're not supposed to access those.

7 We have certain rules in place for restricting files and things of that nature. But

8 the general rule is, you access what you need to access for your job, even though you may

9 have the ability to access more than that.

10 Q And why is it important that employees agree to not access those things that

11 they don't need to know?

12 A It's the same basic information security principles we talked about before,

13 right? Generally speaking, any kind of sensitive information or national security

14 information, the more broadly it's spread, the greater security risk that presents.

15 Q Looking at page 4, this is where users sort of start to certify various things

16 they will not do.

17 A Right.

18 Q And one of them is that they will not remove sensitive or classified media

19 from controlled areas without authorization. Is that right?

20 A I'm not following you. I know as a general --

21 Q Yeah. It's the very bottom on page 4, letter c.

22 A Oh, there we are. Yes. Uh-huh.

23 Q Does that include taking a photograph or a screenshot of sensitive

24 information?

25 A It would.

1 Q We can put that to the side.

2 I want to introduce as exhibit 10 form FD-857a.

3 [Dunham Exhibit No. 10

4 was marked for identification.]

1 BY [redacted]

2 Q This is a Sensitive Information Nondisclosure Agreement. Does this look

3 familiar to you?

4 A It does.

5 Q Are FBI employees required to sign -- with access to sensitive

6 information -- required to sign this?

7 A Yes.

8 Q In paragraph 3 of this nondisclosure agreement, employees verify that they

9 have been advised that "unauthorized access, unauthorized disclosure, unauthorized

10 retention, or negligent handling of sensitive information may cause irreparable damage to

11 FBI investigations," and that they will not divulge sensitive information unless they have

12 been given authorization beforehand.

13 Is that right?

14 A That's right.

15 Q And then in paragraph 4, employees verify that they have been advised that

16 a breach of this agreement could result in termination of their employment. Is that

17 right?

18 A That's right.

19 Q Finally, I want to look at guideline M of the National Security Adjudicative

20 Guidelines. That's on page 23.

21 A Yes.

22 Q This one deals with the use of information technology. Is that right?

23 A That's right.

24 Q The concern is that "failure to comply with rules, procedures, guidelines, or

25 regulations pertaining to information technology systems may raise security concerns

1 about an individual's reliability and trustworthiness, calling into question the willingness
2 or ability to properly protect sensitive systems, networks, and information."
3 Is that right?
4 A That's right.
5 Q Why does it raise a security concern if somebody can't comply with the rules
6 related to information technology?
7 A I mean, it's very similar to the rules that we just talked about, right? If
8 you're improperly accessing national security or sensitive information through the use of
9 information technology to which you have no need to know, that creates a security risk.
10 Q On page 24, or lower in the guidelines, there are some mitigating factors
11 that could mitigate the security concerns, and the one on page 24 is that if "the misuse
12 was due to improper or inadequate training or unclear instructions."
13 Could you talk about the training that FBI employees go through to make sure that
14 they are handling information technology systems correctly?
15 A Well, certainly we touch on it at various points of time. I mean, when
16 you're hired as a new employee, you have annual training on the various forms of
17 information technology and security. So I mean it's routine and regular training.
18 Q And you said it happens yearly?
19 A Yeah. I believe -- I'm trying to remember specifically the course, right, but I
20 believe when we do information security that we touch on the IT aspects annually, yes.
21 Q FBI employees are required to hold a security clearance as a condition of
22 employment. Is that right?
23 A That's right.
24 Q And they can't do their job without a security clearance. Is that right?
25 A That's right.

1 Q That's because FBI agents regularly have access to sensitive information. Is
2 that right?
3 A That's right.
4 Q And so the security clearance requirement ensures that this sensitive
5 material is protected?
6 A Yes.
7 Q If such material is disclosed to unauthorized parties, it could compromise
8 ongoing investigations. Is that right?
9 A Certainly, depending on the material. But yes.
10 Q And it could tip off a target or a subject of investigation. Is that right?
11 A That's right, yes.
12 Q It could cause someone to destroy or conceal evidence?
13 A Certainly, yes.
14 Q It could also harm our national security interests. Is that right?
15 A It could, absolutely, yes.
16 Q And it could even put FBI agents in danger. Is that right?
17 A That's correct.
18 BY [redacted]
19 Q And I actually, I apologize, I want to turn back to exhibit 3.
20 A Oh, sure.
21 Q I had some questions that I forgot to ask just a couple minutes ago. And it's
22 not about the document itself, but just about that topic area.
23 A Oh, okay, yeah.
24 Q All right. You said that this document is now subject of an Inspector
25 General investigation, correct?

1 A We have been working with the Inspector General, yes.
2 Q When did you first become aware that this document existed?
3 A Oh, gosh, I don't recall. I don't believe -- I'm trying to think back -- I don't
4 believe I knew this document existed until the Inspector General asked us about it.
5 That's the best of my memory.
6 Q Okay. Do you know who brought it to the attention of the Inspector
7 General?
8 A No.
9 Q You referred to some actions that were taken following this, you becoming
10 aware of this document. I know you said that you were complying with the
11 investigation. Any other actions that were taken once you became aware of this
12 document?
13 A Yeah. I mean, we -- so first we conducted an internal review by our
14 Inspection Division. They went back through and reviewed -- it's hard to say on the
15 record, don't quote me, but -- don't quote me -- but something like 1,200
16 investigations-ish.
17 Q Who ordered that internal review?
18 A I think it was a -- it was more of an internal consensus decision that it
19 needed to be done.
20 Q Were you part of the decisionmaking team?
21 A Sure. The then-associate deputy director at the time, I believe, Brian
22 Turner, was aware, our AD in Inspection Division. So we had just --
23 Q So when management became aware of this --
24 A Yes, that's right.
25 Q -- they ordered the -- or they asked the Inspection Division to --

1 A That's right.

2 Q -- immediately begin investigating? Is that correct?

3 A Yes.

4 Q Okay. And then what happened?

5 A So they produced their kind of initial internal report, and then since that

6 time we've been cooperating with the OIG review.

7 Q Have you taken steps to make sure that this type of document is not used?

8 A Yes, we're not using this document.

9 Q And can you describe those steps?

10 A The specific steps I'd have to leave up to the assistant director of the Security

11 Division. Certainly the intent -- the commander's intent, for lack of a better term, is that

12 this form is not to be used, and anywhere we find it we need to stop, and also a general

13 intent that job aids such as this we need to be sure are being used appropriately.

14 Q And how was that intent, as you described it, conveyed?

15 A I don't think I can point to a specific like issuance or order other than

16 discussions amongst management that that was the understanding.

17 Q Okay. And it sounds like there were a number of officials from

18 management involved once they became aware of this document, correct?

19 A I think that's fair, sure.

20 Q So the FBI took it pretty seriously. Is that fair to say?

21 A Oh, no question, yes.

22 Q When you say "no question," what do you mean by that?

23 A No, I mean, obviously something like this is concerning, because of the

24 impression that it could give about our security process.

25 So we ought to be sure that things like that are handled appropriately and not in a

way that would even have the hint of being improper in some way.

[redacted] Okay. Thank you.

Thank you. We can go off the record.

[Recess.]

[redacted] We'll go back on the record. The time is 12:05 p.m.

1 BY [redacted]

2 Q Mr. Dunham, I'm going to circle back. I had skipped over a section I wanted
3 to revisit, just a couple questions, heading back to Jennifer Moore, who I believe was the
4 executive assistant director prior to yourself. Just a couple quick follow-up questions on
5 that, and then we'll go back to the exhibit we left with.
6 A Okay.
7 Q Prior to Ms. Moore's departure from the FBI, how often did you interact with
8 her?
9 A Regularly. She was my immediate supervisor.
10 Q I forgot Training Division, so --
11 A Yeah, yeah.
12 Q So you did have regular meetings. How often -- what was the
13 meeting -- how would I say this? I'm trying to make this easy.
14 A Sure.
15 Q What was the meeting schedule or operational tempo of your meeting
16 schedule as far as executive team within HRB when Ms. Moore was the director -- or
17 sorry -- executive assistant director?
18 A Yeah, I mean, it certainly varied depending upon whatever was going on in a
19 given week. But as a general rule of thumb, I would have, I believe, a weekly with her
20 one-on-one, and then we would try to have a weekly where all three assistant directors
21 within the branch were in the room with her so we could talk as a team.
22 Q All right.
23 A It wasn't always that way, but that was the goal.
24 Q Sounds pretty fair. I understand sometimes there were daily meetings.
25 So that seems like that wasn't a bad tempo.

1 Based upon that relationship, of course, and the fact that you did have regular,
2 necessary, required dialogue, did you have awareness of some of these issues that we
3 had spoken about in the past through those conversations and those executive meetings
4 when say the security -- the assistant director of the Security Division may have been
5 briefing particular issues that had bubbled to the surface?
6 A I had some high-level general awareness. I don't recall being like briefed
7 on a regular basis at the weekly meeting or anything like that.
8 Q Kind of going back to the swirl, if you will, that my colleagues had kind of
9 broken down.
10 A Sure.
11 Q So I was just understanding what your exposure to some of that was.
12 Okay. We may talk about that a little bit more later, but I'm going to move back
13 ahead to -- and forgive me all, because I know we've had a lot of exhibits. So was that
14 exhibit 5, the letter?
15 [redacted] 6.
16 [redacted] 6, okay. Thank you.
17 [redacted] His letter is exhibit 6.
18 [redacted] Yes.
19 [redacted] Yes.
20 BY [redacted]
21 Q That would be your letter, Mr. Dunham?
22 A Yes, sir.
23 Q I'm assuming you have some familiarity with that. Would that be correct?
24 A I do, yes.
25 Q Okay. As soon as I can get to my section. All right. Here we go.

1 So in reference to that letter dated May 31st, 2024, the FBI, under your pen, did
2 reinstate Marcus Allen's clearance, correct?
3 A That's correct.
4 Q Quoting from parts of that letter, the letter stated, "My decision to reinstate
5 your security clearance is based upon a determination that the original security concerns
6 have been investigated and have been sufficiently mitigated."
7 It's sort of a large question, but how did you arrive at this conclusion? And let
8 me set that up, if I may.
9 A Sure.
10 Q It certainly had been a long period of time and a lengthy investigation, and to
11 say there was angst and sadness and a lot of public awareness of that would be an
12 understatement.
13 So what led you ultimately, from the time that you entered in your current role --
14 A Sure.
15 Q -- to the time of that letter? How did we get there? How did that story
16 end as it did?
17 A Well, I mean, I'm presented, as I think I've explained previously, with a
18 summary EC with a recommendation from my team that did the readjudication.
19 So when a request for reconsideration comes in, it's assigned to a new
20 adjudicator. They take a look at the facts, any supplemental facts that may be available,
21 they write up a recommendation, and then they send it through the process similar to
22 how we would've made the original decision.
23 When I received the reinstatement recommendation, I read the document, and I
24 concurred with the recommendation that the security concerns had been mitigated.
25 Q Okay. If I might just be able to unpack a little bit of that.

1 A Yeah.

2 Q So understanding you come in, you have a summary you see which

3 encapsulates, at a very high level, succinctly all the different investigative steps. I

4 understand that.

5 Did I hear you correctly when you said that at a certain juncture when you're

6 nearing the end, I think, that there's a new adjudicator then assigned with fresh eyes. Is

7 that what I'm understanding?

8 A When we get a request for reconsideration, right --

9 Q Okay.

10 A -- the frontline employee then reviews it, the readjudication

11 adjudicator -- that's probably not the right term, but you understand the concept.

12 Q Yes.

13 A They look at it again, because it wouldn't be ideal for the same adjudicator

14 to then review the request for reconsideration.

15 Q Okay. Forgive this question if it is somewhat silly.

16 A Sure.

17 Q But I'm not sure. So a request for reconsideration, is that an internal

18 request, or is that an external request?

19 A That's the external request from the employee.

20 Q From the employee's counsel?

21 A Yes, yes.

22 Q Okay. I wasn't sure if perhaps someone internally had said let's --

23 A No.

24 Q -- let's review this again.

25 A Right.

1 Q Okay. Okay. Thank you.

2 So with respect to that, did it -- does it or did it concern you at all, as you were

3 reviewing the totality of this, that there had been, as we have previously mentioned, two

4 line investigators, so the line folks, that had concluded years before that there was

5 insufficient evidence to revoke Allen's clearance, yet it was revoked anyway, and now the

6 FBI, of course, did ultimately end up reinstating Allen's clearance?

7 So the question really is, the crux of that --

8 A Sure.

9 Q -- did that -- were you aware of that? And did it bother you? Did it

10 manifest itself that there had been conflicting opinions?

11 A I can't -- I'm sorry, I wish I had -- those were before my time. I don't know

12 or remember exactly when I knew what.

13 What I can tell you is that did not have any impact on my decision. I mean, I

14 review the reinstatement EC as it's presented by my current team and judge it based on

15 those merits.

16 Q Okay. Thank you.

17 So, of course, the million-dollar question.

18 A Sure.

19 Q Why? Why did it take over 2 years to get to this point, right? How did it

20 take that long?

21 A The length of time question, as we said before, I came in at a certain point.

22 Broadly speaking, I mean, there's any number of reasons why something like this

23 could take this long. There's OIG coordination, there's the investigation itself, there's

24 making sure that we do a full and fair both investigation and adjudicative process.

25 I think when you say 2 years, you're referring to the time from the suspension

1 through the initial revocation all the way through the reinstatement, so there's some
2 other procedural steps in there --
3 Q Yeah.
4 A -- such as when Mr. Allen requests his documentation and prepares his
5 request for reconsideration.
6 Certainly, as you say that out loud, we all would like for it to take much less time,
7 but that is the nature of the process.
8 Q No. Thank you. You hit on the point. I mean, to someone from the
9 outside of certainly the FBI --
10 A Sure.
11 Q -- and the private family, that seems like an awfully long time to resolve an
12 issue like that, especially when someone's livelihood and their family's very welfare is
13 being impacted.
14 And with that being sort of the segue, do you have any regrets about how
15 Mr. Allen and his family were treated for the 2 years that it took for the FBI to resolve
16 what some may say was a straightforward security inquiry that likely shouldn't have taken
17 that long?

1 [12:14 p.m.]

2 Mr. Dunham. So I guess I kind of have to speculate my answer on that one,

3 right? Like, as a person, I'm certainly sorry for what Mr. Allen went through with his

4 family. I imagine those personal circumstances were very tough.

5 No doubt about it, from a professional viewpoint, again, while I certainly would

6 like for it to take less time, I would point to Mr. Allen's process as one that ultimately

7 worked.

8 You know, we have an appeal process for a reason. We have an appeal process

9 so that an employee can ask someone to take a second look at something. We did that.

10 And in this case, we reinstated.

11 Certainly, again, it would be wonderful if the first decision, you know, 100 percent

12 of the time was the right decision or the accurate decision, or however you want to cast

13 that, but like the court systems, we have appeals for just this reason.

14 So, I'm sorry it took that long, but I believe in this instance, the process was

15 performed correctly and it ended up with the right result.

16 BY [redacted]

17 Q Thank you for that answer. Under your leadership, are you looking at some

18 of these examples and -- I realize that resources are always challenging at the national

19 level for any organization, but are you looking at any ways to streamline that process

20 under your leadership or things that may be able to have done in the future to hopefully

21 mitigate -- lessen the instances of these types of scenarios?

22 A I appreciate that question.

23 The short answer is yes, I've certainly had conversations with the assistant director

24 of the Security Division.

25 I also appreciate you indicating the lack of resources certainly going forward with

1 the potential budget issues over the next few fiscal years. That will become even more
2 of an issue.
3 But the answer, are we talking about ways to improve? We are. For one idea,
4 for lack of a better term, but just to illustrate what you're asking for is we are considering
5 the idea of TDYing in supervisors from the field much like we do in our internal
6 investigations process, right? You're familiar with that. To conduct the security
7 investigations, hoping that that gives us more bandwidth, more capacity to be able to do
8 some of these in a faster manner.
9 So that's just one example. Those discussions are ongoing, but certainly
10 improving the timeline is something we will do our best to do.
11 Q For the benefit of the committee, Mr. Dunham, although some may be
12 familiar with that, would you -- that does -- can you explain exactly what TUI, and how
13 that may be a potential career enhancement or how that works?
14 A Yeah. So in our Inspection Division, our internal investigations process, one
15 of the things that you need to do to qualify to be an assistant special agent in charge is to
16 become what we call "inspection certified." That means participating in a number of
17 Inspection Division activities for credits.
18 One of the credits that you can obtain is supporting our internal investigation
19 section by coming in on a temporary duty assignment. Typically, it's two weeks in which
20 the TDY agent handles investigative tasks or whatever else to try to help processing our
21 internal investigations. So we are in the early stages of discussing that a -- you know, a
22 complementary program for security investigations could be a way to add some
23 bandwidth.
24 Q Am I to understand that that is potentially career enhancing for that
25 supervisor as well as then the other benefit would be the additional manpower for this

1 purpose?

2 A It's career enhancing from the standpoint of we have to perform certain of

3 these credits to be able to be promoted. It's also maybe not career enhancing in the

4 way that you and I would mean it within the Bureau, but in the way that it gives people

5 awareness of those activities that oftentimes our operational supervisors are not exposed

6 to. Certainly our -- you know, the majority of our operational supervisors going through

7 their promotion chain don't touch on security. So to have that experience at a front-line

8 supervisor level and have that background as you promote up would certainly be helpful

9 as well.

10 Q All right. The committee appreciates that you are, in fact, looking at ways

11 to potentially avoid these types of scenarios in the future. Certainly the duration we can

12 agree on some of these was troubling, but understandably, there is a lot of moving steps,

13 so I know there is attention there. Specific -- I'm going to move along to the next

14 individual.

15 [redacted] Mind if I ask --

16 [redacted] Please.

17 BY [redacted]

18 Q Just for my own understanding, the disagreement of the two line

19 investigators for Marcus Allen's case, when did you first learn of that?

20 A I honestly don't know. I can't remember. I'd been made aware at some

21 point about the line investigator disagreement with how things were handled. It may

22 have been -- there was a meeting, I don't want to speculate too much, but there was a

23 meeting in June that we had with some folks from OIG where it might have been raised

24 there.

25 BY [redacted]

1 Q June of this year?

2 A June of '23. But by and large, that issue had no bearing on my decision if

3 that's helpful.

4 BY [redacted]

5 Q With that understanding that you're saying it had no bearing, but is

6 that -- let's actually take a step back. Not Marcus Allen's case, but other cases?

7 A Sure.

8 Q If there is a disagreement by one of the line investigators, is that something

9 that is normally included include when a decision is being reconsidered?

10 A Based on my experience, I don't think it would necessarily be included.

11 Again, that's based on my experience without having had a career in Security Division.

12 You know, I can think of one other example where -- well, we had certain times where

13 folks are recused, right? And so then they wouldn't have appeared in the approval chain

14 where they might normally. What we're striving for, right, is the adjudicative team

15 taken as a whole at the end of the day agreeing with the recommendation that is being

16 made. So in a perfect working scenario, if one of the team members had a

17 disagreement, they would work it out amongst the team.

18 Q I guess -- I think you answered this. Again, for my own understanding.

19 A Sure.

20 Q You said the appeal processes you made it akin to our court system. If the

21 Supreme Court has taken up something on appeal, they could see, hello, if there was a

22 disagreement among the judges. I know it's not a perfect analogy, but is that a fact of

23 whether there was disagreements by a line investigator? Is that fact always made

24 aware for the --

25 A I don't think always made aware, no. Certainly, there could be times that a

1 dispute could be raised almost like to a more senior decision maker for a tiebreaker, or
2 something like that. But if you told me that, you know, there was a case that we were
3 investigating where there was a differing view between the supervisor and the line
4 employee, I'm not sure that I would always be aware of that in the case. As long as they
5 were able to come to some kind of resolution.
6 BY [redacted]
7 Q At what level for the benefit of the committee might something like that
8 normally be mitigated?
9 A I mean, it's --
10 Q In a situation of line investigators who have differing opinions about a
11 particular investigative matter that they're both involved in?
12 A Well, I mean, the documents, typically speaking, right, they come out of the
13 unit chief level. They're not -- you know, so, like, at the investigative level, the unit chief
14 would have signed off on the package that goes to the adjudication unit. I think we're
15 probably talking about two very, I mean, different scenarios, right? I think you all are
16 talking about a much more strident disagreement than the everyday disagreement that
17 I'm probably referring to, so it's a special set of circumstances.
18 I mean, if we, again, hypothesizing, if we had a scenario today, as I sit in the EAD's
19 chair where someone absolutely would not, you know, agree to a recommendation or
20 otherwise participate, I would presume I would more than likely be made aware of that.
21 BY [redacted]
22 Q Okay. The June 2023 meeting you were referencing earlier, can you walk
23 us through a couple of the facts around that meeting. Who was in it? What was the
24 purpose of the meeting?
25 A Yeah. This was a very -- this was a meeting with the Office of the Inspector

1 General, who was very early on in my tenure, I'd have to pull my calendar to see if I was
2 acting or named at that point, so I was very new to all of this.
3 And I can't tell you exactly who was in the room. There were some
4 representatives from OIG and there were representatives from the FBI, and the general
5 discussion was the Allen matter, so I am -- I offered that in full disclosure, because there
6 may have been discussion about this disagreement in that meeting. As I'm thinking
7 about it, I think there probably was, but again, I was so new I'm not sure I fully
8 appreciated the history of what I was hearing.
9 Q Do you know if in that meeting there was discussions regarding the timeline
10 we discussed at the end of the first hour about the letter from the FBI to the committee
11 immediately preceding the hearing that the committee had featuring Mr. Allen?
12 A I'm sorry, I don't remember that being a topic of discussion. It's possible.
13 Again, I was so new to the scenario, I was trying to catch up. It's possible, but I don't
14 remember that being discussed.
15 Q Do you remember, just generally speaking, whether anyone ever briefed you
16 on that timeline, whether it was in this meeting or a subsequent meeting?
17 A As it was mentioned today, I certainly remembered hearing at some point,
18 you know, about the letter going over the night before, right? Like, again, I'm leery of
19 using the term "swirl," like, I was aware of that going on, but I wasn't involved in that
20 decision, or anything like that.
21 Q Can you say more about how you may have become aware?
22 A I mean, not with any specificity. I'm sorry. I would have maybe at some
23 point during the transition, or something to that effect.
24 Q The disagreement that the two line investigators had for Marcus Allen's
25 case --

1 A Okay.
2 Q -- besides the June 2023 meeting with the OIG where it may have come up --
3 A Yeah.
4 Q -- do you recall any other instances where someone from within the FBI
5 raised that fact with you at a meeting or a private conversation?
6 A I don't, and I certainly don't want to sound like I'm making light of it. I
7 mean, the fact of the matter is when I took over this role, that event had already
8 occurred, and my focus, you know, as it relates to Mr. Allen became his reconsideration
9 request, so since I didn't have any formal pending matter in front of me about it, right,
10 that didn't occupy a lot of my thought. That's how I feel.
11 Q Okay. You know, I guess another way of maybe asking this.
12 A Sure.
13 Q You certainly have many years of service to the Bureau.
14 A Yeah.
15 Q You're a new face in this role. Certainly, there are at least folks, two line
16 investigators, but others who are concerned about this. I just wonder if there's anyone
17 in the Bureau who kind of used the opportunity of you stepping into this new role to
18 reraise concerns they tried to raise previously about this case?
19 A If there is, I don't recall it as I sit here today or maybe didn't take it in the
20 way that they intended it to be taken. You know, again, when I take over a new role, I
21 mean, you know, in any job in the Bureau, you'll hear rumblings about disagreements or
22 whatever else, and until it rises to you formally, you know, you take note of it. And if it's
23 not something that you deem that you need to take action on at that moment, you know,
24 it may pass by. So I don't recall anything of that nature.
25 Q Okay. Since you assumed this role, did you have any conversations with

1 folks below you or anyone touching this matter about how long it took for the whole
2 process to take with Mr. Allen to play out?
3 A Certainly, in a general sense. You know, like, when you're here 2 years, like
4 [redacted] was saying, that's troubling, right? We don't -- we want that to be faster. I'm not
5 sure -- I mean, more specific than that?
6 Q Just -- you assumed this role. You're getting briefed on where the situation
7 stands. At that point it had been --
8 A By and large, and if the error is mine, the error is mine. But by and large,
9 when I stepped into this role without the background in security processes, I presume, or
10 at least my starting point is that those processes are working as they're intended. And
11 so if, you know, something is taking a long time, there's generally, you know, a valid
12 reason for it.
13 Q For the line investigator with the allegations that they were reassigned, I
14 think you said an earlier response you may have heard during that initial briefing, or
15 something to that effect.
16 A Yeah. As we're talking about it, I feel like there was some mention of that,
17 yeah.
18 Q Do you recall, again, any other informal rumblings or complaints or just folks
19 who were in the office and had the opportunity to raise this concern? Do you recall
20 anything to that effect?
21 A I mean, if they did, it wasn't to a level that I took note of it. I don't have a
22 great answer for you on that. I'm sorry. I don't -- as I sit here today, I don't recall that.
23 Q And have you taken any steps to dig into it any deeper about the merits
24 behind that allegation?
25 A I have not. I mean, my understanding is that that's with the OIG or

1 somewhere else, and so, at that point I would not do that.

1 BY [redacted]

2 Q All right.

3 A Yeah.

4 Q We're going to move on to special agent Garret O'Boyle. I believe you're

5 familiar with special agent Garret O'Boyle's matter?

6 A I am.

7 Q Do you recall who supervised O'Boyle's clearance investigation?

8 A I'm sorry, if you mean, like, the line -- you know, the front-line investigator,

9 not off the top of my head. I mean, if you look at the EC, you'd be able to see what

10 supervisors approved the document.

11 Q Sure. Do you recall who may have been at the section level in charge of the

12 section during the majority of the time of that investigation?

13 A I mean, again, this is a presumption that it would have been Mr. [redacted] or

14 Ms. Perkins. I know at a certain point section chief Matt Nagle came on board. I don't

15 remember exactly the date he reported.

16 Q What was your role specifically in O'Boyle's clearance investigation?

17 A My role is the SPM, so I make the final decision in terms of the adjudication

18 recommendation or decision.

19 Q All right. So are you aware that Mr. O'Boyle began making protected

20 disclosures to Congress in November of 2021?

21 A I'm not, and, I mean, I think there's probably a discussion to be had about

22 whether or not it was a protected disclosure, but in general, with regard to your question,

23 other than what I read about, you know, the claims from his counsel, or whatever else, it

24 wouldn't be something I would be involved in or interested in.

25 Q Were you aware, maybe, perhaps rephrasing, but that he was making

1 disclosures to the Congress at the beginning --

2 A Certainly he was on television testifying, right, before I took over in this role.

3 Inasmuch as that, yes.

4 Q Okay. As far as the time frame of when Mr. O'Boyle's relationship began

5 with the committee, you would -- are you aware or unaware of when that relationship

6 began?

7 A I'm unaware. I believe there were some statements to the effect that he

8 had such a relationship, right, but I don't remember exactly when it began.

9 [redacted] For the record, in November of 2021, Mr. Dunham was the

10 assistant director of the Training Division.

11 [redacted] I understand. Asking only as a result of all the other

12 preparations and sort of the totality of the investigation and what may have come up in

13 that investigative summary, sure. Certainly understand at the timing there.

14 BY [redacted]

15 Q During his testimony before this committee, I think you may have seen parts

16 of that, Mr. O'Boyle detailed the abject cruelty with which the FBI treated him and his

17 young family. Are you aware that Mr. O'Boyle was suspended on his first day reporting

18 to a new duty station in Virginia?

19 A I have heard that, yes.

20 Q Mr. O'Boyle testified, "so I'm suspended on September 26th. At the time

21 the FBI essentially rendered me and my family homeless." What is your reaction to

22 that?

23 A What is my reaction to that? I have no reaction. I think as previous

24 testimony stated that this was not an intentional act. He was in the process of

25 transferring, you know. It's certainly unfortunate circumstances, but there was no

1 intent or animus.

2 Q So according to whistleblower disclosures, [redacted] and Ms. Perkins

3 transferred Mr. O'Boyle across the country with the intent to suspend and financially

4 devastate him. Did anyone ever raise concerns or did that story ever ruminate or

5 percolate up to you?

6 A I mean, not at the time. It was before my time as the EAD. I've heard that

7 allegation, I guess, in subsequent documentation. I mean, I would just offer that Mr.

8 Veltri and Ms. Perkins had no bearing on his ability to transfer. They don't issue orders.

9 They don't determine timelines. They don't do any of those things.

10 Q Those duties would fall under --

11 A It would fall under the Human Resources Division in terms of transferring.

12 Q Which is a different --

13 A It's a different division within the branch, but the way that was worded

14 made it sound at least like Mr. Veltri and Ms. Perkins were directing the timing of the

15 transfer, and they would not have had the authority to do that.

16 Q Thank you for that clarification.

17 A Sure.

18 Q According to -- and on that note, so being that your -- you've been intimately

19 familiar in various components certainly of the human resources branch by different

20 positions, according to whistleblower testimony, the FBI Kansas City's management had

21 pushed back and objected to Mr. Clark's plans, much to your point there, Mr. Dunham --

22 A Uh-huh.

23 Q -- because his transfer violated FBI policy against transferring employees

24 who are under investigation. Were you aware of that?

25 A I was not aware of that at the time. Again, I wasn't the EAD at the time

1 that this occurred.

2 Q What policy would that have violated if it violated a policy?

3 A I'm not sure. I'd have to do a search of our policy library.

4 Q Does the FBI normally -- is the FBI in the normal process of transferring

5 employees if there is an alleged or potential adverse personnel action that is in process

6 against that employee?

7 A Certainly, we have a name-check process, so if there's some kind of ongoing

8 disciplinary matter that may or may not impact a promotion and a transfer. I mean, in

9 this case, I can't specify to what anyone knew when and how that would have impacted

10 the issuance of the transfer orders.

11 Q The committee is aware that in the general sense, a promotion or a transfer

12 is generally held up if there is potentially an adverse personnel action. Is that true?

13 A I don't know if I would even say, typically. I mean, it's certainly possible.

14 Please don't misunderstand me. But again, you know, I try not to speculate, but

15 without -- if the transfer unit -- and some of this is dependent, too, on when Mr. O'Boyle

16 decided to execute his transfer, and things of that nature. If the individual working with

17 him on that was not aware of the adverse personnel action, right? I mean, it's --

18 Q Would matters of this sort likely been discussed at senior levels within the

19 Security Division or the Human Resources Division? It would seem that those would be

20 somewhat important and might thereby raise to that level of being discussed as far as

21 timing. The committee has had a hard time understanding how that could accidentally

22 happen or why that would be allowed to happen. That seems to be, perhaps, the

23 greatest concern is that what happened was a very tragic series of events that unfolded

24 for Mr. O'Boyle and his family, regardless of where the process went or didn't go, and it

25 seemed to be preventable. So why would the FBI knowingly have transferred him

1 knowing that the intent was to then basically put him on unpaid leave and remove him
2 from his position knowing that he would -- do you understand the spirit of that?
3 A I understand what you're getting at.
4 Q I understand it predates your time.
5 A Right.
6 Q But you have unique awareness because of where you sat on, certainly,
7 human resources policies. You've been in the meetings that mattered under Ms. Jen
8 Moore.
9 A I think my answer to that question, [redacted] would I reject the inference that it
10 was done intentionally. Now, could it have been done because, again, the transfer unit
11 was not aware of the pending -- the security issue? Where was that carried? What
12 happened when they did the name check? Like, there is -- it is possible there was a
13 process failure, and for that, you know, we would seek to remedy it, but I'm certainly
14 unaware of, nor would I believe that it was an intentional act to harm Mr. O'Boyle.
15 Q Okay. Still on Mr. O'Boyle, did you ever have any communications with
16 executive assistant director Moore as you were onboarding about the status of Mr.
17 O'Boyle's investigation?
18 A I'm sure I did. I don't remember specifics. As you might imagine, her
19 retirement was somewhat of an interesting event since she was doing a similar activity on
20 her last day in the FBI, and so, we did a few transfer conversations. It wouldn't surprise
21 me if we spoke about this in those conversations. But again, at the time this was the
22 business of the Security Division that I was coming in to take over.
23 Q Were you aware at a high level of some of the potential issues that you may
24 or may not be walking into based upon --
25 A I think that's fair, sure.

1 Q So in June of 2023, I believe it was, to your point, one of Ms. Moore's final
2 acts as an FBI employee when she was testifying, I think, for the second time. She
3 stated that the review process would be completed in a month. This is specific to Mr.
4 O'Boyle's investigation. That, again, was June of 2023. Do you know why she would
5 have thought that?
6 A She was probably being optimistic would be my guess. You know, you
7 would like to think that that would have been the case. Mr. O'Boyle's, you know,
8 investigation is another example of a timeline that we wish would have been sooner.
9 There are a few things that you can point to, right, in terms of OIG coordination at the
10 beginning. There is, as you all are well aware, about a four-month period where we
11 were trying to arrange an interview with Mr. O'Boyle that never ultimately happened.
12 Outside of those time periods, you know, we were conducting the investigation and
13 performing our adjudication duties.
14 Q Okay. So you may forgive me, I'm trying to jot that down, but I think you
15 synopsized some of the investigative activity. My follow-up question to that was what
16 investigative activity took place between June of '23 and July of '24 when ultimately
17 your -- the letter was issued under your pen? So we have OIG coordination --
18 A That was at the beginning, which was probably before my time, but --
19 Q As you stepped into the job, we're fairly late into this process, so perhaps
20 could you walk me again through sort of, to your knowledge, what happens
21 investigatively from June when you become EAD to the time the letter is issued. What
22 steps were occurring investigatively?
23 A I think, and I'm trying to remember, I mean, again, this is one case out of,
24 you know, any number of cases, right?
25 Q I can appreciate it, but I do have to believe this was one probably near the

1 top of your list of things that you were at least aware of.

2 A I mean, I was aware of it, but I was also aware we weren't rushing our

3 process. I'd have to go back and look exactly at the timeline. I believe that '23

4 timeline was the months that we were attempting to arrange the interview. I believe it

5 was the end of August that ultimately he decided not to be interviewed. And so at that

6 point, it went into the adjudicative stage, and we want to make sure that we made the

7 right decision.

8 [Dunham Exhibit No. 11

9 was marked for identification.]

10 BY [redacted]

11 Q Okay. Okay. Thank you. And we're going to enter in -- goodness, what

12 exhibit are we up to now? Exhibit 11 will be Mr. Dunham's letter dated July 16, 2024, to

13 Mr. Garret O'Boyle, so we'll go ahead and get that over to you and pass it out to

14 everybody. I don't suppose you need to take too much time reading that one.

15 A No.

16 Q All right. If I may, then, I'm just going to move along to the first question.

17 And so, of course, the letter you hold there, July 16, 2024, is the official revocation of Mr.

18 O'Boyle's security clearance. Is that correct?

19 A That's correct.

20 Q So the question that the committee had is why did it take the FBI from

21 September of 2022 until July of '24? Again, it's a timeline question. I know we've sort

22 of addressed that in the past, but in this case, we have to be completely open and honest

23 about the unfortunate events that befell Mr. O'Boyle. Process, we can -- the

24 investigation notwithstanding, merits of wherever we landed notwithstanding, as a

25 human being in the FBI family that I understand that ultimately the FBI does mean a lot

1 when you're in the FBI. Who -- I don't need to relitigate the details of the horrors that,
2 unfortunately, befell his family as a result of going through a punitive process.
3 So the question is, with all that happened and all of this in the balance, how did it
4 take 2 years? And why does it take the FBI 2 years when we're placing someone on
5 unpaid leave for that duration? Wouldn't there be an onus upon the agency perhaps to
6 move with a little bit more expediency in that situation? So I know that I threw a lot at
7 you, but why did it take 2 years?
8 A I would take exception with the description that it is a punitive process. It's
9 an administrative process.
10 Q But you do have to agree, Mr. Dunham, that unfortunately, to someone not
11 within the FBI even understanding as we discussed in the last hour with our colleagues,
12 that the stakes are high holding a clearance and we all understand those stakes, and
13 rightfully so.
14 That this is still very much a human element, and to the American public for whom
15 we all work, when they see that with a family, with a person with a 2-week old baby who
16 can't get his clothes for a month and then is sent a bill for $10,000 for the privilege of
17 whatever that was to get his things, the optics one would have to admit are not good.
18 It's not the FBI at its finest, I think would be a fair thing to say, or at least that
19 would be the American public's perception, and that is why I'm asking the question.
20 A I appreciate that. I'm not overly concerned about
21 the optics. I'm concerned about the process and how we undertook this. Again, I've
22 already said I'm not excited about the fact that the process from beginning to end took
23 that long. There is at least, you know, 4 months in which Mr. O'Boyle refused to come
24 in for an interview that was a part of that time. There was some time at the beginning.
25 And then clearly, we were adjudicating -- I mean, the other thing that I would go back to

1 is the limited resources that we have to perform these investigations and the number of
2 these investigations that we are performing, and the idea that we would, you know, move
3 Mr. O'Boyle to the top of the list for whatever reason means that there are other
4 employees whose adjudications we are not processing.
5 So it's all a -- a prioritization balancing act to try to come to the best resolution.
6 So again, as a person, I am certainly sorry that it took this long to do it. In terms of a
7 process, we needed to make sure that we got it right, and I believe that we did.
8 Q You answered my second question. It would have been very similar to the
9 first. The committee appreciates your personal and professional distinguishment there.
10 I think it is fair to say you can understand from the committee's perspective why they
11 would have some trepidation about believing that this may happen again, and these are
12 people we're dealing with, and I don't need to tell you that because I know you realize
13 that. I understand as a professional that your job is to follow the process and to remove
14 emotion from it and make sure it's done correctly.
15 A That's right.
16 Q But we also understand as leaders and citizens and human beings that there
17 is another component to that, so that is the last question that I have. I'm going to turn it
18 over to my colleagues. I'm sure they may have another one or two, and I thank you.
19 A Thanks, [redacted]

1 BY [redacted]

2 Q So I wanted to go back to the Trump questionnaire we talked about earlier.

3 A Okay.

4 Q So you had mentioned that potential reasons that both someone's support

5 for Donald Trump as well as opinions on actions and whether they got the COVID-19

6 vaccine or wore masks could be justified for, I believe, criteria A, and I believe E.

7 A I think I would probably phrase that a little differently if you don't mind,

8 right? I think the way that I would phrase it was that what I said was that whether or

9 not someone held allegiance to something other than the Constitution to be higher, or

10 whether or not somebody followed, you know, legal policy regulatory guidelines would

11 be why. So within the frame of your question, that's what I meant to convey.

12 Q Are you aware of any other circumstances where, at least from an outsider it

13 would appear that politically motivated questions have been asked in regard to

14 someone's security clearance that didn't directly involve a specific incident?

15 A We did our internal review of questions that were asked in various

16 questionnaires. They flagged the questions that were discovered, and that's all been

17 provided to the OIG, so I'm not in a position to go into, like, specifics, and then there's

18 always the question of what somebody would perceive as politically motivated versus

19 not, and so on and forth, right? But we have been cooperating with the OIG to try to

20 figure out what happened here and to make sure that it's addressed appropriately.

21 Q Have any specific policies been put in place to prevent certain types of

22 questions like these from being asked again?

23 A Well, again, I'd go back to, right, we're not -- we wouldn't put a policy in

24 place to ask a question that has a potentially legitimate basis, right? But I understand

25 the concern about these questions. Don't get me wrong. We have not put an official

1 policy in place to my knowledge. Certainly, what we have done is stopped the use of
2 these questionnaires, and we will continue to be performing quality control within the
3 division.
4 Q And were any actions taken with the contractor who did issue these
5 questions?
6 A My understanding is that contractor is no longer with the FBI. Left a few
7 months ago. I don't know, as I sit here today, what the circumstances of that were.
8 [redacted] Great. Thank you.
9 BY [redacted]
10 Q Have you had any conversations with that former contractor?
11 A I have not, no.
12 Q Do you know anyone who has?
13 A I am sure we have employees in the Security Division that -- I mean, I
14 shouldn't say I'm sure. I would presume, right, that were there at the same time. I
15 don't know whether, like, OIG has, or anything like that.
16 Q Let me ask a different question. Have you heard of anyone asking the
17 contract -- former contract employee why he had those questions?
18 A I have not personally heard that, no.
19 Q Do you know how many investigations this contract employee used those
20 questions for?
21 A I don't. I believe our -- I mean, off the top of my head, I believe our
22 inspection internal review has that. We'll be happy to get that for you.
23 Q Once these questions, you know, were made public, did anyone within the
24 Bureau come talk to you about concerns related to these questions?
25 A I mean, certainly I talked to the assistant director of the Security Division as

1 he was aware of them. I've had, you know, professional discussions with others
2 certainly in leadership about them. I don't recall anyone coming to me, you know, from
3 the working level, or something like that, if that's what you mean, but certainly we've had
4 conversations at the leadership level.
5 Q Have any folks within the Bureau formally or informally raised concerns
6 about political bias or politically motivated questions to you?
7 A I mean, other than through the various, right, reports and actions that
8 contain all of that type of information?
9 Q Sure. Separate from allegations --
10 A I don't remember anybody asking -- you know, coming to me about a
11 politically motivated question. I don't recall that, no.
12 Q Have you had any discussions internally at the Bureau about what sort of
13 chilling effect the public release of these questions have? What I'm trying to get at is --
14 A Yeah, sure.
15 Q Certainly, there's probably many folks within the Bureau who voted for
16 President Trump.
17 A Of course.
18 Q They see this. Has there been any discussions in the Bureau about how to
19 try to mitigate what sort of effect that may have on those folks within the Bureau to
20 withhold their policy views about whether they're welcome within the agency?
21 A I mean, other than the sense of making sure that this was done
22 appropriately and addressed appropriately, there's not been conversations, you know,
23 that I am aware of to discuss it, like, as a topic with the workforce, if that makes sense.
24 Q So building upon -- we obviously touched upon a few instances that played
25 out in the press --

1 A Sure.

2 Q -- that caught the attention of Congress.

3 A Sure.

4 Q There's the obvious example of Marcus Allen. There's this questionnaire.

5 There appear to be at least a couple data points for those who are concerned that there's

6 at least certain folks within the agency who, you know, opposed people of a certain

7 political viewpoint or political leaning. Have there been any discussions about how to

8 counteract that view?

9 A I mean, not that I can recall. I mean, aside from the individuals that you're

10 hearing from, I mean, I would tell you that I don't believe that's the general

11 understanding of our workforce. I'm not saying that there aren't certain aggrieved

12 individuals within our workforce, but I don't think it's like a commonly accepted, you

13 know, issue within the FBI that we are somehow targeting people of certain political

14 values or beliefs.

15 Q And no one within the Bureau has privately raised those concerns to you?

16 A I mean, I certainly don't recall it, no.

17 Q Just to circle back, we had discussed your interactions or familiarity with

18 Dena Perkins.

19 A Sure.

20 Q Prior to taking the role in June of 2023, can you remind us what was

21 the -- did you know Dena Perkins at that time?

22 A I probably heard her name, right? She was an assistant section chief or

23 acting section chief, so that's a certain level of responsibility and notoriety, maybe not in

24 the bad way, but within the organization, right? So I had heard the name, but I was in

25 the Training Division, which as you probably know, I was physically located down at

1 Quantico, so I -- my typical -- which was awesome, for the record, but my typical schedule
2 was to come up to headquarters maybe one day a week. My understanding is -- as little
3 as possible, right, [redacted] My understanding is that Ms. Perkins sits over at Patriots Plaza,
4 so even when I came to headquarters, I wouldn't have had the physical interaction with
5 her.
6 Q So since taking the role and you've had a chance to learn more about these
7 matters, and what have you heard or what's your understanding of how Ms. Perkins was
8 as a boss?
9 A I haven't had a, you know, a briefing, or anything like that. Certainly, I am
10 aware of the fact that there are the issues reflected in the complaints, right? I've heard
11 of those complaints. I've not really heard too much other than that. I think, by and
12 large, obviously, there are some folks that have issues with her. I think, by and large,
13 she's a respected executive within the Security Division. She's right now, if I remember,
14 actually working in our Human Resources Division.
15 Q And have you heard anything informally about folks either praising or
16 criticizing Ms. Perkins or her reputation as a boss?
17 A I mean, certainly I've heard people praising her. You know, other
18 than -- again, you know, it's like scuttlebutt almost. The information is so vague it's hard
19 for me to source it for you. I can't remember if it's from here or there. I'm sure there
20 are people that have the impression of her as a strong personality, right, so to speak, but
21 beyond that, I mean, no real detail. I mean, I just haven't had -- my approach, you
22 know, with the Security Division and Human Resources Division, even the Training
23 Division that I used to run, they're run by the assistant directors. My job is to make sure
24 we're all pulling in the same direction. So if they have internal, you know, management,
25 leadership, whatever deficiencies, I trust those subordinate leaders to handle those.

1 Q Same set of questions for Mr. Veltri.

2 A Uh-huh.

3 Q First, when you took the position, can you -- what was your familiarity? Did

4 you know?

5 A I'm familiar with the name. I did not know Mr. Veltri. Since that time,

6 you know, he's now serving as our special agent in charge of the Miami field office, so I've

7 interacted with him on a few occasions at different places.

8 Q Have you heard, again, anything formally or informally about how Mr. Veltri

9 is as a boss?

10 A Not as a boss. I mean, you know, the general reputation that I understand,

11 again, you know, of Jeff is he's probably similar to Dena. He's praised by certain folks.

12 I think he, again, has -- it's not a great characterization but a strong personality. Yeah, I

13 just haven't worked with him that much.

14 Q I guess either, again, formally or informally in private conversations with you,

15 you have these line investigators who, based off our understanding, disagreed pretty

16 strongly with the assessment for Marcus Allen.

17 A Yeah.

18 Q And, you know, I'm sure part of the process is trying to figure out exactly,

19 you know, how they got overruled. Seems like their perspective at least was vindicated

20 in the end.

21 A Uh-huh.

22 Q Their assessment. Has there been anyone who's added any context that

23 you found helpful in understanding why that initial assessment was not accepted

24 ultimately?

25 A Not context. I mean, I -- you know, without -- I mean, I think when you

1 look at that set of facts, if it's a difficult one to navigate from a security perspective,
2 certainly, as you know, no doubt must be resolved in favor of national security came into
3 play. I think when we readjudicated it, we simply saw some of the factors that were
4 considered the first time differently. And that's, you know, why we reinstated Mr.
5 Allen's clearance.
6 Q You mentioned that there were emails that you were sharing and news
7 articles. Do you know which news articles?
8 A I'm roughly familiar. I mean, I think there was a revolver news article.
9 There's a couple mentions specifically in the reinstatement EC, I believe. Like, a gateway
10 pundit, or something like that, so, I mean, in that sense that I read about them in the
11 documents, yeah, I'm familiar.
12 Q And have you had any conversations with the two line investigators that
13 performed the initial assessment?
14 A No. No. Not about this assessment. I -- no.
15 Q And is that -- again, just for understanding.
16 A Sure.
17 Q Is that typical? So there's a chance to appeal. There is a reassessment
18 going on. Is that typical for the process not to talk to the original line investigators?
19 A It is, I mean, in my experience. As we were talking about before, we have
20 hundreds of these that we do each year. Even just the adjudication, right, a standard
21 process would be the adjudicator, the supervisor, the unit chief, the assistant section
22 chief, the section chief, the deputy assistant director, the assistant director. So by the
23 time it gets to me, it's gone through seven or eight sets of eyes, three of which are senior
24 executive service members. In my experience, when I've had questions or needed an
25 understanding, I've gone straight to the assistant director of the Security Division. Could

1 I, you know, convene an adjudicative team meeting? I could. I haven't found it
2 necessary to do so.
3 Q Realizing, I think, that you took this position only in June of last year --
4 A Sure.
5 Q -- for Dena Perkins and folks that may say she has a strong personality, for
6 anyone above her in the chain, do you recall instances where they asked her to take a
7 second look at things or change her decision?
8 A I don't. I mean, for the simple reason that that -- I don't, I'm sorry. I was
9 going to say on this particular matter was before my time. I don't remember
10 anyone -- there have been times that I have called the assistant director of Security
11 Division with questions. Whether or not they're questions that had anything to do with
12 Ms. Perkins' review or judgment, I don't know at that point, because it's, you know, the
13 chain of command.
14 [redacted] We'll break here. Thank you.
15 [Recess.]
16 [redacted] At the top of the hour, I want to just note something for the record.
17 There were a number of references to whistleblowers telling the committee certain
18 things. To my knowledge, those were not transcribed interviews, or if they were, we
19 weren't -- the minority was not invited to participate. And whatever those disclosures
20 may have been were not provided to the minority, and so, I'm saying that for the record,
21 because they've not been subject to cross-examination, so they've not been tested and,
22 you know, we don't know the full extent of what was or was not told to the committee,
23 so making that note for the record.
24 BY [redacted]
25 Q I want to turn back to the discussion about Mr. Allen.

1 A Uh-huh.

2 Q In the very first hour, what was introduced as exhibit 4 was the January 10th,

3 2022, suspension letter. You have that in front of you?

4 A I do.

5 Q And it was the -- there was some discussion about adjudicated guideline A,

6 which is allegiance to the United States of the National Security Adjudicative Guidelines

7 for Determining Eligibility for Access to Classified Information or Eligibility to Hold a

8 Sensitive Position. That's what's noted in the January 10th letter.

9 But then, turning to your letter, the May 31st, 2024 letter, which is marked as

10 exhibit 6, it notes that the suspension was based on both guideline A and guideline E.

11 Do you see where it says that, or are you familiar with that?

12 A I'm familiar with it, yes.

13 Q And I think there was a lot of discussion around guideline A, but not around

14 guideline E. Can you briefly explain for the record your understanding of what guideline

15 E, which was personal conduct means and -- first what it means generally, and then what

16 it means with respect to Mr. Allen.

17 A Sure. I mean, my understanding of that is that it's, you know, in large part,

18 it's kind of any activity that would reflect positively or negatively upon your ability to hold

19 the national security clearance. One of the issues that we've talked about quite a bit

20 today is the ability to follow rules and regulations, and so on and so forth. So it's a much

21 broader guideline in terms of what applies.

22 Q And actually, I'll just read into the record. If you turn to exhibit 8, it's the C

23 guideline, C4. Exhibit 8, page 12. At the bottom of that it begins guideline E, personal

24 conduct. You see where it says that?

25 A Uh-huh.

1 Q And what it says under paragraph 15, the concern is, quote, "conduct
2 involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply
3 with rules and regulations can raise questions about an individual's reliability,
4 trustworthiness, and ability to protect classified or sensitive information." Did I read
5 that correctly?
6 A You did.
7 Q And then it goes on. Paragraph 16 is "conditions that could raise the
8 security concern and may be disqualifying." See where it says that?
9 A I do.
10 Q And some of the examples are the deliberate omission, concealment, or
11 falsification of relevant facts from any personnel security questionnaire or other issued
12 statement, deliberately providing false or misleading information or concealing or
13 omitting information concerning relevant facts to an employer, investigator, security
14 official, et cetera.
15 Then C is credible adverse information in several adjudicative issue areas that is
16 not sufficient for an adverse determination under any other single guideline, but which,
17 when considered as a whole, supports a whole-person assessment of questionable
18 judgment, untrustworthiness, and reliability, lack of candor, unwillingness to comply with
19 rules and regulations, or other characteristics indicating that the individual may not
20 properly safeguard classified or sensitive information. Did I read that correctly?
21 A You did.
22 Q Okay. And then D is kind of a catch-all. It's credible adverse information
23 that is not explicitly covered under any other guideline and may not be sufficient itself for
24 an adverse determination, but which combined with all available information supports a
25 whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack

1 of candor, unwillingness to comply with rules and regulations, or other characteristics
2 indicating that the individual may not properly safeguard classified or sensitive
3 information. And then it includes a list of examples, right?
4 A It does.
5 Q Okay. You said in just the prior hour that the facts around Mr. Allen's
6 situation, I think you referred to as a difficult set of facts.
7 A Sure.
8 Q Do you recall saying that? Can you explain what you meant by "difficult set
9 of facts"?
10 A Sure. I mean, using the two primary -- what I understand to be the two
11 primary kind of pillars, if you will, of the decision regarding Mr. Allen, you had the email
12 that he sent, the inferences or conclusions that could be drawn from that; and then the
13 other piece was the, depending on your description, the investigative deficiency and
14 failure to find certain investigative facts when conducting searches.
15 Q And taking those one by one, you referred to the email that he sent. What
16 was that in reference to?
17 A There was an email, I believe it was September 29th, I want to say '21, but
18 I'm not exactly sure about that. It was an email he sent to his squad, I believe his legal
19 advisor, his supervisor referring to some open-source articles, and essentially saying that
20 you've got to be careful with January 6th investigations, there's chances that
21 headquarters' elements were not being forthright I think was the phrase he used.
22 Q And why -- realizing that what ultimate determination was made here --
23 A Sure.
24 Q -- why would that have potentially been a concern to the Bureau?
25 A Well, I mean, potentially, again, in a whole-person concept, if you're reading

1 into those underlying articles or whatever else, are you finding, you know, an undue
2 sympathy with individuals who have committed criminal conduct.
3 Q And then, sorry, you said there was a second element there.
4 A Uh-huh.
5 Q I didn't write it down, so could you restate it.
6 A Right. There was an allegation or statement made that at least on one
7 occasion, I believe that ultimately became two, that Mr. Allen had been charged with
8 conducting certain investigative activity, mostly database searches related to a guardian
9 related to January 6th, that he had performed that search, failed to find any relevant
10 information, so that resulted in a case not being opened. When that search was
11 performed by someone else at a later date, relevant information was found that resulted
12 in an investigation.
13 Q And I think in the first hour you referred to Mr. Allen as having insufficient --
14 A Investigative deficiency. That would be a broad term I would use to
15 describe the lack of results in his database searches.
16 Q Right. And so essentially there was concern that he was potentially not
17 doing his job well. Is that fair to say?
18 A Yes.
19 Q And looking at guideline E, which I just read it, refers to the whole-person
20 assessment.
21 A It does.
22 Q Can you explain what that means -- well, can you explain what that means?
23 A Yeah. The whole-person assessment? It just means that it's our
24 responsibility, because this is a significant decision, but obviously protecting national
25 security, we have to take every element into account, right? You can't just necessarily

1 make your decision on one factor or in other words, one factor which may by itself be
2 insufficient to be positive or negative when taken in conjunction with other factors can
3 combine into your ultimate decision.
4 Q Is it fair to say that it can be the whole-person assessment -- so, sorry. Let
5 me strike that.
6 A Sure.
7 Q There's situations, for example, where an individual is charged with a DUI,
8 and that might be a more open-and-shut case about whether an individual should hold a
9 security clearance or should be disciplined in this way, right?
10 A Sure.
11 Q When you're evaluating an individual under a whole-person assessment, is
12 that a more complicated evaluation?
13 A Yeah, I would say so, just for the reason, right, that we just discussed, which
14 is something that on its face may not rise to the level as a predicate for an actual decision
15 and combined with other things, each of which may not be enough individually, can at
16 the end of the day result in being sufficient to make a decision.
17 Q And is it fair to say that when the FBI is making that whole-person
18 assessment, whoever is making that determination draws information generally from a
19 variety of sources?
20 A Sure, yeah.
21 Q And that can be a more deliberative process? In other words, it can take
22 longer?
23 A Yeah, absolutely.
24 Q Okay. You've said a couple times you've referred to the national security
25 concerns taking precedence --

1 A Uh-huh.

2 Q -- and determinations. I want to -- well, what's your understanding of both

3 what that means and why that was the case? We can break that down. What's your

4 understanding of what that means, first?

5 A Sure. The basic guideline is any doubt must be resolved in favor of national

6 security, right? And so that's the highest goal here. So if you're in a zone where you're

7 not -- it's not conclusive one way or the other, you have to protect the national security

8 first and foremost.

9 Q And what's your understanding of why that's the case?

10 A Because we're all charged with protecting that information because of the

11 damage that can be caused if not protected properly.

12 Q So there was some discussion in the earlier hour about, you know, whether

13 you felt bad for people on an individual level when there was a suspension, and then

14 there was a resolution. Is it fair to say that during that time of suspension, the primary

15 concern for the agency is protecting national security interests?

16 A Yeah. I mean, that's the point I was trying to make, right? Was that on a

17 personal level you feel for people anytime they're going through those things, but as a

18 process, that is our highest duty is to make sure we do this correctly.

19 Q Okay. And to protect national security interests?

20 A That's right.

21 Q Okay. I'm going to introduce for the record, and I don't know that I'll have

22 any questions on it, but it's executive order 12968 signed August 2nd, 1995. Are you

23 familiar with this executive order?

24 A I am.

25 [Dunham Exhibit No. 12

1 was marked for identification.]

2 BY [redacted]

3 Q And this is exhibit 12. This executive order governs access to classified

4 information, correct?

5 A That's right.

6 Q Okay. And on page -- this is printed in the Federal Register, so I don't

7 actually know what page it is on the official executive order, but on the Federal Register

8 page for 40250.

9 A Okay.

10 Q The first full paragraph at the top of that page is labeled subparagraph B. I

11 just want to see -- I want to look at the last couple of sentences there.

12 A Sure.

13 Q It reads a determination of eligibility for access to such information is a

14 discretionary security decision based on judgments by appropriately trained adjudicated

15 personnel. Did I read that correctly?

16 A You did.

17 Q And discretionary means it's up to the -- it's up to the decision of the trained

18 individuals, correct?

19 A That's right.

20 Q And then the next sentence reads, "eligibility shall be granted only where

21 facts and circumstances indicate access to classified information is clearly consistent with

22 the national security interests of the United States and any doubt shall be resolved in

23 favor of the national security." Did I read that correctly?

24 A You did.

25 Q Okay. So when you're saying that any doubt is resolved in favor of national

1 security, that's not just an FBI policy, correct?

2 A No. That's right.

3 Q That's actually set by executive order, correct?

4 A That's correct.

5 Q And that was signed by the President -- would have been President Clinton in

6 1995, correct?

7 A That's right.

8 Q So that's been in place for almost 30 years.

9 A That's right.

10 Q Okay. I want to move on to Garret O'Boyle. I think you addressed this in

11 the prior hour, but just to have this clean on the record, there was a quote that was read

12 that alleged that Mr. O'Boyle was treated with, quote, unquote, "abject cruelty by the

13 FBI."

14 A Yeah.

15 Q Do you recall that coming up in the prior hour?

16 A I do.

17 Q Do you agree with that assertion?

18 A I do not.

19 Q And why do you not agree with that?

20 A As we were just talking about, our highest purpose is to ensure the

21 protection of the national security. We believe that we did that in this case. There

22 was certainly no intentional- or animus-driven purpose to try to make things harder for

23 Mr. O'Boyle. Again, personally, I'm very sorry for his circumstances, but we executed

24 our process properly, and so that's the final outcome.

25 Q There was some discussion about the time -- the timing in which his transfer

1 was executed from Kansas City to Virginia. You'd been transferred a number of times in
2 your career, correct?
3 A I have.
4 Q In your experience, do FBI employees have a window of time in which they
5 can choose to execute that transfer?
6 A Generally speaking, yes, that's right.
7 Q And so in other words, they might have a month and FBI employees are able
8 to move anytime within that month, correct?
9 A Sure.
10 Q Do you know if that --
11 A Depending on what the time frame is. Typically, I don't know the specifics
12 here, you know, the kind of rule of thumb in my head is typically you're expected to
13 report within 90 days of receiving your orders to your new station.
14 Q Okay. So typically, and again, putting this situation aside, typically, FBI
15 employees have 90 days in which they can just -- they can choose when to make that
16 actual physical move.
17 A Roughly, that's my recollection. I mean, certainly, we can make
18 adjustments based on, you know, other factors, but that's what I recall as being the
19 general guideline.

1 [1:23 p.m.]

2 BY [redacted]

3 Q To your knowledge, was Mr. O'Boyle permitted to pick the time in which he

4 would make the move from one duty station to another?

5 A I don't know specifically, but I would presume within whatever the window

6 was that he was given that he was allowed to determine exactly what date it would be.

7 Q Okay. There was some discussion about the process and why the process

8 took so long for Mr. O'Boyle. You referenced him -- he declined -- or a 4-month period

9 in which he failed to appear for an interview.

10 A Right.

11 Q Can you describe what you meant by that?

12 A My understanding of that is in early May -- and you'll have to forgive me, the

13 year is escaping me right now, but I believe it was 2023 -- we reached out to him to try to

14 have a security interview to address some of the concerns.

15 There was, over a fairly long period of time, a significant amount of what I would

16 call back-and-forth. We would offer dates. He would have, I think, in one case it was a

17 family obligation or whatever else, and so we would try to reschedule.

18 Ultimately, I believe at one point he had agreed to a date near the end of August

19 or perhaps in early September but then asked for his counsel to speak to someone from

20 our Office of General Counsel.

21 After that conversation he sent us an email saying that on advice of his counsel he

22 was not going to be sitting for an interview.

23 Q And so that caused at least a 4-month delay in the process?

24 A Sure, yeah.

25 Q Are you aware of whether Mr. O'Boyle also went through the Merit Systems

1 Protection Board?

2 A I believe I've heard that he did, but I don't have much in the way of specifics

3 on that.

4 Q The Merit Systems Protection Board is not part of the FBI, correct?

5 A Correct.

6 Q What's your understanding of what the Merit Systems Protection Board is?

7 A I don't have a deep working knowledge of the Merit Systems

8 Protection Board, but my understanding is it's a body that provides certain employment

9 protections for our veterans.

10 Q And if an individual like Mr. O'Boyle were to go to the Merit Systems

11 Protection Board, that would effectively put a pause on FBI's ability to adjudicate the

12 matter, correct?

13 A I don't know the answer as I sit here right today. It's certainly possible.

14 Q It's another step in the process at least, right?

15 A Again, I am sorry. I haven't had that much experience, interaction with the

16 MSPB to date, so I don't know -- I'm not -- I can't be conclusive on that. But I appreciate

17 the point.

18 Q I want to get to the actual substance of the allegations involving Mr. O'Boyle,

19 and I understand that some of these predated you.

20 A Sure.

21 Q But to the best of your understanding.

22 What's your understanding of the nature of the allegations against Mr. O'Boyle?

23 A Broadly speaking, the nature of the allegations is that he mishandled

24 sensitive information, inappropriately accessed sensitive information, was perhaps less

25 than forthright during certain interview opportunities. And there is the issue around the

1 potential transmission to Mr. Seraphin.

2 Q And let's take that piece by piece.

3 When you said he inappropriately accessed information, what information did he

4 inappropriately access?

5 A I mean, over a period of time it was a wide range of information for which he

6 had no apparent need to know, which is one of the reasons why we would like to

7 interview him, to be able to ascertain what that may be.

8 It involved -- I think the most notable piece is the Project Veritas piece. He

9 accessed a sensitive investigation, numerous files on it, so forth.

10 There were some other Guardians that he accessed. There were some classified

11 documents that he accessed dealing with various topics for which he had no apparent

12 job-related need to know.

13 Q Okay. In our prior hour, my colleague talked through the various

14 information technology forms that individuals signed, verifying that they will not

15 improperly access information.

16 A That's right.

17 Q Would Mr. O'Boyle have signed one of those forms?

18 A I presume so, yes.

19 Q And he would've received training on accessing or not accessing information,

20 correct?

21 A That's correct.

22 Q You referenced the disclosure to Mr. Seraphin. Who is -- that's a reference

23 to Kyle Seraphin, correct?

24 A Yes, ma'am.

25 Q Who is Kyle Seraphin?

1 A Kyle Seraphin is a former FBI agent who has since left the organization and
2 now is something of a media profile pundit, I guess would be the description.
3 Q Have you had any interactions with Mr. Seraphin?
4 A So when I was at the Washington Field Office, assigned as the special agent
5 in charge for the Counterintelligence Division, Mr. Seraphin at that time was assigned to
6 one of the squads, to the best of my recollection.
7 Q And do you recall having any personal engagement with him?
8 A Limited. At the time that I reported, he was seeking a transfer out of the
9 Counterintelligence Division, which was ultimately granted, as I recall.
10 Q Were there any concerns about Mr. Seraphin's performance?
11 A I don't think there were any, and this is going back a ways, and obviously in
12 today's date, that seems much like a much bigger deal. At the time, it was interacting
13 with an agent on a squad of which I had many.
14 So I don't remember him being described as a high performer by any stretch, but I
15 don't remember like formal performance-related issues going on.
16 Q And Mr. Seraphin, you said, is no longer with the FBI, correct?
17 A That's correct.
18 Q And is it correct that Mr. O'Boyle produced information he had obtained
19 from FBI systems to Mr. Seraphin?
20 A I believe that to be the case.
21 Q And in fact that factored into the decision regarding Mr. O'Boyle, correct, the
22 Security Division's decision regarding Mr. O'Boyle?
23 A Yeah. I need to be very precise on this particular point, right?
24 At the time of the decision, the disclosure to Mr. Seraphin directly was not a
25 known fact. It could certainly be surmised by the totality of the facts revealed in the

1 investigation.

2 My understanding is, since that time, I think, through counsel, Mr. O'Boyle has

3 acknowledged providing that information to Mr. Seraphin in some form.

4 [Reporter clarification.]

5 A Yeah, in some form. I can't remember if it was -- how exactly it was done.

6 But I believe he has acknowledged that he transferred that information.

7 Q Mr. O'Boyle has alleged that he was suspended for making protected

8 disclosures to Congress. Are you familiar with that claim?

9 A I'm familiar with the claim, yes.

10 Q What's your response to that allegation?

11 A I mean, that's completely inaccurate. That's my response.

12 Q And can you explain why it's completely inaccurate?

13 A Sure. I mean, there's -- I mean, we've already kind of gone through all of

14 the different things, right, like multiple times over a period of time -- accessing

15 information for which he had no need to access, downloading, copying, snipping,

16 improperly packaging.

17 I mean, there is a relative list of issues with Mr. O'Boyle's handling of sensitive, at

18 times classified, information. None of that relates to whatever protected disclosure he

19 may have made. So they're unrelated.

20 Q And you said he did potentially mishandle classified information?

21 A That's my understanding as well.

22 Q Is it against the law to mishandle classified information?

23 A I believe so, yes, it is.

24 Q If somebody -- if an FBI employee is accused of violating the law -- again,

25 getting back to the timeline of the adjudication --

1 A Yeah.

2 Q -- of Mr. O'Boyle, if an FBI employee is accused of potentially violating the

3 law, or if there's suspicion that an FBI employee violated the law, would there be an

4 additional investigation that FBI might conduct outside of the Security Division?

5 A Potentially, certainly.

6 Q And where would that investigation be conducted?

7 A I think what you're getting at is, would there be a criminal investigation?

8 And the answer is potentially, right?

9 I mean, to be clear, when -- and this is why I was before -- like there are times at

10 which we have unintentional mishandling of classified information, that when you look at

11 the event it's clear that there was no intent to harm national security. The employee

12 made a mistake, right? We have an administrative approach to handle that.

13 So I wouldn't want to say any and every such instance results in a criminal

14 investigation, but that is certainly a potential depending on the severity of the

15 mishandling.

16 Q And if you're able to say in this setting, was Mr. O'Boyle subject to a criminal

17 investigation?

18 A I mean, my understanding is yes. I certainly know -- I think it's public -- that

19 he was the subject of a criminal referral from Congress to the Department of Justice.

20 Q Couple of wrap-up questions on Mr. O'Boyle.

21 We talked briefly about the allegations that FBI intentionally, quote/unquote,

22 slow-walked the resolution of Mr. O'Boyle's case in order to cause him additional

23 hardship. What's your response to that allegation?

24 A I think my response is the same as it was earlier, right? Again, I mean, I

25 understand, but on a personal level I'm very sorry for Mr. O'Boyle. The circumstances

1 do not sound ideal in any way, shape, or form.

2 In a professional level, again, our obligation is to protect the national security

3 through the processes that have been established, and that's what we did here.

4 We all wish it would've been less time, we all wish that there wouldn't have been

5 the unfortunate incident with his transfer. But those are the realities of our proper

6 execution of the process.

7 Q You said that Mr. O'Boyle declined to cooperate with FBI's internal

8 investigation and that he didn't -- he refused to show up for an interview, correct?

9 A Yeah. Now, he had -- just to be very clear, like previously he had sat for an

10 interview that was not related to a security investigation. But in the instance of us

11 asking him to participate in a security-related interview, yes, he did decline.

12 Q And that obviously delayed the resolution of his case, correct?

13 A Yes.

14 Q Was the suspension or the revocation of Mr. O'Boyle's security clearance

15 motivated by animus, to the best of your knowledge?

16 A No.

17 Q And with respect to Ms. Perkins specifically, do you have any information or

18 do you have any knowledge of Ms. Perkins making any decisions regarding Mr. O'Boyle

19 based on animus against him?

20 A No.

21 Q And same question for Mr. Veltri. Do you have any knowledge of Mr. Veltri

22 making any decisions regarding Mr. O'Boyle based on animus?

23 A No. Certainly I'm aware of allegations --

24 Q Right.

25 A -- that such things occurred, but I am not aware of personal -- I don't have

1 any personal knowledge that that is accurate.

2 Q And to the best of your knowledge, was the decision to suspend

3 Mr. O'Boyle's security clearance done to punish him for his political or ideological beliefs?

4 A No. We're not aware of his political or ideological beliefs when we're

5 conducting -- like that's not something we ask or inquire about, given the questionnaire

6 issues before. But in this case, that wouldn't have been a motivating factor.

7 Q And that's also true for the decision to revoke Mr. O'Boyle's clearance,

8 correct?

9 A That's right.

10 Q There have been a couple of names that have come up repeatedly today,

11 and I just want to ask some questions about those.

12 The first one is Jennifer Moore. You indicated former Executive Assistant

13 Director Moore was your supervisor for a period of time, correct?

14 A That's right.

15 Q Do you have any reason to believe that Ms. Moore made decisions,

16 particularly regarding -- in her position as EAD but throughout her career -- based on her

17 political -- based on political bias or any type of animus?

18 A No.

19 Q What's your opinion of Ms. Moore's character?

20 A The highest opinion of Ms. Moore's character. She's been a colleague and

21 friend for a number of years.

22 Q I realize this is a subjective question. In your opinion, was Ms. Moore good

23 at her job, meaning as EAD?

24 A Yes.

25 Q With respect to Ms. Perkins, I just asked you specifically about Mr. O'Boyle,

1 but are you aware of Ms. Perkins making decisions based on political animus or -- yeah,
2 political animus?
3 A Yeah, again, not aware. Aware of allegations that such occurred, generally
4 speaking, but not aware of it actually happening, no.
5 Q And those allegations that you referenced, that's like the Washington Times
6 article that we --
7 A Yes.
8 Q -- discussed today, those, it's not allegations that individuals brought to you,
9 correct?
10 A Not brought to me, no.
11 Q Okay. You said that you've heard people praising Ms. Perkins. And for
12 the record, yes or no?
13 A Yes.
14 Q Okay. And when you said you've heard people praising her, can you
15 describe what have -- who are the people that have praised her, what type of -- what's
16 been said about her?
17 A I mean, most of who said was Mr. Veltri, who I've had a conversation with,
18 who was very -- strong praise for Ms. Perkins. Other than that, certainly I've talked to
19 the assistant director, I'm not sure if it's come up with the deputy assistant director or
20 not, but a general sense of her professionalism.
21 Q And same set of questions for Mr. Veltri.
22 Do you have any reason to believe that Mr. Veltri has made decisions based on
23 animus or based on trying to punish people based on their political beliefs?
24 A No.
25 Q Okay. And you also said that you've heard people praising Mr. Veltri?

1 A Yes. I mean, I know EAD Moore thought highly of him. I can't think of
2 anybody off the top of my head like other than that, but, I mean, he's generally thought
3 of as a competent executive, yes.
4 Q Do you have any concerns to be -- sorry -- do you have any reason to be
5 concerned with the workplace performance of Ms. Perkins?
6 A I do not.
7 Q Okay. And do you have any reason to be concerned with the workplace
8 performance of Mr. Veltri?
9 A I do not. I mean, Mr. Veltri has never worked for me, but in a general
10 sense, I do not.
11 Q Another name to put out there.
12 Are you familiar with an individual named Tim [redacted]
13 A I am.
14 Q How are you familiar with Mr. [redacted]
15 A Mr. [redacted] was a supervisory special agent in the Security Division when I
16 reported. He's since had his security clearance suspended. I believe earlier in the
17 year, April time frame, he left the FBI.
18 Q What's your understanding of why Mr. [redacted] had his security clearance
19 suspended?
20 A My understanding at the time was there was -- I'm sure that folks here are
21 familiar with Mr. Friend, Stephen Friend. There was a display on Mr. Friend's website
22 involving a screenshot of an FBI computer system on which he was apparently deriding
23 our wellness program.
24 The screenshot was such that it would've come from inside of the FBI, so we were
25 trying to determine how that might've occurred.

1 It's been a while since I've looked at this, but over time there was an observation
2 made that the computer screen that was on Mr. Friend's website was very similar in
3 nature to [redacted] computer screen.
4 I know that sounds interesting at first, but the way it was described to me is that
5 there were flecks or specks or something on the screen like a soda can opening that had
6 left something that you could match up the two screens.
7 And so there was a belief that Mr. [redacted] had provided the screenshot to
8 Mr. Friend. So we interviewed Mr. [redacted] and issued a polygraph to Mr. [redacted] on this
9 under the -- intending to determine was there additional material, did he send this image
10 to Mr. Friend, was there additional material, were there anything else that we should
11 know.
12 During the interview, I don't remember exactly what he said. It was things to the
13 effect, oh, well, I might've sent a picture to a friend, I might've done this, I might've done
14 that.
15 I don't believe he ever -- I don't believe he ever admitted to sending the material
16 to Mr. Friend. And then on the polygraph -- and I don't know what the specific
17 questions of the polygraph were -- but he failed the polygraph test.
18 So at that point, we issued him a suspension letter so that we could investigate
19 and fully determine was there additional information leakage. But then he left the
20 Bureau in April.
21 Q So to break this down, the concerns were both that he may have provided
22 essentially, I guess, a photo of his computer --
23 A A screenshot, yeah.
24 Q A screenshot.
25 A You know, actually, a photo -- yes, it would be a photograph of his screen.

1 Q A photograph of his screen. And the concern was that there might have
2 been additional information provided or leaked, correct?
3 A Yeah.
4 Q And the concern also then would've been that he might not have been
5 truthful in his interview. Is that correct?
6 A That's correct.
7 Q And it was on the basis of that, the totality of those circumstances, that he
8 was suspended, correct?
9 A That's right.
10 Q And you said he left the Bureau in April?
11 A Yeah. I know he's left the Bureau. My understanding, he's resigned. I
12 believe it was April time frame.
13 Q And if he's resigned, then that means that the investigation is no longer
14 ongoing, correct?
15 A That's right.
16 Q Okay.
17 A Or shouldn't be. Maybe I shouldn't -- I mean, yeah, that's a whole different
18 area. But, yes.
19 [redacted] Okay. Thank you. We can go off the record.
20 [Whereupon, at 1:42 p.m., the interview was concluded.]

1 Certificate of Deponent/Interviewee

2

3

4 I have read the foregoing ____ pages, which contain the correct transcript of the

5 answers made by me to the questions therein recorded.

6

7

8

9 _____

10 Witness Name

11

12

13 _____

14 Date

15

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: DENA PERKINS

Friday, September 20, 2024

Washington, D.C.

The interview in the above matter was held in room 2237 Rayburn House Office Building, commencing at 10:00 a.m.

1 Appearances:

2

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted] SENIOR ADVISOR

8 [redacted] SENIOR ADVISOR

9 [redacted] CHIEF COUNSEL FOR OVERSIGHT

10 [redacted] PROFESSIONAL STAFF MEMBER

11 [redacted] DEPUTY CHIEF COUNSEL FOR OVERSIGHT

12 [redacted] MINORITY CHIEF OVERSIGHT COUNSEL

13 [redacted] MINORITY LEGAL INTERN

14 [redacted] MINORITY PROFESSIONAL STAFF MEMBER

15

16 For the FEDERAL BUREAU OF INVESTIGATION:

17

18 [redacted] ASSISTANT GENERAL COUNSEL,

19 OFFICE OF GENERAL COUNSEL

20 [redacted] ASSISTANT GENERAL COUNSEL,

21 OFFICE OF THE GENERAL COUNSEL

1 [redacted] Good morning. This is a transcribed interview of Assistant Section
2 Chief Dena Perkins. Chairman Jordan has requested this interview as part of the
3 committee's oversight of the Federal Bureau of Investigation's misuse of the security
4 clearance suspension and revocation process.
5 Would the witness please state your name for the record.
6 Ms. Perkins. Dena Perkins.
7 [redacted] Could agency counsel please state your name for the record.
8 [redacted] Greer from the FBI's Office of General Counsel.
9 [redacted] from the FBI's Office of the General Counsel.
10 [redacted] On behalf of the committee, I want to thank you for appearing here
11 today to answer our questions. The chairman also appreciates your willingness to
12 appear voluntarily.
13 My name is [redacted] and I'm with Chairman Jordan's staff.
14 I'll now have everyone else from the committee who is here in the room introduce
15 themselves as well.
16 [redacted] Mr. Jordan's staff.
17 [redacted] Chairman Jordan.
18 [redacted] Ranking Member Nadler's staff.
19 [redacted] Ranking Member Nadler's staff.
20 [redacted] Ranking Member Nadler's staff.
21 [redacted] Chairman Jordan's staff.
22 [redacted] Chairman Jordan's staff.
23 [redacted] Thank you, everyone.
24 This transcribed interview was originally scheduled for September 13th.
25 However, on September 11th, only 2 days before your scheduled interview, the FBI

1 demanded that the committee deviate from its longstanding transcribed interview
2 protocol and grant you special treatment.
3 The Constitution affords the House the authority to determine its own rules and
4 procedures. Consistent with this authority, House committees have developed, over
5 both Democrat and Republican majorities, protocols for conducting voluntary transcribed
6 interviews.
7 These protocols include that a witness for a transcribed interview has the choice
8 of being represented by either agency counsel or personal counsel at a transcribed
9 interview, but not both.
10 When it scheduled your September 13th transcribed interview, the FBI had full
11 knowledge of the committee's longstanding protocol for conducting transcribed
12 interviews.
13 According to a letter we received from your personal counsel, it is our
14 understanding that the FBI, not you, are insisting that agency counsel be present for your
15 interview, and you were willing on September 13 as well as today to appear with just your
16 personal counsel present in the room.
17 Further, the FBI has attempted to interfere in our investigation by refusing to
18 authorize your testimony before the committee unless FBI counsel is present for your
19 interview.
20 You should know that, by law, neither the FBI nor the Justice Department can
21 prevent their employees from providing information to Congress.
22 As an extraordinary accommodation to you and the FBI, we have arranged for
23 your personal counsel to be directly outside of the room today and will permit you to ask
24 for a break at any point during the interview and leave the room when you believe you
25 need to consult with your personal counsel.

I'd like to now go over the ground rules and guidelines that we will follow during today's interview.

Our questioning will proceed in rounds. The majority will ask questions first for 1 hour, and then the minority will have an opportunity to ask questions for an equal period of time if they choose. We will alternate back and forth until there are no more questions, and the interview is over.

Typically, we take a short break at the end of each hour, but if you would like to take apart from that, including when you need to consult with your personal counsel, please just let us know and we will take a break.

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

Do you understand this?

Ms. Perkins. I do.

[redacted] So the court reporter can take down a clear record, we will do our best to limit the number of people directing questions at you during any given hour to just those people on the staff whose turn it is.

Please try and speak clearly so the court reporter can understand and so the folks down at the end of the table can hear you. It is important that we don't talk over one another or interrupt each other if we can help it, and that goes for everybody present at today's interview.

We want you to answer our questions in the most complete and truthful manner as possible, so we will take our time. If you have any questions or if you do not understand one of our questions, please let us know.

Our questions will cover a wide range of topics, so if you need clarification at any point, just say so. If you honestly don't know the answer to a question or do not

1 remember, it is best not to guess. Please give us your best recollection, and it is okay to
2 tell us if you learned information from someone else. Just indicate how you came to
3 know the information.
4 If there are things you don't know or can't remember, just say so and please
5 inform us who, to the best of your knowledge, might be able to provide a more complete
6 answer to that question.
7 You should also understand that, by law, you are required to answer questions
8 from Congress truthfully.
9 Do you understand that?
10 Ms. Perkins. I do.
11 [redacted] This also applies to questions posed by congressional staff in an
12 interview.
13 Do you understand this?
14 Ms. Perkins. I do.
15 [redacted] Witnesses that knowingly provide false testimony could be subject
16 to criminal prosecution for making false statements under, 18 U.S.C., section 1001.
17 Do you understand this?
18 Ms. Perkins. I do.
19 [redacted] Is there any reason you are unable to provide truthful answers to
20 today's questions?
21 Ms. Perkins. No.
22 [redacted] Finally, I'd like to make note that the content of what we discuss
23 here today is confidential. We ask that you not speak about what we discuss in this
24 interview to any outside individuals to preserve the integrity of our investigation.
25 For that same reason, the marked exhibits that we will use today will remain with

1 the court reporter so that they can go in the official transcript, and any copies of those
2 exhibits will be returned to us when we wrap up.
3 That's the end of my preamble. Is there anything my colleagues from the
4 minority would like to add?
5 [redacted] Yes. We thank the witness for appearing voluntarily today.
6 I do want to note for the record that it's not our understanding that it is
7 longstanding precedent that the -- to make witnesses choose between agency counsel
8 and personal counsel. I think that might be a precedent on the Oversight Committee,
9 but that was not the precedent under our prior Democratic chair. So I want to make
10 that note for the record.
11 I also want to note that the witness is here voluntarily. It's only 1 week after the
12 original date, so it was -- I don't think that posed any burden on the committee.
13 And, finally, I just want to note that the Democratic Members continue to have
14 concerns about -- I think there's been 150ish depositions and transcribed interviews to
15 date. The vast majority of those transcripts have not been made public. They have
16 not been made official. It's been over a year in several cases. So our Members
17 continue to have concerns about that.
18 I also want to note that the transcripts that have been made official don't actually
19 seem to have the exhibits attached, and so just noting that for the record, that we have
20 concerns with the procedure on that point. Thanks.
21 [redacted] [redacted] anything?
22 [redacted] Yes, thank you.
23 First, counsel referred several times to positions and decisions by the FBI. Just so
24 the record is clear, the FBI is a component of the Department of Justice and, thus, are
25 bound, as are employees, by Department policies and guidelines.

1 As part of the FBI's accommodations to this committee's request for dozens of
2 transcribed interviews in this Congress and following multiple transcribed interviews by
3 the FBI senior executives responsible for security clearance determinations, the FBI
4 authorized the testimony of today's witness. This is, in itself, extraordinary as she is not
5 a member of the Senior Executive Service.
6 In light of this committee's public allegations against this witness, which have been
7 amplified online, she retained personal counsel. Because the committee will not allow
8 both agency counsel and personal counsel in the room for this interview, she has elected
9 to proceed voluntarily with agency counsel, with the understanding, as you stated, that
10 she will be able to pause and consult with her personal counsel whenever she would like
11 to do so.
12 Her personal counsel has asked us to request that his letter, dated September
13 19th, which you referenced, be included for the record.
14 The FBI continues to object to the committee's insistence that government
15 servants, such as today's witness, be forced to choose between appearing with agency
16 counsel or personal counsel.
17 However, none of this should reflect on this witness, who has served the FBI and
18 the United States more broadly for her entire career, nor should it reflect on her
19 willingness to appear before this committee to answer your questions.
20 Finally, given her non-SES role and especially in light of the vitriol that has been
21 dedicated to her online, we specifically request that the committee not publicly release
22 the transcript.
23 In the event that the committee does determine to release it nonetheless, the FBI
24 requests that all mentions of the witness' name and identifying information be redacted.
25 Thank you.

1 [redacted] Thank you, [redacted]

2 I will mark as exhibit No. 1 a letter that the chairman received, dated September

3 19, 2024, from Ms. Perkins' personal counsel, John Wood with Holland & Knight. I'll just

4 note for the record as well that, in the first paragraph, it states, "Ms. Perkins is not

5 insisting that agency counsel be present. Rather, this is a requirement of her employer."

6 [Perkins Exhibit No. 1

7 was marked for identification.]

8 [redacted] The clock now reads 10:09 a.m. We'll start with the majority's first

9 hour of questioning.

10 EXAMINATION

11 BY [redacted]

12 Q Ms. Perkins, can you tell us when you joined the FBI?

13 A March 2nd, 1997.

14 Q And what's your current role?

15 A I'm the assistant section chief of the FBI Security Division, Security Integrity

16 Investigation Section, also known as the SIIS.

17 Q Thank you. And can you give us a brief overview of the different positions

18 that you've held at the FBI during your long tenure there?

19 A I've been a special agent for the entirety of my career. I started as a special

20 agent working case investigations at the Washington Field Office in 1997. I've worked

21 violent crimes, white-collar crimes, labor racketeering,

22 counterintelligence/counterterrorism investigations before I was promoted to

23 supervisory special agent at the Terrorist Screening Center in 2005.

24 I spent 3 years in that capacity before returning to the Washington Field Office as

25 a special agent. I was promoted to supervisory special agent once again in 2011,

1 overseeing special investigations for White House staff, Department of Justice, and
2 congressional staffers.
3 I also then at that point took another position at the FBI's Training Division as an
4 instructor, teaching new agents and intelligence analysts.
5 I have served as a supervisory special agent overseeing community outreach and
6 recruiting efforts for the Washington Field Office before taking my current assignment as
7 the assistant section chief in the Security Division on October 1st of 2018.
8 Q And can you describe your roles and responsibilities in your current position?
9 A The assistant section chief is an administrative role that supports the section
10 chief, the SES position over the section. There are some administrative responsibilities,
11 to include budget, personnel, hiring, staffing, training, also to fill in for the section chief in
12 his or her absence.
13 I provide oversight of investigations, review, recommendations of investigations,
14 documentation, to ensure that they are consistent with the adjudicative guidelines, they
15 are consistent with internal protocols and templates. And I also provide responses for
16 data calls from any of our external entities, to include Department of Justice or this
17 committee.
18 Q And it's our understanding that the Security Division is one of the three
19 divisions within the Human Resources Branch of the FBI.
20 Does that comport with your understanding?
21 A Yes.
22 Q Have you ever worked within any other divisions within the Human
23 Resources Branch?
24 A The Training Division is within the Human Resources Branch.
25 Q And, within the Security Division, there are several different sections. Can

1 you briefly describe the several different sections, to your knowledge?

2 A There are five sections within the Security Division. We already discussed

3 the SIIS. There was also a Security Operations Section. There is a Strategic Resources

4 Section. There is the Background Operations Security Section, and the security

5 clearance -- security -- it's SSCS. It's the Security Clearance Section. I forget what the

6 other S stands for.

7 Q And your section, I believe you've been calling it the SIIS. Is that correct?

8 A Yes.

9 Q The SIIS, the Security Integrity and Investigation Section. And there are

10 several different units underneath of the larger section. Is that correct?

11 A I'm sorry. Can you repeat the question?

12 Q There are several different units within the SIIS. Is that correct?

13 A That is correct.

14 Q And what are those units?

15 A There are four units within the SIIS. There is the Clearance Referral and

16 Evaluation Unit. There is the Clearance Investigation Unit, the Clearance Adjudication

17 Unit, and the Polygraph Unit.

18 Q And can you briefly describe for the Security Division, speaking specifically to

19 the SIIS, what's the organizational structure look like, who's at the top, working on down

20 to you and then lower as well.

21 A There's approximately a hundred employees, to include contractors and

22 detailees, within the section. It is led by an SES section chief. There's an assistant

23 section chief, 4 unit chiefs, and approximately 17 supervisory special agents, and then a

24 variety of contract investigators, Reserve Service Program investigators and adjudicators

25 and professional staff employees within the section.

1 Q And the section chief of the SIIS, would they be your direct supervisor?

2 A Yes.

3 Q And who is the section chief of the SIIS right now?

4 A [redacted]

5 Q And, before [redacted] who was the section chief?

6 A The previous section chief was Jeffrey Veltri.

7 Q And, above the section chief, is there a Deputy Assistant Director? Does it

8 go directly to that?

9 A Yes.

10 Q And who was the Deputy Assistant Director when you arrived at the SIIS?

11 Let's start -- let's go chronologically.

12 A Charles Margiotta.

13 Q And who was the next Deputy Assistant Director?

14 A Doug Beidler.

15 Q And then after --

16 A I'm sorry. I correct myself. It was Jeffrey Dutton.

17 Q Okay.

18 A And then Doug Beidler.

19 Q And after Mr. Beidler left, was Mr. Veltri the Deputy Assistant Director?

20 A Mr. Beidler was promoted.

21 Q Okay.

22 A And that's when Mr. Veltri was the Acting Deputy Assistant Director.

23 Q Okay. In your role as the assistant section chief of the SIIS, what was your

24 visibility into the various aspects of the security clearance investigative process?

25 A I had a broad optic into all of the processes, from intake, investigations,

1 adjudications. I met regularly with -- with the supervisors, unit chiefs, staff, to answer
2 any questions, provide them guidance, direction, application of the guidelines, more
3 administrative oversight.
4 Q And I want to walk through the process that the Security Division uses when
5 deciding to investigate, suspend, revoke an FBI employee's security clearance.
6 So the process starts when concerns about a person's eligibility comes into the
7 Clearance Referral and Evaluation Unit. Is that correct?
8 A Correct.
9 Q And what steps does the CREU, if you will, take to determine whether an
10 investigation is warranted?
11 A To put it in perspective, there are approximately 50 or more referrals that
12 come in each week. And the team looks to those referrals. They come in from a
13 variety of different vectors.
14 They ensure that they are entered into a repository where they can all be
15 reviewed in a timely fashion. That review process involves looking to our threat
16 priorities. The Security Division has established threat priorities which outline what it is
17 that constitutes a security-relevant concern for investigative purposes.
18 If the referral that comes in rises to the level of one of those concerns, then an
19 investigation will be initiated.
20 Q And what was your role at this stage? If a referral or concerns came into
21 the CREU, what was your role at that stage?
22 A Generally, as a resource for conversation if the application of the threat
23 priorities was consistent with opening a case, based on the referral: Here's a referral.
24 Here's our threat priorities. We're thinking this does fall into this category. Just more
25 of a conversation as a resource to talk through a referral.

1 Q Can you unpack that a bit more for us? What do you mean by a resource
2 for conversation?
3 A Generally, the -- the supervisor or unit chief would come in, just talk through
4 a referral. We would discuss the elements of the referral and determine the -- the
5 appropriateness of opening an investigation. Just a conversation, a sounding board.
6 Q And who makes the decision as to whether an investigation is warranted?
7 A It could take many forms. Generally, on a routine basis, we have a process
8 that is set up that it runs on its own. Referrals come in. The referral investigators will
9 evaluate it and discuss it amongst themselves, look at the threat priorities, open
10 an -- recommend opening an investigation.
11 A supervisory special agent will sign off on it. If all in agreement, the unit chief
12 on top of that will sign off on it to open the case.
13 And sometimes information will come in from -- from other vectors directly to the
14 Assistant Director Or Deputy Assistant Director. They understand our threat priorities
15 because they approve them.
16 They -- they are the -- the AD of Security Division is the chief security officer of the
17 FBI. If they receive information, they'll send it down, and we'll discuss it. We all
18 understand what the threat priorities are. And we may get information that way. But,
19 ultimately, the documentation to open the investigation is always written at the unit
20 level.
21 Q And so, if a referral would come in through, you know, the Assistant Director
22 Or the Deputy Assistant Director, does it go to the CREU?
23 A Yes.
24 Q Always goes to the CREU?
25 A It will always make its way in there, because we want to ensure consistent

1 documentation in the referral system.

2 Q And what type of documentation is used in the referral system?

3 A Could you clarify your question?

4 Q Is it just like an electronic communication, an EC, that gets started in that

5 process, or what type of documentation is used during the referral process?

6 A So any referral that is received by the Security Division is entered into an

7 application or a database. It could be an email referral. It could be a security incident

8 report. It could be an ROI from the OIG.

9 Any referral can come in a variety of different forms. But, to ensure consistent

10 review and documentation, it will be uploaded in PDF form into the application, into the

11 database.

12 Q And, when the investigator makes their recommendation at the CREU as to

13 whether to open an investigation or not, you explained how the SSA has a signoff, the UC

14 has a signoff.

15 Is that the last signoff, or do they need to come to you?

16 A No. It is -- it is approved at the unit chief level.

17 Q And so, after -- if an investigation is warranted, it then goes to the Clearance

18 Investigations Unit. Is that correct?

19 A Correct.

20 Q And what type of investigative steps are taken at that point in time?

21 A It could take a variety of different forms, depending on the allegations.

22 Q Are there interviews that are conducted, document reviews that are done?

23 Can you give us kind of a sense of what investigative steps a CIU typically takes?

24 A Interviews can be conducted. Document reviews can -- can be performed.

25 Again, it depends on the allegations. Whatever is most appropriate.

1 BY [redacted]

2 Q Any indices traces in the system? ESOC?

3 A Sure. Well, that's a different -- so ESOC queries can be requested.

4 Generally, we don't do that as a -- as a -- if it's warranted, ESOC will be requested. It

5 depends on the allegations.

6 If there's an allegation that somebody was arrested for criminal conduct outside

7 the Bureau, ESOC wouldn't necessarily be appropriate to investigate those allegations.

8 We would try to ensure that we tailor any investigative steps to be -- to be relevant to the

9 allegations.

10 Q But you generally do general indices traces in the system?

11 A The Clearance Referral and Evaluations Unit will -- will perform all those

12 baselines.

13 Q Indices, warrants --

14 [redacted] I'm sorry, but --

15 Ms. Perkins. Yes, they will do all that.

16 [redacted] -- I can't understand what you're asking.

17 [redacted] What I'm asking is --

18 [redacted] We've got to have one person speak at a time.

19 [redacted] I'm sorry. We can do this off the record.

20 [Discussion held off the record.]

21 [redacted] We're on the record now. So, [redacted] please re-ask your question.

22 BY [redacted]

23 Q Okay. I'm asking if -- what types of indices traces they run when they're

24 getting ready to open a case, warrants, warrants, NCIC, et cetera.

25 A Sure. And so, just to clarify, when the Clearance Referral and Evaluation

1 Unit opens an investigation, they will conduct some baseline database checks. They will
2 run what is referred to as indices. They will run NCIC. They will run border crossings
3 checks, things like that, credit report.
4 Just some basic baseline databases so that the investigator has a -- sort of a
5 whole-person assessment of -- of the employee as well as the allegations that have been
6 referred for investigation.
7 BY [redacted]
8 Q And if you will, the goal of the Clearance Investigations Unit is to conduct an
9 investigation into the individual whose clearance is under review to determine their
10 suitability to hold a clearance. Is that accurate?
11 A Yes.
12 Q And the CIU at the end would make some sort of recommendation, either to
13 send it to the Clearance Adjudication Unit, as to whether to reinstate the clearance or
14 revoke the clearance. Is that correct?
15 A No.
16 Q Tell us how it works.
17 A Let me clarify that. So the Clearance Investigations Unit, they're -- when
18 you say to reinstate the clearance, that's only if a clearance is suspended would it need to
19 be reinstated. Every investigation that is opened is not automatically suspended. So
20 there are approximately 700 investigations ongoing. There's not 700 employees who
21 are suspended.
22 So, with that, the investigation is conducted to address the underlying security
23 concerns, whether it was just through interviews, interviews with external law
24 enforcement partners, supervisors, coworkers, complainants, victims, that type of thing.
25 There are sometimes electronic database reviews, whatever is relevant to address the

1 underlying security concerns.

2 After the investigation is complete, they will write a summary of their

3 investigation. They do not make recommendations. They will then send it to the

4 Clearance Adjudication Unit for adjudication of the investigation.

5 Q And what is your role in the process that the CIU is undertaking to conduct

6 an investigation?

7 A In my capacity as the assistant section chief, again, I'm a force multiplier.

8 I'm an administrative resource. Oftentimes, supervisors or the unit chief will come into

9 my office, have a conversation.

10 They will give me an overview of the allegations or the investigation to date.

11 Sometimes it's just independently to talk through next steps, or sometimes it's in

12 response to an inquiry, a data call, whether it's from the Department of Justice, whether

13 it's from senior leadership, whether it's from any other entity that has an interest in the

14 matter.

15 But I will have an administrative role to discuss the investigation and offer

16 suggestions or recommendations, if warranted.

17 Q And what factors go into determining whether an individual's clearance

18 should be suspended while the investigation is ongoing at the CIU?

19 A Generally, when a referral comes in, we assess the veracity of the complaint,

20 the seriousness of the allegations, and the impact on national security, and make an

21 assessment as to whether or not a recommendation for a clearance suspension should

22 occur while the investigation is ongoing.

23 Q And who is required to sign off on that decision?

24 A These recommendations are made in the Clearance Investigations Unit. A

25 supervisory special agent, a unit chief, the assistant section chief, the section chief, Office

1 of General Counsel, Deputy Assistant Director, the Assistant Director, and the EAD in their
2 capacity as the security programs manager of the FBI.
3 Q And who is making the initial recommendation, if you will, that an
4 individual's clearance should be suspended? Is that the line investigator, the SSA? Is it
5 a collaborative decision? Can you give us a bit of insight on that?
6 A In those situations, it's a collaborative discussion. Generally, something of
7 that magnitude would not be unknown. Generally, if we get a referral that is that
8 heightened or elevated, it is -- it is briefed up immediately in the Clearance Referral and
9 Evaluations Unit.
10 Generally, if something significant that -- of that magnitude comes in, multiple
11 people are made aware immediately, just based on the impact to the organization, the
12 national security. And, as the case is opened, there are briefings all the way up to the
13 AD, sometimes the EAD, to discuss the appropriate steps to mitigate risk to national
14 security.
15 Q And you mentioned a summary document that's drafted towards the end of
16 the investigation that is provided to the Clearance Adjudication Unit. Did I get that
17 correct?
18 A Correct.
19 Q Can you tell us who is writing that document?
20 A The investigator who is assigned that case will summarize their work in that
21 electronic communication. It is signed off by their supervisory special agent and the unit
22 chief.
23 Q And does the supervisory special agent and unit chief have any review
24 responsibilities, editing of the EC?
25 A I would presume so. If there is information that is grammatically incorrect

1 or missing information or portion markings, classifications, that type of thing, I presume
2 that that would be the appropriate thing to do as a supervisor.
3 Q Do you ever have the opportunity to weigh in on a summary EC?
4 A I would not have reason to review a summary EC or approve it.
5 Q And, if someone had questions about what should be included in the
6 summary EC or they wanted to use you as a resource, would they just come and talk to
7 you?
8 A I can't recall a situation where I reviewed a summary EC. But, if they had a
9 question, I would certainly -- my door's always open. People come, drop by all the time.
10 Q And, moving to the Clearance Adjudication Unit, is that the final step in the
11 process, if you will?
12 A Not necessarily, but for the purpose of the intake, investigations, and
13 adjudications, it is a -- it is a step in the process.
14 Q And do you have a role in the Clearance Adjudication Unit's process?
15 A I'm one of the reviewers on recommendations that go to the SPM. Similar
16 to the Clearance Investigations Unit, any recommendations made by the
17 Clearance Adjudications Unit will go through the same levels of review.
18 Q And can you just walk through that review process again for us, just so it's
19 clear for the record.
20 A So an adjudication that recommends a security warning letter, a clearance
21 revocation, or an administrative separation, those all are signed off by the Security
22 Programs Manager.
23 So those would be reviewed and signed off on by a supervisory special agent, a
24 unit chief, assistant section chief, section chief, Office of General Counsel, Deputy
25 Assistant Director, Assistant Director, Security Programs Manager.

1 Q And so would the Security Programs Manager kind of have the final
2 decisionmaking authority, or where does the final decisionmaking authority rest?
3 A Security Programs Manager.
4 Q Okay.
5 BY [redacted]
6 Q Do you have any idea, like, how many like allegations that come in, do any of
7 those get kicked over to OPR? How is that addressed?
8 Do you guys -- you probably look at every one of them, but are any like deemed to
9 be like more of an OPR lane than Security Division lane?
10 A The Security Division and the Inspection Division, which has the investigative
11 responsibility prior to Office of Professional Responsibility adjudicating any -- any action,
12 Inspection Division and Security Division share information. Anything that comes into
13 Security Division will also be shared with Inspection Division and vice versa.
14 So, while Security Division and Inspection Division have delineated roles, there is
15 sometimes overlap between misconduct and security-relevant concerns, but our
16 processes are delineated.
17 BY [redacted]
18 Q And what is the normal timeline for completing a security clearance
19 investigation?
20 A That can vary.
21 Q And can you tell us why that timeline varies, what factors go into making the
22 timeline shorter or longer?
23 A There could be external factors that delay Security Division's ability to
24 investigate. For example, some allegations may be under investigation by the
25 Department of Justice Office of Inspector General. Some allegations may be

1 investigated by external law enforcement, local law enforcement.

2 In those situations, the Security Division is often asked to hold their overt

3 investigative steps in abeyance pending those investigations being complete.

4 Q And, according to the Inspector General for the Department of Justice,

5 Inspector General Horowitz released a recent memorandum describing kind of

6 the -- some of the issues with the clearance process at the Justice Department as well as

7 the FBI.

8 And, of the 106 FBI employees who had their clearance suspended for 6 months

9 or longer, the average time between suspension and a decision to revoke or reinstate the

10 individual's clearance was approximately 17 and a half months.

11 Can you help us understand why it takes that long?

12 A What I can say is that it should not take that long. And sometimes

13 averages -- and I'm not going to minimize, there are cases that take too long to complete,

14 but averages are what they are. They're sometimes confounds of one or two cases that

15 for whatever reason are open for 4 or 5 years. A couple of those cases were under OIG

16 investigation. So understanding that those are outliers.

17 But, in our standard operating procedures, we have put the -- the expectation

18 before our investigators that if a clearance is suspended, it should be -- the investigation

19 should be completed and to the Clearance Adjudications Unit within 6 months.

20 And the Clearance Adjudication Unit should prioritize any case where an employee

21 is suspended for adjudication, so that they either can make a determination to reinstate

22 the clearance or to revoke the clearance. At that point, the employee has -- has their

23 appeal rights that kick in.

24 Q And, as the assistant section chief, you're seen as a leader in the Security

25 Division, especially within the SIIS.

1 Have you instituted any changes or sought to effect any policies related to the
2 duration of how long these investigations are taking?
3 A I hired a supervisory management and program analyst to create a
4 dashboard that would allow the SIIS front office, myself, the section chief, senior
5 leadership to assess the status of investigations.
6 I counseled unit chiefs on numerous occasions, the former unit chief of the
7 Clearance Adjudication Unit probably the most. I counseled her on at least seven
8 occasions for the -- the lack of timeliness in adjudications. There were cases that were
9 just sitting for a year and 2 years, sometimes longer, without adjudication. In my
10 estimation, that is unacceptable.
11 Q And, when you say "counseled," what do you mean by "counseled"?
12 A I discussed with her the -- what is your process? What are your
13 performance metrics? Are you doing file reviews? I need you to do file reviews to
14 ensure that your adjudicators understand what their priorities are.
15 If you're doing a file review and you see that a case has been open for 3, 4 years,
16 as a leader, I need you to move that to the top of the list so that it can be prioritized for
17 adjudication. That type of counseling.
18 In some case cases, after a couple of verbal counselings, when the -- when
19 improvement did not occur, I would go to written counseling to document the
20 performance issue.
21 Q And, switching to talking about some individual leaders within the Security
22 Division, we've mentioned Jeffrey Veltri before. He was the Deputy Assistant Director.
23 He is now the special agent in charge of the Miami Field Office. I'm going to refer to him
24 as Mr. Veltri so we don't get his titles confused.
25 You've been at the Security Division since 2018. When did Mr. Veltri first come

1 to the Security Division? Was he there before you arrived?

2 A He reported in July of 2021.

3 Q July of 2021. And did he come on directly as the Deputy Assistant Director

4 or --

5 A He reported as the section chief of SIIS.

6 Q Section chief. And, when was he promoted to the Deputy Assistant

7 Director position, if you know?

8 A And he was not officially the DAD. He was an acting. What happened

9 was, through the vacancy of a senior leadership position, there was a shift in the chain of

10 command.

11 After a former ADD retired, then Ms. Jennifer Moore, who was our Assistant

12 Director of Security Division, she moved up to be an Acting EAD. And then

13 our -- Mr. Beidler, who was DAD, moved up to be Acting AD, so on and so forth.

14 So, at that point, Mr. Veltri became the Acting DAD and, as the assistant section

15 chief, I moved into the acting section chief role.

16 Q And, to your knowledge, what was his role as the Acting Deputy Assistant

17 Director?

18 A As the Acting Deputy Assistant Director, he was responsible for the branch,

19 branch two of Security Division. There are two branches. We discussed the five

20 sections that are in Security Division. They are divided into two branches.

21 So branch two has three sections: Security Operations Section, Security

22 Resource Section, and the SIIS. And so he was responsible for oversight of those three

23 sections.

24 Q And how often did you interact with Mr. Veltri while he was the Acting

25 Deputy Assistant Director?

1 A Daily.

2 Q Daily?

3 A Multiple times a day.

4 Q And did you have regular meetings with Mr. Veltri?

5 A We had standing meetings. We had ad hoc meetings, yes.

6 Q And, when you were interacting with him on a daily basis, what did those

7 interactions consist of? Were you discussing specific cases? Was it more

8 administrative? Can you kind of give us a little bit of a flavor of what those interactions

9 were like.

10 A It would be both.

11 Q Okay.

12 A It could be as simple as we've got job vacancies. We have a budget

13 constraint. We need to cut the section budget by X number of dollars. Things like

14 that. So it could be administrative.

15 It could be discussing cases. Oftentimes, we'll get external inquiries on cases.

16 For example, if a case is sitting too long, what's the status, that type of thing. And so, if

17 he receives that type of a question, he will call down, ask me for a status update.

18 I'll go to either the investigator or adjudicator, get an update and report back up.

19 That type of thing. It could just be -- it could be investigative. It could be

20 administrative.

21 Q And where were those external inquiries coming from?

22 A It could be coming from a number of vectors. We get a number of requests

23 from -- from the Hill. People write their Representatives, and we get a lot of those

24 requests.

25 There are requests from other agencies. Perhaps an individual under

1 investigation is -- is a candidate for a job, that type of thing. And so we'll have to
2 respond to a name check.
3 It could be coming from senior leadership because, you know, there is a -- as the
4 gentleman noted earlier, an Office of Professional Responsibility adjudication, and there's
5 a question as to what the status is of a security investigation if there's a parallel
6 investigation. This is a routine practice on a daily basis multiple times a day.
7 Q And, when you would meet with Mr. Veltri to discuss cases, would the case
8 discussions occur with the unit chiefs and you as the assistant section chief, the section
9 chief, or what did those meetings look like? Who attended those types of meetings?
10 A For clarity, I'll describe. We had standing case briefings with all of those
11 parties, and I'll outline them again. But, generally, on a weekly or biweekly basis, we
12 would have case briefings with the investigator, adjudicator, supervisor, unit chiefs,
13 myself, the Acting Deputy Assistant Director, the Assistant Director. And Office of
14 General Counsel would be present to provide perspective. Sometimes the SPM would
15 dial in if he or she was available.
16 Q And how involved was Mr. Veltri in the clearance investigation process?
17 Did he have visibility into all of what the various units were doing? Did he follow cases
18 from start to finish?
19 A I would say he -- as an approver on any of the recommendations going to the
20 SPM, he had visibility. I'm not sure if I understand your question.
21 Q I was just wondering, to your knowledge, did you get a sense of what
22 Mr. Veltri's visibility was into specific cases?
23 A No.
24 Q And we've received some whistleblower disclosures that, you know,
25 Mr. Veltri was adamantly and vocally anti-Trump in the workplace. And I just kind of

1 wanted to get a sense of in your interactions with him -- you interacted with him on a
2 daily basis at work. Did he ever give you these types of indications?
3 A No.
4 Q And who is [redacted]
5 A [redacted] is a former supervisory special agent who was assigned to the
6 Security Division.
7 Q And do you know what unit chief -- or unit [redacted] was under as an SSA?
8 A Clearance Investigations Unit.
9 Q And what was his role as an SSA, to your knowledge?
10 A As an SSA, he oversaw investigations, approximately a hundred
11 investigations, with a handful of investigators, five or six investigators on his team.
12 Q And how often did you interact with SSA Clark?
13 A Daily.
14 Q And did you have regular meetings? Did he attend some of these standing
15 meetings that you've spoken about?
16 A Yes. If an investigation was being briefed to the assistant director, he
17 would be present with his investigator briefing the case.
18 Q And, when his investigator was briefing the case, would the investigator do
19 the briefing, or was it Mr. Clark who was doing the briefing on behalf of his line
20 investigators?
21 A The investigator would generally brief the case. Mr. Clark would jump in if
22 clarity was needed, but generally the assistant director or former EAD wanted the
23 investigators and adjudicators to brief their cases as much as possible.
24 Q And we've previously mentioned EAD Jennifer Moore. When did she
25 become EAD?

1 A I don't remember the exact date of her promotion. I know that she
2 became the Acting EAD in November of 2021.
3 Q And do you remember around when she left the position as EAD and the
4 current EAD, Mr. Dunham, came in?
5 A I believe that was in the summer of 2023.
6 Q And how often did you interact with EAD Moore?
7 A In what capacity, if I could ask?
8 Q Just in your capacity as acting assistant section chief, how often did you
9 interact with her?
10 A So, when I was the acting section chief, she was the Acting EAD. My
11 interaction with her would be rare. Generally, if she needed something very quickly, she
12 would send me a message asking for a specific piece of information, but that might occur
13 once a month or once every other month. It was rare.
14 Q It was rare?
15 A Yes. She had an assistant director. She had a DAD. So to reach out
16 directly to a section chief would not be very common.
17 Q Was there any point in time when your interactions with EAD Moore were
18 more frequent?
19 A I can't think of any specific scenario where they would be frequent.
20 Q Did she ever attend any of the regular meetings that you attended?
21 A She attended as many as she could; or if there were specific questions that
22 she had, based on a recommendation that had been put forth, and the case was being
23 briefed, she would attend so that she could ask questions.
24 Q And I know she was over the whole Human Resources Branch, but did you
25 ever get a sense of how involved or knowledgeable Ms. Moore was about the clearance

1 investigation process and active cases that were going through the clearance
2 investigation process?
3 A Was she -- you're asking her knowledge of the process?
4 Q We can take it step by step. So what was her knowledge of the clearance
5 investigation process?
6 A She was very knowledgeable of the process. She was a former section
7 chief within the Security Division overseeing clearance investigations of the -- she was on
8 the side of the background operations security section doing the White House
9 backgrounds.
10 She understood the clearance investigation process. The process is the same.
11 The client or the -- the -- whether it's an on-board employee or an external candidate is
12 really the only difference. The process is the same.
13 Q And, to your knowledge, what was Ms. Moore's visibility or awareness of
14 individual cases that were going through the clearance investigation process?
15 A I can't speak to her knowledge or visibility of specific cases.
16 [redacted] Okay. I'll enter as exhibit No. 2 a June 28th, 2024, letter to
17 Inspector General Michael Horowitz from Empower Oversight.
18 [Perkins Exhibit No. 2
19 was marked for identification.]
20 BY [redacted]
21 Q Ms. Perkins, this is a lengthy document, so feel free to review as much as
22 you want and take your time. When I refer to it, I'll refer to specific pages as well as give
23 you a general direction of what paragraph I'm looking at.
24 A I've seen this document online, and I am familiar with a lot of the
25 misinformation that is in this document.

1 Q Okay.

2 A I'm ready for your questions.

3 Q Okay. I'll look first on page 3 of the document. The page numbers are on

4 the bottom right-hand corner.

5 So I'm looking at the paragraph that starts with "more alarmingly." I'll read that

6 first sentence: "More alarmingly, SSA Client discovered SIIS's operations for handling

7 the FBI's security clearance program were nothing like Federal standards required."

8 Can you tell us how SIIS handed security clearance adjudications? Did it follow

9 the Federal regulations and the ODNI directives?

10 A Yes. And what I'll offer is that SSA Client was not a trained adjudicator and

11 had not received any adjudicative training for the ODNI.

12 Q And our understanding is that there are 13 guidelines as far as how, you

13 know, the security clearance adjudications should be handled.

14 Does that comport with your knowledge, there's 13 that are laid out in the Code

15 of Federal regulations?

16 A There are 13 adjudicative guidelines in SEAD 4, the National Security

17 Adjudicative Guidelines, yes.

18 Q Now, looking back again at page 3, looking at the first full paragraph on that

19 page, I'll read it for the record: "On his arrival in CIU, SSA Client immediately recognized

20 SecD was a toxic work environment. Many SIIS employees had conflicts with Perkins,

21 first as ASC and then as acting SC, and several had filed complaints against her."

22 Did anyone ever raise concerns to you about a toxic work environment?

23 A Complaints were raised to me about the toxicity of SSA Client and other

24 supervisors in the SIIS. They found their vitriol, their complaining, their -- their gossip to

25 be toxic, yes.

1 Q And what did you mean by vitriol?

2 A The SSA Client would often complain about having too much work, the cases

3 were BS, and that we shouldn't be working these investigations, that type of thing.

4 They would make -- there was a -- the toxicity also related to supervisors and unit

5 chiefs that would leave the office for 3, 4 hours for coffee breaks, lunch breaks, and were

6 not available to the investigators and the adjudicators when questions arose. And so

7 the team found that to be very frustrating, SSA Client included.

8 Q And, when you received some of these complaints, these complaints came

9 to you, what steps did you take?

10 A I would counsel. I would meet, discuss. I'm understanding that you're

11 leaving for 3 hours for a coffee break. Folks are seeing you sitting downstairs in the

12 coffee shop for 3 hours having conversations with other supervisors. I need you in the

13 office. I need you managing your teams. I need you available and engaged.

14 And so I would have those counselings. If I was unsuccessful and the problem

15 continued, elevated it to Acting DAD Veltri, and he would weigh in as well. We had

16 these counselings several times.

17 Q And did the problem with the supervisors and the UCs taking long breaks,

18 did that ever remedy itself with the counseling, or did there persist to be a problem?

19 A There persisted to be a problem. At some -- in some cases, the problem

20 got a little better, but the problem persisted.

21 Q Okay. Switching over to page 5 of the document. I'm looking at the third

22 full paragraph. The first sentence in that paragraph states, "SSA Client disclosed to

23 UC" -- unit chief, redacted -- "his concerns about these issues, and eventually found that a

24 large number of SecD employees also had concerns about its operations."

25 Did concerns about the operations of the Security Division, did those ever arise or

1 come up to your level?

2 A No.

3 Q No one ever raised any sort of complaints about the operations of the

4 Security Division?

5 A No.

6 Q And no one ever raised concerns to you about whether the Security Division

7 was following Federal adjudicative guidelines?

8 A No.

9 Q So, looking again at that page, on the first full paragraph, the second

10 sentence, it states, "Perkins and Veltri would frequently make initial judgments about

11 cases based on their own prejudices, then would refuse to move from their first

12 impressions -- regardless of what facts an investigation uncovered."

13 Were you involved in the initial decisionmaking of whether to open an

14 investigation or not?

15 A So, just so I can have it on the record, this statement is false. As we

16 previously discussed, I would often have conversations with intake teams or supervisors if

17 they wanted to discuss a case and was involved in that capacity. It would not be

18 unusual for me to speak with intake personnel about opening a case.

19 Q And what would give someone the sense that you were making initial

20 judgments based upon your prejudices?

21 A I can't speak to SSA Client.

22 Q Did anyone ever raise concerns about this statement of you making initial

23 judgments based upon your own prejudices? Did anyone raise concerns about that

24 directly to you?

25 A No.

1 Q Looking at the next sentence, "Acting SC Perkins will often direct SIIS to take
2 particular actions, such as making specific edits to electronic communications (ECs) on
3 suspension or revocation before they were allowed to proceed up the chain to the
4 Executive Assistant Director for issuance."
5 Did you direct SIIS staff to make edits to ECs before the document proceeded up
6 the chain?
7 A Yes.
8 Q And can you tell us what that process looked like?
9 A Generally, on any communication that was put into workflow, it would go
10 through, as I noted earlier, the supervisory special agent, unit chief, section chief, all the
11 way up the food chain, the chain of command.
12 But -- and, before it left the unit, we would ensure that it has gone through a
13 thorough review of grammar, spelling, syntax, you know, consistency with the templates
14 that have been established. You can't have 20 different formats going up to the -- the
15 SPM. There's a consistent template that should be followed.
16 I would look -- generally, what would happen -- and I'll kind of explain it just for
17 clarity. In our system of record, it's called the Sentinel system, it is not a -- it does not
18 allow for editing per se.
19 You can make comments at the top of a document, something like indent
20 paragraphs or add portion markings, but you can't really edit a document if there's
21 grammar and spelling errors.
22 So, generally, what would happen is that the GS-14 supervisory special agent or
23 the unit chief would just cut and paste the content of a document into a Word document.
24 And they would look at it, make some edits, send the track changed document to me for
25 review.

1 I would look at it. If I had any additional comments, I would add them, say
2 that -- and then send it back to the unit chief. They would work with the supervisory
3 special agent and the investigator or the adjudicator, depending on the unit, and
4 implement those -- those -- those edits.
5 If there was a question about an edit, we would sit down and discuss it. And
6 then they would put the official document back into the system of record, and then it
7 would be routed for -- for approval.
8 Sometimes it would still come back down with questions from that level, but we
9 wanted to ensure that anything in the system of record was grammatically correct, had
10 no spelling errors, and that there was nothing in there that was outlandish. And I can
11 certainly give you some examples if you would like.
12 Q If you want to provide examples, please feel free.
13 A Sure. So I'll give you an example of a clearance adjudication document that
14 came -- came through. The unit chief, [redacted] was the unit chief of that unit at
15 the time. And there was a document that came in recommending revocation of a
16 security clearance.
17 And, in that document, the adjudicator had written information to include a
18 criminal history of the employee's brother, who was not an FBI employee and whose
19 clearance was not under review. Something like that has no bearing on the employee's
20 suitability to hold a security clearance.
21 In the same document, the adjudicator wrote that the employee, quote, "used his
22 race and size to get what he wants." That has no bearing on somebody's suitability to
23 hold a security clearance.
24 So I edited that document and made recommendations that Unit Chief [redacted]
25 take a closer look at the content of those documents to ensure that where there's

1 training and understanding of the adjudicative process that those adjudicators receive
2 that training.
3 Q And, right after the sentence I just read, it says, "Yet Perkins never
4 documented in the adjudicative file the decisions she made, including when she overruled
5 line SIIS staff."
6 When you would make recommendations or need to delete something, as you
7 said, the criminal history of someone's brother, for example, how was that documented
8 in the system?
9 A It wouldn't need to be. We wouldn't have 15 versions of a document
10 sitting in a file. If I was writing a search warrant as a criminal agent, I'm not going to
11 have 15 drafts that have gone back and forth with my supervisor and the U.S. Attorney
12 sitting in my case file. That's just not -- that's not feasible, and it's not -- it's not -- it's
13 just not sustainable.
14 But generally, it would be -- if there was edits, it would be emailed back to an
15 investigator or an adjudicator. In some cases, they would save the track-hanged
16 document into a shared drive folder. If there were questions about an edit or -- or a
17 recommendation, that would be documented in that file.
18 Q And, to the extent, you know, an SIIS staff, a line investigator, an SSA, if they
19 had recommended someone's clearance should be revoked or should be suspended and
20 you disagreed with that assessment, how was that documented?
21 A Sure. And generally, if there was a recommendation that was put forth, it
22 was a conversation. Generally, again, the day-to-day tweaks to a document are for
23 grammar, spelling, syntax, application of the guidelines, or, you know, consistency with
24 templates. Those are just general administrative edits.
25 If there was a recommendation that was inconsistent with precedent or

1 inconsistent with the adjudicative guidelines, it's a conversation: Help me understand
2 the recommendation. And generally: Here's a couple of cases of similar status, of
3 similar conduct, and, you know, this was the adjudication.
4 So there are dangers with departing from consistency and with precedent. So
5 we'll have a conversation. If there is a strong sense of -- of, well, this case is special or I
6 see this case differently, it's a -- it's a briefing to executive management to have a more
7 collaborative discussion to fully understand the adjudicator or the investigator's position
8 and have conversations with the -- about the guidelines with the Office of General
9 Counsel and the DAD, Assistant Director, and sometimes the EAD.
10 Q Okay. And, looking further down on page 5, the last paragraph before
11 number 1, Marcus Allen case, the first sentence says, "SSA Client participated in many
12 discussions in which it became clear that Veltri's and Perkins' perspective was that, if an
13 FBI employee fit a certain profile as a political Conservative, they were viewed as security
14 concerns and unworthy to work at the FBI."
15 Would that be an adequate basis to revoke or suspend an employee's clearance?
16 A Again, just for the record, this is a false statement. No. The FBI does not
17 open clearance investigations or recommend clearance actions based on political
18 affiliation.
19 Q And we've heard from multiple whistleblowers that the FBI is using its
20 security clearance adjudication process to purge its ranks of those who disagree politically
21 with FBI leadership.
22 Do those types of statements surprise you?
23 A These statements to me are just false. That's all I can say about those
24 statements. Those statements are false.
25 Q And, as you read these statements and you think back to your tenure at the

1 Security Division, can you think of any time where you would have maybe given anyone
2 the impression that you were allowing political considerations to sway your
3 decisionmaking?
4 A No.
5 [redacted] I'll enter as exhibit No. 3 an article from The Washington Times,
6 dated November 10th, 2023. The title is "FBI accused of targeting Trump types; agents
7 who served in military deemed disloyal."
8 [Perkins Exhibit No. 3
9 was marked for identification.]
10 [redacted] And please take your time to review the article, if you need time.

1 [11:00 a.m.]

2 BY [redacted]

3 Q Again, I'll point to specific pages, too.

4 A That's fine. We can proceed.

5 Q So, looking at page 2 of the document, the page number should be on the

6 bottom left-hand corner.

7 It states, "The whistleblower said Jeffrey Veltri, Deputy Assistant Director of the

8 Bureau's Security Division, and Dena Perkins, Assistant Section Chief, specifically pursued

9 employees who served in the Marine Corps or other military branches."

10 Were concerns like this ever raised for you?

11 A No.

12 Q Okay. And, further down on that page, it states, "In these cases, there was

13 no indication that any of the individuals had any affiliation to a foreign power or held any

14 belief against the United States, it said."

15 Are you aware of any of these cases, or were any of these concerns brought to

16 your attention?

17 A No. And I would like it on the record that I find these allegations to be

18 disgusting. I am a veteran.

19 Q Uh-huh.

20 A There are 7,700 veterans in the FBI, which comprises 20 percent of the

21 entire workforce. There are no veterans being targeted by the Security Division or

22 anyone at the FBI that I'm aware of.

23 Q And what would lead people to believe that you were targeting veterans?

24 Do you have any sense of what people would have considered you targeting veterans to

25 be?

1 A I can't speak to motivation other than to create chaos, to create angst and
2 anger against -- against me or Mr. Veltri for holding people accountable for poor
3 performance.
4 Q What do you mean by hold people accountable for poor performance?
5 A As I indicated, we counseled individuals for taking long coffee breaks and not
6 being engaged with their programs or for sending forth documents that were poorly
7 written and holding them to a higher level of performance.
8 And I think the situations like this here are just -- are just employees who
9 are -- who are seeking to retaliate against supervisors who held them accountable.
10 Q And do you have any knowledge that kind of backs up that belief that these
11 are employees who are disgruntled with you counseling them and holding them
12 accountable?
13 A Well, yes, I think that many of these statements that have been made by a
14 SSA client who is [redacted] and, you know, looking at these articles that were written
15 shortly after his clearance was suspended for security concerns, they all timely occurred
16 following his being held accountable for security relevancy concerns.
17 Q Looking at page 3 of the document, the first full paragraph, it says, "Other
18 signs that employee was a," quote, "right-wing radical and disloyal to the United States,"
19 end quote, "according to Ms. Perkins and Mr. Veltri, were failure to wear a face mask,
20 refusing to take the COVID-19 vaccination, and participating in religious activities."
21 Would not wearing a face mask or refusing to take the COVID-19 vaccination or a
22 person's religious affiliations, would those constitute a valid concern for someone's
23 eligibility to hold a clearance?
24 A No.
25 Q Did anyone ever raise these types of concerns that you were taking into

1 consideration someone wearing a face mask, not taking the vaccine, or participating in
2 religious activities?
3 A No. And just for the record --
4 Q Uh-huh.
5 A -- I'm a lifelong practicing Catholic. So I find these allegations to be rather
6 disgusting.
7 Q Are you aware of the Clearance Investigation Unit using a questionnaire for
8 interviews with colleagues of the individual whose clearance was under review that
9 contained questions about whether the individual vocalized support for President Trump?
10 A I'm aware of a questionnaire that was brought to the attention of Security
11 Division in June of 2024. I had no knowledge of that questionnaire prior to that date.
12 [redacted] Okay. And we'll enter one of the questionnaire that's been made
13 available under the Freedom of Information Act. It was released to an outside group,
14 and they publicized the questionnaire. And so we'll mark that as exhibit No. 4 just to
15 kind of guide the discussion.
16 [Perkins Exhibit No. 4
17 was marked for identification.]
18 BY [redacted]
19 Q My questions won't be about the content in the questionnaire. It will be
20 just, like, the questions that were asked.
21 And you said that you became aware of this questionnaire in June of 2024. Is
22 that correct?
23 A Correct.
24 Q But you had no knowledge or awareness that a questionnaire such as this
25 was being used in CIU investigations?

1 A Correct. I had no knowledge that the questionnaire had been used at any
2 point.
3 Q And, if you look on page 1, one of the questions is vocalize support for
4 President Trump, which is question No. 2. Question No. 3 on the next page is vocalize
5 objection to the COVID-19 vaccination.
6 What's your reaction to the fact that some of these questions were being asked
7 during the clearance investigation process?
8 A Well, when I first saw this questionnaire from the Department of Justice,
9 asking for more explanation about it, I, honestly, I thought it was a joke. I thought it was
10 something that was made up because, you know, clearly -- and the article's written by
11 Kerry Picket and some of the allegations by Empower Oversight. They have perpetuated
12 lies and misinformation about me.
13 And I thought that this questionnaire was just another made-up allegation to try
14 to smear the Security Division's reputation.
15 And it was through review of a discovery package that we realized that one
16 particular contract investigator had asked these questions. I immediately spoke to the
17 unit chief of the Clearance Investigation Unit, made sure that he sat down with his
18 investigators and made very clear these types of questions had no place in Security
19 Division.
20 Q And how is it happening that a contractor is writing these types of questions,
21 using them in the investigation, and the leaders in the Security Division just have no idea
22 that it's going on?
23 A Understood. And, in this particular case, there -- this, as I understand,
24 when we looked back and answered questions for the Department of Justice Office of
25 Inspector General, this particular contractor was working in the Security Division at a time

1 when we had significant staffing shortages of supervisors.

2 And there was one supervisor in the Clearance Investigation Unit and a unit chief,

3 and the detailed engagement that we would typically hope to have between supervisors

4 and investigators was just not possible just due to just being stretched so thin in the unit.

5 So, with that, it's not an excuse --

6 Q Uh-huh.

7 A -- but it's an explanation as to how this investigator was able to, you know,

8 write these questions and ask them of anybody on any investigation.

9 Q Why would the contractor have believed that these questions were

10 appropriate?

11 A I can't speak to that. That contractor is no longer assigned to Security

12 Division.

13 Q And is it appropriate to be asking an individual's colleagues, who the

14 individual's clearance is under review, whether they support President Trump or oppose

15 the COVID-19 vaccination? Is -- are those valid questions to be asking?

16 A No.

17 Q And do you know if these questions were ever considered when, you know,

18 writing the Summary EC?

19 A I can't speak to that. I have not reviewed the Summary EC. So I can't

20 speak to that.

21 Q To your knowledge, is the Security Division undertaking any sort of review to

22 understand what investigations this questionnaire was used in?

23 A Yes.

24 Q And is there any sort of review that is being undertaken to determine if an

25 individual's support for President Trump or opposition to a COVID-19 vaccination, if those

1 were improperly considered during the security clearance investigation process?

2 A Understanding that this was an isolated case, we are complying with DOJ

3 OIG request for information of any case that templates or questions of this investigator or

4 any other investigator were used.

5 But our review has determined that this was an isolated case, an isolated incident

6 by one contractor on one investigation.

7 Q And have you reviewed the contractor's other investigations, whether or not

8 this question was used to determine if they were asking inappropriate questions such as

9 this?

10 A Not just his but all, a review of all investigations and Security Division

11 have -- has been conducted, and there were no other similar questions that were asked of

12 any subject --

13 Q And to your understanding --

14 A -- to my knowledge.

15 Q -- who is undertaking that review?

16 A The Department of Justice Office of Inspector General.

17 Q So it's an outside entity, not Security Division investigating itself.

18 A Correct.

19 Q If you go back to the whistleblower disclosure from June 28th, I believe that

20 was exhibit 2.

21 A This document?

22 Q That's correct. And we're looking at page 5 again. And, again, I'll draw

23 your attention to the third paragraph down.

24 Looking at the sentence that says, "Because of the influence of Acting DAD Veltri

25 and Acting SC Perkins, it was very common, when SSA client arrived in SecD, for

1 investigators to ask inappropriate questions of the sort we've recently referred to your
2 office for investigation," referring to the Trump questionnaire --
3 A Uh-huh.
4 Q -- "such as whether employees under investigation had vocalized support for
5 former President Donald Trump or whether they had vocalized objection to the COVID-19
6 vaccine." Were any of these concerns ever raised to you that investigators were asking
7 inappropriate questions? Did you ever hear that?
8 A No.
9 Q No.
10 [redacted] Okay. We're at the hour mark. So we'll go off the record.
11 [Recess.]
12 [redacted] All right. It is 11:18, and we can go back on the record.
13 EXAMINATION
14 BY [redacted]
15 Q Ms. Perkins, thank you again for joining us.
16 As I mentioned, I'm with Ranking Member Nadler's staff. I'm [redacted]
17 I want to take a couple of steps back --
18 A Okay.
19 Q -- before we get into some of the subject matters that's been discussed
20 today --
21 A Sure.
22 Q -- and talk about your background a little bit.
23 A Uh-huh.
24 Q You said that you joined the FBI in 1997, correct?
25 A Correct.

1 Q Why did you decide to join the FBI?

2 A Well, I was inspired to join the FBI when I was in high school.

3 I -- that -- my senior year in high school was when Pan Am Flight 103, the

4 bombing, occurred. And that was my sort of first sort of I guess optic into the FBI,

5 watching on TV, seeing the investigation unfold.

6 And I remember -- there was no internet back then, of course. So you have to

7 open the phone book and look for the FBI. I called the local field office to ask how does

8 one become an FBI agent.

9 And the recruiter was actually very kind and said, "Well, you need a college degree

10 and some relevant work experience."

11 So, not being of a college family -- no one in my family had ever gone college -- I

12 enlisted in the Army to earn the GI Bill and the Army College Fund.

13 And, after I completed my enlistment, I went on to serve in the National Guard

14 and went to college, put myself through college with the GI Bill and while working full

15 time in juvenile corrections, and then applied to the Bureau and was at Quantico in

16 March of 1997.

17 Q And you've been at the FBI since 1997, correct?

18 A Correct.

19 Q So your entire career has been either at the FBI or in the military, fair?

20 A Yes, in addition to, as I noted, working in juvenile correctional --

21 Q Right.

22 A -- programs.

23 Q Okay.

24 A Yeah.

25 Q So is it fair to say you've spent your entire career in public service?

1 A Yes.

2 Q And you talked through your various duty assignments with the FBI. I don't

3 want to go through all those in detail.

4 But am I correct that you've been working in security, in the Security Division in

5 some way, shape, or form since 2011? Is that --

6 A More or less. I've done security and suitability adjudications for the better

7 part of 14 years, yes.

8 Q Okay. And through -- progressively -- through roles with progressively

9 more supervisory responsibility. Is that fair to say?

10 A Yes.

11 Q Okay. Are you proud of the work you've done about with Bureau?

12 A Absolutely.

13 Q Why is that?

14 A It is an honor to serve in the Bureau. It's an honor to serve the public. I'm

15 very proud of the work that we do, not just making processes better but keeping America

16 safe. It's just an honor to wear the badge.

17 Q During your 28 years -- is that right --

18 A Just about.

19 Q -- with the depart -- with the Bureau, rather, have you received any awards

20 for your work?

21 A Yes, ma'am. I have received well over 30 performance awards to include

22 three Exceptional Performance Awards.

23 Q And what is -- well, what's a performance award, first?

24 A Performance award, it could be a cash award, time off award, just

25 recognition from my supervisor that the work I am doing or the problems I have complete

1 had been noteworthy. So I've received over 30 of those.

2 Exceptional Performance Awards are given to a smaller percentage of any field

3 office or division for extraordinary performance, and it's a very small percentage of

4 employees who will receive those awards.

5 Q Okay. Thank you.

6 Okay. I want to turn to some of the more specific issues that have been raised

7 today.

8 As a little bit of background, you mentioned that the Security Division gets around

9 50 referrals a week. Is that right?

10 A Correct.

11 Q So that's around 2,600 a year. Is that about right?

12 A Correct.

13 Q Okay. What percent of those referrals would you estimate, if you can,

14 are -- result in suspensions?

15 A I don't necessarily have the metrics offhand. But what I can say is that at

16 any given time, there is not more than approximately 30 recommendations for clearance

17 suspensions in any given year.

18 Q Okay. So a very small percentage. Is that fair?

19 A Very small, very small.

20 Q Okay. And you said in the earlier hour that -- and it's clearly true because

21 such a smaller percent result in suspensions -- that not every issue that's raised in the

22 Security Division merits suspension, right?

23 A Correct.

24 Q What are some of the other steps the Security Division can take other than

25 spending a clearance?

1 A Certainly. In some cases, we may recommend a security awareness
2 briefing, for example. A security violation or a security infraction, an employee may just
3 need to have a conversation with a security officer in their division or field office to
4 remind them of security procedures and protocol, to ensure they're not, you know,
5 putting information or systems or facilities at risk. So a security awareness briefing may
6 be appropriate.
7 In some cases, the referral that comes in may be more under the purview of the
8 Performance Appraisal Unit. May -- perhaps a performance improvement plan would
9 be appropriate.
10 Perhaps it's something that's more misconduct oriented, and perhaps an Internal
11 Affairs investigation is more appropriate to address the underlying concerns.
12 Q And, in some cases, is it determined that no action at all is appropriate?
13 A Absolutely.
14 Q Okay. You mentioned that when a -- when the Security Division does
15 decide to suspend a clearance, there's -- I didn't write down all the layers of review, but I
16 think it's seven or eight layers of review. Is that fair?
17 A That's fair.
18 Q Okay. So it's fair to say that it's a fairly significant action for the Security
19 Division to take, correct?
20 A Yes.
21 Q Okay. What merits the suspension? At a very high level, what merits
22 suspension of a security clearance?
23 A Unmitigable risk to the national security.
24 Q Are you familiar with Executive Order 12968, which is the executive order
25 governing access to classified information?

1 A Yes.

2 [redacted] Okay. We're going to introduce that for the record as exhibit 5.

3 [Perkins Exhibit No. 5

4 was marked for identification.]

5 BY [redacted]

6 Q And I'm sorry. Actually before I get into this, you've been working in the

7 Security Division in some capacity or handling security adjudications for 14-ish years,

8 correct?

9 A Yes.

10 Q Fair to say you've received training in how to adjudicate clearances in that

11 time period?

12 A Yes.

13 Q And is Executive Order 12968 something you've come across as part of your

14 training?

15 A It is something that would support training, yes.

16 Q Okay. And what's your understanding of what this executive order says or

17 does?

18 A Basically that there are -- there are requirements for individuals to have

19 access to national security information.

20 Q Okay. And I want to look at part 3, Access Eligibility Standards, which

21 begins on page -- so I'm sorry. This is on the Federal Register. So it's on 40249 of the

22 Federal Register.

23 A 402 --

24 Q Four-nine.

25 A -- 49.

1 Q It's the fifth page. I think it's printed. It's at the very bottom there and
2 continues onto the next page.
3 So I'm just going to read into the record.
4 A Uh-huh.
5 Q This section reads, "No employee shall be deemed to be eligible for access to
6 classified information merely by reason of Federal service or contracting, licensee,
7 certificate holder, or grantee status, or as matter of right or privilege, or as a result of any
8 particular title, rank, position, or affiliation."
9 Did I read that correctly?
10 A Yes, ma'am.
11 Q What's your understanding of what that sentence means?
12 A Essentially having a security clearance is not a right. It is a privilege. And
13 it's certainly something that, you know, has requirements.
14 Q Okay. And then paragraph (b) that immediately follows that, it says,
15 "Eligibility for access to classified information shall be granted only to employees who are
16 United States citizens for whom an appropriate investigation has been completed and
17 whose personal and professional history affirmatively indicates loyalty to the United
18 States."
19 Do you see where it says that?
20 A Yes, ma'am.
21 Q Okay. And what's your understanding of what affirmatively indicates
22 loyalty to the United States means?
23 A So the ability to adhere to the Constitution, certainly to not be engaging in
24 conduct that is contrary to the national security or the interest of the United States
25 Government.

1 Q Okay. And I want to look at the very last sentence of that paragraph B. It
2 says, "Eligibility shall be granted only where facts and circumstances indicate access to
3 classified information is clearly consistent with the national security interests of the
4 United States."
5 A Uh-huh.
6 Q "And any doubt shall be resolved in favor of the national security."
7 Do you see where it says that?
8 A Yes, ma'am?
9 Q What's your understanding of "any doubt shall be resolved in favor of the
10 national security"
11 A Yeah, and how we see that is in many cases -- in some cases there's -- there
12 is -- it's -- it does appear black and white --
13 Q Uh-huh.
14 A -- that, if someone has engaged in certain conduct, it's very clear that it is,
15 again, black or white.
16 In some cases, they're a little less clear. Sometimes it's a little more gray.
17 When you look at the whole person, you see, well, maybe this person has done, you
18 know, some good things, and but yet there's this conduct, and it's maybe it's a pattern, or
19 it's been egregious.
20 And, as you look at the whole person, it's sometimes not as clear. But, in those
21 circumstances, the executive order and the National Security Adjudicative Guidelines
22 compel the Security Division or any adjudicative agency to resolve that doubt in favor of
23 national security.
24 Q Okay. And we're here today to talk about suspensions specifically.
25 A Yes.

1 Q I think there's been some discussion of a timeline involved in resolving some
2 of these adjudications. You indicated that you thought in some cases it was too long.
3 A Uh-huh.
4 Q But is it fair to say that, under this provision, which has been in place since
5 the executive order was signed in 1995 --
6 A Yes.
7 Q -- the Security Division, if there is that gray area, the Security Division has to
8 make the ruling or has to decide to suspend a clearance. Is that fair to say?
9 A Yes.
10 Q And why is that?
11 A Because the alternative is that we compromise the national security, that an
12 individual who may be engaged in conduct that is contrary to the national security has
13 access to national security information, and that is unacceptable risk.
14 Q Okay. Thank you.
15 I want to move on to -- actually, let's turn to the Washington Examiner article.
16 And is that exhibit 3.
17 And I know you went over this in some detail earlier, but just a couple of followup
18 questions.
19 Before we get into the substance of this, you were asked a number of questions
20 about Jeffrey Veltri.
21 Do you recall those questions?
22 A Yes, ma'am.
23 Q And you indicated that you frequently interacted with Mr. Veltri in your role.
24 A Yes.
25 Q Okay. What was your impression of Mr. Veltri's work ethic?

1 A Mr. Veltri had a phenomenal work ethic. He would come in early. He
2 would stay late.
3 If there was a high-priority case that needed attention or resolution or answers for
4 whether it's DOJ or the, you know, committee or any -- any customer, he would stay with
5 the team and work through it and make sure that he was available to provide any support
6 that he could.
7 Q Did you have any -- ever have any reason to question Mr. Veltri's integrity or
8 his honesty?
9 A No.
10 Q And you say that very definitively. Can you explain why you -- what your
11 impression was of his integrity?
12 A Again, every decision that I knew Mr. Veltri to make was in the best interest
13 of national security, the FBI, and the Security Division.
14 Q Did anyone ever raise concerns about Mr. Veltri to you?
15 A No.
16 Q Okay. Turning to this Examiner article, on page 2, as printed, you said that
17 the section -- the article alleges broadly that there were -- that the Security Division was
18 suspending the clearances of military veterans.
19 And you said that you find those allegations to be offensive. Do you remember
20 saying that?
21 A Yes.
22 Q Can you explain why you find them offensive?
23 A One, as a veteran, I'm -- who's married to a disabled veteran who served in
24 Desert Storm, I find it disgusting. My father was a Vietnam veteran, and my grandfather
25 was a WW II veteran and prisoner of war.

1 I find allegations that anybody would target veterans disgusting. But to allege
2 that a veteran is targeting other veterans I find extremely, extremely offensive.
3 Q Are you aware of whether Mr. Veltri is a veteran, as well?
4 A I don't believe he is.
5 Q Okay.
6 A But what I will say is that, if I can recall, during his time in the Security
7 Division, he would routinely ask me for a list of anyone in the section who had served in
8 the military so that he could send out an email on Veterans Day or any other days of
9 service, recognition of servicemembers, and just thank them for their service.
10 So I do recall him being very appreciative and respectful of those who served.
11 Q On following page of this article, the allegation was made or the -- the
12 allegation in the article is that you and Mr. Veltri took into account in conducting
13 adjudications whether an employee had failed to wear a face mask or refused to take the
14 COVID-19 vaccination or participated in religious activities. Let's take those one by one.
15 To the best of your recollection, in your work as a supervisor, were you ever
16 aware of a situation where an employee was -- had a clearance suspended or was
17 otherwise suspended or was otherwise punished ed for failing to wear a face mask?
18 A No. In fact, no investigation would have been opened on those allegations.
19 Q And why is that?
20 A It doesn't fall within our threat priorities. I mentioned those in the earlier
21 hour. There are -- threat priorities or bans that govern what falls within our
22 investigative purview. Not wearing a face mask is not one of those.
23 Q What about refusing to take the COVID-19 vaccination?
24 A No.
25 Q And participating in religious activities?

1 A No.

2 Q And you said earlier that you found the allegation about participating in

3 religious activities somehow being taken into account in security clearance adjudications

4 to be particularly offensive because you are a lifelong practicing Catholic. Do you recall

5 saying that?

6 A Yes.

7 Q And why is it particularly offensive to you in that capacity?

8 A As someone who holds faith dear, the allegation that we would target

9 people because of their faith is offensive.

10 Q And we might return to this later. I'm not going to get into the individuals

11 mentioned yet.

12 I want to turn to exhibit 2, which is the Empower Oversight letter. This is the

13 Empower Oversight letter dated June 28th, 2024.

14 And quickly, at the -- during the last hour, you had mentioned -- one

15 second -- sorry -- that Empower Oversight had -- Empower Oversight has made a number

16 of allegations against you, correct?

17 A Yes.

18 Q And what's your understanding of what or who Empower Oversight is?

19 A I understand that Empower Oversight -- and there's a couple of

20 individuals -- Tristan Leavitt, maybe Jason Foster. I've seen that they have posted

21 allegations about me on social media, targeting me, spreading disinformation about me.

22 I understand that they may be affiliated with former employees who have been

23 the subject of security clearance investigations. It appears that they're affiliated with

24 [redacted] who made a number of these allegations against me.

25 Q And, just at a high level, without getting into specific allegations, are the

1 allegations Empower Oversight has made against you, are those generally truthful or
2 generally false?
3 A They're false.
4 Q Okay.
5 A They're lies, absolute lies and disinformation.
6 Q And I want to get into this letter now from Empower Oversight.
7 On page 3 of this letter, it refers to SSA client who you indicated is [redacted]
8 correct?
9 A Correct.
10 Q Okay. You mentioned -- and it discusses a number of allegations raised by
11 the SSA client, or [redacted]
12 A Uh-huh.
13 Q You indicated in the prior hour that [redacted] didn't have training in -- I'm
14 not sure if I wrote it down right -- in the adjudicative guidelines or in some element. Can
15 you explain what you meant?
16 A Yes. What I noted in this letter, most alarmingly, SSA client discovers SIIS
17 for handling security clearance were nothing like the Federal standards required.
18 He's talking about upon his arrival in April of 2022. He had no security
19 background.
20 And, again, we train. There's training available through the ODNI, which is the
21 sort of overarching authority on security clearance adjudications.
22 I did ask all of my unit chiefs to attend the ODNI training. At that point, it was all
23 online just due to COVID protocols, and so it was much easier to get into classes and
24 training online just because of the number of people who can dial in.
25 So I do believe the unit chiefs did complete the training, at least two of them.

1 And I did ask that their SSAs also make time to receive the training just so they
2 understood the application of the adjudicative guidelines.
3 And it is my understanding that [redacted] did not complete that training.
4 Q He never completed the training.
5 A Not to my knowledge. If he did, I was not aware. But I know, when I had
6 spoken to his former unit chief about the SSAs attending the training, it was my
7 understanding at that point that he had not completed the training.
8 Q Is there some record when an individual completes the training?
9 A They can request credit for training in our administrative -- it's called Virtual
10 Academy, but they would also just alert their supervisor that they were -- because it's a
11 week-long training. They're going to be offline. So we would know they were in the
12 training.
13 Q And you said the training is conducted by ODNI. That's the Office of the
14 Director of National Intelligence, correct?
15 A Correct.
16 Q Do you know -- and I understand if you don't. Do you know if ODNI keeps a
17 record of who's completed the training?
18 A I believe they would.
19 Q Okay. I want to turn to -- we spent a fair amount of time on this -- to page
20 5. And I know we've gone through this in some level of detail. I'm going to go through
21 it again. So bear with me.
22 But the paragraph -- the first full paragraph on this page, it reads that, "Perkins
23 and Veltri would frequently make initial judgments about cases based on their own
24 prejudices, then would refuse to move from their first impressions, regardless of what
25 facts and investigation uncovered."

1 You indicated that this allegation is false.

2 A Yes.

3 Q Okay. And, just to be clear, so to be clear, you did not make judgments

4 about cases based on your own prejudices.

5 A No, I make judgments on cases based on the adjudicative guidelines.

6 Q Okay. And you've referred to the adjudicative guidelines a number of

7 times. Those are the SEAD 4 guidelines. Is that correct?

8 A Correct.

9 Q What's your response to the allegation that you would frequently make

10 initial judgments about cases based on your own prejudices?

11 A Again, these are false. These are lies. It is not how we conduct business

12 at the Security Division. It's not how I conduct myself as a special agent of the FBI.

13 We get facts in evidence, and we might determine that, at its face value, it falls

14 within our threat priorities. However, the facts in evidence that are uncovered during

15 the investigation will determine whether or not those allegations are substantiated or

16 not.

17 And we don't keep ourselves so rigid in first impressions that, you know, we are

18 blind to what the facts in evidence, you know, determine during the course of the

19 investigation.

20 Q And specifically the reference to their own prejudices or your own

21 prejudices, do you have any understanding what that might refer to?

22 A No.

23 Q Do you believe you hold prejudices?

24 A No.

25 Q And, to be abundantly clear, I think throughout this letter and in other

1 allegations, there's been allegations that you are prejudiced against Conservatives.
2 What's your response to that allegation?
3 A That's falls.
4 Q And there's been allegations that you're prejudiced or biased against
5 individuals who support former President Trump. Are you familiar with those
6 allegations?
7 A I've head those allegations. Those allegations are false.
8 Q What's your response to that allegation?
9 A They're false.
10 Q The next paragraph here, it indicates that Acting SC Perkins, that's you,
11 would make edits to electronic communications that were not documented.
12 Do you see where it says that?
13 A Uh-huh.
14 Q And you indicated in the earlier hour that there's no -- in Sentinel, which is
15 the system that the FBI uses to track electronic communications. Is that fair to say?
16 A Yes.
17 Q It's not possible to edit directly, correct?
18 A Correct.
19 Q Okay. But you said that you did make edits into -- and track changes in
20 Word documents, correct?
21 A Yes.
22 Q And were those Word documents saved?
23 A In some cases, they were saved, but they were viewed as draft.
24 Q Uh-huh.
25 A In some cases, a case manager or investigator or adjudicator might save it in

1 a working folder --

2 Q Uh-huh.

3 A -- a shared drive or a personal drive just to have it to refer to later on, yes.

4 Q And, when you made edits in a Word document, for example, and tracked

5 changes, you would email it to whoever it was going back to, correct?

6 A Yes.

7 Q And so there would be an email track record of that --

8 A Absolutely.

9 Q -- as well, correct?

10 A Absolutely.

11 Q So it wasn't the case that you were trying to hide your edits, correct?

12 A Correct.

13 Q Okay. The following paragraph reads, "Because of the influence of Acting

14 DAD Veltri and Acting SC Perkins, it was very common when SSA client arrived in SecD for

15 investigators to ask inappropriate questions of the sort we recently referred to your office

16 for investigation such as whether employees under investigation had vocalized support

17 for former President Donald Trump or whether they had vocalized objection to the COVID

18 vaccine."

19 Do you see that?

20 A I do see that.

21 Q Is that a true allegation?

22 A No.

23 Q And what's your reaction to that allegation?

24 A I think [redacted] over the past year has shopped a variety of different

25 allegations against me to a variety of different individuals. And, upon this questionnaire

1 being put forth, I think he's taken that opportunity to blame me for it.

2 My reaction is it's just false, and it's unfortunate that he's that desperate to try to

3 blame me for his own situation.

4 Q And I want to turn to both [redacted] and the questionnaire in a moment.

5 A Uh-huh.

6 Q But I just want to finish out a couple more questions on this letter.

7 A Uh-huh.

8 Q The following paragraph indicates that SSA client participated in many

9 discussions in which it became clear that Veltri's and Perkins' perspective was that, if an

10 FBI employee fit a certain profile as a political Conservative, they were viewed as security

11 concerns and unworthy to work at the FBI.

12 You indicated that allegation as false earlier.

13 A It is false.

14 Q Okay. And what's your reaction to that allegation?

15 A My reaction is it's false. There were never meetings or conversations

16 where an individual's political leanings or political affiliation had any bearing on their

17 security clearance eligibility.

18 Q And is it true that it would be improper for political affiliation or political

19 leanings to have a bearing on security clearance eligibility?

20 A Yes.

21 Q And did anyone ever raise to you concerns that you were -- that you were

22 giving off an appearance of being biased against political conservatives in some way?

23 A No.

24 Q Okay. So nobody ever brought anything like that to your attention?

25 A No.

1 Q And, as far as you know, this concern is solely something raised by
2 [redacted]
3 A Correct.
4 Q Okay. I want to turn to [redacted] now.
5 As an initial matter, I think you mentioned that [redacted] you believe is the SSA
6 client referred to in that Empower Oversight letter.
7 A Yes.
8 Q Who is [redacted]
9 A [redacted] was a Supervisory Special Agent who was assigned at the
10 Security Division. I believe he reported in April of 2022.
11 He was not an overly motivated individual. He did sort of the bare minimum of
12 work. I would give him a lot of feedback.
13 When his documents would come forth for review, again, just the process we
14 discussed, we would make review, edits, tweaks, mostly for grammar, syntax, spelling,
15 and, you know, the format, template, you know, that we used, consistency.
16 And I would often send back the exact same edits. Some things are just
17 boilerplate language in a template, and he would have the same errors and the same
18 every time.
19 It's like, "[redacted] change your template. Change your go-by documents because
20 you're sending these same errors every time."
21 So it just -- he seemed very lazy. He often required a lot of redirection and
22 correction.
23 Q And, when you say redirection and correction and the feedback that
24 you -- actually take that one by one.
25 The feedback that you mentioned, would that be written on documents, or would

1 it be sitting down to talk with [redacted] in meetings?

2 A It would be both.

3 Q Okay. How did he react to that feedback?

4 A It's interesting. To best describe [redacted] any reaction that you would

5 get from [redacted] would generally be the same. He would look at you, shrug his

6 shoulders, and just sort of shrug, no real comment back. He would just "okay." That

7 was generally any response that you would get from [redacted]

8 Q In earlier hour, there was some discussion about the timeline and how

9 certain adjudications took a long time to revolve.

10 Is it fair to say that [redacted] might have contributed to some of those delays?

11 A It is fair to say that.

12 Q And why is that, or how is that?

13 A At one point, I do recall having a conversation with [redacted] who had

14 agreed to serve as the acting unit chief when the unit chief retired, and he brought to my

15 attention that he saw that [redacted] was hoarding cases.

16 So, as we discussed in the earlier hour, the Clearance Referral and Evaluation Unit

17 would open an investigation, assign it to the Clearance Investigation Unit. And it was

18 actually because of [redacted] that we had to sort of change the process a little bit.

19 Generally, the CREU team would look to see where the employee who was being

20 referred to for investigation was located. We divided up field offices and divisions by

21 regional teams, and typically the CREU team would assign it directly to an SSA in that

22 region to then assign to an investigator.

23 But, because we realized that [redacted] was hoarding cases and not assigning

24 them to investigators, they weren't -- were not mitigating risk. He's just holding them,

25 hoarding them.

1 So we changed the process slightly that CREU would assign it to the unit chief.
2 Q Uh-huh.
3 A The unit chief would then have visibility on it and then would talk to the
4 regional supervisor.
5 And then who should I assign this to directly?
6 And it would go -- so to avoid the hoarding.
7 Q So, just to be clear, when you say hoarding, [redacted] was keeping cases, I
8 guess, in his --
9 A In his queue.
10 Q -- in his queue and was not assigning them out? Is that --
11 A Correct.
12 Q Okay. And so, because they weren't assigned out, those cases weren't
13 being investigated.
14 A Correct. There were, in some cases, he was trying to investigate them
15 himself. He would do interviews. But, again, any interview needs to be done with two
16 people. You have a, you know, secondary that can kind of corroborate.
17 He would make a couple of phone calls on his own, write up a document, put it in
18 a file, and try to close the case without any further investigation.
19 Q So, in other words, he wasn't following appropriate investigative protocols.
20 Is that fair to say?
21 A That is very fair to say.
22 Q Okay. You mentioned that other employees raised concerns about
23 [redacted]
24 Were those his subordinates?
25 A They were subordinates. They were peers.

1 Q Would you say there were a large number of complaints raised about
2 [redacted]
3 A Yes.
4 Q And we say large. Is it possible for you to quantify that in any way?
5 A At the point that I had spoken with his unit chief, [redacted] before he
6 retired February of 2023, I let him know in a matter of about a week's time I had gotten
7 calls from a section chief in another section within Security Division, general counsel,
8 another division.
9 And I had heard complaints from other unit chiefs within our section and some
10 subordinates of his, just complaints about him, his unprofessionalism, his complaining
11 just about his work -- "these cases are BS" -- and just his overall lack of professionalism.
12 And that was all within a short period of time.
13 So I approached his unit chief and asked him, "First of all, is [redacted] okay? Is there
14 anything we need to do for him, you know, make sure he's okay first."
15 And he thought everything was okay.
16 But I asked him, "Then I need you to sit with him and talk with him, counsel him
17 because this number of complaints in a short period of time is remarkable."
18 Q You've referred to counseling a couple of times. Is counseling a formal FBI
19 process?
20 A Yes.
21 Q And can you explain what counseling is?
22 A Sure. Generally, when -- for me personally, my leadership style -- and
23 there's not a textbook, per se. But I'll start with a verbal.
24 Q Uh-huh.
25 A "Hey, I'm seeing your work is a little short of expectations. What's going

on? Do you need more training? You know, see if we can work through it. What do you need? You know, why is this the situation?"

Or, in the case of [redacted] "We're getting complaints about your professionalism, your laziness, your complaining, bringing down morale. What's going on?"

And then the encouragement of, "I need you to improve. I need you to stop having these outbursts on the floor in fronts of your team," give that corrective recommendation.

And, if it doesn't improve, then the next step would logically be to document it in our system of record.

Q And I was going to ask about that documentation.

Were there counseling sessions or, I guess, concerns documented about [redacted]

A Yes.

Q And you said the system of record. What is the system of record?

A It is called HR Source.

Q Sitting here today, are you aware of the number of times that concerns about [redacted] would have been documented in HR Source?

A I documented two counseling session with [redacted] in HR Source.

Q Do you know if any other supervisors in the Security Division would have documented any concerns about [redacted]

A I'm not aware. I can only see what I contribute into there. And I think that's for the employee's benefit so that you're not prejudiced to what another supervisor might have documented. They get a fresh start with any new supervisor.

But, for me personally, I know that I entered two counseling sessions with him.

1 Q Understood. Do you know if Mr. Veltri was aware of the concerns around
2 [redacted]
3 A At the point that [redacted] started to have problems, again, as I noted, I
4 had started to get complaints in February of 2023.
5 In December, January of twenty -- December of '22, January of '23, Mr. Veltri was
6 aware that there was an internal investigation initiated on [redacted] I think that was
7 his first introduction to there being a problem with [redacted] where he had -- that the
8 committee's not aware.
9 There was an allegation that [redacted] physically pushed someone in an
10 elevator in our Security Division building and showed off his weapon as a threat to the
11 person for not closing the elevator door fast enough.
12 Q And I'm sorry. When was that internal investigation opened?
13 A I believe December of '22 or January of '23, that timeframe.
14 Q Do you know if how -- if or how that internal investigation was resolved?
15 A The allegations were substantiated, and I believe he was given a 5-day
16 suspension.
17 Q And you referenced him showing his weapon in an FBI elevator. Would you
18 say that was -- you said that was a threat effectively.
19 A That's how the complainant wrote the complaint, that he felt threatened by
20 [redacted]
21 Q Okay. And ultimately [redacted] was suspended, correct?
22 A To clarify --
23 Q Uh-huh.
24 A -- suspended by OPR or suspended by the Security Division?
25 Q Well, I guess you had mentioned in the earlier hour that [redacted] was

1 suspended because of security concerns.

2 A Yes.

3 Q So I guess was he suspended -- let's take them one by one. Was he

4 suspended by OPR? And OPR is Office of Professional Responsibility, correct?

5 A Correct. He was -- it was recommended that he received a 5-day

6 suspension without pay from OPR for the elevator incident. He was in the process of

7 appealing that suspension, I understand, at the point that his security clearance was later

8 suspended in September of 2023.

9 Q Okay. And --

10 [redacted] Sorry. Is that information you know from the Security Division role

11 or as sort of his supervisor?

12 Ms. Perkins. Both.

13 BY [redacted]

14 Q And let's turn to the suspension by the Security Division. And you just said

15 the month, and I just forgot. He was suspended you said in September of 2023?

16 A September 20th, 2023, correct.

17 Q And was that related to the elevator incident?

18 A Not specifically.

19 Q Okay. What's your understanding of the reasons that he was suspended by

20 the Security Division?

21 A On approximately March 31st of 2023, a Security Division-specific email was

22 somehow transmitted to a former FBI employee who is part of a group that calls

23 themselves The Suspendables, former FBI employees whose clearances had been

24 suspended or revoked.

25 Q Not to break in --

1 A Yeah.

2 Q -- but was that former FBI employee Kyle Seraphin?

3 A It was Stephen Friend.

4 Q Stephen Friend. Okay. I apologize.

5 A Stephen.

6 Q Yes.

7 A This group of individuals who's had security clearance suspensions or

8 revocations, they've sort of coalesced into sort of a group that calls themselves The

9 Suspendables.

10 And this Internal Security Division -- again, it only went to the Security Division -- it

11 was captured by a photograph, apparently by cell phone, and then transmitted to

12 Stephen Friend and posted online on that or on the same date with the caption, "We, the

13 Suspendables, have a mole in SecD."

14 And the Insider Threat Office alerted to it and was concerned, especially with

15 this -- this brag or this boast that the sender was a mole providing information to the

16 Suspendables.

17 So, through -- we can certainly go through the steps if we need to. But,

18 ultimately, it was determined that [redacted] was a potential suspect in having

19 transmitted that photograph to Stephen Friend.

20 Q And, just for the record, what is the Insider Threat Office?

21 A Sure. The Insider Threat Office is a standalone division within the FBI that

22 provides analytical support to Security Division, as well as other divisions, Inspection

23 Division, Counterintelligence Division, looking for anomalous activities through FBI

24 systems, communications, anything that could present a potential, you know, present

25 potential insider threat indicators, whether it's communications that -- that are suspect or

1 present that as an individual conducting activity that's not in the interest of the FBI.
2 Again, they are there to provide analytical support and proactive analytics to
3 Inspection Division, Counterintelligence Division, and Security Division, as appropriate.
4 Q And, in the case of [redacted] I want to make sure I have this timeline right.
5 So the incident in the elevator would have happened in late 2022. Is that right?
6 A Correct.
7 Q Okay. And then an investigation was opened also in late 2022, correct?
8 A By the Internal Affairs section.
9 Q Right. By the Internal Affairs section.
10 And so, while he was under investigation, in approximately March 2023, he then
11 sent this photo to Mr. Friend, correct?
12 A Correct.
13 Q Okay. And so and that -- and the posting online said that -- referred to
14 mister -- who we now know as [redacted] the person we now know as [redacted] as a
15 mole.
16 A Yes.
17 Q And you indicated that that language was particularly concerning, the use of
18 the term "mole."
19 What's your understanding of what "mole" means?
20 A Somebody who is working against the interests of the organization.
21 Q And why was that of concern that whoever it was that was leaking this
22 information, again, that we now know as [redacted] was a quote, unquote "mole"?
23 A For one, he had access to some of the most sensitive information within the
24 FBI, certainly with regard to employees. And he has a significant role in determining
25 whether or not we have other security risks within the organization.

1 And, if he himself is providing information externally, if he himself is engaging in
2 conduct that is contrary to the interests of the organization and the national security, he
3 shouldn't be in a position where he is making those recommendations for other
4 investigations.
5 Q Okay. So, to be clear, it's not -- the concern wasn't just the content of the
6 original email that was leaked. It was that this individual may be leaking or may have
7 access to and be able to leak further national security information, correct?
8 A Yes.
9 Q Okay. And, as we talked through earlier, with executive order -- the
10 executive order governing classified information, any concern about risk to national
11 security has to be resolved in favor of protecting that national security, correct?
12 A Yes.
13 Q So, in other words, in that situation clearance had to be suspended. Is that
14 fair to say?
15 A Yes.
16 Q Okay. What was the -- is [redacted] still an FBI employee?
17 A No.
18 Q Okay. And what were the circumstances around his separation, if you
19 know?
20 A He resigned from the FBI.
21 Q And when did he resign?
22 A I don't have the exact date. I don't recall offhand, but he resigned while he
23 was under investigation.
24 Q Okay. So the investigation was never completed.
25 A The investigation was completed, I believe. I did recuse myself after a

1 number of these letters and allegations started to surface through The Washington times
2 that I -- it was clear that it was [redacted] I recused myself.
3 So I had no oversight, but I understand that the investigation was complete.
4 Q Okay. Are you aware of whether [redacted] ever took a polygraph exam?
5 A I am aware that he took a polygraph exam on September 20th of 2023.
6 Q And that polygraph exam was to question whether he had been involved in
7 the leaking of emails, correct?
8 A Yes.
9 Q And what was the result of that polygraph exam?
10 A It was a strong deception indicated.
11 Q So it indicated that he lied on his polygraph. Is that --
12 A Yes.
13 Q Okay. I want to turn to the -- move on from [redacted] and turn to the
14 questionnaire, which was exhibit 4.
15 You were asked a number of questions about this questionnaire in the earlier
16 hour. And can you -- I know you've said this, but I don't know that I wrote the answer
17 down. When did you first become aware of this questionnaire?
18 A On or about June 1st of 2024.
19 Q And how was it brought to your attention?
20 A It was brought to my attention when the Inspection Division, External Audits
21 Section, received a request for information from the Department of Justice Office of
22 Inspector General about this template.
23 The RFI sought to obtain any official templates used in security investigations from
24 the Clearance Investigation Unit.
25 And we didn't -- I didn't know how to answer that question. I didn't know what

1 they were talking about. We don't have preformatted templates for questions because
2 all interviews would follow a process of addressing each specific underlying security
3 concern.
4 So, when they asked for the official templates, we didn't know what they were
5 referring to. So we asked for additional information from the Inspection Division, and
6 they provided this.
7 And that's when I said earlier I thought it was something that was made up and
8 portrayed to look like it was from Security Division, only the find out that it was used in
9 this one case.
10 Q So, to be clear, this is not a Security Division form or template.
11 A Correct. It is not an official Security Division form or template.
12 Q And you indicated that it was actually created by a contractor, correct?
13 A Correct.
14 Q Why does the Security Division use contractors?
15 A When the -- there was a precursor unit to what is currently now the SIIS. It
16 was all one unit referred to as the Analysis and Investigations Unit. I think this goes back
17 to the Robert Hanssen investigation.
18 The AIU was set up to address internal investigations or continued eligibility
19 concerns for employees. And, based on just lack of funded staffing level, a contract was
20 established to bring in contract investigators.
21 At that time, most of them were prior Federal investigators or prior FBI retired
22 agents. But, as that contract has gone through a number of evolutions, they are not just
23 Federal investigators. They could be former police officers. They could be former
24 analysts for law enforcement agencies.
25 So the criteria may change a little bit, but historically it's been because there is no

1 funded staffing level for specific investigators within the section.

2 Q So is it fair to say -- and thank you for that background.

3 Is it fair to say that the Security Division uses contractors because there's a lack of

4 full-time employees in the Security Division?

5 A There's a lack of funded staffing level.

6 Q Okay. And what is funded staffing level? What do you mean by that?

7 A Basically the divisions and field office are given a number, a magic number,

8 that tells them how many FBI employees they can have assigned to their field office or

9 division, whether it's the number of analysts, the number of agents, the number of

10 supervisors, the number of whatever.

11 And, in Security Division, we do not have funded staffing level for investigators.

12 So investigations are conducted by contractors.

13 In the past 3 years, we've been granted a number of Reserved Service Program

14 personnel, who are former FBI employees, former FBI Special Agents. But that's only

15 been within the last 3 years. AIU was set up 20 years ago, thereabouts.

16 So even the RSPs are not FSL. They're temporary positions.

1 [12:08 p.m.]

2 BY [redacted]

3 Q And FSL is?

4 A Funded staffing level. I'm sorry. They're not official Security Division

5 employees. They are temporary positions.

6 Q And to be clear, everything that you've just talked about -- the funded

7 staffing levels, the magic number, the number of levels -- all of that is beyond your

8 purview, correct?

9 A Absolutely.

10 Q You have no role in determining how many funded positions -- funded

11 investigative positions, for example, the Security Division has.

12 A Correct.

13 Q Okay.

14 Turning back to the questionnaire, in this packet, which was released to Empower

15 Oversight, it includes three completed questionnaires.

16 A Yes.

17 Q Are you aware of whether this -- you said a full investigation was conducted

18 into this questionnaire.

19 A Yes.

20 Q Are you aware of how many times this questionnaire was used in an

21 investigation? Was it three times? Was it more than that?

22 A It's my understanding that this line of questioning was all for the same

23 investigation.

24 Q Okay.

25 A And that these were questions that were asked by the same investigator for

1 one case.

2 To my understanding, when we looked into the matter, it was explained to our

3 supervisors in SecD when asking the investigators, "What is this?" the current contract

4 company that is used by Security Division, their contractors typically typed their questions

5 in a similar format.

6 For whatever investigation, whether it was this case or any other case, they would

7 typically type up their questions and go down sort of a checklist.

8 So the unit chief provided some retraining and explained that this is just not

9 acceptable.

10 Q And when you said this was used for one case, that was an investigation into

11 one particular employee? Is that right?

12 A Yes.

13 Q Okay. And so there might have been numerous questionnaires, because

14 these questionnaires were used to interview potentially associates of that employee,

15 correct?

16 A Yes.

17 Q But it was all for one particular investigation, correct?

18 A Correct. This line of questioning, yes.

19 Q Okay.

20 Can you turn to page 4 of the questionnaire? I want to read question 11. It

21 says, "Aware he attended the Richmond Lobby Day event on 1/18/2021?"

22 Do you see where it says that?

23 A Yes.

24 Q Are you familiar with the Richmond Lobby Day event which took place on

25 1/18/2021?

1 A I don't know what that is.

2 [Perkins Exhibit No. 6

3 was marked for identification.]

4 [redacted] Okay.

5 I want to introduce into the record exhibit 6, which is a CNN article dated January

6 18th, 2021, entitled "Armed demonstrators gather at Virginia state Capitol as states stay

7 tight on security ahead of inauguration."

8 And take as long as you need. I can tell you I'm only going to ask about the first

9 page.

10 [redacted] Can I just note for the record we are referring sort of shorthand to

11 this document as a questionnaire, but I don't know if that is an accurate description of

12 what the document actually is?

13 Ms. Perkins. Yeah. I think what we understood was that the investigator used

14 it as sort of an interview guide to sort of create a roadmap to the -- through the

15 investigation -- or through the interview of a subject or a third party.

16 BY [redacted]

17 Q Thank you for that, and I appreciate that clarification. I do want to know.

18 I've been calling it a questionnaire as well. It's not intended to suggest that it is any type

19 of formal document. It's just shorthand. But I appreciate that clarification.

20 A Okay. I've read the first page.

21 Q Okay. I want to read the first two paragraphs of this document into the

22 record. It says:

23 "Dozens of armed demonstrators gathered at the state Capitol in Richmond,

24 Virginia, on Monday as authorities remained on alert at capitols across the United States

25 two days ahead of President-elect Joe Biden's inauguration.

1 "Several demonstrators in Richmond identified themselves as members of the
2 Proud Boys and Boogaloo groups as well as the Black Panthers. The demonstrations
3 were part of the state's annual 'Lobby Day,' an event held in support of Second
4 Amendment rights and hosted by the Virginia Citizens Defense League."
5 Did I read that correctly?
6 A Yes.
7 Q And underneath those paragraphs there's a photograph. Do you see that
8 photograph?
9 A Yes.
10 Q Could you describe what that photograph shows?
11 A It shows three individuals in camouflage fatigues, two of whom -- well, all
12 three of whom are carrying firearms and an American flag.
13 Q And the caption to that photograph reads, "Members of a pro-gun group
14 carry their weapons near the state Capitol on January 18, 2021, in Richmond, Virginia,"
15 correct?
16 A Yes.
17 Q January 18th, 2021, was roughly two weeks after January 6th, 2021, correct?
18 A Yes.
19 Q And January 6th, 2021, is when there was an attack on the Capitol here in
20 Washington, D.C., correct?
21 A Yes.
22 Q And January 18th, 2021, was also two days before the Presidential election,
23 correct?
24 A Presidential --
25 Q I'm sorry, Presidential inauguration, correct?

1 A Inauguration. Yes.

2 Q Might it be of concern to the FBI if an employee engaged in an event where

3 individuals were wearing fatigues, carrying firearms, and might be associated with groups

4 like the Proud Boys?

5 A That's certainly a gray area.

6 What I do see is -- again, just based on a photograph, there does appear to be First

7 Amendment-protected activities here. They're assembling. They're carrying weapons.

8 Again, I don't know what open carry laws are in Richmond. I don't know those

9 laws. I think certainly a number of questions would be asked.

10 But attending a rally, if there are no trespassing issues like we saw on January 6th,

11 I don't know that it would be security relevant unless there were complaints about safety

12 or feeling threatened or anything along those lines.

13 Just attending a rally in and of itself would not fall under the purview of Security

14 Division to investigate clearance eligibility as a standalone.

15 Q Okay. Thank you for that.

16 And I am almost out of time, so just a couple of quick follow-up questions on a

17 different topic.

18 You were asked about Jennifer Moore in the prior hour. You recall those

19 questions?

20 A Yes.

21 Q And you indicated that you Interacted with Ms. Moore -- or Executive

22 Assistant Director Moore -- infrequently, correct?

23 A Correct.

24 Q With that understanding, during your interactions with her, did you ever

25 have any reason to question Ms. Moore -- EAD Moore's integrity?

1 A No.

2 Q Did you ever have any reason to question EAD Moore's honesty?

3 A No.

4 Q What was your impression of EAD Moore as an FBI employee?

5 A EAD Moore was a very strong, very effective, very well-respected leader.

6 I will note that one thing that stands out from working for her when she was the

7 assistant director of the Security Division -- she reported to Security Division July of 2021.

8 In September she held a meeting with all of her supervisors. All of her -- the

9 DADs were there, the section chiefs were there, the supervisors, unit chiefs, and online

10 were all of the investigators and adjudicators.

11 And she made very clear her expectations for briefings. She wanted to be

12 briefed regularly. She wanted to set aside significant time to talk through difficult cases.

13 And more than anything, she wanted opposing views. If you didn't have an

14 opposing view, she would make you give her an opposing view. She wanted to debate.

15 Because she felt it was very important to evaluate all aspects of a case so that she was

16 better informed to make a decision.

17 [redacted] Thank you for that.

18 And we can go off the record.

19 [Discussion off the record.]

20 [redacted] I wanted to clarify, in the first round we spoke about several different

21 types of electronic communications, and thought it might be helpful just to be precise in

22 the types of communications that you were speaking of in terms of a summary versus a

23 recommendation.

24 Ms. Perkins. Yes. An important distinction.

25 In the first hour you asked questions about the investigative summary,

1 understanding that the electronic communication is just a vehicle by which the FBI
2 commits information to the case file. It's just the name of a document, an EC.
3 However, the investigative summary is just that internal write-up of the investigation
4 from the case manager as the case moves from investigations to adjudication.
5 We also use ECs in the Bureau for anything else, specifically in the Security
6 Division, if there is a recommendation for the security clearance, a suspension,
7 revocation, a warning letter. It's all written on an EC.
8 [redacted] Okay.
9 Ms. Perkins. But depending upon what the purpose is, there may be higher
10 levels of reviews. The case summary is a lower level, so I wouldn't see that. The front
11 office executive management would generally approve those documents, because it's just
12 going from the Clearance Investigation to the Clearance Adjudication Unit just through
13 normal workflow.
14 [redacted] Okay. Thank you for that clarification.
15 [Perkins Exhibit No. 7
16 was marked for identification.]
17 [redacted] And before we went on the record, I passed out what we're marking
18 as exhibit number 7, which is a September 19th, 2024, letter to the committee from
19 Empower Oversight.
20 And so please take your time to review it. I'll refer to it during the second hour,
21 as well as the first June 28th letter that I've already marked. So please take your time to
22 review.
23 [redacted] I don't have one.
24 BY [redacted]
25 Q During my question I'm just going to use through page 11, so you don't have

1 to read. But take your time, please.

2 A Sure. You said going through page 11, ma'am?

3 Q Yes.

4 A Okay. I'm ready.

5 Q Okay.

6 Looking at the first page of the September 19th, 2024, letter, I'll just note that it

7 says the document contains new information from new witnesses, so this isn't just the

8 individual whistleblower that you've named throughout the TI today. It doesn't appear

9 to be just information coming from that individual.

10 Starting on page 2, the first paragraph: "Under then-Acting DAD Veltri, the FBI's

11 Security Division probed the political beliefs and personal medical decisions of FBI

12 employees as part of its security clearance investigations."

13 Then, "Additional witnesses from inside SecD have provided us information that

14 SecD leadership improperly encouraged using those factors when considering suspending

15 and revoking FBI employee security clearances to remove them from the FBI -- without

16 properly documenting those factors in FBI files.

17 "Contrary to Director Christopher Wray's recent testimony before your

18 committee, the so-called 'Trump questionnaire' was not the only time FBI's SecD

19 interrogated employees about coworkers' support for Donald Trump and views on

20 personal medical decisions, such as whether to take the experimental COVID-19 vaccine."

21 Did anyone ever raise these concerns to you that there were questions about the

22 COVID-19 vaccination and President Trump that were being asked by investigators?

23 A No.

24 Q Okay. Would it surprise you if individuals were asking these types of

25 questions and you had no awareness?

1 A It would surprise me. I would firmly believe that if any contractor or RSP
2 asked questions along these lines, somebody would have raised that concern.
3 Again, it was a one-case, isolated incident of a contractor. If this was a pervasive
4 problem, somebody would have raised this up the chain of command.
5 Q Because it sounds from this disclosure that purports to contain information
6 from multiple witnesses that there seems to be a problem that's endemic within the
7 Security Division of asking these types of questions.
8 Would that surprise you?
9 A It would surprise me, because this did not occur.
10 Q And so you are sure that it is not occurring? Have you looked at other files
11 to make sure that there have been no questions? What kind of insight do you have into
12 the questions that investigators are asking?
13 A I worked following the DOJ OIG inquiry after June, 2024, when this was
14 discovered through the discovery process, I went to the information technology
15 applications division and asked that they independently -- because I'm not an IT person, I
16 don't have administrative rights to case files -- for them to conduct a query and report it
17 to Inspection Division.
18 All results went not for me, but to the Inspection Division of any word search of
19 Trump, COVID, vaccine, whatever buzzwords that could have corroborated these lies,
20 these false allegations in this letter. And the result was that this was not a systemic
21 issue. This was an isolated questionnaire. And that is it.
22 Q Did you have any sort of insight into what the internal review entailed? Do
23 you know if they went through case by case making sure?
24 A Yes.
25 Q Did they interview line investigators?

1 A They -- again, you're asking about questions.

2 Q Uh-huh.

3 A So they looked for any attachments to interviews or interview FD-302 is the

4 document that the FBI uses to transcribe an interview. They looked for all internal

5 security investigations for those types of words and terms and they came up short. This

6 was not a systemic problem.

7 Q Do you know if they conducted any interviews of line investigators?

8 A I'm not aware if the Department of Justice OIG has conducted interviews of

9 individuals.

10 Q So you wouldn't know whether the Department inspector general has asked

11 interviewers whether they asked these type of questions and don't document them?

12 A I'm not aware of the status of that process.

13 Q Okay.

14 If you turn to page 10 of the document. Looking at the last full paragraph, that

15 starts with, "For example," I'll read it into the record.

16 "For example, according to multiple witnesses within SecD, the two CIU

17 contractors who used the so-called 'Trump questionnaire'" -- or has been corrected for

18 the record, it was an interview guide -- "often said they were fearful of being fired by SC

19 Perkins and talked about the 'Kelly Cart' coming for them.

20 "The 'Kelly Cart' was a reference to a female contractor in SIIS who, after

21 reportedly pushing back against SC Perkins' wishes, had an unknown FBI employee show

22 up with a cart at her desk and box up her personal belongings. The female contractor

23 was walked out of the building, and her employment was terminated. According to

24 whistleblowers, this fear of consequences for displeasing SecD and FBI leadership was

25 widespread."

1 Would it surprise you if people were fearful to bring some of these concerns to
2 your attention?
3 A It would. And I will state that this here "Kelly Cart" was a term that was
4 created by [redacted] the former unit chief of Clearance Adjudication Unit. She's the
5 only person that's ever used that term.
6 Q And what can you tell us about the use of that term?
7 A She monickered it a sign of dismissal, and I found that to be disrespectful to
8 anybody. I don't know who Kelly is that she's referring to. I've not walked out anyone
9 named Kelly. So I'm not sure who she's referring to.
10 Q So it would completely surprise you if anyone, any of your subordinates,
11 were nervous to bring concerns to your attention?
12 A Yes.
13 Q Okay. I want to turn it over to my colleague [redacted] here who has a couple
14 questions for you.
15 [redacted] Yeah. I just have a couple questions.
16 So it was represented to us by a former employee of SecD, going back a few years
17 now, that SACs in the field were using the security referral process to flush people they
18 didn't like in their field offices during the time when Jeff Sallet was the associate deputy
19 director.
20 So during your time in SecD, did you ever see, like, any referrals coming in from
21 the field where you felt like SACs were trying to take advantage of the SecD process
22 versus referring something to OPR?
23 Ms. Perkins. That's a good question. And I would say that that is why I was so
24 adamant in 2019 that we establish threat priorities in the Security Division.
25 Anybody in the FBI knows that if you want to know what constitutes misconduct

1 under Inspection Division, Internal Affairs Section, there is an offense table and there is an
2 OPR penalty guide. Everyone knows how to -- but does anyone know what constitutes a
3 security investigation?
4 So even in the Security Division, they didn't know what constituted a security
5 investigation.
6 When I first arrived, there were over 1,600 investigations open. They just
7 opened cases. So in 2019 we established those threat priorities. This is what we
8 investigate. This is the appropriate use of the guideline.
9 And so if we got those phone calls from individuals who were looking to, I think,
10 use Security Division as the Easy Button to deal with a personnel issue, we spoke to the
11 guidelines. We spoke to the threat priorities. That does not fall within the purview of
12 Security Division. That may be more appropriately handled by Performance Appraisal
13 Unit and Human Resources Division or the internal investigation process in Inspection
14 Division.
15 So whether or not that was the perception, and I think we certainly understand
16 that that did probably occur, people trying to call Security Division for an Easy Button
17 solution, but we would respond with these are our threat priorities, this is our process,
18 and that does not fall within our purview.
19 [redacted] So before those guidelines, what you put into place occurred, you
20 feel pretty confident that, like, that process was abused by SACs in the field or maybe
21 assistant -- or Associate Deputy Director Sallet ramrodding stuff through?
22 Ms. Perkins. So I arrived to Security Division, like I noted, in October of 2018. I,
23 by January of 2019, was serving at that time as the acting section chief. I filled that role
24 a couple of times for Security Division. And the first thing I did as the acting section
25 chief right after my arrival was establish those guidelines.

1 I can't speak to what may have happened prior to 2018, October of '18, when I
2 arrived there. I know that I, myself, fielded a couple of calls from SACs who were asking,
3 "Hey, is this something that would fall within your purview?" "Well, no, actually, that's
4 probably misconduct or that's probably performance. We deal with security matters."
5 [redacted] Are you familiar with former staff operation specialist Marcus Allen?
6 Ms. Perkins. I am.
7 [redacted] To your knowledge, who supervised Mr. Allen's clearance
8 investigation?
9 Ms. Perkins. I believe it was SSA [redacted] So there is inaccuracies in this
10 document. [redacted] was the SSA.
11 [redacted] I would ask that his name be redacted. He's a current non-SES
12 employee.
13 BY [redacted]
14 Q And what was your involvement with Mr. Allen's clearance investigation?
15 A I received a phone call from an ASAC in the Charlotte Field Office on or about
16 November 2nd of 2021. The conversation followed an email that he had sent where he
17 had expressed concern at Marcus Allen's ability to remain unbiased and that he had
18 continued access to domestic terrorism case files in Sentinel.
19 In my conversation with the ASAC, he expressed concern about what he called
20 spiraling behavior that had been escalating for about a year.
21 Q And what did you -- did you respond back to the ASAC?
22 A Well, it's a conversation, it was a phone call.
23 Q Okay.
24 A Sent the email. Had a conversation with him.
25 He put out a lot of information, and I answered, well, this would fall within our

1 purview, this would not fall within our purview.

2 He put out a lot of information. So I know there's statements here about not

3 attesting or not receiving the vaccine. He understood through my explanation that that

4 is not something that the Security Division will investigate.

5 Any failure to attest or comply with those requirements was handled by the

6 Internal Affairs Section of the Inspection Division.

7 But when he noted the spiraling behavior, the increased hostility, the outbursts in

8 the office during a meeting about the domestic terrorism threat in the AOR, these were

9 all indicators to us of concern.

10 I requested a baseline analysis from the insider threat office and had a follow-up

11 conversation with the investigator at the time, was [redacted] and the former SSA

12 who was supervising the case and the unit chief of the Clearance Investigation Unit who is

13 now retired, [redacted]

14 Q And are you aware of Mr. Allen's current status with the FBI?

15 A I believe he resigned.

16 Q And are you aware that back in May of 2023, May 9th of 2023, the FBI

17 revoked Allen's security clearance?

18 A Yes.

19 Q And then a year later the FBI reinstated Allen's security clearance. Are you

20 aware of that?

21 A Yes.

22 Q Does that surprise you, that his clearance was reinstated?

23 A Can you clarify the question? I'm not sure what would be surprising.

24 Q You had just said about his escalating behaviors, how the ASAC had raised

25 some escalating behaviors, his outbursts. You had talked about how that could raise a

1 concern. So were those concerns mitigated?

2 A They were mitigated, but they weren't necessarily unsubstantiated.

3 Q Okay. And do you remember the circumstances surrounding Mr. Allen's

4 initial suspension?

5 A Yes. Specifically is there anything you'd like to ask me?

6 Q Yeah. Are you aware that the FBI questioned Mr. Allen's allegiance to the

7 United States?

8 A That is the application of the Adjudicative Guidelines. If you have a copy of

9 SEAD 4, we could certainly talk through the appropriate application of that guideline.

10 But it does, under Guideline A, reflect that individuals who are supportive or

11 associated or sympathetic with individuals who engage in acts of sedition does fall under

12 Guideline A, loyalty to the United States.

13 Q And you're aware that Mr. Allen is also a veteran. Is that correct? You're

14 aware of that?

15 A Yes.

16 Q How did the concerns about Allen's eligibility to hold a clearance, how did

17 those come to the Security Division, if you're aware?

18 A I understand that there was a referral made by the field office. I think the

19 email traffic I saw was that they reported to OGC. OGC forwarded information to

20 Security Division.

21 It went through in that intake process we discussed in the first hour. And it all

22 seemed fairly straightforward at that point. Again, I received the direct phone call from

23 the field office ASAC on November 2nd of 2021 and we discussed it, as I previously noted.

24 Q So your phone call with the ASAC on November 2nd, 2021, would have been

25 after the CIU opened the case into Mr. Allen. Is that correct?

1 A After CREU, yes, opened the case and it had been assigned to CIU, yes.
2 Q Did Mr. Veltri receive any sort of referral regarding Mr. Allen, to your
3 awareness?
4 A I'm aware that he had received an email through that whole, as I mentioned,
5 the field office reached out to OGC, OGC forwarded it to Security Division. And as I
6 recall from the email traffic, Mr. Veltri forwarded it to the unit chief of CREU, who was
7 [redacted] (ph).
8 Q Okay. If you look at page 5 of the September 19th letter, the very last
9 couple sentences on the page, I'll read them into the record.
10 "Rather than sending the information about Mr. Allen to be assessed by CREU, SC
11 Veltri cut the normal process short and directed that it go directly to CIU to have an
12 investigation opened. As SC Veltri's successor would later note, this was an 'abortion of
13 the process,'" end quote.
14 Do you have any insight into whether the short-circuited went straight to the CIU
15 rather than stopping at the CREU?
16 A I don't think this is factually accurate. There was an EC written in CREU to
17 open a case. There was no shortcut. There was no DAD Veltri writing an EC and
18 assigning it to a CIU investigator. That's what this to me reads. That did not occur, to
19 my knowledge.
20 Q To your knowledge, did referrals go to the CREU before Mr. Veltri received
21 any sort of referral?
22 A I don't know if this particular email was sent in dual process, if it was sent to
23 OGC and CREU. Sometimes a field office will send information to the Inspection
24 Division.
25 And as I noted earlier, we share information early between the Inspection Division

1 and Security Division. So I don't know if they sent this to Inspection and then Inspection
2 sent it to CREU as well as then it went to OGC in that process.
3 Sometimes we get things in duplicate and triplicate. So I can't speak specifically
4 if there was an existing referral in CREU prior to DAD Veltri being made aware.
5 Q So you're not aware of the exact sequencing of how the events occurred,
6 whether CREU had a referral before Mr. Veltri had a referral?
7 A I can't answer that question.
8 [Perkins Exhibit No. 8
9 was marked for identification.]
10 BY [redacted]
11 Q Okay. I'll enter as exhibit number 8 the January 10th, 2022, letter from EAD
12 Moore to Mr. Allen regarding the suspension of his security clearance.
13 Do you need time to review or are you okay?
14 A I'm okay.
15 Q Okay. So the letter states in the first paragraph, "The suspension of your
16 security clearance is based on security concerns related to Adjudicative Guideline
17 A -- Allegiance to the United States."
18 Are you aware of what information the Security Division had on January 10th,
19 2022, to support that?
20 A There was the information from the field office, as I noted, in the phone call,
21 and then the email that was sent to the Security Division that I received.
22 There was concern that he was spiraling, that he was -- had escalated over a
23 period of a year, that he had had this outburst during a threat review and prioritization
24 meeting discussing the domestic terrorism threat. So we had that information.
25 We also had the insider threat baseline analysis, which is outlined in this

1 document in part as well, yes.

2 So I understand there were a couple of interviews.

3 But, again, at the point that you've got information from the insider threat office

4 that's referenced on page 7 of this letter that there's a linear pattern of increased hostility

5 which may ultimately result in the direct influence or manipulation of information that

6 could directly interfere with FBI mission objectives, that's concerning. That's an insider

7 threat concern. They assess him to be an insider threat.

8 Q And are you aware of the September 29th, 2021, email that Mr. Allen sent

9 that questioned Director Wray's testimony?

10 A I don't recall that there was a direct questioning of Director Wray's

11 testimony. And, again, it has been a couple years. But I don't recall that.

12 I think there were more the links were sympathetic towards January 6th subjects.

13 There was some propaganda about the FBI being responsible for January 6th, or things

14 along those lines.

15 Again, it's been a couple of years, but I don't recall there being specifically an

16 allegation about the Director. But, again, I would have to refresh my memory with

17 those links.

18 Q Okay. And we'll come back to that.

19 But looking back at the January 10th letter, the second paragraph states: "The

20 Security Division has learned you have espoused conspiratorial views both orally and in

21 writing and promoted unreliable information that indicates support for the events of

22 January 6th."

23 Do you know how the Security Division defines conspiratorial views?

24 A Certainly the links that he was sending out from these dubious news sources

25 were not sourced. They're not credible. In fact, as I understand from an interview

1 with his supervisor, his supervisor, an intelligence analyst, the SIA had counseled Marcus
2 Allen.
3 The email links that he was sending out was a pattern of behavior spanning about
4 eight or nine months. And after, like, the second email, the SIA counseled him on only
5 relying on reliable news sources, not these conspiratorial websites.
6 So as I understand, his SIA defined it as unreliable and conspiratorial and told him
7 to cease, but he continued that behavior.
8 [redacted] I just want to clarify a timeline piece for the record, that the witness
9 was involved in the clearance investigation through the revocation decision, but you were
10 not involved in the reinstatement.
11 Ms. Perkins. That is correct.
12 [redacted] Is that correct?
13 Ms. Perkins. That is correct.
14 [redacted] Okay.
15 BY [redacted]
16 Q And I'm going to flip through some -- several pages of this September 19th
17 letter here. But starting on the bottom of page 4, I kind of just want to talk about you
18 had mentioned some links from unreliable sources. So I kind of want to dive into what
19 you define as unreliable sources.
20 A And this is a clarification. They were defined by the insider threat office,
21 not Dena Perkins personally.
22 Q Of course. I'm just talking about the representations you've made here
23 today, ma'am.
24 So it says at the bottom of page 4:
25 "On September 29, 2021, Mr. Allen made a protected whistleblower disclosure to

1 his supervisors and colleagues when he emailed regarding reports which originated with
2 The New York Times that confidential FBI informants were present at the Capitol on
3 January 6, 2021."
4 I'm just wondering if under the definition that you had learned from the -- what
5 individual was it?
6 A Insider threat office, and his supervisory intelligence analyst.
7 Q So would the insider threat office deem The New York Times to be a
8 conspiratorial outlet?
9 A I'm not assigned to the insider threat office, so I'd have to defer to insider
10 threat to answer that question.
11 Q On page 8 it says -- I'm starting with the paragraph that says, "The Insider
12 Threat."
13 "The Insider Threat assessment recorded that Mr. Allen's September 29, 2021,
14 email was 'inclusive of links from questionable sources.' Some of the allegedly
15 questionable sources included RealClearInvestigations.com and RealClearPolitics.com
16 which the FBI assessment claimed 'takes legitimate information and adds specific
17 language to spin the opinion of the information more favorably to right-leaning readers.'
18 "Yet in another December 8 EC, the CIU investigator recorded that all of the news
19 outlets Mr. Allen shared with his colleagues, including RealClearPolitics, were also
20 contained in FBI Daily News Bulletins for September 12, 23, and 29."
21 Do you know if the RealClearPolitics and RealClearInvestigations would be
22 considered to be conspiratorial news outlets?
23 A Again, I'll defer to insider threat to speak to what their assessment process
24 is. I'm not assigned to the insider threat office.
25 Q Okay. What we're just trying to understand is the September 29th email, in

1 addition to some Skype messages and in addition to the information you received from
2 the ASAC during the phone call, formulated the basis for suspending Mr. Allen's clearance
3 to begin with. And so we're just trying to understand kind of the baseline of what the
4 FBI was considering to be conspiratorial.
5 A Yeah. And certainly what you're referring to in links is one aspect. We
6 have an individual who is engaging in conduct which his supervisor attempted to correct
7 through verbal counseling.
8 Stop sending out these -- because he wasn't sending out some of the sources that
9 may have similar postings or similar publishings. He was sending out links to Gateway
10 Pundit or American Gulag or things that the insider threat office found to be unsourced
11 and generally not reliable.
12 So this is happening over a period of time. His supervisor has counseled him.
13 He is having an outburst in a threat review and prioritization meeting stating that the
14 domestic terrorism threat is not what we think it is. He is trying to dissuade people in
15 the office from following precedent and protocol.
16 You have management in that office is saying we're concerned that he has access
17 to domestic terrorism investigations and that he is unable to remain unbiased.
18 And so when we take that into the whole person, plus the fact that you've got the
19 insider threat office saying that this will result in the direct influence and manipulation of
20 information that could ultimately interfere with the FBI mission objectives, that is where,
21 when we look at the guidelines, and that's when we look at the executive order, that's
22 what it means to resolve any doubt in favor of national security, and that is what we did.
23 Q And when you say dissuade his colleagues from taking actions, what of Mr.
24 Allen's actions were in an attempt to dissuade his colleagues?
25 A When you look at the email communication, and I believe it was the

1 September 29th email or subsequent emails or prior emails, again, it was a linear pattern
2 of him sending out these emails, was that the D.C. elements were not being truthful and
3 that people should proceed with caution. And that was viewed as attempting to
4 persuade or dissuade people from following the DIOG or following leads and directives
5 coming from FBI headquarters.
6 Q So does "proceed with caution," does that implicate any sort of action that
7 he was asking for his colleagues to take?
8 A I think it was attempting to dissuade them from following through with
9 directives coming from FBI headquarters.
10 Q Okay. And my question was, was he asking his colleagues to take any overt
11 actions?
12 A Again, he's not a supervisor. He's an analyst. And investigations in the
13 FBI are driven by intelligence. And he's putting out information under the guise of
14 intelligence and appeared to be dissuading people from following through.
15 Q So I have a very specific question. Was he asking his colleagues to take
16 action, yes or no?
17 A No.
18 Q Okay.
19 Are you aware that as part of his job assignment related to the Joint Terrorism
20 Task Force he was responsible for conducting open source searches and circulating
21 relevant material to his colleagues?
22 A That would be part of an intelligence function.
23 Q Okay. And are you aware that at the time Mr. Allen circulated these links
24 regarding the events that occurred at the Capitol on January 6th, 2021, the Charlotte
25 JTTF, which he was assigned to, had opened January 6th-related investigations?

1 A It's a long question. I'm sorry to ask you to repeat.

2 Q Okay.

3 A Maybe you can break it down a little bit.

4 Q Of course. So at the time that Mr. Allen circulated these links to his

5 colleagues on the JTTF, the JTTF in Charlotte had opened January 6th-related

6 investigations. Were you aware of that?

7 A At the time I received the referral, I would not have known what was going

8 on in the Charlotte Field Office.

9 Q Do you know if your subordinates conducted any sort of investigation into

10 whether he was just carrying out his job duties?

11 A I can't speak offhand of what interactions the case managers had with the

12 field office, other than the documents we already discussed.

13 Q Okay. And turning to page 6 of the September 19th article.

14 I believe this page kind of references the November 2nd, 2021, call you had with

15 the ASAC in the Charlotte Field Office. So I'll just read that paragraph into the record.

16 "Meanwhile, the FBI set November 1, 2021, as its deadline for implementation of

17 the Biden Administration's government-wide federal employee vaccine mandate.

18 "The morning of November 2, 2021, a Charlotte Field Office ASAC emailed SC

19 Veltri: 'We have some added concerns about the employee, particularly since he is one

20 of the only two employees in Charlotte who is refusing to follow policy and attest to his

21 current vaccination status.'

22 "About three and a half hours after the ASAC's email, ASC Perkins twisted the

23 Charlotte Field Office's message, writing to the FBI's Insider Threat Office: 'Charlotte is a

24 bit concerned he is escalating.'"

25 After you got off the call with the ASAC in Charlotte, did you make a phone call or

email the FBI insider threat office to make them aware of the ASAC's concerns?

A Yes. And it was through instant message.

Q And you had said previously, and if you can just remind us of what you talked to the ASAC about the vaccination status. You mentioned that that couldn't be used as a basis. Is that correct?

A Yes. Going back to the time frame of the attestations, which was, I believe, earlier, prior to this here referral, it was determined by senior leadership of the FBI that the Security Division had no role in attestations or vaccinations or testing, so on and so forth, that all those matters would be addressed by the Internal Affairs Section of the Inspection Division.

So in the case of Mr. O'Boyle's status, that was not under the purview of the Security Division, and I did explain that to Mr. [redacted] (ph), the ASAC down in Charlotte.

Q Okay. And I want to talk about the CIU investigator's interviews with Mr. Allen's colleagues. And there's reference to that on page 7 of the September 19th letter, but I'm going to use the June 28th disclosure, which I believe was exhibit number 2. Looking at page 6 of that document. The September 19th letter just has specific dates.

[redacted] In your prior response I believe you mentioned Mr. O'Boyle, but you were intending to refer to Mr. Allen?

Ms. Perkins. I'm so sorry. I stand corrected. I'm referring to Mr. Allen. Thank you.

[redacted] Thanks, [redacted]

So if you look at the -- I'll say it's the next indented paragraph after the inset paragraph. It starts with, "On SSA Client's arrival."

Ms. Perkins. Uh-huh.

1 [redacted] "On SSA Client's arrival in CIU, he learned that the investigator on
2 the Allen case had ultimately included" -- "concluded," excuse me -- "SOS Allen's
3 'Allegiance to the United States' was not in question and that the suspension of his
4 security clearance was not warranted."
5 Did you become aware of the investigator's conclusions?
6 Ms. Perkins. I had a meeting with the investigator, that was [redacted]
7 along with his unit chief [redacted] on or about November 17th of 2021. We
8 discussed his concerns.
9 And I think in my assessment, in that meeting, in that conversation, was [redacted]
10 [redacted] had been assigned to the Security Division for all of about two and a half months,
11 maybe 10, 11 weeks at this point in time.
12 He had not received any adjudicative training. And it was my assessment that he
13 misunderstood and didn't have a full appreciation or understanding of SEAD 4 and the
14 Adjudicative Guidelines and application of the Adjudicative Guidelines.
15 Any person hearing "loyalty to the United States" is probably thinking a spy or a
16 terrorist, and that's a reasonable sort of concern, that you're looking at somebody
17 through the optic of espionage or terrorism.
18 But the guidelines clearly outline being sympathetic towards individuals engaged
19 in sedition or attempt to overthrow the United States Government, things along those
20 lines.
21 So with that, I tried to draw him to the Adjudicative Guidelines. I tried to talk
22 through it. And there seemed to be some rigidity on his side with regard to application
23 of Guideline A.

1 [1:08 p.m.]

2 BY [redacted]

3 Q And if you move up on page 6 of the June 28th disclosure, the first full

4 paragraph, it states, "The CIU investigator assigned to the Allen case began calling SOS

5 Allen's coworkers on November 17, 2021, to interview them. Every one of the

6 individuals interviewed stated Allen had never given cause to question his allegiance to

7 the United States."

8 Was that a factor, to your knowledge, in the investigator's kind of conclusion that

9 there was no evidence to suspend the clearance?

10 A And I would draw to the conversation we had. He had a secondary

11 investigator doing the interviews with him.

12 And [redacted] interviews were described as very thin, at best. He conducted

13 very baseline questions. They were not in depth. They were not thorough.

14 As we would see in the case file, when another investigator took over the

15 investigation and she asked more probative, more in-depth questions to the question of

16 the application of Guideline A, the information she got was much more robust with

17 regard to relevant security concerns.

18 You can't just ask somebody, "Do you question his allegiance?" because that's a

19 hard question to answer. But if you ask, "Did he appear sympathetic towards January

20 6th subjects? How? Tell me what his actions were. What was he doing?"

21 And that is how the follow-up interviews went with those exact same employees,

22 many of whom stated the first interview wasn't this in depth.

23 And so it is my understanding that [redacted] asked very baseline, superficial

24 interview questions which were not in depth enough to address the underlying security

25 concerns.

1 Q Okay. In your response, you've used two different terms, "appearing
2 sympathetic" and "expressing sympathy." Those are two vastly different things.
3 So which one was it? Did he appear sympathetic or was he expressing
4 sympathy --
5 A He was both.
6 Q -- towards an individual?
7 A He was both.
8 Q There was both? Okay. And how did he express sympathy?
9 A In the emails he notes that -- he forwards links that January 6th subjects
10 were political prisoners.
11 In his interview, he also stated that they were not being treated fairly, that they
12 were being persecuted.
13 So that's consistent with his expressing sympathy.
14 I think the appearance of sympathy is when he's walking around the office making
15 comments about individuals who were not being treated fairly, and then doing database
16 checks, which failed to identify very clear open source information about January 6th
17 subjects.
18 Q If you continue to look on page 6 here, down in the first paragraph that we
19 were talking about, it says, "Yet acting SC Perkins and Acting DAD Veltri pushed for SOS
20 Allen's clearance to be suspended on the theory that Allen's purpose in distributing
21 information within his field office was to absolve January 6, 2021, subjects. Neither
22 Perkins nor Veltri could explain how passing possibly exculpatory information about
23 investigative subjects was improper."
24 Can you help us understand how passing exculpatory information about
25 investigative subjects would be improper?

1 A You're referring to a very specific line here as though his sending the email
2 was the sole basis of the recommendation, which it's not.
3 As I explained, you have the information from an ASAC. You've got a baseline
4 analysis from insider threat office. You've got outbursts. You've got a linear pattern of
5 increased hostility. His supervisor was trying to correct his behavior.
6 So there's not one forwarding of emails that could be viewed as exculpatory or
7 providing diverse perspectives on subjects. There's a pattern of behavior that calls into
8 question his judgment, his trustworthiness, and his decision-making.
9 Q Okay. And I'm asking a very specific question here about the passing of the
10 links that we've discussed.
11 How would passing those links be improper?
12 A But you're asking the question as though this is true, that passing links is
13 what Security Division, myself included, and Mr. Veltri used as the basis to suspend his
14 clearance, and that is not true.
15 Q Okay. So taking it out of the Allen context --
16 A Uh-huh.
17 Q -- if an individual passed along links regarding any sort of investigative
18 subject that was exculpatory in nature, is that improper and the basis for a security
19 clearance suspension?
20 A If somebody is providing information from reliable sources that is potentially
21 exculpatory, I would have no concerns about that at all.
22 Q Okay.
23 [redacted] Also, as a point of clarification, are the representations in the
24 paragraph you're drawing from from SSA Client's testimony? They're not really cited to
25 by Mr. Leavitt in the body of this.

1 [redacted] It says -- the start of this paragraph here says, "On SSA Client's
2 arrival in CIU." So this would be from SSA Client's perspective.
3 [redacted] Okay. So SSA is not really cited [inaudible]. So I'm just trying to
4 clarify it for the witness' understanding.
5 Ms. Perkins. Thank you, [redacted]
6 And this is clarification. SSA Client, [redacted] arrived to the unit 5 months after
7 all of these conversations and events occurred.
8 BY [redacted]
9 Q Going on in the paragraph, it says, "Nevertheless, Perkins overruled the
10 initial investigator and reassigned the case to another investigator to move forward with
11 suspending SOS Allen's clearance. In clear retaliation, Perkins transferred the initial
12 investigator to the Intake Unit, a less prestigious assignment than CIU because of its
13 limited investigative responsibilities."
14 I know we've talked about the first investigator was removed from the case. A
15 new investigator was assigned to the case.
16 Was the first investigator reassigned to a different unit?
17 A So let's clarify, because you put it on the record.
18 So the first investigator wrote the suspension you see. So there was no taking
19 the case away from him, assigning it to somebody else. So what is being sort of
20 portrayed here is just false.
21 So the first investigator actually wrote the suspension document, briefed the case
22 to EAD Moore, and at no point made any notes about objecting to the recommendation.
23 That briefing occurred on December 2nd of 2021.
24 So I'll gladly answer your question if you could repeat that.
25 Q Yes. So I guess your testimony brought up a different question.

1 So is it your understanding that the first investigator, who you have identified as
2 [redacted] was he ever reassigned?
3 A Yes.
4 Q Okay. What can you tell us about his reassignment?
5 A Yes. So in working with [redacted] there was -- my impression from him
6 was that he felt entitled to a higher pay grade. He was hired in August of 2021. He
7 spent a good portion of his career working in the Inspection Division.
8 And as noted in the paragraph that you read for the record, the investigator on
9 the Allen case had ultimately concluded that SOS Allen's allegiance was not in question.
10 So that's an adjudicative determination. An adjudicative determination occurs
11 after a complete investigation. And he appeared to want to adjudicate from the get-go,
12 and that is just not how the process works. You're supposed to investigate, hand it off
13 to an adjudicator for a clean handoff and adjudicative process. But he was resistant to
14 sort of that process.
15 And so what we also saw was that in a number of investigations that [redacted]
16 worked, his ability or his willingness to ask the tough questions, do those probative
17 interviews that need to be done, was lacking.
18 And in the light most favorable to [redacted] it had probably been over 20-plus
19 years since he had conducted an interview, which is probably why those interviews were
20 so thin.
21 But it was difficult, because oftentimes we were having to go back and redo
22 interviews or steps, because his interviews were so thin and his investigations were just
23 lacking.
24 So in conversation with DAD Veltri a couple months after all of this here and after
25 about two or three other cases came up short, very similar, very thin, he asked if I

1 thought [redacted] was able to do the job, do the tough questions. And I said I had
2 concerns.
3 Q And all of this investigating that was happening in November of 2021 was in
4 the lead-up to the initial suspension of Mr. Allen's clearance in January of 2022, pending
5 CIU's investigation. Is that correct?
6 A Yes. So the suspension took place in January to mitigate the risk to the
7 national security while the investigation unfolded.
8 Q So was [redacted] in charge of determining whether or not or investigating
9 whether or not Mr. Allen's clearance should be suspended pending the CIU investigation?
10 A Yes. As a result of the briefing that he provided to EAD Moore on
11 December 2nd, he laid out all the facts and evidence. And in those briefings, as I noted
12 in the first hour, they will be very sort of collaborative, investigators, supervisors, the
13 DADs, the AD. OGC is on hand to weigh in on legal questions.
14 And following that briefing, looking at all the facts and evidence, there was
15 concern. And he had a draft suspension EC.
16 There had been prior meetings with Office of General Counsel to talk about legal
17 sufficiency. And I had meetings. The unit chief, [redacted] had called a meeting in
18 November to discuss the facts and evidence. And it was very clear that there was
19 concern about his impact on national security.
20 So all that information went into a recommendation to suspend the clearance and
21 a briefing to the EAD, the security programs manager. And in that collaborative
22 conversation, it was decided that, yes, absolutely, there's legal sufficiency and that's the
23 appropriate step to mitigate risk to national security.
24 Q During that collaborative briefing, did [redacted] support the suspension --
25 A Yes.

1 Q -- the initial suspension of his clearance?

2 A Yes.

3 Q Okay. And so is it accurate that [redacted] who you have named during

4 this interview, he was transferred from the CIU to CREU? Is that correct?

5 A Correct.

6 Q After your assessment?

7 A After my assessment of his work?

8 Q With Mr. Veltri.

9 A Yes.

10 [redacted] Okay. And we're at the end of our hour, so before I go on to

11 something else we'll go off the record.

12 [Recess.]

13 [redacted] It is 1:35. We can go back on the record.

14 Thank you for your patience. I know this has been a long day.

15 BY [redacted]

16 Q I want to talk mostly about Mr. Allen, which was the topic of most of last

17 round.

18 But before I get into the substance, are you familiar with the term "whole person

19 standard"?

20 A Yes.

21 Q What does that term mean?

22 A Per SEAD 4, the National Security Adjudicative Guidelines, it explains the

23 adjudicative process. It is a careful weighing of all information, both positive and not so

24 positive, regarding an individual as an assessment is made to their eligibility to maintain a

25 security clearance.

1 Q And as part of the whole person analysis, an investigator, adjudicator,
2 whatever the stage is at, whoever is looking at a particular case, takes into account not
3 just one particular news article or one particular incident, but an entire view of a person
4 or an entire holistic view of a person's actions and other -- I guess other things that might
5 weigh in on that.
6 Is that fair to say?
7 A That's correct.
8 Q You mentioned the SEAD 4 guidelines a couple times.
9 A Yes.
10 [Perkins Exhibit No. 9
11 was marked for identification.]
12 [redacted] I'm going to go ahead and introduce those. Those will be exhibit 9.
13 And we are introducing the whole packet. I think for purposes of right now we're only
14 going to look at Guideline A. But obviously take as long as you would like to look
15 through these.
16 Ms. Perkins. I'm very familiar with the guidelines. We can proceed.
17 BY [redacted]
18 Q So just to lay the foundation here, the SEAD guidelines, this version that
19 we've introduced is effective June 8th, 2017.
20 And you said you're very familiar with them. Can you explain how you're familiar
21 with them?
22 A These guidelines are the overarching document that governs what we do in
23 the SIIS. It governs the appropriateness of an investigation being initiated, what
24 elements of that particular guideline will be addressed during the investigation, what is
25 relevant, what is mitigating.

1 And then it guides the adjudicators in their whole person analysis in determining
2 whether or not a recommendation should be made against a security clearance.
3 Q You've been with the Security Division a long time and I'm sure you've gone
4 through a number of trainings in your time. But can you describe any trainings that
5 you've received with respect to the SEAD guidelines?
6 A Yes. Early on, when I mentioned earlier in the second hour that I was the
7 supervisor of a team at the Washington Field Office that oversaw the background
8 investigations for White House staff, DOJ, and select committee members.
9 So at that point I received training from the OPM and there were some other
10 trainings with IC partners. So I received a number of training courses and have also
11 conducted training for internal teams to understand the guidelines.
12 Q Okay. And for the record, OPM is the Office of Personnel Management?
13 A Yes.
14 Q And the IC is the intelligence community, correct?
15 A Yes.
16 Q And you said you've conducted trainings for others. What type of training
17 would, for example, an investigator in the Security Division receive with respect to the
18 SEAD guidelines?
19 A And as I noted, in my capacity as the assistant section chief, my role being
20 somewhat administrative, one of my duties is to just assess where there might be gaps in
21 our process that we need to fill. And often that gap is training.
22 When we look at our investigators and adjudicators, a lot of them come from
23 other agencies, not necessarily former -- the RSPs, the Reserve Service Personnel, are
24 former FBI employees, but the contractors are generally from a variety of different
25 backgrounds.

1 So I put together training sessions that I conducted in 2023 and 2022 to baseline
2 train everyone. Again, whatever your background was, if it's not in security, you need
3 an understanding of the guidelines.
4 So generally, these were 2-day trainings, an introduction to the National Security
5 Adjudicative Guidelines. I would bring OGC in to do a walk-through of those. And then
6 as well as training on how to use our systems and applications and things like that.
7 Q Okay. Thank you for all of that.
8 So turning to Guideline A, which is on page 8 of the SEAD 4 guidelines that I just
9 introduced, Guideline A is allegiance to the United States, correct?
10 A Yes.
11 Q And this is the guideline that was noted in the suspension letter given to
12 Mr. Allen, correct?
13 A Yes.
14 Q I'm going to read into the record the concern.
15 Paragraph 3 reads, "The Concern. The willingness to safeguard classified or
16 sensitive information is in doubt if there is any reason to suspect an individual's allegiance
17 to the United States. There is no positive test for allegiance, but there are negative
18 indicators. These include participation in or support for acts against the United States or
19 placing the welfare or interests of another country above those of the United States.
20 "Finally, the failure to adhere to the laws of the United States may be relevant if
21 the violation of law is harmful to stated U.S. interests. An individual who engages in acts
22 against the United States or compromises [sic] support or encouragement to those who
23 do has already demonstrated willingness to compromise national security."
24 Did I read that correctly?
25 A Yes.

1 Q Okay. And I realize that that's six sentences or five sentences that I just
2 read, but can you summarize your understanding of what this concern means?
3 A The largest concern is the -- it's a threat to national security. It is an
4 undermining of the United States and working against those interests.
5 Q And then underneath "The Concern," there's paragraph 4. It's, "Conditions
6 that could raise a security concern and may be disqualifying," correct?
7 A Yes.
8 Q And I'm going to go through these and ask both what your understanding is,
9 what they mean, and whether they apply to Mr. Allen's case.
10 So with (a), 4(a) is, "involvement in, support of, training to commit, or advocacy of
11 any sabotage, espionage, treason, terrorism, or sedition against the United States."
12 What's your understanding of what that means?
13 A Obviously, multiple scenarios here. But generally, folks that are actively
14 engaged, personally actively engaged in the sabotage or any of the things. But more of
15 an active role.
16 Q And with respect to Mr. Allen specifically, was this particular condition
17 something that was at issue in the whole person assessment of him?
18 A No.
19 Q Okay. Moving on, 4(b) is "association or sympathy with persons who are
20 attempting to commit, or who are committing, any of the above acts."
21 What does that mean?
22 A And what we see there is -- so an individual who may not be directly actively
23 engaged in the conduct of concern, but who is more passively supportive or associated
24 with those individuals.
25 Q Was this condition something that was at issue in the Guideline A

1 assessment, the whole person assessment for Mr. Allen?

2 A Yes.

3 Q And why was that?

4 A As previously noted, his comments, his conduct, his emails, his actions that

5 appeared to be sympathetic towards the January 6th subjects, his unwillingness to

6 conduct his duties analytically in support of those investigations due to his feeling that

7 they were political prisoners. That appeared to be his sympathy with those individuals.

8 Q And the individuals, the January 6th defendants --

9 A Yes.

10 Q -- that you referred to, the concern was that they had supported or had

11 otherwise engaged in acts consistent with sedition against the United States, correct?

12 A Correct.

13 Q Okay. Moving on to paragraph (c), it's "association or sympathy with

14 persons or organizations that advocate, threaten, or use force or violence, or use any

15 other illegal or unconstitutional means, in an effort to: overthrow or influence the U.S.

16 Government or any state or local government; prevent Federal, state, or local

17 government personnel from performing their official duties; gain retribution for perceived

18 wrongs caused by the Federal, state, or local government; and prevent others from

19 exercising their rights under the Constitution or laws of the United States or of any state."

20 And I realize that was a lot in there. But can you say, at a high level, what's your

21 understanding of what this refers to?

22 A And here is where we applied some of the rationale or the adjudicative

23 concerns with regard to individuals who may have been sympathetic towards the January

24 6th defendants.

25 The prevention of Federal, State, and local government personnel from

1 performing their official duties, that was the certification of the election. And so the
2 January 6th subjects who were involved in that conduct, that is the concern.
3 And Mr. Allen or -- specifically Mr. Allen, his sympathy, calling them political
4 prisoners, his unwillingness to do his analytical duties, that was the relevant security
5 concern.
6 Q Okay. And looking at this from a whole person analysis, you've indicated
7 that -- actually, sorry, withdraw that.
8 After these concerns, conditions on the SEAD 4 guidelines, there's five conditions
9 that could mitigate security concerns. Do you see where it says that?
10 A Yes.
11 Q And has as an example, "The individual was unaware of the unlawful aims of
12 the individual or organization and severed ties upon learning of these; the individual's
13 involvement was humanitarian and permitted under U.S. law; involvement in the above
14 activities occurred only for a short period of time and was attributable to curiosity or
15 academic interest; or the involvement or association with such activities occurred under
16 such unusual circumstances, or so much time has elapsed, that it is unlikely to recur and
17 does not cast doubt on the individual's current reliability, trustworthiness, or allegiance."
18 Can you describe how the Security Division takes into account these mitigation
19 conditions when it's considering somebody?
20 A Yes.
21 Q Or somebody's eligibility to hold a clearance, I should say.
22 A And it lays out pretty well. And the guidelines are written very
23 straightforward so that an adjudicator -- and, again, I want to draw a distinction between
24 the investigative and the adjudicative process.
25 The threat priorities that I previously referred to are tethered to the guidelines.

1 So if any of these acts or behaviors are identified in a referral, that may certainly support
2 the basis of an investigation being opened.
3 Certainly, when we look at whether or not to recommend a suspension, we're
4 looking at the veracity of the complaint and the impact on national security, you go
5 through, you'll see different guidelines that may not be as high risk to national security.
6 If somebody has alcohol use disorder, for example, Guideline G, that's going to be viewed
7 in a different weight than Guideline A.
8 So in this case here, so that's sort of that recommendation for a suspension, is
9 veracity of the complaint, impact on national security.
10 But once it gets to the Clearance Adjudication Unit, that's where they're looking at
11 the entire investigation, all the information, both favorable and unfavorable, and they're
12 looking at these conditions.
13 And at that point, they're applying, okay, was it a one-time, one-off scenario?
14 Was it so long ago? Were there other circumstances that would not possibly surface
15 again? That type of thing.
16 So with that, in Mr. O'Boyle's case, it wasn't --
17 Q Sorry, Mr. O'Boyle?
18 A I'm sorry. Mr. O'Boyle. Why am I saying Mr. O'Boyle? I'm sorry, I
19 apologize. Mr. Allen.
20 In Mr. Allen's case, it was certainly over a sustained period of time a linear pattern
21 of behavior over several months that led to this concern by his management that he
22 was spiraling.
23 Q And were the conditions that could mitigate security concerns considered in
24 the ultimate adjudication of Mr. Allen's security clearance?
25 A Yes.

1 Q Okay. And for the duration of your involvement, the determination was
2 made that the mitigating factors didn't exist or were not significant enough to overcome
3 the concern to national security, correct?
4 A Correct.
5 Q Okay. And so, for example, it was not the case that Mr. Allen was unaware
6 of the unlawful aims of the individual or organization, meaning the January 6th
7 defendants, correct?
8 A I think that's a fair assessment.
9 Q Okay. As you said, it was not the case that his involvement was only for a
10 short time. It continued over many months, correct?
11 A Correct.
12 Q And it was not the case that a lot of time had elapsed or that there were
13 particularly unusual circumstances at issue, correct?
14 A Correct.
15 Q Okay.
16 There was some discussion in the earlier hour about New York Times articles and
17 RealClearPolitics articles, and the question was, why would these articles raise concern?
18 I just wanted to give you the opportunity. Was it those particular articles that
19 raised such concerns that these guidelines -- that justified suspending a security clearance
20 under these guidelines?
21 A No.
22 Q Okay. And can you explain, did those articles play a role as part of the
23 whole person evaluation?
24 A They would have. And, again, because you're looking at all information,
25 both favorable and unfavorable. Looking to determine whether any element of the

1 investigation addresses one of the security concerns or provides mitigation. And that's
2 just the adjudicative process.
3 Q And you've mentioned several times that the concern here is -- the concern
4 of the guidelines writ large, not Mr. Allen specifically -- is that an individual who has
5 access to national security information might not safeguard that information correctly.
6 Is that fair to say?
7 A Correct.
8 Q Was that the concern with respect to Mr. Allen?
9 A I would say that the primary concern that was relevant for Mr. Allen was that
10 he was viewed by the insider threat office, the entity within the FBI that is tasked with
11 identifying insider threats, he was assessed as an insider threat, that they felt that his
12 linear pattern of increased hostility, that his sympathy towards January 6th defendants,
13 and his pushing of these views that were not credible, that were propagandist, and that
14 the manipulation of information would be in conflict with the FBI's interests and the
15 national security. That was the primary concern.
16 Q And why is it of a concern if somebody who has -- who is considered an
17 insider threat, who has that type of risk profile, has access to national security
18 information?
19 A I think in his case, where we are concerned is that the manipulation of
20 information, again, and as we saw in the investigation, he was tasked as a squad
21 operation specialist to do database checks, baseline checks, do intel workups on potential
22 subjects, January 6th subjects.
23 And he was intentionally not producing information that was easily accessible
24 through his database queries. And that was leading to investigations being closed due
25 to a lack of predication. And, therefore, subjects are not being investigated who should

1 be investigated, per the FBI's authorities and responsibilities. So that has a negative
2 impact on the national security.
3 Q In the earlier hour, you were asked about a September 2021, I believe, email
4 he sent to colleagues with links to a variety of sources. And the question was asked, did
5 he ask his colleagues to take any specific action?
6 Is that dispositive here, whether an individual specifically demands that colleagues
7 act or don't act?
8 A And I appreciate that question, because he didn't order anyone to take
9 action, but the fear factor that he disseminated throughout the office and the
10 recipients -- and, of course, people are going to talk about it, people are going to share
11 their concerns and thoughts -- it was sort of this very passive, very veiled sort of
12 discouraging people of doing their jobs and following orders and directions and guidance
13 from the FBI.
14 So his influence, while not directly ordering anybody -- he's not a supervisor, he
15 couldn't order anyone necessarily -- but it certainly had the potential to impact the FBI's
16 mission by scaring people out of doing their jobs.
17 Q And you mentioned that he -- I think you used the term he created a fear
18 environment or -- was that something that his supervisor in Charlotte had expressed
19 concern about?
20 A It was in my conversation with the ASAC in November, November 2nd of
21 2021, that his conduct, his outbursts in the intel meetings, the emails, just proceed with
22 caution, it was almost like at your own risk.
23 It was just sort of this sentiment that if people follow the guidance from FBI
24 headquarters, the D.C. elements, that they were going to be on the wrong side of things
25 down the road.

1 Q There were also some -- there were a number of questions raised about New
2 York Times articles. I think RealClearPolitics was referred to in the earlier hour. And
3 those are both websites mentioned in this September 19th, 2024, letter.
4 But you mentioned a couple of other websites that are not mentioned in this
5 letter. So I just wanted to ask.
6 One of the websites you mentioned is The Gateway Pundit?
7 A Yes.
8 Q Did Mr. Allen email links to his colleagues from The Gateway Pundit?
9 A He did.
10 Q What is The Gateway Pundit?
11 A As I understand, it is a -- again, just based on the insider threat baseline
12 assessment, the links to the news sources or the news sources from the links that he sent
13 out in that email were just viewed as not credible news sources, propagandist websites.
14 Q And that's an assessment that the insider threat division made, correct?
15 A Correct.
16 Q Does your division have any role in making that assessment?
17 A We did not. We did not.
18 Q And would you typically have any role in that type of insider threat
19 assessment?
20 A I can't think of a situation where we did any type of baseline analysis.
21 Again, that's why the insider threat office is there to support us.
22 Q Another website that you mentioned is American Gulag. Am I
23 saying -- remembering that correctly?
24 A I believe so. I'm not familiar with it outside of this scenario, but yes.
25 Q Did Mr. Allen email links to articles on the American Gulag website?

1 A He did.

2 Q And do you recall whether the insider threat analysis considered American

3 Gulag to be a reliable news source?

4 A They found it similar to the Revolver News, to be a propagandist,

5 not-so-reliable website.

6 Q And you just mentioned a third website, Revolver News?

7 A Yes.

8 Q Did Mr. Allen email links to Revolver News?

9 A He did.

10 Q And what's your understanding of what Revolver News is?

11 A Same as the others. These are apparently -- again, based on the baseline

12 analysis, I'm not an authority on these websites -- but it was assessed that they are sites

13 that circulate propagandist conspiracy theories and stories.

14 Q And, again, that was an assessment made by the insider threat -- I'm sorry, is

15 it insider threat section or insider threat division?

16 A We call it the insider threat office.

17 Q Okay.

18 A They call it InTO as an abbreviation.

19 Q So that was an assessment made by the insider threat office?

20 A Yes.

21 Q And you did not play any role in making that assessment, correct?

22 A No.

23 Q So that was an independent assessment?

24 A Yes.

25 Q Okay.

1 On page 8 of the September 19th letter, just to close out the questions on insider
2 threat, the -- sorry.
3 Starting on page 7 of this letter, there's an allegation that the insider threat office
4 baseline assessment was altered sometime between November 15th and December 7th,
5 2021. Do you see where it says that?
6 A In which paragraph?
7 Q Sorry. It's on page 7.
8 A Oh, yes. Yes, I see that. "Sometime." Yes.
9 Q Are you familiar with that allegation?
10 A That is untrue.
11 Q Okay. And when you say it's untrue, how do you know it's untrue?
12 A So the baseline analysis was requested on November 2nd of 2021. And as
13 they expedited their analysis, they sent a draft copy to the Security Division, Inspection
14 Division. Again, they provide an analytical support role to the administrative divisions,
15 Security Division and Inspection Division.
16 And it was draft only because, as you -- drawing back to the approval process for
17 Security Division documents, it goes through those eight layers of signature, similar to
18 insider threat. They have a number of layers of approval.
19 But after the analyst has written their assessment, the supervisor has approved it,
20 the unit chief has approved it, it is safe to disseminate to the customers, Security Division,
21 Inspection Division.
22 There are a couple of more layers of approval before it can be serialized to the
23 system of record, to Sentinel. But it would not be sent out if the information was going
24 to be significantly altered.
25 So [redacted] had expressed concern when I met with him and [redacted] on

1 November 17th. "I disagree with the baseline analysis, and it's only a draft. We
2 shouldn't be making any recommendations based solely on a draft," he said.
3 And so, after the briefing with EAD Moore and Security Division management on
4 December 2nd, after that briefing, again, where [redacted] didn't make any objections,
5 any comments about the recommendation, came back down to the unit, [redacted]
6 came in my office and said he's concerned that it's only a draft still. I contacted insider
7 threat office and said, "Please let me know when the baseline analysis has been
8 serialized."
9 And it was signed on or about -- it was on December 7th of 2021. There was no
10 change from the draft that we had to the final serialized document. There was no
11 change.
12 Q Okay. So the allegation here that the baseline assessment was altered is
13 just false?
14 A It's just false.
15 Q Okay.
16 Let's actually turn to the other Empower Oversight letter. I think it's page 6 of
17 the June 28th, 2024, letter.
18 And we've talked through this in some level of detail. There's a couple of -- just a
19 couple points I want to just follow up on.
20 You'd mentioned that [redacted] or [redacted] the -- sorry. Take that
21 back.
22 The letter refers to interviews conducted by the individual we now know is [redacted]
23 [redacted] correct?
24 A Correct.
25 Q Okay. And in this letter, it says every one of the individuals

1 interviewed -- and I'll add, apparently by [redacted] -- stated that Allen had, quote,
2 "never given...cause to question his allegiance to the U.S.," correct?
3 A Correct.
4 Q Okay. And you indicated in the prior hour that while they stated that in the
5 original interview and follow-up interviews, they did express concern about Mr. Allen's
6 allegiance to the United States?
7 A The follow-up interviewer asked more probing questions. And rather than
8 ask an incendiary question like, "Do you question his loyalty to the United States?" it's,
9 "Did you ever find him to be sympathetic towards January 6th defendants?" "Oh, yeah,
10 absolutely."
11 So the quality of the interviewer is going to have an impact on the quality of the
12 interview.
13 Q And is it fair to say that questioning -- calls to question someone's allegiance
14 to the United States could be considered a conclusion as opposed to an investigative
15 step?
16 A Yes.
17 Q So is it fair to say that the secondary interviewer who asked kind of more
18 probing questions -- is that fair to say?
19 A Yes.
20 Q Asked more investigative questions, whereas [redacted] had
21 asked -- basically was seeking conclusions?
22 A Yes.
23 Q Okay.
24 You've seen this letter before?
25 A I have.

1 Q And you looked through it today.

2 A Yes.

3 Q In this letter, does it reference those secondary interviews at any time? I'm

4 going to give you a minute to look through it again.

5 A No, I don't think so. I thought [redacted] made reference to the -- a

6 conversation with the second investigator, but --

7 Q But those particular --

8 A Yeah.

9 Q -- the follow-up interviews --

10 A No.

11 Q -- conducted by the secondary interviewers, in fact, are not mentioned in

12 this letter, correct?

13 A No, not at all.

14 Q So it's fair to say that this letter withholds relevant information.

15 A Absolutely.

16 Q That information would be -- the information about the secondary -- the

17 follow-up interviews -- that would be included in Mr. Allen's case file, correct?

18 A Correct.

19 Q And so if Empower Oversight had access to the case file, they would have

20 access to those interviews, correct?

21 A Correct.

22 Q Okay.

23 You were asked also about the line -- sorry, hold on one second.

24 With the fourth paragraph down, it begins, "On SSA Client's arrival in CIU."

25 A Yes.

1 Q It says, "Acting SC Perkins and Acting DAD Veltri pushed for SOS Allen's
2 clearance to be suspended on the theory that Allen's purpose in distributing information
3 within his field office was to absolve January 6, 2021, subjects. Neither Perkins nor
4 Veltri could explain how passing possibly exculpatory information about investigative
5 subjects was improper."
6 Do you see where it says that?
7 A Yes.
8 Q SSA Client is [redacted] correct?
9 A Correct.
10 Q Do you recall [redacted] asking you in Mr. Veltri's presence or without Mr.
11 Veltri there how, quote/unquote, "passing possibly exculpatory information about
12 investigative subjects would be improper"?
13 A No. In fact, [redacted] was not even assigned to the Security Division at
14 this time. He did not report to Security Division until April of 2022. So at the time of
15 the security clearance suspension, he was not even part of the Security Division.
16 Q And so I realize this sentence is written in passive voice so it's a little
17 confusing, but there was never any discussion in which [redacted] asked you about Mr.
18 Allen's decision to pass, quote/unquote, "exculpatory information," correct?
19 A No.
20 Q Okay. So assuming that this refers to a conversation between you and
21 [redacted] in fact, that conversation just never happened?
22 A It never happened.
23 Q Okay. And was there ever a conversation between you and [redacted]
24 about, quote/unquote, "passing exculpatory information"?
25 A No. I think my conversations with [redacted] were more related to his

1 struggle to apply Guideline A to the investigation.

2 Q In your assessment, was Mr. Allen passing possibly exculpatory information

3 about investigative subjects to others in his field office?

4 A I can't speak for Mr. Allen, but what I can speak for is my conversation with

5 his ASAC in the office. And they spoke to him after he sent the email. And I think they

6 actually tried to offer him sort of that out, that, "Hey, were you possibly just trying to

7 provide opposing views?" You know, maybe some information about what these

8 subjects might be reading or believing in their -- to explain their conduct to the

9 investigators.

10 And he seemed to kind of nod. And, again, this was all relayed to me from the

11 ASAC. And then he just continued to go down the hole of the D.C. elements are not

12 being honest, and the assessment, as it was relayed to me from the ASAC, just really

13 professing more of the propagandist views from these websites.

14 Q You said something in the earlier hour that I think I wrote down verbatim,

15 but I want to read it back to you.

16 You were asked about whether passing exculpatory information would be

17 something of concern to the Security Division, and your response was, quote, "If someone

18 is passing reliable links showing exculpatory information, that is not a concern."

19 Do you remember saying that or something similar to that?

20 A Yes.

21 Q Okay. And there's a lot of qualifiers in there, right?

22 A Yes.

23 Q You qualified reliable links showing exculpatory information.

24 Was Mr. Allen passing reliable links or reliable links to news sources?

25 A Based on the assessment from insider threat, the information that he had

1 been -- and not just in that September 29th, 2021, email, but several times throughout
2 the year -- he was passing on disinformation that was just not credible. And it didn't
3 appear to be, "Hey, here's the opposing views or here's some potentially exculpatory
4 information." It appeared to be a disinformation campaign.
5 Q And when you say it was disinformation, can you talk to the nature of the
6 information that he was sending?
7 A That January 6th defendants were political prisoners, that the FBI
8 orchestrated January 6th. These types of just noncredible topics and views that are
9 just -- they're just lies. They're just lies.
10 Q And with respect to the allegation that the FBI orchestrated January 6th,
11 that's something that Mr. Allen passed along?
12 A I believe that was one of the sublinks, yes.
13 Q And are you familiar with the theory that January 6th was a, quote/unquote,
14 "false flag attack"?
15 A I've heard some things along those lines. I'm not as versed on that story.
16 Again, we're not operational in Security Division.
17 Q Understood. But to the best of your knowledge, is there any truth to the
18 allegation that the FBI was, in fact, the cause of January 6th?
19 A I have no reason to believe that that occurred, and I have no knowledge of
20 that.
21 Q So to the extent that Mr. Allen was passing information suggesting that
22 along, he was passing along false information, correct?
23 A Correct.
24 Q Just some wrap-up questions on Mr. Allen.
25 There's an allegation that Mr. Allen was suspended because he raised concerns

1 about FBI Director -- about some statements made by FBI Director Wray.

2 Is there any truth to that allegation that he was suspended for that reason?

3 A No.

4 Q Was the suspension or revocation of Mr. Allen's security clearance

5 motivated by animus towards him?

6 A Towards Mr. Allen?

7 Q Towards Mr. Allen.

8 A No.

9 Q Was it done to punish him for his political or ideological beliefs?

10 A No.

11 Q Was it done to punish him for his religious beliefs?

12 A No.

13 Q At a high level, what was the motivation behind the FBI's decision to suspend

14 and revoke Mr. Allen's security clearance?

15 A To mitigate risk to national security.

16 Q In the earlier hour, there was a reference to Mr. Allen being reinstated I

17 think the day before he resigned. You weren't involved in the reinstatement process,

18 correct?

19 A That is correct.

20 Q But are you familiar with the reasons that he was reinstated at a high level?

21 A High level.

22 Q Okay. You said in the earlier hour that the concerns about him I guess

23 were mitigated but not unsubstantiated.

24 A Correct.

25 Q Do you recall saying that?

1 A Yes.

2 Q Can you explain what you meant by that?

3 A So when a reconsideration request is evaluated, they have to look at all the

4 facts and evidence. Are the underlying security concerns mitigatable?

5 And, again, I was not part of the meetings and conversations regarding the

6 reinstatement. But I understand that Mr. Allen did resign. And perhaps that was

7 mitigating. But I'll defer to the adjudicators and the approvers on that document.

8 But it did not say that the allegations were unsubstantiated, which means that

9 those security concerns were realistic and they were real. Those concerns were valid.

10 And so the suspension and the revocation was valid. They weren't

11 unsubstantiated. So it wasn't as though that on reconsideration the adjudicator said,

12 "Huh, these were all just false."

13 There is sufficient mitigation, meaning by reinstating his clearance we're

14 comfortable with making that recommendation -- again, maybe because of his

15 resignation -- but at no point were those allegations determined to be false.

16 Q So just to put this into a little finer -- finer point on this, there was no finding

17 made, for example, that he did not email links to unreliable news sources, correct?

18 A Correct.

19 Q And there was no finding made that he did not create an environment in his

20 office where people might be afraid to take certain actions, correct?

21 A Correct.

22 Q Okay. So I want to move on.

23 We've talked a lot today about [redacted]

24 A Yes.

25 Q And I don't want to make you go through everything again. But, at a high

1 level, who was [redacted]

2 A [redacted] was a Reserve Service Program, RSP, reemployed annuitant,

3 hired within the Security Division. And in his prior FBI career, I understand he was a

4 chief inspector in the Inspection Division and he was a former special agent in charge in

5 the New York Field Office.

6 Q And when did he begin working in the Security Division?

7 A In August of 2021.

8 Q And that was in the CEIU, correct?

9 A CIU, yes.

10 Q CIU. Sorry, CIU.

11 A Yes.

12 Q And you said that at the time that he initially conducted the interviews and

13 the evaluations of Mr. Allen's case he had not had training in the SEAD 4 guidelines. Is

14 that correct?

15 A Correct.

16 Q And he had only, in fact, been there for 10 weeks, maybe?

17 A Correct.

18 Q Okay. Was he assigned to cases other than Mr. Allen's case?

19 A Yes.

20 Q Were there concerns about his work performance with respect to other

21 cases?

22 A Yes.

23 Q And is it fair to say that it's the totality of those concerns that led to

24 [redacted] being reassigned?

25 A Yes.

1 Q Did his supervisors express concerns about his capabilities or his work
2 performance?
3 A When [redacted] first on-boarded, we had an acting unit chief in CIU.
4 This individual was very young, 6 years in the FBI, maybe 7 years. And I think at that
5 point, he was very green, had to hold his hand quite a bit.
6 So, no, he did not express those concerns. I saw the work product. I was
7 communicating with executive management on some of the cases that [redacted] had
8 been assigned.
9 Just a real quick anecdotal case was there was a case of an assistant special agent
10 in charge who was alleged to have engaged in significant domestic violence against a
11 spouse. A lot of alcohol was involved. So we got Guideline J concerns, Guideline G
12 concerns.
13 And [redacted] approach was just very passive. His interviews were very thin.
14 In fact, he interviewed the victim, who was in the house with the employee, and then
15 interviewed the employee right afterwards.
16 In a situation like that, one would hope to separate them, interview them at the
17 same time, make sure that the victim's in a safer place, that they can speak freely and
18 comfortably, not in the presence of a potential abuser.
19 And after his interviews, he came and he briefed me and said, "Ah, just a little just
20 spat. Give them a little EAP and they'll be fine." EAP, Employee Assistance Program.
21 Just give them a little counseling and they'll be fine.
22 And he appeared to really want to push to close the investigation. And we found
23 out a couple weeks later that this was a pattern of behavior, that this employee had prior
24 partners who they had also engaged in significant domestic violence.
25 And when [redacted] interviewed the former victim, they felt so -- they were

1 retraumatized by his interview. They found him to be less than compassionate, just very
2 cold and very -- just almost upset that he had to redo work when he wanted to close this
3 case.
4 So [redacted] I saw in this other letter from September 19th that he's highly
5 respected. I'm not sure who's giving those accolades. But there were certainly some
6 concerns regarding his ability to objectively investigate security cases and apply the
7 Adjudicative Guidelines.
8 Q Is it fair to say that particularly in the role in the Clearance Investigation Unit,
9 if an individual is not conducting interviews properly or is not taking appropriate
10 investigative steps, that could compromise an investigation, correct?
11 A Absolutely.
12 Q And that could actually have the impact of hurting either national security or
13 a victim, in the case of a domestic violence case, correct?
14 A Correct.
15 Q But it also could potentially impact the individual who is under investigation,
16 right?
17 A Yes.
18 Q Because ultimately the Security Division wants to get it right.
19 A Absolutely.
20 Q [redacted] was transferred to the Assessment Division, correct?
21 A Correct.
22 Q When was that?
23 A I want to say February or March of 2022.
24 Q There's an allegation in the September 19th letter that the reassignment was
25 retaliation against [redacted] for not deciding the Allen case the way that you wanted

1 him to.

2 Is that true, that he was reassigned in retaliation for his work on the Allen case?

3 A Absolutely not.

4 Q What's your response to that allegation?

5 A My response to that is twofold.

6 One, [redacted] is not the only RSP who has ever been reassigned. I've

7 reassigned probably 10 or more RSPs.

8 You want to get it right. Sometimes people are better skilled at administrative

9 duty, database checks and quick opening communications. Some people are more

10 skilled at thoughtful adjudicative processes. So you want to put people where their

11 skills are.

12 I had an adjudicator that was struggling, and I moved him into investigations to

13 help him understand better the investigative process so that he could adjudicate better.

14 And I had an intake person who was not very good at database checks, and she

15 was much better at investigations and interviews, was more of a social engaging kind of a

16 person.

17 So you want to put people where they're more successful.

18 In my assessment of [redacted] he was struggling on those cases. And so the

19 thought, again, in a light favorable to [redacted] perhaps it was because he was prior

20 FBI. They're prior FBI. Maybe it was harder for him to kind of pull that trigger.

21 And so moving him into Clearance Referral and Evaluation Unit -- which, again, I

22 saw a couple times in these documents that it was a less prestigious. That's ridiculous.

23 All the work that we do is substantial. And whether you are investigating employees or

24 contractors, it's all important to the national security.

25 But in moving him into the Clearance Referral and Evaluation Unit, he was working

1 contractor denial of access cases, and hoping that he would be much more successful
2 there.
3 And so that's my first response to that.
4 Secondarily, [redacted] has made a complaint, and it was investigated, regarding
5 my transfer of him. And the Inspection Division investigated that, and they found those
6 allegations to be unsubstantiated. So that is just a false allegation.
7 Q And just to be clear -- and thank you for all that.
8 And so the transfer to the Clearance Referral Unit was not a demotion in any way?
9 A No, not at all.
10 Q Okay. And there was no -- there's no reduction in pay, for example?
11 A There's no reduction of pay. And RSPs are at-will employees. They go
12 where we need them to accomplish the mission.
13 So, no, there was no reduction of pay. There was no change in any status.
14 Q And RSP, can you remind us what that stands for?
15 A Yes. The Reserve Service Program is a reemployed annuitant.
16 Q Which is different than a contractor, correct?
17 A Correct.
18 Q Okay. I want to move on to somebody else.
19 A Yes.
20 Q You mentioned this name in the prior hour. [redacted]
21 A Yes.
22 Q Who is [redacted]
23 A [redacted] was direct hired to be a reemployed annuitant unit chief in the
24 Security Division. It's an atypical hiring practice. But she was direct hired as a
25 reemployed annuitant unit chief.

1 She had no background in security, but she was placed in the Clearance
2 Adjudication Unit to supervise the adjudicators in CAU.
3 Q What were your interactions with [redacted] What was the extent of
4 your interactions with her?
5 A So, as the acting section chief in SIIS, I was her on-site supervisor. And I
6 would work with her to ensure that she was managing the Clearance Adjudication Unit
7 effectively. She was managing the cases. She had a couple of subprograms within that
8 unit that aren't relevant.
9 But predominantly to ensure that she was properly adjudicating the cases in a
10 timely manner. That was a challenge. That was a challenge.

1 [2:24 p.m.]

2 BY [redacted]

3 Q It was a challenge because of the nature of the work, or it was a challenge

4 for her specifically?

5 A It was a challenge for her specifically. She was not an effective case

6 manager. I counseled her on no less than seven occasions --

7 Q Seven formal counselings?

8 A So I went back through my notes and identified seven dates that I addressed

9 concerns about the timeliness of the adjudications, talked with her about her lack of

10 doing file reviews, the lack of program management, the lack of performance metrics.

11 In a year's time or 2 years' time, I saw that one adjudicator, you know, adjudicated 120

12 cases and she had another adjudicator that closed maybe 10 in 2 years. They're all

13 getting paid the same.

14 So there was just an inability to effectively manage her unit. And that impacts

15 the subjects. Because you're under investigation; if you're suspended, you're suspended

16 in perpetuity. And there was just no rhyme or reason to her -- to case prioritization.

17 And, again, two of the counselings I did with her were in writing --

18 Q Uh-huh.

19 A -- just because I was just so concerned about her lack of receptiveness to the

20 feedback that I was providing her.

21 Q And you said that some of your concerns were based in her management of

22 the performance of her employees and some were based in kind of the management of

23 the program at large.

24 With respect to the performance of her employees, part of the concern was that

25 some employees were moving cases very quickly and some were moving cases very

1 slowly, correct?

2 A Correct.

3 Q In the very first hour, the question of the timeline was raised and whether

4 cases were sitting too long in SecD.

5 If an employee is not processing cases quickly, that contributes to a longer time to

6 adjudication, correct?

7 A Correct.

8 Q And so it would fall on [redacted] as the manager of those employees, to

9 ensure that cases are being moved quickly --

10 A Absolutely.

11 Q -- or efficiently, I should say?

12 A Yes.

13 Q Okay. And she was not doing that?

14 A She was not.

15 Q Okay.

16 Is [redacted] still employed by FBI?

17 A No.

18 Q Are you familiar with the circumstances by which she departed FBI?

19 A Yeah. She was on an NTE, Not to Exceed, agreement. Again, as an RSP,

20 that is a temporary position. It's my understanding that her appointment as a GS-15 RSP

21 unit chief was not routine in the FBI, so at the end of her 2-year NTE, she was just not

22 renewed.

23 Q And the FBI could have chose to renew her, correct?

24 A They could've chosen to renew her, and it's my understanding that none of

25 the Security Division supervisors wanted to bring her on their teams.

1 Q Okay. So is it fair to say there were kind of widespread concerns about
2 [redacted] performance?
3 A Yes.
4 Q Okay. Did others express concerns about her performance to you?
5 A Yes.
6 Q And you said that very definitively; is that fair to say?
7 A Yes.
8 Q Did a lot of people express concerns about her performance to you?
9 A Yes. I had basically just -- so much performance, yes, but also just her
10 general sense of drama, just her -- just her -- her -- just -- she was -- she was a drain on
11 morale.
12 Q And how was she a drain on morale?
13 A Just gossip. Just, you know, sabotage. Just --
14 Q Meaning -- sorry. Meaning that she was the source of gossip?
15 A She was the source of gossip.
16 Q Okay.
17 A She was just -- and then -- so that's just her personally. But, professionally,
18 yes, the quality of her work, her lack of candor. She would just often make things up.
19 She in one case went to the assistant director of the Security Division and lied
20 about my lack of support for her on a project, said she was begging me for help, because
21 the project was a disaster. And when, you know, she said she was begging me for help, I
22 refused to even acknowledge, you know, her need for help.
23 And when I produced the emails where I was offering her assistance and then she
24 was turning me down, you know, she was like, "Oh, I don't remember that. Maybe
25 Dena hacked into my emails, and maybe she sent those emails to herself." I mean,

these were just -- it was absurd.

But she just lied. She just was not a credible person. And, again, the quality of her work was just generally poor.

Q And I should've asked this about [redacted] as well. Is [redacted] still employed by the FBI?

A He is not.

Q And are you familiar of the circumstances by which he separated from the FBI?

A Yes. He promptly resigned, same day -- it was the date, I want to say, March 22nd or March 23rd of 2023. Whether it was as a direct result or coincidental -- as I noted earlier, he had made allegations against me and Mr. Veltri for his transfer that he viewed as retaliatory. The date that the adjudication -- the unsubstantiated adjudication of those allegations came into the Security Division, he immediately promptly resigned the same day.

Q Okay.

[redacted] Thank you. We can go off the record.

[Recess.]

[redacted] We can go on the record.

BY [redacted]

Q Okay. We wanted to pick up on where we left off on Mr. Allen's matter.

A Yes.

Q So a second CIU investigator was assigned to the matter after the first one was reassigned to a less prestigious assignment, as we understand.

A That's a false assertion. There are no changes in prestige or status for any of the RSPs in any of the units in the section.

1 Q Okay.

2 The second CIU investigator also concluded in September of 2022 that she did not

3 believe there was enough basis for CIU to revoke Allen's clearance.

4 Are you aware of that?

5 A I -- that is not consistent with any conversations I had with that case

6 manager. You said September 22nd? Of what year, sir?

7 Q September of 2022.

8 A September of 2022? The investigation was still ongoing, so I don't know

9 that --

10 Q Uh-huh.

11 A And, again, adjudications, adjudicative determinations are not made in CIU.

12 And she was a CIU investigator. So she would not have made any adjudicative

13 assessments or conclusions on that case.

14 Q Okay.

15 [redacted] So, for the witness's own understanding, if you could cite back to

16 exhibits that have been previously used in other hours, it would help contextualize her

17 response.

18 Ms. Perkins. Thank you.

19 [redacted] Okay.

20 BY [redacted]

21 Q So, after the case was forwarded to CAU, the unit sent it back to CIU for

22 further investigation in January of 2023.

23 A That's --

24 Q Is that --

25 A In my recollection of the briefing on this case, which occurred in January of

1 2023, the investigator wrote her case summary, it was assigned to the adjudicator, the
2 adjudicator had a question.
3 So it wasn't so much that it was sent back. It was the adjudicator had a question,
4 that question being: Do you know if Marcus Allen was ever counseled for his behavior,
5 whether it was the emails, the outbursts, or whatever? Had he ever been counseled by
6 a supervisor?
7 The investigator looked through her notes and file and said, "Let me just be
8 certain. I'll reach back out to the field."
9 And so it wasn't so much it was transferred back; it was just more of a clarifying
10 interview.
11 Q Okay.
12 It was reported to us that, at that time, you allegedly pushed CIU to find SOS
13 Allen -- that SOS Allen intentionally omitted derogatory information on two January 6
14 subjects in order to sabotage the J6-related cases.
15 Can you explain to us how these events played out? Because according to
16 Ms. Moore's testimony to this committee, Allen was wrongfully accused of intentionally
17 omitting derogatory information from a J6-related case.
18 A So that's a multifaceted question, but I'll address the --
19 Q Yeah.
20 A -- first part, and then we can get to Ms. Moore.
21 Q Sure.
22 A But so -- and I'm not trying to be comical or disrespectful, but I'm not
23 clairvoyant. There's no way that I could have anticipated information out there about
24 his sabotaging a January 6th investigation before an interview took place.
25 So -- but in the case, as I understand, the adjudicator asked the investigator about

1 whether or not Mr. Allen had received counseling. She reached out to the squad
2 supervisor of the Joint Terrorism Task Force and asked the question.
3 That supervisor clarified. The agent supervisor of the squad, he's an intel
4 analyst. He falls under a supervisory intel analyst. However, I do recall there being a
5 situation where his intel supervisor admonished him about something that occurred with
6 a case. And he provided some context and said, "You may want to also speak to the
7 case agent."
8 And so, being an investigator, that investigator followed up to learn more about
9 what may have occurred with the case agent and the January 6 defendant.
10 In that followup interview, the investigator learned that there were some
11 concerns about Marcus Allen selectively turning over intelligence information about
12 January 6 defendants. She had reported a specific case and said that it had occurred in
13 another scenario, to the point where she just stopped relying on Marcus Allen because he
14 was not reliable, and so she would just go to other intel analysts to conduct the queries.
15 So all that information was as a result of the adjudicator asking the investigator
16 about counseling and then her learning that there were some concerns about his failure
17 to turn over relevant intelligence regarding January 6 defendants.
18 I didn't know about that information until after the interview took place.
19 Q Uh-huh. Okay.
20 So Marcus Allen's -- ultimately was revoked.
21 A He was.
22 Q He was. So why did it take another year and a half to resolve that case?
23 Did it take that long?
24 A After the revocation?
25 Q From -- yeah, yeah, to the revocation, which occurred on May 9, 2023, is my

1 understanding. And so can you explain, like, why it took so long?

2 A And as I noted in the last hour, I had significant concerns about [redacted]

3 and her program management of the Clearance Adjudication Unit.

4 Generally there's a process -- and it's not all [redacted], so I'm not trying to, you know,

5 say it's all her fault. But once a clearance revocation takes place, there is a process by

6 which an employee can request discovery and reconsideration.

7 If they request discovery, that means they request the entire investigative file that

8 was relied upon to make the clearance recommendation. That involves the Discovery

9 Processing Unit and then a process of redaction, so that can take several months. So

10 part of it was outside the control of Security Division.

11 But -- and then, doing that, that employee has a period of time, 30 days, to then

12 rebut and provide additional attestations about the -- assertions -- excuse me -- about the

13 allegations.

14 And so, at that point, then, there should be an emphasis in Clearance Adjudication

15 Unit to prioritize the review of that reconsideration. And I found that under [redacted] that

16 process was just not well-developed.

17 And just to give you some perspective, at one point I met with her. There were

18 over 70 cases that were sitting in reconsideration, and she had moved maybe 10 cases

19 forward in a period of a year. And so -- and she had two adjudicators sitting on

20 reconsideration cases.

21 Q Uh-huh.

22 A They just weren't moving. There was just no oversight, there was no

23 prioritization of those cases.

24 Q Okay.

25 So he's revoked on May 9th. And then on May -- and we'll enter the next exhibit,

a May 17, 2023, letter, into the record. That'll be --

[redacted] It's from the FBI to the committee.

[redacted] Yeah. Is it exhibit 10?

The Reporter. Ten.

[Perkins Exhibit No. 10 was marked for identification.]

BY [redacted]

Q We'll get -- oh, you got it. Okay.

A Yes.

Q Good.

Were you involved in drafting that May 17th letter?

A No.

Q No? Okay.

A I recognize -- and, in full disclosure, I recognize some of the charts. We have an analyst within the SIIS who provided -- did her best to try to establish some metrics and visuals. So I do recognize these. But, no, I did not write the letter.

Q Okay.

So it's revoked on May 9th. Allen makes an appearance before this committee on May 18th.

So what was the final determin- -- why was there the final determination to revoke his clearance? What was the "why," ultimately?

A Well, as -- have you -- I don't know what the committee has access to. Have you seen the revocation? Do you have his discovery? Do you have the revocation --

Q We just have this letter.

1 A I understand.

2 Q I mean, just stuff like that. So --

3 A Okay. Understood.

4 So, in January of 2023, this case was briefed to, again, that collaborative briefing
5 process that I've described a couple of times in the earlier hours after that followup
6 interview, as I had mentioned, that the investigator did on behalf of the adjudicator's
7 request, and learned that there was this apparent intentional sabotage and failure to turn
8 over relevant information to a January 6 defendant, and that it had been something that
9 had occurred previously -- again, corroborating the insider threat office's assessment that
10 he would manipulate information, you know, contrary to the interests of the FBI and the
11 national security.

12 So that is corroborating the concern about Marcus Allen, his trustworthiness, his
13 decisionmaking, and his reliability, and then looking at just sort of that whole person.

14 The case was briefed to the assistant director with OGC and the new Deputy
15 Assistant Director at the time. Mr. Veltri had already left. And so, in this collaborative
16 briefing, the conclusion at the end of the briefing was there was insufficient information
17 to reinstate the clearance -- because he was already suspended -- and that the
18 adjudication should proceed with the revocation.

19 So that was in January of 2023.

20 Q Uh-huh.

21 A So [redacted] was in that briefing. And she was then -- as a result of that
22 sort of briefing process, the takeaway was: Proceed with writing a clearance revocation
23 recommendation.

24 Why it took 5 months or 4-1/2 months? It just goes to the other issues that I've
25 destroyed about [redacted] and her program management ability.

1 Q Okay. Because it just seems odd with the timeline. You know, like, this
2 letter's written on May 17th, and then he's appearing the following day. So that just
3 raises some questions about the timing of that letter and all that. So -- and --
4 BY [redacted]
5 Q Ma'am, getting back to that briefing on the 23rd, that was to executive
6 management. I'm assuming everybody was sort of in the room; you know, the usual
7 parties that should be there were there.
8 Do you recall any dissenting opinions at that time in that meeting or any other
9 points of view in that particular meeting?
10 A In that meeting, I recall that what was contrary, your objecting point
11 of -- alternative points of view, was just whether or not the baseline analysis from insider
12 threat should be incorporated into the adjudication.
13 Q Okay. So that was the only point that sort of stuck out to you?
14 A That was the one that stood out to me. Because I understand that -- so [redacted]
15 [redacted], just to put this on the record, he objected to the baseline analysis. And so he
16 had independently sought out a separate nonanalytical entity to draft an opposing
17 analytical product. They were not analysts. He went to IT professionals to do analysis
18 and then had this competing baseline analysis.
19 He had also, actually, tried to get insider threat office to change their baseline
20 analysis. He had a former subordinate that worked in the insider threat office; he had
21 worked for him in Inspection Division and was now in insider threat office. And that
22 individual felt pressured by [redacted] to change the analytical conclusion in the
23 baseline.
24 And so, when they didn't change it, he went outside and got another entity to do
25 an analysis of Marcus Allen.

1 And so, in that briefing in January of 2023, there was the question of the dueling
2 analysis, or analytical products. And, ultimately, I think it was just determined
3 to just not include insider threat if it made the adjudicator uncomfortable about
4 conflicting information.
5 BY [redacted]
6 Q How did you learn that information? Like, all the stuff with [redacted]
7 how did you learn that?
8 A So, when the baseline analysis was given to the Security Division, again, as I
9 mentioned in I think the first hour, [redacted] and his unit chief, [redacted] came to
10 my office to discuss it. And he disagreed with it.
11 And then -- I don't know when he went to this other entity to get an analytical
12 product, but I found out about it after the fact. And I just asked his unit chief, like, why
13 would we do that? And he wasn't sure why. He just, you know, felt that he
14 would -- kind of went on his own.
15 But the complaint about the subordinate -- I got a call from the supervisor at the
16 insider threat office on December 6th of 2021 with the complaint about the subordinate
17 feeling pressured by [redacted] to change the analysis.
18 [redacted] I would just add that there were some prior questions about the
19 timing of this letter and it being sent to the committee on May 17th. I would note for
20 the record that, as the letter indicates, this was a request and a deadline set by the
21 committee and the chairman.
22 And I quote: "Your May 8th letter requested that EAD Moore return to
23 'complete her testimony' before May 18th in advance of the committee's upcoming
24 hearing. Accordingly, EAD Moore rearranged travel and other obligations to abide by
25 the committee's timeline and to be in a position to provide additional information in

1 advance of that hearing. As the committee elected not to proceed with EAD Moore's
2 continued interview today, May 17th, we write to provide the committee with additional
3 information that you requested in advance of the committee's upcoming hearing."
4 [redacted] Thank you.
5 [redacted] Are you done there?
6 [redacted] I think so. Oh, one last question about the revocation.
7 BY [redacted]
8 Q So were you in favor of it, for Allen's revocation?
9 A I agreed that the guidelines were properly applied, yes.
10 Q Okay. And Mr. Veltri, obviously? I mean, all the way up to the EAD level,
11 right?
12 A No. Mr. Veltri was not in the Security Division at that time.
13 Q Oh, he was out? Okay.
14 BY [redacted]
15 Q Was there anyone in the room that disagreed with the conclusion to revoke?
16 A Again, my recollection was discussion about the use of the insider threat
17 baseline or not to use it and which guidelines were applicable.
18 Q And if the baseline was not used, would that have changed the final
19 assessment?
20 A No, because I think what we saw there was the -- whether or not we used
21 did it not take away the information or the concern that he would manipulate
22 information in contradiction of the FBI's mission.
23 And what we saw from the interviews that were conducted, where he was
24 intentionally withholding or sabotaging -- withholding information or sabotaging those
25 investigations of January 6th defendants, that corroborated that national security

1 concern, whether or not we say that the insider threat office gave us a heads-up a year
2 prior or whether or not we just note that his withholding of information on January 6
3 investigations, domestic terrorism investigations, was a national security concern.
4 Q For what [redacted] did, setting aside whether the procedural aspect was
5 atypical or not, did the IT folks and who else you spoke to -- can you say more about
6 whether there was a disagreement on the substance, on the merits of what was being
7 alleged?
8 A Yes, because -- so understand there's two entities. And I know some of you
9 are prior Bureau, so it may make more sense. But insider threat office is an analytical
10 entity. Where he went was to an entity called ESOC -- and please don't ask me to
11 explain what "ESOC" stands for. I know that they're more of the IT, information
12 technology, -type people.
13 So [redacted] went to ESOC, who are basically the 1's and 0's folks that pull raw
14 data. They're computer folks that pull raw data about user activity, whether it's just raw
15 data about queries through our systems of record or emails or text messages. It's just
16 raw data. That is their skill set. They provide the raw data, in some cases to insider
17 threat, to sort of synthesize and put into a product. Or, in some cases, we'll just get the
18 raw data, put all hands on deck, and then just look at it ourselves.
19 So to ask folks that are more, you know, IT-focused to perform an analytical
20 function was really not appropriate.
21 Q Uh-huh.
22 Did you have an opportunity to -- I guess, for the ESOC folks, was there a work
23 product, was there a final thing that you were able to review?
24 A I don't --
25 Q I understand that's not --

1 A Yeah.

2 Q -- the role, but --

3 A Yeah. I don't recall actually reading it.

4 I know that when I learned about it -- because it was being referenced by [redacted]

5 [redacted] And I spoke with [redacted] on December 6th about the call I had gotten

6 from insider threat office and said, you know, what I'm understanding here is [redacted]

7 [redacted] in disagreement with their product, which is under their purview, their

8 program, and he's asking them to change it, and when they said no, he goes outside and

9 has somebody else try to write a competing product that, you know, impeaches or

10 overrules the prior assessment. And it's just -- it's just -- it didn't seem entirely

11 appropriate.

12 And so I did talk to [redacted] and [redacted] said that he would talk to [redacted] and

13 address it.

14 Q Was it just [redacted] then, who had a one-on-one conversation with

15 [redacted] about why he was doing what he was doing?

16 A Yes, to my knowledge or understanding. I don't know if anyone else did.

17 I didn't speak to him directly about that, about those steps he took.

18 Q I guess, understanding, again, the irregularities with the procedure and your

19 concerns on that front, was there anyone who still looked at the assessment from ESOC

20 just to see if there was any merit to what their conclusion was?

21 A I can't speak to that, but it should probably be in the case file, I presume.

22 We wouldn't withhold it. I assume it would be in the case file.

23 Q Just turning back, if I can, the timing and the line of, you know -- but the

24 hearing was, you know, scheduled for May 18th. You're saying, walking out of this

25 meeting January 2023, a decision had been made.

1 A Yes.

2 Q Is there anything more you can tell us about why -- what was -- what steps

3 remained and had to be taking place for the next 4-1/2 months?

4 A I know that -- I recall in April of 2023 having another counseling session with

5 [redacted] about the length of time some of these cases were sitting, and, you know, I

6 specifically pointed out Marcus Allen. Said, this was a discussion we had in January of

7 this year; it's already April.

8 I would routinely go through and look to see which employees were in a

9 suspended status. And, you know, where's the case? What's going on? We've got to

10 get these cases moving, because they don't have the ability to appeal until after the

11 adjudication if it's going to go in the way of a revocation.

12 And so I did counsel her in April of 2023 about the lack of timeliness in her

13 adjudications.

14 BY [redacted]

15 Q Okay.

16 Well, just to put a fine point on the letter, I just want to be clear. I think we are,

17 but just if I can get that on the record, just to make sure that I am. Don't want to

18 assume.

19 So, ma'am, did you or your team provide any information that was included in the

20 letter? Were you tasked to support the letter that we have here, the May 17th letter?

21 A As I noted, I do recall seeing some of these charts.

22 Q Okay.

23 A Because this would only be able to come from the SIIS. How many referrals

24 or cases, you know, things like that, that would come from my team.

25 Q Okay.

1 Okay. Moving along off of the letter for now, so around the same timeframe,
2 according to documents released under FOIA, Representative Goldman's office
3 communicated with the Office of Congressional Affairs in advance of the May 18th
4 hearing. It appears from the documents that the FBI may have provided nonpublic
5 information protected by the Privacy Act to Representative Goldman's office on Allen
6 prior to the hearing.
7 Did you or anyone on your team, to the best of your knowledge, ever provide
8 information to OCA, to the Office of Congressional Affairs, in advance of the May 18th
9 hearing?
10 A I can't speak to that. I don't know if Security Division provided information.
11 Obviously, if this information is what you're referring to, then, yes, as I previously noted,
12 we provided some charts and metrics, which are reflected on page 2, 3, and 4 of this
13 document.
14 Q Just to clarify, to your recollection, would it be accurate to say you don't
15 recall a specific OCA tasking separately? Would that be accurate? Or -- I don't want to
16 put words in your mouth.
17 A Yeah, I'm not sure I'm understanding your question. I understand that --
18 Q Well, the spirit of it is -- I know we get real formal here, but the spirit of it is
19 simply that Representative Goldman reached out to the FBI, which many Representatives
20 do --
21 A Uh-huh.
22 Q -- asked for information, received information, information possibly that may
23 have been beyond the scope of what should've been provided. But that's neither here
24 nor there.
25 And really just asking, do you know if you supported that request, your team?

1 A I have no knowledge of that. If you're referring to this letter, sir, I've told
2 you what we've provided.
3 Q Yes.
4 I think, in just plain speak --
5 A Yeah.
6 Q -- going off the script here, you can certainly understand the committee's -- if
7 the roles were reversed and you were sitting here and you realized what you have just
8 said -- which, by the way, you've been very professional, articulate, clearly knowledgeable
9 and very good at your job. So we appreciate your testimony today.
10 But, having said all of that, when you describe the January 2023 executive, you
11 know, briefing about Mr. Allen and all that went on there, and then the 4-1/2 months
12 that went on, again, and the counseling sessions for [redacted] et cetera -- if you didn't
13 know that coming in to today, which certainly we did not, and you look at the fact that a
14 letter appears magically the night before these people are to testify, that letter is
15 magically released to the media within the same timeframe, we have a Representative
16 whose office is being contacted and getting information ahead of that hearing, who sits
17 on this committee on the opposite side that my colleagues sit, having that information in
18 advance of the hearing, you would scratch your head as a seasoned investigator. I think
19 we share that.
20 I mean, these are things that you would at least ask, how did that happen? That
21 seems highly consequential, that that would just magically happen the night before. I'm
22 not blaming that on you, but I'm merely putting it into context, why we've delved down
23 this line of questioning.
24 But the other thing that sticks out to us is -- and as highly capable and competent
25 as you clearly are in your profession and what you do -- how on Earth do we go from, you

1 know, a revocation -- which we understand. You walked that dog. But how do we get
2 a complete 180, then, within a year, right, where all of a sudden -- so we have a
3 suspension, and you've done a very good job articulating for the committee, and I
4 appreciate that, all the information that was before you. And then we get to revocation,
5 which we understand how that thought process came about.
6 But then within a year, right, we go from the May 17th letter to the May 31st
7 letter -- which I realize, when Mr. Dunham authored that letter, you were no longer in
8 that position at that time. But you understand, within a year everything changes.
9 And it's sort of incredulous to the committee, how does that change in a year,
10 when we were so sure about, you know, the suspension, the revocation, we were locked
11 in, the facts appeared to be there, and then we do a 180 and they're not? Can you
12 provide any context at all as to how that can happen?
13 Because this man's life, I think it's worth noting on the record -- I think we know
14 this, but I'll play the Captain Obvious moment. This man's life -- his thrift savings were
15 emptied, his wife's thrift savings were emptied for an, "Oh, gee, that really unfortunate."
16 And although the Bureau reinstated him and gave him full backpay, you and I both know
17 that doesn't fill up his TSP account ever again. So it's sort of a big "oops".
18 How did we get there, Ms. Perkins?
19 A And you -- that was a lot of information, so I'll --
20 Q It's a lot, but I'll give you --
21 A -- I'll certainly --
22 Q -- time to respond.
23 A Yeah. So I'll go to the piece of -- and, again, as -- and for one, as I noted
24 earlier --
25 Q Yes.

1 A -- the sufficient mitigation of the underlying security concerns does not
2 mean those allegations were unsubstantiated. And there's a distinction there. And if
3 the mitigation includes Mr. Allen's willingness to resign from the FBI, again, I'll defer to
4 folks that were part of those conversations because, you know, I was not.
5 Q And, to be clear, I don't want you to speculate. But you're very clearly a
6 subject-matter expert in this field and in the right position for the FBI at the right time,
7 clearly, with that expertise.
8 And that's how I'm asking you how, within a year's timeframe, we are locked in to
9 one set of conclusions and we do an about-face.
10 [redacted] And the witness has already said she was not part of the
11 reinstatement decision. So you're asking her to speculate specifically about something
12 she wasn't involved in.
13 [redacted] But I do believe, counsel, that she was there for the length of the
14 time and only recently removed from that position and would have, based upon her
15 subject-matter expertise, a pretty good idea of how to get us there.
16 Ms. Perkins. What I will offer, in general terms, not specific to Mr. Allen --
17 [redacted] Yes.
18 Ms. Perkins. -- but what I will explain is that that is why we have a
19 reconsideration process. That is built in to this whole adjudication.
20 In one of the earlier hours, the question was, well, is the adjudication the end of
21 the road? No. There are discovery processes. There's reconsideration processes.
22 There's even the opportunity to appeal before the DOJ, our Access Review Committee.
23 [redacted] Yes.
24 Ms. Perkins. So, again, these are all opportunities for information to be provided
25 and to be assessed and, you know, evaluated.

1 I've seen maybe 12 -- I'm not going to -- I don't want to be wrong on the record,
2 but -- 12 to 15, perhaps, reconsiderations go in the way of a restatement.
3 [redacted] Yes.
4 Ms. Perkins. That's why that process is there.
5 And, again, what is the mitigation? And if the mitigation included Mr. Allen's
6 resignation from the FBI, then that cannot be, you know, overlooked. And, again,
7 reinstatement -- sufficient mitigation does not mean unsubstantiated.
8 BY [redacted]
9 Q As we sit here, as a professional, with all your experience, which is vast, in
10 this area, are you at peace with the final decision that was authored by DAD Dunham?
11 A What I, as a professional, know is, my role is to provide information to the
12 decisionmaker. In any of these suspensions or revocations, my job as a midlevel
13 manager is to ensure that the SPM has all of the information that he or she needs to
14 make that decision. Because, as you noted, it has impacts on families.
15 Q Absolutely.
16 A It's a big decision. These aren't just pieces of paper; these are human
17 beings. We understand that. Anyone who's worked for me knows that that is my
18 mantra. Not paper; these are people.
19 So, you know, absolutely, you know, I provided all information that I can to the
20 decisionmaker. And I respect their decision. It's not my decision to make.
21 Q Thank you.
22 BY [redacted]
23 Q Suspending people without pay, though -- you know, when they get
24 suspended, they go off-duty without pay, right? Is that a relatively new thing?
25 A No.

1 Q Because my recollection in some cases was, I knew guys that failed
2 polygraphs, and they were just simply moved to administrative positions. And, you
3 know, it sounds like that's been the policy, to suspend people's pay. That's a
4 case-by-case basis, then?
5 A And, again, as I noted in one of the earlier hours, is that any
6 recommendation to suspend a clearance is when there is a concern about unmitigatable
7 risk to national security. Over 700 cases ongoing right now in the Security Division; only
8 about 30 to 40 of those individuals are in a clearance-suspension status.
9 So SEAD 4 of the National Security Adjudicative Guidelines specifically state that
10 no adjudicative decision can be made solely on the basis of a polygraph examination.
11 So, in that example, there would be no recommendation to suspend a security clearance
12 based on a polygraph absent adjudicatively relevant information. So, again, polygraph
13 cases would not result in a suspension unless there was some type of an admission that
14 was disqualifying.
15 Q It just would seem to me like somebody, you know, being, you know, DI on a
16 poly, deception indicated on a polygraph, on foreign intel or something along those lines
17 would be more than enough reason to get them out of the building.
18 A Well, and, again, absent adjudicatively relevant information, in a polygraph
19 investigation, if there was a failure, the investigation would seek to determine what the
20 underlying reasons were for those polygraph results.
21 Q Okay.
22 BY [redacted]
23 Q Okay. We're going to move along.
24 A Okay.
25 Q Switching gears, Special Agent Garrett O'Boyle, certainly that has been

1 front-page, above the fold, more than once. Are you familiar with Special Agent Garrett
2 O'Boyle?
3 A I am.
4 Q What was your role, ma'am, in O'Boyle's clearance investigation?
5 A I received a call from the insider threat office on or about July 27th of 2022
6 reporting information that an unknown subject had been identified conducting an
7 interview on YouTube related to a New York Field Office criminal investigation. The
8 interview apparently took place in May, on May 11th of 2020. Information about that
9 specification New York criminal case was disclosed during that interview.
10 The person who was interviewed appeared to be shielded, appeared to be
11 voice-modified to disguise that person's identity. But between the New York Field Office
12 and the insider threat office, they were able to pinpoint a point in time where that
13 information had been accessed by this unknown subject or others.
14 With that, insider threat office and New York Field Office went through and did
15 their work which they do, that baseline analysis, that user activity. And they identified
16 that the only individual who had accessed that New York case file and all of the serials
17 containing information that was disclosed during that interview -- the only person who
18 accessed that case file and those serials was Garrett O'Boyle.
19 Q Okay. And so I think -- I was going to ask the followup of the materials that
20 you relied upon, but I'm going to -- I believe that we're talking about internal audits of FBI
21 systems --
22 A Yes.
23 Q -- and being able to identify, you know, who had access to the case --
24 A Yes.
25 Q -- and that capability.

1 Anything additional, ma'am, that the Bureau relied upon as far as the basis for
2 opening that investigation beyond that that you're aware of?
3 A So that referral was sufficient to predicate the investigation.
4 Q Thank you.
5 [redacted] Over to you, [redacted]
6 [redacted] Uh-huh.
7 BY [redacted]
8 Q Are you aware that O'Boyle began making protected disclosures to Congress
9 in November of 2021?
10 A I understand that's what he's alleging at this time, but we attempted to
11 conduct an interview of Mr. O'Boyle and he declined to participate in an interview.
12 Q Okay.
13 And during his testimony before there committee, Mr. O'Boyle detailed the abject
14 cruelty with which the FBI treated him and his young family.
15 Are you aware that Mr. O'Boyle was suspended on his first day reporting to a new
16 duty station in Virginia?
17 A I am aware.
18 Q Okay.
19 Are you aware that in order to accommodate the transfer Mr. O'Boyle had to
20 move from Kansas to Virginia?
21 A I'm aware.
22 Q Yeah? Okay.
23 And then, according to a whistleblower, Kansas City management objected to
24 Mr. Clark's plans to suspend Mr. O'Boyle after his transfer because it violated FBI policy
25 against transferring employees who are under investigation.

1 Why did the Bureau go ahead and transfer him anyway?

2 A So I'll explain my understanding of the transfer unit's practice.

3 When an individual is selected for a position or being provided a transfer between

4 duty stations or assignments, there is a name-check process that occurs, and one of those

5 name checks is with the Security Division. This is an individual that has an active

6 investigation.

7 So, at the point that Mr. O'Boyle applied for his job and was selected for his job, it

8 was well before the Security Division investigation was opened, so there was no

9 prohibition against him being selected for that assignment and then proceeding with the

10 transfer. He was well under the transfer process before our investigation was even

11 opened.

12 Q Okay.

13 So, basically -- and we've heard this before in previous appearances by other

14 people, like Mr. Clark. But, basically, Security Division, they don't have any weigh-in on

15 any of that; you guys didn't have a role in as far as his transfer, anything like that --

16 A No.

17 Q -- whatsoever?

18 A The transfer was sought by Mr. O'Boyle.

19 Q Yeah.

20 A He put in for the job, and he was selected. Again, the only role that

21 Security Division has is doing a name check. And that would've been done back in,

22 what, May or June, before his transfer orders were issued.

23 Q Okay.

24 BY [redacted]

25 Q So, again, for the benefit of the committee, for someone who may not

1 understand that, oftentimes, the committee, understands that perhaps if there is an
2 adverse personnel action against an employee, that oftentimes would delay a transfer or
3 a promotion.
4 In this case, for the record, testimony is that, of course, Mr. O'Boyle had applied
5 for and been selected prior to the SecD investigation being opened --
6 A Correct.
7 Q -- and so that was already down the tracks.
8 A Correct.
9 Q And once that is -- and I don't know this to be true; perhaps one of my
10 Bureau colleagues would know. Once that is in motion, the transfer unit would not
11 necessarily have a reason to check again if there's an adverse personnel action? Are you
12 aware if they would or would not? It seems like that would've stopped it had it did,
13 but --
14 A No. In fact, just as a point of clarification, not to go too granular into the
15 FBI's process, but once the transfer unit does that name check, they're clear, they issue
16 the transfer orders, transfer unit is done.
17 At that point, it then moves on to the transfer payment and services unit, which is
18 not even within the HRB. It's under Finance and Facilities Division. So it's matter of
19 financial transactions and services and so forth.
20 So, once the orders are issued, they're done, TPSU takes over, and they facilitate
21 the transfer.
22 [redacted] Have there been any changes to the protocol in light of this case and
23 what happened?
24 Ms. Perkins. Specifically?
25 [redacted] Just to try to prevent a similar situation where the transfer's been

1 approved already, an issue arises with SecD, and now you have a situation where, you
2 know, the agent is caught in limbo.
3 Ms. Perkins. I think these circumstances are so unique. Certainly, you know,
4 without minimizing the impact on Mr. O'Boyle's family, because I'm very sympathetic to
5 the situation that he was in, in the 6 years that I've been in Security Division, I've never
6 seen a situation align like this.
7 But, certainly, I think there are recommendations that we could make, but not to
8 so much change the entire policy or practice of the FBI, but certainly to, you know, try to
9 communicate with, say, for example, TPSU about, you know, access to, you know,
10 household goods, that type of thing.
11 But, no, I don't think -- to my knowledge, I don't think there's been any change to
12 any policy based on a specific case.
13 BY [redacted]
14 Q So that testimony makes perfect sense in context of how that could've set
15 the stage for the events that unfolded.
16 My only question is, of course, the special agent in charge and the executive
17 management in the Kansas City division likely or I believe would have been, you know,
18 aware that there was something afoot with Special Agent O'Boyle.
19 Was there, to your knowledge, any conversation from, you know, SecD with
20 executive management in Kansas City? And if so -- second part -- could that not have
21 been a perhaps emergency brake to some of this?
22 A And it's all hypothetical, so certainly I don't want to --
23 Q I understand. But --
24 A -- speak out of --
25 Q -- the first part first, though.

1 A So, to answer your question, there were routine conversations with Kansas
2 City management. But understand, you know, while I got a call from the insider threat
3 office on or about July 27th, the case is opened August 1st of 2022, and as we're assessing
4 the facts and evidence that we have at that point in time, we're getting the information
5 from insider threat, we're looking at that user activity, we're communicating with the
6 New York Field Office over a span of, you know, a week to 2 weeks. His household
7 goods were packed up on August 11th and August 12th, so they're already moving across
8 the country. He's already sold his house.
9 So, you know, I'm not sure at what point in time there could be an emergency
10 brake, because his house has already been sold, his household goods are already on a
11 truck, you know.
12 But at the point that they were in Manassas, I understand that EAD Moore was
13 very concerned about just making sure that they were not stuck in the middle of the
14 United States on a truck somewhere, that they could be accessed by Mr. O'Boyle.
15 Q Thank you for that.
16 I have nothing further.
17 BY [redacted]
18 Q Okay. I want to follow up on a few more questions about Mr. Allen.
19 And I forget the exhibit number; I think it's exhibit 3 or exhibit 4. It's the
20 September 19, 2024, letter.
21 [redacted] It's exhibit 7.
22 BY [redacted]
23 Q Oh, okay. I was off. It's exhibit 7.
24 If I could have you turn to page 11.
25 In the second full paragraph on that page, there's a line that the second

1 investigator wrote in her 302 saying, "Allen confirmed he had sent the [September 29,
2 2021] email and the Holy Spirit compelled him to do so. Allen believed he had a moral
3 imperative to share the information."
4 The next paragraph has some allegations against Mr. Veltri. It says that
5 Mr. Veltri "made comments suggesting Mr. Allen was delusional for referring to his
6 religious belief instead of secular, moral or ethical reasons for disclosing wrongdoing.
7 The implication to others in SecD was that DAD Veltri believed Mr. Allen's Christian beliefs
8 as a devout Catholic were a reason to revoke his access to classified information."
9 The first part of this letter, were you aware of this allegation?
10 A I was not aware of this allegation. No.
11 Q Were you aware of the summary in the 302 that Mr. Allen invoked that the
12 Holy Spirit compelled him to --
13 A Yes.
14 Q -- do what he did?
15 A That was part of that briefing that I referenced, the January 2023 briefing.
16 Yes.
17 Q Do you recall anyone in SecD making comments regarding this statement
18 that Mr. Allen is said to have made in his interview?
19 A Sure. Again, I'll back up. I understand that this interview occurred
20 in -- was it -- what was the date of the interview? I know after that interview -- there
21 were multiple briefings on the Mr. Allen case, and I can certainly pinpoint them if need
22 be.
23 But there were a couple of statements that Mr. Allen made. One was that he
24 was compelled by the power of the Holy Spirit. There was another one where he made
25 reference to, like, a 1980-era prophecy that Donald Trump would lead us to God. He

1 had made statements to his supervisor that he was having visions, that he was feeling like
2 he was being torn and pulled in multiple directions.
3 And so, in the context of all of that, it was a relevant conversation. So I
4 remember a briefing sometime -- and, again, I can get the date if need be, but just for
5 hitting the point here -- you know, Security Division assessed whether or not it had an
6 obligation to determine whether or not there was a Guideline I concern. And as you
7 look at SEAD 4, Guideline I goes to psychological, you know, conditions. Is there a
8 Guideline I concern here that is impacting Mr. Allen's ability to render good judgment?
9 Or is he just potentially -- is he being manipulative? Is he kind of being manipulative
10 with that?
11 And so, you know, with that, at no point did DAD Veltri attack Mr. Allen for his
12 Christian faith. We did have a case briefing and a conversation, a rather robust
13 conversation, as to whether or not some of these statements were, you know, potentially
14 indicative of a Guideline I issue or whether or not he was, you know, being manipulative.
15 Ultimately, there was no request for a psychological evaluation of Mr. Allen, so
16 there was no pursuing a psychological issue.
17 Q Did Mr. Veltri want there to be a psychological analysis?
18 A He recommended that we discuss it as a team. Ultimately, we -- when I
19 spoke with him and I spoke with Office of General Counsel and I spoke with the case
20 manager, we were concerned that looking at his psychological fitness would be
21 manipulated and construed as attacking him for his faith.
22 And, you know, the other very real possibility was that Mr. Allen was just being
23 manipulative. And, you know, we continued to investigate on whether or not he was
24 manipulating information and engaging in conduct that was in conflict with the other
25 adjudicative guidelines.

1 [redacted] With the understanding the witness has been pretty forward-leaning
2 in discussing certain deliberations, I'm just flagging for the record that some discussions
3 with the OGC embed may implicate certain legal privileges, which we'll flag in real-time in
4 response to your questions.
5 BY [redacted]
6 Q So these discussions that you were just recounting, your previous couple
7 answers, are these multiple one-on-one discussions with the different
8 entities -- Mr. Veltri, OGC?
9 Or is this -- maybe a different way of asking: That main briefing you were talking
10 about, who was in that briefing?
11 A So that would've been a routine standing SIIS case briefing. So that
12 would've been case managers, supervisors, unit chiefs, myself, DAD, OGC, AD.
13 Q Can you say more about the -- so the second option was the concern that
14 potentially Mr. Allen is invoking his faith as a way to, what, protect further inquiry? Or
15 what did you mean by that?
16 A You know, some of the statements -- you know, the prophecy, the visions,
17 the Holy Spirit compelling him -- you know, was he trying to kind of create a scenario
18 where the FBI would then engage on that and conduct an analysis or an assessment of his
19 psychological fitness and then, you know, allege that the FBI was persecuting him for his
20 faith?
21 And so there was robust discussion about, you know, how to address those
22 concerns. Were there legitimate, potentially, you know, indicators that he was, you
23 know, not, you know, seeing facts clearly and that he was having these, you know,
24 imaginations and so forth? Or, again, was it just a situation where he was trying to draw
25 the FBI into challenging him at that level?

1 Q So, of those two options, so the first would be that if he's sincerely feeling
2 that the Holy Spirit is compelling him to do so, that could warrant a psychological
3 assessment and --
4 A Not -- no. Again, taking it in totality. There were multiple statements that
5 he was --
6 Q Okay.
7 A -- making. "Oh, the Holy Spirit's compelling me to send out emails." You
8 know, "The 1980 prophecy says that, you know, Donald Trump's going to lead us to God."
9 And, you know, "I'm having visions, I'm seeing things, I'm being pulled in multiple
10 statements." Those are statements that, you know, warrant a review.
11 Q Maybe a different way of asking the question: If -- I'm just trying to
12 connect the two different responses here. Because, ultimately, the decision's not to --
13 A Yes.
14 Q -- do to the psychological --
15 A Yes.
16 Q -- analysis. Is the only way that the FBI can get there if the assessment is
17 that he's doing this in kind of a manipulative way?
18 A You know, the -- and, again, the question was, do we have an obligation
19 under the adjudicative guidelines to address Guideline I? And ultimately the decision
20 was, no, we're not going to address Guideline I; we don't see this as a delusional disorder.
21 So, based on the facts and evidence that we had, we did not see that there was a
22 psychological condition. So we did not pursue a psychological fitness-for-duty
23 evaluation.
24 Q Can you say more, what facts and indicators you saw that helped you to
25 reach that conclusion?

1 A Sure.

2 And just generally in cases that we have worked, looking at precedent, we've seen

3 other behaviors and other conduct that is more indicative of an employee who's

4 struggling with a condition, with, you know, a potentially disqualifying psychological

5 condition.

6 In this case here, we had these three statements, and, again, it just appeared to

7 be that he was baiting the FBI, he was baiting the Security Division.

8 Q Was there anyone in any of these briefings who thought that the "Holy

9 Spirit" comment should be put into the same category as, like, the prophecy statement

10 and some of these other ones?

11 A I can't recall specifically if anyone said, put these in a bucket or a category.

12 Q For Mr. Veltri, when he's, you know, suggesting, you know, should we

13 consider at least a psychological assessment, what was his basis?

14 Because in order to get, I guess, to get to the point, if I'm understanding correctly,

15 of an assessment being necessary, it'd be that Mr. Allen is not manipulating or using this

16 to bait the FBI.

17 A Uh-huh.

18 Q What was Mr. Veltri seeing that would suggest that that was not the case?

19 A I can't speak for Mr. Veltri. What I can speak to is, the takeaway from the

20 briefings and the meetings was that there was not going to be a request for a

21 psychological fit-for-duty evaluation on Mr. Allen.

22 Q Do you recall anyone else sharing the same perspective as Mr. Veltri?

23 A Well, you're seeming to make as fact that Mr. Veltri wanted a psychological

24 fitness-for-duty evaluation, and I want to clarify for the record that at no point did

25 Mr. Veltri insist that there was a psychological condition.

1 What I will say is that there was a conversation and a collaborative conversation,
2 which -- all of these cases that are, you know, going to lead towards a recommendation
3 for a suspension or a revocation, all of these are conversations that we have
4 collaboratively, looking at the facts and evidence, and making those recommendations.
5 So, again, it was appropriate to determine whether or not the Security Division
6 had an obligation under Guideline I to assess psychological fitness. Ultimately, the
7 decision was made to not request that evaluation.
8 Q Taking a step back from this specific instance, or all the context of this
9 instance, for situations where there are -- someone is invoking something where it is a
10 gray line of whether there's a psychological issue or if this is a sincerely held religious
11 belief --
12 A Uh-huh.
13 Q -- what else is the -- what other facts or indicators that the FBI would look
14 for?
15 A On Guideline I specifically?
16 Q Yes.
17 A I think we're going to see behaviors, aberrant behaviors.
18 Again, we have SEAD 4 in front of us, and we can look at Guideline I. And, again,
19 we always apply the guideline. This isn't a process that isn't rooted in policy.
20 If you look at Guideline I, you know, "Certain...mental and personality conditions
21 can impair judgment, reliability, or trustworthiness." And it obviously goes through.
22 And if you look at "Conditions that could raise a security concern," under
23 paragraph (a), "behavior that casts doubt on an individual's judgment, stability, reliability,
24 or trustworthiness." And we go on into "irresponsible, violent, self-harm, suicidal,
25 paranoid, manipulative, impulsive, chronic lying, deceitful, exploitative, or bizarre

1 behaviors." So, certainly, some of those bizarre behaviors would be of concern.

2 So, you know, with that, you know, we didn't see a pattern of behavior that would

3 call into question a potential psychological condition. Again, we've seen some

4 delusional disorders, we've seen people that have those issues. And we work with our

5 Psychological Services Unit to evaluate and determine whether or not there is a

6 disqualifying condition.

7 Q Okay.

1 [3:24 p.m.]

2 BY [redacted]

3 Q Just one last question before we wrap up. Do you still talk to Mr. Veltri?

4 A He's a special agent in charge of the Miami Field Office. I've considered Mr.

5 Veltri to be a mentor since he was my supervisor. We'll talk from time to time, not on a

6 regular basis.

7 Q Okay. And you're aware of his public posts on social media against Donald

8 Trump?

9 A Those allegations have been determined to be false.

10 Q Well, in the media, it was reported that the Bureau forced him to take that

11 stuff down.

12 A Yeah. As I understand --

13 Q So I just was going to ask if, you know, you've thought that any of his political

14 leanings ever -- you witnessed it ever cloud his judgment involving any of these

15 investigations?

16 A Yeah. So, just as a point of clarification, I understand the Office of Public

17 Affairs has issued statements in the recent last couple of days that debunk those

18 allegations as false, that anyone in the FBI had any concerns about Mr. Veltri and his

19 social media posts.

20 But I'll defer to OPA to speak more specifically to their statement. I'm not on

21 social media, I don't follow anyone on social media, because I don't have any accounts.

22 But I can say that, in my experience working with Mr. Veltri, he was fair and he

23 was objective on all of our investigations.

24 BY [redacted]

25 Q Okay. Just a couple more things. And I think our hour is almost up here.

1 But to help clarify the record, in previous rounds we've talked about the different
2 pieces of information in Mr. Allen's case, and you mentioned an outburst that had
3 happened.
4 A Uh-huh.
5 Q Can you say a bit more again? And as part of that, too, was there one or
6 were there multiple instances?
7 A Sure. As I recall from some of the interviews, that in the summer of 2021
8 there was a threat review and prioritization process. Intel components would be a part
9 of that. And there was a discussion about a domestic terrorism threat. And his
10 outburst was along the lines of, "We don't have all the facts," and, you know, just
11 countering that the domestic terrorism threat was prevalent and a realistic issue to be
12 addressed by the FBI. And his supervisor did counsel him for that outburst and told him
13 it was inappropriate.
14 And, again, there was the counseling early on in the year about emails he was
15 sending out. And then he's continuing to send out these emails. His supervisor is
16 saying, use reliable news sources, not these, you know, other websites that are not
17 reputable.
18 And then he's having this outburst, and then he sends this email trying to, you
19 know, convince people or dissuade them from, you know, following up headquarters'
20 orders. So that pattern of behavior was established.
21 Q Uh-huh. To your knowledge, were there any other instances similar to
22 what you're describing -- what's described in the file as the outburst?
23 A As significant as that, I'm not aware.
24 What I do recall from some of the interviews that were taking place, that he was
25 very vocal, just kind of the day-to-day walking through the office, walking through his

1 squad area, vocalizing that January 6 subjects were not being treated fairly and "we don't
2 have all the facts" and things like that.
3 So, certainly, to the extent of an outburst, I don't know, from reading the
4 documents, that they were at that level, but certainly that this was sort of a pattern for
5 Mr. Allen.
6 Q If you could say a little bit more about -- again, we understand the situation.
7 Obviously, you weren't there for the outburst itself.
8 A Of course.
9 Q "Outburst" in the sense of speaking out of turn? Or did he raise his voice?
10 A Yes.
11 Q What more can you say about --
12 A It was described to me from the ASAC in my November 2, 2021, call, was
13 that it was; it was sort of jumping up, raising his voice, sort of, you know, an outburst,
14 screaming in a loud voice, elevated voice, you know, "We don't have all the facts,"
15 da-da-da-da-da.
16 And so, for one, I think it was notable because it was determined to be somewhat
17 uncharacteristic of Mr. Allen. But then again, as people were -- well, he's kind of,
18 like -- for the past year, he's been very -- you know, very -- there's kind of a shift in his
19 behavior and his mindset. So when I noted in the email that he was escalating or
20 spiraling, that was how it was described to me by the ASAC.
21 Q Okay.
22 Do you know if -- how many people were interviewed who witnessed the
23 outbursts?
24 A I can't speak to that, but I'm sure it's in the case file.
25 Q Do you recall at all whether there were differing views about the degree to

1 which it was an outburst as opposed to a different viewpoint maybe not expressed in the
2 right way?
3 A I certainly can't speak to that. All I can say is what was explained to me,
4 that it was an outburst and it was concerning. But, again, I'll defer to the case file for
5 any specific interviews of other witnesses.
6 [redacted] I think we're at a good stopping point.
7 [Recess.]
8 [redacted] It is 3:39. We are back on the record.
9 BY [redacted]
10 Q I have a couple of questions about Marcus Allen based on the conversation
11 just within the last hour.
12 A Yes.
13 Q First of all, on the alternative baseline assessment that was conducted, for
14 the record, you said that was done by ESOC. Is that the Enterprise Security Operations
15 Center? Does --
16 A Yes.
17 Q -- that sound right?
18 A Yes.
19 Q Okay. And that is -- as you said, that's under the IT, not the insider threat,
20 but the information technology section, correct?
21 A So, at the time that this occurred, yes, it was under the information
22 technology branch. That particular unit has now since moved under insider threat.
23 Q Okay. But at the time, it was not.
24 A Correct.
25 Q So it was not in an analytical branch or in any entity that had analytical

1 responsibilities.

2 A Correct.

3 Q Okay.

4 When [redacted] asked for that assessment -- or, I'm sorry, the fact of [redacted]

5 [redacted] asking for that assessment, is that something that had ever happened before --

6 A No.

7 Q -- in the Security Division?

8 A No.

9 Q Okay. So it was unusual.

10 A It was, very much so.

11 Q And was it appropriate for him to request that type of assessment?

12 A Based on the circumstances, I don't think so. Because, in my

13 understanding from talking with his unit chief, [redacted] it appeared -- and, again, in

14 light of the information that he tried to pressure the former subordinate at insider threat

15 office to change the recommendation, or the analytical conclusion, it appeared to me that

16 he was trying to impeach insider threat and to rebut their analytical findings.

17 Q And you mentioned a couple times that he was trying to intimidate the ESOC

18 employee --

19 A The insider threat employee.

20 Q -- insider threat employee -- I'm sorry -- into altering the baseline

21 assessment. Was that employee considered junior to [redacted]

22 A He had been.

23 Q Okay.

24 A Again, [redacted] was retired. But in his capacity as an SES in the

25 Inspection Division, he once held a supervisory subordinate role over this individual who

1 worked as a supervisor in the insider threat office. And it appeared that he had tried to
2 leverage that relationship as a former supervisor to persuade him to make the change to
3 the conclusion.
4 Q Okay. And how did you become aware that he had worked to intimidate
5 this other employee?
6 A I got a complaint from that employee's supervisor on December 6th of 2021.
7 And he called me and said, we have a situation here with [redacted] He explained it
8 to me. He forwarded me an email, some back-and-forth, where there had been some
9 dialogue between [redacted] and the SSA. And, ultimately, in that supervisor's
10 conversation with the supervisory special agent, he got the sense that [redacted] was trying to
11 pressure him and persuade him to change the findings.
12 Q Okay. Would that type of -- the concern about the intimidation and the
13 pressure to alter the findings, would that be documented in Mr. Allen's file?
14 A No.
15 Q Okay. So that would be -- okay.
16 I want to return to the questions that were asked about page 11 of the September
17 19, 2024, letter. That's exhibit 7. These are the questions about the Holy Spirit.
18 A Yes.
19 Q You mentioned in the earlier -- I think it was the very first hour we were
20 here -- that you yourself are a practicing Catholic, correct?
21 A Yes.
22 Q Okay. And the Holy Spirit is something that's associated with Catholic
23 ideology, correct?
24 A Yes.
25 Q What's your response to the allegation that belief in the Holy Spirit might

1 trigger an investigation under Guideline I?

2 A And, again, as a standalone, a belief in the Holy Spirit is not a basis for a

3 security investigation.

4 The larger issue or larger question that would be asked is, is an employee

5 hallucinating? Is an employee -- we had a case -- and just again, not Mr. Allen, but we

6 had a case of an individual who was hallucinating and was having conversations with their

7 deity of choice. And so it wasn't so much the faith piece; it was the hallucinations, it

8 was the conversations with -- you know, the imaginary conversations that were taking

9 place in her mind.

10 And so, certainly, SecD has an obligation to determine whether or not there is an

11 underlying issue there. But just Mr. Allen's belief in the Holy Spirit was not in any way,

12 shape, or form a basis for any investigation.

13 Q And you mentioned a couple of other examples of things he had said or

14 referred to that were part of this kind of whole-person evaluation under this potential

15 Guideline I investigation that, to be clear, never actually took place.

16 There was a reference to a 1980s-era prophecy about Donald Trump becoming

17 President, I guess, in -- I guess, can you -- I'm not familiar with that, and it's not

18 mentioned in the Empower Oversight letter. Can you explain what that refers to?

19 A Yes. Apparently -- and, again, what it is rooted in, I don't have specifics.

20 But I understand that he had made a comment to a supervisor, and this came up in an

21 interview, that there was, like, a 1981 or 1984 prophecy that said Donald Trump would

22 lead us, meaning the United States, to God.

23 Q And you said he also had been experiencing -- or he said he had been

24 experiencing visions?

25 A Correct. He had told his supervisor that he was -- he said, I'm having

1 visions, I feel like I'm being pulled in different directions. And those were statements
2 that came up in the interview with his supervisor.
3 Q Okay. And do you recall what those visions were visions of or --
4 A Not specifically.
5 Q Okay.
6 And, as you said, there was no corresponding behavior, correct?
7 A Correct.
8 Q So Guideline I was not applicable here.
9 A Correct.
10 Q Okay.
11 The letter -- page 11 of this letter says, "... it is difficult to imagine a clearer signal
12 from a SecD leader that improper considerations about an FBI employee's protected First
13 Amendment religious beliefs unconstitutionally infected the security clearance process."
14 And I should've read the first part of it. That's referring to -- actually, sorry. Let
15 me withdraw that and just read the whole paragraph. I apologize.
16 A Okay.
17 Q It says, "According to our SecD SSA client, DAD Veltri made comments
18 suggesting Mr. Allen was delusional for referring to his religious belief instead of secular,
19 moral or ethical reasons for disclosing wrongdoing."
20 And let's take that sentence standing alone. Are you aware of DAD Veltri ever
21 making any comments suggesting Mr. Allen was delusional for referring to his religious
22 beliefs?
23 A No.
24 Q Okay.
25 The next sentence reads, "The implication to others in SecD was that DAD Veltri

1 believed Mr. Allen's Christian beliefs as a devout Catholic were a reason to revoke his
2 access to classified information."
3 To the best of your knowledge, did DAD Veltri believe that Mr. Allen's Christian
4 beliefs as a devout Catholic were reason to revoke his access to classified information?
5 A No.
6 Q Okay.
7 And then the final sentence of that paragraph reads, "Again, it is difficult to
8 imagine a clearer signal from a SecD leader that improper considerations about an FBI
9 employee's protected First Amendment religious beliefs unconstitutionally infected the
10 security clearance process."
11 In your opinion, did Mr. Allen's religious beliefs or Mr. Veltri's opinions about Mr.
12 Allen's religious beliefs infect the security clearance process?
13 A No.
14 Q Did they have any impact at all on the security clearance determination with
15 respect to Mr. Allen?
16 A No.
17 Q Okay.
18 I want to move on to Garrett O'Boyle.
19 A Yes.
20 Q Just a minute. Too many papers.
21 I don't want to spend too much time on Mr. O'Boyle, but I do want to go through
22 the allegations that led to his suspension in just a little bit more detail.
23 Can you describe for the record what the circumstances were that led to Mr. Allen
24 being suspended?
25 A As I noted in one of the earlier hours, when the insider threat office referred

1 the matter to Security Division, at that point in time -- again, this was July 27th of
2 2022 -- there had been an interview on May 11th of 2022 of an unknown subject having
3 an interview with a media representative or an individual portraying as such, and this
4 interview was available on YouTube, discussing a very specific New York Field Office
5 criminal investigation.
6 And the insider threat office's assessment, in their coordination with New York
7 Field Office, they determined that the information that had been disclosed in that
8 interview came specifically from the case file in our system of record, Sentinel, and very
9 specific serials and very specific subfiles. And there were screenshots of the case file
10 that were displayed during the interview and were then accessible on YouTube.
11 And the review by the insider threat office and the New York Field Office
12 determined that the only person who did not have a valid and legitimate need to know or
13 need to access those case files and serials was Garrett O'Boyle.
14 Q And that was the reason for the initial suspension, correct?
15 A Correct.
16 Q And, then, as the investigation proceeded, was further information or
17 further evidence uncovered about Mr. O'Boyle's role in accessing information and/or
18 producing that information to others?
19 A Yes. So, multifaceted.
20 So, in reviewing his user activity, we received information -- just lots of
21 information about the dates that he was accessing the case file. Apparently the first
22 time he accessed that New York case file was on November 5th of 2021, which was a day
23 after a search warrant relevant to that New York case file was executed.
24 And, you know, certainly no need to know, no need to access. Generally
25 employees are not permitted to just watch the news and then go perusing through our

1 system of record to look for information about the case. So he had no legitimate need
2 to know.
3 And, then, on November 23rd is when Garret O'Boyle had accessed the case file
4 multiple times, subfiles, was screenshotting information, cutting and pasting it to a Word
5 document, and then was printing a number of documents that very same day, November
6 23, 2021.
7 We also saw that, fast-forwarding to April of 2022, he was also burning multiple
8 disks, like, 15 CDs, with case information, FBI case information, threat assessment
9 information, again, without any legitimate need to know or access those case files.
10 But, again, relevant to the suspension -- and just noting that some of that
11 information that he had burned to CDs ended up in, like, a Washington Times news print
12 article on May 12th, the day after the YouTube interview on May 11th of 2022.
13 Q And I want to turn to Guideline K in just a moment --
14 A Uh-huh.
15 Q -- but before I do, was it also the case that the Security Division determined
16 that Mr. O'Boyle had passed that information to an individual named Kyle Seraphin?
17 A The investigation later confirmed that. And that was an analysis that was
18 conducted, and I believe we got the report on November 4th of 2022, that the voice
19 match to the YouTube interview was a match to a sampling of an interview of Kyle
20 Seraphin on another interview. So it was determined to be a 99-percent match to Kyle
21 Seraphin.
22 Q And who conducted that analysis?
23 A The FBI's Operational Technology Division.
24 Q And that's not a part of SecD, correct?
25 A Correct.

1 Q Okay. So, again, that's an independent analysis.
2 A Correct.
3 Q I do want to turn to Guideline K.
4 A Uh-huh.
5 Q That's on page 21 of SEAD 4. I'm sorry. That's 21 of exhibit 9.
6 Guideline K is the handling of protected information, correct?
7 A Correct.
8 Q And I'll read "The Concern" out here. It says, "Deliberate or negligent
9 failure to comply with rules and regulations for handling protected information -- which
10 includes classified and other sensitive government information, and proprietary
11 information -- raises doubt about an individual's trustworthiness, judgment, reliability, or
12 willingness and ability to safeguard such information, and is a serious security concern."
13 Did I read that correctly?
14 A Yes.
15 Q And what's your understanding of what this concern encompasses?
16 A Essentially, are we following the rules and regulations related to the
17 protection of proprietary information in the FBI?
18 Q And this concern or Guideline K, it doesn't just refer to classified
19 information, correct?
20 A Correct.
21 Q So it would also apply to what sometimes is called as "law enforcement
22 sensitive information"?
23 A Correct.
24 Q What is law enforcement sensitive information?
25 A Anything that could impact the ability for a law enforcement agency to

1 effectively conduct their duties. It could pertain to investigative methods, sources, that
2 type of thing, that, if compromised, again, could impact our ability to effectively utilize
3 those techniques in the future.
4 Q Okay. And the concern applies to both deliberative and negligent failure to
5 comply with the rules, correct?
6 A Correct.
7 Q What's your understanding of what "deliberative" means, first? So -- sorry.
8 Let me rephrase that.
9 A I'm not an attorney.
10 Q You're fine. Deliberative mishandling is intentional mishandling, correct?
11 A Sure.
12 Q What's your understanding of what negligent mishandling would be in this
13 context?
14 A Certainly. If I'm a courier and I'm transporting documents from one place
15 to another place and I leave it on the Metro, for example, I accidentally left it on my seat
16 and got off the train, it was not on purpose, but I'm still responsible for that security
17 incident.
18 Q Okay.
19 Are you familiar with the term "need to know"?
20 A Yes.
21 Q Okay. So I want to -- underneath -- paragraph 34 under Guideline K is
22 "Conditions that could raise a security concern and may be disqualifying include:", and
23 then there's a whole list, but letter (f) is "viewing or downloading information from a
24 secure system when the information is beyond the individual's need-to-know."
25 What does "need to know" mean in this context?

1 A "Need to know" is the fundamental principle of information security. As
2 we have access to the most sensitive information in the intelligence community, in the
3 law enforcement community, we understand -- our agreement with the FBI is we sign an
4 FDA (ph) as soon as we onboard in the FBI. We understand that we should not be
5 accessing information that we don't have a legitimate purpose to do so.
6 Q Did Mr. O'Boyle have a legitimate purpose for accessing the New York case
7 information that he accessed?
8 A No.
9 Q So he had no need to know that information?
10 A Correct.
11 Q Okay.
12 Under letter (c) under "Conditions that could raise a security concern and may be
13 disqualifying include:", "loading, drafting, editing, modifying, storing, transmitting, or
14 otherwise handling protected information, including images, on any unauthorized
15 equipment or medium."
16 A couple minutes ago, you referred to Mr. O'Boyle taking screenshots and
17 copying/pasting into a Word document and then printing off those documents. Would
18 that violate this guideline?
19 A Absolutely.
20 Q And you said he had also burned 15 CDs containing information.
21 A Correct.
22 Q Would that violate this guideline?
23 A Yes.
24 Q Okay.
25 And then Mr. O'Boyle produced that information to Kyle Seraphin, correct?

1 A Correct.

2 Q Would that violate this guideline?

3 A Absolutely.

4 Q Okay.

5 Is it fair to say that that's a fairly cut-and-dried case?

6 A Yes.

7 Q We talked earlier about gray area, but, in this case, Mr. O'Boyle deliberately

8 transferred data to different mediums and then produced it to an outside source.

9 A Yes.

10 Q And he never had a need to know that information in the first place.

11 A That is correct, and neither did Kyle Seraphin.

12 Q And for the record, who is Kyle Seraphin?

13 A Kyle Seraphin was a former FBI employee who was assigned to the

14 Albuquerque Field Office at the time that he was referred to the Security Division for

15 investigation.

16 Q And Mr. Seraphin has separated from the FBI, correct?

17 A That is correct.

18 Q Are you familiar with when he separated from the FBI?

19 A I believe it was February of 2023.

20 Q Are you familiar with allegations that Mr. O'Boyle was suspended for making

21 protected disclosures to Congress?

22 A Am I aware of the --

23 Q Of that allegation?

24 A I've seen letters from Tristan Leavitt and Empower Oversight making that

25 claim, but they are false claims.

1 Q Okay. And that's what I was going to ask. What's your response to those
2 allegations?
3 A Yeah, they're false.
4 Q Okay. And, in fact, Mr. O'Boyle was suspended for violating the security
5 guidelines, correct?
6 A Absolutely.
7 Q Okay.
8 Are you aware of whether Mr. O'Boyle mishandled classified information in
9 addition to law enforcement sensitive information?
10 A Yes.
11 Q And did he mishandle classified information?
12 A Yes.
13 Q What was the context of that mishandling?
14 A As I recall from the investigation, Mr. O'Boyle accessed and downloaded and
15 printed classified intelligence reports that were not related to his duties as assigned in the
16 Kansas City Field Office.
17 When he was under transfer from Kansas City to the -- it's called CIRG -- Critical
18 Incident Response Group in northern Virginia, he packed up his office papers and office
19 supplies, and he shipped those documents from Kansas City to CIRG. And those go
20 through FedEx. They're not special handling. They're just going with everybody's
21 routine, you know, packages and so forth.
22 And upon inspection of that box and the boxes that he had transported through
23 FedEx, we identified the classified document, improperly wrapped. It wasn't
24 double-wrapped and cover-sheeted as classified information should be handled. It was
25 just thrown in the box, you know, and shipped through FedEx and certainly, you know,

1 could have been compromised at any point along the way.

2 Q Okay.

3 And in addition to being a violation of the security guidelines, is it also potentially

4 a criminal offense to mishandle classified information?

5 A Certainly. I don't know the chapter and verse, but, absolutely, it can have

6 criminal implications.

7 Q And are you aware of whether a criminal investigation was opened into Mr.

8 O'Boyle?

9 A I'm aware that the New York Field Office at the point that there was

10 unauthorized access to that case file did have a case open on Mr. O'Boyle.

11 Q Okay.

12 And just a couple of wrap-up questions on Mr. O'Boyle.

13 Was the suspension or revocation of Mr. O'Boyle's security clearance motivated

14 by animus?

15 A No.

16 Q Was it done to punish him for his political or ideological beliefs?

17 A No.

18 Q And are you confident that the true motive behind the FBI's decision to

19 suspend Mr. O Boyle's security clearance was to protect the national security of the

20 United States?

21 A Yes.

22 Q One last set of questions.

23 Your name has been in the press related to the allegations that we've been

24 discussing here today, correct?

25 A Yes.

1 Q And I think at the very, very beginning of today, which I realize was several
2 hours ago now, your counsel noted that the allegations have been amplified online as
3 well, correct?
4 A Yes.
5 Q And, in fact, that led you to hire private counsel, correct?
6 A Yes.
7 Q Okay. I'm going to ask you some questions about those allegations, and if
8 you need a minute, I understand.
9 You were named in the November 10, 2023, Washington Times article that we
10 discussed earlier, correct?
11 Does someone have a tissue?
12 A I'm good, I'm good. I've got it covered.
13 Yes.
14 Q And that's not the only time the Washington Times published your name,
15 correct?
16 A Correct.
17 Q Okay. What's the impact of those articles on you?
18 A I understand that the intent of this group of former employees is to smear
19 my name, my reputation.
20 I also believe that the efforts by the Washington Times, Kerry Picket, Empower
21 Oversight, Tristan Leavitt, and this group of former employees, which includes Stephen
22 Friend, Garrett O'Boyle, and Kyle Seraphin -- the goal is to insight anger and angst and
23 rage and potentially cause me some type of harm.
24 There have been upwards of 10 newspaper articles; 50, 60 posts on X and more on
25 Truth Social. I have been made aware that there are threats to have me hanged.

1 And there have been efforts to try to find personally identifying information about
2 me. There was one such effort where followers of Kyle Seraphin and Garrett O'Boyle
3 and Stephen Friend -- this individual thought they found me and someone they believed
4 to be my spouse and tried to engage in doxing efforts on those individuals that were not,
5 fortunately, me or my spouse.
6 So, yes, I think the impact on me has been an effort to smear my reputation and
7 potentially cause me physical harm.
8 Q Do you have concerns -- sitting here today, do you have concerns for your
9 personal safety?
10 A I do.
11 Q Can you describe the concerns that you have?
12 A All it takes is one person to believe these lies -- and they are lies. None of
13 these allegations are true. All it takes is one person to track me down, or my family
14 members, and try to be a hero, try to gain favor with, you know, these people that call
15 themselves "The Suspendables." And so I am very concerned for my safety and the
16 safety of my family.
17 Q And have you had to take steps to protect yourself or your family?
18 A Yes.
19 Q Are you comfortable talking about those steps here today?
20 A No.
21 Q Okay. Thank you.
22 [redacted] Okay. Thank you. We can go off the record.
23 Ms. Perkins. Thank you.
24 [Whereupon, at 4:06 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

_____

Witness Name

_____

Date

1
2
3
4
5 COMMITTEE ON THE JUDICIARY,
6 U.S. HOUSE OF REPRESENTATIVES,
7 WASHINGTON, D.C.
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9
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12
13 DEPOSITION OF: NATHAN WADE
14
15
16
17
18 Thursday, September 26, 2024
19
20 Washington, D.C.
21
22
23 The deposition in the above matter was held in room 2237, Rayburn House Office
24 Building, commencing at 10:00 a.m.
25

1 Appearances:

2

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted], GENERAL COUNSEL

8 [redacted], CHIEF COUNSEL FOR OVERSIGHT

9 [redacted], SPECIAL COUNSEL

10 [redacted], PROFESSIONAL STAFF MEMBER

11 [redacted], MINORITY CHIEF OVERSIGHT COUNSEL

12 [redacted], MINORITY PROFESSIONAL STAFF MEMBER

13

14

15 For the SUBCOMMITTEE ON CRIME AND

16 FEDERAL GOVERNMENT SURVEILLANCE:

17

18 [redacted] MINORITY DETAILEE

19

20

21

1 [redacted] Good morning. We are here today to record the nonappearance of
2 Nathan Wade for a deposition that was scheduled via subpoena by the chairman.
3 Nathan Wade is a former special prosecutor at the Fulton County District
4 Attorney's Office. Chairman Jordan requested this deposition as part of the committee's
5 oversight of politically motivated prosecutions by State and local officials, as well as the
6 Fulton County DA's Office receipt and use of Federal grant funds.
7 On September 21st, the House Judiciary Committee issued a subpoena for Mr.
8 Wade -- this was last Friday -- to appear at a deposition today. That's exhibit 1 that
9 we've marked in a package of exhibits.
10 On the same day, the committee noticed that deposition -- actually, I think we
11 noticed it on the 22nd, a Saturday -- and that's exhibit 2.
12 And this is part of a long-running effort to get information from the Fulton County
13 DA's Office and Mr. Wade specifically.
14 On January 12th of this year, the committee requested six categories of
15 documents for Mr. Wade regarding his role as special prosecutor leading the investigation
16 into and prosecution of former President Trump. I'll mark the January 12th letter as
17 exhibit 3.
18 On May 9th, the committee sent a follow-up letter to Mr. Wade reiterating the
19 committee's request for documents and requesting his voluntary appearance at a
20 transcribed interview. That voluntary transcribed interview was scheduled for -- initially
21 for June 27th. The committee needed to reschedule that June 27th TI due to other
22 committee business. July 11th was the next day that was scheduled for Mr. Wade's
23 voluntary interview.
24 On January 10th, we heard from Mr. Wade's lawyer -- I'm sorry -- on July 10th, we
25 heard from Mr. Wade's lawyer, Mr. Evans, and he indicated that, in fact, Mr. Wade would

1 not be appearing on July 11th.

2 To that end, the committee, you know, made multiple attempts to try to bring in

3 Mr. Wade. Mr. Evans apparently had some litigation matters pending during the month

4 of August, so we agreed on September 18th as the next day for Mr. Wade to appear

5 voluntarily. And then the day before that, we heard from Mr. Wade's lawyer, Mr. Evans,

6 that he, in fact, was not going to appear on September 18th, and that's what led to the

7 chairman issuing the subpoena on September 21st.

8 The subpoena was sent to Mr. Evans. The subpoena was also sent to Mr. Wade.

9 Mr. Evans notified us last week that, in fact, he didn't want to take service of the

10 subpoena, so we had to engage the Marshals Service. It's our understanding the

11 Marshals Service has made contact now with Mr. Wade and he is in possession of the

12 subpoena, or he at least has made an appointment with the Marshals to take the

13 subpoena for today. Obviously, he is not here.

14 With that, [redacted] do you have anything?

15 [redacted] I do indeed.

16 So thank you for that recitation of the dates. That largely matches with what our

17 understanding is, with one small exception that I'll get to in a minute.

18 I do want to note, as my Republican counterpart noted, the TI was scheduled to

19 be a transcribed interview on September 18th, 2024. The letters between Governor Roy

20 Barnes, who is counsel for Fani Willis, and Governor Barnes and -- I'm sorry. Strike that.

21 The letters between Governor Barnes, counsel for Fani Willis, and Mr. Chairman

22 Jordan directly had been introduced into the record, I believe, and the letters between

23 Mr. Barnes and Mr. Evans were also introduced into the record.

24 We have some concerns that when these transcripts have been finalized, they

25 have not included all relevant exhibits. So I'm going to read portions of these into the

1 record just so it's in the record in the event that they're not included. And I apologize.
2 This might take a minute.
3 I'll start with the letter from Roy Barnes, counsel for Fani Willis, to Jim Jordan.
4 This is undated, but I believe it was sent --
5 [redacted] I think it's exhibit 7.
6 [redacted] It's exhibit 7.
7 [redacted] Yeah.
8 [redacted] This is undated. It was sent sometime in the week prior to
9 September 18th, according to the email chain.
10 The letter reads in relevant part, "Your request" -- again, addressed to Jim
11 Jordan -- "Your request to interview Mr. Wade implicates significant equities and
12 privileges of the Fulton County District Attorney's Office, and I ask that you work with
13 myself and the District Attorney's Office regarding this request."
14 It continues, "He" -- referring to Nathan Wade -- "has knowledge of highly
15 sensitive and confidential prosecutorial information that belongs to the Fulton County
16 District Attorney's Office, and whose disclosure could interfere with an ongoing criminal
17 matter and prejudice the fair administration of justice. This includes knowledge of key
18 evidence, confidential attorney communications, legal theories and analyses,
19 prosecutorial recommendations and deliberations, as well as the sources, procedures,
20 and techniques employed in this investigation. Any interview of Mr. Wade could
21 implicate secret grand jury information, confidential investigative sources, and
22 information protected by attorney-client, work product, and deliberative process
23 privileges, among others."
24 It continues a paragraph down, "The committee and DANY," which stands for the
25 District Attorney of New York -- "reached an agreement" -- this is in the case of the Mark

1 Pomerantz matter -- "reached an agreement that allowed general counsel Lubeck to be
2 present at Mr. Pomerantz' deposition after a Federal Appeals Court temporarily blocked
3 the deposition from moving forward.
4 "According to the DANY's office, the Appeals Court's stay 'afforded us the time
5 necessary to coordinate with the House Judiciary Committee on an agreement that
6 protects the district attorney's privileges and interests.'"
7 It continues in the following paragraph, "Therefore, if you will not withdraw your
8 request for Mr. Wade's testimony, I ask that you negotiate with the Fulton County District
9 Attorney's Office to develop an agreement that protects the Fulton County District
10 Attorney's Office's privileges and interests and does not jeopardize the integrity of an
11 ongoing criminal prosecution." Signed, Roy Barnes, counsel for Fani Willis.
12 It's our understanding that there was no engagement, or at least we have not
13 been made aware of any engagement between majority counsel and Ms. Willis' office or
14 her attorney.
15 Next, I want to just read into the record portions of the letter sent from Roy
16 Barnes to Andrew Evans who represents Nathan Wade.
17 That reads in relevant part, "The committee has failed to include the office of the
18 Fulton County district attorney in any discussions concerning the timing, scope, and
19 content of Mr. Wade's testimony. This raises several grave concerns.
20 Nathan Wade was hired in November of 2021 to assist the Fulton County District
21 Attorney's Office regarding certain election corruption matters. Over the next 3 years,
22 he helped secure and prosecute the indictments of over a dozen co-conspirators who
23 sought to subvert Georgia's 2020 Presidential Election results. In his role as special
24 counsel, he was privy to confidential communications and the author and recipient of
25 confidential documents. The vast majority of these communications and documents

1 remain confidential given that there is an active and ongoing prosecution.

2 "It is clear from the committee's public correspondence to your client that it seeks
3 to compel Wade to testify about these privileged matters. This would violate several
4 legal principles and/or professional rules. First, it would violate Mr. Wade's contractual
5 agreements with the Fulton County District Attorney's Office which require him to
6 maintain confidentiality and which explicitly provides that the work product created
7 during his tenure as special counsel is owned by the Fulton County District Attorney's
8 Office.

9 "Secondly, the testimony of Mr. Wade would also violate the attorney-client
10 privilege which, under Georgia law, belongs to the client, in this case, the Fulton County
11 district attorney. There has been no waiver of this privilege here. Thirdly, the
12 testimony of Mr. Wade would violate the Georgia rules of professional conduct. Under
13 Rule 1.6(a), Mr. Wade is required to 'maintain in confidence all information gained in the
14 professional relationship with a client, including information which the client has
15 requested to be held inviolate or the disclosure which would be embarrassing, or would
16 likely be detrimental to the client unless the client gives informed consent.' This duty
17 continues to exist even 'after the client-lawyer relationship has been terminated,' Rule
18 1.6(c). To avoid any doubt, the district attorney is expressly withholding consent to
19 share all information gained in the professional relationship with a client. The only
20 exceptions to this rule are for disclosures which are 'impliedly authorized in order to carry
21 out the representation or are required by these rules or other law'" -- and then in
22 italics -- "or by order of the court," end italics, end quote.

23 "As I understand it, Congress has not sought to compel Mr. Wade's testimony by
24 order of court, and thus no applicable exception applies. In short, Georgia law requires
25 Mr. Wade to refuse to testify concerning 'all information gained in the professional

1 relationship' regardless of whether a privilege applies or not. Failure to comply with
2 these ethical obligations will subject Mr. Wade to a bar complaint from the Office of the
3 District Attorney of Fulton County. My office is separately communicating to the
4 committee today demanding to have a representative present at any interview or
5 testimony so that the Fulton County district attorney may assert any necessary privilege
6 objections. This procedure was recently followed in Bragg v. Jordan, case No.
7 1:23-cv-3032-MKB-(S.D.N.Y.). In the interim, I respectfully request that Mr. Wade cancel
8 his meeting with the committee scheduled for next week so that my client can be
9 appropriately included in any future conversations regarding the committee's alarming
10 attempts to have Wade testify about an active and ongoing prosecution." Signed Roy
11 Barnes, counsel for Fani Willis.
12 We're not taking a position on the failure to appear in that instance. I just
13 wanted to read that into the record so that Mr. Wade's -- what I understand to be Mr.
14 Wade's position is that he is caught between an instruction from his employer and the
15 request from Congress. I want to put that on the record. We're not taking a position
16 on that. We do have concerns about the service of process in this matter.
17 Exhibit 5. Exhibit 5 contains an email from Mr. Evans to the Republican counsel,
18 copying myself, dated Tuesday, September 17th, 2024, time-stamped 1:03:30 p.m. The
19 email indicates that Mr. Wade will not be appearing on September 18th for the
20 transcribed interview, and then it reads, quote, "Second, I am not authorized to accept
21 service for a subpoena or any legal process on his behalf."
22 Notwithstanding this, on -- we will introduce as exhibit 8 an email chain between
23 Republican staff and Mr. Evans dated Saturday, September 21st, 2024, at 2:06 p.m.
24 It reads, "Mr. Evans, attached is a cover letter and deposition subpoena from the
25 House Judiciary Committee for your client, Mr. Wade. The return date is Thursday,

1 September 26th at 10:00 a.m. Also included is a copy of the committee rules." And
2 then it's signed by committee staff.
3 This email was sent even though Mr. Evans had indicated he was not able to
4 accept service.
5 Mr. Evans responded to that email on September 23rd, 2024. That's at the top
6 of this exhibit time-stamped 10:29 a.m. The email reads, "I received this email on
7 Saturday. I am not authorized to accept service on Mr. Wade's behalf. I have not been
8 able to reach Mr. Wade recently."
9 So, at least as early as Monday at 10:29 a.m., the majority staff was on notice that
10 Mr. Evans was not able to accept service and that he was not able to contact his client.
11 It appears that then there was no effort -- sorry. The proper procedure here
12 would have been to contact the Marshals Service at that time. This is not an uncommon
13 practice in --
14 [redacted] We did. We contacted the Marshals Service on Friday.
15 [redacted] On Friday? And when did the Marshals Service --
16 [redacted] Yeah. And made arrangements to -- you know, we asked the
17 Marshals Service to go serve him. And then the Marshals didn't do anything over the
18 weekend.
19 And on Monday morning, the Marshals Service emailed Mr. Wade, who obviously
20 is trying to dodge this subpoena. They emailed Mr. Wade and said they would like to
21 make an appointment to deliver the subpoena to him, which, of course, caused Mr. Wade
22 to, you know, become unavailable. He wasn't at his law office. He wasn't at his house.
23 They went to his house and spoke with his gardener, and his gardener notified the
24 Marshals that he wasn't there to take service. So he's dodging service here.
25 [redacted] Okay. I don't know that I would necessarily accept -- I don't know

1 the circumstances behind that. He very well could be traveling. He could be ill. I
2 think there are reasons. I obviously don't think anybody should dodge service, but I
3 think that's a presumption that's being made.
4 We weren't informed that the Marshals Service had been tasked. I had actually
5 asked Republican counsel yesterday if that was the case and didn't receive a response.
6 [redacted] Okay.
7 [redacted] It sounds like now the Marshals Service did make contact. I
8 assume -- well, we'll introduce as exhibit 9, an Atlanta Journal-Constitution article
9 dated -- it was yesterday. Yesterday afternoon was the date and time of it, yesterday
10 being September 25th.
11 In this, Chairman Jordan's spokesman, [redacted], indicated that the committee
12 will need to tap the U.S. Marshals to locate him.
13 [redacted] Yeah, that's bad reporting. That's not the --
14 [redacted] Regardless, it sounds like the contact was not made at the time of
15 this article. So the contact --
16 [redacted] No. The reporter got it wrong.
17 [redacted] What time was contact made with Mr. Wade by the Marshals
18 Service? Like, actual service of the subpoena, not emailing.
19 [redacted] They served him, I think, this morning or they made an arrangement
20 to serve him this morning.
21 [redacted] Okay. So he didn't have the subpoena in hand until this morning?
22 [redacted] Yeah. I think they also emailed it to him and I emailed it to him.
23 So I think Wade does have the -- I mean, Wade had the -- Mr. Evans asked me to contact
24 Mr. Wade directly, and so I sent the subpoena to Mr. Wade. So he has had the
25 subpoena.

1 [redacted] Did he confirm receipt when you sent it to him?

2 [redacted] He did not.

3 [redacted] Okay. My only point is that the purpose of the subpoena is to

4 provide notice of the date, time, and manner, and I think we don't have confirmation that

5 Mr. Wade had information about the date, time, and manner until this morning.

6 You know, this is -- attempted to begin at 10:00 a.m. today. I think I'm not quite

7 sure what the rush is here given that Congress is now in recess until after the election. It

8 seems like we could have done this next week. We might be back next week.

9 So, you know, I think we do have questions about the service of process, and I

10 don't know that serving someone the morning -- who lives in Atlanta -- serving someone

11 the morning of a deposition and expecting them to appear within hours is, you know, not

12 necessarily a reasonable expectation.

13 [redacted] Right. I'm sure he knew about it last Friday. And we've been

14 trying to schedule this for a long time. I mean, I went through some of the dates. At

15 some point, enough is enough. We are where we are.

16 [redacted] I hear you. I just think we don't have confirmation

17 that -- confirmation that somebody knows about the subpoena is when it's officially

18 served on them, and it sounds like it was not served on him until this morning, you know,

19 within hours, or within maybe only a couple hours prior to the start of the deposition.

20 [redacted] Mr. Evans confirmed for us yesterday that he is still representing Mr.

21 Wade, and so, it's a little farfetched to think that Mr. Wade didn't hear about the

22 subpoena for today from his lawyer. You know, it was served last Friday -- or sent

23 last -- sorry -- sent last Saturday.

24 He didn't hear about the subpoena from me directly when I emailed him. So he

25 didn't hear about the subpoena when there was a news account published yesterday.

1 So there has been a number of opportunities for Mr. Wade to know about this
2 deposition, and so the fact that he may not know about it is a little farfetched from our
3 point of view.
4 [redacted] I understand your position, but the fact remains that we don't have
5 confirmed acceptance of the subpoena until this morning.
6 [redacted] And just by way of rebuttal, the September 21st letter that the
7 chairman sent to Mr. Wade marked as exhibit 1 -- it's a cover letter to the subpoena -- it
8 goes through some of the arguments Mr. Barnes raises.
9 Mr. Barnes doesn't represent the District Attorney's Office. In the Pomerantz
10 matter, Ms. Dubeck -- and it's not -- he spells her name wrong. It's Ms. Dubeck -- is the
11 general counsel for the District Attorney's Office of New York. Mr. Barnes doesn't -- Mr.
12 Barnes, as we understand, represents Fani Willis in her individual capacity.
13 So, you know, this is not a lawyer or general counsel from the Fulton County DA's
14 Office writing us -- asking to participate. And we recount that in the letter.
15 And also, Mr. Barnes, the good governor here, he botches the whole recitation of
16 what happened in the Pomerantz litigation. So we'll just let our letter stand to rebut his
17 misunderstandings there.
18 [redacted] And, as I said, we're not taking a position on that. I did want his
19 letter to be part of the record. That is why I read it in.
20 [redacted] Yeah. And we made it a part. Yeah.
21 [redacted] We just have concerns about the record not ultimately being
22 complete when lawsuits are filed, so --
23 [redacted] Okay.
24 [redacted] -- noting that for the record.
25 [redacted] Yeah. And we marked them as exhibit 6 and 7 at the top of the

1 proceedings today, so --

2 [redacted] And I just want to be clear that an attorney not being authorized

3 to accept service is different than not wanting to accept service which is, I believe, how

4 you characterized it in your initial statement.

5 [redacted] Well, you know, it's one thing if Mr. Evans is no longer representing

6 Mr. Wade, but if -- you know, they're trying to set up a situation where Mr. Wade can

7 avoid acceptance of service. You know, that amounts, you know, largely to an

8 obstruction of the committee's work.

9 [redacted] I think that's a pretty serious charge to level without evidence of

10 actual obstruction.

11 [redacted] Well, we have lots of evidence that that is the case.

12 [redacted] I don't think -- we don't see that evidence laid out here. I think

13 Evans made it pretty clear that he was not able to accept service and that he wasn't able

14 to contact his client.

15 So I don't know what's going on in Georgia, but I think accusing someone of

16 obstruction in these circumstances is a pretty serious charge to level without any hard

17 evidence.

18 [redacted] All right. Anything else?

19 Thank you. We'll go off the record.

20 [Wade Exhibits Nos. 1-9

21 were marked for identification.]

22

1 [Whereupon, at 10:22 a.m., the deposition was concluded.]

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5 COMMITTEE ON THE JUDICIARY,
6 U.S. HOUSE OF REPRESENTATIVES,
7 WASHINGTON, D.C.
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13 DEPOSITION OF: JEN EASTERLY
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18 Friday, October 11, 2024
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20 Washington, D.C.
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23 The interview in the above matter was held in room 2237, Rayburn House Office
24 Building, commencing at 10:01 a.m.

1 Appearances:

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4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted], RESEARCH ASSISTANT

8 [redacted], CHIEF COUNSEL FOR OVERSIGHT

9 [redacted], DEPUTY CHIEF COUNSEL FOR OVERSIGHT

10 [redacted], MINORITY CHIEF OVERSIGHT COUNSEL

11 [redacted], MINORITY PROFESSIONAL STAFF MEMBER

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1 [redacted]. Good morning.

2 This was supposed to be a deposition of Jen Easterly, Director of the Department

3 of Homeland Security's Cybersecurity and Infrastructure Security Agency.

4 Chairman Jordan requested this deposition as part of the committee's oversight of

5 how and to what extent the executive branch has coerced or colluded with companies

6 and other intermediaries to censor lawful speech.

7 I've marked a number of exhibits prior to the deposition, and we'll just go through

8 those now.

9 On October 2nd, 2024, the committee issued a subpoena for Director Easterly to

10 appear at a deposition today, October 11th. I will mark the October 11th subpoena as

11 exhibit No. 1.

12 [Easterly Exhibit No. 1

13 was marked for identification.]

14 [redacted]. On October 4th, 2024, the committee noticed today's deposition.

15 I'll mark the October 4th notice as exhibit No. 2.

16 [Easterly Exhibit No. 2

17 was marked for identification.]

18 [redacted]. The chief counsel for CISA accepted service of the subpoena the

19 same day it was issued, which was on the 2nd. I'll mark that correspondence as exhibit

20 No. 3.

[Easterly Exhibit No. 3

was marked for identification.]

[redacted]. The committee has sought Director Easterly's testimony since July. On July 2nd, 2024, the committee requested that the Director testify at a hearing before the Select Subcommittee on the Weaponization of the Federal Government on July 31st.

I'll mark the invitation as exhibit No. 4.

[Easterly Exhibit No. 4

was marked for identification.]

[redacted]. In the invitation, the committee detailed the purpose of the hearing and the reasons for seeking testimony from Director Easterly.

CISA staff declined to provide information about Director Easterly's availability for the July 31st hearing, insisting instead that the committee make premature representations about extraneous matters, such as the identity of other potential witnesses.

After nearly 2 weeks of discussions, CISA staff eventually claimed that Director Easterly was scheduled to be out of town on the date of the hearing, the July 31st hearing.

In an effort to move forward in good faith and as an accommodation to CISA, the committee next offered three potential dates for a public hearing in September.

Despite several attempts to engage with CISA about the narrow question of Director Easterly's availability, CISA refused to engage substantively, only to eventually claim that the Director was unavailable on all of the dates offered by the committee.

Those email communications are exhibit No. 5.

[Easterly Exhibit No. 5

was marked for identification.]

[redacted]. On September 13th, 2024, given the importance of Director Easterly's testimony, the committee requested she appear for a transcribed interview. This was after CISA had twice declined to make her available for a public hearing.

I'll mark that letter as exhibit No. 6.

[Easterly Exhibit No. 6
was marked for identification.]

[redacted]. On September 20th, CISA responded via letter, noting concerns with the committee's request for a transcribed interview without indicating the Director's availability to provide testimony.

The September 20th letter is exhibit No. 7.

[Easterly Exhibit No. 7
was marked for identification.]

[redacted]. In yet another attempt to obtain Director Easterly's voluntary appearance, the committee wrote another letter on September 24th responding to the concerns raised by CISA and reiterating our request that Director Easterly appear for a voluntary transcribed interview on October 4th.

The September 24th letter is exhibit No. 8.

[Easterly Exhibit No. 8
was marked for identification.]

[redacted]. On September 27th, CISA responded, claiming that a hearing is the, quote, "most appropriate," end quote, means for the committee to obtain Ms. Easterly's testimony.

Incredibly, CISA made this claim despite twice refusing to work in good faith with the committee to schedule the Director's testimony at a public hearing.

I'll mark DHS' response as exhibit No. 9.

[Easterly Exhibit No. 9

was marked for identification.]

[redacted]. The committee continued to engage with CISA in October in an attempt to gain Director Easterly's voluntary compliance with our requests.

However, CISA never offered dates on which Director Easterly was available to testify in any setting, whether it be a transcribed interview or a hearing.

I'll mark those email communications as exhibit No. 10.

[Easterly Exhibit No. 10

was marked for identification.]

[redacted]. CISA's refusal to work with the committee and to schedule Director Easterly's testimony forced the committee to resort to compulsory process, which brings us to today.

Prior to Director Easterly's testimony, the committee reached out via myself to both CISA and DHS on Wednesday to discuss Ms. Easterly's deposition. Both entities refused to provide any information to the committee.

The next time the committee heard from DHS or CISA was last night after 6 p.m. and less than 24 hours before Ms. Easterly's scheduled deposition. In a letter, DHS told the committee that Ms. Easterly would not appear at today's deposition despite a subpoena compelling her attendance here today.

The committee does take issue with DHS' characterization of the legality of the committee's subpoena in their letter of last night. That is exhibit No. 11.

[Easterly Exhibit No. 11

was marked for identification.]

[redacted]. And, with that, [redacted]?

[redacted]. We do not take a position on the agency counsel question, as we

1 have not throughout this Congress. I do want to make some notes on the ticktock, the
2 schedule that the majority counsel just went through.
3 With respect to exhibit No. 5, which is the email chain, the last email in the
4 chain -- or, I'm sorry, the top email in the chain, which I don't actually think is the last
5 chronologically, but the top email in the chain, which is dated Friday, August 23rd, 2024,
6 4:12 p.m.
7 I just want to note that the initial date offered for the hearing was July 31st, 2024.
8 The Congress was in recess at that time so there were ultimately no hearings held that
9 day, and I assume this hearing would not have gone forward either. I guess we won't
10 know. But my understanding is that it's unlikely this hearing would have happened.
11 I also want to note that on the email that is on page 3 of this exhibit, which
12 is -- begins on page 2, dated Friday, August 9th, 2024, time stamped 10:04 a.m., from
13 Charles Abernathy to [redacted], copying [redacted], on page 3 Mr. Abernathy, who is, I
14 believe, the Director of Government Affairs for CISA, says in the second paragraph -- it
15 says in the first paragraph that "The Director likes to offer a meeting to every Member
16 prior to a hearing," and then asks, "Is the 9th," meaning September 9th, "a fly-in day or
17 are Members going to be in all Monday?" That appears to be an effort to accommodate
18 the committee's interest in speaking with Ms. Easterly.
19 And in the following paragraph, Mr. Abernathy says, "We still want to come, but
20 this seems outside a normal hearing process. I am having trouble committing with the
21 limited information you are providing, i.e., are you free one of 3 days for a hearing that
22 might be one witness or might be two panels of 5 witnesses each or something in
23 between. We really need the basic information on the hearing at a minimum."
24 So we are not part of this email chain. The minority was not part of this email
25 chain. This is the first time that we are seeing it.

1 But I do want to note that Mr. Abernathy made representations in this chain that
2 suggested that Ms. Easterly -- that Director Easterly was willing to attend.
3 I also -- I'm not going to read from the DHS letters. I know that they were
4 introduced into the record. I do want to note, in the past when transcripts have been
5 finalized exhibits have not been included, so we reiterate a request that these letters be
6 included in full.
7 I know there's actually one transcript where I think majority's general counsel
8 name was misspelled [redacted] throughout. So it was an uncorrected transcript,
9 among other things. So we just request that those letters be included in full.
10 And then I have a couple of exhibits that I do want to introduce separately.
11 So I want to introduce -- I want to note that in the letters preceding this and in the
12 various reports the majority has put out there have been various representations made
13 regarding the Election Integrity Partnership and CISA and their engagement. I think that
14 would have been explored today if Director Easterly had appeared. I'm disappointed we
15 won't be able to. But a number of those representations we believe misrepresent the
16 facts that we have gathered in this matter.
17 I want to introduce a letter that we sent to the chairman dated August 22nd,
18 2023.
19 [Easterly Exhibit No. 12
20 was marked for identification.]
21 [redacted]. Pages 17 to 36 of that letter deal with specific -- what our position is
22 are specific misrepresentations regarding CISA and the Election Integrity Partnership.
23 And then pages 37 to 46 of that letter detail various threats and intimidation that data
24 scientists working on this issue have faced, in part, because of this investigation.
25 Again, I'm not going to read that into the record, but I do request that the letter

be included in the transcript in full.

And then I want to introduce a letter dated September 20th, 2024, from a number of Members of Congress, including Chairman Jordan.

[Easterly Exhibit No. 13 was marked for identification.]

[redacted]. This letter expresses concern about the need to detect and counter foreign influence. It also expresses concern about various misinformation, including misinformation targeting Springfield, Ohio.

This is a topic that I think CISA is likely involved in addressing, and that is another issue that we would have liked to address today. So we do ask that this letter be included in full.

Thank you.

[redacted]. I would just say that we appreciate your comments and the fact that you would have also liked Ms. Easterly to appear today. Hopefully, we will have that opportunity.

Just one thing to respond to. You know, trying to set up a meeting with Members allegedly in advance of the hearing is not a substitute for a transcribed interview or a public hearing where there is testimony -- or a transcript produced. Excuse me.

[redacted]. Understood. And I don't mean to represent that it is. My point in referencing that is that Mr. Abernathy represented that the Director likes to do a meeting before every hearing as part of her process.

So my read on that is that by trying to set up a meeting, she was intending to appear for a hearing.

[redacted]. Without ever giving availability.

1 But, with that, we can go off the record.

2 [Whereupon, at 10:11 a.m., the interview was concluded.]

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5 COMMITTEE ON THE JUDICIARY,
6 U.S. HOUSE OF REPRESENTATIVES,
7 WASHINGTON, D.C.
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13 DEPOSITION OF: NATHAN WADE
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18 Tuesday, October 15, 2024
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20 Washington, D.C.
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23 The deposition in the above matter was held in room 2237, Rayburn House Office
24 Building, commencing at 9:59 a.m.
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1 Appearances:

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4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted] GENERAL COUNSEL

8 [redacted] CHIEF COUNSEL FOR OVERSIGHT

9 [redacted] SPECIAL COUNSEL

10 [redacted] DIGITAL ASSISTANT

11 [redacted] SPECIAL COUNSEL

12 [redacted] PROFESSIONAL STAFF MEMBER

13 [redacted] MINORITY CHIEF OVERSIGHT COUNSEL

14 [redacted] MINORITY STAFF ASSISTANT

15 [redacted] MINORITY INTERN

16

17 For the SUBCOMMITTEE ON CRIME AND

18 FEDERAL GOVERNMENT SURVEILLANCE:

19

20 [redacted] MINORITY DETAILEE

21

22

23 For THE WITNESS:

24 ROY BARNES

25 ANDREW EVANS

1 [redacted] Good morning. This is the deposition of Nathan Wade, former
2 special prosecutor at the Fulton County District Attorney's Office. Chairman Jordan has
3 requested this deposition as part of the committee's oversight of politically motivated
4 prosecutions by State and local officials, as well as the Fulton County District Attorney's
5 Office's receipt and use of Federal grant funds.
6 On September 20th, the chairman authorized the first deposition subpoena. And
7 we sent that around via email to your counsel and then you directly on Saturday,
8 September 21st. May have sent that to you after your counsel instructed us that he was
9 not authorized to accept service.
10 There was then a back-and-forth with the Marshals Service trying to serve you the
11 first subpoena. So we'll probably have questions about that. Ultimately, you were
12 served on September 26th, which, in fact, was the morning of the subpoena. So you did
13 not appear for the first deposition subpoena.
14 On October 2nd, the committee issued a new subpoena for you to appear at
15 today's deposition, which is October 15th. We'll mark that as exhibit 1.
16 [Wade Exhibit No. 1
17 was marked for identification.]
18 [redacted] I probably should have said this at the top. My name is [redacted]
19 [redacted] I am a staffer with Chairman Jordan's staff, the House Judiciary Committee.
20 I'll have the other staffers here in the room introduce themselves, starting with my
21 colleague, [redacted]
22 [redacted] [redacted] with the House Judiciary Committee.
23 [redacted] [redacted] with Ranking Member Nadler.
24 [redacted] [redacted] with Ranking Member Nadler.
25 [redacted] [redacted] with Ranking Member Nadler.

1 [redacted] [redacted] intern with the Democratic staff.

2 [redacted] [redacted] Chairman Jordan's staff.

3 [redacted] [redacted] Chairman Jordan's staff.

4 [redacted] [redacted] Chairman Jordan's staff.

5 [redacted] [redacted] Chairman Jordan's staff.

6 [redacted] And just for the record, Mr. Wade, would you please state your

7 name for the record.

8 The Witness. Nathan Wade.

9 [redacted] And you're joined here with two counsels. I'll have them introduce

10 themselves.

11 Mr. Evans. Andrew Evans, counsel for Nathan Wade.

12 Mr. Barnes. Roy Barnes, counsel for Nathan Wade.

13 [redacted] I'll now go over the ground rules and guidelines that we will follow

14 during today's deposition. The committee will conduct the deposition in accordance

15 with the House regulation for the use of deposition authority, and we had sent that

16 around both with the September 21st subpoena and the subpoena we served shortly

17 after October 2nd.

18 This regulation is incorporated verbatim into the rules of the committee,

19 specifically Rule 11. Our questioning will proceed in rounds. The majority staff will ask

20 questions first for one hour; then the minority will have an opportunity to ask questions

21 as well for an hour.

22 To the extent there are Members that join us, and if they have questions for you,

23 they will be propounded during their respective side's rounds. So if a Republican

24 Member comes in, that Member will use time that's allotted for us. If it's a Democratic

25 Member, they will go during the Democrat round.

1 The clock will stop if the witness needs to confer with counsel, when counsel for
2 the witness is speaking. And when members of the opposite side are speaking, we'll
3 stop the clock. We will alternate back and forth, hour to hour, until there are no more
4 questions and the deposition is over.
5 We ordinarily take a short break at the end of each hour. But if you'd like to take
6 a break apart from that, please let us know. You can take a break really for any reason,
7 if you need to get a granola bar or confer with counsel or use the facilities.
8 Whatever -- whatever you need, you let us know. We'd like to make your experience
9 here as comfortable as possible under these circumstances.
10 The Witness. Thank you.
11 [redacted] As you can see, there's an official House reporter taking down
12 everything we say to make a written record. So that along those lines, we'll ask you to
13 give verbal responses to questions. I'm sure you understand that. Is that correct?
14 The Witness. I do.
15 [redacted] So the reporter can take down a clear record, please try to speak
16 clearly. And that's also good so the people at the end of the table can hear. From time
17 to time, we've got to ask you to restate something if somebody didn't hear. And so,
18 hopefully, you can bear with us on that front.
19 We want you to answer our questions in the most complete and truthful manner
20 possible. If you do not understand one of our questions or need clarification about what
21 we are seeking, please let us know. If you don't know the answer to a question or don't
22 remember, please tell us what you do remember.
23 It's okay to tell us if you learned information from somebody else. Just indicate
24 how you came to learn the information. If there are things that you do not know or
25 can't remember, just say so, and inform us who, to the best of your knowledge, might be

1 able to provide a more complete answer for the committee.

2 By law, you are required to answer questions from Congress truthfully. You

3 understand that?

4 The Witness. I do.

5 [redacted] This also applies to questions propounded by congressional staffers

6 in a deposition setting like that. Do you understand that?

7 The Witness. I do.

8 [redacted] Witnesses that knowingly provide false testimony could be subject

9 to criminal prosecution for perjury. This includes, for example, stating that you don't

10 recall something when, in fact, you do.

11 Do you understand that?

12 The Witness. I do.

13 [redacted] Furthermore, you can't tell half-truths or exclude information

14 necessary to make statements accurate. You're required to provide all information that

15 would make your response truthful. A deliberate failure to disclose information can

16 constitute a false statement or perjury.

17 Do you understand that?

18 The Witness. I do.

19 [redacted] Is there any reason you're unable to provide us with truthful

20 answers here today?

21 The Witness. No reason.

22 [redacted] Okay. The Federal Rules of Evidence, Federal Rules of Criminal or

23 Civil Procedure are not applicable for today's deposition.

24 Under the House deposition regulation, a witness's attorney may not instruct the

25 witness to refuse to answer a question except to preserve a constitutionally-based

1 privilege. And the House and the Senate, we don't ordinarily entertain common law
2 privileges.
3 Finally, I will make a note for the staff here today that the content of what we
4 discuss is confidential under the House deposition regulation. Under the rules, the
5 chairman and the ranking minority member need to consult before the release of any
6 testimony, transcripts, including portions thereof.
7 So this means it's a violation of the House and committee rules for us to disclose
8 the content of the deposition prior to the ranking member and the chairman discussing it.
9 For this reason, the marked exhibits that we will use today will remain with the court
10 reporter so that they can go with the official transcript.
11 Before we begin the first round of questions, we will afford the minority and
12 counsel for the witness and the witness an opportunity to offer any preliminary remarks.
13 Mr. Barnes. Well, before he makes preliminary remarks, the common law
14 privileges do apply no matter what the rules say. You cannot force a witness to violate a
15 professional standard of responsibility.
16 Mr. Evans. And there's a U.S. Supreme Court case on that. You guys are aware
17 that the Mazars case in which John Roberts talks about -- that the common law privileges
18 would still be applicable at a deposition setting. So we would still assert -- tell him to
19 refuse to answer certain questions that we felt were covered by privilege.
20 [redacted] And to the extent you do, we certainly can get the chairman to make
21 a ruling on that, and there are certain things we can do.
22 Mr. Barnes. You can do it. That's the reason they have judges. But a ruling by
23 the chair would not be sufficient to overcome the instructions I'll give a witness on a
24 privilege.
25 Mr. Evans. And I've read Rule 11 several times in the House rules, and the

1 constitutional objection will be the 10th Amendment, separation of powers. Everything
2 that's not enumerated to the Federal Government is reserved for the State. So that's
3 where our constitutional objection would lie, in addition to the other grounds.
4 [redacted] Okay. Well, I mean, I've never -- we've never dealt with an
5 objection on that ground before.
6 But just so we're all clear, if you're not going to answer questions, there's nothing
7 we can do to make a witness --
8 Mr. Barnes. Sure. I understand. But I don't want to mislead by -- after you
9 make your statement saying -- you know, not tell you exactly what our position is.
10 [redacted] Fair enough. And so the way the process would work is we
11 would -- we'd confer with the chairman, get a ruling, advise you of the ruling, give you an
12 opportunity to answer the question after you've heard the chairman's ruling. And then
13 from there, we could -- you know, the committee could proceed to a contempt
14 proceeding.
15 Mr. Barnes. Sure. Which I'd be entitled to a jury trial in D.C. And so --
16 [redacted] Well, contempt in the House context.
17 Mr. Barnes. You can't enforce anything. Do you have a jail?
18 [redacted] We're not going to put anyone in jail over this. I mean, the House
19 does have inherent contempt --
20 Mr. Barnes. The only power you have is by criminal contempt, and you're
21 entitled to a jury trial on a criminal contempt. But we need not get --
22 [redacted] Well -- I mean, we do, under the rules, have a provision, you know,
23 with a contempt citation. We can go to court on civil -- civil route or we can -- the
24 House can proceed via a criminal contempt citation.
25 Mr. Barnes. Sure. Both of which are overseen by a Federal judge.

1 [redacted] Indeed. Indeed.

2 Mr. Barnes. Bound by the Federal Rules of Evidence.

3 [redacted] Indeed. We can -- you know, we can make a criminal referral --

4 Mr. Barnes. Sure.

5 [redacted] -- to the Justice Department or, in fact, we could end up just

6 deciding to do nothing.

7 Mr. Barnes. You and I are not going to settle it, but I just wanted to make sure

8 that I was candid with you and tell you what our position is.

9 [redacted] Fair enough.

10 Mr. Evans. And in the spirit of that, we've largely got categories of

11 questions -- for example, biographical questions which you could ask him that he would

12 be perfectly willing to answer. That's not a problem. Questions you mentioned, the

13 service of the subpoena, again, not a problem. You can ask him everything like that.

14 But then there's other categories of questions, like conversations he may have had

15 with certain House committees or something that we would cite privilege to based on

16 attorney work product or confidentiality. So that's largely where we're going is that

17 we've kind of put these into categories of things for the objections.

18 [redacted] Right. And so, I hope we can work through some of those because,

19 to the extent there were communications with other House committees, if you're not

20 going to provide content of those communications, we would hope that you would

21 provide the date and the individuals involved because that certainly wouldn't be

22 protected by the privilege.

23 Mr. Evans. Well, the -- I don't want to do anything to jeopardize the privilege.

24 So I don't want to provide that, but there are public records of dates with meetings and

25 stuff that you guys have the invoices submitted and stuff like that that gives you a lot of

1 the information that you're already asking for.

2 [redacted] Right. But just so we understand, I mean, if we're talking about a

3 communication that's privileged, the fact that the communication occurred is not

4 privilege. The fact that person A spoke to person B, you know, at the level of a privilege

5 log, we certainly would believe we're entitled to that information.

6 Mr. Barnes. All right.

7 [redacted] Any other -- any additional opening remarks? I know there was

8 some letters exchanged.

9 Do you have any interest in making those part of the record?

10 Mr. Barnes. They're going to be made part of the record. We've marked them.

11 [redacted] Can I make --

12 [redacted] Of course. Yeah.

13 [redacted] It will only take me two seconds. It's always good to be reminded that

14 we don't have a jail in the House. So I just wanted to make a couple of notes for the

15 record. First of all, thank the witness for joining us, especially I understand that you

16 have a hurt ankle. So thank you for traveling up here with an injury, among other things.

17 The buzzer just went off, and I think everyone kind of perked up. That's just the

18 House bell. There's proceedings on the House floor. So I -- I think they're probably done

19 for the day.

20 And then I wanted to make a couple of notes. We continue to have concerns

21 about the videotaping of these proceedings, primarily because there's not been copies

22 provided to the Democratic staff or Members. I understand we are able to go view them

23 in the majority's office suite, but that's not the same, especially with Members not here

24 because of -- especially with Members not here because of the recess. And when we are

25 provided with copies to have and hold, it's usually 24 hours before release, which

1 is not really enough time.

2 [redacted] That's not true. I mean, you get a week -- if we're going to release

3 any video, we give it to you one week before we put it out.

4 [redacted] We've had a number of instances where we got them the day before.

5 [redacted] That's inaccurate.

6 [redacted] That's inaccurate.

7 [redacted] We can go back and check the record. I still would argue that a

8 week is not --

9 [redacted] We've been careful with the video. I mean, the video, the

10 agreement is --

11 [redacted] [redacted] I appreciate that you want to talk over me, but can I please

12 finish my statements?

13 [redacted] I'm not trying to talk over you. I'm just trying to --

14 [redacted] But you literally are talking over me. So if I can finish my statement,

15 and then I'll give you the time back. Sound good?

16 So we continue to have concerns with the video. We also continue to have

17 concerns with the transcripts. I think there's been something like 135 depositions and

18 transcribed interviews to date. The vast majority have not been released, including

19 depositions and transcribed interviews dating to February, March, and April of 2023. So

20 that's over a year ago at this point.

21 For the transcripts that have been released, a number of them have not

22 included -- most of them, barring those that included the joint Oversight Committee have

23 not included exhibits, which is -- the transcripts, in our minds, are not actually final if

24 they're not including exhibits and if they don't include errata -- corrected errata,

25 so -- thank you.

1 [redacted] As far as the transcripts go, you know, we release transcripts once a
2 matter is concluded. I mean, you don't ordinarily put out transcripts during the middle
3 of an investigation, but --
4 [redacted] I don't think that's accurate, though, because I think there have been
5 transcripts released during impeachment.
6 [redacted] I said ordinarily. I said ordinarily. And we're more than -- we're
7 more than willing to put out these transcripts. So if there's any particular ones you're
8 interested in getting out --
9 [redacted] Among other -- so I would ask that this transcript, in particular, be
10 released fairly expeditiously. I would also ask that I think the entire tech investigation,
11 almost all of those transcripts have not been released yet.
12 [redacted] So --
13 [redacted] And I think that's something like 40-some transcribed interviews and
14 depositions.
15 [redacted] I mean, I don't know the specific reasoning why the tech
16 investigation transcripts haven't been released. But at the conclusion of that work, they
17 certainly will. And then once a transcript is ready for release -- you know, a transcribed
18 interview, the rules on secrecy don't apply. So the minority staff certainly has the ability
19 to supplement a transcript release with the exhibits. I think it's largely just a logistics
20 thing about loading these things on website.
21 [redacted] I hear you, but it does fall in the majority responsibility. It's not the
22 responsibility of the minority.
23 But I appreciate the point that the rules don't apply to transcripts and, you're
24 right, we actually probably could release them if we chose to do that. So far, we've not
25 chosen to do that.

1 [redacted] Any additional remarks?

2 [redacted] No. Thanks.

3 Mr. Evans. Just to be clear, how soon do you think that the transcript for this

4 deposition would be available to us?

5 [redacted] So we normally get the transcript pretty quickly. These reporters

6 do an amazing job. They get it to us within -- usually -- usually within 2 days.

7 Mr. Evans. Okay.

8 [redacted] Oftentimes less than that.

9 Mr. Evans. Would that be something that I'd have a chance to review?

10 [redacted] Of course.

11 Mr. Evans. Okay.

12 [redacted] And so the way it works, once it comes in, you can review it. And,

13 you know, if there's any errata that you want to flag --

14 Mr. Evans. Would you guys notify me when it's ready?

15 [redacted] Of course. Of course. Minority gets it at the same time. As

16 soon as we get it, the minority staff gets it. Our clerks just send it right along to them at

17 the very same time that our staffers get it.

18 And then as soon as everyone reviews it, we can put it out right away.

19 Mr. Evans. Okay.

20 [redacted] That's what we've done in other depositions where either the

21 witness or the minority or we've -- the deposition transcripts are ready to go almost

22 immediately.

23 Mr. Evans. Okay.

24 The Witness. So question, just point of clarification?

25 [redacted] Of course.

1 The Witness. Prior to the release of the transcript, my counsel will have the
2 opportunity to review it before it's released?
3 [redacted] Of course.
4 The Witness. Now, tell me what "released" means? Where does it go?
5 [redacted] Normally we just -- we put it on our website.
6 The Witness. All right.
7 [redacted] Now, if there's anything in the transcript you don't want released,
8 you can tell us that you would seek a redaction, and we would consider that request.
9 Sometimes we're able to honor it; sometimes we're not.
10 If it's personal information, we ordinarily honor that type of thing. Like, if there's
11 specific addresses or that type of thing, we would ordinarily honor that type of request.
12 [redacted] There was one transcript that was released to Fox News before the
13 minority released it -- or before the minority received it. So we do ask that you take
14 precautions here that this transcript is not produced to any news outlets before the
15 minority has --
16 [redacted] Well, I don't know how that happens. That has nothing --
17 [redacted] It did happen once. I'm just asking you to take particular
18 precautions that it doesn't happen here. Thank you.
19 [redacted] I can't say -- I don't know which one you're talking about, but --
20 [redacted] It was one of the impeachment transcripts. I believe it was one of
21 the U.S. attorneys.
22 [redacted] Okay. I mean, you know, these transcripts in the impeachment
23 proceedings were done before two or three committees, and so I don't --
24 [redacted] I'm sorry. It was one of the U.S. attorneys were interviewed solely
25 by the Judiciary Committee, [redacted] if you recall. Actually, I think it was Scott Brady.

1 [redacted] Okay. Anyway, that's neither here nor there.

2 Do you have any more questions, or do you have an opening statement you'd like

3 to offer?

4 The Witness. I do.

5 Good morning. My name is Nathan Wade. I'm a licensed attorney in good

6 standing in the State of Georgia.

7 I am here after voluntarily accepting service of a subpoena from the House of

8 Representatives of Congress of the United States of America. I am here of my own

9 volition, having paid for my own flight tickets and hotel room in an effort to respond to

10 any legal relevant inquiry.

11 Please note all arrangements were made per agreement for my voluntary

12 testimony to take place back in July, but this committee changed that date for its own

13 convenience.

14 You are aware I served as special assistant district attorney in the case of the State

15 of Georgia versus Donald Trump, et al., Indictment Number 23 SC 188947 in the Fulton

16 County Superior Court.

17 Prior to accepting the appointment as a special assistant district attorney for the

18 Office of the District Attorney of Fulton County, I served as a prosecutor several times

19 during my career; first as an assistant solicitor general in Cobb County, Georgia, then as a

20 special assistant attorney general for the State of Georgia.

21 I began my private practice in 2000 where I served as a criminal defense attorney

22 representing hundreds of individuals in State and Federal courts charged with felony and

23 misdemeanor offenses. I've tried many felony cases representing clients in serious

24 matters, including but not limited, to capital offenses, murder, rape, armed robbery,

25 aggravated assault, and drug trafficking. Many of these cases garnered media attention.

1 I've served as a civil attorney in private practice representing individuals,
2 businesses, and corporations alike with no attention given to partisan politics. I've
3 previously been retained to represent a Republican sheriff. I've served as legal counsel
4 to the Cobb County branch of the NAACP.
5 In 2010, I began serving as a municipal court judge in several cities in the State of
6 Georgia, and was proud to have become the first African American to do so in the city of
7 Marietta, Georgia. I was invited to assist in the training of newly appointed municipal
8 court judges and did so with great pleasure.
9 I have received dozens of accolades and statewide recognitions over the course of
10 my legal career.
11 My team and I investigated the issues in the election interference case for more
12 than 2 years. This case was not politically motivated. Rather, it was an independent
13 investigation based upon facts, interviews, evidence, and the rule of law. I had no
14 mandate other than to honestly seek the truth. I was never directed, ordered, asked,
15 coerced, or pressured to bring any charges against anyone.
16 I took my oath as a special prosecutor with a solemn pride and responsibility. I
17 did not violate that oath and did nothing to compromise the integrity of the Fulton
18 County indictment alleging interference in the 2020 presidential election.
19 No one at the White House, the White House counsel's office, the Department of
20 Justice, or the January 6th committee directed, ordered, asked, coerced, or pressured me
21 or any member of my investigative team to seek or not to seek an indictment against
22 anyone.
23 Due to the lack of cooperation from witnesses and government officials, the
24 Fulton County District Attorney requested permission from the Fulton County Superior
25 Court judges to impanel a special grand jury to investigate the complaints surrounding the

1 2020 election. This special purpose grand jury returned an exhaustive report
2 recommending indictments on a host of individuals, many of which were not named in
3 the pending charging document.
4 Following this recommendation, a Fulton County grand jury returned an
5 indictment against all individuals named in 23 SC 188947, respectively. Several
6 defendants moved to disqualify the District Attorney of Fulton County and myself from
7 the prosecution of this case. The trial court held a hearing, during which I testified and
8 was cross-examined for hours by defense lawyers. In March of this year, the motion to
9 disqualify was denied.
10 In its distasteful dicta, the court opined that either I resign or the district
11 attorney's office resign from the prosecution of the election interference case.
12 Consequently, I voluntarily submitted my resignation immediately.
13 Since that date, I have had minimum contact with the Office of the District
14 Attorney of Fulton County and have had no access to documents left there.
15 On May 9th, 2024, I received a letter from this committee on the judiciary
16 requesting that I produce six categories of documents. I voluntarily complied with that
17 request by producing all documents that I possessed. I had nothing responsive to
18 categories of documents relating to notes, memoranda, or communications between the
19 Fulton County District Attorney's Office and any other agency.
20 The committee's stated purpose in requesting those documents and in seeking my
21 appearance to date is that the committee is, quote, "considering potential legislative
22 reforms establishing clear guidelines outlining the permissible use of Federal grant funds
23 under 34 U.S.C. Section 10261, et seq., and 12291, et seq., creating penalties for
24 unlawfully misusing Federal grant funds under Title 34 of the United States Code,
25 constructing stringent automatic audit requirements for department grants, managers, or

1 modifying eligibility requirements pertaining to grant recipients that misuse Federal
2 funds," close quote.
3 The committee has also, quote, "considered legislation broadening the existing
4 statutory right of removal of certain criminal cases from State court to Federal court as a
5 remedy against politicized prosecutions by popularly elected State or local prosecutors,"
6 close quote.
7 I am here to cooperate, and I welcome all legal and relevant inquiries related to
8 your defined scope. Contrary to any fabricated story that I somehow evaded service of
9 process, I voluntarily reached out to the U.S. Marshals office and suggested a meeting
10 place and time immediately upon being made aware, through false inflammatory media
11 reports, of Congress' attempts to serve me.
12 You are aware that I am bound by the Georgia Rules of Professional Conduct and
13 Responsibility, and must at all times, maintain in confidence all information gained in the
14 attorney-client relationship.
15 Now, I have been served with the following letter which I will serve -- which will
16 serve as guardrails directing my responses as it relates to certain topics, and I'll read this
17 letter to you and provide this as an exhibit.
18 [redacted] That will be Exhibit 2, I guess.
19 [Wade Exhibit No. 2
20 was marked for identification.]
21 The Witness. This is a letter sent to myself from the Office of the Fulton County
22 District Attorney, Atlanta Judicial Circuit. And it reads, "Dear Mr. Wade, I write to you in
23 my official capacity as district attorney of Fulton County and on behalf of my office
24 regarding a recent subpoena you received from the House Judiciary Committee related to
25 your employment as a special counsel to the Office of the Fulton County District Attorney.

1 As you know, you were contracted by the office and investigated attempts to
2 interfere with the 2020 presidential election in the State of Georgia. This investigation
3 led to the indictment of several individuals under Georgia's RICO law, and prosecution of
4 these charges is ongoing.
5 I write to remind you of your continuing obligation not to disclose any confidential
6 information related to ongoing criminal matters on which you worked while you were a
7 special counsel district attorney, including information that is protected from disclosure
8 by grand jury secrecy rules or applicable legal privileges held by the office.
9 To that end, this letter should serve as formal notice that the Fulton County
10 District Attorney is asserting all applicable legal protections and privileges over the
11 information you obtained as a result of as special counsel to this office.
12 As the special counsel of our investigation into unlawful interference in the 2020
13 presidential election, you have knowledge of highly sensitive and confidential
14 information, the disclosure of which could interfere with an ongoing criminal prosecution.
15 This includes knowledge of key evidence, confidential attorney communications, legal
16 theories and analysis, prosecutorial recommendations and deliberations, as well as
17 knowledge of the source, procedures, and techniques employed in this investigation.
18 Given this, I am concerned that questions posed to you by the committee could
19 implicate several significant established privileges and confidentiality interests. This
20 includes, quote, 'preservation of the secrecy of grand jury proceedings,' close quote,
21 which is, quote, 'a well-recognized principle in Georgia,' close quote, as well as in the
22 Federal legal system.
23 Attempts by the committee to solicit information from you about evidence in the
24 election interference case would run afoul of this fundamental principle. In addition,
25 questions about the substance of your work in the case would also seek information that

1 is protected by the deliberative process, privilege, attorney-client privilege, and work
2 product privilege, among others.
3 As Chief Justice John Roberts recently noted, it has, quote, 'long been
4 understood,' close quote, that recipients of legislative subpoenas retain common law and
5 constitutional privileges with regard to such information. It is the responsibility of the
6 Fulton County District Attorney's Office and its employees to protect secret grand jury or
7 privileged information, and specifically to protect confidential or sensitive information
8 related to ongoing criminal matters.
9 As a former contracted prosecutor with this office, this remains your responsibility
10 as well. As you are undoubtedly aware, the sharing of nonpublic privileged information
11 violates Georgia professional ethics rules, including special rules applicable to
12 prosecutors.
13 After withdrawal from a representation, attorneys are still required to refrain from
14 disclosing confidential information. Such disclosure can prejudice defendants, victims,
15 or witnesses, or affect the overall integrity of the proceedings.
16 Since the committee's demand for your testimony would require you to divulge
17 confidential and privileged information, we previously asked the committee to withdraw
18 its demand to interview you, or if the committee was unwilling to do so, to work with the
19 Fulton County DA's Office on a compromise agreement that would protect our privileges
20 and maintain the integrity of ongoing proceedings. To date, the committee has refused
21 our request.
22 The Fulton County District Attorney will continue to seek an agreement with the
23 committee, including by allowing counsel representing the office to attend your
24 deposition and assert applicable privileges and protections as warranted. However, in
25 the absence of such agreement, I am directing you as a former special counsel district

1 attorney for the Fulton County District Attorney's Office to refrain from answering any of
2 the committee's questions related to your role in the office's investigation of attempts to
3 disrupt the 2020 presidential election in the State of Georgia.
4 It is incumbent upon you and your counsel to guard against the unauthorized
5 disclosure of confidential information by invoking all applicable legal protections and
6 privileges outlined in this letter. I also understand that the committee has expressed
7 interest in questioning you about the office's, quote, 'receipt and use of Federal grant
8 funds,' close quote.
9 I do not believe that you possess any personal knowledge on this subject, as you
10 were not funded by any grant, nor consulted on any grant matters. Thus, this office has
11 no objection to you providing any relevant information to the committee in which you
12 have firsthand knowledge, provided that your answers do not interfere with any ongoing
13 litigation or implicate confidential or privileged information.
14 By allowing you to share relevant personal knowledge regarding receipt and use of
15 Federal funds, the office does not waive any privileges or interests in protecting
16 confidential information in your possession, as it is believed you have no firsthand
17 knowledge regarding this topic.
18 Finally, I wish to remind you that the importance of the Fulton County District
19 Attorney's Office ongoing prosecution. The criminal efforts to undermine Georgia's
20 2020 presidential election not only shook the foundations of our State's democracy, but
21 also endangered public servants and election workers who were brave enough to stand
22 up for the rule of law.
23 As long as I am district attorney, I will continue to do everything in my power to
24 protect the integrity of this criminal investigation and all others in which my office leads.
25 My legal duty to protect the secrecy and integrity of all criminal investigations has been

1 bestowed upon both you and I by Federal, State, and local law. I have no interest in
2 waiving this legal responsibility on behalf of this office. I am confident that you will do
3 the same.
4 Yours in service, Fani T. Willis, District Attorney, Atlanta Judicial Circuit."
5 [redacted] We'll mark that as exhibit 3.
6 [Wade Exhibit No. 3
7 was marked for identification.]
8 [redacted] What was the date of that?
9 [redacted] What exhibit --
10 [redacted] Well, exhibit 2 is his opening statement.
11 [redacted] Okay.
12 [redacted] So exhibit 3 is the letter.
13 [redacted] Do you have a copy?
14 [redacted] I didn't get a copy. I don't know if Mr. Wade brought copies.
15 [redacted] He did read it into the record. That's fine.
16 [redacted] So we're going to mark exhibit 4 would the October 11th letter to
17 Chairman Jordan from the district attorney.
18 [Wade Exhibit No. 4
19 was marked for identification.]
20 [redacted] We're going to mark as exhibit 5 an undated letter to [redacted]
21 from the Governor on behalf of the district attorney. Do you have a date to that,
22 Governor?
23 Mr. Barnes. No, I don't.
24 [Wade Exhibit No. 5
25 was marked for identification.]

1 [redacted] And then exhibit 6 is a September 30th letter from the governor to
2 the chairman.
3 [redacted] I can represent that we received exhibit 5 via email on September
4 20th, a couple days after you all did. We did receive it.
5 [redacted] So exhibit 6 is the letter where the governor urges the chairman to
6 seek anger management training.
7 [Wade Exhibit No. 6
8 was marked for identification.]
9 Mr. Barnes. Hope he has done so.
10 [redacted] So we want to make sure that's --
11 [redacted] That's dated September 30th.
12 [redacted] Yeah. And I identified that. All right. I think we're getting ready
13 to go. The court reporter will now swear the witness in.
14 The Reporter. Do you solemnly declare and affirm under penalty of perjury that
15 the testimony you are about to give will be the truth, the whole truth and nothing but the
16 truth?
17 [redacted] The clock now reads 10:35. [redacted] from the majority staff will
18 begin an hour of questions.
19 EXAMINATION
20 BY [redacted]
21 Q Good morning, Mr. Wade. I want to start off by talking a bit about your
22 professional background.
23 How many years have you been a practicing attorney in Georgia?
24 A Since 1999.
25 Q And you are still licensed to practice in Georgia. Is that correct?

1 A That is correct.

2 Q Is that the only jurisdiction you are currently barred in?

3 A Yes, ma'am.

4 Q And so it's been about 25 years. Can you provide an overview of the

5 previous positions that you've held?

6 A Okay. Let me refer back to my statement here. I served as a prosecutor

7 several times during my career, first as an assistant solicitor general in Cobb County,

8 Georgia; then as a special assistant attorney general in the State of Georgia.

9 I began my private practice in 2000, where I served as a criminal defense attorney,

10 representing hundreds of individuals in State and Federal courts charged with felony and

11 misdemeanor cases. I have tried many felony cases representing clients in serious

12 matters, including but not limited to, capital offenses, murder, rape, armed robbery,

13 aggravated assault, and drug trafficking.

14 I have served as a civil attorney in private practice representing individuals,

15 businesses, and corporations alike. I have previously been retained to represent a

16 Republican sheriff. I served as legal counsel to the Cobb County branch of the NAACP.

17 I began serving as municipal court judge in several cities in the State of Georgia

18 and was proud to have become the first African American to do so in the city of Marietta,

19 Georgia.

20 Q You said in 2000, you started your private practice. Would that be the Law

21 Offices of Nathan J. Wade?

22 A Yes, ma'am.

23 Q And do you still practice under that moniker, under that name?

24 A I do.

25 Q So you said your practice is focused on criminal offenses, but you've also

1 worked on the civil side. Is that correct?

2 A It's not focused on criminal defense. But I've done them both, yes, ma'am.

3 Q If you had to characterize a primary focus for your years of practice, what

4 would that be?

5 A Today, more civil.

6 Q More civil. Was it, in the past, more criminal?

7 A In the past, it has been, yes.

8 Q And are you currently just practicing under the Law Offices of Nathan J.

9 Wade?

10 A Yes, ma'am.

11 Q Are you employed by any other private law firms?

12 A No, ma'am.

13 Mr. Evans. I know where this is going. I think he's going to need clarification on

14 what that means.

15 BY [redacted]

16 Q Do you provide services to any other private law firms?

17 A Am I co-counsel at times with cases, with other law firms? Absolutely.

18 Q Are you currently under a contract with any other private law firms?

19 A No, ma'am.

20 Q Are you in any sort of joint partnership with any other law firms?

21 A No, ma'am.

22 Mr. Evans. We're talking about right now?

23 [redacted] Correct, sir.

24 Mr. Evans. Okay.

25 BY [redacted]

1 Q Are you contracted to provide any services to any government entities?

2 A Currently, no, ma'am.

3 Q When was the last time that you were contacted with a government entity

4 to provide services?

5 A As special prosecutor in Fulton County.

6 Q And prior to your appointment as special prosecutor for Fulton County, had

7 you been contracted with any other government entity to provide services?

8 A Yes, ma'am.

9 Q And which ones were those?

10 A Let's see. As I noted in the opening remarks, the Cobb County Sheriff.

11 Q Uh-huh.

12 A The city of Marietta as a municipal judge; the city of Roswell as a municipal

13 judge; the city of Austell as a municipal judge.

14 Q I want to talk with you -- you spoke in your opening statement about the

15 various correspondence that you and your counsel have had with the committee.

16 And so we first requested your transcribed interview on May 9th, 2024, via letter.

17 Did you receive the May 9th letter?

18 A Repeat the question, ma'am.

19 Q So the committee first requested your voluntary testimony via transcribed

20 interview in a May 9th, 2024, letter. Did you receive that letter?

21 Mr. Evans. Is that marked as one of the exhibits?

22 [redacted] It is not marked as one of the exhibits. In exhibit number 1, which

23 was the subpoena, it includes two cover letters, first the October 2nd one, and then the

24 second one is dated September 21st.

25 Mr. Evans. Okay.

1 BY [redacted]

2 Q And I can read from the September 21st letter. The second sentence says,
3 "As part of our oversight, on May 9th, 2024, the committee requested that you appear for
4 a voluntary" -- "for a transcribed interview relating to your work for the FCDAO."
5 I'm just asking if you remember receiving the May 9th letter.
6 A I don't recall receiving -- I do recall receiving a series of letters. I don't
7 recall the dates, nor the contents of those letters.
8 Q And when did you first seek to schedule your transcribed interview, if you
9 can remember?
10 A I don't recall. That was a communication between my attorney and
11 whomever he was communicating with.
12 Q And so originally your transcribed interview was scheduled for late June.
13 As you said in your opening statement, the committee needed to reschedule that.
14 In communications with your counsel, he informed the committee -- and I can
15 read from the September 21st letter again.
16 Mr. Evans. Sorry. We're bouncing back and forth a little letter, the May letter,
17 the September letter. This one is the September letter?
18 [redacted] This is the September 21st, 2024, cover letter. It's part of exhibit
19 number 1.
20 Mr. Evans. Okay.
21 BY [redacted]
22 Q So the first sentence in the second paragraph of the September 21st, 2024,
23 letter reads, "After two months of communications following our May 9th letter between
24 your counsel and committee staff, your counsel informed the committee on July 19th,
25 2024, that you agree to appear voluntarily for a transcribed interview on September 18,

1 2024."

2 Do you remember being informed that you would be at a transcribed interview on

3 September 18th, 2024?

4 A Vaguely.

5 Q Had you made any travel arrangements to come here for the September

6 18th transcribed interview?

7 A Yes.

8 Q And you ultimately did not appear on September 18th, 2024, before the

9 committee. Is that correct?

10 A I want to make certain that I'm answering as it relates to the proper letter.

11 There were so many letters back and forth that I don't want to mislead you.

12 So let me be clear. The preparation to come for the July time frame, that was

13 agreed upon. I did prepare to do that.

14 Q Uh-huh.

15 A I believe that was the question you just asked me, right?

16 Q I asked about your September 18th transcribed interview, the reschedule of

17 transcribed interview for September 18th. Did you make any travel arrangements for

18 that transcribed interview?

19 A For September the 18th?

20 Q That's correct.

21 A No.

22 Q And you ultimately did not attend the transcribed interview on September

23 18th. Is that correct?

24 A Is that the -- is that the subpoena that I was given on the date?

25 Q No, sir. If you look at the September 21st, 2024, letter which is part of

1 exhibit number 1 -- I believe it's page 3 of exhibit number 1 --

2 A I don't have a September --

3 Q This one.

4 A That says October 2nd.

5 Q So here's the September 21st, 2024, letter. I'm specifically looking at the

6 second paragraph. It starts, "After 2 months of communications following our May 9

7 letter between your counsel and committee staff, your counsel informed the committee

8 on July 19th, 2024, that you agreed to appear voluntarily for a transcribed interview on

9 September 18th, 2024. In the week preceding the scheduled interview, the committee

10 contacted your counsel twice via email and did not receive a response.

11 Instead, on September 13, just 5 days before your scheduled interview, your

12 counsel informed the committee that due to an unsolicited letter from Roy Barnes,

13 counsel to Fulton County District Attorney Fani Willis, you would postpone your

14 appearance. Notably, your counsel offered the committee no alternative date for your

15 testimony.

16 Finally, on September 17th, your counsel confirmed that you would not appear for

17 your scheduled interview based on concerns raised by the Barnes letter."

18 So in reading that, I go back to the question of, did you appear for your September

19 18th transcribed interview?

20 A Well, based upon what you just read, it sounds like I was not -- that there

21 were ongoing communications and negotiations, and I wasn't required to appear.

22 Q And so based upon your failure to appear on September 18th, the

23 transcribed interview, the committee then moved to compulsory process via a subpoena.

24 When did you first learn the committee was issuing you a subpoena for your

25 testimony?

1 A I had -- I had played in a community basketball league and
2 fractured -- hairline fractured my ankle. Because of that, I was in and out of ortho
3 surgery centers.
4 I was, obviously, prescription medicating because of the pain and the swelling in
5 my right ankle. And to date, it is -- it is still swollen. So at times I may have to elevate
6 it to keep the swelling down.
7 But I took a few days to take care of my fractured ankle and to prepare for an
8 upcoming mediation and arbitration. When I was able to deal with the pain without the
9 assistance of the prescription pain medication and came to, I turned on my cell phone
10 and prepared to go and exercise down in my exercise room. And when I did that,
11 messages started to ring through.
12 And one of the messages was from a U.S. marshal identifying himself and leaving a
13 phone number. I called that gentleman back. And at this point it's 4:00 a.m. because I
14 rise at 4:00 a.m. to do my exercise regimen. He answered the phone. And I said to
15 him, I understand that apparently I am missing. I've seen reports that no one can find
16 Nathan Wade. I'm here. Who is looking for me?
17 The marshal then said to me, Sir, that is ridiculous. We know that you're not
18 trying to hide or evade service. And I said, What service? And he said, I have
19 something here to serve upon you from Congress.
20 And I said, I tell you what, I can meet you now, or we can designate a time and a
21 place. And he said, No problem. He said, But that subpoena was for today. He said, I
22 don't think I'll need to serve that upon you, but let me get some clarification and I'll call
23 you back.
24 We hung up the phone. Approximately 8:30 or 9:00 a.m., he called me back, and
25 he said, Mr. Wade, I'll need to go ahead and leave those papers with you. Where are

1 you going to be and what time would you be there? I said, I'll tell you, I'll meet you at
2 my office.
3 I hadn't been to my office in quite some time, over a week I hadn't been there.
4 I'll be there, and I'll meet you, and you can give me what you need to give me. He said,
5 Thank you. We hung up the phone.
6 Maybe 45 minutes to an hour later he walks through the door, shook my hand,
7 handed me the documents and walked away.
8 Q And was your attorney authorized to accept service of a subpoena on your
9 behalf from the committee?
10 A I hadn't spoken to my attorney at that point.
11 Q But previously -- previous to the subpoena?
12 A Nope. We had no conversation about him accepting anything on my
13 behalf.
14 Q So you said that you had never spoken to your attorney about accepting
15 service on your behalf. Is that correct?
16 A We had no conversation about him accepting service of any kind on my
17 behalf.
18 Q On September 21st, as [redacted] noted in his opening remarks, he emailed
19 you a copy of the subpoena.
20 Did you receive that email?
21 A Who emailed me?
22 Q [redacted]
23 A I don't know. I don't recall receiving an email. But if he said he sent it, I'm
24 sure that he did. He seems to be an honest man.
25 Q Are you aware that on that same day prior to sending you that subpoena,

1 [redacted] also attempted to send the subpoena to your attorney? Were you aware of
2 that?
3 A No.
4 Q So did you have any communications with your attorney on September 20th
5 when the subpoena was authorized? Not looking for content of discussion, just yes or
6 no, sir.
7 A Do I have contact with my attorney? Constantly.
8 Mr. Evans. I mean, that goes to conversations that we've had. I would tell him
9 not to answer that question.
10 [redacted] We're just looking for whether a conversation occurred; not the
11 content of the conversation. Just a yes or no.
12 Mr. Evans. Conversations that he has with me are privileged. So I'm going to
13 tell him not to answer that.
14 BY [redacted]
15 Q So did you have a conversation with your attorney ever about the subpoena?
16 [redacted] That's content.
17 Mr. Evans. Yeah. Hang on. Don't answer yet. Did we ever have a
18 conversation about the subpoena? Yeah. I mean, I'm going to instruct my client not to
19 answer.
20 BY [redacted]
21 Q Did you have any conversations with your attorney on September 20th?
22 Mr. Evans. Same objection.
23 BY [redacted]
24 Q On September 21st? Just looking for a yes or no; not about the content of
25 the discussion.

1 Mr. Evans. Same objection.

2 BY [redacted]

3 Q On the 23rd?

4 Mr. Evans. Same objection.

5 BY [redacted]

6 Q So on September 23rd, that was the first time that the marshals attempted

7 to serve you in person.

8 Were you aware that they attempted to serve you in person on September 23rd?

9 A I think I just shared with you an experience where I voluntarily reached out

10 to the marshals, and they served me in person.

11 Q So your testimony is that you turned your phone off because you had

12 fractured your ankle. Is that correct, sir?

13 A No, ma'am. My testimony was I turned my phone off to prepare for an

14 arbitration and mediation that was upcoming, along with nurse my ankle back to health.

15 So I sort of -- when I get into trial mode, when I'm preparing for trial, I shut the

16 world off. My job is to handle my client's business, and I don't want any outside

17 interference. So I had no contact with anyone during the course of that preparation.

18 Q So what date did you turn your phone off?

19 A I turned it off -- the exact date, I can't recall. I'd give it to you if I could. I

20 can't recall the exact date.

21 Q So did the phone -- if we requested your phone records for September 20th

22 to September 26th, will we find that your phone was off, you had no communications via

23 your cell phone?

24 A I don't know what date it was when I shut it off. But during the course of

25 that period, you will find no communications because the phone was off.

1 Q And so what happened first, the phone being turned off or you hurting your
2 ankle?
3 A The ankle injury occurred first.
4 Q Okay. And so between that time, you said that you turned your phone on
5 then at 4:00 a.m. on September 26th, and that's when you received the messages from
6 the marshals. Is that correct, or do I have the timeline mixed up?
7 A I don't recall -- I do recall the marshal saying to me, This subpoena that I am
8 to serve you is for today's date. So whatever that date was, that's the date I turned my
9 phone on and returned that phone call.
10 Q So on the second attempt to serve the subpoena in person on September
11 24th, the marshals spoke to a work crew that was doing some landscaping work at your
12 house.
13 Are you aware of those conversations that occurred?
14 Mr. Evans. You're referring to the second. What's the first attempt?
15 [redacted] So the marshals made several attempts to serve Mr. Wade the
16 subpoena.
17 Mr. Evans. In person?
18 [redacted] In person, that's correct.
19 Mr. Evans. When was the first attempt?
20 [redacted] The first attempt was on the 23rd, which is that Monday.
21 Mr. Evans. And then the second attempt was when?
22 [redacted] On the 24th.
23 Mr. Evans. Okay.
24 BY [redacted]
25 Q So on the 24th is the date that they spoke with your -- the individuals doing

1 landscaping around your house.

2 Are you aware that they spoke to those individuals?

3 A No. And I'm shocked that the marshals never mentioned to me that they

4 had come to my home. And I had -- I had no conversation with anyone doing any

5 landscaping around my property at that time either.

6 Q And on September 24th, they also attempted to serve you in person at your

7 law office. Are you aware of that?

8 A I am not. During the course of that conversation, the marshal did say to me

9 that he stopped by my law office and the paralegal or receptionist told him that I was not

10 there.

11 Q And the marshals represented to the committee that the paralegal told the

12 marshals that you were out of town until October 2nd.

13 Is that an accurate statement? Were you out of town until October 2nd?

14 A I don't know what they would have shared with them. I don't know.

15 Q And then you said at 4:00 a.m. on the 26th, you reached back out to the

16 marshals. Is that correct?

17 A I did.

18 Q And you did that via a phone call?

19 A I did.

20 Q And then you accepted service on the 26th?

21 A On that date.

22 Q On that morning?

23 A Whatever that morning was, yes.

24 Q And then on October 2nd, the committee issued another subpoena, and you

25 subsequently accepted service of that subpoena. Is that correct?

1 A So -- so because at this point, I had had contact with the marshal via cell
2 phone, that same gentleman called me and he said, Mr. Wade, I have another document
3 for you. How can I get it to you?
4 Q Uh-huh.
5 A I said, Well, when do you want to get it to me? And he said, As soon as
6 possible.
7 I told him at that point that I'm on my way to court. You can meet me at the
8 courthouse if you like. Here's where I'm going, and here's the time that I'll be there.
9 And he said, I will show up there, and I will hand you the documents, and he did that.
10 Q Okay. And I want to now pivot to talking about your appointment as
11 special prosecutor for the Fulton County District Attorney Office.
12 So who contacted you first about the special prosecutor position?
13 A So this is an interesting story or series of events, how this came about.
14 The Witness. And forgive me, Governor Barnes, I'm going to have to tell on you
15 here.
16 Mr. Barnes. That's fine. You won't be the first.
17 The Witness. I was a part of a search committee, if you will, for the then-newly
18 elected district attorney.

1 [10:58 a.m.]

2 BY [redacted]

3 Q Okay. And can you provide dates for when you were part of the search

4 committee?

5 A Oh, God, I cannot. I'm sorry.

6 Q Okay. If it's helpful, DA Willis came into office on January 1st of 2021. Is

7 that a helpful time frame?

8 A It is. So January 1st I was a part of the search committee for that newly

9 elected district attorney, and we were tasked with trying to identify someone who would

10 serve as lead counsel on the election interference investigation.

11 The goal, or the trick, was to make certain that the individual selected or identified

12 was one who had no axe to grind, if you will, one who would be able to be objective, and

13 follow wherever the investigative process would lead them. There were between three

14 and five candidates that we spoke with, a few of which I cannot recall, but there were a

15 multitude of individuals who were reaching out and sending resumes trying to obtain the

16 position, one of which -- one individual that we did speak with is in the room this

17 morning, and that is Governor Barnes. He, I guess, artfully bowed out accepting the

18 position of special prosecutor, and he would cite to safety reasons. He would cite to the

19 low financial compensation that Fulton County would offer, and he would cite to a busy

20 law practice, that he couldn't afford to devote the necessary amount of time that a case

21 like this would need. But interestingly enough, he also shared with us at that time that

22 he had no interest in traveling in a caravan of security constantly.

23 Now, I should have taken the hint when he said that. I did not. I didn't

24 understand what he understood at the time apparently. I had no clue that I would need

25 security for accepting that position.

1 But at any rate, he was one that turned the position down. Other people turned
2 it down. Eventually, eventually I guess the committee turned their guns on me and
3 started trying to convince me to accept the role. I said no. I said no more than once.
4 But at some point, I relented and accepted the case because it did pose some
5 interesting -- I thought interesting legal issues. It was unlike any concept or anything
6 that I had ever dealt with. As a matter of fact, it turns out it's unlike anything that has
7 ever happened in American history, so I was right in that regard.
8 I didn't give -- I didn't give enough credence, though, to the underlying warnings
9 that were issued to me by former Governor Barnes.
10 Q And so the search committee, you said that began when DA Willis took office
11 on January 1, 2021. Is that correct?
12 A Yes.
13 Q And was there outreach to you to be part of the search committee prior to
14 January 1, 2021?
15 A Absolutely.
16 Q And when did that start?
17 A Sometime after the election, but prior to her taking office.
18 Q Okay. So between the election -- and you're referring to the
19 November 2020 election. Is that correct?
20 A Yes, ma'am.
21 Q And so when you had conversations with individuals you said on multiple
22 occasions you said no, and you turned the positions down, who were those conversations
23 with?
24 A They were with -- mostly with the District Attorney --
25 Mr. Evans. I'm not objecting right now because we're talking about the process

1 of bringing him on board, but, like, we're headed pretty close to where I'll start objecting
2 once we -- like if we start asking about the case and the investigation and stuff, so --
3 [redacted] Okay. I'm asking about his hiring and being brought on.
4 Mr. Evans. Okay.
5 BY [redacted]
6 Q So you said that you had conversations with DA Willis regarding -- prior to
7 your appointment as special prosecutor. Is that correct?
8 A Yes, ma'am.
9 Q About the role itself. Is that correct?
10 A Yes, ma'am.
11 Q Did you have any, I would say, interviews with DA Willis regarding the
12 position?
13 A Define "interview." What does this mean?
14 Q Like a job interview, where you sat down with DA Willis, and she talked
15 about your job qualifications, the role of the special prosecutor, you two discussed why
16 you would be best fit for the position. Was there any sort of discussion like that?
17 A It was more of a conversation sort of making me aware of my background
18 and accomplishments, if you will. So if that's an interview, then that's what it was, but it
19 was more of her and her counsel at the time just kind of reminding me, Well, you've done
20 this, and you've done that, and you've done this, and you've done that.
21 [redacted] Could I just ask, are we talking about him serving as a special
22 prosecutor or him serving on the search committee?
23 [redacted] I'm talking about his appointment as special prosecutor.
24 [redacted] Okay.
25 BY [redacted]

1 Q And so how many conversations, if you had to quantify, do you believe you
2 had with DA Willis specifically prior to being hired as special prosecutor?
3 A I have no clue, ma'am.
4 Q Was it more than five, more than ten?
5 A I have no clue. It was a lot.
6 Q More than one?
7 A Absolutely.
8 Q Did you have conversations with anyone else besides DA Willis regarding the
9 special prosecutor role, and Governor Barnes I'll say?
10 A I did. And I'm trying to recall if that was -- that was [redacted]
11 Q And who is [redacted]
12 A He's the individual that I had the conversation with prior to my being
13 appointed, if you will, as special prosecutor.
14 Q Did he work in DA Willis's office?
15 A At the time she didn't -- she hadn't taken office yet.
16 Q Okay. So you spoke with [redacted] prior to DA Willis taking office?
17 A I did.
18 Q Okay. Any other individuals besides [redacted] Governor Barnes, and
19 DA Willis that you had conversations with about the position?
20 A I'm sure there were. I just can't recall who they were.
21 Q Okay. I'm going to mark another exhibit. This will be exhibit number 7.
22 This is Judge McAfee's March 15, 2024, order.
23 [Wade Exhibit No. 7
24 was marked for identification.]
25 BY [redacted]

1 Q This is exhibit number 7. And to the extent I use this as an exhibit, I'll make
2 sure to refer you to a specific page number, but feel free to take time to review it.
3 Are you good to go?
4 A I'm good to go.
5 Q And in your opening statement you referred to distasteful dicta. Is this
6 what you were referring to, this order?
7 A Portions of it, yes, ma'am.
8 Q Okay. I want to look specifically at page number 1, the sentence starting
9 "among other." And I'll read it into the record. "Among other allegations of
10 disqualifying conduct, the defendants contend that the District Attorney obtained a
11 personal stake in the prosecution of this case by financially benefiting from her romantic
12 relationship with Special Assistant District Attorney Nathan Wade, whom she personally
13 hired to lead the State's prosecution team."
14 I'm just wondering if you could help us unpack "personally hired." Would you
15 describe that as DA Willis having conversations with you? Did she give you the job
16 offer? Can you help us understand personally hired?
17 Mr. Evans. It calls for speculation.
18 BY [redacted]
19 Q So did you receive a job offer from DA Willis?
20 A If you're asking me to interpret what this judge was meaning when he made
21 those statements, I can't -- I couldn't do it for you.
22 Q So would you say the fact -- his statement that she personally hired you, is
23 that an inaccurate statement?
24 Mr. Evans. Well, you're asking what Nathan's understanding of a judge's
25 order -- of a judge's use of the word "personally hired." He has no way to know what

1 Judge McAfee meant by that.

2 [redacted] I'm asking if he believes that statement is accurate. Is "personally

3 hired" accurate?

4 Mr. Evans. You're asking him --

5 BY [redacted]

6 Q To your understanding, is it accurate?

7 A Aside from what he wrote in this order, I can tell you that the only person --

8 Q Uh-huh.

9 A -- who had the authority to appoint me as special prosecutor was the District

10 Attorney of Fulton County, Georgia, at the time. That's who had the authority to make

11 the appointment. Aside from whatever the process was, ultimately, she had the

12 authority to do it.

13 Q So when you received a job offer or a contract from Fulton County, were

14 those discussions had with DA Willis?

15 Mr. Evans. That's too broad of a question. I mean, are you asking about

16 specific things? Are you asking about -- because you just said everything.

17 BY [redacted]

18 Q When you were retained by Fulton County District Attorney's office -- you

19 would agree that you were retained by the Fulton County District Attorney's office. Is

20 that correct?

21 A I would agree with that.

22 Q When you were retained by the Fulton County District Attorney's office, who

23 did you have conversations with?

24 A I had conversations upon being retained --

25 Q Uh-huh.

1 A -- and contracting with the Fulton County District Attorney's office with
2 [redacted]
3 Q And what was [redacted] role at the District Attorney's office?
4 A I don't know the exact title that he has.
5 Q And what did you discuss with [redacted] Was it just the maneuvers of the
6 contract, or what were the specifics?
7 Mr. Evans. Of what?
8 [redacted] He said that he had conversations with [redacted] regarding his
9 retention, so I'm asking in what regards.
10 BY [redacted]
11 Q Was it about the specifics of the contract? Was it about the rate that you
12 would be given per hour?
13 A All of the above.
14 Q Okay. And did you have any of those types of conversations with DA Willis,
15 or were those just had with [redacted]
16 Mr. Evans. Hang on. I just want to be more precise with the questioning
17 because it keeps getting back to this broader question of -- what's the actual question?
18 [redacted] The actual question is he -- we have just discussed that he had
19 conversations with [redacted] regarding his retention as special prosecutor for the Fulton
20 County District Attorney's office.
21 Mr. Evans. But that's just --
22 [redacted] And he described -- excuse me. He described that he had had
23 conversations about the rate. He had had discussions with [redacted] about the contract
24 itself. So I'm asking, did he discuss any of those, his rate, and/or his contract with DA
25 Willis?

1 Mr. Evans. Okay.

2 The Witness. No.

3 BY [redacted]

4 Q No. You just had those types of conversations with [redacted]

5 A That was his job. His job was to sit with me, hammer out the details of the

6 contract, which were this is our contract, this is our rate, sign it. So there you go.

7 Q And in the judge's order, it states that you were personally hired to lead the

8 State's prosecution team.

9 Is that accurate to describe you as the lead for the prosecution team?

10 A Yes, that's accurate.

11 Q Did you have any discussions with DA Willis regarding you leading the

12 prosecution team?

13 A That's what she hired me to do.

14 Q Beyond just explaining that you would lead the prosecution team, were

15 there any more details provided, like how many employees you would supervise, if you

16 would lead a team of prosecutors, if you would have office space at the Fulton County

17 District Attorney's office. Were there any of those types of conversations?

18 A So there's a contract that's in the public sphere.

19 Q Uh-huh.

20 A And that -- I'm going to just ask that the four corners of that document

21 control.

22 Q Uh-huh.

23 A The contract speaks for itself. If you don't have it, I could ask my counsel to

24 provide another copy of it to you. I know that it was provided in some discovery

25 responses, and it was the actual -- a copy of the actual contract that was executed. So

1 whatever those details are, it's in there.

2 Q And prior to the contract being sent to you, you discussing it with [redacted] I

3 believe you said his last name was, is that correct? Did you have any discussions with

4 DA Willis of what the job would entail?

5 A It's all in the contract?

6 Q Did you lead a team of prosecutors at the Fulton County District Attorney's

7 office?

8 A I did.

9 Q How many did you -- were on your team?

10 A So let me say this: Those men and women, many of which are not known

11 to the public, there's some safety concerns there.

12 Q Uh-huh.

13 A And I don't think that we should really be talking about --

14 [redacted] She didn't ask names.

15 The Witness. Am I responding to you or him? Which?

16 [redacted] He'll just help out with the objections.

17 [redacted] I'm sorry. This is a deposition. I think under the deposition rules

18 only one counsel is allowed to ask questions.

19 [redacted] I didn't ask a question. I just confirmed that she did not ask names.

20 [redacted] I think that's a violation of the rules. Obviously, you guys are in

21 charge, so you can do whatever you want, but I --

22 [redacted] It's not a violation of the rules. It's just confirming she did not ask

23 for names.

24 The Witness. So let me say that there was a team, and there was more than

25 one.

1 BY [redacted]

2 Q There was more than one. Did you supervise a team of more than five

3 individuals?

4 A Yes.

5 Q More than 10?

6 A No.

7 Q Okay. So it was between five and ten. Is that correct?

8 A That's correct.

9 Q And were those individuals all barred attorneys?

10 A No.

11 Q Okay. And can you give us a sense of were they -- were the individuals,

12 paralegals, secretaries, assistants? What did that look like for the individuals who were

13 not barred attorneys?

14 A All of the above.

15 Q Okay. And how many individuals would you say were barred attorneys?

16 More than five?

17 A I believe, yes.

18 Q Okay. And I want to ask you a little bit about the organizational structure.

19 So there --

20 Mr. Evans. Are we talking about just for the Trump case, or are we talking about

21 just overall in the district attorney's office?

22 BY [redacted]

23 Q I'm talking about just for the case against President Donald Trump. That

24 was our understanding is that you were hired specifically to be a special prosecutor on

25 the case against President Donald Trump. Is that correct? There were no other cases

1 that you worked on?

2 A That's not correct.

3 Q Okay. So you worked on cases other than just the prosecution and

4 investigation of President Trump?

5 A Yes.

6 Q How many other cases did you work on?

7 A I don't know.

8 Q What types of cases were they?

9 A Criminal cases.

10 Q Criminal cases. What types of crimes?

11 A I don't recall.

12 Q Were they all in a specific unit or division of the district attorney's office, like

13 the anticorruption unit? Were they all in that vein?

14 A No, ma'am.

15 Q Okay. And so talking specifically about the investigation and prosecution of

16 President Trump, how many attorneys did you supervise?

17 Mr. Evans. Now we're starting to get into the actual investigation, and this is

18 where I'll start objecting. I don't mind about he was interviewed to do a job. I don't

19 even mind about how many barred attorneys were working. But now we're starting to

20 get into specifics about the investigation, and that's where I'm going to object under

21 privilege and stuff. I don't want to talk about the structure of anything that had to do

22 with the case or the investigation of --

23 Mr. Barnes. And I don't want to get down to such specifics that, even though

24 names are not used, that you could identify people. I mean, you don't know how bad

25 this has become since President Trump has brought this out public and Chairman Jordan

1 to the extent of having to move out of their houses.

2 So with that admonition, then you can go ahead.

3 BY [redacted]

4 Q So you said that you supervised a team that was between five and 10

5 individuals. Is that correct?

6 A Yes.

7 Q And so, would those -- even though, you know, I believe under the contract

8 you were limited to 60 hours per month, is that correct, to your recollection?

9 A I don't recall, but it was something -- it was awful.

10 Q And, you know, I believe DA Willis and you have both publicly said that you

11 worked more hours than you billed for. Is that correct?

12 A Absolutely.

13 Q So when you were working for the DA's office, you also had your private law

14 practice as well. So I just want to specifically focus on your work for the DA's office.

15 When you -- so you supervised a team of five to ten people. Did those

16 individuals reach out to you for guidance? I'm not asking for the specific guidance you

17 provided, but would they reach out to you and take direction from you?

18 Mr. Evans. What's meant by guidance?

19 [redacted] Can we interview this individual as an example.

20 Mr. Evans. That's too broad of a question. He's not going to know.

21 BY [redacted]

22 Q Would team -- would the individuals that you supervised, would they ever

23 contact you? We'll start off with that.

24 Mr. Evans. Well, I'm just going to object to this whole line under -- I mean, this

25 would all be covered under attorney work product, under attorney-client privilege. I

1 mean, there's still an ongoing investigation in addition to a Court of Appeals decision
2 about the motion to disqualify.
3 So we've got several different problems here with confidentiality and even
4 disclosing, you know, broad architecture of how the structure was and who's
5 communicating with who and even without getting into the granular details about all of
6 that. So I'm just going to continue to assert these objections under all of these
7 privileges.
8 [redacted] So how would the -- discussing the structure of the office, how
9 would that affect the investigation?
10 Mr. Evans. Because it's -- as Governor Barnes said, there's -- you start to limit
11 this to a universe of people that could be identified. Even just saying five to 10 barred
12 attorneys, you can start getting people going back through records and trying to figure
13 out who these attorneys are so they could be the subject of, you know, verbal attacks or
14 whatever. So, I mean, I don't want to give anything that would put anybody in jeopardy
15 for that.
16 [redacted] And how would whether conversations occurred between him and
17 the individuals that he supervised be covered under the attorney-client privilege?
18 Mr. Evans. Because you're starting to get into -- when you say five to 10 barred
19 attorneys and then you start asking questions about did any of those people tell you who
20 to talk to and stuff, then you're starting to get into people with specific knowledge. And
21 if they could be identified, there would be an absolute reason to go after certain people.
22 [redacted] Yeah. And I'll State that I tried to start out broad and you objected
23 to the question. I tried to say did you have -- did anyone from your team reach out for
24 guidance?
25 Mr. Evans. It's not a perfect science what we're doing. I get it. I was trying to

1 give some leeway with asking some questions about the process of hiring him and stuff
2 like that, but anything even, you know, tied to the investigation and so -- keep in mind
3 this is a 2-year investigation. It's still going on. So it got put on hold by the Court of
4 Appeals while they review the order on the motion to disqualify, but it's still going on.
5 So we've got all of these people that are working in the office that are still a part
6 of all of this. Nathan is not part of this case anymore since he resigned, but all of these
7 other people still are. So there's a lot to protect here, not just with this but with the
8 ongoing investigation.
9 [redacted] And so --
10 Mr. Barnes. Since this is about grant money, why don't you -- why don't we get
11 down to it. You were paid this. Do you know if this came from Federal funds? I
12 mean, how -- what is this beyond the scope of the subpoena --
13 [redacted] I'm trying to get there, sir, but we have to lay the groundwork first if
14 it's hiring a special prosecutor.
15 Mr. Barnes. Why don't you just ask him if he knows anything about the grant
16 money, about how he was paid?
17 [redacted] We'll get there. We'll get there.
18 Mr. Barnes. Well, I mean, but why do we have to run the risk of narrowing down
19 number of people. I don't think you fully understand these nuts and how violent they
20 can become. And so, I mean, you know, just ask the question. Just ask the question.
21 [redacted] And if you'll permit me to, I'll go ahead and get back to questioning.
22 So we'll restart the clock.
23 BY [redacted]
24 Q So did you have an office space at the Fulton County District Attorney's
25 office?

1 A Did I have a place where I went to complete the work that I was contracted
2 to do with the Fulton County District Attorney's office?
3 Q That's correct, sir.
4 A Yes.
5 Q And was that at the physical address of the Fulton County District Attorney's
6 office?
7 A I cannot -- I cannot, for safety reasons, disclose where that office was.
8 Q Okay. I'm not asking for the specific address, but you had a desk
9 somewhere where you completed your Fulton County District Attorney office work. Is
10 that correct?
11 A Someplace.
12 Q Someplace. And did you have an official email address with Fulton County?
13 A No.
14 Q So if someone needed to reach out to you regarding your work with the
15 Fulton County DA's office, would they email you on your regular Nathan J. Wade Law
16 Office email address?
17 A They would email a legal assistant, a paralegal, or one of the other full-time
18 team members to get to me.
19 Q Okay. And did you have a business card with the Fulton County DA's office
20 that identified you as a special prosecutor?
21 A I did.
22 Q And did you have a government phone or a phone number where you could
23 be reached to discuss Fulton County business?
24 A I did not.
25 Q You did not. So would the similar process --

1 Mr. Evans. See even that's getting too close because you're starting to ask
2 whether people are using their personal cell numbers to conduct business with Fulton
3 County. I object to that because that could potentially reveal an identity of people.
4 Keep in mind, he had to change his phone number like after some of this went on.
5 So this is not just academic objections. This is real-life stuff that there has been a lot of
6 threats and people have faced.
7 [redacted] Yeah. What this line of questioning is trying to get at is how
8 integrated into the Fulton County District Attorney's office were you?
9 Mr. Evans. I don't understand the relevancy of that. We know that he had a
10 contract with them. It's not disputed that he was the special prosecutor on the case. I
11 don't -- what difference does it make where he worked or what phone number he had or
12 anything? I don't understand.
13 BY [redacted]
14 Q So I'll just ask a broad question then.
15 Did you feel like you were integrated into the day-to-day operations at the Fulton
16 County District Attorney's office?
17 A What does "integrated" mean?
18 Q Did people know who you were? Did people interact with you on a daily
19 basis?
20 A Most people did not know who I was.
21 Q Okay. Just the individuals who were -- you supervised on your team, they
22 obviously knew who you were; but other individuals at the Fulton County District
23 Attorney's office did not know who you were?
24 A Most other individuals at the Fulton County District Attorney's office did not
25 know my roles nor have any knowledge of the work that I was performing.

1 Q And prior to your appointment as special prosecutor, you listed in your
2 opening statement and in the first few of my questions, roles that you had where you
3 were a prosecuting attorney. Is that correct?
4 A Yes, ma'am.
5 Q Prior to your appointment as special prosecutor, had you ever worked in a
6 district attorney's office?
7 A No.
8 Q And in your opening statement, you mentioned various criminal cases that
9 you had worked on regarding, you know, whether it be capital cases, murder cases, rape
10 cases. Had you ever worked on a RICO case or a racketeering case?
11 A Okay. So when you say, "worked on," are you meaning tried? Because
12 the cases that I mentioned were cases that I actually tried.
13 Q Okay. So we can take it a step back.
14 Had you ever just worked on, not you being the attorney of record on the case, for
15 a RICO case?
16 A Are you asking if I've ever participated in the prosecution of a RICO case?
17 Q Correct.
18 A The answer is no.
19 Q No. So this was the first case where you were prosecuting a RICO case?
20 A Yes.
21 Q And how did you get up to speed on the contours? Obviously, RICO is a
22 complex law. Not talking about while you were on the job, but prior to taking the
23 position on, did you do any study of the RICO law?
24 Mr. Evans. I would just say that last clarification is what is I was going for is that
25 you could talk about what you did to learn about the law, like the law itself, what RICO as

1 a count means, but I don't want anything --

2 The Witness. I absolutely -- I absolutely did. I went to what you

3 would -- what I would call RICO school to learn about what it is, what it means, and how it

4 works. It's a very complicated legal concept, but the dubbed godfather of RICO, the

5 gentleman who wrote the book --

6 BY [redacted]

7 Q Uh-huh.

8 A -- spent hours and hours teaching me RICO, if you will.

9 Q And beyond that, did you do any other study to prepare yourself for taking

10 on the position of the special prosecutor?

11 A I don't know that there's anything greater than sitting at the foot of the

12 person who has written the book on a legal concept. There's nothing better than that.

13 Q And who are you referring to when you say he wrote the RICO book?

14 A John Floyd.

15 Q John Floyd.

16 Mr. Evans. And that's the only name I want to have you give. And the only

17 reason I didn't object there is because he's already part of the public record, but

18 that's -- okay.

19 BY [redacted]

20 Q And did Mr. Floyd work for the Fulton County District Attorney's office or did

21 you just seek him out?

22 A I don't know who he works for.

23 Q Okay. So he wasn't contracted by the district attorney's office, to your

24 knowledge?

25 Mr. Evans. That's not the same question.

1 Mr. Barnes. No, it's not the same question.

2 Mr. Evans. And the answer is it's public record that he was.

3 Mr. Barnes. And had been for years from time to time by the predecessor DA.

4 BY [redacted]

5 Q So how did you go about contacting Mr. Floyd?

6 A He was teaching a RICO course, and I went to the course.

7 Q So when you say you went to RICO school, that would be accurate; you did

8 go to a class about RICO to understand the contours of the law?

9 A Absolutely.

10 Q And during your time as special prosecutor at the Fulton County District

11 Attorney's office, did anyone supervise you?

12 A What does that mean, "supervise me"?

13 Q Was there any -- if there was an organizational chart, was there anyone

14 above you?

15 Mr. Evans. I would object to that on the same grounds that we're talking about

16 before that we're getting too far into architecture and structures and, you know, stuff

17 that pertains to the case itself, so I don't --

18 BY [redacted]

19 Q In your role as special prosecutor, did you report directly to DA Willis?

20 Mr. Evans. You don't have to answer that if you don't want to.

21 [redacted] What's the objection? What's the privilege?

22 Mr. Evans. Again, it's just -- first of all, I don't see the relevancy to anything

23 having to do with grant funds. I don't see the relevancy of anything to do stated in the

24 committee's letter about oversight of removal to Federal court stuff, so I find this whole

25 line of questioning irrelevant.

1 But I want to go back to the original objections of just -- we're just getting into too
2 much confidential material with the structure. Who he's reporting to, who's working for
3 who, all this kind of stuff is just not anything that he's going to answer.
4 Mr. Barnes. And --
5 [redacted] And what's the privilege? You didn't State a privilege.
6 Mr. Barnes. Well --
7 Mr. Evans. The privileges -- there's several privileges. I mean, there's just
8 generally attorney work product privilege that deals with confidential information.
9 There's attorney-client privilege generally which is going to cover it. There's grand jury
10 secrecy provisions which are talking about confidentiality and the process and everything.
11 We've got Georgia Bar Rule of Professional Conduct 1.6. There's just a general rule of
12 confidentiality anyway. So we've got a multitude of privileges.
13 [redacted] And how does whether DA Willis supervised him fit into those
14 privileges? It's just a "yes" or "no" answer.
15 Mr. Evans. The contract that he has with Fulton County is public record. None
16 of the rest of this stuff is public record. So you're asking for stuff about how it all works.
17 So whatever DA Willis decided was the hierarchy and how communication was going to
18 get passed and who was going to be supervised by who, that's all attorney-client privilege
19 to me because that's confidential material on how the office operates.
20 [redacted] And that wasn't my question. It was, did DA Willis supervise him?
21 That's a "yes" or a "no" answer. So how would that lead you to the reporting structure
22 that DA Willis had set up?
23 Mr. Evans. Because I don't know what supervised means. They have
24 conversations, but I don't want -- I don't feel that he's at liberty to discuss some kind of
25 rigid hierarchy for how information was communicated within the office. That's my

1 objection.

2 [redacted] So we can take it broader if that would make you feel more

3 comfortable.

4 BY [redacted]

5 Q Did anyone oversee you in your position as special prosecutor?

6 Mr. Evans. Well, that was the first question I objected to. The second one was

7 when you said did Fani Willis oversee you? So I don't understand --

8 [redacted] How do we not know what the word "supervise" means?

9 Mr. Evans. What are we trying to get to here, though? I don't understand,

10 like the --

11 [redacted] Look we just ask the questions. I mean --

12 Mr. Evans. Yeah.

13 [redacted] Sometimes when you ask a question, as you know, it leads to other

14 things. But, I mean, we're objecting here to the meaning of the word "supervisor"?

15 Mr. Evans. No. I'm objecting to the conversation as it was explaining about just

16 getting into how information is passed within an office on a case that is subject to grand

17 jury secrecy laws, a case that's subject to --

18 [redacted] I didn't ask how information is passed. I asked who -- did anyone

19 oversee Mr. Wade in his position as special prosecutor. That's not how information

20 passed. It's just did someone oversee you? Yes or no? Did DA Willis --

21 [redacted] Was it the criminal division? Was it the deputy DA? Was it --

22 Mr. Evans. We're still getting into too many names and identifiable people.

23 [redacted] And to make you more comfortable with the question, that's why I

24 took it back to did anyone ever oversee you in your role as special prosecutor?

25 Mr. Evans. Okay. You can answer that question. Did anyone ever oversee

1 you?

2 A No.

3 BY [redacted]

4 Q So you had ultimate authority in the case you would say?

5 A Yes.

6 Mr. Evans. I mean, I would object that that calls for speculation generally, but --

7 Mr. Barnes. Yeah, folks, I'm an old man, and eventually we're going to have to

8 go to the bathroom.

9 [redacted] Hey, we're at a minute 51. Can you wait for just 9 minutes?

10 Mr. Barnes. Okay. I can make it.

11 BY [redacted]

12 Q So, Mr. Wade, it's a matter of public record that you were paid -- you

13 received for your services somewhere a little bit over $700,000. And I understand from

14 your testimony at the hearing that there was a structure where it went into a joint

15 account between you and your law partners, paid expenses, and then it was divided

16 among the three of you. But is it accurate to say that you were reimbursed -- not you,

17 your law firm, your partnership was reimbursed $700,000 for your services, a little bit

18 over that?

19 A Reimbursed?

20 Q In payment for your service that you provided to Fulton County District

21 Attorney, you received $250 per hour. Is that correct? That was your rate?

22 A That was not my rate, no, ma'am. But again, the contract is going to

23 control.

24 Q Uh-huh.

25 A So whatever that contract says, that's what it was.

1 Mr. Evans. The objection I would have is just on that one, the form of the
2 question. This question was asked at the hearing, and there was about a 30-minute
3 discussion about what it meant, what the word "law firm" meant --
4 [redacted] Correct.
5 Mr. Evans. -- because he's had three, four iterations of partnerships and
6 everything. So I would just ask for --
7 [redacted] Yes. I was just attempting to truncate it here for the record.
8 BY [redacted]
9 Q I understand that you, yourself, did not receive the full payment. Is that
10 correct?
11 A That's correct.
12 Q And that it was divided among -- after expenses were paid, it was divided
13 between you, Mr. Bradley, and Mr. Campbell. Is that correct?
14 A That's correct.
15 Q And at some point, Mr. Bradley and Mr. Campbell also had contracts with
16 the Fulton County District Attorney's office for first appearances and/or filter or taint
17 review, I believe it's called. Is that correct?
18 A That's correct.
19 Q Do you have an understanding of when they were contacted regarding, you
20 know, negotiating those contracts to be brought on to do the first appearances, taint and
21 filter review?
22 A I do not.
23 Q Did you ever -- were you ever involved in the first appearance contract?
24 A I was not.
25 Q Were you ever involved in the filter or the taint contract?

1 A I was not.

2 Q Do you have an understanding of when those contracts ended specifically?

3 A I do not.

4 Q And was the payment structure similar to how your payment from the

5 Fulton County District Attorney's office was received? It went into the joint account,

6 expenses were paid, and then the remainder was divided among the three of you?

7 A Well, it would go into an account --

8 Q Uh-uh.

9 A -- and then the way you explained it would happen.

10 Q Okay.

11 A So not necessarily a joint account.

12 Q And DA Willis --

13 Mr. Evans. I just want to make sure, are you -- did you -- were you aware that

14 Judge McAfee has a YouTube channel that recorded the hearing?

15 [redacted] Correct. And I watched his testimony, and I watched DA Willis's

16 testimony, Mr. Bradley's testimony, Mr. Yeartie's -- Ms. Yeartie's testimony. I watched

17 all of that.

18 Mr. Evans. Right. So these questions, specific questions have been asked and

19 answered.

20 Mr. Barnes. Under oath.

21 Mr. Evans. Under oath.

22 [redacted] And as [redacted] said, sometimes responses elicit additional

23 questions or new information.

24 Mr. Evans. Well --

25 [redacted] So that's what we're just -- we're just asking the questions here.

1 Mr. Evans. Right. So I didn't object to some of the other questions that were
2 asked at the hearing tangentially, but these actually have been asked and answered.
3 [redacted] And what would the privilege be then if they've already been
4 answered?
5 Mr. Evans. The -- well, we keep pigeonholing this into privilege. I mean, I've
6 already said that I don't recognize that as the limitation. But I would object just
7 generally under the common law deposition rules of -- or just the general deposition rules
8 of everything of just asked and answered and just not wanting him to -- these things
9 happened a long time ago. What I'm concerned is that he might say something that
10 might be inconsistent with testimony that he gave at the hearing that might cause a
11 problem, not because he's trying to be misleading or anything, but just because he just
12 doesn't remember. And so I don't want him to answer questions --
13 [redacted] Well, if he doesn't remember questions, if he doesn't remember
14 something, he can tell us.
15 Mr. Evans. He can say that. But we are getting into questions that have already
16 been specifically asked.
17 [redacted] And we're not going to -- [redacted] is not going through every
18 question that has been asked --
19 [redacted] I will also point out this is still on appeal, this issue.
20 Mr. Evans. It is.
21 [redacted] We're ready to go back. Okay.
22 BY [redacted]
23 Q Were you the only special prosecutor, to your knowledge, that was
24 contacted to work on the case against President Trump --
25 [redacted] Are we good to go?

1 [redacted] Yeah. I was just asking if you would just tell us when you pause your
2 timer so we can keep track of time.
3 BY [redacted]
4 Q To your knowledge, were there other special prosecutors besides yourself
5 that were contracted to work on the case against President Trump and his
6 co-defendants?
7 A Yes.
8 Q And how many others were there?
9 A At least two.
10 Q And were their roles similar to yours?
11 A No.
12 Q How did their roles differ?
13 A They weren't required to spend the amount of time that I was required to
14 spend on the case. They were more as needed.
15 Q And when you say the time that you were required to spend on the case,
16 what do you mean by "required"?
17 A Well, your earlier question probably 30 minutes ago dealt with RICO and my
18 understanding of the concept, the legal concept of RICO. Well, in order to be certain
19 that I can fully, or could fully understand the concept, I was required to go through the
20 training. I was required to make certain that I understood how to apply each and every
21 element per the statute. I was required to -- and I'm trying to answer your question --
22 Q Uh-huh.
23 A -- without going into now investigative processes, but we had different
24 requirements.
25 Q And do you have any knowledge of or a reason to believe that the Fulton

1 County District Attorney's office paid you with federally-derived funds?
2 A So that -- that's some kind of misconception that A, that the Fulton County
3 District Attorney's office paid me anything. Why? Is that your next question why?
4 Q Sure. Go ahead, sir.
5 A I'll answer it. I would submit an invoice, many of which you've seen,
6 probably all of which you have. I would submit an invoice, and 3 to 5 or so months later,
7 I would receive a physical check from the Fulton County Board of Commissioners. That's
8 who paid me.
9 Q Uh-huh.
10 A So the Fulton County District Attorney's office never wrote me a check.
11 They didn't pay me a dime. But the Fulton County Board of Commissioners did.
12 Q And when you received a check from the Board of Commissioners, did you
13 ever have knowledge of or a reason to believe that those funds were derived from
14 Federal funds?
15 A I have no clue where they got the money. I was just more, I guess,
16 astonished in the fact that it took me 3 to 5 or 6 months to get it.
17 Q And, you know, we'll talk about the invoices in the next round, so we'll go
18 back to that. But the practice was you would track your time, you would put it in an
19 invoice, and then -- would you send that to the Board of Commissioners or send that to
20 the Fulton County District Attorney's office?
21 A I would send it to the payroll department within the Fulton County District
22 Attorney's office, and they would then do whatever they needed to do with it.
23 Sometimes it would be, What does this mean or what does that mean? I would then go
24 into my investigative file, look through my investigative notes, and clarify whatever it was
25 I needed to clarify. And then they would then do whatever they needed to do with it

1 within that 3- to 5- to 6-month period, and I would get a physical check.

2 Q And when you said if they had questions about something, you would go

3 check your investigative file, would those questions come from individuals in the payroll

4 office?

5 A I don't know where they came from. It would -- the questions would come

6 from the email, and it was like a general Fulton County email that it would go to, and then

7 they would bounce back a question surrounding entry whatever, and then I would then

8 check the file of the notes, the investigative file of notes and hit "reply" and respond to

9 the inquiry.

10 Q If your invoice total was $2,000 -- and I know that's probably low, but if it

11 was for $2,000, would you be paid out $2,000?

12 A Sometimes.

13 Q And when you say "sometimes," were there sometimes questions regarding

14 the invoices or you weren't reimbursed for all of the hours you noted in the invoice?

15 A When I say "sometimes," I mean sometimes the invoice was $2,000, to use

16 your example, and I was paid $1,500.

17 [redacted] Okay. And we're at an hour, so we'll go off the record.

18 [Discussion off the record.]

19 [redacted] Okay. We can go back on the record.

20 BY [redacted]

21 Q Mr. Wade, thank you again for appearing here today.

22 I'm going to start by just clarifying something that was raised during the earlier

23 hour. You were asked by my majority counterpart who had ultimate authority over this

24 case. What does that phrase mean to you? What did you understand that to mean?

25 A Well, when she asked me the question, I thought that she was asking in a

1 context of day-to-day operations, but you just used the word "ultimate authority."
2 Obviously, the ultimate authority rests with the elected District Attorney and/or the grand
3 jury who was making the decision to charge or not to charge. I didn't -- I didn't have the
4 power to charge anyone.
5 Q And I appreciate that clarification. Thank you.
6 Now, you touched on this a bit in your opening statement, but I'm going to ask
7 some questions to follow it up.
8 In several of Chairman Jordan's letters to you, he's referred to the prosecution of
9 Donald Trump, a prosecution which includes 18 other defendants, repeatedly as
10 politically motivated.
11 What is your response to the claim that this is a politically-motivated prosecution?
12 A Well, again, I had no political motive. I have no political motive. I have
13 never met any of the individuals that were charged prior to this indictment experience.
14 I had nothing to gain by anyone being charged, or not being charged. I simply did what I
15 said in my opening statement, which was I followed the evidence, the facts, and the rule
16 of law.
17 Q And were those charges ultimately filed because the Fulton County District
18 Attorney's office had evidence that you believe was sufficient to prove that the
19 defendants, including Donald Trump, had committed violations of Georgia's criminal
20 laws?
21 A Yes, ma'am.
22 Q And the special purpose grand jury in Fulton County found probable cause
23 that the defendants in the case committed those violations, including racketeering,
24 solicitation of a violation of oath by a public officer, false statements, forgery, and
25 elect -- election fraud, excuse me. Isn't that correct?

1 A And more, yes, ma'am.

2 Q Yes. And it is a matter of public record that several of the defendants, I

3 believe at least four in that case, have already pled guilty, correct?

4 A Yes, ma'am.

5 Q And of the defendants who pled guilty, three of those are themselves

6 attorneys, correct?

7 A Yes, ma'am.

8 Q Now, when the grand jury returned its charging recommendations in this

9 case, it actually recommended that the DA's office indict 39 individuals for their roles in

10 attempting to overturn the election results in Georgia. Is that correct?

11 A It sounds familiar, yes, ma'am.

12 Q Okay. I'm going to introduce into the record the Special Grand Jury Report

13 dated September 8 of 2023, and I believe that date is the date of the judge's order

14 unsealing the report. And I believe we are on exhibit 8. Thank you.

15 [Wade Exhibit No. 8

16 was marked for identification.]

17 BY [redacted]

18 Q Now, before I ask you some questions, I just want to correct the dates that I

19 put on the record. The actual Special Purpose Grand Jury Report, the initial report is

20 dated the 15th of December 2022, and then there's an addendum dated May 12, 2022.

21 The September 8, 2023, is the date of the judge's order unsealing those two reports. So

22 I just wanted to make that clear.

23 Now, in the Special Grand Jury Report, the grand jury recommended that criminal

24 charges be filed, among others, against now former Georgia Senator David Perdue. Isn't

25 that correct?

1 A That's correct.

2 Q And the grand jury also recommended that criminal charges be filed against

3 now former Georgia Senator Kelly Loeffler, correct?

4 A That's correct.

5 Q And the grand jury also recommended that criminal charges be filed against

6 current Senator Lindsey Graham, correct?

7 A That's correct.

8 Q And the grand jury also represented that criminal charges be filed against

9 former National Security Advisor Michael Flynn. Isn't that correct?

10 A That's correct.

11 Q Now, these four individuals I just mentioned, David Perdue, Kelly Loeffler,

12 Lindsey Graham, and Michael Flynn, they are all Republicans, correct?

13 A I believe that's correct.

14 Q And despite the grand jury's recommendation, the Fulton County District

15 Attorney's office, with you acting as special prosecutor, declined to file charges against

16 any of these prominent Republican officials. Isn't that correct?

17 A Well, let me ask you this: That list that you gave wasn't intended to be the

18 entire list of officials that were not charged in that indictment.

19 Q That is correct. There were 39 recommendations, correct?

20 A There were 39 recommendations.

21 Q And there were 19 individuals who ultimately were charged, correct?

22 A Yes.

23 Q Okay. And so, I'm not going to go through all 20 of them. I just wanted as

24 a representative sample to note and have you confirm that despite the grand jury's

25 recommendation, the district attorney's office declined to file charges against those four

1 individuals we just discussed. Is that correct?

2 A Among others, yes, ma'am, that's correct.

3 Q And are you able to tell us today why you made that decision?

4 A I am not.

5 Q But you can confirm that the district attorney's office, with you working as

6 special prosecutor, actually indicted fewer than half of the individuals for whom the

7 grand jury recommended that you charge?

8 A Yes, ma'am.

9 Q And just to clarify, when I asked if you were able to tell us why you made

10 that decision and you said no, that's because it falls under several -- I assume that's

11 because it falls under several privileges and grand jury secrecy provisions?

12 A That is correct.

13 Q Thank you.

14 Now, I'm going to ask you another set of questions that touches on some issues

15 that you mentioned in your opening statement.

16 In -- now, you stated in your opening statement that certain people or agencies

17 did not order you or direct you to file charges. I'm just going to -- I want to make this

18 very, very clear for the record because I think it's very important, especially in light of the

19 fact that the chairman in his letters to you accused you of improperly coordinating with

20 and colluding with, quote, "Democrats in Washington, D.C.," unquote.

21 Did anyone in the White House order you or, to your knowledge, anyone else at

22 the Fulton County District Attorney's office to file charges against Donald Trump in this

23 matter?

24 A No, ma'am.

25 Q And did anyone in the White House direct you or, to your knowledge,

1 anyone else at the Fulton County District Attorney's office to file charges against Donald
2 Trump?
3 A No, ma'am.
4 Q And did anyone in the White House, to your knowledge, try to coerce the
5 Fulton County District Attorney's office into filing charges against Donald Trump?
6 A No, ma'am.
7 Q To your knowledge, did anyone in the White House pressure the Fulton
8 County District Attorney's office to file charges against Donald Trump?
9 A No, ma'am.
10 Q And, to your knowledge, did anyone in the White House even so much as ask
11 the Fulton County District Attorney's office to file charges against Donald Trump?
12 A No, ma'am.
13 Q Did anyone in the United States Department of Justice ever order you or, to
14 your knowledge, anyone else at the Fulton County District Attorney's office to file charges
15 against Donald Trump?
16 A No, ma'am.
17 Q Did anyone in the Department of Justice ever direct you or, to your
18 knowledge, anyone else in the Fulton County District Attorney's office to file charges
19 against Donald Trump?
20 A No, ma'am.
21 Q To your knowledge, did anyone in the U.S. Department of Justice try to
22 coerce the Fulton County District Attorney's office into filing charges against Donald
23 Trump?
24 A No, ma'am.
25 Q And, to your knowledge, did anyone in the U.S. Department of Justice

1 pressure the Fulton County District Attorney's office to file charges against Donald
2 Trump?
3 A No, ma'am.
4 Q And, to your knowledge, did anyone in the U.S. Department of Justice even
5 so much as ask the Fulton County District Attorney's office to file charges against Donald
6 Trump?
7 A No, ma'am.
8 Q Was the decision by the Fulton County District Attorney's office to criminally
9 indict Donald Trump and his 18 co-defendants an independent decision that was made
10 without influence of Federal officials?
11 A That decision was made by the grand jury of Fulton County, and to my
12 knowledge, no Federal officials interacted with that grand jury.

1 [12:11 p.m.]

2 BY [redacted]

3 Q We spoke briefly at the end of the last hour about the source of the funds

4 that were used to pay you, and I want to ask a related question in light of the allegations

5 or that there are open questions about whether Federal funds were used to finance your

6 prosecution.

7 Do you have any information about how the Fulton County District's Office used

8 its Federal grant funds?

9 A No, ma'am.

10 Q Was it part of your role as the special prosecutor to administer the use of

11 those funds?

12 A No, ma'am.

13 Q We began the first hour by talking about the service of subpoenas on you for

14 this deposition, and I would like to just clarify some points about the timeline.

15 First, I would just like to note for the record that at least it's my understanding

16 that the subpoena was first issued on September 21st, and you testified that it was

17 served on you the same day as the deposition was scheduled to commence. And that

18 was on September 26th. Is that correct?

19 A That's correct.

20 Q So you were actually served 5 days after the subpoena was issued?

21 A Yes, ma'am.

22 Q And you were asked some questions during the previous hour about

23 attempts made by the marshals to serve you at your home before the 26th.

24 Is today the first time you're learning about those efforts to serve you at home?

25 A Yes.

1 Q And if I understood your testimony, when you turned your phone on at
2 approximately 4:30 in the morning on September 26th, you had a voicemail from
3 somebody at the U.S. Marshals Service?
4 A I did.
5 Q And you voluntarily returned that phone call?
6 A Yes, ma'am.
7 Q And because that was the same date of the deposition, the person you
8 spoke to from the Marshals Service wasn't sure if he should go through with serving you
9 with the subpoena on that day given that it would be impossible for you to appear?
10 A That's correct.
11 Q And then he returned your call?
12 A He did.
13 Q And if I understood your testimony correctly, you made arrangements for
14 him to serve you at your office?
15 A I did.
16 Q And you were present in your office when he arrived with that subpoena?
17 A Yes, ma'am.
18 Q And you voluntarily accepted service without incident?
19 A I did.
20 Q And I believe you testified that on October 2nd, when this deposition was
21 rescheduled for today's date, the person from the U.S. Marshals reached out to you
22 again. Is that correct?
23 A That's correct.
24 Q And, again, you made arrangements for him to serve you?
25 A I did.

1 Q And this time you made arrangements for him to serve you at the court
2 where you would be making an appearance later that day?
3 A Yes, ma'am.
4 Q And if you had not provided him that information, would he have any basis
5 for knowing which courthouse you would have been at that day?
6 A No, ma'am.
7 Q And you were present at the courthouse as you had told him you would be
8 when he arrived to serve you with the subpoena?
9 A Absolutely.
10 Q And you voluntarily accepted service?
11 A I did.
12 Q And that was on October 2nd, correct?
13 A Yes, ma'am.
14 Q And that was to appear here today on October 15th?
15 A It was.
16 Q And that is less than 3 weeks after the initial subpoena was issued on
17 September 21st?
18 A Yes, ma'am.
19 Q Thank you. Now, there were a lot of mentions during the previous hour
20 about safety issues and security issues that have arisen as a result of not just your
21 involvement in this case, but this case generally. And I believe you said something to
22 the effect of -- that you wish you had listened to Governor Barnes' warnings.
23 Can you expand on that a little bit? Can you tell us what you were referring to
24 and why you wished you had listened?
25 A I can. Governor Barnes did not look at me and say, These are the things

1 that are going to happen to you if you accept this appointment because, remember, at
2 that time I was not even being considered for the position. It was just that he, at that
3 time, said that he was not interested in having to live his life with security around him
4 24/7 again.
5 I didn't take that literal, and I should have, because as a result of this prosecution,
6 I've gotten a huge amount of death threats. Someone leaked my address, so I couldn't
7 get into my home on many nights because there were people outside of my home. I
8 couldn't get into my office because there were people outside of my office.
9 At a certain point, I had to dump my voicemails every hour because it would fill up
10 so quickly with people calling and making lewd, racist comments, as well as death threats
11 on my work voicemail. At some point in the process, the -- my cell phone number got
12 distributed to the public and then the messages started coming to my cell phone.
13 I couldn't spend time with my -- comfortably with my children because of the fear
14 that someone would associate them with me and then do something to my children. So
15 I couldn't, for that time period, go around my children. Wasn't really excited or
16 comfortable with going around my parents, as they are elderly and they got a lot of
17 threats.
18 My father and I have the same name, so some of the people who were making
19 threats rerouted some of the threats to -- to him, and it disturbed him greatly to the
20 extent that he began to worry about my safety. He shared some of the comments with
21 my mother, and then she began to worry about my safety.
22 And it was just a snowball effect. Whereas, before I would have kept all those
23 things from my family, particularly, my aging parents and my children. I would have
24 kept them away from those things.
25 But I didn't -- I didn't prepare or couldn't prepare for the apparent attack and

1 family divide that this thing would cause when I accepted the -- the role.

2 Q I imagine you had no idea that you, for example, would be separated from

3 your children out of what I presume was concern for their safety. Is that fair to say?

4 A Yes.

5 Q And were you concerned for your own safety as well during that time? Did

6 you consider some of these threats to be legitimate?

7 A I was concerned for my own safety to the extent to where I had to wear a

8 bulletproof vest in public. I'm a licensed gun owner. I had to carry a weapon for my

9 own protection. Somehow my license tag on my car got leaked, and then there were

10 people following me.

11 I've gone into the grocery store to pick up a few odds and ends from the grocery

12 store and was followed around the grocery store. There's so many -- I got -- obviously, I

13 got things in the mail, lots and lots of mail from both sides; people who were supportive

14 and -- some people who were supportive, but many from -- many things from people who

15 were not supportive.

16 Q Have the threats continued since your withdrawal from the case?

17 A The threats have subsided tremendously, but I get one or two here or there

18 still.

19 Q Is it possible for you to quantify the number of death threats that you've

20 received, or is it a volume that's so big that you couldn't even keep track?

21 A Oh, my God. I couldn't even -- I couldn't begin to quantify it. I have no

22 clue how many. A lot.

23 Q Your home address was leaked, your personal cell phone number, even your

24 license plate. Is that accurate?

25 A Yes, yes.

1 Q And I imagine that with each of those revelations, the death threats and the
2 negative attention increased dramatically?
3 A It did. As a result, I've had to change all those things. The only thing that I
4 did not change was my office address and office phone number. So threats continue to
5 come through that vein.
6 Q But you've actually had to move your home as a result of the risk to your
7 safety?
8 A I have.
9 Q And from comments that were made during the previous hour, you're not
10 the only person involved in this prosecution that's had to take those measures. Is that
11 correct?
12 A That's correct.
13 [redacted] And with that, we can go off the record.
14 [Discussion off the record.]
15 [redacted] We'll go back on the record.
16 BY [redacted]
17 Q Mr. Wade, when we ended our last hour, I was talking about the invoices
18 you sent, but then you were paid out by the Board of Commissioners, and so I want to
19 introduce one of those invoices for the record. This is an invoice from the Law Offices of
20 Nathan J. Wade.
21 It's invoice number 8. This will be -- it's invoice number 8, and it will be exhibit
22 number 9.
23 Mr. Barnes. Okay.
24 [Wade Exhibit No. 9
25 was marked for identification.]

1 BY [redacted]

2 Q So I want to draw your attention to the sixth line item that starts with "travel

3 to Athens." Do you see where I'm looking?

4 A I do.

5 Q Okay. It says -- in this line item, there's headings, and the description is

6 travel to Athens, conf with White House counsel. Date completed is May 23rd, 2022.

7 Hours billed is 8 hours at $250.

8 Did I read that correctly?

9 A You read it correctly.

10 Q And so this invoice states that you billed eight hours for travel to Athens and

11 a conference. Is that accurate to say? Conf is short for conference or is that confer?

12 What is that short for?

13 A So accompanying the billing invoices was, again, investigative notes that

14 would clarify the entries on the invoice itself. When I resigned in March, obviously,

15 those notes stayed with the district attorney's office. So any questions you might have

16 that would clarify anything in the invoices, I would need to refer to those notes that I

17 don't have and haven't seen.

18 Q Okay. So we'll go off of your memory, your recollection.

19 In the May time frame of 2022, do you remember either meeting, discussing with,

20 or conferring with White House counsel?

21 Mr. Evans. I'm going to object based on attorney-client privilege, attorney-client

22 work product.

23 He's also stated that he doesn't remember the specific conversations because he

24 doesn't have the notes as well. So I'm going to direct him not to answer that question

25 because of the privilege.

1 [redacted] I'm going to stop the clock here real briefly and say, in the last
2 rounds, questions were propounded about, oh, did the Department of Justice ask you or
3 the White House ask you to do this, and he answered, well, no, no, no, no.
4 And so I think it's fair for us to say, like, Okay, when did you speak with -- not
5 asking for the content of the communications, although I think -- I think we're entitled to
6 know what the content is. But putting that aside, okay, I think we are entitled to know
7 about when did these communications with DOJ officials happen, if they happened, who
8 were they with, when did these communications happen with White House officials, and
9 who were they with?
10 Mr. Evans. I think that's answered by the invoices. It's got the dates right there
11 as public record.
12 [redacted] I do just want to clarify. We did not make any kind -- to the effect of
13 did you have conversations. Our questions did not presume that the conversations took
14 place. So I just want to make that clarification.
15 [redacted] Right. But on one hand, I mean, when you're asking questions
16 about -- the question you asked was did DOJ tell you to do boom, boom, boom.
17 [redacted] The answer is no, so --
18 [redacted] Right. I did not suggest -- I have no idea if he ever met with the
19 DOJ or not. I do not mean to presume that he did.
20 [redacted] Right. So that question naturally leads, okay, did anyone from the
21 Justice Department meet with you. I mean, that's a natural, like, follow-up.
22 And, again, we can agree to disagree on whether the specific communications are
23 subject to a privilege that Congress recognizes. I do think it's fair to ask, you know, at a
24 privilege log level, when the communications happened and who they were with.
25 Mr. Evans. Okay. I think the when is answered by the invoice, and I think who

they were with is -- was answered by his statement about he doesn't have the notes from those specific dates. So I don't know what he could provide that's not already been answered.

[redacted] I mean, I think it's fair for [redacted] to ask, you know, who was your contact in the White House counsel's office, who did you meet with when you met with them. Again, she's going to ask the questions. But when you met with them, where did you meet with them?

Mr. Evans. Okay. And I think that our answer is going to be it's in the notes, and it's also -- the dates are known, and we'll just continue to object.

[redacted] So, you know, she's going to ask, like, you know, what is your recollection of who you met with. If he doesn't have a recollection, she's going to ask, like, is there a way for you to get us that information. And maybe the answer is no. All right.

BY [redacted]

Q Mr. Wade, turning back to invoice number 8, we're working off of the line that says travel to Athens, conf with White House counsel, May 23rd, 2022.

Do you remember meeting with the White House counsel in May of 2022?

A I don't.

Q You have no recollection of meeting with anyone from the White House counsel's office?

A I don't.

Q It says, "travel to Athens." Did the meeting take place in Athens?

A I -- the invoice says travel to Athens. So that means to me that I traveled to Athens.

Q So if it says conf with White House counsel, that would mean there was a

1 conf with White House counsel?

2 A So after the word "travel to Athens," that's a semi-colon --

3 Q Uh-huh.

4 A -- which means that we're going to go into a new thought.

5 Q Uh-huh.

6 A So --

7 Q So if you billed for a conf with White House counsel, would that have

8 occurred?

9 A If I billed for a conf with White House counsel, this document doesn't say

10 that that conf with White House counsel happened in Athens. That's not what that says.

11 Q Okay. But I'm asking -- because you said if it says travel to Athens, then you

12 would have billed for travel to Athens. Is that correct?

13 A That's correct.

14 Q If it says conf with White House counsel, would you have billed for a conf

15 with White House counsel?

16 A Yes.

17 Q And so if you billed for it being completed on May 23rd, 2022, do you believe

18 that's when it would have likely occurred?

19 A No.

20 Q Okay. So can you tell us what it means when you would put a date in the

21 date completed line here for your invoices?

22 A I believe that it would have -- it would have been completed on or before

23 that time.

24 Q So if there was a conf with White House counsel, it would have occurred on

25 or before May 23rd, 2022?

1 A Yes.

2 Q And if you billed for 8 hours at $250, there are two -- as you explained, there

3 are two different thoughts there, two different actions in the description. The eight

4 hours would have been split among those. Is that --

5 Mr. Evans. I think he's answered that by saying that he has to look at his notes.

6 So I'm going to object for that reason.

7 [redacted] Is that Mr. Wade's testimony, or is that your testimony?

8 Mr. Evans. I would just object based on speculation. I don't think this is clear

9 what the answer to that is.

10 BY [redacted]

11 Q When you filled out these invoices and it has hours billed, 8 hours at $250,

12 what does that mean in practice?

13 A That means that it took 8 hours to complete the tasks that are described in

14 the description column.

15 Q Okay. So this would mean here that it took 8 hours at $250 per hour to

16 complete the tasks which are described as two separate things, travel to Athens and conf

17 with White House counsel. Is that correct?

18 A That is correct.

19 Q Do you remember who your contact was at the White House counsel's

20 office?

21 A I do not.

22 Q Would it be you that would have reached out to the White House counsel's

23 office?

24 A Possibly.

25 Q Do you believe it would have been, you know, a paralegal, a subordinate, or

1 an assistant that would have reached out to White House counsel on your behalf?

2 Mr. Evans. I'm going to object as to asked and answered. He already provided

3 the best answer that he knows when he said he didn't know.

4 [redacted] I asked him the question of did he reach out. He said he didn't

5 know.

6 BY [redacted]

7 Q So I was asking if he remembered whether you would have had a paralegal,

8 someone that was on your team, or an assistant reach out to schedule this conf with

9 White House counsel?

10 A I don't recall.

11 Q Okay. Do you remember who attended this conf with White House

12 counsel?

13 A I don't recall.

14 Q Is it safe to assume, since you billed for the conf with White House counsel,

15 that you attended this conf with White House counsel?

16 A Yes.

17 Q Okay. Do you remember if it was in person or by telephone?

18 A I don't recall.

19 Q And if you don't recall whether it was by telephone or in person, how would

20 the committee figure that out? Would it be to get your notes?

21 A I think he's communicating with you.

22 Q Oh, you can continue to answer the question.

23 A I'm sorry. I was allowing him to -- you go ahead.

24 Q Yes. If the committee wanted to determine whether it was by telephone or

25 at the White House itself or in Athens, would your notes that are accompanying the

1 invoice, would that kind of denote all of the details?

2 A So let's be clear. The investigative notes are a part of the investigative file.

3 They didn't accompany the invoice.

4 Q Uh-huh.

5 A They sort of provided perspective for me to respond to any inquiry as it

6 relates to the invoices. So I didn't turn over an invoice and the investigative notes to the

7 payroll department. That's not what I did.

8 I turned over the invoice to the investigative -- I mean, to the payroll department.

9 Q Have you ever visited the White House?

10 A Oh, gosh. As a kid, I can remember my dad -- my dad and mom taking me

11 to the White House on summer vacations. Yeah. It was a fond memory.

12 Q And between November 2021 and March 2024, did you ever visit the White

13 House?

14 A Let's see. Going -- coming into D.C. after doing it with my parents, I would

15 often visit the White House, you know, take pictures, that kind of thing.

16 Q So I'm gathering that you may have visited the White House as a tourist

17 between November 2021 and March 2024.

18 Did you ever attend meetings at the White House in your capacity as special

19 prosecutor?

20 A No.

21 Q Did anyone from the White House travel to Georgia to meet with you?

22 A That's a tough question because I don't know who -- I don't know who is in

23 the White House.

24 Mr. Evans. Is it in the capacity of him as a special prosecutor?

25 [redacted] Correct.

1 Mr. Evans. Did anybody travel from Washington to Georgia?

2 [redacted] Uh-huh.

3 BY [redacted]

4 Q Did anyone from the White House counsel's office or from the White House

5 staff in the context of this case travel to Georgia to meet with you or anyone on your

6 team?

7 Mr. Evans. I'm going to object on that one based on the privilege objections that

8 we've already cited and direct you not to answer that question.

9 BY [redacted]

10 Q So the -- so you're saying that -- it's a yes-or-no question.

11 Did anyone from the White House ever travel -- from either the White House

12 counsel's office or the White House staff, travel to Georgia to meet with you or anyone

13 from your team regarding this case? Not asking about the content that was discussed at

14 the case.

15 Mr. Evans. Is that a new question?

16 [redacted] I'm not asking about the content. I'm asking did a meeting occur,

17 which would be at the privilege log level.

18 Mr. Evans. What is the difference between that question and the one that I just

19 objected to?

20 [redacted] I'm asking at a privilege log level. Did any meetings occur, which is

21 either a yes-or-no answer. It's not getting into the content, what was discussed, what

22 advice was provided, what advice did Mr. Wade provide. Just did the meeting occur?

23 Mr. Evans. I mean, I'm objecting for the same reason. I don't mind if Mr. Wade

24 makes affirmations that nobody directed him to do it. But I don't -- for the same

25 reasons that we've talked about, I don't want to get into individual conversations, names,

all those kind of stuff.

[redacted] I'm just notifying [redacted] that we're stopping the clock while we're sorting this out.

[redacted] What's the difference between saying no, a communication didn't happen and no, a meeting didn't occur? What's the difference there?

[redacted] And a minute ago he said he didn't meet at the White House as part of his duties as a special prosecutor. So what's the difference of, like, asking have you met in Athens?

Mr. Evans. That wasn't -- that particular detail wasn't the difference. It was the -- first you were asking him kind of open-ended where he was answering them as a tourist. And then when you started getting into the specifics of -- in his capacity, that's when I started objecting. Maybe I missed the first one.

[redacted] He stated that he did not meet at the White House in his capacity as a special prosecutor.

Mr. Evans. Correct.

[redacted] So a next logical follow-up question is, did you meet somewhere else?

Mr. Evans. Right. And that should have been -- I should have objected to the question about did he meet at the White House. Like, that wasn't any kind of -- where I just intentionally started objecting on the second question, I should have just raised that the first time around.

I object to the whole line of asking about the investigation side.

[redacted] And we earlier asked, were these conferences in person or on the phone? They're on the log.

Mr. Evans. So they happened. Like it's when we're getting into the details of

1 who and --

2 [redacted] No. And what's on the log is conference with White House

3 counsel.

4 Mr. Evans. Right.

5 [redacted] So the question is, is this in person or on the phone?

6 Mr. Evans. Right. That's where -- the conference happened. Where I'm

7 starting to object is where it happened, with who, and then those kind of things.

8 [redacted] Yeah. I don't think that's a fair objection. You know, I think we

9 can agree to disagree on the kernel of what was discussed, but on the baseline of, like,

10 where it occurred and who was in attendance --

11 Mr. Evans. I mean, I just disagree that we're dealing with all the same privileges.

12 I mean, this is still going to be attorney-client, it's still going to be work product, it's still

13 going to be grand jury secrecy.

14 [redacted] Whether it happened in person or the phone?

15 Mr. Evans. It's just -- yeah. I mean, I don't --

16 [redacted] Because I don't think that's a fair objection. Like -- so -- I mean,

17 we're not running out to the chairman every time you object. But, I mean, this is

18 something that I think we wouldn't want to take to the chairman.

19 Mr. Evans. Okay. So the difference right now is where it happened.

20 [redacted] Yeah.

21 Mr. Evans. What would be the next line of the disagreement?

22 [redacted] I don't -- I mean, I don't know that we would have a next line --

23 Mr. Evans. Okay.

24 [redacted] -- based on your stated objection, which we disagree with.

25 Mr. Evans. Right.

1 [redacted] But just in terms of just --

2 Mr. Evans. Like if you just said who was there --

3 [redacted] Right.

4 Mr. Evans. -- what was discussed, those kind of things, those would be

5 objections to --

6 [redacted] Well, the what was discussed is falling into your objection, which I

7 don't agree with, but I'm acknowledging --

8 Mr. Evans. Right.

9 [redacted] -- and I'm trying to work around.

10 Mr. Evans. So it's just a matter of answering where these conversations took

11 place?

12 [redacted] Right. And the roster of people involved.

13 Mr. Evans. I mean, that's --

14 [redacted] And if you're not willing to give --

15 Mr. Evans. I'm not open on the people involved. Maybe we could meet on the

16 location.

17 [redacted] Well, on the people -- how about this -- people involved. We're

18 not asking for staffers on the -- on the DA's -- from the DA's side just given the privacy

19 issues. But on the White House side, I think we are.

20 Mr. Evans. Do you mind if I take a couple minutes?

21 [redacted] Yeah.

22 [Discussion off the record.]

23 [redacted] Back on. Where do we land?

24 Mr. Evans. You can ask him the question about where these meetings occurred.

25 And even the next question that you want to ask him, which is who was involved in these

1 meetings. And so that's our concession. We'll let you ask the names and the places,
2 but we're going to push back on any substance.
3 [redacted] Okay.
4 BY [redacted]
5 Q Okay, Mr. Wade. Back to reference to this May 23rd, 2022, bill date here.
6 A Uh-huh.
7 Q It says conference with White House counsel. Do you remember where
8 that conference occurred?
9 A I do not.
10 Q Do you remember who attended?
11 A I do not.
12 Q Do you remember at all what office the attendees came from, from the
13 White House? Was it individuals from the White House counsel's office?
14 A I do not recall. You know, during the course of this investigation, we
15 interviewed probably hundreds of people, tons of conversations. Without my notes, I
16 really couldn't give you any specifics now. Because I have the invoice in front of me, I
17 could be reminded that certain things did occur.
18 Q Okay.
19 A But in terms of the specifics of the entries, I don't recall.
20 Q So you -- do you remember where you were located at this period in time for
21 the conference with White House counsel? You don't remember traveling at this time
22 frame?
23 A I don't -- I don't recall. I'm sure you guys have means of getting, you know,
24 flight manifestos and things of that nature. But I don't recall where I was, which
25 is -- which is why it was sort of entertaining watching these gentlemen go at it over

1 something that I don't remember.

2 Q Do you -- was this conference with White House counsel over the phone or

3 in person?

4 A I don't recall, ma'am.

5 Q Okay. I'm going to move to another invoice. This will be exhibit number

6 10, but it's invoice number 14.

7 [Wade Exhibit No. 10

8 was marked for identification.]

9 BY [redacted]

10 Q And I'll give you a moment to review that. I'm going to review to the

11 interview with D.C./White House line, if that's helpful.

12 A Okay.

13 Q So I'll just read the lines in for the record. Again, it says, "Interview with

14 D.C./White House, November 18th, 2022. Eight hours at $250. Cost $2,000."

15 Do you remember an interview with D.C. or the White House occurring on

16 November 18th, 2022?

17 A I don't remember it happening. I know that it did because the entry says

18 that it did.

19 Q Do you remember it occurring on or near November 18th?

20 A I don't remember it happening, but I know that it did because the date

21 completed says November 18th.

22 Q Do you have any recollection of what you were referring to or who you were

23 referring to when you said interview with D.C./White House?

24 A I don't.

25 Q Do you know if this interview involved officials from the White House or staff

1 from the White House?

2 A I don't.

3 Q Did the interview with D.C./White House, to your recollection, involve

4 anyone from the Department of Justice?

5 A I don't recall.

6 Q Do you remember if this interview occurred over the phone or in person?

7 A I don't recall.

8 Q Do you recall whether you were referring to just one interview with

9 D.C./White House, or were there multiple interviews?

10 A I don't recall.

11 Q Do you recall if you traveled to D.C. for this meeting?

12 A I don't recall.

13 Q Do you recall if anyone traveled to you in Georgia for this interview?

14 A I don't recall.

15 Q Do you recall if you reached out to schedule this interview or if someone

16 from the White House reached out to you to schedule the interview?

17 A I don't recall.

18 Q Do you recall if anyone on your team or a paralegal or assistant reached out

19 to schedule this interview on your behalf?

20 A No, ma'am, I don't recall.

21 Q And if you billed for it, if you billed 8 hours for interview with D.C./White

22 House, it's safe to assume that you would have taken part in the interview?

23 A Yes, ma'am.

24 Q Okay. I'm going to move on to exhibit number 11, which will be invoice 12.

25 [Wade Exhibit No. 11

1 was marked for identification.]

2 [redacted] What number is this?

3 [redacted] This is exhibit number 11 but invoice number 12. Did not mean for

4 that to happen.

5 BY [redacted]

6 Q Have you had sufficient time to review, sir?

7 A Yes, ma'am.

8 Q Okay. And I'm going to look at the fourth line. I'll read it in for the record.

9 Again, it says, "Witness interview; conf call D.C.; team meeting. Date completed

10 September 7th, 2022, to September 9th, 2022. 24 hours at 250. Cost $6,000."

11 I know we went through this with the first invoice that we looked at. When you

12 used a semicolon, that would typically denote three separate things that occurred. Is

13 that correct?

14 A Yes, ma'am.

15 Q Is that safe to assume with this?

16 A Yes.

17 Q So the conf call D.C., do you remember if this happened via telephone?

18 A Well, I don't remember if it happened via telephone. I can read, though,

19 and it says call. So --

20 Q Okay. And the call -- would the call have occurred, and if you remember,

21 between September 7th and September 9th of 2022?

22 A Again, I don't have an independent recollection of it, but on the invoice it

23 says that it occurred between September 7th and September 9th.

24 Q Do you remember who participated in this call?

25 A No, ma'am, I don't.

1 Q If you billed for a conference call D.C., is it safe to assume that you would
2 have participated in the conference call?
3 A Yes, ma'am, it is.
4 Q Do you remember who the call was with in D.C.?
5 A I do not.
6 Q So -- if you can pull up exhibits 9 through 11. So those are the three
7 invoices that we've looked at so far.
8 A All right.
9 Q So on invoice number 12 -- I'll just use the invoice numbers because that will
10 be easier, if you're okay with that -- it says, "Conference call D.C."
11 Invoice number 8, it says, "Conference with White House counsel.
12 Invoice number 14, it says "Interview with D.C. White House."
13 Since you noted that it was a conference call D.C. in number 12, would you have
14 similarly denoted if it was a call rather than a meeting?
15 A Sometimes.
16 Q Did that help jog your memory at all about any particulars of the previous
17 meetings we spoke about?
18 A It did not.
19 Q Do you remember who you referred to when you said conference call D.C.?
20 A Who I referred to?
21 Q Correct. Who you were speaking with?
22 A Oh, no, ma'am.
23 Q To your knowledge, did District Attorney Willis ever meet or communicate
24 with individuals associated with the Biden White House?
25 A I have no clue what she did.

1 Q Do you recall yourself having any conversations with the Biden White House
2 regarding your role as special prosecutor?
3 A No, ma'am.
4 Q Did you ever speak to anyone at the Justice Department, the U.S.
5 Department of Justice, regarding your role as special prosecutor?
6 A I don't recall.
7 Q Do you remember speaking to anyone on Special Counsel Jack Smith's team?
8 A I don't recall.
9 Q I'll go through some names just in case it's helpful for your recollection.
10 The office is led by Special Counsel Jack Smith.
11 Did you ever have any communications with Special Counsel Jack Smith?
12 A No, ma'am.
13 Q Did you ever have any communications with Jay Bratt? He is an official who
14 works on Special Counsel Jack Smith's team.
15 A No, ma'am.
16 Q Did you ever have any communications with J.P. Cooney? He's also an
17 official who works on Special Counsel Jack Smith's team?
18 A No, ma'am.
19 Q As far as the Justice Department, you don't remember any conversations
20 that you had with the Justice Department?
21 A I do not.
22 Q Did you ever speak with Deputy Attorney General Lisa Monaco?
23 A No, ma'am.
24 Q An official who is the highest-ranking career official in the Justice
25 Department whose name is Bradley Weinsheimer, have you ever spoken with him?

1 A No, ma'am.

2 Q So to the extent that you had conversations with the Justice Department,

3 you do not recall having those conversations?

4 A That's correct.

5 Q And to the extent that you had conversations with Special Counsel Jack

6 Smith or his team, you don't recall any of those conversations?

7 A No, ma'am.

8 Q Do you recall if any occurred with Special Counsel Jack Smith's team?

9 A None occurred.

10 Q Okay. Can you say that none occurred with the Justice Department?

11 A None occurred.

12 Q During your time as special prosecutor with the Fulton County District

13 Attorney's Office, how many times did you meet with Members or staff from the Select

14 Committee to investigate the January 6th attack on the United States Capitol?

15 A I've never met with anyone.

16 Q And I'm going to just refer to it as the January 6th committee just to truncate

17 and expedite things. I'm going to offer as exhibit number 12 a December 17th, 2021,

18 letter from District Attorney Willis to Chairman Bennie Thompson.

19 [Wade Exhibit No. 12

20 was marked for identification.]

21 BY [redacted]

22 Q And I'll give you a moment to review.

23 A Okay.

24 Q Before today, had you ever seen this letter before?

25 A Yes.

1 Q And were you aware of the letter due to your role as special prosecutor, or
2 did you just see it in the news?
3 A Oh, oh, I was aware of it.
4 Q Because of your role as special prosecutor or because you saw it in the
5 news?
6 A Because of my role as special prosecutor.
7 Q Did you have any role in drafting the letter?
8 A No.
9 Q Did you provide any input for the letter?
10 A No.
11 Q I'll read the second paragraph of the letter. It says, "Please accept this
12 letter as an official request from me for access to records that may be relevant to our
13 criminal investigation. Those records include but are not limited to recordings and
14 transcripts of witness interviews and depositions, electronic and print records of
15 communications and records of travel."
16 The next paragraph says, "It may well be most efficient for your staff and effective
17 for our understanding for my staff and me to meet with your investigators in person.
18 We are able to travel to Washington any time between January 31st, 2022, and February
19 25th, 2022. We will do our best to accommodate the schedule of the committee."
20 The question is, do you remember traveling to D.C., Washington, any time
21 between January 31st, 2022, or February 25th, 2022?
22 Mr. Barnes. Not in regard to the letter; just whether he traveled to D.C.?
23 [redacted] Just in regards to the letter.
24 BY [redacted]
25 Q Did you travel to D.C.? We'll start there.

1 A I recall traveling to D.C. Now, where you lose me is when you start -- these
2 dates. I don't remember any --
3 Q When do you recall traveling to D.C.? Is that helpful to start there?
4 A It's not, because I don't recall the dates. But I do recall traveling to D.C.
5 Now, I couldn't tell you what month I went. I couldn't tell you it was in '22 or '23. But I
6 went.
7 Q Were you on official business for the Fulton County District Attorney's Office
8 when you traveled to D.C.?
9 A Yes.
10 Q Was it to conduct witness interviews?
11 A Some.
12 Q And did you ever travel to D.C. to meet with anyone from the January 6th
13 Committee, either Members or staff?
14 Mr. Barnes. I think you're getting mighty close to investigative techniques there.
15 Who he -- I mean, you know, did he talk with a specific group or not. I'm going to object
16 to that.
17 [redacted] What's the privilege?
18 Mr. Barnes. The privilege is work product.
19 [redacted] Of who he -- whether a meeting occurred while he was here in
20 Washington, D.C.?
21 Mr. Barnes. Well, you --
22 [redacted] It's at a privilege log level.
23 Mr. Barnes. But that wasn't the question. You said, did you meet with
24 members of the January 6th Committee.
25 [redacted] That's correct.

1 Mr. Barnes. That's what you said.

2 [redacted] And we stated previously that the privilege log level would be

3 whether a meeting occurred, who attended the meeting, and the date of the meeting.

4 Mr. Barnes. And I will let him say if the meeting occurred, but who attended the

5 meeting and that's -- you're getting into investigative techniques and interviews of people

6 that may have -- that may have information.

7 So you may answer the first part, Nathan. Did a meeting occur with staff or

8 members of the January 6th Committee?

9 The Witness. Staff or members of the January 6th Committee?

10 BY [redacted]

11 Q That's correct.

12 A No.

13 Mr. Barnes. I take it back.

14 [redacted] Okay. We are now going to be on exhibit number 13. This will be

15 invoice number 6.

16 [Wade Exhibit No. 13

17 was marked for identification.]

18 BY [redacted]

19 Q Have you had sufficient time to review? I'm going to wait until you finish

20 your cracker.

21 So I'm looking at the line that includes team meetings; conf with Jan 6th. So I'll

22 read it in for the record. It says, "Team meeting; conf with Jan 6th; research legal issues

23 to prep interview." It says, "inter," stops at V. "April 18th, 2022, to April 21st, 2022.

24 24 hours at 250. Cost $6,000."

25 Are you looking at the line that I'm looking at? Just want to make sure.

1 A I am.

2 Q Okay. Is it safe to say that in the previous invoices, we have spoken about

3 how, when things are separated by a semicolon, there are three different things. Is that

4 the case in this line item?

5 A Yes.

6 Q Do you recall what you meant by conf with Jan 6?

7 A I don't.

8 Q Do you recall if this was in reference to a meeting with the January 6th

9 Committee?

10 A I'm sure that it was.

11 Q Okay. Do you recall whether the conference took place in person or over

12 the phone?

13 A I don't recall.

14 Q Do you recall who attended the conference with January 6th?

15 A No, ma'am, I don't recall.

16 Q If you billed for 24 hours for the team meeting; conf with Jan 6th; research

17 legal issues to prep interview, is it safe to assume that you attended the conf with Jan 6th

18 or took part in the conference?

19 A Yes.

20 Q Okay.

21 [redacted] I'll enter as exhibit number 14, this is a Politico article dated January

22 10th, 2024. The title of it is, "Jan 6th Committee Helps Guide Early Days of Georgia

23 Trump Probe." This is exhibit number 14.

24 [Wade Exhibit No. 14

25 was marked for identification.]

1 Mr. Barnes. Are you saying that newspaper articles are true?

2 [redacted] That's what we're going to talk about.

3 Mr. Barnes. I just wondered.

4 BY [redacted]

5 Q Have you had sufficient time to review, sir?

6 A Yes, ma'am.

7 Q Okay. And if it's helpful, the page numbers are on the bottom right-hand

8 corner. I'll refer to the specific pages.

9 I'm going to look at page number 2 first. And the first full sentence on that page

10 states, "Committee staff quietly met with lawyers and agents working for Fulton County

11 District Attorney Fani Willis in mid-April 2022 just as she prepared to convene a special

12 grand jury investigation."

13 Does this article at all help jog your memory about the April 2022 entry that you

14 had in your invoice?

15 A No, ma'am, it doesn't. As a matter of fact, internally I'm laughing

16 uncontrollably because even the title -- the title of this article, "Committee Helped Guide

17 Early Days of Georgia Trump Probe," I don't know if you've ever had the pleasure of

18 meeting District Attorney Fani Willis. No one is going to guide her anywhere and tell her

19 anything. Yes. So that didn't happen.

20 Q Okay. So if we go to page 4 --

21 A All right.

22 Q -- at the bottom of the page, it says -- I'm looking at the last two full

23 sentences at the bottom of page 4. It says, "The two former committee officials

24 confirmed to Politico that Willis' team met with committee staff in Washington in April

25 2022. Some of Willis' top prosecutors attended, including Wade and [redacted]

1 as well as investigators on her team."

2 Do you remember a meeting occurring in Washington in April of 2022, as the

3 article states?

4 A I don't remember the month. But as I previously stated, I remember

5 coming to D.C.

6 Q Okay. Do you remember meeting with committee -- we'll use "committee

7 officials," that's what term Politico used.

8 A No.

9 Q If we flip back to page 2, the second full sentence states, "In the previously

10 unreported meeting, the Jan 6th committee aides let the district attorney's team review

11 but not keep a limited set of evidence they had gathered."

12 Do you remember reviewing evidence as the article states?

13 Mr. Barnes. All right, ma'am. Now you are getting into content of

14 investigation, and I'll tell him not to answer that. What he reviewed, what he's used,

15 what he saw is definitely part of a work product. It's also part, if it's ever presented to a

16 grand jury, part of the secrecy privilege. So I direct him not to answer that.

17 [redacted] I mean, the grand jury secrecy privilege, I mean, the fact that there's

18 a document that existed that he looked at that's part of the investigation, that's not part

19 of the grand jury's secrecy. It's if that document was shown to the grand jury.

20 Mr. Barnes. Correct. And so --

21 [redacted] We're not asking whether, like, things are shown to the --

22 Mr. Barnes. Yeah. But you're asking what he reviewed. That's the question.

23 Did you review the document? What did you review? And so that is definitely an

24 investigation work product.

25 [redacted] I think we can ask him if he contributed to the article, if he met with

1 the reporters.

2 Mr. Barnes. You can ask him that.

3 [redacted] I think we can ask him whether as he -- he believes anything is

4 inaccurate that you --

5 Mr. Barnes. That's getting a little far. I ain't never seen a newspaper article I

6 couldn't disagree with something.

7 BY [redacted]

8 Q Okay. Mr. Wade, did you contribute to this January 10th, 2024, article that

9 was written by Betsy Woodruff Swan and Kyle Cheney?

10 A No, ma'am.

11 Q Have you ever spoken to either of those reporters regarding an article?

12 A No, ma'am.

13 Q I'll reread the statement before I ask the question. It says, "In the

14 previously unreported meeting, the January 6th Committee aides let the district

15 attorney's team review but not keep a limited set of evidence they had gathered."

16 Is that accurate?

17 Mr. Evans. Where are you reading from?

18 [redacted] On page 2.

19 Mr. Evans. Right. But which paragraph?

20 [redacted] It's the second full sentence.

21 Mr. Barnes. State your question again.

22 [redacted] I will reread.

23 [redacted] Are we all on the same page?

24 Mr. Evans. What does it start with?

25 [redacted] It says -- okay. So I'm looking at the paragraph on the top of page

1 2. It's the first full paragraph. It states, "Committee staff quietly." I'm looking at that
2 next sentence. I'll read it again for you.
3 It's, "In the previously unreported meeting, the Jan 6th committee aides let the
4 district attorney's team review but not keep a limited set of evidence they had gathered."
5 Mr. Barnes. That's the same question you asked before. I'm going to object to
6 that, because what he reviewed and what he decided to do with it is part of the
7 investigative product that is protected by the work product of privilege.
8 [redacted] So to be clear, you're objecting to, is the statement accurate?
9 Mr. Barnes. Yes, ma'am. Because it would -- it would also invade the
10 investigative process that he was going on if it's accurate. It doesn't matter if you ask
11 him or if it's accurate; it's the same thing.
12 [redacted] Yeah. But I think she can ask, you know, the newspaper reports,
13 "Committee staff quietly met with lawyers and agents working for Fulton County District
14 Attorney Fani Willis in mid-April 2022." I think she can ask whether that happened.
15 Mr. Barnes. Yeah, she can ask that, but that wasn't the question.
16 [redacted] She can also ask whether the Jan 6th Committee aides let the district
17 attorney's office team review but not keep a limited set of evidence. That doesn't get
18 into specific types of evidence.
19 Mr. Barnes. Yes, it does.
20 [redacted] How is that?
21 Mr. Barnes. Because it's kind of like saying, Well, did you review the statement
22 that a witness --
23 [redacted] No, no, no. The statement is particular, but I'm talking at a higher
24 level.
25 Mr. Barnes. Well, I think -- we're not going to open that door. You can ask if he

1 met with him, and I think you already have. But you can ask him again. You know,
2 memory kind of wanders there.
3 But I'm not going to let you -- of course, I'm not going to let you. You do
4 whatever you want to. But I'm going to instruct him not to answer what he reviewed
5 and -- what he reviewed or whether he reviewed anything, because that is a part that's
6 getting into the investigative processes of what he's considered.
7 And since the January 6th information is now public, then you could -- since it is
8 now public, what difference does it make?
9 [redacted] Well, I don't think it's public what the January 6th committee
10 provided to the Fulton County DA's office.
11 Mr. Barnes. No. But all the information is public.
12 [redacted] That's not true. They destroyed a whole trove of information that
13 they believed was not favorable to their point of view.
14 Mr. Barnes. Well, Chairman Jordan should have gone and testified and
15 straightened them out.
16 [redacted] We have -- Chairman Jordan sent a number of letters.
17 Mr. Barnes. Yeah, he sent a number of letters. But he refused -- he was
18 subpoenaed and refused to appear.
19 [redacted] They never -- he never said he wasn't going to testify. The last
20 letter came from us and was not -- was not met. And we were willing to -- to discuss
21 certain things as outlined in our letter.
22 I think a lot of that was a little bit of -- or for show for the public, and they didn't
23 really make an effort to get him.
24 Mr. Barnes. Not that anything is ever for show in Washington, D.C., but you've
25 got our position here.

1 [redacted] I think [redacted] can also ask the witness whether and what the
2 guidelines were or the rules on that meeting in terms of keeping documents or --
3 Mr. Barnes. Listen, anything that goes into the gathering of information that led
4 to an indictment of an investigation that's still ongoing is off limits. Now, I could be
5 wrong, you could be wrong, but we're not going to voluntarily answer it.
6 [redacted] Okay. But if you're saying the documents provided by the January
7 6th committee led to an indictment, I mean, that's a fairly newsworthy type of thing to be
8 saying.
9 Mr. Barnes. I'm not -- I don't know whether it is or not. And that's the reason
10 we're not going to allow him to answer. Go ahead.
11 BY [redacted]
12 Q Okay. So just to redirect everyone, we are on the first full paragraph on
13 page 2. We'll start at the beginning. It says, "Committee staff quietly met with lawyers
14 and agents working for Fulton County District Attorney Fani Willis in mid-April 2022."
15 Do you know if a meeting occurred in mid-April of 2022?

1 [1:16 p.m.]

2 The Witness. Again, the dates -- I can't attest to the dates.

3 BY [redacted]

4 Q Did you ever attend a meeting with committee staff?

5 A You referring to -- so the problem we're having is this word "staff" and

6 "members."

7 Q Uh-huh.

8 A And my answer is no.

9 Q So did you meet with members of the January 6 Committee then?

10 A No.

11 Q Do you recall anyone from the district attorney's office meeting in

12 mid-April 2022 with anyone from the January 6 Committee?

13 A No.

14 Q If you look down at the next full paragraph, with the sentence starting "Over

15 the next few months."

16 Is everyone there?

17 "Over the next few months, committee staff also had a series of phone calls with

18 Willis's team. They answered the prosecutor's questions and shared insight."

19 And so, do you remember having any phone calls with committee staff?

20 A No.

21 Q Do you remember any phone calls occurring?

22 A I remember phone calls occurring.

23 Q Okay.

24 [redacted] Any phone calls with committee staff?

25 The Witness. No.

1 BY [redacted]

2 Q So when you say you remember phone calls occurring, what are you

3 referring to?

4 A I'm referring to phone calls that would have occurred as it relates to this

5 January 6 inquiry.

6 Your question is --

7 Q Uh-huh.

8 A -- specifically dealing with staff and members of the committee. And my

9 answer is no.

10 Q So when you say "inquiry," what do you mean?

11 A An inquiry is a question.

12 Q Yeah. So when you say the January 6 inquiry, what are you specifically

13 referring to? You said you had phone calls about the January 6 inquiry?

14 A Your question regarding the January 6 is an inquiry to me.

15 Q Okay.

16 A You're inquiring --

17 Q So did you have -- you're saying no, you did not have any conversations with

18 the January 6 Committee, whether it be committee staff, whether it be committee

19 members, or anyone associated with the committee. Is that accurate?

20 A That's a different question.

21 Q Okay. So I can -- so I'll break it up again.

22 Did you have any meetings with the January 6 Committee staff?

23 A No.

24 Q Did you have any meetings with the January 6 Committee members?

25 A No.

1 Q Did you have meetings with anyone associated with the January 6
2 Committee?
3 A I believe that I did.
4 Q And when you say -- when I say individuals associated with the January 6
5 Committee, how are they associated with the January 6 Committee, to your knowledge?
6 A That means that they were not staff or members.
7 Q So were they working on the January 6 investigation?
8 A Yes.
9 Q In what capacity?
10 A Ready?
11 Q Yes, I am.
12 A Lawyers.
13 Q Lawyers. So who were they lawyers for?
14 A I'm not sure.
15 Q Were they -- in what context were you speaking to lawyers that were
16 involved in the January 6 Committee?
17 A In the context of an investigation.
18 Q So the lawyers were involved in the January 6 committee's investigation?
19 A Yes.
20 Q Did they represent -- so lawyers for the committee --
21 A I'm not saying that.
22 Q Okay.
23 A I don't know who they were lawyers for. I don't know.
24 Q Because there were obviously lawyers that worked on the committee staff,
25 like the staff as a whole.

A No.

Q You did not speak with any lawyers that worked on committee staff?

A Correct.

Q Were they lawyers for individuals who testified before the January 6 Committee.

Mr. Barnes. Now we're getting mighty close here on who they represented and they represented a witness, they did this, and they did that. I'm going to -- let me hear the question one more time.

BY [redacted]

Q Yes. So the question was, did you -- did the lawyers that were associated with the January 6 Committee that they -- that you met with, were those -- did those individuals represent witnesses before the January 6 Committee?

A I don't know.

Q Okay.

[redacted] This is just to go off here. Just as a point of clarification, [redacted] and I are lawyers. Okay. I'm the general counsel to the committee. She's the chief counsel for oversight. We are lawyers for the committee.

And so I'm not sure -- in the context of the committee, there's staff or members. There's no -- I mean, if they're consultants, I mean, maybe. Maybe that's a third category. But I don't think we're following you as to what you're saying, like people associated with. I mean, that's sort of a nebulous category that I'm not sure what you're talking about there.

Mr. Barnes. Yeah, but he doesn't know who does what. You all know the insides of this.

[redacted] Yeah, but --

1 Mr. Barnes. He's an outsider. He doesn't know if they were consultants,
2 they're hiring on an individual basis, or were they on the staff permanently. I assume
3 you're all on the staff permanently.
4 [redacted] We are.
5 Mr. Barnes. I know committees hire lawyers from outside.
6 [redacted] Not very often here.
7 Mr. Barnes. Well, I don't know. See, that's how ignorant I am. See, I don't
8 know the ways of Washington.
9 [redacted] Right. So but I think that -- I mean, we're having a little bit of a
10 disconnect here because, like, somebody associated with the committee, we're trying to
11 understand what his understanding is of that.
12 Mr. Barnes. I think he said -- he said the lawyers associated -- he doesn't know
13 who they represent, but they were, in some way, associated with the January 6.
14 [redacted] With the January 6 Committee?
15 Mr. Barnes. Well, with the January 6 inquiry. Now, whether they were
16 representing the witness, whether they were representing the committee, who knows?
17 [redacted] Okay.
18 Mr. Barnes. Go ahead. I don't know.
19 BY [redacted]
20 Q Okay. So I just want to make sure that the record is clear. You don't
21 know who the lawyers were that you met with that were associated with the January 6
22 Committee, who they represented. Is that correct?
23 A That's correct.
24 Q Okay. We'll go back to invoice number 8.
25 This is the one we spoke about the travel to Athens, that line.

1 [redacted] Is that exhibit 9?

2 [redacted] Uh-huh, yes.

3 BY [redacted]

4 Q So the very last item is Team meeting: Conf with Jan 6; SPGJ witness prep,

5 May 31, 2022, 8 hours at 250, cost $2,000.

6 Do you see where I'm looking on the invoice?

7 A Yes, ma'am.

8 Q And just to go over the questions again, we have previously discussed how

9 the semicolons denote different things that occurred.

10 Is that the case with this?

11 A Yes, ma'am.

12 Q So the team meeting was separate from the conf with Jan 6. Is that

13 correct?

14 A Yes, ma'am.

15 Q And if you bill for a conf with Jan 6, it's safe to assume that you attended the

16 conference with Jan 6. Is that correct?

17 A Yes, ma'am.

18 Q Now, when you -- so this billing date is May 31, 2022. And with the Politico

19 article we were just reading it talked about how the initial meeting occurred in April 2022.

20 Then there were several phone calls following that, in the months following April.

21 So I was just wondering if you remember this conference with January 6?

22 A I don't.

23 Q Do you remember who attended the conference?

24 A No, ma'am.

25 Q Do you remember whether anyone associated with the January 6 Committee

1 attended this conference?

2 A Well, by virtue of the entry --

3 Q Uh-huh.

4 A -- it says, With Jan 6, so that would mean that someone associated with this

5 would have attended.

6 Q Okay. So now if we look at invoice number 14, which you have already --

7 A Okay.

8 Q -- right above the line that we already worked with, the interview with

9 D.C./White House, it says Jan 6 meeting and attorney conf, November 16, 2022, 8 hours

10 at 250, cost $2,000.

11 Do you see where I'm looking on this invoice?

12 A I do.

13 Q Do you remember this Jan 6 meeting?

14 A I don't.

15 Q Do you remember by virtue of the entry if it involved individuals associated

16 with the January 6 Committee?

17 A No, ma'am, I don't.

18 Q It's safe to assume, since you billed for this, the January 6 meeting and

19 attorney conference, you attended this Jan 6 meeting. Is that correct?

20 A So this entry is sort of confusing without the investigative notes because this

21 entry could be in reference to a meeting that had already occurred. In other words, it

22 could mean that there was a meeting and attorney conference involving that with

23 whomever. That doesn't necessarily mean that on November 16, that there was a

24 January 6 meeting.

25 Q So you're saying that this could have just involved something related to

1 January 6, not individuals associated with the January 6 Committee. Is that your
2 testimony?
3 A Yes, ma'am.
4 Q I want to talk about one more invoice. This is invoice number 19. This
5 will be a new exhibit, number 15.
6 [Wade Exhibit No. 15
7 was marked for identification.]
8 BY [redacted]
9 Q I want to look at the second to the last entry. It starts with "Zoom conf."
10 Do you see where I'm reading?
11 A Yes, ma'am.
12 Q It says, Zoom conf with investigators in other jurisdictions, April 25, 2023,
13 8 hours at $250, cost $2,000.
14 Are we looking at the same --
15 A Yes, ma'am.
16 Q -- entry?
17 I just kind of wanted to enter this to help jog your memory. Do you remember
18 ever conferring with any other jurisdictions that were actively investigating or prosecuting
19 President Trump?
20 A No, ma'am.
21 Q Did you ever have any communications with anyone from the Manhattan
22 DA's -- Alvin Bragg's office?
23 A No, ma'am.
24 Q Did you ever have communications with DA Alvin Bragg?
25 A No, ma'am.

1 Q Have you ever had any communications with the former DA, Cy Vance?
2 A No, ma'am.
3 Q Did you ever have any communications Carey Dunne?
4 A No, ma'am.
5 Q Did you ever have any conversations with Mark Pomerantz?
6 A No, ma'am.
7 Q Did you ever have an understanding that the Manhattan DA's office earlier in
8 their investigation had similarly considered the New York RICO statute as a vehicle for
9 their prosecution of President Trump?
10 A Are you asking me if I know that?
11 Q Correct. Were you aware of that?
12 A What I'm trying to -- what I'm trying to do is decipher whether I learned that
13 in my capacity as special prosecutor or did I learn it later in the process. I do know that
14 today, yes.
15 Q Okay. And when you -- if you remember, when you wrote, Zoom
16 conference with investigators in other jurisdictions, what jurisdictions were you referring
17 to?
18 A I have no clue.
19 Q Would they have all been involved in DA Willis's prosecution and
20 investigation of President Trump and his codefendants?
21 A I don't recall.
22 Q Okay.
23 A But I can tell you that no other jurisdiction was involved in any
24 decisionmaking regarding this indictment.
25 Q Do you recall anything about this Zoom conference that you're referring to

1 here?

2 A I don't. And I'm trying really hard to, but I don't.

3 Q Do you recall if it took place in one entire business day? Was it 8 hours in

4 one business day? Was it split between two?

5 A I don't recall.

6 Q Would you recall if you had spent 8 hours on a Zoom conference in one

7 sitting?

8 A Well, what I do know is there would have been -- in all likelihood, there

9 would have been an entry that would have broken up the dates. But since there's no

10 semicolon here, this is one --

11 Q Uh-huh.

12 A -- this is one entry, that would tell me that this was, in all likelihood, an

13 all-day conference.

14 Q Okay. And you don't remember anything about this all-day conference?

15 A I don't.

16 Q You don't remember who attended?

17 A No, ma'am.

18 Q Since you billed for it, you obviously attended the 8-hour conference. Is

19 that correct?

20 A Yes, ma'am.

21 Q Okay.

22 A You know what?

23 Q Yeah.

24 A This entry -- one, two, three -- if you go up two entries above it, you can see

25 where I would have broken the dates up.

1 Q Uh-huh.
2 A But this entry could have very well expanded over -- yeah, over some time,
3 but I don't want to speculate for you. I don't remember.
4 Q So you're saying it could have been a cumulative 8 hours broken up between
5 several Zooms? Is that what you're speculating, if you will?
6 A Yes.
7 Q Okay. I want to move back to, I believe it's exhibit number 7, the judge's
8 order of March 15, 2024.
9 Oh, that's Judge McAfee's order. That looks like the grand jury. Sorry.
10 A Okay. All right.
11 Q So prior to the motion that this order was on, I believe it was filed in January
12 of this year, which made the relationship between you and DA Willis public, were you
13 ever concerned about if that relationship became public the optics of the relationship,
14 whether it would cause a problem with the case?
15 A I'm not sure I understand the question.
16 Q Were you ever concerned that if your relationship with DA Willis became
17 public, that it would cause an issue with the case, cause motions to be filed, for a motion
18 to dismiss and disqualify? Did that ever concern you?
19 A So now I'm getting confused because I didn't -- I didn't think I was coming
20 here to answer questions about my personal life.
21 Q I'm asking you questions -- I'm going to ask you questions about the order,
22 and some of this is that there's this conflict of interest that arose that was brought up.
23 There was hearings. There was public testimony about it. And that goes to our -- that
24 goes to our oversight of politically-motivated prosecutions and the venue bill that we've
25 discussed at length.

1 Mr. Evans. Well, we --

2 Mr. Barnes. Yeah, let's talk about that a little bit.

3 You better get your -- hit your phone.

4 I don't see -- it seems to me it would be way exceeding the scope of the subpoena.

5 A personal relationship that may have existed has nothing to do with whether it's

6 politically motivated. And, I mean, I -- you know, if we go get into folks' sex habits here,

7 you won't be able to --

8 [redacted] Well, we haven't done that.

9 [redacted] We are not.

10 [redacted] We haven't.

11 Mr. Barnes. Yeah, but that's what you're implying. We won't be able to have a

12 quorum in Congress now if we're going to get into sexual investigations --

13 [redacted] We are not getting -- yeah, we're not going there.

14 Mr. Barnes. Well, that's what's she's saying. She is just saying nicer words.

15 She's saying personal relationships, not sexual relationship, but that's what she's

16 implying.

17 [redacted] No, she isn't implying that.

18 Mr. Barnes. Well, now, don't tell me that. Personal relationships --

19 [redacted] Maybe you don't know [redacted] but she wouldn't imply that.

20 Mr. Evans. But all of that stuff was asked during the hearing as well, and so I

21 don't know what new ground -- you know, what we're going to cover here as far as --

22 [redacted] Yeah. There's now an order from a judge.

23 Mr. Evans. Sure, yeah.

24 Mr. Barnes. And it's on appeal and superseded.

25 [redacted] It is.

1 Mr. Barnes. So it's on appeal and it's superseded, and everything is there. I
2 mean, this order speaks for itself. But, you know, a witness does not give up all personal
3 things and private things because he volunteered whether by subpoena or voluntarily
4 appears.
5 So I'll let him make the decision as he goes down the road.
6 [redacted] All right. Ready?
7 [redacted] Yes.
8 [redacted] I'll push the button here.
9 The Witness. So you said that the point of your question was to determine
10 whether or not it was politically motivated. Let me go back to my statement --
11 [redacted] Yeah, she is --
12 The Witness. I'll read it. I'll read the --
13 [redacted] She just asked the question, and you can answer it. Like, I don't
14 know --
15 [redacted] Yeah.
16 [redacted] -- that there's anything more to it than that.
17 The Witness. Yeah. I'll read it back to you.
18 Let's see, "This was not politically motivated, rather it was an independent
19 investigation based upon facts, interviews, evidence, and the rule of law. I had no
20 mandate other than to honestly seek the truth."
21 BY [redacted]
22 Q So we can go to the order. So let's go to page 2 of the order. This is
23 exhibit number 7.
24 So on page 2, it's the next to last full sentence on that page. The sentence starts
25 with "However." I'll let you get oriented before I read it.

1 A Uh-huh.

2 Q Okay. "However, the established record now highlights a significant

3 appearance of impropriety that infects the current structure of the prosecution team - an

4 appearance that must be removed through the State's selection of one of two options.

5 The defendant's motions are therefore granted in part."

6 Were you ever concerned that there was a significant appearance of impropriety

7 regarding your relationship with DA Willis?

8 A Again, I don't understand how a personal relationship has anything to do

9 with your prescribed scope.

10 [redacted] Okay. You can just say I'm not answering that question, and we

11 can move on.

12 Mr. Barnes. That's okay.

13 BY [redacted]

14 Q Can you describe what led to your decision to resign from your role as

15 special prosecutor?

16 A The judge's order.

17 Mr. Evans. Yeah.

18 BY [redacted]

19 Q Was there ever a possibility that DA Willis would resign, or was it always

20 your decision that you would resign?

21 A Let -- okay.

22 Mr. Evans. I don't think he can --

23 The Witness. I want --

24 Mr. Evans. Hang on 1 second.

25 I don't think he can answer or speak for what Fani believed in any way.

1 The Witness. Well, I want to make it make sense. The case belonged to the
2 Fulton County District Attorney's office who was acting on behalf of the citizens of the
3 State of Georgia and Fulton County. DA Willis and her office, they are the Fulton County
4 District Attorney's office.
5 I was appointed at her designation. Let's just talk this through.
6 BY [redacted]
7 Q Okay.
8 A If DA Willis resigns, what authority do I have to continue the prosecution?
9 The answer is none, because I was an agent appointed by the office. So, in effect, this
10 order, in all of its ridiculousness, said one thing, and that was, I needed to resign.
11 Does that make sense, or should we walk through it another way?
12 Q When was your last day with the office?
13 A The day the order came out in March.
14 Q So March 15, 2024, was your last day in the office?
15 A That's the day I resigned, the day this order came out.
16 Q And DA Willis accepted your resignation on that date. Is that correct?
17 A She did.
18 Q Okay. And the resignation was effective immediately if you --
19 A It was.
20 Q Okay. Since you resigned from the Fulton County District Attorney's office,
21 how many interviews have you given with news outlets?
22 A I don't know.
23 Q Is it more than five, less than five?
24 A Less than five.
25 Q Okay. In the judge's order on page 19, in the first paragraph, I'm starting

1 "With this includes the District Attorney's unorthodox decision." I'll read the sentence.
2 It says, "This includes the District Attorney's unorthodox decision to make
3 on-the-record comments, and authorize members of her staff to do likewise, to authors
4 intent on publishing a book about the special grand jury's investigation during the
5 pendency of this case."
6 The question is, were you ever authorized to provide on-the-record comments to
7 authors publishing a book?
8 A Never.
9 Q Do you know who was authorized to provide comments?
10 A I do not.
11 Q In our first hour, we spoke about how in January 2021, you sat on, like, a
12 special committee. Is that what you called it -- or search committee, excuse me.
13 So how often were you in communication with DA Willis regarding that search
14 committee, the duties of the search committee?
15 A I would say daily.
16 Q Daily. And what forms of communication? Was it phone calls, text
17 messages, emails, various forms of communication?
18 A Talking in person, talking on the phone, yeah.
19 Q And earlier in the first hour you said the communication regarding the
20 search committee started between the election in November of 2020 and when she took
21 office in January -- on January 1, 2021. Is that correct?
22 A That's correct.
23 Q So during that time period, January until you were hired on November 1,
24 2021, how often were you in communication with DA Willis?
25 A So she had formed a transition team --

1 Q Uh-huh.

2 A -- to assist in her transitioning to that role. I was a part of that team, so --

3 Q Is that different from the search committee? Sorry to interrupt.

4 A That is different.

5 Q Okay.

6 A So we were -- our role was to facilitate a smooth transition from the old

7 regime into the new. So once elected -- I think your question was from the time that

8 she was elected?

9 Q Correct, January 2021.

10 A That transition team was very active. I don't know how many times we

11 communicated.

12 Q And when did the initial outreach occur for you to serve on the transition

13 team?

14 A Again, between the time of her winning the election and the time that she

15 took office, somewhere in there.

16 Q So did your transition team duties continue into 2021 after she took office on

17 January 1, 2021?

18 A There may have been a few duties that went into her -- the beginning of her

19 regime, but not much of anything. At that point the transition was done. It was

20 complete.

21 [redacted] Okay. We'll go off the record.

22 [Discussion off the record.]

23 [redacted] Okay. We are back on the record.

24 BY [redacted]

25 Q Mr. Wade, I just want to ask you some follow-up questions on some of these

1 invoices that we looked at. So if you could do me a favor and take a look at
2 exhibit number 10, which is invoice number 14.
3 A Yes, ma'am, I have it.
4 Q Now, the entry that says, "Interview with D.C./White House." Do you know
5 what D.C. is an abbreviation for here? Do you remember?
6 A District of Columbia.
7 Q But you don't recall who that interview was with?
8 A No.
9 Q So if you don't remember who the meeting was with, can you be sure that
10 D.C. means District of Columbia as opposed to somebody with the initials of D.C.?
11 A I'm fairly comfortable saying that I would have meant District of Columbia,
12 but there is a remote possibility that I meant someone with the initials D.C.
13 Q Okay. And then it says, "D.C./White House." It does not specify if the
14 White House in question was someone from the Trump White House or someone from
15 the Biden White House, correct?
16 A That's correct.
17 Q And it doesn't specify if the meeting was with the White House or about the
18 White House, correct?
19 A That's correct.
20 Q And you don't recall either way?
21 A I don't.
22 Q If you'll just give me a minute to look back.
23 If I could have a moment?
24 Okay. So I want to step back and ask, at least one of the defendants in the
25 Fulton County case was employed by the White House at the time of the events for which

1 he was indicted, correct? I'm referring to Mark Meadows.

2 A So re-ask the question for me.

3 Q Mark Meadows was employed by the White House at the time of the --

4 A At the time of the indictment?

5 Q At the time of the events for which he was indicted.

6 A Aww, yes, ma'am.

7 Q And as an attorney and as somebody who I'm presuming follows the news,

8 you're aware that individuals who work for the White House are subject to executive

9 privilege in some circumstances. Isn't that correct?

10 A Yes, ma'am.

11 Q And is it fair to say, based on your experience as an attorney, as both a

12 prosecutor and a defense attorney, that when you have somebody you want to interview,

13 or, perhaps, call as a witness and you're aware that potential issues of privilege might

14 arise, you would want to speak to the counsel for the privilege holder in advance to know

15 how much that privilege might block the information that you're seeking, correct?

16 A Absolutely.

17 Q And so is it fair to say that before you would interview a witness who worked

18 at the White House, you would want to speak to White House counsel about whether or

19 not executive privilege would bar the information you were seeking from that witness?

20 A Yes, ma'am. So particularly, the regulations of Touhy would govern these

21 individuals, and there were certain steps that had to be taken in order to get permission

22 to speak with these individuals, which was not a friendly process the whole way.

23 Q Can you explain when you refer to Touhy regulations, what you mean by

24 that?

25 A So simply put, we would have to -- "we" being any person or agency

1 requesting to have a conversation with certain officials, you're required to, first of all, say
2 what type of conversation you want to have with them; second of all, give the specific
3 questions you want to ask them; and, thirdly, give an explanation as to why you can't get
4 that information from another source. And then you would have to get permission to
5 speak with them.
6 Q And from whom do you have to get that permission and to whom do you
7 have to give notice of those questions?
8 A Other governmental agencies.
9 Q And -- so when you are seeking to interview somebody who is or was a
10 Federal official about matters that took place within the context of their employment, you
11 have to comply with these Touhy regulations, and you also have to be concerned about
12 issues of executive privilege, correct?
13 A That is correct.
14 Q And those are the issues that you discussed with White House counsel,
15 aren't they, during the meetings that you had in this case?
16 A So I don't recall the issues that were discussed, but what I can tell you is that
17 is a 110 percent necessary step, and it has to take place.
18 Q And it's a step that you recall following as part of your duties as special
19 prosecutor in this case?
20 A I do.
21 [redacted] We can go off the record.
22 [redacted] We'll go back on the record.
23 [Discussion off the record.]
24 BY [redacted]
25 Q I'm going to mark at the top exhibit number 16, I believe, and this is a Free

1 Beacon article from April 10, 2024, titled "Justice Department Uncovers 'Inconsistencies'
2 in Fani Willis's Use of Federal Grant Funds."
3 [Wade Exhibit No. 16
4 was marked for identification.]
5 The Witness. What is the source of this?
6 BY [redacted]
7 Q This is the Free Beacon. It's up there at the top. It says freebeacon.com.
8 It's from Free Beacon.
9 Mr. Barnes. What is it?
10 [redacted] It's a news organization.
11 Mr. Barnes. Never heard of it.
12 The Witness. Okay.
13 BY [redacted]
14 Q I just kind of wanted to enter this to help guide our discussion.
15 A Okay.
16 Q So the committee has received information that DA Willis has misused
17 Federal grant funds. Just curious if you have any knowledge as to how grant funds are
18 used at the Fulton County District Attorney's office?
19 A No, ma'am, I do not.
20 Q In your role as special prosecutor, did you handle anything with Federal
21 grants?
22 A No, ma'am, I did not.
23 Q Nothing came across your desk in regards to a Federal grant? Is that
24 accurate to say?
25 A That's accurate.

1 Q So just looking at the article here, the first -- or second full paragraph, I
2 should say, says, "The bombshell discovery comes 2 years after Willis fired a
3 whistleblower who had warned the District Attorney that her office was attempting to
4 misuse a $488,000 Federal grant to pay for swag, computers, and travel."
5 Then if you go down a couple of paragraphs, it says that the $488,000 Federal
6 grant, which was earmarked for the creation of a Center for Youth Empowerment and
7 Gang Prevention in Atlanta.
8 Did you have any awareness of the grant funds that were earmarked for the
9 creation of a Center for Youth Empowerment and Gang Prevention in Atlanta?
10 A Did I have any involvement in that or are you --
11 Q Well, let's start, did you have any knowledge of Federal grant funds that
12 were earmarked for the creation of the Center for Youth Empowerment and Gang
13 Prevention in Atlanta?
14 A No, ma'am.
15 Q Did you have any involvement with the Center for Youth Empowerment and
16 Gang Prevention in Atlanta?
17 A No, ma'am.
18 Q In the paragraph above it says -- this is a Justice Department spokeswoman
19 talking to the Free Beacon. It says, "During our review of the award to respond to this
20 inquiry, we have noticed some inconsistencies in what Fulton County has reported to the
21 Federal Subaward Reporting System, and we are working with them to update their
22 reporting accordingly."
23 Were you ever aware of the Justice Department noting to the DA's office that
24 there were some inconsistencies in their reporting for Federal grant funds?
25 A No, ma'am.

1 Q Did you ever have any conversations with DA Willis regarding the allegations
2 in this article?
3 A No, ma'am.
4 Q You never spoke with DA Willis about the use of grant funds at her
5 office -- Federal grant funds, excuse me, in her office?
6 A No, ma'am.
7 Q Did you have any conversations with anyone at the Fulton County District
8 Attorney's office regarding the use of Federal grant funds?
9 A No, ma'am.
10 Q Did you have conversation with anyone in the Fulton County District
11 Attorney's office regarding the specific allegations that grant funds were misused for
12 purchasing swag, computers, and travel?
13 A No, ma'am.
14 Q Okay. I want to talk about some use of campaign funds.
15 There was a concern raised from DA Willis's testimony at the hearing in regards to
16 the motion to disqualify and motion to dismiss regarding that she kept campaign funds
17 and put it with other cash that she had on hand. I believe she said where she said she
18 laid her head.
19 I'm just wondering if you had any knowledge of use of campaign funds to pay
20 expenses not for campaigning?
21 A No, ma'am.
22 Q Did you have any knowledge of DA Willis keeping campaign funds with her
23 cash that she keeps where she lays her head?
24 Mr. Evans. Where's that quote coming from?
25 [redacted] That's coming from her testimony.

1 Mr. Evans. In the hearing?

2 [redacted] In her hearing, yes.

3 Mr. Evans. I remember the part about the cash. I don't remember the

4 campaign funds.

5 [redacted] The campaign funds, yeah, I can read the part from her testimony

6 here.

7 Oh, it's in an article. She said, "Cash is fungible. I have had cash for years in my

8 house. So for me to tell you the source of where it comes from...when you go to Publix

9 and you buy something and you get $50 and you throw it in there. It's been my whole

10 life. When I took out a large amount of money during my first campaign, I kept some of

11 the cash of that."

12 Mr. Evans. Okay.

13 BY [redacted]

14 Q So there have been allegations that that was money that was earmarked for

15 her campaign, and so I'm just asking whether you had any knowledge of the use of

16 campaign funds.

17 A No, ma'am. I didn't know DA --

18 Mr. Barnes. What articles was that?

19 [redacted] This is a Fox News article. I'm happy to enter it for the record if

20 you'd like.

21 Mr. Barnes. Yeah, if you would do that so it's in the record.

22 [Wade Exhibit No. 17

23 was marked for identification.]

24 [redacted] Okay. This will be exhibit number 17. It's a Fox News article.

25 The title is "Fani Willis, Nathan Wade referred to Georgia State bar for misconduct by

1 watchdog group," and --

2 The Witness. And for the record, it has a very handsome picture of a gentleman

3 on the front of it.

4 [redacted] Yeah, I believe that's Mr. Bradley?

5 The Witness. No.

6 [redacted] No?

7 The Witness. That would be Mr. Wade.

8 [redacted] That's you?

9 The Witness. Oh, that's not me.

10 [redacted] That's Mr. Bradley.

11 The Witness. That's not a handsome picture. That's not a handsome picture at

12 all. Scratch that from the record.

13 [redacted] So we're just noting that for completeness of the record. And,

14 Governor Barnes, that quote is on page 2 of the article. The pages are on the bottom

15 right-hand corner.

16 The Witness. It's the second page that has the handsome gentlemen on the

17 front.

18 [redacted] There you go.

19 BY [redacted]

20 Q Switching topics -- we're just trying to cover as many topics as possible to get

21 through our questioning here -- the committee has also been made aware of a possible

22 motor vehicle accident that DA Willis was involved in after she took office in 2021 that

23 was a one-car accident, involved her Fulton County vehicle.

24 Just wondering if you have any knowledge of an accident occurring in 2021.

25 A In 2021, no, ma'am.

1 Q Do you have knowledge of any accident occurring that was a one-car
2 accident involving DA Willis's Fulton County vehicle?
3 A Yes, ma'am.
4 Q And what can you tell us about that car accident?
5 A There was an accident that occurred maybe 2 or 3 months ago, a
6 hit-and-run, but that's all I know.
7 Q So 2 or 3 months this year, 2024?
8 A 2024.
9 Q A hit-and-run?
10 A Uh-huh.
11 Q And it involved DA Willis's Fulton County vehicle. Was she driving?
12 A To my knowledge, yes.
13 Q And was it just her car? Obviously, the other car that hit and run, but -- did
14 she hit a car? Did the other car hit her? Do you know the logistics of the accident?
15 A I wasn't present, but I understand that some other vehicle swiped hers and
16 kept going.
17 Q Okay. And did you respond to the scene of the accident, if you will?
18 Were you involved?
19 A Did I respond to the scene of the accident?
20 Q Correct.
21 A No.
22 Q No. How did you become aware?
23 A The scene of the accident was on an expressway.
24 Q Uh-huh.
25 A When I found out about it, I went to a gas station where the police and

1 investigators had -- I don't know. What do you call it? Rendezvous maybe? I don't
2 know. So I went to that location.
3 Q And what was your role there at the gas station?
4 A My role was to make certain that she was okay.
5 Q Uh-huh. Were you -- so what occurred after the accident? Was there a
6 report that was filed, to your knowledge?
7 A Oh, I'm not certain. There was the police there. I don't know.
8 Q So did your role end after you confirmed that DA Willis was thankfully okay
9 from the accident?
10 A Yes, yes.
11 [redacted] I think we're good to go off the record.
12 [Discussion off the record.]
13 [Whereupon, at 2:13 p.m., the deposition was concluded.]

1 Certificate of Deponent/Interviewee

2

3

4 I have read the foregoing ____ pages, which contain the correct transcript of the

5 answers made by me to the questions therein recorded.

6

7

8

9 _____

10 Witness Name

11

12

13 _____

14 Date

15

1 ALDERSON COURT REPORTING
2 BARBARA MOORE
3 HJU297550
4
5
6 COMMITTEE ON THE JUDICIARY,
7 U.S. HOUSE OF REPRESENTATIVES,
8 WASHINGTON, D.C.
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14 INTERVIEW OF: [redacted]
15
16
17
18
19 Wednesday, October 23, 2024
20
21 Washington, D.C.
22
23
24 The interview in the above matter was held in room 2237,
25 Rayburn House Office Building, commencing at 10:00 a.m.
26

1 Appearances:

2

3 For the JUDICIARY COMMITTEE:

4 For the Republican Staff:

5 [redacted] Investigative Counsel

6 [redacted] Majority Counsel

7 [redacted] Majority Counsel

8 [redacted] Majority Counsel.

9 [redacted] Majority Counsel

10 For the Democratic Staff:

11 [redacted] Chief Counsel

12 [redacted] Minority Counsel

13 For the FBI:

14 [redacted] FBI Counsel

15 For the Department of Justice:

16 [redacted] DOJ Counsel

1 [redacted] We'll go on the record.
2 Good morning. This is a transcribed
3 interview of [redacted] Chairman Jordan
4 has requested this interview as part of the
5 committee's investigation of how and the extent to
6 which the executive branch has coerced and
7 colluded with companies and other intermediaries
8 to censor speech.
9 Would the witness please state your name for
10 the record.
11 THE WITNESS. [redacted]
12 [redacted] Thank you. And I understand
13 that you are represented today by agency counsel.
14 Would agency counsel please state your name
15 for the record.
16 [redacted] [redacted] FBI Office of the
17 General Counsel.
18 [redacted] [redacted] Department of
19 Justice.
20 [redacted] [redacted] I understand that
21 Agency counsel represents the FBI and not you
22 personally? Do you understand that?
23 THE WITNESS. Yes.
24 [redacted] And you still would like to
25 continue with her as counsel today?

1 THE WITNESS. Yes.

2 [redacted] On behalf of the committee, I

3 want to thank you for appearing here today to

4 answer questions. The chairman also appreciates

5 your willingness to appear voluntarily.

6 My name is [redacted] and I'm with

7 Chairman Jordan's staff. And I'll let everyone

8 else from the committee who is here in the room

9 introduce themselves as well.

10 [redacted] [redacted] Chairman Jordan's

11 staff.

12 [redacted] [redacted] of Chairman

13 Jordan's staff.

14 [redacted] [redacted] Representative

15 Nadler's staff.

16 [redacted] [redacted] Representative

17 Nadler's staff.

18 [redacted] [redacted] Chairman Jordan's

19 staff.

20 [redacted] [redacted] Chairman

21 Jordan's staff.

22 [redacted] Thank you.

23 I'd like to go over the ground rules and

24 guidelines that we will follow for today's

25 interview.

1 The questions will proceed in rounds. The
2 majority will ask questions first for one hour and
3 then the Minority will have an opportunity to ask
4 questions for an equal period of time if they so
5 choose. We will alternate back and forth until
6 there are no more questions and the interview is
7 over.
8 Typically, we take a short break at the end
9 of each hour, but if you would like a break apart
10 from that, please just let us know.
11 As you can see, there's an official reporter
12 taking down everything we say to make a written
13 record, so we ask that you give verbal responses
14 to all questions. Do you understand?
15 THE WITNESS. Yes, I do.
16 [redacted] So the House reporter can take
17 down a clear record, we will do our best to limit
18 the number of people directing questions at you
19 during any given hour to just those people on the
20 staff whose turn it is. Please try and speak
21 clearly so that the reporter can understand and so
22 the folks down at the end of the table can hear
23 you.
24 It is important that we don't talk over one
25 another or interrupt each other, and that goes for

1 everybody who is present at today's interview.
2 We want you to answer our questions in the
3 most complete and truthful manner as possible, so
4 we will take our time. If you have any questions
5 or if you do not understand one of our questions,
6 please let us know. Our questions will cover a
7 wide range of topics, so if you need clarification
8 at any point, just say so. If you honestly don't
9 know the answer to a question or do not remember,
10 it is best not to guess. Please give us your best
11 recollection. If it is okay to tell us if you
12 learned information from someone else, just
13 indicate how you came to know that information.
14 If there are things you don't know or can't
15 remember, just say so and inform us who, to the
16 best of your knowledge, might be able to provide a
17 complete answer to the question.
18 You should also understand that although this
19 interview is not under oath that by law you are
20 required to answer questions from Congress
21 truthfully.
22 Do you understand that?
23 THE WITNESS. Yes, I do.
24 [redacted] This also applies to questions
25 proposed by Congressional staff in an interview.

1 Do you understand this?
2 THE WITNESS. Yes, I do.
3 [redacted] Witnesses that knowingly provide
4 false testimony could be subject to criminal
5 prosecution for making false statements under 32
6 USC Section 1001.
7 Do you understand this?
8 THE WITNESS. Yes, I do.
9 [redacted] Is there any reason you are
10 unable to provide truthful answers to today's
11 questions?
12 THE WITNESS. No.
13 [redacted] Finally, I'd like to make note
14 the content of what we discuss here today is
15 confidential. We ask that you not speak about
16 what we discuss in this interview with any outside
17 individuals to preserve the integrity of our
18 investigation.
19 For the same reason, the marked exhibits we
20 will use today will remain with the court reporter
21 so that they can go in the official transcript,
22 and any copies of those exhibits will be returned
23 to us.
24 That's the end of my opening remarks. Is
25 there anything my colleagues from the Minority

1 would like to ask?

2 [redacted] So first of all, thank you to the

3 witness for joining us and flying in from [redacted]

4 A little disappointing that we did not all go to

5 [redacted]

6 I wanted to make some substantive comments as

7 well, which we don't usually do at the beginning

8 of these, but I believe this might be the last

9 interview in this investigation, so I want to just

10 lay out some -- our position for the record on

11 this investigation writ large, if that's okay. If

12 you'd rather, we can talk about it at the

13 beginning of our one hour.

14 [redacted] No. You can go ahead.

15 [redacted] So we had, I think by one count,

16 at least five witnesses who were directly involved

17 in the subject of this investigation today from

18 FBI in addition to the witnesses from DOJ and from

19 the various social media companies. And we

20 believe that we have heard elements of the same

21 thing from all of these witnesses. The first is

22 that the --

23 [redacted] Wait a second. So you're going

24 to tell this witness what other witnesses have

25 said before we ask him questions?

1 [redacted] I can hold it until the
2 beginning. I offered --
3 [redacted] We didn't know you were going to
4 start telling the witness about testimony from
5 other witnesses.
6 [redacted] [redacted] if you want me to hold my
7 opening, I don't want to cause a fight right now.
8 I wanted --
9 [redacted] That's not a fight. But even in
10 your hour, if you're going to use your hour to
11 tell the witness about what other witnesses have
12 said --
13 [redacted] I don't think you can put
14 limitations on --
15 [redacted] I mean, if that's what you're
16 going to do, that's pretty outrageous.
17 [redacted] If that's the preference, I'm
18 happy to wait.
19 So with that, at [redacted]'s request, the
20 general counsel for the Minority we will hold our
21 opening comments till the beginning of our hour.
22 [redacted] [redacted] anything?
23 [redacted] Yes. Respectfully, the FBI would
24 dispute your characterization of the scope in that
25 your representation we may have coerced certain

private social media companies. Our understanding of today's interview is that the witness is here to speak to specific conversations he may have had with external partners, including social media companies, in October of 2020 while he was working on the Foreign Influence Task Force.

I'd also mention this is an extraordinary accommodation, because [redacted] is a non-SES employee. To that effect, we would just respectfully reiterate our request that [redacted]'s name be redacted in any public-facing way the committee may push out today's conversation. We appreciated that the committee has respected his confidentiality while he maintains his sensitive role working as an analytic attach abroad.

[redacted] Thanks for that.

The clock now reads 10:08 p.m. We'll begin with the first hour of questioning. [redacted]

EXAMINATION BY

[redacted]

Q What is your full name?

A [redacted]

Q What is your current place of employment?

A The FBI.

1 Q Okay. What is your current title?
2 A Analytic Attach .
3 Q How long have you worked in that role for?
4 A Since July of 2021.
5 Q Beginning with college, what is your
6 educational background?
7 A For undergraduate, I attended the University
8 of Georgia, majored in international affairs; then
9 attended Georgetown University for a master's
10 degree in security studies, later doing a research
11 sabbatical at the National Intelligence
12 University.
13 Q Starting with your first job after college,
14 what is your professional background?
15 A I interviewed for the FBI prior to graduating
16 from college, so in the interim, I had a temp job
17 in Georgia but began working for the FBI shortly
18 after graduating from college.
19 Q What was your first position with the FBI?
20 A Intelligence analyst at headquarters in the
21 counterintelligence division.
22 Q And how long were you in that role for?
23 A A little over a year as a -- it was called a
24 reports officer at the time. And in 2007, I moved
25 to a more all-source intelligence role,

1 counterintelligence analysis section.
2 I can go on if you'd like.
3 Q Please.
4 A So 2007 through 2012, I was in that
5 counterintelligence analysis section role. 2012 I
6 moved up to the Directorate of Intelligence as we
7 stood up the Global Intelligence Section. I was
8 in the Global Intelligence Unit 1. I was there
9 from 2012 until 2016, when I did my research
10 sabbatical at the National Intelligence University
11 looking at foreign influence in the Foreign Agents
12 Registration Act.
13 Came back from that in 2017 to the Criminal
14 Investigative Division of Public Corruption, Civil
15 Rights Intelligence Analysis Unit, where I looked
16 at illegal foreign influence and was dual hatted
17 with the Foreign Influence Task Force.
18 Q And how long were you in that role for?
19 A That was 2017 until up and through the 2020
20 elections. Did some preparations for my job in
21 [redacted] in sort of like the spring of 2021, moving
22 to [redacted] that summer.
23 Q And are you familiar with the terms
24 misinformation, disinformation, and
25 malinformation?

1 A I'm familiar with mis- and disinformation.
2 Q Have you heard the term malinformation at
3 all?
4 A Only through my prep materials for today's
5 interview.
6 Q Do you understand what's the difference
7 between misinformation and disinformation?
8 A Misinformation is false information, but the
9 distributor of the information was not aware that
10 it was false when it's sending.
11 Disinformation is distributed by someone who
12 is aware that what they are sharing is false,
13 intentional sharing of false information.
14 Q When officially did you join the FITF?
15 A Roughly at the beginning, in fall of 2017.
16 Q And how did you get assigned to the FITF?
17 A Following my research sabbatical, the
18 material I was researching, Foreign Agents
19 Registration Act, foreign influence were useful
20 topics that the FITF was establishing itself. And
21 as the FITF grew out from the counterintelligence
22 division to include other divisions, public
23 corruption was one of the units that was detailing
24 personnel to the FITF.
25 Q Who was responsible for hiring folks for the

1 FITF?
2 A Counterintelligence division management plus
3 selections within my management team, CID.
4 Q When you joined the FITF, what was its
5 overall structure?
6 A Initially, it was more like a unit structure,
7 not as big as a section, focused primarily on
8 Russian foreign influence.
9 Q And how big was the FITF at the time?
10 A At that time, 2017, 10 to 15 people.
11 Q Who was the head of the FITF?
12 A So initially it was [redacted], but he
13 went back to New York. After him it was -- I
14 don't recall the unit chief at that time. There
15 were supervisory intelligence analysts, and then
16 we really reported up through a deputy assistant
17 director who was assigned to the counterintel
18 division.
19 Q Who was the deputy assistant director?
20 A Initially it was Dina Corsi. Later, Nickie
21 Flores.
22 Q By the beginning of 2020, do you recall how
23 big FITF was?
24 A At that time it was approaching more section
25 size, 40 to 50 people, with multiple different

1 units under it.
2 Q And from when you started in 2017 until up to
3 the 2020 election cycle, did your role or your
4 responsibilities change?
5 A For the most part, no. As we approached the
6 summer of 2020, I was also filling in as the
7 acting supervisor for public corruption intel
8 analysis, which included election crimes.
9 Q What were your responsibilities with FITF?
10 A My role was to look at illegal foreign
11 influence, so it falls generally into a few
12 different criminal violations, one being voter
13 suppression, another being foreign money in
14 campaigns, and, finally, in Foreign Agent
15 Registration Act violations.
16 Q And who did you report to at the FITF?
17 A My direct supervisor in CID was the SIA,
18 supervisory intelligence analyst for public
19 corruption. In the FITF, primarily worked through
20 the FITF Russia supervisory intelligence analyst.
21 Q Who was that?
22 [redacted] Can we take that back?
23 Q Sure. For this individual, who did they
24 report to?
25 A The FITF Russia unit chief.

1 Q Who was that?
2 A [redacted]
3 Q How many people were affiliated with the
4 Russia unit or assigned to the Russia unit in
5 2020?
6 A I think a similar, 10 to 15, to include the
7 detailees like me.
8 Q Do you know who Laura Dunlo is?
9 A I do.
10 Q Do you know when she joined the FITF?
11 A Not exactly, but perhaps it was when this
12 sort of grew out from the focusing on Russia to
13 focusing on other countries. So perhaps 2018,
14 2019.
15 Q And which unit in the FITF was Laura Dunlo
16 assigned to in 2020?
17 A FITF China.
18 Q How often would you interact with Ms. Dunlo
19 in 2020?
20 A Fairly often. A few times a week.
21 Q What was the nature of those interactions?
22 A So as the -- one of the CID reps, while
23 primarily reporting up through the FITF Russia
24 unit, we were more of an enterprise resource for
25 the other FITF units. So I would speak to the

1 Russia unit, the China unit, the global unit when
2 there were questions about illegal foreign
3 influence.
4 Q Do you know who [redacted] is?
5 A I do.
6 Q What was his role at FITF during your time
7 there?
8 A He was the assistant section chief.
9 Q And how frequently did you interact with him?
10 A Less so. He was just a bit more senior. So
11 perhaps in section-wide meetings, biweekly at most,
12 I would say.
13 Q And how frequently did you interact with
14 [redacted]?
15 A I would say almost daily, depending on the
16 time. Probably he was the one I interacted with
17 the most of FITF unit chiefs.
18 Q Do you know who Brad Benadinis is?
19 A I do.
20 Q What was his role at FITF when you were
21 there?
22 A He was section chief.
23 Q How frequently did you interact with him?
24 A I would say a similar time frame as [redacted]
25 [redacted].

1 Q Did you have anyone who reported to you in
2 the FITF?
3 A Not in the FITF.
4 Q Do you know who [redacted] is?
5 [redacted] With regard to the name you just
6 referenced, we would prefer to characterize that
7 person as an ODC embed in the FITF.
8 Q Okay. How many members of ODC were embedded
9 in the FITF during your time there?
10 A I believe two.
11 Q Did those two individuals change over time?
12 A One did not, the other did, to my
13 recollection.
14 Q We identified one. Do you know the name of
15 the other individual?
16 A Not that I recall.
17 [redacted] The individual my colleague
18 mentioned, [redacted] -- was he the one that did
19 not change?
20 THE WITNESS. Correct.
21 Q During your time with the FITF, how
22 frequently would you interact with representatives
23 from social media companies?
24 A The meetings began as more of a quarterly
25 basis. I wasn't a part of them, I think, until

1 perhaps late 2018 to 2019. So beginning at
2 quarterly, but then as the election got closer and
3 it was COVID, so it was phone calls, not in-person
4 meetings, it eventually became monthly to, I
5 think, biweekly to weekly.
6 Q Do you know when the meetings first started?
7 A Not exactly.
8 Q And before COVID, were these meetings in
9 person?
10 A Some of them were, yes.
11 Q And where would they take place?
12 A Usually in San Francisco, Silicon Valley
13 where the company's headquarters are based. I
14 recall at least one here in D.C., Meta.
15 Q Were all members of the FITF based on in
16 D.C.?
17 A Yes, at headquarters.
18 Q Before COVID, how many members of the FITF
19 would fly out to San Francisco?
20 A It was a smaller group because it was in
21 person. I think those groups at their largest
22 were perhaps six people.
23 Q Who would decide who from the FITF would
24 attend?
25 A FITF management.

1 Q And when you say FITF management, what do you
2 mean?
3 A Perhaps the equivalent of the unit chief at
4 the time at the beginning when it was only that
5 big. Later, the unit chiefs and probably
6 assistant section chief in Section 2, but I didn't
7 have visibility. This is a bit of guessing on my
8 part.
9 Q Prior, we've received testimony about
10 bilateral meetings between FITF and social media
11 companies and then also broader industry meetings
12 with the U.S. government partners. Are you
13 familiar with both sets of standing meetings?
14 A I'm familiar with them, but I was for the
15 most part only a part of the bilateral meetings.
16 Q Did you ever attend any of the broader
17 industry-U.S. government partner meetings?
18 A A few of the phone calls that were leading up
19 to 2020, but I did not attend any of the in-person
20 group meetings.
21 Q In 2020, how many members of the FITF would
22 join the calls, the bilateral calls?
23 A Bilateral calls, a larger group, because it's
24 easier to join on the phone. Usually around 10 to
25 12.

1 Q And did you attend all of the bilateral FITF
2 meetings? Most of them?
3 A Most of them, I would say.
4 Q How many members of the Russian unit would
5 attend the FITF calls in 2020?
6 A Two people, perhaps three from the Russia
7 unit.
8 Q And typically, who were the two or people
9 from the Russia unit?
10 A The unit chief, the supervisory intelligence
11 analyst, and depending on the topic, other group
12 substantive expert analysts from the unit.
13 Q Just as a question of clarity here, you were
14 that substantive expert most of the time, or that
15 in addition to you?
16 A No. I was the sort of CID representative on
17 the calls.
18 Q In 2020, now that things have staffed up, in
19 terms of any changes at FITF management, did the
20 roles and responsibilities of Laura Dunlo change
21 throughout the year, to your understanding?
22 A I think in 2020 she was the sometime acting
23 unit chief, perhaps later the full-blown unit
24 chief of FITF China. I think those were her
25 titles.

1 Q For the broader industry partner meetings,
2 the ones that you recall attending, how many
3 members of the FITF would join those calls?
4 A Similar group of 10 to 12.
5 Q And in terms of the discussions for the
6 substance of what was being raised, how did those
7 differ from the FITF bilateral meetings to the
8 broader U.S. government industry meetings?
9 A I really was a part of very few of the
10 broader industry ones. The bilateral meetings
11 were usually specific about sharing tear line
12 material that was useful to that particular
13 platform. That was generally not done in the few
14 group meetings that I was a part of. That would
15 be, perhaps, other more general tear lines that
16 were approved for the group with less specifics of
17 the IP addresses, URLs.
18 Q In advance of a bilateral FITF call, what
19 sort of prep work would you and your team do in
20 advance of that meeting?
21 A There would be an agenda arranged through the
22 FITF of which topics would be raised on the calls.
23 Sometimes CID would have a topic. Generally, our
24 role in the call with social media companies was
25 speaking about voter suppression around the

1 manner, time, and place of voting.
2 Q And who from the FITF ultimately was
3 responsible for preparing the agenda?
4 A To my recollection, sort of a collaborative
5 effort by the unit chiefs and then arranging
6 logistics through San Francisco field office.
7 Q Were these agendas written down?
8 A Yes.
9 Q Are they, to your knowledge, accessible
10 through the Sentinel system?
11 A Yes.
12 Q During the meeting, was there anyone from the
13 FITF responsible for taking notes, recording
14 minutes?
15 A Yes. Generally, they were written up. I
16 remember seeing many, many write-ups by our San
17 Francisco colleague.
18 Q And who is your San Francisco colleague?
19 A Elvis Chan.
20 Q And are these write-ups available in Sentinel?
21 A Yes.
22 Q What about after a FITF call? Would there be
23 any sort of debriefing meeting, typically?
24 A Yes, but as the pace grew, there weren't
25 necessarily debriefings after each call.

1 Q Did you ever brief anyone above the section
2 chief of the FITF about your work with the FITF?
3 A We wrote papers that went to the people above
4 that level. I don't recall a particular briefing.
5 Q What were the subjects of those papers?
6 [redacted] Reminding the witness, this is an
7 unclassified setting. Your question potentially
8 implicates classified or law enforcement sensitive
9 material.
10 THE WITNESS. I'll speak in general terms
11 that it hasn't -- intelligence analysts of the
12 FBI, part of our job as all-source analysts is to
13 write finished intelligence for executives to
14 inform them of what threat actors are doing. So
15 that is generally the kind of papers we were doing
16 for FBI executives.
17 Q During these FITF bilateral calls, were there
18 ever any discussion regarding mis- or
19 disinformation relating to vaccines or COVID-19?
20 A I don't recall anything about COVID or
21 vaccines.
22 Q Do you recall any discussions in 2020 during
23 the FITF bilateral meetings regarding concerns to
24 a potential hack and leak operation from Russia?
25 A I recall that hack and leaks were discussed

1 as a tactic that the Russians had used before.
2 Q During the FITF bilateral meetings, do you
3 recall any discussions about certain content or
4 certain narratives that may be online and derived
5 from foreign actors?
6 A Generally, in those calls, we did not speak
7 about content with the narrow exception of my role
8 in CID around voter suppression, where the content
9 itself about manner, time, and place of voting was
10 important.
11 Q Did you have any interaction was Elvis Chan
12 prior to joining the FITF?
13 A No.
14 Q And what role did Mr. Chan play during the
15 FITF calls?
16 A He was the organizer of the meetings and
17 generally kept the meetings to the agenda.
18 Q Now, are you familiar with the Countering
19 Foreign Influence Task Force at SISA?
20 A In very general terms.
21 Q Do you recall any interactions with them
22 during your time at the FITF?
23 A A few. There was like -- I recall a think
24 tank event that I attended where they were there.
25 But I generally wasn't the one interacting with

1 that group.
2 Q At the bilateral FITF calls, were there any
3 members of the force who were not detailed or who
4 were not assigned by the FITF to attend?
5 A Yes. We would occasionally arrange for
6 presenters from field offices, special agents who
7 were working particular cases that were relevant
8 to our mission.
9 Q Were there ever bilateral FITF calls where
10 there were members from other federal agencies
11 besides the FBI?
12 A We hosted a series of calls with the
13 Department of Justice Foreign Registration Act
14 chief at the time for some of the companies.
15 Q Do you recall any other agencies?
16 A There were -- one second.
17 (Discussion held off the record.)
18 A To fully answer the question, it would be
19 better in a classified setting, but for this
20 level, that's the complete answer.
21 Q Based off documents that are out in the
22 public domain, Elvis Chan would from time to time
23 send information to social media platforms. Would
24 you or your team have any responsibility for
25 preparing what was said?

1 A At times, yes.
2 Q Who from the FITF would ultimately sign off
3 on what could or could not be sent to social media
4 companies?
5 A I don't have the exact insight on the
6 particular approval chain, but I think unit chief
7 to section chief.
8 Q When there were discussions about a -- the
9 risk of Russia using hack and leak operations as a
10 tactic, was there any discussion of a subject
11 matter of what might be hacked or what might be
12 leaked?
13 A No.
14 Q Was there ever a discussion on the timing?
15 A Perhaps in general terms. It was more likely
16 to occur closer to the election.
17 Q During these meetings, do you recall any
18 discussions of someone from the government asking
19 social media companies how they would treat hacked
20 materials on their platform?
21 A I don't recall that.
22 Q Do you recall any discussions where Burisma
23 or Hunter Biden was raised?
24 A Only the October 14th call.
25 Q I take it you are familiar with the New York

1 Post story from October 14th?
2 A Yes.
3 Q If you could walk us through that day. So
4 start at the very beginning. Do you recall how
5 you first heard about the New York Post story?
6 A Sure. Came to work that day on the 14th,
7 and in the FITF, I was one of the analytic
8 representatives from CID. I also had operational
9 colleagues who are detailed there, so supervisory
10 special agents.
11 At that time one of the supervisory special
12 agents who sat next to me was also the program
13 manager for the Baltimore field office, and so I
14 learned about the article from him as we were at
15 our desks and he saw the news article, and he
16 audibly expressed surprise about the article and
17 how so much of the details about the laptop were
18 in the public, because the laptop was part of an
19 ongoing investigation out of Baltimore field
20 office.
21 Q And who was that individual?
22 A I don't remember his full name, but he was an
23 SSA in the public corruption unit.
24 [redacted] Out of the Baltimore field
25 office; is that correct?

1 THE WITNESS. The way it works is they have
2 like 18-month TUIs at headquarters. So at that
3 time he was a headquarters employee, but his
4 responsibility included the Baltimore field office
5 and other mid-Atlantic field offices to program
6 manage their public corruption cases.
7 [redacted] Did you ever have an
8 understanding of how he came to learn that there
9 was an ongoing investigation regarding the laptop?
10 THE WITNESS. So that would be part of his
11 responsibilities as a program manager for that
12 field office where the case was being
13 investigated. In the public corruption unit, they
14 track all of the cases referencing public
15 officials or people close to public officials.
16 [redacted]
17 Q Did you know about the laptop prior to him
18 expressing surprise?
19 A I did not.
20 Q What did he say exactly?
21 A He said he was surprised to see this New York
22 Post story about the laptop because the laptop was
23 part of the Hunter Biden investigation out of the
24 Baltimore field office. He just couldn't believe
25 that these details were coming out in public.

1 Q And to your understanding at the time, did
2 you know whether any members of the FITF were
3 receiving briefings from that case team?
4 A I did not know.
5 Q What about sitting here today?
6 A I've read some of the letters from the
7 committee where it appears people were
8 knowledgeable, but I was not aware of it at the
9 time.
10 Q Did you ask him any questions about the
11 laptop or the investigation?
12 A No. I had to leave quickly thereafter.
13 There had been a positive COVID case on my team,
14 so we were all encouraged and I encouraged other
15 members of my team to go get a COVID test. So I
16 left the office shortly thereafter to get a COVID
17 test at the D.C. National Guard COVID test station
18 by the National Building Museum.
19 Q How early in the morning were you starting
20 your day in October of 2020?
21 A I don't think I recall that exactly.
22 Q We received testimony that there were a
23 number of FITF meetings prescheduled for that day.
24 A Uh-huh.
25 Q Can you walk us through the first meeting you

1 can recall attending?
2 A The first meeting I recall was the bilateral
3 meeting with Twitter.
4 Q And approximately how long did that meeting
5 take place after you had had this discussion with
6 the SSA?
7 A A few hours. The COVID test I was taking
8 took longer than I expected, so I joined the call
9 on my cell phone from leaving the test station.
10 Q Had there been any discussions with other
11 members -- had you had any discussions with other
12 members of the FBI about the laptop or about the
13 article before this Twitter FITF meeting?
14 A No.
15 Q How many members of the FITF attended this
16 call with Twitter?
17 A I don't recall exactly. Perhaps five or six
18 at that time.
19 Q Do you recall who?
20 A I remember [redacted] was there. Our OGC rep. I
21 don't know when exactly she joined, but Laura
22 Dunlo joined as well. Elvis Chan. Myself.
23 [redacted] Was the ODC rep the same
24 individual you spoke about earlier?
25 THE WITNESS. Yes.

1 [redacted]

2 Q Anyone else from the FITF that you can

3 recall?

4 A Not that I can recall.

5 Q Do you remember if there were any other

6 government representatives on that call?

7 A Not that I can recall.

8 Q How many representatives of Twitter were on

9 the call?

10 A Perhaps two.

11 Q Do you recall who?

12 A I know Yoel Roth was on the call. I don't

13 remember who else from Twitter at the time.

14 Q Did anyone from Twitter ask about the New

15 York Post article?

16 A So my recollection of the call is

17 introductions occur, and then off the agenda Yoel

18 Roth proactively and independently says, We've

19 seen the New York Post story about Hunter Biden's

20 laptop. We assess this as a Russian

21 disinformation effort. And then there was awkward

22 pause.

23 Q And what broke the pause?

24 A [redacted] chimed in to speak in general

25 terms about Russian disinformation, and then I

1 spoke up to say this is [redacted] from CID;
2 that's part of a separate matter, and then our OGC
3 rep came in to say we have no comment on this.
4 Q What did you mean, that was part of a
5 separate matter?
6 A I meant that this was part of a separate
7 matter where we had no comment about it.
8 Q Did Twitter ask more questions about the
9 separate matter?
10 A Not at that time.
11 Q Did they ask more questions at a later time?
12 A No.
13 Q Did they ask any additional questions about
14 the New York Post story?
15 [redacted] Sorry. Can I confer with him for
16 one minute?
17 [redacted] We're off the record.
18 (Discussion held off the record.)
19 [redacted] We just have a point of
20 clarification.
21 THE WITNESS. To my knowledge, there was no
22 further follow-up from Twitter.
23 [redacted]
24 Q How long was the Twitter FITF meeting?
25 A Guessing at this stage, four years later, but

1 perhaps 30 minutes.
2 Q And have you ever had a chance to see the --
3 let me rephrase it.
4 To your knowledge, was anyone taking notes or
5 writing up a summary of this meeting?
6 A I think as part of general practice, there
7 was a write-up that was put in somewhere.
8 Q Typically, Mr. Chan was the one responsible
9 for preparing it?
10 A Yeah, typically.
11 Q Okay. At the end of the Twitter FITF call,
12 tell us what happened next.
13 A I received an instant message on our sort of
14 internal instant message system from the OGC rep
15 that the response to anything about the article is
16 just "no comment."
17 [redacted] Is that the same OGC rep that
18 we've mentioned earlier?
19 THE WITNESS. Yes.
20 [redacted]
21 Q And what did you respond?
22 A "Okay."
23 Q Was there any other discussion with the OGC
24 rep?
25 [redacted] I think that your question

1 implicates legal privileges, so we may have to
2 respond to those in real time.
3 You can answer of the existence of those
4 conversations.
5 THE WITNESS. Perhaps in an IM or two more
6 with that OGC rep and then a later discussion with
7 a different OGC rep just describing what occurred
8 on the call.
9 [redacted]
10 Q Who is the different OGC rep?
11 A Our OGC rep for CID at the time was not a
12 FITF detailee.
13 Q Who was that?
14 A I don't recall her name.
15 Q From either of these OGC reps, did you
16 receive any reprimand or criticism for your
17 comment during the call?
18 A No. Just that in future iterations, your
19 response will be "no comment." And the CID one, I
20 just kind of took the discussion and that was the
21 end of it -- of that call.
22 Q So the first discussion with the OGC rep
23 embedded in the FITF, that took place over instant
24 message. What about the second conversation?
25 A It was a phone call I had later that day.

1 [redacted] And how did that OGC CID rep
2 come to know what occurred on the call?
3 THE WITNESS. I can't speak to that.
4 [redacted] But that individual, the OGC CID
5 rep, was not on the call with Twitter; is that
6 correct?
7 THE WITNESS. Correct.
8 [redacted]
9 Q Did you have any conversations with [redacted]
10 about your comment on the Twitter FITF meeting?
11 A I don't think so, no.
12 Q For the instant message between --
13 A To the best of my recollection, there were
14 lots of IMs going on during this time, but I don't
15 recall speaking to [redacted] about it.
16 Q For the IM from the OGC rep embedded within
17 the FITF, was that a direct message to you?
18 A To my recollection, that was a direct
19 message.
20 Q Were there any other direct messages or group
21 messages you had with the FITF immediately
22 following the Twitter FITF meeting?
23 A I recall one with Elvis where I may have
24 proactively sent him a message that if this was to
25 come up again, the answer is "no comment."

1 Q What did Elvis say back?
2 A "Okay." But this is me recalling from four
3 years ago.
4 Q Do you recall any discussions, either in
5 person, on the phone, or multiple people on the
6 messaging system, discussing how to respond to
7 future questions?
8 A I think just that one I've described from the
9 OGC rep on "no comment" is how we respond to
10 questions about the story.
11 Q Did you have any discussions with Ms. Dunlo
12 about how to respond to the story?
13 A No. Not to the best of my recollection.
14 [redacted] Were you ever given an
15 explanation for why the response to questions
16 about the story was supposed to be "no comment"?
17 THE WITNESS. There was not a direct
18 explanation, to my recollection, but it seemed in
19 line with our policies.
20 [redacted] And how did it seem in line with
21 your policies?
22 THE WITNESS. That we don't comment on the
23 veracity of press reporting.
24 [redacted] But you were never told directly
25 what the reason was for the "no comment" response?

1 THE WITNESS. I don't recall a reason.
2 BY [redacted]
3 Q Did anyone ask you how you knew about the
4 laptop?
5 A Not that I recall, no.
6 Q From your understanding of discussions with
7 other members of the FITF, do you have a sense if
8 they understood or had familiarity with either the
9 laptop or the Hunter Biden investigation?
10 A Not at that time.
11 Q Have you since learned that?
12 A From the committee's letters, yes.
13 Q So after you received these messages, do you
14 recall what the next meeting was with the social
15 media companies?
16 A There was a group call with social media
17 companies shortly thereafter. I can't recall who
18 brought up the New York Post story again, but it
19 was brought up again, and Elvis pitched the
20 response over to me where I said there's no
21 comment.
22 Q Did anyone else from the government offer any
23 commentary of any kind regarding either the story
24 or the laptop or the investigation?
25 A Not to the best of my recollection.

1 Q Why did Elvis pitch it over to you?
2 A Because I had -- well, this is my assessment
3 of it. He didn't explain that to me. But because
4 I had responded to those questions in the previous
5 call with Twitter.
6 Q Following the U.S. government industry call,
7 was there any internal discussions among the FITF
8 members about whether to change the response from
9 the FITF?
10 A Not that I was a part of.
11 Q What was the --
12 [redacted] Sorry. Just to clarify, the
13 witness testified he wasn't participating in the
14 broader U.S. government calls, so if you can
15 characterize them as the FITF bilateral meetings
16 with the social media partners, I think just for
17 the clarification of the record, that would be
18 helpful.
19 [redacted] Sure. So maybe I missed that.
20 BY [redacted]
21 Q The next call was not the broader industry
22 call?
23 A It was the broader industry call. It was one
24 of the few that I was a part of, the broader
25 industry call.

1 Q Do you recall what the next meeting was that
2 day?
3 A I don't.
4 Q Did you attend a FITF meeting with Facebook
5 on or about that day that you can recall?
6 A That's possible. I think Facebook was part
7 of the broader industry call as. If there was a
8 bilateral call, I don't remember that one in
9 particular.
10 Q Do you remember any calls where Ms. Dunlo or
11 someone else from the team responded "no comment"
12 when asked about the laptop?
13 A Not that I remember today.
14 Q In the days following the 14th, did any of
15 the social media companies reach out, to your
16 knowledge, either to you or to members of your
17 team asking for additional information?
18 A To my knowledge, no. No one reached out to
19 me.
20 Q What about the FITF broadly?
21 A I can't speak to that.
22 Q When the SSA expressed surprise when the
23 story first broke, did you have any follow-up
24 discussions?
25 A No.

1 Q Was this SSA just having familiarity with the
2 investigation, or did this person report directly
3 on it, to your knowledge?
4 A To my recollection, it was more familiarity
5 as a headquarters program manager. He was not
6 somebody working on the case itself.
7 Q Do you know any members of the case team?
8 A I do not.
9 Q Do you know if any members of the FITF shared
10 any additional information about whether the FITF
11 assessed the laptop or the reporting from the New
12 York Post to be part of Russian disinformation?
13 A I don't recall any other discussions about
14 the laptop.
15 BY [redacted]
16 Q I want to switch topics for just a little
17 bit. Can you tell us about your preparation for
18 today's interview.
19 A Sure. I prepared with Agency counsel and
20 with DOJ counsel and my PLI attorneys.
21 Q What are PLI attorneys?
22 A Professional liability insurance.
23 Q Did you review any documents today before
24 your interview?
25 [redacted] So I think that your question

1 does potentially implicate attorney-client
2 privilege and other internal deliberative process
3 privileges, but I think, generally speaking,
4 you're free to answer.
5 THE WITNESS. The Agency counsel prepared a
6 preparation packet for me, so I reviewed that.
7 BY [redacted]
8 Q So Agency counsel prepared a package of
9 documents for you to review; is that correct?
10 A Correct.
11 Q Do you remember what documents were in there?
12 [redacted] We can't speak to our internal
13 preparation for the witness as he previewed many
14 of the documents he's discussed thus far in his
15 testimony are publicly available from the
16 committee's representations of prior transcript
17 interviews.
18 BY [redacted]
19 Q Did you identify any documents that you
20 wanted to review prior to today's interview?
21 A I didn't do any preparation outside of the
22 sessions with counsel.
23 Q And how many sessions did you have?
24 A We spoke Friday, Monday, and Tuesday.
25 Q Did you identify any specific events you

1 wanted to kind of refresh your memory on?
2 [redacted] The committee did scope this
3 interview to a particular meeting and a particular
4 conversation. So given that it's been four years,
5 the witness did review publicly available
6 documents from the committee, including the
7 correspondence he already referenced.
8 [redacted] I'm just asking whether you had
9 any specific events that you thought you may want
10 to recollect prior to today's transcribed
11 interview.
12 THE WITNESS. The October 14th call.
13 BY [redacted]
14 Q Just digging a little bit deeper. During the
15 Twitter FITF call -- actually, let me take one
16 step back.
17 In a typical FITF call before October 14, how
18 often did you have a speaking role?
19 A Semi-regularly.
20 Q And without getting into specifics but just
21 generally, what would be the nature or the purpose
22 for you to have a speaking role?
23 A My general role when speaking with social
24 media companies was to -- would be to speak about
25 the voter suppression around manner, time, and

1 place of voting. That's generally the topic I
2 would address with the companies on the calls.
3 Q And when it was your issue area, would either
4 Mr. Chan or someone hand it over to you, or were
5 you at liberty just to jump in as the expert and
6 answer?
7 A Usually if it was an agenda item, Mr. Chan
8 would pitch over, but if it sort of came up
9 naturally in the conversation, I would interject.
10 Q During the Twitter FITF meeting, you
11 mentioned there was a long pause and then, to your
12 recollection, [redacted] was the first to jump in;
13 is that right?
14 A That is correct.
15 Q After Mr. Roth first says what Twitter's
16 understanding is at the time, were there any
17 instant messages between members of the FITF about
18 the meeting?
19 A So at that time I was on my cell phone
20 walking back to the building, so I don't know if
21 there were items at that moment.
22 Q Just generally, are you able to access IMs,
23 you know, from previous meetings if needed?
24 A I think as the Agency we can, but it's not
25 something that's easy to do.

1 Q Was there anything else -- actually, let me
2 rephrase that.
3 Did Mr. Roth share anything at that time
4 about how Twitter intended to enforce its policies
5 with respect to the New York Post story?
6 A He said they intended to suppress the story.
7 Q Do you recall if he provided any level of
8 detail to you on how Twitter intended to do so?
9 A Not beyond that.
10 Q What about other social media companies?
11 Were there, on the U.S. industry call or just
12 generally on the calls some of the days following,
13 did any other companies share with you what
14 FITF -- how they intended to treat the story?
15 A In that broader industry call immediately
16 following the Twitter call, I remember Yoel Roth
17 repeating what he had told us on the earlier call,
18 that they assessed the story was Russian
19 disinformation and intended to suppress it. I
20 don't recall other industry partners speaking to
21 their intentions on that call.
22 Q So [redacted] speaks in general terms. Can
23 you say a little bit more about anything you can
24 remember about what he was saying?
25 A He was really talking in general terms about

1 previous Russian efforts at foreign malign
2 influence.
3 Q Did he mention that Russia had previously
4 used hack and leak as a tactic?
5 A I don't recall if he specifically mentioned
6 hack and leak in that moment.
7 Q Was it Mr. Roth to speak again about the
8 questions or once [redacted] finished speaking?
9 A Once [redacted] finished -- or perhaps as
10 there was just like a pause in his speech --
11 that's when I jumped in to speak.
12 Q And why did you jump in?
13 A I thought it was important to close the
14 discussion so that we weren't commenting on
15 Twitter's conclusion.
16 Q And what do you mean by "commenting on
17 Twitter's conclusion"?
18 A Really just that, that we -- that this was a
19 separate issue that we have no comment about.
20 Q And by it being a separate issue, do you mean
21 that it was not the Russian disinformation that
22 Twitter was assessing it to be?
23 A That we weren't commenting on their intention
24 or assessment at all.
25 Q When you spoke to the SSA first thing in the

1 morning about the article, did that individual
2 share with you or identify to you anything in the
3 article that was not true?
4 A Not to my recollection.
5 Q Did you share with anyone in the FITF, more
6 broadly on the 14th or shortly thereafter, the
7 fact that you had this discussion with the SSA?
8 A I think there were instant messages at the
9 time with Elvis, between Elvis and I, where I
10 mentioned that there was an ongoing investigation.
11 Q And did Elvis ask you or did you volunteer
12 this information?
13 A I don't recall exactly.
14 Q Do you recall what questions Mr. Chan had?
15 A No.
16 Q Were these just direct messages between you
17 and Mr. Chan?
18 A To my recollection, yes.
19 Q Were any of these text messages or were these
20 all through the FBI?
21 A These were the internal instant message
22 system.
23 Q To your knowledge, was Mr. Chan having any
24 follow-up discussions with social media companies?
25 A Not that I recall.

1 Q Do you recall if there were kind of multiple
2 instances either throughout the day or throughout
3 the coming days where you were talking to Mr. Chan
4 or was this all in the same initial discussion?
5 A To my recollection, it was all that day, that
6 discussion.
7 Q Did you have a sense later that day that
8 others within the FITF knew the New York Post
9 story was not part of Russian disinformation?
10 A I don't know the answer to that. I don't
11 know.
12 Q Given what Mr. Roth shared at the outset of
13 the Twitter FITF meeting and in the context of
14 having the discussion you had with the SSA in the
15 morning, was there any part of you that was
16 concerned that Twitter and possibly other social
17 media companies were mistaken in their assessment
18 of the New York Post story?
19 A Could you say that question again.
20 Q Sure. The morning of the 14th, after
21 hearing what Mr. Roth shared about how Twitter was
22 assessing the story, and given what you knew based
23 off your conversation with the SSA earlier that
24 morning, did you have any concerns about how
25 social media companies were incorrectly assessing

1 the story?
2 A I think my concerns were about how Twitter
3 would take our discussion on the topic and hence
4 why I sought to close the topic when it came up.
5 [redacted] Can you unpack that for us.
6 What do you mean by how Twitter would take your
7 discussion on the topic?
8 THE WITNESS. It was very -- this was the
9 first time, to my recollection, that a social
10 media company had proactively and independently
11 told us what they intended to do regarding the
12 press article, and it's not our position to
13 comment on the veracity of press articles. So I
14 wanted to try to separate our role from commenting
15 on the story whatsoever.
16 BY [redacted]
17 Q Why do you think Mr. Roth shared with you
18 what Twitter was doing?
19 A I can't speak for Mr. Roth.
20 Q Up to that point, there had been discussions
21 with the FITF between Twitter, other social media
22 companies, the FITF about Russian disinformation;
23 is that right?
24 A Correct. I would clarify it more as foreign
25 malign influence indicators, but true.

1 Q Either directly or indirectly, did you have
2 the impression that Mr. Roth was raising this with
3 the FITF as seeking to find out if the FITF had
4 anything else to share about whether it was
5 Russian disinformation?
6 A I can't speak to his intentions that day.
7 Q Was there ever any discussion among members
8 of the FITF about whether to share some of the
9 information to inform the social media companies
10 that the article and the laptop are not part of a
11 Russian disinformation effort?
12 A I don't recall discussions with FITF
13 colleagues on that.
14 [redacted] So prior to the October 14th
15 phone call where Mr. Roth says what Twitter
16 intends to do with the story, you said that there
17 had been these bilateral meetings where it had
18 been raised by the FITF. I think you said Russia,
19 foreign malign indicators; is that correct?
20 THE WITNESS. Yes.
21 [redacted] Was there any discussion of hack
22 and leak operations?
23 THE WITNESS. Answering your colleague's
24 question earlier. There was a -- general
25 discussions about how the Russians had used hack

1 and leak as a tactic in previous operations.
2 [redacted] And those both predated the
3 October 14th phone call; is that correct?
4 THE WITNESS. Correct.
5 BY [redacted]
6 Q Just to close the loop on that. When the OGC
7 rep told you that the -- going forward, you would
8 be saying "no comment," was he directly or
9 indirectly suggesting that what you had said was
10 not aligned with the appropriate policy?
11 A He did not imply that.
12 Q He didn't state it either?
13 A Correct.
14 Q To your knowledge, did [redacted] or others
15 have any follow-up discussions with social media
16 companies about the laptop or the story?
17 A I don't know. To my recollection, there were
18 none that I was a part of.
19 Q The discussion you had with the SSA in the
20 morning, did you document that discussion in any
21 way?
22 A I don't think so.
23 Q Did the SSA share with you that the FBI was
24 in possession of the hard drive or the laptop?
25 A To my recollection, he said that the laptop

1 was part of the investigation.
2 Q Did he share anything to the effect that the
3 contents of the laptop had been authenticated?
4 A I don't recall any discussion about
5 authentication.
6 Q The original article, there was actually a
7 picture of the subpoena from the FBI. Did he
8 express any familiarity with that document?
9 A I don't recall to that level of detail.
10 Q Did you have any discussions with this SSA at
11 any point, either later that day or the days
12 following, to share that social media companies
13 were asking questions about it?
14 A I don't know if he was in the office later
15 that day or not.
16 Q Were you both in the office later that week?
17 A I believe so.
18 Q And do you recall any discussions?
19 A I may have mentioned in general terms that it
20 came up.
21 Q What was this individual's reaction?
22 A He was glad that he didn't have to do calls
23 with the social media companies.
24 Q Why was that?
25 A I don't know.

1 Q Did you -- when sharing this, did you share
2 what information or response, I should say, the
3 FBI provided?
4 A That we said "no comment."
5 Q Do you have familiarity with the statement
6 that 51 former intel officials put out about five
7 days after the New York Post story?
8 A I'm aware in general terms of that.
9 Q Did you have any familiarity with the
10 statement or that folks were working on a
11 statement prior to its publication?
12 A No. I just saw the news.
13 Q Once it was in the news, was there any
14 discussion among members of the FITF to share with
15 the social media companies that the story and the
16 laptop were not part of a Russian disinformation
17 effort?
18 A Not that I recall.
19 [redacted] Can we go off the record, please.
20 (Discussion held off the record.)
21 (Recess taken from 11:05 a.m.to 11:19 a.m.)
22 [redacted] It is 11:19. We can go back on
23 the record.
24 [redacted] thank you again for joining us
25 today. I appreciate it.

1 THE WITNESS. You're welcome.

2 [redacted] I'm going to make a version of

3 the comments that I was going to make at the

4 beginning. I understand that [redacted]'s concern

5 was that I intended to lay out a road map, I

6 guess, of what other witnesses have said. That's

7 not our intention. I do want to make it clear for

8 the record a couple of things, though.

9 I think we've heard from a number of FBI

10 witnesses, a number of technology company

11 witnesses -- and by technology companies, I mean

12 social media companies specifically.

13 What we've heard is that FBI acted in

14 accordance with its own policies throughout. And

15 I think in the first hour of questioning we didn't

16 hear anything that contradicted that.

17 I want to note that it is now October 23,

18 2024. We're here today to talk about an article

19 that was released on October 14, 2020. That's

20 four years.

21 I think our members have some concern with

22 the continued use of committee resources to

23 explore events that took place four years ago and,

24 in particular, I'm concerned that it may -- that

25 part of the goal of this investigation may be to

1 attack the Office of General Counsel of FBI,
2 taking -- getting rid of the OGC at FBI as one of
3 the goals of Project 2024. I wanted to make that
4 note on the record.
5 I wanted to also make the note that we
6 continue to have concerns about the transcripts
7 being withheld from the public in this case. We
8 have -- the majority has said that they are doing
9 that because the investigation is still ongoing,
10 but we do understand that transcripts have been
11 provided to America First Legal and to Jean
12 Hamilton and potentially to others as well, so the
13 transcripts have been provided to outside
14 entities, just not to the American public. And my
15 understanding is they've not been provided to FBI
16 either, although FBI is able to come and review
17 them in the majority's office space.
18 I also want to make the note that the
19 October 14, 2020, article, the topic of that
20 article was the Hunter Biden laptop, the alleged
21 Hunter Biden laptop. The committee and jointly
22 with the House Oversight Committee and the Ways
23 and Means Committee held -- I don't even know how
24 many transcribed interviews and depositions
25 concerning Hunter Biden matters. Those interviews

1 definitively showed that whatever was on the
2 laptop, whatever was not on the laptop, whatever
3 the truth of the October 14th article was or was
4 not, there is no involvement by President Biden in
5 his son's business affairs.
6 And finally, I want to note that our members
7 continue to have concerns. In fact, I believe a
8 letter was just sent today to the chairman of this
9 committee and other committees and copies -- or
10 actually, and to the ranking members as well,
11 noting concerns about continued misinformation and
12 the attempts to interfere in the election. I
13 would note that just yesterday there was a story
14 about Russia spreading misinformation about Vice
15 Presidential candidate Tim Walz. There's also
16 obviously the Iraq hack happened earlier this year
17 as well.
18 So our members' position is that the work of
19 the FITF is more important than ever, and we have
20 great -- and our members have great concern that
21 the work done by this -- or the way that the work
22 has been construed by the majority done in this
23 investigation, which, again, our members do not
24 think is an accurate representation of what the
25 investigation has shown, might have a chilling

1 effect on the FITF and its ability to do its work.
2 And, again, that is particularly concerning now in
3 the current climate, knowing that Russia and Iran
4 and China and others are actively working to
5 interfere.
6 So with that small preamble, let me move on
7 and get back to some of the stuff we were actually
8 talking about.
9 BY [redacted]
10 Q I want to that a step back and look at the
11 FITF writ large, how the FITF does its work. And
12 just, again, to clarify the record, the FITF
13 During these Foreign Influence Task Force;
14 correct?
15 A Correct.
16 Q And the focus of the FITF is on combating
17 malign foreign influence operations; correct?
18 A Correct.
19 Q Can you explain in layman's terms what a
20 malign foreign influence operation is?
21 A Sure. It's when a foreign government seeks
22 to be subversive, undeclared, covert, or
23 clandestine in their efforts to either influence
24 the U.S. government or the U.S. people.
25 Q And I don't want to get into anything

1 classified in this setting, but you mentioned in
2 the earlier hour that your focus was on voter
3 suppression efforts, and that's voter suppression
4 efforts by malign foreign entities; correct?
5 A In my role with the FITF, yes, those foreign
6 actors.
7 Q And can you explain broadly, again without
8 getting into classified information, what the
9 concern was in 2020 around the potential for
10 malign foreign actors to try to suppress the vote
11 in particular with respect to the time, place, and
12 manner?
13 A Sure. Our concern was that foreign actors
14 could use fake social media accounts to try and
15 mislead Americans about the manner, time, and
16 place of voting. So whether that was vote on
17 Wednesday, you know, the election is on Tuesday,
18 or something to that effect of tweet your vote,
19 which you can't tweet a vote. So making sure that
20 we were combating those efforts by foreign
21 governments.
22 Q And I want to look in little more depth at
23 how FBI worked to combat those efforts. And I'm
24 going to introduce -- I guess this is Exhibit 1 --
25 as Exhibit 1 a printout from FBI's website. It's

1 entitled "Combating Foreign Influence."
2 A Okay.
3 (Exhibit Number 1 was
4 marked for identification.)
5 BY [redacted]
6 Q Have you seen this before?
7 A Yes, I have.
8 Q And I want to actually look at the -- this is
9 a web page, so it's all one page --
10 A Yes.
11 Q -- but as printed out, it's the second page
12 of this exhibit.
13 On the second page at the top it says:
14 "Through the FITF, the FBI is taking a
15 three-pronged approach to this serious threat."
16 Do you do where it says that?
17 A Yes.
18 Q And I want to talk through each one of those
19 prongs in succession.
20 A Okay.
21 Q So the first prong reads: "Investigations and
22 operations. The FITF works with FBI field offices
23 across the country to counter the extensive
24 influence operations of our foreign adversaries."
25 Did I read that correctly?

1 A Yes.
2 Q And at a high level, what's your
3 understanding of what that means?
4 A The FITF, being headquarters, works with
5 field offices around the country who have
6 individual investigations into specific efforts by
7 foreign states to do malign foreign influence
8 against the U.S.
9 Q And then the second prong reads "Information
10 and intelligence sharing. The FBI works closely
11 with other intelligence community agencies as well
12 as with state and local law enforcement partners
13 and election officials to ensure a common
14 understanding of the threat and unified strategy
15 to address it."
16 Did I read that correctly?
17 A Yes.
18 Q And briefly, what's your understanding of
19 what that means?
20 A That the FBI works in partnership with our
21 MUSC intelligence community agencies as well as
22 state and local government partners who have a
23 role in this space.
24 Q And then the third prong is really the focus
25 of what we're here today to talk about. The third

1 prong reads "Private sector partnerships. The FBI
2 considers strategic engagement with U.S.
3 technology companies, including threat indicator
4 sharing, to be important in combating foreign
5 influence actors. The FBI also partners with
6 election stakeholders to defend against foreign
7 malign influence on U.S. elections "
8 Did I read that correctly?
9 A Yes.
10 Q And I want to look at the first sentence
11 there, "The FBI considers strategic engagement
12 with U.S. technology companies, including threat
13 indicator sharing, to be important in combating
14 foreign influence actors."
15 What are threat indicators?
16 A So particularly in this space, we're talking
17 about technical intelligence on what foreign
18 states are doing via social media to influence the
19 government or the public. So IP addresses, URLs.
20 Q And why is it important -- what's your
21 understanding of why it's important for the FBI
22 and the Foreign Influence Task Force to share
23 threat indicators with social media companies?
24 A Broadly, the FBI seeks to combat these
25 foreign malign influence efforts, and by sharing

1 information with the private sector, we can have a
2 greater effect to try and limit the ability of
3 foreign states to influence the U.S. public and
4 government.
5 Q And can you explain a little more about how
6 this type of information sharing works? I know we
7 talked about the bilateral meetings earlier. Any
8 other methods of sharing information?
9 A Publicly? As you see, we have this page on
10 our website. There's also others where we have
11 educational information about what election crimes
12 are, what constitutes voter suppression, so that
13 not only are we doing this with the private
14 sector, but we can activate the public as part of
15 the partners we have in this space.
16 Q So one example of that -- and I realize you
17 are no longer with the Foreign Influence Task
18 Force. But this past summer, when it became known
19 that Iran was trying to distribute hacked material
20 or what appears to be hacked material from the
21 Donald Trump campaign, the FBI made that public.
22 That would be an example of public information
23 sharing; is that right?
24 A It seems like it.
25 Q Again, with the understanding that you were

1 not there. I'm just trying to use an example.
2 A It seems in line with the ODNI election
3 security component.
4 Q Is it fair to say that, talking about, again,
5 sharing directly with social media companies, with
6 technology companies, that when FITF shares
7 information with these companies, including
8 information like threat indicators, it does so
9 with the expectation that these companies will use
10 their own means of addressing or verifying or will
11 ultimately make their own determinations as to
12 whether to take action with respect to any
13 information provided by the FITF?
14 A We do provide -- from my time on the FITF, we
15 provide information, and then the companies could
16 do with it what they chose.
17 Q So if the companies wanted to, they could
18 ignore information the FBI provided; correct?
19 A It's their platform. They can choose
20 whatever.
21 Q And is it fair to say that FBI -- we're
22 talking about the FITF here, but FBI broadly
23 shares information with private sector companies?
24 So, for example, with the energy sector, if
25 there's a threat to the energy sector, the FBI

1 will share information?
2 A Sure. We have an intelligence product line,
3 offer a liaison information report, and you'll see
4 many cybersecurity products along a similar vein.
5 Q And, again, when a cybersecurity product is
6 released, those are often released publicly;
7 correct?
8 A Correct.
9 Q And companies can choose to take action or
10 they can choose to ignore them; correct?
11 A Correct.
12 Q During your time with the FITF, did you ever
13 ask any social media company to remove any account
14 on its platform?
15 A Our job was not to ask for its removal. We
16 were providing indicators that they could choose
17 to do with what they will.
18 Q So "no" During these answer? You never asked
19 any company to remove an account on its platform?
20 A That is correct.
21 Q Okay. During your time with the FITF, did
22 you ever witness any other FBI employee ask any
23 social media company to remove any accounts from
24 its platform?
25 A Not to my recollection, no.

1 Q In your time -- and I have a series of these
2 questions.
3 In your time with the FITF, did you ever
4 witness any other U.S. government employee ask any
5 social media company to remove any account from
6 its platform?
7 A Not to my recollection.
8 Q In your time with the FITF, did you ever ask
9 any social media company to remove any particular
10 content from its platform?
11 A Not to my recollection, no.
12 Q In your time at the FITF, did you ever
13 witness any other FBI employee ask any social
14 media company to remove any particular content
15 from its platform?
16 A Not to my recollection, no.
17 Q And, finally, during your time at the FITF,
18 did you ever witness any other U.S. government
19 employee ask any social media company to remove
20 any particular content from its platform?
21 A Not to my recollection, no.
22 Q In your experience at the FITF, did the FBI
23 contact social media companies regarding accounts
24 based on the nature of the account that -- of the
25 content that the account was sharing or based on

1 concerns that the account might be operated by a
2 malign foreign actor?
3 A So to unpack that one a little bit: On the
4 national security side of the Foreign Influence
5 Task Force, we did not examine content. Much more
6 technical indicators.
7 On my and CID's narrow lane of voter
8 suppression, there was a content-based analysis
9 about whether someone was saying misleading
10 information about the manner, time, and place of
11 voting.
12 Q And that's in part because it's potentially
13 illegal to spread misinformation --
14 A Correct.
15 Q And just to finish my question. And that's
16 in part because it's actually potentially illegal
17 for anyone to spread incorrect information about
18 the time, place, and manner of voting; correct?
19 A That is a potential criminal violation, yes.
20 Q There's been an allegation made that FBI and
21 more specifically the Foreign Influence Task Force
22 warned social media companies of a likely hack and
23 leak or a potential hack and leak involving Hunter
24 Biden specifically.
25 Did you ever participate in any briefing at

1 which anyone from FBI delivered such a warning?
2 A And in this, you mean to social media
3 companies?
4 Q Yes.
5 A No, I did not. Not to my recollection.
6 Q Did you ever participate in any briefing to
7 social media companies in which anyone else from
8 the United States government delivered such a
9 warning?
10 A As I referenced in earlier discussions, there
11 were general discussions about the Russians
12 potentially doing a hack and leak, but we never
13 discussed any of what the content would be. As I
14 mentioned, content neutral on the national
15 security side.
16 Q Understood. And so the conversations were
17 the Russians have previously used hack and leak as
18 a tactic; correct?
19 A Correct.
20 Q The conversations were not and we anticipate
21 the Russians may release hacked information about
22 Hunter Biden; correct?
23 A Correct.
24 Q I want to turn to that October 14, 2020,
25 meeting with Twitter a little more specifically.

1 There's been an allegation made that during
2 the October -- the October 14th meeting with
3 Twitter that you said during that meeting that,
4 quote/unquote, the laptop is real or the laptop
5 was real.
6 Did you make any comment to that effect?
7 A Those are not the words I used.
8 Q And, in fact -- withdraw that.
9 I want to turn to the discussion about the
10 "no comment," which you indicated that the
11 decision was made that there would be no comment
12 about what Yoel Roth said; correct?
13 A Correct.
14 Q Is it your experience that the FBI generally
15 does not comment on investigations?
16 A Yes, that is my experience.
17 Q So would you agree that "no comment" is a
18 fairly typical response from the FBI?
19 A Yes, it is.
20 Q In fact, it's FBI policy that FBI virtually
21 never comments on potential or ongoing
22 investigations; correct?
23 A To the best of my understanding, yes.
24 Q So commenting on an investigation would
25 actually be a departure from that policy; correct?

1 A To my understanding, yes.
2 Q What's your understanding for the reasons why
3 FBI does not comment on potential or ongoing
4 investigations?
5 A I just follow the policy. I'm less one to
6 sort of investigate the reasons of them.
7 Q Okay. I want to introduce as Exhibit 2
8 another page from the FBI's website. This is from
9 the FBI's website about frequently asked questions
10 page.
11 (Exhibit 2 was marked for
12 identification.)
13 [redacted] I'll give you a minute to read
14 it.
15 Are you ready to continue?
16 THE WITNESS. Yes.
17 BY [redacted]
18 Q The question in this frequently asked
19 questions section reads: "Can I obtain detailed
20 information about a current FBI investigation that
21 I see in the news?"
22 Did I read that correctly?
23 A Yes.
24 Q And then the answer provided is:
25 "No. Such information is protected from

1 public disclosure in accordance with current law
2 and Department of Justice and FBI policy. This
3 policy preserves the integrity of the
4 investigation and the privacy of individuals
5 involved in the investigation prior to any public
6 charging for violations of the law. It also
7 serves to protect the rights of people not yet
8 charged with a crime."
9 Did I read that correctly?
10 A Yes.
11 Q So according to this -- again, it's from the
12 FBI's website -- the reason that FBI doesn't
13 comment on ongoing or potential investigations is
14 to preserve the integrity of those investigations;
15 correct?
16 A So saith the website, yes.
17 Q There's also privacy concerns involved
18 because individuals whose names might be involved
19 in a potential or ongoing investigation ultimately
20 might not be charged with a crime; correct?
21 A Correct.
22 Q I realize -- [redacted], you're not an
23 attorney; correct?
24 A Correct.
25 Q Are you familiar broadly with the Justice

1 Manual?
2 A In very broad terms.
3 Q Okay. The Justice Manual is produced by the
4 Department of Justice, and it's provided to
5 prosecutors to help with its policy guidelines for
6 prosecutors. Is that a fair summation of what it
7 is?
8 A Yes.
9 Q FBI is a component of the Department of
10 Justice; correct?
11 A Yes.
12 Q FBI is bound by Department of Justice
13 policies; correct?
14 A Yes. In my experience, yes.
15 [redacted] I want to introduce as Exhibit 3
16 Section 1-7.100, which is entitled "The General
17 Need for Confidentiality," which is from the
18 Justice Manual.
19 I should note this entire section, 1-7.000,
20 was quite lengthy when printed. We're only going
21 to look at 1-7.100, which is "A General Need for
22 Confidentiality," so we haven't printed off the
23 entire thing. The entire section is available on
24 the Department of Justice's websites.
25 (Exhibit 3 was marked for

1 identification.)
2 BY [redacted]
3 Q Let me know when you've had a minute to read
4 it and are ready to continue.
5 A Yes.
6 Q So I'm going to read this section into the
7 record. The first paragraph reads:
8 "Much of DOJ's work involves nonpublic
9 sensitive matters. Disseminating nonpublic
10 sensitive information about DOJ matters could
11 violate federal laws, employee nondisclosure
12 agreements, individual privacy rights, put a
13 witness or law enforcement officer in danger,
14 jeopardize an investigation or case, prejudice the
15 rights of a defendant, or unfairly damage the
16 reputation of a person."
17 Did I read that correctly?
18 A Yes.
19 Q So is this consistent with your understanding
20 for the reasoning behind the policy that FBI, DOJ,
21 and by extension, FBI cannot comment on ongoing
22 investigations?
23 A Yes.
24 Q And then the second paragraph reads:
25 "DOJ personnel" -- and, again, FBI personnel

1 are considered DOJ personnel; correct?
2 A Yes.
3 Q "DOJ personnel should presume that nonpublic
4 sensitive information obtained in connection with
5 work is protected from disclosure except as needed
6 to fulfill official duties of DOJ personnel and is
7 allowed by court order, statutory or regulatory
8 prescription, or case law and rules governing
9 criminal and civil discovery. Other than as
10 necessary to fulfill DOJ duties, disclosure of
11 such information to anyone, including family
12 members, friends, or even colleagues, is
13 prohibited and could lead to disciplinary action.
14 Unauthorized disclosures of sensitive personal or
15 proprietary information could lead to criminal
16 prosecution or administrative action."
17 Did I read that correctly?
18 A Yes.
19 Q So you agree that the policy makes it clear
20 that DOJ personnel could actually be subject to
21 discipline if they were to divulge information
22 about nonpublic matters; Correct?
23 A Correct.
24 Q The one exception here is as required by
25 official -- official duties may require disclosure

1 of such information; correct?
2 A Correct.
3 Q Was it part of your official duties to
4 comment on the New York Post Hunter Biden story?
5 A Not to my recollection, no.
6 Q So if you had provided any comment or anyone
7 else on FITF had provided any comment on the
8 story, it actually would have violated department
9 policy; correct?
10 A I think we were cognizant of these policies
11 and trying to be very careful about our statements
12 regarding that topic.
13 Q Okay. When the statement -- when the "no
14 comment" -- when the statement was made that we
15 have -- that the department has or that FBI has no
16 comment on the October 14th story, was it your
17 intention to encourage Twitter or any other social
18 media company to suppress the story?
19 A No. That was certainly not my intention, to
20 my recollection.
21 Q Okay. The statement was made in the earlier
22 hour -- and I'm paraphrasing it because I didn't
23 take it down directly, but I believe the question
24 was whether you had any concern with Mr. Roth's
25 statement that the story was likely Russian

1 disinformation and that they intended to suppress
2 -- "they" being Twitter -- intended to suppress
3 the article.
4 Q At the time, you had just learned about the
5 laptop that morning; correct?
6 A Correct.
7 Q As you were sitting in that meeting, did you
8 know what percent of that article might or might
9 not be true?
10 A No, I did not.
11 Q You hadn't worked on that investigation?
12 A That is correct.
13 Q And you didn't know if the laptop was part of
14 the Russian disinformation plot?
15 A I had very little familiarity with the
16 laptop.
17 (Discussion held off the record.)
18 Q And so the question earlier about, you know,
19 did it concern you that Twitter intended to
20 suppress the story, is that something that crossed
21 your mind when you were sitting in that meeting?
22 Or were you more concerned about protecting the
23 integrity of a potential investigation?
24 A I wanted to make sure to speak to CID
25 equities on that call to ensure that we were not

1 commenting on any sort of ongoing matter.
2 Q Okay. And the reason that you weren't
3 commenting was because of department policies;
4 correct?
5 A Correct. Intending to follow all the
6 appropriate policies.
7 Q When you say "CID equities," part of the
8 reason is also that you didn't want to potentially
9 compromise any potential ongoing investigation;
10 correct?
11 A That is correct.
12 [redacted] We can go off the record. Thank
13 you.
14 (Recess taken from 11:46 a.m. to 11:53 a.m.)
15 BY [redacted]
16 Q I want to pick back up. You mentioned, I --
17 think it was for the SSA sitting next to you, do
18 you remember some aspects of this individual's
19 name or was that someone else?
20 For the SSA sitting next to you, did you
21 mention that you remember some aspects of that
22 individual's name?
23 A I mean, I would be guessing. I'd hesitate to
24 guess about it.
25 Q Was it a man or a woman?

1 A Man.
2 Q Do you remember the first name, at least?
3 A I mean, again, I'd be guessing. I know after
4 his 18-month headquarters tour, he went back to
5 the Baltimore field office.
6 Q And did you -- had you worked with this
7 individual before or after?
8 A Very little. He -- for most of his time at
9 headquarters, he was a regular public corruption
10 program manager, supervisory special agent. We
11 had -- I think, recently had one of our
12 operational counterparts from public corruption
13 who was detailed to the FITF had rotated out to a
14 different position, so he was briefly filling in
15 for a couple-week period.
16 Q Those couple weeks in October of 2020?
17 A Uh-huh.
18 Q And during that -- just walk us through.
19 Your offices were next to each other?
20 A Yes. It would be nice if we all had offices,
21 but it's much more cubicles. A windowless room
22 where there was a series of six cubicles. I was
23 sitting here. There was another analyst assigned
24 from public corruption to the FITF next to me. He
25 had the cube in front of me.

1 Q And when he's expressing surprise, is he
2 talking to you directly or is he just kind of like
3 sharing it with the office broadly?
4 A Kind of out to the office broadly, because we
5 were in this -- because we were working in public
6 corruption matters, we were removed where we sat
7 from most of the other FITF members due to the
8 sensitivities of the cases that we were involved
9 in.
10 So I think at that time there may have been
11 just the three or four of us in that office.
12 Q Who else was in the office that morning?
13 A Again, recalling back four years ago, but I
14 believe another analyst from public corruption
15 intel analysis who was detailed to the FITF, this
16 SSA from PCU, and perhaps another SSA from PCU who
17 was detailed to the FITF.
18 Q And do you recall the names of those
19 individuals?
20 A I remember two out of the three, but they are
21 non-SAS'ers.
22 [redacted] It may be necessary to request
23 their names.
24 [redacted] We'll take it back as part of the
25 accommodation process, [redacted]

1 Q When the SSA is expressing his surprise at
2 the article and everything else going on, did
3 anyone else in the room react?
4 A Perhaps the analyst next to me just kind of
5 gave that raised eyeball little reaction. That's
6 about it.
7 Q When going through the article, I mean, was
8 this a prolonged part, identifying specific parts
9 that the SSA was surprised made the article?
10 A I don't recall it at that detailed level.
11 Q I want to go through a couple of other
12 individuals affiliated with the FITF.
13 Do you know who [redacted] is?
14 A I do.
15 Q Who is that?
16 A So I don't think [redacted] was working at the FITF
17 when I was there. I know at this time I think
18 he's the assistant section chief.
19 [redacted] The individual you just
20 referenced is currently in a non-SES role on the
21 Foreign Influence Task Force. We would
22 respectfully request that the committee not
23 publish his name in any outward-facing way today's
24 conversation is used.
25 THE WITNESS. Give me one second.

1 [redacted] Yes.
2 (Discussion held off the record.)
3 Q Do you know who [redacted] is?
4 A I do.
5 Q What was his role with the FITF?
6 A In following [redacted] he was the FITF
7 Russia unit chief.
8 Q Was he with FITF before that?
9 A Yes. He was an SSA, FITF Russia.
10 Q How frequently did you interact with him when
11 you were with the FITF?
12 A Quite frequently. Near daily.
13 Q How often would he attend the bilateral FITF
14 meetings with the social media companies?
15 A Pretty regularly, I'd say.
16 Q Could you say a little bit more about how his
17 role was in the hierarchy in relation to yours in
18 the Russia unit?
19 A He was one of the supervisory special agents
20 at that time before becoming later the unit chief,
21 so he was one of my primary counterintelligence
22 division operational counterparts.
23 Q Was he on the Twitter FITF call on the
24 14th?
25 A I don't know for sure.

1 Q But to your recollection, he attended most of
2 the FITF meetings?
3 A To my recollection, yes.
4 Q Did you have any discussions with him about
5 the New York Post story about the laptop or the
6 investigation?
7 A Not that I recall.
8 Q Do you know who [redacted] is?
9 [redacted] The individual you just
10 referenced is currently a non-SES employee working
11 in the office of the private secretary of
12 engagement, so we would respectfully request you
13 not publish their name.
14 THE WITNESS. I do know [redacted]
15 Q Was she on the FITF while you were?
16 A I don't know if we overlapped. I know she
17 later took the FITF China unit chief job.
18 Q Did you work with her while you were part of
19 the FITF?
20 A I don't think so.
21 Q Do you know who [redacted] is?
22 A I do.
23 Q And what's his role with the FITF?
24 A He's one of the subject matter expert
25 intelligence analysts on FITF Russia.

1 Q And was he part of the FITF when you were?
2 A Yes, he was.
3 Q How often would he attend the FITF bilateral
4 meetings?
5 A Occasionally, I would say.
6 [redacted] For the same reason, I just
7 request that you redact his name from any public
8 release of today's transcript.
9 Q Do you recall if he was on the Twitter FITF
10 call on the 14th?
11 A I don't recall if he was or not.
12 Q Do you know who [redacted] is?
13 A I do.
14 [redacted] Reiterating my request for the
15 record.
16 Q And what was -- what is or was her role with
17 the FITF?
18 A She was one of the cyberdivision analysts
19 detailed to the FITF Russia.
20 Q How often would she attend the FITF bilateral
21 meetings?
22 A Occasionally as well.
23 Q Do you recall if she was on the Twitter FITF
24 meeting?
25 A I don't recall if she was or was not.

1 Q And as part of your current role, do you have
2 any direct engagement with FITF?
3 A I do, but I want to be mindful of potential
4 classified equities here.
5 Q Do you understand that after you departed
6 from the FITF, did the pace or frequency of the
7 meetings change?
8 A I'm not sure. I can't speak to that.
9 Q In your current role, do you ever attend FITF
10 bilateral meetings?
11 A No.
12 Q In your current role, do you ever attend the
13 U.S. government industry partner meetings?
14 A No.
15 Q Do you have any awareness of whether meetings
16 between the FITF and social media companies were
17 paused in 2023?
18 A I wasn't a part of the FITF at the time, so I
19 don't have any knowledge of pace or any of those
20 matters.
21 Q Do you have any familiarity with the standard
22 operating procedure the FBI adopted for
23 engagements with social media companies?
24 A Is there a time frame?
25 Q The most recent one I understand was adopted

1 in this year, earlier in 2024.
2 A I'm not familiar with those.
3 Q In 2020, were you aware of any standard
4 operating procedures addressing how the FITF or
5 others within the FBI should engage with social
6 media companies?
7 A There were guiding policy documents. One
8 that I recall today During these DOJ Cyber Task
9 Force report. That may not be the exact correct
10 title.
11 Q Do you remember any other guiding documents?
12 A We have our standard ones with the FBI, the
13 DIOG and other FBI policies.
14 Q The DOJ Cyber Task Force report, was that for
15 a different task force or was that just named for
16 the FITF?
17 A It was not specifically for the FITF, but it
18 included a big section on foreign influence. I
19 think it was released under the auspices of Deputy
20 Attorney General Ron Rosenstein.
21 Q For any of these guidance policy documents,
22 were any FITF-specific that you can recall?
23 A I think that DOJ cyber one does speak to
24 FITF's role.
25 Q Any others?

1 A That's the one that I remember best today.
2 BY [redacted]
3 Q [redacted] thanks for coming in --
4 A Sure.
5 Q -- from [redacted]
6 Real quick, I just want to frame out
7 something quickly for us, and then I have a couple
8 of questions. You may or may not have direct
9 knowledge, but I think it puts the final point on
10 where we're gathered here and why we have been
11 gathered here so often in the past.
12 I'm going to hit the timeline real quick on
13 the events. It's going to be very, very brief and
14 very, very rough. But for the sake of just sort
15 of a quick review, October of '19, roughly, is
16 when Mac Isaac filed a report of the existence of
17 this laptop to the FBI in Albuquerque.
18 In December of '19, Wilmington RA actually
19 takes possession of said laptop. By spring,
20 March-April of '20 -- and this is just for the
21 benefit -- I'm not talking at you, just for the
22 benefit of the room here.
23 Roughly spring, March, April of '20, in fact,
24 the laptop has been authenticated and is under
25 review by the FBI's computer forensic folks, so

1 there's no doubt as to that it exists and, of
2 course, it's being examined.
3 By summer of '20, sort of a fun fact, not
4 necessarily related, the Aspen Security Institute
5 has a tabletop exercise with major media outlets
6 to basically rehearse how they would cover a
7 potential hack and dump operation story should it
8 occur. And then, lo and behold, miracle of
9 miracles, in October of '20, in fact, there is a
10 story that comes out about a laptop. And then, of
11 course, the events that we detailed.
12 So with that being a rough timeline, I just
13 think it's important to remember that there's no
14 alleged laptop. There's a laptop. It's been
15 confirmed, it's been corroborated, and it's
16 actually under active investigation. I say that
17 for the good of the room with the heading of the
18 next question.
19 With that being the backdrop, to your
20 knowledge -- and this is just to your knowledge --
21 did the FBI's investigation ever at any point
22 indicate anything that would make this look like
23 it was a Russian disinformation operation?
24 [redacted] Just for the record, that's the
25 committee's representation of these events and not

1 necessarily contingent on the FBI's extensive
2 accommodations regarding this general fact
3 pattern.
4 THE WITNESS. And I wasn't directly involved
5 in the investigation, so it's difficult for me to
6 really answer that question.
7 Q The reason I ask that question is that -- and
8 perhaps unbeknownst to some in the room, I'll
9 represent that this committee, its investigators,
10 myself included, as well as Mr. Comer's oversight
11 investigators have made contact and have had
12 witnesses from the Wilmington investigative team.
13 And having at least a baseline knowledge of FBI
14 operations myself, I do understand that when we're
15 actively investigating a matter, especially a
16 matter of that type of import, we would be -- that
17 investigative team would be getting regular
18 updates, of course, to management, both in the
19 Baltimore field office, who oversaw the Wilmington
20 resident agency, what we call the RA, and to FBI
21 headquarters components.
22 With that being the case, it is the
23 committee's understanding -- and when I say
24 committees, I will say plural, both this committee
25 and Mr. Comer's committee -- that the Wilmington

1 RA case agents were, in fact, doing their job at a
2 high level we expect, and they were finding
3 evidence of criminality. They were briefing that
4 evidence of criminality to FBI headquarters and
5 were very surprised when the output from FBI
6 headquarters would be "We aren't sure this laptop
7 exists" and/or "It may be Russian disinformation."
8 So of course they would go -- rather rinse, repeat
9 again, and brief those results back up to FBI
10 headquarters, which were -- and I'm not suggesting
11 you'd know this, but I think it's important to
12 understand the detail from the actual
13 investigators showing evidence of clear
14 criminality, reaching out to FBI headquarters and
15 then once again coming out "We're not sure the
16 laptop exists" and/or "It could be Russian
17 disinformation."
18 So with that being the case, do you
19 personally, [redacted] have any firsthand
20 knowledge of any of the discussions -- and I
21 realize that they may have been senior to your
22 level -- as to how that discrepancy with the
23 investigative reporting and the output by FBI
24 specifically with FITF had occurred?
25 A I don't think I have firsthand knowledge of

1 those discussions.
2 Q I appreciate that. And I wasn't sure that
3 you did.
4 And part of my soliloquy was for the benefit
5 of framing why we've had so many of these
6 interviews.
7 And I will add to being intimately familiar
8 with the FBI's righteous policy of not commenting
9 on ongoing investigations I would submit to all in
10 this room that had the FBI merely added to that
11 testimony that we have possession of a laptop,
12 it's an active investigative matter, and therefore
13 we have no further investigation, we may have
14 saved lots of time and effort by this committee
15 and others and not be sitting in this room.
16 But I thank you for coming in from [redacted] for
17 this and subjecting yourself, [redacted]
18 A Sure.
19 [redacted] That's all I have.
20 BY [redacted]
21 Q When you say "no firsthand knowledge," just
22 to press a little bit more, any secondhand
23 knowledge?
24 A To the extent I knew about the Hunter Biden
25 investigation, heard the discussion from the

1 morning of the 14th, perhaps I learned a few
2 months before in the most general term that there
3 was an investigation involving Hunter Biden in my
4 lane as being in public corruption.
5 Q And how did you learn about that?
6 A As I mentioned earlier, in public corruption,
7 part of the duties of the headquarters unit is to
8 track the investigations into public officials or
9 ones that are close to public officials. So since
10 public corruption is very sensitive -- are very
11 sensitive investigations, there's a lot of
12 awareness maintained by those at headquarters
13 about some of the cases that are most sensitive,
14 this being one of them at the time.
15 Q And so is it the case team or headquarters
16 who provided you some sort of information about
17 the investigation?
18 A The public corruption unit at headquarters.
19 Q Do you remember who specifically?
20 A There's a work product that the public
21 corruption unit has about these sensitive cases,
22 just that they exist.
23 Q What do you recall about the work product
24 related to the Hunter Biden investigation?
25 [redacted] Well, I think that your question

1 implicates certain internal potentially privileged
2 deliberative documents, law enforcement sensitive
3 equities, ongoing investigative equities as well
4 as potential classification concerns.
5 THE WITNESS. So at least for these questions
6 on that document, all that would be listed for
7 this case is subject, case number, violation.
8 Q Do you remember when, approximately? When
9 you say a few months, how far before?
10 A At this stage, that's sort of the best of my
11 recollection was a few months before.
12 Q The individual who sat next to you in the
13 SSA, you said there were some rearrangements; he
14 was actually only next to you for a couple of
15 weeks during his 18 months. Where was he prior to
16 that?
17 A He was one of the SSAs in the public
18 corruption unit.
19 Q Would he have been within the same office or,
20 you know, no window room space? I'm trying to get
21 a sense. Was this someone you interacted with
22 with any degree of frequency prior to 2020?
23 A So, not much. Just for some of the
24 logistics, criminal investigative division sits in
25 more open space because a lot of the work is not

1 classified. That's the main offices of the public
2 corruption unit. And for most of the analysts
3 doing public corruption intelligence work are on a
4 different floor. Those of us who were detailed to
5 the FITF sat on the counterintelligence division
6 floor. So for most of his 18-month tour, he was
7 down in the CID space.
8 Q From that first time you were made aware of
9 this investigation, when the October 14, 2020,
10 story breaks, do you know of anyone else, either
11 on your floor or just generally, who is affiliated
12 with the investigation?
13 A No. At headquarters it was more so a -- in a
14 program management role, which would have been
15 that SSA who sat next to me and, perhaps, I would
16 imagine, the unit chief of public corruption knew
17 as well, but we never -- we hadn't spoken about
18 the case.
19 Q And when was the first time that you had a
20 sense that part of the investigation involved the
21 laptop or the hard drive from the laptop?
22 A Just that discussion the morning of the
23 14th.
24 Q During the Twitter FITF meeting, was there
25 any discussion of the laptop itself, whether it

1 exists, whether it was real?
2 A I don't recall the laptop being specifically
3 mentioned. It's possible that Mr. Roth read the
4 title of the article or something that may have
5 mentioned it. I don't recall that exactly.
6 Q And what about in the U.S. industry partner
7 meeting, the next meeting? Was there any
8 discussion of the laptop?
9 A I don't remember the laptop itself being
10 mentioned specifically. It's possible.
11 (Discussion held off the record.)
12 A Just to clarify, for questions about that
13 second call, I remember there being multiple
14 social media companies on the call, but I don't
15 recall if there were other government agencies. I
16 think it was just FBI.
17 Q Okay. And was that unusual?
18 A It didn't seem unusual at the time. We may
19 have had, like -- we had a pretty steady beat of
20 bilateral meetings. It was just different when it
21 was all conference calls in the time of COVID. So
22 I'd have to look back at the notes and agendas at
23 the time to see how regularly there were these
24 multiple social media company calls, but it was
25 prescheduled. This was not one that was like only

1 on the 14th did we schedule it. It had been
2 scheduled before.
3 Q Whether for the 14th or just generally, in
4 advance of these broader calls, would the U.S.
5 government partners coordinate in advance in any
6 way?
7 A So I wasn't generally a part of the ones with
8 multiple USG partners, so I can't speak as much to
9 those. When it was FBI with a company or multiple
10 companies, there was preparation and an agenda
11 made.
12 Q I guess just to press on more, if you don't
13 know based off the content -- but for the ones
14 that had, say, SISA, other components of DHS along
15 with FBI and sometimes ODNI, you don't have any
16 familiarity one way or another if there was a
17 pre-meeting among just U.S. government partners to
18 coordinate their agenda?
19 A I wasn't a part of those, so I don't know
20 exactly. I wasn't a part of those.
21 Q Do you know if anyone from FITF or the FBI
22 generally communicated to other U.S. government
23 partners that the FBI's response would be "no
24 comment" if there was a question from the social
25 media companies?

1 A I don't know if that was given to other USG
2 agencies.
3 Q Do you know if there was any conversation
4 between the FBI and other agencies on or after the
5 14th about questions from social media companies
6 about either the laptop, the article, the
7 existence of the investigation?
8 A I think what I could say is to my
9 recollection, I didn't have any.
10 Q For the work product that you had mentioned
11 that you haven't received a few months earlier,
12 who else on the FITF would have had the
13 opportunity to see that?
14 A I don't think generally the FITF members
15 would see that. That was only for people in
16 public corruption.
17 Q In the prior hour, you mentioned that U.S.
18 government representatives would share, you know,
19 past examples of Russia and others using the
20 tactic of hack and leak, but that there was no
21 discussion of content. Did the social media
22 companies ever try to press, though, and ask what
23 content might be hacked and might be leaked?
24 A Not to my recollection, no.
25 Q Did that surprise you? It seems like that

1 would be kind of the most obvious next question.
2 A It didn't surprise me at the time.
3 Q How come?
4 A That's generally not how the discussions
5 would go.
6 Q Did anyone from the social media companies or
7 the government partners ever try to raise
8 potential topics of what might be hacked or what
9 might be leaked?
10 A Not that I recall.
11 Q Do you have any familiarity with the
12 roundtable that the Aspen Institute hosted in the
13 summer of 2020?
14 A Only from hearing about it today and then
15 maybe in some of the prep materials.
16 Q Did you ever receive a briefing during your
17 time at the FITF about whether a confidential
18 human source was a victim of a foreign influence
19 operation?
20 A I think in --
21 [redacted] Your question implicates sources,
22 methods, concerns. We'll have to address those
23 based off your follow-up questions.
24 THE WITNESS. I think in general terms, I can
25 answer yes to that question.

1 Q Do you know who Tim Tebow is or is affiliated
2 with the FBI?
3 A Yes, in general terms.
4 Q How often did you interact with Mr. Tebow
5 during your time with FITF?
6 A Never directly. I knew of his role at the
7 Washington field office.
8 Q Do you have any familiarity with the
9 October 2020 briefing that FITF provided to
10 Mr. Tebow?
11 A Not specifically, no.
12 Q Does the FITF ever engage directly with
13 confidential human sources?
14 A That seems like it would implicate some
15 classified equities.
16 [redacted] If you could be more specific
17 with your question. "Engage" is somewhat broad.
18 Q The subject has to do with the FITF's
19 interactions with Mr. Tebow.
20 A Okay.
21 Q I'm not going to get into the prior
22 testimony. I don't think it's necessary for the
23 witness today.
24 For the leaked documents from the DNC in the
25 summer of 2016, as part of your role at the FBI,

1 did you work on that matter at all?
2 A No. At that time I was on my research
3 sabbatical.
4 Q And what about the Crossfire Hurricane
5 investigation?
6 A Again, I think at that time I was on my
7 research sabbatical.
8 Q In the lead-up to the 2020 election, the
9 reports from -- they're all the in the public
10 domain now -- an election command post being set
11 up, run out of the San Francisco field office.
12 Are you familiar with that?
13 A Familiar with the one in San Francisco and
14 was part of the one at headquarters.
15 Q Can you walk us through what the purpose of
16 each command post was at the San Francisco
17 headquarters?
18 A So headquarters, we had a command post that
19 went 24/7 in the lead-up during and after the
20 election to take in reports about potential
21 threats to the election, whether foreign malign
22 influence indicators or, on the CID side, whether
23 there were any of the violations that we worked
24 present and relevant to the election so we could
25 work those criminal violations. This included

1 potential voter suppression, intimidation of
2 election workers, etc.
3 Q How many people were at each command post in
4 2020?
5 A I can't speak to the San Francisco one, but
6 at headquarters, I think we had, perhaps, two
7 competing -- not competing, but two complementary
8 command posts at the time. The one I was in,
9 focused on the election itself, was each shift
10 perhaps 20 to 30 people and three shifts during
11 the 24 hours.
12 Q What was the other one?
13 A I think it was called the NC3. I can't
14 remember what that acronym stands for.
15 (Discussion held off the record.).
16 A Ours was focused on the election itself. I
17 think the other one was focused on potential
18 violence that was not necessarily election-related.
19 Q So is that one pre and post existing the
20 election?
21 A I believe so.
22 Q And who was in charge of the first one, the
23 election-focused command post?
24 A FITF was.
25 Q Do you recall who, specifically?

1 A I think it fell under the auspices of DAD
2 Flores, Nickie Flores, counterintelligence
3 division.
4 Q During this time with the command post, are
5 you physically changing where your desk is
6 normally?
7 A Correct.
8 Q And following the New York Post story and the
9 series of meetings prescheduled for the 14th, do
10 you recall any discussions with anyone as part of
11 the election command post about the story, the
12 investigation, the laptop?
13 (Discussion held off the record.)
14 THE WITNESS. Just to clarify, the command
15 post was set up just the days immediately before
16 the election, so there was still a few weeks
17 between the 14th call and the command post being
18 set up.
19 But I don't recall discussions with people at
20 the command post about the New York Post story.
21 Q Do you have any familiarity with whether
22 others within the IC had an understanding of the
23 ongoing investigation pre-October 2020?
24 A To my recollection, I don't know that the IC
25 was aware. I don't recall any time that they

1 would be.
2 Q In the -- we'll say the summer of 2020,
3 approximately how frequently are you interacting
4 with representatives from ODNI?
5 A I'd say I was on email chains with ODNI
6 perhaps on a weekly basis.
7 Q Any other engagements?
8 A Because I wasn't a part of those sort of
9 multi-USG Agency meetings, my engagement was much
10 more via email.
11 Q Were there members of the Russia unit who
12 would have regular engagements with ODNI?
13 A I think so.
14 Q Do you know who in particular?
15 A I mean, generally, as analysts, when you
16 write a finished intelligence product, it could be
17 distributed to other members of the intel
18 community, to include ODNI. So other analysts on
19 the Russia unit, to include managers in the Russia
20 unit.
21 Q Do you know for [redacted] or for others
22 within the Russia unit, who their point of contact
23 was, their counterpart was at ODNI?
24 A The only name I remember is Shelby Pierson.
25 Q Did you ever work directly with Ms. Pierson?

1 A I knew of her work. I didn't work directly
2 with her. There may be email chains that I was on
3 and she was on as well.
4 Q How did you become familiar with her work?
5 A She is the -- forgive me if I don't have the
6 title exactly right but the ODNI election
7 executive.
8 Q What was the nature of the interactions
9 between Ms. Pierson and the FITF election unit?
10 A As the ODNI election executive, speaking as
11 an analyst, she was one of the customer's
12 reanalysis that we would write that would be
13 distributed to MUSC and to decision-makers in
14 government.
15 Q Was there any work product in 2020 that
16 discussed Burisma?
17 A Work product? Could you define more.
18 Q Sure. You said when intelligence analyst,
19 various agencies prepare work product, they share
20 it with one another. So in the product drafted by
21 one Agency or shared or a joint product prepared
22 together, do you recall any of that mentioned
23 about Burisma?
24 [redacted] Just for the record, we've made
25 an extraordinary accommodation here, voluntarily

1 producing a then line-level intelligence agent
2 from the Foreign Influence Task Force. To the
3 extent your question raises potential
4 classification concerns, ongoing investigative
5 concerns, including Special Counsel Weiss's
6 potential investigation, I would just flag the FBI
7 considers this topic out of scope and potentially
8 classified, depending on the witness's level of
9 knowledge.
10 THE WITNESS. I'd be worried about responding
11 in this form for classification reasons.
12 (Discussion held off the record.)
13 Q Are you familiar with the defense briefing
14 that Nickie Flores and Brad Benafidis provided to
15 Senators Grassley and Johnson?
16 A Not specifically. I know that we do
17 defensive briefings as a matter of course.
18 Q Did you have any familiarity at the time
19 about that briefing?
20 A I knew there were many defensive briefings
21 going on. At the time, I don't recall specific
22 ones for those senators.
23 Q Can you speak, just at a very general level,
24 about what role the FITF would play in either
25 preparing work product or recommendations in

1 advance of any recommendations limited to the --
2 A I think I had not as much involvement in this
3 side that the FITF did. The FITF would nominate
4 perhaps some intelligence as to this intelligence
5 may require the need of a defensive briefing for a
6 particular public official, whatever level, and
7 then it would go to the board to be discussed.
8 Q And did you ever directly participate in
9 that?
10 A I don't recall participating in any of the
11 boards. In my role as the public corruption
12 detailee to the FITF, some of our role was
13 cross-checking public corruption investigative
14 equities so that that was part of the
15 consideration of the board.
16 Q And do you have familiarity with the internal
17 FITF processes, who would be involved, who would
18 approve?
19 A To the best of my recollection, it would be
20 FITF managers, unit chief, and section chief
21 level, perhaps final approval being DAD or higher.
22 Q Do you have any -- how frequently would you
23 interact with Nickie Flores when you were part of
24 FITF?
25 A She was quite more senior than I was, so

1 there would be times I'd be working on
2 intelligence product which would go through her
3 for her approval, but very limited interaction for
4 me on a direct basis.
5 Q We touched on this briefly in the first hour,
6 but just to press a little bit more.
7 You had fairly limited actions with SISA; is
8 that right?
9 A Correct. Yes.
10 Q Do you have any regular interactions with
11 other components of DHS?
12 A Not that I recall, no.
13 Q Are you familiar with the Global Engagement
14 Center?
15 A Yes, I'm familiar with it.
16 Q As part of your work at the FITF, did you
17 have any direct interactions with the Global
18 Engagement Center?
19 A My work with the FITF, maybe very limited. I
20 don't recall much of substance.
21 Q During your time with the FITF, did you have
22 any direct interactions with the White House?
23 A I don't think direct interactions with the
24 White House, no. There were some intelligence
25 products that I worked on which were received by

1 White House customers.
2 Q In the previous hour, you were talking about
3 the FBI would not formally ask, to your
4 understanding, social media companies to take any
5 particular action but was just sharing
6 information.
7 Would the FBI ever ask social media companies
8 if they took any action?
9 A To my recollection, that was not anything I
10 was a part of.
11 Q But to your understanding, did it occur?
12 A I don't know if that occurred or not.
13 Q Were there any policies at the time governing
14 whether the FBI could follow up with social media
15 companies?
16 A Not that I can recall today.
17 Q For the USG industry meeting, just to try to
18 walk through details a little bit more closely
19 again, which social media company do you recall
20 first raising the story?
21 A So this is on October 14 --
22 Q Yes.
23 A -- following the Twitter call?
24 Q Yes.
25 A I think in that call, it was Twitter again.

1 Mr. Roth.
2 Q Do you recall which other companies were on
3 that call?
4 A Just to clarify, I don't know if there were
5 other USG agencies on that call. It was
6 definitely multiple social media companies and
7 FBI. I don't know if other USGs were there.
8 I recall Meta/Facebook being there. Beyond
9 that, I would be a little bit of guessing, but I
10 think Google was there too.
11 Q Do you recall any specific individuals from
12 Meta or Google?
13 A The Meta names, I don't recall. If Google
14 was there, I think it would have been [redacted]
15 [redacted].
16 Q Do you recall if there was anyone from
17 Microsoft?
18 A I don't remember it, if yes or no.
19 Q Who from the FBI that you can remember was on
20 the call?
21 A Elvis was there. I think Laura Dunlo, [redacted]
22 [redacted], myself, the OGR representative. There may
23 have been others, but those are the ones I
24 remember.
25 Q And how did Mr. Roth -- what he shared differ

1 from what he shared in the first meeting?
2 A I think it was very consistent.
3 Q Was there a question at the end, or how
4 did -- how did it get to the point in the
5 conversation when Mr. Chan was saying that to you?
6 A I don't recall a particular question. More
7 of an announcement, proactive independent
8 announcement, like in the previous call. I think
9 for Elvis handing it off to me, it was like "Any
10 comment, [redacted]?" No, no comment.
11 Q So Mr. Roth shares this sense of an
12 announcement of Twitter's perspective, and there's
13 no -- to your recollection, any commentary, any
14 questions until Mr. Chan hands it off to you?
15 A To my recollection, that was the next thing
16 said.
17 Q Were there any questions or other comments
18 offered after you said "no comment"?
19 A Not that I remember. I don't think so, but I
20 don't particularly recall.
21 Q Did Mr. Roth offer any thoughts to you or the
22 FBI after these first two meetings, to your
23 understanding?
24 A Outside those calls, I don't recall any other
25 interactions within this topic.

1 Q Did you have a chance to review the meeting
2 summaries of the Twitter FITF meeting and the
3 second call?
4 A Perhaps back in that day, but I haven't seen
5 them in the years now.
6 Q Have you -- since October of 2020, have you
7 had a chance at any point in time to see the
8 instant messages that you sent or were sent to you
9 on or about the 14th?
10 A As part of my prep material this week, yes.
11 Q How many were there?
12 A I don't know the exact number. I'd say a
13 dozen, maybe a little bit more.
14 Q And there were communications between you and
15 the OGC rep embedded in the FITF, you and Elvis
16 Chan. Were there any other messages?
17 A So from the time, those are the ones I recall
18 being a part of. I was shown messages that other
19 people had about the discussion, but I wasn't a
20 part of those at the time.
21 [redacted] For the record, the FBI provided
22 these as an accommodation for in-camera review
23 following their March 2024 letter, so it's
24 consistent with what you already have.
25 Q Who is -- who participated in those messages?

1 A The ones that I saw, [redacted], Laura Dunlo,
2 Elvis, OGC rep.
3 Q Are you familiar with the Center for Internet
4 Security?
5 A Only as part of the prep material. I was not
6 familiar with it. I honestly still don't know
7 exactly what it is.
8 Q During your time with the FITF in 2020, did
9 you have any interactions with the Election
10 Integrity Partnership?
11 A Not that I recall.
12 Q During your time at the FITF, did you have
13 any interactions with Stanford University?
14 A Yes.
15 Q What was the nature of those interactions?
16 A So there was a call. I don't remember the
17 exact time frame of it, perhaps earlier in 2020.
18 I think it was another conference call in the time
19 of COVID where Elvis had arranged for Rene Deresta
20 to brief us on a recent paper the Stanford
21 Internet Observatory had done -- if I remember
22 correctly, Russian GRU influence operations.
23 Q Do you recall any other interactions with
24 Stanford during your time at FITF?
25 A During my time at FITF, that's the one I

1 recall that I was a part of.
2 Q Until the election of 2021, just ask again:
3 Do you recall any discussions that FITF had with
4 social media companies touching upon COVID or
5 vaccine mis- or disinformation?
6 A Nothing that I was a part of, to my
7 recollection, touched on those topics.
8 Q To your understanding, did the FITF ever
9 engage with social media companies about COVID-19
10 or vaccine mis- or disinformation?
11 A To my experience, no.
12 Q Do you know who [redacted] is?
13 A Perhaps. The name is familiar.
14 Q Do you recall any interactions?
15 A Not for me in particular, no.
16 Q In the first hour, you mentioned that one of
17 the purposes of your decision to jump in and say
18 it was a separate matter was to kind of shut down
19 discussion on what Mr. Roth was talking about.
20 Can you walk us through a little bit more?
21 Mr. Roth shares what Twitter is doing, and your
22 recollection is that in the Twitter FITF meeting,
23 there was not a question asked at the end of
24 Mr. Roth's statement; is that right?
25 A I don't recall a particular question.

1 Q And then [redacted] was talking in only
2 general terms, to your recollection; is that
3 right?
4 A That's correct.
5 Q And [redacted] During these head of the unit
6 chief -- was head of the Russia unit at the time?
7 A Correct.
8 Q I guess help us understand a little bit
9 better here. If there's been no question and
10 someone is above you in the unit chief -- and the
11 unit hierarchy is kind of handling the response,
12 why did it fall on you to offer something?
13 A I wanted to ensure that CID equities were
14 protected.
15 Q What's "CID equities"?
16 A An ongoing investigation.
17 Q Were there any other equities or any other
18 group's equities in the FITF who would also want
19 to not comment on an ongoing investigation?
20 A It's consistent with our policies to not
21 comment on ongoing investigations.
22 Q Why do you think [redacted] didn't lead with
23 that response?
24 A I think this was an exceptional situation.
25 We hadn't been presented with one where the

1 companies had come on our call and told us what
2 they were going to do, so there wasn't a stock and
3 prepared response.
4 So I can't speak for [redacted] as to why he
5 spoke at that time, but I've given my
6 representation as to why I did it.
7 Q And at no point did you receive any formal or
8 informal reprimand or criticism about your
9 statement?
10 A Not to my recollection. Just that in future
11 iterations, we should say "no comment."
12 Q Prior to the 14th, how frequently would you
13 interact with the OGC representative?
14 A Pretty regularly.
15 [redacted] Just clarifying timelines.
16 Understanding the academic -- whether or not you
17 were working on a sabbatical, and when you came
18 back, prior to the 14th in your role as one of
19 the CID reps in the FITF, did you have knowledge
20 prior to that of the Hunter Biden laptop
21 investigation prior to October 14th in your
22 official duties in CID?
23 THE WITNESS. Only as I've represented
24 earlier that I was generally aware that there was
25 a case. I had no knowledge of a laptop until the

1 morning of the 14th.
2 [redacted] So you personally had not
3 received any specific briefings about that case?
4 THE WITNESS. To the best of my recollection,
5 that's correct.
6 [redacted] Thank you.
7 BY [redacted]
8 Q During your time with the FITF, did you have
9 any interactions with the Aspen Institute?
10 A Not that I recall.
11 Q During your time at the FITF, did you have
12 any interactions with the Global Disinformation
13 Index?
14 A Not sure what that is.
15 Q Following the 14th and the days after that,
16 we'll say after October 2020, did you ever have
17 any conversations with Elvis Chan about the
18 investigation or the laptop?
19 A Not that I recall.
20 Q In 2020, it took several days for the
21 election to be called. How long from Election Day
22 itself did the election command post keep you for?
23 A A few days at least. I don't remember the
24 exact end date. I remember working a fair number
25 of days following the election, and then at least

1 my shift got a break one day and that was the day
2 that the press called the election. And I think
3 it still ran for a day or two following the press
4 calling it.
5 Q Then do you recall when the next FITF
6 bilateral meeting was after the election?
7 A I don't. I was beginning to transition to my
8 new job.
9 Q Do you recall any discussions with [redacted]
10 [redacted] with either you sharing to [redacted] or
11 [redacted] sharing to you informational awareness
12 of the ongoing investigation?
13 A Not that I recall, no.
14 Q To your recollection, no one asked you how
15 you knew?
16 A Not that I remember, no.
17 Q To your understanding, at any point did
18 anyone raise the possibility of sharing something
19 with the social media companies to inform them
20 that the story was not part of the Russian
21 disinformation effort?
22 A I don't remember anyone raising that with me.
23 Q Did you get a sense from the Twitter FITF
24 call that others on the FITF were aware of the
25 investigation of the laptop?

1 A During and immediately after that call, I did
2 not have that sense, to my recollection.
3 Q At what point did you get that sense?
4 A Honestly, I probably didn't learn that other
5 people on the FITF knew about the investigation
6 until some of the letters from the committee.
7 Q Have you had any interactions with the Center
8 for Countering Digital Hate?
9 A I don't know that group.
10 Q As part of your role with the FITF, did you
11 have any direct interactions with the NSA?
12 A I hesitate to comment on digital classified
13 interactions here.
14 Q What about the National Science Foundation?
15 A I don't recall any interactions with them.
16 Q Do you know who [redacted] is?
17 A I remember him, yes.
18 Q What's your recollection?
19 A He was one of Facebook's/Meta's policy
20 people, if I recall.
21 Q Do you recall any discussions with him or
22 calls that you were on where he was discussing the
23 story or the investigation and the laptop?
24 A Not specifically. It's possible he was one
25 of the Facebook representatives on that broader

1 industry call on the 14th.
2 Q To your understanding at the time in 2020,
3 how would social media companies treat hacked
4 materials?
5 A I don't think I'm in a good position to
6 answer that. I didn't have an in-depth
7 understanding of that topic.
8 Q To your understanding, were social media
9 companies treating hacked materials differently in
10 the lead-up to the 2020 election than they did in
11 the 2016 election?
12 A I don't think I have a good answer for that
13 one either. It just wasn't really my purview.
14 Q Who on the FITF would best know?
15 A I don't know that there's really a good
16 person to speak to company policies other than the
17 companies themselves.
18 Q Do you have an approximate sense of how
19 many -- when you say that the FBI would provides
20 formal line indicators, could you give us a sense
21 of the volume of how frequent the communications
22 were or the number of pieces of information that
23 were being provided?
24 A It was a pretty regular exchange. Sometimes
25 it would be very limited in nature, you know,

1 single-digit items being shared. Other times it
2 would be larger pieces of data.
3 I know it's an inexact answer, but it was a
4 pretty regular sharing of those sort of
5 indicators.
6 Q Do you have a sense of how often the
7 companies would share with the FBI whether they
8 took any sort of action?
9 A My answer to that would be it was uneven.
10 They wouldn't always respond. So sometimes.
11 Q Do you recall if one company or any
12 particular companies would respond more frequently
13 or less frequently than others?
14 A I think I'd say that they would respond in
15 different ways. Some would respond directly back
16 to us. Others would post press releases about
17 action they had taken on their platform either on
18 a quarterly basis or ad hoc. And all of those
19 options could have been in response to things that
20 they had shared or not at all.
21 Q And which platforms would respond directly?
22 A I recall Twitter responding directly
23 occasionally. Others may have as well, but I do
24 remember Google posting more of a sort of
25 quarterly update and Facebook or Meta having their

1 own sort of ad hoc announcement process.
2 Q Do you recall anyone from a social media
3 company flagging a different assessment of how an
4 account or piece of information was attributed?
5 A Not that I recall today.
6 [redacted] Could we go off the record,
7 please.
8 [redacted] Actually, before we go off the
9 record, I have two sort of errata items based off
10 my own misstatements.
11 [redacted] of course, is a line-level
12 intelligence analyst, which is what makes today's
13 voluntary transcribed interview an extraordinary
14 accommodation for the FBI to make specific to
15 these facts and circumstances.
16 I also referred to the Office of Private
17 Sector Engagement. I meant to refer to OPE, the
18 Office of Partner Engagement. So just to clarify
19 my own statements. Thank you.
20 (Recess taken from 12:54 p.m. to 1:37 p.m.)
21 [redacted] It is 1:37. We can go back on
22 the record.
23 At the start of our second hour, I just want
24 to make some comments based on comments that were
25 made by the majority's professional staff member

1 in the prior hour.
2 He walked through the timeline on the
3 so-called laptop from their perspective. I don't
4 want to -- I don't know that we necessarily agree
5 with that timeline, but I did want to make a
6 couple notes.
7 First, he represented that by March, April,
8 spring of 2020, the laptop had been authenticated.
9 I think that's a -- I'm not sure about the use of
10 that term. I think "authenticate" can mean
11 different things to different people. I think in
12 particular here determining that a laptop existed
13 and/or belonged to somebody is much different than
14 determining that the laptop had not been tampered
15 with or that its contents had not been altered in
16 any way, and to our knowledge, there's been no
17 determination on that. I'm not asking to you
18 comment on that. I want to make that note on the
19 record.
20 He also mentioned that the majority staff of
21 the Judiciary Committee and the Oversight
22 Committee have had conversations with the
23 Wilmington investigative team. That is the first
24 that we are hearing of that. Those certainly
25 aren't interviews that the Minority was invited to

1 participate in. I don't know if they were
2 transcribed or not. They certainly were not
3 subject to cross-examination by the Minority. So
4 I don't know what representations were made during
5 that, but on their face not being subject to
6 cross-examination, we note that that is what it
7 is.
8 I would note that as part of the broader
9 impeachment inquiry in the Judiciary Committee, we
10 did talk to now Special Counsel David Weiss. He
11 was special counsel at the time we talked to him
12 at well. His first deputy. We spoke with U.S.
13 attorneys for the District of Columbia and the
14 Central District of California. And then the
15 career head of the Department of Justice Tax
16 Division, the special agent in charge of the
17 Baltimore field office, and the assistant special
18 agent in charge of the Baltimore field office.
19 And one virtue that those witnesses were asked
20 about and did say is that oftentimes there's a
21 dispute between prosecutors and investigators
22 about whether evidence is actually -- the value of
23 certain evidence, whether it might lead to
24 chargeable offenses.
25 I think there was an allegation made in the

1 Majority's prior hour that there are chargeable
2 offenses on the laptop. I think that's quite a
3 stretch, and I think if that's based on the word
4 of these Wilmington investigators in particular, I
5 think that we have a lot of concerns about the
6 veracity of that statement.
7 I don't have any questions, but I wanted to
8 make that clear for the record.
9 And back to this interview.
10 BY [redacted]
11 Q In the prior hour, you were asked if you had
12 had any engagements with the White House during
13 your time at the FITF. You said that you believe
14 that there were intelligence products that would
15 have been sent up to the White House, but that to
16 your recollection, you didn't have any direct
17 engagement. Do you recall that conversation?
18 A Correct. At that time on the FITF, that's
19 correct.
20 Q And again avoiding discussion of any
21 classified information, but when we're talking
22 intelligence products, that's potentially like
23 briefing materials writ large? Is that what we're
24 talking about? Or memoranda or what, generally?
25 A For us, it's usually a written product that

1 goes to perhaps the briefer to brief it.
2 Q And you said earlier that your primary focus
3 on the FITF was concerns about voter suppression
4 and misinformation about time, place, and manner
5 of voting; correct?
6 A Yes, and other illegal foreign influence
7 efforts.
8 Q Okay. And so it's fair to say that whatever
9 intelligence products that you had worked on that
10 went up to the White House would have concerned
11 those matters; correct?
12 A Correct.
13 Q What was the time frame for those products
14 going up?
15 A I mean, that's a large part of what we do as
16 analysts and the different kinds of intel
17 products, that we'll do some internally to the
18 FBI, others for U.S. intelligence community and
19 leadership and government. So it was on a pretty
20 regular basis we were doing those. There's some
21 executive orders that mandate certain intelligence
22 products following the election as to whether or
23 not there was interference or not.
24 Q And just looking at the time frame, you were
25 at the FITF from -- can you remind me when you

1 started?
2 A Sure. Towards the beginning, fall of '17, up
3 through the 2020 election.
4 Q So it was during the Trump administration; is
5 that correct?
6 A That is correct.
7 Q So whatever intelligence products you worked
8 on that have gone up to the White House would have
9 gone up to the Trump White House; is that correct?
10 A That's correct.
11 Q And then just some kind of wrap-up
12 questions -- well, wrap-up questions pending
13 whatever the Majority asks about the next round.
14 Had you ever heard or -- I'm sorry. Strike
15 that. Withdrawn.
16 Had you ever seen or heard of anyone from the
17 White House in either administration, so Trump
18 administration or Biden administration, attempting
19 to exert political pressure to influence the work
20 done by the FITF?
21 A I don't recall that, no.
22 Q Okay. Have the decisions that you've made
23 during your time as an FBI employee and talking
24 throughout your time with the FBI been influenced
25 at any time by partisanship, ideology, or

1 political considerations?
2 A No, definitely not.
3 Q Have you witnessed ever -- have you ever
4 witnessed, during your time with the FBI, other
5 FBI employees appearing to make work-related
6 decisions in a manner that is motivated by
7 partisanship, ideology, or political
8 considerations?
9 A Not to my recollection, no.
10 Q And if you had witnessed such conduct, which
11 I'll describe it as improper conduct -- if you had
12 witnessed such improper conduct by a member of the
13 FBI or a fellow employee or a colleague, what
14 steps would you have taken?
15 A There are policies we're required to follow,
16 particularly around the Hatch Act, that we're
17 especially sensitive to in public corruption. So
18 there are reporting protocols for that sort of
19 behavior, were it to be witnessed.
20 Q And if you had witnessed it, you would have
21 reported it accordingly?
22 A That would be my plan, yes.
23 [redacted] Thank you. We can go off the
24 record.
25 (Discussion held off the record.)

1 [redacted] First, just a quick point of
2 clarification. I don't know what was asked in the
3 amount of time since I left, but when referring to
4 Wilmington, those were TIs for oversight, so I
5 understand the Minority did attend those and had
6 the opportunity to cross-examine.
7 [redacted] I guess I'm not clear. Were
8 those TIs that the judicial Minority was invited
9 to?
10 [redacted] I was not there. We can talk more
11 off the record, but they were -- I'm definitely
12 happy to represent that there were at the very
13 least staff from both parties there, and it was
14 the typical transcription of the Majority/Minority
15 asking questions.
16 [redacted] I'm not actually sure what we're
17 referring to then, because to my knowledge, there
18 was no Wilmington law enforcement transcribed
19 interviews. There were only interviews with the
20 U.S. Attorney's office. Maybe it's a reference to
21 the interviews with the IRS agents, which, again,
22 the judiciary staff, to my knowledge, was not
23 invited to participate in, but we can talk further
24 offline.
25 BY [redacted]

1 Q [redacted] do you know if members of the
2 media reached out to the FBI on October 14th to
3 ask if the laptop was real, if the story was
4 disinformation?
5 A I don't have recollection of that,
6 personally.
7 Q Did you ever hear even secondhand if that was
8 the case?
9 A I don't remember hearing, secondhand or not.
10 Q If there was a media inquiry that was
11 directed to you, who within the FBI would you
12 direct that to at the time in October 2020?
13 A The national press office for the FBI.
14 Q Okay. Do you have a point of contact there?
15 A I do.
16 Q Who is that?
17 A It was a non-SES employee, [redacted].
18 [redacted] We would just request that you
19 redact the sensitive names from the record. She's
20 non-SES. I'm not sure what relevance her specific
21 role has in this context either.
22 Q So you don't have any, you said, secondhand,
23 firsthand knowledge of any interactions the FBI
24 had?
25 A Not that I recall.

1 Q During your time with the FBI, have you ever
2 worked with Jeffrey Veltri?
3 A I'm familiar with the name, but no, not in a
4 direct capacity.
5 Q Have you been involved in any way in the
6 investigation into the Iranian hack of and leaked
7 documents related to the Trump campaign?
8 A You're speaking about the very recent one?
9 Q Yes.
10 A No, not on that particular issue.
11 Q During your time at the FITF, do you recall
12 any instances where you or others raised concerns
13 if the First Amendment was implicated by the FBI
14 engaging directly with social media companies?
15 A Not that I recall, no.
16 Q Did you ever receive any trainings or things
17 other than the guidance documents about ensuring
18 there were no violations of the First Amendment?
19 A We have regular trainings in the FBI about
20 protecting Constitution, First Amendment rights.
21 Many are on at least an annual renewal basis, so
22 you have to continue to take those trainings
23 repeatedly.
24 Q Were there any that touched on how to engage
25 with social media companies about disinformation?

1 A I don't think there were any trainings that
2 dealt with social media company interactions,
3 specifically. This is where we leaned a lot on
4 our OGC representative, to his expertise on
5 policies and procedures.
6 Q How much visibility would the OGC
7 representative have regarding Elvis Chan's
8 communications with social media companies?
9 A I don't think I can speak to that.
10 Q Just generally speaking, if FITF wanted to
11 share some information with social media
12 companies, would it always have to go through OGC?
13 A To my recollection, it would, as a general
14 rule.
15 Q Okay. What about just emails generally?
16 A I don't know that -- I think it depended on
17 the content of the emails. If it was just
18 arranging a meeting, I don't think that would
19 necessarily need to go through OGC, but for
20 operational matters, I think that was a regular
21 course of duty.
22 Q Did you ever interact directly with social
23 media companies via email?
24 A I was on emails with the companies, but to my
25 recollection, not point-to-point emails with a

1 group.
2 Q Did you have any familiarity with
3 switchboarding that SISA was engaged with in the
4 2020 election cycle?
5 A I'm not familiar with what that is.
6 Q We've mentioned briefly [redacted].
7 After his service in the FBI, he went to Meta.
8 Did you interact with him when you were a member
9 of the FITF when he was part of Meta?
10 A I think there were calls that he and I were
11 both on and I believe at least one in-person
12 meeting here in D.C.
13 Q Was that pre-COVID, that in-person meeting?
14 A I think so, yes.
15 Q Do you recall if he was on any of the calls
16 on or about the 14th?
17 A Not specifically, but I think it's possible
18 that he would have been on the call.
19 Q Do you know if he had any direct follow-up
20 conversations with anyone from the FITF?
21 A I don't have any recollection of that.
22 Q Before leaving the FITF, did you have any
23 direct interactions with ODNI's Foreign Malign
24 Influence Center?
25 A I think this is one of those where I was on

1 some emails with them.
2 Q Do you recall generally any other
3 interactions or what those emails were about?
4 A I think during my time on the FITF, I don't
5 know for how long that entity existed. I don't
6 believe there was that much.
7 Q Do you recall in the lead-up to forming that
8 center, you were involved or had any awareness of
9 the FITF's involvement?
10 A My memory is just of limited interactions on
11 email, potentially as sort of a customer base for
12 intelligence products.
13 Q What do you mean by "customer base for
14 intelligence products"?
15 A So when we do finished intelligence work,
16 when you're writing a paper that's to be sent to
17 the U.S. intel community, particularly a paper
18 that deals with foreign influence, that would be
19 one of the customers we would want to read that
20 paper.
21 Q Do you know who [redacted] is as
22 affiliated with ODNI?
23 A I do not.
24 Q What about [redacted]?
25 A I don't know that name.

1 Q Within the FITF, was there anyone embedded in
2 the FITF that was meant to represent headquarters
3 or leadership?
4 A We were all headquarters body, but the FBI
5 person were often headquarters bodies. I don't
6 know that there was a particular person assigned
7 to represent leadership.
8 Q When Mr. Roth was sharing his announcement in
9 the Twitter FITF meeting and the second meeting,
10 in either meeting, did he share any pieces of
11 evidence or why Twitter was making the assessment
12 it was making?
13 A Those specifics, I don't recall.
14 Q Do you recall generally if there was at least
15 some sort of explanation for either?
16 A He may have provided one, but I don't recall
17 any details about it at this stage.
18 Q Did Mr. Roth invoke in either meeting that
19 there had been discussions of the risk of Russia
20 or other foreign actors using hack and leak as a
21 tactic?
22 A I don't recall that specifically.
23 Q During your time at the FITF, were there ever
24 any instances of foreign governments seeking to
25 have the FBI help facilitate efforts to counter

1 disinformation?
2 A Would you repeat that question.
3 Q Sure. When you were at the FITF, were there
4 ever any instances where a foreign government,
5 partner country, was contacting the FBI for
6 assistance in working with social media to counter
7 disinformation efforts?
8 A I would say that as part of the regular
9 duties of the FITF, we did meet with foreign
10 country partner delegations. During my time on
11 the FITF, I don't remember any of those
12 engagements relating to foreign delegations
13 seeking the kind of interaction with social media
14 companies you described.
15 Q When the FITF would send at least in foreign
16 malign indicators to social media companies and
17 you send them off to the right person, was it ever
18 specific enough that the FBI would identify
19 particular accounts as being those of a, you know,
20 either inauthentic or foreign adversary?
21 A So generally the kind of two types of things
22 would be sent over. On the foreign malign
23 influence side, usually more technical indicators,
24 IP addresses, URLs. It could have included
25 specific user accounts, but usually it would be

1 more like user I.D. numbers because the account
2 names can change.
3 And then on the voter suppression side,
4 because that's our narrow lane where we do look at
5 the content, it would in those cases sometimes be
6 the user name and the content that was shared or
7 just the user names and/or the user I.D.
8 Q For -- when looking at the content and -- was
9 there any effort by the FBI to differentiate
10 between actors who were attempting to send false
11 information about an election and satire humor,
12 you know, Republicans vote Monday, Democrats vote
13 Tuesday?
14 A For on the voter suppression side of things,
15 we went through a fact pattern analysis with
16 attorneys from the Department of Justice's public
17 integrity section who were the lead on election
18 crimes, and when reviewing that content, they
19 would review it to see if it was potentially
20 indicative of criminal conduct. Once it cleared
21 their standards, we would be able to send those
22 posts or accounts to the social media companies
23 for whatever action they deemed necessary at that
24 moment.
25 Q So your team would do that assessment?

A I think we would do the initial searches, and then to ensure that we were following the letter of the law, we referred back to the election crimes experts.

Q When you say doing the initial searches, what does that look like?

A We have different software tools where we would search open source databases about content indicative of criminal conduct.

[redacted] Just flagging for the record, this potentially implicates sensitive law enforcement techniques, so just clarifying for the witness that that's a sensitivity here.

Counsel, I think we're starting to go beyond the scope of today's interview with regard to some of these topics, which we've covered extensively with the multiple other FITF personnel you've interviewed this Congress.

[redacted] Well, I've got a couple more questions and we can discuss any concerns.

BY [redacted]

Q For open source databases, do you know which ones?

A I think I would hesitate to specify particular software under a law enforcement

1 sensitive manner.
2 Q Are these tools that anyone on the FITF has
3 access to?
4 [redacted] I would just say, particularly
5 given the fact that we are currently at the FBI
6 engaged in efforts to counter the criminal voter
7 suppression violations [redacted] is referring
8 to as well as combating formal malign influence
9 prior to the 2024 election, the FBI would have
10 concerns with [redacted]'s specific
11 representations regarding the manner in which
12 personnel may be conducting searches of criminal
13 activity if it were to be released publicly, so we
14 would respectfully request the opportunity to
15 review the transcript for the many non-SES names
16 that have been invoked today as well as these
17 potentially privileged areas.
18 [redacted] For each of these, we've given an
19 opportunity for the FBI to review.
20 [redacted] As I say, for the good of the
21 order, we did not have an opportunity to review
22 the many law enforcement sensitivities that were
23 in Laura Dunlo's transcript prior to the
24 Majority's choice to plug it into an amicus brief
25 in federal litigation that the FBI was depending

1 on, so for the good of the record.
2 BY [redacted]
3 Q Who was there during these lead of the DOJ
4 election crimes unit at the time you were there or
5 at the time you were at FITF?
6 (Discussion held off the record.)
7 THE WITNESS. It was the -- they were both
8 attorneys in the public integrity section. I
9 can't remember the exact title, but elections
10 crime lead or something similar.
11 Q You don't remember the name?
12 A I remember the names, but --
13 [redacted] The witness is not going to be
14 able to speak to non-SES employees from the public
15 integrity section if he doesn't remember the
16 title.
17 BY [redacted]
18 Q Do you recall sending the email at the bottom
19 of Bates-numbered 21660?
20 A I didn't remember until presented with it,
21 but it does appear to be my email.
22 Q The second paragraph, the second sentence,
23 you say, "We think knowing the correct information
24 will enable more effective enforcement of
25 disinformation related to the election."

1 I understand you don't recall the specific
2 email here. Do you recall any discussions with
3 social media companies about whether the FBI's
4 information chair would assist with their
5 enforcement of their terms of service?
6 A So I would frame it this way: Particularly
7 in this time frame, April of 2020, COVID has just
8 sort of hit in March of 2020, and primaries for
9 the 2020 election were underway, many of which the
10 shape and form of voting changed or had been
11 provided particular special circumstances.
12 So in my role as working the voter
13 suppression angle, it's important to know how
14 voting was to occur in the correct way to then
15 know if someone is intentionally misleading on the
16 manner, time, and place of voting.
17 So I think that's where the sending of an
18 email like this comes from.
19 Q Do you recall any discussions either where
20 you raised it or were you on a call where the
21 government raised concerns that certain companies
22 were not enforcing their terms of service there
23 under the policies?
24 A I don't think we raised the issue of their
25 enforcement. We were providing information that

1 may be useful to them per their terms of service.
2 Q And so this is an example of sending correct
3 information, but the FITF would also send content
4 that DOJ had assessed to be as unlawful?
5 A Indicative of potential criminal conduct.
6 Q In those instances, was there ever any -- did
7 you have any follow-up from the FBI about those
8 specific pieces, if they were taken down or not?
9 A I think at that stage, it would -- I don't
10 have recollection of that, because if there was
11 follow-up, that may be a particular case team or
12 the DOJ attorneys themselves.
13 Q Was there anything within FBI once that
14 particular piece of content is flagged as unlawful
15 that the FBI would internally track to see if the
16 social media companies took any action against it?
17 A I don't recall if we had a tracker as you
18 described.
19 Q Was there any sort of system or effort made
20 to see what happened to pieces of content.
21 A I don't recall a system to that nature.
22 Q If not a formal system, would members of the
23 team ever go back and check to see what happened
24 to the pieces of content?
25 A So I think what would happen sometimes as we

1 are looking for this kind of content that is
2 indicative of manner, time, and place voter
3 suppression, as you're running searches, you would
4 see that from time to time, posts that had been
5 referred were still up. Sometimes they were still
6 up, sometimes they were still down. And then
7 other times we would also find new posts.
8 Q And if in one of those searches you saw there
9 were posts that were still up, was that
10 documented, and was that -- let me stop there. Is
11 that documented?
12 A I don't recall that being the focus of our
13 efforts.
14 Q If not a focus, though, if it was something
15 that came across, would it be documented?
16 A I don't remember a formal system to do that
17 kind of work at my level where I was.
18 Q If there was an instance where a subsequent
19 search saw that certain pieces of content were
20 still up, was that ever indicated to the social
21 media companies?
22 A I don't recall that occurring.
23 Q How long would it take from -- let's say you
24 identify a piece of content for it to be reviewed
25 by DOJ before being communicated to the social

1 media companies?
2 A It was a pretty fast process.
3 Q Okay. Hours? Days?
4 A If it's in this time frame of a particular
5 primary or the election itself, minutes.
6 Q And then in terms of documentation, is it per
7 piece of content? Is it per account? How is
8 there -- you've got to keep track of things that
9 you identified?
10 A So for the voter suppression side of things,
11 it was, I would say, more individual posts. The
12 post itself had the content that may include a
13 user name, and then documented in emails back and
14 forth with DOJ, companies themselves.
15 Q Did you ever either hear through Mr. Chan or
16 anyone else communicating with social media
17 companies that they shared back that a certain
18 piece of content did not violate their terms of
19 service?
20 A That may have occurred. I don't remember a
21 particular example.
22 Q How often would DOJ say that there weren't
23 indications of criminality?
24 [redacted] Counsel, now we're getting close
25 to what could be potential privileged,

1 deliberative information.
2 THE WITNESS. In this, I wouldn't say I had
3 full insight to this because I didn't submit every
4 piece to the attorneys. It's hard for me to make
5 that sort of assessment.
6 Q When you say that, because someone else in
7 the FITF did or were there times you didn't have
8 to submit it to DOJ?
9 A All needed to be submitted to DOJ. There
10 were those that I submitted individually. Other
11 members of my team also submitted things to the
12 DOJ attorneys.
13 Q Would you have to run everything up above
14 your supervisor first, or were you working on your
15 matters and could just directly submit it to DOJ?
16 A I think for the most part, it was submitting
17 to DOJ usually with the awareness of my
18 supervisor, but not necessarily for the approval.
19 Q Was this a process that [redacted] would
20 have been aware of when he was at the FITF?
21 A I don't believe so. This developed after he
22 had departed the FBI, to the best of my
23 recollection.
24 Q Do you have a sense of the volume in 2020 of
25 the pieces of content your team flagged?

1 (Discussion held off the record.)
2 A Let's say it's an estimate looking back four
3 years now. What I would say of posts that were
4 indicative of potential criminal conduct, dozens,
5 maybe slightly more. It was also -- you have to
6 remember this was the primaries and the general.
7 Q Then FBI, DOJ had their assessment. Was the
8 information shared with social media companies,
9 maybe they take an action or maybe they don't.
10 Was whether the social media company took any
11 action independent of whether DOJ or FBI chooses
12 to take any additional steps?
13 A I think that's fair to say. What we were
14 doing in this interaction with the companies did
15 not preclude any other investigative actions that
16 might be ongoing.
17 Q Are you familiar with NewsGuard?
18 A Not particularly.
19 Q During the time with FITF, do you recall any
20 interactions with NewsGuard?
21 A Not that I recall. I don't remember that
22 entity specifically.
23 Q During your time with the FITF, did you have
24 any interactions with Clemson University?
25 A Yes, I did.

1 Q Do you recall what that was?
2 A One second.
3 (Discussion held off the record.)
4 [redacted] If you have a conversation
5 that -- or sorry. If you have a question that
6 relates to the scope of today's interview
7 regarding [redacted]'s efforts as a FITF CID
8 embed prior to the 2020 election, he's at liberty
9 to speak to those.
10 Q Sure. Did you have any interactions with
11 Clemson in this context?
12 A During my time in FITF, I was the academic
13 outreach lead, so I spoke with researchers at
14 Clemson because of their expertise on Russian
15 malign influence efforts, along with some of my
16 colleagues.
17 Q Did you ever have conversations with
18 Professor Darren Linvill?
19 A Yes, I did.
20 Q Do you have familiarity with Hamilton 68?
21 A Yes.
22 Q What's your understanding of what that is?
23 A I think that was a think tank-run effort to
24 look at foreign malign influence on social media.
25 Q Did you or anyone at the FITF ever assess the

1 merits of that effort, how good they were at
2 actually identifying foreign malign efforts?
3 A I don't know if we assessed the
4 effectiveness, as your question kind of is getting
5 at. We were familiar with it and would review
6 what they would produce.
7 Q Do you recall if there were times where,
8 based on off your review, you assessed that the
9 Hamilton 68 was misattributing the source of
10 either the accounts or content?
11 A I don't recall an analysis of that nature.
12 Q Okay. Can you tell me a little bit about the
13 difficulties of attribution, trying to assess who
14 an account is from?
15 (Discussion held off the record.)
16 A Attribution -- usually in the FBI it's more
17 attributed to cyber efforts when we were trying to
18 attribute something. Just one way they can get at
19 that is how we describe our confidence levels, so
20 low confidence, medium confidence, high
21 confidence, and high confidence would have to be
22 multiple sources of at least good reliability.
23 That's what we'd need to try to assess that
24 something is high confidence.
25 Q During your time with the FITF, how reliable

1 did the FBI consider the work by Hamilton 68?
2 A I don't know that we assessed its reliability
3 necessarily. It was a -- it was the information
4 available via open sources that we took into
5 account. I don't know that we gave it a
6 particular, you know, confidence rating.
7 Q Did you ever receive reports, either those
8 you saw publicly or privately, that Hamilton 68
9 was making mistakes and misattributing certain
10 accounts identified as Russian they were American?
11 A I recall press reporting to that effect.
12 Q Were there any discussions that you were a
13 part of or aware of in the FBI about how to treat
14 Hamilton 68's work?
15 (Discussion held off the record.)
16 A Would you repeat the question. Sorry.
17 Q Sure. After seeing those reports, were you a
18 part of or aware of any conversations within the
19 FBI about whether that would change how the FBI
20 assessed Hamilton 68's work?
21 A Not that I remember today, but I can see that
22 being a topic that we would perhaps discuss.
23 Q When other agencies, for instance, the Global
24 Engagement Center, wanted to identify accounts as
25 Russia-based or other adversary-based accounts and

1 they would communicate that with social media
2 companies, is that something that the FITF would
3 always be looped in on, to your understanding?
4 A To my recollection, we would not.
5 Q Got it. Did you ever, through public
6 reporting or through some other private
7 confidential means, learn of situations where
8 other agencies were making mistakes and
9 misattributing American accounts as foreign
10 accounts?
11 A I saw some of that in the committee's
12 materials that were provided to me for preparation
13 for today.
14 Q Other than that?
15 A That's the time I remember seeing it.
16 Q Just more generally, do you recall any
17 frustrations expressed either by representatives
18 of the social media companies or other government
19 partners about whether particular agencies were
20 weak in accurately assessing and attributing
21 content?
22 A I don't recall that to that specificity.
23 Q For the tools that the FITF has available,
24 are those tools that the researchers would have
25 access to as well?

1 A I think not necessarily would we have the
2 same tools as they would have.
3 Q As part of this work, would -- does the FBI
4 need the voluntary efforts from social media
5 companies to provide certain data?
6 A Any voluntary efforts, no. I would say
7 particularly during my time on the FITF, there
8 were voluntary disclosures by the companies which
9 were helpful for us in understanding foreign
10 malign influence efforts.
11 Q Were there agreements formalizing this degree
12 of cooperation from the companies?
13 A To be clear, the voluntary disclosures I'm
14 talking about were ones that were publicly
15 available.
16 Q Were there any nonpublic either data or
17 information that the companies would permit the
18 FBI to access?
19 [redacted] I think that question implicates
20 sources, methods, classification concerns.
21 [redacted] So do you instruct him not to
22 answer? So we're clear on the record.
23 [redacted] You're free to answer within
24 those guardrails.
25 THE WITNESS. I would prefer not to answer

1 with those guardrails.

2 BY [redacted]

3 Q Were these tools the FBI developed or do you

4 need a license from the companies?

5 A This gets back to what I would consider

6 somewhat law enforcement sensitive.

7 Q You mentioned it was after [redacted]

8 left FITF. Do you recall when, approximately,

9 FITF started using these tools?

10 A I mean, there are tools that the FBI has more

11 generally, and some of them aren't useful towards

12 the FITF and -- excuse me -- the CID voter

13 suppression mission, but some of them are

14 enterprise-wide tools that weren't specifically

15 created for this mission, so they were preexisting

16 the FITF administration.

17 Q Is there a search function with these tools?

18 [redacted] Okay. This implicates sensitive

19 law enforcement sources, techniques, other

20 sensitive internal tools the FBI may use in its

21 base to combat foreign malign influence, which is

22 an ongoing effort, particularly sensitive as we

23 are engaged in combating the bad actors prior to

24 the 2024 election cycle.

25 Our understanding of today's scope was that

1 you wanted to speak with [redacted] about his
2 engagements with certain external partners, to
3 include specific social media companies and
4 conversations, which he had provided the best of
5 his recollection for several hours now in detail.
6 We are acting in good faith. This man has flown
7 from France, but you're really treading on some
8 sensitive areas here, which if the committee does
9 have further questions, we are happy in the Office
10 of Congressional Affairs to further engage you on
11 the accommodations request, but I have serious
12 concerns regarding us being in unclassified
13 settings here discussing some of these topics.
14 [redacted] If there are concerns, we can --
15 please raise them for each question.
16 BY [redacted]
17 Q Without addressing the previous question, for
18 these tools, were there trainings about guardrails
19 as it relates to potential First Amendment
20 implications?
21 A As I talked about, we had regular trainings
22 about First Amendment protections, and we reviewed
23 our use of the tools with OGC attorneys before
24 using them to ensure that we were protecting U.S.
25 citizens' rights. And particularly in my role in

1 CID looking at voter suppression, these were posts
2 that were indicative of criminal content.
3 Q During your time at the FITF, were you aware
4 of any intentional, unintentional misuse of these
5 tools?
6 A Not that I recall.
7 Q Without getting into specifics of the
8 function of the tool, is there a system in place
9 to later audit or check how a tool is used by an
10 FBI employee?
11 A I think that's fair to say almost all of our
12 tools are that way in the auditing system.
13 [redacted] Go off the record, please.
14 (Discussion held off the record.)
15 EXAMINATION BY
16 [redacted]
17 Q Back on the record. Thank you.
18 Just a couple of follow-up questions on the
19 challenges of attributing content.
20 You were asked about Hamilton 68 in the prior
21 round, and you said that Hamilton 68 was an
22 open-source source of information, essentially;
23 correct?
24 A That was how we treated it.
25 Q When you say that's how you treated it, what

1 does that mean?
2 A Just as an all-source analyst is trained to
3 do, you look at all sources available to try to
4 make the best intelligence assessment about a
5 series of threats. And so we took what Hamilton
6 68 was doing as one of the inputs but weighed
7 against all the other sources we had available at
8 our disclosure.
9 Q So fair to say you wouldn't take Hamilton 68
10 or any open source piece of information at face
11 value?
12 A I think that's fair to say. We would make
13 sure to compare and contrast, see if it was
14 corroborated, uncorroborated, how it did over
15 time.
16 Q And that's how the FBI treats open source
17 information across the board, not just in the FITF
18 context; correct?
19 A Certainly.
20 Q With respect to this searching for content,
21 the content was -- we're talking about -- only
22 about searching for content that might -- in the
23 context of voter suppression concerns; correct?
24 A That's what my team was looking into.
25 Q And that's, as we said in my earlier hour,

1 misinformation regarding the time, place, and
2 manner of voting; correct?
3 A Yes, particularly for us. So just one
4 clarification. Intentionally misleading to
5 manner, time, and place of voting.
6 Q Why did you make that clarification?
7 A Because if someone -- like when you go back
8 to the criminal statute, which I don't have in
9 front of me, this is one of those criminal
10 violations where you have to prove willfulness.
11 So when we're actually talking about the criminal
12 investigation part of it, there are further
13 elements that you have to prove.
14 Now, when looking at a post, it's difficult
15 to know whether or not someone intended to mislead
16 someone, but if that's how it could have been
17 received, these are the kind of things we look to
18 our DOJ attorneys to weigh in on.
19 Q Thank you for that clarification.
20 And as we said in the earlier hour and as you
21 just alluded to now, the concern is that this kind
22 of intentional misleading of voters in an attempt
23 to prevent them from voting and prevent voters
24 from casting their votes is illegal; correct?
25 A Correct.

1 Q And that's illegal for anyone, so whether the
2 individual is a United States citizen or a Russian
3 citizen or from some other foreign entity, it's
4 illegal to intentionally share inaccurate
5 information about the time, place, and manner of
6 voting with the goal of suppressing votes;
7 correct?
8 A That is correct.
9 Q There was a reference in the earlier -- the
10 round that we just finished -- I don't think it
11 was a full hour. The question was asked about the
12 volume of content that was then identified for
13 social media companies, and you said it was
14 potentially dozens of pieces of content. Do you
15 recall saying that?
16 A Yes.
17 Q And when we're about those dozens, those
18 dozens of pieces of content are all pieces of
19 content that included potentially criminal
20 information; correct?
21 A Potential criminal conduct.
22 Q And when those pieces of information were
23 identified through social media companies, they
24 were -- is it fair to say that they were just
25 passed along?

1 A Passed along as a potential violation of
2 their terms of service.
3 Q And then the social media companies could
4 elect to take action or not take action; correct?
5 A It was their call.
6 Q And, in fact, you said that occasionally in
7 running follow-up searches, you would sometimes
8 identify that those posts were still up, meaning
9 that the social media companies had not taken
10 action; correct?
11 A True. At least by that time.
12 [redacted] Thank you. We can go off the
13 record.
14 (Discussion held off the record.)
15 EXAMINATION BY
16 [redacted]
17 Q I want to jump briefly back to the Twitter
18 FITF meeting with the prep materials. You were
19 made aware that others from the FITF have
20 testified before the committee. And I can
21 introduce the excerpt if that would be helpful, or
22 not, but [redacted] testified at our committee. He
23 identified you, but said that he recalls someone
24 saying something to that effect of "yes, the
25 laptop is real."

1 ;Just in your review of the materials and
2 everything going on, how do you reconcile what
3 seems to be a slight inconsistency between his
4 testimony and your recollection?
5 A I think [redacted] saying that and his
6 takeaway was that the laptop was real could be
7 consistent with me saying that's part of a
8 separate matter.
9 Q And do you recall anyone else on the call
10 mentioning the word "laptop," discussing it, or
11 saying things that would suggest that it exists?
12 A Not that I recall.
13 Q When Mr. Roth was explaining his -- what his
14 company was approaching to it, did he say anything
15 to the effect of whether he thought the laptop had
16 been manipulated in any way or that the contents
17 weren't true?
18 A I don't remember to that level of detail his
19 sort of impromptu presentation.
20 Q You said this was abnormal to have a company
21 share what they intended to do in that manner?
22 A True.
23 Q After this incident, were there any protocols
24 put in; place about how to address if a similar
25 situation occurred again?

1 A We have that guidance from our OGC rep to say
2 "no comment." There may be protocols in place at
3 this stage sort of post my time on the FITF.
4 Q Were there any protocols or any discussion to
5 put in place protocols about what to do when a
6 social media comes to the FBI saying we think this
7 is disinformation and the FBI knows that it's not?
8 A I don't recall protocols to that effect.
9 Q I guess just walk me through if I'm
10 misunderstanding here. So certainly at the FITF,
11 you're information sharing, sharing information
12 about when there are instances of foreign malign
13 influence operations that -- disinformation
14 efforts from adversaries. In that situation, the
15 FBI is able to share some information. Is there
16 any sort of parallel or mirrored protocol about
17 what to do when the companies are misattributing
18 something or have the facts wrong?
19 A I would say that what the companies do with
20 their platforms is their responsibility.
21 Q Was there ever any discussion about whether
22 the silence from the FBI was a -- could be
23 misinterpreted as the FBI not having evidence when
24 it did?
25 A Particularly in this call, it wasn't silence.

1 We responded. I responded saying it's part of a
2 separate matter, and then OGC said there was no
3 comment.
4 Q Do you recall when you said it was part of a
5 separate matter, did you say like the
6 investigation, the laptop is, or was it just "it"
7 broadly was part of a separate matter?
8 A It was part of a separate matter.
9 (Discussion held off the record.)
10 Q Are you aware of any instances where there
11 was a similar situation again of social media
12 companies saying, Hey, we're aware of this, this
13 is what we're going to do?
14 A Not that I recall. Granted, I left the FITF
15 in 2021.
16 Q For the software tool we were discussing, are
17 you aware of any other federal agencies that have
18 access to that tool, utilize that tool?
19 A I can't speak to whether they do or do not.
20 Q And is it limited to just the FITF or are
21 there others within the FBI?
22 [redacted] Privilege, sources, methods,
23 techniques, law enforcement entities.
24 [redacted] Are you instructing him not to
25 answer?

1 [redacted] You can answer within the
2 boundaries I just articulated.
3 THE WITNESS. So repeat the question.
4 Q Is this software tool limited to just the
5 FITF or can others within the FBI use it as well?
6 A It's an enterprise tool.
7 Q Was this particular enterprise tool newly
8 developed and then used for the FITF, or was a
9 preexisting one repurposed?
10 [redacted] For the record, the FBI has
11 serious concerns with the committee poking around
12 regarding law enforcement sensitive tools,
13 techniques used to combat foreign malign influence
14 efforts as well as the various criminal violations
15 [redacted] testified to today. If the committee
16 has remaining questions regarding our
17 capabilities, we would be happy to engage you in
18 the accommodations process. We really should not
19 speak to that in an unclassified setting. Given
20 our understanding of the scope of today's
21 interview, it's not appropriate.
22 THE WITNESS. Could you repeat the question.
23 Sorry.
24 Q For the enterprise tool, was it designed for
25 the -- I don't know the best way I can rephrase

1 it.
2 For the enterprise tool, was it a preexisting
3 tool that was repurposed for the FITF, or was it
4 designed for the FITF?
5 (Discussion held off the record.)
6 A Preexisting. And this is also -- this was
7 one that my team used under our criminal
8 investigation responsibilities under the lane of
9 voter suppression where it did not matter whether
10 it was a U.S. citizen poster or foreign citizen
11 posting; it was still potentially indicative of
12 criminal conduct, which is why we were able to use
13 the tool in that way.
14 I just want to make sure we're
15 differentiating between this being a tool of FITF
16 to try and find foreign influence. This was a
17 tool we used to try and find potential criminal
18 conduct, some of which may have been done by
19 foreign actors.
20 Q I'm not going to ask you what they are, but
21 are you familiar with what other applications this
22 tool is used for besides voter suppression?
23 A In broad terms. But that's what I was using
24 it for.
25 (Discussion held off the record.)

1 [redacted] Could we go off the record,
2 please.
3 (Discussion held off the record.)
4 (Proceedings adjourned at 2:42 PM)

Transcribed Interview Transcript Errata Form

Interviewee	Peter Courtney
Date of Interview	10/23/24
Date of Review	10/29/24
Name of Reviewer	[redacted]
Signature of Reviewer	[redacted]

Page	Line	Suggested Correction
10	18	10:08 AM Not PM.
25	19	SISA → CISA
26	13	Foreign Agents Registration Act (FARA)
29	2	TDYs
84	20	Rod Rosenstein.
94	14	SISA → CISA
UNKN	UNKN	[redacted] never asked questions & is written in multiple times – FYI
151	16	[redacted] Did not question. Believe this is [redacted]

Transcribed Interview Transcript Errata Form

Interviewee	Peter Courtney
Date of Interview	10/23
Date of Review	10/29
Name of Reviewer	[redacted]
Signature of Reviewer	[redacted]

Page	Line	Suggested Correction
10	16	attach → attaché
10	23	redact [redacted]
11	2	attach → attaché
~~12~~ 14	12	[redacted] → [redacted]
14	20	Nickie → Nikki
16	2	redact [redacted]
16	8	"Dunlo" → "Dehmlow"
"	15	"Dunlo" → "Dehmlow"
"	18	"Dunlo" → "Dehmlow"
17	14	redact [redacted]

Page	Line	Suggested Correction
17	18	Benadinis → "Benavides"
18	4	redact [redacted]
18	18	redact [redacted]
21	20	Dunlo → "Dehmlow"
25	19	SISA → "CISA"
29	2	"TVI" → "TDY"
31	20	redact [redacted]
31	22	Dunlo → "Dehmlow"
31	23	ODC → "OGC"
32	24	redact [redacted]
33	1	redact [redacted]
35	3	of → "to"
36	9	redact [redacted]
37	11	Dunlo → "Dehmlow"

Page	Line	Suggested Correction
40	10	Dunlo → "Dehmlow"
42	16-17	"transcript interviews" → "transcribed interviews"
44	12	redact [redacted]
45	22	"
46	9	"
51	14	"
53	24	redact [redacted]
60	21	MUSC → "US"
78	20	SAS → "SES"
79	13	redact [redacted]
79	16	"
80	3	redact [redacted]
80	6	redact [redacted]
81	8	redact " [redacted]

Page	Line	Suggested Correction
81	11	secretary → "sector"
81	14	redact [redacted]
81	21	redact [redacted] "
82	12	redact [redacted]
96	22	Strike comma after methods
97	1	Tebow → "Thibault"
97	4	"
97	10	"
"	19	"
100	2	Nickie → "Nikki"
101	21	redact [redacted]
103	6	strike "potential"
103	14	Nickie – "Nikki"
103	11	Benafidis → "Benavides"

Page	Line	Suggested Correction
104	23	Nickie → "Nikki"
105	7	"SISA" → CISA
107	21-22	Dunlo → Dehmlow, redact [redacted]
"	22	06R → "06.C"
108	10	redact [redacted]
110	1	Dunlo – "Dehmlow"
"	"	redact [redacted]
112	1	[redacted]
112	5	"
"	22	"
113	4	"
115	9-~~10~~ 11	"
116	12	digital → "potential"
127	1	redact [redacted]

Page	Line	Suggested Correction
127	17	redact [redacted]
~~128~~ 128	20	"the Constitution"
130	3	SISA → "CISA"
11	6	[redacted] → [redacted]
136	10	redact [redacted]
11	20	as I say → "I would say"
11	23	Dunlo → "Dehm low"
136	25	"depending on" → "a defendant in"
142	19	[redacted] → [redacted]
149	7	"
150	1	redact [redacted]
"	4	had → has
149	7	[redacted] → " [redacted]

Page	Line	Suggested Correction
151	16	[redacted] → [redacted]
155	22	redact [redacted]
156	5	11
159	15	redact [redacted]

COMMITTEE ON THE JUDICIARY,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

DEPOSITION OF: JEFFREY VELTRI

Thursday, October 24, 2024

Washington, D.C.

The deposition in the above matter was held in room 2237, Rayburn House Office Building, commencing at 10:00 a.m.

1 Appearances

2 FOR THE JUDICIARY COMMITTEE, CHAIRMAN JORDAN:

3 [redacted], Chief Counsel for

4 Oversight

5 [redacted], General Counsel

6 [redacted], Counsel

7 [redacted], Professional Staff Member

8 FOR THE JUDICIARY COMMITTEE, RANKING MEMBER

9 NADLER:

10 [redacted], Chief Counsel for

11 Oversight

12 [redacted], Staff Assistant

13 FOR THE WITNESS, JEFFREY VELTRI:

14 SHREVE ARIAIL, ESQ.

15 KATE JOHNSON, ESQ.

16 of: Jenner & Block, L.L.P.

17 1099 New York Avenue, N.W., Suite 900,

18 Washington, DC 20001

C O N T E N T S

EXHIBIT		PAGE
No. 1	October 11, 2024 Subpoena to SAC Veltri	4
No. 2	October 17, 2024 Notice of Deposition	4
No. 3	May 15, 2024 Letter from Rep. Jordan to SAC Veltri Requesting Transcribed Interview	5
No. 4	July 19, 2024 Letter from Assistant Director Findlay to Rep. Jordan	5
No. 5	September 25, 2024 Letter from Rep. Jordan to Director Wray Reiterating Request for Transcribed Interview	6
No. 6	October 22, 2024 Email Chain Between Committee Staff and FBI OGC Staff	7
No. 7	October 23, 2024 Letter from Mr. Weinsheimer to SAC Veltri	8
No. 8	October 24, 2024 Letter from Assistant Director Findlay to Rep. Jordan	8

1 [redacted]. Good morning. This was supposed
2 to be a deposition of Jeffrey Veltri, Special
3 Agent in Charge of the FBI's Miami Field Office.
4 Chairman Jordan requested this deposition as part
5 of the Committee's oversight of the FBI's misuse
6 of the security clearance suspension and
7 revocation process.
8 On October 11, 2024, the Committee issued a
9 subpoena for SAC Veltri to appear at a deposition
10 today, October 24th. I will mark the October 11th
11 subpoena as Exhibit No. 1.
12 [Veltri Exhibit No. 1 was marked for
13 identification.]
14 [redacted]. On October 17, 2024, the Committee
15 noticed today's deposition in accordance with its
16 rules. I'll mark the October 17th notice as
17 Exhibit No. 2.
18 [Veltri Exhibit No. 2 was marked for
19 identification.]
20 [redacted]. The Committee has sought SAC
21 Veltri's testimony for over five months. On May
22 15, 2024, the Committee requested that SAC Veltri
23 appear for a transcribed interview. The letter

gave a deadline of May 29th to schedule the TI. I'll mark the letter as Exhibit No. 3.

[Veltri Exhibit No. 3 was marked for identification.]

[redacted]. On July 19, 2024, after two months had passed since the initial request, the FBI sent the Committee a letter not offering dates that SAC Veltri was available but instead stating that the FBI would offer a different witness for a briefing. I'll mark the exhibit as No. 4.

[Veltri Exhibit No. 4 was marked for identification.]

[redacted]. Although the Committee had serious reservations about the personal knowledge the witness proposed by the FBI had about misconduct within the Security Division and the specific security clearance adjudications in question, the Committee as an extraordinary accommodation quickly accepted a transcribed interview with EAD Dunham days after the FBI sent the offer. Between May and September, Committee staff followed up with the FBI numerous times in an attempt to schedule SAC Veltri's transcribed interview.

Despite the follow up, the FBI never scheduled SAC Veltri's transcribed interview.

On September 25, 2024, the Committee sent another letter to Director Wray reiterating the Committee's request for a transcribed interview with SAC Veltri. The Committee gave the FBI until October 9th to schedule the interview. I'll mark that letter as Exhibit No. 5.

[Veltri Exhibit No. 5 was marked for identification.]

[redacted]. Between September 25th and when the Committee issued the subpoena on October 11th, the Committee staff continued to engage with the FBI in an attempt to schedule SAC Veltri's interview. Again, despite these efforts the FBI refused to schedule SAC Veltri's interview, which led the Committee to issue a subpoena.

On October 22nd the FBI Office of General Counsel, instead of confirming Mr. Veltri's appearance on the 24th, staff for the Office stated that they were only prepared to authorize a voluntary appearance by SAC Veltri on an appropriate timeline, despite already having five

1 months to do so and informed the Committee for the
2 first time that SAC Veltri obtained personal
3 counsel. I'll mark the October 22nd e-mail chain
4 as Exhibit No. 6.
5 [Veltri Exhibit No. 6 was marked for
6 identification.]
7 [redacted]. On the evening of October 22nd,
8 SAC Veltri's personal counsel, who is here with us
9 today, reached out to the Committee staff.
10 Committee staff spoke to personal counsel on the
11 morning of October 23rd and throughout the evening
12 yesterday.
13 After 9:00 p.m. yesterday, the Justice
14 Department sent SAC Veltri's personal counsel a
15 letter that stated, "After consultation with the
16 Attorney General and the FBI Director, the Justice
17 Department directs Mr. Veltri not to appear
18 pursuant to the subpoena."
19 I'll mark the October 23rd letter from Mr.
20 Bradley Weinsheimer as Exhibit No. 7.
21 [Veltri Exhibit No. 7 was marked for
22 identification.]
23 [redacted]. This morning, two hours before the

start of the scheduled deposition, the FBI sent the Committee a letter and this will be Exhibit No. 8.

[Veltri Exhibit No. 8 was marked for identification.]

[redacted]. I want to correct a few things from the letter. First, the Committee never declined the briefing with EAD Dunham. As stated earlier the Committee accepted TI with EAD Dunham days after the July 19th offer, and followed up with the FBI on July 26th after hearing nothing from the FBI to obtain dates for that interview.

Second, the FBI has, in fact, declined to make SAC Veltri available for a voluntary transcribed interview for over five months. The FBI is now offering the investigation into the second attempted assassination of President Trump as reason to declining to schedule the TI. However, the Committee had been requesting SAC Veltri's TI for nearly four months before the assassination attempt investigation began. In addition, seven other SACs, who all have busy field offices, have appeared before the Committee this Congress

without incident.

And now, I'll turn it over to my colleague, [redacted].

[redacted]. Thank you. Just a couple of quick comments. The letter dated October 23, 2024 marked as Exhibit No. 7. This is the letter from the Department of Justice to Mr. Veltri's attorneys. It makes a number of comments about Agency counsel and questioning the validity of the subpoena. We are not taking a position on that as we have not taken a position on similar issues in past disputes.

I do want to note on the letter that is dated this morning, October 24, 2024, from the FBI to the Chairman, that it was not copied to Mr. Nadler. It does comment that, and I should note that Minority staff is not included in the negotiations over timing, date, or anything like that, but according to this letter, the FBI was willing to authorize a voluntary appearance by SAC Veltri on an appropriate timeline that accounts for significant, current responsibilities.

Again, I am disappointed accommodation couldn't

be reached here. I think there are factual items listed in some of the Majority's earlier letters, the substantive letters, that we dispute that we think would be also disputed by the testimony of Mr. Veltri. I think a voluntary transcribed interview would have enabled those to come to light.

I also want to note that the letter from the FBI does detail the number of steps that the FBI has taken to try to comply with the Majority's requests. Including making the Executive Assistant Director more available for not one, but two interviews, making EAD Dunham available for interviews and Security Division Assistant Section Chief Dena Perkins in this matter, in addition to dozens of other FBI witnesses who have appeared this Congress. Thank you.

[redacted]. Will personal counsels please introduce themselves for the record?

Mr. Ariail. My name is Shreve Ariail.

Ms. Johnson. I'm Katie Johnson.

Mr. Ariail. And we're both with Jenner and Block. And I serve as, with my colleague, as

1 personal counsel to Mr. Veltri in the matter and
2 I'm here for the purpose of entering into the
3 record the fact that Mr. Veltri is not appearing
4 here today in response to the direct instructions
5 from his employer, the Department of Justice, that
6 he cannot give testimony in the matter. And then
7 as was entered in the record, I think it's Exhibit
8 No. 7, he received that direction in a letter by
9 counsel last night from Bradley Weinsheimer, and
10 we received the letter at 8:27 p.m. last night,
11 October 23rd.
12 I shared the letter over e-mail with the
13 Committee staff last night and I have copies but
14 it's already in the record so we don't have to
15 worry about that.
16 I appreciate that the Committee staff have been
17 open to discussing alternatives to proceeding with
18 today's deposition. I think we've had some good
19 faith discussions in the last 24-to-36 hours, but
20 in light of the letter that arrived last night,
21 Mr. Veltri is unable to appear. I wanted to
22 provide the information today in person as a
23 courtesy to the staff, the Chairman, and the

Ranking Member, and out of respect for the Committee's constitutional prerogatives here and that's all I plan to say. I yield back.

[redacted]. All right. Off the record.

[Whereupon, at 10:07 a.m., the deposition concluded.]

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5 COMMITTEE ON THE JUDICIARY,
6 U.S. HOUSE OF REPRESENTATIVES,
7 WASHINGTON, D.C.
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13 INTERVIEW OF: JEN EASTERLY
14
15
16
17
18 Tuesday, November 19, 2024
19
20 Washington, D.C.
21
22
23 The interview in the above matter was held in room 2237, Rayburn House Office
24 Building, commencing at 10:00 a.m.
25

1 Appearances:

2

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [redacted], PROFESSIONAL STAFF MEMBER

8 [redacted], RESEARCH ASSISTANT

9 [redacted], CHIEF COUNSEL FOR OVERSIGHT

10 [redacted], LAW CLERK

11 [redacted], PROFESSIONAL STAFF MEMBER

12 [redacted], DEPUTY CHIEF COUNSEL FOR OVERSIGHT

13 [redacted], MINORITY CHIEF OVERSIGHT COUNSEL

14 [redacted], MINORITY OVERSIGHT COUNSEL

15 [redacted], MINORITY STAFF ASSISTANT

16 [redacted], MINORITY PROFESSIONAL STAFF MEMBER

17

18

19 For CISA:

20

21 [redacted]

22 [redacted]

1 [redacted]. We'll go on the record.

2 [redacted]. This is a transcribed interview of Jen Easterly. Chairman Jordan

3 has requested this interview as part of the committee's investigation of how and the

4 extent to which the executive branch has coerced and colluded with companies and other

5 intermediaries to censor speech.

6 Will the witness please state your name for the record?

7 Ms. Easterly. Jen Easterly.

8 [redacted]. On behalf of the committee, I want to thank you for appearing

9 here today to answer our questions. The chairman also appreciates your willingness to

10 appear voluntarily.

11 My name is [redacted], and I'm with Chairman Jordan's staff. I'll now have

12 everyone else from the committee who's here at the table introduce themselves as well.

13 [redacted]. [redacted], Chairman Jordan's staff.

14 [redacted]. [redacted], Chairman Jordan's staff.

15 [redacted]. [redacted], Ranking Member Nadler's staff.

16 [redacted]. [redacted], Ranking Member Nadler's staff.

17 [redacted]. [redacted] with Ranking Member Nadler's staff.

18 [redacted]. [redacted] with Ranking Member Nadler's staff.

19 [redacted]. [redacted] with Chairman Jordan's staff.

20 [redacted]. [redacted], Chairman Jordan's staff.

21 [redacted]. [redacted], Chairman Jordan's staff.

22 [redacted]. I'd like to now go over the ground rules and guidelines that we will

23 follow during today's interview.

24 Our questioning will proceed in rounds. The majority will ask questions first for

25 one hour, and then the minority will have an opportunity to ask questions for an equal

period of time if they choose. We will alternate back and forth until there are no more questions and the interview is over.

Typically, we take a short break at the end of each hour, but if you would like to take a break apart from that, please just let us know.

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

Do you understand?

Ms. Easterly. You bet.

[redacted]. So the court reporter can take down a clear record, we will do our best to limit the number of people directing questions at you during any given hour to just those people on the staff whose turn it is.

Please try and speak clearly so the court reporter can understand and so the folks down at the end of the table can hear you. It is important that we don't talk over one another or interrupt each other if we can help it, and that goes for everybody present at today's interview.

We encourage witnesses who appear before the committee to freely consult with counsel if they so choose, and it is my understanding that you are appearing today with counsel.

Is that correct?

Ms. Easterly. Correct.

[redacted]. Could counsel please state your name for the record?

[redacted]. [redacted] with CISA.

[redacted]. [redacted] with CISA.

[redacted]. Thank you.

We want you to answer our questions in the most complete and truthful manner

as possible, so we will take our time. If you have any questions or if you do not understand one of our questions, please let us know. Our questions will cover a wide range of topics, so if you need clarification at any point, just say so.

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

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

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

Do you understand that?

Ms. Easterly. Of course.

[redacted]. This also applies to questions posed by congressional staff in an interview.

Do you understand that?

Ms. Easterly. Yes.

[redacted]. Witnesses that knowingly provide false testimony could be subject to criminal prosecution for perjury or for making false statements under 18 USC, Section 1001.

Do you understand that?

Ms. Easterly. Yes.

[redacted]. Is there any reason you are unable to provide truthful answers to today's questions?

Ms. Easterly. No.

[redacted]. Finally, I'd like to make note that the content of what we discuss today here is confidential. We ask that you not speak about what we discuss in this interview to any outside individuals to preserve the integrity of our investigation.

For the same reason, the marked exhibits that we will use today will remain with the court reporter so that they can go in the official transcript and any copies of those exhibits will be returned to us when we wrap up.

All right. That's the end of the preamble. Is there anything our colleagues from the minority would like to add?

[redacted]. Yes.

We'd just like to thank the witness for taking time out of your busy schedule and making some time to come join us today.

Additionally, we have had a little over 150 transcribed interviews or depositions in the committee this Congress. To date, less than 50 of those transcripts have been released. There is over a hundred yet to be released. So we would just like to continue to mark our request to release those transcripts, with appropriate redactions.

[redacted]. The clock now reads 10:03. We will start the first hour of questioning.

[redacted]. Just before we begin, can I confirm that today's interview is not being recorded?

[redacted]. That's correct.

[redacted]. Thank you.

1 EXAMINATION

2 BY [redacted]:

3 Q Can I have you state your name again?

4 A Jen Easterly.

5 Q And when did you become director of CISA?

6 A July 2021.

7 Q And what was your previous role in government before becoming director?

8 A Well, I was in the government -- just previous?

9 Q Yes.

10 A Yeah. I was the senior director for counterterrorism at the National

11 Security Council.

12 Q And when were you in that role?

13 A October 2013 to --

14 [redacted]. Can you speak up a bit, Director? Sorry. They're having

15 difficulty --

16 Ms. Easterly. Sorry.

17 October 2013 to December 2016.

18 BY [redacted]:

19 Q And who did you report to in that role?

20 A I reported to Lisa Monaco.

21 Q And in that role, did you interact with the predecessor at CISA?

22 A Not really.

23 Q Okay. In any of your prior government roles, did you interact with the

24 predecessor at CISA?

25 A No.

1 Q At the end of that role, what was your next position?

2 A I went to Morgan Stanley and was the global head of the Cybersecurity

3 Fusion Center, and then became the head of the Fusion Resilience Center, then the head

4 of firm resilience.

5 Q And what were your responsibilities in those roles?

6 A Well, the Global Fusion -- Cybersecurity Fusion Center was a new center that

7 was stood up to identify, understand, detect, and respond to cyber threats to the firm.

8 And then we expanded the firm's -- the center's remit to include the full range of

9 threats. So weather, infectious disease -- which is how I ended up being one of the crisis

10 managers for the firm for COVID-19 -- and really any business-disrupting events. And

11 then head of firm resilience is focused on anything that could impact the business,

12 whether it's an operational incident or a risk.

13 [redacted]. Director, if you can, I think, speak up even a little bit more.

14 Ms. Easterly. Sure.

15 BY [redacted]:

16 Q And in that role with Morgan Stanley, did you have interactions with CISA?

17 A Not that I recall. I'm sure my team at Morgan Stanley probably had some

18 interactions. I think it was quite new. Most of our interactions were not with the U.S.

19 Government.

20 Q Okay. Do you recall any interactions with the U.S. Government in that

21 role?

22 A For me directly, not that I recall. I mean, I'm sure there were -- oh, there

23 was something called the FBIIC. I don't know what the acronym stands for, but it was

24 some of the banking institutions, so probably something with Treasury. And then with

25 regulators, so some of the regulatory agencies.

1 But my interaction with them -- because I was very focused on operations, so it
2 would be much more about how do you leverage capabilities to detect and respond to
3 cyber threats to the firm. And so it was a lot of that. And then working with other
4 banks, and then working with clients.
5 Q When did you first become familiar with CISA?
6 A I don't really remember, because it didn't exist when I left the White House.
7 And so I think the main thing that I recall was there was guidance that came out about
8 what was called essential work.
9 And I just remember, I think that came from CISA, I remember it sticks in my mind
10 because we wanted to make sure that we had an understanding of who were essential
11 workers within the firm.
12 Q In your role with Morgan Stanley, do you have anything that touched upon
13 misinformation/disinformation?
14 A No.
15 Q When did you first -- or let me take one step back.
16 Have you met Chris Krebs before?
17 A Uh-huh.
18 Q When did you first meet Mr. Krebs?
19 A I don't actually remember. I remember going to a change of command
20 ceremony at Fort Meade and I think he was there and I said hello. But we didn't have
21 much interaction.
22 Q Okay. And do you recall any interactions with him while he was the
23 director?
24 A No. I mean, other than when I saw him at the change of command at Fort
25 Meade. We might have exchanged an email or something. I think he wanted

1 me -- just trying to remember.

2 Kevin, he was McAleenan. He was coming on as -- I think he was coming on as

3 the acting secretary and he was coming up to New York and wanted to meet with folks in

4 the financial sector who understood the security mission. And I think Chris sent me a

5 note saying, "We've asked financial sector people to meet with Kevin." I think that was

6 the only other interaction I had with him that I recall.

7 Q Do you recall when that was?

8 A I don't actually.

9 Q When were you first contacted about potentially taking the role as director?

10 A I mean, I don't remember the day. It was sometime in April of 2021.

11 Q Who contacted you?

12 A I don't remember his name. I think it was somebody from PPO.

13 Q Do you recall at what point if you received a briefing on what CISA's role was

14 with respect to combating mis-, dis-, and malinformation?

15 A I don't.

16 Q Before we get much further, to your understanding, what's the difference

17 among those three terms, misinformation, disinformation, and malinformation?

18 A Misinformation is inaccurate information that's provided unwittingly.

19 Disinformation is inaccurate information provided maliciously or wittingly. And then -- I

20 never really understood malinformation. I think it's accurate information provided

21 maliciously.

22 Q Prior to taking the role as director, had you ever heard the term

23 malinformation?

24 A No.

25 Q When assuming the role as director in July 2021, to your recollection, which

1 division or branch within CISA was responsible for focusing on combating mis-, dis-, and
2 malinformation?
3 A Can I mention one thing? When I started hearing it was in the prep for
4 Senate confirmation, because it was something that congressional staffers had brought
5 up. Specifically, there was a lot of interest in, I would just call it, disinformation,
6 misinformation, disinformation. And in fact, I think it was, as I recall, the first question
7 that I got in my confirmation hearing, was about that, and it was not a controversial thing
8 when it was asked about it.
9 So I do remember. I don't know if they called it MDM. I just recall it being
10 disinformation.
11 What was your question?
12 Q When you assumed the role in July 2021, do you recall which division or
13 branch within CISA was responsible for combating MDM?
14 A I mean, I think it's -- it was just a focus on elections, so within the election
15 space.
16 Q Okay. And do you recall the name of the team or division at that time in
17 July 2021?
18 A I don't know if it had a different name. It became the elections security
19 and resilience team.
20 But just to be clear, like, if you put it in context, I was a cybersecurity person, and
21 so I was very focused on -- and this was after SolarWinds and Colonial Pipeline and Kaseya
22 and Chinese attacks against Microsoft Exchange.
23 So from what I recall, other than hearing it in -- from congressional staffers and
24 from some of the Members, I was really very focused from the beginning on the
25 cybersecurity mission.

1 Q Who was your point of contact or briefing you on issues related to MDM?
2 Would it be the head of ESR or was that someone higher in the org chart?
3 A I really don't recall. I don't recall.
4 Q If you had a question about something related to how CISA is approaching
5 combating MDM, who would you reach out to?
6 A Probably the head of the National Risk Management Center, a guy called Bob
7 Kolasky.
8 Q As director, do you have a set of deputies? Or what's the reporting
9 structure?
10 A I have division chiefs, six division chiefs who report to me, and then the front
11 office, so deputy director, executive director, chief of staff.
12 Q And is the National Risk Management Center one of those divisions?
13 A It is, yeah.
14 Q And is that the division most likely to address issues with combating MDM?
15 A That's where the election work was. I don't know what it was called
16 before, but it was called ESR when I became the director, I think.
17 Q In any of your previous roles, whether at Morgan Stanley or many years in
18 the government, have you had other opportunities to work on combating issues related
19 to election security?
20 A No.
21 Q Do you know who Brian Scully is?
22 A I do, yeah.
23 Q Do you understand -- what's his role?
24 A I mean, he's within the National Risk Management Center in the election
25 security and resilience team, which is -- so CISA, just to step back for a sec, two key roles,

1 right?

2 America's cyber defense agency, the national coordinator for critical infrastructure

3 resilience and security insofar as the election security role. It's all about being the lead

4 Federal Government agency to support State and local election officials.

5 So I don't -- I mean, I work with the leadership team. I don't interface, interact

6 with Brian Scully on a regular basis. So I think he's part of the election security team.

7 Q What about Geoff Hale? Do you work with him or interaction with him?

8 A I had more interactions with Geoff, because he was the leader of the

9 election security team, although he actually moved, so I haven't interacted with him in a

10 while.

11 Q How frequently do you interact with Secretary Mayorkas?

12 A Interact? You mean, like, talk to him or meet with him?

13 Q Yes.

14 A Maybe, like, once a week. It depends, right? If there was an issue of the

15 day, it could be more frequently, or it could be less frequently. But we are -- at CISA,

16 most of my interaction is with our partners outside of CISA.

17 Q Have you had any meetings with Secretary Mayorkas regarding CISA's role in

18 combating MDM?

19 A Not that I recall, no.

20 Q Are you familiar with CISA's formerly organized task force, the Countering

21 Foreign Influence Task Force? Before your tenure.

22 A It was before my tenure? Yeah, I think it was before my time.

23 Q Okay. Did you receive any briefings on the role of the task force or why its

24 structure changed?

25 A No. I'm trying to remember from -- not that I recall.

1 Q Are you familiar with what switchboarding is?

2 A I am.

3 Q To your understanding, what is it?

4 A My understanding is it was a program that was developed in the last

5 administration at the request of State and local election officials where they would, if

6 they identified election-related potential misinformation or disinformation, they would

7 send it to CISA personnel that would then forward it to relevant media platforms and say,

8 like, "This is for your situational awareness," and not say to do one thing or another with

9 it.

10 Q When did you first find that CISA was engaging or had engaged in

11 switchboarding?

12 A I really don't recall, because it stopped. I mean, it stopped in the 2020

13 election cycle. I think the last time it was done was before I got to CISA.

14 I think -- I'm trying to remember. I think I had heard about it sometime -- it was

15 probably in 2022, but I don't remember specifically.

16 Q When you say it was sometime in 2022, what was -- to your recollection,

17 what was --

18 A I think it might have been with respect to the midterm elections. So I just

19 don't remember the exact time.

20 Q Do you remember who you spoke to about it?

21 A My recollection, which is not -- which is kind of a vague one, but my

22 recollection is that there was a meeting about preparation for the 2022 midterm and

23 what we were going to do to ensure that we could provide support to State and local

24 election officials.

25 And I don't remember the timing on this, [redacted], but I remember a meeting where

1 the issue of -- I mean, it's a terrible name, switchboarding, but this issue came up. And I
2 recall asking about, like, what it was about. In particular, I wanted to know about the
3 measures of effectiveness with the program.
4 And it -- from what I remember -- and again, it's a little bit of a fuzzy
5 memory -- but from what I recall, it didn't make any sense to me that we would put
6 resources to a program where there was so little that was -- so little getting out of it.
7 So this is where we really -- I mean, at my direction, we very much focused on not
8 trying to play Whac-A-Mole with misinformation and disinformation on behalf of State
9 and local election officials, but ensuring that we could provide access to accurate
10 information.
11 It was really -- and that's where the focus area was really focused on working with
12 our intelligence community and FBI partners to ensure that -- to help highlight the tactics
13 of foreign adversaries and interference and influence and to put out accurate information
14 about election infrastructure, because it can be very complicated and technical.
15 And then that's really where I focused very deliberately on the amplification of
16 State and local election officials as the subject matter experts. They are the ones to go
17 to for any type of election-related question, because they run elections.
18 Q Who was in this meeting?
19 A I really don't remember. I do think Brian Scully was there. I think that
20 was the one interaction I had with him. But I'm fuzzy on who -- on the others that were
21 there.
22 Q Was it only personnel from CISA?
23 A I think. There would have been no reason not to have anybody or no
24 reason to have other people.
25 Q Uh-huh. And when you say that you were concerned about looking at

1 measures of effectiveness and that CISA was not getting much out of it, can you say a bit
2 more about what you understood to be --
3 A Yeah. What I understood -- and again, it was very high level, because it
4 happens many levels below me -- but from what I understood, State and local election
5 officials had this concern.
6 Obviously, as you know, the designation of CISA as the lead Federal Government
7 agency for election infrastructure and security came in the aftermath of Russian attempts
8 to influence and interfere in the 2016 election. So the idea was that State and local
9 election officials were worried about this.
10 And, again, I wasn't here during it, so don't -- take this with a little bit of a grain of
11 salt, because this is just my high-level understanding.
12 And there were some -- there were less than, again, high level, 200 pieces of
13 information that were sent to CISA by election officials in both parties that were sent
14 forward.
15 So from a technology background, when you think about all of this information
16 that's out there, it just seemed to me not to make any sense.
17 And it's not a core mission of ours. And so that's why it felt to me the right thing
18 to do was to focus on how we can amplify the voices of State and local election officials
19 and how we can just make accessible accurate information about election infrastructure.
20 Q When you say it was not a core mission, how did you understand it,
21 switchboarding, not to be part of CISA's core mission?
22 A Well, it was something -- it certainly wasn't part of anything that we did
23 when I came on board, you know, where we have 10,000 people at CISA, between our
24 Federal employees and our contractors. And the heart of what we do is focused on
25 reducing risk to election infrastructure, so we have cybersecurity experts, we have

1 physical security experts.

2 And in terms of -- I don't even know if there's experts on things like this -- but

3 really we wanted to make sure that insofar as the technical understanding about how to

4 protect and reduce risk to the infrastructure, right, we do critical infrastructure, that's

5 really where our expertise is.

6 And that's why with 2024, which I saw the chairman noted was free and fair and

7 safe and secure, and I think credit to the State and local election officials who did

8 tremendous work, that's really where we were very focused, in ensuring they had what

9 they needed from a cybersecurity, a physical security perspective. And then we had this

10 focus pursuant to the notification framework on the foreign interference side.

11 Q In this meeting where switchboarding is being discussed, did you have a

12 sense of -- let me ask you, did you personally have any concerns about whether

13 switchboarding implicated any First Amendment concerns?

14 A No.

15 Q Was there any discussion of whether there was any concerns of whether

16 switchboarding implicated the First Amendment?

17 A No.

18 Q You said it was at your direction. Was it your decision to no longer

19 continue switchboarding?

20 A Yeah. I mean, as the director of the agency, I'm very focused at the high

21 level in terms of vision and strategy and resources. So it was certainly a resource

22 decision, yeah.

23 Q When you assumed the role as director, what was your understanding of

24 how frequently personnel from Brian Scully's team were interacting with social media

25 companies?

1 A I really didn't have any understanding of it at all.

2 Q Once you get further into your tenure in this roughly 2022 meeting before

3 the midterms, walking out of that meeting, what was your understanding of what was

4 appropriate for CISA to interact with social media companies?

5 A I mean, it's important to understand, so we are a voluntary agency. We're

6 not a regulator. We're not law enforcement. We don't collect intel. Everything we

7 do is by, with, and through partners. And we meet with industry all the time,

8 technology companies, particularly technology companies that have an understanding of

9 threats to critical infrastructure.

10 Some of those technology companies might also own social media companies.

11 But I have been very clear that our focus, particularly if we're working with technology

12 companies, it's very focused on cybersecurity threats to our critical infrastructure.

13 Q And does mis- and disinformation fall within one of the cybersecurity

14 threats?

15 A Tell me more.

16 Q Well, there's obviously been much debate about the scope of CISA's role in

17 whether mis-, dis-, and malinformation is a type of cybersecurity issue. I guess just in

18 your answer, are you trying to exclude that MDM work, or is that one of the cybersecurity

19 issues that you have in mind?

20 A I'm very focused on the technical aspects of cybersecurity. So insofar as it

21 relates to election infrastructure security, our concerns were around ransomware. Our

22 concerns were around distributed denial of service. We're focused on doing

23 assessments of cybersecurity, ensuring that they had things like endpoint detection,

24 response capabilities, that they had incident response plans to deal with cybersecurity

25 threats. So that was really the focus.

1 Q Uh-huh. As part of that role, does that include any focus on content, such
2 as information that's misleading about elections, misinformation that's true but
3 represented in a misleading way?
4 A No. If there was information that specifically was about threats to election
5 officials or election infrastructure. But that's not our mission if it's foreign. So the IC
6 would focus on that. If it was evidence of a crime, then law enforcement. But our
7 authorities are basically to focus on cybersecurity, cyber defense.
8 Q And to your understanding, help me understand better, for Brian Scully's
9 team, what is their role ultimately then if it's not as content focused?
10 A I don't -- Brian's -- so I don't -- I don't know. I mean, it's many layers below
11 me, so I don't know if he still has a team.
12 Q Did you receive any reports or indications that switchboarding continued
13 after you gave this direction in that meeting?
14 A No.
15 Q What about other direct interactions with social media companies?
16 A No. We -- I mean, for me, I have not interacted with social media
17 companies that I recall. And, frankly, my teams have interactions with technology
18 companies all the time as it relates to cyber threats to critical infrastructure.
19 But I think it's been very clear that insofar as election officials had concerns
20 around disinformation, our focus is very specifically on ensuring we can put out accurate
21 information about election infrastructure security.
22 Q You've testified before and referred to something, cognitive infrastructure.
23 Do you recall using that term?
24 A When I testified? Which testimony?
25 Q I believe it was for the -- was it House Budget?

1 [redacted]. I believe the cognitive infrastructure was a media article that you
2 were quoted in.
3 [redacted]. Director, if you don't recall it, can you guys refresh her
4 recollection with whatever you're referring to.
5 [redacted]. I'm sorry, if you're referring to a specific article, can you let us know
6 the date?
7 [redacted]. Yeah. We are getting that.
8 [redacted]. We're having a little trouble hearing back here, so reiterating the
9 request --
10 Ms. Easterly. Sorry. Sorry. I'll try to use my military command voice.
11 Coming off a little bit of a cold.
12 [redacted]. The room is not designed for acoustics.
13 [redacted]. I'm not sure we have that specifically marked, [redacted], so I'm going
14 to look through.
15 [redacted]. Okay. Just when you pull it.
16 BY [redacted]:
17 Q In the lead-up to the 2022 midterms, to your understanding, was Brian
18 Scully's team meeting regularly with social media companies?
19 A I don't know.
20 Q If Brian Scully's team was still flagging mis- and disinformation for social
21 media content moderation teams, who ultimately within your chain of command is
22 responsible for reporting that to you?
23 A To the best of my knowledge, there has been no flagging of content to social
24 media companies since the early on in 2021.
25 Q But if there were direct communications between CISA and social media

1 companies, is that ultimately reported through the National Risk Management Center?

2 [redacted]. Just to clarify, [redacted], can you just be clear if you're talking

3 about what is referred to as switchboarding or talking to social media companies?

4 Those are two distinct activities. Just so the director understands your questions.

5 BY [redacted]:

6 Q Yeah. I'm happy to spell this out more.

7 A Yeah, that would be --

8 Q Just our understanding is that switchboarding is a type of direct interaction

9 with social media companies that CISA used to have.

10 A Under the previous --

11 Q Yeah, under the previous director. But CISA had ongoing direct

12 communications with social media companies. So trying to get a sense of you gave a

13 direction at this meeting. Who is responsible for reporting to you if this isn't being

14 followed?

15 A The direction I gave at the meeting was specific to this issue about

16 forwarding emails. Again, we are a voluntary partnership agency. If there are

17 meetings with technology companies, to include social media companies, the focus,

18 again, would be about cyber threats to election infrastructure.

19 That is the value of any interactions that there would have been. But I

20 don't -- that's very in the weeds for me, so I couldn't speak to any specifics.

21 Q In terms of your direction, walking out of that meeting --

22 A Yeah.

23 Q -- was it your intent to convey whether Brian Scully and his team -- so no

24 more switchboarding -- but can they go and flag independently on their own for social

25 media companies that a certain post is misinformation?

1 A I don't think so.

2 Q You don't think that would be consistent with the direction you gave?

3 A No. And as far as I am aware, there has been no more of this forwarding of

4 emails between election officials and social media platforms. As far as I am aware, that

5 stopped in early January -- or early 2021 -- certainly before I arrived.

6 Q Do you have a sense of the frequency in which Brian Scully's team met with

7 social media companies in the lead-up to the 2022 election?

8 A I don't.

9 Q There are a number of media invites, much of this out in the public domain.

10 Was there any mechanism for you to be made aware of whether during these meetings

11 members of Brian Scully's team or the personnel in CISA are communicating with social

12 media companies what types of content to be on the lookout for?

13 A Was I on the invites?

14 Q You've given this direction as the director.

15 A Well, I have -- again, very big agency. I have people that work for me.

16 They work very closely with our legal team.

17 And certainly if there was something happening that did not comport with my

18 direction, I'm sure I would be aware of it. So I have no awareness that there was any

19 continuation of the activity to forward emails from State and local election officials to

20 social media platforms.

21 And just to be very clear, [redacted], and I've said this many, many times, CISA does not

22 censor, has never censored, does not use third parties to censor. Every day the men

23 and women of my agency execute their mission to reduce risk to the American people in

24 a way that comports with the law and the Constitution.

25 So the forwarding of emails was not in any way a form of censorship. The reason

1 why I gave direction for it to stop is I thought it was a terrible use of precious resources.
2 Q Do you have familiarity with the Election Integrity Partnership?
3 A Not really.
4 Q Do you know who Alex Stamos is?
5 A I do.
6 Q Did you know Alex Stamos prior to taking the role as director?
7 A I knew him a little bit. He was known as a cybersecurity expert certainly in
8 the community. I didn't have any regular interaction with him, but I asked him to serve
9 on our advisory committee given his cyber expertise.
10 Q Have you since learned about the role that the Election Integrity Partnership
11 played related to the 2020 election?
12 A Very vaguely, because, again, I wasn't around during that period of time and
13 key folks had departed before I got there. So not really.
14 Q Were there any discussions in 2022 about whether CISA could offer any
15 support to the Election Integrity Partnership?
16 A Not that I know of.
17 Q It's your understanding, based off the role of the Election Integrity
18 Partnership, is that the type of effort that CISA can support?
19 A I don't really understand what it is.
20 Q It's in lead-up, both in 2020 and 2022, a group of researchers, Stanford,
21 University of Washington, that made recommendations, especially in 2020, to social
22 media companies directly with recommendations on how to moderate content.
23 A I'm really not familiar with it and I don't -- I'm not familiar with anything we
24 did with it during my tenure.
25 Q Do you know who Kate Starbird is?

1 A Yes.

2 Q How do you know Dr. Starbird?

3 A She was on my advisory committee.

4 Q Did you know her prior to her serving?

5 A I did not.

6 Q How did you find her name?

7 A She was -- I forget how I found her. She was recommended as somebody

8 who was smart in the world of disinformation.

9 [Easterly Exhibit No. 1

10 was marked for identification.]

11 BY [redacted]:

12 Q I'd like to introduce as exhibit 1 a November 10th, 2021, article from The Hill.

13 A Got it.

14 Q I just wanted to return to the question I had earlier about your reference to

15 cognitive infrastructure. It's used on the second page, three paragraphs down.

16 A Infrastructure?

17 Q What did you mean by the term cognitive infrastructure?

18 A When is this? Like, 2021?

19 Q Yes.

20 A So it was quite a while ago. I don't recall using this very -- I mean, I think I

21 probably just meant how people make decisions, and so it's important to have the most

22 accurate information to be able to make the best decisions.

23 Q Do you recall any conversations within CISA regarding how to develop or

24 strengthen cognitive infrastructure?

25 A No. I think I know much has been made probably of that phrase, but it was

1 a one-off comment.

2 Q At the top paragraph on that same page you say that you're going to grow

3 and strengthen your misinformation/disinformation team.

4 At this point, this is an article from November 2021. What was your intention at

5 that point of how to grow and strengthen the misinformation/disinformation team?

6 A From what I recall, [redacted], and this was very much informed by my discussions

7 with the staff as I was preparing for my confirmation, and again, I very much remember

8 the first question the chairman of my authorizing committee asked me was about the

9 misinformation/disinformation mission. And I felt that the signal that I was getting was

10 this was something that the Congress, which of course authorizes and appropriates

11 money to us, wanted to see growth.

12 As I recall, so I had a -- so I was looking at that. It's why I asked one of our

13 subcommittees from the cyber committee, cyber advisory committee, to look at are there

14 ways that we can help with this disinformation issue around election infrastructure.

15 And then ultimately we didn't end up providing additional resources to that team,

16 because I felt that the focus on providing accurate information and helping people

17 understand and election officials understand the tactics of foreign malign influence and

18 really amplifying the voices of State and local officials, I felt like that was the best place

19 for the mission.

20 Q And when you say you ultimately decided not to provide more resources,

21 when approximately was that decision made?

22 A I don't recall. I think it was probably sometime in -- I don't really recall. I

23 don't want to speculate. But it was probably in 2022.

24 Q If the advisory subcommittee on mis- and disinformation ran throughout

25 2022, was this a decision made at the end of that process, near the election, or was this

1 earlier --

2 A I don't -- I have a vague recollection. I remember getting briefed on

3 recommendations in June or July of 2022, and then I think we shut it down. So it ran for

4 about six months, I think, and then I closed out that subcommittee and stood up some

5 other ones.

6 Q Who decided who would be on that MDM subcommittee?

7 A I don't know it was called MDM subcommittee. I thought it was mis- and

8 disinformation, but I don't have a perfect recollection.

9 Folks within -- so within the committees, people decide where they want to focus

10 areas, so I don't know how exactly -- who made those decisions, but typically they're

11 made within the committee itself. People say, "Oh, I want to serve on this, I want to

12 serve on that."

13 Q Okay. Who is responsible for deciding people for the overall advisory

14 committee at CISA?

15 A I chose them.

16 Q And you don't recall how you received Dr. Starbird as a potential person?

17 A I don't recall.

18 Q Do you know the former Twitter executive Vijaya Gadde?

19 A Who is it?

20 Q The former Twitter executive Ms. Gadde, G-a-d-d-e?

21 A Oh, Vijaya Gadde?

22 Q Yes.

23 A Yes. She was on it as well.

24 Q Did you know her prior to taking the role as director?

25 A Not really, no. I mean, I knew vaguely who she was, but no.

1 Q Do you remember how her name was referred to you?

2 A Not specifically. I think I had -- and I don't remember. I think I'd asked

3 some just generally people in the technology community like who were people who were

4 experts in things like tech and cyber and privacy. So people were teed up. I don't

5 remember the specifics.

6 Q Did you have someone who was helping you for names who were in the

7 mis- and dis- --

8 A So the folks who ran the committee, they -- and some people

9 self-nominated. So there were all kinds of names that came to me. So it was like a

10 bunch of different sourcing of -- I think there was -- I don't even remember. There were

11 likely more names. I don't remember how many people started out on it, but we ended

12 up with, like, 20 or so.

13 Q Do you know who Renee DiResta is?

14 A Yes.

15 Q How did you first get to know Ms. DiResta?

16 A She was, I think, although my recollection of this is very vague, she was part

17 of an effort when I was at the White House in 2016 to -- we were focused on preventing

18 terrorists from using the information environment to recruit and radicalize terrorists.

19 And there was some work that was -- and I was the head of CT, so there was some work

20 that outside people came in to sort of come up with how can we best do this, and I think

21 she was part of that.

22 Q Did you have any interactions with her during your tenure as director?

23 A Maybe once.

24 Q Do you recall what the occasion was for that?

25 A It wasn't like a formal thing. I think they -- that she was -- I just remember

1 seeing her at an event, and I don't remember the details around it. But I didn't have any
2 real interactions with her.
3 Q In either your role as director or previously, have you had any interactions
4 with the FBI's Foreign Influence Task Force?
5 A No.
6 Q In either your role in the White House or your current role as director, have
7 you had any interactions with the Global Engagement Center?
8 A Is this the State Department thing?
9 Q Uh-huh.
10 A Yes. When it was stood up, I think, we did a little bit of work specific to the
11 ISIS mission. But, yeah, in 2016.
12 Q Uh-huh. What about as director?
13 A Who was the director?
14 [redacted]. Do you know who the special envoy is?
15 [redacted]. Currently? Maybe Adele Ruppe.
16 [redacted]. We'll pull it. We can wait until the next round.
17 BY [redacted]:
18 Q Have you had any interactions with Andy Slavitt during your role as director?
19 A Who is that?
20 Q He was a former senior White House adviser who led the COVID Response
21 Team.
22 A Never heard of him.
23 Q During your tenure as director at CISA, was there any discussion regarding
24 combating mis- and disinformation related to COVID-19 or vaccines?
25 A No.

1 Q Did you ever have any discussions with the Chief Counsel's Office regarding
2 switchboarding? Were there any legal or constitutional issues?
3 A The Chief Counsel's Office?
4 Q At CISA.
5 A Specific on the forwarding of emails thing? Maybe. I don't recall specific
6 ones. I mean, probably in -- to me, it was not -- again, it was very focused on measures
7 of effectiveness and resources and was not a legal issue. So if there was something that
8 had to do with the legal issues, I don't recall.
9 Q Are you familiar with the Disinformation Governance Board?
10 A I am.
11 Q When did you first become aware that there would be an effort to try to
12 stand up this board?
13 A I don't know if it was 2022 or 2023. I just --
14 Q It was '22.
15 A It was '22? Maybe in, like, early 2022.
16 Q And do you recall who first brought it to your attention?
17 A I don't.
18 Q When the idea was presented to you, did you understand what was the
19 purpose of the board?
20 A It wasn't brought to me. I didn't -- I wasn't involved in it at all.
21 Once it became a public thing, I recall the explanation was that it was looking to
22 better coordinate efforts in the department that was focused on misinformation and
23 disinformation. That's my sort of vague recollection of it.
24 Q Do you know who within CISA was the point of contact to discuss how CISA
25 fit into --

1 A No. I know it was led out of the department, but I don't know who. I
2 didn't see this as anything that we were particularly involved in.
3 Q During your tenure, there has been this mis- and dis- branch within ESR.
4 Do you recall any discussions about whether that branch would be one of the ones that
5 would be coordinating under the proposed board?
6 A I don't.
7 Q Have you ever met --
8 A Just to be clear, to give you context, what was happening at this point in
9 time was Russia's full-scale invasion of Ukraine, and we were -- that was where my
10 intense focus was for -- from late 2021 to, I mean, deep into 2022. And so that's
11 really -- that's why I don't have this, like, direct -- that's really where my focus was at the
12 time.
13 Q Which of your deputies would you have relied upon the most during this
14 time?
15 A I rely upon -- I had both a deputy and an executive director. The deputy
16 was the one who was in charge of our mission-enabling offices and the executive director
17 was in charge of policy, so I relied on them for different things.
18 Q Did either take the lead on handling questions or engagement with the
19 proposed board that was being set up?
20 A Not that I know of, no.
21 Q Have you ever met Nina Jankowicz?
22 A No.
23 Q Are you familiar with the Center for Internet Security?
24 A The CIS? Yes.
25 Q And what is CIS?

1 A It's a nonprofit focused on cybersecurity. They have these controls that
2 focus on cybersecurity of critical infrastructure. So we had some interaction with them.
3 And they're also -- they have a relationship with the multistate ISAC and the
4 EI-ISAC. So I think we have, like, a grant program with them.
5 Q And what is the role of the EI-ISAC?
6 A It's to provide threat information to its members. The members, I think,
7 are about thousands of State and local election officials to provide threat advisories and
8 very specifically focused on cybersecurity.
9 Q Uh-huh. Does it notify individuals about mis- and disinformation?
10 A Not that I know of. Our cooperative, our relationship with CIS is very
11 specifically in the grant itself. It's just focused on cybersecurity, because it's their
12 expertise.

1 [10:59 a.m.]

2 BY [redacted]:

3 Q And when you use the term "cybersecurity," you're excluding focus on the

4 content of mis- and disinformation?

5 A Yeah. Cybersecurity, when I say cybersecurity I'm really talking about the

6 confidentiality, integrity, and availability of the technical systems that underpin

7 infrastructure.

8 Q To your understanding, has there ever been a time that the EI-ISAC was

9 focused on content such as mis- and disinformation?

10 A I don't think so. Not that I know of.

11 Q Either during your meeting in -- sometime in 2022 or otherwise, has there

12 been any discussion regarding taking the prior role in switchboarding that [inaudible]

13 engaged in and relying on CIS or the EI-ISAC to act?

14 A There's not that -- no.

15 Q How did you first become familiar with CISA's providing a grant for CIS?

16 A I don't recall. I might have been briefed on it as a part of overall grant

17 programs, but I don't want to speculate.

18 Q Did you have any familiarity with CIS prior to becoming director or in your

19 prep to becoming director?

20 A I think I became aware of it during my preparation for Senate confirmation

21 hearings. So it was probably after I was -- after I was nominated. And it was because

22 of the, as I recall, this whole idea of these controls that they have. So how does

23 infrastructure use various compensating controls to reduce risk to infrastructure.

24 Q Have you had -- received any information from either Brian Scully, Geoff

25 Hale, anyone in the reporting chain, about requests from either State and local officials or

1 CIS about the creation of a misinformation portal to expedite flagging of election-related
2 mis- and disinformation?
3 A No.
4 Q In that meeting regarding the -- where you provided direction on no longer
5 using resources to engage in switchboarding, was there anyone in the meeting that
6 advocated for continuing switchboarding?
7 A Not that I recall.
8 Q Was the discussion only focused on resources or were there any other
9 reasons for or against switchboarding that were discussed?
10 A My focus was on resources. I always focus broadly at CISA. As you know,
11 we're a very new agency with a -- I want to make sure that we are good stewards of
12 resources. So one of the things I really try to do is to focus the Agency on not just
13 measures of performance but really measures of effectiveness. How are we using the
14 resources? Like, we'e using resources that Congress gave to us reduce risks to the
15 critical infrastructure Americans rely on every hour of every day. So that is typically how
16 I'm thinking about resource allocation. And, certainly, if there were any issues around,
17 you know, the legality of things, that would obviously be brought to me, but nothing ever
18 was.
19 [redacted]. Can we go off the record, please.
20 [Recess.]
21 [redacted]. We can go back on the record.
22 EXAMINATION
23 BY [redacted]:
24 Q I want to start by talking a bit more about your professional background.
25 You served in the Army for 20 years. Is that right?

1 A Twenty-one.

2 Q Twenty-one. And you became a major in 2000?

3 A Maybe. When did I get promoted? Either 2000 or 2001.

4 Q Okay.

5 A I don't recall.

6 Q And then you were promoted to Lieutenant Colonel?

7 A Uh-huh.

8 Q Is that -- can you say "yes" for the record?

9 A Yes, I was promoted to Lieutenant Colonel prior to my deployment to -- my

10 first deployment to Iraq.

11 Q And during that time you helped stand up and lead the Army's information

12 warfare battalion. Is that right?

13 A It was actually the Army Network Warfare Battalion. So it wasn't

14 information warfare, it was cyber warfare.

15 Q Generally, at an unclassified level, can you describe what work that battalion

16 did?

17 A At an unclassified level we were focused on computer network exploitation

18 and, as necessary, computer network attack.

19 Q And then you mentioned your deployments. You were deployed abroad

20 during your military service?

21 A Yes. I was deployed to Haiti in '95; to Bosnia in '97; to Kosovo in the

22 summer of 2000; to Iraq in 2006, 2007, and part of 2008; and to Afghanistan, 2010, 2011.

23 Q Thank you for your service.

24 After that you also worked for NSA's elite Tailored Access Operations unit. Is

25 that right?

1 A Correct.

2 Q Broadly, at an unclassified level, can you describe what kind of work you did

3 there?

4 A NSA's mission is a foreign intelligence collection mission. So this is really

5 about using the computer network operation skill set to get foreign intelligence

6 information.

7 Q And you also helped establish the U.S. Cyber Command. Is that right?

8 A Uh-huh.

9 Q Is that a yes?

10 A Yes.

11 Q Thank you.

12 A Yes.

13 Q What is the U.S. Cyber Command?

14 A It was the combatant command stood up in 2009, 2010 -- I think officially the

15 2010 -- to project power in cyberspace and to defend military networks.

16 Q You then served as the deputy director for counterterrorism at the NSA. Is

17 that right?

18 A Correct.

19 Q And how long were you in that role?

20 A I think shortly -- I was in that role shortly after I returned from Afghanistan as

21 a cyber advisor until I went to the White House. So it's May of 2011 to October of 2013.

22 Q And what were your responsibilities in that role?

23 A I was in charge of developing and implementing NSA's counterterrorism

24 strategy.

25 Q And then you mentioned after that you went to the White House and

1 worked on counterterrorism issues. Is that right?

2 A Yes, the senior director for counterterrorism in charge of -- so leading the

3 development and implementation and resourcing of global counterterrorism strategy and

4 hostage policy.

5 Q And then you mentioned after that you went to Morgan Stanley. Is that

6 right?

7 A Yes.

8 Q You mentioned working with a Treasury group. Could you remind me of

9 the acronym that you mentioned?

10 A There was something called the FBIIC. And I don't know what it stands for,

11 but the FBIIC is on the -- the FBIIC is on the commercial side on firms. And the FBIIC is

12 sort of the -- I think it stands for like financial banking or Federal banking. It's sort of the

13 government entity so that government and the private sector were working together.

14 Q And then you became director of CISA. Is that right?

15 A Correct.

16 Q You were unanimously confirmed by the Senate?

17 A Correct.

18 Q So you've been working in national security for over two decades. Is that

19 fair to say?

20 A Oh, I'd say over three decades.

21 Q Over three decades?

22 A Yeah.

23 Q Have you won any awards for your work throughout your career?

24 A I have.

25 Q Could you describe some of the most prestigious awards?

1 A I received a Bronze Star for my time -- my service in Iraq. I received a
2 Bronze Star for my service in Afghanistan. I received the American Hostage Freedom
3 Award for my work around hostages being held by terrorist groups. I received the Grace
4 Hopper Award. I received the George C. Marshall Award in Ethical Leadership.
5 Those are just a couple.
6 Q Thank you.
7 Are you proud of the work that you've done for the national security?
8 A Incredibly.
9 Q Can you give us some examples of the work that you're the most proud of?
10 A I mean, I would probably point to two. One was when I was in Iraq in 2006,
11 I was there as part of the surge. And as you all may recall, this was a time where we
12 were suffering enormous casualties from improvised explosive devices that were being
13 set off by terrorist groups. And so I was asked to go there as the head of our National
14 Security Agency military forces on the ground to operationalize a high-tech system called
15 Real Time Regional Gateway, RT-RG, which essentially took all of the intel in theater and
16 correlated it and enriched it to enable JSOC, the Joint Special Operations forces, to be
17 able to illuminate terrorist networks, not in weeks or days, but in hours or minutes so
18 they could prosecute those networks.
19 And it was a really, really hard project. We were in a van in the middle of Camp
20 Victory trying to code this thing and make it work, and there was all kinds of borders and
21 rocket fire everywhere. But, you know, we were able to get the thing up and running.
22 And, ultimately, it provided a capability that allowed the forces on the ground to take
23 thousands of insurgents off the battlefield and was credited with saving many lives of
24 Iraqi civilians and troops on the ground. So it's one of the things I'm most proud of.
25 It's what I got the first Bronze Star for.

1 Q Moving on to CISA's work. You mentioned CISA considers election security
2 a critical infrastructure subsector. Is that right?
3 A Well, we do because it was designated as such actually before I got there,
4 but --
5 Q And so it was designated in 2017. Is that right?
6 A Yes.
7 Q And, generally, why is election infrastructure considered a critical
8 infrastructure subsector?
9 A I think at the aftermath, as I understand it -- I wasn't here -- in the
10 aftermath of Russian attempts to interfere in the 2016 election, it was recognized that
11 election infrastructure should be critical infrastructure given that, at the end of the day, it
12 is free and fair and safe and secure elections are a matter of national security. And
13 that's what critical infrastructure is, infrastructure that is vital to national security,
14 economic security, or public health and safety.
15 Q And you mentioned that your background is primarily in cybersecurity. Is
16 that right?
17 A Cybersecurity, and I had the counterterrorism work as well.
18 Q CISA is focused both on cybersecurity and other aspects of infrastructure
19 security. Is that right?
20 A And physical security.
21 Q Yep, physical security.
22 Generally, can you describe what cybersecurity work CISA does to address in the
23 election infrastructure sector?
24 A Yes. So as -- I've talked about this a lot because it's something that I'm
25 really proud of. Over the past almost 4 years, there has been enormous work done to

1 improve the security and resilience of election infrastructure, to the point where I can
2 say, have said, with confidence that election infrastructure has never been more secure.
3 So from a place where there was very little mechanisms to detect and prevent cyber
4 threats, now you have multiple layers in place to prevent any sort of tampering or
5 manipulation with election infrastructure. And a lot of that was enabled by work that
6 we've been doing with State and local election officials, whether that's helping them
7 instantiate and point detection response capabilities, blocking of access to malicious
8 websites, cybersecurity assessments to help them reduce risks, do things like phishing or
9 ransomware, numerous or multiple tabletop exercises to ensure that they were prepared
10 to respond to things like ransomware attacks or distributed denial of service attacks. So
11 an enormous amount of work.
12 In just this past election cycle, we've provided more than 700 cybersecurity
13 assessments to State and local election officials to help them reduce cyber risk.
14 Q And can you generally describe what the physical security threat to election
15 infrastructure looks like?
16 A The physical threats are mostly about threats to election officials and to
17 election offices. And this was something that election officials told me, almost since I
18 took the job, that they were increasingly concerned about. This includes harassment,
19 bullying, swatting, threats of violence to election officials and their families -- election
20 officials of both parties and their families, largely stemming from unfounded claims that
21 the 2020 election did not represent the will of the American people.
22 And so we did a lot of work to help election officials and election offices build
23 security and resilience that includes things like over, I would say, almost 1,300 physical
24 security assessments. So looking for vulnerabilities in the physical security of election
25 offices. So that's why you probably read about things like panic buttons, bollards,

1 bulletproof glass, all kinds of things to help election offices secure places where they were
2 going to count the vote, and then also work around personal considerations for people
3 who are in elections.
4 So we look to provide advisory assistance and things like training for how do you
5 deescalate tense situations. And, you know, even though this is a very small part of our
6 mission, we have a $3 billion budget. And the election security mission is I think about
7 $45 million. So it's a tiny amount.
8 I am really proud of the work that the team was able to do to help election
9 officials run safe and secure and free and fair elections. And I think it was a good day for
10 a democracy.
11 Q I want to talk next about the disinformation threat to infrastructure. I'm
12 going to introduce as exhibit 2 the 2024 DHS Homeland Threat Assessment.
13 [Easterly Exhibit No. 2
14 was marked for identification.]
15 BY [redacted]:
16 Q Have you seen this before?
17 A I have not. No.
18 Q I'm not going to ask you to read the whole thing, but take your time to look
19 at it.
20 [redacted]. Do you want her to focus on any particular --
21 [redacted]. Sure. I think we're going to be focusing on information on page 6
22 and page 19. But take as much time as you want to read it.
23 Ms. Easterly. Sure.
24 Sorry, 6 and what?
25 [redacted]. Nineteen.

1 Ms. Easterly. Nineteen.

2 [redacted]. Are you familiar with DHS' homeland threat assessments

3 generally?

4 Ms. Easterly. Generally.

5 [redacted]. Let's look at the very first page I think -- the methodology

6 page. It's labeled iv.

7 BY [redacted]:

8 Q The Homeland Threat Assessment is prepared by the Office of Intelligence

9 and Analysis at DHS. Are you familiar with that office?

10 A Yes.

11 Q And broadly what's your understanding of what that office does?

12 A They focus on intelligence relevant to homeland security.

13 Q They're not part of CISA, correct?

14 A No.

15 Q Okay. So they do -- is it fair to say that OI -- it's sometimes abbreviated

16 OIA, correct -- or I&A? I'm sorry.

17 A I&A.

18 Q I&A.

19 A Yeah.

20 Q I&A provides recommendations from an external perspective -- perspectives

21 external to CISA, correct?

22 A Yeah. We don't do a lot with them.

23 Q Okay.

24 A You mean provides recommendations?

25 Q Well, I'm looking at this. They make some comments about generally the

1 threat --

2 A Yeah.

3 Q -- landscape, for example, in advance of the 2024 elections.

4 They're not part of CISA. They're doing that from outside of CISA, correct?

5 A Correct.

6 Q Okay. Thank you.

7 A I don't know if my -- I don't do much with them.

8 BY [redacted]:

9 Q Looking at a page with "Methodology" with little Roman numeral iv.

10 A Okay.

11 Q This says that this "Homeland Threat Assessment reflects the insights from

12 across the Department, the intelligence community, and other critical homeland security

13 stakeholders. It focuses on the most direct, pressing threats to our homeland during the

14 next year and is organized into four sections." And then speaks further about the

15 Homeland Threat Assessment. Is that right?

16 A Yes.

17 Q And then looking at page 6, there's a section entitled, "Foreign

18 Misinformation, Disinformation, and Malinformation." Do you see that?

19 A Yes.

20 Q This section reads, "Nation-state adversaries likely will continue to spread

21 mis-, dis-, and malinformation aimed at undermining trust in government institutions, our

22 social cohesion, and democratic processes. The proliferation and accessibility of

23 emergent cyber and AI tools probably will help these actors bolster their malign

24 information campaigns by enabling the creation of low-cost, synthetic text, image, and

25 audio-based content with higher quality. Russia, China, and Iran continue to develop

1 the most sophisticated malign influence campaigns online. Many of the tactics these
2 adversaries use to influence U.S. audiences will likely be used in the lead-up to the 2024
3 election."
4 Did I read that right?
5 A Correct.
6 Q And then the section goes on to list different tactics that foreign malign
7 influence campaigns may utilize. Do you see that?
8 A Yes.
9 Q Do you have any information that -- to contradict the threat assessment
10 here that foreign misinformation, disinformation, and malinformation are a threat to the
11 U.S. homeland?
12 A I mean, when I've talked about it with respect to election infrastructure, I
13 talked about the fact that election infrastructure has never been more secure, but the
14 threat environment has never been more complex. And we talked about the cyber
15 threat, the physical threats, and have talked about threats from our foreign adversaries
16 who remain intent on influencing and interfering in our elections, specifically, to
17 undermine American confidence in the legitimacy of those locations and to stoke partisan
18 discord.
19 And I haven't read this document, but essentially that comes from the work that
20 the Office of the Director of National Intelligence has been focused on over the past
21 several months. They have been doing regular updates to provide information about
22 what foreign adversaries are doing. And I've had teammates that have sat in on those
23 updates. So I don't think it's any different from this. I don't -- as far as I'm aware, they
24 don't use the term "malinformation." But where they've been really focused and
25 therefore where I've been focused is on our foreign adversaries looking to malignly

1 influence or interfere in our elections.

2 BY [redacted]:

3 Q And when you say you've been really focused on that threat in particular,

4 can you explain what you mean by focused? Are you just learning about it or is CISA

5 actually taking steps to prevent those actions?

6 A Yeah. I mean, we don't have an ability to prevent because we're not law

7 enforcement, we're not a regulator.

8 Q Understand.

9 A So what we do is really two things. We work with the intelligence

10 community, ODNI, and the FBI pursuant to what's called the Notification Framework that

11 was developed in the previous administration that really, as necessary, puts out joint

12 statements around foreign adversary activity. So we did four of those, and those

13 ultimately come up to me for final approval. And those were around the Iranian hack

14 and leak operations around -- and then two others around Russian videos: One where

15 ballots were being ripped up, one where migrants were purportedly illegally voting in

16 Georgia. So that's where I say, you know, focused pursuant to the Notification

17 Framework.

18 And then as I mentioned earlier to [redacted], all of the focus that we have had is really

19 about, from a CISA perspective, just ensuring that as a lead Federal Government agency

20 for election infrastructure security that there's accurate information about election

21 infrastructure specifically.

22 Q And I think we're going to get back to that in a little bit, that piece about the

23 making sure it's accurate information available. But quickly on the notifications, is it fair

24 to say that those notifications are broadly disseminated?

25 A They're public. Yeah, absolutely.

1 Q And talking about the Iran hack just because that's a recent example, is it fair
2 to say that the purpose in distributing that was so that people would know this had
3 happened and could critically assess any information that might flow from it? And I
4 guess that might be a compound question, so if you want me to break that down I can.
5 A No. I mean, I think it's continent with what I mentioned earlier, you know,
6 that the community and credit to the intelligence community for very rapidly
7 declassifying information recognized the importance of being transparent for the
8 American people about what our foreign adversaries are trying to do to interfere in or to
9 influence our elections. I think as Americans we can all agree that our foreign
10 adversaries should not have a vote in our democracy.
11 Q And apologies for keeping to press on this. But the Notification Framework
12 involves multiple different agencies, correct?
13 A Yes.
14 Q What's CISA's actual role in that process?
15 A Yeah. So we're involved insofar as it relates to cyber defense or
16 cybersecurity. So when you see the four joint statements that have come out, it's really
17 our contribution would be to say, you know, to mitigate the threat of hacking or phishing
18 these are the best practices. And if you think you've been the victim of a cyber incident,
19 here is the contact information.
20 We're not intel. We're not law enforcement. So that's not our role. Our role
21 is really specific to cybersecurity, cyber defense best practices.
22 Q Okay. Thank you.
23 And we'll introduce as exhibit 3 the notification on the Iran hack.
24 [Easterly Exhibit No. 3
25 was marked for identification.]

1 [redacted]. I believe this is the --

2 [redacted]. Okay. This actually the Russia --

3 [redacted]. This is the November 4th, so this was right before the

4 election. It discusses some of the earlier notifications as well.

5 [redacted]. And I don't know that we have questions about this. I think we're

6 just introducing so the record's complete on this.

7 Ms. Easterly. So like our main -- just as an example, our main contribution there

8 was what -- "CISA recommends voters seek out information from trusted official sources."

9 So it's really the amplification of State and local election officials and then report

10 information.

11 BY [redacted]:

12 Q You answered my question. Thank you.

13 In the earlier hour we discussed the phrase "cognitive infrastructure." And I

14 know you said you didn't remember exactly what you meant by that. But some of our

15 other witnesses have discussed similar things and said that CISA works to build resiliency

16 to things like foreign influence campaigns. Would you agree with that?

17 A I'd have to see what they said. I mean, my real focus all along is just to do

18 those three things; make sure that we can work with our IC and FBI colleagues to help

19 election officials understand the tactics of foreign malign influence operations. So some

20 of that is on our Protect2024 website, providing accurate information through

21 mechanisms like the Rumor vs. Reality website. And then, finally, and I think most

22 importantly, just amplifying what State and local election officials have said. And that's,

23 you know, where I've spent a lot of time over the past 6 months with Secretary of State

24 Phil McGrane in Idaho, Secretary of State Bob Evnen in Nebraska, Secretary of State Dave

25 Scanlan in New Hampshire, really standing side by side with election officials, and from a

1 Federal Government perspective, and they talk about it from a State perspective, why
2 Americans should have confidence in the security and integrity of our election systems.
3 Q And that amplification of trusted sources, why does CISA do that? How
4 does it help address the disinformation threat?
5 A I think at the end of the day there is a variety of reasons, skepticism about
6 the security and integrity of our election system. And I think the best way to deal with
7 that is if people have questions, which, right, legitimate people should be able to get
8 answers to questions, I really think it's important that people know that the best person
9 to ask those questions of are your State or local election officials.
10 Because the reality is, States run elections. That's what the Constitution says.
11 And if you've seen one State's election, you've seen one State's election. They're all
12 different. Different equipment, different processes. And it's a source of strength
13 because it means that no malicious actor could tamper with election infrastructure in a
14 way that could have a material impact on the outcome of, certainly the Presidential
15 election, without being detected. But it also means that the way that elections are run
16 in Michigan is different from the way they're run in Georgia, or the way they're run in
17 Ohio, or the way they're run in Arizona. And so just making that point that if you have
18 questions, talk to your State or local election officials.
19 And I also say, if you're skeptical about the security and integrity of elections, be
20 part of the process. Sign up to be a poll worker. Because most people who have
21 actually worked from 4 a.m. to 2200 at night on elections, they say, oh, now I understand
22 the multiple layers that have been put in place to ensure the security and resilience of
23 election systems.
24 Q So is it fair to say that CISA's response to the disinformation threat posed by
25 foreign adversaries is not to take down online content, but rather to amplify true

1 information?

2 A Yeah, to amplify the information coming from State and local election

3 officials and to provide accurate information about election infrastructure security.

4 Q So if someone were to leave here today and say that, when Director Easterly

5 talked about cognitive infrastructure she wanted to brainwash people into thinking a

6 certain way, is that accurate?

7 A No.

8 [redacted]. And what's your response to that allegation, if it were to be made?

9 Ms. Easterly. Much has been made of the phrase "cognitive infrastructure" in

10 the past few hours. As far as I recall, I mentioned it once to highlight, you know, the

11 mechanisms we use to make a decision. I don't know how you get from that to

12 brainwashing. I'd love to know a little bit more about what the allegations are. But,

13 you know, just to be very clear, I have dedicated nearly 35 of my years of my life to public

14 service for the American people. As you pointed out, and you asked me to point out, I,

15 you know, have two Bronze Stars, and have been sworn since I was 18 years old to

16 support and defend the Constitution of the United States against all enemies foreign and

17 domestic.

18 So I would point to my record. Which by the way, I should also point out that

19 CISA is a nonpartisan, nonpolitical agency, and I am a lifelong Independent. I didn't take

20 this job for any political or partisan reason. I took it because I care about our national

21 security. I worked

22 for President George W. Bush. I worked for President Obama. I worked for President

23 Biden. I am very focused on protecting the American people from the myriad of threats

24 that present themselves to the critical infrastructure Americans rely on every hour of

25 every day.

1 [redacted]. Thank you.

2 BY [redacted]:

3 Q I want to turn to what we discussed in the earlier hour that we've called

4 switchboarding. You're familiar with that term?

5 A Yes.

6 Q Is it fair to say that the practice of switchboarding is, in fact, essentially just

7 forwarding emails?

8 A That's entirely what it is, from my understanding.

9 Q And to your knowledge, in the cases where forwarding emails occurred, CISA

10 employees were forwarding emails from State and local election officials to social media

11 companies. Is that right?

12 A That's my understanding.

13 Q And do you have an understanding of why CISA was doing this?

14 A No.

15 BY [redacted]:

16 Q And to be clear, to the extent that you don't have an understanding of why

17 CISA was doing this is because it occurred prior to your tenure, correct?

18 A Yeah, it was all done during the previous administration.

19 Q So it was all done under the Trump administration?

20 A Correct. I think there was a slight -- I think there was an overhang -- I

21 shouldn't even speculate. It was -- yeah.

22 Q But to the best of your knowledge --

23 A To the best of my knowledge it was all about the 2020 election.

24 Q Thank you.

25 [Easterly Exhibit No. 4

1 was marked for identification.]

2 BY [redacted]:

3 Q I'll introduce as exhibit 4 a DHS OIG report entitled, "DHS Improved Election

4 Infrastructure Security, but Its Role in Countering Disinformation Has Been Reduced."

5 Have you seen this before?

6 A I don't know.

7 Q Okay.

8 A That's an interesting title. I might have seen -- I don't know if I've seen a

9 final. I think I've seen a draft of it.

10 Q I'll specifically be looking at page 4, the results summary.

11 A Yeah.

12 Q But take your time to review as much as you want.

13 A Okay.

14 Q And that "Results of Review" section, in the third paragraph -- I'll just read

15 that paragraph. "DHS continued to assess that disinformation involving the time and

16 location of polling operations poses a threat to the secure and efficient conduct of the

17 election infrastructure. However, CISA personnel stated the component discontinued its

18 efforts to work directly with social media companies to counter disinformation after the

19 2022 election." Do you see that?

20 A Yeah. I don't think it's accurate. I mean, first seen on this, but I'm not

21 quite sure what that means or where it came from as I -- I mean, I don't know if it's

22 related to the forwarding of disinformation. But, certainly, as I mentioned to [redacted]

23 earlier, if this is related to the forwarding of emails, that did not happen in the 2022

24 midterms.

25 Q And there's no citation at the end of that sentence, is there?

1 A No, but it sure would be helpful.

2 Q So we talked about two different interactions CISA has had with social media

3 companies in the runup to both the 2020 and 2022 elections. In 2020, there was this

4 forwarding of emails. And then in 2022, there were these industry information sharing

5 meetings. Is that right?

6 A I am not very familiar with any -- I mean, we have industry information

7 sharing meetings all the time at CISA with respect to our meeting -- or our mission. If

8 there were meetings with technology companies, including social media companies, they

9 would be focused very specifically on threats to election infrastructure as would be the,

10 like, cyber threats to election infrastructure. I do not believe there was any discussions

11 around content.

12 Q So you've testified multiple times that the switchboarding or forwarding of

13 emails of content did not occur after early 2021. Is that right?

14 A Correct.

15 [redacted]. And to be clear, your belief is that this statement and this report is

16 inaccurate, correct?

17 Ms. Easterly. Yeah. I don't know actually know what it means. I don't see a

18 sourcing, "work directly with social media companies to counter disinformation." If

19 they're referring to the forwarding of potential disinformation, that did not occur during

20 the 2022 election, just to be very clear.

21 [redacted]. Okay. Thank you.

22 BY [redacted]:

23 Q So in the previous hour we discussed why CISA stopped that practice, and

24 you mentioned you wanted to know about the measures of effectiveness of the program.

25 Is that right?

1 A Yes.

2 Q By measures of effectiveness, did you mean you wanted to know how many

3 pieces of content were taken down off of social media platforms?

4 A Just meant like, is this an effective program? What are we doing to reduce

5 risk to election infrastructure? And when I -- because it's all about, like, what we're

6 trying to do. We don't just want to understand and manage risk. We want to reduce

7 risk through tangible things like cybersecurity assessments that then lead to

8 improvements, physical security assessments that then lead to putting physical measures

9 in place to protect election offices. And this particular program couldn't even describe

10 what would be a measurement of effectiveness. It just didn't make any sense to me.

11 Q So you didn't discontinue this program because not enough content was

12 being taken down?

13 A It had nothing to do with content being taken down. You know, our -- just

14 to be very clear, you know, CISA does not censor, has never censored. Everything we do

15 is in alignment with the law and the Constitution. So there would never have been any

16 discussion about content being taken down. That's not our mission. That's not our

17 focus. And that is never where I would have positioned the Agency.

18 Q I want to turn to the advisory committee. We've discussed it a bit in the

19 last hour. Generally, what was the cybersecurity -- the CISA Cybersecurity Advisory

20 Committee?

21 A It is a committee set up pursuant to authorities received in the 2021 National

22 Defense Authorization Act. And it's supposed to be a group of advisors from various

23 critical infrastructure sectors from the technology world, the cybersecurity world, the

24 privacy world, who are focused on providing recommendations about how to optimize

25 various aspects of our mission.

1 Q And then, specifically, you were asked about the Protecting Critical
2 Infrastructure from Misinformation and Disinformation Subcommittee. Is that right?
3 A Yes.
4 Q To the best of your knowledge, what was the purpose of this subcommittee?
5 A Again, this was sort of off the back of discussions with the chairman of my
6 authorizing committee and what, to me, seemed like very bipartisan discussions around
7 protecting election infrastructure from disinformation, in particular foreign adversary
8 disinformation. And so the idea was, are there ways to enhance our ability to do that?
9 So that was the ask, high level.
10 Q Did you have a specific role in the subcommittee, like attending the
11 meetings?
12 A No, I'm basically firewalled. So I don't -- I'm not allowed to be part of the
13 subcommittees. The only thing that comes to me materially are final written
14 recommendations, and they come to me right before they provide those widely
15 transparently -- all this, as you probably know, everything's up on the web page. The
16 tasking, the -- all of that -- final things. Because the only thing that really matters is what
17 ends up coming to me. And then I take a look at it and decide whether to accept or
18 decline.
19 Q And the subcommittee, the mis- and disinformation subcommittee, did
20 submit final recommendations to you. Is that right?
21 A Yes.
22 Q Did CISA accept all of the recommendations of that subcommittee?
23 A I don't remember. In general, we don't usually accept just across the
24 board. We don't usually accept them all. So we typically may accept, partial accept,
25 decline. Sometimes the recommendations don't make sense for us given our mission

1 and authorities. Sometimes they don't make sense from a resource perspective, so
2 I -- but I don't recall.
3 Q The allegation has been made that this subcommittee recommended that
4 CISA be placed in a situation to be an arbiter of truth by detecting mis- and
5 disinformation. Is that accurate, from your recollection?
6 A No.
7 Q Why not?
8 A I don't even know where to begin. What is -- tell me again.
9 Q The allegation has been made that the subcommittee recommended that
10 CISA become the arbiter of truth.
11 A What does that mean?
12 Q By detecting or -- yeah, by detecting mis- and disinformation.
13 A I wouldn't know what to make of that. I don't --
14 Q Does CISA detect mis- and disinformation?
15 A We don't monitor information. It's not our mission, so -- and I don't know
16 what it means to be the arbiter of truth. As I mentioned earlier, what we are looking to
17 do is to provide access to Americans about accurate information when it comes to
18 election infrastructure security.
19 Q You were also asked in the prior hour about CIS, the Center for Internet
20 Security. Do you remember that?
21 A I do.
22 Q You talked about CIS having cybersecurity controls. Is that right?
23 A Yes.
24 Q Could you explain what a control is in that context?
25 A Yes. So it could be something as simple as putting a firewall in place to

1 block malicious activity. It could be best practices around patching vulnerabilities,
2 external-facing vulnerabilities, particularly vulnerabilities that are being exploited by
3 cyber criminals for ransomware attacks.
4 So one of the big focus areas over the past 3-plus years is to help critical
5 infrastructure owners and operators implement better mechanisms to protect their
6 infrastructure. We were asked to create something called the Cybersecurity
7 Performance Goals, which are ways to reduce risk to cyber threats. And so I was
8 interested in, you know, other -- CIS I think is a nonprofit, but it has some good cyber
9 expertise. So I was interested in other types of ways of articulating controls,
10 compensating controls to reduce the risk of cyber threats.
11 Q And, finally, I know you mentioned that you were not part of the specific
12 USG industry meetings with social media companies, but could you describe generally
13 why CISA might be having industry meetings?
14 A Again, so our mission is to lead the national effort to understand, manage,
15 and reduce risk to the critical infrastructure Americans rely on every hour of every day for
16 water, for power, for aviation, for healthcare, for finance, for transportation, for
17 communication. The vast majority of that critical infrastructure is owned and operated
18 by the private sector. And so to protect and defend that critical infrastructure, we have
19 to have a strong partnership with all of the private sector companies, including
20 technology companies that underpin, you know, the digital backbone of critical
21 infrastructure.
22 So the bread and butter of why Congress set us up is to help work with the private
23 sector to reduce risk to critical infrastructure. Of course, election infrastructure is part
24 of that. So if there are meetings with technology companies, to include social media
25 companies, they would have been around the threats to election infrastructure.

1 Q And, generally, in these industry meetings, whether with social media
2 companies or technology companies, more generally, is the information sharing both
3 ways, or is it just the government telling companies, or just the companies telling the
4 government?
5 A I mean, I couldn't speak to that specific meeting. You know, broadly, when
6 we're focused on cybersecurity issues, companies would share what they're seeing in
7 terms of threats to their networks. We could share what we see in terms of threats to
8 our networks.
9 Because you can think about different dots in the cyber threat landscape. The
10 idea would be to try and put those together so that you can really understand the threat
11 to the Nation from very serious cyber threat actors -- Russia, China, Iran, North Korea,
12 cyber criminals. And so the idea would be to really focus on operational collaboration.
13 And the Congress gave us authorities to set up something called a joint cyber planning
14 office. And we established that in August of 2021. And that is the idea that we both
15 want to share information to reduce cyber risk.
16 Q In your experience, do companies generally want to engage with CISA in
17 these kinds of meetings?
18 A Well, in the cybersecurity meetings -- it's evolved. We went from 10
19 companies -- and these have been critical infrastructure on their operator companies -- to
20 I think we're at over 300. So we have a lot of great industry partners. We really focus
21 on information sharing pursuant to the Cyber Information Sharing Act of 2015.
22 We focus on cyber defense planning, so planning for major threats to our
23 infrastructure. And if there is a significant threat -- for example, Log4j was a major open
24 source vulnerability that was revealed in December of 2021. So we work to provide
25 ways to mitigate threats to infrastructure from exploitation of this open source

1 vulnerability. So a variety of different -- we had a lot of focus, for example, on
2 ransomware.
3 So I think increasingly industry realizes that we as a government are trying to add
4 value, are trying to be transparent, are trying to be responsive. And so we've evolved in
5 a way that I think has helped to make the country safer.
6 BY [redacted]:
7 Q In the prior hour you were asked about an engagement between CISA and
8 State Department's Global Engagement Center. Do you recall that conversation?
9 A Yes.
10 Q And I think it was very brief, but you said that you think you had maybe a
11 brief interaction with them, with the Global Engagement Center.
12 A Not in my time at CISA.
13 Q Okay. Oh, okay.
14 A I haven't had any interaction with my time at CISA.
15 Q Understood. Okay. I'm sorry, I must have missed it.
16 You had interaction with them prior to that?
17 A When I was at the White House it was being stood up.
18 Q Okay.
19 A And I had interaction with some of the folks who were involved in it then,
20 because it was very specific to the counterterrorism mission. That's all I recall from that.
21 Q Okay. And, again, I realize now we're looking back 10 years, give -- or
22 8 years, give or take. But to the best of your recollection, you said that the interaction
23 at that time was focused on foreign terrorism threat, and I think you said it was -- in the
24 prior hour you said it was work specific to ISIS? Did I hear that correct?
25 A It was all about, I remember, from 2013 -- so I was at the White House as the

1 senior director for counterterrorism from 2013 to the end of 2016. And as you'll recall,
2 in I believe May of 2014, that's when ISIS invaded Mosul. And that really began global
3 terrorism attacks around the world -- in Paris and Istanbul and Brussels -- and then even
4 here in the U.S. -- San Bernardino, the Pulse nightclub. And so we were just very
5 focused on how to prevent another 9/11 style attack in the homeland from foreign
6 terrorist organizations. So it's very much about ISIS, which of course emerged from
7 al-Qaida.
8 [redacted]. Okay. Thank you.
9 [redacted]. We can go off the record.
10 [Discussion off the record.]
11 [redacted]. Can we go back on the record, please?
12 BY [redacted]:
13 Q I just want to pick up briefly regarding the OIG report from September. Did
14 you have an opportunity to review the report before it was released?
15 A When was it was released? I don't remember. September. There may
16 have been a draft, but I don't remember reviewing it in any detail. This was right in the
17 middle of when we were extremely focused on working, you know, with election officials
18 on sort of making sure that they had everything they could for the 2024 election cycle.
19 Q There's two instances where it refers to CISA's decision to stop engaging
20 with social media companies, including on the, I guess, opening page. So that's third
21 page in, and the title is "DHS OIG Highlights," which is what we found at the top.
22 A Okay.
23 Q And then two paragraphs down, second sentence says, "according to CISA
24 personnel, the component discontinued its efforts to work directly with social media
25 companies to counter disinformation after the 2022 election."

1 Do you have any sense of who the CISA personnel on that team that spoke to you,
2 OIG?
3 A I don't, but I can tell you that out of -- to the best of my knowledge, if that
4 relates, [redacted], to the forwarding of disinformation, that that is inaccurate.
5 Q We started to touch upon this in our first hour, but in terms of direct
6 interactions with the social media companies, to your understanding, the switchboarding
7 had stopped, but that didn't necessarily prevent personnel from CISA directly flagging
8 disinformation of their own accord?
9 A I can't imagine a scenario where something like that would have happened.
10 Yeah. And remember, it was CIS -- we don't monitor disinformation. We don't flag
11 disinformation. To the best of my knowledge -- but this happened in the previous
12 administration -- I think as you know, it was all about allowing State and local election
13 officials to tee up things that they thought were disinformation. But to the best of my
14 understanding, CISA has never independently monitored social media to flag
15 disinformation.
16 Q In the lead-up to the 2022 midterm elections, State and local officials are
17 certainly meeting with CISA personnel raising what they're seeing on social media?
18 A I don't know that to be true.
19 Q You don't believe that to be true?
20 A I don't know that to be true. Certainly, State and local officials express
21 concern about disinformation broadly, but I have never heard that they're bringing us
22 information specifically from social media or media more broadly.
23 Q But that was the dynamic for a number of years --
24 A What was?
25 Q State and local officials raising specific pieces of content to --

1 A I think that only happened during the previous administration. Certainly
2 didn't happen during my tenure.
3 Q Again, with the understanding that -- switchboarding, to your understanding,
4 didn't continue.
5 A Right.
6 Q But if there are these meetings and regular engagements between State and
7 local officials and CISA personnel, and then the same CISA personnel are meeting with the
8 trust and safety teams of social media companies, I guess, what is giving you the
9 confidence that there was no discussions about content?
10 [redacted]. I just want to flag, there's a lot of number of premises in that
11 question. So I want to make sure the director thinks through those carefully.
12 Ms. Easterly. Yeah. Can you go through the first part again?
13 BY [redacted]:
14 Q Sure. So I'm happy to walk through each one.
15 A Yeah.
16 Q State and local officials were talking to CISA personnel in the lead-up to the
17 2022 elections.
18 A Yes, for sure. But just to be clear about what those discussions are. So
19 our support to State and local election officials, certainly during my tenure, were very
20 much about providing resources to them. So it involved cybersecurity assessments,
21 physical security assessments, training, webinars, things like how to protect yourself from
22 phishing.
23 To the best of my knowledge, there are no specific discussions with such State and
24 local officials about specific pieces of social media. So I don't think that piece is
25 accurate.

1 Q During 2022, there is a subcommittee on mis- and disinformation that's
2 advising, serving an advisory role. Publicly, there are statements from you saying this
3 was a priority for CISA. I guess just to press a little bit more, we have the OIG report
4 that contradicts the testimony you're providing.
5 What basis is there to say that State and local officials were flagging pieces of
6 content before your tenure by all public indicators that continues to be this focus from
7 CISA on MDM, that there is no more effort from State and local officials to flag content to
8 CISA?

[12:12 p.m.]

[redacted]. Can you point the director to the statement in the IG report that contradicts her testimony that switchboarding did not happen during her tenure?

[redacted]. I'm not contesting whether switchboarding itself occurred or not, but switchboarding is only one specific type of direct engagement with social media platforms. And the committee's concern is any of those direct engagements with social media platforms.

[redacted]. So to be clear, are you talking about a discussion with a social media platform, or are you alluding to the fact that you think CISA used meetings as, like, a back door? I'm not quite sure what you're getting at because there's a very -- could have a discussion about many topics. So if you could help specify, particularly where you are calling into question the director's credibility.

[redacted]. I'm not trying to question credibility, but I'm trying to make sense of this OIG report and the meaning of it.

Ms. Easterly. Yes.

BY [redacted]:

Q In the previous hour with the minority, there was a discussion of information sharing and that information sharing goes in both directions --

A Uh-huh.

Q -- in these meetings.

A Yes.

Q Trying to get a sense of whether that information sharing from CISA included any discussion of themes of misinformation/disinformation, or specific posts of misinformation or disinformation. Neither of those discussions would be switchboarding.

1 A Uh-huh.

2 Q I'm trying to get a sense of that.

3 A I have no knowledge of any of that. Insofar as we were meeting with
4 technology companies or technology companies that had social media companies, it
5 would have been very specifically about direct threats to election infrastructure, as I've
6 said multiple times.

7 When I had a chance to take a look at this mission specifically, it didn't make any
8 sense to me for us to be thinking about how do I -- how can I deal with pieces of
9 misinformation or disinformation.

10 That made no sense, which is why we focused very specifically on making sure
11 that there was access to accurate information and then to amplifying the voices of the
12 subject matter experts, which are those State and local election officials.

13 And just to be clear, when I came into this mission, I didn't know very much about
14 election infrastructure security at all. And so a lot of the decisions that I ultimately
15 made were very much informed by discussions with election officials of both parties to
16 understand what would be most useful, most helpful to them, and that's where I pointed
17 the agency.

18 Q So there is a real concern about a line between promoting authoritative
19 information and efforts to flag or identify information, misinformation, malinformation.

20 To your understanding, does CISA's scope of CISA's statutory authority permit CISA
21 to focus on that latter half of targeting misinformation, malinformation?

22 A Our focus is entirely on articulating accurate information about election
23 infrastructure security and amplifying the voices of State and local election officials, given
24 the decentralized nature of election infrastructure, and on working with the intelligence
25 community and the FBI to provide information to State and local election officials about

1 the tactics that our foreign adversaries use to influence or interfere in our elections.

2 I've been very, very clear. Those are the three missions. But I've also been very

3 clear that I think the best use of our resources and our budget -- remember, out of a $3

4 billion budget, it's only -- this mission is only about $45 million.

5 And I thought, based on talking to State and local election officials across the

6 country, both parties, the best use would be to help them reduce cyber risk given what

7 we've seen with ransomware, given what we've seen with distributed denial of service

8 attacks -- we saw that in the 2022 midterms -- and with the very real physical threats that

9 they were worried about.

10 So that's really where we focused the vast majority of our efforts, and that was

11 responsive to State and local election officials.

12 Q If there was an additional statutory prohibition on CISA flagging

13 misinformation/disinformation, would that preclude CISA from carrying out its current

14 mission?

15 A Tell me more.

16 Q So if I understand the primary -- your understanding of the primary purpose

17 of CISA's mission --

18 A Yeah.

19 Q -- with a very heavy emphasis on cybersecurity, if there's a --

20 A And physical security.

21 Q And physical security.

22 If there's a prohibition on CISA directly flagging for social media companies specific

23 pieces of content as misinformation/disinformation, would that in any way prevent or

24 infringe upon CISA's ability to carry out its current mission?

25 A I mean, I wouldn't speculate on a statute that doesn't exist, but it certainly

1 wouldn't impact anything we're doing under my tenure.

2 Q The previous administration and the previous director, there were more

3 explicit descriptions, efforts to -- when they'd refer to cybersecurity risks -- one of those

4 risks they would identify was the risk of misinformation/disinformation.

5 To your understanding, I guess, why, in your understanding, is mis- and

6 disinformation excluded from the cybersecurity perspective?

7 A Can you help me understand -- can you just get me the reference, because I

8 don't understand that. I don't understand the question.

9 Q Sure. We'll get you the document on that.

10 In the previous round of questions, there were questions about the allegations

11 that the committee and others have made about CISA's role and the constitutional

12 implications.

13 Have you had an opportunity to review either of the reports that the committee

14 has put out on CISA?

15 A Which reports?

16 Q There was a report from June 2023, one from November 2023.

17 A I have not reviewed them.

18 Q Okay. The reports include evidence of emails, internal documents.

19 Has there been anyone that has briefed you on the substance of the reports, the

20 concerns that our Members have?

21 A Not in any detail at a high level, just because I'm here with you today, but I

22 haven't read any of that.

23 Q Was there anything that the Office of Inspector General requested from CISA

24 when putting together this most recent report that CISA declined to provide?

25 A Say that again.

1 Q Was there any information when compiling this current report from the
2 Office of Inspector General that the OIG requested but CISA declined to provide?
3 A Not that I know of. Certainly, if we were asked to provide things to the IG,
4 we were fully responsive.
5 Q During your tenure as director, have you had any discussions with the
6 leadership of the Office of Intelligence and Analysis regarding efforts to combat mis- and
7 disinformation?
8 A No.
9 Q I want to turn to the efforts that CISA had in the lead-up to the 2024
10 election, including the task force with Pennsylvania, the Pennsylvania Election Threats
11 Task Force.
12 Are you familiar with CISA's partnership with that task force?
13 A What is it?
14 Q The Pennsylvania Election Threats Task Force.
15 A Yeah. I mean, in terms of -- so our mission is to support State and local
16 election officials. We work with all States to help them reduce risk to the full range of
17 threats, whether that's through cybersecurity assessments, physical security assessments,
18 training, exercises.
19 So if -- this sounds like kind of what we do with all States, I guess. And some
20 States organize their systems to protect against various threats. I don't know if that's
21 what that is.
22 Q So this State in particular, I mean, did you have awareness prior to CISA
23 joining the task force?
24 [redacted]. Could you share -- I mean, does it make sense to share the
25 statement with the director as an exhibit if you're going to ask her about it?

1 [redacted]. Yeah. We're going to introduce it, but I don't know if it will help with
2 the last question.
3 This will be exhibit 5.
4 [Easterly Exhibit No. 5
5 was marked for identification.]
6 Ms. Easterly. I'm sorry, [redacted]. What was your question?
7 BY [redacted]:
8 Q Prior to CISA joining a task force like this --
9 A Did we join it?
10 Q Yes.
11 A Where is that?
12 Q It's on the bullet points. There's a reference to U.S. Department of
13 Homeland Security.
14 A Does it say CISA?
15 So I'm not aware of this. I'm not aware that we joined it. But we work with -- I
16 mean, we work with State and local election officials. That's our mandate, is to help
17 them reduce risk to their election infrastructure.
18 Q All right. So for participation in a task force like this, this is not something
19 that would go up to you?
20 A I don't even know that we've joined this. I mean, in general the mission is
21 to work with State and local election officials across the country to ensure that they have
22 resources to reduce risk to election infrastructure. So, no, I wouldn't be focused on -- I
23 mean, we work with all States.
24 Q Are you familiar with the recent reporting regarding a tabletop exercise that
25 CISA and others were scheduled to have on election day?

1 A Can you tell me what you're talking about?

2 Q Sure. This will be exhibit 6.

3 [Easterly Exhibit No. 6

4 was marked for identification.]

5 Ms. Easterly. Okay.

1 BY [redacted]:

2 Q First, are you familiar with the Armed Forces Communications and

3 Electronics Association?

4 A Vaguely. It's not something I have any interaction with directly.

5 Q Are you familiar with the exercise that was planned that was the subject of

6 the reporting?

7 A I guess, according to this, but not --

8 Q Prior to reviewing it just now, do you have any familiarity?

9 A Very, very vague. Very, very vague. What is -- I'm trying to figure out

10 what the issue is. It's a --

11 Q There was an exercise planned on election day. I'm trying to understand

12 first your awareness prior to the reporting of whether --

13 [redacted]. Just for the record to be clear, was it a CISA exercise or an

14 external exercise?

15 [redacted]. CISA was -- well, that's part of the problem is that there were

16 statements that seem contradicting.

17 Ms. Easterly. So, bottom line, my direction to the agency was that we are fully

18 focused on support to State and local election officials. So if there was somebody who

19 said that CISA was going to be involved in some external engagement, I would think that

20 that is not accurate.

1 BY [redacted]:

2 Q Do you know who [redacted] is?

3 A Like a former FBI guy?

4 Q He's a supervisory cybersecurity advisor for CISA.

5 Just to try to get the record clear as we can, did you have any awareness of this

6 exercise as it was being scheduled?

7 A No.

8 Q Okay. Prior to the reporting, did you have any awareness of this exercise?

9 A No.

10 Q Since the reporting, have you received a briefing on CISA's role in the

11 scheduling of this exercise?

12 A No.

13 Q You said you had a vague awareness. How did you obtain that vague

14 awareness of the reporting?

15 A I think that -- so there was a letter sent, and I guess, from my very vague

16 recollection, I think somebody said there's a letter to Secretary Mayorkas from Ranking

17 Member Paul about our involvement in an exercise. And they said we don't have any

18 information on -- we're not involved in this exercise. And I said, good, we should be fully

19 focused on support to State and local election officials.

20 So I think it was like a very brief, like, just so you know, there's this letter, because

21 he's the ranking member, and -- yeah. I mean, that's the very -- I mean, it didn't seem

22 like anything that was a big deal.

23 Q Who provided you with that summary?

24 A I don't remember. Probably, since it was a letter that came in, it could be

25 somebody on my Leg team, but I don't remember who specifically. Like, I'm -- again,

1 I've got a lot going on. So there's a lot of information that comes to me.

2 This did not seem to me of any significance in any way. It was just helpfully

3 clarifying what it is that we were focused on.

4 Q Did you have any direct conversations with [redacted], the CISA official?

5 A The CISA official?

6 Q Yes. Official who was scheduled to initially attend.

7 A No.

8 Q No?

9 A I mean, again, so I'm the director. So I -- it's a very big agency. So, no.

10 Q Do you know if anyone who was providing the briefing said whether they

11 had any conversations with [redacted]?

12 A No.

13 Q Was any --

14 A I mean, if there were -- I can't speculate because, certainly, my direction was

15 that we are fully focused on supporting State and local election officials. So there may

16 be follow-up to say let's ensure that that's -- but I don't know what happens at layers and

17 layers below me.

18 Q Did you give any direction on what the follow-up should be?

19 A I gave direction to make sure that, of course, we should be fully focused on

20 providing full support to State and local election officials, and I assume that that direction

21 was followed.

22 Q Is there any benefit to conducting a tabletop exercise on election day?

23 A I don't think so. At the end of the day -- I mean, if -- I don't know what this

24 tabletop was for. But we did a ton of tabletop exercises -- I think about 200 of

25 them -- with State and local election officials. We stopped kind of the month before

1 because that's where State and local election officials need to be fully focused.

2 So, certainly, if it had anything to do with election security, I don't think it would

3 make sense. I also -- I guess -- I haven't read this fully. I'm happy to read it fully. But

4 I don't -- can you help me understand what the concern, what the -- I don't -- it's not

5 making sense to me.

6 Q There was intentionally a statement from CISA saying they had no

7 involvement, and then there appeared to have been documents produced from reporting

8 or from the Senator's office.

9 A Those weren't -- is that the document? Because that is not a CISA

10 document, and people using our name is unfortunate, but does not mean that we in any

11 way have approved it.

12 I don't see either -- yeah. I mean, this looks like it comes from their agenda.

13 This is not ours.

14 Q Okay. Just trying to understand what CISA's role was.

15 A Yeah. I mean, I don't -- yeah.

16 Q Turning back to testimony that you gave in the first round about the

17 effectiveness of switchboarding and whether it was worth the resources that went into it.

18 Can you say a bit more about, from your understanding, what the purpose of

19 switchboarding was in the prior tenure?

20 A You know, it was all done during the previous administration. And I really

21 shouldn't speculate. From what I was -- from how it was described to me, it didn't seem

22 like it was a useful exercise of resources.

23 Q In the first hour you were talking about measures of effectiveness.

24 A Right.

25 Q What is the metric that you're looking at with switchboarding that would

be --

A I'm just looking broadly. So we have to ensure that every dollar of our budget is effectively utilized. And it was not clear that that effort was in any way reducing risk to election infrastructure.

I didn't understand -- again, it happened before my time, but I had no -- and the people -- again, I had one conversation with Scully on this. And no one could explain how this program helped to reduce risk to election infrastructure.

And so that has to be the measure -- how are we allocating resources and what are we getting out of it so we can say we've reduced risk to election infrastructure -- and there was no articulation of that.

Q Uh-huh. What sort of reasons were provided for why it was happening previously?

A I really don't recall the -- my vague recollection -- and this was, again, quite a while ago -- was that this was specifically an ask from State and local election officials, and so it was agreed to do.

But I shouldn't really speak to that because it wasn't my program. I didn't make those decisions. I don't know who made those decisions.

And when I was made aware of the program, I gave direction to no longer do it because it didn't make any sense to me.

[Easterly Exhibit No. 7
was marked for identification.]

BY [redacted]:

Q So this will be exhibit 7. It's an email to Director Easterly a couple months before taking the position of director.

A Okay.

1 Q So, first, do you recall this email?

2 A Not really. I mean, it was like three and a half years ago.

3 Q Do you know who Brian de Vallance is?

4 A To the best of my knowledge, he was a former DHS official.

5 Q Do you know what his role or responsibilities were?

6 A I don't, no.

7 Q Do you recall the call that was scheduled between you, Brian, and Tony

8 Sager?

9 A I mean, so far, I don't really recall it. I don't recall the call actually

10 happening, but I'm sure it did.

11 Q In Brian's note to you, there's a discussion of ODNI.

12 First, in the about four lines, five lines down, there's a reference to the DNI SM

13 Center. Do you know what that's in reference to?

14 A No.

15 Q The next sentence refers to that some at ODNI are not big fans of CISA. Do

16 you have any understanding of --

17 A No.

18 Q -- why that might be?

19 A No. Not at all. I don't know. Why wouldn't you be a fan of CISA?

20 Q Prior to -- or as you were briefing and preparing to become director, did you

21 receive any briefings about CISA's relationship with ODNI?

22 A No.

23 Q How frequently do you interact with the director, the director's office?

24 A Couple times a year, not often, because we spend most of our time on the

25 unclass side just because we're so external facing.

1 So in the run-up to the election, I spent a little bit more time with the DNI just
2 because we were coordinating those joint statements on foreign adversary activity. But
3 pretty -- again, like, less than five times a year.
4 Q In any of these times, do you recall any discussions about tensions between
5 ODNI and CISA?
6 A No. I think we've got a really good relationship. But this was before I got
7 there, right?
8 Q Yes.
9 A Yeah. So I don't think that's the case now. I don't know. Do you have
10 separate information saying it is?
11 Q No. But Brian is making you aware of this. I'm trying to understand if you
12 have any additional information.
13 A No, not at all.
14 Q As the large paragraph continues, it's like the third-to-last sentence, Brian
15 writes, "While it's likely to be controversial, we know how to secure elections but we do
16 NOT know how to deal with mis- and disinformation. This Center would be a step in the
17 right direction. We need to try, it would be great for DHS to own it."
18 First, in this particular context, do you know what Brian is referring to about DHS
19 owning the responsibility of dealing with mis- and disinformation?
20 A No. No. I mean, just reading the paragraph, whatever the DNI SM
21 Center, I guess that's his suggestion.
22 Q Were there any discussions about whether the center or just more broadly
23 of how to expand or fit DHS' mission to address mis- and disinformation?
24 A Not that I recall. I mean, I don't know what this is referring to. What I do
25 know is that in 2022 -- and I think it was new authorities that DNI stood up, what's called

1 the Foreign Malign Influence Center, and that's focused on foreign adversary efforts to
2 influence and interfere in the elections. I don't know if those are related, but that's very
3 clearly an intel mission.
4 Q Okay. But specific to mis- and disinformation, do you recall any discussions
5 when you're being prepared to become director or right at the beginning about whether
6 DHS was best suited to deal with mis- and disinformation?
7 A Not that I recall. Certainly not broadly. I mean, as I said, the staffers and
8 the chairman had brought up disinformation as relevant to election security.
9 Q Touching upon our question earlier, if -- I guess, do you disagree then with
10 the positions, the perspective as being shared by the Senators and staffers, is
11 disinformation part of election security?
12 A As I evolved in my views on this, certainly there is a serious issue with
13 inaccurate information, which has impacts on Americans' trust in our elections. I think if
14 you look at some of the statistics, there were a lot of folks who did not have confidence in
15 the security or integrity of our elections. Some of that is because there's inaccurate
16 information out there about the security of elections.
17 And so as I evolved in my thinking on this mission and as I looked at the resources,
18 as I talked to State and local election officials, my strong focus was on putting out
19 information to help the American people understand why they can have confidence in the
20 security and integrity of elections. That seemed to me the best focus for our agency.
21 Q Why -- I guess, has it been under consideration during your tenure about
22 efforts to have CISA personnel flag misinformation or disinformation that, in the view of
23 the CISA personnel, is undermining the integrity of the elections?
24 A No. It's not our mission, and it's not a good use of our resources, and it's
25 not anything we would focus on.

1 Q Have there been efforts from other agencies to push CISA to consider that
2 during your tenure?
3 A Not that I know of.
4 Q Are there any legal or constitutional prohibitions that would prevent CISA
5 from directly flagging mis- and disinformation to social media companies?
6 A I'm not a legal or a constitutional lawyer. I think Congress may have a view
7 on that. I don't.
8 Q Have you received any briefings on whether that's a potential issue?
9 A No.
10 Q So is this just a -- is it a purely resource-driven decision, or is there some sort
11 of -- do you have a position on whether it's an effective approach to protect election
12 security by directly flagging mis- and disinformation?
13 A From my experience, my tenure, my discussions with State and local election
14 officials, where I landed on the right mission for CISA is to focus on ensuring election
15 officials understand the tactics that our foreign adversaries use for influence and
16 interference and putting out accurate information about election infrastructure and
17 amplifying the voices of State and local election officials. That is where I focused the
18 agency, that's where we focused our efforts both in 2022, as well as in 2024.
19 And as I think you saw, whatever it was, ten or so days ago, it was a free and fair
20 and safe and secure election. And so I'm very proud of the team's efforts to put
21 resources to support State and local election officials in reducing the risk to their
22 infrastructure.
23 Q When you refer to tactics by foreign adversaries, when discussing that, to
24 your knowledge, do CISA personnel share themes or topics that foreign adversaries are
25 likely to emphasize?

1 A Share? Help me understand.

2 Q So when sharing information with, say, social media companies or any

3 external --

4 A We're not sharing information. I mean, it's public, so anybody can go to

5 our website. But the foreign tactics typically come from the intelligence community, or

6 the FBI may come up with tactics used by cybercriminals.

7 We are -- if you look at our website, for example, there's good public service

8 announcements around this. So we are looking very specifically at the cybersecurity or

9 the cyber defense aspect of this.

10 So, for example, there's one about ransomware, there's one about distributed

11 denial of service attacks. I think there may be one about -- actually, I don't want to say

12 because I don't remember. But, again, it's very focused on the security of election

13 infrastructure.

14 Q Is there any information sharing regarding that foreign adversaries will try to

15 amplify mis- and disinformation?

16 A Certainly with respect to the recent -- I don't know about the amplification.

17 I think if you go back to ODNI and look at some of the updates that they put out, I -- again,

18 I don't have it in front of me, but they would talk about what those foreign adversaries'

19 tactics are.

20 Some of it has to do with funneling money to marketing firms, to unwitting

21 influencers. You probably saw the indictment from the two, I think, Russian officials

22 that were funneling almost $10 million to unwitting influencers to, essentially, put out

23 Russian propaganda.

24 But, again, that was really the IC and then FBI. And then we come in, in terms of

25 talk to your State and local election officials, here are the best practices for cyber defense,

1 cybersecurity.

2 Q The standing meetings that existed in 2022 between CISA and other agencies

3 and social media companies, did those continue at all in 2024, to your knowledge?

4 A Not to my knowledge.

5 Q When you became director, at any point in the first year or so of your

6 leadership, did you ever receive a briefing about the frequency of the meetings, their

7 nature?

8 A Not that I recall.

9 Q I don't know if he's come up or not yet. Do you know [redacted]?

10 A Yes.

11 Q When he was at -- I don't know if your tenures overlapped the first time.

12 A No. He was gone.

13 Q Did you know him prior to becoming director?

14 A No. I mean, I -- when I was doing my confirmation prep, I think I connected

15 with him. But I didn't know him.

16 Q Exhibit 8.

17 [Easterly Exhibit No. 8

18 was marked for identification.]

19 Ms. Easterly. Is this supposed to be with [redacted]?

20 [redacted]. Yes. These are produced to us from CISA.

21 Ms. Easterly. I don't remember this discussion. Do you know what year this is?

22 [redacted]. 2022 is our understanding.

23 [redacted]. What year did you say?

24 [redacted]. 2022.

25 [redacted]. Just to be clear, are we confident it's from [redacted]?

1 [redacted]. We can talk during the break, too.

2 [redacted]. Okay.

3 [redacted]. But I think some of these have been -- reached the public domain --

4 Ms. Easterly. Yeah. I don't recall this conversation with [redacted].

5 BY [redacted]:

6 Q Do you know Rob Silvers?

7 A Sure.

8 Q What's Rob's role?

9 A He's an under secretary for policy.

10 Q The darker blue text, there's a reference to running a governance board to

11 look at potential new areas of confronting MDM.

12 Do you recall any discussions about a new governance board to address mis- and

13 disinformation?

14 A Is that -- did I write that?

15 Q Yes.

16 A I assume this was the Disinformation Governance Board.

17 Q The text continues, "It doesn't change or impact anything we're doing or

18 have already established."

19 With respect to confronting MDM, to your understanding, what efforts did CISA

20 have to combat MDM?

21 A I don't know what year this was, but it looks like if this is 2022 -- is that what

22 you said?

23 Q Uh-huh.

24 A As we went into the midterms, where I focused the agency was on three

25 things. First, it was working with our IC and FBI partners on characterizing the tactics of

our foreign adversaries to influence or interfere in elections. It was using -- it was putting out accurate information about election infrastructure security. And it was amplifying the voices of State and local election officials as the authoritative and trusted subject matter experts.

So I don't remember this, but I assume that's what I was talking about.

Q I'm going to introduce --

[redacted]. Just to clarify for the record, exhibit 8 is a text message in the -- it's not clear from the document who the texts are between. I don't know that it matters for the purpose of your questions, but just to be -- make that clear on the record that it's not clear who the text exchange is between.

Ms. Easterly. I don't recall that exchange with [redacted]. I mean, I've had millions of exchanges with millions of different people. I don't talk to [redacted] very often, if at all. But I don't recall this.

[redacted]. I'm going to introduce as exhibit 9 a document produced to us from Microsoft. We'll give you an opportunity to review.

[Easterly Exhibit No. 9
was marked for identification.]

[redacted]. [redacted], can you clarify? This appears to be a compilation of documents jammed into one. At first, I was thinking it was one email exchange or something, but this appears to be some sort of compilation Microsoft had. Does that seem accurate?

[redacted]. This is how it was produced to us.

[redacted]. Okay.

[redacted]. I believe it's a compilation of interactions Microsoft had with various DHS personnel, and it was compiled in the context of preparation for further

1 engagements with DHS.

2 [redacted]. Okay. Thank you.

3 Ms. Easterly. All right.

4 BY [redacted]:

5 Q I'll have you turn to Bates number 8066.

6 A 8066, yes.

7 Q There are -- the name's redacted from Microsoft, but I have to represent

8 that it's our understanding that it's [redacted]. But, regardless, there are texts

9 that are identified as being from you that employees of Microsoft obtained. This is in

10 2022, February 2022. The darker texts -- it's a screenshot of texts received from you.

11 The first text of the darker texts on the right there, you write, "Just trying to get us

12 in a place where Fed can work with platforms and better understand the mis/dis trends so

13 relevant agencies can try to prebunk/debunk as usual."

14 And then the next one you say, "Not our mission but was looking to play a

15 coordinated role so not every department/agency" -- D/A -- "is independently reaching

16 out to platforms which could cause a lot of chaos."

17 Do you remember discussions in early 2022 about trying to figure out what

18 Federal agency should take the lead on this issue?

19 A When was the date?

20 Q February, it looks like 26th.

21 [redacted]. Do you know the year?

22 [redacted]. Based off the email, it's been represented to us, I believe, 2022.

23 [redacted]. Okay.

24 Ms. Easterly. I don't have a -- I don't recall much of this. I can put it, I think,

25 into strategic context just looking at the date, which was, I think, right after the Russian

full-scale invasion of Ukraine.

And I think there was concerns about Russia retaliating for U.S. support to Ukraine by attacking our critical infrastructure, first and foremost about cyber threats to critical infrastructure. That's what motivated our Shields Up campaign.

Given Russian past efforts to leverage interference and influence, I think there was a concern about that as well, though I was very focused on the cyber threats because that's really where the intel was at this point in time.

I don't remember the context of this exchange, but what I assume I was referring to is CISA has a role within our statute to serve as the national coordinator for critical infrastructure, security, and resilience.

So we work with Sector Risk Management Agencies, we work with industry to help coordinate those conversations. So I assume that's what I meant in that role.

[redacted]. And at this time are you still considering whether mis- and disinformation trends are one of the risks that CISA or someone in the Federal Government should be --

[redacted]. Just to clarify, do you mean present day or at the time of the text?

[redacted]. No, at the time of the text.

Ms. Easterly. Say that again. Ask the question again.

BY [redacted]:

Q So at the time -- in we'll say early 2022 -- as director were you looking at or still considering mis- and disinformation trends as a type of risk that CISA needed to be looking at?

A I think it was brought up, and then I don't recall that anything came of it, because the focus became very laser-focused on potential Russian cyber attacks. And

1 that, again, I'm always making these decisions about how do we get the best bang for the
2 buck from American taxpayers. And that was where the intel was telling us is that
3 Russia was looking to use its pretty formidable cyber power to attack U.S. critical
4 infrastructure.
5 So that was really the focus. I don't remember any more focus on this.
6 Q To the extent there were discussions on considering how best to combat
7 misinformation/disinformation trends, were there any discussions about how to do that
8 consistently with First Amendment concerns?
9 A So this would -- again, I'm speculating here, which I probably shouldn't do.
10 But to get into my head back then, this was entirely about Russia, so I don't think Russia
11 has protected speech. Certainly, that's what -- again, because it looks like it was around
12 the time of Russia-Ukraine.
13 Q Are you familiar with the term "attribution in the space of people," what the
14 IC will say contents come from a foreign bot network?
15 A Yes.
16 Q Either in your role as director or in your previous roles in the government,
17 have there been any instances where a private sector partner came back to the
18 government and said accounts that you all identified as foreign are actually domestic?
19 A I've never had those conversations because we don't do any sort of
20 monitoring for information. That wouldn't be a conversation that I would ever have.
21 Q Even if it's not a conversation that you had directly, did you ever receive any
22 information or any indication of the U.S. Government sharing information that the
23 government is concerned may be attributed to foreign actors and a social media company
24 coming back and saying, no, these are domestic actors?
25 A No, I don't think so. Not that I recall.

1 Q In this early 2022 time period when there are at least preliminarily certainly
2 people bringing up concerns of misinformation/disinformation trends, do you recall what
3 other agencies were considered as potentially having a role to play?
4 A No. No. I mean, again, we're really focused on threats to critical
5 infrastructure. And so we worked with all of what's called the SRMAs, the Sector Risk
6 Management Agencies.
7 So if there were, for example, threats to finance, Treasury might be involved. If
8 there were threats to energy or pipelines, Energy might be involved. But I don't recall
9 those discussions.
10 Q And just to press a little bit more. Understand the different divisions there.
11 But within each of those, if there's a concern about misinformation, whether that poses a
12 threat to that sector, critical infrastructure, do you recall any discussions on that front?
13 A No. Because we have -- as I evolved in this job and understood more about
14 the mission and the budget, we only focus on foreign influence and disinformation insofar
15 as it relates to election infrastructure.
16 So that's probably what I meant, again, speculating here because I don't
17 remember this discussion. But where it says, "Not our mission," I think I was just very
18 focused on the national coordinator piece of our congressional statute.
19 [redacted]. Can we go off the record, please?
20 [Recess.]
21 [redacted]. We can go back on the record.
22 BY [redacted]:
23 Q I want to start where we left off on exhibit 9, that Microsoft document.
24 In the text messages in the dark blue circle that is from -- purports to be from you,
25 you mention relevant agencies can try to prebunk or debunk -- sorry, in the Microsoft

1 document. In the darker ones.

2 A Yeah.

3 Q What is prebunking?

4 A It's basically getting out accurate information. So if you understand that

5 there's a misunderstanding -- do you mind if I eat my bar?

6 Q That's okay.

7 A A misunderstanding relevant to accurate information about a matter of

8 infrastructure security, we could look to put out information about that ahead of time.

9 And, again, that's really where we -- where we're very, very focused, is on getting

10 accurate information out there.

11 Q So prebunking doesn't involve taking down the inaccurate information?

12 A No.

13 Q And this may be straightforward, but just to make the record clear, to your

14 knowledge, does CISA prebunk or debunk true information?

15 A All's we do is we focus on putting out accurate information when it comes to

16 election infrastructure security. If it's accurate, great.

17 Q So CISA doesn't try to prebunk or debunk true information, only false

18 information or rumors?

19 A I don't recall this specific exchange because it was quite a while ago. To

20 give you a little bit more of my thinking -- because those are not, frankly, terms that I use

21 now. I think those were some terms that I was becoming familiar with.

22 But ultimately, where I landed in terms of where I felt our mission needed to be

23 focused and scoped was not on misinformation, disinformation, malinformation. It

24 wasn't on prebunking, debunking, any of that. It was just very clearly those three

25 things: foreign tactics, accurate information -- and principally that is through the

1 #Protect 2024 web page, Rumor vs. Reality -- and through amplifying the voices of State
2 and local election officials.
3 Q In this context you mentioned CISA's role as the national coordinator for
4 critical infrastructure, resiliency, and security. Is that right?
5 A Yep. You got it.
6 Q Could you explain a little bit more about what CISA's role is in that position?
7 A Yeah. So that comes from the CISA statute. And it was also recently
8 articulated in what's called National Security Memorandum. I'm not sure the number.
9 So our role is to really look at threats to critical infrastructure from a cross-sector
10 risk perspective. So that's why it's important.
11 We are looking at infrastructure, but we work with -- say, if it's about finance
12 where I used to work, Treasury Department has a lot of expertise on that. If it's about
13 hospitals, HHS.
14 So we work with, like, communications providers. And so you have to look at the
15 cross-sector risk. So we work with our industry partners, our Sector Risk Management
16 partners to help coordinate an understanding of all of the threats to critical infrastructure
17 so that we can determine ways to best reduce those threats.
18 Q And you were talking about how in this early 2022 time period that work to
19 reduce threats across the critical infrastructure sectors may have been related to the
20 Russian invasion of Ukraine.
21 Could you talk a little bit more about CISA's concerns about what the threat was?
22 A Well, certainly, it was just a year ago. And I saw this more from the private
23 sector, the SolarWinds campaign. And we know that Russia is a very sophisticated and
24 well-resourced cyber threat, and I believe this was made public so I can talk about it.
25 There was very specific intel about potential Russian threats to U.S. critical

1 infrastructure. So that's where we were very focused on what we could do through our
2 Shields Up campaign, essentially, to help businesses, CISOs, CIOs, CEOs, and even
3 individuals understand steps that they could take to protect themselves from potential
4 Russian retaliatory attacks to our critical infrastructure.

1 [1:20 p.m.]

2 BY [redacted]:

3 Q At the time there were -- you've talked about these cybersecurity threats

4 that people were worried about. Was there also a concern about Russian influence

5 campaigns at that time?

6 A I think there -- again, like, speculating from this because I don't -- my focus

7 was very much on cyber. But I think there was a thought that just because Russia has

8 used influence campaigns, has interfered, that this is another thing that they could do.

9 So I think that that was kind of in the mix. But, again, the focus became very, very much

10 on cybersecurity.

11 Q Another topic area that CISA has worked on debunking or prebunking false

12 information is disaster relief in hurricanes. Is that right?

13 A Huh-uh.

14 Q No?

15 A No. I think -- we don't do that. I think our colleagues at FEMA do it.

16 That's a different component.

17 Q Does CISA work with other government agencies to warn about potential

18 scams related to disaster relief?

19 A I don't -- not that I know of. If there were -- sometimes it happens that in

20 an environment where there's an opportunity for a highly entrepreneurial cyber threat

21 actor to take advantage of a crisis, we might warn people around that in terms of the four

22 steps: update your software; complex, unique passwords and a password manager;

23 enable MFA; don't fall for phishing. And so we might say, hey, you know, we are -- there

24 is some evidence of cyber criminals taking advantage of disaster money, things like that,

25 so -- but I don't recall specifics, but that's certainly something the cyber threat aspect we

1 could do.

2 [Easterly Exhibit No. 10

3 was marked for identification.]

4 BY [redacted]:

5 Q Just to refresh your recollection I'll introduce as exhibit 10 a September 25th,

6 2024, alert from CISA related --

7 A Oh, there you go.

8 Q -- titled, "CISA Warns of Hurricane-Related Scams." I'll give you a moment

9 to review.

10 A Yeah. So it's like on the militia cyber activity.

11 Q So this is the kind of work you were talking about, CISA warning people --

12 A Yeah. There's like -- you know, bad actors are always -- actors are -- you

13 know, malicious, actually are bad people. They're always trying to take advantage,

14 particularly of vulnerable people. You know, my mom is 91, my dad's 85. There's a lot

15 of elder scams out there. People take advantage of older people. So, you know, from

16 a PSA, our Secure Our World campaign perspective, I can -- I don't remember the specific

17 alert, but I can see why my team might put it out.

18 Q I want to move on to exhibit 6. This was the article about the tabletop

19 exercise.

20 [redacted]. I'll steal these from you.

21 BY [redacted]:

22 Q Generally, before we get into much detail, what is a tabletop exercise?

23 A It's where we bring together partners from industry and we work through a

24 scenario. So there's a ransomware attack. Again, I think I mentioned to [redacted], we did

25 some 200 of these during this election cycle. And I think, interestingly, one of the

1 scenarios that we worked through was bomb threats, and that turned out to be pretty
2 prescient. As you probably know, there were multiple bomb threats, hoaxes, called in
3 on election day. But they didn't have significant impacts because election officials knew
4 exactly what to do. They were able to work with local law enforcement to bring in
5 bomb sniffing dogs. There was, you know, minor disruption, and then they went on
6 with using voting places.
7 So it's a great example how exercising through various scenarios helps
8 prepare -- you know, whether it's election officials -- but we do hundreds of exercises
9 about all kinds of things, because exercising -- and I did this when I was at Morgan
10 Stanley. If you're able to bring together the right people to work through a major attack
11 on your infrastructure, you'll be better prepared when the actual attack occurs.
12 Q So in talking about the specific tabletop exercise mentioned in the article,
13 you talked about how, if it was an election security tabletop exercise, it may not have
14 been very useful to do it on election day. But do you know if this was an election
15 security tabletop exercise?
16 A I don't.
17 Q So turning to page 3, the agenda, it says -- it says "Critical Infrastructure
18 Tabletop." And I'll represent to you that this conference was titled Homeland Security
19 Conference on Critical Infrastructure. So is it possible that this was not an election
20 security tabletop exercise?
21 A Yeah, very possible. I just -- I really don't know very much about it, but I'm
22 reading it. It seems to say Critical Infrastructure Tabletop.
23 Q Looking at the sentence right under the agenda, it says that this
24 announcement regarding the tabletop exercise went viral, "with an assortment of outlets
25 like Infowars and influencers like Laura Loomer warning of, quote, Election Interference

1 by Homeland Security on Election Day."

2 Do you have a response to the idea that this tabletop exercise would be election

3 interference by the Department of Homeland Security?

4 A I don't understand what that means. Can you help me understand what

5 that means?

6 Q If people are pointing to this tabletop exercise as evidence that somehow

7 DHS is interfering in the election, do you have a response to that?

8 A I guess I -- can you help me understand what -- I don't understand -- I don't

9 understand what that means.

10 Q Do you think that it's accurate that DHS interfered in the election?

11 A I mean, it looks like there was some reference there. I don't know Laura

12 Loomer. I don't know -- I don't know what this is referring to. I don't know how you

13 get from a -- an exercise that, frankly, we didn't participate in, to election interference.

14 Like, if somebody can help me understand that logic trail, I'd be happy to decompose it or

15 unravel it.

16 Again, I'm very proud of the team for working with State and local election officials

17 across the Nation to help them reduce risk to election infrastructure, and I think those

18 efforts were proven out in that it was a free and fair and safe and secure election.

19 Q Thank you.

20 I'm going to turn to a topic -- I apologize we're asking you over and over about a

21 topic that you have already said you were not in the social media industry meetings, but I

22 just want to make the record clear.

23 So you were asked if CISA shared content in the social media meetings, and you

24 explained that you weren't there. I'd like to make it clear for the record the committee

25 did interview Geoff Hale. You're familiar with Geoff Hale, correct?

1 A Uh-huh.

2 Q Yes?

3 A Yes.

4 Q Thank you.

5 And he was asked specifically, did CISA flag or report potential disinformation for

6 social media or technology companies during or in connection with these industry

7 meetings? This is page 55 of that transcript. He answered, Not at all.

8 You're welcome to look at the testimony if you're interested.

9 A I trust that you read it.

10 Q Do you have any information that would contradict Mr. Hale's testimony?

11 A Nope.

12 Q Moving on to CISA's mission more generally, some have suggested that CISA

13 should help States and localities assess whether they have good cyber hygiene in their

14 hardware and software in preparation for an election, but nothing more.

15 Do you think CISA's election security work should be limited to just assessing good

16 cyber hygiene?

17 A What we have done for our election security infrastructure security mission

18 to be responsive to what we have heard from State and local election officials -- and

19 again, all of our -- we're a partnership agency, so all of our resources are voluntary. I'm

20 happy to say that all States have taken advantage of, in some way, our voluntary

21 resources. And so we make available a full suite of resources. Some of it could be

22 related to cyber hygiene. Some could be related to best practices for securing emails.

23 Some of it could be related to understanding vulnerabilities on internet-facing

24 infrastructure.

25 So if you look at our Protect2024 website, that's the full range of resources that

1 we provide. And again, that's very focused on being responsive to State and local
2 election officials.
3 We also focus on physical security responsive to State and local election officials.
4 As I mentioned, you know, since the 2020 election, election officials of both parties and
5 their families have been subject to harassment and threats of violence. I myself
6 experienced a pretty serious swatting incident. And so we have provided resources
7 specific to reducing risk to physical security.
8 Q I want to talk more about the physical security aspect in a little bit. But do
9 you think that it would be detrimental for State and local officials if CISA was limited and
10 not allowed to share those resources beyond cyber hygiene?
11 A I think that -- again, my measure is you always have to get feedback from our
12 customers and our partners, so you'd have to actually ask State and local election
13 officials. But from the feedback that I have received, I mean -- you know, one of the
14 reasons -- I know this committee wanted to see me earlier, one of the reasons why I
15 waited to come chat with you all until after the election is I was on the road. So from
16 most of the last 3, 4 months I was up in New Hampshire with Dave Scanlon visiting polling
17 places, making sure that he had the resources that he needed from CISA. I was in Idaho
18 with Phil McGrane. I was in Nebraska with Bob Evnen from -- the secretary of state
19 there; with John J. Ashcroft, secretary of state of Missouri. I was with Monae Johnson,
20 secretary of state of South Dakota. I was with Scott Schwab, secretary of state of
21 Kansas. I was with Paul Pate, secretary of state of Iowa.
22 And, you know, it is a -- election security, I think it's important to understand, it is
23 a nonpartisan, nonpolitical mission. I will point out that all of those secretaries are all
24 Republican secretaries of state, and, you know, all secretaries of state look to take
25 advantage of our resources, taxpayer-funded resources and capabilities.

1 And again, you would have to ask them, but I feel like, given the 1,300 physical
2 security assessments, 700 cybersecurity assessments, nearly 500 training sessions that we
3 did, nearly 200 exercises that we did, the security clearances that we sponsored, so I feel
4 like that helped election officials reduce risk, and I'm very proud of our role in ensuring a
5 safe and secure and free and fair election.
6 Q Speaking of that work that you were doing closer to the election, some have
7 suggested that CISA should not be involved -- significantly involved closer to an election.
8 So why does CISA ramp up the election security work as election day approaches?
9 A Well, we do it internal, so election officials -- my meetings -- the last meeting
10 I had when I went out to Nebraska for Secretary Evnen's was I want to say probably in
11 September. So State and local election officials really, like, they want to take that last
12 month to focus, so we probably will, you know, be there in terms of providing resources
13 up until like a month before. Of course we'll be on call, and during election day we were
14 on call for election officials if they needed anything from us. But, you know, when
15 you're getting ready -- like, when you're about to do the mission, you want to just focus
16 head down on the mission.
17 Q What effect do you think it would have if CISA was not allowed to do the
18 election security work around election day?
19 A Well, on election day what we do is we just set up our election operations
20 center where it's CISA personnel, it's some of the vendors, it's some of the associations,
21 like NASED and NASS, and really it's just so that we can understand what's happening
22 across the broad environment. For example, bomb threats. So there were bomb
23 threats across multiple States that came from dot-RU email addresses. And
24 understanding that is the potential trend was important, and that's the kind of thing that
25 we do.

1 But we are -- only if election officials need our help do we weigh in, because we
2 know they're very busy running elections. But election operations day is really we are
3 there to make sure we understand what's happening across the threat environment.
4 Q What about the months leading up to the election? Do you think it would
5 have had a negative effect if you were not allowed to meet with the secretaries of state,
6 for example?
7 A Well, you'd have to ask them. All I can say is we had extensive meetings
8 with secretaries of state and, you know, to the -- almost to the person, those were great
9 meetings. You know, they -- if they had issues they would raise them, and I would try
10 and solve those problems and -- you know, again -- and I've been around the country
11 working with secretary of states, spending of time with secretaries of state. And the
12 great -- I really enjoy it, because they know that elections are political, but election
13 security is not. Election security is not a political, not a partisan issue. It's really a
14 matter of securing our most sacred democratic process.
15 So, you know, as I explained before, I'm a -- I'm not a Republican or a Democrat.
16 I'm a hard core Independent, and I came back from a very happy life, a very comfortable
17 life at Morgan Stanley because I felt this was an incredibly important mission. So I
18 don't -- certainly, if there's a restriction on providing support, you know, it would only
19 redound to the detriment of partners who in a voluntary way can take advantage or not
20 take advantage of our services and capabilities.
21 Q There have been calls that CISA should refrain from duplicating cybersecurity
22 functions done elsewhere at the Department of Defense, FBI, NSA, and Secret Service.
23 In your knowledge, does CISA duplicate the cybersecurity functions of other agencies?
24 A Not at all.
25 Q Does CISA play a unique role in election infrastructure security compared to

1 other Federal agencies?

2 A Yes. So our role very specifically within cybersecurity -- because I think

3 there were two separate questions. Within the Federal cyber ecosystem, we are very

4 purely the cyber defense agency. We protect and defend the dot-gov, the Federal

5 civilian executive branch and critical infrastructure, acknowledging that critical

6 infrastructure is largely owned and operated by the private sectors, so that is very much a

7 partnership endeavor. That is not the mission of FBI. That is not the mission of DOD.

8 That is not the mission of Secret Service.

9 So that mission is very unique, and I think it was the wisdom of the Congress in

10 2018, and, frankly, the previous administration, in setting up CISA as America's civilian

11 cyber defense agency and as the national coordinator for critical infrastructure security

12 and resilience as a recognition that you needed to have capability capacity, talent

13 expertise to manage and reduce cross-sector risk. So that's really our focus.

14 And we play a very unique role with respect to election security. We don't do

15 investigation, we don't do intelligence collection. We are -- we provide resources,

16 capabilities, support, for cybersecurity and physical security directly to State and local

17 election officials, and that's not something that our partners do.

18 Q Does CISA collaborate with other Federal agencies when there is any

19 jurisdictional overlap?

20 A Say more.

21 Q Does CISA collaborate if there are issue areas that multiple agencies might

22 want to work on?

23 A I mean, we work closely with our Federal partners on cybersecurity all the

24 time, because we all have different authorities, different capabilities, different talents.

25 And so that's the -- that's sort of the beauty of a more coherent Federal cyber ecosystem.

1 And that's one thing we really try to catalyze, since I came to the Agency, was to ensure
2 that we have a much more coherent approach.
3 Because what I saw from the private sector was that government would be
4 reaching out in all kinds of different uncoordinated ways to sort of high level. I didn't
5 have direct interactions, but just broadly -- even if they put out products, they seemed,
6 from our perspective, to be very uncoordinated. So we've tried to take a much more
7 coherent approach to how we work with the private sector on matters of cyber threats
8 and best practices and mitigation.
9 So if you look at CISA.gov, you'll see myriad cybersecurity advisories and they have
10 multiple seals. So FBI, NSA, foreign partners, and that's, you know, a recognition that,
11 frankly, cyber is a team sport.
12 Q Some have called for CISA to be abolished because, quote, we survived for,
13 what, 248 years without CISA.
14 Do you have a response to that?
15 A I do. I won't share it. In particular, I'm not sure where that comes from.
16 What I will say, look, everybody's entitled to their own opinion. I think whoever said
17 that, I could make a very strong case for the importance of continuing to resource the
18 capability and capacity and talents of the Cybersecurity and Infrastructure Security
19 Agency. Remember that we're a $3 billion agency and the vast majority of our budget
20 goes to cybersecurity. We are dealing with a world, not just very serious threats from
21 Russia and Iran and North Korea, but perhaps the most serious threats that I've seen in
22 my lifetime from China, who we know are actively burrowing into our critical
23 infrastructure, both from an espionage perspective but also to disrupt, destroy our critical
24 infrastructure.
25 So I think unraveling the important work that's been done over the past several

1 years to somehow get rid of America's cyber defense agency seems like a terrible idea to
2 me.
3 Q I want to return to the topic of physical security threats. You mentioned
4 that you've been hearing reports that election workers are facing increasing threats to
5 their physical security. Is that right?
6 A Correct.
7 Q And that is in part because of false information about the 2020 election and
8 other elections?
9 A Yes. Well, unfounded claims that the 2020 election did not represent the
10 will of the American people.
11 Q Generally, in your experience, are the local -- State and local poll workers
12 and people who staff elections on election day, are they generally full-time employees or
13 volunteers or part time?
14 A In my experience, most of them are part time. Most of them are
15 volunteers. Most of them are retirees, which is what makes it so painful, frankly. You
16 think about people -- they're not doing it for money. They're not doing it for glory.
17 They're doing it because they believe in our democracy. And personally, I think that any
18 sort of threats to these public servants that are not faceless bureaucrats -- they're our
19 friends, our neighbors, they're folks we see in the community all the time. You know,
20 threats to poll workers, these public servants, I think are outrageous.
21 Q Have you heard reports about individuals being less willing to serve as
22 election workers because of these threats?
23 A Yeah. There's been -- there was significant turnover. I think the stats are
24 something like a third. But happily, what we heard most recently in the last sort of 4 to
25 6 months is, even though some have left, there has not been a significant issue in terms

1 of getting new volunteers in. So that's been a positive thing.

2 One of the very positive things, there's an organization -- I mostly know this

3 because I'm a veteran -- called Vet the Vote that is looking to have veterans serve as poll

4 workers, you know, continue their service to the Nation, which I think is super cool.

5 Anybody that I talk to, particularly people that are skeptical about the security of election

6 infrastructure, I say, Be a poll worker. Sign up. Join the process. Be part of

7 defending our democracy.

8 So, yeah, I think it's fantastic.

9 Q We talked about how these unfounded claims can contribute to threats to

10 poll workers. Do you think foreign influence campaigns can contribute to the threats,

11 with the example of the bomb hoaxes and things like that?

12 A Certainly. I mean, you know, if you look at what was put out by the Office

13 of the Director of National Intelligence, and this was a concern if you -- again, this is not

14 CISA, but ODNI put this out, that if there was a very close or disputed election, that our

15 foreign adversaries would take an active role in fomenting violence. And so there was a

16 real concern around that, and that's why you saw, I think, several governors put the

17 National Guard on notice, because there were concerns about violence that we know

18 from the intel that has been hopefully declassified that our foreign adversaries were very

19 focused on stoking partisan discord and pitting Americans against each other and

20 undermining American trust in our democratic institutions. So that was very important

21 for Americans to have that understanding.

22 Q And turning to you, your name has been in the public eye because of this

23 investigation and related litigation. Is that right?

24 A I guess.

25 Q For example, you were named as a defendant in the Missouri v. Biden

1 litigation.

2 A Biden's a bigger person, bigger headliner than I am, but I was in there.

3 Q Has that had an effect on your life?

4 A Look, at the end of the day, I took this mission because I believe in our

5 Nation. I've spent my entire life, including multiple times deployed, multiple times in

6 combat zones, sworn to protect and defend the Constitution of the United States of

7 America. As I've said over and over again, my agency has never acted in a way that has

8 been against the law or against the Constitution. Every day the men and women of CISA

9 come to work to protect and defend the American people in a way that comports with

10 law and constitution.

11 And from somebody who just after my 18th birthday when I went to West Point

12 for the first time raised my hand to support and defend the Constitution against all

13 enemies foreign and domestic and has been raising my hand for the last 35 years, it is

14 strange to me to be accused of things that I did not do, this agency did not do. The

15 allegations against my agency are riddled with factual inaccuracies. So I think it's

16 unfortunate.

17 Cybersecurity, infrastructure security should be a bipartisan issue. It really

18 should be. And to be very frank, separate from this, I have very good relationships with

19 many folks on the Hill, to include the chairman of my authorizing committee, Mark Green,

20 Dave Joyce, Mark Amodei, Laurel Lee, because they understand cybersecurity, election

21 security is national security. And so I believe that it is -- we are dealing with such serious

22 threats to our Nation, in particular threats from PRC actors who want to do serious harm

23 to our infrastructure, to the American people. I think it's incredibly important that the

24 leadership, both in the executive branch as well as the legislative branch, really focus on

25 what are the most serious threats to the Nation. And I would point to threats from PRC

1 cyber actors who we know are intent on destroying and disrupting the critical
2 infrastructure Americans rely on every hour of every day. And, you know, that's all I
3 have tried to do is to build an agency that can help protect America.
4 Q Have you faced threats because of your role as the director of CISA?
5 A Yes.
6 Q Are you comfortable describing any of those threats? You mentioned
7 swatting.
8 A The swatting was not fun. It was pretty scary. I can just say I'm grateful
9 that I was home alone, because if eight 6-foot-plus tall people in full combat gear with full
10 weapons loaded and shields came into my apartment and my son had been there and my
11 husband had been there, I think it would have been a very bad situation. Fortunately,
12 I've been in a combat zone. I have dealt with weapons my whole life, so I knew how to
13 handle that situation. But I can only imagine what would have happened if my son were
14 there.
15 So the only silver lining is the fact that it was December 30th and they were in
16 Florida and I was home working.
17 And then, of course, there's the garden variety threats on various platforms that I
18 don't spend any time on but people will let me know. Again, I spent my whole life as a
19 public servant, except for a couple -- 4 and a half years at Morgan Stanley. I believe to
20 my core in America as the greatest Nation on the face of the Earth, and I hope Americans
21 can come together and find a way to bridge the very serious divide that we face so we
22 can help protect this country from the very serious foreign threats that we face.
23 Q Thank you so much for your testimony.
24 [redacted]. We can go off the record.
25 [Recess.]

1 [redacted]. Can we go back on the record, please?

2 BY [redacted]:

3 Q I want to turn back to some interactions with Stanford, specifically the

4 Stanford Internet Observatory. Are you familiar with the SIO?

5 A Vaguely.

6 Q When did you first become familiar?

7 A I don't recall.

8 Q Okay. Did you have any familiarity prior to becoming director?

9 A No.

10 [redacted]. Director, can you speak up?

11 Ms. Easterly. No, I did not.

12 [Easterly Exhibit No. 11

13 was marked for identification.]

14 BY [redacted]:

15 Q Thank you.

16 I'm going to introduce a September 2021 email chain as exhibit 11.

17 A Thank you.

18 Got it.

19 Q Do you recall any conversations with Renee DiResta or [redacted]

20 regarding the Sanford Internet Observatory -- regarding CISA's relationship with the

21 Stanford Internet Observatory?

22 A I don't.

23 Q We've talked about this previously, but certainly one of the concerns that

24 members of the committee have raised have to do with how CISA interacted with the

25 Stanford Internet Observatory in --

1 A What is the Stanford Internet Observatory?

2 Q It's the entity within Stanford that helped set up the Election Integrity

3 Partnership.

4 A What is the Election Integrity Partnership?

5 Q It was the entity that worked with CISA and the Global Engagement Center

6 to flag posts for social media companies.

7 A That was all during the previous administration, right?

8 Q Yes.

9 A Okay.

10 Q The emails here show that Stanford, specifically Stanford Internet

11 Observatory, want to maintain their relationship with CISA.

12 Just trying to get a sense of your understanding if you were briefed on the

13 preexisting relationship, and then if you were given the opportunity to learn more about

14 the work that Stanford and CISA had done together.

15 A I don't -- I do not recall this interaction. It's more than 3 years ago. So -- I

16 don't. I'm not familiar with the -- what is it?

17 Q The EIP or the Stanford Internet Observatory.

18 A Yeah. I'm not familiar with either of -- as it relates to CISA, I don't think we

19 had anything to do with either of those things. I mean, maybe we did before I got there,

20 but I am not familiar. I think -- I don't remember having a meeting. If it was 5:30, I just

21 don't -- I can't say that I recall this.

22 Q Okay. Whether in the context -- just generally, because it's not just been

23 the committee. There have been journalists who have reported on the interactions

24 between the Stanford Internet Observatory and CISA, again, under your predecessor.

25 There's, of course, been litigation. Have you received any sort of briefing on the nature

1 of those interactions and whether they were consistent with the First Amendment?

2 A With the Stanford Internet Observatory?

3 Q Yes.

4 A No. I mean, not that I recall. I don't -- I'm certainly eye level familiar with

5 the litigation and the heart of that being the forwarding of the emails, but I don't know

6 anything about a relationship with Stanford or EIP on election security.

7 Q In some of our previous rounds, when talking about switchboarding, raises

8 the primary concern resources that CISA had available.

9 A Right.

10 Q If CISA had additional resources, would you reconsider whether CISA --

11 A I wouldn't.

12 Q How come?

13 A I don't think it makes any sense as a mission for CISA. I don't think the

14 whole idea of taking whether we had -- if I had -- [redacted], if the Congress decides to

15 appropriate more money to CISA and my successor asks me what to do with it, I would

16 say, you should put it to the cybersecurity mission to help protect our critical

17 infrastructure from very serious PRC cyber actors. There wouldn't be a world where I

18 would look to allocate resources to something that makes no sense to me.

19 Q Have you ever had a chance to review examples of switchboarding or what

20 CISA did in the lead-up to the 2020 election?

21 A Not that I recall.

22 [Easterly Exhibit Nos. 12 and 13

23 were marked for identification.]

24 BY [redacted]:

25 Q All right. So we're going to introduce two exhibits at the same time.

1 Exhibit 12 will be Sources Sought Notice for the Department of Homeland Security MDM
2 Analysis Support Services. And then exhibit 13 will be Third Party Mis-, Dis-, and
3 Malinformation Analysis Capability.
4 Do you recognize either of these documents?
5 A No.
6 Q Do you have any familiarity with the sources sought notice referenced in the
7 first exhibit here?
8 A I don't know what a sources sought notice is. No.
9 Q So for a document like this going through the National Risk Management
10 Center, is this some something that would typically come across your desk or is this
11 something that could --
12 A No. I'm not familiar with either of these.
13 Q The first exhibit, the sources sought notice, says, "DHS, CISA, and the
14 National Risk Management Center is seeking to procure support to identify and mitigate
15 information manipulation activities that have the potential to imperil national critical
16 functions. This support shall detect emerging mis-, dis-, and malinformation
17 activities -- tools of information manipulation -- provide component factors to aid in risk
18 analysis and inform potential risk mitigation activities."
19 First, do you think this is consistent with CISA's mission to your understanding?
20 A Which part is it?
21 Q Any part of it. Sorry. Do you need me to reread it, the first few
22 sentences?
23 A The first sentence? The "seeking to procure," "to identify and mitigate
24 information" --
25 [redacted]. And just to clarify the record, because it seems the director is

not familiar with this, do you have a sense of when this was dated, if it's a final thing that went out? I see the other exhibit is marked as a draft, so it's not clear to me from where these documents came or the time period or if they're actually final documents that were used.

[redacted]. It's February 2022.

[redacted]. These documents were in a online Federal grant repository. It showed that at the very least the notice and those two documents were formally issued.

Ms. Easterly. February of 2022?

[redacted]. Around that time, yes. The response date is March 2022, so I believe it was early 2022.

Ms. Easterly. Tell me again your question.

BY [redacted]:

Q Looking at the first two sentences.

A Yeah. "Seeking to procure support to identify and mitigate information manipulation activities that have," "this support shall" -- what's your question?

Q Is this type of request consistent with CISA's mission?

A I don't want to speculate on what this is because it's first seen, but it does not seem consistent with the mission that I have laid out the vision and strategy for.

Q Do you recall any general discussions of requesting support from external partners to assist with identifying mis-, dis-, and malinformation?

A Not that I recall. I've never seen this document, but I'm happy to see that it says, "The scope of the work will ensure full compliance with the First Amendment and other constitutional and statutory rights, including privacy, civil liberties, and civil rights." So certainly that clause is consistent with my guidance and my understanding of everything that CISA does every single day, but the rest of it I'm not familiar with.

1 Q What sort of safeguards would be sufficient to ensure compliance with the
2 First Amendment, if receiving support in this nature?
3 A I mean, I wouldn't know because I don't know what this program is. But
4 everything -- everything we do with our mission is in alignment with law and
5 constitution -- and the Constitution, and we have a very robust and talented legal team, a
6 privacy team that works with all of my divisions and mission-enabling offices at the senior
7 executive level to ensure that there is a full review of everything that we do to ensure
8 that we are complying with the law and the Constitution.
9 Q The kind of subheading is folded at the bottom. The first page says,
10 "Specific objectives for such a project may include," and then -- it's at the bottom of the --
11 A Oh, this one here?
12 Q Yeah.
13 A Yeah.
14 Q "Identify and assess -- through cross/multi-platform analysis -- emerging
15 MDM narratives and campaigns likely to impair operation of selection national critical
16 functions."
17 Do you recall any discussions during your tenure as director about the need for
18 CISA to work on emerging -- to work on identifying emerging MDM narratives?
19 A Not that came to me. The only -- and again, I don't -- I inherited the term
20 "MDM." I don't really understand it. I don't really like to use it. The only focus that I
21 had as I evolved was ensuring that the American people had access to accurate
22 information about election infrastructure security. That was really the goal and the
23 focus.
24 Q The next bullet point, when you flip the page, "Analyze emerging MDM
25 campaigns." Do you recall any efforts or any discussions during your tenure at CISA

about the need for CISA to analyze emerging MDM campaigns?

A No.

Q The final bullet point there says, "Coordinate with partners to develop options to produce risks of existing MDM campaigns and promote resilience to future MDM activities."

Again, do you recall any discussions in your tenure at CISA about the need to work with external partners to reduce the risk of existing MDM --

A I don't.

Q During your tenure at CISA, do you recall any discussions of the -- of potentially using external partners to engage in conduct that CISA was not able to do directly?

A No.

Q This next exhibit is a response to this solicitation. Hang on to these exhibits.

A Okay.

[redacted]. Is exhibit 13 the statement attached to this solicitation?

[redacted]. Exhibit 13 is the capability document, and then exhibit 12 is the sources sought notice.

And then we're going to do two exhibits at the same time, an email and the attachment to the email. So exhibit 14 will be the email describing what's attached.

[Easterly Exhibit Nos. 14 and 15 were marked for identification.]

BY [redacted]:

Q That exhibit 15 is the submission from Stanford Internet Observatory.

A Okay.

1 Q Exhibit 15, which is the response from the Stanford Internet Observatory,
2 begins to discuss the work of Stanford in the lead-up to the 2020 election with the EIP.
3 The next paragraph discusses The Virality Project.
4 Just taking one step back from all this. Do you have any familiarity with The
5 Virality Project?
6 A No.
7 Q Looks like four paragraphs down, it says, "The capacities developed in the
8 Election Integrity Partnership and Virality Project are now being adapted to listen for and
9 develop reports on emerging mis-, dis-, and malinformation narratives surrounding the
10 2022 midterms, as well as other emerging national and global events that may be targets
11 of MDM."
12 Do you recall any discussions within CISA about the capabilities of the Stanford
13 Internet Observatory?
14 A No.
15 Q On Bates No. 6422, the third page of exhibit 15, they list their previous
16 projects for the Election Integrity Partnership. Stanford describes it as, "This 4-month
17 project collected data on over 600 incidents of election-related MDM targeting the 2020
18 U.S. election."
19 Have you ever had a chance to review what sort of content that Stanford was
20 flagging leading up to the 2020 election?
21 A No.
22 Q Has anyone within CISA made you aware that the committee made that
23 information public?
24 A The committee? Say that again.
25 Q Has anyone within CISA made you aware that the Judiciary Committee made

1 that information public?

2 A No.

3 Q Has anyone within CISA briefed you on whether the posts being flagged

4 were, in fact, misinformation or if they were accurate posts?

5 A No. This is all before my time, right?

6 Q Yes.

7 A No. I'm not aware of any of that.

8 Q Were you aware in -- when preparing to take the role as director that Chris

9 Krebs and Alex Stamos were business partners at that point?

10 A I don't know if they were -- I forget when that happened. I know they

11 became business partners at some point in time. I don't know the timeline of it.

12 Q And did you have any familiarity about the degree to which CISA worked

13 together with Stanford Internet Observatory when Chris Krebs was the assistant director

14 and when Stamos was head of the Stanford Internet Observatory?

15 A No. No. I mean, I had never been at DHS before. I was really focused

16 on understanding the bulk of our mission, so understanding the cybersecurity, the

17 physical security, the risk reduction, the partnership engagement. So that was really

18 where I spent the vast bulk of my time during my preparation for the confirmation

19 hearing.

20 And I think as I mentioned, [redacted], it really came up in staff sessions as I was doing

21 the meetings with the staff and then the chairman had brought it up, and that was really

22 where this focus -- where the focus was raised and that's why I looked at it. But where I

23 landed was I thought the best use of our capabilities and our capacity and our talent was

24 all about the three things that I've mentioned several times.

25 Q Did you receive any sort of briefing from anyone within CISA about the

1 volume of content that the EIP had flagged ahead of the 2020 election?

2 A I didn't know anything about EIP.

3 Q Okay. Did you receive any briefing from CISA about that request from the

4 EIP received top priority from big techs' content moderation teams?

5 A I'm not tracking EIP or any of that.

6 Q Obviously we've been going several rounds at this point, and I've started to

7 discuss it. Based off what you've been able to learn either previously or with this

8 interview so far, I mean, is this a concern? Do you have, I guess, any interest in learning

9 more about CISA's role with the EIP leading up to the 2020 election?

10 A I don't -- I don't think it's relevant. I mean, there was decisions that were

11 made by my predecessor. The Agency is a very different agency. We received new

12 authorities in 2021 that allowed us to really build our capability and capacity and our

13 talent and our expertise to focus on the two main missions that the Congress had for us:

14 to be American civilian cyber defense agency and to be the national coordinator for

15 critical infrastructure, resilience, and security.

16 I've hired over 2,000 people since I came on board. We have built world-class

17 teams to do threat hunting and vulnerability management, to protect the dot-gov after

18 the SolarWinds incident, so -- and I think the work that the team did on election

19 security -- again, a very small part, $45 million of a $3 billion budget -- I think was

20 admirable, because it was responsive to election -- State and local election officials who

21 wanted cybersecurity support, physical security support. And as the chairman himself

22 noted, it was a free and fair and safe and secure election, and so I'm proud of the work

23 that was done.

24 I do think that the most serious threat to our critical infrastructure comes from

25 PRC cyber actors who we know are already burrowing deep into our critical

1 infrastructure: water, power, communications, transportation, aviation. You have
2 seen, hopefully, some of the reporting on impacts on our telecommunications. Those
3 are very, very serious things that my teams are actively engaged now, working with our
4 Federal partners and working with our critical infrastructure partners, to be able to
5 mitigate. That's where I focused the Agency and that's where I would hope my
6 successor would continue to focus the Agency.
7 Q Have you received any briefing or summary, made aware in any way of
8 whether what the steps CISA took in the lead-up to the 2020 election, if any of those
9 were harmful?
10 A I haven't, [redacted].
11 Q You've identified many times your focus and concern on the efforts of
12 foreign actors, particularly the PRC. Do you know of the individuals targeted by the
13 Election Integrity Partnership, how many of those posts were by Americans?
14 A I don't know what the EIP was and what they did.
15 Q The concern, of course, for our members is they have concerns about what
16 CISA did in the lead-up to the 2020 election, and appreciate the shift of focus under your
17 tenure based off your testimony today and previously, but trying to get a sense of if
18 there's a chance the Agency could revert back to a focus on mis- and disinformation,
19 including by Americans.
20 A I'm leaving the Agency on the 20th of January. I'm very sad to leave. I'm
21 very proud --
22 [redacted]. Director, can you speak up? Sorry to interrupt.
23 Ms. Easterly. I'm leaving the Agency on the 20th of January, as all good political
24 Senate-confirmed appointees do. I'll be very sad to leave because I'm incredibly proud
25 of what we've built to protect and defend Americans and the critical infrastructure we

1 rely upon every day. If my successor is named before I depart, if I have an opportunity
2 to speak with anybody on the incoming team or the transition team, I will make it very
3 clear where I have focused my efforts and my best recommendation on where I would
4 continue to prioritize. And that, again, is on the very serious threats to our critical
5 infrastructure from foreign adversaries, principally the PRC.

1 [2:19 p.m.]

2 BY [redacted]:

3 Q I want to turn now to the committee's request to obtain your testimony.

4 First, when were you first made aware that the committee sought your testimony

5 for a hearing in July 2024?

6 A When was I first, like the date or something?

7 Q Uh-huh.

8 A I don't remember. If you say it was July 2024, then it could be.

9 Q The invitation to appear at a hearing scheduled for July 31st, 2024. Do you

10 recall being made aware?

11 A I don't recall the date, but I recall being made aware that the committee

12 was -- I was happy to do it, as I recall. I mean, I don't -- again, there's so much that

13 happens below my level in terms of, like, what's the topic, who else are the witnesses,

14 blah, blah, blah. And so I think there was all a back-and-forth on that.

15 As I recall, I have a 91-year-old mother who's very ill. So I think I was up helping

16 my father with her at one point in time. But as I recall -- my recalling -- I think there was

17 correspondence back and forth between the Leg folks.

18 I was very happy to appear between getting information from the committee, and

19 I think that was the back-and-forth, between taking care of my mom, and between being

20 on travel focused on supporting election officials. I don't think the dates ended up

21 working. But I'm very pleased to be with you here today, [redacted]. I've heard a lot about

22 you. So it's great to finally meet you.

23 Q Were you made aware that the committee had offered alternative dates,

24 three alternative dates in September for you to testify?

25 A I don't recall. I know there was back-and-forth to get information. But I

1 would have -- I think there's been a back-and-forth of -- between the Leg folks. So I'd
2 probably refer to those letters.
3 Q Okay. Did you ever provide a date that you were available?
4 A I don't know. Probably.
5 Q Okay.
6 A It might have been a back-and-forth between the committee and the
7 department. I think usually when I testify we get a lot of information about the
8 committee to help ensure that it's the best use of your time, the Members' time, and my
9 time. So I think we were just waiting, as far as I was -- but a lot of that stuff happens
10 below my level.
11 Q Who were you talking to within CISA about the committee's request for you
12 to appear at a hearing?
13 A It was probably the Leg staff, and then they deal with the department Leg
14 staff. So --
15 Q Do you recall which staff, in particular?
16 A My OLA staff. It was probably [redacted].
17 Q Did you ever provide [redacted] with a date that you'd be available to testify at a
18 hearing?
19 A I don't remember. I mean, certainly if he thinks I did, I'd defer to him.
20 But I don't remember. I might have. I just don't remember whether it was in
21 September or in -- but --
22 Q Did you provide [redacted] with any conditions that you needed prior to giving the
23 committee a date?
24 A What do you mean conditions?
25 Q Was there anything that you told [redacted] to tell the committee about you'd

1 only be willing to testify under certain conditions or with certain information?

2 A I didn't set any of that. I think, as per practice, there is always information

3 that is provided to us about, like, the other witnesses that might be there, specific

4 information that my team needs to make a recommendation to me and set things on the

5 calendar, because I often have to move some things around. But, obviously, time with

6 the committee would be a priority. But I don't remember.

7 Q Did you have any discussion with [redacted] about if you could actually do certain

8 dates and not do certain dates?

9 A I mean, he probably worked with my staff to look at my calendar. I

10 wouldn't -- so I have a front office that manages, helps to manage my calendar. So he

11 probably got with them. And I'm sure they would have discussed that.

12 Q In the lead-up from July up until early November, at no point did the

13 committee receive any dates that you'd be available to testify. I'm trying to understand

14 if that's at your direction or not.

15 A Again, the back-and-forth, I am really not involved in that. If there was an

16 agreement on topics and other witnesses, and we were trying to land a date, and, again, I

17 was really focused on ensuring that we were supporting State and local election officials,

18 so there was travel that was happening. And then I think the committee was out for a

19 period of time. So I think -- weren't you, like, out most of the summer?

20 Q There's the district work period in August. But we offered three dates

21 when we were in session in September.

22 A I don't know. I don't know. In September I was on the road a lot doing

23 the election security mission, and I had some things going on with my mom. But I don't

24 know. I'm very happy to be here with you today.

25 Q Did you ever instruct [redacted] or anyone else to not schedule a hearing unless

1 you had information regarding the other witnesses?

2 A All that stuff happens below my level. So there are specific actions that are

3 taken between Leg staff in order to ensure that we are best prepared to inform the

4 committee's oversight function.

5 Q Did anyone within CISA advise you to not appear at a hearing?

6 A No.

7 Q There were also requests from the committee for you to appear at a

8 transcribed interview in September and October. Were you made aware of these

9 requests from the committee?

10 A In September and October for a transcribed interview?

11 Q Yes.

12 A Maybe. Yeah, I think -- I want to say you all -- actually, I'm not a hundred

13 percent sure because I don't remember, but I think you all emailed something, and that

14 goes to my OLA.

15 Q Okay. There were letters from the chairman directly to you inviting you to

16 appear for a voluntary transcribed interview. Did you receive those letters?

17 A Did they come from Chairman Jordan, from his email address?

18 Q They would have been from our clerk. But, yes, the letter is from the

19 chairman.

20 A I mean, I get a ton of different emails on a regular basis. If something came

21 from Chairman Jordan's email, certainly, if it was from somebody I didn't recognize or

22 somebody that I didn't know, as long as it went to a staff member, that would make sure

23 that that staff member was responsive.

24 Q Did staff make you aware of the request for you to appear in a voluntary

25 transcribed interview?

1 A I'm sure they must have. But, again, there are mechanisms to work
2 through as we've done. I've testified a lot in different committees. The staff work
3 through topics, timing, any other witnesses. And when that is all sorted out, then we
4 begin the testimony prep and all of that.
5 And I don't think that that got to that point, because, as I understand, there was a
6 back-and-forth. And that's the best of the details that I know. There was some
7 back-and-forth information, and that kind of referred to what was ever -- what was in
8 those letters from Leg personnel.
9 Q Did CISA staff ever advise you to not appear at a transcribed interview
10 September or October?
11 A Advise me not to appear? No.
12 Q Did you direct CISA staff to not make you available for a transcribed
13 interview in September or October?
14 A Did I direct CISA staff to not make me available? I'm not sure I understand
15 your question.
16 Q So, again, the committee asked for dates that you would be available for a
17 transcribed interview. CISA never provided any dates prior to early November.
18 A I'm not sure what you're asking. I think we settled on a date. That's why
19 I'm here with you today. We have gotten past a free and fair and safe and secure
20 election. That was my focus.
21 So I'm happy to be here to answer all of your relevant questions. I don't -- I can't
22 speak to any of the specifics to that line of questions.
23 Q Well, I'm just trying to get a sense of if this is instruction coming from you or
24 if staff were acting on their own.
25 A What instruction?

1 Q To not provide the committee with any dates?

2 A Again, I have a calendar. I have a team that's focused. I have a very, very

3 busy schedule that is focused on the mission of CISA, which is to reduce risk to the critical

4 infrastructure Americans rely on every hour of every day. I have a lot of meetings.

5 So I don't think that anybody would think about -- you know, if there are reasons

6 that I couldn't appear, then that's why here I am with you. We were able to make this

7 date happen, and I appreciate the committee being here for it.

8 Q Were you notified that the committee had issued a deposition subpoena?

9 A Yes.

10 Q Why did you not appear on the date for the --

11 A What was the date?

12 Q October 11th, I believe.

13 A I would refer you to the letter that came from Leg.

14 Q Did you have an opportunity to review any of the letters from DHS' Office of

15 Legislative Affairs or CISA's Office of Legislative Affairs?

16 A I had an opportunity to review the letter about the deposition.

17 Q Just that one?

18 A I don't recall having -- I probably did, but I don't recall. Did they have my

19 signature?

20 Q The letters received from the committee were not from you. They were

21 from --

22 A Okay. I might have reviewed them, but I was on the road a lot. So I

23 assume I reviewed them. But I did review the one about the deposition.

24 Q Did CISA or DHS staff advise you to not comply with the subpoena?

25 A Again, I would refer you to the letter, which I think lays out the best advice

1 from the lawyers and OLA.

2 Q Who made the final decision that you not appear on your deposition date?

3 A I mean, I made the decision based on the information that I was given, which

4 I don't remember what the -- again, I'd refer you to the letters. But I think there was an

5 issue with having counsel appear.

6 Q At that point, did you direct anyone at DHS or CISA staff that you'd be

7 available for a voluntary transcribed interview?

8 A I did not direct anyone. No, I think -- I'm trying to remember. I think

9 they -- maybe you offered to do -- I don't know. Here I am, transcribed interview, so --

10 Q In terms of -- we've spoken a little bit about third parties. Do you recall any

11 interactions between other parts of Stanford [inaudible] the Stanford Internet

12 Observatory?

13 A The Hoover Institution.

14 Q Any others?

15 A No. My old boss works at the Hoover Institution. So I went out in

16 December of 2021. I think maybe 2022. I went to go see her and some folks from the

17 Hoover Institution.

18 Q Are you familiar with NewsGuard?

19 A NewsGuard?

20 Q Uh-huh.

21 A No.

22 Q Are you familiar with the Global Disinformation Index?

23 A No.

24 Q Are you familiar with the Center for Countering Digital Hate?

25 A No.

1 Q During your tenure as director, have you had any interactions with the
2 Atlantic Council?
3 A I think they hosted a panel on the National Cybersecurity Strategy. I
4 believe it was the Atlantic Council. I'm not a hundred percent sure. We did something
5 with the national cyber director and the cyber ambassador on the National Cyber
6 Strategy.
7 And I don't know if it was Atlantic Council, but I gave a talk on this idea of the
8 importance of private sector collaboration on cybersecurity. I think that was at the
9 Atlantic Council, but I'm not a hundred percent sure. And I think that those are the only
10 two that come to mind.
11 Q Are you familiar with the Election Infrastructure Subsector Coordinating
12 Council?
13 A Yes.
14 Q And to your understanding, what work does the EISCC do?
15 A My understanding is it brings together the election vendors that provide that
16 infrastructure for voting machines.
17 Q Are you familiar with the EISCC's Joint Mis/Disinformation Working Group?
18 A No.
19 Q Do you recall receiving any briefings related to the EISCC and its work on
20 MDM work?
21 A No. It would seem strange to me that the vendors would be focused on that.
22 But, no.
23 [Easterly Exhibit Nos. 16 and 17
24 were marked for identification.]
25 BY [redacted]:

1 Q We can introduce two more exhibits. This will be exhibit 16 and 17.
2 There's an example of meeting agendas, one from January 27th, 2022, and one from
3 March 31st, 2022.
4 Do you know if the EISCC is still meeting?
5 A The Election Infrastructure Subsector Coordinating Council?
6 Q Uh-huh.
7 A I would think so. It's one of the mechanisms that we use as part of CIPAC,
8 the Critical Infrastructure Partnership Advisory Council. So typically there's a sector for
9 the council, and then a government coordinating council. So I assume so.
10 Q If you wanted additional information about the mis- and disinformation
11 working group, who would you go to within CISA?
12 A As far as I understand, I don't know if that -- I mean, if I wanted to know
13 something, if I went back two and a half years and wanted to ask about that.
14 Q Or if you wanted to see if this is still part of the working group.
15 A I would probably go to the National Risk Management Center. But it
16 would -- that would not be a question I would ever ask.
17 Q Does it concern you that there's a mis- and disinformation working group?
18 A Well, this was in 2022. I guess I would have to know more about what the
19 mis- and disinformation working group was about.
20 If the mis- and disinformation working group had a focus that was aligned to what
21 my focus was, which is ensuring that there is a way to understand foreign adversary
22 tactics, ensuring that there is a way to provide accurate information, and then focused on
23 things like amplifying the trusted voices of State and local election officials through things
24 like #TrustedInfo2024, which is the National Association of Secretaries of State, or the
25 National Association of State Election Directors, if those are the types of things, then I

1 would think it would be fine.

2 Q Who is responsible for determining whether it's focused on those priorities

3 or if it's focused on content narratives?

4 A I mean, I've never seen these before. So I can't answer that question.

5 Q I guess I'm just trying to understand it a bit better. I understand the

6 direction that you intend to convey on priorities for the agency and how, if at all, focus on

7 mis- and disinformation relates. And then there are, you know, appear to be external

8 examples of reference to CISA's work related to mis- and disinformation. I guess walk us

9 through your understanding of how it's verified that there isn't anything concerning going

10 on.

11 [redacted]. Can you explain the external examples that you just

12 referenced?

13 [redacted]. Yeah. Like these meeting agendas.

14 Ms. Easterly. I guess I don't understand your question. I mean, there are a

15 thousand different meetings that go on. The subsector in this case, the election -- State

16 and local election officials -- help to inform these agendas.

17 Can you help me understand what you're getting at because I must be missing

18 something?

19 BY [redacted]:

20 Q We've tried to examine what CISA did in 2020.

21 A Yes.

22 Q So you pointed to that as previous director.

23 A Right.

24 Q And different administration.

25 A Right.

1 Q And then trying to get a sense of if things are different under your tenure,
2 how is that being verified?
3 A So is your implication that because this says Joint Mis/Disinformation
4 Working Group that there's some of the switchboarding continuing?
5 Q Not necessarily switchboarding, but trying to understand -- another example
6 is the support notice that we looked at earlier in the hour.
7 Are there any efforts within CISA to either work with external partners or CISA
8 directly to identify narratives, to work to combat those narratives?
9 A Not that I know of. My guidance has been very clear. And so whatever
10 might show up on an agenda from two and a half years ago that I've never seen before
11 with people at a meeting many, many levels below my work as the director, I don't see
12 how that implies that my guidance is not being implemented appropriately.
13 Q We're trying to get a better sense of, based off your testimony, a lack of
14 familiarity with what CISA did in 2020 with respect to Stanford --
15 A Why would you expect me to be aware of something that went on before
16 my time that didn't go -- that hasn't gone on. That was in the Trump administration. I
17 came in in July of 2021 with a new direction, new authorities, new priorities. That was
18 not anything that continued under my tenure.
19 Q Well, we've looked at, again, previous public statements about what some of
20 the priorities for CISA would be; that MDM was identified as one of them.
21 A Yeah.
22 Q We've looked at, again, external documents. Understanding that you're
23 saying this is the guidance that you gave, I'm trying to understand, whether it's the
24 solicitation for additional information and support or meeting agendas, about whether
25 that guidance is being carried out.

1 A [redacted], you seem like a very smart, nice person, but I don't understand how
2 these individual pieces of information are being connected into some sort of an
3 implication that we are doing anything amiss.
4 So I want to be really, really clear: CISA does not censor, has never censored.
5 And I'm using that word because I seem to think you're implying it. Everything the men
6 and women of CISA do every day is focused on reducing risk to the critical infrastructure
7 Americans rely on every day in a way that comports with the law and the Constitution
8 that we are sworn to defend.
9 I'm the director of the agency. I set the vision, I set the strategy, I set the
10 priorities, and I ensure that the guidance is carried out.
11 And as I've said over and over again, my guidance when it comes to disinformation
12 as it relates to election security has been focused on three areas: characterizing what
13 our foreign adversaries are doing, putting out accurate information, and amplifying the
14 voices of State and local election officials. No agenda or statement of work is going to
15 impact that that is the fact.
16 Q There's no -- I'm not seeking to make any implication or suggest anything in
17 the questions, but statements such as that CISA has never done something, and then
18 trying to understand your familiarity with things that CISA did previously, that seems to
19 be an inconsistency.
20 If there is any --
21 A Help me understand.
22 Q Sure. If there was anything concerning regarding how CISA interacted with
23 Stanford in the summer and fall of 2020, if you're not familiar with what CISA did, I don't
24 understand the statement to say that there's never been an issue with how CISA engaged
25 with --

1 A Is the implication that CISA was engaged in censorship activities before my
2 tenure?
3 Q The concern is, yes.
4 A Can you give me the evidence there?
5 Q Yes. We'll go through -- up to exhibit 18.
6 [Easterly Exhibit No. 18
7 was marked for identification.]
8 [redacted]. This is a reference -- excuse me, this is an internal email from the
9 Atlantic Council produced to the committee from July 2020 from one of founders of the
10 EIP.
11 I'll give you a moment to review. But to call to your attention to it, it's the last
12 sentence on the first page about setting up an Election Integrity Partnership at the
13 request of DHS/CISA.
14 Ms. Easterly. What is an Election Integrity Partnership? What does that mean?
15 [redacted]. It's the project that's referenced in the response that CISA received
16 from Stanford in 2022 that we looked at.
17 [redacted]. Can you say that again? This is dated 2020.
18 Ms. Easterly. I'm confused.
19 [redacted]. And you're saying this 2020 email relates to that 2022
20 solicitation?
21 [redacted]. No. This email that is in reference to the director's previous
22 response is one of the many pieces of evidence that the committee has put forward to
23 suggest that the EIP was created at the request of CISA.
24 [redacted]. Okay.
25 [redacted]. The committee has serious concerns that we've made public, that we

1 made the supporting documentation public, that the EIP was flagging Americans' posts,
2 posts that were true, not misinformation.
3 Ms. Easterly. I don't know anything about EIP, and I don't really want to be that
4 educated because it is completely in the past, but I'm happy to entertain this
5 conversation.
6 Where is that? I don't know anything about that. So --
7 [redacted]. Yeah. We can -- we'll introduce it as an exhibit.
8 Ms. Easterly. But I don't -- I also -- I don't know what this is all about. But I am
9 not aware of any request to set up an Election Interrogatory Partnership. So I would
10 challenge that. I don't know about the flagging of Americans' posts. But I can tell you
11 that, to the best of my knowledge, CISA does not censor and has never censored.
12 [redacted]. Okay. Can we go off the record?
13 [Recess.]
14 BY [redacted]:
15 Q We can go back on the record. Just have a few follow-up questions. But
16 we had a pretty extensive discussion off the record just now, and I wanted to re-ask a
17 couple questions to get your testimony on the record.
18 A Sure.
19 Q You mentioned that if someone were to ask you did you change how the
20 forwarding email process or the switchboarding process works because something wrong
21 happened in the previous administration, you had an answer to that. Could you repeat
22 that for the committee?
23 A Yes. No, it was not at all a rejection based on something untoward or
24 illegal or immoral or unethical. The idea of the program seemed like a terrible use of
25 our precious resources, and it didn't seem to make any sense to me conceptually.

1 So that's why I gave direction for us not to do it. And I gave that direction before
2 the 2022 election. So there was no forwarding of emails in the 2022 election.
3 Q Was there anything you wanted to say on the record about your work in
4 Ohio?
5 A Well, I would just -- as I said, we do fantastic work across the country
6 working with all sorts of partners, and we do great work in the State of Ohio, to include in
7 Chairman Jordan's district.
8 I've been out there and spent time with Frank LaRose, the secretary of state, who
9 has made fantastic use of CISA's election security resources. I've spent time on the
10 ground with Chairman Joyce talking to his constituents, walking through all of the
11 resources that we have to reduce risk to water facilities, to schools, to hospitals. And
12 there's a great appreciation for that.
13 I spent time, just not in Ohio, but just as an example, spent a great day with
14 Chairman Green, chairman of the Homeland Security Committee, along with myriad
15 partners from universities, from hospitals, from critical infrastructure, talking about all of
16 our work and resources that we provide to State and local entities and to critical
17 infrastructure to help reduce risk.
18 So I would hope that there is some recognition by the committee of the value of
19 the Cybersecurity and Infrastructure Security Agency, because at the end of the day it was
20 the Congress that set it up. And I feel very strongly that the Congress is, in fact, getting
21 its money's worth from the massive amount of work that we've been doing to reduce risk.
22 And those are the conversations that I'd very much like to have because CISA
23 should be seen as a crown jewel in the Federal Government in that if you talk to folks on
24 the ground in districts, people recognize how we are out there working as a trusted
25 partner in helping them.

1 Q And there has been some question. You've said multiple times today that
2 to the best of your knowledge CISA does not and has not censored American speech. Is
3 that right?
4 A Yes.
5 Q There were some questions about how you could know that if you didn't
6 have familiarity with all of the details of the previous administration's operations. Do
7 you have a response to that?
8 A Yes. First off, the major thing that I was briefed on was the forwarding of
9 emails, which in my judgment doesn't have anything to do with censorship.
10 But at the end of the day there is, to the best of my knowledge and what I've been
11 briefed on and what I know, there is no evidence that CISA has coerced the removal of
12 protected speech from any platforms.
13 And that would never, by the way, be part of CISA's mission. CISA is not a law
14 enforcement agency. We have no coercive powers. We're not a regulator. We are
15 not an intel agency or a military agency. We are entirely a voluntary partnership
16 agency.
17 And with respect to that forwarding of emails, I didn't think it made any sense for
18 our mission. But just broadly, I realize a lot has been written on this, but at the end of
19 the day I think dots are being connected which unfairly malign the incredible -- my
20 incredible teammates at CISA who work every day to protect and defend America.
21 Q Thank you.
22 I want to turn to a couple of the documents that were introduced.
23 We talked in the last hour about the sector coordinating committees, the Election
24 Infrastructure Subsector Coordinating Committee. That's not a part of CISA. Is that
25 correct?

1 A We are members of it, but it's a structure that is about bringing together.
2 It's a convening structure. We don't own it, but we are members of it.
3 Q The sector coordinating committees are self-organized and self-governing.
4 A Yes, exactly.
5 Q And CISA's appearance at meetings of the SCC does not mean that CISA
6 operates it.
7 A Correct.
8 Q Looking at the sources notice, Sources Sought Notice, you mentioned you're
9 not even familiar with what a Sources Sought Notice is?
10 A I'm not.
11 Q It's a preliminary step in the procurement process that Federal agencies can
12 use to seek if there's interest in a project, but it happens before any request for proposals
13 or any invitations to bid. And you mentioned you're not familiar with the Sources
14 Sought Notice?
15 A No.
16 Q You weren't familiar with the capability document that they introduced?
17 A No.
18 Q On the last page of the Sources Sought Notice, there's a couple of DHS
19 employee names listed as contacts. Do you see those?
20 A Yes.
21 Q Are you familiar with those employees?
22 A No. Not -- they're HQ, not CISA. So I don't know if they're CISA
23 employees.
24 Q Do you know if any actual awards or contracts happened because of this
25 Sources Sought Notice?

1 A No.

2 Q Do you know if this Sources Sought Notice ended up turning into a request

3 for proposals or an invitation to bid?

4 A I have no idea.

5 Q Would you be surprised if I represented to you that no awards had been

6 granted for this Sources Sought Notice?

7 A I would not be surprised.

8 Q And, lastly, you're here voluntarily today, correct?

9 A Very happily.

10 Q And you're the director of CISA?

11 A I am.

12 Q That means you're the highest level of the agency?

13 A Yes, I'm a tier two sub-Cabinet level director of a Federal agency.

14 Q Thank you. We can go off the record.

15 A Thank you.

16 [Discussion off the record.]

17 [redacted]. If we can go back on the record, please.

18 This will be exhibit 19.

19 [Easterly Exhibit No. 19

20 was marked for identification.]

21 Ms. Easterly. Okay.

22 BY [redacted]:

23 Q I'd call your attention to Bates No. 30783. There's an email from [redacted]

24 [redacted] to [redacted]. The third bullet point down in that email discusses -- it

25 says on the third page, Bates No. 30783?

1 A Yes, uh-huh, this one right here.

2 Q Yeah.

3 A "The goal"?

4 Q No, at the top.

5 A At the top.

6 Q Yeah, the bullet points. The third one says, "On the process point, there's a

7 broader level process discussion for this information-sharing that Director Easterly wants

8 us to have."

9 Do you recall any discussions with your team in February 2022 about meeting with

10 Facebook or other social media companies about information sharing?

11 A I don't recall, no. I had mentioned earlier that there was a concern about

12 Russian attacks against critical infrastructure in retaliation for U.S. support to Ukraine.

13 So it looks like, just looking at the dates, it looks like a similar -- looks like a similar thing.

14 Q Do you know [redacted]?

15 A I know him a bit, not a lot.

16 Q How do you know him?

17 A He was a cyber person in the NSC. I didn't really know him. And then he

18 was -- I don't know if he's still there -- he was at Facebook.

19 Q Do you recall any interactions with him while he was at Facebook?

20 A I think we might have had one interaction early in my tenure, but I don't

21 remember the details around it.

22 [Easterly Exhibit No. 20

23 was marked for identification.]

24 BY [redacted]:

25 Q And I'll introduce exhibit 20, an email between Director Easterly and Meta.

1 A Who is this with?

2 Q The names were redacted in the document, but it's a person from Meta's

3 U.S. Public Policy team.

4 A Okay.

5 Q Again, this is January 2022. It's a little bit earlier. That's one of the

6 documents we were looking at earlier. And do you recall giving any direction to your

7 team about having meetings with the public policy teams of social media companies

8 about their approach to the 2022 election?

9 A No, not at all. I think this was the one meeting. I'm not sure it ended up

10 happening. But this was the one meeting that -- and I don't have a recollection of what

11 the content of that meeting was.

12 Again, this was right before the Russian invasion of Ukraine, and I was very

13 focused on what we could do to protect critical infrastructure from Russian retaliatory

14 cyber attacks.

15 Q And this is reflected in this email that it was referenced to, the approach to

16 the 2022 elections. I guess just to have it clear on the record, are you tying that to

17 concerns of Russia's retaliation or --

18 A I don't know, because I don't remember this email. I don't recall. I mean,

19 that's what he says, it's not what I. All I said is we'll begin to follow up.

20 [redacted]. Director, that document is double-sided, too.

21 Ms. Easterly. Okay. Let's see.

22 Yeah, I don't remember this, but I'm not sure I ended up on the meeting, but

23 maybe.

24 [redacted]. Okay. Do you recall any other similar meetings that you may have

25 had regarding social media's approach to the 2022 election?

1 Ms. Easterly. No.

2 [Easterly Exhibit No. 21

3 was marked for identification.]

4 Q This will be exhibit 21.

5 You ready?

6 First, do you know who Kim Wyman is?

7 A She was the former secretary -- Republican secretary of state of Washington.

8 She joined as our senior election security advisor. And I don't know, I forget when it

9 was. She was there for most of 2022.

10 Q If I can call your attention under the "Discussion" tab, if you go down four

11 bullet points, the second to the last sentence in the next paragraph there says: "CISA is

12 currently transferring this work" -- referring to operation of the switchboard

13 function -- "to the Information Sharing and Analysis Centers."

14 Do you recall any discussion within CISA about transferring that type of work to

15 either the EI-ISAC, the multistate ISAC, or another ISAC?

16 A Say that question again?

17 Q Sure. I'm happy to give you a chance to read --

18 A Yeah.

19 Q -- the full paragraph, but --

20 A Yeah. Sorry. Ask the question again?

21 Q Sure. The notes says -- reported here -- says, "CISA is currently transferring

22 this work" -- and then referring back to the previous sentence -- "operating a switchboard

23 function to alert a media platform if a mis- or disinformation post is identified by another

24 user. CISA is currently transferring this work to the Information Sharing and Analysis

25 Centers."

1 Do you recall any sort of discussions within CISA about transferring that work?
2 A No, not at all.
3 Q Have you seen this document before?
4 A No, I haven't.
5 Q Does the description as put here give you any concerns?
6 A That seems to me -- it's not exactly clear "this work," because it talks about
7 "work to deliver products to the elections community." And then it says "to include."
8 So it seems very sloppily written.
9 But if what is intended is that CISA is currently transferring the switchboarding
10 work to the -- and I'm not even sure what the ISACs mean. There's only one EI-ISAC, and
11 it certainly doesn't do any of that work. So I have no idea what this is. No, it doesn't
12 make any sense to me.
13 Q To your knowledge, did the EI-ISAC used to alert media platforms of a mis- or
14 disinformation post?
15 A Not that I know of.
16 Q Do you remember generally what your reaction was to the
17 recommendations presented to you in 2022 from the --
18 A I don't. I don't really remember because they came to me with the other
19 subcommittee recommendations, and then the written ones come to me, like, a day
20 before.
21 So I don't -- what happens with these is I am completely firewalled from the
22 subcommittees, so I'm not allowed to see any of their work, be part of it, see the agenda,
23 see the meeting notes.
24 Right before the full meeting, the recommendations come, and they're published
25 on the website. So it's all transparent. I don't remember the recommendations, and I

1 don't actually recall what my thinking was around that. I don't.

2 [Easterly Exhibit No. 22

3 was marked for identification.]

4 BY [redacted]:

5 Q This will be exhibit 22. So this is a document produced to the committee

6 where the EI-ISAC appears to be serving a similar switchboarding function. And this is in

7 August 2022, a month after the previous exhibit we looked at.

8 Do you have any sense of what role the EI-ISAC was playing in the summer?

9 A I've never seen this before. So, no.

10 Q If you want to --

11 A This is not CISA-related in any way, so I wouldn't comment on the work of

12 other organizations.

13 Our relationship with EI-ISAC pursuant to a cooperative agreement is very focused

14 on cybersecurity. Our funding is entirely about the cybersecurity mission. If there's

15 something else that this organization is doing, it certainly is not doing it based on any

16 funding or guidance from the Cybersecurity and Infrastructure Security Agency.

17 Q I guess how do you square the two previous exhibits here where there

18 seems to have been some discussion of whether CISA could transfer this work to the

19 EI-ISAC, and then a month later it looks like the EI-ISAC is doing switchboarding?

20 A I'm don't square it. I'm not aware of any movement of the so-called

21 switchboarding to EI-ISAC. I'm not aware of any of this work here. So I don't square.

22 I can tell you what CISA does and where I have focused the agency, and that is

23 entirely on the three missions, as I have mentioned: amplification of State and local

24 election officials, putting out accurate information, and explaining how our foreign

25 adversaries try to interfere and influence.

1 So I have not seen either of these two documents. So I can't speak to them or
2 square them. I can just tell you what I know, which is, to the best of my knowledge,
3 CISA does not censor, has never censored, nor do we leverage third parties to censor
4 information. Not that this is censorship, I don't really know, because you're just
5 showing me an email which it says please see report. But has nothing to do with us as
6 far as I can tell.
7 Q During the time in late summer of 2022, if you wanted to know more
8 information about CISA's interactions, either with the CIS or how the EI-ISAC was being
9 operated, who would you speak to among your direct reports?
10 A On the -- so the cooperative agreement is entirely on cybersecurity. So it's
11 actually managed by the Cybersecurity Division. So if I had questions about the
12 management of the cooperative agreement with respect to cybersecurity, that would be
13 through my cybersecurity folks.
14 Q And which -- who would be -- who was the head of that in 2022?
15 A Eric Goldstein.
16 Q Did you ever receive any briefing about whether the EI-ISAC was engaging in
17 switchboarding at any time?
18 A No. Not that I recall.
19 [redacted]. Director, if you can amplify more.
20 Ms. Easterly. Great. Not that I can recall. Sorry.
21 [redacted]. We can introduce an exhibit to this end if needed, but Senator Warner
22 came out publicly earlier in the year and said that CISA and the FBI were meeting with
23 social media companies again.
24 To your knowledge, did CISA restart any sort of standing meetings with social
25 media companies in 2024.

1 Ms. Easterly. Senator Warner? Based on what?

2 [redacted]. Based off his familiarity.

3 Ms. Easterly. It is not in our --

4 [redacted]. He is the chairman of the Senate Intelligence Committee. I

5 believe it was in that capacity.

6 Ms. Easterly. Right, but he's not our authorizing -- we're not an intel agency.

7 So I'm not sure how he would know what we're doing. I certainly never gave him that

8 information. What's the context?

9 BY [redacted]:

10 Q We can introduce this as an exhibit. Mostly just, to your knowledge, if

11 there's been any resumption of talks between CISA and social media companies.

12 A If there are any talks -- again, if there are talks going on with technology

13 companies -- and there are technology companies that own social media

14 companies -- they are entirely about threats to election infrastructure. But I don't know

15 what he's talking about.

16 Q Okay. Any knowledge of, in these discussions regarding threats to election

17 infrastructure, whether that included any discussion of mis- or disinformation narratives?

18 A No.

19 Q Mis- or --

20 A Not that I know of.

21 Q Are you aware of any standing meetings that were paused during the

22 Federal litigation, the Missouri v. Biden, the Murthy v. Missouri case, that were restarted

23 after the Supreme Court decision?

24 A No. Again, there are no discussions with any companies about mis- or

25 disinformation. We are very focused on those three things, [redacted].

1 [redacted]. I'll just ask a clarifying question. Who's the source of this article,
2 if you don't mind me asking for the record? It's not clear to me by looking at it.
3 [redacted]. It's an online media publication called Nextgov that seemed to
4 focus on cyber issues.
5 [redacted]. Okay.
6 [redacted]. You can see it in the top left corner.
7 [redacted]. It's called Nextgov, is the source?
8 [redacted]. Yes.

1 [3:32 p.m.]

2 BY [redacted]:

3 Q In the preparation for this interview or otherwise, did you receive any

4 briefing about the Pennsylvania Election Threats Task Force?

5 A No.

6 Q In your preparation for this interview or just since September of 2024, did

7 anyone within CISA or DHS flag for you any concerns about the accuracy of the OIG report

8 from September 2024?

9 A No.

10 Q The committee in our correspondence had flagged the language in the OIG

11 report where, according to the OIG, certain personnel from CISA said they stopped their

12 direct contact with social media companies after the 2022 election.

13 Did you have any discussions with CISA or DHS staff about how that language

14 made it into the OIG report?

15 A No. I mean, to be very clear -- and we're assuming this is about the

16 switchboarding.

17 Q Not necessarily switchboarding. It could be verbally communicated if CISA

18 personnel --

19 A Yeah. I mean, certainly, this does not comport with my strong

20 understanding of what's happened during my tenure, as it's not sourced. I don't -- I

21 can't speak to it. But certainly that does not align with my direction or my

22 understanding. I don't know what it actually means, if there's greater context, works

23 directly with social media companies to counter disinformation. Is there any --

24 Q Are you aware of any practices that CISA's engaged with through the 2022

25 midterm election that they stopped after the 2022 election?

1 A Not that I know of. I mean, interestingly, you see that the final report is

2 that its role has been reduced. So that would certainly align with the direction that I've

3 given. So I would say overall it aligns with my direction.

4 [redacted]. Can we go off the record, please?

5 [Whereupon, at 3:36 p.m., the interview was adjourned.]

1 Certificate of Deponent/Interviewee

2

3

4 I have read the foregoing ____ pages, which contain the correct transcript of the

5 answers made by me to the questions therein recorded.

6

7

8

9 _____

10 Witness Name

11

12

13 _____

14 Date

15

Transcribed Interview Transcript Errata Form

Interviewee	Easterly
Date of Interview	11/19/24
Date of Review	12/6/24
Name of Reviewer	[redacted]
Signature of Reviewer	[redacted]

Page	Line	Suggested Correction
37	20	borders should be mortars
40	2	personal should be personnel
45	5	continents is incorrect suggest something else, but unsure what
105	4	eye should be high
129	13	suggest "just" and "not" are flipped
137	20	drop "'m" in the first occurrence

Transcribed Interview Transcript Errata Form

Interviewee	Jen Easterly
Date of Interview	11/19/24
Date of Review	12/6/24
Name of Reviewer	[redacted]
Signature of Reviewer	

Page	Line	Suggested Correction
13	7	"Interaction" should be "interact"
~~20~~ 50	20	"First seen on this" should be "this is the first I'm seeing this"

Transcribed Interview Transcript Errata Form

Interviewee	Jen Easterly
Date of Interview	Nov. 19, 2024
Date of Review	Dec. 6, 2024
Name of Reviewer	[redacted]
Signature of Reviewer	

Page	Line	Suggested Correction
45	5	"continent" should be "consistent"
47	7	Insert a comma between "ugitimate" and "people"
86	15	"All's" should be "All."
90	10	"militia" should be "malicious"
128	9	"Interrogatory" should be "Integrity"